

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
November 1, 2005**

A meeting of the Fayetteville City Council will be held on November 1, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

A. CONSENT:

1. **Approval of the September 20, 2005 City Council meeting minutes.**

APPROVED.

2. **Zylon Vest Exchange Program:** A resolution authorizing the Fayetteville Police Department to accept merchandise vouchers from Armor Holdings to replace existing ballistic vests containing Zylon.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 211-05

B. UNFINISHED BUSINESS:

1. **C-PZD 05-1670 (Pratt Place Inn, 481):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1670, Pratt Place Inn, located at the west end of Markham Road, containing approximately 72 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the September 20, 2005 City Council meeting. This ordinance was left on the Second Reading at the October 4, 2005 City Council meeting. This ordinance was left on the Third Reading at the October 18, 2005 City Council meeting. This ordinance was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4786.

2. **Fayetteville Depot, LLC Lease Agreement:** A resolution approving a lease agreement with Fayetteville Depot, LLC for property located at the northwest corner of Dickson Street and West Avenue to provide parking enforcement and revenue collection services for a proposed parking lot. *This resolution was Tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting. This resolution was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting*

THIS ITEM WAS TABLED INDEFINITELY.

3. **Associated Time & Parking Controls, Inc.:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of Parking Revenue Collection Equipment from Associated Time and Parking Controls, Inc. in the amount of \$46,805.10; approving a 10% contingency in the amount of \$4,408.50; and approving a budget adjustment in the amount of \$51,213.60. *This ordinance was left on the First Reading at the October 4, 2005 City Council meeting. This ordinance was Tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting. This ordinance was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*

THIS ITEM FAILED BY VOTE.

4. **Parking Management Division Position:** A resolution authorizing the addition of one (1) full-time position in the Parking Management Division; and approving a budget adjustment in the amount of \$3,282.00. *This resolution was Tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting. This resolution was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*

THIS ITEM WAS TABLED INDEFINITELY.

5. **Bio-Based Technology Offer and Acceptance:** An ordinance waiving the requirements of § 34.27, Code of Fayetteville and approving an Offer and Acceptance Contract with Bio-Based Technologies in the amount of \$940,000.00 for the purchase of the Water & Sewer Operations Center on Cato Springs Road; designating the proceeds for Economic Development purposes; and approving a budget adjustment implementing the designation. *This ordinance was left on the First Reading at the October 18, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4787.

6. **Police and Public Safety Systems Impact Fees - Chapter 159 Fees:** An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159, Fees by enacting § 159.03 Police and Public Safety Systems Impact Fees of the Unified Development Code. *This ordinance was left on the Second Reading at the October 18, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4788.

7. **Fire Protection Systems Impact Fee - Chapter 159. Fees:** An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159, Fees by enacting §159.04 Fire Protection Systems Impact Fees of the Unified Development Code. *This ordinance was left on the Second Reading at the October 18, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4789.

8. **Greenland and/or Farmington Sewer Systems:** A resolution to express the intent of the City Council to assume the ownership and the operation of the Greenland and/or Farmington Sewer Systems. *This resolution was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 212-05.

C. NEW BUSINESS:

1. **ANX 05-1723 JDM Investments:** An ordinance annexing that property described in annexation petition ANX 05-1723 for property located at Skillern Road, east of Savannah Estates, containing 5.06 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4790.

2. **RZN 05-1724 JDM Investments:** An ordinance rezoning that property described in rezoning petition RZN 05-1724 for approximately 5.06 acres located at Skillern Road, east of Savannah Estates from R-A Residential Agricultural to RSF-4, Residential Single Family, 4 Units Per Acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4791.

3. **ANX 05-1728 Zaccanti:** An ordinance annexing that property described in annexation petition ANX 05-1728 for property located south of Salem Road, east of Crystal Springs Subdivision, containing 80.30 acres.

THIS ITEM WAS LEFT ON THE SECOND READING OF THE ORDINANCE.

4. **Planning Commission Appeal - RZN 05-1729 Zaccanti:** An ordinance rezoning that property described in rezoning petition RZN 05-1729 for approximately 60.00 acres located south of Salem Road, east of Crystal Springs Subdivision from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 Units Per Acre.

THIS ITEM WAS LEFT ON THE SECOND READING OF THE ORDINANCE.

5. **Sweetser Construction Contract – Happy Hollow & Huntsville Road Intersection:** A resolution awarding a construction contract to Sweetser Construction, Inc. in the amount of \$1,228,413.00 for Happy Hollow Road & Huntsville Road Intersection

Improvements; approving a project contingency of \$122,841.00; and approving a budget adjustment in the amount of \$843,330.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 213-05.

6. **Arkansas State Highway 265 – Notice of Intent to Sell:** A resolution approving the notice of intent to sell and to offer for sale the 44.9 acres of tract land, located east of Arkansas State Highway 265 and south of the Fayetteville City Limits.

THIS ITEM WAS DENIED BY VOTE.

7. **Botanical Garden Society - Waiving Permit Fees:** A resolution to waive development permit fees pursuant to §159.01 (A) (1), Unified Development Code for all structures to be constructed by the Botanical Garden Society of the Ozarks at Lake Fayetteville Park.
8. **Reconsider the 2005 Millage Levy:** An ordinance levying a tax on the Real and Personal Property within the City of Fayetteville, Arkansas, for the year 2005 fixing the rate thereof at 1.3 mil for General Fund – Operations, 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund and 1.0 mil for the Fayetteville City Library; and certifying the same to the County Clerk of Washington County, Arkansas. This ordinance was left on the First Reading at the October 4, 2005 City Council meeting. This ordinance was left on the Second Reading at the October 18, 2005 City Council meeting. This ordinance was tabled at the October 18, 2005 City Council meeting to a Special City Council meeting on October 27, 2005. This ordinance was passed at the October 27, 2005 special meeting. The City Council voted to add to agenda and reconsider ordinance November 1, 2005.

THIS ITEM WAS AMENDED AND PASSED; AND SHALL BE RECORDED AS ORDINANCE NO. 4792.

D. INFORMATIONAL:

Council Tour: October 31, 2005 – 4:30 PM

MEETING ADJOURNED AT 12:10 A.M.

12:10 AM.

Subject:	Roll Alderman Rhoads				
Motion To:					was absent until 6:03
Motion By:					A.M.
Seconded:					
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	absent			
	Ferrell	✓			
	Mayor Coody	✓			

Subject:	Consent				
Motion To:		approve			
Motion By:		Jordan			
Seconded:		Lucas			
<u>Passed</u> 211-05	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	absent			
	Ferrell	✓			
	Mayor Coody				

Subject:	C-PZD 05-1670 Pratt Place Inn				
Motion To:		10:00 week night 12:00 Weekends - Fri, Sat.		<u>Amend</u>	Bar & Rest.
Motion By:		Jordan			
Seconded:		Reynolds			
B.I. <u>Unfinished</u> <u>Passed</u> <u>Amendment</u>	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	N			
	Ferrell	N			
	Mayor Coody				

6-2

Subject:	C - PZD 05-1670 Pratt Place Inn				
Motion To:		add Amendments	as recorded by Staff.		
Motion By:		Jordan			
Seconded:		Cook			
B.I. <u>Unfinished</u> <u>Passed</u> <u>Amendment</u>	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

Subject:	C - PZD 05-1670 Pratt Place Inn				
Motion To:					
Motion By:					
Seconded:					
B.1. <u>Unfinished</u> <u>Passed</u> 4786	Lucas	✓			
	Jordan	✓			
	Reynolds	N			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

7-1

Subject:	Daytonville Depot, LLC Lease Agreement				
Motion To:		Table Indef.			
Motion By:		Marr			
Seconded:		Thiel			
B.2. <u>Unfinished</u> <u>Table Indef.</u>	Lucas	N			
	Jordan	✓			
	Reynolds	abstain			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	N			
	Mayor Coody				

5-2

Subject:	Associated Time & Parking Controls, Inc				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Thiel	Thiel		
B.3. Unfinished Failed	Lucas	✓	✓	N	
	Jordan	✓	✓	N	
	Reynolds	abstain	abstain	abstain	
	Thiel	✓	✓	N	
	Cook	✓	✓	N	
	Marr	✓	✓	N	
	Rhoads	✓	✓	N	
	Ferrell	✓	✓	N	
	Mayor Coody				
		7-0	7-0	7-0	

Subject:	Parking Management Division Position				
Motion To:		Table Indef.			
Motion By:		Marr			
Seconded:		Lucas			
B.4. Unfinished Tabled Indef.	Lucas	✓			
	Jordan	✓			
	Reynolds	abstain			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				
		7-0			

City Council Meeting November 1, 2005

Subject:	Bio-Based Technology O&A				
Motion To:		2nd read	<u>Amend title</u>	3rd read	Pass
Motion By:			Jordan	Jordan	
Seconded:			Lucas	Lucas	
B.5. Unfinished <u>Passed</u> 4787	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Reynolds	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Marr	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Mayor Coody				

8-0

8-0

8-0

8-0

Subject:	Police & Public Safety Systems Impact Fee				
Motion To:		3rd read	Amend to send to the Voters Jan 19, 2006		
Motion By:		Jordan	Ferrell		
Seconded:		Marr	Reynolds		
B.6. Unfinished	Lucas	✓	N		
	Jordan	✓	N		
	Reynolds	✓	✓		
	Thiel	✓	N		
	Cook	✓	N		
	Marr	✓	N		
	Rhoads	✓	N		
	Ferrell	✓	✓		
	Mayor Coody				

8-0

2-6 (failed)

Subject:	Police & Public Safety System Impact Fees				
Motion To:		Pass			
Motion By:					
Seconded:					
B. 6. Unfinished Passed 4788	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	N			
	Mayor Coody				

7-1

Subject:	Fire Protection System Impact Fee				
Motion To:		3rd read	Pass		
Motion By:		Jordan			
Seconded:		Marr			
B. 7. Unfinished Passed 4789	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Ferrell	Absent during vote	N		
	Mayor Coody				

7-0

7-1

City Council Meeting November 1, 2005

Subject:	Greenland and/or Farmington Sewer System				
Motion To:		Amend title to Continue Negotiations			
Motion By:		Lucas		Ferrell	
Seconded:		Cook		Jordan	
B.8. Unfinished <u>Passed</u> 212-05	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		N	
	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Mayor Coody				

8-0

7-1

Subject:	ANX 05-1723 JDM Investments				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Reynolds		
Seconded:		Rhoads	Ferrell		
C.1. New Business 4790	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				

8-0

8-0

7-1

Subject:	RZN 05-1724 JDM Investments				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Reynolds		
Seconded:		Rhoads	Ferrell		
C. 2. New Business <u>Passed</u> 4791	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject:	ANX 05-1728 Zaccanti				
Motion To:		2nd read			
Motion By:		Lucas			
Seconded:		Ferrell			
C. 3. New Business Left on the second Reading	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

Subject:	Planning Commission Appeal RZN 05-1729				
Motion To:		2nd read			Zaccanti
Motion By:		Jordan			
Seconded:		Reynolds			
C.4. New Business Left on the Second Reading	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

Subject:	Sweetser Construction Contract Happy Hollow				
Motion To:		Approve			& Huntsville
Motion By:		Jordan			Road
Seconded:		Lucas			Intersection
C.5. New Business Passed 213-05	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

City Council Meeting November 1, 2005

Subject:	Arkansas State Highway 265 - Notice				
Motion To:		Table to 11/15/05			of Intent to Sell
Motion By:		Jordan			
Seconded:		Rhoads			
C. b. New Business	Lucas				
	Jordan				
	Reynolds	Motion Withdrawn			
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Ferrell				
	Mayor Coody				

Subject:	Arkansas State Highway 265 - Notice				
Motion To:		To Deny the Resolution			of Intent to Sell
Motion By:		Marr			
Seconded:		Cook			
C. b. New Business Resolution was <u>Denied</u>	Lucas	✓	Resolution was Denied		
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

Subject:	Botanical Garden Society- Waiving Permit Fees.				
Motion To:		Approve			
Motion By:		Rhoads			
Seconded:		Reynolds			
C, 17. New Business <u>Passed</u> 214-05	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

Subject:	Add a discussion item to the agenda				
Motion To:		Add to Agenda			Millage
Motion By:		Reynolds			
Seconded:		Marr			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

City Council Meeting November 1, 2005

Subject:	Millage (Motion to Reconsider)				
Motion To:		Reconsider the Millage			
Motion By:		Marr			
Seconded:		Ferrell			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	N			
	Cook	✓			
	Marr	✓			
	Rhoads	N			
	Ferrell	✓			
	Mayor Coody				

6-2

Subject:	Millage. Amend to 1.3 mils for				
Motion To:		Amend from 2.0 mils to 1.3 mils		Operations	
Motion By:		Marr			
Seconded:		Reynolds			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

City Council Meeting November 1, 2005

Subject:	Millage				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Marr		
<u>Passed</u> 4792	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	✓	
	Rhoads	✓	Absent during the vote.	✓	
	Ferrell	✓	✓	N	
	Mayor Coody				

8-0

7-0

6-2

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

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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Ward 1 Position 2 - Brenda Thiel
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Ward 2 Position 2 - Don Marr
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Ward 3 Position 2 - Robert Ferrell
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Ward 4 Position 2 - Lioneld Jordan

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
November 1, 2005**

A meeting of the Fayetteville City Council will be held on November 1, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

A. CONSENT:

1. **Approval of the September 20, 2005 City Council meeting minutes.**
2. **Zylon Vest Exchange Program:** A resolution authorizing the Fayetteville Police Department to accept merchandise vouchers from Armor Holdings to replace existing ballistic vests containing Zylon.

B. UNFINISHED BUSINESS:

1. **C-PZD 05-1670 (Pratt Place Inn, 481):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1670, Pratt Place Inn, located at the west end of Markham Road, containing approximately 72 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the September 20, 2005 City Council meeting. This ordinance was left on the Second Reading at the October 4, 2005 City Council meeting. This ordinance was left on the Third Reading at the October 18, 2005 City Council meeting. This ordinance was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*

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D. INFORMATIONAL:

Council Tour: October 31, 2005 – 4:30 PM

Aldermen

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Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



**City Council
Meeting Minutes
September 20, 2005**

A meeting of the Fayetteville City Council was held on September 20, 2005 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Fayetteville Town Center Annual Report by Willistine Smith

Alderman Cook moved to add the Nominating Committee Report to the agenda. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Alderman Cook read the Nominating Committee Report. A copy of the report is attached.

Alderman Cook moved to approve the Nominating Committee Report. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

CONSENT:

Cornerstone Home Services, LLC: A resolution approving an offer and acceptance contract between the City of Fayetteville and Cornerstone Home Services, LLC for the sale of Parcel 30E in the Fayetteville Industrial Park for \$28,000.00; and authorizing the Mayor and City Clerk to execute said agreement.

Resolution 184-05 as Recorded in the Office of the City Clerk.

C & C Services, LLC Offer and Acceptance: A resolution approving an offer and acceptance contract between the City of Fayetteville and C & C Services, LLC for the sale of Parcel 11W in the Fayetteville Industrial Park for \$132,000.00; and authorizing the Mayor and the City Clerk to execute said agreement.

Resolution 185-05 as Recorded in the Office of the City Clerk.

Jim Benton Offer and Acceptance: A resolution approving an offer and acceptance contract between the City of Fayetteville and Jim Benton for the sale of Parcel 29E in the Fayetteville Industrial Park for \$61,480.00; and authorizing the Mayor and the City Clerk to execute said agreement.

Resolution 186-05 as Recorded in the Office of the City Clerk.

Martin A. Treat Offer and Acceptance: A resolution approving an offer and acceptance contract between the City of Fayetteville and Martin A. Treat for the sale of Parcel 20W in the Fayetteville Industrial Park for \$200,000.00; and authorizing the Mayor and the City Clerk to execute said agreement.

Resolution 187-05 as Recorded in the Office of the City Clerk.

William's Tractor LB75B Backhoe and Landers Ford F550 4x4: A resolution authorizing the purchase of one (1) Skid Steer Loader and one (1) LB75B Backhoe from William's Tractor in the amount of \$77,192.41; and the purchase of one (1) F550 4x4 Cab and Chassis with Dump Body from Landers Ford in the amount of \$24,193.41 for use at the Fayetteville Municipal Airport; and approving a budget adjustment in the amount of \$115,435.00.

Resolution 188-05 as Recorded in the Office of the City Clerk.

William's Tractor LB75B Backhoe Purchase for Transportation: A resolution authorizing the purchase of one (1) LB75B Backhoe from William's Tractor in the amount of \$52,999.00 for use by the Transportation Division for the In-House Trails Program; and approving a budget adjustment in the amount of \$52,999.00.

Resolution 189-05 as Recorded in the Office of the City Clerk.

Downing Sales & Service Bid Award – Two Refuse Trucks: A resolution awarding Bid #05-62 to Downing Sales & Service in the amount of \$319,425.00 for the purchase of two (2) rear-load refuse trucks for use by the Solid Waste & Recycling Division.

Resolution 190-05 as Recorded in the Office of the City Clerk.

Downing Sales & Service Bid Award – Drop-Box Hoist Truck: A resolution awarding Bid #05-63 to Downing Sales & Service in the amount of \$134,972.00 for the purchase of a Drop-Box Hoist Truck for use by the Solid Waste & Recycling Division; and approving a budget adjustment in the amount of \$134,972.00.

Resolution 191-05 as Recorded in the Office of the City Clerk.

Emergency Vehicles, Inc. Bid Award – Mobile Command Unit: A resolution awarding Bid #05-60 to Emergency Vehicles, Inc. in the amount of \$185,800.00 for the purchase of a Mobile Command Unit for use by the Fayetteville Police Department.

Resolution 192-05 as Recorded in the Office of the City Clerk.

Black & Veatch Change Order # 1: A resolution approving Change Order #1 to the contract with Black & Veatch in an amount not to exceed \$300,000.00 for design, construction supervision, post-construction analysis and testing for improvements to the 36" and 42" water transmission lines; and approving a contingency in the amount of \$15,000.00.

Resolution 193-05 as Recorded in the Office of the City Clerk.

Waste Management of Arkansas, Inc. Contract Amendment: A resolution approving Amendment # 4 to the contract with Waste Management of Arkansas, Inc. for operation of the Transfer Station and transport and disposal of Municipal Solid Waste; and approving a budget adjustment in the amount of \$25,000.00 to cover the cost of increased disposal fees.

Resolution 194-05 as Recorded in the Office of the City Clerk.

Former Shake's Building Purchase Time Extension: A resolution to extend the time allowed to Steve Davis to close on his purchase of the former Shake's Building on 6th Street.

Resolution 195-05 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda as read. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Legacy, LLC Cost-Share Agreement – Deane Soloman Road: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Legacy, LLC in the amount of \$22,528.78 for the upsizing of approximately 1282 feet of 8" water main to a 12" water main; and approving a contingency in the amount of \$3,379.32.

City Attorney Kit Williams read the ordinance.

Alderman Cook: These cost shares that we are looking at are smart money items. As we prepare for future growth we have started to put the infrastructure in and this is less expensive than it would be otherwise.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4758 as Recorded in the Office of the City Clerk.

Legacy, LLC Cost-Share Agreement – Deane Soloman Road: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Legacy, LLC in the amount of \$19,200.02 for the upsizing of approximately 1538 feet of 8" water main to a 12" water main; and approving a contingency in the amount of \$2,879.98.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4759 as Recorded in the Office of the City Clerk.

C-2 Projects, LLC Contract: A resolution approving a construction contract with C-2 Projects, LLC in the amount of \$1,287,211.25 for the North College Waterline Replacement Project; approving a 10% project contingency in the amount of \$128,000.00; and approving a budget adjustment in the amount of \$444,941.25 for same.

Alderman Cook moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 196-05 as Recorded in the Office of the City Clerk.

Fayetteville Municipal Property Owners Improvement District # 7 – Timber Trails: An ordinance to Establish and Lay Off Fayetteville Municipal Property Owners' Improvement District # 7 – Timber Trails.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads was absent during the vote.

Ordinance 4760 as Recorded in the Office of the City Clerk.

Fayetteville Municipal Property Owners Improvement District # 8 – Belclaire: An ordinance to Establish and Lay Off Fayetteville Municipal Property Owners' Improvement District # 8 – Belclaire

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4761 as Recorded in the Office of the City Clerk.

VAC 05-1651 (Petrino/Prince, 362/363): An ordinance approving VAC 05-1651 submitted by Ed Prince for property located at 3041 and 3043 Marigold Drive, vacating a portion of a utility easement as indicated on the attached map and legal description.

City Attorney Kit Williams read the ordinance.

Alderman Jordan: Is a wall being built on a City easement?

Jeremy Pate: That is correct. It is a retaining wall that extends into the utility easement.

Alderman Jordan stated he is concerned about vacating City easements to accommodate a developer. He would like to tighten this up in the future so this sort of thing will not occur. How does this happen?

Jeremy Pate: We don't typically require a survey for a single family or a two family dwelling, as long as the site plan meets the building setbacks and utility easements that is what we are going to approve and expect them to build.

A discussion followed on the easement.

Alderman Reynolds moved to suspend the rules and go to the second reading. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4762 as Recorded in the Office of the City Clerk.

North Street Church of Christ: An ordinance rezoning that property described in rezoning petition RZN 05-1649 for approximately 16.61 acres located at Mt. Comfort Road from RSF-4, Residential Single Family, 4 units per acre to P-1, Institutional.

City Attorney Kit Williams read the ordinance.

Alderman Lucas and Jordan stated they have not received any calls regarding this issue.

Alderman Marr: Was there any other alternate other than this P-1 zoning because it does give a lot more allowances than the conditional use process would.

Jeremy Pate: We did take a look at that; this was approved by the Planning Commission with conditions. There is extremely limited signage within the RSF-4 zoning district.

A discussion followed on the zonings and conditional use.

Alderman Reynolds moved to suspend the rules and go to the second reading. **Alderman Jordan** seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Thiel, Rhoads, Ferrell, Lucas, Jordan and Reynolds voting yes. Alderman Cook and Marr voting no.

Ordinance 4763 as Recorded in the Office of the City Clerk.

ANX 05-1488 (Collins/Kinghorn, 533/534): An ordinance annexing that property described in annexation petition ANX 05-1488 for property located at 6102 and 6110 Lake Sequoyah Drive, containing 17.33 acres.

City Attorney Kit Williams read the ordinance.

This Ordinance was left on the First Reading.

Planning Commission Appeal: Collins/Kinghorn Rezoning: An ordinance rezoning that property described in rezoning petition RZN 05-1489 for approximately 17.64 acres located at 6102 and 6110 Lake Sequoyah Drive from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

City Attorney Kit Williams read the ordinance.

This Ordinance was left on the First Reading.

Amend §161.25 Planned Zoning District: An ordinance amending §161.25 Planned Zoning District to allow all use units identified in §162 Use Units of the Unified Development Code to be made available as permitted uses within all Planned Zoning Districts.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the changes.

Alderman Ferrell stated he liked this idea.

Alderman Marr stated he agreed.

Alderman Marr moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Marr moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Lucas: If this is approved and someone comes forward with a PZD and they want some use in it that staff does not feel is appropriate can the Council approve it?

Jeremy Pate: They can approve it or deny it. It is not the typical use by right.

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

Ordinance 4764 as Recorded in the Office of the City Clerk.

Chapter 50 Garbage and Trash Amendment: An ordinance amending Chapter 50: Garbage and Trash of the Code of Fayetteville, to allow for annual rate adjustments for residential service, based upon the Consumer Price Index (CPI) as published by the U.S. Department of Labor.

City Attorney Kit Williams read the ordinance.

Mayor Coody: If we just go up every few years on our rates then we have to go up a big jump and we fall a little behind each year. By doing the CPI adjustments we are just keeping up with inflation.

Alderman Reynolds moved to suspend the rules and go to the second reading. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Marr: With energy prices with gas prices adjusting on a short term basis, we have seen gas go up and come down. What impact does that have on this annual rate?

Gary Dumas: It is included in the CPI. The method that we have been using is taking the first six months of each year and applying that CPI during the budget session for an effective date on January 1. All those fuel rate increase would be included but they would be behind by six months or so.

Alderman Marr: So it is a longer time frame versus a monthly look. So it doesn't adjust it, inflate it up and not look at it again for 12 months?

Gary Dumas: No.

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

Ordinance 4765 as Recorded in the Office of the City Clerk.

C-PZD 05-1670 (Pratt Place Inn, 481): An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1670, Pratt Place Inn, located at the west end of Markham Road, containing approximately 72 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate stated this is the first master development plan, planned zoning district that the Council has seen that has not been before the Planning Commission. Planning staff is recommending approval. Jeremy gave a brief description of the project. Jeremy stated there are some conditions of approval.

Alderman Lucas: Could this land be subdivided?

Jeremy Pate: Planning area two and three could not be subdivided unless they come back before this Council with an amendment to the zoning or by bringing a planned zoning district. Planning area one could be subdivided.

Alderman Marr: Has this been presented to a Ward 4 meeting?

Jeremy Pate: There has been a neighborhood meeting.

Alderman Jordan: We did talk about this at the Ward 4 meeting and there were a few concerns. Outside music was a problem for some of the residents. The traffic was somewhat of a concern and if they would have liquor license. Some of the concerns that I have are the water pressure. Will this take water pressure away from residents?

Jerry Kelso, Crafton, Tull and Associates: This will only use a small amount of water and should be alright.

Alderman Jordan: Most of the emails I have received have been relatively positive. Are they going to preserve some of the land?

Jeremy Pate: Tree preservation.

A discussion followed on when the barn was built on the property that it was not going to be used for any other use. They also discussed how this property has been used in the past.

Alderman Thiel said there are some good things about this project, but she has received several letters and comments.

Alderman Reynolds voiced his concern about some of the activities that have been taking place on the property.

John Williams stated he would not be against just a bed and breakfast but he is concerned with other uses of this property. He is concerned about the increase in traffic and the expansion of the roads to that neighborhood. He gave the Council a list of his concerns.

William Landolt stated he is opposed to this proposal. He is concerned about the traffic. He is concerned about the areas that are not to be developed that those areas may be rezoned by a future Council. He is also concerned about the cutting of trees that has occurred and the erosion caused from rain.

William Feldman commended the Archers for their commitment to preserve the integrity of the property. He stated he is concerned about the number of people that might be using this commercial facility. He is concerned about the impact this will have to the residential neighborhood in terms of traffic and noise. He is concerned about the zoning change because it goes with the land not the owner; he asked if a subsequent owner could change the restaurant to a bar.

Albert Skiles, Architect for the project stated he appreciated the concerns. He stated the Archers have owned this property since the 1900's. He stated this is an opportunity to preserve a part of history for Fayetteville by preserving this house. He stated the Archers have had many offers to subdivide this property and have potentially hundreds of houses there. He stated this is a giant park in the middle of Fayetteville. He said they have had meetings with the neighbors and the input has been taken into account. He said there will be a remote parking lot that will not be seen when you enter. The PZD defines what will be there.

Alderman Jordan: How much of the property is already RSF-4?

Jeremy Pate: 49.1 acres are currently zoned RSF-4 and 22.9 acres are zoned R-A.

Edward Hejtmanek a resident of Markham Road: There are good things about the project and I would like to see the area on top of Markham Hill left in tact. The traffic problem in the area is a concern of his.

Felicia Farris a resident of Sang Avenue: She voiced her concern about the traffic and the types of events that could occur on this property. She is concerned about the noise this could produce and the hours the property would be open to the public.

Ethel Simpson said she is uneasy about what they might change. She is also concerned about the noise.

Alderman Jordan: Jeremy, I would like to know if this development goes in about how much traffic you think it will generate versus if the 50 acres are developed at RSF-4 how much traffic that would generate.

Alderman Thiel: There are two parcels that are indicated as no development and being left R-A, in the future without that being in a conservation easement what is the ability of future or current owners coming before the Council and asking for a zoning change.

Jeremy Pate: A zoning runs with the land so if it were sold they would be bound to the same restrictions that this Council approved. They would have to come back to the City Council.

Alderman Thiel: There is no assurance that those two areas will be preserved in perpetuity?

Jeremy Pate: There is no conservation easement, but even those things the City Council can decide that an easement is no longer appropriate.

Mayor Coody: If there was conservation easement and that easement was owned by a third party it would be more secure.

Alderman Marr: This is the first PZD through the new process that we are seeing. The PZD changes were a concept PZD and we still have the more detailed PZD process. The applicant chose to bring this through as a concept PZD to determine whether this use is appropriate for the location that we are talking about with these conditions. If this goes back it will go through a large scale development process for the Planning Commission who will address the details of roads, drainage, etc.

Jeremy Pate: That is correct. The maximums and minimums can not be changed significantly at all.

Alderman Marr: The second part of the change was this concept coming to the Council before it went to the Planning Commission. Is there any information other than that change in the concept PZD that the Planning Commission would have had that we don't have. If this had gone to the Planning Commission first would they have gotten this exact packet?

Jeremy Pate: Yes, unless discussions with the Planning Commission brought out items that had not been addressed.

Alderman Marr: So the only way that we would have gotten more detail is to have had the detailed PZD process.

Jeremy Pate: Correct.

This Ordinance was left on the First Reading.

R-PZD 05-1599 (Zion Gardens, 137): An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1599, Zion Gardens, located northwest of the intersection of Randal Place and Zion Road, containing approximately 13.9 acres, amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. Planning Commission voted 6-0 in favor of this. There were some revisions that were made at the Planning Commission level. Staff is recommending approval with conditions of approval.

A discussion followed on the alleys and improvements to a private drive.

Alderman Marr asked the Ward 3 aldermen if they had any comments on this project.

Alderman Rhoads stated he had all supportive comments.

Alderman Jordan asked what the fire response time is for this area.

Jeremy Pate: 7 minutes.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Rhoads seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Tim Cooper, Architect for the project stated they did meet with the neighborhood.

Alderman Rhoads moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-1. Alderman Thiel, Marr, Rhoads, Ferrell, Lucas, Jordan and Reynolds voting yes. Alderman Cook voting no.

City Attorney Kit Williams read the ordinance.

Alderman Marr: I think this is a good example for developers why the old process is effective, you work out these issues. I think people really need to think about the concept PZD. I don't think any of us are comfortable moving concept plats forward. It is not always time saving, it is sometimes time saving if you do the work on the front end.

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

Ordinance 4766 as Recorded in the Office of the City Clerk.

R-PZD 05-1636 (Wellspring): An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1636, Wellspring, located at Ruppel Road and Highway 16, containing approximately 152 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

This Ordinance was left on the First Reading.

Susan Raymond a resident said Ruppel Road north of Wedington is not safe for school children, pedestrians or cyclist. She is concerned about getting a bond issue passed before work can begin on this road. She stated it doesn't seem to make sense that all of these developments are going in when traffic is a problem and that a bond issue may not be passed until years later to get the improvements.

Mayor Coody: Hopefully we will get the bond issue passed this year and if it passes we will start construction in the near future so it will not be years down the road.

Susan Raymond: Will the road improvements happen before the subdivisions are finished?

Mayor Coody: That is a good question; I don't know the time frame on the subdivisions.

Alderman Jordan: I have talked to Jeremy and some of the developers in the area, there will be some road improvements made by the developer.

2006 Proposed Funding for Outside Agencies: A resolution authorizing the staff of the Budget and Research Division to incorporate the funding listing for outside agencies into the 2006 Proposed Budget and Work Program.

Kevin Springer Budget Manager gave a brief description of the requests from outside agencies for funding. He stated approval of this agenda item does not guarantee funding for the outside agencies. He stated approval of this resolution will allow City staff to present this funding into the proposed 2006 Budget and Work Program. Only after the actual contract for service is adopted will the outside agency receive funding.

Alderman Lucas stated she would like to add funding for three agencies, Ozark Transit, Razorback Transit and Council on Aging in the amount of \$30,000, to make that money available to be allocated among the three at a later date. This is due to the increase in gas prices.

Kevin Springer: \$30,000, that would be appropriated to those three agencies but it would be done after the proposed budget has been presented.

Kit Williams: Is that \$30,000 each?

Alderman Lucas: No, a total of \$30,000.

Alderman Marr: It looked like you chose the agencies that have transporting services. Is there a reason the Boys and Girls Club that also has transporting services was not chosen?

Alderman Lucas: I really didn't consider them because we are giving them what they requested.

Alderman Marr: So it is just because the others were below what they requested.

Kevin Springer: Let me make sure I have this clear, City staff will not allocate this amount to any of the agencies, we will just hold this additional funding as a contingency amount and let the City Council decide what to do with it.

Alderman Lucas: That is what I had in mind.

Alderman Marr: Is this amount targeted for the gas issue or is it open for them to use in any way.

Alderman Lucas: I had in mind the gas but at the time they bring their budget forward I think it would be legitimate for them to ask for this additional amount and we could decide then if it is viable. Fuel is one of their big expenses.

Alderman Marr: Will we get to see their individual budgets during their contract approval that will have the detail of what they are spending?

Kevin Springer: That is correct.

Alderman Lucas moved to amend the resolution to add \$30,000 total for Ozark Transit, Razorback Transit and Council on Aging. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Alderman Thiel stated she is concerned about the Air Museum's library and documents that they have. She would like to add \$10,000 to the budget for them to use in the protection of the documents in the Air Museum. She would like these funds to come out of the General Fund not the Airport Fund.

Alderman Thiel moved to amend the resolution to add \$10,000 to the Air Museum's request for funding. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed unanimously.

Alderman Reynolds voiced his concern about some of the things that are being shown on CAT television.

Kit Williams: One of the advantages of not having the City directly administer this is that we would be under real restrictions on any ability we would have to restrict content like that. You do not have to pay a provider for this public access television. That is a contract that you all choose to enter into every year. This has always been a problem. You can have them do only locally produced programs. It is dangerous for us to get into too much discussion on the content as long as it is not actually obscene. Obscenity is not protected by the first amendment but it is very difficult to define, the Supreme Court has real difficulty in trying to decide what is obscene and what is not. There are some things we can do in the contract that might help to prevent some of this objectionable material.

Alderman Marr stated he thinks we need to be careful. You can turn this station off or you can change the channel. What one may find unacceptable others may find it acceptable. I don't believe it is our job to be in the policing of that. We should look at whether we want community access television. I don't think we are the police for the community, I think the community will be that.

A discussion followed on the programming that is on Community Access television.

Alderman Jordan said he does not feel the Council should be the cable police.

Mayor Coody: I appreciate the staff bringing forward a conservative approach of using last year's budgetary numbers to keep the spending down.

Alderman Marr moved to approve the resolution as amended. **Alderman Thiel** seconded the motion. Upon roll call the motion passed unanimously.

Resolution 197-05 as Recorded in the Office of the City Clerk.

Meeting Adjourned at 8:55 PM.

Dan Coody, Mayor

Sondra Smith, City Clerk



THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

To: Mayor Dan Coody and City Council
From: Jeremy Pate, Director of Current Planning X
Date: October 26, 2005
Subject: Pratt Place Commercial Planned Zoning District

The following attachments consist of:

- 1) An email from the applicant (Archers) with recommended conditions of approval to be added or modified on the currently submitted Planned Zoning District, in response to some of the concerns expressed by adjoining neighbors and the City Council.
- 2) A letter from adjoining property owners recommending denial, with a list of recommended conditions of approval thought to be appropriate should the City Council choose to recommend the Planned Zoning District.
- 3) A letter from Planning Staff to Mr. John Williams with written responses to his posed questions, as requested.

Staff has forwarded the comments from the neighbors to the applicant in Iowa. Pending responses from the additional items not currently addressed in the applicant's recommended conditions of approval, staff will be preparing a list of staff-recommended conditions of approval for the City Council to consider incorporating into the Planned Zoning District project, as directed by the City Council. These conditions will be placed in the Council's boxes as soon as possible. Please let me know if you have any questions.

From: Julian Archer <julian.archer@DRAKE.EDU>
To: <jpate@ci.fayetteville.ar.us>
Date: 10/25/05 4:03PM
Subject: Revised modifications for Pratt place

Applicant - recommended
conditions

p. 1 of 2

25 October 2005

Dear Jeremy,

I have spoken with Albert and Jerry today and revised our modifications in light of our conversations. They are attached below.

Sincerely,

Julian Archer

October 25, 2005

To the Mayor and members of the Fayetteville City Council

* Listed below are the modifications to our PZD which we would like to have incorporated into the final version adopted by the Fayetteville City Council.

1. Hours of operation of the Pratt Place Inn restaurant. The Pratt Place Inn restaurant is authorized to be open from 7:00 a.m. until 12:00 a.m. Monday through Sunday.

Note: These hours are not necessarily the hours that the restaurant will function, just the hours that it is authorized to function.

2. Pratt Place Inn restaurant capacity. The Pratt Place Inn restaurant capacity is sixty (60) persons total, regardless of where the restaurant patrons are seated.

Note. This wording is used to address the concerns of those who fear the capacity will exceed sixty because of the possibility of people dining on the porch.

3. Service of alcoholic beverages. The Pratt Place Inn restaurant and/or bar will not sell alcoholic beverages after 12:00 a.m. Monday through Saturday. Sunday sale of alcoholic beverages will be the hours authorized by the City of Fayetteville, currently 12:00 p.m. to 10:00 p.m.

Note. The Monday through Saturday hours are a reduction from the 2:00 a.m. closing currently authorized by the City of Fayetteville

4. Number of gatherings/events per month at the Pratt Place barn. There will be no more than five (5) gatherings/events per month at the Pratt Place barn (2255 West Markham Road).

5. Sale of alcoholic beverages at the Pratt Place barn. No alcoholic beverages will be sold at the Pratt Place barn and no alcoholic beverages will be served there after 12:00 a.m.

6. Closing time for a gathering/event at the Pratt Place barn. Any gathering/event at the Pratt Place barn must end by 2:00 a.m.

8. Pratt Place barn capacity. The capacity of the Pratt Place barn is 376 persons, 144 for the hayloft area and 232 for the floor area.

Note. This capacity is calculated using the International Building Code standard of 15 sf. per person in a facility where there are tables and chairs. This number will not be exceeded inside or outside the barn. Though the barn may never, or only under exceptional circumstances, have a gathering with this maximum capacity, it will scarcely affect the neighborhood, if at all, because of its isolated location near the center of this 70 acre PZD. Additional note. The hayloft floor is being reinforced so that it conforms to the International Building Code.

9. Start date for construction of the log cabin annexes for Pratt place Inn. Item 15 of the Condition of Approval will read "The portion of the PZD ordinance pertaining to the proposed innkeeper house shall be valid if all permits to begin construction are issued within three years of the same approval date and the portion of the PZD ordinance pertaining to the proposed log cabins shall be valid if all permits to begin construction are issued within fifteen years of the same approval date."

Note. This extended time for the construction of the log cabins is to allow the inn enough time to become a profitable operation and to allow this construction to take place without having to get a bank loan. Certainly we hope to be able to start on the log cabins sooner, but this longer than usual time is requested to avoid our having to go through the PZD process all over again and the time and expense that entails.

10. Vehicular access and egress to Pratt Place Inn. All vehicular traffic (automobile, delivery vans, and garbage pickup) will access and leave Pratt Place Inn via Markham Road.

Note. Though the routing for vehicular entrance and egress to Pratt Place Inn is shown on the plat which has been submitted with this PZD application, a number of people have not seen it and are concerned that the inn will generate traffic along Sang Street where it branches south off of Markham. This written description of traffic routing should allay these concerns.

Sincerely,

Jane and Julian Archer

P. 2 of 2

Members of Neighborhood
Recommended Conditions

p. 1 of 3

October 24, 2005

Mayor Coody and Members of the City Council
Fayetteville City Administration Building
Fayetteville, Arkansas 72701

Dear Mayor Coody and Members of the City Council,

We thank you for your patience in hearing the neighborhood concerns in regard
the Pratt Place Inn PZD.

We seek to preserve the private, quiet, pastoral and wooded nature of our street and
neighborhood and request that any proposed activities not adversely affect our section of
Sang Avenue and neighborhood.

We are confronted with a proposal of multiple commercial and other uses in our
neighborhood and it is possible that such re-zoning may be approved without
detail study of the nature of street improvements, need for sidewalks on Markham
Avenue to protect U of A track team and pedestrians, sewer infrastructure questions,
issues of water pressure in a neighborhood already experiencing low water pressure,
increase in traffic on minimal streets, access of fire and emergency equipment,
introduction of alcohol sales, restaurant, large events, inventory of existing structures
and code conformity, among other issues.

- First, we suggest that this matter be voted down and then reviewed and
studied by planning commission members and staff personnel in order that
the owners and public be somewhat better advised as to the probable impact
of this development before the lands are re-zoned.

p. 2 of 3

Alternatively, if the Council decides to entertain some aspect of the PZD, perhaps you could do so with certain limitations:

1. **Bed & Breakfast only**
 - The neighbors living on Sang Avenue could accept the concept of the stated PZD proposal to preserve and restore a historic structure as a seven room inn, an inn-keepers home, 43 automobile parking lot on North slope, two horse barns, single family residence (existing), four new cabins to be constructed in a timely manner. The herein stated **Conditions of Approval** would also apply.
2. **Bed & Breakfast with Restaurant and Alcohol Bar- Limited Hours/Seating**
 - This is NOT acceptable to the neighbors on Sang Avenue.
3. **Bed & Breakfast with Restaurant/Alcohol Bar & Horse Party/ Event Barn**
 - This is the most inappropriate proposal.

Should the Pratt Place Inn PZD be considered on its merits, in an effort to protect the neighborhood and public, we suggest the attached **Conditions of Approval**.

Please be aware that our suggestions of **Conditions of Approval** are not to be construed as conceding our interest in seeing the PZD voted down.

The number and complexity of the staff and neighbor suggested **Conditions of Approval** reflect the lack of information on which to approve this request.

We thank you for your consideration.

Very truly yours,

Lyn F. Wack
Elaine Stade
Susan Johnson
David Campbell Johnson
Wendy Feldman

Joyce Feldman
Robert Feldman
Jane N. Steele
John G. Williams
Martha Sutherland

CONDITIONS OF APPROVAL

1. All traffic associated with commerce on the property shall ingress and egress the property via Markham Road only. Sang Avenue would not be used for such access.
2. No improvements on Sang Avenue will be initiated in response to the needs of this commercial venture.
3. Any development cost shall be born by the developer and NOT the neighbors.
4. Restaurant/Bar would be restricted to 60 patrons.
5. The restaurant hours will be limited to 7:00 a.m. to 10:00 p.m.
6. Bar hours be limited to state/city authorized opening hours and sales stopped at 10:00 p.m.
7. Events on the property be limited to 7:00 a.m. to 11:00 p.m. weekdays and 7:00 a.m. to midnight on Friday and Saturday.
8. Events in the horse/party/event barn or on the property be limited to four (4) events per month.
9. Total maximum number people at any event on the property be limited to the authorized occupancy number (or lower) as provided by the Code for Places of Public Assembly.
10. Noise from an event on the property shall not be audible at the boundary of the property.
11. No parking shall be permitted on Markham Avenue or Sang Avenue in connection with this commercial venture.
12. Improvements of Markham Avenue would be of minimal visual and environmental impact. Sidewalk to be constructed so as to preserve trees.
13. Establish a viable system for enforcement of state and city codes and these **Conditions of Approval** with appropriate penalties for non-compliance.
14. That all existing rental cabins shall be removed prior to the opening of the inn.
15. Developer be given a period of 15 years in which to commence construction of the proposed four (4) new cabins.
16. All overhead electric lines shall be relocated underground. All proposed utilities shall be located underground.



THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

25 October 2005

Mr. John Williams, FAIA
140 North Sang Avenue
Fayetteville, AR 72701

Re: Pratt Place PZD

Dear Mr. Williams,

This letter is in response to your letter dated September 17, 2005 to Mayor Coody and members of the City Council, in an effort to answer some, if not all, of your posed questions regarding the Pratt Place Planned Zoning District project.

Q: Would the increased traffic on Markham Road require it to be widened?

A: Staff has discussed this at great length. It is not our intent to recommend street improvements that would destroy the character of this neighborhood. However, it is essential that development in this area be adequately and safely served by emergency response and service vehicles. There will likely be improvement imposed upon the Archers at the time of development. As staff, we will be recommending these improvements, which at this point indicate at least a 20-foot wide paved driving surface on Markham and improvements to surface drainage. The Planning Commission ultimately makes the decision as to the level of improvements required, at the time of development.

Q: Who would pay the cost if it became necessary to widen Markham?

A: The developer is required to improve adjacent substandard streets when an impact to the existing infrastructure is expected. This is based on a rational nexus calculation, in which the developer is responsible for a rough proportionality of the anticipated impact.

Q: What is the city's position regarding condemnation and eminent domain to acquire private property to extend or widen streets?

A: While as a staff member I can not relay the city's policy regarding condemnation, in my experience the City Council has utilized its powers of eminent domain when it is necessary for the health, safety and welfare of the public. The City in recent years has condemned land for street, highway and water/ sewer projects.

Q: RE: 1960 Hotz Addition Sewer/Arkansas Plumbing Code and State Board of Health violation, What is the city's position regarding this?

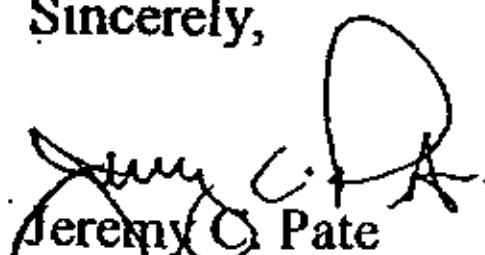
A: You may contact Mr. David Jurgens, Water/Wastewater Director, for more specific information regarding this question. He can be reached at 479-575-8386. In general, it will involve a detailed study of this case, as well as the subject water/sewer lines. The city always strives to obey court orders as directed, and at this point we can only assume that proper measures were taken forty-five years ago to comply with applicable requirements. Again, if you have specific questions, please feel free to contact Mr. Jurgens.

Q: What is the City's position and obligations if the new West Side Treatment Plant and construction cost substantially exceed estimates and available budgets?

A: A contract was recently approved by the City Council for construction of the new Westside Wastewater Treatment Plant. Detailed information regarding that contract and both the contractor's and City's obligations are available in the City Clerk's office.

I hope this helps to answer your questions, Mr. Williams. I have attached a copy of your original letter, to which you may refer. Your concerns and questions are appreciated, and are taken into consideration with staff's recommendation and the City Council's decision. If you need further information, please feel free to contact the Planning Division at 479-575-8267.

Sincerely,


Jeremy C. Pate
Director of Current Planning

B. 1
C-PZD 05-1670
(Pratt Place)
Page 9 of 12

JOHN G. WILLIAMS, FAIA, Emeritus Professor of Architecture, University of Arkansas
Doctor of Arts and Humane Letters, University of Arkansas

September 17, 2005

Mayor Coody and Members of the City Council
Fayetteville City Administration Building
Fayetteville, Arkansas 72701

Dear Mayor Coody and Members of the City Council,

This letter is regarding the Pratt Place Bed and Breakfast and the sixty-seat Restaurant and Parking Lot that are proposed to be built with it.

I would have no objection to a Bed and Breakfast if that were all that is implied, however, a restaurant for 60 people and parking implies much more.

I have the following concerns and questions:

Would the increased traffic on Markham Road require it to be widened? I am against this because it would change the character and quality of the neighborhood along Markham.

Who would pay the cost if it became necessary to widen Markham?

I am against the widening or extension of any street that might result from this proposed restaurant.

What is the city's position regarding condemnation and eminent domain to acquire private property to extend or widen streets?

In the early 1960s the neighbors along Hotz Street and Palmer Avenue sued the owner of the land along Waldon and Court Street for moving several CCC barrack buildings and placing them along these streets without the required moving permits.

In connecting the sewer line for these buildings to the Hotz Addition sewer in the manhole at Court and Center Streets, it was discovered that the close location between the water and sewer lines were in violation of the Arkansas Plumbing Code and the State Board of Health.

Judge Tom Butt instructed Mr. Harold Lieberence of the City Building Inspectors office to insure that this problem be corrected. I do not believe that it has been.

The sewer required for the proposed restaurant would tie into the Hotz Addition sewer line.

What is the city's position regarding this?

A question concerning all recent and proposed sewer taps:

What is the City's position and obligations if the new West Side Treatment Plant and construction cost substantially exceed estimates and available budgets?

Based on information that I have recently received I believe that it will.

Sincerely

John G. Williams

P.S. I would like written answers to the questions listed above.

Emeritus Architect • Landscape Architect • Consultant, Campus Planning & Energy Conservation in Design
140 North Sang Avenue • Fayetteville, Arkansas 72701 • (479) 442-4317

October 24, 2005

Mayor Coody and Members of the City Council
Fayetteville City Administration Building
Fayetteville, Arkansas 72701

Dear Mayor Coody and Members of the City Council,

We thank you for your patience in hearing the neighborhood concerns in regard
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We seek to preserve the private, quiet, pastoral and wooded nature of our street and
neighborhood and request that any proposed activities not adversely affect our section of
Sang Avenue and neighborhood.

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- **First, we suggest that this matter be voted down and then reviewed and
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the owners and public be somewhat better advised as to the probable impact
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Should the Pratt Place Inn PZD be considered on its merits, in an effort to protect the neighborhood and public, we suggest the attached **Conditions of Approval**.

Please be aware that our suggestions of **Conditions of Approval** are not to be construed as conceding our interest in seeing the PZD voted down.

The number and complexity of the staff and neighbor suggested **Conditions of Approval** reflect the lack of information on which to approve this request.

We thank you for your consideration.

Very truly yours,

Lynn F. Wade
Claire Stade
Susan Johnson
David Campbell Johnson
Marc Feldman

Joyce Feldman
Robert L. Feldman
Jane N. Steele
John G. Williams
Martha Sutherland

CONDITIONS OF APPROVAL

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13. Establish a viable system for enforcement of state and city codes and these **Conditions of Approval** with appropriate penalties for non-compliance.
14. That all existing rental cabins shall be removed prior to the opening of the inn.
15. Developer be given a period of 15 years in which to commence construction of the proposed four (4) new cabins.
16. All overhead electric lines shall be relocated underground. All proposed utilities shall be located underground.

REAL ESTATE SALES CONTRACT

1. The City of Fayetteville, Arkansas offers to sell and BioBased Realty, LLC offers to buy, subject to obtaining acceptable financing and other terms and conditions set forth in this contract, approximately 19.5 acres including all of Parcel 765-03017-000 and Parcel 756-15399-010 except for a one acre parcel where the Children's House is currently located and a right of way easement where the Children's House driveway is not located. This property is more particularly described in Exhibit "A" attached hereto and made a part hereof.

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

2. **Purchase Price:** Subject to the following conditions, BioBased Realty, LLC shall pay for the property at closing, the total cash payment of Nine Hundred Forty Thousand Dollars (\$940,000.00).
3. Conveyance will be made BioBased Realty by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the City of Fayetteville.
4. The City of Fayetteville shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. The City of Fayetteville shall pay the cost of the title insurance.
5. The City of Fayetteville agrees to allow BioBased Realty, if BioBased Realty so desires, at BioBased Realty's expense, to survey the property. The City of Fayetteville agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville. The City of Fayetteville shall provide at its expense a survey of the one acre tract for Children House and right of way easement as depicted on Exhibit "B".
6. Taxes and special assessments due on or before closing shall be paid by the City of Fayetteville. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
7. The closing date shall be within one hundred twenty (120) after approval of this offer by the City Council, which can be extended by agreement of the Mayor for an additional sixty (60) days. If such date of closing falls on a weekend or holiday, it will be held the following working day.
8. Possession of the property shall be delivered to BioBased Realty on the date of closing.
9. The City of Fayetteville hereby grants permission for BioBased Realty or their designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
10. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the City of Fayetteville.

11. The City of Fayetteville shall disclose to BioBased Realty any and all environmental hazards of which the City of Fayetteville has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, the City of Fayetteville shall bare the costs of any and all testing for the existence of environmental hazards, including Phase I environmental study and a Phase II study if necessary. Should the existence of environmental hazards be discovered, the City of Fayetteville shall either cure such at its expense or BioBased Realty may terminate this contract.
12. The City of Fayetteville will remove at its expense the existing buildings (not including Children's House) and debris in coordination with BioBased Realty prior to or immediately after closing.
13. Prior to closing, BioBased Realty in conjunction with BioBased Technologies/BioBased Systems will provide the City of Fayetteville with a Master Plan layout of the property acceptable to the City Council. BioBased Realty or BioBased Technologies/BioBased Systems shall take all reasonable action to ensure that any minor possible odor or pollution emissions do not affect surrounding areas. BioBased agrees to build in scrubbers to protect air quality where reasonably appropriate. Each building's general design (including construction materials) shall be presented to the City Council for its approval prior to the building's construction. Normal city developmental requirements such as Large Scale Development standards, etc. shall still be required.
14. If any portion of the land conveyed by this contract is sold by BioBased Realty within the first five years of the date of closing, an independent appraisal of the land's value (not to include the value of any building thereon) shall be performed. BioBased Realty shall pay 75% of the increase in appraised value of the land (with prorated sales cost deducted) to the City of Fayetteville. BioBased Realty shall pay the City of Fayetteville 40% of the increase in appraised value of the land (with prorated sales costs deducted) for any sales after 5 years until 10 years from the closing date.
15. BioBased Realty is granted an option to purchase the remaining acre where Children's House is located eight years after the closing date. BioBased Realty may exercise this option to purchase at any time during the year following the eight year period after the closing date. BioBased Realty and the City agree the price shall be determined at that time as follows:
 - (a) The property including improvements thereon shall be appraised by an independent appraiser.
 - (b) BioBased Realty shall receive an offset from the appraisal value using the following formula: For every full \$100,000.00 in annual payroll paid to BioBased Technologies/Systems and related companies' employees working in Fayetteville over the Two Million Dollar annual payroll estimated for 2008, BioBased Realty shall receive a reduction of \$25,000.00 from the appraised value of this remaining acre.
 - (c) Reductions allowed in paragraph (b) shall not reduce the final price for this acre parcel below \$60,000.00.

(d) The City of Fayetteville may sell to BioBased Realty this acre at any mutually agreeable time prior to the expiration of the eight year period upon terms agreeable to both parties.

16. This agreement shall be governed by the laws of the State of Arkansas.
17. This agreement, when executed by both BioBased Realty and the City of Fayetteville shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.

CITY OF FAYETTEVILLE
A Municipal Corporation

By: _____
DAN COODY
Mayor

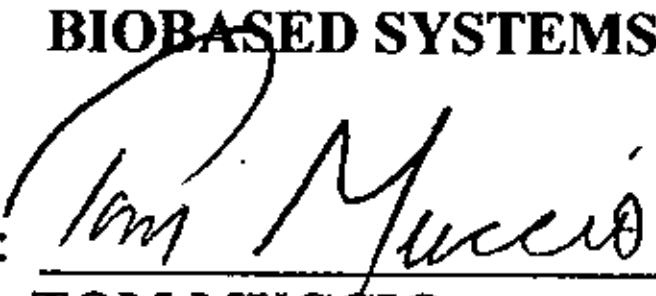
Date: _____

Attest:

Sondra Smith, City Clerk

Date: _____

BIOBASED REALTY, LLC
BIOBASED TECHNOLOGIES, LLC
BIOBASED SYSTEMS, LLC

By: 
TOM MUCCIO
CEO

Date: 10-21-05

Agent or Witness:

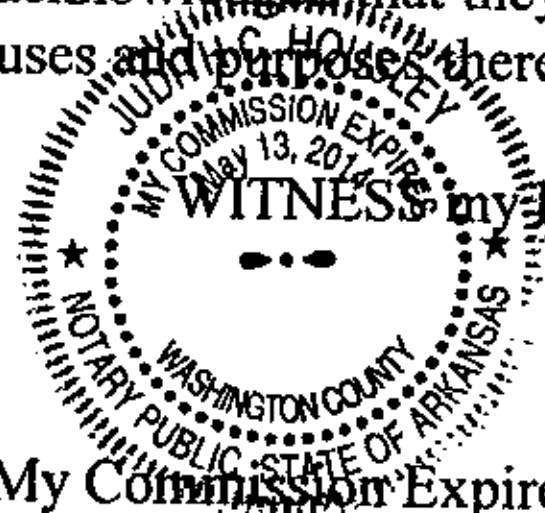


Date: 10-21-05

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Tom Muccio**, and Tom Stuckland, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **CEO and Agent or Witness** of BioBased Realty, BioBased Technologies and BioBased Systems and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of 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.



My Commission Expires:

May 13, 2014.

WITNESS my hand and seal on this 21st day of October, 2005.

Paul C. Howley
Notary Public

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

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

WITNESS my hand and seal on this _____ day of October, 2005.

Notary Public

My Commission Expires:

EXHIBIT "A"
PROPERTY DESCRIPTION

Two parcels of land located in Washington County, Arkansas more particularly described as follows, to-wit:

Parcel No. 765-15399-010:

A part of the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of Section Twenty-Nine (29), Township Sixteen (16) North, Range Thirty (30) West, more particularly described as follows, to-wit: Beginning at a point which is 44.3 feet South and 305.6 feet West of the Northeast corner of said 40 acre tract, and running thence South 702.9 feet; thence West 701.2 feet to the East line of the Cato Springs Road, thence North 16° 14' East along the East line of said road 229.4 feet; thence North 14° 36' East along the east line of said road 499.1 feet; thence East 511.2 feet to the point of beginning, containing 9.75 acres, more or less.

Parcel No. 765-03017-000:

A part of the North half (N 1/2) of the Northeast Quarter (NE 1/4) of Section Twenty-Nine (29), Township Sixteen (16) North, Range Thirty (30) West, described as follows, to-wit: Beginning at a point which is 44.3 feet South and 305.6 feet West of the Northeast corner of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of said Section 29; thence running South 1276.5 feet, thence North 89 degrees 43 minutes, East 538 feet to the St. Louis and San Francisco Railroad right-of-way; thence North 10 degrees 38 minutes West with the West line of said right-of-way 897.2 feet; thence South 78 degrees 2 minutes West 150.5 feet; thence North 10 degrees 1 minute West 434.1 feet to the South line of the Cato Springs Road; thence West 150 feet to the point of beginning, containing 10.8 acres, more or less.

Both parcels are subject to existing easements, rights-of-way along Cato Springs Road and Razorback Road as well as the railroad, and other possible encroachments. This property description is approximate and may be refined and finalized by survey.

EXHIBIT "B"

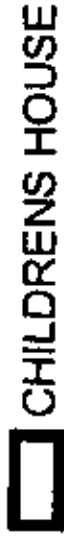


Legend

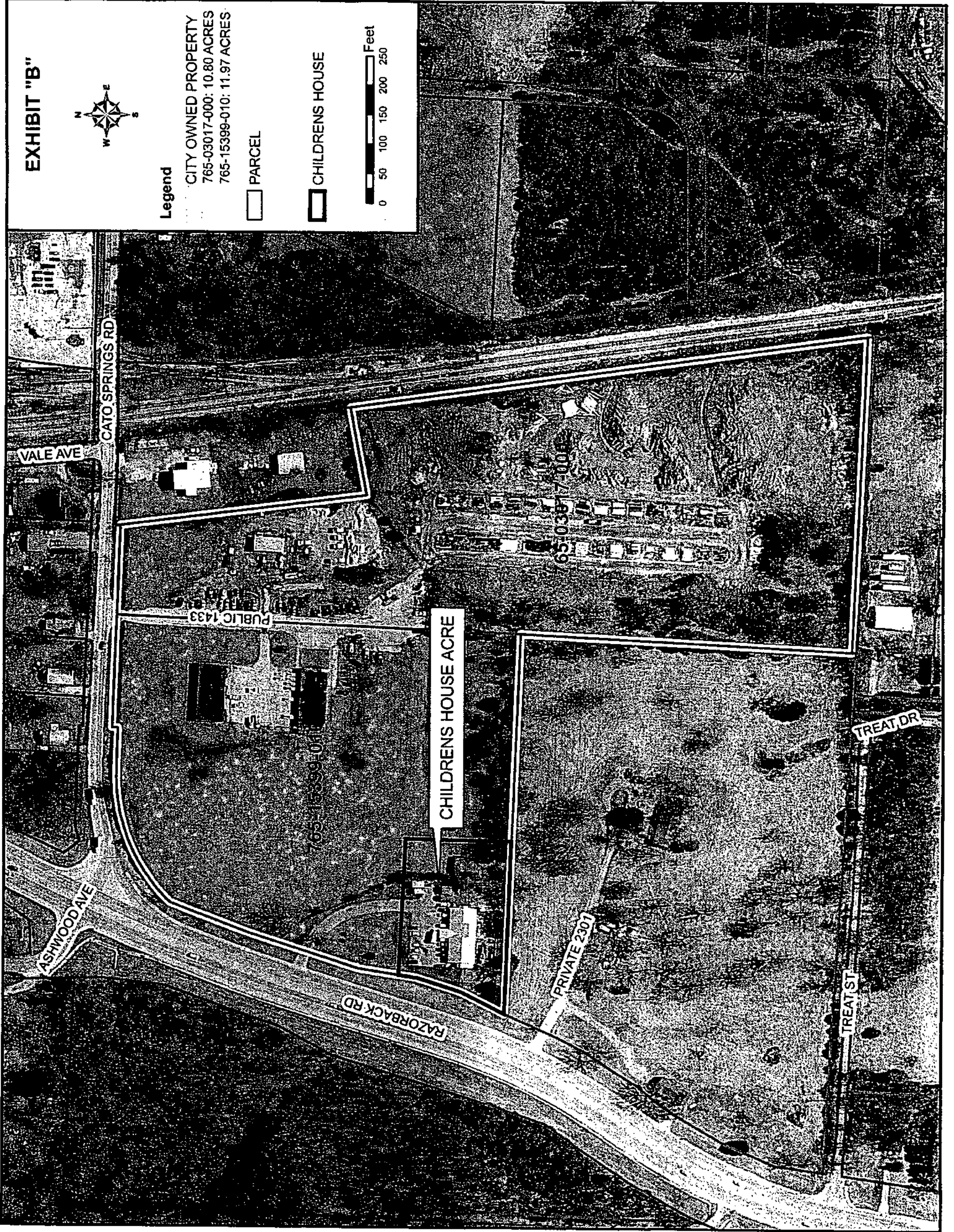
CITY OWNED PROPERTY
765-03017-000: 10.80 ACRES
765-15399-010: 11.97 ACRES



PARCEL



CHILDRENS HOUSE



RESOLUTION NO. 2005-06

A RESOLUTION SUPPORTING SEWER RATE AND IMPACT FEE STUDIES BY THE CITY OF FAYETTEVILLE IN CONJUNCTION WITH NEGOTIATIONS FOR THE ACQUISITION OF THE FARMINGTON WASTEWATER COLLECTION SYSTEM

WHEREAS, the City of Farmington does not operate a municipal sewer system or a municipal water system, and

WHEREAS, the City of Fayetteville provides water service and wastewater collection and treatment for the City of Farmington, and

WHEREAS, the City of Fayetteville has expressed an interest in acquiring the Farmington sewer collection infrastructure and entering into a long term contractual agreement to provide water and wastewater collection and treatment for the City of Farmington, and

WHEREAS, the City of Fayetteville has agreed to provide sewer rate and impact fee studies in conjunction with negotiations for the transfer and acquisition of the Farmington sewer collection infrastructure.

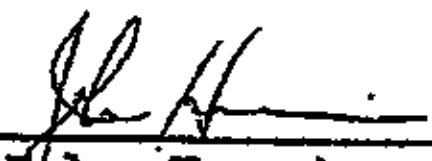
BE IT THEREFORE RESOLVED BY THE CITY COUNCIL OF THE CITY OF FARMINGTON

Section 1: The Farmington City Council supports negotiations for a long term contractual agreement with the City of Fayetteville for the transfer and acquisition of Farmington's sewer collection infrastructure and for the City of Fayetteville to provide water service and wastewater collection and treatment service for the City of Farmington.

Section 2: The Farmington City Council further supports the Fayetteville City Council's decision to engage the services of consulting firms to provide sewer rate and impact fee studies to analyze the rate components of Fayetteville's treatment facilities, the implementation of impact fees by Farmington, and the rate components of Farmington's collection facilities to address capital funding and develop a rate structure in furtherance of negotiations between the respective cities.

Section 3: The Farmington City Council directs the Mayor, City Clerk and city staff to provide information requested by the consulting firms to assist in the preparation of rate and impact fee studies.

PASSED AND APPROVED this 10th day of October, 2005.



John Harris, Mayor



Jean Swift, City Clerk

October 22, 2005

City of Fayetteville, Arkansas
City Council Meeting November 1, 2005

Honorable Altermen:

Robert Reynolds
Brenda Thiel
Kyle Cook
Don Marr
Robert Rhoads
Robert Ferrell
Shirley Lucas
Lioneld Jordan

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith

To All Parties:

Re: New Business : ANX 05-1728 Zaccanti (80.30 acres) And Planning Commission
Appeal RZN 05-1729 Zaccanti (60 acres)

I own the property to be considered at the City Council Meeting on November 1, 2005.
My wife and I purchased this property in 1953. This property has been used for farming
cattle and a chicken operation .

My property is located on west Salem Road . It is bordered by Crystal Springs
subdivision located on the west side and two subdivisions in process located on the south
and east sides. All the properties that border my property on three sides are in the City
of Fayetteville and are Zoned RSF-4. For your reference, attached in this folder are maps
showing my property in relationship to City of Fayetteville boundaries and City of
Fayetteville zoning .

It is my intent to annex all 80.30 acres into the City of Fayetteville. I want to retain 20
acres to live on and re-zone the remaining 60 acres to RSF-4. The reason to approve
annexation for 80.30 acres and re-zone 60 acres to RSF-4 are as follows:

1. City of Fayetteville Director of Current Planning , Jeremy Pate,
recommended approval for both Annexation and Re-zoning. (See attached Planning
Division Correspondence containing 16 pages)

2. All city utilities are available for connection to this 60 acres.
3. All subdivisions that adjoin this 60 acres show streets that connect into this property.
4. All properties that adjoin this 60 acres are located in the City of Fayetteville.
5. All properties that adjoin this 60 acres are zoned RSF-4.

My wife and I were married for 57 years and we raised our family here. Since she passed away in April 2004, I have decided to sale 60 acres and retain 20 acres. It is just not the same without her. I will live in my existing home until I can no longer take care of it or my small garden.

At the November 1, 2005 City Council Meeting, I sincerely hope you will approve re-zoning this 60 acres of property to RSF-4. I will tear down my chicken houses and move my cattle to acreage I own outside of Fayetteville. If you are not in favor of re-zoning, then unfortunately, I shall table my request for annexation of the 80.30 acres.

Thank you for your consideration. If you have any questions prior to the meeting, please feel free to call me at 479-442-6933 or my daughter, Mary Bassett at 479-521-5600. I look forward to seeing you on November 1.

Highest Personal Regards,

Alfred Edward Zaccanti, Sr.

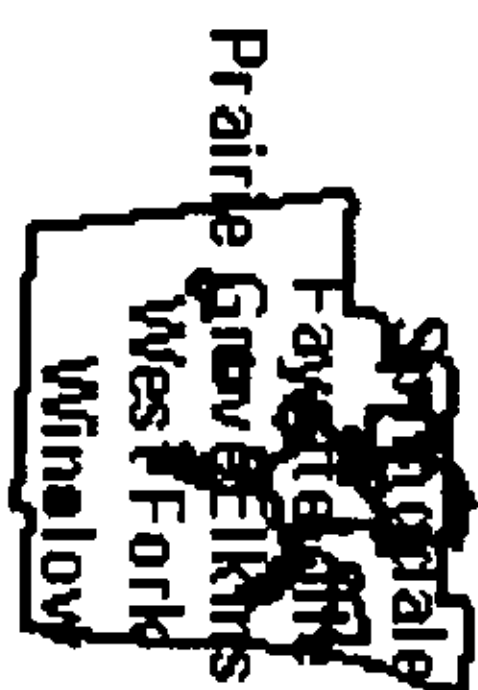
Retired Col. Alfred Zaccanti

Zaccanti Property

C 3 & C 4
Zaccanti
3 of 22



Map created with ArcIMS - Copyright (C) 1992-2005 ESRI Inc.



Legend

County Street Centerlines

<all other values>

CLASS

State Highway

Local Paved

Local Gravel

Interstate

City Limits

AERIALPHOTO2005

RGB

Red: Band_1

Green: Band_2

Blue: Band_3





PC Meeting of October 10, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: September 20, 2005

ANX 05-1728: Annexation (ZACCANTI, 207-246): Submitted by RAYMOND SMITH for property located at SOUTH OF SALEM ROAD, EAST OF CRYSTAL SPRINGS SUBDIVISION. The property is in the Planning Area and contains approximately 80.00 acres. The request is to annex the subject property into the City of Fayetteville.

Property Owners: Alfred Sr., Al, and Helen Zaccanti

Planner: Andrew Garner

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report:

PLANNING COMMISSION ACTION:	Required	☒ YES
	☐ Approved	☐ Denied
Date: <u>October 10, 2005</u>		
CITY COUNCIL ACTION:	Required	☒ YES
	☐ Approved	☐ Denied
Date: <u>November 1, 2005 (1st reading if recommended)</u>		

BACKGROUND:

Property Description and Setting: The subject property contains part of two tracts totaling approximately 80 acres owned by the Zaccanti's. It is located south of Salem Road and east of the Crystal Springs Subdivision. The property contains one single-family residence along with a chicken farming operation and pasture land. It is within the Planning Area and adjacent to the City limits along the southern and a portion of the eastern and western property lines. Surrounding land uses and zoning are depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Rural residential	Planning Area
South	Vacant/Pasture	Residential Single Family Four Units/Acre (RSF-4)
East	Vacant/Pasture	Residential Single Family Four Units/Acre (RSF-4); Planning Area
West	Crystal Springs Subdivision; Rural residential	Residential Single Family Four Units/Acre (RSF-4); Planning Area

Proposal: The applicant proposes annexation of 80.30 acres into the City of Fayetteville.

Recommendation: Staff recommends approval of the proposed annexation based on the finding herein.

INFRASTRUCTURE:

Streets: Currently the site has access to Salem Road. Gypsum Road is planned to extend east-west across the southern portion of the site, and Raven Road is planned to extend north-south just west of the site. Road improvements and dedication per the Master Street Plan would be required at the time of development. The site's relation to existing and planned Master Street Plan Streets is depicted on *Table 2*.

Table 2
Existing and Planned Streets

Direction from Site	Street Name	Classification
Adjacent to northern border	Salem Road	Collector
Bisects southern portion of site	Gypsum	Collector (planned)
Approximately 20' west of the site	Raven	Collector (planned)

Water: Public water is adjacent to the site. There is an 8" main along East Huntsville Road. Water service will need to be extended within the property at the time of development. Additional connections may be required to complete a looped system. This may include an off-site connection to be determined at a later date.

Sewer: The site has access sanitary sewer. There is a 6" sewer main along the east half of the property. Sewer will need to be extended within the property at the time of development. A capacity analysis of the sewer lines and/or lift stations downstream of the site shall be conducted prior to development.

Fire: The subject property is located approximately 3.9 miles from the Fire Station #5. Response time to the property is 8 minutes with a projected response time at full build-out to be approximately 8 minutes with 34 annual calls for service. This does not take into account the decreased response time for the future Fire Station

at the Tyson complex on Huntsville Road.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density or create an undesirable increase the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 identifies the portion of this property within the Planning Area as Residential.

FINDINGS:

**11.6 ANNEXATION GUIDING POLICIES
BOUNDARIES**

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property will not create an island of unincorporated property and does not exacerbate problems created by the extension of peninsulas. The proposed annexation, begins fills in land that is encompassed on all sides but the north by existing city limits. Therefore, staff finds that the proposed annexation will not further exacerbate any problems associated with the current situation.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the south, east, and west.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area is currently vacant at this time and located between properties within the city. There is a subdivision adjacent to the western property line. Structures on the subject property consist of several chicken houses and a single family dwelling. The property does not consist of defined subdivisions or neighborhoods. Annexation of the property would allow for Planning Commission review of development in accordance with City standards, and would require the same standards of development as the adjacent properties already within the city limits.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of [redacted] minutes for fire protection from Fire Station # [redacted]. Additionally, the City's Fire Department currently responds to calls further west of this property. Extension of water and sewer lines will occur at the time of development to aid in the improvement of services.

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: The property is mainly cleared pasture land. Tree canopy is concentrated along property lines. Development regulations within the City will ensure appropriate development and preservation of the existing natural features on the property. Development outside the city does not allow for the requirement of parks, open space or tree preservation.

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police currently serve subdivisions further west of the subject property. Service shall be provided to this area with the same level of response and service as other developments in this area.

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: Water, fire and police protection are currently provided in the surrounding areas to the south, east, and west. The subject property is not being served by

city utilities at this time.

- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property. At this time, the property is agricultural in nature.

- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

- 11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

- 11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The property owners request for annexation and request to rezone this property RSF-4, Residential single family - 4 units/acre.

- 11.6.p An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property.

- 11.6.q Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has not been proposed. At the time the applicant desires to develop the property, the applicant will be required to submit project

plans for review and approval by the Planning Commission.

11.6.r Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: This annexation consists of approximately 80 acres, and is adjacent to the Crystal Springs Subdivision in the City of Fayetteville. The annexation of the subject property will fill-in an unincorporated area surrounded on three sides by incorporated City helping create a more desirable city boundary.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 80 acres.

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

- 11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
- 11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
- 11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
- 11.6.d Boundaries for annexed areas should follow natural corridors.
- 11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

- 11.6.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.
- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

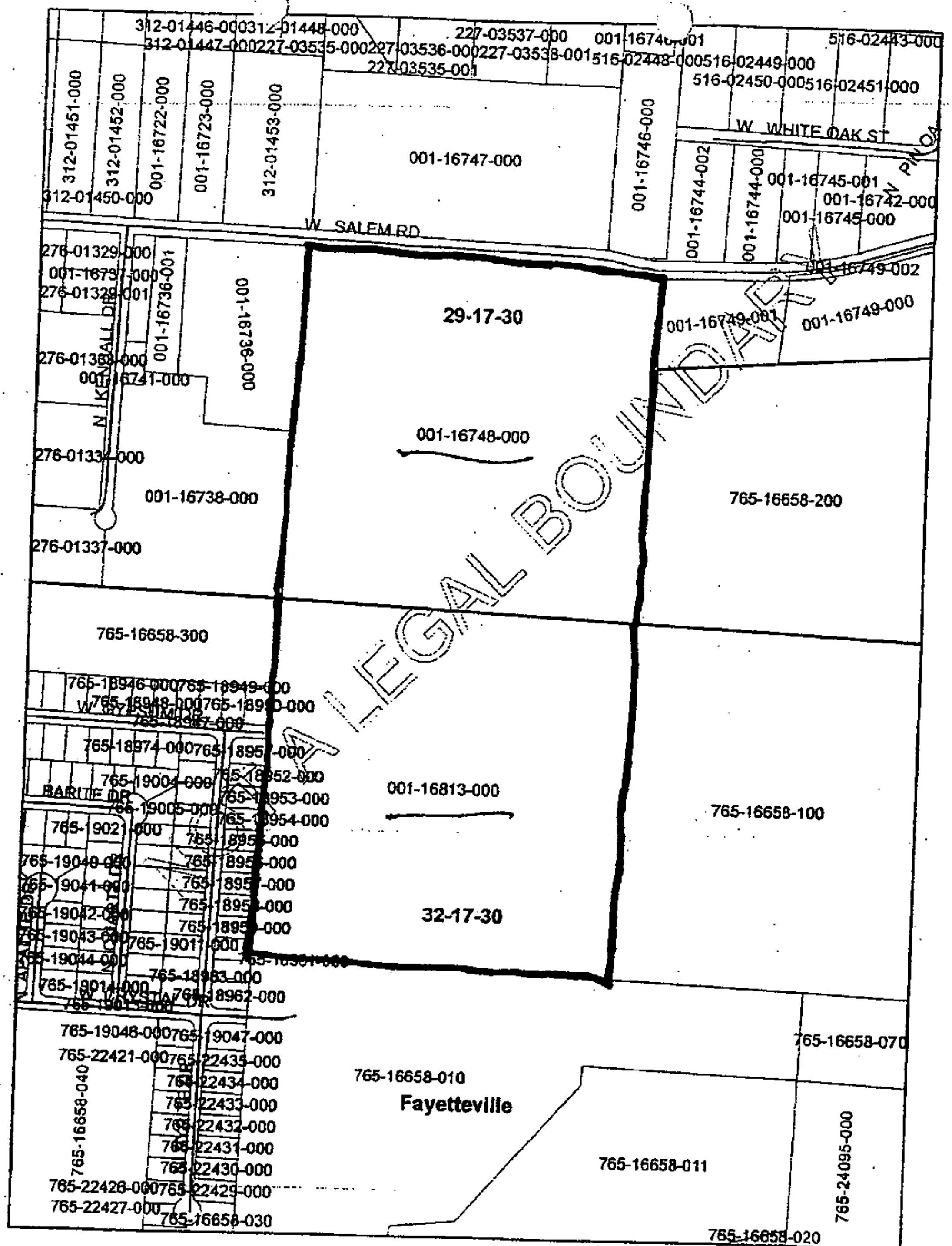
- 11.6.j Areas currently served by utilities and other public services should be annexed.
- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

- 11.6.m Promote long-range planning with adjacent jurisdictions.
- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

- 11.6.o Designate zoning districts for the property during the annexation process.
- 11.6.p An annexation study should be completed on all annexation proposals.
- 11.6.q Development proposals require a separate review from the annexation proposals.
- 11.6.r Residents should be fully informed of annexation activities.
- 11.6.w Encourage larger annexations to create acceptable boundaries.
- 11.6.t Conduct a fiscal impact assessments on large annexations.



County Disclaimer:

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PC Meeting of October 10, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: September 20, 2005

RZN 05-1729: Rezoning (ZACCANTI, 207-246): Submitted by RAYMOND SMITH for property located at SOUTH OF SALEM ROAD, EAST OF CRYSTAL SPRINGS SUBDIVISION. The property is ZONED R-A, RESIDENTIAL AGRICULTURAL, and contains approximately 60.00 acres. The request is to rezone the subject property to RSF-4, Residential Single-Family, 4 units per acre.

Property Owners: Alfred Sr., Al, and Helen Zaccanti

Planner: Andrew Garner

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	Required	YES
	☒ Approved	☐ Denied
Date: <u>October 10, 2005</u>		
CITY COUNCIL ACTION:	Required	YES
	☒ Approved	☐ Denied
Date: <u>November 1, 2005 (1st reading if recommended)</u>		

Property Description and Setting: The subject property contains part of two tracts totaling approximately 80 acres owned by the Zaccanti's. It is located south of Salem Road and east of the Crystal Springs Subdivision. The property contains one single-family residence along with a chicken farming operation and pasture land. It is within the Planning Area and adjacent to the City limits along the southern and a portion of the eastern and western property lines. Surrounding land uses and zoning are depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Rural residential	Planning Area
South	Vacant/Pasture	Residential Single Family Four Units/Acre (RSF-4)
East	Vacant/Pasture	Residential Single Family Four Units/Acre (RSF-4); Planning Area
West	Crystal Springs Subdivision; Rural residential	Residential Single Family Four Units/Acre (RSF-4); Planning Area

Proposal: The applicant intends to develop this property in conjunction with property to the west for single family use at a maximum density of 4 units per acre. The request is to rezone the property RSF-4, Residential Single-family, 4 units per acre.

Recommendation: Staff recommends approval of the rezoning request to rezone the subject property RSF-4 based on findings herein.

INFRASTRUCTURE:

Streets: Currently the site has access to Salem Road to the north. Gypsum Road is planned to extend east-west across the southern portion of the site, and Raven Road is planned to extend north-south just west of the site. Road improvements and dedication per the Master Street Plan would be required at the time of development. The site's relation to existing and planned Master Street Plan Streets is depicted on *Table 2*.

Table 2
Existing and Planned Streets

Direction from Site	Street Name	Classification
Adjacent to northern border	Salem Road	Collector
Bisects southern portion of site	Gypsum	Collector (planned)
Approximately 20' west of the site	Raven	Collector (planned)

Water: Public water is not adjacent to the site. There is an 8" main along East Huntsville Road and a 2" main along Mally Wagon Road. Water service will need to be extended within the property at the time of development. Additional connections may be required to complete a looped system. A study of the water system shall be completed at the cost of the developer to confirm adequate supply and pressure. There are plans to improve the water system in this area, though the timing is not known.

Sewer: The site is near sanitary sewer mains. A short off-site sewer main extension may be required to serve this development. A capacity analysis of the sewer lines and/or lift stations downstream of the site shall be conducted prior to development and at the cost of the developer.

Fire: The subject property is located approximately 4.3 miles from the Fire Station #5. Response time to the property at maximum build-out is projected at approximately 8.25 minutes. Response time is projected at 6.25 minutes from the future Fire Station #3 at the Tyson complex on Huntsville Road.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as Residential.

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: Future development of the subject property at 4 units per acre would be compatible with the development within the City and the adjacent property west of the subject property.

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

Finding: Should the annexation request for the 80-acres north and east of the existing city limits be approved, the property is zoned R-A by default. The applicant is requesting the consideration of rezoning only the property to RSF-4. Staff finds that this zoning is compatible with the General Plan 2020 and surrounding developments within the City.

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

Finding: The proposed zoning will provide additional traffic on adjacent streets over the current zoning. Salem Road is adjacent to the northern property line of the subject property. The annexation and development of this property will also aid in the eventual connection of Gypsum Lane from Crystal Springs Subdivision west-east across the property. The existing and planned streets that surround the property will allow traffic to disperse in an efficient manner under the proposed zoning.

Police: The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of

traffic danger and 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 increase population density from that zoning currently in place. The 80-acre tract under an R-A zoning designation would allow for a maximum 40 single family residential dwelling units. With the proposed RSF-4 designation for the property, a maximum of 320 single family dwelling units would be permitted.

Increased load on public services were taken into consideration and recommendations from Engineering, Police Department, and Fire Department are included in this report and summarized below:

Police

This rezoning will not substantially alter the population density thereby undesirably increasing the load on police services.

Fire

This rezoning is in close proximity to Fire Station No. 1 and has an adequate response time of 10 minutes.

Engineering

Water: Public water is adjacent to the site. There is a 12" main along Crossover and an 8" main in the Candlewood subdivision. Water service will need to be extended within the property at the time of development. Additional connections will be required to complete a looped system.

Sewer: A sanitary sewer main crosses the east end of the site. There is also a large diameter force main that parallels the gravity main. Sewer service will need to be extended within the property at the time of development. A study of the downstream sewer system must be completed by the developer prior to submittal of construction plans.

Streets: The site has access to Salem Road, with a stub-out to Gypsum Road to the west.

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:	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.

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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.

CURRENT OWNERSHIP INFORMATION AND ANY PROPOSED OR PENDING PROPERTY SALES

Assessor's Parcel Number 001-16748-000, SW¼ of SE¼ Section 29, Assessor's Parcel Number 001-16813-000, NW¼ of NE¼ Section 32, T17N, R30W, 80.30 acres, more or less. There are proposed or pending property sales for this property.

REASON FOR REQUESTED ZONING CHANGE

Parcel Number 001-16748-000 is currently zoned A-1 and will be annexed into the City of Fayetteville and the S½ (20 acres) zoned as R-A. Parcel Number 001-16813-000 is currently zoned A-1 and will be annexed into the City of Fayetteville and zoned as R-A. It is proposed to re-zone 60 acres of the parcels to RSF-4 for development into a single family residential subdivision.

LAND DEVELOPMENT

The development of this property is consistent with the land use of the residential areas surrounding the proposed development with slight increase in vehicle traffic.

WATER/SEWER ACCESS

An 8" existing water line and 8" sewer line are available at the Crystal Springs Subdivision to the West and also available to the South.

DEGREE TO WHICH THE PROPOSED ZONING IS CONSISTENT WITH LAND USE PLANNING OBJECTIVES, PRINCIPLES AND LAND USE AND ZONING PLANS

The proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

WHETHER THE PROPOSED ZONING IS JUSTIFIED AND/OR NEEDED AT THE TIME THE REZONING IS PROPOSED

The proposed rezoning is justified at this time in that it is in keeping with the policies and adopted plans of the City of Fayetteville. Zoning this property as RSF-4 is consistent with surrounding subdivision.

**WHETHER THE PROPOSED ZONING WOULD CREATE OR
APPRECIABLY INCREASE TRAFFIC DANGER AND CONGESTION**

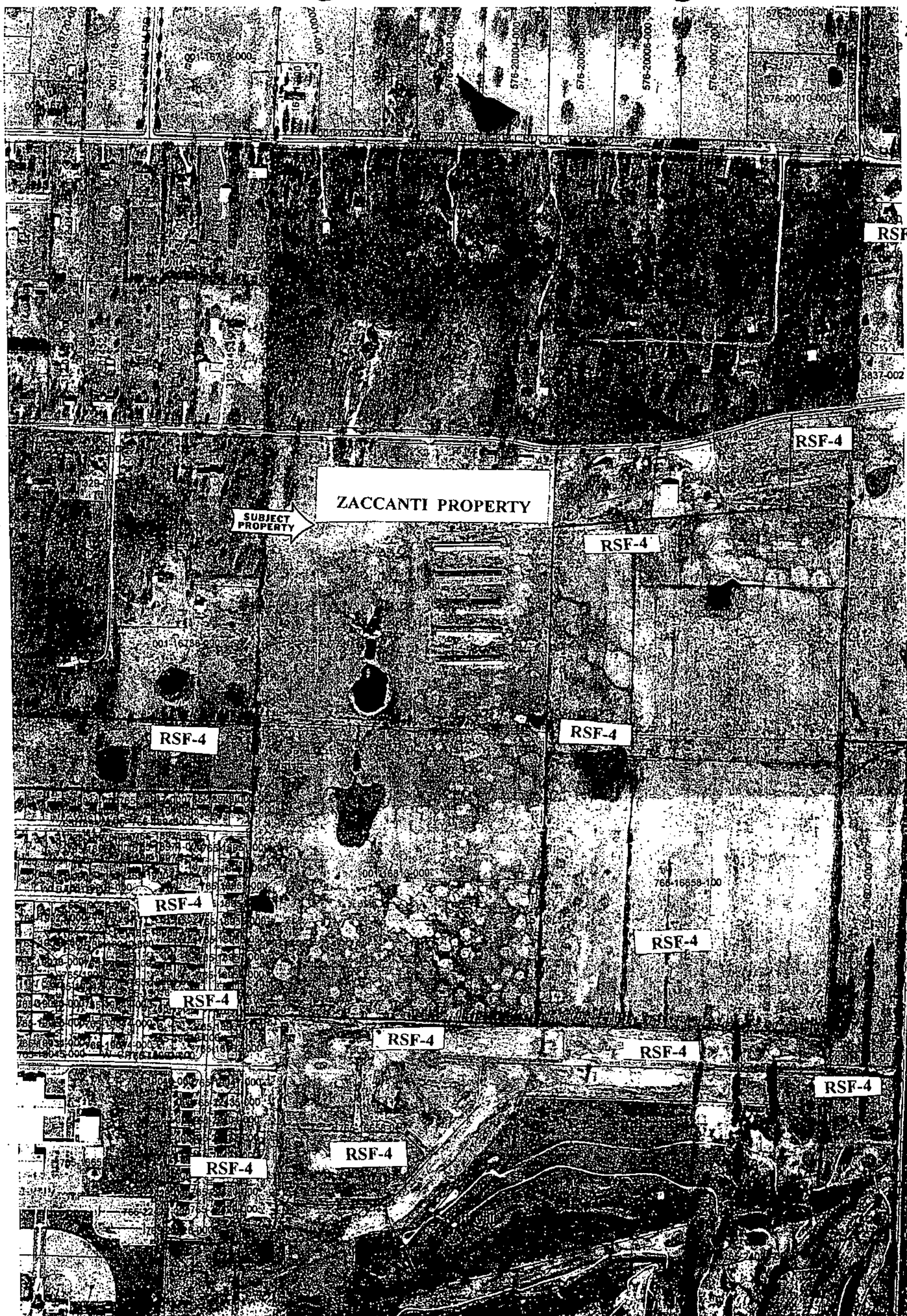
The proposed zoning will not create or appreciably increase traffic danger and congestion.

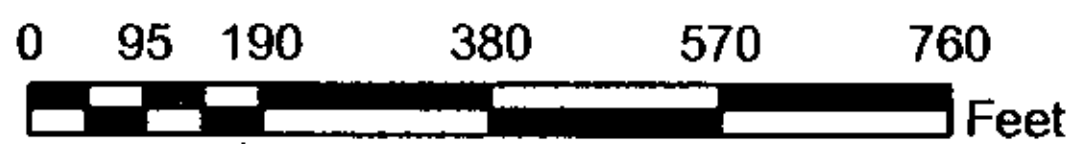
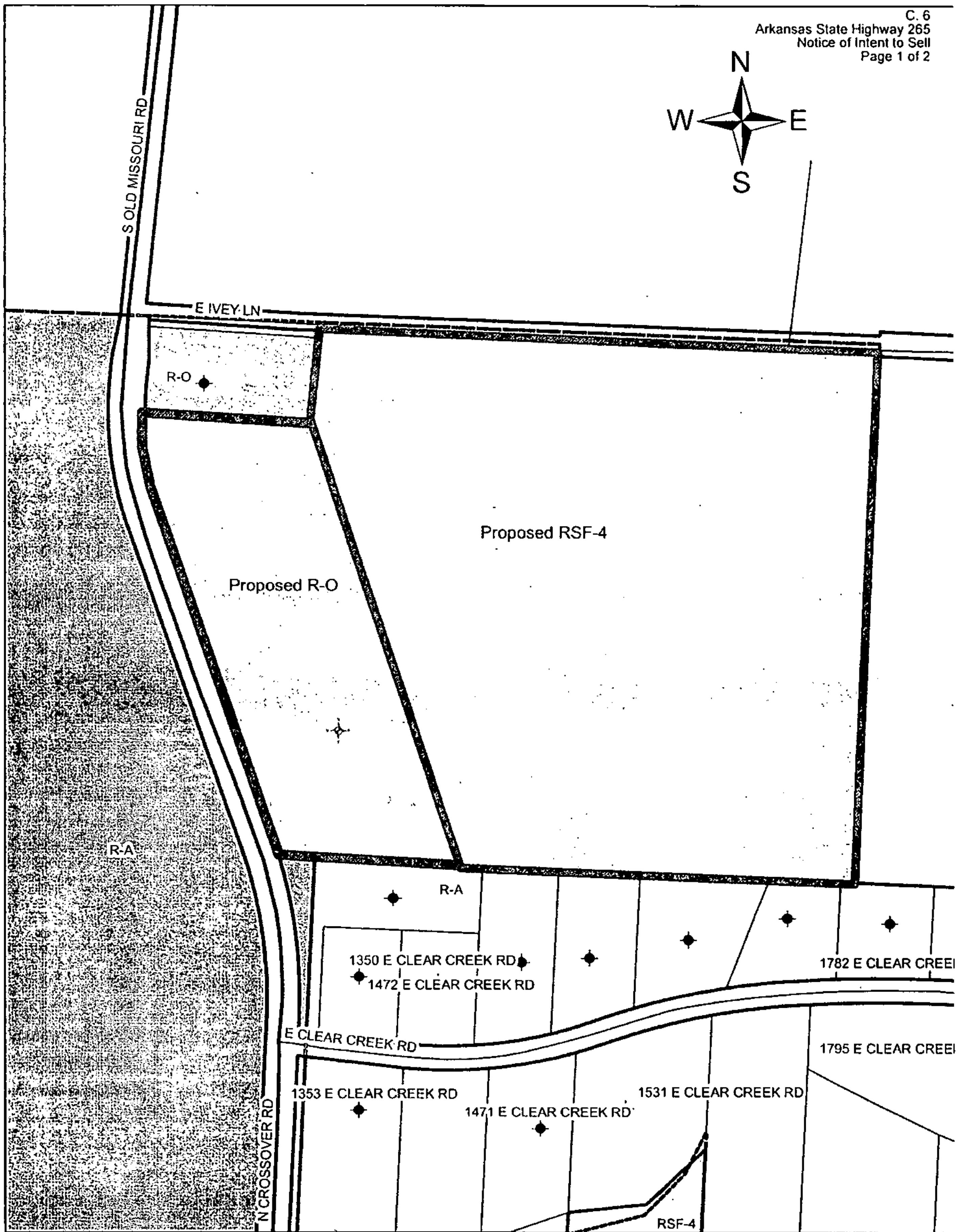
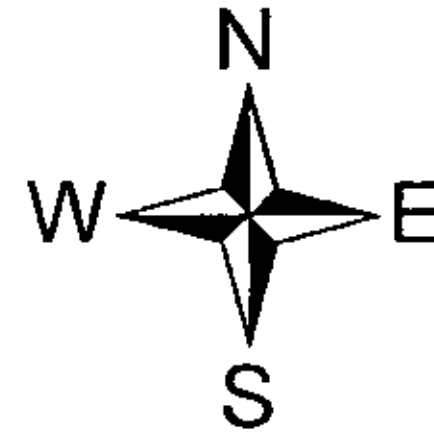
**WHETHER THE PROPOSED ZONING WOULD ALTER THE
POPULATION DENSITY AND THEREBY UNDESIRABLY INCREASE
THE LOAD ON PUBLIC SERVICES INCLUDING SCHOOLS, WATER,
AND SEWER FACILITIES**

This increase is not expected to undesirably increase the load on public services including schools, water and sewer facilities. Improvements planned to the Fayetteville overall wastewater treatment system and the coming on line of the new wastewater treatment facility on the western side of Fayetteville should adequately provide services to the subdivision.

**WOULD IT BE IMPRACTICAL TO USE THE LAND FOR ANY OF THE
USES PERMITTED UNDER ITS EXISTING ZONING
CLASSIFICATION**

This property is presently in the county but within the Fayetteville Growth Area. It would be impractical to maintain the A-1 or R-A zoning since it would be inconsistent with the surrounding areas already zoned as residential subdivisions,





Lake Fayetteville Watershed Partnership
P.O. Box 9943
Fayetteville, Arkansas 72703

October 6, 2005

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

Dear Mr. Conklin,

The Lake Fayetteville Watershed Partnership (LFWP) is a non-profit group that is focused on protecting the water quality in Lake Fayetteville and its watershed. We have been following the possible sale of the land known as the "Hobby Use Area" on Highway 265 since early 2004. We were also involved in discussions when a portion of the property was going to be sold to the City of Springdale for a lift station.

This property lies within the Lake Fayetteville watershed and borders an unnamed tributary of Clear Creek. The tributary has serious bank erosion problems that we believe are contributing significantly to the sediment load in Lake Fayetteville. In addition, residents living on Clear Creek Drive have experienced flooding during heavy rain events due to increased hydraulic loading from land use changes in the watershed.

We ask that the City of Fayetteville include either a conservation easement or a 50 foot minimum riparian buffer requirement in the contract for the sale of land to protect the unnamed tributary, Clear Creek, and Lake Fayetteville from further degradation. We request that the sale contract restrict the type and amount of development and land use on this property that could threaten the water quality and quantity of Lake Fayetteville. A primary concern of the LFWP is the impact from stormwater runoff. We ask that a condition of sale ensure that pre and post-construction measures are established to protect the water quality and aquatic community.

We request that part of the money raised from the sale of this land be allocated to the Parks Department to be used for the purchase and/or development of the proposed Fayetteville Community Park. Development of a community park with an extensive sports complex would take the pressure off the parks department to expand existing greenspace parks into multi-use sports fields.

We look forward to your reply on this matter.

Sincerely,



Jennifer Michaels
Lake Fayetteville Watershed Partnership

cc: Mayor Dan Coody
✓ Fayetteville City Council Members
Connie Edmonston, Parks Div.

RECEIVED

OCT 11 2005

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

ALDERMAN AGENDA REQUEST FORM

Added at Agenda

Session 10/25/05

C. 7
Botanical Garden Society
Waiving Permit Fees
Page 1 of 4

FOR: COUNCIL MEETING OF November 1, 2005

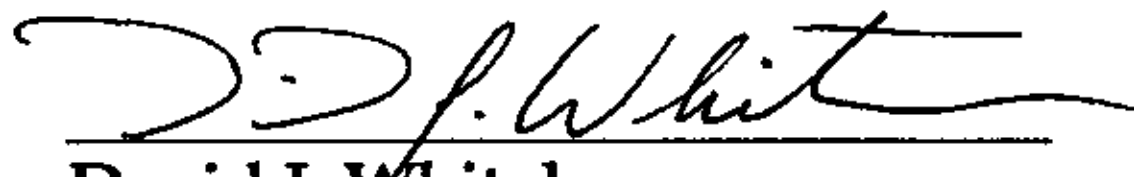
FROM: Alderman Robert Rhoads

ORDINANCE OR RESOLUTION TITLE AND SUBJECT: A Resolution to waive Development Permit Fees pursuant to §159.01 (A) (1), Unified Development Code for all structures to be constructed by the Botanical Garden Society of the Ozarks at Lake Fayetteville Park.

APPROVED FOR AGENDA:


Robert Rhoads, Alderman

10/25/05
Date


David J. Whitaker
Assistant City Attorney (as to form only)

10/25/2005
Date

RESOLUTION NO. ____

C. 7
Botanical Garden Society
Waiving Permit Fees
Page 2 of 4

A RESOLUTION TO WAIVE DEVELOPMENT PERMIT FEES PURSUANT TO §159.01 (A) (1), UNIFIED DEVELOPMENT CODE FOR ALL STRUCTURES TO BE CONSTRUCTED BY THE BOTANICAL GARDEN SOCIETY OF THE OZARKS AT LAKE FAYETTEVILLE PARK.

WHEREAS, the Botanical Garden Society of the Ozarks' development of botanical gardens at Lake Fayetteville Park will provide expanded cultural and recreational opportunities to the citizens of Fayetteville; and,

WHEREAS, it serves the public interest and is beneficial to the City as a whole that the Botanical Garden Society of the Ozarks develop botanical gardens at Lake Fayetteville Park.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that waiving the development permit fees set forth under §159.01, Unified Development Code for all structures to be constructed by the Botanical Garden Society of the Ozarks at Lake Fayetteville Park serves the public interest and is beneficial to the City as a whole.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby waives the development permit fees set forth under §159.01, Unified Development Code for all structures to be constructed by the Botanical Garden Society of the Ozarks at Lake Fayetteville Park.

PASSED and APPROVED this 1st day of November, 2005.

APPROVED.

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

159.01 Fees/Schedule

(A) *Fees.* Fees shall be imposed, as set forth below, to cover the cost of public notices and such other expenses as may be incurred in connection with processing of applications, plan reviews, amendments, permits, variances and other matters pertaining to the UDC.

- (1) *An alderman may present a resolution to the City Council to waive, or reduce development permit fees otherwise required by this chapter, elsewhere within the Unified Development Code. If the reduction, or waiver would serve the public interest, alleviate an unfair burden upon an applicant, or be beneficial to the city as a whole, the City Council may grant such reduction, or waiver of permit fee.*

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
November 1, 2005**

A meeting of the Fayetteville City Council will be held on November 1, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

Presentation on the "Walton Arts Center Recap of the Past Year and Future Plans" given by Anita Scism, President/CEO of Walton Arts Center and Curt Rom, City Appointee to the Walton Arts Center Council – Agenda Session Only

A. CONSENT:

- 1. Approval of the September 20, 2005 City Council meeting minutes.**
- 2. Zylon Vest Exchange Program:** A resolution authorizing the Fayetteville Police Department to accept merchandise vouchers from Armor Holdings to replace existing ballistic vests containing Zylon.

B. UNFINISHED BUSINESS:

- 1. C-PZD 05-1670 (Pratt Place Inn, 481):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1670, Pratt Place Inn, located at the west end of Markham Road, containing approximately 72 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the September 20, 2005 City Council meeting. This ordinance was left on the Second Reading at the October 4, 2005 City Council meeting. This ordinance was left on the Third Reading at the*

October 18, 2005 City Council meeting. This ordinance was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.

2. **Fayetteville Depot, LLC Lease Agreement:** A resolution approving a lease agreement with Fayetteville Depot, LLC for property located at the northwest corner of Dickson Street and West Avenue to provide parking enforcement and revenue collection services for a proposed parking lot. *This resolution was Tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting. This resolution was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*
3. **Associated Time & Parking Controls, Inc.:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of Parking Revenue Collection Equipment from Associated Time and Parking Controls, Inc. in the amount of \$46,805.10; approving a 10% contingency in the amount of \$4,408.50; and approving a budget adjustment in the amount of \$51,213.60. *This ordinance was left on the First Reading at the October 4, 2005 City Council meeting. This ordinance was Tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting. This ordinance was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*
4. **Parking Management Division Position:** A resolution authorizing the addition of one (1) full-time position in the Parking Management Division; and approving a budget adjustment in the amount of \$3,282.00. *This resolution was Tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting. This resolution was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*
5. **Bio-Based Technology Offer and Acceptance:** An ordinance waiving the requirements of §34.27, Code of Fayetteville and approving an Offer and Acceptance Contract with Bio-Based Technologies in the amount of \$940,000.00 for the purchase of the Water & Sewer Operations Center on Cato Springs Road; designating the proceeds for Economic Development purposes; and approving a budget adjustment implementing the designation. *This ordinance was left on the First Reading at the October 18, 2005 City Council meeting.*
6. **Police and Public Safety Systems Impact Fees - Chapter 159 Fees:** An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159, Fees by enacting §159.03 Police and Public Safety Systems Impact Fees of the Unified Development Code. *This ordinance was left on the Second Reading at the October 18, 2005 City Council meeting.*
7. **Fire Protection Systems Impact Fee - Chapter 159. Fees:** An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159, Fees by enacting §159.04 Fire Protection Systems Impact Fees of the Unified Development Code. *This ordinance was left on the Second Reading at the October 18, 2005 City Council meeting.*
8. **Greenland and/or Farmington Sewer Systems:** A resolution to express the intent of the City Council to assume the ownership and the operation of the Greenland and/or Farmington Sewer Systems. *This resolution was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*

C. NEW BUSINESS:

1. **ANX- 05-1723 JDM Investments:** An ordinance annexing that property described in annexation petition ANX 05-1723 for property located at Skillern Road, east of Savannah Estates, containing 5.06 acres.
2. **RZN 05-1724 JDM Investments:** An ordinance rezoning that property described in rezoning petition RZN 05-1724 for approximately 5.06 acres located at Skillern Road, east of Savannah Estates from R-A Residential Agricultural to RSF-4, Residential Single Family, 4 Units Per Acre.
3. **ANX 05-1728 Zaccanti:** An ordinance annexing that property described in annexation petition ANX 05-1728 for property located south of Salem Road, east of Crystal Springs Subdivision, containing 80.30 acres.
4. **Planning Commission Appeal - RZN 05-1729 Zaccanti:** An ordinance rezoning that property described in rezoning petition RZN 05-1729 for approximately 60.00 acres located south of Salem Road, east of Crystal Springs Subdivision from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 Units Per Acre.
5. **Sweetser Construction Contract – Happy Hollow & Huntsville Road Intersection:** A resolution awarding a construction contract to Sweetser Construction, Inc. in the amount of \$1,228,413.00 for Happy Hollow Road & Huntsville Road Intersection Improvements; approving a project contingency of \$122,841.00; and approving a budget adjustment in the amount of \$843,330.00.
6. **Arkansas State Highway 265 – Notice of Intent to Sell:** A resolution approving the notice of intent to sell and to offer for sale the 44.9 acres of tract land, located east of Arkansas State Highway 265 and south of the Fayetteville City Limits.

D. INFORMATIONAL:

Council Tour: October 31, 2005 – 4:30 PM

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

A.2.
Zylon Vest Exchange Program
Page 1 of 8

11/1/2005
City Council Meeting Date

Chief Frank Johnson
Submitted By

Police
Division

Police
Department

Action Required:

City Council accepts Armor Holdings Voucher proposal for all ballistic vests containing Zylon and wave competitive bids for the purchase of new ballistic vests through Cruse Uniforms and Equipment, Inc of Little Rock, Arkansas.

\$ -
Cost of this request

\$ 718,047.00
Category / Project Budget

N/A
Program Category / Project Name

1010-2940-5302.00
Account Number

\$ 445,627.18
Funds Used to Date

Services/Charges
Program / Project Category Name

N/A
Project Number

\$ 272,419.82
Remaining Balance

General
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

Date

Original Contract Number:

Finance and Internal Service Director

Date

Received in City Clerk's Office

10-10-14-05 P05:00 RCVD

Mayor

Date

Received in Mayor's Office

ENTERED

10/17/05

Comments:

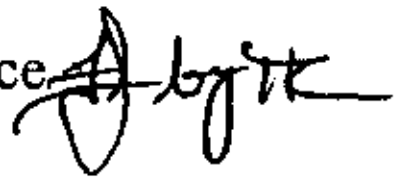
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

A.2.
Zylon Vest Exchange Program
Page 2 of 8

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and Members of the City Council

FROM: Frank Johnson, Chief of Police 

DATE: October 3, 2005

SUBJECT: Zylon® Vest Exchange Program

RECOMMENDATION:

Council accepts Option 2 – Merchandise Voucher as offered by Armor Holdings and wave formal bidding to purchase new ballistic vests through Cruse Uniforms and Equipment, Inc. of Little Rock, Arkansas.

BACKGROUND:

The Fayetteville Police Department began purchasing Armor Holdings ExtremeXS ballistic vests with a level 3A ballistic rating in the fall of 2002. Studies recommend the life span of a ballistic vest is five years. Since the fall of 2002, the Fayetteville Police Department has been purchasing ExtremeXS model ballistic vests to replace old vests as needed for each officer. The National Justice Institute, which is charged with certifying ballistic vests, has conducted a study that has led to a recall, or non-certification, of ballistic vests containing Zylon. This study has led to a class action lawsuit against companies selling ballistic vests containing Zylon. The ExtremeXS model ballistic vest contains Zylon. Armor Holdings has offered cash or voucher options to police agencies in order to replace existing ballistic vests containing Zylon. The Fayetteville Police Department recommends council foregoes participation in the class action suit and accepts the voucher option as offered by Armor Holdings.

DISCUSSION:

Note options available and refer to class action lawsuit.

BUDGET IMPACT:

Receiving vouchers will eliminate the need to purchase any replacement vests or vests for new officers in 2005.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE POLICE DEPARTMENT TO ACCEPT MERCHANDISE VOUCHERS FROM ARMOR HOLDINGS TO REPLACE EXISTING BALLISTIC VESTS CONTAINING ZYLON.

WHEREAS, the Fayetteville Police Department has purchased Armor Holdings ExtremeXS ballistic vests containing Zylon since the fall of 2002; and,

WHEREAS, the National Justice Institute, the certifying body for ballistic vests has decertified ballistic vests containing Zylon; and,

WHEREAS, as a result of a class-action suit, Armor Holdings is offering vouchers that the Fayetteville Police Department can use to secure replacement vests from Cruse Uniforms and Equipment, Inc. of Little Rock.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Fayetteville Police Department to accept merchandise vouchers from Armor Holdings to secure replacement ballistic vests from Cruse Uniforms and Equipment, Inc. of Little Rock.

PASSED and APPROVED this 1st day of November, 2005.

APPROVED:

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

ZYLON VEST EXCHANGE REGISTRATION & CLAIM FORM

**READ THIS ENTIRE DOCUMENT CAREFULLY. IT EFFECTS YOUR LEGAL RIGHTS.
IT ALSO PROVIDES DEADLINES THAT YOU MUST MEET.**

I. Introduction

Armor Class Action I:

1. If you purchased a Zylon-containing vest from American Body Armor™, Safariland® or ProTech™ on or before **August 12, 2004** ("Armor Class Action I"), you may have received by mail or have read a published Notice of Fairness Hearing on Supplemental Relief Program. The Notice describes a proposed Supplemental Relief Program ("Supplemental Relief Program") on behalf of the members of *Armor Class Action I*.

Armor Class Action II:

2. If you purchased a Zylon-containing vest from American Body Armor™ or Safariland® between **August 13, 2004 and August 29, 2005** ("Armor Class Action II"), you may have received by mail or have read a published Notice of Pendency of Class Action, Proposed Settlement and Final Approval Hearing. The Notice describes a proposed Settlement ("Settlement") of a lawsuit brought on behalf of members of *Armor Class Action II*.

II. To Participate in the Supplemental Relief Program and/or Settlement

If you a member of *Armor Class Action I* or a member of *Armor Class Action II*, either an agency or an individual (you may be a member of both Classes if you purchased multiple vests at different times), and you wish to **PARTICIPATE** in the Supplemental Relief Program and/or the Settlement (depending on the Class in which you are a member), you must complete the information in sections III and IV of this Claim Form, sign and date below and mail or fax it by **December 1, 2005** to:

Zylon Vest Exchange Program
Claims Administrator
P.O. Box 466
Traverse City, Michigan 49685-0466
Telephone: 1(866) 815-2914
Facsimile: 800-716-9829

You may also complete and submit the Claim Form online at www.bodyarmor.com/zylon, but must do so on or before **December 1, 2005**.

III. Information About Zylon Vest Purchasers

All Class members (both *Armor Class Action I* and *Armor Class Action II*) **MUST** provide the **Contact Information** requested in this section, and the **Agency Information** (if the Class member works for an agency or worked for an agency when that Class member purchased his or her vest).

Contact Information (Vest Owner or Agency POC)

Name (First, Middle Initial & Last) _____

Position or Title _____

Badge/ID No. _____

Address 1 _____

Address 2 _____

City _____

State _____

Zip _____

Primary eMail _____

Work Phone _____

Ext. _____

Alternate Phone _____

Gender ☐ Male ☐ Female
Form H1791 v.web

I am registering as: ☐ An Individual ☐ An Agency Administrator (Point of Contact)

How many Zylon-Containing vests are you registering for? _____ (Estimate the vest count, you can modify it later)

How was your vest purchased? (who paid for it?) ☐ Agency ☐ Officer ☐ Joint ☐ Other ☐ Unknown

Best Time To Call ☐ Morning ☐ Afternoon ☐ Evening ☐ I Prefer eMails

Best Day(s) To Call (Check all that apply) ☐ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday ☐ Saturday

CONFIDENTIALITY: We respect your need for privacy and confidentiality.
We are collecting your contact information solely to facilitate the prompt handling of your registration.

Agency Information

Agency Name _____

Address 1 _____

Address 2 _____

City _____ State _____ Zip _____ This Address is:
☐ Headquarters ☐ Branch/Field Office

Country ☐ USA ☐ Other _____

Phone _____ Ext. _____ Fax _____

NO PO BOXES -- Requires a FedEx shipping address

Comments or Questions

IV. Election of Benefits

Armor Class Action I: To receive benefits, members of *Armor Class Action I* MUST complete sections A, B and C in the Supplemental Relief Program box directly below:

Supplemental Relief Program

- A. I/our agency elects to participate in the Supplemental Relief Program ____ (check).
- B. I/our agency elects the following Option for participation in the Supplemental Relief Program (See Notice of Fairness Hearing on Supplemental Relief Program for complete description of Option 1 and Option 2):
1. Cash Option - ____ (check if you/your agency selects this option)
 2. Voucher Option - ____ (check if you/your agency selects this option)
- C. I/our agency understands that by electing to participate in the Supplemental Relief Program, my/its legal rights against Defendants will be released and extinguished, except for those rights that are provided by the Supplemental Relief Program and the warranty on the new vest that I/it may obtain with the voucher under option 2. If your agency purchased multiple vests and would like to select the cash option for some of the vests and the voucher option for others, please check both boxes; OTHERWISE, PLEASE SELECT ONLY ONE OPTION.

Armor Class Action II: To receive benefits, members of *Armor Class Action II* MUST complete sections A, B and C in the Settlement box directly below:

Settlement

- A. I/our agency elects to participate in the Settlement ____ (check).
- B. I/our agency elects the following Option for participation in the Settlement (See Notice of Pendency of Class Action, Proposed Settlement and Final Approval Hearing for complete description of Option 1 and Option 2):
1. Cash Option - ____ (check if you/your agency selects this option)
 2. Voucher Option - ____ (check if you/your agency selects this option)
- C. I/our agency understands that by electing to participate in the Settlement, my/its legal rights against Defendants will be released and extinguished, except for those rights that are provided by the Settlement and the warranty on the new vest that I/it may obtain with the voucher under option 2.

If your agency purchased multiple vests and would like to select the cash option for some of the vests and the voucher option for others, please check both boxes; OTHERWISE, PLEASE SELECT ONLY ONE OPTION.

V.

To Object to the Supplemental Relief Program or the Settlement

If you wish **OBJECT** to the Supplemental Relief Program, the Settlement, or to the application by Plaintiffs' Counsel for an award of attorneys' fees and expenses in either the Supplemental Relief Program or the Settlement, then you must state your objection in writing and mail it, postmarked on or before **October 21, 2005** to:

Office of Clerk of Court
Circuit Court of Duval County
330 East Bay Street, Room 103
Jacksonville, Florida 32202

AND PROVIDE A COPY TO:

W. Pitts Carr, Esq.
Carr, Tabb & Pope, LLP
10 North Parkway Square
4200 Northside Parkway, NW
Atlanta, Georgia 30327

VI.

To Exclude Yourself From the Class

NOTE: IF YOU ARE A MEMBER OF ARMOR CLASS ACTION I, PLEASE DISREGARD THIS SECTION. ONLY MEMBERS OF ARMOR CLASS ACTION II MAY EXCLUDE THEMSELVES.

If you purchased a Zylon-containing vest from American Body Armor™ or Safariland® between **August 12, 2004 and August 29, 2005** (*Armor Class Action II*), and you wish to **EXCLUDE** yourself from the Class, you must complete the Request for Exclusion below and mail or fax it by **October 21, 2005** to:

Zylon Vest Exchange Program
Armor Class II
Claims Administrator
P.O. Box 466
Traverse City, Michigan 49685-0466
Telephone: 1(866) 815-2914
Facsimile: 800-716-9829

AND PROVIDE A COPY TO:

W. Pitts Carr, Esq.
Carr, Tabb & Pope, LLP
10 North Parkway Square
4200 Northside Parkway, NW
Atlanta, Georgia 30327
Telephone: (404) 442-9000
Facsimile: (404) 442-9700

You may also complete and submit a Request for Exclusion online at www.bodyarmor.com/zylon, but must do so on or before **October 21, 2005**. IF YOU DO NOT EXCLUDE YOURSELF FROM THE CLASS YOU WILL BE BOUND BY THE JUDGMENT OF THE COURT. IF YOU DO EXCLUDE YOURSELF FROM THE CLASS YOU WILL NOT RECEIVE THE BENEFITS OF THE SETTLEMENT.

VII.
For Additional Information

For additional information or questions you may contact the Claims Administrator at the address listed above, by calling 1-866-815-2914, or visit www.bodyarmor.com/zylon. If you have any problems participating in the Supplemental Relief Program or the Settlement, or receiving your benefits, you may contact Plaintiffs' Counsel:

W. Pitts Carr, Esq.
David M. Cohen, Esq.
Carr, Tabb, Pope & Freeman, LLP
10 North Parkway Square
4200 Northside Parkway, NW
Atlanta, Georgia 30327
(404) 442-9000

ALL CLASS MEMBERS (ARMOR CLASS ACTION I AND ARMOR CLASS ACTION II) PRINT AND SIGN YOUR NAME, AND ENTER THE DATE HERE.

Print Name

Signature

Date

Request For Exclusion - Armor Class Action II Only

If you bought your Zylon-containing vest between **August 13, 2004 and August 29, 2005**, and do **NOT** wish to participate in the Settlement (Armor Class Action II), complete this portion of this Claim Form.

- A. I/our agency does **NOT** want to participate in the Settlement. _____ (check)
- B. I/our agency does not have American Body Armor™ or Safariland® vests that contain Zylon®. _____ (check if applicable)
- C. I/our agency understands that I/my agency may be a member of a Class of persons who purchased American Body Armor™ or Safariland® vests containing Zylon® between **August 12, 2004 and August 29, 2005**. I/our agency understand(s) that certain legal claims have been asserted on behalf of the Class and that I/our agency have/has the right to exclude myself/my agency from the Class.

I have read the Armor Class Action II Notice of Pendency of Class Action, Proposed Settlement and Final Approval Hearing. I am sufficiently advised of my rights to remain in the Class and to be bound by any judgment rendered therein, however, I do **NOT** wish to be a member of the Class. By opting out, I am excluding myself/my agency from the binding effect of judgment and from all benefits available to Class members. I also realize that if I exclude myself/my agency from the Class by opting out and subsequently choosing to bring an independent action, I will be responsible for choosing and compensating my own attorney(s) and that the statute of limitations for bringing claims set forth in this litigation will again begin to run from the date of my request for exclusion.

I understand that this **REQUEST FOR EXCLUSION** must be completed and returned by mail, postmarked on or before **October 21, 2005**.

**YOU MUST PRINT AND SIGN
YOUR NAME, ENTER THE DATE,
YOUR TELEPHONE NUMBER
AND THE NUMBER OF VESTS
PURCHASED**

Print Name

Signature

Date

Telephone No.

No. of American Body Armor™ and/or Safariland®
Zylon®-containing Vests purchased

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

B. 1
C-PZD 05-1670
(Pratt Place Inn)
Page 1 of 96

20-Sep-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

C-PZD 05-1670: (Pratt Place Inn, 481): Submitted by Julian & Jane Archer for property located at the west end of Markham Road. The property is zoned RSF-4, Residential Single Family, 4 units per acre and R-A, Residential Agricultural, and contains approximately 72.1 acres. The request is to approve a Master Development Plan - Planned Zoning District for a commercial hotel/Inn, restaurant, cabins, agricultural and residential uses.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

9/2/05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

9/2/05
Date

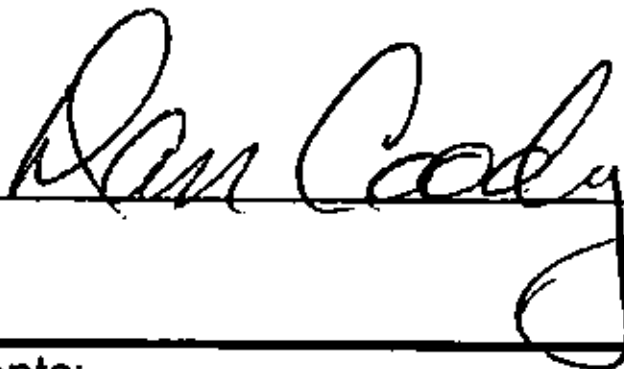
Original Contract Number: n/a


Finance and Internal Service Director

9-2-05
Date

Received in City Clerk's Office




Mayor

Date

Received in Mayor's Office



Comments:

Called 10/18/05 to 11/01/05 meeting
Left on the 3rd reading 10/18/05

Left on the first reading 8/20/05

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations 

From: Jeremy C. Pate, Director of Current Planning 

Date: August 31, 2005

Subject: Commercial Planned Zoning District for Pratt Place Inn (C-PZD 05-1670)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Commercial Planned Zoning District (C-PZD) for Pratt Place Inn, based on the Master Development Plan, development standards and statement of commitments submitted. This action will establish a unique zoning district for a mixed-use project on approximately 72 acres located at the west end of Markham Road. The proposal consists of a hotel/inn with seven rooms, a restaurant, up to four rustic log cabins, four single family dwelling units, the utilization of the existing barn for weddings and other social events, agricultural use and supporting infrastructure and improvements for the Inn use.

BACKGROUND

The property consists of a total of 72 acres located at the west end of Markham Road, fronting onto Markham, Sang, Cross and Halsell. It is currently zoned RSF-4 and R-A, and occupied by agricultural land, tree canopy, several cabins, single family homes and a large barn. Portions of the property were rezoned to R-A in 2002 to allow for agricultural uses, including horses, and included a Bill of Assurance.

The applicant requests a rezoning and Master Development Plan approval for a mixed-use project within a unique C-PZD zoning district. The site is intended to be kept in much its same state, but to allow for the existing historic home to be remodeled into an Inn and restaurant. Associated parking, a swimming pool, tennis court and other ancillary uses are proposed, as well. The existing barn has been utilized in the past to host social events, such as weddings and receptions. The rezoning would formally recognize this use as part of the Pratt Place Inn project. Existing, older cabins on the property are proposed to be removed, and up to four log cabins to replace them on the property. The remainder of the site is proposed to remain much as is, utilizing some of the land for agricultural timber, nut trees, grazing or a couple of single family homes. The project is divided into three (3) Planning Areas, each with its own permitted and conditional uses, setbacks, lot sizes, etc.

DISCUSSION

This item was not reviewed by the Planning Commission. The submittal was made directly to Planning Staff, evaluated and a recommendation made to the City Council. Depending upon the outcome of the City Council decision, the actual development would be required to be reviewed and approved by the Planning Commission as a large scale development.

The applicant did hold a neighborhood meeting and was instructed to notify adjoining property owners of the rezoning request at least 10 days prior to the public meeting.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED C-PZD 05-1670, PRATT PLACE INN, LOCATED AT THE WEST END OF MARKHAM ROAD, CONTAINING APPROXIMATELY 72 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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 and R-A, Residential Agricultural, to C-PZD 05-1670 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. 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 _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
C-PZD 05-1670

pg 1 of 2

INSERT LEGAL DESCRIPTION HERE, TO BE APPROVED BY GIS DIVISION

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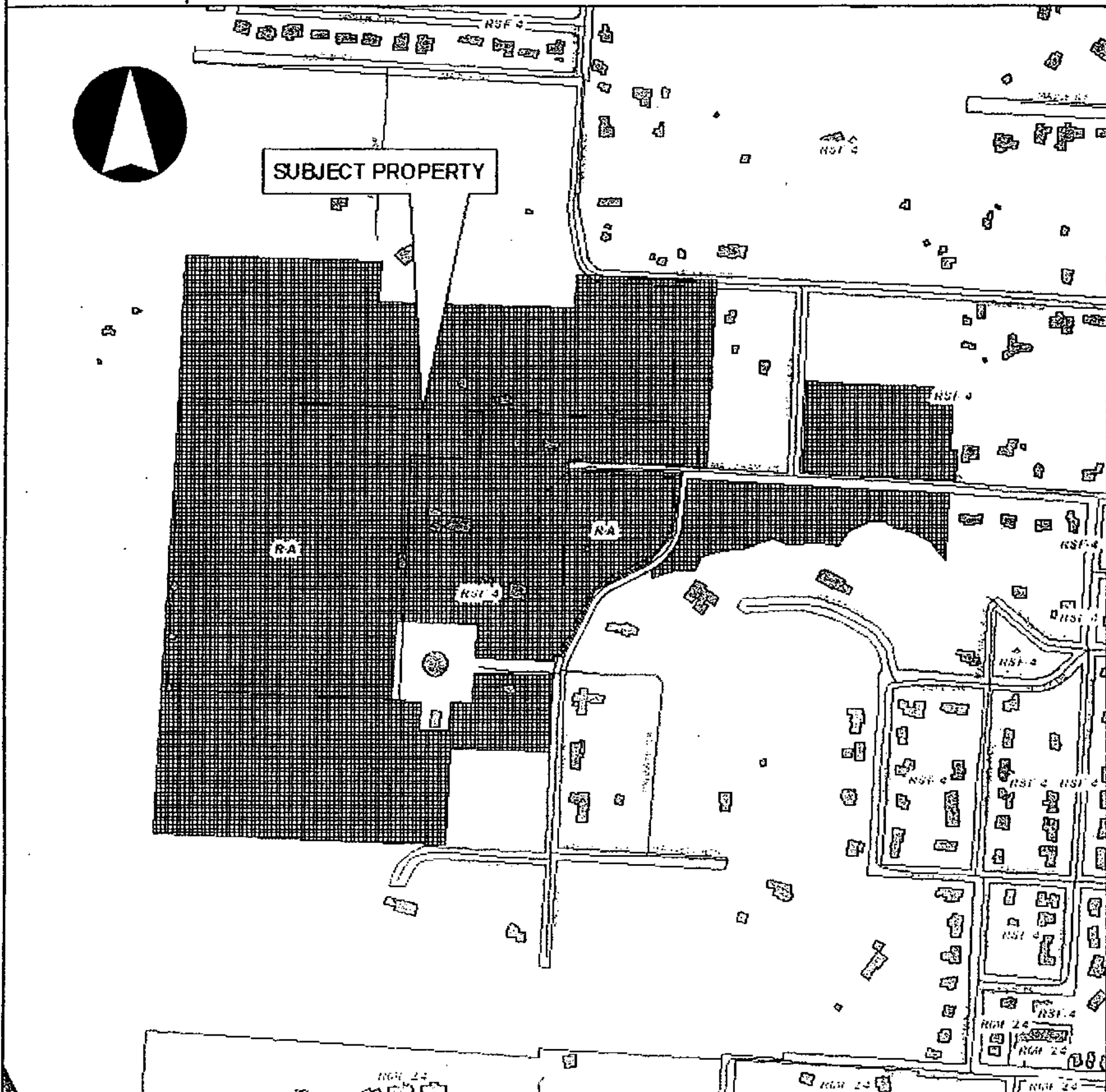
PZD05-1670

Close Up View

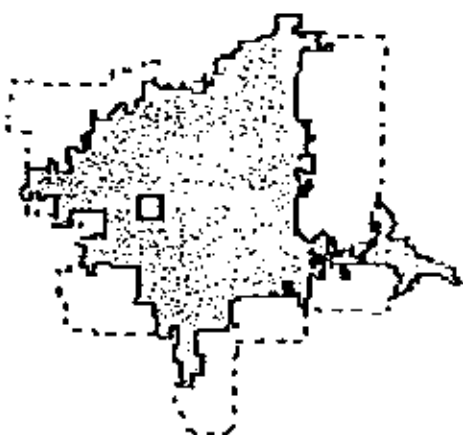
PRATT PLACE INN



SUBJECT PROPERTY



Overview



Legend

PZD05-1670

Overlay District

Major Street Run

Major Street Run

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Minor Collector

100 YEAR

50 YEAR

30 YEAR

LIMIT OF STUDY

Baseline Profile

Fayetteville

Outside City

0 150 300 600 900 1200
Feet



CC Meeting of September 20, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Coody
City Council
FROM: Jeremy Pate, Director of Current Planning
DATE: August 30, 2005

C-PZD 05-1670: Commercial Planned Zoning District (Pratt Place Inn): Submitted by JULIAN & JANE ARCHER for property located at 2231, 2230, 2148, 2115, 2255 MARKHAM ROAD, along MARKHAM ROAD AND SANG AVENUE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and R-A, RESIDENTIAL AGRICULTURAL and contains approximately 72.1 acres. The request is to approve a Master Development Plan – Commercial Planned Zoning District for an historic inn, cabins, restaurant, reception/gathering space, agricultural use and associated parking.

Property Owner: Julian & Jane Archer

Planner: Jeremy Pate

Findings:

Property Description: The property consists of several parcels totaling 72.1 acres that is currently utilized for residential and agricultural purposes. The applicants requests a rezoning and Master Development Plan approval for the subject 72.1 acres. There is both dense tree canopy and open pasture land located on the site. Currently there are several structures on the property, including a barn, a 5,000 SF Victorian farmhouse that is on the Arkansas Register of Historic Places, single family homes at various addresses, fenced pastures, 1920s-30s camp cabins, timberland and trails. Access is rather limited, primarily from Markham Road, which connects east to Razorback Road.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Single family homes	RSF-4
South	Single family homes, open land	RSF-4
East	Single family homes	RSF-4
West	Undeveloped property	RSF-4

Proposal: The applicant requests a rezoning and Master Development Plan approval for a mixed-use project on the property. The project will include the redevelopment of an historic structure on the site into a 7-guest room Inn and 60-seat restaurant, kitchen, etc. A separate residence for the Innkeeper is proposed, and ancillary uses such as a tennis court, swimming

pool, valet parking, and overflow parking are also proposed. The existing barn is proposed to be utilized for both as storage for horses and barn dances, dinner parties, weddings, and other scheduled intermittent social events. No amplified music is to be permitted outside of any structure on the property. Several old camp cabins will be eventually removed, and a maximum of four authentic log cabins could replace them. These cabins would accommodate 2-4 adults each, and would be rented as a retreat/residence by the day, much the same as the Inn. Planning Area 2 is intended to remain for agricultural or open space use, without the potential for additional dwellings units. Planning Area 3, once a pasture, is proposed to be utilized for agricultural purposes, with the planting of a grove of trees so as to retain its former agricultural use. Neither is to be permitted for parking, either permanently or for temporary events, such as football games.

Process: The purpose of the subject request is for a rezoning approval in order to re-use the Victorian house as an Inn with dining facilities, along with associated activities. Staff is not supportive of rezoning the property to C-2, which would be the required zoning for a hotel and restaurant, wedding reception facility, and parking area. However, the applicant also has a desire to retain both the architectural integrity of the existing structure and the agricultural/natural setting of this property which happens to be in the middle of the city. In order to do so, the Planned Zoning District process was recommended. As recently approved by the City Council, an applicant has the option of presenting a Master Development Plan – Planned Zoning District to the City Council first. This action would effectively rezone the property based on the plans and information provided. However, it does not give development approval. The applicant is required to return through the large scale development process, in this case, in order for the Planning Commission to confirm that the development plans presented are compliant with the zoning and Master Development Plans approved by the City Council.

The following bulk and area regulations are proposed by the applicant, and are included in detail within the attached submittal:

ZONING CRITERIA: C-PZD 05-1670 (Pratt Place Inn)

(A) Proposed Uses.

Planning Area 1

Permitted Use	Conditional Use	Type of Use
Unit 1		City-wide uses by right
Unit 2		City-wide uses by conditional use
	Unit 4	Cultural & Recreational facilities
Unit 6		Agriculture
Unit 7		Animal husbandry
Unit 8		Single Family Dwellings
Unit 13		Eating Places
Unit 14		Hotel, motel & amusement facilities
	Unit 29*	Dance halls*

* Conditional use approval by the Planning Commission required; uses shall be limited to wedding receptions, scheduled private events, etc. that are related to the overall Pratt Place Inn project.

Planning Area 2 & 3

Permitted Use	Conditional Use	Type of Use
Unit 1		City-wide uses by right
	Unit 4	Cultural & Recreational facilities
Unit 6		Agriculture

(B) Density/Intensity

Planning Area	Density (dwelling units)	Intensity (square feet nonresidential)
1	Maximum 4 dwelling units Oak Cabin (existing) 2248 W. Markham Tower House (existing) 109 N. Sang Innkeeper House (proposed) 2230 W. Markham Archer Log House (existing) 2115 W. Markham <i>Inn, maximum 4 new rental cabins do not count toward density, as these are not to be utilized as residences</i>	Maximum 33,340 SF Inn: 18,900 SF (proposed) Barn: 6,300 SF (existing) Two-stall barn: 340 SF English Cottage (existing): 1,800 SF Max. 4 cabins: 6,000 SF (1500 SF each proposed, with removal of existing cabins)
2	No dwelling units permitted	Any structure size permitted to be determined by Conditional Use Permit, if requested (Planning Commission)
3	No dwelling units permitted	Any structure size permitted to be determined by Conditional Use Permit, if requested (Planning Commission)

(C) Bulk and area regulations.

Planning Area	Lot width minimum	Lot area minimum	Land area per dwelling unit
1	200 feet (frontage onto a public street)	1 acres	1 acre
2	N/A	3.57 acres	No dwellings permitted
3	N/A	4.18 acres	No dwellings permitted

(D) Setback requirements.

Planning Area	Front	Side	Rear
1	50 feet	10 feet	20 feet
2	50 feet	10 feet	20 feet
3	50 feet	10 feet	20 feet

(E) Height. Maximum height for all structures.

Planning Area	
1	60 feet
2	50 feet
3	50 feet

(F) Building area. In any Planning Area the area occupied by all buildings shall not exceed 25% of the total lot area.

(G) *Signage.* Signage on the property shall be allowed as follows:

Planning Area	Freestanding Signage	Wall Signage
1	2'x3' freestanding sign at Sang and Markham 3'x5' freestanding sign at the end of Markham	As permitted in Commercial zones for the Inn; no other signage permitted
2	None permitted	As permitted in Residential zones
3	2'x3' freestanding sign at Cross and Markham	As permitted in Residential zones

* No pylon/pole signs shall be permitted, only monument signs. Signage location shall be permitted in accordance with setbacks and other criteria in Ch. 174 Signs, unless noted herein.

Water & Sewer: Water is currently available, and will be extended on-site with adequate fire protection (hydrants) and water line size to be provided as required by code. It will be necessary for the development to connect to city sewer and cease use of the existing septic systems. Sewer line connections, extensions, etc. will be evaluated and required to meet city codes to serve the properties at the time of development.

Access: Access is provided from Markham and Sang Streets. These are residential streets with open ditches which provide access to the University Heights neighborhood west of the University of Arkansas campus. Markham is currently narrow and is failing in portions west of Cross Avenue. At the time of development, streets that the development will access will need to be reconstructed to provide a safe and adequate means of access, as determined by the Planning Commission. At minimum, a 20-foot wide pavement width will be required, with improvements to the failing pavement north of Cross Avenue. Access for ladder trucks to this property for the Fire Department is a stated concern, without improvements as mentioned above.

Interior to the project, private drives are proposed. Access to future cabins will need to meet with Fire Department approval in order to provide adequate fire protection and emergency access in time of need. The slope, width and construction of interior drives to access future structures shall be evaluated at the time of development to ensure proper access is achieved.

Adjacent Master Street Plan Streets: Markham Road, Sang Avenue (Residential Streets)

Street Improvements: Staff recommends the following:

- ♦ Markham Road accessing the subject property from Cross Avenue into the property will need to be improved to a minimum 20-foot standard, if not greater. Existing pavement will need to be evaluated and improved, if necessary. The Planning Commission shall determine the amount of improvement necessary in order to approve the proposed development with adequate and safe access.
- ♦ Drainage improvements associated with the widening will also need to be evaluated and required, as necessary, based on the City Engineer's recommendation and the Planning Commission's determination at the time of Large Scale Development.

Tree Preservation: Much of the site contains existing tree canopy, though there are areas of dense canopy and areas of open pasture land. The majority of the property is intended to be utilized in its existing state, without a great deal of disturbance. Typical agricultural activities,

including the use of pastureland for grazing of animals, pecan/nut orchards, and agricultural timberland are proposed to remain allowed. An overall survey of existing canopy has not been provided, though enough detail to meet the criteria of the Tree Preservation Ordinance is to be provided at the time of Large Scale Development review. There is anticipated tree removal with construction of the entry drives, parking lot and groves of nut trees for agricultural use. The project shall meet or exceed the minimum percent canopy (25%) required for a Planned Zoning District.

Parks: If additional residential dwelling units above that which currently exist are created, the project shall be evaluated for parkland dedication or fees-in-lieu, to meet the parkland dedication ordinance.

Public Comment: Staff advised the applicant to hold a public meeting with the University Heights Neighborhood Association, which has occurred. Several concerns were voiced, including additional traffic on substandard roads, drainage, noise potential and tree buffers. Many of these items are addressed in the conditions of approval.

Recommendation: Staff recommends approval of the Master Development Plan – Planned Zoning District for Pratt Place (C-PZD 05-1670), with the following conditions:

Conditions of Approval:

1. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
2. Pursuant to city ordinance, development of the property shall be approved by the Planning Commission through the large scale development review process. Should a subdivision of land be desired, all applicable ordinances and processes shall be followed in order to meet city ordinances.
3. A final legal description shall be approved by the GIS division prior to recordation of the ordinance, and shall accurately reflect the parcels requested for rezoning.
4. No amplified outdoor music shall be permitted at any point on the property. The property is surrounded by single family residences, and the potential for noise generation from the proposed development has been voiced as a concern.
5. Public water and sewer lines shall be extended as required by city ordinance at the time of development.
6. Street improvements at the time of development shall include the widening and repair or reconstruction of Markham Road to a minimum 20-foot width west of Cross Avenue into the subject property. Dedication of right-of-way to meet Master Street Plan

requirements, appropriate drainage, lighting, sidewalk and other surrounding or adjacent street improvements as determined by the Planning Commission to be appropriate in alleviating the impact of the increase in use and traffic generation shall be determined by the Planning Commission.

7. Access to future outlying cabins will need to meet with Fire Department approval prior to building permit in order to provide adequate fire protection and emergency access in time of need. The slope, width and construction of interior drives to access future structures shall be evaluated at the time of development to ensure proper access is achieved.
8. At no time shall the proposed Inn or rental cabins be utilized for semi- or permanent residences, without City Council approval. The existing cabins on the property shall be removed prior to the issuance of building permits for the proposed cabins.
9. A Tree Preservation Plan shall be prepared at the time of development. At all times a significant tree canopy and vegetative buffer (visual and physical) shall be maintained adjacent to surrounding properties in Planning Area 1, where the non-residential activities are to occur. Other tree removal for bona fide agricultural purposes is expected to occur. Trees that meet the significant tree status as determined by the Urban Forester shall remain, unless approved for removal by the Urban Forester.
10. Pursuant to the original Bill of Assurance rezoning a portion of the subject property for agricultural purposes, the following agricultural uses shall not be permitted within the Planning Areas: commercial chicken houses, hog farms or feed lots.
11. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.
12. Zoning and development criteria shall be enforced as noted within the staff report "Zoning Criteria" sections A-G, as noted above. Said information shall be included with any submitted development plans.
13. Future non-residential development shall comply with the minimum standards for development in the Unified Development Code. Structures proposed shall be reviewed to ensure appropriate architectural compatibility with adjoining residential uses is maintained, including the incorporation of elements such as materials, roof pitches, porches, patios, etc.
14. Planning Areas 2 & 3 shall not be utilized for permanent or temporary parking, to discourage high volumes of traffic on surrounding substandard streets. Parking shall not be allowed on surrounding substandard public streets during events held on the property, unless and until the streets are improved to a sufficient level so as to allow for on-street parking, as determined by the Transportation Division.

15. Phasing: The PZD ordinance shall be valid if all permits are issued to begin construction of the proposed Inn within one year of the approval date of the associated Large Scale Development by the Planning Commission. The PZD ordinance shall be valid if all permits are issued to begin construction of the proposed Innkeeper house and cabins within three years of the same approval date.
16. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

CITY COUNCIL ACTION:

yes Required

 Approved Denied

Date: Sept 20, 2005

Comments:

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this rezoning/master development plan item.

By _____

Date _____

Findings associated with C-PZD 05-1670

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in substantial compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. In review of the General Plan 2020, the application provides for a mixture of residential, agricultural and commercial activities in the heart of the city, while conserving a great deal of open space to remain intact.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. There are currently substandard water lines and existing septic systems on the site that would be abandoned and replaced with public mains and service lines that meet City of Fayetteville specifications. Fire and emergency response time is adequate, though improvements to existing street infrastructure will be necessary at the time of development, and is indicated in the conditions of approval.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, retains an agricultural and residential feeling, even with the addition of the Inn and restaurant. It is anticipated that traffic will increase a certain degree for the proposed uses, and street improvements accessing the property will need to be evaluated and determined at the time of development. The primary development proposed is interior to the site (approximately 1300 feet from the nearest residence) and is thus for the most part inaccessible both visually and in terms of other impacts. Staff is not supportive of a rezoning to a standard Commercial zoning district in this location; however, the definitive nature of the proposed Master Development Plan indicates that the rezoning will be compatible and indeed remain much the same, with a few exceptions, as the existing land use.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is intended to be utilized only in a limited area, with little disturbance to the remainder of the site. The property intended for the development contains existing development for the most part, and will be compatible for the uses proposed. The parking area is sited to be buffered from view and to remove as few trees as possible.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: Based on the Master Development Plan submitted, traffic counts will increase, especially with the use of a restaurant. Peak counts may increase with the use of facilities for weddings and other reserved events, however the amount of development proposed is relatively minimal. At the time of development, the existing streets will be evaluated by the engineer and requirements made by the Planning Commission as to the extent of improvements necessary for development approval.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan has been submitted, recognize the zoning and development criteria required of a Master Development Plan submittal. Architectural elevations of the proposed inn and descriptions of the proposed cabins have been provided that indicate the rural setting is to be retained with development of the subject property.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(J) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all

applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. At this time, the Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments offered by the applicant and those recommended by staff, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. Staff finds that the proposal herein does incorporate an acceptable level of compatibility. While commercial in nature, the proposed Inn and associated activities achieves an architectural appeal and further restricts the use of the subject property to much less density, traffic generation and other concerns that a single family residential subdivision at four units per acre would entail. The building location is optimal, sited interior to the site; tree preservation and conservation of natural amenities is addressed in the Statement of Commitments, and is a higher commitment than currently required with an agricultural zoning. Parking is to be achieved in a sensitive and buffered manner, and interior circulation will be provided that meets all applicable development codes. Staff finds that the proposed uses on the subject property do not adversely affect surrounding property and will have minimal impact.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required at this time; with development of the site, all applicable development criteria will be applied for appropriate landscaping, screening and buffering of parking areas and objectionable uses.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Ingress and egress interior to the project shall be evaluated and required to be constructed with the large scale development of the property. Public streets shall be improved to an acceptable standard, as determined by the Planning Commission, and interior private drives shall be constructed to provide for safe and adequate access to all structures for emergency vehicles.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Standard parking ratios for the proposed uses shall apply. All parking areas shall conform to City of Fayetteville standard specifications, unless approved otherwise.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The development provides a great deal of open space to be retained for agricultural use and overflow use for various social events. As noted in the conditions of approval, staff has recommended a significant natural tree and vegetative buffer to be retained on the property to act as a buffer from adjacent properties.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of development.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights will be evaluated at the time of development.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

(9) *Sewer*. As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

(10) *Streets and Drainage*. Streets within a residential PZD may be either public or private.

(a) *Public Streets*. Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets*. Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for

such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private streets/drives shall conform to city standards. Improvements to existing streets shall be determined by the Planning Commission at the time of development. Public and Private streets shall not be gated, unless permitted by express approval from the City Council by resolution.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: N/A

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development. It is anticipated that trees will be removed from this site with the continued agricultural uses proposed and currently in operation.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: All commercial structures shall be evaluated as set forth in the code.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the

Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.

(b) Membership and fees must be mandatory for each home buyer and successive buyer.

- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposal utilizes a unique mixture of agricultural, residential and commercial uses, while retaining the natural setting currently in existence on this large-acre site in the heart of the city. There is a desirable distribution of land uses, with the highest impact uses concentrated to areas already impacted, thereby decreasing the amount of existing natural features disturbed. Staff finds the uses to be compatible to the area, with the commitments, development standards, conditions of approval and other criteria in place with the rezoning request.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to C-PZD 05-1670, with three Unique Planning Areas. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

D) C-PZD, Commercial Planned Zoning District

(1) *Purpose and intent.* The C-PZD is intended to accommodate mixed-use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent and application of this district include, but are not limited to, the following:

- (a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the proliferation of commercial uses along major thoroughfares and noncommercial areas.

- (b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.
- (c) To encourage orderly and systematic commercial, office or mixed use development design or a combination thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.
- (d) To encourage commercial development which is consistent with the city's General Plan.
- (e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.

FINDING: The proposed use is mixture of uses containing agricultural, residential and commercial uses. A general commercial rezone is not appropriate in this area; however, with proper measures in place, the proposed Inn will fit into the environment in a sensitive manner, not create traffic or noise problems, re-utilize an historic structure, create land use restrictions on the property that will ensure compatibility and minimize adverse impact on surrounding areas. Staff finds the Planned Zoning District process to be the only one in which this unique proposal could be supported.

(2) Permitted Uses.

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 29	Dance halls

FINDING: See Zoning Criteria Chart above for the uses permitted by right and by conditional use as proposed by the applicant.

(3) Conditions.

- (a) In no instance shall the commercial or office use area be less than fifty-one percent (51%) of the gross leasable floor area within the development.

- (b) Residential uses must be appropriate to the design of the project.
- (c) Warehousing and light industrial uses shall have a gross area per use that does not exceed five thousand (5,000) square feet and at least twenty percent (20%) of the floor area used for retail sales.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from R-A, Residential Agricultural and RSF-4, Residential Single Family, 4 units per acre, to C-PZD 05-1670, with the adoption of the associated Master Development Plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Residential Area. Rezoning this property to C-PZD 05-1670, with the associated Master Development Plan, is not specifically consistent with the land use plan for this area, however it does not greatly increase the usable space and actually decreases the density to be allowed on the property. The proposed plan, commitment and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning is to a great degree consistent with many of the principles and policies in place

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

Finding: The proposed zoning is needed in order to develop anything other than agricultural or single family uses on the property.

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

Finding: The proposed zoning will likely increase peak traffic, due to the change in use from an existing house to a hotel/restaurant facility. Street improvements will need to occur as a result, and shall be installed with development of the project. Staff finds the proposal will not appreciable increase traffic danger and congestion.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and

sewer facilities.

Finding: **Population density will be decreasing with the requested rezoning, due to the fact that much of the property zoned RSF-4 is being restricted from development altogether.**

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 Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: August 31, 2005

To: Jeremy Pate

From: Captain Dale Riggins

Subject: Re-zoning review from the Fayetteville Fire Department.

PZD05-1670 (Pratt Place Inn)

These 72 acres are covered by Station 2 on North Garland.

The property is 1.4 miles from the station with an anticipated response time of 4 minutes. No calls for service are figured on this type of development and there should be no adverse affects on our call volume. Our only concern is the access of our ladder trucks to this property. With the road and trees it will be very hard to maneuver an aerial truck to this property without improvements. Another concern is the access to the future 'cabins' and their locations.

RPZD05-1636 (Well Spring)

These 152 acres are currently covered by Station 7 on Ruppel Road.

The property is 0.8 miles from the station with an anticipated response time of 1.5 minutes to the beginning of this subdivision and 2.5 minutes after the maximum build out is completed. We project this development to produce 235 calls for service per year at maximum build out (92 fire/other and 143 EMS). This accounts for the residential properties only. Typically, commercial properties do not greatly affect our call volume with-in a fire district. The service impact of this development will typically take eighteen months, after the development is started, to occur. Since this project is predicted to take 4-5 years to complete there should be no adverse effects on our call volume or response times to this subdivision. Since Ruppel Road is narrow and curvy, the widening of this road will greatly help getting our apparatus to the scene of this development along with any calls north of that area.

If you have any questions, please feel free to call or email me.

Dale Riggins
Captain
Fayetteville Fire Department

Previous Rezoning Actions

ORDINANCE NO. 4392

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 02-9.00 FOR A PARCEL CONTAINING APPROXIMATELY 18.80 ACRES LOCATED AT 2231 MARKHAM ROAD, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY JULIAN AND JANE ARCHER.

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

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

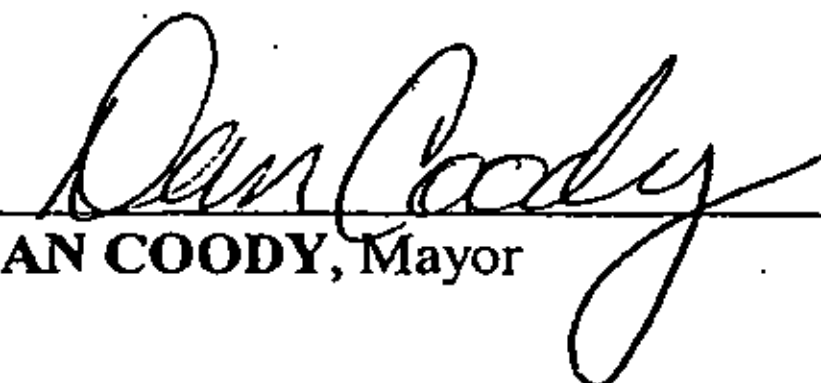
From R-1, Low Density Residential to A-1, Agricultural as shown in Exhibit A attached hereto and made a part hereof.

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 21st day of May, 2002.

APPROVED:

By:


DAN COODY, Mayor



By:


Heather Woodruff, City Clerk



EXHIBIT "A"

A PORTION OF PARCEL 765-14548-000 DESCRIBED AS FOLLOWS TO-WIT: THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT AND RUNNING, THENCE EAST 783.2 FEET; THENCE SOUTH 83 FEET; THENCE WEST 783.2 FEET; THENCE NORTH 831 FEET TO THE POINT OF BEGINNING, CONTAINING 14.94 ACRES, MORE OR LESS. ALSO, A PORTION OF PARCEL 765-14536-000 DESCRIBED AS A PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17 IN TOWNSHIP 16 NORTH OF RANGE 30 WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT, AND RUNNING THENCE EAST 1020 FEET; THENCE NORTH 165 FEET; THENCE WEST 1020 FEET; THENCE SOUTH 165 FEET TO THE POINT OF BEGINNING, CONTAINING 3.86 ACRES, MORE OR LESS.

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, (hereinafter "Petitioner") Julian & Jane Archer, hereby voluntarily offers this Bill of Assurance and enters 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 Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to _____

2. Other restrictions including number and type of structures upon the property are limited to _____

3. Specific activities will not be allowed upon petitioner's property include commercial chicken houses, feed for hog lots, trailers, park, cemetery, crematorium, mausoleum, hospital, convalescent home

4. (Any other terms or conditions) _____

5. 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, Jane Archer as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

Jane Archer

Julian Archer

Printed Name

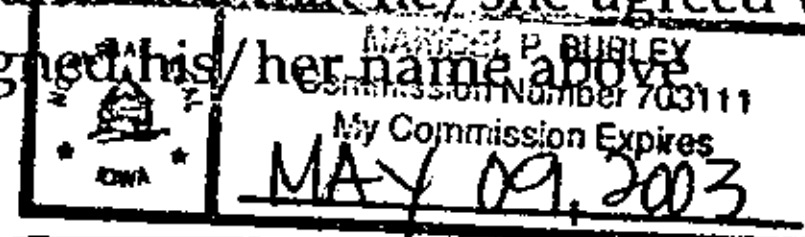
Signature

① Mar. 26, '02
Date 2115 Markham
Fayetteville, AR 72701
② 402-29 St.
Address
Des Moines, Ia. 50312

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 26 day of MARCH, 2002 appeared before me, Julian P.W. ARCHER and JANE G. ARCHER 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.



NOTARY PUBLIC

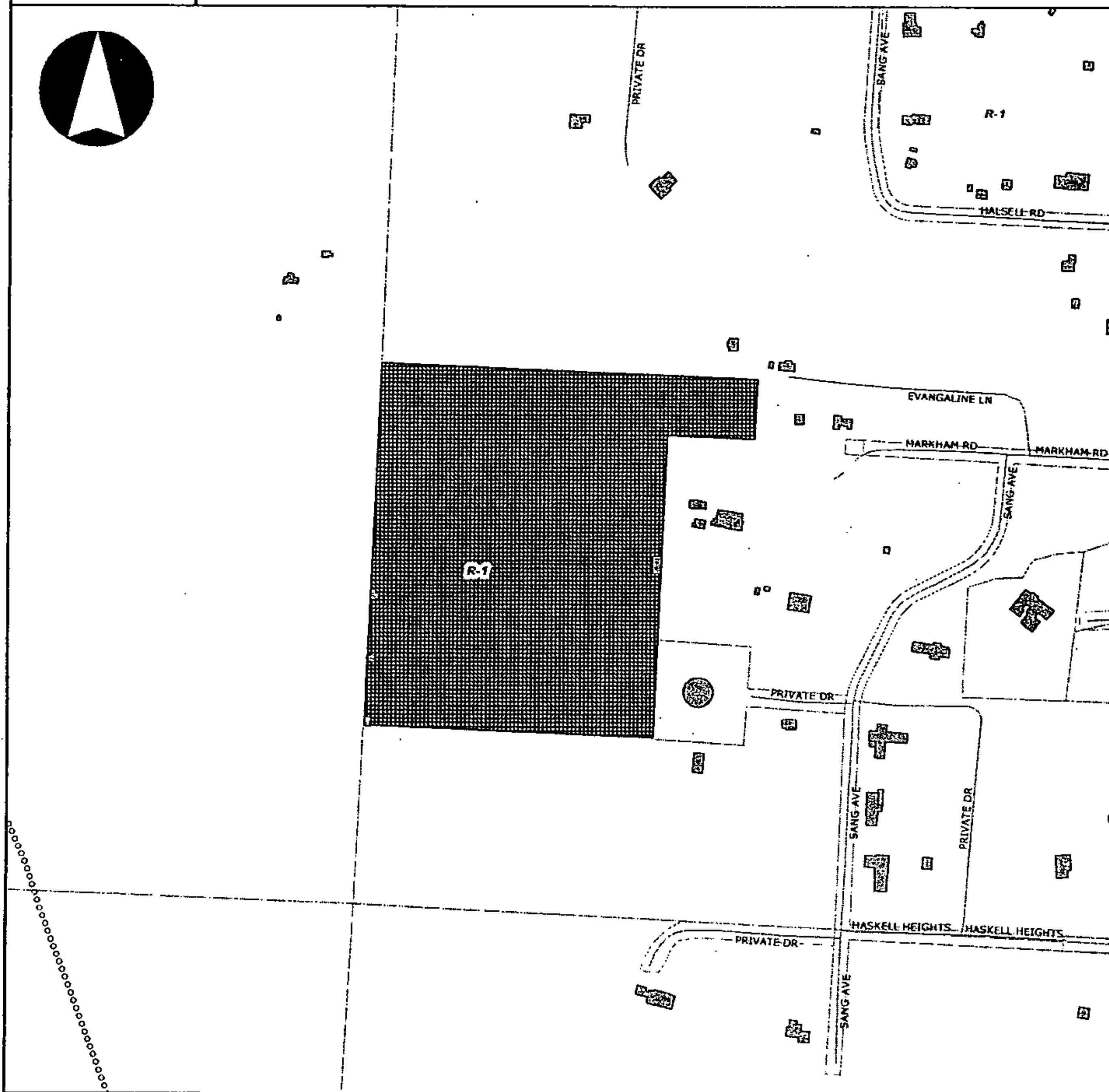
Maucel P. Burley

My Commission Expires:
MAY 09, 2003

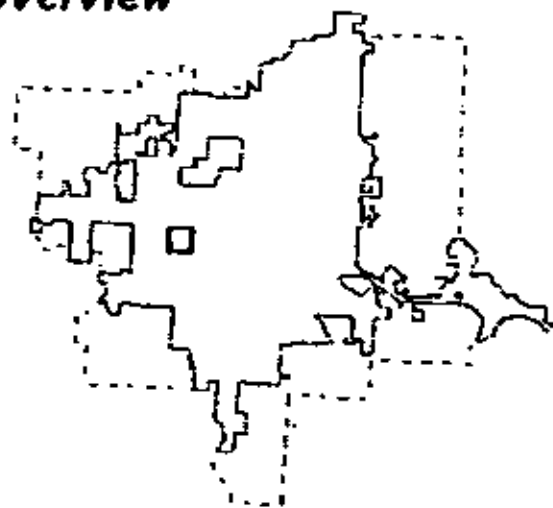
RZN02-09.00

ARCHER

Close Up View



Overview



Legend

Subject Property

RZN02-09.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 125 250 500 750 1,000 Feet

Planning Commission
April 22, 2002
RZN02-9 & RZN02-12 Archer
Page 8 & 9.13

ORDINANCE NO. 4393

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 02-12.00 FOR A PARCEL
CONTAINING APPROXIMATELY 4.10 ACRES LOCATED AT 2231
MARKHAM ROAD, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY
JULIAN AND JANE ARCHER.

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

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

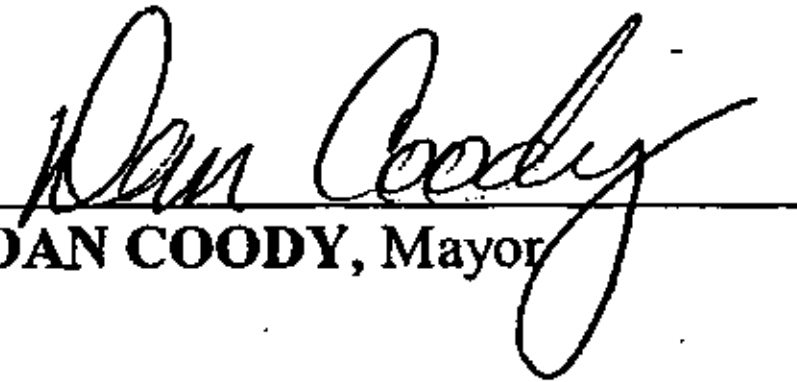
From R-1, Low Density Residential to A-1, Agricultural as shown in Exhibit A
attached hereto and made a part hereof.

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 21st day of May, 2002.

APPROVED:

By:


DAN COODY, Mayor



By: 
Heather Woodruff, City Clerk



EXHIBIT "A"

A PORTION OF PARCEL 765-14529-000 DESCRIBED AS FOLLOWS: PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17 IN TOWNSHIP 16 NORTH OF RANGE 30 WEST, DESCRIBED AS ONE ACRE IN THE NORTHWEST CORNER THEREOF, DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, AND RUNNING, THENCE EAST 208.67 FEET; THENCE SOUTH 208.67 FEET; THENCE WEST 208.67 FEET; THENCE NORTH 208.67 FEET TO THE POINT OF BEGINNING CONTAINING 1.0 ACRES, MORE OR LESS. ALSO, A PORTION OF PARCEL 765-14525-000 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17 TOWNSHIP 16 NORTH OF RANGE 30 WEST OF THE 5TH P.M., EXCEPT ONE ACRE OUT OF THE NORTHWEST CORNER THEREOF, CONTAINING 19 ACRES, MORE OR LESS. SUBJECT TO A 20 FOOT ROADWAY ACROSS THE NORTH SIDE THEREOF, AND A 20 FOOT ROADWAY EXTENDING FROM SAID MENTIONED ROADWAY IN A SOUTHERLY DIRECTION ACROSS SAID 19 ACRES. LESS AND EXCEPT THE FOLLOWING DESCRIBED TRACT, TO-WIT: PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 16 NORTH OF RANGE 30 WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING NORTH 1 DEGREE 02 MINUTES EAST 660 FEET FROM THE SOUTH WEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND RUNNING THENCE NORTH 89 DEGREES 22 MINUTES EAST 317 FEET TO POINT OF BEGINNING OF LAND TO BE EXCEPTED; THENCE NORTH 0 DEGREES 48 MINUTES EAST 339.3 FEET TO A ROAD; THENCE WITH EAST LINE OF ROAD NORTH 38 DEGREES 34 MINUTES EAST 113.9 FEET; THENCE NORTH 4 DEGREES 21 MINUTES EAST 222.4 FEET TO A FENCE ALONG SOUTH SIDE OF MARKHAM ROAD; THENCE SOUTH 89 DEGREES 43 MINUTES EAST 913 FEET TO A FENCE CORNER; THENCE SOUTH 0 DEGREES 40 MINUTES WEST 633.5 FEET TO A FENCE CORNER; THENCE SOUTH 89 DEGREES 22 MINUTES WEST 1002.1 FEET TO THE POINT OF BEGINNING, CONTAINING 14.4 ACRES, MORE OR LESS. ALSO LESS AND EXCEPT THE FOLLOWING DESCRIBED TRACT: A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, OF THE POINT WHICH IS NORTH 1 DEGREE 02 MINUTES EAST, 660.00 FEET, ALONG THE ¼ SECTION LINE AND 44.50 FEET, EAST OF THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT, AND RUNNING THENCE EAST 272.50 FEET, THENCE NORTH 0 DEGREES 48 MINUTES EAST 339.32 FEET, THENCE SOUTH 58 DEGREES 40 MINUTES WEST 213.70 FEET, THENCE SOUTH 22 DEGREES 33 MINUTES WEST 247.04 FEET TO THE POINT OF BEGINNING.

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, (hereinafter "Petitioner") Julian & Jane Archer, hereby voluntarily offers this Bill of Assurance and enters 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 Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to Use Unit 1: City Wide Uses by Right, Use Unit 3: Public Protection & Utility Facilities, Use Unit 8: Limited to only single homes, no manufactured homes or trailers parked shall be allowed to be established on the property.
2. Other restrictions including number and type of structures upon the property are limited to Use Unit 7: Limited to only Animal Farms for show, breeding & training & farms with livestock & use as a riding stable. No commercial concentrated animal feeding operations shall be established on the property.
3. Specific activities will not be allowed upon petitioner's property include Use Unit 6: Agriculture would not be allowed as part of this request.
4. (Any other terms or conditions) _____

5. 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, I, _____, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

Julian Archer

Jane Archer

Printed Name

① Date April 29 '02
2115 Markham
Fayetteville, AR 72701.
② 402-29th Street
Address
Los Moches, Pa. 50312

Julian Archer
Jane Archer
Signature

NOTARY OATH

STATE OF ARKANSAS |
COUNTY OF WASHINGTON |

And now on this the 29 day of April, 2002 appeared before me, Julian and Jane Archer 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.



NOTARY PUBLIC

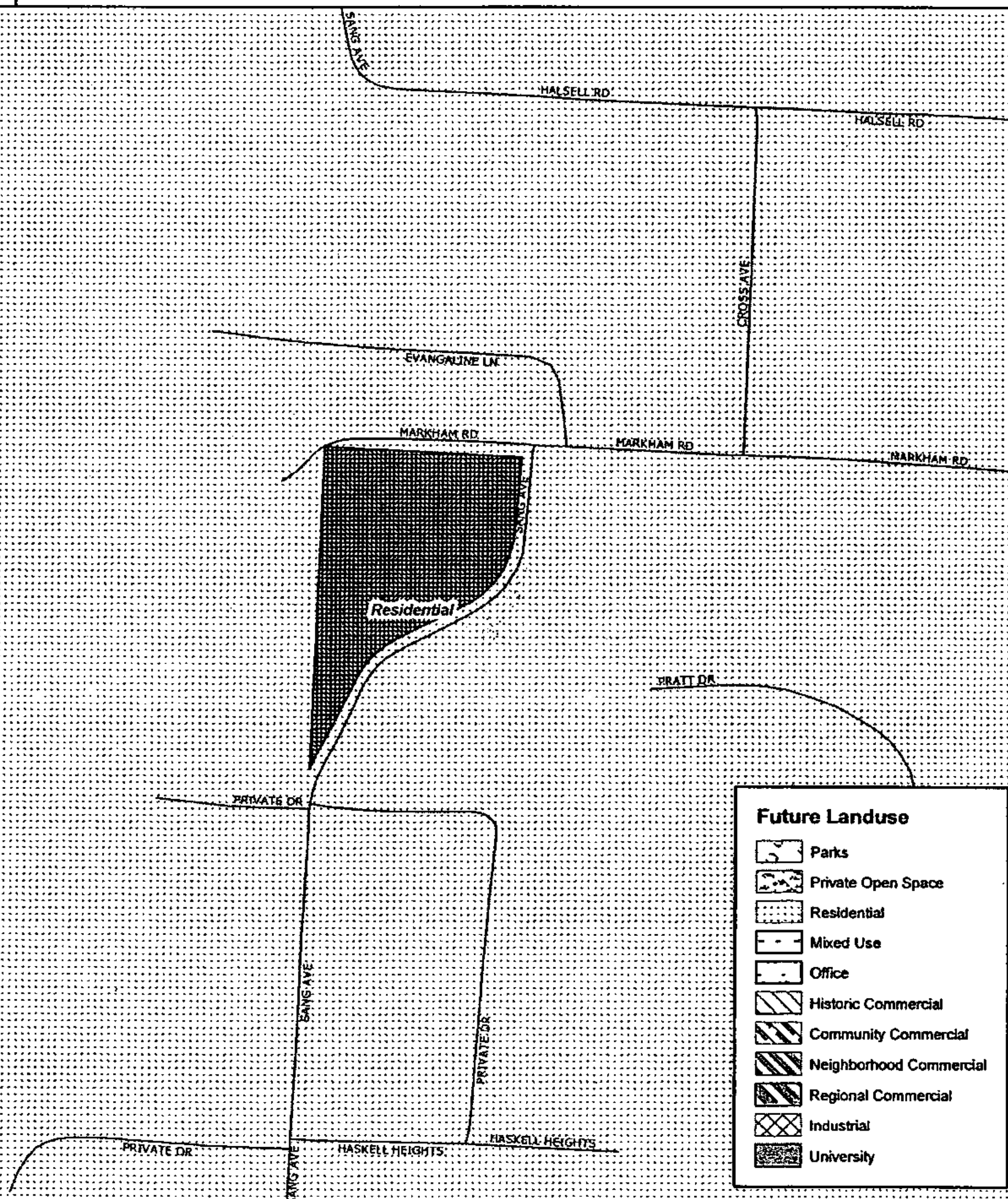
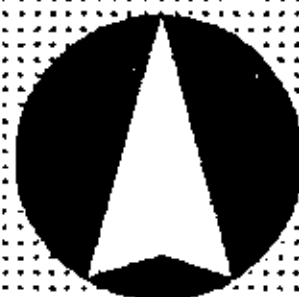
My Commission Expires:

MAY 02, 2003

RZN02-12.00

Future Landuse

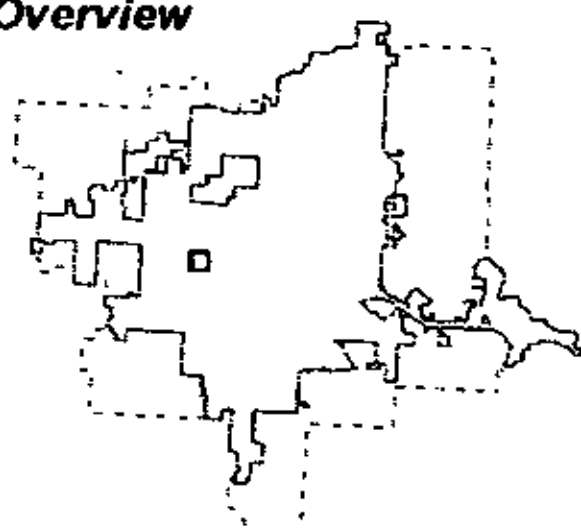
ARCHER



Future Landuse

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

Overview



Legend

Subject Property

RZN02-12.00

Streets

- Existing
- Planned

Boundary

- Planning Area
- Overlay District
- City Limits



Planning Commission
April 22, 2002
RZN02-9 & RZN02-12 Archer
Page 8 & 9.15

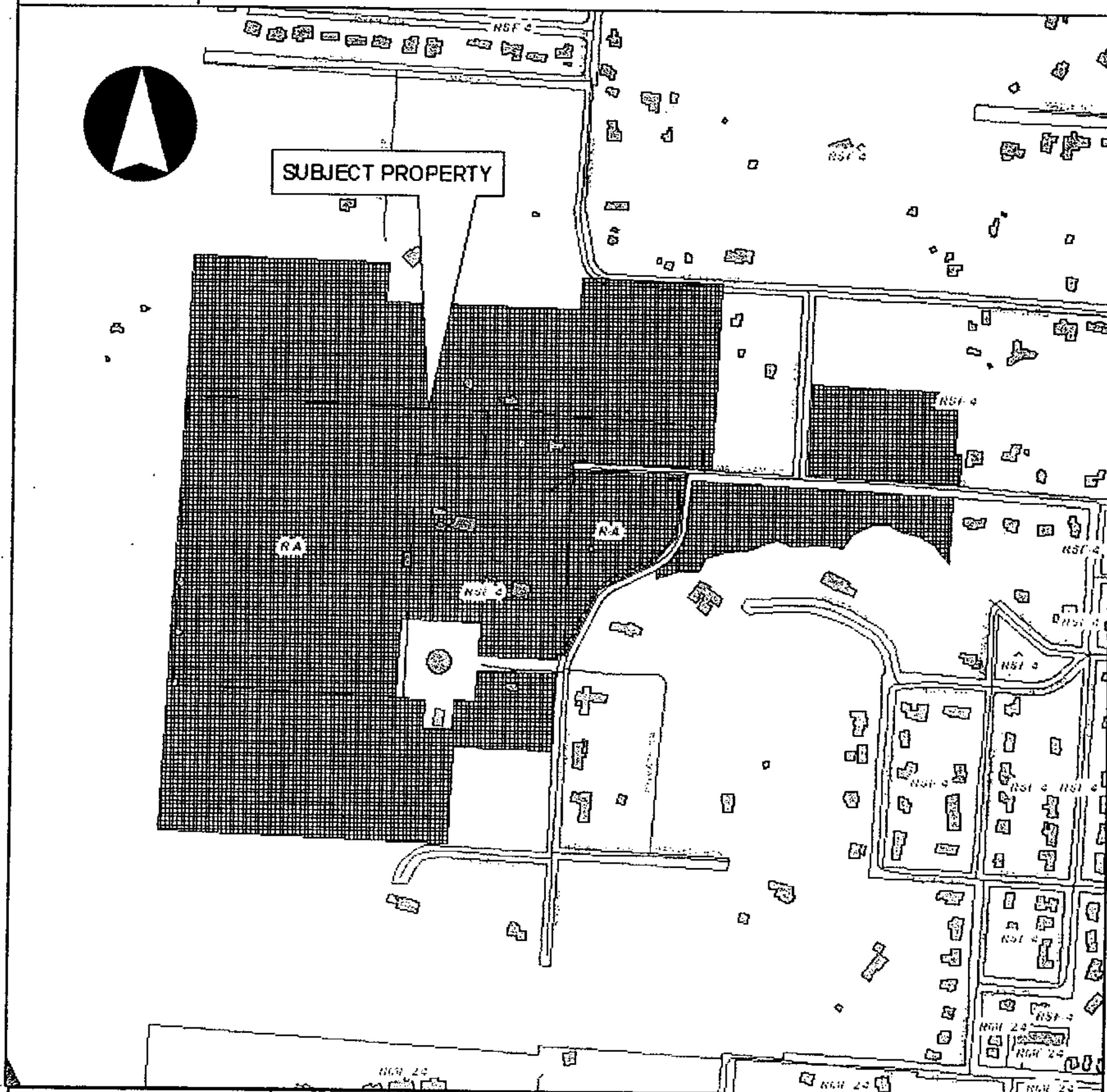
PZD05-1670

Close Up View

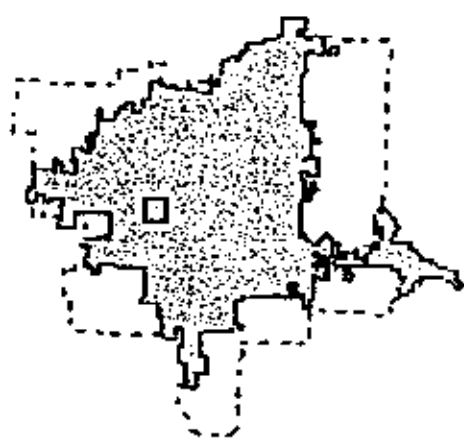
PRATT PLACE INN



SUBJECT PROPERTY



Overview



Legend

PZD05-1670

Overlay District

Major Street Run

Major Street Run

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Major Collector

FLOOD HAZY

100 YEAR

500 YEAR

LIMIT OF STUDY

BaseLine Profile

Fayetteville

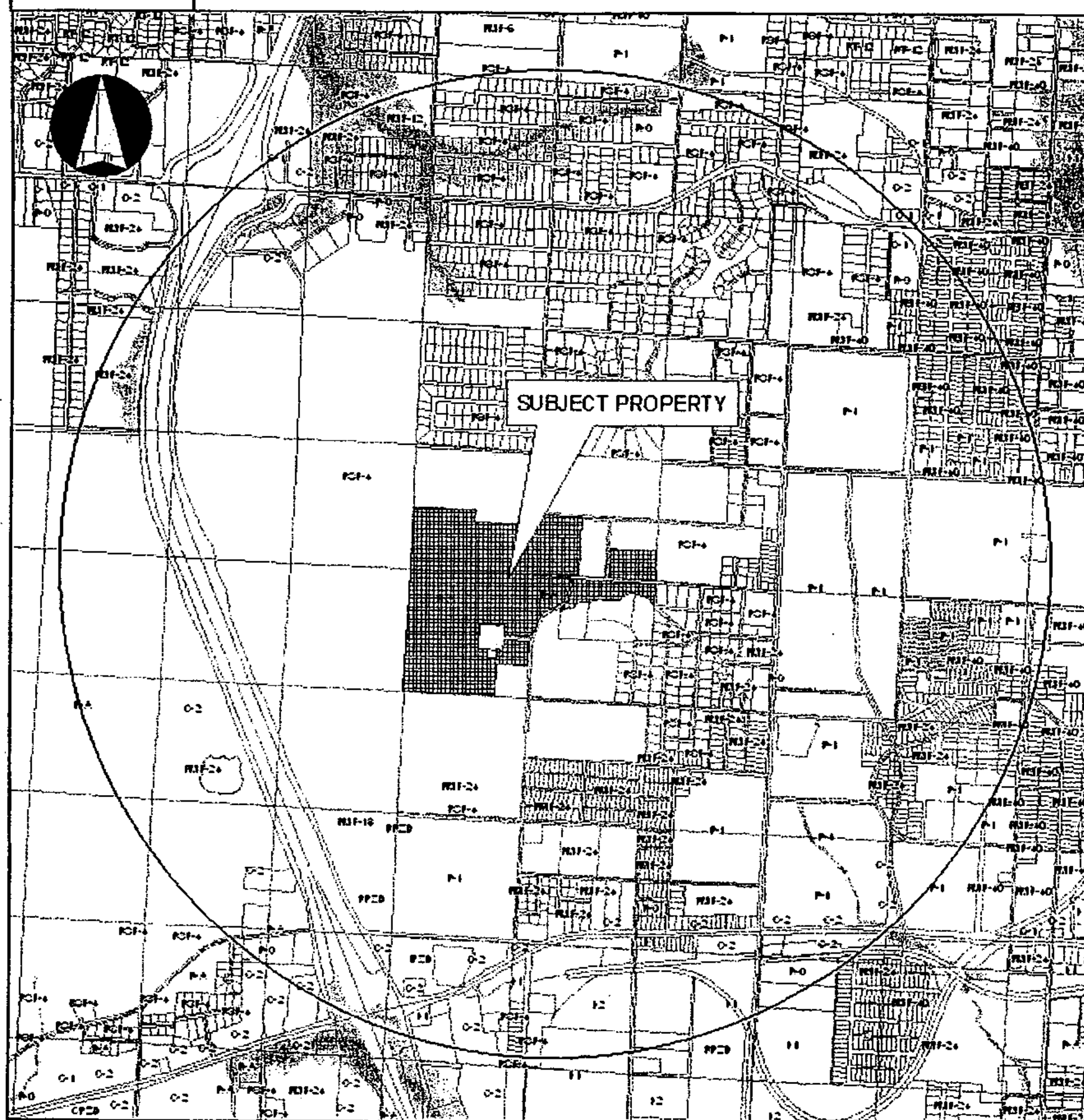
Outside City



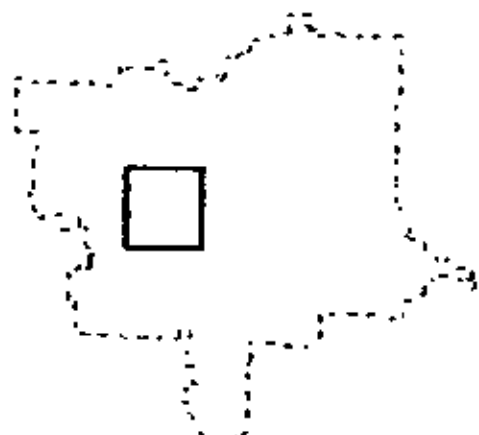
PZD05-1670

PRATT PLACE INN

One Mile View



Overview



Legend

Subject Property

PZD05-1670

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Minor Collector

0 0.125 0.25

0.5

0.75

1

Miles

CLIFTON WADE*
A.D. MCALLISTER
LYNN F. WADE

LAW OFFICES
MCALLISTER & WADE
A PROFESSIONAL LIMITED COMPANY

*FOUNDING PARTNER (1910 - 1974)

20 EAST CENTER STREET
P.O. BOX 1000
FAYETTEVILLE, ARKANSAS 72702-1000
TELEPHONE 501-521-1411
TELEFAX 501-521-5574

STEVEN D. GUNDERSON

Pratt Place B.1
05-1670
(Pratt Place Inn)
Page 41 of 96

March 9, 2001

Honorable Dan Coody
Mayor, City of Fayetteville
City Hall
113 W Mountain
Fayetteville, AR 72701

Re: Cell Tower on Markham Hill

Dear Mayor Coody,

Congratulations on your election as mayor of the City of Fayetteville and we do wish you the best in your endeavors.

On behalf of the neighborhood I wish to briefly bring to your attention the ongoing problem and concern we have in regard to the cell phone tower located on Markham Hill at 117 Sang Avenue immediately south of the city water tower.

The cell tower in question was installed in 1988 pursuant to a "conditional use" limiting the lines to be brought into the neighborhood, size of building, etc. Unfortunately immediately after the tower was installed SWPCO approached the neighborhood requesting an easement across our backyards to install "industrial grade" electrical service for the tower.

This request was clearly in violation of the "conditional use." The neighborhood finally negotiated a settlement whereby the electrical service was placed underground and each of the neighbors personally bore a sizable portion of the expense to place their individual services underground.

The neighborhood did not feel that this in any way ended the "conditional use" as to the number of lines to be brought into the neighborhood, size of building, number of buildings, etc. Clearly we did not agree that putting lines underground was consent to unlimited number of lines above or underground.

Unfortunately through usage, questionable franchise grants and legislative fiat (ordinance # 4178) the conditional use has been expanded to where it has been and continues

left on 1st reading 8/20/05

to be an extreme intrusion in our residential neighborhood.

The use of the cell tower has been expanded to serve a number of companies and a number of fiber optic lines have been placed in the neighborhood. It would be beneficial if we could be advised as to the exact number of companies now using this cell tower and the location of all the lines which they have placed into our neighborhood.

There have been numerous occasions when the road to our neighborhood was blocked, without any prior notice, by construction equipment, trucks, various crews, etc.

There have been encroachments on private property (one line was placed and later removed from John Williams property) and our neighbor Cyrus Sutherland is still seeking to resolve an apparent encroachment on his property of approximately 950 feet when the most recent fiber optic line was installed.

Our numerous requests to the city for assistance in this matter have been unsuccessful. I am sure that your staff can provide you a file on this matter for background material.

This current letter is prompted by the fact that Sang Avenue was again blocked, without notice to the neighborhood, due to the fact that Nexel was in the process of moving a building on a flat-bed truck to the cell tower site. This process blocked Sang Avenue and encroached on private property again.

I do note that the building permit notice was allegedly posted on the fence around the tower and unfortunately such location is not visible to the neighborhood residents as we go to and from our homes.

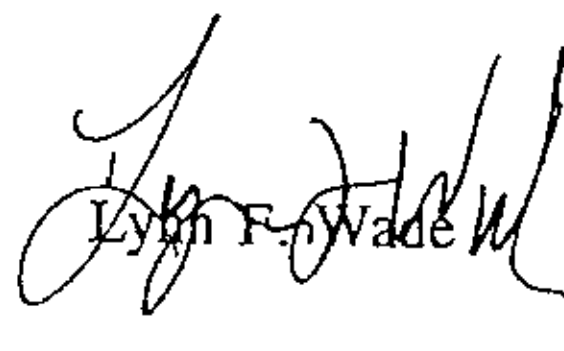
Suffice to say that once again Sang Avenue was blocked for a period a time, without notice, during which we could not get in and out of the neighborhood and certainly emergency or firefighting vehicles could not get into the neighborhood.

Of particular concern is that the Nexel contractors had failed to obtain the proper permits required for moving a building through the city of Fayetteville streets. Moving the building is not covered by the building permit.

Again we feel that the city has failed to deal fairly with its residents and we would appreciate you and your staff keeping our concerns in mind, providing us the current information as to the number of companies using the tower, and the location of their lines in our neighborhood.

Your assistance is greatly appreciated.

Very Truly Yours,


Lynn F. Wade

cc: John Williams
Cyrus Sutherland
Campbell Johnson
William Feldman

Sondra

Mayor Cook
C-PZD 05-1670
(Pratt Place Inn)
Page 43 of 96
Pratt Place

September 19, 2005

Fayetteville City Planning Office
Fayetteville City Council Members
Fayetteville Planning Commission Chair

Attached are a number of items for consideration regarding the "Pratt Place Inn" project (C-PZD 05-1670) being proposed as an PZD at the Sept. 20 City Council Meeting.

I would love to present this myself, but as a 2-year president of the Fayetteville Band Boosters, I must attend the concert being held at 7pm on the 20th at Walton Arts Center welcoming the Tournament of Roses President.

Attached are:

1. Letter of concern with supporting photos
2. Copy of notarized letter of assurance from Owners of proposed PZD properties (Jane and Julian Archer) on September 26, 2000 that they would "...not develop in either of our lifetimes..." the parcel of land referred to as "Planning Area 3" in the PZD documentation (although I could not find a figure with this label). **Attachment A**
3. Map (developed by Archers) of my property location relative to this assurance statement. **Attachment B**
4. Copy of email sent to Archers on 13 September, 2005, which remains unanswered. **Attachment C**

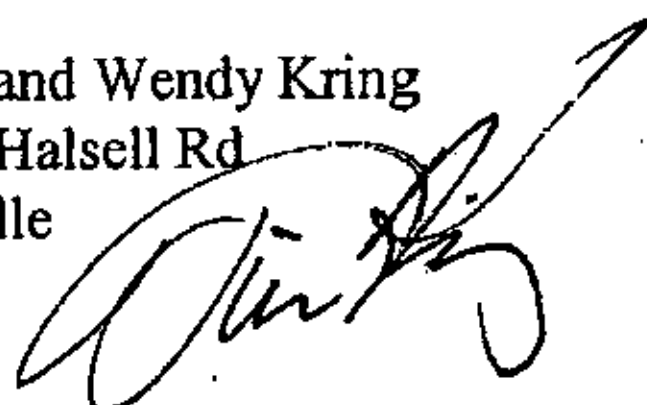
I trust that you will consider this information just as if I were there to speak (and I will try to get there after the concert).

I have 5 specific requests on the following pages which are suggested in order to remain consistent with the intent of my 2000 Assurance from the Archers. My request is that this is NOT approved on first reading unless you feel that my issues can be included as bills of assurance at a later and more appropriate point in the process. Other than these attached issues and several issues adequately covered by staff, I am in full support of the proposed PZD.

I understand the Archers will not be at this council meeting, and thus may not be able to address this through their representative.

Thank you for your consideration and your service to our city.

Timothy and Wendy Kring
1777 W. Halsell Rd
Fayetteville



Letter of Concern

September 19, 2005

Fayetteville City Planning Office
Fayetteville City Council Members
Fayetteville Planning Commission Chair

I am Tim Kring, and my wife Wendy and I own the property (our home) adjacent to the parcel of land identified as "Planning Area 3 or Tract 3" in this PZD request. My land forms the north boundary for a third of this tract. I purchased this land from the Archers (Pratt Place project owners) in 2000. Our land has 22 protective covenants developed by the Archers (this 6 page document is on file with the city and available from me if requested).

Previous Assurance of Non-development of "Planning Area 3"

As a condition of purchase of my property in 2000, I requested assurance from the Archers regarding the land on my southern border. The Archers agreed and included a statement in the sale contract. They also provided a notarized letter with the same statement (**Attachment A**). This assurance states that the Archers "...will not develop in either of our lifetimes the parcel of land fronting on Markham Road on the south, from the bottom of the hill to Cross Avenue, and contiguous to the three lots on Halsell on the north, of which yours is the middle lot." (Map used by Archer is **Attachment B**). This is the entire portion of the PZD noted as "Planning Area 3". I realize that my assurances from the Archers are not a deed restriction, and thus would take a legal action by me to enforce this assurance.

Archers good faith

Several individuals in the neighborhood have expressed concerns of trust with the Archers, particularly regarding the construction and semi-commercial use of the new barn on the top of the hill (within this PZD request) for weddings and other events. Similar concerns are voiced regarding the substandard rental units deeper into the Archer property (areas not within the PZD). However, I have always had excellent and consistent dealings with the Archers, and thus have not experienced a personal reason for this concern. I have requested that the Archers include following 5 items in the PZD request, but have not had a complete response from them, as yet (**Attachment C**).

Time for Review of PZD request

I received the official notice of PZD request as per the requirements, but until that time did not have the opportunity to review the 40 pages of documents. These documents present a tremendous volume of information and detail that was not provided in the 2 meetings with the neighborhood individuals (the first meeting was very preliminary, the second was a special Ward meeting that focused on the Inn proper and adjoining area, not the 2 outlying tracts). Given significant involvement in other civic issues these last 2 weeks has left me little time to complete evaluation. ***Thus, unless my below concerns can effectively be addressed at a later stage of development, I ask that this PZD request not be passed on first reading.***

Specific Requests for Consideration Regarding "Planning Area 3", (corner Markham and Cross).

Structures, Equipment and Use:

The PZD documents (p. 8) indicate that "Planning Area 2 is intended to remain for agricultural or open space use, without the potential for additional dwellings units." No such notation is noted for Planning Area 3, and a limitation on structures on the property is needed given past activities.

Covenants of Archers limit storage of equipment and vehicles on adjacent property, and this should extend to this area.

Use of property for parking is an issue with the neighborhood (including the Archers), and thus should be a formal part of this PZD. The current PZD document has a statement (page 8) which should be amended.

To remain consistent with the intent of my 2000 Assurance from the Archers, I request that the following be included in formal documentation:

- 1. No permanent or temporary structures of any kind will be placed on the property. This includes, but is not limited to, equipment storage units, pole barns, standard barns, etc.***
- 2. No equipment, including agricultural equipment, will be parked or stored on the property for a period greater than 72 hours,***
- 3. Under no circumstances will any portion of the Planning Area 2 or 3 be used as an area for surface parking of vehicles on a permanent or temporary basis, including but not limited to days during Razorback athletic events or other events held on University of Arkansas property, or for events held at the "Pratt Place Inn or Restaurant".***

Tree Preservation, Land Clearing:

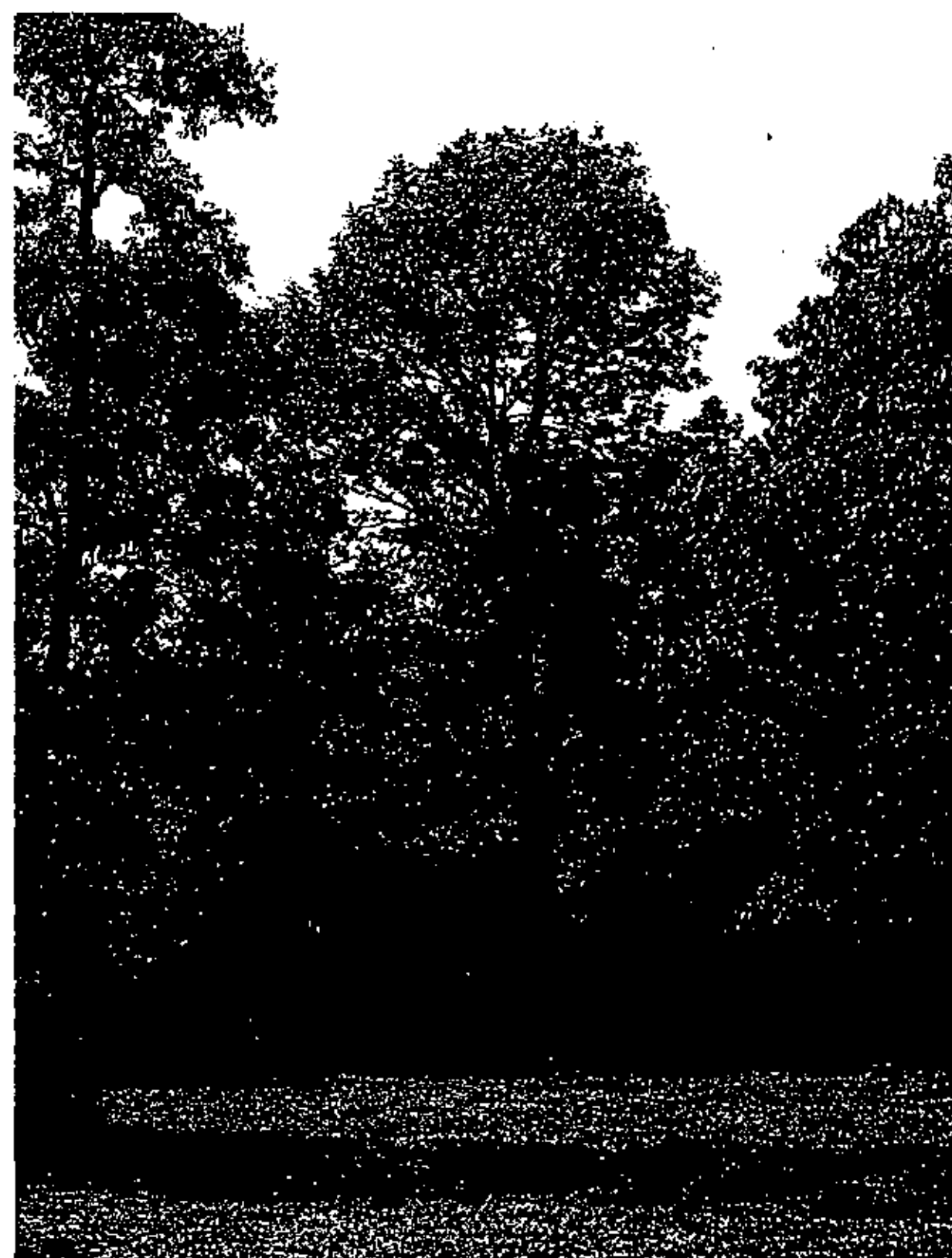
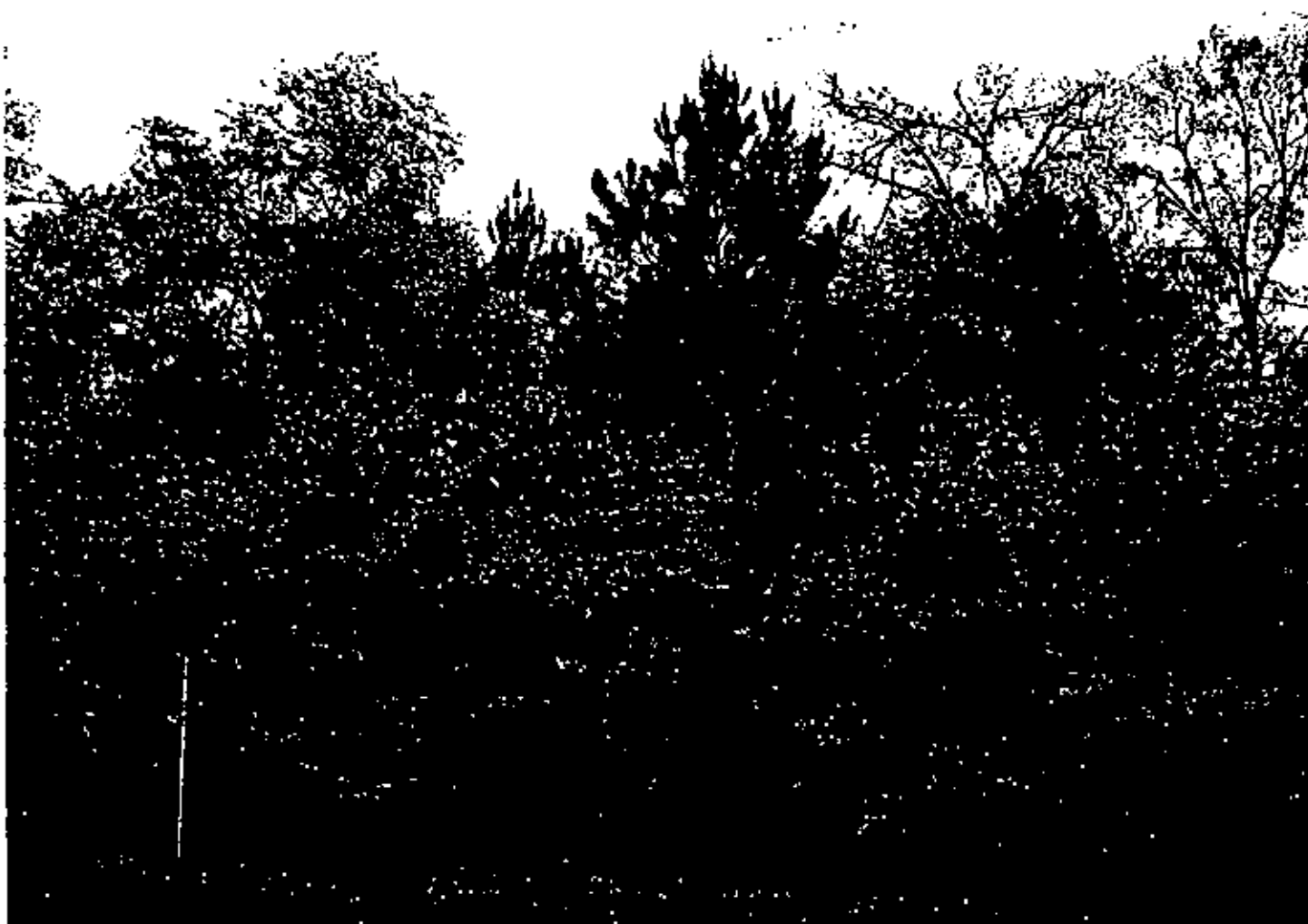
Much of the PZD is wooded as is Planning Area 3. Page 8 of the PZD refers to this area as "once a pasture". Actually, this phrase can be used for virtually ALL of Fayetteville, as we have no virgin forests in Northwest Arkansas. While the area was indeed a pasture, it was not a completely cleared pasture, and numerous trees remained in the pasture. The area has heavy underbrush, but has more than 50 trees that exceed 50 feet in height (not including cedars). The following 2 pages show photos of a few of these trees. These photos represent a small number of the trees, as access to the property is difficult. Removal of these large trees should be discouraged.

The Archers have done some clearing themselves of an area (along Sang Avenue near the corner of Markham) to convert a lightly wooded area to pasture. This clearing was not done in a manner to preserve existing trees, as the heavy equipment encircled each tree to the trunk. Additionally, the clearing was conducted at the peak of our dry season late this summer. The trees remaining in this area will most likely die within 2-3 years. Further, there was no attempt to prevent surface erosion during clearing. (See photos showing cleared land and silted-in city roadside ditches). Any clearing of Planning Area 3 should be undertaken by professionals familiar with tree preservation and erosion control.

To remain consistent with the intent of my 2000 Assurance from the Archers, I request that the following be included in formal documentation:

- 4. During the process to clear Planning Area 3 for planting nut trees or for any other agricultural use, no tree larger than 6" dbh (diameter at breast height) will be removed, and care will be taken to preserve these large trees by temporary fencing around each tree at least to its drip line. Fencing to be placed prior to work. Cedar trees (juniper) and Bois d'arc (horse apple) trees are exempt from this, and any size of these may be removed.***
- 5. Silt fencing or other appropriate method must be used to minimize surface erosion during and after any clearing process.***

Example trees on Planning Area 3, C-PZD 05-1670. All are larger than 6" dbh (diameter at breast height) and all are one of the following species: oak, elm, ash, persimmon, or pine. In many pictures is a 6 foot "bike flag" to give you a visual perspective of size. More than 50 trees are of this size.



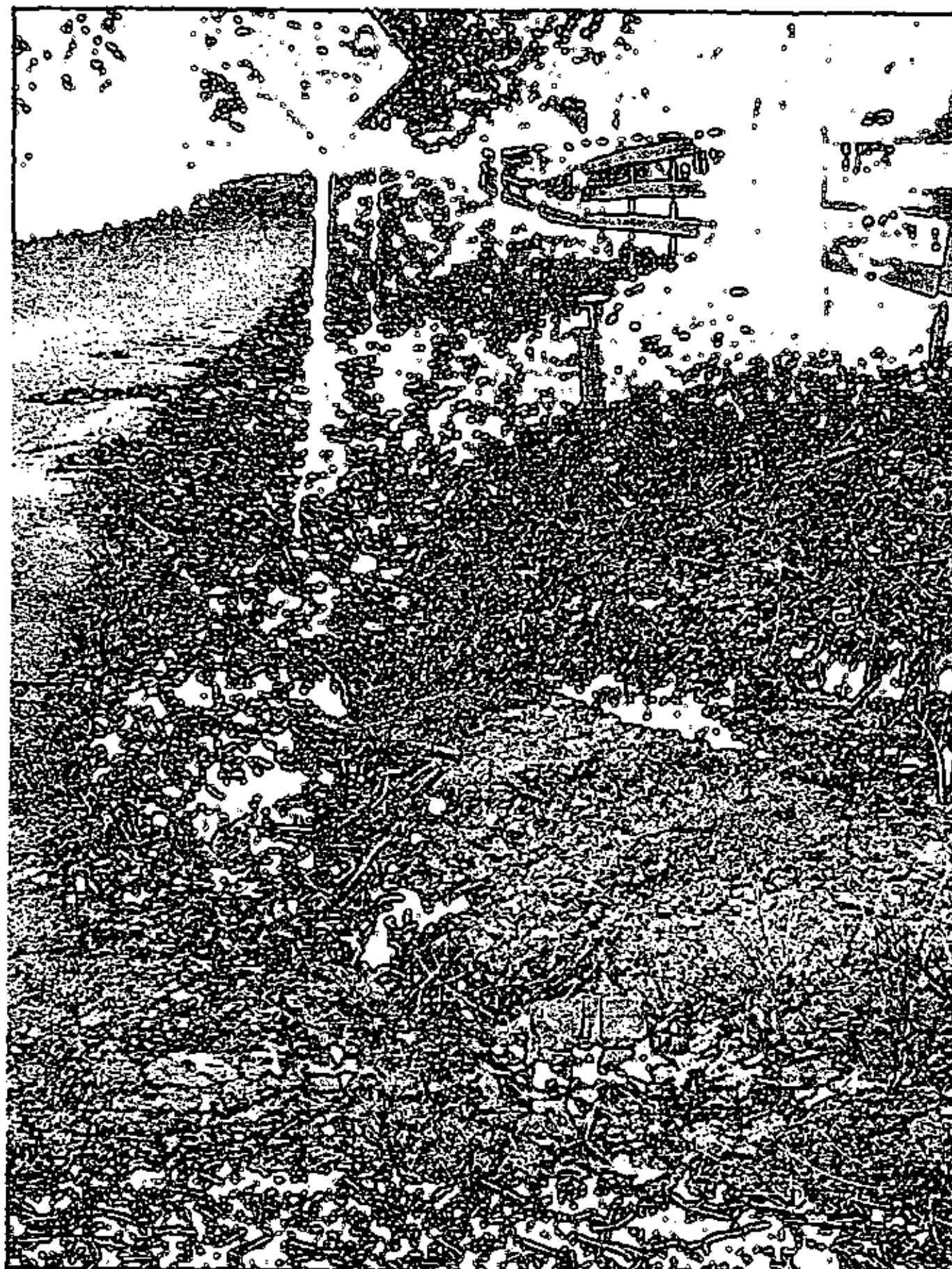


I will save you from looking at another 30 photos of unique trees.

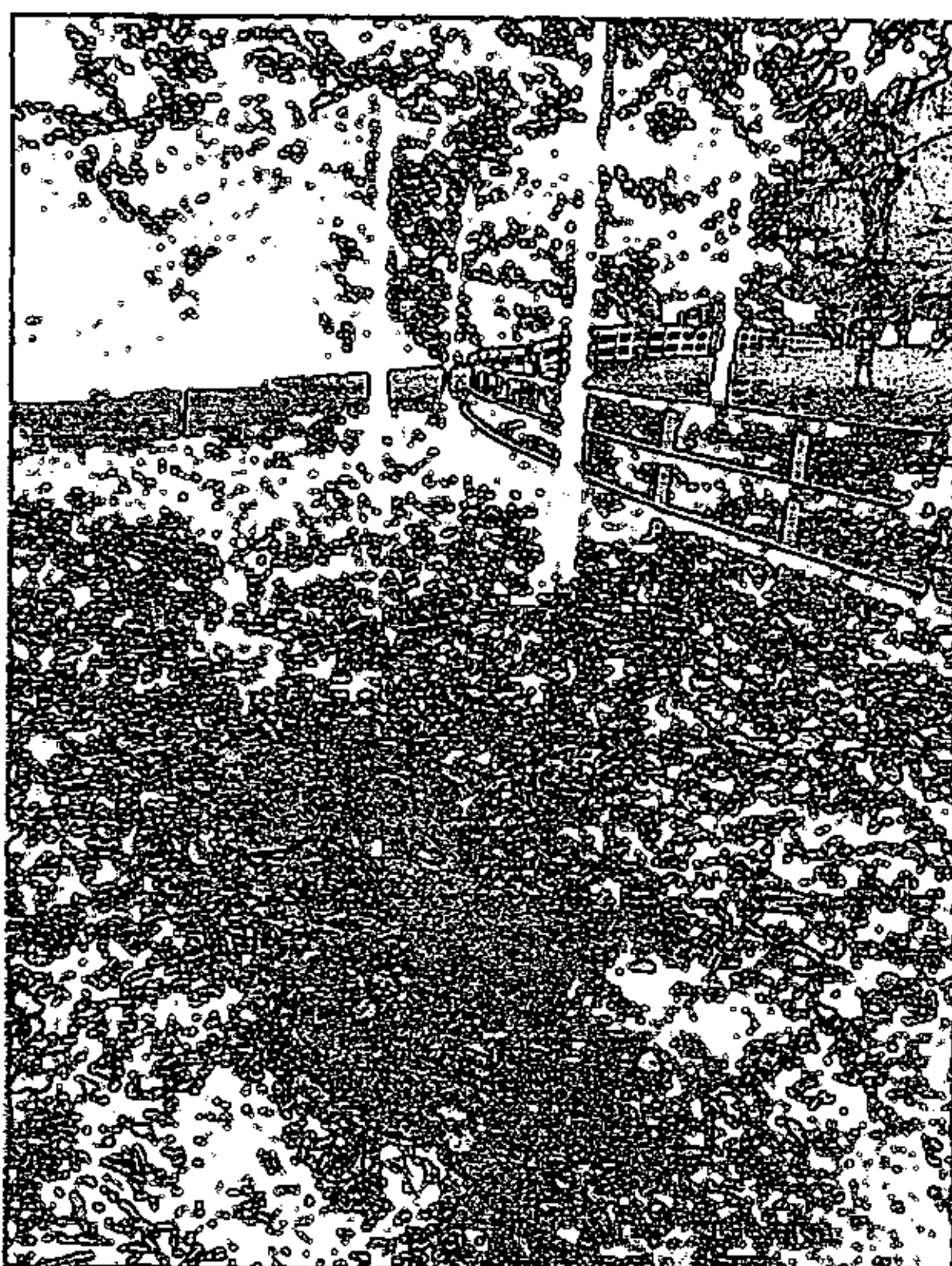
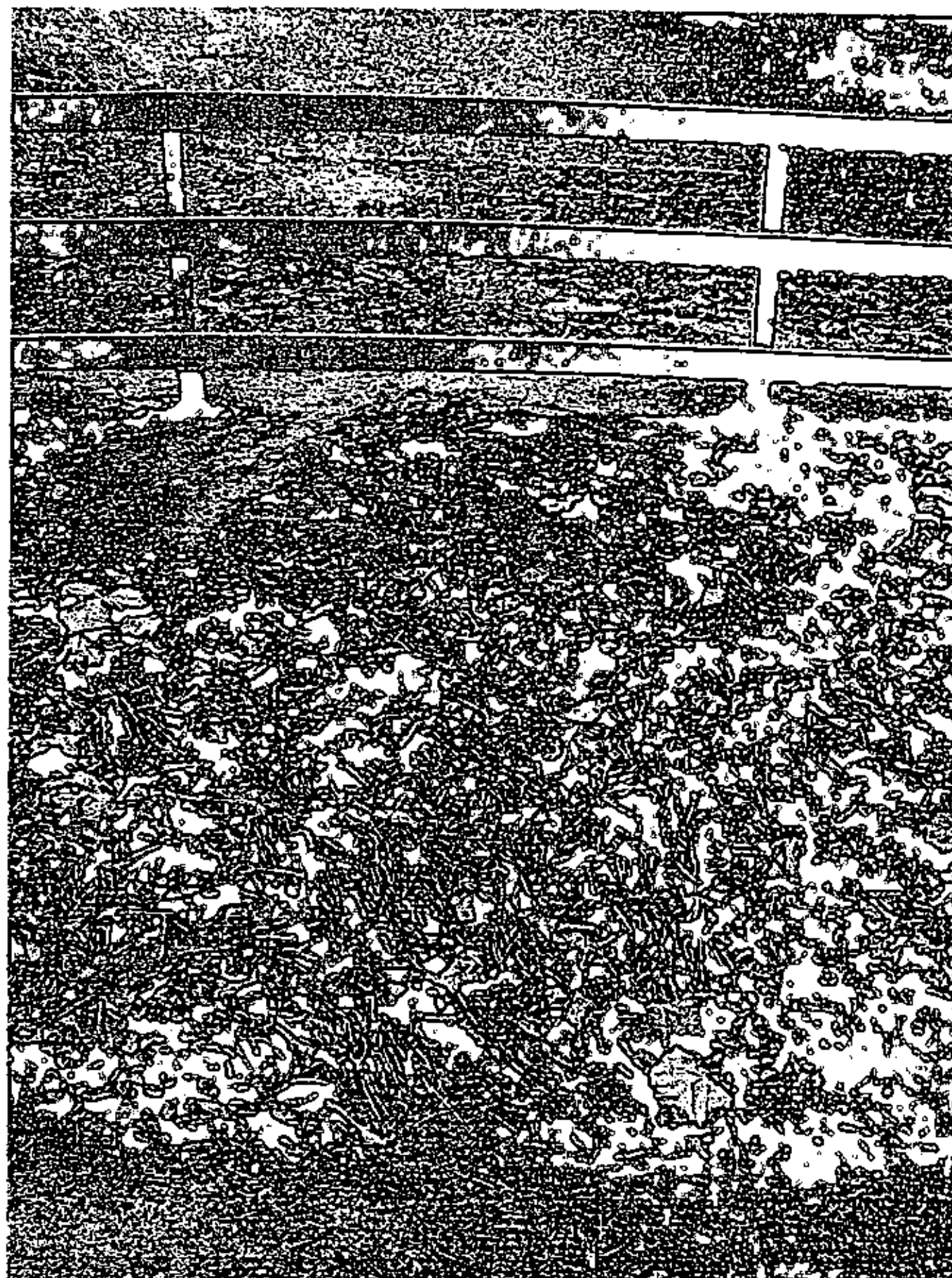
Suffice it to say the Planning Area 3 has significant trees on it that are worth saving.

In spite of this, in some areas, particularly in the interior of the lot toward the south east side of the lot, there are areas without these large trees in close proximity.

Corner of Sang Avenue near Markham.
Ditches and under-road culvert full from lack of control
of surface erosion.



Fence at eastern side of new pasture on edge
of Sang Avenue (picture taken from road)



Ditch Along Sang Avenue silted in.

September 26, 2000

Mr. and Mrs. Timothy Kring
Fayetteville, Arkansas

Mr. and Mrs. Kring:

This is to put in writing our assurance that we will not develop in either of our lifetimes the parcel of land fronting on Markham Road on the south, from the bottom of the hill to Cross Avenue, and contiguous to the three lots on Halsell on the north, of which yours is the middle lot.

We also hereby give permission to you and members of your immediate family to use the trails on Sassafras Hill without charge for the next ten years. *

* Subject to each individual signing & returning to us the attached indemnity & hold harmless agreement.

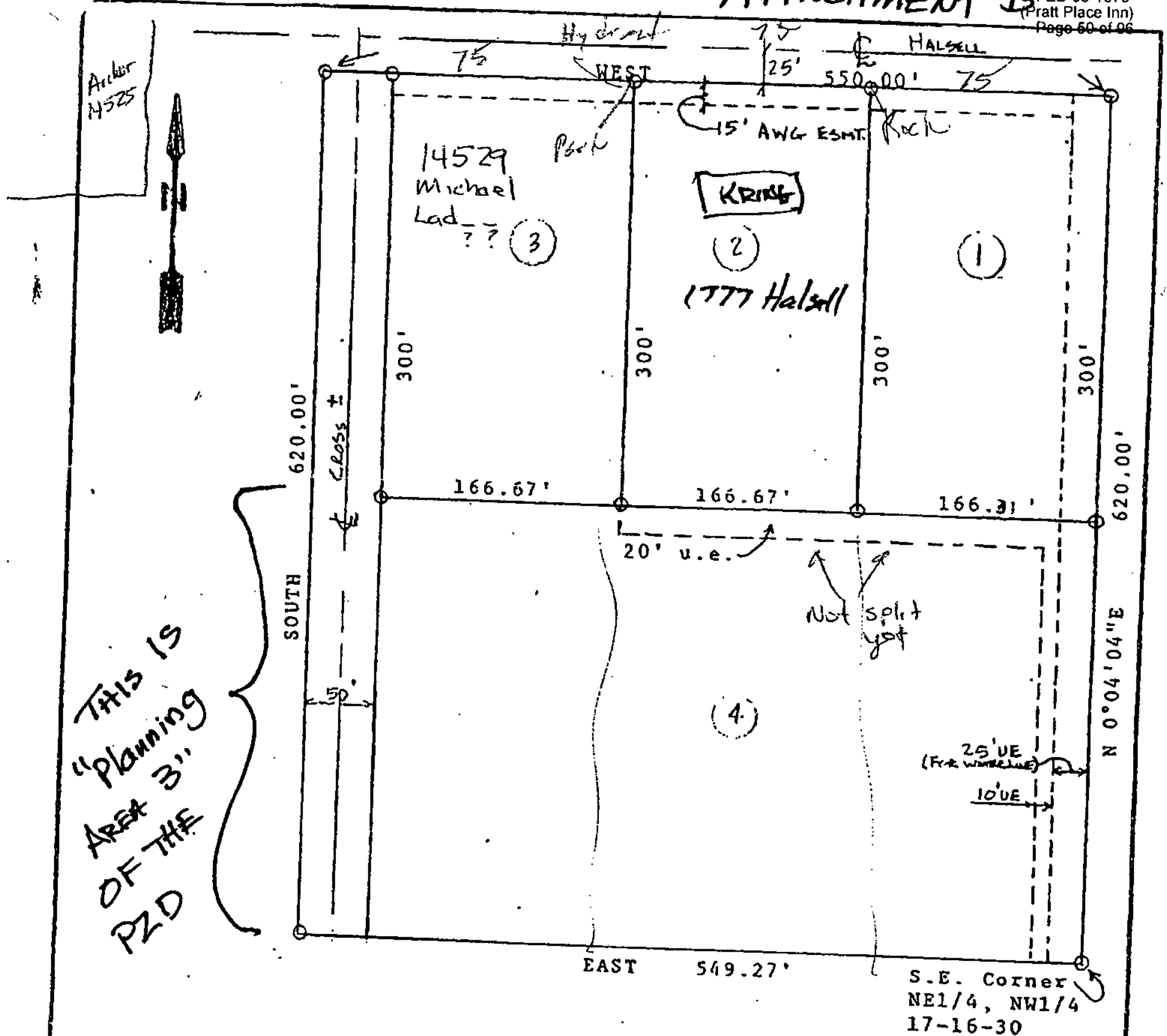
Julian Archer

Jane Archer

Signed in my presence on this 26th day of September, 2000 by Julian & Jane Archer



Connie Hines
Notary in & for the
State of Iowa

Legal Description;

Part of the NE1/4, NW1/4 of Section 17, T16N, R30W of the Fifth Principle Meridian in Washington County, Arkansas and being more particularly described as follows: Beginning at the S.E. Corner of said NE1/4, NW1/4, thence N 0°04'04"E 620.00 Feet, thence WEST 550.00 Feet, thence SOUTH 620.00 Feet, thence EAST 549.27 Feet to the P.O.B.; Containing 7.83 Acres more or less subject to easement and R/W of record.

C-PZD-05-1670
Pratt Place Inn

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.

[Signature]
DATE: 12/24/98

12/24/98
DATE

Date: Tue, 13 Sep 2005 16:29:57 -0500
From: Tim Kring <tkring@uark.edu>
Subject: thanks and rezone
To: Julian Archer <julian.archer@DRAKE.EDU>

Wendy and I really, really appreciated the call last night. We have enjoyed our direct and always positive interactions with you and Jane.

Regarding the PZD request, we appreciate the detail you provided regarding Tract 3 (behind our place) that reflected our conversations. Specifically, you noted it would not be used as a football game parking lot, and that major trees would not be cleared. Because I have a conflict that night, I can not attend the City Council meeting. However, I will be writing a letter of support for the PZD in general, and I am very supportive of the overall project. I'll forward you a copy of that when I do. I want to let you know of a couple of specific requests and clarifications that I would like to see added to the PZD documentation, although I do not know where this level of detail belongs within that document. I presume you would agree to these.

1. No portion of Tract 2 or Tract 3 will be used as an area for surface parking of cars (for a fee, under a contract, or for free), including but not limited to days during Razorback athletic events or other events held on University of Arkansas property, or for events held at the Pratt Place Inn or Restaurant.
2. No permanent or temporary structures of any kind will be placed on Tract 3. This includes, but is not limited to, equipment storage units, pole barns, standard barns, etc.
3. No equipment, including agricultural equipment, will be parked or stored on Tract 3 for a period greater than 48 hours.
4. During the process to clear Tract 3 for planting nut trees or for any other agricultural use, no tree larger than 6" dbh (diameter at breast height) will be removed, and care will be taken to preserve these large trees by temporary fencing around each tree at least to its drip line. Cedar trees (juniper) and Bois d'arc (horse apple) trees are exempt from this, and any size of these may be removed.

NOTE:

I know you are not in a hurry to clear this land, and actually, I bet you don't have to do it at all unless you really want to. Although "scruffy looking", this is a great natural barrier to human ner-do-wells and is a site of one fox den (I don't let anyone know that...they moved out of my yard last year). Even if you do end up clearing it, I would like to see a 100 foot or so buffer left for the fence effect as well as animals. I won't write any of that part in my letter, though.

If you are really opposed to any of the 4 above, let me know. Tim

Pratt Place
B 1
C-PZD 05-1670
(Pratt Place Inn)
385 of 96
JOHN G. WILLIAMS, FAIA, Emeritus Professor of Architecture, University of Arkansas
Doctor of Arts and Humane Letters, University of Arkansas

September 17, 2005

Mayor Coody and Members of the City Council
Fayetteville City Administration Building
Fayetteville, Arkansas 72701

FILE COPY

Dear Mayor Coody and Members of the City Council,

This letter is regarding the Pratt Place Bed and Breakfast and the sixty-seat Restaurant and Parking Lot that are proposed to be built with it.

I would have no objection to a Bed and Breakfast if that were all that is implied, however, a restaurant for 60 people and parking implies much more.

I have the following concerns and questions:

Would the increased traffic on Markham Road require it to be widened? I am against this because it would change the character and quality of the neighborhood along Markham.

Who would pay the cost if it became necessary to widen Markham?

I am against the widening or extension of any street that might result from this proposed restaurant.

What is the city's position regarding condemnation and eminent domain to acquire private property to extend or widen streets?

In the early 1960s the neighbors along Hotz Street and Palmer Avenue sued the owner of the land along Waldon and Court Street for moving several CCC barrack buildings and placing them along these streets without the required moving permits.

In connecting the sewer line for these buildings to the Hotz Addition sewer in the manhole at Court and Center Streets, it was discovered that the close location between the water and sewer lines were in violation of the Arkansas Plumbing Code and the State Board of Health.

Judge Tom Butt instructed Mr. Harold Lieberence of the City Building Inspectors office to insure that this problem be corrected. I do not believe that it has been.

The sewer required for the proposed restaurant would tie into the Hotz Addition sewer line.

What is the city's position regarding this?

A question concerning all recent and proposed sewer taps:

What is the City's position and obligations if the new West Side Treatment Plant and construction cost substantially exceed estimates and available budgets?

Based on information that I have recently received I believe that it will.

Sincerely

John G. Williams

P.S. I would like written answers to the questions listed above, J.G.W.

Emeritus Architect • Landscape Architect • Consultant, Campus Planning & Energy Conservation in Design
140 North Sang Avenue • Fayetteville, Arkansas 72701 • (479) 442-4317

I just need to express
myself - concerning MARKHAM
HILL & THE ARCHER'S PROJECT.
I VIDEO^{SP?}ED WHEN THEY WENT
THRU PROCESS OF GETTING BARN OK'D
TO BUILD - & 'PROMISED' IT WAS
FOR HORSES THEY'VE HAD & WERE
GETTING - WANTED AS 'GRANDFATHER'
TYPE ISSUE - 'WOULDN'T USE FOR
ANYTHING ELSE - ~~THEY'VE~~ BEEEN
HAVING QUITE A FEW WEDDINGS
UP THERE ^{OF PEOPLE WHO DON'T LIVE UP THERE.} - SO, POINT IS ...
THEY'VE NOT BEEN TRUTHFUL
OR DOING WHAT SAID -
- REPRIMAND ATLEAST -
I WONDER HOW WE OK ANOTHER
project

FROM
GALLAGHER

From: Julian Archer <julian.archer@DRAKE.EDU>
To: <jpate@ci.fayetteville.ar.us>
Date: 9/20/05 3:28PM
Subject: Cabin Demolition letter

September 20, 2005

To the City of Fayetteville Planning Division
And City Council:

It has come to my attention that there may possibly be some confusion in the Pratt Place Inn PZD application as to when we will be demolishing the rental cabins we stated we are going to eliminate when the inn is built. The cabins to be demolished are 2371, 2375, and 2379 Markham and they will be removed just before the inn (2231 Markham) opens. This demolition is not tied to any possible construction date for the four proposed log cabins. It should be made clear that the demolition of these structures is not going to be postponed until the start date for log cabin construction. If you should want a Bill of Assurance for this demolition, as a condition for approving a longer than usual time for beginning construction (fifteen years) of the log cabins, do not hesitate to incorporate that into the PZD. Or, if you simply want one as a condition for giving a Certificate of Occupancy for the inn, please incorporate that into the PZD.

Sincerely,

Julian Archer

Pratt Place

8-12
B.1
C-PZD 05-1670
(Pratt Place Inn)
Page 55 of 96



RECEIVED

SEP 19 2005

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

www.fayetteville.com

Date: September 19, 2005
To: Mayor Dan Coody and City Council Aldermen
From: Steve Rust, President

I would like to encourage your support of Julian and Jane Archer's Master Development Planned Zoning District. I have visited the property and have reviewed their plans for turning 70 acres of pristine property into a unique Fayetteville destination. Successful completion of their plans will increase Fayetteville's property tax base for our schools. The sales and accommodation taxes from the four-five star restaurant, Inn, and separate rental units will benefit the city. Although no one can know what the taxes will be until they are actually paid, a conservative estimate for the property tax would be \$40,000 per year. The project will create 18 new jobs with an annual payroll estimated to be \$400,000.

Taxes, jobs, and payroll aside, this project has the potential to substantially benefit Fayetteville in other ways. This project's graceful marriage of beautiful, peaceful land on a mountain, an Inn, and a four-star restaurant creates a venue that will greatly add to the "experience" that makes Fayetteville so special and such a desirable destination. Many other businesses will benefit from the high end customers this project will attract.

FEDC believes this is the type of project City Council can enthusiastically support. Thanks for all that you do for Fayetteville.

Fayetteville Economic Development Council

1 W. Mountain, Suite 301, PO Box 4156, Fayetteville, AR 72702 • 479.442.8885 • FAX 479.442.4580

The Pratt Place Inn

PZD Application August 5, 2005

Restoration and Additions to the Existing Home (c.1890)

Owners: Julian and Jane Archer

Architect: Albert Skiles, AIA

Contents:

Photos of the Existing Home

Elevations of Proposed Inn

Floor Plans

Square Feet:	Basement	6549
	First Floor	6569
	Second Floor	4079
	Third Floor	1730
	Total	18,927

August 5, 2005

Pratt Place Inn PZD Request

The property and houses for which I am requesting rezoning, long known as Pratt Place, were purchased by my grandfather Cassius Pratt in 1900 and have been in the family ever since. The main structure, 2231 Markham Road, could be described as farmhouse Victorian and has almost 5,000 square feet of living space. It is in very poor condition, with crumbling foundation, cracked and falling plaster, leaking roof, and lacks central heat and air and insulation. Nonetheless, the main part of the structure has some fine features such as large parlors, twelve-foot high wooden ceilings, spacious bedrooms, fine hardwood floors, and is located in a beautiful, isolated setting. Its architectural character and the contributions to Fayetteville by Pratt family members have enabled this house to be placed on the Arkansas Register of Historic Places.

The purpose of this request for PZD rezoning is to allow me to make it financially feasible to restore Pratt Place by turning it into an outstanding inn with dining facilities. It is totally impractical to go to the effort and expense of restoring the existing 5,000 square foot house and then use it as a single-family rental property or a caretaker's house. The plan is to tear off the additions to the house, move the core structure off the foundation, dig a full basement, and place the house over the basement; then build where the additions stood an extension with additional bedrooms, a sixty-seat dining area, and a restaurant kitchen. The inn would have seven guest rooms, each with a king size bed. The restaurant will be a one-of-a-kind establishment. In addition, the residence currently adjacent to Pratt Place, 2230 Markham Road, would be demolished and rebuilt as a residence for the innkeeper.

The creation of an inn at 2231 Markham would not affect any surrounding properties because there are no surrounding residences or properties in the usual sense. I own all of the surrounding parcels, the nearest neighbor being over 500 feet distant. The house is not visible from any neighbor's house or yard in summer or winter. Traffic impact will be limited because once the inn is built a number of rental cabins that are scattered around the property will be demolished. The nearest house passed by someone driving to Pratt Place Inn is 1655 Markham, 1300 feet away. As for parking, there is adequate space to the north of 2231 Markham which is not in sight of any neighbor's property, not even the tops of the cars. Signage would consist of a small sign no more than 2' x 3' at the intersection of Cross and Markham, a sign no more than 2' x 3' attached to the Archer signpost at the intersection of Sang and Markham, and then one no more than 3' x 5' at the west end of Markham Road. All signs would be on Archer property and none would be visible from any neighbor's residence.

The boundaries of this PZD have been drawn so as to include not only the land on which the inn itself sits, but surrounding parcels where associated activity will or may take place as the case may be. This includes extensive access and egress roadway, the adjacent land, and a very isolated and detached parking area. It also incorporates the residence at 2148 Markham Road which since 1980 has been a rental property. Because of the quality of the structure and its choice location, when the inn opens it will be a residence/retreat available for rent by the day as a cottage adjunct to the inn with its own parking. Also incorporated in the PZD will be our residence at 2115 Markham, though that will continue just as it is – a private residence.

The PZD contains two fenced pasture and barn areas zoned A1 under City of Fayetteville Ordinance No. 4392 which will continue to be pasture and barn areas. These are for horses and perhaps other animals. The new barn (2255 Markham), built in 2002-2004, was designed with the possibility of our holding barn dances and/or dinner parties or other social events there. We also saw it as a good occasional meeting place for groups we support such as the North Arkansas Jazz Society, the U. of A. Alumni Office or Development Office, the Ozark Society, and my Fayetteville High School class for its reunions. Its ambience is such that it has attracted interest as a place to commit matrimony, starting with the daughter of one of the barn's building contractors. Consequently, it will, in addition to being a horse barn, serve the inn as an adjunct space (once cleaned and hosed down inside) for dinners, receptions, and weddings. This barn is a substantial structure with insulated roof and walls capable of containing whatever noise may be generated inside. Since events in the barn would be intermittent rather than continuous (that is, it would not be open on a daily basis, but only by advance reservation), there is no need for a permanent parking area. There is more than sufficient parking space in the pasture. It should be noted that no amplified music will be permitted outdoors anywhere in the PZD.

Once the inn is operational, most of the old camp cabins of the Markham Camp of the 1920s and 1930s will be torn down. If the inn is a financial success, someday we would like to bring in two, three, or four authentic log cabins, reassemble them back in the woods on parcel 765-14548-000, provide them with modern comfort and convenience on the inside while keeping a thoroughly rustic appearance on the outside. These cabins would be handled in the same manner as 2148 Markham; that is, a residence/retreat rented by the day. The cabins would accommodate no more than two to four adults each. A tennis court and a swimming pool will be built in the vicinity of 2231 Markham.

A 2" water tap already serves 2231 Markham. For fire protection, an 8" waterline will be run north from the city water tank line and terminate with a fire hydrant beside the drive to the inn. It will be necessary to connect to city sewer via an 8" line and to decommission the existing septic system. The route of the sewer line would be entirely

on my property before making connection with city sewer. For your information, there are no pending or proposed sales of this property or adjacent parcels.

The inn would not alter the population density of this part of Fayetteville and would not place any burden on the school system. The increase in water usage would be negligible, as a number of rental properties will be eliminated once the inn is functioning. The only public service affected would be sewer, and that usage would be minimal.

Tract 2 of this PZD will be maintained as agricultural timberland, and Tract 3, once a pasture, will be cleared except for major trees and planted with nut trees, probably pecans, so as to retain its former agricultural use. A side benefit of this would be to continue the wooded and rural character of this part of Markham Road. It should be noted that neither Tract 2 nor Tract 3 will be used as a football game parking lot.

The object of the PZD proposal is to preserve and restore a historic structure in Fayetteville and at the same time allow this beautiful, natural setting to continue to exist undisturbed in the heart of the city. In years to come it can be a unique and distinctive place to stay when visiting Northwest Arkansas, one that will create lasting memories of the natural beauty of this area.

Julian Archer
2115 West Markham Road
Fayetteville, AR 72701

Pratt Place Inn PZD Proposed Zoning Criteria 9-1-05
Albert Skiles Architect

	Planning Area 1	PA 2	PA 3
Permitted uses by unit	1,2,6,7,8,13,14	1,6	1,6
Conditional uses by unit	4, 29	4	4
Land Use Density	4 Dwelling Units	No DU	No DU
Dwelling Units			
1. Existing Oak Cabin	2248 W. Markham		
2. Existing (Tower) House	109 North Sang		
3. Proposed Innkeeper's House	2230 W. Markham		
4. Existing Archer Log House	2115 W. Markham		
Land Use Intensity	33,340 non-residential (6,300 Barn existing) (340 Two Stall Barn) (18,900 Proposed Inn) (6,000 proposed 4 cabins @ 1500 sq. ft each max) (1,800 Existing English Cottage 2148 Markham)	By CU	By CU

Bulk and Area Regulations

Lot Width Minimum	200'	N/A	N/A
Lot area minimum	1 acre	3.57 acres	4.18 acres
Land area per dwelling	1 acre	No DU	No DU
Setbacks	Front 50'	Side 10'	Rear 20'
Height	60'	50'	50'
Building area	25%	25%	25%
Landscaping	Will Conform to City Standards (All tracks)		
Parking			
Site Planning			
Architectural Design	By Jeremy – Neighborhood Standards		

Project Phasing Restrictions – Proposed Inn on PA 1 is planned to be started August 2006. Innkeeper's House and Four Rental Cabins on PA 1 planned be started within three years after hotel is built.

STATEMENT OF COMMITMENTS – PRATT PLACE PZD

Dedication

This PZD will include the construction of an 8" waterline, as well as an 8" sanitary sewer. Both of these utilities will be built to the City of Fayetteville standards, and upon completion will be dedicated to the city along with all necessary utility and access easements.

On or off site improvements

A majority of the utilities will be constructed on site. The small portion of the utilities which will be offsite will lie within street right-of-way, or in areas where there are existing easements. All utilities will be constructed at the same time as the Inn.

Natural Resources

Tree preservation is an integral part of this project. The main principle of the development is to maintain the atmosphere of rural Arkansas in the heart of Fayetteville. A large portion of the site will remain undeveloped, and care has been taken to plan roads, buildings and parking lots in areas where trees are the least abundant.

Project Phasing Restrictions

The initial phase will include the construction of the Inn, all utilities, parking lots, and associated access and egress. A future phase will consist of the construction of four rustic cabins on the property. This phase will be constructed when or if the owners deem it financially feasible.

Fire Protection

Fire protection will be provided in two ways. First, there will be a hydrant located near the Inn and innkeeper's residence. The Inn will also be served by an internal fire suppression system. These measures will be in place, tested, and functioning before the Inn will open its doors.

Other Commitments as Imposed by the City

To be determined.

Parks/Trails/Open Space Commitments

There are no parks or proposed trails within the limits of this PZD according to the Alternative Transportation and Trails master Plan.

Proposed Preliminary Building Elevations

Elevations will be submitted by the architect.

LAND USE TABLE

SYMBOL	LAND USE	DENSITY	UNITS	ACRES	%
SF	Single Family	1.50	3	2	0.03
MF	Multifamily	0	0	0	0
DP	Dedicated Parks	0	0	0	0
AG	Agricultural	0.39	3	7.75	0.11
Subtotal		0.62	6	9.75	0.13
C	Commercial	0	0	0	0
I	Industrial	0	0	0	0
O	Office	0	0	0	0
M.U.	Mixed Use	0.13	8	63.85	0.87
Subtotal		0.13	8	63.85	0.87

February 25, 2005

Dear Neighbors and Residents of the University Heights Neighborhood:

Thank you for taking the time to attend the meeting about the Pratt Place Inn project. It is important to us to maintain good communication with the members of UHNA.

The reason for this communication is, above all, to apologize to any of our neighbors who have been disturbed or inconvenienced by events held in our barn. With chagrin, we have just been apprised by Albert Skiles, the architect for the Pratt Place Inn—following his meeting with some of you on Sunday, February 20—of a parking problem on Sang related to gatherings at the barn. As the very people who asked the city to put up the “no parking” signs on Sang and Cross—and the “no littering” signs as well—we are disturbed to learn of this situation and would have welcomed being informed of it by any of you directly. Whether or not you take up your grievances pertaining to Pratt Place with the city, you can also expedite their being addressed by bringing them to us personally, or anonymously if you prefer. We have no desire to be anything but good neighbors, responsible land stewards, and civic-minded citizens. Please feel free to let us or our overseer, Jim Backerman (251-1302), know about any difficulties you may experience resulting from our actions or those of anyone associated with our property, and it will be taken care of expeditiously.

Most of you have never met us, but you have some familiarity with us as the custodians of Pratt Place—firstly, because we have resisted for the past 25 years all of the breathtaking offers we have received to purchase and develop the property. Instead, we have ensured that the land remains largely intact, looking beautiful, even though it doesn't come close to paying for its upkeep. Starting with the inheritance taxes and continuing with property taxes, insurance, maintenance and improvements, and the king's ransom in sweat we have expended on it, just hanging on to Pratt Place has been a wild ride. Yet, we have carved out the time and means to accomplish some of our own neighborhood beautification programs—i.e. burying nearly all the electrical and phone lines on our property, including a piece we once owned on Halsell; planting and maintaining rows of sycamore trees along Markham, Sang, and Osage Bend in Bois d'Arc for the public to enjoy; sculpting and smoothing the slopes down to the ditches on Markham and Sang, and so on. Because we divide our time between Fayetteville and Des Moines, we do not often get to enjoy the fruits of our labors ourselves.

As civic-minded, part-time residents of Fayetteville, we are pleased to be able to offer the University track teams and Fayetteville schools track teams our trails to train on. In addition, we have put the barn at the

disposal of the University's Development Office and the Alumni Association, the NW Arkansas Jazz Society, and the University Heights Neighborhood Assn. for its meetings and annual picnics (in the barn/pasture), at no cost to any of them. We first made this offer some time ago to the UHNA via the president at that time, much to that person's delight, and have been surprised that there was never any follow through. (Incidentally, even when it rains, cars can park safely in the pasture without risk of getting stuck.)

* * * * *

The observations below are in response to questions raised at last Sunday's UHNA meeting.

Some are disturbed about a wedding in our barn that was covered by *Weddings* magazine. When our friends the Fosters asked if their daughter could be married in the barn, we couldn't imagine turning them down. Likewise, one of the barn's building contractors when his daughter got married, as well as one of the carpenters when he committed matrimony, and a young couple who worked for us at Pratt Place.

None of these people would have wanted to upset the neighbors, any more than we, but despite their instructions to guests to park only in the pasture, and thinking they had done so, a parking problem apparently arose.

Other neighbors seem to believe that we built the barn as a "party barn" because there are bathrooms, kitchen, and chandeliers. We understand why one would think that, however mistakenly. In fact, it was built to be horse barn with costly plumbing for automated, all-seasons horse waterers; stall drainage; haylofts with hinged railings for getting hay upstairs; tack room; Dutch stall doors letting onto the loafing shed, etc. The chandeliers were inspired by the Spanish Riding School in Vienna, Austria, and those, along with the amenities, were included in the barn layout for our own social activities. Given the opportunity to build a structure from scratch, it would be shortsighted not to include these conveniences.

There would be horses there now but the fence builders finished the fence around the pasture too late to bring the horses in before our return to Des Moines last September. Happily, we will at last be able to grace the pastures with horses this year, and perhaps coax our grandchildren away from their parents on a regular basis with such enticement, though their parents enjoy horseback riding too much to be left behind very often.

Someone asked about the distance from the parking place to the inn/restaurant. I don't know how this impacts the neighborhood, but obviously there would be valet parking.

Another neighbor invoked Julian's mother Evangeline's name as one who would oppose "the extension of Sang." That is, of course, a different subject, but as for the inn, she suggested to us years ago that one way to save Pratt Place from eventual development was to turn the Pratt House into an inn, and she supported the University's idea in the late 1970s of turning it into a guest house when the latter was part owner. When her sister Joy Markham ran a co-ed summer camp at Pratt Place in the 1920s, 30s, and 40s, it was heartily endorsed by Evangeline and everyone else in the family as a way, among other things, of keeping the property intact and preserving its integrity.

We specifically want to apologize to the Scroggs and the Wades who indicated their annoyance with sound coming from the barn. Since neither they nor anyone else has complained about this, either when an event was in progress or afterward, we assumed that our having insulated the entire barn had taken care of any potential sound problems. We are particularly sensitive to this because we like to play opera full blast when we are working in the barn day or night, and we anticipate having various kinds of musical groups when we hold dinner parties in the barn. Therefore, we want to assure the neighborhood that we will have the sound from the barn tested and any problems addressed accordingly. In the summer we leave the barn doors open while we're working there, with opera or Public Radio blasting away, so please don't hesitate to call and leave a message on our answering machine if the sound is reaching you, as we truly don't want to be an annoyance to anyone.

We hope our track record of executing quality and aesthetically pleasing projects in the past will reassure the neighborhood with respect to future projects. We encourage your questions and concerns about the Pratt Place Inn project or any other ways in which Pratt Place impacts the neighborhood.

2115 Markham Road
Fayetteville, AR 72701
(479) 582-5443 - for almost all academic breaks and vacations.
402-29th Street
Des Moines, IA 50312
(515) 243-4089 - when classes are underway.

Sincerely,

Julian & Jane Archer



Southeast



South

Southwest

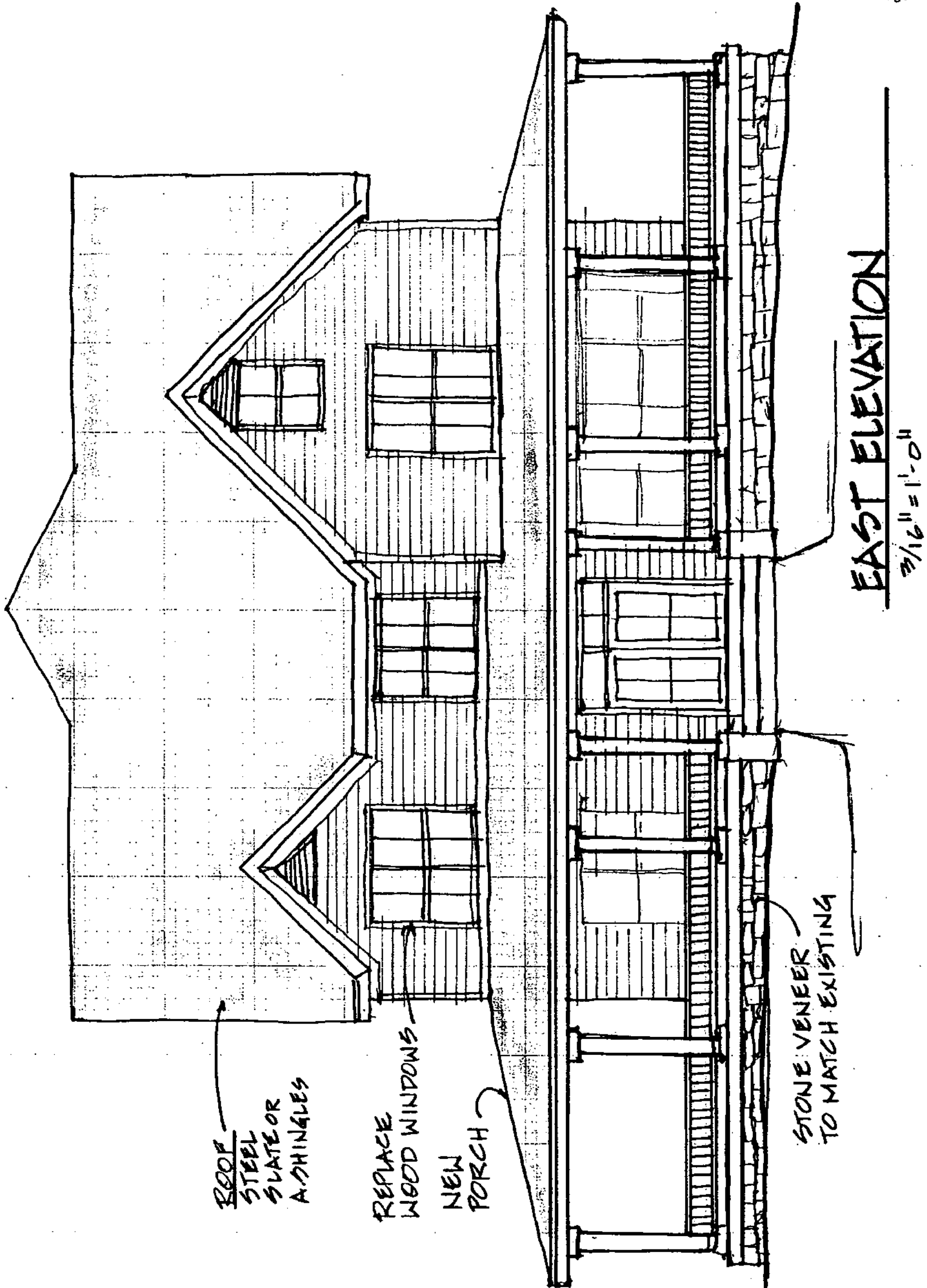


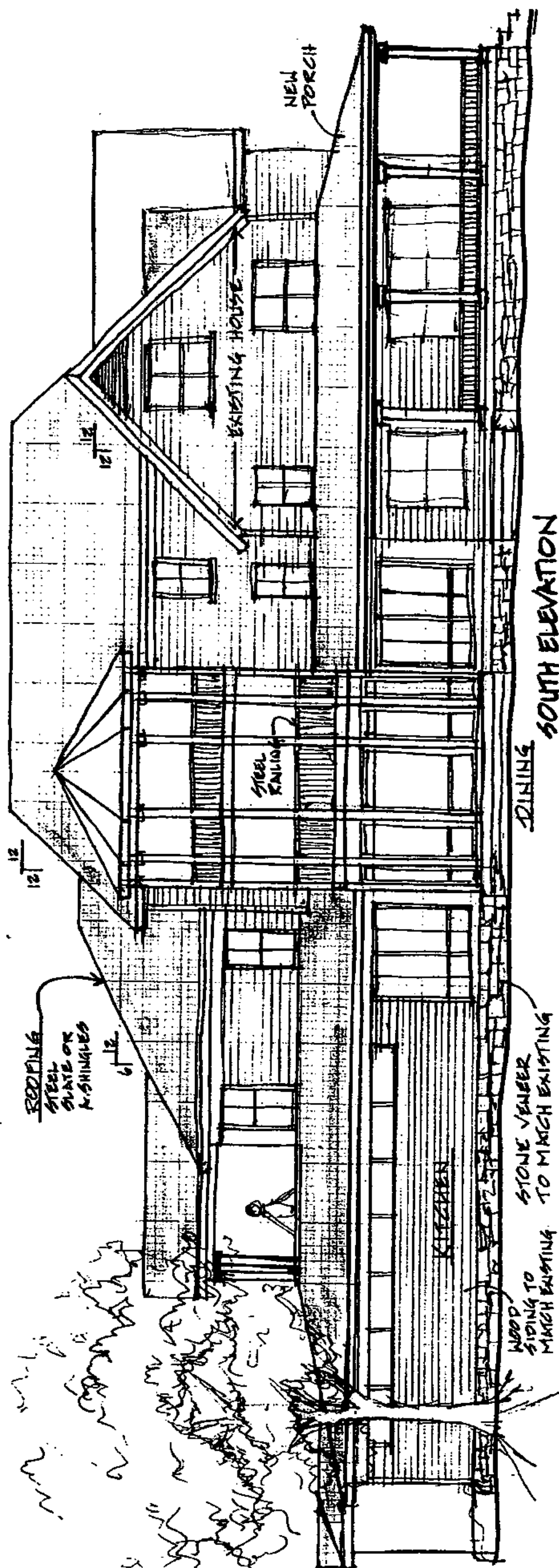


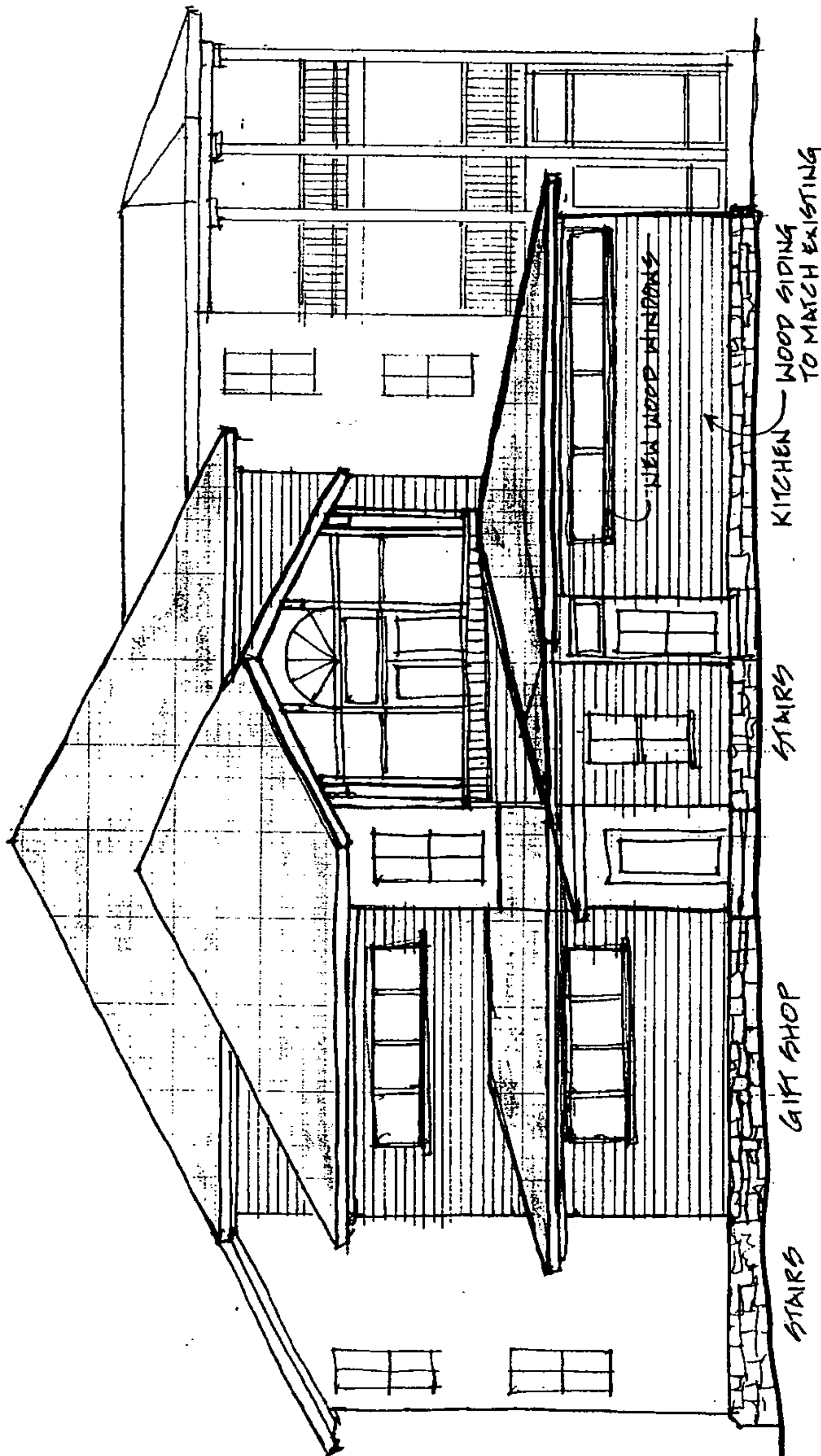
Northwest



Northeast

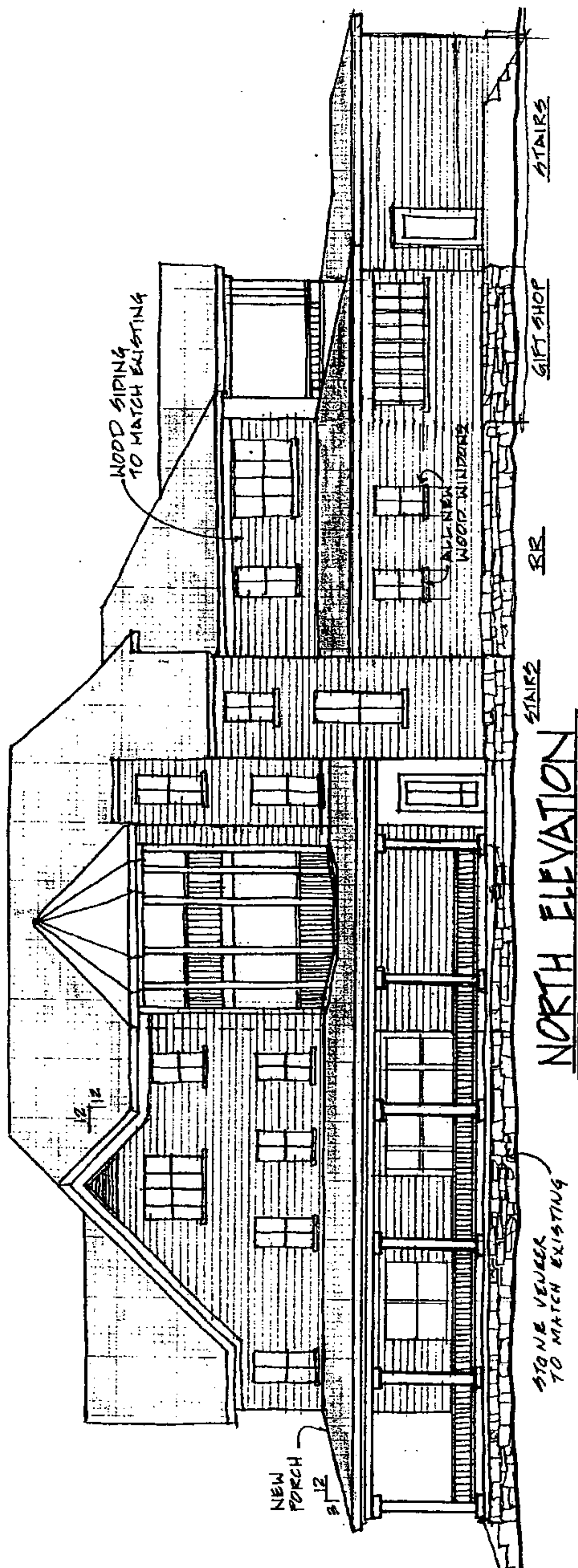


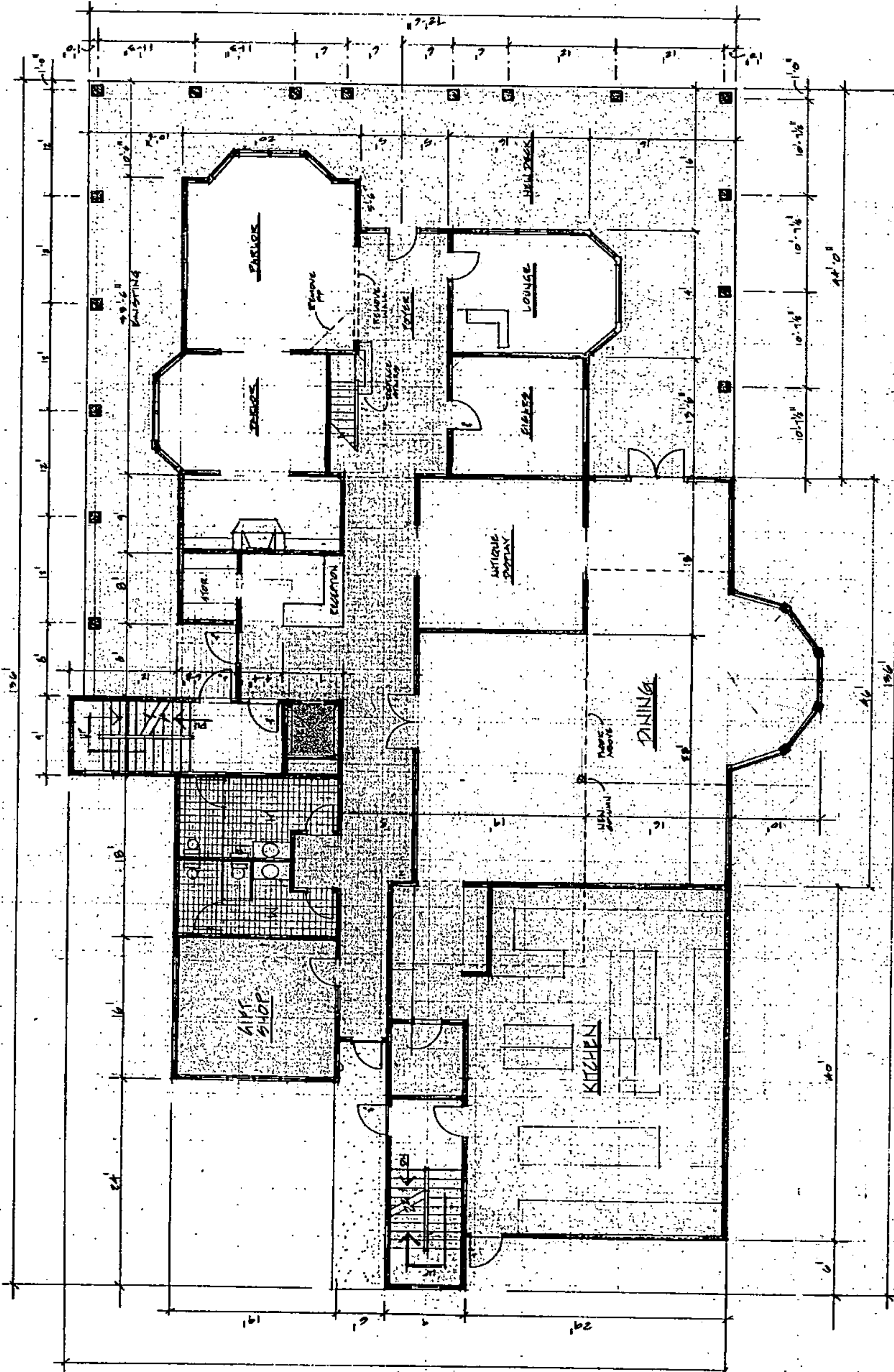




WEST ELEVATION

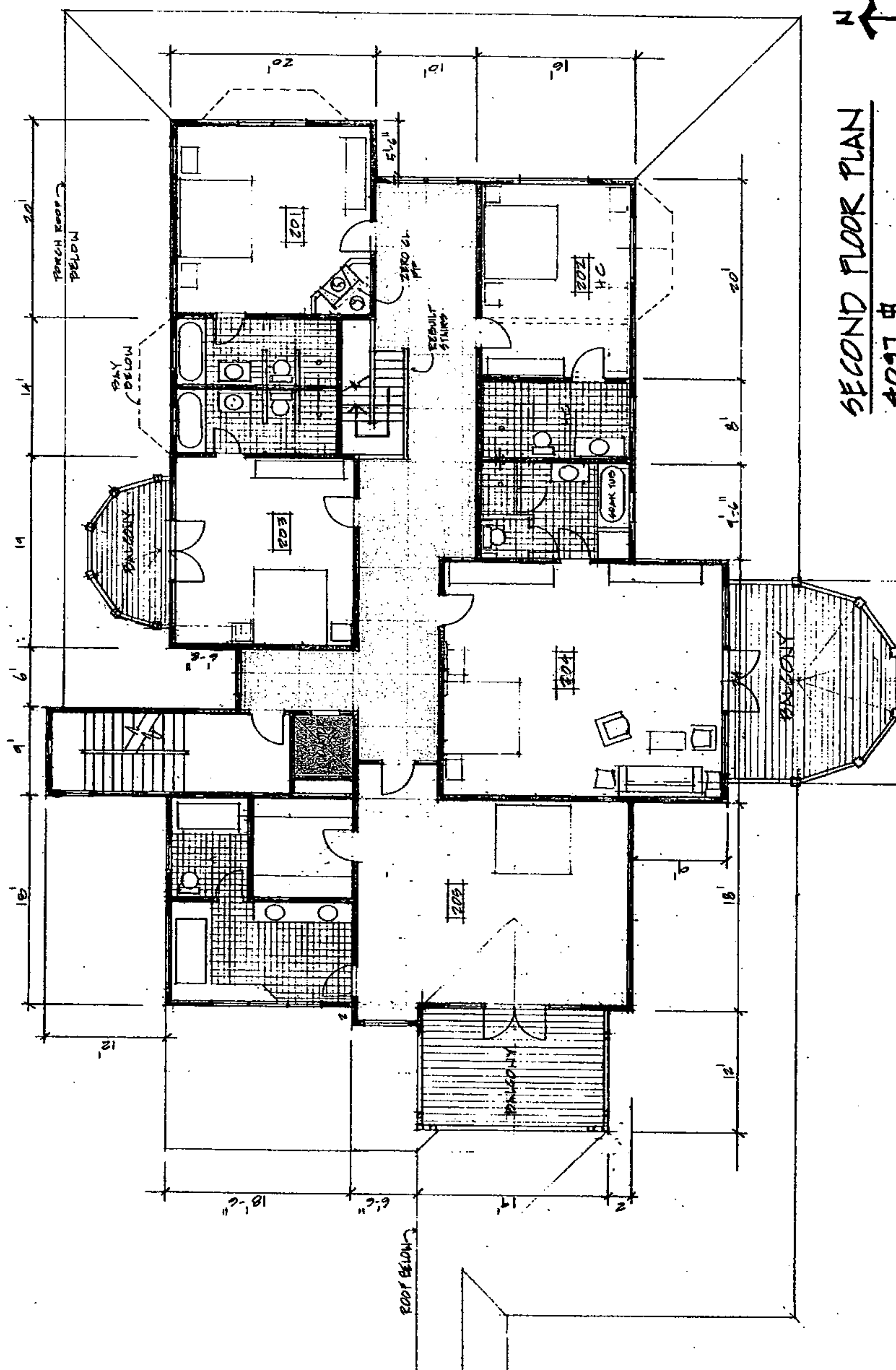
11'-0" x 1'-0"

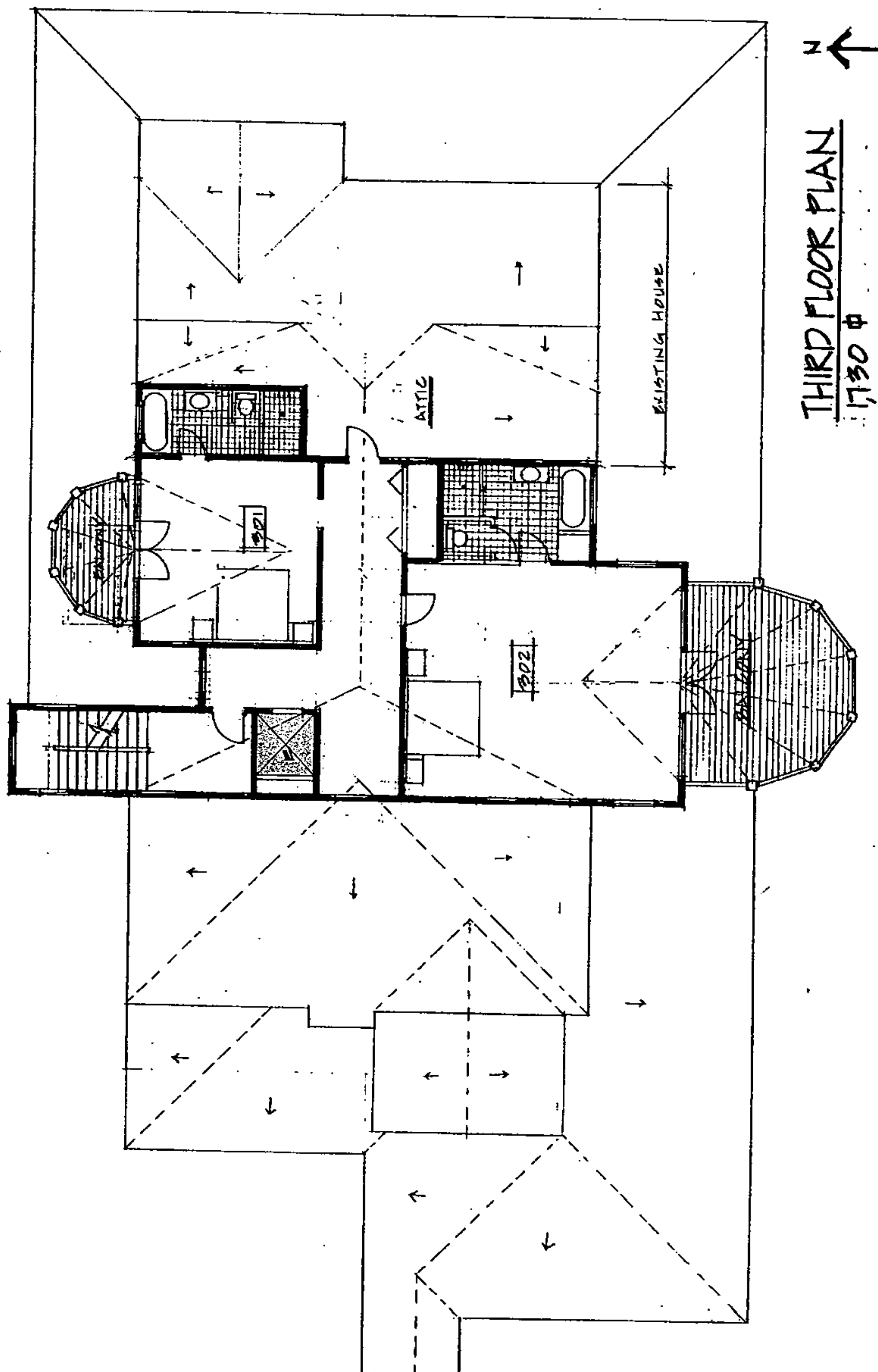




FIRST FLOOR PLAN ↑
6569 # BASEMENT-6549 #

SECOND FLOOR PLAN
4097 #





THIRD FLOOR PLAN
1730 #



THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

To: Mayor Dan Coody, City Council
From: Jeremy Pate, Director of Current Planning ^{JP}
Date: September 28, 2005
Subject: Pratt Place Master Development Plan - Planned Zoning District

Attached you will find information requested from City Council members for this proposal, as well as a request from the applicant to modify one component of the Planned Zoning District request:

- 1) A traffic generation summary has been provided indicating average 24-hour weekday and weekend vehicle trips (volume) based on the proposed zoning (C-PZD) and permitted uses and the existing zoning (RSF-4, R-A) and permitted uses. The proposal significantly reduces the potential volume of traffic from that of the permitted residential density and that of the proposed uses.
- 2) The Exhibit "A" legal description for this rezoning request has been revised and accepted by the Fayetteville GIS division, and is included for your information.
- 3) The applicant requests a 15-year time frame in which to build the maximum of four log cabins to be used in the conjunction with the Pratt Place Inn. The conditions of approval drafted by staff (Condition #15) currently states that the cabins and the Innkeeper house are to begin construction within three years of the Large Scale Development approval by the Planning Commission. This request would revise condition #15 to allow for a period of 15 years for the four cabins to be constructed.
- 4) Staff has contacted the applicant regarding placing Planning Areas 2 and 3 and a portion of Planning Area 1 into a Conservation Easement, to be administered by a third party land trust, at the request of a City Council member. Mr. Archer, the applicant, has received my request and has stated that he will be contacting me shortly. I will pass this information along to the Mayor and City Council as it becomes available.

Please let me know if you have any questions.

left on the second reading 10/04/05

Pratt Place
Summary of Multi-Use Trip Generation
Average Weekday Driveway Volumes
September 27, 2005

Land Use	Size	24 Hour	AM Pk Hour		PM Pk Hour	
		Two-Way Volume	Enter	Exit	Enter	Exit
Single Family Detached Housing						
	4 Dwelling Units	38	1	2	3	1
Hotel	12 Rooms	99	4	3	4	3
Quality Restaurant	60 Seats	172	0	0	10	5
Recreation Community Center						
	6 Th.Gr.Sq.Ft.	137	5	3	4	7
Total		<u>446</u>	10	8	21	16

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

TRIP GENERATION BY MICROTRANS

Pratt Place
Summary of Multi-Use Trip Generation
Saturday and Sunday Driveway Volumes
September 27, 2005

Land Use	Size	Saturday			Sunday		
		24 Hr	Peak Hour		24 Hr	Peak Hour	
		2-Way Vol.	Enter	Exit	2-Way Vol.	Enter	Exit
Single Family Detached Housing							
	4 Dwelling Units	40	2	2	35	2	2
Hotel	12 Rooms	98	5	4	71	3	4
Quality Restaurant	60 Seats	169	11	8	129	9	5
Recreation Community Center							
	6 Th.Gr.Sq.Ft.	55	4	4	82	5	4
Total		<u>362</u>	22	18	317	19	15

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

TRIP GENERATION BY MICROTRANS

Pratt Place
Summary of Average Vehicle Trip Generation
For 207 Dwelling Units of Single Family Detached Housing
September 27, 2005

	24 Hour Two-Way Volume	7-9 AM Pk Hour Enter	Exit	4-6 PM Pk Hour Enter	Exit
Average Weekday	<u>1981</u>	39	116	135	75

	24 hour Two-Way Volume	Peak Hour Enter	Exit
Saturday	<u>2089</u>	106	89
Sunday	<u>1817</u>	95	83

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

TRIP GENERATION BY MICROTRANS

EXHIBIT "A"
C-PZD 05-1670

TRACT 1:

PART OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID NORTHWEST QUARTER (SW ¼ OF THE NW ¼), THENCE SOUTH 88° 58' 47" WEST ALONG THE SOUTH LINE OF SAID SW ¼ OF THE NW ¼ SOUTH 330.00 FEET TO THE POINT OF BEGINNING AND RUN THENCE ALONG SAID SOUTH LINE SOUTH 88° 58' 47" WEST 986.40 FEET TO THE SOUTHWEST CORNER OF SAID SW ¼ OF THE NW ¼; THENCE NORTH 00° 03' 33" EAST ALONG THE WEST LINE OF SAID SW ¼ OF THE NW ¼ 1321.91 FEET TO THE NORTHWEST CORNER OF SAID SW ¼ OF THE NW ¼; THENCE NORTH 00° 03' 33" EAST ALONG THE WEST LINE OF THE NW ¼ OF THE NW ¼ OF SAID SECTION 17, 660.00 FEET; THENCE NORTH 88° 58' 47" EAST 660.00 FEET; THENCE SOUTH 00° 03' 33" WEST 132.00 FEET; THENCE NORTH 88° 58' 47" EAST 660.00 FEET TO THE EAST LINE OF SAID NW ¼ OF THE NW ¼; THENCE NORTH 00° 03' 33" EAST ALONG SAID EAST LINE 112.00 FEET; THENCE NORTH 88° 58' 47" EAST 480.00 FEET; THENCE SOUTH 00° 03' 33" WEST 640.00 FEET TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE NW ¼ (NE ¼ OF THE NW ¼) OF SAID SECTION 17; THENCE SOUTH 88° 58' 47" WEST ALONG SAID SOUTH LINE 480.00 FEET TO THE SOUTHWEST CORNER OF SAID NE ¼ OF THE NW ¼; THENCE SOUTH 00° 03' 33" WEST ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NW ¼ (SE ¼ OF THE NW ¼) OF SAID SECTION 17, 20.00 FEET; THENCE NORTH 88° 58' 47" EAST 400.00 FEET; THENCE SOUTH 62° 22' 44" WEST 222.40 FEET; THENCE SOUTH 40° 35' 44" WEST 113.90 FEET; THENCE SOUTH 58° 40' 00" WEST 213.70 FEET; THENCE SOUTH 22° 33' 00" WEST 247.04 FEET; THENCE SOUTH 88° 58' 47" WEST 27.75 FEET TO THE WEST LINE OF SAID SE ¼ OF THE NW ¼; THENCE SOUTH 00° 03' 33" WEST ALONG SAID WEST LINE 16.96 FEET; THENCE SOUTH 88° 58' 47" WEST 266.80 FEET; THENCE NORTH 00° 03' 33" EAST 115.00 FEET; THENCE SOUTH 88° 58' 47" WEST 270.00; THENCE SOUTH 00° 03' 33" WEST 270.00 FEET; THENCE NORTH 88° 58' 47" EAST 95.00 FEET; THENCE SOUTH 00° 03' 33" WEST 100.00 FEET; THENCE NORTH 88° 58' 47" EAST 100.00 FEET; THENCE NORTH 00° 03' 33" EAST 100.00 FEET; THENCE NORTH 88° 58' 47" EAST 75.00 FEET; THENCE NORTH 00° 03' 33" EAST 105.00 FEET; THENCE NORTH 88° 58' 47" EAST 266.80 FEET TO THE EAST LINE OF SAID SW ¼ OF THE NW ¼; THENCE SOUTH 00° 03' 33" WEST ALONG SAID EAST LINE 265.00 FEET; THENCE SOUTH 88° 58' 47" WEST 330.00 FEET; THENCE SOUTH 00° 03' 33" WEST 329.00 FEET TO THE POINT OF BEGINNING, CONTAINING 63.86 ACRES, MORE OR LESS.

TRACT 2:

PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (SE ¼ OF THE NW ¼) OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SE ¼ OF THE NW ¼; THENCE NORTH 00° 03' 33" EAST ALONG THE WEST LINE OF SAID SE ¼ OF THE NW ¼ 660.00 FEET; THENCE NORTH 88° 58' 47" EAST 317.00 FEET TO THE WEST LINE OF PRATT WOODS SUBDIVISION AS SHOWN IN PLAT RECORD 12-48 OF THE RECORDS OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY; THENCE ALONG SAID WEST LINE OF PRATT WOODS SUBDIVISION NORTH 00° 13' 25" EAST 305.20 FEET TO THE POINT OF BEGINNING AND RUN THENCE NORTH 00° 13' 25" EAST 34.10 FEET TO A ROAD, THENCE WITH THE EAST LINE OF SAID ROAD NORTH 38° 34' 00" EAST 113.9 FEET; THENCE NORTH 4° 21' 00" EAST 222.40 FEET TO A FENCE ALONG THE SOUTH SIDE OF MARKHAM ROAD; THENCE NORTH 88° 58' 47" EAST 913.00 FEET TO THE EAST LINE OF SAID SE ¼ OF THE NW ¼; THENCE ALONG SAID EAST LINE SOUTH 00° 47' 51" WEST 256.21 FEET TO THE NORTH LINE OF PRATT WOODS SUBDIVISION, THENCE ALONG SAID NORTH LINE THE FOLLOWING SIXTEEN COURSES: THENCE NORTH 41° 17' 57" WEST 76.78 FEET; THENCE NORTH 59° 38' 40" WEST 64.85 FEET; THENCE NORTH 80° 31' 33" WEST 77.14 FEET; THENCE NORTH 51° 01' 58" WEST 34.56 FEET; THENCE SOUTH 84° 18' 57" WEST 48.85 FEET; THENCE SOUTH 62° 23' 46" WEST 82.89 FEET; THENCE SOUTH 28° 24' 54" WEST 56.24 FEET; THENCE NORTH 84° 38' 35" WEST 64.07 FEET; THENCE SOUTH 85° 26' 22" WEST 110.16 FEET; THENCE NORTH 72° 48' 32" WEST 57.76 FEET; THENCE SOUTH 68° 24' 25" WEST 110.51 FEET; THENCE SOUTH 82° 35' 13" WEST 72.06 FEET; THENCE SOUTH 72° 12' 26" WEST 67.51 FEET; THENCE SOUTH 27° 34' 06" WEST 54.77 FEET; THENCE SOUTH 85° 05' 37" WEST 70.39 FEET; THENCE SOUTH 70° 56' 40" WEST 80.54 FEET TO THE POINT OF BEGINNING, CONTAINING 4.57 ACRES, MORE OR LESS.

TRACT 3

PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NE ¼ OF THE NW ¼) OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID NE ¼ OF THE NW ¼, THENCE NORTH 320.00 FEET; THENCE WEST 499.65 FEET TO THE EAST RIGHT OF WAY LINE OF CROSS AVENUE; THENCE SOUTH ALONG SAID EAST RIGHT OF WAY LINE 320.00 FEET; THENCE EAST 499.65 FEET TO THE POINT OF BEGINNING, CONTAINING 3.67 ACRES, MORE OR LESS.



THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

To: Mayor Dan Coody, City Council
From: Jeremy Pate, Director of Current Planning *J*
Date: September 30, 2005
Subject: Pratt Place Master Development Plan - Planned Zoning District

The attached correspondence is from Mr. Julian Archer, owner and applicant for the Pratt Place Inn Planned Zoning District request, in response to recent questions and concerns.

Please let me know if you have any questions.

September 27, 2005

To the Fayetteville City Council;

I have been asked by Jeremy Pate to respond to an inquiry by some of the members of the city council about considering a conservation easement in perpetuity for tracts 2 and 3 of the Pratt Place Inn PZD request.

We understand the good intentions in making this request, but in this case it is unwarranted; let me explain why. It is essentially an attempt by a couple of people in the University Heights Neighborhood area, as reflected in certain neighborhood emails, to write my will as it pertains to this property, and to write it so that it benefits their interest, but not necessarily mine or that of my heirs. If my wife and I had been guided solely by narrow economic self-interest when I inherited this property twenty-five years ago we would have sold it immediately and now be cruising the Caribbean on our yacht or playing golf in Palm Springs.

The city of Fayetteville could not have asked for better stewards of Sassafras Hill than the Pratt/Waterman/Archer family. For 105 years the property has remained essentially unchanged. It is unreasonable for anyone to ask us to put any part of our property into a conservation easement, especially as an implied condition for rezoning our property as a PZD. That is unrelated to the inn project and denigrating to our and the family's conscientious preservation of the property since 1900. Apart from a conservation easement, the greatest security for the property would be from a low impact, revenue-producing use such as a lovely inn-restaurant and the protection provided by the conditions we are imposing upon ourselves in our PZD proposal. Otherwise, the future of Pratt Place is perilously uncertain.

Sincerely,


Julian Archer

September 27, 2005

To the members of the Fayetteville City Council;

This letter addresses the alleged sound problem concerning our barn, because, astonishingly, this non-issue has grown phantom legs due to two or three persons.

There is no sound coming from the barn--a fact corroborated by the following:

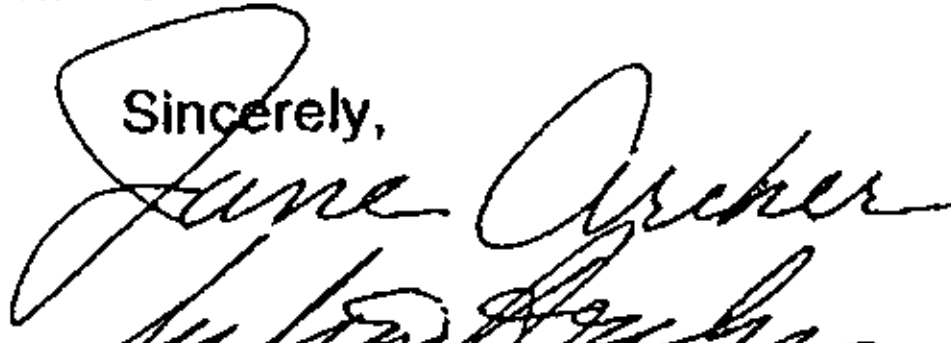
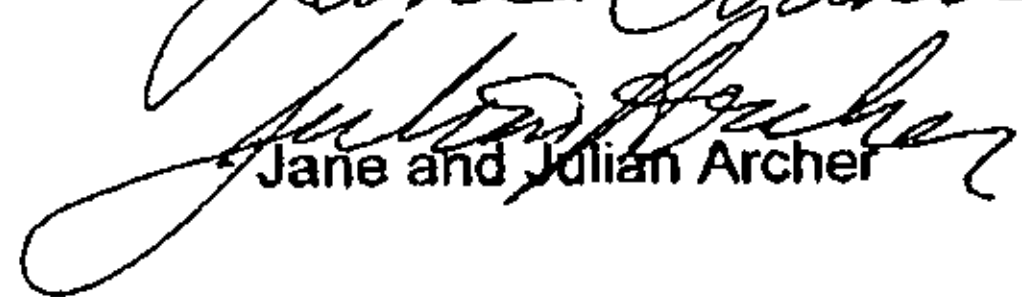
1. The walls and the roof are heavily insulated.
2. Neither we, sitting on the porch of our log cabin nearby, nor the people living in the Pratt House, even closer to the barn, have ever heard sounds coming from the barn.
3. Every time there has been music in the barn since the Wades on Sang and the Scroggs on Halsell complained about sound from the barn at the February 20 University Heights Neighborhood meeting, we have sent people to Halsell, Cross, and Sang to monitor the sound throughout the evening and none was detected.
4. No one has ever called us or our overseers to report or complain of sound from the barn, even though we have invited feedback on this, even if anonymously. Please see the attached email of February 25 to the neighborhood in which this question is addressed and contact phone numbers are provided.
5. Every neighbor we have asked about it personally has replied that they have never heard sound from the barn, though they do hear the raceway, traffic on I 540, Dixon Street, Razorback ballgames, and the marching band.

Regarding increased traffic on Markham and parking on Sang relating to the barn, neighbors we have asked about it have said they have not been bothered by any increased traffic on Markham and don't recall parking on Sang associated with our property, though we have been apprised by our overseer of traffic backing up due to slow valet parking on one occasion, a situation that has been corrected.

There was, however, a gathering at Lynn Wade's house on Sang last spring at which numerous cars were parked on the street. It didn't bother us at all, but it is worth noting since the Wades are our most vociferous critics when it comes to alleged sound and car-related issues associated with the barn. A close neighbor of theirs plays the bagpipes which can be heard far

and wide and which we thoroughly enjoy, but it begs the question whether the Wades apply a different standard to him than to us, especially since there is no sound from the focus of their complaints—the barn.

Sincerely,



Jane and Julian Archer

February 25, 2005

Dear Neighbors and Residents of the University Heights Neighborhood:

Thank you for taking the time to attend the meeting about the Pratt Place Inn project. It is important to us to maintain good communication with the members of UHNA.

The reason for this communication is, above all, to apologize to any of our neighbors who have been disturbed or inconvenienced by events held in our barn. With chagrin, we have just been apprised by Albert Skiles, the architect for the Pratt Place Inn—following his meeting with some of you on Sunday, February 20—of a parking problem on Sang related to gatherings at the barn. As the very people who asked the city to put up the “no parking” signs on Sang and Cross—and the “no littering” signs as well—we are disturbed to learn of this situation and would have welcomed being informed of it by any of you directly. Whether or not you take up your grievances pertaining to Pratt Place with the city, you can also expedite their being addressed by bringing them to us personally, or anonymously if you prefer. We have no desire to be anything but good neighbors, responsible land stewards, and civic-minded citizens. Please feel free to let us or our overseer, Jim Backerman (251-1302), know about any difficulties you may experience resulting from our actions or those of anyone associated with our property, and it will be taken care of expeditiously.

Most of you have never met us, but you have some familiarity with us as the custodians of Pratt Place—firstly, because we have resisted for the past 25 years all of the breathtaking offers we have received to purchase and develop the property. Instead, we have ensured that the land remains largely intact, looking beautiful, even though it doesn't come close to paying for its upkeep. Starting with the inheritance taxes and continuing with property taxes, insurance, maintenance and improvements, and the king's ransom in sweat we have expended on it, just hanging on to Pratt Place has been a wild ride. Yet, we have carved out the time and means to accomplish some of our own neighborhood beautification programs—i.e. burying nearly all the electrical and phone lines on our property, including a piece we once owned on Halsell; planting and maintaining rows of sycamore trees along Markham, Sang, and Osage Bend in Bois d'Arc for the public to enjoy; sculpting and smoothing the slopes down to the ditches on Markham and Sang, and so on. Because we divide our time between Fayetteville and Des Moines, we do not often get to enjoy the fruits of our labors ourselves.

As civic-minded, part-time residents of Fayetteville, we are pleased to be able to offer the University track teams and Fayetteville schools track teams our trails to train on. In addition, we have put the barn at the

disposal of the University's Development Office and the Alumni Association, the NW Arkansas Jazz Society, and the University Heights Neighborhood Assn. for its meetings and annual picnics (in the barn/pasture), at no cost to any of them. We first made this offer some time ago to the UHNA via the president at that time, much to that person's delight, and have been surprised that there was never any follow through. (Incidentally, even when it rains, cars can park safely in the pasture without risk of getting stuck.)

* * * * *

The observations below are in response to questions raised at last Sunday's UHNA meeting.

Some are disturbed about a wedding in our barn that was covered by *Weddings* magazine. When our friends the Fosters asked if their daughter could be married in the barn, we couldn't imagine turning them down. Likewise, one of the barn's building contractors when his daughter got married, as well as one of the carpenters when he committed matrimony, and a young couple who worked for us at Pratt Place.

None of these people would have wanted to upset the neighbors, any more than we, but despite their instructions to guests to park only in the pasture, and thinking they had done so, a parking problem apparently arose.

Other neighbors seem to believe that we built the barn as a "party barn" because there are bathrooms, kitchen, and chandeliers. We understand why one would think that, however mistakenly. In fact, it was built to be horse barn with costly plumbing for automated, all-seasons horse waterers; stall drainage; haylofts with hinged railings for getting hay upstairs; tack room; Dutch stall doors letting onto the loafing shed, etc. The chandeliers were inspired by the Spanish Riding School in Vienna, Austria, and those, along with the amenities, were included in the barn layout for our own social activities. Given the opportunity to build a structure from scratch, it would be shortsighted not to include these conveniences.

There would be horses there now but the fence builders finished the fence around the pasture too late to bring the horses in before our return to Des Moines last September. Happily, we will at last be able to grace the pastures with horses this year, and perhaps coax our grandchildren away from their parents on a regular basis with such enticement, though their parents enjoy horseback riding too much to be left behind very often.

Someone asked about the distance from the parking place to the inn/restaurant. I don't know how this impacts the neighborhood, but obviously there would be valet parking.

Another neighbor invoked Julian's mother Evangeline's name as one who would oppose "the extension of Sang." That is, of course, a different subject, but as for the inn, she suggested to us years ago that one way to save Pratt Place from eventual development was to turn the Pratt House into an inn, and she supported the University's idea in the late 1970s of turning it into a guest house when the latter was part owner. When her sister Joy Markham ran a co-ed summer camp at Pratt Place in the 1920s, 30s, and 40s, it was heartily endorsed by Evangeline and everyone else in the family as a way, among other things, of keeping the property intact and preserving its integrity.

We specifically want to apologize to the Scroggs and the Wades who indicated their annoyance with sound coming from the barn. Since neither they nor anyone else has complained about this, either when an event was in progress or afterward, we assumed that our having insulated the entire barn had taken care of any potential sound problems. We are particularly sensitive to this because we like to play opera full blast when we are working in the barn day or night, and we anticipate having various kinds of musical groups when we hold dinner parties in the barn. Therefore, we want to assure the neighborhood that we will have the sound from the barn tested and any problems addressed accordingly. In the summer we leave the barn doors open while we're working there, with opera or Public Radio blasting away, so please don't hesitate to call and leave a message on our answering machine if the sound is reaching you, as we truly don't want to be an annoyance to anyone.

We hope our track record of executing quality and aesthetically pleasing projects in the past will reassure the neighborhood with respect to future projects. We encourage your questions and concerns about the Pratt Place Inn project or any other ways in which Pratt Place impacts the neighborhood.

2115 Markham Road
Fayetteville, AR 72701
(479) 582-5443 - for almost all academic breaks and vacations.
402-29th Street
Des Moines, IA 50312
(515) 243-4089 - when classes are underway.

Sincerely,

Julian & Jane Archer

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

B.1
C-PZD 05-1670
(Pratt Place Inn)
Page 91 of 96

20-Sep-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

C-PZD 05-1670: (Pratt Place Inn, 481): Submitted by Julian & Jane Archer for property located at the west end of Markham Road. The property is zoned RSF-4, Residential Single Family, 4 units per acre and R-A, Residential Agricultural, and contains approximately 72.1 acres. The request is to approve a Master Development Plan - Planned Zoning District for a commercial hotel/Inn, restaurant, cabins, agricultural and residential uses.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

9/2/05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney

Received in City Clerk's Office



Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

Comments:

CHAMPIONS KIDS

Fueling the Flame of Hope

Dear Members of the City Council,

I am writing this letter in support of Jane and Julian Archer. I have learned that some community members have become concerned about the noise level associated with some parties at the Archer estate. I would like to dispel those rumors.

I have enjoyed the privilege of running on Markham Hill for over 20 years. I am consistently one of the last runners to exit Markham hill every evening as I take one last circle through the woods. Time and time again, I have seen well over 200 cars parked in front of the barn. As I circle the barn and finish my evening run, I have NEVER heard any noise coming from any of the scheduled events. I have been consistently amazed at how quiet the hill remains while so many people gather inside. My runs are an hour and half in time, and during that hour and a half, I simply have never heard an iota of noise from the Markham barn.

I would also like to recognize the Archer's incredible kindness and generosity. For over 20 years, they have graciously allowed me to run on their property. They have always greeted me with gracious hugs, a hearty welcome and they consistently have time for neighborly conversations. During these conversations, I am privileged to learn a great deal about their heart, their passions, their kindness and their commitments to make this world a better place for others.

I have all but lived on the hill as I have enjoyed my evening runs for well over 20 years. During this time, I have been blessed to get to know the Archers well. The Archers have a deep and abiding love for their natural surroundings. They have a deep and abiding love for peace, quiet and all of the natural life that lives and thrives on Markham Hill. Regarding any future projects they may pursue, I am fully confident that the Archers will only make decisions that maintain the quiet, peace and integrity of Markham Hill.

Thank you for allowing me to share these strongly felt commitments about the Archers and their interests in Markham Hill. Your favorable consideration for their proposals is appreciated.

Sincerely,



Adelaide Schaeffer

Executive Director: Champions for Kids



PRATT PLACE INN
(FOR FINAL AGENDA)

Add to Final
Agenda 10/18/05
B.2.

October 10, 2005

To the mayor and members of the Fayetteville City Council:

Since some of you may not have visited Sassafras Hill/Pratt Place and others may now want to revisit it, we would welcome the opportunity to show you around the property, the Pratt house, the barn, and the other structures we are asking to have rezoned in our Pratt Place Inn PZD request. We will be in Fayetteville October 14-17 during Drake University's fall break, so if you wish to visit, please call us at (479) 582-5443 to arrange a time. If you call before the 13th, we can be reached in Des Moines at (515) 243-4089.

Should you come on Sunday afternoon we can introduce you to our new Haflinger horses which are being delivered from Missouri after three months of training for both riding and pulling as a team. The person from whom we have bought them is also bringing his wagon to demonstrate their prowess as a team and we would be pleased to give you a spin around the pasture. When we are able to locate more of this relatively rare Austrian breed of the age, caliber, and training we are looking for, they too will make their home in the pastures and the barn that was built for them.

Sincerely,



Jane and Julian Archer

October 10, 2005

To the mayor and members of the Fayetteville City Council;

The information below is not really pertinent to our Pratt Place Inn PZD request, but since people speaking at the two previous city council meetings raised these issues, among others, we would like to dispel some of the myths.

1. The three cabins in the woods: These are left over from Joy Pratt Markham's Hilltop Camp in the 1920s and 1930s and are structures that she started renting out in the 1950s and continued renting until her death in 1976. We were going to tear them down 26 years ago, but the renters begged us to leave them, and ever since then we have had a waiting list of "back to nature" types who love the secluded, natural environment. A practicing attorney lived in one for eleven years and a schoolteacher for several years, as well as a writer and a businesswoman who rented a cabin respectively as a retreat, even though they owned houses in town. They are not visible without walking back in the woods expressly to visit a resident or to look at the cabins. Indeed, they have not diminished the quality of life for anyone, and no one is even aware of their existence except those who live there or are trespassing. The comments made about them are nothing more than gratuitous harassment, but anyone who has a burning desire to see something removed that has had no negative impact of any kind on the neighborhood can take heart in the fact that these cabins will be torn down before the inn opens. Two other structures also will be torn down—the houses at 2154 and 2222 Evangeline Lane.

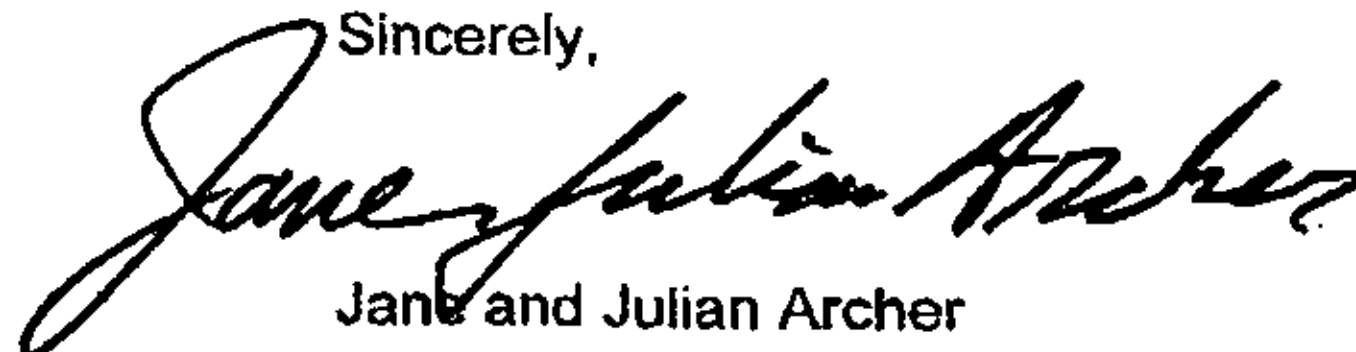
2. Tree removal: If we had wanted to, we could have clear-cut Sassafras Hill long ago. Instead, for the past 26 years we have employed wise forestry management practices by selectively removing unhealthy or junk trees to give quality trees more growing room and light. Our most recent clearing was beside a pasture along Sang Street, and not a single quality tree was removed. It is to be a pasture of mixed shade and grass. Moreover, both in developing Bois d'Arc and in getting utilities to the new barn, we spent an extravagant amount of money using a directional borer to get utility lines under trees so as not to harm them, rather than destroying trees and then trenching to lay down lines, a far less costly method.

In addition, we have planted many trees of various species all over the property and lined Markham and Sang with rows of regularly spaced sycamores. We did the same in our Bois d'Arc subdivision, though there was no city requirement to do so. In short, though it may appear immodest to say so, we have done more to beautify and enhance the neighborhood than anyone else. It is time consuming and costly, albeit satisfying, to improve property as we have, and so cheap and easy to verbally assault our efforts and us personally, for motives beyond our comprehension. It seems no good deed goes unpunished.

3. The alleged promise never to develop the Hill: The man who claimed that when he bought 2 1/2 acres of property from us, we gave him a letter stating that we would never develop the Hill was making it up out of whole cloth. Unless, given that we heard all of this second hand, we may have misunderstood some things. In any case, we did not sell him this parcel which he evidently purchased from the couple to whom we sold it in 2002, and we certainly did not give him a letter of any kind. We have never met him or heard his name, and we have no idea who he is or where he's coming from. Furthermore, his concerns (and those of Lynn Wade's also) that the PZD allows "commercial development" on the land adjacent to his are unfounded because our PZD proposal leaves that land just as it is, -- in its natural state.

4. A bit of historical Fayetteville trivia: The name of the hill is not Markham Hill, which derived in the popular mind from Markham Road. Its old, true folk name is Sassafras Hill (aptly named for all of the sassafras trees on the property). Its original name, going way back, was Archias Mountain after the Archias family that owned it.

Sincerely,

A handwritten signature in cursive script that reads "Jane and Julian Archer". The signature is written in dark ink and is positioned above the printed name.

Jane and Julian Archer

To the City Council, City of Fayetteville, Arkansas, October 4, 2005

STATEMENT IN FAVOR OF REZONING FOR PRATT PLACE INN

I am Kenneth Smith. I have lived in Fayetteville since 1974. Before that, for 12 years I was a civil engineer and park planner with the National Park Service.

Since 1960 I have known members of the Archer family who own the land proposed for rezoning. First, I came to know Julian Archer's mother, Evangeline, when she played an important part in the campaign for Congress to establish the Buffalo National River. Then, when I moved to Fayetteville in 1974, I lived in one of the houses on the property for a year and a half, until I could purchase a lot in town and build.

Thus I learned much about the Archer property and its history. Over the years I have worried about what could happen to the land in the long run. I have seen it as open space, close-in but landlocked, the only vehicle entry being Markham Road.

Over the years, to Julian and Jane Archer and to anyone else talking about the Archer property, I have said this: The property's undeveloped open space should always remain as open space—breathing room for Fayetteville.

I have also told the Archers I hope the high school and University men's and women's track teams can continue to run the trails on the property. The coaches, especially John McDonnell, want the trails for conditioning their runners; McDonnell says the trails are important. And I'm a track enthusiast. I want those kids to be able to run those trails.

Maybe I shouldn't have worried. Though I never asked the Archers about their long term plans—I felt it was not my business—over the last 25 years their strategy has become evident: They have sold outlying land to pay taxes and provide capital. They have kept the core area, the Inn property where three homes have sheltered three generations of the family. They have protected open space. They've let the runners run.

No. I *should* worry. Taxes and land prices have gone up. Fayetteville is expanding. Developers would like to buy that land and work their will: Markham Hill Estates. Or Markham Hill Apartments (except that name's already taken). Open space cut up. Runners pushed out. A new traffic problem to be dealt with.

Today the Archers want to develop Pratt Place Inn. They're counting on it to produce income to enable them to cope with taxes and upkeep and hold on to the family property. Part of the plan is that the pasture and the woods could stay and the runners could run. Even if someday the Archers' children or grandchildren decide to sell the property, we who want to protect this special place will have gained time.

Therefore I am in favor of the requested rezoning for Pratt Place Inn.

Kenneth L. Smith

1

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

B. 2
Fayetteville Depot, LLC Lease Agreement
Page 1 of 14

10/4/2005

City Council Meeting Date

Sharon Jenkins

Submitted By

Parking Management

Division

Operations

Department

Action Required:

A resolution approving a Lease Agreement with Fayetteville Depot, LLC to allow the City of Fayetteville to lease a parcel of private property for the purpose of providing parking enforcement services and revenue collections.

\$0.00

Cost of this request

\$ -

Category/Project Budget (2005)

Parking Revenue

Program Category / Project Name

Rent revenue 2130-0913-4426-66
Citation revenue 2130-0913-4500-00

Account Number

\$ -

Funds Used to Date

Parking Management

Program / Project Category Name

05049

Project Number

\$ -

Remaining Balance

Off-Street Parking Fund

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐



Department Director

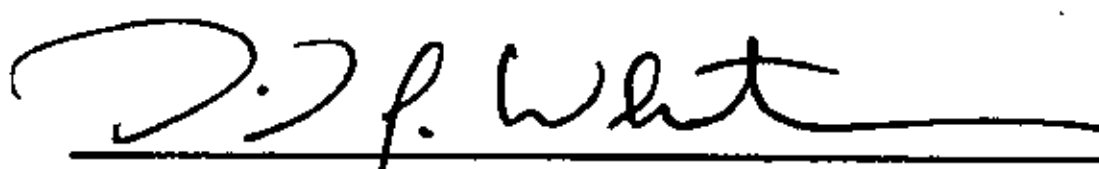
9-14-05

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:



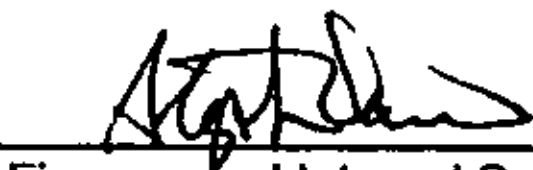
City Attorney

9/16/05

Date

Received in City Clerk's Office

ENTERED
9/15/05



Finance and Internal Service Director

9-16-05

Date

Received in Mayor's Office

ENTERED
9/16/05



Mayor

9/16/05

Date

Comments:

10/18/05 - Tabled to 11/01/05 Meeting

tabled 10/04/05

Approval of Lease Agreement with Fayetteville Depot, LLC
October 4, 2005 Council Meeting
Page 1 of 1

AGENDA REQUEST MEMO

TO: Mayor Dan Coody
THRU: Gary Dumas, Director of Operations
FROM: Sharon Jenkins, Parking Manager *sj*
DATE: September 12, 2005
SUBJECT: Approval of a Lease Agreement with Fayetteville Depot, LLC

RECOMMENDATION

Staff requests the approval of a lease agreement with Fayetteville Depot, LLC to allow the City to lease a parcel of private property for the purpose of providing parking enforcement and revenue collections.

BACKGROUND

This property is located on the northwest corner of Dickson St. and West Ave. (the old train depot property) and is owned by Greg House and Steve Mansfield. The property owners are beginning to construct a paved 150+ space parking lot at this location and wish to install revenue control equipment to generate parking revenues. Under this lease agreement, City personnel will operate this lot like other public parking lots by collecting parking revenues, writing parking citations for overtime parking, and providing cleanup and litter removal. The fee to park in this lot would vary depending on time of day and day of the week. The average fee to park in this lot will be \$0.50 per hour.

DISCUSSION

There are four other public parking lots in this vicinity that are currently "free" lots. City staff has held numerous meetings with area merchants and the Walton Arts Center about changing these lots to generate parking revenues to fund a parking deck in this area. There is still a great deal of work to be done before staff will be ready to present an overall plan to the City Council.

BUDGET IMPACT

The total **net revenues** generated for the City are estimated at **\$10,613.33** by the end of 2006, and **\$52,024.00 per year**, thereafter.

RESOLUTION NO. _____

A RESOLUTION APPROVING A LEASE AGREEMENT WITH FAYETTEVILLE DEPOT, LLC FOR PROPERTY LOCATED AT THE NORTHWEST CORNER OF DICKSON STREET AND WEST AVENUE TO PROVIDE PARKING ENFORCEMENT AND REVENUE COLLECTION SERVICES FOR A PROPOSED PARKING LOT.

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 a Lease Agreement with Fayetteville Depot, LLC for property located at the northwest corner of Dickson Street and West Avenue to provide parking enforcement and revenue collection services for a proposed parking lot. A copy of the Lease Agreement marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 4th day of October, 2005.

APPROVED:

By: _____

DAN GOODY Mayor

ATTEST:

By: _____

SONDRA SMITH City Clerk

DRAFT

**COMMERCIAL
LEASE CONTRACT**

IT IS UNDERSTOOD, COVENANTED AND AGREED that in consideration of the promises contained herein, the rent herein reserved, and of the covenants herein contained by the City of Fayetteville to be performed, Fayetteville Depot, LLC hereby leases to the City of Fayetteville, and the City of Fayetteville hereby agrees to lease from Fayetteville Depot, LLC, approximately 140 spaces in the parking lot located at Dickson Street and West Avenue, Fayetteville, AR 72701, as described in Exhibit A, attached hereto and made a part hereof, hereafter the Leased Premises, according to the following terms and conditions:

1. **PARTIES:** This Lease is between the City of Fayetteville, Arkansas (The City of Fayetteville), and Fayetteville Depot, LLC, owner, with offices at 932 N. Garland, Fayetteville, AR 72701 (Fayetteville Depot, LLC), for use as parking space only.

2. **LEASE TERM:** The initial term of the Lease shall begin on _____, 2005 and shall end on _____, 2006. This lease will automatically renew for subsequent 90 day terms unless written notice of termination is given by either party at least 90 days before the end of the above lease term.

3. **RENT:** The City of Fayetteville agrees to pay Fayetteville Depot, LLC during the term of this lease, or any extension thereof, 80% of the gross revenues derived from the leased premises. The term "gross revenues" shall mean all monies collected from the parking control equipment installed on the premises, hang tags, permits, and any special events not included in paragraph 4, and all monies collected from rent paid to park in any gated area(s), if applicable. Said revenues shall be paid to Fayetteville Depot, LLC monthly in arrears. The first rental payment will be due 60 days from initiation of this lease, initiation being once city equipment is set and operational, with rental payments due every 30 days thereafter.

4. **THE CITY OF FAYETTEVILLE'S OBLIGATIONS:** The City of Fayetteville hereby agrees that during the term of this Lease, or any extension thereof, the City of Fayetteville shall operate the leased premises as a revenue producing off-street parking lot; the City of Fayetteville agrees to equip the leased premises with parking revenue control equipment and/or parking gates and to maintain and keep said equipment in good working order; the City of Fayetteville agrees to collect the revenues from the parking equipment and/or parking gates located on the leased premises; and the City of Fayetteville agrees to be responsible for all trash and debris removal and to police the leased premises to insure that motorists parking thereon are paying required usage fees as are now, or as may hereafter, be reasonably established by the City of Fayetteville.

The City of Fayetteville agrees to allow Fayetteville Depot, LLC the right to operate the property on a cash-in-hand basis during major special events, not to exceed 15 days per calendar year. The City of Fayetteville agrees to allow Fayetteville Depot, LLC the ability to set its own rates during these special events only, and allow Fayetteville Depot, LLC to retain 100% of the revenues collected by cash-in-hand. During these special events, the City of Fayetteville would not provide any collection, cleanup, or enforcement services. Fayetteville Depot, LLC agrees to give the City of Fayetteville at least 5 days notice of its intent to use the Leased Premises for any special event.

5. **REAL ESTATE TAXES AND OTHER ASSESSMENTS:** Fayetteville Depot, LLC will pay all real estate taxes and other assessments which are assessed or imposed upon the Leased Premises or any part thereof, and due and/or payable during the term of this Lease.

6. **UTILITIES:** Fayetteville Depot, LLC shall be solely responsible for and promptly pay all utilities, including all charges for electricity and water, consumed at the Leased Premises.

7. **SUBLETTING, ASSIGNMENT:** The Leased Premises may not be sublet nor can the City of Fayetteville assign this Lease.

8. **SIGNS, AWNINGS, CANOPIES, FIXTURES, ALTERATIONS:** Initially, Fayetteville Depot, LLC and the City of Fayetteville must agree on a signage plan. If an agreement cannot be reached, then this Contract becomes null and void within 30 days of execution. Thereafter, the City of Fayetteville may, at its sole cost and expense, make such non-structural alterations, additions or changes, to the Leased Premises as it may desire provided, however, the City of Fayetteville obtains Fayetteville Depot, LLC's prior written consent for any such non-structural alterations, additions or changes including any exterior trade fixture, exterior signs, exterior lighting, plumbing fixtures, shades or awnings.

9. **SUBORDINATION:** This lease is subject to all present or future mortgages, deeds of trust or liens, affecting the demised premises and the City of Fayetteville hereby appoints the Fayetteville Depot, LLC as the City of Fayetteville's Attorney-in-Fact to execute and deliver any and all necessary documents to subordinate this lease to any present or future mortgages or deeds of trust affecting the demised premises.

10. **CONDEMNATION:** In the event the demised premises, or any part thereof, are taken by condemnation by the United States, the State of Arkansas, or any other governmental agency or authority, this lease shall be terminated at the option of Fayetteville Depot, LLC; and the City of Fayetteville hereby

specifically waives any right to any portion of the award received as damages for the taking of the real estate; provided, however, the City of Fayetteville shall be entitled to any condemnation awarded to the City of Fayetteville.

11. **FAYETTEVILLE DEPOT, LLC'S COVENANT OF QUIET ENJOYMENT:** Upon payment by the City of Fayetteville of the rents herein provided, and upon the observance and performance of all the covenants, terms and conditions on the City of Fayetteville's part to be observed and performed, the City of Fayetteville shall peaceably and quietly hold and enjoy the leased premises for the term hereby demised without hindrance or interruption by Fayetteville Depot, LLC or any other person or persons lawfully or equitably claiming by, through or under Fayetteville Depot, LLC, subject to the terms and conditions of this Lease. However, any repairs or maintenance that are performed, should be performed by the mutual consent of Fayetteville Depot, LLC and the City of Fayetteville at a time and in a manner which are calculated in exercise of good faith and reasonable business practice to minimize any disruption of the City of Fayetteville's business.

12. **DEFAULT BY THE CITY OF FAYETTEVILLE:** Any one or more of the following events shall constitute an "Event of Default":

- a. The failure of the City of Fayetteville to pay any item of rent, or rent is not paid within seven (7) days after notice of default is received by the City of Fayetteville, or other sum of money within ten (10) days after notice of default is received by the City of Fayetteville; or,
- b. Vacating or removing property from the Leased Premises other than in the normal course of business; or,
- c. Failure by the City of Fayetteville in the performance or observance of any covenant or agreement of this Lease (other than a failure involving the payment of money), which failure is not cured within thirty (30) days of receipt by the City of Fayetteville of notice of default or,
- d. Violation by the City of Fayetteville of any applicable Federal, state or local laws as same pertain to this Lease; or,
- e. The City of Fayetteville abandons the Leased Premises for more than ten (10) continuous days.

13. **REMEDIES IN EVENT OF DEFAULT:** Upon the occurrence and continuance of an Event of Default, Fayetteville Depot, LLC may, without notice to the City of Fayetteville (except where notice is expressly required by law), do any one or more of the following:

- a. Perform, on behalf and at the expense of the City of Fayetteville, any obligation of the City of Fayetteville under this Lease which the City of Fayetteville has failed to perform, the cost of which performance by Fayetteville Depot, LLC, together with interest thereon at the highest rate permitted by law from the date of such expenditure, shall be deemed additional rental hereunder and shall be payable by the City of Fayetteville to Fayetteville Depot, LLC upon demand;
- b. Elect to terminate this Lease and the tenancy created hereby by giving notice of such election to the City of Fayetteville, and may reenter the Leased Premises, without the necessity of legal proceedings, and may remove the City of Fayetteville and all other persons (if the City of Fayetteville is still in possession) and property from the Premises, and may store such property in a public warehouse or elsewhere at the cost of and in the account of the City of Fayetteville without resort to legal process and without Fayetteville Depot, LLC being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby;
- c. Fayetteville Depot, LLC may declare immediately due and payable the balance of any rent, Operating Costs and other charges that may otherwise be due and payable over the remainder of the term;
- d. Exercise any other legal or equitable right or remedy it may have.

Notwithstanding the provisions of clause (b) above and regardless of whether an Event of Default shall have occurred, Fayetteville Depot, LLC may exercise the remedy described in clause (b) without notice to the City of Fayetteville if Fayetteville Depot, LLC, in its good faith judgment, believes it would be injured by failure to take rapid action or if the unperformed obligation of the City of Fayetteville constitutes an emergency. Any costs and expenses incurred by Fayetteville Depot, LLC (including, without limitation attorney's fees) in enforcing any of its rights or remedies under this Lease shall be deemed to be additional rental hereunder and shall be repaid to Fayetteville Depot, LLC by the City of Fayetteville upon demand. Any notice required herein will be deemed delivered if left with Fayetteville Depot, LLC or Fayetteville Depot, LLC's guarantor or if left or posted at a conspicuous place at the Leased Premises.

14. **LEGAL EXPENSES:** In case suit shall be brought for recovery of possession of the Leased Premises, for the recovery of rent or any other amount due hereunder, or because of the breach of any other covenant herein contained on the part of the City of Fayetteville to be kept or performed, and a breach shall be established, the City of Fayetteville shall pay to Fayetteville Depot, LLC all expenses therefor, including Fayetteville Depot, LLC's reasonable attorney's fees. Should a breach be established as to an obligation due by Fayetteville Depot, LLC, then Fayetteville Depot, LLC shall pay all expenses therefor, including the City of Fayetteville's attorney's fees.

15. **SURRENDER OF PREMISES:** At the expiration of the tenancy hereby created, the City of Fayetteville shall surrender the Leased Premises in the same condition as the Leased Premises were in upon delivery of possession thereto under this Lease, reasonable wear and tear excepted, and shall surrender all keys for the Leased Premises to Fayetteville Depot, LLC at the place then fixed for the payment of rent.

16. **NOTICES:** All notices and other communications desired or required to be given hereunder shall be in writing and shall be given or made by (i) registered or certified mail, return receipt requested, (ii) hand delivery, or (iii) Federal Express or other nationally recognized carrier, addressed as follows: (x) If to

Fayetteville Depot, LLC, Fayetteville Depot, LLC, 932 N. Garland Ave., Fayetteville, AR 72701, Attention: Stephen Mansfield, with a copy to Houses Development Co., LLC, 217 N. East Ave., Fayetteville, AR 72701, Attention: Greg House, or (y) if to the City of Fayetteville, City of Fayetteville, 113 W. Mountain St., Fayetteville, AR 72701, Attention: Sharon Jenkins, with an additional copy to (z) any other person(s) or address(es) that either party may hereafter designate for such purpose by a written notice. All notices or other communications shall be deemed given (i) in the case of hand delivery, on the date it is delivered, (ii) in the case of delivery by U.S. mail, three business days after they are deposited in the U.S. mail, as provided above or (iii) in the case of overnight courier, on the date of delivery or refusal thereof.

17. **WAIVER:** The waiver by Fayetteville Depot, LLC of any breach of any term, covenant or condition herein contained shall not be deemed to be a continuing waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Fayetteville Depot, LLC shall not be deemed to be a waiver of any prior breach by the City of Fayetteville of any term, covenant or condition of this Lease, other than the failure of the City of Fayetteville to pay the particular rental so accepted, regardless of Fayetteville Depot, LLC's knowledge of such prior breach at the time of acceptance of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by Fayetteville Depot, LLC, unless such waiver be in writing by Fayetteville Depot, LLC.

18. **COPIES:** This lease has been executed in multiple copies, one for the City of Fayetteville and one or more for Fayetteville Depot, LLC.

19. **ADDENDUMS:** Any and all addendums attached hereto shall become a part of this lease and shall be considered incorporated herein by reference as if set forth word for word.

20. **AGENCY:** The City of Fayetteville is aware that Fayetteville Depot, LLC's agent is a licensed attorney and/or Real Estate Broker and/or Real Estate Sales Agent. Fayetteville Depot, LLC's agent represents Fayetteville Depot, LLC only.

21. **SPECIAL CONDITIONS:**

a. This lease is contingent upon Fayetteville Depot, LLC closing its contract to purchase 550 W. Dickson Street.

b. This lease is contingent upon the City of Fayetteville having converted its Downtown Fayetteville lot 55 (Jose's) to paid parking, employing the same collection systems as used on the Leased Premises and at rates in parity with those charged for the Leased Premises, within 4 months of execution of this agreement. If said parking lot is not converted to paid parking within said time, Fayetteville Depot, LLC shall then have the right to terminate the contract with a thirty (30) written notice of termination given to the City of Fayetteville.

c. Fayetteville Depot, LLC has the right quarterly to approve the City of Fayetteville's rate structure and the location and number of gates and/or collection equipment; which shall initially occur no later than _____, 2005.

d. Fayetteville Depot, LLC has the right at its cost to audit the City of Fayetteville's accounts with respect to its gross revenues (as stated in paragraph 3 herein) on a quarterly basis or at such other time if a prior audit has shown a discrepancy of greater than 2%.

e. If the City of Fayetteville's gross revenue is less than 60% of the City of Fayetteville's projections (attached as Exhibit B hereto) by June 30, 2006, then Fayetteville Depot, LLC has the right to terminate this Lease Agreement within 5 days of providing Notice to the City of Fayetteville.

f. Fayetteville Depot, LLC agrees to pay the City of Fayetteville during the term of this Lease, or any extension thereof, an annual sum of \$150.00 per parking space for services rendered by the City of Fayetteville. This fee shall be prorated and payable in advance on a quarterly basis upon implementation of revenue collection equipment.

g. Fayetteville Depot, LLC may operate the Leased Premises as a paid lot with no obligation to the City of Fayetteville until the City of Fayetteville's equipment is set and operational.

h. Fayetteville Depot, LLC reserves the right to use up to 6 spaces at the north end of the Leased Premises with no revenue payment obligation from or to Fayetteville Depot, LLC for duration of this lease.

i. Fayetteville Depot, LLC shall have the option to purchase the revenue control equipment in advance.

j. If, after the advance purchase of said equipment, the City Council approves this contract, then the City agrees to purchase the equipment from Fayetteville Depot, LLC at Fayetteville Depot's cost for same. In the event the City Council fails to approve this contract, the City shall owe nothing and Fayetteville Depot, LLC shall own and retain the equipment.

k. All equipment purchased by Fayetteville Depot, LLC must conform with new parking equipment specified by the City and be purchased from Associated Time & Parking Controls, Inc., which is the City's current revenue control equipment vendor.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed in person thereunto duly authorized and their respective seals to be hereunto affixed, the day and year first hereinabove written.

THIS IS A BINDING LEGAL DOCUMENT - READ CAREFULLY BEFORE SIGNING

FAYETTEVILLE DEPOT, LLC

By: *Stephen Mansfield*
Owner/Manager

STEPHEN MANSFIELD
Printed Name

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY
FAYETTEVILLE DEPOT, LLC

Page 1 of 2

BOUNDARY

TRACT 2B: (S-2212: APR. 2000) (ORIGINAL DESCRIPTION)

FINAL ADJUSTED TRACT: SCHULER DEVELOPMENT CO., INC.

A PART OF THE NW 1/4 OF THE NE 1/4 OF SECTION 16, T-16-N, R-30-W, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE NORTH QUARTER-CORNER [N 1/4] 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 164.68 FEET; THENCE N 02-50-37 E 13.17 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A CHISELED "X" IN CONCRETE AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY OF DICKSON STREET AND THE EASTERLY RIGHT-OF-WAY OF A RAILROAD; SAID RAILROAD RIGHT-OF-WAY BEING A PERPENDICULAR DISTANCE OF 25.00 FEET EAST OF THE CENTERLINE OF EXISTING RAILROAD; THENCE ALONG SAID RAILROAD RIGHT-OF-WAY N 02-50-37 E 405.71 FEET TO THE PC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1378.75 FEET AND A DELTA ANGLE OF 13-26-56 (RAILROAD CURVE DATA); SAID POINT BEING A FOUND IRON PIN; SAID POINT BEING 25 FEET EAST OF SAID RAILROAD CENTERLINE;

THENCE ALONG SAID CURVE AN ARC DISTANCE OF 323.63 FEET, HAVING A CHORD BEARING AND DISTANCE OF N 03-54-04 W 322.82 FEET; SAID POINT BEING A FOUND COTTON SPINDLE IN THE CENTERLINE ON THE OVERPASS OF LAFAYETTE STREET;

THENCE ALONG SAID CENTERLINE N 74-37-36 E 46.82 FEET TO A FOUND COTTON SPINDLE; SAID COTTON SPINDLE AT THE INTERSECTION OF SAID CENTERLINE OF LAFAYETTE STREET AND THE EASTERLY RIGHT-OF-WAY OF THE ORIGINAL RAILROAD; SAID INTERSECTION POINT BEING AT A RADIAL DISTANCE OF 50 FEET EASTERLY OF THE CENTERLINE OF THE ORIGINAL MAIN TRACK; THENCE SOUTHEASTERLY ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 287.30 FEET HAVING A CHORD BEARING AND DISTANCE OF S 13-40-40 E 286.85 FEET TO A POINT OF TANGENCY; SAID POINT BEING A RADIAL DISTANCE OF 50 FEET EASTERLY FROM THE CENTERLINE OF ORIGINAL MAIN TRACK;

THENCE S 15-59-20 E 70.26 FEET;

THENCE S 75-51-38 W 2.23 FEET TO THE CORNER OF A BUILDING;

THENCE S 02-12-02 W 317.87 FEET TO A FOUND IRON PIN AT THE BACK OF A CURB;

THENCE ALONG SAID CURB LINE S 03-08-43 W 81.12 FEET TO A CHISELED "X"

ON THE NORTH RIGHT-OF-WAY OF DICKSON STREET.

THENCE ALONG SAID RIGHT-OF-WAY OF DICKSON STREET N 87-03-14 W 111.82 FEET TO

THE POINT OF BEGINNING; CONTAINING 1.60 ACRES, MORE OR LESS, CITY OF FAYETTEVILLE, ARKANSAS.

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY
FAYETTEVILLE DEPOT, LLC

Page 2 of 2

PARKING LOT LEASE DESCRIPTION FOR RAIL ROAD DEPOT

A PART OF THE NW 1/4 OF THE NE 1/4 OF SECTION 16, T-16-N, R-30-W, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE NORTH QUARTER-CORNER [N 1/4] 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 164.68 FEET; THENCE N 02-50-37 E 13.17 FEET, SAID POINT BEING A CHISELED "X" IN CONCRETE AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY OF DICKSON STREET AND THE EASTERLY RIGHT-OF-WAY OF A RAILROAD; SAID RAILROAD RIGHT-OF-WAY BEING A PERPENDICULAR DISTANCE OF 25.00 FEET EAST OF THE CENTERLINE OF EXISTING RAILROAD;

THENCE ALONG SAID NORTH RIGHT-OF-WAY S 87-03-26 E 111.82 FEET TO A CHISELED "X" AT A CONCRETE CURB;

THENCE LEAVING SAID RIGHT-OF-WAY, ALONG SAID CURB LINE N 03-08-43 E-81.12 FEET TO A FOUND IRON PIN;

THENCE N 02-12-02 E 169.72 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON A COMMON LINE WITH PROPERTY DESCRIBED PREVIOUSLY "TRACT 28" (S-2212; APR,2000)";

THENCE N 02-12-02 E 148.16 FEET TO THE CORNER OF A BUILDING;

THENCE N 75-51-38 E 2.23 FEET;

THENCE N 76-07-03 E 1.03 FEET TO A PARTY WALL;

THENCE ALONG SAID PARTY WALL N 74-40-12 E 63.06 FEET TO BUILDING FACE;

THENCE ALONG SAID BUILDING FACE N 03-42-28 E 5.60 FEET;

THENCE LEAVING SAID BUILDING FACE S 88-29-34 E 21.54 FEET TO THE WEST RIGHT-OF-WAY OF WEST AVENUE;

THENCE ALONG SAID RIGHT-OF-WAY S 02-27-30 W 175.01 FEET;

THENCE LEAVING SAID RIGHT-OF-WAY N 87-03-28 W 84.16 FEET TO THE POINT OF BEGINNING CONTAINING 0.316 ACRES MORE OR LESS, FAYETTEVILLE, AR.

EXHIBIT B

PARKING REVENUE PROJECTIONS

FAYETTEVILLE DEPOT, LLC PROPERTY

Parking Location	Number of Spaces	All expenses 16 hours/day 7 days/week \$150/space	Citation Revenue \$150/space	Meter Revenue \$0.50/hour
Dickson St. and West Ave.	140	\$21,000.00	\$21,000.00	\$155,120.00

	2005 1 month	2006 12 months	Total for first 13 months	2007 12 months
CITY OF FAYETTEVILLE:				
Revenue - Rent	\$1,750.00	\$21,000.00	\$22,750.00	\$21,000.00
Revenue - 20% of Collections	\$2,585.33	\$31,024.00	\$33,609.33	\$31,024.00
Revenue - Citations	\$1,750.00	\$21,000.00	\$22,750.00	\$21,000.00
GROSS REVENUES	\$6,085.33	\$73,024.00	\$79,109.33	\$73,024.00
Less Equipment/Startup Costs	(\$45,746.00)		(\$45,746.00)	
Less Expenses/Labor	(\$1,750.00)	(\$21,000.00)	(\$22,750.00)	(\$21,000.00)
NET PROFIT	(\$41,410.67)	\$52,024.00	\$10,613.33	\$52,024.00
			NET PROFIT	for 2007 \$52,024.00

	2005 1 month	2006 12 months	Total for first 13 months	2007 12 months
FAYETTEVILLE DEPOT, LLC				
Revenue - 80% of Collections	\$10,341.33	\$124,096.00	\$134,437.33	\$124,096.00
Revenue - Special Events	\$ unknown	\$ unknown	\$ unknown	\$ unknown
GROSS REVENUES			\$134,437.33	\$124,096.00
Less Construction Costs (est.)	(\$100,000.00)		(\$100,000.00)	
Less Rent Paid to City	(\$1,750.00)	(\$21,000.00)	(\$22,750.00)	(\$21,000.00)
NET PROFIT			\$11,687.33	\$103,096.00
			NET PROFIT	for 2007 \$103,096.00

**COMMERCIAL
LEASE CONTRACT**

IT IS UNDERSTOOD, COVENANTED AND AGREED that in consideration of the promises contained herein, the rent herein reserved, and of the covenants herein contained by the City of Fayetteville to be performed, Fayetteville Depot, LLC hereby leases to the City of Fayetteville, and the City of Fayetteville hereby agrees to lease from Fayetteville Depot, LLC, approximately 140 spaces in the parking lot located at Dickson Street and West Avenue, Fayetteville, AR 72701, as described in Exhibit A, attached hereto and made a part hereof, hereafter the Leased Premises, according to the following terms and conditions:

1. **PARTIES:** This Lease is between the City of Fayetteville, Arkansas (The City of Fayetteville), and Fayetteville Depot, LLC, owner, with offices at 932 N. Garland, Fayetteville, AR 72701 (Fayetteville Depot, LLC), for use as parking space only.

2. **LEASE TERM:** The initial term of the Lease shall begin on _____, 2005 and shall end on _____, 2006. This lease will automatically renew for subsequent 90 day terms unless written notice of termination is given by either party at least 90 days before the end of the above lease term.

3. **RENT:** The City of Fayetteville agrees to pay Fayetteville Depot, LLC during the term of this lease, or any extension thereof, 80% of the gross revenues derived from the leased premises. The term "gross revenues" shall mean all monies collected from the parking control equipment installed on the premises, hang tags, permits, and any special events not included in paragraph 4, and all monies collected from rent paid to park in any gated area(s), if applicable. Said revenues shall be paid to Fayetteville Depot, LLC monthly in arrears. The first rental payment will be due 60 days from initiation of this lease, initiation being once city equipment is set and operational, with rental payments due every 30 days thereafter.

4. **THE CITY OF FAYETTEVILLE'S OBLIGATIONS:** The City of Fayetteville hereby agrees that during the term of this Lease, or any extension thereof, the City of Fayetteville shall operate the leased premises as a revenue producing off-street parking lot; the City of Fayetteville agrees to equip the leased premises with parking revenue control equipment and/or parking gates and to maintain and keep said equipment in good working order; the City of Fayetteville agrees to collect the revenues from the parking equipment and/or parking gates located on the leased premises; and the City of Fayetteville agrees to be responsible for all trash and debris removal and to police the leased premises to insure that motorists parking thereon are paying required usage fees as are now, or as may hereafter, be reasonably established by the City of Fayetteville.

The City of Fayetteville agrees to allow Fayetteville Depot, LLC the right to operate the property on a cash-in-hand basis during major special events, not to exceed 15 days per calendar year. The City of Fayetteville agrees to allow Fayetteville Depot, LLC the ability to set its own rates during these special events only, and allow Fayetteville Depot, LLC to retain 100% of the revenues collected by cash-in-hand. During these special events, the City of Fayetteville would not provide any collection, cleanup, or enforcement services. Fayetteville Depot, LLC agrees to give the City of Fayetteville at least 5 days notice of its intent to use the Leased Premises for any special event.

5. **REAL ESTATE TAXES AND OTHER ASSESSMENTS:** Fayetteville Depot, LLC will pay all real estate taxes and other assessments which are assessed or imposed upon the Leased Premises or any part thereof, and due and/or payable during the term of this Lease.

6. **UTILITIES:** Fayetteville Depot, LLC shall be solely responsible for and promptly pay all utilities, including all charges for electricity and water, consumed at the Leased Premises.

7. **SUBLETTING, ASSIGNMENT:** The Leased Premises may not be sublet nor can the City of Fayetteville assign this Lease.

8. **SIGNS, AWNINGS, CANOPIES, FIXTURES, ALTERATIONS:** Initially, Fayetteville Depot, LLC and the City of Fayetteville must agree on a signage plan. If an agreement cannot be reached, then this Contract becomes null and void within 30 days of execution. Thereafter, the City of Fayetteville may, at its sole cost and expense, make such non-structural alterations, additions or changes, to the Leased Premises as it may desire provided, however, the City of Fayetteville obtains Fayetteville Depot, LLC's prior written consent for any such non-structural alterations, additions or changes including any exterior trade fixture, exterior signs, exterior lighting, plumbing fixtures, shades or awnings.

9. **SUBORDINATION:** This lease is subject to all present or future mortgages, deeds of trust or liens, affecting the demised premises and the City of Fayetteville hereby appoints the Fayetteville Depot, LLC as the City of Fayetteville's Attorney-in-Fact to execute and deliver any and all necessary documents to subordinate this lease to any present or future mortgages or deeds of trust affecting the demised premises.

10. **CONDEMNATION:** In the event the demised premises, or any part thereof, are taken by condemnation by the United States, the State of Arkansas, or any other governmental agency or authority, this lease shall be terminated at the option of Fayetteville Depot, LLC; and the City of Fayetteville hereby

specifically waives any right to any portion of the award received as damages for the taking of the real estate; provided, however, the City of Fayetteville shall be entitled to any condemnation awarded to the City of Fayetteville.

11. **FAYETTEVILLE DEPOT, LLC'S COVENANT OF QUIET ENJOYMENT:** Upon payment by the City of Fayetteville of the rents herein provided, and upon the observance and performance of all the covenants, terms and conditions on the City of Fayetteville's part to be observed and performed, the City of Fayetteville shall peaceably and quietly hold and enjoy the leased premises for the term hereby demised without hindrance or interruption by Fayetteville Depot, LLC or any other person or persons lawfully or equitably claiming by, through or under Fayetteville Depot, LLC, subject to the terms and conditions of this Lease. However, any repairs or maintenance that are performed, should be performed by the mutual consent of Fayetteville Depot, LLC and the City of Fayetteville at a time and in a manner which are calculated in exercise of good faith and reasonable business practice to minimize any disruption of the City of Fayetteville's business.
12. **DEFAULT BY THE CITY OF FAYETTEVILLE:** Any one or more of the following events shall constitute an "Event of Default":
- The failure of the City of Fayetteville to pay any item of rent, or rent is not paid within seven (7) days after notice of default is received by the City of Fayetteville, or other sum of money within ten (10) days after notice of default is received by the City of Fayetteville; or,
 - Vacating or removing property from the Leased Premises other than in the normal course of business; or,
 - Failure by the City of Fayetteville in the performance or observance of any covenant or agreement of this Lease (other than a failure involving the payment of money), which failure is not cured within thirty (30) days of receipt by the City of Fayetteville of notice of default or,
 - Violation by the City of Fayetteville of any applicable Federal, state or local laws as same pertain to this Lease; or,
 - The City of Fayetteville abandons the Leased Premises for more than ten (10) continuous days.
13. **REMEDIES IN EVENT OF DEFAULT:** Upon the occurrence and continuance of an Event of Default, Fayetteville Depot, LLC may, without notice to the City of Fayetteville (except where notice is expressly required by law), do any one or more of the following:
- Perform, on behalf and at the expense of the City of Fayetteville, any obligation of the City of Fayetteville under this Lease which the City of Fayetteville has failed to perform, the cost of which performance by Fayetteville Depot, LLC, together with interest thereon at the highest rate permitted by law from the date of such expenditure, shall be deemed additional rental hereunder and shall be payable by the City of Fayetteville to Fayetteville Depot, LLC upon demand;
 - Elect to terminate this Lease and the tenancy created hereby by giving notice of such election to the City of Fayetteville, and may reenter the Leased Premises, without the necessity of legal proceedings, and may remove the City of Fayetteville and all other persons (if the City of Fayetteville is still in possession) and property from the Premises, and may store such property in a public warehouse or elsewhere at the cost of and in the account of the City of Fayetteville without resort to legal process and without Fayetteville Depot, LLC being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby;
 - Fayetteville Depot, LLC may declare immediately due and payable the balance of any rent, Operating Costs and other charges that may otherwise be due and payable over the remainder of the term;
 - Exercise any other legal or equitable right or remedy it may have.
- Notwithstanding the provisions of clause (b) above and regardless of whether an Event of Default shall have occurred, Fayetteville Depot, LLC may exercise the remedy described in clause (b) without notice to the City of Fayetteville if Fayetteville Depot, LLC, in its good faith judgment, believes it would be injured by failure to take rapid action or if the unperformed obligation of the City of Fayetteville constitutes an emergency. Any costs and expenses incurred by Fayetteville Depot, LLC (including, without limitation attorney's fees) in enforcing any of its rights or remedies under this Lease shall be deemed to be additional rental hereunder and shall be repaid to Fayetteville Depot, LLC by the City of Fayetteville upon demand. Any notice required herein will be deemed delivered if left with Fayetteville Depot, LLC or Fayetteville Depot, LLC's guarantor or if left or posted at a conspicuous place at the Leased Premises.
14. **LEGAL EXPENSES:** In case suit shall be brought for recovery of possession of the Leased Premises, for the recovery of rent or any other amount due hereunder, or because of the breach of any other covenant herein contained on the part of the City of Fayetteville to be kept or performed, and a breach shall be established, the City of Fayetteville shall pay to Fayetteville Depot, LLC all expenses therefor, including Fayetteville Depot, LLC's reasonable attorney's fees. Should a breach be established as to an obligation due by Fayetteville Depot, LLC, then Fayetteville Depot, LLC shall pay all expenses therefor, including the City of Fayetteville's attorney's fees.
15. **SURRENDER OF PREMISES:** At the expiration of the tenancy hereby created, the City of Fayetteville shall surrender the Leased Premises in the same condition as the Leased Premises were in upon delivery of possession thereto under this Lease, reasonable wear and tear excepted, and shall surrender all keys for the Leased Premises to Fayetteville Depot, LLC at the place then fixed for the payment of rent.
16. **NOTICES:** All notices and other communications desired or required to be given hereunder shall be in writing and shall be given or made by (i) registered or certified mail, return receipt requested, (ii) hand delivery, or (iii) Federal Express or other nationally recognized carrier, addressed as follows: (x) if to

Fayetteville Depot, LLC, Fayetteville Depot, LLC, 932 N. Garland Ave., Fayetteville, AR 72701, Attention: Stephen Mansfield, with a copy to Houses Development Co., LLC, 217 N. East Ave., Fayetteville, AR 72701, Attention: Greg House, or (y) if to the City of Fayetteville, City of Fayetteville, 113 W. Mountain St., Fayetteville, AR 72701, Attention: Sharon Jenkins, with an additional copy to (z) any other person(s) or address(es) that either party may hereafter designate for such purpose by a written notice. All notices or other communications shall be deemed given (i) in the case of hand delivery, on the date it is delivered, (ii) in the case of delivery by U.S. mail, three business days after they are deposited in the U.S. mail, as provided above or (iii) in the case of overnight courier, on the date of delivery or refusal thereof.

17. **WAIVER:** The waiver by Fayetteville Depot, LLC of any breach of any term, covenant or condition herein contained shall not be deemed to be a continuing waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Fayetteville Depot, LLC shall not be deemed to be a waiver of any prior breach by the City of Fayetteville of any term, covenant or condition of this Lease, other than the failure of the City of Fayetteville to pay the particular rental so accepted, regardless of Fayetteville Depot, LLC's knowledge of such prior breach at the time of acceptance of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by Fayetteville Depot, LLC, unless such waiver be in writing by Fayetteville Depot, LLC.

18. **COPIES:** This lease has been executed in multiple copies, one for the City of Fayetteville and one or more for Fayetteville Depot, LLC.

19. **ADDENDUMS:** Any and all addendums attached hereto shall become a part of this lease and shall be considered incorporated herein by reference as if set forth word for word.

20. **AGENCY:** The City of Fayetteville is aware that Fayetteville Depot, LLC's agent is a licensed attorney and/or Real Estate Broker and/or Real Estate Sales Agent. Fayetteville Depot, LLC's agent represents Fayetteville Depot, LLC only.

21. **SPECIAL CONDITIONS:**

a. This lease is contingent upon Fayetteville Depot, LLC closing its contract to purchase 550 W. Dickson Street.

b. This lease is contingent upon the City of Fayetteville having converted its Downtown Fayetteville lot 55 (Jose's) to paid parking, employing the same collection systems as used on the Leased Premises and at rates in parity with those charged for the Leased Premises, within 4 months of execution of this agreement. If said parking lot is not converted to paid parking within said time, Fayetteville Depot, LLC shall then have the right to terminate the contract with a thirty (30) written notice of termination given to the City of Fayetteville.

c. Fayetteville Depot, LLC has the right quarterly to approve the City of Fayetteville's rate structure and the location and number of gates and/or collection equipment; which shall initially occur no later than _____, 2005.

d. Fayetteville Depot, LLC has the right at its cost to audit the City of Fayetteville's accounts with respect to its gross revenues (as stated in paragraph 3 herein) on a quarterly basis or at such other time if a prior audit has shown a discrepancy of greater than 2%.

e. If the City of Fayetteville's gross revenue is less than 60% of the City of Fayetteville's projections (attached as Exhibit B hereto) by June 30, 2006, then Fayetteville Depot, LLC has the right to terminate this Lease Agreement within 5 days of providing Notice to the City of Fayetteville.

f. Fayetteville Depot, LLC agrees to pay the City of Fayetteville during the term of this Lease, or any extension thereof, an annual sum of \$150.00 per parking space for services rendered by the City of Fayetteville. This fee shall be prorated and payable in advance on a quarterly basis upon implementation of revenue collection equipment.

g. Fayetteville Depot, LLC may operate the Leased Premises as a paid lot with no obligation to the City of Fayetteville until the City of Fayetteville's equipment is set and operational.

h. Fayetteville Depot, LLC reserves the right to use up to 6 spaces at the north end of the Leased Premises with no revenue payment obligation from or to Fayetteville Depot, LLC for duration of this lease.

i. Fayetteville Depot, LLC shall have the option to purchase the revenue control equipment in advance.

j. If, after the advance purchase of said equipment, the City Council approves this contract, then the City agrees to purchase the equipment from Fayetteville Depot, LLC at Fayetteville Depot's cost for same. In the event the City Council fails to approve this contract, the City shall owe nothing and Fayetteville Depot, LLC shall own and retain the equipment.

k. All equipment purchased by Fayetteville Depot, LLC must conform with new parking equipment specified by the City and be purchased from Associated Time & Parking Controls, Inc., which is the City's current revenue control equipment vendor.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed in person thereunto duly authorized and their respective seals to be hereunto affixed, the day and year first hereinabove written.

THIS IS A BINDING LEGAL DOCUMENT - READ CAREFULLY BEFORE SIGNING

FAYETTEVILLE DEPOT, LLC

By: *Stephen Mansfield*
Owner/Manager
STEPHEN MANSFIELD
Printed Name

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

B. 3
Associated Time and Parking Controls, Inc.
Page 1 of 16

10/4/2005

City Council Meeting Date

Sharon Jenkins

Submitted By

Parking Management

Division

Operations

Department

Action Required:

A resolution approving a bid waiver and the purchase of revenue collection equipment from Associated Time & Parking Controls, Inc. for the amount of \$44,085.00, plus \$2,720.10 for use tax, plus a 10% project contingency in the amount of \$4,408.50; and approval of a budget adjustment for same in the amount of \$51,213.60.

\$51,213.60

Cost of this request

\$

Category/Project Budget (2005)

Dickson St. Parking Equipment

Program Category / Project Name

2130-9130-5801-00

Account Number

\$

Funds Used to Date

Parking Management

Program / Project Category Name

05049

Project Number

\$

Remaining Balance

Off-Street Parking

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

X


Department Director

9-14-05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

9/15/05


Finance and Internal Service Director

9-16-05
Date

Received in City Clerk's Office



Received in Mayor's Office




Mayor

9/16/05
Date

Comments:

10/18/05 tabled to 11/01/05 meeting

tabled 10/04/05

Approval of Bid Waiver and Purchase of Parking Equipment
October 4, 2005 Council Meeting
Page 1 of 1

AGENDA REQUEST MEMO

TO: Mayor Dan Coody

THRU: Gary Dumas, Director of Operations

FROM: Sharon Jenkins, Parking Manager *sg*

DATE: September 12, 2005

SUBJECT: Approval of a Bid Waiver and Purchase of Revenue Collection Equipment

RECOMMENDATION

Staff requests the approval of a bid waiver and the purchase of revenue collection equipment from Associated Time & Parking Controls, Inc. for the amount of \$44,085.00, plus \$2,720.10 for use tax, plus a 10% project contingency in the amount of \$4,408.50; and approval of a budget adjustment for same in the amount of \$51,213.60.

BACKGROUND

This request is for the purchase of 2 revenue collection machines to be installed on the property of Fayetteville Depot, LLC which is located on the northwest corner of Dickson St. and West Ave. If City Council approves the Lease Agreement with Fayetteville Depot, LLC for city staff to provide parking enforcement services at this location, then this equipment will be utilized to collect fees paid to park in the lot.

DISCUSSION

The 2 machines will be strategically located in the approximate 150 space parking lot to centralize revenue collections. The machines accept coins, bills, tokens, and credit card payments. The equipment is integrated with a server located at City Hall to provide real-time information and warning messages to parking staff in the office. The City recently purchased parking equipment (card readers, gate controllers, and revenue collection equipment) from Associated Time and Parking Controls for the municipal parking deck and other public parking lots in the Downtown Square area. Staff recommends approval of a bid waiver for the purchase of this equipment in order to remain with the same vendor and integrate with existing equipment.

BUDGET IMPACT

There is a total of \$70,033.45 in C-3 Parking Escrows account that can be used to cover the cost of the parking equipment. There are funds that are collected from C-3 merchants in the area to offset the number of off-street parking spaces provided by the merchant. An in lieu fee of \$1,200 for each on-site parking space is paid to the city and shall be expended for public parking facilities within the district it is collected.

Revised

Associated
Time & Parking
Controls.
C. 6.

B. 3
Associated Time and Parking Controls, Inc.
Page 3 of 16

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING THE PURCHASE OF PARKING REVENUE COLLECTION EQUIPMENT FROM ASSOCIATED TIME AND PARKING CONTROLS, INC. IN THE AMOUNT OF \$46,805.10; APPROVING A 10% CONTINGENCY IN THE AMOUNT OF \$4,408.50; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$51,213.60.

WHEREAS, the City of Fayetteville has placed Associated Time and Parking Controls, Inc.'s Revenue Collection Equipment in the Municipal Parking Deck, and other downtown parking lots; and,

WHEREAS, the existing Revenue Collection Equipment is integrated with a server located in the City Administration Building; and,

WHEREAS, any new Revenue Collection Equipment needs to be compatible with the existing equipment and server.

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 finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding for as long as the Parking Management Division uses Associated Time and Parking Controls, Inc. Revenue Collection Equipment, and approves the purchase of Parking Revenue Collection Equipment from Associated Time and Parking Controls, Inc. in the amount of \$46,805.10.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 10% contingency in the amount of \$4,408.50

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$51,213.60.

PASSED and APPROVED this 4th day of October, 2005.

APPROVED

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING THE PURCHASE OF PARKING REVENUE COLLECTION EQUIPMENT FROM ASSOCIATED TIME AND PARKING CONTROLS, INC. IN THE AMOUNT OF \$46,805.10; APPROVING A 10% CONTINGENCY IN THE AMOUNT OF \$4,408.50; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$51,213.60.

WHEREAS, the City of Fayetteville has placed Associated Time and Parking Controls, Inc.'s Revenue Collection Equipment in the Municipal Parking Deck, and other downtown parking lots; and,

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Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding for as long as the Parking Management Division uses Associated Time and Parking Controls, Inc. Revenue Collection Equipment, and approves the purchase of Parking Revenue Collection Equipment from Associated Time and Parking Controls, Inc. in the amount of \$46,805.10.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 10% contingency in the amount of \$4,408.50

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$51,213.60.

PASSED and APPROVED this 6th day of April 2004.

APPROVED

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

Associated Time & Parking Controls

September 14, 2005

Ms. Sharon Jenkins
City Of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Dear Ms. Jenkins,,

Please find the following pricing for the SHELBY Pay By Space Units and Shelters as discussed for the Fayetteville Depot Parking Lot. The units are priced per the specifications given by the City of Fayetteville. If you have any questions, please do not hesitate to contact me.

ITEM	QTY	DESCRIPTION	
1	2	SHELBY Parking Stations, Coin/CC/Bill/Token Acceptance	
2	2	Coin Changer Controller and Base Complete (\$1.00/\$0.25 coins)	
3	2	Pedestals – 22" CRS	
4	2	AC Power Option	
5	2	GSM Modem Kit, Cabinet Mount Antenna	
6	2	BOSS Software – Per Parking Station	
7	2	1000 Note Bill Stacker	
8	1	Mobile Data Key and Software	
9	1	BOSS Software – PC License (per software installation)	
10	1	USB Key Door Option	
11	1	Remote Training	
12	2	B.I.G. 3' X 3' Pre-Fabricated Steel Pay Station Shelters	
TOTAL EQUIPMENT COST			\$38,790
INSTALLATION, PROGRAMMING & WARRANTY			<u>\$ 5,295</u>
TOTAL INVESTMENT			\$44,085

Exclusions: Tax, Freight, 110VAC, Concrete Pad, Communication Wire

Respectfully submitted,

Christopher J. Archer

Christopher J. Archer
Associated Time & Parking Controls

Corporate Office- Dallas: 9104 Diplomacy Row • Dallas, Texas 75247 • Phone (214) 637-2763 • Fax (214) 688-0411
Austin: 4202 Santiago, Suite 3 • Austin, Texas 78745 • Phone (512) 693-9200 • Fax (512) 693-9091
Houston: 1217 West Loop North, Suite 190 • Houston, Texas 77055 • Phone (713) 263-1366 • Fax (713) 263-8154
New Orleans: 1000 Caruso Boulevard, Suite 413 • Slidell, Louisiana 70461 • Phone (985) 781-3929 • Fax (985) 781-3950
Salt Lake City: 1775 South 4130 West, Suite B • Salt Lake City, Utah 84104 • Phone (801) 886-9219 • Fax (801) 886-9278

www.associatedtime.com

City Of Fayetteville
Standard Parking Sales Contract
Fayetteville Depot Lot

INSTALLATION

- Mount above listed equipment.
- Includes complete system training.
- Final hook up and check out for a complete operating system.
- **Exclusions:** Power, permits and phone line.

WARRANTY

Factory Equipment Warranty: All equipment is warranted by the factory against defects in material and workmanship for one full year from the date of shipment, providing recommended installation and maintenance procedures are followed. These warranties normally cover repair or replacement of any part which fails under normal operation.

Associated Time & Parking Controls Labor Warranty: Associated Time & Parking Controls (ATPC) will provide a labor warranty period of 90 days for all work performed under this contract. This will cover the labor to repair or replace any parts or equipment included in this contract which malfunctions under normal use. All damaged or broken parts or items inoperative as a result of malicious or accidental damage shall be repaired or replaced on a time and material basis. Associated Time & Parking Controls' labor warranty is valid only during normal business hours: Monday – Friday 8:00 a.m. to 5:00 p.m. excluding holidays. All repairs provided during non-business hours will be at the prevailing overtime rates.

City of Fayetteville acknowledges that this sales contract constitutes the entire agreement and there are no warranties of any kind, express, implied or statutory or otherwise, not expressly set forth herein. No warranty is given concerning the effectiveness of the material used, recommendations given or the services rendered. This warranty is expressly in lieu of any other warranty, expressed or implied, including without limitation, any warranty of merchantability or fitness for a particular purpose.

PAYMENT TERMS

25% Deposit due with the order, progressive billings for equipment as delivered, and balance due upon completion. If in sole opinion of Associated Time & Parking Controls, the financial condition of City of Fayetteville at any time does not justify continue of shipment on the terms specified, ATPC may require full or partial payment in advance.

Associated Time & Parking Controls will not issue order for this equipment until deposit billings are paid. Delay's in payment of deposit billings will affect lead times

~~All past due amounts are subject to interest at a rate of 1.5% per month.~~ *COJ*

A cancellation or restocking charge of 25% may be assessed on canceled orders. Special order items may carry up to a 100% cancellation/restocking fee based on factory return policies.

CHANGE ORDERS

Any alteration or deviation from the above specifications, including but not limited to any such alteration or deviation involving additional material and/or labor costs, will be executed only upon a written order for same, signed by both City of Fayetteville and Associated Time & Parking Controls, and if there is any charge for such alteration or deviation, the additional charge will be added to the contract price of this contract. All changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.

PERMITS

The costs associated with obtaining required city building or electrical permits are not included in this contract unless expressly stated herein. If ATPC is required to obtain permits in connection with this contract, all costs will be billed as incurred. Permit costs may include time, mileage, city fees, drafting expenses, copies, etc.

GENERAL PROVISIONS

All work shall be completed in a workman-like manner and in compliance with all building codes and other applicable laws.

This contract is based upon visually observed conditions. As a result of the nature of the services to be provided by Associated Time & Parking Controls hereunder, it is possible that unforeseen conditions will arise that could not be determined by visual inspection prior to starting work. In the event this occurs, additional work shall be performed on either a time and materials or fixed fee basis, after City of Fayetteville has been notified that such additional work is necessary and has approved said additional work in writing.

ATPC may, at its discretion engage subcontractors to perform work hereunder; provided ATPC shall fully pay said subcontractor and in all instances remain responsible for the proper completion of this Contract.

Associated Time & Parking Controls warrants it is adequately insured for injury to its employees and others incurring loss or injury as a result of the acts of ATPC or its employees or subcontractors. Owner to carry fire, flood, and other necessary insurance.

If any tax, public charge, tariff, duty, or increase therein, is now or hereafter assessed, levied, or imposed upon this transaction, on the goods to be sold, or upon any sale, delivery, or other action taken hereunder, or upon the import of such goods, the burden or such charge or change shall be borne by City of Fayetteville.

City of Fayetteville shall bear the risk of any loss, deterioration, or damage of all goods from the time the goods are delivered to City of Fayetteville's premises.

DELAY

Associated Time & Parking Controls shall be excused for delay in completion of the work covered by this Contract caused by federal, state, or municipal action or regulation, strikes or other labor troubles not the fault of ATPC, inclement weather, fire, acts of God, acts of the City of Fayetteville, City of Fayetteville's Agent, lender, and/or other subcontractor(s), damage to or destruction in whole or part of merchandise or manufacturing plant; lack of, or inability to obtain raw materials, labor, fuel, or supplies; or any other causes, contingencies, or circumstances unforeseen by ATPC and beyond its reasonable control which prevent or hinder the manufacture or delivery of the merchandise or make the fulfillment of this Agreement impracticable.

In the event performance is delayed through no fault of Associated Time & Parking Controls, the time for completion of ATPC's performance shall be extended by the same amount of time as the length of the delay and ATPC shall be entitled to additional compensation to fully compensate ATPC for damages incurred by ATPC for labor, materials, and its profit and overhead.

DEFAULT

Associated Time & Parking Controls may stop work if any payment specified hereinabove is not paid when due. If payment is not made within ^{thirty} 30 days after its respective due date, Associated Time & Parking Controls Systems may abandon the work and pursue all rights and remedies available to it, including, but not limited to, suing the City of Fayetteville for the reasonable value of work theretofore performed and/or damages for breach of contract, including ATPC's lost profits, lost opportunities and overhead as well as interest and attorneys' fees thereon.

COSTS AND ATTORNEY'S FEES

If any action, suit or other proceeding is instituted to remedy, prevent or obtain relief from a default in the performance by any party of its obligations under this Agreement, the prevailing party shall recover all of such party's costs and its reasonable, but not less than its actual, attorneys' fees incurred in each and every such action, suit, or other proceeding, including any and all appeals or petitions therefrom.

LIMITATION OF LIABILITY

In no event shall Associated Time & Parking Controls liability (whether based on an action or claim in contract, tort or otherwise) to City of Fayetteville arising out of or related to the product hereunder exceed the contract price.

ENTIRE CONTRACT

This writing constitutes the entire Agreement between the parties and exclusively determines the rights and obligations of the parties. Any prior course of dealing, custom or usage of trade or cause of performance notwithstanding.

INVALID PROVISION

In the event that any provision hereof is found to be invalid or unenforceable pursuant to judicial decree, the remainder to this Agreement shall remain valid and enforceable according to its terms.

INDEMNITY

City of Fayetteville hereby releases, and shall defend, indemnify and hold harmless, Associated Time & Parking Controls and ATPC's officers, agents and/or employees, and assigns ("ATPC Related Parties") from any and all claims, suits, or causes of action for damages for bodily injury, or property damage, arising out of or in any way connected with, or alleged to be arising out of or connected with, the goods or services described in this sales contract. "Bodily injury" shall mean physical injury to any person, emotional distress, death and/or loss of consortium. Such duties as set forth herein shall be owed to Associated Time & Parking Controls and to the ATPC Related Parties to the full extent allowed by law and regardless of any alleged or actual liability or fault on the part of ATPC or any ATPC Related Party, whether vicarious, direct, active, passive, sole, or concurrent, save and except that a duty to defend only, and no duty to indemnify, shall arise should it be finally adjudicated by a forum of competent jurisdiction that the said bodily injury, personal injury or property damage arises from the willful misconduct of the City of Fayetteville or any City of Fayetteville Related Party, provided that nothing herein shall be construed to alter, limit or otherwise compromise in any form whatsoever, that immunity afforded the City of Fayetteville under the Constitution and Statutes of the State of Arkansas.

The defense obligation contemplated herein is contingent upon the tender by ATPC or ATPC Related Parties of a claim which wholly or partially comes within the ambit of the above, and City of Fayetteville shall pay promptly when due and as incurred, all attorneys' fees and costs generated in the defense of ATPC and/or ATPC Related Parties in connection with the entire action, including bonds and the costs of appeal. No obligation of City of Fayetteville shall be lessened, reduced, delayed or affected by the existence of other potential or actual indemnitors or insurers, or by ATPC or ATPC Related Parties' rights against any third party for contribution, subrogation or pro-rata.

FREEDOM OF INFORMATION ACT.

City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, ATPC will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

GOVERNING LAW AND JURISDICTION

The construction and performance of this Agreement shall be governed by the laws of the State of Arkansas. The parties irrevocably consent to the institution of any legal action or proceeding against them or any of their property arising out of or in any way connected with this Agreement in Arkansas State or United States federal district court located in Washington County, Arkansas, and submits to the nonexclusive jurisdiction of the aforesaid courts in any such legal action or proceeding.

ACCEPTANCE OF ORDER

The prices, specification and conditions are satisfactory and are hereby accepted. Associated Time & Parking Controls is authorized to do the work as specified.

CITY OF FAYETTEVILLE, ARKANSAS

ASSOCIATED TIME & PARKING CONTROLS, INC.

DAN COODY, Mayor

Signature: Christopher J. Archer
Christopher J. Archer

Title: Vice President

ATTEST:

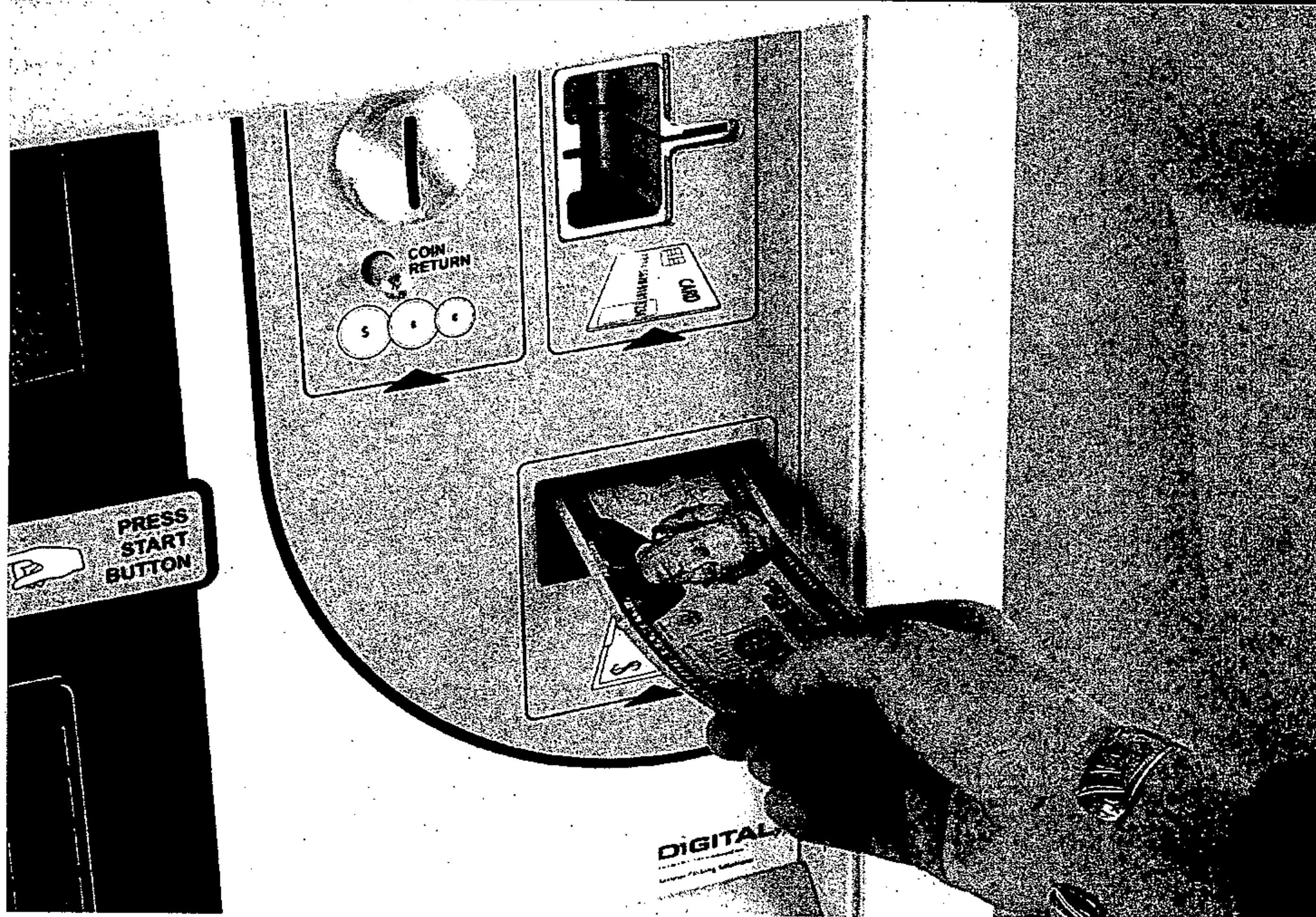
SONDRA SMITH, City Clerk

Date: 9/14/05

Date : _____

Note: This proposal may be withdrawn by Associated Time & Parking Controls, Inc. if not accepted within thirty (90) days.

The Parking Station



DIGITAL >>
PAYMENT TECHNOLOGIES
Serious Parking Solutions™

Building on a Legend

The Intella-Pay Payment Station from Digital Payment set new standards for audit control, reliability and ease of use. With Shelby, Intella-Pay's capabilities are enhanced with a new engine – the latest technology platform that allows low cost real-time communication, a full color screen and low power, low temperature operation. Security has been key in the design of Shelby, with no exposed hinges, solid construction and an imposing look.

Automating your parking facilities means higher revenue, lower costs, more control and more flexibility. All that is available without compromising security or audit controls and backed by the best customer service in the industry.



The Parking Station

Features & Benefits



>> Vandal/Theft Resistance

No pry points – Minimizes theft and vandalism by eliminating the ability to gain purchase with prying tools.

No exposed hinges – Having no hinges external to the enclosure eliminates this common point of attack.

Control – The Shelby Parking Station communicates by sending information out rather than waiting to be asked for information. Unlike competitive products, information is "pushed" out rather than waiting for it to be "pulled." This means information from Shelby is always up to date and accurate.

Audit – Serialized and detailed. Audit reports list coins, bills and credit card payments separately. Reports can also be generated from Shelby directly showing details for the last 10,000 transaction and totals for the entire life of the product.

True real-time alarming – All alarm notifications are sent in real-time to email, cell phones or pagers for immediate response by the appropriate authority.

True real-time reporting – Each transaction is sent from Shelby as soon as it is completed. This means up to the second reporting – not reports that show what happened yesterday or the last time you downloaded. It also means you have access to information about each individual transaction for complete analysis.

>> Configuration Flexibility

There are lots of ways to configure rates with Shelby including; by day of week, by time of day, by calendar day, by payment type and by stall number. Hardware options include solar battery charging, an AC heater and a variety of communications options. Shelby can also be configured to issue permits and communicate with other systems such as non-cash payment systems (campus cards, cell phones, smart cards, etc.).

>> Operational Efficiency

Remote rate/message configuration – No restrictions on changing rates, messages or configuration. Everything is configurable via the Internet or a USB Key.

Very simple maintenance – Easy access and minimal tools required means low downtime and low overall cost of ownership.

>> Easy to Use

Pay by Space or Pay and Display – (or both) whatever Whichever is best for your application and can be changed at any time using software and updated remotely.

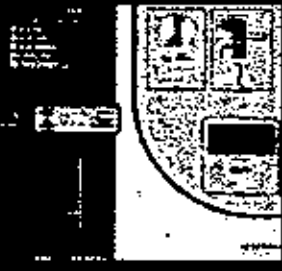
Full color graphic ready screen – Means more clarity and more communication.

Multi-lingual capability – A Microsoft operating system means support for any language supported by Microsoft.

Custom screens/messages – Much more flexibility than just changing a little text.

Online or Offline — What are your requirements today and tomorrow?

- Complete audit control
- More accurate enforcement
- No more unfolding bills
- More payment options
- More secure
- Detailed reporting
- More rate flexibility



The Shelby Parking Station has the ability to operate in many modes from simple, offline, standalone mode requiring data to be physically collected, all the way to full online mode where full control of settings, collecting data and monitoring can be done remotely. Shelby also has the ability to grow with your needs. You can start with simple offline parking stations and add capabilities as your requirements change.

	Offline	Online
Non-Cash Transactions	Batch processing	Batch processing with remote collection or real-time processing
	Limited to credit cards	Can include pre-paid cards and other non-cash payment methods
Monitoring of operational status		Remote monitoring, real-time alarming, intelligent dispatch
Configuration and rate and time changes	Created offline and transferred via disk or modem	Created online and sent to parking station and then a opportunity to schedule for a specific time
Reporting	Data collected using "sneaker-net"	All data real-time reflecting all transactions
	Reports generated and distributed manually	Access to data and reports online via directly or other departments or landlords

Digital Payment is known for customer service. Below are a few comments from happy customers. Ask us about our reference list!

"I would highly recommend Digital"

"I have been very pleased with my decision"

"We have nearly paid for our investment in less than two months."

"One thing will always stick out when talking about Digital Payment. Customer Service!"

"I would recommend you to anybody considering this type of investment!"

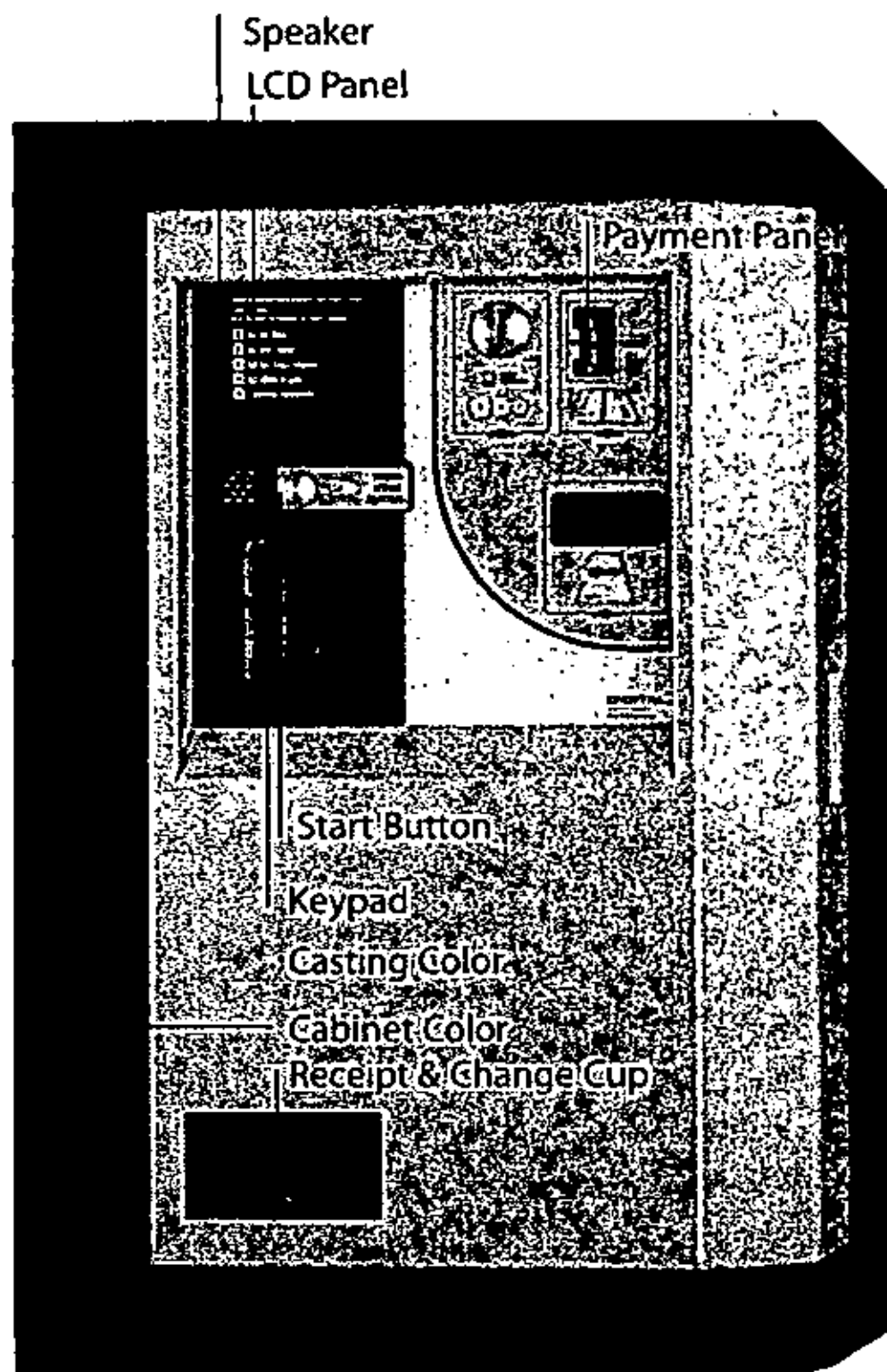
"We have seen a huge jump, with almost a 50% increase in revenue."

"Our customers love it!"



The Parking Station

Specifications



Coin Acceptor

Accepts up to 12 different coins/tokens
Returns rejected coins, tokens or slugs immediately
Coin acceptor release button for clearing of acceptor path
Differentiates coins or tokens using two optical sensors and by examining diameter, width and metal content
Is vandal resistant, weather proof and corrosion resistant

Coin Changer – Replenishing

Five high capacity tubes
Completely mechanically secured
Highest change capacity
Water and jam resistant
Easy to clear without tools

Coin Changer – Hoppers

Two independent hoppers
\$0.05, \$0.25, \$1.00 or \$2.00 (Canada)
Up to 900 coins per hopper
Completely auditable

Credit/Smart Card Reader and Operation

Reads track 1, 2 and 3 of all mag-stripe cards conforming to ISO 7810 and 7811.
Reads and writes to chip based smart cards conforming to ISO 7810 and 7816
Cards are not ingested – no moving parts to fail
Is modular, unplugs easily and can be replaced in less than 2 minutes
Flush mounted with no part of the reader protruding outside the cabinet
Stores a minimum 10,000 bad card numbers in the payment station memory.

Receipt Printer / Paper

Standard – 2" with partial cut for receipt (Pay and Display)
Optional – 3" perforated two piece paper (Pay and Display)
100% recyclable
Thermal coating is made from water-soluble ingredients
Can be pre-printed with customized messages on back of receipt
Resistant to heat, fading, and curling and can be left on a vehicle dashboard for extended periods of time

Alarm

Senses shock, vibration, door open and tilt
Sends alarm notifications to EMS if unit is equipped for real-time communication
Can wake the parking station from sleep mode

Display

320 x 240 resolution
16 bit color (65,536 colors)

Environmental Specifications

25°C to +40°C (-13°F to +104°F)
95% Relative Humidity

Power

120Vac 60Hz for charging battery or solar panel

Keypad

Standard – high security tactile buttons with audible indicator
Optional – piezo-electric non-moving buttons with audible indicator
Piezo-electric start switches

Locks

Can be re-keyed twice without removing lock cylinder

Cabinet

12 gauge stainless steel
No pry points or exposed hinges

Controller

64MB non-volatile memory
400MHz Intel XScale processor
Microsoft Windows CE Operating System

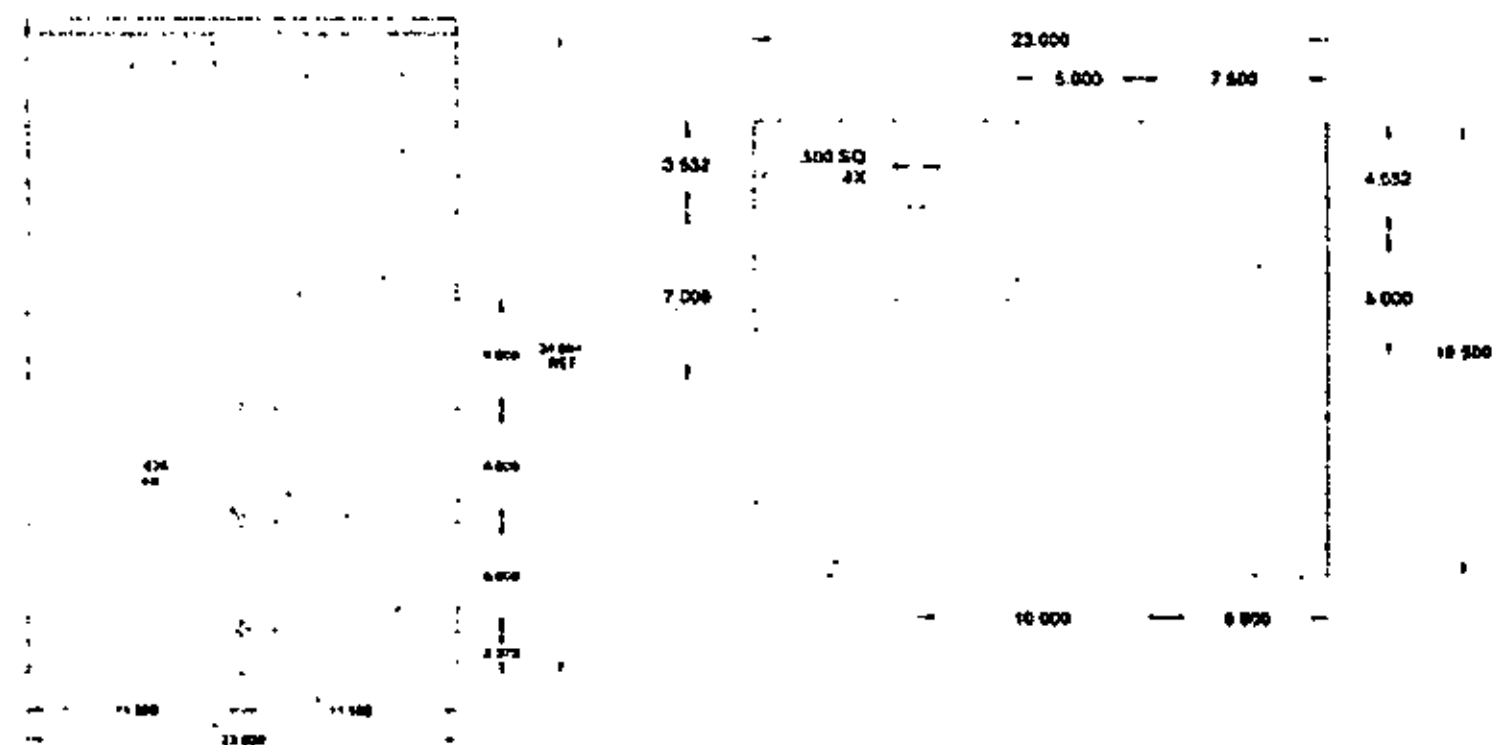
Communications

GSM/GPRS, CDMA, WIFI, or Ethernet
All communication via TCP/IP encrypted with 128-bit SSL

Mounting

Cabinet back view

Cabinet bottom view





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

B. 3
Associated Time and Parking Controls, Inc.
Page 15 of 16

Budget Year 2005	Department: Operations Division: Telecommunications & Parking Program: Off Street Parking Exp	Date Requested 9/13/2005	Adjustment Number
--------------------------------	--	--	--------------------------

Project or Item Added/Increased: \$51,214 in the Fixed Assets account in the Dickson Street Parking Equipment capital project.	Project or Item Deleted/Reduced: \$51,214 from C-3 Parking Escrows; in lieu fees collected for public parking facilities. (There is currently \$70,033.45 in this account.)
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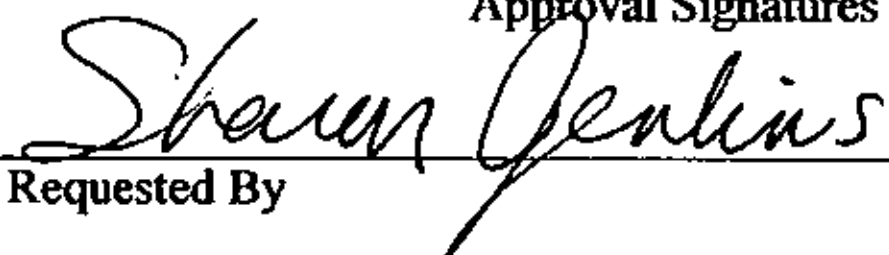
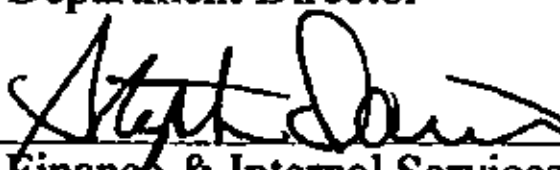
Justification of this Increase: The funding is for the purchase of three Revenue Collection Equipment for the public parking lots near Dickson Street.	Justification of this Decrease: C-3 Parking Escrows are funds collected from C-3 merchants in the area to offset the number of off-street parking spaces provided by the merchant. An in lieu fee of \$1,200 for each on-site parking space is paid to the city and held in an interest bearing account and shall be expended for public parking facilities within the district it is collected.
--	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Fixed assets	2130	9130	5801	00	51,214	05049	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
#N/A	2130		1529	03	51,214		

Approval Signatures		Budget Office Use Only					
 Requested By	9-13-05 Date	Type:	A	B	C	D	E
Budget Manager	Date	Date of Approval	Initial Date				
Department Director	Date	Posted to General Ledger	Initial Date				
 Finance & Internal Services Director	9-16-05 Date	Posted to Project Accounting	Initial Date				
Mayor	Date	Entered in Category Log	Initial Date				

3
City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

B. 4
Parking Management Division Position
Page 1 of 12

10/4/2005

City Council Meeting Date

Sharon Jenkins

Submitted By

Parking Management

Division

Operations

Department

Action Required:

A resolution approving the addition of a full-time position in the Parking Management Division and a budget adjustment in the amount of \$3,282.00.

\$3,282.00

Cost of this request

Category/Project Budget (2005)

Personnel Services

Program Category / Project Name

1010-5300- (various)

Account Number

Salaries and Wages

Program / Project Category Name

\$

-

General Fund

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

X


Department Director

9-14-05
Date

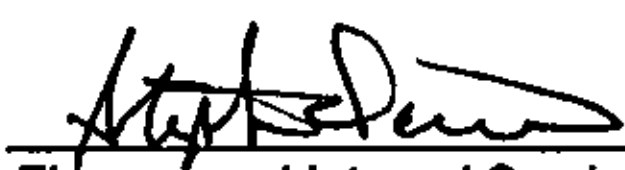
Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

9/15/05
Date


Finance and Internal Service Director

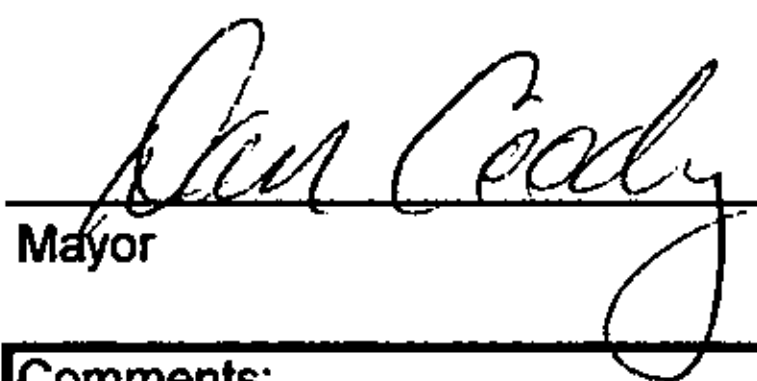
9-16-05
Date

Received in City Clerk's Office



Received in Mayor's Office




Mayor

9/16/05
Date

Comments:

10/18/05 tabled to 11/01/05 meeting

tabled on 10/4/05

Addition of a Full-Time Position in Parking Management
October 4, 2005 Council Meeting
Page 1 of 2

AGENDA REQUEST MEMO

TO: Mayor Dan Coody

THRU: Gary Dumas, Director of Operations 

FROM: Sharon Jenkins, Parking Manager 

DATE: September 12, 2005

SUBJECT: Approval of a Full-Time Position in the Parking Management Division
and a Budget Adjustment for \$3,282.00

RECOMMENDATION

Staff requests the approval of a half-time position for the Parking Management Division and budget adjustment for \$3,282.00. This will cover salary expenses for the remainder of 2005.

BACKGROUND

The City is seeking to enter into a contract with Fayetteville Depot, L.L.C. to operate a private parking lot located on the northwest corner of Dickson St. and West Ave. With the addition of this 150+ space parking lot, parking staff will provide parking enforcement and revenue collections for up to 16 hours per day. Currently, the City has one full-time Parking Enforcement Officer and one half-time Parking Enforcement Officer. This new full-time position is for a Field Operations Supervisor that will provide parking services for the Fayetteville Depot lot as well as all other public parking areas in the Downtown Square and Dickson Street areas.

DISCUSSION

Although this position will be providing all the same duties as a Parking Enforcement Officer, staff requests this position to be a Field Operations Supervisor so that special field projects can be administered by this position. By having a lead position, we can provide regular supervision and assistance for field workers, perform regular surveys and audits, perform maintenance checks of all the equipment on a daily basis, allocate resources accordingly to ensure all operational activities are handled in an efficient and productive manner. This position will have a direct impact on increased revenues simply by ensuring all resources are operational and performing at the highest capacity. Another very important project that will be developed and implemented by this position is a comprehensive residential parking program for the Downtown Square and Dickson Street areas. A full description of the job responsibilities are attached for further explanation.

BUDGET IMPACT

The total budget needed for 2005 will be \$3,282.00. The total additional funds needed to fund this position annually are \$30,830.00, plus \$14,969.00 for benefits. Revenues generated from parking citations written typically cover the cost of salaries. We anticipate over \$73,000.00 in annual revenues to be generated from the Fayetteville Depot parking lot alone. Efficiency improvements employed by this position in other areas will result in an increase in revenues in all parking areas.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ADDITION OF ONE (1) FULL-TIME POSITION IN THE PARKING MANAGEMENT DIVISION; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$3,282.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the addition of One (1) Full-Time Position in the Parking Management Division.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$3,282.00.

PASSED and APPROVED this 10th day of October, 2005.

APPROVED

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

**CITY OF FAYETTEVILLE
NON-EXEMPT
POSITION DESCRIPTION**

SECTION 1

HEADING

Position: Field Operations Supervisor

Incumbent: New FTE

Dept: Operations

Reports to: Parking Manager

Approvals: _____

Date: August 9, 2005

SECTION 2

BASIC FUNCTION

(Briefly describe the role of your job in the City and the reasons your job exists.)

Supervises working crews in the accomplishment of scheduled work activities. Working crews include 2 to 4 parking enforcement officers, 1 to 2 maintenance workers, public service workers, and jail trustees as assigned.

Field investigates all reports of problems and takes the appropriate action to correct emergency situations.

Determines material, personnel and equipment required to complete projects, and allocates resources accordingly to ensure all operational activities are handled in an efficient and productive manner.

Responds to citizen calls, requests, complaints, and customer service needs. These may include parking equipment damage, parking deck/structure damage, pavement and parking lot cracks, equipment failure, facility maintenance needs, poor or negligent parking enforcement service, litter control problems, etc.

Visits work sites to inspect work in progress and ensures projects and work assignments are completed properly and according to schedule.

Advises supervisor of potential operational problems and proposes and implements corrective actions as necessary using independent judgment when circumstances necessitate. This may include equipment, job site conditions, safety problems, various staffing needs, or special conditions requiring contracts or permits.

Maintains records to document materials, manpower, and equipment required to complete projects and other operational or service information. May enter data into a work order system or utilize other software designed for tracking projects, work orders, service requests, and productivity.

Participates in the hiring process and provides performance counseling and input for disciplinary actions.

Prepares performance evaluations on all crew members.

Ensures that employees are properly trained in work processes, work site and equipment safety, vehicle and equipment maintenance schedules and techniques.

Ensures that employees properly and accurately enforce all parking regulations and city ordinances for the issuance of parking citations and towing procedures.

Provides secure methods of revenue collections on all parking meters and revenue collection equipment.

Provides project management and installation support for all parking related projects.

Ensures contract compliance of service providers; facilitates meetings with parking management and security companies providing services.

Analyzes customer use of parking facilities and prepares reports and memorandums of findings.

Prepares rules, regulations, and policies for parking facilities for contractors, monthly customers, and transient customers.

Makes recommendations on parking operation improvements to ensure a successful parking program.

Performs all duties of the Parking Enforcement Officers, as needed, including issuing citations, revenue collections, equipment maintenance, sign maintenance, etc.

Formulates schedules for all work crews to ensure enforcement services are provided 16 hours per day, 6 days per week.

Coordinates all field activities for special events; assists with traffic control, parking and safety issues related to special events and parades.

Works variable shifts, from time to time, to ensure full supervision of work crews; provides on-call service for emergency situations.

Assists Communications Coordinator with workload, as needed, with telecommunications work orders, including cable installation and minor programming changes.

Performs related work as required.

SECTION 3

MAJOR DUTIES & TASKS

(Describe the major duties and tasks you perform when doing your job and the % of your time you spend on each of the duties)

1. Supervise and coordinate parking operations	% of Time 25
2. Supervise activities and scheduling of working crews	% of Time 25
3. Project management and implementation	% of Time 8
4. Responds to citizen needs and complaints	% of Time 8

5. Trains employees, allocates materials, personnel, equipment and schedules work crew assignments	% of Time 10
6. Coordinates all special event activities; assists with traffic, parking and safety issues	% of Time 2
7. Provides maintenance of equipment	% of Time 7
8. Issues parking citations and warnings	% of Time 15

SECTION 4

EQUIPMENT OPERATED AND SKILL LEVEL REQUIRED

(Describe the equipment you operated on the job)

Skilled electrical work is required in the repair of revenue collection equipment, card readers, gate controllers, telco cabling, light fixtures in the parking decks, and parking control devices.

Bench work in the shop includes operating power saws, drills, meter calibration devices, soldering tools, and other related power tools.

Operates light to heavy equipment such as street sweeper, ride-on vacuum equipment, power washer, ice removal equipment, etc.

Utilizes electronic handheld devices for issuing parking citations; utilizes desktop computers to download and update parking ticket information and related information and reports.

Graduation from high school or equivalent, and considerable experience in parking operations and/or public works maintenance or operational activities.

Ability to organize and lead teams of employees to accomplish specific work tasks and maintain a high level of morale.

Knowledge of the occupational hazards involved and the safety precautions necessary to the safe conduct of heavy manual work and equipment operation.

Working knowledge of principles and practices of on and off-street parking operations, applicable federal, state, and local laws, rules and regulations pertaining to parking.

Ability to make decisions recognizing established precedents and practices, and be resourceful in meeting new problems.

Ability to establish and maintain effective working relationships with other employees and the general public.

SECTION 5

SPECIAL LICENSES OR CERTIFICATES

(Describe any special licenses, certificates, etc. you need to do your job)

Possession of a valid Arkansas driver's license; possession of or ability to obtain within 60 days a valid Arkansas Commercial Driver's License; must pass a pre-employment drug screen.

SECTION 6

WORKING CONDITIONS

(Describe the environment in which you do your work)

Physical effort: This position requires walking of the entire downtown patrol area approx. 50% of the time; required to carry up to 50 pounds on a regular basis.

Adverse Conditions: Extreme weather elements are a huge factor in performing daily job duties; from extreme heat temperatures (over 100 degrees on asphalt streets and parking lots), to extreme cold while performing ice and snow removal. Most work is performed outdoors.

Hazards: Routinely subjected to traffic hazards and moving vehicles. Also, the tempers of parking violators are often quite violent and abusive. Shift work involves late night work in the Dickson Street area subjecting this employee to extreme violence from intoxicated offenders.

SECTION 7

NATURE & SCOPE

(Describe the type of work you do)

Major Challenges: The major challenges of this position are to coordinate and supervise work crews to ensure all operational shifts are adequately staffed, and ensure that all parking rules and regulations are carried out by the parking enforcement officers. Problem solving is constant and requires frequent interaction with the public to resolve citizen complaints. Other challenges require formulating comprehensive solutions for downtown parking management and making recommendations for future efficiency improvements.

Workflow: This position reports directly to the Parking and Telcommunications Manager. This position provides field supervision of all work crews, and also assists the Communications Coordinator with job responsibilities as needed.

Decision Making: An employee in this position exercises independent judgment in identifying problem situations, taking appropriate corrective action and responding to citizens, committees, and other staff.

Contacts: This position must communicate effectively with technical, business, internal and external constituents and must develop and maintain excellent relations with a diverse spectrum of parking patrons. Excellent communications skills are needed to be able to provide customer services and information to the community and individuals pertaining to parking issues and programs. Meets frequently with the City Prosecutor and/or District Judge regarding parking citations, warrants, and outstanding summons; occasionally required to testify in court pertaining to a contested parking violation.

SECTION 8

ADDITIONAL REMARKS

(Add any other important information not included above)

This position involves a wide spectrum of activities and projects. The ongoing duties of this position are diverse in nature and require the ability to successfully alter priorities or activities to meet the demands of a new situation due to weather changes, special events, etc.

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

B. 4
Parking Management Division Position
Page 9 of 12

Budget Year 2005	Department: Division: Program:	Date Requested 9/12/2005	Adjustment Number
--------------------------------	---	--	--------------------------

Project or Item Added/Increased:

\$2,569 Salaries
\$ 197 FICA Taxes
\$ 10 Life Insurance
\$ 453 Health Insurance
\$ 9 LTD Insurance
\$ 2 ADD Insurance
\$ 42 Retirement Savings

\$3,282.00 TOTAL for Parking Management Division

Project or Item Deleted/Reduced:

\$3,282 Parking Fine Revenues

Justification of this Increase:

The addition of this full-time position will allow us to provide parking enforcement and revenue collections in a parking lot located on Dickson Street. This is a private lot that is being converted into a 150+ space paved parking lot to be used by the general public. It will also afford us more staffing to improve our overall operations and substantially increase daily revenues in all public parking areas.

Justification of this Decrease:

Revenues generated from parking citations written typically covers the cost of salaries.

During the first 8 1/2 months of 2005, we have already exceeded anticipated parking fine revenues by \$5,800.00. We expect this overage to exceed \$14,000.00 by the end of the year. This increase was due solely to procedural changes in issuance and collections of citations that were implemented in January 2005.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number
Salaries and wages	1010	5300	5100	00	3,282	
			↑ Various accounts See Attachment			

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Parking fines	1010	0001	4500	00	3,282	

Approval Signatures

Sharon Jenkins 9-14-05
Requested By Date

Budget Manager Date

Department Director Date

Finance & Internal Services Director Date

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

Funding Source for full-time position in the Parking Management Division

Increase Expense Budget:

<u>Account Name</u>	<u>Account Number</u>	<u>Amount</u>
Salaries and Wages	1010-5300-5100-00	\$2,569
Overtime	1010-5300-5103-00	\$0
FICA Taxes	1010-5300-5105-00	\$197
Life Insurance	1010-5300-5107-00	\$10
Health Insurance	1010-5300-5108-00	\$453
LTD Insurance	1010-5300-5108-01	\$9
ADD Insurance	1010-5300-5108-02	\$2
Retirement Savings	1010-5300-5109-06	\$42
		<u>\$3,282</u>

Decrease Expense Budget:

<u>Account Name</u>	<u>Account Number</u>	<u>Amount</u>
Parking Fine Revenues	1010-0001-4500-00	\$3,282

ADDITIONAL INFORMATION

TO: Fayetteville City Council
THRU: Gary Dumas, Director of Operations
FROM: Sharon Jenkins, Parking Manager *sq*
DATE: October 14, 2005
SUBJECT: Additional Information on Request for Full-Time Position

In response to some of the Council's concerns regarding the funding of a new position, I would like to take this opportunity to provide additional information on this request.

Currently, we have one full-time position and one half-time position that work on the street to provide parking enforcement. These Parking Enforcement Officers not only issue citations for overtime parkers, but an array of many other services that virtually improve the quality of life for residents, merchants, downtown employees, and visitors of downtown Fayetteville.

There is a total of 72 days per year that our officers are NOT providing parking enforcement because they are performing other necessary duties: parking equipment repair, meter maintenance, meter audits, revenue collections, sign maintenance, special events coordination, construction and repair of parking gate arms, space occupancy surveys, card reader programming, and assisting with the cleaning of Dickson Street and public parking lots. There is an additional 396 hours every year that we do not have enforcement on the street because the officers' shifts end at 3:30pm. These "down" times equate to **\$53,865 IN LOST REVENUES!** We also have a 2-hour time-lapse every morning that we do not have an officer available to provide enforcement on the meters which potentially results in **another \$10,500 IN LOST METER REVENUES.** As you can see, the increase in revenues that this position will generate will be more than sufficient to cover the expense.

This position is needed in the Parking Management Division regardless of any other parking program that is implemented in the future. A new personnel request was not submitted in the 2006 Budget Request because we need this position immediately to capture the revenues we are currently losing, to provide adequate and efficient parking services in the downtown and Dickson Street areas, and to assist in the implementation of a comprehensive Residential Parking Program in the Dickson Street area.

The addition of this position will not be an added expense to the City. It will generate revenues for the entire Parking Management Program, thus resulting in less supplementation by the General Fund. Thank you for your consideration.

This is not a bakery feeds based on my homework
thanks Steve & Phil for your work. Bring everyone on board.
I hope to see another project in another yr or less
This is the type of growth that does pay for itself.

LEED $\Rightarrow$ That @ Innovations Center

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

18-Oct-05
City Council Meeting Date

Ray Boudreaux
Submitted By

Aviation & Economic Development
Division

General Government

Action Required:

Action Required: Approval of an Offer and Acceptance Contract with Bio-Based Technology to purchase City-owned land located on Cato Springs Road, designate the proceeds for Economic Development purposes and approve a budget adjustment implementing the request.

\$940,000 REVENUE
Cost of this request
1010-0001-4881-02
Account Number
Project Number

\$ 24,298.00
Category/Project Budget
\$ 58,661.00
Funds Used to Date
\$ (34,363.00)
Remaining Balance

Gain/Loss Sale Of Assets
Program Category / Project Name
Program / Project Category Name
General Fund
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Finance and Internal Service Director

Date

Received in City Clerk's Office

Mayor

Date

Received in Mayor's Office



Comments:

10/18/05 This ordinance was left on the first Reading

City Council Meeting of: October 18, 2005
Agenda Item Number:

CITY COUNCIL AGENDA MEMO

TO: Mayor

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: September 29, 2005

SUBJECT: Approve Offer and Acceptance Contract for the purchase of the land occupied by the Water and Sewer Department at the intersection of Razorback Road and Cato Springs Rd.

RECOMMENDATION: Approve contract for the sale of Parcel 765-03017-000 and Parcel 756-15399-010 excepting that one (1) acre portion of the property occupied by the Children's House for \$940,000.00 with option to purchase the remaining one (1) acre occupied by the Children's House at a later date and establishing performance measures and a buy back provision.

BACKGROUND: Fayetteville Economic Development Council has brought forward an economic development proposal from Tom Maccio, CEO of BioBased Systems and BioBased Technologies. BioBased operates a biotechnology concern that is making major market progress in Soybean adaptation for green products where fossile fuels are replaced by Soy Polyol as the basic building block. His application to purchase this property includes development of their national headquarters and major research and development facilities. This property was selected due to its close proximity to the University of Arkansas Research and Technology Park and the need for rail access. See attached draft Press Release for more information.

DISCUSSION: The parcel will be vacated by the City of Fayetteville water and sewer operations center this fall. The project is a compatible use for the parcel. The company will create 30 jobs and support a payroll of \$2,000,000.00 annually by the year 2008. Among the employees will be three to five scientists working in research and development roles through the University of Arkansas.

BUDGET IMPACT: The proceeds will go into the General Fund designated for Economic Development purposes.

Attachments: Staff Review form
Offer and Acceptance
Letter from Tom Muccio
Draft Press Release

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

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF §34.27, CODE OF FAYETTEVILLE AND APPROVING AN OFFER AND ACCEPTANCE CONTRACT WITH BIOBASED TECHNOLOGIES IN THE AMOUNT OF \$940,000.00 FOR THE PURCHASE OF THE WATER & SEWER OPERATIONS CENTER ON CATO SPRINGS ROAD; DESIGNATING THE PROCEEDS FOR ECONOMIC DEVELOPMENT PURPOSES; AND APPROVING A BUDGET ADJUSTMENT IMPLEMENTING THE DESIGNATION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby waives the requirements of § 34.27, Code of Fayetteville, and approves an Offer and Acceptance Contract with BioBased Technologies in the amount of \$940,000.00 for the purchase of the Water & Sewer Operations Center on Cato Springs Road. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby designates the proceeds of this sale for Economic Development purposes.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment implementing said designation of proceeds.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute said agreement with BioBased Technologies.

PASSED and APPROVED this 18th day of October, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

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

B. 5
Bio-Based Technology Offer & Acceptance
Page 4 of 20

Budget Year 2005	Department: General Fund Revenue Division: Program:	Date Requested 10/3/2005	Adjustment Number
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Project or Item Requested: \$940,000 is requested in the Use of Fund Balance account.	Project or Item Deleted: None. To recognize \$940,000 in Gain/Loss of the Sale of Assets account.
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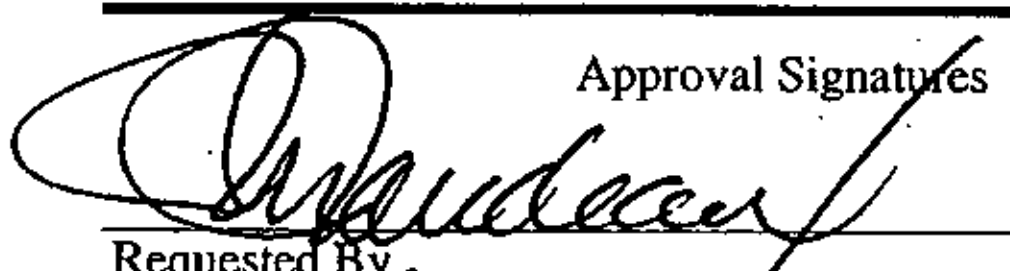
Justification of this Increase: The funds are to be placed into Designated Fund Balance for future Economic Development uses.	Justification of this Decrease: The \$940,000 in additional revenue is from the result of the sale of parcel 765-03017-000 and parcel 756-15399-010 to BioBased Systems.
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Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number
Use of fund balance	1010	0001	4999	99	940,000	

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number
Gain/loss-sale of assets	1010	0001	4881	02	940,000	

Approval Signatures		Budget Office Use Only						
Requested By		Date	Type:	A	B	C	<u>D</u>	E
Budget Manager		10-3-05	Date of Approval				Initial	Date
Department Director		10/3/05	Posted to General Ledger				Initial	Date
Finance & Internal Services Director		10-3-05	Posted to Project Accounting				Initial	Date
Mayor			Entered in Category Log				Initial	Date



Tom Muccio, CEO

Steve Rust
1 West Mountain, Suite 301
PO Box 4156
Fayetteville, AR 72702

September 30, 2005

Steve,

This letter is to lay out BioBased Realty's offer to buy land from the City of Fayetteville for development of a Headquarters Campus for BioBased Technologies, BioBased Systems, and other related companies.

We have done the offer in "plain English" to make it easier to agree and, once agreed or amended, we can have the lawyers rework it in contractual form.

It is our intent to close on the property as soon as practical and then to start construction on Building 1 as soon thereafter as possible. We will engage an architectural firm as soon as we have agreement to the sale.

Our offer is as follows:

1. We will purchase all of Parcel 765-03017-000 and Parcel 756-15399-010, with the exception of a one acre parcel where the Children's Home currently sits, for \$940,000 assuming acceptable financing. The boundary for this excepted one acre site is highlighted on the attached map.

For the one acre that is excluded from the parcels in the above paragraph, BioBased Realty has the right of first refusal to purchase the land at the appraised value at the time, less credits for payroll creation above the base agreement over the 2009-2013 period as outlined below in point 7.

2. The City of Fayetteville will do a Phase I and, if required, Phase II environmental study prior to closing and correct deficiencies starting with Parcel 756-03017-000 which is where we will locate Building 1.

It is our plan to use the least desirable portion of the land for Building 1 and continue to develop the property from the east to the west to enable our ultimate corporate headquarters to be fronting on Razorback Road.

Starting on the east side enables more financial stability and resources to insure our corporate headquarters makes a very attractive statement to visitors exiting I-540 on their way to the University of Arkansas.

3. The City of Fayetteville will remove buildings and debris.
 - a. Debris will be removed as soon as possible
 - b. Building removal will be coordinated with BioBased Technologies/BioBased Systems
4. Prior to closing, BioBased Technologies/BioBased Systems will provide the City of Fayetteville with a Master Plan layout of the property with each individual building being agreed to by the City of Fayetteville prior to construction.
5. If the BioBased Technologies/BioBased Systems property is sold within the first 15 years, an appraisal will be done on the land only, as if the buildings do not exist, and will pay the City of Fayetteville the increase in appraised value on the land only, less improvements and selling costs with the following schedule:

▪ 0 to 5 years	75%
▪ 5 to 10 years	40%
▪ Over 10 years	0%
6. It would be BioBased Technologies'/BioBased Systems' intention to begin construction of at least Building 1 of the campus in 2006 with expected occupancy in 2008. This would be followed as soon as practical by Building 2 which would be located where the existing Water Works buildings are located.

We will have three to five scientists working out of the University of Arkansas' Bio Mass lab from early 2006 and our commitment to payroll would be:

2008	30 jobs	\$2,000K payroll annualized
------	---------	-----------------------------
7. For every \$100K annual in payroll that is added from 2009-2013 above the \$2,000K annualized commitment for 2008, there will be a \$25K reduction in price of the final acre of land where the Children's Home currently sits; i.e. if the land appraises at \$400K for the acre at that time and BioBased Technologies/BioBased Systems create \$1,000K in additional annual payroll beyond the \$2,000K base payroll of 2008, the final price of that acre to BioBased Technologies/BioBased Systems would be \$150K.

We would like to move quickly to get agreement to this offer given the need to make office and lab decisions to support our businesses.

Please advise how we should proceed.



Tom Muccio
CEO BioBased Technologies and BioBased Systems

OFFER AND ACCEPTANCE CONTRACT

1. BioBased Realty offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"
FOR PROPERTY DESCRIPTION

2. **Purchase Price:** Subject to the following conditions, BioBased Realty shall pay for the property at closing, the total and cash payment of **\$ 940,000.00 (assuming acceptable financing)**.
3. **Contingent Earnest Money Deposit:** BioBased Realty herewith tenders a check for **\$ 1000.00** to the City of Fayetteville, as earnest money, which shall apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to BioBased Realty by the City of Fayetteville. If title requirements are not fulfilled or the City of Fayetteville fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to BioBased Realty. If BioBased Realty fails to fulfill their obligations under this contract or, after all conditions have been met, BioBased Realty fails to close this transaction, the earnest money may, at the option of the City of Fayetteville, become liquidated damages to the City of Fayetteville.
4. Conveyance will be made to BioBased Realty by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the City of Fayetteville.
5. The City of Fayetteville shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. BioBased Realty and the City of Fayetteville shall share equally in the cost of the title insurance.
6. The City of Fayetteville agrees to allow BioBased Realty, if BioBased Realty so desires, at BioBased Realty's expense, to survey the property. The City of Fayetteville agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.
7. Taxes and special assessments due on or before closing shall be paid by the City of Fayetteville. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. The closing date shall be within **ninety (90)** days after approval of this offer by the City Council. If such date of closing falls on a weekend or holiday, it will be held the following working day.
9. Possession of the property shall be delivered to BioBased Realty on the date of closing.
10. The City of Fayetteville hereby grant(s) permission for BioBased Realty or their designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
11. All fixtures, improvements and attached equipment are included in the purchase price.
12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the City of Fayetteville.
13. The City of Fayetteville shall disclose to BioBased Realty any and all environmental hazards of which the City of Fayetteville has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, the City of Fayetteville shall bare the costs of any and all testing for the existence of environmental hazards, including Phase I environmental study and a Phase II study if necessary. Should the existence of environmental hazards be known or determined, the City of Fayetteville shall cure such, at their expense.

OFFER AND ACCEPTANCE CONTRACT
Page 2 of 4

14. This agreement shall be governed by the laws of the State of Arkansas.
15. This agreement, when executed by both BioBased Realty and the City of Fayetteville shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
16. This contract expires, if not accepted by the City of Fayetteville on or before the 18th day of October, 2005.
17. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within thirty (30) days of acceptance by the City of Fayetteville.
18. **NOTICE:** THE BioBased Realty AND THE CITY OF FAYETTEVILLE ASSERTS HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO THE BioBased Realty OF THE \$ 1000.00 EARNEST MONEY DEPOSIT.

Tom Muccio, CEO
BioBased Technologies/BioBased Sytems

Date:_____

Date:_____

AGENT OR WITNESS:

Date:_____

City of Fayetteville, Arkansas,
A municipal corporation

Dan Coody, Mayor

Date:_____

Sondra Smith, City Clerk

Date:_____

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 4

EXHIBIT "A"
PROPERTY DESCRIPTION

Parcel 765-03017 and Parcel 756-15399-010 excepting the one (1) Acre parcel occupied by Children's House in the southwest portion of the property.

SIGNED FOR IDENTIFICATION:

Tom Muccio, CEO
BioBased Technologies/BioBased Systems

Date: _____

Date: _____

Dan Coody, Mayor

Date: _____

Sondra Smith, City Clerk

Date: _____

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 4

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

) ss.
)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are _____ of _____ and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said _____, and further stated and acknowledged that he/she/they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2005.

Notary Public

MY COMMISSION EXPIRES:

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

) ss.
)

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

WITNESS my hand and seal on this _____ day of _____, 2005.

Notary Public

MY COMMISSION EXPIRES:

Rena
Thomas
handed out

C.3. Bio-Based Technology
10/18/05

TO: Fayetteville City Council
DATE: October 17, 2005
RE: Sale of Water and Sewer Operations Center

Some points to be made when considering sale of property at Razorback Road and Cato Springs Road should be:

- General Plan 2020 calls for the land to be REGIONAL COMMERCIAL
The proposed use is Industrial
- Land appraisal, why isn't it attached to the agenda request?
- The land in "As Is" form is appraised at \$1,970,000 THIS OFFER AND ACCEPTANCE IS A MILLION DOLLARS LESS!!!!
- Effects on the neighborhood directly abutting petroleum based business
- Tax base for commercial node would be larger benefit for the City
- Revitalization of South Fayetteville area
- Entrance into the city—aesthetics
- No commercial design standards for Industrial areas
- Industrial Park is a more suitable location for this type of business
- New residential developments within one mile proximity of this location
 - a. The Crowne
 - b. Hank Broyles' project from 6th Street to 15th Street
 - c. Lazenby's PZD
 - d. Lindsey's apartments on Cato Springs Road
- Infrastructure on Cato Springs Road is severely lacking and cannot withstand the additional trips per day that would be generated without substantial improvements. The way to get those improvements is to encourage new development on this parcel that would meet more rough proportionality for street improvements.
- Will this operation omit odor?
- Lack of information regarding type of use—offering information after the offer and acceptance contract ties the city's hands in the future.
- No adjoining property owner notification was given, no sign placed on property as per §34.27. No neighborhood meetings have been held.

Talking with Alderman Rhoads, he was 99% certain that this item would be tabled until the next meeting to give council a chance to tour the location in Rogers.

I have contacted Aubrey Shepherd with the Town Branch Neighborhood Association who is very concerned with the lack of information provided at this time. I am also attempting to contact Terry Easton and the neighborhood located on Cato Springs Road.

Please table this request for two weeks to give time for additional neighborhood input and more information to be provided by Bio-Based Technology.

C. 3.

10/18/05

Handed out at the City
Cancel meeting 10/18/05

B. 5

Bio-Based Technology Offered Acceptance
Page 13 of 20

Material Safety Data Sheet (MSDS)

Section 1: Product and Company Identification

Product Name AGROL™ 1.8, 2.0, 2.8, 3.0 and 4.0
 Manufacturer BioBased Technologies, LLC
 1315 North 13th Street
 Rogers, AR 72756
 Phone: (877) 4PO-LYOL, (877) 476-5965
 Fax: (479) 246-9524
 Website: www.biobasedtechnologies.com

EMERGENCY CONTACT IN CASE OF CHEMICAL EMERGENCIES:
 CALL CHEMTREC AT 800-424-9300
 OR (COLLECT) 703-527-3887 (USA)

MSDS Identification MSDS AGROL™ Hydroxylated Soybean Oil, Revision 0.2
 Date Issued: 08/22/2005
 7 Pages Total

Common Chemical Name Soy-based polyol
 Synonyms Hydroxylated Soybean Oil

Section 2: Ingredient Information

AGROL™ Hydroxylated Soybean Oil:

This product is considered a non-hazardous chemical as defined by OSHA 29 CFR 1910.1200.

Chemical Name	PEL (OSHA)	TLV (ACGIH)	LD50	LC50
Hydroxylated soybean oil CAS 693-217-9	(not established)	(not established)	(not established)	(not established)

Section 3: Hazard Identification

Emergency Overview

Appearance Pale yellow to amber; viscous liquid
 Health Product may cause irritation to the eyes.
 Fire / Contamination Use a water spray to cool fire and exposed containers to minimize risk of drum rupture. Toxic gases and fumes result from burning/decomposition. Closed container can explode under extreme heat or if contaminated with isocyanates or other materials.
 Spill Evacuate and ventilate spill area. Dike around the spill. Wear full protective equipment, including air supply respiratory protection.
 NFPA® Ratings (suggested) H = 1 (health)
 F = 1 (flammability)
 R = 0 (reactivity)
 HMIS® Ratings (suggested) H = 1 (health)
 F = 1 (flammability)
 R = 0 (reactivity)

MSDS AGROL™ Hydroxylated Soybean Oil

Page 2 of 7

Exposure Effects (Section 3 continued)

Eyes	May cause irritation to the eyes.
Skin	May cause irritation to the skin.
Inhalation	Inhalation of vapors or mists of the product may be irritating to the respiratory system.
Ingestion	Ingestion of large amounts may produce gastrointestinal disturbances including irritation, nausea, and diarrhea.
Toxicological Information	Refer to "Section 11: Toxicological Information".
Carcinogenicity	Refer to "Section 15: Regulatory Information".

Section 4: First Aid Measures

Skin	Remove any contaminated clothing including rings, watches, and shoes. Wash with soap and water. Get medical attention if irritation occurs.
Eyes	Irrigate immediately and continuously for at least 15 minutes. Use an eye wash fountain if possible. Use the fingers to spread apart and hold open the eyelids. Do not remove contact lenses, if worn. 'Roll' eyes (move in all directions). Seek medical attention.
Ingestion	Do not allow aspiration of vomit; turn victim's head to prevent inhaling vomit. Immediately transport to a medical facility and inform medical personnel about the nature of the exposure.
Inhalation	Move to fresh air. Aid in breathing if necessary and get immediate medical attention. Supplemental oxygen may be indicated. Prevent aspiration of vomit. Turn victim's head to the side.

Section 5: Fire Fighting Measures

Flammability	Flammable
Conditions of Flammability	Heat, sparks, open flame
Extinguishing Media	Dry chemical such as monoammonium phosphate, potassium sulfate, or potassium chloride. For large fires, carbon dioxide, high expansion (proteinic) chemical foam, and water spray should be used.
Special Procedures	Wear self-contained breathing apparatus and turn-out gear.
Flash-Point	>200°F (>94°C) (closed cup)
Lower Flammability Limit	(not determined)
Upper Flammability Limit	(not determined)
Autoignition Temperature (barometric pressure 765 mm Hg)	>797°F (>425°C) (ignition delay time=10 sec)
Hazardous Combustion Products	CO, CO ₂ , other organic byproducts

MSDS AGROL™ Hydroxylated Soybean Oil

Page 3 of 7

Explosion Data (Section 5 continued)

Sensitivity to Static Discharge	(not determined)
Sensitivity to Mechanical Impact	(not determined)
Rate of Burning:	(not determined)
Explosive Power	Closed containers can rupture or explode due to pressure build-up when exposed to extreme heat or if contaminated with isocyanate and water or moist air.

IMPORTANT: Rate of reaction is greatly increased with increased temperature.

Section 6: Accidental Release Measures

Minor Spills	Minor spills should be contained by covering with loose inorganic absorbent material such as oil-dry, vermiculite, or Fuller's Earth. Shovel waste material into proper waste containers. DO NOT seal the containers. Transport to a well ventilated area.
Major Spills	Call the appropriate number below. Evacuate and ventilate the spill area. Dike around the spill to prevent its entry into the environment. Call CHEMTREC at 800-424-9300 or 703-523-3887.
Waste Disposal	Refer to "Section 13: Disposal Considerations" for disposal instructions.

Section 7: Handling and Storage

General	No smoking. Avoid breathing vapors and mists. Before opening, verify that the barrel has not been tampered with or contaminated, then open slowly to allow pressure to escape. If contamination and/or severe pressurization is suspected, refer to "In Case of Contamination" that follows. Containers should be tightly sealed to prevent moisture contamination. Use a dryer or filter to prevent air entering. Bungs must be kept tight.
Temperature Range	Store between 50° and 120°F (10° and 50°C).
Shelf Life	Shelf life is approximately ninety (90) days.
In Case of Contamination	If contamination of this chemical with isocyanates and water or moist air is suspected or evident, DO NOT reseal container. Resealing containers could cause rupture or explosion of container due to build-up of pressure. If bulging of barrel, pressurization, or contamination is observed or suspected, contact BioBased Technologies at Phone: (877) 4PO-LYOL, (877) 476-5965.
Handling	Move drums by lifting to avoid damage caused by sliding or rolling. Forklifts should be equipped with "parrot beaks" or drum clamps.

Section 8: Exposure Controls / Personal Protection

Ventilation	Use adequate ventilation to ensure that vapors are removed to the outside, not to other parts of the building.
General	Wear suitable protective clothing (coverall), protective gloves, and goggles or mask that prevents contact of skin to material. Provide a safety shower and eye-wash station at any location where skin contact can occur.
Eyes	Do NOT wear contact lenses. Wear chemical splash goggles and face shield.
Respiration	If vapors are present or irritation is experienced, wear a NIOSH approved air-supplied respirator.
PEL and TLV Levels	No exposure guidelines have been established.

Section 9: Physical and Chemical Properties

Physical Appearance	Pale yellow to amber; viscous liquid
pH	6.0 - 8.0
Vapor Pressure	~ 0.17 mm Hg @ 175°F (80°C)
Vapor Density	~ 17.69 (air = 1.0)
Boiling Point	560°F - 580°F (293°C - 304°C)
Freezing Point	34°F - 41°F (1°C - 5°C)
Viscosity	700 cP - 20,000 cP at 77°F (25°C)
Solubility in Water	<0.004% w/w at 77°F (25°C)
Specific Gravity	0.97 - 1.1 @ 77°F (25°C)
Solubility in Other Solvents	(not determined)
Percent Volatile	(not determined)
Evaporation Rate	(not determined)

Section 10: Stability and Reactivity

Stability	Stable under normal conditions
Materials to Avoid (incompatibility)	Isocyanates; acids, alkalies, oxidizing agents, metals
Hazardous Decomposition Products	CO, CO ₂ , other organic byproducts
Hazardous Polymerization	Will not occur
Corrosive Properties	(not determined)
Oxidizer Properties	Is not an oxidizer.

Section 11: Toxicological Information

No animal toxicity information available.

Section 12: Ecological Information

No ecological information available.

Section 13: Disposal Considerations

Summary

AGROL™ is not an RCRA "acutely hazardous material", therefore neither the component nor its containers are subject to RCRA regulations governing acutely hazardous material. Material should not be disposed of directly as a liquid but should be incinerated or neutralized. Do not discharge into water ways or sewer systems or onto the ground.

Liquid Disposal

Incinerate in licensed facility, or in accordance with local, state, and federal regulations. Do not discharge into waterways or sewer systems or onto the ground.

Under no circumstances should a torch, welder, plasma cutter, or similar tool producing an arc or flame be used on an empty container — regard less of whether it has been rinsed or cleaned.

Container Disposal

Puncture or crush to prevent unauthorized reuse. Dispose of in a licensed facility or in a landfill.

Section 14: Transport Information

Technical Shipping Name	Hydroxylated Soybean Oil
DOT Hazard Classification	Not regulated
Freight Class (bulk)	Not regulated
Freight Class (packaged)	Not regulated
Product Label	None
Placards Required	None

Section 15: Regulatory Information

NFPA® Suggested Ratings

H = 1 (health)
F = 1 (flammability)
R = 0 (reactivity)

HMIS® Suggested Ratings

H = 1 (health)
F = 1 (flammability)
R = 0 (reactivity)

CAUTION: HMIS® ratings are based on a 0–4 rating scale, with 0 representing minimal hazards or risks, and 4 representing significant hazards or risks. Although 29 CFR 1910.1200 does not require HMIS® ratings in an MSDS, the preparer may choose to provide them. HMIS® ratings are to be used only in conjunction with a fully implemented HMIS® program by workers who have received appropriate HMIS® training. HMIS® is a registered trade and service mark of the NPCA. HMIS® materials can be purchased exclusively from J. J. Keller (800) 327-6868.

AGROL is not considered hazardous under OSHA HCS 29 CFR 1910.1200, and is not listed under: Clean Air Act (CAA), CERCLA Reportable Quantity, Clean Water Act (CWA), California Proposition 65 Carcinogens List, California Proposition 65 Developmental Toxicity, California Proposition 65 Risk / Exposure levels (NSRL/NOEL), ACGIH, IARC, SARA Title III (section 313), TSCA, RCRA Hazardous Waste

Section 16: Other Information

The technical data contained herein is true and accurate to the best of BioBased Technologies, LLC's knowledge on the date of publication. The technical data is subject to change, however, and the user should contact BioBased Technologies, LLC to verify that the technical data is current. In addition, the technical data is provided for your guidance only. Because many factors can affect the processing or application of the product and/or its use, it is the user's responsibility to test the product to determine its suitability for the user's intended use. The sale and use of this product is subject to all of the terms and conditions set forth in the BioBased Technologies sales order, including the LIMITED WARRANTY, DISCLAIMER OF WARRANTY AND RELEASE, and EXCLUSION OF CONSEQUENTIAL AND OTHER DAMAGES. This technical data does not create an express warranty of any kind. The only warranty applicable to this product is the written, limited express warranty contained in the BioBased Technologies sales order, which is extended to the purchaser only.

Glossary

ACGIH	American Conference of Governmental Industrial Hygienists
CAS Registry Number	Number assigned by the Chemical Abstracts Service Chemical Registry System. Refers to a single or complex substance that has a unique chemical name.
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act— also know as "Superfund". Enacted in 1980 and administered by the EPA.
CHEMTREC	Chemical Transportation Emergency Center established by the CMA.
CMA	Chemical Manufacturers Association
CWA	Clean Water Act administered by the EPA.
FEV	Forced Expiratory Volume - Lung function test performed by a physician.
FVC	Forced Vital Capacity - Lung function test performed by a physician.
EPA	Environmental Protection Agency
HMIS	Hazardous Materials Information System developed by the National Paint and Coatings Association.
IARC	International Agency for Research on Cancer
LC50	Lethal Concentration - The calculated concentration of a substance in air required to kill 50% of a group of test animals in with a single exposure (usually 1 to 4 hours).
LD50	Lethal Dose - A single calculated dose of a substance expected to kill 50% of a group of test animals.
NFPA	National Fire Protection Association
NIOSH	National Institute for Occupational Safety and Health administered by the U.S. Department of Health and Human Services.
NOEL	No Observable Effect Level for reproductive harm (California Proposition 65)
NPCA	National Paint and Coatings Association
NSRL	No Significant Risk Levels for cancer (California Proposition 65)
NTP	National Toxicology Program administered by the U.S. Department of Health and Human Services.
OECD	Organization for Economic Cooperation and Development

Glossary continued on next page...

MSDS AGROL™ Hydroxylated Soybean Oil

Page 7 of 7

OSHA	Occupational Safety and Health Administration administered by the U.S. Department of Labor.
PEL	Permissible Exposure Limit - An occupational exposure limit established by OSHA's regulatory authority.
PPM	Parts Per Million – measure of concentration of a chemical in a liquid or vapor.
RCRA	Resource Conservation and Recovery Act administered by the EPA.
SARA Title III	Title III of the Superfund Amendments and Reauthorization Act
STEL	Short Term Exposure Limit as defined by the ACGIH.
TLV	Threshold Limit Value - Material concentration value which workers can exist at or below and have no health problems.

MSDS Revision History for AGROL™ Hydroxylated Soybean Oil

Revision	Date	Page(s)	Description
0.0	JUL 29 2005	All	MSDS issued.
0.1	AUG 17 2005	1, 3, 4	Physical characteristics and shelf life updated.
0.2	AUG 22 2005	1, 4	Product Name & appearance updated.

ALDERMAN AGENDA REQUEST FORM

B. 6
Police and Public Safety Systems Impact Fees
Chapter 159: Fees
Page 1 of 14

FOR: COUNCIL MEETING OF 10/18/05

FROM: ALDERMAN LIONELD JORDAN and ALDERMAN DON MARR

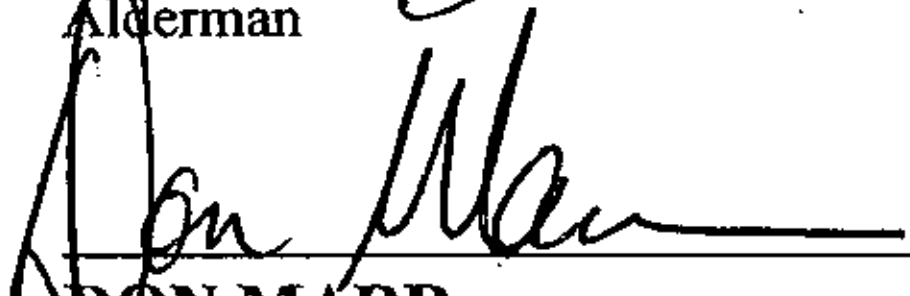
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend Title XV Unified Development Code Of Fayetteville, Chapter 159. Fees By Enacting \$159.03 Police And Public Safety System Impact Fees Of The Unified Development Code

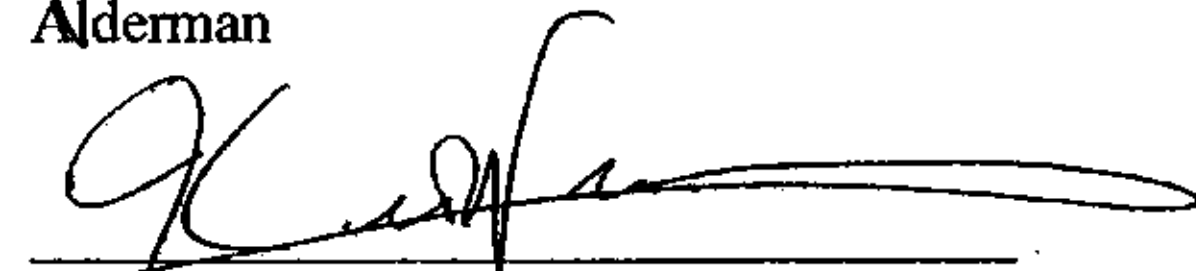
APPROVED FOR AGENDA:


LIONELD JORDAN
Alderman

9/20/05
Date


DON MARR
Alderman

9-20-05
Date


Kit Williams
City Attorney (as to form)

9-13-05
Date



10/18/05 Left on the Second Reading

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND TITLE XV UNIFIED DEVELOPMENT
CODE OF FAYETTEVILLE, CHAPTER 159. FEES BY ENACTING
§159.03 POLICE AND PUBLIC SAFETY SYSTEM IMPACT FEES
OF THE UNIFIED DEVELOPMENT CODE**

WHEREAS, the protection of the health, safety, and general welfare of the citizens of Fayetteville require that the Fayetteville Police and Public Safety System as a Public Facility of the City be expanded and improved to meet the demands of new development; and

WHEREAS, the creation of an equitable development impact fee system would enable the City to generate revenue for funding or for recouping the costs of required Police and Public Safety System capacity improvements that those developments create; and

WHEREAS the City has comprehensively studied the future needs of its citizens and what the City needs to do to meet those needs and adopted a Comprehensive General Plan, the 2020 Plan. The City also annually updates its Capital Improvement Projects list of future necessary capital improvements for all city services including police and public safety; and

WHEREAS, the City commissioned an in-depth Police and Public Safety Impact Fee Study designed to study future police and public safety capital needs, and the fair and equitable proportion of those capacity improvement needs that new development should pay. This Impact Fee Study was completed in June, 2004, and later adopted by the City Council; and

WHEREAS, the Police and Public Safety System Impact Fee Study sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the City's need for additional police and public safety department capacity and facilities; and

WHEREAS, the Police and Public System Impact Fees described in this Ordinance are based on the Impact Fee Study, and are designated to generate revenue for funding or for recouping expenditures by the City of Fayetteville that are reasonably attributable to the use and occupancy of the new developments that will pay the fees; and

WHEREAS, the Police and Public Safety System Facilities constitute an interrelated system that provides service throughout Fayetteville, and it is therefore appropriate and proper to treat the entire city as a single service area; and

WHEREAS, there is both a rational nexus and a rough proportionality between the development impacts created by each type of new development covered by this Ordinance and the impact fees that such development will be required to pay; and

WHEREAS, this Ordinance creates a system by which Police and Public Safety System impact fees paid by new developments will be used so that the new development that pays each fee will receive a corresponding benefit within a reasonable period of time after the fee is paid.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Chapter 159 of the Unified Development Code by enacting **\$159.03 Police and Public Safety System Impact Fees** as shown on Exhibit A attached hereto.

PASSED and APPROVED this 20th day of September, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

159.03 Police and Public Safety System Impact Fees

(A) *Applicability*

(1) The following provisions shall apply to all of the territory within the City's corporate city limits, and any area near the corporate limits if specifically agreed by the owner.

(2) The following types of development shall be required to pay a Police and Public Safety System Impact Fee:

(a) New development within one of the categories of development in Table A.

(b) Redevelopment involving the construction of one or more additional units within one of the categories of development in Table A.

(B) *Intent*

(1) The intent of the Police and Public Safety System Impact Fee is to offset costs to the City of Fayetteville taxpayers that are reasonably attributable to providing necessary police and public safety facilities to new development.

(2) This impact fee charged to new development is to generate revenue for funding or recouping expenditures of the City of Fayetteville that are reasonably attributable to the use and occupancy of the new development.

(3) This impact fee is to be collected and expended only for the planning, design or construction of new police and public safety system facilities or of capital improvements to existing police and public safety system public facilities that expand their capacity or for the recoupment of prior capital improvements to such public facilities that created capacity available to serve new development.

(4) The intent of this impact fee requirement is to ensure that new development bears a proportionate share of the costs of capacity improvements to the police and public safety system facilities, but also to ensure that this proportional share does not exceed the costs of the demand for additional capacity in public facilities that is reasonably attributable to providing these facilities to the use and occupancy of that new development.

5) This police and public safety system impact fee is based upon previous and current City Five Year Capital Improvement Project documents approved annually by City Council Resolution and level of service standards adopted within the Police Impact Fee Study of June 2004 and elsewhere by the City Council. Pages 27 through 32 of the Impact Fee Study are incorporated herein and attached as Exhibit 1 to explain the methodology and formulas for the Police and Public Safety System Impact Fees, the levels of services and increases in capacity needed for the Police and Public Safety System.

(6) It is not the intent of this section that any monies collected for the police and public safety system impact fee ever be commingled or ever be used for a type of facility different from that for which the fee was paid. No impact fee revenue may be used for operational expenses.

(C) *Time of Collection*

This impact fee shall be paid to the City by the owner of the property before a certificate of occupancy is issued for the new development or at the closing on the property by the purchasing owner.

(D) *Fee Determination*

(1) *Police and Public Safety System Impact Fee Table.*

The Impact Fee Administrator shall determine the correct amount of the Police and Public Safety System Impact Fee by use of Table A and information about the type and size of the new development.

EXHIBIT "A"

TABLE A
POLICE AND PUBLIC SAFETY SYSTEM
IMPACT FEES

Land Use	Unit	Impact Fee
Single-Family Detached	Dwelling	\$223
Multi-Family	Dwelling	\$162
Mobile Home Park	Pad	\$239
Hotel/Motel	Room	\$428
Retail/Commercial	1000 sq. ft.	\$605
Office/Institutional	1000 sq. ft.	\$388
Nursing Home	1000 sq. ft.	\$167
Church	1000 sq. ft.	\$136
Industrial	1000 sq. ft.	\$244
Warehouse	1000 sq. ft.	\$155
Mini-Warehouse	1000 sq. ft.	\$ 29

(2) *Redevelopment, Reconstruction, Change of Use.* In the event of a redevelopment, reconstruction or change of use from an existing development or use, the fee shall be the difference between what the fee would be for the entire redevelopment or reconstruction project and what the fee would have been for the existing development or use. Enlargement of a single family home will not require any impact fee.

(3) *Mixed Use.* If the proposed development includes a mix of the residential, commercial, industrial or other uses listed in the impact fee schedule, the fee shall be determined by adding up all the police and public safety impact fees that would be applicable for each use type as if it was a freestanding land use type.

(4) *Affordable Housing Exemption.*

(a) *Single family housing.* Construction of single family housing funded wholly or primarily by federal Community Development Block Grants, non-profit service organizations such as Habitat for Humanity, Housing and Urban Development housing loans and similar

programs designed to provide affordable, owner-occupied, single family residences to low income individuals shall be exempted from payment of impact fees pursuant to this ordinance by the Impact Fee Administrator.

(b) *Appeal.* A person aggrieved by the Impact Fee Administrator's refusal to grant an Affordable Housing Exemption may appeal the denial to the Planning Commission.

(E) *Use of Fees.*

(1) *Establishment of Accounts.* A Police and Public Safety Impact Fee Fund that is distinct from the General Fund of the City is hereby created, and the impact fees received will be deposited in this Police and Public Safety Impact Fee Account.

(2) *Impact Fee Account.* The Police and Public Safety Impact Fee Account shall contain only those Police and Public Safety impact fees collected pursuant to this Ordinance plus any interest which may accrue from time to time on such accounts.

(F) *Order of Use.* Monies in the Police and Public Safety impact fee account shall be considered to be spent in the order collected, on a first-in/first-out basis.

(G) *Use of Fees.* The funds in the Police and Public Safety Impact Fee account shall be used only for the following:

(1) The use of the Police and Public Safety System Impact Fees shall be to offset costs to the City of Fayetteville taxpayers that are reasonably attributable to providing necessary police and public safety facilities to new development.

(2) This impact fee charged to new development shall generate revenue for funding or recouping expenditures of the City of Fayetteville that are reasonably attributable to the use and occupancy of the new development.

(3) This impact fee shall be collected and expended only for the planning, design or construction of new police and public safety system facilities or of capital improvements to existing police and public safety system public facilities that expand their capacity or for the recoupment of prior capital improvements to

EXHIBIT "A"

such public facilities that created capacity available to serve new development.

(4) No monies collected for the Police and Public Safety System Impact Fee shall ever be commingled or ever be used for a type of facility different from that for which the fee was paid.

(5) No impact fee revenue shall be used for operational expenses.

(6) All Police and Public Safety Impact Fee revenues shall be spent in accordance with subsection (B) *Intent*.

(H) *Refunds*.

(1) The City of Fayetteville shall refund the portion of collected development impact fees, including the accrued interest that has not been expended seven (7) years from the date the fees were paid. Interest shall be based on a four percent (4%) annual rate.

(2) A refund shall be paid to the present owner of the property that was the subject of new development and against which the fee was assessed and collected.

(3) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the present owners of the property no later than thirty (30) days after the date which the refund becomes due. The sending by regular mail of the notices to all present owners of record shall be sufficient to satisfy the requirement of notice.

(4) The refund shall be made on a pro rata basis, and shall be paid in full no later than ninety (90) days after the date certain upon which the refund becomes due.

(5) At the time of payment of the Police and Public Safety Impact Fee under this Ordinance, the Police and Public Safety Impact Fee Administrator shall provide the applicant paying such fee with written notice of those circumstances under which refunds of such fees will be made. Failure to deliver such written notice shall not invalidate any collection of any impact fee under this ordinance.



POLICE

The Fayetteville Police Department consists of over 150 sworn and civilian members. The department operates programs such as School Resource Officers, Crime Prevention and Neighborhood Policing. Officers in the department work a number of different patrols using automobiles, motorcycles and bicycles. The department's K-9 Division is comprised of three K-9 teams, which are assigned to patrol shifts and assist in the normal day-to-day patrol operations. The Fayetteville City Jail is planned to be closed, and will not be included in the police impact fee calculations.

Service Area

Fayetteville's police facilities constitute an interrelated system that provides service throughout the City's jurisdiction. Consequently, the entire city is appropriately defined as a single service area.

Service Unit

As with the fire impact fees, the service unit for the police impact fees will be "functional population" as described in Appendix B. It is reasonable to assume that the demand for police facilities is at least roughly proportional to the presence of people at the site of a land use. It is also reasonable to recognize that residential and nonresidential land uses may place somewhat different demands on police facilities. Different police protection costs will be developed for residential and nonresidential development based on calls-for-service. In 2003, the Fayetteville Police Department received a total of 48,100 calls-for-service (excluding road-related calls). Table 34 below shows the distribution of calls-for-service by land use type for 2003.

Table 34
POLICE CALLS-FOR-SERVICE, 2003

Land Use	Calls	Percent
Residential	19,608	40.8%
Nonresidential	28,502	59.2%
Total	48,110	100.0%

Source: Fayetteville Police Department, May 2004
(excluding road-related calls).

Cost per Service Unit

Police impact fees are designed to charge new development the cost of providing the same level of service that is provided to existing development. The existing level of service for police protection facilities is based on the replacement cost of existing facilities. Table 35 below shows the total replacement cost for each of the Police Department's main facilities. The replacement cost for all existing facilities is \$7,945,686.

**Table 35
POLICE FACILITY REPLACEMENT COSTS**

Facility	Address	Building Sq. Ft.	Acres	Building Cost	Land Cost	Total Cost
Police/Courts Bldg	100 W. Rock St.	24,855	1.5	\$4,971,000	\$109,157	\$5,080,157
Animal Shelter/Kennel	1640 Armstrong Rd.	11,968	2.5	\$2,393,600	\$181,929	\$2,575,529
Warehouse	1651 S. Happy Hollow	n/a	n/a	\$100,000	n/a	\$100,000
Mt. Robinson Tower	Edwards Rd.	n/a	n/a	\$100,000	n/a	\$100,000
Generator Bldg.	140 W. Rock St.	n/a	n/a	\$90,000	n/a	\$90,000
Total		36,823	4.0	\$7,654,600	\$291,086	\$7,945,686

Source: Facility names, square feet, acres and replacement cost of \$200 per square foot from City of Fayetteville Police Department, March 5 and June 22, 2004 memoranda; replacement costs for facilities without square feet from City insured values listing, October 22, 2003; land costs based on cost per acre for most recent fire station from Table 25.

In addition to the main police facilities, other capital equipment required to provide police protection services include patrol cars, office equipment and communications equipment. The replacement value of existing capital equipment is estimated based on original purchase price from the Department's fixed asset listing. Table 36 summarizes all of the Police Department's current facilities and capital equipment. The total replacement cost for all police protection facilities and equipment is estimated to be about \$13.1 million.



**Table 36
POLICE FACILITY AND EQUIPMENT REPLACEMENT COST**

Cost Component	Units	Total Cost
Police Facility Replacement Cost	n/a	\$7,945,686
Patrol Cars	43	\$1,909,630
Telecommunications Facilities	10	\$2,284,880
Computer Equipment	11	\$439,102
Mach Equipment	11	\$238,377
Misc. Vehicles	2	\$75,599
Storage	1	\$63,103
Office Equipment	4	\$42,862
Generators	1	\$29,281
Detectors	1	\$10,500
Furniture and Fixtures	1	\$7,122
Lab Equipment	1	\$6,487
Other	1	\$8,071
Total Replacement Cost		\$13,060,700

Source: Police facility replacement cost from Table 35; equipment, number of units and total cost from the Fayetteville Police Department, March 5, 2004 and June 15, 2004 memoranda.

Similar to the fire protection impact fee, the law enforcement impact fee is based on the replacement value of existing capital facilities, the distribution of calls-for-service between residential and nonresidential development, and the existing functional population associated with residential and nonresidential development. The cost to provide the same level of service to new residential development is \$183 per functional population, and the cost to provide the same level of service to new nonresidential development is \$179 per functional population, as shown in Table 37.

Table 37
POLICE REPLACEMENT COST PER SERVICE UNIT

	Residential	Nonresidential
Police Facility and Equipment Replacement Cost	\$13,060,700	\$13,060,700
Percentage of Calls-for-Service	40.8%	59.2%
Proportionate Share of Replacement Cost	\$5,328,766	\$7,731,934
Functional Population	29,139	43,176
Police Protection Cost per Functional Population	\$182.87	\$179.08

Source: Police replacement cost from Table 27; percentage of calls-for-service for residential and nonresidential from Table 24; residential and nonresidential functional population from Table 48.

Net Cost Per Service Unit

In the calculation of the impact of new development on infrastructure costs, credit should be given for non-local funding that will be generated by new development and used to pay for capacity-related capital improvements. Credit should also be provided for taxes that will be paid by new development and used to retire outstanding debt for past police protection facility improvements. The City has no outstanding debt for police facilities. Consequently, credit against police impact fees is only due for grant funding.

The City receives some capital grants for police equipment. Over the last five years, the Police Department anticipates receiving \$208,249 in capital-related grants, as summarized in Table 38.

Table 38
POLICE CAPITAL-RELATED GRANT FUNDING, FY 1999 - 2004

Grant	Total
Mobile Data\RF backbone\Laptops	\$61,890
Laptop Computers	\$36,058
In-car Video	\$31,235
Tasers and In-Car Video	\$30,141
Bullet Proof Vest	\$48,925
Total	\$208,249

Source: City of Fayetteville Police Department, May 2004.

Assuming that the anticipated grant funding over the five-year period for police capital improvements will continue to increase proportional to the amount of development in Fayetteville, the City will receive the present value equivalent of about \$7 per functional population over the 20-year life of most capital improvements, and shown in Table 39.

Table 39
POLICE GRANT FUNDING CREDIT PER SERVICE UNIT

Police Grant Funding, FY 1999-2000 - 2003/2004	\$41,650
Total Functional Population	72,315
Annual Grant Funding Credit per Functional Population	\$0.58
Net Present Value Factor (20 years at 4.96%)	12.50
Grant Funding Credit per Functional Population	\$7.25

Source: Annual grant funding is one-fifth of five-year grant funding from Table 38; total functional population from Table 48; discount rate for present value factor is average interest rate on 20-year AAA municipal bonds as of May 31, 2004 according to bloomberg.com, fmsbonds.com, and bondsonline.com.

Deducting the credits for grants from the capital cost yields the net cost per functional population of residential and nonresidential development, as summarized in Table 40.

Table 40
POLICE NET COST PER SERVICE UNIT

	Residential	Nonresidential
Police Capital Cost per Functional Population	\$182.87	\$179.08
Police Grant Funding Credit per Functional Population	\$7.25	\$7.25
Police Net Cost per Functional Population	\$175.62	\$171.83

Source: Costs per functional population from Table 37; grant credit from Table 29.

Potential Fees

The maximum police impact fees that may be charged by the City of Fayetteville based on the data, assumptions and methodology used in this report are presented in the net cost schedule in Table 41 below.

Table 41
POLICE NET COST SCHEDULE

Land Use	Unit	Func. Pop./ Unit	Net Cost/ Func. Pop.	Net Cost/ Unit
Single-Family Detached	Dwelling	1.27	\$175.62	\$223
Multi-Family	Dwelling	0.92	\$175.62	\$162
Mobile Home Park	Pad	1.36	\$175.62	\$239
Hotel/Motel	Room	2.49	\$171.83	\$428
Retail/Commercial	1000 sq. ft.	3.52	\$171.83	\$605
Office/Institutional	1000 sq. ft.	2.26	\$171.83	\$388
Nursing Home	1000 sq. ft.	0.97	\$171.83	\$167
Church	1000 sq. ft.	0.79	\$171.83	\$136
Industrial	1000 sq. ft.	1.42	\$171.83	\$244
Warehouse	1000 sq. ft.	0.90	\$171.83	\$155
Mini-Warehouse	1000 sq. ft.	0.17	\$171.83	\$29

Source: Functional population per unit from Tables 46 and 47; net costs per functional population from Table 40.

Table 42 shows that if adopted at the maximum level, the police impact fees could generate \$463,000 annually, based on recent building trends.

Table 42
POTENTIAL POLICE IMPACT FEE REVENUE

Land Use Type	Annual New Units	Func. Pop./ Unit	Annual New Func. Pop.	Net Cost/ Func. Pop.	Annual Revenue
Single-Family Detached	347	1.27	441	\$175.62	\$77,000
Multi-Family	691	0.92	636	\$175.62	\$112,000
Subtotal, Residential	1,038		1,077		\$189,000
Nonresidential	n/a	n/a	1,596	\$171.83	\$274,000
Total					\$463,000

Source: Annual new units is average number of units permitted by the City from Table 6; residential functional population/unit from Table 46; annual new nonresidential total functional population estimated by multiplying new residential functional population by the ratio of total residential functional population to total nonresidential functional population from Table 48 to total nonresidential functional population from Table 48; net cost per functional population from Table 40.

The City's Capital Improvements Plan includes a list of unfunded police projects that are needed over the next five years, as shown in Table 43. Additional analysis will be required to determine the portion of the \$15.8 million joint public safety command center that is eligible for police impact fee funding. First, it will be necessary to determine the share of overall project cost that is attributable to police facilities. Second, it will be necessary to determine the extent to which the police facilities increase the capacity to provide service to new development, rather than simply replace existing facilities. Even using a conservative assumption, however, it is clear that there are sufficient unfunded capital needs for the anticipated police impact fee revenues.

Table 43
POLICE CAPITAL IMPROVEMENT NEEDS, 2004-2008

Unfunded Improvements	Cost Estimate
18 Crown Interceptors (expansion, not replacement)	\$525,000
Jail Video Arraignment Equipment	\$28,000
Communications Recorder Expansion	\$20,000
Automatic Vehicle Location System	\$128,000
Joint Public Safety Command Center*	\$2,000,000
Total Eligible Unfunded Needs, 2004-2008	\$2,701,000
Annual Eligible Unfunded Needs, 2004-2008	\$540,200

* estimated portion of project that would be eligible, additional analysis required to determine eligible amount

Source: Unfunded needs from City of Fayetteville, 2004-2008 Capital Improvements Program, December 2003.

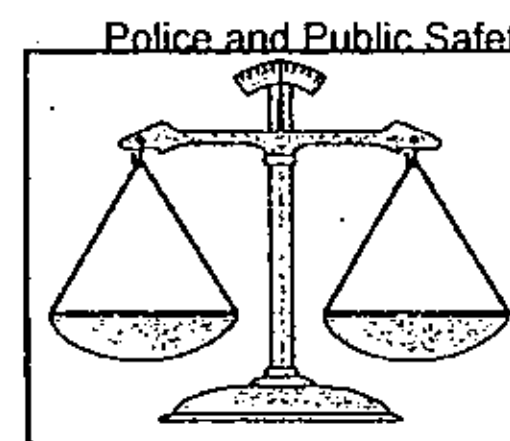
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

*Police & Public
Safety Impact
Fees C. 10.*



LEGAL DEPARTMENT

B: 6
Police and Public Safety Systems Impact Fees
Chapter 159: Fees
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TO: **Dan Coody, Mayor**
City Council

FROM: **Kit Williams, City Attorney**

DATE: **October 11, 2005**

RE: **Police and Fire Impact Fees**

The Arkansas Attorney General has opined that impact fees are not taxes, and thus no vote of the citizens is needed to pass such impact fees. I understand the rationale and reasoning of the Attorney General and will argue that to a Court if Fayetteville was ever sued.

The Attorney General may very well be correct that no citizen vote is needed to pass Fire, Police and Road Impact Fees. The last time Fayetteville was on the losing end of an illegal exaction case was when we settled in late 2000 (right before I became City Attorney) in the property tax rollback case. The County had, years earlier, been informed by state officials that we were complying with the law. The Courts determined otherwise and our police and fire pension funds paid over \$100,000.00 in attorney's fees for their combined one mill. The School Districts and County obviously paid attorney's fees that totaled in the millions. The state officials paid nothing.

Even if there is only a slight risk that the Courts could determine fire, police or road impact fees could be "taxes", I believe it is more prudent to refer those ordinances for a public vote of ratification.

ALDERMAN AGENDA REQUEST FORM

B. 7
Fire Protection Systems Impact Fee
Chapter 159: Fees
Page 1 of 14

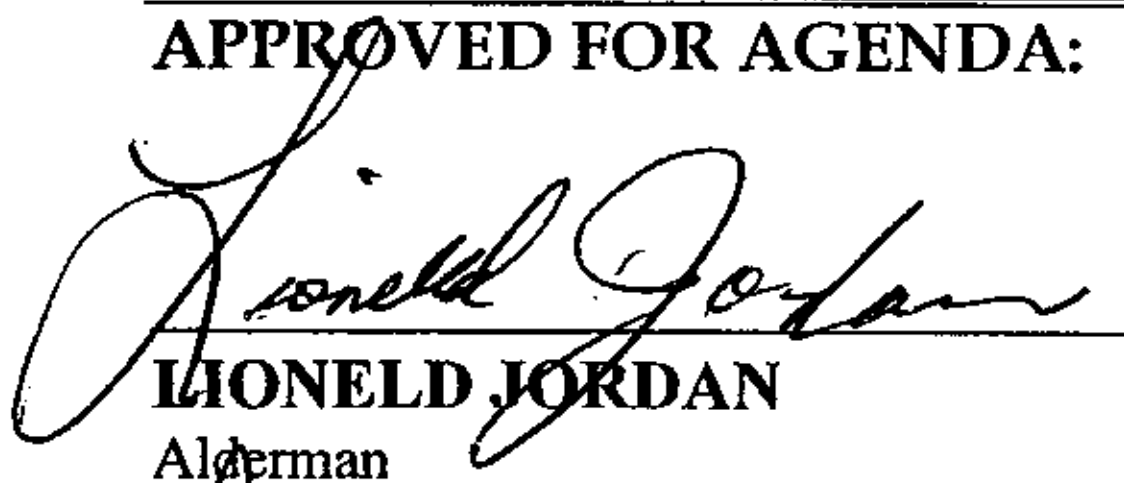
FOR: COUNCIL MEETING OF 10/18/05

FROM: ALDERMAN LIONELD JORDAN and ALDERMAN DON MARR

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend Title XV Unified Development Code Of Fayetteville, Chapter 159. Fees By Enacting \$159.04 Fire Protection System Impact Fees Of The Unified Development Code

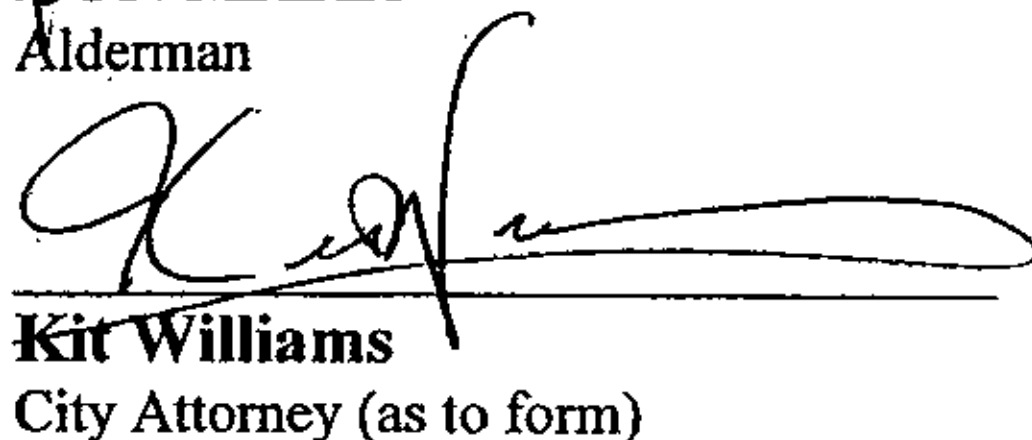
APPROVED FOR AGENDA:


LIONELD JORDAN
Alderman

9/20/05
Date


DON MARR
Alderman

9-20-05
Date


Kit Williams
City Attorney (as to form)

9-13-05
Date



10/18/05 Left on the Second Reading

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND TITLE XV UNIFIED DEVELOPMENT
CODE OF FAYETTEVILLE, CHAPTER 159. FEES BY ENACTING
§159.04 FIRE PROTECTION SYSTEM IMPACT FEES OF THE
UNIFIED DEVELOPMENT CODE**

WHEREAS, the protection of the health, safety, and general welfare of the citizens of Fayetteville require that the Fayetteville Fire Protection System as a Public Facility of the City be expanded and improved to meet the demands of new development; and

WHEREAS, the creation of an equitable development impact fee system would enable the City to generate revenue for funding or for recouping the costs of the required Fire Protection System capacity improvements that those developments create; and

WHEREAS the City has comprehensively studied the future needs of its citizens and what the City needs to do to meet those needs and adopted a Comprehensive General Plan, the 2020 Plan. The City also annually updates its Capital Improvement Projects list of future necessary capital improvements for all city services including the Fire Protection System; and

WHEREAS, the City commissioned an in-depth Fire Protection System Impact Fee Study designed to study future Fire Protection System capital needs, and the fair and equitable proportion of those capacity improvement needs that new development should pay. This Impact Fee Study was completed in June, 2004, and later adopted by the City Council; and

WHEREAS, the Impact Fee Study sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the City's need for additional Fire Protection System department capacity and facilities; and

WHEREAS, the Fire Protection System Impact Fees described in this Ordinance are based on the Impact Fee Study, and are designated to generate revenue for funding or for recouping expenditures by the City of Fayetteville that are reasonably attributable to the use and occupancy of the new developments that will pay the fees; and

WHEREAS, the Fire Protection System Facilities constitute an interrelated system that provides service throughout Fayetteville, and it is therefore appropriate and proper to treat the entire city as a single service area; and

WHEREAS, there is both a rational nexus and a rough proportionality between the development impacts created by each type of new development covered by this Ordinance and the impact fees that such development will be required to pay; and

WHEREAS, this Ordinance creates a system by which impact fees paid by new developments will be used so that the new development that pays each fee will receive a corresponding benefit within a reasonable period of time after the fee is paid.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Chapter 159 of the Unified Development Code by enacting **\$159.04 Fire Protection System Impact Fees** as shown on Exhibit A attached hereto.

PASSED and APPROVED this 20th day of September, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

159.03 Fire Protection System Impact Fees

(A) *Applicability*

(1) The following provisions shall apply to all of the territory within the City's corporate city limits, and any area near the corporate limits if specifically agreed by the owner.

(2) The following types of development shall be required to pay a Fire Protection System Impact Fee:

(a) New development within one of the categories of development in Table A.

(b) Redevelopment involving the construction of one or more additional units within one of the categories of development in Table A.

(B) *Intent*

(1) The intent of the Fire Protection System Impact Fee is to offset costs to the City of Fayetteville taxpayers that are reasonably attributable to providing necessary Fire Protection System facilities to new development.

(2) This impact fee charged to new development is to generate revenue for funding or recouping expenditures of the City of Fayetteville that are reasonably attributable to the use and occupancy of the new development.

(3) This impact fee is to be collected and expended only for the planning, design or construction of new Fire Protection System facilities or of capital improvements to existing Fire Protection System public facilities that expand their capacity or for the recoupment of prior capital improvements to such public facilities that created capacity available to serve new development.

(4) The intent of this impact fee requirement is to ensure that new development bears a proportionate share of the costs of capacity improvements to the Fire Protection System facilities, but also to ensure that this proportional share does not exceed the costs of the demand for additional capacity in public facilities that is reasonably attributable to providing these facilities to the use and occupancy of that new development.

(5) This Fire Protection System Impact Fee is based upon previous and current City Five Year Capital Improvement Project documents approved annually by City Council Resolution and level of service standards adopted within the Fire Impact Fee Study of June 2004 and elsewhere by the City Council. Pages 21 through 26 of the Impact Fee Study are incorporated herein as Exhibit 1 to explain the methodology and formulas for the Fire Protection System Impact Fees, the levels of service and increases in capacity needed for the Fire Protection System..

(6) It is not the intent of this section that any monies collected for the Fire Protection System Impact Fee ever be commingled or ever be used for a type of facility different from that for which the fee was paid. No impact fee revenue may be used for operational expenses.

(C) *Time of Collection*

This impact fee shall be paid to the City by the owner of the property before a certificate of occupancy is issued for the new development or at the closing on the property by the purchasing owner.

(D) *Fee Determination*

(1) *Fire Protection System Impact Fee Table.* The Impact Fee Administrator shall determine the correct amount of the Fire Protection System Impact Fee by use of Table A and information about the type and size of the new development.

EXHIBIT "A"

**TABLE A
FIRE PROTECTION SYSTEM
IMPACT FEES**

Land Use	Unit	Impact Fee
Single-Family Detached	Dwelling	\$208
Multi-Family	Dwelling	\$150
Mobile Home Park	Pad	\$222
Hotel/Motel	Room	\$323
Retail/Commercial	1000 sq. ft.	\$457
Office/Institutional	1000 sq. ft.	\$293
Nursing Home	1000 sq. ft.	\$126
Church	1000 sq. ft.	\$102
Industrial	1000 sq. ft.	\$184
Warehouse	1000 sq. ft.	\$117
Mini-Warehouse	1000 sq. ft.	\$ 22

(2) *Redevelopment, Reconstruction, Change of Use.* In the event of a redevelopment, reconstruction or change of use from an existing development or use, the fee shall be the difference between what the fee would be for the entire redevelopment or reconstruction project and what the fee would have been for the existing development or use. Enlargement of a single family home will not require any impact fee.

(3) *Mixed Use.* If the proposed development includes a mix of the residential, commercial, industrial or other uses listed in the impact fee schedule, the fee shall be determined by adding up all the Fire Protection System impact fees that would be applicable for each use type as if it was a freestanding land use type.

(4) *Affordable Housing Exemption.*

(a) *Single family housing.* Construction of single family housing funded wholly or primarily by federal Community Development Block Grants, non-profit service organizations such as Habitat for Humanity, Housing and Urban Development housing loans and similar programs designed to provide affordable, owner-occupied, single family residences to low income

individuals shall be exempted from payment of impact fees pursuant to this ordinance by the Impact Fee Administrator.

(b) *Appeal.* A person aggrieved by the Impact Fee Administrator's refusal to grant an Affordable Housing Exemption may appeal the denial to the Planning Commission.

(E) *Use of Fees.*

(1) *Establishment of Accounts.* A Fire Protection System Impact Fee Fund that is distinct from the General Fund of the City is hereby created, and the impact fees received will be deposited in this Fire Protection System Impact Fee Account.

(2) *Impact Fee Account.* The Fire Protection System Impact Fee Account shall contain only those Fire Protection System impact fees collected pursuant to this Ordinance plus any interest which may accrue from time to time on such accounts.

(F) *Order of Use.* Monies in the Fire Protection System Impact Fee account shall be considered to be spent in the order collected, on a first-in/first-out basis.

(G) *Use of Fees.* The funds in the Fire Protection System Impact Fee Account shall be used only for the following:

(1) The use of the Fire Protection System Impact Fees shall be to offset costs to the City of Fayetteville taxpayers that are reasonably attributable to providing necessary Fire Protection System facilities to new development.

(2) This impact fee charged to new development shall generate revenue for funding or recouping expenditures of the City of Fayetteville that are reasonably attributable to the use and occupancy of the new development.

(3) This impact fee shall be collected and expended only for the planning, design or construction of new Fire Protection System facilities or of capital improvements to existing Fire Protection System public facilities that expand their capacity or for the recoupment of prior capital improvements to such public facilities that created capacity available to serve new development.

EXHIBIT "A"

(4) No monies collected for the Fire Protection System Impact Fee shall ever be commingled or ever be used for a type of facility different from that for which the fee was paid.

(5) No impact fee revenue shall be used for operational expenses.

(6) All Fire Protection Impact Fee revenue shall be spent in accordance with Subsection (B) *Intent*.

(H) Refunds.

(1) The City of Fayetteville shall refund the portion of collected development impact fees, including the accrued interest that has not been expended seven (7) years from the date the fees were paid. Interest shall be based on a four percent (4%) annual rate.

(2) A refund shall be paid to the present owner of the property that was the subject of new development and against which the fee was assessed and collected.

(3) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the present owners of the property no later than thirty (30) days after the date which the refund becomes due. The sending by regular mail of the notices to all present owners of record shall be sufficient to satisfy the requirement of notice.

(4) The refund shall be made on a pro rata basis, and shall be paid in full no later than ninety (90) days after the date certain upon which the refund becomes due.

(5) At the time of payment of the Fire Protection System Impact Fee under this Ordinance, the Fire Protection System Impact Fee Administrator shall provide the applicant paying such fee with written notice of those circumstances under which refunds of such fees will be made. Failure to deliver such written notice shall not invalidate any collection of any impact fee under this ordinance.

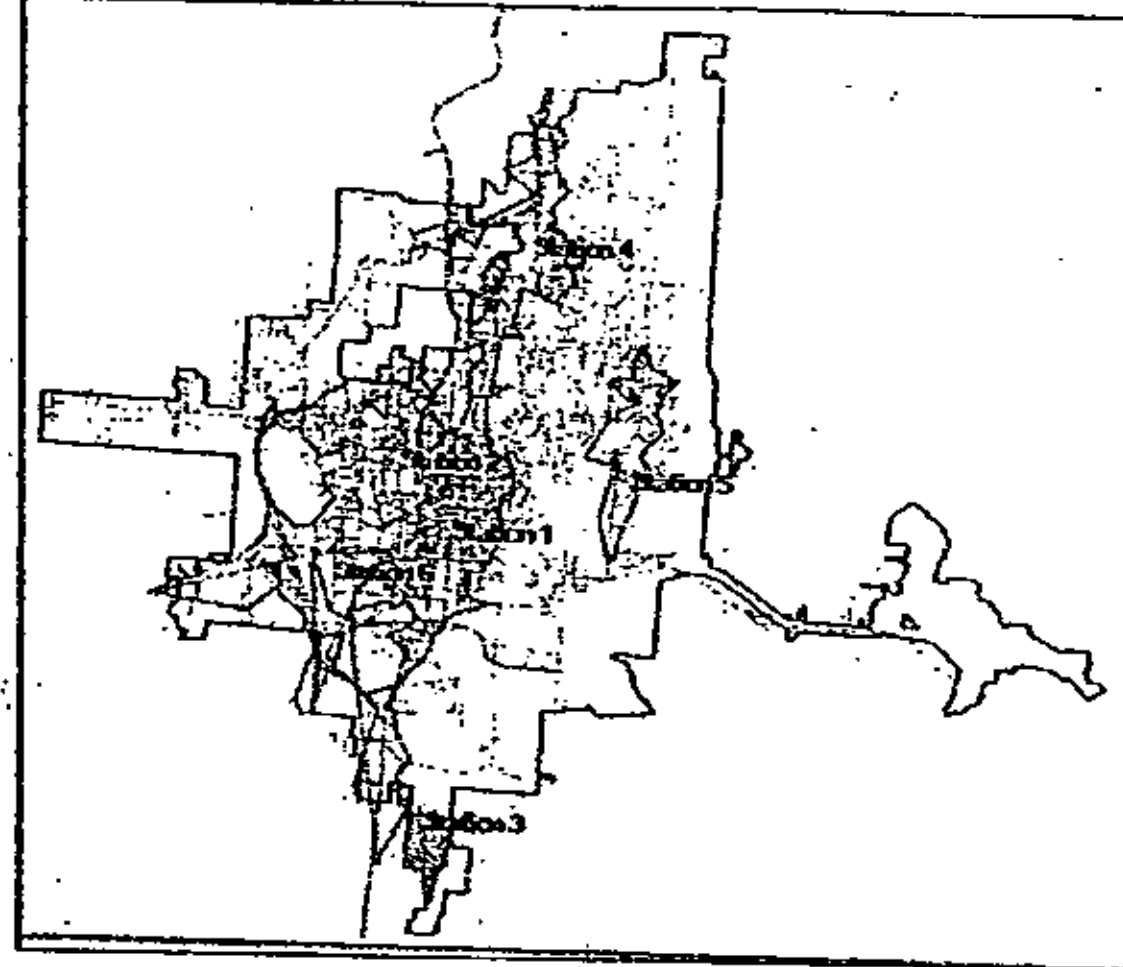
EXHIBIT

1

FIRE PROTECTION

The Fire Department is Fayetteville's "agency of first response" to resolve fire, emergency medical service (EMS) and emergency rescue incidents and to address potential disasters. The goal of the Fayetteville Fire Department is to reach 90 percent of emergency calls within a total response time of six minutes. The City currently operates six fire stations which allows first due companies to reach their goal arrival time only 79% of the time. A seventh fire station is currently being built.

**Figure 4
CURRENT FIRE STATION LOCATIONS**



Service Area

While fire/rescue units may be dispatched from a station primarily to calls within that station's primary response area, these units may also respond to calls in neighboring response areas if needed. For example, Engine 1 missed 9.7 percent of calls in its primary response area in the first three quarters of 2003 because it was already committed to another emergency. Consequently, fire protection facilities constitute an interrelated system that provides service throughout the City's jurisdiction, which is appropriately defined as a single service area.

Service Unit

One of the most common methodologies used in calculating fire protection impact fees is the "calls-for-service" approach. This approach uses historical data on emergency calls-for-service by land use to make the connection between land use type and the demand for fire-fighting facilities. The City of Fayetteville Fire Department maintains call-for-service data by land use. The available data on calls-for-service by land use will be used for the purpose of allocating costs between residential and nonresidential development. In 2003, the Fayetteville Fire Department received a total of 5,517 calls-for-service. Table 24 below shows the distribution of calls-for-service by residential/nonresidential land use type for 2003. Nonresidential land uses account for just over half of all fire calls-for-service.

**Table 24
FIRE CALLS-FOR-SERVICE, 2003**

Land Use	Calls	Percent
Residential	2,526	45.8%
Nonresidential	2,991	54.2%
Total	5,517	100.0%

Source: Fayetteville Fire Department, May 2004 (excludes road-related calls).

Residential and nonresidential fire protection costs are then allocated among various land uses on the basis of "functional population." Functional population, further described in Appendix B, represents the number of full-time equivalent people at the site of a land use. It is reasonable to assume that the demand for fire protection facilities is at least roughly proportional to the presence of people.

Cost per Service Unit

Fire protection impact fees are designed to charge new development the cost of providing the same level of service that is provided to existing development. The existing level of service for fire protection facilities is based on the replacement cost of existing facilities. Replacement costs are estimated based on the costs of Fire Station Seven which is scheduled for completion later this year. The current cost for station construction is estimated to be \$192.33 per square foot and land is estimated to cost \$72,772 per acre, as shown in Table 25.

**Table 25
FIRE COSTS PER SQUARE FOOT AND ACRE**

	Construction	Land
Cost	\$1,474,758	\$145,543
Sq. Ft./Acres	7,668	2
Cost per Sq. Ft./Acre	\$192.33	\$72,772

Source: Costs, building square feet and site acres for Fire Station 7 from Fayetteville Fire Department, May 2004.

Table 26 below shows the construction and land replacement costs for the Fire Department's six existing operating facilities. The replacement cost for all current facilities is \$6,718,074.

**Table 26
FIRE FACILITY REPLACEMENT COSTS**

Station	Address	Building (sq. ft.)	Land (acres)	Construction Cost	Land Cost	Total Cost
Central	303 West Center	15,048	0.50	\$2,894,126	\$36,386	\$2,930,512
2	708 North Garland	2,451	0.25	\$471,392	\$18,193	\$489,585
3	385 Earnest Lancaster Dr	n/a	n/a	n/a	n/a	\$0
4	3385 Plainview	5,795	1.50	\$1,114,531	\$109,157	\$1,223,688
5	833 Crossover	2,720	1.00	\$523,128	\$72,772	\$595,900
6	900 Hollywood	5,795	5.00	\$1,114,531	\$363,858	\$1,478,389
Total		31,809	8.25	\$6,117,708	\$600,366	\$6,718,074

Source: Building square feet and acres from Fayetteville Fire Department, May 2004; construction and land replacement costs based on cost per square foot and per acre from Table 25.

In addition to the fire stations, the Department has capital equipment eligible for impact fee funding. The total replacement cost of the existing fire stations and fire-fighting apparatus is \$10.7 million, as summarized in Table 27 below.

**Table 27
FIRE FACILITY AND EQUIPMENT COST**

Cost Component	Total Cost
Fire Facility Replacement Cost	\$6,718,074
Fire Engines (9)	\$2,978,670
Ladder Truck (1)	\$531,445
Machinery/Equipment	\$240,891
Misc. Vehicles (2)	\$108,875
Telecommunications Equipment	\$52,878
Office Equipment	\$15,969
Lab Equipment	\$11,397
Computer	\$5,621
Total Replacement Cost	\$10,663,820

Source: Fire facility replacement cost from Table 26; equipment costs are original costs from the Fayetteville Fire Department fixed asset listing, May 2004.



The fire protection impact fee is based on the replacement value of existing capital facilities, the distribution of calls-for-service between residential and nonresidential development, and the existing functional population associated with existing residential and nonresidential development. The total replacement value of existing fire protection facilities is first allocated between residential and nonresidential development based on the percentage of calls to each land use. Then the costs attributable to residential and nonresidential development are divided by the functional population of each land use category to determine the costs per functional population. The resulting costs per functional population represent the existing level of service of fire protection facilities in Fayetteville. The cost to provide the same level of service to new residential development is \$167.61 per functional population, and the cost to provide the same level of service to new nonresidential development is \$133.87 per functional population, as shown in Table 28.

**Table 28
FIRE REPLACEMENT COST PER SERVICE UNIT**

	Residential	Nonresidential
Fire Facility and Equipment Replacement Cost	\$10,663,820	\$10,663,820
Percentage of Calls-for-Service	45.8%	54.2%
Proportionate Share of Replacement Cost	\$4,884,030	\$5,779,790
Functional Population	29,139	43,176
Fire Protection Cost per Functional Population	\$167.61	\$133.87

Source: Fire replacement cost from Table 27; percentage of calls-for-service for residential and nonresidential from Table 24; residential and nonresidential functional population from Table 48.

Net Cost per Service Unit

In the calculation of the impact of new development on infrastructure costs, credit should be given for non-local funding that will be generated by new development and used to pay for capacity-related capital improvements. Credit should also be provided for taxes that will be paid by new development and used to retire outstanding debt for past fire facility improvements.

According to the Fayetteville Fire Department, there is no outstanding debt for past fire protection capital improvements or capital equipment. Consequently, no debt service credit is applicable.

During the last five years, the Department has received one grant for capital equipment. In 2002, the Department received a \$120,000 matching grant for personal protective equipment from the Assistance to Firefighters program. Assuming that the grant funding received over the last five years for impact fee-eligible fire protection capital improvements will continue to increase proportional to the amount of development in Fayetteville, the City will receive the present value equivalent of \$4 per functional population over the 20-year life of most capital improvements, and shown in Table 29.

Table 29
FIRE GRANT FUNDING CREDIT PER SERVICE UNIT

Annual Eligible Grant Funding, FY 2000-2004	\$24,000
Total Functional Population	72,315
Annual Grant Funding Credit per Functional Pop.	\$0.33
Net Present Value Factor (20 years at 4.96%)	12.50
Grant Funding Credit per Functional Pop.	\$4.13

Source: Annual grant funding is one-fifth of five-year grant funding of \$120,000, per Fayetteville Fire Department, May 2004; total functional population from Table 48; discount rate for present value factor is average interest rate on 20-year AAA municipal bonds as of May 31, 2004 according to bloomberg.com, fmsbonds.com, and bondsonline.com.

Deducting the credits for grants from the capital cost yields the net cost per functional population of residential and nonresidential development, as summarized in Table 30.

Table 30
FIRE NET COST PER SERVICE UNIT

	Residential	Nonresidential
Fire Capital Cost per Functional Population	\$167.61	\$133.87
Fire Grant Funding Credit per Functional Population	\$4.13	\$4.13
Fire Net Cost per Functional Population	\$163.48	\$129.74

Source: Costs per functional population from Table 28; grant credit from Table 29.

Potential Fees

The maximum fire impact fees that may be charged by the City of Fayetteville based on the data, assumptions and methodology used in this report are presented in the net cost schedule in Table 31 below.

**Table 31
FIRE NET COST SCHEDULE**

Land Use	Unit	Func. Pop./ Unit	Net Cost/ Func. Pop.	Net Cost/ Unit
Single-Family Detached	Dwelling	1.27	\$163.48	\$208
Multi-Family	Dwelling	0.92	\$163.48	\$150
Mobile Home Park	Pad	1.36	\$163.48	\$222
Hotel/Motel	Room	2.49	\$129.74	\$323
Retail/Commercial	1000 sq. ft.	3.52	\$129.74	\$457
Office/Institutional	1000 sq. ft.	2.26	\$129.74	\$293
Nursing Home	1000 sq. ft.	0.97	\$129.74	\$126
Church	1000 sq. ft.	0.79	\$129.74	\$102
Industrial	1000 sq. ft.	1.42	\$129.74	\$184
Warehouse	1000 sq. ft.	0.90	\$129.74	\$117
Mini-Warehouse	1000 sq. ft.	0.17	\$129.74	\$22

Source: Functional population per unit from Tables 46 and 47; net costs per functional population from

Table 32 shows that if adopted at the maximum level, the fire impact fees could generate \$383,000 annually, based on recent building trends.

**Table 32
POTENTIAL FIRE IMPACT FEE REVENUE**

Land Use Type	Annual New Units	Func. Pop./ Unit	Annual New Func. Pop.	Net Cost/ Func. Pop.	Annual Revenue
Single-Family Detached	347	1.27	441	\$163.48	\$72,000
Multi-Family	691	0.92	636	\$163.48	\$104,000
Subtotal, Residential	1,038		1,077		\$176,000
Nonresidential	n/a	n/a	1,596	\$129.74	\$207,000
Total					\$383,000

Source: Annual new units is average number of units permitted by the City since 2000 from Table 6; residential functional population/unit from Table 46; annual new nonresidential total functional population estimated by multiplying new residential functional population by the ratio of total residential functional population to total nonresidential functional population from Table 48; net cost per functional population from Table 30.

The City's Capital Improvements Plan includes a list of unfunded fire protection projects that are needed over the next five years, as shown in Table 33. Additional analysis will be required to determine the portion of the \$15.8 million joint public safety command center that is eligible for fire impact fee funding. First, it will be necessary to determine the share of overall project cost that is attributable to fire facilities. Second, it will be necessary to determine the extent to which the fire facilities increase the capacity to provide service to new development, rather than simply replace existing facilities. A similar analysis will be required to determine the share of the \$1.4 million cost for the relocation of Fire Station #5 that is eligible for impact fee funding. Even using conservative assumptions, however, it is clear that there are sufficient unfunded capital needs for the anticipated fire impact fee revenues.

Table 33
FIRE CAPITAL IMPROVEMENT NEEDS, 2004-2008

Unfunded Improvements	Cost Estimate
Ford Expedition (expansion, not replacement)	\$30,000
Joint Public Safety Command Center*	\$1,500,000
Fire Station #8-New Construction	\$1,500,000
Fire Station #5 Relocation*	\$700,000
Total Eligible Unfunded Needs, 2004-2008	\$3,730,000
Annual Eligible Unfunded Needs, 2004-2008	\$746,000

* estimated portion of project that would be eligible, additional analysis required to determine eligible amount

Source: Unfunded needs from City of Fayetteville, 2004-2008 Capital Improvements Program, December 2003.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

*Police & Public Safety
Impact Fees.
C. 9.*



B. 7
Fire Protection Systems Impact Fee
Chapter 159: Fees
Page 13 of 14

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody, Mayor**
City Council

FROM: **Kit Williams, City Attorney**

A handwritten signature in dark ink, appearing to read 'Kit Williams', written over a horizontal line.

DATE: **October 11, 2005**

RE: **Police and Fire Impact Fees**

The Arkansas Attorney General has opined that impact fees are not taxes, and thus no vote of the citizens is needed to pass such impact fees. I understand the rationale and reasoning of the Attorney General and will argue that to a Court if Fayetteville was ever sued.

The Attorney General may very well be correct that no citizen vote is needed to pass Fire, Police and Road Impact Fees. The last time Fayetteville was on the losing end of an illegal exaction case was when we settled in late 2000 (right before I became City Attorney) in the property tax rollback case. The County had, years earlier, been informed by state officials that we were complying with the law. The Courts determined otherwise and our police and fire pension funds paid over \$100,000.00 in attorney's fees for their combined one mill. The School Districts and County obviously paid attorney's fees that totaled in the millions. The state officials paid nothing.

Even if there is only a slight risk that the Courts could determine fire, police or road impact fees could be "taxes", I believe it is more prudent to refer those ordinances for a public vote of ratification.



Added at Agenda Session 10/11/05
C.11.

B. 8
Greenland and/or Farmington Sewer Systems
Page 1 of 4

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF October 18, 2005

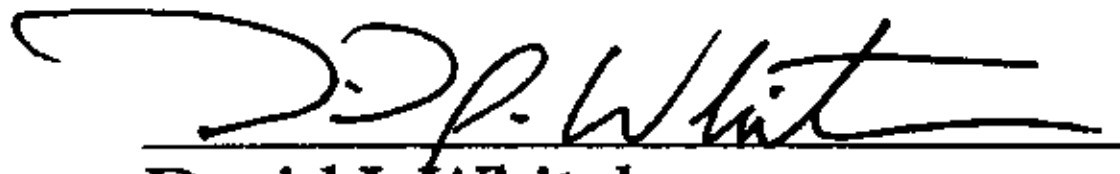
FROM: Alderman Kyle Cook

ORDINANCE OR RESOLUTION TITLE AND SUBJECT: A Resolution to express the intent of the City Council to assume the ownership and the operation of the Greenland and/or Farmington sewer systems

APPROVED FOR AGENDA:


Kyle Cook, Alderman

10/11/05
Date


David J. Whitaker
Assistant City Attorney (as to form only)

10/7/05
Date

10/18/05 Added to 11/01/05 meeting

RESOLUTION NO. ____

A RESOLUTION TO EXPRESS THE INTENT OF THE CITY COUNCIL TO ASSUME THE OWNERSHIP AND THE OPERATION OF THE GREENLAND AND/OR FARMINGTON SEWER SYSTEMS.

WHEREAS, the Cities of Greenland and Farmington are interested in having the City of Fayetteville take ownership and operate their sewer systems.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby expresses its intent to assume the ownership and operation of the Greenland and Farmington Sewer Systems if proper contracts can be agreed to.

PASSED and APPROVED this 18th day of October, 2005.

APPROVED

By:

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION SUPPORTING SEWER RATE AND IMPACT FEE STUDIES BY THE CITY OF FAYETTEVILLE IN CONJUNCTION WITH NEGOTIATIONS FOR THE ACQUISITION OF THE FARMINGTON WASTEWATER COLLECTION SYSTEM

WHEREAS, the City of Farmington does not operate a municipal sewer system or a municipal water system, and

WHEREAS, the City of Fayetteville provides water service and wastewater collection and treatment for the City of Farmington, and

WHEREAS, the City of Fayetteville has expressed an interest in acquiring the Farmington sewer collection infrastructure and entering into a long term contractual agreement to provide water and wastewater collection and treatment for the City of Farmington, and

WHEREAS, the City of Fayetteville has agreed to provide sewer rate and impact fee studies in conjunction with negotiations for the transfer and acquisition of the Farmington sewer collection infrastructure.

BE IT THEREFORE RESOLVED BY THE CITY COUNCIL OF THE CITY OF FARMINGTON

Section 1: The Farmington City Council supports negotiations for a long term contractual agreement with the City of Fayetteville for the transfer and acquisition of Farmington's sewer collection infrastructure and for the City of Fayetteville to provide water service and wastewater collection and treatment service for the City of Farmington.

Section 2: The Farmington City Council further supports the Fayetteville City Council's decision to engage the services of consulting firms to provide sewer rate and impact fee studies to analyze the rate components of Fayetteville's treatment facilities, the implementation of impact fees by Farmington, and the rate components of Farmington's collection facilities to address capital funding and develop a rate structure in furtherance of negotiations between the respective cities.

Section 3: The Farmington City Council directs the Mayor, City Clerk and city staff to provide information requested by the consulting firms to assist in the preparation of rate and impact fee studies.

PASSED AND APPROVED this 10th day of October, 2005.

John Harris, Mayor

Jean Swift, City Clerk

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

C. 1
ANX 05-1723 JDM Investments
Page 1 of 20

1-Nov-05

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 05-1723: (JDM Investments, 295): Submitted by Randall Wakefield for property located at Skillern Road, east of Savannah Estates. The property is in the Planning Area and contains approximately 5.06 acres. The request is to annex the subject property into the City of Fayetteville.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

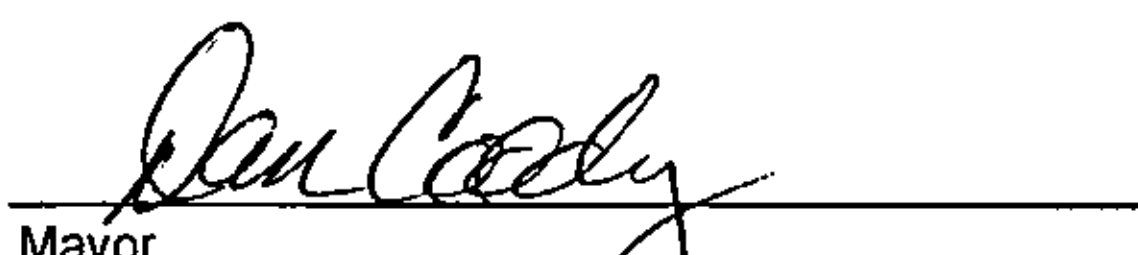
Budget Adjustment Attached

☐


Department Director 10-13-05
Date


City Attorney 10-13-05
Date


Finance and Internal Service Director 10-14-05
Date


Mayor 10/17/05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office



Received in Mayor's Office



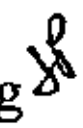
Comments:

City Council Meeting of November 1, 2005
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations 

From: Jeremy C. Pate, Director of Current Planning 

Date: October 11, 2005

Subject: Annexation for JDM Investments LLC (ANX 05-1723)

RECOMMENDATION

The Planning staff recommends approval of the subject annexation request submitted by JDM Investmentt, LLC for approximately 5.06 acres of property located at Skillern Road, east of Savannah Estates. This action will incorporate the 5.06-acre tract of land contiguous with the city limits into the City of Fayetteville.

BACKGROUND

The subject property consists of 5.06-acres owned by JDM Investments, LLC. The property is located south of Skillern Road immediately east of Savannah Estates. Annexation of the property will not create an island of unincorporated property or create an undesirable peninsula of City property. Improvements to the existing infrastructure adjacent to this site and a study of water and sewer capacity will be required at the time of development.

The applicant requests annexation of the property into the City of Fayetteville. The applicant intends to develop the property for residential use within the City of Fayetteville and has requested a rezoning to Residential Single Family Four Units Per Acre (RSF-4). Staff recommends the incorporation of this property into the City of Fayetteville. Although the proposed annexation is located on the fringes of the City's eastern limits, incorporation of this property will create an acceptable city boundary and ensure that development of the property is compliant with City regulations within an appropriate zoning district.

DISCUSSION

This item was heard at the regular Planning Commission on October 11, 2005. The Planning Commission voted 8-0-0 to recommend approval of this annexation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED
IN ANNEXATION PETITION ANX 05-1723 FOR PROPERTY
LOCATED AT SKILLERN ROAD, EAST OF SAVANNAH ESTATES,
CONTAINING 5.06 ACRES.

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

Section 1: That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4: That the above-described property is hereby assigned to Ward No. Three.

PASSED and APPROVED this _____ day of _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
ANX 05-1723

PART OF THE NE 1/4 , SE 1/4 OF SECTION 31, T17N, R29W OF THE FIFTH
PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING
MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT
THE N.E. CORNER OF SAID NE 1/4, SE 1/4, THENCE S89°31'02"W 330.80 FEET TO THE
P.O.B. THENCE S00°42'32"E 648.88 FEET, THENCE S89°31'01"W 330.00 FEET,
THENCE N00°42'32"W 686.62 FEET, THENCE S83°57'45"E 332.00 FEET TO P.O.B.
CONTAINING 5.06 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND R/W OF
RECORD.

DRAFT



PC Meeting of October 10, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: October 5, 2005

ANX 05-1723: Annexation (JDM INVESTMENTS LLC, 295): Submitted by RANDALL WAKEFIELD for property located at SKILLERN ROAD, EAST OF SAVANNAH ESTATES. The property is in the Planning Area and contains approximately 5.06 acres. The request is to annex the subject property into the City of Fayetteville.

Property Owner: JDM Investments, LLC

Planner: Andrew Garner

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report:

PLANNING COMMISSION ACTIONS	Required	<u>YES</u>
	☒ Approved	☐ Denied
Date: <u>October 10, 2005</u>	<i>Clark, Tim</i>	<i>2nd</i>
CITY COUNCIL ACTION:	Required	<u>YES</u>
	☐ Approved	☐ Denied
Date: <u>November 1, 2005 (1st reading if recommended)</u>		

BACKGROUND:

Property description: The subject property contains approximately 5.06-acres owned by the JDM Investments. The property is undeveloped pasture and wooded land. The tract of property is within the Planning Area and adjacent to the City limits along the western property line. As depicted in *Table 1*, it is located south of Skillern Road immediately east of the Savannah Estates in east Fayetteville with unincorporated land to the north, east, and south.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Skillern Road, Residential Single Family; Vacant/Pasture	Planning Area
South	Residential Single Family; Vacant/Pasture	Planning Area
East	Residential Single Family; Vacant/Pasture	Planning Area
West	Residential Single Family (Savannah Estates)	RSF-4, Res. Single Family – 4 units/acre

Proposal: The applicant proposes annexation of approximately 5.06 acres into the City of Fayetteville.

Recommendation: Staff recommends approval of the proposed annexation based on the findings herein.

INFRASTRUCTURE:

Streets: Traffic from the site will access Skillern Road to the north.

Surrounding Master Street Plan Streets:

North: Skillern Road (Minor Arterial)

West: Natchez Trace (Local Street)

Water: Public water is near to the site. There is a 4" waterline to the east along Skillern Road and 8" waterlines in the development to the west. Improvements to the water system will be required. An evaluation will need to be made at the time of preliminary plat on how the water system is to be connected with the existing system.

Sewer: Sanitary sewer is adjacent to the site. There is an 8" sewer main stubbed out to the property near the southwest corner of the property. A study of the downstream system shall be conducted by the developer.

Fire: The subject property is located approximately 3.1 miles from the Fire Station #5. Response time to the property at maximum build-out is projected at approximately 7.5 minutes.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 identifies the portion of this property within the Planning Area as **Residential**.

FINDINGS:

**11.6 ANNEXATION GUIDING POLICIES
BOUNDARIES**

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property will not create an island of unincorporated property and does not exacerbate problems created by the extension of peninsulas. The proposed annexation does not extend further east than the property approximately 500' to the south. Staff finds that the proposed annexation will not further exacerbate any problems associated with the current situation.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the west.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area is currently vacant and located adjacent to property into the City of Fayetteville and zoned RSF-4. The applicant intends to incorporate this property with surrounding City property for future development. The Savannah Estates subdivision is located immediately west of the subject property. Annexation of the property would allow for Planning Commission review of development in accordance with City standards, and would require the same standards of development as the adjacent properties already within the city limits.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in an anticipated response time of 7 minutes for fire protection from Fire Station No. 5. Additionally, the City's Fire Department currently responds to calls further east, north, and south of this property. Extension of water and sewer lines will occur at the time of development to aid in the improvement of services.

ENVIRONMENTALLY SENSITIVE AREAS

- 11.6.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: The property is mainly cleared pasture and wooded land. Tree canopy is concentrated in the western and southern portions of this property. Development regulations within the City will ensure appropriate development and preservation of the existing natural features on the property. Development outside the city does not allow for the requirement of parks, open space or tree preservation.

EMERGENCY AND PUBLIC SERVICES

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police currently serve subdivisions further east of the subject property. Service shall be provided to this area with the same level of response and service as other developments in this area.

- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

- 11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: Water, fire and police protection are currently provided in the surrounding areas immediately west and approximately 500' south. The subject property is not being served by city utilities at this time.

- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property. At this time, the property is undeveloped in nature.

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City. It is located adjacent to City property along Skillern Road. To expand the city limits in this area east will allow for development to occur under city guidelines and eventually help connect to City property south of the site; staff finds it will not exacerbate an island creation.

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The property owner requests annexation and request to rezone the property to RSF-4, Residential single family - 4 units/acre.

11.6.p An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property.

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: Development of this property is anticipated, but has not been proposed. At the time the applicant desires to develop the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.

11.6.r Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: This annexation consists of approximately 5.06, and is adjacent to Phase IV of the Savannah Estates Subdivision with 33 lots in the City of Fayetteville. The annexation of the subject property will further define the eastern boundary of the City in this vicinity and help provide for an eventual extension south to an existing peninsula of incorporated area, eventually creating a more desirable city boundary. As additional petitions of annexation are submitted, the annexation of properties to create a city boundary which follows the existing natural barriers (i.e. the riparian corridors) and the existing streets will create an even more desirable city boundary.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 5.06 acres.

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

- 11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
- 11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
- 11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
- 11.6.d Boundaries for annexed areas should follow natural corridors.
- 11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

- 11.6.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.
- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

- 11.6.j Areas currently served by utilities and other public services should be annexed.
- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

- 11.6.m Promote long-range planning with adjacent jurisdictions.
- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

- 11.6.o Designate zoning districts for the property during the annexation process.
- 11.6.p An annexation study should be completed on all annexation proposals.
- 11.6.q Development proposals require a separate review from the annexation proposals.
- 11.6.r Residents should be fully informed of annexation activities.
- 11.6.w Encourage larger annexations to create acceptable boundaries.
- 11.6.t Conduct a fiscal impact assessments on large annexations.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: September 27, 2005

To: Suzanne Morgan, Jeremy Pate, Andrew Garner, and Jesse Fulcher

From: Dale Riggins

Subject: Re-zoning review from the Fayetteville Fire Department.

ANX05-1723 (JDM Investments LLC, 295) 5.06 acres
RZN05-1724 (JDM Investments LLC, 295) 5.06 acres

These 5.06 acres are covered by Engine 5 on N. Crossover Road.

The property is 3.1 miles from the station with a projected response time of 7 minutes to this development and 7.5 minutes when the maximum build-out is completed. When the new proposed Station 5 is built at Crossover and Old Wire, it will reduce the response time to 3 minutes to the beginning of this development.

The Fire Department anticipates 5 calls for service (3 EMS & 2 Fire/Other) once the development is completed and maximum build-out has occurred. There should be no adverse effects on our call volume or response time to this development.

ANX08-1728 (Zaccanti, 207-246) 80 acres
RZN05-1729 (Zaccanti, 207-246) 60 acres

These 60 acres are covered by Engine 7 on Ruppel Road.

The property is 2.7 miles from the station with a projected response time of 7 minutes to this development and 7.5 minutes after maximum build-out is completed. The Fire Department anticipates 54 calls for service (33EMS and 21 Fire/Other) once the development is completed and maximum build-out has occurred.

Our major concern is the response time for the first arriving Engine Company and the next arriving unit. The 7 minute response time is above our response time goal of 6 minutes. This is due largely to the crossing of a major highway and the curvy and narrow Ruppel road. It will take the next closest station 11 minutes to arrive on the scene which is beyond our response time goals of having all responding units on the scene within 10 minutes of the call.

If you have any other questions or concerns, please feel free to contact me for more information on run times, assignment duties, or anything else that is of a concern.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

ANX05-1627 (Old Wire Investors, LLC, 217) 29.70 acres
RZN05-1627 (Old Wire Investors, LLC, 217) 34.51 acres

These 34.51 acres are covered by Engine 5 on N Crossover Road.
The property is 2.7 miles from the station with a projected response time of 7 minutes to this development and 7.75 minutes after the maximum build-out.
When the new proposed Station 5 is built at Crossover and Old Wire, it will reduce the response time to 3 minutes to the beginning of this development.
The Fire Department anticipates 31 calls for service (19EMS and 12 Fire/Other) once the development is completed and maximum build-out has occurred. Once the new proposed Station 5 is built there should be no adverse effects on our call volume or response time to this development.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 1
ANX 05-1723 JDM Investments
Page 14 of 20

POLICE DEPARTMENT

October 3, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 05-1626 (Old Wire Investors, LLC, 217) and Rezoning RZN 05-1626 (Old Wire Investors, LLC, 217) submitted Friday, Eldredge & Clark LLP for property located at the NW intersection of Old Wire and Rom Orchard Roads would substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

Based on historical data of a similar subdivision in the area of this proposal, estimations can be made regarding an increase in police calls for service. Upon build out of the submitted RZN, the Fayetteville Police Department can realize an estimated increase in 41 calls for service per year. The Engineering Department may provide more specific information about any potential traffic increase for this RZN.

Sincerely,


Captain William Brown
Fayetteville Police Department

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS
FILED

2005 JUL 12 PM 3 52

IN THE MATTER OF:

ANNEXATION OF CERTAIN LANDS TO ~~THE~~ KAREN COMBS PRITCHARD
CITY OF FAYETTEVILLE, ARKANSAS CO. & PROBATE CLERK
WASHINGTON CO. ARK.

Case No. CC-2005- 23

JDM INVESTMENTS, LLC

PETITIONER

PETITION FOR ANNEXATION

Comes now the Petitioner and for its Petition for Annexation it alleges and states that:

1. Petitioner is the owner of record of a certain tract of real property contiguous to and adjoining the City of Fayetteville, Washington County, Arkansas, and being more particularly described as follows:

Part of the NE ¼, SE ¼ of Section 31, T17N, R29W of the Fifth Principal Meridian in Washington County, Arkansas and being more particularly described as follows, to-wit: Commencing at the N.E. Corner of said NE ¼, SE ¼, thence S 89°31'02" W 330.80 Feet to the P.O.B. thence S 0°42'32" E 648.88 Feet, thence S 89°31'01" W 330.00 Feet, thence N 0°42'32" W 686.62 Feet, thence S 83°57'45" E 332.00 Feet to the P.O.B. Containing 5.06 acres more or less subject to easements and R/W of record.

2. The property is located in Washington County, Arkansas, and this Court has jurisdiction to hear this Petition pursuant to Ark. Code Ann. § 14-40-601.

3. The Petitioner desires to annex the property described in paragraph 1 into the City of Fayetteville, Washington County, Arkansas.

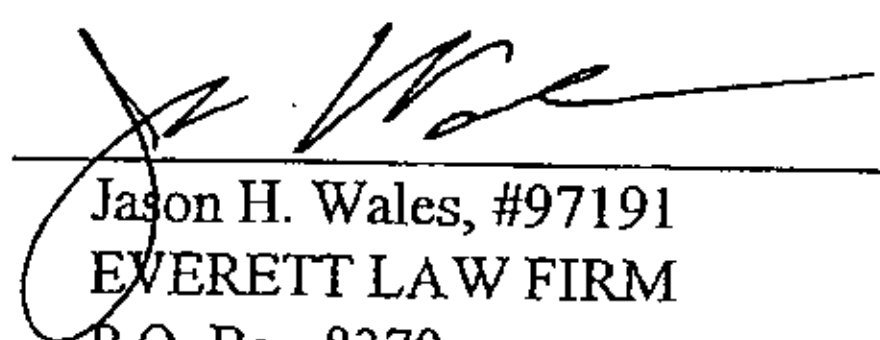
4. A true and correct copy of a map of the property showing that it is adjacent to the City limits of the City of Fayetteville is attached hereto as Exhibit A.

5. Petitioner states that Jason H. Wales is authorized to act for and on behalf of the Petitioner in all matters connected with this Petition and any subsequent hearings or annexation

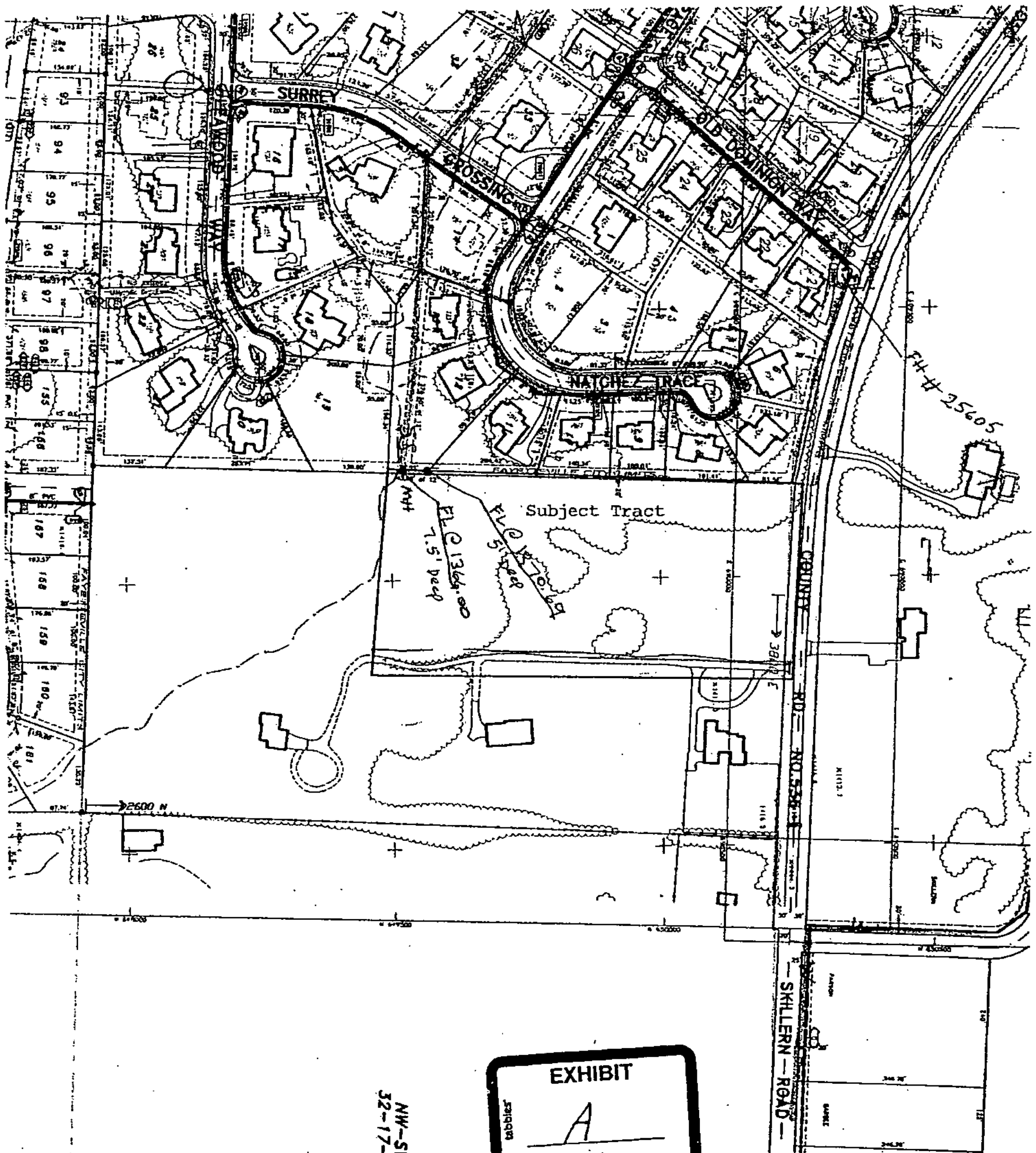
proceedings connected therewith.

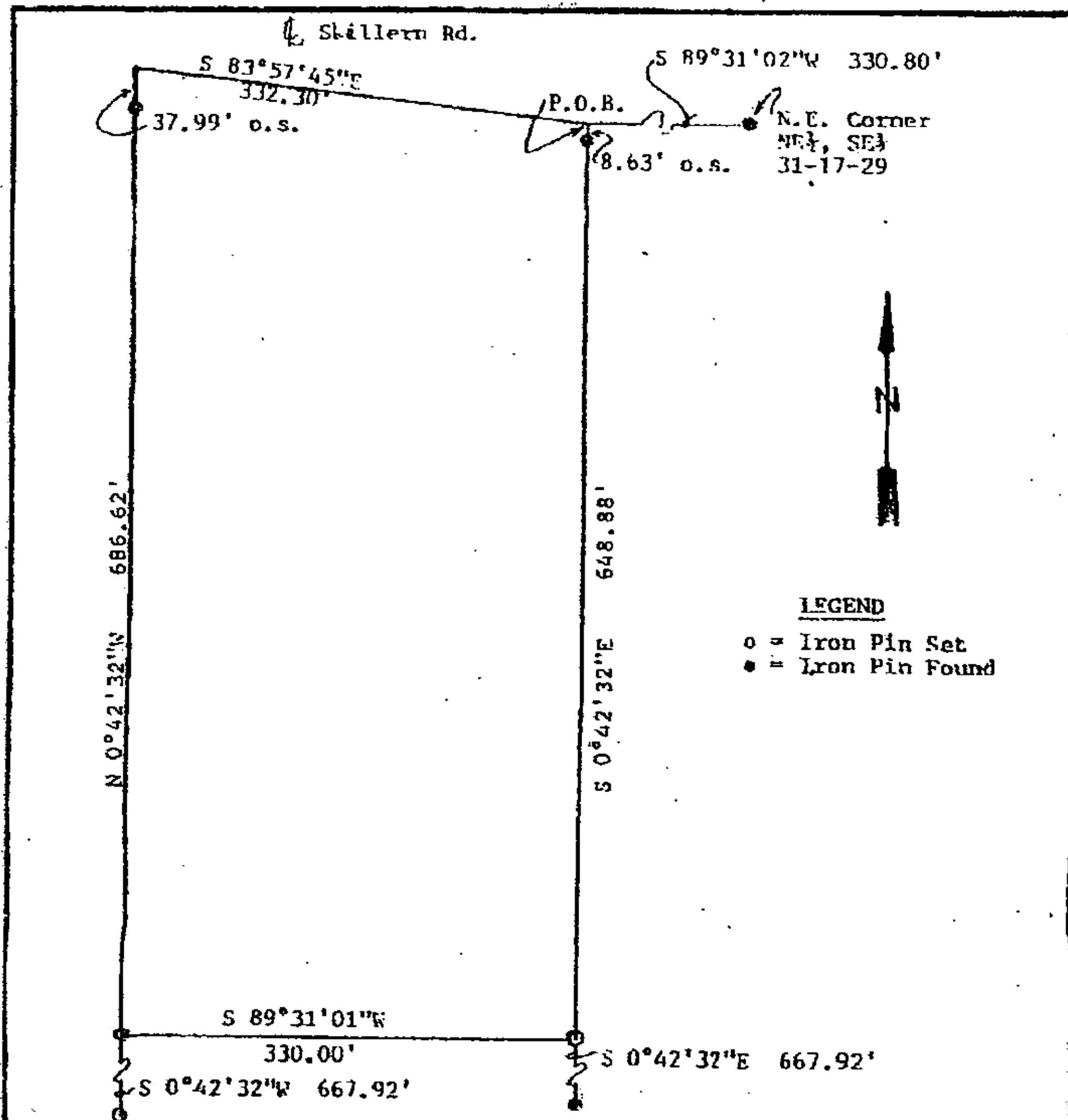
WHEREFORE, Petitioner prays that this Court set a date for hearing this Petition not less than 30 days after the date of filing and that at such hearing this Court enter its order granting the Petition and annexing the property described in paragraph 1 into the City of Fayetteville, Washington County, Arkansas.

JDM INVESTMENTS, LLC,
Petitioner

By: 

Jason H. Wales, #97191
EVERETT LAW FIRM
P.O. Box 8370
Fayetteville, AR 72703
(479) 443-0292





LEGAL DESCRIPTION: Part of the NE $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 31, T17N, R29W of the Fifth Principal Meridian in Washington County, Arkansas and being more particularly described as follows, to-wit: Commencing at the N.E. Corner of said NE $\frac{1}{4}$, SE $\frac{1}{4}$, thence S 89°31'02"W 330.80 Feet to the P.O.B. thence S 0°42'32"E 648.88 Feet, thence S 89°31'01"W 330.00 Feet, thence N 0°42'32"W 686.62 Feet, thence S 83°57'45"E 332.30 Feet to the P.O.B. Containing 5.06 Acres more or less subject to easements and R/W of record.

By: *[Signature]* Date: *4/27/92*
DAVID L. JORGENSEN, ARLS 1118 UNIT

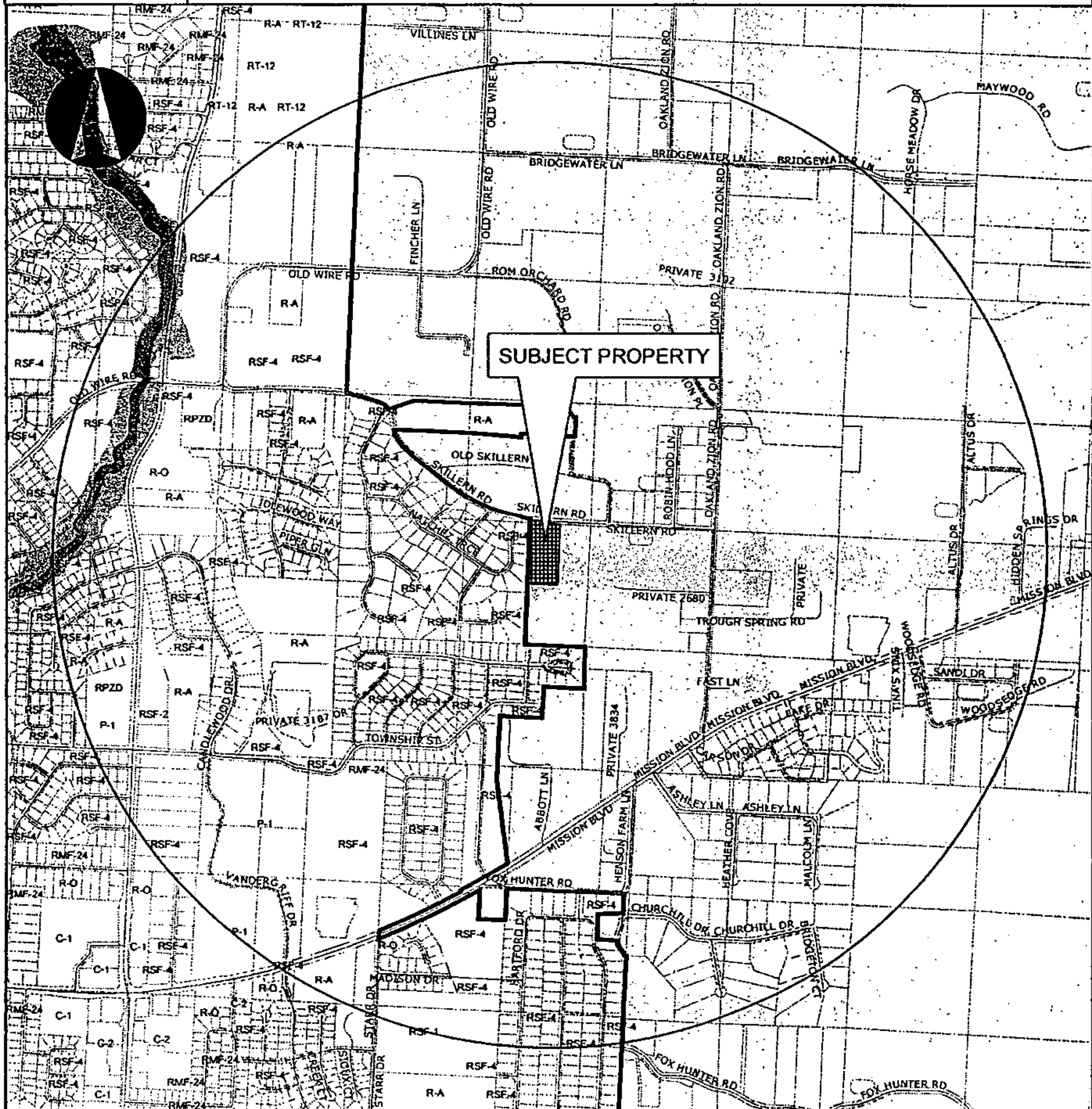
751-F733

JORGENSEN & ASSOCIATES CONSULTING ENGINEERS			
2063 OLD MISSOURI ROAD • FAYETTEVILLE AR 72703 • PHONE 501/442-9127			
SCALE: 1"=100'	JOB NO.	CHECKED BY:	DRAWN BY:
DATE: 4-27-92	DESIGNED BY:		
Property survey for Jerry Kinnion (Kinnion)			
Pt. NE $\frac{1}{4}$, SE $\frac{1}{4}$, 31-17-29			

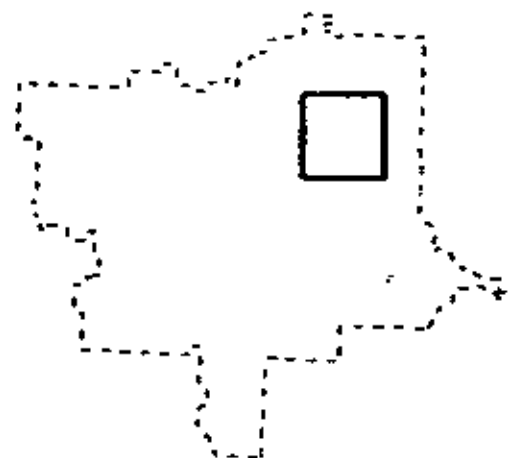
ANX05-1723

One Mile View

JDM INVESTMENTS



Overview



Legend

Subject Property

ANX05-1723

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25

0.5

0.75

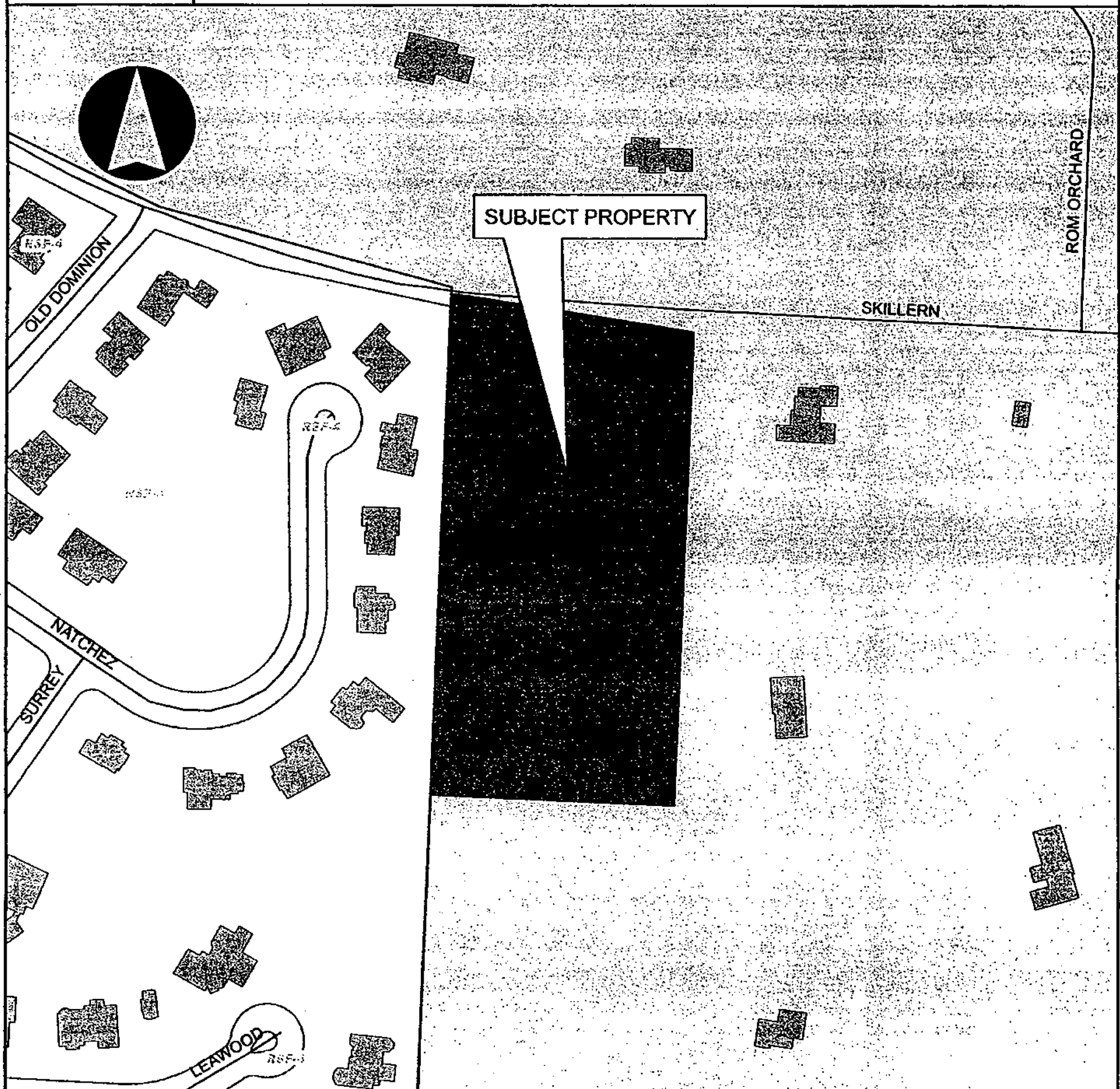
1

Miles

ANX05-1723

Close Up View

JDM INVESTMENTS



Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - Baseline Profile
- Fayetteville
- Outside City
- ANX05-1723
- streets

0 75 150 300 450 600 Feet

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

C. 2
RZN 05-1724 JDM Investments
Page 1 of 18

1-Nov-05

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 05-1724: (JDM INVESTMENTS, 295): Submitted by Randall Wakefield for property located at Skillern Road, east of Savannah Estates. The property is zoned R-A, Residential-Agricultural, and contains approximately 5.06 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

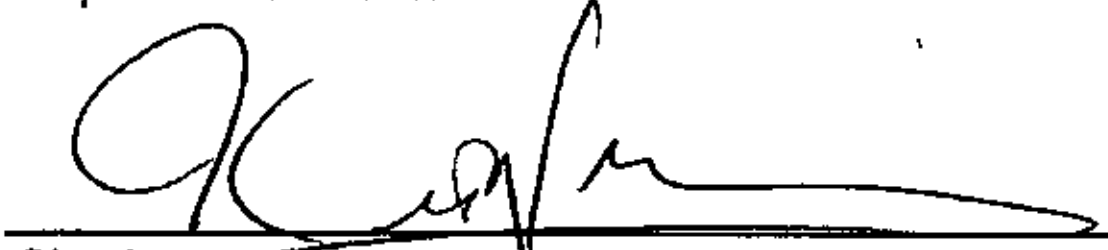

Department Director

10.13.05
Date

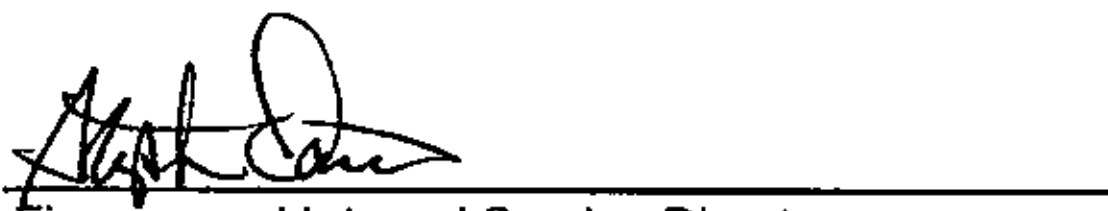
Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

10-13-05


Finance and Internal Service Director

10-14-05
Date

Received in City Clerk's Office




Mayor

10/17/05
Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations 

From: Jeremy C. Pate, Director of Current Planning

Date: October 11, 2005

Subject: Rezoning for JDM Investments LLC (RZN 05-1724)

RECOMMENDATION

The Planning staff recommends approval of the subject rezoning request to rezone approximately 5.06 acres of property from Residential-Agricultural (R-A) to Residential Single-Family Four Units Per Acre (RSF-4).

BACKGROUND

The subject property contains 5.06 acres and is owned by JDM Investments, LLC. It is located at Skillern Road east of the Savannah Estates Subdivision. Surrounding properties are zoned RSF-4 to the west with unincorporated Washington County (Planning Area) on the remaining three sides. The Savannah Estates Subdivision is adjacent to the western property line, and rural residential uses are located to the east, north, and south. The request is to rezone the subject property from R-A to RSF-4 should the preceding annexation request, ANX 05-1723, be approved. The applicant intends to develop the property for single family use at a maximum density of four units per acre, consistent with the surrounding development. Staff recommends approval of this rezoning request based on findings stated herein, finding that the uses allowed will be compatible and similar to surrounding uses allowed within existing zoning districts.

DISCUSSION

This item was heard at the regular Planning Commission on October 11, 2005. The Planning Commission voted 5-3-0 to recommend approval of this rezoning request to the City Council, with Commissioners Myres, Clark, and Oster voting no.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 05-1724 FOR APPROXIMATELY
5.06 ACRES LOCATED AT SKILLERN ROAD, EAST OF
SAVANNAH ESTATES R-A, RESIDENTIAL -AGRICULTURAL TO
RSF-4, RESIDENTIAL SINGLE FAMILY, 4 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 on 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 _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 05-1724

PART OF THE NE 1/4 , SE 1/4 OF SECTION 31, T17N, R29W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE N.E. CORNER OF SAID NE 1/4, SE 1/4, THENCE S89°31'02"W 330.80 FEET TO THE P.O.B. THENCE S00°42'32"E 648.88 FEET, THENCE S89°31'01"W 330.00 FEET, THENCE N00°42'32"W 686.62 FEET, THENCE S83°57'45"E 332.00 FEET TO P.O.B. CONTAINING 5.06 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND R/W OF RECORD.

DRAFT



PC Meeting of October 10, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~October 4, 2005~~ October 11, 2005

RZN 05-1724: Rezoning (JDM INVESTMENTS LLC, 295): Submitted by RANDALL WAKEFIELD for property located at SKILLERN RD., E OF SAVANNAH ESTATES. The property is ZONED R-A, RESIDENTIAL AGRICULTURAL, and contains approximately 5.06 acres. The request is to rezone the subject property to RSF-4, Residential Single-Family, 4 units per acre.

Property Owner: JDM Investments, LLC

Planner: Andrew Garner

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	Required ☒ YES	☐ Denied
Date: <u>October 10, 2005</u>	☒ Approved	☐ Denied
	Lack of Myres <u>2-5-3-0</u>	
	Other Clark & Myres voting No	
CITY COUNCIL ACTION:	Required ☒ YES	☐ Denied
	☒ Approved	☐ Denied
Date: <u>November 1, 2005</u> (1 st reading if recommended)		

THE PLANNING COMMISSION (PC) FOUND IN FAVOR OF STAFF'S RECOMMENDATION. PC DISCUSSED THAT THEY WOULD PREFER ANOTHER ZONING OPTION WITH A DENSITY BETWEEN RSF-1 AND RSF-4 FOR PROPERTY NEAR THE PERIMETER OF THE CITY THAT WILL BE DEVELOPED AT TWO OR THREE UNITS/ACRE. (10/10/05)

BACKGROUND:

Property description: The subject property contains approximately 5.06-acres owned by the JDM Investments. The property is undeveloped pasture and wooded land. The tract of property is within the Planning Area and adjacent to the City limits along the western property line. As depicted in Table 1, it is located south of Skillern Road immediately east of the Savannah Estates in east

Fayetteville with unincorporated land to the north, east, and south.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Skillem Road, Residential Single Family; Vacant/Pasture	Planning Area
South	Residential Single Family; Vacant/Pasture	Planning Area
East	Residential Single Family; Vacant/Pasture	Planning Area
West	Residential Single Family (Savannah Estates)	RSF-4, Res. Single Family – 4 units/acre

Proposal: The applicant intends to develop the property for residential use. Therefore, the applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 Units per Acre.

Recommendation: Staff recommends approval of the rezoning request to rezone the subject property RSF-4 based on findings herein.

INFRASTRUCTURE:

Streets: Currently the site has access to Skillem Road, a Minor Arterial.

Water: Public water is near to the site. There is a 4" waterline to the east along Skillem Road and 8" waterlines in the development to the west. Improvements to the water system will be required. An evaluation will need to be made at the time of preliminary plat on how the water system is to be connected with the existing system.

Sewer: Sanitary sewer is adjacent to the site. There is an 8" sewer main stubbed out to the property near the southwest corner of the property. A study of the downstream system shall be conducted by the developer.

Fire: The subject property is located approximately 3.1 miles from the Fire Station #5. Response time to the property is approximately 7 minutes. The Fire Department has projected a response time of 7.5 minutes at full build-out, with 5 calls per year. It is the opinion of the Fayetteville Fire Department that this rezoning will not result in adverse effects on call volume or response times.

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 or create an appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 designates this site **Residential**. Rezoning this property to RSF-4 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 RSF-4 zoning for a single family residential use is compatible with adjacent and nearby single family residential land use. The General Plan designates this area for residential use, and the property is directly adjacent to similarly zoned and developed property, which is compatible with the proposed RSF-4 zoning.

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

Finding: Should the annexation request for the subject property be approved, the property is zoned R-A by default. The applicant is requesting the consideration of rezoning this property to RSF-4. Staff finds that this zoning is compatible with the General Plan 2020 and surrounding developments within the City.

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

Finding: The proposed zoning will provide additional traffic on adjacent streets over the current zoning. Skillern Road is adjacent to the northern property line of the subject property. The annexation and development of this property will also aid in the eventual connection to Kittery Lane and associated single-family development to the south. The existing streets that surround the property will allow traffic to disperse in an efficient manner under the proposed zoning.

Police - The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and 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 would increase population density. Under an R-A, Residential Agricultural designation, the 5.06-acre tract would allow for a maximum of 2 dwelling units (1 unit / 2 acres). With the proposed RSF-4 designation 20 dwelling units would be permitted. Rezoning the property increases the possible number of residential units and population over that

which is be allowed in the R-A zoning district, but the proposed rezoning is consistent with land use, zoning, and development patterns in the immediate vicinity.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments included in this report and summarized below:

Police – This rezoning will not substantially alter the population density thereby undesirably increasing the load on police services.

Fire – This rezoning is in close proximity to Fire Station No. 5 and has an adequate response time of 7 minutes.

Engineering - **Water:** Public water is near to the site. There is a 4" waterline to the east along Skillern Road and 8" waterlines in the development to the west. Improvements to the water system will be required. An evaluation will need to be made at the time of preliminary plat on how the water system is to be connected with the existing system.

Sewer: Sanitary sewer is adjacent to the site. There is an 8" sewer main stubbed out to the property near the southwest corner of the property. A study of the downstream system shall be conducted by the developer.

Streets: The site has access to Skillern Road.

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 Unified Development Code
Section 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.

Fayetteville Unified Development Code

Section 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.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: September 27, 2005

To: Suzanne Morgan, Jeremy Pate, Andrew Garner, and Jesse Fulcher

From: Dale Riggins

Subject: Re-zoning review from the Fayetteville Fire Department.

ANX05-1723 (JDM Investments LLC, 295) 5.06 acres
RZN05-1724 (JDM Investments LLC, 295) 5.06 acres

These 5.06 acres are covered by Engine 5 on N. Crossover Road.

The property is 3.1 miles from the station with a projected response time of 7 minutes to this development and 7.5 minutes when the maximum build-out is completed. When the new proposed Station 5 is built at Crossover and Old Wire, it will reduce the response time to 3 minutes to the beginning of this development.

The Fire Department anticipates 5 calls for service (3 EMS & 2 Fire/Other) once the development is completed and maximum build-out has occurred. There should be no adverse effects on our call volume or response time to this development.

ANX08-1728 (Zaccanti, 207-246) 80 acres
RZN05-1729 (Zaccanti, 207-246) 60 acres

These 60 acres are covered by Engine 7 on Ruppel Road.

The property is 2.7 miles from the station with a projected response time of 7 minutes to this development and 7.5 minutes after maximum build-out is completed. The Fire Department anticipates 54 calls for service (33EMS and 21 Fire/Other) once the development is completed and maximum build-out has occurred.

Our major concern is the response time for the first arriving Engine Company and the next arriving unit. The 7 minute response time is above our response time goal of 6 minutes. This is due largely to the crossing of a major highway and the curvy and narrow Ruppel road. It will take the next closest station 11 minutes to arrive on the scene which is beyond our response time goals of having all responding units on the scene within 10 minutes of the call.

If you have any other questions or concerns, please feel free to contact me for more information on run times, assignment duties, or anything else that is of a concern.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

ANX05-1627 (Old Wire Investors, LLC, 217) 29.70 acres

RZN05-1627 (Old Wire Investors, LLC, 217) 34.51 acres

These 34.51 acres are covered by Engine 5 on N Crossover Road.

The property is 2.7 miles from the station with a projected response time of 7 minutes to this development and 7.75 minutes after the maximum build-out.

When the new proposed Station 5 is built at Crossover and Old Wire, it will reduce the response time to 3 minutes to the beginning of this development.

The Fire Department anticipates 31 calls for service (19EMS and 12 Fire/Other) once the development is completed and maximum build-out has occurred. Once the new proposed Station 5 is built there should be no adverse effects on our call volume or response time to this development.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 2
RZN 05-1724 JDM Investments
Page 13 of 18

POLICE DEPARTMENT

October 3, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 05-1723 (JMD Investments LLC, 295) and Rezoning RZN 05-1723 (JMD Investments LLC, 295) submitted Randall Wakefield for property located at Skillem Road, E of Savannah Estates would substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown", is written over the typed name.

Captain William Brown
Fayetteville Police Department

Written Statements

6. A written description of this request addressing the following items:

a. Current ownership information and any proposed or pending property sales.

The subject property is owned by JDM Investments, LLC. There are currently no proposed or pending property sales.

b. Reason (need) for requesting the zoning change.

The zoning change is requested in order to allow the owner to construct four (4) single family dwelling houses per acre on the subject property.

c. Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

The subject property is adjacent to and lies east of Savannah Subdivision which is zoned RSF-4. Therefore, the subject property will blend seamlessly into the area. The subject property is otherwise surrounded by un-zoned property and abuts East Skillern road.

d. Availability of water and sewer (state size of lines). This information is available from the City Engineering Division.

According to Roger Trotter, engineer for JDM Investments, LLC., there is an 8" water line available approximately 400' from the property boundary and an 8" water line will be extended along Skillern Road to Old Dominion Way Road. Also, a 12" gravity sewer main is located approximately 50' south of the property boundary and an 8" gravity sewer line will be extended to provide sewer services to the subject property.

7. The applicant shall provide written statements addressing the following:

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

To be determined after meeting with staff Planner.

b. Whether the proposed zoning is justified and/or needed at the time of the request.

The proposed zoning is needed in order to permit construction of more than one (1) dwelling house on the subject property. The proposed zoning is also justified due to the ever increasing urban population and to conform the property to nearby developments already in existence.

c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

While new home buyers will naturally increase traffic, due to the size of the lot and zoning

change requested, the increase will be slight and pose no danger or congestion to the area.

d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

The proposed zoning will only slightly increase the population density, thereby not undesirably increasing the load on any public services.

e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

It would be impractical to merely use the land for single family or agricultural use because that is not in the best interest of the health and welfare of an expanding population. As seen from the already existing subdivision adjacent to the subject property, the population of the City of Fayetteville is growing in the direction of the property and to limit its development beyond the current permitted use would only stunt the growth and the quality of life in this community.

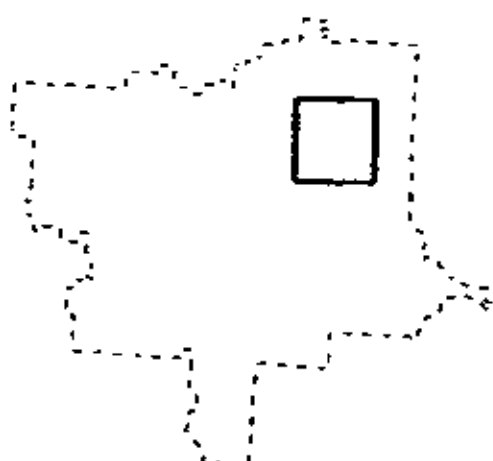
RZN05-1724

One Mile View

JDM INVESTMENTS



Overview



Legend

Subject Property
RZN05-1724

Boundary

Planning Area
Overlay District
Outside City

0 0.125 0.25

0.5

Legend

0.75

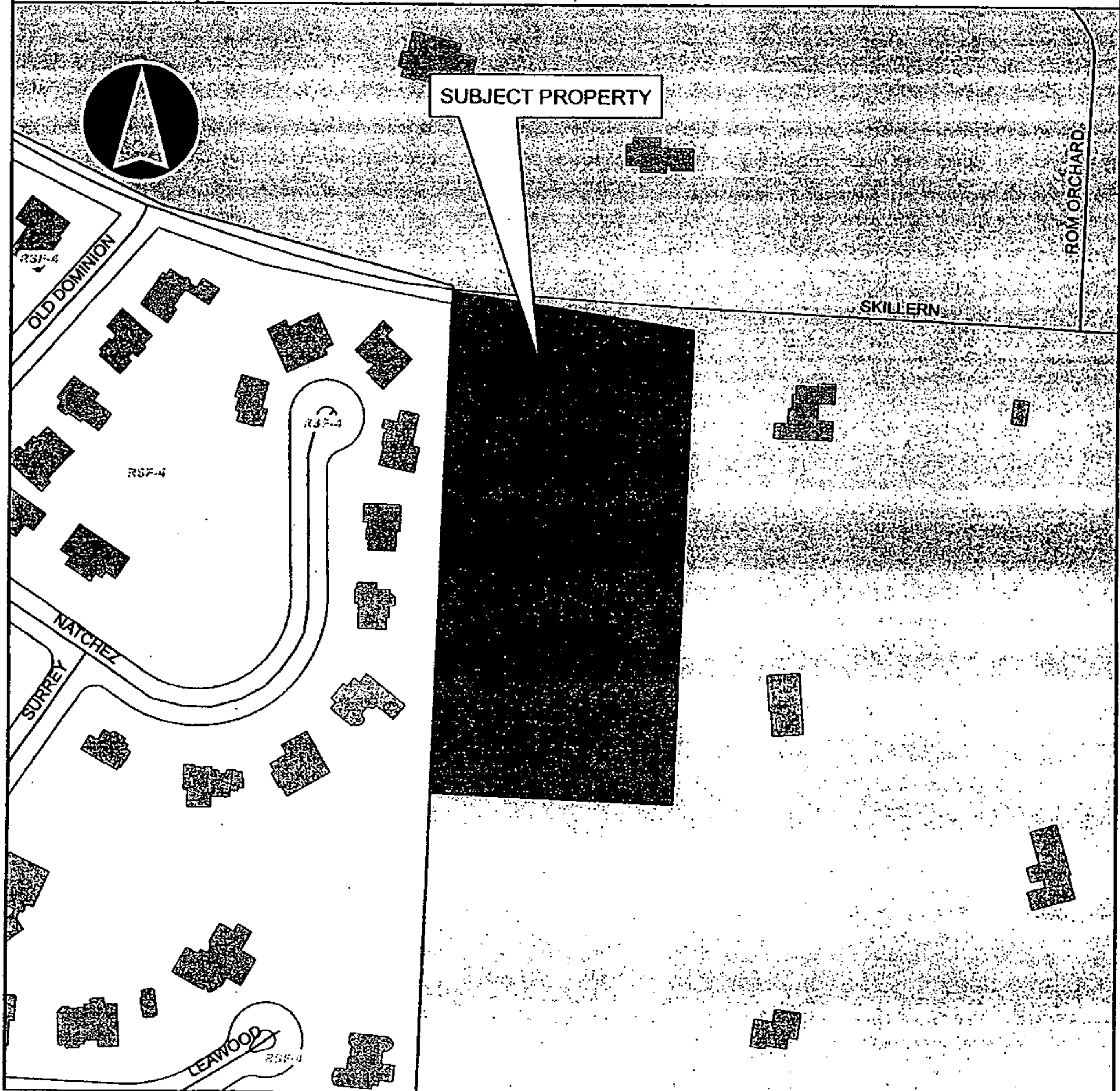
1

Miles

RZN05-1724

Close Up View

JDM INVESTMENTS



Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Base Line Profile
- Fayetteville
- Outside City
- RZN 05-1724
- streets

0 75 150 300 450 600 Feet

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

1-Nov-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 05-1728: (Zaccanti, 207/246): Submitted by Raymond Smith for property located at south of Salem road, east of Crystal Springs Subdivision. The property is in the Planning Area and contains approximately 80.30 acres. The request is to annex the subject property into the City of Fayetteville.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 10-13-05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 10-13-05
City Attorney Date

Original Contract Number: n/a

[Signature] 10-14-05
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED
10-13-05

[Signature] 10/17/05
Mayor Date

Received in Mayor's Office
ENTERED
10/14/05

Comments:

City Council Meeting of November 1, 2005
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: October 11, 2005

Subject: Annexation for Zaccanti (ANX 05-1728)

RECOMMENDATION

The Planning staff recommends approval of the subject annexation request submitted by Raymond Smith for approximately 80 acres of property located south of Salem Road, east of Crystal Springs Subdivision. This action will incorporate the 80-acre tract of land contiguous with the city limits into the City of Fayetteville.

BACKGROUND

The subject property consists of 80-acres owned by Alfred Sr., Al, and Helen Zaccanti. The property is located south of Salem Road immediately east of the Crystal Springs Subdivision. Annexation of the property will not create an island of unincorporated property or create a peninsula of City property. Improvements to the existing infrastructure adjacent to this site, a study of water capacity, and an assessment for sewer service will be required at the time of development.

The applicant requests annexation of the property into the City of Fayetteville. The applicant intends to develop the property for residential use and has requested a rezoning to Residential Single-Family Four Units Per Acre (RSF-4) for 60 acres of the total 80 acres proposed to be annexed. Staff recommends incorporation of this property into the City of Fayetteville. Incorporation of this property will fill in land encompassed on all sides but the north by existing city limits, creating a more desirable city boundary, and ensuring that development of the property is compliant with City regulations within an appropriate zoning district.

DISCUSSION

This item was heard at the regular Planning Commission on October 11, 2005. The Planning Commission voted 8-0-0 to recommend approval of this annexation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED
IN ANNEXATION PETITION ANX 05-1728 FOR PROPERTY
LOCATED SOUTH OF SALEM ROAD, EAST OF CRYSTAL
SPRINGS SUBDIVISION, CONTAINING 80.30 ACRES.

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

Section 1: That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4: That the above-described property is hereby assigned to Ward No. Four.

PASSED and APPROVED this _____ day of _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
ANX 05-1728

THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 29, AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 32, ALL IN TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 29 AND RUNNING THENCE S89°57'59"E 1318.90' TO A FOUND IRON PIN LOCATED AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 29, THENCE S00°15'05"W 1316.04' TO A FOUND IRON PIN LOCATED AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 32, THENCE S 1321.97' TO A FOUND PIN LOCATED AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 32, THENCE S89°59'50"W 1336.15' TO A SET IRON PIN LOCATED AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 32, THENCE N00°31'28"E 1324.80' TO A FOUND STONE LOCATED AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 32, THENCE N00°28'32"E 1314.13' TO THE POINT OF BEGINNING. CONTAINING 80.30 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.



PC Meeting of October 10, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: October 4, 2005

ANX 05-1728: Annexation (ZACCANTI, 207-246): Submitted by RAYMOND SMITH for property located SOUTH OF SALEM ROAD, EAST OF CRYSTAL SPRINGS SUBDIVISION. The property is in the Planning Area and contains approximately 80.00 acres. The request is to annex the subject property into the City of Fayetteville.

Property Owners: Alfred Sr., Al, and Helen Zaccanti

Planner: Andrew Garner

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report:

PLANNING COMMISSION ACTION	Required	☒ YES	☐ NO
	Approved	☒ 8-0-0	☐ Denied
Date: October 10, 2005	Allen Clark		
CITY COUNCIL ACTION	Required	☒ YES	☐ NO
	Approved	☐ YES	☐ Denied
Date: November 1, 2005 (1st reading if recommended)			

BACKGROUND:

Property Description and Setting: The subject property contains part of two tracts totaling approximately 80 acres owned by the Zaccanti's. It is located south of Salem Road, west of the approved Laureate Fields residential subdivision, and east of the Crystal Springs Subdivision. The property contains one single-family residence along with a chicken farming operation and pasture land. It is within the Planning Area and adjacent to the City limits along the southern and a minority of the eastern and western property lines. Surrounding land uses and zoning are depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Rural residential	Planning Area
South	Vacant/Pasture	Residential Single Family Four Units/Acre (RSF-4)
East	Vacant/Pasture (approved Laureate Fields Subdivision)	Residential Single Family Four Units/Acre (RSF-4); Planning Area
West	Crystal Springs Subdivision; Rural residential	Residential Single Family Four Units/Acre (RSF-4); Planning Area

Proposal: The applicant proposes annexation of 80.30 acres into the City of Fayetteville.

Recommendation: Staff recommends approval of the proposed annexation based on the finding herein.

INFRASTRUCTURE:

Streets: Currently the site has access to Salem Road to the north. Gypsum Road is planned to extend east-west across the southern portion of the site, and Raven Road is planned to extend north-south just west of the site. Road improvements and dedication per the Master Street Plan would be required at the time of development. The site's relation to existing and planned Master Street Plan Streets is depicted on *Table 2*.

Table 2
Existing and Planned Streets

Direction from Site	Street Name	Classification
Adjacent to northern border	Salem Road	Collector
Bisects southern portion of site	Gypsum	Collector (planned)
Approximately 20' west of the site	Raven	Collector (planned)

Water: Public water is adjacent to the site. There is a 6" waterline to the west along Gypsum Drive and a 2" waterline along Salem Road. There is a residential development on the east that has been approved and is under construction. Improvements to the water system will be required. An evaluation will need to be made at the time of preliminary plat on how the water system is to be connected with the existing systems.

Sewer: Sanitary sewer is near to the site. There is an 8" sewer main in the development to the west. There is a residential development on the east that has been approved and is under construction. A study of the downstream system shall be conducted by the developer. This development is within the sewer assessment area. The amount of the assessment will be determined by the development and will be determined at a later date.

Fire: The subject property is located approximately 2.7 miles from the Fire Station No. 7. Response time to the property is 7 minutes with a projected response time at full build-out to be approximately 7.5 minutes with 54 annual calls for service.

Police: The Fayetteville Police Department estimates that upon build out, the property would result in an increase of 120 calls per year. This estimate is not a considered to be a substantial increase in the load for police services.

LAND USE PLAN: General Plan 2020 identifies the portion of this property within the Planning Area as **Residential**.

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES

BOUNDARIES

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property will not create an island of unincorporated property and does not exacerbate problems created by the extension of peninsulas. The proposed annexation, begins fills in land that is encompassed on all sides but the north by existing city limits. Therefore, staff finds that the proposed annexation will not further exacerbate any problems associated with the current situation.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the south, east, and west.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area is currently vacant at this time and located between developed or developing properties within the city. There is an existing subdivision adjacent to the western property line, and an approved subdivision is adjacent to the east. Structures on the subject property consist of several chicken houses and a single family dwelling. The property does not consist of defined subdivisions or neighborhoods. Annexation of the property would allow for Planning Commission review of development in accordance with City standards, and would require the same standards of development as the adjacent properties already within the city limits.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of 7 minutes for fire protection from Fire Station No. 7. Additionally, the City's Fire Department currently responds to calls further west of this property. Extension of water and sewer lines will occur at the time of development to aid in the improvement of services.

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: The property is mainly cleared pasture land. Tree canopy is concentrated along property lines. Development regulations within the City will ensure appropriate development and preservation of the existing natural features on the property. Development outside the city does not allow for the requirement of parks, open space or tree preservation.

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police currently serve subdivisions further west of the subject property. Service shall be provided to this area with the same level of response and service as other developments in this area.

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: Water, fire and police protection are currently provided in the surrounding

areas to the south, east, and west. The subject property is not being served by city utilities at this time. At the time of development the developer would be expected to improve adjacent city streets, and may be responsible for off-site street improvements, depending upon the amount of development.

- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property. At this time, the property is agricultural in nature.

- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

- 11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

- 11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The property owners request for annexation and request to rezone this property RSF-4, Residential single family - 4 units/acre.

- 11.6.p An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property.

- 11.6.q Development proposals require a separate review from the annexation proposals.

Finding: **Development of this property has not been proposed. At the time the applicant desires to develop the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.**

11.6.r Residents should be fully informed of annexation activities.

Finding: **Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.**

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: **This annexation consists of approximately 80 acres, and is adjacent to the Crystal Springs Subdivision in the City of Fayetteville. The annexation of the subject property will fill-in an unincorporated area surrounded on three sides by incorporated City helping create a more desirable city boundary.**

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: **No fiscal impact assessment was conducted for this annexation of 80 acres.**

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

- 11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
- 11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
- 11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
- 11.6.d Boundaries for annexed areas should follow natural corridors.
- 11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

- 11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.
- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

- 11.6.j Areas currently served by utilities and other public services should be annexed.
- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

- 11.6.m Promote long-range planning with adjacent jurisdictions.
- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

- 11.6.o Designate zoning districts for the property during the annexation process.
- 11.6.p An annexation study should be completed on all annexation proposals.
- 11.6.q Development proposals require a separate review from the annexation proposals.
- 11.6.r Residents should be fully informed of annexation activities.
- 11.6.w Encourage larger annexations to create acceptable boundaries.
- 11.6.t Conduct a fiscal impact assessments on large annexations.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: September 27, 2005

To: Suzanne Morgan, Jeremy Pate, Andrew Garner, and Jesse Fulcher

From: Dale Riggins

Subject: Re-zoning review from the Fayetteville Fire Department.

ANX05-1723 (JDM Investments LLC, 295) 5.06 acres

RZN05-1724 (JDM Investments LLC, 295) 5.06 acres

These 5.06 acres are covered by Engine 5 on N. Crossover Road.

The property is 3.1 miles from the station with a projected response time of 7 minutes to this development and 7.5 minutes when the maximum build-out is completed. When the new proposed Station 5 is built at Crossover and Old Wire, it will reduce the response time to 3 minutes to the beginning of this development.

The Fire Department anticipates 5 calls for service (3 EMS & 2 Fire/Other) once the development is completed and maximum build-out has occurred. There should be no adverse effects on our call volume or response time to this development.

ANX08-1728 (Zaccanti, 207-246) 80 acres

RZN05-1729 (Zaccanti, 207-246) 60 acres

These 60 acres are covered by Engine 7 on Ruppel Road.

The property is 2.7 miles from the station with a projected response time of 7 minutes to this development and 7.5 minutes after maximum build-out is completed. The Fire Department anticipates 54 calls for service (33EMS and 21 Fire/Other) once the development is completed and maximum build-out has occurred.

Our major concern is the response time for the first arriving Engine Company and the next arriving unit. The 7 minute response time is above our response time goal of 6 minutes. This is due largely to the crossing of a major highway and the curvy and narrow Ruppel road. It will take the next closest station 11 minutes to arrive on the scene which is beyond our response time goals of having all responding units on the scene within 10 minutes of the call.

If you have any other questions or concerns, please feel free to contact me for more information on run times, assignment duties, or anything else that is of a concern.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

ANX05-1627 (Old Wire Investors, LLC, 217) 29.70 acres
RZN05-1627 (Old Wire Investors, LLC, 217) 34.51 acres

These 34.51 acres are covered by Engine 5 on N Crossover Road.

The property is 2.7 miles from the station with a projected response time of 7 minutes to this development and 7.75 minutes after the maximum build-out.

When the new proposed Station 5 is built at Crossover and Old Wire, it will reduce the response time to 3 minutes to the beginning of this development.

The Fire Department anticipates 31 calls for service (19EMS and 12 Fire/Other) once the development is completed and maximum build-out has occurred. Once the new proposed Station 5 is built there should be no adverse effects on our call volume or response time to this development.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 3
ANX 05-1728 Zaccanti
Page 14 of 18

POLICE DEPARTMENT

October 3, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

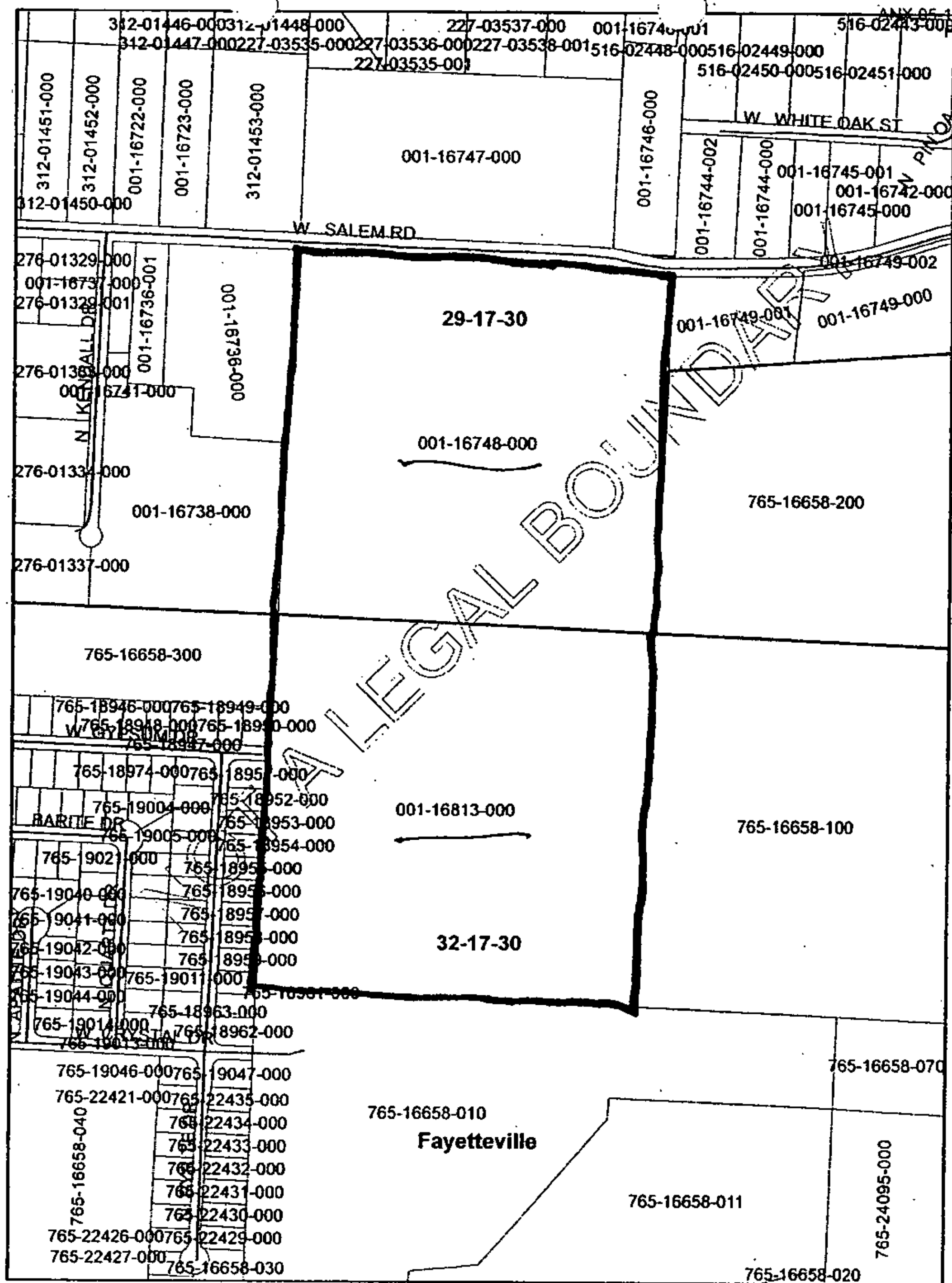
This document is in response to the request for a determination of whether the proposed Annexation ANX 05-1728 (Zaccanti, 207-246) and Rezoning RZN 05-1728 (Zaccanti, 207-246) submitted Raymond Smith for property located S of Salem Road, E of Crystal Springs S/D would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

Based on historical data of the Crystal Springs Subdivision immediately west of this proposal, estimations can be made regarding an increase in police calls for service. Upon build out of the submitted RZN, the Fayetteville Police Department can realize an estimated increase in 120 calls for service per year. The Engineering Department may provide more specific information about any potential traffic increase for this RZN.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown", is written over the typed name.

Captain William Brown
Fayetteville Police Department



County Disclaimer:

This map was created by Washington County using data created or acquired by its Assessor's office, Dept. of Emergency Management, and Road Department and in accordance with Arkansas Code 15-21-502 (2) (B), which states "The digital cadastre manages and provides access to cadastral information. Digital cadastre does not represent legal property boundary descriptions, nor is it suitable for boundary determination of the individual parcels included in the cadastre." and Arkansas Code 15-21-502 (6) which indicates that "Digital cadastre" means the storage and manipulation of computerized representations of parcel maps and linked databases."

This map has been developed from the best available sources. No guarantee of accuracy is granted, nor is any responsibility for reliance thereon assumed. In no event shall said Washington County be liable for direct, indirect, incidental, consequential or special damages of any kind, including, but not limited to, loss of anticipated profits or benefits arising out of use of or reliance on the map.

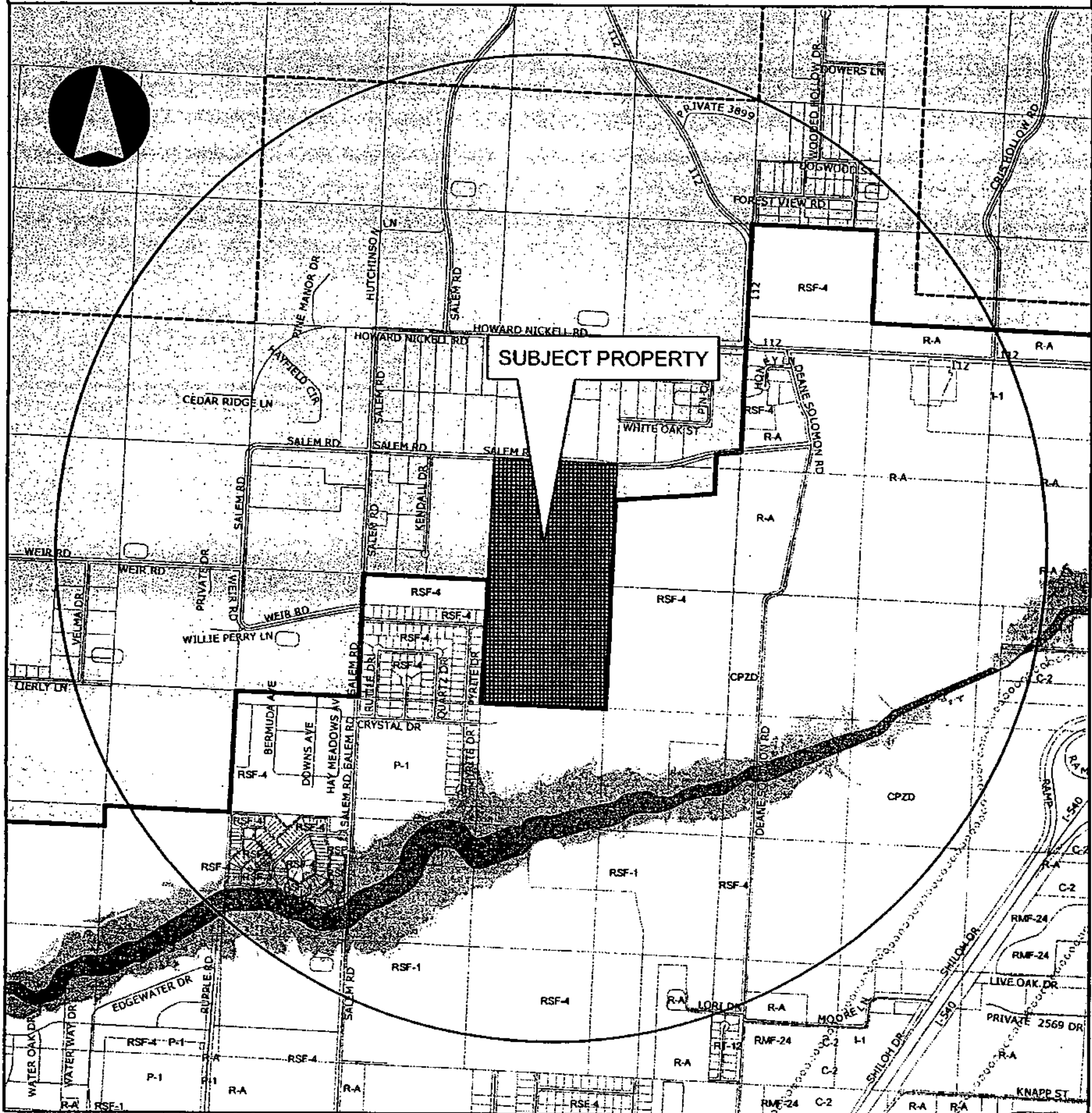
The parcel lines shown are considered a graphical representation of the actual boundaries. Washington County is in no way responsible for or liable for any misrepresentation or re-use of this map. Distribution of this map is intended for informational purposes and should not be considered authoritative for engineering, legal and other site-specific uses.



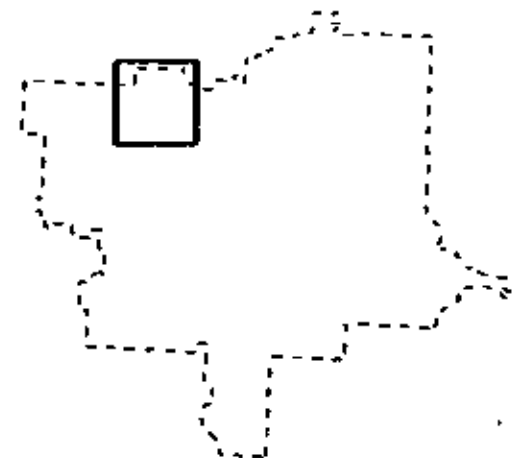
ANX05-1728

One Mile View

ZACCANTI



Overview



Legend

Subject Property

ANX05-1728

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25

0.5

0.75

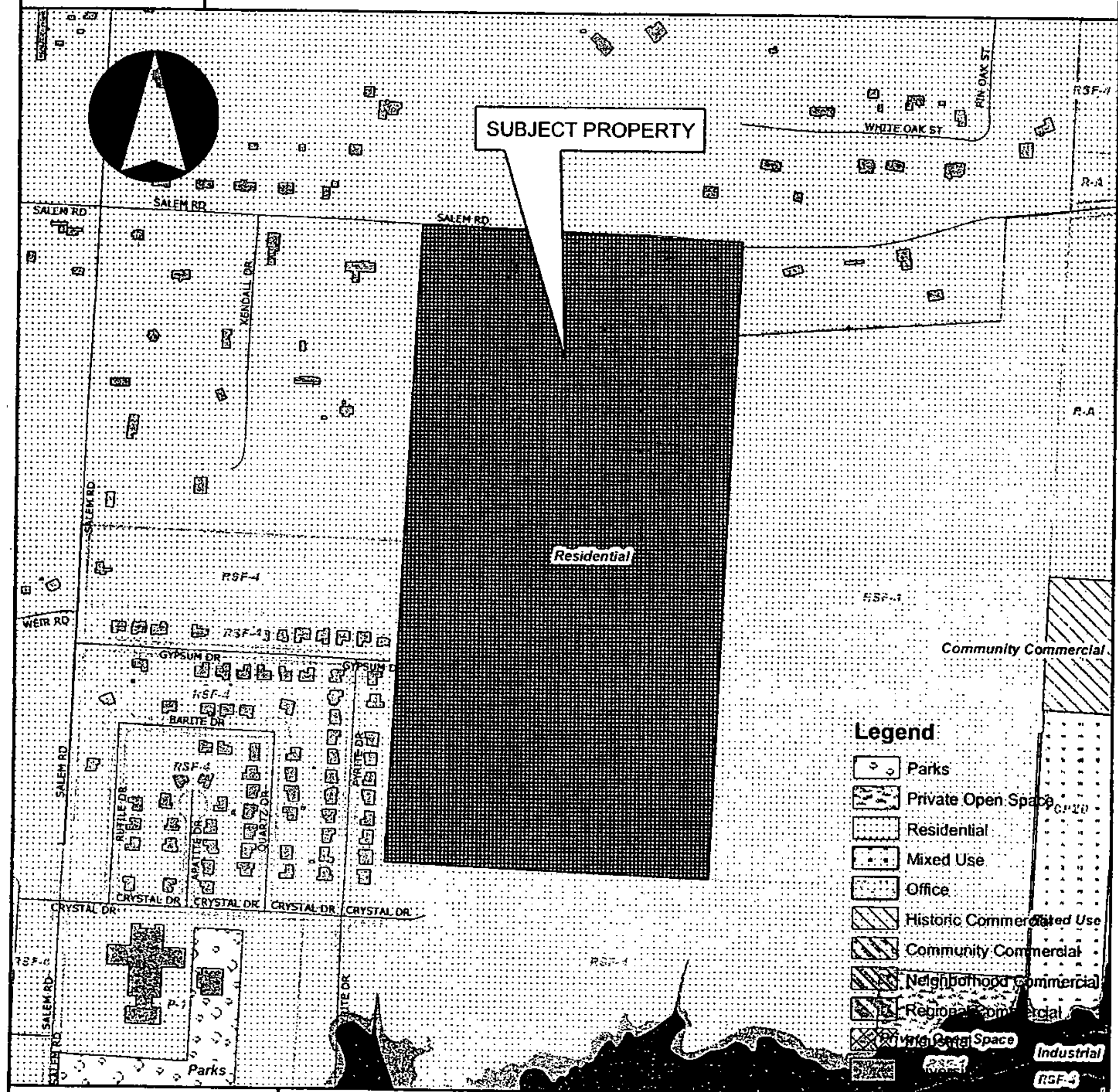
1

Miles

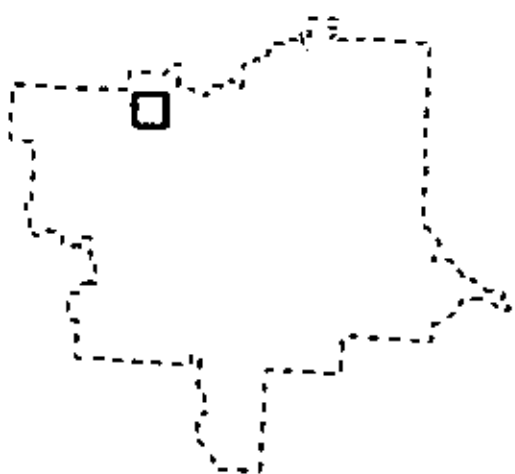
ANX05-1728

Future Land Use

ZACCANTI



Overview



Legend

Subject Property

ANX05-1728

Boundary

Planning Area

Streets

Existing

Planned

Overlay District

Outside City

Legend





RAYMOND C. SMITH, P.A.
ATTORNEY AT LAW

Barristers Place, Suite 11
70 North College Avenue
Fayetteville, Arkansas
72701-6101

October 14, 2005

Telephone (479)521-7011
Fax (479)443-4333
Toll Free 1-800-282-0168
Email rsmith7011@sbcglobal.net

Sondra Smith, City Clerk
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Re: RZN 05-1729 (Zaccanti)

Dear Madame Clerk:

This letter* is on behalf of my client, Alfred E. Zaccanti, Sr., Trustee, to make a timely appeal to the City Council from the vote of the Planning Commission at the meeting on October 10th to not recommend approval of RZN 05-1729 (Zaccanti) to the City Council. The Planning Commission at the meeting approved ANX 05-1728 for this property, but by a 4-4 vote turned down the rezoning application, although Staff recommended approval based upon findings presented. The Zaccanti property is within the Planning Area and is adjacent to the City limits along the southern property lines as well as most of the eastern and western property lines, an ideal situation and would not create an "island." The Planning Commissioners were not consistent in their voting on the rezoning applications before the commission, and failed to use the same criteria in either their approval or denial of rezoning applications. There was no basis whatsoever for the Planning Commission's decision to deny approval of RZN 05-1729, forming the basis of this appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond C. Smith".
Raymond C. Smith

RECEIVED

OCT 14 2005

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

cc: Col. Alfred E. Zaccanti, Sr.

* - This notice of appeal relates back to my letter of October 12, 2005, which incorrectly identified the Planning Commission meeting on October 10, 2005, as on October 12, 2005.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations 

From: Jeremy C. Pate, Director of Current Planning

Date: October 11, 2005

Subject: Rezoning for Zaccanti (RZN 05-1729)

RECOMMENDATION

The Planning staff recommends approval of the subject rezoning request to rezone approximately 60 acres of property from Residential-Agricultural (R-A) to Residential Single-Family Four Units Per Acre (RSF-4).

BACKGROUND

The subject property contains 60 acres and is owned by Alfred Sr., Al, and Helen Zaccanti. It is located south of Salem Road and east of the Crystal Springs Subdivision. Surrounding properties are zoned RSF-4 on three sides with unincorporated Washington County (Planning Area) to the north. The Crystal Springs Subdivision is adjacent to the western property line and the approved Laureate Fields subdivision is located adjacent to the eastern property line. The request is to rezone the subject property from R-A to RSF-4 should the preceding annexation request, ANX 05-1728, be approved. The applicant intends to develop the property for single family use in conjunction with property to the west at a maximum density of four units per acre. Development of this property for residential use at four units per acre is consistent with the surrounding development. If the annexation and rezoning are approved, future changes or additional development on this site would be regulated by the city allowing for a uniform and consistent development pattern. Staff recommends approval of this rezoning request based on findings stated herein, finding that the uses allowed will be compatible and similar to surrounding uses allowed within existing zoning districts.

DISCUSSION

This item was heard at the regular Planning Commission on October 11, 2005. The motion to recommend approval of this item failed with a 4-4-0 vote, with Commissioners Allen, Clark, Myres, and Oster voting no.

BUDGET IMPACT

None.



ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 05-1729 FOR APPROXIMATELY
60.00 ACRES LOCATED SOUTH OF SALEM ROAD, EAST OF
CRYSTAL SPRINGS SUBDIVISION FROM R-A, RESIDENTIAL -
AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, 4
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 on 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 _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 05-1729

THE SOUTH 1/2 OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 29, AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 32, ALL IN TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, CONSISTING OF APPROXIMATELY 60 ACRES, MORE OR LESS.

DRAFT



Barristers Place, Suite 11
70 North College Avenue
Fayetteville, Arkansas 72701-6101

RAYMOND C. SMITH, P.A.
ATTORNEY AT LAW

Telephone (479) 521-7011
FAX (479) 443-4333
Toll Free 1-800-282-0168
Email rsmith7011@sbcglobal.net

October 12, 2005

Sondra Smith, City Clerk
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Re: RZN 05-1729 (Zaccanti)

Dear Madame Clerk:

This letter is on behalf of my client, Alfred E. Zaccanti, Sr., Trustee, to make a timely appeal to the City Council from the vote of the Planning Commission at the meeting on October 12th to not recommend approval of RZN 05-1729 (Zaccanti) to the City Council. The Planning Commission at the meeting approved ANX 05-1728 for this property, but by a 4-4 vote turned down the rezoning application, although Staff recommended approval based upon findings presented. The Zaccanti property is within the Planning Area and is adjacent to the City limits along the southern property lines as well as most of the eastern and western property lines, an ideal situation and would not create an "island." The Planning Commissioners were not consistent in their voting on the rezoning applications before the commission, and failed to use the same criteria in either their approval or denial of rezoning applications. There was no basis whatsoever for the Planning Commission's decision to deny approval of RZN 05-1729, forming the basis of this appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "R. C. Smith".

Raymond C. Smith

cc: Col. Alfred E. Zaccanti, Sr.

RECEIVED

OCT 12 2005

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE



PC Meeting of October 10, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~October 4, 2005~~ October 11, 2005

RZN 05-1729: Rezoning (ZACCANTI, 207-246): Submitted by RAYMOND SMITH for property located at SOUTH OF SALEM ROAD, EAST OF CRYSTAL SPRINGS SUBDIVISION. The property is ZONED R-A, RESIDENTIAL AGRICULTURAL, and contains approximately 60.00 acres. The request is to rezone the subject property to RSF-4, Residential Single-Family, 4 units per acre.

Property Owners: Alfred Sr., Al, and Helen Zaccanti

Planner: Andrew Garner

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
	☒ Approved	☒ Denied
Date: <u>October 10, 2005</u>	Trumbo, Graves <u>2nd 4-4-0</u>	
CITY COUNCIL ACTION:	Required	<u>YES</u>
	☒ Approved	☒ Denied
Date: <u>November 1, 2005 (1st reading if recommended)</u>		

THE PLANNING COMMISSION DISCUSSED THAT THEY WOULD PREFER ANOTHER ZONING OPTION WITH A DENSITY BETWEEN RSF-1 AND RSF-4 FOR PROPERTY NEAR THE PERIMETER OF THE CITY THAT WILL BE DEVELOPED AT TWO OR THREE UNITS/ACRE. (10/10/05)

Property Description and Setting: The subject property contains part of two tracts totaling approximately 60 acres owned by the Zaccanti's. It is located south of Salem Road and east of the Crystal Springs Subdivision. The property contains one single-family residence along with a chicken farming operation and pasture land. It is within the Planning Area and adjacent to the City limits along the southern and a portion of the eastern and western property lines. Surrounding land uses and zoning are depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Rural residential	Planning Area
South	Vacant/Pasture	Residential Single Family Four Units/Acre (RSF-4)
East	Vacant/Pasture	Residential Single Family Four Units/Acre (RSF-4); Planning Area
West	Crystal Springs Subdivision; Rural residential	Residential Single Family Four Units/Acre (RSF-4); Planning Area

Proposal: The applicant intends to develop this property in conjunction with property to the west for single family use at a maximum density of 4 units per acre. The request is to rezone the property RSF-4, Residential Single-family, 4 units per acre.

Recommendation: Staff recommends approval of the rezoning request to rezone the subject property RSF-4 based on findings herein.

INFRASTRUCTURE:

Streets: Currently the site has access to Salem Road to the north. Gypsum Road is planned to extend east-west across the southern portion of the site, and Raven Road is planned to extend north-south just west of the site. Road improvements and dedication per the Master Street Plan would be required at the time of development. The site's relation to existing and planned Master Street Plan Streets is depicted on *Table 2*. Access to a proposed subdivision would be required from more than one point. Proposed development may require off-site street connections or improvements to provide that access, depending upon the development proposed.

Table 2
Existing and Planned Streets

Direction from Site	Street Name	Classification
Adjacent to northern border	Salem Road	Collector
Bisects southern portion of site	Gypsum	Collector (planned)
Approximately 20' west of the site	Raven	Collector (planned)

Water: Public water is adjacent to the site. There is a 6" waterline to the west along Gypsum Drive and a 2" waterline along Salem Road. There is a residential development on the east that has been approved and is under construction. Improvements to the water system will be required. An evaluation will need to be made at the time of preliminary plat on how the water system is to be connected with the existing systems.

Sewer: Sanitary sewer is near to the site. There is an 8" sewer main in the development to the west. There is a residential development on the east that has been approved and is under construction. A study of the downstream system shall be conducted by the developer. This development is within the sewer assessment area. The amount of

the assessment will be determined by the development and will be determined at a later date.

Fire: The subject property is located approximately 7 miles from the Fire Station No. 7. Response time to the property at maximum build-out is projected at approximately 7.5 minutes.

Police: The Fayetteville Police Department estimates that upon build out, the property would result in an increase of 120 calls per year. This estimate is not a considered to be a substantial increase in the load for police services.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as **Residential**.

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: Future development of the subject property at 4 units per acre would be compatible with the development within the City and the adjacent property west of the subject property.

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

Finding: Should the annexation request for the 80-acres north and east of the existing city limits be approved, the property is zoned R-A by default. The applicant is requesting the consideration of rezoning only the property to RSF-4. Staff finds that this zoning is compatible with the General Plan 2020 and surrounding developments within the City.

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

Finding: The proposed zoning will provide additional traffic on adjacent streets over the current zoning. Salem Road is adjacent to the northern property line of the property being annexed. The annexation and development of this property will also aid in the eventual connection of Gypsum Lane from Crystal Springs Subdivision west-east across the property. The existing and planned streets that surround the property will allow traffic to disperse in an efficient manner under the proposed zoning, with appropriate connections.

Police - The Fayetteville Police Department finds that rezoning this

property will not result in an appreciable increase in the level of traffic danger and 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 increase population density from that zoning currently in place. The 60-acre tract under an R-A zoning designation would allow for a maximum 40 single family residential dwelling units. With the proposed RSF-4 designation for the property, a maximum of 240 single family dwelling units would be permitted.

Increased load on public services were taken into consideration and recommendations from Engineering, Police Department, and Fire Department are included in this report and summarized below:

Police – This rezoning will not substantially alter the population density thereby undesirably increasing the load on police services.

Fire – This rezoning is in close proximity to Fire Station No. 7 and has an adequate response time of 7 minutes.

Engineering - **Water:** Public water is adjacent to the site. There is a 6" waterline to the west along Gypsum Drive and a 2" waterline along Salem Road. There is a residential development on the east that has been approved and is under construction. Improvements to the water system will be required. An evaluation will need to be made at the time of preliminary plat on how the water system is to be connected with the existing systems.

Sewer: Sanitary sewer is near to the site. There is an 8" sewer main in the development to the west. There is a residential development on the east that has been approved and is under construction. A study of the downstream system shall be conducted by the developer. This development is within the sewer assessment area. The amount of the assessment will be determined by the development and will be determined at a later date.

Streets: The site has access to Salem Road, with a stub-out to Gypsum Road to the west.

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:	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.

K:\Reports\2005\PC Reports\10-10-05\RZN 05-1729 (Zaccanti).doc

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.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: September 27, 2005

To: Suzanne Morgan, Jeremy Pate, Andrew Garner, and Jesse Fulcher

From: Dale Riggins

Subject: Re-zoning review from the Fayetteville Fire Department.

ANX05-1723 (JDM Investments LLC, 295) 5.06 acres

RZN05-1724 (JDM Investments LLC, 295) 5.06 acres

These 5.06 acres are covered by Engine 5 on N. Crossover Road.

The property is 3.1 miles from the station with a projected response time of 7 minutes to this development and 7.5 minutes when the maximum build-out is completed. When the new proposed Station 5 is built at Crossover and Old Wire, it will reduce the response time to 3 minutes to the beginning of this development.

The Fire Department anticipates 5 calls for service (3 EMS & 2 Fire/Other) once the development is completed and maximum build-out has occurred. There should be no adverse effects on our call volume or response time to this development.

ANX08-1728 (Zaccanti, 207-246) 80 acres

RZN05-1729 (Zaccanti, 207-246) 60 acres

These 60 acres are covered by Engine 7 on Ruppel Road.

The property is 2.7 miles from the station with a projected response time of 7 minutes to this development and 7.5 minutes after maximum build-out is completed. The Fire Department anticipates 54 calls for service (33EMS and 21 Fire/Other) once the development is completed and maximum build-out has occurred.

Our major concern is the response time for the first arriving Engine Company and the next arriving unit. The 7 minute response time is above our response time goal of 6 minutes. This is due largely to the crossing of a major highway and the curvy and narrow Ruppel road. It will take the next closest station 11 minutes to arrive on the scene which is beyond our response time goals of having all responding units on the scene within 10 minutes of the call.

If you have any other questions or concerns, please feel free to contact me for more information on run times, assignment duties, or anything else that is of a concern.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

ANX05-1627 (Old Wire Investors, LLC, 217) 29.70 acres
RZN05-1627 (Old Wire Investors, LLC, 217) 34.51 acres

These 34.51 acres are covered by Engine 5 on N Crossover Road.
The property is 2.7 miles from the station with a projected response time of 7 minutes to this development and 7.75 minutes after the maximum build-out.
When the new proposed Station 5 is built at Crossover and Old Wire, it will reduce the response time to 3 minutes to the beginning of this development.
The Fire Department anticipates 31 calls for service (19EMS and 12 Fire/Other) once the development is completed and maximum build-out has occurred. Once the new proposed Station 5 is built there should be no adverse effects on our call volume or response time to this development.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

October 3, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 05-1728 (Zaccanti, 207-246) and Rezoning RZN 05-1728 (Zaccanti, 207-246) submitted Raymond Smith for property located S of Salem Road, E of Crystal Springs S/D would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

Based on historical data of the Crystal Springs Subdivision immediately west of this proposal, estimations can be made regarding an increase in police calls for service. Upon build out of the submitted RZN, the Fayetteville Police Department can realize an estimated increase in 120 calls for service per year. The Engineering Department may provide more specific information about any potential traffic increase for this RZN.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown", is written over a horizontal line.

Captain William Brown
Fayetteville Police Department

CURRENT OWNERSHIP INFORMATION AND ANY PROPOSED OR PENDING PROPERTY SALES

Assessor's Parcel Number 001-16748-000, SW¼ of SE¼ Section 29, Assessor's Parcel Number 001-16813-000, NW¼ of NE¼ Section 32, T17N, R30W, 80.30 acres, more or less. There are proposed or pending property sales for this property.

REASON FOR REQUESTED ZONING CHANGE

Parcel Number 001-16748-000 is currently zoned A-1 and will be annexed into the City of Fayetteville and the S½ (20 acres) zoned as R-A. Parcel Number 001-16813-000 is currently zoned A-1 and will be annexed into the City of Fayetteville and zoned as R-A. It is proposed to re-zone 60 acres of the parcels to RSF-4 for development into a single family residential subdivision.

LAND DEVELOPMENT

The development of this property is consistent with the land use of the residential areas surrounding the proposed development with slight increase in vehicle traffic.

WATER/SEWER ACCESS

An 8" existing water line and 8" sewer line are available at the Crystal Springs Subdivision to the West and also available to the South.

DEGREE TO WHICH THE PROPOSED ZONING IS CONSISTENT WITH LAND USE PLANNING OBJECTIVES, PRINCIPLES AND LAND USE AND ZONING PLANS

The proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

WHETHER THE PROPOSED ZONING IS JUSTIFIED AND/OR NEEDED AT THE TIME THE REZONING IS PROPOSED

The proposed rezoning is justified at this time in that it is in keeping with the policies and adopted plans of the City of Fayetteville. Zoning this property as RSF-4 is consistent with surrounding subdivision.

**WHETHER THE PROPOSED ZONING WOULD CREATE OR
APPRECIABLY INCREASE TRAFFIC DANGER AND CONGESTION**

The proposed zoning will not create or appreciably increase traffic danger and congestion.

**WHETHER THE PROPOSED ZONING WOULD ALTER THE
POPULATION DENSITY AND THEREBY UNDESIRABLY INCREASE
THE LOAD ON PUBLIC SERVICES INCLUDING SCHOOLS, WATER,
AND SEWER FACILITIES**

This increase is not expected to undesirably increase the load on public services including schools, water and sewer facilities. Improvements planned to the Fayetteville overall wastewater treatment system and the coming on line of the new wastewater treatment facility on the western side of Fayetteville should adequately provide services to the subdivision.

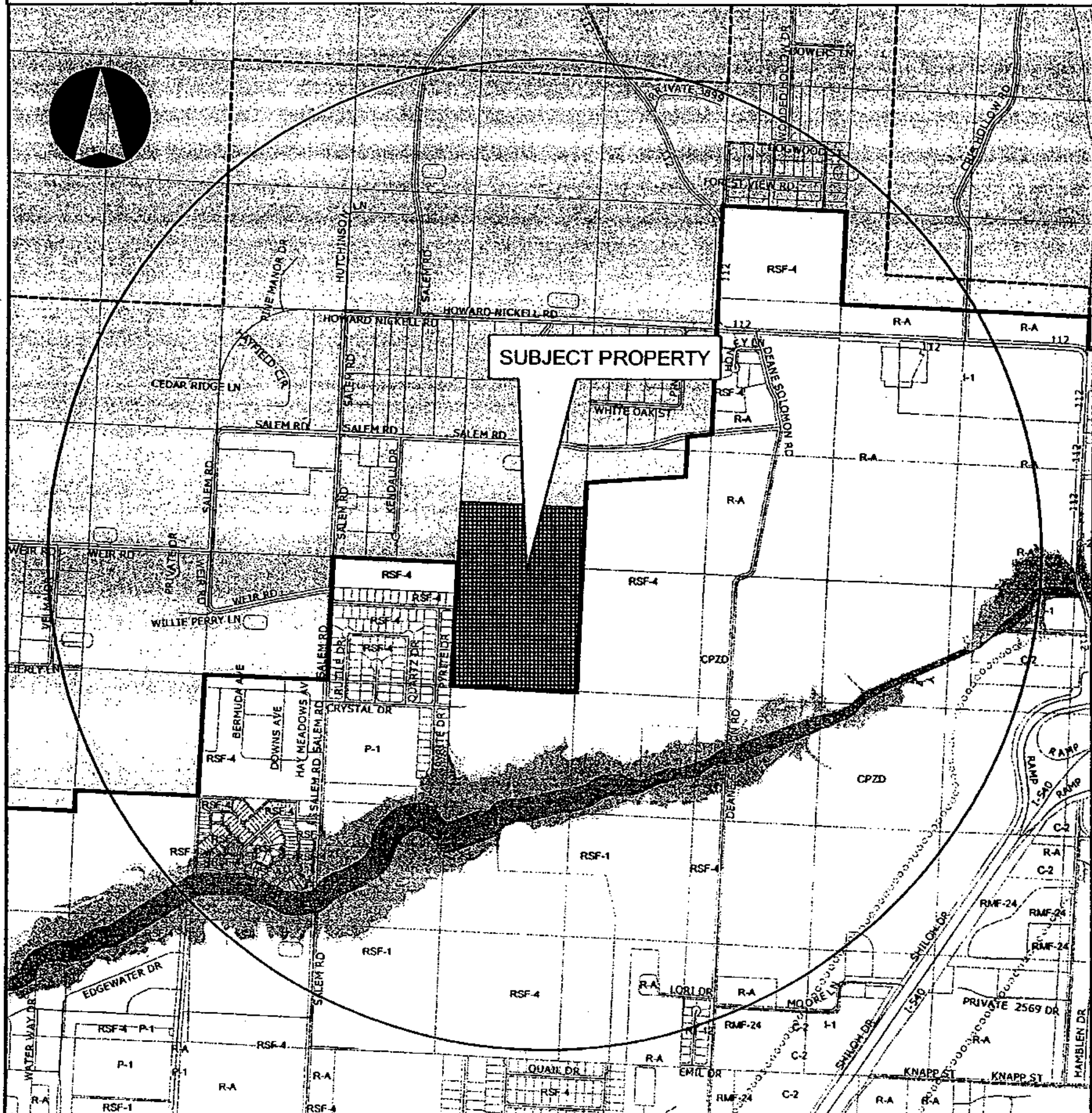
**WOULD IT BE IMPRACTICAL TO USE THE LAND FOR ANY OF THE
USES PERMITTED UNDER ITS EXISTING ZONING
CLASSIFICATION**

This property is presently in the county but within the Fayetteville Growth Area. It would be impractical to maintain the A-1 or R-A zoning since it would be inconsistent with the surrounding areas already zoned as residential subdivisions,

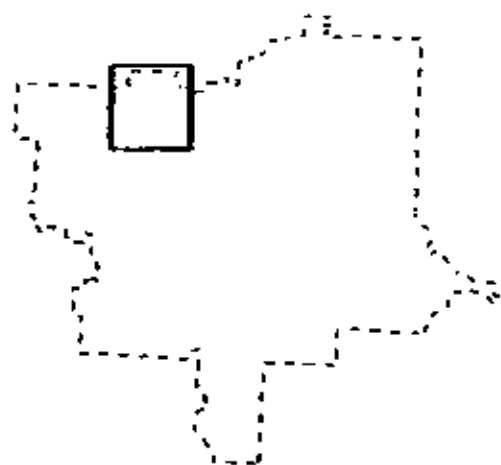
RZN05-1729

One Mile View

ZACCANTI



Overview



Legend

Subject Property

RZN05-1729

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25

0.5

0.75

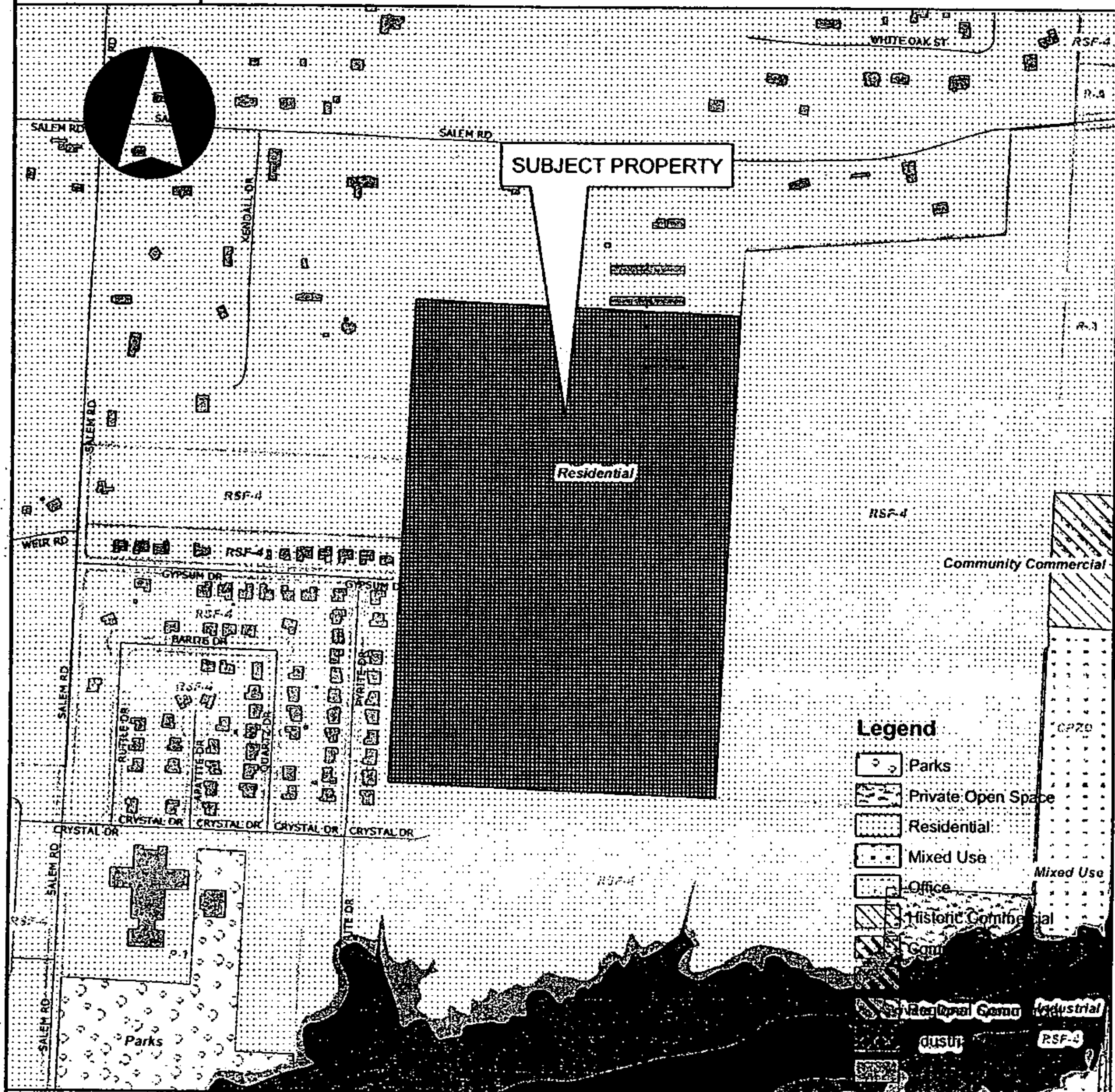
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Miles

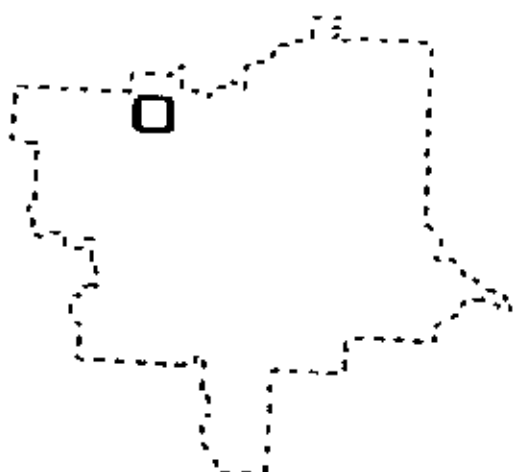
RZN05-1729

Future Land Use

ZACCANTI



Overview



Legend

Subject Property

RZN05-1729

Boundary

Planning Area

Overlay District

Outside City

Streets

Existing

Planned

Legend

0 200 400 800 1,200 1,600 Feet

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

November 1, 2005
City Council Meeting Date

Paul Libertini *PL* Engineering Operations
Submitted By Division Department

Action Required:

A resolution awarding a construction contract to Sweetser Construction, Inc. in the amount of \$1,228,413.00 for Happy Hollow Rd. & Huntsville Rd. (Hwy. 16) Intersection Improvements; approving a project contingency of \$122,841.00; and approving a budget adjustment in the amount of \$843,330.00.

\$ 1,396,254.00 Cost of this request	\$ 649,999.98 Category / Project Budget	Huntsville & Happy Hollow Intersection Program Category / Project Name
4470.9470.5809.00 Account Number	\$ 97,074.98 Funds Used to Date	Street Improvements Program / Project Category Name
04011 Project Number	\$ 552,925.00 Remaining Balance	Capital Improvement Const Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☒

Ray Dumas 10.13.05
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

D. J. White 10/14/05
City Attorney Date

Alfred Shaw 10-14-05
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 10/14/05

Alan Coody 10/17/05
Mayor Date

Received in Mayor's Office
ENTERED 10/17/05

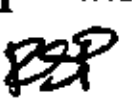
Comments:



C. 5
Sweetser Construction Contract
Happy Hollow & Huntsville Road Intersection
City of Fayetteville Page 2 of 18
Engineering Division
113 West Mountain
Fayetteville, AR 72701
ph: 479-575-8206
fax: 479-575-8202

Date: October 13, 2005

To: Fayetteville City Council

Thru: Dan Coody, Mayor
Gary Dumas, Director of Operations 
Ron Petrie, City Engineer 

From: Paul Libertini, Staff Engineer 

Subject: **Happy Hollow Rd & Huntsville Rd (Hwy 16) Intersection Improvements**

RECOMMENDATION:

Staff recommends approval of a resolution awarding a construction contract to Sweetser Construction, Inc. in the amount of \$1,228,413.00; approving a project contingency of \$122,841.00; and approving a budget adjustment in the amount of \$843,330.00.

BACKGROUND

This intersection improvement project is part of the 2004–2008 Capital Improvements Program. A conceptual plan which showed the total reconfiguration of this intersection was presented to and approved by the Street Committee. The original intersection is four-legged with four-way stop control. The proposed design is for a three-legged intersection ("T"- intersection) with signal control. The proposed construction will also change the main route of travel. The new traffic flow will direct westbound traffic from Hwy 16 south to Happy Hollow Rd, then west to 15th St to Hwy 71B. This will keep the main flow of traffic on State Hwy 16. The existing main route for westbound traffic from Hwy 16 is to continue west on Huntsville Rd to Archibald Yell or College.

Since this project is on the State Highway System, a construction permit has been applied for with the AHTD. The City has received a letter from the AHTD which states that they will issue a permit for construction as soon as all the necessary right-of-way has been acquired for this project. On October 6th, the Street Committee recommended forwarding the construction contract to the full City Council for approval.

DISCUSSION / STATUS

The contract bids were opened on October 6, 2005. Only one construction bid was received from Sweetser Construction, Inc. The project engineer has reviewed the bid and recommends awarding the contract to the low bidder, Sweetser Construction, Inc., in the amount of \$1,228,413.00 as it was only +4.8% above the engineer's estimate (see the attached bid tabulation sheet). The estimated total project costs including the project contingency for unforeseen project expenditures and estimated land acquisition costs are as follows:

Contractor Bid Amount	\$ 1,228,413
10% Contingency	\$ 122,841
Materials Testing	\$ 5,000
In-house Management & Inspection	\$ 20,000
Land Acquisition	<u>\$ 20,000</u>
CONSTRUCTION TOTAL	\$ 1,396,254

BUDGET IMPACT:

Project Budget	\$ 649,999.98
Funds Used to Date	\$ 97,074.98
Remaining Balance	\$ 552,925.00

This project has a shortfall of \$843,330 which will be covered by transferring the remaining balances from other Street Improvement Projects which have been completed or are not viable in the foreseeable future. The detailed list of those projects are attached to the Budget Amendment Form.

PDL/pdl

Attachments: Bid Tabulation Form
Budget Amendment Form
Contract Agreement
Purchase Requisition Form

RESOLUTION NO. _____

A RESOLUTION AWARDDING A CONSTRUCTION CONTRACT TO SWEETSER CONSTRUCTION, INC. IN THE AMOUNT OF \$1,228,413.00 FOR HAPPY HOLLOW ROAD & HUNTSVILLE ROAD INTERSECTION IMPROVEMENTS; APPROVING A PROJECT CONTINGENCY OF \$122,841.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$843,330.00.

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 a construction contract to Sweetser Construction, Inc. in the amount of \$1,228,413.00 for Happy Hollow Road & Huntsville Road Intersection Improvements. A copy of the contract marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a project contingency of \$122,841.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby accepts approves a budget adjustment in the amount of \$843,330.00.

PASSED and APPROVED this 1st day of November, 2005.

APPROVED:

By: _____

DAN GOODY, Mayor

ATTEST

By: _____

SONDRA SMITH, City Clerk

DRAFT

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

C. 5
Sweetser Construction Contract
Happy Hollow & Huntsville Road Intersection
Page 5 of 18

Budget Year 2005	Department: Sales Tax Capital Improvements Division: Program:	Date Requested 10/7/2005	Adjustment Number
-------------------------	---	---------------------------------	-------------------

Project or Item Added/Increased: \$843,330 is requested for the Huntsville & Happy Hollow Intersection Construction Project	Project or Item Deleted/Reduced: Completed construction projects with remaining balances have been identified for balance transfers. This also includes projects that are no longer viable for the foreseeable future.
---	--

Justification of this Increase: Funding is needed to cover the construction cost of the project, as well as, land acquisition, materials testing, inspection & contract administration.	Justification of this Decrease: Excess funds are available from completed construction projects, or projects that are no longer viable for the foreseeable future.
---	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number
Street improvements	4470	9470	5809	00	843,330	04011

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Street improvements	4470	9470	5809	00	843,330	

See Attached List

Approval Signatures		Budget Office Use Only					
Requested By	Date	Type:	A	B	C	<u>D</u>	E
Budget Manager	Date	Date of Approval			Initial	Date	
	10-14-05	Posted to General Ledger			Initial	Date	
Department Director	Date	Posted to Project Accounting			Initial	Date	
	10-14-05	Entered in Category Log			Initial	Date	
Finance & Internal Services Director	Date						
	10/17/05						
Mayor	Date						
							

Budget Adjustment Form - Page 2

Huntsville & Happy Hollow Intersection Improvement Project

Account Name	Account Number	Amount	Project Number	Project Name
Street Improvements	4470.9470.5809.00	\$511,545	03006	Gregg Ave - Fulbright to Mud Creek Bridge
Street Improvements	4470.9470.5809.00	\$90,728	04016	Shiloh, Gregg & Fulbright - Turn Lanes
Street Improvements	4470.9470.5809.00	\$140,832	04013	Mission & Maple - Signalization
Street Improvements	4470.9470.5809.00	\$29,311	03007	Old Missouri - Joyce to Mud Crk
Street Improvements	4470.9470.5809.00	\$26,826	04015	School & Archibald Yell - Intersection
Street Improvements	4470.9470.5809.00	\$1,844	04012	Millsap & North College - Intersection
Street Improvements	4470.9470.5809.00	\$11,440	01011	Cleveland St Improvements - Leverett to Hall
Street Improvements	4470.9470.5809.00	\$30,804	04018	West Ave & Maple St - Signalization
	TOTAL	\$843,330		

**HAPPY HOLLOW RD & HUNTSVILLE RD
(HIGHWAY 16)
INTERSECTION IMPROVEMENTS**

C. 5
Sweetser Construction Contract
Happy Hollow & Huntsville Road Intersection
Page 7 of 18

BID #05-26, BID TABULATION FORM
BID OPENING - OCTOBER 6, 2005 @ 2:00PM
City of Fayetteville, Arkansas

Item No.	Description	Unit	Estimated Quantity	Sweetser Construction, Inc.		City of Fayetteville	
				Unit Price	Extended Price	Unit Price	Extended Price
1	Mobilization	LS	1	\$25,000.00	\$25,000.00	\$50,000.00	\$50,000.00
2	Construction Staking	LS	1	\$9,500.00	\$9,500.00	\$25,000.00	\$25,000.00
3	Maintenance of Traffic	LS	1	\$95,000.00	\$95,000.00	\$40,000.00	\$40,000.00
4	Tree Protection Fencing	LF	300	\$12.00	\$3,600.00	\$5.00	\$1,500.00
5	Excavation Safety	LS	1	\$3,500.00	\$3,500.00	\$4,000.00	\$4,000.00
6	Clearing and Grubbing	LS	1	\$12,000.00	\$12,000.00	\$5,000.00	\$5,000.00
7	R & D Curb & Gutter	LF	1,266	\$10.00	\$12,660.00	\$10.00	\$12,660.00
8	R & D Drainage Pipes	LF	384	\$15.00	\$5,760.00	\$30.00	\$11,520.00
9	R & D Concrete Pavement & Driveways	SY	915	\$12.00	\$10,980.00	\$20.00	\$18,300.00
10	R & D Concrete Sidewalk	SY	600	\$12.00	\$7,200.00	\$12.00	\$7,200.00
11	R & D Drop Inlet/Junction Box	EA	3	\$500.00	\$1,500.00	\$800.00	\$2,400.00
12	R & D Concrete Flume	EA	1	\$500.00	\$500.00	\$300.00	\$300.00
13	R & D Building Structure & Appurtenances	LS	1	\$18,000.00	\$18,000.00	\$15,000.00	\$15,000.00
14	Unclassified Excavation	CY	7,388	\$18.50	\$136,678.00	\$15.00	\$110,820.00
15	Compacted Subgrade-Select Hillside Material (Borrow)	CY	5,100	\$14.50	\$73,950.00	\$20.00	\$102,000.00
16	Undercut and Backfill	CY	500	\$16.00	\$8,000.00	\$30.00	\$15,000.00
17	7" Aggregate Base Course (Class 7)	SY	7,850	\$7.70	\$60,445.00	\$6.25	\$49,062.50
18	Aggregate Base Course (Class 7)(Trenches Under Pavemt)	TN	100	\$16.00	\$1,600.00	\$17.00	\$1,700.00
19	Concrete Curb and Gutter	LF	2,500	\$10.50	\$26,250.00	\$10.00	\$25,000.00
20	ACHM Binder Course (PG 70-22)	TN	1,500	\$67.00	\$100,500.00	\$60.00	\$90,000.00
21	ACHM Surface Course (PG 70-22)	TN	740	\$69.00	\$51,060.00	\$60.00	\$44,400.00
22	18-inch Reinforced Concrete Pipe (RCP)	LF	624	\$50.50	\$31,512.00	\$50.00	\$31,200.00
23	24-inch Reinforced Concrete Pipe (RCP)	LF	110	\$73.50	\$8,085.00	\$60.00	\$6,600.00
24	36-inch Reinforced Concrete Pipe (RCP)	LF	45	\$162.50	\$7,312.50	\$80.00	\$3,600.00
25	48-inch Reinforced Concrete Pipe (RCP)	LF	240	\$249.00	\$59,760.00	\$150.00	\$36,000.00
26	24-inch Flared End Section (FES) (RCP) w/ Curtain Wall	EA	1	\$1,356.00	\$1,356.00	\$1,000.00	\$1,000.00
27	RCP	LS	1	\$7,900.00	\$7,900.00	\$7,500.00	\$7,500.00
28	Dbl 8'x4' Conc Box Culvert & 18'x6' Conc Connection Box	LF	159	\$547.00	\$86,973.00	\$600.00	\$95,400.00
29	Drop Inlet (Type 'C' 4'x4' or 'MO' 4' Dia.)	EA	10	\$1,900.00	\$19,000.00	\$2,800.00	\$28,000.00
30	Drop Inlet (Type 'C' 4'x5')	EA	1	\$2,200.00	\$2,200.00	\$3,000.00	\$3,000.00
31	Drop Inlet (Type 'C' 4'x6')	EA	1	\$2,500.00	\$2,500.00	\$3,500.00	\$3,500.00
32	Drop Inlet (Type 'C' 4'x20')	EA	1	\$7,500.00	\$7,500.00	\$8,000.00	\$8,000.00
33	Drop Inlet (Type 'C' 5'x5')	EA	1	\$2,500.00	\$2,500.00	\$3,000.00	\$3,000.00
34	Drop Inlet (Type 'C' 5'x16')	EA	1	\$7,100.00	\$7,100.00	\$6,000.00	\$6,000.00
35	Grate Inlet (4'x4')	EA	1	\$2,900.00	\$2,900.00	\$3,000.00	\$3,000.00
36	Grate Inlet (5'x13')	EA	1	\$7,100.00	\$7,100.00	\$6,000.00	\$6,000.00
37	Drop Inlet Extension (4')	EA	12	\$600.00	\$7,200.00	\$700.00	\$8,400.00
38	Junction Box 4'x4' or 'MO' 4' Dia.	EA	1	\$1,700.00	\$1,700.00	\$3,000.00	\$3,000.00
39	Convert Drop Inlet to Junction Box	EA	1	\$900.00	\$900.00	\$1,200.00	\$1,200.00
40	Adjust Manhole to Finished Grade	EA	3	\$750.00	\$2,250.00	\$600.00	\$1,800.00
41	Adjust Water Valve to Finished Grade	EA	3	\$200.00	\$600.00	\$400.00	\$1,200.00
42	Relocate Flashing Advance Crossing Sign	LS	1	\$2,100.00	\$2,100.00	\$3,000.00	\$3,000.00
43	Concrete Outlet Structure Top (5')	EA	1	\$1,000.00	\$1,000.00	\$400.00	\$400.00
44	Concrete Sidewalk (4") w/ Agg. Base (4")	SY	1,650	\$45.00	\$74,250.00	\$35.00	\$57,750.00
45	Concrete Access Ramp (4") w/ Agg. Base (4")	SY	65	\$45.00	\$2,925.00	\$60.00	\$3,900.00
46	Detectable Warning Surfaces	SF	132	\$35.00	\$4,620.00	\$50.00	\$6,600.00
47	Concrete Driveway (6")	SY	375	\$49.00	\$18,375.00	\$40.00	\$15,000.00
48	Seeding and Mulching	AC	2.0	\$3,500.00	\$7,000.00	\$4,000.00	\$8,000.00
49	Solid Sodding	SY	1,200	\$5.00	\$6,000.00	\$4.00	\$4,800.00

50	Imported Top Soil	CY	1,400	\$14.50	\$20,300.00	\$25.00	\$35,000.00
51	Baled Straw Ditch Check (E-3)	EA	30	\$150.00	\$4,500.00	\$30.00	\$900.00
52	Silt Fence (E-1)	LF	600	\$12.00	\$7,200.00	\$5.00	\$3,000.00
53	Drop Inlet Silt Fence (E-2)	EA	19	\$400.00	\$7,600.00	\$200.00	\$3,800.00
54	Thermoplastic Pavement Marking White or Yellow (4")	LF	4,500	\$0.55	\$2,475.00	\$1.00	\$4,500.00
55	Thermoplastic Pavement Marking White (18")	LF	650	\$8.80	\$5,720.00	\$8.00	\$5,200.00
56	Thermoplastic Pavement Marking White (12")	LF	130	\$7.70	\$1,001.00	\$6.00	\$780.00
57	Thermoplastic Pavement Marking (ARROWS)	EA	9	\$220.00	\$1,980.00	\$200.00	\$1,800.00
58	Thermoplastic Pavement Marking (WORDS)	EA	3	\$250.00	\$750.00	\$300.00	\$900.00
59	Plowable Pavement Marker (Type I) (Clear)	EA	35	\$44.00	\$1,540.00	\$25.00	\$875.00
60	Plowable Pavement Marker (Type II) (Yellow/Yellow)	EA	45	\$44.00	\$1,980.00	\$30.00	\$1,350.00
61	Standard Signs	SF	27.8	\$12.00	\$333.60	\$40.00	\$1,112.00
ROADWAY CONSTRUCTION SUBTOTAL					\$1,101,681.10		\$1,046,929.50
62	Service Point Assembly (2 Circuits)	LS	1	\$1,500.00	\$1,500.00	\$2,500.00	\$2,500.00
63	System Local Controller (16 Phase) (Peek 3000E)	EA	1	\$13,500.00	\$13,500.00	\$15,000.00	\$15,000.00
64	Video Detector (Mast Mount) (Philips VPK351A w/Zoom Lens)	EA	4	\$2,800.00	\$11,200.00	\$3,000.00	\$12,000.00
65	Video Processor Unit - 4 Channel (Peek VideoTrak-905)	EA	1	\$18,700.00	\$18,700.00	\$20,000.00	\$20,000.00
66	MDS 9710B Radio w/ Remote Diagnostics	EA	1	\$2,600.00	\$2,600.00	\$1,600.00	\$1,600.00
67	Astron RS-5A Power Supply	EA	1	\$405.00	\$405.00	\$120.00	\$120.00
68	Kathrein/Scala TY-900 Yagi Antenna	EA	1	\$525.00	\$525.00	\$240.00	\$240.00
69	Polyphaser IS-50NX-C2 Arrestor	EA	1	\$175.00	\$175.00	\$90.00	\$90.00
70	Pelco AB-3026-84-SS Mount w/ SE-0484-23 Tube Riser	EA	1	\$300.00	\$300.00	\$225.00	\$225.00
71	Pelco Flasher Controller Assy w/Nema Flasher SE-1017	EA	1	\$1,200.00	\$1,200.00	\$500.00	\$500.00
72	Non-Metallic Conduit (2")	LF	500	\$10.00	\$5,000.00	\$15.00	\$7,500.00
73	Non-Metallic Conduit (3")	LF	300	\$22.00	\$6,600.00	\$20.00	\$6,000.00
74	Concrete Pull Box (Type 2)	EA	5	\$460.00	\$2,300.00	\$400.00	\$2,000.00
75	Traffic Signal Cable (7c/14 AWG)	LF	865	\$2.00	\$1,730.00	\$2.00	\$1,730.00
76	Traffic Signal Cable (20c/14 AWG)	LF	250	\$4.40	\$1,100.00	\$3.00	\$750.00
77	Feeder Wire	LF	760	\$1.00	\$760.00	\$1.00	\$760.00
78	Video Cable	LF	570	\$5.60	\$3,192.00	\$3.00	\$1,710.00
79	Elect. Cond. for Luminaires/Flasher Controller (2c/12 AWG)	LF	720	\$1.60	\$1,152.00	\$2.00	\$1,440.00
80	Electrical Conductors-In-Conduit (2c/6 AWG)	LF	280	\$4.10	\$1,148.00	\$4.00	\$1,120.00
81	Electrical Conductors-In-Conduit (1c/8 AWG, EGC)	LF	600	\$2.10	\$1,260.00	\$1.00	\$600.00
82	RFN-1006-31 Coax Connectors	EA	4	\$40.00	\$160.00	\$8.00	\$32.00
83	Belden 9913 Coax Cable	LF	670	\$2.50	\$1,675.00	\$3.00	\$2,010.00
84	Traffic Signal Head (3-Section) (L.E.D.)	EA	6	\$750.00	\$4,500.00	\$1,000.00	\$6,000.00
85	Traffic Signal Head (1-Section) (L.E.D.)	EA	2	\$450.00	\$900.00	\$600.00	\$1,200.00
86	Traffic Signal Head (5-Section) (L.E.D.)	EA	1	\$1,300.00	\$1,300.00	\$1,500.00	\$1,500.00
87	Pedestrian Signal Head (International Symbols)	EA	6	\$610.00	\$3,660.00	\$750.00	\$4,500.00
88	Traffic Signal Mast Arm and Pole With Foundation (25')	EA	1	\$6,750.00	\$6,750.00	\$5,000.00	\$5,000.00
89	Traffic Signal Mast Arm and Pole With Foundation (28')	EA	1	\$7,500.00	\$7,500.00	\$6,000.00	\$6,000.00
90	Traffic Signal Mast Arm and Pole With Foundation (35')	EA	1	\$8,600.00	\$8,600.00	\$7,000.00	\$7,000.00
91	Traffic Signal Mast Arm and Pole With Foundation (38')	EA	1	\$8,800.00	\$8,800.00	\$8,000.00	\$8,000.00
92	Traffic Signal Pedestal Pole With Foundation (14' Tall)	EA	2	\$1,760.00	\$3,520.00	\$2,000.00	\$4,000.00
93	Traffic Signal Pedestal Pole With Foundation (35' Tall)	EA	1	\$3,820.00	\$3,820.00	\$3,000.00	\$3,000.00
94	Luminaire Assembly	EA	3	\$400.00	\$1,200.00	\$500.00	\$1,500.00
TRAFFIC SIGNAL SUBTOTAL					\$126,732.00		\$125,627.00
TOTAL CONSTRUCTION COSTS					\$1,228,413.10		\$1,172,556.50

Section 00500

AGREEMENT

BETWEEN CITY OF FAYETTEVILLE AND CONTRACTOR

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2005 by and between the *City of Fayetteville*, Arkansas and *Sweetser Construction, Inc.* (hereinafter called Sweetser).

City of Fayetteville and Sweetser, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

Sweetser shall complete all Work as specified or indicated in the Contract Documents.

The work generally consists of reconstructing & reconfiguring the existing four legged intersection into a "T" intersection. The improved intersection will be signalized with video detection. The demolition work will involve the obliteration of portions of the existing roadway, sidewalks, drainage structures, parking lot, & etc. The construction work will involve placing hillside material, aggregate base, asphalt binder, and asphalt surfacing with the associated earthwork, drainage pipes, inlets, sidewalks, traffic signalization, and other items indicated in the Drawings and Specifications.

Article 2. ENGINEER.

The Project has been designed by

City of Fayetteville Engineering Dept.
113 W. Mountain
Fayetteville, Arkansas 72701

who is hereinafter called Engineer and who is to act as City of Fayetteville's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

Article 3. CONTRACT TIME.

3.1. The Work shall be substantially completed within 180 consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B & C of the General Conditions within 210 consecutive calendar days after the date when the Contract Time commences to run.

3.2. *Liquidated Damages.* City of Fayetteville and Sweetser recognize that time is of the essence of the Agreement and that City of Fayetteville will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by City of Fayetteville if the Work is not completed on time. Accordingly, instead of requiring any such proof, City of Fayetteville and Sweetser agree that as liquidated damages for delay (but not as a penalty), Sweetser shall pay City of Fayetteville One thousand dollars (\$1,000.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Sweetser shall neglect, refuse or fail to complete

the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by City of Fayetteville, Sweetser shall pay City of Fayetteville **One thousand dollars (\$1,000.00)** for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

City of Fayetteville shall pay Sweetser for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

4.1. for all Work other than Unit Price Work, an amount equal to the sum of the established lump sums for each separately identified item of Lump Sum Work; and

4.2. for all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 4.2.

Happy Hollow Rd & Huntsville Rd (Hwy 16) Intersection Improvements

PAY ITEMS

Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
1	Mobilization	LS	1	\$25,000.00	\$25,000.00
2	Construction Staking	LS	1	\$9,500.00	\$9,500.00
3	Maintenance of Traffic	LS	1	\$95,000.00	\$95,000.00
4	Tree Protection Fencing	LF	300	\$12.00	\$3,600.00
5	Excavation Safety	LS	1	\$3,500.00	\$3,500.00
6	Clearing and Grubbing	LS	1	\$12,000.00	\$12,000.00
7	R & D Curb & Gutter	LF	1,266	\$10.00	\$12,660.00
8	R & D Drainage Pipes	LF	384	\$15.00	\$5,760.00
9	R & D Concrete Pavement & Driveways	SY	915	\$12.00	\$10,980.00
10	R & D Concrete Sidewalk	SY	600	\$12.00	\$7,200.00
11	R & D Drop Inlet/Junction Box	EA	3	\$500.00	\$1,500.00
12	R & D Concrete Flume	EA	1	\$500.00	\$500.00
13	R & D Building Structure & Appurtenances	LS	1	\$18,000.00	\$18,000.00
14	Unclassified Excavation	CY	7,388	\$18.50	\$136,678.00
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16	Undercut and Backfill	CY	500	\$16.00	\$8,000.00
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18	Aggregate Base Course (Class 7)(Trenches Under Pavemt)	TN	100	\$16.00	\$1,600.00
19	Concrete Curb and Gutter	LF	2,500	\$10.50	\$26,250.00
20	ACHM Binder Course (PG 70-22)	TN	1,500	\$67.00	\$100,500.00
21	ACHM Surface Course (PG 70-22)	TN	740	\$69.00	\$51,060.00
22	18-inch Reinforced Concrete Pipe (RCP)	LF	624	\$50.50	\$31,512.00

23	24-inch Reinforced Concrete Pipe (RCP)	LF	110	\$73.50	\$8,085.00
24	36-inch Reinforced Concrete Pipe (RCP)	LF	45	\$162.50	\$7,312.50
25	48-inch Reinforced Concrete Pipe (RCP)	LF	240	\$249.00	\$59,760.00
26	24-inch Flared End Section (FES) (RCP) w/ Curtain Wall	EA	1	\$1,356.00	\$1,356.00
27	Concrete Headwalls, Wingwalls & Aprons for Double 48-inch RCP	LS	1	\$7,900.00	\$7,900.00
28	Dbl 8'x4' Conc Box Culvert & 18'x6' Conc Connection Box	LF	159	\$547.00	\$86,973.00
29	Drop Inlet (Type 'C' 4'x4' or 'MO' 4' Dia.)	EA	10	\$1,900.00	\$19,000.00
30	Drop Inlet (Type 'C' 4'x5')	EA	1	\$2,200.00	\$2,200.00
31	Drop Inlet (Type 'C' 4'x6')	EA	1	\$2,500.00	\$2,500.00
32	Drop Inlet (Type 'C' 4'x20')	EA	1	\$7,500.00	\$7,500.00
33	Drop Inlet (Type 'C' 5'x5')	EA	1	\$2,500.00	\$2,500.00
34	Drop Inlet (Type 'C' 5'x16')	EA	1	\$7,100.00	\$7,100.00
35	Grate Inlet (4'x4')	EA	1	\$2,900.00	\$2,900.00
36	Grate Inlet (5'x13')	EA	1	\$7,100.00	\$7,100.00
37	Drop Inlet Extension (4')	EA	12	\$600.00	\$7,200.00
38	Junction Box 4'x4' or 'MO' 4' Dia.	EA	1	\$1,700.00	\$1,700.00
39	Convert Drop Inlet to Junction Box	EA	1	\$900.00	\$900.00
40	Adjust Manhole to Finished Grade	EA	3	\$750.00	\$2,250.00
41	Adjust Water Valve to Finished Grade	EA	3	\$200.00	\$600.00
42	Relocate Flashing Advance Crossing Sign	LS	1	\$2,100.00	\$2,100.00
43	Concrete Outlet Structure Top (5')	EA	1	\$1,000.00	\$1,000.00
44	Concrete Sidewalk (4") w/ Agg. Base (4")	SY	1,650	\$45.00	\$74,250.00
45	Concrete Access Ramp (4") w/ Agg. Base (4")	SY	65	\$45.00	\$2,925.00
46	Detectable Warning Surfaces	SF	132	\$35.00	\$4,620.00
47	Concrete Driveway (6")	SY	375	\$49.00	\$18,375.00
48	Seeding and Mulching	AC	2.0	\$3,500.00	\$7,000.00
49	Solid Sodding	SY	1,200	\$5.00	\$6,000.00
50	Imported Top Soil	CY	1,400	\$14.50	\$20,300.00
51	Baled Straw Ditch Check (E-3)	EA	30	\$150.00	\$4,500.00
52	Silt Fence (E-1)	LF	600	\$12.00	\$7,200.00
53	Drop Inlet Silt Fence (E-2)	EA	19	\$400.00	\$7,600.00
54	Thermoplastic Pavement Marking White or Yellow (4")	LF	4,500	\$0.55	\$2,475.00
55	Thermoplastic Pavement Marking White (18")	LF	650	\$8.80	\$5,720.00
56	Thermoplastic Pavement Marking White (12")	LF	130	\$7.70	\$1,001.00
57	Thermoplastic Pavement Marking (ARROWS)	EA	9	\$220.00	\$1,980.00
58	Thermoplastic Pavement Marking (WORDS)	EA	3	\$250.00	\$750.00
59	Plowable Pavement Marker (Type I) (Clear)	EA	35	\$44.00	\$1,540.00
60	Plowable Pavement Marker (Type II) (Yellow/Yellow)	EA	45	\$44.00	\$1,980.00
61	Standard Signs	SF	27.8	\$12.00	\$333.60
	ROADWAY CONSTRUCTION SUBTOTAL				\$1,101,681.10

62	Service Point Assembly (2 Circuits)	LS	1	\$1,500.00	\$1,500.00
63	System Local Controller (16 Phase) (Peek 3000E)	EA	1	\$13,500.00	\$13,500.00
64	Video Detector (Mast Mount) (Philips VPK351A w/Zoom Lens)	EA	4	\$2,800.00	\$11,200.00
65	Video Processor Unit - 4 Channel (Peek VideoTrak-905)	EA	1	\$18,700.00	\$18,700.00
66	MDS 9710B Radio w/ Remote Diagnostics	EA	1	\$2,600.00	\$2,600.00
67	Astron RS-5A Power Supply	EA	1	\$405.00	\$405.00
68	Kathrein/Scala TY-900 Yagi Antenna	EA	1	\$525.00	\$525.00
69	Polyphaser IS-50NX-C2 Arrestor	EA	1	\$175.00	\$175.00
70	Pelco AB-3026-84-SS Mount w/ SE-0484-23 Tube Riser	EA	1	\$300.00	\$300.00
71	Pelco Flasher Controller Assy w/Nema Flasher SE-1017	EA	1	\$1,200.00	\$1,200.00
72	Non-Metallic Conduit (2")	LF	500	\$10.00	\$5,000.00
73	Non-Metallic Conduit (3")	LF	300	\$22.00	\$6,600.00
74	Concrete Pull Box (Type 2)	EA	5	\$460.00	\$2,300.00
75	Traffic Signal Cable (7c/14 AWG)	LF	865	\$2.00	\$1,730.00
76	Traffic Signal Cable (20c/14 AWG)	LF	250	\$4.40	\$1,100.00
77	Feeder Wire	LF	760	\$1.00	\$760.00
78	Video Cable	LF	570	\$5.60	\$3,192.00
79	Elect. Cond. for Luminaires/Flasher Controller (2c/12 AWG)	LF	720	\$1.60	\$1,152.00
80	Electrical Conductors-In-Conduit (2c/6 AWG)	LF	280	\$4.10	\$1,148.00
81	Electrical Conductors-In-Conduit (1c/8 AWG, EGC)	LF	600	\$2.10	\$1,260.00
82	RFN-1006-3I Coax Connectors	EA	4	\$40.00	\$160.00
83	Belden 9913 Coax Cable	LF	670	\$2.50	\$1,675.00
84	Traffic Signal Head (3-Section) (L.E.D.)	EA	6	\$750.00	\$4,500.00
85	Traffic Signal Head (1-Section) (L.E.D.)	EA	2	\$450.00	\$900.00
86	Traffic Signal Head (5-Section) (L.E.D.)	EA	1	\$1,300.00	\$1,300.00
87	Pedestrian Signal Head (International Symbols)	EA	6	\$610.00	\$3,660.00
88	Traffic Signal Mast Arm and Pole With Foundation (25')	EA	1	\$6,750.00	\$6,750.00
89	Traffic Signal Mast Arm and Pole With Foundation (28')	EA	1	\$7,500.00	\$7,500.00
90	Traffic Signal Mast Arm and Pole With Foundation (35')	EA	1	\$8,600.00	\$8,600.00
91	Traffic Signal Mast Arm and Pole With Foundation (38')	EA	1	\$8,800.00	\$8,800.00
92	Traffic Signal Pedestal Pole With Foundation (14' Tall)	EA	2	\$1,760.00	\$3,520.00
93	Traffic Signal Pedestal Pole With Foundation (35' Tall)	EA	1	\$3,820.00	\$3,820.00
94	Luminaire Assembly	EA	3	\$400.00	\$1,200.00
	TRAFFIC SIGNAL SUBTOTAL				\$126,732.00
	TOTAL CONSTRUCTION COSTS				\$1,228,413.10

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in paragraph 9.07 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.C of the General Conditions.

Article 5. PAYMENT PROCEDURES

Sweetser shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

5.1. *Progress Payments.* City of Fayetteville shall make progress payments on account of the Contract Price on the basis of Sweetser's Applications for Payment as recommended by Engineer, on or about the 1st day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below and SC-14.02. All such payments will be measured by the schedule of values established in paragraph 2.07 of the General Conditions and based on the number of units completed in the case of Unit Price Work or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or City of Fayetteville may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

90 percent of Work completed (with the balance of 10 percent being retainage), If Work has been 50 percent completed as determined by the Engineer, and if the character and progress of the Work have been satisfactory to City of Fayetteville and Engineer, City of Fayetteville, on recommendation of Engineer, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

100 percent of materials and equipment not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to City of Fayetteville as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions. That is, if any such items are setup for that type payment in the Specifications.

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to Sweetser to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as Engineer shall determine, or City of Fayetteville may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.3 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, City of Fayetteville shall pay the remainder of the Contract Price as recommended by Engineer as provided in said paragraphs 14.07.B & C.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce City of Fayetteville to enter into this Agreement Sweetser makes the following representations:

6.1. Sweetser has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."

6.2. Sweetser has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, or furnishing of the Work.

6.3. Sweetser is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

6.4. Sweetser has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. Sweetser accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which Sweetser is entitled to rely as provided in paragraph 4.02 of the General Conditions.

Sweetser acknowledges that such reports and drawings are not Contract Documents and may not be complete for Sweetser's purposes. Sweetser acknowledges that City of Fayetteville and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. Sweetser has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Sweetser and safety precautions and programs incident thereto. Sweetser does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5. Sweetser is aware of the general nature of work to be performed by City of Fayetteville and others at the site that relates to the Work as indicated in the Contract Documents.

6.6. Sweetser has correlated the information known to Sweetser, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

6.7. Sweetser has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Sweetser has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Sweetser and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between City of Fayetteville and Sweetser concerning the Work consist of the following:

- 7.1. This Agreement (pages 1 to 9, inclusive).
- 7.2. Performance and Payment Bonds (Exhibits A and B respectively).
- 7.3. Certificates of Insurance (Exhibit C).

- 7.4. Documentation submitted by Sweetser prior to Notice of Selection (Exhibit D).
- 7.5. General Conditions (pages 1 to 41, inclusive).
- 7.6. Supplementary Conditions (pages 1 to 12 inclusive).
- 7.9. Specifications consisting of Divisions 1 through 16 as listed in table of contents thereof.
- 7.10. Addenda number 1.
- 7.11. Two sets of drawings (not attached hereto) consisting of cover sheets and additional sheets with each sheet bearing the following general titles:

Happy Hollow Rd & Huntsville Rd (Hwy 16) Intersection Improvements (44 sheets total)
&
Happy Hollow Rd & Huntsville Rd (Hwy 16) Signalization Plans (5 sheets total)
- 7.12. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:
 - 7.12.1. Notice to Proceed
 - 7.12.2. All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 8. MISCELLANEOUS.

- 8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.
- 8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 8.3. City of Fayetteville and Sweetser each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 8.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

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

8.6. **Freedom of Information Act.** City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, Sweetser will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7. This contract must be interpreted under Arkansas Law.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and SWEETSER have signed this Agreement in quadruplicate. One counterpart each has been delivered to City of Fayetteville and Engineer, and two counterparts have been delivered to Sweetser. All portions of the Contract Documents have been signed, initialed, or identified by City of Fayetteville and Sweetser or identified by Engineer on their behalf.

This Agreement will be effective on _____, 2005 (which is the Effective Date of the Agreement).

OWNER: City of Fayetteville

CONTRACTOR: Sweetser Construction, Inc.

By: _____
Mayor Dan Coody

By: _____
William G. Sweetser

President
Title

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

* Attest _____

* If a Corporation, attest by the Secretary.

Address for giving notices

Address for giving notices

(If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

License No. 002470406

Agent for service of process:

(If Contractor is a corporation, attach evidence of authority to sign)

City of Fayetteville (Not a Purchase Order)										Requisition No.: Date: 10/12/2005 Expected Delivery Date:																																																																																							
Vendor #: 56870 Vendor Name: Sweetser Construction, Inc. Address: 590 West Poplar St. City: Fayetteville State: AR Zip Code: 72703 Fob Point:	Mail Yes: ☐ No: ☒ Taxable Yes: ☐ No: ☒ Quotes Attached Yes: ☐ No: ☐																																																																																																
Requester: Paul Libertin Requester's Employee #: 1516 Division Head Approval:	Extension: 419 Project/Subproject #: 04011 Inventory #:																																																																																																
<table border="1"> <thead> <tr> <th>Item</th> <th>Description</th> <th>Quantity</th> <th>Unit of Issue</th> <th>Unit Cost</th> <th>Extended Cost</th> <th>Account Numbers</th> <th>Fixed Asset #</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Happy Hollow Rd & Huntsville Rd Intersection Improvements</td> <td>1</td> <td></td> <td></td> <td>\$1,228,413.10</td> <td>4470.9470.5809.20</td> <td></td> </tr> <tr><td>2</td><td></td><td></td><td></td><td></td><td>\$0.00</td><td></td><td></td></tr> <tr><td>3</td><td></td><td></td><td></td><td></td><td>\$0.00</td><td></td><td></td></tr> <tr><td>4</td><td></td><td></td><td></td><td></td><td>\$0.00</td><td></td><td></td></tr> <tr><td>5</td><td></td><td></td><td></td><td></td><td>\$0.00</td><td></td><td></td></tr> <tr><td>6</td><td></td><td></td><td></td><td></td><td>\$0.00</td><td></td><td></td></tr> <tr><td>7</td><td></td><td></td><td></td><td></td><td>\$0.00</td><td></td><td></td></tr> <tr><td>8</td><td></td><td></td><td></td><td></td><td>\$0.00</td><td></td><td></td></tr> <tr><td>9</td><td></td><td></td><td></td><td></td><td>\$0.00</td><td></td><td></td></tr> <tr><td>10</td><td></td><td></td><td></td><td></td><td>\$0.00</td><td></td><td></td></tr> <tr> <td></td> <td>Shipping/Handling</td> <td></td> <td>Lot</td> <td></td> <td>\$0.00</td> <td></td> <td></td> </tr> </tbody> </table>	Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Fixed Asset #	1	Happy Hollow Rd & Huntsville Rd Intersection Improvements	1			\$1,228,413.10	4470.9470.5809.20		2					\$0.00			3					\$0.00			4					\$0.00			5					\$0.00			6					\$0.00			7					\$0.00			8					\$0.00			9					\$0.00			10					\$0.00				Shipping/Handling		Lot		\$0.00			Subtotal: \$1,228,413.10 Tax: \$0.00 Total: \$1,228,413.10
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Special Instructions: Return PO to Engineering								Sweetser Construction Contract Happy Hollow & Huntsville Road Intersection Page 18 of 18																																																																																									
Approvals:								Purchasing Manager: _____ IT Manager: _____ Other: _____																																																																																									
Mayor: _____ Finance & Internal Services Director: _____ Dispatch Manager: _____								Department Director: _____ Budget Manager: _____ Utilities Manager: _____																																																																																									

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

C.6.
Arkansas State Highway 265
Notice of Intent to Sell
Page 1 of 20

1-Nov-05

City Council Meeting Date

Tim Conklin
Submitted By

Long Range
Division

Operations
Department

Action Required:

Approval of a resolution "Notice of Intent to Sell" to offer for sale the 44.9 acre tract of land, located east of AR State Highway 265 and south of the Fayetteville City Limits (Ivey Lane).

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

10-19-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

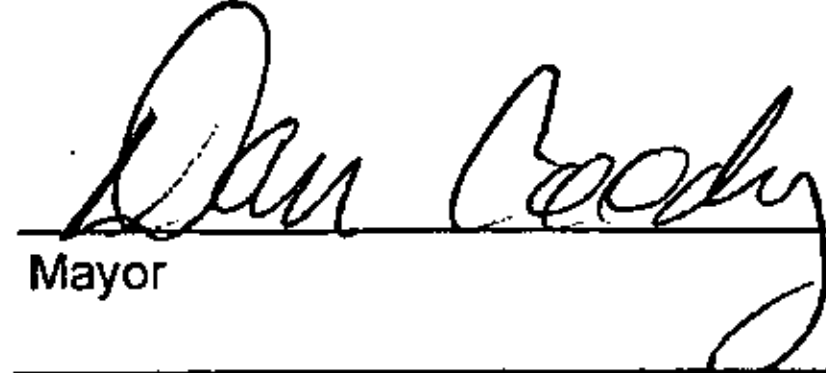

City Attorney

10-19-05
Date

Original Contract Number: n/a

Finance and Internal Service Director

Date


Mayor

10/19/05
Date

Received in Clerk's Office

Received in Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO
CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: October 19, 2005

Subject: Approval of a resolution "Notice of Intent to Sell" to authorize staff to sell approximately 44.9 acres of City-owned land east of Highway 265 and south of Ivey Lane known as the Hobby Use Area.

RECOMMENDATION

Staff has completed the required notification requirements to bring forward a Resolution "Notice of Intent to Sell" for Council consideration to sell approximately 44.9 acres of City owned property east of Highway 265 and south of Ivey Lane.

BACKGROUND

The original property, a total of 47+ acres, was purchased on September 12, 1949 as a watershed area to establish Lake Fayetteville.

The City Council has approved the sale of 1.5 acres of the 47+ acres to Peace at Home in January 2005 and sold additional land to United Way in the mid 1990's. Right-of-way for Highway 265 has been reserved, which reduces the total acreage to 44.9 acres.

In February and March of 2004, the Parks and Recreation Advisory Board (PARB) approved to trade or sell the remaining Hobby Use Area (see attached minutes).

BUDGET IMPACT

The Hobby Use Area requires on-going brush hogging by the Parks and Recreation Division two to three times a year. The proceeds from this sale will be placed in the water and sewer fund to fund additional capital water system improvements.

RESOLUTION NO. _____

A RESOLUTION APPROVAL OF NOTICE OF INTENT TO SELL AND TO OFFER FOR SALE THE 44.9 ACRES OF TRACT LAND, LOCATED EAST OF ARKANSAS STATE HIGHWAY 265 AND SOUTH OF THE FAYETTEVILLE CITY LIMITS.

WHEREAS, pursuant to 34.07 of the Code of Fayetteville, the City Council shall issue notice of its authorization to sell city owned real estate by approval of this Resolution.

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 gives notice and authorization to offer for sale 44.9 acres as described in Exhibit A, east of Arkansas State Highway 265 and south of the Fayetteville City limits.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby determines that the property should be rezoned as RSP-4, Residential Single Family, 4 units per acre and R-O, Residential Office, prior to sale.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby determines that this 44.9 acre tract no longer serves a municipal purpose.

PASSED and APPROVED this _____ day of November, 2005.

APPROVED:

By:

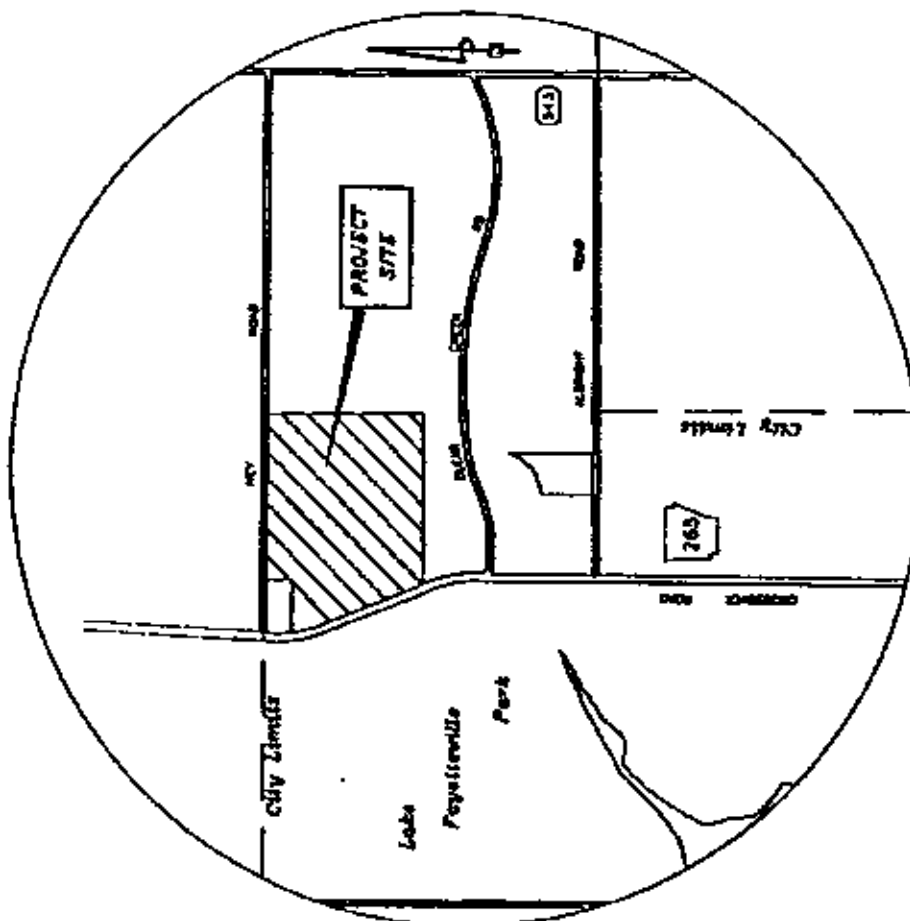
DAN COODY, MAYOR

ATTEST:

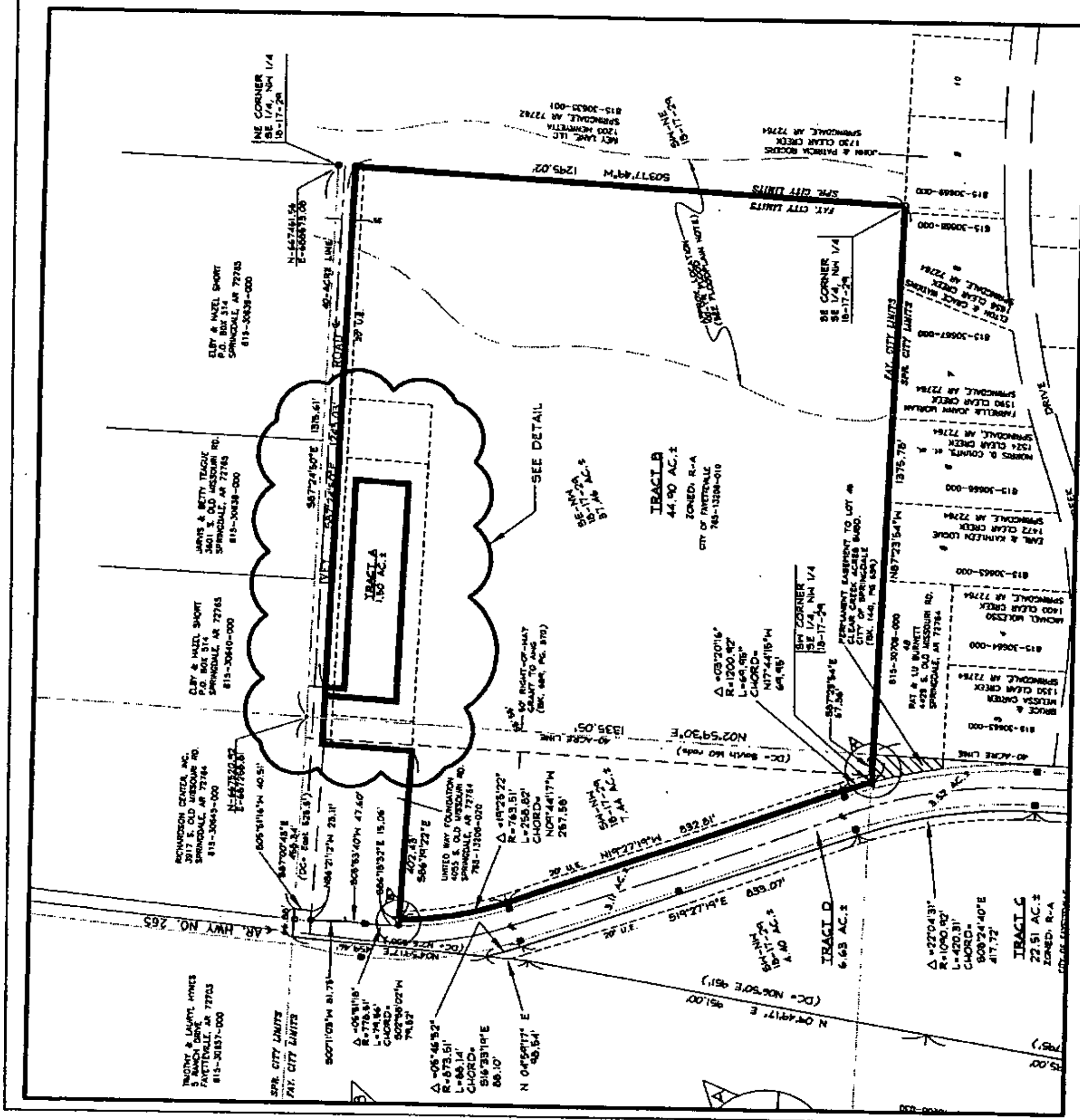
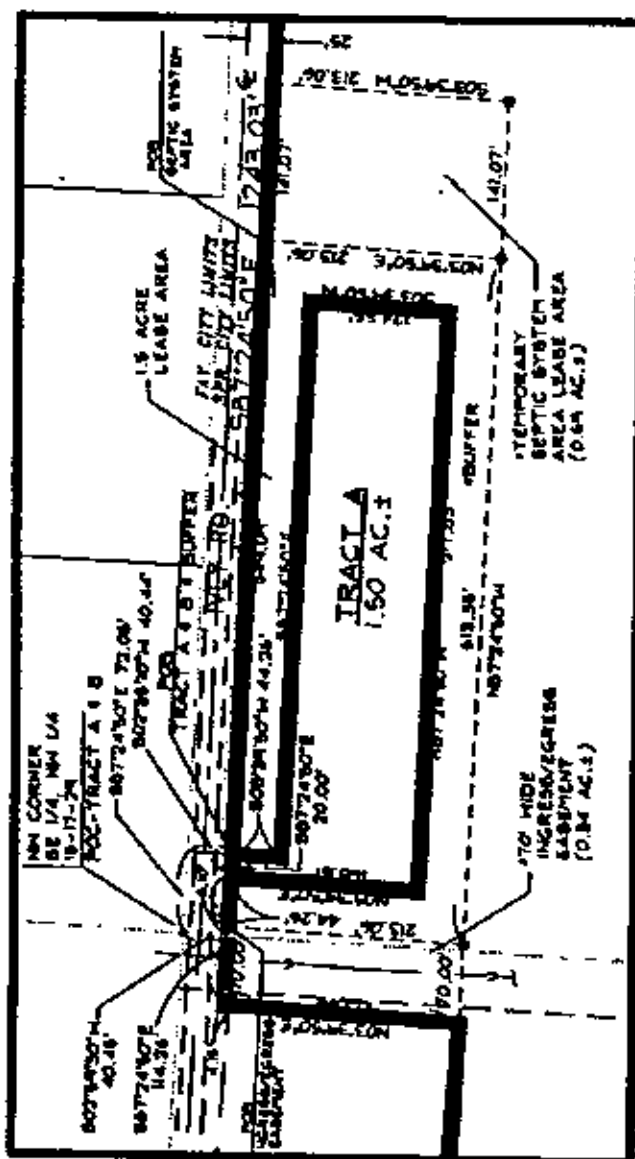
By:

SONDRA SMITH, CITY CLERK

CITY ENGINEERING DIVISION		113 W. MOUNTAIN STREET FAYETTEVILLE, ARKANSAS		DATE: OCT. 8, 2003		DRAWN BY: JTS		CHECKED BY: DND/MS/MS		SCALE: 1"=200'	
SHEET 1		PROJECT 3778		DATE: OCT. 8, 2003		DRAWN BY: JTS		CHECKED BY: DND/MS/MS		SCALE: 1"=200'	
NEW ROAD PROPERTY OWNER: CITY OF FAYETTEVILLE BOUNDARY PLAT											



DETAIL



Lake Fayetteville Watershed Partnership
P.O. Box 9943
Fayetteville, Arkansas 72703

RECEIVED

OCT 10 2005

October 6, 2005

PLANNING DIV.

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

Dear Mr. Conklin,

The Lake Fayetteville Watershed Partnership (LFWP) is a non-profit group that is focused on protecting the water quality in Lake Fayetteville and its watershed. We have been following the possible sale of the land known as the "Hobby Use Area" on Highway 265 since early 2004. We were also involved in discussions when a portion of the property was going to be sold to the City of Springdale for a lift station.

This property lies within the Lake Fayetteville watershed and borders an unnamed tributary of Clear Creek. The tributary has serious bank erosion problems that we believe are contributing significantly to the sediment load in Lake Fayetteville. In addition, residents living on Clear Creek Drive have experienced flooding during heavy rain events due to increased hydraulic loading from land use changes in the watershed.

We ask that the City of Fayetteville include either a conservation easement or a 50 foot minimum riparian buffer requirement in the contract for the sale of land to protect the unnamed tributary, Clear Creek, and Lake Fayetteville from further degradation. We request that the sale contract restrict the type and amount of development and land use on this property that could threaten the water quality and quantity of Lake Fayetteville. A primary concern of the LFWP is the impact from stormwater runoff. We ask that a condition of sale ensure that pre and post-construction measures are established to protect the water quality and aquatic community.

We request that part of the money raised from the sale of this land be allocated to the Parks Department to be used for the purchase and/or development of the proposed Fayetteville Community Park. Development of a community park with an extensive sports complex would take the pressure off the parks department to expand existing greenspace parks into multi-use sports fields.

We look forward to your reply on this matter.

Sincerely,



Jennifer Michaels
Lake Fayetteville Watershed Partnership

cc: Mayor Dan Coody
Fayetteville City Council Members
Connie Edmonston, Parks Div.

City Council Meeting of Agenda Session September 13
Agenda

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
From: Connie Edmonston, Parks and Recreation Director
Date: August 31, 2005
Subject: Discussion Item – Sale of Lake Fayetteville Hobby Use Area

RECOMMENDATION

On August 10, Arkansas Department of Parks and Tourism completed the conversion of 47+ acres at the Hobby Use Area on the east side of Highway 265 to land adjacent Lake Sequoyah. This gives the City the ability to utilize Hobby Use Area for uses other than outdoor recreation.

City Staff is requesting discussion if City Council desires for us to proceed with the sale this 47+ acres at Lake Fayetteville Hobby Use Area. There is substantial time and cost for the City to initiate the process as outlined in the Sale of Municipally Owned Real Property (Ordinance 4651). The Ordinance requires staff to posting signs, public notification of a meeting, certified mailings to all adjacent property owners, and obtaining two appraisals of the real property. These items must be completed in order for City Council to consider the sell of the property as an agenda item. City Staff is asking if the Council wants us to commit resources in order to initiate the process to sell this land.

BACKGROUND

The City purchased 47+ acres located south of Ivey Lane on September 12, 1949 from Norman and Rosalea Ivey in the amount of \$20,000. This land was purchased with Water and Sewer Funds as a watershed area to establish the lake as a water supply.

As early as 1972, Parks and Recreation utilized this property for the Model Airplane Club's landing strip. The Blackhawk Archery Club established an archery range on the northeast side of this property in 1975. Both of these outdoor recreation groups were forced to move in the late 1980's due to the potential hazard these activities posed to the newly established neighborhoods adjacent to their sites. A fund drive began in 1973 to raise funds to build a softball field at Lake Fayetteville. Two additional softball fields were completed in 1981. In 1982, City Council transferred to Parks and Recreation the "...assumption of full control" over Lake Fayetteville and Sequoyah boat dock operations.

In 1994, Lake Fayetteville Park's 651 acres was placed within an Arkansas Department of Parks and Tourism Outdoor Recreation boundary when the City was awarded \$25,000 in grant funds to construct a pavilion and picnic facilities a Veterans Memorial Park. The grant stipulated this land must be used for public outdoor recreation purposes for perpetuity unless a conversion was made to transfer the park boundary to another piece of property of equal value.

City Council Meeting of Agenda Session September 13

Agenda Item Number

During the Community Park discussions held in February and March of 2004, Parks and Recreation Advisory Board (PRAB) approved to trade or sell the Hobby Use Area. It was the intent of PRAB to utilize funds from the sale for the Community Park. Soon after that date, Project for Victims of Family Violence, Inc. requested to purchase 1.5 acres of land at the Hobby Use site to construct a Peace at Home facility to house victims of family violence with grant assistance from the Donald W. Reynolds Foundation. One of the requirements of the grant is to have ownership of the property. On January 4, 2005, City Council approved Ordinance 4670 waiving the requirements of the sale of 1.5 acres at an appraised value of \$30,000 to this non-profit corporation. The deed to the corporation could not be signed until a conversion of the land was approved by Arkansas Parks and Tourism and the National Park Service.

In December of 2004, Parks and Recreation made the request to Arkansas Department of Parks and Tourism to transfer the 47+ acres at Lake Fayetteville to land located at Lake Sequoyah. The request for conversion was approved on August 10, 2005.

DISCUSSION

At the time of purchase of this land, State Highway 265 was not constructed; therefore, Lake Fayetteville Park was not separated into two parcels of land. The Hobby Use 47+ acres is now separated from the larger 604 acre parcel by a busy highway. The remaining 604 acres of Lake Fayetteville on the west side of Highway 265 offers a wide variety of recreational opportunities for our citizens including a 194 acre fishing lake, boatdock office and boat stalls, 3 softball fields, Environmental Study Center, Botanical Garden area, playgrounds, picnic areas, 2 pavilions, sand volleyball courts, 4 restrooms, disc golf course, kiosks, as well as the popular 5-1/2 miles of trail that loop round the entire lake. There are no recreational plans for the Hobby Use Area at this time.

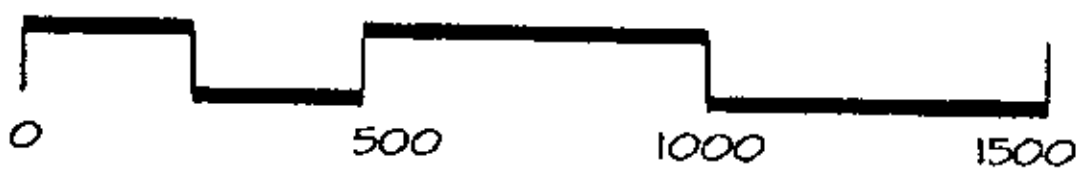
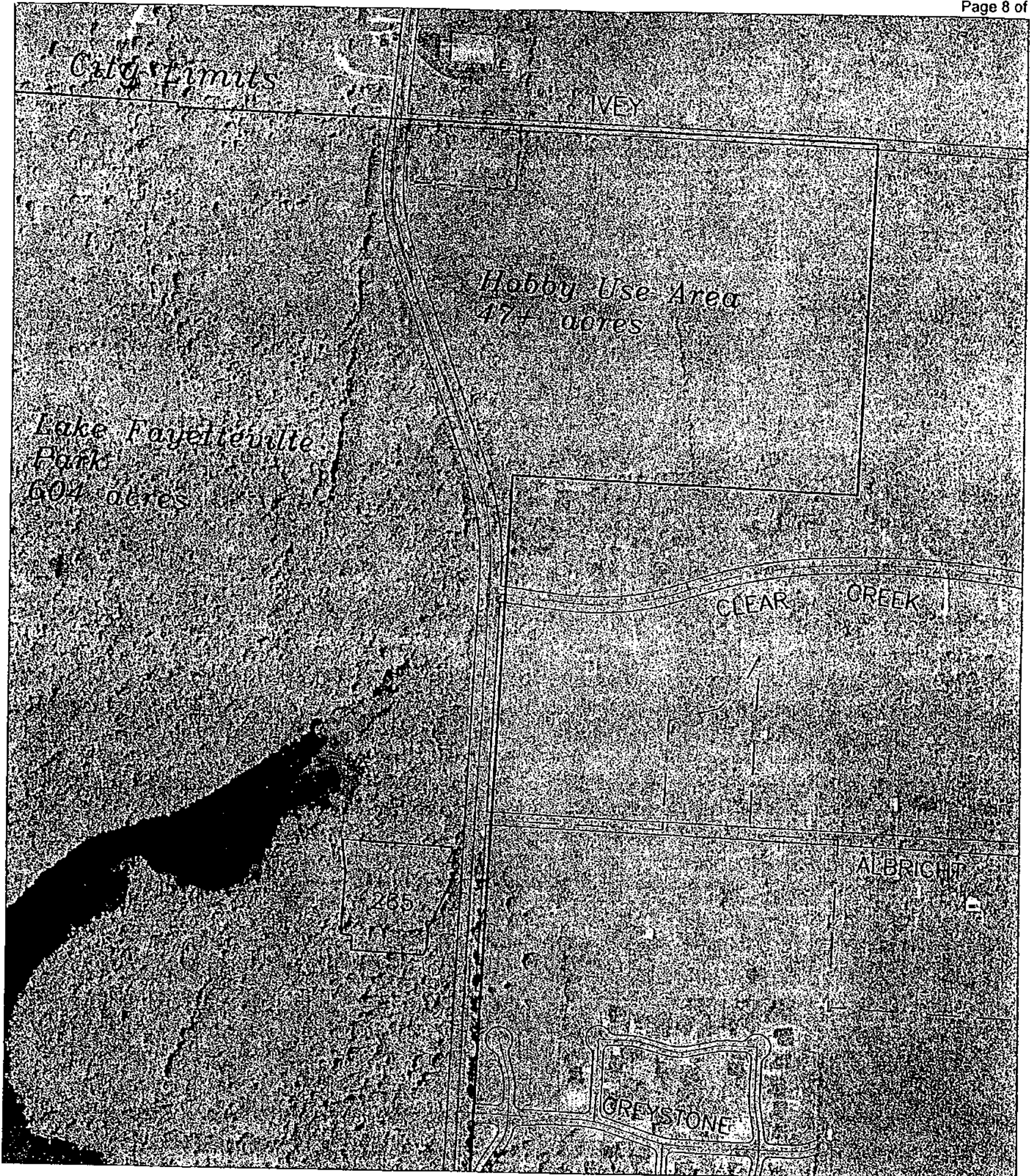
With Arkansas Parks and Tourism's approval of the conversion, the deed for the 1.5 acres to Project for Victims Violence, Inc. can be signed. City Staff would like to continue discussions with Council if we want to consider the possibility of selling the remaining 47+ acres at Lake Fayetteville Hobby Use Area.

BUDGET IMPACT

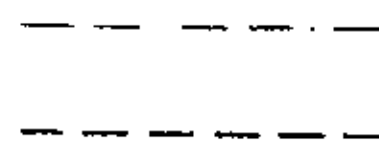
Maintenance required at the Hobby Use Area included brush hogging two to three times and year and fence repair would be eliminated if this land is sold.

Attachments:

Ordinance 4651 - Sale of Municipally Owned Real Property
Property Map
City Council Minutes December 5, 1982
PRAB Minutes February 27, 2004
PRAB Minutes March 1, 2004
Arkansas Parks and Tourism Conversion Approval Letter – August 10, 2005
Arkansas Parks and Tourism Boundary Map
Ordinance 4670 – Project for Victims of Family Violence Sale of 1.5 Acres
Resolution 07-05 – Project for Victims of Family Violence Sewer and Access Easement



North



City Limits

Parcel Line

34.27 Sale Of Municipally Owned Real Property

- (A) Municipally owned real property shall not be offered for sale without the express authorization, by resolution, of the City Council. The City Council shall determine whether the property should be rezoned prior to offering it for sale.
- (B) Such resolutions shall contain a specific finding by the City Council that the subject real property no longer serves a municipal purpose.
- (C) Two simultaneous and independent appraisals of the real property shall be obtained by the city for the City Council's consideration, dated within six months of the proposed sale.
- (D) Public notice shall be given not less than thirty calendar days before the first City Council meeting at which such a resolution is introduced, by all of the following means:
 - (1) A conspicuous display advertisement placed in a newspaper of general circulation in the city, on at least four separate occasions;
 - (2) Certified mail, return receipt requested, to all adjacent property owners; and
 - (3) Signs, prominently displayed, and at all approaches to the subject real property, announcing that the City Council will be considering the sale of the real property, the date on which the sale is to be debated, as well as the telephone number of the mayor's office.
- (E) Upon an affirmative vote of the City Council, the city shall solicit sealed bids, at a minimum price set by the City Council, from all interested parties. Bids must equal or exceed the minimum price set by the City Council and the appraised value of the property.
- (F) The city shall sell the subject real property to the highest qualified bidder. In the event none of the bids from a qualified bidder equals the minimum price set by the City Council, the city shall reject all bids, and may reopen the bidding, upon City Council approval.
- (G) Upon receipt of an acceptable bid, and authorization by a separate resolution of the City Council, the conveyance of the real property shall be performed by the mayor and city clerk.
- (H) Exemptions from the requirements of this ordinance:
 - (1) The sale of the industrial park, business park, and technology park lands are expressly exempt from the provisions of this ordinance. Industrial park land includes all of the land in and around the South Industrial park as specifically identified within the black bold line on the map attached as Exhibit A.
 - (2) The sale of real property to other public entities or to a non-profit corporation for charitable purposes shall only require a single appraisal, a single display advertisement placed in a newspaper of general circulation in the city, the certified mail, and sign requirements set forth in subsections (D)(2) & (3). Following the setting of a minimum price by the City Council no lower than the appraised value, the public entity or non-profit corporation may purchase the property at that price, and the sale shall be exempt from the provisions of subsections (E), (F) & (G) of this ordinance.
 - (3) If the City Council has approved by ordinance the Project Plan for a Redevelopment District that includes the acquisition of real property or buildings with the intent to resell this property to a private developer, this acquired property shall be exempt from the requirements of this section and can be sold by City Council Resolution.

Note—Ord. 4380, adopted March 19, 2002, enacts provisions for exemptions from the requirements of ordinance; such provisions have been set forth above. This ordinance was enacted with an Exhibit A attached thereto and may be viewed in the office of the city clerk anytime during regular business hours.

(Ord. No. 4358, 1-2-02; Ord. No. 4380, §1, (Ex. A), 3-19-02; Ord. No. 4651, 12-07-04)

State law reference(s)—Purchase, lease and sale authorized, A.C.A. §14-54-302; Bidding process, A.C.A. §14-54-402.

12-5-82

330

Parks & Recreation Department: Assumption of full control over the Lakes Fayetteville and Sequoyah boat dock operations.

330.1

City Manager Grimes stated that the dock operations at Lakes Fayetteville and Sequoyah have, by tradition, had one operator at each boat dock, responsible for having those facilities open seven days a week from daylight to dark. These operators receive a nominal salary, but they do receive the revenues from certain concessions, such as boat rentals, fuel, candy, bait, etc. The Parks & Recreation Department is interested in assuming responsibility for the operation of these boat docks.

330.2

In general discussion, the Board felt that an increase in boat stall rental should also be considered, along with the possibility of guided tours.

330.3

It was determined that the City Staff would mail out Requests for Proposals for a person or persons to operate the boat docks for the City, inexchange for the concessions.

330.4

City Engineer: Discussion of the proposal to hire a full-time registered professional engineer.

330.5

City Manager Grimes stated that he felt the Board should consider the possibility of separating the Water & Sewer Department from the Engineering Department, which would necessitate the hiring of an engineer, with a three-person field crew. This staff would handle the design work for streets, engineering projects, sidewalks, etc. Mr. Grimes added that these types of projects are currently being given to outside firms, at a very high cost annually.

330.6

There was also discussion on the possible use of University architectural students to perform some of these projects. There was some question about the request for additional equipment for this purpose and it was decided that this request would have to be thoroughly reviewed. The City Manager stated there is ample surveying equipment.

330.7

Mr. Grimes suggested that this transition should take place in 1984, rather than at this time, in order to allow some time to clarify duties and the administrative structure of the departments.

330.8

Concept of Full-Time Minute-Taker: To cover the City Board, Planning Commission, Board of Adjustment, Plat Review Committee, Subdivision Committee, Police & Fire Pension Fund Boards, Civil Service Commission, and City Board committee meetings.

330.9

In general discussion of this concept, the advantage, as stated, would be to free up time of the current staff to carry on the other aspects of their positions.

330.10

The disadvantages, as stated, would be that it might pose inconsistency, particularly if a University student would be hired, because of the turnover.

330.11

It was determined that the City Staff would get more details on this concept and make their recommendations to the Board at a later date.

PARKS AND RECREATION ADVISORY BOARD

Special Meeting Minutes
February 27, 2004

Opening:

The special meeting of the Parks and Recreation Advisory Board Funding Committee was called to order at 12:10 p.m. on February 27, 2004 in the Conference Room of the Parks and Recreation Building located at 1455 Happy Hollow Road, Fayetteville, Arkansas by Rebecca Ohman.

Present:

Parks and Recreation Advisory Board members Hill, Mauritson, and Pawlik Holmes; City staff Edmonston, Ohman, Wright, and Weber

Discussion:

The Parks and Recreation Advisory Board Funding Committee reviewed the timeline for the process to complete the environmental study. Ohman explained a selection committee then reviewed the proposals and selected the Terracon Consultants on February 12, 2004. The contract will go to City Council on March 2, 2004. The study will begin immediately after City Council's approval. ADEQ needed some minor formatting adjustments to change the request from a grant to funding reimbursement. The committee and staff reviewed how much Parks revenue is eligible to attach to a bond repayment. Pawlik Holmes asked if this revenue included programs revenue expected in the future from programs at Community Park. Hill discussed funding avenues and scenarios with bonds, development cost, land purchase cost, and total cost. Hill stated a funding source is needed for the land purchase within the short time period given. A funding source must be established fast. Mauritson agreed to prepare to purchase immediately. Hill asked if there is a possibility to trade land. The committee discussed a trade of

Hobby Use land. A recommendation was made to review other small park land for trade or sale to assist in future community needs. A discussion regarding funds from Wilson Springs land sale resulted in the committee's decision to request a minimum of 3 million dollars for the Community Park land purchase from City Council.

Motions to be made at PRAB meeting:

- 3 million dollars towards the land acquisition for Community Park from City Council out of Wilson Springs funds.
- Request for Park staff to prepare Hobby Use for land trade for Community Park.

Adjournment

Meeting was adjourned at 1:05 p.m.

Minutes submitted by: Rachel Weber

Approved:

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes
March 1, 2004

Opening:

Prior to the meeting, Parks staff met with PRAB members and neighborhood citizens at the Gregg Street neighborhood garden spot located between Stone and 6th Streets to view the site.

The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:42 p.m. on March 1, 2004 in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Chairman Colwell.

Present:

Parks and Recreation Advisory Board members Colwell, Bailey, Eads, Hill, Marley, Shoulders, Mauritsen, Pawlik Holmes; City staff Coles, Ohman, Wright, Jumper, Weber, Hatfield, Edmonston; and Audience.

1. Approval of February 5, 2004 Minutes

MOTION:

Hill moved to approve the Parks and Recreation Advisory Board January 5, 2004 meeting minutes as distributed.

Eads seconded the motion.

The motion was approved 6-0-0 with Colwell, Bailey, Eads, Hill, Marley, and Mauritsen voting 'yes' with Shoulders and Pawlik Holmes absent for the vote.

2. Community Park Update

Ohman stated on February 17, 2004, an application for funding was submitted to ADEQ on receiving reimbursement funding for the site characterization study through a memo of agreement. Staff is currently working with ADEQ. Terracon Consultants contract approval has been placed on the Consent Agenda on March 2, 2004. The Notice to Proceed will be issued on March 8, 2004. The cost of the study has been verified by ADEQ as reimbursable expenses.

Hill stated the Funding Committee reviewed development cost and recommends making a motion to sell or trade Hobby Use Park. This is prime property to sell for development in that area. It would help supply needed funds for community park.

Edmonston stated it is necessary to go to Arkansas Department of Parks and Tourism to change the boundary in order to sell such property.

Hill clarified the recommendation is to trade and not to sell the land. The Hobby Use Park land will be traded to the City for other identical parkland.

Shoulders asked if other park land was reviewed for the purpose of trade or sale.

Hill stated the Funding Committee discussed reviewing a list of smaller park property for this purpose.

Citizen asked if the city must purchase all of the Cummings property.

Ohman explained the agreement is a right of first refusal which gives the City the first option to purchase if an offer is made on any part of the Cummings Estate within the time specified in the agreement.

Mayor Coody stated that developers have offered to purchase Hobby Use Park land. The City would be willing to work with Parks and Recreation to make the trade. It would be in the cities best interest to purchase all of the offered land from the Cummings property. The City can purchase all the land and then sell some of the land to recoup the cost of the purchase.

Citizen asked if Fayetteville Schools are going to purchase some land.

Mayor Coody replied we can not give away land however, the option for the schools to purchase more land than what is needed is available. This would give them the option to sell some of their purchased land to recoup some of their purchase cost as well.

Mauritson asked Mayor Coody what the minimum acreage developers will want.

Mayor Coody replied there is a lot of development land plus about 300-325 acres available for green space use.

Mayor Coody asked Ms. Ohman if she had been able to contact any of the adjacent owners.

Ohman replied not yet.

Marcia Rachel asked if the City of Fayetteville is interested in purchasing land off Shiloh for second access to the property.

Mayor Coody mentioned that there is interest in an outdoor amphitheatre incorporated into the park plan. He summarized this is a good economic development without a major investment.

MOTION:

Hill moved for Park staff to study Hobby Use in order to qualify it as a property to trade for other city property.

Colwell seconded the motion.

Upon roll call, the motion was approved 8-0-0 with Colwell, Bailey, Eads, Hill, Marley, Shoulders, Mauritson, and Pawlik Holmes voting 'yes'.

MOTION:

Hill moved for Park staff to request at least 3 million dollars of the proceeds from Wilson Springs to be allocated for Community Park land.

Mauritson seconded the motion.

Upon roll call, the motion was approved 8-0-0 with Colwell, Bailey, Eads, Hill, Marley, Shoulders, Mauritson, and Pawlik Holmes voting 'yes'.

3. Disc Golf: Randy Lee

Lee explained there have been a lot of meetings to solve the issues with this request. A meeting with Trey Marley was held to walk North Shores location.

Mauritson asked if there is a true guideline for discs to stay clear of the water.



**DEPARTMENT OF
PARKS & TOURISM**

One Capitol Mall
Little Rock, AR 72201
Phone: 501-682-7777
FAX: 501-682-1364
History Commission
501-682-6900 (V/T)
Keep Arkansas
Beautiful Division
501-682-3507
Personnel Section
501-682-7742 (V/T)
State Parks Division
501-682-1191 (V/T)
Tourism Division
501-682-7777 (V/T)
INTERNET
arkansas.com
ArkansasStateParks.com

**Mike Huckabee
GOVERNOR**

**Richard W. Davies
EXECUTIVE DIRECTOR**

**STATE PARKS,
RECREATION
& TRAVEL
COMMISSION**

Jane Christenson
CHAIRMAN
Jim Shamburger
VICE-CHAIRMAN
Steve Arrison
Bill Barnes
Joy Bunyard
Polly Crews
Danny Ford
Jim Gaston
Debra Hook
Billy Lindsey
Montine McNulty
Mike Mills
Ness Sechrest
Wade Williams

DIVISION DIRECTORS

Larry Cargile
ADMINISTRATION
Greg Butts
STATE PARKS
Joe David Rice
TOURISM
Nancy Clark
GREAT RIVER ROAD
John L. Ferguson
HISTORY COMMISSION
Robert Phelps
KEEP ARKANSAS
BEAUTIFUL

**AN EQUAL
OPPORTUNITY/
AFFIRMATIVE ACTION/
AMERICANS WITH
DISABILITIES ACT
EMPLOYER**

Arkansas®

THE NATURAL STATE

Wednesday, August 10, 2005

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

RE: Project # 05-00438
Lake Fayetteville Park Conversion

Dear Mayor Coody:

The City's request for conversion of the park property at Lake Fayetteville Park has been approved by the National Park Service. You may now make all necessary transfer of ownership for all lands involved in the conversion. Be aware that the new park property is encumbered under all of the same rules and regulations in the Land and Water Conservation Fund that the original park was subject to and must remain in outdoor recreation in perpetuity. It is the responsibility of the City to develop the new property into a useable park site.

If you have any further questions please feel free to contact me at (501)-682-1301.

Sincerely,

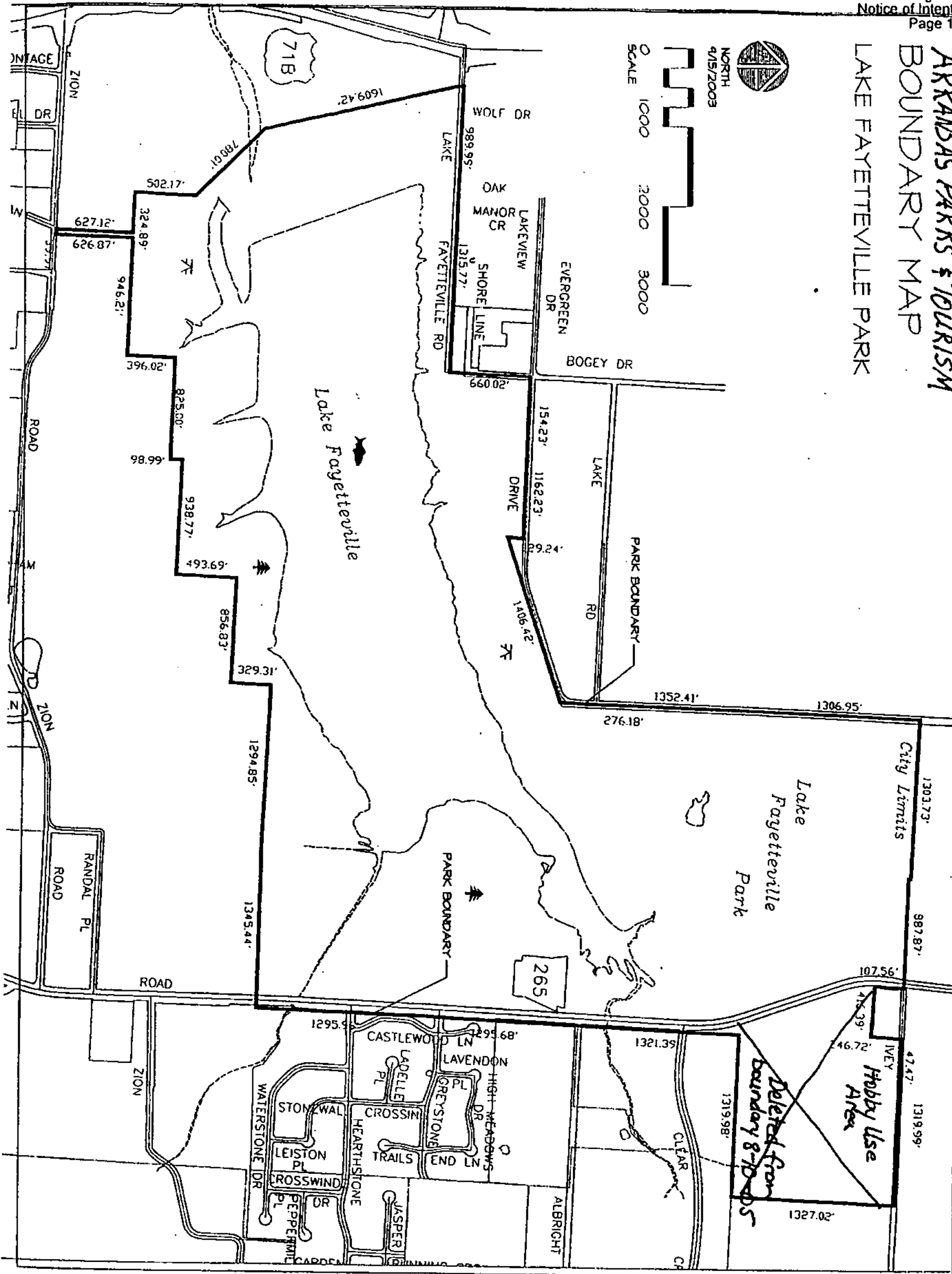
Ian Hope, Project Officer
Outdoors Recreation Grants Program

ARKANSAS PARKS & TOURISM BOUNDARY MAP LAKE FAYETTEVILLE PARK



NORTH
 4/15/2003

SCALE 0 1000 2000 3000



ORDINANCE NO. 4670

AN ORDINANCE TO WAIVE THE REQUIREMENT OF §34.27 OF THE FAYETTEVILLE CODE, AUTHORIZE THE SALE OF 1.5 ACRES FOR AN APPRAISED VALUE OF \$30,000.00 TO THE NON-PROFIT CORPORATION, THE PROJECT FOR VICTIMS OF FAMILY VIOLENCE, INC. AND TO DECLARE AN EMERGENCY

WHEREAS, The Project For Victims Of Family Violence, Inc. is a non-profit corporation which has long served the needs of residents of Fayetteville and surrounding communities, but has outgrown its facility; and

WHEREAS, The Project For Victims Of Family Violence, Inc. has secured a generous grant from the Donald W. Reynolds Foundation to construct a larger and better equipped new facility and needs a more central location to serve not only Fayetteville, but our neighboring cities to the North; and

WHEREAS, this grant could be lost and this needed expanded facility might not be able to be constructed unless the sale of city land can be immediately authorized by the City of Fayetteville.

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 determines that the vital need for an improved and expanded facility for victims of family violence requires an immediate sale of one and one half acres of city property to The Project For Victims Of Family Violence, Inc. at a per acre value as independently appraised earlier in 2004 and therefore waives the formal requirements of §34.27 of the Code of Fayetteville regarding the sale of city land.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the land sale contract attached as Exhibit "A" selling 1.5 acres of city property as described in the deed to The Project For Victims Of Family Violence, Inc. for Thirty Thousand Dollars (\$30,000.00).

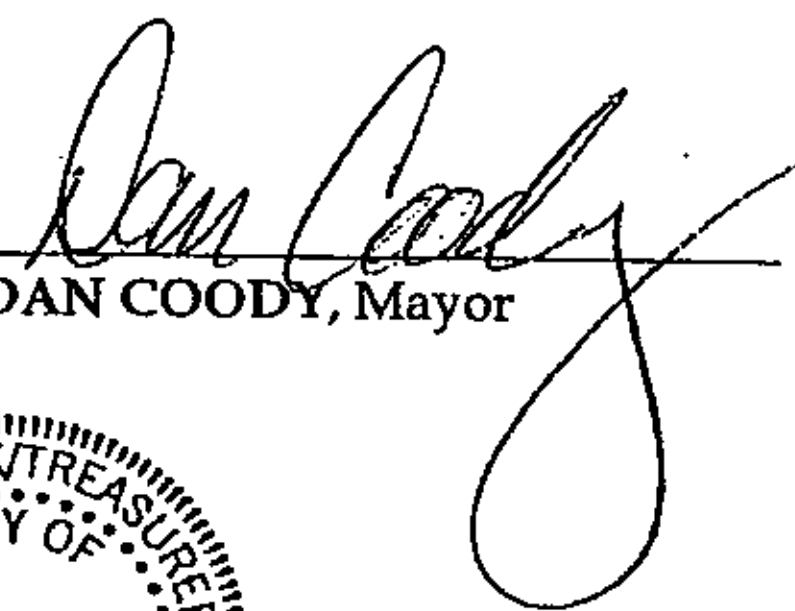
Section 3: Emergency Clause. If the sale of this 1.5 acres is not effective immediately, The Project For Victims Of Family Violence, Inc. may lose its substantial grant from the Donald W. Reynolds Foundation which is necessary for the construction of an expanded and improved battered women's shelter to



better serve local victims of domestic abuse. Therefore, the city Council hereby determines and declares that an emergency exists, that it is necessary for the preservation of the public peace, health and safety that this ordinance become effective without delay, and that therefore because of this emergency, this ordinance shall be effective immediately upon its passage.

PASSED and APPROVED this 4th day of January, 2005.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



RESOLUTION NO. 07-05

**A RESOLUTION TO APPROVE A LEASE OF ABOUT
.69 ACRES OF CITY PROPERTY TO THE PROJECT FOR
VICTIMS OF FAMILY VIOLENCE, INC. FOR A SEWER
AREA AND A 70-FOOT WIDE ACCESS EASEMENT**

WHEREAS, the Project For Victims Of Family Violence, Inc. has long served the City and our citizens with shelter, protection, housing and support for victims of domestic abuse; and

WHEREAS, the Project For Victims Of Family Violence, Inc. has outgrown its current facility and secured a grant from the Donald Reynolds Foundation to construct a new, larger facility; and

WHEREAS, the Project For Victims Of Family Violence, Inc. has agreed to purchase 1.5 acres of city property at its most recent appraised value, but needs to lease about another .69 acres as a temporary septic system area and a seventy-foot wide access easement for the Fayetteville clients it serves; and

WHEREAS, the City Council determines that providing a domestic violence shelter is a valid public purpose and that the services offered to Fayetteville citizens by the Project For Victims Of Family Violence, Inc. constitute sufficient consideration for the rental value of the approximately .69 acres of unimproved city land, and a seventy-foot wide access easement.

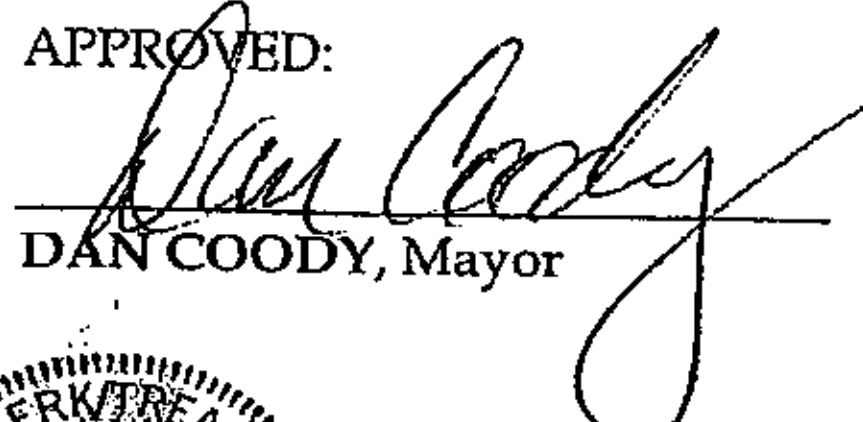
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the Lease Agreement For Access and Septic System with the Project For Victims Of Family Violence, Inc. as attached as Exhibit "A" and authorizes Mayor Coody to execute this lease.

PASSED and APPROVED this 4th day of January, 2005.

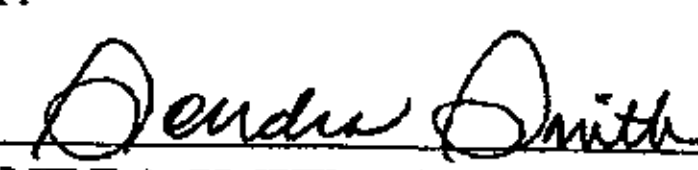
APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk



Agenda Session
10/25/05

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
November 1, 2005**

A meeting of the Fayetteville City Council will be held on November 1, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

Presentation on the "Walton Arts Center Recap of the Past Year and Future Plans" given by Anita Scism, President/CEO of Walton Arts Center and Curt Rom, City Appointee to the Walton Arts Center Council – Agenda Session Only

A. CONSENT:

1. **Approval of the September 20, 2005 City Council meeting minutes.**
2. **Zylon Vest Exchange Program:** A resolution authorizing the Fayetteville Police Department to accept merchandise vouchers from Armor Holdings to replace existing ballistic vests containing Zylon.

B. UNFINISHED BUSINESS:

1. **C-PZD 05-1670 (Pratt Place Inn, 481):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1670, Pratt Place Inn, located at the west end of Markham Road, containing approximately 72 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the September 20, 2005 City Council meeting. This ordinance was left on the Second Reading at the October 4, 2005 City Council meeting. This ordinance was left on the Third Reading at the*

Copy of
Anchor info.
Jeremy
Pate

October 18, 2005 City Council meeting. This ordinance was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.

- New Contract from Kit.*
2. **Fayetteville Depot, LLC Lease Agreement:** A resolution approving a lease agreement with Fayetteville Depot, LLC for property located at the northwest corner of Dickson Street and West Avenue to provide parking enforcement and revenue collection services for a proposed parking lot. *This resolution was Tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting. This resolution was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*
3. **Associated Time & Parking Controls, Inc.:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of Parking Revenue Collection Equipment from Associated Time and Parking Controls, Inc. in the amount of \$46,805.10; approving a 10% contingency in the amount of \$4,408.50; and approving a budget adjustment in the amount of \$51,213.60. *This ordinance was left on the First Reading at the October 4, 2005 City Council meeting. This ordinance was Tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting. This ordinance was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*
4. **Parking Management Division Position:** A resolution authorizing the addition of one (1) full-time position in the Parking Management Division; and approving a budget adjustment in the amount of \$3,282.00. *This resolution was Tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting. This resolution was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*
- Kit has*
5. **Bio-Based Technology Offer and Acceptance:** An ordinance waiving the requirements of §34.27, Code of Fayetteville and approving an Offer and Acceptance Contract with Bio-Based Technologies in the amount of \$940,000.00 for the purchase of the Water & Sewer Operations Center on Cato Springs Road; designating the proceeds for Economic Development purposes; and approving a budget adjustment implementing the designation. *This ordinance was left on the First Reading at the October 18, 2005 City Council meeting.*
- Language from Kit Vote of People*
6. **Police and Public Safety Systems Impact Fees - Chapter 159 Fees:** An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159, Fees by enacting §159.03 Police and Public Safety Systems Impact Fees of the Unified Development Code. *This ordinance was left on the Second Reading at the October 18, 2005 City Council meeting.*
- Robert Rhoads copy of AC opinion from Kit*
7. **Fire Protection Systems Impact Fee - Chapter 159. Fees:** An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159, Fees by enacting §159.04 Fire Protection Systems Impact Fees of the Unified Development Code. *This ordinance was left on the Second Reading at the October 18, 2005 City Council meeting.*
8. **Greenland and/or Farmington Sewer Systems:** A resolution to express the intent of the City Council to assume the ownership and the operation of the Greenland and/or Farmington Sewer Systems. *This resolution was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*

C. NEW BUSINESS:

1. ✓ **ANX 05-1723 JDM Investments:** An ordinance annexing that property described in annexation petition ANX 05-1723 for property located at Skillern Road, east of Savannah Estates, containing 5.06 acres.
2. ✓ **RZN 05-1724 JDM Investments:** An ordinance rezoning that property described in rezoning petition RZN 05-1724 for approximately 5.06 acres located at Skillern Road, east of Savannah Estates from R-A Residential Agricultural to RSF-4, Residential Single Family, 4 Units Per Acre.
3. ✓ **ANX 05-1728 Zaccanti:** An ordinance annexing that property described in annexation petition ANX 05-1728 for property located south of Salem Road, east of Crystal Springs Subdivision, containing 80.30 acres.
4. ✓ **Planning Commission Appeal - RZN 05-1729 Zaccanti:** An ordinance rezoning that property described in rezoning petition RZN 05-1729 for approximately 60.00 acres located south of Salem Road, east of Crystal Springs Subdivision from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 Units Per Acre.
5. ✓ **Sweetser Construction Contract – Happy Hollow & Huntsville Road Intersection:** A resolution awarding a construction contract to Sweetser Construction, Inc. in the amount of \$1,228,413.00 for Happy Hollow Road & Huntsville Road Intersection Improvements; approving a project contingency of \$122,841.00; and approving a budget adjustment in the amount of \$843,330.00.
6. ✓ **Arkansas State Highway 265 – Notice of Intent to Sell:** A resolution approving the notice of intent to sell and to offer for sale the 44.9 acres of tract land, located east of Arkansas State Highway 265 and south of the Fayetteville City Limits.

D. INFORMATIONAL:

Council Tour: October 31, 2005 – 4:30 PM

7. Add NB. @

Pre-Agenda
Meeting 10/19/05
Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



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Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
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3. **ANX 05-1728 Zaccanti:** An ordinance annexing that property described in annexation petition ANX 05-1728 for property located south of Salem Road, east of Crystal Springs Subdivision, containing 80.30 acres.
4. **Planning Commission Appeal - RZN 05-1729 Zaccanti:** An ordinance rezoning that property described in rezoning petition RZN 05-1729 for approximately 60.00 acres located south of Salem Road, east of Crystal Springs Subdivision from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 Units Per Acre.
5. **Sweetser Construction Contract – Happy Hollow & Huntsville Road Intersection:** A resolution awarding a construction contract to Sweetser Construction, Inc. in the amount of \$1,228,413.00 for Happy Hollow Road & Huntsville Road Intersection Improvements; approving a project contingency of \$122,841.00; and approving a budget adjustment in the amount of \$843,330.00.

*Change to
Resolution
move to
Consent*

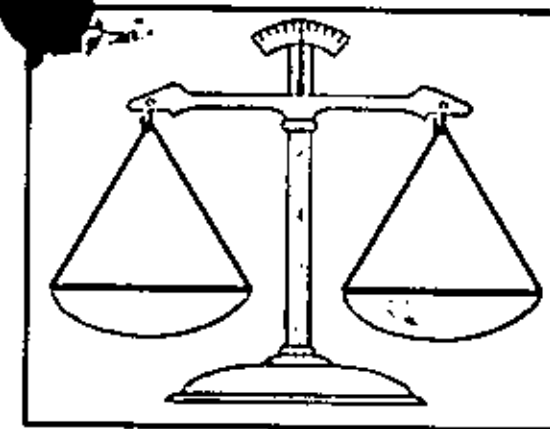
6. **Zylon Vest Exchange Program:** An ordinance waiving the requirements of formal competitive bidding and authorizing the Fayetteville Police Department to accept merchandise vouchers from Armor Holdings to replace existing ballistic vests containing Zylon. (In Mayor's Office)

D. INFORMATIONAL:

Council Tour: October 31, 2005 – 4:30 PM

*Add: Notice of Intent to Sell - Highway
265 and Fayetteville City Limits.*

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**

THRU: **Sondra Smith, City Clerk**

FROM: **Kit Williams, City Attorney**

A handwritten signature in black ink, appearing to read 'Kit Williams', written over a horizontal line.

DATE: **November 2, 2005**

RE: **Passed Ordinances and Resolutions from City Council meeting
of November 1, 2005**

1. **Zylon Vest Exchange:** Resolution authorizing Fayetteville Police Department to accept merchandise vouchers from Armor Holdings to replace existing ballistic vests containing Zylon;

2. **C-PZD 05-1670:** Ordinance established Commercial Planned Zoning District titled C-PZD 05-1670, Pratt Place Inn, located at west end of Markham Road, containing approximately 72 acres, more or less; amending official zoning map of City of Fayetteville and adopting Associated Master Development Plan;

3. **Bio-Based Technology Real Estate Sales Contract:** Ordinance waiving requirements of §34.27, Code of Fayetteville and approving a Real Estate Sales Contract w/Bio-Based Technologies in amount of \$940,000.00 for purchase of Water & Sewer Operations Center on Cato Springs Road; designating proceeds for Economic Development purposes and approving budget adjustment implementing the designation;

4. **Police & Public Safety Systems Impact Fees (w/o vote):** Ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159, Fees by enacting §159.03 Police & Public Safety Systems Impact Fees of the Unified Development Code (without vote of people);

5. **Fire Protection Systems Impact Fees (w/o vote):** Ordinance amending Title XV Unified Development Code of Fayetteville, Chapter 159, Fees by enacting §159.04 Fire Protection Systems Impact Fees of Unified Development Code (without vote of people);

6. **Greenland and/or Farmington Sewer Systems:** Resolution expressing intent of City Council to continue negotiations of the ownership and operation of Greenland and/or Farmington Sewer Systems;

7. **ANX 05-1723:** Ordinance annexing property described in ANX 05-1723 for property located at Skillern Road, east of Savannah Estates, containing 5.06 acres;

8. **RZN 05-1724:** Ordinance rezoning property described in RZN 05-1724 for approximately 5.06 acres located at Skillern Road, east of Savannah Estates from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 Units per acre;

9. **Sweetser Construction Contract – Happy Hollow & Huntsville Road Intersection:** Resolution awarding construction contract to Sweetser Construction, Inc. in amount of \$1,228,413.00 for Happy Hollow Road & Huntsville Road Intersection Improvements; approving project contingency of \$122,841.00 and approving budget adjustment in amount of \$843,330.00;

10. **Botanical Garden Society – Waiving Permit Fees:** Resolution waiving development permit fees pursuant to §159.01 (A) (1), Unified Development Code for all structures to be constructed by Botanical Garden Society of the Ozarks at Lake Fayetteville Park.

11. **Property Tax Levy 2005:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2005 fixing the rate thereof at 1.3 mil for general fund – operations, 0.4 mils for the firemen's pension and relief fund, 0.4 mils for the policemen's pension and relief fund and 1.0 mil for the Fayetteville city library; and certifying the same to the county clerk of Washington County, Arkansas