FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA
CITY COUNCIL
NOVEMBER 6, 2001

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

FIRST NIGHT: Annual presentation from First Night.

NOMINATING COMMITTEE: Appointment of Gary E. Garton to the Fayetteville Housing Authority.

A. CONSENT:

1. **APPROVAL OF THE MINUTES**

2. **LIBRARY:** A resolution approving Amendment No. 9 to the contract with Meyer, Scherer and Rockcastle LTD in the amount of $36,970 for completion of the design, documentation, engineering and construction observations services for off-site utilities work for the new Fayetteville Public Library at 401 W. Mountain; and approval of a budget adjustment.

3. **WILSON PARK TENNIS COURTS:** A resolution approving a contract with John P. Marinoni Construction for the renovation of the Wilson Park tennis courts in the amount of $174,716, plus a ten percent project contingency of $17,470 for a total cost of $192,186.

4. **TRASH BAGS:** A resolution authorizing the purchase of up to 682,672 purple residential trash bags from Phoenix Recycling in the amount of $82,419 or $0.1311 per bag to complete annual budgeted purchase of volume based residential trash bags.

5. **DBE PROGRAM UPDATE:** A resolution accepting and approving the updated DBE participation goal for 2002.

113 WEST MOUNTAIN 72701 501 521-7700
FAX 501 575-8257

B. OLD BUSINESS

1. **RZN 01-16.00:** An ordinance approving rezoning request RZN 01-16.00 as submitted by Ronnie Ball on behalf of William Lazenby for property located at the southwest corner of Millennium Drive and Crossover. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.70 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the second reading at the October 16, 2001, meeting.

2. **RZN 01-17.00:** An ordinance approving rezoning request RZN 01-17.00 as submitted by Cynthia Beard and Williams M. Center for property located on the southeast corner of 15th Street and Beechwood Avenue. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 12.13 acres. The request is rezone to R-2, Medium Density Residential. The ordinance was left on the first reading at the October 16, 2001, meeting.

3. **RZN 01-18.00:** An ordinance approving rezoning request RZN 01-18.00 as submitted by Bill McClard of Lindsey and Associates on behalf of Cynthia Beard and William M. Center for property located on the Southwest corner of 15th Street and Beechwood Avenue. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 19.39 acres. The request is to rezone to R-2, Medium Density Residential. The ordinance was left on the first reading at the October 16, 2001, meeting.

4. **RZN 01-19.00:** An ordinance approving rezoning request RZN 01-19.00 as submitted by Bill McClard of Lindsey and Associates on behalf of Cynthia Beard and William M. Center for property located south of 15th Street between Beechwood Avenue and Razorback Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 9.86 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the first reading at the October 16, 2001, meeting.

5. **REAL AND PERSONAL PROPERTY TAX RATE:** An ordinance adopting the real and personal property tax rates for 2001 for Policemen's Pension and Relief Fund and the Firemen's Pension and Relief Fund. The rate to be adopted is 0.4 mils for real property and 0.4 mils for personal property. There is no millage proposed for general government operations. The ordinance was tabled on the third reading at the October 16, 2001, meeting.

6. **OFFER AND ACCEPTANCE-RAILROAD R-O-W:** A resolution approving the offer and acceptance contract between the City of Fayetteville and the Arkansas and Missouri Railroad Company for the purchase of 6.58 acres of railroad right-of-way along the east side of railroad right-of-way and the west side of Gregg Avenue from Poplar Street to the four lane south of the new bridge on Mud Creek for a price of $263,200. Approval includes purchase price and associated closing costs; and the approval of a budget adjustment. The resolution was tabled at the October 16, 2001, meeting.

C. **NEW BUSINESS**

1. **ANX 01-3.00:** An ordinance approving annexation request ANX 01-3.00 as submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area.

2. **RZN 01-20.00:** An ordinance approving rezoning request RZN 01-20.00 as submitted by Colleen Pancake for property located at 302 S. Gregg Street. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.16 acres. The request is to rezone to R-S, Residential Small Lot.

3. **RZN 01-21.00:** An ordinance approving rezoning request 01-21.00 as submitted by Chris Brackett of Jorgensen and Associates on behalf of Louise Sager andf Paul Guisinger for property located west of Shiloh Drive, east of Deane Soloman Road and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 1.02 acres. The request is to rezoned to C-1, Neighborhood Commercial.

4. **YARD WASTE SUBSCRIPTION FEE:** An ordinance repealing yard waste subscription fees.

5. **LIQUOR STORE PERMITS:** A resolution to request that the Alcohol Beverage Commission issue no additional permits for liquor stores within the City of Fayetteville.

D. **INFORMATIONAL ITEMS:**

6. **GRANT REVIEW:** Review of Arkansas Department of Aeronautics grant request.

7. **CHAMPIONS OF CHARACTER:** 2000-2001 final report from Champions of Character.

City Council November 6, 2001

	Roll	1st Sight No Action	KS BD Nomination Comm.	Consent BD KS	
Trumbo	✓	No Action	✓	✓	
Davis	✓		✓	✓	
Santos	✓		✓	✓	
Jordan	✓		✓	✓	
~~Reynolds~~	absent				
Thiel	✓		✓	✓	
Young	✓ late		✓	✓	
Zurcher	✓		Abst.	absent.	
Coody	✓				

4-0.

RZN 1-16.00	3RD. BD	PASS			
Trumbo	✓	✓			
Davis	✓	✓			
Santos	✓	✓			
Jordan	✓	✓			
~~Reynolds~~					
Thiel	✓	✓			
Young	✓	✓			
Zurcher	✓	✓			
Coody					

City Council November 6, 2001

R2N 1-17	KS 2ND BD.				
Trumbo	✓				
Davis	✓				
Santos	✓				
Jordan	✓				
~~Reynolds~~					
Thiel	✓				
Young	✓				
Zurcher	✓				
Coody	✓				

R2N 1-1800	KS R2. TABLE.				
Trumbo	✓				
Davis	✓				
Santos	✓				
Jordan	✓	TABLED			
~~Reynolds~~					
Thiel	✓				
Young	✓				
Zurcher	✓				
Coody					

City Council November 6, 2001

RZN 1-19					
Trumbo					
Davis					
Santos					
Jordan					
~~Reynolds~~					
Thiel					
Young					
Zurcher					
Coody					

P.P tax RATE	# 3D. Remove from table.	PASS			
Trumbo	✓	✓			
Davis	✓	✓			
Santos	✓	✓			
Jordan	✓	✓			
~~Reynolds~~					
Thiel	✓	✓			
Young	✓	✓			
Zurcher	✓	✓			
Coody					

City Council November 6, 2001

RZ ROW GREG	offer acceptance # BD				
Trumbo	✓				
Davis	✓				
Santos	✓				
Jordan	✓				
~~Reynolds~~					
Thiel	✓				
Young	✓				
Zurcher	✓				
Coody					

BA.	BD pass U				
Trumbo	✓				
Davis	✓				
Santos	✓				
Jordan	✓				
~~Reynolds~~					
Thiel	✓				
Young	✓				
Zurcher	✓				
Coody					

7-0.

City Council November 6, 2001

ANX 01-3	LJ KS 2ND	BD LJ. 3RD	PASS		
Trumbo	✓	✓	✓		
Davis	✓	✓	✓		
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
~~Reynolds~~					
Thiel	✓	✓	✓		
Young	✓	✓	✓		
Zurcher	✓	✓	✓		
Coody					

RZN 01-20.00	KS LJ. 2ND	KS LJ. 3RD	PASS		
Trumbo	✓	✓	✓		
Davis	✓	✓	✓		
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
~~Reynolds~~					
Thiel	✓	✓	✓		
Young	✓	✓	✓		
Zurcher	✓	✓	✓		
Coody					

City Council November 6, 2001

RZN 01-21	KS VJ. 2ND.	VJ KS. 3RD	PASS		
Trumbo	✓	✓	✓		
Davis	✓	✓	✓		
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
~~Reynolds~~					
Thiel	✓	✓	✓		
Young	✓	✓	✓		
Zurcher	✓	✓	✓		
Coody					

YARD WASTE FEE	KS BD. 2ND	VJ BD. 3RD.	PASS.		
Trumbo	✓	✓	✓		
Davis	✓	✓	✓		
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
~~Reynolds~~					
Thiel	✓	✓	✓		
Young	✓	✓	✓		
Zurcher	✓	✓	✓		
Coody					

City Council November 6, 2001

Liquor stores permit	RZ LJ.				
Trumbo	✓				
Davis	✓				
Santos	✓				
Jordan	✓				
~~Reynolds~~					
Thiel	✓				
Young	✓				
Zurcher	✓				
Coody					

Trumbo					
Davis					
Santos					
Jordan					
~~Reynolds~~					
Thiel					
Young					
Zurcher					
Coody					

MINUTES OF A MEETING
OF THE
CITY COUNCIL
OCTOBER 2, 2001

A meeting of the Fayetteville City Council was held on October 2, 2001 in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

CONSENT
APPROVAL OF THE MINUTES: Approval of the minutes from the September 4, 2001 meeting.

VLASIC: A resolution approving an offer from the LLC Manger in the Valasic Bankruptcy Case.

Alderman Thiel moved to approve the consent agenda. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

OLD BUSINESS

TREE ORDINANCE: An ordinance amending Title XV, Unified Development Ordinance of the Code of Fayetteville, to provide amendments to and clarification of various provisions concerning tree preservation and protection. The ordinance was left on the second reading as amended at the September 18, 2001 meeting.

Alderman Trumbo moved to suspend the rules and move to the third reading.

Mr. Williams stated they should go through all the amendments before they read it for the third and final time.

Alderman Thiel stated they had received some recommendations from the Realtors Association. They had stated that our ordinance was nothing out of the ordinary and its provision were not extreme in comparison to tree preservation requirements in other communities. The only notion was that it was likely to increase development cost in a community and may have an adverse affect on housing afford ability, but she thought the tree ordinance was something the people wanted. She did want them to look at some of their recommendations.

Mr. David Whitaker, Assistant City Attorney, stated the memo from the Metro Board of Realtors complied on their behalf by the National Association of Realtors was a fair assessment of the majority of the ordinance. It was a balanced and constructive statement, however, there were a few points he would like to cover. Their first recommendation was that an appeal process should be described. Under the Unified Development Ordinance the appeals process were specifically outlined under Chapter 155. The new language in the ordinance when it referred to the "tree preservation plan review form", that was required to be filled out by the landscape administrator, would now require that statement to appear on the form describing the process that an aggrieved party would need to follow to contest either the determination or recommendation. The appeals process was there and was described on the form which was required to be filled out by the landscape administrator every time a recommendation was made. The next recommendation was that trees planted by a developer pursuant to other regulatory requirements should not be discounted. In his response he noted three reasons based on fourteen months with the subcommittee. After some study it became clear that once into mitigation the applicant was allowed to count parking lot trees and commercial design standard trees as part of their mitigation attempts, that in the end they would have very little preservation. Additionally, the subcommittee had considered raising the percentages in the chart, Table 1. In lieu of that it was considered to far less server to exclude those trees required under other ordinances. The very first item under purpose was to preserve trees. If that was their highest stated goal then the continued preservation, mitigation, was essential to the entire ordinance without it they really did not have a tree preservation ordinance, they had a tree replacement ordinance. The subcommittee was very firm on this. He had received an e-mail from Ms. Melton, which stated she was adamantly opposed to changing the committee recommendation concerning the allowing of parking and other commercial design standards for plantings to be considered as part of mitigation. She felt the committees decision should be a firm stand. She believed preservation was mandatory and that to help their beautiful city to keep its reputation of a treed city was also mandatory and to do replanting half heartily was not enough. She personally did not believe that commercial development will be stunted due to this requirement.

Alderman Zurcher stated he was not willing to do anything drastic to this after thirteen months in a subcommittee.

Alderman Thiel stated there were a couple of the recommendation that were reasonable clarifications.

Mr. Whitaker stated the next recommendation reads, the standard for approving off-site alternative for non-residential subdivisions and large scale development should be modified. He had submitted in his memo some language that would clarify it, but would not substantially change the passage. "If an applicant is able to demonstrate to the landscape administrator is satisfaction that neither preservation nor on-site mitigation can be achieved, the applicant may request off-site alternatives. For non-residential subdivisions and large scale development, off-site alternatives shall be allowed only if taken into consideration the proposed design of the project, on-site mitigation as being impossible due to environmental or spacial constraints. The most important change there was that they had fashioned the phrase, "after taking into consideration the proposed design of the project" they felt that would be a good clarification.

In response to questions, Mr. Whitaker stated he had discussed all the recommended changes with Ms. Kim Hesse. It was his understanding that these recommendations were e-mailed out to the subcommittee.

Alderman Davis asked if the realtors had asked for the word "impractical" to be placed in there.

Mr. Whitaker stated the word had been suggested, but the word brings up a myriad of interpretation difficulties. From very early on the subcommittee was very hesitant to use the word. They felt the wording, "taking into consideration the proposed design of the project" would soften the standard sufficiently.

Alderman Young questioned "spacial considerations"

Mr. Whitaker replied in the vernacular, is there enough room.

Alderman Young asked what would happen if someone tried to place too much of a building on a lot.

Mr. Whitaker stated that would be an issue for any number of their other development ordinances. Their next recommendation reads, "the ordinance should be modified to clarify the continuing preservation requirements do not affect residential owners after lot development." They felt that they had done that, but when they read it again they could see how the paragraph under Section L.1. could leave some folks in the dark. He read the proposed change, "in order to insure that an applicant heirs, successors, assigns or any subsequent purchasers of the subject property are put on notice as to the existence and the extent of an approved tree preservation plan. Tree preservation areas shall be clearly depicted on the easement plats for large scale developments and the final plats for non-residential subdivisions. This shall be accompanied by a narrative statement describing the nature of the protection afforded and bearing the signature of the landscape administrator. Lots in residential subdivisions were expressly exempt from these requirements."

The next recommendation, the standard for approving the removal or moving of trees should be revised. His response was that they believed the problem had been resolved by amendments made to Section L at their last meeting. They had now changed that section to make where they would not have to get Council approval to remove dead or diseased trees from their property. That could be done through consultation with the landscape administrator, rather than having to go through Council.

The next recommendation, the landscape establishment guarantee provision for special consideration in the event of natural disaster should be clarified and may not be commercially reasonable. They had stricken that phrase and listed individual disasters and independent actions of third party, then stating, "the applicant shall be relieved of the responsibility of replanting the tree or trees so affected." They were able to get rid of the phrase, "special considerations". As a second part of the recommendation, they were referring to the three year length of the proposed landscape establishment guarantee period. Three years was the minimum time required for establishment. The realtors' memo answers the question by discussing the possibility, "the developer could negotiate with the purchaser of the affected lot or units over the ultimate financial responsibility for the guarantee." So they would not necessarily have to carry this financial obligation around for the three years as long as they were able to legally able to transfer it to another person willing to accept it as part of the bargain.

Alderman Thiel moved to amend Section 167.04. J. to add the wording at the end, "for non-residential subdivision and large scale development off-site alternatives shall be allowed only if after taking into consideration the proposed design of the project, on-site mitigation as being impossible due to environmental or spacial constraints. Alderman Santos seconded.

Mr. Ben Israel, an area resident, stated he was a commercial developer. The first word that the learned individual said was "preservation." He was set back by the hypocrisies of that, in that the tree inventory from the Library site. There were sixty-eight trees on the premises and only thirty-four of those trees were recommended to come down. There had been no effort made to relocate the library. Of the thirty-four trees that were recommended to stay, twelve of those were over fifty feet tall. They were large trees. Sixteen of those were medium sized trees. He did not understand the hypocrisy of saying they were going to preserve all the trees and then let the judgment of one or two individuals say lets take them all down. He did not understand that. He had been told that his subdivision, that if it did not fit, to build a smaller building. He did not know what the library had been told, but he was concerned. When Kohl's went in there were about fifty trees taken down. There was going to be sixty-eight trees taken down for the library. Where were the protesters? Everyone was calling for preservation, and yet they were allowing thirty-four healthy trees to come down for the library.

Mayor Coody stated a lot of this was done before their time. The library project was started quite a while back. He did not have all the details.

Mr. Israel stated that he was probably not right about that. His subdivision had started a long time ago too. He had been told one thing, and library was told something else. He did not understand the difference. Was it because he was doing it for a profit motive. Were the thirty-four trees to be sacrificed for the library? Were they less worthy than the trees at the Kohl's department store?

Alderman Zurcher stated they left a lot of this up to the landscape administrator.

Mr. Israel stated that was exactly what he was pointing out. This administrator or any other administrator that they chose to hire can be very loose with their interpretation of that. He suggested they require twenty percent trees on every lot and end it.

Alderman Santos stated there was a difference between green field development on the edge of town where there was room and in-fill development downtown. That was a goal of the city set forth in their 20/20 plan that they wanted to encourage in-fill development, which discouraged sprawl. They wanted to have active, vibrant downtown. So they were going to have to make sacrifices on things like tree preservation to have the kind of dense development that they want downtown. The tree preservation was a lot more reasonable and a lot easier to achieve in green field development on the edge of town.

Alderman Trumbo stated what Dr. Israel and some of his constituents were concerned about was that they see Saint Paul allowed to cut down beautiful healthy trees in the historic district when they could have gone to the east and not cut down any trees. But, to save their parking, one individual recommended that they could go to the north and cut down the trees. It just depended on what project and group they were associated with and the interpretation of the current ordinance.

Mr. Williams stated Ms. Hesse, the Landscape Administrator, had answered questions at the Planning Commission. They had been concerned about the very issues Mr. Israel has raised. He thought during those meetings Ms. Hesse had answered all those questions very well and completely. The staff did the best that they could. Every piece of ground was different. The staff wanted to make the projects work.

Mr. Israel stated Mr. Williams was wrong about that. It would have been possible for him to cut down twenty percent more trees and build more building. It would have been possible and better economically for him to do that. The library was being allowed to do that. The arborist report stated only thirty-four of those trees should come down. Why the difference?

Mr. Williams stated the State arborist, who came and examined the trees, her interpretation supported Ms. Hesse's interpretation.

Alderman Trumbo stated their was not any verbiage on the criteria in place to specify where an existing tree is diseased or not. They had been told the trees at CMN were healthy and had healthy root structure, but when they were cut down they were hollow in the middle. They had been told all the trees at the library were all disease, but here was a report that said only half of them were. He did not think they had the criteria to determine if something was disease or not.

Mr. Israel asked if the Planning Commission had the report from the arborist. They would have told him to move some where else. Why was it different for him. Developers were getting this terrible name in Fayetteville and many of them were saying they did not want to do this any more. In Springdale, teacher are paid two grand more than they are in Fayetteville. We had an eight tenths percent growth rate in Fayetteville school system and they had a four to five growth rate. Developers were good for the school system.

Upon roll call the motion carried unanimously.
Alderman Thiel moved to amend the tree ordinance under item L, Continuing preservation, approved Tree Preservation Plans. It should read, "in order to ensure at applicant's heirs, successors, assigns or subsequence purchasers are put on not to the existing the extent of an approved Tree Preservation Plan. Tree preservation areas should be clearly depicted on the easement plat or large scale development or final plat for non-residential subdivision. This shall be accompanied by an narrative statement describing the nature of the protection afforded and bearing the signature of the landscape administrator. Lots in residential subdivision are expressly exempt from these requirements." Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

Alderman Thiel moved to amend to 167.04 (j)(5)(d) of Exhibit B. "In the event trees are injured or destroyed by natural disasters, including but not limited to tornados, straight line winds, ice storms, fire, floods, hail or lighting strikes or through the independent actions of third parties, the applicant shall be relieved from the responsibility of replanting the tree or trees so affected." Alderman Zurcher seconded. Upon roll call the motion carried unanimously.

In regards to the agricultural exemption, Mr. Whitaker explained the three variances they were offering to them shared some things in common. The first thing was that they had changed the language in all three of these as far of who's call it is on what they were calling a bona fide agricultural purpose. They had shifted that responsibility to the Planning Commission and away from the landscape administrator. Based on the fact these were the kinds of consideration that was going to cause a good deal of controversy. As well as they were an integral part of the Planning Commission's final decision on whether to approve or disapprove the entire tree preservation plan and consequently the large scale development or plat they were considering at that point. It seemed only logical to make it clear in the ordinance what the process was. They all also require the insertion in Exhibit A of the definition of bona fide agricultural purposes, which he read, "a bonafide agricultural purpose, the aim or goal of facilitating the ongoing commercial pursuit of farming, dairying, pasturage, horticultural, viticultural, or the keeping or raising of live stock or poultry not otherwise prohibited by city ordinance." Otherwise, internally, the biggest difference is that in variant A, at the bottom of the second paragraph, "the above sanction shall not apply" could be interpreted as saying that once a person had proven they were pursuing a bonafide agricultural purpose, no trees need be planted on a lot that had prior tree removal. He thought that could be one of the interpretation of that language. B was an attempt to make it clearer that when trees had been removed, even if they could prove the agricultural purpose, they still had to get back up to their percent minimum canopy, because they did remove trees prior to development. What the exemption grant does give relief from the ten percent bonus of having to plant the extra ten percent based on the entire property area. Variant C made that clearer. The only real difference between B and C is that the language was written to be a bit more firmative and straight forward. Substantively he thought B and C were just about the same.

Alderman Davis asked if they were sitting themselves up for a lawsuit on this by trying to regulate A-1 land.

Mr. Whittaker stated they did regulate A-1 land.

Alderman Zurcher stated it was his understanding that this did not affect a residence. They were discussing an agricultural zoning. He thought they could do that.

Alderman Thiel did not believe this changed that. They just had to prove that it was a bonafide use.

Alderman Young stated they would have to convince the Planning Commission that it was a bonafide agricultural use.

Alderman Zurcher stated they could sell the wood, but if they wanted to develop it as a large scale development they had to plant back to that minimum, plus ten percent.

Mr. Whittaker stated if they had proven a bonafide agricultural purpose they would not have to do the extra ten percent. He added agricultural was a permitted use in both A-1 and Industrial zoned area.

Alderman Zurcher asked Mr. Williams what he thought of Variant C. Would they be risking a law suit?

Mr. Williams stated he thought both Variant B and Variant C, he approved of both of those. Anytime they did anything they risked a lawsuit. It was clearer and better worded than their current ordinance. It also had a penalty in there. The reason he thought Variant B and C were preferred was because there was less at stake for the penalty. If they had removed trees within the last five years from their land, then they would have to meet the minimum tree canopy and if they did not meet the penalty then they would go before the Planning Commission to explain their agricultural purpose for doing it and if they thought that was correct then they would not make them plant the extra ten percent. In that case there would only be ten percent at issue. Person who had removed trees within the last five years would simply need to replant up the minium level normally for commercial that was fifteen percent. Then the only other issue would be the other ten percent. If they had cleared their land for no agricultural purpose at all then they would have the extra ten percent added onto it. There had been one suit under this tree ordinance and it had not been brought by a developer. He thought that since it had been in affect for seven years, he thought if they were going to get suits on this they would have already come. He thought this ordnance was much better balanced and thought out. They had done a very good job in trying to clarify the ordinance and to make it more understandable. He thought either Variant B or C would be clear and fairly easy to administer.

Mr. Whittaker stated he thought Variant C was better because it had more direct language.

Alderman Santos moved to approve Variant C, under D, Prior Tree Removal. The wording would be, "1. If trees have been removed below the required minimum within the five years preceding application for development approval, the site must be forested to meet the percent minimum canopy requirement setforth in table one, plus an additional ten percent of the total area of the property for which the applicant was seeking approval, less the right-of-way dedication. The number of trees required to be planted shall be calculated using the base density for high priorty trees. 2. If the applicant is able to demonstrate to the Planning Commission satisfaction that the trees were removed for a bonafide agricultural purpose and not with the intent to thorth enforcement of this chapter the additional ten percent reforestation requirement shall be waved. In addition to that the language would require the addition of Exhibit A and Exhibit A would have the following definitions: "bonafide agricultural purpose"under tree preservation and protection. "The aim or goal of the facilitating ongoing commercial pursuit of farming, dairing, pasturing, horticultural, viticulture, or the keeping and raising of live stock or poultry not other wise prohibited by city ordinance. Alderman Zurcher seconded the motion.

Mr. Butch Green, an area resident, stated one of the things he thought was being missed was that everyone kept talking about ongoing agriculture or agricultural purpose, what they were really discussing was an agricultural commodity and not the purpose. If some stated they were going to turn this land into a commercial development and they had an agricultural commodity and they were going to harvest that commodity, if the city went back in and forced them to replant, it was not different with it being a commodity than someone buying a wheat field and saying they were going to harvest the wheat off of this and then develop the land and for a body to say they had to replant the wheat. They were talking about an agricultural commodity not necessarily a practice. When they started going in and penalizing them for harvesting a commodity, they were very likely also to start delving into some of the federal regulations as far as restraight of trade and commerce. He asked if agriculture considered commerce.

Mr. Williams stated agriculture could be commerce, if it went across state lines, it could be considered interstate commerce, which was the only thing the federal government regulated, not instate commerce.

Mr. Green asked if someone wanted to sell fire wood in Oklahoma and they told them they were going to have to replant, then they would have a lawsuit brewing. They may not have had a lawsuit for seven years, but this really reminding him a lot of the Overlay District got put in and Lamar Pettus stated that if they did not grandfather in the approved large scale developments he would be in the next day to file a lawsuit. Lamar filed one the next day and they won.

Mr. Williams stated he was on that Council and Mr. Rose had advised them to act very carefully. They did in fact grandfather in all that property, the only lawsuit had been won by the city, and the overlay district had been upheld. He did not recommend to this Council that when they changed ordinances, not to grandfather in property. He thought it was very proper to do that. That was what that Council did.

Mr. Green stated they were looking at a commodity verses a practice. If they had agricultural land, the trees or whatever, under the definition by state law was a commodity. It was a commodity. If someone wanted to sell that commodity, it was theirs to sell. If they started going in and telling people that they could not do that or they were going to get penalized, he thought they had a major problem. He thought they could do it one of two ways. Either get rid of agricultural zoning all together or grant a blanket exemption.

Mayor Coody asked if this would keep someone from selling trees off of their property.

Mr. Williams stated the ordinance did not stop anyone from selling trees off their property, especially if it was a single family home or agricultural purposes. If the city chose to only look at trees as commodities, then they might as well not have an ordinance, then anyone for any reason could cut down every tree that they had. There would be no tree ordinance. The tree ordinance did in fact control the destruction of trees. In some cases they could be a commodity. If they thought trees were only a commodity, then they should vote against this ordinance. This ordinance did control the destruction of trees. It was to preserve and protect a portion of the trees on their land. In response to questions from Mr. Green, he stated not every tree was grown to be harvested. He imagined the majority of trees were grown to be enjoyed.

Mr. Green stated Agricultural zoning was set aside for agricultural purposes. The commodities that were raised on that were that, commodities. If someone wanted to sell off a commodity that they have and the city was penalized for doing that. That had to reforest if they did it within five years. If they sold that land for development, which they had a right to do, then they were being penalized for having legitimately harvested an agricultural commodity within that last five years.

Alderman Young stated they would have to the property rezoned.

Mr. Green stated if they were turned down they would go get a lawyer.

Alderman Davis stated if they clear cut the land, the city was requiring them to come back with that much canopy.

Alderman Santos stated the applicant would be the one asking for the zoning. The applicant was the one asking to plant those trees back.

Mr. Green replied they were not asking to plant those trees back. They were asking for a rezoning to develop the property. He was not asking to go back and replant those trees. It was not a matter of agricultural use, it was a matter of agricultural commodity. He sold off of land that was zoned agricultural.

Alderman Santos stated it was his decision whether he wanted to use it for agriculture.

Mr. Green stated it was not a matter of agriculture uses. It is an agricultural commodity. He sold off land that was zoned agricultural. He could say that he was buying it to development after he harvest the commodity off of the land.

Alderman Santos stated then he would be intending to thort enforcement of this ordinance. The only people that this applied to were people who were purposefully intending to thort enforcement of this ordinance.

Mr. Green stated if it was agricultural land, then it was considered an agricultural commodity. Whether they wanted to go back and develop or not. Eventually this would end up in a lawsuit. He doubted if the city would win.

Mr. Whittaker stated he had gone through just about every federal law, forest service regulations and USDA regulations and learned treedist and land use and agriculture in an attempt to bring them a defendable definition that they could use for the purpose of this ordinance. The list included dairying to grape growing. He could tell them that in the rims and rims of definitions and classifications that he had looked through at every level, forest harvesting was not among those things listed as agriculture. It was listed under forestry and the broader heading of extractive industry, much like coal mining. Furthermore, our zoning ordinance only allows for one kind of extractive industry and that was gravel, stone, and sand. There was not one word of forestry in their current zoning law. Their agricultural use sections did not mention forestry. Even though they were growing things they have not been traditionally or legally looked at as agriculture.

Mr. Robert Ferrell, an area resident, asked if a person started out in an agricultural pursuit and something happen and they had to sell the land and they went before the Planning Commission to request the exemption, that they were not trying to thort the law and the Planning Commission turned them down. What would be the appellant process?

Mr. Williams stated three aldermen were only required for a conditional use appeal. None of the other appeals required that.

Mr. Ferrell asked if they would be able to appeal it to the City Council.

Mr. Williams stated he thought the tree plan itself, which would be what they were appealing, that can come before the City Council with one alderman sponsoring it.

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

Alderman Young stated back in the very beginning the actual ordinance the appeals to the City Council, "owners of record or any member of City Council..." He was an owner of record, but he might live half way across town from a development.

Mr. Whittaker stated other provisions of the appeal section allow them to approach an alderman.

Alderman Young asked if this could be interpreted to say that any property owner in Fayetteville could appeal it. Their intent was the owner of the subject property.

Mr. Whittaker stated this language came directly from the other sections in that chapter. He thought that a strained reading of it would be that any owner of record could appeal.

Alderman Young asked if they needed to put something like "owners of record of subject property"?

Mr. Whittaker stated he did not know if it would hurt, but he did not know if it was necessary. The first thing they were going to say when they read this was that the laws should be given their plain and ordinary meaning, unless there was some other indication in the text that it should not. He thought the plain and ordinary meaning of owners of record or any member of city council wishing to contest can be read that it was the owner of the property who is aggrieved and not the owners of any property. He did not believe it was necessary nor was it harmful.

Mr. Williams stated there was one possibility that it might actually be harmful since the did not specifically state that on all the other appeals, then the court might say since they said it on this appeal and the did not up there, then they must have meant something different. He thought it would be better to leave it the way all the other ones are. He thought it was a pretty clear understanding.

Alderman Young stated that if they just put it in the minutes of the meeting that was their real intent so if anyone read the minutes they would know that they were talking about the owner of record of the aggrieved party or any member of the City Council.

Mr. Williams stated he would entertain a motion to put this on third and final reading, unless they had other amendments.

Alderman Davis asked if there items that the public would like to bring up that they had not addressed.

Mr. Ben Israel stated on Section L (2) on page 13, it still stated that if I as a developer wanted to change the canopy that he must come before the City Council and explain how the removal of that tree or a portion of the canopy would benefit the citizens of Fayetteville. He thought that was so unbelievable.

Mayor Coody stated he thought they were talking about was the geographic extent and location of the tree preservation area, which would be the fifteen percent retention area.

Mr. Israel stated he did not mind that, but he had to prove to them how it would benefit the citizens of Fayetteville. He thought they should strike that language. So he could never cut those trees.

Alderman Zurcher replied, no, it was fifteen percent that he was leaving. That was what this was about.

Mr. Williams stated this was not saying they could not cut those trees. The landscape administrator would allow them to cut a diseased or dead tree. But if they wanted to come and move their tree preservation area from one part of his land to another, that was where they had to come to the city council and show that it was in the best interest in the citizen of Fayetteville that be done.

Mr. Israel asked how that could be done.

Mr. Williams replied, he guessed that he could say the tree preservation area was subject to flooding or something like that or the trees were dying and suggest a better place for them. He thought there were a lot of different ways that he could do that. If it was truely going to be beneficial to the community.

Mr. Israel asked if they were going to decided if he had convinced the citizens that it was okay. He questioned why they had to have the citizens of Fayetteville.

Mr. Williams stated they needed to have some test in order for the government to not just arbitary and capricious. That was why they had put a very vague broadcast of "the best interest of citizen of the Fayetteville". He thought there were a lot of things that could convince them to move or abolish the tree preservation area. If they wanted to take that out then they needed to put some other test in. They should not have unbridled discretion up here, just because they liked Mr. Israel. The needed to some test that would guide the future city council on why they should agree or not agree with the applicant.

Alderman Trumbo stated he agreed with Mr. Israel in terms that it was crazy for them to have to prove to the citizens of Fayetteville.

Alderman Santos stated he thought every decision that they made was supposed to be in the best interest of the residents, whether that line was there or not.

Alderman Thiel stated that was what they were elected to do was represent the citizens. She agreed that they needed some sort of test.

Mr. Whittaker explained that the scenario in that kept coming up in the subcommittee was the scenario that the once they had complied and developed and had plenty of natural growth and other trees had reached maturity, you could change it like a easement vacation. They could come before the city council.

Alderman Davis suggested that they delete the words, "in the best interest of the citizens of Fayetteville"

Alderman Jordan suggested removing "residents" and inserting "city".

Alderman Trumbo moved to amend the ordinance by removing "residents" and inserting "city". Alderman Davis seconded the motion.

Mr. Williams stated the way he understood the amendment was that they were going to replace "residents" with "city".

Upon roll call the motion carried by a vote of 4-4-0, Zurcher, Santos, Jordan, and Thiel, voting nay. Mayor Coody broke tie by voting yea.

Alderman Young stated other factors could be considered since they added the word "city".

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

Mr. Williams read the ordinance for the third time.

Mayor Coody read a letter from Matt Botishbaugh addressed to Mr. Bob Davis, *during the discussion regarding the proposed tree ordinance I have heard several times that the committee who drafted this revised language was represented by the business community, real estate community, developers, and other stakeholders in this critical ordinance. I do not think that this is necessary true. While all of the above stake holders were certainly invited to participate in these committee meeting, myself included, most of the business people could not maintain participation levels for the weekly meetings which were held in excess of fifty weeks. I am embarrassed to admit that I could not continue to meet with the committee pass the first ten weeks or so due to time constraints. Other professional originally involved in committee meeting also faced the same difficulty. Obviously the committee members who saw this through to the end should be applauded and respected to their commitment to this cause, however, in my opinion extracting this process out over a year long period lost the input of many professional stakeholders who would have like to participated. Thus, the argument that this ordinance was drafted by all concerned parties including businessmen, Realtors, developers, etc was a bit misleading. Please do not buy into the notion that everyone endorses the revised ordinance, just because they were given they opportunity to provide input during the committee meetings. I believe you will find that the make up of the committee did not consistently represent all stakeholders throughout the entire process due to the extended period of time spent drafting it. Thank you for your leadership on this critical issue. Sincerely Matt Botishbaugh.* Another letter from Lindsey and Associates from Kirk Elsass, Sr. VP Lindsey and Associates. *Dear Mayor Coody, Trent Trumbo, Bob Davis, and all Fayetteville City Aldermen. In reference to the Fayetteville Tree Committee. It has been made reference that several of the original members were in support* *of this ordinance. I would like to set the record straight on my behalf. I was present for several of the first meetings and felt that there was a group on this committee that was going to write the proposal to the council for recommendation the way they wanted it and any thing that I said was going to be wrong. I did not make another meeting and contacted Kim Hesse and told her I would not be able to attend any more and expressed to her the reasons. Finally, I had no say so whatsoever in the final draft of this ordinance. I am in no way supportive to the tree ordinance. I would like the record to be clear that the ordinance was not any part of something I support. Sincerely, Kirk Elass. Please do not pass any part of this ordinance.*

Ms. Hesse asked to address those letters. It was true there were twenty-five members of the original committee. There were probably nine members that continually week after week for thirteen months. From the developer/business community: Audy Lack, Andy Feinstein, Jim Neel, Bob Hill, Chris Brackett, Jill Key. Neutral Members: Missy Leflar, Gerald Klingerman, David Whitttaker. Tree Huggers: John DuVal, Fran Alexander, Beverly Melton, Jim Wilson, Jill Bennitt. If they counted those up they had three continual members from the business community, two self proclaimed tree huggers and three that were neutral. She felt that was a fair assessment.

Mr. John DuVal an area resident, stated there had been a number of implication that only the people who had finical interest at stake sacrificed by attending those meetings, but he could assure them that it was a big sacrifice to go every week. Throughout the process they under went continual compromise. He was concerned about this ordinance. He hoped they would consult with some other outside organization such as the Sierra Club and see if they were still satisfied with the ordinance. If they were not, then from the point of the view of the good of the whole city he hoped they would seek to make it better.

Alderman Trumbo asked Mr. DuVal asked if he as a taxpayer be in favor of the lot where the library was going if it was commercial lease space building going on that. If that had been a for profit commercial development would he be in favor of cutting those trees.

Mr. DuVal stated he had not examined that. He and been spending his time on this issue. He was not the one to answer his question.

Alderman Trumbo stated that was what he was getting at, that even with this new ordinance it still made a difference whether it was a church or a library or a for profit commercial development.

Mr. DuVal stated one of the things that they had aimed for was flexibility. If they had been to flexible in that area maybe the ordinance should be made a little tighter. Over the next year, if turned out that they were cutting down too many trees, it should be made tighter.

Alderman Trumbo stated tree preservation was of the upmost in this new ordinance. St. Paul had been able to go the north and cut down a lot of beautiful trees as opposed to going to the east and not cutting down any trees, but they would have had to cut down trees. That was still a judgement call, even with this new ordinance.

Mr. DuVal stated the big tree which and been cut down was ruled to be an unhealthy tree and would not have lived very long. If in Ms. Hesse's opinion a tree was not going to live very long, she was not going to chain herself to it.

Alderman Trumbo stated it had been a large, beautiful, historic tree with green space and now there was a building ten foot from the sidewalk.

Alderman Zurcher asked why he had not appealed the library when he had the power to do it.

Ms. Hesse stated in the new ordinance there was a criteria section. Two items would directly answer the question. One being whether the size or shape of the lot would reduce the flexibility of design. One being the general health condition of the group of trees or the presence of any disease, injury or hazard. At St. Paul they were restricted by the shape of the lot. The could have reduced the amount of the parking, but there was a parking problem. Those trees were fence row trees. There was a beautiful beau arc, which was hollow and a large part had followed out. There were a lot of cherries, hackberries and honey locust. Many of the trees that they felt were of higher quality, they were trying to preserve those. It was difficult on that site. Steele Crossing was a large development. They proposed to save two trees originally. There were two hundred rare trees, that were healthy, they were hollow, but most trees were hollow. Their root systems were healthy and they were in groups. As a designer it was easy for her to look at it and see that they could keep the size of the building and keep the tree by moving the building. She did not ask them to reduce the size of their building or their parking lot. She asked them to change their design, because she saw that it was feasible. The Library, they had assessed those trees. Thirty two trees might have been RM. She was saying that they needed to be removed whether they developed the site or not. The others were not very healthy. There were several that were healthy and they were working to preserve. The size and the shape of the lot affected that design. Joyce Street, Mr. Israel had two developments. One had several elm trees. All of them were diseased. A number of them had been required to be preserved. During the rezoning of the property the council asked that they meet their tree preservation requirement. There was reason behind all of this and she did not look at who the developer was. She looked at the site and the trees and the impact to the over all community. She also looked to see if there was any effort for good comprehensive site design. They were a very healthy city, we have all kinds of trees. They were not at a shortage of trees. They had a wealth of canopy. No one ever paid attention in other cities how sites were being developed, until they lost a lot of their canopy.

Now those cities were spending millions of dollars planting trees back, because now they realize that canopy was going to help them be more sustainable. Canopy can reduce their cost for storm water and clean the air and water. They had to have a mix of mature, young and a mix of species. They were trying not to make the same mistakes as some of the other cities have made.

Alderman Trumbo stated there were a lot of people questioning the hypocrisy.

Mr. Israel stated he had suggested to them at the treeless lots should have more trees on them. He had always asked them to make a standard for everyone. Fayetteville itself may not need developers, but the Fayetteville school system did. He had talked with administrators today, they say that developers were their best friends, because forty-six percent of their budget came from the property tax. Right now in Springdale, a teacher would start out making two thousand dollars more than they would in Fayetteville. The Fayetteville school system grew by eight-tens of one percent last year. Springdale school system grew by four to five percent. Springdale was building ten new schools, Fayetteville just closed one. We need development. They need it to be controlled development, but they needed it to be on an open playing field. He asked if they knew what it took to be a developer. He presented a flow chart of what it took to be a developer. There were seven places they their engineer must attend a meeting or make ruling on drawings. They did not hire enough people to enforce their current ordinance. Then they come a long and pass a bicycle ordinance that was six pages long which stated if they had twenty-five parking spaces then he had to have three bicycle spaces. Those cost about fifteen hundred dollars to do that. If they put in twenty of those, that was thirty thousand dollars that they have spent on people for them to be able to ride up on a bicycle. He had yet to see the first person riding a bicycle to work and they were going to spend thirty grand.

Mayor Coody stated he thought that they had made good strides trying to decomplicate things. They had put a lot of effort into removing the back log that developers use to have.

Mr. Israel stated in January he had sat in the mayor's office and he had stated that he would hire another engineer. There was still one engineer that reviews every plan. He still reviewed every plan and attends every meeting and they were their days in getting approval.

Mayor Coody stated they were in the process of perhaps hiring another engineer. They were also finishing up plans of putting engineering and planning next to each other.

Mr. Israel stated every development that they lost cost the city tax payer money. When they lost the Cracker Barrel to Springdale it cost the Fayetteville School system sixteen thousand dollars a year in revenue. It cost the city with their two percent HMR tax a hundred and twenty thousand a year. They had made so many ordinances and so many hoops to jump through that no one wants to develop here. They were talking to three restaurant chains now and none of them want to come to Fayetteville.

Alderman Zurcher stated he did not believe that people were eating out any less,.

Mr. Israel stated it was the nine thousand square foot building was what brought the sixteen thousand to the school system and not their revenue.

Alderman Zurcher stated one particular development that did not follow their rules was not going to hurt them.

Alderman Trumbo asked if Mr. Israel was satisfied as a citizen with Ms. Hesse's explanations.

Mr. Israel stated he was not. One person made that decision and the Planning Commission went along with it. He could not have voted in good conscience to do for the library what they would not do for a common citizen. He wanted them to plant more trees. Every time he had come before them he had said that. They needed a level playing field. It was not that he was against the tree ordinance. It was the way it was administered and the way some people could be pushed aside. The reason they had not been sued was because the ordinance had never been interpreted like it was interpreted now.

Mr. Williams stated the same basic provision was in there. Whether that had been applied or not he did not know.

Mr. Israel stated look at Hwy 45 and Hwy 265 junction; every tree that was there was gone. There was not a single tree planted back in its place. He was just telling them it was not fair. He hoped they voted against it.

Ms. Missy Leflar, an area resident, stated they had put in a system where by if the amended tree ordinance was adopted, was that went the landscape administrator made a recommendation. She would have an official form to fill out. It will list the specific criteria and an explanation in writing which of the criteria a to approve, disapprove or conditionally approve. At the end the appeals process was spelled out. There would be a paper trail to follow.

Mr. Al Vic, an area resident, stated probably no one was happy with it. As a tree hugger, he would like to see more of a canopy. He would like to see more regulations. By the time a development came to the people was after every one had else had been consulted and thousand of dollars had been spent. The tree ordinance was an attempt by people to maintain some type of control over their neighborhoods and over their community.

Ms. Francis Langham, an area resident, stated they were discussing private property rights. She thought they were constitutionally important. There was a limit to regulation. She did not believe this ordinance would encourage people to come to Fayetteville. She felt the ordinance was too complicated. People were not interested in going through all this. It was very time consuming and people were having to pay for that, and it was not the developer. It was the citizens. She did not like the idea that the home owners and the people who purchased real estates to pass this much money on the citizens. There were a lot of people who did not like this.

Alderman Trumbo asked Ms. Langham if this tree preservation ordinance was passed and then the impact fees were passed, what would that do the property. Would it increase their property values.

Ms. Langham stated the property values were going to go up, personally she would be better off. She did not think that they were trying to make Fayetteville a nice place to live. She thought they were saying that those of you who can not live like us go some where else. She personally would be better off, but she did not feel right about it. It was wrong to put people in such a quandary.

Alderman Thiel stated it was her understanding that is ordinance was more of a clarification of an existing ordinance. She thought there had been some new things added, but over all it was a clarification. She did not think that they were adding anything in this ordinance which would be a real burden to builders and people who bought the homes. This was just clarifying an existing ordinance.

Ms. Langham stated she did not know why they did the first ordinance. If they considered it just clarification that it took thirteen months. There was a lot to check off. Many people could not jump through all the hoops.

Ms. Jan Scopach, NW Arkansas Home Builders Association, stated their association was concerned. Many of their builders were very concerned because they don't view it in that manner. They were viewing it as additional costs that was being placed onto residential and commercial properties. They were being faced with a great number of families moving into Fayetteville area. For many of them the passage of the tree ordinance and subsequent review of impact fees are going to place these home in a position of being unaffordable. These people were wanting to move to Fayetteville and raise their families. They were not going to be able to buy homes in the city of Fayetteville because they were no longer going to affordable. As Dr. Israel stated a few minutes ago, all their builders were daily having to deal with new ordinances and new cost being placed upon them. They did not want to have their builder leave the city of Fayetteville. They had to find a happy medium. The lost of affordable housing in this city was going to leave this city in greater amounts, in income, in diversity. They had to find a way to work together. She hoped this ordinance would not pass.

Alderman Young stated people had lost sight of the emphases during the very beginning, which was the feeling of the public, that developers were not adhering to their ordinances. He lost his job because he had asked the city why they were not enforcing and adhering to an ordinance. He thought the development community needed to take to this. If they passed this ordinance tonight. It would start a new day. The question was, was it going to be adhered to. Was it going to be enforced. He hoped the development community would pay attention to what the public wanted. If this passed and they did not want to adhere to this there may be something far worst that the city might implement. The public had property rights and their value of property rights far exceeds any of their developments.

Alderman Trumbo stated even with this new tree preservation ordinance, to him it was the same as the existing one, in that it was totally discretionary. They had a tree landscape administrator unilaterally making a recommendation to nine Planning Commissioners. There was an appeal process in place. To him it boiled down to the same implementation tht they were allowed to bring the canopy below twenty percent and to replant trees to get above the canopy minimum. They had these perceptions that it was discretionary.

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

ORDINANCE 4340 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RESIDENTIAL YARD WASTE

An ordinance amending Chapter 50: Garbage and Trash, of the code of Fayetteville, to amend definitions; and to amend the services requirements pertaining to residential yard waste. The ordinance was left on the first reading at the September 18, 2001, meeting.

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

Mr. Williams read the ordinance.

Mayor Coody stated this was basically to amend their ordinances to try and solve some of the problems that they had at the Solid Waste Department. They spent forty-six thousand dollars a year busting bags to send to their mulching compost piles. In addition to over seventeen hundred hours of community service. They had one person full time and additional people during the fall. Other communities have been using paper bags.

Mr. Dumas, Utilities Services Director, read a memo summarizing their operations and possible improvements. The composting operation needed to reviewed. It had been mandated for yardwaste to be removed from landfill waste disposal stream. The current yard waste program allowed yard waste to be placed in thirty to thirty-three gallon plastic bags or bundled appropriately for collection service. The current ordinance did not prohibit the use of reusable cans. It was currently permitted by the current system. At present the city provided finished compost to the public twice a year. In the spring and fall. It was provided free with a loading fee. There were complaints with trash and plastic in the finished compost. This lessened the use of the finished composted. The product ready for this year compost distribution has been improved by screening the material. The screening machine should be purchased by the Four County Solid Waste district this fall or winter and will be available for rental on an as needed basis next year. Currently the yard waste subscriber paid twenty four dollars a year. Additionally most subscribers purchase plastic bags to dispose of the yard waste. He presented the same presentation from the last meeting, summarizing their current operations, the cost of the operation. The summarized and compared several options to this process.

Alderman Thiel stated that they would be losing money by the elimination of the subscription fee. She believed that could be made up with the increase in yard waste they collected and higher quality product that they could sell. They would be eliminating the plastic bags from the waste stream. It would be saving the citizens money using their own cans and containers.

Alderman Jordan stated he had been concerned about the cost of the bags. But, since they could use their own trash cans, he was concerned about the number of bags they would be using. He support good education programs to teach people to mulch and compost.

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

Mr. Williams read the ordinance.

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

ORDINANCE 4341 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

RUPPLE ROAD
A resolution authorizing the acceptance of a contract between WHM and the City of Fayetteville that details the terms and conditions of the Rupple Road cost sharing agreement.

Mr. Hugh Ernest stated they had worked out a formula participation for Mr. McIlroy in the construction of Rupple Road. None of this was going to occur unless the Boys and Girls Club was successful in their fund raising drive. The basis for the formula was a rational nexus based on anticipated build out of the subdivisions that Mr. McIlroy owned along Rupple Road and was predicated on numbers that were developed by their engineering department and supported by both our Planning Commission and planning staff and the Developer. The commission was reluctant to approve this type of financial arrangement. They had approved the final plat. What they had before them were terms and conditions for contractural agreement between WHM and the City of Fayetteville covering those financial terms and conditions.

Alderman Young stated the only problem he had with the contract was that on the letter of credit.

Mr. Williams stated the contract would be changed to read "irrevocable letter of credit." He had reviewed it and because the engineers had looked at this similar to what an impact study would be. And arrived at a figure based upon that kind of formula he thought it was quite proper and he did believe that this was a legal contract.

Alderman Santos stated he had been assured that this was the fairest way to do this and they had agreed to this in principle.

Alderman Santos moved to pass the resolution. Alderman Zurcher seconded. Upon roll call the motion carried unanimously.

RESOLUTION??????????/AS RECORDED IN THE OFFICE OF THE CITY CLERK.

THUNDER VALLEY SPEEDWAY
A resolution authorizing the City Attorney to file a suite, if necessary, against the owner of the land and the manage of the Thunder Valley Speedway as a public nuisance.

Alderman Theil stated that Alderman Reynolds and I had brought this to the attention of the council after she had received a lot of complaint from people who lived around the track. This action was intended to shut down the track. She was aware that many people enjoyed the races and that they provided low cost entertainment. She had encouraged people to sign a petition. They had close to two hundred signatures from people all over the south part of town. All they were asking was for the race track to shut down at a reasonable hour, require the drivers to use mufflers and to hold races on one designated weekend night. In other words be good neighbors. Last summer the track was being managed by the same man who managed the Monet Track. He was able to shut down the track by ten p.m. under the new management the races have consistently ended after eleven p.m. There have been two occasions where races have been held during the week nights where races have lasted until after eleven p.m. In 1972 when the track first opened thirty-six people who lived near it paid for and won a lawsuit which required the track to shut down by ten p.m., but over the years because of changes of ownership and the name of the track the court order has become unenforceable. The extent of the noise level is another issue. One of the recent noise reading taken by the Fayetteville police was three times higher than the city's industrial zoning would allow. Requiring the use of mufflers may not get the sound down to a level down to a level acceptable to their city ordinance, but it would help. Oklahoma had a State law requiring a mufflers on all stock car races, unfortunately, Arkansas did not. She wanted to reiterate that this action would not shut down the track. They just wanted to make this a better neighbor to the Fayetteville citizens who have complained to herself and Alderman Reynolds.

Alderman Davis asked Mr. Williams if anyone had gotten together with the owner of Thunder Valley and spoken about the problems they were having.

Mr. Williams stated he could not answer that. He did not know if they have. As their city attorney he could only act for the city. He had suggested to the aldermen that they come forward with a resolution authorizing him to take some action on their behalf, whether someone had contacted the owner that he did not know.

Alderman Thiel stated she had not contacted them. She had no idea if any of the people on the petition had contacted them. The problem that has always occurred is that the people who were interested in doing something about this would contact the new manager, which changed just about annually, and they would work out an agreement, but next year they would have a new manager/owner. There was nothing consistent that the new owner or manager was aware of. That had been the problem for a long time. Over the past few years it had changed ownership three or four times and under that ownership there had been several managers. Right now the current owner did not manage it and has not managed it for the last two or three seasons. That was the difficulty in negotiating something with the current manger. It did not last. It was an on going issue and has been for the last thirty years.

Alderman Reynolds stated he had no intention of shutting down Thunder Valley Speedway. All he wanted was for them to tell the neighbors around them what time they were going to close and do it and there would be no problems. When they had that many people complaining to them, then they had to do something to get them up here so they would tell them what they were going to do. And give them a time they were going to shut down.

Mr. Williams stated if they looked at the title of the resolution. It was to authorize to file suite if necessary. He would hope that no suite would be necessary. He would hope that they could work out something that would be satisfactory to both the owners of the race tract land and also the residents who were being impacted by that. He did not know if that was possible. Sometimes they could not come to an agreeable solution and they would have to do what they do in America. They went to court and let the judge decide what was proper and if it was a public nuisance or not. His first move would not to be to go down to court and file a suite. I would try to work out something that would be agreeable between the city and the owner and he would also try and work out an agreement that would run with the land. So that if the land was ever sold the same hours of operation agreement would be apart of that deed and the new owner would be bound that same agreement. They had a good decree in 1972 by Judge Butt, saying that if it was operated after ten p.m. it was a public nuisance. That was only directed toward basically three people. When those people no longer because owners or operators of the race track then it no longer hand any enforcement power. What ever they did this time, he would endeavor to make it as permanent of a solution as possible. He would hope they would do it by agreement.

Alderman Reynolds stated it was his understanding that they had call the races for the seasons. He asked if Mr. Lee had intention of running the track next year.

Mr. Lee stated he was not sure if he was going to or not.

Alderman Reynolds asked if he was running the track next year would he be willing to negotiate with their attorney to come up with a time to settle their neighbors down out there.

Mr. Lee replied, yes sir, if he ran it next year.

Alderman Reynolds stated that was all they were asking for was good intentions from them. He had nothing against racing. He had been down there.

Mr. Lee stated no one had ever contacted him or called him. The papers had tried to get a hold of him, but he did not have any comment. They ran the races through just as quick as they could. Some nights they got done at 9:15 some nights it was kind of late. Earlier in the year they had a little bit to long of intermission. They had tightened that up just as tight as they could. A lot of people come and enjoy it, it was hard to put a time limit on it. One week they would have a hundred and twenty or thirty cars the next week it would be down some. If he ran it and Richard Berry owned it, he was sure they could come to an agreement that would be good for every one. He was not sure what that time would be.

Alderman Reynolds stated he was sure he was a very busy man. It was not good for him not to return phone calls. He knew people had tried to call him, including himself. He thought they could work this out without any problem. He stated he would like to see an agreement with the property owner to see if he was willing to sign an agreement and Mr. Lee sign the agreement. They need it firm for an future lessee of that property.

Alderman Thiel stated she really wanted the city attorney to work out something that would run with the property.

Mr. Richard Berry, property owner, stated no one had tried to contact him in the name of a good neighbor. If they were a real good neighbor, you would have contacted him first before running this all through the news paper. They were not trying to cause destruction here, but they did have strong feelings about their race track. It was a sport and a business and they tried to treat it as such. It was a family sport. It was the largest spectator sport in America. It was a public benefit and not a nuisance. They spent a lot of money in this community. A lot of the money goes to a lot of businesses. They had several motel owners, operators, gas stations that support them. He had read in the paper about them wanted us to be good neighbors. It really chapped him that someone would bring that up and have it in the paper and they did not even know who their neighbor was that they were wanting to be good with. The least they could have done was come to him and they could have talked this over and they could have come to some kind of conclusion without you trying to get tax payer money and the government to fight their fight for them.

Alderman Reynolds asked if he had the property leased.

Mr. Berry stated he was the owner of the property and had owned the property for five or six year. He was the owner of record.

Alderman Reynolds asked if Mr. Lee leased the property.

Mr. Berry stated Mr. Lee was renting it from him. The deal in the paper was talking about the owner and the lease operator. He was ultimately the one who controlled what went on down there. He liked the idea of people wanting to be good neighbors. He wanted to be a good neighbor, but he was not going to send them a message through the new paper. Come and see him. They could talk about it. Have the decency to come and talk to the people they were trying to affect.

Alderman Thiel stated this had been the paper some time ago. Why did he not try and contact them. Why did they not try and lower their time.

Mr. Berry asked why did they not try and contact him. He was not going to negotiate through the news paper.

Mayor Coody asked if he thought they could negotiate some type of an agreeable situation with him.

Mr. Berry stated he was sitting here listing to this and talking about time wise. It was hard to tell you when it was going to quit. In the summer time they liked to start later because it was cooler and it did not shine in their eyes when they were racing. They had to start a little bit later in the evening. In the fall and spring they normally started at six o'clock. Now they tried to start at seven in the summer time. Depending on the number of wrecks and the number of problems that they had determines how long it would go. On average, a little know facts about racing, as far as what kind of time limit it took. Each race runs under power, which is noise, for a maximum of seventeen seconds per lap. Their feature races were twenty laps, about six minutes. They had five feature races generally of a night. That was thirty minutes of power, that was the noisy times. They ran fifteen heat races of eight laps each, seventeen seconds per lap. Total of an hour and fifteen minutes of total noise racing, high level noise, in the whole time that they were there. They were not totally noisy all the time. They generally get done between eleven and eleven thirty most any night, if they did not have any problems. If someone wanted to talk to them about getting done at a certain time. Let's set midnight.

Alderman Young asked if he was willing to met with the city attorney to discuss that.

Mr. Berry stated he was. He was here right now. They had not contacted him. This would not have gone this far if they had come and talked to him.

Alderman Thiel stated they could not do that, without the way they were doing it. This was just a resolution to allow the city attorney to talk to him.

Mr. Berry stated she could talk to him. She did not need an attorney. Mr. Coody could have talked to him. They did not have to have an attorney.

Alderman Thiel stated they were representing the citizens of Fayetteville.

Mayor Coody stated they had a dialog they needed to continue. He thought it was probably the council's wish it leave this on the table until the discussion came to decision. If this could be hammered out to where you and the city council could come to terms where they could agree that you could operate your business in such a way the city council feels that their business won't be construed as a public nuisance. Then they would not need to pursue this as far as going to court. If it was acceptable for him to talk with their city attorney, he knew it was acceptable with us for the attorney to talk to him. He felt certain they could hammer something out that they could keep their business and do every thing that they needed to do and a public nuisance suite could be avoided.

Mr. Berry stated unless they authorized the city attorney to make a deal tonight with him it was going to be a lot of talk, like the tree ordinance, it could go on for years. They had to authorize him to make some sort of deal. He was will to tell them right now, one night a week, on most occassions, would not support their business. They normally ran one night a week, but they were not going to say that they did not want to run a special race a couple of times during the year. They may run on a Tuesday night if they got rained out on Saturday night. They run a special race on Friday night. If they wanted to make a deal right now, they will quit at twelve o'clock and they would run a couple of nights a week if they could. They were willing to get done before that. People did not like to sit on those benches more than three hours anyway.

Alderman Young moved to table this for two weeks.

Alderman Thiel stated this resolution was to authorize the city attorney. It did say ten p.m. it also mentioned the sound. Based on this resolution, she would like to make a motion that they pass this resolution as it stood which would allow the city attorney to negotiate with the owner based on this resolution.

Alderman Davis asked if they could give him the authority to go ahead and negotiate with this gentleman without them having to pass a resolution stating they were going to file suite if he did not negotiate with them.

Mr. Williams stated if they could indicate that they had a consensus here tonight, that they wanted him to enter into negotiations to see what, if anything he could bring back to him at their next meeting. He would assume that gave him enough power without passing the resolution.

Alderman Young repeated his motion to table this for two weeks. Alderman Zurcher seconded the motion.

Alderman Reynolds asked if they required mufflers at Thunder Valley.

Mr. Berry stated they had mufflers. It was in the rules. It was not the type of mufflers they were familiar with. A race track without a little bit of noise was like watching a horse race without having a bet on it. They were race mufflers. It was not realistic to stop at ten. Summer time it was hot and their people did not like to sit out there when it was that hot.

Alderman Thiel stated the intermission had been lasting from half an hour to an hour. There was a lot of advertising going on during that time. It was time to get snacks. She thought it intermissions could be cut down it would help a lot.

Mr. Berry stated they were talking about a realistic number. They did not want something they could not abide by if they had problems and they run over time. They wanted a realistic number that they could live with and not lie to them and tell them that they could do it. They could not do ten o'clock.

Alderman Thiel stated a judge thirty years ago stated that they could .

Mr. Berry stated thirty years ago car racing was not near the participating sport that it was today. It was the nations largest spectator sport. It was American as apple pie.

Mr. Williams stated that there was a motion to table and according to their rules it was not debatable. They needed to vote on the motion to table. If it failed then they could continue the discussion.

Mr. Berry stated he wanted to add something. There was about twelve hundred people who came to the races down there. They averaged about one hundred race cars down there that cost an average of twenty thousand dollars. That was two million dollars worth of race cars down there on Saturday night. They bought them some where. They paid sales tax on all that stuff. There were car haulers, one hundred car hauler and trails, which average another twenty grand a piece. That was another two million dollars worth of vehicles which they had bought some where. Some of them were bought in the city of Fayetteville. Each car burns about fifteen gallons of three dollar and fifty cent fuel or more. Five thousand two hundred and fifty dollars worth of fuel. They paid taxes on that. The hauler probably burn about twenty gallons of fuel coming and going to races. That was thirty two hundred dollars to someone's gas station some where. They like us. We are not a public nuisance to those people. Each car would spend about five hundred dollars on average each week during the season on parts, labor, what every. That was fifty thousand dollars a week to someone's bank account. That was not a public nuisance to those people that they spend their money with. They were a public benefit. They paid sales tax. They pay property tax. They paid income tax. And all the people who worked down there did that. They take their kids to these races. It was one of the few events that every body participated. Ninety-eight percent of the time it was a Saturday night. Most of the people who signed their petition, if they took the noise meters and set down in their easy chair with their tv on and the window closed and their air conditioner going probably would not notice to much. He did not think that they were really a nuisance. Heaven, for give him if they say anything against the Razorbacks. If they wanted to talk about a public nuisance. Try and go Fort Smith after a ball game. They were not complaining. They were living with it. They understood. They asked everybody else to understand they got something here that they want understanding with. They would work with them. They would go to midnight rule. But they could not say that they were only do one night a week. They had special races. He saw nothing wrong with that.

Upon roll call the motion carried unanimously.

THE RESOLUTION WAS TABLED UNTIL NEXT MEETING.

Meeting adjourned at 10:30 p.m. -

STAFF REVIEW FORM

____ AGENDA REQUEST
____ CONTRACT REVIEW
_X_ GRANT REVIEW
For the Fayetteville City Council meeting of __November 6, 2001__

Ark Dept of Aeronautics Grant
Pavement Rehab & Widening

FROM:

Gary Dumas	Airport	Environmental Services
Name	Division	Department

ACTION REQUIRED: Informational Item for review by City Council
Approval of Staff Review Committee

COST TO CITY:

$ 135,678 (Revenue)	$ 2,988,228	Pavement Maint & Rehab
Cost of this Request	Category/Project Budget	Category/Project Name
5550-3960-7820-29	$ 2,849,608	Capital Improvements
Account Number	Funds used to date	Program Name
00029	$ 138,620	Airport
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _X_ Budgeted Item ____ Budget Adjustment Attached

Budget Manager Date | Administrative Services Dir. Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing 10/30/01 | Nancy Smith 10/30/01 | Arkansas Department of Aeronautics
Accounting Manager Date | Internal Auditor Date | **GRANTING AGENCY**

10/30/01
City Attorney Date | ADA Coordinator Date

Purchasing Officer Date | Grants Coordinator Date

STAFF RECOMMENDATION: Staff recommends review and approval

Division Head	Date	Cross Reference
Department Director	Date 10-30-01	New Item: Yes No
Administrative Services Director	Date 11/2/01	Prev. Ord/Res#: ________
Mayor	Date 11/02/01	Orig Cont. Date: ________
		Orig Cont #: ________

STAFF REVIEW FORM

Description: **Meeting Date:** 11/06/01

Ark Dept Aeronautics grant , Pavement Rehab & Widening

Comments:

Budget Manager

Reference Comments:

Accounting Manager

Total project amount not consistant throughout backup

Reference Comments:

City Attorney

Reference Comments:

Purchasing Officer

Reference Comments:

Internal Auditor

Reference Comments

ADA Coordinator

Reference Comments:

Grants Coordinator

Reference Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

4500 School Ave., Suite F
Fayetteville, AR 72701
501.718.7642

AIRPORT MANAGEMENT
GARY DUMAS, UTILITIES DIRECTOR / AIPRORT MANAGER INTERIM

TO: Dan Coody, Mayor
Fayetteville City Council Members

FROM: Gary Dumas, Utility Services Director / Interim Airport Manager

THRU: Staff Review Committee

DATE: October 19, 2001

SUBJECT: Arkansas Department of Aeronautics grant request, AIP #29

Background: Grant funding for AIP Project No. 3-05-0020-2901, "Airfield Pavement Rehabilitation & Taxiway Widening & Strengthening," was approved by the FAA on June 4, 2001. A Notice to Proceed with construction was issued October 4, 2001.

The Arkansas Department of Aeronautics will fund 5% of the total project cost. The City's Policies and Procedures regarding grants and grant applications requires that the application be reviewed and approved by the Staff Review Committee, and be submitted to the City Council as an informational item through inclusion on the Council Agenda.

Purpose: The Arkansas Department of Aeronautics grant will fund 50% of the federally required 10% local matching funds, or 5% of the total project cost. The total cost of the project is $2,716,557. The amount being requested on this grant application to the Arkansas Department of Aeronautics is $135,678.

Budget Considerations: $150,000 in Passenger Facility Charge (PFC) funds are approved by the FAA as eligible for this project. There is $143,950 remaining in the Airport's PFC revenue account (deferred revenue). Thus, the City's local match of 5% of the project funding is available through the use of PFC funds.

Budget adjustments for this project have been submitted and approved.

Action Requested: This is an informational item.

Staff Recommendation: Staff recommends review of the grant request

GD/jn
attachment: Grant Application

FAYETTEVILLE

AIRPORT DEPARTMENT
THE CITY OF FAYETTEVILLE, ARKANSAS

October 25, 2001

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

RE: GRANT APPLICATION, AIP Project #3-05-0020-2901 - "Airfield Pavement Rehabilitation and Taxiway Widening & Strengthening"

Dear Mr. Knight;

Enclosed please find two (2) copies of a proposal for Arkansas Department of Aeronautics grant funding under the SAAG 90-5-5% grant classification. Fayetteville Municipal Airport requests funding in the amount of $135,678, or 5% of a total project cost of $2,716,557. The project proposal is for AIP Project #3-05-0020-2901 - "Airfield Pavement Rehabilitation and Taxiway Widening & Strengthening."

The project has been approved by the FAA and a notice to proceed with construction has been issued by our FAA Regional office.

The Project consists of: New apron N of Taxiway D; Northwest apron extension; taxiway rehabilitation, crack sealing & overlay taxiways C, D, & E; Rehab of taxiway B between C & terminal apron; taxiway widening of A, B, F, & D; crack sealing, rubber removal, and rejuvenation sealer of runway.

The project has been awarded to APAC - Arkansas Inc., McClinton-Anchor Division.

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

Sincerely,

Gary Dumas
Airport Manager / Environmental Services Director

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

4500 SOUTH SCHOOL AVENUE, SUITE F • AIRPORT TERMINAL BUILDING • FAYETTEVILLE, AR 72701
PHONE 501-718-7640 Ext. 5 • FAX 501-718-7646

ARKANSAS DEPARTMENT OF AERONAUTICS

APPLICATION FOR STATE AIRPORT AID

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

Date of Request: October 25, 2001

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

Name and address of City/County Commission sponsoring request:

City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701
Phone/Fax Number:

Person to contact about project:
James Nicholson, Financial Coord.
4500 S School Ave, Suite F
Phone/Fax Number: 501-718-7643
501-718-7646 fax

Name and address of Engineering Firm (If Applicable):

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

Contact Person: Wayne Jones, P.E.
Phone/Fax Number: 501-443-2377

Describe the work to be accomplished: AIP #3-05-0020-2901 "Airfield Pavement Rehabilitation and Taxiway Widening & Strengthening." Project consists of: Widening & strengthening of Taxiways A, B, F, & D; Crack sealing and overlay of Taxiways C, D, & E; Crack sealing, rubber removal, & rejuvenation sealer for Runway 16/34.

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

Total Cost of Project		Total Cost of Project	2,716,557
Local Share/Funds		Federal Share (90%)	2,442,201
Local Share/In-Kind		Local Share (5%)	135,678
State Share		State Share	135,678

Federal AIP Projects:

AIP # 3-05-0020-2901

State Airport Aid Application
Page Two

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

FUNDS:

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

State Funding: Arkansas Department of Areronautics

Local Funding: Airport PFC

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

Estimate starting date of project: **October 2001**

Estimate completion date of project: **April 2002**

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

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

Description of land and cost per acre: ____________

Provide the Federal AIP Grant Number (AIP Projects Only)

3-05-0020-2901

State Representatives for your area:

State Senator **David Malone**

State Representative **Bill Pritchard - District 8**

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

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

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

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

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

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

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

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

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

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

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this ______ day of __________________, 20 01 .

City of Fayetteville
Name of Sponsor

[signature]
Authorized Signature

Gary Dumas, Airport Manager (Interim)
Title

Original

GRANT AGREEMENT

U.S. Department of Transportation

FOR DEVELOPMENT PROJECT

Federal Aviation Administration

PART I-OFFER

Date of Offer: SEP 18 2001

Project No. 3-05-0020-29-01

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

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

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

WHEREAS, the Sponsor has submitted to the FAA a Project Application (also called an Application for Federal Assistance) dated **September 12, 2001,** for a grant of Federal funds for a project for development of **Fayetteville Municipal (Drake Field)** (herein called the "Airport"), together with plans and specifications for such project, which Application for Federal Assistance, as approved by the FAA is hereby incorporated herein and made a part hereof; and

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

Rehabilitate and Widen Multiple Taxiways
Expand and Rehabilitate East and West Aprons
Rehabilitate Runway 16/34

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

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

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

Conditions

1. The maximum obligation of the United States payable under this offer shall be **$2,442,201.00.**

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

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

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

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

6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the sponsor on or before **September 30, 2001**, or such subsequent date as may be prescribed in writing by the FAA.

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

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

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

10. The property map referred to on Page 1 of this Grant Agreement is the Property Map, Exhibit "A", attached to the Application for Federal Assistance attached to AIP Grant 3-05-0020-29-01.

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

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

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

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

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

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

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

4. Qualifications of engineering supervision and construction inspection personnel.

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

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

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

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

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

14. The plans and specifications referred to on Page 1 of this Grant Agreement are the plans and specifications identified as Sponsor Contracts.

15. For a project to replace or reconstruct pavement at the airport, the sponsor shall implement an effective airport pavement maintenance management program as is required by Airport Sponsor Assurance Number 11. The sponsor shall use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. As a minimum, the program must conform with the provisions in the attached outline entitled: "Pavement Maintenance Management Program."

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

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

for Donald G. Harris

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

PART II - ACCEPTANCE

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

Executed this 25 day of September, 20 01.

City of Fayetteville
(Name of Sponsor)

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

(SEAL)

Title: Mayor

Attest: Heather Woodruff

Title: City Clerk

CERTIFICATE OF SPONSOR'S ATTORNEY

I, KIT WILLIAMS, acting as Attorney for the Sponsor do hereby certify:

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

Dated at Fayetteville, AR this 20 day of September, 20 01.

Kit Williams
(Signature of Sponsor's Attorney)

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED: September 2001

Applicant Identifier: FY002105

3. DATE RECEIVED BY STATE:

State Application Identifier:

4. DATE RECEIVED BY FEDERAL AGENCY:

Federal Identifier: AIP 3-05-0020-2901

1. TYPE OF SUBMISSION:

Application: ☒ Construction ☐ Non-Construction

Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name: City of Fayetteville

Organizational Unit: Airport Department

Address (give city, county, state, and zip code):
Airport Department
4500 S. School, Suite F
Fayetteville, AR 72701

Name and telephone number of the person to be contacted on matters involving this application (give area code):
Gary Dumas, Airport Manager
501-575-8330

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

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

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

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

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

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

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

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

TITLE: Airport Improvement Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Airfield Pavement Rehabilitation which includes taxiway overlays, taxiway rehabilitation, runway surface rejuvenation sealer, taxiway widening and strengthening to serve airport tenent and pavement re-striping.

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): Washington and Benton Counties, Arkansas

13. PROPOSED PROJECT:

Start Date	Ending Date
10-01-01	07-01-02

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant: Third

b. Project: Third

15. ESTIMATED FUNDING:

a. Federal	$	2,442,201 .00
b. Applicant	$	135,678 .00
c. State	$	135,678 .00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	2,713,557 .00

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

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

DATE ______

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☒ No

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

a. Typed Name of Authorized Representative: Dan Coody

b. Title: Mayor

c. Telephone number: 501-575-8330

d. Signature of Authorized Representative: Dan Coody

e. Date Signed: 9/12/01

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

U.S. Department
of Transportation
Federal Aviation Administration

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

Fort Worth, Texas 76193-0000

October 4, 2001

Mr. Dale Frederick
Fayetteville Municipal Airport
4500 South School Road, Suite F
Fayetteville, AR 72701

Dear Mr. Frederick:

Airport Improvement Program Project No. 3-05-0020-2901
Fayetteville Municipal Airport (Drake Field)
Airfield Pavement Rehabilitation & Taxiway Widening & Strengthening

The conformed contract documents furnished for the construction project at Fayetteville Municipal Airport (Drake Field) under AIP Project No. 3-05-0020-2901 have been reviewed and are found to be satisfactory.

This letter authorizes the City of Fayetteville to issue a Notice to Proceed to the contractor effective October 8, 2001. Please furnish the undersigned with one copy of the notice.

If you have any questions or if I can be of further service, please do not hesitate to call me at (817) 222-5634.

Sincerely,

Donald C. Harris

Donald C. Harris
Senior Program Manager, Arkansas/Oklahoma
Airports Development Office

Enclosure

cc:
Mr. Wayne Jones, P.E.
McClelland Consulting Engineers, Inc.
1810 North College, P.O. Box 1229
Fayetteville, AR 72702-1229

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THRU: Ted Webber, Administrative Services Director

FROM: Stephen Davis, Budget Manager

DATE: October 19, 2001

SUBJECT: Gregg Street Right-Of-Way (ROW) Purchase - Options

Staff has reviewed the existing project listings and remaining funds for capital improvements budgeted for 2001 in the Street Improvements and Water & Sewer Improvements project areas. The purpose was to find funds that could be used to purchase the Gregg Street ROW. The funding needed to purchase the ROW for Gregg Street is approximately $270,000.

Below is a listing of projects that are either completed or have been delayed. The information below lists the project number, project name, project status and if the project is complete, where the remaining funds were planned to be applied.

Completed Projects

Prj #	Project Name	Remaining Funding	Project Status
95071	HWY. 16 West Widening	1,640	Project is complete.
97023	Poplar St. Improvements	66,266	Project is complete and remaining funds were programed for the Dickson St. Project.
97025	Intersection Improvements	19,406	Project is complete and remaining funds were programed for the Dickson St. Project.
97029	Sunbridge Ext. -Villa to College	19,643	Project is complete and remaining funds were programed for the Dickson St. Project.
97030	Sycamore St. - Leverett to Garland	60,401	Project is complete and remaining funds were programed for the Dickson St. Project.

everybody else to understand they got something here that they want understanding with. They would work with them. They would go to midnight rule. But they could not say that they were only do one night a week. They had special races. He saw nothing wrong with that.

Upon roll call the motion carried unanimously.

THE RESOLUTION WAS TABLED UNTIL NEXT MEETING.

Meeting adjourned at 10:30 p.m. -

98031	Plainview Avenue Improvements	8,266	Project is complete and remaining funds were programed for the Dickson St. Project.
98032	Rupple Road Area Street Imp.	128,376	Project is complete and remaining funds were programed for the Dickson St. Project.
97027	Old Missouri Road/Zion Intersect.	23,811	Project is complete and remaining funds were programed for the Fayetteville Multi-Use Trails Project.
99060	Arkansas Avenue Improvements	6,582	Project is complete and remaining funds were programed for the Fayetteville Multi-Use Trails Project.
99083	Cleveland Street Sidewalk Imp.	41,302	Project is complete and remaining funds were programed for the Fayetteville Multi-Use Trails Project.

Projects Delayed Pending Project Scope Revision

Prj #	Project Name	Remaining Funding	Project Status
01011	Cleveland Street	796,800	Project is funded in the Sales Tax Capital Improvement Fund and is awaiting the start of the Garland Project by AHTD.
01023	Mt. Sequoyah W/S System Upgrade	405,000	Project is funded in the Water& Sewer Fund and is currently being evaluated for in-house design.
00050	Old Missouri Road Improvements	1,234,710	Project is funded in the Sales Tax Capital Improvement Fund and is awaiting a committee decision on design.
00026	HWY. 62 West - WL Replacement	825,000	Project is funded in the Water & Sewer Fund and is being evaluated to determine if it is a needed project.

A budget adjustment authorizing the transfer of funds between projects or funds will be necessary. Staff proposes to either reduce an existing listed street project by $270,000 and partially replenish the funds from the 2002 capital budget or to move the Garland Street Water & Sewer Relocation project from the 2001 Sales Tax Capital Improvements Fund to the Water & Sewer Fund. This reduction in water & sewer projects in the 2001 Sales Tax Capital Improvement Fund will provide the funding needed to purchase the Gregg Street ROW. The water & sewer project selected would be reduced by $270,000.

An additional option is available to City Council. City Council could authorize the sale of the property on Highway 45 East from the Water & Sewer Fund to the Parks Development Fund for the offer price of $305,001.01. The funding for the purchase could come from project number 96091, Park Land Acquisitions. The project has $59,533 remaining of the 2001 budget and an additional $250,000 proposed for 2002.

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Sales Tax Capital Improvement Fund	Date Requested	Adjustment #
2001	Division:	Nov 6, 2001	
	Program:		

Project or Item Requested:
Additional funding is requested for Gregg Street Right Of Way Acquisition, Radio System Replacement Project, Starr Drive, and Street ROW/Intersection/Cost Sharing projects. Also, authorization is requested to move the funding for Garland Street Water/Sewer Relocation Project from Sales Tax Capital Improvement Fund to Water & Sewer Fund.

Project or Item Deleted:
Proposed funding for this adjustment is from the HWY 62 West Waterline Project and reallocation of funding for the Garland Street Water/Sewer Relocations Project.

Justification of this Increase:
The additional funding is needed to purchase right of way on the west side of Gregg Street for a planned street widening project; additional funds are requested for the Radio System Replacement project to allow the City to take advantage of an offer from Motorola to upgrade several repeaters and improve the overall radio project; the funds are requested for Starr Drive to complete the improvement to Starr Drive that is outside the scope of work for the school being constructed along the street; additional funds are requested to add to the budget for Sunbridge and Gregg Intersection. Also, project saving from HWY 16 West Widening project is proposed for this adjustment.

Justification of this Decrease:
The HWY 62 West Waterline project has been evaluated and determined to not be necessary at this time. The frequency of waterline breaks has decreased significantly because the volume of water flow through the pipe has decreased thereby relieving the pressure on the pipe. Staff recommends reallocation of the funding to Garland Street Water & Sewer Relocation project.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number					Project Number	
Street Improvements	263,200	4470	9470		5809	00	99046	40
Street Improvements	61,200	4470	9470		5809	00	97086	40
Street Improvements	46,734	4470	9470		5809	00	98033	30
Fixed Assets	127,000	4470	9470		5801	00	99019	1
Waterline Improvements	389,407	5400	5600		5808	00	00018	40

Decrease Expense (Increase Revenue)

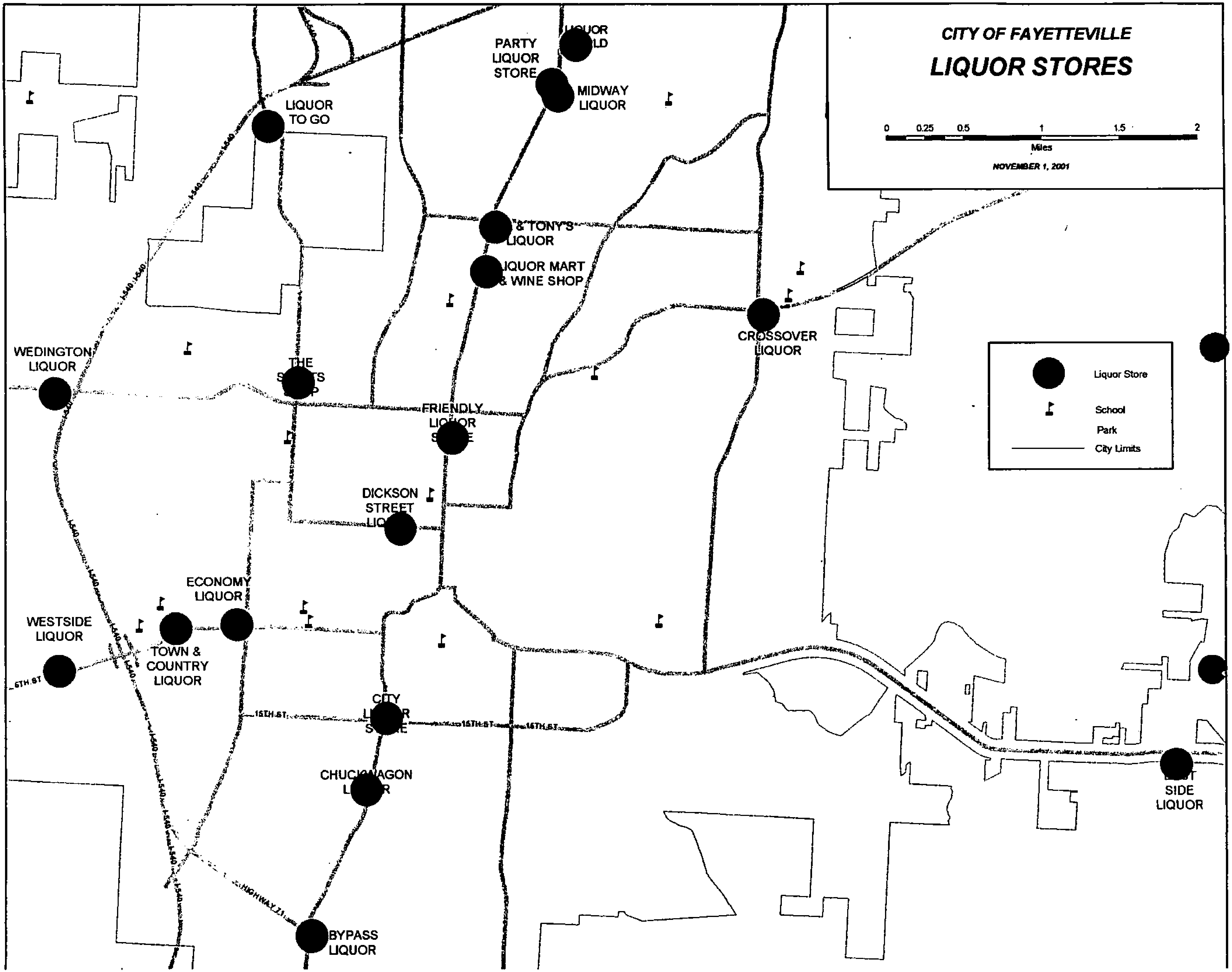
Account Name	Amount	Account Number					Project Number	
Street Improvements	108,727	4470	9470		5809	00	95071	9999
Waterline Improvements	389,407	5400	5600		5808	00	00026	40
Waterline Improvements	389,407	4470	9470		5808	00	00018	40

Approval Signatures		Budget Office Use Only
Requested By	Date	Type: A B C D E
Budget Manager	10-31-01 Date	Date of Approval
Department Director	10-31-01 Date	Posted to General Ledger
Admin. Services Director	10/31/01 Date	Posted to Project Accounting
Mayor	Date	Entered in Category Log

H:Parents:BUD_ADJ:Greg_ROW

City of Fayetteville, Arkansas
Sales Tax Capital Improvements - Adjustments

Additional Funding Needs		
Gregg Street - ROW Acquisition	$ 263,200	
Radio Replacement Project	127,000	
Starr Drive	61,200	
Sunbridge & Gregg Intersection	46,734	
Funds Needed		$ 498,134
Actions:		
	Sales Tax Capital	Water & Sewer
Funds Proposed for Releasing		
HWY 62 West Waterline Replacement		$ 389,407
Garland Street Water & Sewer Relocations	$ 389,407	
Cost Savings - Wedington Drive	108,727	
Funding Released	498,134	389,407
Proposed Reallocation		
Garland Street Water & Sewer Relocations		$ 389,407
Gregg Street - ROW Acquisition	263,200	
Radio Replacement Project - Additional Repeaters	127,000	
Starr Drive	61,200	
Sunbridge & Gregg Intersection	46,734	
Total Proposed Reallocation	498,134	389,407
Funds (Remaining)/ Used	$ 0	$ 0


CITY OF FAYETTEVILLE
LIQUOR STORES
0 0.25 0.5 1 1.5 2
Miles
NOVEMBER 1, 2001
Liquor Store
School
Park
City Limits
PARTY LIQUOR STORE
MIDWAY LIQUOR
LIQUOR TO GO
& TONY'S LIQUOR
LIQUOR MART & WINE SHOP
CROSSOVER LIQUOR
WEDINGTON LIQUOR
THE
FRIENDLY
DICKSON STREET
ECONOMY LIQUOR
WESTSIDE LIQUOR
TOWN & COUNTRY LIQUOR
CITY
CHUCKWAGON
BYPASS LIQUOR
SIDE LIQUOR
6TH ST
15TH ST
HIGHWAY 71
I-540

Nominating Comm.

FAYETTEVILLE HOUSING AUTHORITY
#1 NORTH SCHOOL AVE.
FAYETTEVILLE, AR 72701-5928
(501) 521-3850, FAX (501) 442-6771

RECEIVED
OCT 19 2001
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

October 18, 2001

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

Dear Mayor Coody,

The Fayetteville Housing Authority Board of Commissioners met in monthly meeting on October 17, 2001 and elected Mr. Gary E. Garton to the board to replace Terry Duggan who resigned. Mr. Garton will serve out Terry Duggan term which will end December 28, 2004. A copy of his application to Fayetteville Housing Board of Commissioners is enclosed.

We would appreciate the City Board's confirmation of this election at their next regular meeting.

Sincerely yours

Bromo Wilson
Executive Director

Encl.
cc: Garton

APPLICATION FORM
for
Appointments to City Boards, Commissions, and Committees

>>>>>>>>>>>>>>>>>>>>>PLEASE PRINT OR TYPE ALL ANSWERS<<<<<<<<<<<<<<<<<<<<<

NAME: GARY E. GARTON
(If married, please give spouse's first name here)

ADDRESS: (To be eligible to serve on a committee you must be a registered voter residing in the corporate limits of the City of Fayetteville)

1705 Appleburg Place
Residence Street Address
Fayetteville, AR 72701
City Zip Code
P.O. Box 1728
Mailing Address
Fayetteville, AR 72702
City Zip Code

TELEPHONE NUMBER: Home 521-6667
Business 444-4444

OCCUPATION/NAME OF EMPLOYER: BANKER/THE BANK OF Fayetteville

REFERENCE: JOHN M. LEWIS
Name
P.O. Box 1728, Fayetteville, AR 72702
Address
444-4444
Phone

CHOICE OF COMMITTEE: FAYETTEVILLE HOUSING AUTHORITY BOARD OF COMMISSIONERS

PLEASE PRINT OR TYPE HERE why you would like to be considered for appointment to this committee, and what particular qualifications you feel you have:

I HAVE A GOOD BACKGROUND IN ACCOUNTING & LENDING IN OUR COMMUNITY. I AM ALSO ACTIVE WITH THE BANK'S COMMUNITY DEVELOPMENT. WHICH DEALS WITH LOW TO MODERATE INCOME RESIDENTS.

Please Do Not Write Here
Circulation:
1:
2:
3:
4:
Terminate:
Appointed:
Term Expires:
Replaced:
Other:

RETURN THIS APPLICATION to : Bromo Wilson, Executive Director, Fayetteville Housing Authority / #1 North School Avenue / Fayetteville, AR 72701

STAFF REVIEW FORM

X AGENDA REQUEST
__ CONTRACT REVIEW
__ GRANT REVIEW

For the Fayetteville City Council meeting of November 6, 2001

FROM:

Louise Schaper — Name
Library — Division
Urban Development — Department

ACTION REQUIRED: Approve Amendment 9 to the contract with Meyer, Scherer & Rockcastle LTD in the amount of $36,970 for completion of the design, documentation, engineering and construction observation services for off-site utilities work for the new Fayetteville Public Library at 401 W. Mountain. To approve a budget adjustment.

COST TO CITY:

Up to $36,970 Cost of this Request	**$1,786,118** Category/Project Budget	**Services and Charges** Category/Project Name
4150-9150-5314-03 ~~4470-9470~~-5314-03 Account Number	**$1,537,518** Funds Used To Date	New Central Library Program Name
99073 Project Number	**$ 248,600** Remaining Balance	**Library sales tax** Fund

BUDGET REVIEW: X Budgeted Item X Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

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

Marsha Farthing — Accounting Manager — Date 9/24/01
Nancy Smith — Internal Auditor — Date 10/24/01
City Attorney — Date 10/24/01
ADA Coordinator — Date
for Price — Purchasing Manager — Date 10-26-01

STAFF RECOMMENDATION: Staff recommends approval.

Louise Schaper — Division Head — Date 10/24/01
Department Director — Date 10-25-01
Administrative Services Director — Date 10/24/01
Dan Coody — Mayor — Date 10/24/01

Cross Reference

New Item: **Yes No**

Prev Ord/Res #:

Orig Contract Date:

To: Honorable Mayor Dan Coody and Fayetteville City Council
Thru: Hugh Earnest, Urban Development Director
From: Louise Schaper, Library Director
Date: October 18, 2001

Re: Approval of Amendment to the Contract for a New Library Facility, referred to as the Fayetteville Public Library, for the City of Fayetteville, Arkansas

The Fayetteville Public Library gratefully asks for your approval of the following request:

An amendment (no. 9) to the contract with Meyer, Scherer and Rockcastle, Ltd. (MS&R) in the amount of $36,970.00 to complete the full design, documentation, engineering and construction observation services for off-site utilities and related improvements.

As indicated in Amendment Number 7 dated April 25, 2001, and in conjunction with the full development of the site, MS&R and its consultants will provide full design, documentation, engineering, and construction services for off-site utilities and related improvements including work described in the "Full Site Development" option of the Site Development report prepared by MS&R, dated March 5, 2001, and as approved by the Planning Commission in Large Scale Development on August 27, 2001.

This shall include:

- The narrowing and reconstruction of Mountain Street between West and School Avenues similar to the streetscape recommended by the Downtown Dickson Street Enhancement Project.
- The narrowing and reconstruction of Rock Street to enhance the southeast corner of the project site.
- The construction of parallel parking spaces on the property along West Avenue.
- The construction of patterned concrete sidewalks, landscaping, street lighting around the perimeter of the site consistent with current Fayetteville streetscape projects.
- The burial of overhead utility lines along West and School Avenues and Mountain Street.
- Improvements to the storm water sewer system servicing Mountain Street and the system servicing Rock Street and West Avenue to accommodate the additional surcharge generated by the site development, and to correct existing deficiencies in the system. This work includes demolition, excavation, traffic control, pavement/curb repair, piping, inlets, junction boxes, riprap, fittings, and backfill.

The source of funds for this amendment is the Library Sales Tax and the project has been budgeted. Amendment 7 approved April 27, 2001 provided the initial schematic design engineering services for off-site utilities and was for $8580 paid from Library Sales Tax. This request of $36,970.00 is for the remainder of the $45,550.00 in professional services required for off-site improvements.

FAYETTEVILLE
PUBLIC
LIBRARY

MS&R

Meyer, Scherer & Rockcastle, Ltd.
Architecture, Interior Design
and Urban Design
119 North 2nd Street
Minneapolis MN 55401.1420
612 375.0336 phone
612 342.2216 fax

FAX Transmittal

Hard copy sent via:
☒ Mail ☐ Messenger ☐ Overnight ☐ Other: ____

Date: 16 October 2001

To: Hugh Earnest
Of: City of Fayetteville
Fax: (501) 575-8316
From: Sean M. Wagner

Pages: Transmittal + 1
Project: Fayetteville Public Library
Re: Amendment No.9
Copy: ☒ file ☐
☒ Louise

Copies:	Date:	Description:	Action:
1	10/16/01	AIA G606-9 Contract Amendment	A

Action:
A. Review and Respond
B. For information only/ for your use, no action required.
C: Sign and forward to:____________________
D: Other:____________________

Remarks:

Mr. Earnest:

Please find attached Amendment Number 9 to the contract between the City of Fayetteville and MS&R for design documentation and construction administration related to the off-site improvements. This document follows on Amendment Number 7 previously approved by the City, which represented the schematic design portions of the work.

I also want to follow up on my request for information on the drainage easement, has there been any progress?

Please call if you have any questions.

Louise Schaper (501) 442-5723
Jim Foster (501) 442-8849

Amend 7 $8580
schematic design

If this fax is incomplete, the number of pages rcv'd is different than indicated, or you have received this fax in error, please call the sender as soon as possible.

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2000 Edition - Electronic Format

AIA Document G606 - 2000

Amendment to the Professional Services Agreement

TO: Mr. Dan Coody, Mayor; and
Mr. Hugh Earnest, Director of Urban Development
(Owner's Representative)

Amendment Number: 9

In accordance with the Agreement dated: September 1st, 1999

between the Owner:
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

and the Architect:
Meyer, Scherer & Rockcastle, Ltd.
119 North Second Street
Minneapolis, MN 55401-1420

for the Project:
(Name and address)
A new central library facility, referred to as the Fayetteville Public Library, for the City of Fayetteville, Arkansas.

Authorization is requested
(X) to proceed with Additional Services or a Change in Services.
( ) to incur Additional Reimbursable Expenses.

As Follows:
As indicated in Ammendment Number 7 dated th 25th of April, 2001, and in connection with the full development of the site, MS&R and its consultants shall provide full design, documentation, engineering, and construction observation services for off-site utilities including work described in the "Full Site Development" option of the Site Development report prepared by MS&R, Ltd. dated 5 March 2001.

This shall include: the narrowing and reconstruction of Mountain Street between West and School Avenues similar to the streetscape recommended by the Downtown / Dickson Street Enhancement Project; the narrowing and reconstruction of Rock Street to enhance the southeast corner of the project site; the construction of parallel parking spaces on the property along West Avenue; the construction of patterned concrete sidewalks, landscaping, and street lighting around the perimeter of the site consistent with current Fayetteville streetscape projects; and the burial of overhead utility lines along West and School Avenues and Mountain Street.

Development of this property will require the storm water sewer systems servicing Mountain Street; and the System servicing Rock Street and West Avenue will need improvements to accommodate the additional surcharge generated by the site development. This work includes demolition, excavation, traffic control, pavement/curb repair, piping, inlets, junction boxes, riprap, fittings, and backfill.

The following adjustments shall be made to compensation and time.
(Insert provisions in accordance with the Agreement, or as otherwise agreed by the parties.)

Compensation:
The cost of this work shall be a stipulated sum of thirty-six thousand nine hundred seventy dollars and zero cents ($36,970.00).

Time:
This work will be carried out in conjunction with the Large Scale Development application.

SUBMITTED BY:	AGREED TO:
(Signature)	(Signature)
Jeffrey A. Scherer, FAIA - Vice-president (Printed name and title)	(Printed name and title)
16 October 2001 (Date)	(Date)

AUTHENTICATION OF THIS ELECTRONICALLY DRAFTED AIA DOCUMENT MAY BE MADE BY USING AIA DOCUMENT D401.

AIA DOCUMENT G606-2000
AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT

The American Institute of Architects
1735 New York Avenue, N.W.
Washington, D.C. 20006-5292

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Urban Development Division: Library Program:	Date Requested October 24, 2001	Adjustment #

Project or Item Requested:	Project or Item Deleted:
Funding is requested for completion of the design, documentation, engineering and construction observation services for off-site improvements for the new library.	none. Use of fund balance is proposed for this adjustment.

Justification of this Increase:	Justification of this Decrease:
These are planned services for off-site development professional services.	Sufficient cash & investments exist to fund this adjustment.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number	Project Number
Architectural Engineering Services	$36,970	4150 9150 5314 03	99073-10

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number	Project Number
Use of fund balance	$36,970	41500915 4999 99	

Approval Signatures	Date
Requested By	10/24/01
Budget Coordinator	10-24-01
Department Director	10-25-01
Admin Services Director	10/24/01
Mayor	10/25/01

Budget Office Use Only

Type: A B C D E

Date of Approval

Posted to General Ledger

Posted to Project Accounting

Entered in Category Log

Blue Copy: Budget & Research / Yellow Copy: Requester

STAFF REVIEW FORM

X AGENDA REQUEST
XX CONTRACT REVIEW
__ GRANT REVIEW

For the Fayetteville City Council meeting of November 6, 2001

FROM:

Name	Division	Department
Connie Edmonston	Parks & Recreation	Public Works

ACTION REQUIRED:

Approval of contract with John P. Marinoni Construction for the renovation of the Wilson Park tennis courts in the amount of $174,716, plus a ten percent project contingency of $17,470 for a total cost of $192,186.

COST TO CITY:

$174,716 Cost of this Request	$260,000 Category/Project Budget	Tennis/basketball Surface Renovation Category/Project Name
2250-9250-5314-00 Account Number	$51,533 Funds Used To Date	Park Improvements Program Name
00005-01 Project Number	$208,467 Remaining Balance	Parks Development Fund

BUDGET REVIEW: _xx_ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: ____________

Accounting Manager — Date 10/22/01

Internal Auditor — Date 10/22/01

City Attorney — Date 10/22/01

ADA Coordinator — Date

Purchasing Officer — Date 10/22/01

STAFF RECOMMENDATION:

Approval of contract.

Division Head — Date 10-16-01

Department Director — Date 10-19-01

Administrative Services Director — Date 10/24/01

Mayor — Date 10/25/01

Cross Reference

New Item: Yes No

Prev Ord/Res #: __

Orig Contract Date: _

Orig Contract Number: ____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THRU: Hugh Earnest, Urban Development Director HE

FROM: Connie Edmonston, Parks and Recreation Superintendent CE

DATE: October 19, 2001

Background

This project consists of the renovation of Wilson's four lighted courts located directly west of the swimming pool and two tennis courts and a basketball court located on the southwest side of Walker Park. Cracks caused by aging facilities, weathering, and movement of subsoil run throughout the courts making them difficult and unsafe for use by the general public to play games or matches. Grass continuously grows up in these cracks increasing maintenance and safety problems. The current condition of the courts aggravate maintenance, usability, safety and aesthetic problems. The courts are at the age and condition that requires renovation to achieve minimum standards for our tennis and basketball community. Meetings were held with community tennis players to select the type of surface. Green vinyl coated fencing will replace the existing corroded fence. McClelland Consulting Engineers will evaluate, design and provide construction supervision.

Current Status

Two bids were received on July 30, 2001, but were rejected because of insufficient funds in the project. The City staff instructed the engineers to re-bid and include in the project documents deductive alternatives. On September 6, 2001, the bids were reopened with the sole bid being received from John P. Marononi Construction.

Recommendation

The Parks and Recreation staff recommend approval of a contract with John P. Marononi Construction in the amount of $174,716, plus a ten percent project contingency of $17,470, for a total cost of $192,186 to renovate Wilson Park's four tennis courts. This bid price has been found to be reasonable, competitive and in the City's best interest.

After a considerable amount of discussion among key City staff, we are recommending that the Walker Park's two tennis courts and one basketball court bid of $96,727 not be accepted. It is proposed that the necessary work be done in-house by Public Works at a savings to the City with no loss in the quality of the work performed. The Public Works Department plans to complete the work by April of next year. We have discussed this situation with Steve Smith from Marinoni Construction and while he would obviously prefer that his company be awarded both contracts, his company is agreeable to accepting only one contract in accordance with the bidding instructions.

Because of the greater complexity of the installation of the court surfacing at Wilson Park and the attendant need for oversight and inspection, we are recommending the outsourcing of this work. Acceptance of the Wilson Park tennis court bid will enable the City to develop courts of the highest quality through the installation of a cushioned type surface. The renovation at Walker Park will entail a rework of the existing asphalt surface for both the tennis courts and basketball court at a savings to the City by performing the work in-house. This approach is deemed a cost-effective utilization of City finances and resources.

Attachment: Bid Tabulation
Contract

Bidders List

Tennis and Basketball Courts
Resurfacing Project for
Walker and Wilson Park

September 6, 2001
FY012109

Contractor	**Walker Park Base Bid -** Bid Schedule 1	**Deductive Alternate 1**	**Deductive Alternate 2**
John P. Marinoni Construction 1142 Futrall Drive Fayetteville, AR 72703	$114,528.50	$105,979.70	$96,726.70

Contractor	**Wilson Park Base Bid -** Bid Schedule 2		
John P. Marinoni Construction 1142 Futrall Drive Fayetteville, AR 72703	$174,715.60		

Bidders List

Tennis and Basketball Courts
Resurfacing Project for
Walker and Wilson Park

September 6, 2001
FY012109

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Contractor	**Wilson Park Base Bid -** Bid Schedule 2		
John P. Marinoni Construction 1142 Futrall Drive Fayetteville, AR 72703	$174,715.60		

BID TABULATION
City of Fayetteville Tennis & Basketball Courts
MCE Project # FY012109 - Bid Date September 6, 2001

BID SCHEDULE NO. 1 - WALKER PARK				John P. Marinoni Construction Co.,Inc.	
Item #	Description	Qty.	Unit	Unit Price	Extended
1*	Remove and Dispose of Fence/ACHM/Etc.	2,300	SY	$2.07	$4,761.00
2*	Select Fill @ 95% SPD - 12" Depth	800	CY	$8.39	$6,712.00
3*	Class 7 Base @ 95% SPD - 6" Depth	800	TON	$16.04	$12,832.00
4*	Hot Mix Asphalt - 3" Depth	390	TON	$62.19	$24,254.10
5	Perimeter Embankment Material	120	CY	$23.60	$2,832.00
6	Select Topsoil for Perimeter	50	CY	$23.60	$1,180.00
7	Seed / Straw / Fertilizer	1500	SY	$0.42	$630.00
8	4" PVC Conduit for Future Electrical Service	180	LF	$9.75	$1,755.00
9	Area Inlet	1	LS	$3,360.00	$3,360.00
10	12" CMP with Connection to Existing Drain Outlet	55	LF	$14.16	$778.80
11	Concrete Swale 4' x 4", w/base	460	LF	$14.66	$6,743.60
12	10 VF Green Chain Link Fence with Gates	480	LF	$41.95	$20,136.00
13	Tennis Net Posts	2	PAIR	$767.00	$1,534.00
14	Basketball Goals w/Nets	4	EA	$1,770.00	$7,080.00
15	Acrylic Playing Surface with Color and Striping	1	EA	$19,409.00	$19,409.00
16	Erosion Control	1	LS	$295.00	$295.00
17	Trench Safety	1	LS	$236.00	$236.00
	BASE BID for BID SCHEDULE NO. 1				**$114,528.50**

DEDUCTIVE ALTERNATE BIDS

Deductive Alternate No. 1				John P. Marinoni Construction Co.,Inc.	
Item #	Description	Qty.	Unit	Unit Price	Extended
4.A	Haul & Place Type III Hot Mix Asphalt - 3" Depth (Asphalt Provided by Owner FOB), *(Replace Bid Item No.4 with Item No. 4.A.)	390	TON	$40.27	$15,705.30
	Base Bid with Deductive Alternate No. 1				**$105,979.70**

Deductive Alternate No. 2				John P. Marinoni Construction Co.,Inc.	
Item #	Description	Qty.	Unit	Unit Price	Extended
1.A	Remove & Dispose of Fence, Nets and Goal Posts *(Replace Bid Item No. 1 with Item No. 1.A)	1	LS	$2,080.00	$2,080.00
2.A	Crack Repair *(Replace Bid Item No. 2 with Item No. 2.A)	1	LS	$2,500.00	$2,500.00
3.A	Class 8 Base @ 95% SPD - 6" Depth *(Replace Bid Item No. 3 with Item No. 3.A)	550	TON	$19.04	$10,472.00
	Base Bid with Deductive Alternate Nos. 1 & 2				**$96,726.70**

BID TABULATION
City of Fayetteville Tennis & Basketball Courts
MCE Project # FY012109 - Bid Date September 6, 2001

BID SCHEDULE NO. 2 - WILSON PARK				John P. Marinoni Construction Co.,Inc.	
Item #	Description	Qty.	Unit	Unit Price	
1	Crack Repair	1,200	LF	$1.18	$1,416.00
2	Nova Pro-Bounce Surfacing System	4	COURT	$23,996.00	$95,984.00
3	Court Color Surfacing and Striping	4	COURT	$3,540.00	$14,160.00
4	14 VF Green Coated Chain Link Fence (including gates)	200	LF	$47.17	$9,434.00
5	10 VF Green Coated Chain Link Fence (including gates)	390	LF	$48.84	$19,047.60
6	12 VF x 24 LF Painted Plywood Practice Board	2	EA	$3,658.00	$7,316.00
7	4" Dia. Sch-40 Conduit for Future Electrical Service	200	LF	$10.32	$2,064.00
8	Outdoor Timer & Photocell for Court Lights	1	EA	$2,124.00	$2,124.00
9	Tennis Net Posts	4	PAIR	$767.00	$3,068.00
10	Concrete Swale 4' x 4"	340	LF	$13.00	$4,420.00
11	Concrete Sidewalk	115	SY	$25.94	$2,983.10
12	Handrail	210	LF	$39.75	$8,347.50
13	Handicap Van Accessible Parking	1	LS	$1,000.00	$1,000.00
14	Erosion Control	1	LS	$295.00	$295.00
15	Select Topsoil	20	CY	$23.60	$472.00
16	Seed / Straw / Fertilizer	320	SY	$0.42	$134.40
17	Remove & Dispose Fence, Net and Goal Posts	1	LS	$2,450.00	$2,450.00
	BASE BID for BID SCHEDULE NO. 2				**$174,715.60**
	TOTAL BASE BID AMOUNT Sch's 1 & 2				**$289,244.10**
	TOTAL BASE BID with Deductive Alt. No 1. AMOUNT				**$280,695.30**
	TOTAL BASE BID with Deductive Alt's. No 1 & 2. AMOUNT				**$271,442.30**

Certified by : R Wayne Jones Date: 9-10-01
R. Wayne Jones, P.E.
Arkansas 4532

DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the ____ day of November, 2001, by and between John P. Marinoni Construction Co., Inc. herein called the Contractor, and the City of Fayetteville, Arkansas, hereinafter called the Owner:

WITNESSETH:

That the Contractor, for the consideration hereinafter fully set out, hereby agrees with the Owner as follows:

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled Walker Park & Wilson Park Tennis and Basketball Court Resurfacing, dated June 2001.

   Advertisement for Bids
   Instructions to Bidders
   Bid and acceptance thereof
   Performance Bond
   Payment Bond
   General Conditions
   Supplemental Conditions
   Specifications
   Drawings (10 Sheets)

2. That the Owner hereby agrees to pay to the Contractor for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid for the Base Bid for Schedule No. 2, in lawful money of the United States, the amount of: One Hundred Seventy Four Thousand Seven Hundred Fifteen and 60/100 Dollars ($174,715.60).

3. The Work will be completed and ready for final payment in accordance with the General Conditions within **90** days after the date when the Contract Time commences to run, as provided in the Notice to Proceed.

4. Liquidated Damages: Owner and Contractor recognize that time is of the essence of this Agreement and the Owner will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner **Two Hundred** Dollars (**$200.00**) for each day that expires after the time specified in Paragraph 3 for completion and readiness for final payment.

5. That within 30 days of receipt of an approved payment request, the Owner shall make partial payments to the Contractor on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Contractor, LESS the retainage provided in the General Conditions, which is to be withheld by the Owner until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the Owner.

6. That upon submission by the Contractor of evidence satisfactory to the Owner that all payrolls, material bills, and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by the Contractor of all work covered by this Agreement and the acceptance of such work by the Owner.

7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the Owner shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at his expense, within 5 days after the receipt of notice from the Owner, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the Owner. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the Owner.

8. No additional work or extras shall be done unless the same shall be duly authorized by appropriate action by the Owner in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in three (3) counterparts, each of which shall, without proof or accounting for the other counterpart be deemed an original Contract.

SEAL:

John P. Marinoni Construction Co., Inc.
CONTRACTOR

WITNESSES:

Barbara Jo Smith

By Stephen Smith

President

Title

ATTEST:

CITY OF FAYETTEVILLE, ARKANSAS
OWNER

By ______________________

City Clerk

Mayor

STAFF REVIEW FORM

X Agenda Request
__ Contract Review
__ Grant Review

For the Fayetteville City Council meeting of November 6, 2001

FROM:

Gary Dumas	Solid Waste	Utilities Services Director
Name	Division	Department

ACTION REQUIRED:
Approve resolution authorizing purchase of up to 682,672 purple residential trash bags from Phoenix Recycling for $82,419 or $0.1311 per bag to complete annual budgeted purchase of volume based residential trash bags.

COST TO CITY:

$ 82,419	$ 163,000	Materials & supplies
Cost of this Request	Category/Project Budget	Category/Project Name
5500-5020-5225 00	$ 80,580.30	Residential Pickup
Account Number	Funds Used to Date	Program Name
	$ 82,419.70	Solid Waste
Project Number	Remaining Balance	Fund

BUDGET REVIEW: __Budgeted Item __Budget Adjustment Attached

Stephen Davis
Budget Manager

Administrative Services Director

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

Marsha Farthing 10/29/01
Accounting Manager Date

ADA Coordinator Date

D. J. Whitaker 10/29/01
City Attorney Date

Danny Smith 10/29/01
Internal Auditor Date

Purchasing Officer Date

STAFF RECOMMENDATION: Approval of the Resolution and Budget Adjustment

Division Head Date

Gary Dumas 10-30-01
Department Director Date

Administrative Services Director Date

Dan Coody 10/30/01
Mayor Date

Cross Reference

New Item: Yes No

Prev Ord/Res #:

Orig Contract Date:

New World Systems 4.4 *LIVE*
10/26/01
Expense Account
5500.5020.5225.00
Recycling supplies

General Ledger Inquiry

GL1500S1

Account Status . . . . : **ACTIVE**
Budgeted Account/Org. Level: **Acct Class 2**
Fiscal Start Month/Year End: **01 2001**

Month	Budget	Amendments	Expenses	Encumbrances	YTD Balance
Jan :	166000.00	.00	.00	.00	166000.00
Feb :	.00	.00	.00	.00	166000.00
Mar :	.00	.00	.00	.00	166000.00
Apr :	.00	.00	.00	.00	166000.00
May :	.00	.00	.00	.00	166000.00
June:	.00	.00	.00	.00	166000.00
July:	.00	.00	.00	60330.00	105670.00
Aug :	.00	3000.00-	59463.85	59516.45-	102722.60
Sept:	.00	.00	.00	19971.00	82751.60
Oct :	.00	.00	18971.00	18639.10-	82419.70
Nov :	.00	.00	.00	.00	82419.70
Dec :	.00	.00	.00	.00	82419.70
Total	**166000.00**	**3000.00-**	**78434.85**	**2145.45**	**82419.70**

F3=Exit F10=MTD Bal. F11=Transactions F12=Cancel F22=More Functions

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor and City Council

From: Gary Dumas

Date: Wednesday, September 05, 2001

Subject: Phoenix Bag Purchase

Background

The Solid Waste Division needs to complete the annual purchase of purple trash bags. The current budget forecasted a need for approximately 1,250,000 bags for this calendar year. To date we have purchased approximately 450,000, 32-gallon trash bags plus other smaller sizes. The fall distribution will effectively deplete this and other in-stock inventory. This purchase will be for an additional 628,000 bags.

The purchase will provide for new customers, provide a supply of bags to satisfy missed delivery or missing bags, provide additional bags for existing customers, and provide a 60 day supply of bags if the current program is extended. If the program is modified to provide for retail distribution or other automated systems, any remaining inventory will be incorporated into these modified programs.

Recommendation

Approve resolution authorizing budgeted purchase of volume-based purple trash bags in the amount not to exceed $82,419.

FAYETTEVILLE

PURCHASE ORDER

Each Package Must Be Marked
Exactly As Shown Here
City of Fayetteville, Arkansas

PURCHASE ORDER #
01-0002421-001

DATE 7/10/01

VENDOR NO. 3749

Phoenix Recycling

35 Capers Way
Pawleys Island SC 29585

FOB Fyv

TERMS NET 30 DAY

Qty.	Unit of Issue	Description and Account Number		Unit Price	TOTALS
10000.00	ROLL	a) Plastic Garbage Bags (33 ga) per Bid #01-34 Resolution #83-01 5500.5020.5225.00	$59000.00	5.90	59000.00

SHIP TO: Solid Waste/Recycling
CITY OF FAYETTEVILLE
1560 HAPPY HOLLOW
FAYETTEVILLE AR 72701

Sales Tax Total: $3098.75

Purchase Order Total: 62098.75

Foster, D *318*

CONDITIONS

1. Send itemized invoice in duplicate to:
   Accounts Payable
   City of Fayetteville
   113 West Mountain
   Fayetteville, AR 72701
2. Mark all packages with P.O. number as shown above. All orders must be accompanied by a packing slip, quantity shipped and P.O. number.
3. No substitutions without prior approval.
4. Discounts effective to 10th of following month.
5. Orders must be shipped in full unless otherwise notified.
6. F.O.B. Fayetteville unless otherwise agreed upon. No extra for packing and delivery will be allowed.
7. NO C.O.D. ORDERS.
8. Pre-pay freight and add to invoice. Ship to 113 W. Mountain St., Rear Entrance, unless otherwise specified.

PURCHASING/NUMERICAL FILES

CITY OF FAYETTEVILLE

Purchase Requisition

(not a purchase order)

Requisition No.:

Date: 07/02/01

P.O. Number: 01-2421

Expected Delivery Date:

Vendor #: 3749

Vendor Name: Phoenix Recycling

Mail: Yes__ No__XX_

Taxable: Yes__XX_ No____

Address:

FOB Point: Fayetteville, AR

City:

State:

Zip:

Ship To Code: 170

Division Head Approval: Ronnie Caudle by D Foster

Requester: Delia Foster

*Requester's Employee#: 194

Extension: 397

	Description:	Quantity	Unit of issue	Unit Cost	Extended Cost	Account Number:	Project/SubProject Number:	Inventory #	Fixed Asset #
1	Plastic Garbage Bags (33 ga)	10000	rl	$5.90	$59,000.00	5500 5020 5225.00			
2	Bid #01-34				$0.00				
3									
4									
5									
6									
7									
8									
9									
10									
11									
	SHIPPING/HANDLING								

RECEIVED
JUL 5 - 2001
PURCHASING

Special Instructions:

PER BID #01-34 RESOLUTION #83-01

JW

Subtotal: $59,000.00

Tax:

Tax:

TOTAL: $59,000.00

Approvals:

Mayor:

Admin. Services Director:

(Purchasing office use only)

Department Director: [signature]

Budget Coordinator:

Purchasing Manager: PUice

Data Processing Mgr:

RESOLUTION NO. 83-01

A RESOLUTION APPROVING BID #01-34 TO THE LOW BIDDER PHOENIX RECYCLING IN THE AMOUNT OF FIFTY-NINE THOUSAND DOLLARS ($59,000.00) FOR THE PURCHASE OF PLASTIC GARBAGE BAGS.

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

Section 1. That the City Council hereby Approves Bid #01-34 to the low bidder, Phoenix Recycling, in the amount of Fifty-Nine Thousand Dollars ($59,000.00) for the purchase of plastic garbage bags.

PASSED AND APPROVED this 19 day of June, 2001.

APPROVED:

By: Dan Coody
DAN COODY, Mayor

ATTEST:

By: Heather Woodruff
Heather Woodruff, City Clerk

STAFF REVIEW FORM

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

DBE FY 2002 Goal Update

For the Fayetteville City Council meeting of November 6, 2001

FROM:

Gary Dumas	Airport	Utilities Management
Name	Division	Department

ACTION REQUIRED: Resolution approving the DBE FY 2002 Updated Contract Goal.

COST TO CITY:

$ -0-	$ N / A	DBE Program
Cost of this Request	Category/Project Budget	Category/Project Name
N / A	$ N / A	Landside - Admin
Account Number	Funds used to date	Program Name
N / A	$ N / A	Airport
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ___ Budgeted Item ___ Budget Adjustment Attached

10/26/01

Budget Manager Date | Administrative Services Dir. Date

CONTRACT/GRANT/LEASE REVIEW:

10/26/01 | 10/26/01

Accounting Manager Date | Internal Auditor Date | **GRANTING AGENCY**

10/26/01

City Attorney Date | ADA Coordinator Date

10/26/01

Purchasing Officer Date | Grants Coordinator Date

STAFF RECOMMENDATION: Staff recommends approval of the DBE FY 2002 Updated Goal.

Division Head — Date

Cross Reference

10-24-01

Department Director — Date

New Item: Yes No

Prev. Ord/Res#: ________

Orig Cont. Date: ________

Orig Cont #: ________

Administrative Services Director — Date

10/30/01

Mayor — Date

STAFF REVIEW FORM

Description:

Meeting Date: November 6, 2001

DBE FY 2002 Goal Update

Comments:

Budget Manager

Reference Comments:

Accounting Manager

Reference Comments:

City Attorney

Reference Comments:

Purchasing Officer

Reference Comments:

Internal Auditor

Reference Comments

ADA Coordinator

Reference Comments:

Grants Coordinator

Reference Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

4500 School Ave., Suite F
Fayetteville, AR 72701
501.718.7642

AIRPORT MANAGEMENT
GARY DUMAS, UTILITIES DIRECTOR / AIPRORT MANAGER INTERIM

TO: Dan Coody, Mayor
Fayetteville City Council Members

FROM: Gary Dumas, Utility Services Director / Interim Airport Manager

THRU: Staff Review Committee

DATE: October 21, 2001

SUBJECT: Disadvantaged Business Enterprise (DBE) Program Goal Update for FY 2002.

Background: On October 14, 2000, the Fayetteville City Council approved the Fayetteville Municipal Airport's revised Disadvantaged Business Enterprise Program. The Airport's DBE Program is federally mandated under 49 CFR Part 26 for all Department of Transportation (DOT/FAA) grant recipients which anticipate receiving more than $250,000 in federal funds in the fiscal year. Drake Field anticipates receiving approximately $2.4 million from the DOT/FAA in FY 2002.

The DBE Program assures that Minority & Women-owned businesses, and other economically disadvantaged small businesses have an equal opportunity, or "level playing field," in competing for Airport procurement contracts.

49 CFR Part 26 requires that our DBE Program Goal be updated annually. The Updated Goal describes the overall DBE participation percentage and value of procurement contracts targeted for award to DBE contractors in the fiscal year. The regulation provides the methodology to be used to set contract DBE participation goals.

Purpose: The purpose of this item is a new resolution amending Fayetteville City Council Resolution No. 147-00. Resolution No. 147-00 approves the Revised Disadvantaged Business Program to be implemented for all DOT/FAA grant assisted contracts entered into by the City of Fayetteville Municipal Airport. The approved program contains the DBE participation goal level in FY 2001.

The new resolution will accept and approve the airport's updated DBE participation goal for FY 2002.

Budget Considerations: No budget effect.

Action Requested: Approval of a resolution which accepts and approves the updated DBE participation Goal for FY 2002.

Staff Recommendation: Review & Approval

GD/jn
attachment: FY 2002 Goal Update & Methodology
Resolution 147-00
Approved DBE Program FY2001
Federal Register - 49CFR Part 26, Subpart B - Administrative Requirements

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2002 Update

Airport Sponsor: City of Fayetteville
Name of Preparer: James Nicholson, Financial Coordinator
Fayetteville Municipal Airport/Drake Field
4500 S School Ave., Suite F
Fayetteville, AR 72701

Goal Period: 10-1-2001 Thru: 9-30-2002
Overall DBE Goal: For review .52 %

Introduction to 2002 DBE Goal update: The City of Fayetteville / Fayetteville Municipal Airport DBE Goal update for Fiscal Year (FY) 2002 is provided to describe the Airport Projects which are funded in part with Department of Transportation (DOT) / Federal Aviation Administration (FAA) funds, and to determine by the federally prescribed methodology the portion or percentage of those funds targeted for contract award to Disadvantaged Business Enterprises (DBE's) in accordance with Federal Regulations 49 CFR Part 26.

The Goal Update is a prerequisite for Airport Improvement Project (AIP) grant funding for airports which anticipate receiving more than $250,000 in federal funding from the FAA.

The 2002 DBE Goal Update revises the DBE participation goal in federally funded airport contracts anticipated for the 2002 fiscal year, from that originally described in the airport's previously published DBE Program Plan and successive annual goal updates. The FY 2002 Goal Update is effective October 1st, 2001 through September 30th, 2002.

Public Participation and Consultation in the DBE Goal Update process is a requirement under federal regulations. The updated Goal and Methodology is published for 30 days prior to submittal to the FAA for approval. Comments on the Goal Update are accepted for 45 days after the date of public notification of its availability for public review. Copies of this document were mailed to a number of interested private and public entities for review and comment, (see attachment #1 - list of consulting agencies). Public comments on the updated goal and methodology are incorporated with the submission to the FAA. *No public comments on the proposed FY 2002 Goal were received as of October 24, 2001.*

Comments on the FY 2002 DBE Goal Update may be submitted to the Fayetteville Municipal Airport's DBE Liaison Officer by phone, writing, fax, or e-mail to the following:

James Nicholson, DBE Liaison Officer
Fayetteville Municipal Airport / Drake Field
4500 South School Ave., Suite F
Fayetteville, AR 72701
501-718-7643
501-718-7646 fax
jnicholson@ci.fayetteville.ar.us

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2002 Update

OVERALL GOALS (§26.45)

Amount of Goal

Fayetteville Municipal Airport's overall goal for FY 2002 is: ***.52%***

Fayetteville Municipal Airport anticipates one AIP (federally funded) project in FY 2002. The estimated project cost is $2.7 million for Taxiway Extension of taxiway "A" including related aircraft ramp extension. Thus, the projected dollar amount of DBE participation in the project is: ***$ 14,040***

Determination of Market Area

Step 1 of the methodology for determining DBE percentage goal requires an assessment of the relative availability of DBE's in the local market area. The local market area is the area which provides, or is most likely to provide, the firms considered qualified to perform the needed work.

We used the most recent Census data available (1999) for Washington County, Arkansas and the four surrounding Arkansas counties, Benton, Crawford, Franklin, and Madison counties. Effectively all contractors for airport improvement work of the nature described in the first section have historically come from the local area, specifically, Washington or Crawford County. Except that occasionally a contractor performing ancillary tasks may be recruited from a further distance. However, for the sake of including contractors within a reasonable, feasible range, three other counties bordering Washington County are included in this assessment: Benton, Franklin, and Madison counties.

A primary condition of asphalt pavement work is the distance from the asphalt material producer's location to the worksite. Asphalt is time limited in its workability before spoilage due to the material's working temperature range. Thus, local producers are most apt to provide material for this project. Also, local asphalt contractors performing this type work have long established relationships with the local asphalt producers.

Our Washington County, Arkansas location, situated in a central valley of the Boston Mountains, also contributes to the insulated climate for this type of construction work. Accessibility to distant asphalt producers by trans-state highway is limited by mountain terrain and distances of surrounding rural area.

The available DBE Contractors in Local Market Area are those listed as being certified DBE by the Arkansas State Highway & Transportation Department (AHTD), and listed in AHTD's "Disadvantaged Business Enterprise Directory," published July 13, 2001.

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2002 Update

Methodology - Step 1

The Fayetteville Municipal Airport / Drake field anticipates awarding one AIP project contract in FY 2002. The project consists of extending Taxiway "A" and associated aircraft apron approximately 3,200 ft. south of Taxiway "D" on the east side and parallel to Runway 16/34, including approximately 800 ft. of taxiway access to the runway. This project is identified in the most recent draft of the airport's Conceptual Land Use Plan.

Project No. 1 - Taxiway Extension

NAICS Code	Work Item	DBE's in Local Market Area	All Available Firms
23411	Heavy Construction; Hwy, Streets	0	12
32412	Asphalt paving - manufacture	0	2
23531	Electrical Contractors	0	99
23599	Markings (other specialty contractor)	0	35
23593	Excavation contractors	1	55
48411	Trucking, local (dump truck)	1	35
	Totals for this Construction Contract	2	238

Calculation of Base Figure

The base figure is calculated as: the number of available DBE contractors as a percentage of all available contractors in the Local Market Area.

Base Figure = DBE contractors / all contractors

Base Figure = 2 / 238 = .84%

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2002 Update

Methodology - Step 2

Step 2 is an adjustment to the base figure percentage from Step 1 so that the updated goal accurately reflects the actual attainable DBE participation in FY 2002 airport contracts.

Past years DBE accomplishment results data for similar projects are examined and averaged with the base figure to determine the adjusted percentage goal. Only projects comprising like work are used for comparison.

DBE Goal Accomplishments - Historical Information

Year	Goal %	Accomplishment %	Project Type
2000	1.74	0	Access Road Construction
2001	.93	.39	Taxiway / Runway Rehabilitation (bid)
Average %	1.34	.20	

Calculation of adjustment to DBE Base Figure

The calculation of the adjusted figure is determined by averaging the base figure and the historical average for like projects.

Base Figure + Historical Avg. / 2 = Adjusted Figure

(.84 + .20) / 2 = .52

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2002 Update

Other Factors

Research was conducted to determine if any DBE / small business disparity studies for the region were available. None could be located.

The latest U.S. Census Data for minority population, not including women, in the five county area indicates an increase from previous US Census 1998 estimates of 6.141% to 9.425 % in 2000. This is indicative of the recent influx of minority emigrants to the area. We anticipate that there will eventually be an increase of DBE's corresponding to the increase of local minority population as the new emigrants settle and become established.

No other factors regarding the local DBE environment could be determined to be an influence on the adjusted DBE goal figure.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

In determining what percentage of the 2002 adjusted goal could be met through race-neutral means, we again reviewed historical DBE accomplishments for Fayetteville / Drake Field. FYV has not met its DBE goal in any year since 1997. Therefore, we estimate that in meeting our overall 2002 adjusted goal of .52%, we will obtain 0% from race-neutral participation and .52% from race-conscious measures (e.g. setting contract goals).

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2002 Update

Attachment #1 - List of Consulting Agencies

Arkansas State Highway & Transportation Department
Ms. Dana McClellan
PO Box 226
Little Rock, AR 72203-2261

Arkansas SBDC
College of Business Administration
100 South Main, Suite 401
Little Rock, AR 72201

Small Business Advancement National Center
University of Central Arkansas
College of Business Administration
UCA Box 5018
201 Donaghey Avenue
Conway, AR 72035-0001

Small Business Association (SBA)
Arkansas District Office
Joseph T. Foglia
2120 Riverfront Drive, Suite 100
Little Rock, AR 72202-1794

Arkansas State Chamber of Commerce
410 S Cross
PO Box 3645
Little Rock, AR 72203-3645

Veterans Business Development Office
Andy Lamonica
Arkansas District Office
2120 River Front Drive, Room 100
Little Rock, AR 72202

Arkansas Department of Economic Development
DBE Officer
One Capitol Mall
Little Rock, AR 72201

Fayetteville Chamber of Commerce
PO Box 4216
Fayetteville, AR 72702-4216

Arkansas Democrat-Gazette

NORTHWEST ARKANSAS EDITION

AFFIDAVIT OF PUBLICATION

I, Lois Clark, do solemnly swear that I am Legal Clerk of the Arkansas Democrat-Gazette Newspaper, printed and published at Lowell, Arkansas and that from my own personal knowledge and reference to the files of said publication the advertisement of

Notice

Was inserted in the regular editions on

Sept 9, 2001

Publication Charge 119.85

Purchase Order # ________________

Subscribed and sworn to before me this

11th day of September, 2001.

Catherine Sall, Notary Public

My commission expires ________.

Catherine Sall
Notary Public, State of Arkansas
Washington County
My Commission Expires 02/27/05

NOTICE

THE FAyetteville Municipal Airport in-
vites Financial Institutions designated
as Disadvantaged Business Enter-
prise (DBEs) to contact our office re-
garding opportunities for providing fi-
nancial services to Contractors provid-
ing goods and services under DOT/
FAA funded contracts.
The City of Fayetteville/Fayetteville
Municipal Airport desires to encourage
and increase Disadvantaged Business
Enterprise participation in airport con-
tracts and programs, as required by the
federal government on the FAA-funded
portion of all AIP projects undertaken
by Fayetteville Municipal Airport.
The airport will be advertising Airport
Improvement Program projects for bid
in the 2002 Fiscal Year. Any interested
Disadvantaged Business Enterprise
(DBE) will be encouraged to compete
for the projects. Inquires regarding the
qualifications for participation in AIP
projects as a DBE, or concerning the
Fayetteville Municipal Airport's Disad-
vantaged Business Enterprise Pro-
gram, may be directed to the Fay-
etteville Municipal Airport DBE Liaison
Officer at the address below.

CITY OF FAYETTEVILLE
Airport Administration Office
Attn: James Nicholson, DBE Liaison Officer
4500 S. School Ave., Suite F
Fayetteville, AR 72701
Phone: 501-718-7643, email: jnicholson@ci.fayetteville.ar.us

2631375 9/9/01

Arkansas Democrat-Gazette

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Publication Charge 80.90

Purchase Order #

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11th day of September, 2001.

Catherine Sall, Notary Public

My commission expires

Catherine Sall
Notary Public, State of Arkansas
Washington County
My Commission Expires 02/27/05

NOTICE

THE CITY of Fayetteville/Fayetteville Municipal Airport has published the Disadvantaged Business Enterprise (DBE) Program proposed updated goal and methodology for Fiscal year (FY) 2002. The document is available for public inspection for a 30 day period at the Airport Administration office, 4500 S. School Ave., Fayetteville, AR. In accordance with federal regulations 49 CFR Part 26, comments concerning the updated Goal and methodology and the DBE Program, will be accepted by the City of Fayetteville/Fayetteville Municipal Airport for 45 days from the publication date of this notice.

CITY OF FAYETTEVILLE
Airport Administration Office
Attn: James Nicholson, DBE Liaison Officer
4500 S. School Ave., Suite F
Fayetteville, AR 72701
Phone: 501-718-7643, email: jnicholson@ci.fayetteville.ar.us
2631447 9/9/01

P.O. Box 1607, 212 N. East Avenue, Fayetteville, Arkansas 72701, (501)571-6467

RECEIVED

MAR 08 2001

AIRPORT

RESOLUTION NO. 147-00

A RESOLUTION APPROVING THE REVISED DISADVANTAGE BUSINESS ENTERPRISE (DBE) PROGRAM TO BE IMPLEMENTED FOR ALL DOT/FAA GRANT ASSISTED CONTRACTS ENTERED INTO BY THE CITY OF FAYETTEVILLE MUNICIPAL AIRPORT AS REQUIRED BY 49 C.F.R. PART 26.

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

Section 1. That the City Council hereby approves the revised Disadvantage Business Enterprise (DBE) Program to be implemented for all DOT/FAA grant assisted contracts entered into by the City of Fayetteville Municipal Airport as required by 49 C.F.R. Part 26. A copy of the regulation is attached hereto marked Exhibit "A" and made a part hereof.

PASSED AND APPROVED this 17th day of October, 2000.

APPROVED:

By: Fred Hanna

Fred Hanna, Mayor

ATTEST:

By: Heather Woodruff

Heather Woodruff, City Clerk

EXHIBIT A

FAYETTEVILLE MUNICIPAL AIRPORT
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Definitions of Terms

The terms used in this program have the meanings defined in DOT 49 CFR 26.5.

Objectives/Policy Statement (26.1,26.23)

The City of Fayetteville/Fayetteville Municipal Airport-Drake Field has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Fayetteville has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City of Fayetteville has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City of Fayetteville to ensure that DBEs, as defined in Part 26, have equal opportunities to receive and participate in DOT-assisted contracts. It is also our policy -

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

The Airport's Financial Coordinator has been delegated as the DBE Liaison Officer. In that capacity, the Financial Coordinator is responsible for implementing all aspects of the DBE program.

Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Fayetteville in its financial assistance agreements with the Department of Transportation.

The City of Fayetteville has disseminated this policy statement to the Fayetteville City Council and all the departments of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts by running an advertisement in a statewide newspaper.

CITY OF FAYETTEVILLE

By: Fred Hanna Date 10/19/00
Fred Hanna, Mayor

Attest:
Heather Woodruff Date 10/17/00
Heather Woodruff, City Clerk

EXHIBIT A

APPROVED AS TO SUBSTANCE:

Alett Little Date 8-04-00

Alett Little, Economic Development Director

Nondiscrimination. (26.7)

The City of Fayetteville will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering the DBE Program, the City of Fayetteville will not directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

DBE Program Updates. (26.21)

We will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide DOT updates representing significant changes in the program.

Quotas. (26.43)

We do not use quotas in any way in the administration of this DBE program.

DBE Liaison Officer (DBELO) (26.25)

The following individual has been designated as the DBE Liaison Officer: Brenda Moss, Financial Coordinator, Fayetteville Municipal Airport-Drake Field, 4500 S. School Avenue, Suite F, Fayetteville, AR 72701, phone# 501-718-7640 Ext. 5. In that capacity, Ms. Moss is responsible for implementing all aspects of the DBE program and ensuring that the Fayetteville Municipal Airport-Drake Field complies with all provisions of 49 CFR Part 26. The DBE liaison officer has direct, independent access to the City of Fayetteville's Economic Development Director concerning DBE program matters. The City of Fayetteville is the sponsor for the Fayetteville Municipal Airport-Drake Field. All departments are available to assist or advise the DBE Liaison Officer as needed. The Airport recruits engineers for each of our AIP projects who work and assist in the compliance of the Airport's DBE program.

The DBELO is responsible for developing, implementing, and monitoring the DBE program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Sets overall annual goals.
3. Ensures that bid notices and request for proposals are available to DBEs in a timely manner.
4. Identifies contracts and procurement so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
5. Participates in pre-bid meetings.
6. Advises the Economic Development Director on DBE matters and achievements.
7. Participates with the project engineer to determine contractor compliance with good faith efforts.
8. Maintains the airport's updated directory on certified DBEs.

Federal Financial Assistance Agreement Assurance. (26.13)

The City of Fayetteville has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

> The City of Fayetteville shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of Fayetteville of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

DBE Financial Institutions. (26.27)

The City of Fayetteville utilizes the publication, "Report of the Bank Commissioners of Arkansas," as a source of financial institutions. This register is published yearly by the Office of State Bank Department. The DBE Liaison Officer will investigate the availability of any DBE Financial Institutions listed in this register and recruit other interested DBE financial institutions by running advertisements at least once a year in a statewide newspaper. The Fayetteville Municipal Airport will use these mediums to initiate the investigation to the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in our community and make reasonable efforts to use these institutions. We will also encourage prime contractors to use such institutions which we have identified.

To date we have identified no such institutions in our area, but will continue to search.

Directory. (26.25)

The Fayetteville Municipal Airport-Drake Field will maintain and make available to interested persons a directory identifying firms eligible to participate as DBEs in our program. The directory lists the firm's name, address, phone number, and the types of work the firm has been certified to perform as a DBE. The directory will be revised at least annually. The airport uses the Arkansas Highway Department's directory of certified DBEs as the airport's DBE directory. The directory will be available to contractors and the public on request and will be maintained at the Fayetteville Municipal Airport-Drake Field located at 4500 S. School Ave., Suite F, Fayetteville, AR 72701 or by calling 501-718-7640 ext. 5. Copies may also be obtained by calling the Arkansas State Highway and Transportation Department at 501-569-2259.

Required Contract Clauses. (26.13, 26.29)

Contract Assurance. (26.13)

The Fayetteville Municipal Airport-Drake Field will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

> The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these

requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Prompt Payment. (26.29)

The Fayetteville Municipal Airport-Drake Field will include the following clause in each DOT-assisted prime contract:

> The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the City of Fayetteville. The prime contractor agrees further to return retainage payment to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Fayetteville. This clause applies to both DBE and non-DBE subcontractors.

Before any written approval for delay or postponement for payment is issued, both the prime contractor and the subcontractor will be invited to discuss the disputed issues. The Airport will fully investigate our options with the City of Fayetteville's Legal Department and the Federal Aviation Administration in the most expeditious time possible before written approval for delay or postponement of payment is given.

Sanctions for Noncompliance:

In the event of the contractor's noncompliance with any terms of a DOT-assisted prime contract, the City of Fayetteville shall impose such Contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

(A.) Withholding of payments to the Contractor under the Contract until the Contractor complies, and/or

(B.) Cancellation, termination, or suspension of the Contract in whole or in part.

Monitoring and Enforcement Mechanisms. (26.37)

The Disadvantaged Business Enterprise (DBE) program for the Fayetteville Municipal Airport-Drake Field will be incorporated as part of the Specifications and Contract Documents on all DOT-assisted contracts. The inclusion of this program in the Specifications and Contract Documents provides the same sanctions for noncompliance to the DBE program as any other term of any DOT-assisted contract.

Submission of a bid on any federally assisted work advertised by the airport will obligate the Contractor who submitted the bid to use good faith efforts to meet the DBE goal published in the bid document. The Contractor will be required to submit the names, addresses, telephone numbers, EINs (Employer Identification Number), DBE Certification Numbers, the kind of work performed, and the amounts to be paid to all subcontractors participating as DBEs in the project at the time of contract execution. If no DBE participation is expected in the contract, the Contractor must submit proof at the time of contract execution of good faith efforts to obtain DBE participation.

The Fayetteville Municipal Airport-Drake Field will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program which is evident to airport staff. DOT can at their discretion take steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT

Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

Overall Goals. (26.45)

Amount of goal.

The City of Fayetteville's overall goal for FY2000 is the following: 5% of the Federal financial assistance we will expend in DOT-assisted contracts.

Method

The Fayetteville Municipal Airport-Drake Field used a weighted average method (Attachment #5 Example 2) to calculate our base figure for our DBE goal.

Base Percentage:

1. The weighted factor was derived by calculating the percentage of the cost expected to be expended in each SIC code for the estimated project costs for the year.

2. The second factor used in the formula for calculating our base figure was derived as follows: the numerator is the number of DBEs located in our four county area (Benton, Crawford, Madison, and Washington Counties) that can perform the kinds of work needed which were identified from the Arkansas State Highway and Transportation Department's directory for DBE. The denominator was derived using the number of individuals listed by the Census Bureau's County Business Pattern database on the Internet.

This calculation produced the relative-weighted availability of DBE participation of .50 percent.

Adjusted Base Goal:

The airport staff made inquires at the Chamber of Commerce and the Small Business Administration as to studies or records maintained on DBEs. No records are assembled to represent this group as a minority. A data search of the Census Bureau on the Internet revealed a minority population not including women in our four county area of approximately 3.07 percent in 1990. A review of our recent let contracts for 1997 through 1999 indicate that with advertising outside of our immediate area, the airport can expect a participation of DBE activities as subcontractors at a rate of at least 1.74 percent (1997 accomplishment = 3.16%, 1998 accomplishment= 0, 1999 accomplishment 2.06 % equals a 1.74% yearly average)(Attachment #5). The average percentage of our base goal and the average of our last three years accomplishments would indicate an achievable overall goal of 1.12% ((.005 + .0174)/2=1.12).

After evaluating the above information, the City of Fayetteville/Fayetteville Municipal Airport's initial base rate goal has been adjusted to 1.12% to reflect as accurately as possible the DBE participation the airport staff considers obtainable.

Process

The Fayetteville Municipal Airport/Drake Field will submit its overall goal to DOT on August 1 of each year. Before establishing the overall goal each year, the airport staff will review the Disadvantage Business Enterprise Directory for changes in the number of available DBEs in our area. Staff will also review the contracts let for the previous year, contact other airports in our vicinity, and any other persons or groups who might have knowledge concerning the availability of disadvantage and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the airports efforts to establish a level playing field for the participation of DBEs.

Following this process of determining our new goal, the airport staff will publish a notice of the proposed overall goal in a statewide newspaper, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the airport office for 30 days following the date of the notice, and informing the public that the airport and DOT will accept comments on the goals for 45 days from the date of the notice. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed. All comments will be reviewed by the airport staff, and if comments warrant, changes will be made to the proposed goals.

The overall goal submission to DOT will include a summary of information and comments received during this public participation process and the airport's responses.

The airport will begin using the overall goal on October 1 of each year, unless other instructions have been received from DOT.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

We estimate that, in meeting an overall goal of 1.12%, we will obtain 0% from race-neutral participation and 1.12% through race-conscious measures. Since the Fayetteville Municipal Airport has not been able to reach our overall goals with race-neutral measures, we will continue to use contract goals in meeting our overall DBE goals.

All of our DOT-assisted contracts for the Airport include the requirement of good faith efforts to meet our goal for DBE participation. Because of the few DBEs in the area, we receive very little response to the bids advertised and let. We do require the engineers to include DBE language in both specifications and advertisements that they initiate. We also place ads in newspapers encouraging DBE participation in our projects. I believe that the DBE participation that we do receive usually is a result of our efforts, the engineers, and the contractors in recruiting DBEs.

Contract Goals

The Fayetteville Municipal Airport-Drake Field will use contract goals to meet any portion of the overall goal the airport does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met though the use of race-neutral means.

The airport will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBE's to perform the particular type of work).

We will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.

Good Faith Efforts: (26.53)

Information to be submitted:

The City of Fayetteville treats bidder/offerors compliance with good faith efforts requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information at the time of contract execution:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm's participation;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.
   of good faith

Demonstration efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts.

The Airport's Financial Coordinator will be responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible.

The DEB Liaison Officer will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before the City of Fayetteville/Fayetteville Municipal Airport-Drake Field commits to the performance of the contract by the bidder/offeror.

Administrative reconsideration

Within 5 days of being informed by The City of Fayetteville that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors must make this request in writing to the following reconsideration officials: The Airport Board, 113 W. Mountain, Fayetteville AR 72701, phone number 501- 718-7640 Ext. 5. The reconsideration officials will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration officials to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts when a DBE is replaced on a contract.

We will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or

refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment until satisfactory action has been taken.

Counting DBE Participation. (26.55)

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

Certification. (26.61 - 26.91)

The Fayetteville Municipal Airport will use the certification standards of Subpart D of part 26 and the certification procedures of Subpart E of part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE a firm must meet all certification eligibility standards. We will make our certification decisions based on the facts as a whole.

Process

Our certification application form and documentation requirements are found in Attachment ____ To this program.

For information about the certification process or to apply for certification, firms should contact:

Brenda Moss
4500 S. School Avenue, Suite F
Fayetteville AR 72701
Phone 501-718-7646

Or

Arkansas State Highway
And Transportation Department
P.O. Box 2261
Little Rock AR 72203-2261
Phone 501-569-2259

The Arkansas Highway Department has certified all interested individuals who have inquired at the airport about DBE certification (see attached agreement with the State attachment #4). The airport will use the Arkansas Highway and Transportation Department's DBE directory to determine the eligibility of firms to participate as DBEs in DOT-assisted projects, and the Fayetteville Municipal Airport-Drake Field will continue to honor the certification completed by other entities as long as documentation can be provided. .

In the event we propose to remove a DBE's certification, we will follow procedures consistent with 26.87.

Attachment #2 to this program sets forth these procedures in detail.

Unified Certification Program

The Fayetteville Municipal Airport-Drake Field will participate in a Unified Certification Program as one becomes available for the State of Arkansas. The Fayetteville Municipal

Airport-Drake Field will utilize the Arkansas State Highway and Transportation Department in certifying individuals which we have recruited as candidates as DBEs.

Certification Appeals

Any firm or complainant about a certification matter should be sent to:

Department of Transportation Office of Civil Rights Certification Appeals
Branch 400 Th St., SW, Room 2104
Washington, DC 20590

The airport will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for DOT-assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).

"Recertification"

The Arkansas Highway and Transportation Department will handle recertification of DBEs for the airport. The Arkansas Highway and Transportation Department's policy is to fully recertify DBEs every three years.

"No Change" Affidavits and Notice of Change

The Arkansas Highway and Transportation Department will handle "No Change" affidavits and Notice of Change for the Fayetteville Municipal Airport-Drake Field. They require an acknowledgment (a signed form that the DBE's status has not changed) annually.

Personal Net Worth

The Arkansas Highway and Transportation Department will handle personal net worth statements. Their statement is compatible with the U.S. Small Business Administration (SBA) form 413 (2-94). A copy of form 413 (2-94) is used as an attachment #3 to this document.

Bidders List

The Fayetteville Municipal Airport-Drake Field will create a bidders' list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders' list approach to calculating overall goals. The bidders' list will include the name, address, and DBE/non-DBE status, and age of the firm and the annual gross receipts. The bid packet will include a form for the necessary information required on all bidders, and the bidders will be required to return the form at the time of bid opening.

Monitoring Payments to DBEs

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City of Fayetteville or Department of Transportation. This reporting requirement also extends to any certified DBE subcontractor.

We will keep a cumulative total of actual payments to DBE firms for work committed to them at the time of contract award. The contractor will be responsible for submitting a record of any payments made to DBEs when they submit payment requests from the recipient. We will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Reporting to DOT

We will report DBE participation to DOT by submitting annually DOT From 4630, as modified for by FAA recipients

Confidentiality

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with federal, state, and local law. The Arkansas State Freedom of Information Act A.C.A. Title 25-19-105 states that examination and copying of public records or files which, if disclosed, would give advantage to competitors and bidders shall not be deemed to be made open to the public under the provisions of the State FOIA law. However, the company must request this protection in writing with proof that such information would put them at a disadvantage. Notwithstanding any contrary provision of state or local law, we will not release personal financial information submitted in response to the personal net worth requirements to a third party (other than DOT) without the written consent of the submitter. All local laws are superseded by state and federal laws.

APPROVED:

U.S. DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

By: ______________________ Date _________

Attachments

1. Attachment #2. Department of Transportation 49 CFR Parts 23 and 26 rule #26.87.
2. Attachment #3 U.S. Small Business Administrations (SBA) form 413 (2-94).
3. Attachment #4 AHTD Agreement
4. Attachment #5 Sample Calculation for DBE base.

federal register

Tuesday
February 2, 1999

Part II

Department of Transportation

Office of the Secretary

49 CFR Parts 23 and 26

Participation by Disadvantaged Business Enterprises in Department of Transportation Programs; Final Rule

The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR part 26.

§ 26.11 What records do recipients keep and report?

(a) [Reserved]

(b) You must continue to provide data about your DBE program to the Department as directed by DOT operating administrations.

(c) You must create and maintain a bidders list, consisting of all firms bidding on prime contracts and bidding or quoting subcontracts on DOT-assisted projects. For every firm, the following information must be included:

(1) Firm name;

(2) Firm address;

(3) Firm's status as a DBE or non-DBE;

(4) The age of the firm; and

(5) The annual gross receipts of the firm.

§ Section 26.13 What assurances must recipients and contractors make?

(a) Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance:

> The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

(b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

> The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

§ 26.15 How can recipients apply for exemptions or waivers?

(a) You can apply for an exemption from any provision of this part. To apply, you must request the exemption in writing from the Office of the Secretary of Transportation, FHWA, FTA, or FAA. The Secretary will grant the request only if it documents special or exceptional circumstances, not likely to be generally applicable, and not contemplated in connection with the rulemaking that established this part, that make your compliance with a specific provision of this part impractical. You must agree to take any steps that the Department specifies to comply with the intent of the provision from which an exemption is granted. The Secretary will issue a written response to all exemption requests.

(b) You can apply for a waiver of any provision of Subpart B or C of this part including, but not limited to, any provisions regarding administrative requirements, overall goals, contract goals or good faith efforts. Program waivers are for the purpose of authorizing you to operate a DBE program that achieves the objectives of this part by means that may differ from one or more of the requirements of Subpart B or C of this part. To receive a program waiver, you must follow these procedures:

(1) You must apply through the concerned operating administration. The application must include a specific program proposal and address how you will meet the criteria of paragraph (b)(2) of this section. Before submitting your application, you must have had public participation in developing your proposal, including consultation with the DBE community and at least one public hearing. Your application must include a summary of the public participation process and the information gathered through it.

(2) Your application must show that—

(i) There is a reasonable basis to conclude that you could achieve a level of DBE participation consistent with the objectives of this part using different or innovative means other than those that are provided in subpart B or C of this part;

(ii) Conditions in your jurisdiction are appropriate for implementing the proposal;

(iii) Your proposal would prevent discrimination against any individual or group in access to contracting opportunities or other benefits of the program; and

(iv) Your proposal is consistent with applicable law and program requirements of the concerned operating administration's financial assistance program.

(3) The Secretary has the authority to approve your application. If the Secretary grants your application, you may administer your DBE program as provided in your proposal, subject to the following conditions:

(i) DBE eligibility is determined as provided in subparts D and E of this part, and DBE participation is counted as provided in § 26.49;

(ii) Your level of DBE participation continues to be consistent with the objectives of this part;

(iii) There is a reasonable limitation on the duration of your modified program; and

(iv) Any other conditions the Secretary makes on the grant of the waiver.

(4) The Secretary may end a program waiver at any time and require you to comply with this part's provisions. The Secretary may also extend the waiver, if he or she determines that all requirements of paragraphs (b)(2) and (3) of this section continue to be met. Any such extension shall be for no longer than period originally set for the duration of the program.

Subpart B—Administrative Requirements for DBE Programs for Federally-Assisted Contracting

§ 26.21 Who must have a DBE program?

(a) If you are in one of these categories and let DOT-assisted contracts, you must have a DBE program meeting the requirements of this part:

(1) All FHWA recipients receiving funds authorized by a statute to which this part applies;

(2) FTA recipients that receive $250,000 or more in FTA planning, capital, and/or operating assistance in a Federal fiscal year;

(3) FAA recipients that receive a grant of $250,000 or more for airport planning or development.

(b)(1) You must submit a DBE program conforming to this part by August 31, 1999 to the concerned operating administration (OA). Once the OA has approved your program, the approval counts for all of your DOT-assisted programs (except that goals are reviewed and approved by the particular operating administration that provides funding for your DOT-assisted contracts).

(2) You do not have to submit regular updates of your DBE programs, as long as you remain in compliance. However, you must submit significant changes in the program for approval.

(c) You are not eligible to receive DOT financial assistance unless DOT has approved your DBE program and you are in compliance with it and this part. You must continue to carry out your program until all funds from DOT financial assistance have been expended.

§ 26.23 What is the requirement for a policy statement?

You must issue a signed and dated policy statement that expresses your commitment to your DBE program, states its objectives, and outlines responsibilities for its implementation. You must circulate the statement throughout your organization and to the DBE and non-DBE business communities that perform work on your DOT-assisted contracts.

§ 26.25 What is the requirement for a liaison officer?

You must have a DBE liaison officer, who shall have direct, independent access to your Chief Executive Officer concerning DBE program matters. The liaison officer shall be responsible for implementing all aspects of your DBE program. You must also have adequate staff to administer the program in compliance with this part.

26.27 What efforts must recipients make concerning DBE financial institutions?

You must thoroughly investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in your community and make reasonable efforts to use these institutions. You must also encourage prime contractors to use such institutions.

§ 26.29 What prompt payment mechanisms must recipients have?

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than a specific number of days from receipt of each payment you make to the prime contractor. This clause must also require the prompt return of retainage payments from the prime contractor to the subcontractor within a specific number of days after the subcontractor's work is satisfactorily completed.

(1) This clause may provide for appropriate penalties for failure to comply, the terms and conditions of which you set.

(2) This clause may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(b) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

§ 26.31 What requirements pertain to the DBE directory?

You must maintain and make available to interested persons a directory identifying all firms eligible to participate as DBEs in your program. In the listing for each firm, you must include its address, phone number, and the types of work the firm has been certified to perform as a DBE. You must revise your directory at least annually and make updated information available to contractors and the public on request.

§ 26.33 What steps must a recipient take to address overconcentration of DBEs in certain types of work?

(a) If you determine that DBE firms are so overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, you must devise appropriate measures to address this overconcentration.

(b) These measures may include the use of incentives, technical assistance, business development programs, mentor-protégé programs, and other appropriate measures designed to assist DBEs in performing work outside of the specific field in which you have determined that non-DBEs are unduly burdened. You may also consider varying your use of contract goals, to the extent consistent with § 26.51, to unsure that non-DBEs are not unfairly prevented from competing for subcontracts.

(c) You must obtain the approval of the concerned DOT operating administration for your determination of overconcentration and the measures you devise to address it. Once approved, the measures become part of your DBE program.

§ 26.35 What role do business development and mentor-protégé programs have in the DBE program?

(a) You may or, if an operating administration directs you to, you must establish a DBE business development program (BDP) to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE program. You may require a DBE firm, as a condition of receiving assistance through the BDP, to agree to terminate its participation in the DBE program after a certain time has passed or certain objectives have been reached. See Appendix C of this part for guidance on administering BDP programs.

(b) As part of a BDP or separately, you may establish a "mentor-protégé" program, in which another DBE or non-DBE firm is the principal source of business development assistance to a DBE firm.

(1) Only firms you have certified as DBEs before they are proposed for participation in a mentor-protégé program are eligible to participate in the mentor-protégé program.

(2) During the course of the mentor-protégé relationship, you must:

(i) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than one half of its goal on any contract let by the recipient; and

(ii) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than every other contract performed by the protégé firm.

(3) For purposes of making determinations of business size under this part, you must not treat protégé firms as affiliates of mentor firms, when both firms are participating under an approved mentor-protégé program. See Appendix D of this part for guidance concerning the operation of mentor-protégé programs.

(c) Your BDPs and mentor-protégé programs must be approved by the concerned operating administration before you implement them. Once approved, they become part of your DBE program.

§ 26.37 What are a recipient's responsibilities for monitoring the performance of other program participants?

(a) You must implement appropriate mechanisms to ensure compliance with the part's requirements by all program participants (e.g., applying legal and contract remedies available under Federal, state and local law). You must set forth these mechanisms in your DBE program.

(b) Your DBE program must also include a monitoring and enforcement mechanism to verify that the work committed to DBEs at contract award is actually performed by the DBEs. This mechanism must provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms) and include a provision ensuring that DBE participation is credited toward overall or contract goals only when payments are actually made to DBE firms.

Subpart C—Goals, Good Faith Efforts, and Counting

§ 26.41 What is the role of the statutory 10 percent goal in this program?

(a) The statutes authorizing this program provide that, except to the extent the Secretary determines otherwise, not less than 10 percent of the authorized funds are to be expended with DBEs.

(b) This 10 percent goal is an aspirational goal at the national level, which the Department uses as a tool in evaluating and monitoring DBEs' opportunities to participate in DOT-assisted contracts.

(c) The national 10 percent goal does not authorize or require recipients to set overall or contract goals at the 10 percent level, or any other particular level, or to take any special administrative steps if their goals are above or below 10 percent.

§ 26.43 Can recipients use set-asides or quotas as part of this program?

(a) You are not permitted to use quotas for DBEs on DOT-assisted contracts subject to this part.

(b) You may not set-aside contracts for DBEs on DOT-assisted contracts subject to this part, except that, in limited and extreme circumstances, you may use set-asides when no other method could be reasonably expected to redress egregious instances of discrimination.

§ 26.45 How do recipients set overall goals?

(a) You must set an overall goal for DBE participation in your DOT-assisted contracts.

(b) Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the "relative availability of DBEs"). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.

(c) *Step 1.* You must begin your goal setting process by determining a base figure for the relative availability of DBEs. The following are examples of approaches that you may take toward determining a base figure. These examples are provided as a starting point for your goal setting process. Any percentage figure derived from one of these examples should be considered a basis from which you begin when examining all evidence available in your jurisdiction. These examples are not intended as an exhaustive list. Other methods or combinations of methods to determine a base figure may be used, subject to approval by the concerned operating administration.

(1) *Use DBE Directories and Census Bureau Data.* Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same SIC codes. (Information about the CBP data base may be obtained from the Census Bureau at their web site, www.census.gov/epcd/cbp/view/cbpview.html.) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

(2) *Use a bidders list.* Determine the number of DBEs that have bid or quoted on your DOT-assisted prime contracts or subcontracts in the previous year. Determine the number of all businesses that have bid or quoted on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number for all businesses to derive a base figure for the relative availability of DBEs in your market.

(3) *Use data from a disparity study.* Use a percentage figure derived from data in a valid, applicable disparity study.

(4) *Use the goal of another DOT recipient.* If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.

(5) *Alternative methods.* Subject to the approval of the DOT operating administration, you may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market.

(d) *Step 2.* Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal.

(1) There are many types of evidence that must be considered when adjusting the base figure. These include:

(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and

(iii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

(2) You may also consider available evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to:

(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;

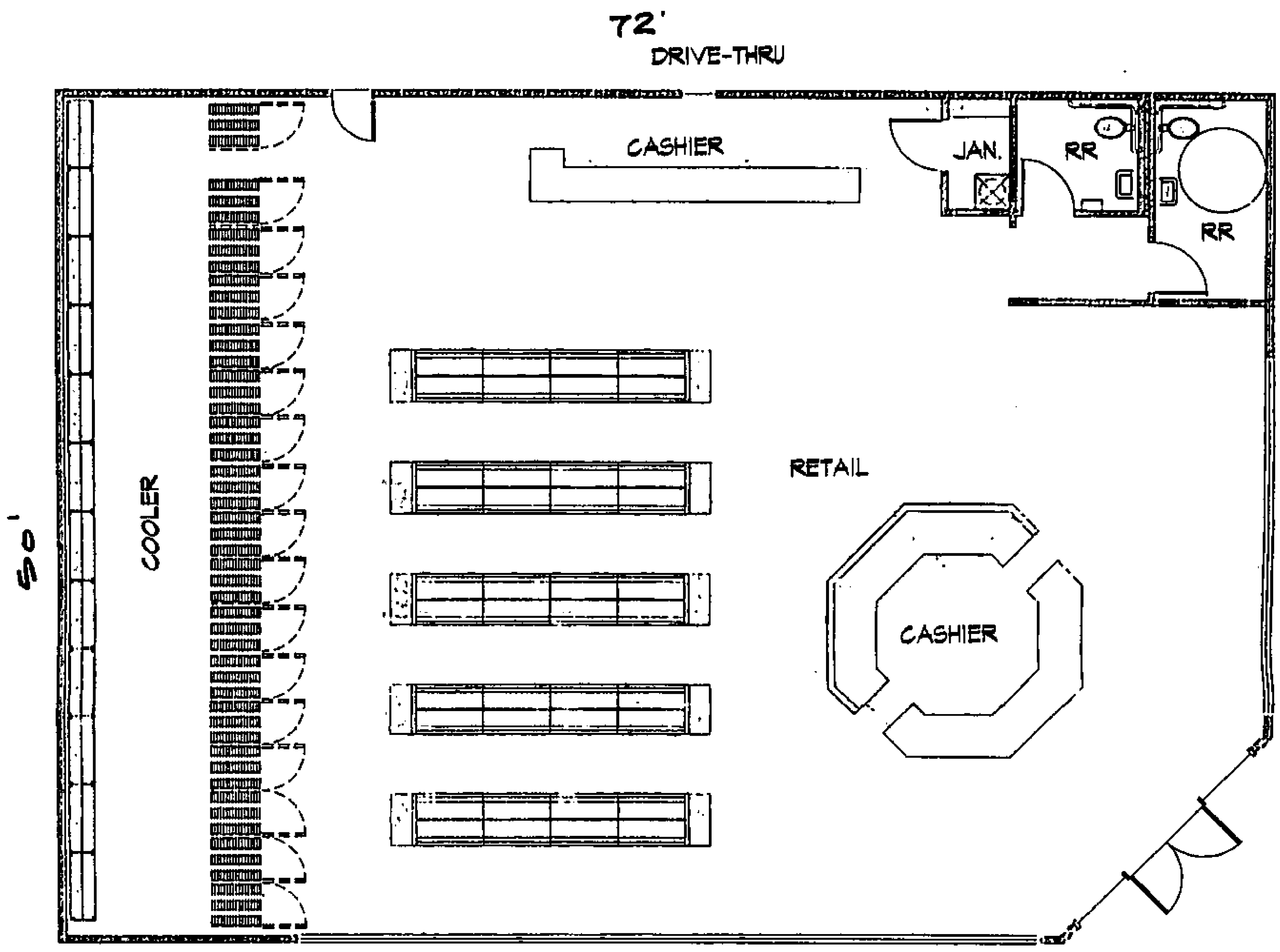
(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.

(3) If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination (often called the "but for" factor) or the effects of an ongoing DBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.

(e) Once you have determined a percentage figure in accordance with paragraphs (c) and (d) of this section, you should express your overall goal as follows:

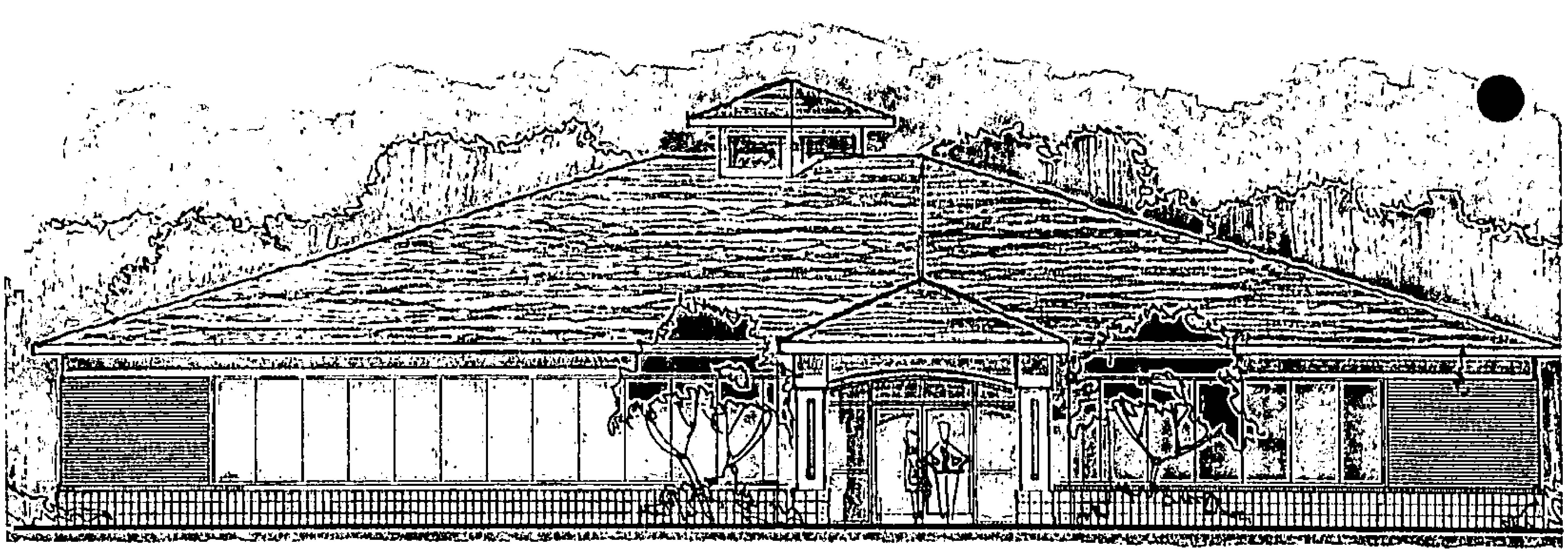
(1) If you are an FHWA recipient, as a percentage of all Federal-aid highway funds you will expend in FHWA-assisted contracts in the forthcoming fiscal year;

(2) If you are an FTA or FAA recipient, as a percentage of all FTA or FAA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that you will expend in FTA or FAA-assisted contracts in the forthcoming fiscal year. In appropriate cases, the FTA or FAA Administrator may permit you to express your overall goal as a percentage of funds for a particular grant or project or group of grants and/or projects.



FLOOR PLAN

1"= 8'

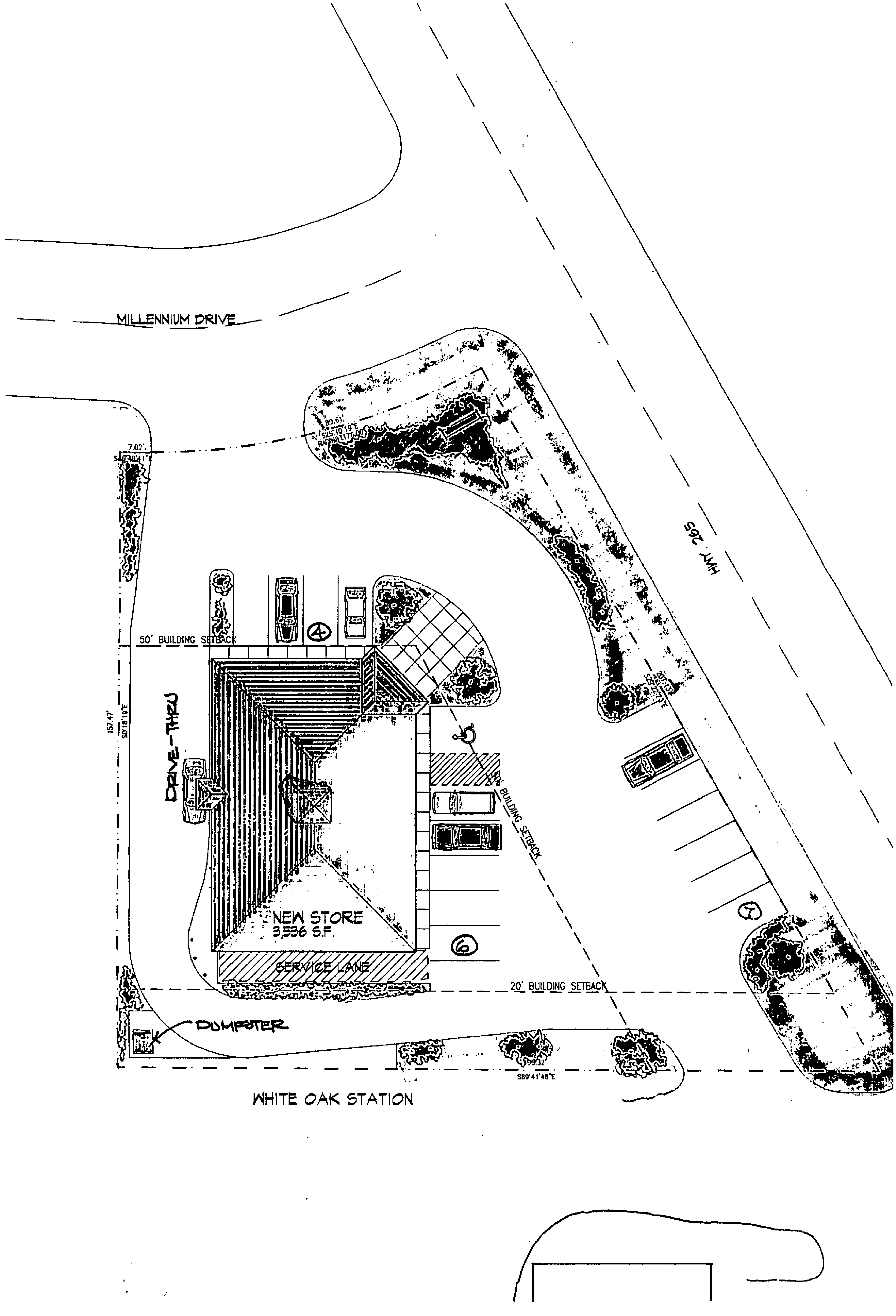


ENTRANCE ELEVATION

1"= 8'

NEW LOCATION FOR
MIDWAY LIQUOR STORE

LOT 11 .54 A



MILLENNIUM DRIVE
HWY. 265
NEW STORE
3,536 S.F.
SERVICE LANE
DRIVE-THRU
DUMPSTER
WHITE OAK STATION
50' BUILDING SETBACK
20' BUILDING SETBACK
157.47'
S89°41'46"E

B
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STREET COMMITTEE MEETING SUMMARY
October 30, 2001

TO: Fayetteville City Council Members

FROM: Mr. Bob Davis
Street Committee Chairman

The Fayetteville Street Committee met on October 30, 2001 to address the attached agenda. A brief overview of the proceedings is as follows:

1. STONE BRIDGE ROAD NORTH OF WYMAN ROAD

The Engineering Division (Jim Beavers) and Street Division (Randy Allen) reported on progress of this 2001 CIP Project budgeted at $175,000.00. Efforts are being focused upon a cost-effective improvement scope, addressing critical surfacing/drainage issues with predicted costs on the order of $90,000.00. Work to be completed in-house.

2. STARR ROAD AT NEW CATHOLIC CHURCH

Engineering Division (Ron Petrie) presented a cost-sharing proposal with the St Joseph Catholic Church whereby both lanes of this street may be improved across the frontage of the Church's property (Church required to perform one-half street improvement, information and location maps are attached). The budgeted cost for improvement of the other "one-half of the street", through the Church's existing contractor (Nabholtz Construction Corporation) is $61,200.00. This matter was recommended for City Council approval and shall be included on the November 20, 2001 agenda.

3. SUNBRIDGE DRIVE AND GREGG AVENUE INTERSECTION IMPROVEMENTS

The Engineering Division (Paul Libertini) has secured AHTD approvals for intersection widening and signalization. The street improvement work shall be contracted (estimated cost $260,000.00, $212,000 available in 2001 budget) and signal work shall be performed by the Traffic Division using equipment salvaged from Wedington. The street improvements shall be released for bids once the right-of-way is acquired from the Arkansas and Missouri Railroad.

4. GREGG AVENUE RIGHT-OF-WAY PURCHASE

An agreement to purchase 25' of right-of-way from the Arkansas and Missouri Railroad, along Gregg Avenue between Poplar Street and Van Asche

Boulevard was recommended for approval, along with necessary budget adjustments to fund:

(1) Gregg Avenue Right-Of-Way Purchase
(2) Radio Replacement Project
(3) Starr Drive Improvements
(4) Sunbridge and Gregg Intersection Improvements

The added right-of-way to the west side of Gregg Avenue entails 6.58 acres at a cost of $263,200.00 (confirmed by appraisal).

5. OLD MISSOURI ROAD FROM ROLLING HILLS TO BROOKHAVEN

Garver Engineers presented five alternative project scopes for the Project, costs ranging from $769,500 to $1,600,200.00, all representing substantial cost savings from the original recommended design which had a cost of $2,299,500.00. Attached is an information sheet outlining scope, location and costs. After considerable discussion the Street Committee accepted option No 4, at a cost of $1,600,200.00 and authorized the engineer to proceed with the work. Funding for this project (2000, 2001 and proposed 2002) is predicted to have an unencumbered balance of $1,806,000.00.

October 30, 2001
City of Fayetteville
Street Committee meeting
Agenda

1. Stone Bridge Road north of Wyman Road.

This is an existing Capital Improvements (CIP) Project budgeted at $175,000.00 to provide improvements to approximately 2700 feet of Stone Bridge Road north of Wyman Road including asphalt overlay, partial curb and gutter and partial storm drainage constructed in-house by the City's Street Division. The specific improvements will be further discussed with the Street Committee.

2. Starr Road at the new Catholic School.

Proposed cost share for one-half of the existing City street on the west side of Starr Road that is in poor condition and has subgrade failures. The Catholic school is reconstructing the east one-half of the street in this location as part of the development. The estimated costs to the City for the proposed cost-share for the western one-half of the street, for a length of approximately 450 lf, is $61,200.00.

3. Sunbridge Drive and Gregg Avenue intersection improvements.

The City of Fayetteville has designed and received AHTD permits to install turn lanes and a traffic signal at the intersection of Sunbridge Drive and Gregg Avenue. The intersection improvements are designed and will be advertised for construction upon approval by the Street Committee and the acquisition of necessary right-of-way (ROW) from the A&M Rail Road.

4. Gregg Avenue ROW.

The city of Fayetteville proposed to purchase approximately 6.58 acres of ROW consisting of a 25 ft. strip along the west side of Gregg Avenue form Poplar Street to Van Asche Boulevard from the A&M Railroad for the price of $263,200.00. This gracious offer by the A&M Railroad to sell 25 ft of the 50 feet of railroad ROW east of the existing track centerline by the A&M Railroad will reduce the ROW needed to be taken on the east side of Gregg Avenue for the proposed widening of Gregg (AHTD Highway 180) and thus reduce (reduce, not eliminate) impacts and costs for the mobile houses, mobile homes, apartment complexes, City Park and commercial businesses. This ROW will also permit the immediate construction of intersection improvements at Sunbridge and Gregg in 2001/2002 and potential 2003 intersection improvements at Appleby and Gregg, Shiloh and Gregg and Futrall and Gregg.

5. Old Missouri Road from Rolling Hills north to the Mud Creek bridge.

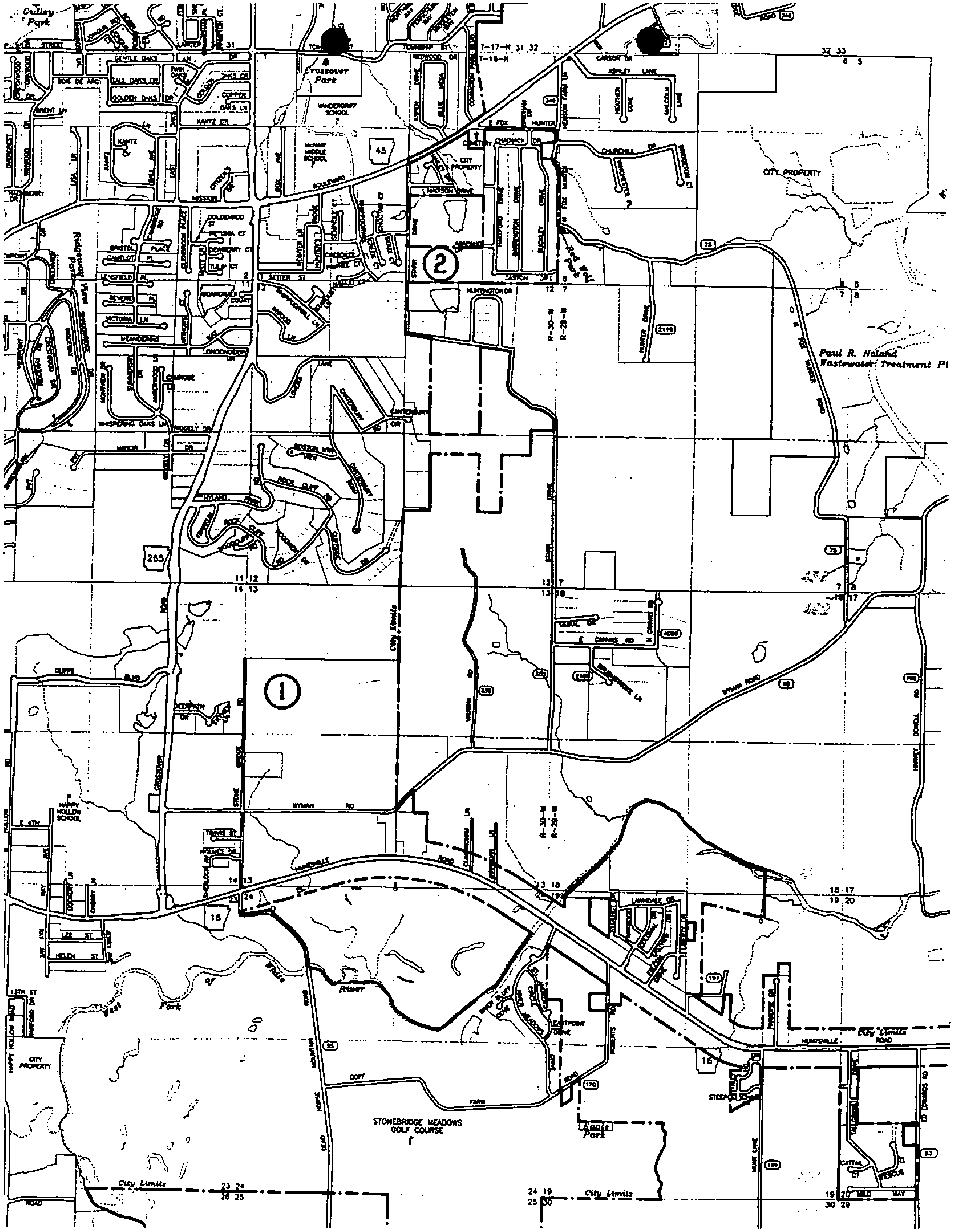
Based upon the May 29, 2001 Public Hearing and the June 7, 2001 Public Meeting held on-site, it was determined by the City to employee Garver Engineers to prepare additional conceptual designs and costs estimates for alternatives which reduce to differing degrees the scope and costs of the project.

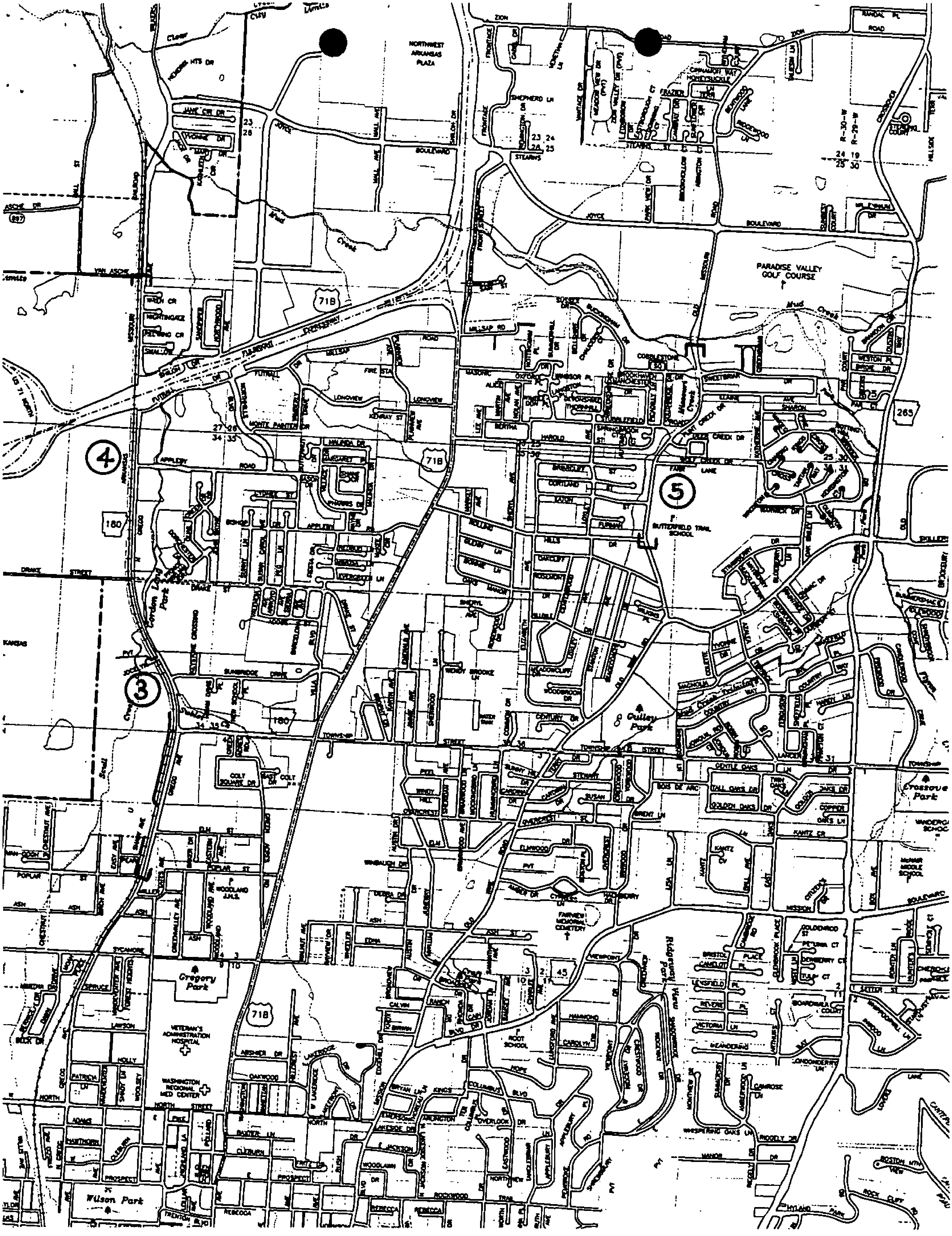
Garver Engineers have prepared the September 4, 2001 Conceptual Engineer's Report Addendum no. 1 for review. This report includes the conceptual plans and cost estimates for five additional options of improvements to Old Missouri Road including segments of Old Missouri Road from Rolling Hills Drive north to the Mud Creek Bridge.

The objective of the addendum and the revised report is to provide additional conceptual designs, options and combinations of options, that reduce the scope of the project, reduce the impact to adjacent properties and reduce costs.

These options are shown on the displays and summarized on the attached Old Missouri Road Fact Sheet.

The 2001 budget remaining for Old Missouri Road is $1,259,901.
The proposed 2002 budget for Old Missouri Road is $570,000.


Crossover Park
VANDERGRIFF SCHOOL
McNAIR MIDDLE SCHOOL
CITY PROPERTY
CITY PROPERTY
Paul R. Noland
Wastewater Treatment Pl
HAPPY HOLLOW SCHOOL
CITY PROPERTY
STONEBRIDGE MEADOWS
GOLF COURSE
City Limits
City Limits
City Limits
City Limits
West Fork of White River
WYMAN ROAD
HUNTSVILLE ROAD
CROSSOVER ROAD
DEAD HORSE MOUNTAIN ROAD
2
1


NORTHWEST ARKANSAS PLAZA
JOYCE BOULEVARD
PARADISE VALLEY GOLF COURSE
Mud Creek
FULBRIGHT EXPRESSWAY
71B
4
5
3
180
265
45
APPLEBY ROAD
DRAKE STREET
BUTTERFIELD TRAIL SCHOOL
Gordon Long Park
Gulley Park
TOWNSHIP STREET
Crossover Park
WOODLAND J.H.S.
McNAIR MIDDLE SCHOOL
FAIRVIEW MEMORIAL CEMETERY
Gregory Park
VETERAN'S ADMINISTRATION HOSPITAL
WASHINGTON REGIONAL MED CENTER
ROOT SCHOOL
NORTH STREET
Wilson Park

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

ENGINEERING DIVISION CORRESPONDENCE

TO:	Greg Boettcher, Public Works Director
THRU:	Jim Beavers, City Engineer
FROM:	Ron Petrie, Staff Engineer
DATE:	October 26, 2001
SUBJECT:	October 30, 2001 Street Committee Meeting Possible Starr Drive Improvement Cost-Share

The new St. Joseph Catholic Church that is being constructed on Starr Drive was required to improve Starr Drive by the Planning Commission, as follows:

1. Adjacent to the site, the east side of Starr Drive will be widened to 14' with curb & gutter including the removal and replacement of the existing subgrade.
2. To the north of the site in the County, the street will be overlayed and widened to County Standards.
3. Purchase or obtain sufficient right-of-way for the above improvements.

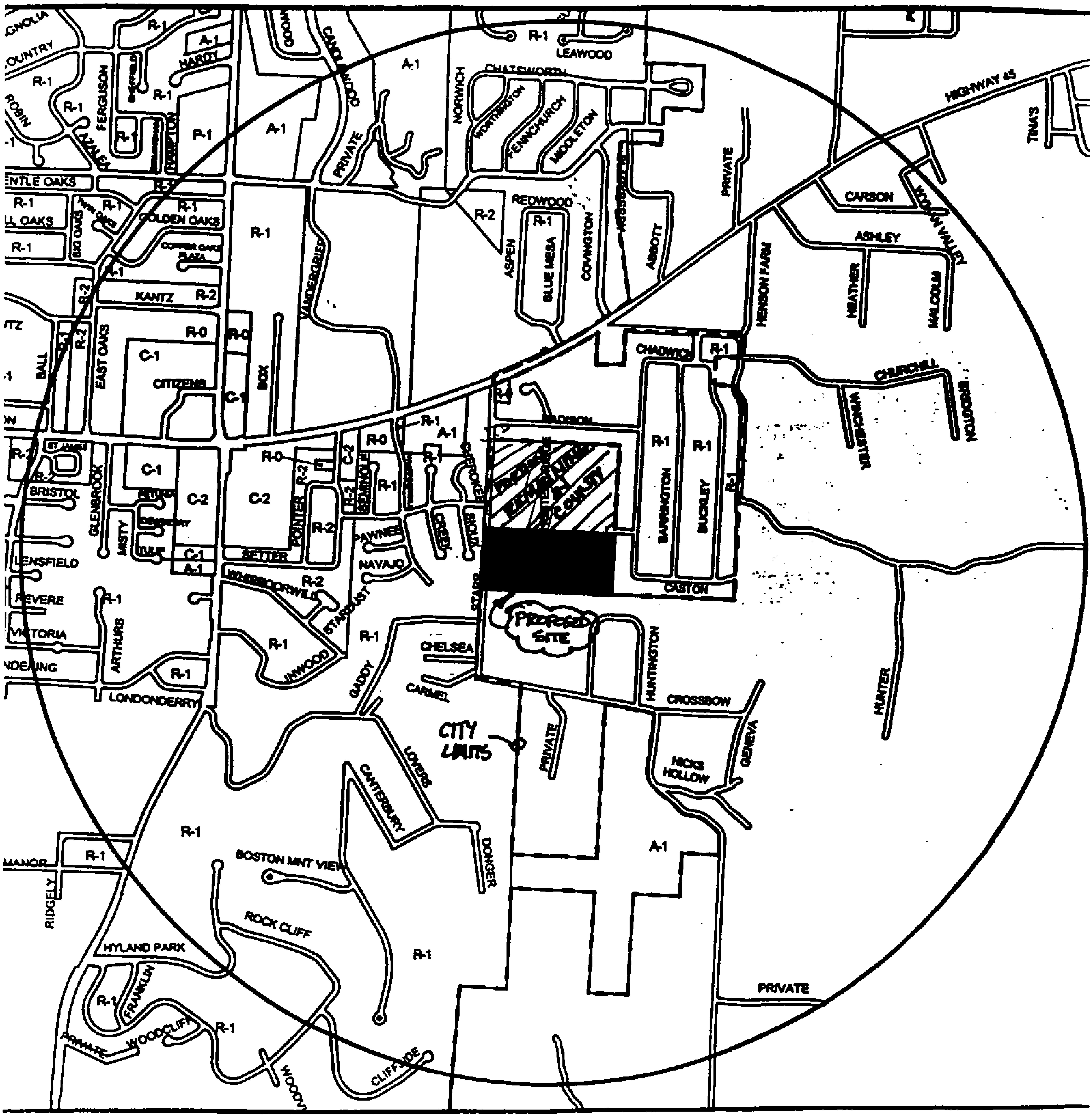
The only portion of Starr Drive that will not be improved is the west side of the street opposite of the proposed site. Although this portion of the street was previously a chip & seal County Road, it is now located entirely within the City Limits. At this time, the street and the street subgrade is deteriorating at a rapid pace.

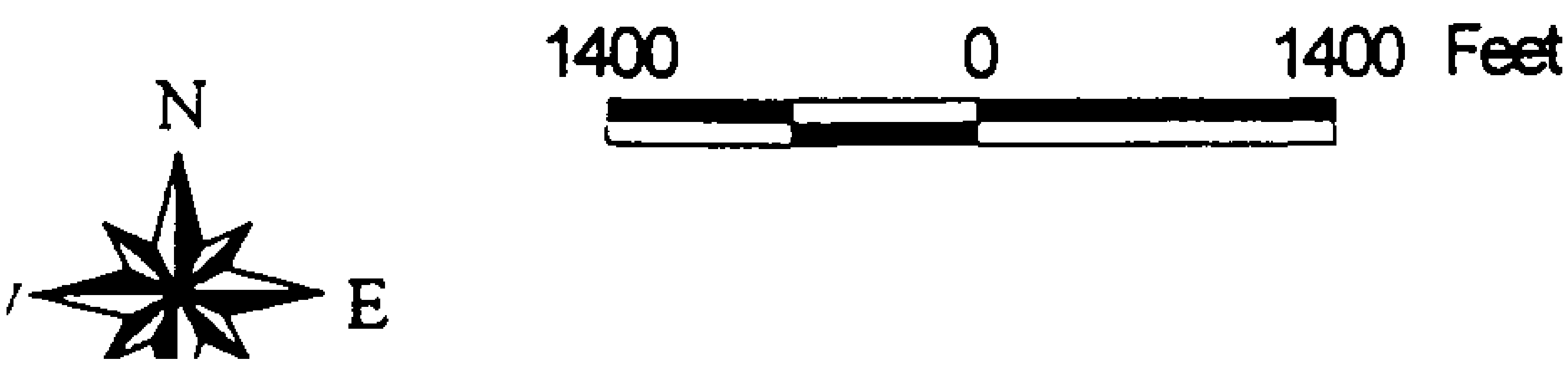
Construction Costs to widen this portion of Starr Drive to Local Street Standards have been received from St. Joseph Catholic Church's Engineer. The following are actual contract bid prices for these improvements:

Street Paving & Miscellaneous Improvements	$ 28,734.00
Drainage Improvements on the west side of Starr Drive	$ 18,304.00
Subgrade Replacement	$ 6,083.00
TOTAL CONSTRUCTION COSTS	$ 53,121.00
Engineering & Construction Inspection	$ 2,500.00
10%(+/-) Contingency	$ 5,579.00
COST OF POSSIBLE COST-SHARE	$ 61,200.00

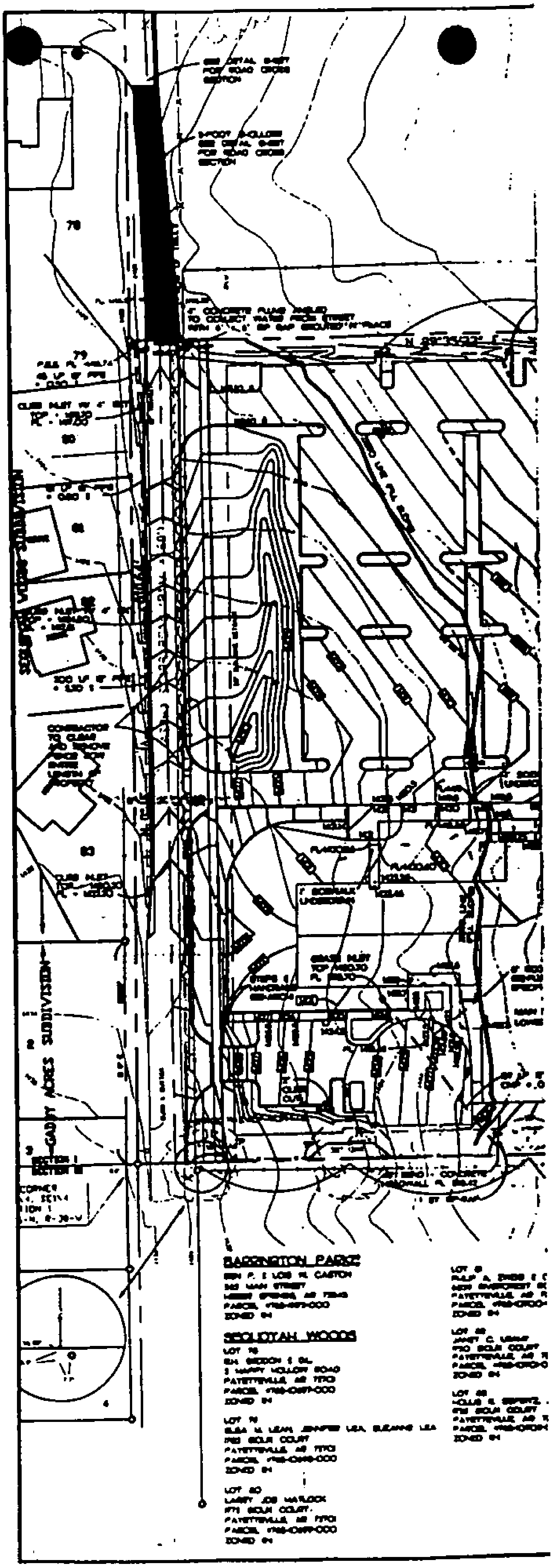
A budget adjustment will have to accompany the cost-share to the City Council. The source of these funds has not been determined at this time.

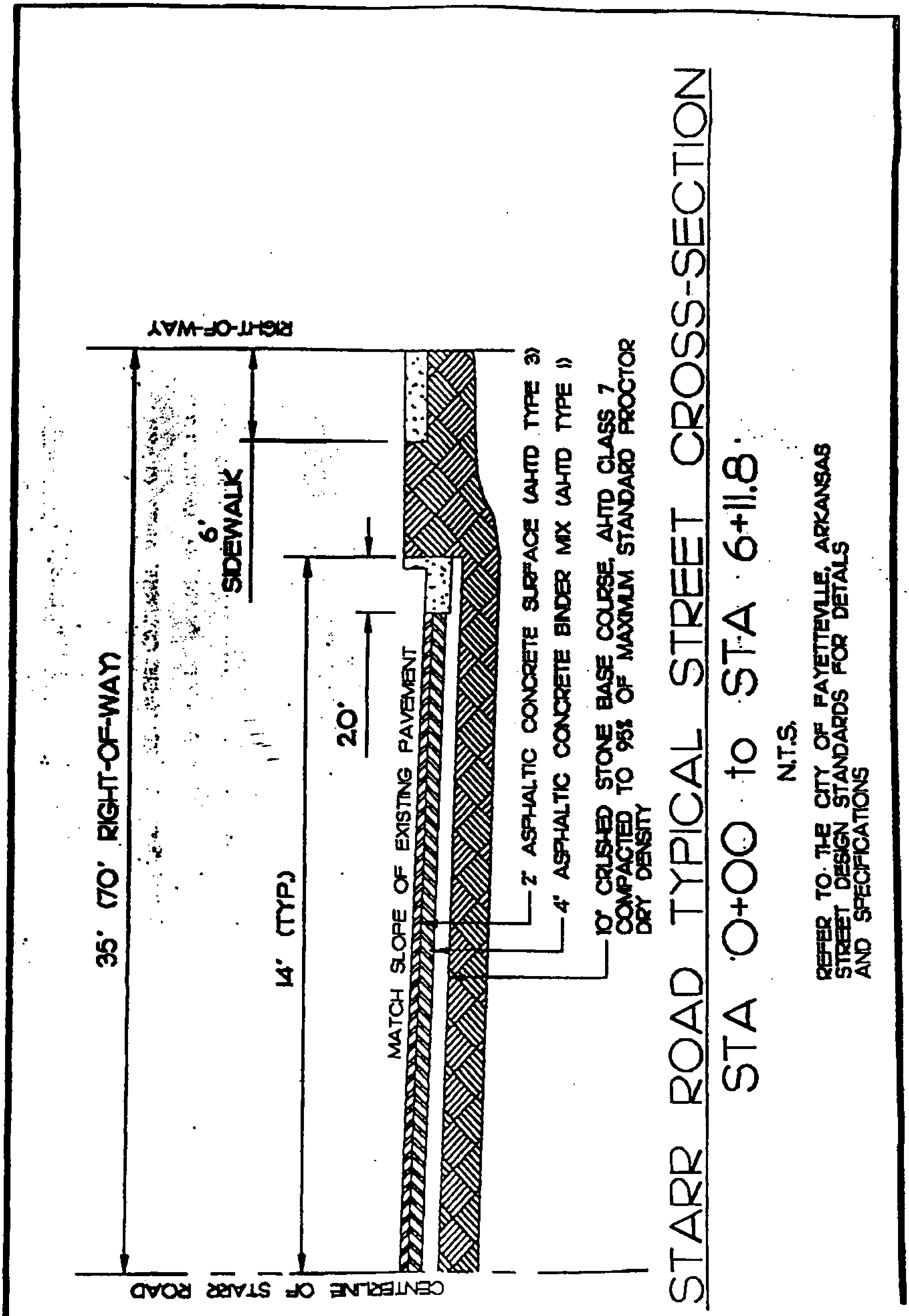
LSD00-22.00 - St. Josephs Church - One Mile Diameter





Planning Commission
September 11, 2000


GADDY ACRES SUBDIVISION
BARRINGTON PARK
LOT 80
FAYETTEVILLE, AR

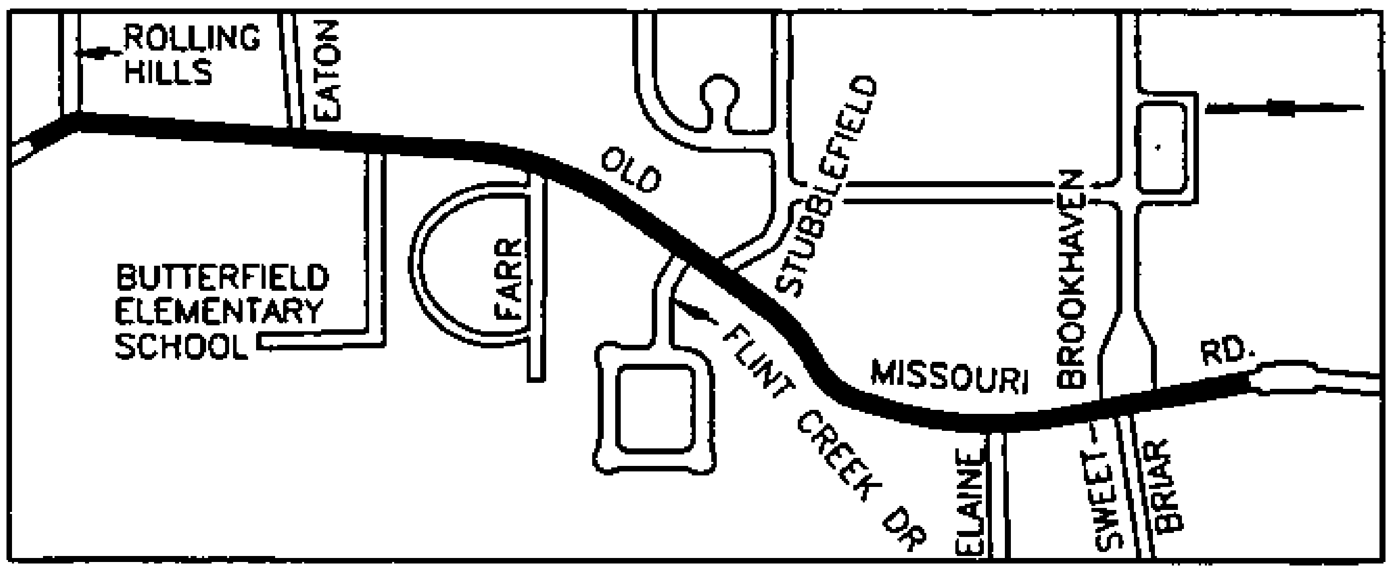

STARR ROAD TYPICAL STREET CROSS-SECTION
STA 0+00 to STA 6+11.8
N.T.S.
REFER TO THE CITY OF FAYETTEVILLE, ARKANSAS STREET DESIGN STANDARDS FOR DETAILS AND SPECIFICATIONS
RIGHT-OF-WAY
CENTERLINE OF STARR ROAD
35' (70' RIGHT-OF-WAY)
6' SIDEWALK
14' (TYP)
2.0'
MATCH SLOPE OF EXISTING PAVEMENT
2" ASPHALTIC CONCRETE SURFACE (AHTD TYPE 3)
4" ASPHALTIC CONCRETE BINDER MIX (AHTD TYPE 1)
10" CRUSHED STONE BASE COURSE, AHTD CLASS 7 COMPACTED TO 95% OF MAXIMUM STANDARD PROCTOR DRY DENSITY

Old Missouri Road Improvements

Rolling Hills to Mud Creek Bridge Conceptual Report - Addendum No. 1 - Option Summary

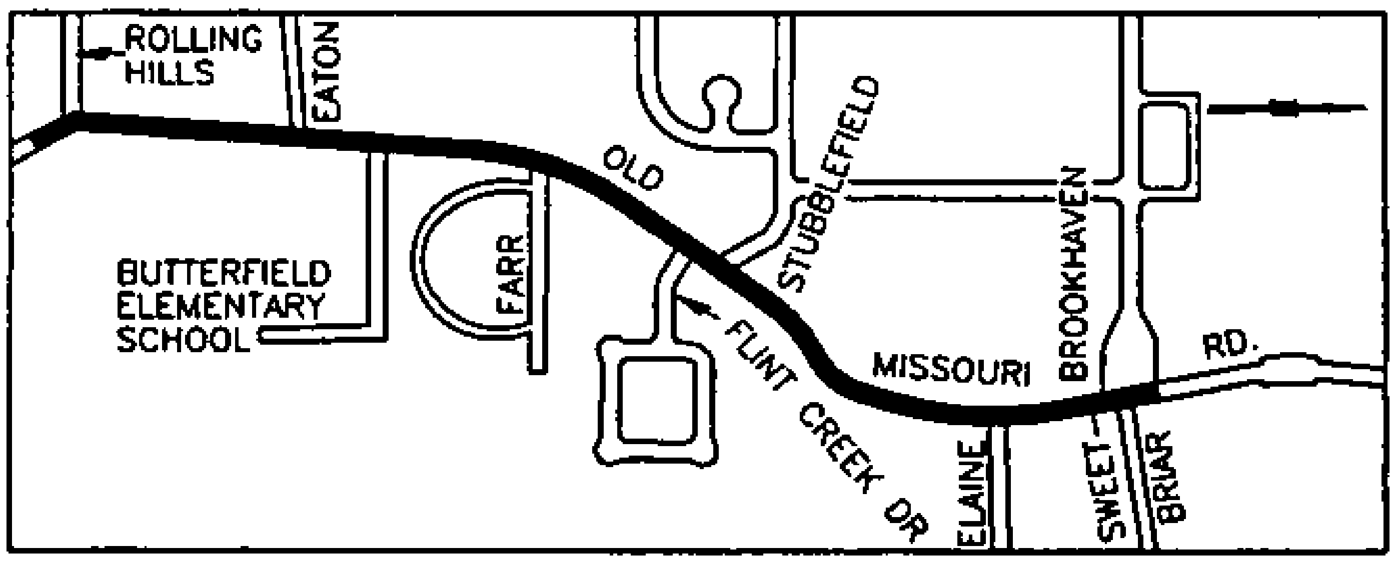
Option 3
$2,299,500

Rolling Hills to Mud Creek Bridge improved as recommended in original report.



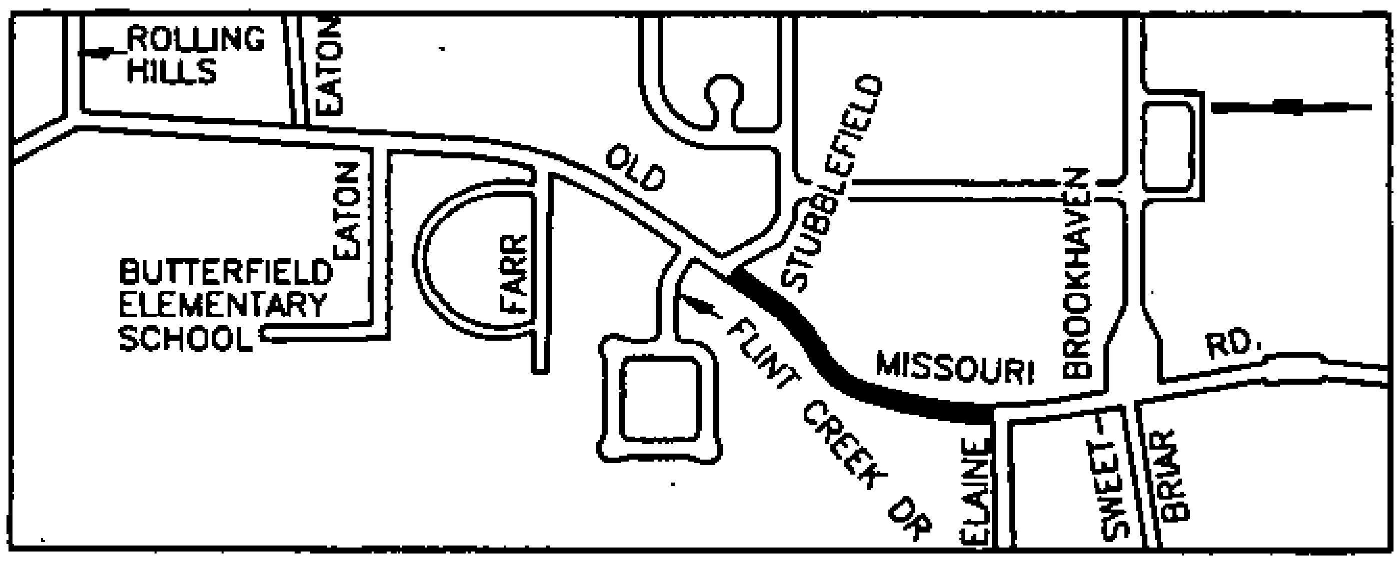
Option 4
$1,600,200

Revised Option 3 - reduce width of street, greenspace, and sidewalks; use open ditches; lower and straighten road at creek.



Option 5
$769,500

Raise road near creek.

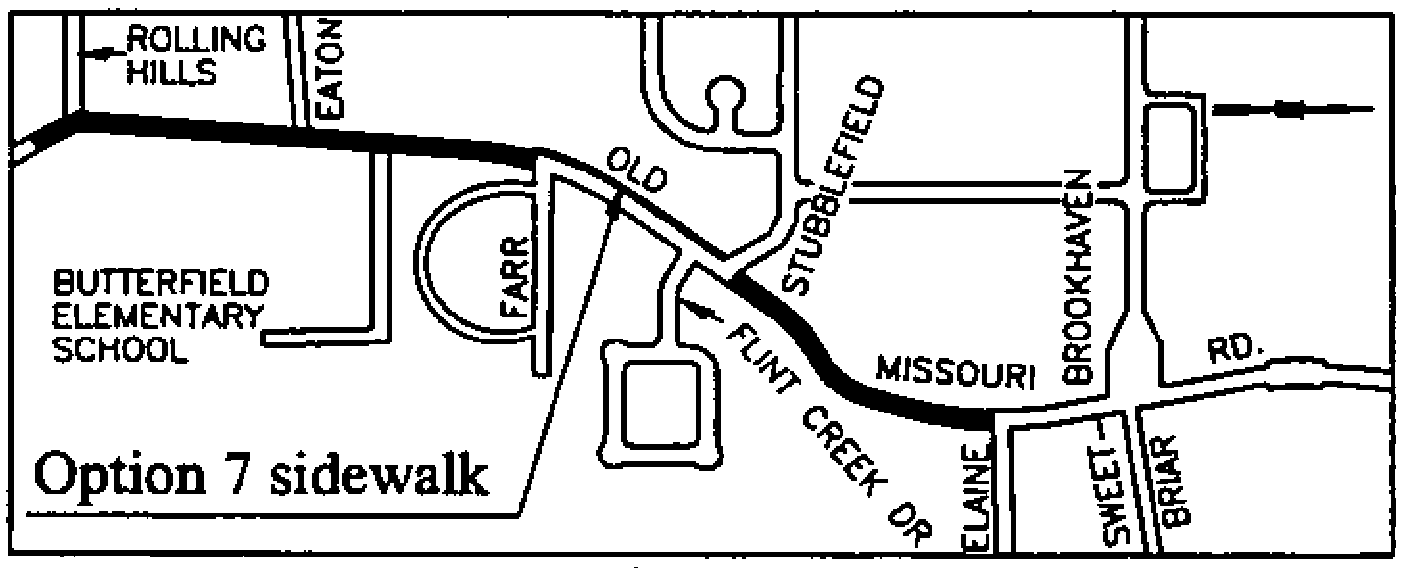


Option 6 $1,373,400

Option 5 plus widen from Rolling Hills to Farr.

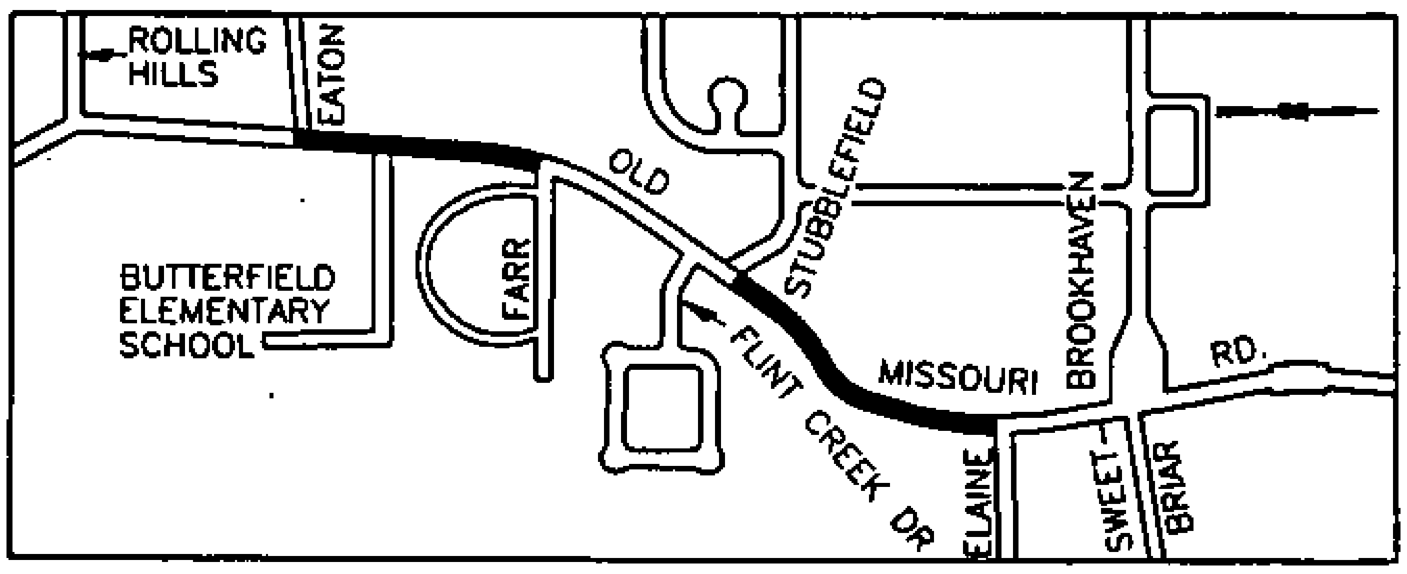
Option 7 $1,409,100

Option 6 plus sidewalk for Farr to Stubblefield.



Option 8
$1,216,950

Option 5 plus widen from Eaton to Farr.



City of Fayetteville, Arkansas
Sales Tax Capital Improvements - Adjustments

Additional Funding Needs		
Gregg Street - ROW Acquisition	$ 263,000	
Radio Replacement Project	127,000	
Starr Drive	61,200	
Sunbridge & Gregg Intersection	44,448	
Funds Needed		$ 495,648

Actions:

	Sales Tax Capital	Water & Sewer
Funds Proposed for Releasing		
HWY 62 West Waterline Replacement		$ 389,407
Garland Street Water & Sewer Relocations	$ 389,407	
Cost Savings - Wedington Drive	108,727	
Funding Released	498,134	389,407
Proposed Reallocation		
Garland Street Water & Sewer Relocations		$ 389,407
Gregg Street - ROW Acquisition	263,000	
Radio Replacement Project - Additional Repeaters	127,000	
Starr Drive	61,200	
Sunbridge & Gregg Intersection	44,448	
Total Proposed Reallocation	495,648	389,407
Funds (Remaining)/ Used	$ (2,486)	$ 0

STAFF REVIEW FORM

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of October 16, 2001

FROM:

Stephen Davis	Budget & Research	Admin Services Department
Name	Division	Department

ACTION REQUIRED: Council Action is requested to adopt real and personal property tax rates for 2001 for Policemen's Pension and Relief Fund and Firemen's Pension and Relief Funds. The rate to be adopted for Policemen's Pension and Relief fund and the Firemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils for personal property. There is no millage proposed for general government operations.

COST TO CITY:

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

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Administrative Services Director

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

Marsha Farthing	9/21/01	Nancy Smith	9/21/01
Accounting Manager	Date	Internal Auditor	Date
	9/21/01		
City Attorney	Date	ADA Coordinator	Date
	9/21/01		
Purchasing Officer	Date	Grant Coordinator	Date

STAFF RECOMMENDATION: Staff recommends adoption of millage rates.

Division Head	Date
Department Director	Date
	9/19/01
Administrative Services Director	Date
Dan Coody	9/21/01
Mayor	Date

Cross Reference

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

Prev Ord/Res #: ________

Orig Contract Date: ________

Orig Contract Number: ________

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council

Thru: Dan Coody, Mayor
Ted Webber, Administrative Services Director

From: Budget & Research

Re: 2001 Millage Levy

Date: September 21, 2001

Each year the City must approve an ordinance to renew the levy of ad valorem taxes on real and personal property within the City. This request will provide for such levy on property assessed during 2001.

The total assessed value of real and personal property located within the city limits of Fayetteville, as of August 18, 2001, is approximately $645 million. The assessed valuation is before the Washington County Board of Equalization has made all the changes to the County Assessors Abstract. Based on the preliminary assessments, the growth in real estate assessments is approximately 12.7%. There is a possibility an amendment 59 rollback may be triggered. The final assessments are anticipated from Washington County mid October. Budget staff has been advised by County staff that state statutes provide for an extension of time to file our millage levy ordinance with the County should a rollback be triggered.

A millage levy ordinance must be approved by City Council in order for the City to continue to collect property taxes for the Policemen's Pension and Relief Fund and the Firemen's Pension and Relief Fund. The millage levy for the Policemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils on personal property. The millage levy for the Firemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils on personal property. The City levy will be added to the levies by Washington County, the various school districts, improvement districts and other cities within the County when the Washington County Quorum Court adopts its millage levy for 2001.

If you have any questions concerning this agenda request please contact Stephen Davis at 575-8296.

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City of Fayetteville
Property Tax Revenue per Mil
September 21, 2001

Millage	Approximate Revenue
0.10	$59,000
0.20	$118,000
0.30	$177,000
0.40	$236,000
0.50	$295,000
0.60	$354,000
0.70	$413,000
0.80	$472,000
0.90	$531,000
1.00	$590,000

The millage revenue reflected above is based on the Washington County Preliminary Summary Report of County Assessments for the Year 2001 dated August 18, 2001 and excludes real and personal property for Utilities. The City Council can approve up to 5.0 mils for operations. The table assumes a 95% collection rate. Total real and personal property assessments for 2001 amount to approximately $621 million excluding real estate and personal property for utilities.

The change in assessed value, for real estate, from 2000 to 2001 is approximately $30 million or 12.7%. The change in assessed real estate value is due to newly discovered, newly constructed property (7.1%) and reassessment of existing property (5.6%).

Property Tax Impact Illustration

	Appraised Value	Assessed Value	1 Mil Tax/Year
Single Family Home	$75,000.00	$15,000.00	$15.00
Single Family Home	$100,000.00	$20,000.00	$20.00
Single Family Home	$150,000.00	$30,000.00	$30.00

STAFF REVIEW FORM - Page 2

Description ______________________________ Meeting Date ______________

Comments: | Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

Grants Coordinator

STAFF REVIEW FORM

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

DBE FY 2002 Goal Update

For the Fayetteville City Council meeting of November 6, 2001

FROM:

Name	Division	Department
Gary Dumas	Airport	Utilities Management

ACTION REQUIRED: Resolution approving the DBE FY 2002 Updated Contract Goal.

COST TO CITY:

$ -0-	$ N/A	DBE Program
Cost of this Request	Category/Project Budget	Category/Project Name
N/A	$ N/A	Landside - Admin
Account Number	Funds used to date	Program Name
N/A	$ N/A	Airport
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ___ Budgeted Item ___ Budget Adjustment Attached

Budget Manager Date Administrative Services Dir. Date

CONTRACT/GRANT/LEASE REVIEW:

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

STAFF RECOMMENDATION: Staff recommends approval of the DBE FY 2002 Updated Goal.

Division Head Date

Department Director Date

Administrative Services Director Date

Mayor Date

Cross Reference

New Item: Yes No
Prev. Ord/Res#: ________
Orig Cont. Date: ________
Orig Cont #: ________

53 PM FAYETTEVILLE AIRPORT FAX NO. 5017187646 P. 07

STAFF REVIEW FORM

Description: **Meeting Date:** November 6, 2001

DBE FY 2002 Goal Update

Comments:

Budget Manager

Reference Comments:

Accounting Manager

Reference Comments:

City Attorney

Reference Comments:

Purchasing Officer

Reference Comments:

Internal Auditor

Reference Comments

ADA Coordinator

Reference Comments:

Grants Coordinator

Reference Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

4500 School Ave., Suite F
Fayetteville, AR 72701
501.718.7642

AIRPORT MANAGEMENT
GARY DUMAS, UTILITIES DIRECTOR / AIPRORT MANAGER INTERIM

TO: Dan Coody, Mayor
Fayetteville City Council Members

FROM: Gary Dumas, Utility Services Director / Interim Airport Manager

THRU: Staff Review Committee

DATE: October 21, 2001

SUBJECT: Disadvantaged Business Enterprise (DBE) Program Goal Update for FY 2002.

Background: *On October 14, 2000, the Fayetteville City Council approved the Fayetteville Municipal* Airport's revised Disadvantaged Business Enterprise Program. The Airport's DBE Program is federally mandated under 49 CFR *Part 26 for all Department of Transportation (DOT/FAA) grant recipients which* anticipate receiving more than $250,000 in federal funds in the fiscal year. Drake Field anticipates receiving approximately $2.4 million from the DOT/FAA in FY 2002.

The DBE Program assures that Minority & Women-owned businesses, and other economically disadvantaged small businesses have an equal opportunity, or "level playing field," in competing for Airport procurement contracts.

49 CFR Part 26 requires that our DBE Program Goal be updated annually. The Updated Goal describes the overall DBE participation percentage and value of procurement contracts targeted for award to DBE contractors in the fiscal year. The regulation provides the methodology to be used to set contract DBE participation goals.

Purpose: The purpose of this item is a new resolution amending Fayetteville City Council Resolution No. 147-00. Resolution No. 147-00 approves the Revised Disadvantaged Business Program to be implemented for all DOT/FAA grant assisted contracts entered into by the City of Fayetteville Municipal Airport. The approved program contains the DBE participation goal level in FY 2000.

The new resolution will accept and approve the airport's updated DBE participation goal for FY 2002.

Budget Considerations: No budget effect.

Action Requested: Approval of a resolution which accepts and approves the updated DBE participation Goal for FY 2002.

Staff Recommendation: Review & Approval

GD/jn
attachment: Resolution 147-00
Approved DBE Program FY2001
Federal Register - 49CFR Part 26

ATTACHMENT:

FAYETTEVILLE MUNICIPAL AIRPORT
UPDATED FY 2002 DBE GOAL

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, Senior Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: October 8, 2001

ANX 01-3.00: Annexation (Hendricks/Harper, pp 321) was submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION: **Required** **YES**
O Approved **O Denied**
Date: October 8, 2001

CITY COUNCIL ACTION: **Required** **YES**
O Approved **O Denied**
Date: November 6, 2001 (1st reading)

Comments: ______________________________

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BACKGROUND:

The subject property adjoins the Bridgeport Subdivision to the south and the Fairfield Subdivision to the west. These recent subdivision developments have surrounded this property. As the Bridgeport subdivision was designed, the developer approached these property owners with a contract to allow for easements to cross the subject property to provide access to utilities and drainage for the proposed subdivision. As a part of that agreement, the developer of Bridgeport promised connections to water and sewer for the subject property. The City was not a party to this contract and only became aware of the conditions of the agreement after it had been put into place and the applicant requested sewer taps.

The applicant is not requesting a rezoning with this annexation. The property, if annexed, will maintain an A-1, Agricultural designation. Maximum density on this property if zoned A-1 would be 4 units.

SURROUNDING LAND USE AND ZONING

North: Residential, Washington County
South: Single family dwellings, R-1 (Subdivision under construction)
East: Residential, Washington County
West: Residential, County / Single family dwellings, R-1 (Subdivision to be constructed)

INFRASTRUCTURE:

Access to this property is from Sunshine Road, a Washington County road. A new access drive was also created for this property from Constitution Drive within the Bridgeport Subdivision. Water and sewer are available to the site however sewer cannot be connected without annexation or a contract agreement between the City and the property owners.

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

§ 161.03 DISTRICT A-1 AGRICULTURAL.

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

B. Uses.

1. Permitted Uses.

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

2. Uses Permissible on Appeal to the Planning Commission.

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

C. Bulk and Area Regulations.

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

D. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
35	20	35

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

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

DEPARTMENTAL CORRESPONDENCE

To: Don Bunn, Public Works
From: Heather Woodruff, City Clerk
Date: June 18, 2001

Attached is a copy of the resolution regarding Don Hendricks sewer service. The original will be microfilmed and filed with the City Clerk.

cc: Tim Conklin, Planning

RESOLUTION NO. 77-01

A RESOLUTION APPROVING A REQUEST TO PROVIDE CITY SEWER SERVICE FOR TWO (2) SEWER TAPS ON PROPERTY OWNED BY DON AND DONNA HENDRICKS LOCATED OUTSIDE THE CITY LIMITS.

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

Section 1. That the City Council hereby Approves a request to provide city sewer service for two (2) sewer taps on property owned by Don and Donna Hendricks located outside the city limits, on condition that Don and Donna Hendricks apply for annexation in the near future and the City will waive its annexation fee.

PASSED AND APPROVED this 5 day of June, 2001.

APPROVED:

By: Dan Coody
DAN COODY, Mayor

ATTEST:

By: Heather Woodruff
Heather Woodruff, City Clerk

AGENDA REQUEST FORM

Council Meeting of June 1, 2001 Mayor's Approval ____

FROM Don Bunn (Name) — Public Works Admin (Division) — Public Works (Department)

ACTION REQUIRED Approval or denial of a request to provide sewer service outside of the City Limits.

COST TO CITY

$ -0- Cost of this Request	$ ____ Category/Project Budget	____ Category/Project Name
____ Account Number	____ Funds Used to Date	____ Program Name
____ Project Number	$ ____ Funds Remaining	____ Fund Category

BUDGET/CONTRACT REVIEW ____ Budgeted Item ____ Budget Adj. Attached

Budget Coordinator	Date	Admin Services Director	Date
Accounting Manager	Date	ADA Coordinator	Date
City Attorney	Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION No recommendation

[signature] Ass't Public Works Director	17 MAY '01 Date
Department Director	Date
Admin Services Director	Date
Mayor	Date

Cross Reference

New Item: Yes No

Prev Ord/Res # ____

Orig. Contract #

Orig. Contract Date ____

Orig. Contract Number ____

City of Fayetteville DEPARTMENTAL CORRESPONDENCE

May 16, 2001

To: Fayetteville City Council

From: Donald Bunn, Asst. PW Director DB
Thru: Mayor Dan Coody

Subject: Request for Sewer Service Outside City Limits
Don and Donna Hendricks
2090 Sunshine Road

Attached is a letter from Don and Donna Hendricks requesting sewer service for their house and a house occupied by their grandson. The Hendricks property is located south of Sunshine Road and north of and adjacent to Bridgeport Subdivision, Phases 4, 5, and 6. The Bridgeport property is inside the City Limits, therefore, the Hendricks property is adjacent to the City Limits.

I have attached two plats showing the Hendricks property and their location with respect to the City Limits and the City's sewer mains. You will note that the larger scale plat clearly shows two existing sewer line crossing the property. The east-west sewer line crossing their property along the north side has been in place for over 30 years. The sewer line shown cross their property going south has just recently been installed by the developers of the Bridgeport Subdivision.

Some clarification items mentioned in the Hendricks letter is necessary. The contract mentioned in the letter is between the Mr. and Mrs. Hendricks and the developers of the Bridgeport Subdivision, the City is not a party to that contract. The contract requirements to provide water hookups, sewer taps, and a fire hydrant were commitments made by the developer to Mr. and Mrs. Hendricks in exchange for granting the City the necessary easements to serve the Subdivision. They were not commitments made by the City.

The two "sewer taps" issued by the Inspections Department in April were actually plumbing permits. The sewer taps are in place, having been put in by the developer at the time the sewer line was installed. The Inspection Department was aware at the time the plumbing permits were issued that they were for houses outside the City Limits, however, it was their understanding that City Council permission would be obtained before the taps would be utilized.

This request is specifically to allow the utilization of two sewer taps without having to annex into the City. The subject property is adjacent to the city limits and therefore could annex by petition.

It has been the policy of the City to not grant sewer taps outside of the City Limits, especially in cases where the property in question can be annexed. The purpose of the policy is to encourage annexation to the City whenever possible.

RECEIVED
APR 24 2001

APR 24 2001

Don & Donna Hendricks
2090 Sunshine Road CR 877
Fayetteville AR 72704

Fayetteville City Council
City Administration Building
Fayetteville AR 72701

April 23, 2001

Dear Council Members:

We are applying to you for permission to tie on to the city sewer line running through our property at 2090-2096 Sunshine Road. Several months ago, we signed permission to Bridgeport Subdivision to cross out property with the necessary sewer lines for their Bridgeport project to proceed. This contract was submitted to the Planning Commission per their instructions and approved by that group.

The terms of the contract stipulated that two (2) water hookups, two (2) sewer taps and one (1) fire hydrant were items in the contract and also gave the city easement rights. Of the two (2) sewer taps, one is 30 feet from our house and the other is approximately 60 feet from our grandson's house.

We would like to point out that there is already a flow sewer line through to the pump station and a pressure sewer line sending these contents back to the disposal plant. There are also six (6) manholes on our property. It would be ludicrous to put in a septic tank and have the runoff eventually enter Hamestring Creek.

Now we are experiencing difficulty from the city in using these agreed upon taps. We were issued a sewer tap on April 5, 2001 by Jan. I made it very clear that we were NOT in the city and she sent me to Washington County 911 for an address verification. I obtained that verification and paid the $40.00 and received my permit. The next day, Jan called my grandson's wife with a threat of "coming out to smoke your homes" and if we are hooked to the sewer the City would disconnect the sewer line and take out our water meters.

Our grandson's wife had also been issued a water tap permit on April 17, 2001. Now we are told that although there is a permit for the water tap, the City hasn't approved Phase 5 of Bridgeport and we cannot have water from the Bridgeport Addition. Needless to say, this is a very frustrating experience.

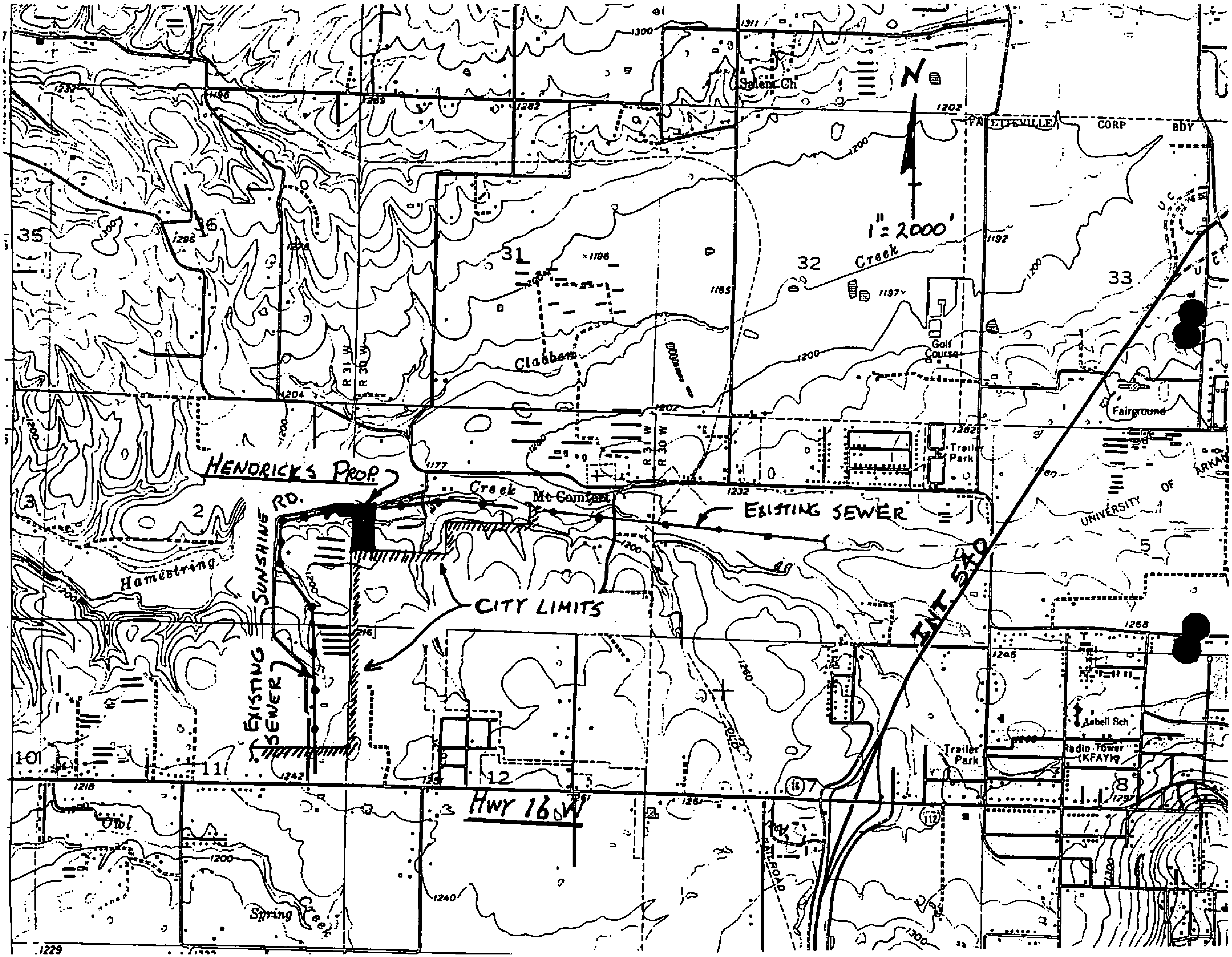
One suggestion has been that we apply for "coming into the city". While we realize that this is a possible and probably plausible route, Donna and I are nearly 70 years old and for many years planned to retire on our little country acreage, hopefully avoiding the property taxes that reached such outrageous proportions on our town home.

We feel that by allowing this sewer project, we have helped to provide the city of Fayetteville with a good deal of revenue from the additional homes this sewer project will afford. Your own city workers have pointed out that there are numerous homes outside the city limits with City sewer taps.

We will certainly appreciate your approval of our application.

Sincerely,

Don & Donna Hendricks



N
1" = 2000'
HENDRICK'S PROP.
SUNSHINE RD.
EXISTING SEWER
CITY LIMITS
EXISTING SEWER
HWY 16 W
INT 540
FAYETTEVILLE CORP BDY
Salem Ch
Golf Course
Fairground
Trailer Park
UNIVERSITY OF ARKANSAS
Mt Comfort
Creek
Clabber
Hamestring
Spring Creek
Owl
Asbell Sch
Radio Tower (KFAY)
RAILROAD
OLD
R 31 W
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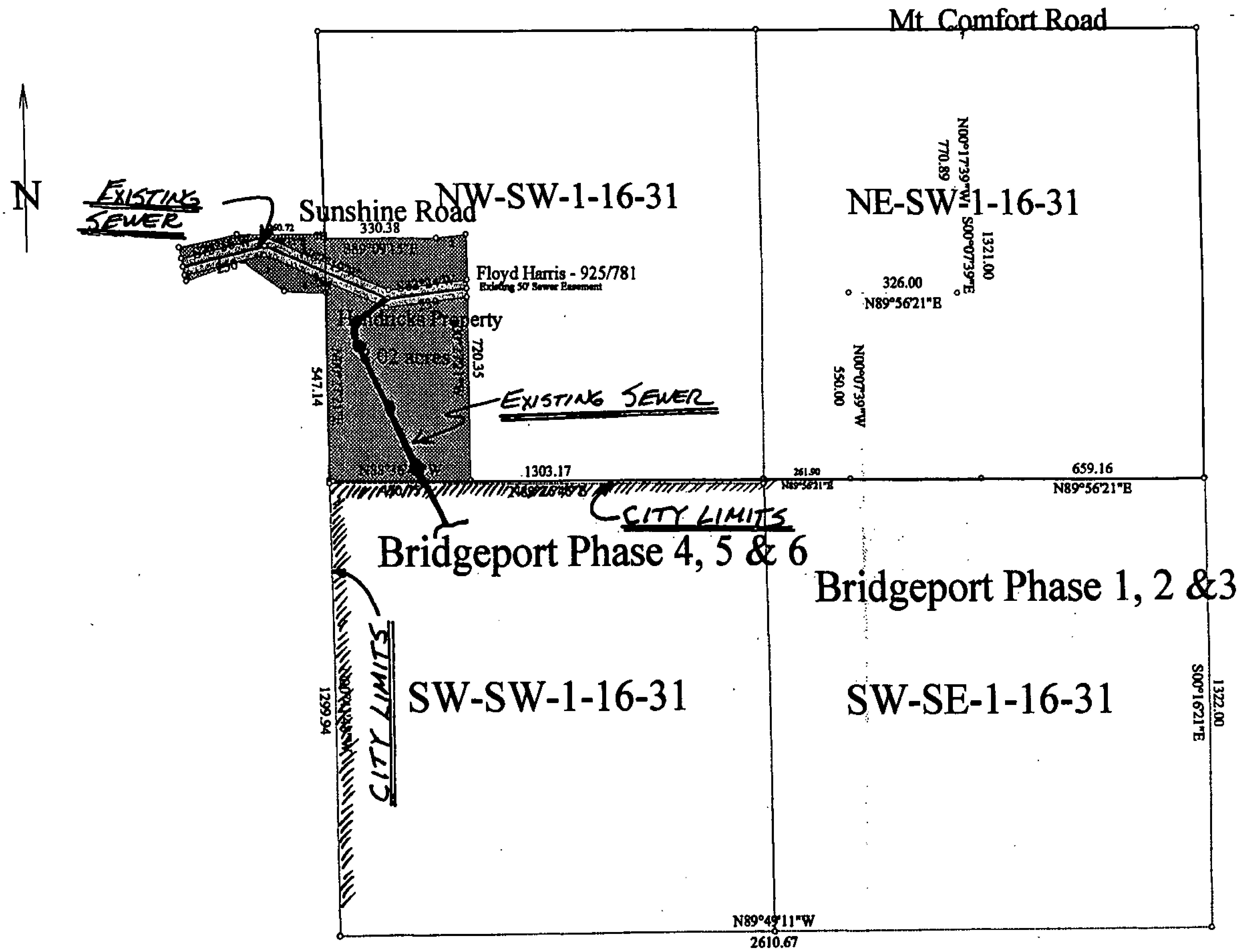


Disk: 2001-Misc

Title: Hendricks Property: 1-16-31	Date: 05-16-2001
Scale: 1 inch = 400 feet	File: Hendrix-PP360.des

RECEIVED
MAY 22 2001
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

DON & DONNA HENDRICKS
2090 Sunshine Road CR 877
Fayetteville AR 72704

Mayor Dan Coody
Fayetteville City Administration Bldg
Room 315
Fayetteville AR 72701

May 21, 2001

RE: WATER & SEWER
2090 & 2096 Sunshine Road

When speaking with Mr. Bunn last Thursday in reference to testing our water lines, he remarked that Mr. Petree was going to ***try*** to get our problem on the agenda for the next City Council meeting.

I don't understand the "***try***". We were supposed to have been on the last agenda but due to someone's vacation this didn't happen.

Donna and I are respectfully asking you to kick someone's a__ and get this on the agenda, which I understand is on the 29th.

Thank you,

Don Hendricks

Donna Hendricks

IN THE COUNTY COURT OF Washington ~~BENTON~~ COUNTY, ARKANSAS

IN THE MATTER OF ANNEXING TO THE CITY OF FAYETTEVILLE, ARKANSAS, CERTAIN PROPERTIES CONTIGUOUS TO SAID CITY OF WASHINGTON COUNTY, ARKANSAS

CASE NO. CC 2001-18

FILED
'01 AUG 27 AM 10 46
MARILYN EDWARDS
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

PETITIONERS:

DON & DONNA HENDRICKS, ERIC & TAMMIE HARPER
ENGINEERING DESIGN ASSOCIATES, P.A. ***(Agent)***

DECREE OF ANNEXATION

On this 27th day of August, 2001, a day of the regular term of the County Court of Washington County, Arkansas, there is presented to the court by the Petitioners or Engineering Design Associates, P.A., their agent, a Petition for annexation of certain territory, hereinafter more particularly described, to the City of Fayetteville, Arkansas, and the Court being fully advised of the facts and the law, doth hereby find, judge and decree as follows:

1. The Court finds that the Petition for annexation was filed in the office of the Clerk of this Court more than thirty (30) days prior to this date.

2. The Court doth find that a majority of the total number of real estate owners in the area affected by the Petition have signed said Petition and that such majority owns more than one-half of the acreage affected.

3. The Court further finds that the territory sought to be annexed was accurately described in said Petition, or as amended, and that said territory is contiguous to the boundaries of the City of Fayetteville, Arkansas.

4. The Court further finds that attached to and made a part of said Petition is an accurate map of the territory sought to be annexed to the City of Fayetteville, Arkansas.

5. The Court further finds that the prayer of the Petition is right and proper.

WHEREFORE, THE COURT DOTH HEREBY ORDER, JUDGE AND DECREE that the following described territory be and the same is hereby annexed to and made a part of the City of Fayetteville, Arkansas, to-wit:

TRACT 1 - LEGAL DESCRIPTION - DON & DONNA M. HENDRICKS:

Warranty Deed 972-701

A part of the Northeast Quarter of the Southeast Quarter of Section 2 and a part of the Northwest Quarter of the Southwest Quarter of Section 1 all in Township 16 North of Range 31 West, described as beginning at a point South 00 degrees 27 minutes 21 seconds West 611.48

feet from the North common corner of said 40 acre tract, said point of beginning being the intersection of the East boundary of said Northeast Quarter of the Southeast Quarter of Section 2 and the center line of the County Road; thence along the centerline of said County Road the following bearings and distances: South 89 degrees 09 minutes 15 seconds East 330.38 feet, North 84 degrees 10 minutes 44 seconds East 90.98 feet; thence departing said center line and running South 00 degrees 27 minutes 21 seconds West 720.35 feet to the South Boundary of said Northwest Quarter of the Southwest Quarter of Section 1; thence North 88 degrees 56 minutes 49 seconds West 420.75 feet; thence North 00 degrees 27 minutes 21 seconds East 547.14 feet to the centerline of Hame String Creek; thence along the centerline of said Creek the following bearings and distances: North 87 degrees 13 minutes 40 seconds West 124.90 feet; thence North 53 degrees 45 minutes 14 seconds West 153.74 feet, South 71 degrees 14 minutes 29 seconds West 172.96 feet to a fence; thence leaving the centerline of said Creek and running North 11 degrees 09 minutes 09 seconds West 100.00 feet to the centerline of the County Road; thence along the centerline of said County Road North 78 degrees 40 minutes 20 seconds East 176.00 feet; thence along said centerline of the County Road South 89 degrees 09 minutes 15 seconds East 260.72 feet to the point of beginning, containing 8.02 acres, more or less. Subject to that part along the North side embraced in the right of way of the County Road. LESS AND EXCEPT 30 feet off the North side for said County Road.

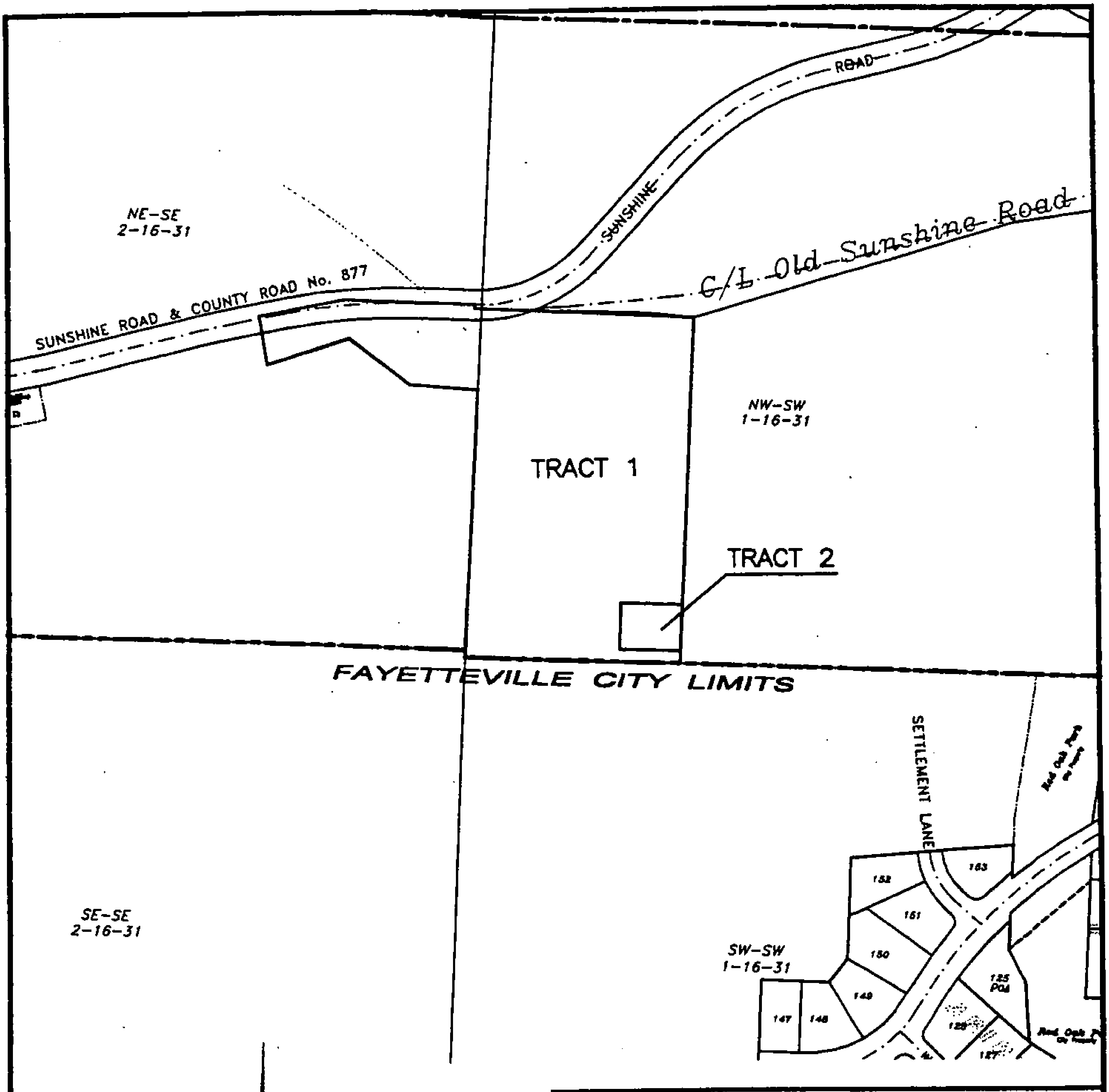
TRACT 2 - LEGAL DESCRIPTION - ERIC AND/OR TAMMIE HARPER

Warranty Deed 2001-7374

A part of the Northwest Quarter of the Southwest Quarter of Section 1, Township 16 North, Range 31 West described as beginning at a point which is South 88 degrees 56 minutes 49 seconds East 420.75 feet and North 0 degrees 27 minutes 21 seconds East 34.00 feet from the Southwest corner of said 40 acre tract; thence N 88 degrees 56 minutes 49 seconds West 180.00 feet thence North 1 degree 3 minutes 11 seconds East 190.00 feet; thence South 88 degrees 56 minutes 49 seconds East 178.00 feet; thence South 0 degrees 27 minutes 21 seconds West 190.00 feet to the point of beginning, containing 0.78 acres, more or less, Washington County, Arkansas.

THE COURT DOTH FURTHER ORDER that this Order be delivered to the County Clerk for the same to be properly recorded upon the records of Washington County, Arkansas, and the Clerk, after properly recording and filing the same, prepare transcripts and deliver on of the certified transcripts to the City of Fayetteville, Arkansas, one copy to the Secretary of State, and one copy to the Director of the Tax Division of the Arkansas Public Services Commission.

By: ________________________
County Judge



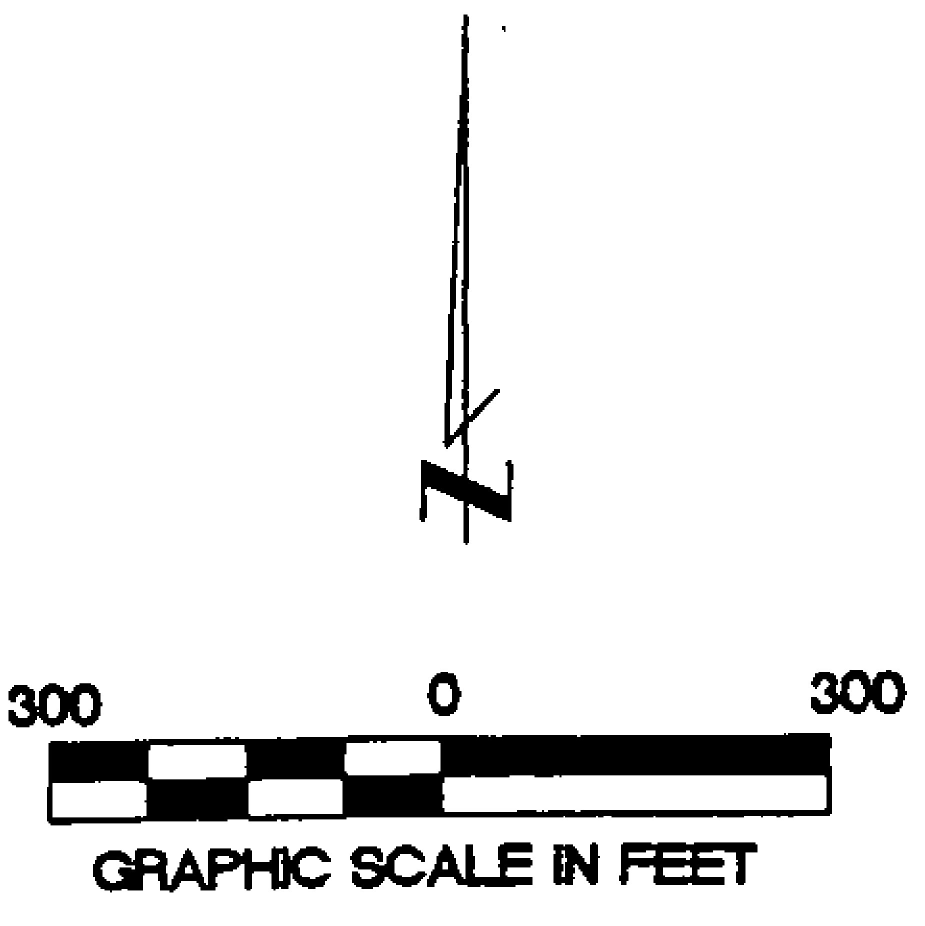


EXHIBIT "B"

HENDRICKS-HARPER ANNEXATION

WASHINGTON COUNTY, ARKANSAS

EDA
Engineering Design Associates, P.A.

DRAWN BY: AWF	CHECKED BY: RMA
DATE: 7-18-01	
SCALE: 1" = 300'	
JOB NUMBER: 0578	

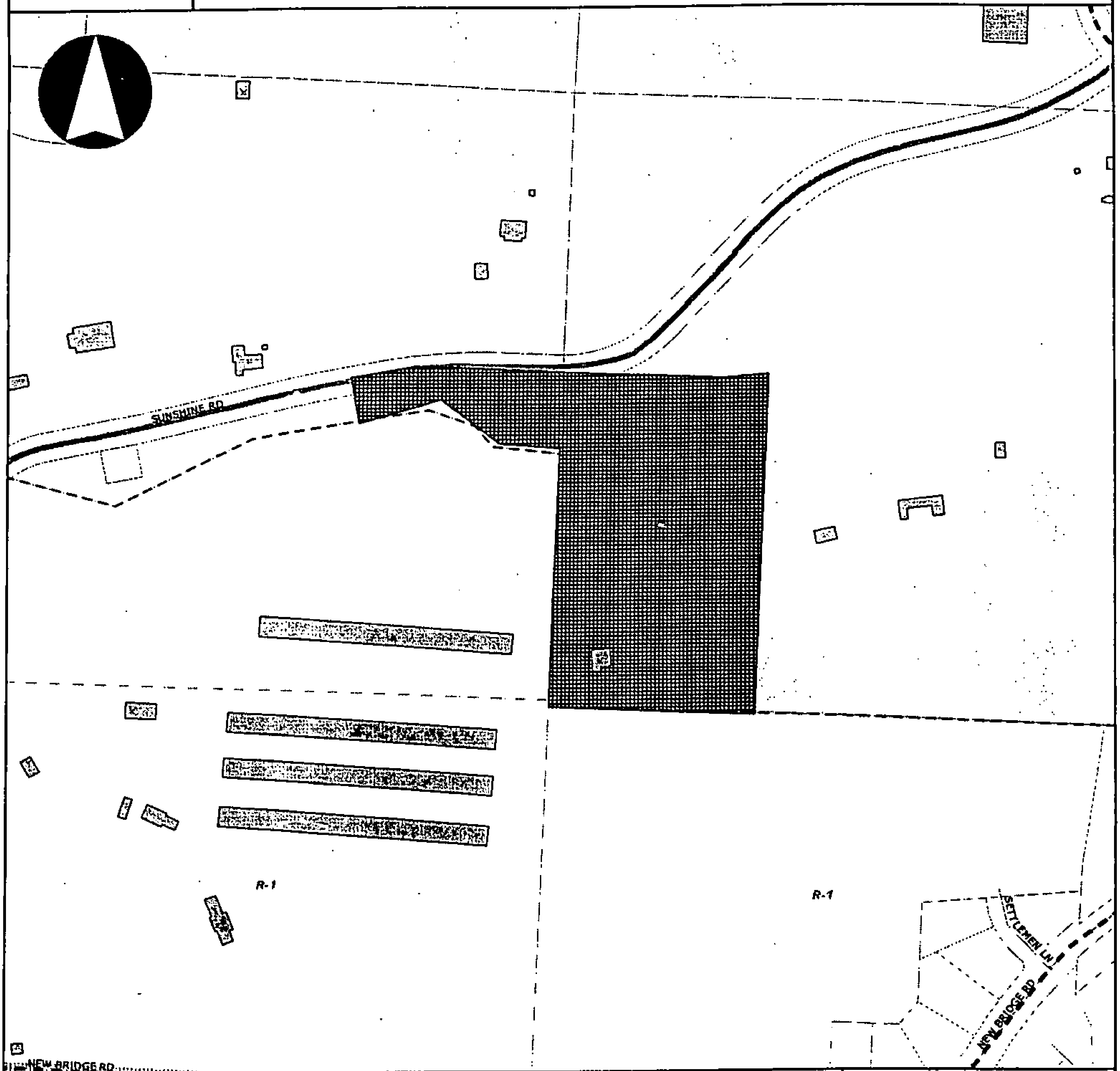
DESCRIPTION:

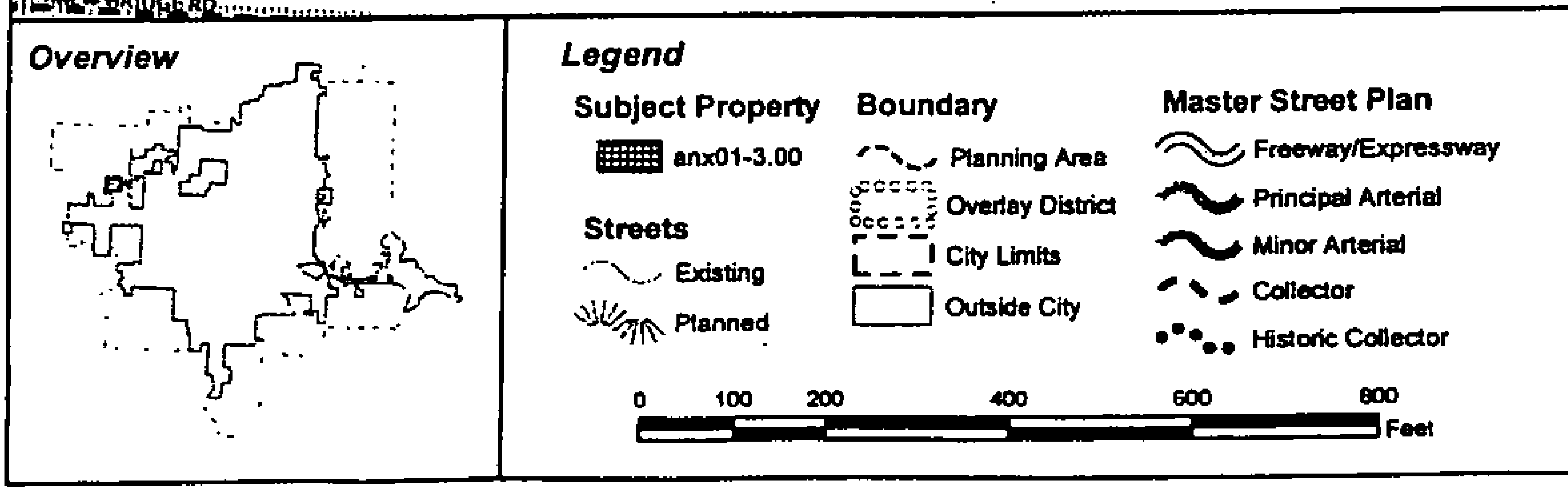
SHEET
1 OF 1

ANX01-03.00

Close Up View

HENDRICKS/HARPER

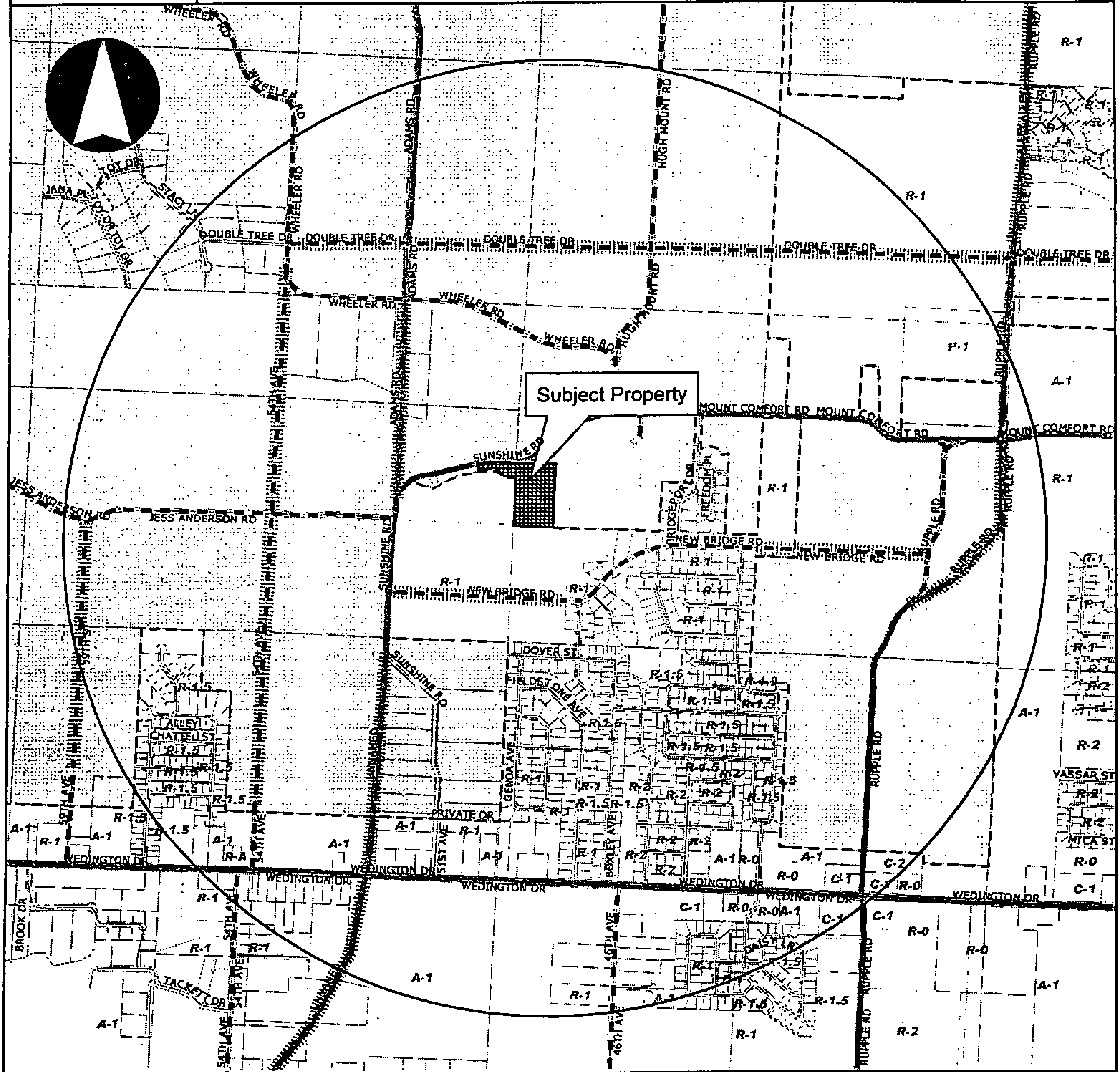




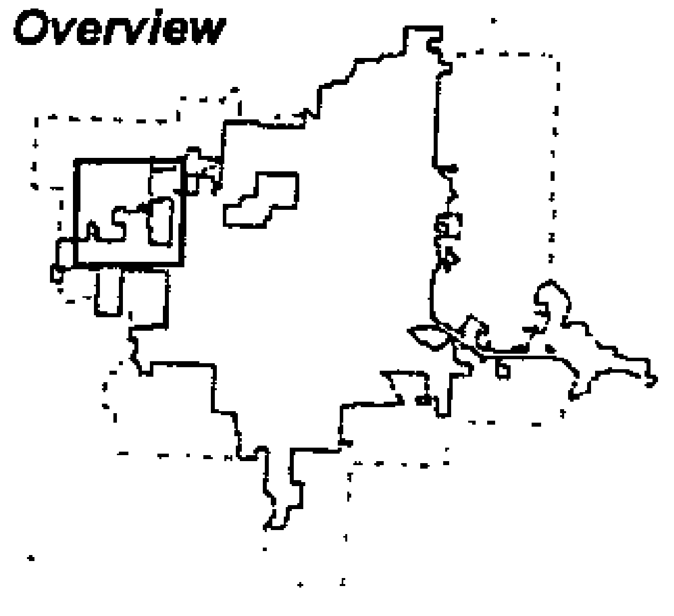
ANX01-03.00

One Mile View

HENDRICKS/HARPER



Overview



Legend

Subject Property

ANX01-03.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.125 0.25 0.5 0.75 1 Miles

Annexation / Rezoning
Level of Service Report

Date: 10-5-01

Division: Street

Name / Title: Randy Allen / Street Superintendent

Project: **ANX 01-3.00: Annexation (Hendricks/Harper, pp 321)** was submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area.

Please provide comments regarding the impact of the proposed annexation which will be forwarded to the Planning Commission and City Council for their consideration when reviewing these requests. Responses and additional information may be continued on the back of this report or on additional pages as necessary.

1. Current level and/or type of service provided (describe):

None

2. Statement regarding the impact of the proposed annexation on the level and/or type of service provided by your division:

Gravel street will have to be graded and gravel added periodically. City does not want any gravel roads since they are costly to maintain. Road will need to be improved (paved) at some point in the future. (a taxpayer cost). Also, the right-of-way will need maintenance. (mowing, cleaning, shoulder work). Signage may also be needed on the annexed right-of-way.

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Annexation / Rezoning
Level of Service Report

Division: INSPECTION **Date:** 10-3-1

Name / Title: BERT RAKES, INSP. DIV. DIR.

Project: **ANX 01-3.00: Annexation (Hendricks/Harper, pp 321)** was submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area.

Please provide comments regarding the impact of the proposed annexation which will be forwarded to the Planning Commission and City Council for their consideration when reviewing these requests. Responses and additional information may be continued on the back of this report or on additional pages as necessary.

1. Current level and/or type of service provided (describe):

PERMIT & INSPECT PLUMBING IF SERVED BY CITY WATER.

2. Statement regarding the impact of the proposed annexation on the level and/or type of service provided by your division:

PERMITTING & INSPECTION SERVICES PERFORMED INSIDE CITY LIMITS INCLUDING BUILDINGS, PROPERTY & SIGNS.

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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:	Tim Conklin, A.I.C.P., City Planner
THRU:	Hugh Earnest, Urban Development Director
DATE:	October 18, 2001

BACKGROUND

ANX 01-3.00: Annexation was submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area. The subject property adjoins the Bridgeport Subdivision to the south and the Fairfield Subdivision to the west. These recent subdivision developments have surrounded this property. As the Bridgeport subdivision was designed, the developer approached these property owners with a contract to allow for easements to cross the subject property to provide access to utilities and drainage for the proposed subdivision. As a part of that agreement, the developer of Bridgeport promised connections to water and sewer for the subject property. The City was not a party to this contract and only became aware of the conditions of the agreement after it had been put into place and the applicant requested sewer taps.

The applicant is not requesting a rezoning with this annexation. The property, if annexed, will maintain an A-1, Agricultural designation. Maximum density on this property if zoned A-1 would be 4 units.

CURRENT STATUS

Staff recommended approval and the Planning Commission voted 8-0-0 to recommend approval to the City Council.

RECOMMENDATION

Staff recommends approval of the requested annexation.

STAFF REVIEW FORM

X **AGENDA REQUEST**
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council meeting of November 6, 2001.

FROM:

Name	Division	Department
Tim Conklin	**Planning**	**Urban Development**

ACTION REQUIRED: To approve an ordinance for ANX 01-3.00 as submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area.

COST TO CITY:

$ ______ Cost of this Request
______ Category/Project Budget
______ Category/Project Name

______ Account Number
______ Funds Used To Date
______ Program Name

______ Project Number
______ Remaining Balance
______ Fund

BUDGET REVIEW: ______ Budgeted Item ______ Budget Adjustment Attached

______ Budget Manager
______ Administrative Services Director

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

______ Accounting Manager ______ Date
______ Internal Auditor ______ Date

[signature] City Attorney 10/11/2001 Date
______ ADA Coordinator ______ Date

______ Purchasing Officer ______ Date

STAFF RECOMMENDATION: Staff recommended approval and on October 8, 2001, Planning Commission unanimously voted 8-0-0 to recommend approval and to forward the annexation to the City Council.

[signature] Division Head 10-18-01 Date

Hugh Earnest Department Director 10-23-01 Date

[signature] Administrative Services Director 10/24/01 Date

Dan Coody Mayor 10/25/01 Date

Cross Reference

New Item: **Yes**

Prev Ord/Res #: ______

Orig Contract Date: ______

Orig Contract Number: ______

ORDINANCE NO._____

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED IN ANNEXATION PETITION ANX 01-3.00 FOR A PARCEL CONTAINING APPROXIMATELY 8.47 ACRES LOCATED AT 4840 CONSTITUTION DRIVE AS SUBMITTED BY ANDY FEINSTEIN ON BEHALF OF DON HENDRICKS AND ERIC HARPER.

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. 4.

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 November, 2001.

APPROVED:

By: Dan Coody
DAN COODY, Mayor

ATTEST:

By: __________________________
Heather Woodruff, City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION FOR ANX 01-3.00

A PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2 AND A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION1 ALL IN TOWNSHIP 16 NORTH OF RANGE 31 WEST, DESCRIBED AS BEGINNING AT A POINT SOUTH 00 DEGREES 27 MINUTES 21 SECONDS WEST 611.48 FEET FROM THE NORTH COMMON CORNER OF SAID 40 ACRE TRACT, SAID POINT OF BEGINNING BEING THE INTERSECTION OF THE EAST BOUNDARY OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2 AND THE CENTERLINE OF THE COUNTY ROAD; THENCE ALONG THE CENTERLINE OF SAID COUNTY ROAD THE FOLLOWING BEARINGS AND DISTANCES: SOUTH 89 DEGREES 09 MINUTES 15 SECONDS EAST 330.38 FEET, NORTH 84 DEGREES 10 MINUTES 44 SECONDS EAST 90.98 FEET; THENCE DEPARTING SAID CENTER LINE AND RUNNING SOUTH 00 DEGREES 27 MINUTES 21 SECONDS WEST 720.35 FEET TO THE SOUTH BOUNDARY OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1; THENCE NORTH 88DEGREES 56 MINUTES 49 SECONDS WEST 420.75 FEET; THENCE NORTH 00 DEGREES 27 MINUTES 21 SECONDS EAST 547.14 FEET TO THE CENTERLINE OF HAME STRING CREEK; THENCE ALONG THE CENTERLINE OF SAID CREEK THE FOLLOWING BEARINGS AND DISTANCES: NORTH 87 DEGREES 13 MINUTES 40 SECONDS WEST 124.90 FEET, NORTH 53 DEGREES 45 MINUTES 14 SECONDS WEST 153.74 FEET, SOUTH 71 DEGREES 14 MINUTES 29 SECONDS WEST 172.96 FEET TO A FENCE; THENCE LEAVING THE CENTERLINE OF SAID CREEK AND RUNNING NORTH 11 DEGREES 09 MINUTES 09 SECONDS WEST 100.00 FEET TO THE CENTERLINE OF THE COUNTY ROAD; THENCE ALONG THE CENTERLINE OF SAID COUNTY ROAD NORTH 78 DEGREES 40 MINUTES 20 SECONDS EAST 176.00 FEET; THENCE ALONG SAID CENTERLINE OF THE COUNTY ROAD SOUTH 89 DEGREES 09 MINUTES 15 SECONDS EAST 260.72 FEET TO THE POINT OF BEGINNING, CONTAINING 8.02 ACRES, MORE OR LESS. SUBJECT TO THAT PART ALONG THE NORTH SIDE EMBARCED IN THE RIGHT OF WAY OF THE COUNTY ROAD. LESS AND EXCEPT 30 FEET OFF THE NORTH SIDE OF THE COUNTY ROAD.

ANX 01-3.00: Annexation (Hendricks/Harper, pp 321) was submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area.

Estes: The next item of business is an annexation request submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area. Staff recommends approval of the requested annexation based on the findings included as a part of this report. Is the applicant present? Andy, do you have a presentation you would like to make?

Feinstein: No, it is just my pleasure to present this annexation to the Commission and I am here to answer any questions you might have.

Estes: Commissioners are there any questions of Andy at this time? Mr. Conklin?

Conklin: I would just like to thank the developer of Bridgeport for working with Mr. Hendricks to file the paperwork and bring this forward and get Mr. Hendricks annexed into the city, thank you.

Estes: Is there any member of the public, any member of the audience who would like to comment on this requested annexation? Seeing none, I'll bring it back to the Commission for discussion, motions or comments.

MOTION:

Bunch: I move that we recommend ANX 01-3.00 to the City Council.

Estes: We have a motion by Commissioner Bunch to approve the ANX request, is there a second?

Marr: Second.

Estes: We have a second by Commissioner Marr. Is there any discussion? We have a motion by Commissioner Bunch to approve ANX 01-3.00 and a second by Commissioner Marr. Would you call the roll Renee?

ROLL CALL: Upon the completion of roll call the motion to forward ANX 01-3.00 to the City Council was approved by a vote of 8-0-0.

Estes: The motion passes unanimously and the annexation request will be forwarded to the City Council for final disposition and determination.

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, Senior Planner
THRU:	Tim Conklin, A.I.C.P., City Planner
DATE:	October 8, 2001

RZN 01-20.00: Rezoning (Pancake, pp 522) was submitted by Colleen M. Pancake for property located at 302 S. Gregg Street. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.16 acres. The request is to rezone to R-S, Residential Small Lot.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	**Required YES**	
	O Approved	**O Denied**
Date: October 8, 2001		
CITY COUNCIL ACTION:	**Required YES**	
	O Approved	**O Denied**
Date: November 6, 2001 (1st reading)		

Comments: ______________________________

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BACKGROUND:

This application is being processed by the City of Fayetteville on behalf of Ms. Pancake, the property owner. The subject property is developed with one single family home and is currently zoned I-1, Heavy Commercial / Light Industrial. The zoning of the property causes the use to be nonconforming even though the site has existed with a residential for many years and surrounding properties are in the same condition. Most of the properties in this area contain small single family residences.

The owner has worked with the City's Community Development Division to obtain CDBG (Community Development Block Grant) money in order to perform needed repairs which will bring the structure into compliance with building code regulations. A City Inspector has looked at the structure and has stated that it is basically sound. As long as zoning is made compliant, a permit could be issued for the needed improvements / repairs.

If City Council approves this zoning request, the Board of Adjustment will still need to hear a variance request for the front and north sides of the building (the structure does not comply with setback requirements for a residential property).

SURROUNDING LAND USE AND ZONING

North: Residential, I-1
South: Residential, I-1
East: Residential, I-1
West: Residential, I-1

INFRASTRUCTURE:

This property is located on South Gregg Ave. between Center St. and University Ave. Gregg Ave. in this location is fairly narrow with no sidewalks. The street serves the adjacent residential areas, however, it would be absolutely inadequate to serve industrial development in this area. Railroad tracks are located immediately behind the subject property and also to the west between Gregg Ave. and University Ave.

Water and sewer are both available and currently serve this site.

LAND USE PLAN: General Plan 2020 designates this site Mixed Use. Rezoning this property to RS, Residential Small Lot is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: **RS zoning is consistent with the Future Land Use Plan and reflects the current use of the site.**

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

Finding: **The proposed zoning is justified in that it brings the property into compliance with the City's adopted General Plan. This zoning is compatible with adjacent uses. A rezoning in this location is necessary for substantial repairs and improvements to be made to the existing nonconforming structure.**

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 appreciable increase traffic danger and congestion.**

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

Finding: **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**

§161.11 DISTRICT RS RESIDENTIAL SMALL LOT.

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

B. Uses.

1. Permitted Uses.

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

2. Uses Permissible on Appeal to the Planning Commission.

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

C. Density.

	By Right	Conditional Use
Single-Family Dwelling Units Per Acre	7 or Less	8.5
Duplex and/or Townhouse	--	Option: 15% of the Lots, Maximum

D. Bulk and Area Regulations.

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

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	08	20

Cross Reference: Variance, Chapter 156.

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

G. Height Regulations.

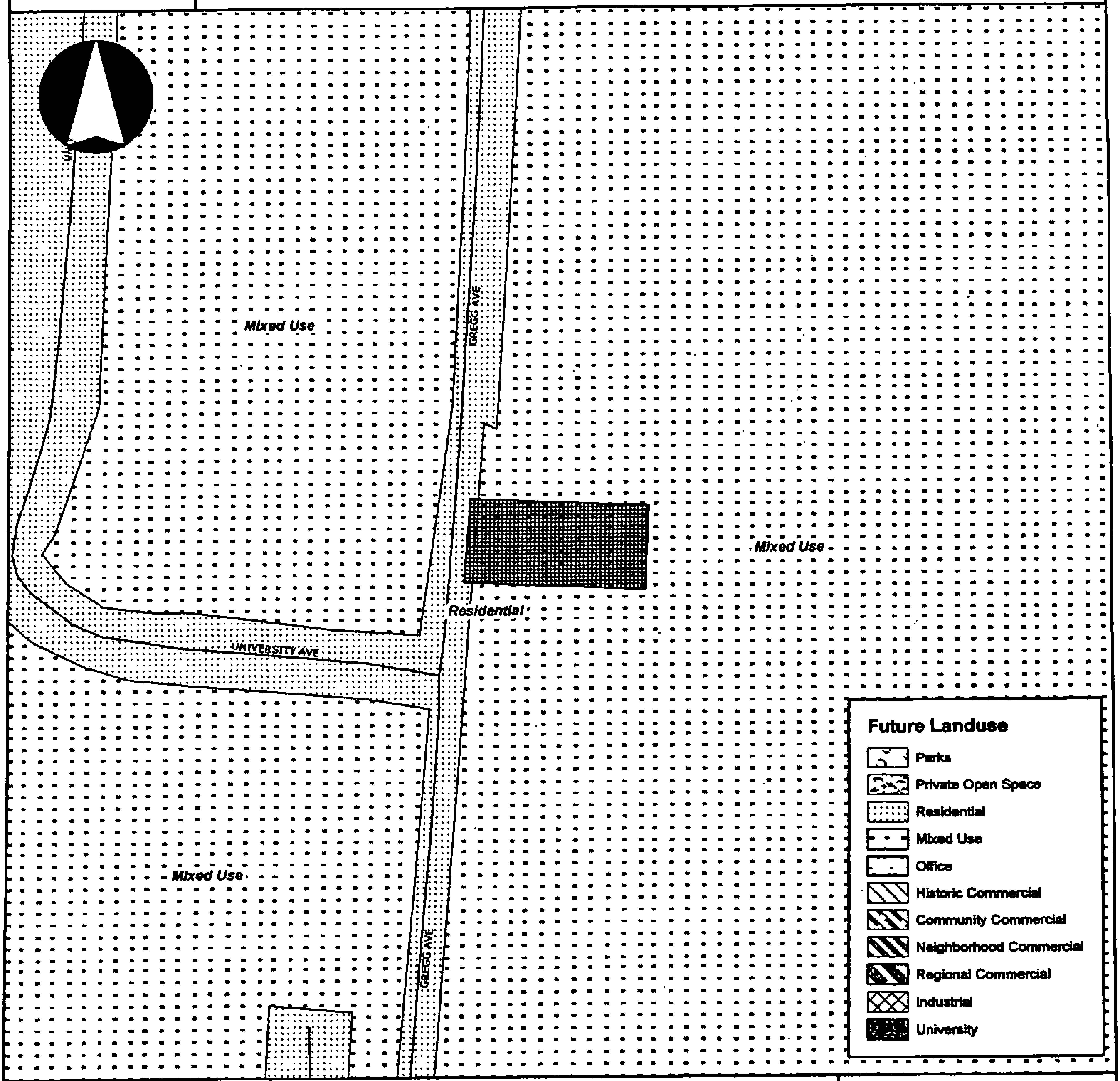
Building Height Maximum	30 ft.

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

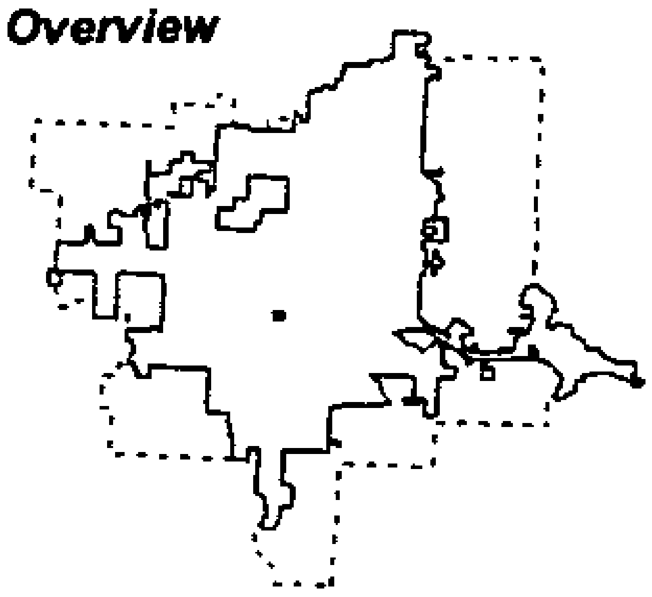
RZN01-20.00

Future Landuse

PANCAKE



Overview



Legend

Subject Property

RZN01-20.00

Streets

Existing

Planned

Boundary

Planning Area

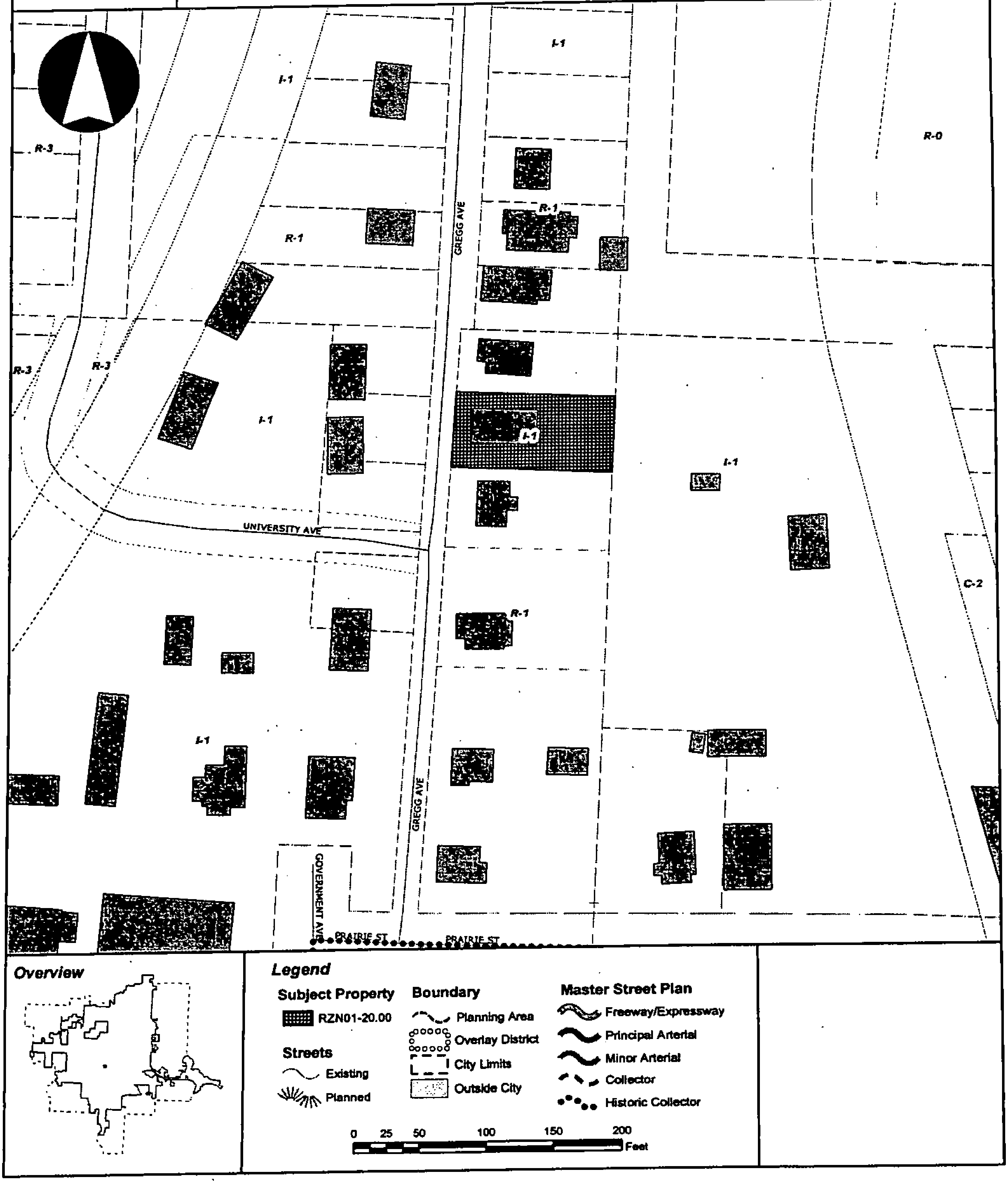
Overlay District

City Limits

0 25 50 100 150 200 Feet

RZN01-20.00 — PANCAKE

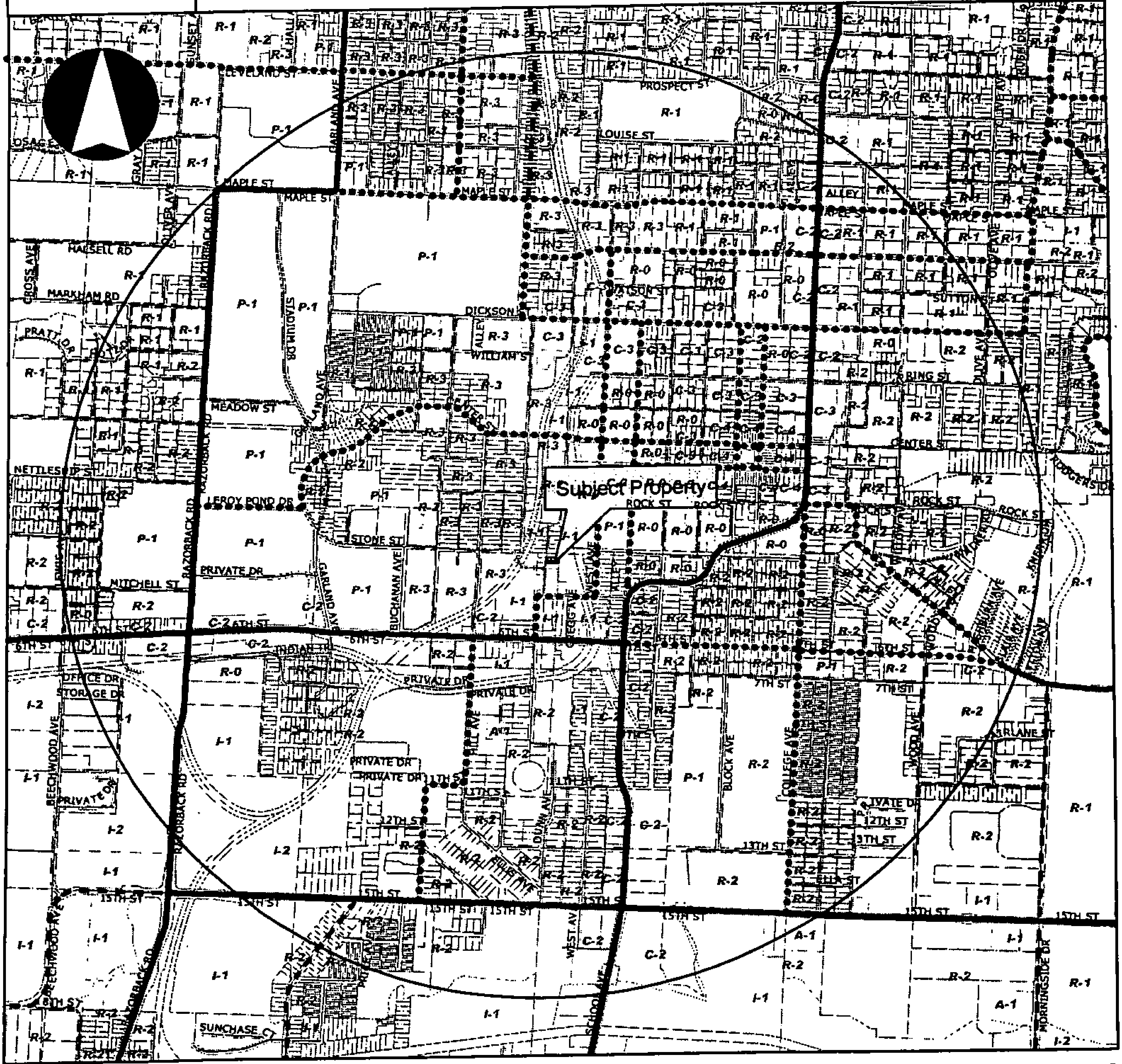
Close Up View



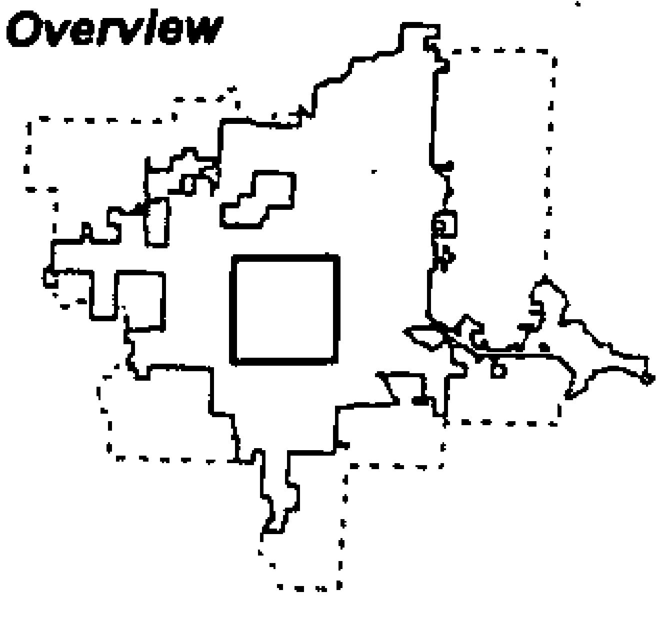
RZN01-20.00

One Mile View

PANCAKE



Overview



Legend

Subject Property
rzn01-20.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

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

0 0.125 0.25 0.5 0.75 1 Miles

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:	Tim Conklin, A.I.C.P., City Planner
THRU:	Hugh Earnest, Urban Development Director HE
DATE:	October 18, 2001

BACKGROUND

RZN 01-20.00: Rezoning was submitted by Colleen M. Pancake for property located at 302 S. Gregg Street. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.16 acres. The request is to rezone to R-S, Residential Small Lot. This application is being processed by the City of Fayetteville on behalf of Ms. Pancake, the property owner. The subject property is developed with one single family home and is currently zoned I-1, Heavy Commercial / Light Industrial. The zoning of the property causes the use to be nonconforming even though the site has existed with a residential for many years and surrounding properties are in the same condition. Most of the properties in this area contain small single family residences.

The owner has worked with the City's Community Development Division to obtain CDBG (Community Development Block Grant) money in order to perform needed repairs which will bring the structure into compliance with building code regulations. A City Inspector has looked at the structure and has stated that it is basically sound. As long as zoning is made compliant, a permit could be issued for the needed improvements / repairs.

If City Council approves this zoning request, the Board of Adjustment will still need to hear a variance request for the front and north sides of the building (the structure does not comply with setback requirements for a residential property).

CURRENT STATUS

Staff recommended approval and the Planning Commission voted 8-0-0 to recommend approval to the City Council.

RECOMMENDATION

Staff recommends approval of the requested rezoning.

STAFF REVIEW FORM

X AGENDA REQUEST
______ CONTRACT REVIEW
______ GRANT REVIEW

For the Fayetteville City Council meeting of November 6, 2001.

FROM:

Tim Conklin	Planning	Urban Development
Name	Division	Department

ACTION REQUIRED: To approve an ordinance for RZN 01-20.00 as submitted by Colleen M. Pancake for property located at 302 S. Gregg Street. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.16 acres. The request is to rezone to R-S, Residential Small Lot.

COST TO CITY:

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

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

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

Accounting Manager	Date	Internal Auditor	Date
D. J. Whitaker	10/19/2001		
City Attorney	Date	ADA Coordinator	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommended approval and on October 8, 2001, Planning Commission unanimously voted 8-0-0 to recommend approval and to forward the rezoning to the City Council.

T. Conklin	10-18-01	
Division Head	Date	Cross Reference
Hugh Earnest	10-23-01	New Item: **Yes**
Department Director	Date	
Britt Vance	10/24/01	Prev Ord/Res #:
Administrative Services Director	Date	
Dan Coody	10/25/01	Orig Contract Date:
Mayor	Date	Orig Contract Number:

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 01-20.00 FOR A PARCEL CONTAINING APPROXIMATELY 0.16 ACRES FOR PROPERTY LOCATED AT 302 S. GREGG ST., FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY COLLEEN M. PANCAKE.

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 I-1, Heavy Commercial/Light Industrial to R-S, Residential Small Lot as shown in Exhibit "A" attached hereto and made a part hereof.

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

PASSED AND APPROVED this ______ day of __________, 2001.

APPROVED:

By: ____________________
DAN COODY, Mayor

ATTEST:

By: ________________________
Heather Woodruff, City Clerk

EXHIBIT "A"

RZN 01-20.00

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION SIXTEEN (16) IN TOWNSHIP SIXTEEN (16) NORTH OF RANGE THIRTY (30) WEST OF 5th P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHEAST CORNER OF SAID 40 ACRE TRACT, AND RUNNING THENCE WEST 8 RODS, THENCE SOUTH 50 FEET, THENCE EAST 8 RODS, THENCE NORTH 50 FEET TO THE POINT OF BEGINNING, ALL LOCATED IN THE CITY OF FAYETTEVILLE, ARKANSAS.

RZN 01-20.00: Rezoning (Pancake, pp 522) was submitted by Colleen M. Pancake for property located at 302 S. Gregg Street. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.16 acres. The request is to rezone to R-S, Residential Small Lot.

Estes: The next item of business is a rezoning request, it is 01-20, submitted by Colleen M. Pancake for property located at 302 S. Gregg Street. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.16 acres. The request is a downzoning to rezone to R-S, Residential Small Lot. Staff recommends approval of the requested downzoning based on the findings included as a part of your report. Is the applicant present? Would you like to come forward and make a presentation, that is not necessary but I want to give you the opportunity to do so if you would like to do so. Is there any member of the public that would like to comment on this rezoning request? Seeing none, I will bring it back to the Commission for motions, discussions, comments.

MOTION:

Marr: As Commissioner Hoover often says, I'm not sure we've ever disliked downzoning so I'll move for approval of RZN 01-20.00.

Estes: We have a motion by Commissioner Marr to approve RZN 01-20, is there a second?

Hoover: I'll second.

Estes: The second will go to Commissioner Hoover. We have a motion by Commissioner Marr to approve RZN 01-20 and a second by Commissioner Hoover, is there any discussion? Seeing none, Renee, would you call the roll please?

ROLL CALL: Upon the completion of roll call the motion to forward RZN 01-20.00 was approved by a vote of 8-0-0.

Estes: The motion passes by a unanimous vote.

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, Senior Planner
THRU:	Tim Conklin, A.I.C.P., City Planner
DATE:	October 8, 2001

RZN 01-21.00: Rezoning (Sager/Guisinger, pp 325) was submitted by Chris Brackett of Jorgensen & Associates on behalf of Louise Sager and Paul Guisinger for property located west of Shiloh Drive, east of Deane Soloman Road and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 1.02 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**	
	O Approved		**O Denied**
Date: October 8, 2001			
CITY COUNCIL ACTION:	**Required**	**YES**	
	O Approved		**O Denied**
Date: November 6, 2001 (1st reading)			

Comments: ____

____

____

H:\USERS\COMMON\DAWNT\REPORTS\PC\10-8-01\FARM_CREDIT.DOC

BACKGROUND:

The subject property is located near the northwest corner of I-540 and Mt. Comfort Road. This is at the turn in Mt. Comfort where it becomes Porter Road to the south. The property between this tract and Mt. Comfort Rd. is a part of the University of Arkansas Experimental Farm and is outside the City Limits.

The applicant wishes to change the zoning designation of this 1.02 acre tract from A-1, Agricultural to C-1, Neighborhood Commercial. The property is expected to be developed as an office building for Farm Credit Services if the rezoning and an pending large scale development are approved.

This property is currently vacant and is located within the Design Overlay District. The Future Land Use Plan identifies this area as Regional Commercial.

SURROUNDING LAND USE AND ZONING

North: Residential / Vacant, A-1
South: University (outside City Limits)
East: I-540
West: Residential / Vacant, A-1

INFRASTRUCTURE:

Access to this property is from Shiloh Drive. Shiloh Drive is designated a collector on the Master Street Plan which is designed to carry 4,000 to 6,000 vehicles per day when constructed to that standard. Shiloh in this location is a two way access road adjacent to I-540.

There is an existing 8" water line along Shiloh Dr. Sewer will have to be extended by the developer to serve this site.

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

FINDINGS OF THE STAFF

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

Finding: **This area is designated to serve as a linear commercial district along I-540. The General Plan calls this site out to be Regional Commercial. The requested zoning of C-1, Neighborhood Commercial meets the intent of this policy document.**

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

Finding: **The proposed zoning is justified in that it is consistent with the City's adopted land use policy. It is needed in order to develop any commercial uses in this general area which is largely undeveloped or residential and currently zoned A-1.**

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

Finding: **The proposed zoning will increase traffic in this area. Shiloh Drive is designated a collector on the Master Street Plan which is designed to carry 4,000 to 6,000 vehicles per day when constructed to that standard. Shiloh in this location is a two way access road adjacent to I-540.**

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)

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (501) 442-9127 • FAX (501) 582-4807
DAVID L. JORGENSEN, P.E., P.L.S. THOMAS HENNELLY, P.E.

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

10-3-01

Att: Planning Dept.
Re : Rezoning of Guisinger Property

Attached herewith please find the legal description of the Guisinger Property to be rezoned.

The request is to rezone from A-1 to C-1. The property is just west of Shiloh Drive and I-540. This property is a portion of the Guisinger property, which is to the north and west. Property to the south is a vacant lot at the corner of Porter Rod and Shiloh Dr.

We feel that this request to rezone to C-1 will fit in with the surrounding area.

There is an existing 8" waterline along Shiloh Drive. Sewer will be extended to this property.

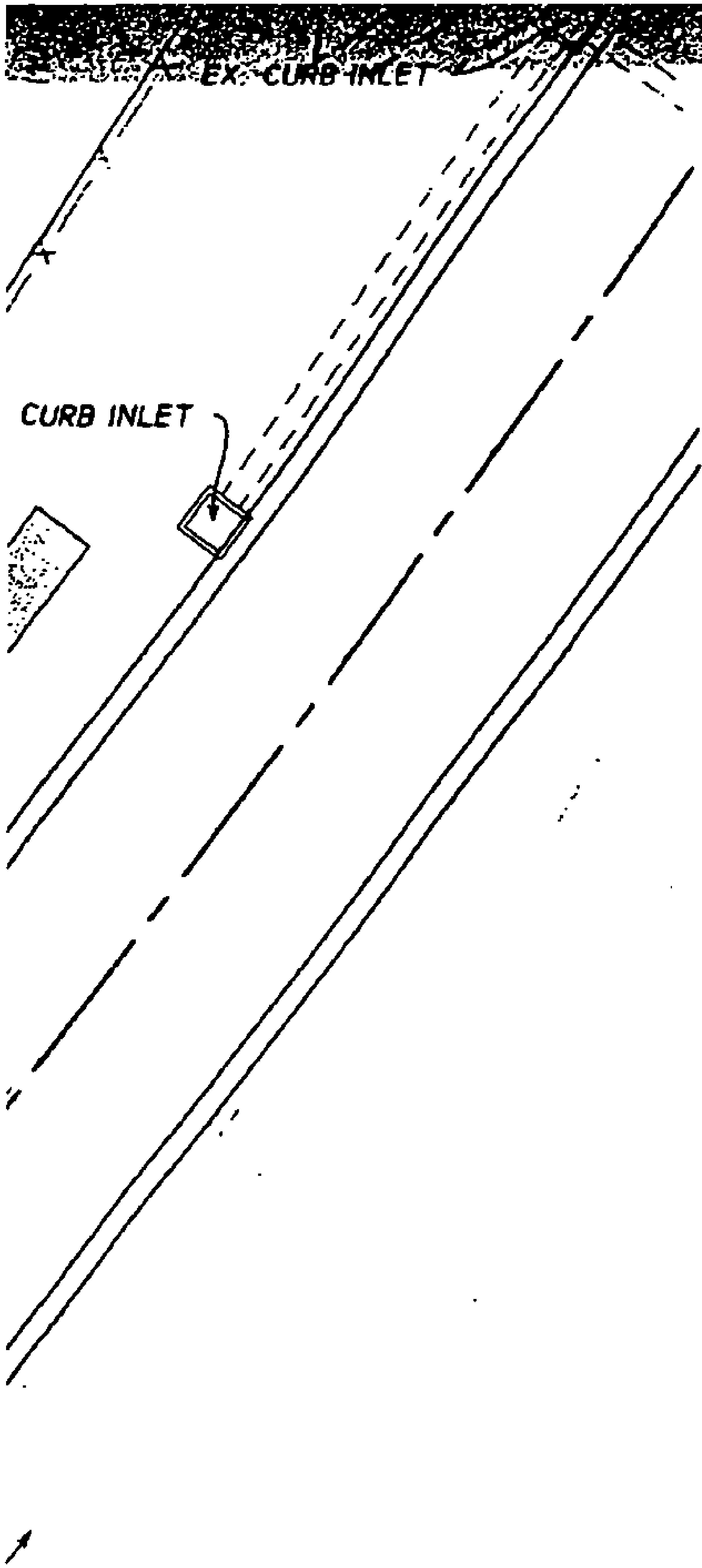
Farm Credit Services will be submitting a Large Scale Development following approval of this rezoning.

Please review and call concerning any questions you may have.

Thank you.

Sincerely;

David L. Jorgensen, P.E.



LOUISE GUISINGER SAGER
1636 ROCKWOOD TRAIL
FAYETTEVILLE, AR. 72701
(501) 521-5400

ENGINEER
JORGENSEN & ASSOCIATES
CONSULTING ENGINEERS, INC.
124 WEST SUNBRIDGE SUITE 5
FAYETTEVILLE, AR. 72703
(501) 442-9127

ZONING = A-1 (0.95 Ac)
PENDING ZONING = C-1

NOTE: THIS PROPERTY IS NOT AFFECTED BY THE 100 YEAR FLOOD PLAIN AS PER FIRM #05143C0083D DATED 7-21-99.

ROTATION BASED ON SURVEY OF PROPERTY BY MILHOLLAND CO. DATED DEC. 1984.

LEGAL DESCRIPTION:

Part of the NW1/4 of Section 5, T16N, R30W in Washington County, Arkansas and being more particularly described as follows: Commencing at the W1/4 Corner of Section 5 (SW Corner of the NW1/4) thence S88°18'51"E 164.24 feet to the P.O.B., thence N01°41'09"E 209.11 feet, thence S88°26'57"E 293.34 feet to the West Right of Way of Shiloh Drive, thence along said West Right of Way S33°48'17"W 51.75 feet, thence S42°19'00"W 216.79 feet, thence S49°25'26"W 2.13 feet, thence leaving West Right of Way N88°18'51"W 123.08 feet to the P.O.B.; Containing 1.02 acres more or less subject to easements and Right of Way of record.

TREE PRESERVATION NOTES

ZONING: C-1
SITE AREA: 44,453 sq ft
TREE CANOPY EXISTING: 2.86% (1,272 sq ft)
TREE CANOPY PRESERVED: 1.96% (872 sq ft)

NOTES: THERE ARE NO RARE OR LANDMARK TREES ON THIS PROPERTY.

LANDSCAPING REQUIREMENTS

INTERIOR LANDSCAPING:
1 TREE PER 10 SPACES
19 SPACES = 2 TREES REQUIRED

PARKING

3208 sq
(19 MAX.
PARKING

HAN CA

19 SPAC
1 HANDI

SITE CO

SITE ARE
BUILDING
PAVEME
TOTAL IN
SITE CO

PLANTED TREES TO CONSIST OF:
MAPLE
RED OR PIN OAK
DOGWOOD
RED BUD

NOTE: ALL TREES SHALL BE 2.5"
PLANTING.

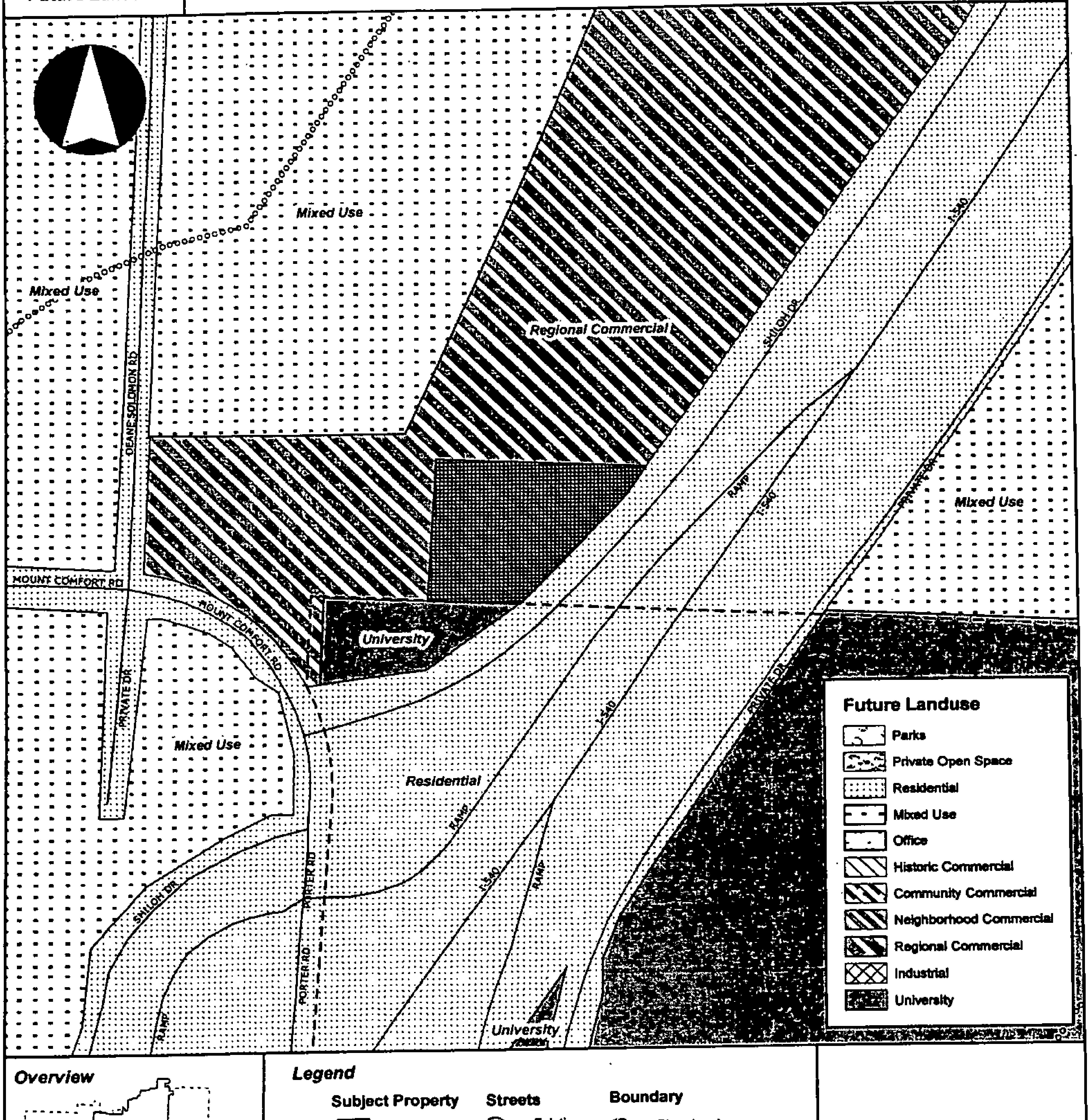
PLANTED SHRUBS TO CONSIST O
3-GAL. BOXWOOD
1-GAL. DURFED NANDINE

NOTES:
1. WATER SPIGOTS WILL BE PLACI
RADIUS INTERVALS THROUGHOUT

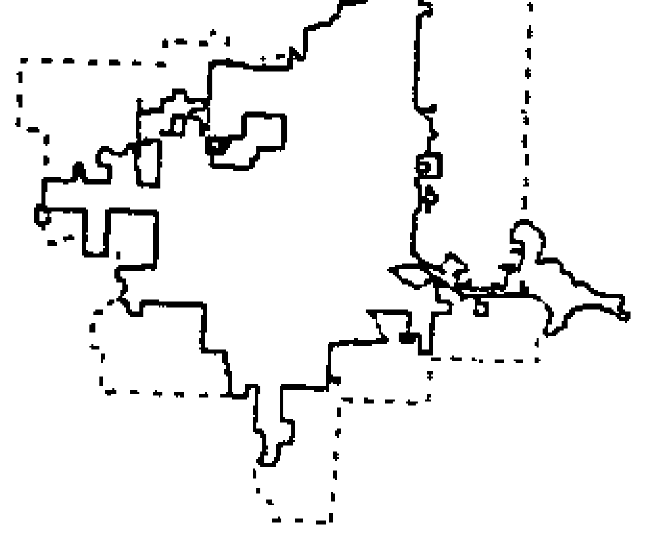
RZN01-21.00

Future Landuse

SAGER/GUISINGER



Overview



Legend

Subject Property

RZN01-21.00

Streets

Existing

Planned

Boundary

Planning Area

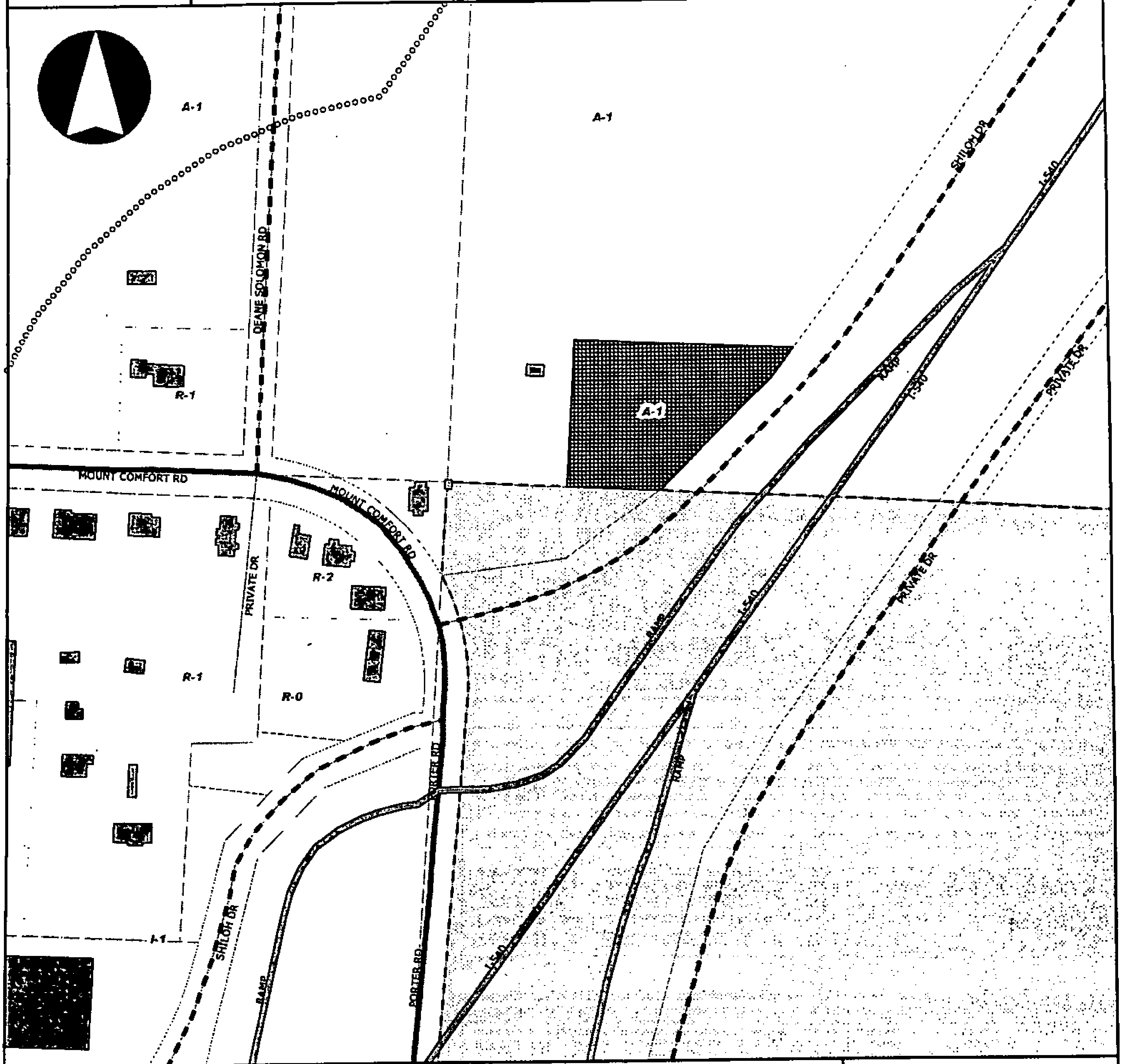
Overlay District

City Limits

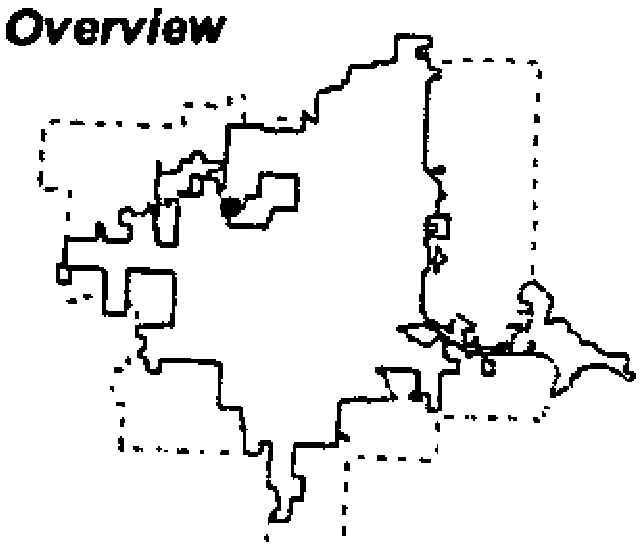
0 50 100 200 300 400 Feet

RZN01-21.00
Close Up View

SAGER/GUISINGER



Overview



Legend

Subject Property
RZN01-21.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

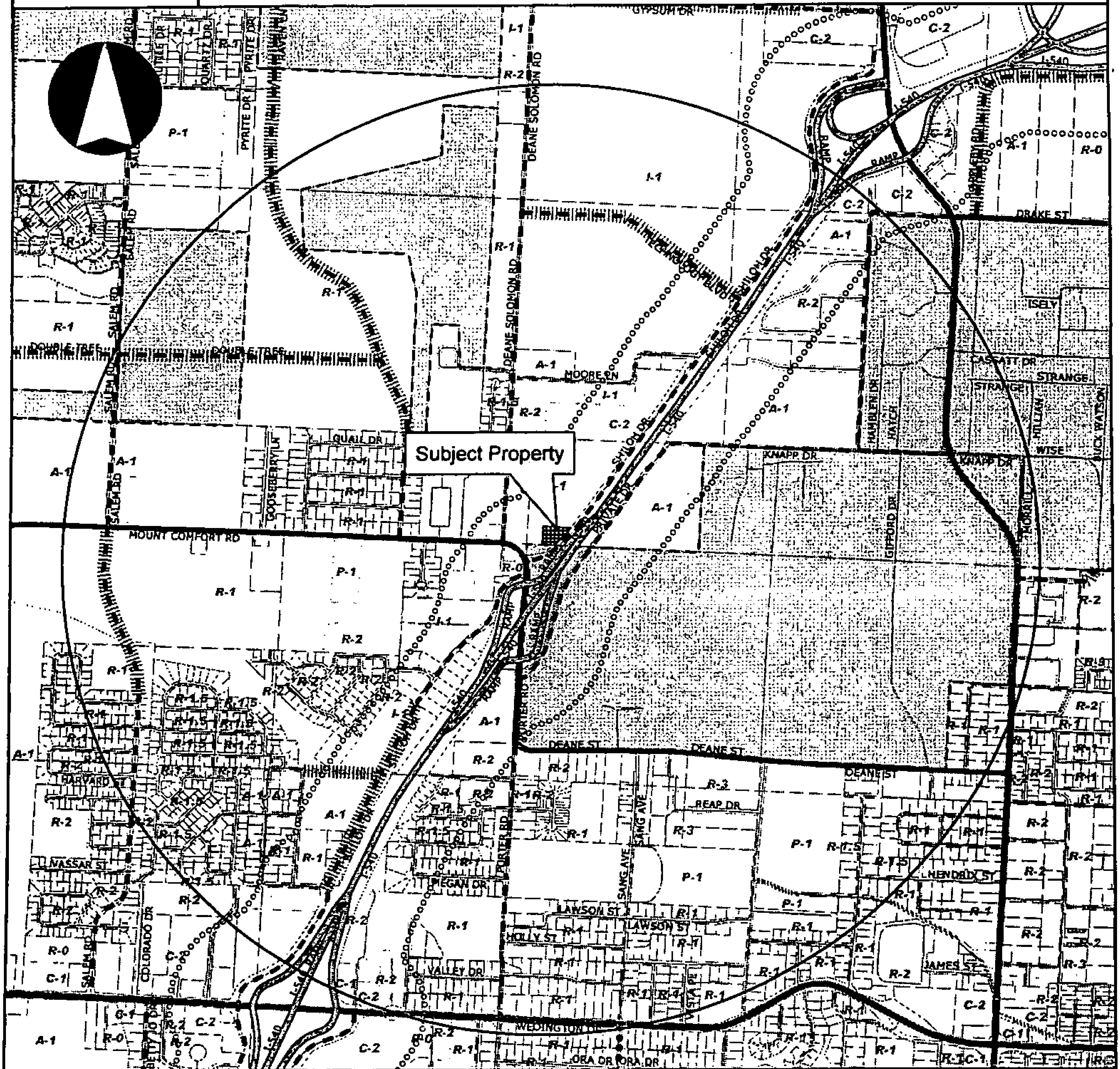
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 50 100 200 300 400 Feet

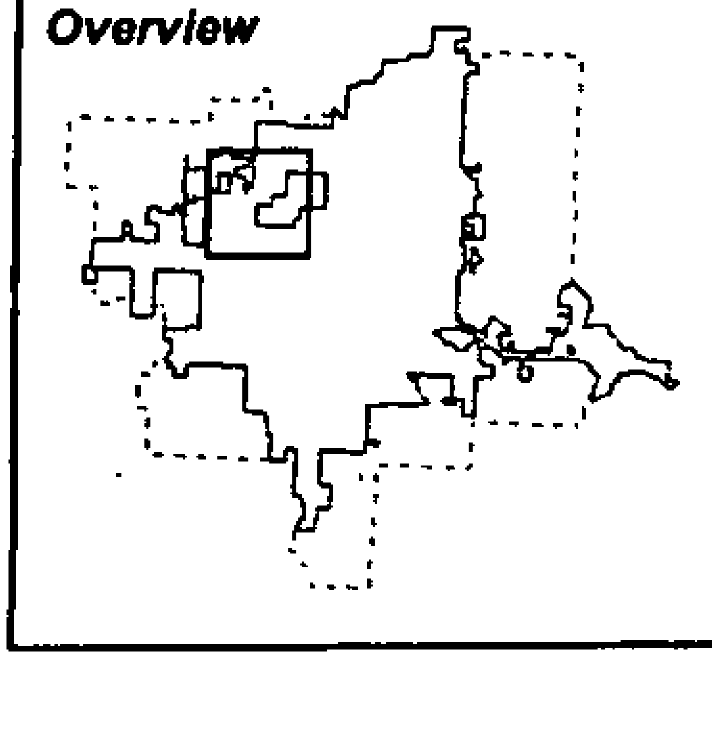
RZN01-21.00

One Mile View

SAGER/GUISINGER



Overview



Legend

Subject Property
RZN01-21.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

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

0 0.125 0.25 0.5 0.75 1 Miles

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:	Tim Conklin, A.I.C.P., City Planner
THRU:	Hugh Earnest, Urban Development Director
DATE:	October 18, 2001

BACKGROUND:

RZN 01-21.00: Rezoning was submitted by Chris Brackett of Jorgensen & Associates on behalf of Louise Sager and Paul Guisinger for property located west of Shiloh Drive, east of Deane Soloman Road and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 1.02 acres. The request is to rezone to C-1, Neighborhood Commercial. The subject property is located near the northwest corner of I-540 and Mt. Comfort Road. This is at the turn in Mt. Comfort where it becomes Porter Road to the south. The property between this tract and Mt. Comfort Rd. is a part of the University of Arkansas Experimental Farm and is outside the City Limits.

The applicant wishes to change the zoning designation of this 1.02 acre tract from A-1, Agricultural to C-1, Neighborhood Commercial. The property is expected to be developed as an office building for Farm Credit Services if the rezoning and pending large scale development are approved.

This property is currently vacant and is located within the Design Overlay District. The Future Land Use Plan identifies this area as Regional Commercial.

CURRENT STATUS

Staff recommended approval and the Planning Commission voted 8-0-0 to recommend approval to the City Council.

RECOMMENDATION

Staff recommends approval of the requested rezoning.

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RZN 01-21.00
C. 3. Page 2

STAFF REVIEW FORM

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of November 6, 2001.

FROM:

Tim Conklin	Planning	Urban Development
Name	Division	Department

ACTION REQUIRED: To approve an ordinance for RZN 01-21.00 as submitted by Chris Brackett of Jorgensen & Associates on behalf of Louise Sager and Paul Guisinger for property located west of Shiloh Drive, east of Deane Soloman Road and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 1.02 acres. The request is to rezone to C-1, Neighborhood Commercial.

COST TO CITY:

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

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

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

Accounting Manager	Date	Internal Auditor	Date
City Attorney	10/19/2001 Date	ADA Coordinator	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommended approval and on October 8, 2001, Planning Commission unanimously voted 8-0-0 to recommend approval and to forward the rezoning to the City Council.

Division Head	10-18-01 Date
Department Director	10-23-01 Date
Administrative Services Director	10/24/01 Date
Mayor	10/25/01 Date

Cross Reference

New Item: **Yes**

Prev Ord/Res #: ________

Orig Contract Date: ________

Orig Contract Number: ________

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 01-21.00 FOR A PARCEL CONTAINING APPROXIMATELY 1.02 ACRES FOR PROPERTY WEST OF SHILOH DRIVE, EAST OF DEANE SOLOMAN ROAD AND NORTH OF PORTER ROAD, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY CHRIS BRACKETT OF JORGENSEN & ASSOCIATES ON BEHALF OF LOUISE SAGER AND PAUL GUISINGER.

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 C-1, Neighborhood Commercial as shown in Exhibit "A" attached hereto and made a part hereof.

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

PASSED AND APPROVED this ______ day of __________, 2001.

APPROVED:

By: ____________________
DAN COODY, Mayor

ATTEST:

By: ________________________
Heather Woodruff, City Clerk

EXHIBIT "A"

RZN 01-21.00

PART OF THE NW1/4 OF SECTION 5, T 16 N, R 30 W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE W CORNER OF SECTION 5 (SW CORNER OF THE NW 1/4) THENCE S88°18'51"E 164.24 FEET TO THE P.O.B., THENCE N01°41'09"E 209.11 FEET, THENCE S88°26'57"E 293.34 FEET TO THE WEST RIGHT OF WAY OF SHILOH DRIVE, THENCE ALONG SAID WEST RIGHT OF WAY S33°48'17"W 51.75 FEET, THENCE S42°19'00"W 216.79 FEET, THENCE S49°25'26"W 2.13 FEET, THENCE LEAVING WEST RIGHT OF WAY N88°18'51"W 123.08 FEET TO THE P.O.B., CONTAINING 1.02 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

RZN 01-21.00: Rezoning (Sager/Guisinger, pp 325) was submitted by Chris Brackett of Jorgensen & Associates on behalf of Louise Sager and Paul Guisinger for property located west of Shiloh Drive, east of Deane Solomon Road and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 1.02 acres. The request is to rezone to C-1, Neighborhood Commercial.

Estes: The next item of business is also a rezoning request, this is RZN 01-21 submitted by Chris Brackett of Jorgensen & Associates on behalf of Louise Sager and Paul Guisinger for property located west of Shiloh Drive, east of Deane Solomon Road and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 1.02 acres. The request is to rezone to C-1, Neighborhood Commercial. Staff recommends approval of the requested rezoning based on the findings included as a part of your report. Is the applicant present?

Brackett: Yes.

Estes: Would you like to make a presentation?

Brackett: I do not have a presentation but will answer any questions you might have.

Estes: Commissioners, are there any questions of the applicants' representative?

Marr: If I could get the applicant to maybe address the finding whether the zoning is justified and needed at this time. Based on your application, how would you answer that?

Brackett: We have submitted to the City a large scale development for this property. It is Farm Credit Services. They have a portion of that building which is retail and that is why we are asking for the C-1 zoning.

Estes: Any other questions of the applicants' representative?

Bunch: Chris, on the sewer issue, how far away is the sewer line? I know there is a stretch in there on Shiloh where there is not sewer available.

Brackett: It is not along Shiloh. As part of the large scale we're going to be extending the sewer to this property which will go west and then south across I believe Porter Road and then connecting on that. Wherever it turns the curve, I don't know if turns into Mt. Comfort or if it is Porter or whatever, but we're going to go west and then south to extend the sewer to this property. There will be sewer, it won't be septic.

Estes: Any other questions?

MOTION:

Ward: I would like to go ahead and make a motion that we approve RZN 01-21 rezoning this to C-1. I think C-1, Neighborhood Commercial is very appropriate for this particular piece of land since it is along I540 and it is going to be used for basically office space.

Estes: Is there any member of the audience who would like to comment on this requested Rezoning 01-21? Seeing none, I'll bring it back to the Commission. There is a motion by Commissioner Ward to approve RZN 01-21.00, is there a second?

Shackelford: I'll second.

Estes: We have a second by Commissioner Shackelford, is there any discussion? We have a motion by Commissioner Ward to approve RZN 01-21 and a second by Commissioner Shackelford. Would you call the roll Renee?

ROLL CALL: Upon the completion of roll call the motion to forward RZN 01-21.00 was approved by a vote of 8-0-0.

Estes: The motion passes by a unanimous vote.

STAFF REVIEW FORM

X Agenda Request
__ Contract Review
__ Grant Review

For the Fayetteville City Council meeting of November 6, 2001

FROM:

Name	Division	Department
Gary Dumas	**Solid Waste**	**Utilities Services**

ACTION REQUIRED: **Approve ordinance repealing Yard Waste Subscription Fee. (Ord-50-40-A-2)**

COST TO CITY:

$ (67,500)	$ 4,753,000	Solid Waste Fees
Cost of this Request	Category/Project Budget	Category/Project Name
5500-0950-4430-00	$ 3,839,887	
Account Number	Funds Used to Date	Program Name
	$ 913,113	Solid Waste
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: 10/22/01

ADA Coordinator — Date:

City Attorney — Date: 10/22/01

Internal Auditor — Date: 10/22/01

Purchasing Officer — Date: 10/22/01

STAFF RECOMMENDATION: Approval of the Ordinance

Division Head — Date:

Department Director — Date: 10-23-01

Administrative Services Director — Date: 10/24/01

Mayor — Date: 10/25/01

Cross Reference

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

Prev Ord/Res #:__________

Orig Contract Date:__________

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To:	Mayor Coody and City Council
From:	Gary Dumas
Date:	19 October 2001
SUBJECT:	Ordinance Repealing Yard Waste Subscription Fee

Background:

During Council discussion of the Yard Waste program during September and early October, there was consensus to eliminate the current subscription fee for yard waste service with the changes being made in the program that will allow the operation to be conducted more efficiently. The current program has approximately 2,800 subscribers who pay approximately $67,500 per year for the service. This revenue from the subscription service would be lost, as would the need for the debagging operation at the approximate annual cost of $46,000 plus 1,744 hours of work release/community service time from the City and County jails.

The compostable paper bag program was implemented on November 1. This Ordinance is necessary to fully implement the program as approved by the City Council.

Request:

Approve Ordinance eliminating the Yard Waste Service Subscription Fee.

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50: GARBAGE AND TRASH, OF THE CODE OF FAYETTEVILLE, TO ELIMINATE THE SUBSCRIPTION CHARGE FOR THE COLLECTION, HAULING AND DISPOSAL OF RESIDENTIAL YARD WASTE.

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

Section 1. That §50.40(A)(2) Code of Fayetteville is hereby repealed, and the following is inserted in its stead:

§50.40 Rates for services.

(A) Residential service.

(2) There shall be no charge for the collection of residential yard waste.

PASSED AND **APPROVED** this _____ day of _______________, 2001.

APPROVED:

~~By:~~ Dan Coody
DAN COODY, Mayor

ATTEST:

By: ___________________________
HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. ______

A RESOLUTION TO REQUEST THAT THE ALCOHOL BEVERAGE COMMISSION ISSUE NO ADDITIONAL PERMITS FOR LIQUOR STORES WITHIN THE CITY OF FAYETTEVILLE

WHEREAS, A.C.A. §3-4-201 states that "It is declared to be the public policy of the state that the number of permits in this state to dispense vinous (except wines), spirituous or malt liquor shall be restricted;" and

WHEREAS, the number of liquor store permits in any county or political subdivision "shall not exceed a ratio of one (1) permit for every four thousand (4,000) population residing in that county or subdivision;" and

WHEREAS, the number of liquor store permits authorized to liquor stores within the City of Fayetteville should be based solely upon the population residing within the City of Fayetteville and not include the population residing outside the City of Fayetteville within the remainder of Washington County.

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 requests that the Alcohol Beverage Commission of the State of Arkansas not provide additional permits for the sale of alcohol beverages for off premises consumption within the City of Fayetteville's corporate limits above the ratio of one permit for every four thousand (4,000) residents of Fayetteville.

PASSED and **APPROVED** this the _____ day of ________________, 2001.

APPROVED:

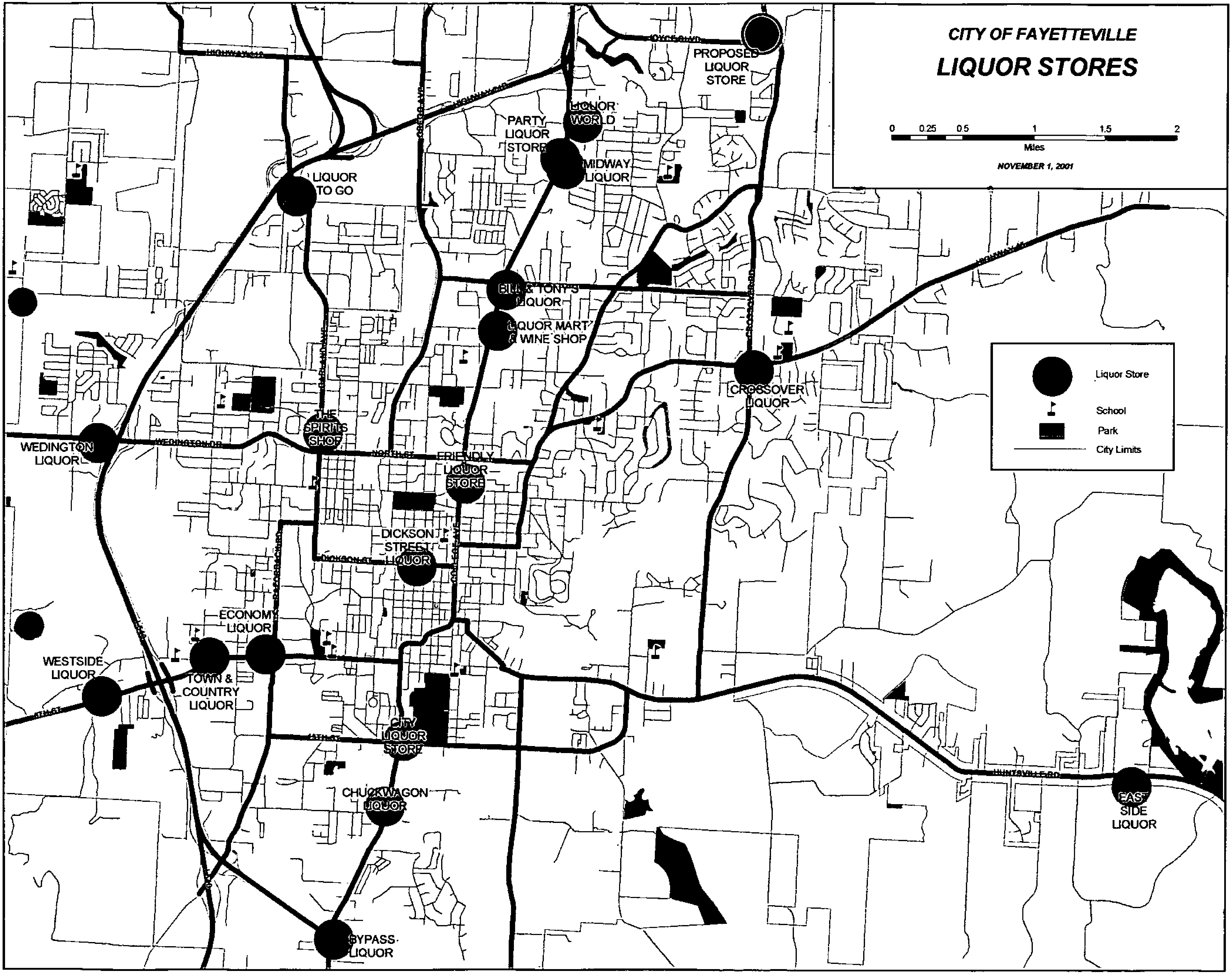
By: ________________________

DAN COODY, Mayor

ATTEST:

By: ________________________

Heather Woodruff, City Clerk


CITY OF FAYETTEVILLE
LIQUOR STORES
0 0.25 0.5 1 1.5 2
Miles
NOVEMBER 1, 2001
Liquor Store
School
Park
City Limits
PROPOSED LIQUOR STORE
LIQUOR WORLD
PARTY LIQUOR STORE
MIDWAY LIQUOR
LIQUOR TO GO
BILL & TONY'S LIQUOR
LIQUOR MART & WINE SHOP
CROSSOVER LIQUOR
THE SPIRITS SHOP
WEDINGTON LIQUOR
FRIENDLY LIQUOR STORE
DICKSON STREET LIQUOR
ECONOMY LIQUOR
WESTSIDE LIQUOR
TOWN & COUNTRY LIQUOR
CITY LIQUOR STORE
CHUCKWAGON LIQUOR
BYPASS LIQUOR
EAST SIDE LIQUOR
WEDINGTON DR
NORTH ST
DICKSON ST
GARLAND AVE
HUNTSVILLE RD
CROSSOVER RD

COPY

STAFF REVIEW FORM

___ AGENDA REQUEST
___ CONTRACT REVIEW
X GRANT REVIEW

For the Fayetteville City Council meeting of November 6, 2001

Ark Dept of Aeronautics Grant
Pavement Rehab & Widening

FROM:

Name	Division	Department
Gary Dumas	Airport	Environmental Services

ACTION REQUIRED: Informational Item for review by City Council
Approval of Staff Review Committee

COST TO CITY:

$ 135,678 (Revenue)	$ 2,988,228	Pavement Maint & Rehab
Cost of this Request	Category/Project Budget	Category/Project Name
5550-3960-7820-29	$ 2,849,608	Capital Improvements
Account Number	Funds used to date	Program Name
00029	$ 138,620	Airport
Project Number	Remaining Balance	Fund

BUDGET REVIEW: X Budgeted Item ___ Budget Adjustment Attached

Budget Manager Date
Administrative Services Dir. Date

CONTRACT/GRANT/LEASE REVIEW:

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

Arkansas Department of Aeronautics
GRANTING AGENCY

STAFF RECOMMENDATION: Staff recommends review and approval

Division Head Date
Department Director Date
Administrative Services Director Date
Mayor Date

Cross Reference

New Item: Yes No
Prev. Ord/Res#: ________
Orig Cont. Date: ________
Orig Cont #: ________

STAFF REVIEW FORM

Description:

Meeting Date: 11/06/01

Ark Dept Aeronautics grant , Pavement Rehab & Widening

Comments:

Budget Manager

Reference Comments:

Accounting Manager

Reference Comments:

City Attorney

Reference Comments:

Purchasing Officer

Reference Comments:

Internal Auditor

Reference Comments

ADA Coordinator

Reference Comments:

Grants Coordinator

Reference Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

4500 School Ave., Suite F
Fayetteville, AR 72701
501.718.7642

AIRPORT MANAGEMENT
GARY DUMAS, UTILITIES DIRECTOR / AIPRORT MANAGER INTERIM

TO: Dan Coody, Mayor
Fayetteville City Council Members

FROM: Gary Dumas, Utility Services Director / Interim Airport Manager

THRU: Staff Review Committee

DATE: October 19, 2001

SUBJECT: Arkansas Department of Aeronautics grant request, AIP #29

Background: Grant funding for AIP Project No. 3-05-0020-2901, "Airfield Pavement Rehabilitation & Taxiway Widening & Strengthening," was approved by the FAA on June 4, 2001. A Notice to Proceed with construction was issued October 4, 2001.

The Arkansas Department of Aeronautics will fund 5% of the total project cost. The City's Policies and Procedures regarding grants and grant applications requires that the application be reviewed and approved by the Staff Review Committee, and be submitted to the City Council as an informational item through inclusion on the Council Agenda.

Purpose: The Arkansas Department of Aeronautics grant will fund 50% of the federally required 10% local matching funds, or 5% of the total project cost. The total cost of the project is $2,716,557. The amount being requested on this grant application to the Arkansas Department of Aeronautics is $135,678.

Budget Considerations: $150,000 in Passenger Facility Charge (PFC) funds are approved by the FAA as eligible for this project. There is $143,950 remaining in the Airport's PFC revenue account (deferred revenue). Thus, the City's local match of 5% of the project funding is available through the use of PFC funds.

Budget adjustments for this project have been submitted and approved.

Action Requested: This is an informational item.

Staff Recommendation: Staff recommends review of the grant request

GD/jn
attachment: Grant Application

FAYETTEVILLE

AIRPORT DEPARTMENT
THE CITY OF FAYETTEVILLE, ARKANSAS

October 25, 2001

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

RE: GRANT APPLICATION, AIP Project #3-05-0020-2901 - "Airfield Pavement Rehabilitation and Taxiway Widening & Strengthening"

Dear Mr. Knight;

Enclosed please find two (2) copies of a proposal for Arkansas Department of Aeronautics grant funding under the SAAG 90-5-5% grant classification. Fayetteville Municipal Airport requests funding in the amount of $135,678, or 5% of a total project cost of $2,716,557. The project proposal is for AIP Project #3-05-0020-2901 - "Airfield Pavement Rehabilitation and Taxiway Widening & Strengthening."

The project has been approved by the FAA and a notice to proceed with construction has been issued by our FAA Regional office.

The Project consists of: New apron N of Taxiway D; Northwest apron extension; taxiway rehabilitation, crack sealing & overlay taxiways C, D, & E; Rehab of taxiway B between C & terminal apron; taxiway widening of A, B, F, & D; crack sealing, rubber removal, and rejuvenation sealer of runway.

The project has been awarded to APAC - Arkansas Inc., McClinton-Anchor Division.

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

Sincerely,

Gary Dumas
Airport Manager / Environmental Services Director

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

4500 SOUTH SCHOOL AVENUE, SUITE F • AIRPORT TERMINAL BUILDING • FAYETTEVILLE, AR 72701
PHONE 501-718-7640 Ext. 5 • FAX 501-718-7646

ARKANSAS DEPARTMENT OF AERONAUTICS

APPLICATION FOR STATE AIRPORT AID

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

Date of Request: October 25, 2001

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

Name and address of City/County Commission sponsoring request:

City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701
Phone/Fax Number:

Person to contact about project:
James Nicholson, Financial Coord.
4500 S School Ave, Suite F
Phone/Fax Number: 501-718-7643
501-718-7646 fax

Name and address of Engineering Firm (If Applicable):

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

Contact Person: Wayne Jones, P.E.
Phone/Fax Number: 501-443-2377

Describe the work to be accomplished: AIP #3-05-0020-2901 "Airfield Pavement Rehabilitation and Taxiway Widening & Strengthening." Project consists of: Widening & strengthening of Taxiways A, B, F, & D; Crack sealing and overlay of Taxiways C, D, & E; Crack sealing, rubber removal, & rejuvenation sealer for Runway 16/34.

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

Federal AIP Projects:

AIP # 3-05-0020-2901

Total Cost of Project		Total Cost of Project	2,716,557
Local Share/Funds		Federal Share (90%)	2,442,201
Local Share/In-Kind		Local Share (5%)	135,678
State Share		State Share	135,678

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

FUNDS:

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

State Funding: Arkansas Department of Areronautics

Local Funding: Airport PFC

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

Estimate starting date of project: **October 2001**

Estimate completion date of project: **April 2002**

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

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

Description of land and cost per acre: ________

Provide the Federal AIP Grant Number (AIP Projects Only)

3-05-0020-2901

State Representatives for your area:

State Senator **David Malone**

State Representative **Bill Pritchard - District 8**

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

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

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

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

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

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

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

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

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

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

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this ______ day of ________________, 20_01_ .

City of Fayetteville
Name of Sponsor

____
Authorized Signature

Gary Dumas, Airport Manager (Interim)
Title

Original

GRANT AGREEMENT

U.S. Department
of Transportation

FOR DEVELOPMENT PROJECT

Federal Aviation
Administration

PART I-OFFER

Date of Offer: **SEP 18 2001** Project No. 3-05-0020-29-01

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

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

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

WHEREAS, the Sponsor has submitted to the FAA a Project Application (also called an Application for Federal Assistance) dated **September 12, 2001,** for a grant of Federal funds for a project for development of **Fayetteville Municipal (Drake Field)** (herein called the "Airport"), together with plans and specifications for such project, which Application for Federal Assistance, as approved by the FAA is hereby incorporated herein and made a part hereof; and

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

Rehabilitate and Widen Multiple Taxiways
Expand and Rehabilitate East and West Aprons
Rehabilitate Runway 16/34

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

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

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

Conditions

1. The maximum obligation of the United States payable under this offer shall be **$2,442,201.00.**

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

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

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

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

6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the sponsor on or before **September 30, 2001**, or such subsequent date as may be prescribed in writing by the FAA.

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

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

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

10. The property map referred to on Page 1 of this Grant Agreement is the Property Map, Exhibit "A", attached to the Application for Federal Assistance attached to AIP Grant 3-05-0020-29-01.

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

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

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

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

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

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

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

   4. Qualifications of engineering supervision and construction inspection personnel.

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

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

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

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

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

14. The plans and specifications referred to on Page 1 of this Grant Agreement are the plans and specifications identified as Sponsor Contracts.

15. For a project to replace or reconstruct pavement at the airport, the sponsor shall implement an effective airport pavement maintenance management program as is required by Airport Sponsor Assurance Number 11. The sponsor shall use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. As a minimum, the program must conform with the provisions in the attached outline entitled: "Pavement Maintenance Management Program."

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

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

for Donald C. Harris

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

PART II - ACCEPTANCE

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

Executed this 25 day of September, 20 01.

City of Fayetteville
(Name of Sponsor)

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

(SEAL)

Title: Mayor

Attest: Heather Woodruff

Title: City Clerk

CERTIFICATE OF SPONSOR'S ATTORNEY

I, KIT WILLIAMS, acting as Attorney for the Sponsor do hereby certify:

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

Dated at Fayetteville, AR this 20 day of September, 20 01.

(Signature of Sponsor's Attorney)

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED: September 2001

Applicant Identifier: FY002105

3. DATE RECEIVED BY STATE:

State Application Identifier:

4. DATE RECEIVED BY FEDERAL AGENCY:

Federal Identifier: AIP 3-05-0020-2901

1. TYPE OF SUBMISSION:

Application: [X] Construction [ ] Non-Construction

Preapplication: [ ] Construction [ ] Non-Construction

5. APPLICANT INFORMATION

Legal Name: City of Fayetteville

Organizational Unit: Airport Department

Address (give city, county, state, and zip code):
Airport Department
4500 S. School, Suite F
Fayetteville, AR 72701

Name and telephone number of the person to be contacted on matters involving this application (give area code):
Gary Damas, Airport Manager
501-575-8330

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

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

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

8. TYPE OF APPLICATION:

[X] New [ ] Continuation [ ] Revision

If Revision, enter appropriate letter(s) in box(es): [ ] [ ]

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

9. NAME OF FEDERAL AGENCY:

DOT FAA SW Region, Ft. Worth, TX

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

TITLE: Airport Improvement Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

Airfield Pavement Rehabilitation which includes taxiway overlays, taxiway rehabilitation, runway surface rejuvenation sealer, taxiway widening and strengthening to serve airport tenent and pavement re-striping.

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

Washington and Benton Counties, Arkansas

13. PROPOSED PROJECT:

Start Date	Ending Date
10-01-01	07-01-02

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant: Third

b. Project: Third

15. ESTIMATED FUNDING:

a. Federal	$	2,442,201 .00
b. Applicant	$	135,678 .00
c. State	$	135,678 .00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	2,713,557 .00

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

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

DATE ____________

b. NO. [ ] PROGRAM IS NOT COVERED BY E.O. 12372

[ ] OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

[ ] Yes If "Yes," attach an explanation. [X] No

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

a. Typed Name of Authorized Representative: Dan Coody

b. Title: Mayor

c. Telephone number: 501-575-8330

d. Signature of Authorized Representative: Dan Coody

e. Date Signed: 9/12/01

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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

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

Fort Worth, Texas 76193-0000

October 4, 2001

Mr. Dale Frederick
Fayetteville Municipal Airport
4500 South School Road, Suite F
Fayetteville, AR 72701

Dear Mr. Frederick:

Airport Improvement Program Project No. 3-05-0020-2901
Fayetteville Municipal Airport (Drake Field)
Airfield Pavement Rehabilitation & Taxiway Widening & Strengthening

The conformed contract documents furnished for the construction project at Fayetteville Municipal Airport (Drake Field) under AIP Project No. 3-05-0020-2901 have been reviewed and are found to be satisfactory.

This letter authorizes the City of Fayetteville to issue a Notice to Proceed to the contractor effective October 8, 2001. Please furnish the undersigned with one copy of the notice.

If you have any questions or if I can be of further service, please do not hesitate to call me at (817) 222-5634.

Sincerely,

Donald C. Harris

Donald C. Harris
Senior Program Manager, Arkansas/Oklahoma
Airports Development Office

Enclosure

cc:
Mr. Wayne Jones, P.E.
McClelland Consulting Engineers, Inc.
1810 North College, P.O. Box 1229
Fayetteville, AR 72702-1229

STAFF REVIEW FORM

___ AGENDA REQUEST
___ CONTRACT REVIEW
_X_ GRANT REVIEW
For the Fayetteville City Council meeting of November 6, 2001

Ark Dept of Aeronautics Grant
Pavement Rehab & Widening

FROM:

Name	Division	Department
Gary Dumas	Airport	Environmental Services

ACTION REQUIRED: Informational Item for review by City Council
Approval of Staff Review Committee

COST TO CITY:

$ 142,480 (Revenue)	$ 2,988,228	Pavement Maint & Rehab
Cost of this Request	Category/Project Budget	Category/Project Name
5550-3960-7820-29	$ 138,620	Capital Improvements
Account Number	Funds used to date	Program Name
00029	$ 2,849,608	Airport
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _X_ Budgeted Item ___ Budget Adjustment Attached

Budget Manager Date
Administrative Services Dir. Date

CONTRACT/GRANT/LEASE REVIEW:

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

Arkansas Department of Aeronautics
GRANTING AGENCY

STAFF RECOMMENDATION: Staff recommends review and approval

Division Head Date
Department Director Date
Administrative Services Director Date
Mayor Date

Cross Reference

New Item: Yes No
Prev. Ord/Res#: ________
Orig Cont. Date: ________
Orig Cont #: ________

I PM FAYETTEVILLE AIRPORT FAX NO. 5017187646 P. 03

STAFF REVIEW FORM

Description: **Meeting Date:** 11/06/01

Ark Dept Aeronautics grant , Pavement Rehab & Widening

Comments:

Budget Manager

Reference Comments:

Accounting Manager

Reference Comments:

City Attorney

Reference Comments:

Purchasing Officer

Reference Comments:

Internal Auditor

Reference Comments

ADA Coordinator

Reference Comments:

Grants Coordinator

Reference Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

4500 School Ave., Suite F
Fayetteville, AR 72701
501.718.7642

AIRPORT MANAGEMENT
GARY DUMAS, UTILITIES DIRECTOR / AIPRORT MANAGER INTERIM

TO: Dan Coody, Mayor
Fayetteville City Council Members

FROM: Gary Dumas, Utility Services Director / Interim Airport Manager

THRU: Staff Review Committee

DATE: October 19, 2001

SUBJECT: Arkansas Department of Aeronautics grant request, AIP #29

Background: Grant funding for AIP Project No. 3-05-0020-2901, "Airfield Pavement Rehabilitation & Taxiway Widening & Strengthening," was approved by the FAA on June 4, 2001. A Notice to Proceed with construction was issued October 4, 2001.

The Arkansas Department of Aeronautics will fund 5% of the total project cost. The City's Policies and Procedures regarding grants and grant applications requires that the application be reviewed and approved by the Staff Review Committee, and be submitted to the City Council as an informational item through inclusion on the Council Agenda.

Purpose: The Arkansas Department of Aeronautics grant will fund 50% of the federally required 10% local matching funds, or 5% of the total project cost. The total cost of the project is $2,849,608. The amount being requested on this grant application to the Arkansas Department of Aeronautics is $142,480.

Budget Considerations: $150,000 in Passenger Facility Charge (PFC) funds are approved by the FAA as eligible for this project. There is $146,309 remaining in the Airport's PFC revenue account (deferred revenue). Thus, the City's local match of 5% of the project funding is available through the use of PFC funds.

Budget adjustments for this project have been submitted and approved.

Action Requested: This is an informational item.

Staff Recommendation: Staff recommends review of the grant request

GD/jn
attachment: Grant Application

Attachment:

Arkansas Department of Aeronautics
Grant Application

CHAMPIONS OF CHARACTER
2000-2001 FINAL REPORT

The fourth year of ***Champions of Character*** proved to be yet another successful year. This was the first year to expand the program to communities outside of Fayetteville and also the first year to present the programs in middle schools rather than elementary schools. The program previously reached 1800 elementary students (4th, 5th, and 6th grade) in Fayetteville four times per year. This year the program reached over 4800 middle school students (6th and 7th grades) in Fayetteville, Springdale, and Rogers five times throughout the year! ***COC*** touches students from several different racial backgrounds as well: 79% Caucasian, 15% Hispanic, 3% African American, 2% Asian, and 1% Native American.

Assemblies

Champions of Character performed 53 assemblies in Fayetteville, Springdale, and Rogers middles schools. Five different units were presented in six different schools. Assemblies were performed twice at five of the six schools—once for the 6th grade and once for the 7th grade. The last unit was not presented at McNair Middle School in Fayetteville due to scheduling conflicts. The five units covered this academic year were the following: *Integrity, Respect, Honesty, Courtesy, and Self-Discipline.* All of the assemblies were well received, especially the *Respect* and *Self-Discipline* units. Each assembly included a trivia game for the students called "Clang That Thang," testimonies by current Razorback athletes, a skit featuring current and former Razorback athletes, videos, lights, music, and computer presentation of the definition and "I will" statements. The "I Will's" are 5 to 6 action statements that give the students specific ways they can live out the character trait being presented. Seventeen current and former Razorback athletes participated, representing ten different sports. Assembly formats and themes for the different units went as follows:

- *Integrity:* The theme was Integrity Court. Three different characters come in to be tried in "court" for not having integrity. The first snuck into a football game without paying. The second lied to his parents about where he was going, and the third said she cleaned her room when she actually just stuffed everything in her closet and under the bed. Each character learns the importance of integrity and must pay the consequences for his/her actions.
- *Respect:* This skit was based off of the popular television show "Survivor." Five people were brought together to an island to face challenges and see who could end up being the one Respect Survivor. People were voted off the island if they did not show respect to themselves and others.
- *Honesty:* This skit involved two movie critics evaluating different movies for their honesty content. In the midst of this, a character named Mr. Huffy continually comes in and interrupts the show and tells lies. In the end, he learns the importance of being honest.

- *Courtesy:* This skit, based off of several Seinfeld episodes, featured characters in everyday situations at school. The characters learned the importance of being courteous to the cafeteria workers, fellow students, the principal, etc. They learned why you shouldn't make fun of others or interrupt others and why you should mind your manners, share, and think before you speak.
- *Self-Discipline:* This skit was based off of Star Wars with a Razorback twist to it. Yoda Nutt was trying to teach Robbie Skywalker how to use the force of self-discipline in order to become a Jedi Football Warrior. Skywalker is encouraged along the way by Princess Leia, Chewy Decker, a track athlete, and the Razorback track coach.

<u>Educator Materials</u>

COC developed special materials for all of the 6th and 7th grade teachers and counselors as well as character trading cards for each student to go along with each unit. Every school received 50 posters featuring a Razorback athlete and a quote from that athlete about the specific character quality being presented. Every teacher received a four-page, magazine-style handout that included activities to do with students and lesson plans such as science experiments, poetry memorization, group games, object lessons, and book lists. Teacher materials also featured articles about how that character trait is demonstrated in nature or by historical figures as well as a photo and information about the featured Razorback athlete. The character cards given to each student resemble baseball cards. The front looks just like the posters with a picture and quote. The back of each card tells them a little bit about the athlete, gives the character trait and definition, and gives the 5 or 6 "I Will" statements the students learned in the assembly. These are designed to be fun reminders for the students that they can collect and keep.

This year we have also implemented a web site. This is still a work-in-progress, but it is a way to get the message of ***Champions of Character*** into the home. Students and their families can log onto <u>www.aaoteam.org</u> and click on ***Champions of Character*** and find family activities as well as the definition, "I Will's," and information about the featured Razorback athletes for each unit. We plan to continue to work on this and develop it into something that can potentially reach many people.

<u>Evaluations</u>

Surveys requesting educator input regarding assemblies and educator materials were distributed at each assembly. Educator comments were usually positive and provided helpful insight into what the students and teachers liked as well as ways we could improve. Teachers were almost always complimentary of the content. Most negative comments were directed towards technical difficulties. The teachers who found the time to use the follow-up materials gave much positive feedback and found them quite helpful. The biggest problem we found was a lack of time for teachers to use the materials.

This year we also did student testing to try to measure the impact of our program. Approximately 100 students from each of the schools were given surveys to test their knowledge of the five different character qualities at the beginning of the school year before they were ever presented with anything from ***Champions of Character***. Those same students were surveyed again at the end of the school year. The beginning surveys showed us four specific things:

- students seemed to have the most trouble practicing honesty and integrity
- many seemed to not have a clear understanding of what self-discipline is
- they understand and practice respect and courtesy quite well
- most don't struggle with the big issues like cheating, drugs, alcohol, etc.

(We are still waiting to receive and calculate final results from the post-tests).

Summary

This first expansion year of the program has been a great one. It has involved more work, more time, more creativity, more funds, and more supporters. It has been encouraging to see all of this come together and to see a vision fulfilled! Response in the new communities as well as in Fayetteville has been very positive. We've heard many neat stories of how students are being affected by this program and applying the things they have learned. We are looking forward to the second year of the expanded program, and we're constantly thinking on ways to improve and expand to reach more students with message that character counts. We are also encouraged to see how the program affects the Razorback athletes that are involved. They give up a lot of their limited time to be involved in this program, but every one of them have been encouraged and fulfilled by the experience of being positive role models. The goal of the program is to instill character in young people who will grow up to be productive citizens—***Champions of Character!***

Respectfully submitted by

Kristy Savoie
Champions of Character Project Director

2000-01 COC Participants

Unit	Athlete	Sport	Hometown
Integrity	TaNeisha Verley	X-Diver	Ontario, Canada
	Josh Foliart	Football	Van Buren, Arkansas
	Joy Oakley	Basketball	Hot Springs, Arkansas
	Robby Hampton	Football	Mt. Pleasant, Texas
	Mike McClendon	X-Cheer	Shreveport, Louisiana
Respect	Matt Swartz	Football	Coral Springs, Florida
	Nathan Ball	Football	Rogers, Arkansas
	TaNeisha Verley	X-Diver	Ontario, Canada
	Nicole Savary	Track	Trinidad
	Julie Sloniger	Volleyball	Pittsburg, Pennsylvania
Honesty	Matt Swartz	Football	Coral Springs, Florida
	Joy Oakley	Basketball	Hot Springs, Arkansas
	Lora Gresham	Pom 1	Clarksville, Arkansas
	Anna Butt	Cheer	Fayetteville, Arkansas
	Beth Burnett	Cheer	Bryant, Arkansas
Courtesy	TaNeisha Verley	X-Diver	Ontario, Canada
	Anna Butt	Cheer	Fayetteville, Arkansas
	Jarod Morrison	Football	Farmington, AR
	Craig Lile	Golf	Capetown, South Africa
		Baseball guys	
		Pom girls	
Self-Discipline	Matt Swartz	Football	Coral Springs, FL
	Brett Shockley	Football	Conway, Arkansas
	James Karanu	Track	Kenya
	Coach McDonnell	Track	Ireland

*AAO Staff involved in every assembly:
Kristy Savoie
Ron Harris (except Self-Discipline)
Darin Phelan
David Sager

*4,826 total kids reached per unit
*6 Middle Schools, 11 assemblies
*3 Communities (Fayetteville, Springdale, Rogers)

Champions of Character
Fall 2000 Report

Unit 1: Integrity

Definition:	maintaining high standards even when no one is looking

I Will's:

1. not cheat or steal
2. do what's right, even though it may be unpopular
3. tell the truth, the whole truth, and nothing but the truth
4. keep my word and do what I promise to do
5. not cut corners, even with little things
6. not take the easy way out

Theme:	Integrity Court	
Warm-up:	Clang That Thang	
Feature Athlete:	Robby Hampton	Football
Cast:	Mike McClendon (Judge)	Former Cheer
	Ron Harris (Hightower)	AAO Staff
	Kristy Savoie (Polly Sneakin)	AAO Staff
	Darin Phelan (Wild Child)	AAO Staff
	TaNeisha Verley (Heidi Tidy)	Former Diver
	Josh Foliart (Inspector Gadget)	Football
	Joy Oakley (Gadget's Assistant)	Basketball
Technical Support:	David Sager	

Unit 2: Respect

Definition: recognizing the value in others and treating others as I would like them to treat me.

I Will's

1. listen and pay attention to my parents, teachers, and other caring adults.
2. respond to others with kindness
3. only use other people's things with their permission
4. avoid things that are bad for my mind and body
5. remember that everyone is unique and valuable even if they are different from me.

Theme:	Survivor	
Warm-up:	Clang That Thang	
Feature Athlete:	Julie Sloniger	Volleyball
Cast:	Darin Phelan (Mediator)	AAO Staff
	Matt Swartz (Brandon)	Football
	Kristy Savoie (Katie)	AAO Staff
	Nathan Ball (Ricky)	Football
	TaNeisha Verley (Ricky)	Former Diver
	Nicole Savary (Sally)	Track
	Ron Harris (Gib)	AAO Staff
	David Sager (MC)	AAO Staff
Technical Support:	David Sager	

TOTAL KIDS REACHED PER UNIT: 4,826
6 Middle Schools
3 Communities

Champions of Character
Spring 2001 Report

Unit 3: Honesty

Definition:	being genuine in thought, speech, and action	
I Will's:	1. Not exaggerate to make things seem different than what they are 2. Not start rumors 3. Do my own work 4. Encourage others to tell the truth 5. Admit when I am wrong 6. Not purposely omit part of the truth	
Theme:	Movie Critics and Mr. Huffy	
Warm-up:	Teacher Clang That Thang	
Feature Athlete:	Joy Oakely	Basketball
Cast:	Ron Harris (Sir Rhyme-A-Lot)	AAO Staff
	Darin Phelan (Professor Monotone)	AAO Staff
	Matt Swartz (Mr. Huffy)	Football
	Lora Gresham (Cheerleader)	Pom
	Anna Butt (Cheerleader)	Cheer
	Beth Burnett (Cheerleader)	Cheer
	Kristy Savoie (Cheerleader)	AAO Staff
Technical Support:	David Sager	

Unit 4: Courtesy

Definition:	being considerate of others
I Will's:	1. mind my manners 2. think before I speak 3. not make fun of others 4. share with others 5. not interrupt others
Theme:	Seinfeld
Warm-up:	Clang That Thang

Feature Athlete:	Craig Lile	Golf
Cast:	Darin Phelan (Joe)	AAO Staff
	Kristy Savoie (Jane)	AAO Staff
	TaNeisha Verley (Caf. Lady, Julie)	Former Diver
	Anna Butt (Pat)	Cheer
	Jarod Morrison (Principal)	Football
	Ron Harris (Resource Officer)	AAO Staff
	Extras for video	Pom, Baseball
Technical Support:	David Sager	

Unit 5: Self-Discipline

Definition:	controlling myself without having to be reminded	
I Will's:	1. give 100% in whatever I do 2. control my temper 3. stay focused until my task is complete 4. only put good things in my mind and body 5. spend my time wisely	
Theme:	Star Wars	
Warm-Up:	Galactic Clang That Thang	
Feature Athlete:	James Karanu	Track
Cast:	Darin Phelan (Yoda Nutt)	AAO Staff
	Matt Swartz (Skywalker)	Football
	Kristy Savoie (Princess Leia)	AAO Staff
	Brett Shockley (Chewy Decker)	Football
	Coach McDonnell (himself)	Track Coach

TOTAL KIDS REACHED PER UNIT: 4,826
6 Middle Schools
3 Communities

October 30, 2001

AGENDA SESSION
CITY COUNCIL
NOVEMBER 6, 2001

NEW ITEMS:

1. **TRASH BAGS:** A resolution authorizing the purchase of up to 682,672 purple residential trash bags from Phoenix Recycling for $82,419 or $0.1311 per bag to complete annual budgeted purchase of volume based residential trash bags.

2. **FIRST NIGHT:** Annual presentation from First Night.

3. **LIQUOR STORE PERMITS:** A resolution to request that the alcohol beverage commission issue no additional permits for liquor stores within the City of Fayetteville.

ADDITIONAL INFORMATION:

1. **ANX 01-3.00:** Additional information for Item No.1 under New Business.

2. **RZN 01-20.00:** Additional information for Item No. 2 under New Business.

3. **RZN 01-21.00:** Additional information for Item No. 3 under New Business.

4. **DBE PROGRAM UPDATE:** Additional information for Item No. 5 under New Business.

5. **GRANT REVIEW:** Additional information for Item No. 1 under Informational.

STAFF REVIEW FORM

X Agenda Request
__ Contract Review
__ Grant Review

For the Fayetteville City Council meeting of November 6, 2001

FROM:

Gary Dumas	Solid Waste	Utilities Services Director
Name	Division	Department

ACTION REQUIRED:
Approve resolution authorizing purchase of up to 682,672 purple residential trash bags from Phoenix Recycling for $82,419 or $0.1311 per bag to complete annual budgeted purchase of volume based residential trash bags.

COST TO CITY:

$ 82,419	$ 163,000	Materials & supplies
Cost of this Request	Category/Project Budget	Category/Project Name
5500-5020-5225 00	$ 80,580.30	Residential Pickup
Account Number	Funds Used to Date	Program Name
	$ 82,419.70	Solid Waste
Project Number	Remaining Balance	Fund

BUDGET REVIEW: __Budgeted Item __Budget Adjustment Attached

Budget Manager

Administrative Services Director

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

Marsha Farthing	10/29/01		
Accounting Manager	Date	ADA Coordinator	Date
	10/29/01		10/29/01
City Attorney	Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Approval of the Resolution and Budget Adjustment

Division Head	Date	Cross Reference
	10-30-01	
Department Director	Date	New Item: Yes No
Administrative Services Director	Date	Prev Ord/Res #:
Dan Coody	10/30/01	
Mayor	Date	Orig Contract Date:

New World Systems 4.4 *LIVE* GL1500S1
10/26/01 General Ledger Inquiry
Expense Account Account Status . . . . . . : ACTIVE
5500.5020.5225.00 Budgeted Account/Org. Level: Acct Class 2
Recycling supplies Fiscal Start Month/Year End: 01 2001

Month	Budget	Amendments	Expenses	Encumbrances	YTD Balance
Jan :	166000.00	.00	.00	.00	166000.00
Feb :	.00	.00	.00	.00	166000.00
Mar :	.00	.00	.00	.00	166000.00
Apr :	.00	.00	.00	.00	166000.00
May :	.00	.00	.00	.00	166000.00
June:	.00	.00	.00	.00	166000.00
July:	.00	.00	.00	60330.00	105670.00
Aug :	.00	3000.00-	59463.85	59516.45-	102722.60
Sept:	.00	.00	.00	19971.00	82751.60
Oct :	.00	.00	18971.00	18639.10-	82419.70
Nov :	.00	.00	.00	.00	82419.70
Dec :	.00	.00	.00	.00	82419.70
Total	**166000.00**	**3000.00-**	**78434.85**	**2145.45**	**82419.70**

F3=Exit F10=MTD Bal. F11=Transactions F12=Cancel F22=More Functions

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor and City Council

From: Gary Dumas

Date: Wednesday, September 05, 2001

Subject: Phoenix Bag Purchase

Background

The Solid Waste Division needs to complete the annual purchase of purple trash bags. The current budget forecasted a need for approximately 1,250,000 bags for this calendar year. To date we have purchased approximately 450,000, 32-gallon trash bags plus other smaller sizes. The fall distribution will effectively deplete this and other in-stock inventory. This purchase will be for an additional 628,000 bags.

The purchase will provide for new customers, provide a supply of bags to satisfy missed delivery or missing bags, provide additional bags for existing customers, and provide a 60 day supply of bags if the current program is extended. If the program is modified to provide for retail distribution or other automated systems, any remaining inventory will be incorporated into these modified programs.

Recommendation

Approve resolution authorizing budgeted purchase of volume-based purple trash bags in the amount not to exceed $82,419.

FAYETTEVILLE

PURCHASE ORDER

Each Package Must Be Marked
Exactly As Shown Here
City of Fayetteville, Arkansas

PURCHASE ORDER #
01-0002421-001

DATE 7/10/01

VENDOR NO. 3749

Phoenix Recycling

35 Capers Way
Pawleys Island SC 29585

FOB Fyv

TERMS NET 30 DAY

Qty.	Unit of Issue	Description and Account Number	Unit Price	TOTALS
10000.00	ROLL	a) Plastic Garbage Bags (33 ga) per Bid #01-34 Resolution #83-01 5500.5020.5225.00 $59000.00	5.90	59000.00

SHIP TO: Solid Waste/Recycling
CITY OF FAYETTEVILLE
1560 HAPPY HOLLOW
FAYETTEVILLE AR 72701

Sales Tax Total: $3098.75

Purchase Order Total: 62098.75

Foster, D 318

CONDITIONS

1. Send itemized invoice in duplicate to:
   Accounts Payable
   City of Fayetteville
   113 West Mountain
   Fayetteville, AR 72701
2. Mark all packages with P.O. number as shown above. All orders must be accompanied by a packing slip, quantity shipped and P.O. number.
3. No substitutions without prior approval.
4. Discounts effective to 10th of following month.
5. Orders must be shipped in full unless otherwise notified.
6. F.O.B. Fayetteville unless otherwise agreed upon. No extra for packing and delivery will be allowed.
7. NO C.O.D. ORDERS.
8. Pre-pay freight and add to invoice. Ship to 113 W. Mountain St., Rear Entrance, unless otherwise specified.

CITY OF FAYETTEVILLE

Purchase Requisition

(not a purchase order)

Requisition No.:

Date: 07/02/01

P.O. Number: 01-2421

Expected Delivery Date:

Vendor #: 3749

Vendor Name: Phoenix Recycling

Mail: Yes___ No__XX_

Taxable: Yes__XX_ No____

Address:

FOB Point: Fayetteville, AR

City:

State:

Zip:

Ship To Code: 170

Division Head Approval: Ronnie Caudle by D Foster

Requester: Delia Foster

*Requester's Employee#: 194

Extension: 397

Item	Description:	Quantity	Unit of issue	Unit Cost	Extended Cost	Account Number:	Project/SubProject Number:	Inventory #	Fixed Asset #
1	Plastic Garbage Bags (33 ga)	10000	rl	$5.90	$59,000.00	5500 5020 5225.00			
2	Bid #01-34				$0.00				
3									
4									
5									
6									
7									
8									
9									
10									
11									
	SHIPPING/HANDLING								

RECEIVED
JUL 5 - 2001
PURCHASING

Special Instructions:
PER BID #01-34 RESOLUTION #83-01

Subtotal:________ $59,000.00

Tax:________

Tax:________

TOTAL: $59,000.00

Approvals:

(Purchasing office use only)

Mayor:____________________

Department Director: [signature]

Purchasing Manager: [signature]

Admin. Services Director:____________________

Budget Coordinator:____________________

Data Processing Mgr:____________________

RESOLUTION NO. 83-01

A RESOLUTION APPROVING BID #01-34 TO THE LOW BIDDER PHOENIX RECYCLING IN THE AMOUNT OF FIFTY-NINE THOUSAND DOLLARS ($59,000.00) FOR THE PURCHASE OF PLASTIC GARBAGE BAGS.

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

Section 1. That the City Council hereby Approves Bid #01-34 to the low bidder, Phoenix Recycling, in the amount of Fifty-Nine Thousand Dollars ($59,000.00) for the purchase of plastic garbage bags.

PASSED AND APPROVED this 19 day of June, 2001.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
Heather Woodruff, City Clerk

DRAFT

RESOLUTION NO. ______

A RESOLUTION TO REQUEST THAT THE ALCOHOL BEVERAGE COMMISSION ISSUE NO ADDITIONAL PERMITS FOR LIQUOR STORES WITHIN THE CITY OF FAYETTEVILLE

WHEREAS, A.C.A. §3-4-201 states that "It is declared to be the public policy of the state that the number of permits in this state to dispense vinous (except wines), spirituous or malt liquor shall be restricted;" and

WHEREAS, the number of liquor store permits in any county or political subdivision "shall not exceed a ratio of one (1) permit for every four thousand (4,000) population residing in that county or subdivision;" and

WHEREAS, the number of liquor store permits authorized to liquor stores within the City of Fayetteville should be based solely upon the population residing within the City of Fayetteville and not include the population residing outside the City of Fayetteville within the remainder of Washington County.

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 requests that the Alcohol Beverage Commission of the State of Arkansas not provide additional permits for the sale of alcohol beverages for off premises consumption within the City of Fayetteville's corporate limits above the ratio of one permit for every four thousand (4,000) residents of Fayetteville.

PASSED and **APPROVED** this the _____ day of _________________, 2001.

APPROVED:

By: ___________________________

DAN COODY, Mayor

ATTEST:

By: ___________________________

Heather Woodruff, City Clerk

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, Senior Planner
THRU:	Tim Conklin, A.I.C.P., City Planner
DATE:	October 8, 2001

ANX 01-3.00: Annexation (Hendricks/Harper, pp 321) was submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	**Required**	**YES**
	O Approved	**O Denied**
Date: October 8, 2001		
CITY COUNCIL ACTION:	**Required**	**YES**
	O Approved	**O Denied**
Date: November 6, 2001 (1st reading)		

Comments: ______________________________

H:\USERS\COMMON\DAWNT\REPORTS\PC\10-8-01\HENDRICKS.DOC

BACKGROUND:

The subject property adjoins the Bridgeport Subdivision to the south and the Fairfield Subdivision to the west. These recent subdivision developments have surrounded this property. As the Bridgeport subdivision was designed, the developer approached these property owners with a contract to allow for easements to cross the subject property to provide access to utilities and drainage for the proposed subdivision. As a part of that agreement, the developer of Bridgeport promised connections to water and sewer for the subject property. The City was not a party to this contract and only became aware of the conditions of the agreement after it had been put into place and the applicant requested sewer taps.

The applicant is not requesting a rezoning with this annexation. The property, if annexed, will maintain an A-1, Agricultural designation. Maximum density on this property if zoned A-1 would be 4 units.

SURROUNDING LAND USE AND ZONING

North: Residential, Washington County
South: Single family dwellings, R-1 (Subdivision under construction)
East: Residential, Washington County
West: Residential, County / Single family dwellings, R-1 (Subdivision to be constructed)

INFRASTRUCTURE:

Access to this property is from Sunshine Road, a Washington County road. A new access drive was also created for this property from Constitution Drive within the Bridgeport Subdivision. Water and sewer are available to the site however sewer cannot be connected without annexation or a contract agreement between the City and the property owners.

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

§ 161.03 DISTRICT A-1 AGRICULTURAL.

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

B. Uses.

1. Permitted Uses.

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

2. Uses Permissible on Appeal to the Planning Commission.

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

C. Bulk and Area Regulations.

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

D. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
35	20	35

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

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Don Bunn, Public Works
From: Heather Woodruff, City Clerk
Date: June 18, 2001

Attached is a copy of the resolution regarding Don Hendricks sewer service. The original will be microfilmed and filed with the City Clerk.

cc: Tim Conklin, Planning

RESOLUTION NO. 77-01

A RESOLUTION APPROVING A REQUEST TO PROVIDE CITY SEWER SERVICE FOR TWO (2) SEWER TAPS ON PROPERTY OWNED BY DON AND DONNA HENDRICKS LOCATED OUTSIDE THE CITY LIMITS.

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

Section 1. That the City Council hereby Approves a request to provide city sewer service for two (2) sewer taps on property owned by Don and Donna Hendricks located outside the city limits, on condition that Don and Donna Hendricks apply for annexation in the near future and the City will waive its annexation fee.

PASSED AND APPROVED this 5 day of June, 2001.

APPROVED:

By: Dan Coody
DAN COODY, Mayor

ATTEST:

By: Heather Woodruff
Heather Woodruff, City Clerk

AGENDA REQUEST FORM

Council Meeting of June 1, 2001 Mayor's Approval ____

FROM Don Bunn (Name) Public Works Admin (Division) Public Works (Department)

ACTION REQUIRED Approval or denial of a request to provide sewer service outside of the City Limits.

COST TO CITY

$ -0- Cost of this Request	$ ____ Category/Project Budget	____ Category/Project Name
____ Account Number	____ Funds Used to Date	____ Program Name
____ Project Number	$ ____ Funds Remaining	____ Fund Category

BUDGET/CONTRACT REVIEW ____ Budgeted Item ____ Budget Adj. Attached

Budget Coordinator	Date	Admin Services Director	Date
Accounting Manager	Date	ADA Coordinator	Date
City Attorney	Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION No recommendation

Don Bunn (signature) Ass't Public Works Director	17 MAY '01 Date
Department Director	Date
Admin Services Director	Date
Mayor	Date

Cross Reference

New Item: Yes No

Prev Ord/Res # ____

Orig. Contract #

Orig. Contract Date ____

Orig. Contract Number ____

City of
Fayetteville

DEPARTMENTAL CORRESPONDENCE

May 16, 2001

To: Fayetteville City Council

From: Donald Bunn, Asst. PW Director DB
Thru: Mayor Dan Coody

Subject: Request for Sewer Service Outside City Limits
Don and Donna Hendricks
2090 Sunshine Road

Attached is a letter from Don and Donna Hendricks requesting sewer service for their house and a house occupied by their grandson. The Hendricks property is located south of Sunshine Road and north of and adjacent to Bridgeport Subdivision, Phases 4, 5, and 6. The Bridgeport property is inside the City Limits, therefore, the Hendricks property is adjacent to the City Limits.

I have attached two plats showing the Hendricks property and their location with respect to the City Limits and the City's sewer mains. You will note that the larger scale plat clearly shows two existing sewer line crossing the property. The east-west sewer line crossing their property along the north side has been in place for over 30 years. The sewer line shown cross their property going south has just recently been installed by the developers of the Bridgeport Subdivision.

Some clarification items mentioned in the Hendricks letter is necessary. The contract mentioned in the letter is between the Mr. and Mrs. Hendricks and the developers of the Bridgeport Subdivision, the City is not a party to that contract. The contract requirements to provide water hookups, sewer taps, and a fire hydrant were commitments made by the developer to Mr. and Mrs. Hendricks in exchange for granting the City the necessary easements to serve the Subdivision. They were not commitments made by the City.

The two "sewer taps" issued by the Inspections Department in April were actually plumbing permits. The sewer taps are in place, having been put in by the developer at the time the sewer line was installed. The Inspection Department was aware at the time the plumbing permits were issued that they were for houses outside the City Limits, however, it was their understanding that City Council permission would be obtained before the taps would be utilized.

This request is specifically to allow the utilization of two sewer taps without having to annex into the City. The subject property is adjacent to the city limits and therefore could annex by petition.

It has been the policy of the City to not grant sewer taps outside of the City Limits, especially in cases where the property in question can be annexed. The purpose of the policy is to encourage annexation to the City whenever possible.

RECEIVED
APR 24 2001

APR 24 2001

Don & Donna Hendricks
2090 Sunshine Road CR 877
Fayetteville AR 72704

Fayetteville City Council
City Administration Building
Fayetteville AR 72701

April 23, 2001

Dear Council Members:

We are applying to you for permission to tie on to the city sewer line running through our property at 2090-2096 Sunshine Road. Several months ago, we signed permission to Bridgeport Subdivision to cross out property with the necessary sewer lines for their Bridgeport project to proceed. This contract was submitted to the Planning Commission per their instructions and approved by that group.

The terms of the contract stipulated that two (2) water hookups, two (2) sewer taps and one (1) fire hydrant were items in the contract and also gave the city easement rights. Of the two (2) sewer taps, one is 30 feet from our house and the other is approximately 60 feet from our grandson's house.

We would like to point out that there is already a flow sewer line through to the pump station and a pressure sewer line sending these contents back to the disposal plant. There are also six (6) manholes on our property. It would be ludicrous to put in a septic tank and have the runoff eventually enter Hamestring Creek.

Now we are experiencing difficulty from the city in using these agreed upon taps. We were issued a sewer tap on April 5, 2001 by Jan. I made it very clear that we were NOT in the city and she sent me to Washington County 911 for an address verification. I obtained that verification and paid the $40.00 and received my permit. The next day, Jan called my grandson's wife with a threat of "coming out to smoke your homes" and if we are hooked to the sewer the City would disconnect the sewer line and take out our water meters.

Our grandson's wife had also been issued a water tap permit on April 17, 2001. Now we are told that although there is a permit for the water tap, the City hasn't approved Phase 5 of Bridgeport and we cannot have water from the Bridgeport Addition. Needless to say, this is a very frustrating experience.

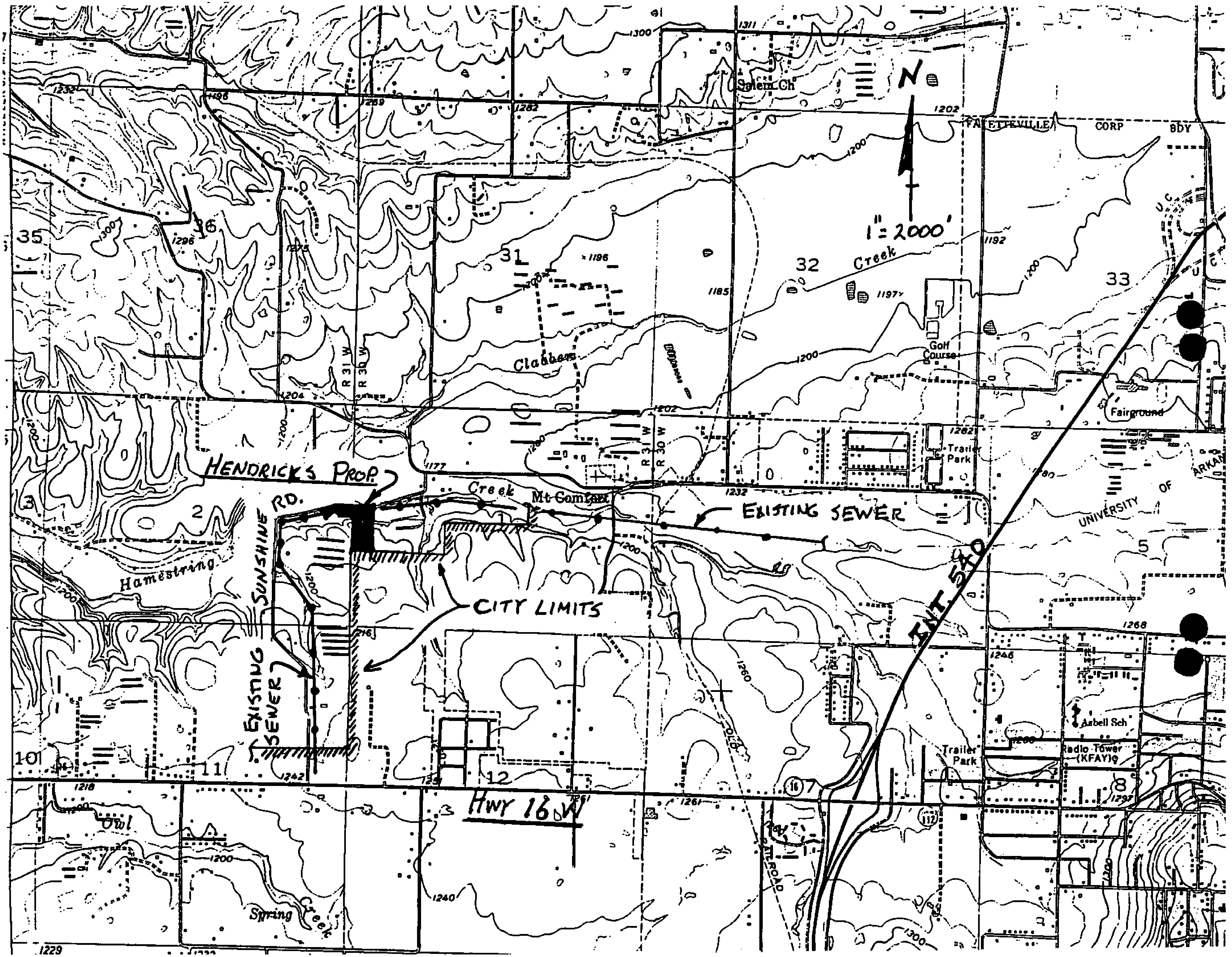
One suggestion has been that we apply for "coming into the city". While we realize that this is a possible and probably plausible route, Donna and I are nearly 70 years old and for many years planned to retire on our little country acreage, hopefully avoiding the property taxes that reached such outrageous proportions on our town home.

We feel that by allowing this sewer project, we have helped to provide the city of Fayetteville with a good deal of revenue from the additional homes this sewer project will afford. Your own city workers have pointed out that there are numerous homes outside the city limits with City sewer taps.

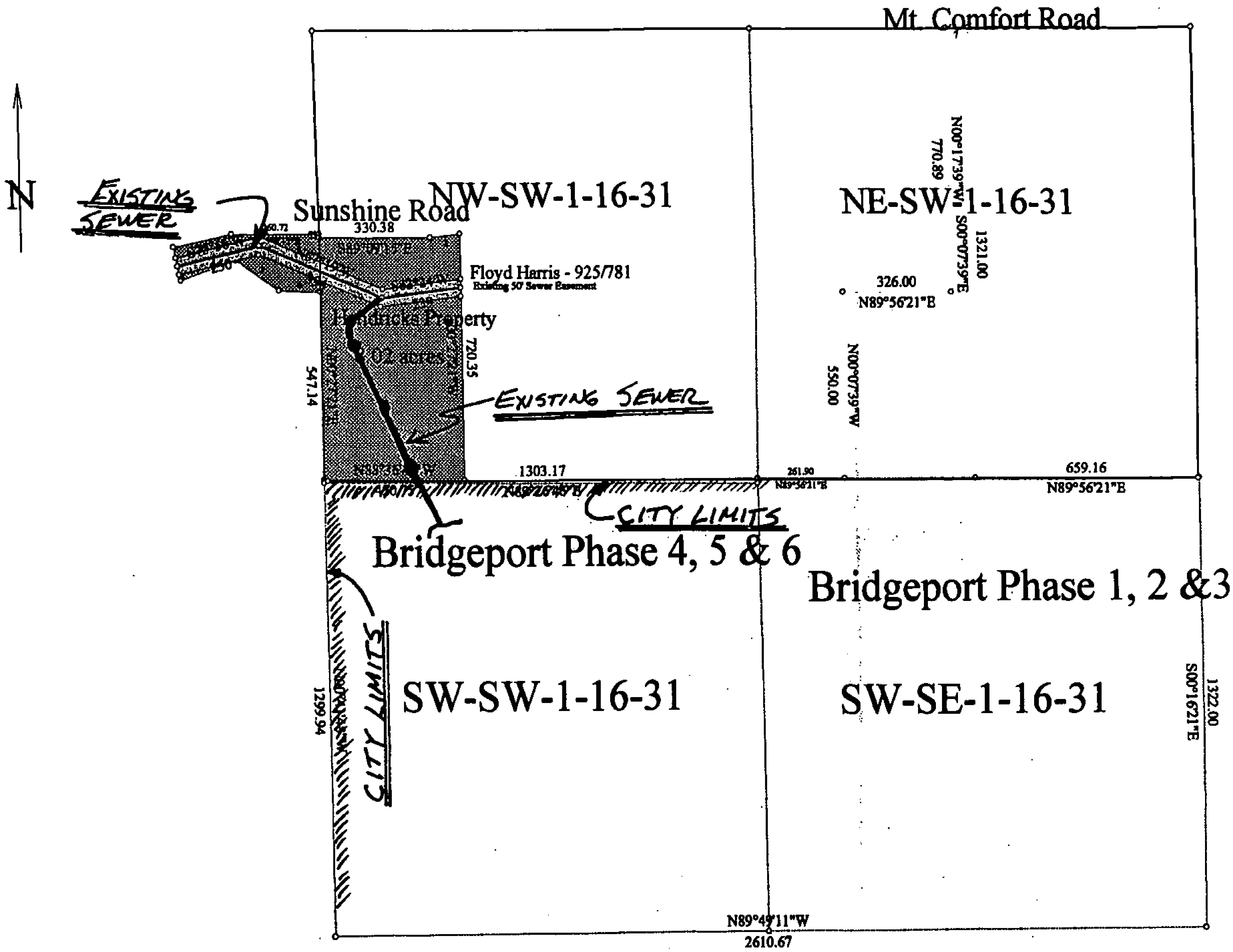
We will certainly appreciate your approval of our application.

Sincerely,

Don & Donna Hendricks



N
1" = 2000'
HENDRICKS PROP.
SUNSHINE RD.
EXISTING SEWER
CITY LIMITS
EXISTING SEWER
HWY 16 W
INT. 540
FAYETTEVILLE CORP BDY
Salem Ch
Golf Course
Fairground
UNIVERSITY OF ARKANSAS
Trailer Park
Mt Comfort
Creek
Clabber
Hamestring
Spring Creek
Owl
Asbell Sch
Radio Tower (KFAY)
OLD RAILROAD
R 31 W
R 30 W



Disk: 2001-Misc

Title: Hendricks Property: 1-16-31	Date: 05-16-2001
Scale: 1 inch = 400 feet	File: Hendrix-PP360.des

RECEIVED
MAY 22 2001
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

DON & DONNA HENDRICKS
2090 Sunshine Road CR 877
Fayetteville AR 72704

Mayor Dan Coody
Fayetteville City Administration Bldg
Room 315
Fayetteville AR 72701

May 21, 2001

RE: WATER & SEWER
2090 & 2096 Sunshine Road

When speaking with Mr. Bunn last Thursday in reference to testing our water lines, he remarked that Mr. Petree was going to ***try*** to get our problem on the agenda for the next City Council meeting.

I don't understand the "***try***". We were supposed to have been on the last agenda but due to someone's vacation this didn't happen.

Donna and I are respectfully asking you to kick someone's a__ and get this on the agenda, which I understand is on the 29th.

Thank you,

Don Hendricks

Donna Hendricks

IN THE COUNTY COURT OF ~~BENTON~~ Washington COUNTY, ARKANSAS

IN THE MATTER OF ANNEXING TO THE CITY OF FAYETTEVILLE, ARKANSAS, CERTAIN PROPERTIES CONTIGUOUS TO SAID CITY OF WASHINGTON COUNTY, ARKANSAS

CASE NO. CC 2001-18

FILED
'01 AUG 27 AM 10 46
MARILYN EDWARDS
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

PETITIONERS:

DON & DONNA HENDRICKS, ERIC & TAMMIE HARPER
ENGINEERING DESIGN ASSOCIATES, P.A. *(Agent)*

DECREE OF ANNEXATION

On this 27th day of August, 2001, a day of the regular term of the County Court of Washington County, Arkansas, there is presented to the court by the Petitioners or Engineering Design Associates, P.A., their agent, a Petition for annexation of certain territory, hereinafter more particularly described, to the City of Fayetteville, Arkansas, and the Court being fully advised of the facts and the law, doth hereby find, judge and decree as follows:

1. The Court finds that the Petition for annexation was filed in the office of the Clerk of this Court more than thirty (30) days prior to this date.

2. The Court doth find that a majority of the total number of real estate owners in the area affected by the Petition have signed said Petition and that such majority owns more than one-half of the acreage affected.

3. The Court further finds that the territory sought to be annexed was accurately described in said Petition, or as amended, and that said territory is contiguous to the boundaries of the City of Fayetteville, Arkansas.

4. The Court further finds that attached to and made a part of said Petition is an accurate map of the territory sought to be annexed to the City of Fayetteville, Arkansas.

5. The Court further finds that the prayer of the Petition is right and proper.

WHEREFORE, THE COURT DOTH HEREBY ORDER, JUDGE AND DECREE that the following described territory be and the same is hereby annexed to and made a part of the City of Fayetteville, Arkansas, to-wit:

TRACT 1 - LEGAL DESCRIPTION - DON & DONNA M. HENDRICKS:

Warranty Deed 972-701

A part of the Northeast Quarter of the Southeast Quarter of Section 2 and a part of the Northwest Quarter of the Southwest Quarter of Section 1 all in Township 16 North of Range 31 West, described as beginning at a point South 00 degrees 27 minutes 21 seconds West 611.48

feet from the North common corner of said 40 acre tract, said point of beginning being the intersection of the East boundary of said Northeast Quarter of the Southeast Quarter of Section 2 and the center line of the County Road; thence along the centerline of said County Road the following bearings and distances: South 89 degrees 09 minutes 15 seconds East 330.38 feet, North 84 degrees 10 minutes 44 seconds East 90.98 feet; thence departing said center line and running South 00 degrees 27 minutes 21 seconds West 720.35 feet to the South Boundary of said Northwest Quarter of the Southwest Quarter of Section 1; thence North 88 degrees 56 minutes 49 seconds West 420.75 feet; thence North 00 degrees 27 minutes 21 seconds East 547.14 feet to the centerline of Hame String Creek; thence along the centerline of said Creek the following bearings and distances: North 87 degrees 13 minutes 40 seconds West 124.90 feet; thence North 53 degrees 45 minutes 14 seconds West 153.74 feet, South 71 degrees 14 minutes 29 seconds West 172.96 feet to a fence; thence leaving the centerline of said Creek and running North 11 degrees 09 minutes 09 seconds West 100.00 feet to the centerline of the County Road; thence along the centerline of said County Road North 78 degrees 40 minutes 20 seconds East 176.00 feet; thence along said centerline of the County Road South 89 degrees 09 minutes 15 seconds East 260.72 feet to the point of beginning, containing 8.02 acres, more or less. Subject to that part along the North side embraced in the right of way of the County Road. LESS AND EXCEPT 30 feet off the North side for said County Road.

TRACT 2 - LEGAL DESCRIPTION - ERIC AND/OR TAMMIE HARPER

Warranty Deed 2001-7374

A part of the Northwest Quarter of the Southwest Quarter of Section 1, Township 16 North, Range 31 West described as beginning at a point which is South 88 degrees 56 minutes 49 seconds East 420.75 feet and North 0 degrees 27 minutes 21 seconds East 34.00 feet from the Southwest corner of said 40 acre tract; thence N 88 degrees 56 minutes 49 seconds West 180.00 feet thence North 1 degree 3 minutes 11 seconds East 190.00 feet; thence South 88 degrees 56 minutes 49 seconds East 178.00 feet; thence South 0 degrees 27 minutes 21 seconds West 190.00 feet to the point of beginning, containing 0.78 acres, more or less, Washington County, Arkansas.

THE COURT DOTH FURTHER ORDER that this Order be delivered to the County Clerk for the same to be properly recorded upon the records of Washington County, Arkansas, and the Clerk, after properly recording and filing the same, prepare transcripts and deliver on of the certified transcripts to the City of Fayetteville, Arkansas, one copy to the Secretary of State, and one copy to the Director of the Tax Division of the Arkansas Public Services Commission.

By: ______________________
County Judge

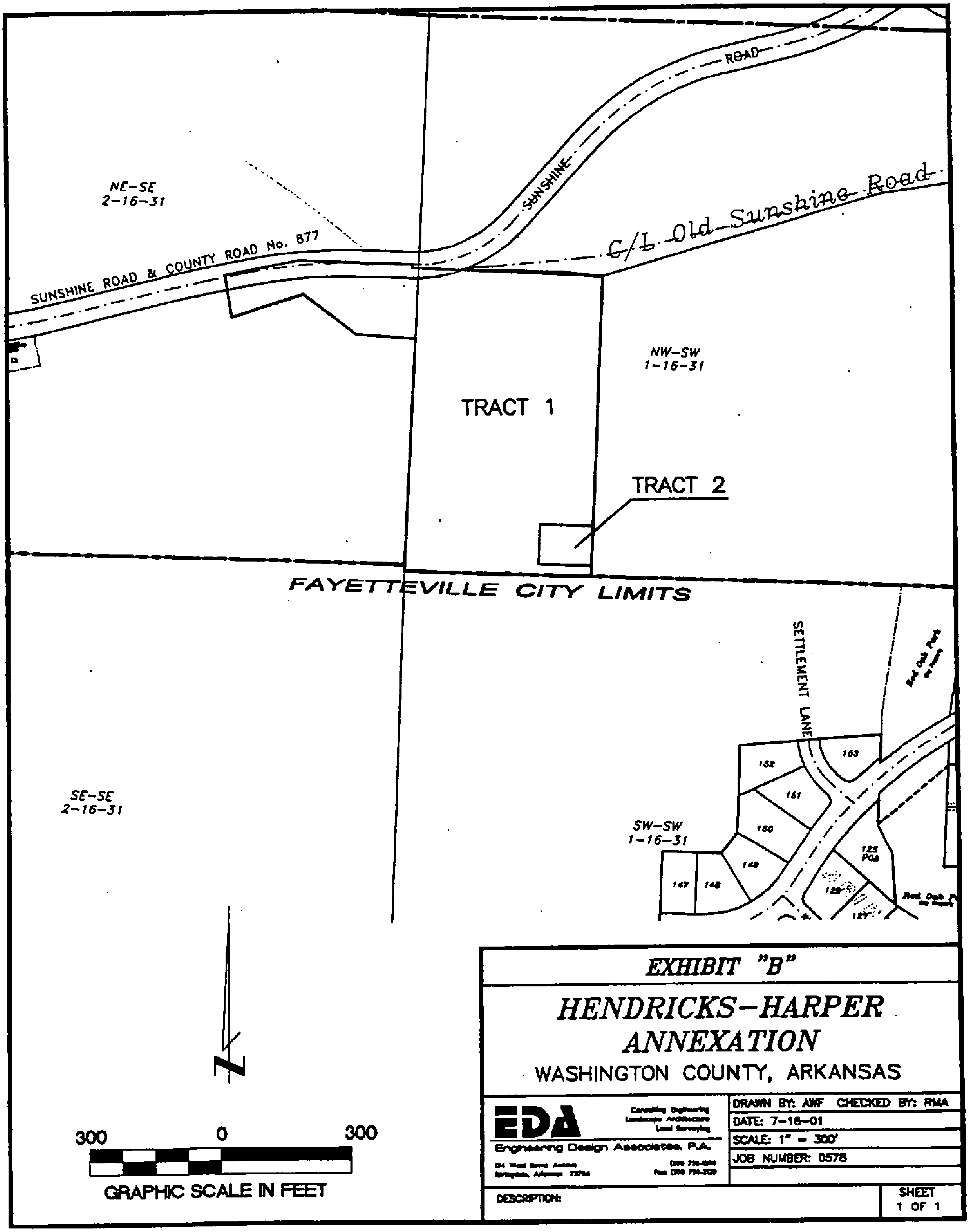


EXHIBIT "B"

HENDRICKS–HARPER ANNEXATION

WASHINGTON COUNTY, ARKANSAS

EDA
Consulting Engineering
Landscape Architecture
Land Surveying
Engineering Design Associates, P.A.

DRAWN BY: AWF CHECKED BY: RMA
DATE: 7-18-01
SCALE: 1" = 300'
JOB NUMBER: 0578

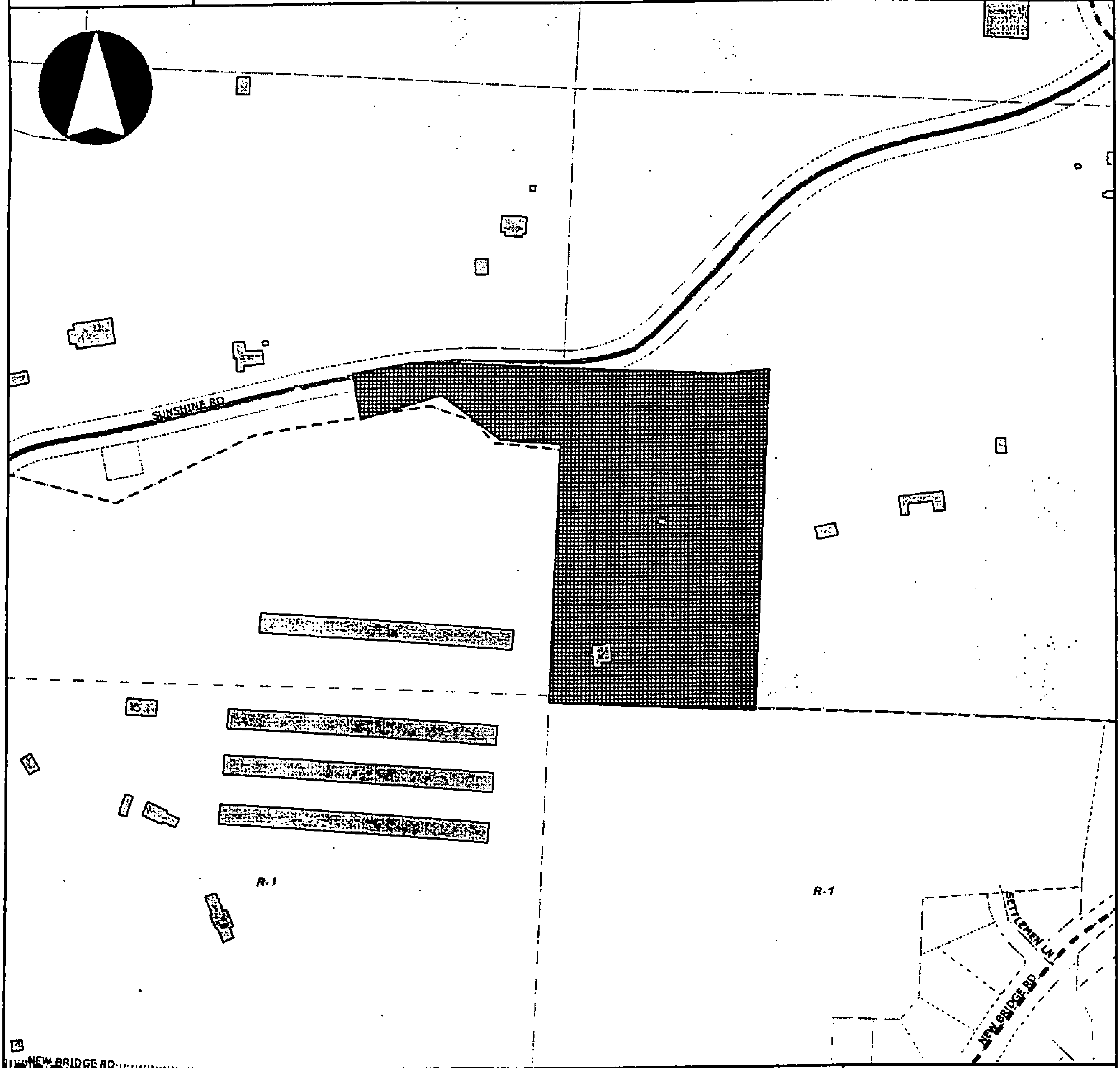
DESCRIPTION:

SHEET 1 OF 1

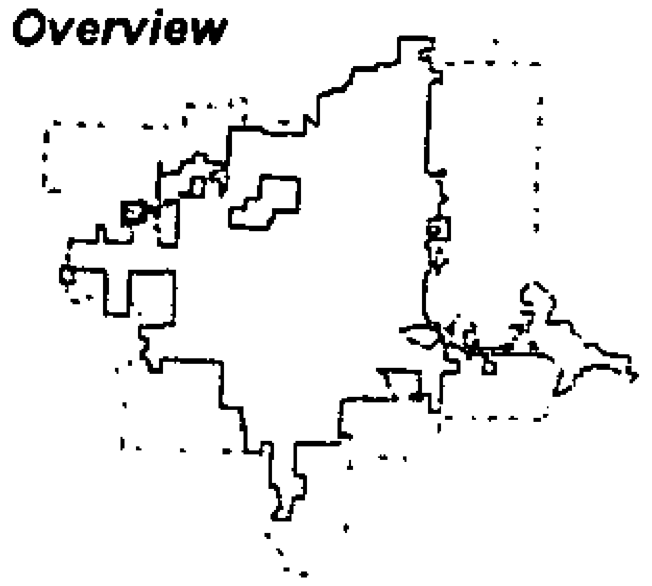
ANX01-03.00

Close Up View

HENDRICKS/HARPER



Overview



Legend

Subject Property
anx01-3.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

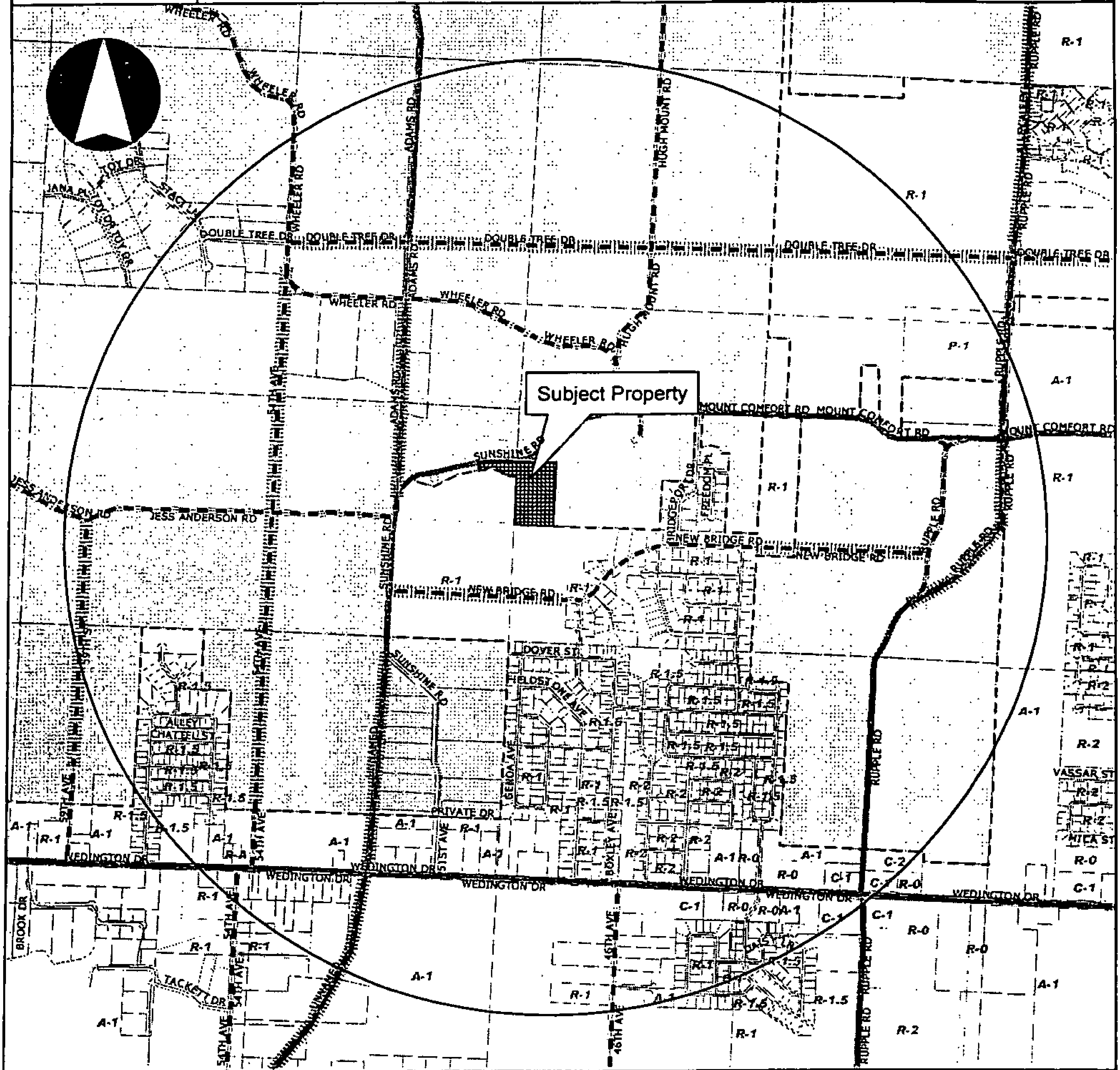
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 100 200 400 600 800 Feet

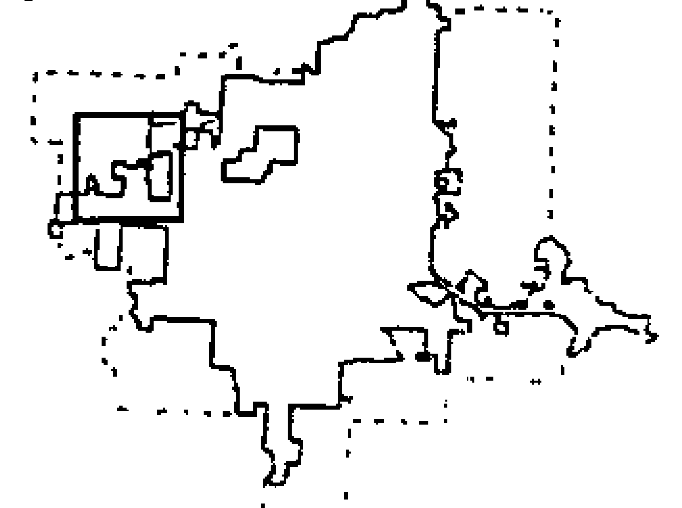
ANX01-03.00

One Mile View

HENDRICKS/HARPER



Overview



Legend

Subject Property
ANX01-03.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

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

0 0.125 0.25 0.5 0.75 1 Miles

Annexation / Rezoning
Level of Service Report

Division: Street **Date:** 10-5-01

Name / Title: Randy Allen / Street Superintendent

Project: **ANX 01-3.00: Annexation (Hendricks/Harper, pp 321)** was submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area.

Please provide comments regarding the impact of the proposed annexation which will be forwarded to the Planning Commission and City Council for their consideration when reviewing these requests. Responses and additional information may be continued on the back of this report or on additional pages as necessary.

1. Current level and/or type of service provided (describe):

None

2. Statement regarding the impact of the proposed annexation on the level and/or type of service provided by your division:

Gravel street will have to be graded and gravel added periodically. City does not want any gravel roads since they are costly to maintain. Road will need to be improved (paved) at some point in the future. (A taxpayer cost). Also, the right-of-way will need maintenance. (mowing, cleaning, shoulder work). Signage may also be needed on the annexed Right-of-way.

H:\USERS\COMMON\FORMS\hendricks.doc

Annexation / Rezoning
Level of Service Report

Division: INSPECTION **Date:** 10-3-1

Name / Title: BERT RAKES, INSP. DIV. DIR.

Project: **ANX 01-3.00: Annexation (Hendricks/Harper, pp 321)** was submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area.

Please provide comments regarding the impact of the proposed annexation which will be forwarded to the Planning Commission and City Council for their consideration when reviewing these requests. Responses and additional information may be continued on the back of this report or on additional pages as necessary.

1. Current level and/or type of service provided (describe):

PERMIT & INSPECT PLUMBING IF SERVED BY CITY WATER.

2. Statement regarding the impact of the proposed annexation on the level and/or type of service provided by your division:

PERMITTING & INSPECTION SERVICES PERFORMED INSIDE CITY LIMITS INCLUDING BUILDINGS, PROPERTY & SIGNS.

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, Senior Planner
THRU:	Tim Conklin, A.I.C.P., City Planner
DATE:	October 8, 2001

RZN 01-20.00: Rezoning (Pancake, pp 522) was submitted by Colleen M. Pancake for property located at 302 S. Gregg Street. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.16 acres. The request is to rezone to R-S, Residential Small Lot.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	**Required**	**YES**
	O Approved	**O Denied**
Date: October 8, 2001		
CITY COUNCIL ACTION:	**Required**	**YES**
	O Approved	**O Denied**
Date: November 6, 2001 (1st reading)		

Comments: ______________________________

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BACKGROUND:

This application is being processed by the City of Fayetteville on behalf of Ms. Pancake, the property owner. The subject property is developed with one single family home and is currently zoned I-1, Heavy Commercial / Light Industrial. The zoning of the property causes the use to be nonconforming even though the site has existed with a residential for many years and surrounding properties are in the same condition. Most of the properties in this area contain small single family residences.

The owner has worked with the City's Community Development Division to obtain CDBG (Community Development Block Grant) money in order to perform needed repairs which will bring the structure into compliance with building code regulations. A City Inspector has looked at the structure and has stated that it is basically sound. As long as zoning is made compliant, a permit could be issued for the needed improvements / repairs.

If City Council approves this zoning request, the Board of Adjustment will still need to hear a variance request for the front and north sides of the building (the structure does not comply with setback requirements for a residential property).

SURROUNDING LAND USE AND ZONING

North: Residential, I-1
South: Residential, I-1
East: Residential, I-1
West: Residential, I-1

INFRASTRUCTURE:

This property is located on South Gregg Ave. between Center St. and University Ave. Gregg Ave. in this location is fairly narrow with no sidewalks. The street serves the adjacent residential areas, however, it would be absolutely inadequate to serve industrial development in this area. Railroad tracks are located immediately behind the subject property and also to the west between Gregg Ave. and University Ave.

Water and sewer are both available and currently serve this site.

LAND USE PLAN: General Plan 2020 designates this site Mixed Use. Rezoning this property to RS, Residential Small Lot is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: **RS zoning is consistent with the Future Land Use Plan and reflects the current use of the site.**

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

Finding: **The proposed zoning is justified in that it brings the property into compliance with the City's adopted General Plan. This zoning is compatible with adjacent uses. A rezoning in this location is necessary for substantial repairs and improvements to be made to the existing nonconforming structure.**

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 appreciable increase traffic danger and congestion.**

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

Finding: **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

§161.11 DISTRICT RS RESIDENTIAL SMALL LOT.

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

B. Uses.

1. Permitted Uses.

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

2. Uses Permissible on Appeal to the Planning Commission.

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

C. Density.

	By Right	Conditional Use
Single-Family Dwelling Units Per Acre	7 or Less	8.5
Duplex	--	Option:
and/or Townhouse		15% of the Lots, Maximum

D. Bulk and Area Regulations.

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

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	08	20

Cross Reference: Variance, Chapter 156.

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

G. Height Regulations.

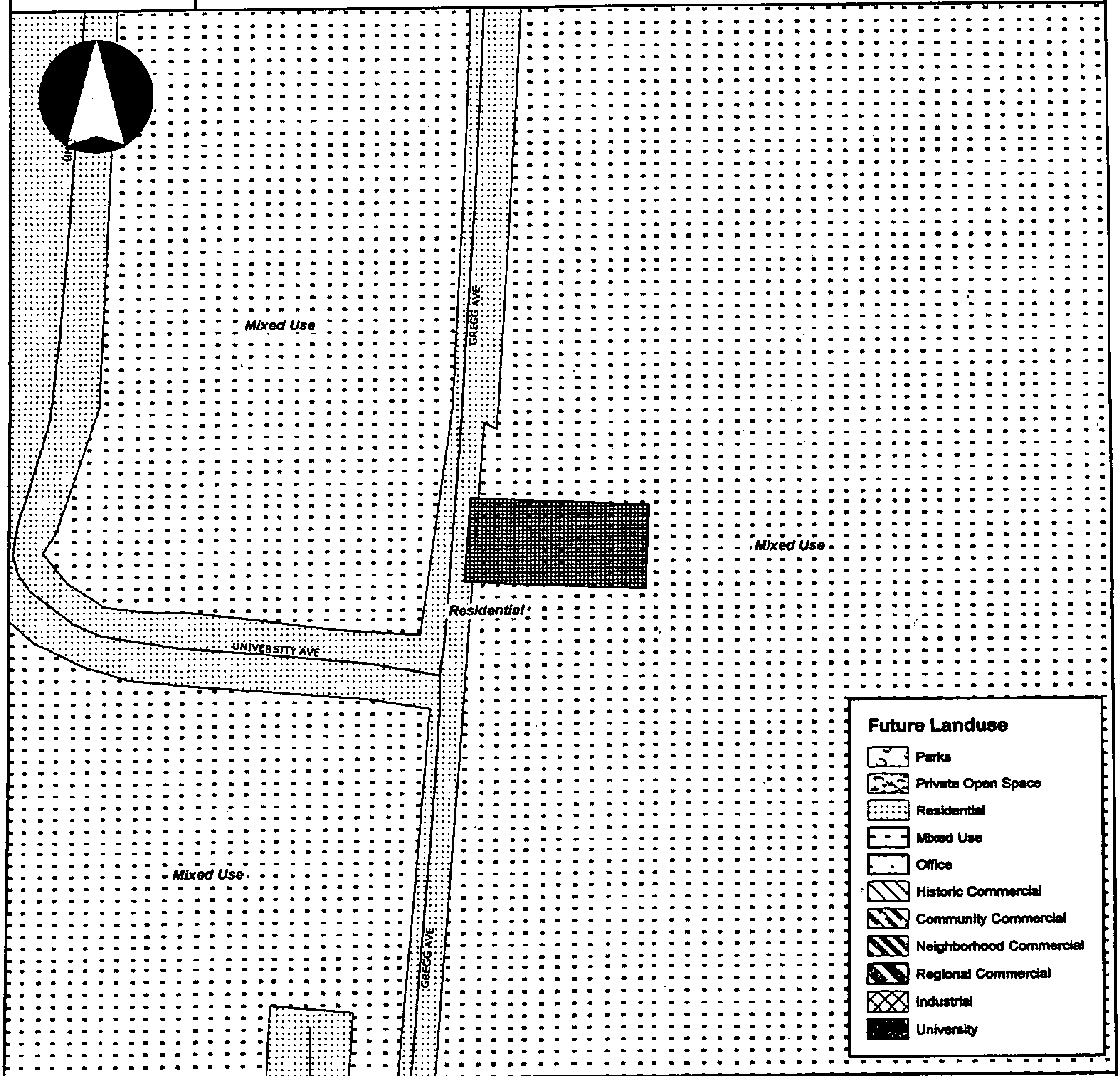
Building Height Maximum	30 ft.

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

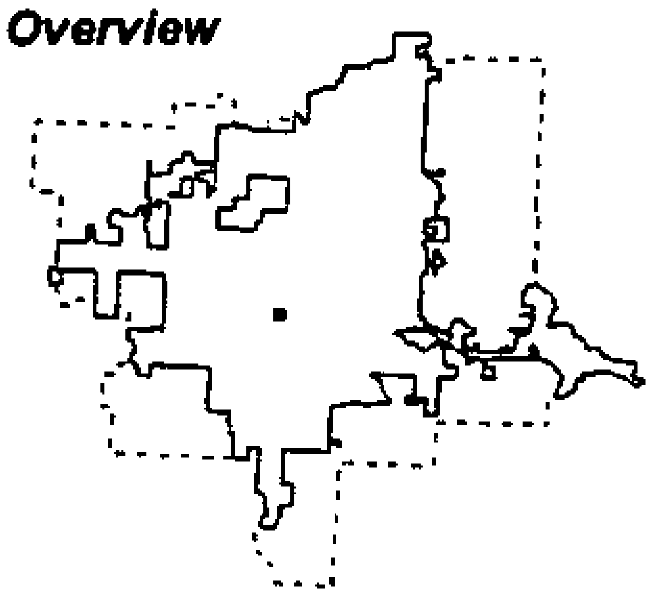
RZN01-20.00

Future Landuse

PANCAKE



Overview



Legend

Subject Property RZN01-20.00

Streets Existing, Planned

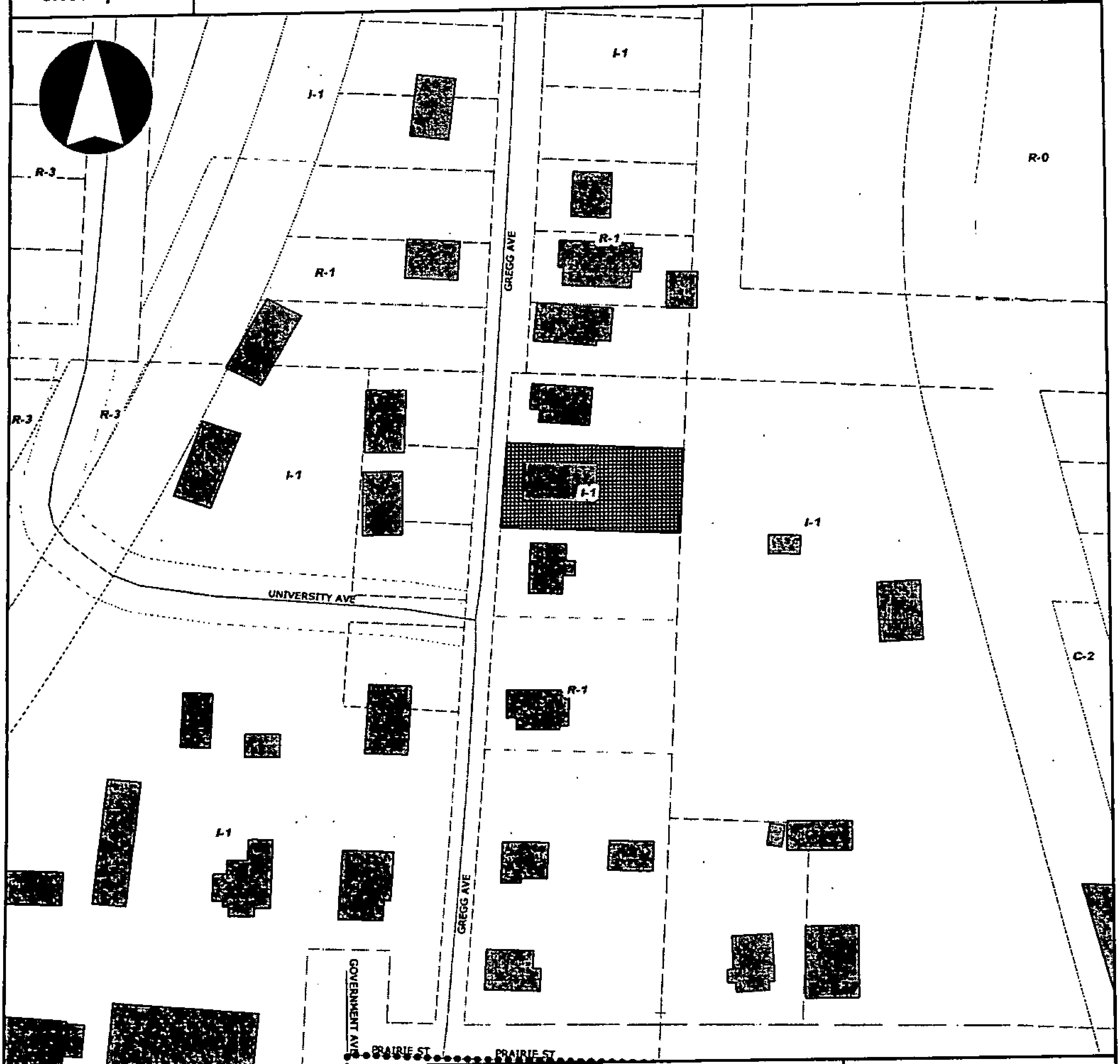
Boundary Planning Area, Overlay District, City Limits

0 25 50 100 150 200 Feet

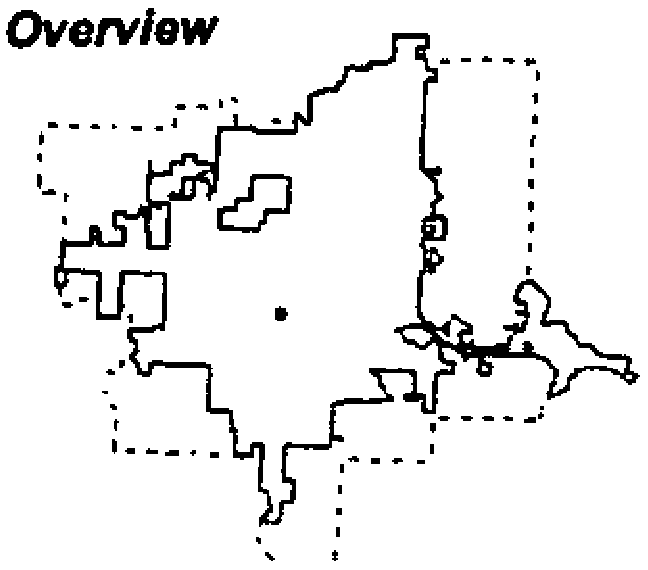
RZN01-20.00

Close Up View

PANCAKE



Overview



Legend

Subject Property

RZN01-20.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

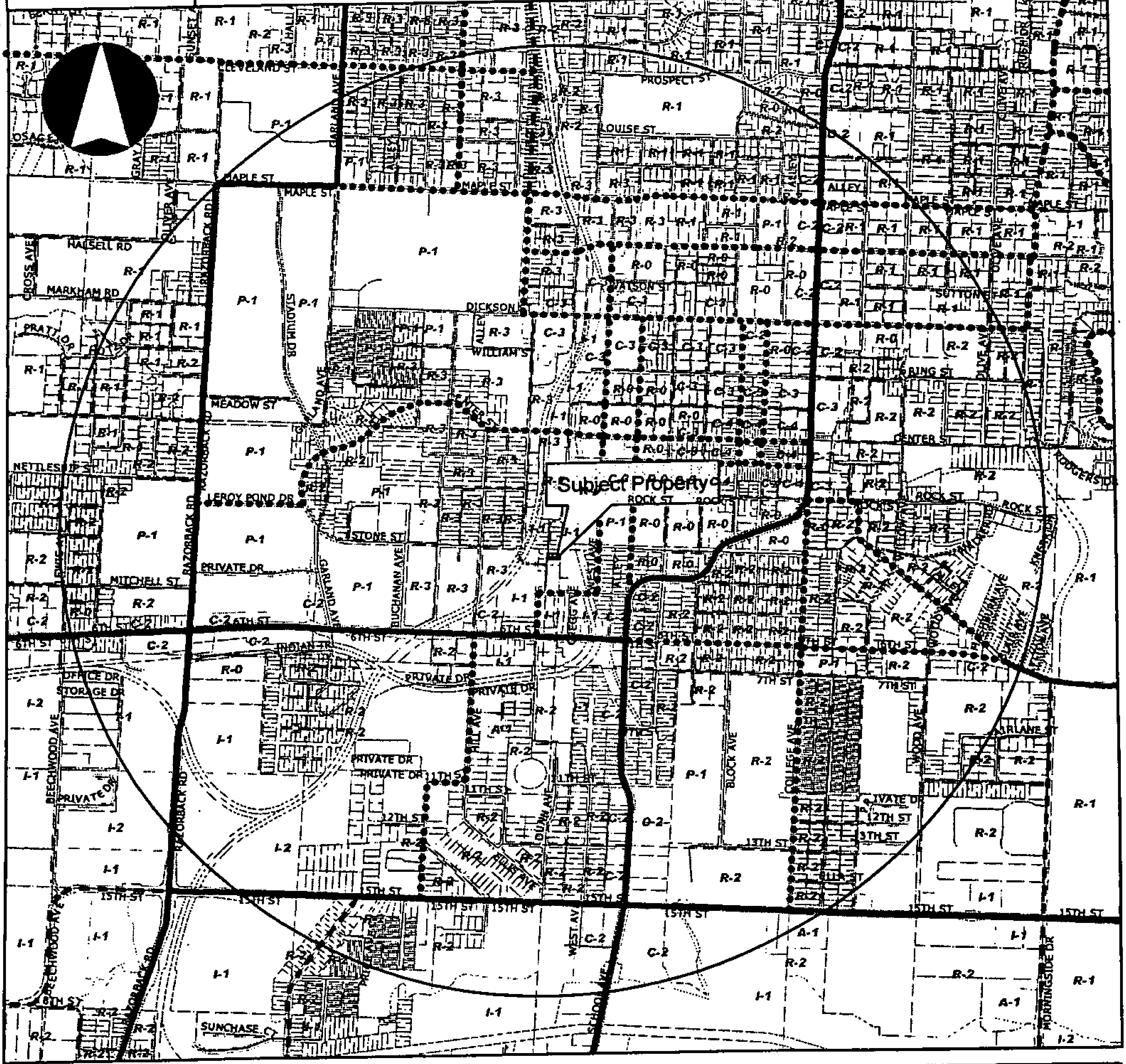
Minor Arterial

Collector

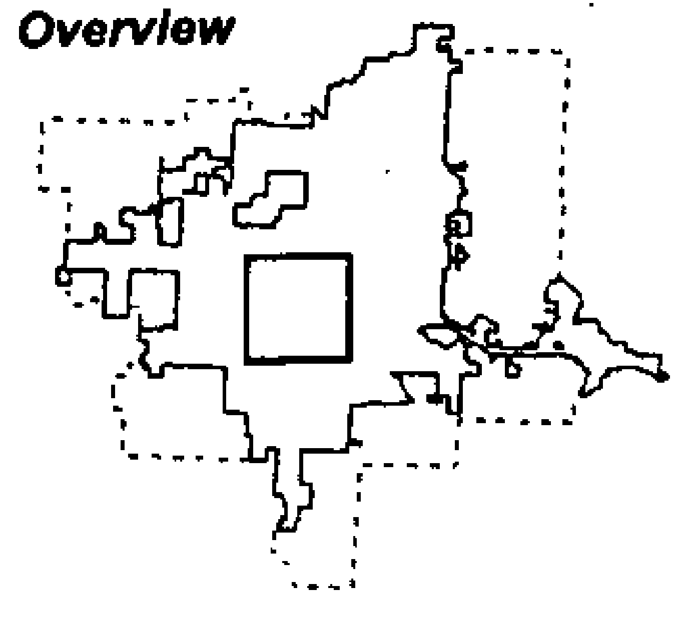
Historic Collector

0 25 50 100 150 200 Feet

RZN01-20.00	PANCAKE
One Mile View	



Overview



Legend

Subject Property
rzn01-20.00

Streets
Existing
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City Limits
Outside City

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

0 0.125 0.25 0.5 0.75 1 Miles

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, Senior Planner
THRU:	Tim Conklin, A.I.C.P., City Planner
DATE:	October 8, 2001

RZN 01-21.00: Rezoning (Sager/Guisinger, pp 325) was submitted by Chris Brackett of Jorgensen & Associates on behalf of Louise Sager and Paul Guisinger for property located west of Shiloh Drive, east of Deane Soloman Road and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 1.02 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**	
	O Approved	**O Denied**
Date: October 8, 2001		
CITY COUNCIL ACTION:	**Required** **YES**	
	O Approved	**O Denied**
Date: November 6, 2001 (1st reading)		

Comments: ______________________

H:\USERS\COMMON\DAWNT\REPORTS\PC\10-8-01\FARM_CREDIT.DOC

BACKGROUND:

The subject property is located near the northwest corner of I-540 and Mt. Comfort Road. This is at the turn in Mt. Comfort where it becomes Porter Road to the south. The property between this tract and Mt. Comfort Rd. is a part of the University of Arkansas Experimental Farm and is outside the City Limits.

The applicant wishes to change the zoning designation of this 1.02 acre tract from A-1, Agricultural to C-1, Neighborhood Commercial. The property is expected to be developed as an office building for Farm Credit Services if the rezoning and an pending large scale development are approved.

This property is currently vacant and is located within the Design Overlay District. The Future Land Use Plan identifies this area as Regional Commercial.

SURROUNDING LAND USE AND ZONING

North: Residential / Vacant, A-1
South: University (outside City Limits)
East: I-540
West: Residential / Vacant, A-1

INFRASTRUCTURE:

Access to this property is from Shiloh Drive. Shiloh Drive is designated a collector on the Master Street Plan which is designed to carry 4,000 to 6,000 vehicles per day when constructed to that standard. Shiloh in this location is a two way access road adjacent to I-540.

There is an existing 8" water line along Shiloh Dr. Sewer will have to be extended by the developer to serve this site.

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

FINDINGS OF THE STAFF

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

Finding: **This area is designated to serve as a linear commercial district along I-540. The General Plan calls this site out to be Regional Commercial. The requested zoning of C-1, Neighborhood Commercial meets the intent of this policy document.**

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

Finding: **The proposed zoning is justified in that it is consistent with the City's adopted land use policy. It is needed in order to develop any commercial uses in this general area which is largely undeveloped or residential and currently zoned A-1.**

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

Finding: **The proposed zoning will increase traffic in this area. Shiloh Drive is designated a collector on the Master Street Plan which is designed to carry 4,000 to 6,000 vehicles per day when constructed to that standard. Shiloh in this location is a two way access road adjacent to I-540.**

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)

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (501) 442-9127 • FAX (501) 582-4807
DAVID L. JORGENSEN, P.E., P.L.S. THOMAS HENNELLY, P.E.

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

10-3-01

Att: Planning Dept.
Re : Rezoning of Guisinger Property

Attached herewith please find the legal description of the Guisinger Property to be rezoned.

The request is to rezone from A-1 to C-1. The property is just west of Shiloh Drive and I-540. This property is a portion of the Guisinger property, which is to the north and west. Property to the south is a vacant lot at the corner of Porter Rod and Shiloh Dr.

We feel that this request to rezone to C-1 will fit in with the surrounding area.

There is an existing 8" waterline along Shiloh Drive. Sewer will be extended to this property.

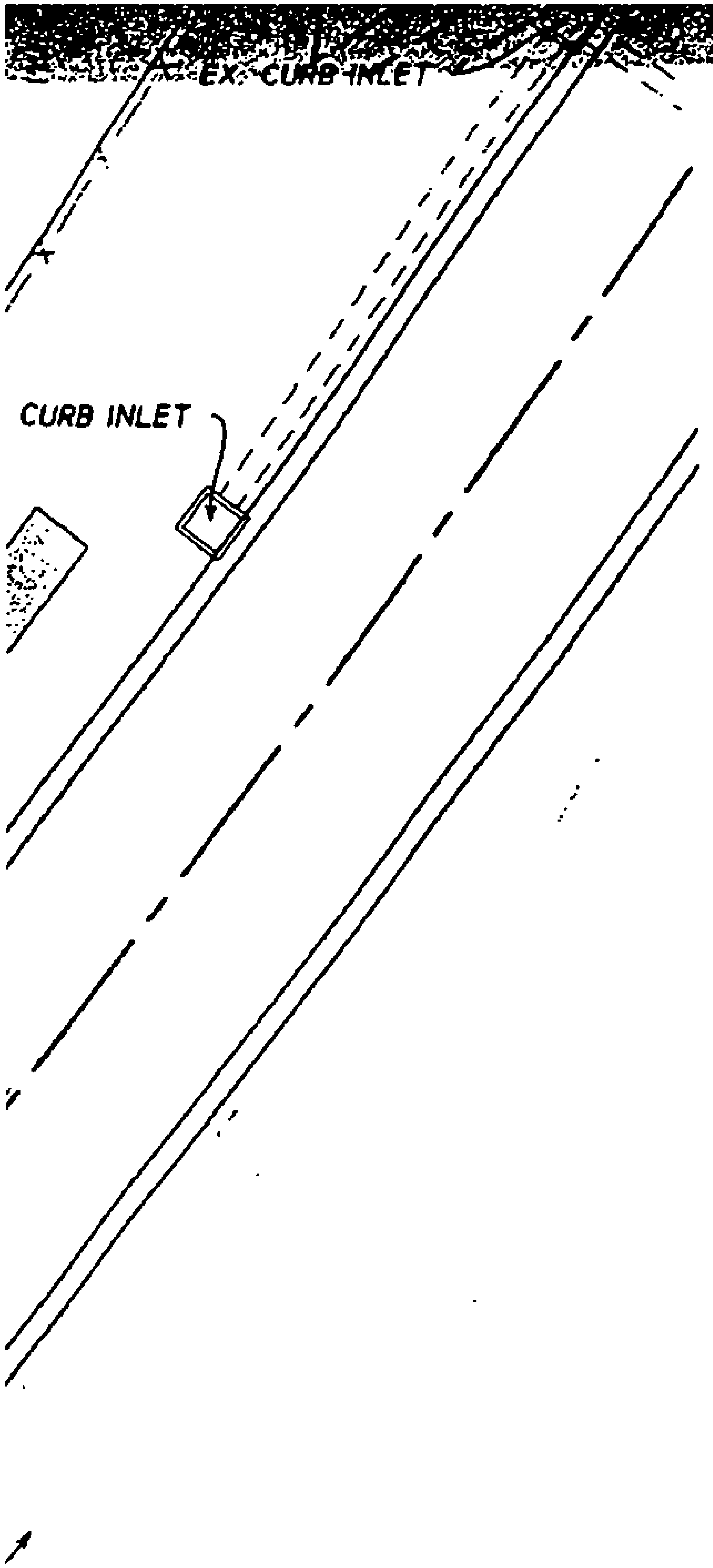
Farm Credit Services will be submitting a Large Scale Development following approval of this rezoning.

Please review and call concerning any questions you may have.

Thank you.

Sincerely;

David L. Jorgensen, P.E.



[OWNER]
LOUISE GUISINGER SAGER
1838 ROCKWOOD TRAIL
FAYETTEVILLE, AR. 72701
(501) 521-5400

ENGINEER
JORGENSEN & ASSOCIATES
CONSULTING ENGINEERS, INC.
124 WEST SUNBRIDGE SUITE 5
FAYETTEVILLE, AR. 72703
(501) 442-9127

ZONING = A-1 (0.95 Ac)
PENDING ZONING = C-1

NOTE: THIS PROPERTY IS NOT AFFECTED BY THE 100 YEAR FLOOD PLAIN AS PER FIRM #05143C0083D DATED 7-21-99.

ROTATION BASED ON SURVEY OF PROPERTY BY MILHOLLAND CO. DATED DEC. 1984.

LEGAL DESCRIPTION:

Part of the NW1/4 of Section 5, T16N, R30W in Washington County, Arkansas and being more particularly described as follows: Commencing at the W1/4 Corner of Section 5 (SW Corner of the NW1/4) thence S88°18'51"E 164.24 feet to the P.O.B., thence N01°41'09"E 209.11 feet, thence S88°26'57"E 293.34 feet to the West Right of Way of Shiloh Drive, thence along said West Right of Way S33°48'17"W 51.75 feet, thence S42°19'00"W 216.79 feet, thence S49°25'26"W 2.13 feet, thence leaving West Right of Way N88°18'51"W 123.08 feet to the P.O.B.; Containing 1.02 acres more or less subject to easements and Right of Way of record.

TREE PRESERVATION NOTES

ZONING: C-1
SITE AREA: 44,453 sq ft
TREE CANOPY EXISTING: 2.86% (1,272 sq ft)
TREE CANOPY PRESERVED: 1.96% (872 sq ft)

NOTES: THERE ARE NO RARE OR LANDMARK TREES ON THIS PROPERTY.

LANDSCAPING REQUIREMENTS

INTERIOR LANDSCAPING:
1 TREE PER 10 SPACES
10 SPACES = 2 TREES REQUIRED

PARKING

3208 sq
(19 MAX.
PARKING

HAN CA

19 SPAC
1 HANDI

SITE CO

SITE ARE
BUILDING
PAVEME
TOTAL IN
SITE CO

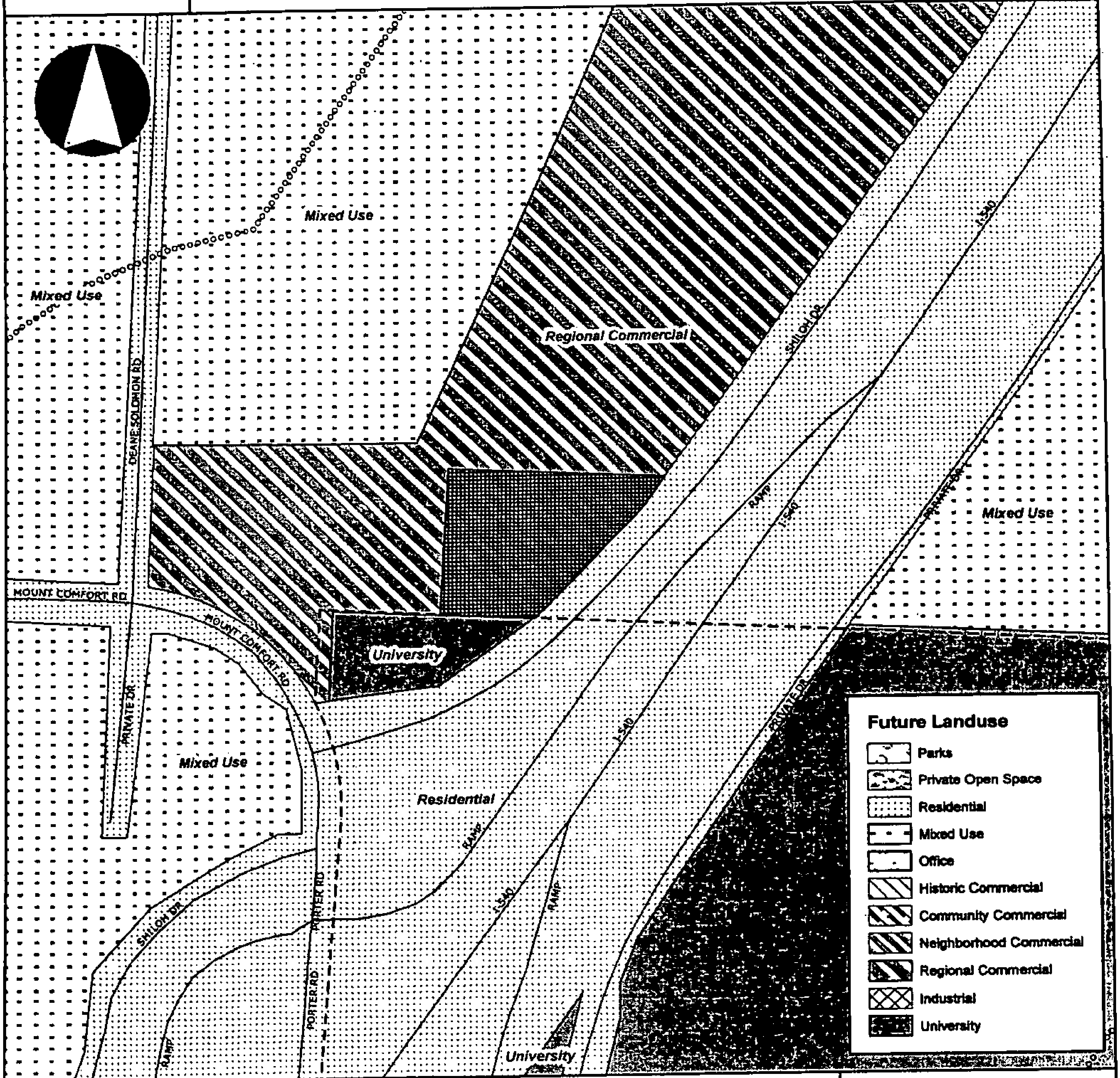
PLANTED TREES TO CONSIST OF:
MAPLE
RED OR PIN OAK
DOGWOOD
RED BUD

NOTE: ALL TREES SHALL BE 2.5"
PLANTING.

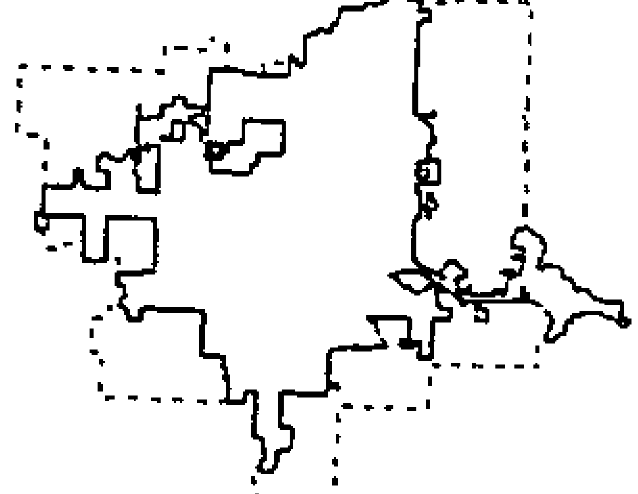
PLANTED SHRUBS TO CONSIST O
3-GAL. BOXWOOD
1-GAL. DURFED NANDINE

NOTES:
1. WATER SPIGOTS WILL BE PLAC
RADIUS INTERVALS THROUGHOU

RZN01-21.00	SAGER/GUISINGER
Future Landuse	



Overview



Legend

Subject Property
RZN01-21.00

Streets
Existing
Planned

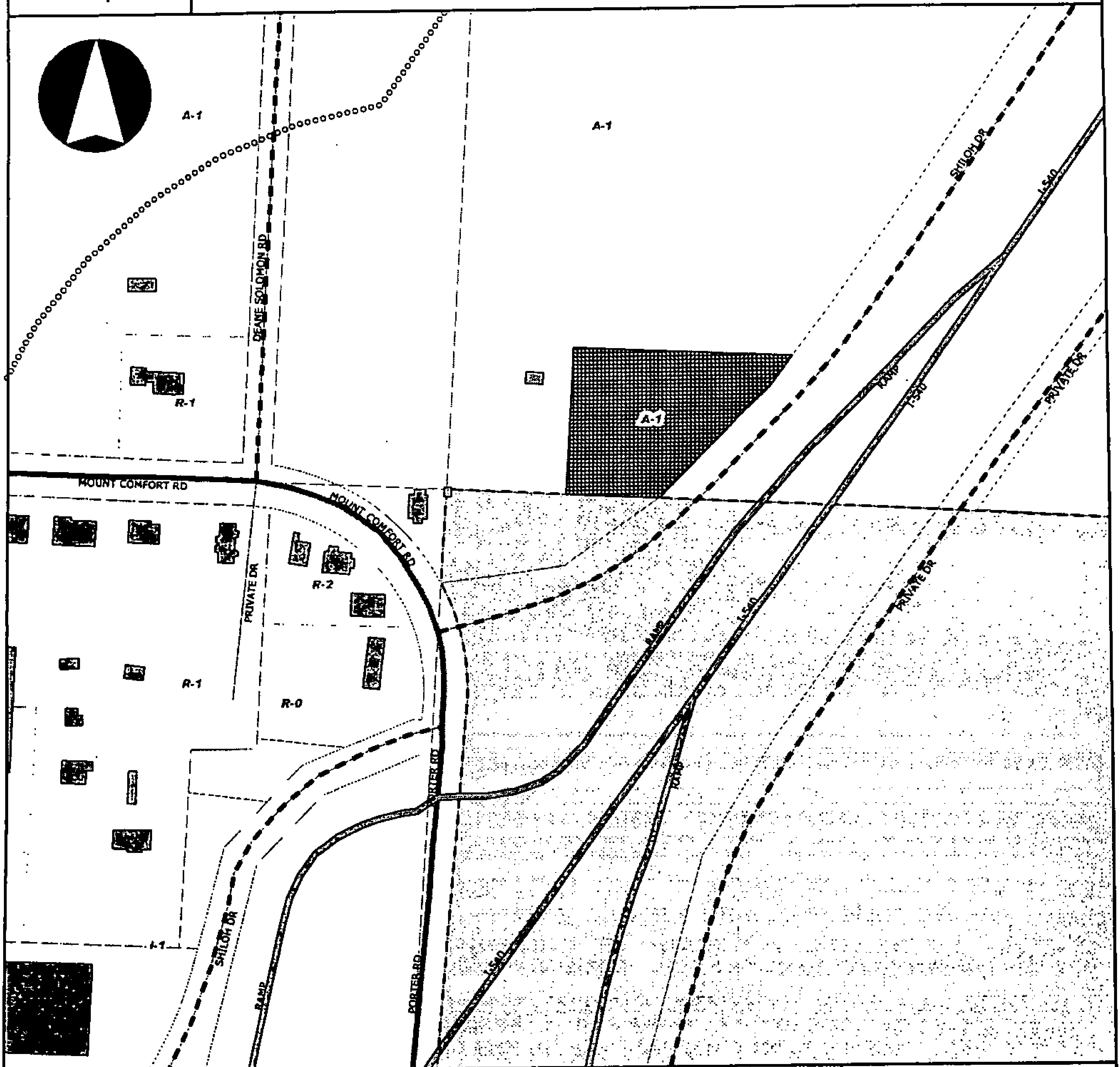
Boundary
Planning Area
Overlay District
City Limits

0 50 100 200 300 400 Feet

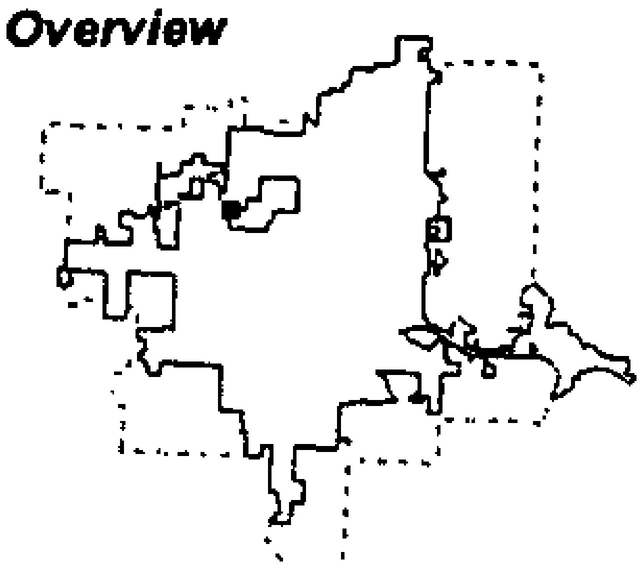
RZN01-21.00

Close Up View

SAGER/GUISINGER



Overview



Legend

Subject Property
RZN01-21.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

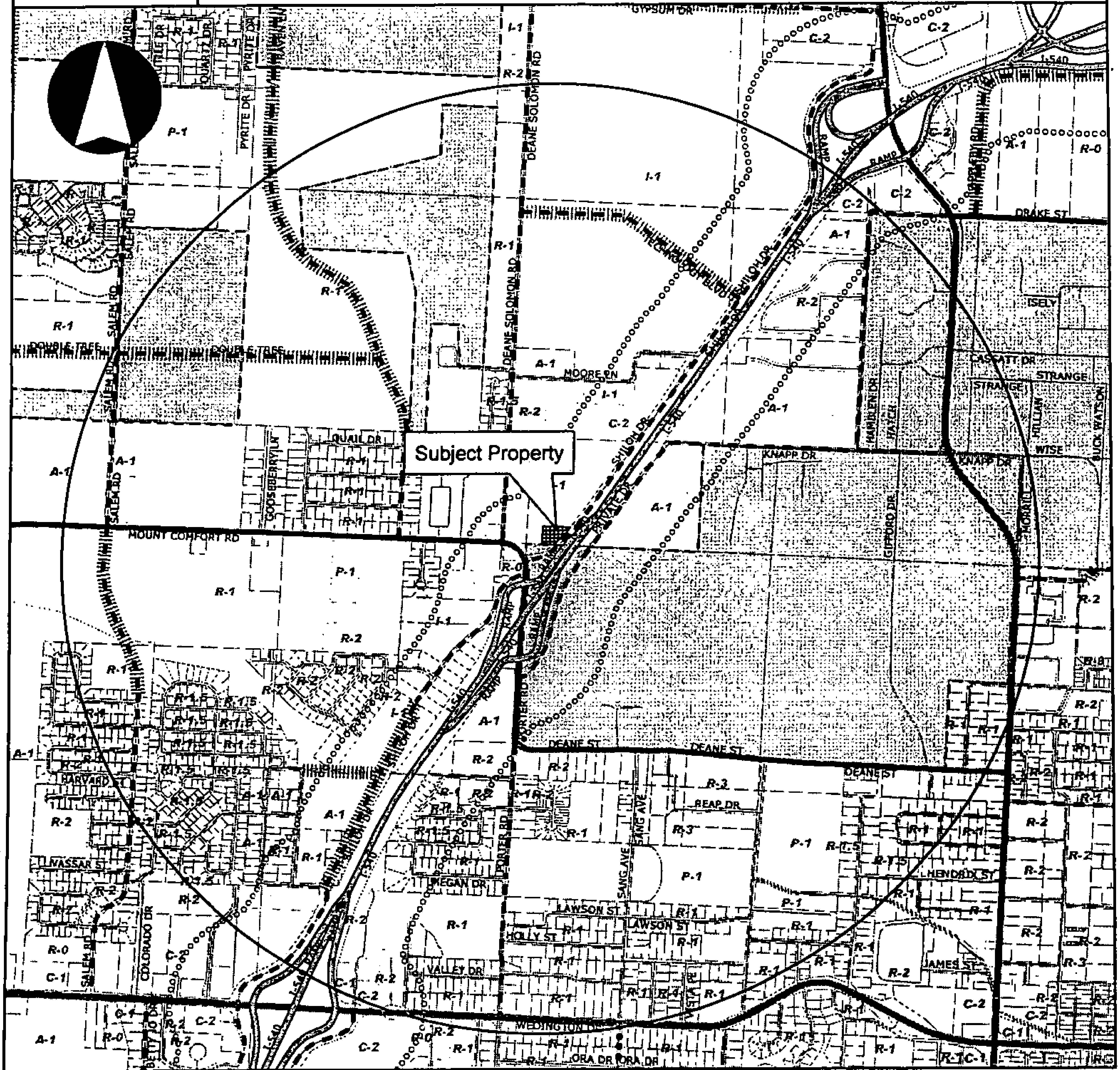
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 50 100 200 300 400 Feet

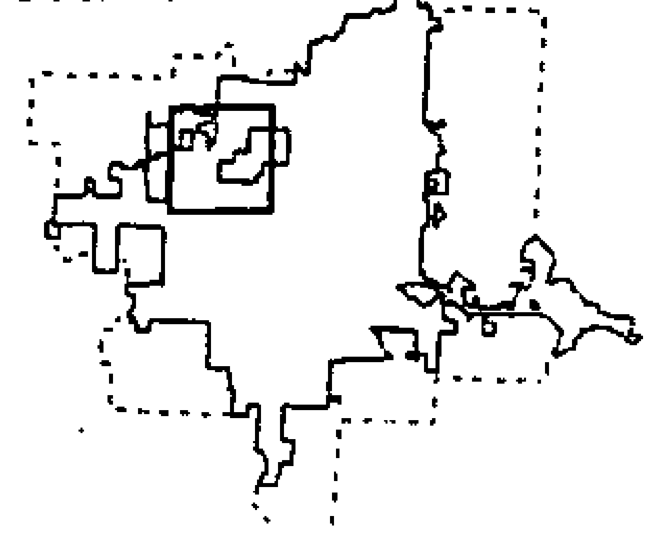
RZN01-21.00

One Mile View

SAGER/GUISINGER



Overview



Legend

Subject Property

RZN01-21.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.125 0.25 0.5 0.75 1 Miles

STAFF REVIEW FORM

_X_ AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

DBE FY 2002 Goal Update

For the Fayetteville City Council meeting of November 6, 2001

FROM:

Gary Dumas	Airport	Utilities Management
Name	Division	Department

ACTION REQUIRED: Resolution approving the DBE FY 2002 Updated Contract Goal.

COST TO CITY:

$ -0-	$ N / A	DBE Program
Cost of this Request	Category/Project Budget	Category/Project Name
N / A	$ N / A	Landside - Admin
Account Number	Funds used to date	Program Name
N / A	$ N / A	Airport
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ___ Budgeted Item ___ Budget Adjustment Attached

10/26/01

Budget Manager Date

Administrative Services Dir. Date

CONTRACT/GRANT/LEASE REVIEW:

10/26/01		10/26/01		
Accounting Manager	Date	Internal Auditor	Date	**GRANTING AGENCY**
10/26/01				
City Attorney	Date	ADA Coordinator	Date	
10/26/01				
Purchasing Officer	Date	Grants Coordinator	Date	

STAFF RECOMMENDATION: Staff recommends approval of the DBE FY 2002 Updated Goal.

Division Head — Date

10-24-01

Department Director — Date

Administrative Services Director — Date

10/30/01

Mayor — Date

Cross Reference

New Item: Yes No
Prev. Ord/Res#: ________
Orig Cont. Date: ________
Orig Cont #: ________

STAFF REVIEW FORM

Description:

Meeting Date: November 6, 2001

DBE FY 2002 Goal Update

Comments:

Budget Manager

Reference Comments:

Accounting Manager

Reference Comments:

City Attorney

Reference Comments:

Purchasing Officer

Reference Comments:

Internal Auditor

Reference Comments

ADA Coordinator

Reference Comments:

Grants Coordinator

Reference Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

4500 School Ave., Suite F
Fayetteville, AR 72701
501.718.7642

AIRPORT MANAGEMENT
GARY DUMAS, UTILITIES DIRECTOR / AIPRORT MANAGER INTERIM

TO: Dan Coody, Mayor
Fayetteville City Council Members

FROM: Gary Dumas, Utility Services Director / Interim Airport Manager

THRU: Staff Review Committee

DATE: October 21, 2001

SUBJECT: Disadvantaged Business Enterprise (DBE) Program Goal Update for FY 2002.

Background: On October 14, 2000, the Fayetteville City Council approved the Fayetteville Municipal Airport's revised Disadvantaged Business Enterprise Program. The Airport's DBE Program is federally mandated under 49 CFR Part 26 for all Department of Transportation (DOT/FAA) grant recipients which anticipate receiving more than $250,000 in federal funds in the fiscal year. Drake Field anticipates receiving approximately $2.4 million from the DOT/FAA in FY 2002.

The DBE Program assures that Minority & Women-owned businesses, and other economically disadvantaged small businesses have an equal opportunity, or "level playing field," in competing for Airport procurement contracts.

49 CFR Part 26 requires that our DBE Program Goal be updated annually. The Updated Goal describes the overall DBE participation percentage and value of procurement contracts targeted for award to DBE contractors in the fiscal year. The regulation provides the methodology to be used to set contract DBE participation goals.

Purpose: The purpose of this item is a new resolution amending Fayetteville City Council Resolution No. 147-00. Resolution No. 147-00 approves the Revised Disadvantaged Business Program to be implemented for all DOT/FAA grant assisted contracts entered into by the City of Fayetteville Municipal Airport. The approved program contains the DBE participation goal level in FY 2001.

The new resolution will accept and approve the airport's updated DBE participation goal for FY 2002.

Budget Considerations: No budget effect.

Action Requested: Approval of a resolution which accepts and approves the updated DBE participation Goal for FY 2002.

Staff Recommendation: Review & Approval

GD/jn
attachment: FY 2002 Goal Update & Methodology
Resolution 147-00
Approved DBE Program FY2001
Federal Register - 49CFR Part 26, Subpart B - Administrative Requirements

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2002 Update

Airport Sponsor:	City of Fayetteville
Name of Preparer:	James Nicholson, Financial Coordinator Fayetteville Municipal Airport/Drake Field 4500 S School Ave., Suite F Fayetteville, AR 72701
Goal Period:	10-1-2001 Thru: 9-30-2002
Overall DBE Goal:	For review .52 %

Introduction to 2002 DBE Goal update: The City of Fayetteville / Fayetteville Municipal Airport DBE Goal update for Fiscal Year (FY) 2002 is provided to describe the Airport Projects which are funded in part with Department of Transportation (DOT) / Federal Aviation Administration (FAA) funds, and to determine by the federally prescribed methodology the portion or percentage of those funds targeted for contract award to Disadvantaged Business Enterprises (DBE's) in accordance with Federal Regulations 49 CFR Part 26.

The Goal Update is a prerequisite for Airport Improvement Project (AIP) grant funding for airports which anticipate receiving more than $250,000 in federal funding from the FAA.

The 2002 DBE Goal Update revises the DBE participation goal in federally funded airport contracts anticipated for the 2002 fiscal year, from that originally described in the airport's previously published DBE Program Plan and successive annual goal updates. The FY 2002 Goal Update is effective October 1st, 2001 through September 30th, 2002.

Public Participation and Consultation in the DBE Goal Update process is a requirement under federal regulations. The updated Goal and Methodology is published for 30 days prior to submittal to the FAA for approval. Comments on the Goal Update are accepted for 45 days after the date of public notification of its availability for public review. Copies of this document were mailed to a number of interested private and public entities for review and comment, (see attachment #1 - list of consulting agencies). Public comments on the updated goal and methodology are incorporated with the submission to the FAA. *No public comments on the proposed FY 2002 Goal were received as of October 24, 2001.*

Comments on the FY 2002 DBE Goal Update may be submitted to the Fayetteville Municipal Airport's DBE Liaison Officer by phone, writing, fax, or e-mail to the following:

James Nicholson, DBE Liaison Officer
Fayetteville Municipal Airport / Drake Field
4500 South School Ave., Suite F
Fayetteville, AR 72701
501-718-7643
501-718-7646 fax
jnicholson@ci.fayetteville.ar.us

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2002 Update

OVERALL GOALS (§26.45)

Amount of Goal

Fayetteville Municipal Airport's overall goal for FY 2002 is: ***.52%***

Fayetteville Municipal Airport anticipates one AIP (federally funded) project in FY 2002. The estimated project cost is $2.7 million for Taxiway Extension of taxiway "A" including related aircraft ramp extension. Thus, the projected dollar amount of DBE participation in the project is: ***$ 14,040***

Determination of Market Area

Step 1 of the methodology for determining DBE percentage goal requires an assessment of the relative availability of DBE's in the local market area. The local market area is the area which provides, or is most likely to provide, the firms considered qualified to perform the needed work.

We used the most recent Census data available (1999) for Washington County, Arkansas and the four surrounding Arkansas counties, Benton, Crawford, Franklin, and Madison counties. Effectively all contractors for airport improvement work of the nature described in the first section have historically come from the local area, specifically, Washington or Crawford County. Except that occasionally a contractor performing ancillary tasks may be recruited from a further distance. However, for the sake of including contractors within a reasonable, feasible range, three other counties bordering Washington County are included in this assessment: Benton, Franklin, and Madison counties.

A primary condition of asphalt pavement work is the distance from the asphalt material producer's location to the worksite. Asphalt is time limited in its workability before spoilage due to the material's working temperature range. Thus, local producers are most apt to provide material for this project. Also, local asphalt contractors performing this type work have long established relationships with the local asphalt producers.

Our Washington County, Arkansas location, situated in a central valley of the Boston Mountains, also contributes to the insulated climate for this type of construction work. Accessibility to distant asphalt producers by trans-state highway is limited by mountain terrain and distances of surrounding rural area.

The available DBE Contractors in Local Market Area are those listed as being certified DBE by the Arkansas State Highway & Transportation Department (AHTD), and listed in AHTD's "Disadvantaged Business Enterprise Directory," published July 13, 2001.

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2002 Update

Methodology - Step 1

The Fayetteville Municipal Airport / Drake field anticipates awarding one AIP project contract in FY 2002. The project consists of extending Taxiway "A" and associated aircraft apron approximately 3,200 ft. south of Taxiway "D" on the east side and parallel to Runway 16/34, including approximately 800 ft. of taxiway access to the runway. This project is identified in the most recent draft of the airport's Conceptual Land Use Plan.

Project No. 1 - Taxiway Extension

NAICS Code	Work Item	DBE's in Local Market Area	All Available Firms
23411	Heavy Construction; Hwy, Streets	0	12
32412	Asphalt paving - manufacture	0	2
23531	Electrical Contractors	0	99
23599	Markings (other specialty contractor)	0	35
23593	Excavation contractors	1	55
48411	Trucking, local (dump truck)	1	35
	Totals for this Construction Contract	2	238

Calculation of Base Figure

The base figure is calculated as: the number of available DBE contractors as a percentage of all available contractors in the Local Market Area.

Base Figure = DBE contractors / all contractors

Base Figure = 2 / 238 = .84%

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2002 Update

Methodology - Step 2

Step 2 is an adjustment to the base figure percentage from Step 1 so that the updated goal accurately reflects the actual attainable DBE participation in FY 2002 airport contracts.

Past years DBE accomplishment results data for similar projects are examined and averaged with the base figure to determine the adjusted percentage goal. Only projects comprising like work are used for comparison.

DBE Goal Accomplishments - Historical Information

Year	Goal %	Accomplishment %	Project Type
2000	1.74	0	Access Road Construction
2001	.93	.39	Taxiway / Runway Rehabilitation (bid)
Average %	1.34	.20	

Calculation of adjustment to DBE Base Figure

The calculation of the adjusted figure is determined by averaging the base figure and the historical average for like projects.

Base Figure + Historical Avg. / 2 = Adjusted Figure

(.84 + .20) / 2 = .52

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2002 Update

Other Factors

Research was conducted to determine if any DBE / small business disparity studies for the region were available. None could be located.

The latest U.S. Census Data for minority population, not including women, in the five county area indicates an increase from previous US Census 1998 estimates of 6.141% to 9.425 % in 2000. This is indicative of the recent influx of minority emigrants to the area. We anticipate that there will eventually be an increase of DBE's corresponding to the increase of local minority population as the new emigrants settle and become established.

No other factors regarding the local DBE environment could be determined to be an influence on the adjusted DBE goal figure.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

In determining what percentage of the 2002 adjusted goal could be met through race-neutral means, we again reviewed historical DBE accomplishments for Fayetteville / Drake Field. FYV has not met its DBE goal in any year since 1997. Therefore, we estimate that in meeting our overall 2002 adjusted goal of .52%, we will obtain 0% from race-neutral participation and .52% from race-conscious measures (e.g. setting contract goals).

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2002 Update

Attachment #1 - List of Consulting Agencies

Arkansas State Highway & Transportation Department
Ms. Dana McClellan
PO Box 226
Little Rock, AR 72203-2261

Arkansas SBDC
College of Business Administration
100 South Main, Suite 401
Little Rock, AR 72201

Small Business Advancement National Center
University of Central Arkansas
College of Business Administration
UCA Box 5018
201 Donaghey Avenue
Conway, AR 72035-0001

Small Business Association (SBA)
Arkansas District Office
Joseph T. Foglia
2120 Riverfront Drive, Suite 100
Little Rock, AR 72202-1794

Arkansas State Chamber of Commerce
410 S Cross
PO Box 3645
Little Rock, AR 72203-3645

Veterans Business Development Office
Andy Lamonica
Arkansas District Office
2120 River Front Drive, Room 100
Little Rock, AR 72202

Arkansas Department of Economic Development
DBE Officer
One Capitol Mall
Little Rock, AR 72201

Fayetteville Chamber of Commerce
PO Box 4216
Fayetteville, AR 72702-4216

Arkansas Democrat Gazette
NORTHWEST ARKANSAS EDITION

AFFIDAVIT OF PUBLICATION

I, Lois Clark ______________, do solemnly swear that I am Legal Clerk of the Arkansas Democrat-Gazette Newspaper, printed and published at Lowell, Arkansas and that from my own personal knowledge and reference to the files of said publication the advertisement of

Notice

Was inserted in the regular editions on

Sept 9, 2001

Publication Charge 119.85

Purchase Order # ______________

Subscribed and sworn to before me this

11th day of September, 2001.

Catherine Sall, Notary Public

My commission expires ______________.

Catherine Sall
Notary Public, State of Arkansas
Washington County
My Commission Expires 02/27/05

NOTICE

THE FAyetteville Municipal Airport invites Financial Institutions designated as Disadvantaged Business Enterprise (DBEs) to contact our office regarding opportunities for providing financial services to Contractors providing goods and services under DOT/FAA funded contracts.

The City of Fayetteville/Fayetteville Municipal Airport desires to encourage and increase Disadvantaged Business Enterprise participation in airport contracts and programs, as required by the federal government on the FAA-funded portion of all AIP projects undertaken by Fayetteville Municipal Airport.

The airport will be advertising Airport Improvement Program projects for bid in the 2002 Fiscal Year. Any interested Disadvantaged Business Enterprise (DBE) will be encouraged to compete for the projects. Inquires regarding the qualifications for participation in AIP projects as a DBE, or concerning the Fayetteville Municipal Airport's Disadvantaged Business Enterprise Program, may be directed to the Fayetteville Municipal Airport DBE Liaison Officer at the address below.

CITY OF FAYETTEVILLE
Airport Administration Office
Attn: James Nicholson, DBE Liaison Officer
4500 S. School Ave., Suite F
Fayetteville, AR 72701
Phone: 501-718-7643; email: jnicholson@ci.fayetteville.ar.us
2631375 9/9/01

Arkansas Democrat Gazette
NORTHWEST ARKANSAS EDITION

AFFIDAVIT OF PUBLICATION

I, Lois Clark, do solemnly swear that I am Legal Clerk of the Arkansas Democrat-Gazette Newspaper, printed and published at Lowell, Arkansas and that from my own personal knowledge and reference to the files of said publication the advertisement of

Notice

Was inserted in the regular editions on

Sept 9, 2001

Publication Charge 80.90

Purchase Order # __________

Subscribed and sworn to before me this

11th day of September, 2001.

Catherine Sall, Notary Public

My commission expires Catherine Sall
Notary Public, State of Arkansas
Washington County
My Commission Expires 02/27/05

NOTICE
THE CITY of Fayetteville/Fayetteville Municipal Airport has published the Disadvantaged Business Enterprise (DBE) Program proposed updated goal and methodology for Fiscal year (FY) 2002. The document is available for public inspection for a 30 day period at the Airport Administration office, 4500 S. School Ave., Fayetteville, AR. In accordance with federal regulations 49 CFR Part 26, comments concerning the updated Goal and methodology and the DBE Program, will be accepted by the City of Fayetteville/Fayetteville Municipal Airport for 45 days from the publication date of this notice.
CITY OF FAYETTEVILLE
Airport Administration Office
Attn: James Nicholson, DBE Liaison Officer
4500 S. School Ave., Suite F
Fayetteville, AR 72701
Phone: 501-718-7643, email: jnicholson@ci.fayetteville.ar.us
2631447 9/9/01

RECEIVED

MAR 0 8 2001

AIRPORT

RESOLUTION NO. 147-00

A RESOLUTION APPROVING THE REVISED DISADVANTAGE BUSINESS ENTERPRISE (DBE) PROGRAM TO BE IMPLEMENTED FOR ALL DOT/FAA GRANT ASSISTED CONTRACTS ENTERED INTO BY THE CITY OF FAYETTEVILLE MUNICIPAL AIRPORT AS REQUIRED BY 49 C.F.R. PART 26.

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

Section 1. That the City Council hereby approves the revised Disadvantage Business Enterprise (DBE) Program to be implemented for all DOT/FAA grant assisted contracts entered into by the City of Fayetteville Municipal Airport as required by 49 C.F.R. Part 26. A copy of the regulation is attached hereto marked Exhibit "A" and made a part hereof.

PASSED AND APPROVED this 17th day of October, 2000.

APPROVED:

By: Fred Hanna

Fred Hanna, Mayor

ATTEST:

By: Heather Woodruff

Heather Woodruff, City Clerk

EXHIBIT A

FAYETTEVILLE MUNICIPAL AIRPORT
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Definitions of Terms

The terms used in this program have the meanings defined in DOT 49 CFR 26.5.

Objectives/Policy Statement (26.1,26.23)

The City of Fayetteville/Fayetteville Municipal Airport-Drake Field has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Fayetteville has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City of Fayetteville has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City of Fayetteville to ensure that DBEs, as defined in Part 26, have equal opportunities to receive and participate in DOT-assisted contracts. It is also our policy -

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

The Airport's Financial Coordinator has been delegated as the DBE Liaison Officer. In that capacity, the Financial Coordinator is responsible for implementing all aspects of the DBE program.

Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Fayetteville in its financial assistance agreements with the Department of Transportation.

The City of Fayetteville has disseminated this policy statement to the Fayetteville City Council and all the departments of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts by running an advertisement in a statewide newspaper.

CITY OF FAYETTEVILLE

By: Fred Hanna Date 10/19/00
Fred Hanna, Mayor

Attest:
Heather Woodruff Date 10/17/00
Heather Woodruff, City Clerk

EXHIBIT A

APPROVED AS TO SUBSTANCE:

Alett Little Date 8-04-00

Alett Little, Economic Development Director

Nondiscrimination. (26.7)

The City of Fayetteville will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering the DBE Program, the City of Fayetteville will not directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

DBE Program Updates. (26.21)

We will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide DOT updates representing significant changes in the program.

Quotas. (26.43)

We do not use quotas in any way in the administration of this DBE program.

DBE Liaison Officer (DBELO) (26.25)

The following individual has been designated as the DBE Liaison Officer: Brenda Moss, Financial Coordinator, Fayetteville Municipal Airport-Drake Field, 4500 S. School Avenue, Suite F, Fayetteville, AR 72701, phone# 501-718-7640 Ext. 5. In that capacity, Ms. Moss is responsible for implementing all aspects of the DBE program and ensuring that the Fayetteville Municipal Airport-Drake Field complies with all provisions of 49 CFR Part 26. The DBE liaison officer has direct, independent access to the City of Fayetteville's Economic Development Director concerning DBE program matters. The City of Fayetteville is the sponsor for the Fayetteville Municipal Airport-Drake Field. All departments are available to assist or advise the DBE Liaison Officer as needed. The Airport recruits engineers for each of our AIP projects who work and assist in the compliance of the Airport's DBE program.

The DBELO is responsible for developing, implementing, and monitoring the DBE program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Sets overall annual goals.
3. Ensures that bid notices and request for proposals are available to DBEs in a timely manner.
4. Identifies contracts and procurement so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
5. Participates in pre-bid meetings.
6. Advises the Economic Development Director on DBE matters and achievements.
7. Participates with the project engineer to determine contractor compliance with good faith efforts.
8. Maintains the airport's updated directory on certified DBEs.

Federal Financial Assistance Agreement Assurance. (26.13)

The City of Fayetteville has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

> The City of Fayetteville shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of Fayetteville of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

DBE Financial Institutions. (26.27)

The City of Fayetteville utilizes the publication, "Report of the Bank Commissioners of Arkansas," as a source of financial institutions. This register is published yearly by the Office of State Bank Department. The DBE Liaison Officer will investigate the availability of any DBE Financial Institutions listed in this register and recruit other interested DBE financial institutions by running advertisements at least once a year in a statewide newspaper. The Fayetteville Municipal Airport will use these mediums to initiate the investigation to the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in our community and make reasonable efforts to use these institutions. We will also encourage prime contractors to use such institutions which we have identified.

To date we have identified no such institutions in our area, but will continue to search.

Directory. (26.25)

The Fayetteville Municipal Airport-Drake Field will maintain and make available to interested persons a directory identifying firms eligible to participate as DBEs in our program. The directory lists the firm's name, address, phone number, and the types of work the firm has been certified to perform as a DBE. The directory will be revised at least annually. The airport uses the Arkansas Highway Department's directory of certified DBEs as the airport's DBE directory. The directory will be available to contractors and the public on request and will be maintained at the Fayetteville Municipal Airport-Drake Field located at 4500 S. School Ave., Suite F, Fayetteville, AR 72701 or by calling 501-718-7640 ext. 5. Copies may also be obtained by calling the Arkansas State Highway and Transportation Department at 501-569-2259.

Required Contract Clauses. (26.13, 26.29)

Contract Assurance. (26.13)

The Fayetteville Municipal Airport-Drake Field will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

> The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these

requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Prompt Payment. (26.29)

The Fayetteville Municipal Airport-Drake Field will include the following clause in each DOT-assisted prime contract:

> The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the City of Fayetteville. The prime contractor agrees further to return retainage payment to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Fayetteville. This clause applies to both DBE and non-DBE subcontractors.

Before any written approval for delay or postponement for payment is issued, both the prime contractor and the subcontractor will be invited to discuss the disputed issues. The Airport will fully investigate our options with the City of Fayetteville's Legal Department and the Federal Aviation Administration in the most expeditious time possible before written approval for delay or postponement of payment is given.

Sanctions for Noncompliance:

In the event of the contractor's noncompliance with any terms of a DOT-assisted prime contract, the City of Fayetteville shall impose such Contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

(A.) Withholding of payments to the Contractor under the Contract until the Contractor complies, and/or

(B.) Cancellation, termination, or suspension of the Contract in whole or in part.

Monitoring and Enforcement Mechanisms. (26.37)

The Disadvantaged Business Enterprise (DBE) program for the Fayetteville Municipal Airport-Drake Field will be incorporated as part of the Specifications and Contract Documents on all DOT-assisted contracts. The inclusion of this program in the Specifications and Contract Documents provides the same sanctions for noncompliance to the DBE program as any other term of any DOT-assisted contract.

Submission of a bid on any federally assisted work advertised by the airport will obligate the Contractor who submitted the bid to use good faith efforts to meet the DBE goal published in the bid document. The Contractor will be required to submit the names, addresses, telephone numbers, EINs (Employer Identification Number), DBE Certification Numbers, the kind of work performed, and the amounts to be paid to all subcontractors participating as DBEs in the project at the time of contract execution. If no DBE participation is expected in the contract, the Contractor must submit proof at the time of contract execution of good faith efforts to obtain DBE participation.

The Fayetteville Municipal Airport-Drake Field will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program which is evident to airport staff. DOT can at their discretion take steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT

Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

Overall Goals. (26.45)

Amount of goal.

The City of Fayetteville's overall goal for FY2000 is the following: 5% of the Federal financial assistance we will expend in DOT-assisted contracts.

Method

The Fayetteville Municipal Airport-Drake Field used a weighted average method (Attachment #5 Example 2) to calculate our base figure for our DBE goal.

Base Percentage:

1. The weighted factor was derived by calculating the percentage of the cost expected to be expended in each SIC code for the estimated project costs for the year.

2. The second factor used in the formula for calculating our base figure was derived as follows: the numerator is the number of DBEs located in our four county area (Benton, Crawford, Madison, and Washington Counties) that can perform the kinds of work needed which were identified from the Arkansas State Highway and Transportation Department's directory for DBE. The denominator was derived using the number of individuals listed by the Census Bureau's County Business Pattern database on the Internet.

This calculation produced the relative-weighted availability of DBE participation of .50 percent.

Adjusted Base Goal:

The airport staff made inquires at the Chamber of Commerce and the Small Business Administration as to studies or records maintained on DBEs. No records are assembled to represent this group as a minority. A data search of the Census Bureau on the Internet revealed a minority population not including women in our four county area of approximately 3.07 percent in 1990. A review of our recent let contracts for 1997 through 1999 indicate that with advertising outside of our immediate area, the airport can expect a participation of DBE activities as subcontractors at a rate of at least 1.74 percent (1997 accomplishment = 3.16%, 1998 accomplishment= 0, 1999 accomplishment 2.06 % equals a 1.74% yearly average)(Attachment #5). The average percentage of our base goal and the average of our last three years accomplishments would indicate an achievable overall goal of 1.12% ((.005 + .0174)/2=1.12).

After evaluating the above information, the City of Fayetteville/Fayetteville Municipal Airport's initial base rate goal has been adjusted to 1.12% to reflect as accurately as possible the DBE participation the airport staff considers obtainable.

Process

The Fayetteville Municipal Airport/Drake Field will submit its overall goal to DOT on August 1 of each year. Before establishing the overall goal each year, the airport staff will review the Disadvantage Business Enterprise Directory for changes in the number of available DBEs in our area. Staff will also review the contracts let for the previous year, contact other airports in our vicinity, and any other persons or groups who might have knowledge concerning the availability of disadvantage and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the airports efforts to establish a level playing field for the participation of DBEs.

Following this process of determining our new goal, the airport staff will publish a notice of the proposed overall goal in a statewide newspaper, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the airport office for 30 days following the date of the notice, and informing the public that the airport and DOT will accept comments on the goals for 45 days from the date of the notice. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed. All comments will be reviewed by the airport staff, and if comments warrant, changes will be made to the proposed goals.

The overall goal submission to DOT will include a summary of information and comments received during this public participation process and the airport's responses.

The airport will begin using the overall goal on October 1 of each year, unless other instructions have been received from DOT.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

We estimate that, in meeting an overall goal of 1.12%, we will obtain 0% from race-neutral participation and 1.12% through race-conscious measures. Since the Fayetteville Municipal Airport has not been able to reach our overall goals with race-neutral measures, we will continue to use contract goals in meeting our overall DBE goals.

All of our DOT-assisted contracts for the Airport include the requirement of good faith efforts to meet our goal for DBE participation. Because of the few DBEs in the area, we receive very little response to the bids advertised and let. We do require the engineers to include DBE language in both specifications and advertisements that they initiate. We also place ads in newspapers encouraging DBE participation in our projects. I believe that the DBE participation that we do receive usually is a result of our efforts, the engineers, and the contractors in recruiting DBEs.

Contract Goals

The Fayetteville Municipal Airport-Drake Field will use contract goals to meet any portion of the overall goal the airport does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met though the use of race-neutral means.

The airport will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBE's to perform the particular type of work).

We will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.

Good Faith Efforts. (26.53)

Information to be submitted:

The City of Fayetteville treats bidder/offerors compliance with good faith efforts requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information at the time of contract execution:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm's participation;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts. of good faith

Demonstration efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts.

The Airport's Financial Coordinator will be responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible.

The DEB Liaison Officer will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before the City of Fayetteville/Fayetteville Municipal Airport-Drake Field commits to the performance of the contract by the bidder/offeror.

Administrative reconsideration

Within 5 days of being informed by The City of Fayetteville that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors must make this request in writing to the following reconsideration officials: The Airport Board, 113 W. Mountain, Fayetteville AR 72701, phone number 501- 718-7640 Ext. 5. The reconsideration officials will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration officials to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts when a DBE is replaced on a contract.

We will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or

refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment until satisfactory action has been taken.

Counting DBE Participation. (26.55)

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

Certification. (26.61 - 26.91)

The Fayetteville Municipal Airport will use the certification standards of Subpart D of part 26 and the certification procedures of Subpart E of part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE a firm must meet all certification eligibility standards. We will make our certification decisions based on the facts as a whole.

Process

Our certification application form and documentation requirements are found in Attachment ___ To this program.

For information about the certification process or to apply for certification, firms should contact:

Brenda Moss
4500 S. School Avenue, Suite F
Fayetteville AR 72701
Phone 501-718-7646

Or

Arkansas State Highway
And Transportation Department
P.O. Box 2261
Little Rock AR 72203-2261
Phone 501-569-2259

The Arkansas Highway Department has certified all interested individuals who have inquired at the airport about DBE certification (see attached agreement with the State attachment #4). The airport will use the Arkansas Highway and Transportation Department's DBE directory to determine the eligibility of firms to participate as DBEs in DOT-assisted projects, and the Fayetteville Municipal Airport-Drake Field will continue to honor the certification completed by other entities as long as documentation can be provided. .

In the event we propose to remove a DBE's certification, we will follow procedures consistent with 26.87.

Attachment #2 to this program sets forth these procedures in detail.

Unified Certification Program

The Fayetteville Municipal Airport-Drake Field will participate in a Unified Certification Program as one becomes available for the State of Arkansas. The Fayetteville Municipal

Airport-Drake Field will utilize the Arkansas State Highway and Transportation Department in certifying individuals which we have recruited as candidates as DBEs.

Certification Appeals

Any firm or complainant about a certification matter should be sent to:

Department of Transportation Office of Civil Rights Certification Appeals
Branch 400 Th St., SW, Room 2104
Washington, DC 20590

The airport will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for DOT-assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).

"Recertification"

The Arkansas Highway and Transportation Department will handle recertification of DBEs for the airport. The Arkansas Highway and Transportation Department's policy is to fully recertify DBEs every three years.

"No Change" Affidavits and Notice of Change

The Arkansas Highway and Transportation Department will handle "No Change" affidavits and Notice of Change for the Fayetteville Municipal Airport-Drake Field. They require an acknowledgment (a signed form that the DBE's status has not changed) annually.

Personal Net Worth

The Arkansas Highway and Transportation Department will handle personal net worth statements. Their statement is compatible with the U.S. Small Business Administration (SBA) form 413 (2-94). A copy of form 413 (2-94) is used as an attachment #3 to this document.

Bidders List

The Fayetteville Municipal Airport-Drake Field will create a bidders' list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders' list approach to calculating overall goals. The bidders' list will include the name, address, and DBE/non-DBE status, and age of the firm and the annual gross receipts. The bid packet will include a form for the necessary information required on all bidders, and the bidders will be required to return the form at the time of bid opening.

Monitoring Payments to DBEs

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City of Fayetteville or Department of Transportation. This reporting requirement also extends to any certified DBE subcontractor.

We will keep a cumulative total of actual payments to DBE firms for work committed to them at the time of contract award. The contractor will be responsible for submitting a record of any payments made to DBEs when they submit payment requests from the recipient. We will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Reporting to DOT

We will report DBE participation to DOT by submitting annually DOT From 4630, as modified for by FAA recipients

Confidentiality

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with federal, state, and local law. The Arkansas State Freedom of Information Act A.C.A. Title 25-19-105 states that examination and copying of public records or files which, if disclosed, would give advantage to competitors and bidders shall not be deemed to be made open to the public under the provisions of the State FOIA law. However, the company must request this protection in writing with proof that such information would put them at a disadvantage. Notwithstanding any contrary provision of state or local law, we will not release personal financial information submitted in response to the personal net worth requirements to a third party (other than DOT) without the written consent of the submitter. All local laws are superseded by state and federal laws.

APPROVED:
U.S. DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

By: ______________________ Date _________

Attachments

1. Attachment #2. Department of Transportation 49 CFR Parts 23 and 26 rule #26.87.
2. Attachment #3 U.S. Small Business Administrations (SBA) form 413 (2-94).
3. Attachment #4 AHTD Agreement
4 Attachment #5 Sample Calculation for DBE base.

federal register

Tuesday
February 2, 1999

Part II

Department of Transportation

Office of the Secretary

49 CFR Parts 23 and 26

Participation by Disadvantaged Business Enterprises in Department of Transportation Programs; Final Rule

The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR part 26.

§ 26.11 What records do recipients keep and report?

(a) [Reserved]

(b) You must continue to provide data about your DBE program to the Department as directed by DOT operating administrations.

(c) You must create and maintain a bidders list, consisting of all firms bidding on prime contracts and bidding or quoting subcontracts on DOT-assisted projects. For every firm, the following information must be included:

(1) Firm name;

(2) Firm address;

(3) Firm's status as a DBE or non-DBE;

(4) The age of the firm; and

(5) The annual gross receipts of the firm.

§ Section 26.13 What assurances must recipients and contractors make?

(a) Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

(b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

§ 26.15 How can recipients apply for exemptions or waivers?

(a) You can apply for an exemption from any provision of this part. To apply, you must request the exemption in writing from the Office of the Secretary of Transportation, FHWA, FTA, or FAA. The Secretary will grant the request only if it documents special or exceptional circumstances, not likely to be generally applicable, and not contemplated in connection with the rulemaking that established this part, that make your compliance with a specific provision of this part impractical. You must agree to take any steps that the Department specifies to comply with the intent of the provision from which an exemption is granted. The Secretary will issue a written response to all exemption requests.

(b) You can apply for a waiver of any provision of Subpart B or C of this part including, but not limited to, any provisions regarding administrative requirements, overall goals, contract goals or good faith efforts. Program waivers are for the purpose of authorizing you to operate a DBE program that achieves the objectives of this part by means that may differ from one or more of the requirements of Subpart B or C of this part. To receive a program waiver, you must follow these procedures:

(1) You must apply through the concerned operating administration. The application must include a specific program proposal and address how you will meet the criteria of paragraph (b)(2) of this section. Before submitting your application, you must have had public participation in developing your proposal, including consultation with the DBE community and at least one public hearing. Your application must include a summary of the public participation process and the information gathered through it.

(2) Your application must show that—

(i) There is a reasonable basis to conclude that you could achieve a level of DBE participation consistent with the objectives of this part using different or innovative means other than those that are provided in subpart B or C of this part;

(ii) Conditions in your jurisdiction are appropriate for implementing the proposal;

(iii) Your proposal would prevent discrimination against any individual or group in access to contracting opportunities or other benefits of the program; and

(iv) Your proposal is consistent with applicable law and program requirements of the concerned operating administration's financial assistance program.

(3) The Secretary has the authority to approve your application. If the Secretary grants your application, you may administer your DBE program as provided in your proposal, subject to the following conditions:

(i) DBE eligibility is determined as provided in subparts D and E of this part, and DBE participation is counted as provided in § 26.49;

(ii) Your level of DBE participation continues to be consistent with the objectives of this part;

(iii) There is a reasonable limitation on the duration of your modified program; and

(iv) Any other conditions the Secretary makes on the grant of the waiver.

(4) The Secretary may end a program waiver at any time and require you to comply with this part's provisions. The Secretary may also extend the waiver, if he or she determines that all requirements of paragraphs (b)(2) and (3) of this section continue to be met. Any such extension shall be for no longer than period originally set for the duration of the program.

Subpart B—Administrative Requirements for DBE Programs for Federally-Assisted Contracting

§ 26.21 Who must have a DBE program?

(a) If you are in one of these categories and let DOT-assisted contracts, you must have a DBE program meeting the requirements of this part:

(1) All FHWA recipients receiving funds authorized by a statute to which this part applies;

(2) FTA recipients that receive $250,000 or more in FTA planning, capital, and/or operating assistance in a Federal fiscal year;

(3) FAA recipients that receive a grant of $250,000 or more for airport planning or development.

(b)(1) You must submit a DBE program conforming to this part by August 31, 1999 to the concerned operating administration (OA). Once the OA has approved your program, the approval counts for all of your DOT-assisted programs (except that goals are reviewed and approved by the particular operating administration that provides funding for your DOT-assisted contracts).

(2) You do not have to submit regular updates of your DBE programs, as long as you remain in compliance. However, you must submit significant changes in the program for approval.

(c) You are not eligible to receive DOT financial assistance unless DOT has approved your DBE program and you are in compliance with it and this part. You must continue to carry out your program until all funds from DOT financial assistance have been expended.

§ 26.23 What is the requirement for a policy statement?

You must issue a signed and dated policy statement that expresses your commitment to your DBE program, states its objectives, and outlines responsibilities for its implementation. You must circulate the statement throughout your organization and to the DBE and non-DBE business communities that perform work on your DOT-assisted contracts.

§ 26.25 What is the requirement for a liaison officer?

You must have a DBE liaison officer, who shall have direct, independent access to your Chief Executive Officer concerning DBE program matters. The liaison officer shall be responsible for implementing all aspects of your DBE program. You must also have adequate staff to administer the program in compliance with this part.

26.27 What efforts must recipients make concerning DBE financial institutions?

You must thoroughly investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in your community and make reasonable efforts to use these institutions. You must also encourage prime contractors to use such institutions.

§ 26.29 What prompt payment mechanisms must recipients have?

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than a specific number of days from receipt of each payment you make to the prime contractor. This clause must also require the prompt return of retainage payments from the prime contractor to the subcontractor within a specific number of days after the subcontractor's work is satisfactorily completed.

(1) This clause may provide for appropriate penalties for failure to comply, the terms and conditions of which you set.

(2) This clause may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(b) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

§ 26.31 What requirements pertain to the DBE directory?

You must maintain and make available to interested persons a directory identifying all firms eligible to participate as DBEs in your program. In the listing for each firm, you must include its address, phone number, and the types of work the firm has been certified to perform as a DBE. You must revise your directory at least annually and make updated information available to contractors and the public on request.

§ 26.33 What steps must a recipient take to address overconcentration of DBEs in certain types of work?

(a) If you determine that DBE firms are so overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, you must devise appropriate measures to address this overconcentration.

(b) These measures may include the use of incentives, technical assistance, business development programs, mentor-protégé programs, and other appropriate measures designed to assist DBEs in performing work outside of the specific field in which you have determined that non-DBEs are unduly burdened. You may also consider varying your use of contract goals, to the extent consistent with § 26.51, to unsure that non-DBEs are not unfairly prevented from competing for subcontracts.

(c) You must obtain the approval of the concerned DOT operating administration for your determination of overconcentration and the measures you devise to address it. Once approved, the measures become part of your DBE program.

§ 26.35 What role do business development and mentor-protégé programs have in the DBE program?

(a) You may or, if an operating administration directs you to, you must establish a DBE business development program (BDP) to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE program. You may require a DBE firm, as a condition of receiving assistance through the BDP, to agree to terminate its participation in the DBE program after a certain time has passed or certain objectives have been reached. See Appendix C of this part for guidance on administering BDP programs.

(b) As part of a BDP or separately, you may establish a "mentor-protégé" program, in which another DBE or non-DBE firm is the principal source of business development assistance to a DBE firm.

(1) Only firms you have certified as DBEs before they are proposed for participation in a mentor-protégé program are eligible to participate in the mentor-protégé program.

(2) During the course of the mentor-protégé relationship, you must:

(i) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than one half of its goal on any contract let by the recipient; and

(ii) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than every other contract performed by the protégé firm.

(3) For purposes of making determinations of business size under this part, you must not treat protégé firms as affiliates of mentor firms, when both firms are participating under an approved mentor-protégé program. See Appendix D of this part for guidance concerning the operation of mentor-protégé programs.

(c) Your BDPs and mentor-protégé programs must be approved by the concerned operating administration before you implement them. Once approved, they become part of your DBE program.

§ 26.37 What are a recipient's responsibilities for monitoring the performance of other program participants?

(a) You must implement appropriate mechanisms to ensure compliance with the part's requirements by all program participants (e.g., applying legal and contract remedies available under Federal, state and local law). You must set forth these mechanisms in your DBE program.

(b) Your DBE program must also include a monitoring and enforcement mechanism to verify that the work committed to DBEs at contract award is actually performed by the DBEs. This mechanism must provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms) and include a provision ensuring that DBE participation is credited toward overall or contract goals only when payments are actually made to DBE firms.

Subpart C—Goals, Good Faith Efforts, and Counting

§ 26.41 What is the role of the statutory 10 percent goal in this program?

(a) The statutes authorizing this program provide that, except to the extent the Secretary determines otherwise, not less than 10 percent of the authorized funds are to be expended with DBEs.

(b) This 10 percent goal is an aspirational goal at the national level, which the Department uses as a tool in evaluating and monitoring DBEs' opportunities to participate in DOT-assisted contracts.

(c) The national 10 percent goal does not authorize or require recipients to set overall or contract goals at the 10 percent level, or any other particular level, or to take any special administrative steps if their goals are above or below 10 percent.

§ 26.43 Can recipients use set-asides or quotas as part of this program?

(a) You are not permitted to use quotas for DBEs on DOT-assisted contracts subject to this part.

(b) You may not set-aside contracts for DBEs on DOT-assisted contracts subject to this part, except that, in limited and extreme circumstances, you may use set-asides when no other method could be reasonably expected to redress egregious instances of discrimination.

§ 26.45 How do recipients set overall goals?

(a) You must set an overall goal for DBE participation in your DOT-assisted contracts.

(b) Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the "relative availability of DBEs"). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.

(c) *Step 1.* You must begin your goal setting process by determining a base figure for the relative availability of DBEs. The following are examples of approaches that you may take toward determining a base figure. These examples are provided as a starting point for your goal setting process. Any percentage figure derived from one of these examples should be considered a basis from which you begin when examining all evidence available in your jurisdiction. These examples are not intended as an exhaustive list. Other methods or combinations of methods to determine a base figure may be used, subject to approval by the concerned operating administration.

(1) *Use DBE Directories and Census Bureau Data.* Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same SIC codes. (Information about the CBP data base may be obtained from the Census Bureau at their web site, www.census.gov/epcd/cbp/view/cbpview.html.) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

(2) *Use a bidders list.* Determine the number of DBEs that have bid or quoted on your DOT-assisted prime contracts or subcontracts in the previous year. Determine the number of all businesses that have bid or quoted on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number for all businesses to derive a base figure for the relative availability of DBEs in your market.

(3) *Use data from a disparity study.* Use a percentage figure derived from data in a valid, applicable disparity study.

(4) *Use the goal of another DOT recipient.* If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.

(5) *Alternative methods.* Subject to the approval of the DOT operating administration, you may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market.

(d) *Step 2.* Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal.

(1) There are many types of evidence that must be considered when adjusting the base figure. These include:

(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and

(iii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

(2) You may also consider available evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to:

(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;

(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.

(3) If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination (often called the "but for" factor) or the effects of an ongoing DBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.

(e) Once you have determined a percentage figure in accordance with paragraphs (c) and (d) of this section, you should express your overall goal as follows:

(1) If you are an FHWA recipient, as a percentage of all Federal-aid highway funds you will expend in FHWA-assisted contracts in the forthcoming fiscal year;

(2) If you are an FTA or FAA recipient, as a percentage of all FTA or FAA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that you will expend in FTA or FAA-assisted contracts in the forthcoming fiscal year. In appropriate cases, the FTA or FAA Administrator may permit you to express your overall goal as a percentage of funds for a particular grant or project or group of grants and/or projects.

COPY

STAFF REVIEW FORM

___ AGENDA REQUEST
___ CONTRACT REVIEW
_X_ GRANT REVIEW
For the Fayetteville City Council meeting of November 6, 2001

Ark Dept of Aeronautics Grant
Pavement Rehab & Widening

FROM:

Gary Dumas	Airport	Environmental Services
Name	Division	Department

ACTION REQUIRED: Informational Item for review by City Council
Approval of Staff Review Committee

COST TO CITY:

$ 135,678 (Revenue)	$ 2,988,228	Pavement Maint & Rehab
Cost of this Request	Category/Project Budget	Category/Project Name
5550-3960-7820-29	$ 2,849,608	Capital Improvements
Account Number	Funds used to date	Program Name
00029	$ 138,620	Airport
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _X_ Budgeted Item ___ Budget Adjustment Attached

Budget Manager Date — Administrative Services Dir. Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager Date	Internal Auditor Date	Arkansas Department of Aeronautics **GRANTING AGENCY**
City Attorney Date	ADA Coordinator Date	
Purchasing Officer Date	Grants Coordinator Date	

STAFF RECOMMENDATION: Staff recommends review and approval

Division Head	Date	Cross Reference
Department Director	Date	New Item: Yes No
Administrative Services Director	Date	Prev. Ord/Res#: ________ Orig Cont. Date: ________ Orig Cont #: ________
Mayor	Date	

STAFF REVIEW FORM

Description: **Meeting Date:** 11/06/01

Ark Dept Aeronautics grant , Pavement Rehab & Widening

Comments:

Budget Manager

Reference Comments:

Accounting Manager

Reference Comments:

City Attorney

Reference Comments:

Purchasing Officer

Reference Comments:

Internal Auditor

Reference Comments

ADA Coordinator

Reference Comments:

Grants Coordinator

Reference Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

4500 School Ave., Suite F
Fayetteville, AR 72701
501.718.7642

AIRPORT MANAGEMENT
GARY DUMAS, UTILITIES DIRECTOR / AIPRORT MANAGER INTERIM

TO: Dan Coody, Mayor
Fayetteville City Council Members

FROM: Gary Dumas, Utility Services Director / Interim Airport Manager

THRU: Staff Review Committee

DATE: October 19, 2001

SUBJECT: Arkansas Department of Aeronautics grant request, AIP #29

Background: Grant funding for AIP Project No. 3-05-0020-2901, "Airfield Pavement Rehabilitation & Taxiway Widening & Strengthening," was approved by the FAA on June 4, 2001. A Notice to Proceed with construction was issued October 4, 2001.

The Arkansas Department of Aeronautics will fund 5% of the total project cost. The City's Policies and Procedures regarding grants and grant applications requires that the application be reviewed and approved by the Staff Review Committee, and be submitted to the City Council as an informational item through inclusion on the Council Agenda.

Purpose: The Arkansas Department of Aeronautics grant will fund 50% of the federally required 10% local matching funds, or 5% of the total project cost. The total cost of the project is $2,716,557. The amount being requested on this grant application to the Arkansas Department of Aeronautics is $135,678.

Budget Considerations: $150,000 in Passenger Facility Charge (PFC) funds are approved by the FAA as eligible for this project. There is $143,950 remaining in the Airport's PFC revenue account (deferred revenue). Thus, the City's local match of 5% of the project funding is available through the use of PFC funds.

Budget adjustments for this project have been submitted and approved.

Action Requested: This is an informational item.

Staff Recommendation: Staff recommends review of the grant request

GD/jn
attachment: Grant Application

FAYETTEVILLE

AIRPORT DEPARTMENT
THE CITY OF FAYETTEVILLE, ARKANSAS

October 25, 2001

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

RE: GRANT APPLICATION, AIP Project #3-05-0020-2901 - "Airfield Pavement Rehabilitation and Taxiway Widening & Strengthening"

Dear Mr. Knight;

Enclosed please find two (2) copies of a proposal for Arkansas Department of Aeronautics grant funding under the SAAG 90-5-5% grant classification. Fayetteville Municipal Airport requests funding in the amount of $135,678, or 5% of a total project cost of $2,716,557. The project proposal is for AIP Project #3-05-0020-2901 - "Airfield Pavement Rehabilitation and Taxiway Widening & Strengthening."

The project has been approved by the FAA and a notice to proceed with construction has been issued by our FAA Regional office.

The Project consists of: New apron N of Taxiway D; Northwest apron extension; taxiway rehabilitation, crack sealing & overlay taxiways C, D, & E; Rehab of taxiway B between C & terminal apron; taxiway widening of A, B, F, & D; crack sealing, rubber removal, and rejuvenation sealer of runway.

The project has been awarded to APAC - Arkansas Inc., McClinton-Anchor Division.

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

Sincerely,

Gary Dumas
Airport Manager / Environmental Services Director

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

4500 SOUTH SCHOOL AVENUE, SUITE F • AIRPORT TERMINAL BUILDING • FAYETTEVILLE, AR 72701
PHONE 501-718-7640 Ext. 5 • FAX 501-718-7646

ARKANSAS DEPARTMENT OF AERONAUTICS

APPLICATION FOR STATE AIRPORT AID

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

Date of Request: October 25, 2001

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

Name and address of City/County Commission sponsoring request:

City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701
Phone/Fax Number:

Person to contact about project:
James Nicholson, Financial Coord.
4500 S School Ave, Suite F
Phone/Fax Number: 501-718-7643
501-718-7646 fax

Name and address of Engineering Firm (If Applicable):

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

Contact Person: Wayne Jones, P.E.
Phone/Fax Number: 501-443-2377

Describe the work to be accomplished: AIP #3-05-0020-2901 "Airfield Pavement Rehabilitation and Taxiway Widening & Strengthening." Project consists of: Widening & strengthening of Taxiways A, B, F, & D; Crack sealing and overlay of Taxiways C, D, & E; Crack sealing, rubber removal, & rejuvenation sealer for Runway 16/34.

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

Federal AIP Projects:
AIP # 3-05-0020-2901

State and Local Project Costs		Federal AIP Projects	
Total Cost of Project		Total Cost of Project	2,716,557
Local Share/Funds		Federal Share (90%)	2,442,201
Local Share/In-Kind		Local Share (5%)	135,678
State Share		State Share	135,678

State Airport Aid Application
Page Two

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

FUNDS:

Source of Funds Federal Funding : DOT/FAA

State Funding: Arkansas Department of Areronautics

Local Funding: Airport PFC

Source of In-Kind Services N/A

Estimate starting date of project: October 2001

Estimate completion date of project: April 2002

Project will be for: New Airport ________ Existing Airport XX

Is land to be leased or purchased? NO

Description of land and cost per acre: ________

Provide the Federal AIP Grant Number (AIP Projects Only)

3-05-0020-2901

State Representatives for your area:

State Senator David Malone

State Representative Bill Pritchard - District 8

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

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

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

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

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

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

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

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

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

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

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this ______ day of ____________________, 20 01 .

City of Fayetteville
Name of Sponsor

____
Authorized Signature

Gary Dumas, Airport Manager (Interim)
Title

Original

GRANT AGREEMENT

U.S. Department of Transportation

Federal Aviation Administration

FOR DEVELOPMENT PROJECT

PART I-OFFER

Date of Offer: SEP 18 2001

Project No. 3-05-0020-29-01

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

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

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

WHEREAS, the Sponsor has submitted to the FAA a Project Application (also called an Application for Federal Assistance) dated **September 12, 2001**, for a grant of Federal funds for a project for development of **Fayetteville Municipal (Drake Field)** (herein called the "Airport"), together with plans and specifications for such project, which Application for Federal Assistance, as approved by the FAA is hereby incorporated herein and made a part hereof; and

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

Rehabilitate and Widen Multiple Taxiways
Expand and Rehabilitate East and West Aprons
Rehabilitate Runway 16/34

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

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

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

Conditions

1. The maximum obligation of the United States payable under this offer shall be **$2,442,201.00.**

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

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

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

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

6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the sponsor on or before **September 30, 2001,** or such subsequent date as may be prescribed in writing by the FAA.

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

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

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

10. The property map referred to on Page 1 of this Grant Agreement is the Property Map, Exhibit "A", attached to the Application for Federal Assistance attached to AIP Grant 3-05-0020-29-01.

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

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

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

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

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

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

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

   4. Qualifications of engineering supervision and construction inspection personnel.

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

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

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

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

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

14. The plans and specifications referred to on Page 1 of this Grant Agreement are the plans and specifications identified as Sponsor Contracts.

15. For a project to replace or reconstruct pavement at the airport, the sponsor shall implement an effective airport pavement maintenance management program as is required by Airport Sponsor Assurance Number 11. The sponsor shall use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. As a minimum, the program must conform with the provisions in the attached outline entitled: "Pavement Maintenance Management Program."

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

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

for Donald C. Harris

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

PART II - ACCEPTANCE

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

Executed this 25 day of September, 20 01.

City of Fayetteville
(Name of Sponsor)

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

(SEAL)

Title: Mayor

Attest: [signature]

Title: City Clerk

CERTIFICATE OF SPONSOR'S ATTORNEY

I, KIT WILLIAMS, acting as Attorney for the Sponsor do hereby certify:

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

Dated at Fayetteville, AR this 20 day of September, 20 01.

[signature]
(Signature of Sponsor's Attorney)

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED: September 2001

Applicant Identifier: FY002105

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

3. DATE RECEIVED BY STATE:

State Application Identifier:

4. DATE RECEIVED BY FEDERAL AGENCY:

Federal Identifier: AIP 3-05-0020-2901

5. APPLICANT INFORMATION

Legal Name: City of Fayetteville

Organizational Unit: Airport Department

Address (give city, county, state, and zip code):
Airport Department
4500 S. School, Suite F
Fayetteville, AR 72701

Name and telephone number of the person to be contacted on matters involving this application (give area code):
Gary Damas, Airport Manager
501-575-8330

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

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

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

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

If Revision, enter appropriate letter(s) in box(es): [ ] [ ]

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

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

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

TITLE: Airport Improvement Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Airfield Pavement Rehabilitation which includes taxiway overlays, taxiway rehabilitation, runway surface rejuvenation sealer, taxiway widening and strengthening to serve airport tenent and pavement re-striping.

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): Washington and Benton Counties, Arkansas

13. PROPOSED PROJECT: Start Date 10-01-01; Ending Date 07-01-02

14. CONGRESSIONAL DISTRICTS OF: a. Applicant: Third; b. Project: Third

15. ESTIMATED FUNDING:

a. Federal	$	2,442,201 .00
b. Applicant	$	135,678 .00
c. State	$	135,678 .00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	2,713,557 .00

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

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

DATE ____

b. NO. [ ] PROGRAM IS NOT COVERED BY E.O. 12372

[ ] OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

[ ] Yes If "Yes," attach an explanation. [X] No

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

a. Typed Name of Authorized Representative: Dan Coody

b. Title: Mayor

c. Telephone number: 501-575-8330

d. Signature of Authorized Representative: Dan Coody

e. Date Signed: 9/12/01

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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

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

Fort Worth, Texas 76193-0000

October 4, 2001

Mr. Dale Frederick
Fayetteville Municipal Airport
4500 South School Road, Suite F
Fayetteville, AR 72701

Dear Mr. Frederick:

Airport Improvement Program Project No. 3-05-0020-2901
Fayetteville Municipal Airport (Drake Field)
Airfield Pavement Rehabilitation & Taxiway Widening & Strengthening

The conformed contract documents furnished for the construction project at Fayetteville Municipal Airport (Drake Field) under AIP Project No. 3-05-0020-2901 have been reviewed and are found to be satisfactory.

This letter authorizes the City of Fayetteville to issue a Notice to Proceed to the contractor effective October 8, 2001. Please furnish the undersigned with one copy of the notice.

If you have any questions or if I can be of further service, please do not hesitate to call me at (817) 222-5634.

Sincerely,

Donald C. Harris

Donald C. Harris
Senior Program Manager, Arkansas/Oklahoma
Airports Development Office

Enclosure

cc:
Mr. Wayne Jones, P.E.
McClelland Consulting Engineers, Inc.
1810 North College, P.O. Box 1229
Fayetteville, AR 72702-1229

October 10, 2001

Fayetteville City Council Members
City of Fayetteville
Fayetteville, Arkansas

Dear Council Member,

The attached list of companies located in the City of Fayetteville and the management and employees that work there respectively request that you immediately reconsider the recently passed tree ordinance. Passage of the ordinance in the current form has sent a strong anti-development statement to the construction and supplier community as witnessed by Dixie Development's letter of October 3, 2001 and the Arkansas-Democrat Gazette article on October 9, 2001.

It is easy to dismiss Ben Israel's action as unreasonable, but on the contrary we believe his act should sound an alarm to all of us about the impact recent decisions have had on the development and business community of Fayetteville. We feel you should reconsider your actions based upon the following:

1. Mr. Israel was treated in a very adversarial manner when making presentations to the board. In one instance he was lectured and not afforded the proper respect that a citizen and a member of the business community that has spent millions in Fayetteville should rightfully expect.

2. Kim Hesse claimed that the development and business community had been adequately represented during committee deliberations. This simply is not true. Her list of pro-business representatives that attended the year long ordeal consisted of designers (engineers, architects, etc.) that for the most part do not have money at risk like a developer, contractor, supplier, or financial institution does. It could be argued that designers actually benefit from more regulation creating more need for their services. Granted Matt Bodishbaugh and Kirk Elsass (contractor and developer) were invited to participate, however they were frustrated (documented by letters written to the Mayor) at a perceived lack of consideration of and compromise with the contractor and developer's point of view. To the best of our knowledge, when they could not or would not attend, no other representative in their area of expertise was recruited. To the best of our knowledge, no supplier or financial institution that puts money at risk with each development was invited to attend.

3. Mr. Israel continually questioned if the ordinance would be fairly applied to all citing the City Library and Episcopal church projects as exceptions to the rules. When explanations were given, it became apparent that if you commercially developed on the edge of town then the full weight of the ordinance would be demanded. But if you developed on the interior of the town, then the ordinance could be adjusted. It never was clear if that adjustment would be equally applied to a city institution, a church, and a developer. To say that this at best is "subjective" is an understatement. To say that it is unequal application of the law is most probably factual.

4. Mr. Israel supports a reasonable tree ordinance as we all do, but desperately sought fair and equitable treatment. Is it fair that a non-resident member of the Sierra Club (living in the growth zone) be allowed to sit on the committee and greatly influence it's outcome while a business owner in the City of Fayetteville paying considerable city taxes (living in the same growth zone) not be considered for the committee despite having a vested interest in it's outcome?

5. By everyone's admission, Kim Hesse cannot enforce the new ordinance without additional resources and personnel. No one seems willing to openly talk about the increased costs and how it will be funded in a financially strapped budget. No one seems to be willing to talk about the additional burden and time delays that may be required due to the subjective nature of this ordinance.

Your lack of reconsideration of this matter will financially affect the livelihood of all the signers attached. The Democrat-Gazette article reports that another developer has followed Mr. Israel's lead. Loss of revenue to the City of Fayetteville in a period of rapidly declining revenues will be significant. Most important, the perception that Fayetteville has become even more difficult and impossible to work with in respect to developments will result in long term damage that will be impossible to repair.

You portray yourselves as listeners of the public. Please for the sake of the City of Fayetteville and the signers below, reconsider your recent actions and bring the ordinance back to a committee that represents all parties involved.

Sincerely,

Signers listed below

enclosures

Signers to
letter of October 9
to Fayetteville
City Council Members

Name	Company
[illegible]	Upchurch Electric
David L. McConnell	Upchurch Electric
Joey Farrell	Upchurch Electric
[illegible]	Upchurch Electric
[illegible]	Upchurch Electric
Mona C. Richart	UPCHURCH ELECTRIC
Linda Young	Upchurch Electric
[illegible]	Upchurch Electric
David [illegible]	UPCHURCH ELECTRICAL
Mike Lyman	Curtis H. Stout Inc.
Mike [illegible]	Upchurch Electrical Supply Inc.
[illegible] D. [illegible]	Upchurch Electric Supply Co.
Wesley E. [illegible]	Upchurch Electric
Roy Atteberry	Upchurch Electric
Hugh Brewer	Consulting Engineer

Signers to
letter of October 9
to Fayetteville
City Council Members

Name	Company
Jeffrey S Perry	American Electrical Services & Sys. Inc
Edwin Marshall	Upchurch Electrical Supply
Timothy D. Cotton	NORTHWEST ELECTRIC INC.
Carlin W Stewart	King Electrical Contractors Inc
[illegible]	King Elect
Ed Reed	Ed Reed Inc.
Danny Parrish	Upchurch Electrical Supply
Robert Boyer	Upchurch Elec.
Matt Davis	Upchurch Electrical Supply
Tommy Davis	D&C
Jeremy Bright	D&C
Ben Humphrey	King Electrical Contractors Inc
Steve Lloyd	Noise Makers Unlimited
Larry Marshall	UPCHURCH ELECTRIC
[illegible]	D&C Elect
Trent Cotton	Northwest Electric
Michael Taylor	A&M Electric
John L Higby	Northwest Electric.
Robert Johnson	american Electric
[illegible]	american Electric
Bob McCoy	Ozark Mtn Air
[illegible] Mc[illegible]	UpChurch Electric

Signers to
letter of October 9
to Fayetteville
City Council Members

Name	Company
[illegible]	Service Supply Co., Inc.
J. PeT Brooks	— —
Johnny James	✓ ✓
Stan [illegible]	✓ ✓
[illegible]	✓ ✓
[illegible]	✓ ✓
[illegible]	✓ ✓
[illegible]	✓ —
[illegible]	Gary's Plumbing Service
[illegible]	S&G Plumbing
Steve [illegible]	JOHNSON Mech. Contr.
Robert Gordon	Johnson Mech. Contr.
[illegible] Smith	Johnson Plumbing
Carl Strange	Carl Strange Plb.
[illegible]	Jameson Plumbing Inc.
[illegible]	Dave's Mech. Plbg.
Jason Fowler	DAVE's mech. Plumbing
[illegible]	Mayes Plumbing and Heating
[illegible]	S & G PLUMBING
Matt Wood	S+G Plumbing
Tony Parsley	Darin Strange Plumbing
[illegible]	EDENS PLMG
[illegible]	Clyde Electric

Signers to letter of October 9 to Fayetteville City Council Members

Name	Company
Tom Hamel	Meeks Bldg Center - 2401 N. Gregg - Fayetteville
Steven ? Rogers	"
Kevin McCarter	
Bob Lifland	Meeks
Lavina Mayo	Meek's
Ken Mayo	Ken's Carpet Service
Larry O'Mo	Meek's
Matt Williams	Student
Maureen Grace	Meek's

Signers to
letter of October 9
to Fayetteville
City Council Members

Name	Company
Keith Campbell	Campbell Electric, Inc.
Tom Campbell	CAMPBELL ELECTRIC, INC.
Jerry Thomas	Campbell Elec. Inc.
[illegible]	Campbell Elec. Inc.
Jamie Bowerman	Campbell Electric INC.
Corey Bowerman	CAMPBELL Specialty Conts.
Josh Bowerman	Campbell Specialty Conts.

Signers to
letter of October 9
to Fayetteville
City Council Members

Name	Company
Dale Hill	CEI
Jerry D Bowerman	Sweetser
Scott Tomlinson	Tomlinson Elect
Rick Tomlinson	Tomlinson Elect
Mitchell Allred	King Electric
Jayson Allred	King Electric
Jeffry H. [illegible]	Jeff's Electric.
[illegible] Harden	HSI

Signers to
letter of October 9
to Fayetteville
City Council Members

Name	Company
A. Payne Brewer	ARVEST BANK - FAYETTEVILLE
[illegible] M [illegible]	Arvest Bank - Fayetteville
Mike Roberts	Arvest Bank - Fayetteville
Joe La Rue	Arvest Bank - Fayetteville
Howard R. Hamilton	ARVEST BANK Fayetteville
[illegible] Saunders	Arvest Bank Fayetteville
[illegible]	ARVEST BANK, FAYETTEVILLE

Signers to
letter of October 9
to Fayetteville
City Council Members

Name	Company
[illegible]	Mountain Mechanical Contractors Inc.
[illegible]	Mountain Mechanical Contractors Inc.
Fred G. Pennington	Mountain Mechanical Contractors, Inc.

TOTAL P.03

Signers to
letter of October 9
to Fayetteville
City Council Members

Name	Company

Please Note: Letter & Lists are still being circulated at other locations with many more signatures expected. Some of those other locations include:

Ridout Lumber
Home Builders Association
(monthly meeting – many names expected)

The names attached represent 2-days efforts (during considerable rains when many trades are not working)

Northwest Arkansas
Arkansas Democrat-Gazette

http://www.nwanews.com/adg/ | part of the NWANews.com Web family

Arkansas Democrat-Gazette | Northwest Arkansas Times | Benton County Daily Record

Siloam Springs Herald Leader | Rogers Hometown News | Bella Vista Weekly Vista Search the Web: Find it!

From the Tuesday, October 09, 2001 Arkansas Democrat-Gazette

Fayetteville: Developer vows to do buying elsewhere

BY ROBERT J. SMITH -ARKANSAS DEMOCRAT-GAZETTE

FAYETTEVILLE -- Businesses working on Dixie Development and Management Co. projects won't be making purchases that bring sales-tax revenue into Fayetteville.

Ben Israel, who runs the Springdale company that develops commercial property in Northwest Arkansas, said Monday that he ordered contractors and subcontractors not to buy materials and services in Fayetteville if they will be used in his company's projects.

The contractors mus t buy concrete, lumber, paint, plumbing supplies and a variety of other construction materials outside Fayetteville, Israel said.

"We don't feel like the city has an ear for the business community," Israel said. "They are far too concerned about pleasing one segment while the other segment has no voice. They've proven that with the ordinances they've decided to pass."

Israel's letter to contractors and subcontractors was mailed last Wednesday, a day after the Fayetteville City Council approved a new tree preservation ordinance that's been in the works for more than a year.

The "crowning blow" for Israel came at Tuesday's meeting when Alderman Cyrus Young lectured Israel about developers' rights in Fayetteville.

"It's the attitude of the City Council," Israel said. "The other night I got lectured. I don't have to be part of that. The only tool I have to fight back with is economics."

Young and four other alderman later that night voted to approve the new tree ordinance.

"The thing that really rankled him was when I got up there and talked about property rights of the entire citizens of Fayetteville," Young said. "They don't want people who own their homes to have property rights. They only think developers have property rights."

Israel developed such commercial centers as Signature Square in east Springdale and Crossroads Village Shopping Center in Fayetteville.

He is now developing office buildings on Joyce Boulevard near Old Missouri Road in Fayetteville. He estimated the cost of his Joyce Boulevard projects at $23 million. More than $10 million will be in materials.

Israel, other developers and Northwest Arkansas chamber of commerce officials said Fayetteville is viewed as a city that's tougher to do business in than the neighboring cities of Springdale, Rogers and Bentonville.

"The perception is out there, but it's not a perception that we encourage or talk about," said Raymond Burns, president and chief executive officer of the Rogers-Lowell Area Chamber of Commerce. "It's like saying one of our children is sick. We're not going to put a sign up that says Fayetteville is sick. That doesn't help us.

"If there's any kind of negative perception in Northwest Arkansas, it hurts all of Northwest Arkansas. We don't want to pit one community against another."

"If a community decides not to be aggressive with business development, that's fine," said Perry Webb, president and chief executive officer of the Springdale Chamber of Commerce. "If a community enacts legislation that's viewed as anti-business, historically it has helped us. I can't promote it, but every time they do something like that it helps us."

Bill Ramsey, president and chief executive officer of the Fayetteville Chamber of Commerce, said he plans to talk with the chamber's board of directors about Israel's step and how the city is perceived.

"Fayetteville definitely has and is getting a reputation for being anti-development," Ramsey said. Courtyard by Marriott and Targethave selected sites in Fayetteville this year.

"If you listen to Marriott and Target, Fayetteville has a business-friendly environment," Coody said. "It may be more perception than reality about how business friendly we are."

State News
Hopefuls oppose tar on lumber
Arkansas to get $2 million to aid service for disabled
Clark asks to see governor about pard denial

From the NWA Tim
Speedway for sale: Thunder Valley own invites opponents to purchase speedway
Town Center contemplates bowin out of liquor license
Investigation into st shooting continues

From the Daily Record
Kinyon seeks new nomination
Area women carry torch for Olympic
Decatur runoff is Tuesday

Several developers, contractors and subcontractors contacted Monday said they support Israel's move, but they probably won't take the same sales-tax step.

"I hold some of the same viewpoints he does, but I'm not that militant," said Bud Tomlinson, owner of Tomlinson Asphalt Co. "I'm going to live with the government we've got in Fayetteville."

Officials with some engineering firms said they prefer not to be quoted in a newspaper because they feared it could affect their company's relationship with city hall.

Coody said he wants to better relationships with developers and businesses. He met last week with Israel and plans to meet in the next few days with Israel, other developers and city staff to talk about "removing unnecessary obstacles for planning and engineering."

"We want to make sure we do everything to eliminate perceived problems," Coody said. "There probably are cities easier to develop in than Fayetteville, but that's the community's wishes. Governments don't just dream these things up."

Fayetteville Landscape Administrator Kim Hesse, who helps developers meet the requirements of the tree ordinance, said she's often caught between developers' and the public's belief of how a property should be developed.

"In the long range in Fayetteville, property values will go up and we will end up with a better-looking, higher quality city with a tree ordinance," Hesse said. "I don't think development is going to stop because they have drainage requirements or to save a tree on the corner of a lot."

NABHOLZ CONSTRUCTION CORP

3301 North Second St., Rogers, Arkansas 72757

Phone: 501.636.5380
Fax: 501.631.0286
email:
junior_lopez@nabholz.com

Memorandum

To: *Building Team* - .
From: Junior Lopez, Project Manager
Date: Monday, October 8, 2001
Re: *Commerce Park*
Pages: 2, including this

Effective immediately no material and /or services shall be purchased by any suppliers and subcontractors which would generate a sales tax for the City of Fayetteville on any work performed at Commerce Park and all other Dixie Development projects. We do expect all current purchase orders and subcontracts be honored.
Please notify all concerned parties.

We do encourage you to contact your local alderman and/or Mayor of Fayetteville to voice your concern.

Nabholz Construction Corp.
Work Safely;

JL

Junior Lopez
Project Manger, VP

Cc: Johnny Stepp

Aaron
fax out
to ALL SUBS
+ SUPPLIERS.
@ Commerce

October 30, 2001

AGENDA SESSION
CITY COUNCIL
NOVEMBER 6, 2001

NEW ITEMS:

1. **TRASH BAGS:** A resolution authorizing the purchase of up to 682,672 purple residential trash bags from Phoenix Recycling for $82,419 or $0.1311 per bag to complete annual budgeted purchase of volume based residential trash bags.

2. **FIRST NIGHT:** Annual presentation from First Night.

3. **LIQUOR STORE PERMITS:** A resolution to request that the alcohol beverage commission issue no additional permits for liquor stores within the City of Fayetteville.

ADDITIONAL INFORMATION:

1. **ANX 01-3.00:** Additional information for Item No.1 under New Business.

2. **RZN 01-20.00:** Additional information for Item No. 2 under New Business.

3. **RZN 01-21.00:** Additional information for Item No. 3 under New Business.

4. **DBE PROGRAM UPDATE:** Additional information for Item No. 5 under New Business.

5. **GRANT REVIEW:** Additional information for Item No. 1 under Informational.

/

TENTATIVE AGENDA
CITY COUNCIL
NOVEMBER 6, 2001

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

NOMINATING COMMITTEE: Appointment of Gary E. Garton to the Fayetteville Housing Authority.

A. CONSENT:

1. **APPROVAL OF THE MINUTES**

2. **LIBRARY:** A resolution approving Amendment No. 9 to the contract with Meyer, Scherer and Rockcastle LTD in the amount of $36,970 for completion of the design, documentation, engineering and construction observations services for off-site utilities work for the new Fayetteville Public Library at 401 W. Mountain; and approval of a budget adjustment.

3. **WILSON PARK TENNIS COURTS:** A resolution approving a contract with John P. Marinoni Construction for the renovation of the Wilson Park tennis courts in the amount of $174,716, plus a ten percent project contingency of $17,470 for a total cost of $192,186.

B. OLD BUSINESS

1. **RZN 01-16.00:** An ordinance approving rezoning request RZN 01-16.00 as submitted by Ronnie Ball on behalf of William Lazenby for property located at the southwest corner of Millennium Drive and Crossover. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.70 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the second reading at the October 16, 2001, meeting.

2. **RZN 01-17.00:** An ordinance approving rezoning request RZN 01-17.00 as submitted by Cynthia Beard and Williams M. Center for property located on the southeast corner of 15th Street and Beechwood Avenue. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 12.13 acres. The request is rezone to R-2, Medium Density Residential. The ordinance was left on the first reading at the October 16, 2001, meeting.

3. **RZN 01-18.00:** An ordinance approving rezoning request RZN 01-18.00 as submitted by Bill McClard of Lindsey and Associates on behalf of Cynthia Beard and William M. Center for property located on the Southwest corner of 15th Street and Beechwood Avenue. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 19.39 acres. The request is to rezone to R-2, Medium Density Residential. The ordinance was left on the first reading at the October 16, 2001, meeting.

4. **RZN 01-19.00:** An ordinance approving rezoning request RZN 01-19.00 as submitted by Bill McClard of Lindsey and Associates on behalf of Cynthia Beard and William M. Center for property located south of 15th Street between Beechwood Avenue and Razorback Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 9.86 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the first reading at the October 16, 2001, meeting.

5. **REAL AND PERSONAL PROPERTY TAX RATE:** An ordinance adopting the real and personal property tax rates for 2001 for Policemen's Pension and Relief Fund and the Firemen's Pension and Relief Fund. The rate to be adopted is 0.4 mils for real property and 0.4 mils for personal property. There is no millage proposed for general government operations. The ordinance was tabled on the third reading at the October 16, 2001, meeting.

6. **OFFER AND ACCEPTANCE-RAILROAD R-O-W:** A resolution approving the offer and acceptance contract between the City of Fayetteville and the Arkansas and Missouri Railroad Company for the purchase of 6.58 acres of railroad right-of-way along the east side of railroad right-of-way and the west side of Gregg Avenue from Poplar Street to the four lane south of the new bridge on Mud Creek for a price of $263,200. Approval includes purchase price and associated closing costs. The resolution was tabled at the October 16, 2001, meeting.

C. NEW BUSINESS

1. **ANX 01-3.00:** An ordinance approving annexation request ANX 01-3.00 as submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area.

2. **RZN 01-20.00:** An ordinance approving rezoning request RZN 01-20.00 as submitted by Colleen Pancake for property located at 302 S. Gregg Street. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.16 acres. The request is to rezone to R-S, Residential Small Lot.

3. **RZN 01-21.00:** An ordinance approving rezoning request 01-21.00 as submitted by Chris Brackett of Jorgensen and Associates on behalf of Louise Sager andf Paul Guisinger for property located west of Shiloh Drive, east of Deane Soloman Road and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 1.02 acres. The request is to rezoned to C-1, Neighborhood Commercial.

4. **YARD WASTE SUBSCRIPTION FEE:** An ordinance repealing yard waste subscription fees

5. **DBE PROGRAM UPDATE:** A resolution accepting and approving the updated DBE participation goal for 2002.

D. INFORMATIONAL ITEMS:

1. **GRANT REVIEW:** Review of Arkansas Department of Aeronautics grant request.

2. **CHAMPIONS OF CHARACTER:** 2000-2001 final report from Champions of Character.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA
CITY COUNCIL
NOVEMBER 6, 2001

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1st night - annual report

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4). trash bags 5) DBE program.

B. OLD BUSINESS

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2. **RZN 01-17.00:** An ordinance approving rezoning request RZN 01-17.00 as submitted by Cynthia Beard and Williams M. Center for property located on the southeast corner of 15th Street and Beechwood Avenue. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 12.13 acres. The request is rezone to R-2, Medium Density Residential. The ordinance was left on the first reading at the October 16, 2001, meeting.

3. **RZN 01-18.00:** An ordinance approving rezoning request RZN 01-18.00 as submitted by Bill McClard of Lindsey and Associates on behalf of Cynthia Beard and William M. Center for property located on the Southwest corner of 15th Street and Beechwood Avenue. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 19.39 acres. The request is to rezone to R-2, Medium Density Residential. The ordinance was left on the first reading at the October 16, 2001, meeting.

4. **RZN 01-19.00:** An ordinance approving rezoning request RZN 01-19.00 as submitted by Bill McClard of Lindsey and Associates on behalf of Cynthia Beard and William M. Center for property located south of 15th Street between Beechwood Avenue and Razorback Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 9.86 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the first reading at the October 16, 2001, meeting.

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& approval of a budget adjustment
need BA &

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4. **YARD WASTE SUBSCRIPTION FEE:** An ordinance repealing yard waste subscription fees

Consent 5. **DBE PROGRAM UPDATE:** A resolution accepting and approving the updated DBE participation goal for 2002.

5). Liquor Store permits.

D. **INFORMATIONAL ITEMS:**

1. **GRANT REVIEW:** Review of Arkansas Department of Aeronautics grant request.

need Signed cover

2. **CHAMPIONS OF CHARACTER:** 2000-2001 final report from Champions of Character.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Heather Woodruff**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **November 7, 2001**

RE: **Passed Ordinances and Resolutions from City Council meeting of November 7, 2001**

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

Enclosed are:

1. **Library:** Resolution approving Amendment No. 9

2. **Wilson Park Tennis Courts**: Resolution approving contract w/John P. Marinoni for renovation of Wilson Park tennis courts

3. **Trash Bags**: Resolution approving purchase of 682,672 purple trash bags

4. **DBE Program Update**: Resolution accepting and approving updated DBE goals for 2002

5. **RZN 01-16.00**: Ordinance approving rezoning request submitted by Ronnie Ball on behalf of Lazenby for property located at SW corner of Millennium Drive and Crossover Road

6. **Real & Personal Property Tax Rate**: Ordinance adopting real and personal property tax rates for Policemen's and Firemen's Pension and Relief Funds

7. **Offer & Acceptance - Railroad R-O-W and Budget Adjustment**: Resolution approving offer/acceptance contract for purchase of 6.58 acres of railroad right-of-way and Resolution approving budget adjustment for same

8. **ANX 01-3.00**: Ordinance approving annexation request as submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive

9. **RZN 01-20.00**: Ordinance approving rezoning as submitted by Colleen Pancake for property located at 302 Gregg St.

10. **RZN 01-21.00**: Ordinance approving rezoning request as submitted by Chris Brackett of Jorgensen & Associates on behalf of Louise Sager and Paul Guisinger for property located west of Shiloh Dr., east of Deane Soloman Road and north of Porter Road

11. **Yard Waste Subscription Fee**: Ordinance repealing yard waste subscription fees

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA
CITY COUNCIL
NOVEMBER 6, 2001

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

FIRST NIGHT: Annual presentation from First Night.

NOMINATING COMMITTEE: Appointment of Gary E. Garton to the Fayetteville Housing Authority.

A. CONSENT:

1. **APPROVAL OF THE MINUTES** (10-02-01) CORRECTION. pg 23

147-01A
2. **LIBRARY:** A resolution approving Amendment No. 9 to the contract with Meyer, Scherer and Rockcastle LTD in the amount of $36,970 for completion of the design, documentation, engineering and construction observations services for off-site utilities work for the new Fayetteville Public Library at 401 W. Mountain; and approval of a budget adjustment.

148-01
3. **WILSON PARK TENNIS COURTS:** A resolution approving a contract with John P. Marinoni Construction for the renovation of the Wilson Park tennis courts in the amount of $174,716, plus a ten percent project contingency of $17,470 for a total cost of $192,186.

149-01
4. **TRASH BAGS:** A resolution authorizing the purchase of up to 682,672 purple residential trash bags from Phoenix Recycling in the amount of $82,419 or $0.1311 per bag to complete annual budgeted purchase of volume based residential trash bags.

150-01
5. **DBE PROGRAM UPDATE:** A resolution accepting and approving the updated DBE participation goal for 2002.

113 WEST MOUNTAIN 72701 501 521-7700
FAX 501 575-8257

B. OLD BUSINESS

PASS
4344

1. **RZN 01-16.00:** An ordinance approving rezoning request RZN 01-16.00 as submitted by Ronnie Ball on behalf of William Lazenby for property located at the southwest corner of Millennium Drive and Crossover. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.70 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the second reading at the October 16, 2001, meeting.

2. **RZN 01-17.00:** An ordinance approving rezoning request RZN 01-17.00 as submitted by Cynthia Beard and Williams M. Center for property located on the southeast corner of 15th Street and Beechwood Avenue. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 12.13 acres. The request is rezone to R-2, Medium Density Residential. The ordinance was left on the first reading at the October 16, 2001, meeting. left on 2ND.

TABLED

3. **RZN 01-18.00:** An ordinance approving rezoning request RZN 01-18.00 as submitted by Bill McClard of Lindsey and Associates on behalf of Cynthia Beard and William M. Center for property located on the Southwest corner of 15th Street and Beechwood Avenue. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 19.39 acres. The request is to rezone to R-2, Medium Density Residential. The ordinance was left on the first reading at the October 16, 2001, meeting. /ST

4. **RZN 01-19.00:** An ordinance approving rezoning request RZN 01-19.00 as submitted by Bill McClard of Lindsey and Associates on behalf of Cynthia Beard and William M. Center for property located south of 15th Street between Beechwood Avenue and Razorback Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 9.86 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the first reading at the October 16, 2001, meeting. /ST

5. **REAL AND PERSONAL PROPERTY TAX RATE:** An ordinance adopting the real and personal property tax rates for 2001 for Policemen's Pension and Relief Fund and the Firemen's Pension and Relief Fund. The rate to be adopted is 0.4 mils for real property and 0.4 mils for personal property. There is no millage proposed for general government operations. The ordinance was tabled on the third reading at the October 16, 2001, meeting.

PASS
4345

151-01 = is the offer & acceptance

152-01 BA = budget adjustment to the sales tax Capital Improvement Fun

2 RES PASS

6\. **OFFER AND ACCEPTANCE-RAILROAD R-O-W:** A resolution approving the offer and acceptance contract between the City of Fayetteville and the Arkansas and Missouri Railroad Company for the purchase of 6.58 acres of railroad right-of-way along the east side of railroad right-of-way and the west side of Gregg Avenue from Poplar Street to the four lane south of the new bridge on Mud Creek for a price of $263,200. Approval includes purchase price and associated closing costs; and the approval of a budget adjustment. The resolution was tabled at the October 16, 2001, meeting.

PASS BA.

C. **NEW BUSINESS**

1\. **ANX 01-3.00:** An ordinance approving annexation request ANX 01-3.00 as submitted by Andy Feinstein on behalf of Don Hendricks and Eric Harper for property located at 4840 Constitution Drive. The request is to annex into the city approximately 8.74 acres currently located in the Planning Area.

PASS 4346

2\. **RZN 01-20.00:** An ordinance approving rezoning request RZN 01-20.00 as submitted by Colleen Pancake for property located at 302 S. Gregg Street. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.16 acres. The request is to rezone to R-S, Residential Small Lot.

PASS 4347

3\. **RZN 01-21.00:** An ordinance approving rezoning request RZN 01-21.00 as submitted by Chris Brackett of Jorgensen and Associates on behalf of Louise Sager andf Paul Guisinger for property located west of Shiloh Drive, east of Deane Soloman Road and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 1.02 acres. The request is to rezoned to C-1, Neighborhood Commercial.

PASS 4348

4\. **YARD WASTE SUBSCRIPTION FEE:** An ordinance repealing yard waste subscription fees.

PASS 4349

5\. **LIQUOR STORE PERMITS:** A resolution to request that the Alcohol Beverage Commission issue no additional permits for liquor stores within the City of Fayetteville.

FAILED

D. **INFORMATIONAL ITEMS:**

~~6.~~ **GRANT REVIEW:** Review of Arkansas Department of Aeronautics grant request.

~~7.~~ **CHAMPIONS OF CHARACTER:** 2000-2001 final report from Champions of Character.

mtg adjourned 9:15 pm