Final Agenda
For
City Council Meeting
August 19, 2003

A meeting of the Fayetteville City Council will be held on August 19, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Chief Hoyt – Police Department Citizen Award

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the July 15, 2003 and the August 5, 2003 meeting minutes.

119-03 Passed

2. **2003-2004 Drug Enforcement Grant:** A resolution accepting an Edward Byrne State and Local Law Enforcement Assistance and Formula Grant from the U.S. Department of Justice to assist in funding the Fourth Judicial District Drug Task Force.

120-03 Passed

3. **2003 Local Law Enforcement Block Grant**: A resolution authorizing the Fayetteville Police Department to apply for and accept a Local Law Enforcement Block Grant (LLEBG) in the amount of $33,490.00 from the U.S. Department of Justice for the purchase of computer equipment, and approving a budget adjustment in the same amount to recognize the grant revenue and appropriate the matching funds.

121-03 Passed

4. **FAA Airport Improvement Grant/ Taxiway "A" Phase 1:** A resolution to accept an Airport Improvement Program Grant (AIPG) from the U.S. Federal Aviation Administration in the amount of $1,232,723.00 for the Taxiway "A" Phase 1 project in support of the USDA Forest Service Fire Tanker Base.

122-03 Passed

5. **State Department of Aeronautics Matching Grant:** A resolution accepting a matching grant in the amount of $5,836.00 from the Arkansas Department of Aeronautics for the design and engineering oversight of the Taxiway "A" Phase 1 project in support of the USDA Forest Service Fire Tanker Base.

123-03 Passed

6. **Arkansas Department of Aeronautics Grant:** A resolution accepting a grant in the amount of $200,000.00 from the Arkansas Department of Aeronautics for construction of the University of Arkansas hangar project; and approving a budget adjustment in the amount of $400,000.00 for same.

124-03 Passed 7. **Sweetser Construction/Grinders Skate Park:** A resolution awarding Bid #03-45 to Sweetser Construction, Inc. in the amount of $29,550.00 to construct sidewalks and access ramps at the Grinders Skate Park; and approving a project contingency in the amount of $2,955.00 for same.

125-03 Passed 8. **PPL 03-11.00 Tomlinson on behalf of TTM-LLC:** A resolution amending the Master Street Plan, dedicating 90 feet of right of way along Howard Nickell Road through the entire proposed development in a different alignment to complete a connection with the future extension of Rupple Road North.

B. OLD BUSINESS:

126-03 Passed 1. **CEI Engineers Master Street Plan Appeal (Butterfield Trail Village):** An appeal from Butterfield Trail Village of the Master Street Plan Right of Way dedication requirements. ***This appeal was tabled at the July 1, 2003 City Council meeting.***

127-03 — BTV - Future development of Joyce Blvd. as designed Exhibit A

Tabled 2. **Public Hearing Raze and Removal 226 North School Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Timothy C. and Christine Klinger located at 226 N. School Avenue in the City of Fayetteville, Arkansas. ***This resolution was tabled at the August 5, 2003 City Council meeting.***

Tabled 3. **Public Hearing Raze and Removal 323 N. West Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by the Bank of Fayetteville, N.A. located at 323 N. West Avenue in the City of Fayetteville, Arkansas. ***This resolution was tabled at the August 5, 2003 City Council meeting.***

Tabled 4. **Police and Fire Pension LOPFI Agreement:** An ordinance electing coverage for eligible members of the Police Pension and Relief Fund and Firefighter Pension and Relief Fund under LOPFI and authorizing Mayor Coody to enter into an agreement with LOPFI. ***This resolution was tabled at the August 5, 2003 City Council meeting.***

C. NEW BUSINESS:

4505 Passed 1. **Amend Ordinance No. 4478 To Obtain Financing:** An Ordinance to amend Ordinance No. 4478 to add authority to use the master equipment lease/purchase agreement to finance the cost of acquiring all equipment and other property legally obtainable pursuant to Amendment 78.

4506 Passed 2. **Amend Ordinance No. 4442 for VA 02-12.00 & 13.00:** An ordinance amending Ordinance No. 4442 to extend the period of time within which the developer must relocate the storm sewer.

4507 passed

3. **RZN 03-22.00 (Pope):** An ordinance rezoning that property described in rezoning petition RZN 03-22.00 as submitted by Ronny and Karen Pope for property located at 1750 E. Zion Road from R-A, Residential Agricultural to R-O, Residential Office subject to a Bill of Assurance attached hereto and made a part thereof, hereby referenced as Exhibit "B".

4508 passed

4. **RZN 03-25.00 (Freeman):** An ordinance rezoning that property described in rezoning petition RZN-25.00 as submitted by Marvin & Dora Freeman for property located at 2848 and 2856 S. School Avenue from RSF-4, Residential Single-Family, four units per acre, to R-O, Residential Office.

4509 passed

5. **RZN 03-26.00 (McDougall):** An ordinance rezoning that property described in rezoning petition RZN 03-26.00 as submitted by Douglas McDougall for property located at 1187 51st Avenue (Lot 9, Hamestring South Addition) from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

4510 passed

6. **Amend Title IX: Chapter 95: Health & Sanitation:** An ordinance amending Title IX: Chapter 95: Health and Sanitation, of the Code of Fayetteville, reducing the compliance period from 20 days to 10 days; establishing the Office of Code Compliance Officer; and granting them authority to issue citations to violators.

D. INFORMATIONAL:

1. **Ordinance Review: Review Smoking Ordinance – August 25, 2003 – 5:00 PM Room 326**

Adjourned 10:00 PM

Meeting of August 19, 2003

Subject:	Roll				
Motion By: Seconded:					
Motion To:					
Cook	✓				
Marr	✓				
Rhoads	✓				
Davis	✓				
Lucas	✓				
Jordan	✓				
Reynolds	—				
Thiel	✓				
Mayor Coody	✓				

Subject:	Consent				
Motion By: Seconded:	Davis / Jordan				
Motion To:	approve				
Cook	✓				
Marr	✓				
Rhoads	✓				
Davis	✓				
Lucas	✓				
Jordan	✓				
~~Reynolds~~					
Thiel	✓				
~~Mayor Coody~~					

Passed

Removed 7/15/03 & 8/5/03 Minutes from Consent

Meeting of August 19, 2003

Subject:	Remove from table } Butterfield Trail Appeal					
Motion By: **Seconded:**		Jordan Davis				
Motion To:		Remove from table				
	Cook	✓				
	Marr	✓				
	Rhoads	✓				
	Davis	✓				
	Lucas	✓				
	Jordan	✓				
	~~**Reynolds**~~	—				
	Thiel	✓				
	~~**Mayor Coody**~~	—				

Removed from table.

End of tape 1 Brenda Thiel: The agreement would be that we would never cut the trees..

Subject:	Butterfield Trail Villiage Appeal					
Motion By: **Seconded:**		Davis Rhoads		Cook Lucas		
Motion To:		accept Appeal presented by BTV		Motion to table the	motion to	accept the appeal.
	Cook	Y		Y		
	Marr	Y		N	Motion to	table
	Rhoads	Y		N	failed	3/4
	Davis	Y		N		yes NO
	Lucas	Y		Y		
	Jordan	Y		Y		
	~~**Reynolds**~~	—		—		
	Thiel	Y		N		
	~~**Mayor Coody**~~	—				

#1 Old Business

Motion

Workout a Conversation easement
accept current right of Way.
15' into a Conversation easement.

Meeting of August 19, 2003

Subject:	Motin to Suspend rules, and Talk about Joyce Street.					
Motion By: Seconded:		Jordan Davis				
Motion To:						
	Cook	Y				
	Marr	Y				
Passed	Rhoads	Y				
	Davis	Y				
	Lucas	Y				
	Jordan	Y				
	~~Reynolds~~	—				
126-03	Thiel	Y				
	~~Mayor Coody~~					

Conceptual Future design of Joyce.

Motion: Subject:	B1 — Page 31 Sidewalk next to curb	Forward to Planning Staff to incorpate Median in design of Joyce Street				
Motion By: Seconded:		Marr Jordan				
Motion To:						
	Cook	Y				
	Marr	Y				
Passed	Rhoads	Y				
	Davis	Y				
127-03	Lucas	Y				
	Jordan	Y				
	~~Reynolds~~					
	Thiel	Y				
	~~Mayor Coody~~					

Meeting of August 19, 2003

Public Hearing R & R 226 North School

Subject:	Table until the first meeting in October.					
Motion By: **Seconded:**		Davis Jordan				October 7, 2003
Motion To:						
	Cook	Y				
	Marr	N				
	Rhoads	Y				
	Davis	Y				
	Lucas	Y				
	Jordan	Y				
	~~**Reynolds**~~	—				
	Thiel	Y				
	~~**Mayor Coody**~~	—				

#2 Old Business passed to table 6-1-0 Y N A tabled until Oct 7, 2003 Alderman Reynolds absent

End of Tape 4: → Mayor: Can we invoke our emant domain and then re-sell the property

Subject:	Public Hearing R & R 323 N. West Avenue					
Motion By: **Seconded:**		Jordan Thiel				
Motion To:		Table	until	1st	meeting	in October
	Cook	Y			October 7, 2003	
	Marr	Y				
	Rhoads	Y				
	Davis	Y				
	Lucas	Y				
	Jordan	Y				
	~~**Reynolds**~~	—				
	Thiel	Y				
	~~**Mayor Coody**~~	—				

#3 old Business passed to table until 1st meeting in October. Oct 7, 2003

Meeting of August 19, 2003

Subject:	Police & Fire Pension Lopfi (Oct 7. table until)					
Motion By: **Seconded:**		Jordan				October 7, 2003
Motion To:						
	Cook	Y				
	Marr	Y				
	Rhoads	Y				
	Davis	Y				
	Lucas	Y				
	Jordan	Y				
	~~Reynolds~~	—				
	Thiel	Y				
	Mayor ~~Goody~~	—				

#4 Old Business

table until Oct. 7 City Council meeting

7-0

Subject:	Amend Ordinance # 4478 to obtain financing for equipment					
Motion By: **Seconded:**		Jordan Davis	Jordan			
Motion To:		2nd read	3rd read	Pass		
	Cook	Y	Y	Y		
	Marr	Y	Y	Y		
	Rhoads	Y	Y	Y		
	Davis	Y	Y	Y		
	Lucas	Y	Y	Y		
	Jordan	Y	Y	Y		
	~~Reynolds~~	—	—	—		
	Thiel	Y	Y	Y		
	Mayor ~~Goody~~	—	—	—		

#1 New Business

passed

Meeting of August 19, 2003

2 New Business

Passed

Subject:	Amend Ordinance # 4442 for VA 02-12.00 (FE.00)					
Motion By: / Seconded:		Jordan / Cook	Jordan / Cook			
Motion To:		2nd read	3rd read	pass		
	Cook	Y	Y	Y		
	Marr	Y	Y	Y		
	Rhoads	Y	Y	Y		
	Davis	Y	Y	Y		
	Lucas	Y	Y	Y		
	Jordan	Y	Y	Y		
	~~Reynolds~~	—	—	—		
	Thiel	Y	Y	Y		
	~~Mayor Coody~~		—			

3 New Business

Passed

Jim McCord

Jim McCord

Subject:	RZN 03-22.00 (Pope)					
Motion By: / Seconded:		Rhoads / Davis	Davis / Rhoads			
Motion To:	kit	2nd read	3rd read	Pass		
	Cook	Y	Y	Y		
	Marr	Y	Y	Y		
	Rhoads	Y	Y	Y		
	Davis	Y	Y	Y		
	Lucas	Y	Y	Y		
	Jordan	Y	Y	Y		
	~~Reynolds~~	—	—	—		
	Thiel	Y	Y	Y		
	~~Mayor Coody~~	—	—	—		

Meeting of August 19, 2003

#4 New Business

Passed 7-0

Subject:	RZN 03-25.00 (Freeman)					
Motion By: **Seconded:**		Davis Jordan				
Motion To:		2nd read	3rd read	Pass		
	Cook	y	y	y		
	Marr	y	y	y		
	Rhoads	y	y	y		
	Davis	y	y	y		
	Lucas	y	y	y		
	Jordan	y	y	y		
	Re~~ynolds~~	—	—	—		
	Thiel	y	y	y		
	~~Mayor Coody~~	—	—	—		

#5 New Business

Passed 7-0

Subject:	RZN 03-2600 (McDougall)					
Motion By: **Seconded:**		Jordan Lucas	Jordan Lucas			
Motion To:		2nd read	3rd read	Pass		
	Cook	y	y	y		
	Marr	y	y	y		
	Rhoads	y	y	y		
	Davis	y	y	y		
	Lucas	y	y	y		
	Jordan	y	y	y		
	~~Reynolds~~	—	—	—		
	Thiel	y	y	y		
	~~Mayor Coody~~	—	—	—		

10:00 pm Adjourned

Meeting of August 19, 2003

Subject:	Amend Title IX: Chapter 95: Health & Sanitation					
Motion By: Seconded:	III		Jordan / Thiel			
Motion To:		2nd read	3rd read	Pass		
	Cook	y	y	y		
	Marr	y	y	y		
	Rhoads	y	y	y		
	Davis	y	y	y		
	Lucas	y	y	y		
	Jordan	y	y	y		
	~~Reynolds~~	—	—	—		
	Thiel	y	y	y		
	~~Mayor Coody~~	—	—	—		

#6 New Business

passed

Lynn Schafer

Jeff Erb

Subject:						
Motion By: Seconded:						
Motion To:						
	Cook					
	Marr					
	Rhoads					
	Davis					
	Lucas					
	Jordan					
	Reynolds					
	Thiel					
	Mayor Coody					

Till Amber

per DON MARR

Put on Web the Openings

Email - Shirley - Robert Rhoads - Kyle Cook.

Meeting Sept 10, 4:30

Nom. Committee

Interview Sept 10. 4:30

Ward 4 7:00 8/25/03

applications will be taken.

City Council Meeting Speaker Registration

Date of City Council Meeting 8/19/03

	Speaker's Name (Please Print Clearly)	Phone No.	Agenda Item Speaking On
1	Les Homicke	442-8787	BTV
2	Dick Forsyth		
3	Nancy Robb		
4	[illegible] Alexander		
5	Paula Marcinow	444-6070	Range
6	Lu Weiss	482 5153	
7			
8			
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25			

Agenda Session

Tentative Agenda
For
City Council Meeting
August 19, 2003

A meeting of the Fayetteville City Council will be held on August 19, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Chief Hoyt – Police Department Citizen Award

A. **CONSENT:**

1. **Approval Of The Minutes:** Approval of the July 15, 2003 and the August 5, 2003 meeting minutes.

119-03 passed

2. **2003-2004 Drug Enforcement Grant:** A resolution accepting an Edward Byrne State and Local Law Enforcement Assistance and Formula Grant from the U.S. Department of Justice to assist in funding the Fourth Judicial District Drug Task Force.

120-03 passed

3. **2003 Local Law Enforcement Block Grant:** A resolution authorizing the Fayetteville Police Department to apply for and accept a Local Law Enforcement Block Grant (LLEBG) in the amount of $33,490.00 from the U.S. Department of Justice for the purchase of computer equipment, and approving a budget adjustment in the same amount to recognize the grant revenue and appropriate the matching funds.

121-03 passed

4. **FAA Airport Improvement Grant/ Taxiway "A" Phase 1:** A resolution to accept an Airport Improvement Program Grant (AIPG) from the U.S. Federal Aviation Administration in the amount of $1,232,723.00 for the Taxiway "A" Phase 1 project in support of the USDA Forest Service Fire Tanker Base.

122-03 passed

5. **State Department of Aeronautics Matching Grant:** A resolution accepting a matching grant in the amount of $5,836.00 from the Arkansas Department of Aeronautics for the design and engineering oversight of the Taxiway "A" Phase 1 project in support of the USDA Forest Service Fire Tanker Base.

123-03 passed

6. **Arkansas Department of Aeronautics Grant:** A resolution accepting a grant in the amount of $200,000.00 from the Arkansas Department of Aeronautics for construction of the University of Arkansas hangar project; and approving a budget adjustment in the amount of $400,000.00 for same.

124-03

7. **Sweetser Construction/Grinders Skate Park:** A resolution awarding Bid #03-45 to Sweetser Construction, Inc. in the amount of $29,550.00 to construct sidewalks and access ramps at the Grinders Skate Park; and approving a project contingency in the amount of $2,955.00 for same.

B. OLD BUSINESS:

Call CEI

1. **CEI Engineers Master Street Plan Appeal (Butterfield Trail Village):** An appeal from Butterfield Trail Village of the Master Street Plan Right of Way dedication requirements. Tabled at ~~xxxx~~

2. **Public Hearing Raze and Removal 226 North School Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Timothy C. and Christine Klinger located at 226 N. School Avenue in the City of Fayetteville, Arkansas. Tabled at ~~xxxx~~

3. **Public Hearing Raze and Removal 323 N. West Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by the Bank of Fayetteville, N.A. located at 323 N. West Avenue in the City of Fayetteville, Arkansas. Tabled at ~~xxxx~~

Schedule Police Meeting Pension

4. **Police and Fire Pension LOPFI Agreement:** An ordinance electing coverage for eligible members of the Police Pension and Relief Fund and Firefighter Pension and Relief Fund under LOPFI and authorizing Mayor Coody to enter into an agreement with LOPFI. Tabled at ~~xxxx~~

C. NEW BUSINESS:

1. **Amend Ordinance No. 4478 To Obtain Financing:** An Ordinance to amend Ordinance No. 4478 to add authority to use the master equipment lease/purchase agreement to finance the cost of acquiring all equipment and other property legally obtainable pursuant to Amendment 78.

2. **Amend Ordinance No. 4442 for VA 02-12.00 & 13.00:** An ordinance amending Ordinance No. 4442 to extend the period of time within which the developer must relocate the storm sewer.

3. **RZN 03-22.00 (Pope):** An ordinance rezoning that property described in rezoning petition RZN 03-22.00 as submitted by Ronny and Karen Pope for property located at 1750 E. Zion Road from R-A, Residential Agricultural to R-O, Residential Office subject to a Bill of Assurance attached hereto and made a part thereof, hereby referenced as Exhibit "B".

Butterfield - #1 Esti of cost per square foot for property. (Tim)

4. **RZN 03-25.00 (Freeman):** An ordinance rezoning that property described in rezoning petition RZN-25.00 as submitted by Marvin & Dora Freeman for property located at 2848 and 2856 S. School Avenue from RSF-4, Residential Single-Family, four units per acre, to R-O, Residential Office.

5. **RZN 03-26.00 (McDougall):** An ordinance rezoning that property described in rezoning petition RZN 03-26.00 as submitted by Douglas McDougall for property located at 1187 51st Avenue (Lot 9, Hamestring South Addition) from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Consent

6. **PPL 03-11.00 Tomlinson on behalf of TTM-LLC:** A resolution amending the Master Street Plan, dedicating 90 feet of right of way along Howard Nickell Road through the entire proposed development in a different alignment to complete a connection with the future extension of Rupple Road North.

7. **Amend Title IX: Chapter 95: Health & Sanitation:** An ordinance amending Title IX: Chapter 95: Health and Sanitation, of the Code of Fayetteville, reducing the compliance period from 20 days to 10 days; establishing the Office of Code Compliance Officer; and granting them authority to issue citations to violators.

D. INFORMATIONAL:

1. **Special City Council Meeting August 12, 2003 at 4:30 PM Room 326**

~~**2. Council Tour: August 18, 2003:**~~

Tentative Agenda
For
City Council Meeting
August 19, 2003

A meeting of the Fayetteville City Council will be held on August 19, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Chief Hoyt – Police Department Citizen Award

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the July 1, 2003 meeting minutes.

B. OLD BUSINESS:

Can let them know this is on the agenda

1. **CEI Engineers Master Street Plan Appeal (Butterfield Trail Village):** An appeal from Butterfield Trail Village of the Master Street Plan Right of Way dedication requirements.

C. NEW BUSINESS:

1. **Banc of America Master Copy Machine Leasing:** Approval of a master lease agreement with Banc of America Leasing & Capital, LLC. No Information
2. **Drug Enforcement Grant:** Accept the 2003-2004 Drug Enforcement Grant in the amount of $305,095. No Information
3. **2003 Local law Enforcement Block Grant:** No Information
4. **USDA Forest Service Fire Tanker Base:** No Information
5. **FFA AIP #30 Grant:** No Information
6. **Aeronautics Grant U of A Hangar:** No Information
7. **Amend Ordinance 4442 for VA 02-12.00 & 13.00:** No Information
8. **RZN 03-22.00 Pope:** No Information

Spacing

Copy 2 House.

9. **RZN 03-25.00 Freeman:** No Information

10. **RZN 03-26.00 Douglas McDougall:** No information

11. **PPL 03-11.00 TTM-LLC:** No Information

12. **Amend Health and Sanitation Section:** No Information

13. **Sweetser Construction:** No Information

D. INFORMATIONAL:

1. **Council Tour: August 18, 2003**

Special City Council Meeting
Agenda Session

Tentative Agenda
For
City Council Meeting
August 19, 2003

A meeting of the Fayetteville City Council will be held on August 19, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Chief Hoyt – Police Department Citizen Award

August 5, 2003

CONSENT:

1. **Approval Of The Minutes:** Approval of the July ~~1,~~ 15 2003 meeting minutes.

OLD BUSINESS:

1. **CEI Engineers Master Street Plan Appeal (Butterfield Trail Village):** An appeal from Butterfield Trail Village of the Master Street Plan Right of Way dedication requirements.

2. **Public Hearing Raze and Removal 226 North School Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Timothy C. and Christine Klinger located at 226 N. School Avenue in the City of Fayetteville, Arkansas.

3. **Public Hearing Raze and Removal 323 N West Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by the Bank of Fayetteville, N.A. located at 323 N. West Avenue in the City of Fayetteville, Arkansas.

4. **Police and Fire Pension LOPFI Agreement**: An ordinance electing coverage for eligible members of the Police Pension and Relief Fund and Firefighter Pension and Relief Fund under LOPFI and authorizing Mayor Coody to enter into an agreement with LOPFI.

NEW BUSINESS: Short Term Financing Amendment 78 Ordinance

Kit 1. ~~**Banc of America Master Copy Machine Leasing**~~**:** Approval of a master lease agreement with Banc of America Leasing & Capital, LLC. **No Information**

Consent 2. **Drug Enforcement Grant**: Accept the 2003-2004 Drug Enforcement Grant in the amount of $305,095.

Consent 3. **2003 Local law Enforcement Block Grant:**

Consent 4. **USDA Forest Service Fire Tanker Base:**

Consent 5. FFA AIP #30 Grant:

Consent 6. Aeronautics Grant U of A Hangar:

7. Amend Ordinance 4442 for VA 02-12.00 & 13.00:

8. RZN 03-22.00 Pope:

9. RZN 03-25.00 Freeman:

10. RZN 03-26.00 Douglas McDougall:

11. PPL 03-11.00 TTM-LLC:

Kit 12. ~~Amend Health and Sanitation Section~~: Citation authority for Code compliance.

Consent 13. Sweetser Construction:

INFORMATIONAL:

Council Tour: August 18, 2003

Health & Sanitation on 8/19/03 Agenda

NORTHWEST ARKANSAS EDITION
Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Diane Williams, do solemnly swear that I am Legal Clerk of the Arkansas Democrat-Gazette/Northwest Arkansas Times newspaper, printed and published in Lowell, Arkansas, and that from my own personal knowledge and reference to the files of said publication, that advertisement of:

Final Agenda was inserted in the regular editions on 8/18/03.

PO# 03-0000154-001

** Publication Charge: $ 201.41

Subscribed and sworn to before me this

18th day of Aug, 2003.

Sheri Denise Sutton
Notary Public

My Commission Expires: 5-1-07

** Please do not pay from Affidavit.
An invoice will be sent.

OFFICIAL SEAL
SHERI DENISE SUTTON
NOTARY PUBLIC . ARKANSAS
WASHINGTON COUNTY
COMMISSION EXP. 05/01/07

RECEIVED
AUG 20 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

FINAL AGENDA
FOR
CITY COUNCIL MEETING
AUGUST 19, 2003

City of Fayetteville

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C. NEW BUSINESS.
1. Amend Ordinance No. 4478 To Obtain Financing: An Ordinance to amend Ordinance No. 4478 to add authority to use the master equipment lease/purchase agreement to finance the cost of acquiring all equipment and other property legally obtainable pursuant to Amendment 78
2. Amend Ordinance No. 4442 for VA 02-12.00 & 13.00: An ordinance amending Ordinance No. 4442 to extend the period of time within which the developer must relocate the storm sewer.
3. RZN 03-22.00 (Pope): An ordinance rezoning that property described in rezoning petition RZN 03-22.00 as submitted by Ronny and Karen Pope for property located at 1750 E. Zion Road from R-A, Residential Agricultural to R-O, Residential Office subject to a Bill of Assurance attached hereto and made a part thereof, hereby referenced as Exhibit "B"
4. RZN 03-25.00 (Freeman). An ordinance rezoning that property described in rezoning petition RZN-25.00 as submitted by Marvin & Dora Freeman for property located at 2848 and 2856 S. School Avenue from RSF-4, Residential Single-Family, four units per acre, to R-O, Residential Office.
5. RZN 03-26.00 (McDougal): An ordinance rezoning that property described in rezoning petition RZN 03-26.00 as submitted by Douglas McDougal for property located at 1187 51st Avenue (Lot 9, Hamestring South Addition) from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.
6. Amend Title IX: Chapter 95. Health & Sanitation: An ordinance amending Title IX, Chapter 95: Health and Sanitation, of the Code of Fayetteville, reducing the compliance period from 20 days to 10 days; establishing the Office of Code Compliance Officer; and granting them authority to issue citations to violators.

D. INFORMATIONAL:
1. Ordinance Review:, Review Smoking Ordinance - August 25, 2003 - 5:00 PM Room 326

Tentative Agenda
For
City Council Meeting
August 19, 2003

A meeting of the Fayetteville City Council will be held on August 19, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Chief Hoyt – Police Department Citizen Award

A. **CONSENT:**

1. **Approval Of The Minutes:** Approval of the July 15, 2003 and the August 5, 2003 meeting minutes.

2. **2003-2004 Drug Enforcement Grant:** A resolution accepting an Edward Byrne State and Local Law Enforcement Assistance and Formula Grant from the U.S. Department of Justice to assist in funding the Fourth Judicial District Drug Task Force.

3. **2003 Local Law Enforcement Block Grant**: A resolution authorizing the Fayetteville Police Department to apply for and accept a Local Law Enforcement Block Grant (LLEBG) in the amount of $33,490.00 from the U.S. Department of Justice for the purchase of computer equipment, and approving a budget adjustment in the same amount to recognize the grant revenue and appropriate the matching funds.

4. **FAA Airport Improvement Grant/ Taxiway "A" Phase 1:** A resolution to accept an Airport Improvement Program Grant (AIPG) from the U.S. Federal Aviation Administration in the amount of $1,232,723.00 for the Taxiway "A" Phase 1 project in support of the USDA Forest Service Fire Tanker Base.

5. **State Department of Aeronautics Matching Grant:** A resolution accepting a matching grant in the amount of $5,836.00 from the Arkansas Department of Aeronautics for the design and engineering oversight of the Taxiway "A" Phase 1 project in support of the USDA Forest Service Fire Tanker Base.

6. **Arkansas Department of Aeronautics Grant:** A resolution accepting a grant in the amount of $200,000.00 from the Arkansas Department of Aeronautics for construction of the University of Arkansas hangar project; and approving a budget adjustment in the amount of $400,000.00 for same.

7. **Sweetser Construction/Grinders Skate Park:** A resolution awarding Bid #03-45 to Sweetser Construction, Inc. in the amount of $29,550.00 to construct sidewalks and access ramps at the Grinders Skate Park; and approving a project contingency in the amount of $2,955.00 for same.

B. OLD BUSINESS:

1. **CEI Engineers Master Street Plan Appeal (Butterfield Trail Village)**: An appeal from Butterfield Trail Village of the Master Street Plan Right of Way dedication requirements.

2. **Public Hearing Raze and Removal 226 North School Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Timothy C. and Christine Klinger located at 226 N. School Avenue in the City of Fayetteville, Arkansas.

3. **Public Hearing Raze and Removal 323 N. West Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by the Bank of Fayetteville, N.A. located at 323 N. West Avenue in the City of Fayetteville, Arkansas.

4. **Police and Fire Pension LOPFI Agreement**: An ordinance electing coverage for eligible members of the Police Pension and Relief Fund and Firefighter Pension and Relief Fund under LOPFI and authorizing Mayor Coody to enter into an agreement with LOPFI.

C. NEW BUSINESS:

1. **Amend Ordinance No. 4478 To Obtain Financing:** An Ordinance to amend Ordinance No. 4478 to add authority to use the master equipment lease/purchase agreement to finance the cost of acquiring all equipment and other property legally obtainable pursuant to Amendment 78.

2. **Amend Ordinance No. 4442 for VA 02-12.00 & 13.00:** An ordinance amending Ordinance No. 4442 to extend the period of time within which the developer must relocate the storm sewer.

3. **RZN 03-22.00 (Pope):** An ordinance rezoning that property described in rezoning petition RZN 03-22.00 as submitted by Ronny and Karen Pope for property located at 1750 E. Zion Road from R-A, Residential Agricultural to R-O, Residential Office subject to a Bill of Assurance attached hereto and made a part thereof, hereby referenced as Exhibit "B".

4. **RZN 03-25.00 (Freeman):** An ordinance rezoning that property described in rezoning petition RZN-25.00 as submitted by Marvin & Dora Freeman for property located at 2848 and 2856 S. School Avenue from RSF-4, Residential Single-Family, four units per acre, to R-O, Residential Office.

5. **RZN 03-26.00 (McDougall):** An ordinance rezoning that property described in rezoning petition RZN 03-26.00 as submitted by Douglas McDougall for property located at 1187 51st Avenue (Lot 9, Hamestring South Addition) from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

6. **PPL 03-11.00 Tomlinson on behalf of TTM-LLC:** A resolution amending the Master Street Plan, dedicating 90 feet of right of way along Howard Nickell Road through the entire proposed development in a different alignment to complete a connection with the future extension of Rupple Road North.

7. **Amend Title IX: Chapter 95: Health & Sanitation:** An ordinance amending Title IX: Chapter 95: Health and Sanitation, of the Code of Fayetteville, reducing the compliance period from 20 days to 10 days; establishing the Office of Code Compliance Officer; and granting them authority to issue citations to violators.

D. INFORMATIONAL:

1. **Special City Council Meeting August 12, 2003 at 4:30 PM Room 326**

2. **Council Tour: August 18, 2003**

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
CONTRACT REVIEW
X GRANT REVIEW

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

Name	Division	Department
Rick Hoyt	Drug Enforcement	

ACTION REQUIRED: Accept the 2003 - 2004 Drug Enforcement Grant in the amount of $305, 095 with a match of $62, 079.00.

COST TO CITY:

$414,031.00	$ 425,718.00	Drug Enforcement
Cost of this request	Category/Project Budget	Program Category / Project Name
All expense accounts	$ 197,365.00	Drug Enforcement Grant Fund
Account Number	Funds Used to Date	Program / Project Category Name
	$ 228,353.00	Drug Enforcement Grant Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 8.4.03

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing — Accounting Manager — Date: 8/4/03
Nancy Smith — Internal Auditor — Date: 8/4/03
City Attorney — Date:
Purchasing Manager — Date: 8/4/03

STAFF RECOMMENDATION: Accept the Drug Enforcment Grant.

Division Head — Date:
Received in Mayor's Office — Date: 8/4/03 P.H
Department Director — Date:

Cross Reference:

Finance & Internal Services Dir. — Date: 8-4-03
Previous Ord/Res#:
Chief Administrative Officer — Date: 8-4-03
Orig. Contract Date:
Mayor — Date: 8/5/03
Orig. Contract Number:

New Item: Yes No

ENTERED 8/4/03

Staff Review Form - Page 2

Description Drug enforcement Grant Meeting Date August 19, 2003

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

RESOLUTION NO. ______

A RESOLUTION ACCEPTING AN EDWARD BYRNE STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE AND FORMULA GRANT FROM THE U.S. DEPARTMENT OF JUSTICE TO ASSIST IN FUNDING THE FOURTH JUDICIAL DISTRICT DRUG TASK FORCE.

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 accepts an Edward Byrne State and Local Law Enforcement Assistance and Formula Grant from the U.S. Department of Justice in the amount of Three Hundred Five Thousand Ninety-Five Dollars ($305,095.00) to assist in funding the Fourth Judicial District Drug Task Force.

PASSED and **APPROVED** this 19th day of August, 2003.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Rick Hoyt, Chief of Police

DATE: August 1, 2003

RE: Acceptance of Drug Enforcement Grant

Background:

The Edward Byrne Memorial Grant has supported the Fourth Judicial District Drug Task Force since 1991. The City of Fayetteville Police Department has served as the lead agency and is responsible for grant submission and monitoring. This Task Force is comprised of Fayetteville, Springdale, Johnson, Prairie Grove, Lincoln, Farmington, West Fork, Greenland, Elm Springs and Elkins Police Departments and the Washington County Sheriff's Department. The Fourth Judicial Prosecutor and the University of Arkansas Police Department actively supports the Task Force without being represented on the Control Group. This grant award will support seventy-five percent of one sergeant, five officers, and one secretary, as well as, the necessary operating expenses. The remaining twenty-five percent and the non- allowable cost are supplied by participating agencies.

Current Status

The Task Force is responsible for investigating drug related activities within Washington and Madison Counties with the above listed personnel. During the first eight months of the current grant period, investigators opened 355 separate drug cases and made 410 arrests. Included in these cases is the investigation and dismantling of thirty-four methamphetamine labs. The acceptance of this grant relates to guiding principal #4 Financially Sustainable City Government as this is the thirteenth year the grant has funded up to seventy-five percent of the efforts to control drug activity in Northwest Arkansas. As a result of the efforts of the law enforcement agencies supported by this grant, Fayetteville is a safer community, which is guiding principal #10.

Recommendation

It is recommended City Council accept the award for the Edward Byrne Memorial Grant in the amount of $305,095.00 and approve Fayetteville's matching funds of $62,079.00 which is included in the 2003 budget.

ARKANSAS DEPARTMENT OF
FINANCE AND ADMINISTRATION

OFFICE OF INTERGOVERNMENTAL SERVICES
1515 West Seventh Street, Suite 417
P. O. Box 8031
Little Rock, Arkansas 72203-8031
Phone: (501) 682-1074
Fax: (501) 682-5206
http://www.state.ar.us/dfa

[X] DLEP [ ] RSAT
[ ] LLEBG [ ] VOITIS

1. SUBGRANTEE NAME AND ADDRESS (Including Zip Code)

City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72702

4. SUBGRANT NUMBER: 03-014

5 START DATE: July 1, 2003
END DATE: June 30, 2004

EXTENSION PERIOD:

6. AWARD DATE: July 1, 2003

2. MODIFICATION EFFECTIVE DATE:

7. ACTION: [X] Initial [ ] Modification

2A. MODIFICATION AMOUNT $

FEDERAL $
STATE MATCH $
LOCAL MATCH $

8. AWARD AMOUNT $414,031

FEDERAL $305,095
STATE MATCH $0
LOCAL MATCH $108,936

3. COMMON NAME:

4th Judicial District DTF

9. SPECIAL CONDITIONS (check if applicable)

[X] THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS SET FORTH ON THE ATTACHED 1 PAGE(S).

Edward Byrne Memorial State and Local Law Enforcement Assistance Program (DLEP), as authorized by the Anti-Drug Abuse Act of 1994, as amended.

AGENCY APPROVAL	SUBGRANTEE APPROVAL	
10. TYPED NAME AND TITLE OF APPROVING OIGS OFFICIAL Ann Purvis, Administrator Intergovernmental Services	12. TYPED NAME AND TITLE OF AUTHORIZED SUBGRANTEE OFFICIAL Dan Coody, Mayor City of Fayetteville	
11. SIGNATURE OF APPROVING OFFICIAL AnPurvis	13. SIGNATURE OF AUTHORIZED OFFICIAL	14. DATE

STATE OF ARKANSAS *OFFICE OF INTERGOVERNMENTAL SERVICES*

Department of Finance and Administration

1515 West Seventh Street, Suite 417
Post Office Box 8031
Little Rock, Arkansas 72203-8031
Phone: (501) 682-1074
Fax: (501) 682-5206
http://www.state.ar.us/dfa

SPECIAL CONDITIONS

1. Submit an Inventory Listing of all equipment that the agency has purchased with Drug Law Enforcement Program (DLEP) funds by July 31, 2003.

2. Submit a Subgrant Request for Reimbursement Form (with supporting documentation of expenditures by line item) by the 10^{th} day of each month following the month for which expenditures were billed.

3. Prepare and submit Quarterly Financial and Quarterly Narrative Progress Reports by the 15^{th} of the month following the end of a quarter. Due dates will be October 15^{th}, January 15^{th}, April 15^{th}, and July 15^{th}. Failure to submit reports in a timely manner may result in the suspension of funds.

4. Prepare and submit an Annual Project Report no later than 30 days after the close of the fiscal year period.

5. Submit within 60 days of the end of the grant period a Close-Out Packet provided by the Office of Intergovernmental Services (IGS).

__________________________ __________
Authorized Official Date

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
CONTRACT REVIEW
X GRANT REVIEW

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

Rick Hoyt	Police	Police
Name	Division	Department

ACTION REQUIRED: Approval to apply for and accept the 2003 Local Law Enforcement Block Grant in the amount up to $33,490. The City will need to appropriate 3,349.00 as a 10% match. Also approval for the attached budget adjustment recognizing the grant and appropriating the matching funds. The total grant will be used to purchase computer equipment.

COST TO CITY:

$33,490.00	$ 462,152.00	Public Safety Computer System
Cost of this request	Category/Project Budget	Program Category / Project Name
	$ 234,664.00	Police Safety Improvements
Account Number	Funds Used to Date	Program / Project Category Name
03004	$ 227,488.00	Sales Tax Capital Improvement
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item X Budget Adjustment Attached

Budget Manager 8-4-03 Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing Accounting Manager 8/4/03 Date
Nancy Smith Internal Auditor 8/4/03 Date
City Attorney 8/4/03 Date
Purchasing Manager 8/4/03 Date

STAFF RECOMMENDATION: Approve resolution allowing the Police Department to apply and accept the 2003 Local Law Enforcemnt Block Grant and approve the budget adjustment.

Division Head Date

Received in Mayor's Office 8/4/03 Date

Elden B. Roberts Department Director Date

Cross Reference:

Finance & Internal Services Dir. 8-4-03 Date

Previous Ord/Res#:

Orig. Contract Date:

Chief Administrative Officer 8-4-03 Date

Orig. Contract Number:

Dan Coody 8/5/03

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

ENTERED 8/4/03

Mayor Date

Staff Review Form - Page 2

Description 2003 Local Law Enforcement Block Grant Meeting Date August 19, 2003

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Copy of application is not attached.

Grants Coordinator

RESOLUTION NO. ______

A RESOLUTION AUTHORIZING THE FAYETTEVILLE POLICE DEPARTMENT TO APPLY FOR AND ACCEPT A LOCAL LAW ENFORCEMENT BLOCK GRANT (LLEBG) IN THE AMOUNT OF THIRTY-THREE THOUSAND FOUR HUNDRED NINETY DOLLARS ($33,490.00) FROM THE U.S. DEPARTMENT OF JUSTICE FOR THE PURCHASE OF COMPUTER EQUIPMENT, AND APPROVING A BUDGET ADJUSTMENT IN THE SAME AMOUNT TO RECOGNIZE THE GRANT REVENUE AND APPROPRIATE THE MATCHING FUNDS.

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 accepts a Local Law Enforcement Block Grant (LLEBG) in the amount of Thirty-Three Thousand Four Hundred Ninety Dollars ($33,490.00) from the U.S. Department of Justice for the purchase of computer equipment.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the same amount to recognize the grant revenue and appropriate the matching funds.

PASSED and **APPROVED** this 19th day of August, 2003.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Rick Hoyt, Chief of Police

DATE: August 1, 2003

SUBJECT: 2003 Local Law Enforcement Block Grant

Background:

The City of Fayetteville has been receiving block grants since 1987. The amount of each grant award is calculated based upon population and UCR statistics. These funds have been used to begin our School Resource Officer program as well as funding for computers and mobile video equipment.

Current Status:

The police department received notification through Senator Blanche Lincoln's office announcing the grant application period. The application will be available on-line August 4, 2003 and must be completed by August 28, 2003. Attached is copy of the application for the 2003 Local Law Enforcement Block Grant (LLEBG) in the amount of $30,141.00. This grant requires a 10% match or $3,349.00 for a total project in the amount of 33,490.00. A budget adjustment is attached to accept the award when the application is accepted.

Recommendation:

It is recommended the City Council approve the application and the acceptance of the 2003 LLEBG for the purchase of computer equipment for the Fayetteville Police Department and budget adjustment to cover the matching funds. The funds obtained through the LLEBG follow guiding principal #4 and #10 by providing federal funds to cover costs of computer equipment for the Police Department.

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Police Division: Police Program: Sales Tax Capital Improvements	Date Requested	Adjustment Number
2003		8/19/2003	

Project or Item Requested:	Project or Item Deleted:
$33,490 in the Public Safety Computer System capital project.	None. To recognize $30,141 in Federal Grant revenue. None. To recognize $3,349 in Investment Earnings revenue.

Justification of this Increase:	Justification of this Decrease:
The funds are for the purchase of additional computer system equipment for the Police Department.	The $30,141 will be received as part of the 2003 Local Law Enforcement Block Grant. For 2003, additional Investment earnings were received over 2003 budgeted amounts.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Minor equipment	4470	9470	5210	00	33,490	03004	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Federal grants	4470	0947	4309	00	30,141	03004	1
Interest-investments	4470	0947	4708	00	3,349		

Approval Signatures

Requested By — Date

Budget Manager — Date 8-4-03

Department Director — Date

Finance & Internal Services Director — Date 8-4-03

Mayor — Date

Budget Office Use Only

Type: A B C D E

Date of Approval — Initial — Date

Posted to General Ledger — Initial — Date

Posted to Project Accounting — Initial — Date

Entered in Category Log — Initial — Date

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
__ CONTRACT REVIEW
X GRANT REVIEW

DOT / FAA Grant
AIP #31

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

Ray M. Boudreaux	Aviation & Economic Development	General Government
Name	Division	Department

ACTION REQUIRED: Review and Accept FAA AIP Grant for the Taxiway "A" phase 1 project in support of the USDA Forest Service Fire Tanker Base

COST TO CITY:

$1,232,723.00 (Revenue)	$ 1,358,500.00	Taxiway A Extension Phase I
Cost of this request	Category/Project Budget	Program Category / Project Name
5550.0955.6820.31	$ -	Airport Improvements
Account Number	Funds Used to Date	Program / Project Category Name
03012 - 1	$ 1,358,500.00	Airport Capital
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item __ Budget Adjustment Attached

Budget Manager — Date: 8 4 03

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing — Accounting Manager — Date: 8/4/03
Nancy Smith — Internal Auditor — Date: 8/4/03
City Attorney — Date: 8/4/03
Purchasing Manager — Date: 8/4/03

STAFF RECOMMENDATION:

Division Head — Date:
Department Director — Date: Aug 4, 2003
Finance & Internal Services Dir. — Date: 8-4-03
Hugh Earnest — Chief Administrative Officer — Date: 8-04-03
Dan Coody — 8/5/03

Received in Mayor's Office — Date:

Cross Reference:

Previous Ord/Res#: 12-02

Orig. Contract Date: 11-Feb-02

Orig. Contract Number: 747 Task Ord #9

New Item: Yes __ No XX

ENTERED 8/4/03 TLM

Mayor Date

Staff Review Form - Page 2

Description DOT / FAA Grant - AIP #31 Meeting Date August 19, 2003

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

RESOLUTION NO. ______

A RESOLUTION TO ACCEPT AN AIRPORT IMPROVEMENT PROGRAM GRANT (AIPG) FROM THE U.S. FEDERAL AVIATION ADMINISTRATION IN THE AMOUNT OF ONE MILLION TWO HUNDRED THIRTY-TWO THOUSAND SEVEN HUNDRED TWENTY-THREE DOLLARS ($1,232,723.00) FOR THE TAXIWAY "A" PHASE 1 PROJECT IN SUPPORT OF THE USDA FOREST SERVICE FIRE TANKER BASE.

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 accepts an Airport Improvement Program Grant (AIPG) from the U.S. Federal Aviation Administration in the amount of One Million Two Hundred Thirty-Two Thousand Seven Hundred Twenty-Three Dollars ($1,232,723.00) for the Taxiway "A" Phase 1 Project in support of the USDA Forest Service Fire Tanker Base.

PASSED and **APPROVED** this 19th day of August, 2003.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

MEMORANDUM

TO: Dan Coody, Mayor
Members of the City Council
THRU: Staff Review Committee
FROM: Ray M. Boudreaux, Director, Aviation and Economic Development
DATE: August 1, 2003
SUBJECT: Federal Aviation Administration Grant 3-05-0020-031-2003 Taxiway A phase 1

Background: In previous action, the City Council has approved Task order #1 and Task Order #2 to McClelland Consulting Engineers to design the taxiways and ramps for the USDA Forrest Service. The Council also approved Lease amendment No.1 with the USDA Forest Service that provided for MCE to design and provide construction oversight to the USDA portion of the project and for the city to proceed with the construction and the USDA to pay $1.2 million toward the project. This action provides for the acceptance of the FAA grant for the City portion of the project.

Budget Considerations: The FAA has awarded a grant of $1,232,723.00 toward the project. The grant is a 90/5/5 grant. The State will contribute $68,485.00 and an equal amount will be funded by the airport fund.

Requested Action: Approve the acceptance of the FAA grant for construction of Phase 1 of Taxiway "A" for access to the Forest Service ramp.

Attachments: Staff Review Form
FAA Grant

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

CONCURRENCES
ROUTING SYMBOL 631
INITIALS/SIGNATURE DH
DATE 7/7/03
ROUTING SYMBOL 630
INITIALS/SIGNATURE
DATE 7/9/03

July 7, 2003

The Honorable Dan Coody
Mayor of Fayetteville
13 West Mountain Street
Fayetteville, AR 72701

Dear Mayor Coody:

Your request for assistance under the Airport Improvement Program, as authorized by Title 49 United States Code, for Drake Field has been approved for Fiscal Year 2003. The allocation is as follows:

Federal Funds:	$1,232,723.00
Project No.:	3-05-0020-031-2003
Development:	Extend Taxiway

This allocation may be used only for the development described above and you are expected to proceed without delay. Our Airports Division representative, Mr. Don Harris, will contact the airport manager within 7 days to provide any assistance needed and to work to establish a project schedule. This schedule will include a timely grant offer being made based on bids. This allocation is tentative and will remain valid so long as the project formulation is proceeding on the schedule. Failure to meet the schedule will jeopardize project funding and could lead to withdrawal of the tentative allocation.

We look forward to working with you and your staff toward the successful completion of this project.

Sincerely,

Original Signed By:
Edward N. Agnew

Edward N. Agnew
Manager, Arkansas/Oklahoma
Airports Development Office

cc:
Mr. John Knight, Director
Arkansas Department of Aeronautics
Adams Field, One Airport Drive, 3rd Floor
Little Rock, AR 72202

ASW-631:DHARRIS:jb:X5634:7/7/03:ARTA2.DOC

Celebrating 100 Years of Powered Flight

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED: July 2003	Applicant Identifier: FY022103
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier: AIP-03-05-0020-031-2003

1. TYPE OF SUBMISSION:
Application: [X] Construction ☐ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name: City of Fayetteville	Organizational Unit: Airport Department
Address *(give city, county, state, and zip code)*: Airport Department, 4500 S. School, Suite F, Fayetteville, AR 72701	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*: Ray Boudreaux, Director of Aviation, 479-718-7642

6. EMPLOYER IDENTIFICATION NUMBER (EIN): 71 – 6018462

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* C

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): ______

8. TYPE OF APPLICATION: [X] New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

9. NAME OF FEDERAL AGENCY:
Federal Aviation Administration
Fort Worth, TX 76193-0610

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 20-106

TITLE: Airport Improvement

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
Construct 1200 LF of Parallel Taxiway "A" to serve the USDA Forest Service Air Tanker Base

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:
Washington County, Arkansas

13. PROPOSED PROJECT:

Start Date	Ending Date
9-1-03	5-31-04

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project
Third	Third

15. ESTIMATED FUNDING:

a. Federal	$ 1,238,139 .00
b. Applicant	$ 68,786 .00
c. State	$ 68,785 .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ 1,375,710 .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:
DATE ______
b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. [X] No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative: Dan Coody	b. Title: Mayor	c. Telephone number: 479-575-8330
d. Signature of Authorized Representative: Dan Coody		e. Date Signed: 7/3/03

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
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DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 80-R018

PART II

PROJECT APPROVAL INFORMATION
SECTION A

Item 1.
Does this assistance request require State, local, regional, or other priority rating?

____ Yes __X__ No

Name of Governing Body ____
Priority Rating ____

Item 2.
Does this assistance request require State, or local advisory, educational or health clearances?

____ Yes __X__ No (Attach Documentation)

Name of Agency or Board ____

Item 3.
Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?

__X__ Yes ____ No

(Attach Comments)

Item 4.
Does this assistance request require State, local, regional or other planning approval?

____ Yes __X__ No

Name of Approving Agency ____
Date ____

Item 5.
Is the proposed project covered by an approved comprehensive plan?

____ Yes __X__ No

Check one: State ☐ Local ☐ Regional ☐
Location of plan ____

Item 6.
Will the assistance requested serve a Federal installation?

____ Yes __X__ No

Name of Federal Installation ____
Federal Population benefiting from Project ____

Item 7.
Will the assistance requested be on Federal land or installation?

____ Yes __X__ No

Name of Federal Installation ____
Location of Federal Land ____
Percent of Project ____

Item 8.
Will the assistance requested have an impact or effect on the environment?

____ Yes __X__ No

See instruction for additional information to be provided.

Item 9.
Will the assistance requested cause the displacement of individuals families, businesses, or farms?

__X__ Yes ____ No

Number of:
Individuals ____
Families ____
Businesses ____
Farms ____

Item 10.
Is there other related Federal assistance on this project previous, pending, or anticipated?

__X__ Yes ____ No

See instructions for additional information to be provided.

PART II - SECTION C (SECTION B OMITTED)

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use.–The Sponsor has taken the following actions to assure compatible usage of land adjacent to or i the vicinity of the airport:

The Sponsor has adopted Drake Field Ordinance 2607 which regulates and restricts all land use activities in the vicinity of Drake Field. This ordinance was adopted January 20, 1980 and as amended.

2. Defaults.–The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

3. Possible Disabilities.–There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

4. Land.–(a) The Sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport, subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

The Sponsor hold fee simple title to Tract A and easements shown in Tract B of the attached property map, Exhibit "A". Title for Tracts A and B were approved under previous projects. Status has not changed since approval.

Land and easements acquired under AIP 3-0020-05-11 & 15 include easements, Tracts C, D, F, J, G, and K; Fee Simple Tract D, E, and H.

**State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.*

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PART II - SECTION C (Continued)

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

None

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

None

5. Exclusive Rights.–There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

None

State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

 OMB NO. 80-R0184

PART III – BUDGET INFORMATION – CONSTRUCTION

SECTION A – GENERAL

1. Federal Domestic Assistance Catalog No. 20.106

2. Functional or Other Breakout . . . .

SECTION B – CALCULATION OF FEDERAL GRANT

Cost Classification	Use only for revisions: Latest Approved Amount	Use only for revisions: Adjustment + or (-)	Total Amount Required
1. Administration expense	$	$	$ 1,000
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			
5. Other architectural engineering fees			
6. Project inspection fees			
7. Land development			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement			1,375,210
12. Equipment			
13. Miscellaneous			
14. Total (Lines 1 through 13)			1,376,210
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			
17. Less: Ineligible Exclusions			500
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)			1,375,710
20. Federal Share requested of Line 19			1,238,139
21. Add Rehabilitation Grants Requested (100 Percent)			
22. Total Federal grant requested (Lines 20 & 21)			1,238,139
23. Grantee share			68,786
24. Other shares			68,785
25. Total project (Lines 22, 23 & 24)	$	$	$ 1,375,710

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OMB NO. [illegible]

SECTION C – EXCLUSIONS

26 Classification	Ineligible for Participation (1)	Excluded from Contingency Provision (2)
a.	$	$
b.		
c		
d.		
e.		
f.		
g. Totals	$	$

SECTION D – PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE

27. Grantee Share	$
a. Securities	
b. Mortgages	
c. Appropriations (By Applicant)	68,786
d. Bonds	
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. TOTAL – Grantee share	
28. Other Shares	
a. State	68,785
b. Other	
c. Total Other Shares	
29. TOTAL	$ 137,571

SECTION E – REMARKS

PART IV PROGRAM NARRATIVE (Attach – See Instructions)

PART IV

PROGRAM NARRATIVE STATEMENT

PARALLEL TAXIWAY
DRAKE FIELD
FAYETTEVILLE, ARKANSAS

The proposed improvements are located at Drake Field, Fayetteville Municipal Airport, Fayetteville, Arkansas. The objective of these improvements is to provide a parallel taxiway addition, in accordance with the Master Plan Update completed in June 1999.

1. The construction of a partial parallel Taxiway "A" on the east side of the runway to serve the USDA Forest Service Air Tanker Base, which is currently under design with construction planned for fall 2003.

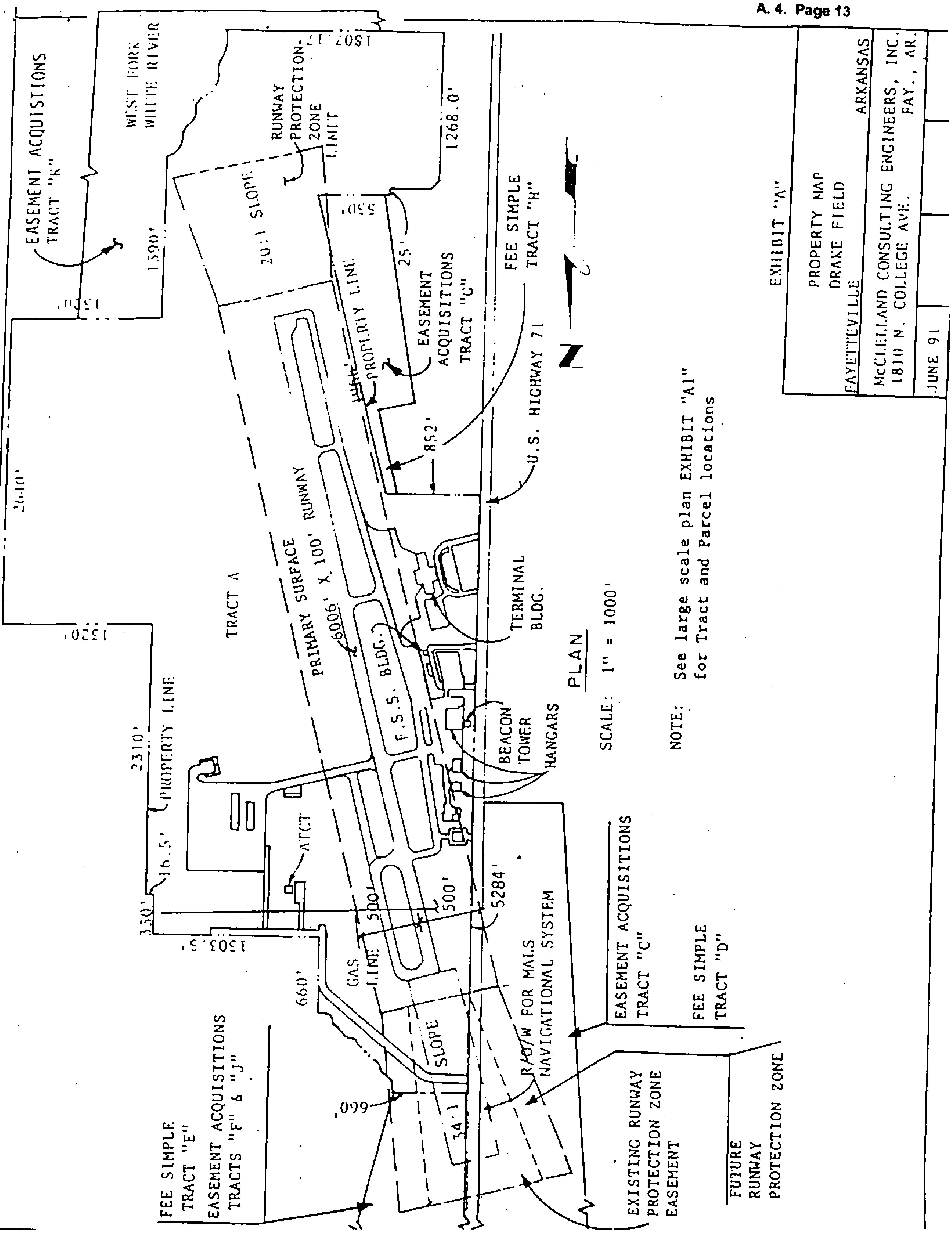
EXHIBIT "A"
PROPERTY MAP
DRAKE FIELD
FAYETTEVILLE
ARKANSAS
McCLELLAND CONSULTING ENGINEERS, INC.
1810 N. COLLEGE AVE.
FAY., AR.
JUNE 91
PLAN
SCALE: 1" = 1000'
NOTE: See large scale plan EXHIBIT "A1"
for Tract and Parcel locations
N
EASEMENT ACQUISITIONS
TRACT "K"
WEST FORK
WHITE RIVER
RUNWAY
PROTECTION-
ZONE
LIMIT
20:1 SLOPE
1268.0'
550'
25'
1390'
1320'
PROPERTY LINE
EASEMENT
ACQUISITIONS
TRACT "G"
FEE SIMPLE
TRACT "H"
U.S. HIGHWAY 71
852'
2640'
TRACT A
PRIMARY SURFACE
6006' X 100' RUNWAY
F.S.S. BLDG.
TERMINAL
BLDG.
BEACON
TOWER
HANGARS
1320'
2310'
PROPERTY LINE
16.5'
ATCT
330'
1303.5'
500'
500'
5284'
GAS
LINE
660'
SLOPE
34:1
660'
R/O/W FOR MALS
NAVIGATIONAL SYSTEM
EASEMENT ACQUISITIONS
TRACT "C"
FEE SIMPLE
TRACT "D"
FEE SIMPLE
TRACT "E"
EASEMENT ACQUISITIONS
TRACTS "F" & "J"
EXISTING RUNWAY
PROTECTION ZONE
EASEMENT
FUTURE
RUNWAY
PROTECTION ZONE

PART V
ASSURANCES
AIRPORT SPONSORS

A. GENERAL

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants to airport sponsors.

2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of the Airport and Airway Improvement Act of 1982, as amended by the Airport and Airway Safety and Capacity Expansion Act of 1987, or the Aviation Safety and Noise Abatement Act of 1979. As used herein, the term public agency sponsor means a public agency with control of a public-use airport; the term private sponsor owner of a public-use airport; and the term sponsor includes public sponsors and private sponsors.

3. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the grant agreement.

B. DURATION AND APPLICABILITY.

1. **Airport Development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurance against exclusive rights or the terms, conditions, and assurances with respect to real property acquired with Federal funds. Furthermore, the duration of the Civil Rights assurance shall be as specified in the assurance.

2. **Airport Development or Noise Compatibility Program Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than 10 years from the date of the acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in the grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, 34, and 36 in Section C apply to planning projects. The terms, conditions, and assurances of the grant agreement shall remain in full force and effect during the life of the project.

C. SPONSOR CERTIFICATION.

The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

a. Federal Aviation Act of 1958 - 49 U.S.C. 1301, et seq.
b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.[1]
c. Federal Fair Labor Standards Act of 1938 - 29 U.S.C. 201, et seq.
d. Hatch Act - 5 U.S.C. 1501, et seq.[2]
e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 - 42 U.S.C. 4601, et seq.[1 and 2]
f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).[1]
g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469C.[1]
h. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.[1]
i. Rehabilitation Act of 1973 - 29 U.S.C. 794.
j. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
k. Aviation Safety and Noise Abatement Act of 1979, 49 U.S.C. 2101, et seq.
l. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
m. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.[1]
n. Airport and Airway Improvement Act of 1982, as amended - 49 U.S.C. 2201, et seq.
o. Powerplant and Industrial Fuel Use Act of 1978 - Section 403 - 2 U.S.C. 8373.[1]
p. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.[1]
q. Copeland Antikickback Act - 18 U.S.C. 874.[1]
r. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.[1]
s. Endangered Species Act - 16 U.S.C. 668(a), et seq.[1]
t. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.[2]
u. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
v. Aviation Safety and Capacity Expansion Act of 1990.

Executive Orders

Executive Order 12372 - Intergovernmental Review of Federal Programs
Executive Order 11246 - Equal Employment Opportunity[1]

Federal Regulations

a. 49 CFR Part 18 - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.[3]
b. 49 CFR Part 20 - Restrictions on Lobbying.

c. 49 CFR Part 21 - Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
d. 49 CFR Part 23 - Participation by Minority Business Enterprise in Department of Transportation Programs.
e. 49 CFR Part 24 - Uniform Relocation Assistance and Real Property Acquisition Regulation for Federal and Federally assisted Programs.' ""
f. 49 CFR Part 27 - Non-Discrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.'
g. 49 CFR Part 29 - Debarments Suspensions and Voluntary Exclusions.
h. 49 CFR Part 30 - Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
i. 29 CFR Part 1 - Procedures for Predetermination of Wage Rates.'
j. 29 CFR Part 3 - Contractors or Subcontractors on Public Buildings or Public Works Financed in Whole or Part by Loans or Grants from U.S.'
k. 29 CFR Part 5 - Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction.'
l. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted Contracting Requirements).'
m. 14 CFR Part 150 - Airport Noise Compatibility Planning.

Office of Management and Budget Circulars (OMB).
a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.'
b. A-128 - Audits of State and Local Governments.'
'These laws do not apply to airport planning sponsors.
'These laws do not apply to private sponsors.
'49 CFR Part 18 and OMB Circular A-87 contain requirements for State and local governments receiving Federal assistance. Any requirement levied upon State and local governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under the Airport and Airway Improvement Act of 1982, as amended.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in the grant agreement.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor: It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor: It has legal authority to apply for the grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with the application; and to provide such additional information as may be required.

3. Sponsor Fund Availability. It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement which it will own or control.

4. Good Title.

a. It holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

a. At will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. It will not sell, lease, encumber or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in the grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under the Airport and Airway Improvement Act of 1982 to assume the obligations of the grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee, all of the terms, conditions, and assurances contained in this grant agreement.

c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial noncompliance with the terms of the agreement.

d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial noncompliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with the Airport and Airway Improvement Act of 1982, the regulations and the terms, conditions and assurances in the grant agreement and shall ensure that such arrangement also requires compliance therewith.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the state in which the project is located to plan for the development of the area surrounding the airport. For noise compatibility program projects, other than land acquisition, to be carried out on property not owned by the airport and over which property another public agency has land use control or authority, the sponsor shall obtain from each such agency a written declaration that such agency supports that project and the project is reasonably consistent with the agency's plans regarding the property.

7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near which the project may be located.

8. **Consultation with Users.** In making a decision to undertake any airport development project under the Airport and Airway Improvement Act of 1982, it has undertaken reasonable consultations with affected parties using the airport at which the project is proposed.

9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with the goals and objectives of such planning as has been carried out by the community. It shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary.

10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

11. **Local Approval.** In projects involving the construction or extension of any runway at any general aviation airport located astride a line separating two counties within a single state, it has received approval for the project from the governing body of all villages incorporated under the laws of that state which are located entirely within five miles of the nearest boundary of the airport.

12. **Terminal Development Prerequisites.** For projects which include terminal development at a public airport, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under Section 612 of the Federal Aviation Act of 1958 and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft other than air carrier aircraft.

13. **Accounting System, Audit, and Recordkeeping Requirements.**

a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than 6 months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates. It shall include, in all contracts in excess of $2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veterans Preference. It shall include, in all contracts for work on any projects funded under the grant agreement which involve labor, such provisions as are necessary to ensure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans as defined in Section 515(c)(1) and (2) of the Airport and Airway Improvement Act of 1982. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications. It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval by the Secretary, shall be incorporated into this grant agreement. Any modifications to the approved plans, specifications, and schedules shall also be subject to approval by the Secretary and incorporation into the grant agreement.

17. Construction Inspection and Approval. It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms with the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects. In carrying out planning projects:

   a. It will execute the project in accordance with the approved program narrative contained in the project application or with modifications similarly approved.

   b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.

   c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

   d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

   e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

   f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

   g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.

   h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

   a. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for nonaeronautical purposes must first be approved by the Secretary. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.

   In furtherance of this assurance, the sponsor will have in effect at all times arrangements for–

   (1) Operating the airport's aeronautical facilities whenever required;

   (2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

   (3) Promptly notifying airmen of any condition affecting aeronautical use of the airport.

   Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. **Hazard Removal and Mitigation.** It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. **Compatible Land Use.** It will take appropriate action, including the adoption of zoning laws, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce the compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. **Economic Nondiscrimination.**

a. It will make its airport available as an airport for public-use on fair and reasonable terms and without unjust discrimination, to all types, kinds, and classes of aeronautical uses.

b. In any agreement, contract, lease or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to --

(1) furnish said services on a fair, equal, and not unjustly discriminatory basis to all users thereof, and

(2) charge fair, reasonable, and not unjustly discriminatory prices for each unit or service, provided, that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at any airport owned by the sponsor shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants and signatory carriers and nonsignatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classifications or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by contractors or concessionaires of the sponsor under these provisions.

h. The sponsor may establish such fair, equal, and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind, or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. **Exclusive Rights.** It will permit no exclusive right for the use of the airport by any persons providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and

b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right at the airport, or at any other airport now owned or controlled by it, to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under the Airport and Airway Improvement Act of 1982.

24. **Fee and Rental Structure.** It will maintain a fee and rental structure consistent with Assurances 22 and 23, for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning, or noise compatibility project for which a grant is made under the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate base in establishing fees, rates, and charges for users of that airport.

25. **Airport Revenue.** If the airport is under the control of a public agency, all revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. Provided, however, that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

26. **Reports and Inspections.** It will submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request. For airport development projects, it will also make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request. For noise compatibility program projects, it will also make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request.

27. **Use of Government Aircraft.** It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that—

    a. Five (5) or more government aircraft are regularly based at the airport or on land adjacent thereto; or

    b. The total number of movements (counting each landing as a movement) of government aircraft is 300 or more, or the gross accumulative weight of government aircraft using the airport (the total movements of government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. **Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. **Airport Layout Plan.**

    a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plan and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or in any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility, or efficiency of the airport.

    b. If a change or alteration in the airport or its facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any Federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities.

30. Civil Rights. It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the sponsor retains ownership or possession of the property.

31. Disposal of Land.

a. For land purchased under a grant for airport noise compatibility purposes, it will, when the land is no longer needed for such purposes, dispose of such land at fair market value at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States share of the cost acquisition of such land will, at the discretion of the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund or (2) be reinvested in an approved noise compatibility project as prescribed by the Secretary.

b. (1) For land purchased under a grant for airport development (other than noise compatibility) purposes, it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land, will, (a) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (b) be paid to the Secretary for deposit in the Trust Fund if no such eligible project exists.

(2) Land shall be considered to be needed for airport purposes under this assurance if (a) it may be needed for aeronautical purposes (including runway protection zone) or serves as noise buffer land, and (b) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or the Federal agency making such grant before December 1, 1987, was notified by the operator or owner of the use of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced not later than December 15, 1989.

c. Disposition of such land under (a) or (b) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport.

32. Engineering and Design Services. It will award each contract, or subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restriction. It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which each foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications. It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the "Current FAA Advisory Circulars for AIP Projects, dated July 29, 1991, and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. Relocation and Real Property Acquisition. (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subparts D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Drug-Free Workplace. It will provide a drug-free workplace at the site of work specified in the grant application in accordance with 49 CFR Part 29 by (1) publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the sponsor's workplace and specifying the actions that will be taken against its employees for violation of such prohibition: (2) establishing a drug-free awareness program to inform its employees about the dangers of drug abuse in the workplace and any available drug counseling, rehabilitation, and employees assistance programs: (3) notifying the FAA within ten days after receiving notice of an employee criminal drug statute conviction for a violation occurring in the workplace: and (4) making a good faith effort to maintain a drug-free workplace.

CURRENT FAA ADVISORY CIRCULARS FOR AIP PROJECTS

Effective Date: July 29, 1991

NUMBER	SUBJECT
70/7460-1G	Obstruction Marking and Lighting
150/5100-14B	Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects
CHG 1	
150/5200-30	Airport Winter Safety and Operations
CHG 1 & 2	
150/5210-5B	Painting, Marking and Lighting of Vehicles Used on an Airport
150/5210-7B	Aircraft Fire and Rescue Communications
150/5210-14	Airport Fire and Rescue Personnel Protective Clothing
150/5210-15	Airport Rescue and Firefighting Station Building Design
150/5220-4A	Water Supply Systems for Aircraft Fire and Rescue Protection
150/5220-10	Guide Specification for Water/Foam Type Aircraft Fire and Rescue Trucks
CHG 1 & 2	
150/5220-11	Airport Snowblower Specification Guide
150/5220-12	Airport Snowsweeper Specification Guide
150/5220-13A	Runway Surface Condition Sensor Specification Guide
150/5220-14A	Airport Fire and Rescue Vehicle Specification Guide
150/5220-15	Buildings for Storage and Maintenance of Airport Snow Removal and Ice Control Equipment: A Guide
150/5220-16	Automated Weather Observing Systems for Non-Federal Applications
150/5220-17	Design Standards for Aircraft Rescue Fire-fighting Training Facilities
150/5300-13	Airport Design
150/5320-5B	Airport Drainage
150/5320-6C	Airport Pavement Design and Evaluation
CHG 1 & 2	
150/5320-12A	Measurement, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces
150/5320-14	Airport Landscaping for Noise Control Purposes
150/5325-4A	Runway length Requirements for Airport Design
CHG 1	
150/5340-1F	Marking of Paved Areas on Airports
150/5340-4C	Installation Details for Runway Centerline Touchdown Zone Lighting Systems
CHG 1 & 2	
150/5340-5B	Segmented Circle Airport Marker System
CHG 1	
150/5340-14B	Economy Approach Lighting Aids
CHG 1 & 2	
150/5340-17B	Standby Power for Non-FAA Airport Lighting Systems
150/5340-18C	Standards for Airport Sign Systems
150/5340-19	Taxiway Centerline Lighting System
150/5340-21	Airport Miscellaneous Lighting Visual Aids
150/5340-23B	Supplemental Wind Cones
150/5340-24	Runway and Taxiway Edge Lighting System
CHG 1	
150/5340-27A	Air-To-Ground Radio Control of Airport Lighting Systems
150/5345-3D	Specification for L-821 Panels for Remote Control of Airport Lighting
150/5345-5A	Circuit Selector Switch
150/5345-7D	Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits
CHG 1	
150/5345-10E	Specification for Constant Current Regulators Regulator Monitors
150/5345-12C	Specification for Airport and Heliport Beacon
150/5345-13A	Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26B	Specifications for L-823 Plug and Receptacle, Cable Connectors
CHG 1 & 2	
150/5345-27C	Specification for Wind Cones Assemblies
150/5345-28D	Precision Approach Path Indicator (PAPI) Systems
150/5345-39B	FAA Specification L-853, Runway and Taxiway Centerline Retroflective Markers
CHG 1	
150/5345-42C	Specification for Airport Light Bases, Transformer Housings, Junction Boxes and Accessories
150/5345-43D	Specification for Obstruction Lighting Equipment
150/5345-44D	Specification for Taxiway and Runway Signs
150/5345-45A	Lightweight Approach Light Structure
150/5345-46A	Specification for Runway and Taxiway Light Fixtures
150/5345-47A	Isolation Transformers for Airport Lighting Systems
150/5345-49A	Specification L-854, Radio Control Equipment
150/5345-50	Specification for Portable Runway Lights
CHG 1	
150/5345-51	Specification for Discharge-Type Flasher Equipment
CHG 1	
150/5345-52	Generic Visual Glideslope Indicators (GVGI)
150/5360-9	Planning and Design of Airport Terminal Facilities at Non-Hub Locations
150/5360-12	Airport Signing and Graphics
150/5360-13	Planning and Design Guidance for Airport Terminal Facilities at Non-Hub Locations
150/5370-2C	Operational Safety on Airports During Construction

CURRENT FAA ADVISORY CIRCULARS FOR AIP PROJECTS
(Continued)

NUMBER	SUBJECT
150/5370-6B	Construction Progress and Inspection Report-Airport Grant Program
150/5370-10A	Standards for Specifying Construction of Airports
150/5370-11 CHG 1	Use of Nondestructive Testing Devices in the Evaluation of Airport Pavements
150/5370-12	Quality Control of Construction for Airport Grant Projects
150/5390-2	Heliport Design
150/5390-3	Vertiport Design

STANDARD DOT TITLE VI ASSURANCES

City of Fayetteville (hereinafter referred to as the Sponsor) hereby agrees that as a condition to receiving Federal financial assistance from the Department of Transportation (DOT), it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all requirements imposed by 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.

Without limiting the above general assurance, the Sponsor agrees concerning Project No. AIP 3-05-0020-031 (hereinafter referred to as the Project) that:

1. Each "program" and "facility" (as defined in Sections 21.23(e) and 21.23(b) will be conducted or operated in compliance with all requirements of the Regulations.

2. It will insert the following notification in all solicitations for bids issued in connection with the Project and in adapted form in all proposals for negotiated agreements:

> City of Fayetteville, in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, hereby notifies all bidders that it will affirmatively assure that minority business enterprises are afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

3. It will insert the clauses of Attachment 1 of this assurance in every contract subject to the Act and the Regulations.

4. Where Federal financial assistance is received to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

5. Where Federal financial assistance is in the form or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.

6. It will include the appropriate clauses set forth in Attachment 2 of this assurance, as a covenant running with the land, in any future deeds,

leases, permits, licenses, and similar agreements entered into by the Sponsor with other parties: (a) for the subsequent transfer of real property acquired or improved with Federal financial assistance under this Project and (b) for the construction or use of or access to space on, over, or under real property acquired or improved with Federal financial assistance under this Project.

7. This assurance obligates the Sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the Sponsor retains ownership or possession of the property.

8. It will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other sponsors, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this assurance.

9. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining Federal financial assistance for this Project and is binding on its contractors, the sponsor, subcontractors, transferees, successors in interest and other participants in the Project. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Sponsor.

DATED 7-31-03

City of Fayetteville
(Sponsor)

By Dan Coody
(Signature of Authorized Official)
Dan Coody, Mayor

Attachments 1 and 2

CONTRACTOR CONTRACTUAL REQUIREMENTS

ATTACHMENT 1 TO STANDARD DOT TITLE VI ASSURANCE

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations. The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to--

a. Withholding of payments to the contractor under the contract until the contractor complies, and/or

b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions. The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

CLAUSES FOR DEEDS, LICENSES, LEASES, PERMITS OR SIMILAR INSTRUMENTS

ATTACHMENT 2 to STANDARD DOT TITLE VI ASSURANCES

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by City of Fayetteville pursuant to the provisions of Assurances 6 (a) and 6 (b).

1. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permitee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

2. The (grantee, licensee, lessee, permitee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permitee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontract, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signed Dan Coody Dated 7/31/03

Sponsor's Authorized Representative

Dan Coody, Mayor

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

1. The sponsor certifies that it will provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the sponsor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

b. Establishing a drug-free awareness program to inform employees about -

(1) The dangers of drug abuse in the workplace;

(2) The sponsor's policy of maintaining a drug-free workplace;

(3) Any available drug counseling; rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement requirement by paragraph a;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will -

(1) Abide by the terms of the statement; and

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

e. Notifying the Federal Aviation Administration within 10 days after receiving notice under subparagraph d(2), from an employee or otherwise receiving actual notice of such equipment;

f. Taking one of the following actions within 30 days of receiving notice under subparagraph d(2), with respect to any employee who is so convicted -

(1) Taking appropriate personnel action against such employees, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a through f.

2. The sponsor shall insert in the space provided below the site(s) for the performance of the work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Drake Field

Fayetteville, Washington County, Arkansas 72701

State Dept. of Aeronautics
Matching Grant
A. 5. Page 1

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
CONTRACT REVIEW
X GRANT REVIEW

State Aeronautics Grant
AIP #30

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

Ray M. Boudreaux	Aviation & Economic Development	General Government
Name	Division	Department

ACTION REQUIRED: Review and approve the State Department of Aeronautics matching grant to the FAA AIP #30 grant for the design and engineering oversight of the Taxiway "A" phase 1 extention project.

COST TO CITY:

$5,836.00 (Revenue)	$ 1,358,500.00	Taxiway A Extension Phase I
Cost of this request	Category/Project Budget	Program Category / Project Name
5550.0955.6805.00	$ -	Airport Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02039	$ 1,358,500.00	Airport Capital
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager 8-4-03 Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing 8/4/03
Accounting Manager Date

Internal Auditor 8/4/03 Date

City Attorney 8/4/03 Date

Purchasing Manager 8/4/03 Date

STAFF RECOMMENDATION:

Division Head Date

Department Director Aug 1, 2003 Date

Finance & Internal Services Dir. Aug 4, 2003 Date

Chief Administrative Officer 8-04-03 Date

Dan Coody 8/5/03

Received in Mayor's Office 8/4/03 Date PK

Cross Reference:

Previous Ord/Res#: 12-02

Orig. Contract Date: 11-Feb-02

Orig. Contract Number: 747 Task Ord #9

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

ENTERED 8/4/03

State Dept. of Aeronautics
Matching Grant
A. 5. Page 2

Mayor Date

Staff Review Form - Page 2

Description State Aeronautics Grant - AIP #30 Meeting Date August 19, 2003

Comments:	Reference Comments:
Budget Manager	
Accounting Manager	
City Attorney	
Purchasing Manager	
ADA Coordinator	
Internal Auditor	
Grants Coordinator	

RESOLUTION NO. ______

A RESOLUTION ACCEPTING A MATCHING GRANT IN THE AMOUNT OF FIVE THOUSAND EIGHT HUNDRED THIRTY-SIX DOLLARS ($5,836.00) FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS FOR THE DESIGN AND ENGINEERING OVERSIGHT OF THE TAXIWAY "A" PHASE 1 PROJECT IN SUPPORT OF THE USDA FOREST SERVICE FIRE TANKER BASE.

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 accepts a matching grant in the amount of Five Thousand Eight Hundred Thirty-Six Dollars ($5,836.00) from the Arkansas Department of Aeronautics for the design and engineering oversight of the Taxiway "A" Phase 1 Project in support of the USDA Forest Service Fire Tanker Base.

PASSED and **APPROVED** this 19th day of August, 2003.

APPROVED:

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk

DRAFT

TEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

MEMORANDUM

TO: Dan Coody, Mayor
Members of the City Council
THRU: Staff Review Committee
FROM: Ray M. Boudreaux, Director, Aviation and Economic Development
DATE: August 1, 2003
SUBJECT: Department of Aeronautics Grant—AIP Grant 3-05-0020-030-2002 match

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Background: In previous action, the City Council approved an FAA AIP Grant for the design and engineering of the USDA Forest Service taxiway "A" extension. This action is to approve acceptance of the State Department of Aeronautics 5% match to the grant. This was previously to fund McClelland Consulting Engineers Task Order No. 1

Budget Considerations: This action will result in $5,836.00 in State of Arkansas support.

Requested Action: Approve the acceptance of the State of Arkansas Department of Aeronautics Matching Grant for $5,836.00.

Attachments: Staff Review Form
State of Arkansas Department of Aeronautics Grant

FAYETTEVILLE

AIRPORT ADMINISTRATION OFFICE
THE CITY OF FAYETTEVILLE, ARKANSAS

July 31, 2003

Mr. John Knight, Director
Arkansas Department of Aeronautics
One Airport Drive, 3rd Floor
Little Rock, Arkansas 72202

RE: GRANT APPLICATION, Taxiway "A" Extension – AIP #30

Dear Mr. Knight;

Enclosed please find two (2) copies of a grant application to Arkansas Department of Aeronautics for 5% match funding on DOT/FAA AIP grant #3-05-0020-030-2002. The grant will be used for Engineering and Design of an extension to Taxiway "A". The project is to facilitate the development of the Fire Tanker Base for the USDA Forest Service.

The FAA originally approved this portion of the total project in 2002 in order to proceed with the design portion of the work. Progress on the project was delayed due to federal funding constraints at both the FAA and USDA in 2002. The USDA is cost sharing on the construction of the project and funding from both agencies has now been committed. Thus, we are proceeding with final design and readying the project for bidding.

Fayetteville Municipal Airport requests funding in the amount of $5,836 which is 5% of the project cost. Total project cost is estimated at $116,730.

Fayetteville Municipal Airport respectfully requests your consideration and approval of this grant application. Please contact me if you desire further information, or have any question concerning this application.

Sincerely,

Ray M. Boudreaux, Director
Aviation & Economic Development

RB:jn
Enclosures:\2\
Grant Application, 2 copies

ARKANSAS DEPARTMENT OF AERONAUTICS

APPLICATION FOR STATE AIRPORT AID

The City/~~County~~ of Fayetteville, herein called "Sponsor", hereby makes application to the Arkansas Department of Aeronautics for State funds pursuant to Act 733 of 1977, for the purpose of aiding in financing a project for the development of a municipal airport located in the City of Fayetteville, Arkansas, Washington County.

Date of Request: July 31, 2003

Name of Airport: Fayetteville Municipal Airport / Drake Field (FYV)

Name and address of City/County Commission sponsoring request:

City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701

Phone/Fax Number: ____

Person to contact about project:
Ray M. Boudreaux, Director
4500 S School Ave, Suite F

Phone/Fax Number: 479-718-7642
479-718-7646 fax

Name and address of Engineering Firm (If Applicable):

McClelland Consulting Engineers, Inc.
PO Box 1229
Fayetteville, AR 72702-1229

Contact Person: Wayne Jones, P.E.

Phone/Fax Number: 479-443-2377

Describe the work to be accomplished: Engineering & Design, and construction oversight of project to extend Taxiway "A". The project will facilitate the establishment of USDA Forest Service Fire Tanker Base. This is a DOT / FAA Airport Improvement Program.

State and Local Project Costs:
Please indicate: ____ 50-50% Match
____ 75-25% Match
____ 90-10% Match

Total Cost of Project	$
Local Share/Funds	
Local Share/In-Kind	
State Share	

Federal AIP Projects:

3-05-0020-030-2002

Total Cost of Project	$116,730.00
Federal Share (90%)	$105,057.00
Local Share (5%)	$ 5,836.00
State Share (5%)	$ 5,836.00

State Airport Aid Application
Page Two

Provide the information listed below as it applies to your project:

FUNDS:

Source of Funds **Federal Funding: DOT / FAA**

State Funding: Arkansas State Department of Aeronautics

Local Funding: Fayetteville Municipal Funds, Airport Div

Source of In-Kind Services **N/A**

Estimate starting date of project: **Underway**

Estimate completion date of project: **March 2004**

Project will be for: New Airport ________ Existing Airport **XX**

Is land to be leased or purchased? **NO**

Description of land and cost per acre:

Provide the Federal AIP Grant Number (AIP Projects Only)

3-005-0020-030-2002

State Representatives for your area:

State Senator **Sue Madison**

State Representative **Bill Pritchard - District 8**

State Airport Aid Application
Page Three

The Sponsor agrees to furnish the Arkansas Department of Aeronautics a copy of the legal instrument affecting use of the property for an airport. In application for a new landing site or expansion of existing facility, the FAA Form 7480.1, Notice of Landing Area Proposal, must be approved by FAA before review for grant can be made by the state.

No land purchased with State Grant Funds may be sold or disposed of without State Commission approval. All requests for sale or disposal of property will be considered on an individual case basis.

No airport accepting State Grant funding may issue an Exclusive Rights Lease.

All applications for navigational aids (such as NDB or ILS) must have FAA site approval before a state grant can be approved.

All Grant applications involving Federal Airport Improvement Program (AIP) funding must be accompanied by the approved FAA application.

If this project is approved by the Arkansas Department of Aeronautics, and is accepted by the sponsor, it is agreed that all developments and construction shall meet standard FAA construction practices as outlined in the specifications of this agreement. Runways, Taxiways, Parking Ramps, etc., shall have a base and a thickness that will accommodate the weight of aircraft expected to operate at this airport.

All grant applicants (City and/or County) are totally responsible for compliance with all Federal, State, County and City Laws, Statutes, Ordinances, Rules, Regulations, and Executive Orders concerning contracts and purchases for which this grant is approved and issued. All grant applicants must submit with their applications a completed Contract and Grant Disclosure and Certification Form. (Form F-1-Pages 1&2).

It is understood and agreed that should the sponsor fail to start this project within three (3) months of the Arkansas Department of Aeronautics' date of acceptance, that this grant is null and void.

It is also agreed that this project, except FAA funded projects, shall be completed within one year from the date of acceptance of this grant by the Arkansas Department of Aeronautics. Applications for extension will be entertained if circumstances beyond the sponsor's control occur.

Funds will be disbursed according to Department procedures and final inspection of completed project. (See Instruction Page).

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this 31st day of July, 20 03 .

City of Fayetteville
Name of Sponsor

[signature]
Authorized Signature

Ray M. Boudreaux, Director
Title

U.S. Department
of Transportation
**Federal Aviation
Administration**

Southwest Region
Arkansas, Louisiana,
New Mexico, Oklahoma,
Texas

Fort Worth, Texas 76193-0000

June 4, 2002

RECEIVED
JUN 11 2002
AIRPORT

The Honorable Dan Coody
Mayor of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Dear Mayor Coody:

Your request for assistance under the Airport Improvement Program, as authorized by Title 49 United States Code, for Drake Field has been approved for Fiscal Year 2002. The allocation is as follows:

Federal Funds:	$104,940.00
Project No.:	3-05-0020-030-2002
Development:	Extend Taxiway A – Design Only

This allocation may be used only for the development described above and you are expected to proceed without delay. Our Airports Division representative, Mr. Don Harris, will contact you within 7 days to provide any assistance you may need and to work with you to establish a project schedule. This schedule will include a timely grant offer being made based on bids. This allocation is tentative and will remain valid so long as the project formulation is proceeding on the schedule. Failure to meet the schedule will jeopardize project funding and could lead to withdrawal of the tentative allocation.

We look forward to working with you and your staff toward the successful completion of this project.

Sincerely,

Original Signed By:
Edward N. Agnew

Edward N. Agnew
Manager, Arkansas/Oklahoma Airports
Development Office

U.S. Department
of Transportation

Federal Aviation
Administration

GRANT AGREEMENT

FOR DEVELOPMENT PROJECT

PART I-OFFER

Date of Offer: **August 14, 2002** Project No. **3-05-0020-030-2002**

Airport: **Fayetteville Municipal (Drake Field)**

TO: **City of Fayetteville**
(herein referred to as the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration, herein referred to as the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application (also called an Application for Federal Assistance) dated **August 8, 2002,** for a grant of Federal funds for a project for development of the **Fayetteville Municipal (Drake Field) Airport** (herein called the "Airport"), together with plans and specifications for such project, which Application for Federal Assistance, as approved by the FAA is hereby incorporated herein and made a part hereof; and

WHEREAS, the FAA has approved a project for development of the Airport (herein called the "Project") consisting of the following-described airport development:

Taxiway "A" Extension, Phase I: Design

all as more particularly described in the property map and plans and specifications incorporated in the said Application for Federal Assistance.

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of Title 49, United States Code, herein called "Title 49 U.S.C.," and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided, **THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES** to pay, as the United States share of the allowable costs incurred in accomplishing the Project, **ninety** percentum of all allowable project costs.

This Offer is made on and subject to the following terms and conditions:

Conditions

1. The maximum obligation of the United States payable under this offer shall be **$105,057.00.**

2. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under Title 49 U.S.C.

3. Payment of the United States share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.

4. The sponsor shall carry out and complete the Project without undue delays and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the project application.

5. The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the sponsor.

6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the sponsor on or before September 1, 2002, or such subsequent date as may be prescribed in writing by the FAA.

7. The sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds, however, used or disbursed by the sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.

8. The United States shall not be responsible or liable for damage to property or injury to persons that may arise from, or be incident to, compliance with this grant agreement.

9. Unless otherwise approved by the FAA, the sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for airport development or noise compatibility for which funds are provided under this grant. The sponsor will include in every contract a provision implementing this special condition.

10. The property map referred to on Page 1 of this Grant Agreement is the Property Map, Exhibit "A, included as part of the Airport Layout Plan approved March 21, 2000.

11. It is mutually understood and agreed that if, during the life of the project, the FAA determines that the grant amount exceeds the expected needs of the sponsor by $5,000 or five (5%) percent, whichever is greater, the grant amount can be unilaterally reduced by letter from the FAA advising of the budget change. Conversely, if there is an overrun in the eligible project costs, FAA may increase the grant to cover the amount of overrun not to exceed the statutory fifteen (15%) percent limitation, and will advise the sponsor by letter of the increase. Upon issuance of either of the aforementioned letters, the maximum obligation of the United States is adjusted to the amount specified.

12. If a letter of credit is to be used, the sponsor agrees to request cash drawdowns on the authorized letter of credit only when actually needed for its disbursements and to timely reporting of such disbursements as required. It is understood that failure to adhere to this provision may cause the letter of credit to be revoked.

13. The Sponsor agrees to perform the following, if this project contains more than $250,000 of paving:

a. Furnish a construction management program to FAA prior to the start of construction which shall detail the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program shall include as a minimum:

   1. The name of the person representing the sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract.

   2. Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided.

   3. Procedures for determining that testing laboratories meet the requirements of the American Society of Testing and Materials standards on laboratory evaluation referenced in the contract specifications (D 3666, C 1077).

   4. Qualifications of engineering supervision and construction inspection personnel.

   5. A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria of tolerances permitted for each type of test.

   6. Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.

b. Submit at completion of the project, a final test and quality control report documenting the results of all tests performed, highlighting those tests that failed or did not meet the applicable test standard. The report shall include the pay reductions applied and reasons for accepting any out-of-tolerance material. An interim test and quality control report shall be submitted, if requested by the FAA.

c. Failure to provide a complete report as described in paragraph b, or failure to perform such tests, shall, absent any compelling justification, result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction shall be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under the grant agreement.

d. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that sponsor test results are inaccurate.

14. The plans and specifications referred to on Page 1 of this Grant Agreement are the plans and specifications being developed in this grant agreement.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by Title 49 U.S.C., constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

Edward N. Agnew

Edward N. Agnew, Manager
Arkansas/Oklahoma Airports Development Office

PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

Executed this 22ND day of August, 2002.

City of Fayetteville
(Name of Sponsor)

By: Dan Coody
(Sponsor's Designated Official Representative)

(SEAL)

Title: Mayor

Attest: Heather Woodruff

Title: City Clerk

CERTIFICATE OF SPONSOR'S ATTORNEY

I, Kit Williams, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Arkansas. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor relating thereto, and find that the acceptance thereof by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and Title 49 U.S.C. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at Fayetteville, AR this 21 day of August, 2002.

K. Williams
(Signature of Sponsor's Attorney)

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

2. DATE SUBMITTED: July 26, 2002

Applicant Identifier:

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☑ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

3. DATE RECEIVED BY STATE:

State Application Identifier:

4. DATE RECEIVED BY FEDERAL AGENCY: 8.14.02

Federal Identifier: AIP-3-05-0020-3002

5. APPLICANT INFORMATION

Legal Name: City of Fayetteville

Organizational Unit: Airport Division

Address (*give city, county, State, and zip code*):
Fayetteville Municipal Airport
4500 S. School, Fayetteville, AR 72701

Name and telephone number of person to be contacted on matters involving this application (*give area code*):
Ray Boudreaux, Director of Aviation & Eco Dev
479-718-7642

6. EMPLOYER IDENTIFICATION NUMBER (*EIN*): 71-6018462

7. TYPE OF APPLICANT: (*enter appropriate letter in box*) C

A. State	H. Independent School Dist.
B. County	I. State Controlled Institution of Higher Learning
C. Municipal	J. Private University
D. Township	K. Indian Tribe
E. Interstate	L. Individual
F. Intermunicipal	M. Profit Organization
G. Special District	N. Other (Specify) ______________

8. TYPE OF APPLICATION:
☑ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other(*specify*):

____

9. NAME OF FEDERAL AGENCY:
DOT FAA SW Region, Fort Worth, TX

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 20-106

TITLE: Airport Improvement Program (AIP)

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
Taxiway "A" Extension - Design & Engineering

12. AREAS AFFECTED BY PROJECT (*Cities, Counties, States, etc.*):
Washington County, Arkansas

13. PROPOSED PROJECT

Start Date	Ending Date
9/1/02	11/30/02

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project
Third	Third

15. ESTIMATED FUNDING:

a. Federal	$ 105,057 .00
b. Applicant	$ 5,837 .00
c. State	$ 5,836 .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ 116,730 .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE ______________

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☑ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
Dan Coody	Mayor	(479) 575-8330

d. Signature of Authorized Representative: Dan Coody

e. Date Signed: 8-8-02

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
CONTRACT REVIEW
X GRANT REVIEW

State Aeronautics Grant
UA Hangar

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

Ray M. Boudreaux	Aviation & Economic Development	General Government
Name	Division	Department

ACTION REQUIRED: Review and approve State Department of Aeroanutics Grant for construction of the U of A Hangar project

Approval of a Budget Adjustment.

COST TO CITY:

$200,000.00	$ 400,000.00	Economic Development Matches
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5315.00	$ 59,216.00	Other Capital Improvements
Account Number	Funds Used to Date	Program / Project Category Name
03027.1	$ 340,784.00	Sales Tax Capital Improvement
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ___ Budgeted Item X Budget Adjustment Attached

Budget Manager 8-4-03 Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager 8/4/03 Date
Internal Auditor 8/4/03 Date
City Attorney 8/4/03 Date
Purchasing Manager 8/4/03 Date

STAFF RECOMMENDATION:

Division Head ___ Date
Department Director Aug 1, 2003 Date
Finance & Internal Services Dir. Aug 4, 2003 Date
Chief Administrative Officer 8-04-03 Date
8/5/03

Received in Mayor's Office 8/4/03 Date P.H

Cross Reference:

Previous Ord/Res#: 64-03

Orig. Contract Date: 06-May-03

Orig. Contract Number:

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

ENTERED 8/4/03

Mayor Date

Staff Review Form - Page 2

Description State Aeronautics Grant - UA Hangar Meeting Date August 19, 2003

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF TWO HUNDRED THOUSAND DOLLARS ($200,000.00) FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS FOR CONSTRUCTION OF THE UNIVERSITY OF ARKANSAS HANGAR PROJECT; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF FOUR HUNDRED THOUSAND DOLLARS ($400,000.00) 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 accepts a grant in the amount of Two Hundred Thousand Dollars ($200,000.00) from the Arkansas Department of Aeronautics for construction of the University of Arkansas Hangar Project.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of Four Hundred Thousand Dollars ($400,000.00) for same.

PASSED and **APPROVED** this 19th day of August, 2003.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

MEMORANDUM

TO:	Dan Coody, Mayor Members of the City Council
THRU:	Staff Review Committee
FROM:	Ray M. Boudreaux, Director, Aviation and Economic Development
DATE:	August 1, 2003
SUBJECT:	Department of Aeronautics Grant--U of A Hangar

Background: In Fiscal Year 2003, the Airport programmed two mini-corporate hangars for construction and expected to receive state support in the amount of $100,000.00 which is the allowed amount for a storage hangar 50/50 grant. With the U of A hangar, the same grant applies but to a limit of $200,000.00 since the hangar is a business/industry. This agenda action is to accept a State of Arkansas Department of Aeronautics Grant for $200,000.00 for construction of the U of A hangar. Only one hangar grant is allowed each year.

Budget Considerations: In previous actions, the City Council approved design and construction of a new U of A aircraft hangar. The U of A agreed to pay for the hangar at a rate equaling the cost of construction amortized over 20 years at 3% not to exceed $2,600.00 per month. This grant will reduce the amount the Airport has to borrow from the Economic Development fund to build the building.

Requested Action: Approve the acceptance of the State of Arkansas Department of Aeronautics Grant for construction of the U of A Hangar.

Attachments: Staff Review Form
State of Arkansas Department of Aeronautics Grant

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year		Date Requested	Adjustment Number
2003	Department: General Government Division: Aviation & Economic Development Program: Sales Tax Capital	8/19/2003	

Project or Item Requested:

$400,000 in the U of A Hangar Construction capital project.

Project or Item Deleted:

None. To recognize the acceptance of a 50/50 grant of $200,000 from the State of Arkansas to the City.

$200,000 from the Economic Development Matches capital project.

Justification of this Increase:

The additional revenue expected to be received will reduce the amount of Fund Balance used in the Sales Tax Capital Improvements fund.

Justification of this Decrease:

The $200,000 will be received with the acceptance of a State of Arkansas Department of Aeronautics Grant.

The U of A Hangar Construction project was originally approved under the Economic Development Matches capital project. Because of the scope of the Hangar project, it is necessary to separate into a separate project.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Contract services	4470	9470	5315	00	400,000	03027	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
State grants	4470	0947	4302	00	200,000	03027	1
Contract services.	4470	9470	5315	00	200,000	02050	1

Approval Signatures

	Date
Requested By	
Budget Manager	8-4-03
Department Director	
Finance & Internal Services Director	8-4-03
Mayor	

Budget Office Use Only

Type: A B C D E

	Initial	Date
Date of Approval	TS	8-4-03
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

FAYETTEVILLE

AIRPORT ADMINISTRATION OFFICE
THE CITY OF FAYETTEVILLE, ARKANSAS

July 31, 2003

Mr. John Knight, Director
Arkansas Department of Aeronautics
One Airport Drive, 3rd Floor
Little Rock, Arkansas 72202

RE: GRANT APPLICATION, Corporate Hangar for University of Arkansas

Dear Mr. Knight;

Enclosed please find two (2) copies of a grant application to Arkansas Department of Aeronautics for 50/50% match funding. The grant will be used to construct a 9920 sq ft hangar for the University of Arkansas to house their two aircraft.

The U of A recently signed a long term lease commitment for the constructed hangar. The project represents a significant expansion of the UA's flight department operations at Drake Field.

Fayetteville Municipal Airport requests funding in the amount of $200,000 which represents the maximum amount allowable under this grant classification. Total project cost is estimated at $473,870.

Fayetteville Municipal Airport respectfully requests your consideration and approval of this grant application. Please contact me if you desire further information, or have any question concerning this application.

Sincerely,

Ray M. Boudreaux, Director
Aviation & Economic Development

RB:jn
Enclosures:\2\
Grant Application, 2 copies

ARKANSAS DEPARTMENT OF AERONAUTICS

APPLICATION FOR STATE AIRPORT AID

The City/~~County~~ of Fayetteville, herein called "Sponsor", hereby makes application to the Arkansas Department of Aeronautics for St. funds pursuant to Act 733 of 1977, for the purpose of aiding in financing project for the development of a municipal airport located in the City of Fayetteville Arkansas, Washington County.

Date of Request: July 31, 2003

Name of Airport: Fayetteville Municipal Airport (Drake Field)

Name and address of City/County Commission sponsoring request:

Airport Department
4500 South School, Suite F
Fayetteville, AR 72701

Person to Contact about project:
Ray M. Boudreaux, Director

Phone/~~Fax~~ Number: (479) 718-764

~~Phone~~/Fax Number: (479) 718-7646

Name and address of Engineering Firm (If Applicable):

McClelland Consulting Engineers, Inc.
1810 N. College, P.O. Box 1229
Fayetteville, AR 72702-1229

Contact Person: Wayne Jones

Phone/Fax Number: (479) 443-2377
fax: (479) 443-9241

Describe the work to be accomplished: Construction of a 124 ft. by 80 ft. (9920 SF) Corporate Hangar with office, lounge, and restroom to be used by the University of Arkansas for their two aircraft.

State and Local Project Costs:
Please indicate: X 50-50% Match
___ 75-25% Match
___ 90-10% Match

Total Cost of Project	$ 473,870
Local Share/Funds	$ 273,870
Local Share/In-Kind	
State Share	$ 200,000

Federal AIP Projects:

N/A

Total Cost of Project	
Federal Share (90%)	
Local Share (5%)	
State Share	

State Airport Aid Application
Page Two

Provide the information listed below as it applies to your project:

Funds:

Source of Funds Local Funding: Fayetteville Municipal Funds (Airport Dept.)

Source of In-Kind Services N/A

Estimate starting date of project: September 2003

Estimate completion date of project: March 2004

Project will be for: New Airport ______ Existing Airport X

Is land to be leased or purchased? N/A

Description of land and cost per acre: N/A

Provide the Federal AIP Grant Number (AIP Projects Only)

N/A

State Representatives for your area:

State Senator Sue Madison

State Representative Bill Pritchard - District 8

State Airport Aid Application
Page Three

The sponsor agrees to furnish the Arkansas Department of Aeronautics a cc of the legal instrument affecting use of the property for an airport. In application for a new landing site or expansion of existing facility, the FAA Form 7480.1, Notice of Landing Area Proposal, must be approved by FAA before review for grant can be made by the state.

No land purchased with State Grant Funds may be sold or disposed of witho State Commission approval. All requests for sale or disposal of property will be considered on an individual case basis.

No airport accepting State Grant funding may issue an Exclusive Rights Lease.

All applications for navigational aids (such as NDB & ILS) must have FAA site approval before a state grant can be approved.

All Grant applications involving Federal Airport Improvement Program (AIP funding must be accompanied by the approved FAA application.

If this project is approved by the Arkansas Department of Aeronautics, anc is accepted by the sponsor, it is agreed that all developments and construction shall meet standard FAA construction practices as outlined i the specifications of this agreement. Runways, Taxiways, Parking Ramps, etc. shall have a base and a thickness that will accomodate the weight o aircraft expected to operate at this airport.

All grant applicants (City and/or County) are totally responsible for compliance with all Federal, State, County and City Laws, Statutes, Ordinances, Rules, Regulations, and Executive Orders concerning contracts and purchases for which this grant is approved and issued. All grant applicants must submit with their applications a completed Contract and Grant Disclosure and Certification Form. (Form F-1 - Pages 1 & 2)

It is understood and agreed that should the sponsor fail to start this project within three (3) months of the Arkansas Department of Aeronautics' date of acceptance, that this grant is null and void.

It is also agreed that this project, except FAA funded projects, shall be completed within one year from the date of acceptance of this grant by the Arkansas Department of Aeronautics. Applications for extension will be entertained if circumstances beyond the sponsor's control occur.

Funds will be disbursed according to Department procedures and final inspection of completed project. (See Instruction page)

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this _____ day of July _____, ~~19~~ 2003

City of Fayetteville
Name of Sponsor

Authorized Signature

Ray M. Boudreaux, Director
Title

PROJECT COST ESTIMATE
CORPORATE HANGAR
DRAKE FIELD
FAYETTEVILLE MUNICIPAL AIRPORT
29-Jul-03

Corporate Hangar for Univ. of Arkansas

Estimated Construction Cost	$ 400,000.00
Contingency (5%)	$ 14,600.00
Subtotal	$ 414,600.00
Engineering Fee	$ 59,270.00
Estimated Hangar Cost	**$ 473,870.00**

STAFF REVIEW FORM - FINANCIAL OBLIGATION

x AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

Kim J. Hesse	Parks and recreation	Operations
Name	Division	Department

ACTION REQUIRED: Approval of bid with Sweetser Construction in the amount of $29,550.00 plus a 10% contigency of $2,955.00 for a total of $32,505.00. The Contract is for the construction of concrete sidewalks and associated curb ramps to provide access to the Grinders Skate Park.

COST TO CITY:

$32,505.00	$ 87,223.00	Other Park and Safety Improvements
Cost of this request	Category/Project Budget	Program Category / Project Name
4470-9470-5315-00	$ 22,430.00	Services and Charges
Account Number	Funds Used to Date	Program / Project Category Name
02014	$ 64,793.00	Capital Improvement Construction
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing — Accounting Manager — Date 8/1/03
Nancy Smith — Internal Auditor — Date 8/1/03
City Attorney — Date 8/4/03
Purchasing Manager — Date 8-1-03

STAFF RECOMMENDATION:

Connie Edmonston — Division Head — Date 8-1-03
Received in Mayor's Office — Date 8/4/03 P.H.
Department Director — Date 8.4.03
Finance & Internal Services Dir. — Date 8-4-03
Chief Administrative Officer — Date 8-4-03
Dan Coody — Mayor — Date 8/5/03

Cross Reference:

Previous Ord/Res#: ______

Orig. Contract Date: ______

Orig. Contract Number: ______

New Item: Yes No

ENTERED 8/1/03

Staff Review Form - Page 2

Description Sweetser Bid Award Meeting Date August 19, 2003

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

Copy of Bid with all requirements of bid attached. P. Rice

ADA Coordinator

Internal Auditor

Grants Coordinator

RESOLUTION NO. ______

A RESOLUTION AWARDING BID #03-45 TO SWEETSER CONSTRUCTION, INC. IN THE AMOUNT OF TWENTY-NINE THOUSAND FIVE HUNDRED FIFTY DOLLARS ($29,550.00) TO CONSTRUCT SIDEWALKS AND ACCESS RAMPS AT THE GRINDERS SKATE PARK; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF TWO THOUSAND NINE HUNDRED FIFTY-FIVE DOLLARS ($2,955.00) 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 awards Bid #03-45 to Sweetser Construction, Inc. in the amount of Twenty-Nine Thousand Five Hundred Fifty Dollars ($29,550.00) to construct sidewalks and access ramps at the Grinders Skate Park.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Project Contingency in the amount of Two Thousand Nine Hundred Fifty-Five Dollars ($2,955.00) for same.

PASSED and **APPROVED** this 19th day of August, 2003.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

FAYETTEVILLE
PARKS & RECREATION

MEMORANDUM

To: Mayor Coody, Fayetteville City Council

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Parks and Recreation Director

From: Kim J. Hesse, Park Planner

Date: July 23, 2003

Subject: Walker Park Sidewalk Construction Bid – Sweetser Construction Co. – Bid 03-45

Background
As a requirement of the 2000 Outdoor Recreation Grant provided to the City for the construction of the in ground skate board facility, all improvements must be handicapped accessible. The construction of the skate park has been recently completed and the facility has been named Grinders Skate Park. A grand opening is planned for late September pending the completion of landscaping surrounding the skate park and sidewalk construction to make the park handicapped accessible. We are working with Arkansas State Parks to finalize items necessary to close the grant, one of which is the construction of sidewalks from nearby parking to the skate park.

Current Status
Attached is the Staff Review Form requesting the approval of a bid contract with Sweetser Construction for $29,550.00 plus a 10% contingency of $2,955.00 for a total of $32,505.00. Sweetser's bid was the lowest of the three bids received. We have designed a concrete sidewalk from the nearest parking lot to the skate park. As a part of this bid, we have also designed a sidewalk that would connect to a new playground and picnic shelter in North Walker Park.

Recommendation
The Parks and Recreation Division staff is recommending approval of the bid with Sweetser Construction for the Walker Park Sidewalk.

Attachment: Bid Tabulation

City of Fayetteville
PARKS AND RECREATION DIVISION
113 W. Mountain Street
Fayetteville, Arkansas 72701
Telephone: 479-444-3469 E-mail: khesse@ci.fayetteville.ar.us

BID: 03-45
DATE: 7/28/03
TIME: 11:00 AM
CITY OF FAYETTEVILLE

DESCRIPTION: SIDEWALK WALKER PARK

APAC MCCLINTON ANCHOR	$31,410.75
SWEETSER CONSTRUCTION	$29,550.00
TOWNSHIP BUILDERS	$36,202.00

CERETIFIED BY: P. VICE PURCH MGR

WITNESS

City Of Fayetteville

(Not a Purchase Order)

FAXED

Vendor #: 70670	Vendor Name: J. D. Sweeter Inc.	Requisition No.:	Date: 8/1/2003
		P.O Number:	Expected Delivery Date:
		Mail Yes:___ No:___	
Address:	Fob Point:	Taxable Yes:___ No:___	Quotes Attached Yes:___ No:___
City: / State:	Zip Code: / Ship to code: 75	Division Head Approval:	
Requester: Kim J. Hesse	Requester's Employee #: 530	Extension: 469	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Sidewalk Construction				$32,505.00	4470-9470-5315-00	02014		
2	Bid 03-45								
3									
4									
5									
6									
7									
8									
9									
10									
	Shipping/Handling		Lot						

Special Instructions:

Subtotal: $32,505.00
Tax: [redacted]
Total: [redacted]

Approvals:

Mayor: ____________ Department Director: ____________ Purchasing Manager: ____________

Finance & Internal Services Director: ____________ Budget Manager: ____________ IT Manager: ____________

Dispatch Manager: ____________ Utilities Manager: ____________ Other: ____________

Revised 6/17/03

FAYETTEVILLE

CITY OF FAYETTEVILLE
PARKS AND RECREATION DIVISION

The City of Fayetteville Parks and Recreation Division is accepting bids for the installation of concrete sidewalks. (as specified per attached details). Contact Kim J. Hesse (479) (444-3469) With project specific questions.

The Project must be constructed and completed by September 15th , 2003 at Walker Park, 1087 S. Block Ave., Fayetteville, Arkansas.

The City reserves the right to award all or none, or by line item(s).

Bids are to be submitted in a sealed envelope labeled "Parks and Recreation Bid #03-45 before July 28th, 2003 at 11 a.m. to the following address:

Proposals must conform to the following specifications and include appropriate evidence for each:

Bidder shall have a state of Arkansas Contractors License with number notated on the bid form.

Bidder shall have workers' compensation as required by Arkansas State statutes.

Bidder shall have general liability insurance as required at a minimum of $500,000.00.

A bid bond of 5% of the bid proposal or a cashier's check for 5% must be submitted with the bid document.

A 100% performance/payment bond will be required of the successful bidder upon job award.

City of Fayetteville
Peggy Vice, Purchasing Manager
113 West Mountain Street
Fayetteville, AR 72703

Bids will be opened on Monday, July 28, 2003 at 11 a.m. in Room 306 at City Hall, 113 West Mountain Street, Fayetteville, AR.

Name of Business: ______________________________

Street/PO Box: ______________________________

City: ____________________ State: _____ Zip Code: __________

Phone Number: ( ) ______________ Fax Number: ( ) ______________

E-Mail Address: ______________________________

City of Fayetteville Parks and Recreation Division Bid # 03-45 Page 2

Bid Items

Item No.	Description	Unit	Unit Price	Total Price
1.	Construct an 8 Foot Wide Concrete Sidewalk (Complete per Detail) Approx (475) L.F.	L.F.	______	______
2.	Construct a 5 Foot Wide Concrete Sidewalk (Complete per Detail) Approx (230) L.F.	L.F .	______	______
3.	Construct a 5 Foot Wide Concrete Ramp (Complete per Detail) Approx (1)	EA.**	______	______
4.	Construct a 8 Foot Wide Concrete Ramp (Complete per Detail) Approx (1.)	EA.**	______	______
5*.	Root Pruning Approx (1200) L.F.	L.F.	______	______
			SUBTOTAL	______
			TAX	______
			TOTAL PRICE	______

*Note: Item 5 to be used at the discretion of the City Representative.

***** Note unit price bid includes all demolition and removal for complete installation***

This bid submitted on this ______ day of ______________, 2003 by:

______________________________ Name (Please Print)

______________________________ Signature

Arkansas Contractors License # ________

SITE PLAN

Not to Scale

PROJECT LOCATION MAP

Not to Scale

NOTES:

1. EXACT HORIZONTAL ALIGNMENT TO BE DETERMINED IN THE FIELD BY PARKS STAFF.
2. ALL DISTURBED AREAS TO BE FINISH GRADED AND SEEDED WITH APPROVED MIX.
3. ALL EROSION CONTROL MEASURES TO MEET CITY STANDARDS.
4. ALL DEMOLITION REQUIRED TO COMPLETE THE PROJECT IS TO BE INCLUDED.

SITE PLAN

WALKER PARK SIDEWALK

CITY OF FAYETTEVILLE

Fayetteville Parks and Recreation
Concrete Sidewalks - Specifications

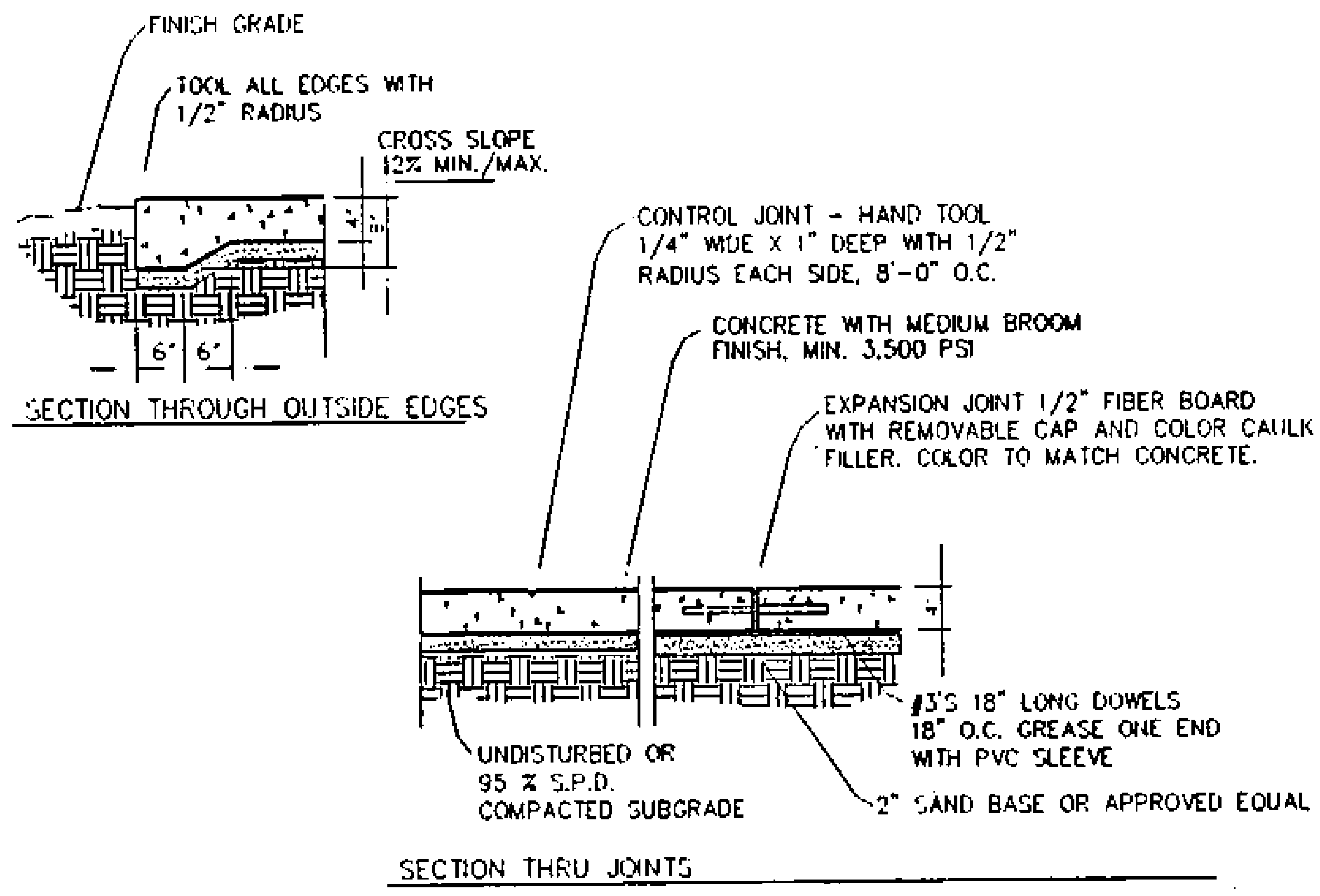
- Have a pre-construction and final inspection meeting with Fayetteville Parks and Recreation staff.
- Have a minimum width of 60 inches. (All layout to be approved prior to construction)
- Conform to ADA guidelines with slopes not to exceed 1:20.
- Slope laterally 1/8" per ft. for drainage.
- Use form material of 2" dressed lumber, free from defects.
- Provide expansion joint filler, ½ inch thick preformed asphalt-impregnated conforming to AASHTO M-213.
- Provide full depth expansion joints (4 inches) at not greater intervals than 50 feet.
- Have one quarter depth (1 inch) weakened plane joint or saw-cut joints at regular intervals not greater than 10 feet apart.
- Have a 4" concrete wearing surface.
- Have a structural subbase of 2" of compacted sand (or approved equal) and an undisturbed or compacted 6" sub-grade of existing soil, minimum 95% S.P.D.
- Have ½ inch rolled edges.
- Utilize air-entrained fiber-mesh concrete. See attached specifications.
- Use concrete, ready mixed conforming to ASTM C94, Alternate 2 with compression strength of 3500 psi at 28 days. Maximum size of aggregate is 1-1/2 inch. Slump shall be 2 to 4 inches.
- Utilize a concrete curing compound or the concrete must be kept moist for seven (7) days. The curing compound must conform to WR Meadows 1600 White or an approved equal.
- Receive a medium broom finish.
- Slope the adjacent soils to the edge of the sidewalk surface.
- Reseed the areas around the sidewalk with an approved seed

NOTES:
ALL WORK SHALL CONFORM TO THE CITY OF FAYETTEVILLE ORDINANCE #4005, STANDARDS FOR SIDEWALK, DRIVEWAY APPROACHES, AND ACCESS RAMPS.

CONCRETE TO BE MINIMUM 4" THICKNESS AS DIMENSIONED. EXPANSION AND TOOL JOINT LAYOUT BY CONTRACTOR AND PRE-APPROVED BY LANDSCAPE ARCHITECT.
FIBER MESH REINFORCEMENT AS SPECIFIED IN SECTION 03200 OF THE STANDARD SPECIFICATIONS.

WHERE SIDEWALK PARALLELS OR ABUTS CURB OR OTHER EXISTING CONCRETE WORK, DOWEL TO THIS EXISTING WORK AND INSTALL EXPANSION JOINT.

THICKENED EDGE IS TO RUN CONTINUOUS ON BOTH SIDES OF ALL CONCRETE SIDEWALKS.



4" THICK CONCRETE/FIBER MESH SIDEWALK

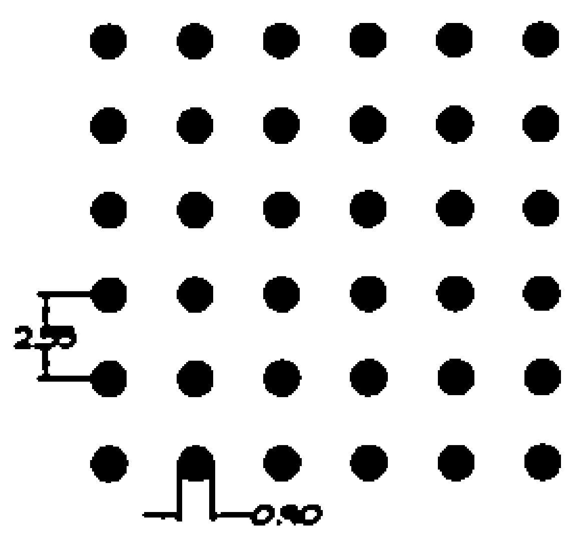
no scale

NOTES:

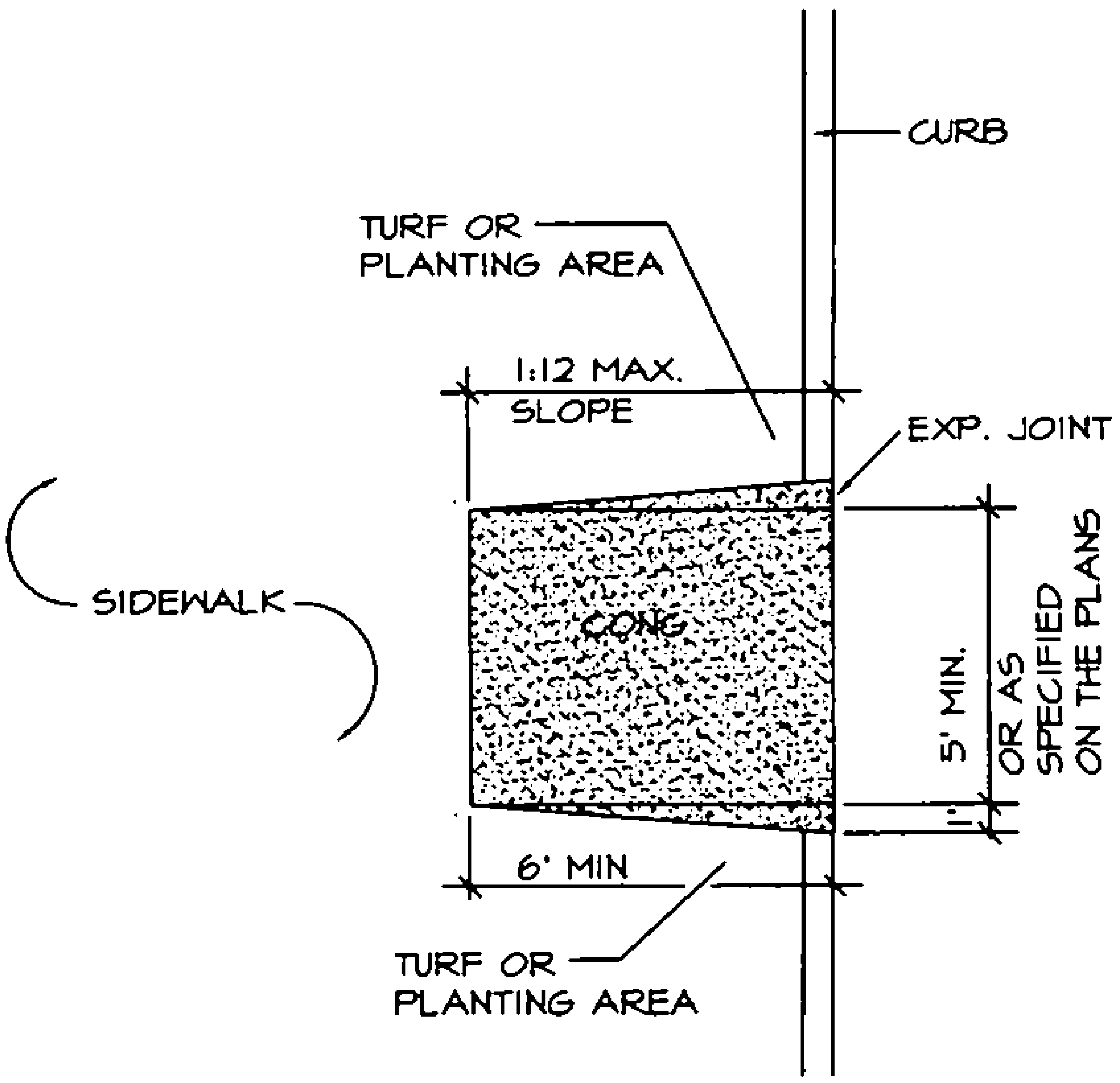
1. All construction shall comply with the Americans with disabilities Act (ADA) of 1990.

2. Detectable Warnings. A curb ramp shall have a detectable warning. The detectable warning shall extend the full width and depth of the curb ramp.

3. Detectable warnings shall consist of raised truncated domes with a diameter of nominal 0.9 in (23 mm), a height of nominal 0.2 in (5 mm) and a center-to-center spacing of nominal 2.35 in (60 mm) and shall contrast visually with adjoining surfaces, either light-on-dark, or dark-on-light



TYP. LAYOUT OF DECTABLE WARNING.
COLOR SHALL BE BRIGHT YELLOW.



RAMP (TYPE 2) DETAIL

NOT TO SCALE

FAYETTEVILLE
PARKS & RECREATION

PART 1 - GENERAL

1.01 DESCRIPTION

A. Work included: Provide concrete reinforcement where shown on the drawings specified herein, and as needed for a complete and proper installation.

1.02 QUALITY ASSURANCE

A. Use adequate numbers of skilled workmen who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance of the work of this Section.

B. Comply with pertinent provisions of the following, except as may be modified herein:

1. ACI 318.
2. CRSI "Manual of Standard Practice."

1.03 REFERENCES

A. Building Codes:
1. BOCA National Codes.
2. SBCCI Standard Building Code.
3. ICBO Uniform Building Code and all supplements as adopted by the Council of American Building Officials.
4. Local Building Codes and all supplements as adopted by the governing agency in which jurisdiction the concrete is placed.

B. American Concrete Institute:

1. ACI 211, Standard Practices for Selecting Proportions for Normal, Heavyweight, and Mass Concrete.
2. ACI 318, Building Code Requirements for Reinforced Concrete.
3. ACI 544, State of the Art Report of Fiber Reinforced Concrete.
4. ACI 544.2R, Measurement of Properties of Fiber Reinforced Concrete.

C. Fire Classifications:

1. Underwriters' Laboratories (UL) Report File No. R8534-11.
2. Southwest Certification Services (SwCS), Omega Point Laboratories Inc. #8662-1 on Series 700, 800 and 900 composite metal deck assemblies.

D. American Society of Testing and Materials:

1. ASTM C-94, Standard Specification for Ready-Mixed Concrete.
2. ASTM C-1018, Standard Test Method for Flexural Toughness and First-Crack Strength of Fiber-Reinforced Concrete (Using Beam with Third-Point Loading).
3. ASTM C-1116, Type III Section 4.1.3 and 4.2 and Performance Level I Toughness Index I5 outlined in Section 21 Note 17, Standard Specification for Fiber-Reinforced Concrete and

Shotcrete.

4. ASTM E-119-83, Standard Method of Fire Tests of Building Construction Materials.

1.04 SUBMITTALS

A. Submit manufacturer's printed product data, clearly marked, indicating proposed fibrous concrete reinforcement materials. Printed data should state 1.5 lbs. of fiber to be added to each cubic yard of each type of concrete.

B. Submit manufacturer's evidence of 5 year satisfactory performance history, compliance with applicable building codes and ASTM C-1116 Type III 4.1.3 and ASTM C-1116 (Ref: ASTM C-1018) Performance Level I5 outlined in Section 21 Note 17.

C. Submit manufacturer's printed batching and mixing instructions.

D. Submit a certificate prepared by the concrete supplier stating that the approved fibrous concrete reinforcement materials at the rate of 1.5 lbs. per cubic yard were added to each batch of concrete delivered to the project site. Each certificate shall be accompanied be one (1) copy of each batch delivery ticket indicating the trade name, manufacturer's name and amount per cubic yard of fibrous concrete reinforcement material added to each batch of concrete.

E. Submit project references indicating a satisfactory performance of the fiber reinforcing material with an experience period of no less than five (5) years under the same trade name and manufacturer.

PART 2 - PRODUCTS

2.01 MATERIALS

A. 100 percent virgin polypropylene, fibrillated fibers containing no reprocessed olefin materials and specifically manufactured to an optimum gradation for use as concrete secondary reinforcement. Volume per cubic yard shall equal a minimum of 0.1% (1.5 pounds).

B. Fibrous concrete reinforcement shall be as manufactured by Fibermesh Company, 4019 Industry Drive, Chattanooga, TN 37416. or approved substitute.

C. Physical Characteristics:

1. Specific gravity: 0.91.
2. Tensile strength: 50 to 110 ksi.
3. Fiber length: graded per manufacturer.

D. Fibrous concrete reinforcement materials provided in this Section shall produce concrete conforming to the requirements for each type and class of concrete required, as indicated on the drawings and specified in Section 03300 where the concrete is tested in accordance with ASTM C-94 and ASTM C-1116 Type III 4.1.3 and ASTM C-1116 (Ref: ASTM C-1018) Performance Level I5 outlined in Section 21 Note 17.

E. Fibrous concrete reinforcement materials provided in this Section shall be capable of achieving a two hour fire resistance rating when tested under ASTM E-119-83 on Series 700, 800 and 900 Composite Metal Deck Assemblies. Fire tests must be certified by Underwriters' Laboratories, Southwest

Certification Services and Omega Point Laboratories, Inc.

2.02 SOURCE QUALITY CONTROL

A. The concrete fiber extrusion and manufacturing facility should be regularly monitored by Underwriters' Laboratories and Omega Point Laboratories, Inc. to insure the uniform production necessary to maintain official classification by these authorities.

1. Building Officials and Code Administrators International (BOCA) National Building Code.
2. Southern Building Code Congress International, Inc. (SBCCI) Standard Building Code.
3. International Conference of Building Officials (ICBO) Uniform Building Code.

PART 3 - EXECUTION

3.01 PREPARATION

A. Add fibrous concrete reinforcement to concrete materials at the time concrete is batched in amounts in accordance with approved submittals for each type of concrete required.

B. Mix concrete in strict accordance with fiber reinforcement manufacturer's instructions and recommendations for uniform and complete distribution.

3.02 MANUFACTURER'S FIELD SERVICE

A. Provide the services of a qualified technical representative to instruct the concrete supplier in proper batching and mixing of materials to be provided.

3.03 CONCRETE PLACING AND FINISHING

A. Place and finish concrete materials as specified.

END OF SECTION

PC Meeting of April 28, 2003

FAYETTEVILLE

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

Butterfield Trail Village, LSD

Tabled 7/1/03 to 8/5/(
Moved to 8/19/03 Meeting

TO:	**Fayetteville Planning Commission Members**
THRU:	**Dawn Warrick, Zoning and Development Administrator, A.I.C.P.**
FROM:	**Sara Edwards, Associate Planner**
	Matt Casey P.E. Staff Engineer
DATE:	**April 24, 2003**

Project: LSD 03-15.00: Large Scale Development (Butterfield Trail Village, pp 175) was submitted by Kevin Yates of CEI Engineering Associates, Inc. on behalf of Butterfield Trail Village for property located at 1923 Joyce Boulevard. The property is zoned R-2, Medium Density Residential and contains approximately 45.75 acres. The request is for the addition of a new 22,347 square foot Alzheimer's care unit with 34 additional parking spaces proposed.

Findings: *Proposal:* Expansion of the existing medical facility to include a 22,347 square foot Alzheimer's Care Unit and the construction of a new parking with a total of 41 parking spaces. Seven spaces are being removed with the expansion. There will be a net gain of 34 spaces.

Existing Development: There is a current medical facility on site as well as apartments, duplexes, and villa homes.

Surrounding Zoning: North: R-O
South: R-1
East: R-O
West: R-O and A-1

Surrounding Land Use: North: Office
South: Single Family Residential
East: Office
West: Office

Water: Available of site

Sewer: Available on site

Right-of-way being dedicated: 55 feet from centerline on Joyce Boulevard.

Street Improvements Proposed: None

ENTERED
6/4 TLW

Adjacent Master Street Plan Streets: Joyce Boulevard is a principal arterial on the Master Street Plan.

Tree Preservation: Existing: 15.7%
Preservation: 15.35%
Mitigation: 31 trees planted on site

Recommendation: Approval Subject to the Following Conditions

Conditions of Approval:

1. Fire hydrants shall be installed as required by Fire Code.

2. Planning Commission approval of a conditional use to allow for Use Unit 4, Cultural and Recreational Facilities in an R-2 zoning district.

3. The required bicycle parking racks shall be u-shaped as required by ordinance.

4. Fifty-five feet from centerline shall be dedicated along Joyce Boulevard.

Standard Conditions of Approval:

5. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

6. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

7. Large scale development shall be valid for one calendar year.

8. Prior to the issuance of a building permit the following is required:
   a. Grading and drainage permits
   b. Separate easement plat for this project that shall include the tree preservation area.
   c. Project Disk with all final revisions
   d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy

Background:

The project was reviewed at the April 3, 2003 Technical Plat Review and the April 17, 2003 Subdivision Committee Meeting.

Discussion at the Subdivision Committee meeting included commercial design standards and tree preservation.

The Subdivision Committee forwarded the Large Scale Development to the full Planning Commission subject to all staff comments.

PLANNING COMMISSION ACTION: __yes__ **Required**

______ **Approved** ______ **Denied**

Date: ____________

Comments:

____

____

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

____
By

____
Title

____
Date

City of Fayetteville

Tree Preservation Plan Review Form

Project: Butterfield Trail Village

Developer: Butterfield Trail Village

Location Address: 19233 Joyce Boulavard

Engineer: CEI Engineering

This form shall stand as a: ☐Initial Review/Letter of Confirmation

✔Recommendation to Planning Commission or City Council

☐Final Administrative Determination*

Submital requirements met:

☐Initial Review ✔Site Analysis ☐Analysis Report ✔Tree Preservation Plan

Comments: ______________________________

Canopy measurements:

% Tree Canopy Required to be Preserved
Land Use R-2
%To be Preserved 20%

Total Area of Existing Tree Canopy:
Acres: 9.79
Square Feet: 300,422 sf
% of Total Site Area: 15.7%

Total Area of Site:
Acres: 45.73 acres
Square Feet: 1,992, 074 sf

Existing Tree Canopy Preserved:
Acres: 9.15
Square Feet: 292,470.
% of Total Site Area 15.35%

Mitigation/Off Site Alternatives Requested: ✔Yes ☐No

✔On-Site Mitigation ☐Off-Site Preservation ☐Off-Site Forestation ☐Tree Fund

Tree Preservation Criteria Met: ✔Yes ☐No (See back for criteria list and comments)

Applicant's Plan: ✔Approved ☐Disapproved ☐Conditionally Approved

Conditions of Approval:
7,952 sf is to be mitigated by way of 31 (2" caliper) on-site replacement trees. Prior to building permit approval, please provide a landscape plan that shows the location and species for Mitigation trees.

Signed: ________, the Landscape Administrator, date 4-15-03

Criteria used by Landscape Administrator to evaluate Tree Preservation Plan:

1. The desirability of preserving a tree or group of trees by reason of age, location, size or species.

Comments Three significant trees exist in the location of the building and is proposed for removal. Whether the design incorporates the required Tree Preservation Priorities.

Comments *The building location is tied to the need for services and the connection to the existing building.*

2. The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

Comments *Minor - due to the extent of landscaping installed throughput the complex.*

3. The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

Comments *Minor - due to the extent of landscaping installed throughput the complex.*

4. Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

Comments *Additional efforts or proof that such is not feasible is required for approval.*

5. Whether the size or shape of the lot reduces the flexibility of the design.

Comments. *Yes, there is a specific reason for this unit to be attached to the existing facility.*

7. The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

Comments *Fair to good*

8. The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

Comments *Trees shown for removal are those that existing in this open space near existing buildings. The location of the proposed structure is tied to the services provided in those existing buildings which override the possibility of locating the proposed structure elsewhere.*

9. The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

Comments *N/A*

10. Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

Comments *The project is utilizing existing roads and utilities.*

11. Construction requirements for On-Site and Off-Site Alternatives.

Comments *N/A*

12. The effects of proposed On-Site Mitigation or Off-Site Alternatives.

Comments *N/A*

13. The effect other chapters of the UDO, and departmental regulations have on the development design.

Comments *N/A*

14. The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations.

Comments *N/A*

15. The impact a substantial modification or rejection of the application would have on the Applicant.

Comments

*An appeal may be filed against a Final Administrative Determination in accordance with Chapter 155 of the Unified Development Ordinance. City Landscape Administrator determinations/decisions may be appealed by any person aggrieved to the Planning Commission within 10 business days. Recommendations go straight to Planning Commission, thus no formal appeal is necessary for recommendations.

City of Fayetteville
Tree Mitigation Form

Project: Butterfield Trail Village

Developer: Butterfield Trail Village

Location Address: 19233 Joyce Boulavard

Engineer: CEI Engineering

It is required that this form be submitted concurrently with the Tree Preservation Plan if mitigation of any kind is sought.

Canopy measurements:

% Tree Canopy:
Required to be Preserved 20%

Total Area of Site:
Acres: 43.94
Square Feet: 1,913,983 sf

Amount of Preservation Requirement Requested for Mitigation:
Acres:
Square Feet: 7,952 sf
% of Total Site: 0.35%

Total Area of Existing Tree Canopy:
Acres:
Square Feet: 300,422 sf
% of Total Site Area: 15.7%

Existing Tree Canopy Preserved:
Acres:
Square Feet 292,470
% of Total Site Area 15.35%

Type of Mitigation Pursued:

✔On Site Mitigation ☐Off Site Preservation ☐Off Site Forestation ☐Tree Fund

List Mitigation Species, Caliper, and Quantity of trees to be planted in the space below. Refer to table and on back for figuring quantity and caliper sizes.

Species	Caliper	Qty.

Amount proposed to be deposited in the City of Fayetteville Tree Fund:
$

Mitigation Proposal: ☐Approved ☐Disapproved

Signed: Kim J Hesse, Landscape Administrator, 4-14-03 date

Tree Mitigation Base Density/Off Site Alternatives

When preservation cannot be accomplished and existing canopy is to be removed below minimum canopy requirements, mitigation is required. Before any Mitigation/Off-Site Alternatives are carried out, approval must be granted by the Landscape Administrator. When mitigation is an issue a mitigation form, available from the Landscape Administrator, detailing all proposed actions should be submitted with the Tree Preservation Plan. Mitigation and reforestation densities, preferred species, spacing, and amounts are determined by the tables below.

	Existing High Priority Canopy Proposed For Removal		Existing Mid-Level Priority Canopy Proposed For Removal		Existing Low Priority Canopy Proposed For Removal	
Caliper of Replacement Tree	Required # of trees per acre removed	Density Factor	Required # of trees per acre removed	Density Factor	Required # of trees per acre removed	Density Factor
2"	200	218sf	150	290sf	100	436sf
1 1/2"	230	190sf	173	252sf	115	380sf
1"	250	175sf	188	232sf	125	350sf

*The Density Factor is a ratio of canopy removed to number of trees replaced

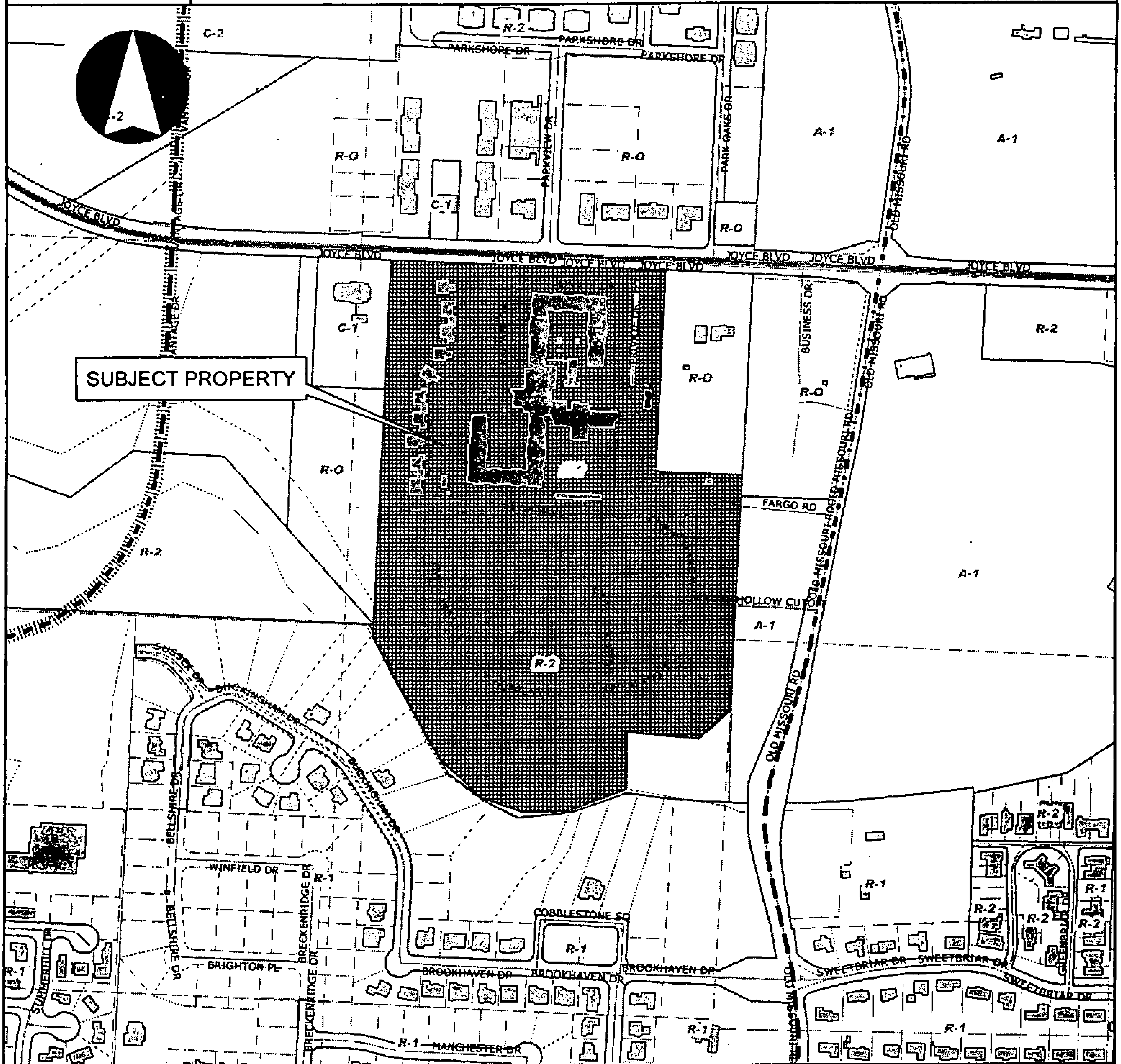
Here are the 5 simple steps on how to calculate the size and number of trees needed for mitigation

1. Establish how many acres/square feet of canopy is proposed to be removed on site that falls below the minimum canopy requirement
   7,952 sf

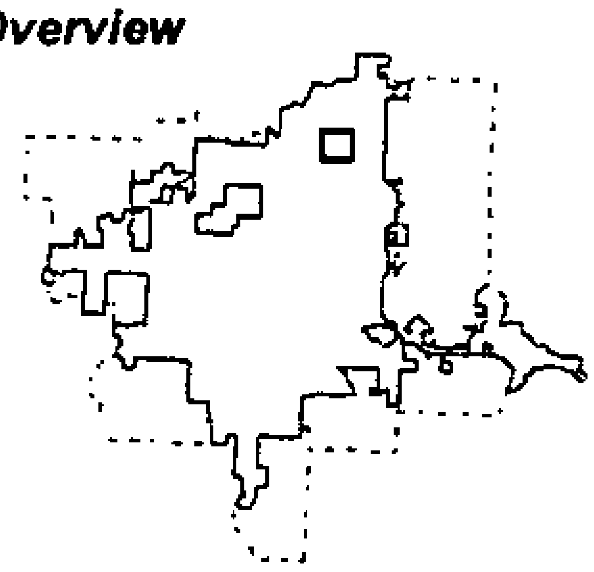
2. Establish the Priority type of the canopy proposed to be removed.
   High = 3050
   Mid = 4902
3. Select what caliper of mitigation trees are going to be used. Note: Contact Nurseries to confirm caliper availability in the species desired
   2"
4. Refer to the table and find Density Factor that correlates with Canopy type removed and caliper size proposed for replacement.

5. Take Density Factor and divide by the square feet of canopy removed to get number of mitigation trees needed.
   3050 / 218 = 14 trees
   4902 / 290 = 17 trees
6. On-Site Mitigation is preferred over Off-Site Alternatives. Show the location and species of mitigation trees on the tree preservation plans and submit the Mitigation/Off-Site Alternatives form at time of submittal

LSD03-15.00	BUTTERFIELD TRAIL VILLAGE
Close Up View	



Overview



Legend

Subject Property

LSD03-15.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

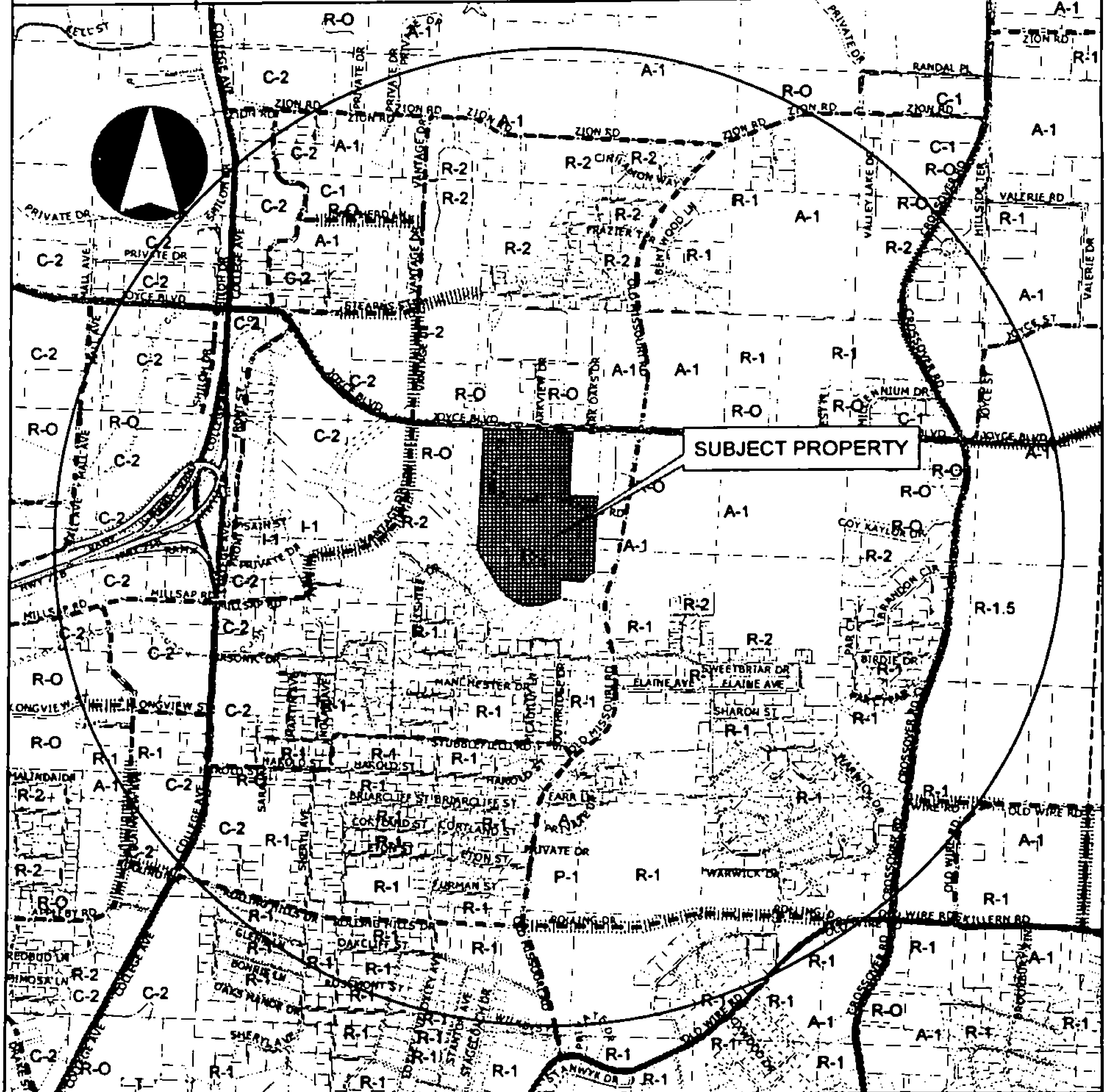
Historic Collector

0 175 350 700 1,050 1,400 Feet

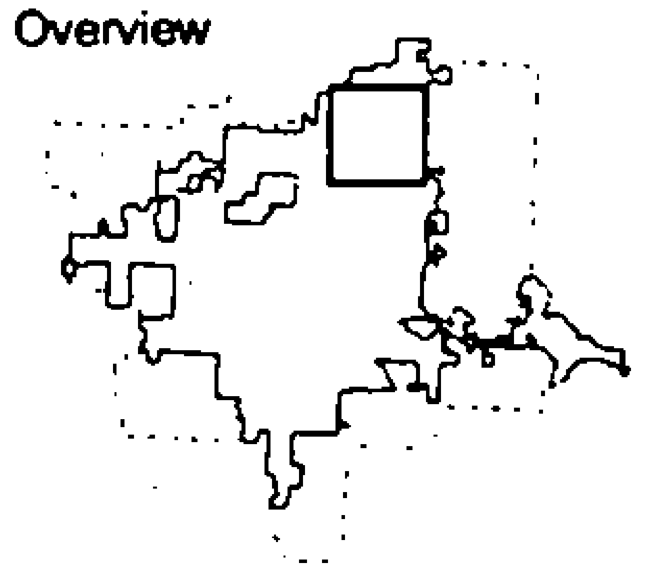
LSD03-15.00

One Mile View

BUTTERFIELD TRAIL VILLAGE



Overview



Legend

Subject Property

LSD03-15.00

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

LSD 03-15.00: Large Scale Development (Butterfield Trail Village, pp 175) was submitted by Kevin Yates of CEI Engineering Associates, Inc. on behalf of Butterfield Trail Village for property located at 1923 Joyce Boulevard. The property is zoned R-2, Medium Density Residential and contains approximately 45.75 acres. The request is for the addition of a new 22,347 square foot Alzheimer's care unit with 34 additional parking spaces proposed.

Hoover: Moving on to item number six, the companion item, LSD 03-15.00 for Butterfield Trail Village. Jeremy?

Pate: Thank you Madam Chair. This proposal is for the expansion of that existing medical facility we just spoke of to include a 22,347 sq.ft. Alzheimer's care unit and the construction of a new parking lot with 41 spaces. Seven spaces are being removed with the expansion with a net gain of 34 spaces. The right of way being dedicated is 55' from centerline on Joyce Blvd. The applicant is requesting a lesser dedication which must be approved by the City Council. A letter and exhibit is included in your packet pertaining to that request. Tree preservation, existing is 15.7%, the preservation is 15.35%, mitigation will be 31 trees planted on site. Staff is recommending approval of this Large Scale Development subject to eight conditions of approval. 1) Fire hydrants shall be installed as required by Fire Code. 2) Planning Commission approval of a conditional use to allow for Use Unit 4, Cultural and Recreational Facilities in an R-2 zoning district. 3) The required bicycle parking racks shall be u-shaped as required by ordinance. 4) Fifty-five feet from centerline shall be dedicated along Joyce Boulevard. Items five through eight are standard conditions of approval.

Hoover: Can the applicant go ahead and give us a presentation of your Large Scale Development including your elevations?

Yates: Kevin Yates with CEI Engineering and I have Steven Jones here with Miller, Boskus Lack Architects. He is the architect on the project. We are fine with all of the issues that you have except for the right of way dedication. The reason being there is they have some really nice trees and a wood fence along that frontage along Joyce. We had marked with some orange flagging and asked that you guys go by and tour this on your agenda session to have a look at if we gave that right of way and the improvements did happen how they would affect those trees and that fence in that area. In the letter I prepared to you I showed you where the principal arterial section does allow for the use of a minor arterial section.

Hoover: I am sorry, we are looking for the letter.

Warrick: They were distributed at your places this evening. They should be in front of you as additional information.

Hoover: Thank you. Please continue on.

Yates: Yes Ma'am. The principal arterial section does make an allowance for when right of way is unattainable the minor arterial four lane section may be used with a 90' right of way verses the 110' required for the principal arterial. What we would like to request is in our consideration for reduction of this right of way requirement is to allow us to dedicate to that fence, which would be 43' approximately from centerline of the existing street and if we could reduce that 10' greenspace between the sidewalk and the back of curb to 7' that would make that function as far as that section allowing that greenspace fencing and trees to remain. It is like 23' wide between the fence and their parking that is on site at this point. It is just those are really nice trees and the people at Butterfield Trail Village would like to keep that look up. I understand that the improvements aren't planned in the near future but if they did happen and the right of way was there they would more than likely be taken out.

Hoover: Thank you Kevin. Would you like to go ahead and go through the commercial design guidelines with your elevations?

Warrick: This is actually a residential development because it is residential in nature we don't consider this applicable for commercial.

Yates: As far as our elevations and looks, if you are aware of the Butterfield Trail Village buildings that are out there now it will be a rock veneer with wood shake shingles. It is a real similar look. In fact, I think they are going to be able to use the same quarry in the rock to get the similar look on the building.

Anthes: Whether or not we are considering it I would like to thank Miller, Boskus, Lack for doing such a good job with the packet and including it anyway. Thank you.

Hoover: I am going to open it to the public now. Is there anyone that would like to address this LSD 03-15.00 for Butterfield Trail Village? Seeing none, I will bring it back to the Commissioners and the applicant. Right of way discussion?

Estes: I am reluctant to give up the right of way. The reason is if the city needs it back they are going to have to pay for it. We are giving it away today and they are going to have to buy it back at some time in the future. That doesn't make any economic good sense to me. As stewards and as servants of the community I think we need to, I know we need to think about that. To give away property of substantial value today anticipating that perhaps at some time in the future there will be a need for it and then we will have to pay for it is not good stewardship on our part and I am just not willing to do that. You know there has been the improvement to the north side of the street, the sidewalk improvement. There are other needs, something has got to be done with Zion. This isn't even on the radar screen but if 30 years or 40 years or 20 years from now it is I don't want somebody getting a hold of me and saying why did you give it away back in May, 2003 and now we're having to pay 5.5 million dollars to get it back.

Yates: May I respond?

Hoover: Yes please.

Yates: I believe you make a good point there as far as your responsibility in looking out for that but I think we gave you an option here to meet the requirement as far as making this function with a minor arterial section and right of way there. That is actually in place as far as the street section right now. I think the trees and the fencing there that falls within the guidelines the Planning Commission likes to go for as far as maintaining those nice mature trees and the greenspaces and everything and that is what we are looking for here. This is a home to all of these folks and if you take those trees away just imagine what it is going to be like with no screening or anything to Joyce Blvd. there being a busy street as it is and I would just like you to take that into consideration.

Estes: If we give it to you tonight will you give it back when we ask for it? That seems fair to me.

Yates: I really can't answer that. I would like to forward that on to Mr. Honeycutt here with Butterfield Trail Village.

Honeycutt: I am Don Honeycutt, I represent the Butterfield Trail Village Board. We were trying to keep our beautiful landscape front there as far as, it has been there for about 17 or 18 years now. Trees are getting to be pretty big. In another five or ten years they will be much bigger. It would be a shame I think to lose the whole front there at any point. If we have room now with this way to get an extra lane I feel like that would be enough property to give that lane and that is what we would be asking for.

Estes: If we give it to you tonight will you give it back to us when we ask for it?

Honeycutt: What do you mean, the tree line?

Estes: Your ordinance requires right of way dedication 55' from centerline on Joyce and you are asking for what?

Honeycutt: 45'.

Yates: We are asking to reduce it. Right now currently there is approximately 40' and we are asking to go ahead and give 43' up to the fence which would be 2' shy of the minor arterial section which if the right of way is unattainable you are allowed to use that section verses a principal arterial, which is the 20' reduction in right of way requirement. We would be within 2' and I think we can make that function by giving in that greenspace in that section a little bit. Complementing the fact we have a huge greenspace on the other side of it. Granted that is for separation from traffic but 7' or 10' you know, you still have got pretty good separation there.

Estes: If we give it to you tonight when we want it back will you give it to us or are you going to make us pay for it?

Honeycutt: I can't make that determination. We have a board meeting tomorrow night that we can bring a proposal like that up with the board.

Estes: Mr. Williams is such a thing permissible?

Williams: I would doubt that the board could really commit to that at this point in time without a deed to the city. I don't think the City Council would go along with a reduction. It is my understanding the City Council would also have to approve this. Dawn, is that correct if it is a lesser dedication?

Warrick: Yes.

Williams: What I would like to assure you, and my parents live there as you know so I am well acquainted with Butterfield Trail and it is certainly a nice development, the city is not about to go out and knock down all of those trees. On the other hand I also don't think the city is going to approve a lesser dedication for one of its principal arterials. As you know on the Master Street Plan Joyce is the northern most through way through the city and I don't think that they are going to approve a lesser dedication even than a minor arterial would require for a street that has got tremendous traffic and only going to have more traffic in the future. I think Mr. Estes' point is well taken. On the other hand, I want to assure you that there is nothing in the Capital Improvements Project list that I have seen anywhere in the near future to do anything that would, in fact, endanger those trees.

Honeycutt: As I say, still, I couldn't release that until the Board approved it, the Butterfield Trail Board. I think the offering that we have here would give the additional lane that would be required probably for turning. It would just eliminate the width because the section shows a 20' boulevard down the middle of that section, which I wouldn't see as working there because there are so many drives to turn in and out of you would eliminate that whole boulevard there in a center lane for turning and that is what we need the full length of Joyce is a turning lane so you can get out and get on the other side. The boulevard in the center of that section would not work there I don't believe. I would refer maybe to the Hwy. 265 that went through where a boulevard was proposed there and that didn't go through with the Highway Department. There is where I think we can make up the difference and pull those boundaries in from 55' and still get that additional lane. You see the tree section in the center of that boulevard?

Estes: Yes.

Honeycutt: What we are in effect doing is eliminating that and making a turn lane down through there and putting the greenspace on the outside of it where our trees are. If I am correct we are going to have to go to the board to get this approved. We were just trying to get some comments from the Planning Commission as far as preserving the landscaping that we have and any comments that you have positive or negative. It looks like we have some negatives but I don't, we're not asking or trying to say that we will do this, because we will be appealing it to the board. That is the way the ordinance reads isn't it?

Warrick: Yes.

Hoover: Are there any other comments?

Ostner: I would agree with Commissioner Estes that I am reluctant to narrow or to lessen our right of way dedication. Part of the point is trying to be consistent with other developments along this street and if we give it to you we've got to give it to them and suddenly we have reduced our area to expand and serve traffic. I understand the reasoning on the lane issue. However, in right of ways we bury all kinds of stuff. We bury storm drains, sewers, water and electric. We might bury nothing but I am inclined to suggest the more trees get planted inward and in 30 years if we have to expand they are already grown. I don't know of a better solution.

Honeycutt: We've got some parking that would be interfering with that right now if you look at the plan. There is a whole line of parking right next to the building itself. I don't know how many spaces. It is between the main entrance there to Butterfield and the east entrance. There is a service drive that comes in for the parking right there which to get the same amount of landscaping we would be eliminating that whole drive right through there.

Hoover: Are there any other comments?

Bunch: Regardless of what the dedication of the right of way is or even if the right of way dedication is not reduced, that does not mean that the design parameters that were discussed by the applicant could not be achieved within regardless of whether it was a smaller dedication or larger dedication. It is the same design theme as a reasoning for the smaller dedication could still be used with the larger dedication.

Yates: That is true. We just wouldn't have the assurance at this time that those trees would be protected because you might not be here to give guidance in that. If that was your intent now and we gave that right of way someone else 10 years down the road had the authority to come in and build that road they might not realize what your intent was and come through and just take all the trees out. That is where we would be reluctant as far as the additional right of way with the less design scheme.

Bunch: I definitely appreciate your concerns because this is the same kind of issue that gave us North College, the removal of trees in the right of way and that sort of thing to create access. There is another part of this. Dawn, you might can help me. Did we get the 30% over and under parking for this type of project?

Warrick: That is permitted.

Bunch: I noticed that you were speaking of parking in relation to this and you were showing 455 required and even with the additional parking only coming up to 363, is that taking into account the 30% under?

Yates: The required that is shown does not take into account the 30% under. We fall into compliance if you take that into account.

Bunch: The 30% under would bring you down to about 319?

Yates: Yes Sir.

Bunch: Ok.

Vaught: I would agree with Commissioner Estes also on this right of way issue. In 20 years no matter if we lessen the dedication or not, if we need the land the city will get it and tear down the trees. It is a matter of if we are going to pay for it in 20 or 30 years or whether we have it dedicated now. No matter which way we go when we need to expand Joyce we will expand Joyce I think. That is the issue to me. It is not a protection of the trees because no matter which way we go they would be in jeopardy. I would be against lessening the right of way for the same reasons physically for the city having to come up with the money in 20 or 30 years.

Bunch: In 20 or 30 years as the applicant discussed, those trees will be quite sizeable and I think unless our tree ordinance changes in that 30 years would be listed as significant trees and there would have to be a replacement for them and there would have to be considerable mitigation so that would definitely be a consideration when all of us are gone as to what happens to those trees within that right of way.

Honeycutt: Another comment about that is we have had discussions about the cost of redoing the landscaping that we have done there if that is taken in as right of way who pays for that if we have to go inward to get it. That is another discussion that we have had at Butterfield Trail.

Hoover: Dawn, would you address that?

Warrick: At this time no additional landscaping would be required beyond what the Large Scale proposes. If any additional landscaping were proposed or desired by the applicant then that would be your option.

Honeycutt: If the widening went into effect then we would lose the line of trees and landscaping and we wouldn't have any room really to put anything along where this parking is that is on the east side there. It would be like the north side of the street where we have got parking lot right up to the sidewalk is what it would look like and we are trying to shield Butterfield from its original landscape design by leaving that landscaped area in there. That is really our point that we would like to see.

Yates: I would like to repose this question. I think there may have been some misunderstanding. If the street improvements happen in the future and those trees are taken out and the mitigation was required because they are substantial trees, who would pay for that mitigation at that time I think is what Mr. Honeycutt's question was.

Warrick: If the trees were part of the city right of way and they were owned by the city and the city removed them then the city would be responsible for any replacement I believe would be the situation in the future.

Honeycutt: Replacement on the owner's property?

Warrick: It would most likely be a replacement within the city right of way as it exists after the improvements.

Hoover: Is there anymore discussion?

Anthes: I guess I would like to reassure the applicant that no one on this Commission wants to see those trees town down.

Honeycutt: I understand that, we are just trying to see if we feel like we can keep them.

Anthes: We also appreciate that you came to us with a solution, not just a problem. I appreciate the street section. I hope we put it in a permanent file so when the street is redesigned your firm is hired to do the work and you can do that very section. For the reasons Commissioner Estes stated it is very difficult for us to say now that we will accept a lesser dedication knowing that in the future we will have to pay for it and knowing that in the future we can design to a standard such as you suggested. That said, I believe I would have to concur with the other comments of the Commissioners this evening.

Honeycutt: One other question I have, is the full 55' taken all up and down Joyce now?

Warrick: All along the front property line of the subject property.

Honeycutt: On the north side?

Warrick: I don't know if the full 55' exists along the north side. That is a vacant piece of property and when we look at a development on that if it has not been dedicated. There is a portion of that that is undeveloped. Any of the property that has been developed since the Master Street Plan went into affect in 1995 is subject to the right of way dedication requirements. That is when the 55' from centerline was determined. The street sections that we are considering that the applicants provided are actually part of the city's General Plan and our Master Street Plan document. The city has the flexibility to work within those street sections when we are looking at developing new streets and improving or expanding existing streets. When we send those projects out to design or if we design them in house we do have those standards existing. Like I said, the flexibility is there to mitigate situations where you may not have the necessary right of way or there may be improvements such as these that the city desires to maintain if possible within the parameters of the existing right of way. There are possibilities to work around those trees. If we don't have the right of way then we don't have anything to work around and we don't really have the options that may be available otherwise.

Hoover: Thank you Dawn. Is there any other discussion or motions?

MOTION:

Estes: I move for approval of LSD 03-15.00.

Hoover: There is a motion by Commissioner Estes, is there a second?

Allen: Second.

Hoover: A second by Commissioner Allen. Is there any other discussion? Seeing none, will you call the roll Renee?

Roll Call: Upon the completion of roll call the motion to approve LSD 03-15.00 was approved by a vote of 8-0-0.

Thomas: The motion carries eight to zero.

Hoover: Thank you.

CEI Engineering Associates, Inc
P.O. Box 1408, Bentonville, Arkansas 72712
(479) 273-9472 ·Fax (479) 273-0844

RECEIVED
JUN 06 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

TRANSMITTAL LETTER

Date: June 5, 2003

Distribution: RWR/File

To:	City of Fayetteville Planning	**Project:**	Butterfield Trail Village
	113 West Mountain	**CEI Project No.:**	17793.0
	Fayetteville, AR 72701	**Reference:**	Master Street Plan Appeal
	479-575-8323		
Attn:	Ms. Sandra Smith		

We are sending you the following items:

☒ Attached Via: Hand **Delivery**

Copies:	Date:	No.:	Description:
11			Appeal of Master Street Plan Right-Of-Way Dedication Requirements
11			Site Pictures

These are transmitted:

☐ For Approval and Payment
☒ For Review and Comment
☒ Your Use

☐ For Bid Due / /
☐ As Requested
☐ ________________

Signature: ______________________ Title: Project Manager
Kevin R. Yates, P.E

CEI Engineering Associates, Inc.

Corporate Office: 3317 SW "I" Street • P.O. Box 1408 • Bentonville, AR 72712-1408 • (479) 273-9472 • (479) 273-0844

June 5, 2003

DISTRIBUTION:
RWR/File/Steven Jones/Don Hunnicutt

City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Appeal of The Master Street Plan Right of Way Dedication Requirements
Butterfield Trail Village
1923 East Joyce Blvd.
Fayetteville, AR 72701
CEI Project #17793.0

Dear Chairperson:

Please except this letter as a formal request from Butterfield Trail Village (owner), for an appeal of the Master Street Plan Right of Way dedication requirements for the above referenced project. Please see the attached drawing Exhibit "A" Right of Way Dedication for clarification of the area in question. The master street plan classifies this section of Joyce Boulevard as a principal arterial, which requires a right of way of one hundred and ten feet in width as shown in Exhibit "B" Principal Arterial Section.

The existing right of way from centerline of street along this frontage is approximately forty feet in width. Approximately three feet beyond this existing right of way is a green space approximately twenty-three feet in width containing wood fencing and nice mature trees. In keeping with the City of Fayetteville's tree preservation principles and green space requirements the owner would like to consider other possible options to allow this green space to remain. The principal arterial section makes allowances for areas where sufficient right of way is unobtainable and allows the use of the minor arterial four-lane section to be used. With the use minor arterial four lane section the same number of lanes is provided and the green space is located as buffer along the Butterfield Trail Village frontage in the form of nice mature trees versus in the form of ornamental trees with in the median.

The minor arterial section requires a right of way section ninety feet in width as shown in Exhibit "C" Minor Arterial Section. The owner could dedicate an additional three feet of right of way totaling forty-three feet of the required forty-five feet of right of way for the owner's side of the street. The green space width in the minor arterial street section could be reduced to seven feet from ten feet, which would allow the existing green space with wood fencing and nice mature trees to remain.

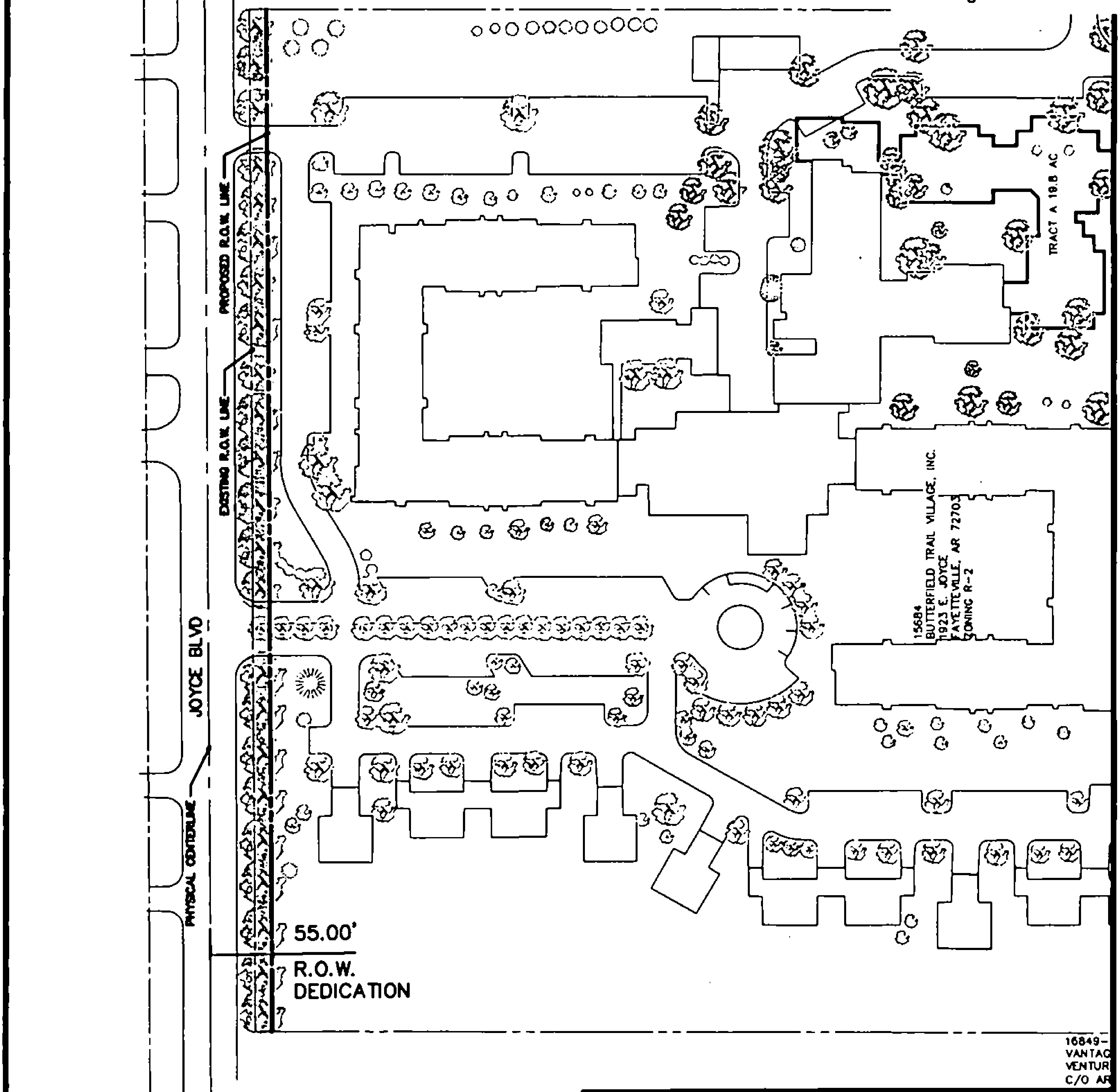
We appreciate your time and consideration on this issue and if you have questions or require additional information, please do no hesitate to call.

Sincerely,

Kevin R. Yates

Kevin R. Yates, P.E.
Project Manager
Local Development/Public Works

See Attachments: Exhibits "A", "B", & "C"



OWNER/DEVELOPER
BUTTERFIELD TRAIL VILLAGE
1923 E. JOYCE BLVD.
FAYETTEVILLE, AR 72701
BOB BRENNAN
479-442-7220

INITIAL DESIGN	5-22-03	KRY	KRY	JLK	JLK
	DATE	PRN	PM	DES	DRW

BUTTERFIELD TRAIL VILLAGE
NEW ALZHEIMER'S CARE UNIT

CEI ENGINEERING ASSOCIATES, INC
ENGINEERS · PLANNERS · SURVEYORS

3317 SW "I" Street (479) 273-9472
Bentonville, AR 72712 FAX (479) 273-0844

JOB NO.: 17793.0
DWG NAME: EXHIBIT A

EXHIBIT "A" R.O.W. DEDICATION

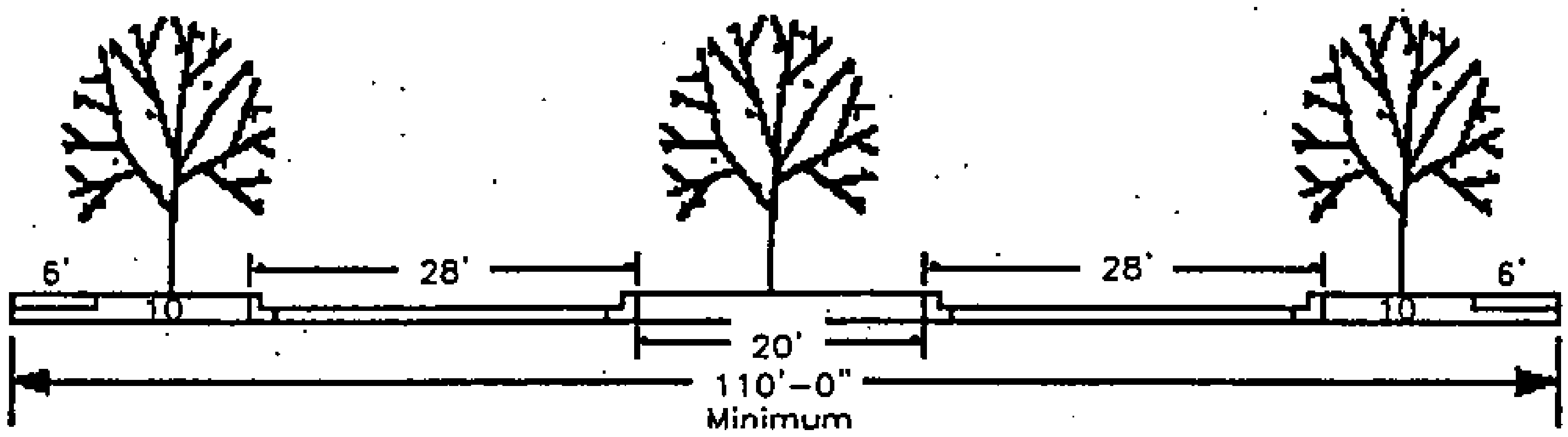
FAYETTEVILLE AR

DATE 06-05-03 10:50 AM REV-2

SHEET NO. 1 OF 1

PRINCIPAL ARTERIAL STREETS carry high volumes of through traffic.. They are designed as boulevards for beauty and safety. In areas where sufficient right of way is unobtainable, the minor arterial four lane section can be used.

Design Service Volume:	17,600 vpd, 20,600 vpd with left turn bay
Speed:	40-45 mph
Traffic Lanes:	Four 12' travel lanes, 12' turn lanes possible at intersections and at frequent intervals
Parking Lanes:	None
Paved Width:	28' from back of curb each side of median
Right of Way:	At least 110'
Multi-use Trails:	Two at least 6' wide, at least 10' from curb
Median:	20' minimum if no turn bay. May be reduced to 8' to accommodate turn bays
Tree planting areas:	Two, at least 10' wide, in addition to the median



Principal Arterial

Exhibit "B"

Principal Arterial Section

HISTORIC COLLECTOR provides traffic circulation within the historic and developed parts of central Fayetteville. This type of collector street recognizes the right-of-way limitations associated with developing in "built-out" areas of the city.

Design Service Volume:	4,000 vpd, 6,000 vpd with left turn bays
Speed:	25-30 mph
Traffic Lanes:	Two 11' travel lanes, 10' turn bays where warranted
Parking Lanes:	Two lanes provided. None when turn bay exists
Paved Width:	36' from back of curb
Right of Way:	At least 50'
Sidewalk	6'

MINOR ARTERIAL STREETS connect higher functional class facilities, etc. Residential frontage is strongly discouraged. Access should be from perpendicular local or residential streets.

Design Service Volume:	12,200 vpd, 14,800 vpd with left turn bays
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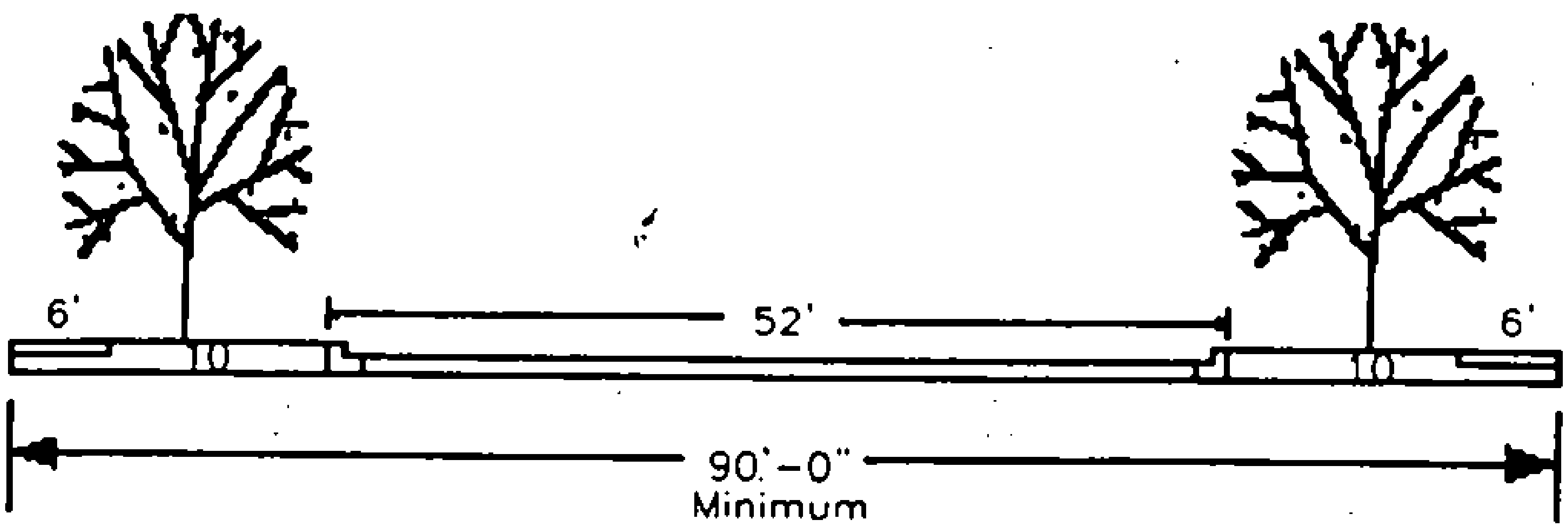

Minor Arterial

Exhibit "C"

Minor Arterial Section

CEI Engineering Associates, Inc.

Corporate Office: 3317 SW "I" Street • P.O. Box 1408 • Bentonville, AR 72712-1408 • (479) 273-9472 • (479) 273-0844

June 5, 2003

DISTRIBUTION:
RWR/File/Steven Jones/Don Hunnicutt

City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Appeal of The Master Street Plan Right of Way Dedication Requirements
Butterfield Trail Village
1923 East Joyce Blvd.
Fayetteville, AR 72701
CEI Project #17793.0

Dear Chairperson:

Please except this letter as a formal request from Butterfield Trail Village (owner), for an appeal of the Master Street Plan Right of Way dedication requirements for the above referenced project. Please see the attached drawing Exhibit "A" Right of Way Dedication for clarification of the area in question. The master street plan classifies this section of Joyce Boulevard as a principal arterial, which requires a right of way of one hundred and ten feet in width as shown in Exhibit "B" Principal Arterial Section.

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Local Development/Public Works

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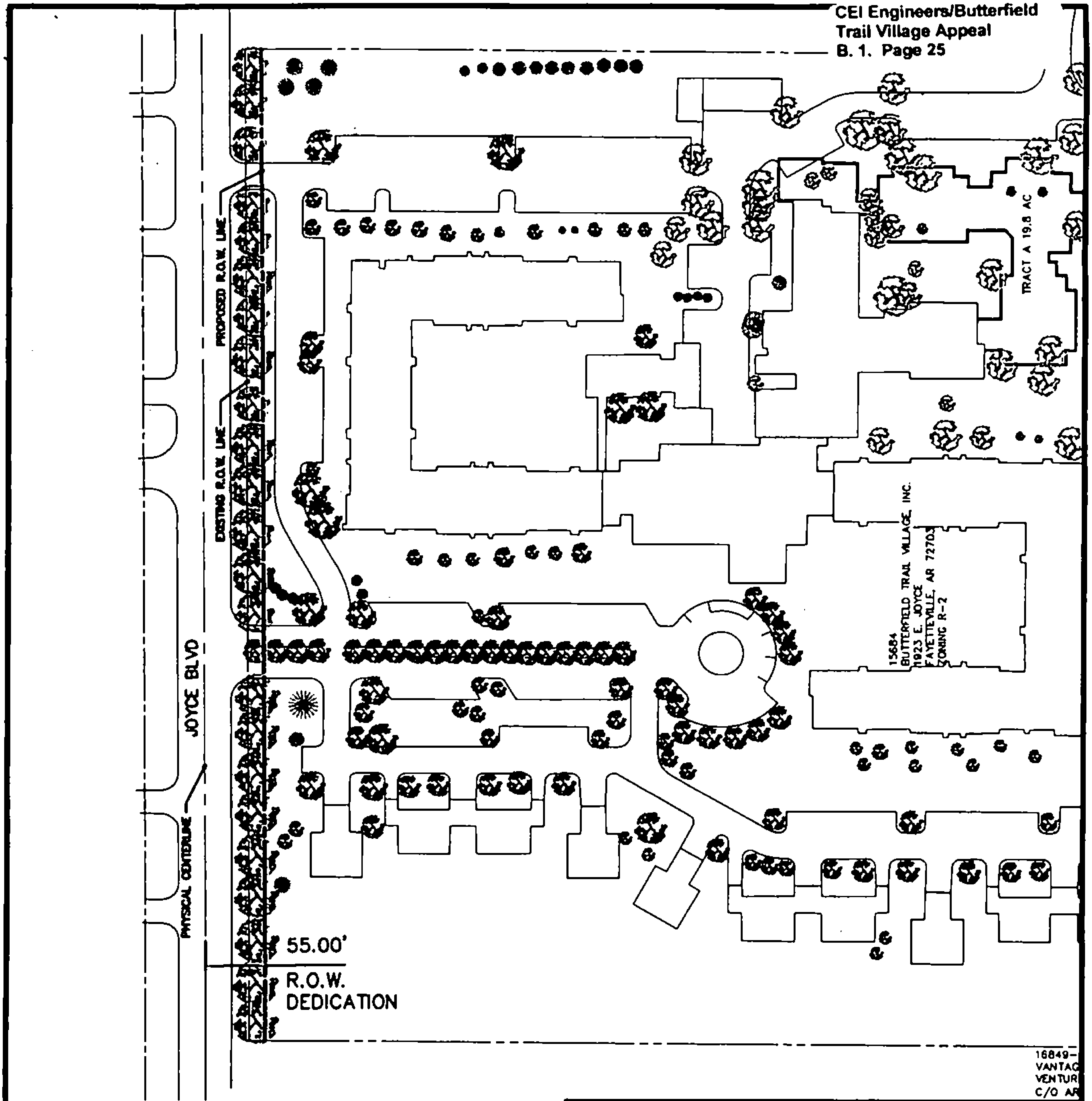

N

NOT TO SCALE

OWNER/DEVELOPER
BUTTERFIELD TRAIL VILLAGE
1923 E. JOYCE BLVD.
FAYETTEVILLE, AR 72701
BOB BRENNAN
479-442-7220

INITIAL DESIGN	5-22-03	KRY	KRY	JLK	JLK
	DATE	PRN	PM	DES	DRW

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EXHIBIT "A" R.O.W. DEDICATION
FAYETTEVILLE AR
DATE 06-05-03 10:50 AM REV-2
SHEET NO. 1 OF 1

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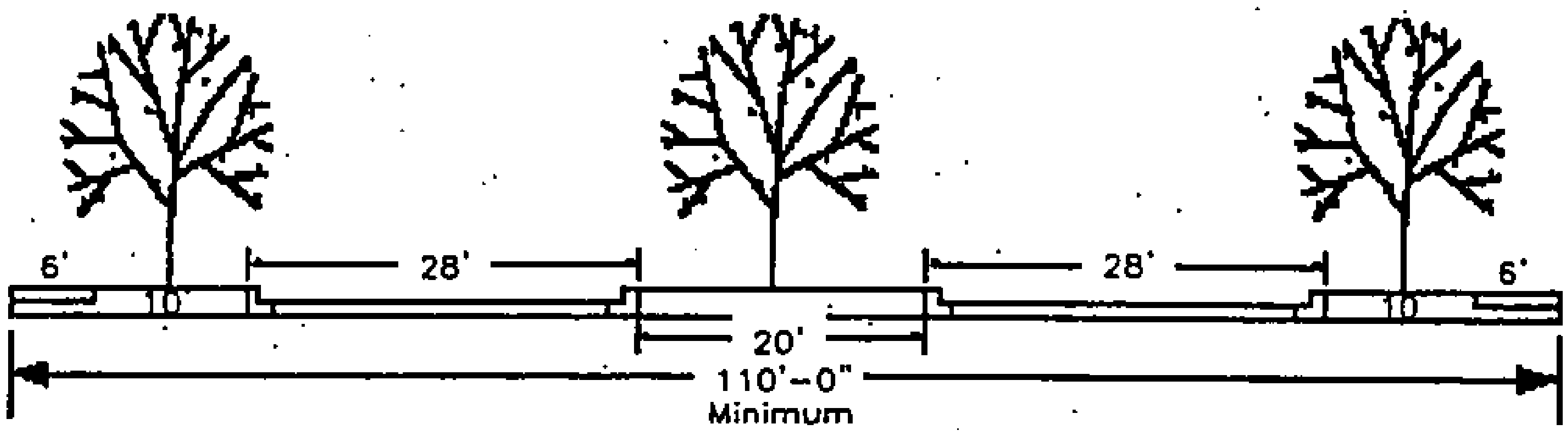

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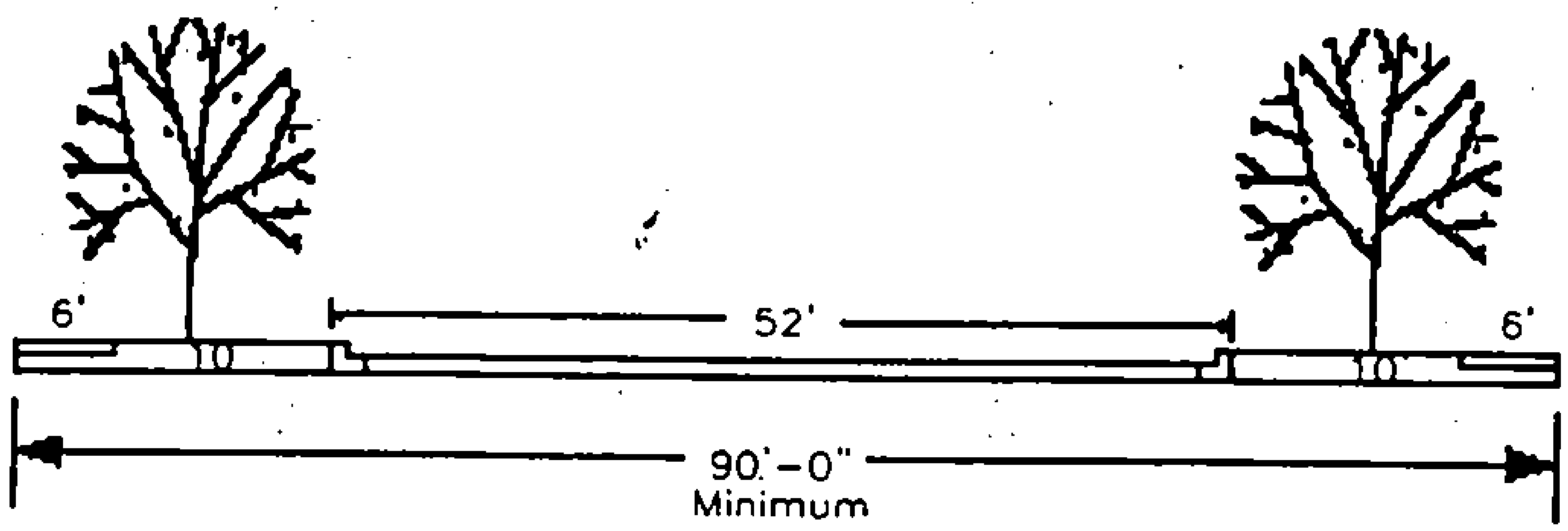
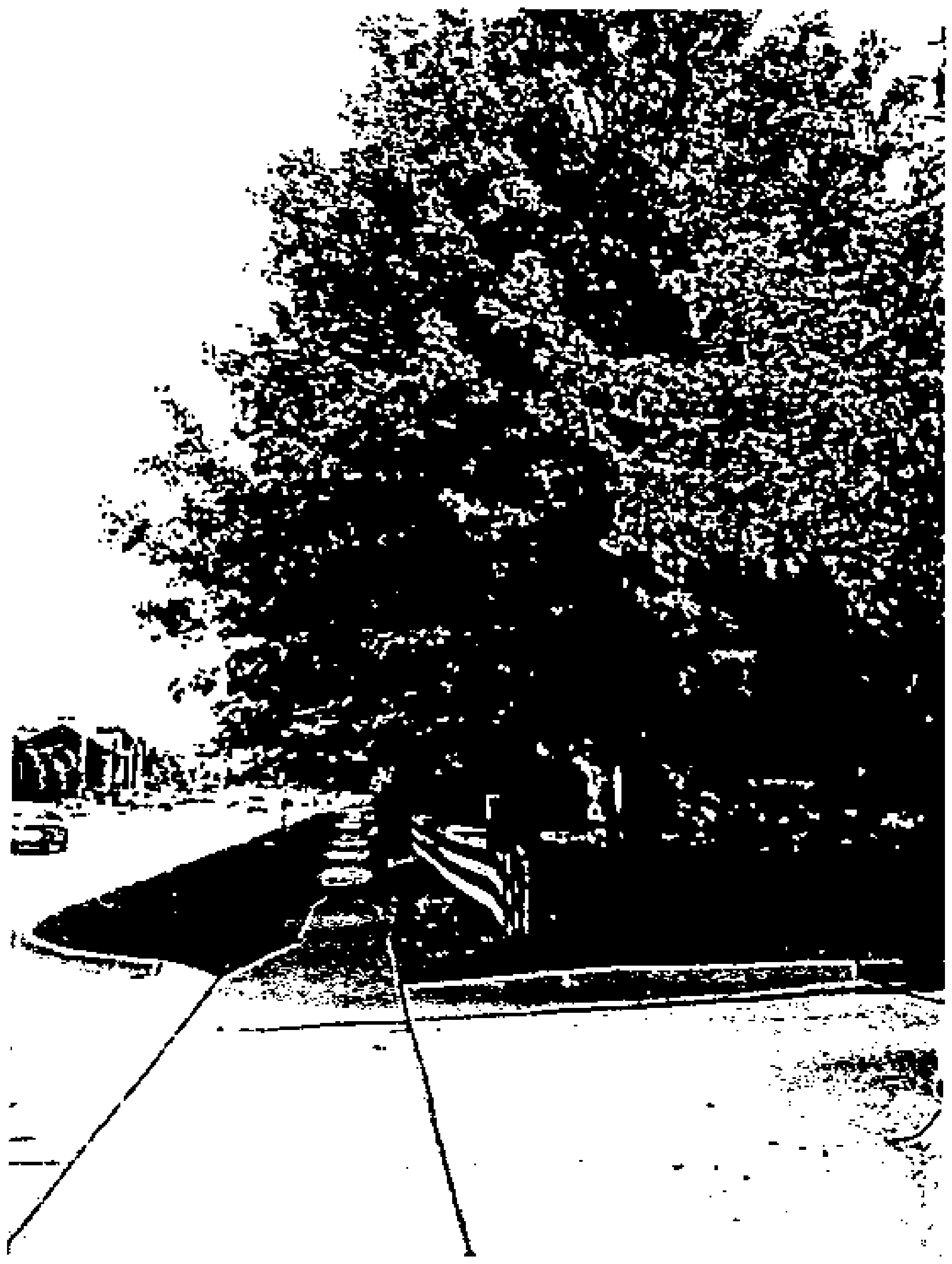


Minor Arterial

Exhibit "C"

Minor Arterial Section



BUTTERFIELD TRAIL VILLAGE
FAYETTEVILLE, ARKANSAS

JUNE 05, 2003

Miller Boskus Lack
5400 Greathouse Springs Road
Springdale, Arkansas 72762
479.443.7121 Fax 479.443.7139
e-mail: info@mbl-arch.com
www.mbl-arch.com
Architects, P.A.

BUTTERFIELD TRAIL VILLAGE
FAYETTEVILLE, ARKANSAS

Miller
Boskus
Lack
Architects, P.A.

CC Meeting of July 1, 2003

FAYETTEVILLE

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

TO:	Mayor Dan Coody Fayetteville City Council
FROM:	Tim Conklin, A.I.C.P., Community Planning & Engineering Services Director
DATE:	June 26, 2003
SUBJECT:	Butterfield Trail Village Right-of-Way and Broyles Rezonings

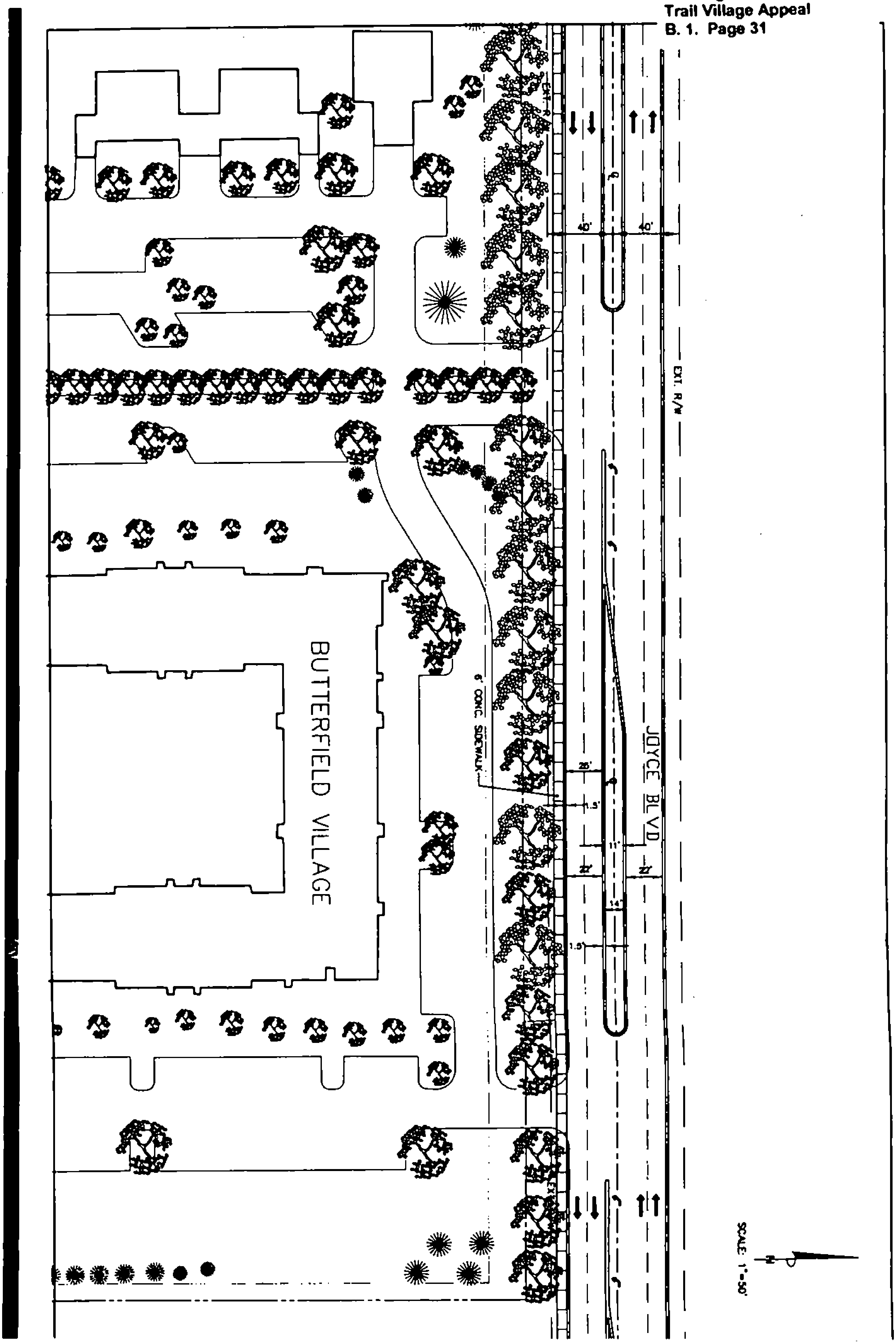
*BUTTERFIELD TRAIL VILLAGE LSD 03-15

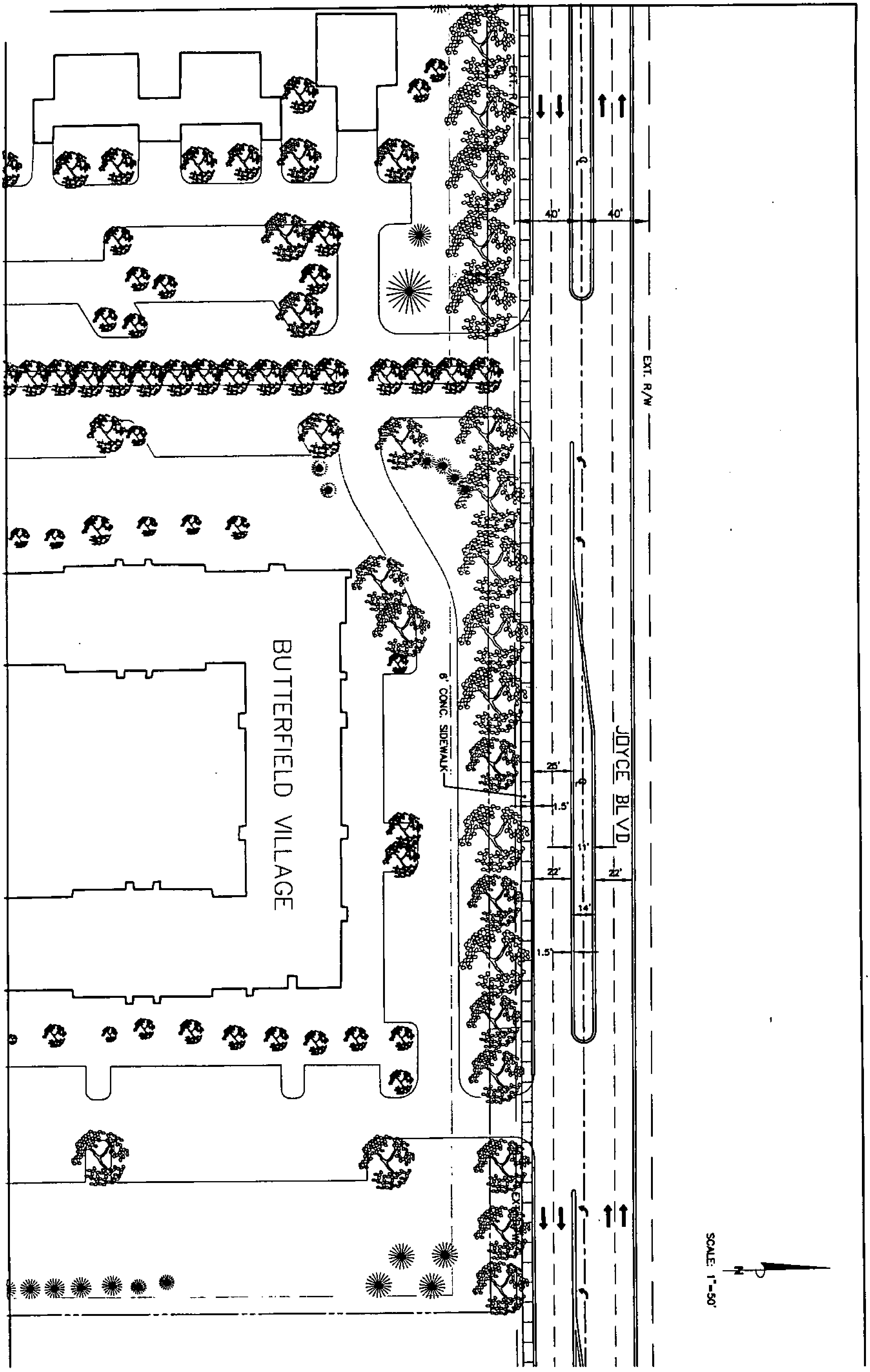
Attached you will find information on how Joyce Boulevard can be designed to add a boulevard with left turn lanes and save the existing oaks in front of the development. The current Master Street Plan requires 110 feet of right-of-way in order to build a 20 foot median, two 12 foot travel lanes each direction (28 feet back of curb to back of curb) and a 10 foot green space with a 6 foot sidewalk.

To save the existing large oak trees, staff has modified the master street plan cross section to reduce the median width from 20 feet to 11 feet and eliminated the green space in front of the sidewalk. This street could be widened to include an 11' median, four 11 foot travel lanes, and a sidewalk continuous with the curb or having the sidewalk built south of the trees on Butterfield Trail property. This design can be accommodated within the existing 80 feet of right-of-way without having to take additional right-of way.

BROYLES REZONING RZN 03-19 & RZN 03-20

Mr. Broyles has agreed to offer a Bill of Assurance to the City Council for the entire R-2 zoning area based on what was discussed during the prior rezoning. Staff is preparing the Bill of Assurance for signatures and will be sending this to Mr. Broyles to obtain property owner's signatures. Attached are the minutes of the City Council meeting from November 6, 2001 and December 4, 2001.


BUTTERFIELD VILLAGE
JOYCE BLVD
6' CONC. SIDEWALK
EXT. R/W
40'
40'
26'
1.5'
11'
22'
22'
14'
1.5'
SCALE: 1"=50'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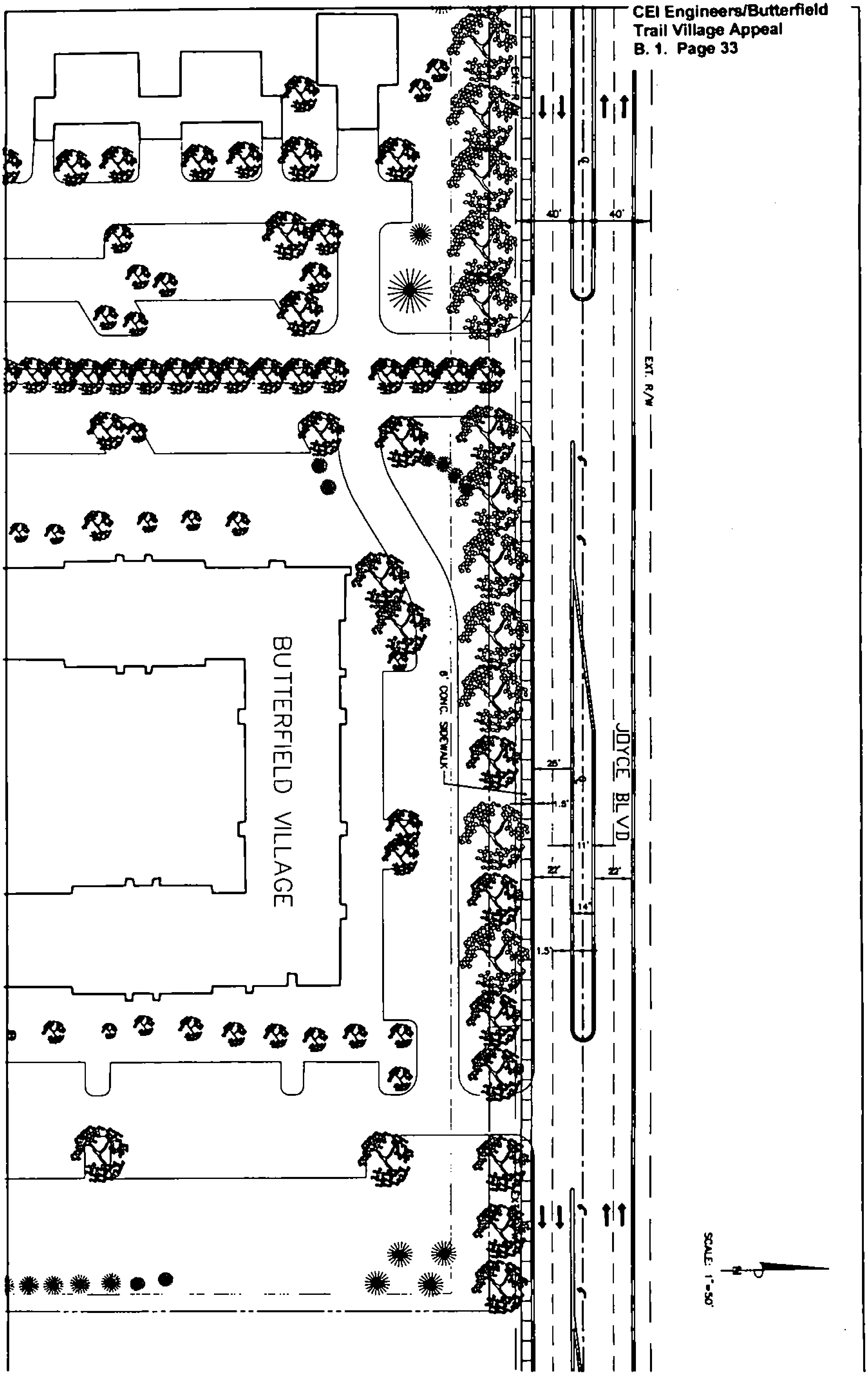
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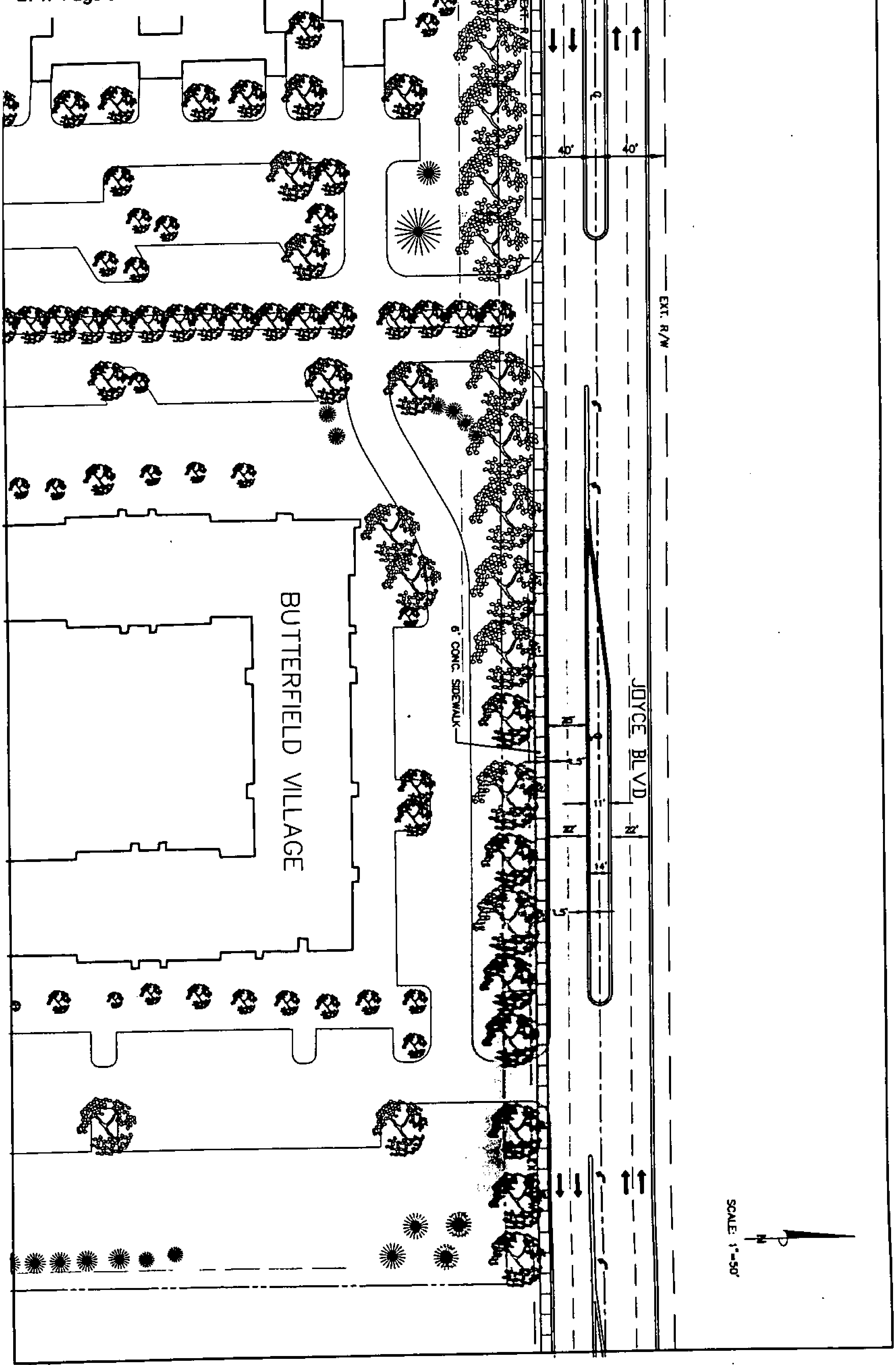
CEI Engineers/Butterfield
Trail Village Appeal
B. 1. Page 34



34

1 5 2003
Aug
Public Hearing Raze & Removal 226 N. School
B. 2. Page 1

July 1

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

YES AGENDA REQUEST

For the Fayetteville City Council Meeting of: May 20, 2003

FROM:

Don Hancock	Com Res & Code Com	Com Plan & Engr Services
Name	Division	Department

ACTION REQUIRED: Public Hearing and Resolution to order the Raze and Removal of the dilapidated structure located at ~~262~~ North School Avenue, Fayetteville, AR 72702

226

SUMMARY EXPLANATION:
See attached Memo

STAFF RECOMMENDATION:

	Date		
Division Head	4-15-03	Received in Mayor's Office	4/21/03 PH (Date)
City Attorney	4/21/03		
Department Director	4-16-03	Cross Reference:	
Finance & Internal Services Dir.	4-16-03	Previous Ord/Res#:	
Chief Administrative Officer	4-16-03	Orig. Contract Date:	
Mayor	5/5/03	Orig. Contract Number:	
		New Item:	Yes No

ENTERED
TM 5/21

RESOLUTION NO. ______

A RESOLUTION ORDERING THE RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE OWNED BY TIMOTHY C. AND CHRISTINE KLINGER LOCATED AT 226 N. SCHOOL AVENUE IN THE CITY OF FAYETTEVILLE, ARKANSAS.

WHEREAS, Timothy C. and Christine Klinger are the record owners of the real property situated at 226 N. School Avenue, City of Fayetteville, Washington County, Arkansas, more particularly described as set forth in Exhibit "A" attached hereto and made a part hereof; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, Timothy C. and Christine Klinger, having been properly served with a Violation Notice via Certified Mail, and given thirty (30) days to correct said violation, have refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1. That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, Timothy C. and Christine Klinger are hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2. That if Timothy C. and Christine Klinger do not comply with this order, the Mayor is hereby directed to cause the dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

PASSED and **APPROVED** this 20th day of May, 2003.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

DRAFT

EXHIBIT "A"

A part of Lot Seven (7) in Block Five (5), Original Plat of the City of Fayetteville, Arkansas, being more particularly described as follows: Beginning at the Northwest corner of the South 46.00 feet of said Lot Seven (7); thence North 00 degrees 22 minutes 07 seconds West 1.50 feet along the West line of said Lot Seven (7) to a point in line with the North wall of an existing brick building at 226 N. School Ave.; thence North 89 degrees 57 minutes 50 seconds East 104.86 feet along the North wall of said building to the Northeast corner of said building; thence North 89 degrees 12 minutes 51 seconds East 38.64 feet; thence South 01 degree 56 minutes 31 seconds East 46.91 feet; thence South 89 degrees 53 minutes 10 seconds West along an existing curb 136.95 feet; thence North 88 degrees 23 minutes 01 seconds West 3.87 feet; thence North 58 degrees 27 minutes 08 seconds West 4.64 feet to the West line of said Lot Seven (7); thence North 00 degrees 22 minutes 07 seconds West 42.53 feet to the point of beginning.

TEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

Date: July 23, 2003

To: The Mayor and Council

From: Hugh Earnest
CAO

Subject: Raze and Removal Resolution

Background

Our Community Resources and Code Compliance Division has been active in moving against structures that no longer comply with minimum codes relating to the basic structure and integrity of the structure. As part of that process, an Unsafe Buildings Violation notice was sent the owners of a building at 226 N. School in February of 2003. The owners had until April 1 to acquire a permit and make repairs or demolish the building. This particular location has a long history with respect to its condition and compliance with our ordinances. I have attached a 1998 memo from Charles Venable that summarized the several commitments made regarding this structure.

Current Situation

We have had several conversations with Mr. Tom Klinger, who along with his wife is the owner of the building. Mr. Klinger has expressed a continued interest in working to improve the site and had apparently employed or authorized an individual to begin work on the grounds by removing a concrete pad adjacent to the building in question. However, no building permit was requested for work on the site. Mr. Klinger understands that we will carry this issue to the council meeting of August 5, 2003.

Recommendation

It is our opinion that the city has given every opportunity for this property to be re-developed and returned to profitable use. That willingness to cooperate is certainly evidenced in the 1998 memo from Mr. Venable and most recently by the slowness shown by the staff in moving this to the council agenda. While we certainly remain receptive to working with the owner, we believe it is in the public interest to request a resolution ordering the raze and removal of this structure.

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

Memo

To: Mayor Hanna and City Council

From: Charles E. Venable

Date: July 27, 1998

Subject: Property Located at 226 North School (Timothy Klinger)

Summary of Events

- City purchased a parcel of land totaling 19,530 square feet with a building totaling 4,284 square feet in April 1990 for $83,500.
- A portion of the land, 12,897 square feet, was converted into a parking lot for use by the Walton Arts Center, et al, following the purchase.
- On March 25, 1993, a public auction was held to dispose of the remaining parcel, 6,633 square feet, and the 4,284 square foot building. Five bids were received with the high bid in the amount of $21,100. This bid, from Timothy Klinger, was approved by the City Council on June 15, 1993.
- In February 1995, problems with the building were noted by the Inspections Division and Mr. Klinger was notified of a potential hazard.
- March 10, 1995, it was noted that Mr. Klinger had made a good faith effort but more corrections were needed.
- November 1995, Mr. Klinger was notified the back wall of the building was unsafe. This wall was removed in early December.
- December 2, 1996, a letter from Kevin Crosson was sent to Timothy Klinger requesting schedule and plans for the property since no work had been done on the site and the building was continuing to deteriorate.

- April 14, 1997, a follow up letter was sent to Mr. Klinger since no reply had been received from the December 2, 1996, letter.

- May 22, 1997, notification from Inspections Division that the building had become dilapidated, unsafe, and detrimental to the public welfare was forwarded to Mr. Klinger requesting the owner to obtain a building permit and either repair or demolish the structure.

- June 23, 1997, a building permit was requested from the Inspections Division for the stabilization of the structure and the removal of debris, secure from vandalism, and to reroof a portion of the structure.

- June 24, 1997, letter from Inspections Division notifying Mr. Klinger that on July 1, 1997, the City Council would consider a resolution to determine if the structure should be razed and removed.

- June 25, 1997, letter from Timothy Klinger to Jerry Rose regarding his concern on the proposed council action.

- June 26, 1997, Inspections Division met with Mr. Klinger.

- June 30, 1998, letter from Timothy Klinger to the Inspections Division stating that an architect, Cal Canfield, had been retained and that the following schedule was developed:
  1. Preparation of preliminary design - two to three months
  2. Preparation of construction documents - three to four months
  3. Total design effort completed within seven months
  4. Construction to begin in the spring 1998

- June 30, 1997, memo from the Inspection Division to the City Council giving the status of the property and recommending that Mr. Klinger be given the time to accomplish the objectives outlined in his June 30 letter.

- July 1, 1997, the raze and removal resolution was introduced to the City Council. After discussion with Mr. Klinger, the City Council voted to table the resolution until such time as there is no progress shown on the time line or to completion of promise made by Mr. Klinger.

- July 3, 1997, letter from Mr. Klinger to the Inspections Division setting out the method of alleviating the problems at the site. Mr. Klinger agreed to:
  1. Cover all openings with either plywood or fencing
  2. Seal the front of the structure with fencing to allow easy viewing of the interior
  3. Seal the south and east walls with plywood

4. Seal one opening on the south with fencing to allow viewing of the interior
5. Remove all loose blocks and bricks from the tops of all walls

- July 21, 1997, memo to Public Works and Inspections that the work was under way.

- August 12, 1997, letter to Mr. Klinger from Inspections notifying him that a portion of the north wall was unsafe.

- April 6, 1998, letter to Mr. Klinger from Inspections requesting status of proposed improvements.

- April 17, 1998, letter Mr. Klinger to Inspections stating that the architect, Cal Canfield, had been terminated and that discussions with Richard Alderman were ongoing. He also stated that a commitment for construction financing had been secured.

- July 23, 1998, memo from Inspections updating status of property stating that the building is secure although new graffiti has appeared on the inside of the north wall within with past six weeks. Also stated that no further communication had been received from Mr. Klinger since the April 17 letter.

CV:mm

cc Kevin Crosson
Bert Rakes
Jerry Rose

HELPING TO BUILD A BETTER COMMUNITY

City of Fayetteville, Arkansas
Community Code Enforcement
113 West Mountain Street
Fayetteville, Arkansas 72701
Fax 479- 444-3445

VIOLATION NOTICE

February 28, 2003

CASE NO. 1266

Owner: Timothy C & Christine L Klinger
P.O. Box 1064
Fayetteville, AR 72702

RE: Property @ 226 N. School Ave. OR 262 N. School Ave., Fayetteville, AR
WC Parcel# 765-01710-000

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. Please feel free to call our office at (479) 575-8232 for clarification of this notice or advice on how to correct the problem.

Suspected Violation That Needs Correction:
§ 173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:
Please obtain a building permit and make repairs as required or demolish the building and remove all debris from the lot.

Potential Penalties if not corrected within thirty (30) days from the service of this Notice include: Condemnation.

Appeal: If you disagree with our conclusion that your property contains a violation of the ordinance listed above, you have a right to file an appeal with the City Council.

Sincerely,

Sue Butler
Code Compliance Officer

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

7001 1940 0001 4913 4127

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

Postmark Here
2-24-03

Sent To Timothy C & Christine L Klinger
Street, Apt. No.; or PO Box No. PO Box 1064
City, State, ZIP+4 Fay 72702

PS Form 3800, January 2001 — See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Timothy C & Christine L.
Klinger
P.O. Box 1064
Fayetteville, AR
72702

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) Tim Kling[illegible]

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

FAYETTEVILLE, AR 72701 MAR 1 2003 USPS 8998

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7001 1940 0001 4913 4127

PS Form 3811, August 2001 — Domestic Return Receipt — 102595-01-M-2509

SR-5442/1266

FAYETTEVILLE

City of Fayetteville
Code Compliance Section
113 West Mountain Street
Fayetteville, AR 72701

Helping to build a better Community

FAYETTEVILLE

April 8, 2003

Timothy C & Christine Klinger
P O Box 1064
Fayetteville, AR 72702

RE: Enforcement of Ordinance173.08
Arkansas Code Ann. § 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. §14-56-203 at 173.08 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the dwelling located at 262 N School Ave, should be Razed and Removed. You are free to appear at this hearing to present any evidence or statements. Please call and inform me if you plan to appear at the public hearing. If you need additional information concerning this process, please call or if you have information that we are not aware of please call the Code Compliance Office (479-575-8270.

The hearing will be part pf a regular City Council meeting – probably on May 20, 2003 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. It is possible that this hearing may be conducted at a later meeting such as June 3, 2003 or thereafter. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (575-8323) for information confirming the date of the public hearing. If you need additional information concerning this process please call the Code Compliance Office (575-8270).

Sincerely,

Don Hancock

Don Hancock
Code Compliance
Project Coordinator

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 1940 0001 4906 0594

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

Postmark Here

Sent To Tim + Christine Klinger
Street, Apt. No.; or PO Box No. P O Box 1064
City, State, ZIP+4 Fay AR 72702

PS Form 3800, January 2001 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Timothy or Christine Klinger
P O Box 1064
Fay AR 72702

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name) Tim Klinger
C. Date of Delivery

APR 01 2003

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7001 1940 0001 4906 0594

PS Form 3811, August 2001 Domestic Return Receipt 226 N School 102595-01-M-2509

Public Hearing Raze & Removal 226 N. School B. 2. Page 12

Record 1 of 1 Last Updated 02/24/03

Parcel Number: **765-01710-000** Prev. Parcel Number: **135617-000-00** Type: **CI**
Location: **226 N SCHOOL AVE**
Owner Name: **KLINGER, TIMOTHY C & CHRISTINE L**
Mailing Address: **PO BOX 1064 FAYETTEVILLE AR 72702**
Lot: Block: S-T-R: **16-16-30**
Addition: **FAYETTEVILLE ORIGINAL**
School District: **FAYETTEVILLE SCHOOLS** Tax District: **011**
City: **FAYETTEVILLE**
Legal: **PT LOT 7 BLOCK 5**
Current Year A79 Credit Status:

Last Appraised: **2002**	**Appraised Value**	**Taxable Value**
Land	**51,750**	**6,768**
Improvement	**0**	**0**
Total	**51,750**	**6,768**

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Total Tax	Total Tax Paid	A79 Credit	A79 Status	Payment Status
2002	6,768	$351.67	$0.00	$0.00	$0.00	$351.67	$0.00			
2001	6,204	$322.36	$0.00	$0.00	$0.00	$322.36	$322.36			PAID
2000	5,640	$296.10	$0.00	$0.00	$0.00	$296.10	$296.10			PAID
1999	5,660	$289.79	$0.00	$0.00	$0.00	$289.79	$289.79			PAID
1998	5,660	$290.36	$0.00	$0.00	$0.00	$1,014.60	$1,014.60			PAID
1997	5,660	$290.36	$724.24	$0.00	$0.00	$1,014.60	$1,087.02			PAID
1996	5,660	$290.36	$724.24	$0.00	$0.00	$1,141.47	$1,069.05			PAID
1995	5,660	$0.00	$724.24	$0.00	$0.00	$724.24	$724.49			PAID

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2001	112882	10/25/02	$322.36	$0.00	$0.00	$0.00	$0.00	$322.36
2000	9081	09/04/01	$296.10	$0.00	$0.00	$0.00	$0.00	$296.10
1999	9395	08/29/00	$289.79	$0.00	$0.00	$0.00	$0.00	$289.79
1997	4851	06/30/98	$0.00	$724.24	$0.00	$0.00	$0.00	$724.24
1997	10352	10/10/98	$0.00	$724.24	$0.00	$0.00	$0.00	$724.24
1996	8437	07/02/98	$0.00	$0.00	$0.00	$0.00	$72.42	$72.42
1995	9757	08/27/96	$0.00	$724.24	$0.00	$0.00	$0.00	$724.24
1994	12945	07/17/95	$0.00	$724.49	$0.00	$0.00	$0.00	$724.49

Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
10/14/1993	93	60983	KLINGER, TIMOTHY C. & CHRISTINE		WD	0	0.00
	NO REV.						

4/5/1990	1361	822	CITY OF FAYETTEVILLE, A MUNICI-	PAL CORP	WD	42,000	92.40

PAGES 822/823. ALSO 01713.1362-503 CORR: WD, CORR 1361-822 BY ADDING FILE MARK PREVIOUSLY OMITTED. 1362-517 AFFIDAVIT STATING REV STAMPS PLACED ON DEED 1361-822 IN ERROR. 6/25/93 EXEMPTION DENIED/BLDG BOARDED UP.(SP)

10/23/1987	1248	322	FIRST FEDERAL SAVINGS OF ARK		TD	0	0.00

PAGES 322-329. ALSO 765-01713. 1304-412 QCD FROM SHIPLEYS. PT LOT 7 TRANSFERRED FROM 01707-000 PER QCD 1304-411 FILED 1/19/89. PT LOT 7 TRANSFERRED FROM 01709-000 PER QCD 1304-411 FILED 1/19/89. NO VALUE CHANGE. 1334-435 RECEIVER'S QCD, NO REV, ALSO 01713. 1350-800 CORR QCD-CORRECTS 1334-435.

1/1/1985	920	76	OZARK MOUNTAIN SPORTS, INC,		WD	0	0.00

Next Item | Previous Item | Return to Search Results | Modify Search | New Search

B

FILED FOR RECORD
'93 OCT 19 PM 4 02
WASHINGTON CO AR
A. KOLLMEYER

WARRANTY DEED
(CORPORATION)

KNOW ALL MEN BY THESE PRESENTS:

That the City of Fayetteville, a municipal corporation, a corporation organized under and by virtue of the laws of the State of Arkansas, hereinafter called Grantor, by its Mayor and City Clerk, duly authorized by proper resolution of its City Council, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration in hand paid by Timothy C. Klinger and Christine Klinger, husband and wife, hereinafter called Grantees, do hereby grant, bargain and sell unto the said Grantees and Grantee's heirs and assigns, the following described land situate in Washington County, State of Arkansas, to-wit:

A part of Lot Seven (7) in Block Five (5), Original Plat of the City of Fayetteville, Arkansas, being more particularly described as follows: Beginning at the Northwest corner of the South 46.00 feet of said Lot Seven (7); thence North 00 degrees 22 minutes 07 seconds West 1.50 feet along the West line of said Lot Seven (7) to a point in line with the North wall of an existing brick building at 226 N. School Ave; thence North 89 degrees 57 minutes 50 seconds East 104.86 feet along the North wall of said building to the Northeast corner of said building; thence North 89 degrees 12 minutes 51 seconds East 38.64 feet; thence South 01 degree 56 minutes 31 seconds East 46.91 feet; thence South 89 degrees 53 minutes 10 seconds West along an existing curb 136.95 feet ;thence North 88 degrees 23 minutes 01 seconds West 3.87 feet; thence North 58 degrees 27 minutes 08 seconds West 4.64 feet to the West line of said Lot Seven (7); thence North 00 degrees 22 minutes 07 seconds West 42.53 feet to the point of beginning.

TO HAVE AND TO HOLD the lands and appurtenances thereunto belonging unto the said Grantees and Grantees' heirs and assigns, forever. And said corporation hereby covenants with the said Grantees 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.

IN TESTIMONY WHEREOF, the name of the Grantor is hereunto affixed by its Mayor and its seal affixed by its City Clerk, this 14 day of October, 1993.

CITY OF FAYETTEVILLE

BY: Fred Hanna
Mayor

BY: Sherry L. Thomas
City Clerk

93 60983

ACKNOWLEDGMENT

State of Arkansas } County of Washington} ss.

On this the 14 day of October, 1993, before me, a notary public, qualified and acting, within and for the said County and State, appeared in person the within named Fred Hanna and Sherry L. Thomas to me personally known who stated that they were the Mayor and City Clerk of the City of Fayetteville, a municipal corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in name and behalf of said 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.

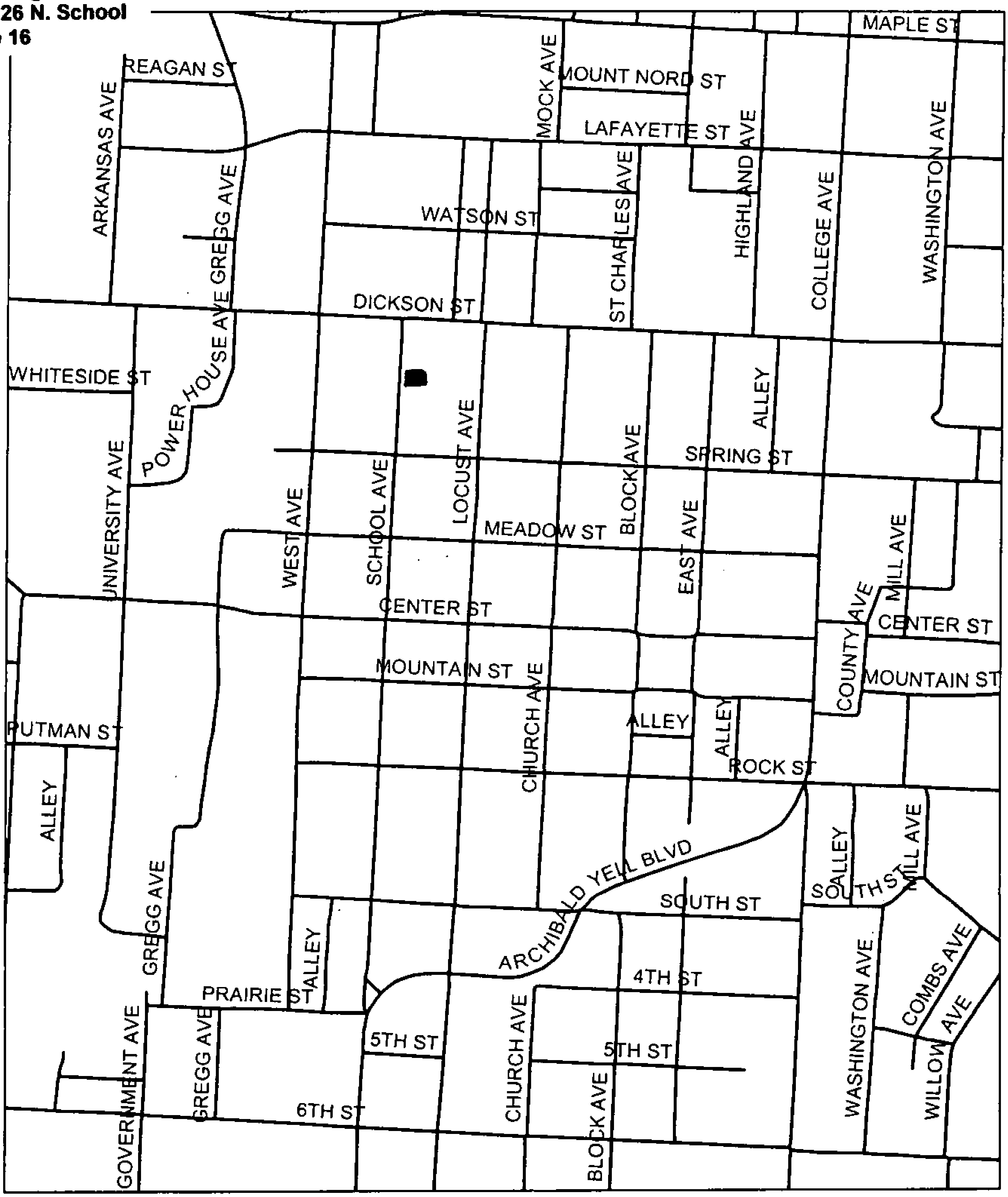
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 14 day of October, 1993.

Bert Baker
Notary Public

NOTARY PUBLIC

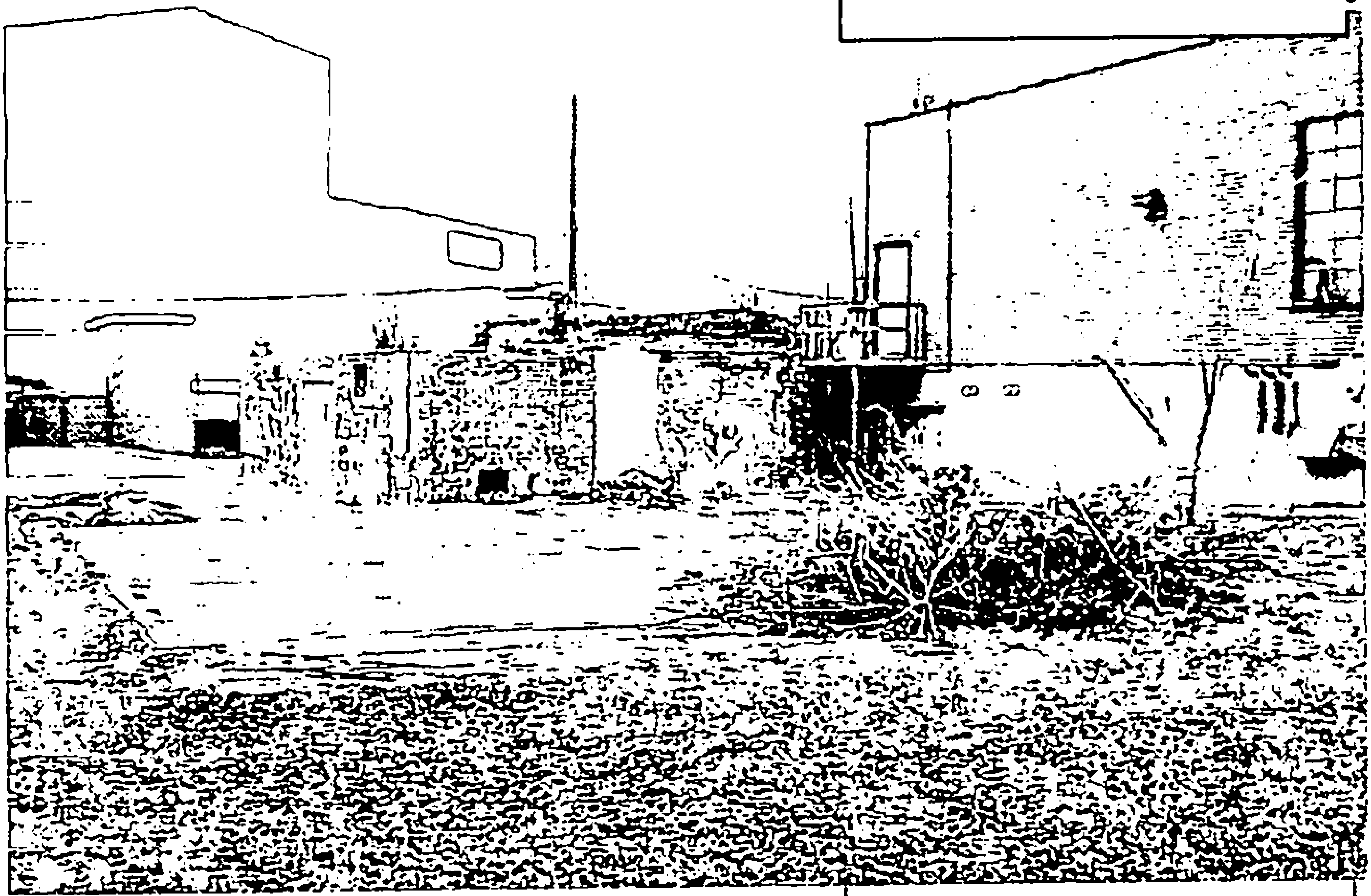
My commission expires:
July 11, 2002

93 60984

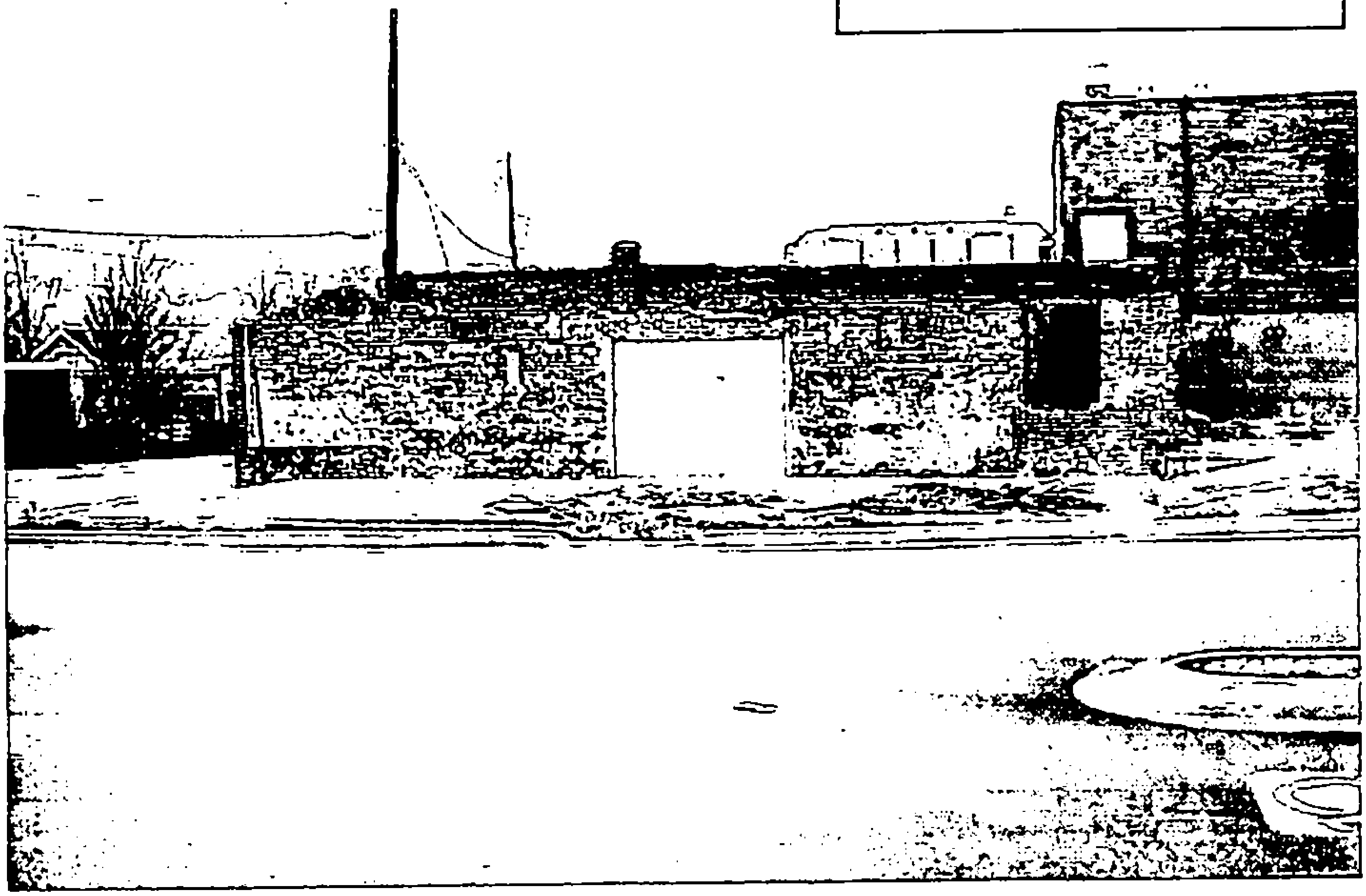

MAPLE ST
REAGAN ST
MOUNT NORD ST
MOCK AVE
LAFAYETTE ST
ARKANSAS AVE
GREGG AVE
WATSON ST
ST CHARLES AVE
HIGHLAND AVE
COLLEGE AVE
WASHINGTON AVE
DICKSON ST
POWER HOUSE AVE
WHITESIDE ST
ALLEY
LOCUST AVE
SPRING ST
UNIVERSITY AVE
BLOCK AVE
WEST AVE
SCHOOL AVE
MEADOW ST
EAST AVE
MILL AVE
CENTER ST
COUNTY AVE
MOUNTAIN ST
CHURCH AVE
PUTMAN ST
ROCK ST
ARCHIBALD YELL BLVD
SOUTH ST
4TH ST
PRAIRIE ST
COMBS AVE
5TH ST
GOVERNMENT AVE
WILLOW AVE
6TH ST
N

262 N. School

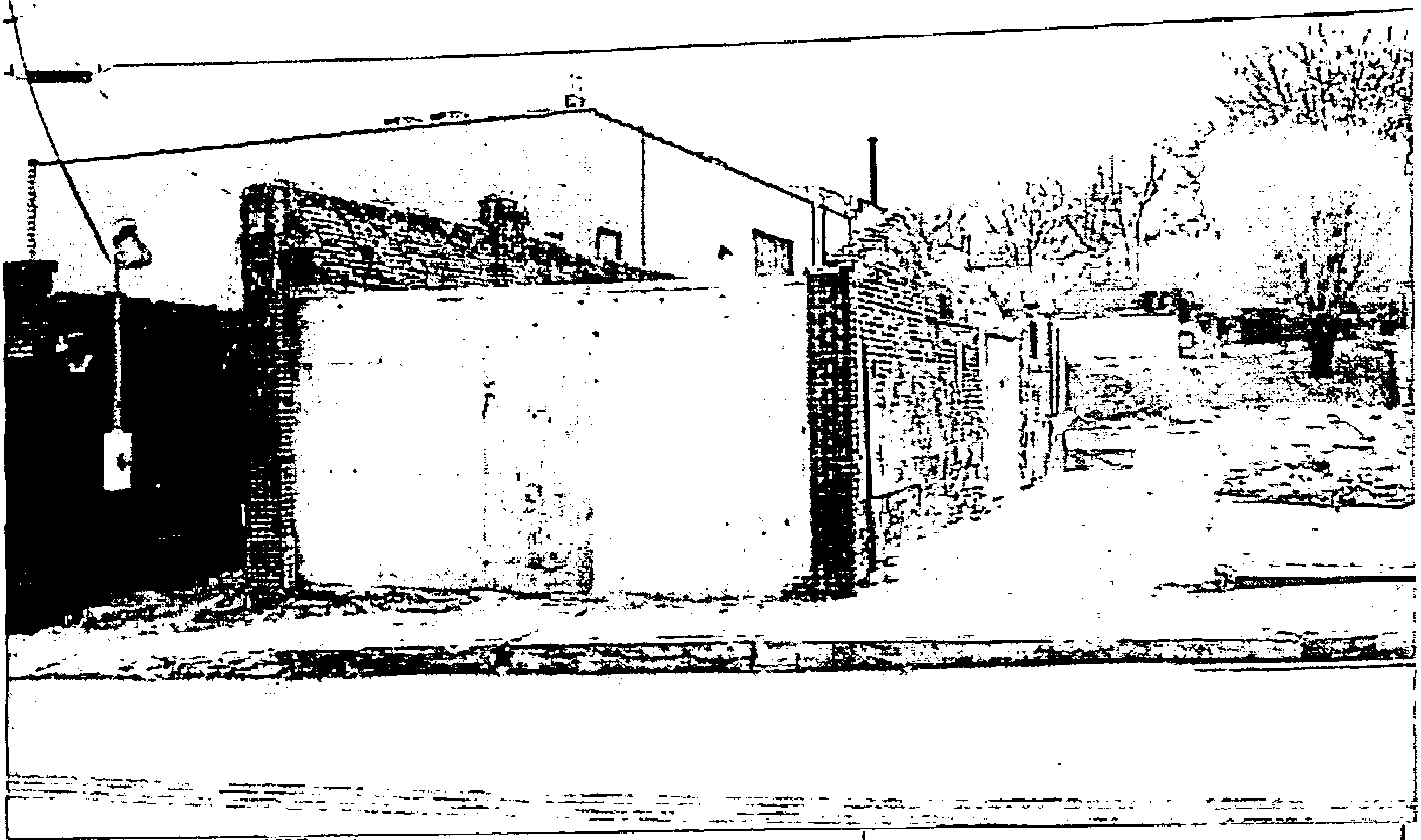
226 N School 1-31-03 Pl



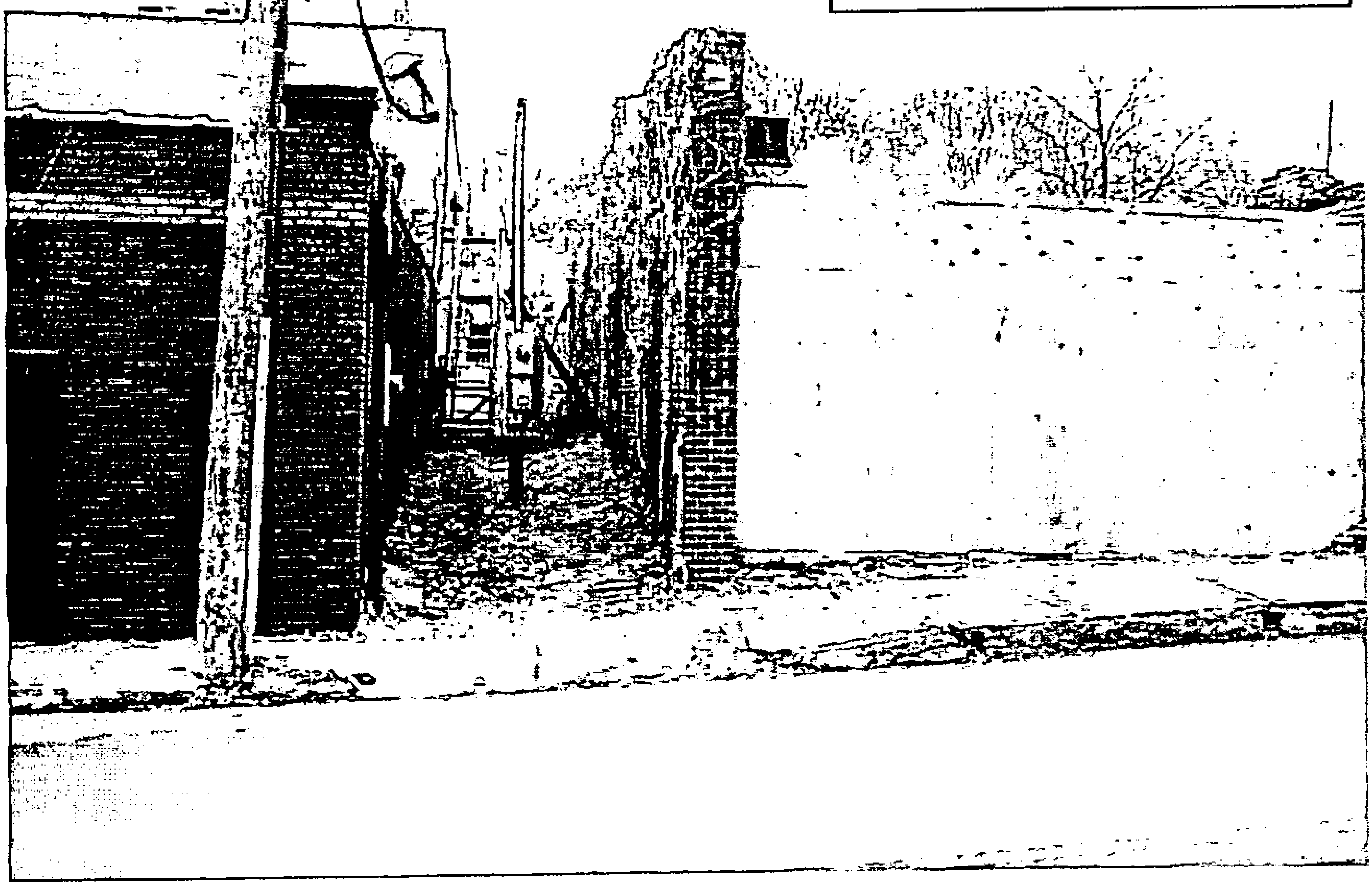
226 N School 1-31-03 PH/SB



226 N. School 1-31-03 PH/SB

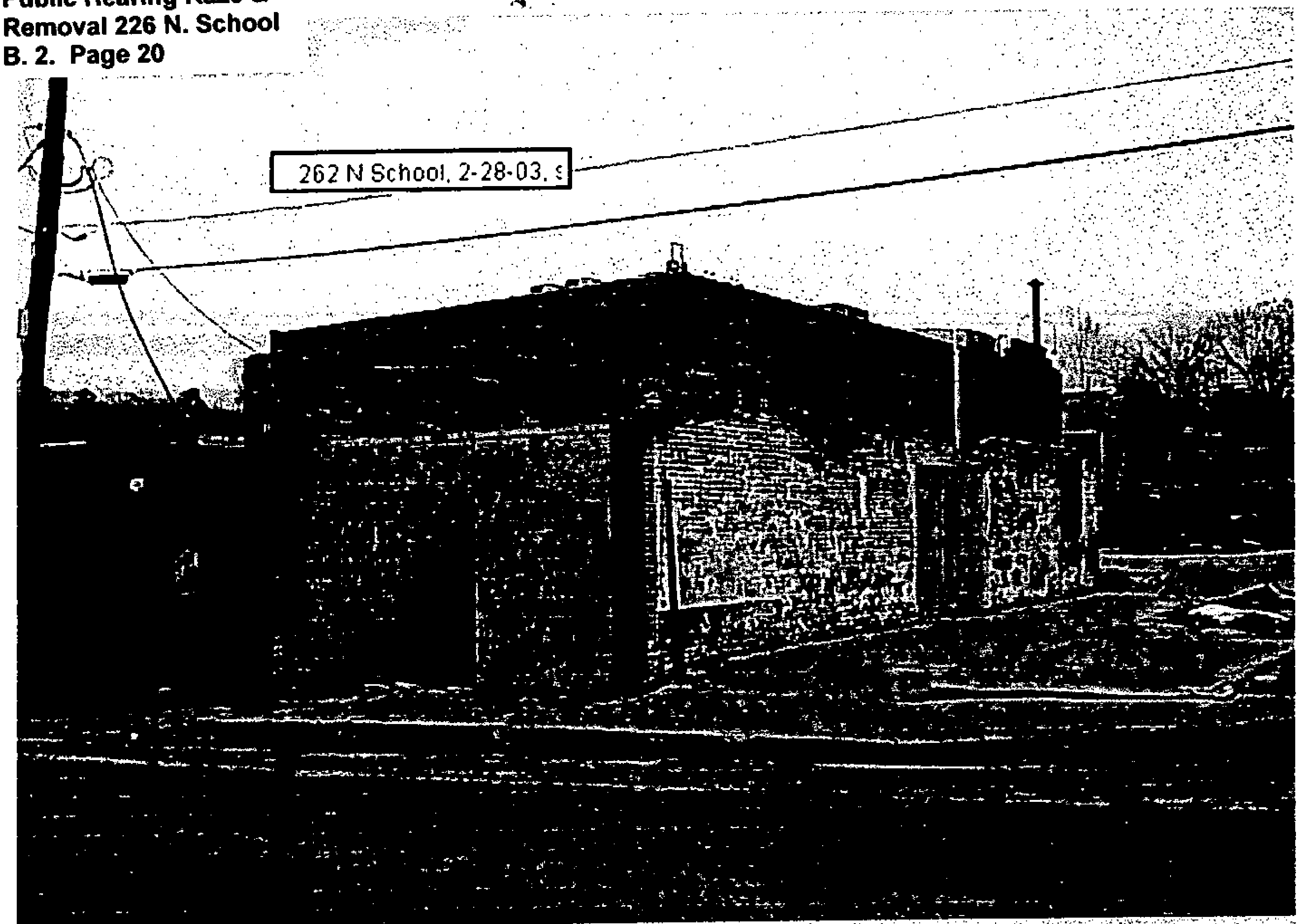


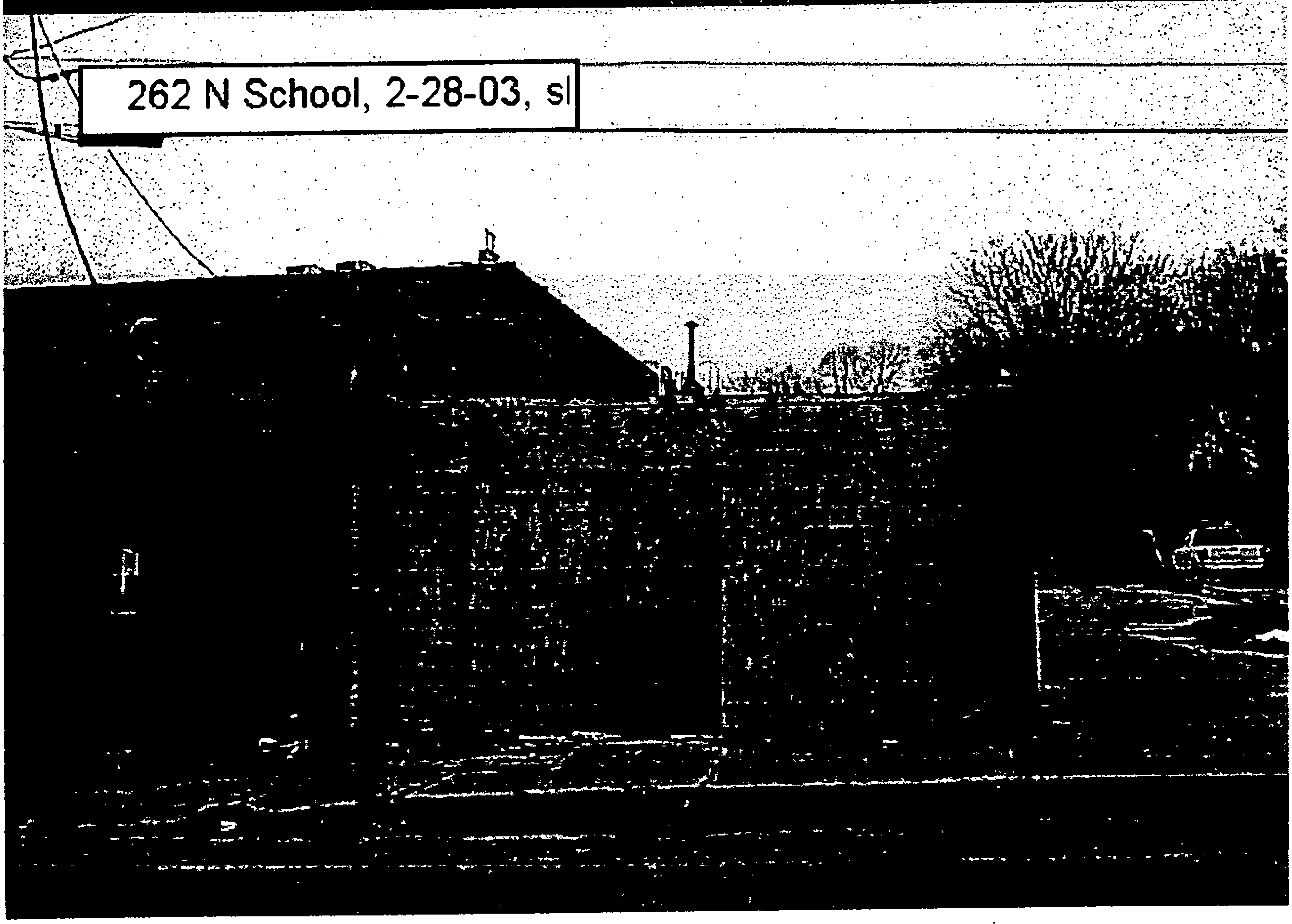
226 N. School 1-31-03 PH/SB



Public Hearing Raze &
Removal 226 N. School
B. 2. Page 19

Public Hearing Raze &
Removal 226 N. School
B. 2. Page 20

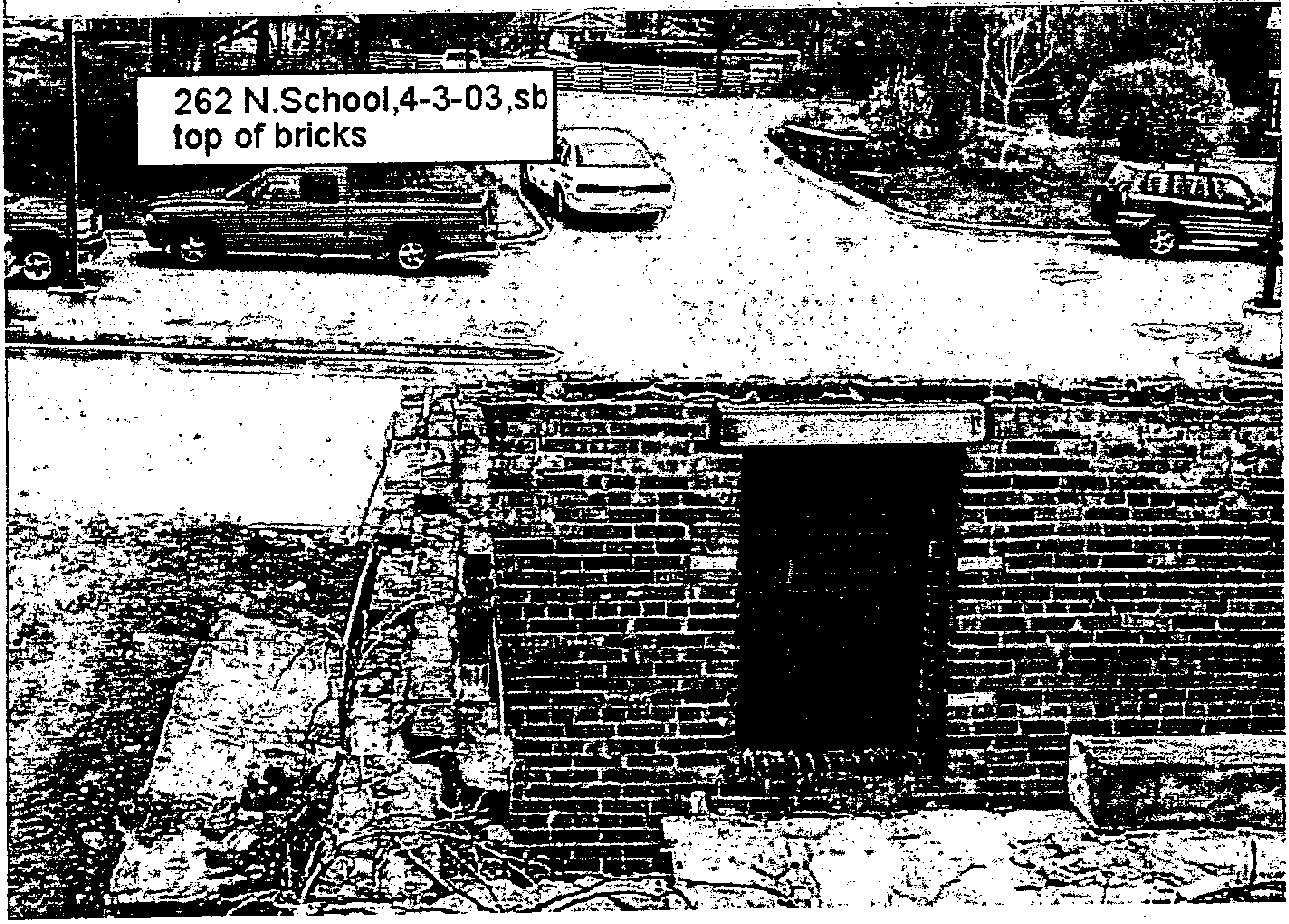





262 N. School, 2-28-03,s


262 N School, 2-28-03,sb

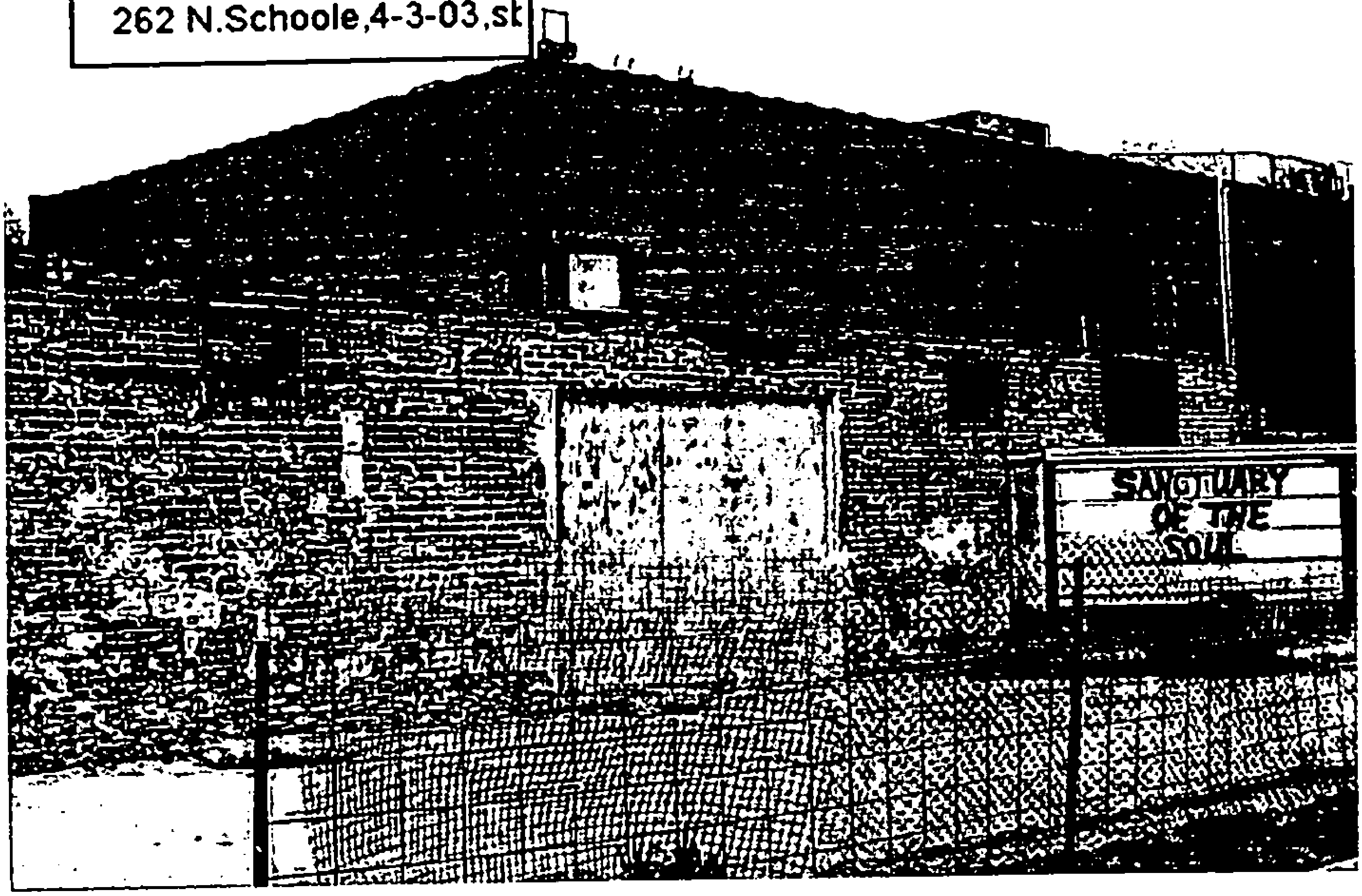
School,4-3-03,sb

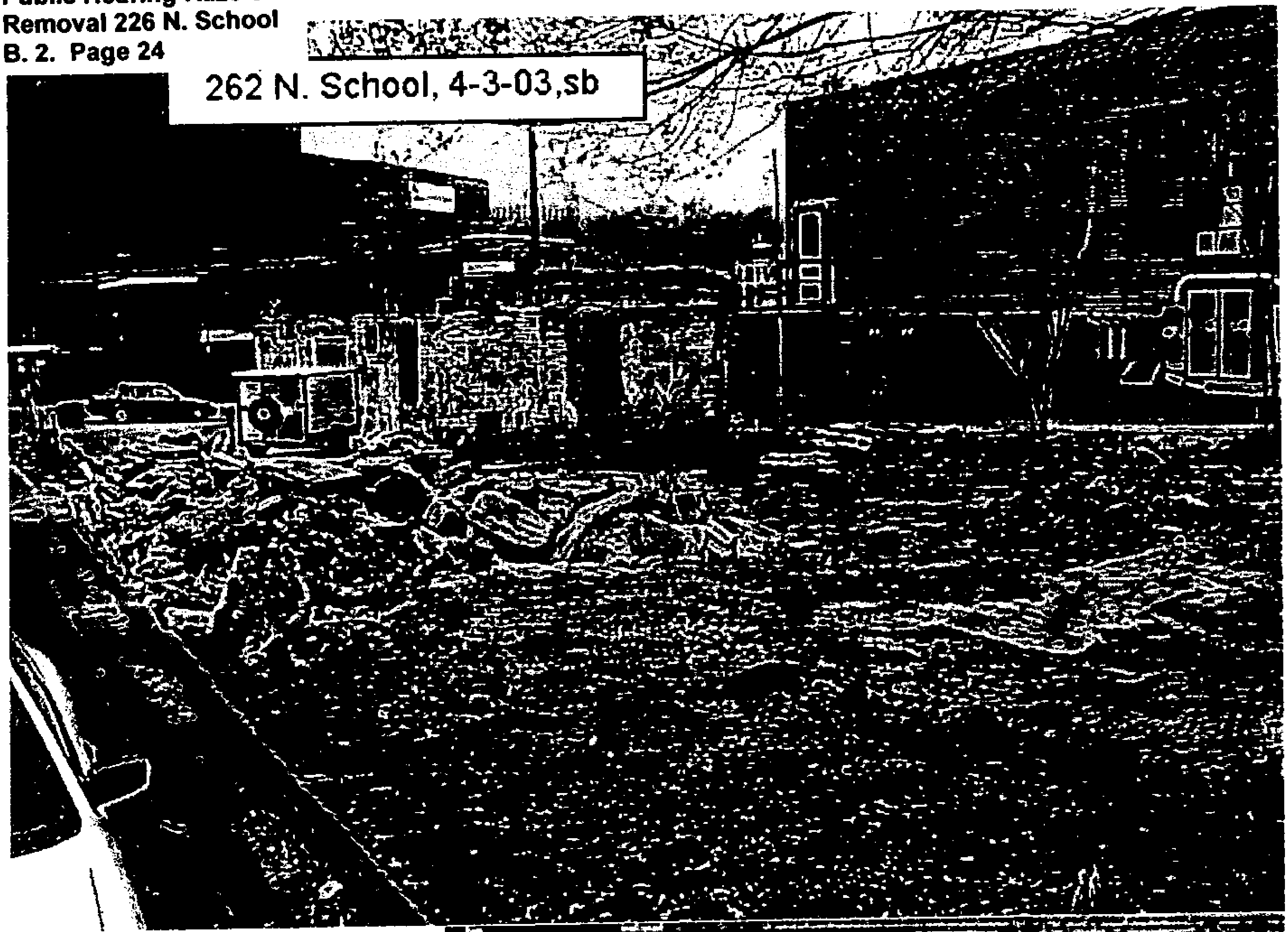


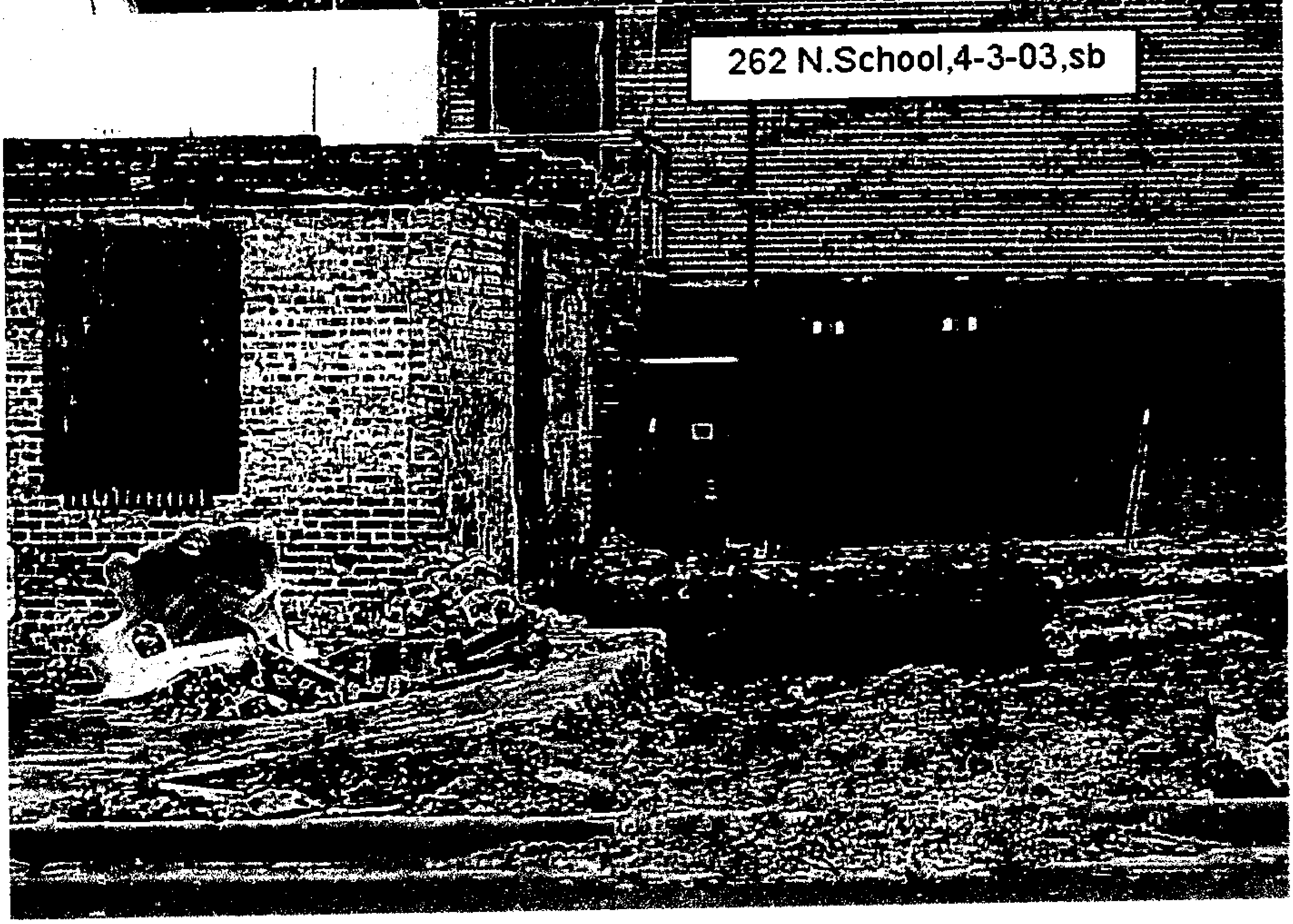
262 N.School,4-3-03,sb
top of bricks

262 N.School,4-3-03,sb

262 N.Schoole,4-3-03,st




262 N. School, 4-3-03,sb


262 N.School,4-3-03,sb

Continued to Hold per Hugh

CODE COMPLIANCE

STAFF REVIEW FORM

AGENDA REQUEST ITEM

For the Fayetteville City Council meeting of **May ~~6~~ 20, 2003**

ACTION REQUIRED: Resolution to order the Raze and Removal of the dilapidated structure located at 323 N West Ave., Fayetteville, AR 72701.

FROM:

Don Hancock, Code Compliance Project Coordinator — 4-7-03 Date

---

STAFF RECOMMENDATION: Order the Raze and Removal of the dilapidated structure.

APPROVALS:

Yolanda Fields
Director, Community Resources & Code Compliance — 4-8-03 Date

Tim Conklin
Director, Community Planning & Engineering Services — 4-10-03 Date

Hugh Earnest Hugh Earnest
Chief Administrative Officer *See Comment — 4-14-03 Date

Kit Williams
City Attorney — 4/15/03 Date

Dan Coody Dan Coody
Mayor — 4/15/03 Date

ENTERED RLM 5/21

Public Hearing Raze &
Removal 323 N. West
B. 3. Page 2

Description: Resolution to order the Raze and Removal of the dilapidated structure located at 323 N West Ave., Fayetteville, AR 72701.

Meeting Date: May 6, 2003

Comments:

Community Resources & Code Compliance Director

Community Planning & Engineering Services Director

Chief Administrative Officer

City Attorney

Mayor

RESOLUTION NO. ______

A RESOLUTION ORDERING THE RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE OWNED BY THE BANK OF FAYETTEVILLE, N.A. LOCATED AT 323 N. WEST AVENUE IN THE CITY OF FAYETTEVILLE, ARKANSAS.

WHEREAS, The Bank of Fayetteville, N.A. is the record owner of the real property situated at 323 N. West Avenue, City of Fayetteville, Washington County, Arkansas, more particularly described as set forth in Exhibit "A" attached hereto and made a part hereof; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, The Bank of Fayetteville, N.A., having been properly served with a Violation Notice via Certified Mail, and given thirty (30) days to correct said violation, has refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1. That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, The Bank of Fayetteville, N.A. is hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2. That if The Bank of Fayetteville, N.A. does not comply with this order, the Mayor is hereby directed to cause the dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

PASSED and **APPROVED** this 15th day of April, 2003.

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

EXHIBIT "A"

A part of the NW¼ of the NE¼ of Section 16, T-16-N, R-30-W, more particularly described as commencing at the North Quarter-corner (N¼) of said Section; said point being a found iron pin; thence S 02-38-59 W 1322.08 feet to the Southwest corner of said 40-acre tract; said point being a set cotton spindle; thence along said 40-line S 87-03-28 E 276.43 feet; thence N 03-08-43 E 13.17 feet to the point of beginning; said point being a set nail (large 60D) at the back of a curb; thence along said curb line N 03-08-43 E 81.12 feet to a set iron pin; thence N 02-12-02 E 317.87 feet to the corner of a building; thence N 75-51-38 E 3.26 feet to a found iron pin; thence S 06-58-05 E 12.76 feet to a found iron pin; thence S 12-58-46 E 108.30 feet to a found iron pin; thence S 87-53-45 E 0.75 feet to a found iron pin; thence S 16-23-43 E 18.96 feet to a found iron pin to approximate angle point of an old building foundation; thence S 88-04-31 E 43.91 feet to a found iron pin on the West right-of-way of West Avenue; thence along said right-of-way S 02-27-31 W 266.12 feet to found chiseled 'X' at the intersection of the West right-of-way of said West Avenue and the North right-of-way of Dickson Street; thence along said right-of-way of Dickson Street N 87-03-14 W 84.37 feet to the point of beginning, containing .057 acres, or 24,993 square feet, more or less, City of Fayetteville, Arkansas.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

Date: July 23, 2003

To: The Mayor and Council

From: Hugh Earnest
CAO

Subject: Raze and Removal resolution

Background

Our Community Resources and Code Compliance Division has been active in moving against structures that no longer comply with minimum codes relating to the basic structure and its integrity. As part of that process, an Unsafe Buildings Violation notice was sent the owners of a building at 323 N. West Avenue on February 14, 2003. The owners had until March 17, to either acquire a permit to make repairs or to demolish and remove the building. Our city staff was aware that the structure, the Waters-Pierce Oil Company Building, had been placed on the National Historic Register in 1988. We contacted the Department of Heritage's Historic Preservation Program Division and received from them a description of the building in 1988. That description did not match the current condition of the building and we were asked to submit photos depicting the current condition. We met that request and furnished that information to the state. The end result of this process is that the State Review Board of the Arkansas Historic Preservation Program will consider removal of this structure from the National Register at their meeting on August 6, 2003. A copy of that letter is attached.

Current Situation

We have not moved to request a raze and removal on this structure for several reasons. The structure itself had long been singled out by the appropriate state agency as a historic place. In addition, the property on which this building is located is being considered for purchase for uses other than its present use. The individual interested in the entire property had expressed interest in using the building as part of his re-development plan. However, we have discussed the status with Mr. John Lewis in his role as representing the several individuals who own the entire property. Mr. Lewis has had the building evaluated by engineers and he has been apprised that the structure itself has deteriorated to the point where its continued use is impractical. He is also aware that the probability of this structure being removed from the National Register is quite high.

Recommendation

While it is possible that some action by the purchaser of the property in question can occur in the very near future, we do not believe that we can delay any longer in requesting that the council approve a resolution to order the Raze and Removal of this structure. Given the condition of the structure and its unsafe condition, we believe that we have, at this time, no other option.

Public Hearing Raze & Removal 323 N. West
B. 3. Page 6

The Department of Arkansas Heritage

Mike Huckabee, Governor
Cathie Matthews, Director

Arkansas Arts Council
Arkansas Natural Heritage Commission
Historic Arkansas Museum
Delta Cultural Center
Old State House Museum

Arkansas Historic Preservation Program

1500 Tower Building
323 Center Street
Little Rock, AR 72201
(501)324-9880
fax: (501)324-9184
tdd: (501)324-9811
e-mail:
info@arkansaspreservation.org
website:
www.arkansaspreservation.org

RECEIVED
JUN 30 2003
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

July 6, 2003

The Honorable Dan Coody
113 West Mountain
Fayetteville, AR 72701

Re: Waters-Pierce Oil Company Building, Fayetteville, Washington County

Dear Mayor Coody:

The State Review Board of the Arkansas Historic Preservation Program will consider removal of the above referenced property from the National Register of Historic Places on the basis that the property no longer meets the listing requirements as established by the State Review Board and federal National Register integrity guidelines. We sympathize with you regarding the loss of your property.

A National Register property can be removed from the list for a number of reasons: 1) the property ceases to possess the qualities that originally allowed it to be listed on the National Register because those qualities have been lost or destroyed; 2) additional information reveals that the property does not meet the National Register criteria for evaluation; 3) an error in professional judgement was made as to whether the property meets the criteria for evaluation; or 4) a prejudicial error exists in the nomination or listing process.

If you have any questions or comments about the consideration of this property for removal from the National Register please contact Ralph Wilcox of my staff at (501) 324-9787 within thirty days of the date of this letter. If the board approves the removal of this property from the National Register of Historic Places, the board's recommendation will be forwarded to the National Register office in Washington, D.C. The board will consider this action at its next meeting, which will be at 10 a.m. on August 6, 2003 in the ninth floor conference room of the Tower Building located at 323 Center Street in Little Rock.

Sincerely,

Ken Grunewald
Director

City of Fayetteville, Arkansas
Community Code Enforcement
113 West Mountain Street
Fayetteville, Arkansas 72701
Fax 479- 444-3445

HELPING TO BUILD A BETTER COMMUNITY

VIOLATION NOTICE

February 12, 2003

CASE NO. 1242

Owner: Bank of Fayetteville
Attn: John M. Lewis
P.O. Box 1728
Fayetteville, AR 72702

RE: Property @ 325 N. West Ave. Fayetteville, AR
WC Parcel#: 765-12867-000

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. Please feel free to call our office at (479) 575-8232 for clarification of this notice or advice on how to correct the problem.

Suspected Violation That Needs Correction:
§ 173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:
Please obtain a building permit and make repairs as required or demolish the building and remove all debris from the lot.

Potential Penalties if not corrected within thirty (30) days from the service of this Notice include: Condemnation.

Appeal: If you disagree with our conclusion that your property contains a violation of the ordinance listed above, you have a right to file an appeal with the City Council.

Sincerely,

Sue Butler
Code Compliance Officer

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

7001 1940 0001 4913 3908

Postage	$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		2-12-03
Total Postage & Fees	$	

Sent To Bank of Fay / John Lewis
Street, Apt. No.; or PO Box No. PO BOX 1728
City, State, ZIP+4 Fay 72702

PS Form 3800, January 2001 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bank of Fayetteville
P.O. Box 1728
Fayetteville, AR 72702

ATTN: John Lewis

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☒ Agent ☐ Addressee

B. Received by (Printed Name) 0241 [illegible]
C. Date of Delivery 2/14/03

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
(Transfer from service label) 7001 1940 0001 4913 3908

PS Form 3811, August 2001 Domestic Return Receipt 102595-01-M-2509

SR:5277 CA 1242

Return to Nancy Schuster
The Bank of Fayetteville, N.A.
Post Office Box 1728
Fayetteville, AR 72702

$16.50 0293560 | $550 23735 | $220 143028 | $220 143027

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That **SHULER DEVELOPMENT CO., INC.**, (herein designated as the GRANTOR), a corporation organized under the laws of the State of Arkansas, with its principal place of business at Fayetteville, Arkansas, for and in consideration of the sum of Ten Dollars ($10.00), to it in hand paid by **THE BANK OF FAYETTEVILLE, N.A.** (herein designated as Grantee), receipt of which is hereby acknowledged, does hereby grant, bargain, sell, and convey unto the Grantee and unto its heirs, successors, and assigns forever, the following lands and real estate situated in the County of Washington and State of Arkansas, to-wit:

See Attached Exhibit "A" For Legal Description (the "Property")

Together with all GRANTOR'S right, title, and interest and reversion in and to the improvements on the said Property.

TO HAVE AND TO HOLD the same unto the Grantee and unto its heirs, successors, and assigns forever, with all the privileges and appurtenances thereto belonging.

And the GRANTOR hereby covenants with the Grantee, its heirs, successors, and assigns, that it will forever warrant and defend the title to said lands against all lawful claims against Grantor or encumbrances created by GRANTOR or enforceable against GRANTOR, except for those matters or encumbrances set forth on Exhibit "B" attached hereto and made a part hereof, but against no other claims or encumbrances.

IN TESTIMONY WHEREOF, the Grantor has, by order of its Board of Directors, hereunto caused these presents to be signed by John M. Lewis, its President, and attested by Frank Kelly, its Secretary, and caused its corporate seal to be hereunto affixed this 1st day of December, 2000.

SHULER DEVELOPMENT CO., INC.

By: John M. Lewis
President

Attest:

Frank C. Kelly
Secretary

FILED FOR RECORD
'00 DEC 18 AM 10
WASHINGTON CO AR
K. HARNESS

APPROVED FOR RECORDATION
FAYETTEVILLE PLANNING
ADMINISTRATION
By [signature] Date 12/12/00

1311F.0000

2000104171

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) §§
COUNTY OF WASHINGTON)

On this 1st day of December, 2000, before me, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within-named JOHN M. LEWIS and FRANK KELLY, to me personally well known, who stated that they were the President and Secretary of SHULER DEVELOPMENT CO.,INC., a corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and on behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 1st day of December, 2000.

Nancy R. Schuster
Notary Public

My Commission Expires:
9-19-2001

This Instrument was prepared by WARNER, SMITH & HARRIS, PLC, P.O. Box 1626, Fort Smith, Arkansas 72902.

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed on this instrument.

Gary Garton
GRANTEE/AGENT

GRANTEE/AGENT'S ADDRESS:

The Bank of Fayetteville, N.A.
One South Block Street
Fayetteville, AR 72701

EXHIBIT "A"

Legal Description

A part of the NW¼ of the NE¼ of Section 16, T-16-N, R-30-W, more particularly described as commencing at the North Quarter-corner (N¼) of said Section; said point being a found iron pin; thence S 02-38-59 W 1322.08 feet to the Southwest corner of said 40-acre tract; said point being a set cotton spindle; thence along said 40-line S 87-03-28 E 276.43 feet; thence N 03-08-43 E 13.17 feet to the point of beginning; said point being a set nail (large 60D) at the back of a curb; thence along said curb line N 03-08-43 E 81.12 feet to a set iron pin; thence N 02-12-02 E 317.87 feet to the corner of a building; thence N 75-51-38 E 3.26 feet to a found iron pin; thence S 06-58-05 E 12.76 feet to a found iron pin; thence S 12-58-46 E 108.30 feet to a found iron pin; thence S 87-53-45 E 0.75 feet to a found iron pin; thence S 16-23-43 E 18.96 feet to a found iron pin to approximate angle point of an old building foundation; thence S 88-04-31 E 43.91 feet to a found iron pin on the West right-of-way of West Avenue; thence along said right-of-way S 02-27-31 W 266.12 feet to a found chiseled 'X' at the intersection of the West right-of-way of said West Avenue and the North right-of-way of Dickson Street; thence along said right-of-way of Dickson Street N 87-03-14 W 84.37 feet to the point of beginning, containing .057 acres, or 24,993 square feet, more or less, City of Fayetteville, Arkansas.

EXHIBIT "B"

Encumbrances excepted from Grantor's Special Warranty Deed:

1. Rights arising under that certain Access Easement Agreement of even date of approximately 25 feet in width and opening on to West Avenue, City of Fayetteville, Arkansas, said easement being retained in favor of Grantor for the purpose of allowing the remaining portion of Grantor's property to have access across the Property described in Exhibit "A" directly on to West Avenue.

2. Rights or claims of parties in possession, boundary line disputes, overlaps, encroachments, and any other matters not shown by the public records.

3. Easements or claims of easements, not shown by the public records.

4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

5. Rights of way of Dickson Street and West Avenue.

FAYETTEVILLE

City of Fayetteville
Code Compliance Section
113 West Mountain Street
Fayetteville, AR 72701

Helping to build a better Community

FAYETTEVILLE

Mar 18, 2003

Bank of Fayetteville
ATTN: John Lewis
P O Box 1728
Fayetteville, AR 72702

RE: Enforcement of Ordinance173.08
Arkansas Code Ann. § 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. §14-56-203 at 173.08 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the Waters-Pierce Oil Company Building located at 323 N. West St., Fayetteville, Arkansas 72701, should be Razed and Removed. You are free to appear at this hearing to present any evidence or statements.

The hearing will be part of a regular City Council meeting – probably on May 6, 2003 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. It is possible that this hearing may be conducted at a later meeting such as May 20, 2003 or thereafter. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (575-8323) for information confirming the date of the public hearing. If you need additional information concerning this process please call the Code Compliance Office (575-8270).

Sincerely,

Don Hancock
Code Compliance
Project Coordinator

Public Hearing Raze & Removal 323 N. West
B. 3. Page 14

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7001 1940 0001 4913 4028

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

Postmark Here

Sent To Bank of Fayetteville (323 N West)
Street, Apt. No.; or PO Box No. PO Box 1728
City, State, ZIP+4 Fayetteville AR 72702

PS Form 3800, January 2001 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bank of Fayetteville
John Lewis
PO Box 1728
Fayetteville AR 72702

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☒ Addressee

B. Received by (*Printed Name*) [illegible]
C. Date of Delivery 3/19

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

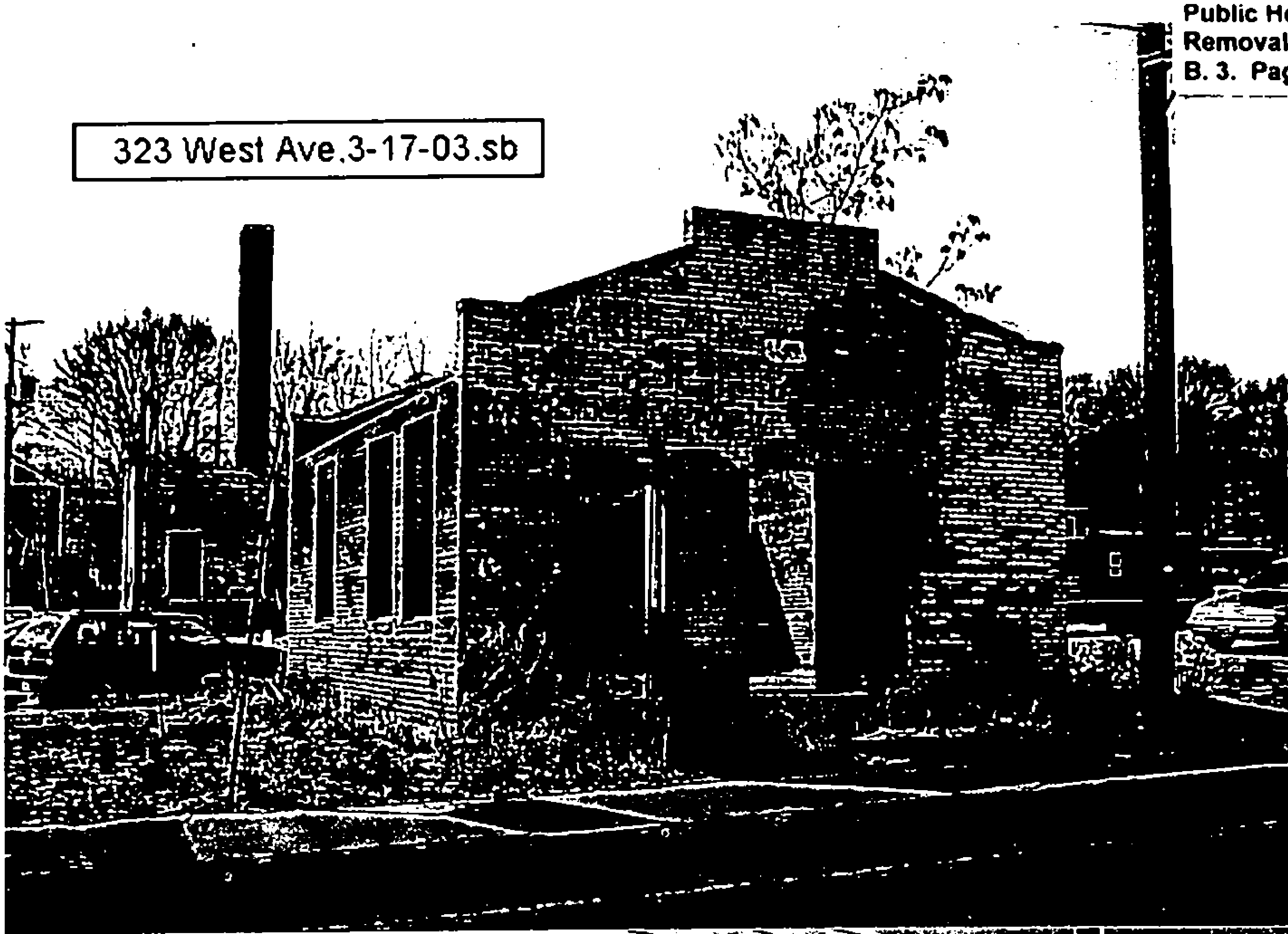
3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

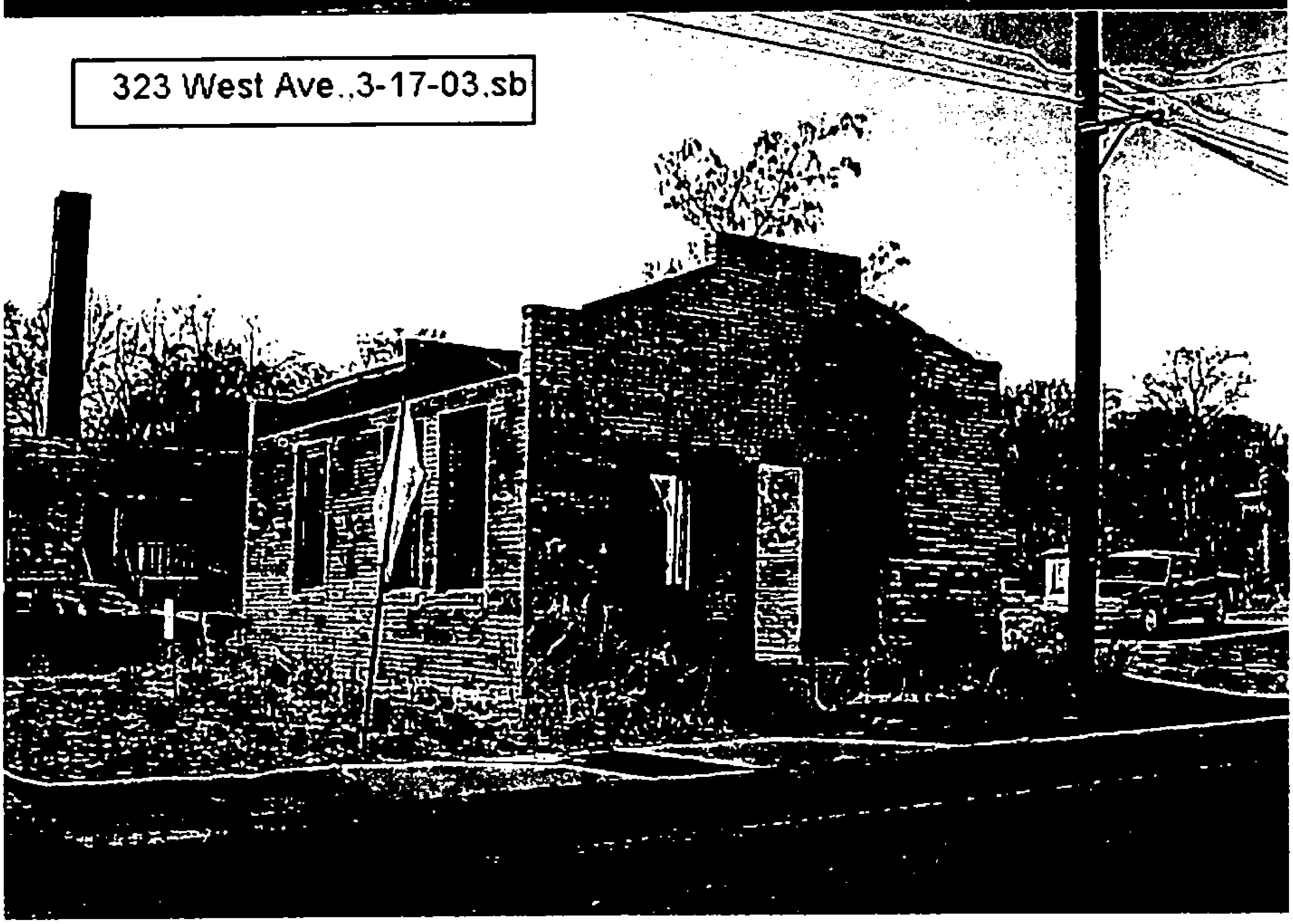
2. Article Number
(Transfer from service label) 7001 1940 0001 4913 4028

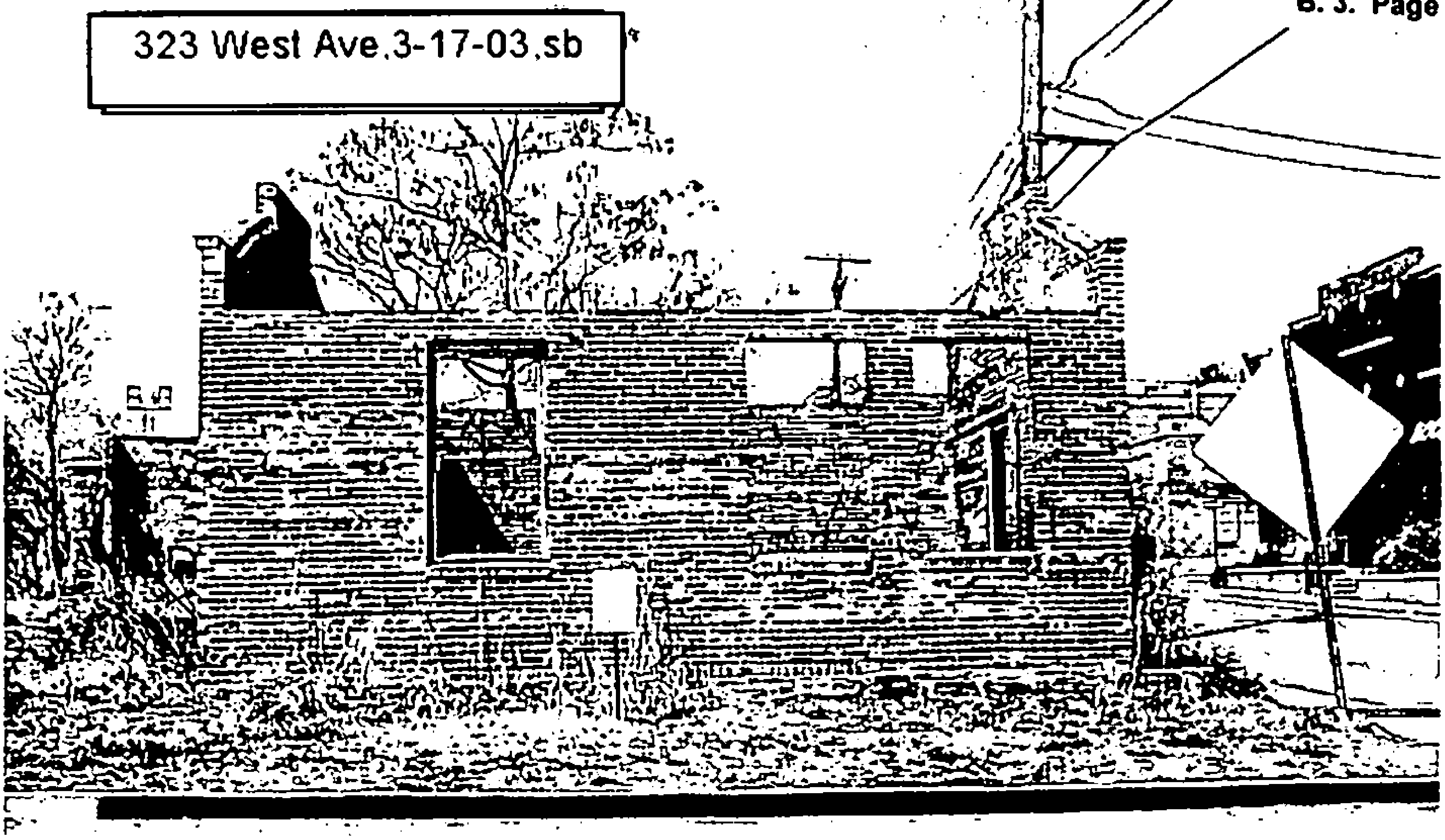
PS Form 3811, August 2001 Domestic Return Receipt 102595-01-M-2509

323 West Ave.3-17-03.sb



323 West Ave.,3-17-03.sb

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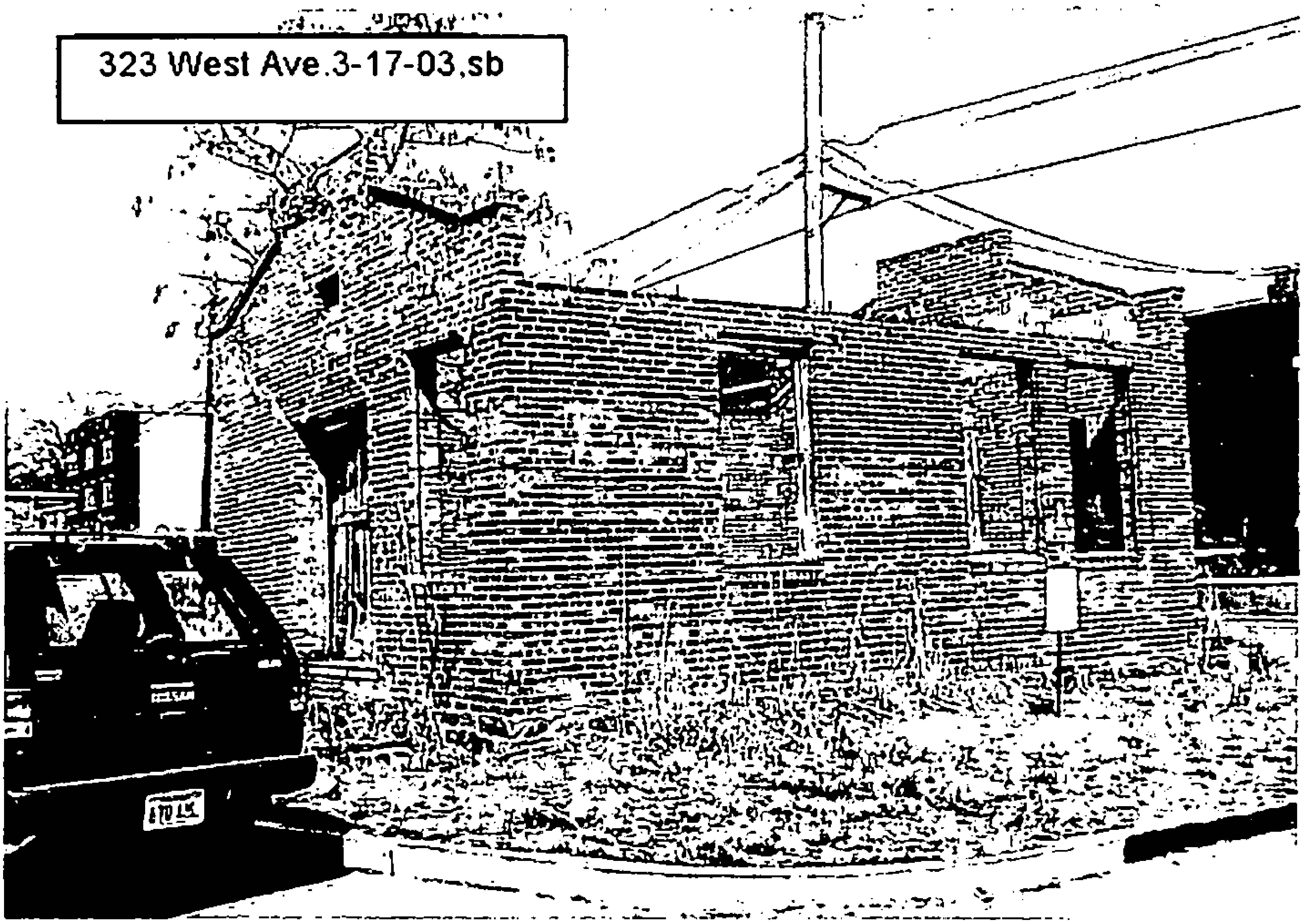
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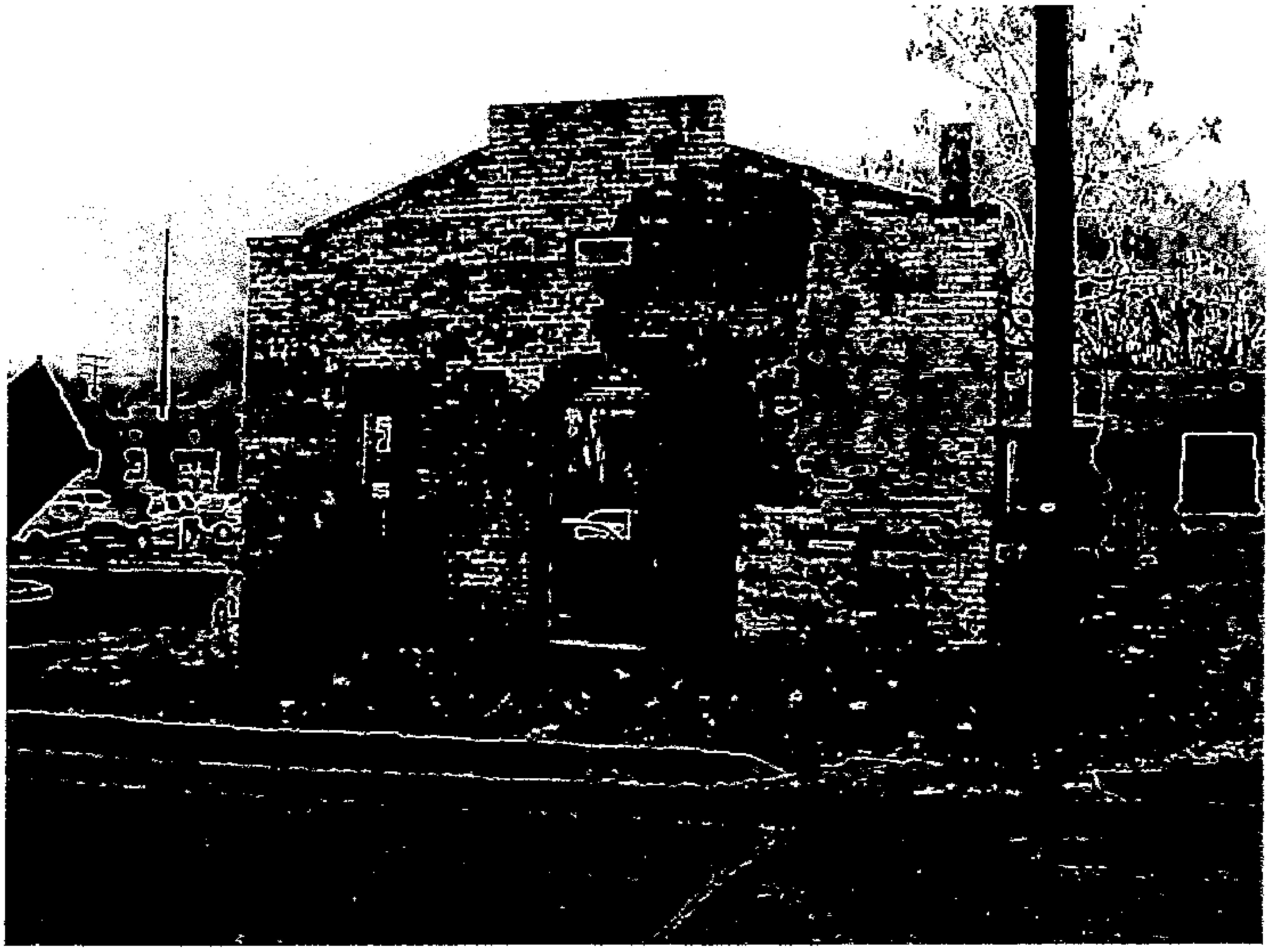
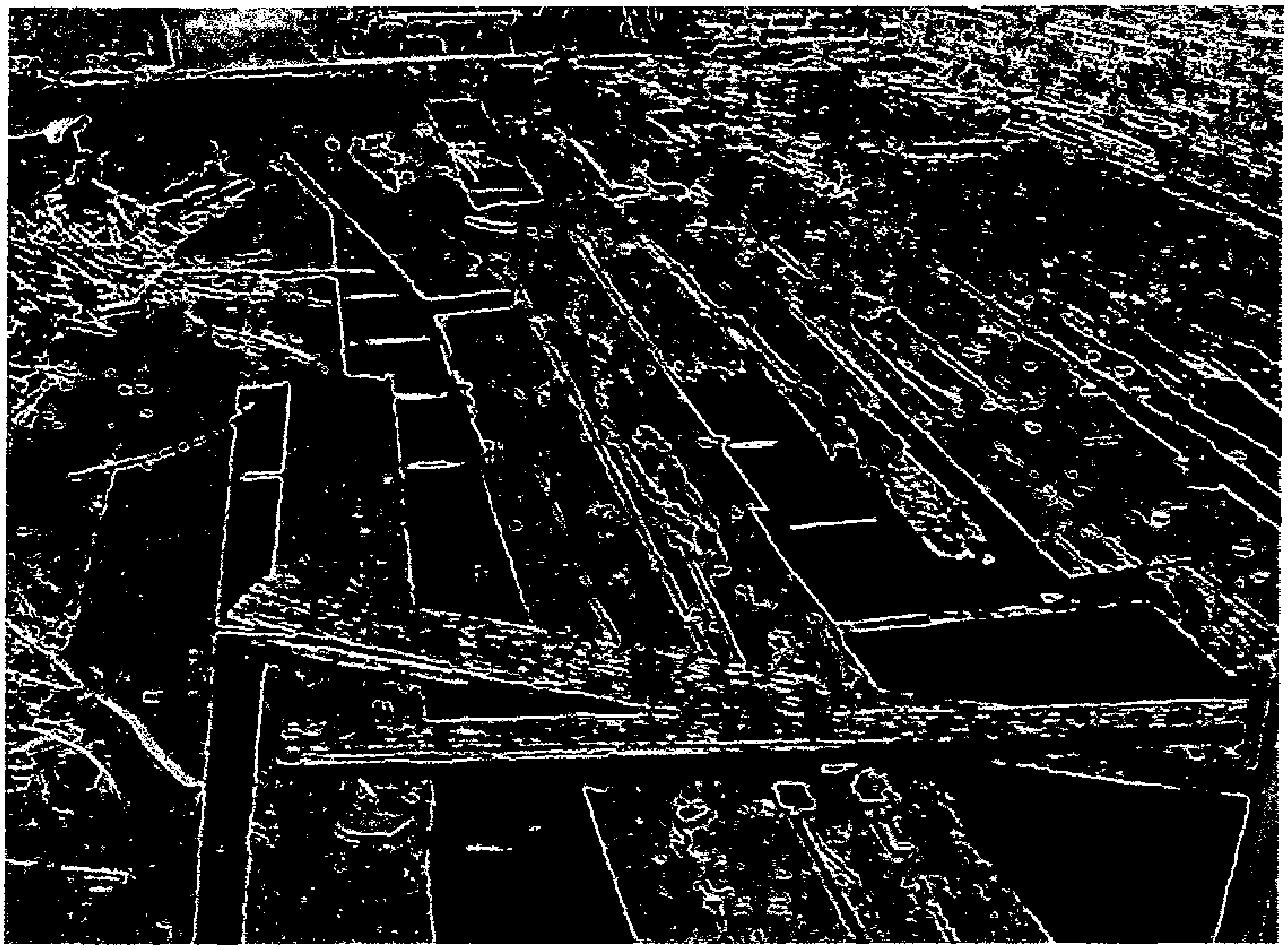




STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

XX AGENDA REQUEST

For the Fayetteville City Council Meeting of: August 5, 2003

FROM:

Name	Division	Department
Stephen Davis		Finance & Internal Services

ACTION REQUIRED: Request approval of an ordinance that transfers the financial responsibility and management of the Fireman's Pension and Relief Fund and the Policemen's Pension and Relief Fund to Arkansas Local Police and Fire Retirement System (LOPFI) stipulating that the City of Fayetteville concurs with providing the beneficiaries of these pension plans with the current benefits and adding a 3% compounding COLA.

SUMMARY EXPLANATION:

This item is presented for City Council review and approval in an effort to provide the beneficiaries of the two closed pension plans (Firemen's Pension and Relief Fund and Policemen's Pension and Relief Fund) with a more stable funding future and provide for a compounded cost of living increase (COLA). The benefit to the City is that the City's future financial liability will be determined and any unfunded accrued actuarial liability will be amortized over thirty (30) years. Beneficiaries of both pension plans have met and overwhelmingly support the transfer of the pension plans to LOPFI management and control. The Police Pension Board's resolution is included as an attachment to this request. The Fire Pension Board is scheduled to meet and approve a similar resolution on July 31, 2003.

By approving this transfer, City Council will be providing similar retirement benefits to all firefighters and police officers - retired and active.

STAFF RECOMMENDATION:

Marsha Farthing — 7/23/03
Division Head — Date

[signature] — 7/23/03
City Attorney — Date

Received in Mayor's Office ______ Date

Department Director — Date

Stephen Davis — 7-23-03
Finance & Internal Services Dir. — Date

Hugh Earnest — 7-23-03
Chief Administrative Officer — Date

Mayor — Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ORDINANCE NO. _____

AN ORDINANCE ELECTING COVERAGE FOR ELIGIBLE MEMBERS OF THE POLICE PENSION AND RELIEF FUND AND FIREFIGHTER PENSION AND RELIEF FUND UNDER LOPFI AND AUTHORIZING MAYOR COODY TO ENTER INTO AN AGREEMENT WITH LOPFI

WHEREAS, the Board of Trustees of the Police Pension and Relief Fund and Firefighter Pension and Relief Fund have elected to have its eligible members covered under the Arkansas Local Police and Fire Retirement System (LOPFI) as stated by resolutions dated July 17, 2003 and July 31, 2003; and

WHEREAS, both said Board of Trustees have by said Resolutions requested the City of Fayetteville, Arkansas to act as agent for the administration of its retirement coverage for all its Relief Fund participants under LOPFI.

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 states that if accepted by Arkansas Local Police and Fire Retirement System (LOPFI), the administration of the retirement program coverage for all Police Pension and Relief Fund and Firefighter Pension and Relief Fund participants shall be transferred to the Arkansas Local Police and Fire Retirement System (LOPFI) pursuant to the authority of Act 364, Acts of Arkansas, 1981, as amended, and including other acts of the State Legislature, provided that such retirement coverage for said Relief Fund participants shall mean the administration of that fund only and not a change in the Relief Fund's benefit program.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to enter into an agreement with the Arkansas Local Police and Fire Retirement System (LOPFI) to administer the Police Pension and Relief Fund and Firefighter Pension and Relief Fund as stated in Section 1 hereof.

Section 3. It is the intent of the City Council and it is hereby ordained that the provisions of this Ordinance shall be codified into the Code of Ordinances of Fayetteville, Arkansas, and the sections thereof may be renumbered and relettered as necessary to accomplish such intention.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby requests that its police and firefighter pension receive a three percent

(3%) compounded Cost of Living Adjustment annually.

PASSED and **APPROVED** this the 5th day of August, 2003.

APPROVED:
By: ______________________
DAN COODY, Mayor

DRAFT

ATTEST:
By: ______________________
Sondra Smith, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor and City Council

Through: Stephen Davis, Finance and Internal Services Director

From: Denise Grizzle, Accounting Coordinator

Date: July 23, 2003

Subject: Merging Closed Pension Plans with LOPFI

Background

The City of Fayetteville has two closed pension plans, the Policemen's Pension and Relief Fund (Police Pension) and the Firemen's Pension and Relief Fund (Fire Pension). The attached memo dated June 12, 2003 to the Police Pension Board and the Fire Pension Board discusses the specifics of these closed plans. In addition, it addresses the decline of the actuarial soundness of the pension funds, the risks to the pension funds associated with that decline, and three approaches in response to the funds current fiscal condition.

Discussion

There are also risks to the City which need to be addressed regarding the aforementioned decline in the soundness of these pension funds. First, if the City maintains administration within one to two years a liability will have to be recorded on the City's financial statements. Recording a liability could negatively impact the City's bond rating and increase the cost of borrowing which may deter a future City Council from issuing bonds. Also, if the City maintains administration a future City Council will most likely be faced with the decision of whether or not to use General Fund revenues to fund the liability for these pension plans. If General Fund revenues are not used to fund this liability, the other option would be to reduce benefits to the retirees and their beneficiaries.

Each Pension Board has conducted a public meeting with their respective retirees and beneficiaries with both groups overwhelmingly supporting the transfer of the closed pension plans to LOPFI. The Police Pension Board resolution is included in this packet and the Fire Pension Board is scheduled to approve a similar resolution at their regularly scheduled meeting July 31. Both resolutions are/will be conditioned on City Council approving a 3% compound COLA. It should be noted that the current Police and Fire uniform employees who participate in LOPFI receive a 3% compound COLA as part of their retirement benefit.

The unfunded accrued liability with a 3% compound COLA is calculated at $9,151,677. Provided that the City maintains their actuarially required contribution (ARC), there will be no liability for the City to record on its' financial statements.

Retirement benefits for the closed plan are calculated at 90% of salary at the time of retirement. The only exception to this is firefighters who elect DROP. DROP participants retirement benefits are calculated at 90% of salary at the time of election. Retirement benefits for LOPFI participants are calculated by multiplying their final average pay (average of three highest paid years) by 3% then by their number of years of service. This generally tends to be around 85% of salary.

Recommendation

Based on the mutual benefits of moving the administration and management of the closed pension plans to LOPFI, Staff recommends approval of an ordinance authorizing the move. Per the attached resolutions, the recommendation from the pension boards is to merge their plans with LOPFI with a 3% compound Cost of Living Adjustment (COLA). This will preserve their benefits, and reduce the risks to the City in regards to funding.

RESOLUTION

A RESOLUTION REGARDING THE TRANSFER OF THE FAYETTEVILLE POLICE PENSION AND RELIEF FUND TO THE LOPFI SYSTEM

Whereas, the Board of Trustees of the Fayetteville Police Pension and Relief Fund is now providing, or will provide in the future, retirement coverage for some of it's eligible employees under the Arkansas Local Police and Fire Retirement System (LOPFI) pursuant to the authority of Act 364, Acts of Arkansas, 1981 as amended, and including Act 655, Acts of Arkansas, 1983; and

Whereas, the Board of Trustees of the Fayetteville Police Pension and Relief Fund now desires to provide retirement coverage for all of it's employees, including Pension and Relief Fund participants under the Arkansas Local Police and Retirement Fund System, pursuant to the Authority of Act 354, Act of Arkansas, 1981, as amended, and including Act 655, Acts of Arkansas, 1983, so long as such retirement coverage for Relief Fund participants shall mean the administration of that Fund only and not a change (decrease) in the benefit program; and

Whereas, the Board of Trustees of the Fayetteville Police Pension and Relief Fund has reviewed and received the latest report of the Fayetteville Police Pension and Relief Fund from the retirement systems actuary which states the annual computed employer rate, unfunded liabilities, Fund assets and annual revenues; and

Whereas, the LOPFI System has said it shall administer the Pension and Relief Fund at an annual cost not to exceed ½ of 1% of active members pay plus 1% of average annual relief fund assets; and

Whereas, the Board of Trustees of the Fayetteville Police Pension and Relief Fund hereby mutually agree that it is in the best interest of the Relief Fund itself, Relief Fund participants and the Board of Trustees to have the Fund administered by LOPFI; and

Whereas, the Board of Trustees on behalf of the Fayetteville Police Pension and Relief Fund, hereby elects to provide for the administration of it's retirement coverage for all of it's Relief Fund participants under the LOPFI; and

Whereas, the Board of Trustees of the Fayetteville Police Pension and Relief Fund has voted to allow the administration of it's assets to be transferred to LOPFI; and

THEREFORE BE IT RESOLVED, that as a condition to transferring the administration and assets of Fayetteville Police Pension and Relief Fund to LOPFI, the Board of Trustees of the Fayetteville Police Pension and Relief Fund requests that the City of Fayetteville adopt a 3% compounded Cost of Living Adjustment (COLA), to be applied annually and paid to all retired full paid Fayetteville Police Pension and Relief Fund participants both current and future.

BE IT FURTHER RESOLVED, that an ordinance be passed by the City Council expressing the full intent of this resolution. And, upon the adoption of that ordinance, the administration and assets of the Fayetteville Police Pension and Relief Fund shall be transferred to LOPFI.

CERTIFICATION

We hereby certify that the above resolution represents the desires of the Board. Passed and approved this 17th day of July, 2003.

Signed:

Mayor Dan Coody	
City Clerk Sondra Smith	Sondra Smith
Member Randy Bradley	Randy Bradley
Member Jerry Friend	[illegible]
Member Dr. James Mashburn	James D. Mashburn
Member Jerry Surles	Jerry Surles
Member Tim Helder	T Helder

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: The Firemen's Pension and Relief Fund Board, and,
The Policemen's Pension and Relief Fund Board

From: Marsha Farthing, Accounting Manager

Thru: Stephen Davis, Finance and Internal Service Director

Subject: Pension Plans

Date: June 12, 2003

Background

The City of Fayetteville has two closed pension plans, the Policemen's Pension and Relief Fund (Police Pension) and the Firemen's Pension and Relief Funds (Fire Pension). By state law the plans were closed in 1983 and all police officers and fire fighters hired since 1983 are enrolled in the Arkansas Local Police and Fire Retirement System (LOPFI). The old pension plans are supported by a .4 City millage, state insurance tax turnback, member contributions (6% of gross salary), City contributions (12% of gross salary) and investment earnings. In addition to these sources, the Police Pension Fund receives revenue from fines and forfeitures from the District Court. Currently, the Police Pension has three active members and Fire Pension has eleven active members, nine of which have elected to participate in the DROP Plan. In general, the annual retirement benefit for the police and fire personnel in these plans is 90% of the member's highest salary at their retirement date.

Each pension plans is controlled by an individual, independent board of trustees that has fiduciary responsibilities to the beneficiaries. The Boards are comprised of a combination of retired and active or all retired members as directed by state law, plus the City Clerk and the Mayor. The City performs all administrative duties for the pension plans including but not limited to record keeping for the funds, writing of the monthly pension checks, accounting for the tax withholding for the members, reconciling bank accounts and recording all investment transactions from their investment manager. Both pension funds manage their own investments and are currently using Longer Investments as their investment manager. The City also completes annual reports for the State

Pension Review Board which are used for the biennial actuarial reports required by the state.

The last two actuarial reports for the pension funds indicated that the funds were actuarially unsound and that the City and the Boards should consider increasing the actuarial contributions to the funds to cover any deficits. These reports indicate the unfunded actuarial accrued liability at 4.5 million for the Police Pension and 4.3 million for the Fire Pension.

Discussion

There are several contributing factors that have led to the decline in the actuarial soundness of these pension funds. Base benefits for members are set by state law at 50% of the highest salary year during their service time. In the late 90's both pension plans followed the provisions of the law to increase their retirement benefits to 90% of salary. When the increases were implemented the funds were actuarially sound and the State Pension Review Board approved the increases at the time. This has greatly increased the pension's expenses. Additionally, over the past few years, most members in these plans have become eligible for retirement. When active members retire revenues to the funds decrease and correspondingly pension benefits paid to retired members increase. There are currently very few active members contributing to the plans. Along those same lines, the insurance turnback received from the state is allocated to the old pension plans and the new pension plans based on the ratio of members in each plan. Membership in LOPFI is steadily growing, while the closed pension plans are decreasing in size. Therefore, the old plans receive less turnback each year when compared to the previous year. Finally and most definitely a major factor in the declining portfolios of the old pension plans is the decline over the past few years of the financial markets in which they are invested.

On a more positive note, the last Arkansas Legislature passed House Bill 1244 that will be of benefit to the City's old pension plans. The distribution method of the state insurance turnback has been changed. In the past the turnback was allocated based on the area and population of the location. The new formula divides the money on a needs basis based on the actuarial cost of the old plan. The feedback the City is receiving is that our pension plans will receive an increase in turnback this year, perhaps as much as double last year's.

The Pension Boards have three approaches that can be taken in response to the current fiscal condition of the pension funds.

1. Do nothing with the expectation that the plans investments in the financial markets will rebound enough to make the funds whole again. Even if the financial markets were to return to the 1990's level, it is uncertain if the funds would be sound. If the markets grow slower than anticipated than there is the risk of the funds becoming insolvent in which case they would need to seek assistance from the Arkansas Fire and Police Pension Guarantee Fund. The local pension

must be receiving one mill in property taxes to apply for assistance from this fund.

2. Increase contributions to the plans to make up deficits by either increasing the property tax millage or increasing the City's contribution to the plans. Increasing property taxes would require a public vote. Increasing the City's contribution would require City Council approval and would add expenses to General Fund that would take away from current services.

3. Combine the old plans with the open retirement plan for police and fire, the LOPFI plan. Act 364 of 1981 allows the responsibility and liability for the administration of the old pension plans to be assigned to LOPFI. This is only a change in administration of the plans and the benefits will remain the same. The unfunded liability in the plans will be amortized over 30 years. This means that the percentage the City currently pays for the active LOPFI members through payroll will be increased to cover the unfunded part of the old plans. The percentage increase is determined after an actuarial survey has been completed on the old plans. The City will continue to receive the revenues for the old plans, (i.e. property taxes, state insurance turnback). These revenues hopefully will offset the increase in the contributions required by LOPFI. Attached is a copy of the process required by LOPFI to assign the plans to them.

The auditors of the City have recommended that the City investigate the benefits and costs of merging the Plans with LOPFI, therefore the City has requested an actuarial study for each pension plan for the year ended December 31, 2002. The cost will be $2,000 for each pension plan and we would request the pension funds to reimburse the City for half of the cost of the analysis.

Also under State Law 24-11-406 and 24-11-804 plans with fewer than four active members may be designated as inactive by the employer. Both of the City's plans meet the criteria to be deemed a small fund with three active members in the Police Pension and two active members in the Fire Pension. The administration of the fund can be assigned to LOPFI by the City Council.

One other thing needs to be clarified. LOPFI is not administered by the state government. LOPFI is a statewide retirement plan for police officers and firefighters and was established as a non-profit entity under ACT 362 of 1981 as a fiduciary for political subdivisions and their employees who are its participants. The plan is administered by a five member Board of Trustees all of which are appointed by the Governor. The Board of Trustees has appointed day to day operations of the plan with an Executive Director, currently Cathryn Hinshaw.

From an accounting standpoint, the City has not yet reached the point where a liability for the unfunded contributions to the plans has been booked. But if no action is taken to stabilize the pension funds, within the next year or two the City will have to book the unfunded liabilities of each of these pension plans.

Recommendation

Staff is recommending combining the police and fire pension plans with LOPFI in 2003. This action will secure the benefits for the retirees and secure the City's future financial obligation to the plans to a manageable level.

...TEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

To: The Firemen's Pension and Relief Fund Board, and
The Policemen's Pension and Relief Fund Board

From: Marsha Farthing, Accounting Manager

Thru: Stephen Davis, Finance and Internal Services Director

Subject: Police and Fire Pension and Relief Funds

Date: June 17, 2003

Please find attached a letter from the Arkansas Local Police and Fire Retirement System explaining the steps required to move the administration of the pension funds to LOPFI and an example of a resolution and an ordinance to present to City Council. Also attached is a copy of the state law governing the administration of small funds.

In my first memo I stated that a major factor in the decline of the pension portfolios was due to the decline of the financial markets in which they are invested. However the Police Pension Fund, over the past several years, has exceeded the actuarial rate of return assumption and has been invested in accordance with the plan's adopted investment policy.

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

LOPFI

ARKANSAS LOCAL POLICE & FIRE RETIREMENT SYSTEM

P.O. Box 34164
Little Rock, Arkansas 72203
Telephone: (501) 682 - 1745
Fax: (501) 682 - 1751
email: info@lopfi-prb.com
website: www.lopfi-prb.com

To: Interested Public Employers and Local Boards of Trustees

From: Arkansas Local Police and Fire Retirement System

Re: Procedure for Administrative Conversion of Local Police and Fire Pension Funds to LOPFI

Date: February, 2002

Act 364 of 1981, as amended, allows the responsibility and liability for administration of a local police or fire pension fund to be assigned to the Arkansas Local Police and Fire Retirement System (LOPFI). The procedure for making such an administrative conversion is discussed below. **PLEASE NOTE** that this is only a change in administration. **THE CONDITIONS FOR RETIREMENT UNDER THE LOCAL PENSION FUND WILL REMAIN THE SAME. And, under most conditions, the benefits payable from the fund will remain the same.** The exceptions are the benefits that are only payable upon the pension fund being "actuarially sound", i.e., the $350/month base benefit for paid police and fire plans and $50/month base for volunteer; and for fire pension funds, the co-equal spouse benefit.

Procedure For Administrative Conversion of Local Pension Plans to LOPFI

1. A majority of the trustees of a local pension board shall adopt and sign a resolution requesting the local governing body (City Council; Board of Directors; or Board of Commissioners) to pass an ordinance transferring the administration of the local pension fund to the Board of Trustees of the Arkansas Local Police and Fire Retirement System (LOPFI).

2. When the resolution is filed with the LOPFI office, LOPFI will cause an actuarial valuation to be performed, which will set the first year's employer contribution rate for both the local plan and the LOPFI covered employees of the affected department. The LOPFI Board will assess the cost of the actuarial work back to the locality. For plans with 5 or fewer participants, the fee is $500, adding $40 for each additional participant up to 30, at which time the fee is $1,500. **Checks should be made payable to, "Gabriel, Roeder, Smith, & Co.".**

3. After reviewing the actuary's employer cost report, the local governing body may adopt an ordinance authorizing the presiding officer of the political subdivision to sign a contract for administrative services from LOPFI for the local pension fund. The secretary of the governing body shall certify the ordinance as correct.

4. Pursuant to the ordinance, the LOPFI Board of Trustees will make a determination whether to take fiduciary responsibility for the plan.

5. LOPFI administration shall become effective the first day of the month following the elapse of 60 days from the adoption of the ordinance, or later if agreed upon by both the locality and LOPFI. All records must be received from the local plan by the LOPFI office no later than 20 working days prior to our beginning administration on the first of the next month.

(iii) If there are no active members of the pension fund, all four (4) employee members shall be elected from and by the retired membership of the pension fund;

(B) The board shall select one (1) of the police members as secretary of the board to serve for a period of two (2) years or until his successor is elected and qualified;

(C) However, if no retirant is available to serve on the board, all four (4) employee positions shall be held by active members of the pension fund and shall all be elected by secret ballot by the active members of the pension fund for two-year terms as provided above.

(D) The board shall have the power to make all rules and regulations needful for its guidance to implement the provisions regarding board composition;

(4) The six (6) members provided for in subdivisions (1)-(3) of this subsection shall elect one (1) more member who shall be a reputable physician and who shall represent the board of trustees in the examination of any member of the department upon a claim of disability;

(5) The number of active members or retired members to serve on the board shall be determined by the proportionate number of active members to retired members:

(A) When the number of active members equals seventy-five percent (75%) of the total of retired members and active members, the board shall be comprised of three (3) active members and one (1) retired member.

(B) When the number of active members equals fifty percent (50%) of the total of retired members and active members, the board shall be comprised of two (2) active members and two (2) retired members.

(C) When the number of retired members equals seventy-five percent (75%) of the total of retired members and active members, the board shall be comprised of one (1) active member and three (3) retired members.

(b) The police officer members and the physician representative of the board shall serve for a period of two (2) years or until their successors are elected and qualified.

(c) The board shall have the absolute control and management of the funds provided for in this subchapter and of all moneys donated, paid, or assessed for the relief or pension of disabled, superannuated, and retired members of the police department, their surviving spouses and minor children, or dependent parents solely dependent upon members for their support.

(d)(1) The board shall make all necessary rules and regulations for its government and the discharge of its duties and shall hear and decide all applications for relief or pension under this subchapter.

(2) All decisions upon applications shall be final and conclusive and not subject to review or reversal except by the board.

(3) The board shall cause to be kept a record of all its meetings and proceedings.

History. Acts 1937, No. 250, §§ 3, 4; Pope's Dig., §§ 9858, 9859; Acts 1985, No. 390, § 1; A.S.A. 1947, §§ 19-1803, 19-1804; Acts 1987, No. 405, § 2; 1991, No. 365, § 1.

Amendments. The 1991 amendment rewrote (a)(3)(A); and added (a)(5).

CASE NOTES

Analysis

Action against pension board.
Hearing on pension claim.

Action Against Pension Board.

If the circuit court's unappealed dismissal of mandamus suit was based on subsection (d) precluding judicial review of board's decision, the dismissal would not be res judicata as to the police officer's civil rights suit in the federal courts. Hirrill v. Merriweather, 629 F.2d 490 (8th Cir. 1980).

Hearing on Pension Claim.

Police officer was entitled to have his pension claim considered by a body of reasonable and fair-minded persons who were able and willing to give the claim fair consideration and to grant it if meritorious. Hirrill v. Merriweather, 629 F.2d 490 (8th Cir. 1980).

24-11-406. Administration of small funds by Arkansas Local Police and Fire Retirement System.

(a) In those local police pension and relief funds which cover fewer than four (4) active members, a local board of trustees may no longer exist, and the fund may be designated as inactive by the employer.

(b) Administrative responsibility for the fund shall be assigned to the Arkansas Local Police and Fire Retirement System, as allowed by §§ 24-10-301 and 24-10-302 and as provided in the following procedure:

(1)(A) The actuary under contract to the system shall compute the retirement reserve for vested and active members and for eligible beneficiaries of the inactive fund. After receiving the report of the actuary, the employer shall transfer the computed reserve to the system to be held in an account designated as the retirement reserve for the inactive fund and from which the system shall pay eligible beneficiaries.

(B) The retirement reserve and any additional employer contributions shall include such amounts as are necessary to provide administrative expenses for the system, but such expenses shall not exceed a total of one-half of one percent (0.5%) of active member payroll, if any, plus one percent (1%) of annual reserve assets.

(2) Any excess assets of the fund remaining after the retirement reserve is created shall be transferred to an account designated by the employer, to be used solely for the purpose of making payments to the system for employee coverage administered under the system and for no other purpose.

(3) If a former member of the local pension fund returns to service in which the employee would have again become a member of the local fund, the past service credit may be purchased by the employer for the employee under the system, and the purchase costs shall be amortized in the same manner as other service credit purchases are amortized under the system.

(4)(A) No benefit amendments shall be made in benefits payable from the inactive fund under the administration of the system.

(B) Should the law mandate an increase in benefits to retired members or their beneficiaries, the increases shall be payable from the retirement reserve of the inactive fund.

(C) No prorating of benefits shall be allowed in inactive funds under the administration of the system.

(D) If the retirement reserve of an inactive fund shall become inadequate to pay full benefits to eligible recipients, the system shall require of the employer, and the employer shall remit, such actuarially computed amounts as are necessary to pay full benefits to current and future eligible recipients.

(5)(A) Once a fund becomes inactive and a retirement reserve is created as required by this section, the employer may continue to collect such millages, fines, fees, state insurance tax turnback, and other revenues as allowed by law for the support of police retirement programs.

(B) The revenues shall be deposited locally in an account designated by the employer solely for making payments to the system and shall be used for no other purpose.

(6)(A) All employer contributions for inactive funds shall be made in such amounts, and in such manner, form, and frequency, as the Board of Trustees of the Arkansas Local Police and Fire Retirement System shall require.

(B) The pension records of inactive funds, and other materials and reports as may be required by the board to administer the inactive funds, shall be provided to the Local Police and Fire Retirement System in such manner as the board shall require.

History. Acts 1937, No. 250, § 4; Pope's Dig., § 9859; Acts 1985, No. 927, § 1; A.S.A. 1947, § 19-1804.

24-11-407. List of retired police officers.

(a) There shall be kept in the office of the board of trustees by the secretary a book known as the list of retired police officers.

(b) This book shall give the full and complete history and record of action of the board of trustees in retiring any and all persons under this subchapter.

(c) The record shall give the name, date of joining the department, date of retirement and reason thereof, and the date and finding of the physician of each examination made of disabled members of the department retired under the provisions of this subchapter.

History. Acts 1937, No. 250, § 12; Pope's Dig., § 9867; A.S.A. 1947, § 19-1812.

24-11-408. Treasurer as custodian of fund.

(a) The treasurer shall be the custodian of the pension fund and shall keep his books and accounts concerning the funds in such manner as may be prescribed by the board.

(b) The books and accounts shall be subject to the inspection of any member of the board.

(c)(1) The treasurer shall, within ten (10) days after his selection, execute a bond to the board of trustees with good and sufficient securities, in such penal sum as the board shall direct, conditioned for the faithful performance of the duties of his office and that, on the expiration or retirement of his term of office, he shall surrender and deliver to his successor all unexpended moneys and all property which may have come into his hands as treasurer of the fund.

(2) The bond shall be filed in the office of the board of trustees and, in case of a breach of the bond, suit may be brought on the bond in the name of the board or in the name of any person or persons injured by the breach.

History. Acts 1937, No. 250, § 17; Pope's Dig., § 9872; A.S.A. 1947, § 19-1817.

A.C.R.C. Notes. The operation of subsection (c) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

24-11-409. Deposit of moneys.

The board shall deposit all moneys in the bank selected as the fiscal agent of the city in which it is located, but only if the moneys draw the same rate of interest as the city receives on its deposits; otherwise, the board shall make its own selection of the bank.

History. Acts 1937, No. 250, § 14; Pope's Dig., § 9869; A.S.A. 1947, § 19-1814.

24-11-410. Investment.

(a) The board of trustees shall have the power to draw sums from its treasury, only upon warrants signed by the chairman and countersigned by the policemen's pension and relief fund, to invest in the name of the board of trustees of the policemen's pension and relief fund in interest-bearing bonds of the United States, of the State of Arkansas, or of the city in which the board is located, in a local government joint investment trust pursuant to § 19-8-301 et seq., in the Arkansas Local Police and Fire Retirement System, or in savings and loan associations duly established and authorized to do business in this state.

(b) All securities shall be deposited with the treasurer of the board of trustees of the pension and relief fund and shall be subject to the order of the board.

(c)(1) In those pension and relief funds in which assets exceed five hundred thousand dollars ($500,000), the board of trustees may employ an investment advisor as defined in § 24-10-402(a)(1)(B) to invest the assets, subject to the terms, conditions, limitations, and restrictions imposed by law upon the Arkansas Local Police and Fire Retirement System, as provided by §§ 24-10-401 — 24-10-411.

(2) Investments shall not be limited to interest-bearing bonds.

July 16, 2003

RECEIVED
JUL 22 2003
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

Ms. Cathyrn E. Hinshaw, Executive Director
Arkansas Local Police & Fire Retirement System
P.O. Drawer 34164
Little Rock, Arkansas 72203

Re: Fayetteville Paid Service Firemen —
Combined Contribution Rates

Dear Cathyrn:

Enclosed are 3 copies of a memorandum containing summary results of these valuations. The results include Benefit Program 2 for the LOPFI group.

Respectfully submitted,

David L. Hoffman Mita D. Drazilov

DLH:hgb
Enclosures

CC: Heidi G. Barry

July 16, 2003

City of Fayetteville
Fayetteville, Arkansas

Re: PAID SERVICE FIREMEN
Coverage by Two Plans

Ladies and Gentlemen:

Submitted in this report are the results of the actuarial valuations which determine the employer contribution rates required to support, for your employees, the benefits provided by:

- The Arkansas Local Police and Fire Retirement System ("LOPFI")
  LOPFI Plan Coverage (For Employees Hired After December 31, 1982)
  and
- "Closed Plan" Coverage (The Relief and Pension Fund For Employees Hired Before January 1, 1983).

The date of the valuations was December 31, 2002. The valuations were based on data furnished by your LOPFI administrative staff. The actuarial methods and assumptions were the same as those used in the regular valuation as of that date. These include an investment return assumption of 8.0% and a wage inflation assumption of 4.0%.

The non-financial assumptions used to determine contributions are on file at the LOPFI office. In our opinion, they produce results which are reasonable.

Member information is summarized in the following table:

Group	December 31, 2002 Valuation Data							
	Active Members	Payroll	Averages Pay	Averages Age (Yrs.)	Averages Serv. (Yrs.)	Retired Members	Monthly Benefit	Average Age (Yrs.)
Paid – LOPFI	74	$2,822,500	$38,142	34.0	8.8	4	$6,859	48.6
– Local	5	202,587	40,517	45.2	20.4	49#	90,584	61.4
Total	79	$3,025,087	$38,292	34.7	9.5	53#	97,443	60.4

#Includes DROP participants.

Asset information for the Local Pension & Relief Fund was derived from the independent audit report provided to us. The date of the audit report was December 31, 2002.

The funding value of assets for both the Local Fund, $9,937,619, and LOPFI, $5,932,051, as of December 31, 2002 was used in computing the expected employer contribution rate. The funding value of assets for the Local Fund was determined by applying the ratio of the total funding value of assets for LOPFI over the total market value for LOPFI to the reported market value for the Local Fund, $8,938,115. The actual amount transferred to LOPFI will depend on the market value of Local Fund assets when they are actually liquidated and may differ substantially from the value as of December 31, 2002. This will likely impact the actual rate computed in the next valuation of the combined plans. A $500,000 difference, either higher or lower, would cause a decrease/increase in the computed employer contribution rate of approximately 1% of active member payroll.

For purposes of this valuation, we allocated all Local Fund assets to the Local Fund paid service group. As Fayetteville does not maintain a volunteer fire group in LOPFI there will be no volunteer active members on which to base an employer contribution. We would recommend that all liabilities and assets for the Local Fund volunteer group be transferred to the paid service group if the Local Fund is administered by LOPFI.

The hypothetical Retired Reserve Account balance for Local Pension & Relief Fund paid benefit recipients as of December 31, 2002 is $11,430,838. If higher benefits are adopted, a higher reserve transfer will be required. In either case, if the Fund transfers administration to LOPFI, a reserve transfer amount must be computed and would be made to fully fund the liabilities associated with those benefit recipients.

The new combined employer contribution rates are shown on pages 5 and 6.

Alternate benefit provisions valued for paid Local plan members were as follows:

(a) Currently under the Local Plan, members receive no post-retirement increases.
(b) Proposed 3.0% simple escalator for current and future retirees.
(c) Proposed 3.0% compound escalator for current and future retirees.

These labels have been applied to the results shown on page 5.

Scenario	Actuarial Accrued Liability	Valuation Assets	Unfunded Accrued Liabilities
(a)	$17,977,239	$15,869,670	$2,107,569
(b)	$21,242,290	$15,869,670	$5,372,620
(c)	$22,145,274	$15,869,670	$6,275,604

If you have any questions concerning this report or LOPFI in general, please contact the LOPFI office in Little Rock.

PROPOSED COMBINED CONTRIBUTION RATE
Relationships Between

LOPFI Plan Coverage (For Employees Hired After December 31, 1982)
"Closed Plan" Coverage (The Relief and Pension Fund For Employees Hired Before January 1, 1983)

LOPFI Plan. The valuation results are the same as they would have been if LOPFI had not begun to administer the Closed Plan.

Closed Plan administration may cause one modification of future LOPFI financial activity: if the length of the financing period for unfunded liabilities causes Closed Plan assets to temporarily dip below zero, LOPFI would loan the shortages until the financing period is completed. When the Closed Plan financing period is completed, LOPFI will have been fully repaid (including investment credits) and the Closed Plan will be fully funded.

Closed Plan. The financing period for Closed Plan unfunded liabilities is 30 years, from December 31, 2002. This period is longer than the previous financing periods, and is reasonable only because of the ability to borrow from LOPFI should Closed Plan assets temporarily dip below zero.

The longer the financing period for unfunded liabilities, the lower the employer contribution rate during the financing period.

Employer Contribution Rate. Each year the actuarial valuation determines a single employer contribution rate which covers the combination of LOPFI and the Closed Plan. The single, combined contribution rate for Volunteer Service is converted to monthly dollars by multiplying the rate by the number of active members (LOPFI and Closed Plan active members combined). Similarly, the single, combined contribution rate for Paid Service is converted to annual dollars by multiplying the rate by the combined annual payroll of LOPFI and Closed Plan active members.

The LOPFI account is credited with dollars in the basic LOPFI-only procedure.

The Closed Plan account is credited with the difference between (i) the total, combined contribution dollars and (ii) the LOPFI-only contribution dollars.

Fayetteville Paid Firemen
Arkansas Firemen Relief and Pension Fund
Benefit Provisions Valued and/or Considered
(December 31, 2002)

Voluntary Retirement

Eligibility - 20 years of service regardless of age.

Amount - Annual benefit equal to 50% of highest year's pay. Minimum benefit is $4,200 per year. If acquired more than 20 years of service credit, benefit is increased by $240 annually for each additional year of service credit. (Maximum $1,200 annual addition). If acquired more than 25 years of service credit, retirant's benefit is increased at age 60 by 1.25% of highest year's pay for service over 25 years. (Maximum benefit is 100% of final salary).

Disability Retirement

Eligibility - Permanent physical or mental disability.

Amount - (Non-Duty Disability) Computed as voluntary retirement benefit.

(Duty Disability) Annual benefit equal to the greater of; voluntary retirement benefit, or 65% of final salary. Temporary hospital, nursing and weekly sick benefits may also be available.

Death Benefits

Eligibility - Death before 20 years of service not occurring while performing work in gainful employment outside the fire department or death after 20 years of service. Also applicable to retired members.

Amount - Widow receives benefit member was receiving or, in the case of an active employee, the amount the member would have received had the member retired the date of death. (Excluding the additional amount payable at member's age 60 for service over 25 years). Minimum widow benefit is $4,200 annually. Each child receives $1,500 annually up to age 19.

Member Contributions

6% of salary.

Member contributions are refundable without interest upon termination of employment prior to becoming eligible for retirement or death benefits.

Fayetteville
PAID SERVICE FIREMEN
NOT COVERED BY SOCIAL SECURITY

COMBINED EMPLOYER CONTRIBUTIONS TO PROVIDE LOPFI MEMBER BENEFITS & CLOSED PLAN BENEFITS

Employer Portion is State and Local Combined

Computed December 31, 2002

	% of Active Payroll		
	(a) Current	(b) Simple	(c) Compound
Employer Normal Cost For LOPFI Benefits	13.27%	13.27%	13.27%
Unfunded accrued liabilities (30 years remaining)	3.80%	9.70%	11.33%
COMPUTED EMPLOYER RATE FOR COMBINED BENEFITS	17.07%	22.97%	24.60%

Determining Employer Dollar Contributions

For each month, the $ per member combined contribution rate is converted to dollars — and then promptly contributed to LOPFI.

Based upon the combined annual payroll submitted for this valuation, $3,025,087, the annual employer contribution dollars would be $516,382 for scenario (a), $694,862 for scenario (b), and $744,171 for scenario (c).

However, in budgeting combined dollars for a fiscal period, be sure you use the number of members you are budgeting for that same fiscal period (which will probably be different than the number of members reported here).

Fayetteville
PAID SERVICE FIREMEN
NOT COVERED BY SOCIAL SECURITY
EMPLOYER CONTRIBUTIONS TO PROVIDE LOPFI MEMBER BENEFITS
Employer Portion is State and Local Combined

Computed December 31, 2002

Contributions	% of Active Payroll
Normal cost of benefits:	
Age and Service	17.48%
Casualty	1.61
Total	19.09
Member contributions: Total	6.00
Future refunds	0.18
Usable for monthly benefits	5.82
Employer Normal Cost	13.27
Unfunded accrued liabilities	(0.46)
COMPUTED EMPLOYER RATE FOR LOPFI MEMBERS	12.81%

Determining Employer Dollar Contributions

For each month, the percent-of-payroll contribution rate is converted to dollars – and then promptly contributed to your account with LOPFI.

Based upon the annual payroll for paid members submitted for this valuation, $2,822,500, the annual employer contribution dollars would be $361,562.

However, in budgeting LOPFI dollars for a fiscal period be sure you use the payroll dollars you are budgeting for that same fiscal period (which will probably be different than the payroll dollars reported here).

Fayetteville
VOLUNTEER SERVICE FIREMEN

EMPLOYER CONTRIBUTIONS TO PROVIDE CLOSED PLAN BENEFITS

Employer Portion is State and Local Combined

Computed December 31, 2002

	(a) Current	(b) Simple	(c) Compound
Present value of future benefits for the current 13 volunteer service benefit recipients.	$86,050	$98,998	$100,923
Employer contribution amortizing present value of future benefits as a level dollar amount over 30 years	$7,353	$8,460	$8,624

These costs are provided for comparison to current costs for volunteer service members of this group. As no volunteer fire group is supported by Fayetteville under LOPFI, when the last member of this group leaves active employment, the current basis for determining a contribution will no longer be practical. As noted on page 2 of this report, no assets were considered in determining these costs above.

It may be more practical to immediately move the liabilities and assets for the volunteer members into the paid group immediately if the decision is made to administer this group through LOPFI. In either case, there would be no difference in the long term costs (or contributions) for this group.

GABRIEL, ROEDER, SMITH & COMPANY
Consultants & Actuaries
One Towne Square • Suite 800 • Southfield, Michigan 48076 • 248-799-9000 • 800-521-0498 • fax 248-799-9020

July 15, 2003

City of Fayetteville
Fayetteville, Arkansas

Re: PAID SERVICE POLICE
Coverage by Two Plans

Ladies and Gentlemen:

Submitted in this report are the results of the actuarial valuations which determine the employer contribution rates required to support, for your employees, the benefits provided by:

- The Arkansas Local Police and Fire Retirement System ("LOPFI")
  LOPFI Plan Coverage (For Employees Hired After December 31, 1982)
  and
- "Closed Plan" Coverage (The Relief and Pension Fund For Employees Hired Before January 1, 1983).

The date of the valuations was December 31, 2002. The valuations were based on data furnished by your LOPFI administrative staff. The actuarial methods and assumptions were the same as those used in the regular valuation as of that date. These include an investment return assumption of 8.0% and a wage inflation assumption of 4.0%.

Member information is summarized in the following table:

	December 31, 2002 Valuation Data							
			Averages					
Group	Active Members	Payroll	Pay	Age (Yrs.)	Serv. (Yrs.)	Retired Members	Monthly Benefit	Average Age (Yrs.)
Paid – LOPFI	89	$3,379,455	$37,971	33.4	6.9	1	$2,069	60.0
– Local	7	377,835	53,976	50.3	26.0	53	86,935	65.0
Total	96	$3,757,290	$39,138	34.6	8.3	54	89,004	64.9

The new combined employer contribution rates are shown on pages 5 and 6.

The non-financial assumptions used to determine contributions are on file at the LOPFI office. In our opinion, they produce results which are reasonable.

Asset information for the Local Pension & Relief Fund was derived from the independent audit report provided to us. The date of the audit report was December 31, 2002.

The funding value of assets for both the Local Fund, $11,291,244, and LOPFI, $8,673,873, as of December 31, 2002 were used in computing the expected employer contribution rate. The funding value of assets for the Local Fund was determined by applying the ratio of the total funding value of assets for LOPFI over the total market value for LOPFI to the reported market value for the Local Fund, $10,155,823. The actual amount transferred to LOPFI will depend on the market value of Local Fund assets when they are actually liquidated and may differ substantially from the value as of December 31, 2002. This will likely impact the actual rate computed in the next valuation of the combined plans. A $700,000 difference, either higher or lower, would cause a decrease/increase in the computed employer contribution rate of approximately 1% of active member payroll.

The hypothetical Retired Reserve Account balance for Local Pension & Relief Fund paid benefit recipients as of December 31, 2002 is $11,030,928. If higher benefits are adopted, a higher reserve transfer will be required. If the Fund transfers administration to LOPFI, a reserve transfer would be made to fully fund the liabilities associated with those benefit recipients.

Alternate benefit provisions valued for paid Local plan members were as follows:

(a) Currently under the Local Plan, members receive no post-retirement increases.
(b) Proposed 3.0% simple escalator for current and future retirees.
(c) Proposed 3.0% compound escalator for current and future retirees.

These labels have been applied to the results shown on page 5.

Scenario	Actuarial Accrued Liability	Valuation Assets	UAL
(a)	$18,434,776	$19,965,117	($1,530,341)
(b)	$21,889,444	$19,965,117	$1,924,327
(c)	$22,841,190	$19,965,117	$2,876,073

If you have any questions concerning this report or LOPFI in general, please contact the LOPFI office in Little Rock.

PROPOSED COMBINED CONTRIBUTION RATE
Relationships Between

LOPFI Plan Coverage (For Employees Hired After December 31, 1982)
"Closed Plan" Coverage (The Relief and Pension Fund For Employees Hired Before January 1, 1983)

LOPFI Plan. The valuation results are the same as they would have been if LOPFI had not begun to administer the Closed Plan.

Closed Plan administration may cause one modification of future LOPFI financial activity: if the length of the financing period for unfunded liabilities causes Closed Plan assets to temporarily dip below zero, LOPFI would loan the shortages until the financing period is completed. When the Closed Plan financing period is completed, LOPFI will have been fully repaid (including investment credits) and the Closed Plan will be fully funded.

Closed Plan. The financing period for Closed Plan unfunded liabilities is 30 years, from December 31, 2002. This period is longer than the previous financing periods, and is reasonable only because of the ability to borrow from LOPFI should Closed Plan assets temporarily dip below zero.

The longer the financing period for unfunded liabilities, the lower the employer contribution rate during the financing period.

Employer Contribution Rate. Each year the actuarial valuation determines a single employer contribution rate which covers the combination of LOPFI and the Closed Plan. The single, combined contribution rate for Volunteer Service is converted to monthly dollars by multiplying the rate by the number of active members (LOPFI and Closed Plan active members combined). Similarly, the single, combined contribution rate for Paid Service is converted to annual dollars by multiplying the rate by the combined annual payroll of LOPFI and Closed Plan active members.

The LOPFI account is credited with dollars in the basic LOPFI-only procedure.

The Closed Plan account is credited with the difference between (i) the total, combined contribution dollars and (ii) the LOPFI-only contribution dollars.

Fayetteville Paid Police
Arkansas Police Relief and Pension Fund
Benefit Provisions Valued and/or Considered
(December 31, 2002)

Voluntary Retirement

Eligibility - 20 years of service regardless of age.

Amount - Annual benefit equal to 50% of highest year's pay. Minimum benefit is $4,200 per year. If acquired more than 20 years of service credit, benefit is increased by $240 annually for each additional year of service credit. (Maximum $1,200 annual addition). If acquired more than 25 years of service credit, retirant's benefit is increased at age 60 by 1.25% of highest year's pay for service over 25 years. (Maximum benefit is 100% of final salary).

Disability Retirement

Eligibility - Permanent physical or mental disability.

Amount - (Non-Duty Disability) Computed as voluntary retirement benefit.

(Duty Disability) Annual benefit equal to the greater of; voluntary retirement benefit, or 65% of final salary. Temporary hospital, nursing and weekly sick benefits may also be available.

Death Benefits

Eligibility - Death before 20 years of service not occurring while performing work in gainful employment outside the fire department or death after 20 years of service. Also applicable to retired members.

Amount - Widow receives benefit member was receiving or, in the case of an active employee, the amount the member would have received had the member retired the date of death. (Excluding the additional amount payable at member's age 60 for service over 25 years). Minimum widow benefit is $4,200 annually. Each child receives $1,500 annually up to age 19.

Member Contributions

6% of salary.

Member contributions are refundable without interest upon termination of employment prior to becoming eligible for retirement or death benefits.

Fayetteville
PAID SERVICE POLICE
NOT COVERED BY SOCIAL SECURITY

COMBINED EMPLOYER CONTRIBUTIONS TO PROVIDE LOPFI MEMBER BENEFITS & CLOSED PLAN BENEFITS

Employer Portion is State and Local Combined

Computed December 31, 2002

	% of Active Payroll		
Contributions	**(a) Current**	**(b) Simple**	**(c) Compound**
Employer Normal Cost For LOPFI Benefits	12.07%	12.07%	12.07%
Unfunded accrued liabilities (30 years remaining)	(2.22%)	2.80%	4.18%
COMPUTED EMPLOYER RATE FOR COMBINED BENEFITS	9.85%	14.87%	16.25%

Determining Employer Dollar Contributions

For each month, the $ per member combined contribution rate is converted to dollars — and then promptly contributed to LOPFI.

Based upon the combined annual payroll submitted for this valuation, $3,757,290, the annual employer contribution dollars would be $370,093 for scenario (a), $558,709for scenario (b), and $610,560 for scenario (c).

However, in budgeting combined dollars for a fiscal period, be sure you use the number of members you are budgeting for that same fiscal period (which will probably be different than the number of members reported here).

Fayetteville
PAID SERVICE POLICE
NOT COVERED BY SOCIAL SECURITY
EMPLOYER CONTRIBUTIONS TO PROVIDE LOPFI MEMBER BENEFITS
Employer Portion is State and Local Combined

Computed December 31, 2002

Contributions	% of Active Payroll
Normal cost of benefits:	
Age and Service	16.06%
Casualty	1.67
Total	17.73
Member contributions: Total	6.00
Future refunds	0.34
Usable for monthly benefits	5.66
Employer Normal Cost	12.07
Unfunded accrued liabilities	(4.15)
COMPUTED EMPLOYER RATE FOR LOPFI MEMBERS	7.92%

Determining Employer Dollar Contributions

For each month, the percent-of-payroll contribution rate is converted to dollars – and then promptly contributed to your account with LOPFI.

Based upon the annual payroll for paid members submitted for this valuation, $3,379,455, the annual employer contribution dollars would be $267,653.

However, in budgeting LOPFI dollars for a fiscal period be sure you use the payroll dollars you are budgeting for that same fiscal period (which will probably be different than the payroll dollars reported here)

Amend Ordinance # 4478
to Obtain Financing
C. 1. Page 1

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: August 19th, 2003

FROM:

Peggy Vice	Purchasing Division	Internal Services
Name	Division	Department

ACTION REQUIRED: Approval of an ordinance to amend Ordinance No. 4478 to add authority to use the master equipment lease/purchase agreement to finance the cost of acquiring all equipment and other property legally obtainable pursuant to Amendment 78.

COST TO CITY:

No cost at this time	$ -	
Cost of this request	Category/Project Budget	Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager ____ Date ____

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager	Date	Internal Auditor	Date
[signature]	8-6-03	P Vice	8-1-03
City Attorney	Date	Purchasing Manager	Date

STAFF RECOMMENDATION:

P Vice	8-1-03
Division Head	Date
Department Director	Date
[signature]	8-1-03
Finance & Internal Services Dir.	Date
Hugh Earnest	8-6-03
Chief Administrative Officer	Date
Mayor	Date

Received in Mayor's Office ____ Date

Cross Reference:

Previous Ord/Res#: 4478

Orig. Contract Date:

Orig. Contract Number:

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

Staff Review Form - Page 2

Description Amendment 78 Lease for Copiers Meeting Date August 19th, 2003

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ORDINANCE NO. 4478 TO ADD AUTHORITY TO USE THE MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT TO FINANCE THE COST OF ACQUIRING ALL EQUIPMENT AND OTHER PROPERTY LEGALLY OBTAINABLE PURSUANT TO AMENDMENT 78

WHEREAS, it will be financially advantageous to the City to use the Master Equipment Lease/Purchase Agreement with the Banc of America Leasing and Capital LLC to finance the cost of acquiring not only the fire apparatus (already authorized), but all types of equipment and property legally obtainable pursuant to Amendment 78.

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 amends Ordinance 4478 by adding Section 8 as follows:

> "Section 8. The City's authority to use the Master Equipment Lease/Purchase Agreement with Banc of America Leasing and Capital, LLC extends to all equipment and property legally obtainable pursuant to the terms of Amendment 78 (and is not restricted to fire apparatus)."

PASSED and **APPROVED** this the 19th day of August, 2003.

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: ______________________
Sondra Smith, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor
Hugh Earnest, Chief Administrative Officer
Steve Davis, Finance & Internal Services Director

FROM: Peggy Vice, Purchasing Manger

DATE: August 1, 2003

SUBJECT: Amendment 78 Leasing Services- Banc of America

Staff requests City Council amend Ordinance #4478 (copy attached) to allow the lease/purchase of various equipment as required for City operations. These purchases are allowed under Amendment 78 and could save the City a substantial amount of money on interest costs. Banc of America Leasing & Capital, LLC requires a $100,000 minimum on each transaction.

Several copiers including the main copiers in City Administration, Planning and several outlying departments are due to be replaced. They were originally leased for 36 months. The 36 month lease has expired. We are currently leasing them on a month to month basis until new copiers can be evaluated and tested. We have estimated the lease/purchase amount to be a maximum of $250,000.

The goal is to lease/purchase copiers that have technology that will:

- Allow staff to scan documents to files and upload them to the website.
- Allow staff to print directly from their computer to the copier without having to scan the document in.
- Allow staff to scan directly to email for easily sending large documents not on the computer.
- Allow staff to scan a draft agenda to their computer for editing and numbering before final printing.
- Save money on supplies by staff having the ability to print directly to the copier. This should greatly reduce purchase of small printer cartridges.
- Save staff time at the copier manually copying agendas and other large documents.

There are two options for leasing copiers. One is to lease from the copier leasing company at a rate of at least 6 percent. The other is to lease them through Amendment 78 leasing through Banc of America Leasing & Capital, LLC at a rate that is approximately 3 percent.

Staff Recommendation:

Staff recommends amendment of Ordinance #4478 to allow lease/purchase of equipment through Banc of America Leasing & Capital, LLC.

This is an effort by Staff to accomplish "Guiding Principle #4":

- By selecting the most advantageous leasing cost available to the City
- By selecting equipment that provides a means of saving on supplies and staff time.
- By combining all copiers together in a package deal to obtain the best available pricing in the market.
- By providing top-quality, responsive service through new technology to the Public by being able to post full agendas, budget documents, CIP documents, CAFR and other large documents to the web and the ability to send by them by email.

ORDINANCE NO. 4478

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT HAVING A NOMINAL PRINCIPAL AMOUNT NOT TO EXCEED $5,000,000.00 FOR THE PURPOSE OF FINANCING THE COST OF ACQUIRING CERTAIN FIRE FIGHTING APPARATUS; AND PRESCRIBING OTHER MATTERS RELATING THERETO

WHEREAS, the City Council of the City of Fayetteville, Arkansas has determined that there is a great need for a mechanism to finance the costs of acquisition of certain fire fighting apparatus to benefit the residents of the City; and

WHEREAS, the City is authorized and empowered under the provisions of the Constitution and laws of the State of Arkansas, including particularly Amendment 78 to the Constitution of the State of Arkansas and the Local Government Short-Term Financing Obligations Act of 2001, codified as Arkansas Code Annotated (2001 Supp.) Sections 14-78-101 *et seq.* as from time to time amended, to enter into certain short-term lease/purchase arrangements to finance the costs of various capital improvements, which lease obligations shall constitute general obligations of the City under Amendment 78 and the Act; and

WHEREAS, the City has made arrangements for the entry into a Master Equipment Lease/Purchase Agreement with Banc of America Leasing & Capital, LLC, a Delaware limited liability, in substantially the form presented to and before this meeting;

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

Section 1. Under the authority of the Constitution and laws of the State of Arkansas, the Mayor is hereby authorized and directed to execute the Lease/Purchase Agreement, and the City Clerk is hereby authorized and directed to execute the Lease/Purchase Agreement and to affix the seal of the City thereto, and the Mayor and the City Clerk are hereby authorized and directed to cause the Lease/Purchase Agreement to be executed by Banc of America Leasing & Capital, LLC. The Lease/Purchase Agreement is hereby approved in substantially the form submitted to this meeting. The Mayor is hereby authorized to confer with with Banc of America Leasing & Capital, LLC and Kutak Rock LLP, Bond Counsel, in order to complete the Lease/Purchase Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Lease/Purchase Agreement, their execution to constitute conclusive evidence of such approval.

Section 2. The nominal principal amount of the Lease/Purchase Agreement may not exceed $5,000,000.00 in the aggregate, the term of the Lease/Purchase Agreement shall expire no later than five years from the date of adoption of this ordinance, and the effective interest rate relating to the City's obligations under the Lease/Purchase Agreement shall not exceed the maximum rate prescribed by Arkansas law, including Amendment 78 and the Act.

Section 3. It is affirmed that, pursuant to Amendment 78 and the Act, the payment obligations of the City under the Lease/Purchase Agreement shall constitute general obligations of the City, and the total annual payments owed by the City under the Lease/Purchase Agreement in each of the City's fiscal years shall be charged against and paid from the general revenues of the City for such fiscal years.

Section 4. As required by Amendment 78 and the Act, the City hereby finds and determines that:

(a) Each of the components to be financed under the Lease/Purchase Agreement has an average useful life in excess of one year; and

(b) The aggregate nominal principal amount of all obligations of the City under Amendment 78 and the Act, including the Lease/Purchase Agreement, will at no time exceed five percent (5%) of the assessed value of the taxable real and personal property located within the City, as determined by the last tax assessment completed prior to the date hereof.

Section 5. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Lease/Purchase Agreement, and to perform all of the obligations of the City under and pursuant thereto. The Mayor and the City Clerk are further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 6. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be illegal or invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Ordinance.

Section 7. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED and **APPROVED** this the 15th day of April, 2003.

APPROVED:

By: Dan Coody

DAN COODY, Mayor

ATTEST:

By: Sondra Smith

Sondra Smith, City Clerk

Amend Ordinance # 4442
for VA 02-12.00 & 13.00
C. 2. Page 1

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

Name	Division	Department
Dawn Warrick	Planning	CP&E

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

To amend approved ordinance No. 4442 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 drainage easement was vacated by the City Council on December 3, 2002 subject to a relocation of the storm sewer being completed by the applicant and accepted by the City Engineer by December 1, 2003. The applicant is requesting to extend that date to December 1, 2005.

STAFF RECOMMENDATION:

Approval subject to all improvements being completed by December 1, 2005.

Dawn T. Warrick 8/1/03
Division Head Date

Received in Mayor's Office 8/4/03
Date

D. P. White 8/4/03
City Attorney Date

Department Director Date

Stephen Davis 8-4-03
Finance & Internal Services Dir. Date

Hugh Earnest 8-4-03
Chief Administrative Officer Date

Dan Coody 8/5/03
Mayor Date

Cross Reference:

Previous Ord/Res#: ______

Orig. Contract Date: ______

Orig. Contract Number: ______

New Item: Yes No

ENTERED 8/4/03

ORDINANCE NO. ______

AN ORDINANCE AMENDING ORDINANCE NO. 4442 TO EXTEND THE PERIOD OF TIME WITHIN WHICH THE DEVELOPER MUST RELOCATE THE STORM SEWER.

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 amends Ordinance No. 4442 to change the required completion date of the storm sewer relocation from December 1, 2003 to December 1, 2005.

PASSED and **APPROVED** this 19th day of August, 2003.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

FAYETTEVILLE CC Meeting of Aug. 19, 2003

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Dawn Warrick, AICP, Senior Planner
THRU: Hugh Earnest, Urban Development Director
DATE: July 31, 2003

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 repeal and replace Ordinance No. 4442 and to vacate a drainage easement subject to Section 3 reading as follows: "That the City Council of the City of Fayetteville, Arkansas hereby determines that this vacation shall not be effective until and unless the relocated storm sewer is installed and accepted by the City Engineer. If the relocated storm sewer is not completed by the applicant and accepted by the City Engineer by December 1, 2005 this vacation shall be null and void." 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.

Current Status:

On December 3, 2002 the City Council voted to approve the requested vacation subject to a relocation of the storm sewer being completed by the applicant and accepted by the City Engineer by December 1, 2003. The applicant is now requesting to extend the completion date of the relocation of the storm sewer to December 1, 2005 due to project scheduling.

Recommendation:

Approval of the proposed ordinance amendment.

ORDINANCE NO. 4442

AN ORDINANCE APPROVING VA 02-12.00 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 once the requirements of Section 3 have been satisfied.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby determines that this vacation shall not be effective until and unless the relocated storm sewer is installed and accepted by the City Engineer. If the relocated storm sewer is not completed by the applicant and accepted by the City Engineer by December 1, 2003, this vacation shall be null and void.

PASSED and **APPROVED** this the 3rd day of December, 2002.

APPROVED:

By: Dan Coody
DAN COODY, Mayor

ATTEST:

By: Heather Woodruff
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.

VAC 02-12.00 & 13.00 (1021 & 1022): Vacation (Houses Development, pp 484) was submitted by Mandy Bunch of EB Landworks, Inc. on behalf of Greg House of Houses Development Co. for property located at the southwest corner of Watson Street and St. Charles Avenue. The property is zoned C-3, Central Commercial and contains approximately 0.12 acres. The request is to vacate two utility easements.

Aviles: Thanks Renee. We are going to go ahead and hear the consent items separately. The first item on the consent agenda is VAC 02-12.00 and 13.00, which is a Vacation for Houses Development. Is there any member of the public that would wish to remove this from our consent agenda or the Planning Commission?

Shackelford: Madam Chair, I will recuse from this vote but I have no problem with it.

Aviles: Ok, thanks Commissioner. Renee, would you call the roll please on item one?

Roll Call: Upon completion of roll call the first consent item was approved by a vote of 7-0-1 with Commissioner Shackelford recusing.

Aviles: Thanks Renee. That item is approved.

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 easemebt 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

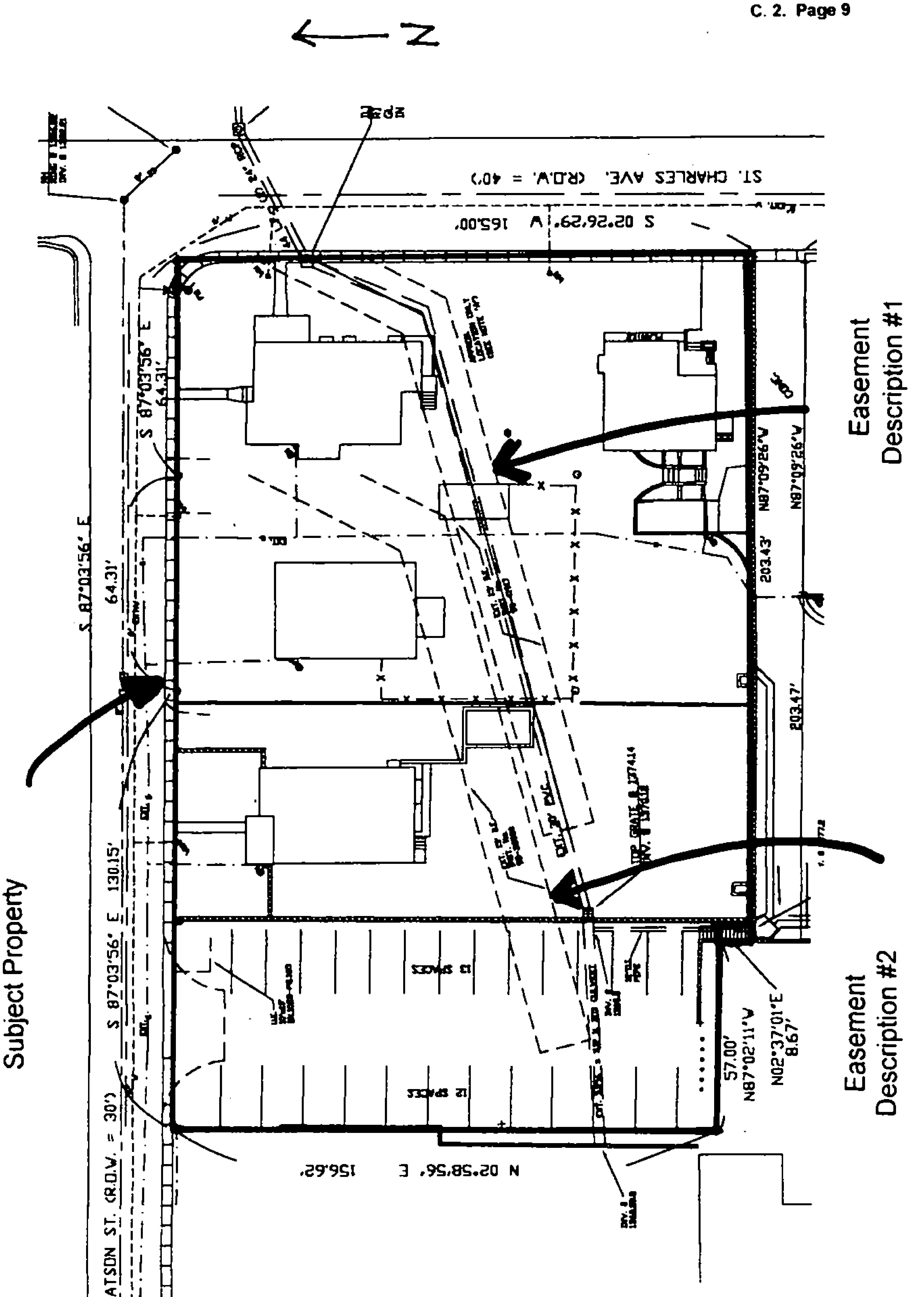
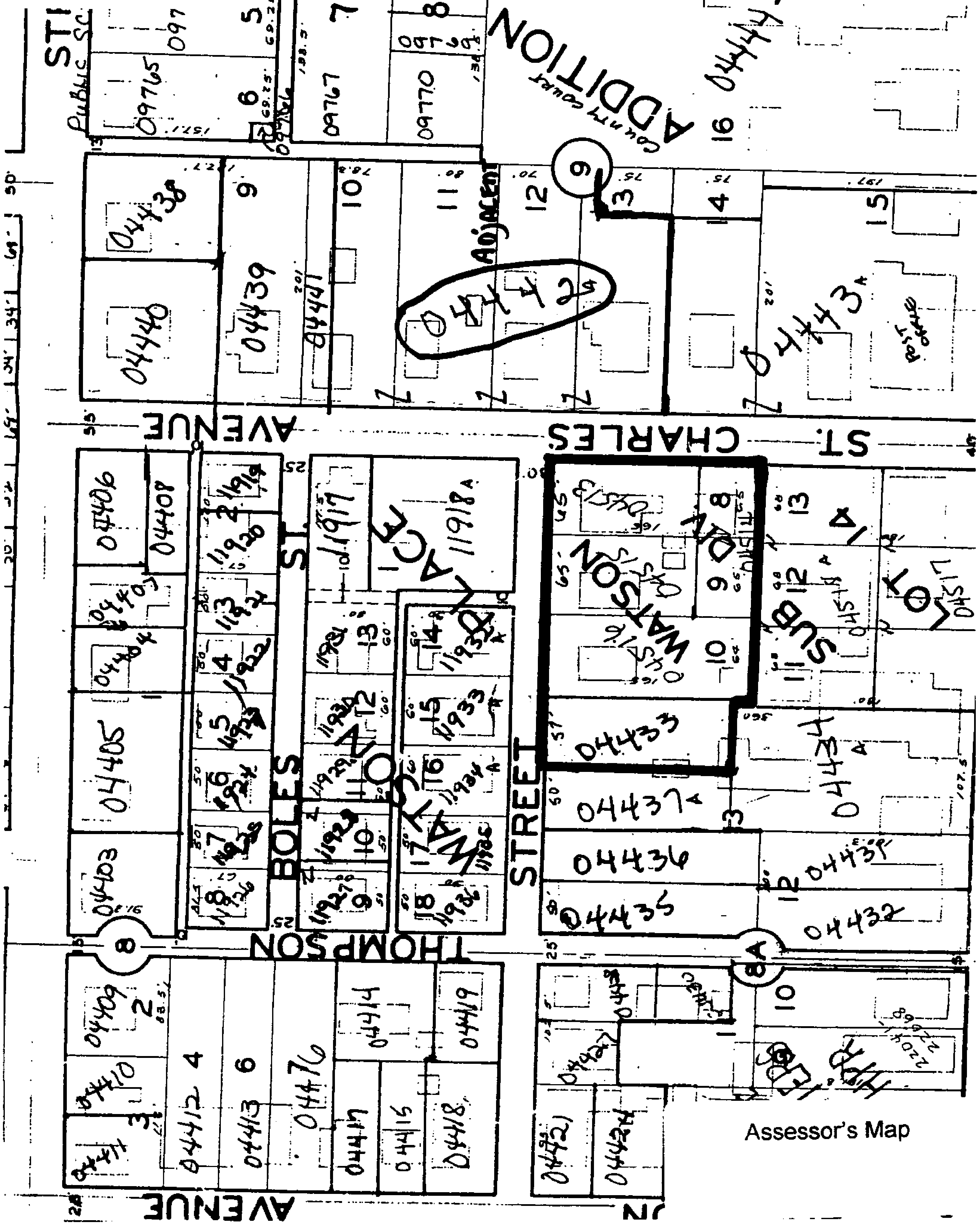

N
ST. CHARLES AVE. (R.O.W. = 40')
S 02°26'29" W 165.00'
Easement Description #1
S 87°03'56" E 64.31'
S 87°03'56" E 64.31'
N87°09'26"W 203.43'
N87°09'26"W 203.47'
Subject Property
S 87°03'56" E 130.15'
13 SPACES
12 SPACES
Easement Description #2
N02°37'01"E 8.67'
N87°02'11"W 57.00'
N 02°58'56" E 156.62'
WATSON ST. (R.O.W. = 30')

EXHIBIT A

Amend Ordinance # 4442
for VA 02-12.00 & 13.00
C. 2. Page 10



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.

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-- -andWorks, 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 Bunch

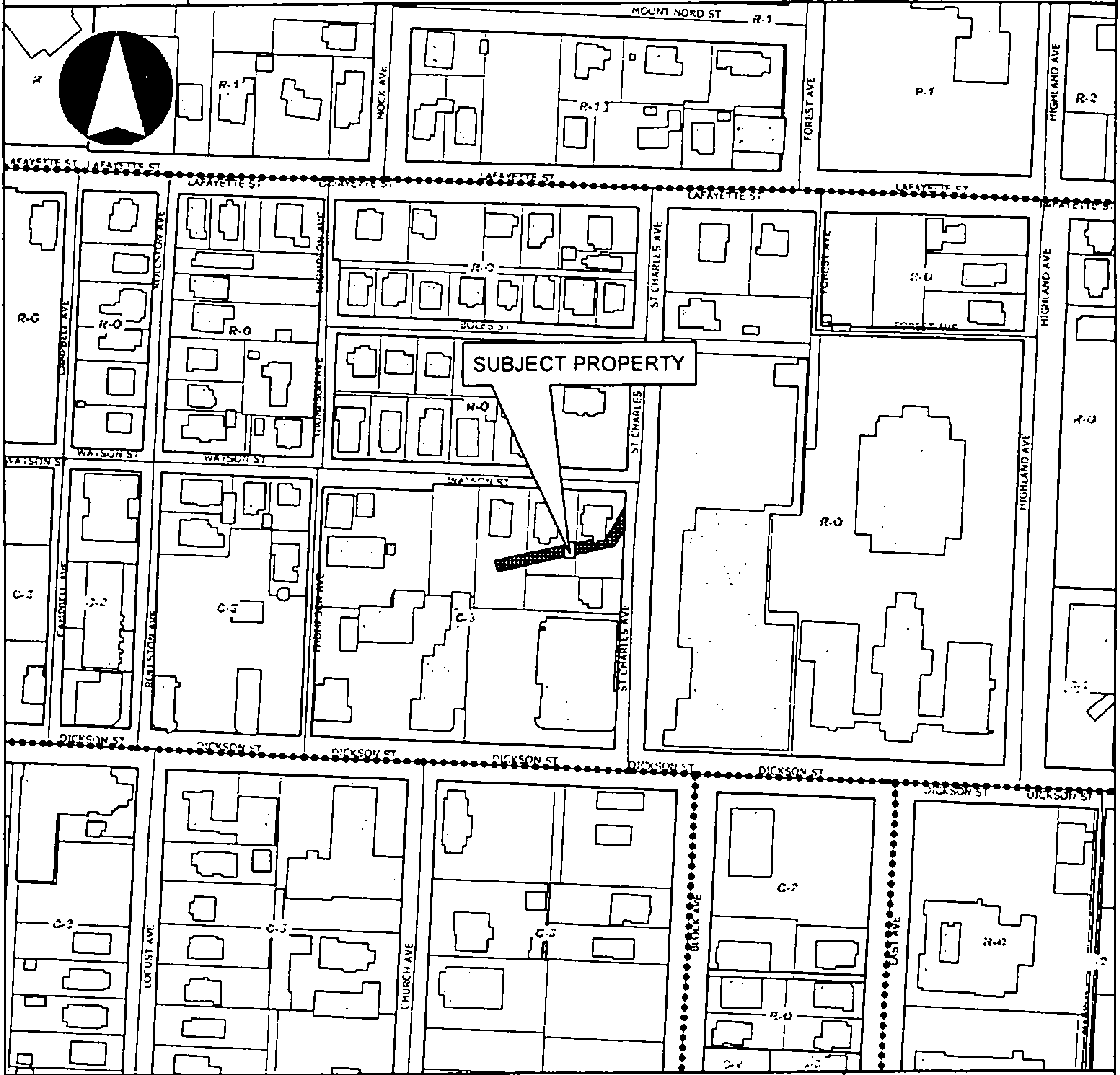
Mandy R. Bunch, PE

Amend Ordinance # 4442
for VA 02-12.00 & 13.00
C. 2. Page 13

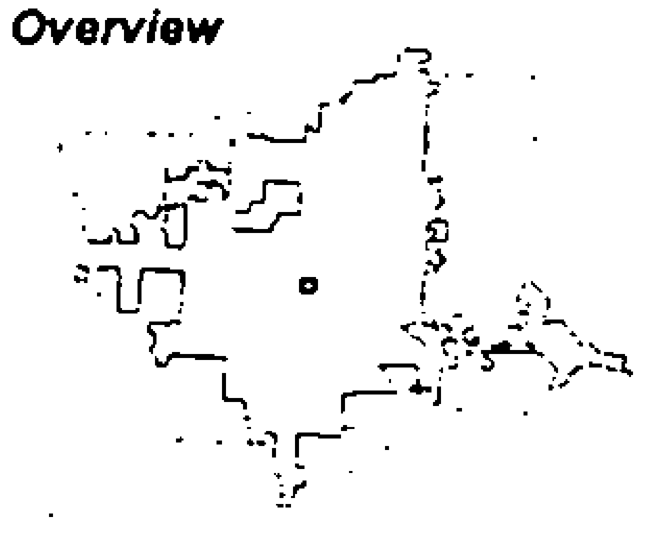
VAC02-12&13.00

Close Up View

HOUSES DEVELOPMENT



Overview



Legend

- SPCcity
- dodpoly
- VAC02-12&13.00
- Buildings
- Lakes
- Overlay District

Streets

- Existing
- Planned

Master Street Plan

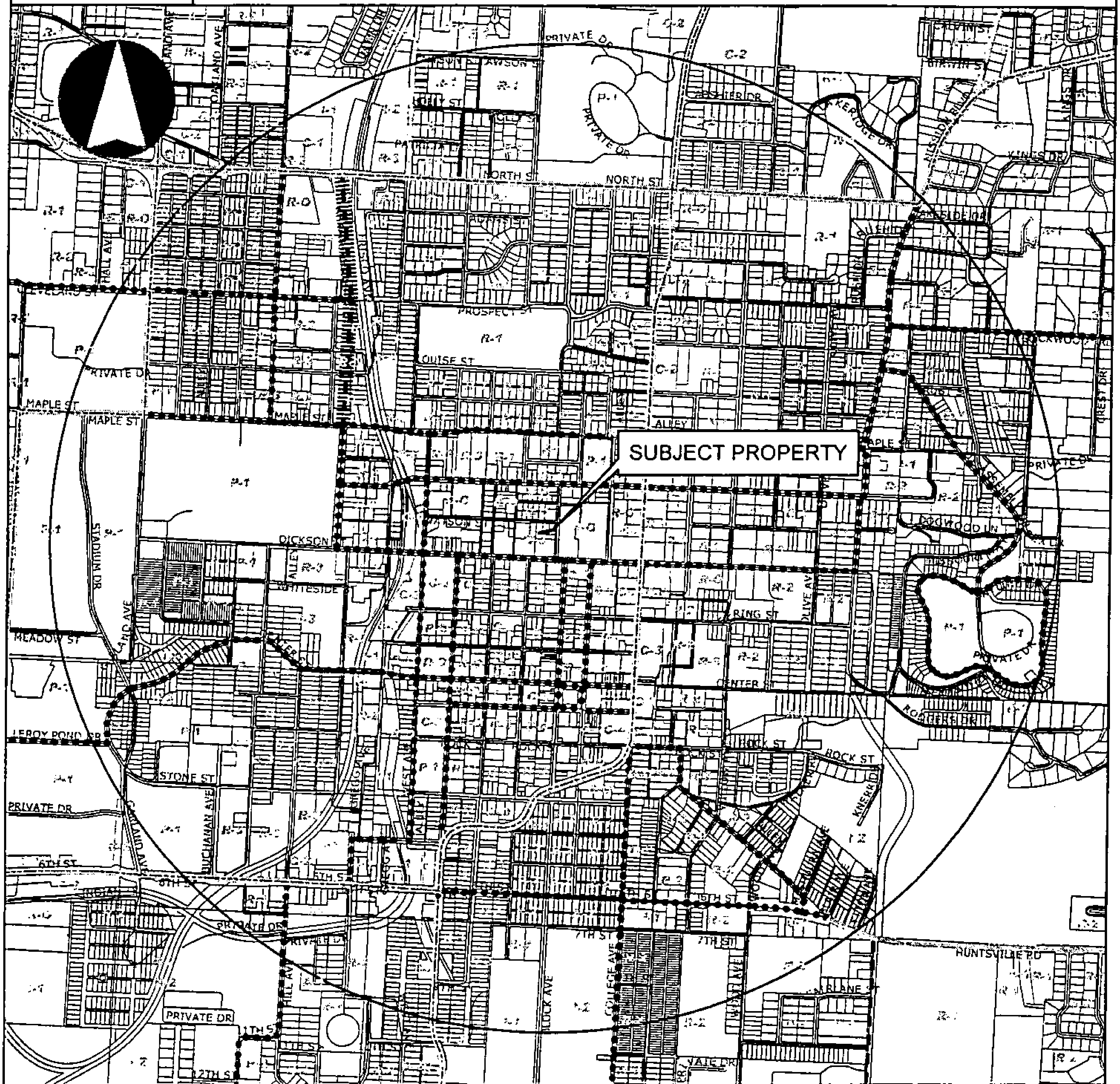
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- Planning Area
- Zoning

- City Limits
- Outside City

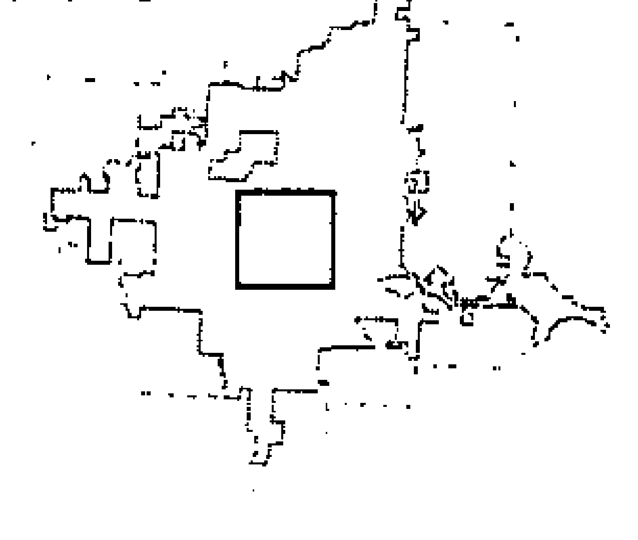
0 75 150 300 450 600 Feet

Amend Ordinance # 4442
for VA 02-12.00 & 13.00
C. 2. Page 14

VAC02-12&13.00	HOUSES DEVELOPMENT
One Mile View	



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

RZN 03-22.00 (Pope)
C. 3. Page 1

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

RZN 03-22.00 was submitted by Ronny and Karen Pope for property located at 1750 E. Zion Road. The property is zoned R-A, Residential Agricultural and contains approximately 2.0 acres. The request is to rezone the property to R-O, Residential Office subject to a Bill of Assurance offered by the applicant at the Planning Commission meeting of July 28, 2003.

STAFF RECOMMENDATION:
Staff recommended denial and on July 28, 2003 the Planning Commission voted 7-0-0 to recommend the rezoning be approved by the City Council.

Dawn T. Warrick — 8/1/03
Division Head — Date

8/4/03
City Attorney — Date

8-4-03
Department Director — Date

8-4-03
Finance & Internal Services Dir. — Date

Hugh Earnest — 8-4-03
Chief Administrative Officer — Date

Dan Coody — 8/5/03
Mayor — Date

Received in Mayor's Office — 8/4/03
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 8/4/03

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of August 19, 2003

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Mayor Dan Coody
	Fayetteville City Council
FROM:	Dawn Warrick, AICP, Zoning & Development Administrator
THRU:	Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE:	August 1, 2003

RZN 03-22.00: Rezoning (Pope, pp 136) was submitted by Ronny and Karen Pope for property located at 1750 E Zion Road. The property is zoned R-A, Residential Agricultural and contains approximately 2.0 acres. The request is to rezone the property R-O (Residential Office).

BACKGROUND:

Property description: The subject property is located at 1750 E. Zion Road. There is a three bedroom single family home on the 2 acre tract currently. Surrounding property includes undeveloped property to the north, a topsoil excavation operation to the east, single family home to the west and south, across Zion Road are multi-family dwellings. While there is a mixture of land uses located on the south side of Zion Road, the north side has remained primarily residential as it is proposed to be according to Fayetteville's Future Land Use Map.

Proposal: The applicant proposes to use the existing structure on this property and to convert it to an accountant's office. The outward appearance of the structure would remain the same with some possible improvements to the driveway and access point onto Zion Road.

Request: The request is to rezone the subject property from R-A, Residential Agricultural to R-O, Residential Office.

CURRENT STATUS:

On July 14, 2003, the Planning Commission tabled this item at the request of the applicant. Staff was not recommending in favor of the rezoning. On July 28, 2003, the Planning Commission voted 7-0-0 to forward this item to the City Council with a recommendation for approval of the rezoning with the offered Bill of Assurance which restricts the use of the property to a professional office or a single family home.

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on Planning Commission action and the Bill of Assurance offered by the applicant.

K:\Reports\2003\CC REPORTS\August Meetings\rzn03-22_pope_cc memo.doc

ORDINANCE NO. ______

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 03-22.00 AS SUBMITTED BY RONNY & KAREN POPE FOR PROPERTY LOCATED AT 1750 E. ZION ROAD FROM R-A, RESIDENTIAL AGRICULTURAL TO R-O, RESIDENTIAL OFFICE SUBJECT TO A BILL OF ASSURANCE ATTACHED HERETO AND MADE A PART HEREOF, HEREBY REFERENCED AS EXHIBIT "B".

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 RSF-4, Residential Single-Family, 4 Units Per Acre, to R-O, Residential Office 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 __________, 2003.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 03-22.00

PART OF THE NE ¼ OF THE SW ¼ OF SECTION 24, T17N, R30W OF THE 5TH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO-WIT: COMMENCING AT THE NROTHWEST CORNER OF SAID NE ¼, SW ¼ THENCE S0°11'39"E 239.29 FEET THENCE EAST 243.08 FEET TO THE POINT OF BEGINNING THENCE EAST 148.92 FEET, THENCE S0°11'39"E 585.00 FEET, THENCE WEST 148.92 FEET THENCE N0°11'39"W 585.00 FEET TO THE POINT OF BEGINNING; CONTAINING 2.00 ACRES MORE OR LESS SUBJECT TO RIGHT OF WAY AND EASEMENTS OF RECORD.

RZN 03-22.00: Rezoning (Pope, pp 136) was submitted by Ronny and Karen Pope for property located at 1750 E Zion Road. The property is zoned R-A, Residential Agricultural and contains approximately 2.0 acres. The request is to rezone the property R-O (Residential Office).

Hoover: Welcome to the Planning Commission meeting for July 28, 2003. Renee, will you call the roll please?

Roll Call: Upon the completion of roll call there were seven Commissioners present with Commissioners Ostner and Anthes being absent.

Hoover: Thank you. The next item of business is approval of the minutes from the July 14, 2003 meeting. Do I hear a motion?

Allen: I will move for approval of the minutes.

Bunch: Second.

Hoover: Call the roll please.

Roll Call: Upon the completion of roll call the motion to approve the minutes of the July 14, 2003 meeting was approved by a vote of 7-0-0.

Hoover: Next is RZN 03-22.00 for property located at 1750 E. Zion Road. Dawn, do you have the staff report on that?

Warrick: Yes. This item was tabled at your last Planning Commission meeting by the applicant and representatives of the seller. This is a rezoning request for two acres located at 1750 E. Zion Road. The subject property currently contains a single-family home containing three bedrooms. The surrounding properties include undeveloped property to the north, a top soil excavation operation to the east, single-family housing to the west and to the south across Zion Road multi-family dwellings. While there is a mixture of land uses located south of Zion Road on the south side the north side has remained primarily residential with a few intermittent uses. The proposal is to utilize the existing structure on the property and convert it to a small professional office with the outward appearance of the structure to remain basically as it is with possible improvements to the driveway and access point onto Zion Road. In order to do that the applicant is requesting to rezone the property from R-A, Residential Agricultural to R-O, Residential Office. With regard to infrastructure, access to the site is from Zion Road. Zion is designated a collector on the Master Street Plan. The street in this location is not currently constructed to city standards for a collector. There is no curb, gutter or storm drain currently. The ditches on either side are fairly steep. To the north the street is overgrown with vegetation. There is water and sewer available to the site in the form of a 12" water line and an 8" sewer line both along Zion Road. The Future Land Use Plan does designate this particular site as residential and the request for zoning to Residential Office is not consistent with that land use plan designating as residential. The zoning review team did inspect this site prior to the last Planning Commission meeting. Comments from members of the zoning review team are included in your packet. Access and traffic were concerns that were voiced by the majority of the members on the team. With regard to specific findings of staff, the finding with regard to the proposed zoning being consistent with the land use planning objectives, principles and policies the finding is: The requested rezoning is not consistent with the adopted General Plan. This area is designated to be residential on the Future Land Use Map. The Residential Office district has in the past been used as a transition zone and is an appropriate transition zone when areas are called out to be residential. However, the subject property is not located in a transitional area between properties that are single-family and either a higher density residential or a commercial type use. With regard to whether the zoning is justified and/or needed the findings are: The proposed zoning is not needed at this time. There are other properties within the general area already zoned or identified on the Future Land Use Map to be developed with office uses. With regard to the finding on whether the proposed zoning would create or appreciably increase traffic danger and connection: The proposed zoning would increase traffic danger in the area. The current condition of Zion Road is not desirable. Site distance, a poorly configured access drive, and the narrow width of Zion Road in this area all affect this site. Any increase in traffic would be detrimental without improvements to the street. With regard to whether or not this proposal would increase population density: The finding is that it would not. Since the last Planning Commission meeting I have supplemented your staff report starting on page 1.18. You have a memo and then some additional materials. Included in those materials are a response from Mr. James McCord who is an attorney representing the applicants. That is found starting on page 1.19. Included in that is a proposed Bill of Assurance for this particular site and I will defer to Mr. McCord and his clients to present that to you. Also included in your packets starting on page 1.22 there are some trip generation calculations for the two acre site. The first is reflecting development of two acres for offices, which would generate approximately 390 vehicle trips per day on an average weekday. The second is for a three employee single-tenant office building, which is the proposal by the applicant, which would generate approximately 11 vehicle trips per day and the third calculation is for one single-family dwelling, which would generate approximately 10 vehicle trips per day. Following that information are Planning Commission minutes from July 14, 1986. These minutes reflect a request for rezoning the subject property from Agricultural to Residential Office, which is the same request that you are hearing at this time. The Planning Commission voted 8-0-0 to deny the rezoning request, which was in support of staff's recommendation for denial at that time. Following that information the last piece that was included are Planning Commission minutes and the staff report for an item that you heard on May 12, 2003, which was a request to rezone property in this general area. It is on the south side of Zion Road at the southwest corner of Zion and Vantage Drive for rezoning three acres from R-2, Residential Medium Density to R-O, Residential Office. Staff was not in favor of that recommendation and the Planning Commission did fail to make a motion on that item. That information was added for you for your consideration this evening. Staff has not changed our recommendation with regard to this particular request. We do feel that it is inappropriate and recommend denial of the Residential Office request at this time.

Hoover: Thank you Dawn. Would the applicant come forward?

McCord: Madam Chair, Commissioners, my name is Jim McCord, I represent Ronny and Karen Pope, the applicants on this requested R-O zoning. We recognize the burden is on the applicant to demonstrate that the proposed R-O zoning is reasonable. To make the determination of reasonableness requires consideration of all relevant factors and not just the General Land Use Plan or Future Land Use Plan, which are merely guides in making a rezoning decision. What I would like to do in demonstrating why this request is reasonable is to go through first the supplemental materials that have been presented to you and then the memorandum that I've submitted, which I'm sure you've read and I won't go through it in its entirety but I would like to summarize it because I think it makes several important points that demonstrate why this request is reasonable. The first on the traffic issue, staff has provided trip generation calculations from the Institute of Transportation Engineers. I find it interesting to note that the projections from that institute are basically the same for the three person accountant's office that is being requested in this rezoning and a single-family residence. If you compare those they are nearly identical. Obviously, if you had a big office it would be higher traffic and an irrelevant projection has been included. The traffic issue I think is a non-issue because the proposed use of the property would not increase traffic. The Fayetteville Police Department itself found that the proposed rezoning would not substantially increase traffic congestion. You have your own police department and the I.T.E. projections demonstrating no increase in traffic if the proposed use and R-O zoning is approved. As far as the earlier decisions by the Planning Commission on this property, that can be distinguished because the applicant proposed to construct a small office building behind the single-family residence that is on the property. In this case the applicant does not propose to construct another building. The applicant proposes to use the existing single-family residence as an accountant's office for himself, his staff attorney and his wife, who is the secretary/receptionist for the firm. The requested R-O rezoning at the southwest corner of Vantage and Zion, which was denied in May can also be distinguished because in that case the three acre parcel was zoned R-2. Professional offices are a conditional use in the R-2 district so R-O rezoning was not necessary in that case for the proposed use. The applicant could've requested a Conditional Use so the staff and this Commission determined by no action that the rezoning would not be reasonable. I think it is important to note that with the Bill of Assurance offered by the applicant that the character of the neighborhood will not be changed. The outward appearance of the property will remain the same. It will merely be used as a small accounting office and the traffic will not be generated. The character of the neighborhood will not be changed by this rezoning. It is also important to note the surrounding land uses and whether R-O would be reasonable in considering those uses. To the east is a top soil excavation operation, gravel pit, whatever you want to call it. To the south is multi-family apartments. The property is not desirable as a single-family residence. It has remained on the market for sale as a single-family residence unsold for quite some time. It is significant to note, and we just found this out today, that the owner of the single-family residence to the west, John Tuddle has no objection to the proposed R-O zoning with the Bill of Assurance. Regarding the Bill of Assurance, to preserve the character of the neighborhood and to guard against any possible change in use after the applicant purchases the property and converts the house into an accounting operation, the Bill of Assurance will provide 1) Use of the property shall be restricted to a professional office or a single-family dwelling. 2) No additional building shall be constructed on the property. To address the vegetation and visibility obstruction concerns that were made by the Police Department and staff the third point of the Bill of Assurance is the ground vegetation in the yard would be cleared or trimmed to maintained so as not to steer traffic visibility. The Bill of Assurances would be covenants running with the land and would be binding upon future owners. Let me briefly go through the high points and the memorandum I submitted in response to the application. Staff finding one, R-O zoning is not consistent with the City's General Plan, the area is designated residential on the Future Land Use Map. That is true, again, the General Plan and Land Use Map are Planning guidelines. You must look at the facts. What is on the ground now? What is adjacent to this property? It is multi-family apartments to the south, a gravel pit to the east and some R-O further to the west and east. Again, the owner of the single-family residence immediately to the west does not object to the rezoning. Staff finding two, R-O zoning is not justified. For the reasons I've numerated we respectfully submit R-O is justified considering all of the relevant situations, the Bill of Assurance, the land use to the south, the land use to the east. The proposed zoning would increase traffic danger, we've addressed that. The Police Department found no increase in traffic. The I.T.E. projections that demonstrate no increase in traffic from a three person accounting office. It is reasonable to expect that a single-family residence with teenagers would actually generate more traffic than the proposed use by a small accounting firm. All of these reasons we respectfully submit demonstrate the reasonableness of this request and for that reason we hope that the Planning Commission will grant the rezoning as requested with a Bill of Assurance, which is binding upon this proposed owner and future owners. We would be happy to answer any questions.

Hoover: Thank you Mr. McCord. At this time we will open it up to the public. Is there anyone who would like to address RZN 03-22.00, this rezoning on Zion Road? Yes Ma'am, please come to the podium. Please sign in on the sign in sheet.

Gilbert: I am Courtney Gilbert, I am an attorney at Davis, Wright, Clark, Butt & Carithers and Jack Butt and I represent the current property owner, Mary Savin in this case and we are here today to request that you approve the rezoning at this point. As you know, the property is currently zoned R-A.

Hoover: Excuse me, you represent the owner?

Gilbert: We represent the current property owner, yes Ma'am.

Hoover: Who is asking for this request?

Gilbert: We are not the applicant for the rezoning but the applicant for the rezoning is in contract with the owner to purchase this property.

Hoover: I guess I see you more as being part of the applicant and we really would like responses from the general public right now. We will bring it back to the applicant in a minute if you don't mind waiting until then.

Gilbert: Ok, ok, sure. I'm sorry about that.

Hoover: Is there any other member of the audience that would like to address this rezoning? Yes Sir.

Jones: I am Jamey Jones, I have lived on Zion Road since 1966 in the second piece of property to the west of the property in question. I have already told Ms. Pope my feelings about this. I would not favor any rezoning that might lead to business or commercial use in the future. I would not object to a Conditional Use for a small office provided it would revert to the previous zoning if someone else purchased the property. Thank you.

Hoover: Thank you. Is there any other member of the audience that would like to address this rezoning? Seeing none, I will bring it back to the applicant. Would you like to come back up now? Thank you.

Gilbert: Again, I am Courtney Gilbert, I represent the current property owner, Mary Savin in this case and we are requesting that the Commission approve the rezoning from R-A to R-O in order for Ms. Savin to be afforded reasonable use of her property. As Mr. McCord stated, this land is currently zoned R-A but in actuality the area surrounding the property is actually mixed with several different types of property. There are obviously apartment complexes to the south directly across the street from this property. There is a top soil excavation operation directly adjacent to the property on the east and there is business development on both sides of the property from the east and the west within 3/10 of a mile and within a half mile radius. I think it is also important to note that this property is being requested to be rezoned for a single professional office use, a CPA office. There is a CPA office ¾ of a mile to the west of this property currently and there is within 4/10 of a mile to the east of this property a veterinary office. It is important to note that these characteristics along with especially the top soil excavation to this property currently make this property an undesirable location for residential use. These characteristics have forced this property to sit on the market for many months. In fact, the property has been on and off the market since 1998. The property has been reduced in value several times and Mr. John Sullivan can speak to you more about those issues in a few minutes. The denial of the rezoning in this case would affectively deny Ms. Savin any reasonable use of her property which as you know, is arbitrary and capricious as a matter of law and Ms. Savin should not be denied any reasonable use of her property. As I said, you will hear from Mr. John Sullivan in more detail. He is a real estate broker with the Property Store who currently has this property listed that this property has been listed on and off for many years without any success to several different real estate agencies and several different agents and repeatedly the only seriously interested buyers have been businesses that cannot use this property as it currently is zoned. All of those things considered make it abundantly clear that this property is not desirable any longer for residential location and I think it is also important to note that there is no Conditional Use available for an office of this nature in the R-A zoning district. What is being requested is a small CPA office. The owners of the property are not going to be living in the property and it is going to contain one employee at least that is not a family member. While it is recognized that the rezoning of this property from R-A to R-O is not consistent with the General Plan as it stands now, I think it would be beneficial to the city for the Commission to consider whether obviously the General Plan should be used as a guideline, but whether it is beneficial to continue with that General Plan at this point and whether it would in fact be doing more harm than good in letting this property just sit there vacant in an undesirable situation. I think it is important for the Commission to consider whether this property if it is not rezoned, whether ten years down the road it will be more beneficial for the city to have this property as vacant and not tax supporting rather than having a small professional office in it that would be supporting the tax base. For these reasons we are requesting that the rezoning be approved. I would like to turn it over at this point to Mr. John Sullivan to discuss with you the way that this property has been marketed and the length of time this property has been on the market. If you would like I have some documents that might help you with an explanation.

Sullivan: First of all I would like to just say thank you to the Commission for tabling this two weeks ago when I came up to you. Again, I am pretty nervous and don't do this regularly. I asked you guys for a couple more weeks when we found out that staff was considering disapproval of this. Just a couple of things let me say as a real estate broker. What you have basically you have heard from both attorneys is true. I have got the listing reports and that is what you've been given. We have had a real difficult time selling Mrs. Savin's property for that reason. Again, it doesn't conform to a single-family residence in any way shape or manner. The home itself inside the home you heard three bedrooms. Actually, when you go in the door it is an open area that you could call a living room. It has three separate hall ways with three separate rooms with three separate baths going down them. It actually is in pretty nice shape for use as an office facility as well and was built and designed that way. The biggest thing that I see is again our biggest setback is that gravel pit or whatever we want to call it to the east. I keep hearing that the north side of this road has been residential yet there is 20 plus acres when you are looking out the front door of this home and look to the east of it you look down on this gravel pit. That is the best word for it. When we were out there last Tuesday on the property, this isn't just being excavated, it is being placed there. There is new gravel on the property adjacent to the east side. There were folks in red outfits if you know what I mean. Literally, half a dozen of them on the property working with the gravel. I don't know where it is going or coming or that sort of thing but this is definitely, it has been there and it is not going away. It is not going to be used unless it is for something other than single-family residential property. We tried leasing the property out over the years for the owner. The owner, by the way, is retired to California. She is in her late 70's. She can't come back. She is not in good health and she won't be back here. In our applications for rentals, the last person that was in there was a person who didn't put a sign up and was using it for their offices for a mortgage company. They didn't have folks go there and meet but that is what they used it for. They wanted to buy the property for that use but when they couldn't they moved. Our rental applicants since were for Arkansas Dance Academy, Christy's Daycare, Sunbelt Business Brokers. This property and its use is just not conforming to single-family residential. A lot of folks could say well she could make apartments out of this two acres of something. Every argument that I see that talks about the problem with traffic on the road would only be worse. I see buyers here that truly want the property, are willing to use it in a use that conforms really to the neighbors. The neighbors are saying gee, if they are going to use it for that we have no problem and I also see that any other use of this property if it was torn down and turned into apartments would create a worse situation for that area and I think that is about the only other option on this property other than a single-family home. We just ask again that you consider the request. Again, the owner of the property would ask you to do that as well as the buyers. Thank you. Are there any questions I can answer for you?

Hoover: Commissioners? Questions?

Bunch: Is one of the reasons that the property is not selling possibly that it is over priced? How is the price of that property in relation to the surrounding property? It looks like it started right at $300,000 and dropped to $275,000 for a two acre lot with a house on it.

Sullivan: It is down to $250,000. Yes Sir, the home was built in 1994, two plus acres in Fayetteville at that area close to Lake Fayetteville, it is in the high two thousands in square foot, it is not an old home. No Sir, I think again if I were to take homes in a residential R-1 neighborhood around Lake Fayetteville of the same size and thing I don't think we would have a problem at all getting that price. I think the problem exists because of the road and the gravel pit next door. We can't find folks that want to live there and raise a family there.

Bunch: Thank you.

Estes: Dawn, I have a question. Under R-A a Conditional Use, Use Unit 2 is a city wide use by Conditional Use Permit and then under R-O, which this applicant seeks to obtain this evening, a Conditional Use, Use Unit 2 is city wide uses by Conditional Use Permit. What is the reasoning that this applicant could not request a Conditional Use under the R-A zoning designation?

Warrick: Use Unit 2, city wide uses by Conditional Use Permit are those uses that require Conditional Use approval in any zoning district. For instance, a bed and breakfast or an antique shop. There are other specific uses that can be requested under various zoning districts depending on how they are listed, if they are included in that section, which allows for approval or use based on approval by appeal to the Planning Commission. Under the Residential Agricultural district there are uses that can be requested by Conditional Use are cultural and recreational facilities, commercial recreation large site, home occupations or wireless communication facilities. Under the Residential Office district of course this use would not require a Conditional Use. It would be a use by right as a small professional office.

Estes: Is there any way to get the applicant what they are requesting by a Conditional Use in an R-A?

Warrick: I have thought about that and there is not a Conditional Use route in order to achieve this end. I think that the only mechanism, well there are two, would be the vehicle that the applicant has proposed this evening which is the Bill of Assurance on the Residential Office zoning or a Planned Zoning District. We did previously have a Conditional Use application that probably would've been appropriate for this type of application. It was referred to as limited commercial uses within a residential district. For instance, there is mentioned in the information that you probably have in front of you about a veterinarian office or a veterinarian clinic within this general area on the south side of Zion Road. That use was established through the limited neighborhood commercial Conditional Use. When the Planning Commission forwarded and the City Council adopted the Planned Zoning District ordinance in December of last year that did repeal the Conditional Use for limited neighborhood commercial uses within a residential district. It replaced that with the Planned Zoning District process.

Estes: Thank you, I think.

Bunch: Following the same line of reasoning that Commissioner Estes opened, did the applicant work with city staff with a PZD to be able to give a better description of how the property would be used rather than a limited Bill of Assurances with the rezoning?

Warrick: We did not pursue a Planned Zoning District on this. I did meet prior to the applicant submitting their request with them and discussed the various methods that they have about making a request in this particular instance. At that time I had not done research on the site and reviewed the site specific information and other conditions. The mechanism of a Planned Zoning District basically predicts that there will be development and it is processing, in this instance it would be a Large Scale Development combined with a zoning request. Because development is really not being proposed, they are not proposing to add any structures or extend the existing structure, I didn't recommend a Planned Zoning District. That is not to say that one could not be applied in this particular instance but that wasn't the route that the applicant chose to take because there was not a development per say going on. They were not proposing to build anything new or make alterations to the existing structure.

Bunch: Thank you.

Estes: Dawn, a Conditional Use does not run with the land but attaches to the fee simple owner, is that correct?

Warrick: It can be made a condition that it would attach to the fee simple owner but typically a Conditional Use would run with the land. For instance, if this applicant were to have a Conditional Use on a particular property and those conditions applied by the Planning Commission allowed for a professional office with three professionals, x number of parking spaces, if this applicant were no longer using it then a new applicant could as long as those conditions were being met.

Estes: The applicant's proposed Bill of Assurance provides that the use of the property be restricted to professional office and then provides that the Bill of Assurance would run with the land and be binding on all future owners so we are accomplishing by the Bill of Assurance what we would be accomplishing by a Conditional Use are we not?

Warrick: Yes Sir we are.

Estes: Ok.

Hoover: Are there other comments or motions?

MOTION:

Estes: I am going to move for approval of RZN 03-22.00 and the reasons are three. The I.T.E. traffic generation that has been provided to us shows traffic generation like or similar to a Residential Agricultural. Number two is of course this property is directly to the west of a dirt pit which pragmatically makes its use as a residence difficult. Three, the Bill of Assurance seeks to accomplish what we would otherwise accomplish with a Conditional Use request which under the present configuration of our U.D.O. is just not possible.

Hoover: I have a motion for approval, is there a second?

Shackelford: I will second.

Hoover: A second by Commissioner Shackelford. Is there more discussion?

Vaught: Under the new code the lower district that allows a professional office is RMF-6 is that correct?

Warrick: Yes.

Vaught: What is an RMF-6? What situations would it be used in?

Warrick: Residential Multi-family six units per acre. It is a zoning district that allows for multi-family dwellings including apartment buildings and by Conditional Use it does provide for professional offices and a few other types of uses. It is basically a lower density apartment or multi-family unit. It does not restrict the type of residential configuration so as I mentioned, they could have apartments. However, what we've seen in the new applications of RMF-6 is typically a duplex or triplex type setup.

Hoover: Thank you. Is there any more discussion Commissioners?

Bunch: Yes. Staff, could you help us interpret the Bill of Assurances under Residential Office permitted uses? Would that limit the use to only Use Unit 8 and Use Unit 25 or would it also include Use Unit 12?

Warrick: I did not draft the Bill of Assurance and I think that that clarification would need to come from the applicant's representative.

McCord: I would be glad to add Use Unit 25, we have no problem if you want to limit it to Use Unit 25.

Bunch: You are saying in your Bill of Assurance that you are limiting it to two Use Units, Use Unit 8 and Use Unit 25?

McCord: We would limit it to use Unit 25, which is Professional Offices.

Bunch: I think it said single family dwellings in Use Unit 8.

McCord: That is fine. I see your point now, I apologize. We would limit it to Professional Offices or single-family residential.

Bunch: What would be the mechanism for having the Bill of Assurance reflect what was just stated?

McCord: We are offering to modify it right now.

Williams: As you are aware, I don't know if Mr. McCord is, we have drafted a form Bill of Assurance that we would prefer that you use and when you suggest that I think the Planning Department has a copy and can provide that to you. That would have to be presented to the City Council also because the rezoning has to go up there. I think if you just make yourself known here then I wouldn't worry too much about the formality of it at this point.

Hoover: Should we amend the motion to reflect?

Estes: When I made the motion I attempted to articulate the three reasons for the motion. One of those was the Bill of Assurance. That was not formally part of the motion. I will make that a formal part of the motion at this time that the motion is dependent upon the applicant providing the Bill of Assurance as offered by the applicant's representative Mr. McCord.

Hoover: Is that reference Use Unit 25 and 8?

Estes: Yes, as stated by the applicant's representative Mr. McCord.

Hoover: Does the second agree?

Shackelford: Yes, I will concur with that.

Hoover: Are we all clear on what we're voting on? Are there any questions? Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to forward RZN 03-22.00 to the City Council was approved by a vote of 7-0-0.

Thomas: The motion carries by a vote of seven to zero.

BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, LOCATED AT 1750 ZION (hereinafter "Petitioner") Ronny W. Pope and Karen A. Pope, hereby voluntarily offer this Bill of Assurance and enter into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonable rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioners and Petitioners' property shall be restricted as follows **IF** Petitioners' rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to professional office (Use Unit 25) or a single family dwelling (Use Unit 8).
2. Other restrictions including number and type of structures upon the property are limited to no additional building shall be constructed or placed on the property.
3. Ground vegetation in the yard on the property along both sides of the driveway and along Zion Road shall be cleared, or trimmed and maintained, so as not to obscure traffic visibility from Zion Road or the driveway.

. Petitioner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, Ronny W. Pope and Karen A. Pope, as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign names below.

7-31-03
Date

RONNY W. POPE
Signature and Printed Name

3001 LOKLEY
Address
FAYETTEVILLE AR 72703

Karen A. Pope KAREN A POPE
Signature and Printed Name

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 31st day of July, 2003, appeared before me, Ronny W. Pope and Karen A. Pope and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

Lee A. Siler
NOTARY PUBLIC

My Commission Expires:
10-3-11

Official Seal
LEE A. SILER
Notary Public-Arkansas
WASHINGTON COUNTY
My Commission Expires 10-3-2011

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of July 14, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn Warrick, AICP, Zoning & Development Administrator
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: July 8, 2003

RZN 03-22.00: Rezoning (Pope, pp 136) was submitted by Ronny and Karen Pope for property located at 1750 E Zion Road. The property is zoned R-A, Residential Agricultural and contains approximately 2.0 acres. The request is to rezone the property R-O (Residential Office).

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	**Required**	**YES**	
	O Approved		**O Denied**
Date: July 14, 2003			
CITY COUNCIL ACTION:	**Required**	**YES**	
	O Approved		**O Denied**
Date: August 2003 (1st reading if recommended)			

BACKGROUND:

Property description: The subject property is located at 1750 E. Zion Road. There is a three bedroom single family home on the 2 acre tract currently. Surrounding property includes undeveloped property to the north, a topsoil excavation operation to the east, single family home to the west and south, across Zion Road are multi-family dwellings. While there is a mixture of land uses located on the south side of Zion Road, the north side has remained primarily residential as it is proposed to be according to Fayetteville's Future Land Use Map.

Proposal: The applicant proposes to use the existing structure on this property and to convert it to an accountant's office. The outward appearance of the structure would remain the same with some possible improvements to the driveway and access point onto Zion Road.

Request: The request is to rezone the subject property from R-A, Residential Agricultural to R-O, Residential Office.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant	R-A, Residential Agricultural
South	Multi-family residential	RMF-24
East	Excavation / Top soil operation	R-A, Residential Agricultural
West	Single family residential	R-A, Residential Agricultural

INFRASTRUCTURE:

Streets: Access to the subject property is from Zion Road along the south property line. Zion Road is designated a collector on the Master Street Plan. The street in this location is not constructed to City standards for a collector street. There is no curb, gutter or storm drain. The ditches on either side of the street are fairly steep and the north side of the street is overgrown with vegetation.

Water: Water is currently available to the site and connected for the existing structure. A 12" water line is located on the south side of Zion Road.

Sewer: Sewer is available and connected for the existing structure. An 8" sewer line runs along Zion Road.

LAND USE PLAN: General Plan 2020 designates this site **Residential.** Rezoning this property to R-O, Residential Office, is not consistent with the land use plan and is not compatible with surrounding land uses in the area.

ZONING REVIEW TEAM

Comments from the members of the Zoning Review Team toured this site on Tuesday, July 1, 2003. Access and traffic concerns were voiced by all. The nature of a change of use in this location as relates to the surrounding properties and the city's adopted Future Land Use map was also discussed. Comments from team members are attached to this staff report. These comments were a basis for the required analysis and recommendation for this rezoning request.

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 requested zoning is not consistent with the adopted General Plan. This area is designated Residential on the Future Land Use map which guides decisions regarding changes in land use and zoning. The R-O district has been used as a transition in areas called out to be Residential, however the**

subject property is not located in a transitional area between single family residential and higher density or commercial areas. A change in the zoning designation of the subject property to a district other than single family residential (which would reflect the current land use) would present a spot zoning unless it was a larger development proposal that could be reviewed through a planned zoning district process allowing for consideration of surrounding uses and infrastructure needs.

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

Finding: **The proposed zoning is not needed in that there are other properties within this general area that are already zoned or identified by the Future Land Use map to be developed with office uses.**

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

Finding: **The proposed zoning would increase traffic danger in this area. The current condition of Zion Road is not desirable. Sight distance, a poorly configured access drive and the narrow width of Zion Road in this area all affect this site. Any increase in traffic would be detrimental without improvements to the street.**

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

Finding: **The proposed zoning will not alter population density unless a conditional use is requested in the future for multi-family dwellings in the R-O district. This would require Planning Commission approval and staff review.**

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**

Response to Adequacy of Public Facilities for Rezoning Proposals
(Engineering Review)

The Planning Commission bylaws identify five findings that the Planning Commission must make in order to determine the appropriateness of proposed zoning. Two of those findings pertain to other departments. The Fayetteville Planning Division is requesting your assistance in making those findings.

We have received an application for the following rezoning request(s). We ask that you make findings on these proposals with regard to the services you provide. Please address the findings provided in italics.

1. **RZN 03-22.00: Rezoning (Pope, pp 136)** was submitted by Ronny and Karen Pope for property located at 1750 E Zion Road. The property is zoned R-A, Residential Agricultural and contains approximately 2.0 acres. The request is to rezone the property R-O (Residential Office).

    a. *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.*(Public Works Director, Fire, Police)

The property currently has access to a 12" water line along Zion Road. This line should be sufficient to provide water service to the existing facility as well as redevelopment of the site.

Sewer service is located directly across Zion Road from this site. The 8" main should be sufficient to provide sewer service to the existing facility as well as redevelopment of the site.

If development occurs on this site, Zion Rd. would need to be improved to a minimum of 14' from centerline including pavement, curb and gutter, storm drains and sidewalk.

Sight distance on Zion Rd. appears to be a problem for the current location of the driveway and the dense growth along Zion Road.

The property currently has access to a 12" water line along Zion Road. This line should be sufficient to provide water service to the existing facility as well as redevelopment of the site.

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If development occurs on this site, Zion Rd. would need to be improved to a minimum of 14' from centerline including pavement, curb and gutter, storm drains and sidewalk.

Sight distance on Zion Rd. appears to be a problem for the current location of the driveway and the dense growth along Zion Road.

161.03 District R-A, Residential-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; provide opportunity for affordable housing, 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 dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half

(D) Bulk and area regulations.

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *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 setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.15 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) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 11	Manufactured home park
Unit 12	Offices, studios and related services
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 13	Eating places
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Bulk and area regulations.*

(Per dwelling unit for residential structures)

(1) Lot width minimum.

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

(2) Lot area minimum.

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses: Development Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Townhouses & apartments: No bedroom One bedroom Two or more bedrooms	 1,000 sq. ft. 1,000 sq. ft. 1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(D) *Density.*

Units per acre	4 to 24

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.

(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 with any boundary line of any RSF or RMF District an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS POLICE DEPARTMENT

July 7, 2003

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed zoning **RZN 03-22.00: Rezoning (Pope, pp 136)** submitted by Ronny and Karen Pope for property located at 1750 E Zion Road would substantially alter the population density and thereby undesirably increase the load on public services or create and appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially increase traffic congestion in the area.

The driveway to this location, however, is in a very dangerous location. The vegetation on both sides of this driveway obscures visibility in both directions for drivers on Zion Road as well as drivers exiting the driveway. With the curve immediately to the west and the hillcrest to the east, drivers on Zion Road will have very little reaction time when a vehicle pulls out from this property. I would recommend the Zion Road right-of-way be cleared of all vegetation to eliminate this hazard.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

Jul 02 03 01:42p Danny Farrar (501) 444-34

FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 7-1-03

REZONING ✓ ANNEXATION ______

REZONING # 03-22.00 OWNER Pope
ANNEXATON# ______ OWNER ______
LOCATION OF
PROPERTY 2107 Rd - Across From Park Apts.

NEAREST FIRE STATION AND
LOCATION Fire Station 4 - Plainview St.

RESPONSE TIME FROM FIRE STATION # 4 TO
LOCATION OF
PROPERTY 3 MINUTES 25 SECONDS.
TRAVEL MILES FROM FIRE STATION # 4 TO LOCATION OF
PROPERTY 1.9 miles.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS recommend access (driveway) have solid driving surface 20' min width.
Turn In needs to be wider
EXISTING FIRE HYDRANTS? IF SO
LOCATION yes, across street

WATER SUPPLY WITH HYDRANTS
NEEDED? no

ADDITIONAL
COMMENTS ______

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272

RONNY & KAREN POPE

5a. Owned by Mary K Savin Revocable Trust listed by The Property Store, we have a written offer on this property contingent on favorable rezoning.

5b. Currently zoned A-1 & we would like to move a CPA practice in the house. We are a 3 person office (owner, staff accountant and secretary). We currently rent & see this time as opportune to own an office. We live in this area of town & on this side of 71 and would like to stay in this area.

5c. The surrounding properties are as follows:
North: field is open (estate of John & Helen Tyson)
South: Lake Park apartment complex
East: dirt and gravel mine, topsoil storage
West: home with contract pending

The lot currently has a 3 bedroom home on it & this would not change. The house would be used as a professional office. The use would be during the day and not at night or weekends. The land use would remain as is. The traffic that would be generated by this office would be nominal as we are a small accounting firm not looking to expand. Our traffic flow is 1 client at a time as only the owner has contact with the clients. We have on the average less than 3 daily visits by clients. This of course, is skewed as our heavy time would be tax season (mid-Feb to mid-Apr). During the off season, there are days when nobody shows up. 40% of time is spent out of our office working at the clients' office. The appearance of the property would not change. For better observation when leaving the property, we intend to clean up the high grass, weeds and bushes and prune limbs. We are thinking the drive needs to be widened at the entrance also. There will be no sign at street side. There might be a plaque on the door and maybe a small plaque at street side with the house numbers.

5d. According to Jeff Staggs, there is both city water and sewer available with the water line being 12" and sewer lines being 8".

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RONNY & KAREN POPE

6a. The land is currently zoned A-1, but nobody appears to be farming this area. The intent on the Land Use Map is for this area to be residential, so a small professional office would not be out of line. This is already true to some extent since the area around the land has a vet office, 2 medical clinics and a cpa/lawyer office already established. Also, previous property owners (Heckathorn) on the west side owned & operated a construction company out of the home in the past. Our understanding is that this was a conditional use.

6b. We think a rezoning is needed since there are no single office buildings for sale in this area of town we want to be in. By observation, we think this street is lending itself more to a professional office type situation and less to home dwellings. We really are not interested in the office condo type buildings on Joyce & can't meet the price they want. This 2 acres has a bonus of having a wooded appearance with trees on the lot which we like. It is nothing like looking at concrete and a parking lot.

6c. There will be a minimal if any impact on the traffic situation. Since this home is a 3 bedroom home and we are a 3 person office, we don't feel like we would generate much more traffic than a husband, wife, 2 children and their friends would create. We have estimated an average of less than 3 walk in clients a day as referenced in 5c.

6d. We feel we would actually have less impact on city services than a residence, since there are no kids being sent to area schools. Also, we would use less water and sewer as there would be no showers or laundry done in this house.

6e. It would not be economically feasible to farm a 2 acre lot here (or anywhere) and we don't feel it would be desirable to use this as a residence next to the gravel pit and across from the apartment complex. Also, there is already a lot of traffic on the street which detracts from home use.

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CALL LOG

6-13 Jerry Sweetser 443-4601
no objection to RO-written letter in favor
believes Barbara Tyson is in Florida

6-17 Billie Carnes 267-1224
no objection to RO

6-17 Leonard Ostendorf 443-5749
no objection to RO

6-17 Jaimie Jones 442-6239
out of state this week

6-18 Deal-vacant house to west of property
telephone disconnected, moved to OK, property to close 6-28
Patsy Chance 466-6064 buyer agent, doesn't think her buyer
will object but won't give me name of buyer

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Sweetser PROPERTIES
730 N. Leverett • Fayetteville, AR 72701
(479) 443-4601 • FAX (479) 443-2044
Website: www.sweetserproperties.com
E-mail: sweetser@sweetserproperties.com

June 17, 2003

To whom it may concern;

Re: Rezoning request

Ronnie and Karen Pope has offered to purchase property on Zion Road contingent upon rezoning approval. They are requesting this property be rezoned from A-1 to R-O. It is our understanding this property would be used for a Certified Public Accounting business office for three Certified Public Accountants.

Sweetser Properties owns adjoining property directly to the east of the property requesting the rezoning. We feel the proposed use would not create any adverse effect in the traffic flow on this road and we feel that the proposed use would be very compatible for this area.

We respectfully request that you approve the proposed rezoning request.

Sincerely,

Jerry D. Sweetser
Sweetser Properties

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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Planning Commission
FROM:	Dawn T. Warrick, AICP, Zoning & Development Administrator
DATE:	July 24, 2003
SUBJECT:	Additional information – RZN 03-22 (Pope)

The following supplemental information has been compiled for the above mentioned rezoning request. This item was tabled by the Planning Commission at the July 14, 2003 meeting at the request of a representative of the seller (current property owner).

The following materials are included:

1. Response from James McCord, Attorney representing the applicant. This statement includes a proposal for a bill of assurance to limit the use of the subject property under an R-O designation to a professional office with no additional building to be constructed and removal of vegetation at the entrance to the site to increase sight distance.

2. Trip generation calculations for 2 acres of office development, a single tenant office with 3 employees and one single family dwelling.

3. Planning Commission minutes from July 14, 1986 regarding a request for rezoning the subject property from Agricultural to R-O. Planning Commission, in agreement with the staff recommendation for denial, voted 8-0-0 to deny the rezoning request.

4. Planning Commission minutes and staff report from May 12, 2003 regarding a request for property located at Zion Rd. and Vantage Drive (SW corner) to be rezoned from R-2 (RMF-24) to R-O. Planning Commission failed to make a motion on this request for which staff recommended denial. The action was denied due to lack of action.

JAMES N. McCORD
Attorney at Law
11 N. WEST AVE.
SUITE #202
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMLE (479) 695-1135
jimmccordlaw@alltel.net

To: Fayetteville Planning Commission
From: James N. McCord JNM
Attorney for Ronny and Karen Pope
Date: July 18, 2003
Re: RZN 83-22.00 for property at 1750 E. Zion Road (2.0 acres)
To rezone from R-A, Residential Agricultural, to R-O, Residential Office

I represent Ronny and Karen Pope ("Applicant") in connection with the above referenced rezoning application. In support of the application, Applicant hereby agrees to execute a Bill of Assurance with covenants providing:

(1) Use of the property shall be restricted to a professional office or a single family dwelling;

(2) No additional building shall be constructed or placed on the property;

(3) Ground vegetation in the yard on the property along both sides of the driveway and along Zion Road shall be cleared, or trimmed and maintained, so as not to obscure traffic visibility from Zion Road or the driveway;

(4) The covenants shall run with the land and shall be binding on all future owners of the property. The City of Fayetteville shall have the right to enforce the covenants.

Because the subject property is adjoins a topsoil excavation operation and is directly across Zion Road from multi-family dwellings, it would be unreasonable to restrict future use of the property to a single family dwelling. R-O rezoning is justified.

Applicants respectfully disagree with the City staff recommendation for the following reasons and those stated above.

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STAFF FINDING 1: R-0 zoning is not consistent with the City's General Plan. The area is designated Residential on the Future Land Use Map. The property is not located in a transitional area between single-family residential and higher density. R-O zoning would present "spot zoning" without allowing for consideration of surrounding uses and infrastructure needs.

RESPONSE: The General Plan and Future Land Use Map are not controlling; they are planning guides. Consideration must be given the use of adjoining properties (a topsoil excavation operation to the east and apartments to the south). Residential use of the property is not reasonable considering its location. R-O zoning with the Bill of Assurance offered by Applicants would present a reasonable us of the property, would not increase infrastructure needs and would not change the character of the neighborhood which is mixed use.

The property is located between properties with different densities. The property to the north is undeveloped and recommended for residential use, and property to the south is higher density (multi-family dwellings). R-O zoning would present a "buffer", rather than unreasonable "spot zoning".

STAFF FINDING 2: R-O zoning is not justified and/or needed at the time in that there are other properties within this general area zoned or identified by the Future Land Use Map to be developed with office uses.

RESPONSE: The "general area" referred to is quite large and the "other properties" referred to are not near the subject property. R-O zoning with the Bill of Assurance offered by Applicants is requested to provide a reasonable use of the property – not to provide the most profitable use. To deny a property owner any reasonable use of his property is arbitrary and capricious as a matter of law.

STAFF FINDING 3: The proposed zoning would increase traffic danger in this area.

RESPONSE: The Fayetteville Police Department found that R-O zoning "will not substantially increase traffic congestion in this area. "Applicant estimates that the traffic flow at Applicant's CPA office would average less than 3 clients per day. If the 3-bedroom house on the property were occupied by a family with teenage children, a much higher traffic count would be likely.

The Police Department noted that vegetation on both sides of the driveway obscures visibility, and the Department recommends that the Zion Road right-of-way be cleared of all vegetation to eliminate this hazard. The Bill of Assurance offered by Applicant covenants that "Ground vegetation in the yard on the property along both sides of the driveway and along Zion Road shall be cleared, or trimmed and maintained, so as not to obscure traffic visibility from Zion Road or the driveway."

CONCLUSION

The property should be rezoned to R-O for the reasons stated above and in the rezoning application.

RECEIVED
JUL 1 8 2003
PLANNING DIV.

Pope Rezoning
Summary of Average Vehicle Trip Generation
For 2 Acres of Office Park
July 14, 2003

	24 Hour Two-Way Volume	7-9 AM Pk Hour		4-6 PM Pk Hour	
		Enter	Exit	Enter	Exit
Average Weekday	390	47	4	8	48

	24 hour Two-Way Volume	Peak Hour	
		Enter	Exit
Saturday	59	4	1
Sunday	27	2	3

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

TRIP GENERATION BY MICROTRANS

Pope Rezoning
Summary of Average Vehicle Trip Generation
For 3 Employees of Single Tenant Office Building
July 14, 2003

	24 Hour Two-Way Volume	7-9 AM Pk Hour Enter	7-9 AM Pk Hour Exit	4-6 PM Pk Hour Enter	4-6 PM Pk Hour Exit
Average Weekday	11	1	0	0	1

	24 hour Two-Way Volume	Peak Hour Enter	Peak Hour Exit
Saturday	0	0	0
Sunday	0	0	0

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

TRIP GENERATION BY MICROTRANS

Pope Rezoning
Summary of Average Vehicle Trip Generation
For 1 Dwelling Units of Single Family Detached Housing
July 14, 2003

	24 Hour Two-Way Volume	7-9 AM Pk Hour		4-6 PM Pk Hour	
		Enter	Exit	Enter	Exit
Average Weekday	10	0	1	1	0

	24 hour Two-Way Volume	Peak Hour	
		Enter	Exit
Saturday	10	1	0
Sunday	9	0	0

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

TRIP GENERATION BY MICROTRANS

Sandra Carlisle stated they are requesting a waiver on the fencing and screening requirement which will allow Sequoyah United Methodist Church to plant vegetation 18" high to a coverage of 10%. This request is for a portion of the South boundary line which is adjacent to the proposed new construction.

MOTION

Nash moved approval of this LDS as per the Subdivision Committee report, seconded by Dow. **The motion to approve passed 8-0-0.**

PUBLIC HEARING - REZONING R86-9
LEO AND CARMA HECKATHORN - NORTH SIDE OF ZION RD.
ACROSS FROM PARK LAKE APARTMENTS

The fourth item on the agenda was consideration of rezoning petition R86-9 submitted by Leo and Carma Heckathorn for 2.0 acres located on the North side of Zion Road across from Park Lake Apartments. Request is to rezone from A-1, Agricultural to R-O, Residential Office.

Wood recommended not re-zoning to R-O for the following reasons.

1. R-O District is contrary to the recommendation of the General Plan;
2. R-O District at the location requested would be an intrusion into a developing residential area; and
3. R-O District at that location would tend to commit the interior of a residential area to other than residential uses.

Jacks asked if anyone would like to speak in favor of this rezoning.

Carma Heckathorn Rt.2 Box 157, Springdale, stated they had made an offer to purchase a 5.25 acre tract of land, with an existing house. The attraction to this particular piece of property was the central location and the possibility of having enough additional land on which to build a small office on the back side. Mrs. Heckathorn stated they had checked the zoning for this area and found on the South side of Zion there is R-O zoning and on the North side of Zion there is R-O zoning. She felt that the rezoning would not endanger the value of the property in and around this area.

Jacks asked Mrs. Heckathorn how many employees they would have and she stated three including one family member.

Jacks asked if anyone would like to speak in opposition of this rezoning.

Jamie Jones, 1654 E. Zion Road, stated he adjoins this property on the West and said Mrs. Heckathorn had visited with them about the rezoning petition. Jones stated to Mrs. Heckathorn they would be opposed to rezoning the North side of Zion Road for several reasons; primarily the rezoning would be for the convenience of the Heckathorns and also for the three reasons Mr. Wood gave. Jones then stated these were very strong reasons to deny the rezoning petition and he also stated they had been given assurances in the past that unless there is a real need to change the General Plan that Commercial and R-O Districts would not be extended East of the Dr. Offices on Zion Road. Jones stated there are no offices to the best of his knowledge on the North side of Zion Road between U.S. 71 and HWY 265.

Leonard Ostendorf stated he lives two houses East of the property in question and Jones was a little bit off on there not being any R-O zoning on the North side of Zion Road. Morris Henry rezoned a piece of property on the East end, away from the central part of Zion Road where the residential area is. Ostendorf stated it was wrong for one family to move into the neighborhood and dictate to the people who have been living there for many years.

Allen Robbins stated he lives on the South side of the property in question and would like to voice his opposition to this rezoning petition.

Billy Carnes stated they own the property Northeast of the Heckathorns and are opposed to the rezoning petition.

Les Childers stated they adjoin the Heckathorns on the West and they are opposed to any further zoning changes.

Madison asked George Faucette if there is currently any R-O property on the market and Faucette stated without any specifics he felt there is some R-O available.

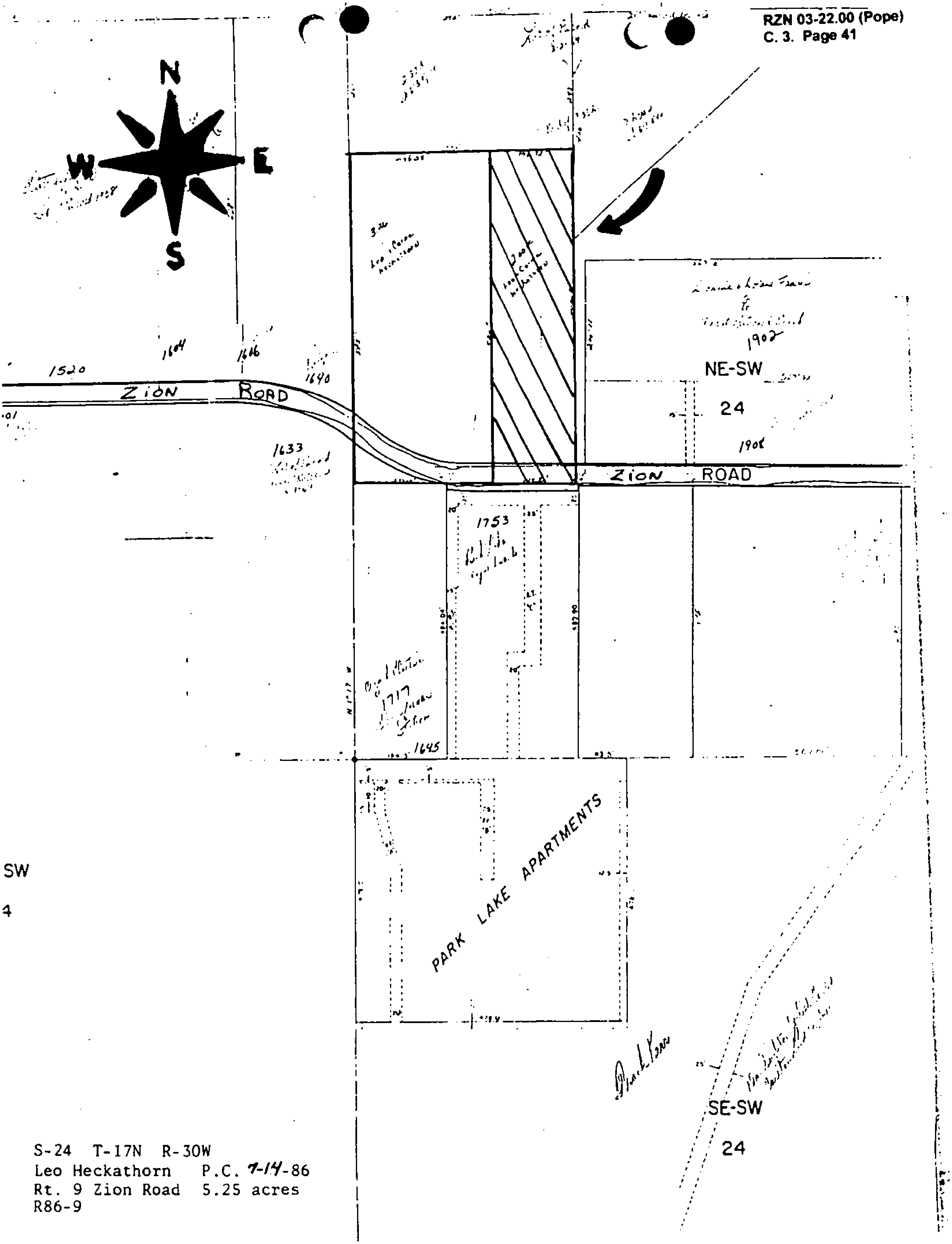
Nash asked if this use could not be accomplished under a Conditional Use Permit and Carlisle stated there are no Conditional Uses available for an office in A-1 District and for a Home Occupation they could not hire anyone outside the family.

MOTION

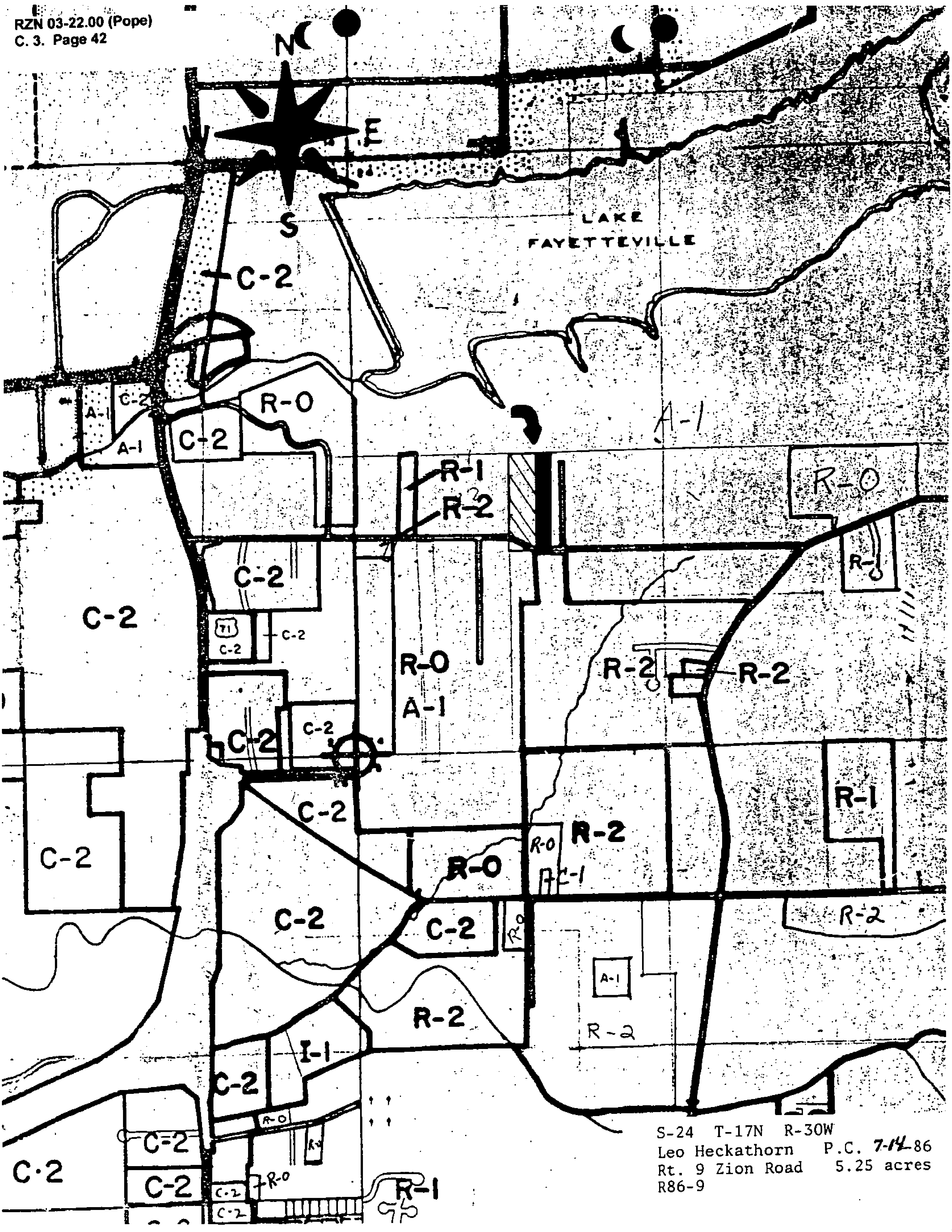
Madison moved to deny the request for rezoning from A-1, to R-O, seconded by Dow. **The motion to deny passed 8-0-0.**

CONSIDERATION OF A PROPOSED AMENDMENT TO THE ZONING ORDINANCE SUBMITTED BY DEWITT SMITH

The fifth item on the agenda was a request to consider a proposed amendment to the Zoning Ordinance submitted by Dewitt Smith to allow



S-24 T-17N R-30W
Leo Heckathorn P.C. 7-14-86
Rt. 9 Zion Road 5.25 acres
R86-9



S-24 T-17N R-30W
Leo Heckathorn P.C. 7-14-86
Rt. 9 Zion Road 5.25 acres
R86-9

RZN 03-16.00: Rezoning (Lindsey, pp 136) was submitted by Jerry Kelso, P.E. of Crafton, Tull & Associates, Inc. on behalf of Lindsey Management for property located at SW corner of Zion Road and Vantage Drive. The property is zoned R-2, Medium Density Residential and contains approximately 3.0 acres. The request is to rezone to R-0, Residential Office.

Hoover: Moving on to item number two, RZN 03-16.00 for the property at the southwest corner of Zion Road and Vantage Drive. Dawn?

Warrick: The subject property is located at the southwest corner of Vantage Drive and Zion Road and contains approximately three acres. There are currently three single-family homes located on this property. It is divided into three lots. Currently each tract contains five acres and the southern portion of the property, the southern 12 acres of the site is proposed to be adjusted onto property which is further south and is proposed to become part of the future multi-family residential development. The current request is for rezoning the property. There are no development proposals for this project right now. As I said, the request is to rezone the tract from R-2, Medium Density Residential to R-O, Residential Office. With regard to findings of fact that are required on a rezoning, the future land use plan, the General Plan 2020 designates this area as residential. Therefore, the rezoning request to Residential Office is not specifically consistent with that plan. We have seen properties in the past that have made similar requests to have a Residential Office designation in an area that is classified on the future land use plan as residential. I feel that those types of requests have been in different circumstances at areas that are more visible to thoroughfares or at intersections or nodes of higher traveled streets. This particular property is planked by residential as well as agricultural properties. Staff is not in favor of this rezoning request.

Hoover: Thank you Dawn. Would the applicant come forward?

Kelso: Good evening, I am Jerry Kelso with Crafton, Tull & Associates. I am representing the owners out there. This property is directly off of Zion Road and directly to the west of this property is R-O so we do feel like it is consistent with existing land uses out there because there is a lot of Residential Office and Commercial on through there. If you recall, a couple of Planning Commission meetings ago we got a Conditional Use on about ten acres that is directly southwest of this piece of property. With that of course we were limited to 18 units per acre on that, R-2 is 24 units per acre. With rezoning that we feel like we have decreased the traffic quite a bit and helped that situation there as far as that. By doing that, we are thinking that this may be kind of a tradeoff or flip flop because this is just three acres we are talking about going from R-2 to R-

O. With that, we respectfully ask you to consider rezoning this from R-2 to R-O. Thank you.

Hoover: Thank you Jerry. Is there any member of the audience that would like to address this RZN 03-16.00, Zion Road and Vantage Drive?

Jones: My name is Jamie Jones. I live on the north side of Zion Road just to the east of this tract of land. My main concern about this request is I don't want to see anything that will open up the possibility for there to be more commercial activity along Zion Road. I have been living where I live now since 1966 and my neighbor to the west has been living there longer than I have. I am just afraid that if we have a request like this granted that it would just open the door to more commercial types of enterprises. Thank you.

Hoover: Thank you Mr. Jones. Is there any other member of the audience that would like to address this rezoning? Seeing none, I will bring it back to the Planning Commission for comments or discussion.

Estes: I guess I would like to have a dialogue with staff. I am a little confused. Vantage Road on the east is proposed to connect with Zion and then to the west of Zion we have commercial but yet staff's findings are that the proposed zoning is not specifically consistent with land use planning objectives and I see the word specifically which causes me to stop and think about that. The second finding is that the proposed rezoning is not justified or needed. The third finding is development of this property with office uses would create an increase in traffic activity and then the police finding is that it is the opinion of the Fayetteville Police Department that we must determine a determination affirming this proposal would increase an appreciable increase in traffic danger and traffic congestion. What is going to happen when Vantage Road is completed and connects with Zion? We are only going to have three north/south connectors, 71, Vantage, well I guess we are going to have four, Mission, Old Wire, and then 265. Can you speak to any of that?

Warrick: Sure. With regard to the comment about development of the property for office uses, that was based on the applicant's written description of the request. Basically speculating that an office development on the site would be the future development potential with the rezoning. The current zoning of the property under the R-2 designation allows the applicant to come to the Planning Commission with a request for a Conditional Use for a residential or professional type office. Under Use Unit 25 that is a Conditional Use allowance in the R-2 zoning district. Another option for this three acres at the time of development would be to process a Planned Zoning District. Both of those two options would allow the Planning

Commission, and in the case of the Planned Zoning District, the City Council some understanding and ability to control the type of development that is proposed for the site. A straight rezoning to the R-O designation would not. That would be a use by right and it would come before you only as a Large Scale Development if it was not broken out into smaller lots. There is some flexibility with regard to the Planning Commission's authority with the zoning being retained in the R-2 designation. You mentioned the comments from the Police Department, there is concern with regard to increased traffic and development potential of the site with the current conditions on Zion Road. Those concerns were voiced by the Police Department and I believe I attached that letter with your packet of information on page 2.7. Obviously, when, and if, the development proposal came forward we would be looking at improvements and access issues so some of that would be able to be addressed at that point in time. Without understanding more about what the project would entail that is purely speculative. Those types of things were considerations when staff formulated this recommendation. Also, just with regard to the comment earlier, a portion of the property south of this was designated Residential Office and did come before you recently for a Conditional Use approval for multi-family. This is the exact opposite type request but it does demonstrate that there are existing vacant Residential Office developments that are being proposed to be developed under multi-family type densities. This is a site that could, by right, right now be developed with multi-family densities.

Estes: If I hear what you are saying staff's real issue is that you would like to see this as a PZD instead of a straight rezoning, is that right?

Warrick: I think that would be appropriate, yes.

Estes: Let me ask this. When Vantage Road is completed and connects Joyce with Zion are there any plans to improve Zion? Zion just cannot handle the traffic. You are going to have a traffic flow from Joyce to Vantage to Zion, from Zion back to College. Where are we on improvements to Zion?

Warrick: I don't believe that is designated as a CIP project right now. It would be dependent upon a development proposal and what kind of impact that particular development would have with regard to traffic generation on those streets that would be impacted. I believe that that is something significant that we will have to address.

Estes: In conclusion, staff would like to see a PZD instead of a RZN, is that fair?

Warrick: Yes, that is fair.

Estes: Thank you.

Hoover: Thank you Commissioner Estes. Are there any other discussion items?

Ostner: Historically, not just historically but as a tool of zoning, R-O has been a good buffer between straight commercial and residential. It is commercial but it is a lower impact. This seems to me to be growing the buffer. I don't think I am in favor of this rezoning. Especially since, as Dawn clarifies, there are other avenues to go about another development.

Hoover: Thank you Commissioner Ostner. Are there any other comments? Are there any motions? There must be more discussion then. I will call three times for a motion. I will call for a motion. I am calling for a motion the second time. Seeing none, I will call for a motion the third time. Seeing none, the rezoning fails because there is no motion.

Whitaker: There is no motion. The agenda item is just dead for want of a motion.

Shackelford: As somebody that is nowhere near an expert at parliamentary procedure, what does this do in regards to a right to appeal or a right to rehear when something dies for lack of a motion, can I get some clarification on that please?

Whitaker: Normally it falls under, it gets rather speculative, but it falls under much the same category as what we refer to as tabling something to death. Basically when a body refuses to hear an item or refuses to give someone a person. That could be an argument to take to the next level as an appeal to say there is no point in me getting on this agenda, these folks won't do it. I think obviously beyond the purely legal answer there is certainly a right to ask this body for a rehearing certainly you can submit a changed item or submit an item that is materially different, which is the phrase we use for when we have rejection. At this point I think it is treated as if it was a denial. I think the strong argument is to either resubmit and request a rehearing or ask for an appeal.

Hoover: Thank you for the clarification. Did you understand that Jerry?

Kelso: I think so. That is why I came up here so I could understand it. Thank you.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of May 12, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Dawn Warrick, AICP, Zoning & Development Administrator,
THRU:	Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE:	May 12, 2003

Project: RZN 03-16.00: Rezoning (Lindsey, pp136) was submitted by Jerry Kelso, P.E. of Crafton, Tull & Associates, Inc. on behalf of Lindsey Management for property located at SW corner of Zion Road and Vantage Drive. The property is zoned R-2, Medium Density Residential and contains approximately 3.00 acres. The request is to rezone to R-0, Residential Office.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	**Required**	**YES**	
	○ Approved		**○ Denied**
Date: May 12, 2003			
CITY COUNCIL ACTION:	**Required**	**YES**	
	○ Approved		**○ Denied**
Date: June 3, 2003 (1st reading if recommended)			

Comments: ______________________________

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BACKGROUND:

Property description: The subject property is located at the southwest corner of Vantage Drive and Zion Road. There are currently three single family homes located on this property which is divided into three lots. The property is currently part of three five acre tracts. The southern portion of the subject property (12 acres) is being adjusted onto the property to the south and is proposed to become a part of a future multi-family development.

Proposal: There are no proposals for development of the subject property at this time.

Request: The request is to rezone the 3 acre tract from R-2, Medium Density Residential to R-O, Residential Office.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family homes (large lots)	R-1, Low Density Residential / A-1, Agricultural
South	Vacant	R-2, Medium Density Residential
East	Zion Valley PUD / Multi-family residential	R-2, Medium Density Residential
West	Professional offices	R-O, Residential Office

INFRASTRUCTURE:
The proposed rezoning is located at the southwest corner of Zion Road and Vantage Drive. Zion Road and Vantage Drive are classified as Collector Streets. Only the eastern half of Vantage Drive is constructed at this time. Zion Road is not currently improved to meet the City standard for a collector street.

The site has access to existing 6" and 12" water mains along Zion Road. Sewer is not available at these lots. A public main will need to be extended in order to serve this site.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-O, Residential Office is not specifically consistent with the land use plan. This zoning designation will permit residential uses, however, most properties in the R-O zoning district will develop with professional office uses. Professional office and residential uses could both be considered compatible with surrounding land uses in the area depending upon the development plan.

FINDINGS OF THE STAFF

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

Finding: **The proposed zoning is not specifically consistent with land use planning objectives, principles, and policies which have identified this area as Residential. The current use of the property and the current zoning designation applied to the property are consistent with adopted City policy.**

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

Finding: **The proposed rezoning is not justified or needed at this time. No development proposals are eminent. There are processes available to the**

property owner to request approval of a development for professional office uses (conditional use permit, planned zoning district) which do not require a rezoning action. Either of these processes would allow the City to look more closely at a development for the purpose of compatibility with surrounding land uses and existing infrastructure. This is a transition area between commercial and residential uses which needs to be carefully considered when redevelopment is proposed.

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

Finding: **Development of this property with office uses would create an increase in traffic activity according to ITE Trip Generation software. The existing development on the property (3 single family homes) generates a very small amount of traffic. The maximum density under current zoning would provide an estimated 477 vehicle trips per day and an office development on the subject property is expected to generate approximately 585 vehicle trips per day.**

Traffic Generation

Use	*Variable*	*Average Trips / Weekday Volume*
Existing Condition	3 SFR	29
Max. Density (R-2)	72 Units / Apts.	477
Office Dev. (R-O)	3 Acres	585

Engineering - The proposed rezoning to R-O may or may not result in additional traffic danger and congestion for this area. 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.

Police - It is the opinion of the Fayetteville Police Department that we must return a determination affirming this rezoning proposal would create an appreciable increase in traffic danger and traffic congestion. The traffic way on Zion Road is very narrow and does not allow much room on the shoulder. In addition to the narrowness of this road, there is a blind curve to the east of Vantage Drive and a small hill to the west. The hill and the curve present a problem for motorists that may need to enter Zion Road from Vantage Drive. There is very little response time to react if a vehicle is approaching from either direction. There are several tree and shrubs very close to the roadway reducing visibility even further. The speed limit is set at 25 mile per hour in this area. This is a similar speed for a school zone. This speed limit reflects

the traffic dangers in this area without the increased traffic flow created by this rezoning request. ***(see attached written statement)***

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

Finding: **The proposed zoning would not increase the population density above that which could be developed on the subject property under the current R-2 designation.**

Engineering – The site has access to existing 6" and 12" water mains along Zion Road. Sewer is not available at these lots. A public main will need to be extended in order to serve this site.

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.

Fire - **Mileage from fire station #4 on Plainview Street to the subject property is 2 miles, travel time (normal driving time including traffic stops) is 3 minutes 54 seconds.**

Police - **There is a definite likelihood that increased traffic flow and traffic congestion in this area could increase traffic danger and could affect response times for emergency vehicles.** ***(see attached written statement)***

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**

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of July 14, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Dawn Warrick, AICP, Zoning & Development Administrator
THRU:	Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE:	July 8, 2003

RZN 03-22.00: Rezoning (Pope, pp 136) was submitted by Ronny and Karen Pope for property located at 1750 E Zion Road. The property is zoned R-A, Residential Agricultural and contains approximately 2.0 acres. The request is to rezone the property R-O (Residential Office).

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	**Required YES**		
	○ Approved	**○ Denied**	TABLED
Date: July 14, 2003			
CITY COUNCIL ACTION:	**Required YES**		
	○ Approved	**○ Denied**	
Date: August 2003 (1st reading if recommended)			

BACKGROUND:

Property description: The subject property is located at 1750 E. Zion Road. There is a three bedroom single family home on the 2 acre tract currently. Surrounding property includes undeveloped property to the north, a topsoil excavation operation to the east, single family home to the west and south, across Zion Road are multi-family dwellings. While there is a mixture of land uses located on the south side of Zion Road, the north side has remained primarily residential as it is proposed to be according to Fayetteville's Future Land Use Map.

Proposal: The applicant proposes to use the existing structure on this property and to convert it to an accountant's office. The outward appearance of the structure would remain the same with some possible improvements to the driveway and access point onto Zion Road.

Request: The request is to rezone the subject property from R-A, Residential Agricultural to R-O, Residential Office.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant	R-A, Residential Agricultural
South	Multi-family residential	RMF-24
East	Excavation / Top soil operation	R-A, Residential Agricultural
West	Single family residential	R-A, Residential Agricultural

INFRASTRUCTURE:

Streets: Access to the subject property is from Zion Road along the south property line. Zion Road is designated a collector on the Master Street Plan. The street in this location is not constructed to City standards for a collector street. There is no curb, gutter or storm drain. The ditches on either side of the street are fairly steep and the north side of the street is overgrown with vegetation.

Water: Water is currently available to the site and connected for the existing structure. A 12" water line is located on the south side of Zion Road.

Sewer: Sewer is available and connected for the existing structure. An 8" sewer line runs along Zion Road.

LAND USE PLAN: General Plan 2020 designates this site **Residential**. Rezoning this property to R-O, Residential Office, is not consistent with the land use plan and is not compatible with surrounding land uses in the area.

ZONING REVIEW TEAM

Comments from the members of the Zoning Review Team toured this site on Tuesday, July 1, 2003. Access and traffic concerns were voiced by all. The nature of a change of use in this location as relates to the surrounding properties and the city's adopted Future Land Use map was also discussed. Comments from team members are attached to this staff report. These comments were a basis for the required analysis and recommendation for this rezoning request.

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 requested zoning is not consistent with the adopted General Plan. This area is designated Residential on the Future Land Use map which guides decisions regarding changes in land use and zoning. The R-O district has been used as a transition in areas called out to be Residential, however the**

subject property is not located in a transitional area between single family residential and higher density or commercial areas. A change in the zoning designation of the subject property to a district other than single family residential (which would reflect the current land use) would present a spot zoning unless it was a larger development proposal that could be reviewed through a planned zoning district process allowing for consideration of surrounding uses and infrastructure needs.

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

Finding: **The proposed zoning is not needed in that there are other properties within this general area that are already zoned or identified by the Future Land Use map to be developed with office uses.**

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

Finding: **The proposed zoning would increase traffic danger in this area. The current condition of Zion Road is not desirable. Sight distance, a poorly configured access drive and the narrow width of Zion Road in this area all affect this site. Any increase in traffic would be detrimental without improvements to the street.**

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

Finding: **The proposed zoning will not alter population density unless a conditional use is requested in the future for multi-family dwellings in the R-O district. This would require Planning Commission approval and staff review.**

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**

Response to Adequacy of Public Facilities for Rezoning Proposals
(Engineering Review)

The Planning Commission bylaws identify five findings that the Planning Commission must make in order to determine the appropriateness of proposed zoning. Two of those findings pertain to other departments. The Fayetteville Planning Division is requesting your assistance in making those findings.

We have received an application for the following rezoning request(s). We ask that you make findings on these proposals with regard to the services you provide. Please address the findings provided in italics.

1. **RZN 03-22.00: Rezoning (Pope, pp 136)** was submitted by Ronny and Karen Pope for property located at 1750 E Zion Road. The property is zoned R-A, Residential Agricultural and contains approximately 2.0 acres. The request is to rezone the property R-O (Residential Office).

    a. *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.*(Public Works Director, Fire, Police)

The property currently has access to a 12" water line along Zion Road. This line should be sufficient to provide water service to the existing facility as well as redevelopment of the site.

Sewer service is located directly across Zion Road from this site. The 8" main should be sufficient to provide sewer service to the existing facility as well as redevelopment of the site.

If development occurs on this site, Zion Rd. would need to be improved to a minimum of 14' from centerline including pavement, curb and gutter, storm drains and sidewalk.

Sight distance on Zion Rd. appears to be a problem for the current location of the driveway and the dense growth along Zion Road.

The property currently has access to a 12" water line along Zion Road. This line should be sufficient to provide water service to the existing facility as well as redevelopment of the site.

Sewer service is located directly across Zion Road from this site. The 8" main should be sufficient to provide sewer service to the existing facility as well as redevelopment of the site.

If development occurs on this site, Zion Rd. would need to be improved to a minimum of 14' from centerline including pavement, curb and gutter, storm drains and sidewalk.

Sight distance on Zion Rd. appears to be a problem for the current location of the driveway and the dense growth along Zion Road.

FAX NO. :479-750-4244 Jun. 05 2003 04:05PM P2
2:44 MAIL ...ES ETC. → 14797504244

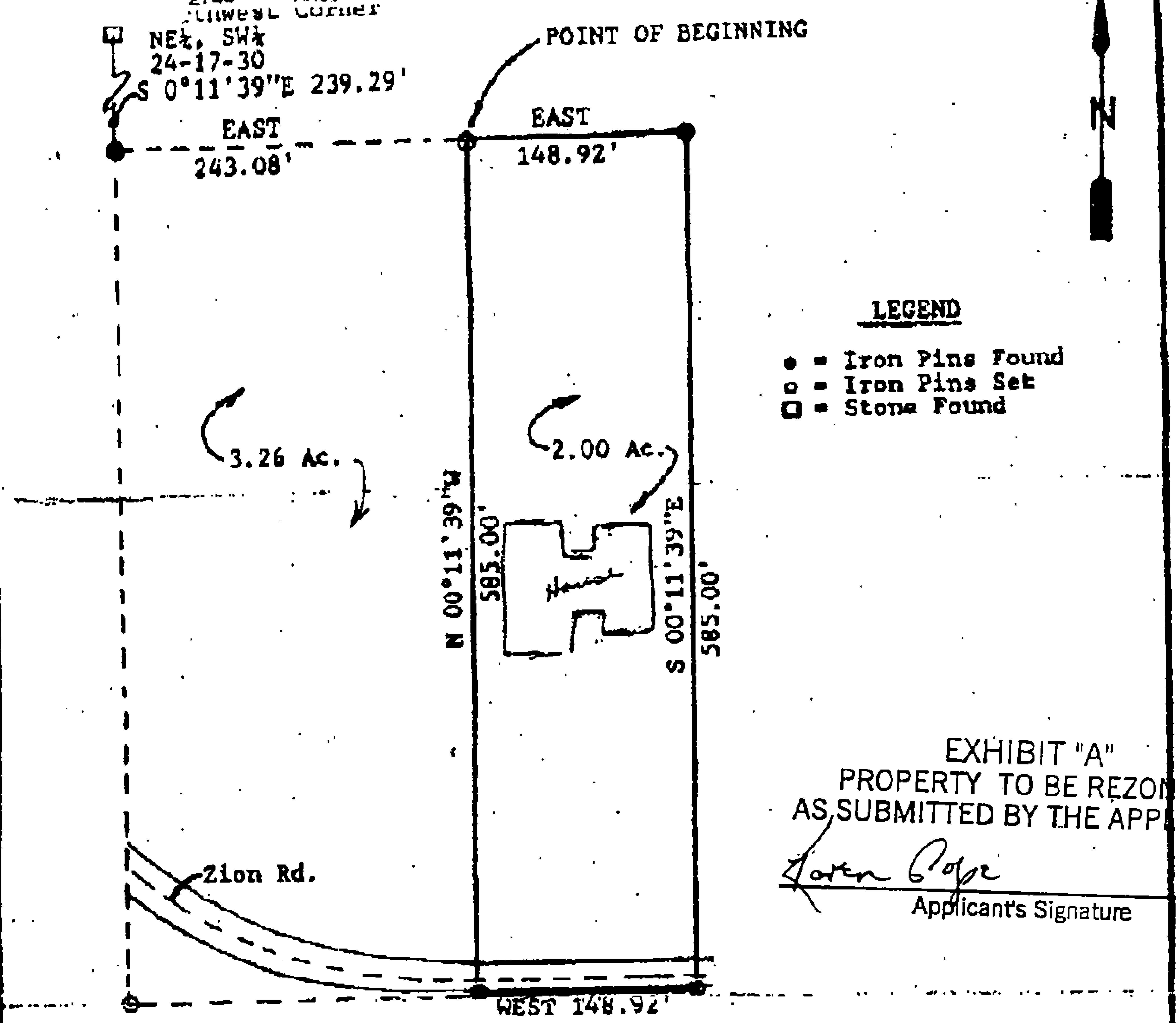


EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

Loren Pope
Applicant's Signature

LEGAL DESCRIPTION: Part of the NE¼ of the SW¼ of Section 24, T17N, R30W of the 5th Principal Meridian in Washington County, Arkansas being more particularly described as follows to-wit: Commencing at the Northwest Corner of said NE¼, SW¼ thence S 0°11'39"E 239.29 Feet thence EAST 243.08 Feet to the POINT OF BEGINNING thence EAST 148.92 Feet, thence S0°11'39"E 585.00 Feet, thence WEST 148.92 Feet thence N 0°11'39"W 585.00 Feet to the POINT OF BEGINNING; Containing 2.00 Acre more or less subject to Right-of-Way and Easements of record.

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

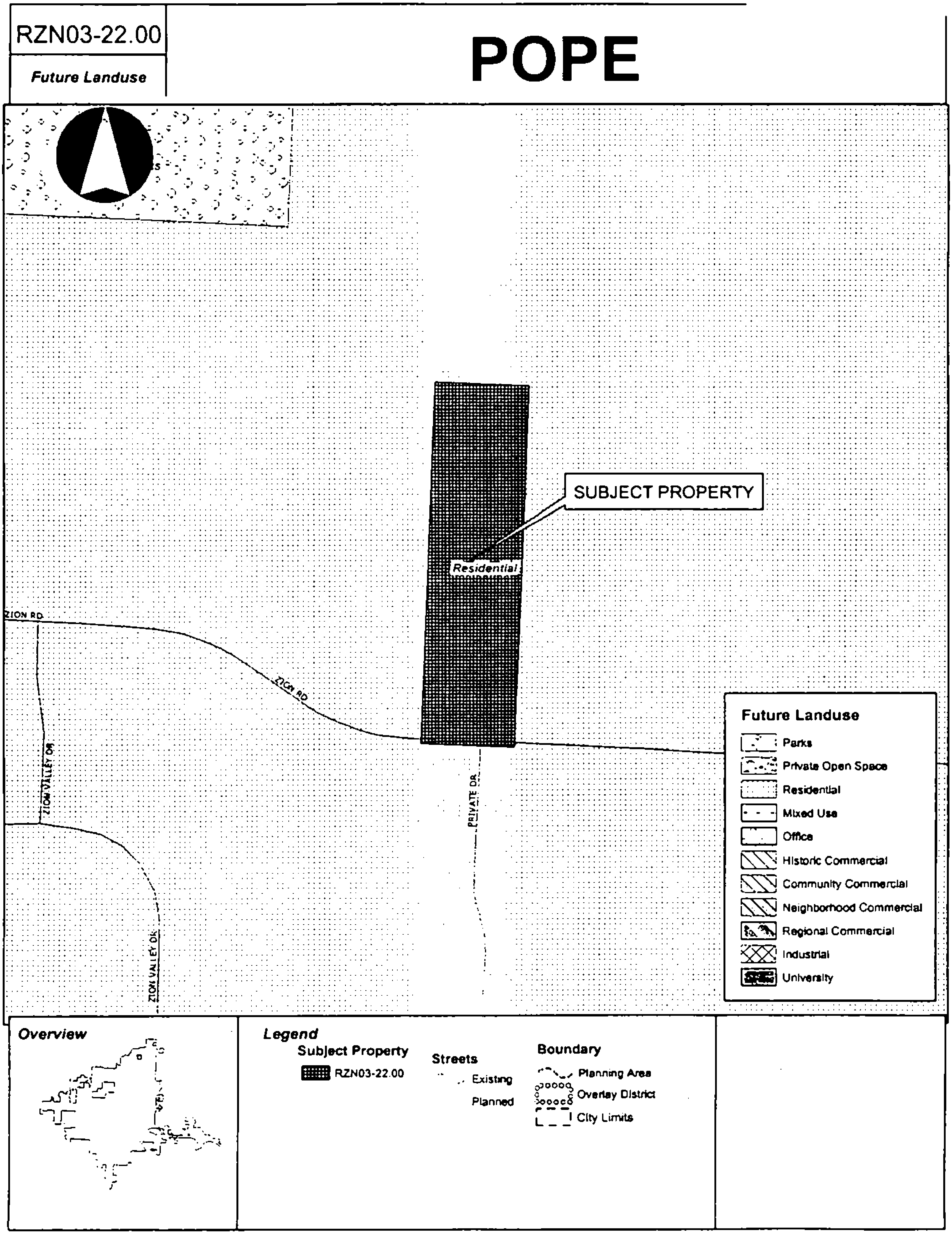
Neal B. Albright　　　　6/5/86

Neal B. Albright ARLS 273　　　　DATE

RECEIVED
JUN 19 2003
PLANNING DIV.

Neal B. Albright, P.E. ALBRIGHT & ASSOCIATES CONSULTING ENGINEERS David L. Jorgensen, P.E.

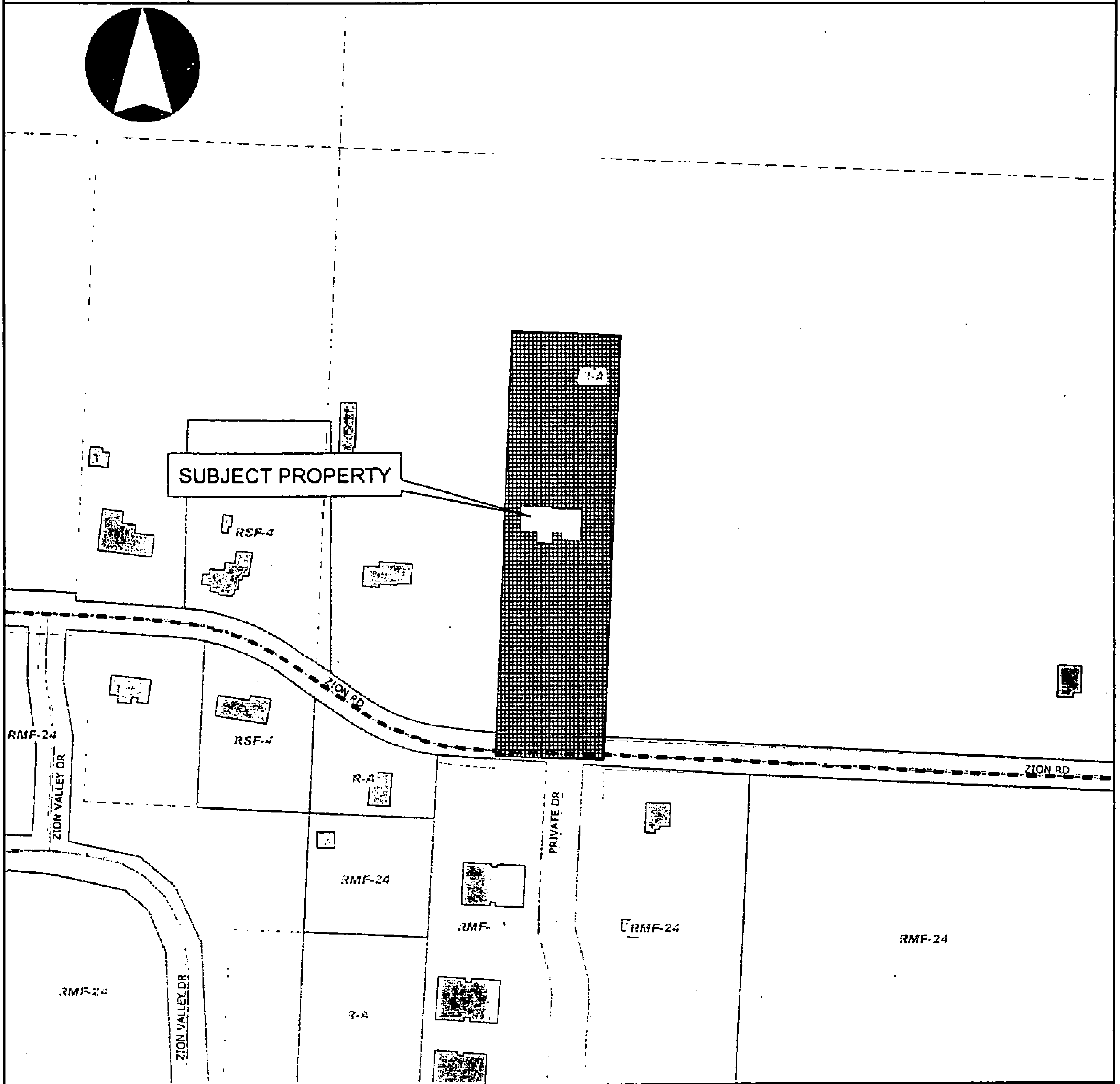
#2


RZN03-22.00
Future Landuse
POPE
SUBJECT PROPERTY
Residential
ZION RD
ZION RD
ZION VALLEY DR
ZION VALLEY DR
PRIVATE DR
Future Landuse
Parks
Private Open Space
Residential
Mixed Use
Office
Historic Commercial
Community Commercial
Neighborhood Commercial
Regional Commercial
Industrial
University
Overview
Legend
Subject Property
RZN03-22.00
Streets
Existing
Planned
Boundary
Planning Area
Overlay District
City Limits

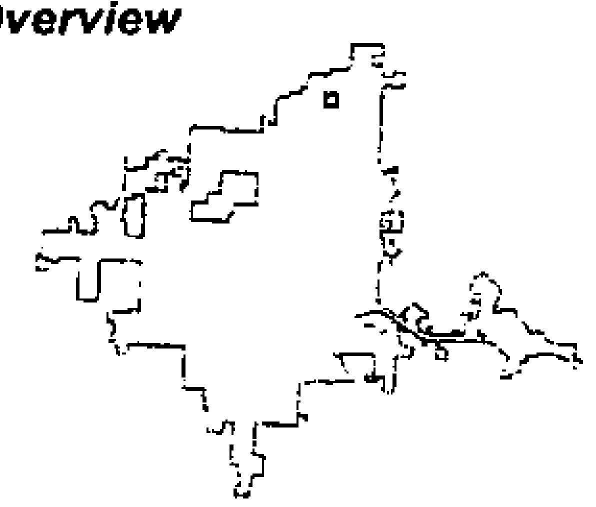
RZN03-22.00

Close Up View

POPE



Overview



Legend

Subject Property

RZN03-22.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

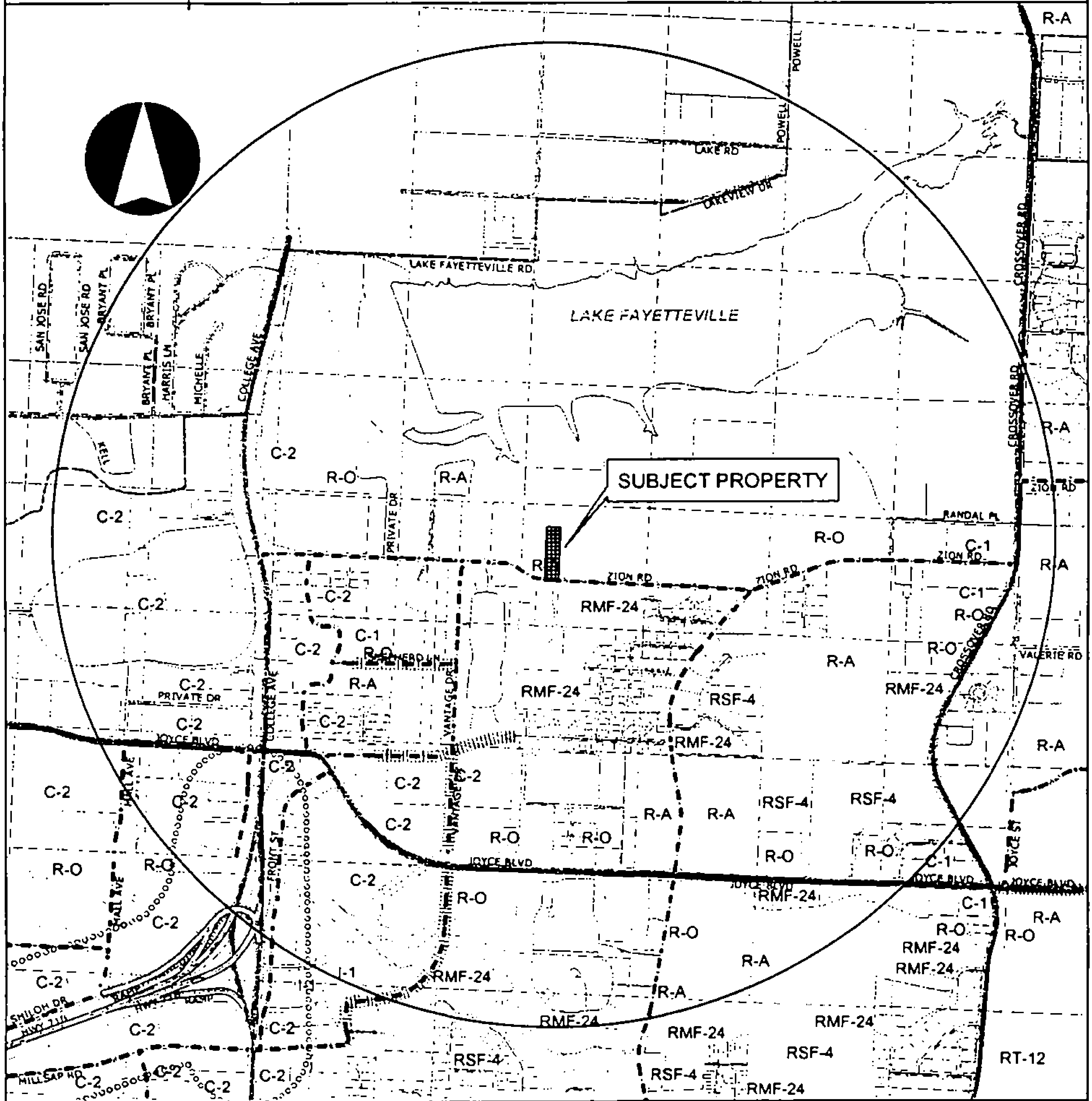
Historic Collector

0 75 150 300 450 600 Feet

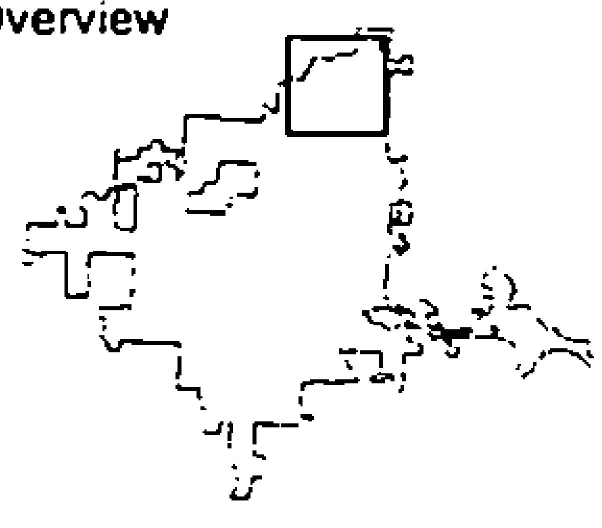
RZN03-22.00

One Mile View

POPE



Overview



Legend

Subject Property

RZN03-22.00

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 03-22.00 (Pope)
C. 3. Page 60

tore
3418 W. Sun[illegible] E
Springdale AR 72762
Phone: 479-750-2224 Fax: 479-750-4244

Shonnie Gilbreath 07/24/03
MLS# 262654 Expired $299000.00
Single Family

1750 ZION RD E Fayetteville AR 72701

RESIDENTIAL

INTERNAL INFORMATION

Listing Agent: Pat Suttle 443- 8217
Listing Office: Coldwell Banker Faucette Fayetteville 479-521-0220

County: Washington County AR
Owner: Owner
Class: Residential
Finance Terms:
List Date: 05/06/98
Appraiser Name:
Pend Date:
Internal Remarks:
Wdrwn Date:
Exp Date: 07/04/98
DOM: 59

Commissions/Fees
Buyer Agent Fee: 2.7
Selling Agent Fee:
Contingency:

Showing Instructions:
ApmtOnly,Lock Box,ApmtOnly,Lock Box
$ / HtSqFt: **$ / Acre:** 49500.00 **Sold $ / HtSqFt: $**
Seller Consession:

ApHt Sq Ft +/- : 0
ApTt Sq Ft +/- :
Stories:
Rooms: **Bedrooms:** 3
Full Baths: 3 **1/2 Baths:** 1
3/4 Baths: **Total Baths:** 4
Workshop:
Driveway:
Garage Capacity: 3
Condition:
Year Built: 1994 **Age:**
Disabled Access:

REMARKS
30X10 ENTRY/LIBRARY; 16X16 STUDIO/WORKSHOP; LOTS OF WINDOWS; HARDWOOD FLOORS, CROWN MOLDING, GOURMET KIT W/ ISL. & LOTS OF CABINETS. COVERED BACK DECK LEADS TO PRIVATE BACK YARD. PARK-LIKE W/LG. OAK TREES. CIRC. DRIVE. MORE!

DIRECTIONS
N COLLEGE, E ZION, ON NORTH

Room Information
Living Room: 19x16
Dining Room: 18x15
Kitchen: 18x16
Family Room:
Other Room:
Master Bdr: 15x13
Bedroom 2: 15x13
Bedroom 3: 13x13
Bedroom 4:
Bedroom 5:
Basement Level:
1st Level:
2nd Level:
3rd Level:

PROPERTY DESCRIPTION
Lot Dim:
Coven: **Zoning:**
Acres: 2.000 **Road Front:** **Lot:** **Surveyed:** **Disclosure:**
Sub: Washington Coun **Block:** **Fld Zone:**
Lot Description:
Legal: Pt Ne Sw 24-

Mil. Rate:
Taxes: $1,682
Assessment: $0
Assess Year:
Parcel ID:
Financing: FHA,VA,VA,VA

FEATURES
Tub/Shower:
Foundation: CrawlSpace,CrawlSpace,Cra
Heat: Gas,Gas,Gas,WdStove,Elec
Exterior: Brick,Vinyl
Air: Electric,Gas,Electric,Gas,Window,Gas,G
Roof:
Wtr Htr:
Floor Cvr: Wood,Vinyl
Fencing:
Patio:
Windows:
Roads:
Equipment:
Utilities: Sewer-Pub,Sewer-Pub,Water-Pub
Appliances: Dishwasher,GarbageDisp,Dishwasher,Other
Amenities:
Fireplace:
Exclusions:

Schools:
Elem:
Jr:
Sr:

Manufactured Detail
Make:
Model#:
Serial#
ParkName:
Park Approval:
Transfer Fee: $0
Monthly Fee: $0

704 521 7661 RZN 03-22.00 (Pope)
C. 3. Page 61

The Property Store
3418 W. Sunset Suite E
Springdale AR 72762
Phone: 479-750-2224 Fax: 479-750-4244

Shonnie Gilbreath 07/24/03
MLS# 345155 Withdrawn $297000.00

1750 ZION Fayetteville AR 72701

RESIDENTIAL

INTERNAL INFORMATION

Listing Agent: Nadine Yates 479-521-6611
Listing Office: Lindsey & Associates 479-521-6611

Owner:
Finance Terms:
Appraiser Name:
Internal Remarks:

County: Washington County AR
Class: Residential
List Date: 07/06/98
Pend Date:
Wdrwn Date: 08/19/98
Exp Date: 10/06/98
DOM: 44

Showing Instructions:
Pets*Remarks,Vacant
$ / HtSqFt: 100.680 $ / Acre: 48500.00 Sold $ / HtSqFt: $
Seller Consession:

Commissions/Fees
Buyer Agent Fee: 2.70
Selling Agent Fee:
Contingency:

ApHt Sq Ft +/-: 2950
ApTt Sq Ft +/-:
Stories: 1
Rooms: Bedrooms: 3
Full Baths: 3 1/2 Baths: 1
3/4 Baths: 0 Total Baths: 4
Workshop:
Driveway:
Garage Capacity: 2
Condition:
Year Built: 1994 Age:
Disabled Access: N

Room Information
Living Room: 19'x18'
Dining Room: 18'x15'
Kitchen: 18'x16'
Family Room: 18'x16'
Other Room: 8'x7'5
Master Bdr: 15'x13'5
Bedroom 2: 15'x13'5
Bedroom 3: 13'5x13'3
Bedroom 4: 13'5x13'3
Bedroom 5:
Basement Level:
1st Level:
2nd Level:
3rd Level:

REMARKS
GORGEOUS CUSTOM BUILT HOME W/TOO MANY AMENITIES TO MENTION. CALL AGENT FOR HIGHLIGHT SHEET. GOURMET KIT W/IS- LAND. 30X10 ENTRY & LIBRARY, 16X16 STUDIO. OVER 30 GROWN OAKTREES. GREAT FOR ENTERTAINING.

DIRECTIONS
N COLLEGE/E ON ZION/N SIDE

PROPERTY DESCRIPTION

Lot Dim:
Acres: 2.000 Road Front: Lot:
Sub: None Block:
Lot Description:
Legal: Pt S24 T17 R30
Coven: Zoning:
Surveyed: Disclosure: Y
Fld Zone:

Mil. Rate:
Taxes: $1,682
Assessment: $0
Assess Year:
Parcel ID:
Financing: Personal

FEATURES

Tub/Shower:
Heat: Central,Gas
Air: Central,Electric
Wtr Htr:
Fencing: None
Windows:
Equipment:
Utilities: Sewer,Water-Pub
Appliances: Range,GarbageDisp,Dishwasher,Gas
Amenities:

Foundation:
Exterior: Brick
Roof:
Floor Cvr: Wood
Patio:
Roads:

Schools:
Elem: B-field
Jr: W-land
Sr:

Manufactured Detail
Make:
Model#:

RZN 03-22.00 (Pope)
C. 3. Page 62

Exclusions:	ParkName: Park Approval: Transfer Fee: $0 Monthly Fee: $0

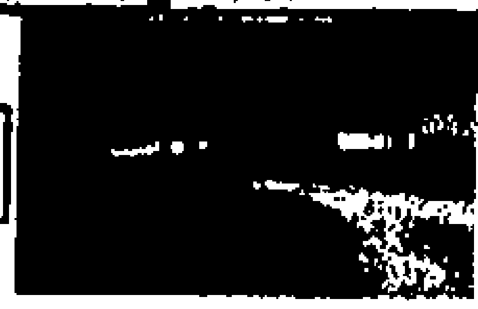
The Property Store
3418 W. Sunset Suite E
Springdale AR 72762
Phone: 479-750-2224 Fax: 479-750-4244

Shonnie Gilbreath 07/24/03
MLS# 355287 Expired $269200.00
Single Family

1750 ZION RD Fayetteville AR 72703

RESIDENTIAL

INTERNAL INFORMATION



Listing Agent: Pat Suttle 443-8217
Listing Office: Coldwell Banker Faucette Fayetteville 479-521-0220

County: Washington County AR
Owner: Confidential
Class: Residential
Finance Terms:
List Date: 05/01/00
Appraiser Name:
Pend Date:
Internal Remarks:
Wdrwn Date:
Exp Date: 09/30/00
DOM: 152

Commissions/Fees
Buyer Agent Fee: 2.7
Selling Agent Fee:
Contingency:

Showing Instructions:
Lock Box,LeaveCard,CallListOff,Vacant
$ / HtSqFt: 89.730 $ / Acre: 34600.00 Sold $ / HtSqFt: $
Seller Consession:

Trad
ApHt Sq Ft +/-: 3000
ApTt Sq Ft +/-:
Stories: 1
Rooms: 9 Bedrooms: 3
Full Baths: 3 1/2 Baths: 2
3/4 Baths: Total Baths: 5
Workshop:
Driveway: Gravel
Garage Capacity: 2
Condition: Excellent
Year Built: 1994 Age: 6-10
Disabled Access: N

REMARKS
CO-LISTED W/SHERRI FRY 444-8808. 30X10 ENTRY/ LIBRARY; 16X16 STUDIO/WORKCHOP; LOTS OF CROWN MOLDING. GOURMET KITCHEN S/ISLAND & LOTS OF CAINETS. PARK-LIKE YARD W/LARGE OAK TREES. CIRCLE FRIVE. HOME WARRANTY. MORE!

DIRECTIONS
ZION RD BETWEEN HWY 71 AND HWY 265

Room Information
Living Room: 18x18
Dining Room: 18x15
Kitchen: 18x16
Family Room:
Other Room:
Master Bdr: 15x14
Bedroom 2: 15x14
Bedroom 3: 14x14
Bedroom 4:
Bedroom 5:
Basement Level:
1st Level:
2nd Level:
3rd Level:

PROPERTY DESCRIPTION

Lot Dim: 0 Coven: N Zoning: R-1
Acres: 2.000 Road Front: Lot: 0 Surveyed: N Disclosure: Y
Sub: None Block: 0 Fld Zone: N
Lot Description: Cleared,Sloped,View
Legal: 24-17-30 Fay. Outlots

Mil. Rate: 0
Taxes: $1,680
Assessment: $0
Assess Year:
Parcel ID: 0
Financing:

FEATURES

Tub/Shower:	Cmbation,Shower	Foundation:	CrawlSpace
Heat:	Central,Gas	Exterior:	Brick,Vinyl
Air:	Central,Electric	Roof:	AsphltShngl
Wtr Htr:	Gas1	Floor Cvr:	Carpet,Tile,Vinyl,Wood
Fencing:	None	Patio:	Patio,Covered
Windows:	Metal,DoublePane	Roads:	Pub
Equipment:	GarDrOpen Smk Det		

Schools:
Elem: B-field
Jr: W-land

Sr RZN 03-22.00 (Pope)
C. 3. Page 63

Utilities:	ELEC,Gas-Pub,Water-Pub-Av,Sewer-Pub
Appliances:	Range,Oven,Double,Electric,VentAHood,GarbageDisp,Dishwasher
Amenities:	HomeWarr.,Pantry,WlkInCloset,W/Dconn,IceMkrConn,Ceilingfan,Built-Ins
Fireplace:	GasStr,Living
Exclusions:	

Make:
Model#:
Serial#
ParkName:
Park Approval:
Transfer Fee: $0
Monthly Fee: $0

The Property Store
3418 W. Sunset Suite E
Springdale AR 72762
Phone: 479-750-2224 Fax: 479-750-4244

Shonnie Gilbreath 07/24/03
MLS# 383551 Expired $269900.00
Single Family

1750 ZION RD Fayetteville AR 72703

RESIDENTIAL

INTERNAL INFORMATION

Listing Agent: Dale Carlton-Jr 479-582-2179
Listing Office: Lindsey & Associates 479-521-6611

County: Washington County AR
Owner: 0
Class: Residential
Finance Terms:
List Date: 10/10/00
Appraiser Name:
Pend Date:
Internal Remarks:
Wdrwn Date:
Exp Date: 10/04/01
DOM: 359

Commissions/Fees
Buyer Agent Fee: 2.7
Selling Agent Fee:
Contingency:

Showing Instructions:
CallListOff
$ / HtSqFt: 89.970 $ / Acre: 34950.00 Sold $ / HtSqFt: $
Seller Consession:

Contemp
ApHt Sq Ft +/-: 3000
ApTt Sq Ft +/-:
Stories: 1
Rooms: 9 Bedrooms: 3
Full Baths: 3 1/2 Baths: 0
3/4 Baths: Total Baths: 3
Workshop:
Driveway: Gravel
Garage Capacity: 2
Condition: Excellent
Year Built: 1994 Age: 6-10
Disabled Access: N

Room Information
Living Room: 19x18
Dining Room: 18x15
Kitchen: 18x16
Family Room:
Other Room:
Master Bdr: 15x14
Bedroom 2: 15x14
Bedroom 3: 14x14
Bedroom 4:
Bedroom 5:
Basement Level:
1st Level:
2nd Level:
3rd Level:

REMARKS
GREAT LOCATION. CLOSE TO MALL W/2 ACRES. 3 BR/3 BATH W/ALL HARDWOOD FLOORS. LARGE OPEN LIVING AREAS. ALL LARGE ROOMS & HOBBY ROOM.

DIRECTIONS
71B/E ON ZION RD/BETWEEN 265 & 71B

PROPERTY DESCRIPTION

Lot Dim: 0 Coven: N Zoning: R-1
Acres: 2.000 Road Front: Lot: 0 Surveyed: N Disclosure: Y
Sub: 0 Block: 0 Fld Zone: N
Lot Description: NotInSub
Legal: Pt 24-17-30

Mil. Rate:
Taxes: $1,680
Assessment: $0
Assess Year:

FEATURES

Tub/Shower: Whirlpl,Shower Foundation: Slab

	as	Exterior:	Brick
	lectric	Roof:	AsphltShngl
Wtr Htr:	Gas1	Floor Cvr:	Wood
Fencing:	None	Patio:	Deck
Windows:	Storm	Roads:	SurfPaved
Equipment:	GarDrOpen,Smk Det		
Utilities:	Telephone,Sewer,ELEC,Gas-Pub,Water-Pub		
Appliances:	Oven,Range,VentAHood,GarbageDisp		
Amenities:	Pantry,IceMkrConn,Ceilingfan,Built-Ins		
Fireplace:	WdBurn		
Exclusions:			

Parcel ID:
Financing:

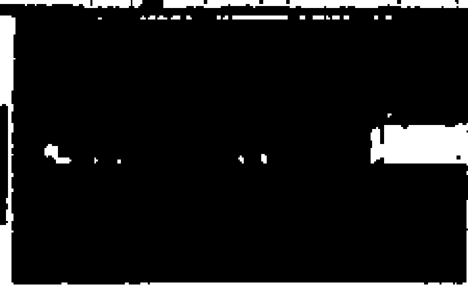
Schools:
Elem: B-field
Jr: W-land
Sr: Fayetteville

Manufactured Detail
Make:
Model#:
Serial#
ParkName:
Park Approval:
Transfer Fee: $0
Monthly Fee: $0

The Property Store
3418 W. Sunset Suite E
Springdale AR 72762
Phone: 479-750-2224 Fax: 479-750-4244

Shonnie Gilbreath 07/24/03
MLS# 397859 Pending $275000.00
Single Family

1750 ZION RD Fayetteville AR 72701



Trad
ApHt Sq Ft +/- : 3000
ApTt Sq Ft +/- :

R

INTERNAL INFORMATION

Listing Agent: Shonnie Gilbreath Phone: NA

The Property Store
3418 W. Sunset Suite E
Springdale AR 72762
Phone: 479-750-2224 Fax: 479-750-4244

Shonnie Gilbreath
MLS# 397859 Pending $275000.00
Single Family

1750 ZION RD Fayetteville AR 72701

Trad
ApHt Sq Ft +/-: 3000
ApTt Sq Ft +/-:
Stories: 1
Rooms: 10 Bedrooms: 3
Full Baths: 3 1/2 Baths: 1
3/4 Baths: 0 Total Baths: 4
Workshop:
Driveway: CirDrive,Gravel
Garage Capacity: 2
Condition: Good
Year Built: 1994 Age: 6-10
Disabled Access: N

R E S I D E N T I A L

INTERNAL INFORMATION

Listing Agent: Shonnie Gilbreath Phone: NA
Listing Office: The Property Store 479-750-2224

County: Washington County AR
Owner: Class: Residential
Finance Terms: List Date: 04/08/03
Appraiser Name: Pend Date: 06/11/03
Internal Remarks: Wdrwn Date:
Exp Date: 08/30/03
DOM: 64 DUC: 43

Commissions/Fees
Buyer Agent Fee: 3
Selling Agent Fee:
Contingency:

Showing Instructions:
CallListOff,LeaveCard,Lock Box,Vacant
$ / HtSqFt: 91.670 $ / Acre: 37500.00 Sold $ / HtSqFt: $
Seller Concession: n

Room Information
Living Room: 19x19
Dining Room: 18x15
Kitchen: 18x16
Family Room:
Other Room:
Master Bdr: 15x14
Bedroom 2: 15x14
Bedroom 3: 14x14
Bedroom 4:
Bedroom 5:
Basement Level:
1st Level:
2nd Level:
3rd Level:

REMARKS
GREAT LOCATION IN CENTER OF FAYETTEVILLE, CONV. TO SPRINGDALE, CLOSE TO NWA MALL, NICE LOCATION & LOT WITH BIG TREES, HARDWOOD FLOORS THROUGHOUT, BONUS ROOM PERFECT FOR HOME OFFICE WITH SEPERATE ENTRANCE.

DIRECTIONS
71 B EAST ON ZION RD HOUSE ON LEFT.

PROPERTY DESCRIPTION

Lot Dim: Coven: N Zoning: R-1
Acres: 2.000 Road Front: Lot: 0 Surveyed: N Disclosure: Y
Sub: Not In Sub Block: 0 Fld Zone: N
Lot Description: Cleared
Legal: Pt24-17-30

Mil. Rate:
Taxes: $1,680
Assessment: $0
Assess Year:
Parcel ID:
Financing:

FEATURES

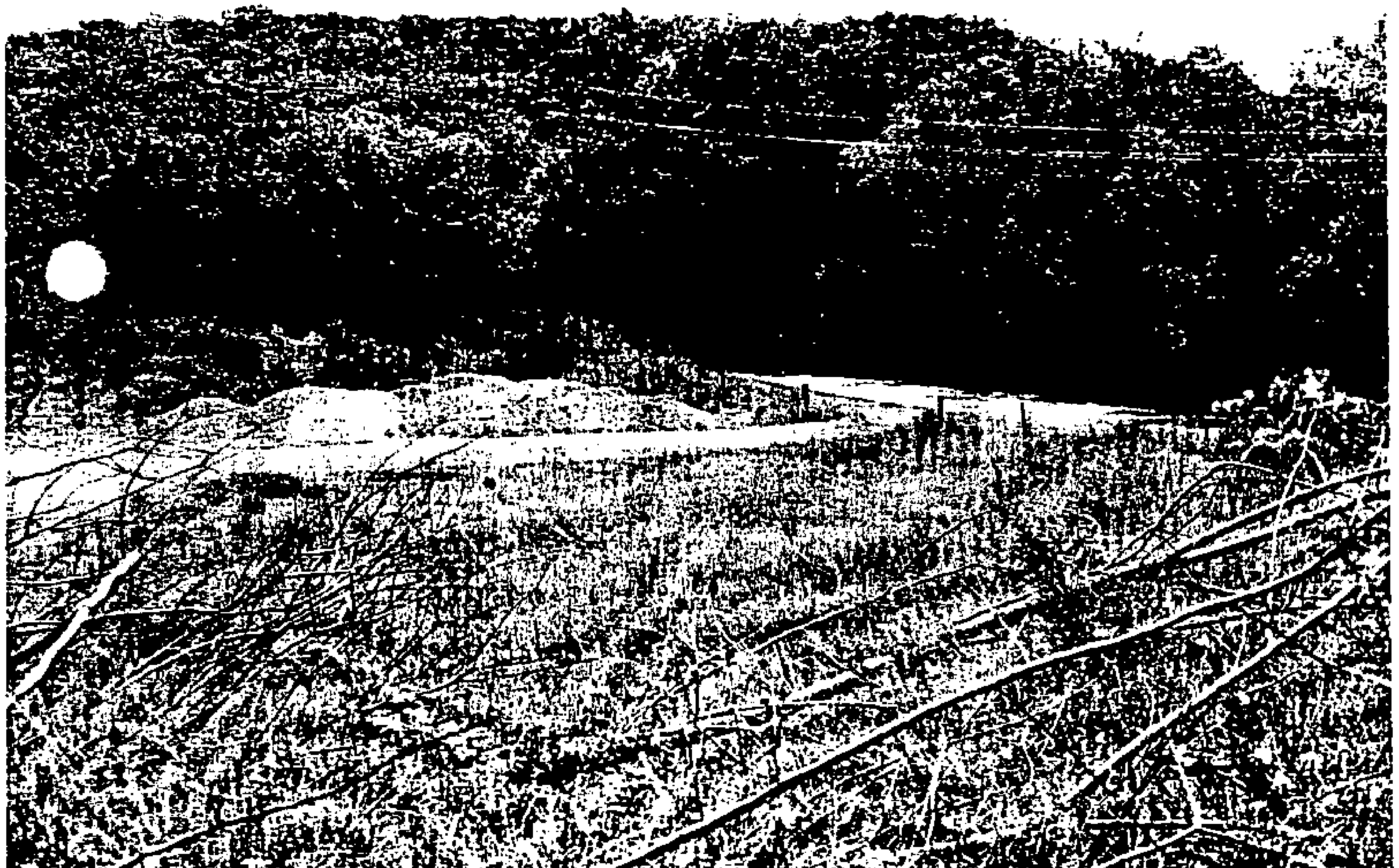
Tub/Shower: Whirlpl,Tub,Shower Foundation: Slab
Heat: Central,Gas Exterior: Brick,Vinyl
Air: Central,Electric Roof: AsphltShngl
Wtr Htr: Gas1 Floor Cvr: Vinyl,Wood
Fencing: None Patio: Deck
Windows: DoublePane Roads: Pub
Equipment: Smk Det
Utilities: Cable,ELEC,Sewer,Telephone,Water-Pub
Appliances: Dishwasher,GarbageDisp,Range
Amenities: Ceilingfan,Eat-in-Kit,IceMkrConn,WlkInCloset,W/Dconn,Cath.Clng
Fireplace: Living,WdBurn
Exclusions:

Schools:
Elem: B-field
Jr:
Sr: Fay-ville

Manufactured Detail
Make:
Model#:
Serial#
ParkName:
Park Approval: N
Transfer Fee: $0
Monthly Fee: $0

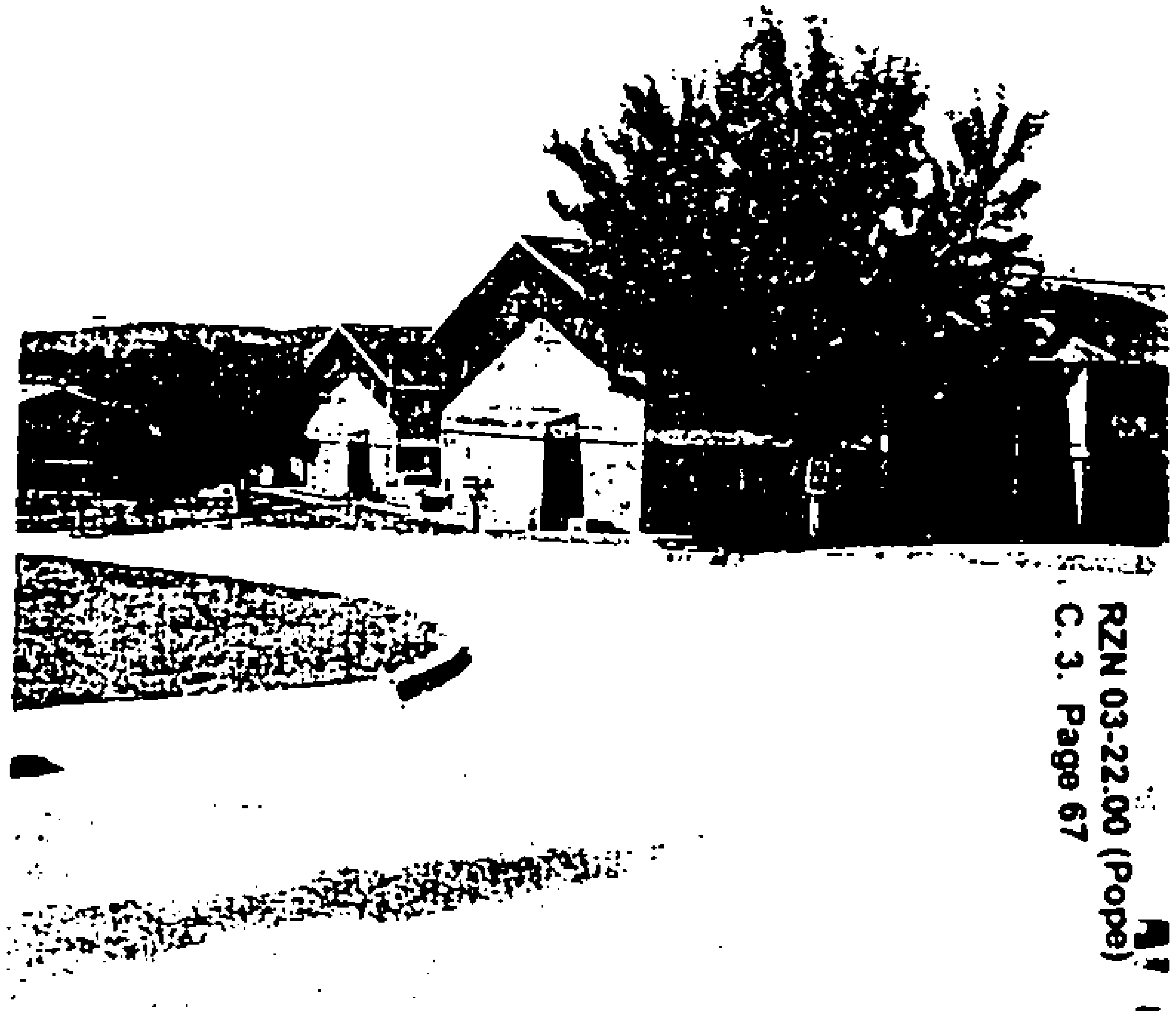
↑ (ABOVE) 1750 ZION RD, FAYETTEVILLE

↑ (ABOVE) 1750 ZION RD, FA

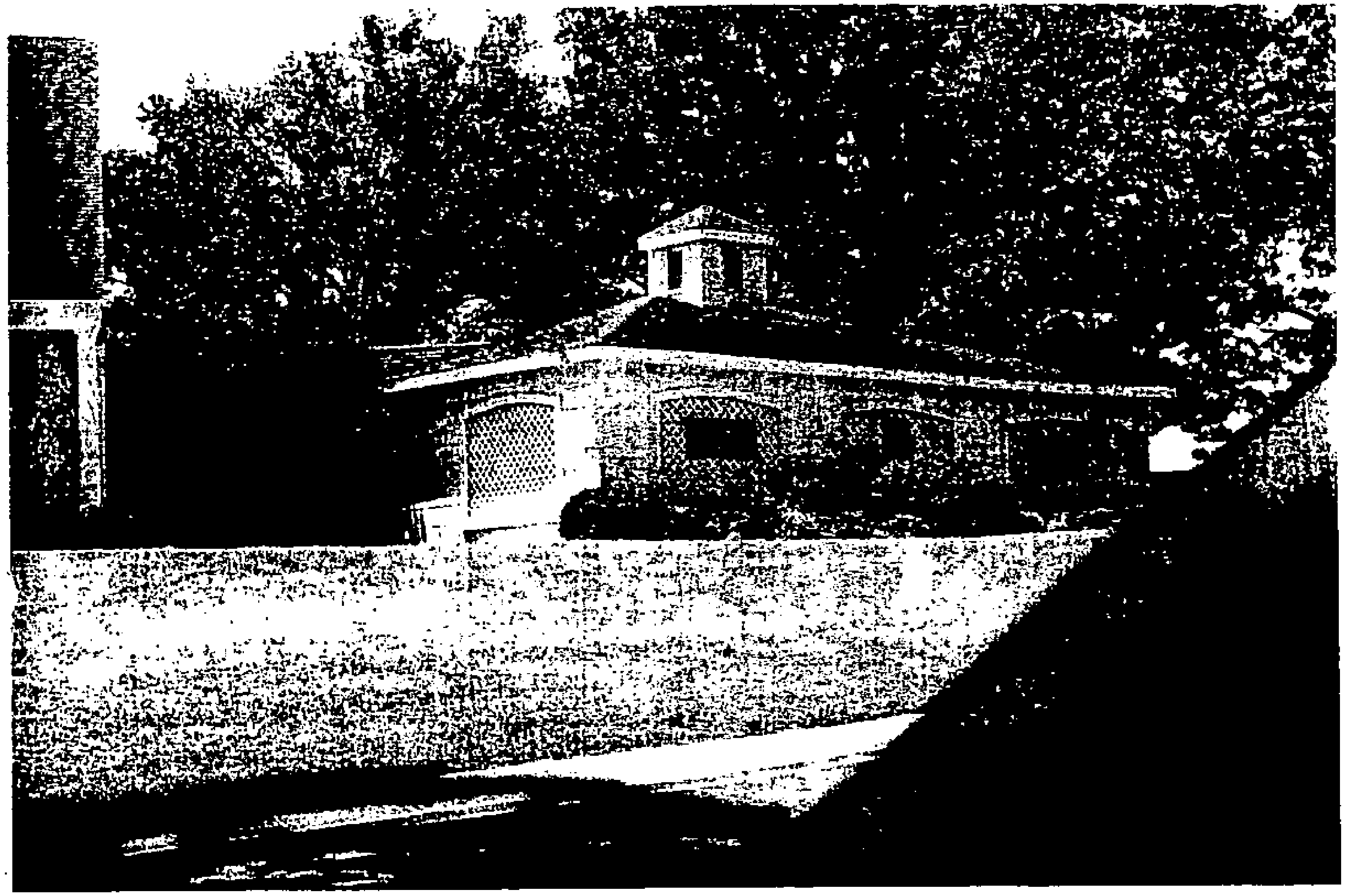


(Above) Adjacent Property to the West

(Above) Adjacent Property to th



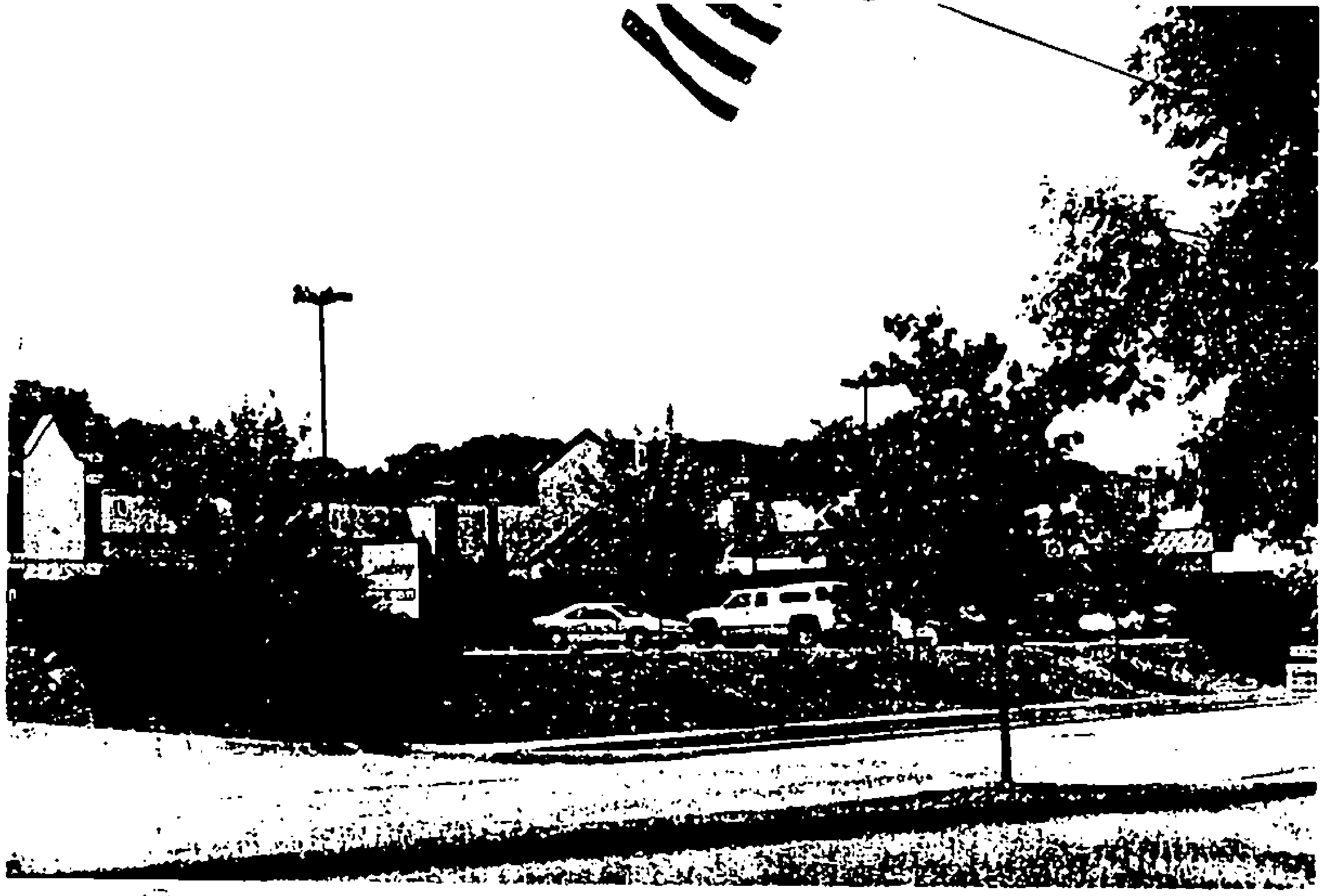
Directly South



(ABOVE.)
CPA Office 3/10 mile west

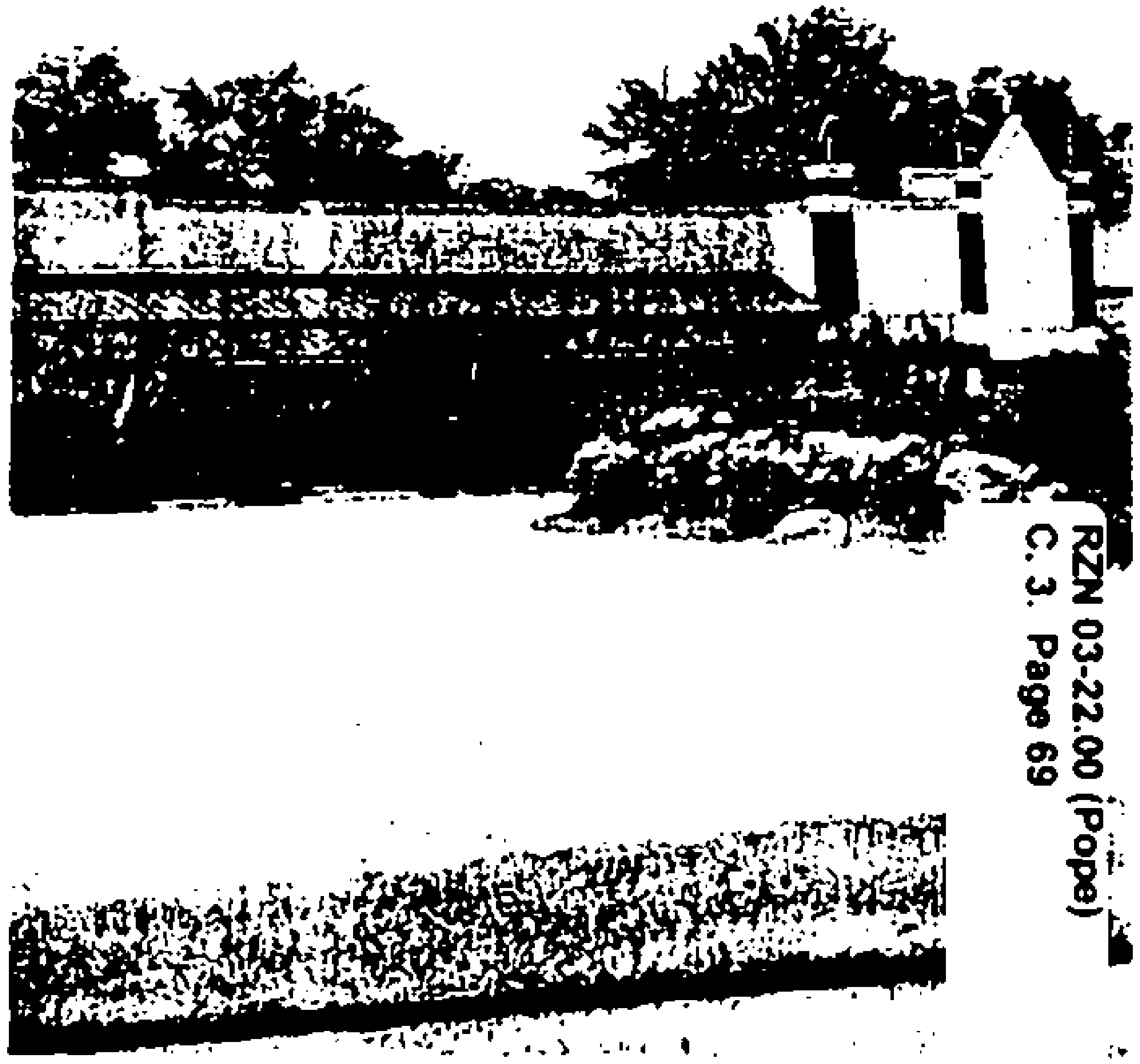
(Below)
Business off
west

(Above) Animal Hospital-East 4/10 mile

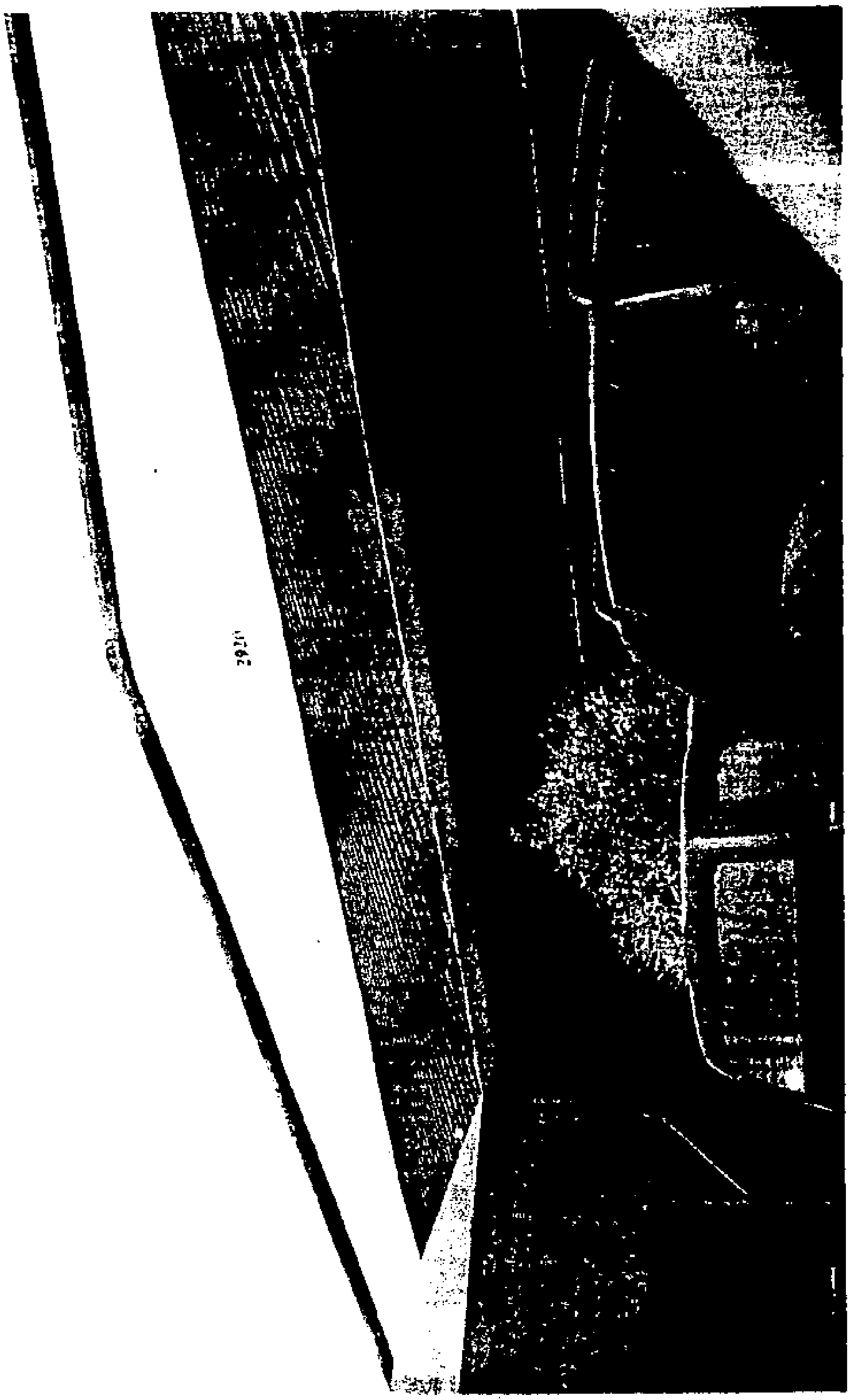


Business Plaza 5/10 mile East

(Above) Animal Hospital



Same Business Plaza



RZN 03-25.00 (Freeman)
C. 4. Page 1

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

Name	Division	Department
Dawn Warrick	Planning	CP&E

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

RZN 03-25.00 was submitted by Marvin and Dora Freeman for property located at 2848 and 2856 South School Avenue (Lots 1 & 2, Block 1 in the Country Club Addition). The property is zoned RSF-4, Residential Single-family, four units per acre. The request is to rezone the two lots to R-O, Residential Office.

STAFF RECOMMENDATION:
Staff recommended approval and on July 28, 2003 the Planning Commission voted 7-0-0 to recommend the rezoning be approved by the City Council.

Division Head — Date 8/1/03

City Attorney — Date 8/4/03

Department Director — Date 8-4-03

Finance & Internal Services Dir. — Date 8.4.03

Chief Administrative Officer — Date 8-4-03

Mayor — Date 8/5/03

Received in Mayor's Office 8/4/03 Date

Cross Reference:

Previous Ord/Res#: ______

Orig. Contract Date: ______

Orig. Contract Number: ______

New Item: Yes No

ENTERED 8/4/03 TLM

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of August 19, 2003

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Mayor Dan Coody Fayetteville City Council
FROM:	Dawn Warrick, AICP, Zoning & Development Administrator
THRU:	Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE:	August 1, 2003

RZN 03-25.00: Rezoning (Freeman, pp 678) was submitted by Marvin and Dora Freeman for property located at 2848 and 2856 South School Avenue (Lots 1 & 2, Block1 in the Country Club Addition). The property is zoned RSF-4, Residential Single-family, 4 units per acre. The request is to rezone the two lots to R-O, Residential Office.

BACKGROUND:

Property description: The subject property is located at the southeast corner of S. School Ave. and Peach Street, east of McBride Distributing Co. There are currently two single family homes located on the property which are owned and occupied by the applicant. The site is located in an area which is designated Community Commercial on the Future Land Use map. Surrounding uses include primarily single family homes with the exception of the distribution operation to the west, across S. School Ave. When improvements were made by the AHTD in the past, a retaining wall was installed along the front of this property which causes problems with sight distance at the intersection of Peach St. and S. School Ave. This, as well as the condition of Peach St., which is very narrow and not built to current City standards, will have to be addressed when the use of the property changes. At that time, a certificate of zoning compliance will be required as will improvements to provide adequate parking and access for commercial site development.

Proposal: The applicant would like to use the existing structures for small offices.

Request: The request is to rezone the property from RSF-4 to R-O.

CURRENT STATUS:

On June 28, the Planning Commission voted 7-0-0 to forward this item to the City Council with a recommendation for approval.

RECOMMENDATION:

Staff recommends approval of the requested rezoning.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 03-25.00 AS SUBMITTED BY MARVIN & DORA FREEMAN FOR PROPERTY LOCATED AT 2848 AND 2856 S. SCHOOL AVENUE FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE, TO R-O, RESIDENTIAL OFFICE.

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 RSF-4, Residential Single-Family, 4 Units Per Acre, to R-O, Residential Office 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 __________, 2003.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 03-25.00

LOT NUMBERED ONE (1) IN BLOCK NUMBERED ONE (1) IN COUNTRY CLUB ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS DESIGNATED UPON THE RECORDED PLAT OF SAID ADDITION, EXCEPT FIFTY (50) FEET OF EQUAL AND UNIFORM WIDTH OFF THE EAST SIDE OF SAID LOT, AND EXCEPT ALL THOSE PORTIONS CONTAINED IN THE RIGHT OF WAY OF ARKANSAS STATE HIGHWAY 71.

ALSO,

LOT NUMBERED TWO (2) IN BLOCK NUMBERED ONE (1) IN THE COUNTRY CLUB ADDITION TO THE CITY OF FAYETTEVILLE, AS DESIGNATED UPON THE RECORDED PLAT OF SAID ADDITION, EXCEPT FIFTY (50) FEET OF EQUAL AND UNIFORM WIDTH OFF OF THE EAST SIDE OF SAID LOT.

RZN 03-25.00: Rezoning (Freeman, pp 678) was submitted by Marvin and Dora Freeman for property located at 2848 and 2856 S. School Avenue (Lots 1 & 2, Block1 in the Country Club Addition). The property is zoned RSF-4, Residential Single-family, 4 units per acre. The request is to rezone the two lots to R-O, Residential Office.

Hoover: Item number five on the agenda is RZN 03-25.00 submitted by Marvin and Dora Freeman for property at 2848 and 2856 S. School Avenue.

Warrick: The subject property is located at the southeast corner of S. School Avenue and Peach Street. It is east of McBride Distributing Company. There are currently two single-family homes located on the property which are owned and occupied by the applicant. The site is located in an area which is designated Community Commercial on the Future Land Use Map. Surrounding uses included primarily single-family homes with the exception of the distribution operation to the west across S. School Avenue. When improvements were made by the Highway Department in the past a retaining wall was installed along the front of this property which causes problems with sight distance at the intersection of Peach Street and S. School Avenue. This, as well as the condition of Peach Street which is very narrow and not built to current city standards will have to be addressed when the use of the property changes. At that time a Certificate of Zoning Compliance will be required as will improvements to provide adequate parking and access for commercial site development. The applicant is proposing to utilize the existing structures for small professional offices and the request is to rezone the property from RSF-4, Residential Single-Family, four units per acre to R-O, Residential Office. Staff is in support of this request. Findings that are consistent with this request: With regard to the proposed zoning be consistent with land use planning objectives and policies: The proposed zoning is consistent. This area is designated to develop with community commercial uses and is currently starting to transition into that type of configuration. Surrounding uses include, as I mentioned before, single-family residential to industrial and warehousing and also county facilities across S. School Avenue. The proposed use of the site for offices is an acceptable transition between the surrounding heavy commercial and residential uses. With regard to whether the proposed zoning is justified and needed: The proposed zoning is justified in that it is consistent with the city's adopted future land use policy. The use of the site for offices is appropriate and would cause less impact or traffic conflict than a higher commercial designation. With regard to creating or appreciably increasing traffic danger or congestion: Staff finds that with improvements to sight distance conditions parking and access to the site at the time of development, the proposed zoning would not create or appreciably increase traffic danger and congestion. With regard to whether the proposed zoning would alter population density: The proposed change in zoning would not alter population density in a manner which would undesirably increase the load on public services. This particular site is currently utilized for single-family residential uses. The Residential Office zoning district would permit professional offices or if it were to redevelop with residential uses duplexes would be the maximum density that could be established on the site. With those findings staff is recommending in favor of this request. I would be happy to answer any questions.

Hoover: Thank you. Would the applicant come forward please? Is there anything you would like to add to the presentation?

Freeman, D.: Just that we have lived there 25 years and we have seen a lot of changes in the highway and the land development and we just feel like there should be a change in our property. We have maintained them well as residential properties and we just feel like with the changes that are going around we should have our land rezoned accordingly. Thank you very much.

Hoover: I would like to open it up to public comment. Is there anyone that would like to address this RZN 03-25.00 on S. School Avenue? Seeing none, I will bring it back to the Commission.

MOTION:

Allen: From driving by and looking at this property and from reading the comments of staff I think this is an appropriate rezoning and with that I move for RZN 03-25.00.

Hoover: We have a motion by Commissioner Allen, is there a second?

Shackelford: I will second.

Hoover: A second by Commissioner Shackelford, is there more discussion? Seeing none, would you call the roll Renee?

Roll Call: Upon the completion of roll call the motion to forward RZN 03-25.00 was approved by a vote of 7-0-0.

Thomas: The motion carries seven to zero.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of July 28, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn Warrick, AICP, Zoning & Development Administrator
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: July 23, 2003

RZN 03-25.00: Rezoning (Freeman, pp 678) was submitted by Marvin and Dora Freeman for property located at 2848 and 2856 South School Avenue (Lots 1 & 2, Block1 in the Country Club Addition). The property is zoned RSF-4, Residential Single-family, 4 units per acre. The request is to rezone the two lots to R-O, Residential Office.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	**Required**	**YES**	
	O Approved		**O Denied**
Date: July 28, 2003			
CITY COUNCIL ACTION:	**Required**	**YES**	
	O Approved		**O Denied**
Date: August 19, 2003 (1st reading if recommended)			

Comments: ______________________________________

BACKGROUND:

Property description: The subject property is located at the southeast corner of S. School Ave. and Peach Street, east of McBride Distributing Co. There are currently two single family homes located on the property which are owned and occupied by the applicant. The site is located in an area which is designated Community Commercial on the Future Land Use map. Surrounding uses include primarily single family homes with the exception of the distribution operation to the west, across S. School Ave. When improvements were made by the AHTD in the past, a retaining wall was installed along the front of this property which causes problems with sight distance at the intersection of Peach St. and S. School Ave. This, as well as the condition of Peach St., which is very narrow and not built to current City standards, will have to be addressed when the use of the property changes. At that time, a certificate of zoning compliance will be required as will improvements to provide adequate parking and access for commercial site development.

Proposal: The applicant would like to use the existing structures for small offices.

Request: The request is to rezone the property from RSF-4 to R-O.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family residential	RSF-4, Residential single family 4 units/acre
South	Single family residential	RSF-4, Residential single family 4 units/acre
East	Single family residential	RSF-4, Residential single family 4 units/acre
West	Warehousing & distribution	I-1, Heavy Commercial and Light Industrial

INFRASTRUCTURE:

Access to this site is from S. School Street (Hwy 71B) with a circle drive (two curb cuts) for a shared driveway for the two structures. The site adjoins Peach Street to the north. S. School St. is classified a principal arterial and constructed to a five lane section in this location. Peach Street is classified as a local street however it does not comply with current street construction standards. It is a very narrow asphalt street with open ditches on each side.

Water and sewer are both available and serve the existing development on the site with a 12" water and a 6" sewer line, both located along S. School St.

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

FINDINGS OF THE STAFF

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

Finding: **The proposed zoning is consistent with land use planning objectives and with policies and plans adopted by the City. This area is designated to develop with community commercial uses and is currently starting to transition into**

that type of configuration. Surrounding uses include everything from single family residences to industrial warehousing to county facilities. The proposed use of this site for offices is an acceptable transition between the surrounding heavy commercial and residential uses.

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

Finding: **The proposed zoning is justified in that it is consistent with the City's adopted future land use policy. The use of this site for offices is appropriate and would cause less impact or traffic conflict than a higher commercial designation.**

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

Finding: **With improvements to sight distance conditions, parking and access to the site at the time of development, the proposed zoning would not create or appreciably increase traffic danger and congestion.**

Engineering - Existing driveways on School Avenue appear to have a sight distance problem caused by concrete retaining walls. This issue should be corrected, if property is rezoned.

Police - It is the opinion of the Fayetteville Police Department that this rezoning <u>will not</u> substantially increase traffic congestion in the area.

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

Finding: **The proposed zoning will not alter population density in a manner which would undesirably increase the load on public services. Utilities are available and currently serve the existing houses on this property.**

Engineering - The property currently has access to a 12" water line along School Avenue. This line should be sufficient to provide water service to the existing facility as well as redevelopment of the site.

Sewer service is located along School Avenue as well. The 6" main should be sufficient to provide sewer service to the existing facility as well as redevelopment of the site.

If development occurs on this site, Peach St. would need to be improved to a

minimum of 14' from centerline including pavement, curb and gutter, storm drains and sidewalk.

Sight distance on School Ave. appears to be a problem for the current location of the driveway and the retaining wall along the right of way.

Fire – The property is served from Fire Station #1 which is approximately 2 miles away with a response time (actual drive time) of 2 minutes 54 seconds. There are existing fire hydrants located on S. School Ave. to serve the site. Constraints to service include the narrow side street (Peach St.).

Police - It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services.

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

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

161.07 District RSF-4, Residential Single-Family– Four Units Per Acre

(A) *Purpose.* The RSF-4 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 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
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) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *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; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.15 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) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 11	Manufactured home park
Unit 12	Offices, studios and related services
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 13	Eating places
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Bulk and area regulations.*

(Per dwelling unit for residential structures)

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Townhouses & apartments:	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(D) *Density.*

Units per acre	4 to 24

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.

(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 with any boundary line of any RSF or RMF District an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

REZONING WRITTEN STATEMENT
Item #5 Application

We, **Marvin E. and Dora L. Freeman**, have full ownership of the following two properties and are requesting rezoning from the Planning Commission.

Country Club Addition ....Block One
2848 South School Avenue Lot 1 **Parcel No. 765-04074-000**
2856 South School Avenue Lot 2 **Parcel No. 765-04076-000**

We are requesting rezoning for several reasons. Dora is an experienced Income Tax Accountant and certified notary public. She would like to have an office at one of the property for her business and rent office space to other service type businesses. We have been approached by interested parties (i.e. Bail Bonding) regarding the rental of our properties for offices. The properties are adjacent and a circle drive is used by both properties. Lot One has a driveway in the back off of Peach Street. The properties are located on Business Highway 71 South (South School Avenue) across from McBride Distribution Warehouse.

There is ample parking space at both properties. Traffic flow should not change due to scheduled appointments, sufficient parking, and the circle drive shared by both properties. The land appearance should not change even though signs will probably be placed on the buildings. The buildings do not set close to the Highway and are on a hill.

Water and sewer services are available at both properties. Due to nature of the offices being service type businesses, the present utilities should be sufficient and comparable for the future.

Thank you for your attention to this matter.

Marvin E. Freeman
Marvin E. Freeman

Dora L. Freeman
Dora L. Freeman

Signed on June 26, 2003

Mailing Address:
P. O. Box 2985
Fayetteville, AR 72702

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JUN 3? 2003
PLANNING

REZONING WRITTEN STATEMENT
Item #5 Application

Information regarding properties ADJACENT to the requested zoning properties ....

05785 Kenneth E. and Olive Baley
House has been vacant for several years. It was condemned by the city in 1987. The property is across from us (North) on Peach Street.

04077 Melissa Pilgrim
There is no house located on this Lot (3). The house is located on Lot 5 and their driveway is off Lester Street.

04075 Steve E. Winkler
This is a rental property. The property was bought and developed to produce income for the owners. Lot is very small.

04080 Frances E. Shirley
This property has **no utilities** and has not been developed by the owners. There are no homes on any of these wooded lots going up the hill (East) behind our two properties.

15385 Robert O. McBride
This property was not developed until it was purchased by Robert McBride on 9/16/92. This property (McBride Distributing Company) is across from us (West) on Business Highway 71 South.

04094 This property is on the corner of Lester Street going South on Business Highway 71 South (South School Avenue).

04095 This adjacent property is very junky. The owners do not maintain this property or the wooded lot located next to the property. *******

Going **SOUTH** on Business Highway 71 South (South School Avenue)
There is a car lot named Buckeye Motor Company.....a vacant lot..... Cherry Street. There is the White Star Tavern.....a house....a vacant lot... a vacant car lot .....Skelton Street......a liquor store!!!!

Going **NORTH** on Business Highway 71 South (South School Avenue)
There is a house.....a house.....a small building.....a warehouse..... a warehouse for rent.....AMO Electric....Jim's Garage.....26th Street
There is a big vacant lot.......McKinney Insurance Agency.....24th Street.

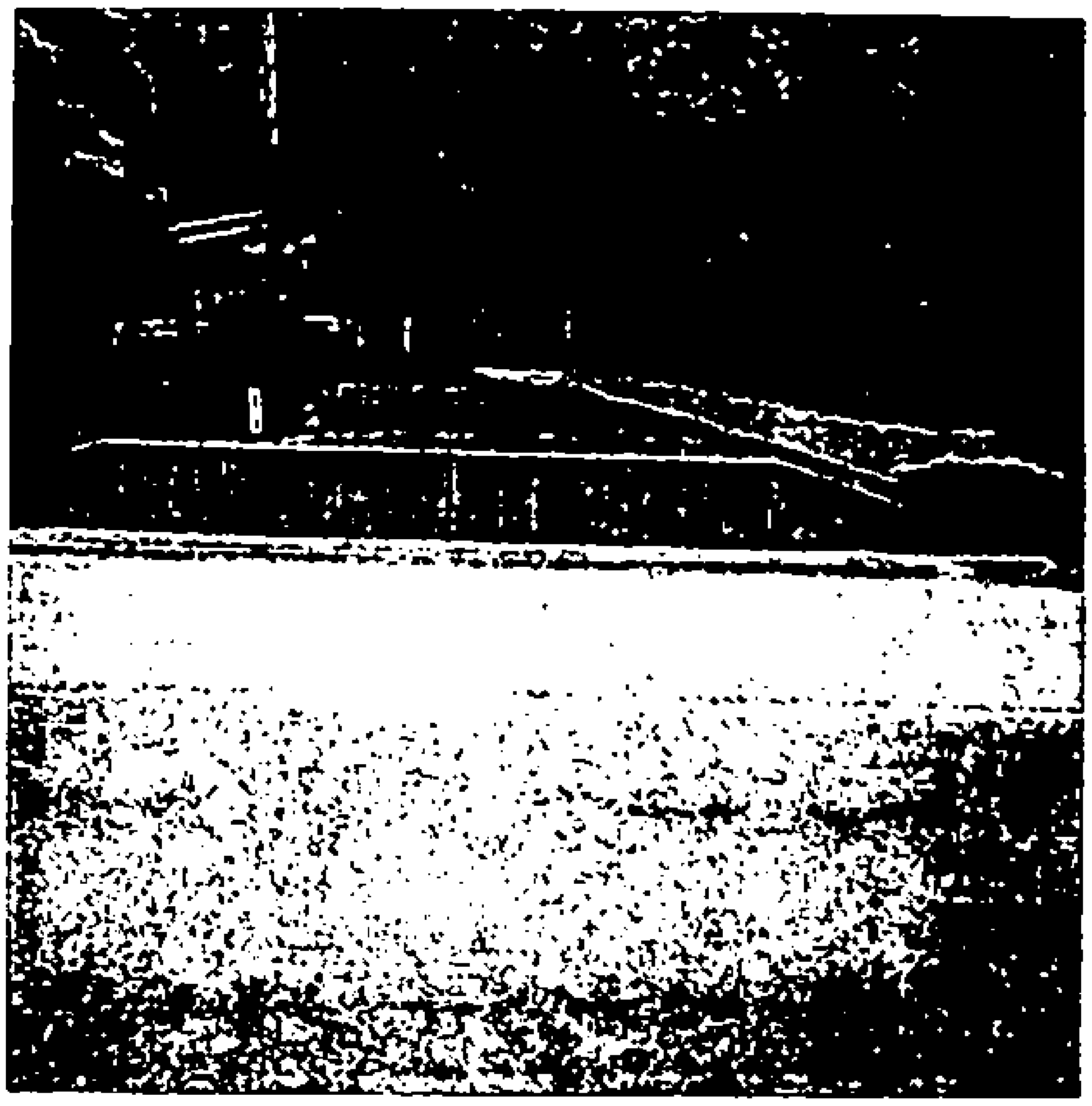
There are undeveloped wooded lots behind our houses and across the highway is McBride Distributing Company and TYSON. The county is building a jail adjacent to the juvenile detention center behind McBride Distributing Company. Tri-County Hazardous Waste and the County warehouse is also located in this area. OUR PROPERTIES have many businesses located around them.

RECEIVED
JUN 30 2003
PLANNING DIV.

04074

PEACH ST

2848 South School



2856 South School

Highway 71 South. (Business)

Circle drive
privacy fence
french drain

RECEIVED
JUL 1 5 2003
PLANNING DIV.

FILE

S. E. Winkler
520 E. Maple
Fayetteville, AR72701

Dawn Warrick
Zoning and Development Administrator

RE: Rezoning for Marvin E. Freeman for property at 2848 and 2856 South School

I own property at 607 Peach Street that adjoins subject property to the east. I have no objection to that property being zoned R-O, Residential Office.

I also own property at 654 E. Lafayette that adjoins property at 701 E. Maple owned by James Lindsey. I do object to that property being zoned I-1 Industrial. Your office should be ashamed and embarrassed for not aggressively pursuing the Residential Zoning for that property that was promised. The most recent betrayal of that neighborhood was canceling of the neighborhood survey similar to the one done in the Mill District neighborhood. Such a survey would have brought public attention to the questionable relationship between The City of Fayetteville, Arkansas Western Gas, and James Lindsey. It appears to a number of people in the Lafayette, Maple, Tanglewood neighborhood that the Planning Division lacks the resolve to insure neighborhood integrity.

Sincerely,

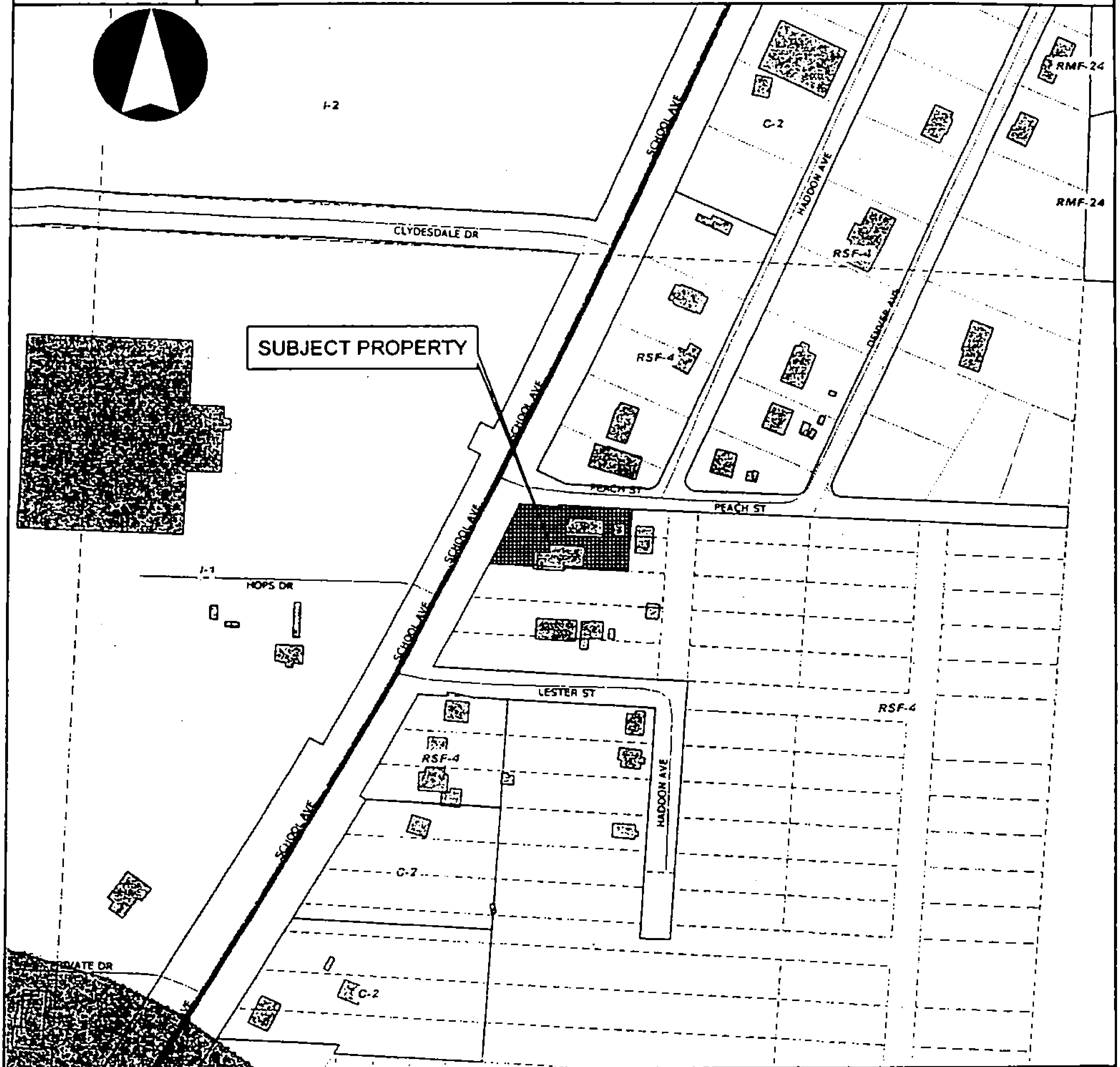
S.E. Winkler

7/14/03

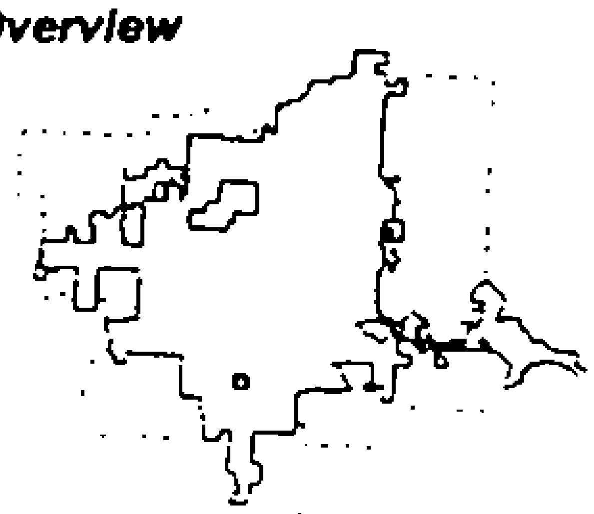
RZN03-25.00

Close Up View

FREEMAN



Overview



Legend

Subject Property

RZN03-25.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

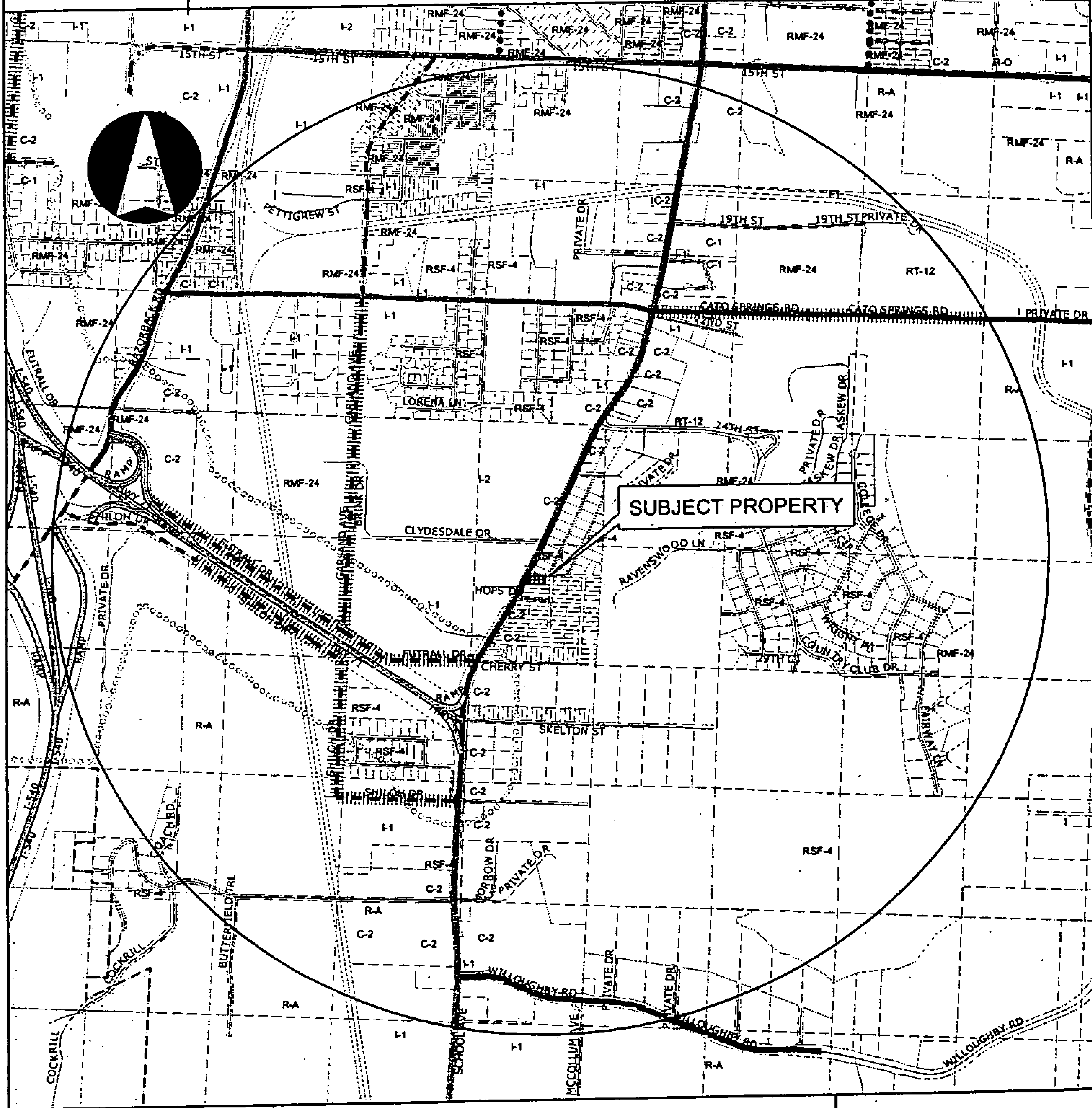
Historic Collector

0 75 150 300 450 600 Feet

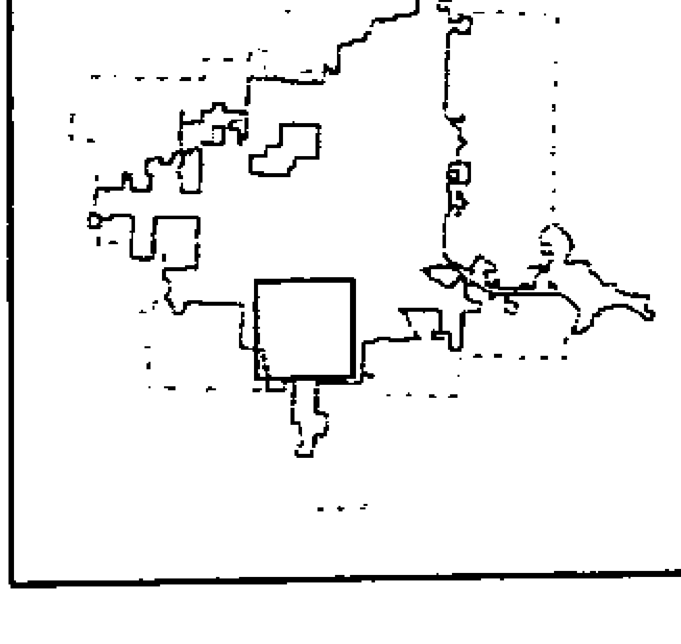
RZN03-25.00

One Mile View

FREEMAN



Overview



Legend

Subject Property

RZN03-25.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

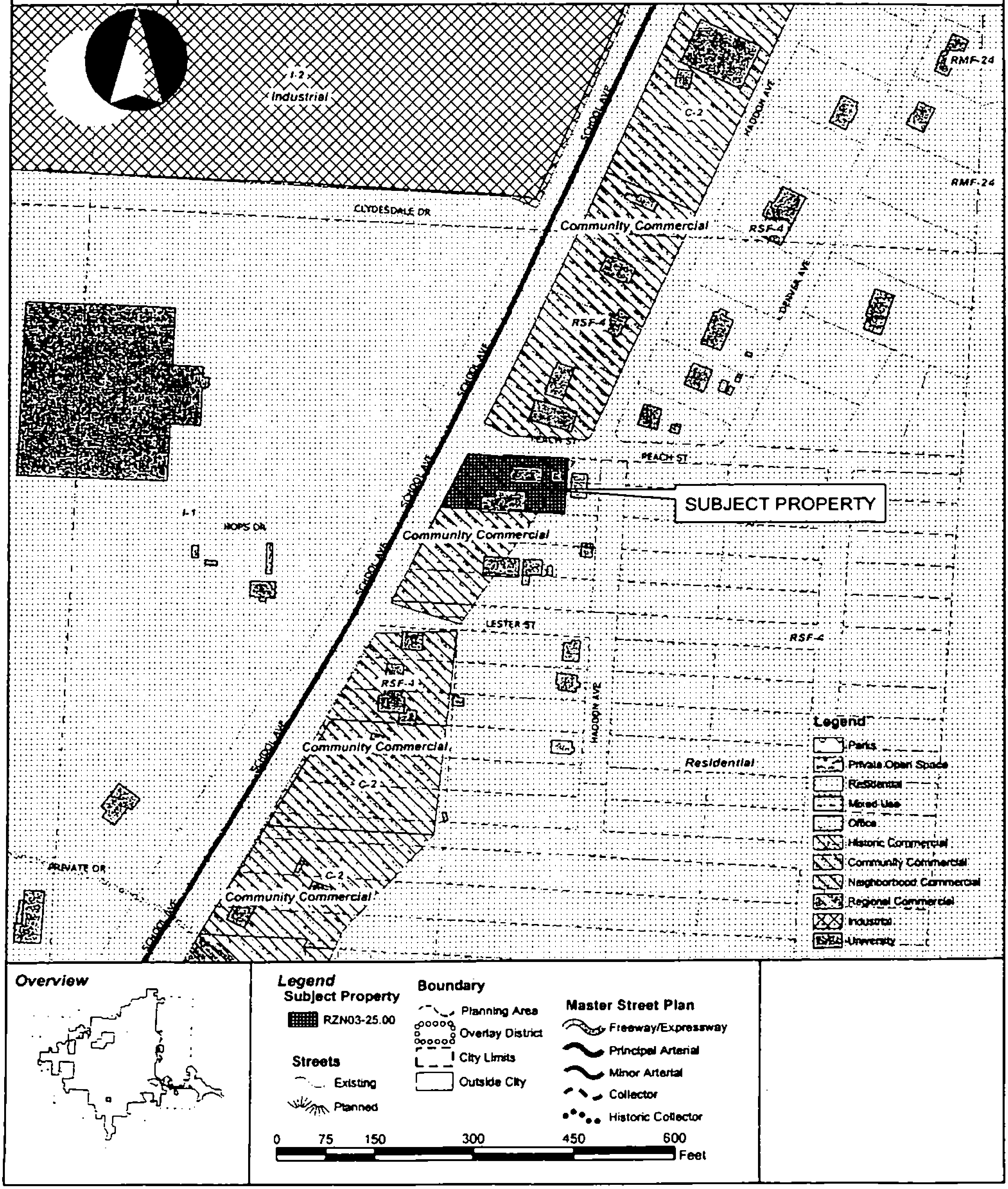
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN03-25.00

Future Land Use

FREEMAN



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

RZN 03-26.00 was submitted by Douglas McDougall for property located at 1187 51st Avenue (Lot 9 in Hamestring South Addition). The property is zoned R-A, Residential Agricultural and contains approximately 3.01 acres. The request is to rezone the property to RSF-4, Residential Single-family, four units per acre.

STAFF RECOMMENDATION:
Staff recommended approval and on July 28, 2003 the Planning Commission voted 7-0-0 to recommend the rezoning be approved by the City Council.

Dawn T. Warrick 8/1/03
Division Head Date

8/4/03
City Attorney Date

8-4-03
Department Director Date

Stephen Davis 8-4-03
Finance & Internal Services Dir. Date

Hugh Earnest 8-4-03
Chief Administrative Officer Date

Dan Coody 8/5/03
Mayor Date

Received in Mayor's Office 8/4/03
Date p.A.

Cross Reference:

Previous Ord/Res#: ______

Orig. Contract Date: ______

Orig. Contract Number: ______

New Item: Yes No

ENTERED
TLM
8/4/03

FAYETTEVILLE

CC Meeting of August 19, 2003

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Dawn Warrick, AICP, Zoning & Development Administrator
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: August 1, 2003

RZN 03-26.00: Rezoning (McDougall, pp 398) was submitted by Douglas McDougall for property located at 1187 51st Avenue (Lot 9 in Hamestring South Addition). The property is zoned R-A, Residential Agricultural. The request is to rezone the lot to RSF-4, Residential Single-family- 4 units per acre.

BACKGROUND:
Property description: The subject property is located north of Wedington Drive along the west side of 51st Street. There is currently one single family home with accessory structures located on the 3.01 acre tract. Surrounding properties contain single family homes with a church located east of the site across 51st Street. Two new subdivisions are currently being constructed further north and east of the property which will contain single family residences and are zoned RSF-4. In recent actions, the Planning Commission has approved a rezoning request for the property immediately north of this tract in order for that piece to be split for one additional single family home.

Proposal: The applicant proposed to divide the subject property to provide one additional single family lot.

Request: The request is to rezone from RA to RSF-4 in order to allow for the creation of one additional residential lot.

CURRENT STATUS:
On June 28, the Planning Commission voted 7-0-0 to forward this item to the City Council with a recommendation for approval.

RECOMMENDATION:
Staff recommends approval of the requested rezoning.

K:\Reports\2003\CC REPORTS\August Meetings\rzn03-26_mcdougall_cc memo.doc

ORDINANCE NO. ______

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 03-26.00 AS SUBMITTED BY DOUGLAS MCDOUGALL FOR PROPERTY LOCATED AT 1187 51ST AVENUE (LOT 9, HAMESTRING SOUTH ADDITION) FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 Units Per Acre, 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 __________, 2003.

APPROVED:

By: ____________________
DAN COODY, Mayor

ATTEST:

By: ____________________
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 03-26.00

LOT NINE (9) IN HAMESTRING SOUTH ADDITION, BEING A PART OF THE EAST HALF (E ½) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION ELEVEN (11), IN TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST IN WASHINGTON COUNTY, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING SHOWN IN SURVEY BOOK 9 AT PAGE 6.

RZN 03-26.00: Rezoning (McDougall, pp 398) was submitted by Douglas McDougall for property located at 1187 51st Avenue (Lot 9 in Hamestring South Addition). The property is zoned R-A, Residential Agricultural. The request is to rezone the lot to RSF-4, Residential Single-family- 4 units per acre.

Hoover: Item number six on the agenda is RZN 03-26.00 for property at 1187 51st Avenue. Dawn?

Warrick: This property is located north of Wedington Drive along the west side of 51st Street. There is currently one single-family home with accessory structures located on the 3.10 acre tract. Surrounding properties contain single-family homes with a church located east of the site across 51st Street. Two new subdivisions are currently being constructed further north and east of the property which will contain single-family residences and are zoned RSF-4. In recent actions the Planning Commission has approved a rezoning request for the property immediately north of this tract in order for that piece to be split for one additional single-family home. The applicant proposes to divide the subject property to provide one additional single-family lot and the request in order to do that is to rezone the subject property from R-A, Residential Agricultural to RSF-4, Residential Single-family four units per acre. The applicant would propose if this rezoning is successful to bring forward a lot split request in order to create the second tract. Access to the property is available from Wedington Drive to the south as well as 51st Street, which lies around the eastern boundary. Wedington Drive is classified a principal arterial on the Master Street Plan. 51st Street is a local street. 51st Street north of the subject property is on the city limits and has been improved adjacent to the new subdivision, Sage Meadows, which is under construction. Further north 51st Street adjoins an additional subdivision, Fairfield, also under construction and then 51st Street becomes Sunshine Road. Water and sewer are both available to this site with a 6" waterline along 51st Street and a 15" sewer main located also along 51st Street. The General Plan Future Land Use Map designates this site as residential. Therefore, the zoning request to single-family residential is consistent with that plan. With regard to findings: The first finding is consistency with the plan and I've mentioned that. Second, with regard to whether it is justified or needed: The consistency with the adopted land use plan and policies does justify this rezoning request. Also, the ability to further develop the property a different zoning designation is required in order to do that. The R-A, Agricultural zoning district would only permit one single-family home to be located on this property. It contains three acres and the minimum lot size for a single-family home in this zoning district is two acres. Determination as to whether the zoning would create or appreciably increase traffic danger and congestion: The finding is that the proposed zoning will only allow the development of one additional single-family home on the property. The addition of approximately ten vehicle trips per day will not substantially impact the existing street infrastructure. Also, the final finding with regard to whether the proposed zoning would alter population density in a manner to undesirably increase the load on public services: The proposed zoning will not alter population density in any real way. We are talking about one additional single-family dwelling which could be developed without the creation of a subdivision and Planning Commission review. Anything further than the single-family dwelling would require additional reviews and infrastructure or offsite improvements potentially if we were looking at something more than just a lot split to create one additional lot. With that, staff is recommending in favor of the request and I will be happy to answer any questions.

Hoover: Thank you Dawn. Would the applicant come forward?

McDougall: I am Doug McDougall, I'm the applicant and I just wanted to mention, there was an issue that I discussed with Renee earlier the possibility that an adjacent land owner may want some of the property in the back for which I would have no use after I completed my project so I might possibly request a property line adjustment and I don't know if I need to say that now but I just don't want to be denied that in the future because it wasn't mentioned on the front end.

Hoover: Thank you. At this time I will open it up to the public. Is there anyone who would like to address this RZN 03-26.00? Seeing none, I will bring it back to the Commissioners.

Bunch: Seeing that this project is the same tenor as other projects in the immediate neighborhood I move that we recommend RZN 03-26.00 to the City Council.

Hoover: I have a motion by Commissioner Bunch, is there a second?

Shackelford: I will second.

Hoover: A second by Commissioner Shackelford. Is there anymore discussion? Seeing none, Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to forward RZN 03-26.00 to the City Council was approved by a vote of 7-0-0.

Thomas: The motion carries seven to zero.

Hoover: Thank you.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of July 28, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn Warrick, AICP, Zoning & Development Administrator
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: July 23, 2003

RZN 03-26.00: Rezoning (McDougall, pp 398) was submitted by Douglas McDougall for property located at 1187 51st Avenue (Lot 9 in Hamestring South Addition). The property is zoned R-A, Residential Agricultural. The request is to rezone the lot to RSF-4, Residential Single-family- 4 units per acre.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	**Required**	**YES**	
	○ Approved		**○ Denied**
Date: July 28, 2003			
CITY COUNCIL ACTION:	**Required**	**YES**	
	○ Approved		**○ Denied**
Date: August 19, 2003 (1st reading if recommended)			

Comments: ______________________________

____

____

BACKGROUND:

Property description: The subject property is located north of Wedington Drive along the west side of 51st Street. There is currently one single family home with accessory structures located on the 3.01 acre tract. Surrounding properties contain single family homes with a church located east of the site across 51st Street. Two new subdivisions are currently being constructed further north and east of the property which will contain single family residences and are zoned RSF-4. In recent actions, the Planning Commission has approved a rezoning request for the property immediately north of this tract in order for that piece to be split for one additional single family home.

Proposal: The applicant proposed to divide the subject property to provide one additional single family lot.

Request: The request is to rezone from RA to RSF-4 in order to allow for the creation of one additional residential lot.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family residential	RSF-4, Residential single family, 4 units/acre
South	Single family residential	RA, Residential Agricultural
East	Church	RA, Residential Agricultural
West	Single family residential	RA, Residential Agricultural

INFRASTRUCTURE:

Access to this property is available from Wedington Drive to the south as well as 51st Street along the east boundary. Wedington Drive is classified as a principal arterial on the Master Street Plan and 51st Street as a local street. 51st Street north of the subject property is on the city limits line and has been improved adjacent to the new subdivision, Sage Meadows, which is under construction currently. Further north, 51st adjoins an additional subdivision (Fairfield) under construction and becomes Sunshine Road.

Water and sewer are both available to this site with a 6" water line along 51st Street and a 15" sewer main also along 51st Street.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to RSF-4, Residential single family, 4 units/acre, is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: **The proposed zoning is consistent with land use planning objectives and with the City's adopted Future Land Use map and General Plan 2020. The area is**

already developed with single family dwellings and this request is consistent with recent rezoning and development approvals.

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

Finding: **The proposed zoning is justified in that it is consistent with adopted land use policies. In order to further develop this property, a different zoning designation is necessary. In the RA zoning district, only one single family home on a minimum of 2 acres can be permitted.**

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

Finding: **The proposed zoning will only allow for the development of one additional single family home on the property. The addition of approximately 10 vehicle trips per day will not impact the existing street infrastructure.**

Engineering – This rezoning would not affect the existing transportation system.

Police - It is the opinion of the Fayetteville Police Department that this rezoning will not substantially increase traffic congestion in the area.

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

Finding: **The proposed zoning will not alter population density in any real way. One additional single family dwelling is the most that could be developed without the creation of a subdivision and planning commission review which would include consideration of on and off-site improvements.**

Engineering - The property currently has access to a 6" water line along 51st Avenue. This line should be sufficient to provide water service to the existing facility as well as redevelopment of the site.

Sewer service is located along 51st Avenue as well. The 15" main should be sufficient to provide sewer service to the existing facility as well as redevelopment of the site.

If development occurs on this site, 51st Ave. would need to be improved to a minimum of 14' from centerline including pavement, curb and gutter, storm drains and sidewalk.

Fire – A 6" water line is present, further development may require installation of hydrants. Response time (actual drive time) from the new Station #7 (Rupple Road), *approximately 1 mile is 1 minute 42 seconds.*

Police - It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services.

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

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

161.03 District R-A, Residential- 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; provide opportunity for affordable housing, 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 dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half

(D) Bulk and area regulations.

Lot width minimum	200 ft.
Lot Area Minimum: Residential: Nonresidential:	 2 acres 2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *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 setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.07 District RSF-4, Residential Single-Family– Four Units Per Acre

(A) *Purpose.* The RSF-4 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 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
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) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *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; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

Checklist Item 5

A. The current owner of this 3.02 acre parcel is the applicant, Douglas McDougall, who plans to request a lot split for a second house as soon as the rezoning is approved. (Survey for the proposed lot split is attached.)

B. This rezoning is necessary because the current A1 zoning precludes the subdivision of a 3 acre parcel (i.e. minimum 2 acre lot size requirement).

C. Of the seven adjacent properties, five are 1.52 acre or smaller and four already contain single family dwellings. The property across the street to the east is a church, and the property to the west is a 9.44 acre pasture which I would expect to be developed in the foreseeable future. Therefore, building a second home on this 3.02 acre parcel is very much in line with current land use in this neighborhood. North 51st Avenue is just 300 feet off Highway 16W (Wedington Dr.). The addition of one single family dwelling that close to a major road should have no adverse affect on traffic.

D. City water and sewer lines run across the front of the property and are 6" and 15" respectively.

Checklist Item 6

A. The area immediately to the east of this parcel has already been rezoned and mostly developed with single family housing and some duplexes. It is my understanding that the land just to the north is slated for annexing and will be zoned R-1.

B. This rezoning request is justified because the proposed improvement is very much in keeping with current land use. It is desirable because 3 acres is just too much to mow! (The previous owner allowed the back 1-¼ acres to grow up for hay.) It is necessary because 3.02 acres cannot be divided in A1 zoned areas.

C. One additional home located this close to Highway 16 W, part of which has been widened already, should have no affect on traffic. North 51st Avenue (Washington County 877) is being improved at this time because of a subdivision that is currently underway just to the north of this property.

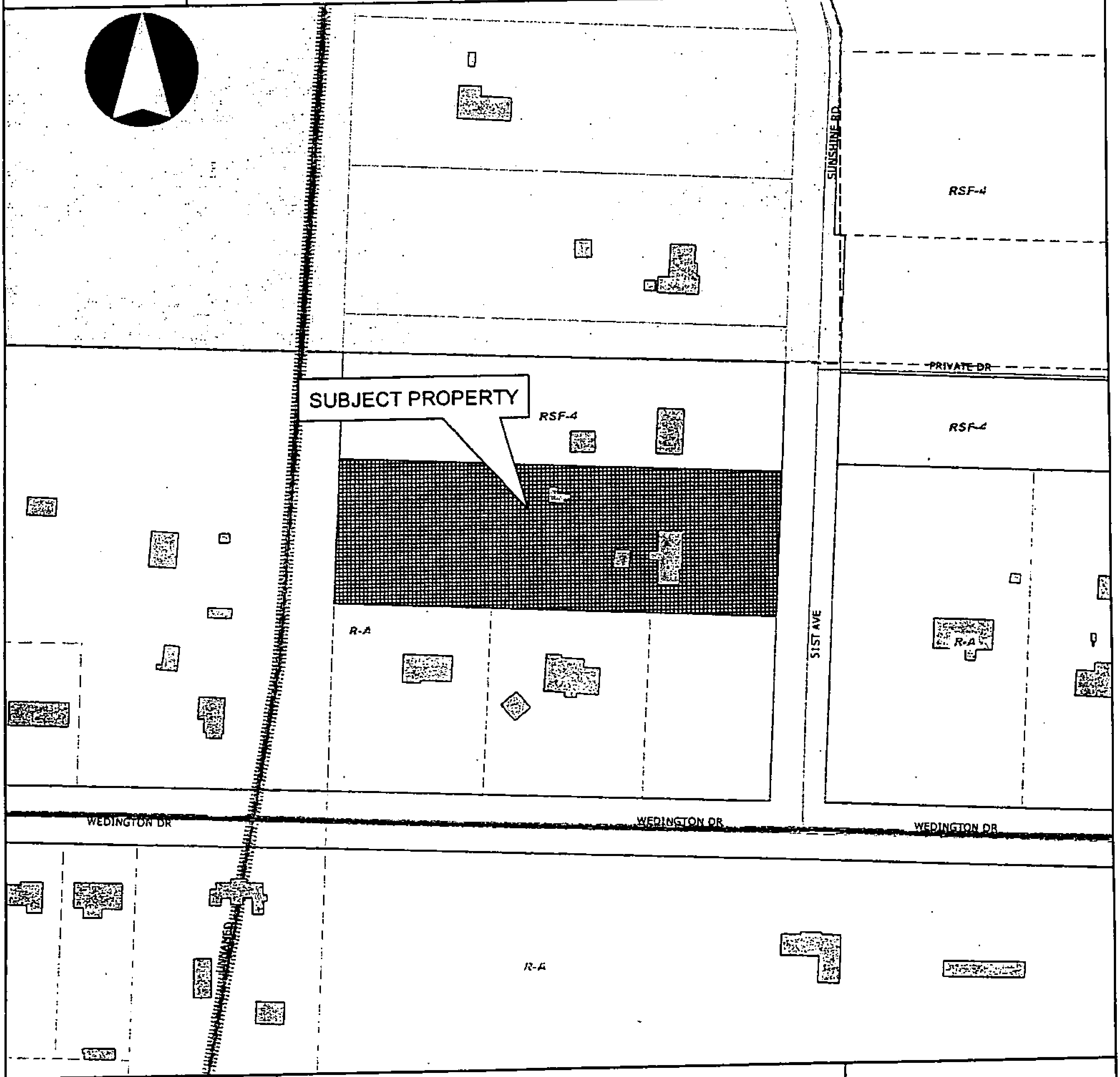
D. This is a prime area for residential development for which there is a tremendous demand. I feel certain that planning is underway to respond to the growing need for city services on the west side. As for population density, two homes on 3.02 acres is still very low.

E. Agricultural activities are becoming less and less desirable in this area which is about 2 minutes from the I-540 by-pass. The "open" portion of this property has residences on three sides, so livestock would be unwelcome in this area. Residential use is the obvious choice.

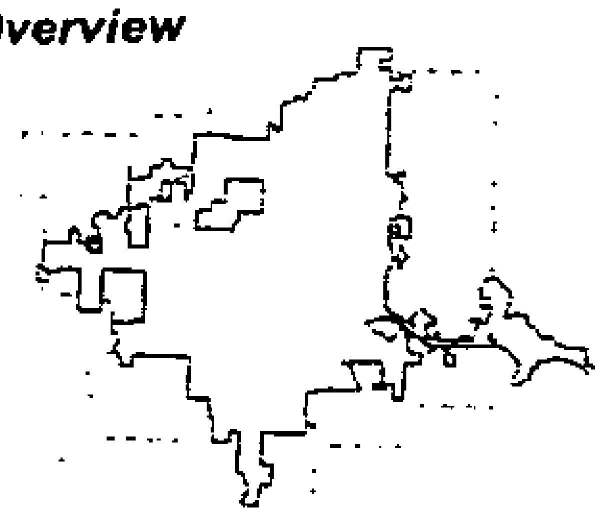
RZN03-26.00

Close Up View

McDOUGALL



Overview



Legend

Subject Property

RZN03-26.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

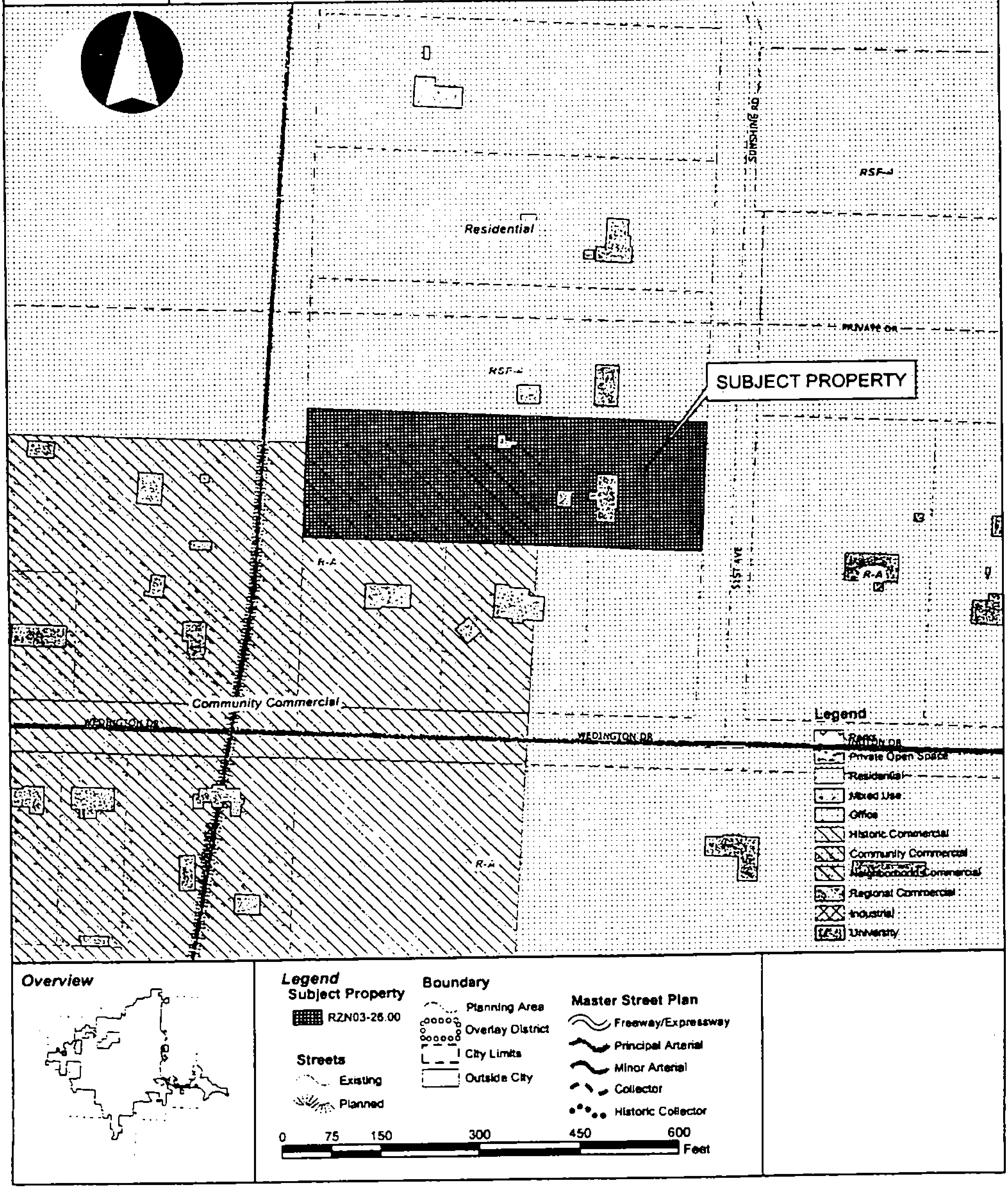
Historic Collector

0 75 150 300 450 600 Feet

RZN03-26.00

Future Land Use

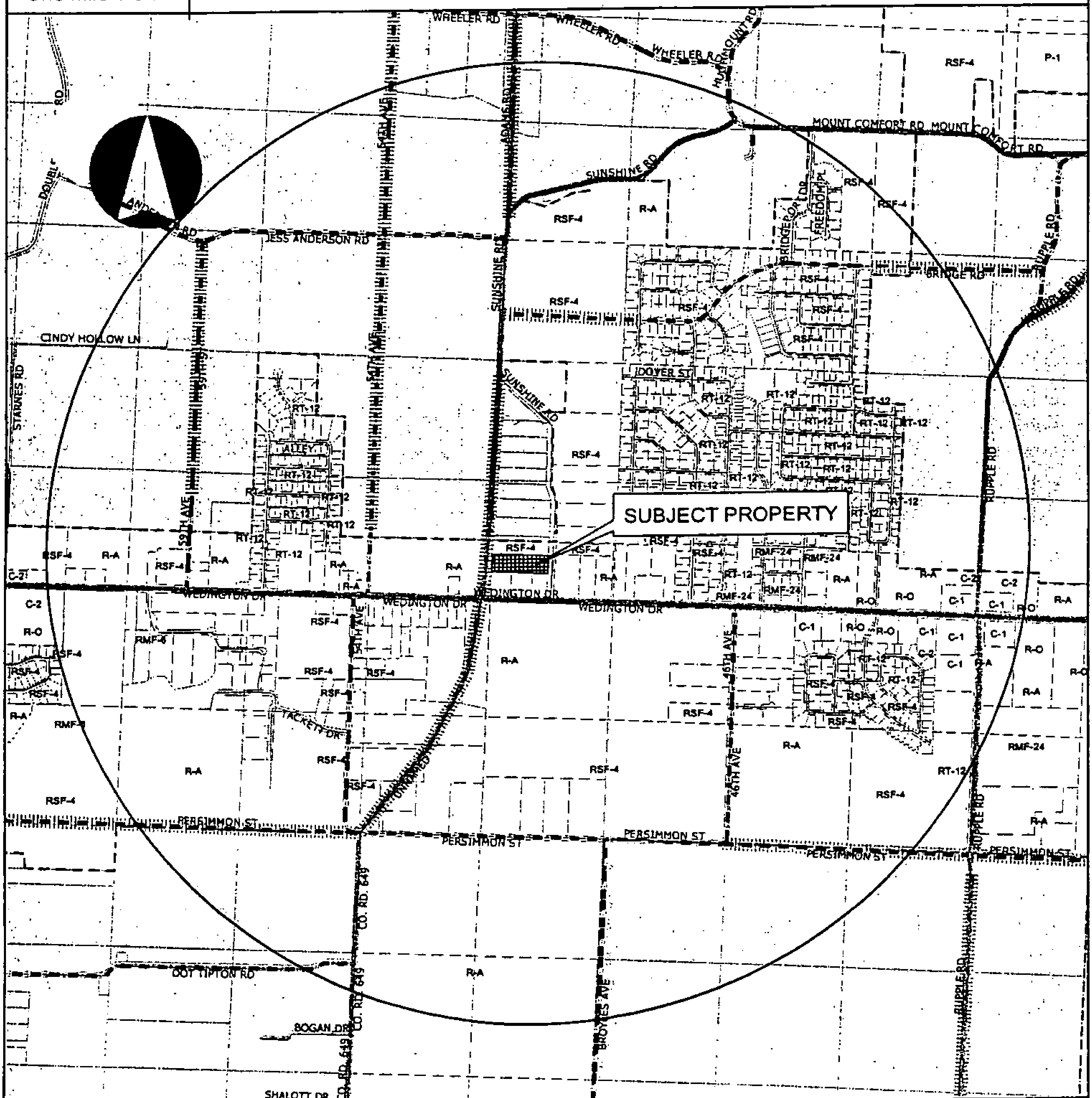
McDOUGALL



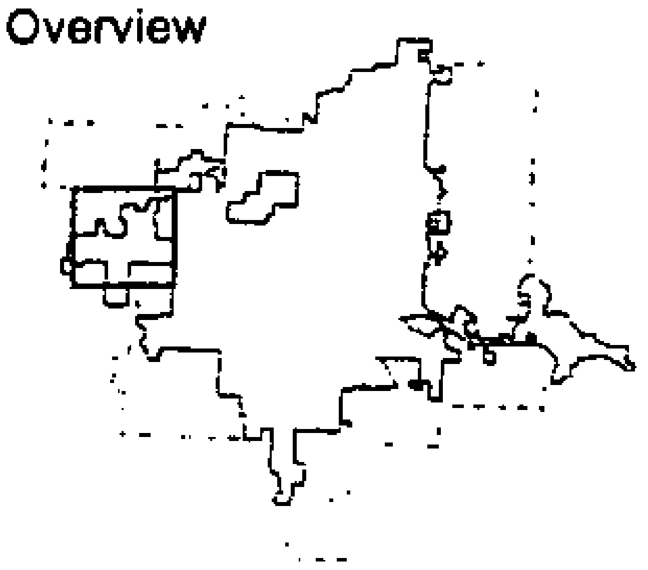
RZN03-26.00

One Mile View

MCDOUGALL



Overview



Legend

Subject Property

RZN03-26.00

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 - NON-FINANCIAL OBLIGATION

PPL 03-11.00 Tomlinson TTM-LLC
C. 6. Page 1

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Resolution approval.

SUMMARY EXPLANATION:

PPL 03-11.00 was submitted by Tomlinson Asphalt Civil Engineering Division on behalf of TTM-LLC for property located north of West Salem Road and south of the Howard Nickell Road extension as shown on the Master Street Plan. The property is in the county and contains approximately 40.14 acres. The request is to amend the Master Street Plan and dedicate 90 feet of right of way along Howard Nickell Road through the entire proposed development in a different alignment to complete a connection with the future extension of Rupple Road north.

STAFF RECOMMENDATION: Approval

Division Head — Date 8/1/03

Received in Mayor's Office — Date 8/5/03

City Attorney — Date 8/4/03

Department Director — Date 8-4-03

Finance & Internal Services Dir. — Date 8-5-03

Chief Administrative Officer — Date 8-5-03

Mayor — Date 8/5/03

Cross Reference:

Previous Ord/Res#: ______

Orig. Contract Date: ______

Orig. Contract Number: ______

New Item: Yes No

ENTERED TLM 8/4/03

RESOLUTION NO. __________

A RESOLUTION AMENDING THE MASTER STREET PLAN, DEDICATING 90 FEET OF RIGHT OF WAY ALONG HOWARD NICKELL ROAD THROUGH THE ENTIRE PROPOSED DEVELOPMENT IN A DIFFERENT ALIGNMENT TO COMPLETE A CONNECTION WITH THE FUTURE EXTENSION OF RUPPLE ROAD NORTH.

WHEREAS, the new alignment of Howard Nickell Road and Rupple Road fulfill the intent of the Master Street Plan;
and
WHEREAS, the new alignment of Howard Nickell Road and Rupple Road will be beneficial to the City of Fayetteville's policy of connectivity;
and
WHEREAS, this amendment to the Master Street Plan provides connectivity with less topography constraints.

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 change in the Master Street Plan as noted above and more particularly shown on Exhibit A (attached).

PASSED and **APPROVED** this _____ day of August, 2003

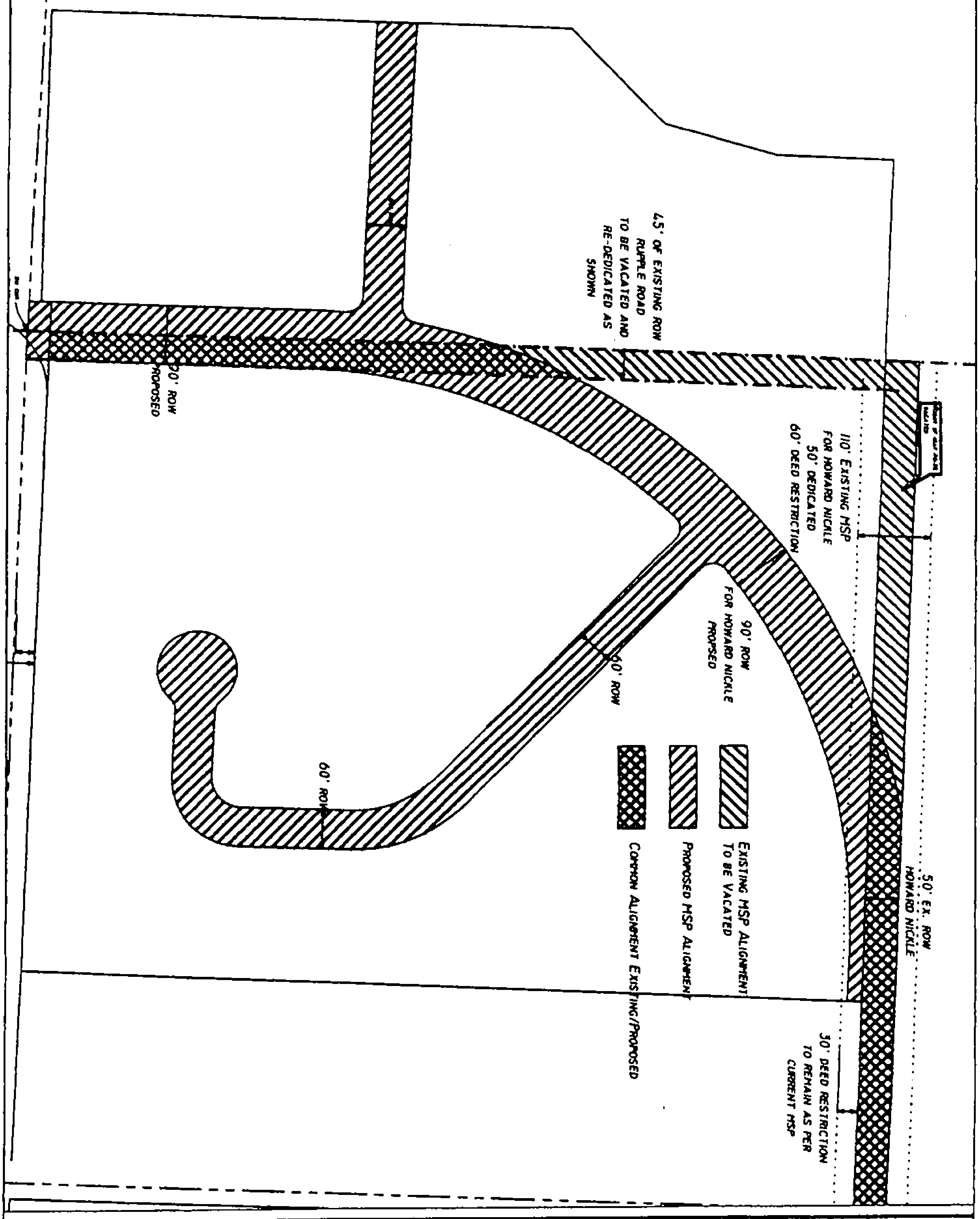
APPROVED:

By: ______________________________
DAN COODY, MAYOR

ATTEST:

By: ______________________________
SONDRA SMITH, CITY CLERK

EXHIBIT 1.



Tomlinson Asphalt Company, Inc.

The Estates at Salem Hills

City Council meeting of August 05, 2003

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Jeremy Pate, Associate Planner
THRU: Dawn Warrick, Zoning and Development Administrator
DATE: July 31, 2003

PPL 03-11.00: Preliminary Plat (The Estates at Salem Hills, pp 205/206) PPL 03-11.00 was submitted by Tomlinson Asphalt Civil Engineering Division on behalf of TTM-LLC for property located north of West Salem Road and south of the west end of the Howard Nickell Road extension as shown on the Master Street Plan. The property is in the county and contains approximately 40.14 acres. The request is to amend the Master Street Plan and dedicate 90 feet of right of way along Howard Nickell Road through the entire proposed development in a different alignment to complete a connection with the future extension of Rupple Road north.

BACKGROUND:
The current Master Street Plan indicates Howard Nickell Road, a principal arterial requiring 110 feet of right-of-way, to extend west to Rupple Road. Rupple Road, a minor arterial requiring 90 feet of right of way, is planned to extend north to connect to Howard Nickell Road. The current Master Street Plan indicates that the west end of Howard Nickell Road and the north end of Rupple Road intersect at a right angle. Upon build-out of the Master Street Plan, this arterial is designed to carry traffic from Highway 62W north to Howard Nickell Road.

The applicant is requesting to amend the Master Street Plan and connect the two streets with a curve. At the current Master Street Plan location for the intersection of Rupple Road and Howard Nickell Road, a large ravine exists, which creates an impractical street connection potentially requiring extensive design and engineering to complete the plan as indicated. The applicant proposes to dedicate 90 feet of right-of-way simultaneously with this realignment request for the entire length of the street contiguous to the applicant's property.

CURRENT STATUS:
The Preliminary Plat for The Estates at Salem Hills was approved by Planning Commission on July 14, 2003 with a vote of 7-0-0, contingent upon City Council's approval of an amendment to the Master Street Plan.

RECOMMENDATION:
Staff recommends approval of this request.

FAYETTEVILLE

PC Meeting of July 14, 2003

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission Members
FROM:	Jeremy Pate, Associate Planner
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator Matt Casey, Staff Engineer
DATE:	July 14, 2003

Project: PPL 03-11.00: Preliminary Plat (The Estates at Salem Hills, pp 205/206) was submitted by Tomlinson Asphalt Civil Engineering Division on behalf of TTM-LLC (Bud Tomlinson, Gerald Tomlinson and Mark Mahaffey) for property located north of West Salem Road, west of Salem Road and south of the west end of the Howard Nickell R/W on the Master Street Plan. The property is in the county and contains approximately 40.14 acres. The request is for a residential subdivision with 23 lots ranging in size from 1.02 acres to 2.46 acres.

Findings:

Proposal: The request is for a residential subdivision with 23 lots ranging in size from 1.02 acres to 2.46 acres.

Surrounding Zoning: The property is located in the Planning Area

Surrounding Land Use: Single Family Residential, Agricultural

Water: Extended 8" water lines

Sewer: Individual septic systems for all lots. For those lots with an area of less than one and one-half acre, county approval of the septic system is required prior to Planning Commission approval.

Right-of-way being dedicated:

- Howard Nickell Road (Principal Arterial on the MSP) requires 110 feet of ROW.
- Salem Road (Minor Arterial), the north-south road bisecting the property, requires 70 feet of ROW south of Howard Nickell Road.

The applicant is requesting to amend the Master Street Plan, vacate the existing right-of-way, and dedicate 90 feet of ROW along Howard Nickel Road through the entire proposed development in a different alignment. *Staff is in support of this request.* The applicant is indicating 60 feet of right-of-way for West Salem Road to the south, which is compliant with the Master Street Plan.

Street Improvements Proposed: Howard Nickel Road will be improved to Washington County Standards, to include a 28'foot wide street with curb and gutter. All interior streets will likewise be 28 feet in width. West Salem road is being paved along the length of the property frontage to the south.

Background: The preliminary plat for The Estates at Salem Hills was heard at the Technical Plat Review on June 18, 2003 and at Subdivision Committee on July 03, 2003. The Subdivision Committee forwarded the project to full Planning Commission, with an amended condition regarding the County approval of septic systems.

Recommendation: ~~Forward to full Planning Commission~~ Approval

Conditions to Address / Discuss:

1. Prior to Planning Commission approval of the preliminary plat, a conditional letter of approval for individual septic systems on those lots less than one and one-half acre shall be obtained from the county and submitted to the Planning Division for review.

2. Prior to final plat approval, individual septic system approval shall be obtained from the County for those lots having a gross area of less than one and one-half acre. A permit for individual septic systems must be granted by the Arkansas Department of Health for each proposed lot in this size category.

3. The lot split to create that portion of the property to the west of Howard Nickel Road shall be filed with the county prior to final plat approval.

4. Planning Commission consideration and City Council approval for an amendment to the Master Street Plan must be obtained for the proposed Howard Nickel Road alignment.

5. The request for vacation of right-of-way for the current Howard Nickel Road alignment shall be considered by Planning Commission and approved by City Council.

P.C. changes for approval

6. Access to Howard Nickel Road shall limited be limited to those lots without frontage onto interior streets. A provision for ~~shared~~ access shall be indicated on the final plat for a maximum of ~~five~~ eight curb cuts onto Howard Nickel Road.

7. Required Right-of-way dedication for Howard Nickel Road (90') and West Salem Road (30'from centerline) shall occur with the final plat.

8. Access from Howard Nickell Road shall be provided at the developer's expense to replace the drives to the homes of Dr. Bailey and Dr. Coker.

9. Addition Conditions:
   a. ______________________________

b. ____________________

c. ____________________

PLANNING COMMISSION ACTION: _yes_ Required
_____ Approved _____ Denied

Date: July 14, 2003

Comments:

____

____

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

____
By

____
Title

____
Date

PPL 03-11.00: Preliminary Plat (The Estates at Salem Hills, pp 205/206) was submitted by Tomlinson Asphalt Civil Engineering Division on behalf of TTM-LLC (Bud Tomlinson, Gerald Tomlinson and Mark Mahaffey) for property located north of West Salem Road, west of Salem Road and south of the west end of the Howard Nickell R/W on the Master Street Plan. The property is in the county and contains approximately 40.14 acres. The request is for a residential subdivision with 23 lots ranging in size from 1.02 acres to 2.46 acres.

Estes: Good evening, welcome to the Monday evening, July 14, 2003 meeting of your Fayetteville Planning Commission. The first item of business is the roll call. Renee, would you call the roll please?

Roll Call: Upon the completion of roll call there were seven commissioners present with Commissioner Hoover and Commissioner Anthes being absent.

Estes: The next order of business would be approval of the minutes. Renee, I do not see the approval of the minutes on the agenda, is there a reason for that?

Thomas: None that I'm aware of.

Estes: Oh, I see, we have it under the consent agenda, I apologize. The next item of business is the consent agenda, the approval of the minutes from the June 23, 2003 meeting. Are there any changes, modifications, additions or corrections to the minutes? Seeing none, they will be approved. The first item of business is a Preliminary Plat, it is PPL 03-11.00, the Estates at Salem Hills. Jeremy, is this your item?

Pate: Yes Sir it is.

Estes: Tell us what we need to know about this particular item please.

Pate: This proposal is for a Preliminary Plat for an item that is located in the Planning area. It is on West Salem Road, north of West Salem Road, west of Salem Road and south of the west end of Howard Nickell Road. The request is for a residential subdivision with 23 lots ranging in size from 1.02 acres to 2.46 acres. Proposed are individual septic systems for all lots. For those lots with an area of less than one and a half acre county approval is required for those septic systems prior to Planning Commission approval. The right of way being dedicated is Howard Nickell Road which requires 110' of right of way and Salem Road which requires 70' of right of way. The applicant is requesting to amend the Master Street Plan, vacate the existing right of way and dedicate 90' of right of way along Howard Nickell Road through the entire proposed development in a different alignment as indicated on your site plan. Staff is in support of this request. The applicant is indicating 60' of right of way for West Salem Road to the south of the site which is compliant with the Master Street Plan. Street improvements proposed along Howard Nickell Road will be to Washington County standards to include a 28' wide street with curb and gutter. All interior streets will likewise be 28' in width and West Salem Road is being paved along the length of the property frontage to the south. Staff is recommending Planning Commission approval at this level. There are nine conditions. I will read over those for you. 1) Prior to Planning Commission approval of the Preliminary Plat a conditional letter of approval for individual septic systems on those lots less than one and one half acre shall be obtained from the county and submitted to the Planning Division for review. That letter is included in your packets and we have reviewed that. 2) Prior to Final Plat approval septic system approvals shall be obtained from the county for those lots having a gross area of less than one and one half acres. A permit for individual septic systems must be granted by the Arkansas Department of Health for each proposed lot in this size category. 3) The lot split decreeing that portion of the property to the west of Howard Nickell Road shall be filed with the county prior to Final Plat approval. 4) Planning Commission consideration and City Council approval for an amendment to the Master Street Plan must be obtained for the proposed Howard Nickell Road alignment. 5) The request for vacation of right of way for the current Howard Nickell Road alignment shall be considered by the Planning Commission and approved by the City Council. 6) Access to Howard Nickell Road shall be limited to those lots without frontage onto interior streets. A provision for shared access shall be indicated on the Final Plat for a maximum of five curb cuts onto Howard Nickell Road. 7) The required right of way dedication for Howard Nickell Road, which is 90' and West Salem Road, 30' from centerline shall occur with the Final Plat. 8) Access from Howard Nickell Road shall be provided at the developer's expense to replace the drives of the homes of Dr. Bailey and the home of Dr. Coker. That is all I have, thank you.

Estes: Thank you Jeremy. Is the applicant or the applicant's representative present? If so, would you come forward please and if you have a presentation please provide us with the benefit of your presentation.

Hennelly: Yes Sir, I am Tom Hennelly with Tomlinson Asphalt Company, a Project Engineer. We don't really have a problem with any of the conditions with the exception of some of the wording in condition six. Access to Howard Nickell Road shall be limited to those lots without frontage onto interior streets. We don't really have a problem with that. That would, however, allow for eight curb cuts rather than five and we think that with the size of the lots being an acre and a half with frontage, most of them over 200' and some of them nearing 300' that for 2,400 feet of road eight curb cuts doesn't seem to be excessive. Everything else we are in compliance with.

Estes: Thank you very much.

Hennelly: Yes Sir.

Estes: Is there any member of the audience who would like to provide us with their comments regarding the requested PPL 03-11.00? Yes Ma'am, if you would please come forward, say your name and provide us with the benefit of your comments.

Bell: My name is Kris Bell and I am a resident of the Salem community. I live directly across the street from the proposed subdivision. I want to say that Mr. Tomlinson is a very good neighbor and I am not opposing the subdivision. I am a member of the Fayetteville School Board and I have great concerns with the traffic situation that this proposed plat, in addition to 750 other houses being built within a two mile radius of Holt Middle School and Holcomb Elementary School. It is almost impossible now to access in and off of Mount Comfort to Salem, before you even start building these. We are really concerned about the traffic issues and the safety of our children. I just wish that the Planning Commission and the city would address the infrastructure before they allow more subdivisions because it cannot handle it now. That is my major comment, we need to look at safety. We have no other roads right now for these children to access on. We also have no sidewalks so they cannot get to most of the schools unless they are driven or by a school bus and these are very narrow roads. We have had accidents before with school buses turning over and parents get very anxious, children are saying "I'm going to be late, I'm going to be late, I'm going to be late." They can't get on the streets, they cannot get on Mount Comfort now. I just don't see, unless we build some roads, and I know they are in the plan, but they are in the plan five years out. These schools are almost near capacity now before you even add additional students and they are going to have to be bussed somewhere because they cannot go to Holcomb School pretty soon. Even with the addition that we are putting on two years or three years that school is going to be full and I understand there is another subdivision going with 65 more houses off of Mount Comfort so I don't know where we are going with this. It is fine that we build but we have to do something about the infrastructure first. I don't know if this is the forum for it but it just needs to be addressed. I don't know if you can make comments when you pass this on but it is just impossible. My road right now is dangerous. It is a dirt road, I know it will be paved, but people speed up and down Salem Road and unless there is a four way stop put there somebody is going to get hurt there, it could be a school bus, it could be my child, it could be me, it could be my neighbor. There needs to be stop lights or a stop sign, a three way stop put at Mount Comfort or at the Holt entrance, somewhere. I talked to a lady from Goosebury and she said I don't know what I'm going to do. I can't get off of Goosebury now before they put the 750 houses because that is 3,000 cars on narrow roads. It is my understanding that Salem Road is considered a minor artery and that Howard Nickell is considered the major. That is crazy. You should see the traffic on that road. I don't know again, if this is the forum, but I want that concern to be brought up when you pass it on. Thank you.

Estes: Thank you Kris. Yes Sir, if you would please come forward.

Mason: My name is Mike Mason and I am principal of Holt Middle School and I just want to reemphasize what Kris Bell just said. Our concern at Holt of course is not with the subdivisions going in or even with the students, we will handle that as we need to add on or build new buildings. This year I became increasingly concerned with the traffic flow on Mount Comfort and a few mornings I was arriving at school between 7:30 and 8:00, usually I get there at 7:00. I didn't realize what a problem there was between 7:30 and 8:00. There are times where Mount Comfort is backed up for as far as I can see and I don't know how much further beyond the curve or over the hill it goes. That is a problem in that there is so much traffic and we are concerned with all the new houses going in that that is going to continue to get worse. A second concern we have is we have a lot of kids that live in walking distance or biking distance but because there is no shoulder or no sidewalks in that area it is really dangerous and we try to prohibit them from doing that but of course if their parents allow it they can. We are afraid that somebody is going to get hurt and so once again I am kind of like Kris, I don't know if this is the proper forum but we do have a serious concern about our student's safety issues and we would just like to see that addressed. If we can do anything to help you in that we will invite you out or give you what information you need to let you see that we think it is a really dangerous situation that is obviously going to get worse. Thank you.

Estes: Thank you Mike. Is there anyone else who would like to provide comment on this requested Preliminary Plat?

Goodman: Yes, my name is Debbie Goodman and I own property on Howard Nickell and Hutchinson Lane, which is right close to this development. My concern is the same thing, the traffic. My parents own a place on Howard Nickell and they can't hardly get out of their drive because of all the traffic. The roads out there just won't handle it. All of my life I've lived out there off and on and I've always walked. Now I can't even hardly walk because of the traffic. You get run off the road and everything else. The concern is the traffic.

Estes: Thank you Debbie. Is there anyone else? Let me bring the item back to the applicant and if you would please address some of the concerns that Ms. Bell and Mr. Mason and of course Debbie have raised it would be appreciated.

Hennelly: Yes Sir. The only thing I can add to that is that sure enough these twenty three lots will increase the traffic count in that part of town. There is just no denying it. We are however, and I guess it has been the philosophy of the city, that because of the amount of growth that has gone on it is tough for you all to keep up with doing capital improvements to help maintain the situation but also in addition to that because of the growth you also have had hundreds of developers come in that have built millions of dollars worth of infrastructure that they have turned over to the city to help alleviate this problem. I know that the Master Street Plan calls for Howard Nickell Road, at some point when that area is annexed into the city to be a minor arterial, as well as Rupple Road's continuation all the way down to Mount Comfort, which will alleviate a lot of the problem at Salem Road and it will take it right in front of the new middle school that is out there. That property is constantly under development from Mount Comfort Road north up to this project and really with our improvements that we are proposing I think it is Clabber Creek subdivision is improving along there as well and it is just a matter of time before Rupple Road is connected all the way through. That is really the only thing that I can add. This property, as we propose it, creates a much lesser impact on traffic than what could have been proposed with smaller lots and meeting the minimum requirements of residential subdivisions. These are all acre and a half lots, which I guess if it had to be developed, this would be the best case scenario.

Estes: Thank you. Let me bring the item back to the Commission for discussion, comments and motions. Commissioner Bunch, if we could begin with you. Could you give us a brief report of Subdivision?

Bunch: We had some very good public comment. Some of the same people who spoke at Subdivision spoke tonight and shared their concerns with us. Another thing we were concerned with were the two lots that were less than an acre and half and that has been taken care of with the situation on the septic systems but most of the comments were just getting a grasp and understanding how the roads would be vacated, how the easements would be laid out, what roads would be paved, which ones would be new roads and the new application for the Master Street Plan, which of course will have to go to the City Council. That was basically the jest of the Subdivision Committee for this project.

Estes: Thank you Commissioner Bunch. Commissioners, is there any discussion?

Shackelford: Condition number six discusses the curb cuts along Howard Nickell Road. The applicant has obviously expressed a desire for eight curb cuts instead of five, can you expand a little bit on the justification and the thought process for the limitation of five please?

Warrick: Howard Nickell Road is classified on the Master Street Plan as a principal arterial street. It is to carry large volumes of traffic. Access management on those higher level streets is critical in order to maintain capacity and levels of service once those streets are developed and staff's intent in this recommendation is to minimize the number of conflicts that may occur on that street by combining some of the potential curb cuts.

Shackelford: What do our ordinances say as far as requirements for frontage, distance between curb cuts and that sort of thing?

Warrick: With regard to this property, it is located outside of the city limits. We do have some areas of town, such as the Overlay District, where we more strictly regulate the distances for curb cuts. In this particular situation if it were inside the city limits there would be minimal distances between curb cuts required. You will see in front of you you have a draft transportation study that is a work in progress that the city has contracted for and part of that does include more attention to access management, especially on our higher level streets. This is something that staff felt was appropriate to go ahead and look at in this particular situation because we are dealing with one of our Master Street Plan streets and a major point of connectivity for the city.

Shackelford: If this was inside the city limits would it apply? How would those minimum distances work? What are those standards?

Warrick: Between residential driveways you would be looking at a minimum of 10', 5' from the property line on either side for a curb cut for a driveway.

Shackelford: Thank you.

Estes: Is there any other discussion?

Vaught: Yes. Specifically which lots were you looking at because the way they have it drawn the two roads kind of curve together. The five curb cuts, they are off Howard Nickell Road, do you know which lots you are talking about?

Warrick: It looks like it would affect a single curb cut access to lot number three, a combined access between lots one and two, a combined between lots 15 and 16, a combined access to serve lots 19 and 20 and a single access for lot number eight.

Estes: Are there any other comments? Are there any motions?

Ostner: I am in favor of the request by the applicant. Limiting curb cuts does help however, we are just pushing them together and I don't see how that really, in this case it is one 28' curb cut instead of two 14's that are side by side. I would be ok with making it 8. I don't know how the other Commissioners feel.

Estes: Is that a motion?

MOTION:

Ostner: I will make a motion that we approve PPL 03-11.00 changing condition six to read a provision for shared access shall be indicated on the Final Plat for a maximum of eight curb cuts onto Howard Nickell Road.

Estes: We have a motion by Commissioner Ostner to approve PPL 03-11.00 to be forwarded with the one change that in condition number six that five curb cuts be changed to eight curb cuts, is there a second?

Shackelford: I will second.

Bunch: A question to the motioner. If we move to eight curb cuts instead of five is there any requirement for shared access, could that part be stricken from the motion?

Warrick: If you allow the eight curb cuts you can eliminate item number six. Eight curb cuts would provide one access point for each lot that could access. One thing that is important is that there are corner lots that we would encourage that they access off of the side streets and not off Howard Nickell when they have that option.

Shackelford: Dawn, by limiting that that is kind of my thought process of why I wanted to leave the verbiage of limiting it to eight curb cuts to allow obviously the developer is going to use those opportunities to access those lots that don't have any other access. I think if we leave the verbiage of eight curb cuts maximum that it is going to force them to use the interior streets on those corner lots.

Warrick: I think that is important.

Shackelford: I didn't make the motion but that was the intent of where I was going with my conversation.

Estes: Dawn, is it staff's request that if we change five to eight that we eliminate condition of approval six?

Warrick: I think that it can stay if we change it to eight. It doesn't address a shared situation anymore but it does address limiting access to Howard Nickell Road then to eight curb cuts, which would provide one individual curb cut for any of those lots that only access Howard Nickell Road. Yes, I think it can stay.

Shackelford: Why don't we change the word shared to limited access indicated on the Final Plat for a maximum of eight, is that acceptable?

Ostner: I would accept that as a motion.

Shackelford: As will I as a second.

Estes: We have a motion by Commissioner Ostner and a second by Commissioner Shackelford to approve PPL 03-11.00, is there any discussion?

Church: I guess staff would probably be the ones to comment on this. The neighbors have been so kind as to show up here tonight to talk about the traffic concerns and maybe this body is not the one to address that but I guess I would just like to have a comment about when that will be addressed because I think it is a very real problem. If it is five years from now I think we need to know that but I guess I would just like to hear a comment on the traffic situation.

Estes: Matthew, Dawn, Jeremy, who is going to take that one?

Warrick: I will start. Connectivity in the City of Fayetteville is generally realized through development. When developers propose a project the streets and infrastructure that is necessary to serve that project and to connect it to the city's infrastructure systems are required of that developer at that time. In this case we are looking at a connection that will complete part of our Master Street Plan and provide additional connectivity between Salem Road and Howard Nickell Road. We are, as I mentioned, in the process of a quarter million dollar transportation study that is city wide, that is addressing our Master Street Plan. We have had public hearings on this, in fact, we had one on June 26th. We encourage people to contact our Engineering Division to provide public comment and to attend these transportation meetings. This transportation plan will be brought to the Planning Commission and to the City Council. Therefore, there will be additional public hearings to address it. Public input is critical in order for these plans to reflect the current condition and to project into the future the needs of the community. As I mentioned, it is addressing and it will be addressing, what infrastructure needs we have with regard to transportation not only vehicular transportation but alternate modes of transportation such as trail systems and bikeways. We are encouraging as much public input as possible in that process and we plan to provide you, through our consultant, a project plan that will identify priories in the city that then the City Council will need to review and determine what needs to occur with regard to funding and time frame on those projects.

Estes: Thank you Dawn. Commissioner Church, is that responsive?

Church: Yes, thank you.

Estes: I share the concerns that Kris, you articulated and Mike, that you brought to our attention and that you Debbie spoke about. The pragmatic fact is that our infrastructure is dependent upon development. The funding mechanism for our infrastructure is development and it would be wonderful if we could have the infrastructure and then have the development but there is no funding mechanism for that. The funding mechanism comes from private development so we see private development and then we see the connectivity that Dawn has described and we see the infrastructure being built. To do it otherwise would be prohibitively expensive, we couldn't afford it. We depend on private developers to do it and that is why we see the development and then we see the infrastructure, we see the streets, we see the curbs, we see the sewer go in. If we don't approve the development we are not going to see the infrastructure. I suppose that just the opposite of that is true if we don't approve the development then there is no need for the infrastructure. I enjoy living in Fayetteville. I have lived here for 35 years and I have seen it grow and I hope that it continues to grow. It is for that reason that I will vote in favor of the motion. Is there any other discussion?

Bunch: At the last meeting of the study for the traffic survey for the City of Fayetteville we did have some representatives from the Planning Department of the State Highway Department here, and I know in the past we have beat up on the State Highway Department for not always being responsive to the needs of our community but I would like to compliment the Arkansas State Highway Department for sending personnel up to be a part of our process and also I would encourage the school system to be very much a part of the process because it is one of the largest traffic generators we have in our community. It is an even greater safety situation with schools than say for factories or something like that where you have large traffic generation but it is mostly adults who are aware of the rules of the road. As we go with this traffic study I would encourage the school board and the school administration to give us the benefit of their information and that is one of the proper avenues to get that information into the system. I would encourage their participation in that. I will echo comments previously stated, I will also be in support of this project.

Estes: Is there any other discussion or any further comments? Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to approve PPL 03-11.00 was approved by a vote of 7-0-0.

Estes: The motion passes by a unanimous vote of seven to zero. Thank you everyone for attending and for providing us with your comments.

Parkhill
The Clinic For Women
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www.parkhillclinic.com
479-521-4433 479-636-9115

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JAMES C. ROMINE, M.D., F.A.C.O.G.
SCOTT A. BAILEY, M.D., F.A.C.O.G.
DAVID D. DUKE, M.D., F.A.C.O.G.

JAMES W. GORMAN, M.D., F.A.C.O.G.
PAIGE M. PARTRIDGE, M.D.
SALLY L. YOUNG, A.P.N., R.N.P.
LINDSEY N. SEALE, M.D.

July 2, 2003

Fayetteville Planning Commission Subdivision Committee

Re: PPL03-11.00:Preliminary plat (North Hills Subdivision, PP205/206) submitted by ~~Thomason~~ Tomlinson Asphalt Civil Engineering Division

Dear Commission,

My only real concern regarding this subdivision is that there are no sidewalks in the preliminary plan. I would think a subdivision with the lots of this large of acreage, from what I understand are for a 3000 to 3500 square foot minimum home, this subdivision should have sidewalks.

Hopefully this would promote sidewalks continuing down south toward the Lindsey property where the loop turns into the dirt road south of West Salem Road. I would think if we could start a sidewalk here it would be continued south which would hopefully allow the children in this and adjoining neighborhoods to walk to school or ride their bicycles and be able to stay off of Salem Road which of course does not have any sidewalks on the northern part where it joins into Howard Nickel Road.

My only other thought was I wished that we did not have to come off of Howard Nickel Road for the two lane blacktop but as this is on the south side of my property and will likely entail destroying an asphalt driveway that I have recently installed as few as only 4 months ago with an expense of well over $5000.00 dollars for this portion of the road. I do not know if there would be any compensation to me for building the base and placing this asphalt during the time this project was under consideration.

Thank you for considering these thoughts.

Kindest Regards,

Scott Bailey

Scott A. Bailey, M.D.

SAB/lcg

Tomlinson Asphalt Co., Inc.

PHONE (479) 521-3179

1411 W. VAN ASCHE
FAYETTEVILLE, ARKANSAS 72704

July 18, 2003

City of Fayetteville
City Council
113 West Mountain
Fayetteville, AR 72701

RE: Realignment of Existing Master Street Plan

Dear Aldermen,

On behalf of my client, TTM-LLC, I am requesting that you favorably consider an adjustment to the alignment of the City Master Street Plan (MSP). The current MSP indicates that the west end of Howard Nickle Road and the north end of Rupple Road intersect at a right angle. On July 14, 2003, the Fayetteville Planning Commission voted unanimously to approve the Preliminary Plat of The Estates at Salem Hills. During the design of this subdivision, which is located outside the City Limits, but inside the Planning Area, it became obvious that this proposed alignment was impractical due to a large ravine at the point of intersection. We proposed a new alignment which provides the same connectivity as the current MSP. This new alignment makes a sweeping transition from the west end of Howard Nickle Road to the Proposed Rupple Road by the use of a 900 foot radius curve.

We appreciate your consideration in this matter.

Sincerely,

Thomas A. Hennelly, P.E.
Senior Engineer
Tomlinson Asphalt Co.
Civil Engineering Division

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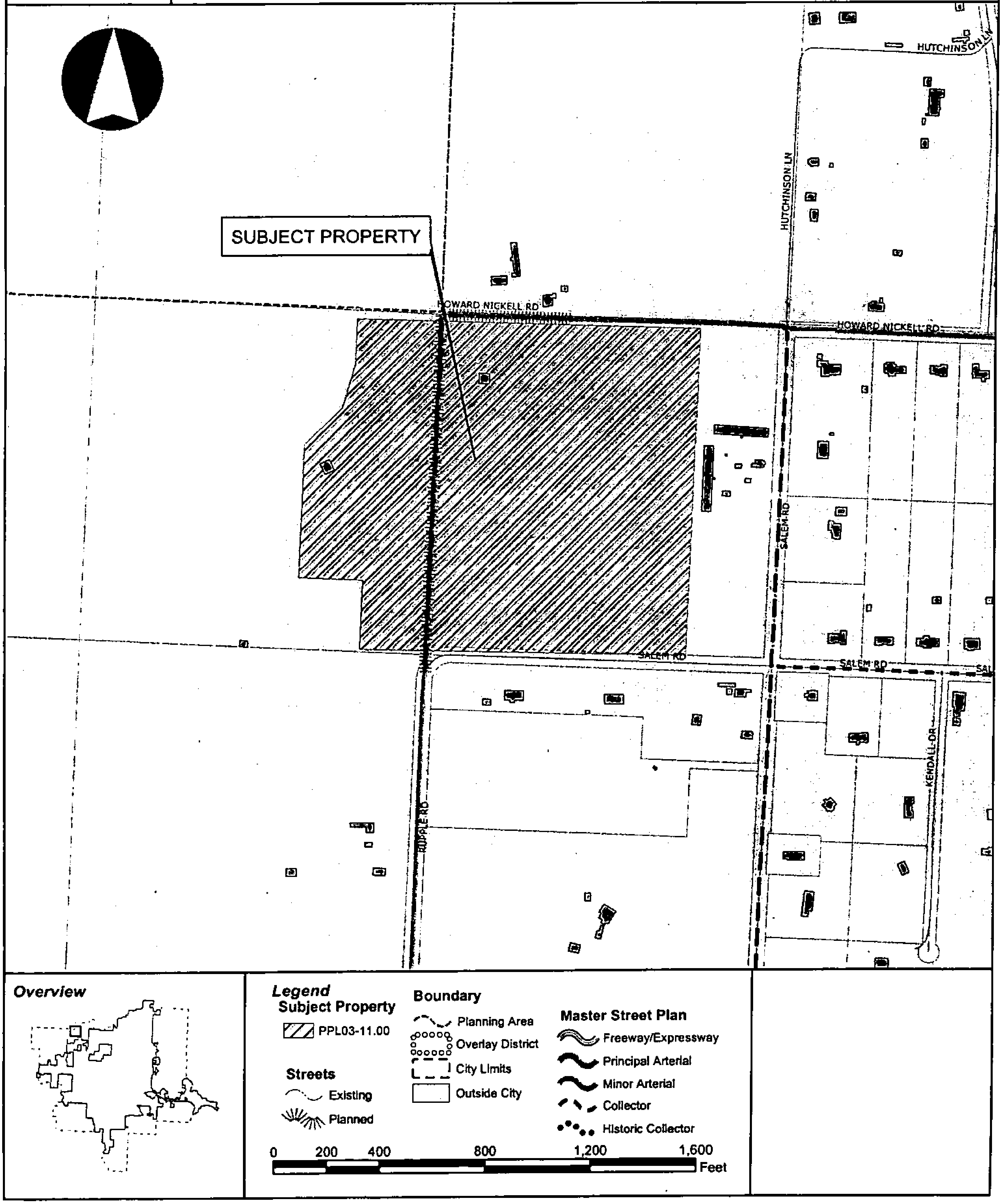
TTM-LLC
C. 6. Page 20

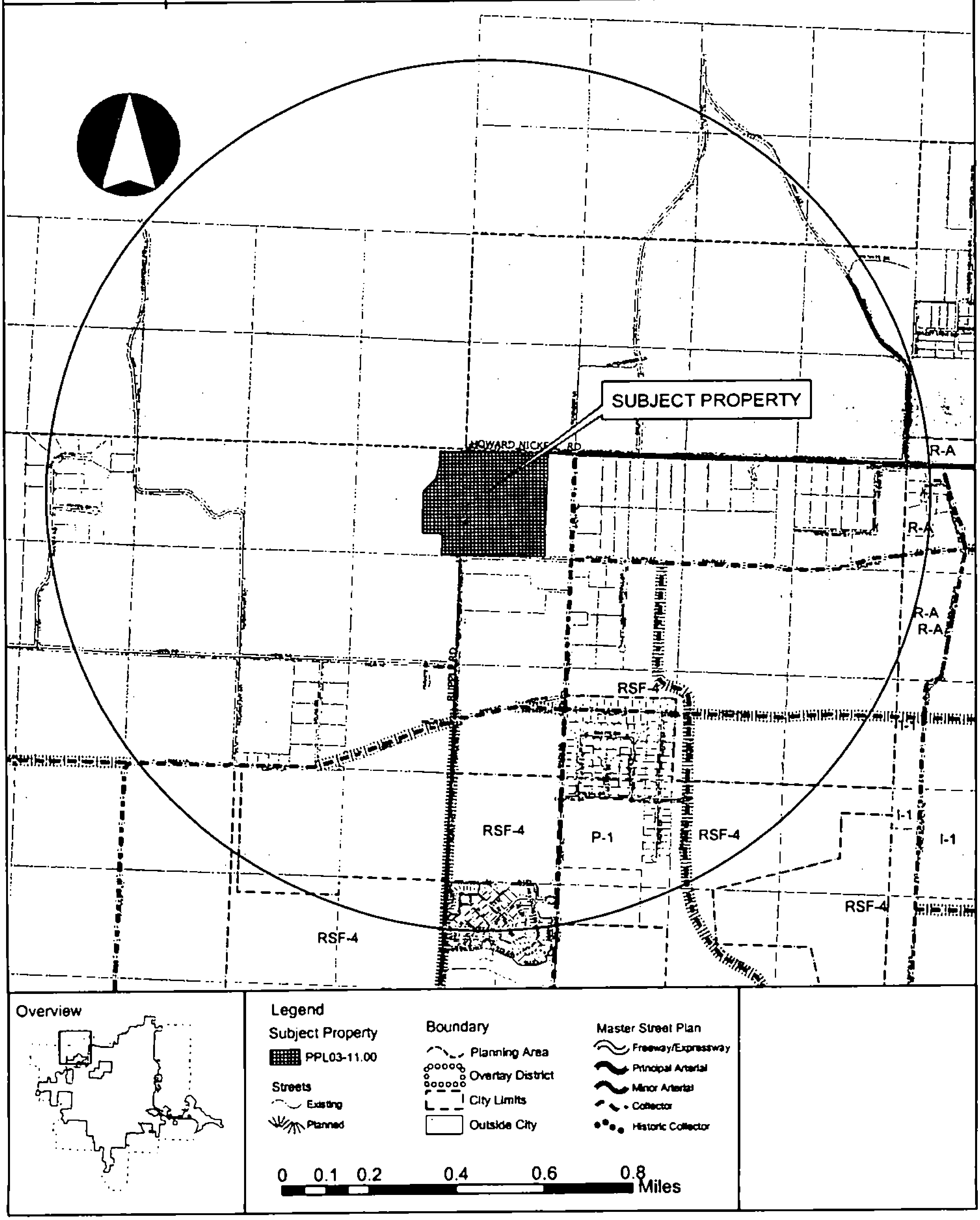
PPL03-11.00

Close Up View

THE ESTATES AT SALEM HILLS



PPL03-11.00	THE ESTATES AT SALEM HILLS
One Mile View	



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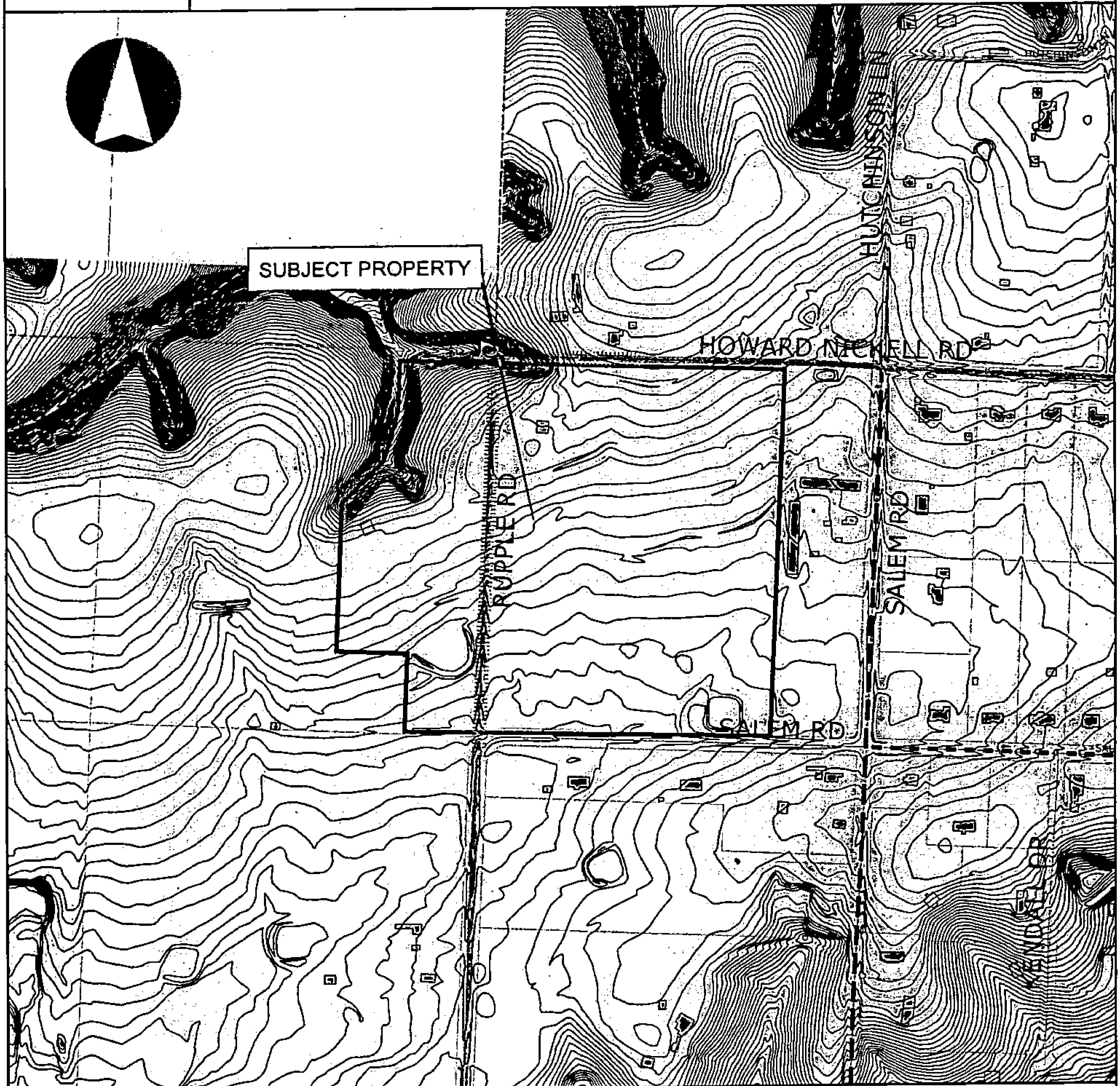
TTM-LLC
C. 6. Page 22

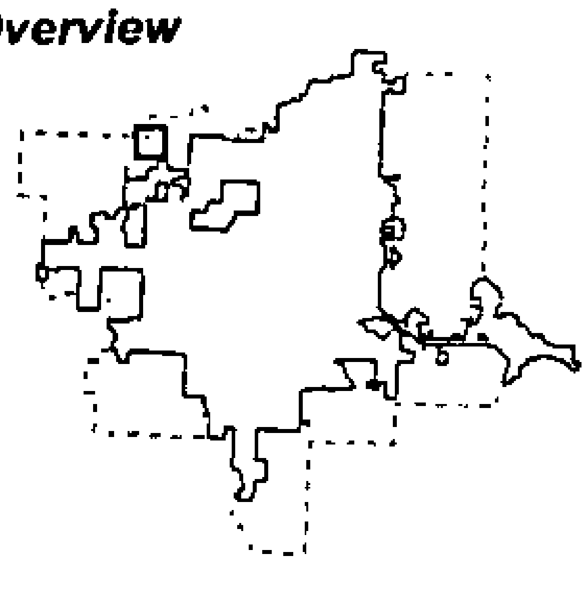
PPL03-11.00

THE ESTATES AT SALEM HILLS

Close Up View



Overview



Legend

Subject Property

PPL03-11.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 200 400 800 1,200 1,600 Feet

RESOLUTION NO. __________

A RESOLUTION AMENDING THE MASTER STREET PLAN, DEDICATING 90 FEET OF RIGHT OF WAY ALONG HOWARD NICKELL ROAD THROUGH THE ENTIRE PROPOSED DEVELOPMENT IN A DIFFERENT ALIGNMENT TO COMPLETE A CONNECTION WITH THE FUTURE EXTENSION OF RUPPLE ROAD NORTH.

WHEREAS, the new alignment of Howard Nickell Road fulfills the intent of the Master Street Plan;
and
WHEREAS, the new alignment of Howard Nickell Road will be beneficial to the City of Fayetteville's policy of connectivity;
and
WHEREAS, the amendment to the Master Street Plan provides connectivity with less topography constraints.

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 herein above mentioned change. and shown on Exhibit

PASSED and **APPROVED** this ____ day of August, 2003

APPROVED:

By: ______________________________
DAN COODY, MAYOR

ATTEST:

By: ______________________________
SONDRA SMITH, CITY CLERK

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION **Amend Title IX Chapter 95 Health & Sanitation C. 7. Page 1**

Yes AGENDA REQUEST

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

Yolanda Fields	Com Res & Code Compliance	Com Plan & Engr Services
Name	Division	Department

ACTION REQUIRED: Approval of an ordinance amending title IX: Chapter 95: Health and Sanitation, of the Code of Fayetteville, establishing the office of Code Compliance officer; and granting them authority to issue citations to violators.

SUMMARY EXPLANATION:
See attached Memo

STAFF RECOMMENDATION: Approval of Ordinance amendment

Division Head 8/7/2003 Date

City Attorney 8/7/03 Date

Department Director Date

Finance & Internal Services Dir. 8-7-03 Date

Chief Administrative Officer 8-7-03 Date

Mayor 8/8/03 Date

Received in Mayor's Office Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

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

Date: August 7, 2003

To: The Mayor and City Council

From: Hugh Earnest
Chief Administrative Officer

Subject: Citation Authority for Code Compliance Division

Background
Individuals working for the City in this increasingly important area of public concern have never had, under local ordinance, the authority to write citations for violations of local code provisions, as enacted.

Current Situation
Our City Attorney had some reservation relative to empowering our Code Compliance officers to issue criminal citations. Because of that, an Attorney Generals opinion was requested by Representative Marylyn Edwards. A copy of the reply is attached as reference. The opinion, which is quite lengthy, concludes by saying that "they (code inspectors) have criminal citation authority over local offenses pursuant to that Code section."

Recommendation
We believe that this authorization will be of benefit to the City's efforts in enforcement of our codes, ordinances and regulations relative to the health and safety of the community. The ordinance, as presented, accomplishes that and also moves our current 20 day grace period for correction of conditions as cited to10 days. This will allow us to move more quickly if necessary to address problem areas. It is our recommendation that the ordinance be passed.

ORDINANCE NO. ____

AN ORDINANCE AMENDING TITLE IX: CHAPTER 95: HEALTH AND SANITATION, OF THE CODE OF FAYETTEVILLE, REDUCING THE COMPLIANCE PERIOD FROM TWENTY (20) DAYS TO TEN (10) DAYS; ESTABLISHING THE OFFICE OF CODE COMPLIANCE OFFICER; AND GRANTING THEM AUTHORITY TO ISSUE CITATIONS TO VIOLATORS.

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

Section 1. That §§ 95.01 & 95.02, Code of Fayetteville are hereby repealed and Exhibit "A" attached hereto and made a part hereof is inserted in its stead.

Section 2. That §95.99 is hereby amended by inserting the following after subsection (B):

(C) There is hereby created the office of Code Compliance Officer. Code Compliance Officers shall be hired by the Mayor or his designated representative and shall perform the duties and exercise the powers set forth in this chapter.

(D) Code Compliance Officers are hereby authorized to issue citations to any person violating the provisions of §§95.01-95.04 or § 173.08(A) of the Code of Fayetteville, provided that their authority is expressly limited to removing or causing the removal of unsanitary or unsightly things, or to correcting or causing the correction of unsafe or unsanitary conditions on the property in question.

(E) It shall be unlawful for any person to interfere or forcibly attempt to interfere with a Code Compliance Officer in the performance of his or her duties.

PASSED and APPROVED this 19th day of August, 2003.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

EXHIBIT "A"

§ 95.01. Unsightly or unsanitary conditions on real property; order and notice to correct.

(A) The mayor, or his duly authorized representative, is hereby authorized to order the owner of any real property within the city to cut weeds and grass growing thereon, remove garbage, rubbish and other unsanitary and unsightly articles and things therefrom and eliminate, fill up or remove any stagnant pool of water or any other unsanitary thing, place or condition on such property which might become a breeding place for mosquitoes, flies and germs harmful to the health of the community. Whenever any such condition is found to exist, the mayor, or his duly authorized representative, shall give the owner of the property written notice to perform such acts within 10 days. In case the owner of the property is unknown or his whereabouts is not known or he is a nonresident of this state, a copy of the written notice shall be posted upon the premises.

(B) It shall be unlawful for any person to fail or refuse to comply with any order and notice given pursuant to this section.

§ 95.02. Abatement by city; costs responsibility of owner. If the conditions described in a notice given pursuant to §95.01 are not removed or corrected within 10 days after such notice is given, the mayor, or his duly authorized representative, is hereby authorized to enter upon the property and do whatever is necessary to correct or remove the conditions described, in the notice. The costs of correcting said conditions shall be charged to the owner or owners of the property and the city shall have a lien against such property for such costs.

<u>Opinion No. 2003-110</u>

May 29, 2003

The Honorable Marilyn Edwards
State Representative
2330 North Juneway Terrace
Fayetteville, AR 72703-2915

Dear Representative Edwards:

I am writing in response to your request for an opinion on the following question:

> Is the City of Fayetteville legally authorized to empower its Code Compliance Officers with the right to issue criminal citations for violation of garbage and rubbish laws and ordinances for criminal prosecutions in the District Court of Fayetteville?[1]

RESPONSE

It is my opinion that the answer to this question is "no" with regard to citations for violations of *state law*. A conclusive answer regarding violations of municipal garbage and rubbish *ordinances* may require a review of the particular ordinance. As a general matter, however, it is my opinion that city code compliance officers do have authority to issue citations for violations of municipal codes, ordinances or regulations, pursuant to A.C.A. § 12-9-108 (Repl. 1999).

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[1] There is no general definition of the term "criminal citation" in Arkansas statutory law. *See* A.R.Cr.P. *Commentary* to Article III following A.R.Cr.P. Rule 5. I assume, however, that by this term you mean a charging instrument that is required in initiating a prosecution. *See generally* A.C.A. § 5-1-109 (f) (Supp. 2001) (establishing periods of limitation for commencing prosecutions) and *Thompson v. City of Little Rock*, 264 Ark. 213, 570 S.W.2d 262 (1978). *See also* Ar.R.Cr.P. Rule 5.1(a) (defining "citation" as "a written order, issued by a law enforcement officer who is authorized to make an arrest, requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time.")

These conclusions are compelled by general principles governing municipal authority. We know from Arkansas Supreme Court rulings that cities have no inherent powers but only have the power bestowed upon them by statute or by the Arkansas Constitution. *Burke v. Elmore*, Ark. 341 Ark. 129, 14 S.W.3d 872 (2000): *Jones v. American Home Life Ins. Co.*, 293 Ark. 330, 738 S.W.2d 387 (1987). As stated by the court:

> Cities have no inherent powers and can exercise only (1) those expressly given them by the state through the constitution or by legislative grant, (2) those necessarily implied for the purposes of, or incident to, these express powers and (3) those indispensable (not merely convenient) to their objects and purposes.

Cosgrove v. City of West Memphis, 327 Ark. 324, 326, 938 S.W.2d 827, 828 (1997).

The validity of a city ordinance thus depends upon the authority granted by the constitution or the General Assembly. Additionally, despite the adoption of the so-called "Home Rule" act in 1971 (see Act 266 of 1971, codified as A.C.A. §§ 14-43-601 through -611 (Repl. 1998)), cities are prohibited from enacting any ordinances "contrary to the general laws of the state." Ark. Const. art. 12, § 4. *See also Fort Smith v. Housing Authority*, 256 Ark. 254, 506 S.W.2d 534 (1974) and *Nahlen v. Woods*, 255 Ark. 974, 504 S.W.2d 749 (1974). It has also been held that any substantial doubt concerning the existence of a power in a municipal corporation must be resolved against the city. *City of Little Rock v. Cash*, 277 Ark. 494, 644 S.W.2d 229 (1982).

Applying these precepts, I believe it is clear that a city cannot empower its "Code Compliance Officers" to issue criminal citations for violations of state garbage and rubbish laws.[2] Although, as discussed below, the General Assembly has

[2] The position of "Code Compliance Officer" is presumably established by municipal ordinance, as this is not a statutory term. The Arkansas statutes recognize the existence of city "inspectors" and "code enforcement officers." *See, e.g.*, A.C.A. §§ 12-9-108 (discussed further herein regarding citations), 17-25-301 ("building inspector"), 17-38-104 (reference to "city code enforcement officer" in the state plumbing code). But these positions are not established by statute.

recognized the authority of municipal inspectors to issue citations for the violation of "municipal codes, ordinances, or regulations" (A.C.A. § 12-9-108 (Repl. 1999)), the authority that is recognized by this statute does not extend beyond enforcing local measures. Additionally, while several statutes pertaining specifically to the handling of garbage and rubbish authorize the issuance of citations as an enforcement mechanism, city code compliance officers are not included within these provisions. Specifically, "Arkansas-certified law enforcement officers" enforce the Litter Control Act (A.C.A. § 8-6-412(a) (Repl. 2000)); and they are authorized to "issue citations to or arrest persons violating [the act]." A.C.A. § 8-6-412(b). "Illegal dumps control officers" are vested with the power to "ensure compliance with the provisions of the [Illegal Dump Eradication and Corrective Action Program Act]" and they have "the right and duty to ... [i]ssue and serve citations for violations of provisions of the Arkansas Solid Waste Management Act, § 8-6-201 *et seq.*, [and] prohibit illegal dumping...." A.C.A. § 8-6-508(a)(1)(C) (Supp. 2001). A county "environmental officer" is required to "issue citations for violation of any county ordinance prohibiting dumping of waste, garbage, litter, or any hazardous materials throughout the county." A.C.A. § 14-15-102 (Repl. 1998). *See also generally* Op. Att'y Gen. 97-092 (concluding that the enforcement authority granted in § 14-15-102 is limited to the power to enforce county ordinances only).

My research has disclosed no similar statutes pertaining to state garbage and rubbish laws suggesting that local code inspectors or code compliance officials (*see* n. 2, *supra*, regarding these positions) may be vested with citation authority. And I believe such legislation would be necessary in light of the above provisions. Matters coming within the police power of the state are specifically designated as "state affairs," as distinguished from "municipal affairs." A.C.A. § 14-43-601(a)(1)(J) (Repl. 1998). Although a municipality may exercise "any function or legislative power upon ... state affairs *if not in conflict with state law*" (A.C.A. § 14-43-601(a)(2) (emphasis added)), it is my opinion that a city would in all likelihood be acting contrary to the above statutes if it attempted to vest its code compliance officers with citation power over state offenses.

The citation authority conferred by the Arkansas Rules of Criminal Procedure should also be noted. Ar.R.Cr.P. Rule 5 sets forth the general state law requirements concerning the issuance of criminal citations. *See Whitaker v. State,* 37 Ark. App. 112, 116, 825 S.W.2d 827 (1992) (stating that Rule 5 "sets forth the law regarding citations.") Rule 5 gives citation authority to "a law enforcement officer who is authorized to make an arrest[.]" A.R.Cr.P. Rule 5.1(a), *supra* at n. 1 (defining "citation"). *See also* A.R.Cr.P. Rules 5.2 *and, generally, McDaniel v. State*. 309 Ark. 20, 826 S.W.2d 286 (1992). This would presumably not include a city code compliance officer who is not a "certified law enforcement officer" and has no authority to make arrests. *See* A.C.A. § 16-81-105 (Supp. 2001) (giving arrest authority to a "certified law enforcement officer") and A.C.A. § 12-9-101 *et seq*. (Repl. 1999) (requiring certification of "law enforcement officers.")[3]

Thus, absent some evidence that the city code compliance officers are properly classified as "law enforcement officers" and certified by the Commission (*see* n. 3, *supra*), the Arkansas Rules of Criminal Procedure will not recognize the authority of these officers to issue citations for violations of state garbage and rubbish laws.

It is therefore my conclusion that a city may not vest its code compliance officers with the authority to issue citations for the violation of state garbage and rubbish laws. With regard, however, to violations of city garbage and rubbish ordinances, A.C.A. § 12-9-108 implicitly acknowledges the citation authority of "inspectors" and "code enforcement officers." This Code section states in relevant part:

> Nothing in this subchapter or any other law shall prohibit inspectors and code enforcement officers of cities and towns from issuing citations for the violation of municipal codes, ordinances, or regulations that they are charged by their city or town with the duty of enforcing.

A.C.A. § 12-9-108(b)(3) (Repl. 1999).

[3] A.C.A. § 12-9-106 (a)(1) states in relevant part that "[t]he Arkansas Commission on Law Enforcement Standards and Training ['Commission'] shall provide, by regulation, that no person shall be appointed as a law enforcement officer ... unless the person has satisfactorily completed a preparatory program of police training....") Although I have no information regarding the job descriptions and actual duties of the code compliance officers, I assume that these persons are not classified as "law enforcement officers" and certified by the Commission. *See generally* Op. Att'y Gen. 92-093 (regarding the types of positions that fall within the definition of "law enforcement officer" and the Commission's administration of the law enforcement certification statutes).

The referenced "subchapter" is A.C.A. § 12-9-101 *et seq.*, the Law Enforcement Standards Act. Read in light of this subchapter, which requires police training for law enforcement officers (*see* n.3, *supra*), A.C.A. § 12-9-108(b)(3) establishes the principle that notwithstanding the fact that municipal code inspectors have not met the qualifications and training required under the Law Enforcement Standards Act, they may issue citations for violations of the codes they are charged to enforce. *Accord* Op. Att'y Gen. 85-16 (opining that an animal control officer can issue a citation for violation of a municipal dog control ordinance). Section 12-9-108(b)(3) is the codification of Section 1 of Act 763 of 1983, which is entitled "An Act to ... Permit Municipal Inspectors to Issue Citations for Violations of City or Town Codes and Regulations...." Although the term "inspector" is not defined, in my opinion this reasonably refers to those who have inspection and enforcement authority in connection with local measures that have been enacted for the health and safety of the municipality. *See, e.g.*, A.C.A. §§ 14-54-103, 14-54-104, 14-54-601, 15-54-604, 14-54-901, 14-56-201, 14-56-202, 14-56-301 (express authority for cities to enact environmental, safety, fire, building, electrical, zoning, and other codes); *see also generally* A.C.A. § 14-54-1502 (Supp. 2001) (providing civil remedies for municipal "health and safety code violations.")

With regard, therefore, to your particular question concerning the citation authority of the City's "Code Compliance Officers" in connection with garbage and rubbish ordinances, assuming that these officers are code inspectors or enforcement officers as contemplated by A.C.A. § 12-9-108(b)(3), it is my opinion that they have criminal citation authority over local offenses pursuant to that Code section. This also assumes, of course, that the particular ordinances are properly enacted pursuant to the City's authority to regulate the removal of garbage and rubbish. I have not been provided with the ordinances and thus cannot opine in this regard. As a general matter, the City has wide discretion to enact such ordinances. *See, e.g., Smith v. City of Arkadelphia*, 336 Ark. 42, 46, 984 S.W.2d 392 (1999) and *Geurin v. City of Little Rock*, 203 Ark. 103, 155 S.W.2d 719 (1941). The ordinances must, however, come within the scope of statutory powers (*see generally Wilkins v. City of Harrison*, 218 Ark. 316, 236 S.W.2d 82 (1951)); and they must not be contrary to state law (Ark. Const. art. 12, § 4).

Assistant Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

MB:EAW/cyh