

**Final Agenda
City Council Meeting
May 4, 2004**

A meeting of the Fayetteville City Council will be held on May 4, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Municipal Clerks Week Proclamation

Housing Authority Board

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the April 20, 2004 meeting minutes.

APPROVED.

2. **University of Arkansas Pavement Management System Contract:** A resolution to approve a contract with the University of Arkansas for development of a Paving Management System in the amount of \$79, 806.32.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 67-04.

3. **Pine Valley Subdivision Tree Preservation Easement:** A resolution to modify the tree preservation easement located within Lot 6 of the Pine Valley Subdivision.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 68-04.

4. **Wildcat Manufacturing Compost Row Turner Purchase:** A resolution to accept the low bid for a compost row turner and to purchase a Wildcat SPB514 for \$155,078.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 69-04.

5. **Arkansas Highway & Transportation Dept. Letter of Intent to Cost Share:** A resolution to authorize the Mayor to execute a letter of intent to cost share with the Arkansas Highway and Transportation Department during FY 2006 and 2007.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 70-04.

B. OLD BUSINESS:

1. **ANX 03-06.00 (Hoskins/Schlegel):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4562.

2. **RZN 03-34.00 (Hoskins/Schlegel):** An ordinance rezoning that property described in rezoning petition RZN 03-34.00 as submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4563.

3. **R-PZD 04-4.00: Residential Planned Zoning District (Stonewood Gardens):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-4.00 located south of Albright Road and north of the Stonewood Subdivision containing 3.36 acres more or less; amending the official Zoning Map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4564.

C. NEW BUSINESS:

1. **Automated Field Inspection Software Purchase:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of hardware and software from MobileHwy, LLC to implement an automated field inspection system in the amount of \$37, 262.50.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4565.

2. **Dychem International Contract Renewal:** An ordinance waiving competitive bidding and awarding an extension of a contract with Dychem International through the end of 2004.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4566.

3. **ADM 04-11.00 Amendment to Title 15, Chapter 172.05:** An ordinance to amend Section 172.05 Standards for the Number of Spaces by Use of the Code of Fayetteville to eliminate the requirement to provide additional parking spaces for accessory outdoor restaurant areas in C-3 and C-4 Districts.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4567.

4. **ANX 04-5.00 (Harper/Brandon):** An ordinance confirming annexation petition ANX 04-5.00 to the City of Fayetteville, Arkansas, of certain property located south of Albright Road on the west side of George Anderson Road containing approximately 9.99 Acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4568.

5. **RZN 04-4.00 (Harper/Brandon):** An ordinance rezoning that property described in the rezoning petition RZN 04-4.00 as submitted by Michele Harrington on behalf of Gary Brandon Enterprises, Inc. for property located south of Albright Road on George Anderson Road containing approximately 9.99 Acres from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, Four Units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4569.

6. **RZN 04-06.00 (The Crowne):** An ordinance rezoning that property described in rezoning petition RZN 04-6.00 as submitted by Jerry Kelso of Crafton, Tull & Associates on Behalf of the Crowne Limited Partnership for property located north of 18th Street and west of Beechwood Avenue containing approximately 10.93 Acres from I-1, Heavy Commercial, Light Industrial to RMF-12, Residential Multi Family, Twelve Units per acre.

THIS ITEM WAS LEFT ON THE FIRST READING.

7. **I-PZD 04-5.00 (Wal-Mart Optical Lab):** An ordinance establishing an Industrial Planned Zoning District titled I-PZD 04-5.00 located at 2314 W. 6th Street containing approximately 8.457 Acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Industrial Development Plan as approved by the Planning Commission.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4570.

8. **VAC 04-04.00 (Clary Development/Harps):** An ordinance approving VAC 04-04.00 to vacate and abandon a 35' drainage easement located on Lot 8 of the Wedington Place Addition Phase II as depicted on the attached map and legal description.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4571.

9. **VAC 04-05.00 (Clary Development/Harps):** An ordinance approving VAC 04-05.00 to vacate and abandon a 10' utility easement located along the boundary of Lot 8 of the Wedington Place Addition Phase II as depicted on the attached map and legal description.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4572.

10. **VAC 04-07.00 (Woodall):** An ordinance approving VAC 04-07.00 to vacate a 15' alley between Taylor and Douglas Streets, West of Gregg Avenue as Depicted on the attached legal description.

THIS ITEM WAS LEFT ON THE SECOND READING.

D. INFORMATIONAL:

There will not be a Council Tour.

MEETING ADJOURNED AT 9:50 P.M.

Adjourn 9:50 P.M.

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

Unanimous

Subject:	Housing Authority Send Someone from City Council to				
Motion To:					the meetings until the
Motion By:		Rhoads			end of the
Seconded:		Davis			decision legal action.
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	N			
	Rhoads	✓			
	Mayor Coody	—			

7/1 passed

7/1

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

Passed
67-04
to
70-04

Unanimous

Subject:	ANX 03-06-00 Hoskins				
Motion To:		3rd read	Pass		
Motion By:		DAVIS			
Seconded:		Marr			
	Davis	✓	✓		
	Lucas	✓	N		
	Jordan	✓	N		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	N		
	Marr	✓	N		
	Rhoads	✓	✓		
	Mayor Coody		Yes		

Old Business
#1 passed
4/4/1
Mayor Coody
Voted
yes
Breaking
the tie

4562 Unanimous

4/4
Mayor Coody Voted yes to break the tie.

Subject:	R2N 03-34.06 Hoskins/Schlagel				
Motion To:		3rd read	Pass		
Motion By:		Davis			
Seconded:		Reynolds			
	Davis	✓	✓		
	Lucas	✓	N		
	Jordan	absent during vote	N		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	N		
	Marr	✓	N		
	Rhoads	✓	✓		
	Mayor Coody	—	yes		

Old Business #2 4/4/11
 Passed
 Mayor Coody broke the tie Voting yes 7-0

4/4/11 Mayor Coody Voted yes breaking the tie

Subject:	Stonewood Garden R-P2D 04-4.00				breaking the tie
Motion To:		3rd read	Amend to remove the gate	Pass	
Motion By:		Davis	Marr		
Seconded:		Reynolds	Jordan		
	Davis	✓	N	✓	
	Lucas	✓	✓	N	
	Jordan	✓	✓	N	
	Reynolds	✓	N	✓	
	Thiel	absent during vote	N	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	N	
	Rhoads	✓	N	✓	
	Mayor Coody	—			

Old Business #3 4/4/11
 Amendment only failed
 ordinance passed
 Mayor Coody voted yes breaking the tie

Amend to remove the gate. 4/4/11 Mayor Coody broke the tie

Subject:	Automated Field Inspection Software Purch				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Davis	Jordan		
Seconded:		Jordan	Davis		
New Business #1 Passed 4565	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody	—	—	—	

un

Subject:	Dychem International Contract				
Motion To:		2nd Read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Davis	Davis		
New Business #2 Passed 4566	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				

Subject:	ADM 04-11.00 Amend Title 15 Chapter 172.05				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Marr	Davis		
Seconded:		Davis	Thiel		
#3 New Business <u>passed</u> 4567	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				
		8/0	8/0	8/0	

Subject:	ANX 04-5.00 Harper Brandon				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Rhoads	Davis		
Seconded:		Davis	Rhoads		
#4 New Business 6/2 <u>passed</u> 4568	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	N	
	Rhoads	✓	✓	✓	
	Mayor Coody				
		8/0	8/0	6/2	

Subject:	RZN 04-4.00 (Harpur/Brandon)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Davis	Rhoads		
Seconded:		Marr	Davis		
#5 New Business Passed 6/2 4569	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	N	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				
		8/0	8/0	6/2	

Subject:	RZN 04-6.00 (Crawne)				
Motion To:					
Motion By:					
Seconded:					
#6 New Business Left on the first Reading	Davis				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads	Recuse	Recuse	Recuse	
	Mayor Coody				

Subject:	I - PZD 04-5.00 Wal-Mart				
Motion To:		2nd read	3rd read	Pass	Optical Lab
Motion By:		Marr	Jordan		
Seconded:		Jordan	Davis		
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	Recuse	Recuse	Recuse	
	Mayor Coody				

#7
New
Business
7/0 4570
Passed

7/0

7/0

7/0

Subject:	VAC 04-4.00 (Clary Development)				
Motion To:		2nd read	3rd read	Pass	Harp
Motion By:		Jordan	Davis		
Seconded:		Davis	Jordan		
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				

#8
New
Business
Passed
4571

8/0

8/0

8/0

Fayetteville City Council Meeting on May 4, 2004

Subject:	VAC 04-5.00 (Clary Development)				
Motion To:		2nd read	3rd read	Pass	Hays
Motion By:		Davis	Jordan		
Seconded:		Jordan	Davis		
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				
		8/0	8/0	8/0	

#9
New
Business
passed
4572

Subject:	VAC 04-7.00 (Woodall)				
Motion To:		2nd read	3rd read		
Motion By:		Davis			
Seconded:		Marr			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody				

#10
New
Business
Left
on second
reading

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10. **VAC 04-07.00 (Woodall):** An ordinance approving VAC 04-07.00 to vacate a 15' alley between Taylor and Douglas Streets, West of Gregg Avenue as Depicted on the attached legal description.

D. INFORMATIONAL:

There will not be a Council Tour.

**Meeting Minutes
City Council Meeting
April 20, 2004**

A meeting of the Fayetteville City Council was held on April 20, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

ABSENT: Mayor Coody.

Alderman Rhoads was absent during the roll call and the Nominating Committee report.

The meeting was called to order by Vice Mayor Bob Davis.

Kit Williams: For the record the reason Vice Mayor Davis is conducting the meeting is because Mayor Coody is in Washington D.C. at a conference. During this meeting even though you are the chair you are entitled to all the rights of a normal Alderman so you can make and second motions even though the Mayor can not.

Nominating Committee Report: Dusti Miller – Fayetteville Housing Authority Appointment.

Alderman Jordan moved to approve the Nominating Committee Report. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

CONSENT:

Approval Of The Minutes: Approval of the February 20, 2001, May 15, 2001 and April 6, 2004 meeting minutes.

Multi-Craft Contractors-Emergency Generator for City Administration Building: A resolution approving amendment No. 3 to the contract with Multi-Craft Contractors for the purchase and installation of an emergency generator at the City Administration Building in the amount of \$41,903.00; and approving a contingency in the amount of \$2,095.00.

Resolution 55-04 as Recorded in the Office of the City Clerk.

2004/2005 Drug Enforcement Grant: A resolution to accept the 2004/2005 Drug Enforcement Grant in the amount of \$305,095.00 with a commitment to match it with \$75,929.00 in city funds.

Resolution 56-04 as Recorded in the Office of the City Clerk.

Crossland Construction Company Library CO #14: A resolution approving Change Order #14 to the contract with Crossland Construction Company, Inc. in the amount of \$78,454.00 to install landscape irrigation, engineered soil and mulch and low voltage conduit at the New Fayetteville Public Library.

Resolution 57-04 as Recorded in the Office of the City Clerk.

Henard Utility Products-Compost Grinder: A resolution approving the purchase of a Bandit 3680 "Beast" Compost Grinder by the Solid Waste & Recycling Division from Henard Utility Products in the amount of \$239,068.75.

Resolution 58-04 as Recorded in the Office of the City Clerk.

Landers Ford -Fire Department Vehicle Purchase: A resolution approving the purchase of a Ford Expedition from Landers Ford at the state contract price of \$25,811.00 for use by the Fayetteville Fire Department; and approving an additional expenditure of \$2,350.00 to equip the vehicle with lights, siren and console.

Resolution 59-04 as Recorded in the Office of the City Clerk.

Ron Blackwell -Water & Sewer Vehicle Purchase: A resolution approving the purchase of two Ford F550 Trucks for the Water and Sewer Division from Ron Blackwell Ford for a total price of \$79,133.76.

Resolution 60-04 as Recorded in the Office of the City Clerk.

Schwarze Industries Street Sweeper Purchase: A resolution approving the purchase of a Street Sweeper for the Transportation Division from Schwarze Industries in the amount of \$139,376.00.

Resolution 61-04 as Recorded in the Office of the City Clerk.

Basic Construction Top Soil Purchase: A resolution to award a bid to the low bidder, Basic Construction, Inc. in the amount of \$50,000.00 to purchase top soil for street and sidewalk projects.

Resolution 62-04 as Recorded in the Office of the City Clerk.

2004 FEMA Fire Act Grant: A resolution to approve a grant request for a FEMA Fire Act Grant and Agreement to match any received grant funds in an amount equal to 30% of the total budget.

Resolution 63-04 as Recorded in the Office of the City Clerk.

Gregory Park Land-Convey to U.S. Army Reserve Center: A resolution approving the acceptance of a Quitclaim Deed for approximately 19.38 acres of land from the United States Department of the Army in exchange for conveying a Warranty Deed for approximately 0.412 acres of land to clear title and resolve an encroachment; and authorizing the Mayor and City Clerk to execute any and all documents required therefore.

Resolution 64-04 as Recorded in the Office of the City Clerk.

Alderman Marr moved to approve the Consent Agenda as read. **Alderman Thiel** seconded the motion. Upon roll call the motion to approve the consent agenda passed unanimously.

OLD BUSINESS:

Central Emergency Medical Services, Inc.: A resolution approving the renewal of the contract for services in the amount of \$156,000.00 between the City of Fayetteville and Central Emergency Medical Services, Inc. to operate and maintain an emergency ambulance service to serve the residents of Fayetteville.

Alderman Marr: If I understand the average response time is 7 ½ minutes, they are committing to an average response time of 8 minutes. Is that in the contract?

Chief Bosch: We have provided a new contract to the City Clerk with the response time of 8 minutes. The National Fire Protection Association recommends a response time of not to exceed 8 minutes 90% of the time.

Alderman Marr: The only commitment we are getting is an 8 minute average. There is not a maximum in this contract at this time. Do we have a plan to try to get to that?

Chief Bosch: Yes sir.

Hugh Earnest: Before the summer is over we will have a report to you that details a series of options that will improve the service delivery.

Alderman Thiel moved to approve the resolution. **Alderman Rhoads** seconded the motion. Upon roll call the resolution passed 6-2. **Alderman Rhoads, Davis, Lucas, Jordan, Thiel** and **Cook** voting yes. **Alderman Reynolds** and **Marr** voting no.

Resolution 65-04 as Recorded in the Office of the City Clerk.

ANX 03-5.00 (Dunnerstock Development): An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Dunnerstock Development, Inc. located on Ruppel Road north of Wedington Drive containing approximately 17.19 acres.

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

Mr. Williams read the ordinance.

A discussion followed on widening Ruppel Road and the ingress and egress to the property.

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

Mr. Williams read the ordinance.

Alderman Cook: I am usually not in favor of annexations; the only time I would be in favor of an annexation is to bring islands into our city limits. My frustration with this annexation is Ruppel Road. We are building these projects before we have the infrastructure for these projects. I am for more single family housing but the additional load to this street is my concern.

Alderman Jordan: I agree with Alderman Cook. I have concerns about this street.

Jim McCord, representing the applicant: Patrick is stubbed out adjoining this property to the west so there will be connectivity. Ruppel Road will not be the only ingress and egress.

Dawn Warrick, Planning: Staff will require connectivity for this project.

A discussion followed on the project.

Alderman Marr: The Planning Commission minutes only show one citizen opposed to this annexation and rezoning. I think it does begin to pick up islands and gets government control that is city regulated rather than county regulated. I support it for those reasons.

Alderman Lucas: The redeeming quality is it does have other access. We do need to get these islands annexed in.

Alderman Jordan: I do believe we need to annex in these island but we must address the infrastructure of this city, this can not go on forever.

Alderman Cook: When are we going to actually adopt the traffic study?

Tim Conklin, Planning: The traffic study was accepted by the City Council in December and we are working on some of the intersections that were identified. We are working on those projects.

A discussion followed on the traffic study and the information on upgrading city streets that will be brought to the Council in the near future.

Vice Mayor Davis asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Rhoads, Davis, Lucas, Jordan, Reynolds, Thiel and Marr voting yes. Alderman Cook voting no.

Ordinance 4555 as Recorded in the Office of the City Clerk

RZN 03-33.00 (Dunnerstock): An ordinance rezoning that property described in rezoning petition RZN 03-33.00 as submitted by James McCord on behalf of Dunnerstock Development, Inc. for property located on Ruppel Road north of Wedington Drive from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

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

Mr. Williams read the ordinance.

A discussion followed on the type of zoning.

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

Mr. Williams read the ordinance.

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

Ordinance 4556 as Recorded in the Office of the City Clerk

ANX 03-06.00 (Hoskins/Schlegel): An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres.

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

Mr. Williams read the ordinance.

Alderman Thiel: This project concerns me because of the report from our police department regarding the access into this project. I am also concerned about the frontage.

Alderman Jordan: Are there possible wetlands on the site.

Dawn Warrick: I do not know if a study has been done with regards to that.

Mel Milholland, Milholland Engineering: A study has been made and to my knowledge no objection has been made to the site.

Alderman Jordan: Chief Bosch you said the response time was 5 minutes and 42 seconds. How would you rate that?

Chief Bosch: That is about average, it is pretty good. We do have a concern about the access into that area.

Alderman Jordan: Mr. Boettcher, what lift station will be handling this project?

Mr. Boettcher: Crystal Springs.

Alderman Jordan: Is the capacity good there.

Mr. Boettcher: We have reserve capacity in Crystal Springs. Once they develop their final loading projections we will be evaluating that and confirming that there is capacity to handle it. If there is a need to upgrade the station that will be included. In terms of long term there is an interceptor sewer that will come down through that area and this will ultimately connect to it.

Dawn Warrick: The preliminary report from RJN indicates that lift station has capacity for 670 units; the maximum density for this development is 290 units.

Alderman Jordan: How many trips a day is this development going to add to the road?

Dawn Warrick: An average single family home generates between 9 and 10 vehicle trips per day.

A discussion followed on access to the development by the fire department, the traffic danger that might be created by the development and the improvements to Ruppel Road. There was also a discussion on the undeveloped land in Fayetteville.

Alderman Marr: Do we have a justified need to annex these 72 acres?

Tim Conklin: The location of this in relationship to the infrastructure in the area and the potential and existing growth that is occurring in this area, it is my opinion that it would be better to have this inside the City of Fayetteville versus having it outside the City of Fayetteville where there is very limited control by the City of Fayetteville. This is an area that is growing and should be developed to city standards.

Alderman Davis: What you said makes sense; this is adjacent to the property that we sold to Collins Haynes who is installing an upscale development. If we are having a high end development beside this property, I think we need to have this property inside the city so we will have something looking nice in this area. Planning Commission has approved this 9-0.

Alderman Marr: How do we justify the need and are we bringing more in than we will be able to handle and be able to finance?

Hugh Earnest: We do need to provide a map showing the undeveloped land in the City of Fayetteville. It does not mean that land is subject to development.

Tracy Hoskins, the owner asked that this be approved. He stated this will be an upscale development.

A discussion followed on this project, the roads in this area, the access to the property and how the funds will be obtained to improve the infrastructure.

Alderman Jordan voiced his concern about the roads around this project.

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

Mr. Williams read the ordinance.

Alderman Marr: It looks like we are fairly split on this ordinance. If this is a tie it is a denial, is that correct?

Kit Williams: In order to pass an ordinance or a resolution it requires five affirmative votes.

Alderman Marr: We may want to table this until our Mayor is back.

Tracy Hoskins explained the project to the Council.

Mel Milholland: What happens if this is a tie tonight?

Kit Williams: A 4 to 4 vote would not pass the ordinance, the ordinance would fail.

Tim Conklin: There is a one year waiting period before they could bring this back before us.

Alderman Marr moved to table the ordinance. Alderman Davis seconded the motion. Upon roll call the motion to table passed 7-1. Alderman Davis, Lucas, Jordan, Reynolds, Thiel, Cook and Marr voting yes. Alderman Rhoads voting no.

RZN 03-34.00 (Hoskins/Schlegel): An ordinance rezoning that property described in rezoning petition RZN 03-34.00 as submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

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

Mr. Williams read the ordinance.

This Ordinance was Left on the Second Reading.

RZN 04-2.00 (Chance & Tuggle): An ordinance rezoning that property described in rezoning petition RZN 04-02.00 as submitted by Geoff Bates of Keystone Consultants on behalf of David Chance and John Tuggle for property located at West Tackett and Genevieve Avenue containing approximately 7.94 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

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

Mr. Williams read the ordinance.

Alderman Thiel and Alderman Lucas wanted to know if improvements will be made to the adjoining streets.

Tim Conklin: This is not part of our CIP. No major road widening improvements are planned.

Alderman Lucas: How wide is 54th street?

Jeff Bates the engineer for the developer: 22 to 24 feet. We have changed our zoning three different times, we have met with the adjoining property owners and staff. We received unanimous approval from the Planning Commission and we have had not public comments since

we changed the zoning. We would like to ask the Council to approve this. This project will be 25 single family homes.

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

Mr. Williams read the ordinance.

Alderman Jordan: Asked Chief Bosch how he would rate the road for emergency vehicles.

Chief Bosch: I would say that compared to other roads in that area it is average.

Alderman Jordan: If you met a car on that road you could pass.

Chief Bosch: Yes sir.

Alderman Cook: You were asking about the width of the road, in the Planning minutes it states 16 feet at the narrowest part and 30 feet at the bridge. It goes back to 18 feet up to Highway 16.

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

Ordinance 4557 as Recorded in the Office of the City Clerk

NEW BUSINESS:

Northwest Arkansas Regional Planning Commission Storm Water Education Contract:
An ordinance to waive competitive bidding and to approve a five year contract for \$239,000.00 with the Northwest Arkansas Regional Planning Commission for services by the University of Arkansas Cooperative Extension Service to satisfy portions of the requirements of the NPDES Phase II Stormwater Permit.

Mr. Williams read the ordinance.

Alderman Thiel: The Environmental Concerns Committee reviewed this and they were very supportive of this.

Alderman Marr: I want to thank the staff for seeking regional solutions that save the city money.

Alderman Thiel: We should thank the Northwest Arkansas Regional Planning Commission. They took this on as a project. I think it is a very good reason why the City of Fayetteville should remain a member of that organization. They do a great many good things for the area.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4558 as Recorded in the Office of the City Clerk

R-PZD 04-4.00: Residential Planned Zoning District (Stonewood Gardens): An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-4.00 located south of Albright Road and north of the Stonewood Subdivision containing 3.36 acres more or less; amending the official Zoning Map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Davis: This will be a gated community, if this passes this evening will more of these be occurring in the City of Fayetteville in the future?

Tim Conklin: Our General Plan recommends that we avoid putting gates on communities. We typically discourage the use of gates where there is connectivity. With existing development on the sides of this project we were not allowed to do that. In the past if it had connectivity we did not allow gates.

Alderman Davis: Chief Bosch, in this particular gated community they are talking about having a key and lock box, is that a problem.

Chief Bosch: That would work for us.

Alderman Reynolds: Would that be shared with the police.

Chief Bosch: Yes, we could do that.

Alderman Rhoads: Does that add to the response time?

Chief Bosch: It may add some, maybe 30 seconds.

Alderman Marr: If it is in our plan to not have gated communities and this was recommended by staff, why did you depart from the plan?

Tim Conklin: We currently do not have an ordinance that prohibits gated communities. It is a policy in our General Plan, but we do not have an ordinance. It would be better to not have this

gate because in the future it could cause issues between staff and developers. This project does not have connectivity so it is difficult to not let them have a gate.

Alderman Davis: The only ingress and egress is off 265. This project is surrounded on three sides.

A discussion followed on the single family home on the property.

David Gilbert with Jorgenson and Associates representing the developer: This project is such a small tract of land, the existing home will stay in place. With the development to the south there is no connectivity to the south, there is no connectivity to the north. We do not believe there is a significant benefit to the City of Fayetteville to have a through street on this tract.

Alderman Jordan: What are the benefits to having a gated community.

David Gilbert: The development as a whole was developed by the developer with some definite points in mind. He wants to create something more upscale, we are trying to do something that will present a positive image as people enter Fayetteville. The wall across the front is for noise reduction. Gated communities are very common in large parts of the country, they convey to people a sense of security. This will be single family homes only.

Mr. Gilbert continued to explain the project to the Council.

Alderman Marr: I like everything about this but the fact that it is gated.

Mr. Gilbert explained the reason they wanted to install the gates. He commended the staff for their help on this project.

This Ordinance was Left on the Second Reading.

VAC 04-3.00: Vacation (Sohraby): An ordinance approving VAC 04-3.00 to vacate and abandon a portion of an existing utility easement to allow for the eave of an existing home at 2474 Fennchurch Way in the Covington Park Phase I Subdivision as described on the attached map and legal description.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Thiel: I hope we can avoid these in the future.

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

Mr. Williams read the ordinance.

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

Ordinance 4559 as Recorded in the Office of the City Clerk

VAC 04-8.00: Vacation (CMN II, Phase II): An ordinance approving VAC 04-8.00 to vacate and abandon a 20' utility easement located along the boundary of lots 17E and 17F of the CMN Business Park II, Phase II as depicted on the attached legal description.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Marr: Did the Planning Commission vote on this on April 12th and did they recommend this?

Dawn Warrick: The Planning Commission approved this unanimously on April 12th.

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

Ordinance 4560 as Recorded in the Office of the City Clerk

Library Project Contingency Increase: A resolution to increase the project contingency for the Fayetteville Public Library construction by \$999,691.00 from settlement and budgeted items.

Michael Thomas, Vice President of the Library Board of Trustees: We ask that you approve this resolution. The library project continues to remain on budget.

Alderman Cook: Would staff people explain this, I have had some calls from people thinking we are adding more money to the project.

Louise Shaper, Library Director: This is a reapportion of funds.

Steve Davis, Finance and Internal Services Director: This will provide the library staff the opportunity to finish the project by going through the public bid process but signage of the contracts will be completed without having to come back to the City Council before ordering the materials. This will save them approximately three to five weeks.

Alderman Marr: This is money that was in the overall project budget.

Steve Davis: The overall project budget remains the same with the exception of the \$105,000 settlement that the City Council accepted with Grubs Hoskins.

Alderman Davis: We have a list of the items these funds will be used for.

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

Resolution 66-04 as Recorded in the Office of the City Clerk

Sewer Committee: An ordinance to enact a new section of the Fayetteville Code, §33.112 Sewer Committee.

Mr. Williams read the ordinance.

Kit Williams: I brought this forward to make sure we are in compliance with the state law. This is not a change in the way the City Council has done business since 1992, when we established a Water and Sewer Committee. I could not find any ordinance that created the Sewer Committee, state law says you shall create one.

Alderman Thiel: Why does this have to be a separate committee?

Kit Williams: The statues state it will be called the Sewer or the Wastewater Committee. I think we should also give the committee advisory authority over our clean water system. This is not changing their authority it is just making sure we are in complete compliance with the state law.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4561 as Recorded in the Office of the City Clerk

Meeting Adjourned at 8:25 p.m.

Sondra Smith
City Clerk

**Tentative Agenda
City Council Meeting
May 4, 2004**

A meeting of the Fayetteville City Council will be held on May 4, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Municipal Clerks Week Proclamation

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the April 20, 2004 meeting minutes.
2. **University of Arkansas Pavement Management System Contract:** A resolution to approve a contract with the University of Arkansas for development of a Paving Management System in the amount of \$79, 806.32.
3. **Pine Valley Subdivision Tree Preservation Easement:** A resolution to modify the tree preservation easement located within Lot 6 of the Pine Valley Subdivision.
4. **Wildcat Manufacturing Compost Row Turner Purchase:** A resolution to accept the low bid for a compost row turner and to purchase a Wildcat SPB514 for \$155,078.00.
5. **Arkansas Highway & Transportation Dept. Letter of Intent to Cost Share:** A resolution to authorize the Mayor to execute a letter of intent to cost share with the Arkansas Highway and Transportation Department during FY 2006 and 2007.

B. OLD BUSINESS:

1. **ANX 03-06.00 (Hoskins/Schlegel):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres.
2. **RZN 03-34.00 (Hoskins/Schlegel):** An ordinance rezoning that property described in rezoning petition RZN 03-34.00 as submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

3. **R-PZD 04-4.00: Residential Planned Zoning District (Stonewood Gardens):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-4.00 located south of Albright Road and north of the Stonewood Subdivision containing 3.36 acres more or less; amending the official Zoning Map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

C. NEW BUSINESS:

1. **Automated Field Inspection Software Purchase:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of hardware and software from MobileHwy, LLC to implement an automated field inspection system in the amount of \$37,262.50.
2. **Dychem International Contract Renewal:** An ordinance waiving competitive bidding and awarding an extension of a contract with Dychem International through the end of 2004.
3. **ADM 04-11.00 Amendment to Title 15, Chapter 172.05:** An ordinance to amend Section 172.05 Standards for the Number of Spaces by Use of the Code of Fayetteville to eliminate the requirement to provide additional parking spaces for accessory outdoor restaurant areas in C-3 and C-4 Districts.
4. **ANX 04-5.00 (Harper/Brandon):** An ordinance confirming annexation petition ANX 04-5.00 to the City of Fayetteville, Arkansas, of certain property located south of Albright Road on the west side of George Anderson Road containing approximately 9.99 Acres.
5. **RZN 04-4.00 (Harper/Brandon):** An ordinance rezoning that property described in the rezoning petition RZN 04-4.00 as submitted by Michele Harrington on behalf of Gary Brandon Enterprises, Inc. for property located south of Albright Road on George Anderson Road containing approximately 9.99 Acres from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, Four Units per acre.
6. **RZN 04-06.00 (The Crowne):** An ordinance rezoning that property described in rezoning petition RZN 04-6.00 as submitted by Jerry Kelso of Crafton, Tull & Associates on Behalf of the Crowne Limited Partnership for property located north of 18th Street and west of Beechwood Avenue containing approximately 10.93 Acres from I-1, Heavy Commercial, Light Industrial to RMF-12, Residential Multi Family, Twelve Units per acre.
7. **I-PZD 04-5.00 (Wal-Mart Optical Lab):** An ordinance establishing an Industrial Planned Zoning District titled I-PZD 04-5.00 located at 2314 W. 6th Street containing approximately 8.457 Acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Industrial Development Plan as approved by the Planning Commission.

8. **VAC 04-04.00 (Clary Development/Harps):** An ordinance approving VAC 04-04.00 to vacate and abandon a 35' drainage easement located on Lot 8 of the Wedington Place Addition Phase II as depicted on the attached map and legal description.
9. **VAC 04-05.00 (Clary Development/Harps):** An ordinance approving VAC 04-05.00 to vacate and abandon a 10' utility easement located along the boundary of Lot 8 of the Wedington Place Addition Phase II as depicted on the attached map and legal description.
10. **VAC 04-07.00 (Woodall):** An ordinance approving VAC 04-07.00 to vacate a 15' alley between Taylor and Douglas Streets, West of Gregg Avenue as Depicted on the attached legal description.

D. INFORMATIONAL:

Council Tour: May 3, 2004

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor and City Council

From: Gary Dumas

Date: April 9, 2004

Subject: Contract with the University of Arkansas, Kelvin Wang, for Development of a Pavement Management System

Recommendation:

Approve resolution authorizing the Mayor to execute a contract with the University of Arkansas in the amount of \$79,806.32 for development, survey, installation, training, first year data analysis, and first year support of a pavement management system for the approximate 255 centerline miles within the local street system of the City of Fayetteville.

Background:

The approximate 255 centerline miles of local streets within the City of Fayetteville have a replacement cost of over \$60,000,000 at \$46.00 per linear foot, not including curb, gutter and drainage improvements. This asset has a FY 2004 programmed annual rehabilitation budget of \$1,379,611 or \$15.37 per overlay linear foot or \$32.70 per ton of asphalt laid. The budgeted activities scheduled for 2004 will rehabilitate approximately 17 centerline miles per year and complete a rehabilitation circuit of the current system each 15 years.

This \$1,379,611 annual investment in programmed rehabilitation is 2.3% of the value of the \$60,000,000 asset.

Discussion:

In recent years, municipalities have begun implementation of pavement management systems (PMS) in their efforts to more-efficiently utilize tax dollars for preservation of pavement networks. As the City grows, the need to manage the maintenance, rehabilitation and expense of this operation becomes apparent. This proposed contract provides the technical processes in data collection for;

- pavement performance,
- pavement condition, and

- establishes a pavement management system for the City.

The pavement network in the City of Fayetteville has been managed and maintained without a formal pavement management system (PMS). The City's Operations Department has determined that in order to keep pace with the increasing need for pavement maintenance and rehabilitation and to manage the expense of this activity, the City should have a comprehensive analytical scientific pavement management system for its roadway and street network.

This proposed contract provides for data collection and data analysis, including pavement roughness, rutting, and cracking information. All collected pavement information will have differentially corrected GPS positioning data and additional positioning data from the Distance Measurement Instrument (DMI). Technologies based on the Digital Highway Data Vehicle developed at the University of Arkansas will be used in the data collection. The data analysis includes the establishment of a pavement management system based on an available software package. Street segmentation will be provided as the base database for the PMS in the data analysis phase.

Initial models for pavement performance prediction will be provided as part of the data analysis. Data contained in the PMS software will also be compatible with the City's current practice in Geographical Information System (GIS). The PMS software package will provide the City with alternative maintenance and rehabilitation programs based on different budget scenarios.

The budget table for the project is shown below. The resources are necessary for all data collection, including roughness (ride), condition (cracking and rutting), and tasks for both UA team and Iowa State team.

Budget Needs for All Tasks

	Total
Labor	\$66,396.80
Travel	\$3,000.00
Sub-Total	\$69,396.80
15% Overhead	\$10,409.52
Total	\$79,806.32
Grand Total	\$79,806.32

The researchers will evaluate two PMS software packages for Pavement Management Systems:

- Hansen's pavement management system (City owns) and
- Deighton's Total Infrastructure Management System (dTIMS) (would need to be purchased, approximately \$15,000).

The evaluation will be based on applicability, ease of use, and cost, including factors such as the effectiveness of blending conditions, maintenance options, scenario building, and updating records.

When the City decides which package to use based on the team's recommendation, the research team will then prepare data sets for the particular software package. This task should complete within the first month of the project.

Furthermore, it is also strongly recommended that an annual or biennial budget be allocated by the City to continue its PMS efforts on a routine basis; to support efforts such as data collection, maintaining the database and software, updating prediction models, and maintaining the workstation and software.

Budget

The City's current system of assessing street conditions is conducted annually in the late fall or early winter. The process involves two teams of two individuals. These two teams drive each street and note their observations concerning cracking, rutting, and ride on an evaluation form. This data is then numerically summarized, entered into a spreadsheet and ranked. There is little opportunity to develop maintenance scenarios other than manually modifying the ranking of a street segment. And there is no opportunity to test various rehabilitation strategies against budget and overall street condition improvement. This annual observation process with its limitation on benefit/cost analysis is the only process available, without moving to a controlled technical system. The annual cost of the current system is \$51,782.40 including manpower and equipment at current pay rates.

Estimated cost of In-House Street Evaluations				
Rating Crew	#	Hours	Rate	Cost
Lead Workers	1	320	29.17	\$9,334.40
Maint 3 wkr.	3	320	28.83	\$27,676.80
Pickup / Car	2	320	5.45	\$3,488.00
Input / Verify	#	Hours	Rate	Cost
Field Op. Supr.	1	320	35.26	\$11,283.20
Estimated Cost*				\$51,782.40
*Includes overhead cost for the Transportation Division				

The more technical process, in order to be effective must be repeated at specific intervals. The consultants have recommended an annual interval; a biennial interval will be less

costly and will remain effective. A re-survey every other year will allow the City to have completed at least one year's recommendations before the next condition appraisal.

Without Pavement Management System Contract

	Year 1	\$51,782
	Year 2	\$51,782
	Year 3	\$51,782
	Total Years 1-3	\$155,346
	Year 4	\$51,782
	Year 5	\$51,782
	Total Years 1-5	\$258,910

With Pavement Management System Contract

	Year 1	Contract	\$79,806.
		Software*	\$15,000
	Year 2		\$0
	Year 3	Survey	\$50,000
	Total Years 1-3		\$144,806
	Year 4		\$0
	Year 5	Survey	\$50,000
	Total Years 1-5		\$194,806

* if necessary

The technical pavement management program is not only less costly than the current survey method, but it gives much more usable results which can lead to better, more efficient use of limited rehabilitation dollars and, in addition, frees 640 hours of staff time to be used in other maintenance activities.

Pavement Management through Data Collection and Analysis

A Proposal to the City of Fayetteville, Arkansas

Principal Investigator: Kelvin C.P. Wang
Department of Civil Engineering
University of Arkansas
Phone: (479) 575-8425, Email: kcw@engr.uark.edu

Co-Principal Investigator: Omar Smadi
Center for Transportation Research and Education
Iowa State University
Phone: (515) 294-7110, Email: smadi@iastate.edu

March 12, 2004

ABSTRACT

The approximate 300 miles of pavement network in the City of Fayetteville, Arkansas have been managed and maintained without a formal pavement management system (PMS). The City's operations office has determined that in order to keep pace with the increasing need for pavement maintenance and rehabilitation, the city should have a comprehensive pavement management system for its roadway and street network. In response to this request, this proposal provides a description of the requirements to establish a PMS for the city and the necessary resources in terms of data collection and data analysis. In particular, the data collection includes pavement roughness, rutting, and cracking information. All collected pavement information will have differentially corrected GPS positioning data and additional positioning data from the Distance Measurement Instrument (DMI). Technologies based on the Digital Highway data Vehicle developed at the University of Arkansas will be used in the data collection. The data analysis includes the establishment of a pavement management system based on an available software package. Street segmentation will be provided as the base database for the PMS in the data analysis phase. Initial models for pavement performance prediction will be provided as part of the data analysis. Data contained in the PMS software will also be compatible with the city's current practice in Geographical Information System (GIS). The PMS software package will provide the city with alternative maintenance and rehabilitation programs based on different budget scenarios. The researchers also believe that in order to maximize the beneficial impact of establishing a PMS on its street network, the city should continuously collect data on consistent basis, update the performance models with new data, and actively use the analysis results from the PMS on regular basis.

INTRODUCTION

In recent years, municipalities have begun implementation of pavement management systems (PMS) in their efforts to more-efficiently utilize tax dollars for preservation of pavement networks. The City of Fayetteville has about 300 miles of roads and streets under its jurisdiction. As the city grows, the need to manage the maintenance and rehabilitation of the pavement network becomes apparent. This proposal details the technical processes in data collection for pavement performance and condition, and establishing a pavement management system for the city's operations office. In addition, recommendation on how to use the PMS processes will be provided. Needs of resources in terms of funds are also discussed in the section of Tasks and Budget.

DATA COLLECTION

The data collection includes two major components: pavement performance, and pavement condition. Performance and condition data will be directly used for modeling in the pavement management system.

In particular, performance data will be in the format of roughness based on the International Roughness Index (IRI). Condition data will be based on pavement transverse rutting and surface

cracking. Rutting data will be based on the permanent deformation at the wheel paths in inches or mm. Cracking data will be presented in crack geometries and summarized into a commonly accepted protocol, such as the AASHTO Interim Cracking Protocol. Figures 1 and 2 illustrate the Digital Highway Data Vehicle (DHDV) developed at the University of Arkansas and its technologies will be used in the data collection.

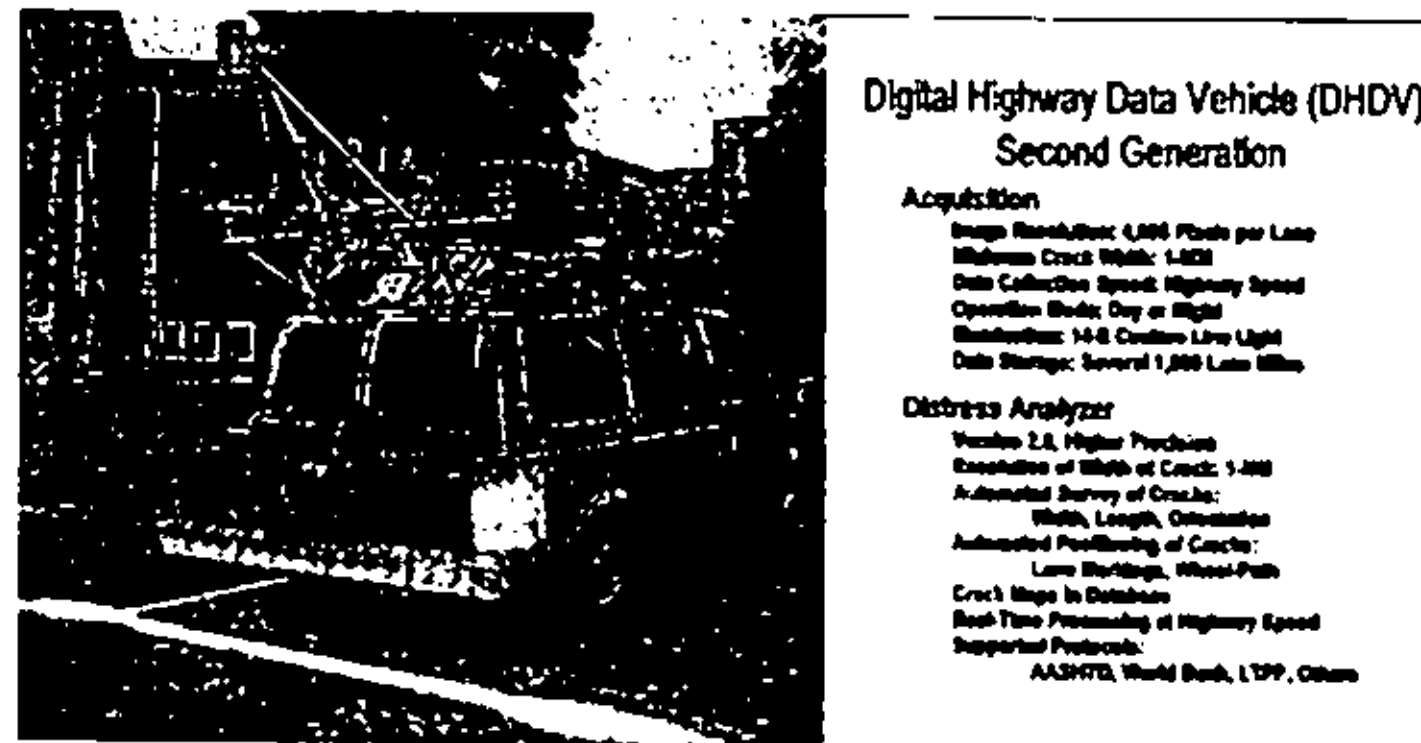


Figure 1 Digital Highway Data Vehicle (DHDV) with Line Light Assembly

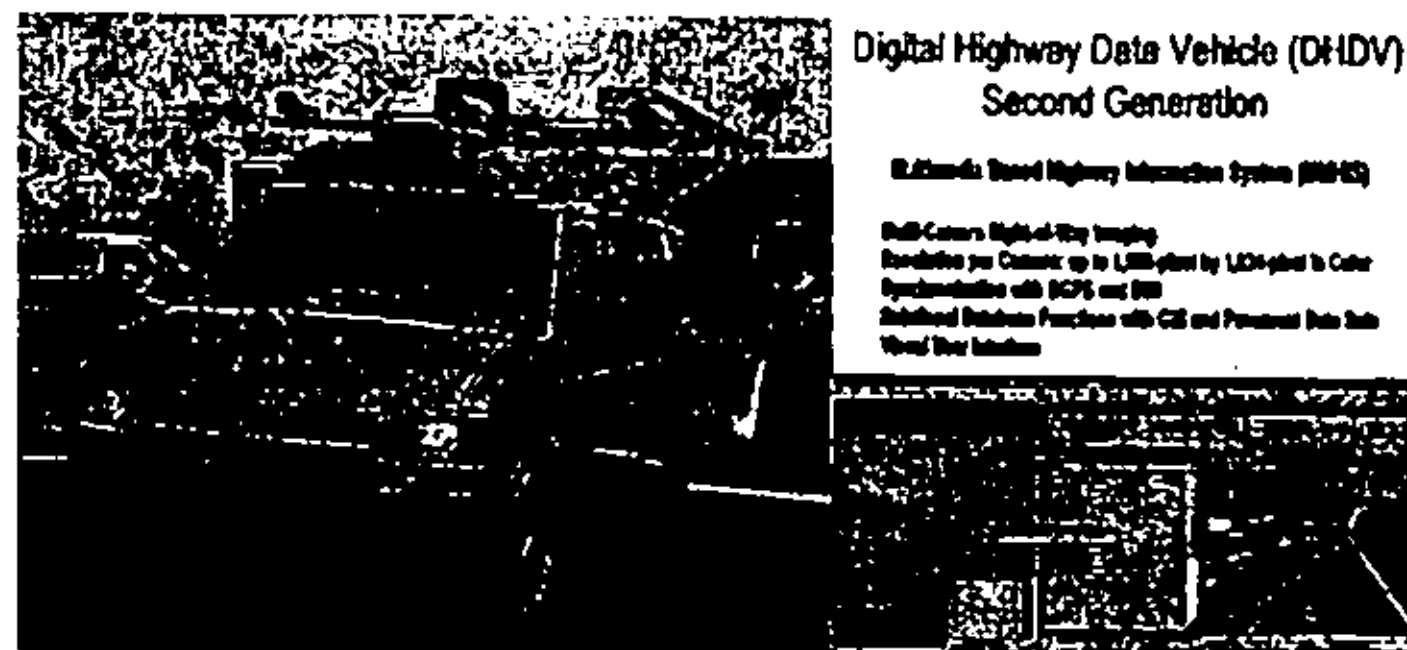


Figure 2 Right-of-Way Photo Logging with the DHDV

ESTABLISHING THE PMS SOFTWARE

Task 1 – Evaluation of PMS Software

The researchers will evaluate two PMS software packages for pavement Management Systems: Hansen's pavement management system, and Deighton's Total Infrastructure Management System (dTIMS). The evaluation will be based on applicability, ease of use, and cost, including factors, such as the effectiveness of blending conditions, maintenance options, scenario building, and updating records. When the city decides which package to use based on the team's recommendation, the research team will then prepare data sets for the particular software package. This task should complete within the first month of the project.

Task 2 – Implementation

Description – The researchers will begin implementation of all the roadway data into the pavement management software. For the successful implementation of the software package, the researchers will complete the following:

Task 2.1 Acquire Pavement Information

Work with the University of Arkansas and the city to acquire the PMS data. This will include pavement condition data, GIS database data (inventory, history, and graphics), and the previous manual city inspections.

Task 2.2 Computer Software) Preparation

The researchers will prepare the PMS for utilization. This process will include the following:

1. Required data elements. Prepare all data elements needed to run the software using the default parameters provided by CTRE. Based upon the performance parameters, treatment strategies, and budgetary requirements, a database will be created. The data will include:

Section identification (street name, description, etc...)

Inventory information (location, length, width, traffic, pavement type, etc...)

Condition information (cracking, patching, roughness, rutting, etc...)

Performance parameters

2. Pavement inventory recommendations. The researchers will compare the pavement inventory information currently available with the information required by the software. Recommendations relating to data required by the software and city record keeping will be made to simplify the utilization of the software in the future and to improve the results obtained.

3. Software setup. This process covers the setup of the software. The software may consist of three modules (setup, analysis, and view & query). The setup covers the definition of all the performance parameters, treatment strategies, trigger limits, filters, budget categories, and data files. To complete this task, the City shall provide the following:

Average cost information (preferably \$/Mile) for various improvement strategies. Specifically, functional/thin overlays, structural/thick overlays, reconstruction, and routine maintenance will be considered. The researchers will work directly with the City to obtain this information. Addition treatment strategies can be added based on the city's request.

Budget numbers anticipated for the next 5 years for pavement rehabilitation and maintenance. The researchers will work with the City to obtain this information.

Task 3 - Operation

Task 3.1 Data Analysis

The research team will begin using the software in development of a pavement management program for all roadways within the city to cover a five-year period beginning January 1, 2005. This includes the following:

1. Software analysis. Generate feasible treatment strategies for the analysis period and conduct the optimization for final project selection and resource allocation.

2. Develop improvement program. This process requires compilation of projects selected each year through the 5-year planning period with the selected treatment strategies and costs. Overall

condition summaries and what-if-analysis (considering different budget scenarios) will be included on a limited basis for this initial effort.

Task 3.2 Data Integration

The research team will assist the city integrate the results from the software into the City's GIS database, which allows the City to view and query the improvement or construction program using the GIS database graphic interface. the City will need to utilize their own GIS software and technical staff to run and maintain the GIS component.

Task 4. Software Orientation/Training

The researchers will conduct a work session with City staff to review the software setup process and its use for the analysis of the City's pavement network. The session will explain what information must be entered into the program, how it is entered, assumptions that must be made, and how to improve the results of the software analysis. Finally, a discussion of the results and how they are interpreted will be presented. This scope assumes a maximum meeting time of 4 hours.

Task 5. Report and Presentation

A final report outlining the process used to develop the improvement program along with an explanation of the results will be prepared. The researchers will prepare and present the results of this project to the City staff.

SCOPE OF WORK, TASKS AND BUDGET

The data collection is conducted in one direction only for all city streets, and certain state highway routes. It is estimated that the total milage for the data collection is about 300 miles. The PMS database will include all collected performance data (roughness) and condition data (rutting and cracking). Pavement data collection will be handled primarily by the team at the University of Arkansas led by the PI, Dr. Wang. The Co-PI, Dr. Smadi, will provide necessary Quality Control (QC) and Quality Assurance (QA) for the data collection process. The establishment of the database for the PMS software will be conducted primarily by the team at Iowa State University led by Dr. Smadi. The University of Arkansas will have overall responsibility for the project.

The project will start in April 2004 as soon as the city approves the contract. The initial data collection will be completed by the end of June 2004, including the QC/QA work. Initial PMS database software will be delivered in August 2004 for testing. It is anticipated that the entire project will be completed by December 2004.

The task for the team at Iowa State University is preparation of PMS database for the city, including network segmentation and data formatting for PMS software input. Dr. Smadi will be a consultant in establishing the PMS software for the city, including validating performance models, working with city staff to set up treatments, train city staff in using the software, and work with the data collection staff of UA for QC/QA work. He is anticipated to travel to Fayetteville two to three times to collaborate with the UA team.

The budget tables for the project are shown below. Budget Table shows the resources necessary for all data collection, including roughness (ride), condition (cracking and rutting), and tasks for both UA team and Iowa team as described in the proposal. The city may choose to use the video logging capability at a later time for additional cost.

Budget Needs for All Tasks without Video Logging

	UA	Smadi	ISU
Labor	\$36,396.80	\$21,000.00	\$9,000.00
Travel (Smadi)	\$3,000.00		
Sub-Total	\$39,396.80	\$21,000.00	\$9,000.00
15% Overhead	\$5,909.52	\$3,150.00	\$1,350.00
Total	\$45,306.32	\$24,150.00	\$10,350.00
Grand Total	\$79,806.32		

In addition, the cost to purchase the PMS software is additional and is estimated to be \$15,000. UA can also provide the city a workstation with three 19-inch LCD monitor, including a licensed software package of Multimedia based Highway Information System (MMHIS), all raw and processed data at the cost of \$15,000. UA will provide service to support the use of the workstation and software for one year.

Furthermore, it is also strongly recommended that a budget of \$50,000 be allocated by the city to continue its PMS efforts on two-year basis, to support efforts such as data collection, maintaining the database and software, updating prediction models, and maintaining the workstation and software.

CONCLUSION

A PMS will provide the City of Fayetteville vital information on pavement performance and condition, and optimized treatment programs for preservation of the network. It is also important for the city to continue investing in PMS so that the maximum benefit in the latter years of the application of PMS can be reaped.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT WITH THE
UNIVERSITY OF ARKANSAS FOR DEVELOPMENT OF A
PAVING MANAGEMENT SYSTEM IN THE AMOUNT OF
\$79,806.32

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
approves a Contract with the University of Arkansas for the development of a Pavement
Management System for \$79,806.32 and authorizes the mayor to execute this Contract
attached as Exhibit "A".

PASSED and APPROVED this the 4th day of May, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

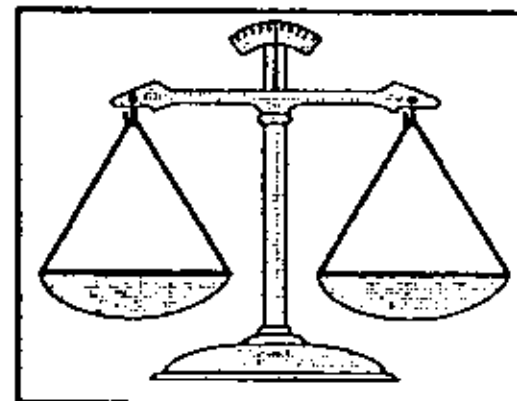
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

A. 2
U of A Pavement Mgmt. System Cont.
Page 12 of 24



LEGAL DEPARTMENT

TO: City Council

FROM: Kit Williams, City Attorney

DATE: April 16, 2004

RE: Exemption from bid requirements between state government
and cities

A.C.A. §14-58-303 states very broadly:

“Where the amount of expenditure for any purpose or contract exceeds the sum of ten thousand dollars (\$10,000.00), the mayor or his duly authorized representative shall invite competitive bidding thereon by legal advertisement in any local newspaper.”

The only exception to this that is found in that statute is your power to waive competitive bidding, by ordinance “in exceptional situations where this procedure is deemed not feasible or practical.”

In the **Public Finance** title of the Arkansas Code, **Purchasing and Contracts** Chapter, a different rule appears available for some purchases by cities.

Although this chapter deals primarily with purchases by the state government or its agencies when purchasing goods or services from outside businesses, it does provide procedures “concerning intergovernmental relations”. The City of Fayetteville, County of Washington, and the

Fayetteville Public Schools, would all be "local public procurement units." The University of Arkansas would either be a "local public procurement unit" or "procurement agency of this state." A.C.A. 19-11-206 (1) & (2) (A) & (F).

State procurement laws generally require "competitive sealed bidding" except for listed categories. A.C.A. §19-11-228. Although the statutes listed as excepted for competitive bidding requirements in §19-11-228 do not include A.C.A. §19-11-251 **Intergovernmental use of commodities or services**, that statute appears to exempt "public procurement units" from competitive bidding requirements.

"Any public procurement unit may enter into an agreement, independent of the requirements of §§19-11-204, **19-11-228** – 19-11-240, and 19-11-263 which refer to source selection and contract formation, ... with any other public procurement unit or external procurement activity for the intergovernmental use of commodities or services under the terms agreed upon between the parties and in accordance with the rules and regulations promulgated under this subchapter." (emphasis added).

Fayetteville and the University are "public procurement units" pursuant to its statutory definition of "either a local public procurement unit or a state public procurement unit." A.C.A. §19-11-206 (3).

To resolve the apparent conflict between A.C.A. §14-58-303 **Purchases and contracts generally** (bids required for contracts over \$10,000.00 unless waived by City Council) and A.C.A. §19-11-251 **Intergovernmental use of commodities or services**, we must resort to the "well settled" rule:

"that a general statute must yield when there is a specific statute involving the particular matter."
Ozark Gas Pipeline Corp. v. APSC, 342 Ark. 591,
29 S.W. 3d 730, 736 (2000).

The titles of the statutes give a good indication that the earlier one (§14-58-303) is more general while the second one deals only with contracts between "public procurement units" and is thus more specific.

"(I)t is a rule of statutory construction that when a special act applies to a particular case, it excludes the operation of a general act."

Pledger v. Mid-State Const. and Materials, 325 Ark. 388, 925 S.W.2d, 412, 417 (1996.)

Applying this rule of construction, the general statutory requirement that all contracts over \$10,000.00 must be bid must yield to more specific statutes dealing with situations when governments are contracting with each other. The general statute also yields when certain professional services (engineers, architects, lawyers) are hired through the mandated professional selection process without reference to cost of the services to be provided.

"We have long held that a general statute must yield when there is a specific statute involving the particular subject matter." Benton v. Gunter, 342 Ark. 543, 29 S.W.3d 719, 720 (2000).



Research Support and Sponsored Programs
Office of the Director
120 Ozark Hall
Fayetteville, Arkansas 72701

(479) 575-3845
(479) 575-3846 (FAX)
E-mail: rsspinfo@uark.edu
<http://www.uark.edu/admin/rsspinfo/>

April 20, 2004

Mr. Gary Dumas, Director of Operations
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mr. Dumas:

Enclosed please find an original of a proposal entitled "Pavement Management Through Data Collection and Analysis" submitted by the Board of Trustees of the University of Arkansas in behalf of Dr. Kelvin Wang of the Department of Civil Engineering.

All financial and/or contractual negotiations regarding this project should be conducted with this office. If questions arise concerning the technical aspects of the proposal, please contact Dr. Wang at (479) 575-8425. The University appreciates the interest and support of the City of Fayetteville.

Sincerely,

Kathy Scheibel, CRA
Senior Research Administrator
Pre-Award Services

kms
Enclosure(s)
cc: K. Wang

Office of Research Support & Sponsored Programs
120 Ozark Hall, Fayetteville, AR 72701

Phone: (479) 575-3845

Fax: (479) 575-3846

Email: rsspinfo@uark.edu



Pavement Management Through Data Collection & Analysis

A Proposal Submitted to

City of Fayetteville, AR

Prepared by
Department of Civil Engineering
College of Engineering

Proposed Period of Performance: May - December 2004

Amount Requested: \$79,806

Submitted by
Board of Trustees


Kelvin C.P. Wang


William D. Brown
Associate Dean for Research


Robert P. Elliott
for


Shannon G. Davis, Assistant Director
Research Support & Sponsored Programs

Pavement Management through Data Collection and Analysis

A Proposal to the City of Fayetteville, Arkansas

Principal Investigator: Kelvin C.P. Wang
Department of Civil Engineering
University of Arkansas
Phone: (479) 575-8425, Email: kcw@engr.uark.edu

Contact at the City of Fayetteville

Gary Dumas, Director of Operations
113 West Mountain
Fayetteville, AR 72701
Phone: 479-575-8330, Fax: 479-575-8257
Email: gdumas@ci.fayetteville.ar.us

April 16, 2004

ABSTRACT

The approximate 300 miles of pavement network in the City of Fayetteville, Arkansas have been managed and maintained without a formal pavement management system (PMS). The City's operations office has determined that in order to keep pace with the increasing need for pavement maintenance and rehabilitation, the city should have a comprehensive pavement management system for its roadway and street network. In response to this request, this proposal provides a description of the requirements to establish a PMS for the city and the necessary resources in terms of data collection and data analysis. In particular, the data collection includes pavement roughness, rutting, and cracking information. All collected pavement information will have differentially corrected GPS positioning data and additional positioning data from the Distance Measurement Instrument (DMI). Technologies based on the Digital Highway data Vehicle developed at the University of Arkansas will be used in the data collection. The data analysis includes the establishment of a pavement management system based on an available software package. Street segmentation will be provided as the base database for the PMS in the data analysis phase. Initial models for pavement performance prediction will be provided as part of the data analysis. Data contained in the PMS software will also be compatible with the city's current practice in Geographical Information System (GIS). The PMS software package will provide the city with alternative maintenance and rehabilitation programs based on different budget scenarios. The researchers also believe that in order to maximize the beneficial impact of establishing a PMS on its street network, the city should continuously collect data on consistent basis, update the performance models with new data, and actively use the analysis results from the PMS on regular basis.

INTRODUCTION

In recent years, municipalities have begun implementation of pavement management systems (PMS) in their efforts to more-efficiently utilize tax dollars for preservation of pavement networks. The City of Fayetteville has about 300 miles of roads and streets under its jurisdiction. As the city grows, the need to manage the maintenance and rehabilitation of the pavement network becomes apparent. This proposal details the technical processes in data collection for pavement performance and condition, and establishing a pavement management system for the city's operations office. In addition, recommendation on how to use the PMS processes will be provided. Needs of resources in terms of funds are also discussed in the section of Tasks and Budget. This project will utilize expertise from Dr. Omar Smadi from the Center for Transportation Research and Education, Iowa State University, Phone: (515) 294-7110, Email: smadi@iastate.edu. Dr. Smadi is a veteran in implementing pavement management systems for municipalities and has successfully worked with several cities and counties on PMS.

DATA COLLECTION

The data collection includes two major components: pavement performance, and pavement condition. Performance and condition data will be directly used for modeling in the pavement management system.

In particular, performance data will be in the format of roughness based on the International Roughness Index (IRI). Condition data will be based on pavement transverse rutting and surface cracking. Rutting data will be based on the permanent deformation at the wheel paths in inches or mm. Cracking data will be presented in crack geometries and summarized into a commonly accepted protocol, such as the AASHTO Interim Cracking Protocol. Figures 1 and 2 illustrate the Digital Highway Data Vehicle (DHDV) developed at the University of Arkansas and its technologies will be used in the data collection.

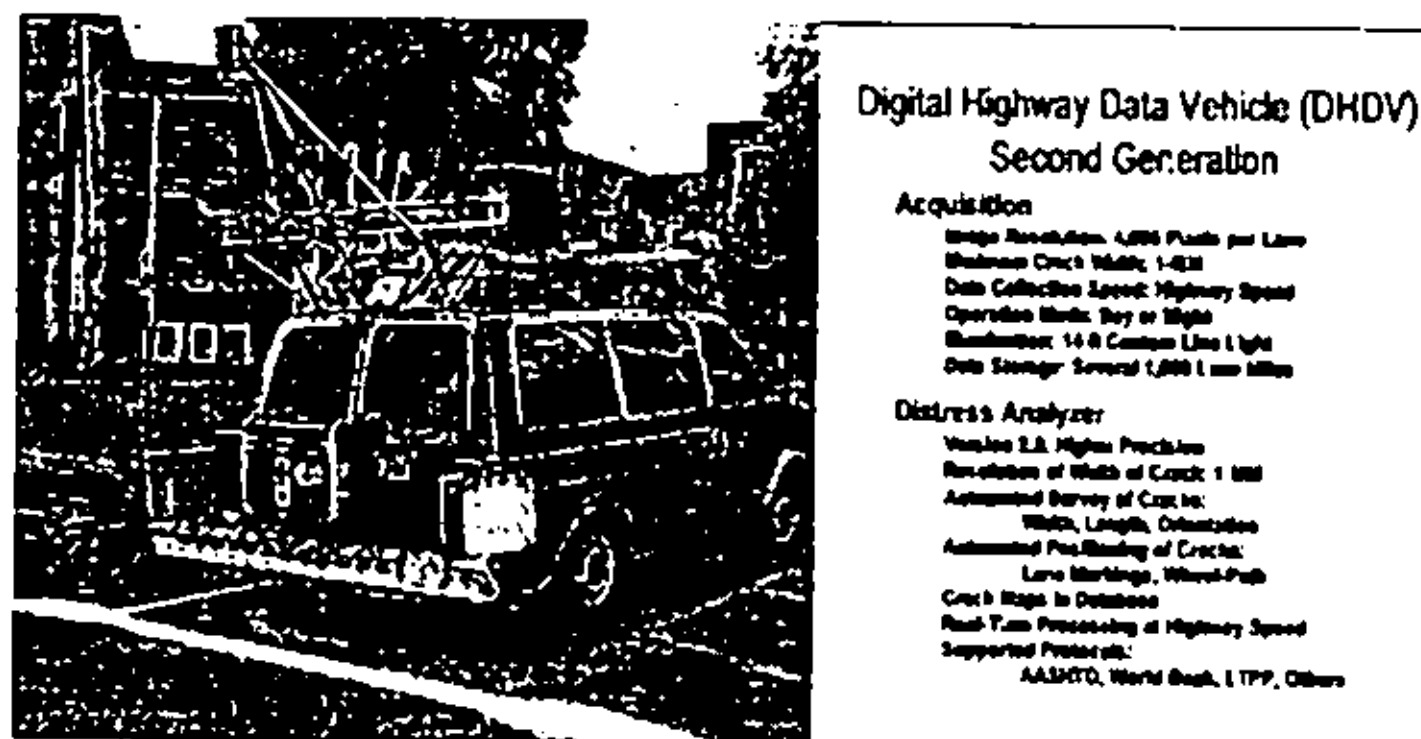


Figure 1 Digital Highway Data Vehicle (DHDV) with Line Light Assembly

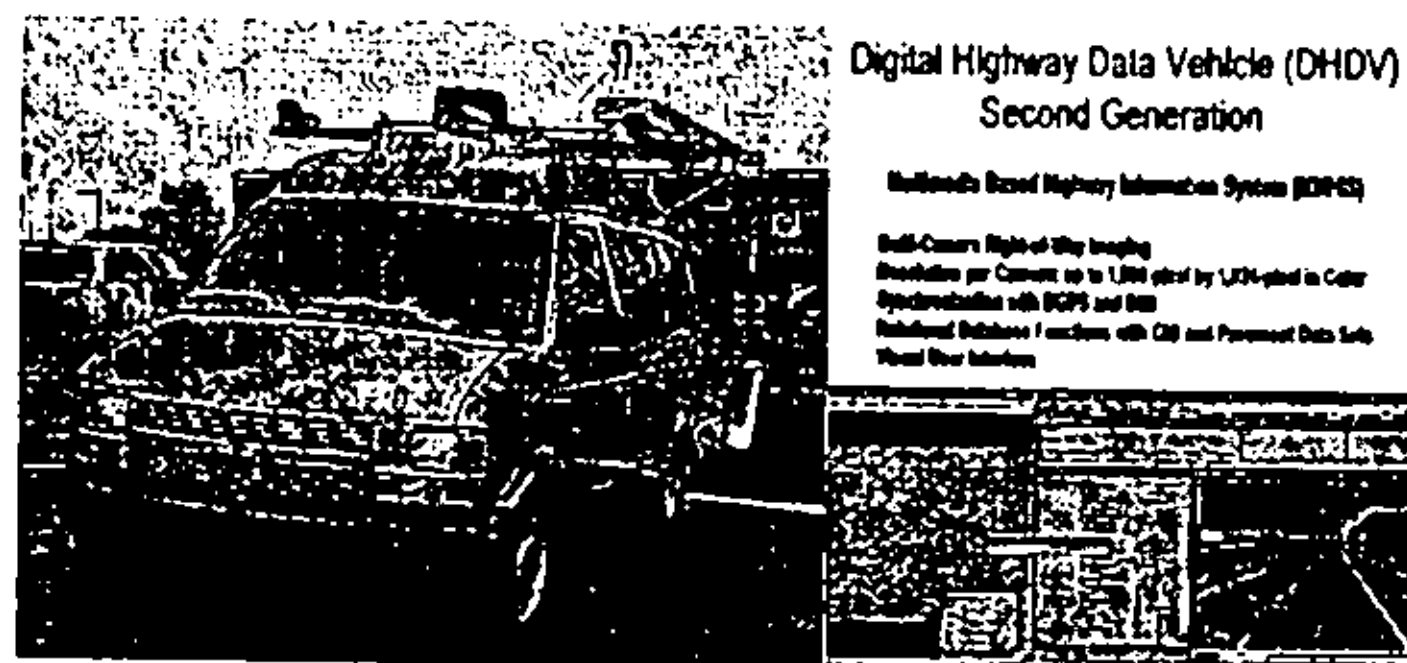


Figure 2 Right-of-Way Photo Logging with the DHDV

ESTABLISHING THE PMS SOFTWARE

Task 1 – Evaluation of PMS Software

The researchers will evaluate two PMS software packages for pavement Management Systems: Hansen's pavement management system, and Deighton's Total Infrastructure Management System (dTIMS). The evaluation will be based on applicability, ease of use, and cost, including

factors, such as the effectiveness of blending conditions, maintenance options, scenario building, and updating records. When the city decides which package to use based on the team's recommendation, the research team will then prepare data sets for the particular software package. This task should complete within the first month of the project.

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Description – The researchers will begin implementation of all the roadway data into the pavement management software. For the successful implementation of the software package, the researchers will complete the following:

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A final report outlining the process used to develop the improvement program along with an explanation of the results will be prepared. The researchers will prepare and present the results of this project to the City staff.

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The budget tables for the project are shown below. Budget Table shows the resources necessary for all data collection, including roughness (ride), condition (cracking and rutting), and tasks for both UA team and Iowa team as described in the proposal. The city may choose to use the video logging capability at a later time for additional cost.

Budget Needs for All Tasks without Video Logging

	UA	Smadi	ISU
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15% Overhead	\$5,909.52	\$3,150.00	\$1,350.00
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Grand Total	\$79,806.32		

In addition, the cost to purchase the PMS software is additional and is estimated to be \$15,000. UA can also provide the city a workstation with three 19-inch LCD monitor, including a licensed software package of Multimedia based Highway Information System (MMHIS), all raw and processed data at the cost of \$15,000. UA will provide service to support the use of the workstation and software for one year.

Furthermore, it is also strongly recommended that a budget of \$50,000 be allocated by the city to continue its PMS efforts on two-year basis, to support efforts such as data collection, maintaining the database and software, updating prediction models, and maintaining the workstation and software.

CONCLUSION

A PMS will provide the City of Fayetteville vital information on pavement performance and condition, and optimized treatment programs for preservation of the network. It is also important for the city to continue investing in PMS so that the maximum benefit in the latter years of the application of PMS can be reaped.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

U of A Pavement Mgmt. System Cont.
Page 23 of 24

XXXX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: May 4, 2004

FROM:

Gary Dumas

Name

Division

Operations

Department

ACTION REQUIRED: Resolution authorizing the Mayor to execute a Contract with the University of Arkansas, Kelvin Wang, for Development of a Pavement Management System in the amount of \$79,806.32

COST TO CITY:

<u>\$79,806.32</u>	<u>\$ 1,832,013.00</u>	<u>In-House Pavement Improvements</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>4470.9470.5315.00</u>	<u>\$ 137,742.00</u>	<u>Services and Charges</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>02052</u>	<u>\$ 1,694,271.00</u>	<u>Cap Improv Const Fund Exp</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW:

☒ Budgeted Item☐ Budget Adjustment Attached[Signature]

Budget Manager

4-14-04

Date

CONTRACT/GRANT/LEASE REVIEW:

[Signature]

Accounting Manager

4/14/04

Date

[Signature]

Internal Auditor

4/14/04

Date

No Contract Attached

City Attorney

4/16/04

Date

Purchasing Manager

Date

STAFF RECOMMENDATION:

Division Head

Date

[Signature]

Department Director

4-14-04

Date

[Signature]

Finance & Internal Services Dir.

4-16-04

Date

[Signature]

Chief Administrative Officer

4-19-04

Date

Mayor

Date

Received in Mayor's Office

4/19/04

Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

☒ Yes☐ No

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of May 04, 2004

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

City Council Memo

To: Mayor Dan Coody
Fayetteville City Council

Copy: Tim Conklin, Community Resources, Planning and Engineering Services Director
Dawn Warrick, Zoning and Development Administrator

From: Craig Carnagey, Landscape Administrator

Date: April 15, 2004

Subject: Pine Valley Lot 6 Tree Preservation Easement Modification

RECOMMENDATION

Planning Staff recommends approval of a resolution to modify a recently approved tree preservation easement located within lot 6 of the Pine Valley Subdivision. This action will allow a portion of the total easement area on this site to be removed from deed restrictions. This will also permit the property owner to remove unhealthy trees, restore the health of several trees in decline, replant this area with new trees, and add landscape elements.

BACKGROUND

The Tree Preservation and Protection Code, Chapter 167(L)(2) of the UDC states: *The geographic extent and location of tree preservation areas, once recorded, may only be modified, or abolished with the express approval of the City Council. Applicants requesting such action shall bear the burden of proving to the City Council's satisfaction that such modification or abolition is in the best interest of the City of Fayetteville. Such requests shall be submitted to the landscape administrator, who shall ask the city clerk to place it on the agenda of the next regularly scheduled City Council meeting.*

On December 22, 2003, staff met on site with the applicant's engineering firm. The project proposal preserved trees well above the required percent minimum for this site's zoning designation (29.6% preserved / 20% required minimum). The majority of this preservation was located within the riparian corridor of the creek along the north boundary of the site. A small area of large trees also existed along the front property line (* map attached). At that time it was pointed out to staff that the owner desired to preserve every existing tree possible. Staff agreed

with the proposed preservation area along the creek, but had concerns about the health of the trees located in the front of the site. The trees were dormant at this time so assessment of their health was difficult to determine. In the past, there had been approximately 6 – 12" of soil fill placed over the roots of these trees. The impact of this fill on long term tree viability could only be determined by a more in-depth analysis of how the roots of the trees were responding to these conditions. Staff recommended that before any preservation was proposed, a certified arborist be employed to determine the long term viability of these trees. Staff also recommended that all trees proposed for preservation be placed within a protective tree preservation easement in order to protect them from future development.

Following this discussion with the engineer, a revised final plat was submitted. This plat showed both the trees along the creek and the trees in the front of the property proposed for preservation. Staff's understanding, based on the submitted proposal for preservation areas and the stated desire of the owner to preserve all trees, was that the recommendation made on-site to consult an arborist was either fulfilled or rejected. During review, staff made the request that all trees proposed for preservation be placed within a deed restricted preservation easement. The applicant accepted this recommendation and revised the plat showing all proposed tree preservation areas being within such an easement.

After approval of the final plat by the Planning Commission, the applicant proceeded with site planning. During this time the applicant became concerned about the health of the trees in the front of the property. An arborist was consulted and a determination made that most of these trees would not live for many years longer. Because the applicant wished to build on the downward slope from these trees, and desired a landscaped area in the front of this property, the applicant requested to remove all of the trees determined by the arborist to be in poor health.

DISCUSSION

This request would modify the existing easement, and reduce the overall preserved canopy of the site. The reduction of canopy cover would result in 4,520 sq. ft. of canopy removed. This would alter the project's preservation numbers from 29.6% preserved, to 24.1%. The altered preservation calculations remain above the required percent minimum.

The applicant has stated that the area requested to be removed from the easement will remain as a landscaped area. Conversations with the neighborhood have occurred, and residents are in support of this request (*signed petition attached).

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION TO MODIFY THE TREE PRESERVATION
EASEMENT LOCATED WITHIN LOT 6 OF THE PINE
VALLEY SUBDIVISION

WHEREAS, the owner and applicant for modification of the tree preservation area on Lot 6 of the Pine Valley Subdivision has proven that this modification is in the best interest of the City of Fayetteville.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby finds the proposed modification would not lower the preserved tree canopy below the required level, would allow landscaping to replace dying trees, and would be in the best interest of the City of Fayetteville. The City Council therefore accepts the modification of a tree preservation easement within Lot 6 of Pine Valley Subdivision as shown on Exhibit "A".

PASSED and APPROVED this the 4th day of May, 2004.

APPROVED:

DRAFT

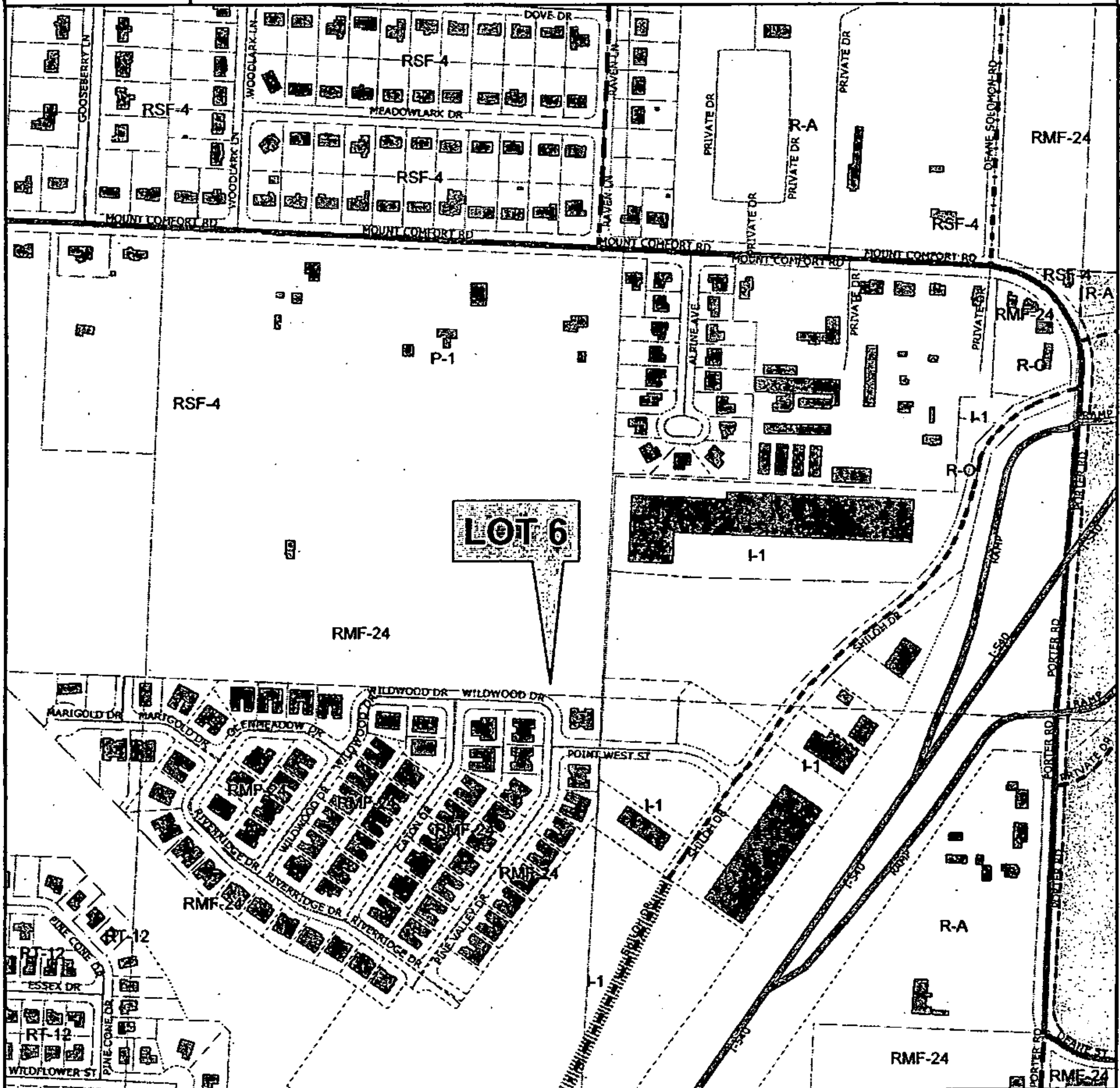
By: _____
DAN COODY, Mayor

ATTEST:

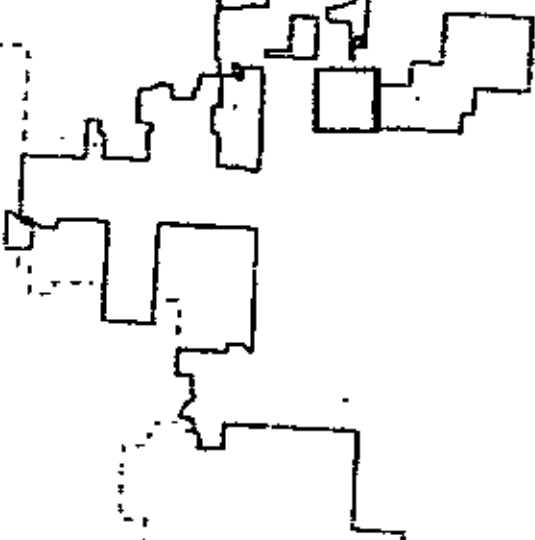
By: _____
SONDRA SMITH, City Clerk

PINE VALLEY VICINITY MAP

Close Up View



Overview



Legend

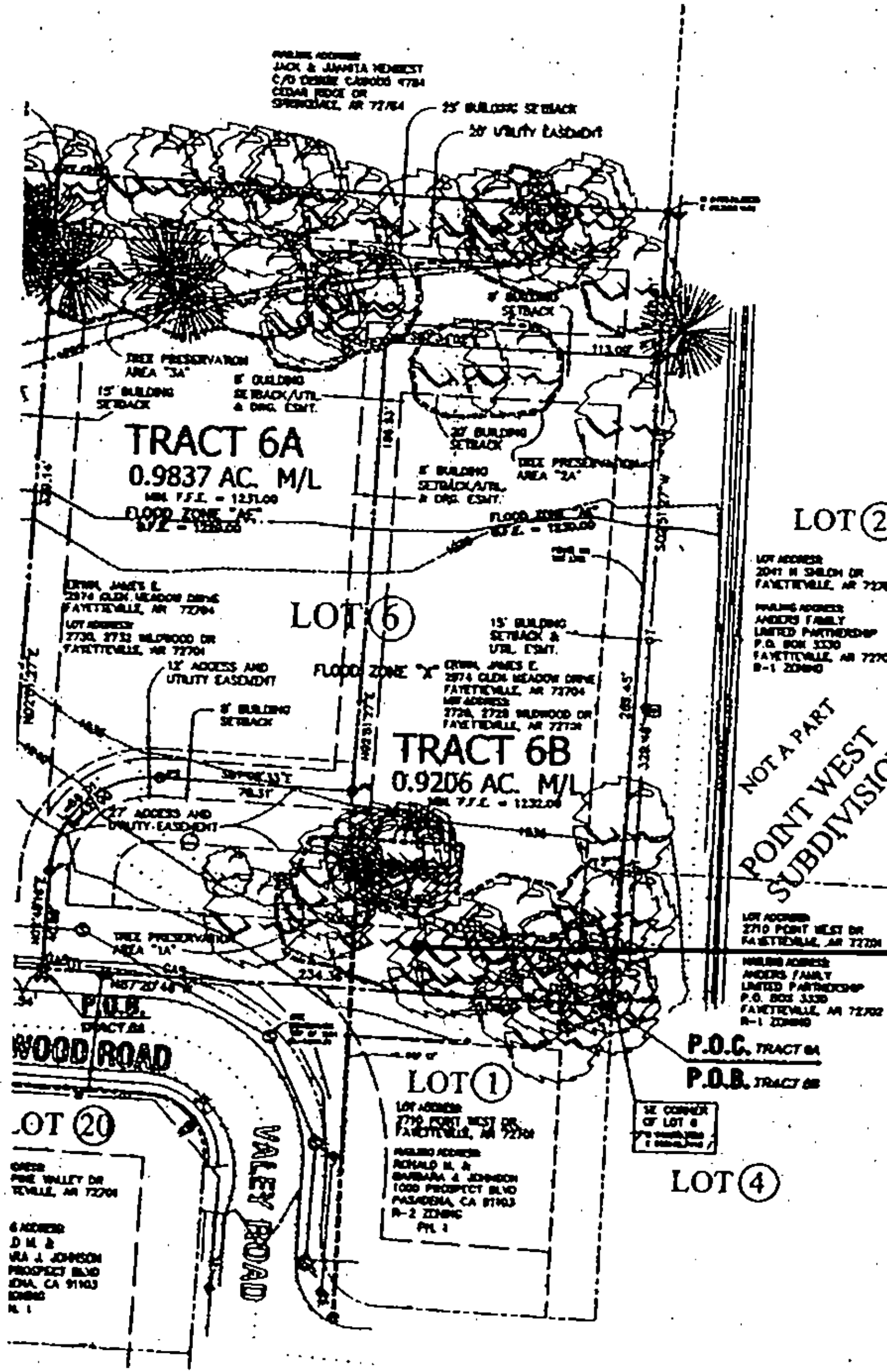
- | | |
|--------------------|--------------------|
| Master Street Plan | Principal Arterial |
| Master Street Plan | Minor Arterial |
| Freeway/Expressway | Collector |
| | Historic Collector |
| | City Limits |
| | Outside City |

0 150 300 600 900 1,200 Feet



PINE VALLEY LOT 6 TREE PRESERVATION EASEMENT MAP

Pine Valley Subdivision Tree Preservation Easement
Page 5 of 8



VAL OF UTILITY EASEMENTS:
All utility easements, including water, telephone, electric, gas, and sewer, are as requested and approved by the Plat
City of Fayetteville, Arkansas.

Mike Papp
ELECTRIC REPRESENTATIVE

Pine Valley Phase V
Lot 6

I have reviewed and discussed with Jim Erwin about the removal of the trees on the front of the property on Lot 6 of the Pine Valley Phase V addition. I agree these trees are not very eye pleasing or in very good health. I think allowing Jim Erwin to remove them and redesign and replant new trees and bushes will be better for the neighborhood and be more eye pleasing in the long run.

Neighbors Signature.

David Collins

Christina A. Jones

Byers

Signe N. Luchette

Colin D. Byers

Douglas Albert

Dianna Bain-Albert

ROD HEARN

Randee

Paula A. Kump

Sue Jensen

Barbara Miller

Robin Byers

Samuel O. Campbell
Morris Campbell

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

A. 3
Pine Valley Subdivision Tree Preservation Easement
Page 7 of 8 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

May 4, 2004

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Resolution approval.

SUMMARY EXPLANATION:

Pine Valley Lot 6 Tree Preservation Easement Modification was submitted by James Irwin for property located at Lot 6 of the Pine Valley Subdivision. The request is to modify a recently approved tree preservation easement.

STAFF RECOMMENDATION: Approval.

Dawn Warrick
Division Head4/16/04
Date

Received in Mayor's Office

4/16/04
Date *P.H.**OK*
City Attorney4/16/04
Date

Department Director

Date

Stephen D...
Finance & Internal Services Dir.4-20-04
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

Hugh P. E...
Chief Administrative Officer4-20-04
Date

New Item:

Yes

No

Mayor:

Date





CITY OF FAYETTEVILLE

FLEET OPERATIONS

**1525 S. Happy Hollow Road
Fayetteville AR 72701**

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Superintendent *DBB*
Date: April 14, 2004
Subject: Purchase of Replacement Compost Row Turner

RECOMMENDATION: That City Council approve the purchase of a Compost Row Turner from Wildcat Mfg. Co. Inc. for the bid price of \$155,078.00.

BACKGROUND: This is a replacement for unit #923, a 1990 Wildcat pull type row turner that is no longer dependable or economical for regular daily use, and for #540 a 1994 tractor with 2066 hours of use. The lowest bid received from Wildcat Manufacturing meets all specifications, including an acceptable proposal for direct reimbursement to Fleet Operations for performance of warranty repairs.

Funds for this purchase are available in 9700.1920.5802.00, project #04021.1. Solid Waste has contributed \$26,000 towards the purchase price as this is an upgrade to the present equipment.

At the Equipment Committee meeting of March 30th 2004, the members decided to delay this request until the unit could be seen in action. David Bragg and Ronnie Caudle (from Solid Waste) inspected and tested this type row turner on location in Nevada April 6th and 7th. The purchase of this replacement unit has been individually approved by members of the Equipment Committee following the inspection.

RESOLUTION NO. _____

A RESOLUTION TO ACCEPT THE LOW BID FOR A
COMPOST ROW TURNER AND TO PURCHASE A
WILDCAT SPB514 FOR \$155,078.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
approves and accepts the low bid for a compost row turner from Wildcat Manufacturing,
Inc. and authorizes the purchase of a Wildcat SPB 514 Compost Row Turner for
\$155,078.00.

PASSED and APPROVED this the 4th day of May, 2004.

APPROVED:

By: _____

DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas

Request for Expansion/Replacement Equipment

Division: Solid Waste Program: Compost Date of Request: 3/23/2004

Acct.# Currently Charged: 5500.5070. Acct. # to be Charged: 5500.5070

Expansion ☐ or Replacement ☒ Date Required: _____

Unit # for Vehicle being Replaced: 540 / 923 Unit # for Expansion/Replacement: 9060

Purchase Price of Exp./Replace Vehicle: \$155,078.00 CIP Budget / Project # 9700.1920.5802 04021.1

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: <u>2,130.00</u>	Maintenance: <u>114.50</u>	Overhead: <u>608.50</u>
# of Months Budgeted: <u>12.00</u>	Total Budgeted: <u>34,236.00</u>	

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: <u>2,049.00</u>	Maintenance: <u>115.00</u>	Overhead: <u>575.00</u>
# of Months to be in Service for Current Year: <u>6.00</u>	Current Year Expense, New: <u>16,434.00</u>	Current Year Expense, Old: <u>17,118.00</u>
	Total Current Year Expense: <u>33,552.00</u>	

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

Wildcat SPB514 Row Turner, 4 x 4

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

Both units 540 and 923 have been used for 2.5 to 3 years past the expected life of the units. They are no longer reliable and need to be replaced.

Approval Signatures:

<u>[Signature]</u> Division Head <u>3/25/04</u> Date	<u>[Signature]</u> Finance & Internal Services Dir. <u>3-29-04</u> Date	
<u>[Signature]</u> Fleet Operations Superintendent <u>3/25/04</u> Date	<u>[Signature]</u> Chief Administrative Officer <u>3-29-04</u> Date	
<u>[Signature]</u> Budget Manager <u>3-21-04</u> Date	<u>[Signature]</u> Mayor <u>3/23/04</u> Date	
<u>[Signature]</u> Department Director <u>3-26-04</u> Date		

Please return original form to Fleet when signed by all.

B. Fell



CITY OF FAYETTEVILLE

FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman
Kyle Cook
Lioneld Jordan
Don Marr
Billy Sweetser

From: David Bragg, Fleet Operations Supt.

Date: March 30, 2004

Subject: Purchase of Replacement Compost Row Turner (Revised)

Bids were opened on March 18, 2004 for a self propelled compost row turner for use by Solid Waste Division. Three bids were received:

Wildcat Mfg. Co. Inc.	Freeman, SD	Wildcat SPB 514	\$155,078.00
Scott Construction Equip.	Springdale, AR	Scarab 14ENA-275-4WD	\$171,615.00
Midwest Bio-Systems	Tampico, IL	Aeromaster SP-155	\$358,159.00

The lowest bid from Wildcat Manufacturing meets all specifications including an acceptable proposal for direct reimbursement to Fleet Operations for performance of warranty repairs.

I recommend acceptance of the lowest bid from Wildcat Manufacturing in the amount of \$155,078.00.

This is a replacement for unit #923, a 1990 Wildcat pull type row turner that is no longer dependable or economical for regular daily use and for unit #540, a 1994 Ford tractor with 2066 hours use.

Funds for this purchase are available in special project account 04021. This account is established for replacement and upgrade of this piece of equipment. \$129,000 was allocated for replacement from fleet funds and the balance (\$26,078) from Solid Waste funds for upgrade.

DELOY
LOOK AT MACHINE
AFTER NEXT AGENDA -
INDIVIDUALLY APPROVED
BY COMMITTEE MEMBERS
4/13/04
JRB

City Of Fayetteville

(Not a Purchase Order)

Requisition No. _____ Date: **4/15/2004**
P.O Number _____ Expected Delivery Date: _____

Vendor # **7346** Vendor Name: **WILDCAT MFG. CO.**

Address:

City:

State:

Fob Point: _____
Zip Code _____ Ship to code: **050**

Division Head Approval: **2095**
Yes: **XX** No: _____

Quotes Attached: Yes: _____ No: _____

Requester: **BARBARA OLSEN** *BSO*

Requester's Employee # **1940**

Extension: **495**

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Wildcat SPB514 Row Turner, 4 x 4	1	EA	\$155,078.00	\$155,078.00	9700.1920.5802.00	04021.1		
2	per bid specs, to be unit #9060		EA		\$0.00				
3	Fixed Asset #709060		EA		\$0.00				
4			EA		\$0.00				
5			EA		\$0.00				
6			EA		\$0.00				
7			EA		\$0.00				
8			EA		\$0.00				
9			EA		\$0.00				
10			EA		\$0.00				
	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: **155,078.00**

Tax: **Exempt**

Total: **155,078.00**

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

Wildcat Manufacturing Compost Row Turner Purchase
Page 6 of 6

A. 4

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council Meeting of: May 4, 2004

FROM:

David Bragg

Fleet Operations

Operations

Name

Division

Department

ACTION REQUIRED: Approval of purchase of Wildcat SPB514 Compost Row Turner from Wildcat Manufacturing for the bid price of \$155,078.

COST TO CITY:

\$155,078.00	\$ 245,000.00	Compost Row Turner
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	\$ -	Vehicles and Equipment
Account Number	Funds Used to Date	Program / Project Category Name
4021.1	\$ 245,000.00	Shop
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

Purchasing Manager

Date

STAFF RECOMMENDATION:

Division Head

Date

Received in Mayor's Office

Date

Department Director

Date

Cross Reference:

Finance & Internal Services Dir.

Date

Previous Ord/Res#:

Chief Administrative Officer

Date

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

Mayor

Date

ENTERED
4-15-04
aw

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor and City Council

From: Tim Conklin
Gary Dumas

Date: April 12, 2004

Subject: Resolution of Intent to Cost Share with the Arkansas Highway and
Transportation Department on Improvement Projects to Highways on the State System
within Fayetteville during FY 2006 and 2007

Recommendation:

Approve resolution indicating the City's intent to cost share with the Arkansas Highway and Transportation Department (AHTD) for improvement projects to highways on the State System within Fayetteville during FY 2006 and 2007

Background:

The City Administration has been contacted by the AHTD Commissioner for this Region. He has indicated that given the tremendous demand for road improvements throughout the State and the shortage of State Transportation Funds to meet these needs that he will be partnering with interested communities in order to leverage State Funds with local funding sources.

The Commissioner has indicated that he is seeking partners for the 2006 and 2007 fiscal years for distribution of the Regional Transportation Fund allocation. The Commissioner has indicated that he is seeking to leverage the State Funds with a 50% local match.

The Resolution of Intent to partner with the AHTD is needed by late May.

Discussion:

The City has been struggling with congestion issues for the past several years. This congestion has been the result of the economic growth within the Northwest Arkansas region. This continued economic growth along with the University of Arkansas growth will continue to pressure the existing heavily traveled corridors within Fayetteville. The

City of Fayetteville recently completed a Citywide Transportation and Traffic Study. This study showed that Fayetteville is experiencing significant traffic congestion/vehicle delay at many of the major interchanges along I-540. The projects on this list include both State Highway projects and local projects that will reduce the vehicle delay/traffic congestion by:

- Creating Parallel Traffic Relief Routes - Bypassing Congested Intersections
- Expanding the Capacity at Key Intersections
- Creating a Regional Network of Key Arterials to Improve Both East/West and North/ South Mobility

The challenge in addressing this congestion problem is twofold: first in moving our projects up the AHTD Five Year Work Plan and then finding local resources to participate.

It appears that the solution to the first challenge has been answered, at least in part for project participation in FY2006 and 2007. The second challenge can be addressed with a systematic review of our transportation funding priorities and a review of additional funding options.

Within the **2004-2008 Five Year Capital Improvements Program** transportation projects scheduled beginning in 2005 through 2008 (excluding the Van Asche Blvd. cost-share) total \$7.7 million (this includes two State bridge cost-shares also). These projects are almost totally on the State System. It is recommended that the project funds be the basis of the City's Resolution of Intent. Projects scheduled for 2004 and completed in 2005 will continue to move forward. The projects listed beginning in the 2005 through 2008 will wait additional funding.

Council discussion as recently as April 6 focused on finding additional funding sources. As the Council is aware, the County has imposed a quarter cent sales tax for the jail construction. This tax will lapse when the bond is retired. This tax is expected to end between May and September 2005, when the bonds are paid. The reauthorization of this sales tax upon its expiration would maintain and not increase the current local sales tax rate.

This quarter cent could be reauthorized, permitting the City to participate with the State at a greater level if state funding permits, essentially receiving \$2.00 of congestion relief for each one local tax dollar.

The quarter cent sales tax will generate approximately \$3,000,000 annually. Over a two year period in partnership with AHTD participating on a 50-50 basis, the approximately \$6,000,000 in local sales tax dollars will generate approximately \$12,000,000 in road improvements reducing travel delays and congestion in those corridors of greatest need.

Proposed Projects

Highway Projects

- Highway 265 (Crossover Road)--Highway 45 (Mission) north to City Limits)
- Highway 45--North Street east to City Limit
- Highway 16 East--Highway 71B east to City Limit
- Highway 180 (Township)--Gregg Street 71B (College Ave.) to Highway 180/

Local Street Linkages for Traffic Relief

- Zion Road--Highway 265 to Highway 71B (College Ave.)
- Ruppel Road/Howard Nickell/Highway 112--Highway 62 to Van Asche
- Mount Comfort Road--Ruppel Road to I-540

Studies

- North Street--Highway 45 (Mission) to Gregg Street
- Arkansas Ave. Extension--Maple to Garland
- Fulbright/I-540 Access to Regional Retail, Office, and Medical Center

RESOLUTION NO. _____

A RESOLUTION TO AUTHORIZE THE MAYOR TO EXECUTE
A LETTER OF INTENT TO COST SHARE WITH THE ARKANSAS
HIGHWAY AND TRANSPORTATION DEPARTMENT DURING
FY 2006 AND 2007

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
authorizes the Mayor to execute a Letter of Intent to Cost Share with the Arkansas Highway
and Transportation Department during FY 2006 and 2007.

PASSED and APPROVED this the 4th day of May, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

SONDRA SMITH, City Clerk

Arkansas Highway & Transportation Dept. Letter of Intent to Cost Share
STAFF REVIEW FORM - FINANCIAL OBLIGATION

A 5
 Page 5 of 5

XXXX AGENDA REQUEST
 _____ CONTRACT REVIEW
 _____ GRANT REVIEW

For the Fayetteville City Council Meeting of: May 4, 2004

FROM:

<u>Gary Dumas/Tim Conklin</u>	<u>Operations/CPES</u>
Name	Department

ACTION REQUIRED: Resolution authorizing the Mayor to execute Letter of Intent to Cost Share with the Arkansas Highway and Transportation Department on Improvement Projects to Highways on the State System within Fayetteville during FY 2006 and 2007

COST TO CITY:

Redirection of programmed 2006-2008 CIP funds	\$ -	
Cost of this request	Category/Project Budget	Program Category / Project Name
	\$ -	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
	\$ -	Sales Tax Capital
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: xxxxx Budgeted Item _____ Budget Adjustment Attached

[Signature] 4-15-04
 Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

<u>[Signature]</u> <u>4/16/04</u>	Internal Auditor	Date
Accounting Manager		
<u>[Signature]</u> <u>4/19/04</u>	Purchasing Manager	Date
City Attorney		

STAFF RECOMMENDATION:

Division Head	Date
<u>[Signature]</u> <u>4-15-04</u>	Date
Department Director	
<u>[Signature]</u> <u>4-19-04</u>	Date
Finance & Internal Services Dir.	
<u>[Signature]</u> <u>4-20-04</u>	Date
Chief Administrative Officer	
Mayor	Date

Received in Mayor's Office 4/19/04
 Date P.A.

Cross Reference: _____
 Previous Ord/Res#: _____
 Orig. Contract Date: _____
 Orig. Contract Number: _____
 New Item: ☒ Yes ☐ No

PAID
4/16/04
 TLM

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator *DW*

Date: March 18, 2004

Subject: Annexation for Hoskins/Schlegel (ANX 03-06.00)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Hoskins/Schlegel. This action will incorporate a 72.5-acre tract of land contiguous with the city limits into the City of Fayetteville. The request is to annex the subject property into the City of Fayetteville.

BACKGROUND

The subject 72.5 acre vacant tract of land is located west of Deane Solomon Road and south of Salem Road. Phase III of Crystal Springs Subdivision is directly south of the property. Annexation and rezoning requests for this tract of land have been requested since 2002. The initial request in 2002 was for annexation and rezoning of the property from R-A to RSF-7, Residential Single Family, seven units per acre. Staff recommended denial of this request, citing concerns with the density proposed and the inability of the city to provide adequate public services to this particular area. Specific concerns included both the fire response time and the capacity of the wastewater system. Fire Station #7 has recently been approved for development on Ruppel Road, and a system-wide wastewater capacity study identifies this area as having the capacity to serve existing and proposed development, both of which alleviates the concerns of staff and the Planning Commission. Additionally, the original application was withdrawn and submitted in its current format, an annexation and rezoning request from R-A to RSF-4. Development on this site will be regulated by the city allowing for a more uniform and consistent development pattern making better use of city infrastructure.

Proposal: The applicant requests annexation into the City of Fayetteville, along with the companion rezoning request.

DISCUSSION

On November 24, 2003, the Planning Commission tabled this item at the request of the staff. Staff was not recommending in favor of the annexation at that time. Staff's recommendation was later amended to reflect changed conditions (progress on the development of a new fire station to serve the west side of Fayetteville, review of the system-wide wastewater capacity study). On March 08, 2004, the Planning Commission

voted 9-0-0 to forward this item to the City Council with a recommendation for approval of the annexation with a companion rezoning request.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY LOCATED NORTH OF THE PROPOSED CRYSTAL SPRINGS PHASE III SUBDIVISION, WEST OF DEANE SOLOMON ROAD AND SOUTH OF SALEM ROAD CONTAINING APPROXIMATELY 72.50 ACRES.

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

Section 1. That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

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

Section 3. That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4. That the above-described property is hereby assigned to Ward No. Two.

PASSED AND APPROVED this ____ day of _____, 2004.

APPROVED:

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 03-06.00

THE NE ¼ OF THE NE ¼ OF SECTION 32 AND PART OF THE E ½ OF THE SE ¼ OF SECTION 29, ALL IN T-17-N, R-30-W, THAT PART BEING IN SECTION 29 IS MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SE CORNER OF SAID SECTION 29, THENCE WEST 1320 FEET, MORE OR LESS, TO THE SW CORNER OF THE SE ¼ OF THE SE ¼ OF SAID SECTION 29; THENCE NORTH TO A POINT 384.25 FEET SOUTH OF THE NW CORNER OF THE SE ¼ OF THE SE ¼ OF THE SAID SECTION 29; THENCE N83°22'18"E 1067.69 FEET; THENCE N02°35'14"E 357.47 FEET TO A POINT 35 FEET, MORE OR LESS SOUTH OF THE CENTERLINE OF COUNTY ROAD NO. 894; THENCE NORTHEASTERLY PARALLELING SAID CENTERLINE A DISTANCE OF 268.54 FEET, MORE OR LESS, TO THE EAST LINE OF THE E ½ OF THE SE ¼ OF SAID SECTION 29; THENCE SOUTH 1574 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 72.5 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of March 08, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: March 03, 2004

ANX 03-06.00: Annexation (Schlegel, pp 207/246) was submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III subdivision, west of Deane Solomon Road. The property is in the Planning Area and contains approximately 72.5 acres. The request is to annex the property into the City of Fayetteville.
Planner: Jeremy Pate

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	Required <u>YES</u>
Date: <u>March 08, 2004</u>	☒ Approved ☐ Denied
CITY COUNCIL ACTION:	Required <u>YES</u>
Date: <u>April 06, 2004</u>	☐ Approved ☐ Denied

BACKGROUND:

Property Characteristics: The subject property is 72.5 acres of vacant property located west of Deane Solomon Road and south of Salem Road. Salem Road at this location is a gravel road and does not meet city street standards. Deane Solomon Road also does not meet city street standards. Single family residences are located north of the subject property along Salem Road. Areas to the west and south are vacant. Crystal Springs Subdivision, Phase III is proposed south of the subject property. Gypsum Dr., a Collector Street, is shown on the Master Street Plan as an east and west connection through the subject property. A portion of Gypsum Dr. was constructed when the Crystal Springs, Phase I subdivision was developed.

An annexation and rezoning request was previously petitioned for the subject property in December of 2002. At the time, staff recommended denial for both the annexation and rezoning requests, citing

concerns for Fire response times and increased loading onto existing infrastructure, particularly the wastewater system. The recommendation for denial was based on the inability of the city to provide adequate services to this particular area. Actions are being taken to remedy both situations: The Large Scale Development for Fire Station #7, to be located on Ruppel Road, has been approved by Planning Commission and awaits final construction documents and permitting; a report from a system-wide wastewater study has been submitted and adequate capacity has been identified to serve this area for existing and proposed development (see attached). The proposal to annex was tabled in November, 2003, pending results from the wastewater capacity analysis.

Proposal: The applicant would like to develop a single family residential subdivision.

Request: The applicant is requesting to be annexed into the City.

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 72.5 acres to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning request, RZN 03-34.00, is an accompanying item to this annexation request.

Recommendation: Based on the information provided from the wastewater capacity study and the findings included in the staff report, staff recommends approval of the annexation request. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single family residential	In county, no zoning.
South	Planned residential subdivision (Crystal Springs, Phase III)	RSF-4, Res. Single Family, 4 DU/Acre
East	Undeveloped - Springwoods C-PZD	C-PZD
West	Undeveloped	In county, no zoning

INFRASTRUCTURE:

Streets:

- North: East Salem Road (Collector) -- Does not meet City street standards
- South: Proposed connections through Crystal Springs II subdivision
- East: Deane Solomon Road (Collector) -- Does not meet City street standards
- West: Master Street Plan shows Raven extended north (Collector)
Further west is Salem Road (Collector)

Gypsum Dr., a Collector, is shown on the Master Street Plan as an east and west connection through the subject property. A portion of Gypsum Dr. was constructed when the Crystal Springs, Phase I subdivision was developed.

At the time of development, Staff will recommend improvements to the roadway from the subject property to Deane Solomon Road, to City standards.

Water: The property currently has access to an 8" water line that will be stubbed out from the proposed Crystal Springs 3 subdivision. An extension of the water main will be required to provide water supply within any development on this property. The main will also have to be looped to the north to connect with the 2" line along East Salem Road to provide dual feed for the development.

Sewer: The site currently has access to an 8" sewer main that will be stubbed out from the proposed Crystal Springs III subdivision. Sewer will need to be extended within the development.

Fire: The subject property is located 3.5 miles from the proposed Fire Station #7 on Ruppel Road. Normal driving time is 5 min. 42 seconds. Water supply will be necessary for this property to develop. Access roads and street improvements to allow for necessary fire apparatus ingress/egress will also be required.

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

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES

BOUNDARIES

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

Finding: The requested annexation will not create an island or peninsula.

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

Finding: The proposed annexation area is adjacent and contiguous to the western City Limits.

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

Finding: The proposed annexation is for an area proposed for residential development. Development plans will include the extension of single family neighborhoods into this area.

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

Finding: Proposed boundaries follow property lines or desired property lines.

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

Finding: The timing of the requested annexation is sufficient. Reports from a system-wide wastewater capacity analysis have been submitted, indicating that adequate capacity for development of the property is available. Additionally, the Fire response time provided by the Fire Marshal's Office (5 min. 42 sec.) is from the proposed Fire Station #7 on Ruppel Road, which has been approved for development.

ENVIRONMENTALLY SENSITIVE AREAS

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

Finding: N/A

EMERGENCY AND PUBLIC SERVICES

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

Finding: *Fire Department:* Response time to this location could be as long as seven minutes from the current closest station. The Fire Department has provided response times of 5 min 42 sec from the proposed Fire Station #7 on Ruppel Road. Fire Station #7 has been approved for development by the Planning Commission and awaits submittal and approval of construction and permit documents. Water supply and fire hydrants will be required with development. Vehicle access will also be required with a twenty foot minimum wide access.

Police: Will not have a significant impact on police services, however the Police Dept. has expressed concerns regarding the West Salem Road access in its current, unimproved condition. Without improvements or the addition of alternate access, 290 potential units would create an appreciable increase in traffic danger and congestion in this location.

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

Finding: With the pending installation of a new fire station in the general area, service will be able to be provided at a more appropriate level of service with a shorter response time than what can be provided to the site currently. Sewer improvements to the area are needed for existing and already approved developments.

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

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

INFRASTRUCTURE AND UTILITIES

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

Finding: Fire and police protection are currently provided in this area. Water and sewer lines are in the nearby vicinity, and are being extended with adjacent subdivision developments.

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

Finding: *Public Works:* The proposed annexation and ultimate development will increase the loading on the existing infrastructure systems. The City has had some recent capacity concerns with the sanitary sewer lift stations in this area, and recently completed a comprehensive wastewater capacity analysis. The completion of this study was required to prove the adequacy of the sewer downstream of this development. If the existing lift stations are not capable of handling the increase in flow, then improvements must be made to accommodate the additional loads.

Planning: The proposed annexation and potential rezoning could result in 290 units. Using 2.21 persons per occupied unit (2000 Census for Fayetteville), the total population of this rezoning could be 641 persons.

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

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

INTERGOVERNMENTAL RELATIONS

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

Finding: N/A

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

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

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

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone the 72.5 acres to RSF-4, Residential Single Family, 4 units per acre.

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

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

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

Finding: The development of the subject property will be required to go through the development review process.

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: Staff finds that this request is of acceptable size. The request creates a reasonable boundary avoiding the creation of islands or peninsulas.

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

Finding: N/A

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

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

Environmentally Sensitive Areas

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

Emergency and Public Services

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

Infrastructure and Utilities

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

Intergovernmental Relations

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

Administration of Annexations

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

Table 6

**SUMMARY OF PRELIMINARY CAPACITY ASSESSMENT
WESTERN PORTION OF THE CITY**

Lift Station	Capacity ^{1/}		Number of Units			Projected Peak Hourly Wastewater Flow ^{2/} (gpd)	Percent Capacity Utilized	Remaining Capacity ^{3/} (gpd)	Remaining Capacity ^{3/} (units)
	(gpm)	(gpd)	Existing	Inactive	Built				
Crystal Springs	260	374,400	141	0	233	223,560	59.7	150,840	670
Hamestring	1,600	2,304,000	2,510	125	898	1,650,000 ^{4/}	71.6	654,000 ^{5/}	2,906 ^{5/}
Owl Creek	437	629,280	336	25	317	280,000	44.5	349,280	1,552
Total			2,987	150	1,448	1,474			

^{1/} Firm capacity requires verification by OMI, Inc.

^{2/} Wastewater flow projected utilizing 161 gpd/unit plus existing dry-weather infiltration x dry-weather peaking factor.

^{3/} Based on dry-weather flow only. Does not include allowance for wet-weather inflow or infiltration.

^{4/} Flow for Hamestring Lift Station includes flow from Crystal Springs, Hamestring, and Owl Creek Lift Stations.

^{5/} Total remaining flow and units include all areas tributary to Hamestring Lift Station.

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

REGISTRATIONS:

PE: AR, MO

PLS: AR

November 3, 2003

Project No. E-689

FAYETTEVILLE

125 West Mountain Street

Fayetteville, Arkansas 72701

ATTN: Dawn Warrick, Planning Division

RE: Schlegel Property - Annexation and Zoning continuation

Dear Dawn:

Miltholland Company (MCO), on behalf of our Client, Tracy Hoskins, and that of Schlegel, request the continuance of the referenced property for annexation into the City of Fayetteville.

Mel and Tracy, I believe, both have spoken with you on this matter.

Attached is correspondence received, dated October 31, 2003, and signed by both Sylvia and Ben, requesting that the previous submitted petition for annexation be continued. Please note the exception of need for a Lot Split assuming annexed zoning of RSF-4 (explanation herein). MCO has updated the attached plat to indicate current parcel numbers and changes in ownership.

In all cases, please change any reference or indication of Mark Marquess to:

Tracy Hoskins
3588 Buckingham Drive
Fayetteville, Arkansas 72703

Also attached with this request for continuance, are two (2) sets of mailing labels and other required items for placing the Schlegel property back into the processing schedule. The Decree, Order for Annexation, signed by The Honorable Jerry Hunton, Washington County Judge, is still valid at this time, is my understanding. I realize that public advertisement of the Annexation and Re-zoning will have to occur again, but am enclosing copy of the previously submitted data only for referencing and review.

I am assuming that all previously submitted applications (no Lot Split of the requested parcel for annexation will be required assuming that a zoning designation of RSF-4 is given), remains applicable and that no additional fees are required.

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

REGISTRATIONS:

PE: AR, MO

PLS: AR

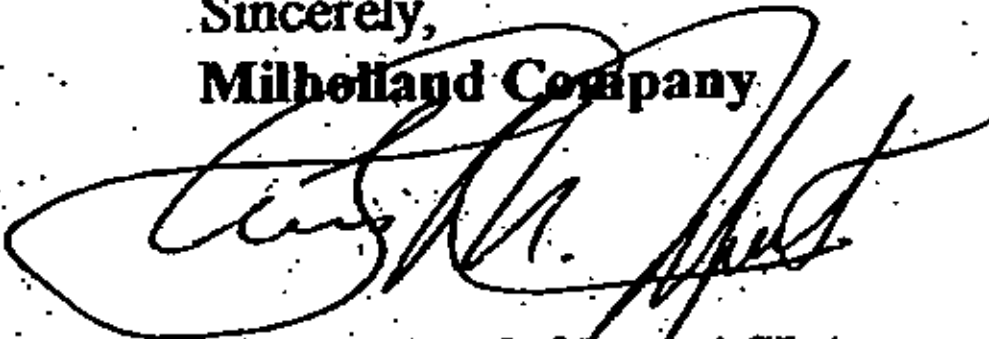
I was made aware of the Schlegel desire to continue the annexation and re-zoning process later Friday afternoon and have not fully reviewed current changes to the processing procedure, therefore, there may be the need for additional items than are attached. MCO will promptly provided any missing data.

It is my understanding that property annexed into the City now becomes zoned RSF-4, Single Family Residential at a density of 4 units per acre. If that is correct, it is our Client's intention and that of Schlegel for the property to be zoned RSF-4. I would like to follow-up this correspondence and submitted data by meeting with you to go over the processing schedule, present any missing data, and to review with you our Client's development intentions. Please advise of a convenient time.

Should there be any question as to the purpose of this submitted request for continuance of the Annexation process or others, please call me.

As always your assistance and cooperation are appreciated, and in this matter are especially welcomed.

Sincerely,
Miltholland Company



Thomas M. Jefcoat, ASLA
Projects Manager

cc: Tracy Hoskins
Sylvia Schlegel

Ben F. Schlegel, Jr.
Sylvia Fellows Schlegel

722 Franklin
Fayetteville, AR 72701

B. 1
ANX 03-06.00 (Hoskins/Schlegel)
Page 15 of 40

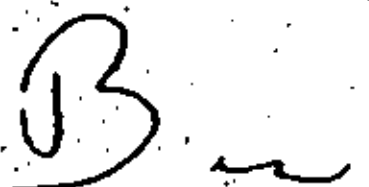
October 31, 2003

City of Fayetteville
Planning and Development

Dear Dawn Warck:

Please be advised that we would like to continue our petition for annexation, lot split and rezoning, as described in "EXHIBIT A" attached. Please note; the Developer has been changed from Mark Marquess to Tracy K. Hoskins as our designated representative and proposed developer. Please be informed and make any necessary changes in the previous applications to reflect my representative from Mark Marquess to Tracy K. Hoskins. All items will remain the same with the exception of the rezoning application amending proposed rezoning from "R1.5" to "RSF4".

Sincerely,


Ben F. Schlegel


Sylvia Fellows Schlegel

EXHIBIT A

TRACT B OF SCHLEGEL PROPERTY TO BE ANNEXED AND REZONED
BOUNDARY DESCRIPTION

THE NE 1/4 OF THE NE 1/4 OF SECTION 32 AND PART OF THE E 1/2 OF THE SE 1/4 OF SECTION 29, ALL IN T-17-N, R-30-W, THAT PART BEING IN SECTION 29 IS MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SE CORNER OF SAID SECTION 29, THENCE WEST 1320 FEET, MORE OR LESS, TO THE SW CORNER OF THE SE 1/4 OF THE SE 1/4 OF SAID SECTION 29; THENCE NORTH TO A POINT 384.25 FEET SOUTH OF THE NW CORNER OF THE SE 1/4 OF THE SE 1/4 OF THE SAID SECTION 29; THENCE N83°22'18"E 1067.69 FEET; THENCE N02°35'14"E 357.47 FEET TO A POINT 35 FEET, MORE OR LESS SOUTH OF THE CENTERLINE OF COUNTY ROAD No. 894; THENCE NORTHEASTERLY PARALLELING SAID CENTERLINE A DISTANCE OF 268.54 FEET, MORE OR LESS, TO THE EAST LINE OF THE E 1/2 OF THE SE 1/4 OF SAID SECTION 29; THENCE SOUTH 1574 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 72.5 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

see attached
Applicant's Signature

Submitted For
ANX 03-06 &
RZN 03-34
11/7/2003
JH
done
anon

MEMO TO FAYETTEVILLE PLANNING

November 21, 2003

"SCHLEGEL ANNEXATION & REZONING"

"PROPERTY DESCRIPTION"

REQUEST: ANNEXATION: "ANX 03-06.00"

REQUEST: REZONING: "RZN 03-34.00"

To: Dawn Warwick:

The "Metes & Bounds" description of the 72.50 acres, more or less, submitted for annexation and rezoning is reported by your staff as the reason to recommend "Tabling" this request. The staff's statement of reason is "Closure Errors", defined as "Discrepancies" in the description, which have to be resolved before further action

A large percentage of the previous annexations and rezonings of many cities are done so without the benefit of a boundary survey with computed bearings and distances to more particularly define the direction and distances along a property boundary line or lines called for in the deed or description. Bearing and distances are not the assurance needed to properly identify the boundaries of a deed, or a land description. Monuments identify the proper boundaries of a tract of land when described with "Metes & Bounds" calls. These monuments can be surveyed by an experienced Professional Surveyor. These monuments include descriptive items, as well as, physical items.

Descriptive items, which may be called out in the land description, are not always visible in the field by initial observation, but can be located by a experienced Professional Surveyor by proper surveying techniques & procedures.

Descriptive items are usually the strongest terms that define the boundaries of land, such as, "...the SE 1/4 of the SE 1/4, of Section 10, T-16-N, R-30-W of the fifth Principal Meridian....." or, "...the south east corner of the NW 1/4 of the NE 1/4....." or, "...the centerline (or south right-of-way) of County Road No.43, or, College Avenue....., or, "...beginning at a point on the 40 acre line 257.50 feet south of the North west corner of said 40 acre tract...", and, each of these type items can be located by a surveyor..

Physical items described in a "Metes & Bounds" land description may or may not be field located by the surveyor.

Some physical items defined in the land description may also be a descriptive item, and is a principal monument, such as, "...the centerline of a creek, or street or road, or the right-of-way of a road...", which are monuments and can be located by the surveyor.

Other items called for in a "Metes and Bounds" description, such as, iron pins, stones & fence corners, are not always monuments, but only physical evidence of a possible previous survey. The latter of the above are secondary monuments and must be proven if used by the surveyor to represent & identify the chain-of-title corners through a proper "Sectional-Breakdown".

The metes and bounds description of lands submitted for said annexation and rezoning is described by very strong "Descriptive calls", and can be surveyed by a Professional Surveyor, and the boundary of the tract of land in question will not be different than that submitted.

The error-of-closure in your staff report is a "MATHEMATICAL" problem, not a land line "BOUNDARY DESCRIPTION" closure problem. There are no "discrepancies" in the land description, it can be surveyed as described.

I, on behalf of my client, respectfully request the land description as submitted be used as land requested for said annexation and rezoning.

With over 31 years of Professional Surveying experience in Northwest Arkansas, it is my recommendation to continue to use descriptions defined in Sectional Breakdowns and/or Metes & Bounds in the future, and not give ALL the credibility to "Mathematical Closures" by computers, except when the land description is presented in a survey form by a Registered Professional Surveyor..

Respectfully submitted,

Melvin L. Mitholland, Arkansas P.L.S No. 648.

Cc: Ede, Tracy Hoskins

205 West Center Street, Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MLM@engr@swbell.net

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NOV 21 2003

PLANNING DIV.

Miltholland Company
Engineering & Surveying
Melvin L. Miltholland, PE, PLS

REGISTRATIONS:
PE: AR, OK, MO
PLS: AR, OK

October 4, 2002

City of Fayetteville
Mr. Tim Conklin, Planner
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: SCHLEGEL REZONING
Project No. E-614

Dear Tim:

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

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

Ben F. Schlegel, Jr. & Sylvia Fellows Schlegel
722 Franklin Drive
Fayetteville, AR 72701

Proposed sale to Sierra R.E., LLC for Proposed "Schlegel Subdivision"

5.b. Reason for requesting zoning change:

Owner has offer to sell property for subdivision, based on approved Rezoning

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

Undeveloped to the West, North and East; a Resident Subdivision planned for the South.
Traffic is presently low to moderate, except school traffic.
Appearance and signage is will be discussed during LSD Review.

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

8" Water and 8" Sewer

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

Consistent with City Land Use and Zoning Plans

6.b. Whether the proposed zoning is justified and/or needed at the time of the request:

Yes, for Residential Use.

Miltholland Company
Engineering & Surveying
Melvin L. Miltholland, PE, PLS

REGISTRATIONS:
PE: AR, OK, MO
PLS: AR, OK

Schlegel Rezoning
October 4, 2002
Page Two (2)

- 6.c. *Whether the proposed zoning will create or appreciably increase traffic danger and congestion:*
Rezoning falls within the long range plans depicted on the Land Use Map and Master Street Plan.
- 6.d. *Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities:*
The zoning is in general compliance with the Land Use Map, and will not impact the City's long range plans for growth.
- 6.e. *Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification:*
A-1 does NOT permit practical, nor feasible options within City Limits.

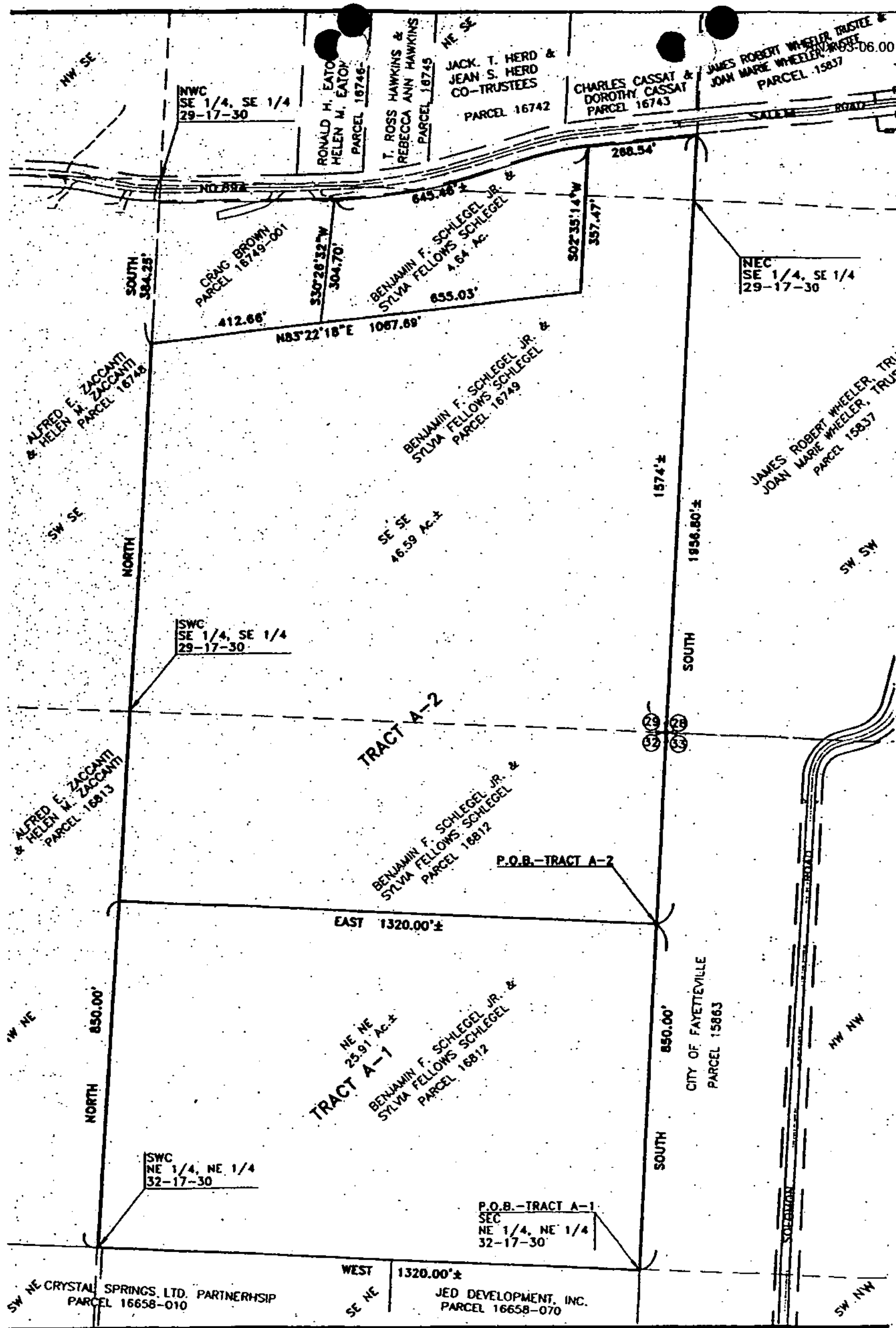
Your favorable review is appreciated!

Respectfully,

for 
Melvin L. Miltholland, PE, PLS

cc: Schlegel
Sierra R.E., LLC
file

C:\My Files\FORMS\Fayetteville\Rezone E-614 Schlegel Ltr-Planning.wpd



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NOV 24 2003

PLANNING DIV.

November 23, 2003

To: Fayetteville Planning Commission

RE: Annexation 03-06.00 (Schlegel, pp 207/246)
and

RZN 03-34.00 (Schlegel, pp 207/246)

Dear Planning commission,

In adding comments to this proposed annexation and rezoning, I am assuming that the issues of building on a wetland, reduced quality of life for the surrounding property owners, and potential adverse affects on our livestock have already been studied or addressed by others. The concerns I wish to address in this letter have to do with access to the proposed residential area and traffic hazards that are already present and will increase with increased traffic. I have enclosed a map to help you understand where the areas are that I am concerned about.

1. **Dean Solomon Road is very narrow, has no curbs, no shoulders, crumbling edges and steeply angled ditches.** This is currently not much of a problem because there are rarely more than one or two cars on the road at one time. With more traffic there will be increased risk of meeting another car that is traveling over the centerline because of the narrowness of road.

2. **On large sections of Dean Solomon the paving is cracked and sinking.** This sinking is not a few "potholes" but large sections that suddenly shift your vehicle's weight toward the edges of the road. I have indicated the worst area on the enclosed map. This cracking and sinking will, of course, increase with increased traffic.

3. **The "Z" curve is so narrow relative to the sharpness of the curve, that it is almost impossible to drive through it without crossing the centerline.** If you don't cross the centerline, most full sized cars' inside rear wheel will go off the pavement on the inside of the curve. It is best that only one car at a time go through this "Z" curve.

As an example, on the morning of Nov. 20 (last week) I was traveling north and was between the first curve and the second curve of the "Z". An approaching large truck, traveling south, was clearly not going to wait for me and was already coming at me in my lane. I stopped, but even with that, it appeared that he was going to hit my car head on! He moved back into his lane and missed hitting my bumper by about 6 inches or less! The most important point of this incident is that he could not negotiate that curve without coming into my lane!

Currently, most of the accidents on this curve (and they occur on a fairly regular basis) involve only one car that drives off the end of the road (they are going too fast and don't make the turn). During the time that I-540 was being resurfaced, many people were using Dean Solomon to avoid the traffic problems on I-540. I helped with one young man who was run off the road in an incident just like I was facing. The result for him was that he rolled his car and hit a tree. The person who ran him off the road never stopped. With the increased traffic from a residential neighborhood the accidents on this curve will increase.

4. If this residential area will be using West Salem Road, there will have to be major changes since West Salem is not a two-lane road.

5. The left turn from Highway 112 onto Dean Solomon Road is a blind left turn. If you are in an average sized car traveling north on Highway 112 you cannot see over the crest of the hill before turning left onto Dean Solomon. This crest of the hill is about two "car lengths" away from you. With a speed limit of 45 M.P.H. (or even a slower one) this is not enough distance for you to safely turn left without knowing if any cars are coming south. I do not turn left at this intersection. I see people risking it and turning there, but again, this has not been much of a problem because of the low volume of traffic. If you add a residential area that has Dean Solomon as its main access road, more and more people will start turning left, even though they can't see far enough to do it safely, and there will be increased accidents.

In summary, I feel there are some major safety issues that must be resolved before approving a residential area on Dean Solomon Road, because of the increased traffic that will be caused by that residential area.

If the annexation and rezoning is approved, I assume one of two conditions is in effect:

A. You have studied Dean Solomon road and concluded that there really aren't any safety problems from increased traffic on Dean Solomon Road.

or

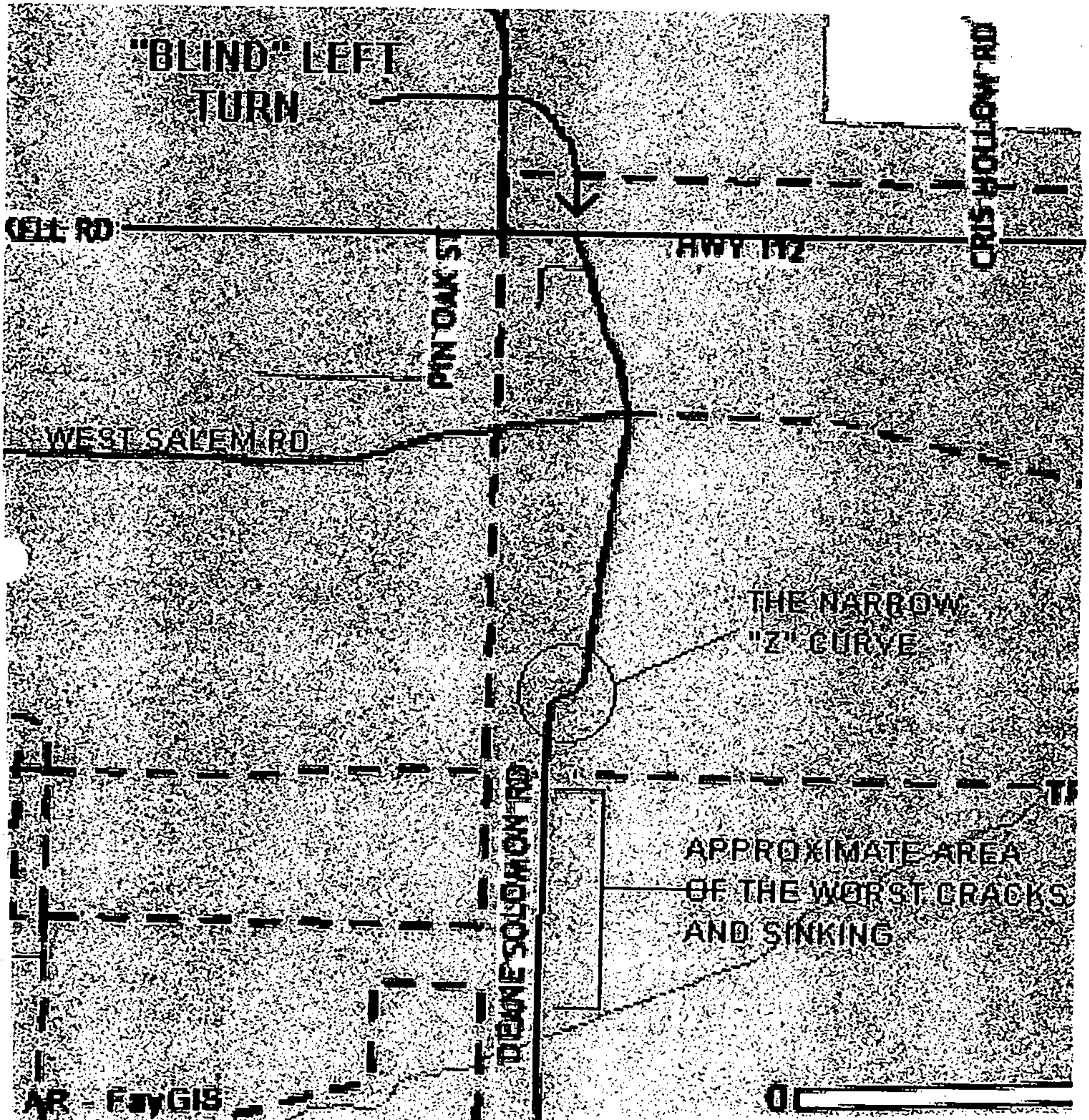
B. You already have a budget and timetable for fixing the problems on Dean Solomon Road before the residential neighborhood is built.

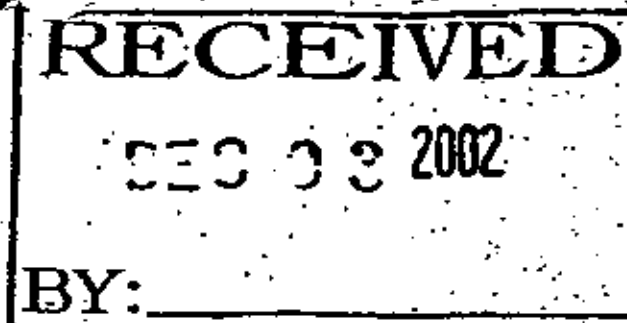
Should you approve the annexation and rezoning, I will be contacting you for a written copy of either (A) The study that shows no safety problems or (B) The budget and timetable for repairs on Dean Solomon Road.

Thank you,



Patricia Brown
2733 West Salem Road
Fayetteville, AR
Phone: 443-4664
email: horseweaver@cox-internet.com





Perry L. Butcher
3481 Deane Solomon RD.
Fayetteville, AR 72704
479-636-3545

December 2, 2002

City of Fayetteville
Planning Division
113 W. Mountain
Fayetteville, AR 72701

Attention: Mrs. Janet Strain, Senior Planning Clerk

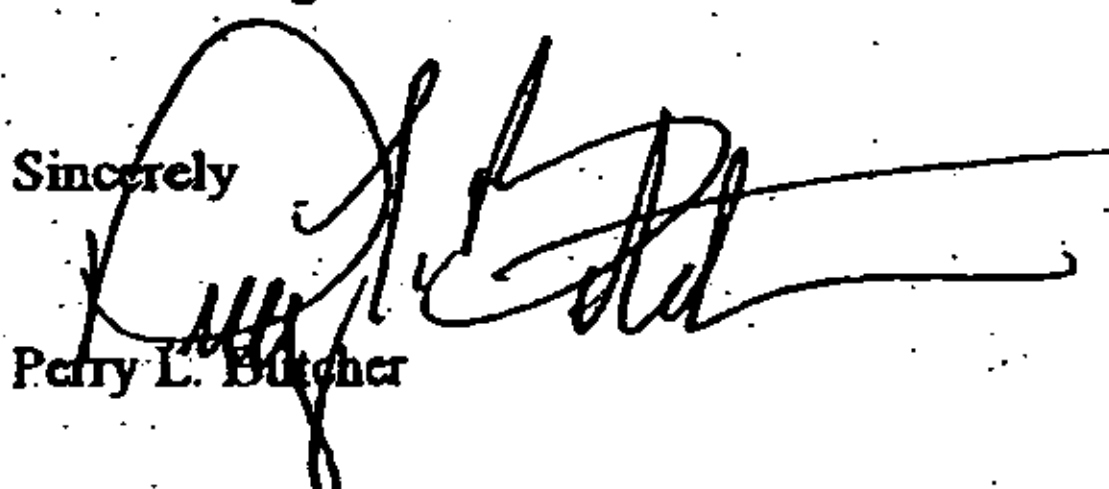
Re: Annex 022, Rezone 02-42
Marquess & Schlegal Property

Please allow this letter to express my concern and formally protest the annexation & rezoning of this property. Note the following reasons for my protest.

1. All of this general area has potential for wetlands. Reference being the Arkansas Business & Technology Park, as well as the surrounding area. The soil is probably hydric on this proposed site as is with the surrounding properties.
2. Potential density of this property will generate 6-8 vehicle trips/day. This could immediately generate from this area alone 400-500 ADT. Consequently demanding infrastructure improvements to Deane Solomon (Mt. Comfort to Highway 112) and to W. Salem Road. The Developer will probably not desire to carry the burden of this construction. Therefore, who will fund these improvements? Deane Solomon is an open ditch narrow road. This street will definitely require complete reconstruction.
3. Deane Solomon Rd. (Mt. Comfort to Highway 112), the street serving this proposed development, has hazardous/difficult intersections at both ends, also there is a large offset in the road alignment at about mid length.

In conclusion, these reasons propose problems that the City and area residents will have to consider and solve. Therefore, the best and really only solution is neither annexation nor rezoning.

Sincerely


Perry L. Butcher

re: ARVX + P

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B. 1
ANX 03-06.00 (Hoskins/Schlegel)
Page 25 of 40

DEC 03 2002

PLANNING DIV.

Op Janet Strain

My late husband, Jim Bob Whalen bought 40 acres on Deer Solomon Road approximately 40 years ago. He built a beautiful home that overlooks the valley you are talking about rezoning. When he became handicapped and could no longer get around in that house we sold the house and developed the top part of the land. We made 1/2 to 1 acre plots and have homes from 3500 sq ft to 3500 sq ft. I live in that development.

I still have 25 acres that adjoins the Schlegel property that they have requested the RS zoning for. I'm not against progress, although I wish we could keep the valley just the way it is.

I am totally against the RS zoning because of what it will do to the value of our property, the congestion problems it would cause. My children would someday

like to build nice homes on
that land.

Please don't ruin our valley
by rezoning that land RS. If
the Schlegel's still lived on that
property, I know they wouldn't want
this next to them.

Thank you,
Joan Wheeler

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DEC 03 2002

PLANNING DIV.

B. 1
ANX 03-06.00 (Hoskins/Schlegel)
Page 27 of 40

Dec. 02, 2002

Re: Ms. Strain

I am writing in regard to the proposed development rezoning of the Schlegel property on Salem Road or Jesse Solomon Road. My family's property (the Wheeler property) is adjacent to this piece of land. It is also where I plan to someday build a very nice home. My husband & I have planned this since we were married, and we intend to build a larger 3-4,000 square foot house there. I do not disagree about the development of this land, but we do have serious concerns about it being zoned RS. There are many nice pieces of property in that area & it is a truly beautiful valley. Much of the landscape out there has already been taken up by the Crystal Springs subdivision. Putting an area of RS zoned land would impact our property value negatively as well as the property of our neighbors. We support development, just not this kind. Please consider our concerns about the negative effects of smaller homes being placed there. Larger lots with larger homes would be much more suitable for this area.

Sincerely, Kris Honey & Cameron Honey
2033 Arthur Road Street
Evanston, IL 60203 413-4527



BASSETT MIX

AND ASSOCIATES, INC.

Tuesday, December 3, 2002

To: Members of the City of Fayetteville Planning Commission

From: The Al Zaccanti Family

Re: Re-Zoning of the Schlegel Property

We firmly oppose the Re-Zoning of the adjoining property to RS.

We support Re-Zoning of the adjoining property to R-1, single family residential, as long as the lot sizes are 1/4 Acre or larger.

We have lived and farmed on the 80 Acres which adjoins this subject property. Our home contains over 3500 square feet. Homes immediately to the North, East and West of our home and the subject property are all similar in size. We are not opposed to growth or to the development of this property. However RS, high density zoning, is in direct conflict with the land use (20-20 plan) and the sizes of homes surrounding this property.

We plan to attend the meeting on December 9th to express our opposition and concerns regarding the re-zoning.

Highest Personal Regards,

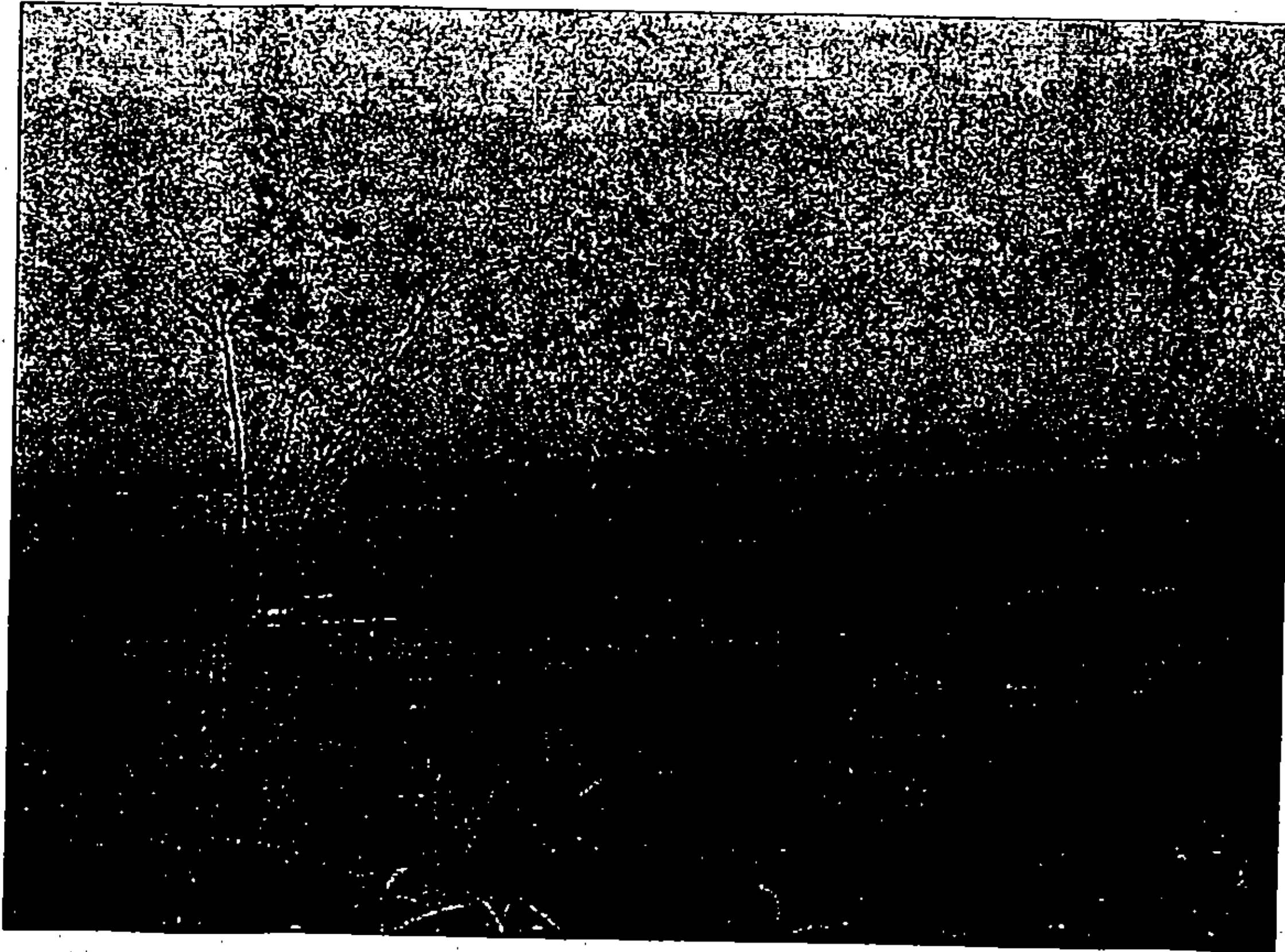
Al and Helen Zaccanti
3019 W. Salem Rd. WC 894
Fayetteville, AR 72704

Family Members: Mary Bassett, Al Zaccanti Jr., Jacqueline Calcagni and Ed Zaccanti

RESIDENTIAL, FARMS AND COMMERCIAL REAL ESTATE
3263 North College • Fayetteville, Arkansas 72703 • (479) 521-5600 • (479) 751-5900 • Fax (479) 521-5698
website: www.bassettmix.com

THE STANDARD OF EXCELLENCE
Working For You





From Salem Road looking south at subject property.

ANX 03-06.00: Annexation (Schlegel, pp 207/246) was submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III subdivision, west of Deane Solomon Road. The property is in the Planning Area and contains approximately 72.5 acres. The request is to annex the property into the City of Fayetteville.

RZN 03-34.00: Rezoning (Schlegel, pp 207/246) was submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III subdivision, west of Deane Solomon Road. The property is in the Planning Area and contains approximately 72.5 acres. The request is to rezone the property RSF-4, Residential Single-family, 4 units per acre.

Hoover: Item number three on the agenda is ANX 03-06.00 and RZN 03-34.00 for Crystal Springs Phase III subdivision west of Deane Solomon Road. Jeremy?

Pate: Thank-you Madam Chair. The subject property is 73.50 acres of vacant property located west of Deane Solomon Road south of Salem Road. Salem Road to the north of this location is a gravel road and does not meet city standards, nor does Deane Solomon. Single family residences are located north of the subject property along Salem Road and areas to the west and south are vacant, although, Crystal Springs Subdivision Phase III, as you mentioned, is proposed south of the subject property. Gypsum Drive, a collector street, is also shown on the Master Street Plan as an east/west connection to the subject property. Any development to be consistent with the Master Street Plan would most likely look at developing that street as part of it's circulation patterns. A portion of Gypsum Drive also was constructed with the Crystal Springs Phase I. As with the last two items, an Annexation and Rezoning request was previously petitioned and tabled in December, 2002. The two primary concerns for this site included fire response times and the waste water capacity study as mentioned. Again, the waste water capacity study has identified this area as an area that does have sufficient capacity for development. Additionally, fire station number seven which is a closer fire station than the ones that currently exist to serve this site has been approved and awaits construction plans. Staff's findings with regard to water and sewer, extension of water and sewer mains will be required although, they are available in the nearby vicinity. The proposed annexation and potential rezoning could result in 290 single family units as a maximum. Again, that has been identified as being within the capacity of the lift stations based on the waste water capacity study. With regard to the rezoning, this proposed rezoning is justified in order to ensure orderly and consistent development patterns making use of existing infrastructure. The rezoning is needed for the development of a single family residential subdivision as proposed by the applicant. Projects existing in this area already of course, do receive police services and the

rezoning will not substantially alter the population density. Again, I mentioned the fire department findings as well. Surrounding properties are similarly developed and zoned appropriately for this request and staff is recommending approval of both requested ANX 03-06.00 and RZN 03-34.00.

Hoover: Thank you. Would the applicant come forward?

Jefcoat: I'm Tom Jefcoat with Milholland Company.

Hoover: Do you have anything to add?

Jefcoat: We appreciate your consideration of this Annexation and Rezoning. We are aware of the street conditions, the infrastructure, water and sewer and those issues will be addressed during the planning and design development stage. Thank you.

Hoover: At this time we will open up this Annexation and Rezoning to public comment. This is for the Crystal Springs Phase III subdivision. ANX 03-06.00 and RZN 03-34.00. Is there any member of the public that would like to address these? Seeing none, I will bring it back to the Commission.

Bunch: I have a question for the applicant. I know this is a little premature because the Preliminary Plat is not before us but one of the concerns in this area has been traffic and access. What provisions do you think will be made on securing the right of way to extend Gypsum to Deane Solomon Road? Have you looked at that yet?

Jefcoat: Yes we have. We are aware that that road will be improved to the city limits. Excuse me, I was thinking about Salem Road. Gypsum Road we did not know what would occur to the west of us, nor to the east of us but during the design development we will provide connectivity to the east and west.

Bunch: Then also go ahead and tell us about Salem Road.

Jefcoat: We understand that staff is recommending that that be improved to the city limits from wherever we have access on Salem Road to the city limits.

Bunch: Where is the city limits, is that at Deane Solomon?

Jefcoat: Yes it is.

Bunch: You are aware that that would be part of the development process would be to extend Salem Road to city standards to Deane Solomon?

Jefcoat: Yes, that's what is in the recommendation, yes.

Bunch: A question for staff I guess. On Gypsum Road our packet does not show ownership of Gypsum. What process would there be as this comes forward for development to provide a second access on Gypsum that would be south of the "S" curve on Deane Solomon that would help avoid, from a traffic standpoint, avoid that bad spot on Deane Solomon.

Warrick: That is part of the springwoods project. That is one of the lots within the springwoods PZD east of this tract between this tract and Deane Solomon Road. We expect that property to come through the development process relatively soon as we have had the Final Plat for that subdivision submitted to our office this last week. With regard to when this comes through the development process, the subject property, we will be of course, looking for connectivity which is a policy of the city to require developments to have stub outs and/or to connect to existing stub outs. We will have to wait until we see what is on the ground existing compared to what the proposal is and how we can ensure that those existing stub outs match up to any new infrastructure and that if they don't if there is nothing to match up that new stub outs are in the proper location so that streets can be connected affectively.

Allen: I noticed that there were a number of letters in our packet from neighbors that are concerned, I wondered whether or not you have met with those neighbors and felt that problems had been resolved in some manner.

Jefcoat: Resolved in some manner, yes. I would say in some manner. We have talked with the adjoining neighbors over the past two and a half years in the process of developing this and we have some rapore with those people. When we do a development plan and begin to have a conceptual plan then the more detailed meeting process will occur with those residences.

Allen: Have you met with them since the last time this came before us?

Jefcoat: We have talked to some of them by phone, yes.

Allen: But not like a neighborhood association type meeting?

Jefcoat: No, we don't have a plan concept with which to talk to them about yet as far as layout. That's what they are most concerned about is how the layout adjoins their property. When we get to that point we will have a neighborhood association meeting.

Warrick: If I could just add, there are a few letters in this packet and we included everything that we had with regard to this property. The original request for this project came in November or December of 2002. At that time the

request for rezoning was to a more dense zoning district with smaller lots. The RSF-7 district now. Some of these comments are reflective of that as the proposal. The proposal now is for an RSF-4, Single Family four units per acre zoning district. While the substance hasn't really changed, it is a request to annex and zone. The density has changed that this applicant is requesting.

Allen: Thank you.

Shackelford: We looked at this previously if my memory is correct. The main two concerns we had at that point was based on fire coverage and sewer capacity, it seems like at this point those issues have been addressed. I think staff has done a good job on recommending approval of this project so based on this I am going to recommend we approve ANX 03-6.00 as presented.

Vaught: I will second.

Hoover: We have a motion by Commissioner Shackelford and a second by Commissioner Vaught, is there any other discussion?

Ostner: This is just a question for staff. I understand that the improvements to Deane Solomon aren't really relative at this point because it is just an annexation and rezoning. When it does come time to develop I'm noticing that this property does not adjoin Deane Solomon. Are we still talking about requesting the developer help improve Deane Solomon?

Warrick: Offsite improvements are at the discretion of the Planning Commission. We do not have a development plan to assess in order to determine whether or not there is a demand placed by that development that would cause a need for improvements on Deane Solomon. We are working with a different developer right now on the "S" curve in Deane Solomon and trying to establish a reasonable way of straightening that out some. We are progressing in making improvements on Deane Solomon and additional development is most likely going to be occurring in that general area in the near future so we will have to take it as it comes and determine those types of assessments or improvements based on the development plans when they are submitted.

Ostner: Thank you.

Hoover: Is there any other discussion? Rence, would you call the roll on the annexation?

Roll Call: Upon the completion of roll call the motion to approve ANX 03-06.00 was approved by a vote of 9-0-0.

Thomas: The motion carries nine to zero.

Hoover: The rezoning of this?

Shackelford: Based on the comments that I made earlier and the findings and the fact that I think this is consistent with surrounding use I will go ahead and make a motion that we recommend approval to the City Council of RZN 03-34.00.

Vaught: I will second.

Hoover: We have a motion by Commissioner Shackelford and a second by Commissioner Vaught for the rezoning, is there any discussion?

Anthes: I'm a little torn on this one. From what I'm reading here there seems to be quite an amount of wetlands in this area, is that true staff?

Warrick: We've not seen a development proposal, I believe that there is potential for some but we've not gotten to that point yet for analysis of that.

Anthes: Looking here where it adjoins the more dense zoning districts along the eastern boundary but as it goes north and west, I'm kind of surprised we haven't heard from more residents based on the numbers of letters that were in our packet. That is a beautiful open valley with a certain character to it. I'm just questioning if the density of RSF-4 might be a little high in that area based on what I think might be wetlands and geology and the view shed and then the surrounding property owner's letters.

Hoover: Staff, you might repeat why you thought the RSF-4 was appropriate perhaps.

Warrick: Based on the General Plan which calls this area out to be residential we felt that the RSF-4 district was appropriate with regard to the existing surrounding developments and the proposed developments to the south and to the east.

Anthes: It just seems like RSF-4 seems to be our default position on single family but we do have other district designations, an RSF .5, an RSF-1, an RSF-2 zonings available to us. The site, because it's got this differentiation where it adjoins a more dense zoning and then drops way in that valley, to me it is difficult to look at it as one piece because it might develop in such a way that development might be clustered more towards the front than another piece of property but without seeing that, it is hard for me to get behind a basic overall density of RSF-4 on that site.

Shackelford: This is presented as Phase III of an existing subdivision, Phase I and Phase II, are they RSF-4 as well?

Warrick: This is not Phase III of Crystal Springs. This is north of the proposed Crystal Springs Phase III. Phase III is zoned RSF-4, it is located immediately south of this and it has already been through the Preliminary Plat process. The Planning Commission has already approved the layout.

Shackelford: The property just south of this proposal will be RSF-4 as well?

Warrick: That's correct.

Thomas: If I could just add, I spoke with Mary Bassett earlier and she asked me to write you a letter but I didn't get to that. She is asking for larger lots as it goes up the hill and she will be here at the time of Preliminary Plat to talk to you about that.

Hoover: Thank you.

Vaught: I think she's the one in her letter that said they were against seven but they would be in support of four. I saw that in at least one or maybe two of the letters. I do think RSF-4 is a good fit for this area. It is still very close to I-540, it is an area that is rapidly developing and changing with a lot of RSF-4 around it. We have a lot of things coming before us in this area and a lot of them are RSF-4. Between that and it is a buffer I think between those larger homes to the west and things like Wilson springs where you even have a strip of RMF-24 abutting the property. I do think it is a good density. Just because it is zoned that doesn't necessarily mean they are going to do that. Like was said, Mary Bassett wished they would get larger as they would go up the hill. I believe she was here at the last meeting and said that exact same thing. I know the developer will have lots of comments with the neighbors through the development process.

Bunch: A question for staff and possibly the applicant, the property immediately to the south zoned RSF-4 is part of Crystal Springs Phase III?

Warrick: Yes.

Bunch: That is a piece of property that I know we have had a Preliminary Plat come through on that and there will be access to Deane Solomon on that but I cannot remember if there was access to the north. I think the same applicant had the same project, Tom, can you shed a little light on that?

Jefcoat: Yes we do have the same project and we do have a stub from Crystal Springs north into this property. I also may mention that yes, to our east there is RSF-4 zoning where we are talking about connectivity also, which

is Gypsum. It is our proposal and we have had communication with Mary Bassett and we talked earlier today also.

Bunch: We are looking at two potential connections to the east, one on Gypsum Drive and the other one on the extension of Crystal Springs?

Jefcoat: At least one through to the south on Crystal Springs. One to the north on Salem and at least one both directions east and west.

Bunch: With the Master Street Plan there is Gypsum Drive so that would give a minimum of three accesses east?

Jefcoat: A minimum of four, minimum.

Vaught: Gypsum Drive to the east of Deane Solomon has been vacated with the Wilson Springs PZD correct?

Warrick: Yes. It has been removed from the Master Street Plan as a collector. It doesn't mean that there couldn't still be some connectivity there. It is no longer classified as a collector street.

Hoover: Is there any other discussion? I believe we had a motion and a second. Renee, would you call the roll?

Roll Call: Upon the completion of roll call the motion to recommend approval of RZN 03-34.00 to the City Council was approved by a vote of 8-1-0 with Commissioner Anthes voting no.

Thomas: The motion carries eight to one.

Hoover: Thank you.

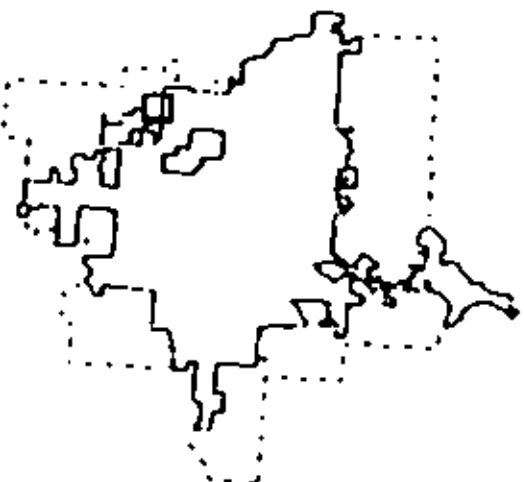
ANX 03-06.00

Close Up View

SCHLEGEL



Overview



Legend

Subject Property



Streets

Existing



Planned



Boundary

Planning Area



Overlay District



City Limits



Outside City



Master Street Plan

Freeway/Expressway



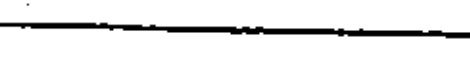
Principal Arterial



Minor Arterial



Collector



Historic Collector

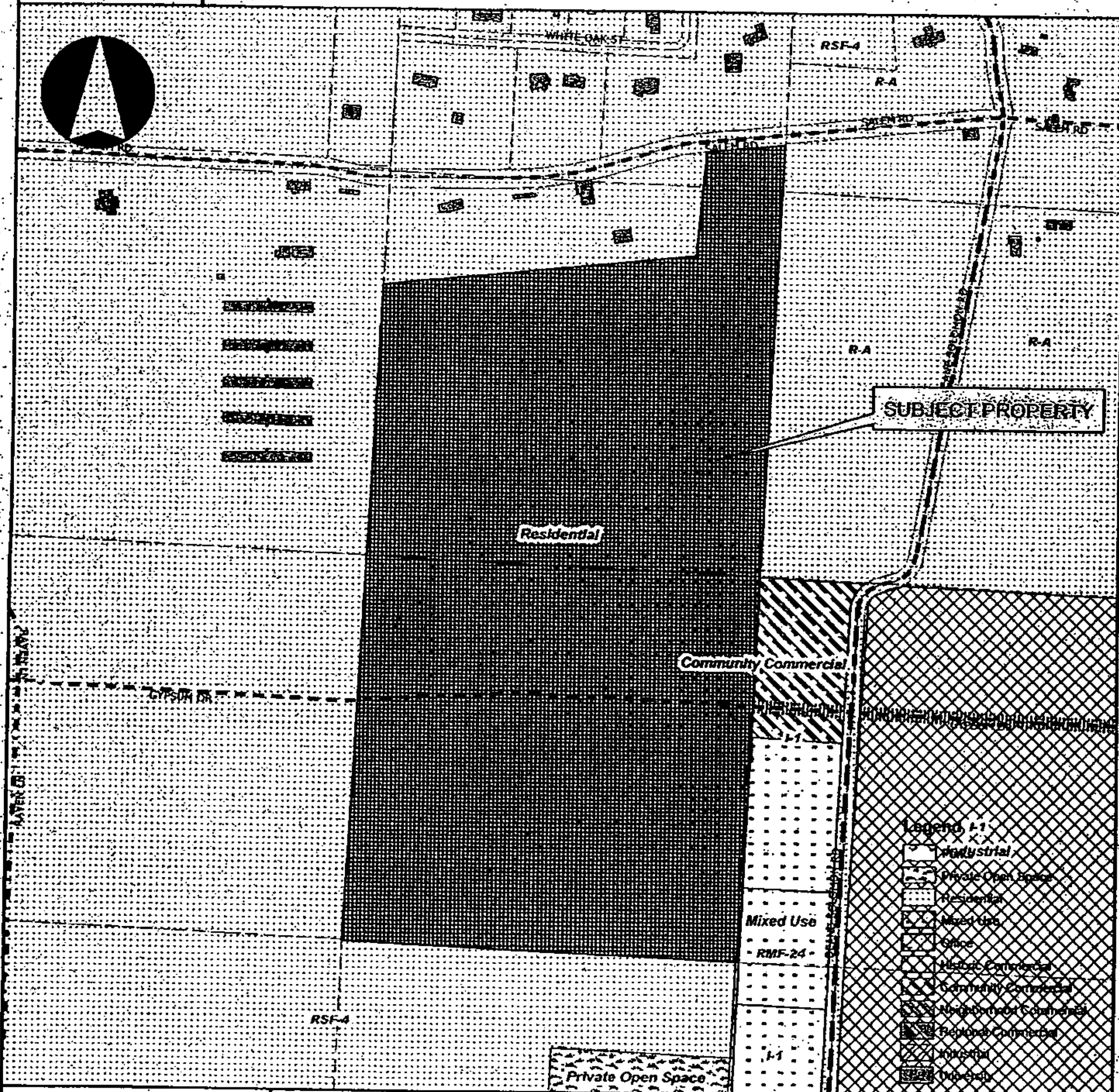
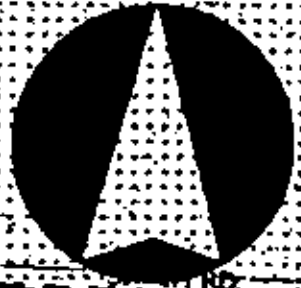


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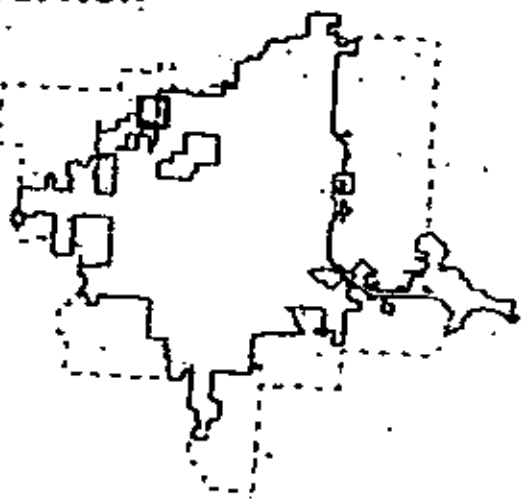
ANX 03-06.00

Future Land Use

SCHLEGEL



Overview



Legend

Subject Property

RZN03-34.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

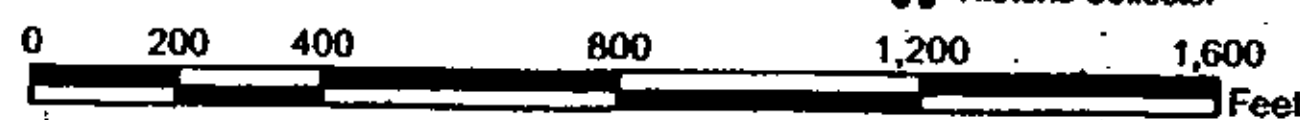
Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector



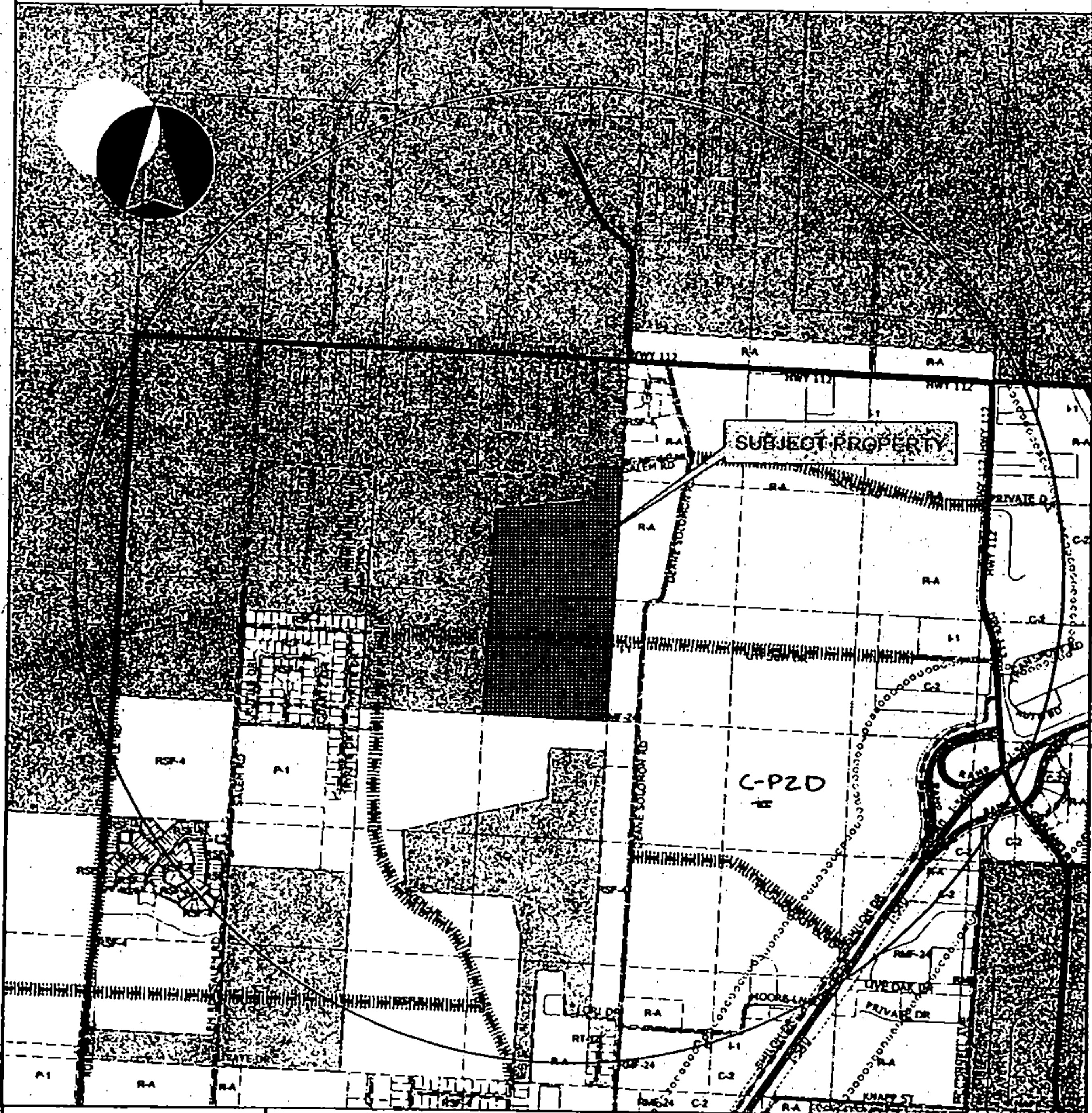
Legend

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

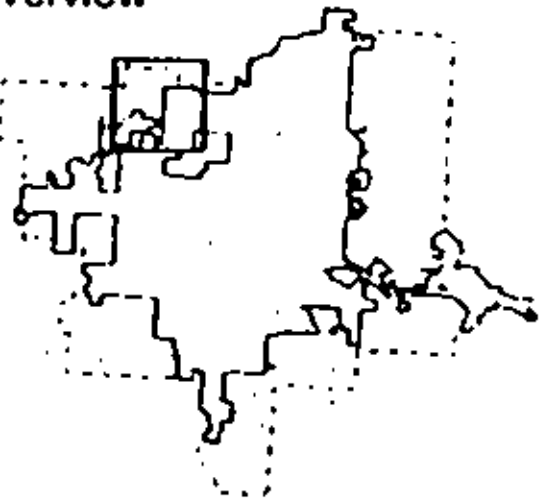
ANX 03-06.00

One Mile View

SCHLEGEL



Overview



Legend

Subject Property

RZN03-34.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

B. 1
ANX 03-06.00 (Hoskins/Schlegel)
Page 40 of 40 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

April 6, 2004

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 03-06.00: Annexation (Schlegel, pp 207/246) was submitted by Milholland Company on behalf of Tracy Hoskins for property located west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres. The request is to approve an ordinance annexing the subject property into the city limits of the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

[Signature]
Division Head3/19/04
Date

Received in Mayor's Office

3/22/04
Date *[Signature]**[Signature]*
City Attorney3/22/04
Date

Department Director

Date

Cross Reference:

Previous Ord/Res#: _____

Finance & Internal Services Dir.

Date

Orig. Contract Date: _____

[Signature]
Chief Administrative Officer3-23-04
Date

Orig. Contract Number: _____

[Signature]
Mayor3/24/04
Date

New Item:

Yes

No



CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator *DW*

Date: March 18, 2004

Subject: Rezoning request for Hoskins/Schlegel (RZN 03-34.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 72.5 acres of property from R-A, Residential Agricultural to RSF-4, Residential single family 4 units/acre.

BACKGROUND

The subject 72.5 acre vacant tract of land is located west of Deane Solomon Road and south of Salem Road. Phase III of Crystal Springs Subdivision is directly south of the property, within the city limits. The developer proposes a residential subdivision on the property, not to exceed 4 units per acre. Annexation and rezoning requests for this tract of land have been requested since 2002. The initial request in 2002 was for annexation and rezoning of the property from R-A to RSF-7, Residential Single Family, seven units per acre. Staff recommended denial of this request, citing concerns with the density proposed and the inability of the city to provide adequate public services to this particular area. Specific concerns included both the fire response time and the capacity of the wastewater system. Fire Station #7 has recently been approved for development on Ruppel Road, and a system-wide wastewater capacity study identifies this area as having the capacity to serve existing and proposed development, both of which alleviate the concerns of staff and the Planning Commission. Additionally, the original application was withdrawn and submitted in its current format, an annexation and rezoning request from R-A to RSF-4. If the associated annexation request is approved, development on this site will be regulated by the city allowing for a more uniform and consistent development pattern making better use of city infrastructure.

Proposal: The applicant proposes to rezone the 72.5 acre tract in anticipation of the development of a single family residential subdivision. The requested zoning will provide for additional residential development at a maximum density of 4 units per acre.

DISCUSSION

On November 24, 2003, the Planning Commission tabled this item at the request of staff. Staff was not recommending in favor of the annexation/rezoning at that time. Staff's recommendation was later amended to reflect changed conditions (request for less dense zoning district, progress on the development of a new fire station to serve the west side of

Fayetteville, review of the system-wide wastewater capacity study). On March 08, 2004, the Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval of the annexation with a companion rezoning request.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 03-34.00 AS SUBMITTED BY MILHOLLAND COMPANY ON BEHALF OF TRACY HOSKINS FOR PROPERTY LOCATED NORTH OF THE PROPOSED CRYSTAL SPRINGS PHASE III SUBDIVISION, WEST OF DEANE SOLOMON ROAD AND SOUTH OF SALEM ROAD CONTAINING APPROXIMATELY 72.50 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

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

From R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 03-34.00

THE NE ¼ OF THE NE ¼ OF SECTION 32 AND PART OF THE E ½ OF THE SE ¼ OF SECTION 29, ALL IN T-17-N, R-30-W, THAT PART BEING IN SECTION 29 IS MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SE CORNER OF SAID SECTION 29, THENCE WEST 1320 FEET, MORE OR LESS, TO THE SW CORNER OF THE SE ¼ OF THE SE ¼ OF SAID SECTION 29; THENCE NORTH TO A POINT 384.25 FEET SOUTH OF THE NW CORNER OF THE SE ¼ OF THE SE ¼ OF THE SAID SECTION 29; THENCE N83°22'18"E 1067.69 FEET; THENCE N02°35'14"E 357.47 FEET TO A POINT 35 FEET, MORE OR LESS SOUTH OF THE CENTERLINE OF COUNTY ROAD NO. 894; THENCE NORTHEASTERLY PARALLELING SAID CENTERLINE A DISTANCE OF 268.54 FEET, MORE OR LESS, TO THE EAST LINE OF THE E ½ OF THE SE ¼ OF SAID SECTION 29; THENCE SOUTH 1574 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 72.5 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of March 08, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: February 24, 2004

RZN 03-34.00: Rezoning (Schlegel, pp207/246) was submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III subdivision, west of Deane Solomon Road. The property is in the Planning Area and contains approximately 72.5 acres. The request is to rezone the property RSF-4, Residential Single-family, 4 units per acre. Planner: Jeremy Pate

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	Required <u>YES</u>
Date: <u>March 04, 2004</u>	☒ Approved ☐ Denied
CITY COUNCIL ACTION:	Required <u>YES</u>
Date: <u>April 06, 2004</u>	☐ Approved ☐ Denied

BACKGROUND: Please reference the associated ANX 03-06.00 staff report for additional background information.

Property Characteristics: The subject property is 72.5 acres of vacant property located west of Deane Solomon Road and south of Salem Road. Salem Road at this location is a dirt road and does not meet city street standards. Deane Solomon Road also does not meet city street standards. Single family residences are located north of the subject property along Salem Road. Areas to the west and south are vacant. Crystal Springs Subdivision, Phase III is proposed south of the subject property. Gypsum Dr., a Collector Street, is shown on the Master Street Plan as an east and west connection through the subject property. A portion of Gypsum Dr. was constructed when the Crystal Springs, Phase I subdivision was developed.

An annexation and rezoning request was previously petitioned for the subject property in December of 2002. At the time, staff recommended denial for both the annexation and rezoning requests, citing

concerns for Fire response times and increased loading onto existing infrastructure, particularly the wastewater system. The recommendation for denial was based on the inability of the city to provide adequate services to this particular area. Actions are being taken to remedy both situations: The Large Scale Development for Fire Station #7, to be located on Ruppel Road, has been approved by Planning Commission and awaits final construction documents and permitting; a report from a system-wide wastewater study has been submitted and adequate capacity has been identified to serve this area for existing and proposed development (see attached). The proposal to rezone was tabled in November, 2003, pending results from the wastewater capacity analysis

Proposal: The applicant would like to develop a single family residential subdivision.

Request: The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 Dwelling Units per Acre, should the preceding Annexation request be approved.

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 72.5 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 03-06.00, is an accompanying item to this rezoning request.

Recommendation: Based on the information provided from the wastewater capacity study and the findings included in the staff report, staff recommends approval of the rezoning request. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single family residential	In county, no zoning.
South	Planned residential subdivision (Crystal Springs, Phase III)	RSF-4, Res. Single Family, 4 DU/Acre
East	Undeveloped - Springwoods C-PZD	C-PZD
West	Undeveloped	In county, no zoning

INFRASTRUCTURE:

Streets: North: East Salem Road (Collector) – Does not meet City street standards
 South: Proposed connections through Crystal Springs II subdivision
 East: Deane Solomon Road (Collector) – Does not meet City street standards
 West: Master Street Plan shows Raven extended north (Collector)
 Further west is Salem Road (Collector)

Gypsum Dr., a Collector, is shown on the Master Street Plan as an east and west

connection through the subject property. A portion of Gypsum Dr. was constructed when the Crystal Springs, Phase I subdivision was developed.

At the time of development, Staff will recommend improvements to the roadway from the subject property to Deane Solomon Road, to City standards, as well as other street improvements to serve the development.

Water: The property currently has access to an 8" water line that will be stubbed out from the proposed Crystal Springs 3 subdivision. An extension of the water main will be required to provide water supply within any development on this property. The main will also have to be looped to the north to connect with the 2" line along East Salem Road to provide dual feed for the development.

Sewer: The site currently has access to an 8" sewer main that will be stubbed out from the proposed Crystal Springs III subdivision. Sewer will need to be extended within the development.

Fire: The subject property is located 3.5 miles from the proposed Fire Station #7 on Ruppel Road. Normal driving time is 5 min. 42 seconds. Water supply will be necessary for this property to develop. Access roads and street improvements to allow for necessary fire apparatus ingress/egress will also be required.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to RSF-4 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning for a Single Family residential subdivision is compatible with adjacent and nearby single family residential and agricultural uses. The general plan designates this area for residential uses, which is compatible with the proposed RSF-4 zoning. Access and provision of adequate services must be considered as this site is at the outskirts of the city and located on streets which need improvement.

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 order to promote orderly and consistent development patterns making use of existing infrastructure. The rezoning is needed for the development of a single family subdivision as proposed by the applicant. A subdivision with this density in the R-A district could not be

developed as it is currently zoned. A higher density than the R-A zoning district allows is appropriate in this area, and would provide compatibility with adjoining developments that are zoned and developed similarly. In order to develop a residential subdivision on this property in a manner that is consistent with the future land use plan, a residential zoning district is needed.

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

Finding: The proposed zoning will provide additional traffic on Salem Road, Dean Solomon Road and other streets in the area. Several of the streets in the area are unimproved and inadequate for emergency vehicle access, therefore off-site improvements would likely be necessary in order to provide safe access to this site.

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

Finding: The proposed zoning would increase population density. The 72.5 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 36 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 290 dwelling units would be permitted. This increases the possible number of residential units substantially, but is consistent with land use and zoning in the immediate vicinity.

Engineering - The property currently has access to an 8" water line that will be stubbed out from the proposed Crystal Springs 3 subdivision. An extension of the water main will be required to provide water supply within any development on this property. The main will also have to be looped to the north to connect with the 2" line along East Salem Road to provide dual feed for the development.

The site currently has access to an 8" sewer main that will be stubbed out from the proposed Crystal Springs III subdivision. Sewer will need to be extended within the development.

Access will be provided through street connections to the south through the proposed Crystal Springs 2 subdivision. Access will also be provided at East Salem Road. East Salem Road at this location is an unimproved gravel road. At the time of development, it will be recommended that the roadway from the development to Deane Solomon Road be improved to current City standards.

Fire - Water supply with fire hydrants is needed to serve development on this site, as will

access roads. The new fire station on Ruppel Rd. will serve this site once it is constructed. Response time from the new station (#7) will be 5 minutes 42 seconds (3.5 miles).

Police - Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing city subdivisions in the vicinity. It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services.

The proposed access, however, is a concern. West Salem Road is unimproved at this location. This road is rough gravel and narrow. Without improvements or the addition of alternate access, 290 potential units would create an appreciable increase in traffic danger and congestion at this location.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

Table 6

**SUMMARY OF PRELIMINARY CAPACITY ASSESSMENT
WESTERN PORTION OF THE CITY**

Lift Station	Capacity ^{1/}		Number of Units			Projected Peak Hourly Wastewater Flow ^{2/} (gpd)	Percent Capacity Utilized	Remaining Capacity ^{3/}	
	(gpm)	(gpd)	Existing	Inactive	Built Not Occupied	Approved Not Built		(gpd)	(units)
Crystal Springs	260	374,400	141	0	233	508	59.7	150,840	670
Hamestring	1,600	2,304,000	2,510	125	898	.680	71.6	654,000 ^{4/}	2,906 ^{5/}
Owl Creek	437	629,280	336	25	317	286	44.5	349,280	1,552
Total			2,987	150	1,448	1,474			

1/ Firm capacity requires verification by OMI, Inc.

2/ Wastewater flow projected utilizing 161 gpd/unit plus existing dry-weather infiltration x dry-weather peaking factor.

3/ Based on dry-weather flow only. Does not include allowance for wet-weather inflow or infiltration.

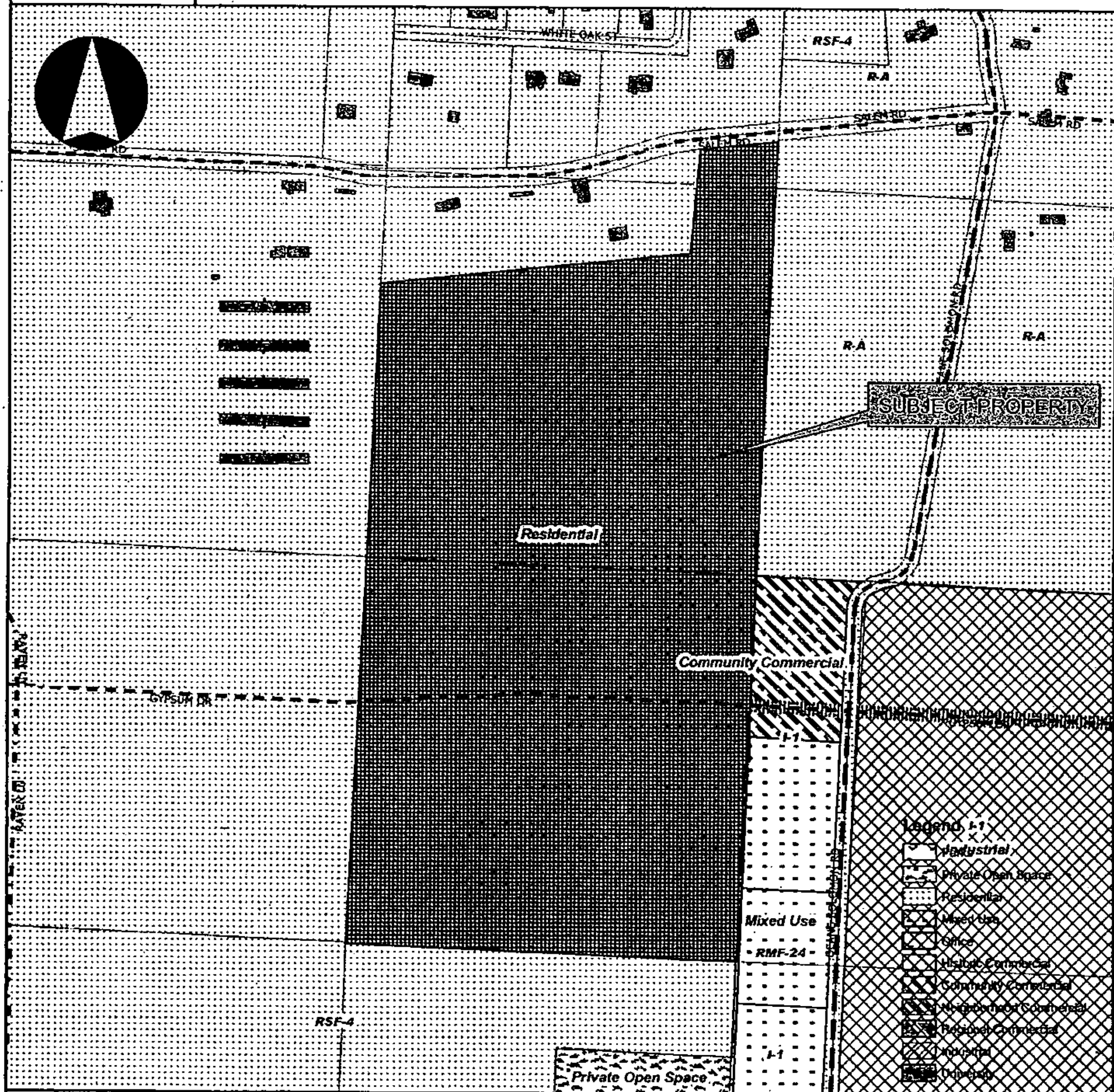
4/ Flow for Hamestring Lift Station includes flow from Crystal Springs, Hamestring, and Owl Creek Lift Stations.

5/ Total remaining flow and units include all areas tributary to Hamestring Lift Station.

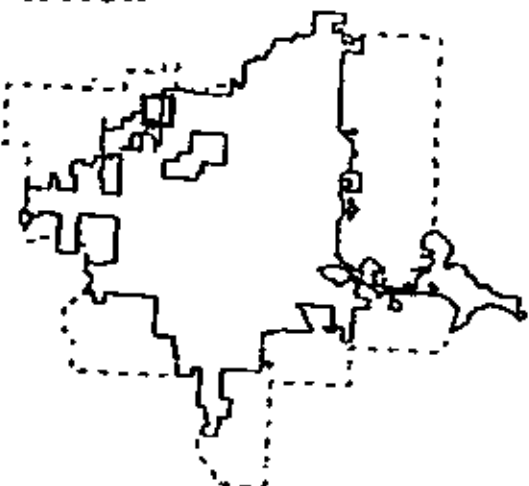
RZN03-34.00

Future Land Use

SCHLEGEL



Overview



Legend

Subject Property

RZN03-34.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

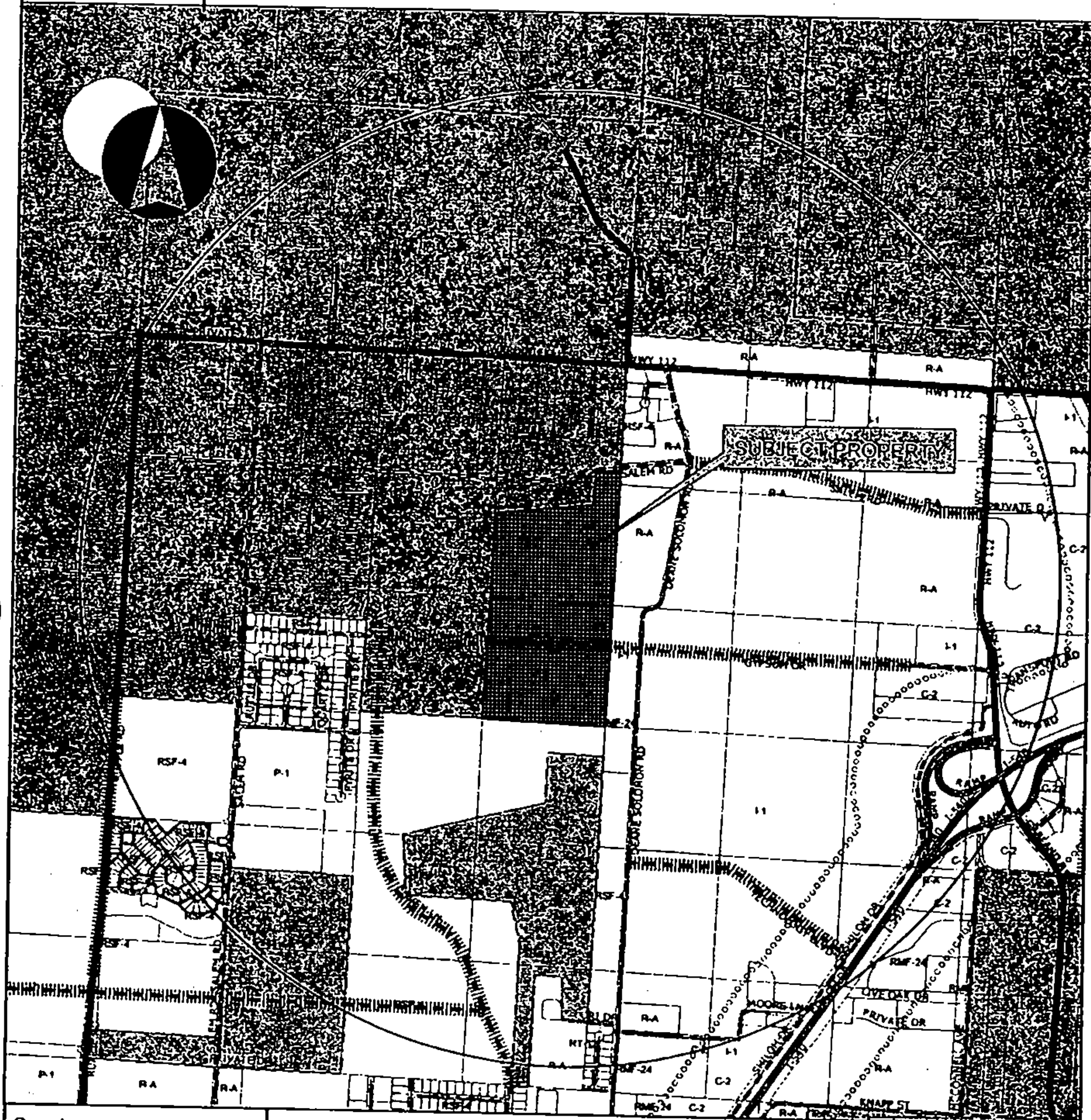
Minor Arterial

Collector

Historic Collector



SCHLEGEL



Subject Property



Planned

 Planning Area
 Overlay District
 City Limits
 Outside City

Outside Cases

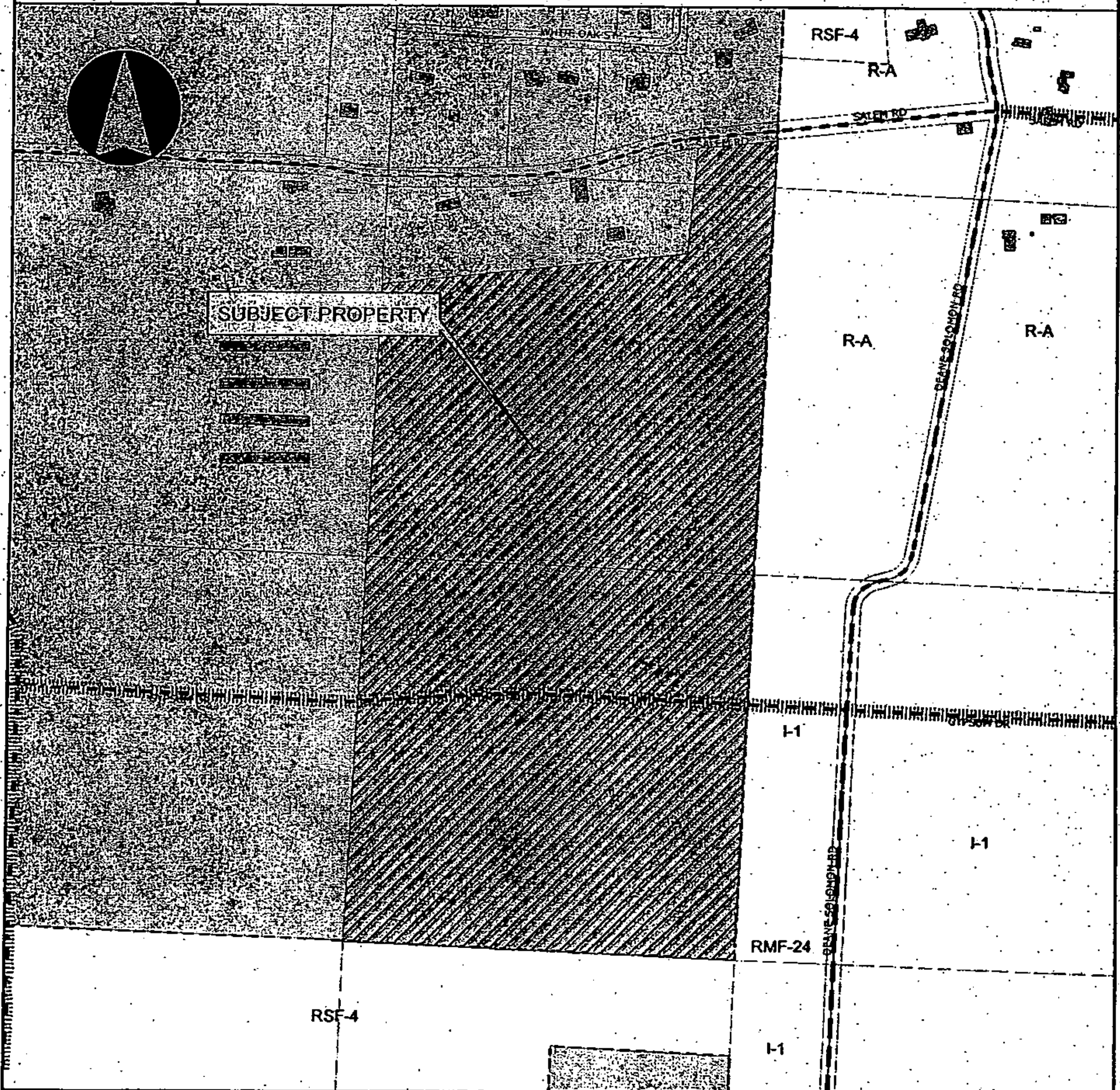
 Freeway/Expressway
 Principal Arterial
 Minor Arterial
 Collector
 Historic Collector

●● Master Collector

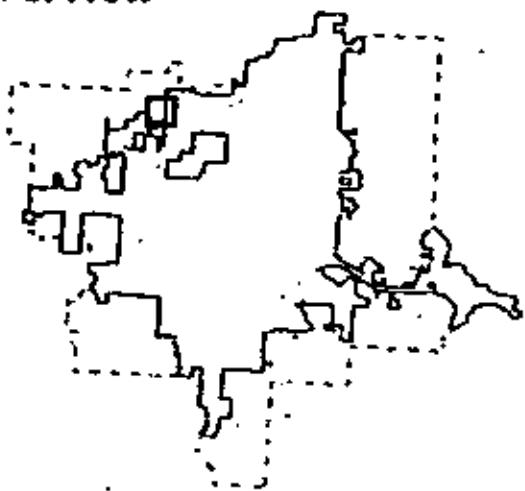
RZN03-34.00

SCHLEGEL

Close Up View



Overview



Legend

Subject Property

RZN03-34.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 150 300 600 900 1,200 Feet

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator *ltw*

Date: April 01, 2004

Subject: Residential Planned Zoning District for Stonewood Gardens (R-PZD 04-04.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Stonewood Gardens. This action will establish a unique zoning district and approve a preliminary plat for development of a 3.36 acre tract consisting of 12 single-family dwellings located on Crossover Road, immediately north of Stonewood Subdivision.

BACKGROUND

The proposal is for a single-family residential subdivision, accessed by way of a private street from Crossover Road. Twelve dwelling units are proposed to be constructed, utilizing small lots and zero lot lines in many cases. All residents are required to utilize vehicular access by way of a rear alley, thereby promoting a more appealing front entry to the neighborhood. The applicant is proposing a perimeter fence of wrought iron and brick in the rear and a 6-foot brick wall, similar to that of the adjoining Stonewood Subdivision, along the front. A controlled access gate is also proposed, with appropriate measures required to ensure 24-hour access by emergency and essential vehicles to serve the residents. The total density proposes is 3.4 dwelling units per acre, which is compatible with nearby development.

DISCUSSION

The Planning Commission voted 9-0-0 in favor of this request on Monday, March 22, 2004. Approval of a planned zoning district requires City Council approval as it includes zoning (land use) as well as development approval (preliminary plat). A final plat is required to be processed to legally record the lots and covenants for the subdivision. Recommended conditions included in the attached staff report were approved by the Planning Commission.

BUDGET IMPACT

None.



ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 04-04.00 LOCATED SOUTH OF ALBRIGHT ROAD AND NORTH OF THE STONEWOOD SUBDIVISION CONTAINING 3.36 ACRES MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION.

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

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

From R-O, Residential Office to R-PZD 04-04.00 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission March 22, 2004.

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

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RPZD 04-04.00

PART OF THE SE ¼ OF THE SW ¼ OF SECTION 18, T17N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF SAID SE 1/4, SW ¼ THENCE S00°26'02"E 110.00 FEET TO THE P.O.B., THENCE N89°33'58"E 122.33 FEET, THENCE S32°50'29"E 378.17 FEET, THENCE S00°26'02"E 231.35 FEET, THENCE S89°40'40"W 325.00 FEET, THENCE N00°26'02"W 549.99 FEET TO THE P.O.B.; CONTAINING 3.36 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of March 22, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
Matt Casey, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: ~~March 17, 2004~~ Revised 03-24-04

R-PZD 04-04.00: Residential Planned Zoning District (Stonewood Gardens, pp 60) was submitted by David Gilbert of Jorgensen & Associates on behalf of Mark Foster for property located on Crossover Road, immediately north of the Stonewood subdivision. The property is zoned R-O, Residential Office and contains approximately 3.36 acres. The request is to rezone the property to an R-PZD to allow the development of 14 lots with 12 single-family dwelling units proposed. Planner: Jeremy Pate

Findings:

Proposal: The applicant requests a rezoning and preliminary plat approval for a residential development within an R-PZD zoning district. The proposed use of the site is for 12 single-family residential dwelling units, accessed from Crossover Road by way of a private drive.

Twelve dwelling units on the 3.36-acre site are proposed, therefore the proposed density for the R-PZD is 3.4 DU/acre. The project site is currently zoned R-O, Residential-Office. The vacant site is located in north Fayetteville, east of Lake Fayetteville, near the intersection of Crossover Road and Albright Road. Immediate surrounding properties are primarily single family residential (including Stonewood Subdivision) and agricultural in nature, including the nearby future Botanic Gardens.

Proposed Development: R-PZD, Residential Planned Zoning District

	Land Use
Lots 1-12	Single Family Residential
Lot 13	Detention Pond
Lot 14	Common Area, Private Street, drive, utilities

Access: The development is proposed to have one point of vehicular access, from Crossover Road. The applicant proposes a private street (Stonewood Court) that utilizes a controlled access point (privacy gate for the subdivision). The remainder of the subdivision is proposed to be within the perimeter of a wrought iron and brick fence in the rear and a 6-foot brick wall along the front, similar to that of Stonewood Subdivision to the south. A six-foot public sidewalk is to be constructed along Crossover for the length of the property. The applicant is requesting to not

construct sidewalks within the development.

A draft of protective covenants, as well as the applicant's response to the Planned Zoning District requirements and description of the project, have been submitted and are included in the staff report.

Existing Development: The site is currently vacant.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Single family homes	RSF-4, Single Family Res. 4 DU/Acre
South	Single family homes	R-O, Residential Office
East	Single family homes	RSF-4, Single Family Res. 4 DU/Acre
West	Lake Fayetteville, Crossover Road	R-A, Residential Agricultural

Water & Sewer: Water and sewer lines will be extended from Crossover Road.

Street Improvements Proposed: Six-foot sidewalks are required to be constructed along Crossover Road. The interior street is proposed to be a private street, 24-feet in width. Vehicular access to the each lot is restricted to access from the rear, by way of a 14-foot wide one-way drive/alley.

Adjacent Master Street Plan Streets: Crossover Road (Hwy 265), Principal Arterial

Tree Preservation:

Existing canopy:	9.1 %
Preserved canopy:	6.6 %
Required canopy:	9.1 %
Mitigation:	16 mitigation trees (see condition of approval)

Background: This proposal was heard at the Technical Plat Review meeting of January 14, 2004 and at the Subdivision Committee on March 11, 2004. Points of discussion include sidewalks along the interior street, the "gated community" and emergency/delivery access, utilization of the rear drive for access, the proposed wall within utility easements, and a turn-around at the entry gate.

Recommendation:

Forward to the City Council with a recommendation for approval of the requested rezoning.

Planning Commission approval of the proposed preliminary plat subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district for R-PZD 04-04.00 with all conditions of approval

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as determined by the Planning Commission.

2. Planning Commission determination of the General Plan 2020 policy of "community character," as outlined below:

Community Character Guiding Policy in the General Plan 2020:

9.19.d Discourage perimeter walls and guard houses around the perimeter of new residential developments and promote "connectivity" to increase accessibility and provide more livable neighborhoods.

- * *Staff finds the perimeter walls are compatible to the existing walls along Stonewood Subdivision to the south, along with numerous other subdivisions developed along Crossover Road, a principal arterial on the Master Street Plan. These walls tend to provide a buffer for residents from the traffic along Hwy 265.*
- * *Staff finds vehicular connectivity to be unnecessary with the proposed development, as surrounding land use is already established and nearby existing streets (Hwy 265, Albright Rd.) provide adequate access. Staff is recommending a sidewalk connection be made along the private street, to connect to the required sidewalk along Crossover Road for pedestrian connectivity.*

- ~~3. Planning Commission determination of the appropriateness for sidewalks along the interior, private street serving the proposed 12 single family homes. Staff recommends a 4-foot sidewalk be placed along the private street to connect to pedestrian access along Crossover Road. Removed by Planning Commission.~~

4. A Final Plat is required to legalize the lot configuration, filed pursuant to City of Fayetteville requirements.
5. Allowed uses in this R-PZD shall be restricted to Use Unit 8, single family residential and Use Unit 1, City-wide uses by right.
6. Due to significant changes from Technical Plat Review in the location of utility easements, all utility easement locations shall be verified by utility representatives prior to submittal of approval of construction plans.
7. Vacation of the existing 30-foot utility easement shall be processed and approved by City Council prior to Final Plat approval.
8. No structures shall be allowed within utility easements. *The proposed perimeter wall is within proposed utility easements, a situation that is not allowed by ordinance. Either the wall or easements shall be modified to comply.*
9. The proposed gates into the subdivision shall be fitted with appropriate measures that allow for 24-hour emergency vehicle, solid waste and delivery access (Knox Box or equal).
10. A mitigation planting plan shall be submitted before Final Plat including a binding three-year maintenance and monitoring plan. This plan shall include an irrevocable letter of credit in the amount of \$4,125 for the planting of 15 mitigation trees.

Standard Conditions of Approval:

11. Payment of parks fees in the amount of \$6,660 for 12 single-family dwelling units shall be submitted prior to Final Plat.
12. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
13. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
14. Sidewalk construction in accordance with current standards to include a six foot sidewalk Crossover Road (Hwy 265). Exact location shall be coordinated with the Sidewalk Administrator and Landscape Administrator at the time of construction.
15. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
16. Preliminary Plat shall be valid for one calendar year.

Additional conditions:

- a. _____
- b. _____
- c. _____

PLANNING COMMISSION ACTION: yes Required

_____ Approved _____ Denied

Date: March 22, 2004

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

By _____

Title _____

Date _____

Findings associated with R-PZD 04-04.00

Sec. 166.06. Planned Zoning Districts (PZD).

(B) *Development standards, conditions and review guidelines*

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

FINDING: The subject property is adjacent to property zoned R-O to the south, R-A to the west and RSF-4 to the north and east. Surrounding land use consists of single family dwellings (Stonebridge Subdivision to the south) and the planned Botanic Gardens along Lake Fayetteville across Crossover Road to the west. The subject property is currently zoned R-O, Residential Office consisting of 3.36 acres with 12 single-family lots proposed for an overall density of 3.4 units per acre. This density and land use is compatible with surrounding areas, thereby preserving and enhancing the neighborhood. The development proposes to utilize rear access for all of the dwelling units, reducing curb cuts along the primary street. Open space and tree preservation areas have been located at the perimeter of the development, providing a natural screen. Additionally, a perimeter wall is proposed surrounding the subdivision, with a controlled-access gate.

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

FINDING: The site has 9.1% canopy coverage with 6.6% preserved canopy proposed. A mitigation plan has been approved by the Landscape Administrator, for 15 trees to be planted on-site. The applicant has proposed erecting a brick masonry wall along Crossover Road to be used as a screen between the street and the proposed development. The wall is proposed to extend along the sides of the property, where it will change to a wrought-iron

and brick column fence. Walls along Crossover Road are consistent with the other residential subdivisions in the area.

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

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The applicant proposed to utilize a controlled access gate from Crossover Road, allowing access to Stonewood Court, a private drive. However, all garages are limited to access from the rear alley/drive, allowing parking along the street for visitors. Connectivity to other properties is not proposed, for adequate streets are existing in the area or surrounding property has already developed, not allowing for connectivity.

Pedestrian access is provided with a six foot sidewalk along Crossover Road for the length of the property. The developer proposes not to construct sidewalks within the development along the private street, citing use of the street and the low density of the proposed development, along with lack of through traffic, as reasons for not constructing a sidewalk. Staff is recommending a four-foot sidewalk be placed along the private drive, to provide pedestrian circulation and a functional landing should the homes be built close to the street with stoops (reference the developer's intent to provide a "New Urbanism" development, with zero-lot line development) or otherwise.

The turn-around at the end of Stonewood Court is sufficient for fire access. Details of the access into the development for emergency vehicles, solid waste, delivery, etc. shall be reviewed and approved by the appropriate City divisions prior to issuance of building

permits.

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

FINDING: Each lot shall be for single family use and provide the required two off-street parking spaces per unit.

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

FINDING: The land use meets all the requirements for open space, buffer or green strip provisions of the chapter in the code.

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

FINDING: Sidewalk construction shall be in accordance with current standards to include a six foot sidewalk located at the edge of the right-of-way along Crossover Road. Staff recommends a four foot sidewalk along the proposed private drive within the development.

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

FINDING: Street lights shall be provided along Crossover Road and within the development with spacing not to exceed 300 feet.

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

FINDING: Water shall be extended to serve the subject property.

- (9) *Sewer.* As required by §166.03.

FINDING: Sewer shall be extended to serve the subject property.

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

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

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

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

- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

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

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

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

FINDING: The applicant is proposing a private street to serve the development, in accordance with the standards noted herein.

The applicant has submitted covenants that allocate the responsibility of maintaining the private drives to the POA. To reduce the number of curb cuts and effect of numerous garage doors facing onto the street, the development requires all homes to utilize rear vehicular access/garages.

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

FINDING: N/A

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

FINDING: The site has 9.1% canopy with 6.6% preservation proposed. Mitigation is required in the amount of 15 trees, planted on-site. Please reference the attached report from the Landscape Administrator.

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

FINDING: N/A

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

FINDING: No view shed has been identified in this area.

(E) *Revocation.*

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

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

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

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

- (1) *Legal entities.*** The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.
- (2) *Common areas.*** If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

 - (a)** The homeowner's association must be legally established before building permits are granted.
 - (b)** Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c)** The open space restrictions must be permanent, rather than for a period of years.
 - (d)** The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
 - (e)** Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant has submitted Protective Covenants and Restrictions for Stonewood Gardens PZD (see attached), identifying the responsibility of the POA for common areas, detention pond, fences and walls. At the time of Final Plat, the covenants will be reviewed again for PZD compliance, and shall be filed at the County, pursuant to ordinance requirements.

Sec. 161.25 Planned Zoning District

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

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposed R-PZD of 14 lots is located on property identified for residential use on the Future Land Use Plan. The proposed density and land use is similar to adjacent property and will not negatively impact surrounding properties. The proposal is unique in that the homes will be built close to one another, on lots that are smaller than those allowed within a typical zoning district. Additionally, the developer proposes a "New Urbanist"

theme, with rear loaded garages and homes to be built close to one another (minimum of 10 feet apart). The subdivision will utilize a controlled access gate, limiting through traffic. Most common space is located along the perimeter of the site, creating a buffer, along with the proposed wall/fence.

The proposal meets the following Residential Guiding Policies in the General Plan 2020:

9.8.a Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.

9.8.c Minimize through traffic on minor residential streets.

9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

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

FINDING: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. An ordinance is required to be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the Planning Commission. Covenants provided by the developer will be included in the R-PZD ordinance, and will be filed of record with the Final Plat. The proposed PZD will be forwarded to the City Council, should the Planning Commission vote in favor of approval.

(C) R - PZD, Residential Planned Zoning District.

(1) Purpose and intent. The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed residential planned zoning district allows single-family use which is compatible with surrounding property. A general rezoning would not allow the type of development the applicant is pursuing, based on the bulk and area requirements of typical single-family zoning districts, therefore a Planned Zoning District is appropriate for the proposed development. The proposed subdivision allows for a density and land use that is compatible with adjacent properties, yet also allows for a flexible site plan and layout.

(2) Permitted uses.

Unit 1 City-wide uses by right
~~Unit 2 City-wide uses by conditional use permit~~
~~Unit 3 Public protection and utility facilities~~
~~Unit 4 Cultural and recreational facilities~~
~~Unit 5 Government facilities~~
Unit 8 Single-family dwellings
~~Unit 9 Two-family dwellings~~
~~Unit 10 Three-family dwellings~~
~~Unit 12 Offices, studios and related services~~
~~Unit 13 Eating places~~
~~Unit 15 Neighborhood shopping~~
~~Unit 19 Commercial recreation, small sites~~
~~Unit 24 Home occupations~~
~~Unit 25 Professional offices~~
~~Unit 26 Multi-family dwellings~~

FINDING: The proposed single-family dwellings are a permitted use under use unit 8. Staff recommends Use Unit 1 be added to the permitted uses on the plat, in order to facilitate essential services located in public right-of-way (utilities, fire hydrants, street signs, etc.)

(3) Condition. In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The PZD proposed is entirely residential in use.

REZONING RECOMMENDATION: Staff recommends approval of R-PZD 04-04.00 with conditions.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-PZD 04-04.00 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning of the existing Residential-Office (R-O) property to the proposed development with residential single-family use with a density of 3.4 units per acre is consistent with the General Plan 2020 that identifies this area for residential use. Single-family use with this density is compatible with existing and planned surrounding single-family residential development.

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

Finding: The proposed zoning is needed in order to develop a single-family subdivision in the manner proposed with the R-PZD site plan.

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

Finding: The proposed zoning will not create or appreciably increase traffic danger or congestion for Crossover Road, a principal arterial street.

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

Finding:

A population increase of 12 units on 3.36 acres, a total density of 3.4 dwelling units per acre, is proposed. This increase is not an appreciable increase in population.

Fire - Water supply with fire hydrants is needed to serve development on this site. Fire station #4 (Plainview) will serve this site once it is constructed. Response time will be approximate 5 minutes 18 seconds (3.7 miles).

Police - Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing city subdivisions to the north and the west. No additional equipment or personnel is needed to provide service

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

Engineering – The proposed subdivision has been reviewed for access to public utilities, including water and sewer, and will not undesirably increase the load on public services.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

B. 3
R-PZD 04-4.00; Residential Planned Zoning District (Stonewood Gardens)
Page 20 of 44

PC Meeting of March 22, 2004

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

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Craig Carnagey, Landscape Administrator

Copy: Jeremy Pate, Associate Planner

Date: March 17, 2004

ITEM #: R-PZD 04-04

BACKGROUND:

Requirements Submitted:

	Initial Review with the Landscape Administrator
✓	Site Analysis Map Submitted
✓	Site Analysis Written Report Submitted
✓	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	3.36
square feet	146,362
Existing Tree Canopy	
acres	
square feet	13,252
percent of site area	9.1
Existing Tree Canopy Preserved	
acres	
square feet	9,709
percent of total site area	6.6
Percent Minimum Canopy Required	25%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.
Several significant trees exist on this site and should be preserved. Groupings of oak, elm and pine are among the significant species desirable for preservation, while several medium age cedars and walnut trees are also candidates for preservation.

Whether the design incorporates the required Tree Preservation Priorities.

Yes, all significant trees with one exception have been preserved. Groupings of trees within this site have also been placed in protection.

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

Minimal environmental degradation would occur within this area due to the proposed removal of trees associated with this project.

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

The site is thinly canopied overall. Less than one-third of existing tree canopy will be removed. With the preservation of both significant trees and groupings of trees, the impact to the surrounding neighborhood will be minimal.

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

No, alternative construction methods are unnecessary on this particular subdivision.

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

This lot tapers along a slight northern slope from a broad to narrow width. This shape does reduce flexibility toward protecting large groupings of trees within the site.

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

All trees designated for preservation are in good condition with low indications of defects or disease.

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

Utilities have been routed in a manner to avoid any unnecessary removal of trees. A perimeter wall around the site will need to be repositioned along the northwest corner in order to avoid encroachment into the root zones of two significant trees.

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

Minimal removal of trees should occur due to any installation of essential utilities

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

Neither roads nor utilities have been routed in relation to existing topography; however they have been routed where possible to avoid damage to existing canopy.

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

None

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

On-site mitigation will have a positive effect to increase canopy and buffer adjacent properties from any concerns construction on this site may have.

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

N/A

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

N/A

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

Recommendation: Staff recommends approval of this projects Tree Preservation Plan

Mitigation Method Approved: On-site mitigation for this site is recommended

Conditions of Approval:

- 1. A mitigation planting plan shall be submitted before final plat that includes a binding three year maintenance and monitoring plan. This plan shall include an irrevocable letter of credit in the amount of \$4,125.00 for the planting of 15 mitigation trees.**



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

R-PZD 04-04.00: Residential Planned Zoning District (Stonewood Gardens)

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FEB 03 2004

PLANNING DIV.

POLICE DEPARTMENT

February 3, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **R-PZD 04-04.00: Residential Planned Zoning District (Stonewood Gardens)** submitted by David Gilbert of Jorgensen & Associates on behalf of Mark Foster for property located on Crossover Road, immediately north of Stonewood subdivision would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

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

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown".

Lieutenant William Brown
Fayetteville Police Department



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 3-2-04

REZONING ANNEXATION

REZONING # R-PZD-04-04 OWNER FOSTER
ANNEXATION # OWNER
LOCATION OF
PROPERTY

NEAREST FIRE STATION AND
LOCATION STA 4 PLAINVIEW

RESPONSE TIME FROM FIRE STATION # 4 TO
LOCATION OF
PROPERTY 2.5 MINUTES 18 SECONDS.
TRAVEL MILES FROM FIRE STATION # 4 TO LOCATION OF
PROPERTY 3.7
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION

WATER SUPPLY WITH HYDRANTS
NEEDED? yes - extended

ADDITIONAL
COMMENTS

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.

CHRISTOPHER B. BRACKETT, P.E.

City of Fayetteville
113 West Mountain Dr.
Attn: Jeremy Pate
Fayetteville, AR 72701

March 15, 2004

RE: R-PZD 04-04.00 Stonewood Gardens

Dear Mr. Pate,

We have revised the Planned Zoning Development plans and protective covenants per the Conditions of Approval dated March 11, 2004. Revised plans are attached, for consideration at the March 22, 2004 Planning Commission meeting. The following is offered in response to your comments:

- We will be working with the utility companies to gain their approval of the new easement configuration. As stated at the Subdivision Committee meeting, the easement on Lot 14 was revised to enhance tree preservation.
- We are still working out the details of access for emergency, mail service, and trash collection vehicles. A Knox box will be provided at the gate, and will contain either a key or the access code engraved on a metal tag. The use of a community mailbox just outside the gate is being discussed, as is the idea of leaving the gate open on trash days to provide access for the truck. Visitors will be able to utilize a call box at the gate to contact residents and request entry.
- We have verified our calculations with Mr. Carnegie, calling for provision of 15 mitigation trees.
- The covenants provide for formation of a Property Owners' Association, and language has been added regarding their responsibility for the mitigation trees.
- The covenants have been modified to more clearly spell out the POA's responsibilities with regard to maintenance of detention, common open space, fences, entry features, private drives and landscape islands.

In addition, we have modified the documents to reflect these items which were discussed at the Subdivision Committee meeting:

- We have added five-foot side setbacks to the common lot lines of lots 2 through 14. These setbacks will provide for a minimum of ten feet of building separation, while maintaining flexibility in placing homes on these lots.

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- The language from the private street maintenance section of the code has been added to the covenants. Section 1 of the covenants already spells out maintenance responsibilities per City regulations.
- A turnaround has been added at the gate. Should a community mailbox be utilized in lieu of individual home mailboxes, this area will serve as a parking space for the mail truck.
- We continue to work with the City staff on the configuration of the utility easement and front wall of the development. The wall was conceived in this configuration so that it would present a curved architectural element to the street. Straightening the wall; and moving it out of the utility easement, will cause the wall to have a more massive, box-like appearance, which we are trying to avoid. In addition, placement of the wall on the property line, outside the front utility easement, would require relocation of the sidewalk along Crossover Road, which would in turn require the removal of several large trees in the right-of-way. Reconfiguration of the easement to follow the curves of the wall is undesirable, as it would place portions of the easement beneath the private drive, and would require that the water and sewer lines within the easement be installed with a number of bends to keep the lines near the center of the easement. The "wall" in this case could possibly be more accurately described as a masonry-panel fence. The columns, spaced at approximate 12-foot intervals, will have foundations. The panels between the columns are formed by brickwork, and do not bear on the ground. The covenants call for the POA to maintain and repair the fence and wall. Given these conditions, I believe it would be acceptable to place the wall in the position shown. This would present the best appearance to the outside; and, should the wall be damaged by utility repairs and/or installation, the POA would be responsible to restore it. We request further discussion on this item as needed to reach a resolution.

Eleven copies of the revised plan, and one copy of the revised covenants, are attached for your use. If you have any questions, comments, or suggestions please feel free to call me at 442-9127, or fax at 582-4807.

Thank you for your assistance.

Sincerely,



David A. Gilbert, P.E.

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DAVID L. JORGENSEN, P.E., P.L.S.

CHRISTOPHER B. BRACKETT, P.E.

December 19, 2003

Fayetteville Planning Department
125 W. Mountain Street
Fayetteville, AR 72701

**RE: Stonewood Gardens Planned Zoning District
For Mark Foster**

The developer requests rezoning of this tract of land from R-O to R-PZD. The developer's intent, as shown from the attached documents, is to create a unique residential enclave on the eastern side of Fayetteville. By clustering of residential units, the developer intends to create a private, gated, community, emphasizing the New Urbanist style of close neighbors and shared common spaces.

The community will consist of 2,500 square foot homes, closely grouped near the center of the property. The outlying areas will be preserved as open common area, minimizing lawn maintenance for the homeowners, while providing large open spaces for the use of the community. This, in turn, will encourage interaction between the neighbors as the common spaces are used in daily recreation and relaxation. Furthermore, the configuration of the buildings and facilities will provide for preservation of most of the magnificent trees which currently exist on the site.

The resulting neighborhood will be a cohesive unit, tied together not only by the common area, but also by distinctive site features and amenities. Special street lighting and mailboxes, along with wrought-iron fencing and special pavement treatments, will provide a unified, upscale sense of place for this development. A fountain floating in the pond at the northern end of the neighborhood will provide additional atmosphere. Protective covenants will be put in place to protect the quality of life in the district.

In granting approval of this Residential Planned Zoning District, you will enable the developer to create a neighborhood with a unique sense of closeness and unity, which would be difficult to obtain under conventional zoning procedures.

Planned Zoning District approval for the property will permit the following:

- **Flexibility:** in allowing for reduced setbacks, permitting closer grouping of the homes and therefore increasing the available common area.
- **Compatibility:** as the surrounding area is developing from farmland and large, estate-style home tracts to more conventional single-family dwellings. This district, with its grouping of homes and large common area, would reflect a middle ground between the estate and conventional single family lot structure.

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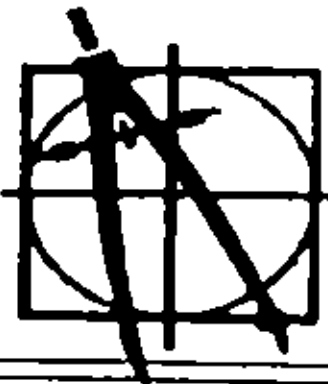
DEC 31 2003

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- **Harmony, Variety, Coordination, and "No negative impact":** by introducing New Urbanist-style elements into the structure of Fayetteville, as the City looks toward broader implementation of this style of planning, in a setting where surrounding land uses are highly compatible. Not only will this development fit in well with its surroundings, but it will also serve as an example for future, more modern developments.
- **Open Space:** will be larger and more effectively used by the residents of the community due to closer grouping of the dwellings.
- **Natural Features:** will be better preserved; specifically the large trees which are scattered throughout the site; as the development has been planned around these trees and the covenants will include provisions for their preservation and protection.

We believe this development is consistent with the city's general plan, and beneficial to orderly development of the City, while at the same time containing elements which will serve to bolster the neighborhood feel of the development and serve as an example of successful implementation of new techniques which will enhance the City as we move into the 21st Century.

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DAVID L. JORGENSEN, P.E., P.L.S.
CHRISTOPHER B. BRACKETT, P.E.

City of Fayetteville
113 West Mountain Dr.
Attn: Jeremy Pate
Fayetteville, AR 72701

March 2, 2004

RE: R-PZD 04-04.00 Stonewood Gardens

Dear Mr. Pate,

We have revised the large-scale development plans per your review comments dated January 9, 2004. Revised plans are attached, for consideration at the March 11, 2004 Subdivision Committee meeting. The following is offered in response to your comments:

Item 1. Submittal Requirements

- The purpose of the PZD is to establish a development of single-family homes. As the home plans have not yet been developed, unfortunately no building elevations are available.
- Overall development standards have been addressed in the covenants previously submitted. Condition 3 of the covenant establishes floor area, requires garages in the rear of the homes, prohibits carports, and sets requirements for driveway materials. Condition 5 addresses additions to the homes. Condition 6 addresses storage buildings. Condition 8 addresses sidewalks. Condition 9 addresses satellite dishes. Condition 12 addresses fencing. Condition 14 addresses signage. Condition 16 addresses landscaping, deferring development of landscaping plans until home plans are developed, so that the landscaping will fit both the development and the individual home. Condition 18 addresses facing of the homes. Condition 23 addresses roof slope and material. Condition 24 addresses the individual mailboxes. Should you wish to add specific additional requirements to the ones already listed above, please let me know what those requirements should address, and I will discuss them with the owner.

Item 2. Zoning Requirements

- Condition 25 of the Covenants establishes a Property Owners' Association for the development.

REC'D

MAR 9 2004

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Item 3. Plat Requirements

- Adjacent zoning has been updated to reflect the current map.
- Easements have been identified on the plat. Due to the current conflict between tree preservation and utility easements within the City, we have eliminated the blanket easement on Lot 14 and substituted specific easements designed to avoid the existing trees. These easements are somewhat convoluted, and may be hard to distinguish on the drawings. At the appropriate time, an easement plat will be prepared which will give a clearer view of the utility easements.
- The notes have been revised to reflect the specific use units allowed as part of this district.
- Lot 13 has been labeled as "detention".
- Condition 25 of the Covenants is worded to protect the trees on individual lots from removal before, during, or after home construction. The lots have been configured to yield a buildable homesite while protecting the existing trees. The private driveway around the rear of the lots will be constructed very close to the existing grade throughout its length, and was configured to minimize removal of existing trees. The owner's intent and desire is to develop a small neighborhood where the front elevations of the homes are not dominated by a garage door or a driveway. We believe the rear drive is the best way to accomplish these objectives.

Item 4. Street Requirements

- A six-foot sidewalk has been added along Crossover Road. The sidewalk's path has been deviated to better accommodate preservation of trees on the right-of-way.
- Street lights have been added along Crossover Road, as requested.
- While we understand that the City discourages gated, perimeter-walled communities in general, we do know that they are approved from time to time. We believe that this development is appropriate in this location, due to its distance from the city center, the rural nature of the surrounding land, and its specific location relative to the existing home to the east. Connectivity is neither practical nor necessary, given the configuration of surrounding properties, the proximity of Albright Road immediately to the north, and the small size of this development. Stonewood subdivision, immediately southeast of this project, has a perimeter wall of the same type to be used on this project. The perimeter wall, along with the gate at the entrance, will serve as isolation mechanisms to protect this residential subdivision from the traffic on Crossover Road, and will deter travelers on Crossover from mistaking Stonewood Court for a through street.

Item 5. Parking and Driveway Requirements

- A note has been added to the plan specifying a maximum driveway width of 24 feet, measured at the property line. All driveways shall access the rear private drive. Driveway cuts onto Stonewood Court or Crossover Road shall not be permitted.

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PLANNING DIV.

- While we understand the City's desire to place sidewalks along every public and private street within the City limits, we believe that sidewalks along Stonewood Court, in this setting, are neither necessary nor desirable. Stonewood Court will be a small, private cul-de-sac, serving only twelve lots. Regular driveway access to these lots will be by means of the rear private drive. Residents will rarely use Stonewood Court beyond its intersection with the private drive. Visitors can be expected to be limited in number, especially given the gated nature of the neighborhood. Thus, traffic volumes on Stonewood Court will be extremely low, and pedestrians will be safe to walk on the private street. The construction of additional impervious area in the development, and the restriction construction of sidewalks would place on home construction, lead us to believe that the sidewalks would be a detriment rather than an enhancement to this community, and we ask for approval of the project without them.

Item 6. Other Requirements

- Fencing, wall, and signage materials have been listed on the plan, as requested.
- A note has been added to the plan reflecting the requirement that all proposed utilities be placed underground.
- A note has been added to the plan reflecting the requirement that all overhead electric lines on the property which carry less than 12 Kv shall be relocated underground.
- Trash service shall consist of standard residential containers, which shall be stored at the homes when not waiting for pickup, as in other residential neighborhoods. Further screening should not be needed.
- A note has been added to the plan reflecting the requirement that all utilities be screened.

Engineering Comments

- A six foot sidewalk has been added along Crossover Road.
- Please see justification for not showing the sidewalks under item 5 above.
- The proposed sewer line has been rerouted as requested.
- A note has been added to the plan indicating sod requirements for the detention pond.
- The detention pond has been designed to retain a normal pool of water. As such, no trickle channel has been shown.

Tree Preservation

- Based upon our reading of the ordinance, we believe that a preservation requirement of 20 percent is the appropriate amount by code. The PZD ordinance states that the "most restrictive" tree preservation standard shall apply. This has been interpreted by Staff as the most restrictive tree preservation standard in the entire landscape ordinance. By this reasoning, PZDs will soon require nearly 50% canopy preservation, due to the pending adoption of the Hillside Development ordinance. We believe that a more correct interpretation of the PZD ordinance would be to require the most restrictive tree preservation standard for all uses present within the PZD, and would appreciate the input of the City attorney in this matter. In either case, based upon a full tree survey of the

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PLANNING DIV.

property, present tree coverage amounts to just over nine percent of the total site area, and this amount by ordinance governs the preservation and/or mitigation required. The tree preservation plan has been modified to reflect the findings of the tree survey.

- The blanket easement on lot 14 has been removed from the plan, and a specific easement has been added which works around the existing trees. Tree preservation measures are shown on the plan. The calculations on the tree preservation plan have been revised to reflect these changes.
- Each tree on the site has been individually surveyed, and is now shown on the tree preservation plan.
- With the new tree survey data shown, the extent of tree removal for the new site features is more readily seen. The plan shows removal of nine of the site's 33 existing trees. One of the trees scheduled for removal is a large mimosa, which appears to be in poor health. Several of the other trees are in the mid-priority preservation range. The best trees on the site are being saved, and in large number. In addition, the required sidewalk along Crossover Road has been designed to minimize its impact on the existing trees located on the right-of-way. Removal of two trees along the frontage will be required to facilitate placement of water and sewer lines to serve the project, and a utility easement across the front of the property places these trees out of the protected category. As stated above, the utility easements have been reconfigured to maximize tree protection. It is my personal belief that it would be grossly impractical to develop this site with absolutely no tree removal, and that the mitigation trees now shown on the plan will provide a high-quality end product consistent with the intent of the landscape ordinance.

Fire Marshall

- The cul-de-sac has been enlarged to facilitate better access for fire department vehicles. We believe, based on the current configuration, that the island in the center will not interfere with the passage of equipment, and that the island is necessary to break up the expanse of pavement which would otherwise be present.

If you have any questions, comments, or suggestions please feel free to call me at 442-9127, or fax at 582-4807.

Thank you for your assistance.

Sincerely,



David A. Gilbert, P.E.

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PLANNING

**PROTECTIVE COVENANTS
STONEWOOD GARDENS PLANNED ZONING DISTRICT
FAYETTEVILLE, ARKANSAS**

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, Mark Foster dba, Dunnerstock Development, Inc. is the record Owner of the following property.

LEGAL DESCRIPTION:

Part of the SE ¼ of the SW ¼ of Section 18, Township 17 North, Range 29 West, in Washington County, Arkansas and being more particularly described as follows:

Commencing at the NW corner of said SE ¼, SW ¼, thence S00°26'02"E 110.00 feet to the POINT OF BEGINNING,

Thence N89°33'58"E 122.33 feet, thence S32°50'29"E 378.17 feet, thence S00°26'02"E 231.35 feet, thence S89°40'40"W 325.00 feet, thence N00°26'02"W 549.99 feet to the POINT OF BEGINNING; containing 3.36 acres more or less subject to easements and Right of Way of record.

WHEREAS, the developer has divided said property into 14 lots and said tract was surveyed and platted into lots and, proposed use is single family only.

WHEREAS, it is in the interest of the developers of the property described above, as well as prospective purchasers of the lots that said tract be known as Stonewood Gardens Planned Zoning District, Fayetteville, AR. And the use of Lots is restricted as hereinafter provided.

NOW, THEREFORE, in consideration of the premises, and for the purpose above mentioned said owner has caused said tract to be platted into lots with the size, location, and boundaries of each lot shown on said plat, which has been filed for record, and every deed or conveyance of any lot in said tract described as shown on said plat shall be held and deemed a sufficient description for the conveyance thereof, subject to the restriction hereinafter stated, which shall be for the use and benefit of, and binding upon, the present owners, their grantees, and all future owners of lots within the tract which shall be known as Stonewood Gardens, a Planned Zoning District (PZD) in Fayetteville, Washington County, Arkansas.

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PLANNING DIV.**

1. All streets and drives shown on the plat of Stonewood Gardens Homes Planned Zoning District are hereby reserved for the private use of residents of Stonewood Gardens PZD and their invited guests. Said streets and drives shall be privately maintained by the residents of Stonewood Gardens PZD in accordance with the regulations for private streets set forth by the City of Fayetteville, Arkansas.
2. Easements as shown on the plat of said property are reserved for construction, operation and maintenance of public utilities, and are provided for the purpose of enabling such utilities, their agents and employees, to enjoy free, open and unobstructed access through, over and along such easements to the end that their personnel, trucks and work equipment may at all times install, service, operate and maintain all utility facilities within the boundaries of said easements.
3. All houses on all lots shall have a minimum of 2,500 sq. ft. (excluding garage) of heated living area with an enclosed two car garage and no carports. Entry to garages shall be from the rear access drive provided. All driveways shall be concrete or brick pavers.
4. Each lot shall be used for residential (single family) purposes only and no lot shall be further subdivided.
5. No additional structure such as porches, garages, storage buildings, etc. shall be erected or placed on any lot in this addition until the plans and specifications showing the type and location have been approved in writing as to conformity and harmony of external design with existing improvements in the addition by the developers.
6. No structure of a temporary character, house trailer, basement, shack, garage, barn or other outbuilding shall be used on any lot at any time either temporarily or permanently. Storage buildings are allowed as per #5 above.
7. No animals, poultry, or livestock of any kind shall be raised, bred or kept on any lot. No kennels allowed. Household pets must comply with city rules about fencing or confinement by leash.

8. Sidewalks are not required.
9. A satellite dish may be installed on each lot provided that the dish is no closer than 10' to the property line and located behind the front edge (Stonewood Court façade) of house.
10. The parking or storage of unused or unlicensed motor vehicles is prohibited in front of any residence. No vehicles in inoperative condition shall be left on lots more than 30 days. The owner of each lot shall remove these vehicles. In addition parking on the street shall be limited to guests only, and no vehicle shall remain on the street for more than four hours of any twenty-four hour period. Permanent or semi-permanent storage of such vehicles or items must be completely screened from view, whether within the garage or behind a solid fence.
11. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste shall not be kept except in sanitary containers.
12. No fences shall be allowed in front yards except masonry or wrought iron of a maximum height of four feet. No form of wire fence shall be allowed.
13. The grass on each lot shall be maintained by mowing.
14. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.
15. No noxious or offensive activity shall be carried out upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance.
16. Landscape plans must be submitted for approval along with house plans, prior to commencement of construction. Turf areas within the front yard of each house shall be sodded.
17. Each builder shall be responsible for adequate drainage swales around the house to properly drain runoff.

18. Exterior of the houses shall be 80% brick or stone. Other material may be approved, but must be reviewed by the developer. All perimeter block shall have brick or equivalent to cover foundation.
19. Minimum roof pitch shall be 10:12. Roofing material shall consist of tile, wood shake, or 40-year composition architectural shingles made by GAF, style "Grand Sequoyah" or equal.
20. Brick mailboxes shall be required at each house, and the color of the brick used in construction of the mailbox shall match the brick used on the corresponding house. Should the developer provide a "community" mailbox for the entire PZD, this item shall be null and void.
21. Stonewood Gardens Planned Zoning District Property Owners' Association (POA) shall be established at the time of execution of these covenants. Said POA is formed to assess yearly dues to pay for maintenance and upkeep of the entryway, all common areas including landscape islands, all fences, the masonry wall surrounding the PZD, the detention pond, private street, and private drive; to ensure continued health and vitality of all mitigation trees; and for payment of streetlight bills within the PZD. Each lot shall have a vote and the majority of those attending a meeting for that purpose shall be authorized to levy an assessment to all owners to defray the costs of maintenance and pay the electric bill for the streetlights. Each owner shall pay within 30 days. If an owner does not pay their share, the POA shall be entitled to place a lien on the owner's lot and shall take the form of an affidavit executed by the POA and recorded in the office of the Circuit Clerk of Washington County.
22. The City of Fayetteville, Arkansas, is a third-party beneficiary to the covenants, and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants. In the event private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost of such.

maintenance to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes, and shall have a lien on the real property within the PZD for such cost. The City is hereby granted the right to use all private streets within this PZD for purposes of providing fire and police protection, sanitation service, and any other of the municipal functions. This section shall neither be amended nor terminated without approval of the City Council of Fayetteville, Arkansas.

23. No tree with a diameter at breast height of four inches or greater shall be removed from the common areas or individual lots without written approval of the POA. No mitigation trees, as shown on the tree preservation plan, shall be removed from the common areas without written approval of the POA and the City of Fayetteville Landscape Architect. In consideration of approval, the POA shall consult with an arborist, who shall determine the health of the tree. The arborist's fee shall be paid by the lot owner. Trees deemed by the arborist to be dead or dying shall be authorized for removal. Homes and related amenities on individual lots shall be designed and constructed to minimize damage to the existing trees, in accordance with the procedures outlined in the City of Fayetteville Landscape Manual. All construction plans shall be approved by the developer before commencement of construction in order to insure compliance. Failure to abide by the conditions of this provision shall subject the offending party and/or homeowner to responsibility for tree mitigation as outlined in the Landscape Manual, and to possible fines.
24. The owner of each residential lot agrees to be bound by the foregoing covenants. Any party violating these covenants will be responsible for any attorney fees incurred because of their violation.
25. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2014, at which time said covenants shall be automatically extended for successive periods of ten (10) years. Notwithstanding the above, at any time, these covenants

may be waived, terminated and/or modified as to the whole of said

property or any portion thereof, with the written consent of a majority of

the then owners of said lots in said property; and if only a portion of said

property is intended to be affected by said waiver, termination and/or

modification, then the written consent of a majority of the then owners of

said lots in the portion to be affected shall also be secured. No such

waiver, termination and/or modification shall be effective until the proper

instrument in writing shall be executed and recorded in the office of the

Recorder for the County of Washington. Each lot represents 1 vote.

26. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of these covenants, violators being subject either to restraint or to an action for damages.
27. Invalidation of any one of these covenants by judgment of court order shall in no way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the Grantors have hereunto affixed their hands and

Seals this _____ day of _____, 2004.

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss
COUNTY OF WASHINGTON)

On this _____ day of _____, 2004, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting within and for said County and State, appeared in person, Mark Foster located in Fayetteville, Arkansas and personally well know who stated that he is the owner of Stonewood Gardens Planned Zoning District and is duly authorized in his respective capacity to execute the foregoing instrument, and further stated he had executed the foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2004.

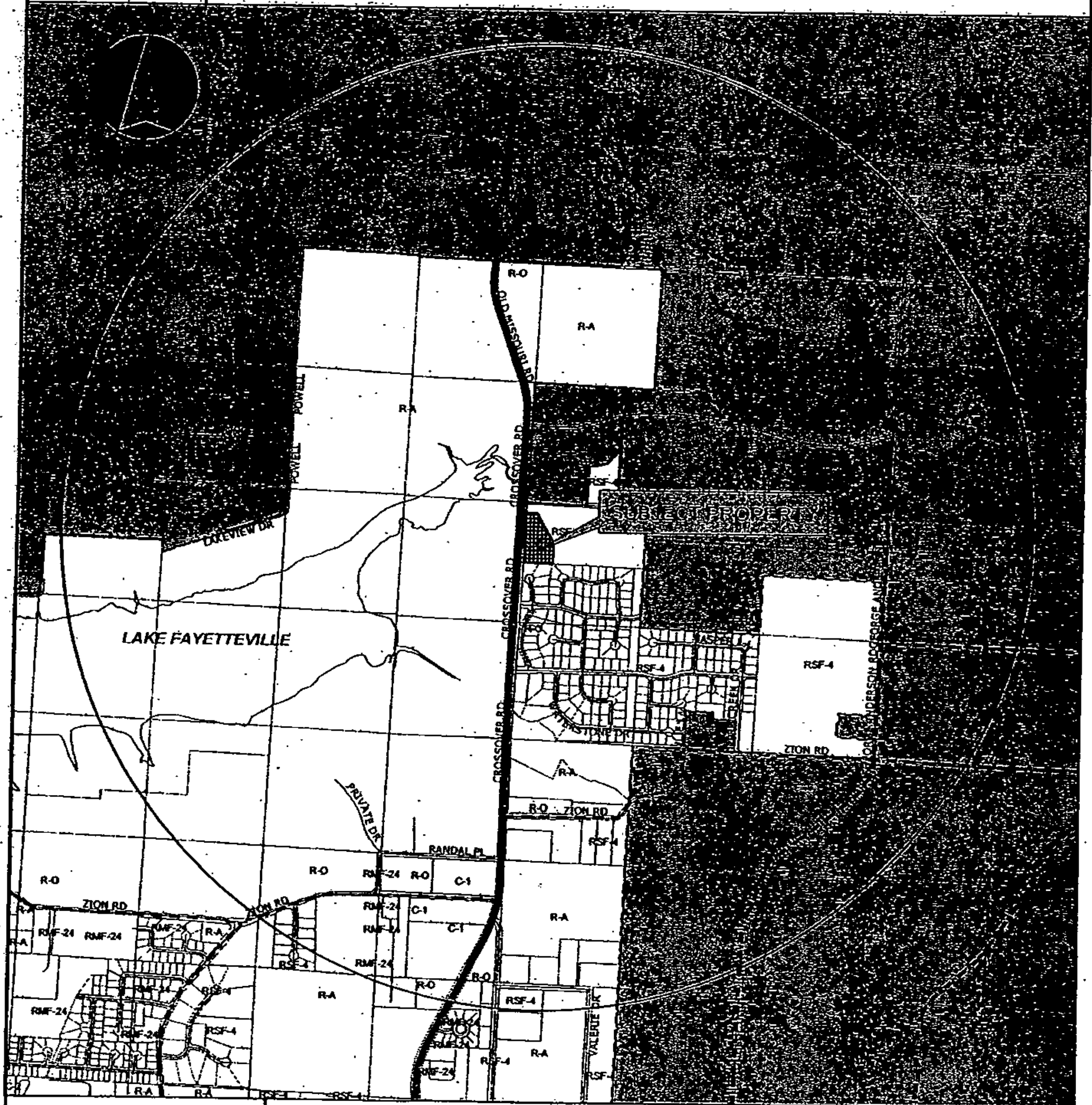
Notary Public

My Commission Expires:

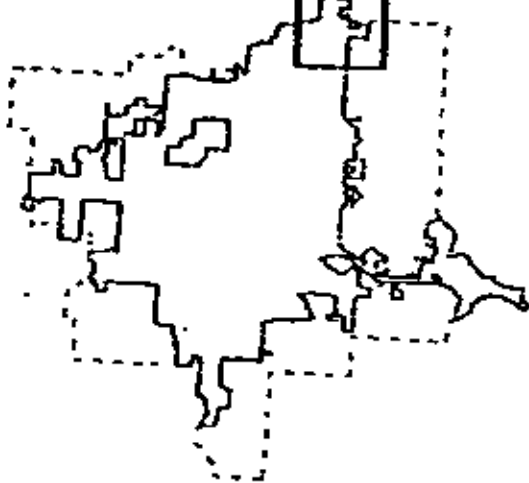
RPZD04-04.00

One Mile View

STONEWOOD GARDENS



Overview



Legend

Subject Property

RPZD04-04.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RPZD04-04.00

Close Up View

STONEWOOD GARDENS

B. 3
41 of 44



CROSSOVER RD

RSF-4



R-A

RSF-4

R-A

CROSSOVER RD

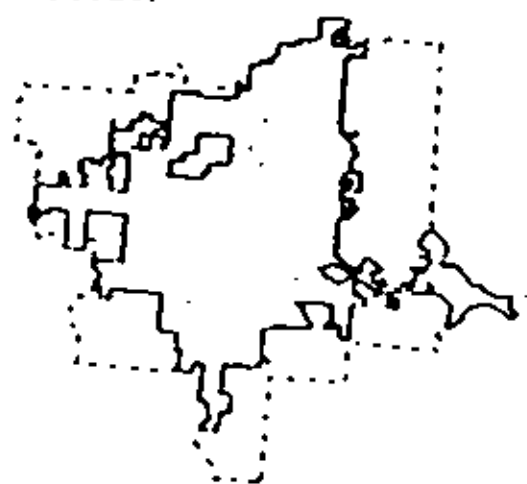
R-O

RSF-4

HIGH MEADOWS DR

LAVENDAR A

Overview



Legend

- | | | | |
|--------------------|--------------------|--------------------|----------|
| RPZD04 04.00 | Overlay District | Principal Arterial | FLOODWAY |
| Master Street Plan | Minor Arterial | 100 YEAR | |
| Master Street Plan | Collector | 500 YEAR | |
| Freeway/Expressway | Historic Collector | LIMIT OF STUDY | |
| | City Limits | BaseLine Profile | |
| | Outside City | | |

0 75 150 300 450 600 Feet

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

R-PZD 04-4.00; Residential Planned Zoning District (Stonewood Gardens)
Page 42 of 44

B.3

x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

April 20, 2004

FROM:

Dawn Warrick

Planning

CP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

R-PZD 04-04.00: Residential Planned Zoning District (Stonewood Gardens, pp 60) was submitted by David Gilbert of Jorgensen & Associates on behalf of Mark Foster for property located north of the Stonewood subdivision and south of Albright Road. The property is currently zoned R-O, Residential Office and contains approximately 3.36 acres. The request is to rezone the subject property to a Residential Planned Zoning District allowing for 14 lots with 12 single family dwelling units.

STAFF RECOMMENDATION: Approval.

[Signature] 4/2/04
Division Head Date

Received in Mayor's Office

4/2/04
Date [Signature]

[Signature] 4/2/04
City Attorney Date

Department Director Date

[Signature] 4-2-04
Finance & Internal Services Dir. Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

[Signature] 4-9-06
Chief Administrative Officer Date

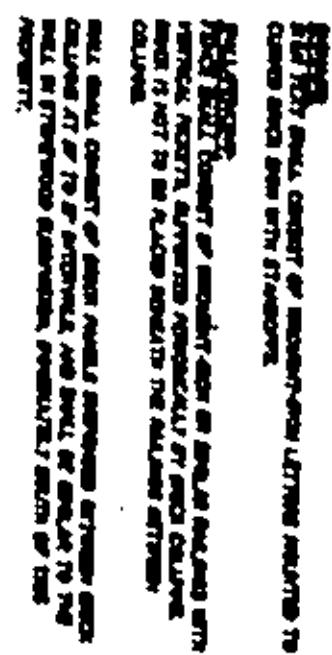
New Item:

Yes

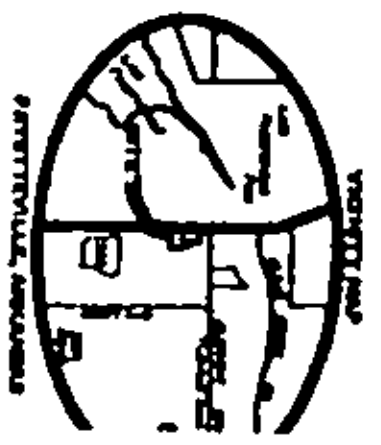
No

[Signature] 4/15/04
Mayor Date





ATTENTION:
 ASSASSINATE & ASSASSINATE
 (THIS IS THE ONLY ONE
 IN THE WORLD THAT
 IS NOT A BOMB)



ORALPHIC SCALE

●

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Tim Conklin, Community Planning and Engineering Services Director

Date: April 16, 2004

Subject: Approval of a contract and bid waver ordinance in the amount of \$37,262.50 to purchase MobileHwy software to allow Building Safety inspectors to collect on-site inspection results with cell phones and transfer data into the Hansen System.

RECOMMENDATION

Staff recommends approval of the requested contract and bid waiver ordinance.

BACKGROUND

This software/cell phone system replaces the existing hand-held field unit system that was not Y2K compliant and had to be abandoned. The combined use of MobileHwy and cell phones will improve productivity and customer service by allowing:

- Inspection requests and results available in the field to Building Inspectors
- Inspection requests and results available in the field to contractors and builders and through MobileHwy web service
- One point of data collection and entry into Hansen at inspection site
- Direct in the field communication between City staff and contractors
- Significant reduction in paperwork and time by multiple city employees

DISCUSSION

MobileHwy provides software with data transfer capabilities that links the Hansen database with cell phones. This allows inspectors to receive and complete inspections directly from the database and in real time. When assigned, the inspection is routed to the inspector's cell phone where the inspector reviews the information, performs the inspection, adds code comments or compliance dates and then prints a copy of the inspection or violation to leave on the site. Inspection results are automatically posted and re-inspections are created and scheduled when required. Contractors can request inspections directly or obtain inspection result by using the MobileHwy Contractor Services; or (eventually) thru the city's website. The system as proposed with the software can be used for other applications across department lines.

BUDGET IMPACT

The total 2004 implementation cost of this program is \$42,696.81 and consists of the following: MobileHwy software : \$37,262.50, 6 Portable Thermal Printers \$5,434.31. The 2005 Budget Impact is the annual software maintenance at \$7,000.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING THE PURCHASE OF HARDWARE AND SOFTWARE FROM MobileHWY, LLC TO IMPLEMENT AN AUTOMATED FIELD INSPECTION SYSTEM IN THE AMOUNT OF THIRTY-SEVEN THOUSAND TWO HUNDRED SIXTY-TWO DOLLARS AND FIFTY CENTS (\$37,262.50).

WHEREAS, the City of Fayetteville has purchased and implemented the Hansen database to manage work orders; and,

WHEREAS, MobileHWY, LLC is the sole source for an Automated Field Inspection System that is compatible with the Hansen system; and,

WHEREAS, the City of Fayetteville needs to replace the previous system which was rendered obsolete by Y2K compliance issues.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding through the end of FY2005, and approves the purchase of hardware and software from MobileHWY, LLC to implement an Automated Field Inspection System in the amount of Thirty-Seven Thousand Two Hundred Sixty-Two Dollars and Fifty Cents (\$37,262.50).

PASSED and APPROVED this 20th day of April, 2004.

APPROVED:

By

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk



Home Builders & Contractors Government Partnerships Press Contact Login

THE SPEED YOU NEED TO PASS™

Testimonials

[Brochure \(.pdf 754 KB\)](#)

Phone: 704.644.1598
Phone: 800.590.PASS
Fax: 704.644.2005
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Corporate Headquarters:
4651 Charlotte Park Dr.
Suite 101
Charlotte, NC 28217



Mobile INSPECTOR™

Mobile INSPECTOR™ is a building inspection management system designed specifically for building service departments. Through the Internet and advanced wireless technology, we link your field inspectors directly to your existing permitting and inspection system. Mobile INSPECTOR™ works with the hardware, infrastructure and permitting system you already have in place.

We automate your department, from inspection requests to inspection results, with our integrated, end-to-end solution. Mobile INSPECTOR™ is an easy to use, cost effective, real-time wireless inspection tool that increases your productivity, reduces demand on your staff and helps you provide better customer service.

With Mobile INSPECTOR™ all you need is a computer with an Internet connection, or - for the ultimate in mobility - a mobile phone.

Mobile INSPECTOR™ allows you to:

- Assign an inspection request to an Inspector
- Perform all inspection duties from the field via a mobile phone or laptop
- Transmit inspection information from the field to the department's permitting and inspection system.

Real-time Wireless Inspection Tools at an Affordable Price

- Utilizes your existing Internet infrastructure
- Compatible with your current permitting system
- No need to purchase proprietary hardware, new laptops or other equipment

Up to 50% Increase in Productivity

- Less re-keying, fewer errors
- Fewer phone calls to staff
- More field time for inspectors
- Better customer service to builders and contractors

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FAYETTEVILLE

The City of Fayetteville, Arkansas

BUILDING SAFETY DIVISION

DEPARTMENTAL CORRESPONDENCE

To: **City Council**

From: **Steve Cattaneo, Building Safety Director**

Date: **March 29, 2004**

Re: **Bid Waiver for MobilEhwy software**

A.C.A § 14-58-303 requires bids for all services and products over \$10,000. The only exception to this statutory requirement is found in subsection (b) (2) (B) "exceptional situations where this procedure is deemed not feasible or practical."

We are proposing to purchase the MobilEhwy interface that allows mobile field units to access the Hansen database via cellular phone. This software is made exclusively by MobilEhwy and is not available from any other source.

We are requesting this Bid Waiver be in place as long as we use MobilEhwy. We anticipate additional services may be requested by other divisions.

City of Fayetteville
(Not a Purchase Order)

Requisition No.: _____ Date: 03/30/04
P.O. Number: _____ Expected Delivery Date: June 2004

Vendor Name: New Vendor Name: _____ MobileHWY
Address: 4661 Charlotte Park Dr Ste 101 Attn: Paul Watkins
City: Charlotte NC State: NC Zip Code: 28217 Ship to code: 40

Requester: Lindy Oestreich
Requester's Employee #: 286
Extension: 242
Project/Subproject #: _____ Inventory #: _____ Fixed Asset #: _____

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Mobile Inspector Wireless Phone Version up to 10 users	1	lot	20,000.00	\$20,000.00	4470-6470-6801.00	2009.1		
3	MobileHWY's Hansen System Interface	1	lot	16,000.00	\$16,000.00	4470-6470-6801.00	2009.1		
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
	Shipping/Handling				\$0.00				

Special Instructions:

See Sole Provider

Subtotal: \$36,000.00
Tax: \$2,262.60
Total: \$37,262.60

Approvals:
Mayor: _____ Department Director: _____
Finance & Internal Services Director: _____ Budget Manager: _____
Dispatch Manager: _____ Utilities Manager: _____
Purchasing Manager: _____
IT Manager: _____
Other: _____

FAYETTEVILLE

The City of Fayetteville, Arkansas

BUILDING SAFETY DIVISION

DEPARTMENTAL CORRESPONDENCE

To: City Council

From: Steve Cattaneo^{sc}, Building Safety Director

Date: March 29, 2004

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We are proposing to purchase the MobilEhwy interface that allows mobile field units to access the Hansen database via cellular phone. This software is made exclusively by MobilEhwy and is not available from any other source.

We are further requesting this Bid Waiver be continued through 2005 because we anticipate similar purchases to be requested by this and other divisions.

SOLE SOURCE JUSTIFICATION

PURPOSE:

This form, with one or more categories completed, must accompany purchase requisitions for the sole source procurement of equipment or supplies exceeding \$500 (purchases from State Contract vendors excepted). The purpose of sole source justification is to show that competitive bidding is impractical because only one product or service provider can meet a specific need. Therefore, an equitable evaluation of comparable products or services must be made and documented by the requestor which shows that rejection of other products or services is based solely on their failure to meet that need. In cases where no other comparable source can be identified, a technical description of the product requested and a listing of those companies which were considered as alternate sources must be provided. Sole source justification cannot be based on quality or price. Quality can be a subjective evaluation based upon opinion. Municipal (public) procurement law requires price considerations be evaluated via competitive quoting or bidding.

While all sole source justifications are subject to review, sole source justified purchases of \$5,000.00 or more must be publicly bid. During this time other suppliers will have the opportunity to review the request and submit a quotation for an equivalent source. Therefore, justifications must contain clear, in-depth, and accurate information in order to avoid protests and the possibility of delaying the procurement.

INSTRUCTIONS:

- 1) Please type or print legibly in ink.
- 2) Complete all categories and sections that apply.
- 3) Provide full explanation, complete descriptions, and/or list all relevant reasons where space has been provided. Sole Source Justification forms lacking sufficient detail cannot be approved.
- 4) Sign (in ink) and date the form in the space provided for "signature".
- 5) Improperly completed, and/or unsigned forms will be returned to the sender.

TO: Purchasing Division DATE: 11/10/03
FROM: Steve Cattaneo / Tim Conklin DEPT: Planning, Engineering &
Names of Requisitioner & Dept. Head Community Services
SUBJECT: Sole Source Justification
Purchase Requisition _____(attached)
Proposed Vendor _____
Product Description MobileHWY _____

"Permit and Inspections System Interface" web service and application protocol interface
"Mobil Inspector" wireless inspection application

STATEMENT

I am aware that Arkansas State Municipal Law mandates that the procurement of services, material, equipment, and supplies be via competitive bidding whenever the amount is over \$500.00. However, I am requesting sole source procurement based on the following criteria. (Attach additional sheets as necessary):

1. The requested product is an integral repair part of accessory compatible with existing equipment. (please state the manufacturer and model number of existing equipment):

2. The requested product has special design/performance features which are essential to my needs.
Both A and B portions of this category must be completed.
A. These features are _____

Interface directly with existing Hansen database to allow real-time, direct access to inspectors so they may receive inspections, enter results, review history, view & edit database, then print inspection results using a web-enabled cellular phone or internet connected PC.

- B. In addition to the product requested, I have contacted other suppliers and considered their product of similar capabilities. I find their product unacceptable for the following reasons (identify companies contacted, individuals contacted, model number and specific technical deficiency).

No others known to offer this service.

"To the best of our knowledge, no other vendor provides a similar Web Service API, Internet enabled phone access to Hansen, and / or contractor wireless Internet access to the Hansen recordkeeping system (including Hansen)."

10/10/05

MASTER AGREEMENT

This Master Agreement ("Agreement") is made and entered into as of this ___ day of November, 2003 ("Effective Date") by and between MobileHWY, LLC ("MobileHWY"), a North Carolina limited liability company with an office located at 4651 Charlotte Park Drive, Suite 101, Charlotte, North Carolina 28217, and City of Fayetteville, Arkansas ("City of Fayetteville"), with an office located at 113 West Mountain, Fayetteville, Arkansas 72701. In consideration of the mutual covenants and agreements herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MobileHWY and City of Fayetteville do hereby agree as follows:

This Agreement consists of this signature page and the accompanying Terms and Conditions, the Schedules listed below, Attachment A - Statement of Work, and any other Statements of Work that are separately executed and reference this Agreement, all of which are hereby incorporated into this Agreement by this reference as if set forth in full:

- Master Agreement and Terms and Conditions
- Schedule A - Mobile Interface™ License
- Schedule B - Mobile Inspector™ License
- Schedule C - Annual Maintenance and Support
- Attachment A - Statement of Work

This Agreement constitutes the entire agreement between the parties as to the subject matter hereof and supersedes all prior and contemporaneous agreements, negotiations, representations and proposals, whether written or oral. This Agreement does not operate as an acceptance of any conflicting terms or conditions and shall prevail over any conflicting provision of any purchase order or similar instrument of City of Fayetteville in existence or to be issued, and the parties stipulate that any such instrument issued by City of Fayetteville shall be for City of Fayetteville's convenience only. Acknowledgment of any such instrument by MobileHWY shall not constitute acceptance of any additional or different terms and conditions from the terms and conditions of this Agreement.

Changes, modifications, or amendments in scope, price or fees to this Agreement shall not be allowed without prior formal contract amendment approved by the City of Fayetteville's Mayor and the City Council in advance of the change in scope, cost or fees.

The parties each hereby cause this Agreement to be executed by their duly authorized representative effective as of the Effective Date.

City of Fayetteville:

MobileHWY:

City of Fayetteville, Arkansas

MobileHWY, LLC

By: _____

By: Mr. Michael S. Wachholz

Name Printed: _____

Name Printed: Michael S. Wachholz

Title: _____

Title: President

TERMS AND CONDITIONS

These Terms and Conditions ("Terms and Conditions") between MobileHWY, LLC ("MobileHWY") and City of Fayetteville, Arkansas ("City of Fayetteville") are incorporated into the Master Agreement ("Agreement") executed by and between the parties.

1. **General.** These Terms and Conditions provide for terms that are common to all attached Schedules and Statements of Work. Accordingly, in case of any conflict between these Terms and Conditions and any attached Schedule or Statements of Work (whether attached contemporaneously with the execution hereof or subsequently added), these Terms and Conditions shall control and govern, unless otherwise expressly stated to the contrary.

2. **Defined Terms.** For the purposes of these Terms and Conditions, and in addition to any other terms defined elsewhere in the Agreement, the following terms shall have the following meanings:

(a) "Confidential Information" means any information, regardless of form, which is used in MobileHWY's business that is or may in the future be valuable because it is not generally available or generally known to competitors and for which reasonable precautions are taken to protect its confidentiality, and information from third parties that is required to be retained in confidence, including: the MobileHWY Technology in any form, Metadata, Documentation, formulas, patterns, devices, compilations of information, technical or non-technical data, financial information, personnel information, customer or potential customer information, records, development plans, product information, business plans, computer software in any form, and trade secrets. City of Fayetteville and MobileHWY expressly stipulate that Confidential Information meets the criteria set forth under applicable Arkansas law, and as such shall not be interpreted to constitute "public records" or "public information."

(b) "Content" means data, materials, documentation, computer software, inventions (whether or not patentable), methods, processes, discoveries, improvements, materials, formulas, research, documentation, know-how, data, techniques, text, pictures, audio, video, animations, artistic works, and all works of authorship or other subjects of any Intellectual Property Rights.

(c) "Documentation" means the end user documentation of the MobileHWY Services in any form provided by MobileHWY to City of Fayetteville from time to time, and all Modifications thereof created by or on behalf of MobileHWY from time to time.

(d) "Fees" mean all fees and expenses payable to MobileHWY in accordance with the terms and conditions of the Agreement.

(e) "Intellectual Property Rights" means copyrights, patents, trademarks, trade names, service marks, moral rights, and other proprietary rights.

(f) "City of Fayetteville Information Inputs" mean all Content, other than Metadata, which shall be deemed "public

records" or "public information" as such terms are defined under applicable Arkansas law that is furnished to MobileHWY by City of Fayetteville.

(g) "Licensed Materials" mean any computer software or algorithms in any form created within the scope of the MobileHWY Services, other than the MobileHWY Technology.

(h) "Metadata" means information that describes the attributes of certain data and such data's relationship to other data, including (i) whether the data must be numerical, alphabetic, or alphanumeric; (ii) range or type limitations of the data; (iii) one-to-one, one-to-many, or many-to-many relationships with other data; (iv) file layouts; (v) data formats; (vi) document type definitions; (vii) XML schemas; and (viii) style sheets.

(i) "MobileHWY Services" mean MobileHWY's services involving Mobile Inspector, as well as any value-added premium services provided by MobileHWY to Third Parties (including, but not limited to, Mobile Contractor), as such terms are described in any attached Schedules and Statements of Work.

(j) "MobileHWY Technology" means that computer software, Metadata, algorithms, Documentation, and other technology that enables the MobileHWY Services, and all other technology-based performance by MobileHWY hereunder, together with all Modifications thereof created by or on behalf of MobileHWY from time to time.

(k) "Modifications" mean enhancements, new versions, new modules, updates, error corrections, upgrades, or other changes or modifications.

(l) "Other Work Product" means any Content (other than Metadata, the MobileHWY Technology, or Licensed Materials) created by MobileHWY that is both created within the scope of the MobileHWY Services and has been paid for by City of Fayetteville. Other Work Product includes the written recommendations of MobileHWY resulting from consulting services as a part of the MobileHWY Services.

(m) "Preexisting Materials" means any Content provided to City of Fayetteville by MobileHWY that was in existence prior to the Effective Date or that was developed by or on behalf of MobileHWY independently of the MobileHWY Services.

(n) "Statements of Work" mean Attachment A - Statement of Work, attached hereto, together with any additional Statements of Work that are mutually agreed in writing and signed by the parties from time to time.

(o) "Third Parties" mean third parties that from time to time have an interest in using the MobileHWY Services to access City of Fayetteville's content pertaining to building permits and inspections performed by City of Fayetteville.

3. Warranties.

3.1. MobileHWY Warranties.

(a) MobileHWY warrants that MobileHWY owns or has acquired rights to all proprietary interests in the MobileHWY Technology necessary to grant the licenses and rights set forth in the Agreement.

(b) MobileHWY warrants that (i) MobileHWY has full authority to execute and perform the Agreement; (ii) the Agreement has been duly executed and delivered by MobileHWY and constitutes the legal, enforceable and binding obligation of MobileHWY; and (iii) MobileHWY's execution and performance of the Agreement will not violate any law or breach any other agreement.

(c) MobileHWY warrants that all services it performs hereunder shall be performed in a competent and workmanlike manner consistent with good practices in the information technology services industry.

3.2. City of Fayetteville Warranties.

(a) City of Fayetteville warrants to MobileHWY that (i) City of Fayetteville has full authority to execute and perform the Agreement; (ii) the Agreement has been duly executed and delivered by City of Fayetteville and constitutes the legal, enforceable and binding obligation of City of Fayetteville; and (iii) City of Fayetteville's execution and performance of the Agreement will not violate any law or breach any other agreement.

(b) City of Fayetteville warrants (i) that City of Fayetteville has obtained all licenses, permissions, and other rights from third parties necessary or appropriate for MobileHWY to perform the MobileHWY Services; and (ii) that all City of Fayetteville Information Inputs do not contain any libelous material, do not infringe any trade name, trademark, trade secret, or copyright of any third party; and (iii) that the delivery of the City of Fayetteville Information Inputs and the use of the City of Fayetteville Information Inputs by MobileHWY in the performance of the MobileHWY Services complies with and does not invade or violate any right of privacy, personal right or Intellectual Property Rights, or other common law or statutory rights.

3.3. General.

Each party agrees to take reasonable efforts to identify to the other any failures to perform as set forth in this Section 3 in order that curative measures may be taken.

4. City of Fayetteville's General Responsibilities.

4.1. Data. City of Fayetteville will deliver to MobileHWY the City of Fayetteville Information Inputs necessary to perform the MobileHWY Services in a format and media reasonably specified by MobileHWY.

4.2. Additional Responsibilities. City of Fayetteville will perform all tasks assigned to City of Fayetteville as set forth in the Statements of Work, and any other documents incorporated in the Agreement, and provide all reasonable assistance and

cooperation to MobileHWY in order to accomplish ^{C. 1} ~~timely~~ and ^{Automated Field Inspection Software Purchase} ~~26~~ efficiently the MobileHWY Services. MobileHWY will not be deemed in breach of the Agreement in the event that MobileHWY's failure to meet the responsibilities and time schedules for any MobileHWY Services is caused by City of Fayetteville's delay in or failure to meet such responsibilities and time schedules.

5. Confidentiality.

5.1. Disclosure. Each party may disclose to the other Confidential Information of such party or of such party's associated companies, suppliers, or customers. For purposes of this Agreement, "Owner" refers to the party disclosing Confidential Information hereunder, whether such party is City of Fayetteville or MobileHWY and whether such disclosure is directly from Owner or through Owner's employees or agents; and "Recipient" refers to the party receiving any Confidential Information hereunder, whether such party is City of Fayetteville or MobileHWY and whether such disclosure is received directly or through Recipient's employees or agents.

5.2. Requirement of Confidentiality. Recipient agrees to hold the Confidential Information disclosed by Owner in strictest confidence and not to, directly or indirectly, copy, reproduce, distribute, manufacture, duplicate, reveal, report, publish, disclose, cause to be disclosed, or otherwise transfer the Confidential Information disclosed by Owner to any third party; or utilize the Confidential Information disclosed by Owner for any purpose whatsoever other than as expressly contemplated by the Agreement. The foregoing obligations shall not apply if and to the extent that:

(a) Recipient establishes that the information communicated was already known to Recipient from a source other than Owner, without obligations to keep such information confidential, at the time of Recipient's receipt from Owner, as evidenced by documents in the possession of Recipient prepared or received prior to disclosure of such information;

(b) Recipient establishes that the information communicated was received by Recipient in good faith from a third party lawfully in possession thereof and having no obligation to the Owner to keep such information confidential;

(c) Recipient establishes that the information communicated was publicly known at the time of Recipient's receipt from Owner or has become publicly known other than by a breach of the Agreement; or

(d) Recipient is ordered by a court, an administrative agency or other governmental body of competent jurisdiction, or is otherwise required by process of law to disclose the Confidential Information; provided that the Recipient shall give the Owner prompt notice of such requirement prior to disclosure (if possible) and cooperate with the Owner at the Owner's sole expense in the event that the Owner elects to contest such disclosure or seek a protective order at the Owner's sole expense with respect thereto.

5.3. Residuals. The parties agree that any information which may be retained in the memory of an individual relating to the

Confidential Information of the Owner (i.e., not reduced to writing, taped, or on any magnetic, optical, or other media) other than information from third parties that the Owner is required not to disclose (collectively, "Residuals") may be freely used by Recipient for any purpose, including use in development, manufacture, marketing, and maintenance of its own or its customers' tangible plans, designs, products, software, and services; provided that Recipient may not avoid its obligations of confidentiality toward a particular item merely by having a person commit such item to memory so as to reduce it to intangible form. All rights to use or exploit the Residuals shall not include any rights under copyright or patent law. Except for rights under copyright or patent law, however, this Section 5.3 supercedes any conflicting provisions of Section 6.

6. Intellectual Property Ownership and License. The parties' respective Intellectual Property Rights are set forth in this Section.

6.1. City of Fayetteville Information Inputs and Other Work Product. As between MobileHWY and City of Fayetteville, City of Fayetteville shall own all Intellectual Property Rights in and to the City of Fayetteville Information Inputs and Other Work Product. City of Fayetteville grants to MobileHWY a non-exclusive, worldwide, paid-up license to use, modify, and enhance the City of Fayetteville Information Inputs and Other Work Product during the term of the Agreement solely for the purposes of performing hereunder.

6.2. MobileHWY Technology. As between MobileHWY and City of Fayetteville, MobileHWY shall own all Intellectual Property Rights in and to the MobileHWY Technology. MobileHWY grants to City of Fayetteville a license to use the Documentation and access the MobileHWY Services for certain purposes solely in accordance with the terms and conditions of any attached Schedules and Statements of Work.

6.3. Licensed Materials. As between MobileHWY and City of Fayetteville, MobileHWY shall own all Intellectual Property Rights in and to the Licensed Materials. MobileHWY hereby grants to City of Fayetteville a nonassignable and nonexclusive right and license to use and modify the Licensed Materials for City of Fayetteville's internal use only during the term of the Agreement.

6.4. Preexisting Materials. As between MobileHWY and City of Fayetteville, MobileHWY shall own all Intellectual Property Rights in and to the Preexisting Materials. MobileHWY hereby grants to City of Fayetteville a nonassignable and nonexclusive right and license to use the Preexisting Materials for City of Fayetteville's internal use only during the term of the Agreement.

6.5. Metadata. MobileHWY may freely use, modify, and distribute the Metadata provided by City of Fayetteville without any limitation whatsoever. City of Fayetteville may not use or distribute the Metadata provided by MobileHWY in connection with providing information or services to any third party in a manner that is competitive with MobileHWY's product or service offerings.

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Automated Field Inspection Software Purchase Agreement 26

6.6. Further Assurances. Each party agrees to perform during or after the term of the Agreement, such further acts as may be necessary or desirable to transfer, perfect, and defend each party's ownership as set forth herein, as requested by the other party.

6.7. Reservation of Rights. Except as expressly set forth in this Section 6, all other rights of the owner of the Intellectual Property Rights in and to the Content described in this Section 6 are reserved to the owner thereof, and no rights or licenses whatsoever are granted to the other party by implication.

7. Indemnification.

7.1. Intellectual Property. MobileHWY shall at its expense (i) defend, or at its option settle, any claim, demand, action, or legal proceeding asserted or brought by a third party against City of Fayetteville alleging that the MobileHWY Technology infringes or misappropriates a copyright, trade secret, or U.S. patent ("IP Claim"); and (ii) pay any final judgment incurred against City of Fayetteville, resulting from any IP Claim involving the MobileHWY Technology. If the MobileHWY Technology becomes, or in the opinion of MobileHWY may become, the subject of an IP Claim, MobileHWY may at its option (i) procure for City of Fayetteville the right to use the MobileHWY Technology as described in any attached Schedules and Statements of Work free of any liability; (ii) replace or modify the MobileHWY Technology to make it non-infringing, while retaining its material functionality; or (iii) if neither (i) nor (ii) are available after commercially reasonable efforts, terminate the Agreement and the licenses granted herein and refund to City of Fayetteville any prepaid Fees. Notwithstanding the foregoing, MobileHWY shall have no obligation with respect to any action based on (i) the combination, operation or use of the MobileHWY Technology with any other products or software not furnished by MobileHWY where the MobileHWY Technology otherwise would not itself be infringing; (ii) any modification, alteration, or enhancement to the MobileHWY Technology not provided by MobileHWY; (iii) use of any older version of the MobileHWY Technology when use of a newer version would have avoided the infringement; or (iv) use of the MobileHWY Services in breach of this Agreement. THIS SECTION 7 SETS FORTH THE EXCLUSIVE REMEDY OF JURISDICTION AGAINST MOBILEHWY AND THE COMPLETE LIABILITY OF MOBILEHWY WITH RESPECT TO ANY CLAIM AND THE WARRANTY SET FORTH IN SECTION 3.1(A).

7.2. By MobileHWY. MobileHWY shall at its expense (i) defend, or at its option settle, any claim, demand, action, or legal proceeding asserted or brought by a third party against City of Fayetteville arising out of or resulting from any breach of the warranty set forth in Section 3.1(b) ("MobileHWY Warranty Claim"); and (ii) pay any final judgment incurred against City of Fayetteville, resulting from any MobileHWY Warranty Claim.

7.3. By City of Fayetteville. City of Fayetteville shall at its expense (i) defend, or at its option settle, any claim, demand, action, or legal proceeding asserted or brought by a third party against MobileHWY arising out of or resulting from any breach

of the warranties set forth in Section 3.2 ("City of Fayetteville Warranty Claim"); and (ii) pay any final judgment incurred against MobileHWY, resulting from any City of Fayetteville Warranty Claim.

7.4. Indemnification Generally. The indemnifications set forth in this Section 7 are conditioned upon (i) the party to be indemnified (the "Indemnified Party") providing the party to provide the indemnification (the "Indemnifying Party") prompt notice of any claim upon which the Indemnified Party intends to base a claim of indemnification hereunder; (ii) the Indemnified Party permitting Indemnifying Party to assume and to have sole control of the defense and settlement of the applicable claim; and (iii) the Indemnified Party providing reasonable assistance and cooperation to enable the Indemnifying Party to defend the applicable claim.

8. Equitable Remedies. City of Fayetteville acknowledges that each provision in the Agreement providing for the protection of the MobileHWY Technology, each party's Confidential Information and other proprietary rights, and the scope of the licenses granted herein is material to the Agreement. Each party agrees that any threatened or actual breach thereof shall constitute immediate, irreparable harm to the other party for which monetary damages is an inadequate remedy and for which equitable remedies may be awarded by a court of competent jurisdiction without requiring the other party to post a bond.

9. Fees and Payment.

9.1. All Fees are net amounts to be received by MobileHWY, exclusive of all sales taxes, value added taxes, assessments, and similar taxes.

9.2. Fees due to MobileHWY under this Agreement may not be withheld or offset by City of Fayetteville against any other amounts for any reason.

10. Compliance with Laws. City of Fayetteville will strictly comply with all applicable laws and regulations relating in any way to its performance under the Agreement, the delivery of the City of Fayetteville Information Inputs, the receipt and use of the results of the MobileHWY Services, and the use of the MobileHWY Technology as authorized herein including obtaining all necessary licenses or permits and any other government approvals. City of Fayetteville will defend and hold MobileHWY, its subsidiaries, associated companies, and suppliers and their respective officers, directors, and agents, harmless from and against any and all damages and expenses, including legal fees, incurred directly or indirectly as a consequence of City of Fayetteville's failure to comply with any such laws or regulations.

11. WARRANTY DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER MOBILEHWY NOR ANY THIRD PARTY SUPPLIER MAKES ANY WARRANTIES, REPRESENTATIONS, CONDITIONS, OR GUARANTEES, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, ORAL OR WRITTEN STATEMENTS, OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR

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PURPOSE, OR OF ERROR FREE AND UNINTERRUPTED USE, ALL OF WHICH ARE HEREBY OVERRIDDEN, EXCLUDED, AND DISCLAIMED IN ALL RESPECTS. Without limiting the foregoing, City of Fayetteville acknowledges that MobileHWY cannot contemplate every means through which a person or organization can seek to breach the security efforts of MobileHWY, and accordingly, MobileHWY does not guarantee that the security measures taken by MobileHWY will prevent all efforts to breach security.

12. LIMITATIONS OF LIABILITY. IN NO EVENT SHALL MOBILEHWY BE LIABLE TO CITY OF FAYETTEVILLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES OR COSTS INCURRED AS A RESULT OF LOSS OF TIME, LOSS OF REVENUE, LOSS OF DATA, OR LOSS OF GOODWILL, WHETHER FORESEEABLE OR UNFORESEEABLE, WHICH MAY ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING THE PROVIDING OF MOBILEHWY SERVICES OR THE USE OF OR INABILITY TO USE THE MOBILEHWY SERVICES, REGARDLESS OF WHETHER MOBILEHWY HAS BEEN APPRISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING. IN NO EVENT SHALL MOBILEHWY'S LIABILITY FOR ANY DAMAGES TO CITY OF FAYETTEVILLE OR ANY OTHER PARTY EVER EXCEED IN THE AGGREGATE THE FEES PAID BY CITY OF FAYETTEVILLE TO MOBILEHWY IN THE 12 MONTHS IMMEDIATELY PRECEDING SUCH CLAIM, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, PRODUCTS LIABILITY, OR OTHERWISE. City of Fayetteville acknowledges and agrees that the allocation of risks provided in the Agreement are reflected in the Fees provided under this Agreement, that MobileHWY is unable to test the MobileHWY Technology under all possible circumstances, that MobileHWY cannot control the manner in which and the purpose for which City of Fayetteville shall use the MobileHWY Services and the results of the MobileHWY Services, and that the allocation of risks under the Agreement are reasonable and appropriate under the circumstances.

13. Term and Termination.

13.1. The Agreement shall be effective commencing on the Effective Date and will continue for one (1) year. Thereafter, the Agreement and any attached Schedules shall be automatically renewed for successive one-year periods unless either party notifies the other in writing at least sixty (60) days prior to the expiration of the then current term of its intention to terminate the Agreement or any attached Schedule.

13.2. Either party may terminate the Agreement at any time upon the giving of written notice:

(a) In the event that the other party fails to discharge any obligations or remedy any default under the Agreement for a period continuing more than thirty (30) days after the aggrieved party shall have given the other party written notice specifying

such failure or default, and that such failure or default continues to exist as of the date upon which the aggrieved party gives such notice terminating the Agreement.

(b) In the event that the other party makes an assignment for the benefit of creditors, or commences or has commenced against it any proceeding in bankruptcy, insolvency, or reorganization pursuant to bankruptcy laws or laws of debtor's moratorium.

13.3. Either party may terminate a Schedule at any time upon the giving of written notice in the event that the other party fails to discharge any obligations or remedy any default under such Schedule for a period continuing more than thirty (30) days after the aggrieved party shall have given the other party written notice specifying such failure or default, and that such failure or default continues to exist as of the date upon which the aggrieved party gives such notice terminating such Schedule.

13.4. The termination of the Agreement shall terminate the Agreement as a whole, including all attached Schedules. Unless otherwise expressly set forth in any Schedule, the termination of any attached Schedule shall terminate such Schedule only.

13.5. Upon termination of the Agreement for any reason, each party shall immediately return to the other all property of the other, including any MobileHWY Technology, and all copies thereof, and the Confidential Information of the other. Upon termination of the Agreement for any reason, all rights and licenses granted by MobileHWY hereunder to City of Fayetteville shall immediately cease except for those that are expressly intended to survive such termination. Upon termination of the Agreement or any attached Schedules, the sections of these Terms and Conditions (other than Sections 15.1 and 15.2) shall survive termination of any attached Schedule, individually, and termination of the Agreement as a whole.

14. Source Code Escrow.

In the event that MobileHWY becomes subject to any bankruptcy, insolvency, liquidation or other similar proceedings which are not dismissed within sixty (60) days after commencement, or substantially fails in a material respect to provide support services for the Licensed Materials to the extent reasonably required by the Agreement without an entity to assume such support obligations, then City of Fayetteville shall have access and be granted a license to use the source code for the Licensed Materials, provided that City of Fayetteville pays the yearly escrow fee as determined by the escrow agency. City of Fayetteville shall be permitted to correct errors in, maintain, make improvements to, and adjust the Licensed Materials, and to compile such modified source code into executable code form. City of Fayetteville acknowledges that the source code and related documentation are Confidential Information of MobileHWY. City of Fayetteville's access shall be through City of Fayetteville's escrow agent as appointed, from time to time, at City of Fayetteville's discretion and subject to an escrow agreement between City of Fayetteville, MobileHWY, and such escrow agent.

15. Miscellaneous.

15.1. City of Fayetteville grants MobileHWY the right to reference City of Fayetteville's status as a user of the MobileHWY Services, including captioned quotations in product literature or advertisements, articles, press releases, marketing literature, presentations and the like, and reasonable use as a reference for potential new users.

15.2. Each party will designate an employee who shall be assigned the primary responsibility for communicating with and providing necessary assistance to the other party for the MobileHWY Services ("Project Manager"). All communications between the parties for the MobileHWY Services will be made or coordinated by such Project Manager.

15.3. Notices hereunder shall be sent to the addressees on the signature page hereof, or to such other addresses as specified by a notice complying with this Section, and shall be deemed received on the earlier of actual delivery or five (5) days after deposit in the U.S. Mail, certified or registered mail, return receipt requested.

15.4. MobileHWY's relationship to City of Fayetteville is that of an independent contractor, and neither party is an agent, partner, or joint venture of the other. No debts or obligations shall be incurred by either party in the other party's name or on its behalf, and neither party shall be liable for the debts and obligations of the other party.

15.5. Any delay in the performance of any of the duties or obligations of either party hereto (except the payment of money owed) shall not be considered a breach of the Agreement, and the time required for performance shall be extended for a period equal to the period of such delay; *provided that* such delay has been caused by or is the result of any acts of God, acts of the public enemy, insurrections, riots, terrorism, embargoes, labor disputes, including strikes, lockouts, job actions, or boycotts, fires, explosions, floods, or other circumstances beyond the control of such party. The party so affected shall give prompt notice to the other party of such cause and shall take whatever reasonable steps are necessary to relieve the effect of such cause as rapidly as possible.

15.6. Except as otherwise set forth in this Agreement, this Agreement and all rights and obligations may not be assigned (by operation of law or otherwise) in whole or in part by City of Fayetteville, and any such attempted assignment will be void and of no effect. MobileHWY may assign the Agreement to another entity in connection with a reorganization, merger, consolidation, sale, acquisition, or other restructuring involving all or substantially all of its voting securities and/or assets.

15.7. MobileHWY may, as it deems appropriate, use subcontractors for all or any portion of the MobileHWY Services. MobileHWY may at any time remove and replace any such subcontractors.

15.8. A waiver by either party of any breach by the other party of any of the terms, provisions, or conditions of the Agreement, or the acquiescence of either party hereto in any act (whether commission or omission) which but for such

acquiescence would be a breach as aforesaid, shall not constitute a general waiver of such term, provision, or condition of any subsequent act contrary thereto.

15.9. If any provision hereof is declared invalid by a court of competent jurisdiction, such provision will be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of the Agreement will be valid and enforceable to the fullest extent permitted by applicable law.

15.10. The section and subsection headings in this Agreement are inserted solely as a matter of convenience and for reference, and shall not be considered in the construction or interpretation of any provision hereof. All references to "include" and "including" shall be deemed to mean "including without limitation." References to any section shall refer as well to all its subsections, unless the context otherwise requires. Should any provision of the Agreement require judicial interpretation, the parties agree that the court interpreting or construing the same shall not apply a presumption that the terms of the Agreement shall be more strictly construed against one party than against another, because the parties participated equally in preparing the Agreement.

15.11. The Agreement shall be governed by and construed in accordance with the laws of the State of Arkansas, without regard to its conflict of laws provisions.

15.12. The Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original, and all of which shall constitute the same instrument.

15.13. The Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

15.14. The rights, remedies, powers, and privileges provided in the Agreement are cumulative and not exclusive and shall be in addition to any and all rights, remedies, powers, and privileges granted by law, rule, regulation, or instrument.

15.15. "Freedom of Information Act." City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, MobileHWY will do everything reasonably possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

[End of Terms and Conditions]

SCHEDULE A

MOBILE INTERFACE™ LICENSE

This Mobile Interface™ License ("Schedule A") between MobileHWY, LLC ("MobileHWY") and City of Fayetteville, Arkansas ("City of Fayetteville") is incorporated into the Master Agreement ("Agreement") between the parties.

1. **License of Software.** MobileHWY hereby grants to City of Fayetteville the following non-exclusive, non-transferable licenses (the "Mobile Interface"):

(a) To install and use a copy of the Mobile Interface, facilitating remote access to input information for processing by the MobileHWY Technology and to receive output from the MobileHWY Technology, per Attachment A - Statement of Work.

(b) To use the Documentation for City of Fayetteville's internal use only in connection with such uses described in subsection (a) above.

2. **City of Fayetteville Obligations/Stipulation.**

City of Fayetteville shall, continuously and for the duration of the Agreement, allow MobileHWY to remotely access the server(s) on which the MobileHWY Technology is installed, runs, resides, and/or operates, as well as those servers which contain data or applications with which the MobileHWY Technology interacts or processes. City of Fayetteville stipulates that MobileHWY retains the exclusive right to offer value-added premium services to Third Parties, and that nothing herein shall be construed to limit MobileHWY's (i) freedom to independently contract with Third Parties for such value-added premium services; or (ii) access to the City of Fayetteville's systems and data in order to provide such value-added premium services to Third Parties. MobileHWY retains the right to develop these value-added premium services at no application cost to the City of Fayetteville, and MobileHWY will retain all ownership and Intellectual Property Rights to these services and any other services it develops pursuant to the Agreement.

3. **Reservation of Rights.** MobileHWY reserves all rights not expressly granted herein. Except as set forth in the Agreement, no express or implied license or right of any kind is granted to City of Fayetteville regarding the MobileHWY Technology and other Confidential Information, including, but not limited to, any right to know, use, produce, receive, reproduce, copy, market, sell, distribute, transfer, translate, modify, adapt, disassemble, decompile, or reverse engineer the MobileHWY Technology or the Documentation, or create derivative works based on the MobileHWY Technology or the Documentation or any portions thereof, or obtain possession of any source code or other technical material relating to the MobileHWY Technology.

4. **Interface Integration Services.** In accordance with the terms and conditions of the Agreement, MobileHWY will provide those services more particularly set forth on the Statements of Work that are identified as MobileHWY's Mobile Interface services.

5. **Termination.** Any termination of this Schedule A in accordance with Section 13 of the Terms and Conditions shall terminate this Schedule A only.

[End of Schedule A]

SCHEDULE B

MOBILE INSPECTOR™ LICENSE

This Mobile Inspector™ License ("Schedule B") between MobileHWY, LLC, ("MobileHWY") and City of Fayetteville, Arkansas ("City of Fayetteville") is incorporated into the Master Agreement ("Agreement") between the parties.

1. **License of Software.** MobileHWY hereby grants to City of Fayetteville, as detailed in Attachment A - Statement of Work, the following non-exclusive, non-transferable licenses (the "Mobile Inspector"):

(a) To use the functionality of the Mobile Inspector via remote access to input information for processing by the MobileHWY Technology, to receive output from the MobileHWY Technology, and to utilize the functionality of the MobileHWY Technology, without the right to possess or use a copy of the MobileHWY Technology, per Attachment A - Statement of Work.

(b) To use the Documentation for City of Fayetteville's internal use only in connection with such uses described in subsection (a) above.

2. **Reservation of Rights.** MobileHWY reserves all rights not expressly granted herein. Except as set forth in the Agreement, no express or implied license or right of any kind is granted to City of Fayetteville regarding the MobileHWY Technology and other Confidential Information, including, but not limited to, any right to know, use, produce, receive, reproduce, copy, market, sell, distribute, transfer, translate, modify, adapt, disassemble, decompile, or reverse engineer the MobileHWY Technology or the Documentation, or create derivative works based on the MobileHWY Technology or the Documentation or any portions thereof, or obtain possession of any source code or other technical material relating to the MobileHWY Technology.

3. **Service Levels.** Mobile Inspector will be operational 99.0%, 24 hours, seven days a week (collectively, "Service Hours") less "Excusable Downtime," defined as the time that Mobile Inspector is not available for one of the following reasons, in whole or in part: (i) the negligent or unauthorized acts or omissions of City of Fayetteville, its employees, agents, contractors, or vendors, or anyone gaining access to the network by means of City of Fayetteville passwords or equipment; (ii) a failure of the Internet and/or the public switched telephone network; (iii) the occurrence of any event that is beyond MobileHWY's reasonable control; (iv) the failure of City of Fayetteville to be able to access the Internet for any reason, including a failure of City of Fayetteville's or its vendors' hardware, software, or telephone systems; or (v) scheduled network, hardware or service maintenance and/or upgrades for maintenance, system load and backup, scoring, data refresh, and similar activities; or (vi) the failure of City of Fayetteville to perform any of its responsibilities pursuant to the Agreement or any Schedule or Statements of Work attached thereto.

4. **Termination.** Any termination of this Schedule B in accordance with Section 13 of the Terms and Conditions shall terminate this Schedule B only.

[End of Schedule B]

SCHEDULE C

ANNUAL MAINTENANCE AND SUPPORT

This Annual Maintenance and Support Schedule ("Schedule C") between MobileHWY, LLC ("MobileHWY") and City of Fayetteville, Arkansas ("City of Fayetteville") is incorporated into the Master Agreement ("Agreement") between the parties.

1. MobileHWY Obligations.

(a) Upon timely payment of the Annual Fee as defined in Section 2 below, MobileHWY shall provide Maintenance and Support for the MobileHWY Technology provided to City of Fayetteville pursuant to the Agreement. Maintenance and Support shall include:

(i) assistance necessary to enable the MobileHWY Technology to perform in accordance with the Statements of Work;

(ii) the provision of all MobileHWY Technology or Documentation upgrades, additions, and enhancements made generally available by MobileHWY to its customers who are subject to a maintenance and support agreement;

(iii) with respect to MobileHWY Technology problems attributable to any defect in the current release of the MobileHWY Technology that prevents the MobileHWY Technology from functioning in accordance with the relevant Documentation, MobileHWY will provide a MobileHWY Technology patch within two (2) working days of notice of such problems, and (if feasible) corrected MobileHWY Technology within one (1) calendar month;

(b) The first line of Maintenance and Support provided by MobileHWY shall be by remote access for the performance of the following: file transfers, code review, code changes, bug fixes, MobileHWY Technology patches, and other similar procedures;

(c) In the event that reasonable attempts at remote maintenance are unsuccessful, and subject to staffing availability, MobileHWY will send qualified personnel for on-site assistance on Mondays through Fridays, excluding legal holidays, between the hours of 8 AM and 5 PM local time, to resolve such problems. If such assistance is not necessitated by a defect in the MobileHWY Technology, but rather is the result of a cause beyond the control of MobileHWY, then City of Fayetteville agrees to pay MobileHWY's then-current hourly rates for the time of such personnel in connection with the on-site assistance provided. Current rates are \$150/hour or \$1,000/day, plus reasonable travel expenses (including transportation, lodging, and meals). These rates are guaranteed for (1) one year from the Effective Date, and are subject to reasonable increase thereafter.

2. City of Fayetteville Obligations.

(a) City of Fayetteville shall pay to MobileHWY \$7,000 ("Annual Fee") for annual Maintenance and Support. MobileHWY will invoice City of Fayetteville for each period of annual Maintenance and Support upon each anniversary of the Effective Date of this Agreement. Payment is due within thirty (30) days from the date of each invoice. A 1.5% service charge will be applied to all unpaid balances beginning on the 31st day from date of invoice and continuing monthly thereafter.

(b) The Annual Fee is guaranteed for two (2) years from the Effective Date, and is subject to annual increase beginning in year three (3), adjusted for increases in the CPI (Consumer Price Index), but not to exceed a 5% increase in any single year.

(c) City of Fayetteville shall, continuously and for the duration of the Agreement, allow MobileHWY to remotely access the server(s) on which the MobileHWY Technology is installed, runs, resides, and/or operates, as well as those servers which contain data or applications with which the MobileHWY Technology interacts or processes.

3. Maintenance and Support Limitations.

(a) MobileHWY will not provide Maintenance and Support for (i) any modification or extension of the MobileHWY Technology that has not been performed by MobileHWY; or (ii) a version of the MobileHWY Technology that has been superseded by a more current release. However, MobileHWY will provide support and maintenance for the prior version of MobileHWY Technology for 180 days after any new release has been provided to City of Fayetteville.

(b) City of Fayetteville shall be solely responsible for the integration and reconciliation within its own environment of any and all upgrades, additions, and enhancements provided by MobileHWY hereunder. City of Fayetteville may retain MobileHWY to perform such services at MobileHWY's then-current hourly rates.

4. Termination.

(a) Any termination of this Schedule C in accordance with Section 13 of the Terms and Conditions shall terminate this Schedule C only.

[End of Schedule C]

ATTACHMENT A – STATEMENT OF WORK
CITY OF FAYETTEVILLE, ARKANSAS

This is the Statement of Work between MobileHWY, LLC ("MobileHWY"), and the City of Fayetteville, Arkansas ("City of Fayetteville").

Overview of Services

This Statement of Work is limited to services performed for implementing the following applications and services:

- Mobile Inspector™.
 - Wireless Phone Version 2.2.
- Mobile Contractor™.
- Mobile Interface™.
- MobileHWY's Professional Services and Annual Maintenance and Support.

This document outlines the responsibilities of all parties and the scope of the project. The completion date of this project is contingent upon execution of the mutually agreeable System/Business Requirements.

Mobile Inspector Overview

Mobile Inspector is a real-time Internet inspection management application that offers five primary features:

- Assigns an inspection request to the inspector.
- Enables inspectors to perform all aspects of their duties in real-time from the field via an Internet mobile phone.
- Communicates inspection information from the field to the City of Fayetteville's Permit and Inspection System ("P&I System").
- Prints inspection tickets via a serial connected thermal printer.
- Allows offline work mode support.

Mobile Inspector Wireless Phone Version 2.2

Mobile Inspector wireless phone version 2.2 is an application that provides inspectors the ability to perform their duties from the field via a wireless Internet phone.

Inspection Request Assignment

The City of Fayetteville's P&I System will assign the inspection to the appropriate inspector, and Mobile Inspector will create the inspector's itinerary.

Inspector Itinerary

Inspectors can access their itinerary from their Internet enabled mobile phone, where they can:

- View their daily inspection requests.
- Define, sort, and print their route.
- Reassign inspections.

Mobile Phone Features

From the inspector's Internet mobile phone, the following functions can be performed:

- Login using inspector ID and PIN, or automated phone recognition login.
- View their itinerary.
- Pass or fail inspections by recording inspection results, including:
 - Context-sensitive predefined Qwik Inspect™ codes with descriptions.
 - Inspection notes.
- Retrieve inspection history and permit details.
- Conduct ad-hoc inspections.
- Cancel inspections.
- View any other inspector's schedule.

Mobile Printing

Inspectors will have the ability to print inspection tickets via a serial connected thermal printer. Compatible printers will be determined by MobileHWY within the business requirements.

Administrative Features

Designated administrators will have access from any PC workstation on the City of Fayetteville's network, and will also be able to:

- Add/delete inspectors and edit/change inspector profiles (account number, office and mobile phone numbers, etc.).
- Edit ID and PIN numbers, or other security features.
- Manage inspection assignments.

Mobile Contractor

Mobile Contractor is a real-time inspection management system that allows contractors access to the City of Fayetteville's inspection information via the MobileHWY system. Mobile Contractor is a service that MobileHWY markets directly to the contractor. Mobile Contractor allows the City of Fayetteville to expand its automated service offerings to contractor customers without any additional investment. Once MobileHWY has access to inspection results as they are being performed in the field, MobileHWY will offer Mobile Contractor to registered contractors of the City of Fayetteville. Contractors will be able to access the following services via the MobileHWY website and their Internet mobile phone.

- Schedule and cancel inspections.
- View inspection history, results, status, and permit information.
- Receive instant inspection results.
- Consolidated inspection management services across multiple jurisdictions on the MobileHWY system.

Technical Overview and Requirements

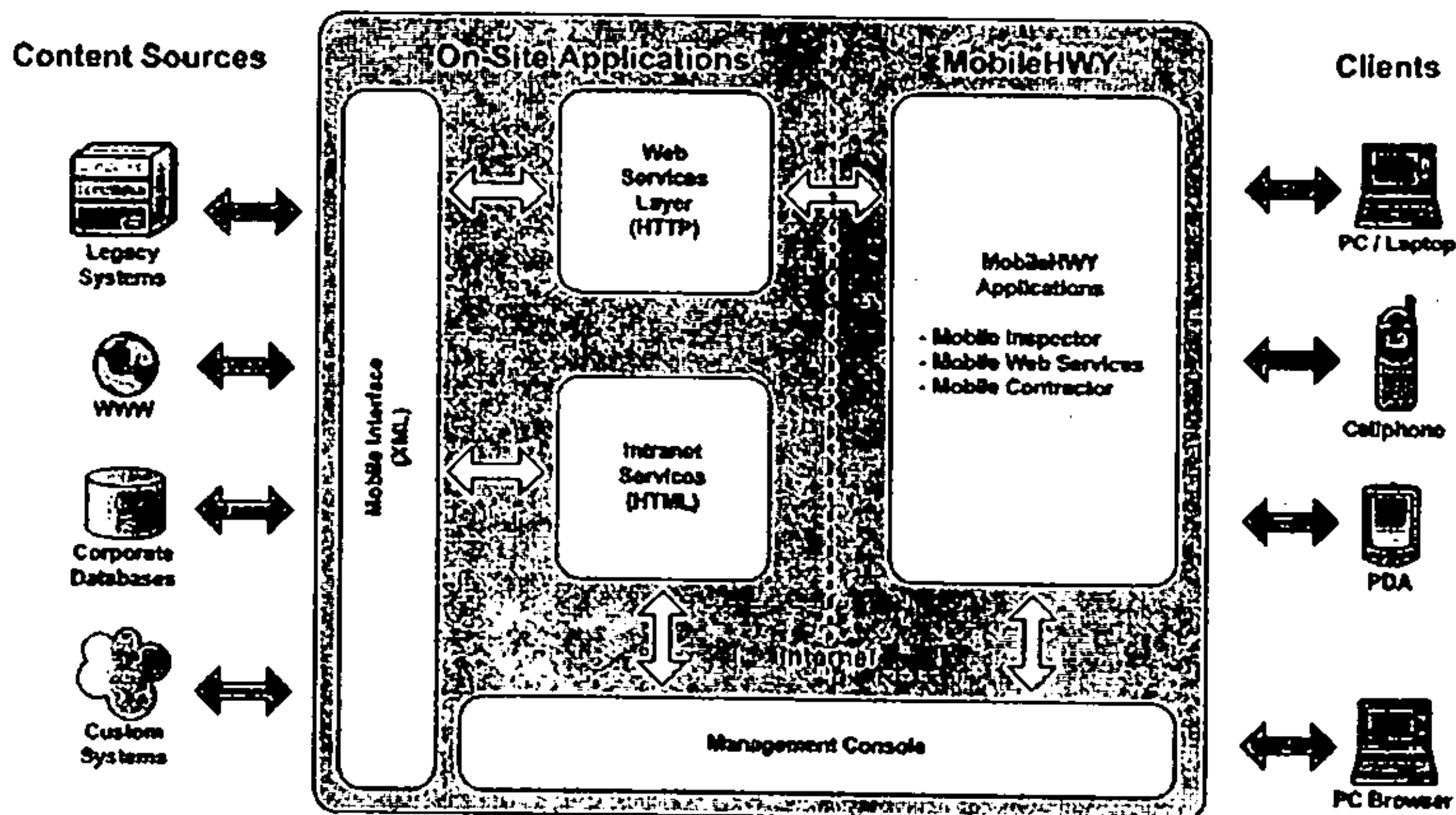
MobileHWY's web services consist of three applications (Mobile Inspector wireless phone, Mobile Contractor, and Mobile Interface), that together communicate permit and inspection information to and from the City of Fayetteville's P&I System.

Process Flow

The Internet serves as the foundation for end-to-end communication for the system. The components that comprise the end-to-end system are:

- End user PC running web browser, and/or end user Internet-enabled phones.
- MobileHWY's web services server.
- Mobile Interface server.
- P&I System.

End users utilize a web browser to access MobileHWY's applications (independent sites for contractors and City of Fayetteville staff members). Mobile Inspector and Mobile Contractor applications are segregated from one another (each user group accesses a separate website). Users access the appropriate website via the Internet, and are prompted for authentication information. At that point, they can exchange transactions with MobileHWY's applications. MobileHWY takes user requests and forwards them to the Mobile Interface server. The Mobile Interface server interacts with the City of Fayetteville's P&I System. Application responses follow the reverse path. Below is an example of the process flow:



Security

All links from end-to-end utilize HTTP for communication. Between the City of Fayetteville and MobileHWY, all data is transferred utilizing XML documents over HTTP. Between MobileHWY and end users, a combination of TCP-IP, HTML, and XML are used. XML schema definitions are closely guarded and are not disclosed to any unauthorized party. MobileHWY relies on a reliable, secure systems communication link between the City of Fayetteville, MobileHWY, and the end users.

End users are authenticated before transactions are accepted from them. Login IDs and PINs are requirements for all users accessing MobileHWY. For wireless phone users, the login ID/PIN is verified against the registration of the phone they are using. Additionally, MobileHWY will enforce a login ID/PIN scheme on behalf of the City of Fayetteville.

Mobile Interface Server Requirements

The City of Fayetteville is responsible for providing a web server that meets the below specifications. MobileHWY recommends that the server be dedicated to MobileHWY's interface application.

<u>Minimum</u>	<u>Preferred</u>
• Pentium III - 400Mhz • 256MB RAM • 20 MB drive space, on HD < 2 years old • Microsoft NT 4.0 SP6a or Win2K Server SP2 • IIS 5.0 • MS XML 3.0 SP1 or higher • Microsoft Data Access Components (MDAC) 2.7+ • Routable IP machine through port 80 via firewall (trusted IP definition) or VPN* • Network connectivity to database via ODBC, screen scrape, or other connectivity option • CD-ROM or DVD-ROM drive • FTP and VNC or pcAnywhere	• Pentium 4 – 1.4GHz + • 512MB RAM • 20 MB drive space, new SCSI HD utilizing raid or mirroring • Microsoft NT 4.0 SP6a or Win2K Advanced Server SP2 • IIS 5.0 • MS XML 3.0 SP1 or higher • Microsoft Data Access Components (MDAC) 2.7+ • Routable IP machine through port 80 via firewall (trusted IP definition) or VPN* • Network connectivity to database via ODBC, screen scrape, or other connectivity option • CD-ROM or DVD-ROM drive • FTP and VNC or pcAnywhere

**VPN connectivity is subject to additional hardware costs, setup fees, and annual maintenance fees.*

Configuration Requirements between the Mobile Interface Server and MobileHWY

- Routable IP address to machine.
- Port 80 – XML over HTTP.
- Port 20 and 21 for maintenance and support.
- Port 5900 for VNC access or other port for remote control software.

Specification Requirements for Mobile Inspector Wireless Phone v2.2

- Internet enabled wireless phone, Java compatible.
- Internet service provided through mobile phone service provider.

Responsibilities

MobileHWY's Responsibilities

- Coordinate and synchronize MobileHWY's design, development, and implementation activities with the City of Fayetteville's project plan to ensure timely delivery of products and services.
- Participate in periodic conference calls with the project managers to determine status of critical tasks, resolve critical issues, and revise plans.
- Investigate the City of Fayetteville's business and technical requirements necessary to integrate MobileHWY's applications and the City of Fayetteville's network and Internet architecture.
- Prepare a System/Business Requirements document based upon project scope and submit to the City of Fayetteville's project team for approval.
- Configure MobileHWY's applications to meet the City of Fayetteville's requirements as approved by the City of Fayetteville in the System/Business Requirements document.
- Install and perform unit testing of MobileHWY's applications before initiation of City of Fayetteville's testing phase.
- Test the MobileHWY applications available on a digital cellular network using a web enabled wireless phone, or carrier data service plan as applicable.
- Conduct a technical review session for the City of Fayetteville's technical personnel responsible for the ongoing support of the integrated systems.
- Provide instructional materials detailing use of the MobileHWY applications.
- Train inspectors to utilize Mobile Inspector.
- Promote all Mobile Contractor services.

City of Fayetteville's Responsibilities

- Review the System/Business Requirements within ten (10) business days after delivery and approve the final version.
- Provide remote access to the City of Fayetteville's development and production web, database, and application servers for research, requirements, programming, and testing for this project.
- Procurement of all needed hardware, including, but not limited to, wireless phones with Internet capabilities.
- Abide by MobileHWY's standard system implementation policies and practices, such as change control, install, and testing of applications within the City of Fayetteville's technical environment.
- From time to time as needed, provide reasonable access to the City of Fayetteville's personnel and facilities, and provide remote access to both development and production web servers for uploading and maintenance of MobileHWY's interfaces from MobileHWY's development and production environments.
- Inform MobileHWY of any pending software or server changes before implementation.
- Assign an administrator who will be responsible for the set up and maintenance of the inspector and contractor information contained in MobileHWY's web server.
- City of Fayetteville's technical staff, or consultant retained by City of Fayetteville, will fulfill all technical infrastructure requirements within the City of Fayetteville's environment, including but not limited to all aspects of network connectivity, database connectivity, and web server installation and configuration.
- Conduct and complete acceptance testing of the MobileHWY applications within thirty (30) days of delivery and installation of production version of the software, and execute System Acceptance Letter.

Fees and Expenses

Items	Pricing
Mobile Inspector Wireless Phone Version 2.2 – up to 10 users	\$20,000
Mobile Contractor	Included
Mobile Interface	\$15,000
Total Cost	\$35,000

Pricing includes:

- Assessment of the City of Fayetteville's current and desired inspection management process.
- Documented System/Business Requirements.
- Complete interface development.
- Installation and testing of all applications.
- Complete deployment and training.
- First year maintenance and support.

In conjunction with the City of Fayetteville, MobileHWY will also provide educational workshops for contractors. These workshops will be designed to train contractors on how to use the web services and register for Mobile Contractor services.

Payment for services will be billed in four (4) installments based upon the completion of the following deliverables for each phase:

Stage	Deliverable Milestones	Percentage
1	Execution of Master Agreement and Statement of Work	50%
2	System/Business Requirements completed and approved by both parties	15%
3	Completion of installation and testing	15%
4	Execution of System Acceptance Letter	20%
	Total	100%

Deliverable Milestones

- **Stage One** – Terms agreed upon by both parties; Master Agreement approved and signed by both parties; Statement of Work approved and signed by both parties.
- **Stage Two** – System/Business Requirements reviewed by City of Fayetteville within ten (10) business days of delivery, approved and signed by both parties.
- **Stage Three** – MobileHWY applications installed; unit testing by MobileHWY team started and successfully completed; begin thirty (30) day acceptance testing.
- **Stage Four** – Thirty (30) day acceptance testing completed and System Acceptance Letter approved and signed by both parties.

Annual Maintenance and Support

First year maintenance and support is included. Beginning in year two, the annual maintenance and support will be \$7,000 (20% of the total licensed purchase price), subject to annual increase beginning in year three, adjusted for increases in the CPI (Consumer Price Index), but not to exceed a 5% increase in any single year.

The annual maintenance and support fee for the MobileHWY applications provides for the following services:

- Ongoing technical support for all components of the MobileHWY applications via web-based inquiry or telephone communication.
- Periodic, scheduled onsite visits to provide technical support of system-related activities beyond remote resolution. City of Fayetteville requests for onsite visits in excess of one (1) per year will be subject to incremental billing for professional services at the prevailing rate plus reasonable travel expenses.
- Operation of MobileHWY's web services in a 7X24 environment.
- Provisions for back up and recovery of all software and data components of the applications that reside external to the City of Fayetteville's infrastructure.

Any initiatives not covered in this Statement of Work shall be considered outside the scope of the project. Any modifications (subject to additional charges, if applicable) to the project can be added by mutual signatory acceptance of the System/Business Requirements referred to in this Statement of Work.

CITY OF FAYETTEVILLE, ARKANSAS

Authorized by:

Name: _____

Print Name: _____

Title: _____

Date: _____

MOBILEHWY, LLC

Authorized by:

Name: Michael S. Wachholz

Print Name: Michael S. Wachholz

Title: President

Date: 10/30/03

STAFF REVIEW FORM - FINANCIAL OBLIGATION

C.1
Automated Field Inspection Software Purchase
Page 26 of 26AGENDA REQUEST
X CONTRACT REVIEW
GRANT REVIEWFor the Fayetteville City Council Meeting of: May 4, 2004

FROM:

Steve Cattaneo

Building Safety

CPES

Name

Division

Department

Action Required: Approval of a contract and bid waver ordinance in the amount of \$37,262.50 to purchase MobileHwy software to allow Building Safety inspectors to collect on-site inspection results with cell phones and transfer data into the Hansen System.

COST TO CITY:

\$37,262.50	\$77,000	
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5801.00	\$ 5,434.00	
Account Number	Funds Used to Date	Program / Project Category Name
02009	\$ 71,566.00	<u>Sales Tax</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW:

X

Budgeted Item

Budget Adjustment Attached

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

Purchasing Manager

Date

STAFF RECOMMENDATION:

Division Head

Date

Received in Mayor's Office

Date

Department Director

Date

Cross Reference:

Finance & Internal Services Dir.

Date

Previous Ord/Res#:

Chief Administrative Officer

Date

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

Mayor

Date

ENTERED
4-16-04
RLM



CITY OF FAYETTEVILLE

FLEET OPERATIONS

**1525 S. Happy Hollow Road
Fayetteville AR 72701**

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Superintendent *ADB*
Date: April 14, 2004
Subject: Renewal of Drive-Through Equipment Wash Contract

RECOMMENDATION: That City Council approve a one year extension of an existing contract with DyChem International for drive through equipment wash equipment and supplies.

BACKGROUND: The City Council by Resolution No. 68-98 entered into a contract with DyChem International to furnish and install necessary equipment in the fleet building wash bay for a drive through truck and equipment wash and for exclusive purchase of chemical supplies for the operation of the wash equipment. The contract was for one year with an option of four additional one year periods which ended December 31, 2003. Fleet staff began a search for alternative equipment and contractors in August, 2003. A trial period with an on site mobile washing contractor during January and February, 2004 was not successful. Additional time is needed to adequately research washing alternatives and consummate the contracting process for equipment washing.

In order to keep the existing system operating, it is recommended that the City extend the existing contract with all of its terms and conditions for a period of one year, ending December 31, 2004. Contract terms allow for termination upon 60 days written notice, allowing an earlier transition if a more desirable alternative can be contracted. DyChem has provided written agreement to the proposed extension.

Funds are available in the operating budget for ongoing washing of equipment under this contract.

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE COMPETITIVE BIDDING
AND AWARD AN EXTENSION OF A CONTRACT WITH
DYCHEM INTERNATIONAL THROUGH THE END OF 2004

WHEREAS, Dychem International was selected by competitive bidding in 1998 and awarded a contract renewable through December 31, 2003 for automatic drive through wash equipment; and

WHEREAS, city staff examined other options in early 2004 but have not found a successful alternative; and

WHEREAS, it would be in the best financial interest of the City to extend the current contract with Dychem International through December 31, 2004 rather than competitively bid this contract now.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that an exceptional situation exists in which competitive bidding is not deemed feasible or practical and the City Council hereby waives the requirements for competitive bidding and awards a one year extension of the current Hydro Shock Fleet Washing System Lease and Chemical Purchase Agreement entered into on June 2, 1998 so that this contract will be in effect until December 31, 2004.

PASSED and APPROVED this the 4th day of May, 2004.

APPROVED:

By: _____

DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

RESOLUTION NO. 68-98

MICROFILMED

A RESOLUTION AWARDDING BID NO. 98-37 TO ~~DYCHEM~~
INTERNATIONAL, INC. TO PROVIDE FOR ~~AUTOMATIC~~
~~DRIVETHROUGH WASH EQUIPMENT~~, ITEM NO. 1 AND 2 AT
NO CHARGE; AND SUPPLIES, ITEM NO. 3, HYDRO WASH A
(BULK) @ \$5.00 PER GALLON, HYDRO WASH S (BULK) @
\$5.00 PER GALLON, TRD (OPTIONAL) @ \$12.75 PER GALLON,
ELBOW GREASE BULK (OPTIONAL) @ \$5.50 PER GALLON.

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

Section 1. That the City Council hereby awards Bid No. 98-37 to DYCHEM International, Inc. to provide for automatic drive through wash equipment, Item No. 1 and 2 at no charge and supplies, Item No. 3, Hydro Wash A (bulk) @ \$5.00 per gallon, Hydro Wash S (bulk) @ \$5.00 per gallon, TRD (optional) @ \$12.75 per gallon, Elbow Grease Bulk (optional) @ \$5.50 per gallon; and authorizes the Mayor and City Clerk to execute a Washing System Lease and Chemical Purchase Agreement. A copy of the lease/agreement is attached hereto marked Exhibit "A" and made a part hereof.

PASSED AND APPROVED this 2nd day of June, 1998.

APPROVED:

By: Fred Hanna

Fred Hanna, Mayor

ATTEST:

By: Heather Woodruff

Heather Woodruff, City Clerk



B ID: 9837
DATE: 4/29/98
TIME: 9:00 AM
CITY OF FAYETTEVILLE

DESCRIPTION: AUTOMATIC DRIVE-THRU CAR WASH

BIDDER	ITEM #1	ITEM #2	ITEM #3
--------	---------	---------	---------

DYCHEM INTERNATIONAL	*no chg	*no chg	Product: Hydro wash A (bulk) \$5.00 per gal Hydro wash S (bulk) \$5.00 per gal TRD (optional) \$12.76 per gal Elbow grease bulk (optional) \$5.50 per gal
	*if 300 unit washes per month maintained		

P Vice
P Vice Purch Mgr

P Williams
Witness Date 4/30/98

EXHIBIT A

HYDRO SHOCK FLEET WASHING SYSTEM LEASE AND CHEMICAL PURCHASE AGREEMENT

THIS LEASE/PURCHASE AGREEMENT is made and entered into this 2 day of JUNE, 1998 by and between DyChem International, Inc. ("Lessor") and the City of Fayetteville ("Lessee").

WHEREAS, Lessor is engaged in the business of manufacturing and installing hydro shock fleet washing systems ("System") and the detergents to operate System ("Detergents"); and,

WHEREAS, Lessee desires to lease a System and purchase Detergents.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, Lessee and Lessor agree to the terms and conditions as set forth herein:

1. System Equipment. The System equipment shall include that equipment listed in Addendum "A" attached hereto and made a part hereof.

2. Lease Fees. The System shall be provided to Lessee at no monthly charge; however, Lessee agrees to a minimum monthly purchase of Detergent.

3. Term/Termination. This Lease/Purchase Agreement shall remain in effect until December 31, 1998 and shall automatically renew, subject to Lessee's budget approval, for a period of one (1) year, (the "Principal Term"). Thereafter this Lease/Purchase Agreement shall automatically renew for four (4) one (1) year terms, subject to Lessee's budget approval. The parties shall have the right to terminate this Lease/ Purchase Agreement upon sixty (60) days written notice, at any time following the completion of the Principal Term.

4. Installation. Lessor shall provide the System including all parts and equipment, as well as all labor to fully install the System and make it fully operational. Lessee shall provide the items contained in Addendum "B" attached hereto and made a part hereof.

5. Ownership of System. All parts and equipment which constitute the System shall remain the sole and separate property of Lessor. At no time shall they be considered fixtures, but instead shall constitute personal property. The title to the System shall remain with Lessor exclusively. This Lease/Purchase Agreement shall in no way imply a right to purchase the System, any such right is hereby expressly denied. At the termination of this Lease/Purchase Agreement, Lessor shall remove the System from Lessee's premises, together with all parts and equipment appurtenant thereto. Removal shall be performed in a workmanlike and reasonable manner and shall be removed within 30 days from termination of this Lease/Purchase Agreement.

Lessee agrees to execute a UCC-1 form acknowledging Lessor's ownership interest in the System equipment.

6. Detergent. Lessee shall use DyChem Products exclusively in the System.

7. Detergent Fees. The fees for Detergent shall be as set forth in Addendum "C" attached hereto and made a part hereof.

8. Maintenance of System. Lessor agrees to furnish all labor, equipment, and parts necessary for the ordinary maintenance of the System, provided that such maintenance is necessitated only by ordinary wear and tear of the System resulting from its normal, ordinary, and expected use.

Damage to the System resulting from any use by Lessee outside its normal, ordinary or expected use and or use contrary to the instruction of Lessor shall be repaired by Lessor; however, all expenses relating thereto, including reasonable charges for labor and materials, shall be invoiced to the Lessee for payment.

9. Terms of Payment. All payments shall be made within thirty (30) days after receipt of invoice.

10. Notice and/or Written Communication. Any notices, requests, instructions, or other written communications shall be delivered personally or sent by registered or certified mail to:

LESSEE:

City of Fayetteville
1525 S. Happy Hollow
Fayetteville, AR 72701

LESSOR:

DyChem International, Inc.
ATTN: Fred Lieber
560 North 500 West
Salt Lake City, UT 84116

11. Remedies. In the event of any material breach hereunder, including but not limited to purchasing detergents to be used in the System from any party other than Lessor, or failure to make timely payment concerning invoices of Lessor, the Lessor may cancel this Lease/Purchase Agreement and remove the System, and pursue other legal and or equitable remedies, as permitted by law.

Lessor's failure to maintain and/or promptly repair the System shall be a breach of the Lease/Purchase Agreement. Lessee shall give Lessor written notice of such breach and Lessor shall have 14 days to perform remedial work. Failure to perform remedial work shall entitle Lessee to seek repairs from parties other than Lessor, and to pursue other legal and/or equitable remedies, as permitted by law.

12. Amendments or Modifications to this Lease/Purchase Agreement. This Lease/Purchase Agreement may only be modified or amended in writing, executed by Lessee and Lessor.

13. Assignment. This Lease/Purchase Agreement may not be assigned by either Lessee or Lessor without prior written consent of the other party.

14. Insolvency or Creditors Relief. In the event that either Lessee or Lessor becomes insolvent, makes an assignment for the benefit of creditors, or becomes the subject of any action or proceeding in bankruptcy or for the benefit of creditors, any such occurrence will be deemed a default of and will automatically terminate this Lease/Purchase Agreement.

15. Governing Law. This Lease/Purchase Agreement shall be deemed to have been executed in the State of Arkansas. Furthermore, this Lease/Purchase Agreement shall be executed in accordance with and construed and interpreted under the laws of the State of Arkansas.

16. Entire Agreement. This Lease/Purchase Agreement, together with Addenda A, B, and C, constitute the entire lease and purchase agreement between Lessee and Lessor and shall supersede all prior agreements, written or oral, together with any memoranda, or correspondence. Any other promises, terms, conditions, or obligations not contained herein are neither binding on the parties nor actionable in a court of law.

16. Multiple Counterparts. This Lease/Purchase Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute but a single instrument.

IN WITNESS WHEREOF, this HYDRO SHOCK FLEET WASHING SYSTEM LEASE AND CHEMICAL PURCHASE AGREEMENT is executed as of the day, month, and year set forth below.

DyChem International Inc., Lessor

By: FRED H. LIEBER

Title: PRESIDENT

5/15/98

Attest: Michael Dunlap

By: MICHAEL DUNLAP

Title: V. PRESIDENT

5/15/98

City of Fayetteville, Lessee

By: Fred Hanna

Fred Hanna, Mayor

Attest:

By: Heather Woodruff

Heather Woodruff, City Clerk

ADDENDUM "A"
SYSTEM EQUIPMENT LIST
BASIC FLEET WASH COMPONENTS

DyChem is providing the following equipment to be used in the City of Fayetteville Fleet Wash System.

- (3) Steel Arches
- (9) Guide Rail Feet
- (1) Set of Guide Rails
- (18) Micro Switch Mounting Brackets
- (1) Rinse Pipe
- (1) Rinse Pump Cover
- (2) Chemical Application Pump Covers
- (10) Pipe Mounting Brackets
- (-) PVC Piping and Fittings
- *** Customized electrical control panel with Quick Disconnect including Motor starters, relays, transformers, terminals and all electrical components to operate system.)
- (2) Chemical Solution tanks
- (2) Bulk Storage Tanks
- (1) Rinse Tank
- (1) 30 HP Motor with Centrifugal Pump
- (1) High viscosity D-Foam Pump
- (1) 1-1/2" Clay Valve and Control
- (18) Micro Switches and Actuator Clamps
- (2) Hydrominders with Hoses and Fittings
- *** Tee Jets and Vee Jet Nozzles together with Unistrut steel, clamps, wands, and other miscellaneous hardware necessary for chemical application.
- (1) 2 side Low PH Pipe Assemblies Sch 80 1" PVC Pipe
- (1) 2 side Alkaline Pipe Assemblies Sch 80 1" PVC Pipe
- (1) set of Back door Low PH and Alkaline Pipe Assemblies
- (2) Alkaline Wheel wash Assemblies
- (2) Low PH wheel Wash Pipe Assemblies
- (2) Chemical Solution Pumps

ADDENDUM "B"
EQUIPMENT TO BE PROVIDED BY LESSEE

Lessee is required to do the following:

Provide an adequate building for the Fleet Washing Equipment;

Provide a 1 1/2" incoming water supply at 50 psi to the Fleet Washing Equipment;

Provide incoming electrical supply at 208, 230, or 440 volts, three phase with a disconnect box to the Fleet Washing Equipment.

Provide an adequate sewer line,

Ensure that all required permits are obtained in advance of the date of installation.

ADDENDUM "C"
DETERGENT

I. Detergents Pricing

PRODUCT Hydro Wash A
PRICE: \$5.00 per gallon
DESC: _____
 Low PH Chemical Application

PRODUCT Hydro Wash S
PRICE: \$5.00 per gallon
DESC: _____
 High PH Alkaline Hydro Shock Neutralizer

PRODUCT TRD (Optional)
PRICE: \$12.75 per gallon
DESC: _____
 Defoamer

These detergents are specifically Manufactured for the Fleet Wash System. They provide a perfect balance to ensure the best possible result. DyChems stringent production control standards guarantee the highest possible quality detergents.

II. Minimum Monthly Dollar Volumes Required

A minimum monthly Detergent purchase of \$1,500.00 is required.

III. Detergent Price Increases

The above pricing will take effect as soon as the Fleet Washing System is installed. DyChem reserves the right to change these prices in the event of a dramatic increase in production costs, but will provide notice thirty (30) days notice before doing so. Pricing for the Detergents may be increased annually, but only in the event that Lessor's costs increase is in excess of three percent (3%). Total increase shall not exceed five percent (5%) of the above quoted price.



DyChem International, Inc.
660 North 500 West
Salt Lake City, Utah 84116
(801) 521-0315
(800) 453-4606
(801) 328-9503 FAX

City of Fayetteville
Attn: David Bragg
Fleet Operations Superintendent
1525 South Happy Hollow
Fayetteville, AR 72701

April 14, 2004

Dear Mr. David Bragg,

DyChem International is willing to extend the contract with the City of Fayetteville for the year 2004. The contract may be terminated provided either the City of Fayetteville or DyChem International gives a 60-day written notice.

Sincerely,

A handwritten signature in cursive script that reads "Fred Lieber / -jo".

Fred Lieber
President

FL/jo

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Tim Conklin, Community Planning and Engineering Services Director *T-C*

Date: April 16, 2004

Subject: Amendment to Title 15, Chapter 172.05 "Standards For The Number Of Spaces By Use" of the City of Fayetteville Unified Development Code, to exempt existing, expanded, and new accessory restaurant and bar outdoor patios, balconies, decks, and similar outdoor use areas from meeting off-street parking requirements within the C-3 and C-4 Zoning Districts.

RECOMMENDATION

Planning Staff recommends approval of the requested parking ordinance amendment.

BACKGROUND

Ordinance Amendment: The City of Fayetteville continues to receive requests to allow outdoor uses associated with restaurants and bars in the C-3 and C-4 zoning districts. The current parking ordinance requires additional parking for outdoor uses when established or expanded. Most of the requests that have been approved in the C-3 and C-4 districts identified shared off-site parking in order to meet this requirement as allowed under §156.02 of the UDC. These shared parking agreements are required to be approved by the Planning Commission. The only other option to not provide parking is payment of an in-lieu fee of \$1,200 per space.

To date, the City has assessed one business \$30,000 for an outdoor use area and is currently working with another business that would be required to pay in order not to build additional parking. Both of these businesses have been unable to secure shared parking due to changes in church policies and actual location of private parking lots. If this ordinance is amended, staff is recommending to the Council reimbursement of the funds already collected for the one outdoor use area.

The Draft Downtown Master Plan encourages and recommends outdoor use areas through the use of "street oriented architecture" such as balconies and porches. It also recommends reducing the parking requirements within the cultural and entertainment district.

DISCUSSION

On April 12, 2004, the Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 172.05 STANDARDS
FOR THE NUMBER OF SPACES BY USE OF THE CODE OF
FAYETTEVILLE TO ELIMINATE THE REQUIREMENT TO
PROVIDE ADDITIONAL PARKING SPACES FOR ACCESSORY
OUTDOOR RESTAURANT AREAS IN C-3 AND C-4 DISTRICTS

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
enacts a new subsection (4) of §172.05 of the Fayetteville Code as shown below:

“(4) C-3 and C-4 Zoning Districts accessory outdoor use areas.
Accessory outdoor patios, balconies, decks, and other similar
outdoor use areas for restaurants and bars shall be exempt from
meeting off-street parking requirements in the C-3 and C-4
zoning districts.”

The City Council hereby amends the introductory language in §172.05 of the
Fayetteville Code to show the four exceptions listed under A rather than “(1) and (2)” as
currently stated.

PASSED and APPROVED this the 4th day of May, 2004.

APPROVED:

By: _____

DRAFT
DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Tim Conklin, Community Planning and Engineering Services Director
DATE: April 07, 2004

ADM 04-11 Amendment to Title 15, Chapter 172.05 "Standards For The Number Of Spaces By Use" of the City of Fayetteville Unified Development Code, to exempt restaurants and bars existing, expanded, and new accessory outdoor patios, balconies, decks, and similar outdoor use areas from meeting off-street parking requirements within the C-3 and C-4 Zoning Districts.

RECOMMENDATION:

Staff recommends approval of the requested parking ordinance amendment.

PLANNING COMMISSION ACTION	Required	☒ YES	☐ NO
	Approved	☒	☐ Denied
Date: April 12, 2004			
CITY COUNCIL ACTION	Required	☒ YES	☐ NO
	Approved	☒	☐ Denied
Date: May 04, 2004			

BACKGROUND:

Ordinance Amendment: The City of Fayetteville continues to receive requests to allow outdoor uses associated with restaurants and bars in the C-3 and C-4 zoning districts. The current parking ordinance requires additional parking for outdoor uses when established or expanded. Most of the requests that have been approved in the C-3 and C-4 districts identified shared off-site parking in order to meet this requirement as allowed under Sec. 156.02 of the UDC. These shared parking agreements are required to be approved by the Planning Commission. The only other option to not provide parking is payment of an in-lieu fee of \$1,200 per space.

To date, The City has assessed one business \$30,000 for an outdoor use area and is currently working with another business that would be required to pay in order not to build additional parking. Both of these businesses have been unable to secure shared parking due to changes in church policies and actual location of private parking lots. If this ordinance is amended, staff is recommending to the Council reimbursement of the funds already collected for the one outdoor use area.

April 12, 2004
Planning Commission
ADM 04-11.00 Ch. 172 Parking (Outdoor Patios/dining)
Page 15.1

The Draft Downtown Master Plan encourages and recommends outdoor use areas through the use of "street oriented architecture" such as balconies and porches. It also recommends reducing the parking requirements within the cultural and entertainment district.

PROPOSED ORDINANCE CHANGES:

~~Strikethrough Text proposed for deletion~~
Italic Bold Text proposed for insertion

172.05 Standards For The Number Of Spaces By Use

(A) Off-street parking. Except as provided in *(A) (1), (2), (3) and (4)* ~~(1) and (2)~~ below, off-street parking spaces shall conform to the requirement in Table 3 below. Parking requirements shall be met at the time any building or structure is erected, enlarged, or increased in capacity, changed in use, or any outdoor use is established or enlarged. In mixed use developments or in cases of shared parking agreements, parking requirements may be reduced at the property owner's request as outlined in §172.05(D). Reduced parking within mixed use developments.

(1) Change of use – shared parking. Except as outlined in (2) and (3) below, change of use in mixed use developments or developments that have entered an approved shared parking agreement requires a parking demand analysis using Table 4, Parking Occupancy Rates. The property owner shall notify the Planning Division when a change of use is proposed. A forecast deficiency greater than 15% must be met by the construction of additional parking spaces, payment of in lieu fees, support of shuttle service, other trip reduction programs satisfactory to the city, or a combination thereof.

(2) Change of use – waiver. In C-3 and C-4 zoning districts, parking requirements are waived for any existing structure with a change of use. New construction, razed buildings or enlarged buildings shall conform to the parking requirements of the City of Fayetteville. For enlarged buildings, additional parking spaces will be calculated by the amount of square footage that is added.

(3) Building footprint – waiver. In C-3 and C-4 zoning districts, parking requirements are waived for the square footage "footprint" of any building which existed and has been removed since October 1, 1995, in order to rebuild.

(4) C-3 and C-4 Zoning Districts accessory outdoor use areas. Accessory outdoor patios, balconies, decks, and other similar outdoor use areas for restaurants and bars shall be exempt from meeting off-street parking requirements in the C-3 and C-4 zoning districts.

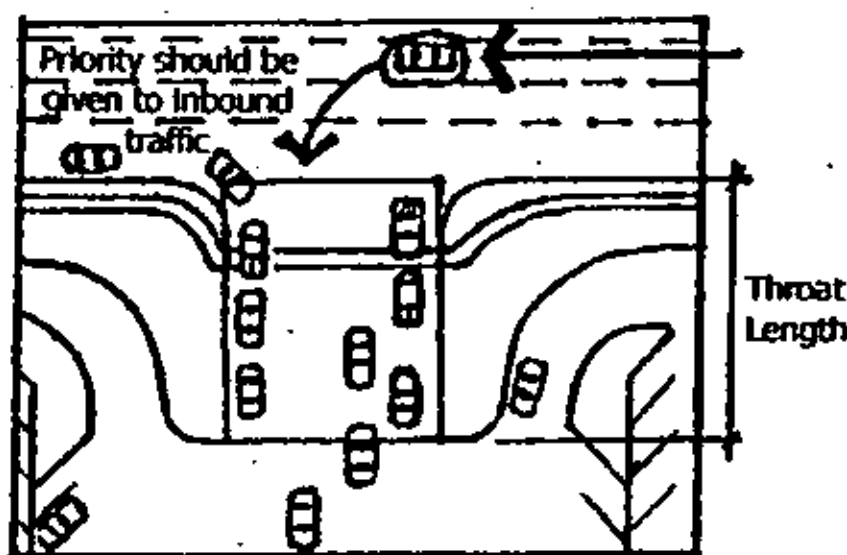
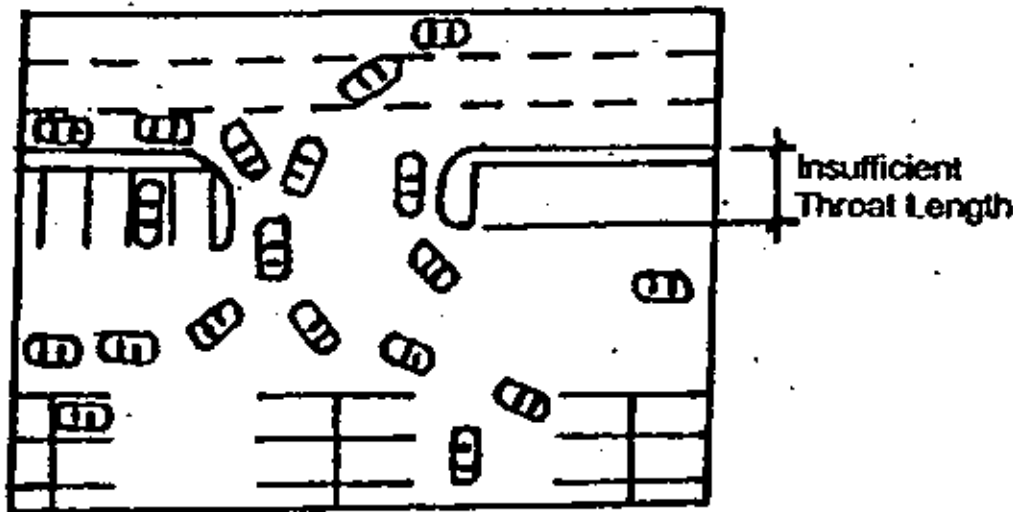
(B) Maximum/minimum number allowed. Parking lots may contain up to 30% more spaces than the required spaces and 30% less spaces than the required spaces. Any additional spaces above 30% or below 30% shall be allowed only as a conditional use and shall be granted in accordance

with Chapter 163, governing applications of conditional uses; procedures, and upon the finding that additional spaces are needed.

Existing Ord.

Fayetteville Code of Ordinances

C. 3
ADM 04-11.00 Amendment to Title 15, Chapter 172.05
Page 6 of 14



(2) *Entrances and internal aisle design.* The driveway width into parking lots shall meet the following guidelines:

(a) *Entrances.*

- (i) *One-way.* If the driveway is a one-way in or one-way out drive, then the aisle widths shall be 12 feet wide up to a maximum of 15 feet wide.
- (ii) *Two-way.* For two-way access, each entrance lane shall be a minimum of 12 feet wide and a maximum of 15 feet wide. Whenever more than two lanes are proposed, entrance and exit lanes shall be divided by a curbed, raised, landscaped median. The median shall be 10 feet wide if three lanes are being proposed or 15 feet wide if four lanes are proposed.
- (iii) *Major thoroughfares.* Driveways that enter the major thoroughfare at traffic signals must have at least two outbound lanes (one for each turning direction) and one inbound lane.
- (iv) *Curb radius.* All commercial driveways should have a minimum curb radius of 25 feet.

(b) *Internal circulation drives.*

- (i) Aisles shall be designed so that they intersect at 90 degrees with internal drives where practicable.
- (ii) Aisles shall be designed to discourage cut-through traffic by use of landscape islands.
- (iii) Aisles shall conform to §174.04(C) with the exception of aisles that connect to commercial driveways. Aisles connecting to commercial driveways may be permitted to be 27 feet in width when the driveway is in conformance with §171.13(B)(6).

172.05 Standards For The Number Of Spaces By Use

(A) *Off-street parking.* Except as provided in (1) and (2) below, off-street parking spaces shall conform to the requirement in Table 3 below. Parking requirements shall be met at the time any building or structure is erected, enlarged, or increased in capacity, changed in use, or any outdoor use is established or enlarged. In mixed use developments or in cases of shared parking agreements, parking requirements may be reduced at the property owner's request as outlined in §172.05(D). Reduced parking within mixed use developments.

- (1) *Change of use – shared parking.* Except as outlined in (2) and (3) below, change of use in mixed use developments or developments that have entered an approved shared parking agreement requires a parking demand analysis using Table 4, Parking Occupancy Rates. The property owner shall notify the Planning Division when a change of use is proposed. A forecast deficiency greater than 15% must be met by the construction of additional parking spaces, payment of in lieu fees, support of shuttle service, other trip reduction programs satisfactory to the city, or a combination hereof.
- (2) *Change of use – waiver.* In C-3 and C-4 zoning districts, parking requirements are waived for any existing structure with a change of use. New construction, razed buildings or enlarged buildings shall conform to the parking requirements of the City of Fayetteville. For enlarged buildings, additional parking spaces will be calculated by the amount of square footage that is added.

CD172:6

ADM 04-11.00 Ch. 172 Parking (Outdoor Patios/dining)

April 12, 2004
Planning Commission
Page 15.4

TITLE XV. UNIFIED DEVELOPMENT CODE

(3) *Building footprint – waiver.* In C-3 and C-4 zoning districts, parking requirements are waived for the square footage "footprint" of any building which existed and has been removed since October 1, 1995, in order to rebuild.

(B) *Maximum/minimum number allowed.* Parking lots may contain up to 30% more spaces than the required spaces and 30% less spaces than the required spaces. Any additional spaces above 30% or below 30% shall be allowed only as a conditional use and shall be granted in accordance with Chapter 163, governing applications of conditional uses; procedures, and upon the finding that additional spaces are needed.

TABLE 3
PARKING RATIOS
(Use/Required Spaces)

Residential	
Single-family, duplex, triplex	2 per dwelling unit
Multi-family or townhouse	1 per bedroom

Commercial	
Amusement	1 per 200 sq. ft. of GFA
Auditorium	1 per 4 seats
Auto/motorcycle service stations	4 per each enclosed service bay
Bank	1 per 200 sq. ft. of GFA
Barber or beauty shop	2 per chair
Coin-operated laundry	1 per 3 machines
Hospital and convalescent home	1 per bed
Hotels and motels	1 per guest room, plus 75% of spaces required for accessory uses.
Regional antique and furniture	1 per 500 sq. ft. of GFA
Restaurants	1 per 100 sq. ft. GFA plus 4 stacking spaces per drive-thru window.
Retail	1 per 250 sq. ft. of GFA
Retail fuel sales with convenience stores	1 per 200 sq. ft. of retail FA; spaces at pump islands are counted toward this requirement
Retail fuel sales only	3 per each employee; spaces at pump islands are counted toward this requirement

Office	
Medical/Dental office	1 per 250 sq. ft. of GFA
Professional office	1 per 300 sq. ft. of GFA
Sales office	1 per 200 sq. ft. of GFA

Public and Institutional Uses
Nonprofit Commercial

Art gallery, library, museum	1 per 1,000 sq. ft. of GFA
Auditorium	1 per 4 seats, provided only auditorium space is counted in determining parking
Child care center, nursery school	1 per employee plus on-site loading and unloading spaces at a rate of 1 per 10 children accommodated
Church/religious institution	1 per 4 seats in the main auditorium or 1 per 40 sq. ft. of assembly area, whichever provides more spaces
College auditorium	1 per 4 seats
College dormitory	1 per sleeping room
College or university	1 per 500 sq. ft. of classroom area
Community center	1 per 250 sq. ft. of GFA
Detention home	1 per 1,500 sq. ft. of GFA
Government facilities	1 per 500 square foot of floor area
Funeral homes	1 per 4 seats in main chapel plus 1 per 2 employees plus 1 reserved for each vehicle used in connection with the business
Hospital	1 per bed
Convalescent home	1 per bed
School—elementary and junior high	1 per employee plus 1 space per classroom
School—senior high	1 per employee plus 1 per 3 students based on design capacity, or 1 per 6 seats in auditorium or other places of assembly, whichever is greater
Zoo	1 per 2,000 sq. ft. of land area
All other public and institutional uses (only auditorium space shall be counted for churches, auditoriums, or group occupancy space)	1 per 4 occupants

Manufacturing/Industrial

Manufacturing	1 per 1,200 sq. ft. of GFA or one per employee, whichever is greater
Heavy industrial	1 per 1,200 sq. ft. of GFA
Extractive uses	Adequate for all employees, trucks, and equipment

TITLE XV UNIFIED DEVELOPMENT CODE

CHAPTER 156: VARIANCES

156.01 General Requirements

All applications for variances shall be submitted in writing to the person responsible for administration of the referenced section.

(Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross reference(s)—Administration, Ch. 152.

156.02 Zoning Regulations

Certain variances of the zoning regulations may be applied for as follows:

(A) *General regulations.* A variance shall not be granted unless and until an application demonstrates:

(1) *Special conditions.* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or building in the same district.

(2) *Deprivation of rights.* That literal interpretation of the provisions of the zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning regulations.

(3) *Resulting actions.* That the special conditions and circumstances do not result from the actions of the applicant.

(4) *No special privileges.* That granting the variance requested will not confer on the applicant any special privilege that is denied by Zoning, Chapters 160 through 165, to other lands, structures, or building in the same district.

(5) *Nonconforming uses.* No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(B) *Consideration by the Planning Commission.* Applications for variances of zoning and development shall be considered by the Planning Commission.

(1) *Design Overlay District.*

(a) *Special conditions.* The purpose of this section is to authorize in specific cases such variances from the regulations of the Design Overlay District as will not be

contrary to the public interest, where, owing to special conditions, a literal enforcement of the Design Overlay District regulations would result in unnecessary hardship.

(b) *Variance requested.* A variance from the terms of the Design Overlay District regulations shall not be granted by the Planning Commission unless and until the applicant provides from what section a variance is requested. This shall be submitted along with the large scale development plan.

(c) *Findings.* The Planning Commission shall make the following findings:

(i) *Requirements met.* That the requirements of §156.02.(A) have been met by the applicant for a variance.

(ii) *Minimum variance.* That the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(iii) *Harmony with general purpose.* That the granting of the variance will be in harmony with the general purpose and intent of the Design Overlay District, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(d) *Conditions and safeguards.* In granting any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this section.

(2) *Access to structure.* The Planning Commission shall have the authority to waive the requirement that every building hereafter erected or moved shall be located on a lot which has frontage on a public street when the property owner provides safe and convenient access for fire protection and sanitation vehicles.

(3) *Parking variances.*

(a) *Number of spaces.* The Planning Commission shall have the authority to vary the number of off-street parking



Fayetteville Code of Ordinances

spaces required in C-3 and C-4 Districts.

(b) *Findings.* The Planning Commission shall make findings indicating:

(i) *Parking generated.* That the proposed use will not generate as much parking as required under the existing standard.

(ii) *Shared parking.* That shared parking facilities are available; or

(iii) *On-street parking.* That on-street parking can satisfy intermittent and occasional demands.

* (c) *Conditions.* All waivers shall meet the conditions listed below.

(i) *C-3 and C-4 Districts.* Conditions for waivers in C-3 and C-4 Districts:

→ a. *In lieu fee.* An in lieu fee of \$1,200.00 for each on-site parking space shall be paid to the city. This money shall be held in an interest bearing account and shall be expended for public parking facilities within the district it is collected within 10 years from the date it is collected. If said money has not been so expended within 10 years of the date collected, said money, together with the interest thereon, shall be refunded to the person or entity who made the contribution; or

→ b. *Shared parking.* For any parking space which is proposed to be shared under the provision of §172.05(C). The applicant must present a signed agreement with the owner of the property. The agreement shall address the number of spaces required for both properties, the number of spaces available together with a site plan, and any other pertinent information, such as restrictions on sharing for certain days or hours.

(4) *Bicycle rack variance.* The Planning Commission may modify or waive the requirement for or the design standards for a bicycle rack.

(C) *Consideration by the Board of Adjustment.*

(1) *Bulk and area.* Applications for variances of bulk and area requirements shall be considered by and may be approved by the Board of Adjustment.

(2) *Public hearing.* A public hearing shall be held.

(3) *Findings.* The Board of Adjustment shall make the following findings:

(a) *Minimum variance.* That the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(b) *Harmony with general purpose.* The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of zoning, Chapters 160 through 165, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(c) *Conditions and safeguards.* In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the zoning regulations.

(d) *No variance allowed.* Under no circumstances shall the Board of Adjustment grant a variance to allow use not permissible under zoning in the district involved, or any use expressly, or implication prohibited by the terms of the zoning regulations in said district.

(4) *Action.* The Board of Adjustment may take the following actions:

(a) Reverse or affirm, wholly or partly; or

(b) May modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning and Development Administrator from who the appeal is taken.

(5) *Vote.* The concurring vote of a majority of the members present shall be necessary to reverse any order, requirement, decision or determination of the Zoning and

ADM 04-11.00: UDC Ch. 172: Parking and Loading (Outdoor patios/dining)

Ostner: The next item on our agenda is ADM 04-11.00, an amendment to Title XV, Chapter 172.05, standards to the number of spaces by use of the City of Fayetteville Unified Development Code to exempt restaurants and bars, existing, expanded and new accessory outdoor patios, balconies, decks, and similar outdoor use areas from meeting off-street parking requirements within the C-3 and C-4 zoning districts. Can we have a staff report Mr. Conklin?

Conklin: Mr. Chair and members of the Commission, my name is Tim Conklin. I would like to welcome the three new Commissioners. We haven't seen such a change on the Commission for a long, long time and thank you for volunteering for the next three years. This evening staff is bringing forward an ordinance amendment to our parking lot ordinance in our Unified Development Code Chapter 172.05. Mr. Ostner did go over the actual amendment. The reason that we are bringing this forward is that we have had requests with regard to allowing outdoor uses. In the past there have been pre-existing accessory uses for existing restaurants and bars in our C-3 and C-4 zoning districts. This afternoon we did do a little analysis of how many existing outdoor uses we have. We have approximately 24 that we were able to identify. Many of those, once again, have existed for a long time. Some of them have been more recent. We have seen quite a bit of redevelopment occur within our downtown area with the conversion of old warehouse type buildings, restaurants being established. It is not just along Dickson Street but within our square, downtown area having outdoor uses. In the past if a property owner wanted to expand an outdoor use area they had to either provide additional off-street parking on the site or they would have to go get a shared parking agreement. In the event that they could not provide the parking or get the shared agreement, there was a \$1,200 in lieu fee that would have to be paid. To date, we have only had one outdoor use that was assessed the \$1,200 per space fee. The City of Fayetteville did collect \$30,000. If this ordinance is amended staff would recommend to the City Council that that \$30,000 be reimbursed to the developer. We recently went through a series of meetings in January as part of our Downtown Master Plan. That Downtown Master Plan draft did talk about street oriented architecture and encouraging the use of balconies and decks and other outdoor type use areas associated with downtown development. It also talked about minimizing or reducing the parking requirements within our downtown area to make it a walkable and lively community. That was within our cultural and entertainment district. I have attached the proposed draft language in 172.05. Also attached are the existing ordinances in our Unified Development Code. Once again, this has been brought to our attention due to our Downtown Master Plan, but also, we do have a current business owner who has expressed concern for the inability of expanding an outdoor use area without being able to provide the parking onsite or offsite through a shared parking agreement.

Some of the churches, at least one of the churches, has stopped approving shared agreements if alcohol is being served as part of the business. So that has somewhat shut the door on some of those shared parking agreements and has made it more difficult to expand those outdoor use areas. That concludes my staff report. If you have any questions I would be more than happy to answer them.

Ostner: Thank you Mr. Conklin. At this point I will open it up to the public. Is there anyone who would like to make a comment on this issue? Seeing no one from the public here, I will close it to the public and bring it back to the Commission for comments or motions.

Anthes: Does this include roofed terraces too?

Conklin: It includes all accessory outdoor use areas.

Anthes: I'm a little confused. Obviously, if there is a little balcony that projects, kind of like the Brew Pub and that livens up the street and that is nice. That doesn't really add an appreciable amount of seating and most people move out there instead of sitting inside so it is sort of a substitution of the amount that is in the restaurant to some extent. If this was a roofed terrace that actually duplicated the entire floor level of seating on a second level, that might have a little bit more impact. I just wondered if you thought about that and what your comments were.

Conklin: With regard to putting a patio on top of a roof of a structure that could potentially double the capacity. We also looked at trying to compare that to many of the restaurants and bars that I wasn't even aware of until recently, converting the outdoor space behind their businesses. I think it is similar if it is on the same level of the structure, out front or on top. You are somewhat limited due to weather that we have in Northwest Arkansas. We get rain pretty much year around. The weather changes fairly quick and it is not a permanent type use that you always can rely on that you are going to be able to have customers rely on that space on a day to day basis. That is why we did include it in there. Once again, we are removing these restrictions to encourage more outdoor use in dining. I think there are situations when it becomes a balcony or a rooftop deck due to the building, I think it would be difficult to make that judgment call. Why we would allow one person to cantilever a balcony over a second floor and say that's ok and not allow someone to convert a roof to a roof deck up on top.

Anthes: I guess I am asking this because as I understand it, this is for all C-3 and C-4 zoning throughout the City of Fayetteville. The map you brought indicates where these uses are downtown and I agree with that 100%. Getting rid of the parking requirements for those kinds of additions in the

downtown area makes a lot of sense. Where I'm struggling with it is when we go out to wider locations, let's take CMN for instance, one of those kinds of more open areas that could put a really large amount of seating outside. I guess I'm thinking about, maybe it's an issue of our weather, but I'm thinking of some very large venues in Austin, Texas that have a roof structure but they are outside and they have those patio heaters and the entire establishment is an outdoor establishment that could seat 500 or 600 people. I wondered if that would be exempt from any parking requirements under this.

Conklin: The way this is drafted right now, you are talking about outdoor seating area and they put the portable heaters up, yes, that would be exempt. This ordinance only applies to the C-3 and C-4 zoning districts so it is only central.

Warrick: The C-3 and C-4 is basically restricted to the Dickson Street area and the square.

Anthes: I don't have a zoning map in front of me and that's why I'm asking this.

Warrick: Except in two or three really small locations, it really doesn't expand beyond maybe Lafayette Street down to a few little places south of the downtown square area zoned C-3 but it is not really expansive.

Conklin: Dickson, along East Street, Spring, Center, Mountain, Rock, Archibald Yell, it is fairly defined area of downtown.

Ostner: It would seem to me the situation here is that out in suburbs when people are developing they consistently, every single time, ask us for more parking than we allow and we always give them what they need because they are not hemmed in by buildings on their sides. I think this situation is only going to come up in our urban developed areas where they have a problem and our current regulations are asking for more parking and they can't deliver it whereas, out in the suburbs I think they would naturally want to build whatever they needed to keep their business going.

Anthes: I had to ask because I think there are some kinds of structures and uses that we have not seen in Fayetteville before but that could conceivably come and I just wanted to make sure that we knew that those opportunities might exist and what we were getting into.

Ostner: Some of the establishments at the Southern View mixed use could, in fact, even though it is a PZD, could want outdoor seating easily.

Conklin: I was just going to add to Commissioner Anthes' comments with regard to the scale of use, we did include the words accessory use in this ordinance,

meaning that the outdoor use is not the principal use of the structure or the area that you didn't have someone just take a vacant lot and start serving but that it was an accessory to a permanent use. I was just trying to make sure that this is an accessory to the principal use on the site.

MOTION:

Allen: With that clarification, I would like to move for approval of ADM 04-11.00.

Anthes: I will second.

Ostner: There is a motion by Commissioner Allen and a second by Commissioner Anthes, do we have any further discussion?

Anthes: We are forwarding that to the City Council.

Ostner: Ok. Renec?

Roll Call: Upon the completion of roll call the motion to forward ADM 04-11.00 to the City Council with a recommendation for approval was approved by a vote of 8-0-0.

Thomas: The motion carries eight to zero.

Ostner: Thank you. The other notes are I'm going to appoint the Subdivision Committee, Mr. Shackelford, Ms. Anthes and Mr. Vaught.

Conklin: I would like to thank the Commission for forwarding that on. This is just a small piece to the overall Downtown Master Plan. We do have new draft zoning districts and zoning standards for a cultural and overlay zone. Dover, Kohl and Partners will be refining those drafts. Draft II will be available in the next few weeks. Thank you.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator *DW*

Date: April 15, 2004

Subject: Annexation for Harper/Brandon (ANX 04-05.00)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Harper/Brandon. This action will incorporate a 9.99 acre tract of land contiguous with the city limits into the City of Fayetteville. The request is to annex the subject property into the City of Fayetteville.

BACKGROUND

The subject property is 9.99 acres and located east of Crossover Road (principal arterial), north of Copper Creek Phase II, and south of Springdale city limits. It is adjacent to the city limits along its southern boundary where it abuts the Copper Creek Phase II, an approved preliminary plat. The north, east, and south boundaries are not contiguous to the City limits. Although the tract of land will result in the expansion of a peninsula, it will create a city boundary that will extend to the Planning Area boundary. Connectivity and off-site improvements will be evaluated at the time of development.

Proposal: The applicant requests annexation into the City of Fayetteville, along with a companion rezoning request.

DISCUSSION

On April 12, 2004, the Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval with an accompanying rezoning request.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE CONFIRMING ANNEXATION PETITION
ANX 04-05.00 TO THE CITY OF FAYETTEVILLE,
ARKANSAS, OF CERTAIN PROPERTY LOCATED SOUTH
OF ALBRIGHT ROAD ON THE WEST SIDE OF GEORGE
ANDERSON ROAD CONTAINING APPROXIMATELY 9.99
ACRES.

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

Section 1. That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

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

Section 3. That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4. That the above-described property is hereby assigned to Ward No. Three.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 04-05.00

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE SOUTHEAST QUARTER (1/4) OF SECTION EIGHTEEN (18), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING IN ALBRIGHT ROAD AND FROM WHICH A REFERENCE IRON SET ON THE SOUTH RIGHT OF WAY OF SAID ROAD BEARS S02°39'07"W - 18.94 FEET; THENCE S2°34'07" W-330.06 FEET ALONG AN EXISTING FENCE ON THE OCCUPIED WEST LINE OF SAID 40 ACRE TRACT TO THE POINT OF BEGINNING, THENCE S87°24'24"E 660.00 FEET, THENCE S87°24'07"E-658.59 FEET TO A POINT ON THE EAST LINE OF SAID 40 ACRE TRACT, THENCE ALONG SAID EAST LINE S2°31'12"W - 330.00' TO A POINT IN GEORGE ANDERSON ROAD FROM WHICH A REFERENCE IRON SET ON THE WEST RIGHT OF WAY OF GEORGE ANDERSON ROAD BEARS N87°24'03"W - 31.82 FEET, THENCE N87°24'03"W - 658.95 FEET, THENCE N87°24'46" W - 659.92 FEET TO A POINT ON THE OCCUPIED WEST LINE OF SAID 40 ACRE TRACT, THENCE ALONG AN EXISTING FENCE ON SAID OCCUPIED WEST LINE N2°34'07" E - 330.06 FEET TO THE POINT OF BEGINNING. CONTAINING 9.99 ACRES, MORE OR LESS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: April 07, 2004

ANX 04-05.00: Annexation (Harper/Brandon, pp 61) was submitted by Michelle Harrington of Harrington, Miller, Neihouse & Krug, P.A. on behalf of Craig and Karyn Harper and Gary Brandon for property located at Albright Road and George Anderson Road. The property is in the Planning Area and contains approximately 9.99 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):

PLANNING COMMISSION ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>April 12, 2004</u>			
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>May 04, 2004</u>			

BACKGROUND:

Property description: The subject property contains to tracts of property equaling 9.99 acres of vacant property located east of Crossover Rd. (principal arterial), north of Copper Creek Ph. II, and south of Springdale city limits. The property is adjacent to the city limits along its southern boundary where it abuts the Copper Creek Ph. II (PPL under construction) from which connectivity will be provided to the north.

Proposal: The applicant proposes the annexation of property into the City of Fayetteville. A rezoning request has been submitted for this property.

Request: The request is to annex the subject property into the City of Fayetteville.

Recommendation: Staff recommends approval of the proposed annexation. The subject property is adjacent to a preliminary approved subdivision currently under construction and extends to the northern boundary of the Planning Area.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single-family	City of Springdale
South	Vacant (PPL Copper Creek Ph. II under construction)	RSF-4, Residential Single Family, 4 units per acre
East	Single-family	Planning Area
West	Vacant	Planning Area

INFRASTRUCTURE:

Streets: George Anderson Road is not an improved roadway. At the time of development, street improvements will be recommended for the property frontage to widen the street to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks. The east side of the roadway will be in the county, and will need to be improved to current county standards.

Surrounding Master Street Plan Streets:

North: Albright Rd. (no classification)

South: Zion Rd (collector)

East: George Anderson Rd. (collector) and Howard Anderson Rd.

West: Copper Creek Dr. (local)

Water: The property will have access to an 8" looped water main system that is being installed with Copper Creek Phase 2 subdivision. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

Sewer: The site will have access to an 8" sewer main that is being installed with Copper Creek Phase 2 subdivision. Sewer will need to be extended within the development. The developers engineer will need to provide calculations to show that there is adequate capacity in the Copper Creek 2 lift station and the Stonewood lift station. Upgrades to these stations and/or force mains may be required.

Fire: The subject property is located 4.7 miles from the Fire Station #4. Normal driving time is 8 min. 27 seconds. The property is located 5.7 miles from Station #5 at 833 Crossover Rd with a response time of 9 minutes 28 seconds.

Police: It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby

undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

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

FINDINGS:

**11.6 ANNEXATION GUIDING POLICIES
BOUNDARIES**

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

Finding: The requested annexation will extend an existing peninsula to the north. The extension will, however create an appropriate boundary that will extend to the Planning Area boundary. No island, a tract of county property completely surrounded by a municipality, will be created by annexing the subject property.

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

Finding: The proposed annexation area is adjacent to the City Limits to the south for approximately 1300 feet.

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

Finding: This area does not consist of defined subdivisions or neighborhoods; however, future development plans may include the extension of the Copper Creek subdivision.

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

Finding: Proposed boundaries follow property lines.

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

Finding: Current conditions result in a response time of just over 8 minute for fire protection from the Fire Station #4 and just over 9 minutes from Fire Station #5. Any development in this area would necessitate installation of hydrants to provide for fire protection. The site will have access to an 8" sewer main that is being installed with Copper Creek Phase 2 subdivision. Sewer will need to be extended within the development. Verification that this area is within the Fayetteville water service territory shall be determined at such time development occurs on the subject property.

ENVIRONMENTALLY SENSITIVE AREAS

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

Finding: N/A

EMERGENCY AND PUBLIC SERVICES

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

Finding: The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Sewer shall be extended from the 8" sewer main being installed with Copper Creek Ph. II to the south during the development of new subdivision(s).

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

Finding: Fire and police service shall be provided to this area with the same level of responds and service as other developments in this area. Sewer improvements to the area are being provided for with the development of approved preliminary plats.

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

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

INFRASTRUCTURE AND UTILITIES

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

Finding: Water, fire and police protection are currently provided in this area.

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

Finding: Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.

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

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

INTERGOVERNMENTAL RELATIONS

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

Finding: Annexation of this property will adjoin Fayetteville City limits with Springdale City limits.

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

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

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

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with the Residential classification of the area on the City's adopted Future Land Use Plan.

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

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

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

Finding: Development of this property has not been proposed. At the time the applicant desires to development the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: This annexation includes two tracts of land totaling 9.99 acres owned by the Craig and Karyn Harper and represented by Gary Brandon Enterprises, Inc. The combined requests create a reasonable boundary avoiding the creation of unusual boundary lines.

11.6.1 Conduct a fiscal impact assessments on large annexations.

Finding: N/A

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

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

Environmentally Sensitive Areas

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

Emergency and Public Services

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

Infrastructure and Utilities

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

Intergovernmental Relations

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

Administration of Annexations

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 12, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8202

ENGINEERING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Matt Casey, Staff Engineer
DATE: April 8, 2004

ANX 04-05.00: Annexation (Harper/Brandon, pp 61) was submitted by Michelle Harrington of Harrington, Miller, Neihouse & Krug, P.A. on behalf of Craig and Karyn Harper and Gary Brandon for property located at Albright Road and George Anderson Road. The property is in the Growth Area and contains approximately 9.99 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

RZN 04-04.00: Rezoning (Harper/Brandon, pp 61) was submitted by Michelle Harrington of Harrington, Miller, Neihouse & Krug, P.A. on behalf of Craig and Karyn Harper and Gary Brandon for property located at Albright Road and George Anderson Road. The property is zoned R-A, Residential Agricultural and contains approximately 9.99 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

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

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.

The property will have access to an 8" looped water main system that is being installed with Copper Creek Phase 2 subdivision. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

The site will have access to an 8" sewer main that is being installed with Copper Creek Phase 2 subdivision. Sewer will need to be extended within the development. The developers engineer will need to provide calculations to show that there is adequate capacity in the Copper Creek 2 lift station and the Stonewood lift station. Upgrades to these stations and/or force mains may be required.

George Anderson Road is not an improved roadway. At the time of development, street improvements will be recommended for the property frontage to widen the street to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks. The east side of the roadway will be in the county, and will need to be improved to current county standards.

Name Matt Casey Department Engineering



FAYETTEVILLE

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APR 06 2004

PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

C. 4
ANX 04-5.00 (Harper/Brandon)
Page 12 of 28

April 5, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **ANX 04-05.00 Annexation (Harper/Brandon, pp 61)** and **RZN 04-04.00 Rezoning (Harper/Brandon, pp 61)** submitted by Michelle Harrington on behalf of Craig and Karen Harper and Gary Brandon for property located at Albright Road and George Anderson Road would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

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

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown".

Lieutenant William Brown
Fayetteville Police Department



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 04-05-04

REZONING _____ ANNEXATION ☒

REZONING # _____ OWNER H
ANNEXATION# 04-05.00 OWNER Harper/Brandon
LOCATION OF
PROPERTY allright - George Anderson Rd.

NEAREST FIRE STATION AND
LOCATION 4 - Plainview St.

RESPONSE TIME FROM FIRE STATION # 4 TO
LOCATION OF
PROPERTY 8 MINUTES 27 SECONDS.
TRAVEL MILES FROM FIRE STATION # 4 TO LOCATION OF
PROPERTY 4.7 miles.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS _____

EXISTING FIRE HYDRANTS? IF SO
LOCATION no - EXISTING on allright

WATER SUPPLY WITH HYDRANTS
NEEDED? yes

ADDITIONAL
COMMENTS clocked from STA 5 - 833 CROSSOVER
5.7 miles 9 minutes 28 seconds.

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

'03 DEC 31 AM 9 04

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

KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.
Case No. CC 2003-28

DECREE OF ANNEXATION

Now on this 31st day of December, 2003, this cause comes on to be heard, the Petitioners, Petitioners, Craig Harper and Karyn Harper, husband and wife, through their attorney, Harrington, Miller, Neihouse & Krug, P.A., of Springdale, Arkansas, announcing ready for a hearing of the cause and there being no protests or objections filed, whereupon, the matter is submitted to the Court upon the verified petition filed herein, and any oral and documentary evidence adduced, the Court being well and sufficiently advised of the facts and the law, doth hereby find, judge and decree as follows:

1. The Petition in this cause was filed on November 26, 2003, at which time this Court fixed Wednesday, December 31, 2003, at 9:00 a.m., as the date and time of hearing for said cause, and that a full thirty (30) days has passed since the filing of the Petition, and this Court has jurisdiction of the persons and subject matter of this cause of action, and venue is proper herein.
2. The Petition filed herein named Harrington, Miller, Neihouse & Krug, P.A. to act on behalf of Petitioners in filing and presenting the Petition to the Court and handling all matters connected with the Petition, as well the required notices, and this and any other hearings or annexation proceedings connected therewith.
3. Harrington, Miller, Neihouse & Krug, P.A. has given Notice of hearing on the Petition as required by law, and the proof of publication of said notice is now on file with the Clerk of this Court.
4. The Court is satisfied that the allegations of the Petition filed herein are sustained by the proof, and that a majority of the total number of real estate owners in the area affected by this Petition have signed said Petition, and that such majority owns more than one-half (1/2) of the acreage affected.

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5. The land and territory sought to be annexed to the City of Fayetteville, Washington County, Arkansas, in this cause is described as follows:

A part of the Southeast Quarter (SE1/4) of the Southeast Quarter (1/4) of Section Eighteen (18), Township Seventeen (17) North, Range Twenty-Nine (29) West, Washington County, Arkansas, being more particularly described as follows, to-wit:

Commencing at the Northwest corner of said 40 acre tract, said point being in Albright Road and from which a reference iron set on the South right-of-way of said road bears S 02°39'07" W - 18.94 feet; thence S 2°34'07" W - 330.06 feet along an existing fence on the occupied West line of said 40 acre tract to the POINT OF BEGINNING, thence S 87°24'24" E - 660.00 feet, thence S 87°24'07" E - 658.59 feet to a point on the East line of said 40 acre tract, thence along said East line S 2°31'12" W - 330.00' to a point in George Anderson Road from which a reference iron set on the West Right-of-Way of George Anderson Road bears N 87°24'03" W - 31.82 feet, thence N 87°24'03" W - 658.95 feet, thence N 87°24'46" W - 659.92 feet to a point on the occupied West line of said 40 acre tract, thence along an existing fence on said occupied West line N 2°34'07" E - 330.06 feet to the POINT OF BEGINNING. Containing 9.99 acres, more or less.

and, the same is accurately described in the Petition filed herein.

6. Attached to and made a part of said Petition is an accurate Vicinity Map of the above-described property that is sought to be annexed to the City of Fayetteville, Arkansas.

7. The above-described property owned by the Petitioners, Craig Harper and Karyn Harper, Husband and Wife, is adjacent to and adjoins the present boundaries of the City of Fayetteville, and is contiguous to the present city boundary line for the City of Fayetteville, Washington County, Arkansas, and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

8. The prayer of the Petition filed herein is right and proper and should be granted.

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

IT IS FURTHER CONSIDERED, ORDERED AND ADJUDGED that the original papers in this cause be delivered to the Clerk of Washington County, Arkansas, with the same to be

properly recorded upon the records of Washington County, Arkansas, and the Clerk, after properly recording and filing the original papers, is directed to prepare certified transcripts of the same; that one of the certified transcripts shall be delivered 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 Service Commission.


JERRY HUNTON, County Judge

RECEIVED

FEB 12 2004

FILED

2003 NOV 26 PM 3 57

KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

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

Case No. CC 2003- 28

PETITION FOR ANNEXATION

Come now, Craig Harper and Karyn Harper, husband and wife, Petitioners, and for their
Petition for Annexation state as follows:

1. Petitioners, Craig Harper and Karyn Harper, husband and wife, are the record
owners of the following described property situated in Washington County, Arkansas, to-wit:

A part of the Southeast Quarter (SE1/4) of the Southeast Quarter (1/4) of Section
Eighteen (18), Township Seventeen (17) North, Range Twenty-Nine (29) West,
Washington County, Arkansas, being more particularly described as follows, to-
wit:

Commencing at the Northwest corner of said 40 acre tract, said point being in
Albright Road and from which a reference iron set on the South right-of-way of
said road bears S 02°39'07" W - 18.94 feet; thence S 2°34'07" W - 330.06
feet along an existing fence on the occupied West line of said 40 acre tract to the
POINT OF BEGINNING, thence S 87°24'24" E - 660.00 feet, thence S
87°24'07" E - 658.59 feet to a point on the East line of said 40 acre tract, thence
along said East line S 2°31'12" W - 330.00' to a point in George Anderson Road
from which a reference iron set on the West Right-of-Way of George Anderson
Road bears N 87°24'03" W - 31.82 feet, thence N 87°24'03" W - 658.95 feet,
thence N 87°24'46" W - 659.92 feet to a point on the occupied West line of said
40 acre tract, thence along an existing fence on said occupied West line N
2°34'07" E - 330.06 feet to the POINT OF BEGINNING. Containing 9.99
acres, more or less.

2. The above-described property owned by the Petitioners, Craig Harper and Karyn Harper, husband and wife, is adjacent and contiguous to the present city boundary line for the City of Fayetteville, Washington County, Arkansas.

3. A true and correct copy of the Vicinity Map of the above-described properties is attached hereto as Exhibit "A" and made a part hereof by reference.

4. The above-described property is suitable for annexation to the City of Fayetteville, Arkansas, and is necessary for the proper growth, prosperity and management of the above-described property and the City of Fayetteville, Arkansas.

5. Pursuant to Arkansas Code Annotated §14-40-601 et seq, this Court has jurisdiction over the subject matter herein, and Petitioners request that the above-described properties be annexed to the City of Fayetteville, Arkansas.

6. Petitioners further state that the law firm of Harrington, Miller, Neihouse & Krug, P.A., Springdale, Arkansas, is authorized to act for and on behalf of the Petitioners in presenting this matter to the Court and in all matters connected with this Petition and subsequent hearings or annexation proceedings connected therewith.

7. Petitioners request that this Court set a date for hearing this Petition, not less than thirty (30) days after the date of the filing of this Petition, pursuant to Arkansas law.

WHEREFORE, Petitioners pray that the above-described property be annexed to the City of Fayetteville, Washington County, Arkansas, pursuant to the provisions of Arkansas law, after a hearing thereon as required by law; and that this Court, by its Order, fix a time and place for said hearing not less than thirty (30) days from the filing of this Petition; and for all other proper relief to which Petitioners may be entitled.

CRAIG HARPER and KARYN HARPER,
Husband and Wife, Petitioners.

HARRINGTON, MILLER, NEIHOUSE & KRUG
A Professional Association
113 East Emma Avenue
Post Office Box 687
Springdale, Arkansas 72765
(501) 751-6464
Attorneys for Petitioners

By:

Michele A. Harrington
 Michele A. Harrington
 Arkansas Bar No. 85217
 Stephen J. Miller
 Arkansas Bar No. 91160

VERIFICATION OF PETITION FOR ANNEXATION

STATE OF ARKANSAS)
) ss.
 COUNTY OF WASHINGTON)

We, Craig Harper and Karyn Harper, husband and wife, hereby state under oath that we have read the above and foregoing Petition for Annexation, and that the facts and allegations contained therein are true and correct to the best of our knowledge and belief.

Craig Harper
 Craig Harper

Karyn Harper
 Karyn Harper

SUBSCRIBED AND SWORN to before me, a Notary Public, this 25th day of November, 2003.

RUTH T. VARNER
 My Commission Expires 12/31/2010
 County of Benton
 My Commission Exp. 12/31/2010

Ruth T. Varner
 Notary Public

CERTIFICATE OF SERVICE

I, Michele A. Harrington, of Harrington, Miller, Neilhouse & Krug, P.A., attorneys for petitioners herein, hereby certify that I have served a true copy of the within and foregoing on the City Clerk for the City of Fayetteville, Arkansas, by placing a copy thereof in the U. S. Mail, postage prepaid, addressed to her mailing address in Fayetteville, Arkansas, this the 26 day of November, 2003.

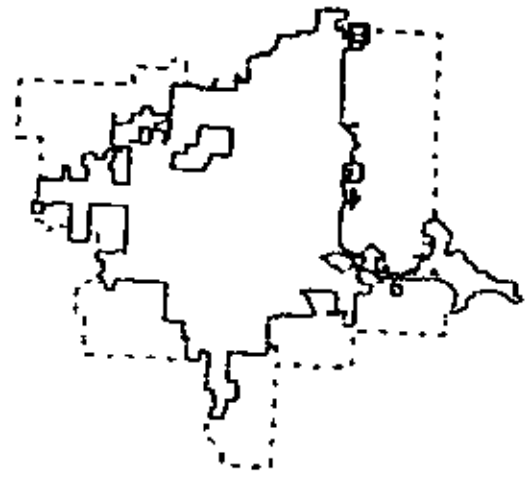
Michele A. Harrington
 Michele A. Harrington

HARPER/BRANDON

Close Up View



Overview



Legend

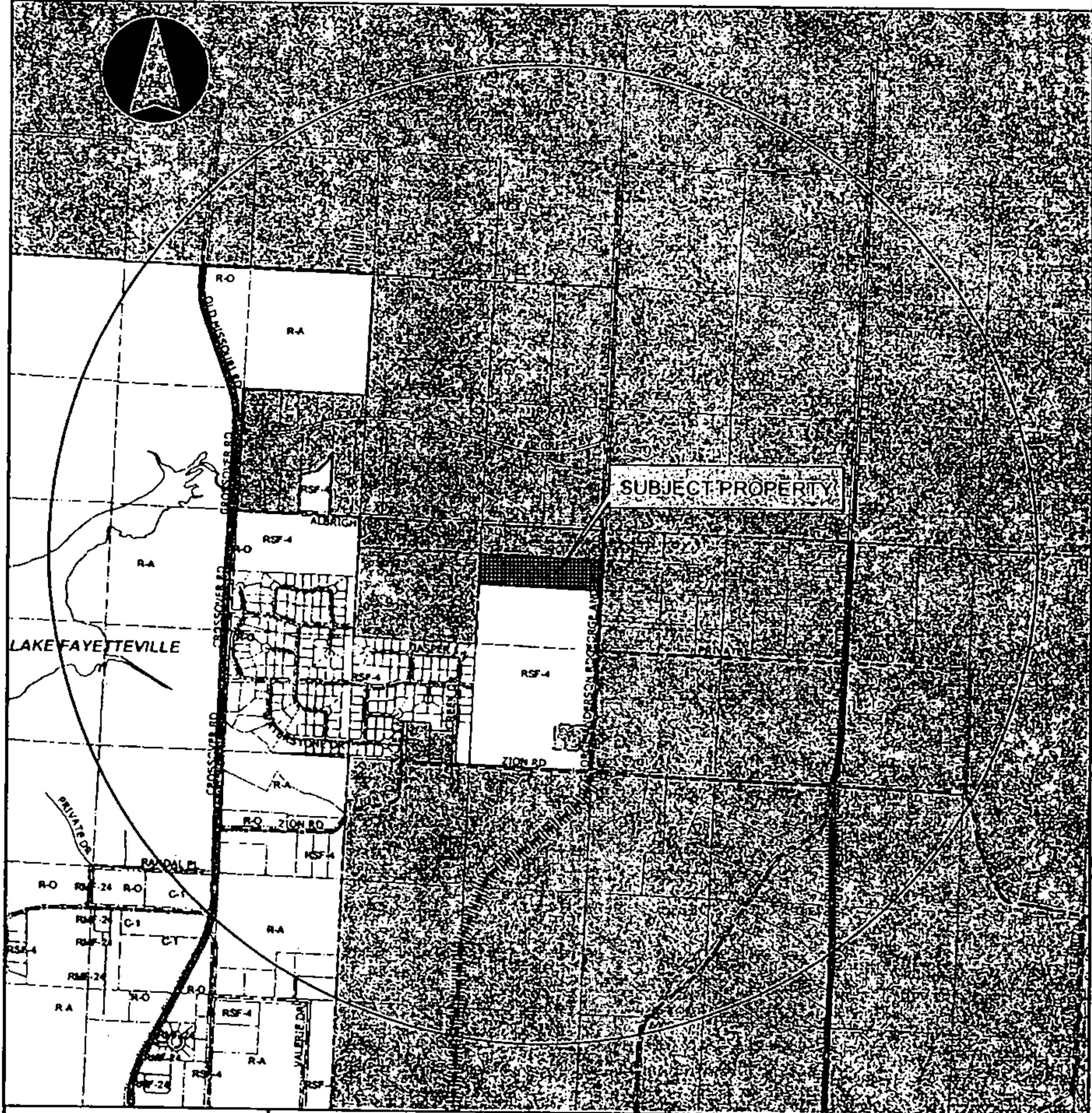
- | | | |
|------------------------|--------------------|------------------|
| ooooo Overlay District | Principal Arterial | FLOODWAY |
| Master Street Plan | Minor Arterial | 100 YEAR |
| Master Street Plan | Collector | 500 YEAR |
| Freeway/Expressway | Historic Collector | LIMIT OF STUDY |
| | City Limits | BaseLine Profile |
| | Outside City | ANX04-05.00 |



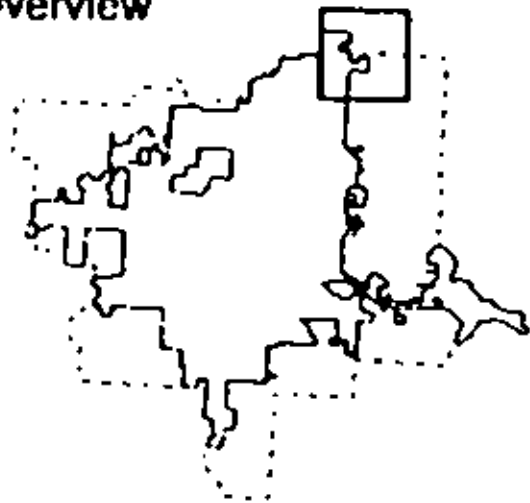
ANX04-05.00

One Mile View

HARPER/BRANDON



Overview



Legend

Subject Property

ANX04-05.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

Planning Commission
April 12, 2004

ANX 04-05.00: Annexation (Harper/Brandon, pp 61) was submitted by Michelle Harrington of Harrington, Miller, Neihouse & Krug, P.A. on behalf of Craig and Karyn Harper and Gary Brandon for property located at Albright Road and George Anderson Road. The property is in the Planning Area and contains approximately 9.99 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 04-04.00: Rezoning (Harper/Brandon, pp 61) was submitted by Michelle Harrington of Harrington, Miller, Neihouse & Krug, P.A. on behalf of Craig and Karyn Harper and Gary Brandon for property located at Albright Road and George Anderson Road. The property is zoned R-A, Residential Agricultural and contains approximately 9.99 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next item on our agenda is ANX 04-05.00 for Harper/Brandon.

Morgan: I will review the Annexation request along with the Rezoning request together.

Warrick: They will require separate votes but since they are the same property you might want to hear them together.

Ostner: Ok, so we are going to hear the rezoning and discuss it and then we will hear the annexation and discuss it and vote on them separately.

Morgan: I will review the annexation first. The subject property contains two tracts of property equaling 9.99 acres. This property is vacant and it is located east of Crossover Road, a principal arterial, and north of Copper Creek Phase II, an approved Preliminary Plat. It is also south of the Springdale city limits. The property is adjacent to the city limits along its southern boundary for approximately 1,300 feet and this is where it abuts Copper Creek Phase II. The applicant is proposing the Annexation of the property into the City of Fayetteville. We noted a rezoning request has been submitted for this property. Staff has reviewed this and made some findings. The requested annexation will extend an existing peninsula to the north. The extension, however, will create an appropriate boundary that will extend to the Planning Area boundary limits. No island completely surrounded by a municipality will be created by annexing this subject property. In addition, this area does not consist of a defined subdivision or neighborhoods. However, future development plans may include the extension of the Copper Creek subdivision and proposed boundaries for property lines. Current conditions result in a fire response time of just over eight minutes from Fire Station #4 and over nine minutes from Fire Station #5. Any development in this area would necessitate installation of hydrants and other such infrastructure improvements to the area. The Police Department reports that current levels of service would not be compromised and that coverage in this area can be provided.

Annexations into the city automatically are zoned R-A and the applicant is requesting to rezone to RSF-4. I will review the findings that staff has made for that request for a rezoning. The proposed zoning is for single family residential and is compatible with the proposed land use to the south. The land use to the east is utilized for single family residential and agricultural uses with the property to the west vacant. A higher density than the R-A district allows for development of a subdivision with density appropriate in this area and would provide compatibility to the south. With those findings, staff is recommending approval of the requested Annexation and Rezoning.

Ostner: Thank you Ms. Morgan. Is the applicant present? Could you introduce yourself?

Harrington: My name is Mickey Harrington, I'm the attorney for the Brandons and the Harpers. With me tonight is the engineer on the project, Brian Moore of ESI and Mr. and Mrs. Brandon. If you have any questions we are here to answer them. I don't think there is anything to present that staff has not already told you about. We do request approval of both the Annexation and the Rezoning.

Ostner: Thank you. At this point I will open it up for public comment. If you would like to come forward and tell us your name and give us your comments.

Stewart: I am Alan Stewart, I live on George Anderson Road. Some of us here live on single houses on multiple acres and we are a little bit concerned about having 40 houses jammed on 10 acres. We are concerned about traffic, we are concerned about drainage, we are concerned about the width of Albright Road, which is already very narrow. The other person eluded to the fire coverage, we are also concerned about that. I would like to have these questions answered. None of us, as far as I know, has yet seen a plat of this property and we would like to have some of these questions answered. Thank you.

Ostner: We'll try to do that tonight.

Nooncaster: My name is John Nooncaster, my property abuts this. I have a map of this if you wouldn't mind taking a look at this. It is kind of a long story. I'll try to make it short and not burden you too much. The pink color on this map is Albright Road is here, this is the City of Springdale. The City of Fayetteville is along the western portion of this map. The City of Fayetteville also continues to the south of the Harper property, which is the brownish, orange property located here. I own the two tracts of property that are colored in yellow here. In this area bounded by George Anderson Road there are approximately 40 acres that are still county

property. Out of this you are having an Annexation request for 10 acres tonight. Two weeks from now I have an application for an Annexation of the southern 20 acres that I own in this area as well. I had discussions with Ms. Warrick about a year ago and I was getting her opinion on staff's recommendation of bringing in both tracts of property that I own in this area. She said that there was a concern by the Planning Department that the blue tract here, which is approximately a three acre tract, would create an island if I brought my Annexation without that property. After much time and effort I decided it was better to bring an application for only the 20 acre tract and not for the 7 acre tract that is north of that because I felt that at some time in the future there would be a request for this Harper property to be brought into the city and they would face the same issue that I was facing, the creation of an island. If you read the General Plan 2020 it says one of the guiding principles is that annexations of existing islands and peninsulas should be formed. It says we should not annex areas that would create an island or a peninsula. Developers are often accused of trying to circumvent the rules and trying to get loop holes. If you read the finding that staff has it says no island, a tract of county property completely surrounded by a municipality will be created by annexing the subject property. That statement is totally true but the item that is glossed over in that statement is the fact that it will not be surrounded by a municipality. There will be 30 acres in this area that will be completely surrounded by the municipalities of Fayetteville and Springdale. In my reading of that it says an island. It does not say an island that is surrounded by one municipality, it says an island. That is why I have chosen when I had my chance to make an application for the 20 acres that I did not bring the seven acres in because I had a discussion with Mr. Pate on March 11th and he also voiced similar concerns about the creation of an island with this three acres of property. Apparently, if you create a three acre island it seems to be a trouble, you create a 30 acre island apparently there is not trouble with it. That was the comments I had. If anybody has any additional questions I would be happy to answer them.

Ostner: Are there other members of the audience who would like to comment on both the Annexation and Rezoning?

Rothenberger: My name is Andrea Rothenberger. My husband and I also own acreage with all of the folks in our row on George Anderson Road and we have not been approached at all, unlike some of the others I've heard tonight, by the applicant at all, Mr. Brandon or Mr. Harper in regard to what the plans are for the residential rezoning. I would like to know and I think others of us would just like to know a little bit more and have more information in general about what the intent is on the square footage of the homes and in general what would be planned for homes there.

Ostner: Thank you. Are there other members of the public who would like to comment on this issue?

Stewart: My name is Catherine Stewart and I also own property on George Anderson Road. My question is George Anderson Road is currently a gravel road. Is the plan to pave this or maintain it as a gravel road and what would be the implication of additional traffic on a gravel road during the winter and the summer when there is a lot of dust?

Ostner: Are there other members of the public who would like to comment on these two items? Seeing none, I will close it to the public and bring it back to the Commission for discussion with the applicant.

Anthes: I wondered if staff might talk to the neighbors on George Anderson Road and tell them when in the process they will be privy to the development plans.

Warrick: The process is just getting started at this point in time. We are considering annexing 9.99 acres into the city limits of Fayetteville and should that be approved by the City Council the request is for that property to then be zoned for single family residential use with no more than four units per acre. Once that is in place, should the Council approve those two requests, the applicant would then be able to submit a development proposal to the city showing a Preliminary Plat to layout a subdivision showing street connections, how many lots, what size lots, where detention is, and what improvements would be going along with that particular development. That will go again through the Planning Commission review process. It will be heard at two public hearings through the Planning Commission process prior to approval. That is a secondary action once this particular request and it's accompanying rezoning request are through the process. Should the Council choose not to annex the property or zone it we would not see a development proposal unless the applicant chose to develop a project in the city's Planning Area, which would not be required to meet certain development criteria of the city.

Moore: I'm Brian Moore with Engineering Services. Copper Creek Phase II abuts George Anderson Road. In Copper Creek Phase II we are making improvements to our side of George Anderson Road to the city standards and the other side, the east side, to the county standards. I would assume that it would be the same. The development of this acreage we would end up doing the same thing.

MOTION:

Anthes: By annexing the property we are able to, as a city, require a higher level of standards for that street development than if the property remains in the

Planning Commission
April 12, 2004

county. Knowing that, I would like to move to send ANX 04-05.00 to the City Council with a recommendation for approval.

Shackelford: I will second.

Ostner: We have a motion and a second. Is there any other discussion on this issue?

Trumbo: Mr. Nooncaster's concern about the island, I was wondering if the staff could comment on that.

Warrick: Staff believes that what is being created here, while it will be a 30 acre tract of land that is surrounded on all four sides by incorporated properties, on three sides by the City of Fayetteville and on the north by the City of Springdale, with regard to the Annexation policy, we are not creating an island that the city would then have the ability to control by annexing it through ordinance as we could if that piece of property were surrounded on all four sides by the City of Fayetteville. I believe what we have here is a timing issue. It is a situation where the property to the east has come before, the Nooncaster property, which is slated for your agenda on the 26th. With regard to whether the three acre Kelly tract is then of issue, that is something that we have to weigh the Annexation policy against. In reality, should the Council choose to annex this 10 acres that we are considering tonight, I believe it makes the case even stronger for the Nooncaster and Kelly properties to be annexed into the City of Fayetteville because they are surrounded on three sides by the City of Fayetteville. They are within the City of Fayetteville Planning Area, which is the designated boundary that we feel will become annexed to the city within a 25 to 30 year span. Therefore, being suitable to be annexed into the city. It is a timing issue and what we see first, second and last is really based on when applicants propose to go into the process. The city is not actively reaching out and annexing by election at this point in time. There are other communities in Northwest Arkansas that are choosing to do that right now but it is not something that the City of Fayetteville desires to do. We look for people to petition to annex into the city and then once we have the application in process and understand what's being requested, we analyze that against our adopted policies to make a recommendation to you and to the City Council on that request.

Ostner: Thank you. Is there any other discussion? Renee, can you call the roll please?

Roll Call: Upon the completion of roll call the motion to forward ANX 04-05.00 to the City Council with a recommendation for approval was approved by a vote of 8-0-0.

- Thomas: The motion carries eight to zero.
- Ostner: The next item is tandem to this, RZN 04-04.00 for Harper Brandon, the same parcel and the same project we have already been talking about. We have already heard a presentation. Commissioners, do you have discussion on this Rezoning?
- Shackelford: Based on what we just did, the request was an annexation. The property comes in under bylaw as zoned Agricultural. On the 2020 Plan and looking at adjoining neighborhoods, it makes a lot more sense I think to be zoned RSF-4 with a maximum of four units per acre. Based on staff's findings and those two points of fact, I will make a motion that we recommend approval to the City Council of RZN 04-04.00.
- Anthes: I will second. I would also like to encourage the developers to have a meeting with the neighbors as you develop your recommendations for the plan.
- Ostner: Thank you. We have a motion by Commissioner Shackelford and a second by Commissioner Anthes. I would just like to reiterate that this is merely a land use decision and the development will come back before us and the public will have an opportunity at that point to talk about the details, the nuts and bolts that they want to hear about with this piece of property. Is there further discussion?
- Clark: I think that is a very important determination to make very clear. I think that this Commission will follow the development of this property very closely especially with regard to the concerns of the neighbors in the surrounding area so I would follow up on the suggestion that the developers work closely with the neighbors because there obviously, are a lot of concerns with what now happens to this property. Because it has been annexed and we are about to take the next vote, it gives you much more voice in the whole process.
- Ostner: Thank you Ms. Clark. Is there further discussion on RZN 04-04.00? Renee?
- Roll Call:** Upon the completion of roll call the motion to forward RZN 04-04.00 to the City Council with a recommendation for approval was approved by a vote of 8-0-0.
- Thomas: The motion carries eight to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C. 4
ANX 04-5.00 (Harper/Brandon)
Page 28 of 28 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

May 4, 2004

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-05:00: Annexation (Harper/Brandon, pp 61) was submitted by Michele Harrington on behalf of Gary Brandon Enterprises, Inc. for property located south of Albright Road on the west side of George Anderson Road. The request is to annex 9.99 acres into the city limits of the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn I. Warrick
Division Head4/16/04
Date

Received in Mayor's Office

4/16/04
Date *P.H.**[Signature]*
City Attorney4/16/04
Date

Department Director

Date

[Signature]
Finance & Internal Services Dir.4-20-04
Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

[Signature]
Chief Administrative Officer4-20-04
Date

New Item:

Yes

No

Mayor

Date



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator 

Date: April 15, 2004

Subject: Rezoning request for Harper/Brandon (RZN 04-04.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 9.99 acres of property from R-A, Residential Agricultural to RSF-4, Residential Single-family, 4 units per acre.

BACKGROUND

The subject property is 9.99 acres and located east of Crossover Road (principal arterial), north of Copper Creek Phase II, and south of Springdale city limits. It is adjacent to the city limits along its southern boundary where it abuts the Copper Creek Phase II, an approved preliminary plat. The north, east, and south boundaries are not contiguous to the City limits. Although the tract of land will result in the expansion of a peninsula, it will create a city boundary that will extend to the Planning Area boundary. Connectivity and off-site improvements will be evaluated at the time of development.

Proposal: The applicant proposes to rezone the 9.99 acre tract in anticipation of the development of a single family residential subdivision. The requested zoning will provide for additional residential development at a maximum density of 4 units per acre.

DISCUSSION

On April 12, 2004, the Planning Commission voted 8-0-0 to forward this rezoning request to the City Council with a recommendation for approval with an accompanying annexation request.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-04.00 AS SUBMITTED BY MICHELE HARRINGTON ON BEHALF OF GARY BRANDON ENTERPRISES, INC. FOR PROPERTY LOCATED SOUTH OF ALBRIGHT ROAD ON GEORGE ANDERSON ROAD CONTAINING APPROXIMATELY 9.99 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL, TO RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE.

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

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

From R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 04-04.00

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE SOUTHEAST QUARTER (1/4) OF SECTION EIGHTEEN (18), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING IN ALBRIGHT ROAD AND FROM WHICH A REFERENCE IRON SET ON THE SOUTH RIGHT OF WAY OF SAID ROAD BEARS S02°39'07"W - 18.94 FEET; THENCE S2°34'07" W-330.06 FEET ALONG AN EXISTING FENCE ON THE OCCUPIED WEST LINE OF SAID 40 ACRE TRACT TO THE POINT OF BEGINNING, THENCE S87°24'24"E 660.00 FEET, THENCE S87°24'09"E-658.59 FEET TO A POINT ON THE EAST LINE OF SAID 40 ACRE TRACT, THENCE ALONG SAID EAST LINE S2°31'12"W - 330.00' TO A POINT IN GEORGE ANDERSON ROAD FROM WHICH A REFERENCE IRON SET ON THE WEST RIGHT OF WAY OF GEORGE ANDERSON ROAD BEARS N87°24'03"W - 31.82 FEET, THENCE N87°24'03"W - 658.95 FEET, THENCE N87°24'46" W - 659.92 FEET TO A POINT ON THE OCCUPIED WEST LINE OF SAID 40 ACRE TRACT, THENCE ALONG AN EXISTING FENCE ON SAID OCCUPIED WEST LINE N2°34'07" E- 330.06 FEET TO THE POINT OF BEGINNING. CONTAINING 9.99 ACRES, MORE OR LESS.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: April 8, 2004

RZN 04-04.00: Rezoning (Harper/Brandon, pp 61) was submitted by Michelle Harrington of Harrington, Miller, Neihouse & Krug, P.A. on behalf of Craig and Karyn Harper and Gary Brandon for property located at Albright Road and George Anderson Road. The property is zoned R-A, Residential Agricultural and contains approximately 9.99 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>April 12, 2004</u>			
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>May 04, 2004</u>			

BACKGROUND:

Property description: The subject property contains two tracts of property equaling 9.99 acres of vacant property located east of Crossover Rd. (principal arterial), north of Copper Creek Ph. II, and south of Springdale city limits. The property is adjacent to the city limits along its southern boundary where it abuts the Copper Creek Ph. II (PPL under construction) from which connectivity will be provided to the north.

Proposal: The developer's intent is to develop a single family residential subdivision as an extension of Copper Creek Ph. II.

Request: The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 dwelling units per acre, should the preceding Annexation

request be approved.

When property is annexed into the City, it is annexed as R-A, Residential Agricultural. If annexation request ANX 04-05.00 is recommended for approval to City Council, the applicant would like to rezone the 9.99 acres to RSF-4, Residential Single-Family, 4 units per acre.

Recommendation: Staff recommends approval of the rezoning request based on the findings included in the staff report. Future development on this site will be regulated by the City to ensure adequate services, infrastructure, connectivity and consistent development within the surrounding area.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single-family	City of Springdale
South	Vacant (PPL Copper Creek Ph. II under construction)	RSF-4, Residential Single Family, 4 units per acre
East	Single-family	Planning Area
West	Vacant	Planning Area

INFRASTRUCTURE:

Streets: George Anderson Road is not an improved roadway. At the time of development, street improvements will be recommended for the property frontage to widen the street to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks. The east side of the roadway will be in the county, and will need to be improved to current county standards.

Surrounding Master Street Plan Streets:

North: Albright Rd. (no classification)

South: Zion Rd (collector)

East: George Anderson Rd. (collector) and Howard Anderson Rd. (collector)

West: Copper Creek Dr. (local)

Water: The property will have access to an 8" looped water main system that is being installed with Copper Creek Phase 2 subdivision. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

Sewer: The site will have access to an 8" sewer main that is being installed with Copper Creek Phase 2 subdivision. Sewer will need to be extended within the development. The developers engineer will need to provide calculations to show that there is adequate capacity in the Copper Creek 2 lift station and the Stonewood lift station. Upgrades to these stations and/or force mains may be required.

Fire: The subject property is located 4.7 miles from the Fire Station #4. Normal driving time is 8 min. 27 seconds. The property is located 5.7 miles from Station #5 at 833 Crossover Rd with a response time of 9 minutes 28 seconds.

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

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to RSF-4 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning for a single family residential subdivision is compatible with the proposed land use to the south. Adjacent property to the east and west are within the Planning Area. The land to the east is utilized for single family residential and agricultural uses, with vacant property to the west. Springdale city limit creates the northern property boundary and is developed for single family use. The general plan designates this area for residential uses, which is compatible with the proposed RSF-4 zoning. Access and provision of adequate services must be considered as this site is at the outskirts of the city and located on streets which need improvement.

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 order to promote orderly and consistent development patterns making use of existing infrastructure. A higher density than the R-A zoning district allows for development of a subdivision with density appropriate in this area, and would provide compatibility with the adjoining development. In order to develop a residential subdivision on this property in a manner that is consistent with the future land use plan, a residential zoning district is needed.

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

Finding: The proposed zoning will provide additional traffic on Zion Rd to the south, George Anderson Rd to the east, and the infrastructure both existing and being constructed within Copper Creek Phases I and II. Off-site improvements would likely be necessary in order to provide safe access to this site.

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

Finding: The proposed zoning would increase population density. The 9.99 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 4 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 39 dwelling units would be permitted. This increases the possible number of residential units substantially, but is consistent with land use and zoning in the immediate vicinity.

Engineering - George Anderson Road is not an improved roadway. At the time of development, street improvements will be recommended for the property frontage to widen the street to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks. The east side of the roadway will be in the county, and will need to be improved to current county standards.

The property will have access to an 8" looped water main system that is being installed with Copper Creek Phase 2 subdivision. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

The site will have access to an 8" sewer main that is being installed with Copper Creek Phase 2 subdivision. Sewer will need to be extended within the development. The developers engineer will need to provide calculations to show that there is adequate capacity in the Copper Creek 2 lift station and the Stonewood lift station. Upgrades to these stations and/or force mains may be required.

Fire - The subject property is located 4.7 miles from the Fire Station #4. Normal driving time is 8 min. 27 seconds. The property is located 5.7 miles from Station #5 at 833 Crossover Rd with a response time of 9 minutes 28 seconds.

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

5. If there are reasons why the proposed zoning should not be approved in view of

considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

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

Finding: N/A

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

RECEIVED

APR 06 2004

PLANNING DIV.

POLICE DEPARTMENT

C. 5
RZN 04-4.00 (Harper/Brandon)
Page 10 of 22

April 5, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed ANX 04-05.00 Annexation (Harper/Brandon, pp 61) and RZN 04-04.00 Rezoning (Harper/Brandon, pp 61) submitted by Michelle Harrington on behalf of Craig and Karen Harper and Gary Brandon for property located at Albright Road and George Anderson Road would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services nor create and appreciable increase in traffic danger and traffic congestion.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown".

Lieutenant William Brown
Fayetteville Police Department



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 04-05-04

REZONING ☒ ANNEXATION ☐

REZONING # RZN 04.04.00 OWNER Harper/Brandon

ANNEXATION# OWNER

LOCATION OF
PROPERTY ALBRIGHT + George Anderson Rd.

NEAREST FIRE STATION AND
LOCATION STA 4 Plainview St

RESPONSE TIME FROM FIRE STATION # 4 TO
LOCATION OF
PROPERTY 8 MINUTES 27 SECONDS.

TRAVEL MILES FROM FIRE STATION # 4 TO LOCATION OF
PROPERTY 4.7 miles

COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION EXISTING ON ALBRIGHT

WATER SUPPLY WITH HYDRANTS
NEEDED? yes

ADDITIONAL
COMMENTS clocked from STA 5. 833 CROSSOVER 5.7 miles
9 minutes 28 seconds

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272

RZN04-04.00

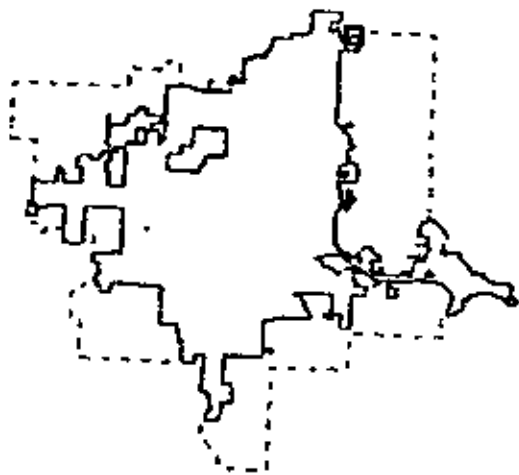
RZN 04-4.00 (Harper/Brandon)
Page 12 of 22

HARPER/BRANDON

Close Up View



Overview



Legend

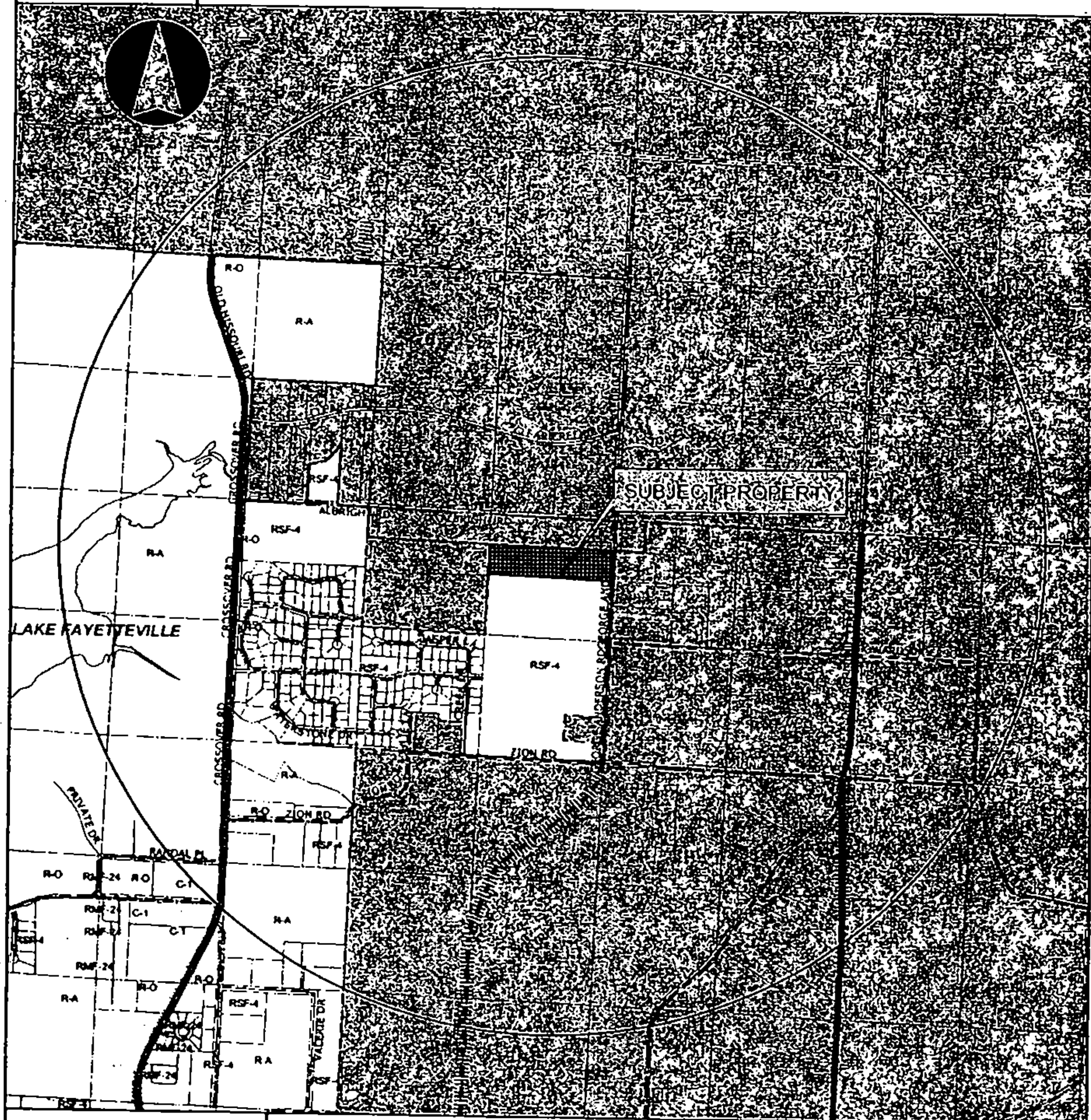
- | | | |
|--------------------|--------------------|-------------------|
| Overlay District | Principal Arterial | FLOODWAY |
| Master Street Plan | Minor Arterial | 100 YEAR |
| Master Street Plan | Collector | 500 YEAR |
| Freeway/Expressway | Historic Collector | LIMIT OF STUDY |
| | City Limits | Base Line Profile |
| | Outside City | RZN04-04.00 |

0 125 250 500 750 1,000 Feet

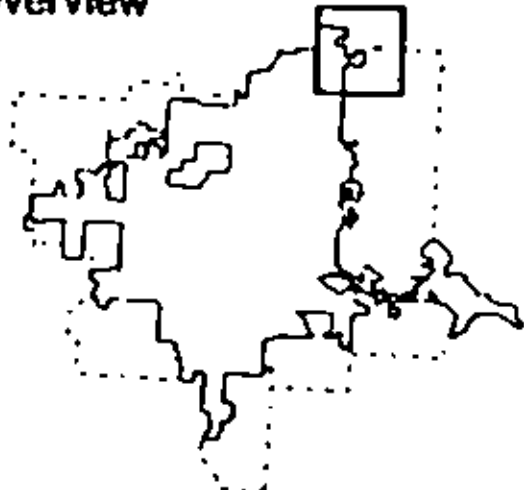
RZN04-04.00

One Mile View

HARPER/BRANDON



Overview



Legend

Subject Property

RZN04-04.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

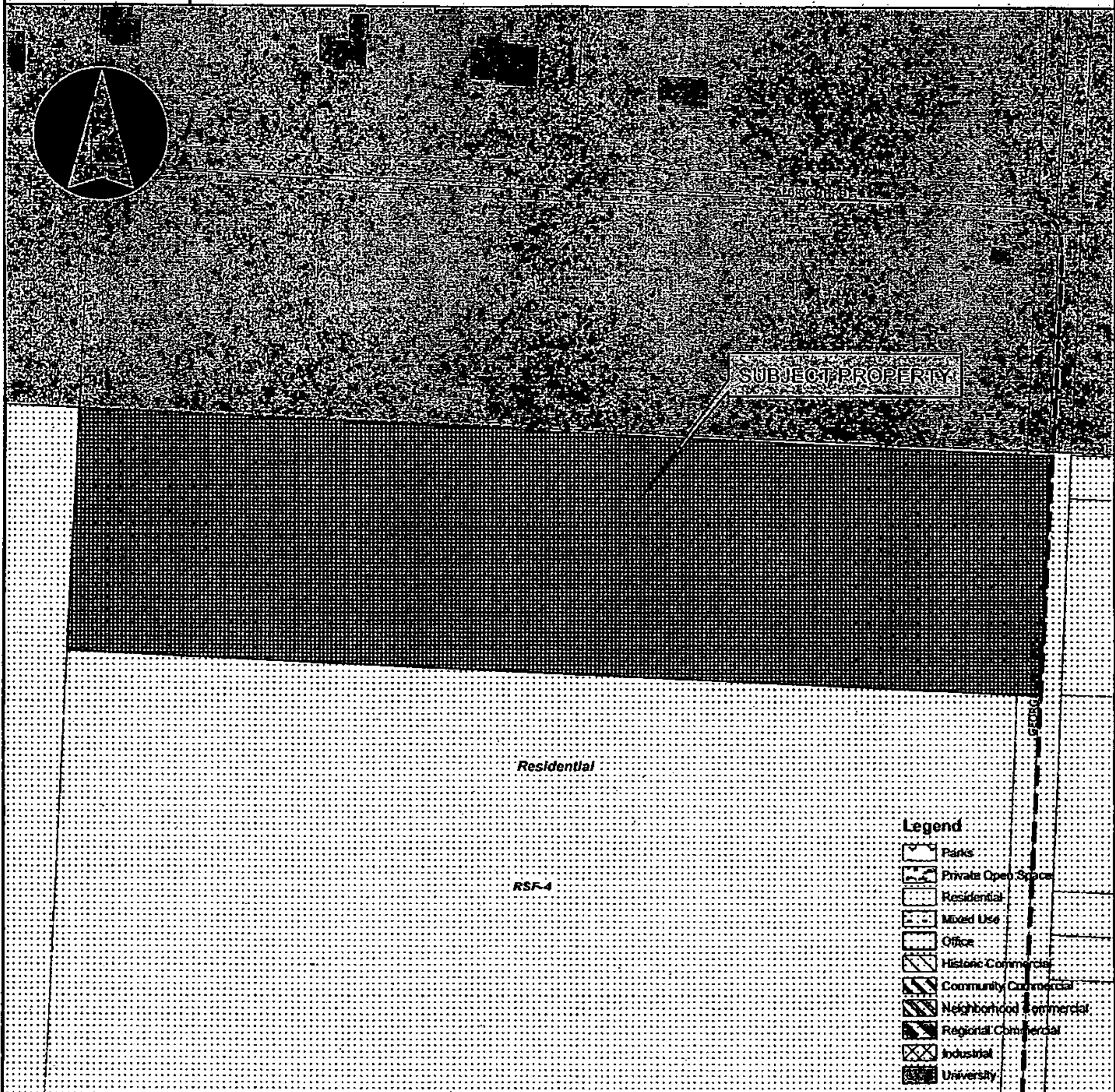
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

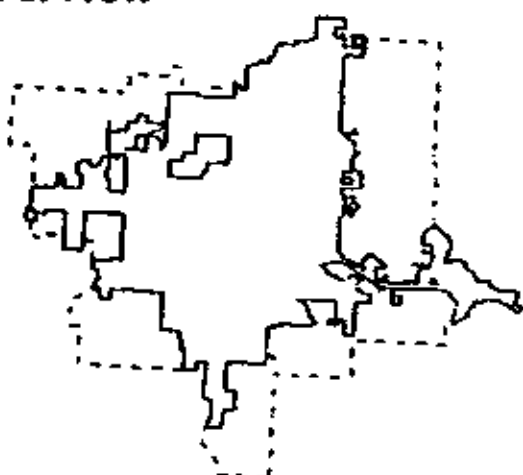
RZN04-04.00

Future Land Use

HARPER/BRANDON



Overview



Legend

Subject Property



RZN04-04.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector



Planning Commission
April 12, 2004

ANX 04-05.00: Annexation (Harper/Brandon, pp 61) was submitted by Michelle Harrington of Harrington, Miller, Neihouse & Krug, P.A. on behalf of Craig and Karyn Harper and Gary Brandon for property located at Albright Road and George Anderson Road. The property is in the Planning Area and contains approximately 9.99 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 04-04.00: Rezoning (Harper/Brandon, pp 61) was submitted by Michelle Harrington of Harrington, Miller, Neihouse & Krug, P.A. on behalf of Craig and Karyn Harper and Gary Brandon for property located at Albright Road and George Anderson Road. The property is zoned R-A, Residential Agricultural and contains approximately 9.99 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

- Ostner: The next item on our agenda is ANX 04-05.00 for Harper/Brandon.
- Morgan: I will review the Annexation request along with the Rezoning request together.
- Warrick: They will require separate votes but since they are the same property you might want to hear them together.
- Ostner: Ok, so we are going to hear the rezoning and discuss it and then we will hear the annexation and discuss it and vote on them separately.
- Morgan: I will review the annexation first. The subject property contains two tracts of property equaling 9.99 acres. This property is vacant and it is located east of Crossover Road, a principal arterial, and north of Copper Creek Phase II, an approved Preliminary Plat. It is also south of the Springdale city limits. The property is adjacent to the city limits along it's southern boundary for approximately 1,300 feet and this is where it abuts Copper Creek Phase II. The applicant is proposing the Annexation of the property into the City of Fayetteville. We noted a rezoning request has been submitted for this property. Staff has reviewed this and made some findings. The requested annexation will extend an existing peninsula to the north. The extension, however, will create an appropriate boundary that will extend to the Planning Area boundary limits. No island completely surrounded by a municipality will be created by annexing this subject property. In addition, this area does not consist of a defined subdivision or neighborhoods. However, future development plans may include the extension of the Copper Creek subdivision and proposed boundaries for property lines. Current conditions result in a fire response time of just over eight minutes from Fire Station #4 and over nine minutes from Fire Station #5. Any development in this area would necessitate installation of hydrants and other such infrastructure improvements to the area. The Police Department reports that current levels of service would not be compromised and that coverage in this area can be provided.

Planning Commission
April 12, 2004

Annexations into the city automatically are zoned R-A and the applicant is requesting to rezone to RSF-4. I will review the findings that staff has made for that request for a rezoning. The proposed zoning is for single family residential and is compatible with the proposed land use to the south. The land use to the east is utilized for single family residential and agricultural uses with the property to the west vacant. A higher density than the R-A district allows for development of a subdivision with density appropriate in this area and would provide compatibility to the south. With those findings, staff is recommending approval of the requested Annexation and Rezoning.

Ostner: Thank you Ms. Morgan. Is the applicant present? Could you introduce yourself?

Harrington: My name is Mickey Harrington, I'm the attorney for the Brandons and the Harpers. With me tonight is the engineer on the project, Brian Moore of ESI and Mr. and Mrs. Brandon. If you have any questions we are here to answer them. I don't think there is anything to present that staff has not already told you about. We do request approval of both the Annexation and the Rezoning.

Ostner: Thank you. At this point I will open it up for public comment. If you would like to come forward and tell us your name and give us your comments.

Stewart: I am Alan Stewart, I live on George Anderson Road. Some of us here live on single houses on multiple acres and we are a little bit concerned about having 40 houses jammed on 10 acres. We are concerned about traffic, we are concerned about drainage, we are concerned about the width of Albright Road, which is already very narrow. The other person eluded to the fire coverage, we are also concerned about that. I would like to have these questions answered. None of us, as far as I know, has yet seen a plat of this property and we would like to have some of these questions answered. Thank you.

Ostner: We'll try to do that tonight.

Nooncaster: My name is John Nooncaster, my property abuts this. I have a map of this if you wouldn't mind taking a look at this. It is kind of a long story. I'll try to make it short and not burden you too much. The pink color on this map is Albright Road is here, this is the City of Springdale. The City of Fayetteville is along the western portion of this map. The City of Fayetteville also continues to the south of the Harper property, which is the brownish, orange property located here. I own the two tracts of property that are colored in yellow here. In this area bounded by George Anderson Road there are approximately 40 acres that are still county

property. Out of this you are having an Annexation request for 10 acres tonight. Two weeks from now I have an application for an Annexation of the southern 20 acres that I own in this area as well. I had discussions with Ms. Warrick about a year ago and I was getting her opinion on staff's recommendation of bringing in both tracts of property that I own in this area. She said that there was a concern by the Planning Department that the blue tract here, which is approximately a three acre tract, would create an island if I brought my Annexation without that property. After much time and effort I decided it was better to bring an application for only the 20 acre tract and not for the 7 acre tract that is north of that because I felt that at some time in the future there would be a request for this Harper property to be brought into the city and they would face the same issue that I was facing, the creation of an island. If you read the General Plan 2020 it says one of the guiding principles is that annexations of existing islands and peninsulas should be formed. It says we should not annex areas that would create an island or a peninsula. Developers are often accused of trying to circumvent the rules and trying to get loop holes. If you read the finding that staff has it says no island, a tract of county property completely surrounded by a municipality will be created by annexing the subject property. That statement is totally true but the item that is glossed over in that statement is the fact that it will not be surrounded by a municipality. There will be 30 acres in this area that will be completely surrounded by the municipalities of Fayetteville and Springdale. In my reading of that it says an island. It does not say an island that is surrounded by one municipality, it says an island. That is why I have chosen when I had my chance to make an application for the 20 acres that I did not bring the seven acres in because I had a discussion with Mr. Pate on March 11th and he also voiced similar concerns about the creation of an island with this three acres of property. Apparently, if you create a three acre island it seems to be a trouble, you create a 30 acre island apparently there is not trouble with it. That was the comments I had. If anybody has any additional questions I would be happy to answer them.

Ostner: Are there other members of the audience who would like to comment on both the Annexation and Rezoning?

Rothenberger: My name is Andrea Rothenberger. My husband and I also own acreage with all of the folks in our row on George Anderson Road and we have not been approached at all, unlike some of the others I've heard tonight, by the applicant at all, Mr. Brandon or Mr. Harper in regard to what the plans are for the residential rezoning. I would like to know and I think others of us would just like to know a little bit more and have more information in general about what the intent is on the square footage of the homes and in general what would be planned for homes there.

Planning Commission
April 12, 2004

Ostner: Thank you. Are there other members of the public who would like to comment on this issue?

Stewart: My name is Catherine Stewart and I also own property on George Anderson Road. My question is George Anderson Road is currently a gravel road. Is the plan to pave this or maintain it as a gravel road and what would be the implication of additional traffic on a gravel road during the winter and the summer when there is a lot of dust?

Ostner: Are there other members of the public who would like to comment on these two items? Seeing none, I will close it to the public and bring it back to the Commission for discussion with the applicant.

Anthes: I wondered if staff might talk to the neighbors on George Anderson Road and tell them when in the process they will be privy to the development plans.

Warrick: The process is just getting started at this point in time. We are considering annexing 9.99 acres into the city limits of Fayetteville and should that be approved by the City Council the request is for that property to then be zoned for single family residential use with no more than four units per acre. Once that is in place, should the Council approve those two requests, the applicant would then be able to submit a development proposal to the city showing a Preliminary Plat to layout a subdivision showing street connections, how many lots, what size lots, where detention is, and what improvements would be going along with that particular development. That will go again through the Planning Commission review process. It will be heard at two public hearings through the Planning Commission process prior to approval. That is a secondary action once this particular request and it's accompanying rezoning request are through the process. Should the Council choose not to annex the property or zone it we would not see a development proposal unless the applicant chose to develop a project in the city's Planning Area, which would not be required to meet certain development criteria of the city.

Moore: I'm Brian Moore with Engineering Services. Copper Creek Phase II abuts George Anderson Road. In Copper Creek Phase II we are making improvements to our side of George Anderson Road to the city standards and the other side, the east side, to the county standards. I would assume that it would be the same. The development of this acreage we would end up doing the same thing.

MOTION:

Anthes: By annexing the property we are able to, as a city, require a higher level of standards for that street development than if the property remains in the

county. Knowing that, I would like to move to send ANX 04-05.00 to the City Council with a recommendation for approval.

Shackelford: I will second.

Ostner: We have a motion and a second. Is there any other discussion on this issue?

Trumbo: Mr. Nooncaster's concern about the island, I was wondering if the staff could comment on that.

Warrick: Staff believes that what is being created here, while it will be a 30 acre tract of land that is surrounded on all four sides by incorporated properties, on three sides by the City of Fayetteville and on the north by the City of Springdale, with regard to the Annexation policy, we are not creating an island that the city would then have the ability to control by annexing it through ordinance as we could if that piece of property were surrounded on all four sides by the City of Fayetteville. I believe what we have here is a timing issue. It is a situation where the property to the east has come before, the Nooncaster property, which is slated for your agenda on the 26th. With regard to whether the three acre Kelly tract is then of issue, that is something that we have to weigh the Annexation policy against. In reality, should the Council choose to annex this 10 acres that we are considering tonight, I believe it makes the case even stronger for the Nooncaster and Kelly properties to be annexed into the City of Fayetteville because they are surrounded on three sides by the City of Fayetteville. They are within the City of Fayetteville Planning Area, which is the designated boundary that we feel will become annexed to the city within a 25 to 30 year span. Therefore, being suitable to be annexed into the city. It is a timing issue and what we see first, second and last is really based on when applicants propose to go into the process. The city is not actively reaching out and annexing by election at this point in time. There are other communities in Northwest Arkansas that are choosing to do that right now but it is not something that the City of Fayetteville desires to do. We look for people to petition to annex into the city and then once we have the application in process and understand what's being requested, we analyze that against our adopted policies to make a recommendation to you and to the City Council on that request.

Ostner: Thank you. Is there any other discussion? Renee, can you call the roll please?

Roll Call: Upon the completion of roll call the motion to forward ANX 04-05.00 to the City Council with a recommendation for approval was approved by a vote of 8-0-0.

Planning Commission
April 12, 2004

Thomas: The motion carries eight to zero.

Ostner: The next item is tandem to this, RZN 04-04.00 for Harper Brandon, the same parcel and the same project we have already been talking about. We have already heard a presentation. Commissioners, do you have discussion on this Rezoning?

Shackelford: Based on what we just did, the request was an annexation. The property comes in under bylaw as zoned Agricultural. On the 2020 Plan and looking at adjoining neighborhoods, it makes a lot more sense I think to be zoned RSF-4 with a maximum of four units per acre. Based on staff's findings and those two points of fact, I will make a motion that we recommend approval to the City Council of RZN 04-04.00.

Anthes: I will second. I would also like to encourage the developers to have a meeting with the neighbors as you develop your recommendations for the plan.

Ostner: Thank you. We have a motion by Commissioner Shackelford and a second by Commissioner Anthes. I would just like to reiterate that this is merely a land use decision and the development will come back before us and the public will have an opportunity at that point to talk about the details, the nuts and bolts that they want to hear about with this piece of property. Is there further discussion?

Clark: I think that is a very important determination to make very clear. I think that this Commission will follow the development of this property very closely especially with regard to the concerns of the neighbors in the surrounding area so I would follow up on the suggestion that the developers work closely with the neighbors because there obviously, are a lot of concerns with what now happens to this property. Because it has been annexed and we are about to take the next vote, it gives you much more voice in the whole process.

Ostner: Thank you Ms. Clark. Is there further discussion on RZN 04-04.00? Renee?

Roll Call: Upon the completion of roll call the motion to forward RZN 04-04.00 to the City Council with a recommendation for approval was approved by a vote of 8-0-0.

Thomas: The motion carries eight to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C. 5
RZN 04-4.00 (Harper/Brandon)
Page 21 of 22 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

May 4, 2004

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-04.00: Rezoning (Harper/Brandon, pp 61) was submitted by Michele Harrington on behalf of Gary Brandon Enterprises, Inc. for property located south of Albright Road on George Anderson Road. The newly annexed property is currently zoned R-A, Residential Agricultural and contains approximately 9.99 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

STAFF RECOMMENDATION: Approval.

Dawn Warrick

Division Head

4/16/04
Date

Received in Mayor's Office

4/16/04
Date PHK. [Signature]

City Attorney

4/16/04
Date

Department Director

Date

[Signature]

Finance & Internal Services Dir.

4-20-04
Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item:

Yes

No

Mayor

Date



CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator *Dtw*

Date: April 14, 2004

Subject: Rezoning request for The Crowne (RZN 04-06.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 10.93 acres of property from I-1, Heavy Commercial and Light Industrial to RMF-12, Residential Multi-family, 12 DU/Acre.

BACKGROUND

Property description: The subject 10.93 acre vacant tract of land is located in south Fayetteville, north of 18th Street, west of Beechwood Avenue. Directly to the east is the Crowne Apartments Large Scale Development, currently under construction. To the west across Town Creek is C-2, Thoroughfare Commercial property, also vacant. The Town Creek floodway and floodplain that forms the boundary between the Regional Commercial property to the west and the Mixed Use property to the east limits much development opportunity at this particular location. The developer intends to develop a condominium project on the 10.93 acres with a for-sale type of dwelling unit, as a departure from the multi-family apartment complex being developed to the east and planned Regional Commercial development to the west of Town Creek. A conceptual master plan is included in the staff report.

Proposal: The applicant proposes to rezone the 10.93 acre tract in anticipation of the development of a condominium project. The requested zoning will provide for additional residential development at a maximum density of 12 units per acre.

DISCUSSION

On April 12, 2004, the Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval of the rezoning.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-06.00 AS SUBMITTED BY JERRY KELSO OF CRAFTON, TULL & ASSOCIATES ON BEHALF OF THE CROWNE LIMITED PARTNERSHIP FOR PROPERTY LOCATED NORTH OF 18TH STREET AND WEST OF BEECHWOOD AVENUE CONTAINING APPROXIMATELY 10.93 ACRES FROM I-1, HEAVY COMMERCIAL, LIGHT INDUSTRIAL TO RMF-12, RESIDENTIAL MULTI FAMILY, TWELVE UNITS PER ACRE.

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

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

From I-1, Heavy Commercial/Light Industrial to RMF-12, Residential Multi-Family, 12 Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 04-06.00

A PART OF THE NW1/4 OF THE SW1/4 AND A PART OF THE NE1/4 OF THE SW1/4 OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 30 WEST, IN THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID NE1/4 OF THE SW1/4, THENCE N87°32'28"W 189.00 FEET TO A CREEK; THENCE ALONG SAID CREEK THE FOLLOWING COURSES: S11°49'19"E 32.53 FEET; THENCE S42°33'00"E 65.60 FEET; THENCE S20°20'42"E 102.30 FEET; THENCE S47°11'55"E 115.15 FEET; THENCE S10°34'49"E 145.85 FEET; THENCE S30°24'54"E 47.47 FEET; THENCE S50°19'43"E 162.67 FEET; THENCE S62°08'41"E 89.16 FEET; THENCE S49°38'02"E 57.09 FEET; THENCE S11°44'57"E 47.21 FEET; THENCE S18°29'51"W 93.17 FEET; THENCE S10°39'48"W 83.02 FEET; THENCE S31°36'12"E 47.02 FEET; THENCE S79°05'41"E 46.50 FEET; THENCE N46°39'58"E 54.31 FEET; THENCE S80°28'57"E 178.43 FEET; THENCE S41°22'28"E 124.84 FEET TO THE EAST LINE OF THE W1/2 OF SAID NE1/4 OF THE SW1/4; THENCE LEAVING THE CREEK AND RUNNING ALONG SAID EAST LINE N02°31'18"E 929.02 FEET TO THE NORTHEAST CORNER OF THE W1/2 OF SAID NE1/4 OF THE SW1/4; THENCE N86°52'04"W 655.46 FEET TO THE POINT OF BEGINNING, CONTAINING 10.93 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD OR FACT.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: April 07, 2004

RZN 04-06.00: Rezoning (The Crowne, pp 559) was submitted by Crafton, Tull & Associates, Inc. on behalf of LEC Properties for property located at the southeast corner of 15th Street and Beechwood Avenue, north of 18th Street. The property is currently zoned I-1, Heavy Commercial, Light Industrial, and contains approximately 10.93 acres. The request is to rezone the subject property to RMF-12, Residential Multi-family, 12 units per acre. Planner: Jeremy Pate

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	Required <u>YES</u>
	☒ Approved ☐ Denied
Date: <u>April 12, 2004</u>	8-0-0
CITY COUNCIL ACTION:	Required <u>YES</u>
	☒ Approved ☐ Denied
Date: <u>May 04, 2004</u>	

BACKGROUND:

Property description: The subject property is located in south Fayetteville, immediately west of the Crowne Apartments development currently under construction, and north and east of Town Creek. Immediate surrounding properties are primarily vacant, with commercial zoning and planned land use to the west, existing I-1 to the north and multi-family development to the east. The property is currently zoned I-1, Heavy Commercial and Light Industrial, a zoning which is not particularly compatible with the residential use to the east, nor planned commercial development to the west. A natural barrier is formed all along the western boundary of the subject property, Town Creek and its associated floodplain. Limited development may occur within this floodplain, though it may be important to construct a crossing of the creek at some point in the future development of surrounding property, to provide adequate access from existing residential areas and planned commercial tracts.

Proposal: The developer intends to develop a condominium project on the 10.93 acres with a for-sale type of dwelling unit, as a departure from the multi-family apartment complex being developed to the east. A trail corridor is being constructed by the developer of the Crowne Apartments for the Parks Department, a corridor that will likely continue along Town Creek with development of the proposed project. The proposed zoning allows for a maximum density of 12 units per acre, resulting in a maximum potential of 131 dwelling units.

Request: The request is to rezone the property RMF-12, Residential Multi-family, 12 units per acre.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	SWEPCO station, industrial use	I-1, Heavy Commercial, Lt Industrial
South	Vacant	C-2, Thoroughfare Commercial
East	Crowne Apts, under construction	RMF-24, Res. Multifamily, 24 DU/acre
West	Vacant	C-2, Thoroughfare Commercial

INFRASTRUCTURE:

Streets: The rezoning request is not adjacent to a public right-of-way. Access will be likely be provided through the parking areas for the Crowne Apts. that are under construction at this time. To meet zoning requirements for frontage, the lot is part of an overall, larger tract that does front onto Futrell Drive and 18th Street. In order to process a development proposal on this particular site, a legal lot will need to be created first, and adequate frontage onto a public right-of-way provided.

Water: The property will have access to an 8" looped water main system that is being installed with phase I of this project. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

Sewer: The site currently has access to a 24" and a 12" sewer main across the site. Sewer will need to be extended within the development.

The new wastewater project plans to construct a new 42-inch gravity sewer main parallel to an existing 36-inch gravity force main in this area. As development plans are submitted, and confirm this to be the case, permanent easements need to be protected. Additionally, temporary construction easements may need to be obtained to facilitate construction of the new lines.

Fire: The subject property is located 0.9 miles from the Fire Station #6 on Hollywood

Drive. Normal driving time is 1 min. 56 seconds. Water supply will be necessary for this property to develop. Street improvements to allow for necessary fire apparatus ingress/egress will also be required.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates the west side of Town Creek in this area as Mixed Use. Rezoning this property to RMF-12 is consistent with the land use plan and is compatible with surrounding multifamily land use and future commercial development in the vicinity.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning for a multifamily, condominium-style residential land use is compatible with adjacent and nearby multifamily dwellings currently under construction to the east, as well as property designated as Thoroughfare/Regional Commercial to the west. The General Plan designates this area for mixed uses, which is compatible with the proposed RMF-12 zoning, in conjunction with future commercial activities.

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 order to promote orderly and consistent development patterns making use of existing infrastructure. The rezoning is needed for the development of a condominium project as proposed by the applicant. A residential development could not be developed on this site with the existing I-1 zoning in place. Staff finds the presence of Town Creek proves a formidable boundary along the south and west, on which land uses are divided in the General Plan 2020, Regional Commercial to the west of the creek and Mixed Use to the east. A residential component at a lower density than traditional multifamily apartment complexes (RMF-24 or RMF-40) is a justified use of land in this area, with access provided from Beechwood, and eventually from Futrall Drive, with construction of a bridge. Staff fully expects the development of land west of Town Creek to be commercial in nature, and has had preliminary discussions with the applicant regarding a masterplan identifying this area as such. The applicant currently owns property on both sides of Town Creek.

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

Finding: The proposed zoning will potentially create additional traffic on Beechwood,

15th Street, 18th Street, and Furall Drive. Beechwood and 18th Street are being improved with the construction of the Crowne Apartments. Should a development be submitted for approval for the subject site, an assessment for a traffic signal at Razorback and 15th street will be required. The Fayetteville Police Department submits that this rezoning will not create an appreciable increase in traffic danger and congestion in this area.

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

Finding: The proposed zoning would increase population density. The 10.93 acre tract under an I-1, Heavy Commercial and Light Industrial zoning designation would not allow for residential development in this manner. With the proposed RMF-12 designation, 131 dwelling units would be permitted. This increases the possible number of residential units, however is in keeping with existing land uses and density in the surrounding area.

Engineering - The property will have access to an 8" looped water main system that is being installed with phase I of this project. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

The site currently has access to a 24" and a 12" sewer main across the site. Sewer will need to be extended within the development.

The rezoning request does not have frontage on a public right-of-way. The access will be provided through the parking areas that are under construction at this time.

The new wastewater project plans to construct a new 42-inch gravity sewer main parallel to an existing 36-inch gravity force main in this area. As development plans are submitted, and confirm this to be the case, permanent easements need to be protected. Additionally, temporary construction easements may need to be obtained to facilitate construction of the new lines.

Fire - Water supply with fire hydrants is needed to serve development on this site. The fire station on Hollywood Drive will serve this site once it is constructed. Response time from the Station #6 is 1 minutes 56 seconds (0.9 miles).

Police - Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing city subdivisions to the north and the west. No additional equipment or personnel is needed to provide service to this area.

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 RMF-12, Residential Multi-Family – Twelve Units Per Acre

(A) *Purpose.* The RMF-12 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a moderate density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 24	Home occupations
Unit 25	Professional offices
Unit 38	Wireless communications facilities

(C) *Density.*

Units per acre	4 to 12
----------------	---------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single family	60 ft.
Two-family	60 ft.
Three and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouse:	
• Development	10,000 sq. ft.
• Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.

Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments:	
No bedrooms	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two or more bedrooms	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	25 ft.

Cross reference(s)–Variances, Ch. 156.

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

(G) *Building area.* None.

(Ord. No. 4325, 7-3-01)



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

RECEIVED

APR 5 2004

PLANNING DIV.

POLICE DEPARTMENT

C. 6
RZN 04-06.00 (The Crowne)
Page 10 of 24

April 5, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed rezoning **RZN 04-06.00: Rezoning (The Crowne, pp 559)** submitted by Crafton, Tull & Associates on behalf of LEC Properties for property located at the southeast corner of 15th Street and Beechwood Avenue, north of 18th Street would substantially alter the population density and thereby undesirably increase the load on public services or create and appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services nor create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown".

Lieutenant William Brown
Fayetteville Police Department



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 04-05-04

REZONING ☒ ANNEXATION ☐

REZONING # 04-06.00 OWNER Crowne
ANNEXATION # OWNER

LOCATION OF
PROPERTY SE corner of 15th St + Beechwood Ave.

NEAREST FIRE STATION AND
LOCATION FIRE STATION # 6

RESPONSE TIME FROM FIRE STATION # 6 TO
LOCATION OF
PROPERTY 1 MINUTES 56 SECONDS.

TRAVEL MILES FROM FIRE STATION # 6 TO LOCATION OF
PROPERTY .9

COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION

WATER SUPPLY WITH HYDRANTS
NEEDED? yes.

ADDITIONAL
COMMENTS

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272



Crafton, Tull & Associates, Inc.

901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.crafttull.com

C. 6
RZN 04-06.00 (The Crowne)
Page 12 of 24

March 2, 2004

Dawn Warrick
City of Fayetteville, Planning
113 W. Mountain
Fayetteville, AR 72703

RE: Proposed Rezoning Request
Crowne Fayetteville Holdings, Limited Partnership
CTA Job No. 031016-00

Dear Dawn:

This is a proposed rezoning request, located west of the apartments that are under construction and north of the creek. Attached with this rezoning was a previous Bill of Assurance that Tom Broyles had prepared.

Checklist Item #5

- The current ownership is "Crowne Fayetteville Holdings, Limited Partnership" and we are not aware of any pending sales.
- The developer intends to develop a condominium project on the 10.93 acres.
- Water and sewer are available to the site. Access will be from a boulevard that was built with the apartments that extends from Beachwood Avenue.

Checklist Item #6

- The property is next to existing multi-family zoning to the east and commercial zoning to the south and west. This is consistent with the surrounding properties in the City of Fayetteville's.
- The proposed zoning is justified because the current zoning would not allow the development of condominiums.
- The surrounding infrastructure should have the capacity to handle the increased traffic from this site.
- The current zoning for the property is I-1 and a condominium project would be more attractive more compatible with the surrounding zoning. The remaining area of property to the south and west will be developed commercial and the proposed zoning will provide a better-mixed use for the area.

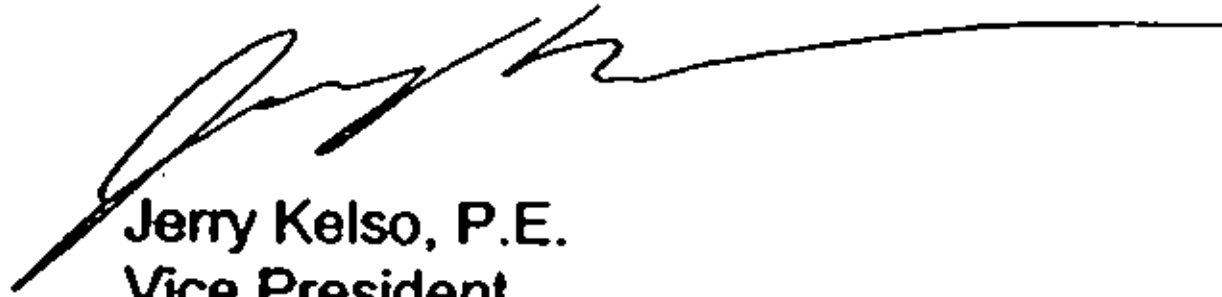
A r c h i t e c t s , E n g i n e e r s & S u r v e y o r s

Celebrating 40 years of Design Excellence and Dedicated Service 1963 - 2003

Should you have any questions, or require any additional information, please contact us at your convenience.

Very Truly Yours,

Crafton, Tull & Associates, Inc.



Jerry Kelso, P.E.
Vice President

Attachment:

Crowne Fayetteville Associates has agreed to reduce the number of apartments by 30 units from 480 to 450, which could result in a decrease in cars related to the apartments by as much as 60. The new project of 100 units could add 150 to 200 cars. This would net to around 90 to 140 cars. As we discussed, the U of A transit system currently picks up every 10 minutes at 6th street and Razorback road. Gary Smith indicated to Crowne Fayetteville Associates that a new route could be added serving Wal-Mart South and our whole project and return to the U of A by way of Razorback. This route would be serviced every 30 minutes and would significantly reduce the need for cars from the residents, hotels and commercial guest.

Proposed Bill of Assurance:

R-2 zoning with a Maximum 90 to 100 units

Drop apartment for 480 units to 450 units (net 60-70 units)

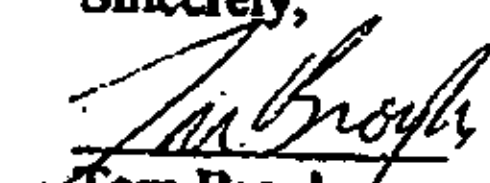
Entrance off 18th street

Extend previous donated park on 18th street by up to one acre, which will include project exit. Assume approval from Planning and Parks.

Luxury Town homes not to start until late 2004 and completed as sold.

I would be happy to meet with your residents if you think it necessary.

Sincerely,

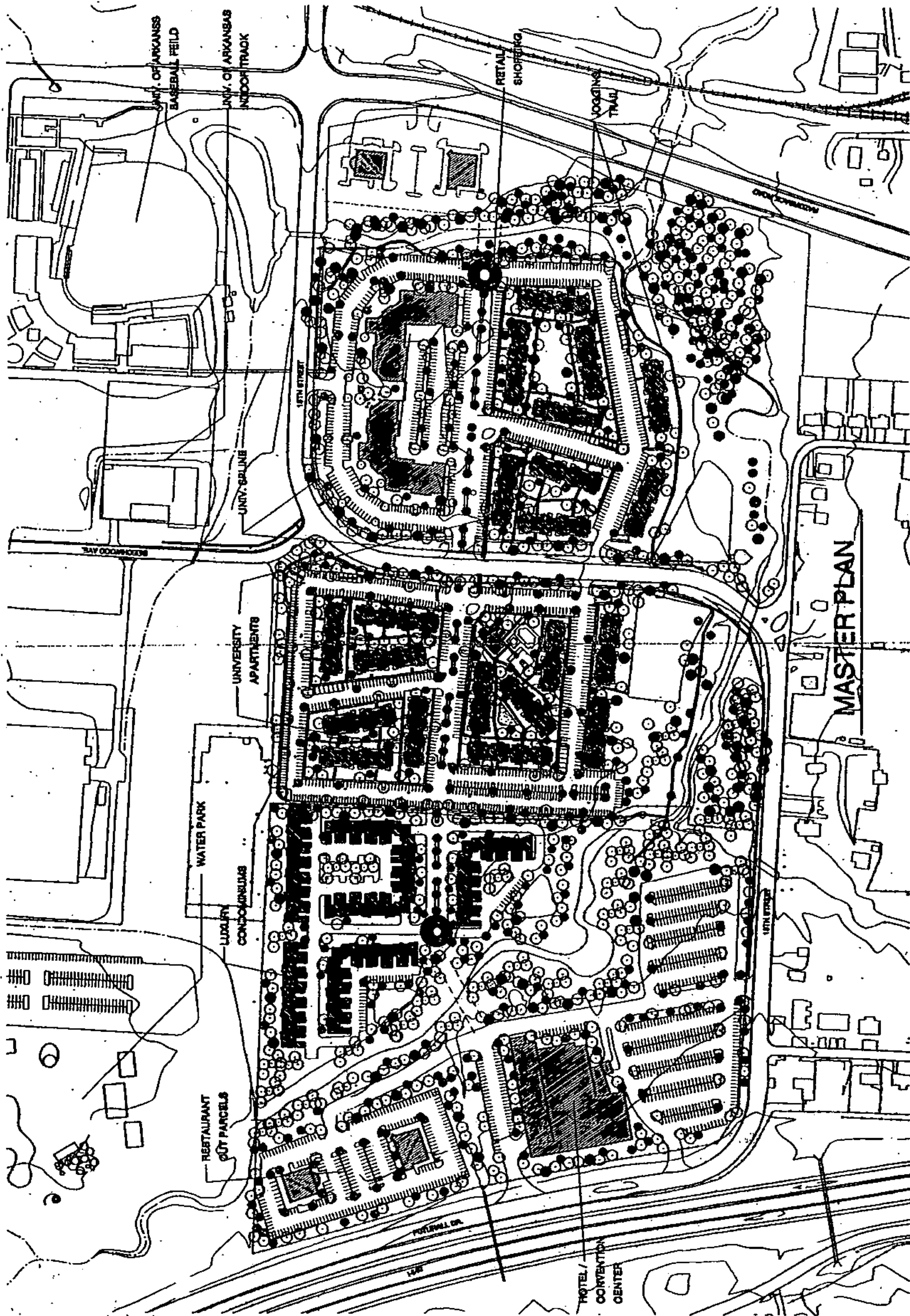

Tom Broyles


Crowne Fayetteville Associates

RECEIVED

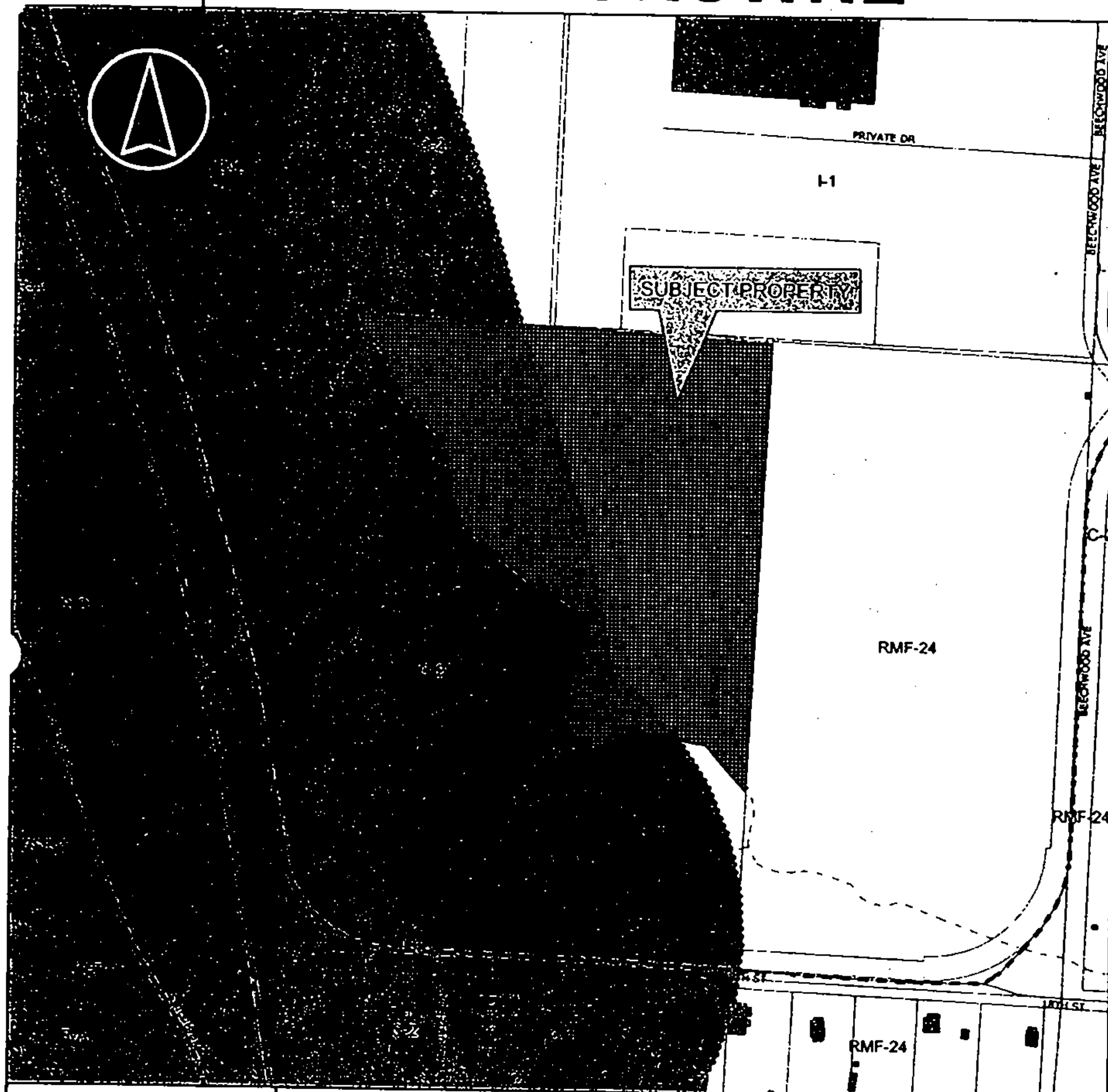
JAN 24 2004

113 DIV.

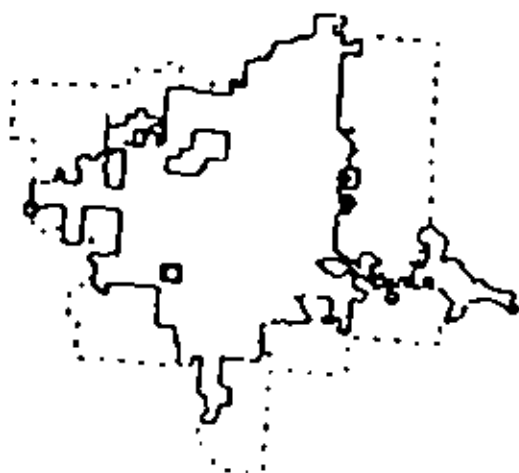


Close Up View

THE CROWNE

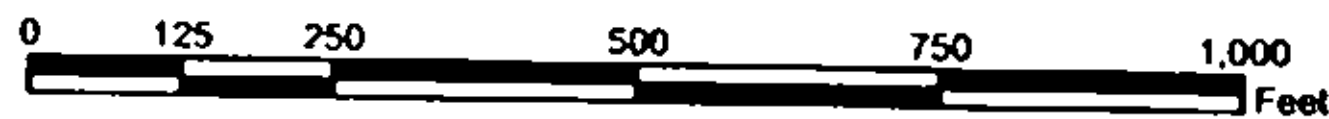


Overview



Legend

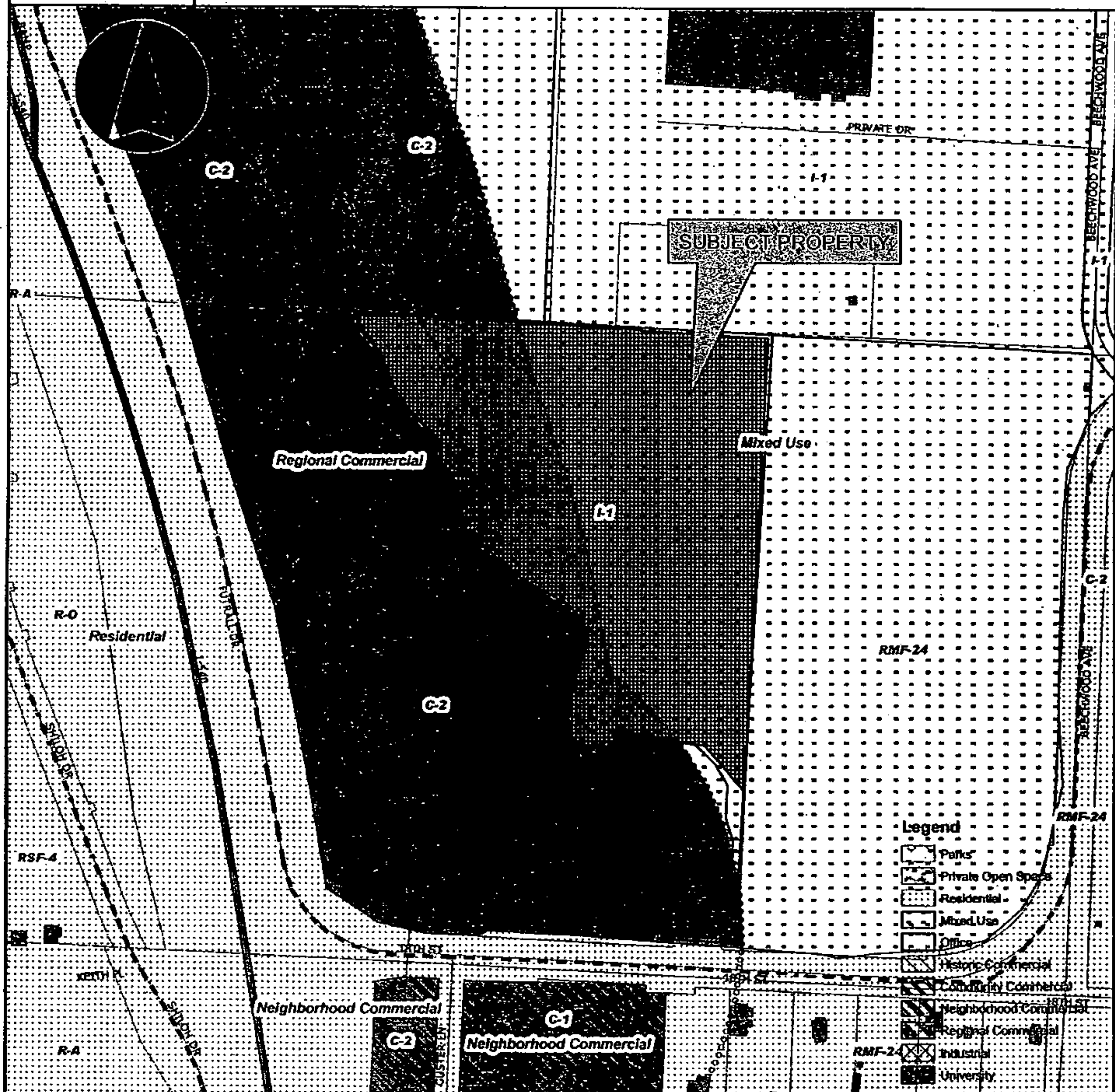
Overlay District	Principal Arterial	FLOODWAY
Master Street Plan	Minor Arterial	100 YEAR
Master Street Plan	Collector	500 YEAR
Freeway/Expressway	Historic Collector	LIMIT OF STUDY
	City Limits	BaseLine Profile
	Outside City	RZN04-06.00



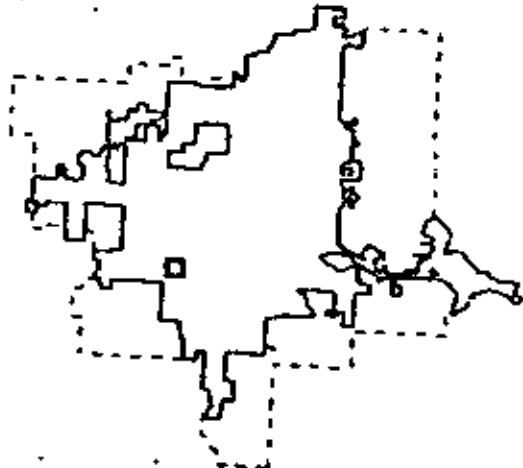
RZN04-06.00

Future Land Use

THE CROWNE



Overview



Legend

Subject Property



RZN04-06.00

Streets



Existing



Planned



Boundary



Planning Area



City Limits



450 60

Master Street Plan



Principal Artist:



Abstract



Historic Collection

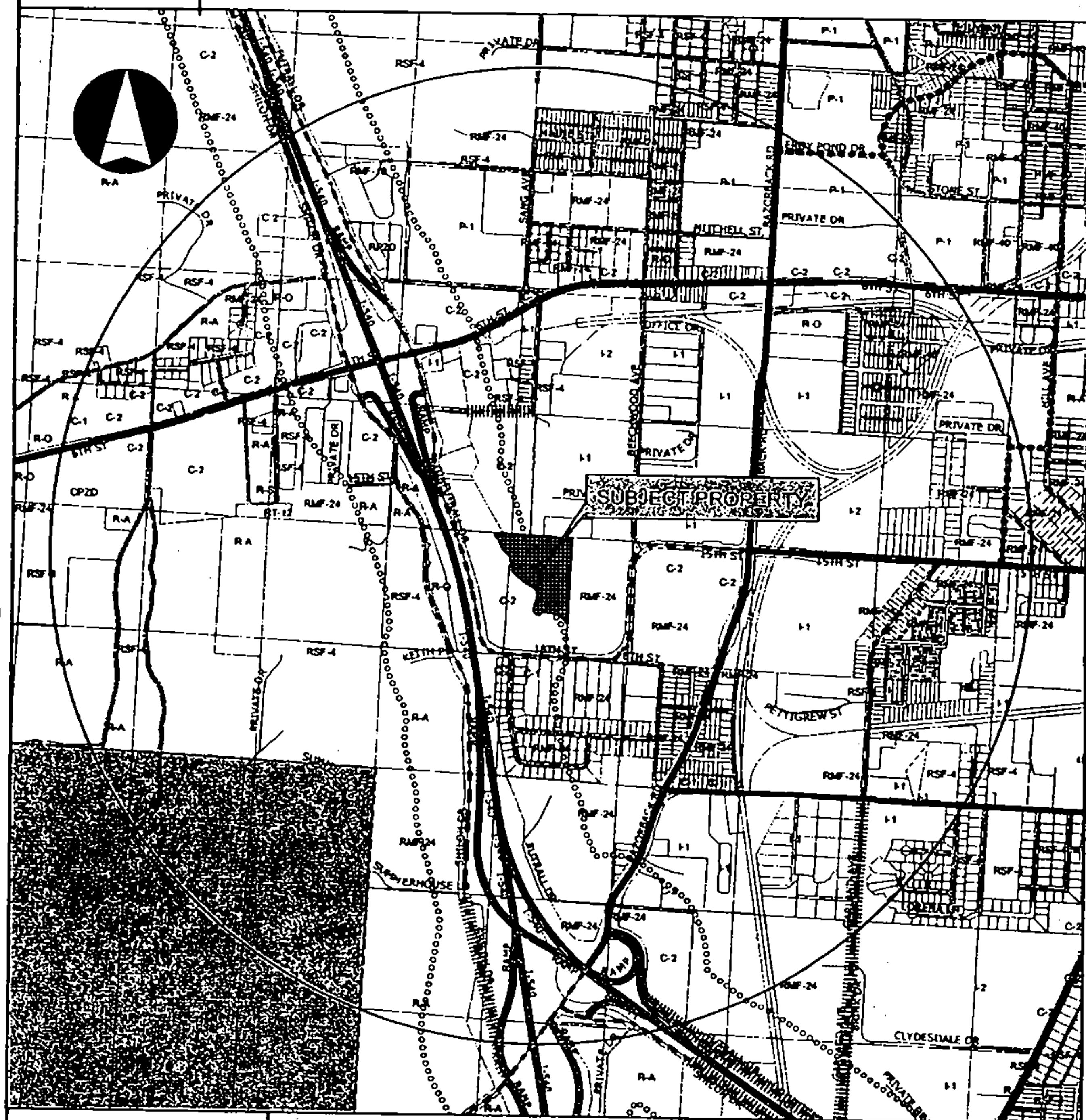


A horizontal scale bar with markings at 0, 75, 150, 300, 450, and 600 feet. The bar is divided into segments by vertical lines corresponding to these markings. The word "Feet" is written at the right end of the bar.

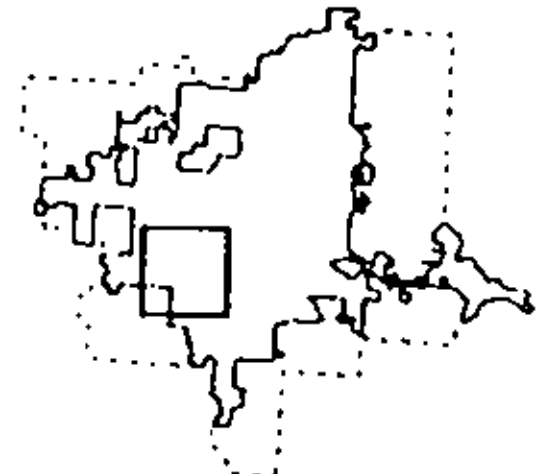
RZN04-06.00

One Mile View

THE CROWNE



Overview



Legend

Subject Property

RZN04-06.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

Planning Commission
April 12, 2004

RZN 04-06.00: Rezoning (The Crowne, pp 559) was submitted by Crafton, Tull & Associates, Inc. on behalf of LEC Properties for property located at the southeast corner of 15th Street and Beechwood Avenue, north of 18th Street. The property is currently zoned I-1, Heavy Commercial, Light Industrial, and contains approximately 10.93 acres. The request is to rezone the subject property to RMF-12, Residential Multi-family, 12 units per acre. Planner: Jeremy Pate

Ostner: The next item on our agenda is another Rezoning, RZN 04-06.00 for the Crowne.

Pate: This property is located at the southeast corner of 15th Street and Beechwood Avenue north of 18th Street. You may remember it is just west of the Crowne Apartments that was approved last fall. Currently, the property is zoned I-1, Heavy Commercial/Light Industrial. To the west is zoned RMF-24, that is where the Crowne Apartments have been approved and are well under way with construction at this point. All along the western border to this piece of property shown on your maps, there is Town Creek which also abuts the property to the south, the Crowne Apartments to the south. To the west of that is C-2, Thoroughfare Commercial. To the north is I-1, there is an existing manufacturing plant and a SWEPCO facility there as well. C-2 property is to the northwest. The request tonight is to rezone the subject property to RMF-12, which is Residential Multi-Family, 12 units maximum per acre. Immediately surrounding properties are primarily vacant with the exception of the construction going on to the east with commercial zoned and planned land use to the west. A natural barrier is formed all along the western boundary of this property. Town Creek and the associated floodplain, there will be limited development that can occur in this floodplain, though it may be important to at some point construct a crossing to actually access that property from the west and 18th Street. The developer intends to develop a condominium project, a 10.93 acres with a for sale type of dwelling unit as a departure from the multi-family units that we have seen with the apartment complexes of the Crowne. Again, this is just a request for the rezoning so that is not before us tonight. That is just to allow you the knowledge that has been represented to us. A trail corridor that is being constructed by the developer of the Crowne Apartments for the Parks Department will likely continue along Town Creek with any development of the proposed project. Again, the proposed zoning allows for a maximum density of 12 units per acre resulting in a maximum potential of 131 dwelling units. The presence of Town Creek is a major finding with regard to staff's findings on this proposed rezoning. It does provide a formal boundary along the south and the west. That is also the line on which the General Plan deviates on the west side it is Regional Commercial, on the east side it is more mixed use type of development. The proposed zoning of course from an I-1 type of zoning would increase population density in this area. Based on the findings from the Fire

Department, Police Department and Engineering, which are also located in your staff report, it will not increase an appreciable traffic congestion or danger in this area. There are service accessible, both water and sewer. Of course the services will need to be extended within the development. Staff's findings for the proposed zoning of multi-family condominium style residential land uses is compatible with the adjacent and nearby multi-family dwellings, especially in contrast to the existing I-1 zoning that it is currently.

Ostner: Thank you. Is the applicant present?

Kelso: I am Jerry Kelso with Crafton, Tull & Associates. I will try to give a brief presentation. There are a couple of maps here I want to show you. Let me go over our property and what we've got here. This area that is a beige color is zoned C-2 at this time. This area here and here is where the apartments are going up right now is zoned RMF-24. This area down here is all parks land. This right here is the floodway and the creek is basically in the center of that. The property that we are looking at is this RMF-12 right here. Our intent is not to put apartments here. These are going to be condominiums that will be sold. There is a Bill of Assurance that has been presented to the city and will be posted with this property that we are limited to less than 100 units and they will be condominiums and sold so they are not apartments. Unfortunately, the city doesn't have a zoning designation for condos so that is what this is. The type of condos we are looking at is what you see, they will be upscale nice looking condominiums. The one thing that I do want to point out is the fact that this is a mixed use area so we do have several different uses but I do want to point out that this is floodway. Those trees will have to remain in place. Any kind of commercial use for this area just wouldn't be feasible because of the trees, the floodway and you wouldn't have any visibility. The same thing on this side here with the large apartment buildings. That is why this area is zoned commercial and this area is zoned commercial so that kind of leaves this piece right here and what you do with it. We don't really want to put apartments there, commercial doesn't make sense but condominiums seemed to make the most sense and just a great fit for that piece of property. Again, this is what we have planned on doing and I can try to answer any questions that you might have.

Ostner: Thank you Sir. At this point I will open it up to the public. Is there anyone who would like to comment on this issue, the rezoning for the Crowne? Seeing none, I will close it to the public and bring it back to the Commission for comments or motions.

MOTION:

Shackelford: As I look at this property the current zoning of I-1 makes no sense whatsoever. You've got a large tract of RMF property to the east of this property and you have commercial property to the west and I think this is a pretty good buffer. In my mind this is a down zoning. Probably as this development occurs in this part of town industrial zonings are going to become less and less needed. I think this is a great concept and I think it fits in well with what this project overall is accomplishing in this area. Based on that, I am going to make a motion that we recommend approval of RZN 04-06.00 as presented.

Clark: Second.

Ostner: There is a motion by Commissioner Shackelford and a second by Commissioner Clark, is there anymore discussion on RZN 04-06.00? I'd like to agree that this is a down zoning and our General Plan 2020 designates the west side of this area as mixed use, that is not the area we are talking about, but for this project to be multi-family residential at this density, which is half the density of the Crowne Apartments, seems to be a good fit. I would concur. Are there any other comments? Renee, can you call the roll?

Roll Call: Upon the completion of roll call the motion to forward RZN 04-06.00 to the City Council with a recommendation for approval was approved by a vote of 8-0-0.

Thomas: The motion carries eight to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C. 6
RZN 04-06.00 (The Crowne)
Page 23 of 24 x AGENDA REQUESTFor the Fayetteville City Council Meeting of: May 4, 2004

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-06.00: Rezoning (The Crowne, pp 598) was submitted by Jerry Kelso of Crafton, Tull & Associates on behalf of the Crowne Limited Partnership for property located north of 18th Street and west of Beechwood Avenue. The property is currently zoned I-1, Heavy Commercial/Light Industrial and contains approximately 10.93 acres. The request is to rezone the property to RMF-12, Residential Multi-Family, 12 units per acre.

STAFF RECOMMENDATION: Approval.

Dawn J. Warrick
Division Head4/16/04
Date

Received in Mayor's Office

4/16/04
Date *PH*[Signature]
City Attorney4/16/04
Date

Department Director

Date

[Signature]

Finance & Internal Services Dir.

4-20-04
Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item:

Yes

No

Mayor

Date



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator 

Date: April 12, 2004

Subject: Industrial Planned Zoning District for Wal-Mart Optical Lab (I-PZD 04-05.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating an Industrial Planned Zoning District (I-PZD) for Wal-Mart Optical Lab. This action will establish a unique zoning district and approve a Large Scale Development plan for a 979 SF addition and a rehabilitation of the existing parking lot at the existing Wal-Mart Optical Lab facility.

BACKGROUND

The applicant proposes to expand the Wal-Mart Optical Lab, located at the northeast corner of 6th Street and Futrall Drive, by 979 square feet to facilitate a new piece of machinery. This property is currently zoned C-2, Thoroughfare Commercial, and lies within the Design Overlay District. The existing use, which began in the mid-1990s, is not permitted by right, nor by conditional use, in this zoning district. Staff is not in favor of recommending a general rezoning to an Industrial zoning district (I-1 or I-2) at this location for the expansion of the facility, which employs approximately 530 people. However, an approval of an I-PZD allows both for the expansion of this use, as well as retains the desired commercial uses for the future on this important, visible property at the intersection of major arterials in the City of Fayetteville. Uses that are proposed to be retained on the site include offices, eating places, hotel/motels, neighborhood shopping, trades and services. Additionally, the site improvements to the currently derelict parking lot, including the addition of 30-32 landscape islands, added greenspace to bring the site up to code, and the addition of trees, shrubs and a six-foot sidewalk along 6th Street are an immense improvement to this highly visible and travelled corridor.

DISCUSSION

The Planning Commission voted 7-0-1 in favor of this request on Monday, April 12, 2004. Approval of a planned zoning district requires City Council approval as it includes zoning (land use) as well as development approval (large scale development). Recommended conditions included in the attached staff report were approved by the Planning Commission.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING AN INDUSTRIAL
PLANNED ZONING DISTRICT TITLED I-PZD 04-05.00
LOCATED AT 2314 W. 6TH STREET CONTAINING
APPROXIMATELY 8.457 ACRES, MORE OR LESS;
AMENDING THE OFFICIAL ZONING MAP OF THE
CITY OF FAYETTEVILLE; AND ADOPTING THE
ASSOCIATED INDUSTRIAL DEVELOPMENT PLAN AS
APPROVED BY THE PLANNING COMMISSION.

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 C-2, Thoroughfare Commercial to I-PZD 04-05.00 as shown in Exhibit "A"
attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the
approved development plan and development standards as shown on the plat and
approved by the Planning Commission on April 12, 2004.

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

Section 4. That the official zoning map of the City of Fayetteville, Arkansas,
is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
I-PZD 04-05.00

A PART OF THE NW ¼ OF THE NW ¼ OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 30 WEST, BEING MORE PARTICULAR DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NW ¼ OF THE NW ¼ OF SECTION 20; THENCE S02°51'14"W 5.00 FEET TO THE POINT OF BEGINNING:

THENCE ALONG THE SOUTH RIGHT OF WAY OF OLD FARMINGTON ROADS THENCE ALONG THE SOUTH RIGHT OF WAY OF OLD FARMINGTON ROAD, SAID LINE BEING A PERPENDICULAR DISTANCE OF 5.00 FEET SOUTH AND PARALLEL WITH THE NORTHERN BOUNDARY OF SAID SECTION 20, 86°46'00"E, 700.79 FEET TO A CHISELED 'X'; THENCE LEAVING SAID RIGHT OF WAY S03°03'41"W, 524.35 FEET, SAID POINT OF BEING ON THE EXISTING NORTH RIGHT OF WAY OF U.S. HIGHWAY 62, ALSO KNOWN AS SIXTH STREET, SAID POINT BEING A POINT ON CURVE TO THE RIGHT WITH A CORD BEARING AND DISTANCE OF S71°39'56"W 197.89 FEET; THENCE CONTINUING WITH SAID RIGHT OF WAY ALONG SAID CURVE HAVING A RADIUS OF 1392.39 FEET AND DELTA ANGLE OF 08°09'00" AN ARC DISTANCE OF 198.06 FEET; THENCE S74°24'55"W 64.20 FEET; THENCE S85°13'56"W, 53.60 FEET TO FOUND IRON PIN; THENCE LEAVING SAID RIGHT OF WAY N02°33'50"W, 178.24 FEET TO A RAILROAD SPIKE; THENCE N86°43'59"W, 225.13 FEET TO FOUND IRON PIN; THENCE S02°33'52"W 210.06 FEET TO A FOUND IRON PIN ON THE NORTH RIGHT OF WAY OF U.S. HIGHWAY 62; THENCE ALONG SAID RIGHT OF WAY S87°27'32"W 7.44 FEET TO THE NORTHEASTERLY RIGHT OF WAY OF FUTRALL DRIVE SAID POINT OF BEING A RIGHT OF WAY MARKER AND FOUND IRON PEN. THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY N29°46'37"W 311.47 FEET TO A POINT ON THE WEST LINE OF SAID SECTION, SAID POINT BEING A SET IRON PIN; THENCE ALONG SAID SECTION LINE N02°51'14"E, 396.54 FEET TO THE POINT OF BEGINNING, CONTAINING 8.457 ACRES, MORE OR LESS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
Matt Casey, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: April 07, 2004

I-PZD 04-05.00: Industrial Planned Zoning District (Wal-Mart Optical Lab/Hwy 62W, pp 559) was submitted by Todd Jacobs of CEI Engineering Associates, Inc. on behalf of Wal-Mart Stores, Inc. for property located at 2314 W 6th Street. The property is zoned C-2, Thoroughfare Commercial, and is in the Design Overlay District. The request is to rezone the subject property to an I-PZD, Industrial Planned Zoning District, to allow a 979 sq.ft. addition to the Optical Lab building and revise the on-site parking. Planner: Jeremy Pate

Background: The applicant originally submitted a Large Scale Development to expand the existing Wal-Mart Optical Center, a manufacturer of lenses for glasses, located north of 6th Street, just east of I-540, within the Design Overlay District. The site was formerly a Wal-Mart retail store and has operated as the Wal-Mart Optical Center, with Tractor Supply Company and the Arkansas State Unemployment Center as accompanying uses, since the early 1990's. In subsequent meetings with city staff, it was determined that the most appropriate process to approve an expansion of this particular use, which is not allowed by right in the C-2, Thoroughfare Commercial zoning district, would be the Industrial Planned Zoning District.

The existing building formerly housed the Wal-Mart retail store, a use that is permitted within the C-2 zoning district. The Wal-Mart retail store eventually relocated and in subsequent years permits were issued to remodel the structure for use as the Wal-Mart Optical Lab. Under current zoning ordinances, this use is only permitted in an industrial zoning district, such as I-1 or I-2. Therefore an expansion of said use requires a rezoning. However, the Future Land Use Plan identifies this site as a Regional Commercial area. Furthermore, the applicant leases office and commercial/retail space at the present time, uses which are permitted by right in the current zoning district. Based on the variety of office, commercial and lab uses and the low-impact, commercially compatible nature of the Optical Lab use, staff recommended the applicant process an I-PZD, to expand the existing structure by 979 SF which will accommodate a new processing machine and to revise the parking lot layout. Rezoning to an I-PZD more appropriately fits the current use of the site to its zoning district. The applicant has indicated that a mixture of the current manufacturing/lab use, commercial uses and office space are to be allowed with the I-PZD.

Proposal: The applicant requests to expand the existing Wal-Mart Optical Center by 979 square feet, and re-stripe the existing parking lot to more efficiently park employee and customer vehicles. The ratio of parking spaces that currently exist was originally determined by the retail use of the Wal-Mart store. With the addition of islands and greenspace, net parking spaces actually decrease, however become more usable and efficient. The existing parking lot is nonconforming, in that it contains no landscape islands or other designated greenspace. The applicant has provided landscape islands throughout the site, to comply with the Parking Lot landscaping ordinance. Additionally, site improvements and added landscaping along the rights-of-way have brought the site into compliance with the 25% greenspace requirement and 25 feet of greenspace adjacent to 6th street right-of-way as required by the Design Overlay District. Parking lot lights are to be retrofitted to meet Design Overlay District requirements for full cut-off fixtures, shielded and directed downward away from adjacent properties, as well. The request is to approve a rezoning from C-2 to I-PZD 04-05.00, along with the associated development plans.

Proposed Development:

I-PZD, Industrial Planned Zoning District – Wal-Mart Optical Center

	Land Use	Square Feet	Employee #s	Parking Existing	Parking Required	Parking Requested
Optical Center	Manufacturing	44,387 SF	*511	125	37 (1:1200 SF)	-
Tractor Supply	Commercial/Retail	24,465 SF	6-10	141	98 (1:250 SF)	-
Employment Center	Office	8,574 SF	6-10	57	29 (1:300 SF)	-
Totals	Mixed Use	77,426 SF	523-531	323 Spaces	164 Spaces (214 allowed w/30% overage)	* 284 Spaces

* Approximately 110 employees per shift.

* The applicant proposes 284 parking spaces, which is 70 spaces (33%) above the maximum number allowed by ordinance. However, the existing parking spaces number 323; with the reorganization of spaces to accommodate greenspace requirements, landscape islands, etc., the total number is actually decreased by 39 spaces.

Proposed Uses: The applicant proposes to retain several use units within the I-PZD, including office, studio, neighborhood shopping goods, professional office, eating places, hotel and motel facilities, and manufacturing.

Access: With the restriping of parking spaces and building expansion, the applicant is not proposing to change any points of access. Current access to the site includes curb cuts onto 6th Street, Old Farmington Road and Futrell Drive. The curb cut along Hwy 62 (6th Street) is to be modified and upgraded to comply with the maximum width of 39 feet allowed by ordinance.

Existing Development: The site is currently comprised of three uses, the Wal-Mart Optical Center, Tractor Supply Company, and the Arkansas State Unemployment Office, along with associated parking for employees and customers, and display space.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Fayetteville Schools	P-1, Institutional
South	6 th Street (Hwy 62), Bank	C-2, Thoroughfare Commercial
East	Blockbuster Video	C-2, Thoroughfare Commercial
West	Futrell Drive, I-540	C-2, Thoroughfare Commercial

Water & Sewer: Water and sewer lines are available to the site.

Street Improvements Proposed: An existing curb cut is proposed to be modified to comply with the maximum 39-foot width along 6th Street. Six-foot sidewalks are to be constructed along 6th Street, at the Master Street Plan right-of-way line. The Sidewalk Administrator has determined that sidewalks are not feasible and thus not recommended along Futrell Drive and Old Farmington Road.

Adjacent Master Street Plan Streets: Futrell Drive (Collector), minimum of 35 feet from centerline; Old Farmington Road (Local), minimum of 25 feet from centerline, 6th Street (Principal Arterial), minimum of 55 feet from centerline (dedication by warranty deed)

Tree Preservation: All existing on-site trees are to be preserved.

Design Overlay District:

- **Greenspace:** The applicant has complied with the 25' greenspace requirement along 6th Street. Due to existing structures and required access drives for emergency vehicle access, staff is recommending all other street frontages remain as they currently exist, with the exception of the recommended trees along Old Farmington and Futrell Drive, per the Landscape Administrator's recommendation.
- **Signage:** The applicant is not proposing additional signage.
- **Curb Cuts:** The applicant is not proposing additional curb cuts. The applicant has provided curbs to contain greenspace along 6th street, and extended this off-site to the east, as well as the sidewalk, to connect to existing drives.
- **Lighting:** The applicant is indicating that all existing light poles will be retrofitted to comply with the requirements for full cut-off lighting fixtures that are shielded and directed downward to the parking lot and light spread not to reflect into the adjacent properties.
- **Exterior appearance:** Elevations have been submitted for all four sides of the building. The applicant is not proposing to modify the existing structure in any way, with the exception of the 979 SF expansion to the northwest of the site. The expansion is proposed to match the existing building.

- **Building Material:** The expansion is proposed to utilize the same materials as the existing structure, a painted CMU block with accessory trim.
- **Site Coverage:** The existing site contains 19% greenspace. The applicant has provided 23,137 SF of additional greenspace to meet the minimum 25% greenspace requirement.
- **Fencing:** Additional fencing is not proposed with this development.
- **Outdoor Storage:** Outdoor display of merchandise for sale is allowed by right without screening. Any outdoor storage of materials that are not for sale requires appropriate screening.
- **Access:** Pedestrian access is being provided with new 6-foot sidewalks along 6th Street. The applicant is extending the sidewalk off-site to the east to provide a pedestrian connection to existing sidewalks, as well. Six bicycle racks are being provided within the development.

Meetings: The applicant and/or representative has met with city staff on several occasions to discuss recommendations regarding site improvements and the development review process. The proposal was heard at Technical Plat Review on February 11, 2004, and at the Subdivision Committee meeting on March 11, 2004. Discussion centered around the location of landscape islands, providing additional uses within the I-PZD for future commercial development on this site and the decreased parking.

Recommendation:

Staff recommends I-PZD 04-05.00 be forwarded to the City Council with a recommendation for approval of the requested rezoning.

Planning Commission approval of the proposed large scale development in association with I-PZD 04-05.00 subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district I-PZD 04-05.00 with all conditions of approval as determined by the Planning Commission.
2. Planning Commission determination of Commercial Design Standards for the building expansion.

3. All future additions, remodels and new construction for existing and proposed buildings shall comply with Commercial Design Standards and Design Overlay District requirements.
4. A minimum of 51% of the gross leasable floor area on the site shall be of industrial use, per the I-PZD ordinance requirements. Any less shall constitute a rezoning request.
5. All setbacks, protective easements, and designated uses are binding with the approval of the I-PZD.
6. Building permits and/or parking lot permits shall be issued for the construction of said plans within one (1) year of final approval, or revocation of the I-PZD approval, pursuant to City Code, shall be pursued.
7. The existing, illegal access to Futrall Drive shall be permanently closed and removed from public access.
8. An AHTD permit is required for any work done within the Highway Department right-of-way.
9. A six-foot sidewalk shall be constructed along 6th Street, located at the right-of-way line, pursuant to the submitted and approved site plans.
10. Right-of-way shall be dedicated to meet Master Street Plan requirements, including that along 6th Street (55 feet from centerline), along Futral Drive (existing, minimum of 35 feet from centerline) and along Old Farmington Road (25 feet from centerline).
11. All existing and future trash enclosures shall be screened with access not visible from the street, with materials compatible with and complimentary to those of the associated building.
12. All parking lot lights are to be shielded, directed downward and away from adjacent properties utilizing full cut-off sodium lighting fixtures.

Standard Conditions of approval:

13. All mechanical/utility equipment shall be screened using materials that are compatible with and incorporated into the structure.
14. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
15. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks,

parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

16. Large scale development shall be valid for one calendar year.
17. Prior to the issuance of a building permit the following is required:
- Grading and drainage permits
 - An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - Separate easement plat for this project that shall include the tree preservation area and all utility easements.
 - Project Disk with all final revisions
 - One copy of final construction drawings showing tree preservation and protection plans and detailed landscape plans submitted to the Landscape Administrator for approval.
 - Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Additional conditions:

- a. _____
- b. _____

PLANNING COMMISSION ACTION: yes Required

Date: April 12, 2004

✓ Approved Denied
7-0-1

GRAVES RESTORED

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

By _____

Title _____

Date _____

Findings associated with R-PZD 04-01.00

Sec. 166.06. Planned Zoning Districts (PZD).

(B) Development standards, conditions and review guidelines

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

FINDING: The I-PZD proposal currently does not include a significant amount of development, as the site is relatively fully developed. Existing structures are currently being utilized to provide laboratory, retail/commercial and office space. To date, no complaints have been filed with the Planning Division relative to any of the existing uses on this property, which have been in operation for some time. The development expansion that is proposed, 979 SF, along with a restriping of parking spaces to achieve a more efficient use of space, is minimal, relative to the public improvements proposed. The existing parking lot is an asphalt surface, without landscape islands or greenspace. The applicant proposes to bring this parking area up to code, incorporating 25-30 landscaped islands, as well as providing greenspace and new trees along 6th Street, Futral Drive and Old Farmington Road, a much-needed benefit to this site that enhances the neighborhood and furthers the health, amenity and welfare of the community. The development plans have been reviewed through the Development Review Process, with recommendations from both staff and the Subdivision Committee incorporated.

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

FINDING: Landscaping plans have been submitted for review, and approval has been obtained from the Landscape Administrator. The existing parking lot non-conforming, in that

it contains no landscape islands or the minimum greenspace area required within the Design Overlay District. The Large Scale Development proposal provides a revised parking area, complete with landscape islands that bring the entire parking area (284 spaces) up to code. Additionally, greenspace has been added to fulfill the minimum 25% requirement, along with 25 feet of greenspace along 6th Street. Areas have been identified for the display of for-sale items available from the Tractor Supply Company. All materials stored outside that are not for sale shall be screened, in accordance with city ordinance.

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

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchical scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Minimal changes within the interior circulation are proposed, to allow for the 25 feet of greenspace along 6th Street. The existing curb cut onto 6th Street that accesses both this site and the Bank property will be decreased to a maximum 39 feet, to comply with city codes.

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

FINDING: Existing parking space numbers were based on the retail use of the Wal-Mart store, and number 323 total spaces. The applicant plans to provide landscape islands and greenspace, along with a more efficient restriping of the parking areas. Actual parking numbers will decrease to 284 total spaces.

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

FINDING: The existing development is proposed to be modified to contain approximately 25% open space, which is compliant with Design Overlay District requirements of a minimum 25%. The applicant has proposed a vegetative screen to alleviate the impacts of the proposed parking areas along 6th Street, as well as numerous landscape islands and trees along right-of-way frontage on Futrall Drive, 6th Street and Old Farmington Road.

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

FINDING: Six-foot sidewalks are required to be constructed along 6th Street, at the right-of-way line. Additionally, the developer is proposing to construct the sidewalk off-site to the east, to connect to existing sidewalks on the Blockbuster property. The Sidewalk Administrator has inspected the site and determined that sidewalks are not feasible nor needed along Futrall Drive or Old Farmington Road in this location (sidewalks are to be constructed along the north side of Old Farmington Road in the future).

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

FINDING: Existing.

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

FINDING: Water lines currently exist to serve the property.

- (9) *Sewer.* As required by §166.03.

FINDING: Adequate sewer service is available to the site.

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

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

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

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

- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

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

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

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

FINDING: No streets are proposed with this development, as the site is currently constructed with adequate access.

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

FINDING: N/A

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

FINDING: All existing trees on-site are to be preserved with this development.

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

FINDING: The applicant has submitted elevations of all four sides of the structures to ensure compliance with Commercial Design Standards and Design Overlay District requirements. The expansion of 979 square feet is proposed to match the materials and color of the existing building, pursuant to city code. All future development on this particular site is required to be reviewed for Commercial Design Standards.

- (14) *View protection.* The Planning Commission shall have the right to establish

special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: N/A

(E) Revocation.

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

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

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

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

FINDING: Building permits and/or parking lot permits shall be issued for the construction of said plans within one (1) year of final approval, or revocation of the I-PZD approval by the above means shall be pursued.

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

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

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

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

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

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: N/A

Sec. 161.25 Planned Zoning District

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

- (1) **Flexibility.** Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) **Compatibility.** Providing for compatibility with the surrounding land uses.
- (3) **Harmony.** Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) **Variety.** Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) **No negative impact.** Does not have a negative effect upon the future development of the area;
- (6) **Coordination.** Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) **Open space.** Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) **Natural features.** Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) **General Plan.** Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) **Special Features.** Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The applicant's proposed development expansion requires rezoning, based on the existing use as a light manufacturing/laboratory facility. Commercial uses are highly desired in this area, and the 77,426 SF currently in use provides office, commercial/retail and light

manufacturing/laboratory uses, employing approximately 530 people in this one location. The I-PZD provides a mechanism for expansion and bringing the site, developed before current zoning and development codes were in place, into compliance. Additionally, it allows for the future development opportunity of those uses typically located with a Regional Commercial area, including restaurants, offices, hotels/motels, shopping and trades and services. The land use is compatible with surrounding land uses, and has existed as such for many years. Site improvements will benefit the community and the developer, bringing the parking area up to code, providing needed greenspace along 6th Street, and retrofitting the existing lighting to comply with Design Overlay District requirements.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policies for Regional Commercial Areas, including:

- 9.9a Provide enough retail business and service space to enable Fayetteville to realize its full potential as a regional market.
- 9.9d Require that large commercial sites be designed and landscaped in a manner that preserves the aesthetic character of their surroundings.
- 9.9g Continue to enforce the provisions of the Bypass Design Overlay District ordinance.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policies for Community Commercial areas which are:

- 9.10.a Provide centers that are accessible and compatible with adjacent residential development.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policy for Mixed Use Areas, including:

- 9.14a Allow mixing of uses and integration of design through the planning process.
- 9.14c Continue to implement the Design Overlay District. These regulations should ensure that most of the areas along the 71 Bypass designated for mixed use develop into attractive developments which increase the value of nearby property and encourage further development.

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

FINDING: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. Those findings are attached to this report. An ordinance will be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the Planning Commission. This ordinance will be forwarded to the City Council for approval.*

(E) *I-PZD Industrial Planned Zoning District.*

(1) *Purpose and intent.* The I-PZD is intended to accommodate industrial parks and single use industrial developments that are determined to be more appropriate for a PZD application than a general industrial rezone. The legislative purpose, intent and application of this district include, but are not limited to, the following:

- (a) To provide for manufacturing activities in a manner compatible with the surrounding area.
- (b) To encourage the application of sound planning and design principles in the orderly development of industrial activities.
- (c) To maximize manufacturing potential without adversely affecting the living environment of the community.
- (d) To encourage industrial development that is consistent with the city's General Plan.

FINDING: The I-PZD proposed is consistent with the City's General Plan for mixed-use development, and allows a more flexible means of development to better accommodate the need for commercial, office, and the existing light manufacturing/laboratory use. The harmonious relationship of different land uses and activities in a single development is promoted by the City's General Plan. Land use incompatibility is minimized, and public infrastructure improvements will benefit the City. The General Plan 2020 calls for Regional Commercial land use on this site, a use which is more appropriate than an industrial park or a general industrial rezone. In order to expand the Wal-Mart Optical Center, a rezoning is required. Staff is not in support of an general industrial rezoning in this location, for that does not provide a compatible land use in this area. However, the I-PZD, especially with the inclusion of those commercial uses permitted by typical commercial zoning districts, allows for both maximum manufacturing potential, an opportunity for future commercial development, and the increased public benefit of needed site and landscaping improvements at this location along a Principal Arterial.

(2) Permitted uses.

Unit 1	City-wide uses by right	
Unit 2	City-wide uses by conditional use permit	REMOVED BY APPLICANT
Unit 3	Public protection and utility facilities	
Unit 8	Single family dwellings	REMOVED BY APPLICANT
Unit 9	Two family dwellings	REMOVED BY APPLICANT

Unit 10	Three-family dwellings	REMOVED BY APPLICANT
Unit 12	Offices, studios and related services	
Unit 13	Eating places	
Unit 14	Hotel, motel and amusement facilities	
Unit 15	Neighborhood shopping	
Unit 16	Shopping Goods	
Unit 17	Trades and Services	
Unit 18	Gasoline service stations and drive-in restaurants	REMOVED BY APPLICANT
Unit 21	Warehousing and wholesale	REMOVED BY APPLICANT
Unit 22	Manufacturing	
Unit 23	Heavy Industrial	REMOVED BY APPLICANT
Unit 25	Professional offices	
Unit 26	Multi-family dwellings	REMOVED BY APPLICANT
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks	REMOVED BY APPLICANT
Unit 28	Center for collecting recyclable materials	REMOVED BY APPLICANT
Unit 31	Facilities emitting odors and facilities handling explosives	REMOVED BY APPLICANT

FINDING: Use Units allowed within the I-PZD include 1, 3, 12-17, 22, and 25. All of these proposed uses are currently allowed within the C-2 zoning district, with the exception of Use Units 22 and 25.

(3) Condition. In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: Industrial area totals 44,387 SF; accompanying office and commercial uses total 33,039 SF.

***Required Findings for Rezoning Request.**

RECOMMENDATION:

LAND USE PLAN: General Plan 2020 designates this site Regional Commercial. Rezoning this property to I-PZD 04-05.00 is 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 Regional Commercial on the Future Land Use Map. That designation is reflective of the current zoning of the site which is C-2, Thoroughfare Commercial. Approximately 43% of the site is comprised of

commercial and office uses, with the remaining 57% being the existing light manufacturing/laboratory use of the Wal-Mart Optical Center, employing approximately 530 employees. Staff finds the existing use is consistent with land use planning objectives, and has demonstrated relative compatibility with surrounding properties.

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

Finding: The current use of the Wal-Mart Optical Center is nonconforming, in that a light manufacturing use is not permitted by right or by conditional use in the C-2, Thoroughfare Commercial zoning district. In order to expand this use, a rezoning is necessary. Staff is not supportive of a general industrial rezoning at this location, for many incompatible uses would then be allowed, and many commercial activities not permitted. Rezoning to an I-PZD allows for the low impact light manufacturing/laboratory use to continue, and to expand, but also allows for commercial activities to continue and potentially expand in the future, which is compatible with the land use plan for this area.

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

Finding: The proposed zoning will not traffic in the area. The streets surrounding the property are classified as a Collector (Futrell), a Local (Old Farmington) and a Principal Arterial (6th Street). A Collector Street is designed to carry between 4,000 and 6,000 vehicles per day. A Local Street should carry up to approximately 4,000 vpd. Principal Arterials carry 20,600 vehicles per day. Existing uses are not proposed to change in the near future, therefore additional traffic is not expected. The proposed 979 SF of expansion will not appreciably 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 the population density in this area. It should not undesirably increase the load on public services.

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

- a. It would be impractical to use the land for any of the uses permitted

under its existing zoning classifications;

- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

(E) *I-PZD Industrial Planned Zoning District.*

(1) *Purpose and intent.* The I-PZD is intended to accommodate industrial parks and single use industrial developments that are determined to be more appropriate for a PZD application than a general industrial rezone. The legislative purpose, intent and application of this district include, but are not limited to, the following:

- (e) To provide for manufacturing activities in a manner compatible with the surrounding area.
- (f) To encourage the application of sound planning and design principles in the orderly development of industrial activities.
- (g) To maximize manufacturing potential without adversely affecting the living environment of the community.
- (h) To encourage industrial development that is consistent with the city's General Plan.

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations and drive-in restaurants
Unit 20	Commercial recreation, large sites

Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 28	Center for collecting recyclable materials
Unit 31	Facilities emitting odors and facilities handling explosives

(2) *Conditions.*

- (a) In no instance shall the industrial use area be less than fifty-one percent (51%) of the gross leasable floor area within the development.
- (b) Ancillary commercial and office uses shall be compatible with the design and scale of the project.
- (c) Residential uses must be appropriate to the scope and character of the development.

(F) *Bulk and area regulations.*

(1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

- (4) The densities of surrounding development;
- (5) the densities allowed under the current zoning;
- (6) the urban development goals and other policies of the city's General Plan;
- (7) the topography and character of the natural environment; and

(8) the impact of a given density on the specific site and adjacent properties.

(2) *Lot area and yard requirements.*

Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

(3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

(4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

(C)



CEI Engineering Associates, Inc.

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

January 29, 2004

City of Fayetteville
Office of City Planning Division
125 West Mountain Street
Fayetteville, Arkansas 72701
Attn.: Ms. Jan Gamble, Senior Planner

Ref.: Wal-Mart Optical Center
2314 S.W. 6th Street
Fayetteville, Arkansas

Dear Ms. Gamble:

This letter accompanies our submittal of plans for proposed modifications to the above referenced facility.

The intent of the proposed changes is to enable the existing building to accommodate a larger piece of processing machinery than the one which is presently housed in the Optical Lab. It is also our intent to improve the parking facility in order to accommodate more vehicles, and make conditions safer.

The nature of the improvements are a small addition to the building near the rear truck dock area on the West side, and restriping of the parking lot and traffic areas on the site as shown on the civil engineering plans.

The scope of the work will increase the square footage of the Optical Center from 43,408 to 44,387 which is a gain of 979 square feet. The parking lot revisions will represent an increase from 245 spaces to 420 spaces, or a gain of 175 spaces.

The owner of the subject parcel is Wal-Mart Stores, Inc. of Bentonville, Arkansas. They are requesting this zoning change in order to continue to operate the optical laboratory facility currently resident there, as well as the Tractor Supply Company retail store, and the Arkansas Employment Office. An increase in parking spaces available would also be beneficial to this site and its occupants.

They do not expect any change in land use or traffic patterns or frequency as a result of this zoning change, as the occupants and their utilization of the site will remain the same at this time.

RECEIVED

JAN 29 2004

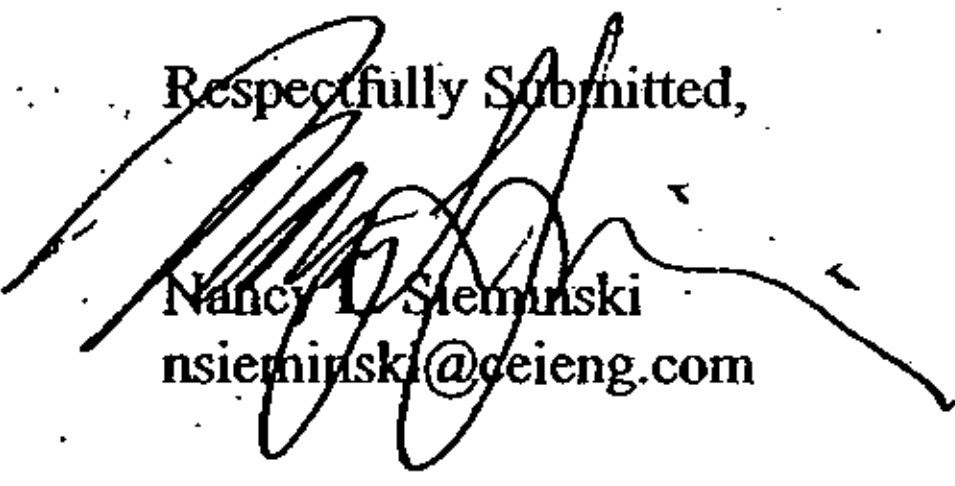
PLANNING DIV.

An upgrade in the appearance of the existing structure is shown in the architectural plans, which are submitted with this letter. Please refer to the elevation drawings for their depiction of the building articulation, as it is proposed.

Signage and sewer and water service will remain unchanged.

All of the proposed civil engineering and architectural modifications are represented on the plans, which are submitted herein for your review and approval.

Respectfully Submitted,



Nancy L. Sieminski
nsieminski@ceieng.com

RECEIVED

JAN 29 2004

PLANNING DIV.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

January 12, 2004

Mr. Clarence Lisle
Wal-Mart Realty
2001 S.E. 10th
Bentonville, AR 72716-0550

Re: Wal-Mart Optical Center

Dear Mr. Lisle,

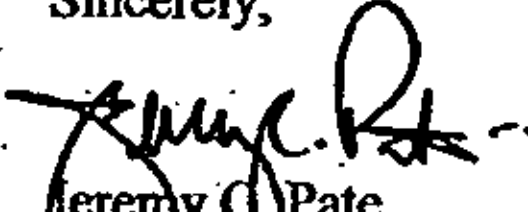
I have reviewed the submitted documents for the Wal-Mart Optical Center expansion on 6th Street and pursuant to our discussions on Wednesday, January 07, 2004, have determined that a rezoning is necessary to expand the requested use.

The requested 900-square-foot (+/-) expansion and additional parking is to allow for the continued and expanded use of the Optical center's manufacturing of optical products. A manufacturing/fabricating use (Use Unit 22 Manufacturing) is not a use that is permitted by right or by conditional use in the C-2 Thoroughfare Commercial zoning district, the zoning district in which the Optical Center resides. Furthermore, research into the permitting of said re-use of the former retail structure yields only a tenant finish-out permit, allowing a remodel of the Wal-Mart facility. Therefore, in order to permit an expansion of the Manufacturing use, a rezoning request must be processed and approved by City Council.

At the request of the applicant and engineering representative, staff recommends that this expansion and necessary rezoning request proceed through the City's Industrial Planned Zoning District (I-PZD) development and rezoning process. The PZD entails both the development proposal (e.g., the Large Scale Development plans) and the rezoning request simultaneously. This process benefits both the developer and the public, in that it combines two processes into one and also allows for development plans to be reviewed as a parcel is rezoned, thereby ensuring compatibility with adjacent properties and land use. Land use is tailored to the development plans submitted, within those guidelines set forth by the Planned Zoning District ordinance, §161.25 and §166.06 of the City of Fayetteville's Unified Development Code. A PZD follows the same process as a development project, and all submittal requirements must be met for a Large Scale Development (including but not limited to: Site Plan, Grading & Drainage Plans, Landscape Plan, Tree Preservation Plan). After Planning Commission review of the development plans, City Council must pass an ordinance approving the rezoning to an I-PZD zoning district, prior to final approvals.

Please contact Planning Staff with any questions you may have regarding the PZD process. The recommendation described herein involves the process through which the developer may pursue the proposed expansion and does not depict staff's recommendation for approval or denial. Though our findings indicate this particular process is the only available method to pursue in order to expand your existing facility and use, staff is willing to work with you to help meet your needs as we are able.

Sincerely,

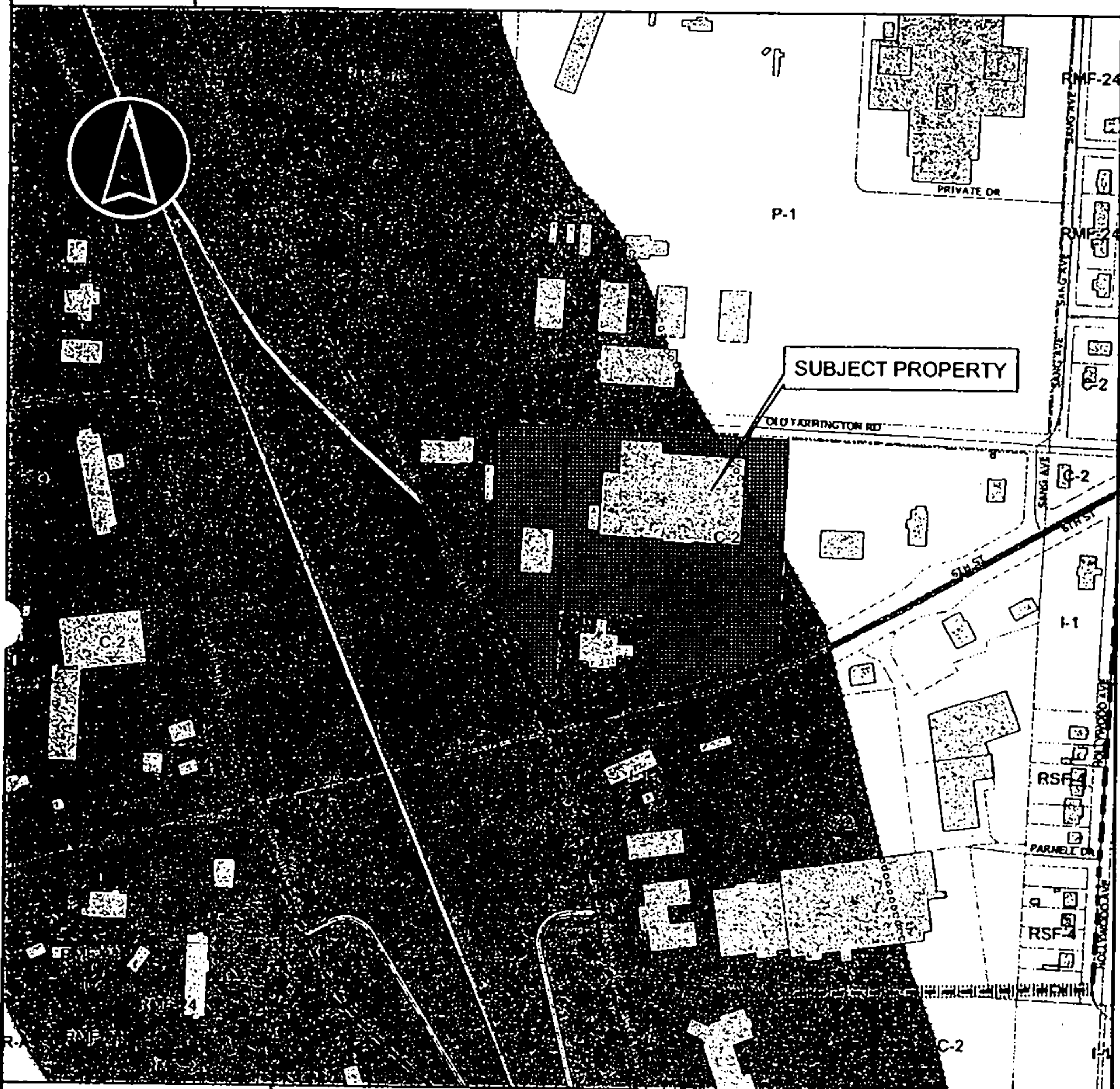

Jeremy C. Pate
Associate Planner

Copy: Todd Jacobs, CEI Engineering Associates, Inc.
Nancy Sieminski, CEI Engineering Associates, Inc.
Dawn Warrick, AICP, Zoning & Development Administrator

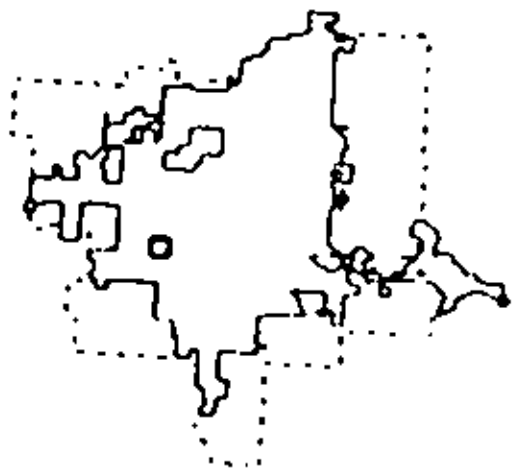
Attch: §161.25, §166.06 Planned Zoning District

WAL-MART OPTICAL

Close Up View



Overview



Legend

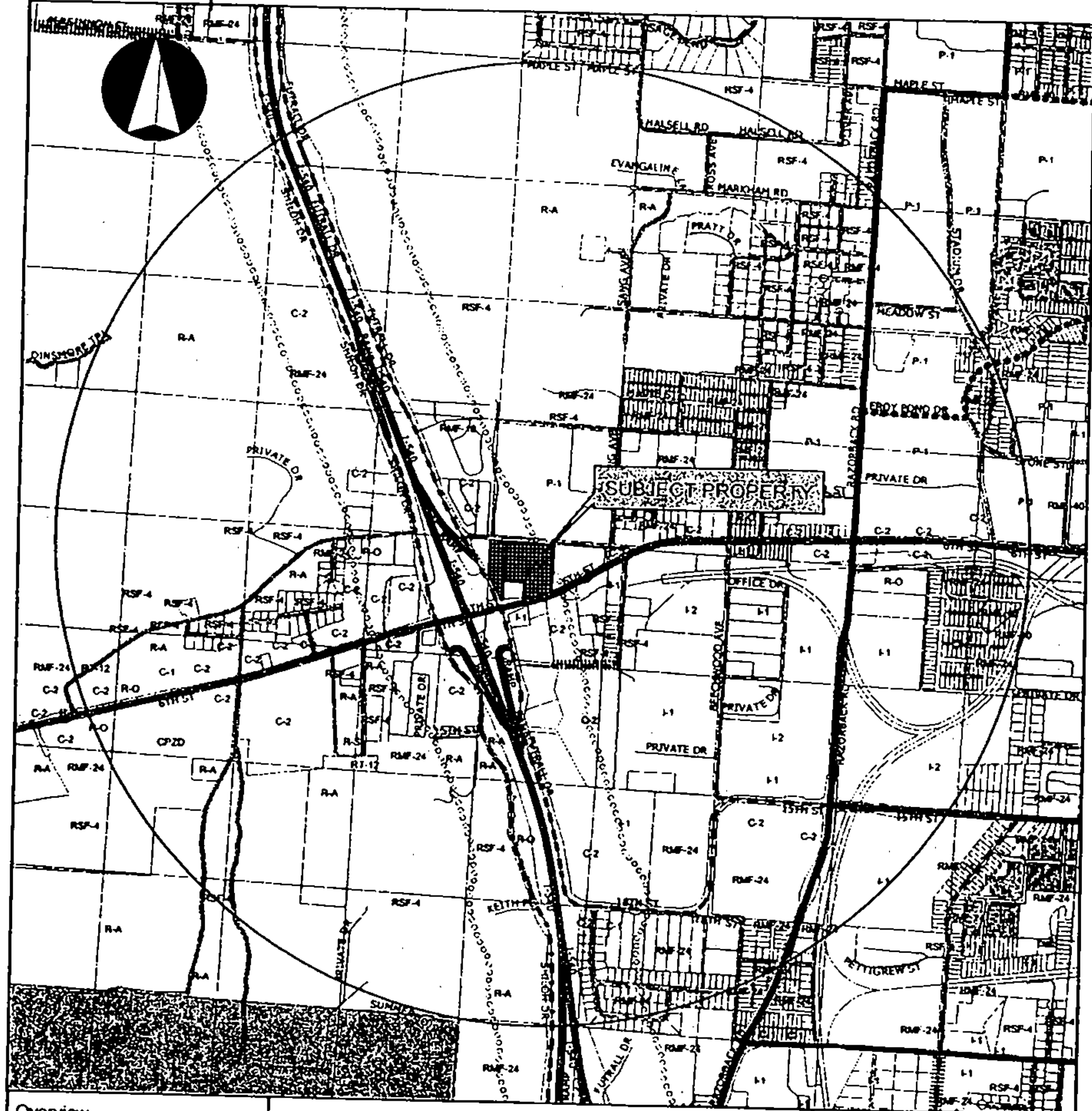
Overlay District	Principal Arterial	FLOODWAY
Master Street Plan	Minor Arterial	100 YEAR
Master Street Plan	Collector	500 YEAR
Freeway/Expressway	Historic Collector	LIMIT OF STUDY
	City Limits	BaseLine Profile
	Outside City	I-PZD04-05.00

0 125 250 500 750 1,000 Feet

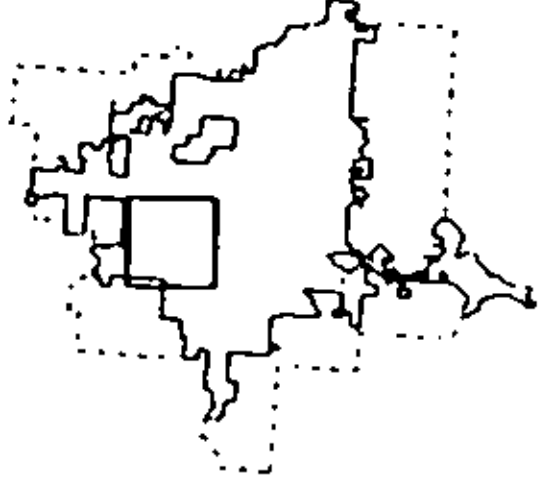
I-PZD04-05.00

One Mile View

WAL-MART OPTICAL



Overview



Legend

Subject Property

I-PZD04-05.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

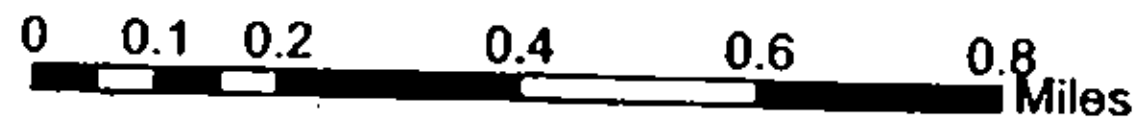
Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector



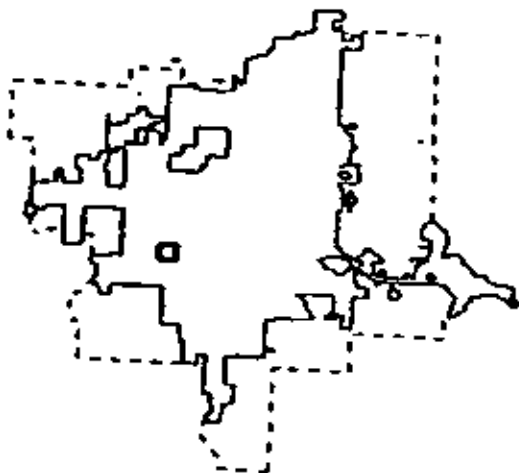
I-PZD04-05.00

Future Land Use

WAL-MART OPTICAL



Overview



Legend

Subject Property

I-PZD04-05.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 125 250 500 750 1,000 Feet

I-PZD 04-05.00: Industrial Planned Zoning District (Wal-Mart Optical Lab/Hwy 62W, pp 559) was submitted by Todd Jacobs of CEI Engineering Associates, Inc. on behalf of Wal-Mart Stores, Inc. for property located at 2314 W 6th Street. The property is zoned C-2, Thoroughfare Commercial, and is in the Design Overlay District. The request is to rezone the subject property to an I-PZD, Industrial Planned Zoning District, to allow a 979 sq.ft. addition to the Optical Lab building and revise the on-site parking. Planner: Jeremy Pate

Ostner: Next is I-PZD 04-05.00 for Wal-Mart Optical Lab.

Graves: I have to recuse from this particular item because of my employer's representation of Wal-Mart.

Ostner: Thank you. Can we have the staff report please?

Pate: The site was formerly a Wal-Mart retail store and operated as such until the early 1990's, the records are a little hazy. The site is zoned C-2, Thoroughfare Commercial and is located within the Design Overlay District. Currently the site is used as what is called the Wal-Mart Optical Lab, a Tractor Supply Co., which leases the property from Wal-Mart, and the Arkansas State Unemployment Center, which is a separate building to the west. The Wal-Mart Optical Lab's use came into being in approximately mid 1995. That was basically through a tenant finish out building permit that was issued basically to rehab the interior and probably install new signage. Based on current ordinances, the use of an optical center would not be allowed in the C-2, Thoroughfare Commercial zoning district. Therefore, an expansion, which is what the developer has requested, would require a rezoning because it is not allowed by right nor by Conditional Use in the C-2 zoning district. The most appropriate process for this to approve an expansion for this particular use would be the Industrial Planned Zoning District. Staff would not be in support of a general rezone to I-1 nor I-2 in this area. It is definitely a type of regional commercial area. It is a very high trafficked interchange with I-540 and 6th Street. The request tonight is to rezone the subject property to an I-PZD, which is an Industrial Planned Zoning District, the first of which we've seen in the city, and to allow a 979 sq.ft. addition to the Optical Lab building. Also, to revise the onsite parking for a more efficient manner of re-striping the parking. Future Land Use Plan identifies this site again, as Regional Commercial. The applicant does utilize a portion of the site, about 53% of it for their lab uses and light manufacturing uses. The remaining portion is leased to commercial use and office use. Rezoning to an I-PZD more appropriately, again, fits the current use of the site to its zoning district. The applicant has indicated that a mixture of the current manufacturing and lab use, commercial uses and office space are to be allowed within the use units for the I-PZD. The net parking spaces with the proposal actually decrease with the additions of islands and

landscaping to meet both our parking lot ordinance with regard to landscaping and our Design Overlay District requirements with regard to a minimum of 25% greenspace onsite. They are bringing that up from I believe 18% or 19%. Also, they have proposed 25' of landscaping along 6th Street with trees planted every 30 linear feet and shrubs to screen the parking. All of those requirements are being met by this proposal. Staff is in great recommendation of that. It is a derelict site at this point with a decrepit parking lot void of any plantings or landscaping at this time. I think that would be a very good addition to that area. Additionally, the Wal-Mart Optical Lab in this area employs about 530 employees. Some of which, 500 of which on a cycle of shifts are at the Optical Lab. Six to ten are at the Tractor Supply and six to ten at the Employment Center as well. As I mentioned, the applicant proposes to retain several of the use units that are more usually found within the C-2 zoning district and are also allowed in the I-PZD zoning district. In some of the findings, the site is relatively fully developed. There is no addition to any structure with the exception of 979 sq.ft., which I believe are shown in the elevations and the ones in your packet as well. The development expansion, along with the re-striping of parking spaces, achieves a more efficient use of the space for the applicant and is minimal relative to public improvements proposed. 6' sidewalks also are to be constructed along 6th Street, also with landscaping along Futrall and Old Farmington Road for that frontage, which is required by ordinance for both the Large Scale Development and a Planned Zoning District. Staff is recommending approval of the Industrial Planned Zoning District with a number of conditions. I will mention a couple of those. Planning Commission determination of Commercial Design Standards for the building expansion. All future additions, remodels and new construction for existing and proposed buildings shall comply with commercial design standards and Design Overlay District requirements. A minimum of 51% of the gross floor area on the site shall be of Industrial use per the I-PZD zoning ordinance. Any less than that or changes of use will require a rezoning request. Item number seven I've added, the existing access to Futrall Drive shall be permanently removed from public access. That has been shown on the plans and we've discussed that with the applicant. Additionally, all parking lot lights are to be shielded, directed downward and away from adjacent properties utilizing full cut off sodium lighting fixtures. That is a requirement in the Design Overlay District and the existing fixtures are to be retrofitted to meet those requirements. If you have any questions about this please feel free to ask.

Ostner: Thank you Mr. Pate. Could the applicant come forward please, introduce yourself and give us your presentation.

Jacobs: Good evening, my name is Todd Jacobs, I'm with CEI Engineering representing Wal-Mart. I think Jeremy gave a good description of the

history of this site. It has kind of been a couple of months of getting up to speed of how this site has evolved over time. Basically, there is a site that is not compliant right now. With this process we feel that it will best represent the city and Wal-Mart as well, in the future. With bringing the site up to code this will hopefully benefit the city with future development. This is a regional commercial node that is happening in this area. With the proposed improvements with the new landscaping we are removing 29,000 sq.ft. of impervious area to bring this site up to code so we'll meet the 25% greenspace. We are adding 30 or 32 landscape islands with new tree plantings, a new sidewalk along 6th Street, we will be extending that onto Blockbuster which is really not part of our property but is in the right of way to make that extension. This site is kind of a crazy site to work with, with the evolution of it being turned into light industrial. With the re-striping it will be more efficient and the landscape islands, I think this is the best use for this piece of property. There are quite a few employees through the day, 530 give or take a few with the different shifts. For that reason, we are asking for a little bit over the allowance of what would be allowed by normal code for parking. Hopefully, bringing this site up to code, like Jeremy talked about, is a very derelict site, as you saw from the tour. That will hopefully encourage development in this area and bringing this site up to code for an entryway into Fayetteville. With that, I hope you will approve this project. Thank you.

Ostner: Thank you. At this point I will open it up to the public. Is there anyone here who would like to comment on this issue? Seeing none, I will close it to the public and bring it back to the Commission.

MOTION:

Allen: I think the need for this tiny lab has resulted in a terrific cue for the City of Fayetteville for this highly visible artery it will be the beginning of beautification of this area. It is adding sidewalks, it is removal of asphalt, it is landscaping, it's a bonanza! With that, I would like to recommend that we forward to the City Council I-PZD 04-05.00 subject to the 17 conditions of approval.

Anthes: I will second.

Ostner: We have a motion by Commissioner Allen and a second by Commissioner Anthes, is there further discussion?

Myres: I just have a question. I'm not sure to whom it should be directed. Currently is it Old Farmington Road is one way into Futrall Drive? Is that of any concern?

Warrick: Old Farmington is a two way street. Futrall is the one that is one way and it is a concern to many people but it is the one way onto the bypass.

Ostner: I do have one comment. I drove by there for the thousandth time today looking carefully. This proposal does not require sidewalks along Futrall Drive. Our packet says our Sidewalk Administrator has determined sidewalks are not feasible. My guess is because of the design of the ditch. It is not curb and gutter, it is a ditch drainage design. We have approved our first commercial PZD directly adjacent to this project, directly to the north situated on the southern part of Southern View and it is designed to be an old town concept for people to live upstairs and work below and promote pedestrian activity everywhere. I think a sidewalk along Futrall is crucial. I would like to add that to the conditions of approval, just make it number 18 to require a sidewalk along Futrall Drive to benefit the new development to the north that we have recently approved. Do the motioner and the seconder agree with that additional condition?

Shackelford: I think we need to have some discussion with that. If our city staff is telling us that it is not feasible, I would like some sort of input why that determination was made by a professional that it wasn't feasible before we require that as a condition of approval on this development. Can staff that is present now, can you edify us on that decision?

Warrick: One thing that is important to note is that the subject property does not extend north to Old Farmington Road on Futrall. There is an intervening property, which is the Sines Autobody Shop, which would be the connection point to have a sidewalk connection between the Southern View project and 6th Street. It would take both properties. In addition to that it really has to do with what we were provided with regard to a recommendation from the Sidewalk Administrator, who did review the site and provide that recommendation to us.

Pate: In addition, Mr. Rutherford, the Sidewalk Administrator, also relayed onto me the sidewalk connection, specifically this is an area with a school Sidewalk connections are very important. 6th Street is going to be an important sidewalk connection. The reason, for instance, it wasn't on the south side of Old Farmington is there are existing power lines. Also, there is planned to be a sidewalk on the north side of Old Farmington Road in conjunction with the same project that you're speaking of, the C-PZD. I believe that connection along Old Farmington Road is seen as the more practical connection, especially with regard to high traffic numbers going all the way down to 6th Street. I believe a lot of the pedestrian connection will start to follow Old Farmington Road now with the signalized intersection with the new traffic signal along Sang and Hollywood.

Ostner: Just to continue this discussion, the southern triangle does abut the frontage road.

Warrick: Right, it just doesn't extend north to Old Farmington.

Shackelford: He is talking about just the specific part that abuts Futrall.

Ostner: Yes, I know Sine's Body Shop does have the majority or the northern half but the southern half is this property and I understand that the new signal is helpful but not for people heading west. People heading west from the school or from the Southern View mixed use development will come right here.

Warrick: It is the Planning Commission's determination. You have a motion and a second on the floor that would need to be voted up or down or amended.

Williams: Before the Planning Commission votes you should keep in mind that this is not an entirely new project. This is a 900 sq. ft. addition. Already the applicant is performing very many things to enhance the property pursuant to our ordinances, building sidewalks and removing asphalt, a bonanza, as Commissioner Allen pronounced it. I understand that the petitioner is in agreement with all of the conditions at this point, is that correct?

Jacobs: That is correct.

Williams: I appreciate the petitioner for doing that because, in fact, this particular parking lot was one of the reasons that we passed the parking lot landscape ordinance a few years back when I was on the Council to avoid this in the future. However, I would be reluctant to add additional costly things to the petitioner at this point in time who has already agreed to spend a terrific amount of money on a 900 sq. ft. addition only. We have to look at the rough proportionality of what his impact is to the city and to its infrastructure needs. I think that they have shown very good faith up to this point in time.

Ostner: I would agree that this is a great project. They are doing a lot of things above and beyond and it is greatly appreciated. Personally, with our city's dire lack of sidewalks in many places, if I, as a single person not speaking for the entire Commission, if I were presented with should there be a sidewalk along Futrall or should we remove three tree islands I would say a sidewalk because I see that as becoming heavily traveled and I see this as contributing. Why are they doing a sidewalk along 6th, logically, if they aren't doing a sidewalk along Futrall? The logic is the same. They are both major pedestrian thoroughfares but that's on the table.

Planning Commission
April 12, 2004

Anthes: I guess I need to go back to staff's comments about the feasibility of that sidewalk. It was the drainage, the overhead power lines and what was the other?

Pate: Those specifically were concerns along Old Farmington Road as far as existing infrastructure, utility poles and things of that nature along Old Farmington Road. As far as the specific condition by which feasible comes into the aspect of whether sidewalks could or could not be constructed, I'm sure it could be constructed, it is not impossible. We are basing that recommendation on our Sidewalk Administrator's recommendation with that regard per his site visit and recommendation.

Warrick: I would just also add that we do have in our streets and sidewalk chapter of the Unified Development Code with regard to sidewalk requirements and when we are looking at building permits or projects where there is an addition to an existing development of 2,500 sq.ft. or more then a sidewalk is required by ordinance. When it is less than that of course the Sidewalk Administrator can offer an opinion, a recommendation, but there is not an ordinance requirement specific to issuing a building permit for an addition of less than 2,500 sq.ft.

Anthes: I guess you know, I kind of went back and forth about this when I originally started looking at this project because the I-PZD is a rezoning and we are in a situation where we have the Design Overlay District, we've talked about it being a commercial node and we are rezoning this property to allow this industrial use in perpetuity now that it would be rezoned. I always felt kind of comforted by the fact that the applicant removed many of the use units from the PZD that might have been most objectionable in that area and left the ones that would be compatible in the long term. Also, condition of approval number three indicating that all future additions or remodels and new construction for any existing or proposed buildings shall comply with the Commercial Design Standards and Design Overlay District requirements is the thing that really put this over the edge with me. In terms of proportionality, knowing that going forward with anything else that this building will be brought up to all of the other conditions that we would like and I would think that the sidewalk would be one of those and the fact that they are reducing the amount of parking and the amount of concrete, they are putting in the islands, landscaping, they are replacing the lighting to be much more friendly and we are keeping 500 plus employees in the City of Fayetteville that might go elsewhere. Knowing that for a 900 sq.ft. addition, I, as the seconder to the motion, would be willing to leave it stand.

Allen: Mr. Chair, while I understand what you said, I feel that the impact of a 900 sq.ft. building they have gone far and above. I would like to let the motion stand.

Ostner: Is there any other discussion? Renee, can you call the roll please?

Roll Call: Upon the completion of roll call the motion to forward I-PZD 04-05.00 to the City Council with a recommendation for approval was approved by a vote of 7-0-1 with Commissioner Graves abstaining.

Thomas: The motion carries seven to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C. 7
I-PZD 04-5.00 (Wal-Mart Optical Lab)
Page 40 of 40x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

May 4, 2004

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

I-PZD 04-05.00: Industrial Planned Zoning District (Wal-Mart Optical Lab, pp 559) was submitted by Todd Jacobs of CEI Engineering on behalf of Wal-Mart for property located at 2314 W. 6th Street. The property is currently zoned C-2, Thoroughfare Commercial and is located within the boundaries of the Design Overlay District, containing approximately 8.457 acres. The request is to rezone the subject property to an Industrial Planned Zoning District to allow for an expansion of 979 sq.ft. and to revise the on site parking.

STAFF RECOMMENDATION: Approval.

Dawn J. Warrick
Division Head4/16/04
Date

Received in Mayor's Office

4/16/04
Date *PH**K. Wilson*
City Attorney4/16/04
Date

Department Director

Date

Steph Davis
Finance & Internal Services Dir.4-20-04
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

Krugl Samant
Chief Administrative Officer4-20-04
Date

New Item:

Yes

No

Mayor

Date



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator *DW*

Date: April 14, 2004

Subject: Drainage Easement Vacation for Clary Development/Harps (VAC 04-04.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a 35' platted drainage easement located in the northwest portion of the subject property.

BACKGROUND

The subject easement lies on the northwest portion of lot 8 of Wedington Place Subdivision Ph. II located north of Wedington Drive, east of Colorado Drive. A 35' drainage easement was platted with the final plat of the subdivision and is currently utilized for drainage purposes. The applicant proposes to vacate the designated portion of the 35' easement containing approximately 0.14 acres. A new 20' drainage easement shall be dedicated prior to building permit approval.

The Planning Commission approved the development of a Harps grocery store on lot 8 of Wedington Place Subdivision. The large scale development was approved with a condition that the 35' drainage easement shall be vacated.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. No objections were reported regarding this requested easement vacation.

The Planning Commission voted in favor of this item on its Consent Agenda at the regular meeting of April 12, 2004.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-04.00 TO VACATE AND ABANDON A 35' DRAINAGE EASEMENT LOCATED ON LOT 8 OF THE WEDINGTON PLACE ADDITION PHASE II AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

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

WHEREAS, the City Council has determined that the following described utility easement is not required for corporate purposes.

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

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

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

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the legal description attached hereto and labeled Exhibit "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By _____
Dan Coody, Mayor

ATTEST:

By _____
Sondra Smith, City Clerk

EXHIBIT "A"
VAC 04-04.00

COMMENCING AT THE NORTHWEST CORNER OF LOT 8, WEDINGTON PLACE ADDITION PHASE II, CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT BOOK 16 AT PAGE 30 OF THE RECORDS IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS; THENCE SOUTH 00°08'38" WEST-120.02 FEET; THENCE SOUTH 89°58'38" EAST-25.05 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°58'38" EAST-35.00 FEET; THENCE SOUTH 00°08'38" WEST-175.08 FEET; THENCE NORTH 89°59'26" WEST-35.00 FEET; THENCE NORTH 00°04'52" EAST-174.76 FEET TO THE POINT OF ENDING, AND CONTAINING 6144.81 SQ.FT. OR 0.14 ACRES, MORE OR LESS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission Members
THRU: Dawn Warrick, AICP. Zoning & Development Administrator
FROM: Suzanne Morgan, Associate Planner
Matt Casey P.E. Staff Engineer
DATE: March 29, 2004

VAC 04-04.00: Vacation (Clary/Harps, pp 401) was submitted by Brian Moore of Engineering Services, Inc. on behalf of Clary Development for property located east of Colorado Drive and north of Wedington Drive. The property is zoned C-2, Thoroughfare Commercial, and contains approximately 4.61 acres. The request is to vacate a 35' drainage easement. Planner: Suzanne Morgan

Findings: See the attached maps and legal descriptions for the exact locations of the requested drainage easement vacation.

Background: The drainage easement vacation request results from the approved large scale development for the Harp's grocery store. The store will also have gas station facilities located on the west side of the proposed building. There is an existing drainage swale that was constructed as part of the Wedington Place Addition in the location of the proposed gas pump islands. At that time, a 35' drainage easement was dedicated for this ditch. The proposal for this development is to vacate this drainage easement, dedicate a new drainage easement on the project's easement plat, fill in the ditch and install underground storm drains in the new easement that will carry the flow north to the detention pond.

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

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

UTILITIES

RESPONSE

Ozarks Electric

N/A

AEP/SWEPCO

N/A

Arkansas Western Gas

N/A

SW Bell

N/A

Cox Communications

N/A

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

N/A

Transportation

No Objections

Solid Waste

N/A

Engineering

No Objections

Recommendation: Approval of the proposed drainage easement vacation 04-04.00 subject to the following condition:

Conditions of Approval:

1. The easement plat for the large scale development must be filed prior to City Council consideration of this request.

PLANNING COMMISSION ACTION: yes Required
_____ Approved _____ Denied

Date: April 12, 2004

CITY COUNCIL ACTION: yes Required
_____ Approved _____ Denied

Date: _____

ZONING : RMF- 4

Clary Dev
2200 N.
Little Rock,
765-21703-0
ZONIN

ZONING : RMF-24

POWER POLE

STATE PLANE COORDINATES:
NORTHERLY: 643445.741
EASTERLY: 660413.146

S 89-59

EXISTING 6' SIDEWALK

ZONING : C-2

2 - 4"
UTILITY DUCTS

MODIFIED CURB-
AND GUTTER

POWER POLE

EXISTING 6' SIDEWALK

ZONING : C-2

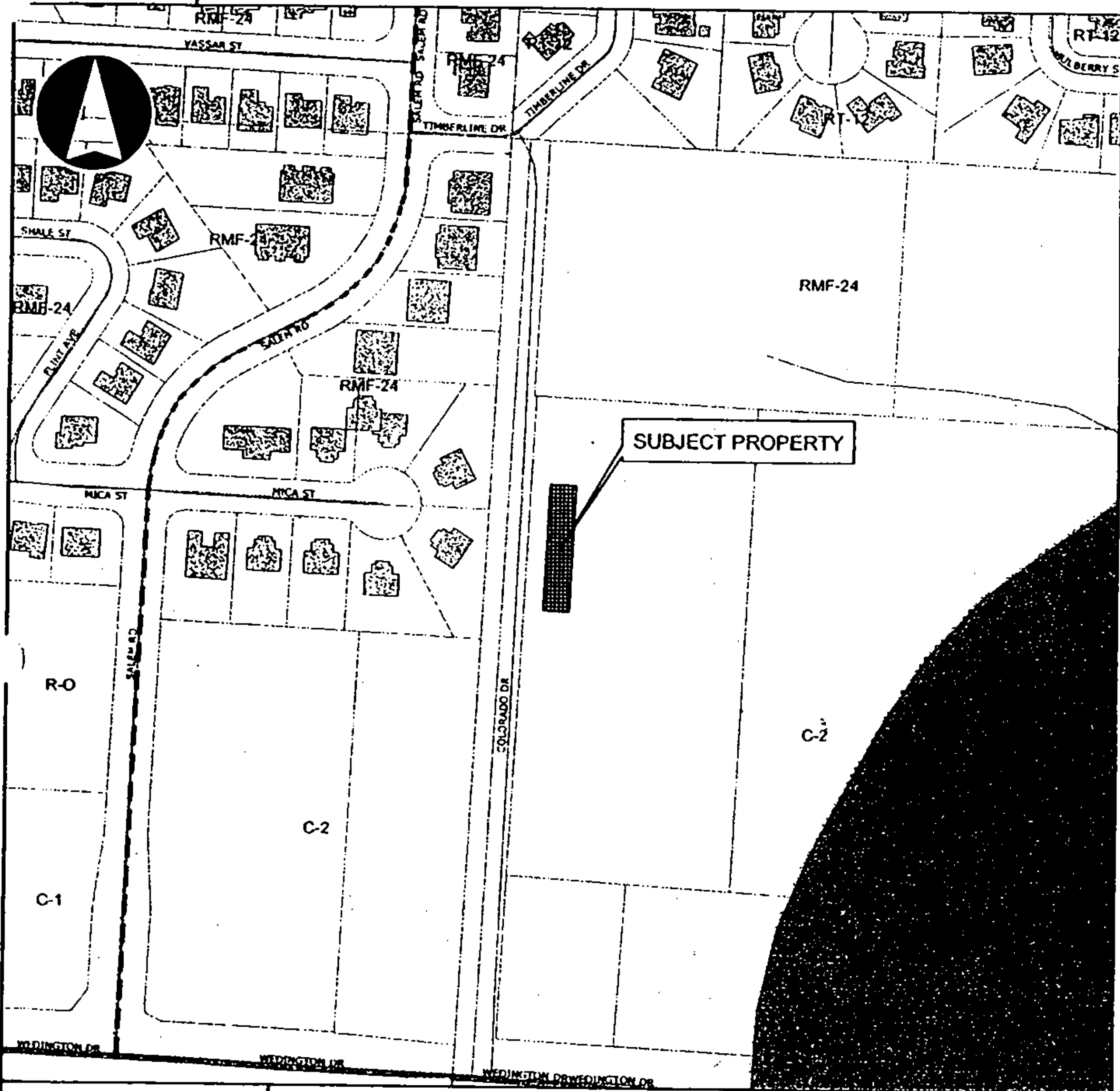
BENCHMARK "A"

POWER POLE

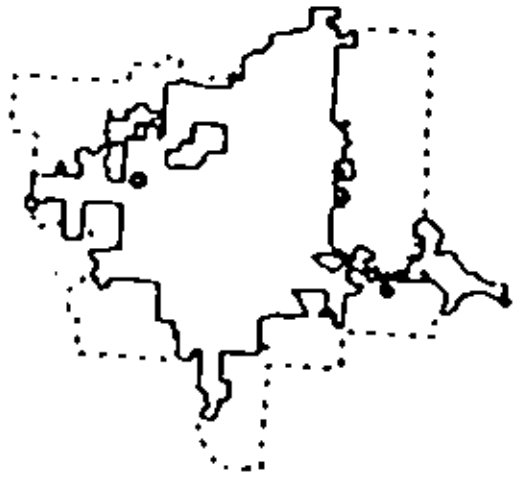
EXISTING FIRE HYDRANT -
(STATIC PRESSURE = 139 PSI)

CLARY/HARPS

Close Up View



Overview



Legend

Overlay District	Principal Arterial	FLOODWAY
Master Street Plan	Minor Arterial	100 YEAR
Master Street Plan	Collector	500 YEAR
Freeway/Expressway	Historic Collector	LIMIT OF STUDY
City Limits	Outside City	BaseLine Profile
		VAC04-04.00



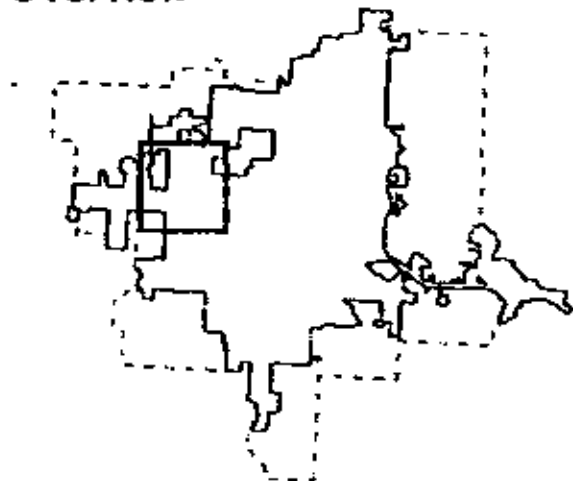
VAC04-04.00

One Mile View

CLARY/HARPS



Overview



Legend

Subject Property

VAC04-04.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

Feb-18-04 08:18am

T-820 P.07/07 F-186

PETITION

PETITION TO VACATE ~~THE ABOVE DESCRIBED EASEMENT~~ LOCATED IN LOT 8 OF WASHINGTON PLACE ADDITION, EAST OF COLORADO DR. AND NORTH OF HWY 16 IN FAYETTEVILLE, ARKANSAS

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

We, the undersigned, ~~being all the owners of the real estate~~ ~~abandoning the 35' drainage easement hereinafter sought to be abandoned and vacated, lying Lot 8 of Washington Place Addition, East of Colorado Dr. and North of Hwy 16 in Fayetteville, Arkansas, a municipal corporation, petition to vacate an utility easement which is described as follows:~~

LEGAL DESCRIPTION - EASEMENT:

Commencing at the Northeast corner of Lot 8, Washington Place Addition Phase II, City of Fayetteville, Arkansas, as per plat book 16 as page 30 of the records in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas; thence South 00°08'38" West - 120.02 feet; thence South 89°58'38" East - 25.05 feet to the POINT OF BEGINNING, thence South 89°58'38" East - 35.00 feet; thence South 00°08'38" West - 175.08 feet; thence North 89°59'26" West - 35.00 feet; thence North 00°04'52" East - 174.76 feet to the POINT OF ENDING, and containing 6144.81 Sq. Ft. or 0.14 acres, more or less.

That the abutting real estate affected by said abandonment of the utility easement is Lot 8 of Washington Place Addition, East of Colorado Dr. and North of Hwy 16 in Fayetteville, Arkansas, a certified copy of the original plat located in the Circuit Clerk's Office for the County of Washington, State of Arkansas, is attached hereto, marked Exhibit A, and made a part hereof as though set out herein word for word.

Petitioners state that the above described real estate has been used as a drainage ditch and now the storm water will be placed in a pipe, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the encumbrances of the public for the use of said drainage easement.

Dated this 5 day of MARCH, 2004

→ JAMES GALLOWAY [Signature]
printed name signature
printed name signature

|| || || || || || || ||

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C. 8
VAC 04-04.00 (Clary Development/Harps)
Page 10 of 10 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

May 4, 2004

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-04.00: Vacation (Clary Development/Harps, pp 401) was submitted by Brian Moore of ESI on behalf of Clary Development for property located east of Colorado Drive and north of Wedington Drive. The property is zoned C-2, Thoroughfare Commercial. The request is to vacate a 35' drainage easement located on Lot 8 of the Wedington Place Addition Phase II.

STAFF RECOMMENDATION: Approval.

Dawn J. Warrick
Division Head4/16/04
Date

Received in Mayor's Office

4/16/04
Date *pt**[Signature]*
City Attorney4/16/04
Date

Cross Reference:

Department Director

Date

Previous Ord/Res#:

[Signature]
Finance & Internal Services Dir.4-20-04
Date

Orig. Contract Date:

[Signature]
Chief Administrative Officer4-20-04
Date

Orig. Contract Number:

New Item:

Yes

No

Mayor

Date



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator *DW*

Date: April 15, 2004

Subject: Utility Easement Vacation for Clary Development/Harps (VAC 04-05.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of an existing, platted utility easement located along the east property line of the subject property.

BACKGROUND

The subject easement lies between lots 8 and 3RB of Wedington Place Subdivision Ph. II located north of Wedington Drive, east of Colorado Drive. The applicant proposes to vacate a 10' wide, 198.58' long portion along the east property line of lot 8, resulting in the vacation of approximately 0.05 acres.

Lots 8 and 3RB are vacant with no existing utilities within this easement. The Planning Commission approved the development of a Harps grocery store on lot 8 of Wedington Place Subdivision. The building site was approved to be adjacent to the east property line with the condition that a 0' rear setback and the vacation of the 20' utility easement to allow the building to be built on the east lot line and provide for future development adjacent to Harps. The Board of Adjustment voted 7-0-0 to approve a 0' rear setback for the subject property on April 5, 2004.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. No objections were reported regarding this requested easement vacation.

The Planning Commission voted in favor of this item on its Consent Agenda at the regular meeting of April 12, 2004.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-05.00 TO VACATE AND ABANDON A 10' UTILITY EASEMENT LOCATED ALONG THE BOUNDARY OF LOT 8 OF THE WEDINGTON PLACE ADDITION PHASE II AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

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

WHEREAS, the City Council has determined that the following described utility easement is not required for corporate purposes.

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

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

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

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the legal description attached hereto and labeled Exhibit "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By _____
Dan Coody, Mayor

ATTEST:

By _____
Sondra Smith, City Clerk

EXHIBIT "A"
VAC 04-05.00

COMMENCING AT THE NORTHWEST CORNER OF LOT 8, WEDINGTON PLACE
ADDITION PHASE II, CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT
BOOK 16 AT PAGE 30 OF THE RECORDS IN THE OFFICE OF THE CIRCUIT
CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS;
THENCE SOUTH 89°59'26"EAST-301.25 FEET; THENCE SOUTH 00°00'51" WEST
- 118.20 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00°00'51"
WEST-198.58 FEET; THENCE NORTH 89°59'10" WEST-10.00 FEET; THENCE
NORTH 00°00'51" EAST-198.58 FEET; THENCE SOUTH 89°59'09" EAST-10.00
FEET TO THE POINT OF BEGINNING, CONTAINING 0.05 ACRES, MORE OR
LESS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission Members
THRU: Dawn Warrick, AICP. Zoning & Development Administrator
FROM: Suzanne Morgan, Associate Planner
Matt Casey P.E. Staff Engineer
DATE: March 29, 2004

VAC 04-05.00: Vacation (Clary/Harps, pp 401) was submitted by Brian Moore of Engineering Services, Inc. on behalf of Clary Development for property located east of Colorado Drive and north of Wedington Drive. The property is zoned C-2, Thoroughfare Commercial, and contains approximately 4.61 acres. The request is to vacate a portion of a 20' utility easement. Planner: Suzanne Morgan

Findings: See the attached maps and legal descriptions for the exact locations of the requested drainage easement vacation.

Background: The utility easement vacation request results from the approved large scale development for the Harp's grocery store. The proposed building for the Harp's development will be located over the existing utility easement. The proposal for this development is to vacate the portion of utility easement that will be affected by the construction of the building.

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

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

UTILITIES

RESPONSE

Ozarks Electric

No Objections

AEP/SWEPCO

No Objections

Arkansas Western Gas

No Objections

SW Bell

No Objections

Cox Communications

No Objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections

Transportation

No Objections

Solid Waste

No Objections

Engineering

No Objections

Recommendation: Approval of the proposed utility easement vacation 04-05.00 subject to the following condition:

Conditions of Approval:

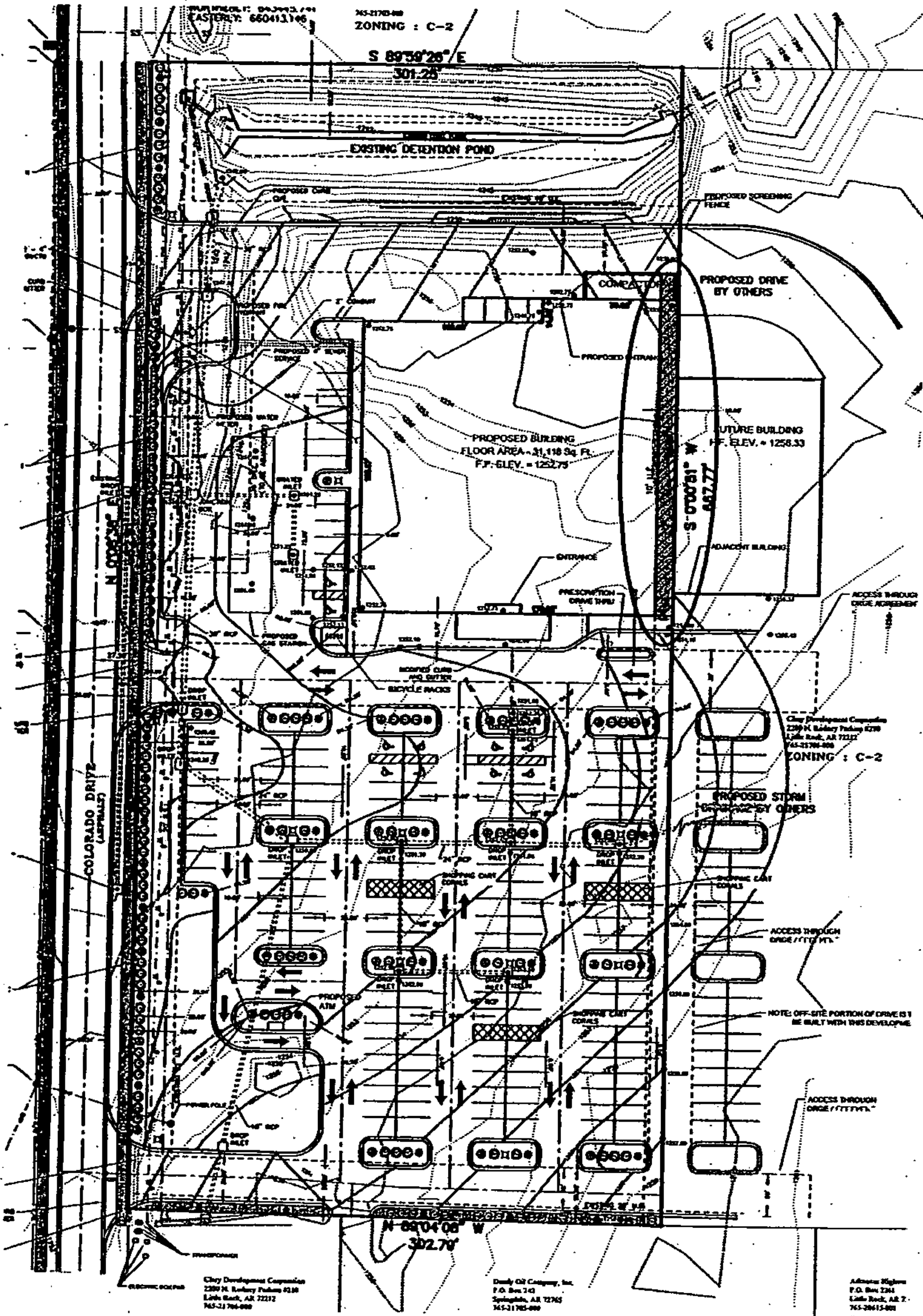
1. The easement plat for the large scale development must be filed prior to City Council consideration of this request.

PLANNING COMMISSION ACTION: yes Required
 Approved Denied

Date: April 12, 2004

CITY COUNCIL ACTION: yes Required
 Approved Denied

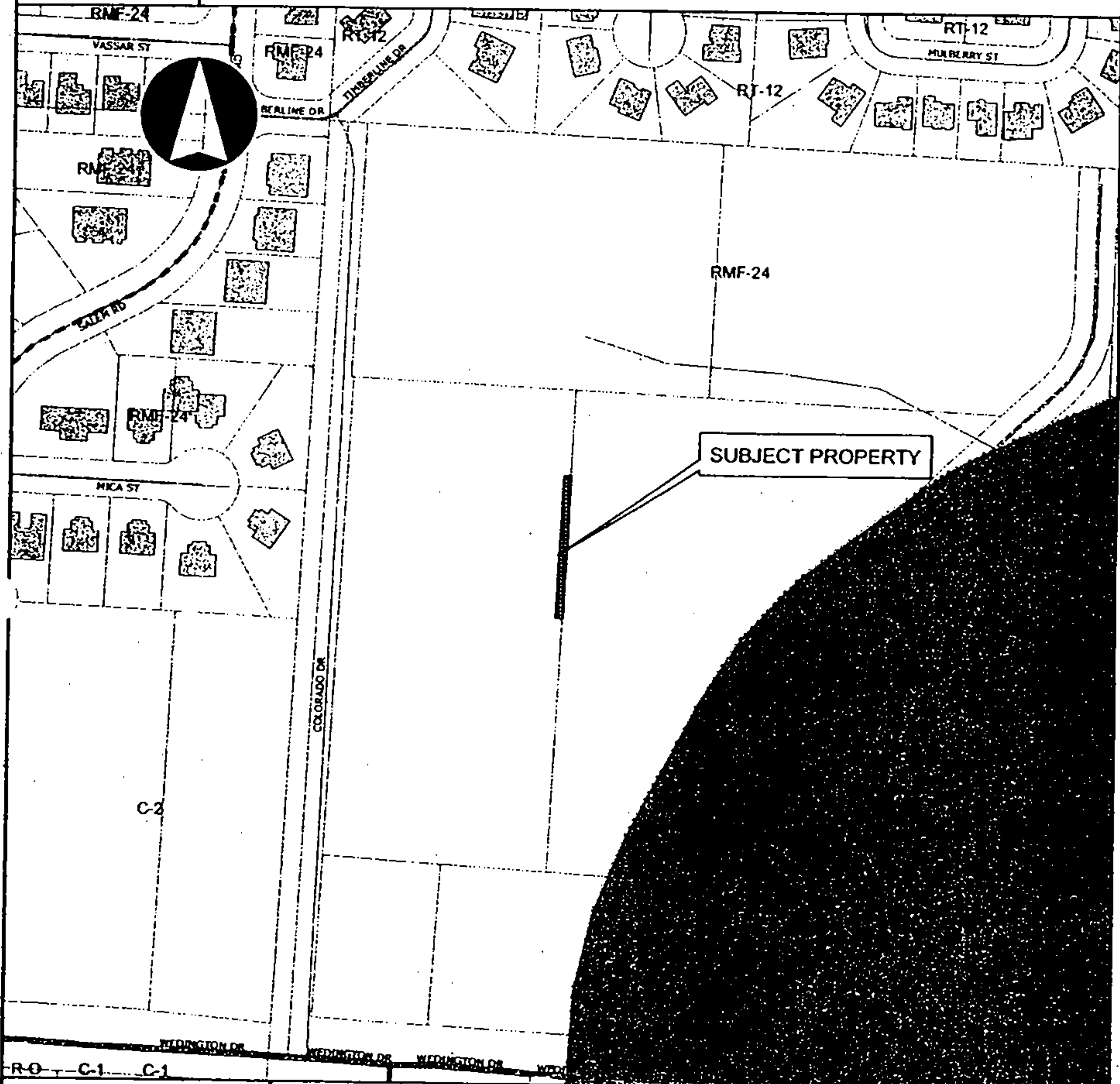
Date:



VAC04-05.00

CLARY DEVELOPMENT / HARPS

Close Up View



Overview

Legend

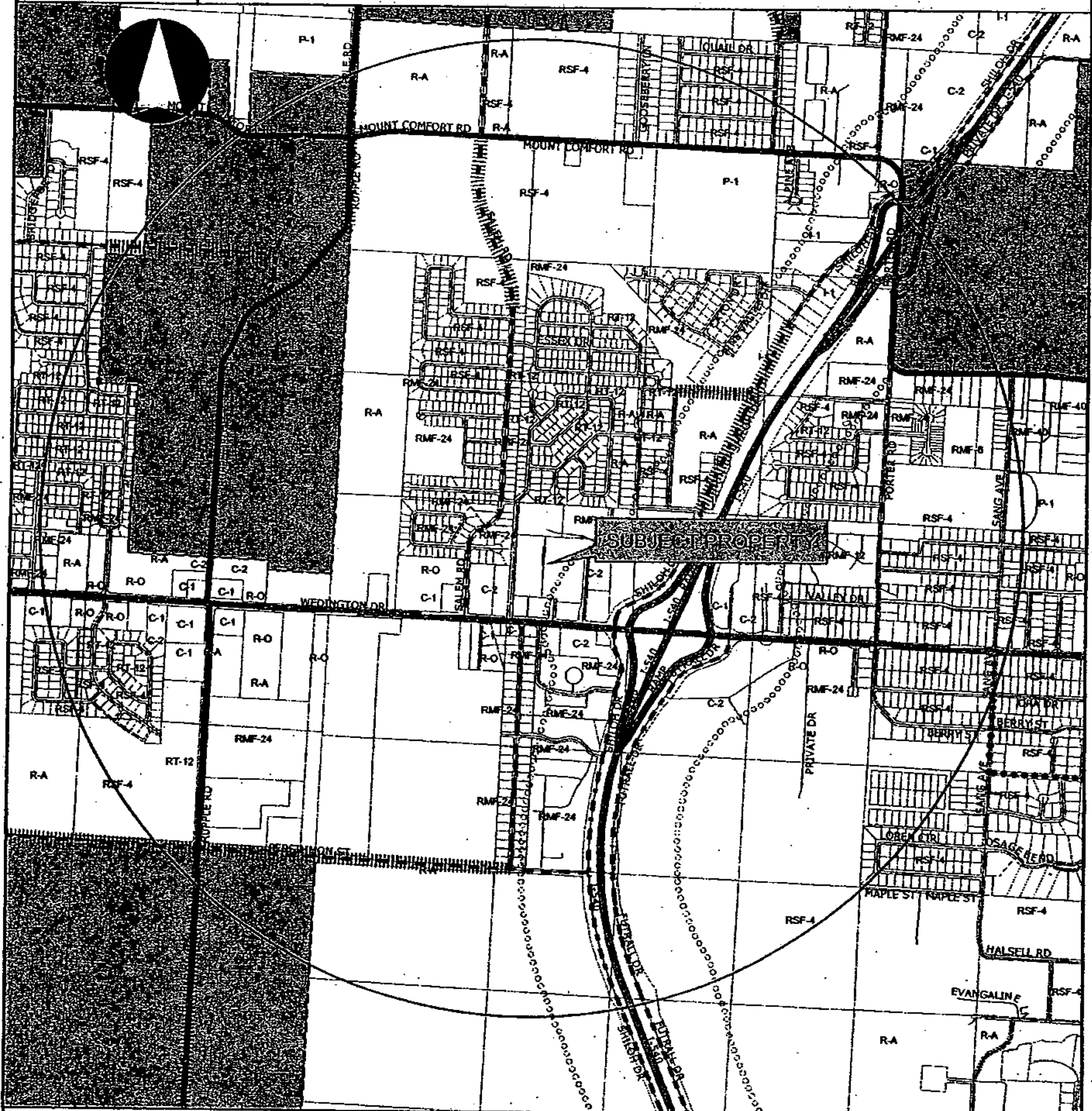
○○○○○ Overlay District	Principal Arterial	FLOODWAY
Master Street Plan	Minor Arterial	100 YEAR
Master Street Plan	Collector	500 YEAR
Freeway/Expressway	Historic Collector	LIMIT OF STUDY
	City Limits	Baseline Profile
	Outside City	VAC04-05.00



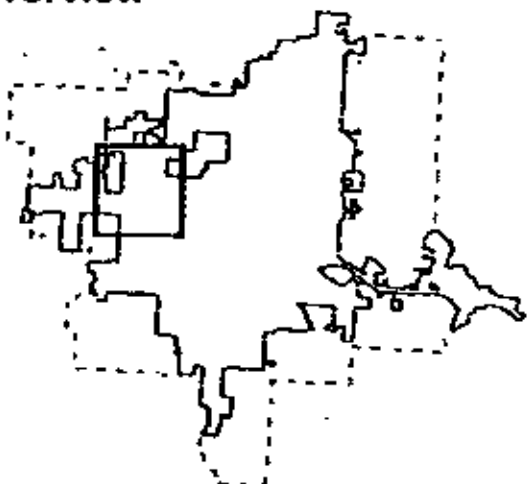
VAC04-05.00

CLARY DEVELOPMENT / HARPS

One Mile View



Overview



Legend

Subject Property

VAC04-05.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

PETITION

PETITION TO VACATE A 10' UTILITY EASEMENT LOCATED IN LOT 8 OF WEDINGTON PLACE ADDITION, EAST OF COLORADO DR. AND NORTH OF HWY 16 IN FAYETTEVILLE, ARKANSAS

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

We, the undersigned, being all the owners of the real estate abutting the 10' utility easement hereinafter sought to be abandoned and vacated, lying Lot 8 of Wedington Place Addition, East of Colorado Dr. and North of Hwy 16 in Fayetteville, Arkansas, a municipal corporation, petition to vacate an utility easement which is described as follows:

LEGAL DESCRIPTION - EASEMENT:

Commencing at the Northwest corner of Lot 8, Wedington Place Addition Phase II, City of Fayetteville, Arkansas, as per plat book 16 at page 30 of the records in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas; thence South 89°59'26" East - 301.25 feet; thence South 00°00'51" West - 118.20 feet to the POINT OF BEGINNING; thence South 00°00'51" West - 198.58 feet; thence North 89°59'10" West - 10.00 feet; thence North 00°00'51" East - 198.58 feet; thence South 89°59'09" East - 10.00 feet to the POINT OF BEGINNING, containing 0.05 acres, more or less.

That the abutting real estate affected by said abandonment of the utility easement is Lot 8 of Wedington Place Addition, East of Colorado Dr. and North of Hwy 16 in Fayetteville, Arkansas,, a certified copy of the original plat located in the Circuit Clerk's Office for the County of Washington, State of Arkansas, is attached hereto, marked Exhibit A, and made a part hereof as though set out herein word for word.

Petitioners state that the above described real estate has not been used by the Utility Company for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said drainage easement.

Dated this _____ day of _____, 20____

printed name signature

printed name signature

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C. 9
VAC 04-05.00 (Clary Development/Harps)
Page 10 of 10 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

May 4, 2004

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-05.00: Vacation (Clary Development/Harps, pp 401) was submitted by Brian Moore of ESI on behalf of Clary Development for property located east of Colorado Drive and north of Wedington Drive. The property is zoned C-2, Thoroughfare Commercial. The request is to vacate 10' of an existing utility easement located on Lot 8 of the Wedington Place Addition Phase II.

STAFF RECOMMENDATION: Approval.

Dawn Warrick 4/16/04
Division Head Date

Received in Mayor's Office

4/16/04
Date *P.H.**[Signature]* 4/16/04
City Attorney Date

Department Director Date

[Signature] 4-20-04
Finance & Internal Services Dir. Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

[Signature] 4-20-04
Chief Administrative Officer Date

New Item:

Yes

No

Mayor Date



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator *DW*

Date: April 14, 2004

Subject: Alley Vacation for Woodall (VAC 04-07.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of an existing, platted alley adjacent to the subject property.

BACKGROUND

The subject alley lies between Taylor and Douglas Street, west of Gregg Avenue. The applicant owns property to the adjacent to the alley, along its eastern boundary. The applicant proposes to vacate the 15' alley to provide the required minimum frontage of 70 feet for development of the lot. Currently the lot is 53' wide. The minimum lot width is 70'. With the vacation of the alley, Lot 13 will have 7.5' of the alley added to the lot bringing it up to 70.5'.

The alley in this location was at one time vacated by Ordinance #1779, in 1971. A month later, City Council approved Ordinance #1785, rescinding that vacation description and revising the legal description to vacate another portion of the alley. The alley in this location, therefore, exists as city right-of-way.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. No objections were reported regarding this requested easement vacation.

The Planning Commission voted in favor of this item on its Consent Agenda at the regular meeting of April 12, 2004.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-07.00 TO VACATE A 15' ALLEY BETWEEN TAYLOR AND DOUGLAS STREETS, WEST OF GREGG AVENUE AS DEPICTED ON THE ATTACHED LEGAL DESCRIPTION.

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

WHEREAS, the City Council has determined that the following described alley is not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons the following described alley, abandoning all of its rights together with the rights of the public in general:

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

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the legal description attached hereto and labeled Exhibit "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By _____
Dan Coody, Mayor

ATTEST:

By _____
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 04-07.00

AN ALLEY WITHIN THE ARCHIAS-BUSHNELL ADDITION TO THE CITY OF FAYETTEVILLE, AS DESIGNATED ON THE PLAT OF SAID ADDITION NOW ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND LYING BETWEEN LOTS 3, 4, 5 AND 14. SAID ALLEY COMMENCING AT AN EXISTING IRON PIN AT THE SOUTHWEST CORNER OF LOT 14 OF SAID ADDITION, THENCE WEST 15.00 FEET ALONG THE EXISTING RIGHT OF WAY OF DOUGLAS STREET, THENCE N00 DEGREES 03'22" E 190.75 FEET, THENCE EAST 15.00 FEET ALONG THE EXISTING RIGHT OF WAY OF TAYLOR STREET TO AN EXISTING IRON PIN AT THE NORTHWEST CORNER OF LOT 14, THENCE ALONG THE WEST BOUNDARY LINE OF SAID LOT 14 TO THE POINT OF BEGINNING.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission Members
THRU: Dawn Warrick, AICP. Zoning & Development Administrator
FROM: Jeremy Pate, Associate Planner
Matt Casey P.E. Staff Engineer
DATE: April 07, 2004

VAC 04-07.00: Vacation (Woodall/Douglas Street, pp 444) was submitted by Josef Woodall for property located at Lot 13 of Archais-Bushnell Addition. The property is zoned RMF-40, Residential Multi-Family, 40 units per acre. The request is to vacate a 15' alley.

Planner: Jeremy Pate

Findings: See the attached maps and legal descriptions for the exact locations of the requested drainage easement vacation.

Background: The proposal for this development is to vacate the 15' alley to provide the required frontage for the lot. Currently the lot is 53' wide. The minimum lot width is 70'. With the vacation of the alley, Lot 13 will have 7.5' of the alley added to the lot bringing it up to 70.5'.

To address the applicant's letter of correspondence regarding a previous vacation of said alley, please review the attached documents. In summary, Ordinance 1779, on Feb 01, 1971, vacated the subject alley, along with other portions of the alley north of Douglas Street and south of Cleveland St. The following month, March 01, 1971, Ordinance 1785 was approved and filed of record correcting the legal description of said vacation, to only include the alley between lots 1, 2 and 13, south of Douglas Street. The subject alley between lots 3, 4, 5 and 14, therefore, currently exists as city right-of-way.

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

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

UTILITIES

RESPONSE

Ozarks Electric

No Objections

AEP/SWEPCO

No Objections

Arkansas Western Gas

No Objections

SW Bell

No Objections

Cox Communications

No Objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

See Conditions of Approval

Transportation

No Objections

Solid Waste

No Objections

Engineering

No Objections

Recommendation: Approval of the proposed alley vacation 04-07.00 subject to the following condition:

Conditions of Approval:

1. The entire alley width needs to remain in place as a general utility easement. Also, additional easement is required to bring the easement to a minimum of 15' east of the existing waterline. The applicant's surveyor will need to show the location of the existing waterline to determine the location of the required easement.

PLANNING COMMISSION ACTION: yes Required

Date: April 12, 2004

✓ Approved Denied
8-0-0

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

By _____

Title _____

Date _____

CITY COUNCIL ACTION: yes Required
 Approved Denied

Date: May 04, 2004

PETITION

PETITION TO VACATE AN ALLEY LOCATED IN LOT FOURTEEN (14) OF ARCHIAS-BUSHNELL ADDITION TO THE CITY OF FAYETTEVILLE, CITY OF FAYETTEVILLE, ARKANSAS

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

We, the undersigned, being all the owners of the real estate abutting the alley hereinafter sought to be abandoned and vacated, lying BETWEEN LOTS THREE (3), FOUR (4) FIVE (5) AND FOURTEEN (14) OF ARCHIAS-BUSHNELL ADDITION, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an alley which is described as follows:

An alley within the Archias-Bushnell Addition to the City of Fayetteville, as designated on the plat of said addition now on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and lying between Lots 3, 4, 5, and 14. Said alley commencing at an existing iron pin at the Southwest corner of Lot 14 of said addition, thence West 15.00 feet along the existing right-of-way of Douglas Street, thence N 00 degrees 03' 22" E 190.75 feet, thence East 15.00 feet along the existing right-of-way of Taylor Street to an existing iron pin at the North-west corner of Lot 14, thence along the West boundary line of said Lot 14 to the point of beginning.

That the abutting real estate affected by said abandonment of the alley are LOTS THREE (3), FOUR (4) AND FIVE (5) OF ARCHIAS-BUSHNELL ADDITION, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described alley.

Petitioners also would like to make note that this alley vacation is required to obtain the required frontage for any future development of the property located at LOT FOURTEEN (14) OF ARCHIAS-BUSHNELL ADDITION TO THE CITY OF FAYETTEVILLE.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this 4th day of March, 2004

Cynthia D. Nielsen, Mgr.
printed name

Cynthia D. Nielsen, Mgr. - C.Y.N.I., LLC
signature

printed name

signature

W.C.W. Williams & Son Co. Inc. No. 12, 13



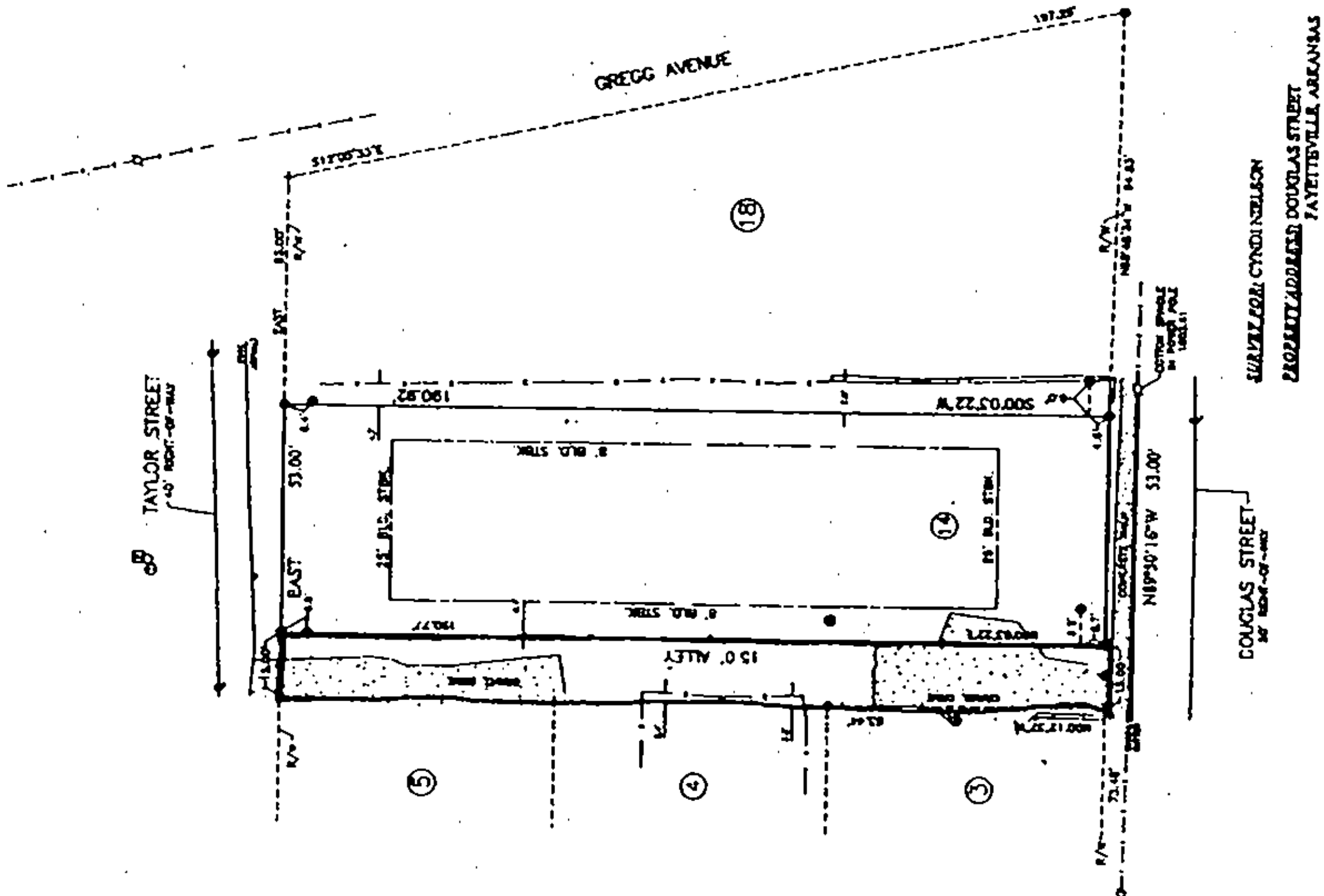
PLATT DISCUSSION
LOT NUMBERED FOURTEEN (14) OF ACTUAL SUBDIVISION ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS THE SAME IS DESIGNATED ON THE PLAT OF SAID ADDITION NOW ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

- EXISTING R.R. SPIKE
- POWER POLE
- GAS METER
- SEWER CLEANOUT
- SET IRON PIN
- WATER METER
- EXISTING IRON PIN
- COMPUTED CORNER
- SEWER MANHOLE
- ELECTRIC BOX
- TELEPHONE PEDESTAL
- OVERHEAD ELECTRIC
- FENCE LINE
- SANITARY SEWER LINE



CYNDI NIELSON

DATE	DATE	DATE	DATE
12/12/93	12/12/93	12/12/93	12/12/93
116 E. COLLEGE	116 E. COLLEGE	116 E. COLLEGE	116 E. COLLEGE
FAYETTEVILLE, AR.	FAYETTEVILLE, AR.	FAYETTEVILLE, AR.	FAYETTEVILLE, AR.
(179) 444-8744	(179) 444-8744	(179) 444-8744	(179) 444-8744
PROJECT NO.	PROJECT NO.	PROJECT NO.	PROJECT NO.
00000	00000	00000	00000



Don
City Planner

C.Y.N., LLC

**Post Office Box 1364
Fayetteville, AR 72702**

**(479) 839-2218 office
(479) 409-9618 cell**

February 11, 2004

Planning Commission
City of Fayetteville
Fayetteville, AR 72701

RE: Written Description of Request for Alley Closing

Dear Planning Commission:

We formally request the closing of an existing alley which is within the Archias-Bushnell Addition to the City of Fayetteville, lying between Lots 3, 4, 5, and 14. To our knowledge this alley has never been used for the purpose of an alley.

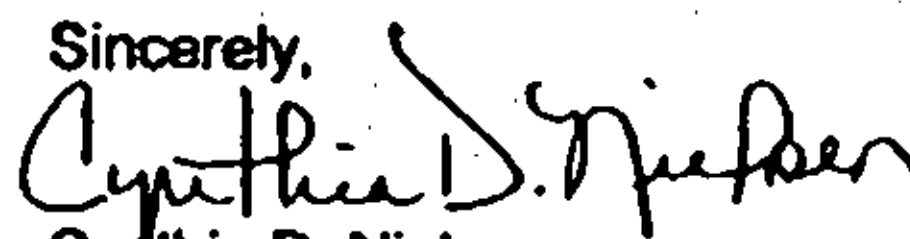
C.Y.N., LLC, and its members, David H. Kyle and Cynthia D. Nielsen (husband and wife), are the owners of the adjacent Lots 3 and 14. Currently, there is a pending real estate contract to sell Lot 14 between C.Y.N., LLC, seller, and Phil Phillips, aka Phillips FLP, buyer. The contract is contingent on this alley being closed in order to allow for the required frontage necessary for Mr. Phillips to build on Lot 14.

It had been our understanding that this alley was already closed pursuant to Ordinance No. 1779, dated Feb. 1, 1971. We had even pursued plans to build on Lot 14 ourselves and had also informed our neighbor, Mrs. Marie Kilgore, of the alley closing. Mrs. Kilgore owns Lots 4 and 5 adjacent to the alley. We had the centerline of what we thought was a closed alley flagged by a surveyor in order to have building plans drawn up and in order for Mrs. Kilgore to be able to visually see the new boundary line. However, when Bronson Abstract prepared the title work to close the sale of Lot 14, it was discovered that said ordinance had been amended at a later date and did not apply to this alley.

Planning Commission
City of Fayetteville
February 11, 2004
Page Two

Therefore we respectfully submit the required documentation for closing said alley. Further, time is of the essence due to the pending real estate contract on Lot 14 and the parties respectfully request a final determination as soon as possible. Thank you for your attention to this matter.

Sincerely,



Cynthia D. Nielsen
Manager/Member
C.Y.N., LLC

CDN/ss

MARIE E. KILGORE
Trustee for the
Marie E. Kilgore Revocable Trust
P. O. Box 3809
Fayetteville, Arkansas 72702

March 3, 2004

Planning Commission
City of Fayetteville
Fayetteville, Arkansas 72701

RE: Request for Alley Closing
Archias-Bushnell Addition

Dear Planning Commission:

This is to advise that I am the owner of Lots 4 and 5 of the Archias-Bushnell Addition lying adjacent to the alley for which a request to close has been submitted. I do not have any objection to this closing. Further, the alley has not been used as such as long as I have owned the adjacent lots.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Marie E. Kilgore, Trustee

Marie E. Kilgore, Trustee
Marie E. Kilgore Revocable Trust

C.Y.N., LLC

**Post Office Box 1364
Fayetteville, AR 72702**

**(479) 839-2218 office
(479) 409-9618 cell**

March 3, 20004

Planning Commission
City of Fayetteville
Fayetteville, AR 72701

RE: Request for Alley Closing
Archias-Bushnell Addition

Dear Planning Commission:

Please be advised that C.Y.N., LLC, and its members, David H. Kyle and Cynthia D. Nielsen (husband and wife), are the owners of Lots 3 and 14 lying adjacent to the alley for which a request to close is being submitted. We have no objection to the closing of said existing alley. To the best of our knowledge the alley has never been used for such purpose by any party.

Please do not hesitate to contact us should we be of any further assistance.

Sincerely,

Cynthia D. Nielsen
Manager/Member
C.Y.N., LLC

CDN/ss

ORDINANCE NO. 1779

AN ORDINANCE VACATING AND ABANDONING AN ALLEY IN ARCHIAS - BUSHNELL ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS.

WHEREAS, a petition was filed with the Board of Directors of the City of Fayetteville, Arkansas, on the 18th day of January, 1971, praying that said Board vacate and abandon a certain alley in said City, described as follows:

The North-South alley lying between Lots 1 and 2 and Lot 13 in Block 1 in Archias-Bushnell Addition in the City of Fayetteville, Washington County, Arkansas, and extending North from Douglas Street in said City to Lot 19 in Block 1 in said Addition;

and,

WHEREAS, said Board of Directors, after due notice of the time and place for the hearing on said petition, heard all persons desiring to be heard, and determined that the alley described above was dedicated to public use and that there no longer exists any reason why said alley should not be vacated and abandoned as hereinafter set forth, and that such action will not adversely affect the public interest.

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

SECTION 1. The City of Fayetteville, Arkansas, hereby releases, vacates and abandons all its rights, together with the rights of the public generally, in and to the aforesaid alley, except as set forth in Section 2, of this ordinance, and as a condition to the closing of said alley, the City shall be freed of all liability from claims made by abutting owners resulting from the City or any utility company removing and relocating utilities lines located in or upon said alley.

SECTION 2. The City of Fayetteville, Arkansas, hereby retains a temporary sewer easement ten feet in width in said alley, being five feet either side of where said sewer is now located, and retains a permanent sewer easement over, under, and across the west ten feet of said alley as shown on the official plat of Archias - Bushnell Addition to the City of Fayetteville, Arkansas.

SECTION 3. A copy of this ordinance, duly certified by the City Clerk shall be filed for record in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and recorded in the deed records in said office.

SECTION 4. This ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED AND APPROVED this 1st day of February,
19 71.

APPROVED:

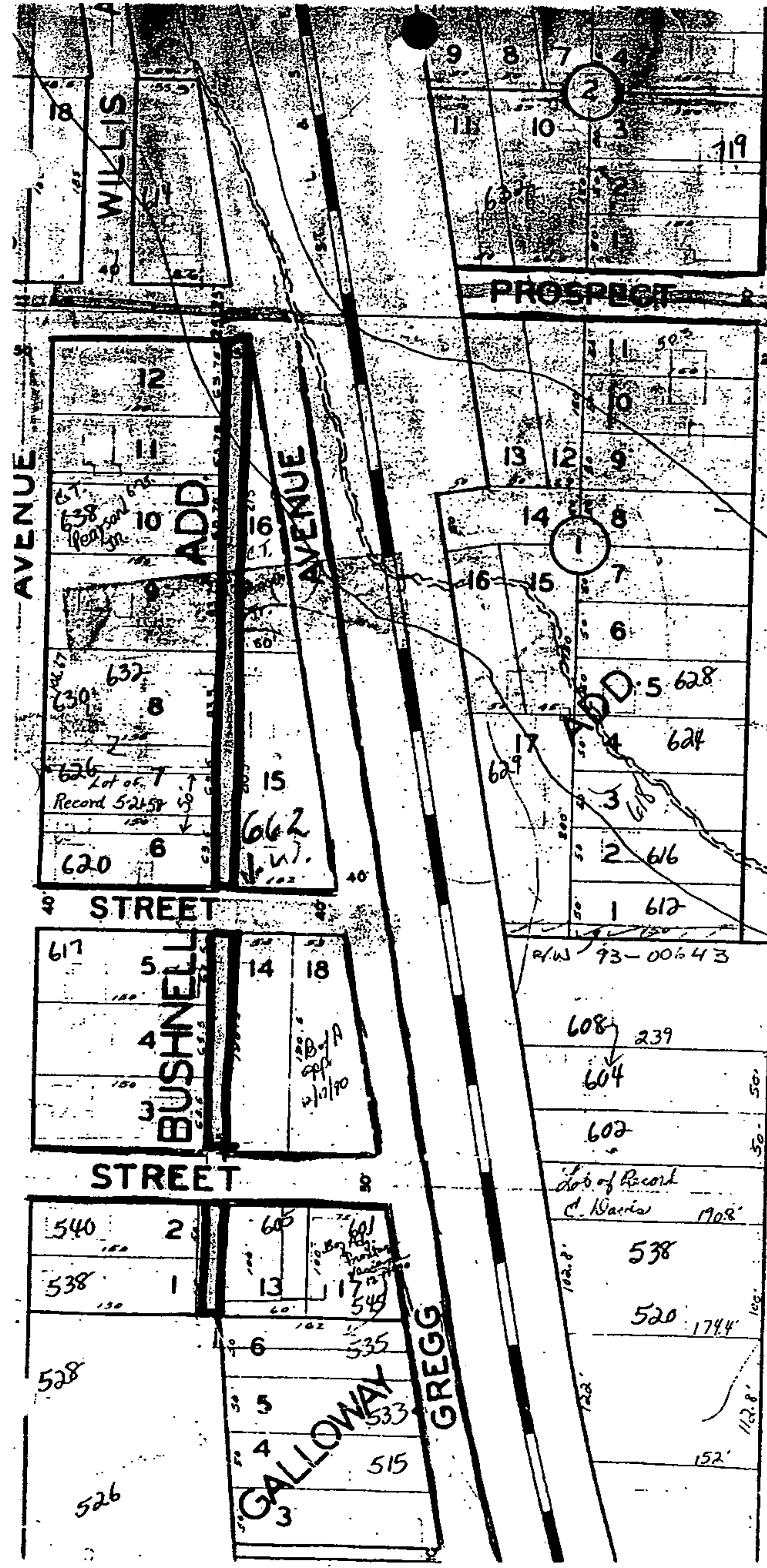
Ernest E. Lancaster

Ernest E. Lancaster, Asst. Mayor

ATTEST:

Lovetta Moore

Lovetta Moore, City Clerk



* approximate
10 yr. SEC. 9-16-30
flood plain
see flood plain
map for precise
location.

25' Reserved
for Street

GALLOWAY
3

GREGG

FILED

100 RECORD

71 MAR -6 PM 3:45

ORDINANCE NO. 1785

AN ORDINANCE TO CORRECT THE LEGAL DESCRIPTION CONTAINED IN ORDINANCE NO. 1779 PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS, ON FEBRUARY 1st, 1971.

WHEREAS, the Board of Directors of the City of Fayetteville, Arkansas, did on the 1st day of February, 1971, pass and approve Ordinance No. 1779 which contained an incorrect legal description, and

WHEREAS, said legal description should have read as follows, to-wit:

The North-South alley lying between Lots 1 and 2 and Lot 13 in Block 1 in Archias - Bushnell Addition in the City of Fayetteville, Washington County, Arkansas, and extending South from Douglas Street in said City to Lot 19 in Block 1 in said Addition.

and,

WHEREAS, said Board of Directors desires to correct said legal description.

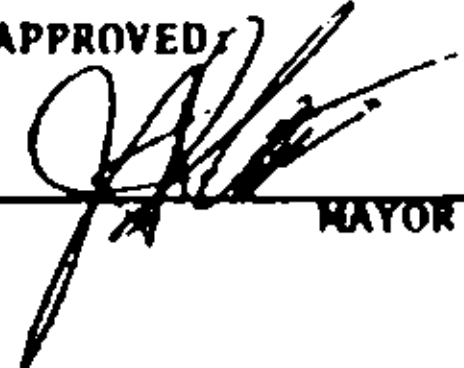
NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS,

Section 1. That the legal description contained herein be and the same hereby is substituted for the legal description found in Ordinance No. 1779.

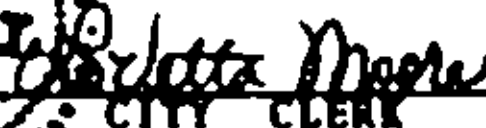
Section 2. That this ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED AND APPROVED this 1st day of March, 1971.

APPROVED


MAYOR




CITY CLERK

804 MAR 201

CERTIFICATE

STATE OF ARKANSAS
CITY OF FAYETTEVILLE

I, LOVETTA MOORE, City Clerk within and for the City of Fayetteville,
Arkansas, do hereby certify that the annexed and foregoing is a true
and correct copy of the Fayetteville, Arkansas, _____

Ordinance No. 1785, therein set
forth, and the same is as it appears of Record in _____
Ordinance and Resolution Book, Volume II
at Page 65 thereof.

IN WITNESS WHEREOF, I have hereunto
set my hand and affixed my official
seal this 3rd day of
March, 19 71.

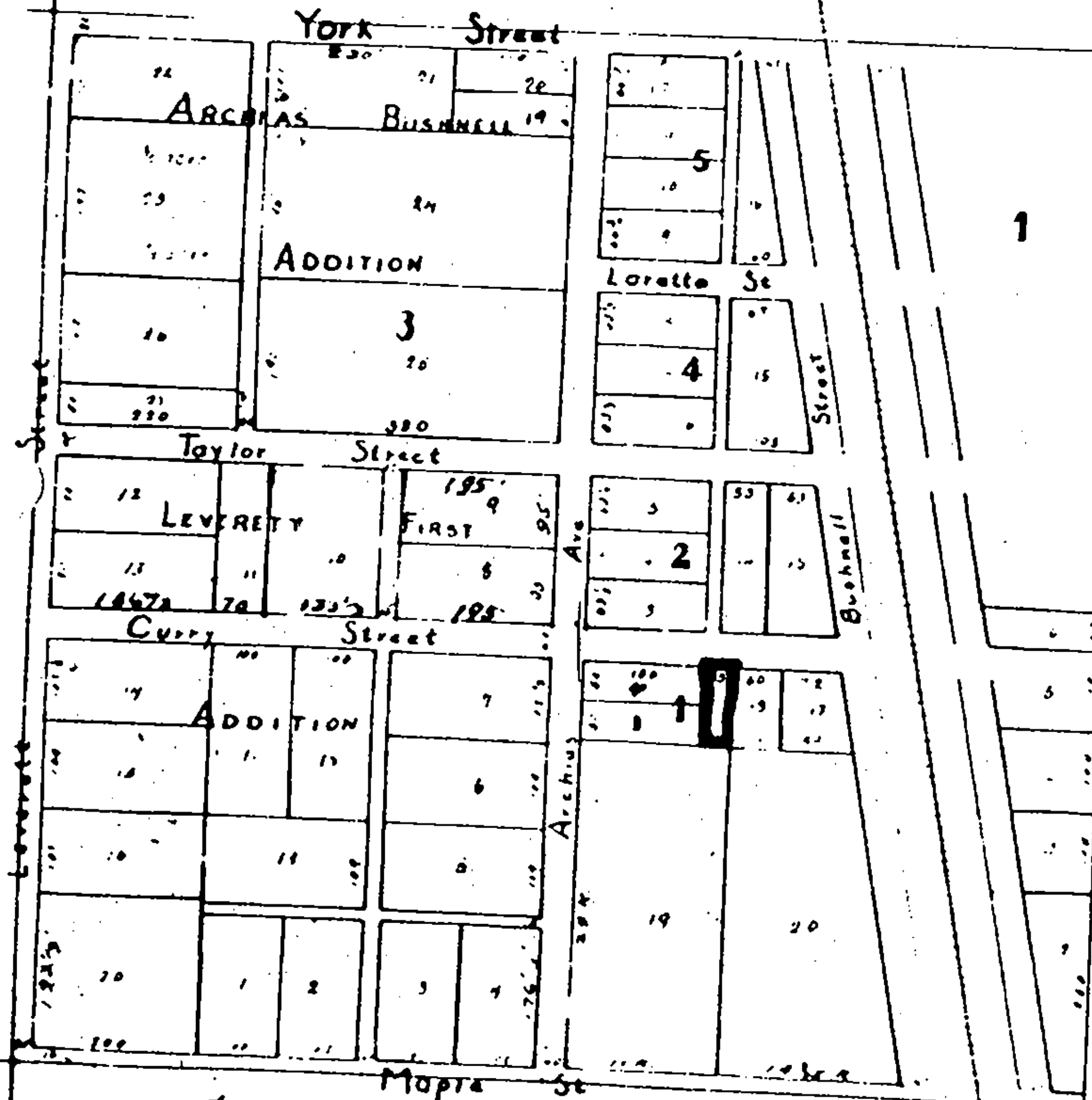


Lovetta Moore

CITY CLERK

REC 804 PAGE 202

SE ¼ of SW ¼ 9 - 16 - N Range - 30 W



Filed for record August 26th O.D. 1893

Scale 200 feet = 1 inch

VAC04-07.00

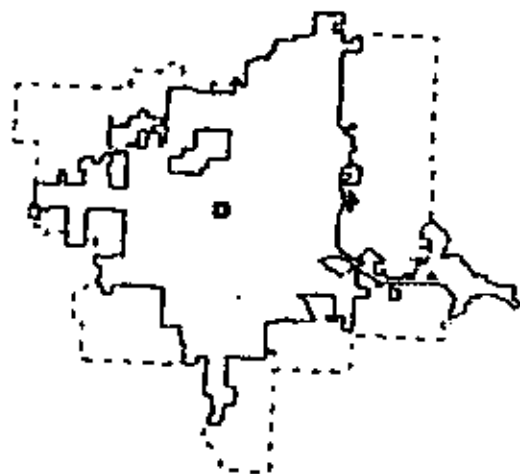
C. 10
VAC 04-07.00 (Woodall)
18 of 20

WOODALL/DOUGLAS ST.

Close Up View



Overview



Legend

- | | | |
|--|--|---|
| <ul style="list-style-type: none"> ○ ○ ○ ○ ○ Overlay District Master Street Plan Master Street Plan Freeway/Expressway | <ul style="list-style-type: none"> Principal Arterial Minor Arterial Collector Historic Collector City Limits Outside City | <ul style="list-style-type: none"> FLOODWAY 100 YEAR 500 YEAR LIMIT OF STUDY BaseLine Profile VAC04-07.00 |
|--|--|---|

0 75 150 300 450 600 Feet

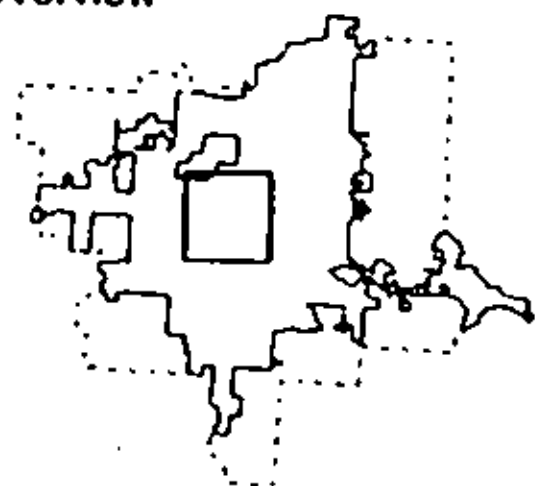
VAC04-07.00

One Mile View

WOODALL/DOUGLAS ST.



Overview



Legend

Subject Property

VAC04-07.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C. 10
VAC 04-07.00 (Woodall)
Page 20 of 20 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

May 4, 2004

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-07.00: Vacation (Woodall, pp 295) was submitted by Josef Woodall for property located at Lot 13 of the Archaïs-Bushnell Addition. The property is zoned RMF-40, Residential Multi-Family, 40 units per acre. The request is to vacate a 15' alley between Douglas and Taylor Streets west of Gregg Avenue.

STAFF RECOMMENDATION: Approval.

Dawn Warrick

Division Head

4/16/04
Date

Received in Mayor's Office

P.H.

Date

4/16/04[Signature]

City Attorney

4/16/04
Date

Department Director

Date

[Signature]

Finance & Internal Services Dir.

4-20-04
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

[Signature]

Chief Administrative Officer

4-20-04
Date

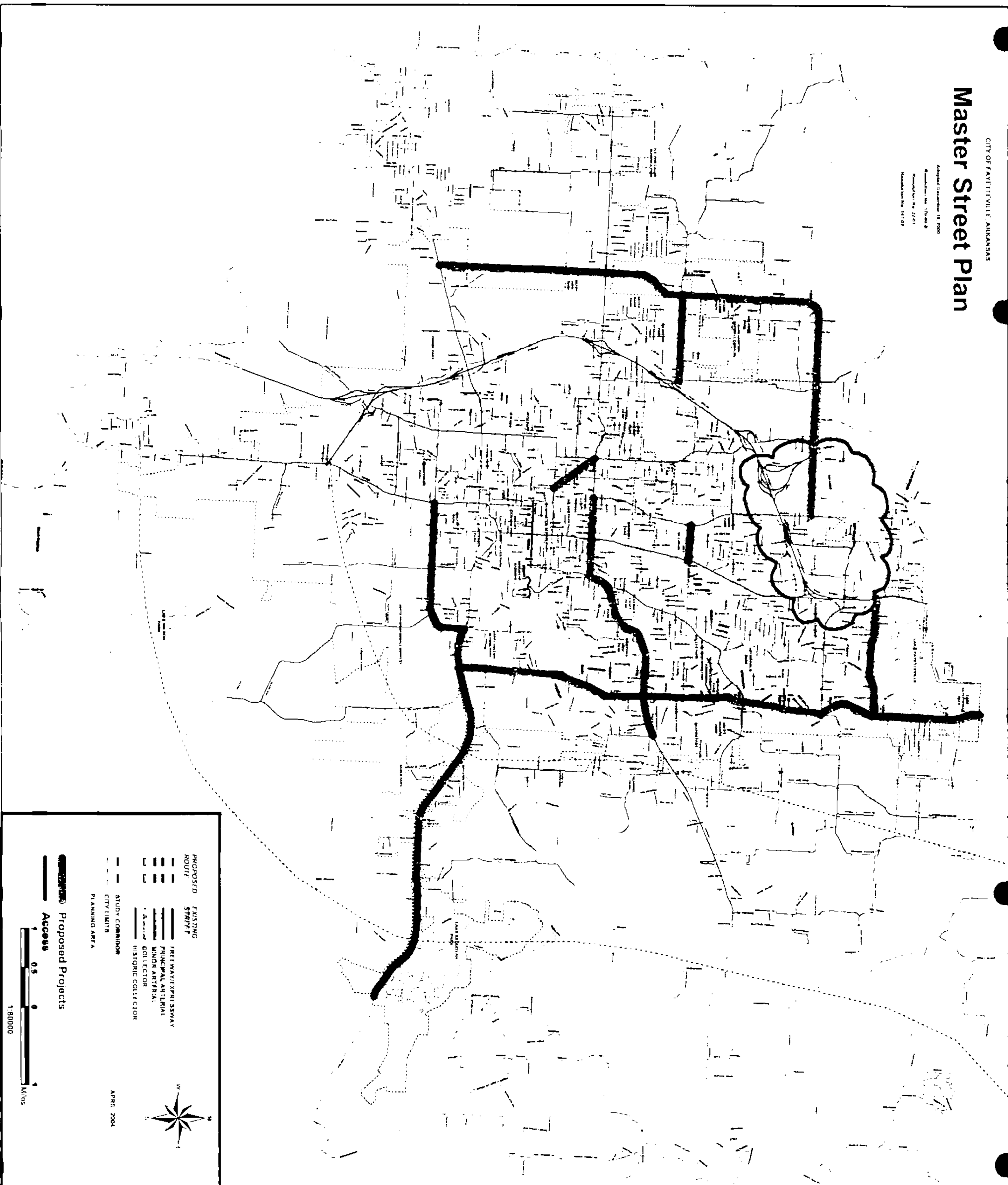
Mayor

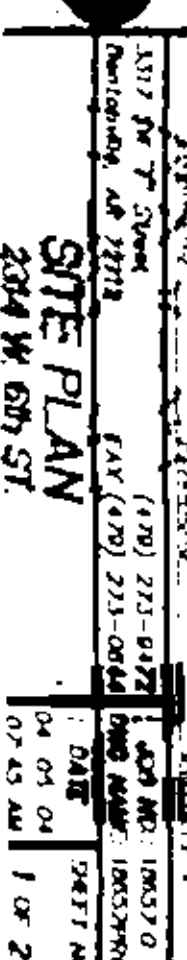
Date



Master Street Plan

Adopted (December 15, 2000)
Revised (May 17, 2002)
Revised (May 22, 2003)
Revised (May 14, 2004)





**Tentative Agenda
City Council Meeting
May 4, 2004**

A meeting of the Fayetteville City Council will be held on May 4, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT:

B. OLD BUSINESS:

1. **ANX 03-06.00 (Hoskins/Schlegel):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres.
2. **RZN 03-34.00 (Hoskins/Schlegel):** An ordinance rezoning that property described in rezoning petition RZN 03-34.00 as submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.
3. **R-PZD 04-4.00: Residential Planned Zoning District (Stonewood Gardens):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-4.00 located south of Albright Road and north of the Stonewood Subdivision containing 3.36 acres more or less; amending the official Zoning Map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

C. NEW BUSINESS:

1. **Automated Field Inspection System Purchase:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of hardware and software from MobileHwy, LLC to implement an automated field inspection system in the amount of thirty-seven thousand two hundred sixty-two dollars and fifty cents (\$37,262.50). *[Signature]*
- Consent* 2. **University of Arkansas Pavement Management System Contract:** A resolution to approve a contract with the University of Arkansas for development of a paving management system in the amount of \$79,806.32. *Dumas*
3. **ADM 04-11.00 Amendment to Title 15, Chapter 172.05:** An ordinance to amend Section 172.05 Standards for the Number of Spaces by Use of the Code of Fayetteville to eliminate the requirement to provide additional parking spaces for accessory outdoor restaurant areas in C-3 and C-4 Districts.

4. **ANX 04-5.00 (Harper/Brandon):** An ordinance confirming annexation petition ANX 04-5.00 to the City of Fayetteville, Arkansas, of certain property located south of Albright Road on the west side of George Anderson Road containing approximately 9.99 Acres.
5. **RZN 04-4.00 (Harper/Brandon):** An ordinance rezoning that property described in the rezoning petition RZN 04-4.00 as submitted by Michele Harrington on behalf of Gary Brandon Enterprises, Inc. for property located south of Albright Road on George Anderson Road containing approximately 9.99 Acres from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, Four Units per acre.
6. **RZN 04-06.00 (The Crowne):** An ordinance rezoning that property described in rezoning petition RZN 04-6.00 as submitted by Jerry Kelso of Crafton, Tull & Associates on Behalf of the Crowne Limited Partnership for property located north of 18th Street and west of Beechwood Avenue containing approximately 10.93 Acres from I-1, Heavy Commercial, Light Industrial to RMF-12, Residential Multi Family, Twelve Units per acre.
7. **I-PZD 04-5.00 (Wal-mart Optical Lab):** An ordinance establishing an industrial planned zoning district titles I-PZD 04-5.00 located at 2314 W. 6th Street containing approximately 8.457 Acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the associated industrial development plan as approved by the Planning Commission.
8. **VAC 04-04.00 (Clary Development/Harps):** An ordinance approving VAC 04-04.00 to vacate and abandon a 35' drainage easement located on Lot 8 of the Wedington Place Addition Phase II as depicted on the attached map and legal description.
9. **VAC 04-05.00 (Clary Development/Harps):** An ordinance approving VAC 04-05.00 to vacate and abandon a 10' utility easement located along the boundary of Lot 8 of the Wedington Place Addition Phase II as depicted on the attached map and legal description.
10. **VAC 04-07.00 (Woodall):** An ordinance approving VAC 04-07.00 to vacate a 15' alley between Taylor and Douglas Streets, West of Gregg Avenue as Depicted on the attached legal description.
- Consent* 11. **Pine Valley Subdivision Tree Preservation Easement:** A resolution to modify the tree preservation easement located within Lot 6 of the Pine Valley Subdivision.
- Consent* 12. **Compost Row Turner Purchase:** A resolution to accept the low bid for a compost row turner and to purchase a Wildcat SPB514 for \$155,078.00.
13. **Drive-Through Equipment Wash Contract Renewal:** An ordinance waiving competitive bidding and award an extension of a contract with Dychem International through the end of 2004.

Consent
Delete 14. **Letter of Intent to Cost Share; Arkansas Highway & Transportation Dept.:** A resolution to authorize the Mayor to execute a letter of intent to cost share with the Arkansas Highway and Transportation Department during FY 2006 and 2007.

15. **Vehicle Transfer to the Fayetteville Youth Center, Inc.:** Approval of ordinance waiving the requirements of 34.25 (B) and approving the transfer of a 1997 Ford Club Wagon Unit #2002 to the Fayetteville Youth Center, Inc. No Information

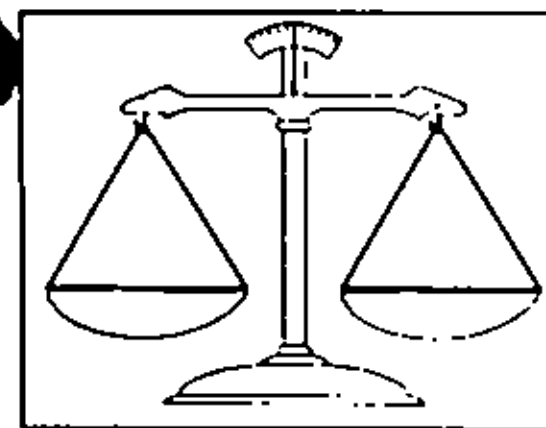
D. INFORMATIONAL:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **May 5, 2004**

RE: **Passed Resolutions and Ordinances from City Council meeting of May 4, 2004**

The following Resolutions and Ordinances were passed at last night's regular City Council meeting and are ready for the mayor's signature.

Enclosed are:

1. **U of A Pavement Management System Contract:** Resolution approving contract w/ U of A for development of paving management system in amount of \$79,806.32;
2. **Pine Valley Subdivision Tree Preservation Easement:** Resolution modifying Tree Preservation Easement located within Lot 6 of the Pine Valley Subdivision;
3. **Wildcat Compost Row Turner Purchase:** Resolution accepting low bid for a compost row turner and to purchase a Wildcat SPB514 for \$155,078.00;
4. **AHTD Letter of Intent to Cost Share:** Resolution authorizing Mayor to execute Letter of Intent to Cost Share w/Arkansas Highway and Transportation Department during FY 2006 and 2007;
5. **ANX 03-6.00:** Ordinance confirming annexation to City of Fayetteville of certain property located north of proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres;

6. **RZN 03-34.00:** Ordinance rezoning that property described in rezoning petition RZN 03-34.00 as submitted by Milholland Company on behalf of Tracy Hoskins for property located north of proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres from R-A Residential Agricultural to RSF-4, Residential Single Family, four units per acre;
7. **R-PZD 04-4.00:** Ordinance establishing a Residential Planned Zoning District titled R-PZD 04-4.00 located south of Albright Road and north of Stonewood Subdivision containing 3.36 acres more or less; amending official zoning map of city and adopting Associated Residential Development Plan as approved by Planning Commission;
8. **Automated Field Inspection Software:** Ordinance waiving requirements of formal competitive bidding and approving purchase of hardware and software from MobileHWY, LLC to implement automated field inspection system in amount of \$37,262.50;
9. **Dychem International Contract Renewal:** Ordinance waiving competitive bidding and awarding an extension of a contract w/Dychem International through the end of 2004;
10. **ADM 04-11.00:** Ordinance amending §172.05 **Standards for the Number of Spaces by Use** of Code of Fayetteville to eliminate the requirement to provide additional parking spaces for accessory outdoor restaurant areas in C-3 and C-4 districts;
11. **ANX 04-5.00:** Ordinance confirming annexation petition ANX 04-5.00 to City of Fayetteville of certain property located south of Albright Road on the west side of George Anderson Road containing approximately 9.99 acres;
12. **RZN 04-4.00:** Ordinance rezoning property described in Rezoning Petition RZN 04-04.00 as submitted by Michele Harrington on behalf of Gary Brandon Enterprises, Inc. for property located south of Albright Road on George Anderson Road containing approximately 9.99 acres from R-A, Residential Agricultural, to RSF-4, Residential Single Family, four units per acre;

13. **I-PZD 04-5.00:** Ordinance establishing an Industrial Planned Zoning District titled I-PZD 04-5.00 located at 2314 W. 6th Street containing approximately 8.457 acres, more or less; amending official zoning map of City of Fayetteville and adopting Associated Industrial Development Plan as approved by Planning Commission;
14. **VAC 04-4.00:** Ordinance approving VAC 04-4.00 to vacate and abandon a 35' drainage easement located on Lot 8 of Wedington Place Addition Phase II as depicted on attached map and legal description;
15. **VAC 04-5.00:** Ordinance approving VAC 04-5.00 to vacate and abandon a 10' Utility easement located along boundary of Lot 8 of Wedington Place Addition Phase II as depicted on attached map and legal description.