

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL AUGUST 21, 2001

A meeting of the Fayetteville City Council will be held on August 21, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT AGENDA

1. **APPROVAL OF MINUTES:** Approval of the minutes from the July 31 and August 7, 2001 meetings.
2. **STEPHENS INC.:** A resolution authorizing additional continuing services from Stephens Inc. to provide continuing financial advisory services on the Wastewater System Improvements project financing. The rate per hour is \$225.00 and is restricted to certain identified individuals. The authorization requested is not to exceed \$15,000 and will be paid from the project budget.
3. **BLACK & VEATCH:** A resolution authorizing additional continuing services from Black & Veatch to provide continuing system rate analysis services for the City in conjunction with the Wastewater System Improvements Project. The authorization requested is not to exceed \$20,000.00 and will be paid from the project budget.
4. **GRANT AGREEMENT:** A resolution approving a sub-recipient grant agreement to the Project for Victims of Family Violence.
5. **SFCDC:** A resolution approving a sub-recipient grant agreement with the South Fayetteville Community Development Corporation.

B. OLD BUSINESS

1. **SHEWMAKER:** A resolution approving a budget adjustment in the amount of \$76,436.00 to pay for the City Council's counteroffer made at the Special City Council meeting on July 31, 2001 to settle the Shewmaker case which has been accepted.

2. **ANX 01-2.00:** An ordinance approving annexation request ANX 01-2.00 for property located east of Sunshine Road and South of Mount Comfort. The property is in the planning area and contains approximately 14.47 acres. The request is to annex the subject property into the City of Fayetteville. The ordinance was left on the first reading at the August 7, 2001 City Council meeting.
3. **RZN 01-11.00:** An ordinance approving rezoning request RZN 01-11.00 submitted by Phillip Humbard of Engineering Services on behalf of Cross Creek Subdivision for property located east of Sunshine Road and South of Mount Comfort Road. The property is zoned A-1, Agricultural, and contains approximately 14.47 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the first reading at the August 7, 2001 City Council meeting.

C. NEW BUSINESS

1. **BOYS & GIRLS CLUB:** A resolution approving an agreement with Fayetteville Youth Center Inc. d/b/a Fayetteville Boys & Girls, Inc. of Washington County.
2. **RZN 01-13.00** An ordinance approving rezoning request RZN 01-13.00 submitted by Kirk Elsass on behalf of HCL Properties for property located south of Zion Road in HARB-CO Subdivision. The property is zoned R-O, Residential Office and contains approximately 1.4 acres. The request is to rezone to C-1, Neighborhood Commercial.

8/21/01

Meeting of April 3, 2001

	Roll				
JORDAN	✓				
REYNOLDS	✓				
THIEL	✓				
YOUNG	✓				
ZURCHER	✓				
TRUMBO	✓				
DAVIS	✓				
SANTOS					
COODY	✓				

Consent	22/01				
JORDAN	✓				
REYNOLDS	✓				
THIEL	✓				
YOUNG	✓				
ZURCHER	✓				
TRUMBO	✓				
DAVIS	✓				
SANTOS					
COODY					

8/21/01

Meeting of April 3, 2001

SHAWAVER	22 LF				
JORDAN	✓				
REYNOLDS	✓				
THIEL	✓				
YOUNG	✓				
ZURCHER	✓				
TRUMBO	✓				
DAVIS	✓				
SANTOS					
COODY					
	5-2-0.				

ANX 01-200	cy 2ND BD	H 3RD BT	PASS		
JORDAN	✓	✓	✓		
REYNOLDS	✓	✓	✓		
THIEL	✓	✓	✓		
YOUNG	✓	✓	✓		
ZURCHER	✓	✓	✓		
TRUMBO	✓	✓	✓		
DAVIS	✓	✓	✓		
SANTOS			0		
COODY					
		6-1-0	5-2		

8/21/01

Meeting of April 3, 2001

220 01-11-00.	BD.	BD 220	BD 320	PASS		
JORDAN	✓	✓	✓	✓		
REYNOLDS	✓	✓	✓	✓		
THIEL	✓	✓	✓	✓		
YOUNG	✓	✓	✓	✓		
ZURCHER	✓	✓	✓	✓		
TRUMBO	✓	✓	✓	✓		
DAVIS	✓	✓	✓	✓		
SANTOS						
COODY						
	7-0.	6-1-0.	5-2-			

B+G. club	BD				
JORDAN	✓				
REYNOLDS	✓				
THIEL	✓				
YOUNG	✓				
ZURCHER	✓				
TRUMBO	✓				
DAVIS	✓				
SANTOS					
COODY					
	7-0.				

8/21/01

Meeting of April 3, 2001

RZN 013.02	H 2ND RR.	BD 3RD RR.	PASS		
JORDAN	✓	✓	✓		
REYNOLDS	✓	✓	✓		
THIEL	✓	✓	✓		
YOUNG	✓	✓	✓		
ZURCHER	✓	✓	✓		
TRUMBO	✓	✓	✓		
DAVIS	✓	✓	✓		
SANTOS					
COODY					
	7-0.				

JORDAN					
REYNOLDS					
THIEL					
YOUNG					
ZURCHER					
TRUMBO					
DAVIS					
SANTOS					
COODY					

adjourn 7:20.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL AUGUST 21, 2001

A meeting of the Fayetteville City Council will be held on August 21, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Pass A. **CONSENT AGENDA**

1. **APPROVAL OF MINUTES:** Approval of the minutes from the July 31 and August 7, 2001 meetings.
- 114-01* 2. **STEPHENS INC.:** A resolution authorizing additional continuing services from Stephens Inc. to provide continuing financial advisory services on the Wastewater System Improvements project financing. The rate per hour is \$225.00 and is restricted to certain identified individuals. The authorization requested is not to exceed \$15,000 and will be paid from the project budget.
- 115-01* 3. **BLACK & VEATCH:** A resolution authorizing additional continuing services from Black & Veatch to provide continuing system rate analysis services for the City in conjunction with the Wastewater System Improvements Project. The authorization requested is not to exceed \$20,000.00 and will be paid from the project budget.
- 116-01* 4. **GRANT AGREEMENT:** A resolution approving a sub-recipient grant agreement to the Project for Victims of Family Violence.
- 117-01* 5. **SECDC:** A resolution approving a sub-recipient grant agreement with the South Fayetteville Community Development Corporation.

B. **OLD BUSINESS**

- 118-01* *Pass* 1. **SHEWMAKER:** A resolution approving a budget adjustment in the amount of \$76,436.00 to pay for the City Council's counteroffer made at the Special City Council meeting on July 31, 2001 to settle the Shewmaker case which has been accepted.

- 4331 ~~PASS~~
2. ☒ ☒ **ANX 01-2.00:** An ordinance approving annexation request ANX 01-2.00 for property located east of Sunshine Road and South of Mount Comfort. The property is in the planning area and contains approximately 14.47 acres. The request is to annex the subject property into the City of Fayetteville. The ordinance was left on the first reading at the August 7, 2001 City Council meeting.

- 4332 ~~PASS~~
3. ☒ ☒ **RZN 01-11.00:** An ordinance approving rezoning request RZN 01-11.00 submitted by Phillip Humbard of Engineering Services on behalf of Cross Creek Subdivision for property located east of Sunshine Road and South of Mount Comfort Road. The property is zoned A-1, Agricultural, and contains approximately 14.47 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the first reading at the August 7, 2001 City Council meeting.

C. NEW BUSINESS

- 4333 ~~PASS~~ 119-01
1. **BOYS & GIRLS CLUB:** A resolution approving an agreement with Fayetteville Youth Center Inc. d/b/a Fayetteville Boys & Girls, Inc. of Washington County.

2. ☒ ☒ **RZN 01-13.00** An ordinance approving rezoning request RZN 01-13.00 submitted by Kirk Elsass on behalf of HCL Properties for property located south of Zion Road in HARB-CO Subdivision. The property is zoned R-O, Residential Office and contains approximately 1.4 acres. The request is to rezone to C-1, Neighborhood Commercial.

adjourned 7:20

**MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
JULY 31, 2001**

A special meeting of the Fayetteville City Council was held on July 31, 2001 at 5:30 p.m. in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

AIRPORT

Review and approval of items related to the City of Fayetteville operations as Fixed Base Operator (FBO) at Drake Field.

Mayor Coody stated they had a contract with Fayetteville Air Service for a long time. By mutual agreement they have found ourselves to be in the position to sell fuel and run the FBO. They were expecting their contract to last until the end of August. However, last week they found out the company would be leaving July 31, 2001.

Mr. Gary Dumas stated they were anticipating bring this forward next month, however, because the time frame has been moved up they were having to call this special meeting. There were several items they needed to take care of today so that they could move forward. They had secured coverage through their insurance broker. They had secured fueling equipment and fuel. They had ninety day contract with Philips 66, they were the only ones that could provide fuel and equipment with only six days notice. They had to find a couple of extra people to provide approximately sixty more hours at the Airport because the FBO operation will have more extended hours than the normal forty hour work week that they currently have at the airport. The FBO will be open from 6:00 a.m. to 9:00 p.m. on weekdays and 6:00 a.m. to 6:00 p.m. in weekends. There were two former employees from the FBO who were contacted and who were interested in coming to work for us. Finally, they needed to secure the appropriate action from the council to make all this happen. They anticipated their revenues will cover all their expenses and as they increased their fuel sales they would be able to increase their revenues down there.

Alderman Davis asked if they were signing a lease with Philips.

Mr. Dumas stated it was a ninety day lease. They had a request for bids going out. They anticipated that to be on the August 21 agenda, but it would not take affect until this ninety day contract was up in October.

Alderman Davis asked what other services were they going to provide at the FBO beside the fuel.

Mr. Dumas stated initially any thing they would need for the airplane. They would try to provide

some rental car services thru a rental car agency. The idea was to move the FBO into the terminal building.

Alderman Davis asked if there would be any type of maintenance.

Mr. Dumas stated they had no ability to provide maintenance. Hopefully if they increase their activity at the airport they could get a business to provide those type of services.

Alderman Reynolds stated at one time they approved another operator at the airport.

Mayor Coody stated Fayetteville did have the second highest fuel prices in the State. Tomorrow they would be the lowest. They should be able to draw quiet a bit of business to Drake Field. They planned to break even.

Mr. Doug Wallace, Airport Board, stated the Airport Board would be looking at this tomorrow. For quiet some time there had been some unhappiness regarding the services at the Airport. These will be brought to an end. This will jump start activity at the airport to suddenly have the most competitive price in Northwest Arkansas. The ninety day period would give them the time to sort out thing and to develop a more comprehensive plan. Seven or eight days is not much notice for an operation such as this. The city's staff is to be commended on acting so fast and not leaving the airport without services.

Mr. Ken Shawsaw stated they had decided to hold off on their operation. They were interested in operating at the airport. His company nor ABP had any intention of going into business in competition with the city. They would rather work with them.

Mr. Williams read the ordinance for the first time.

Alderman Thiel moved to suspend the rules and move to the second reading. Alderman Davis seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance for the second time.

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

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

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

Alderman Zurcher moved to approve the emergency clause. Alderman Jordan seconded the motion. Upon roll call the motion carried unanimously.

ORDINANCE 4326 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Davis suggested incorporating the remaining six items into one resolution.

Alderman Davis moved to approve the remaining five items with one resolution. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 108-01

SHEWMAKER SETTLEMENT

Mr. Williams state the ground rules will be that the Mr. Scott would present the Shewmakers case within thirty minutes. He will then respond to statements for not more than thirty minutes. This was not a question and answer period.

Mr. Scott stated that when they went to trial in October 23, the check book would be held by twelve people who were not residents of Fayetteville. He thought that they had reasonable grounds to exclude any city resident from that jury. They would be common folks with the common idea that were generally pretty favorable toward the plaintiffs.

This case involved his client's allegation of trespass. He presented a photo of the equipment used near their building. He stated the equipment had been operated next to and on the Shewmaker property. In 1992 the city vacated the easement on their property. The summer of 1997 the city was repaving the street. They came onto his client's property. Until July 10, the city had taken the position that they were not on their property. There was the issue of tort immunity. The city has now conceded by sworn affidavit that the city was on their property. The only question now was, were they there by permission. If they were not there by permission, then they trespassed and they were liable for an damages caused to the building. Mr. And Mrs. Shewmaker were going to testify that the city was not invited onto their property. They were going to have a swearing match. The city was going to say they were there by invitation . The Shewmaker's were going to say they were not. The Shewmakers were familiar with their property. Those cracks were not there until after the construction was done. The compactor came by their house and shook the house, after that there were cracks inside the building that were not there before. There had been some indication that they had not raised the claim for eight or nine months after the event. He felt that they had better than a fifty-fifty chance to win the case. He suggested to the council that they offer his clients a settlement of one hundred and fifty two thousand eight hundred and seventy two dollars in a way that they could consider. He did not want to lay their entire case out. What they were trying to do was to have a settlement negotiation. He passed out a copy of the jury instructions for damages in this type of case.

They were willing to settle for exterior damages. There had been some questions on the fair market value of the property. As far as the damage claim that was not relevant. Questions relating to insurance policy did not have any bearing on the lawsuit. The only thing important was who caused the damage and were they legally responsible for the damage and did they had a duty to them to not cause the damage. If the jury concluded yes to all those, then they had to pay them for their damages.

Mr. Williams stated if they went to trial they never knew how it would turn out. It was difficult to represent the government, because there was an anti-government attitude. He did not agree that everyone in Fayetteville would be excluded from the jury. He did not believe they should be excused for cause. He thought there would be a mixture of citizens on the jury. They will go in with a slight handicap of representing the city as opposed to representing a private individual. Normally they could not talk about insurance, but in this case the part of the insurance they would be interested in was how much did the Shewmakers decide to insure their building for. He thought that the value was important. He thought they could not recover a significant amount of money more than what the building was worth. The value of the insurance would be something that he would try and get before the jury. The judge would have to decide if that was admissible. How much was the building appraised for on the tax rolls and how much did they pay for the building. All these things were important. On June 27, 2000, the Shewmakers sued the city for trespass and nuisance. They alleged that they city intentionally operated the roller on the Shewmaker property. That allegations was denied by Mr. Rose and he should by that. Later on they also denied allegations of trespass on the property. Randy Allen had presented his affidavit that the city was personally requested to pay the very section of land on which the Shewmakers now claim we were trespassing. The city had legal tort immunity for any alleged negligence that they would commit. He will assert this immunity in court as a defense. Occasionally there was an exception and that was caused an intentional tort and one of those was trespass. That was what they were trying to alleged. The land that they are alleged to have trespassed on was in fact vacated to them approximately five years before. The city had voluntarily without cost vacated to Mr. Shewmaker at his request. The city should only be liable for an intentionally tort or act. In this case he did not think there was any proof that any city employee ever intestinally trespassed upon their land. If they were invited on their, that was not a trespass. If there was a mistake, that was not an intentionally trespass or act. Statutory immunity was designed to protect cities from mistakes. At best that was what happened here. It was not an intentionally wrongful conduct that was exempted. The city had no intention other than doing a public service, to pave the street. It should also be noted the Shewmakers made no complaint or claim for eight or nine months after the event. He noted two or three months before that Mr. Shewmaker had met with Mr. Venable, Public Works Director, to complain about a drainage problem on his property. Even then, no claim was made at that time. They had be burden of proof. They had to prove that the city damaged their property and that the city did not. He questioned why they waited eight or nine months that the city had damaged their property. That was a difficult burden that they had to face. The city had cooperated with the city and yet they had not paid any claim to Mr.

Shewmaker. He requested a copy of that report. No claim had been paid their own insurance company for this damage. Over the years they have had no other complains of damage like this. They had done similar test with this machine to see if it could cause the type of damage alleged by the Shewmakers. In their report they indicated that they could not see any damage cause. They had recently paved the parking lot behind city hall. There was no damage done to that building. It was always dangerous to go to a jury trial, but his feeling was that the city did not cause any damage to this building. He thought that it would be better to invest the money for an expert an the pay more money to try and settle this case.

Mr. Scott stated the issue about the delay, the Shewmakers had lost serval close family members. He thought they would get into the issue of inverse condemnation. The Shewmakers bought the property and refurbished it. There was been appreciation with its location.

In response to question from Alderman Zurcher, Mr. Scott stated the wall that the city had done their test on was now cracked. His expert has compared the test run by the city had the actually site were not compatible.

Alderman Davis asked how they were going to over come the argument that Mr. Shewmaker had met about a drainage problem, but did not bring this problem up.

Mr. Scott stated they were there for a specific problem.

Mr. Shewmaker stated Mr. Venable had asked him to do some paving. He would not agree to do the paving because of the water that was coming onto his property and under his building.

Alderman Santos moved to offer the Shewmakers seventy-six thousand four hundred and thirty-six dollars. Alderman Zurcher seconded the motion.

Mr. Williams asked of they would be willing to accept the offer.

Alderman Thiel stated they were there to protect the citizens interests.

Mr. Williams asked that they would add a date certain.

Mayor Coody stated he had looked at the building and noted that the stone foundation which should have bore the brunt of the damage was not damaged at all and some of the plaster cracks on the side of the walls have been patched before. He knew that in dealing with plaster that it cracked and when it was patch there was a high likelihood that it would crack again.

**Alderman Santos and Zurcher agreed to limit the offer to two weeks.
Upon roll call the motion carried by a vote of 5-2-0, Reynolds and Trumbo voting nay.**

**MINUTES OF A MEETING
OF THE
CITY COUNCIL
AUGUST 7, 2001**

A meeting of the Fayetteville City Council was held on August 7, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Santos, Jordan, Reynolds, Thiel, Young, Zurcher, Trumbo, and Davis, Interim City Attorney Kit Williams, Deputy City Clerk Gina Roberts, Staff, Press, Audience.

Mayor Coody congratulated city employees; Scott Caldwell, John Goddard, and Clyde Randall for their Special Achievement in GIS Award.

Mayor Coody stated they were putting the finishing touches on an agreement with the Boys and Girls Club, which will be presented to the City at the next Council meeting.

Mike Hill, Boys and Girls Club, stated they had been working with the City Staff on an agreement and that they should be presenting it at their next meeting.

AUDIT COMMITTEE REPORT

Mr. Marty Bryan, Chairman of the Audit Committee, stated the Audit Committee had been established October 3, 2000, its purpose was to serve as an advisory capacity between the City Council, Independent Auditor, Internal Auditor, and the Management, audit internal controls and compliance. The committee was comprised of four people, one city council member and three private citizens. Their responsibilities were to serve on the review committee to select the external auditor, review the city's annual financial status, including any certification or report rendered by the independent auditor, review the performance of the independent auditors and review financial and accounting personnel adequacy and the effectiveness of the accounting and financial controls of the city and to advise the city council on any issues reported by internal audit staff. The results of the 2000 audit was an unqualified clean opinion. In accounting, that was excellent. There were no disagreements with management on financial reporting matters and no scope limitations related to audit work. There was open and affective communication with management. We received a certificate for excellence in financial reporting and budgeting for the twelfth consecutive year from the GFOA (Government Finance Officers Association).

CONSENT AGENDA

APPROVAL OF THE MINUTES

Approval of the minutes from the July 17, 2001 meeting.

RAVEN TRAIL AND GULLEY PARK TRAIL: A resolution awarding the construction contract for Raven Trail and Gulley Park Trail to Jerry D. Sweetser in the amount of \$190,605.50 and approving funding for the project contingency and material testing for the projects.

REMOVED FROM THE CONSENT AGENDA.

OLD MISSOURI: A resolution approving amendment number one, in an amount not to exceed \$24,947 to the engineering services contract with Garver Engineers for additional conceptual designs and cost estimates for improvements to Old Missouri Road from the intersection of Rolling Hills north to Mud Creek Bridge.

RESOLUTION 109-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

GREGG STREET: A resolution agreeing to pay for right-of-way and the movement of utilities, if the Highway Department widens Gregg Street from Township to the Bypass.

RESOLUTION 110-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TRACKING SYSTEMS: A resolution certifying local government endorsement of Tracking Systems to participate in the Advantage Arkansas Program also known as the Arkansas Enterprise Zone Program.

RESOLUTION 111-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CARGO VAN: A resolution approving the purchase of a 2001 Ford E-150 Cargo Van for the sum of \$21,164.00 from Ron Blackwell Ford. This unit will be used by the Police Department.

RESOLUTION 112-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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

RAVEN TRAIL AND GULLEY PARK TRAIL: A resolution awarding the construction contract for Raven Trail and Gulley Park Trail to Jerry D. Sweetser in the amount of \$190,605.50 and approving funding for the project contingency and material testing for the projects.

Mr. Greg Boettcher, Public Works Director, stated the Arkansas Highway and Transportation Department awarded to the city a sum of \$750,000 for multi-use trails in Fayetteville. This grant is eighty-percent of the eligible project costs, with the city providing a sum of \$187,500 to go with that. The Raven and Gulley Trails which they were considering tonight constitute some \$223,196, which was about twenty-three percent of their \$937,500 total project funding. Joyce Boulevard, East Mud

Creek and West Mud Creek(CMN Property) are other trails which have been designed. They have been submitted to the Arkansas Highway and Transportation Department. They were expecting approval to bid those in September. They were moving ahead on these projects. The current funding that they have of \$937,500 is not expected to be adequate to do all five trails. What they were planning to do was the West Mud Creek Trail which will be segmented into bid units, so they could tailor the last piece of the project to use all of the enhancement funds. There will be additional funding cycles which they hoped to apply for and move forward. At this point, Paul Libertini in the Engineering Division had been a key individual in moving this ahead and designing for the five trails. As it moved forward, the Trails Coordinator would pick up and work with Engineering on those. There was a map showing where the trails are.

Alderman Thiel stated it was wonderful that they had been able to obtain funding. As alderman for Ward One, she knew they were working on a Walker Park Trail.

Mr. Boettcher stated there would be future funding cycles. In the case of these funds that have been awarded they were project specific and must be used for the five trails the Highway Department identified.

Alderman Davis stated they had purchased land for the Prairie Creek Trail which went from Sixth Street to the Walton Art Center area. The intent at the start of this project was to find land that the city owned, which happened to be in Ward Three.

Mayor Coody stated they had received notice today that the Transportation Enhancement Funds were becoming available. They were going to start applying for more grant money.

Alderman Davis thanked Chuck Rutherford for all his work on putting this together.

Alderman Davis moved to approve the item. Alderman Thiel seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 113-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OLD BUSINESS

SPECIAL SALES TAX ELECTION: An ordinance calling a special election to decide whether or not to approve a three-fourths cent ($\frac{3}{4}\%$) sales and use tax to fund the issuance of not to exceed one hundred twenty-five million dollars of Capital Improvement Bonds to finance all or a portion of the acquisition, construction, reconstruction, extending, improving and equipping of wastewater treatment plants, sewerage and related facilities. The ordinance was left on the second reading.

Alderman Trumbo stated that they had a number of public hearings. Bringing this forward would

allow the public the right to vote on whether or not to go forward with the proposed new wastewater treatment plant, retrofitting their existing plant, and improving their collection system. This was not just about adding capacity, it was also about clean water. This was a lot of money. They had a number of public hearings and had talked at length about the three percent revolving loan, which was available to the city. It was unprecedented in terms of the low interest cost. They had talked about the fact that if this was defeated that they still have to do fifty million dollars of improvements to their existing plant which would mean doubling sewer rates for existing rate payers. They had looked at all the different financing mechanisms, the interest costs and the amortization, the schematics, the plans. He just thought it was time to move forward and to let the general public vote on this proposal on floating a bond and to do what was right for Fayetteville. There were those who wanted to defeat this to shut down growth in Fayetteville. That was not what this was about. It was adding capacity, but it was also increasing the technology of their existing facility and adding more capacity. It was an ongoing process of fixing up their collection system and it would allow them to not take slug all the way across Fayetteville.

Mayor Coody stated they had been given an administrative order back in 1989 from the EPA that put them on notice that they had to improve their sewer system. They were under this executive order until 1995 when they started going through the process of starting the engineering of a new system and rebuilding their antiquated infrastructure and building a new plant on the west side of town. Once they saw us making serious headway, they lifted the order. They did not have a choice about building a sewer plant. The plant was just one quarter of the project. The entire sewer system was what they were having to rebuild. They did not have an option. The election was basically going to be asking the question of how they would pay for it. They were giving the voters a chance to approve the three-quarter cent sales and use tax. He personally felt that when they looked at the money they would be saving by doing this, they would save twenty-six million dollars in interest. They would also pay for it in half of the time, ten years verses twenty. If the voters turned down a three-quarter cent sales tax, they would be locked into having to find another funding mechanism to rebuild the system with. The only other option that could be used as collateral for this debt would be an increase in sewer rates. Sewer rates and sales tax were the two most predictable incomes the city has. If they did not have the sales tax, they will have to have a substantial increase in sewer rates. That would narrow their pool on the number of people who would be paying for it. They had to let people know it was not a question of if they were going to get a new system, the question was what mechanism of funding will they chose to pay for it.

Alderman Trumbo stated they were over taxing Fayetteville. They were paying eight and one-eight percent city tax. One penny of that was for the HMR, one for Parks, one general fund and one for capitol improvements. He stated the library tax would sunset and this tax would pick up. The people voted and said that they wanted the Town Center, the Library, and the two mills for the Senior Center added to the property taxes. They were over taxed, but there were city services and needs they were having to make democratic decisions on.

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

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

Alderman Young stated hotels and motels were collecting 12.125%. Restaurants were collecting 10.125%, every one else was collecting 8.125%.

In response to questions from Alderman Zurcher, Mr. Steve Davis stated there were approximately 29,000 sewer system customers, which included Fayetteville, Greenland, Farmington and Johnson.

Alderman Reynolds stated there were 2,199 customers outside the City of Fayetteville.

Mr. Davis stated there was a single connection to Elkins. They had one customer, which was the city of Elkins. They did not have any control over how many connections that they had. They did not do anything past that one connection with Elkins. It was based on volume.

Alderman Trumbo stated he had heard some people say why didn't they just shut off the communities that were not in Fayetteville and let them build their own plant. He asked if they had long standing contracts with those municipalities for service.

Mr. Davis stated that was correct. The closest contract that they had would expire in 2008.

Alderman Zurcher stated it would be unfair to charge just the rate payers in Fayetteville to pay for this thing. At the same time to completely rely on a sales tax wasn't fair either. He asked if the communities that did not have their own sewer plants could they pitch in a little more. Can the industries pitch in a little more. Could they not raise them. He would like to look more at a package than just one thing that they were going to vote on.

Mayor Coody stated about five years from now, they would have to have a relative small rate increase on their sewer fees. They were going to do everything that they could to come in under budget on this project. They will have to increase sewer rates five years from now once the plant goes on line. They will have to have the money to operate. They will see an increase in there sewer rates in the year 2005 or 2006. That would be the first rate increase in about nine years. To do a package deal to use different mechanisms to fund this might complicate their bond issue.

Mr. Hunt stated that they needed to keep in mind that the revolving loan fund only allowed the one sales tax that they were talking about that they could pay off early. If they decided to combine with anything other than the one sales tax they would not be able to pay off as early with the other revenues. That was one of the reasons that they felt that from the perspective of participating in the Revolving Loan Fund and maximizing their ability to reduce their interest expends that it made sense

for them to use the sales tax alone in this case. Only this specific sales tax, there were other sales tax that the revolving loan fund would not allow them to do. The statute specifically state that it was the only thing they could use this sales tax for was to pay off the debt. The State was not going to say they could not use the sales tax to do that, so they allowed them to do early redemption or paying it off early. That was one of the key advantages of reducing their interest because they had the money coming in. From the current numbers, it looks like they would be able to pay it off in 2015. With a Revenue Bond issue they would be talking about going out to 2025. That was where the twenty-six million dollars in additional interest expenses would come in. It would be a slightly higher rate, plus they could not pay off early. If they did not use the Revolving Loan method and went out into the open market then they would be talking about nearly fifty million dollars in additional interest.

In response to questions, he stated with the Revolving Loan there would be a ten year call protection. After ten years they could use any resource to help pay down the loan, but they would still have the ten year period that they could not make any redemptions.

Mayor Coody stated he had seen in the paper where they were going to have an election on November 20 for Asa Hutchinson's position. Would it be a mistake to move the election from November 6 to November 20.

Mr. Wilburn stated the statute stated "general or special election". It really did not matter.

Mayor Coody asked if it would affect their timing?

Mr. Wilburn stated they could push it back that far.

Alderman Young stated they did not know the exact date of the election.

Mr. William stated this was a one hundred and twenty-five million dollar bond issue. If they changed the date of the election they might present an opening for someone to challenge this. They had worked very hard to make sure that this particular ordinance was very legal and constitutional and covered all the bases. He would hate for something which represented such a tiny amount of the bond issue to endanger a potential bond issue. He stated they needed to chose a date tonight. If they wanted to chose November 20, then they could amend Section Three. They could move to reconsider this amendment at their next council meeting. They could not come back anytime they wanted to amend this ordinance without leaving opening for someone to challenge this.

Mayor Coody stated the money to him was a small factor in this. One of the things he had heard quite often was that the public felt that they had special elections in order to time it when people were out of town and only the interested people would show up. It would not hurt to make the extra effort to try and get the public to understand they wanted as many people as possible to come to this.

Alderman Young stated November 20 was not as good a date as November 6. Have an election just before Thanksgiving when a lot of people were out of town.

Alderman Zurcher moved to table the ordinance.

In response to questions, Mr. Williams stated the next item if it passed would postpone any ordinance for ninety days. That would get them outside time frame. Anytime they were dealing with a large bond issue like this they needed to be as clean as possible and to follow the law exactly and not through any new legal changes. They did not want to push the envelope and be creative when it came to something like this. His advice to them was to go as straight as possible. They did not want to give any room for challenges. The more they played around with this the more openings could happen. They had studied the issue very carefully and had come up with this ordinance after a lot of work. This ordinance right now as it was written, they knew what would it do. If they started changing things on the fly he could not tell them what it would do. When they were dealing with one hundred and twenty-five millions dollars they did not want to learn after the fact that they had made a mistake and that someone could claim that they were confused on what they were voting on. Or that they confused the voters by changing the dates or putting a date in that was not certain and that was set by someone else. They did not want to do anything like that. They wanted it to be clear to the voters exactly what the issue was.

Alderman Thiel asked Mr. Wilburn if he was in total agreement with Mr. Williams.

Mr. Wilburn stated he agreed with Mr. Williams. They needed to go straight down the line with what had been proven and up held.

Alderman Zurcher again moved to table the item to the next meeting. The motion failed from lack of a second.

Alderman Jordan stated the three-quarter sales tax was the best way that they could go with that. He felt sales taxes were regressive, but in this case he thought the alternative to doubling the sewer rate, that the three-quarter sales tax was the better way to go. He had always been in favor of putting taxes before a vote of the people. This was no exception. If the people voted this down, do not expect him to support doubling people's sewer rates.

Mr. Geary Lowery, an area resident, stated he would like to inform them of a rumor that the proposed west side treatment plant already needed expansion to include other communities that lie west of Fayetteville and other communities wanting on line to the Fayetteville Sewer Plant. At another meeting it had been proposed that a park could go around the new sewer plant. At that time the Mayor stated they might need that land for expansion. The number of people using our sewer out side of city limits was one large main tap to Elkins which served them at the current rate of four

hundred and seventy-nine sewer connections. Who they were and what they were, the city did not know. They had sixty three commercial taps in Farmington. They had twenty two commercial and industrial taps in Greenland. In the growth area they had one large major industrial tap. They had twelve hundred and seventy five residential taps in Farmington, three hundred and eleven in Greenland, four hundred and seventy nine in Elkins and one hundred and fifty eight in Johnson and twenty two in the growth area. They currently had twenty four other from Farmington and twenty one other Greenland, and one other for the city of Elkins. He had been trying to get some figures from OMI. Everyone seemed concerned about the infill and age of our sewer lines. They had a lot of problems. They needed to improve their system. He was upset at the cost and that it was only going to be for Fayetteville. It was for Fayetteville and the other communities surrounding us. He was tired of this city taking a hit. There were people within city limits that did not have sewer service who would like to have it. Before they expanded anymore or any more sewer taps were given to anyone else, they needed to tap into their own constituents. It was the duty of the city to service all of the citizens. In the last five years this city has had revenue profits in excess of five million dollars a year in revenue capital improvement money for the sewer system. Why did they need to increase their rates in the next five years, if they had five to nine million dollars available for sewer improvements.

Mr. Jeff Erf, an area resident, stated he would like to pin point the numbers that they were talking about for the sewer treatment plant. He asked that they correct him if he was wrong. So far they had spent about seven million dollars already towards this project for land, engineering and other related costs. The engineer was estimating that the current cost for the plant and improvements to the Noland Plant and other associated costs was one hundred and twenty million dollars.

Mr. Greg Boettcher stated that was correct.

Mr. Erf asked if that included construction cost, engineering, legal and administrative costs?

Mr. Boettcher stated it also included some contingencies on construction.

Mr. Erf stated that the amount of bonds that would need to be sold was about a hundred and fifteen million and five of that came from a bond issue that had been approved last year and carried over to this year for a total of one hundred and twenty million dollars of money that was available for capital costs. The interest on the hundred and fifteen million dollars was roughly twenty and a half million dollars.

Mayor Coody stated that was correct.

Mr. Erf stated if he tallied up the seven million they had already spent, the one hundred and twenty million construction cost and related expenses and the interest on all of that, he came up with one hundred and forty seven million and one half dollars. He asked if that seemed right for total project cost or the amount of tax payer dollars which would be spent on the project as estimated today.

In response to comments from Mr. Hunt, Mr. Erf stated the total project cost would be nearly one hundred and fifty million dollars. The ballot was asking the voters to approve a bond issue up to one hundred and twenty five million dollars. Another thing that concerned him was if the voters voted against this bond issue, what did that mean?

Mayor Coody replied they could raise sewer rates. If they did not correct their system and get it in line with what the EPA required then not only could they shut them down, but they could fine them twenty five thousand dollars per occurrence.

Mr. Erf stated he did not believe the EPA was requiring that the city of Fayetteville provide capacity for eighty five thousand people. He questioned if the voters turned this down in November did the rates have to go up. He thought they needed to put that on the ballot.

Mayor Coody stated he was exactly right, but whether the legal department agreed with him or not was another question.

Mr. Erf stated he had problem with the choice of "being build " or "build it". They were only talking about how to pay for it. That concerned him. If they were going to see this as a mandate, then that meant they were voting for a rate increase.

Mayor Coody stated they did not want to be in the position of having the public think that if they voted down the three-quarter cent and then they skyrocketed the sewer rates. The public will then say that the city was shoving the rate increase down their throat so that they could get what they want. They kept talking about the need for this project and the fact that it was really the question of how they were going to pay for it. They were trying to make it as clear as they could. They had to let the public know what they were dealing with. Even if not another person moved into town, they had to rebuild their system. Right now they were pumping all their waste from the west side of town through nine lift stations, over the ridge, and down to the Paul Noland Plant and then they were sending it right over the mountain again to the Illinois River. They were trying to do as much as they could with the public. There was one lift station where the sewage crosses the ridge three times to get treated once. They would be able to eliminate nine lift stations and all the required industrial and electrical pumping that went with that. It should decrease their operating cost.

Mr. Erf stated it was his understanding that after the new plant was on line and the old plant was improved and all the pipes were put in that they were talking about, an increase in twenty-eight percent for operation and management of the new system. Any saving from the removal of the lift stations was eliminated.

Mr. Boettcher stated that grade was calculated on 2005. It was predicted for four years ahead rather than today's dollars.

Mr. Erf stated if the voters were to approve this bond issue, it permitted them to go up to one hundred and twenty five million dollars in bonds. Could any of that be used for maintenance or operation expenses?

Mayor Coody replied they could not, it was for the building and construction. He hoped the public realized that those were the choices. This project started ten years ago. It was time they did something. Doing nothing was simply not an option.

Mr. Erf asked if there would be an ordinance in place regarding impact fees before the election.

Mayor Coody replied things did not move that fast around here.

Mr. Earnest stated impact fees would still be in discussion at the time of the election.

Alderman Thiel stated it was her understanding that they could use the impact fees for sewer capacity needs and not to pay the bonds off. It was not going to make her shy away from impact fees, just because they could not be used directly towards this.

Alderman Zurcher stated he was going to have trouble supporting this issue if he did not know before hand that the developers were going to pay their fair share by using impact fees.

Alderman Thiel stated the people who had lived here for a long time had paid their dues. Some of the affect of the growth needed to be paid for by the people that were creating the need.

Alderman Zurcher moved to amend Section Three from "November 6, 2001", to "this election would fall on the same day that would be set by Governor Huckabee for the election for the third congressional district seat".

Alderman Davis stated their bond council agreed with Mr. Williams. Since both of them felt the same way, they were probably correct.

The motion died from lack of a second.

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

ORDINANCE 4327 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

REFERENDUM PETITIONS: An ordinance amending Section 36.15 of the Code of Fayetteville to change the number of days allowed for referendum petitions to be filed from thirty-one days to ninety days. The ordinance was left on the first reading.

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

Mr. Williams read the ordinance for the second time.

Mr. Hunt stated they had brought bond issues to them in the past and that it was important that they take all three readings in one evening because investors had indicated they would buy the bonds, but they did not want to be delayed over a ninety-day period. The market could change dramatically during that period of time. There would become a resistance on the part of the investors to purchase bonds. He thought they needed to be concerned that Arkansas was one of very few States that had the thirty-day referendum requirement currently for bond issues. This was a concern if this was an interest rate environment where interest rates were creeping up. If they went to the ninety-days, he thought they would be compounding that problem significantly. In terms of financing a bond issue, they should seriously consider the implications it would have. Someone was going to buy the bonds, the city was going to be the one taking the interest rate risk. They were going to want a higher interest rate, because they were talking about such an extended period of time. They were not only talking about ninety-days, they would be talking about hundred and ten days before the ordinance was completed.

Alderman Zurcher asked if an emergency clause would work?

Mr. Williams stated they would have to be very careful with an emergency clause. Generally they had to be for peace and safety as opposed to money. When they were dealing with large bond issues, that made it a target. If they did not have a good reason to have an emergency clause, then that was another way that they could be challenged. That was why they did not have an emergency clause here.

Mr. Wilburn stated even with the emergency clause they would still wait thirty-days. If the ordinance passed they would wait ninety-days. The supreme court has cracked down on the use of the emergency clause. People were putting them on everything. For them to be comfortable to close a multi-million dollar bond issue they would wait the thirty or ninety-days. If the ordinance was not validly adopted, it was his opinion on the line.

Mayor Coody stated he was concerned about extending this to ninety-days because they already had initiated referendum on the books. Anyone at anytime can put something on a ballot to be voted on without having to do it in thirty-one days. They could spend up to a year and a half to get something on a ballot.

Alderman Young stated he did not think that was correct. He thought they had sixty or ninety-days.

Mr. Williams stated if someone wanted something on the ballot they could go through the initiated ballot process. He was not sure when they could start collecting the petitions, but they would have time to get very organized and have their people ready to go out. If they had an issue they were concerned about, they could get their group together and get organized. They would have plenty of lead time to get on the general election ballot.

Mayor Coody stated that within the last ten years there has only been two ordinance that have been questioned with a petition. They had passed over forty ordinance this year alone.

Alderman Thiel asked if they would consider forty-five days.

In responses to suggestions from Aldermen, Mr. Williams stated Amendment 7, and stated they needed to pick a date and that was when they took affect or the deadline for the referendum. The City Council was not given the right to fine tune it as they went along, ordinance by ordinance. The City Council had to chose a time or if they did not chose a time, then it was ninety-days. He could find nothing in Amendment 7 which would allow a city council to make exceptions for ordinances which were going to be challenged. Amendment 7 was part of their constitution. They had to fall within that framework. They could not go outside either the statutory or the constitutional law.

Mayor Coody stated by using parliamentary procedure they had the option to use a motion to reconsider.

Mr. Williams stated there were parliamentary ways that they could postpone the affect date of an ordinance. Normally that was not a good thing to do in a tax sort of issue. A lot of these have not been tested in court. But it was a potential possible way it could be done.

Alderman Zurcher stated that defeated the purpose of allowing citizens to get something on a ballot. What they were doing was not always the best decision. This would give people the chance to petition the government to put it to a vote. That was different than us allowing it. This would allow them the time to do, because we would not do it. It was not because they agreed with us. It was giving away a little bit of their power to the people and who wanted to give up power. This made him want to almost want to vote wrong so that he would be in the majority on these things so that he could bring it up later. But he was not going to.

Alderman Jordan did not believe thirty-one days was long enough.

Alderman Davis stated usually it was over something controversial and they were already getting set up. He did not think that thirty-one days was a problem. Usually very few things were done in three readings. They would have some warning ahead of time that this could be a problem.

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

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

Ms. Paula Marioni, an area resident, stated she had worked on an effort to save Carnell Hall. They had gotten four thousand signatures in thirty days during their petition drive. They were already organized. It was already an impassioned issue. She did not bring this issue forward, but she could relate to it. Thirty days was not really enough time for the citizens to be able to rally interest and to make their concerns be known. When they get the energy rolling and people were excited about it, then they would jump in. If it was not there it was going to drag on forever.

Alderman Thiel asked the attorneys what they thought of the forty-five day proposal. It was critical for bonding purposes?

Mr. Wilburn stated they would be different from everyone else in the State. As far as he knew, everyone else in the State was thirty-one days.

Alderman Young stated there was a law passed stating that any one who did not have an ordinance on the books, the affective date was ninety-days.

Mr. Wilburn stated he had not come across any city which did not have that ordinance on the books.

Alderman Santos stated there were other re-courses. They were trying to change an ordinance which was going to have an adverse affect on ninety-nine percent of their ordinances.

Alderman Zurcher asked who was being hurt by the delay besides the bond issuer.

Alderman Reynolds called for the vote.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed by a votes of 3-5-0, Santos, Reynolds, Thiel, Trumbo, and Davis voting nay.

ORDINANCE FAILED.

NEW BUSINESS

CLIFFS APARTMENTS: An ordinance waiving Ordinance 3793 to accept money- in-lieu of the park land requirement for the Cliffs Apartments Phase II Development.

Mr. Williams read the ordinance for the first time.

Alderman Davis stated he was in favor of this. The developer was giving one hundred and thirty-five thousand dollars in lieu of land. They were also going to be putting in an olympic sized pool, jogging and walking trails.

Mr. Williams stated they were developing as a PUD and this was private park land that they were having for their residents. They were donating money rather than giving additional land for a public park.

In response to questions, Mr. Tim Conklin stated this was an extension of the Cliffs. The property is surrounded to the east and north by the original Cliffs Boulevard and Highway 265. The planning and development was in the process right now. They were meeting the open space requirements with regard to the request for increase in density bonus. They had a two hundred and fifty foot setback around the perimeter. It was a Planned Unit Development. It was an expansion of the original Cliffs. They will have park like amenities within the development in addition to the one hundred thirty thousand five hundred dollars.

Alderman Thiel stated that they did have parks near by and that they did not really need the park land. Park land acquisition to the north was preferred in the future. She supported this.

Ms. Connie Edmonston stated that they encouraged developments to add park amenities for their people because it took stress of the park system. They can still serve the area with other park amenities such as soccer fields or skate board parks. It was a good compromise that when they had a development with the community spirit of providing for the people recreational activities that it was a good deal for both people.

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

Mr. Williams read the ordinance for the second time.

Alderman Santos stated he would like to explain that this fee was an impact fee, it was based on the demand for parks created by the new residents. This was going to be a public park, but it was going to provide recreational facilities for these residents. It was a great deal for the city because in addition to providing for the demand created by the development they were also contributing to the greenspace fund, just as if they had not included a park in their development which already met their new residents demands for recreational facilities.

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

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

Mr. Geary Lowery, an area resident, stated make sure that they collect the money. Subdivisions and places that were suppose to dedicate money or land to the city have not done so. The area where he lived was supposed to dedicate fourteen thousand eight hundred and forty-eight dollars toward the Parks and Recreation department. They had yet to fulfill their obligation. He suggested that they get their documents recorded and checks certified.

Ms. Edmonston stated upon final plat approval there were spaces where everyone had to sign off on. One of them was the parks. If they were requiring park land or money in lieu. If it was land they did not sign off until a deed is received. If it was money they did not sign off until they had paid the money to the city. They did have check and balances in place now. She did not think that could happen.

Alderman Thiel stated she had checked on it, during that time the individual when they built a house within a subdivision they were supposed to take care of this. That became very difficult to track. There were probably a lot of older subdivisions still where that happened. For them to try and track that now would be cost prohibitive. Their ordinances now protected them from that situation.

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

ORDINANCE 4328 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 01-10.00: An ordinance approving rezoning request RZN 01-10.00 submitted by George Faucette on behalf of James and Judy McDonald, for property located at 461 East Township. The property is zoned R-1, Low Density Residential and contains approximately .42 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Mr. Williams read the ordinance for the first time.

Alderman Santos asked to leave this item and the next on the first reading tonight. He did not have a problem with any of them. But they needed to give people in the community more time.

Mr. Faucett stated this item had passed the Planning Commission by a vote of 9-0. In addition to that over half of the lot was zoned C-2. He thought there was a problem with the zoning map.

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

Mr. Williams read the ordinance for the second time.

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

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

Mr. Conklin stated the staff had recommended approval, the Planning Commission did approve it. In this situation, it was a lot which was half zoned C-2 and half R-1. The use had been established in the early seventy's. It was a clean-up rezoning. There was currently a retail business there.

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

ORDINANCE 4329 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ANX 01-2.00: An ordinance approving annexation request ANX 01-2.00 for property located east of Sunshine Road and South of Mount Comfort. The property is in the planning area and contains approximately 14.47 acres. The request is to annex the subject property into the City of Fayetteville.

Mr. Williams read the ordinance for the first time.

Alderman Zurcher asked if they had any idea of when they wanted those planning areas to develop.

Mr. Conklin stated this annexation is directly north of a forty acre annexation that they looked at a couple of months ago. At that time, the Mayor brought up that they would begin looking at annexation policy for the City of Fayetteville. His staff has begun that effort, along with updating their general plan with the 2000 census numbers. What he intended to do was to bring forward an amended General Plan with the first three chapters and adding a chapter with regard to annexation policy. That would be brought through the Planning Commission and the City Council. Most cities that had an annexation policy have placed those policies within their Comprehensive plan. That was what they were looking to do.

Mr. Philip Humbard, Engineering Services, this parcel did contain the park land that they were going to dedicate to the city as part of the development.

Alderman Thiel stated this was part of a large park.

Mr. Conklin stated this was along Hamstring Creek. The idea was to have the land dedicated as part of a potential greenway system along the creek. They had received other land dedications in other developments closer into town. The idea was this would make an ideal location for some type of trail or greenway system. It contained floodway and floodplain. It was a beautiful piece of property that would be good for a trail.

ORDINANCE WAS LEFT ON THE FIRST READING.

RZN 01-11.00: An ordinance approving rezoning request RZN 01-11.00 submitted by Phillip Humbard of Engineering Services on behalf of Cross Creek Subdivision for property located east of Sunshine Road and South of Mount Comfort Road. The property is zoned A-1, Agricultural, and contains approximately 14.47 acres. The request is to rezone to R-1, Low Density Residential.

Mr. Williams read the ordinance for the first time.

ORDINANCE WAS LEFT ON THE FIRST READING.

RZN 01-12.00: An ordinance approving rezoning request RZN 01-12.00 submitted by Rob Sharp, on behalf of Brian Reindl, for property located at 509 West Spring Street. The property is zoned I-1, Heavy Commercial/Light Industrial, and contains approximately 1.91 acres. The request is to rezone to C-3, Central Commercial.

Mr. Williams read the ordinance for the first time.

Alderman Zurcher stated this has been used as commercial. He was concerned about the people who were doing some light industrial there, would they be forced out?

Mr. Conklin stated any use that was allowed in I-1, that is now unconfoming would be grandfathered in. They did have standards within their zoning ordinances and how long they could be abandoned until they had to comply with the C-3 zone. Typically it was six months. Any parts of the building that was currently being used and continue to be used in that manner can continue as long as they did not stop having business. They were grandfathered in. The city was not going to send them a letter ordering them to discontinue.

Alderman Davis asked if they were allowed to expand the inside that building.

Mr. Conklin stated they were not allowed to expand. There were limitations on how much remodeling or renovations that they could do. It would allow the business to stay in operation. It was not going to put any burdens on them. C-3 had been passed a few years ago to help revitalize Dickson Street. This allowed existing buildings to used or converted from warehousing to retail without requiring additional parking. Prior to that they required parking. It was very difficult to provide that parking. They had seen a lot of their old industrial buildings on Dickson Street and that area be converted from warehousing /industrial uses to retail, entertainment uses. This rezoning would allow them to convert additional space within that building to retail, restaurants, and entertainment uses without having to provide additional parking. It encouraged the use of these old buildings.

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

Mr. Williams read the ordinance for the second time.

Mr. Bob Sharp, applicant representative, stated they had been approved at the July 9, 2001 Planning Commission meeting. He would appreciate it if they could approve this tonight.

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

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

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

ORDINANCE 4330 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SPECIAL ELECTION: A resolution expressing the intent of the City Council to call a special election to dedicate one-quarter cent (.25%) sales and use tax for bonds to fund development of projects toward achieving the goals of the Master Park Plan and the Master Sidewalk and Trail Plan.

Alderman Thiel stated she had brought this forward because she knew that people had wanted parks and trails and sidewalks. She had brought this forward now because of the proposed park they had planned around the proposed wastewater treatment plant. She thought it would be a selling point to tie the three-quarter cent sales tax to the park and trail sales tax. She thought people would support the one-quarter of a cent sales tax. The arguments that she had heard indicated that it would complicate the ballot and cause confusion to the voters. Her intention was not to jeopardize the three quarter sales tax proposal. It was critical that it got passed. She wanted to see if people were interested in this idea. No one has come forward one way or the other. She would leave it up to someone else to make a motion. If no one made a motion it would die from lack of a motion.

Mayor Coody stated they were starting the budget process for 2002. They have found some ways to consolidate funds to be more affective providing services.

Alderman Thiel stated the park proposal around the plant was roughly forty percent of the master park plan. It was roughly a fourteen million dollar park project. She was going to support it for many reasons. It was going to be difficult to fund that project within the next twenty years with their current funding. She thought it was better to not mix it with this issue.

FAILED FROM LACK OF A MOTION.

Meeting adjourned at 8:45 p.m.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING ADDITIONAL FUNDING OF \$15,000.00 FOR ADDITIONAL SERVICES FROM STEPHENS, INC., PURSUANT TO ITS LETTER AGREEMENT OF JULY 21, 2001

WHEREAS, the letter agreement between the City of Fayetteville and Stephens, Inc. for Financial Advisory Services was approved by City Council Resolution #104-00 on August 1, 2000, for an amount of not to exceed \$22,500.00;

WHEREAS, the City of Fayetteville needs to purchase additional financial advisory services pursuant to the same terms of the letter agreement signed on August 1, 2000 in an amount of not to exceed \$15,000.00.

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

Section 1. That the City Council of Fayetteville, Arkansas hereby approves an additional amount of not to exceed \$15,000.00 for Financial Advisory Services for Stephens, Inc. at the rate of \$225.00 per hour to be paid from the Wastewater Treatment System Expansion Project budget.

PASSED and APPROVED this the 21st day of August, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

RESOLUTION NO. _____

A RESOLUTION APPROVING ADDENDUM NO.1 TO
CONTINUING SERVICES AGREEMENT WITH BLACK AND
AND VEATCH CORPORATION WHICH INCREASES THEIR
AUTHORIZED FEE BY \$20,000.00 FOR CONTINUING SERVICES

**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
approves Addendum No. 1 to the Continuing Services Agreement between the
City of Fayetteville and Black and Veatch Corporation authorizing an increase of
\$20,000.00 in its fee for continuing services and authorizes the Mayor to execute
said Addendum.

PASSED and APPROVED this the 21st day of August, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A SUB-RECIPIENT GRANT
AGREEMENT WITH THE PROJECT FOR VICTIMS OF
FAMILY VIOLENCE IN THE AMOUNT OF \$87,500.00

WHEREAS, the City of Fayetteville received \$87,500.00 from the U.S. Department of Housing and Development Community Development Block Grant for the **Project for Victims of Family Violence** to fund the hiring of an architect to design a building for the Victims of Family Violence, to assist the City in bidding the project, to supervise the construction of the building and demolition and removal of the old building, and to oversee the entire project.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the Sub-Recipient Grant Agreement in the amount of \$87,500.00 attached as Exhibit A with the Project for Victims of Family Violence and authorizes Mayor Coody to sign such Agreement.

PASSED and APPROVED this the 21st day of August, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A SUB-RECIPIENT GRANT AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE AND THE SOUTH FAYETTEVILLE COMMUNITY DEVELOPMENT CORPORATION IN THE AMOUNT OF \$80,000.00

WHEREAS, the City of Fayetteville received \$80,000.00 from the U.S. Department of Housing and Development Community Development Block Grant for the South Fayetteville Community Development Corporation to purchase land, remove blight and slum, construct affordable housing and act as a catalyst for economic development and revitalization of South Fayetteville.

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 Sub-Recipient Grant Agreement with South Fayetteville Community Development Corporation in the amount of \$80,000.00 attached as Exhibit A and authorizes Mayor Coody to sign such Agreement.

PASSED and **APPROVED** this the 21st day of August, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACTUAL AGREEMENT WITH THE FAYETTEVILLE YOUTH CENTER, INC. TO BUILD INFRASTRUCTURE IMPROVEMENTS FOR ROAD, WATER, SEWER, AND PARKLAND DEVELOPMENT AND TO ENTER INTO A LEASE OF PARKLAND WITH THE FAYETTEVILLE YOUTH CENTER, INC.

WHEREAS, the City of Fayetteville and the Fayetteville Youth Center, Inc. d/b/a/ Fayetteville Boys and Girls Club, Inc. have worked together to provide recreation for Fayetteville citizens for decades, and;

WHEREAS, the City of Fayetteville desires to work with the Fayetteville Boys and Girls Club, Inc. make the new Donald W. Reynolds Boys and Girls Club in Fayetteville become a reality by assisting with infrastructure and parkland improvements.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas approves the Contractual Agreement between the City and the Fayetteville Youth Center, Inc. d/b/a/ Fayetteville Boys and Girls Club, Inc., agrees to fund the infrastructure improvements pursuant to this Agreement, and agrees to enter into a long-term lease of parkland pursuant to Section 3 of the Agreement.

Section 2. That the City Council of the City of Fayetteville, Arkansas authorizes Mayor Dan Coody to sign this Contractual Agreement which is attached as Exhibit A.

PASSED and APPROVED this the _____ day of August, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

REF

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

AUG 09 2001

FAYETTEVILLE
CITY CLERK'S OFFICEFor the Fayetteville City Council meeting of August 21, 2001

FROM:

Ted Webber
NameAdmin Services
DivisionAdmin Services
Department

ACTION REQUIRED: A resolution authorizing additional continuing services from Stephens Inc. for Stephens Inc. to provide continuing financial advisory services on the Wastewater System Improvements project financing. The rate per hour is \$225.00 and is restricted to certain identified individuals. The authorization requested is not to exceed \$15,000.00 and will be paid from the project budget.

COST TO CITY:

<u>NTE \$15,000.00</u>	<u>561,915.00</u>	<u>Wastewater System Improvements</u>
<u>Cost of this Request</u>	<u>Category/Project Budget</u>	<u>Category/Project Name</u>
<u>5400-5700-5314.00</u>	<u>509,168.00</u>	
<u>Account Number</u>	<u>Funds Used To Date</u>	<u>Program Name</u>
<u>98047</u>	<u>52,747.00</u>	<u>Water & Sewer</u>
<u>Project Number</u>	<u>Remaining Balance</u>	<u>Fund</u>

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

[Signature]
Budget Manager[Signature]
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

[Signature]
Accounting Manager8/8/01
Date[Signature]
Internal Auditor8/8/01
Date[Signature]
City Attorney8/8/01
Date[Signature]
ADA Coordinator[Signature]
Date[Signature]
Purchasing Officer8/8/01
Date[Signature]
Grant Coordinator[Signature]
Date

STAFF RECOMMENDATION: Staff recommends approval of agreement.

[Signature]
Division Head[Signature]
Date[Signature]
Cross Reference[Signature]
Department Director[Signature]
DateNew Item: **Yes** **No**[Signature]
Administrative Services Director8/8/01
DatePrev Ord/Res #: [Signature][Signature]
or8/9/01
DateOrig Contract Date: [Signature]Orig Contract Number: 773



THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and City Council

FROM: Ted Webber, Administrative Services Director

DATE: August 8, 2001

SUBJECT: Continuation of Financial Advisor Services - Wastewater System Improvement Project

In August 2000, the City approved a letter agreement with Stephens Inc. where Stephens Inc. would provide financial advisory services in conjunction with the City's Wastewater System Improvements Project.

The original contracting authorization approved by City Council was for an amount not to exceed \$22,500. Through July 31, 2001, the City has utilized \$19,913 of the original authorization. Staff is requesting authority for continuing financial advisory services. Staff estimates that an additional \$15,000 will be sufficient to provide the services needed through the completion of the financing agreements for the Wastewater System Improvement Project. Stephens Inc. agreed to provide financial advisory services to the City for a three year time period or until the financing of the Wastewater System Improvement Project was completed.

RESOLUTION NO. 104-00

A RESOLUTION APPROVING A LETTER AGREEMENT IN AN AMOUNT NOT TO EXCEED \$22,500, WITH STEPHENS, INC. TO PROVIDE FINANCIAL ADVISORY SERVICES ON THE WASTEWATER TREATMENT PLANT EXPANSION PROJECT AT A RATE OF \$225/PER HOUR (RESTRICTIVE TO CERTAIN IDENTIFIED INDIVIDUALS); AND APPROVAL OF A BUDGET ADJUSTMENT.

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

Section 1. That the City Council hereby approves a letter agreement in an amount not to exceed \$22,500, with Stephens, Inc. to provide financial advisory services on the wastewater treatment plant expansion project at a rate of \$225/per hour (restrictive to certain identified individuals); and authorizes the Mayor and City Clerk to execute said agreement. A copy of the letter agreement is attached hereto marked Exhibit "A" and made a part hereof.

Section 2. The City Council here approves a budget adjustment in the amount of \$22,500 increasing Professional Services, Acct. No. 5400 5700 5314 00, Project No. 98047 40 by decreasing Waterline Improvements, Acct. No. 5400 5600 5808 00, Project No. 99084 1. A copy of the budget adjustment is attached hereto marked Exhibit "B" and made a part hereof.

PASSED AND APPROVED this 1st day of August, 2000.



APPROVED:

By: _____

Fred Hanna, Mayor

ATTEST:

By: _____

Heather Woodruff, City Clerk

EXHIBIT A

Stephens Inc.

Dennis R. Hunt
Senior Vice President and Manager

July 5, 2000

Mr. John Maguire
Administrative Services Director
City of Fayetteville
113 W Mountain
Fayetteville, AR 72701

RE: Agreement for Financial Advisory Services

Dear Mr. Maguire:

This letter is to serve as an engagement agreement between the City of Fayetteville, Arkansas ("the City") and Stephens Inc ("Stephens") pursuant to which Stephens will serve as Financial Advisor to the City to assist with the financing of the City's Wastewater Treatment Plant Expansion Project (WWTP). Our firm was selected to act in such capacity as a result of its response to the City's Request for Proposals dated May 23, 2000 ("RFP 2000-12"). Based on the City's RFP and information in our proposal, we have agreed as follows:

1. Services to be provided. Subject to the direction of the City, Stephens will provide advisory services as presented below:

Development of a Plan of Finance

- a) Stephens will assist in developing a financing plan and recommend financing alternatives designed to assure that the City's goals and objectives are met.
- b) In the course of this preliminary work, Stephens will analyze the City's capacity to support the proposed debt and make recommendations regarding the financing structure, which will insure that the City has available sufficient funds for annual debt service payments and operational flexibility.
- c) Stephens' professionals will attend public meetings to present information regarding the recommended Plan of Finance.

Management of the Financing

- a) As the City's Financial Advisor, Stephens will manage all aspects of the financing.
- b) Stephens will assist the City in the selection of other members of the project team including underwriters, attorneys, trustees and other parties as required.

Investment Bankers
www.stephens.com

2592 North Gregg Avenue • Suite 1 • Fayetteville, Arkansas 72073 • 501-718-7400 • Fax 501-718-7490
800-205-8613 • dhunt@stephens.com

July 21, 2000

- c) Stephens will develop a financing timetable that assigns specific responsibilities to the project team. The timetable will be monitored throughout the financing process and amended as required.
- d) Stephens will be responsible for coordinating the work of all members of the financing team including the City's staff and officials, state agencies, bond counsel, underwriters, engineers, accountants, printers, rating agencies and credit enhancement providers.
- e) Should the City seek ratings and/ or credit enhancement, Stephens will coordinate preparation and presentation of information to the rating agencies and credit enhancement providers.
- f) Stephens will work with attorneys in drafting documents that provide the City with maximum operational flexibility and insure the integrity of the transaction.

Support of City Officials and Staff

- a) Stephens' professionals will provide information for public briefings and attend meetings as requested by the City.
- b) Stephens' professionals will keep the financing on schedule in order to meet all public commitments.

Implementation of Financing Plan

- a) Stephens will advise the City on proper timing of the sale of the securities in order to take advantage of maximum investor demand and windows of opportunity in the marketplace.
- b) Stephens will advise the City on pricing of the issue to provide for lowest possible debt service costs.
- c) Stephens will manage the closing of the financing and the delivery of funds to the City.
- d) Stephens will advise the City on interim investment of financing proceeds.
- e) Stephens will be available following the closing of each financing to work with the City should any issues arise.

2. Compensation. As compensation for our services, Stephens shall receive \$225.00 per hour for services rendered by professionals employed by Stephens, identified as Dennis Hunt, Mark McBryde and Ron Pyle, plus out-of-pocket expenses incurred in connection with the provision of such services by Stephens. Out-of-pocket expenses shall be limited to out of the city travel and priority mail costs. Each out of pocket expense shall be subject to approval by the City.

Stephens will invoice the City for its services on a monthly basis or at other such intervals acceptable to the City, and invoices will be due and payable within 30 days of receipt by the City. Each invoice will present a description in reasonable detail of the services performed, including dates and professionals providing such services, and of the expenses incurred.

July 21, 2000

3. Term. This contract shall remain in effect until the earlier of the completion of the WWTP financing or up to three years from the date of this agreement with an option for renewal by the City for an additional two years. In the event that current plans to finance the WWTP principally through ADEQ are not feasible, the City and Stephens may mutually cancel this agreement which would permit Stephens to compete in the sale of bonds or other financing by the City.

If the foregoing accurately describes our agreement for this financing, please sign and return one copy as indicated below.

Sincerely,

Dennis Hunt

Dennis Hunt
Senior Vice President

by WW

Agreed and Accepted on August 1, 2000.

City of Fayetteville, Arkansas

By: *Fred Hunter*

DH/whw

AUG 09 2001

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

XX AGENDA REQUEST
 CONTRACT REVIEW
 GRANT REVIEW

For the Fayetteville City Council meeting of August 21, 2001

<u>Ted Webber</u>	<u>Admin Services</u>	<u>Admin Services</u>
Name	Division	Department

COST TO CITY:

BUDGET REVIEW: X Budgeted Item, Budget Adjustment Attached

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

STAFF RECOMMENDATION: Staff recommends approval of agreement.

Division Head _____ Date _____

Cross Reference

Department Director _____ Date _____

New Item: Yes No

Greg Wolden 8/8/01
Administrative Services Director Date

Prev Ord/Res #: _____

For Nan Cody Date 8/9/68

Orig Contract Date:_____

Orig Contract Number:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and City Council

FROM: Ted Webber, Administrative Services Director *(TW)*

DATE: August 8, 2001

SUBJECT: Continuation of Rate Analysis Services - Wastewater System Improvement Project

Staff is requesting City Council's approval of a change order increasing the contracting authority with Black & Veatch for Black & Veatch to perform rate analysis and other continuing services to the City for the Water & Sewer System for 2001. The services would primarily be in conjunction with the City's Wastewater System Improvements Project.

The City entered into an agreement with Black & Veatch in March, 2001 for rate analysis services necessary for the Wastewater System Improvements project. Staff has been advised that the original contract amount has been used and additional contracting authority will be needed for future analysis services. Staff estimates that an additional \$20,000.00 will be sufficient to provide the services needed through the completion of the financing agreements for the Wastewater System Improvement Project.

atch

ADDENDUM NO. 1
To
CONTINUING SERVICES AGREEMENT

Between
City of Fayetteville and Black & Veatch Corporation

In accordance with the Agreement effective March 14, 2001 between City of Fayetteville, Arkansas (Client) and Black & Veatch Corporation (Consultant), Consultant agreed to perform consulting services as requested by Client. Services to date include:

- Analyses related to determination of the impact of additional debt service on existing sewer rates;
- Meeting in Fayetteville May 23, 2001 with representatives of the City, representatives of Arkansas Department of Environmental Quality, and City's engineering consultants;
- Preparation and submittal of material related to EPA User Charge requirements, and meeting in Little Rock July 12, 2001 with Arkansas Department of Environmental Quality to discuss compliance of sewer rates;
- Preparation of material related to sewer rate methodology and impact of alternative financing scenarios for Public Meeting in Fayetteville July 26, 2001, and attendance at that meeting.

The authorized fee in the original Agreement has been expended as a result of the above activities. In anticipation of requests by Client to conduct additional services of a similar nature, Consultant requests that the authorized fee under the Continuing Services Agreement be increased by \$20,000.

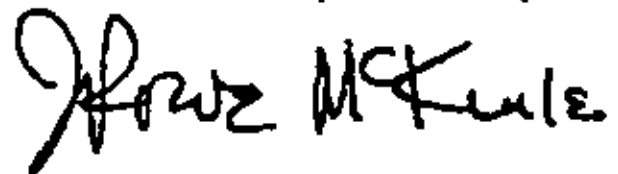
Work performed by Consultant under this Addendum No. 1 will only be undertaken at the request of Client.

City of Fayetteville, Arkansas (CLIENT)

By: _____

Date: _____

Black & Veatch Corporation (CONSULTANT)

By: 

Date: August 8, 2001

CONSULTING SERVICES AGREEMENT

This Agreement, effective March 14, 2001, is between City of Fayetteville, Arkansas (CLIENT) and BLACK & VEATCH CORPORATION (CONSULTANT). CONSULTANT shall perform the services described in attached Exhibit A--Scope of Services (Services) and shall be paid in accordance with attached Exhibit B--Compensation.

1. CONSULTANT warrants that it shall perform the Services in accordance with the standards of care and diligence normally practiced by recognized consulting firms in performing services of a similar nature. *No other warranty, express or implied, is included in this Agreement or in any drawing, specification, report, or opinion produced pursuant to this Agreement.*
2. CONSULTANT shall maintain in force, during the period that the Services are performed, workers' compensation insurance in accordance with the laws of the states having jurisdiction over CONSULTANT's employees who are engaged in the Services and employer's liability insurance with a limit of \$100,000 each occurrence. CONSULTANT also shall maintain commercial general liability and automobile liability insurance policies, each with combined single limits of \$1,000,000 per occurrence, and professional liability insurance with an aggregate limit of \$1,000,000.
3. CONSULTANT shall indemnify CLIENT against any and all claims, demands and causes of action for bodily injury to or death of persons or for damage to or destruction of property resulting solely from any and all negligent physical acts of CONSULTANT while at CLIENT's facility.
4. In performance of the Services, it is understood that CONSULTANT may be supplied with certain information and/or data by CLIENT and/or others, and that CONSULTANT will rely on such information. It is agreed that the accuracy of such information is not within CONSULTANT's control and CONSULTANT shall not be liable for its accuracy, nor for its verification, except to the extent that such verification is expressly a part of CONSULTANT's Scope of Services.
5. CONSULTANT shall retain its rights in its standard drawing details, designs, specifications, databases, computer software, models and any other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of the CONSULTANT.
6. CLIENT may, with or without cause, terminate the Services at any time upon ten working days written notice to CONSULTANT. In such case, CONSULTANT shall be paid costs incurred and fees earned to the date of termination and through demobilization and neither party shall be entitled to any other compensation or damages from the other.
7. CLIENT may audit and inspect CONSULTANT's records and accounts covering reimbursable costs for a period of six months following the completion of CONSULTANT's Services. The purpose of any such audit shall be only for verification of such costs. CONSULTANT shall not be required to keep records of or provide access to those of its costs expressed as fixed rates, a lump sum, or as a percentage of other costs.
8. CONSULTANT's opinions, estimates, projections, and forecasts of current and future costs, revenues, other levels of any sort, and events shall be made on the basis of available information and CONSULTANT's expertise and qualifications as a professional. CONSULTANT does not warrant or guarantee that its opinions, estimates, projections or forecasts of current and future levels and events will not vary from CLIENT's estimates or forecasts or from actual outcomes.
9. The parties agree to look solely to each other with respect to performance of this Agreement. CONSULTANT may subcontract portions of the Services to its successor, related or affiliated entities. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than CLIENT and CONSULTANT. Except for CLIENT's obligation to make payments, neither party shall be in default hereunder to the extent such default is caused by a cause or circumstance beyond such party's reasonable control.
10. Neither party shall be responsible or held liable to the other party for special, indirect, incidental, punitive, exemplary, or consequential damages, including, but not limited to, loss of profit, loss of investment, loss of product, or business interruption. CONSULTANT's total aggregate liability under this Agreement for any reason whatsoever shall not exceed the compensation received by CONSULTANT under this Agreement, and CLIENT agrees to release, defend, indemnify, and hold CONSULTANT harmless from and against any and all further liability in excess thereof arising in any manner from the Services. In the event such provision is determined to exceed the maximum scope allowed by law, said provision shall be interpreted and enforced so as to preserve the indemnity, release or limitation to the maximum extent allowable. The warranties, obligations, liabilities and remedies of the parties, as provided herein, are exclusive and in lieu of any others available at law, equity or otherwise. Indemnifications against, releases from, and limitations of liability and waivers of subrogation shall apply notwithstanding the fault, negligence (whether active, passive, joint or concurrent), strict liability or other theory of legal liability of the party indemnified, released or whose liability is limited and shall be effective to, and only to, the maximum extent allowable by law.

This Agreement and the attached Exhibits constitute the entire Agreement. No other representations of any kind, oral or otherwise, shall have any effect. This Agreement shall be governed by the laws of the state of Missouri, without giving effect to the principles thereof relating to conflicts of law.

City of Fayetteville, Arkansas (CLIENT)

By: [Signature]
Date: 3/14/01

Black & Veatch Corporation (CONSULTANT)

By: [Signature]
Date: 3/14/01

ATTACHMENT A

CONTINUING SERVICES Scope of Services

1. Black & Veatch will conduct an analysis to estimate the impact of capital expenditures on the bills of sewer customers of the City of Fayetteville. The purpose of the analysis is to illustrate the impact of funding the proposed Wastewater Treatment Plant with revenue bonds. It is anticipated the analysis will include the following steps:
 - Estimate billable sewer volumes by customer classification based on information provided by the City.
 - Determine the amount of additional annual debt service that can be incurred under existing sewer rates while maintaining the minimum required debt service coverage. It is understood for purposes of this analysis that annual debt service will not exceed \$7,500,000. This portion of the analysis will be based on revenue and expense information for 2000 to be provided by the City.
 - Determine the percentage increase in sewer sales revenues under existing rates required for each additional \$1,000,000 in annual revenue bond debt service.
 - Develop a spreadsheet to compute the increase in sewer bills per million dollars of revenue bond debt service. The spreadsheet will include various levels of billable sewage volumes for residential and commercial customers both inside and outside the City, and the wholesale customer.
 - The analysis will be completed and submitted to the City by March 23, 2001, assuming required basic data is received by Black & Veatch by March 16, 2001
2. Black & Veatch will perform additional consulting services as requested by the City. Such services may include, but are not limited to, additional financial analyses and development of financing plans or rate structures, engineering and financial feasibility studies for the issuance of revenue bonds, meetings or presentations, and other related studies and services.

ATTACHMENT B

CONTINUING SERVICES Compensation

Charges for services provided under this Continuing Services Agreement will be invoiced at the following standard rates:

	<u>Hourly Billing Rates</u> \$/Hour
Director	193.00
Senior Consultant	158.00
Consultant	140.00
Associate	103.00

Plus direct out-of-pocket expenses at cost.

Charges will be invoiced to Client at the end of each of Consultant's standard monthly accounting periods based upon the above fee schedule and the direct time and expense charges to the project during the preceding accounting period. All invoices are due upon receipt and if not paid within 30 days will accrue interest at the lessor of 1-1/2 percent per month or the maximum rate allowed by law.

The fee for completion of analyses described in Item 1 of Attachment A is estimated at \$2300. If Item 1 can be completed for less than this amount, the City will be billed only for the time and expenses incurred.

Total fees under this Continuing Services Agreement shall not exceed \$20,000.

STAFF REVIEW FORM

_____ AGENDA REQUEST
 _____ CONTRACT REVIEW
 _____ GRANT REVIEW

For the Fayetteville City Council meeting of _____

FROM:

Yolanda Fields _____ Community Development _____ Urban Development _____
 Name Division Department

ACTION REQUIRED:

Approval to increase contract amount for Project for Victims of Family Violence architectural services.

COST TO CITY:

\$25,000.00

\$25,000.00

PVFV

Cost of this Request

Category/Project Budget

Category/Project Name

2180-4940-5390-27

Capital Improvements

Account Number

Funds Used To Date

Program Name

Project Number

Remaining Balance

Fund

BUDGET REVIEW:

_____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

Grants Coordinator

Date

STAFF RECOMMENDATION: Approval of the sub-recipient grant agreement and the release of funds.

Division Head

Date

Cross Reference

Department Director

Date

New Item: **No**

Administrative Services Director

Date

Prev Ord/Res #: **107-99**

Mayor

Date

Orig Contract Date: **August 17, 1999**

STAFF REVIEW FORM

Description: Approval to increase contract amount

Meeting Date _____

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

Internal Auditor

ADA Coordinator

Grants Coordinator

DEPARTMENTAL CORRESPONDENCE

DATE: July 17, 2001

TO: The Mayor and Council

FROM: Hugh Earnest
Urban Development Director

SUBJECT: Contract Amendment for the Project of Victims of Family Violence (PVFV)

Background

The City of Fayetteville entered into a contract with Foster/Witsell/Evans & Rasco on August 17, 1999 for Architectural Services to design, provide drawings, and construction management of a new shelter for Project of Victims of Family Violence (PVFV). Resolution #107-99 and Contract #727. In December 2000 Foster relocated to Amirmoez, Foster, Hailey, Johnson.

Current Status

The council is being asked to approve the Amendment to the contract with Amirmoez, Foster, Hailey, Johnson. The project plans and bid packet are in the final stage for bidding the project.

Recommendation

The staff recommends approval of this amendment.

AMENDMENT TO THE AGREEMENT WITH

Amirmoez, Foster, Hailey, Johnson

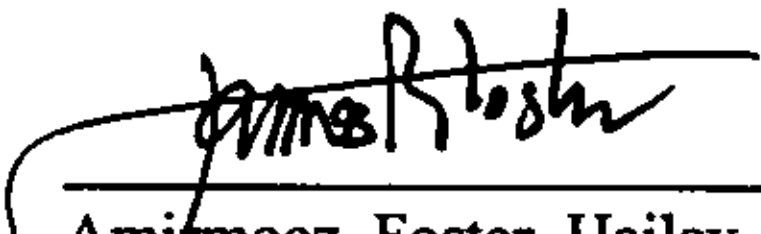
AMENDMENT # 4

This is an amendment to the agreement for Architectural Services executed on August 17, 1999 between the City of Fayetteville, Arkansas and Foster, Witsell, Evans, Rasco, d.b.a. Amirmoez, Foster, Hailey, Johnson. Additional Services required due to; increased building and site elevations, increase storm drainage pipe size, add a sidewalk, bicycle rack, privacy fencing, buried utilities along with construction cost. The charge for additional services shall not exceed \$25,000.00.

Existing P.O. # 01-0000213-001, Contract # 727

Mayor, City of Fayetteville

Date: _____



Amirmoez, Foster, Hailey, Johnson

PRINCIPAL

Title

Date: 7/23/01

MEMORANDUM

July 11, 2001

To: Don Hancock
Jamie Highfill

From: Jim Foster

Reference: PVFV, 1932 S. Garland, Fayetteville
Statement of Probable Construction Cost Update

With construction documents completed and the City's planning review process finalized, we are submitting this updated statement of probable construction cost. Be aware that we do not have control over the construction market or bidding climate and therefore do not warrant that bids will not vary from our estimate.

Construction Document Phase Statement of Probable Construction Cost

Demolition	6,000
Excavation & Fill	30,000
Drainage	10,000
Water & sewer service	16,000
Buried electric, tele, cable service	12,000
Termite Control	1,500
Sidewalk / Patio paving	10,000
Parking & Drive Paving	27,500
Fence	8,500
Playground equipment	0
Landscape, soil & sod only	3,000
Trees and other plantings	10,000
Concrete foundation	28,000
Concrete floor slab	28,000
Rough carpentry & siding, walls	40,000
Roof structure and decking	53,000
Finish carpentry, cabinets	24,000
Roofing	34,000
Windows	18,000
Doors	11,000
Drywall	10,000
Insulation	10,000
Acoustical ceiling	9,000
Floor covering	19,000
Painting	25,000
Bldg Specialties, partitions	15,000
Kitchen Equipment	0
Plumbing	32,000
HVAC	36,000
Electrical	56,000
Fire Sprinkler	25,000
Job site overhead	50,000
Contractor's OH & P	56,000
Total	\$713,500

This could be compared with our construction cost statement dated 2/26/01 of \$691,500. Factors which have caused the estimate to increase include requirements imposed by the Planning Commission review process to raise the building and site elevations, increase storm drain pipe size, add a sidewalk, bicycle rack, and additional privacy fence. The cost for buried utilities was adjusted slightly since we had not previously shown conduit for telephone and cable to Head Start. I increased the linear foot cost for privacy fencing after checking cost data. Finally, lumber prices have risen significantly in the last two months.

RESOLUTION NO. 107-99

A RESOLUTION APPROVING A CONTRACT WITH FOSTER, WITSELL, EVANS AND RASCO, IN THE AMOUNT OF \$51,900 AND A PROJECT CONTINGENCY OF \$5,190, FOR ARCHITECTURAL SERVICES IN CONJUNCTION WITH CONSTRUCTION OF A SHELTER AND OFFICES FOR THE PROJECT FOR VICTIMS OF FAMILY VIOLENCE.

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

Section 1. That the City Council hereby approves a contract with Foster, Witsell, Evans and Rasco, in the amount of \$51,900 and a project contingency of \$5,190, for architectural services in conjunction with construction of a shelter and offices for the Project for Victims of Family Violence. A copy of the contract is attached hereto as Exhibit "A" and is made a part hereof.

PASSED AND APPROVED this 17th day of August, 1999.

APPROVED:

By: _____

Fred Hanna, Mayor

ATTEST

By: _____

Heather Woodruff, City Clerk



STAFF REVIEW FORM

AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

the Fayetteville City Council meeting of _____

FROM:

Yolanda Fields
Name

Community Development
Division

Urban Development
Department

ACTION REQUIRED:

Approval to increase contract amount for Project for Victims of Family Violence architectural services.

COST TO CITY:

\$25,000.00

\$25,000.00

PVFFV

Cost of this Request

Category/Project Budget

Category/Project Name

2180-4940-5390-27

Capital Improvements

Account Number

Funds Used To Date

Program Name

Project Number

Remaining Balance

Comm. Dev.

Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

Grants Coordinator

Date

STAFF RECOMMENDATION: Approval of the sub-recipient grant agreement and the release of funds.

Division Head

Date

Cross Reference

Department Director

Date

New Item: **No**

Administrative Services Director

Date

Prev Ord/Res #: **107-99**

Mayor

Date

Orig Contract Date: **August 17, 1999**

STAFF REVIEW FORM

Description: Approval to increase contract amount

Meeting Date _____

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

Internal Auditor

ADA Coordinator

Grants Coordinator

DEPARTMENTAL CORRESPONDENCE

DATE: July 17, 2001

TO: The Mayor and Council

FROM: Hugh Earnest
Urban Development Director

SUBJECT: Contract Amendment for the Project of Victims of Family Violence (PVFV)

Background

The City of Fayetteville entered into a contract with Foster/Witsell/Evans & Rasco on August 17, 1999 for Architectural Services to design, provide drawings, and construction management of a new shelter for Project of Victims of Family Violence (PVFV). Resolution #107-99 and Contract #727. In December 2000 Foster relocated to Amirmoez, Foster, Hailey, Johnson.

Current Status

The council is being asked to approve the Amendment to the contract with Amirmoez, Foster, Hailey, Johnson. The project plans and bid packet are in the final stage for bidding the project.

Recommendation

The staff recommends approval of this amendment.

AMENDMENT TO THE AGREEMENT WITH

Amirmoez, Foster, Hailey, Johnson

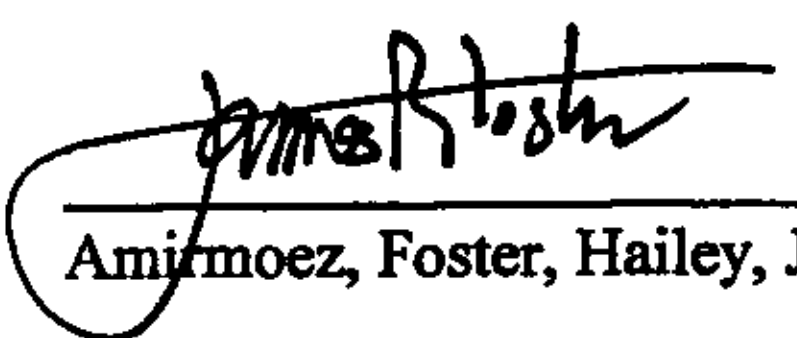
AMENDMENT # 4

This is an amendment to the agreement for Architectural Services executed on August 17, 1999 between the City of Fayetteville, Arkansas and Foster, Witsell, Evans, Rasco, d.b.a. Amirmoez, Foster, Hailey, Johnson. Additional Services required due to; increased building and site elevations, increase storm drainage pipe size, add a sidewalk, bicycle rack, privacy fencing, buried utilities along with construction cost. The charge for additional services shall not exceed \$25,000.00.

Existing P.O. # 01-0000213-001, Contract # 727

Mayor, City of Fayetteville

Date: _____



Amirmoez, Foster, Hailey, Johnson

PRINCIPAL

Title

Date: 7/23/01

Amirmoez•Foster•Hailey•Johnson

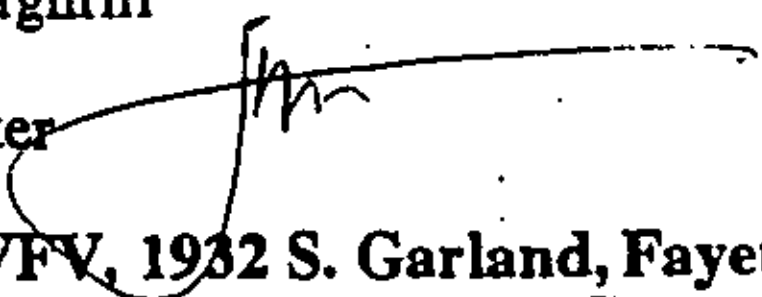
A•F•H•J

Architects & Planners

MEMORANDUM

July 11, 2001

To: Don Hancock
Jamie Highfill

From: Jim Foster 

Reference: PVFV, 1932 S. Garland, Fayetteville
Statement of Probable Construction Cost Update

With construction documents completed and the City's planning review process finalized, we are submitting this updated statement of probable construction cost. Be aware that we do not have control over the construction market or bidding climate and therefore do not warrant that bids will not vary from our estimate.

Construction Document Phase Statement of Probable Construction Cost

Demolition	6,000
Excavation & Fill	30,000
Drainage	10,000
Water & sewer service	16,000
Buried electric, tele, cable service	12,000
Termite Control	1,500
Sidewalk / Patio paving	10,000
Parking & Drive Paving	27,500
Fence	8,500
Playground equipment	0
Landscape, soil & sod only	3,000
Trees and other plantings	10,000
Concrete foundation	28,000
Concrete floor slab	28,000
Rough carpentry & siding, walls	40,000
Roof structure and decking	53,000
Finish carpentry, cabinets	24,000
Roofing	34,000
Windows	18,000
Doors	11,000
Drywall	10,000
Insulation	10,000
Acoustical ceiling	9,000
Floor covering	19,000
Painting	25,000
Bldg Specialties, partitions	15,000
Kitchen Equipment	0
Plumbing	32,000
HVAC	36,000
Electrical	56,000
Fire Sprinkler	25,000
Job site overhead	50,000
Contractor's OH & P	56,000
Total	\$713,500

This could be compared with our construction cost statement dated 2/26/01 of \$691,500. Factors which have caused the estimate to increase include requirements imposed by the Planning Commission review process to raise the building and site elevations, increase storm drain pipe size, add a sidewalk, bicycle rack, and additional privacy fence. The cost for buried utilities was adjusted slightly since we had not previously shown conduit for telephone and cable to Head Start. I increased the linear foot cost for privacy fencing after checking cost data. Finally, lumber prices have risen significantly in the last two months.

STAFF REVIEW FORM

AGENDA REQUEST
XX CONTRACT REVIEW
GRANT REVIEW

From the Fayetteville City Council meeting of _____

FROM:

Yolanda Fields Community Development Urban Development
Name Division Department

ACTION REQUIRED:

Approval of this sub-recipient grant agreement to the Project for Victims of Family Violence.

COST TO CITY:

\$87,500.00	\$87,500.00	PVFFV
Cost of this Request	Category/Project Budget	Category/Project Name
2180-4940-5390-27	\$-0-	Capital Improvements
Account Number	Funds Used To Date	Program Name
	\$ 87,500.00	Comm. Dev.
Project Number	Remaining Balance	Fund

BUDGET REVIEW: Budgeted Item Budget Adjustment Attached

Budget Manager Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager	Date	Internal Auditor	Date
<i>[Signature]</i>	8-7-01		
City Attorney	Date	ADA Coordinator	Date
<i>[Signature]</i>	8-8-01		
Purchasing Officer	Date	Grants Coordinator	Date

STAFF RECOMMENDATION: Approval of the sub-recipient grant agreement and the release of funds

Division Head 8/7/01
[Signature] Date
Department Director 8-10-01
Date

Administrative Services Director Date

Mayor Date

Cross Reference

New Item: No

Prev Ord/Res #: 55-01

Orig Contract Date: April 17, 2001

STAFF REVIEW FORM

Description: Approval of the sub-recipient grant agreement

Meeting Date _____

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

Internal Auditor

ADA Coordinator

Grants Coordinator

DEPARTMENTAL CORRESPONDENCE

DATE: August 7, 2001

TO: The Mayor and Council

FROM: Hugh Earnest
Urban Development Director

SUBJECT: Sub-recipient Grant Agreement with Project for Victims of Family Violence (PVFV)

Background

The City of Fayetteville's 2001 Consolidated Action Plan covering the expenditures of \$665,000 was submitted to HUD in November 2000. The City Council accepted the block grant by resolution in April of this year. By way of explanation, that action included the \$87,500.00 now being formally endorsed for funding.

Current Status

The council is being asked to approve a sub-recipient grant agreement with the Project for Victims of Family Violence (PVFV) in the amount of \$87,500. The project plans and bid packet are in the final stages for bidding the construction of the project.

Recommendation

The staff recommends approval of this resolution.

ATTACHMENT

A

COMMUNITY DEVELOPMENT BLOCK GRANT
PROJECT PROGRAM LIST

South Fayetteville Community Development Corp.	\$80,000
Quality Life Associates	\$100,000
Sage House	\$87,500
Project for Victims of Family Violence	\$87,500
Sources for Community Independent Living Services	\$32,000
Fayetteville Boys and Girls Club	\$16,600
Life Styles	\$11,000
Administration	\$119,162
Housing	\$80,838
Public Service	\$50,400
Taxi	
Yvonne Richardson Center	
	<u>\$665,000</u>

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SUB-RECIPIENT GRANT AGREEMENT

This Agreement, is entered into on this _____ day of _____, , between the City of Fayetteville, hereinafter known as the "City", and the Project for Victims of Family Violence hereinafter known as the PVFV an Arkansas non-profit corporation.

WHEREAS the City has received funding from the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funds from the CDBG Entitlement Cities program established under Title I of the Housing and Community Development Act of 1974, as amended, and the rules, regulations, policy memoranda, and other authority thereunder collectively, the "Act", and administered by the City;

WHEREAS the Act contains certain requirements regarding the use of CDBG funds to fulfill a "national objective" as defined in the Act; the national objective to be fulfilled by the PVFV is: **Have designed and construct a public shelter for homeless abused persons and children.**

WHEREAS the Act prohibits discrimination under any program or activity funded with CDBG monies on the basis of race, color, national origin, sex, age or handicap;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and the PVFV agree as follows:

1. The City hereby designates and the PVFV hereby agrees to serve as the sub-recipient of the City's CDBG Entitlement Grant and to administer such grant in accordance with this agreement, and the Act.
2. The PVFV certifies that the activities carried out with funds provided under this Agreement will meet the CDBG Program's National Objective.
3. Upon execution of this Agreement, the City agrees to allocate the amount of **Eighty-Seven Thousand, Five Hundred Dollars (\$87,500.00)** from the 2001 CDBG.
4. This Agreement shall begin on the date first written above.
5. Statement of work: **Hire an architect to design the building, the City bid the project, and construct a new building, have the old building torn down and removed, with the architect overseeing the entire project.**

SUB-RECIPIENT GRANT AGREEMENT

page 2 of 7

6. **Other requirements. The PVFV shall provide all additional funding over the amount the City has set aside for the project, which includes architects fees and the construction of the project, to include 15% of the construction cost as a contingency. The architect shall be paid directly by the City. The project will not be sent out for bids until all funding for the project has been attained. The construction contract shall be between the City and the General Contractor. No changes to the bid documents are allowed without the express written consent of the City. Any authorized changes in the scope of the project shall be funded by the PVFV and deposited into city escrow account.**
7. **Scope of Services; The PVFV agrees: To provide a shelter for abused persons and children, especially for low income families.**
 - (a) **Describe Project particulars: The PVFV shall have plans and bid packets assembled for the construction project and have the architect oversee the construction of the project.**
 - (b) **Describe other responsibilities directly or indirectly related to the project. The PVFV shall be responsible to raise the additional funding required to construct the building.**
 - (c) **To make available all records for review by the City, and HUD personnel as requested.**
 - (d) **To furnish to the City at the completion of the project a summary report on the project and its particulars.**
 - (e) **To comply with all applicable federal, state, and local laws and regulations pertaining to the performance of the CDBG grant, including but not limited to;**
 - * **Fair Housing Act (42 U.S.C. 3601-20).**
 - * **Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), and Implementing regulations in 24CFR Part 1, together with section 109 of the Act (see 560.602), prohibit discrimination in any program or activity funded in whole or in part with funds made available under this part.**
 - * **24 CFR Part 35 Requirements for Notification, Evaluation and Reduction of Lead-based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance.**
 - * **24 CFR Part 39 Energy conservation standards.**
 - * **24 CFR Part 570.502 Grant Administration.**
 - * **24 CFR Part 570.504 Program Income.**
 - * **24 CFR Part 570.604 Environmental Standards. The procedures for carrying out such environmental responsibilities are contained in (24 CFR Part 58).**
 - * **24 CFR Part 570.605 Flood Insurance**
 - * **24 CFR Part 570.607 Employment & Contracting Opportunities for low income persons.**

SUB-RECIPIENT GRANT AGREEMENT
page 3 of 7

- * 24 CFR 570.609 Use of Debarred Contractors.
 - * 24 CFR 570.611 Conflict of Interest
 - * 24 CFR 570.614 Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) & Americans With Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA).
- (f) To submit to the City any and all documents demonstrating compliance with all federal, state, and local rules and regulations. Such demonstrations shall be provided at the request of the City. The City's failure to request supporting documentation, however, shall not excuse any failure on the PVFV part to have complied with the applicable federal, state, and local rules and regulations.
- (g) That all contracts for services, and other procurement for materials, services, or construction shall be carried out in compliance with applicable federal, state, and local rules and regulations.
- (h) That authorized city, state, and federal officials and representatives will have access to all books, accounts, records, files, and other papers, things or property pertaining to the project in order to make audits, examinations, excerpts and transcripts.
8. Records and Reports:
- (a) The PVFV shall maintain sufficient records of beneficiary data with regard to the number and demographic character of low to moderate income persons benefitting from the project. Such records will include the following information:
- * Name, address, phone number.
 - * Age, gender, and race.
 - * Monthly/Annual household income including all household members over 18 years of age.
 - * Disability status.
 - * Single head of household w/children.
 - * Size of household.
- (b) The PVFV agrees to provide a report regarding the progress status of the project on a quarterly basis during the terms of this agreement. The report will contain the information described in paragraph 8(a) above. **After the PVFV takes occupancy of the building they shall submit a quarterly report to the City's Community Development Division containing the information required in paragraph 8a.**
- (c) The PVFV agrees to maintain records and reports related to the project for a period of not less than five years following the term of the Agreement.

SUB-RECIPIENT GRANT AGREEMENT
page 4 of 7

9. For the purposes of this Agreement, the Project Coordinator for the City shall be Don Hancock or his successor. The Project Coordinator for the PVFV shall be **Jamie Highfill** or her successor. Communications pertaining to this agreement shall be through the respective Project Coordinators for the City and the PVFV.

10. Terms of Performance.

- (a) The term of performance for this agreement shall expire **at the completion of the contract with the general contractor and the close out reports by the architect.** If this agreement is terminated or canceled in accordance with the terms, conditions, and procedures of this Agreement, within (30) days after termination of this agreement, the PVFV shall provide and turn over to the City all materials and property, including real property, books, accounts, records, files and other papers, or items pertaining to the project.
- (b) The City may consider an extension of the term of performance based on justifiable circumstances beyond the control of the PVFV. The PVFV shall make application and submit documentation to the City regarding such circumstances, and a proposal for the new time of constitute an amendment to the agreement.
- (c) The PVFV shall hold harmless, defend and indemnify the City, HUD and ADFA from any and all claims, actions, suits, charges and judgements whatsoever that arise out of the PVFV performance or nonperformance of the services or subject matter called for in this Agreement.

11. Budget.

- (a) It is expressly agreed and understood that the total amount to be paid to the PVFV from the 2001 CDBG shall not exceed **Eighty-Seven Thousand, Five Hundred Dollars (\$87,500.00).**
- (b) The general contractor shall render a request for payment through the architect, to the project coordinator for the City.

12. CDBG Assets.

- (a) Upon expiration or termination of this agreement, all CDBG funded assets on hand at the time of expiration, and any accounts receivable attributable to the use of CDBG funds, shall revert to the City to be disposed of in accordance of applicable federal rules, laws and regulations governing the disposition of property, assets and equipment purchased with federal funds.

SUB-RECIPIENT GRANT AGREEMENT

page 5 of 7

- (b) Any real property acquired or improved in whole or in part with CDBG funds in excess of \$25,000 under the PVFV control upon expiration or termination of this agreement shall be used to meet one of the national objectives contained in section 570.208 of the Act for a period of five (5) years after the expiration of the agreement, or for such longer period of time as determined to be appropriate by the City.
- (c) In the event that the real property is not used in accordance with paragraph 7, the PVFV shall pay to the City an amount equal to the current market value to the property less any portion of the value attributable to non-CDBG funding sources expended to improve the property.

13. Uniform Administrative Requirements

- (a) The PVFV shall conform to the requirements of OMB Circular No. A-122, Cost Principals for Non-Profit Organizations.
- (b) The PVFV shall Conform to the requirements of OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations.

- 14. Program Income: The PVFV agrees that any Program Income as defined by the Act generated by the project and pursuant to this agreement shall be administered as required by the Act and may be expended only upon prior notification and approval of the City.

- 15. Notices: All notices required or permitted under this agreement shall be submitted in writing to the other party to this agreement, by certified mail, return receipt requested, which notice shall be effective three (3) days after deposit therein addressed to the following:

City of Fayetteville
Community Development Division
Yolanda Fields,
Community Development Coordinator
113 west Mountain St.
Fayetteville, AR 72701

PVFV
Jamie Highfill
PVFV Executive Officer
P O Box 1932
Fayetteville, AR 72702

- 16. Conflict of Interest: The PVFV represents that none of its employees, officers, or directors presently have any interest, either directly or indirectly, which would conflict in any manner with the PVFV's performance or procurement under this Agreement, and that no person having such interest will be appointed or employed by the PVFV.

SUB-RECIPIENT GRANT AGREEMENT
page 6 of 7

17. **Tax Exempt Status:** Attachment A, attached hereto and made part hereof is a copy of the correspondence from the Internal Revenue Service dated **June, 8, 1998** confirming the 501(c)(3) tax exempt status of the **PVFFV**.
18. **Suspension and Termination**
- (a) **Remedies for noncompliance.** In accordance with 24 CFR 85.43 of the Act, if the **PVFFV** materially fails to comply with any term of an award, whether stated in a federal statute or regulation, an assurance, in a state plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:
- * Temporarily withhold cash payments pending correction of the deficiency by the **PVFFV** or more severe enforcement action by the City,
 - * Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the project, activity, or action not in compliance
 - * In whole or partly suspend or terminate the current award for the **PVFFV's** project.
 - * Withhold further awards for the project, or
 - * Take other remedies that may be legally available.
- (b) In taking an enforcement action, the City will provide the **PVFFV** an opportunity for appeal, or other administrative proceeding to which the **PVFFV** is entitled under statute or regulation applicable to the action involved.
- (c) **Costs of the agency resulting from obligations incurred by the PVFFV during a suspension or after termination of an award are not allowable unless the City expressly authorizes them in the notice of suspension or termination or subsequently. Other PVFFV costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:**
- * The costs result from obligations which were properly incurred by the **PVFFV** before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,
 - * The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.
- (d) **Relationship to debarment and suspension.** The enforcement remedies identified in this section, including suspension and termination, do not preclude the **PVFFV** from being subject to "Debarment and Suspension" under E.O. 12549 (see 24 CFR 85.35 of the Act).
- (e) The City's failure to enforce any term or condition of this Agreement shall not be construed as acceptance of the **PVFFV** non-compliance pursuant to this agreement and the City reserves the right to enforce a finding of non-compliance at any later time during the term of this Agreement.

SUB-RECIPIENT GRANT AGREEMENT
page 7 of 7

- (f) Termination for convenience. Except as provided in 24 CFR 85.43 award may be terminated in whole or in part only as follows:
- * By the City with the consent of the PVFV in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or
 - * By the PVFV upon written notification to the City, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the City determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the City may terminate the award in its entirety under either paragraph 18(a) or paragraph 18(f)(1) of this section.
19. Binding Effect: This Agreement shall be binding upon and shall ensure to the benefit of the parties hereto and their respective heirs and assigns; provided, however, that no assignment shall be effective to relieve a party of any liability under this Agreement unless the other party has consented in writing to the assignment and agreed to the release of such liability. The City and the PVFV hereby acknowledges receipt of a duly executed copy of this Agreement complete with all Exhibits attached hereto.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

PVFV


Jamie Highfill, Executive Director

City of Fayetteville

Dan Coody, Mayor


Attested By:

Attested By:

RESOLUTION NO. 107-99

A RESOLUTION APPROVING A CONTRACT WITH FOSTER, WITSELL, EVANS AND RASCO, IN THE AMOUNT OF \$51,900 AND A PROJECT CONTINGENCY OF \$5,190, FOR ARCHITECTURAL SERVICES IN CONJUNCTION WITH CONSTRUCTION OF A SHELTER AND OFFICES FOR THE PROJECT FOR VICTIMS OF FAMILY VIOLENCE.

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

Section 1. That the City Council hereby approves a contract with Foster, Witsell, Evans and Rasco, in the amount of \$51,900 and a project contingency of \$5,190, for architectural services in conjunction with construction of a shelter and offices for the Project for Victims of Family Violence. A copy of the contract is attached hereto as Exhibit "A" and is made a part hereof.

PASSED, AND APPROVED this 17th day of August, 1999.

APPROVED:

By: _____

Fred Hanna, Mayor

ATTENT

By: _____

Heather Woodruff, City Clerk



STAFF REVIEW FORM

AGENDA REQUEST
XX CONTRACT REVIEW
GRANT REVIEW

From the Fayetteville City Council meeting of _____

FROM:

Yolanda Fields Community Development Urban Development
Name Division Department

ACTION REQUIRED: Approval of this sub-recipient grant agreement with the South Fayetteville Community Development Corporation.

COST TO CITY:

<u>\$80,000.00</u>	<u>\$80,000.00</u>	<u>SFCDC</u>
Cost of this Request	Category/Project Budget	Category/Project Name
<u>2180-4940-5390-32</u>	<u>\$-0-</u>	<u>Housing Rehab.</u>
Account Number	Funds Used To Date	Program Name
	<u>\$80,000.00</u>	<u>Comm. Dev.</u>
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

Grants Coordinator

Date

STAFF RECOMMENDATION: Approval of the sub-recipient grant agreement and the release of funds

Division Head

Date

Cross Reference

Department Director

Date

New Item: No

Administrative Services Director

Date

Prev Ord/Res #: 55-01

Mayor

Date

Orig Contract Date: April 17, 2001

STAFF REVIEW FORM

Description: Approval of the sub-recipient grant agreement

Meeting Date _____

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

Internal Auditor

ADA Coordinator

Grants Coordinator

DEPARTMENTAL CORRESPONDENCE

DATE: August 6, 2001

TO: The Mayor and Council

FROM: Hugh Earnest
Urban Development Director

SUBJECT: South Fayetteville Community Development Corporation (SFCDC)

Background

The City of Fayetteville's 2001 Consolidated Action Plan covering the expenditures of \$665,000 was submitted to HUD in November 2000. The City Council accepted the block grant by resolution in April of this year. By way of explanation, that action included the \$80,000.00 now being formally endorsed for funding.

Current Status

The council is being asked to approve a sub-recipient grant agreement with the South Fayetteville Community Development Corporation board in the amount of \$80,000. The monies are to be used in the acquisition of land, demolition work and the construction of affordable housing in South Fayetteville. The services provided by this organization involve affordable housing for low income families. It is the intent of the SFCDC to use the money for the purchase of properties on which new homes will be constructed. The Bank of Fayetteville is assisting in the construction costs by providing budget loans and lines of credit.

Recommendation

The staff recommends approval of this resolution.

ATTACHMENT

A

COMMUNITY DEVELOPMENT BLOCK GRANT
PROJECT PROGRAM LIST

South Fayetteville Community Development Corp.	\$80,000
Quality Life Associates	\$100,000
Sage House	\$87,500
Project for Victims of Family Violence	\$87,500
Sources for Community Independent Living Services	\$32,000
Fayetteville Boys and Girls Club	\$16,600
Life Styles	\$11,000
Administration	\$119,162
Housing	\$80,838
Public Service	\$50,400
Taxi	
Yvonne Richardson Center	
	\$665,000

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SUB-RECIPIENT GRANT AGREEMENT

This Agreement, is entered into on this _____ day of _____, 2001 between the City of Fayetteville, hereinafter known as the "City", and the **South Fayetteville Community Development Corporation** hereinafter known as the **SFCDC** an Arkansas non-profit corporation.

WHEREAS the City has received funding from the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funds from the CDBG Entitlement Cities program established under Title I of the Housing and Community Development Act of 1974, as amended, and the rules, regulations, policy memoranda, and other authority thereunder collectively, the "Act", and administered by the City;

WHEREAS the Act contains certain requirements regarding the use of CDBG funds to fulfill a "national objective" as defined in the Act; the national objective to be fulfilled by the **SFCDC** is: **Removing blight & slum/construct affordable housing**, To assist with the removal of blight and slum from the South Fayetteville Community and to construct homes to be sold to low-to-moderate incomes families. To act as a catalyst for economic development and revitalization of South Fayetteville.

WHEREAS the Act prohibits discrimination under any program or activity funded with CDBG monies on the basis of race, color, national origin, sex, age or handicap;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and the **SFCDC** agree as follows:

1. The City hereby designates and the **SFCDC** hereby agrees to serve as the sub-recipient of the City's CDBG Entitlement Grant and to administer such grant in accordance with this agreement, and the Act.
2. The **SFCDC** certifies that the activities carried out with funds provided under this Agreement will meet the CDBG Program's National Objective.
3. Upon execution of the Agreement, the City agrees to allocate the amount of **Eighty Thousand Dollars (\$80,000.00)**.
4. This Agreement shall begin on the date first written above.
5. Statement of work: **Purchase land, remove blight & slum, construct affordable housing**. To act as a catalyst for economic development and revitalization of South Fayetteville.

SUB-RECIPIENT GRANT AGREEMENT
page 2 of 7

6. **Other requirements. Each project shall have a minimum of three bids in writing and sealed. All contractors shall carry general liability insurance. All gas, plumbing, electrical, and heating/ventilation/air conditioning contractors shall be licensed by the State of Arkansas.**
7. **Scope of Services; The SFCDC agrees: To provide affordable homes to families earning between 50% and 80% of the area median income, adjusted for family size.**
 - (a) **Describe Project particulars: The SFCDC shall have plans and bid packets assembled for each construction project. Each of the residences will have accessibility for the disabled such as; wheelchair ramps, 36" doorways, installing handrails, grab bars and/or other assisting devices.**
 - (b) **Describe other responsibilities directly or indirectly related to the project. The SFCDC in cooperation with other agencies will be responsible to advertise and sell the homes to qualified low-income families.**
 - (c) **To make available all records for review by the City, and HUD personnel as requested.**
 - (d) **To furnish to the City at the completion of each project, a summary report on the project and its particulars.**
 - (e) **To comply with all applicable federal, state, and local laws and regulations pertaining to the performance of the CDBG grant, including but not limited to;**
 - * **Fair Housing Act (42 U.S.C. 3601-20).**
 - * **Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), and Implementing regulations in 24CFR Part 1, together with section 109 of the Act (see 560.602), prohibit discrimination in any program or activity funded in whole or in part with funds made available under this part.**
 - * **24 CFR Part 35 Requirements for Notification, Evaluation and Reduction of Lead-based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance**
 - * **24 CFR Part 39 Energy conservation standards.**
 - * **24 CFR Part 570.502 Grant Administration.**
 - * **24 CFR Part 570.504 Program Income.**
 - * **24 CFR Part 570.604 Environmental Standards. The procedures for carrying out such environmental responsibilities are contained in (24 CFR Part 58).**
 - * **24 CFR Part 570.605 Flood Insurance**
 - * **24 CFR Part 570.607 Employment & Contracting Opportunities for low income persons.**
 - * **24 CFR 570.609 Use of Debarred Contractors.**
 - * **24 CFR 570.611 Conflict of Interest**

SUB-RECIPIENT GRANT AGREEMENT

page 3 of 7

- * 24 CFR 570.614 Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) & Americans With Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA).
 - (f) To submit to the City any and all documents demonstrating compliance with all federal, state, and local rules and regulations. Such demonstrations shall be provided at the request of the City. The City's failure to request supporting documentation, however, shall not excuse any failure on the SFCDC part to have complied with the applicable federal, state, and local rules and regulations.
 - (g) That all contracts for services, and other procurement for materials, services, or construction shall be carried out in compliance with applicable federal, state, and local rules and regulations.
 - (h) That authorized city, state, and federal officials and representatives will have access to all books, accounts, records, files, and other papers, things or property pertaining to the project in order to make audits, examinations, excerpts and transcripts.
8. Records and Reports:
- (a) The SFCDC shall maintain sufficient records of beneficiary data with regard to the number and demographic character of low to moderate income persons benefitting from the project. Such records will include the following information:
 - * Name, address, phone number.
 - * Age, gender, and race.
 - * Monthly/Annual household income including all household members over 18 years of age.
 - * Disability status.
 - * Single head of household w/children.
 - * Size of household.
 - (b) The SFCDC agrees to provide a report regarding the progress status of the project on a quarterly basis during the terms of this agreement. The report will contain the information described in paragraph 7(a) above.
 - (c) The SFCDC agrees to maintain records and reports related to the project for a period of not less than five years following the term of the Agreement.
9. For the purposes of this Agreement, the Project Coordinator for the City shall be Don Hancock or his successor. The Project Coordinator for the SFCDC shall be Manual Jones or his successor. Communications pertaining to this agreement shall be through the respective Project Coordinators for the City and the SFCDC.

SUB-RECIPIENT GRANT AGREEMENT
page 4 of 7

10. Terms of Performance.

- (a) The term of performance for this agreement shall expire **One Year** from the day first signed above. If this agreement is terminated or canceled in accordance with the terms, conditions, and procedures of this Agreement, within (30) days after termination of this agreement, the **SFCDC** shall provide and turn over to the City all materials and property, including real property, books, accounts, records, files and other papers, or items pertaining to the project.
- (b) The City may consider an extension of the term of performance based on justifiable circumstances beyond the control of the **SFCDC**. The **SFCDC** shall make application and submit documentation to the City regarding such circumstances, and a proposal for the new time of constitute an amendment to the agreement.
- (c) The **SFCDC** shall hold harmless, defend and indemnify the City, HUD and ADFA from any and all claims, actions, suits, charges and judgements whatsoever that arise out of the **SFCDC'S** performance or nonperformance of the services or subject matter called for in this Agreement.

11. Budget.

- (a) It is expressly agreed and understood that the total amount to be paid to the **SFCDC** shall not exceed **Eighty Thousand Dollars (\$80,000.00)**.
- (b) The **SFCDC** shall render to the City a Request for Payment along with invoices showing all expenses and the purpose of the expenses.

12. CDBG Assets.

- (a) Upon expiration or termination of this agreement, all CDBG funded assets on hand at the time of expiration, and any accounts receivable attributable to the use of CDBG funds, shall revert to the City to be disposed of in accordance of applicable federal rules, laws and regulations governing the disposition of property, assets and equipment purchased with federal funds.
- (b) Any real property acquired or improved in whole or in part with CDBG funds in excess of \$25,000 under the **SFCDC's** control upon expiration or termination of this agreement shall be used to meet one of the national objectives contained in section 570.208 of the Act for a period of five (5) years after the expiration of the agreement, or for such longer period of time as determined to be appropriate by the City.

SUB-RECIPIENT GRANT AGREEMENT
page 5 of 7

- (c) In the event that the real property is not used in accordance with paragraph 10(b) above, the **SFCDC** shall pay to the City an amount equal to the current market value to the property less any portion of the value attributable to non-CDBG funding sources expended to acquire or improve the property.

13. Uniform Administrative Requirements

- (a) The **SFCDC** shall conform to the requirements of OMB Circular No. A-122, Cost Principals for Non-Profit Organizations.
- (b) The **SFCDC** shall Conform to the requirements of OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations.

- 14. Program Income:** The **SFCDC** agrees that any Program Income as defined by the Act generated by the project and pursuant to this agreement shall be administered as required by the Act and may be expended only upon prior notification and approval of the City.

- 15. Notices:** All notices required or permitted under this agreement shall be submitted in writing to the other party to this agreement, by certified mail, return receipt requested, which notice shall be effective three (3) days after deposit therein addressed to the following:

City of Fayetteville
Community Development Division
Yolanda Fields,
Community Development Coordinator
113 west Mountain St.
Fayetteville, AR 72701

S. Fay. Com. Dev. Corp.
Cherry Pearson
SFCDC President
P O Box 59
Fayetteville, AR 72701

- 16. Conflict of Interest:** The **SFCDC** represents that none of its employees, officers, or directors presently have any interest, either directly or indirectly, which would conflict in any manner with the **SFCDC**'s performance or procurement under this Agreement, and that no person having such interest will be appointed or employed by the **SFCDC**.
- 17. Tax Exempt Status:** Attached hereto and made part hereof is a copy of the correspondence from the Internal Revenue Service dated **February 2, 2001** confirming the 501(c)(3) tax exempt status of the **SFCDC**.
- 18. Suspension and Termination**

SUB-RECIPIENT GRANT AGREEMENT

page 6 of 7

- (a) Remedies for noncompliance. In accordance with 24 CFR 85.43 of the Act, if the **SFCDC** materially fails to comply with any term of an award, whether stated in a federal statute or regulation, an assurance, in a state plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:
- * Temporarily withhold cash payments pending correction of the deficiency by the **SFCDC** or more severe enforcement action by the City,
 - * Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the project, activity, or action not in compliance
 - * In whole or partly suspend or terminate the current award for the **SFCDC's** project.
 - * Withhold further awards for the project, or
 - * Take other remedies that may be legally available.
- (b) In taking an enforcement action, the City will provide the **SFCDC** an opportunity for appeal, or other administrative proceeding to which the **SFCDC** is entitled under statute or regulation applicable to the action involved.
- (c) Costs of the agency resulting from obligations incurred by the **SFCDC** during a suspension or after termination of an award are not allowable unless the City expressly authorizes them in the notice of suspension or termination or subsequently. Other **SFCDC** costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:
- * The costs result from obligations which were properly incurred by the **SFCDC** before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,
 - * The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.
- (d) Relationship to debarment and suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude the **SFCDC** from being subject to "Debarment and Suspension" under E.O. 12549 (see 24 CFR 85.35 of the Act).
- (e) The City's failure to enforce any term or condition of this Agreement shall not be construed as acceptance of the **SFCDC** non-compliance pursuant to this agreement and the City reserves the right to enforce a finding of non-compliance at any later time during the term of this Agreement.
- (f) Termination for convenience. Except as provided in 24 CFR 85.43 award may be terminated in whole or in part only as follows:
- * By the City with the consent of the **SFCDC** in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

SUB-RECIPIENT GRANT AGREEMENT
page 7 of 7

- By the SFCDC's upon written notification to the City, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the City determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the City may terminate the award in its entirety under either paragraph 16(a) or paragraph 16(f)(1) of this section.
19. **Binding Effect:** This Agreement shall be binding upon and shall ensure to the benefit of the parties hereto and their respective heirs and assigns; provided, however, that no assignment shall be effective to relieve a party of any liability under this Agreement unless the other party has consented in writing to the assignment and agreed to the release of such liability. The City and the SFCDC hereby acknowledges receipt of a duly executed copy of this Agreement complete with all Exhibits attached hereto.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

SFCDC

Cherry Pearson, President
Cherry Pearson, President

Manuel L. Jones
Attested By:

City of Fayetteville

Dan Coody, Mayor

Attested By:

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

FOR: COUNCIL MEETING OF August 21, 2001 MAYOR'S APPROVAL

FROM:

Kit Williams
Name

Legal
Division

City Attorney
Department

ACTION REQUIRED:

Approval of Budget Adjustment to pay for the City Council's Counteroffer to settle the Shewmaker case which has been accepted.

COST TO CITY:

\$76,436.00	\$75,645.00	
Cost of this Request	Category/Project Budget	Category/Project Name
1010-6600-5311.09	\$75,645.00	Miscellaneous
Account Number	Funds Used to Date	Program Name
	-0-	General
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ☐ Budgeted Item ☒ Budget Adjustment Attached

[Signature]
Budget Coordinator

[Signature]
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

[Signature] 8/9/01
Accounting Manager Date

[Signature] 8-9-01
City Attorney Date

[Signature] 8-9-01
Purchasing Officer Date

[Signature] 8/9/01
Internal Auditor Date

[Signature]
ADA Coordinator Date

STAFF RECOMMENDATION:

CROSS REFERENCE

Division Head _____ Date _____

Department Director _____ Date _____

[Signature] 8/9/01
Administrative Services Director Date

Mayor _____ Date _____

New Item: Yes No

Previous Ordinance/Resolution No.: _____

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT
IN THE AMOUNT OF \$76,346.00 TO PAY FOR THE
COUNTEROFFER BY THE CITY COUNCIL TO SETTLE THE
SHEWMAKER V. CITY OF FAYETTEVILLE CASE WHICH WAS
ACCEPTED BY THE SHEWMAKERS

WHEREAS, on July 31, 2001, during a special meeting of the City Council of the City of Fayetteville, Arkansas, counsel for the Shewmakers presented their request for settlement in the amount of \$152,872.00 and made arguments why the Shewmakers could be awarded their prayed for damages exceeding \$500,000.00 if this case went to trial; and

WHEREAS, City Attorney Kit Williams recommended against settling this case and presented reasons why the City should prevail at trial; and

WHEREAS, the City Council declined to accept the Shewmakers' settlement demand of \$152,872.00, but presented a Counteroffer in the amount of \$76,436.00; and

WHEREAS, on August 8, 2001, counsel for the Shewmakers, Mr. John M. Scott, faxed and mailed a letter accepting the City Council's Counteroffer of \$76,436.00; and

WHEREAS, a Budget Adjustment of \$76,436.00 needs to be approved to pay for this settlement.

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 Budget Adjustment attached hereto in the amount of \$76,436.00 to pay for the complete and final settlement of the case Richard and Elizabeth Shewmaker v. City of Fayetteville - CIV 2000-671-4, Circuit Court of Washington County, Arkansas.

Section 2. That the City Council of the City of Fayetteville, Arkansas directs the City Attorney to pay \$76,436.00 to the Shewmakers in exchange for a full and final Release and Satisfaction of all claims and dismissal of this case.

PASSED and APPROVED this the ____ day of August, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EVERETT LAW FIRM
ATTORNEYS AT LAW
1944 EAST JOYCE BLVD.
P.O. BOX 8370
FAYETTEVILLE, ARKANSAS
72703-8370
e-mail johnscott@everettfirm.com

JOHN C. EVERETT
JASON H. WALES, P.A.
JOHN M. SCOTT, P.A.
ELIZABETH E. STOREY

TELEPHONE:
(501) 443-0292
FACSIMILE:
(501) 443-0564

August 8, 2001

**VIA FACSIMILE AND
UNITED STATES MAIL**

Mr. Kit Williams
Fayetteville City Attorney
113 W. Mountain
Fayetteville, AR 72701

Re: *Richard Shewmaker and Elizabeth "Betty" Shewmaker
v. City of Fayetteville, Arkansas*

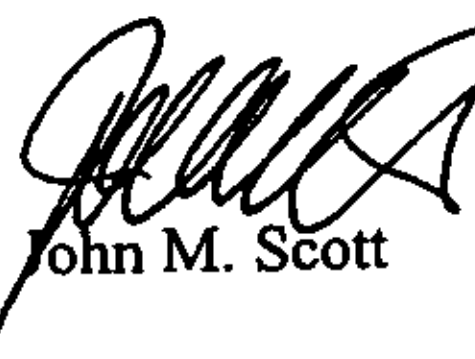
Dear Kit:

My clients accept the City's offer to settle this case for \$76,436.00. Please draw up a release and forward it and the settlement check to me for signing. I will hold the check until my clients sign off on the release. I will prepare a motion and order of dismissal.

Thank you for your cooperation in bringing this matter to a prompt conclusion.

Sincerely,

EVERETT LAW FIRM



John M. Scott

JMS/trb

cc: Richard Shewmaker

FAYETTEVILLE

B.I. Shewmaker
page 5



THE CITY OF FAYETTEVILLE, ARKANSAS

Kit Williams
CITY ATTORNEY

CITY ATTORNEY DIVISION
113 WEST MOUNTAIN, 72701
PHONE: 501-575-8313
FAX: 501-575-8315

August 9, 2001

Honorable John M. Scott
Everett Law Firm
P.O. Box 8370
Fayetteville, AR 72702-8370

By FAX:
(501) 443-0564

RE: Shewmaker v. City of Fayetteville

Dear John:

Thank you for your letter accepting the City's counteroffer of \$76,436.00 in full settlement of your clients' claims against the City. I am preparing the Release and have requested the settlement check. It is likely that the City Council will have to approve a budget adjustment before the check can be issued. However, our settlement agreement is now final even though we may have to wait until our next City Council meeting to deliver the check to you.

You did very well in obtaining this settlement from the City Council. Congratulations on your presentation of your clients' case to the City Council.

With kindest regards,

Kit Williams
Fayetteville City Attorney

KW/jh

Enclosure

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year 2001	Department: General Government Division: Miscellaneous Program:	Date Requested	Adjustment #
---------------------	---	----------------	--------------

Project or Item Requested:
A budget adjustment is requested to fund the settlement agreement that resolves the Shewmaker case.

Project or Item Deleted:
None. Use of fund balance is proposed for this adjustment.

Justification of this Increase:
City Council offered to settle and the Shewmakers accepted the settlement offer.

Justification of this Decrease:

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number				Project Number
Settlements	76,436	1010	6600	5311	09	

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number				Project Number
Use of Fund Balance	76,436	1010	0001	4999	99	

Approval Signatures

Requested By 	Date 8-9-01
Budget Manager	Date
Department Director	Date
Admin. Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C (D) 

Date of Approval _____

Posted to General Ledger _____

Posted to Project Accounting _____

Entered in Category Log _____

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of August 7, 2001.

FROM:

<u>Tim Conklin</u>	<u>Planning</u>	<u>Public Works</u>
Name	Division	Department

ACTION REQUIRED: To approve an ordinance for ANX 01-2.00: Annexation (Cross Creek Subdivision LLC, pp 359) as submitted by Philip Humbard of Engineering Services, Inc., on behalf of Cross Creek Subdivision LLC for property located east of Sunshine Road and south of Mount Comfort Road. The property is in the Planning Area and contains approximately 14.47 acres. The request is to annex the subject property into the City of Fayetteville.

COST TO CITY:

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

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

<u>Budget Manager</u>	<u>Administrative Services Director</u>
-----------------------	---

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

<u>Accounting Manager</u>	<u>Date</u>	<u>Internal Auditor</u>	<u>Date</u>
<u>City Attorney</u>	<u>7/19/01</u>	<u>ADA Coordinator</u>	<u>Date</u>
<u>Purchasing Officer</u>	<u>Date</u>		

STAFF RECOMMENDATION: Staff recommended approval and on July 9, 2001, Planning Commission unanimously voted 9-0-0 to recommend approval and to forward the annexation to the City Council.

<u>[Signature]</u>	<u>7-18-01</u>
Division Head	Date
<u>[Signature]</u>	<u>7-23-01</u>
Department Director	Date
<u>[Signature]</u>	<u>7/23/01</u>
Administrative Services Director	Date
<u>[Signature]</u>	<u>7/26/01</u>
Mayor	Date

Cross Reference

New Item: **Yes**

Prev Ord/Res #: _____

Orig Contract Date: _____

Orig Contract Number: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
City Council
FROM: Hugh Earnest, Urban Development Director
DATE: July 23, 2001
SUBJECT: ANX 01-2.00: Annexation (Cross Creek Subdivision, LLC, pp 359)

BACKGROUND

ANX 01-2.00: Annexation (Cross Creek Subdivision, LLC, pp 359) was submitted by Philip Humbard of Engineering Services Inc. on behalf of Cross Creek Subdivision, LLC for property located east of Sunshine Road and south of Mount Comfort Road. The property is in the Planning Growth Area and contains approximately 14.47 acres. The subject property is located north of a recently annexed 40 acre tract of land which is west of Bridgeport Subdivision. Access is from WC 887, Sunshine Road and from WC 882, Jess Anderson Road. Eventually access will be available through Bridgeport by way of the Master Street Plan collector New Bridge Drive.

The subject tract is bounded on the north and west by county property and on the east by R-1 property. The area is within the City's Planning Area boundary and it is situated at the far western edge of Fayetteville. This property is currently claimed by the Farmington School District.

A preliminary plat for this area in combination with the 40 acre tract to the south is being processed at this time. Annexation of this tract would provide for an orderly development which would comply with all City ordinances, specifically those regarding, tree preservation, access, grading, drainage, storm water, park land, sidewalks, land use and others. The property would make better use of infrastructure as well as natural resources as an addition to the City of Fayetteville than it would if left to develop under county standards with no oversight regarding land use. It is not in the City's best interest to encourage unregulated development with potentially hundreds of septic systems adjacent to the City limits and within the Planning Area which is designated as the area into which the City expects to grow in the future. It is for these reasons that staff recommends approval of the requested annexation.

CURRENT STATUS

The annexation was recommended by the Planning Commission on July 9, 2001 by a 9-0-0 vote and forwarded to the City Council for approval.

RECOMMENDATION

The Planning Commission and staff recommended approval of the requested annexation based on the findings included as part of this report.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED IN ANNEXATION PETITION ANX 01-2.00 FOR A PARCEL CONTAINING APPROXIMATELY 14.47 ACRES LOCATED EAST OF SUNSHINE ROAD AND SOUTH OF MOUNT COMFORT ROAD AS SUBMITTED BY PHILIP HUMBARD OF ENGINEERING SERVICES, INC. ON BEHALF OF CROSS CREEK SUBDIVISION LLC

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

Section 1. That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of the following described property:

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

Section 2. That the above described property is hereby assigned to Ward No. _____.

Section 3. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect that the zoning of the property described above shall be A-1, Agricultural.

PASSED AND APPROVED this _____ day of _____, 2001.

APPROVED:

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION FOR ANX 01-2.00

PART OF THE NORTHEAST QUARTER (NE¼) OF THE SOUTHEAST QUARTER (SE¼) OF SECTION TWO (2), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT; THENCE N00°11'07"W ALONG THE EAST LINE OF SAID 40 ACRE TRACT 520.61 FEET TO THE CENTER OF HAMESTRING CREEK; THENCE ALONG THE CENTERLINE OF SAID CREEK, THE FOLLOWING BEARINGS AND DISTANCES; NORTH 85°59'24" WEST 139.51 FEET; NORTH 41°23'43" WEST 55.69 FEET; NORTH 72°20'48" WEST 101.76 FEET; SOUTH 78°29'37" WEST 362.08 FEET; SOUTH 61°19'53" WEST 312.06 FEET; NORTH 76°24'12" WEST 262.12 FEET TO THE CENTERLINE OF COUNTY ROAD 877; THENCE ALONG THE CENTERLINE OF SAID ROAD THE FOLLOWING BEARINGS AND DISTANCES; SOUTH 42°06'35" WEST 145.89 FEET; SOUTH 23°53'30" WEST 96.74 FEET; SOUTH 02°17'31" WEST 221.27 FEET; SOUTH 06°23'12" WEST 21.5 FEET TO THE SOUTH LINE OF SAID 40 ACRE TRACT; THENCE SOUTH 89°50'24" EAST 1306.74 FEET TO THE POINT OF BEGINNING, CONTAINING 14.47 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED TRACT BEING SUBJECT TO COUNTY ROAD RIGHT-OF-WAY ALONG THE WEST BOUNDARY AND ANY OTHER EASEMENTS OF RECORD.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn T. Warrick, Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: July 9, 2001

ANX 01-2.00: Annexation (Cross Creek Subdivision, LLC, pp 359) was submitted by Philip Humbard of Engineering Services Inc. on behalf of Cross Creek Subdivision, LLC for property located east of Sunshine Road and south of Mount Comfort Road. The property is in the Planning Growth Area and contains approximately 14.47 acres.

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: July 9, 2001

CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☒ Denied
Date: <u>August 7, 2001 (1st reading)</u>	

Comments: _____

BACKGROUND:

The subject property is located north of a recently annexed 40 acre tract of land which is west of Bridgeport Subdivision. Access is from WC 887, Sunshine Road and from WC 882, Jess Anderson Road. Eventually access will be available through Bridgeport by way of the Master Street Plan collector New Bridge Drive.

The subject tract is bounded on the north and west by county property and on the east by R-1 property. The area is within the City's Planning Area boundary and it is situated at the far western edge of Fayetteville. This property is currently claimed by the Farmington School District.

A preliminary plat for this area in combination with the 40 acre tract to the south is being processed at this time. Annexation of this tract would provide for an orderly development which would comply with all City ordinances, specifically those regarding, tree preservation, access, grading, drainage, storm water, park land, sidewalks, land use and others. The property would make better use of infrastructure as well as natural resources as an addition to the City of Fayetteville than it would if left to develop under county standards with no oversight regarding land use. It is not in the City's best interest to encourage unregulated development with potentially hundreds of septic systems adjacent to the City limits and within the Planning Area which is designated as the area into which the City expects to grow in the future. It is for these reasons that staff recommends approval of the requested annexation.

SURROUNDING LAND USE AND ZONING

North:	County property, Residential, Agricultural
South:	Vacant, R-1 (Cross Creek Preliminary Plat)
East:	Vacant, R-1 (Bridgeport subdivision - under construction)
West:	County property, Residential, Agricultural

LAND USE PLAN: General Plan 2020 designates this site as Residential.

FILED
'01 JUN 5 AM 10 51

MARILYN EDWARDS
CO. & PROBATION CLERK
WASHINGTON CO. ARK.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

CASE No. CC 2001-13

NOTICE OF ANNEXATION PETITION

NOTICE is hereby given to all interested parties that a Petition has been filed to annex to the City of Fayetteville, Arkansas, the following land in Washington County, Arkansas:

See Exhibit "A" attached

All interested parties are hereby notified that said Petition will be heard in the County Court of Washington County Arkansas, on the 9th day of July, 2001, at 10:30 o'clock a.m. by the County Court of Washington County, at which time you may appear and object or thereafter be barred.

Marilyn Edwards

MARILYN EDWARDS, County Clerk

By:

Shirley Brown
Deputy Clerk

EXHIBIT "A"

Part of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section Two (2), Township Sixteen (16) North, Range Thirty-one (31) West, being more particularly described as follows: Beginning at the Southeast corner of said 40 acre tract; thence N 00° 11' 07"W along the East line of said 40 acre tract 520.61 feet to the center of Hamestring Creek; thence along the centerline of said creek, the following bearings and distances: North 85° 59' 24" West 139.51 feet; North 41° 23' 43" West 55.69 feet; North 72° 20' 48" West 101.76 feet; South 78° 29' 37" West 362.08 feet; South 61° 19' 53" West 312.06 feet; North 76° 24' 12" West 262.12 feet to the centerline of County Road 877; thence along the centerline of said road, the following bearings and distances; South 42° 06' 35" West 145.89 feet; South 23° 53' 30" West 96.74 feet; South 02° 17' 31"W 221.27 feet; South 06° 23' 12" West 21.5 feet to the South line of said 40 acre tract; thence South 89° 50' 24" East 1306.74 feet to the point of beginning, containing 14.47 acres, more or less, Washington County, Arkansas. The above describe tract being subject to County Road right-of-way along the West boundary and any other easements of record.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

Case No. CC 2001-13

ORDER OF ANNEXATION

Now on this 9th day of July, 2001, this cause comes on to be heard, the Petitioners, Alice Ann Simkins, Living Trust, Alice Ann Simkins, Trustee, Fayetteville, Arkansas, announcing ready for a hearing of the cause and there being no protests or objections filed, whereupon, the matter is submitted to the Court upon the verified petition filed herein, and the oral and documentary evidence adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on June 5, 2001, at which time this Court fixed July 9, 2001 at 10:30 a.m., as the date of hearing for said cause, and that a full thirty (30) days notice of hearing was given as required by law and the proof of publication of said notice is now on file with the Clerk of this Court and the Court has jurisdiction of this cause.

2. The Court is satisfied that the allegations of the petition are sustained by the proof; that the limits of the territory to be annexed have been properly filed; that a majority of the property owners having a freehold interest in the property hereinafter described joined in the petition and constitute of the real owners of the area affected.

3. The land proposed to be annexed to the City of Fayetteville, Washington County, Arkansas, in this cause is described as follows:

See Exhibit "A" attached

4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is peculiarly adapted for urban purposed and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

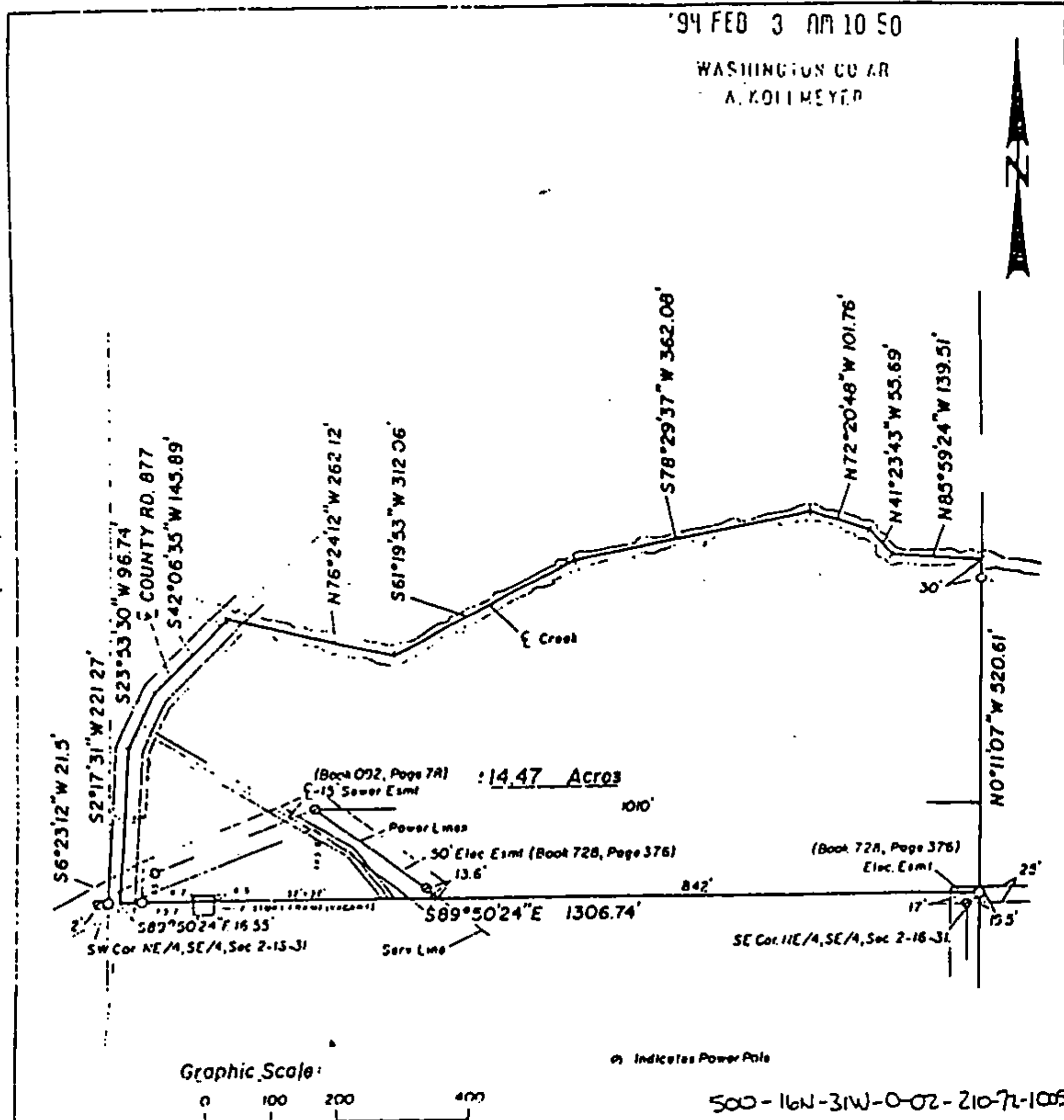
IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made a part of the City of Fayetteville, Arkansas, in accordance with Act No. 1 of the acts of the Legislature of 1875 of the State of Arkansas and all acts amendatory thererto, particularly including Act 142 of the Acts of Arkansas for the year 1963, as codified in Ark. Code Ann. § 14-40-601, et seq., and this Order shall be duly recorded by the Clerk of Washington County.


JERRY HUNTON, County Judge

PLAT—OF—SURVEYED FOR RECORD

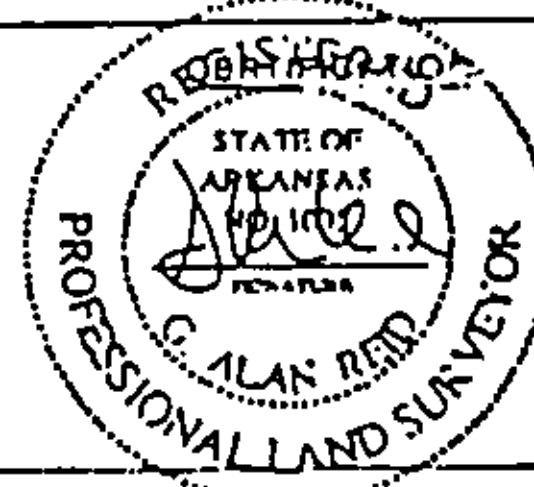
'94 FEB 3 AM 10 50

WASHINGTON CO AR
A. KOHMEYER



SURVEY DESCRIPTION

Part of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section Two (2), Township Sixteen (16) North, Range Thirty-one (31) West, being more particularly described as follows: Beginning at the Southeast corner of said 40 acre tract, thence S89°50'24\"



LEGEND

- — FOUND IRON PIN
- — SET IRON PIN
- — STONE MARKER
- - - — EXISTING FENCE

94007709

ARA

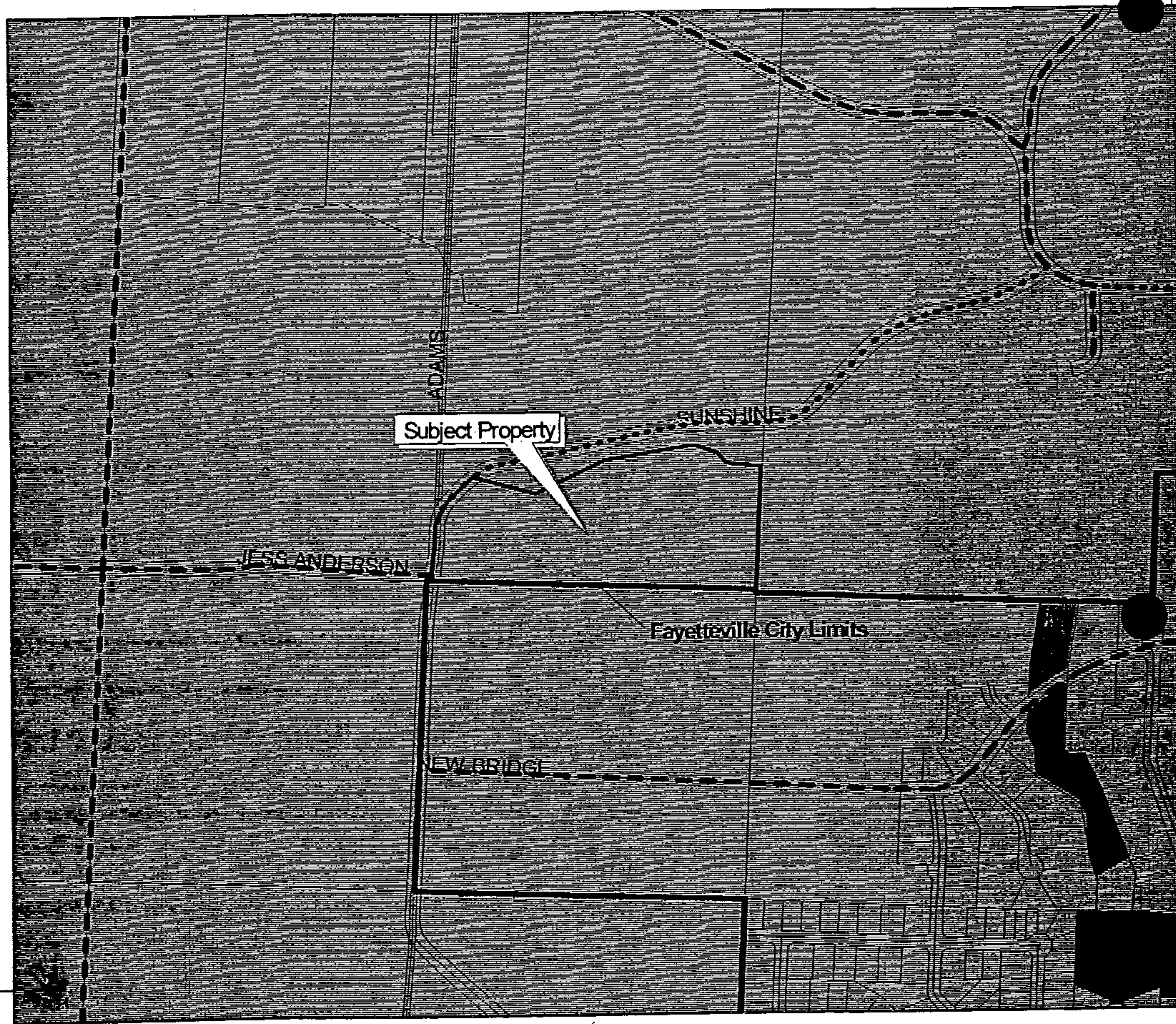
4200 Franchise Road
Fayetteville, Arkansas 72703
501 444 8784
Fax 444 0984

Alan Reid
& ASSOCIATES

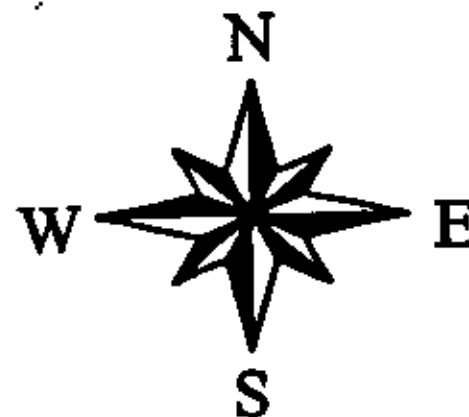
PROFESSIONAL
LAND
SURVEYORS

NAME	Windmill Realty - Mike Parker	
CITY	Fayetteville	COUNTY: Washington
STATE	Arkansas	DATE: 01-07-94
SCALE	1" = 200'	JOB NO: 94024

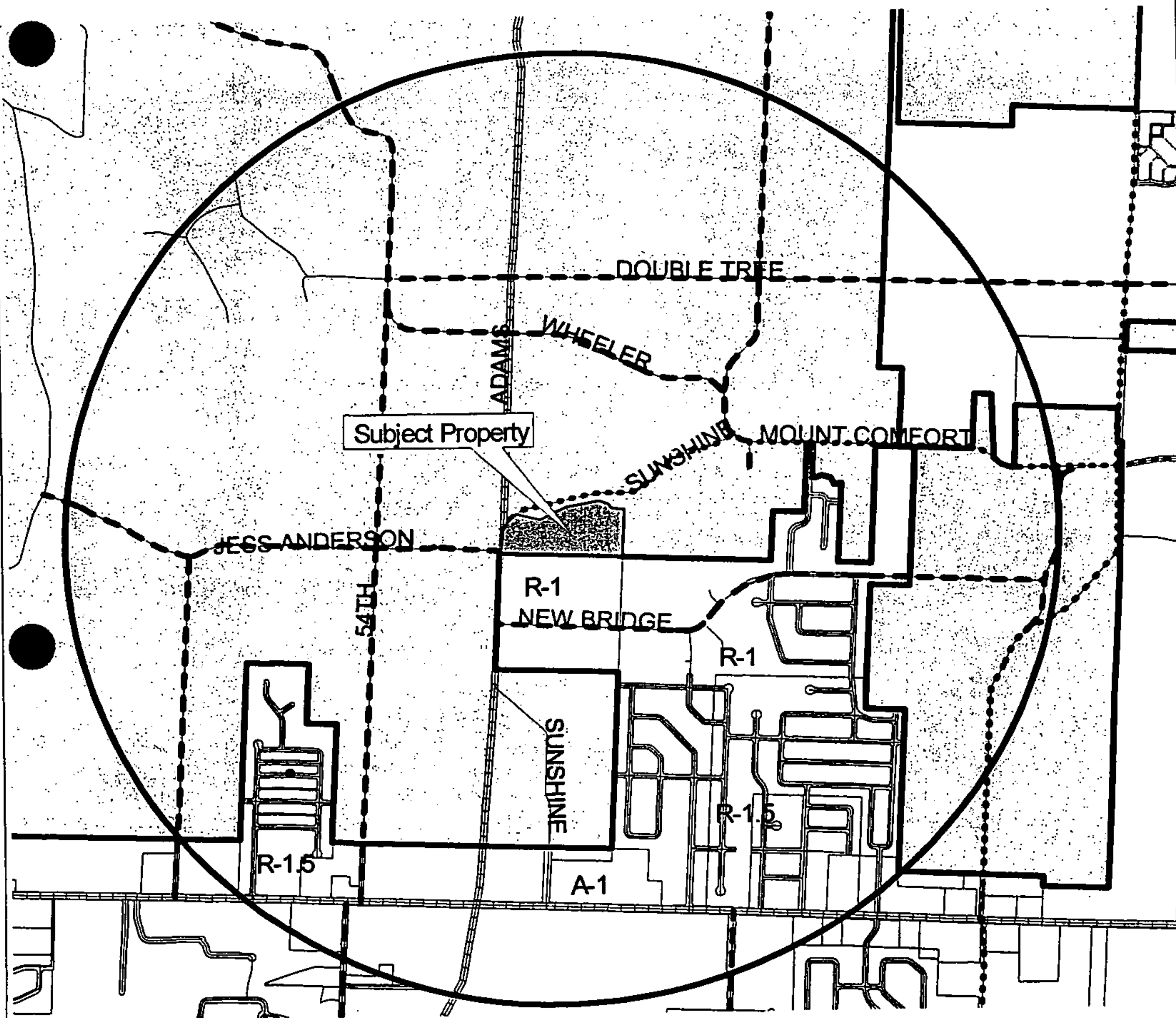
I-11 Cross Creek Land Use



- STREETS
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historical Collector
- Fayetteville City Limits
- Landuse
- Residential

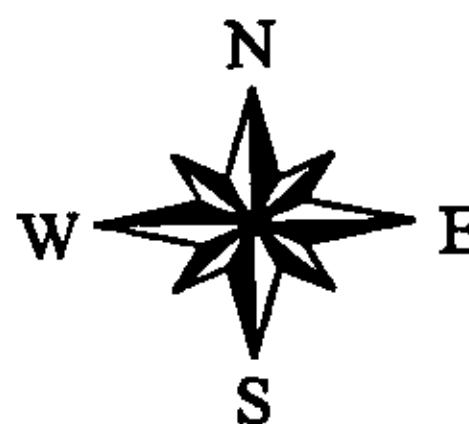


720 0 720 1440 Feet



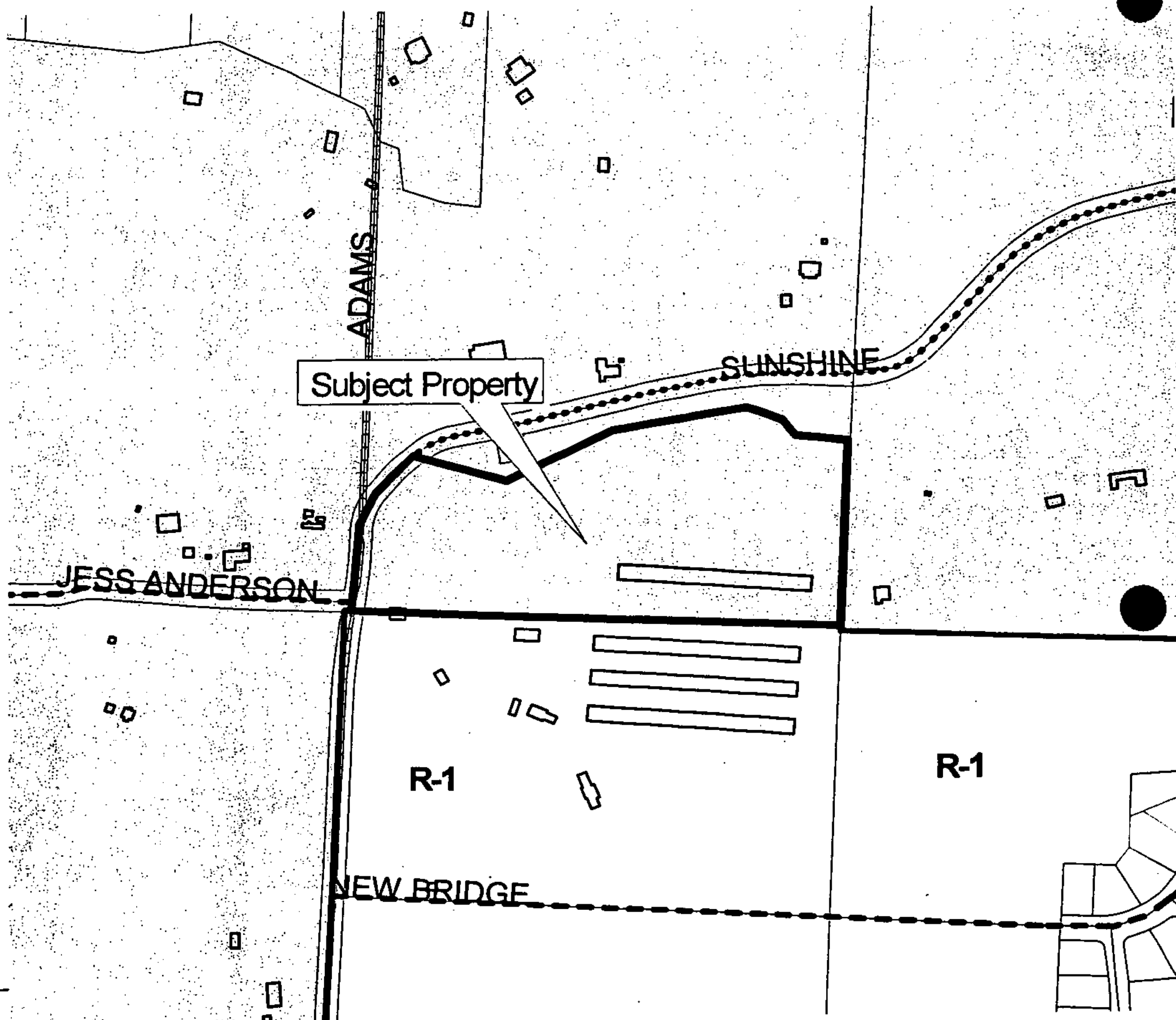
Master Street Plan

- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historical Collector
- STREETS
- Fayetteville City Limits
- Washcnty

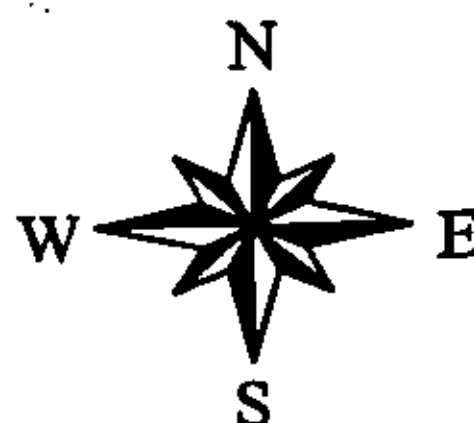


0.5 0 0.5 Miles

1-1 Cross Creek Close Up



- STREETS
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historical Collector
- Fayetteville City Limits
- Washcnty



480 0 480 960 Feet

A scale bar with markings for 480, 0, 480, and 960 feet.

Planning Commission
July 9, 2001
Page 11

MOTION:

Shackelford: I'll make a motion we proceed.

Hoffman: I'll second with this comment: I would proceed with the annexation but then not recommend that we proceed with the rezoning because there are always questions of the applicant that I find are useful and necessary. Would that be possible to reschedule the rezoning hearing for the next meeting?

Estes: I would think it certainly would be. We have a motion by Commissioner Shackelford and a second by Commissioner Hoffman to proceed with the annexation request, is there any discussion? Sheri, would you call the roll?

ROLL CALL:

Upon roll call the motion to proceed with annexation request 01-2.00 is approved by a unanimous vote of 9-0-0.

Estes: The matter is before the full Commission for discussion, motions or comments.

MOTION:

Shackelford: I'll make a motion for approval of annexation 01-2.00.

Hoffman: I'll second. I just wanted to ask staff if we've received any telephone calls about this proposal?

Conklin: I have not heard from any of the adjoining neighbors or other areas in that vicinity.

Hoffman: There has been proper notification?

Conklin: Yes, notification did go up. Because it's also a rezoning we did place a sign up there 15 days prior to the meeting. Under annexation law they are required to publish notice in the newspaper three times, once every week. 30 days ago they did file the Petition For Order of Annexation and I have not heard anything from any of the surrounding property owners.

Estes: Any other questions or comments?

Planning Commission
July 9, 2001
Page 10

ANX 01-2.00: Annexation (Cross Creek Subdivision, LLC, pp 359) was submitted by Philip Humbard of Engineering Services Inc. on behalf of Cross Creek Subdivision, LLC for property located east of Sunshine Road and south of Mount Comfort Road. The property is in the Planning Growth Area and contains approximately 14.47 acres.

Estes: The next item of business to come before the Commission is item number six on the agenda, this is an annexation for Cross Creek Subdivision submitted by Philip Humbard of Engineering Services Inc. on behalf of Cross Creek Subdivision, LLC for property located east of Sunshine Road and south of Mount Comfort Road. The property is in the Planning Growth Area and contains approximately 14.47 acres. Staff recommends approval of the requested annexation based on the findings included as a part of staff's report. Is the applicant present?

PUBLIC COMMENT:

Estes: Seeing no representative on behalf of the applicant, let me ask if there is any member of the audience who wishes to provide public comment on this requested annexation?

COMMISSION DISCUSSION:

Estes: Seeing none, I will bring it back to the Commission.

Conklin: I did speak with the applicant and the applicant's representative this morning and they were aware of this meeting. They did bring by, this morning, the Confirmation of the Order of Annexation that was signed by the County Judge. That has approved by the County Judge this morning. It's up the Commission whether or not to proceed without applicant. Staff is recommending approval of this 14 plus acre annexation. It's directly north of an annexation we just completed a couple of months ago. We do have a preliminary plat that is going through the process right now, this 14 acres plus that previous annexation has been to Parks Board with regard to land dedication versus money in lieu. Basically what I'm indicating is that I would recommend that we do proceed on with this if the Commission is comfortable with proceeding on with recommending this annexation to City Council.

Estes: Commissioners, we also have a companion item on the agenda which is a rezoning. Let me suggest this, because the applicant is not present, is there a motion to proceed with the annexation request?

Planning Commission
July 9, 2001
Page 12

- Marr: On these zoning maps, when we are looking at an annexation, how would do I tell from this where the current City boundary is and how far out into the planning area would this location would be?
- Conklin: On page 6.6, if you look under the legend, Fayetteville City limits, it's the dotted line that shows the city limit line.
- Marr: It's already included within the limit?
- Conklin: No it adjoins that line. We also have the Master Street Plan that shows a minor arterial street for Sunshine Road.
- Marr: Just a suggestion, we could make something that's more distinctive between those two. When I was looking at it I really thought it was already in it. I certainly support this annexation.
- Conklin: We will work on providing a map that's easier to understand. We have the capability to show as much information and change line types and shade in areas. Any suggestions to improve our product, we welcome that in the Planning Division.
- Estes: Any other questions, discussion? We have a motion by Commissioner Shackelford to approve annexation request 01-2.00 and second by Commissioner Hoffman, would you call the roll Sheri?

ROLL CALL:

Upon roll call ANX 01-2.00 us approved by a unanimous vote of 9-0-0.

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of August 7, 2001.

FROM:

Tim Conklin

Planning

Public Works

Name

Division

Department

ACTION REQUESTED: To approve an ordinance for RZN 01-11.00 submitted by Philip Humbarb of Engineering Services, Inc. on behalf of Cross Creek Subdivision, LLC, for property located east of Sunshine Road and south of Mount Comfort Road. The property is zoned A-1, Agricultural and contains approximately 14.47 acres. The request is to rezone to R-1, Low Density Residential.

COST TO CITY:

\$0

Cost of this request

Category/Project Budget

Category/Project Name

Account Number

Funds used to date

Program Name

Project Number

Remaining balance

Fund

BUDGET REVIEW:

Budgeted Item

Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

Date

ADA Coordinator

Date

City Attorney

Date

Internal Auditor

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommended approval and Planning Commission voted 8-1-0 to recommend and forward the rezoning to the City Council.

Division Head

7/18/01

Date

Cross Reference

Department Director

7-23-01

Date

New Item: Yes No

Administrative Services

7/23/01

Date

Prev Ord/Res#:

Director

7/24/01

Date

Orig Contract Date:

Mayor

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
City Council
FROM: Hugh Earnest, Urban Development Director
DATE: July 23, 2001
SUBJECT: RZN 01-11.00: Rezoning (Cross Creek Subdivision, LLC, pp 359)

BACKGROUND

RZN 01-11.00: Rezoning (Cross Creek Subdivision, LLC, pp 359) was submitted by Philip Humbarb of Engineering Services Inc. on behalf of Cross Creek Subdivision, LLC for property located east of Sunshine Road and south of Mount Comfort Road. The property is zoned A-1, Agricultural and contains approximately 14.47 acres. The request is to rezone to R-1, Low Density Residential. The subject property is located north of a recently annexed 40 acre tract of land which is west of Bridgeport Subdivision. Access is from WC 887, Sunshine Road and from WC 882, Jess Anderson Road. Eventually access will be available through Bridgeport by way of the Master Street Plan collector New Bridge Drive.

The subject tract is bounded on the north and west by county property and on the east by R-1 property. The area is within the City's Planning Area boundary and it is situated at the far western edge of Fayetteville. A preliminary plat for this area in combination with the 40 acre tract to the south is being processed at this time.

CURRENT STATUS

The rezonning was recommended by the Planning Commission on July 9, 2001 by a 9-0-0 vote and forwarded to the City Council for approval.

RECOMMENDATION

The Planning Commission and staff recommended approval of the requested rezoning based on the findings included as part of this report.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 01-11.00 FOR A PARCEL
CONTAINING APPROXIMATELY 14.47 ACRES FOR PROPERTY
LOCATED EAST OF SUNSHINE ROAD AND SOUTH OF MOUNT
COMFORT ROAD, AS SUBMITTED BY PHILIP HUMBARO OF
ENGINEERING SERVICES, INC. ON BEHALF OF CROSS CREEK
SUBDIVISION, LLC

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

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

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

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is
hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"
RZN 01-11.00

PART OF THE NORTHEAST QUARTER (NE¼) OF THE SOUTHEAST QUARTER (SE¼) OF SECTION TWO (2), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT; THENCE N00°11'07"W ALONG THE EAST LINE OF SAID 40 ACRE TRACT 520.61 FEET TO THE CENTER OF HAMESTRING CREEK; THENCE ALONG THE CENTERLINE OF SAID CREEK, THE FOLLOWING BEARINGS AND DISTANCES; NORTH 85°59'24" WEST 139.51 FEET; NORTH 41°23'43" WEST 55.69 FEET; NORTH 72°20'48" WEST 101.76 FEET; SOUTH 78°29'37" WEST 362.08 FEET; SOUTH 61°19'53" WEST 312.06 FEET; NORTH 76°24'12" WEST 262.12 FEET TO THE CENTERLINE OF COUNTY ROAD 877; THENCE ALONG THE CENTERLINE OF SAID ROAD THE FOLLOWING BEARINGS AND DISTANCES; SOUTH 42°06'35" WEST 145.89 FEET; SOUTH 23°53'30" WEST 96.74 FEET; SOUTH 02°17'31" WEST 221.27 FEET; SOUTH 06°23'12" WEST 21.5 FEET TO THE SOUTH LINE OF SAID 40 ACRE TRACT; THENCE SOUTH 89°50'24" EAST 1306.74 FEET TO THE POINT OF BEGINNING, CONTAINING 14.47 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED TRACT BEING SUBJECT TO COUNTY ROAD RIGHT-OF-WAY ALONG THE WEST BOUNDARY AND ANY OTHER EASEMENTS OF RECORD.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn T. Warrick, Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: July 9, 2001

RZN 01-11.00: Rezoning (Cross Creek Subdivision, LLC, pp 359) was submitted by Philip Humbard of Engineering Services Inc. on behalf of Cross Creek Subdivision, LLC for property located east of Sunshine Road and south of Mount Comfort Road. The property is zoned A-1, Agricultural and contains approximately 14.47 acres. The request is to rezone to R-1, Low Density Residential.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: July 9, 2001

CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: <u>August 7, 2001 (1st reading)</u>	

Comments: _____

BACKGROUND:

The subject property is located north of a recently annexed 40 acre tract of land which is west of Bridgeport Subdivision. Access is from WC 887, Sunshine Road and from WC 882, Jess Anderson Road. Eventually access will be available through Bridgeport by way of the Master Street Plan collector New Bridge Drive.

The subject tract is bounded on the north and west by county property and on the east by R-1 property. The area is within the City's Planning Area boundary and it is situated at the far western edge of Fayetteville. A preliminary plat for this area in combination with the 40 acre tract to the south is being processed at this time.

SURROUNDING LAND USE AND ZONING

North:	County property, Residential, Agricultural
South:	Vacant, R-1 (Cross Creek Preliminary Plat)
East:	Vacant, R-1 (Bridgeport subdivision - under construction)
West:	County property, Residential, Agricultural

INFRASTRUCTURE

Access to this property is from Mt. Comfort Rd. and Sunshine Road (WC 887) and through the Bridgeport Subdivision. Improvements to infrastructure and extension of water and sewer to serve this property will be reviewed at the time of development.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-1, Low Density Residential is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning is consistent with the General Plan 2020 which calls for this property to develop with a residential land use.

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

Finding: The proposed zoning is justified at this time, it is consistent with the General Plan 2020 and is compatible with adjacent properties. Development of this property under R-1 zoning represents a more efficient use of infrastructure than an A-1 residential development with larger lots that may have the potential in the future to be further divided.

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

Finding: The proposed zoning could provide for a maximum of 57 single family homes. This would be an increase from the amount of traffic currently generated by this site. Further review at the time of development will be necessary to implement any controls or improvements needed as a result of traffic generated by a proposed project. Connectivity and extension of the City's Master Street Plan will be required at the time of development.

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 alter population density. The load on public services will be determined by a proposed development. The property is currently served by the Farmington School District. Water and sewer utilities will be available to the site when the final phases of the Bridgeport subdivision are completed and accepted by the City. Phase 4 has been approved, phases 5 and 6 are still under construction.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

§ 161.04 DISTRICT R-1: LOW DENSITY RESIDENTIAL.

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

B. Uses.

1. Permitted Uses.

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

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities
Unit 8	Single-Family and Two-Family Dwellings

C. Density.

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

D. Bulk and Area Regulations.

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

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	20

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

(Code 1991, §160.031)

SEWER CAPACITY WARNING

The City of Fayetteville is nearing its permitted capacity at its current sewer plant. Fayetteville needs and has been planning to build a new sewer plant. However, it cannot guarantee when or if such a new sewer plant will be built to increase the City's capacity to accept sewage from residents and businesses.

I acknowledge receipt of a copy of this Notice, and I understand that even if I have received or will receive City Approval of requested annexation, rezoning, or other land use development or construction approval, I am not assured that I will be allowed a sewer hook-up.

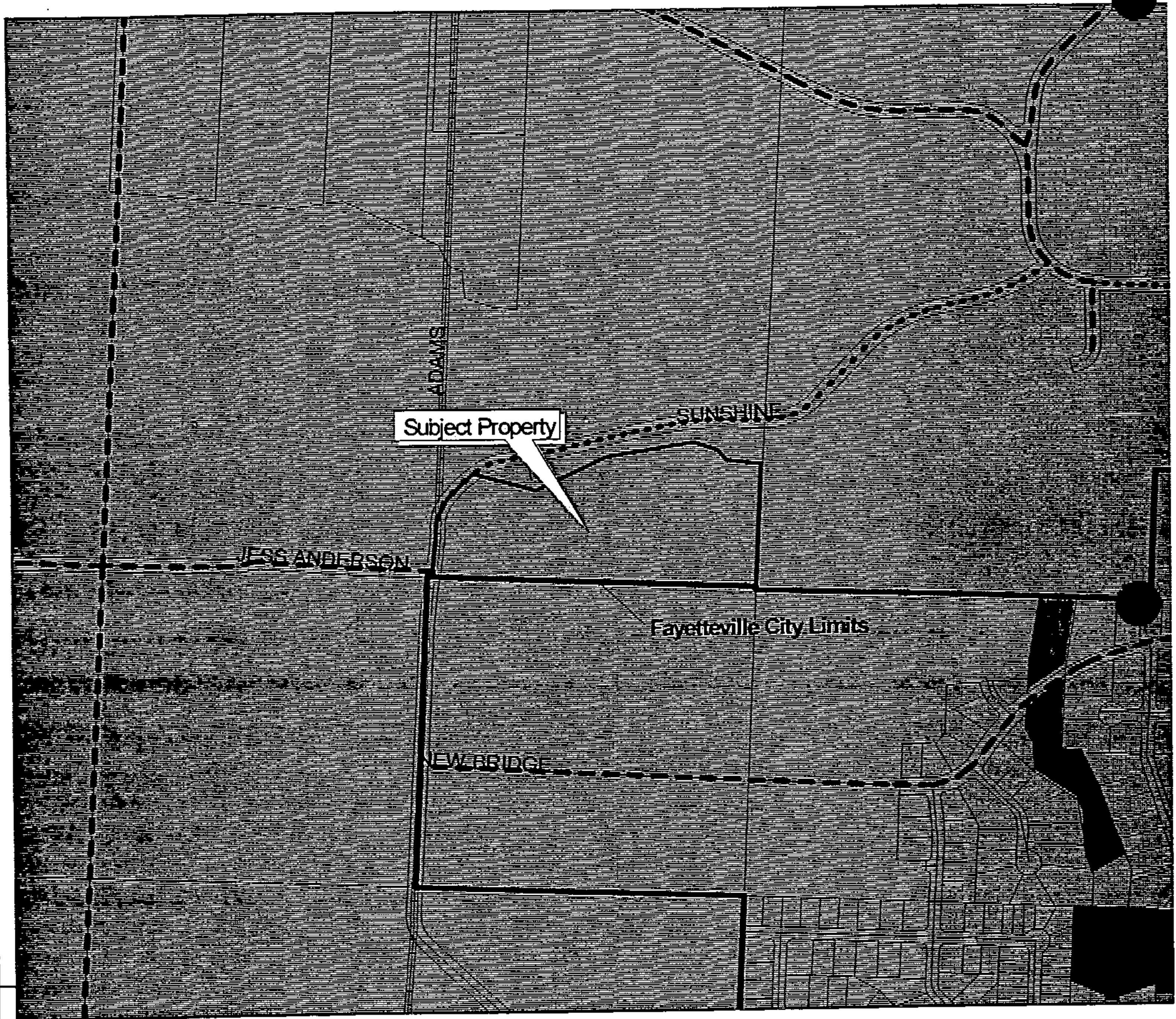
6-18-2001
Date

[Signature]
Applicant

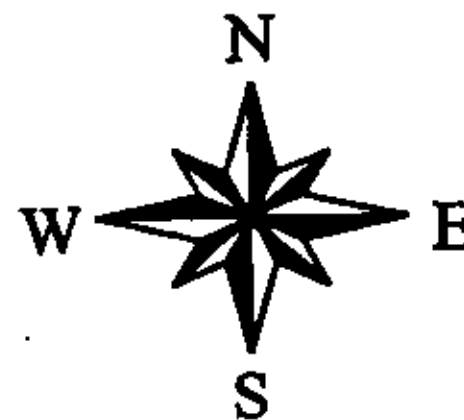
A copy of the above notice was provided to the applicant on the 18 day of JUNE, 2001.

Planning Department Representative

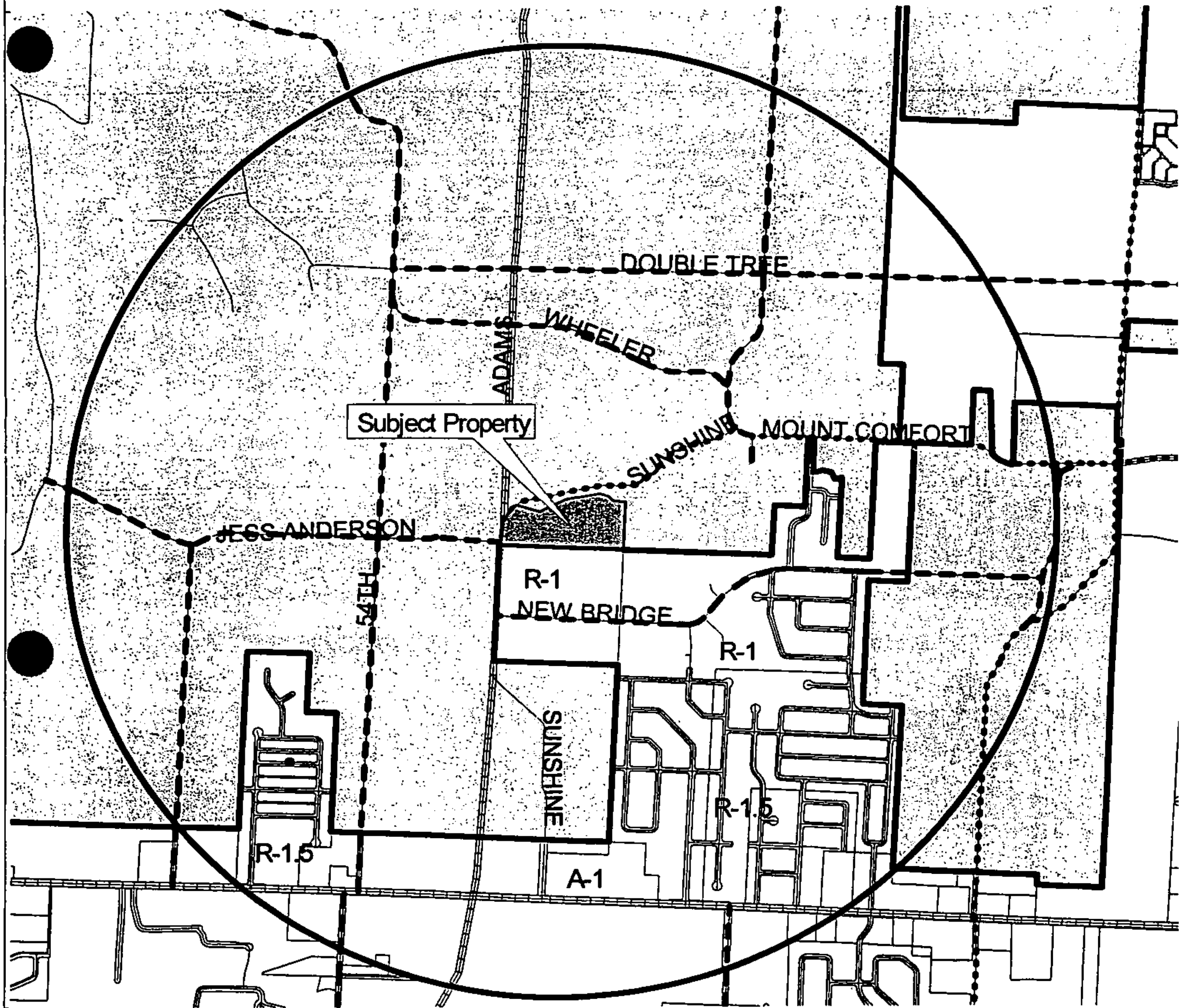
1-1 Cross Creek Land Use



- STREETS
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historical Collector
- Fayetteville City Limits
- Landuse
- Residential

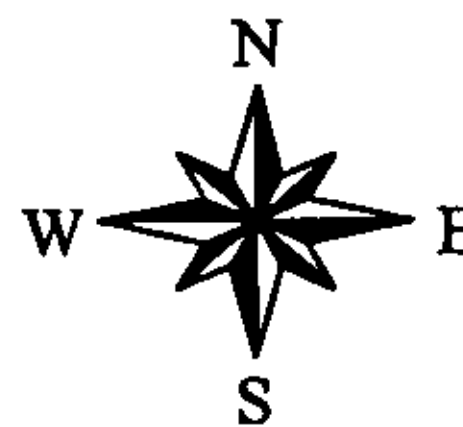


720 0 720 1440 Feet



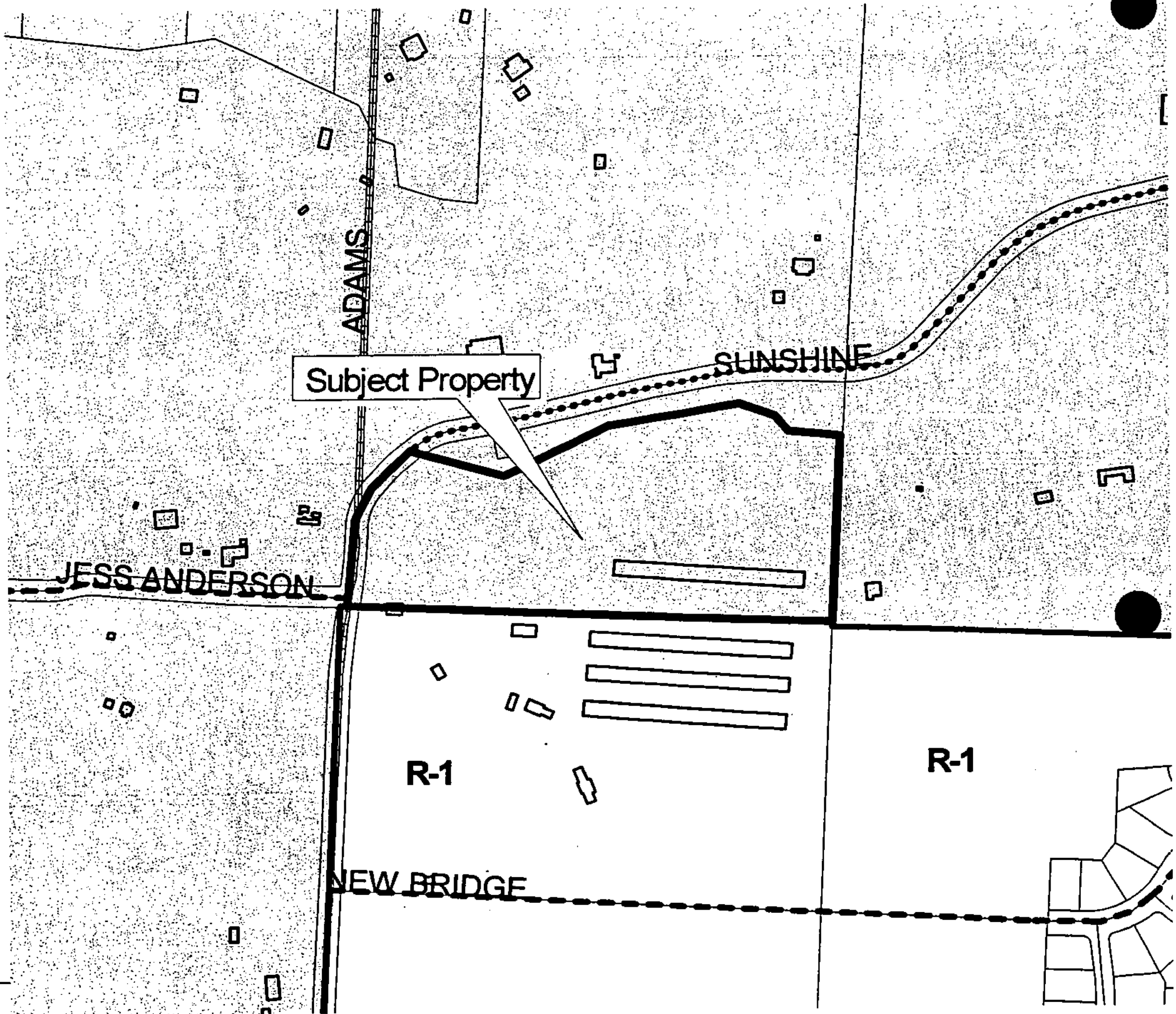
Master Street Plan

- Freeway/Expressway
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- Collector
- Historical Collector
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- Fayetteville City Limits
- Washcnty

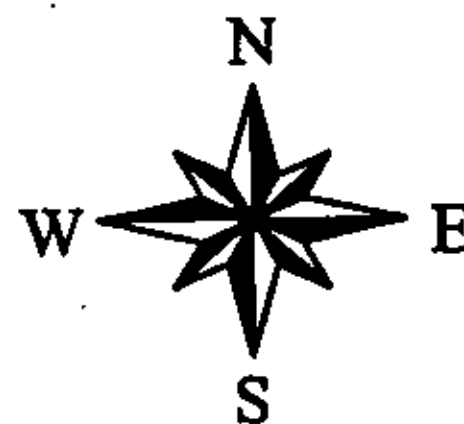


0.5 0 0.5 Miles

1-1 Cross Creek Close Up



- STREETS
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historical Collector
- Fayetteville City Limits
- Washcnty



480 0 480 960 Feet

Planning Commission
July 9, 2001
Page 13

RZN 01-11.00: Rezoning (Cross Creek Subdivision, LLC, pp 359) was submitted by Philip Humbard of Engineering Services Inc. on behalf of Cross Creek Subdivision, LLC for property located east of Sunshine Road and south of Mount Comfort Road. The property is zoned A-1, Agricultural and contains approximately 14.47 acres. The request is to rezone to R-1, Low Density Residential.

Estes: The next item of business to come before the Commission is rezoning request 01-11.00 Cross Creek Subdivision submitted by Philip Humbard of Engineering Services Inc. on behalf of Cross Creek Subdivision, LLC for property located east of Sunshine Road and south of Mount Comfort Road. The property is zoned A-1, Agricultural and contains approximately 14.47 acres. The request is to rezone to R-1, Low Density Residential. This is a companion item to the annexation request that we just heard. Is the applicant now present? Seeing that the applicant is not present, let me say this, staff does recommend approval of the requested rezoning based on finding included as part of the report. However, before we proceed further is there a motion by any member of the Commission to hear this rezoning request without the applicant present?

Hoffman: I believe it's proper to make a motion to table the item pending the appearance of the applicant.

Estes: Is there a motion to table this rezoning request pending the appearance of the applicant?

MOTION:

Hoffman: That's my motion.

Marr: I'll second.

Shackelford: Just because I don't like to table any item, it is my understanding that this would strictly be a recommendation to City Council if it was approved at this point, correct?

Estes: That is correct.

Shackelford: I'm going to vote against tabling the motion basically because I think the hearing with City Council would give the public to comment at that level.

Estes: There is a motion by Commissioner Hoffman and second by Commissioner Marr to table rezoning request 01-11.00 pending appearance of the applicant, is there any other discussion?

Planning Commission
July 9, 2001
Page 14

- Bunch: Since the preliminary plat is already in the system, what effect would tabling this have on the progression of the preliminary plat?
- Conklin: The preliminary plat was originally submitted showing this 14 acres, however, staff required them to remove that from their preliminary plat since it was not annexed into the City and not zoned. Right now we do have a phase of Cross Creek Subdivision, which is now called Fairfield, coming through the process which is in the City. There is one issue that still needs to be resolved outside of this annexation and that is any development that contains over 100 dwelling units has to plan for a park. In this situation the applicant has acquired this 14 acres and the Parks Board has recommended that there be land dedication. If they don't annex this in and rezone it, they will have to get permission to not provide parkland and pay the in lieu fee. We are trying to get it all together in a timely fashion. We probably would hold up the preliminary plat until the Council decided on the parkland issue prior to approving that at Planning Commission. I'm not sure where those dates fall in right now. Once again, the applicant was aware of the meeting tonight. I'm not sure what happened.
- Estes: Any further discussion, questions? We have a motion by Commissioner Hoffman and motion by Commissioner Marr to table rezoning request 01-11.00 pending the appearance of the applicant. Sheri, would you call the roll please?

ROLL CALL:

Upon roll call the motion to table RZ 01-11.00 passes by a vote of 6-3-0 with Commissioners Ward, Shackelford and Bishop voting "No".

LATER IN THE MEETING:

- Shackelford: Is there any opportunity that we can see if the applicant is present and hear item number seven that was tabled at this time?
- Estes: This meeting was noticed for 5:30 p.m. this evening. When item number seven was called there was a motion by Commissioner Hoffman and a second by Commissioner Marr to table the rezoning request 01-11.00 until the applicant was present at the next regularly called meeting. I suppose that if one of those making the motion would like to move for reconsideration of that motion, that could be done.

Planning Commission
July 9, 2001
Page 15

MOTION:

Hoffman: I would so move to hear the item now, although we would have preferred to have heard it when it came up in it's order. In order to not hold up the applicant and be helpful in this process, I would like to move that we reconsider and hear the item tonight.

Marr: I'll second.

Estes: We have a motion by Commissioner Hoffman and a second by Commissioner Marr to reconsider the motion to table item number seven, the rezoning request 01-11.00. Is there any discussion of the motion? Sheri, would you call the roll please?

ROLL CALL:

Upon roll call the motion to reconsider rezoning request 01-11.00 is approved by a vote of 8-1-0.

Estes: We will now, for the second time, call item number seven, rezoning 01-11.00. This is rezoning request submitted by Philip Humbard of Engineering Services Inc. on behalf of Cross Creek Subdivision, LLC for property located east of Sunshine Road and south of Mount Comfort Road. The property is zoned A-1, Agricultural and contains approximately 14.47 acres. The request is to rezone to R-1, Low Density Residential. Staff recommends approval of the requested rezoning based on the findings included as part of this report. Is the applicant now present?

Williamson: Yes. My name is Len Williamson and I represent Cross Creek, LLC. I apologize for the imposition on your time, I wasn't planning to even be here but I'm glad I came and I appreciate the opportunity of doing this tonight. What happened to Mr. Humbard, I don't know, if I knew I would tell you. We would just like to, as we did with the adjacent 40 acres just a few months ago, this 14.74 acres would be additional property included in the previous rezoning request that we made. We ask for your approval. Thank you.

PUBLIC COMMENT:

Estes: Is there any member of the public now present who would wish to provide public comment on this rezoning request 01-11.00? Let me say this for the purpose of the record: When this item was previously called, there was no member of the public present who wished to offer public comment and now there is no member of the public

Planning Commission
July 9, 2001
Page 16

present who wishes to offer public comment.

COMMISSION DISCUSSION:

Estes: Seeing no public comment, I'll bring it back to the full Commission for discussion, motions.

Hoffman: The reason I did want the applicant present is, I do have some questions about the circulation to and from the proposed site. By the acreage, I believe, 57 units would be the maximum allowed in an R-1 district. Is Adams the only paved road that this property abuts? I've got Jess Anderson as being a proposed minor arterial and Sunshine as being a proposed street. Those are the only two other streets besides Adams that I see that reach this property, is that right?

Williamson: This property of which about 5 acres is below a bluff area on the north. The south portion of this property, approximately 9 to 10 acres, joins the 40 acres to the south which is accessed to the Bridgeport Subdivision. The Bridgeport Subdivision thoroughfare comes through this proposed subdivision. This is just an appendage on the original 40 acre parcel. I think that I might appeal to Mr. Conklin to help me here but I believe that we have submitted our preliminary plat for the property that has already zoned and then we tied this property up and started the rezoning process. You are right, Sunshine Road would be the major arterial and I believe that is 110 foot right-of-way, for that property to the west of that subdivision.

Hoffman: But it only joins this particular part of the subdivision for just a real short area and it doesn't above the property. The problem is, I've got the maps on page 7.5 and 7.6 that really show a very small portion of the property being adjacent to a street, we show chicken houses where development is. In the preliminary plat do we have a better idea of what's happening?

Conklin: The chicken houses are no longer there. On the preliminary plat, we'll do better with our maps I promise you that, Sunshine Road is paved from Mount Comfort and does adjoin this property on the west and it also joins the 40 acre tract that we annexed two or three months ago. If you look at page 7.6, you find the word Mount Comfort and follow Sunshine Road, that street is paved and does adjoin that property, that's shaded in, on the west side. It also stops there and is gravel south of there, which the City of Fayetteville is recommending that the developer improve one-half that street to City standards and the other half to County standards, paved.

Planning Commission
July 9, 2001
Page 17

Hoffman: Jess Anderson would be a part of that improvement as well, on the south side which completely abuts his property?

Conklin: What's called Jess Anderson completely on this side, that's not a road through the south side on our Master Street Plan, that's a city limit line. They also have access through Newbridge Road through Bridgeport Subdivision through a stub-out.

MOTION:

Hoffman: With that being said and if the Parks Department and everybody are working out those issues, I'll make a motion to go ahead and approve this rezoning subject to any staff comments.

Shackelford: I'll second.

Marr: I read the staff report that the findings are that the zoning will alter population density and are we comfortable that there is no undesirable increase in the load of public services, water and sewer facilities specifically for this? Have we made the applicant aware of that may be an issue of development?

Conklin: The applicant does now sign a waiver form with the understanding that the City of Fayetteville is planning a new wastewater treatment plant and future growth and development is contingent on us being able to provide additional capacity. They are aware of that. With regard to infrastructure improvements, at the time of preliminary plat approval, that is something that City staff does make recommendations with regard to streets, water, sewer and other types of infrastructure. Once again, with regard to the road along the western boundary line, we are asking them for 14 feet from centerline, curb and gutter, storm drainage, sidewalks plus meeting County standards on the west. There are two or three additional streets to the back east they can use on Newbridge Road. Through the Planning Commission's efforts, we do have stub-outs that will provide future connections through Fieldstone Subdivision and Willow Springs Subdivision through Bridgeport Subdivision. We do have three subdivisions that have been planned, built to provide access between Mount Comfort and Wedington Road. There will be additional ways in and out of this subdivision through those access points. With regard to schools, I have contacted the school district over many years, their response to the Planning Division is that they will plan for future increases in the school children. In this area, if you look at page 7.6, just north of Mount Comfort Road, there is a new middle school and elementary school. That's been the official response from the school district. On the previous 40 acre annexation that was approved two months

Planning Commission
July 9, 2001
Page 18

ago, all the departments were contacted and there were no negative responses. We were not able to get that on this 14 acres but we do feel comfortable that since this adjoins this annexation that those comments would be applicable to this 14 acres, that they are able to provide service for this future annexation and development.

Estes: Any further questions or discussion? We have a motion by Commissioner Hoffman to approve rezoning request 01-11.00 and a second by Commissioner Shackelford, Sheri would you call the roll please?

ROLL CALL:

Upon roll call RZ 01-11.00 is approved by a unanimous vote of 9-0-0.

STAFF REVIEW FORM

XX AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council meeting of August 21, 2001

FROM:

Hugh Earnest
Name

Division

Urban Development
Department

ACTION REQUIRED:

Approval of this agreement with Fayetteville Youth Center Inc, d/b/a Fayetteville Boys & Girls Inc. of Washington County.

COST TO CITY:

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

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

TRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

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

STAFF RECOMMENDATION: Approval of the agreement.

Division Head

Date

Cross Reference

Hugh Earnest
Department Director

8-10-01
Date

New Item: **Yes**

C. H. W. W. W.
Administrative Services Director

8/19/01
Date

Prev Ord/Res #:

Mayor

Date

Orig Contract Date:

STAFF REVIEW FORM

Description: Approval of the agreement.

Meeting Date _____

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

Internal Auditor

ADA Coordinator

Grants Coordinator

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor and City Council

From: Hugh Earnest 
Urban Development Director

Date: August 10, 2001

Subject: Contractual Agreement with Fayetteville Youth Center

Background

The Council is well aware that the Reynolds Foundation informed the Fayetteville Youth Center in writing that the grant from the Foundation had been placed on hold. The reason for this action, according to the letter was a concern from the Foundation that a specific legally binding agreement was not in place between the parties.

Current status

Representatives from the Club and the City have been working to develop a mutually acceptable contract document that will be furnished to the Reynolds Foundation. The discussions, which have been fruitful and productive, have resulted in the document which is attached to this memo.

There are several important policy and fiscal issues that both parties have agreed to in the draft that is before you for consideration. They are as follows:

- The playing fields to be constructed with public funds will be managed and maintained by the Youth Center. Representatives from the City and the Club on a yearly basis will negotiate the specific terms covering the management of the fields. The terms will include at a minimum such items as the charge for use of the fields and availability of restroom facilities.
- The ancillary facilities will be available for public use at all times.

- The city has agreed to the following amounts for costs associated with development of the adjacent parks property.

Football fields/Site Improvements. Channel and Landscaping	\$500,000
Parking lot (100 cars)	\$100,000
Field and Parking area lots	\$300,000
Trails	\$ 50,000
Sprinkler Systems/Bleachers/ADA Access/Fencing	<u>\$125,000</u>
Total	\$1,075,00

Both parties recognize and acknowledge that a number of subsequent agreements relating to purchase of services from the Fayetteville Youth Center will be necessary. Such agreements will cover the wide range of collaborative efforts in providing youth services that both the city and the club are active in.

Recommendation

The level of cooperation and assistance in developing this contract was exceptional. The assistance from Connie Edmonson, Kit Williams and Tim Conklin as representatives from the city made this possible. Kudos should also go to Tom Stocklin and Mike Hill, both of whom worked tirelessly on this. It is our joint recommendation that this contract be approved.

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this _____ day of _____, 2001, by and between the City of Fayetteville, Arkansas, (hereinafter called "City") and Fayetteville Youth Center, Inc. d/b/a/ Fayetteville Boys and Girls Club, Inc. of Washington County, (hereinafter called "Boys and Girls Club"), Witnesseth:

WHEREAS, Fayetteville Youth Center, Inc. d/b/a Fayetteville Boys and Girls Club, Inc. is a non-profit corporation established to serve recreational needs of Fayetteville's youth and adults; and

WHEREAS, the City has previously committed to build certain infrastructure in support of the construction of the new Donald W. Reynolds Boys and Girls Club facility (hereinafter called "the Project"); and

WHEREAS, the City's Planning Commission has approved the plat for development of the Project based upon the City's assurances it would provide street, water and sewer necessary to serve this Project; and

WHEREAS, the City Council affirmed the Planning Commission's approval and has already budgeted funds to construct some of the necessary infrastructure; and

WHEREAS, the Donald W. Reynolds Foundation desires to have an executed agreement formalizing the City's support (through infrastructure improvements) of the Project; and

WHEREAS, the Donald W. Reynolds Boys and Girls Club with adjoining city park land will be a major and enduring asset for the City and citizens of Fayetteville.

NOW, THEREFORE, the City of Fayetteville (City) and the Fayetteville Youth Center, Inc. d/b/a/ Fayetteville Boys and Girls Club, Inc. (Boys and Girls Club) agree as follows:

1. Upon the Boys and Girls Club obtaining sufficient donations to receive the full grant from the Donald W. Reynolds Foundation and completing all other necessary actions to enable construction of the new Donald W. Reynolds Boys and Girls Club, (the Project) to commence, the City of Fayetteville agrees to:
 - A. Provide and/or pay for access road and haul road to the site.
 - B. Provide or pay for adequate water and sewer service to the Project.
 - C. Pay for development of the park land it owns near the

Project. Such development shall include realignment of the intermittent stream to the edge of the property, construction of two lighted playing fields, a trail around the edge of the property and a parking lot on the property. The City shall meet these obligations by advancing \$395,000.00 in 2001 or when requested, an additional \$250,000.00 in 2002 or when requested and an additional \$430,000.00 in the first seven months of 2003. With these payments, the city is purchasing development services from the Boys and Girls Club and the Boys and Girls Club will be responsible for the development described above.

- D. The City is not required to commence design or construction of its commitments until the Boys and Girls Club, Inc. has fully completed its financing program for the Project. The City shall not be required to commence any bidding or construction of the infrastructure until the Boys and Girls Club has awarded a construction contract for the Project.

2. The Fayetteville Youth Center, Inc. d/b/a/ Fayetteville Boys and Girls Club, Inc. agrees:

- A. To continue its diligent efforts to raise the necessary \$1,852,083.00 in private donations in order to secure the receipt of the full Donald W. Reynolds Foundation Grant and begin construction.
- B. To timely inform the Donald W. Reynolds Foundation of agreements reached with the City to support this Project and request approval or needed changes of such agreements to satisfy the Reynolds Foundation concerns about the feasibility of this Project.
- C. To complete the construction of the Project in substantial compliance with the Preliminary Plat and in coordination with the City's construction of infrastructure and development of its park land adjacent to the Project.

3. The City and the Boys and Girls Club agree to enter into a long term lease for the park land. Citizens, who are not members, shall be allowed to use the entire facility for a nominal daily use fee. The Boys and Girls Club will not charge citizens to be present on the park land (other than the playing fields); however, the Boys and Girls Club has the responsibility to schedule events on the park land. The playing fields shall be game fields and use must be scheduled through the Boys and Girls Club. Unaffiliated groups that appropriately meet the criteria for use of the game fields will be allowed to

schedule use of the fields for a fee that is based on the operation and maintenance costs of the fields. The Boys and Girls Club may close the playing fields during any period for the protection of the condition of the playing surface. The Boys and Girls Club shall be responsible for scheduling and maintaining the park land. Restroom facilities with outside access shall be available during club hours to the general public and shall be available to specific field users at all scheduled times of use. The Boys and Girls Club will open its facility to the public without costs on specific scheduled days announced in advance of such times. The facility shall be open to the public without costs for a minimum of four days each calendar year beginning in year 2004.

**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

**FAYETTEVILLE YOUTH CENTER, INC.
d/b/a/ FAYETTEVILLE BOYS & GIRLS CLUB, INC.**

By: _____
DAN COODY, Mayor

By: _____
TOM STOCKLAND
President of the Board of Directors
Fayetteville Youth Center

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of August 21, 2001.

FROM:

Tim Conklin

Planning

Public Works

Name

Division

Department

ACTION REQUESTED: To approve an ordinance for RZN 01-13.00 submitted by Kirk Elsass on behalf of HCL Properties, represented by Jim Lindsey, for property located south of Zion Road in HARB-CO Subdivision. The property is zoned R-0, Residential Office and contains approximately 1.4 acres. The request is to rezone to C-1, Neighborhood Commercial.

COST TO CITY:

\$0

Cost of this request

Category/Project Budget

Category/Project Name

Account Number

Funds used to date

Program Name

Project Number

Remaining balance

Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

Date

ADA Coordinator

Date

City Attorney

Date

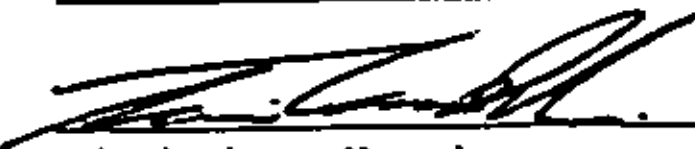
Internal Auditor

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommended approval and Planning Commission voted 6-0-0 to recommend and forward the rezoning to the City Council.


Division Head

8-2-01
Date

Cross Reference

Department Director

Date

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

Administrative Services
Director

Date

Prev Ord/Res#: _____

Mayor

Date

Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Hugh Earnest, Urban Development Director *HE*
DATE: July 23, 2001

BACKGROUND

RZN 01-13.00: Rezoning (Indoor Batting Cages, pp 138) was submitted Kirk Elsass on behalf of HCL Properties, represented by Jim Lindsey for property located south of Zion Road in HARB-CO Subdivision. The property is zoned R-O, Residential Office and contains approximately 1.4 acres. The request is to rezone to C-1, Neighborhood Commercial.

The subject property is a remnant lot which was left over after the development of Harb-Co Subdivision. That subdivision, zoned C-1 now includes Key Corner, a multi-tenant commercial development which is located east of the subject property. South and also east of this site is the Charter Vista Rehabilitation facility and Youth Bridge. West of the site there is an apartment development and to the north, there is a vacant field adjacent to the Fayetteville Athletic Club.

The applicant proposes to construct an indoor batting cage facility in this location. In order to secure the necessary approvals for this kind of development, a conditional use application as well as a large scale development will need to be processed if this rezoning is successful.

This area is designated Office on the City's Future Land Use Map. The requested C-1 zoning district does permit professional office development; however, additional commercial uses including restaurant and retail would also be permitted by right with a change to the C-1 district.

CURRENT STATUS

The rezoning was recommended by the Planning Commission on July 23, 2001 by a 6-0-0 vote and has been forwarded to the City Council for approval.

RECOMMENDATION

The Planning Commission and staff recommended approval of the requested rezoning based on the findings included as part of this report.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 01-13.00 FOR A PARCEL
CONTAINING APPROXIMATELY 1.4 ACRES FOR PROPERTY
LOCATED SOUTH OF ZION ROAD IN HARB-CO SUBDIVISION, AS
SUBMITTED BY KIRK ELSASS ON BEHALF OF HCL PROPERTIES,
REPRESENTED BY JIM LINDSEY

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-0, Residential Office to C-1, Neighborhood Commercial described in
Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is
hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"
RZN 01-13.00

PART OF TRACT 4 OF THE HARB-CO PLACE SUBDIVISION IN THE CITY OF FAYETTEVILLE AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE S.W. CORNER OF SAID TRACT 4 THENCE N01°23'29"W 253.47 FEET, THENCE N88°37'33"E 240.65 FEET, THENCE S01°28'15"E 254.23 FEET, THENCE S88°48'25"W 241.00 FEET TO THE P.O.B. CONTAINING 1.40 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND R/W OF RECORD.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn T. Warrick, Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: July 23, 2001

RZN 01-13.00: Rezoning (Indoor Batting Cages, pp 138) was submitted Kirk Elsass on behalf of HCL Properties, represented by Jim Lindsey for property located south of Zion Road in HARB-CO Subdivision. The property is zoned R-O, Residential Office and contains approximately 1.4 acres. The request is to rezone to C-1, Neighborhood Commercial.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: July 23, 2001

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied

Date: August 21, 2001 (1st reading)

Comments: _____

BACKGROUND:

The subject property is a remnant lot which was left over after the development of Harb-Co Subdivision. That subdivision, zoned C-1 now includes Key Corner, a multi-tenant commercial development which is located east of the subject property. South and also east of this site is the Charter Vista Rehabilitation facility and Youth Bridge. West of the site there is an apartment development and to the north, there is a vacant field adjacent to the Fayetteville Athletic Club.

The applicant proposes to construct an indoor batting cage facility in this location. In order to secure the necessary approvals for this kind of development, a conditional use application as well as a large scale development will need to be processed if this rezoning is successful.

This area is designated Office on the City's Future Land Use Map. The requested C-1 zoning district does permit professional office development, however additional commercial uses including restaurant and retail would also be permitted by right with a change to the C-1 district.

SURROUNDING LAND USE AND ZONING

North:	Vacant, R-O
South:	Recreation field / Charter Vista, R-O
East:	Key Corner, C-1
West:	Apartments, R-2

INFRASTRUCTURE:

Streets: Zion Road is located on the north side of the subject property. It is designated a Collector on the City's adopted Master Street Plan.

Water & Sewer: Water and sewer facilities are both located adjacent to the property within the Zion Rd. right-of-way.

LAND USE PLAN: General Plan 2020 designates this site Office. Rezoning this property to C-1, Neighborhood Commercial is consistent with the land use plan and with surrounding land uses in the area, specifically to the north, south and east.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans. This area is designated Office on the General Plan 2020 and is adjacent to several mixed uses which are compatible with uses permitted within the requested C-1 zoning district.

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

Finding: The proposed zoning is justified at this time. This action will extend the commercial node at the intersection of Zion Rd. and Hwy 265 a distance of approximately 240 feet further west.

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

Finding: The proposed zoning will not create or appreciably increase traffic danger and congestion. While some uses within the C-1 district will generate more traffic than uses within the existing R-O district, Zion Rd. and Hwy 265 are both designated as higher level streets on the City's adopted Master Street Plan and should therefore satisfy the needs of a development in this location.

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

Finding: The proposed zoning will not alter population density.

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

§161.13 DISTRICT C-1 NEIGHBORHOOD COMMERCIAL.

A. Purpose. The Neighborhood Commercial District is designed primarily to

provide convenience goods and personal services for persons living in the surrounding residential areas.

B. Uses.

1. Permitted Uses.

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

2. Uses Permissible on Appeal to the Planning Commission.

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

C. Bulk and Area

Regulations/Setbacks. Setback lines shall meet the following minimum requirements:

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

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

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

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

Lindsey & Associates, Inc.

3900 FRONT STREET

P.O. BOX 1174

FAYETTEVILLE, ARK. 72702

REZONING REQUEST DESCRIPTION

For

HARB-CO Place Subdivision, Zion Road,
Fayetteville, Washington County, Arkansas
Parcel #765-06170-001

5. A written description of this request addressing the following items:

- a) Current ownership information and any proposed or pending property sales.

The current owners of the property to be rezoned are Gary and Margaret Cuozzo. This property is subject to a pending sale to Chuck Calloway.

- b) Reason (need) for requesting the zoning change.

The property is currently zoned RO and the request is for a change to C1 for the purpose of constructing an indoor batting cage facility.

- c) Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

The use of this property will be complimentary to the surrounding businesses and similar in traffic, appearance, and signage. The property to the south is currently being used as a baseball practice field, the property to the north is the Fayetteville Athletic Club, the property to the east is Kee Corner Plaza, a retail center, and the property to the west is an apartment complex.

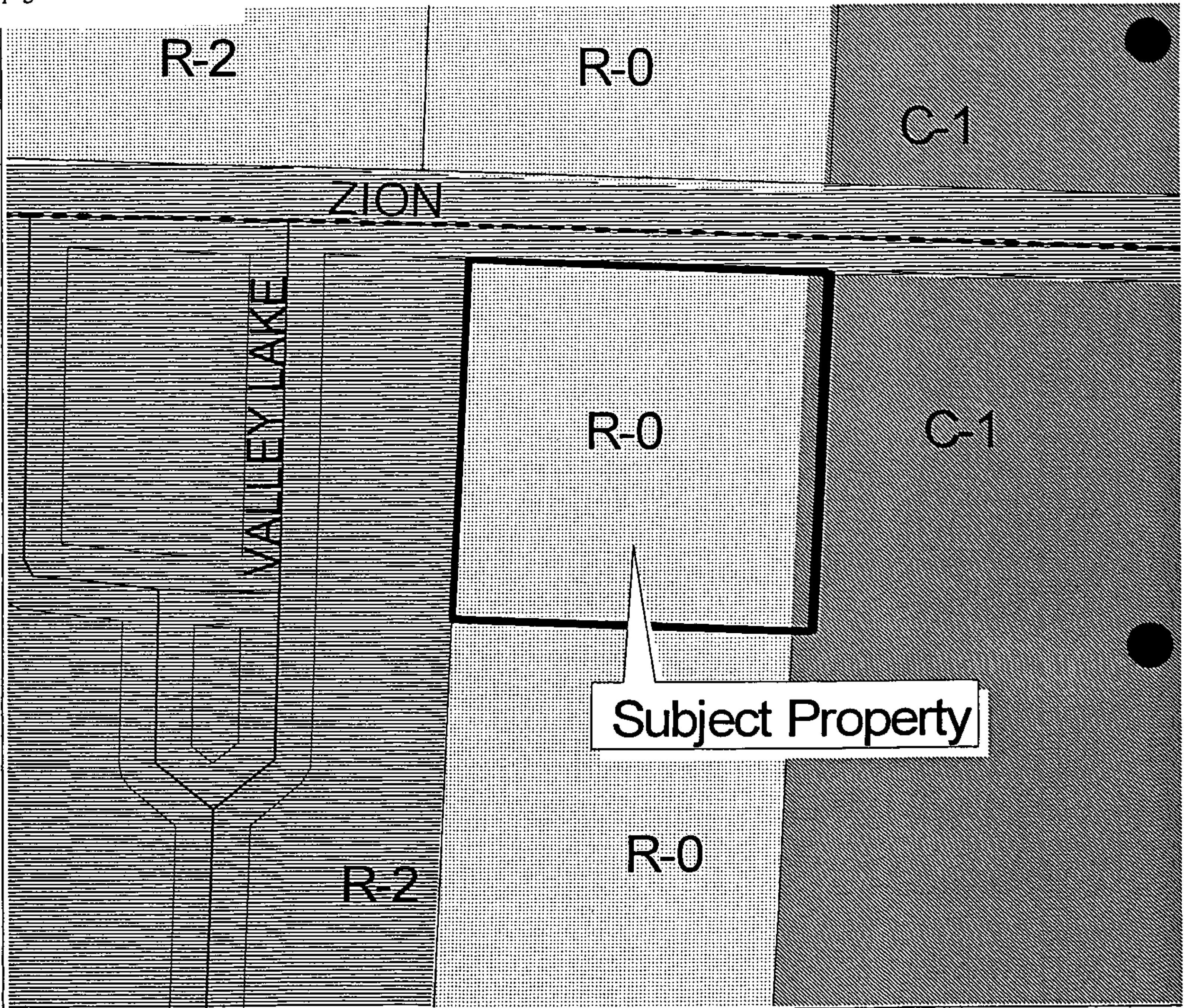
- d) Availability of water and sewer (state size of lines). This information is available from the City Engineering Division.

Water and sewer are available on the north edge of the property on Zion Road.

RZN 01-13 INDOOR BATTLING CAGE CLOSE UP LAND USE

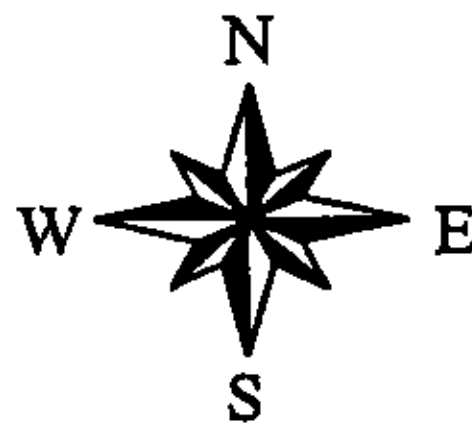
C.1. RZN 01-13.00

page 10



STREETS
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historical Collector

Landuse
Community Commercial
Residential
Office



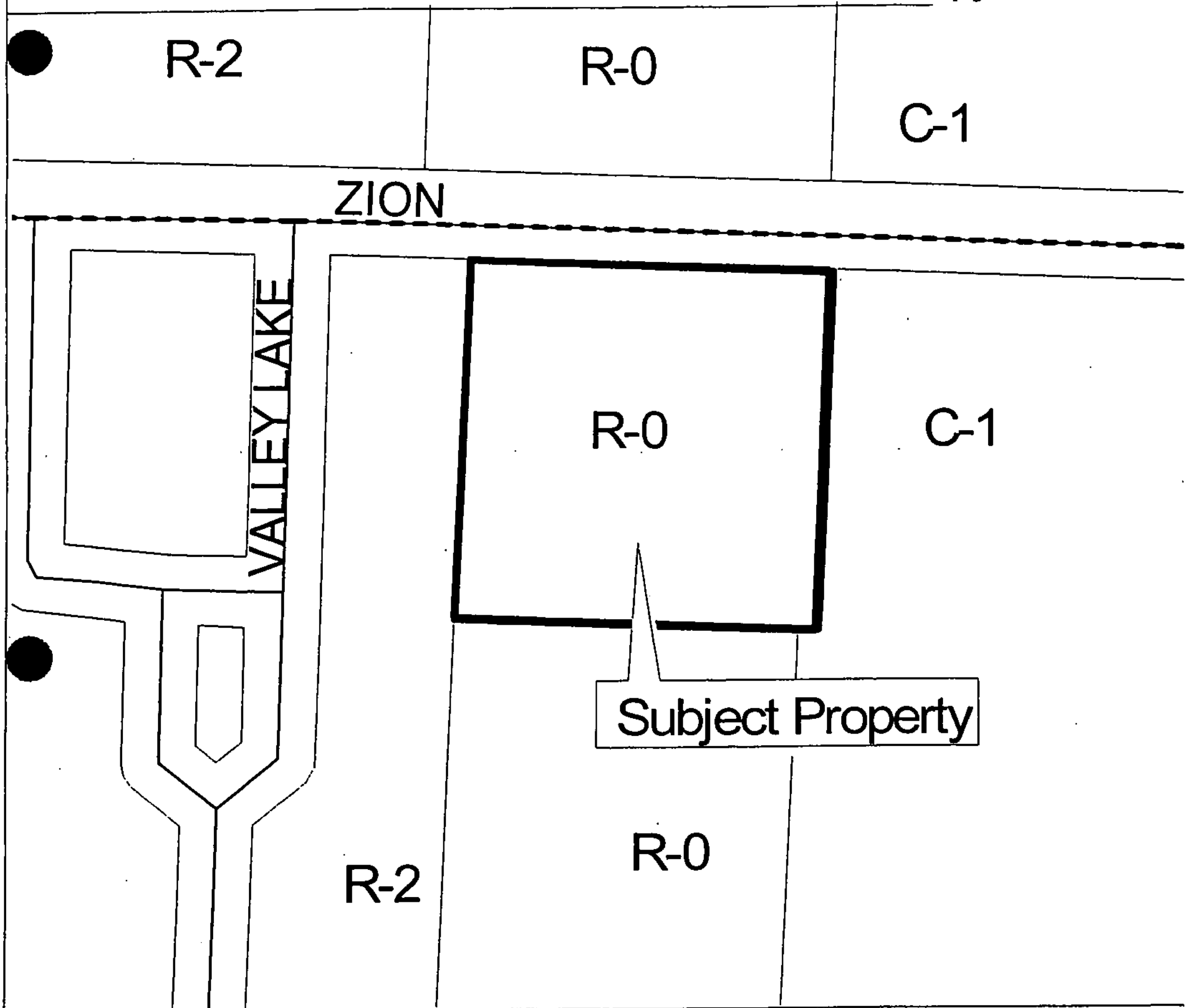
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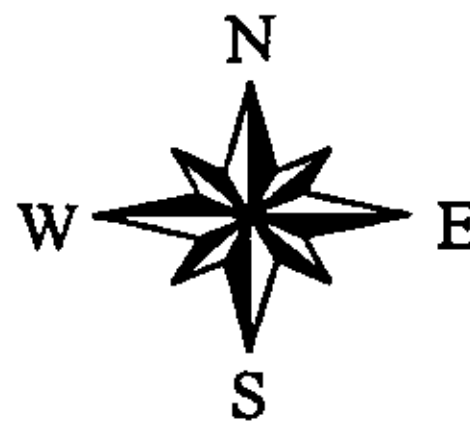
RZN 01-13 INDOOR BATTING CAGE CLOSE UP

C.1. RZN 01-13.00

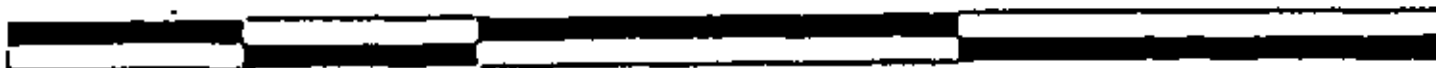
page 11



Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historical Collector



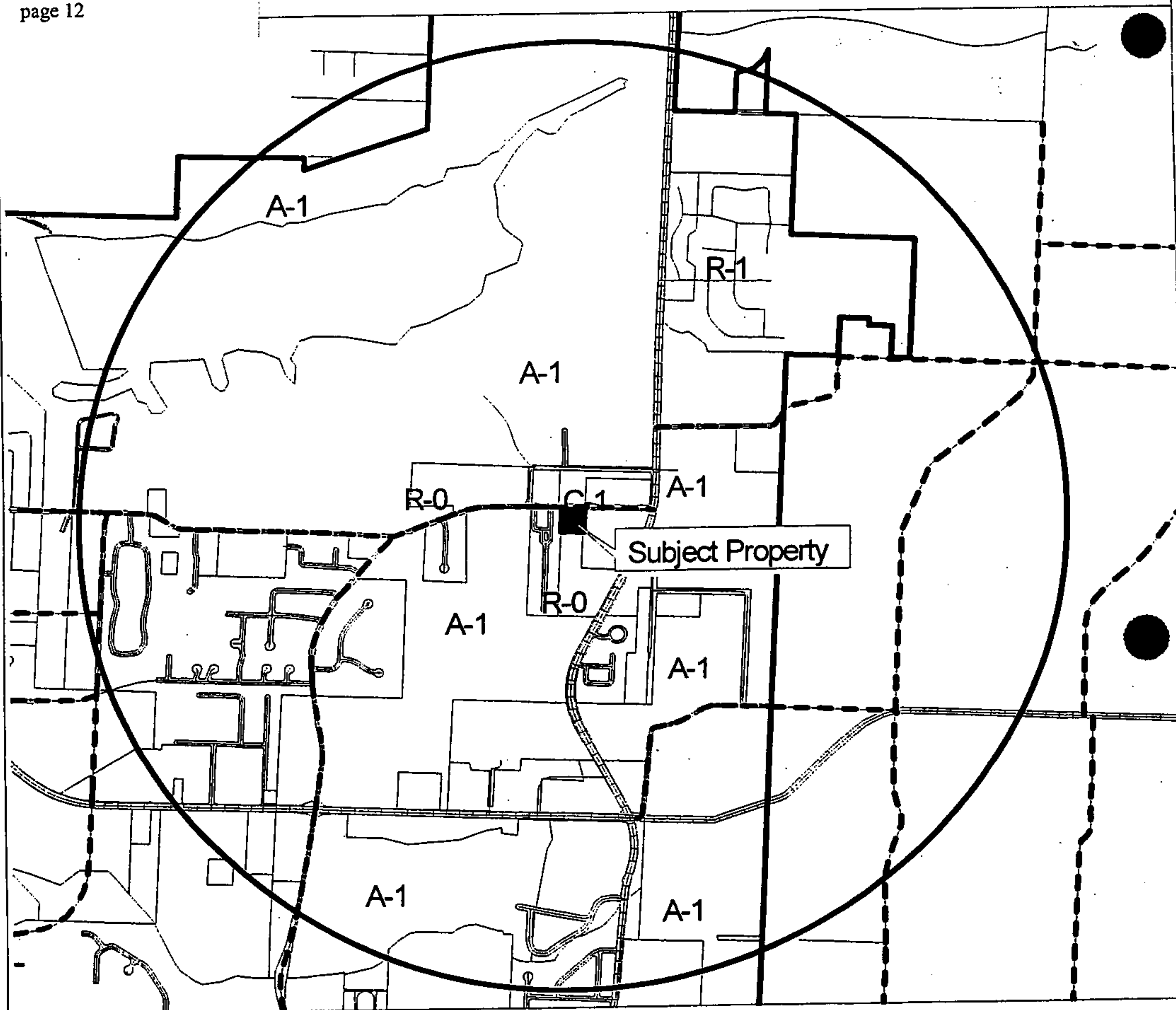
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RZN 01-13 INDOOR BATTING CAGE ONE MILE

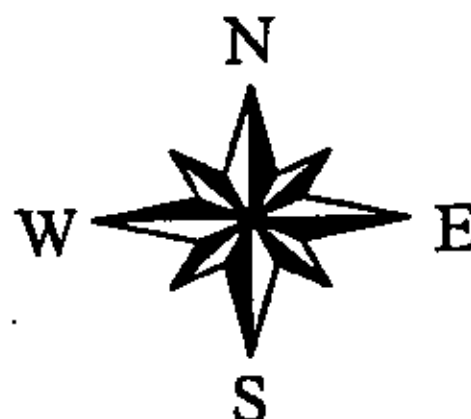
C.1. RZN 01-13.00

page 12



Master Street Plan

- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historical Collector
- Fayetteville City Limits
- STREETS
- Railroad.shp

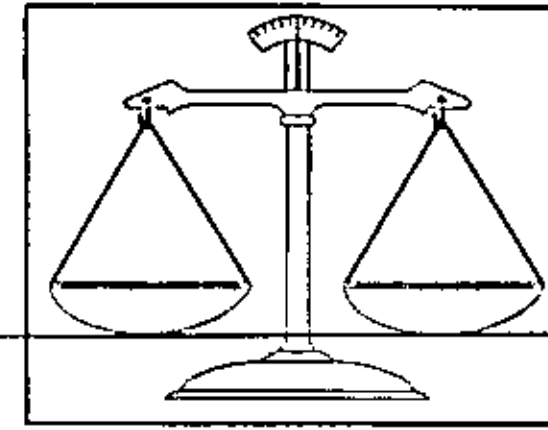


0.5 0 0.5 Miles

DEPARTMENTAL CORRESPONDENCE

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

TO: Heather Woodruff, City Clerk

FROM: Kit Williams, City Attorney

A handwritten signature in dark ink, appearing to read 'Kit Williams'.

DATE: August 22, 2001

RE: Passed Ordinances and Resolutions from City Council
meeting of August 21, 2001

The following Ordinances and Resolutions were passed
at the last City Council meeting.

Enclosed are:

Res. 114-01 1. Resolution authorizing additional funding of
\$15,000.00 for Stephens, Inc. pursuant to its
letter agreement

Res. 115-01 2. Resolution approving Addendum No. 1 to
Agreement with Black and Veatch
Corp. increasing their fee by \$20,000.00

Res. 116-01 3. Resolution approving Sub-Recipient Grant
between City and Project for Victims of
Family Violence in the amount of \$87,500.00

RES. 117-01 4 Resolution approving Sub-Recipient Grant
between City and South Fayetteville
Community Development Corporation in the
amount of \$80,000.00

ORD. 4331 5. Ordinance annexing property described in
Annexation Petition ANX 01-200

ORD. 4332 6. Ordinance to rezone property described in
Rezoning Petition RZN 01-11.00

ORD. 4333 7. Ordinance to rezone property described in
Rezoning Petition RZN 01-13.00

RES. 118-01 SHEWMAKER

RES. 119-01 BOYS & GIRLS CLUB

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA CITY COUNCIL AUGUST 21, 2001

A meeting of the Fayetteville City Council will be held on August 21, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT AGENDA

- 1. APPROVAL OF MINUTES:**
- 2. STEPHENS INC.:** A resolution authorizing additional continuing services from Stephens Inc. to provide continuing financial advisory services on the Wastewater System Improvements project financing. The rate per hour is \$225.00 and is restricted to certain identified individuals. The authorization requested is not to exceed \$15,000 and will be paid from the project budget.
- 3. BLACK & VEATCH:** A resolution authorizing additional continuing services from Black & Veatch to provide continuing system rate analysis services for the City in conjunction with the Wastewater System Improvements Project. The authorization requested is not to exceed \$20,000. And will be paid from the project budget.
- 4. VICTIMS OF FAMILY VIOLENCE:** A resolution approving an increase to the contract amount for Project for Victims of Family Violence.
- 5. GRANT AGREEMENT:** A resolution approving a sub-recipient grant agreement to the Project for Victims of Family Violence.
- 6. SFCDC:** A resolution approving a sub-recipient grant agreement with the South Fayetteville Community Development Corporation.

B. OLD BUSINESS

- 1. SHEWMAKER:** Approval of a budget adjustment in the amount of \$76,436.00 to pay for the City Council's counteroffer made at the Special City Council meeting on July 31, 2001 to settle the Shewmaker case which has been accepted.

2. **ANX 01-2.00:** An ordinance approving annexation request ANX 01-2.00 for property located east of Sunshine Road and South of Mount Comfort. The property is in the planning area and contains approximately 14.47 acres. The request is to annex the subject property into the City of Fayetteville. The ordinance was left on the first reading at the August 7, 2001 City Council meeting.
3. **RZN 01-11.00:** An ordinance approving rezoning request RZN 01-11.00 submitted by Phillip Humbard of Engineering Services on behalf of Cross Creek Subdivision for property located east of Sunshine Road and South of Mount Comfort Road. The property is zoned A-1, Agricultural, and contains approximately 14.47 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the first reading at the August 7, 2001 City Council meeting.
4. **BOYS & GIRLS CLUB:** A resolution approving an agreement with Fayetteville Youth Center Inc. d/b/a Fayetteville Boys & Girls Inc. of Washington County.

D. NEW BUSINESS

1. **RZN 01-13.00** An ordinance approving rezoning request RZN 01-13.00 submitted by Kirk Elsass on behalf of HCL Properties for property located south of Zion Road in HARB-CO Subdivision. The property is zoned R-O, Residential Office and contains approximately 1.4 acres. The request is to rezone to C-1, Neighborhood Commercial.

THE CITY OF FAYETTEVILLE, ARKANSAS

**TENTATIVE AGENDA
CITY COUNCIL
AUGUST 21, 2001**

A meeting of the Fayetteville City Council will be held on August 21, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT AGENDA

1. **APPROVAL OF MINUTES:** *S, mtg + 8/7/01*
2. **STEPHENS INC.:** A resolution authorizing additional continuing services from Stephens Inc. to provide continuing financial advisory services on the Wastewater System Improvements project financing. The rate per hour is \$225.00 and is restricted to certain identified individuals. The authorization requested is not to exceed \$15,000 and will be paid from the project budget.
3. **BLACK & VEATCH:** A resolution authorizing additional continuing services from Black & Veatch to provide continuing system rate analysis services for the City in conjunction with the Wastewater System Improvements Project. The authorization requested is not to exceed \$20,000. And will be paid from the project budget.
4. **VICTIMS OF FAMILY VIOLENCE:** A resolution approving an increase to the contract amount for Project for Victims of Family Violence.
used sub. info. not ready
5. **GRANT AGREEMENT:** A resolution approving a sub-recipient grant agreement to the Project for Victims of Family Violence.
6. **SFCDC:** A resolution approving a sub-recipient grant agreement with the South Fayetteville Community Development Corporation.

*Remove
from
agenda*

B. OLD BUSINESS

1. **SHEWMAKER:** *Resolution.* Approval of a budget adjustment in the amount of \$76,436.00 to pay for the City Council's counteroffer made at the Special City Council meeting on July 31, 2001 to settle the Shewmaker case which has been accepted.

2. **ANX 01-2.00:** An ordinance approving annexation request ANX 01-2.00 for property located east of Sunshine Road and South of Mount Comfort. The property is in the planning area and contains approximately 14.47 acres. The request is to annex the subject property into the City of Fayetteville. The ordinance was left on the first reading at the August 7, 2001 City Council meeting.
3. **RZN 01-11.00:** An ordinance approving rezoning request RZN 01-11.00 submitted by Phillip Humbard of Engineering Services on behalf of Cross Creek Subdivision for property located east of Sunshine Road and South of Mount Comfort Road. The property is zoned A-1, Agricultural, and contains approximately 14.47 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the first reading at the August 7, 2001 City Council meeting.

move to old bus #
BOYS & GIRLS CLUB: A resolution approving an agreement with Fayetteville Youth Center Inc. d/b/a Fayetteville Boys & Girls Inc. of Washington County.

NEW INFO FOR BTG.
NEW BUSINESS

- X*
2. **RZN 01-13.00** An ordinance approving rezoning request RZN 01-13.00 submitted by Kirk Elsass on behalf of HCL Properties for property located south of Zion Road in HARB-CO Subdivision. The property is zoned R-O, Residential Office and contains approximately 1.4 acres. The request is to rezone to C-1, Neighborhood Commercial.

*- applicant v. city. A. Dupuy.
permanent b/c of want - Regis. Committee.*

NO TOUR.



FINAL AGENDA CITY COUNCIL AUGUST 21, 2001

A meeting of the Fayetteville City Council will be held on August 21, 2001 at 6:30 p.m. in room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT AGENDA

1. **APPROVAL OF MINUTES:** Approval of the minutes from the July 31 and August 7, 2001 meetings.
2. **STEPHENS INC:** A resolution authorizing additional continuing services from Stephens Inc. to provide continuing financial advisory services on the Wastewater System Improvements project financing. The rate per hour is \$225.00 and is restricted to certain identified individuals. the authorization requested is not to exceed \$15,000 and will be paid from the project budget.
3. **BLACK & VEATCH:** A resolution authorizing additional continuing services from Black & Veatch to provide continuing system rate analysis services for the City in conjunction with the Wastewater System Improvements Project. The authorization requested is not to exceed \$20,000.00 and will be paid from the project budget.
4. **GRANT AGREEMENT:** A resolution approving a sub-recipient grant agreement to the Project for Victims for Family Violence.
5. **SFDC:** A resolution approving a sub-recipient grant agreement with the South Fayetteville Community Development Corporation.

B. OLD BUSINESS

1. **SHEWMAKER:** A resolution approving a budget adjustment in the amount of \$76,436.00 to pay for the City Council's counteroffer made at the Special City Council meeting on July 31, 2001 to settle the Shewmaker case which has been accepted.
2. **ANX 01-2.00** An ordinance approving annexation request ANX 01-2.00 for property located east of Sunshine Road and South of Mount Comfort. The property is in the planning area and contains approximately 14.47 acres. The request is to annex the subject property into the City of Fayetteville. the ordinance was left on the first reading at the August 7, 2001 City Council meeting.
3. **RZN 01-11.00:** An ordinance approving rezoning request RZN 01-11.00 submitted by Phillip Humbird of Engineering Services on behalf on Cross Creek Subdivision for property located east of Sunshine Road and South of Mount Comfort Road. the property is zoned A-1, Agricultural, and contains approximately 14.47 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the first reading at the August 7, 2001 City Council meeting.

C. NEW BUSINESS

1. **BOYS & GIRLS CLUB:** A resolution approving an agreement with Fayetteville youth Center Inc. d/b/a Fayetteville Boys & Girls, Inc. of Washington County.
2. **RZN 01-13.00** An ordinance approving rezoning request RZN 01-13.00 submitted by Kirk Elsass on behalf of HCL Properties for property located south of Zion Road in HARB-CD Subdivision. the property is zoned R-O, Residential Office and contains approximately 1.4 acres. The request is to rezone to C-1, Neighborhood Commercial.