

**Final Agenda
City Council Meeting
May 18, 2004**

A meeting of the Fayetteville City Council will be held on May 18, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the May 4, 2004 meeting minutes.

APPROVED.

2. **David and Wayne Turnbull Offer and Acceptance Contract:** A resolution to approve the sale of a lot encompassing 3.26 acres in the south Industrial Park to David and Wayne Turnbull in the amount of \$68,630.00 and a budget adjustment as attached.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 71-04.

3. **Water Service Agreement with Springdale:** A resolution to approve an amendment to the water service agreement with Springdale to move the water service boundary so that 180 acres now with the Fayetteville Water Service Area can be moved into the Springdale Water Service Area.

PULLED FROM CONSENT AGENDA FOR DISCUSSION.

4. **Sale of Ford Club Wagon Contract:** A resolution to waive the requirements for public auction or formal competitive bids for the sale of a 1997 Ford Club Wagon (Unit #2002) to the Fayetteville Youth Center, Inc.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 72-04.

5. **ADEQ Post Closure Trust Fund Authorization:** A resolution authorizing the Fayetteville Parks & Recreation Division to request funding from the Post Closure Trust Fund from the Arkansas Department of Environmental Quality (ADEQ) for the C & L Landfill study and remediation.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 73-04.

6. **Walker Park Senior Complex Budget Approval:** A resolution to approve a budget adjustment transferring \$24,649.87 into the Walker Park Senior Complex budget for the receipt of late property tax payments.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 74-04.

7. **Spout Spring Branch:** A resolution to name the creek that runs just to the west of Willow Avenue and south of Spring Street "Spout Spring Branch."

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 75-04.

8. **Sale of City Property to the Battered Women's Shelter:** A resolution to encourage the City to consider the sale of about four acres of City property to the Battered Women's Shelter for the construction of a new shelter.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 76-04.

9. **McClelland Consulting Engineers, Inc. (Highway 62 Water Main):** A resolution to approve an agreement for engineering services with McClelland Consulting Engineers, Inc. in the amount of \$60,000.00 for planning, field surveys and right-of-way services related to the Highway 62 water main relocation in Farmington and to approve a budget adjustment of \$60,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 77-04.

Water Service Agreement with Springdale: A resolution to approve an amendment to the water service agreement with Springdale to move the water service boundary so that 180 acres now with the Fayetteville Water Service Area can be moved into the Springdale Water Service Area.

THIS ITEM WAS PULLED FROM CONSENT AGENDA AND TABLED TO THE JUNE 1, 2004 MEETING.

B. OLD BUSINESS:

1. **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 Ordinance was left on the First Reading at the May 4, 2004 City Council meeting.**

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4573.

2. **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, but retaining this area as a utility easement. **This Ordinance was left on Second Reading at the May 4, 2004 City Council meeting.**

PASSED WITH AMENDMENT AND SHALL BE RECORDED AS ORDINANCE NO. 4574.

C. NEW BUSINESS:

1. **Forsgren, Inc. Construction Contract:** A resolution to award a construction contract to Forsgren, Inc. in the amount of \$652,762.00, plus a contingency of

\$97,000 for construction of drainage improvements for the Holly/Vista and Cleveland/Sang areas, and to approve a budget adjustment of \$414,541.00 for this project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 78-04.

2. **Mobley Contractors, Inc. Construction Contract:** A resolution to approve a construction contract with Mobley Contractors, Inc. in the amount of \$753,553.04 with a project contingency of \$133,032.96 for a total of \$886,586.00 for the reconstruction of Old Missouri Road from Joyce Boulevard to the Mud Creek Bridge and from Rolling Hills to Old Wire Road.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 79-04.

3. **Planning Commission Appeal; Hwy. 62 & Hanshew Dr.:** Appeal of the Planning Commissions April 26, 2004 decision to deny a rezoning request for property located at Hwy 62 and Hanshew Rd.

DENIED.

4. **David Howard Damage Claim Appeal:** Appeal of the City Administrations decision to deny a claim for damages by Mr. David Howard against the Fayetteville Water and Wastewater Department.

DENIED.

5. **Roll Off Style Container Bid Waiver:** An ordinance to waive formal competitive bidding requirements during 2004 for the purchase of roll off style steel containers by the Solid Waste Division and to approve a purchase of roll off containers in an amount not to exceed \$85,859.00.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4575.

6. **ANX 04-3.00 (Nooncaster):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Nooncaster Vineyards, Inc. located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4576.

7. **RZN 04-08.00 (Nooncaster):** An ordinance rezoning that property described in Rezoning petition RZN 04-8.00 as submitted by Ray Smith on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units Per Acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4577.

8. **ANX 04-06.00 (Leigh Taylor Properties):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112 containing approximately 29.86 acres.

THIS ITEM WAS LEFT ON THE FIRST READING.

9. **VAC 04-10.00 Right of Way (Paul Dunn):** An ordinance approving VAC 04-10.00 to vacate and abandon a 25' portion of the platted right of way for Rebecca Street east of Vinson Avenue along the north boundary of Lot 8 of the Vinson Subdivision, retaining a utility easement within subject property as depicted on the attached map and legal description.

THIS ITEM WAS LEFT ON THE SECOND READING.

10. **Terracon, Inc. Contract regarding Flood Damage:** A resolution to approve a contract for engineering services with Terracon, Inc. in the amount of \$50,000.00 for assessment, design, bidding, inspection and contract management services for repairs related to the recent flood damage and to approve a budget adjustment of \$100,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 80-04.

D. INFORMATIONAL:

1. **Council Tour: May 17, 2004**
2. **Kit Williams - Report on the Housing Authority Board**

MEETING ADJOURNED AT 7:55 P.M.

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

Subject:	Consent (Item #3 was pulled from Consent)				
Motion To:	Approve with #3 pulled				
Motion By: Seconded:	Jordan Davis				
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	Ab Sent			
	Davis	✓			
	Mayor Coody				

Passed
71-04
to
77-04

Fayetteville City Council Meeting of May 18, 2004

Subject:	Pull Water Service Agreement With				
Motion To:		Table			Springdale and table
Motion By:		Cook			
Seconded:		Jordan			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	Absent			
	Davis	✓			
	Mayor Coody				

Pulled from consent and tabled to June 1st mtg

Robert Rhoads absent until 6:08 pm

Subject:	RZN 04-6.00 (The Crook)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Davis	Jordan		
Seconded:		Marr	Lucas		
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	Recuse	Recuse	
	Davis	✓	✓	✓	
	Mayor Coody				

#1
old Business
Passed
Ordinance
4573

Fayetteville City Council Meeting of May 18, 2004

Subject:	UAC 04-7.00 (Woodall)				
Motion To:		Amended As suggested by City Attorney			
Motion By:		Marr			
Seconded:		Davis			
#2 Old Business Amendment passed 4574	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Mayor Coody				

Subject:	UAC 04-7.00 (Woodall)				
Motion To:		3rd read	Pass		
Motion By:		Marr			
Seconded:		Jordan			
#2 Old Business passed Ordinance 4574	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Davis	✓	✓		
	Mayor Coody				

Fayetteville City Council Meeting of May 18, 2004

Subject:	Fasgren, Inc. Const. Contract				
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Lucas			
C.1. New Business <u>Passed</u> Resolution 78-04	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Mayor Coody				

Subject:	Mobley Contractors, Inc. Construction				
Motion To:		Approve			Contract
Motion By:		Davis			
Seconded:		Reynolds			
C.2. New Business <u>Passed</u> Resolution 79-04	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Mayor Coody				

Fayetteville City Council Meeting of May 18, 2004

Subject:	Planning Commission Appeal Highway 62 E				
Motion To:		Reject the Appeal			Henshaw Dr.
Motion By: Seconded:		<u>Jordan</u> Lucas			
# 3 New Business <u>Appeal denied</u>	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Mayor Coody				

Subject:	David Howard Damage Claim Appeal				
Motion To:		Deny Claim			
Motion By: Seconded:		<u>Reynolds</u> Davis			
# 4 New Business <u>Claim Denied</u>	Lucas	✓			
	Jordan	✓			
	Reynolds ✓	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis ✓	✓			
	Mayor Coody				

Fayetteville City Council Meeting of May 18, 2004

Subject:	Roll off Style Containers Bid Waiver				
Motion To:		2nd read	3rd read	Pass	
Motion By: Seconded:		<u>Jordan</u> Davis	<u>Jordan</u> Davis		
# 5 New Business <u>Passed</u> Ordinance 4575	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Mayor Coody				

Subject:	ANX 04-3.00 (Nooncaster)				
Motion To:		2nd read	3rd read	Pass	
Motion By: Seconded:		<u>Davis</u> Reynolds	<u>Davis</u> Marr		
# 6 New Business <u>Passed</u> Ordinance 4576	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Mayor Coody				

Fayetteville City Council Meeting of May 18, 2004

Subject:	RZN - 04-8.00 (NoonCaster)				
Motion To:		2nd read	3rd read	Pass	
Motion By: Seconded:		<u>Davis</u> Reynolds	<u>Reynolds</u> Davis		
#7 New Business Ordinance passed 4577	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Mayor Coody				

Subject:	ANX 04-6.00 (Leigh Taylor Properties)				
Motion To:					
Motion By: Seconded:					
#8 New Business Left on the First Reading	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Davis				
	Mayor Coody				

Fayetteville City Council Meeting of May 18, 2004

Subject:	VAC 04-10.00 Right of way (Panel Demo)				
Motion To:		2nd read			
Motion By:		Davis	Davis		
Seconded:		Jordan	Reynolds		
#9 New Business Left on the Second reading	Lucas	✓	Motion		
	Jordan	✓	Withdrawn		
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Mayor Coody				

Subject:	Tennaco, Inc. Contract				
Motion To:					
Motion By:		Jordan			
Seconded:		Marr			
#10 New Business passed 80-04	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Mayor Coody				

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4. **Sale of Ford Club Wagon Contract:** A resolution to waive the requirements for public auction or formal competitive bids for the sale of a 1997 Ford Club Wagon (Unit #2002) to the Fayetteville Youth Center, Inc.
5. **ADEQ Post Closure Trust Fund Authorization:** A resolution authorizing the Fayetteville Parks & Recreation Division to request funding from the Post Closure Trust Fund from the Arkansas Department of Environmental Quality (ADEQ) for the C & L Landfill study and remediation.
6. **Walker Park Senior Complex Budget Approval:** A resolution to approve a budget adjustment transferring \$24,649.87 into the Walker Park Senior Complex budget for the receipt of late property tax payments.
7. **Spout Spring Branch:** A resolution to name the creek that runs just to the west of Willow Avenue and south of Spring Street "Spout Spring Branch."
8. **Sale of City Property to the Battered Women's Shelter:** A resolution to encourage the City to consider the sale of about four acres of City property to the Battered Women's Shelter for the construction of a new shelter.
9. **McClelland Consulting Engineers, Inc. (Highway 62 Water Main):** A resolution to approve an agreement for engineering services with McClelland Consulting Engineers, Inc. in the amount of \$60,000.00 for planning, field surveys and right-of-way services related to the Highway 62 water main relocation in Farmington and to approve a budget adjustment of \$60,000.00.

B. OLD BUSINESS:

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D. INFORMATIONAL:

1. **Council Tour: May 17, 2004**
2. **Kit Williams - Report on the Housing Authority Board**

A.7.
Spout Spring
Branch

RESOLUTION NO. _____

A RESOLUTION TO NAME THE CREEK THAT RUNS JUST
TO THE WEST OF WILLOW AVENUE SOUTH OF SPRING
STREET "SPOUT SPRING BRANCH"

**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
names the creek that runs just to the west of Willow Avenue (south of Spring Street)
"Spout Spring Branch" and requests that FEMA, USGS and all other agencies refer to
this tributary of the West Fork of the White River as "Spout Spring Branch."

PASSED and APPROVED this the 18th day of May, 2004.

APPROVED:

By: _____

DRAFT
DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
 X CONTRACT REVIEW
 GRANT REVIEW

Added at
 Agenda Session
 5/11/04
 A. 9.

For the Fayetteville City Council Meeting of: May 18, 2004

McClelland
 Consulting Engineers, Inc.

FROM:

Greg Boettcher

Administration

Water and Wastewater

Name

Division

Department

ACTION REQUIRED: Resolution approving a contract with McClelland for planning, field surveys and right-of-way services connected with water main relocation for Highway 62 improvements in Farmington, Arkansas, including corresponding budget adjustment. Budget adjustment transfers funds from other income category (interest on investments).

COST TO CITY:

\$60,000.00	\$	Water Line Relocation
Cost of this request	Category/Project Budget	Program Category / Project Name
5400-5600-5808-00	\$	Water & Sewer Improvements
Account Number	Funds Used to Date	Program / Project Category Name
04034.1	\$	Water/Sewer
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW:

Budgeted Item

X

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#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

Mayor

Date



Description _____ Meeting Date May 18, 2004

Comments:

Budget Manager

Accounting Manager

City Attorney

*Not ready for agenda until
professional selection committee meets and
selects engineer for contract.*

Purchasing Manager

*Will review after sel. committee
meeting on May 6th and after
contract is negotiated.*

ADA Coordinator

Internal Auditor

Grants Coordinator

Reference Comments:

CITY COUNCIL AGENDA MEMO

To: MAYOR AND CITY COUNCIL

From: Greg Boettcher *By: [Signature]*
Water/Wastewater Director

Thru: Hugh Earnest
Chief Administrative Officer

Date: May 4, 2004

Subject: Resolution approving contract with McClelland Consulting Engineers, Inc., for planning, field surveys and right-of way services connected with water main relocation for Highway 62 improvements in Farmington, Arkansas; including corresponding budget adjustment.

RECOMMENDATION

Fayetteville City Administration recommends approval of a contract with McClelland Consulting Engineers in the amount of \$60,000.00, including approval of a budget adjustment transferring funds from the water enterprise's other income.

BACKGROUND

The City of Fayetteville learned in late June of the Arkansas Highway and Transportation Department's aggressive schedule for the improvement of Highway 62 in Farmington; construction contracts being planned for December 2004. Highway improvements will begin at the Highway 170 intersection and proceed west along Highway 62. Fayetteville owns the water distribution network in Farmington and is responsible for the relocation of water mains in conflict with the planned highway construction. A preliminary assessment of water system impacts finds the construction to conflict a 12-inch pipeline that serves as a primary transmission line. Accordingly, to maintain satisfactory water supply operations, the water main must be relocated as abandonment is not feasible.

DISCUSSION

This project is not in the 2004 work plan and cannot be managed by existing engineering staff without compromising progress on other capital improvement projects. With the short timeline for completion and the need to continue progress on programmed capital projects, this relocation project must be outsourced to private consultants. An engineering selection committee meeting was held on May 6, 2004 where McClelland Consulting Engineers was selected as the engineering consultant for this project. A contract has been proposed with McClelland Consulting Engineers for \$60,000.00, on a cost plus multiplier basis, to address the following immediate needs:

- preliminary engineering plan for the water line relocation work
- project cost estimate
- project right-of-way needs
- project schedule
- engineering surveys of proposed water line construction routes
- schematic engineering design

As the project scope and costs become defined, the proposed contract will need to be modified to address the detailed engineering design (engineering drawings, contract documents, specifications, bidding phase services, construction phase services, project inspection services and as-built record drawings). These continuation services cannot be defined at this early stage of the project, necessitating this later contract amendment. The current scope of services will allow the design work to proceed seamlessly from the preliminary design into the final design without administrative delays.

BUDGET IMPACT

The \$60,000.00 in initial engineering costs; as well as remaining engineering and construction costs were not anticipated at the time of the 2004 budget development. These costs will require budget adjustments to fund the project needs. It is anticipated that the other income line item of the water enterprise operations will exceed predictions and enable funding of this project. Any shortfall of the other income to address the project's financial needs will be taken from the water enterprise's fund balance. A budget adjustment to cover the initial engineering costs is included with the contract approval agenda item.

CITY COUNCIL AGENDA MEMO

To: MAYOR AND CITY COUNCIL

From: Greg Boettcher *Greg Boettcher*
Water/Wastewater Director

Thru: Hugh Earnest
Chief Administrative Officer

Date: May 4, 2004

Subject: Resolution approving contract with McClelland Consulting Engineers, Inc., for planning, field surveys and right-of way services connected with water main relocation for Highway 62 improvements in Farmington, Arkansas; including corresponding budget adjustment.

RECOMMENDATION

Fayetteville City Administration recommends approval of a contract with McClelland Consulting Engineers in the amount of \$60,000.00, including approval of a budget adjustment transferring funds from the water enterprise's other income.

BACKGROUND

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- project cost estimate
- project right-of-way needs
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As the project scope and costs become defined, the proposed contract will need to be modified to address the detailed engineering design (engineering drawings, contract documents, specifications, bidding phase services, construction phase services, project inspection services and as-built record drawings). These continuation services cannot be defined at this early stage of the project, necessitating this later contract amendment. The current scope of services will allow the design work to proceed seamlessly from the preliminary design into the final design without administrative delays.

BUDGET IMPACT

The \$60,000.00 in initial engineering costs; as well as remaining engineering and construction costs were not anticipated at the time of the 2004 budget development. These costs will require budget adjustments to fund the project needs. It is anticipated that the other income line item of the water enterprise operations will exceed predictions and enable funding of this project. Any shortfall of the other income to address the project's financial needs will be taken from the water enterprise's fund balance. A budget adjustment to cover the initial engineering costs on an hourly rate basis is included with the agenda item for contract approval.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AN AGREEMENT FOR ENGINEERING SERVICES WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF \$60,000.00 FOR PLANNING, FIELD SURVEYS AND RIGHT-OF-WAY SERVICES RELATED TO THE HIGHWAY 62 WATER MAIN RELOCATION IN FARMINGTON AND TO APROVE A BUDGET ADJUSTMENT OF \$60,000.00

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 as Agreement For Engineering Services with McClelland Consulting Engineers, Inc. (attached as Exhibit "A") in the amount of \$60,000.00 for planning, field surveys and right-of-way services related to the Highway 62 water main relocation in Farmington and approves a budget adjustment of \$60,000.00 (attached as Exhibit "B") to pay for this contract.

PASSED and APPROVED this the 18th day of May, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

SONDRA SMITH, City Clerk

**City of Fayetteville, Arkansas
Budget Adjustment Form**

Budget Year 2004	Department: Water & Wastewater Division: Water & Sewer Maintenance Program: Capital Water Mains	Date Requested 5/18/2004	Adjustment Number
----------------------------	---	------------------------------------	-------------------

Project or Item Requested:
\$60,000 in the Highway 62 Waterline Relocation Farmington capital project.

Project or Item Deleted:
None. To recognize \$60,000 in additional Interest revenue.

Justification of this Increase:
The funding is for the planning, field surveys, and right-of-way services connected with water main relocation for Highway 62 improvements in Farmington, Arkansas.

Justification of this Decrease:
Currently, projections of interest revenue are over what was budgeted and will be in excess of the \$60,000 requested.

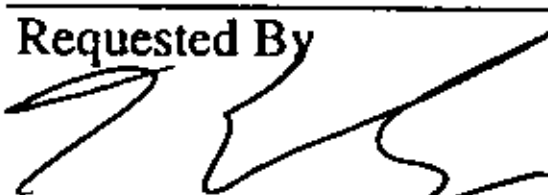
Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Water line improvements	5400	5600	5808	00	60,000	04034	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Interest-revenue	5400	0940	6708	07	60,000		

Approval Signatures

Requested By 	Date 5-18-04
Budget Manager	Date
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Date of Approval

Initial	Date
Posted to General Ledger	
Initial	Date
Posted to Project Accounting	
Initial	Date
Entered in Category Log	
Initial	Date

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
MCCLELLAND CONSULTING ENGINEERS, INC.
FAYETTEVILLE, ARKANSAS

THIS AGREEMENT is made as of _____, 2004, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and McClelland Consulting Engineers, Inc. with offices located in Fayetteville, Arkansas (hereinafter called McClelland).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the planning, design, permitting, construction, operation, maintenance, management, and financing of the Fayetteville Highway 62 Water Main Relocation Project and in particular, relocation of water mains in Farmington, Arkansas, beginning at the intersection of Highway 170 and 62, proceeding westerly along Highway 62 to the western city limits, said work to correspond to the scope of highway improvements being planned by the Arkansas Highway and Transportation Department, (The "Project"). Therefore, CITY OF FAYETTEVILLE and McClelland in consideration of their mutual covenants agree as follows:

McClelland shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of McClelland's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field. If Construction Phase Services are to be provided by McClelland under this Agreement, the construction shall be executed under the observation of a professional engineer registered in the State of Arkansas in accordance with Arkansas Code Amended §22-9-101.

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of McClelland.

- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of McClelland.
- 1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF MCCLELLAND

2.1 General

- 2.1.1 Perform professional design services in connection with the Project as hereinafter stated, which shall include normal civil, structural, mechanical, and electrical engineering services and normal architectural design services incidental thereto.
- 2.1.1.1 The Scope of Services to be furnished by McClelland during the Preliminary Design Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement.
- 2.1.1.2 The Scope of Services to be furnished by McClelland during the Final Design Phase, if any, will be finalized and contained in an amendment to this Agreement after Preliminary Design is completed.
- 2.1.1.3 The Scope of Services to be furnished by McClelland during the Bidding Phase, if any, will be finalized and contained in an amendment to this Agreement after Preliminary Design is completed.
- 2.1.1.4 The Scope of Services to be furnished by McClelland during the Construction Phase, if any, will be finalized and contained in an amendment to this Agreement after Preliminary Design is completed.
- 2.1.1.5 The preliminary Scope of Services to be furnished by McClelland for Resident Services during Construction, if any, will be finalized and contained in an amendment to this Agreement after Preliminary Design is completed.

2.2 Preliminary Design Phase

2.2.1 The Preliminary Design Phase will consist of an engineering feasibility study on the water line relocation strategy for the Project, the evaluation of alternatives, the development of a comprehensive project cost estimate, the creation of a project schedule, the acquisition of approvals from City of Fayetteville for the preliminary design, the completion of detailed surveys for engineering design, the development of right-of-way procurement needs, and the commencement of final design for the Project.

2.3 Final Design Phase

2.3.1 Prepare for incorporation in the Contract Documents detailed drawings to show the character and scope of the Work to be performed by contractors on the Project (hereinafter called the "Contract Drawings"), and Invitation to Bid, Instructions to Bidders, Bid Form, Agreement and Bond forms, General Conditions, and Specifications (all of which, together with the Contract Drawings, are hereinafter called the "Bid Documents") for review and approval by CITY OF FAYETTEVILLE, its legal counsel, and other advisors as appropriate, and assist CITY OF FAYETTEVILLE in the preparation of other related documents.

2.3.1.1 Bid documents shall be based on Construction Specifications Institute (CSI) Master Format and Section Format and shall incorporate CITY OF FAYETTEVILLE's standard general conditions and forms. Bid documents shall include required forms for the Arkansas Highway and Transportation Department. Text documents shall be provided to CITY OF FAYETTEVILLE in Microsoft® Word version 2000 software. Contract drawings shall be prepared using standard borders, sheet sizes, title blocks and CADD standards provided by CITY OF FAYETTEVILLE. McClelland may use their normal software for the preparation of drawings but the final product shall be provided to CITY OF FAYETTEVILLE in Autodesk AutoCAD version 2002.

2.3.1.2 Develop and include in Appendix A of this Agreement for approval by CITY OF FAYETTEVILLE, a project preliminary design schedule in which McClelland shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by McClelland in the completion of this preliminary design. This Schedule shall include reasonable allowances for review and approval times required by CITY OF FAYETTEVILLE, and review and approval times required by public authorities having jurisdiction over the Project. This schedule shall be equitably adjusted as the Project

progresses, allowing for changes in scope, character or size of the Project requested by CITY OF FAYETTEVILLE, or for delays or other causes beyond McClelland's reasonable control. Nonconformance with this schedule by McClelland and its subconsultants may result in the assessment of damages payable by McClelland to the CITY OF FAYETTEVILLE for costs and damages incurred. The maximum cost liability of McClelland shall be limited to the total gross amount payable to or through the Consultant authorized under this agreement, including amendments thereto.

- 2.3.1.3 When requested by the CITY OF FAYETTEVILLE's Water and Wastewater Director, prepare for and attend up to two City Council meetings to provide periodic updates on the progress of the preliminary design.
- 2.3.1.4 If the plans and specifications for the project require bids on alternates in addition to a base bid, there shall be no more than three (3) alternates, and the alternates shall be developed and described in accordance with Title 22, Article 9-203 of the Arkansas Code.
- 2.3.2 Prepare technical criteria, written descriptions, design data, and applications necessary for filing applications for permits from or approvals of the following applicable governmental authorities having jurisdiction to review or approve the final design of the Project and assist in securing approvals. Approval letters and permits shall be furnished to the Arkansas Highway and Transportation Department, including the written approval from the Arkansas Department of Health. Actual Filing and Permit Fees will be paid by the CITY OF FAYETTEVILLE. Assist CITY OF FAYETTEVILLE in consultations with appropriate authorities.
 - 2.3.2.1 Arkansas Highway and Transportation Department (AHTD)
 - 2.3.2.2 Arkansas Department of Health (AHD)
 - 2.3.2.3 City of Farmington
- 2.3.3 Advise CITY OF FAYETTEVILLE of adjustments in excess of five percent of the cost opinion for the Project caused by changes in scope, design requirements, or construction costs and furnish a revised cost opinion for the Project based on the final Bid Documents.

- 2.3.4 Advise CITY OF FAYETTEVILLE of final Opinion of Probable Project Costs, including, but not limited to, construction, inspection, testing and close out.
- 2.3.5 Furnish CITY OF FAYETTEVILLE with 5 copies of the final Bid Documents.
- 2.3.6 Determine land and easement requirements and provide consultation and assistance on property procurement as related to professional engineering services being performed.
- 2.3.7 Provide appropriate professional interpretations of data, geotechnical investigations, core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests, and inspections of samples, materials and equipment obtained through subcontract services for authorized Project services including property, boundary, easement, right-of-way, topographic, and utility surveys; noting zoning and deed restrictions.
- 2.3.8 Fully disclose all subcontract agreements including the name and address of the subconsultant, the scope of services to be provided and the value of the subcontract
- 2.4 Bidding Phase
 - 2.4.1 McClelland will follow City of Fayetteville's bidding protocol for capital improvement projects and be coordinated with the Arkansas Highway and Transportation Department.
 - 2.4.2 Arrange for bidding notices to be sent to contractors publishing services and direct mailing to contractors of record. Notices shall comply with requirements of CITY OF FAYETTEVILLE. The legal notice to be placed in legal notices section of a local newspaper(s) of countywide and statewide circulation and shall be coordinated with CITY OF FAYETTEVILLE purchasing agent and an affidavit of publication secured.
 - 2.4.3 Prepare addenda for drawings and Bid Documents as required and submit to CITY OF FAYETTEVILLE in timely manner such that addenda can be issued by McClelland in accordance with Construction Contract General Conditions. All bidding protocols shall conform to statutory requirements with all addenda being approved by CITY OF FAYETTEVILLE prior to issuance.
 - 2.4.4 Secure updated applicable wage rate decisions and incorporate into the Bid Documents. Update wage rate decision by addendum if necessary.

- 2.4.4.1 Assist CITY OF FAYETTEVILLE by issuing and tracking Bid Documents, addenda and communications during bidding and maintain list of plan holders. Print and distribute copies of plans and specifications for all prospective bidders and plan rooms. Collect from prospective bidders an appropriate non-refundable fee to offset cost of reproducing and distributing Bidding Documents.
- 2.4.5 Assist CITY OF FAYETTEVILLE in obtaining and evaluating bids and preparing construction contracts. McClelland shall prepare and submit bid certification documents to CITY OF FAYETTEVILLE for review.
- 2.4.6 Consult with and advise CITY OF FAYETTEVILLE as to the acceptability of subcontractors and other persons and organizations proposed by the prime construction contractor(s), hereinafter called "Contractor(s)," for those portions of the work as to which such acceptability is required by the Bid Documents.
- 2.4.7 Make recommendations regarding award of construction contracts.
- 2.4.8 Attend Water and Sewer Committee meeting and the ensuing City Council meeting to recommend action by the respective bodies. Prepare and present a recommendation complete with such supporting information as necessary for the bodies to make an informed decision on the action recommended.
- 2.4.9 Develop and include in Appendix B of this Agreement, a bidding services schedule in which McClelland shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by McClelland in the completion of the bidding services. The bidding services schedule shall consist of a bar chart schedule depicting the duration of the bidding period of each sub-project and the discrete milestone activities which make up the sub-projects. Separate line items and durations may be shown for costs that apply to the Project as a whole, including, but not limited to, Project Management and Administration, and Insurance. McClelland shall assign to each schedule activity of the bidding services schedule a corresponding cost value which shall include a monthly allocation for labor, expenses, overhead, and profit. The sum of all cost values assigned shall equal the Lump Sum Amount shown in Section 6.1.2. of this Agreement.
- 2.4.10 See Attachment A for additional services or clarification of services to be provided by McClelland.

2.5 Construction Phase

2.5.1 The scope of Construction Phase Services, if any, will be negotiated following completion of Design Phase Services.

2.6 Post-Construction Phase

2.6.1 The scope of Post-Construction Phase Services, if any, will be negotiated following completion of Design Phase Services.

2.7 Resident Services During Construction

2.7.1 The scope of Resident Services During Construction, if any, will be negotiated following completion of Design Phase Services.

SECTION 3 - ADDITIONAL SERVICES OF MCCLELLAND

3.1 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by McClelland, McClelland shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Grant and Loan Assistance

Prepare applications and supporting documents for governmental grants, loans, or advances.

3.1.2 Financial Consultation

Consult with CITY OF FAYETTEVILLE's fiscal agents and bond attorneys and provide such engineering data as required for any bond prospectus or other financing requirements.

3.1.3 Administrative Assistance

Provide Contract and Project administration to the degree authorized by CITY OF FAYETTEVILLE.

3.1.4 Furnishing renderings or models of the Project for CITY OF FAYETTEVILLE's use.

3.1.5 Miscellaneous Studies

Investigations involving detailed consideration of operations, maintenance, and overhead expenses, and the preparation of rate schedules, earnings, and expense statements; feasibility studies; appraisals and valuations; detailed quantity surveys of material, equipment, and labor; and audits or inventories required in connection with construction performed by CITY OF FAYETTEVILLE.

3.1.6 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.1.7 Extra Services

3.1.7.1 Services not specifically defined heretofore that may be authorized by CITY OF FAYETTEVILLE.

3.2 Contingent Additional Services

3.2.1 If services described under Contingent Additional Services in Paragraph 3.2 are required due to circumstances beyond McClelland's control, McClelland shall notify CITY OF FAYETTEVILLE and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If CITY OF FAYETTEVILLE deems that such services described in 3.2 are not required, CITY OF FAYETTEVILLE shall give prompt written notice to McClelland. If CITY OF FAYETTEVILLE indicates in writing that all or parts of such Contingent Additional Services are not required, McClelland shall have no obligation to provide those services.

3.2.2 Making revisions in Drawings, Specifications, or other documents when such revisions are:

3.2.2.1 Required because of inconsistent approvals or instructions previously given by CITY OF FAYETTEVILLE, including revisions made necessary by adjustments in CITY OF FAYETTEVILLE's program or Project Budget.

3.2.2.2 Required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.

SECTION 4 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of McClelland.

- 4.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.
- 4.2 Assist McClelland by placing at McClelland's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
- 4.3 Guarantee access to and make all provisions for McClelland to enter upon public and private property as required for McClelland to perform his services under this Agreement.
- 4.4 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by McClelland and render in writing decisions pertaining thereto.
- 4.5 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.
- 4.6 Designate in writing a person to act as CITY OF FAYETTEVILLE's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
- 4.7 Give prompt written notice to McClelland whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect in the Project.
- 4.8 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees.

- 4.9 Pay for placement of legal notices and advertisements in newspapers or other publications required by program requirements of the Highway 62 Water Main Relocation Project.
- 4.10 Furnish, or direct McClelland to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.
- 4.11 If CITY OF FAYETTEVILLE's standard bidding requirements, Agreement forms and General Conditions are to be used, CITY OF FAYETTEVILLE shall provide copies of such documents for McClelland's use in coordinating the Contract Drawings and Specifications.
- 4.12 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to McClelland in a timely manner.

SECTION 5 - PERIOD OF SERVICE

- 5.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 5.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. McClelland will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

SECTION 6 - PAYMENTS TO MCCLELLAND

- 6.1 Compensation
- 6.1.1 Preliminary Design Phase Services

For the Scope of Services during the Preliminary Design Phase described herein, CITY OF FAYETTEVILLE authorizes sixty thousand dollars (\$60,000.00) as compensation for the scope of work set forth in Attachment A. Engineer will be compensated based upon cost reimbursement, plus profit, the current rates for cost reimbursement being attached to and made a part of this agreement (Attachment B). The costs and basis for compensation include all preliminary design costs, including labor, overhead, direct expenses, subcontracts and fees. The total contract amount authorized for the preliminary design phase services is sixty thousand dollars (\$60,000.00).

6.1.1.1 Subject to the City Council approval, adjustment of the contract amount may be made should McClelland establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

6.1.1.2 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for Design services consistent with McClelland's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by McClelland and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project design schedule as the basis for determining the value earned as the work is accomplished. Final payment for Design services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the Design phase for the Project.

6.1.2 Final Design Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Preliminary Phase Services.

6.1.3 Bidding Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Preliminary Phase Services.

6.1.4 Construction Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Preliminary Phase Services.

6.1.5 Post-Construction Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Preliminary Phase Services.

6.1.6 Resident Services During Construction

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Preliminary Phase Services.

6.1.7 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services", compensation to McClelland shall be negotiated at the time Additional services are authorized.

6.2 Statements

Statements and updated progress schedule for each calendar month will be submitted to CITY OF FAYETTEVILLE by signed original document. Statements will be based on McClelland's actual costs incurred and justified by hours expended, hourly rates and other applicable costs in accordance with Attachment B.

6.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of McClelland's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise McClelland in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

6.4 Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, McClelland shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by McClelland to be set forth therein. Unless otherwise provided in this Agreement or by State

law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against McClelland or his sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

7.1.1 During the course of performance of these services, McClelland will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

McClelland will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

7.1.2 Construction Contractors shall be required to provide (or CITY OF FAYETTEVILLE may provide) Owner's Protective Liability Insurance naming CITY OF FAYETTEVILLE as a Named Insured and McClelland as additional insureds, or, to endorse CITY OF FAYETTEVILLE, and McClelland as additional insureds on construction Contractor's liability insurance policies covering claims for personal injuries and property damage. Construction Contractors shall be required to provide certificates evidencing such insurance to CITY OF FAYETTEVILLE, and McClelland. All contract insurance carriers shall be required to list CITY OF FAYETTEVILLE as certificate holder, furnishing copies of the contractor's insurance certificate to each party

7.1.3 CITY OF FAYETTEVILLE and McClelland waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during

and after the completion of McClelland's services. If the services result in a Construction Phase, a provision similar to this shall be incorporated into all Construction Contracts entered into by CITY OF FAYETTEVILLE, and all construction Contractors shall be required to provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and McClelland for damage or liability covered by any construction Contractor's policy of insurance.

7.2 Professional Responsibility

7.2.1 McClelland will exercise reasonable skill, care, and diligence in the performance of McClelland's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to McClelland any defects or suspected defects in McClelland's services of which CITY OF FAYETTEVILLE becomes aware, so that McClelland can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE and McClelland further agree to impose a similar notification requirement on all construction contractors in the Bid Documents and shall require all subcontracts at any level to contain a like requirement. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of McClelland.

7.2.2 In addition McClelland will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by McClelland's Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 7.1.1.

7.3 Cost Opinions and Projections

Cost opinions and projections prepared by McClelland relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on McClelland's experience, qualifications, and judgment as a design professional. Since McClelland has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, McClelland does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by McClelland.

7.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of McClelland's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the President of McClelland.

7.5 Termination

7.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

7.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.1.2 An opportunity for consultation with the terminating party prior to termination.

7.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that McClelland is given:

7.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.2.2 An opportunity for consultation with the terminating party prior to termination.

7.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

7.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

7.5.3.2 Any payment due to McClelland at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of McClelland's default.

7.5.4 If termination for default is effected by McClelland, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable

profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to McClelland for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by McClelland relating to commitments which had become firm prior to the termination.

7.5.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, McClelland shall:

7.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),

7.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by McClelland in performing this Agreement, whether completed or in process.

7.5.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

7.5.7 If, after termination for failure of McClelland to fulfill contractual obligations, it is determined that McClelland had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 7.5.4 of this clause.

7.6 Delays

In the event the services of McClelland are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond McClelland's reasonable control, McClelland shall be entitled to additional compensation and time for reasonable costs incurred by McClelland in temporarily closing down or delaying the Project.

7.7 Rights and Benefits

McClelland's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

7.8 Dispute Resolution

7.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and McClelland which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or McClelland in the performance of this Agreement, and disputes concerning payment.

7.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 7.8.3 and 7.8.4 have been complied with.

7.8.3 Notice of Dispute

7.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

7.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give McClelland written Notice at the address listed in Paragraph 7.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

7.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and McClelland shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of McClelland and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

7.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to McClelland for services rendered by McClelland.

7.10 Publications

Recognizing the importance of professional development on the part of McClelland's employees and the importance of McClelland's public relations, McClelland may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to McClelland's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to McClelland. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of McClelland's activities pertaining to any such publication shall be for McClelland's account.

7.11 Indemnification

7.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE, and McClelland from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

7.12 Computer Models

McClelland may use or modify McClelland's proprietary computer models in service of CITY OF FAYETTEVILLE under this Agreement, or McClelland may develop computer models during McClelland's service to CITY OF FAYETTEVILLE under this Agreement. Such use, modification, or development by McClelland does not constitute a license to CITY OF FAYETTEVILLE to use or modify McClelland's computer models. Said proprietary computer models shall remain the sole property of the McClelland. CITY OF FAYETTEVILLE and McClelland will enter into a separate license agreement if CITY OF FAYETTEVILLE wishes to use McClelland's computer models.

7.13 Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of CITY OF FAYETTEVILLE. McClelland may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by McClelland as part of the Services shall become the property of CITY OF FAYETTEVILLE when McClelland has been compensated for all Services rendered, provided, however, that McClelland shall have the unrestricted right to their use. McClelland shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of McClelland.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. McClelland makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

7.14 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

McClelland's address:

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

7.15 Successor and Assigns

CITY OF FAYETTEVILLE and McClelland each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor McClelland shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

7.16 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

7.17 Entire Agreement

This Agreement represents the entire Agreement between McClelland and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to McClelland a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by McClelland, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 8 - SPECIAL CONDITIONS

8.1 Additional Responsibilities of McClelland:

8.1.1 CITY OF FAYETTEVILLE's or the Arkansas Highway and Transportation Department's (AHTD's) review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve McClelland of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's nor AHTD's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

8.1.2 McClelland shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by McClelland's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

8.1.3 McClelland's obligations under this clause are in addition to McClelland's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against McClelland for faulty materials, equipment, or work.

8.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and McClelland arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

8.3 Audit: Access to Records

8.3.1 McClelland shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. McClelland shall also maintain the financial information and data used by McClelland in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. The Arkansas Highway and Transportation Department, the United States Department of Labor, CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. McClelland will provide proper facilities for such access and inspection.

8.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

8.3.3 This right of access clause (with respect to financial records) applies to:

8.3.3.1 Negotiated prime agreements:

8.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

8.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not

apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

- 8.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of McClelland;
- 8.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;
- 8.3.3.3.3 If the subagreement is terminated for default or for convenience.

8.4 Covenant Against Contingent Fees

McClelland warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by McClelland for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.5 Gratuities

- 8.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that McClelland or any of McClelland's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, or the State in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to McClelland terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.
- 8.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against McClelland as it could pursue in the event of a breach of the Agreement by McClelland. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue

exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs McClelland incurs in providing any such gratuities to any such officer or employee.

8.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, McClelland will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7 Debarment And Suspension

I certify that to the best of my knowledge and belief that the company that I represent and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a

false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.

**DEBARMENT CERTIFICATION
AUTHORIZED REPRESENTATIVE**

COMPANY NAME: McClelland Consulting Engineers, Inc.

SIGNATURE: John C. Quinn DATE: 5-10-04

PRINTED NAME: John C. Quinn, P.E.

TITLE: President

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and
McClelland, by its authorized officer have made and executed this Agreement as of the day and year first
above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

McClelland Consulting Engineers, Inc.

By: John C. Quinn

Title: President

Changes, modifications or amendments in scope, price or fees to this Contract shall **not**
be allowed without formal contract amendment approved by the Mayor and the City
Council **in advance** of the change in scope, cost, fees, or delivery schedule.

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

Attachment A
Scope of Service for Preliminary Design Phase
Water Line Relocation Project-Farmington, Arkansas
Arkansas Highway and Transportation Department Highway 62 Improvements

Project Background

The City of Fayetteville owns the water distribution network serving the City of Farmington and is responsible for its operation, maintenance and improvement. The Arkansas Highway and Transportation Department programmed Highway 62 for widening, beginning at the intersection of Highway 170/Highway 62 (in Farmington) proceeding westerly along Highway 62 beyond the Farmington city limits. The proposed AHTD project area contains water distribution mains owned by the City of Fayetteville, such lines forming the backbone of the piping network servicing Farmington and areas west. Due to the interconnections of other distribution lines and the critical nature of the current pipeline; a new parallel line (out of the highway construction areas) must be planned. It has been recently learned from the AHTD that the highway construction contract is to be awarded in January 2005, therefore, Fayetteville must proceed immediately with the planning, design and construction of the water line relocation project. Due to the unforeseen project urgency, the short timeline for completion of this project and the workload of the city's engineering department; the City of Fayetteville will contract the engineering services to a private consultant. The immediate needs relate to completion of a preliminary design for the project and the commencement of final design surveys.

Scope of Work for Preliminary Design Services

The preliminary design services shall define the scope, nature, extent, costs and schedule for the project; therefore, this initial phase will be performed on an hourly rate basis. Due to the schedule challenges for this project, the preliminary design includes allowances for the commencement of certain final design elements; avoiding delays while negotiation of the final design phase services are being completed. The activities being authorized under the contact amount include:

Preliminary Engineering Report-A written report will detail the project's need, scope and outcomes. This report will include a description of existing facilities, evaluation of feasible alternatives, economic justification of recommended improvements, project cost prediction, project schedule, project right-of-way needs and summation of recommendations. The report shall define the project in sound economic and engineering terms, citing the specific benefits that will be realized.

Engineering Field Surveys-Upon approval of the preliminary engineer's report on the project, detailed engineering surveys shall be commenced under this scope of services. These surveys shall include topographic and level surveys, utility location verification, correlation of surveys with planned Highway 62 improvements by the Arkansas Highway and Transportation Department and schematic development of the construction drawings.

Project Right-of-Way Requirements-Upon approval of the preliminary engineer's report and confirmation of new utility easement needs (permanent and temporary), the preliminary design services will advise Fayetteville of needed procurements and assist in the creation of the necessary documents to enable such procurements. This will be a priority activity as the construction work cannot proceed until all rights-of-way are obtained.

Final Design Phase/Bidding Phase/Construction Phase/Inspection Services-Once the scope of the project is defined, a detailed breakdown of additional engineering services needed to complete the project shall be developed for review, approval and inclusion in a contract amendment.

ATTACHMENT B

**FEE PROPOSAL
PLANNING AND PRELIMINARY DESIGN SERVICES
AS DEFINED IN ATTACHMENT A FOR WATER SYSTEM
RELOCATIONS IN CONJUNCTION WITH ARKANSAS
HIGHWAY 62 WIDENING
AHTD JOB NO R40082
CITY OF FAYETTEVILLE WATER MAINS IN FARMINGTON, ARKANSAS**

<u>LABOR CLASSIFICATION</u>	<u>TIME</u>	<u>ACTUAL LABOR RATE</u>	<u>EXTENDED</u>
Principal Engineer	26 hrs	\$41.11/hr	\$1,068.86
Project Manager	200 hrs	\$35.34/hr	\$7,068.00
Project Engineer	48 hrs	\$21.63/hr	\$1,038.24
Senior Engineering Tech	32 hrs	\$20.70/hr	\$662.40
Engineering Tech	60 hrs	\$14.25/hr	\$855.00
Chief Draftsman	40 hrs	\$16.90/hr	\$676.00
Junior Draftsman	160 hrs	\$12.25/hr	\$1,960.00
Survey Supervisor	48 hrs	\$18.00/hr	\$864.00
Survey Crew (2 man)	120 hrs	\$17.60/hr	\$2,112.00
Computer Tech	60 hrs	\$17.45/hr	\$1,047.00
Clerical Support	60 hrs	\$12.00/hr	<u>\$720.00</u>
Direct Labor			\$18,071.50
Payroll Expenses (34.23%)			<u>\$6,185.87</u>
Subtotal, Direct Payroll			\$24,257.37
Travel 375 miles @ \$0.34/mi			\$127.50
Reproduction			\$600.00
Materials and Supplies			<u>\$194.88</u>
Subtotal, Direct Cost			\$25,179.75
Indirect Costs (112.79%)			\$28,400.25
Subtotal, Direct and Indirect			\$53,580.00
Profit			<u>\$6,420.00</u>
Total Planning and Preliminary Design Cost			\$60,000.00

Note: Actual labor rates for billing purposes will match the rates paid to the employee performing the services and shall be subject to annual labor rate increases.

ATTACHMENT C

During the performance of this contract, McClelland Consulting Engineers, Inc., for itself, its assignees and successors in interest hereinafter referred to as "McClelland" agrees as follows:

1. Compliance with Regulations: McClelland shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: McClelland, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, national origin, or handicap, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. McClelland shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by McClelland for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by McClelland of McClelland's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, national original, or handicap.
4. Information and Reports: McClelland shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Highway Department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of McClelland is in the exclusive possession of another who fails or refuses to furnish this information, McClelland shall so certify to the State Highway Department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of McClelland's noncompliance with the nondiscrimination provisions of this contract, the State Highway Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but no limited to:

- a) withholding of payments to McClelland under the contract until the contractor complies, and/or
- b) cancellation, termination or suspension of the contract, in whole or in part.

6. Incorporation of Provisions: McClelland shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. McClelland shall take such action with respect to any subcontract or procurement as the State Highway Department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event McClelland becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, McClelland may request the State Highway Department to enter into such litigation to protect the interests of the State, and, in addition, McClelland may request the United States to enter into such litigation to protect the interest of the United States.

APPENDIX A
PRELIMINARY DESIGN SCHEDULE
WATER MAIN RELOCATION PROJECT
AHTD JOB NO. R40082
FAYETTEVILLE'S WATER MAINS IN FARMINGTON, ARKANSAS

<u>Activity</u>	<u>Completion Time</u>	<u>Estimated Completion Date</u>
Preliminary Engineering Report	Five weeks from authorization to Proceed	June 28, 2004
Engineering Field Survey	Four weeks	July 26, 2004
Project Right-of-way Requirements	Four weeks	August 23, 2004
Initiate Final Design Phase	Upon authorization by The City of Fayetteville	Unknown, Depends on scope defined in Preliminary Engineering Report

Note: Final Design could start in July, following approval of the Preliminary Engineering Report and subsequent authorization by the City of Fayetteville.

**APPENDIX B
BIDDING SERVICES SCHEDULE
WATER MAIN RELOCATION PROJECT
AHTD JOB NO. R40082
FAYETTEVILLE'S WATER MAINS IN FARMINGTON, ARKANSAS**

This schedule will be developed, if required, as part of the Final Design Phase Services, if they are so authorized.

Statement of Intent
RZN 04-06.00 (pp# 559)

B.1.

Crowne

RZN 04-06.00

To the aldermen and citizens of Ward Four:

We the current owners of the subject property and adjoining property to the west, have initiated the following actions in order to ensure a quality development which meets or exceeds the zoning and development requirements of the City of Fayetteville:

1. Coordinate with City Parks & Recreation staff and Parks and Recreation Advisory Board regarding extension of trail corridor along the creek which runs along the west side of the subject property.
 - The developers of the condominiums and the commercial development to the west wish to align the trail along the western side of the creek on the adjacent commercial property when it is extended.
 - This action will have to be reviewed by PRAB and confirmed by the Planning Commission during the development review process.
 - The developers have initiated this process by contacting the City's Trails and Greenways Coordinator, Steve Hatfield.
 - A trail will be extended in conjunction with the condominium development or with the adjoining commercial development in accordance with the City's adopted Master Trails Plan (Fayetteville Alternative Trails and Transportation Plan)
2. Reduce the number of overall multi-family residential units in the original apartment development not to exceed 450 units.
 - The RMF-24 zoning approved with a bill of assurance limiting total units to 480. This item will be heard by the City Council as a separate request to modify the already accepted Bill of Assurance (part of ord # 4501)
 - Note: The approved large scale development for this property consisted of three phases and a total of 444 multi-family dwellings.
 - This project is currently being developed and major modifications to the layout or number of units will require approval of the Subdivision Committee.
3. Coordinate bus service to the overall development (current and future phases) with local transit authority.
4. Allow one acre of property, located south of the subject tract, which is currently owned by developer of commercial property to the west, may to be utilized by the developer of the townhomes / condominiums for negotiating with the City Parks & Recreation Advisory Board if needed or desired.

Through these actions and the accompanying Bill of Assurance, we believe that our common goals will be achieved.

Sincerely,

Tom Broyles

Crowne Fayetteville Associates

**BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS**

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Crowne Fayetteville Associates, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property described in Exhibit "A" attached hereto shall be limited to a density of no more than 100 residential dwelling units.
2. Petitioner shall develop a project consisting of town-homes or condominiums with residential units intended for sale.
3. Construction shall not commence before the fourth quarter of 2004.

Petitioner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, we, Crowne Fayetteville Associates, as the owners, developers or buyers (Petitioners) **voluntarily offer** all such assurances and sign our names below.

Date

Printed Name

Address

Signature

Date

Printed Name

Address

Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the ____ day of _____, 2004, appeared before
me, _____ and after
being placed upon his/her oath swore or affirmed that he agreed with the terms
of the above Bill of Assurance and signed his name above.

NOTARY PUBLIC

My Commission Expires:

AMENDED BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") American College General Partnership, John Ellis and Tom Broyles, General Partners, hereby voluntarily offer this Bill of Assurance and enter into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioners expressly grant to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/ Circuit Court of Washington County and agrees that if Petitioners or Petitioners' heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioners acknowledge that the Fayetteville Planning Commission and the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioners' rezoning request.

Petitioners hereby voluntarily offer assurances that Petitioners and Petitioners' property shall be restricted as follows IF Petitioners' rezoning is approved by the Fayetteville City Council.

1. The use of Petitioners' property described in Exhibit "A" attached hereto shall be limited to a density of 480 450 multi-family dwelling units.
2. Petitioners shall install a traffic signal either at Razorback Road and 15th Street or at Beechwood and 6th Street, whichever is the most appropriate with a revised traffic study being submitted after the rezoning is approved.
3. Petitioners shall dedicate six to seven acres for park land and a trail to be built by the developers along the south boundary of the RMF 24, Residential Multi-Family, 24 units per acre property to the City of Fayetteville prior to development of subject property.
4. Petitioners shall provide storm water detention as required by the City of Fayetteville Drainage Criteria Manual.

Petitioners specifically agree that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioners'

rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioners' property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, we, Tom Broyles and John Ellis, General Partners American College General Partnership, as the owners, developers or buyers (Petitioners) **voluntarily offer** all such assurances and sign our names below.

Date

Printed Name

Address

Signature

Date

Printed Name

Address

Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the _____ day of _____, 2004, appeared before me, _____ and after being placed upon his/her oath swore or affirmed that he agreed with the terms of the above Bill of Assurance and signed his name above.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT "A"

A part of the NW1/4 of the SE1/4 of Section 20, T-16-N, R-30-W, being more particularly described as follows: From the N.E. corner of the NW1/4 of the SE1/4 of said Section 20, thence N87°13'22"W 464.78 feet; thence S02°46'38"W 75.95 feet to the center line of a ditch; thence along the center line of said ditch as follows: S13°52'53"W 157.39 feet; thence S17°38'29"E 138.54 feet; thence S64°04'53"E 36.47 feet; thence S0°11'38"E 104.22 feet to the Point of Beginning; thence S0°11'38"E 89.61 feet; thence S14°47'06"E 227.46 feet; thence S30°02'E 82.11 feet to the West right-of-way for Razorback Road; thence S18°21'12"W 85.18 feet; thence leaving said right-of-way for Razorback Road N80°00'W along a creek 160.53 feet; thence N26°42'27"W 82.42 feet; thence N87°11'07"W 47.00 feet; thence S43°05'33"W 42.72 feet; thence S04°20'41"E 36.68 feet; thence S30°46'23"W 95.54 feet; thence S30°46'23"W 43.82 feet; thence S42°18'32"W 60.19 feet; thence S03°00'17"W 234.86 feet to a point on the North line of Meadow Vale Subdivision; thence along the North line of Meadow Vale Subdivision N87°09'34"W 220.24 feet to the NW corner of said Subdivision; thence along the East right-of-way of Ashwood Avenue N03°26'28"E 20.00 feet; thence along the North right-of-way of 18th Street N87°33'13"W 354.43 feet; thence along the East right-of-way of Arkansas Highway 16 Bypass N02°11'12"E 845.65 feet; thence S85°33'37"E 863.18 feet to the Point of Beginning, containing 14.66 acres, more or less, Washington County, Arkansas.

EXHIBIT "A"
AMERICAN COLLEGE CONSULTANTS
BILL OF ASSURANCE

A part of the NW1/4 of the SE1/4 of Section 20, T-16-N, R-30-W, being more particularly described as follows: From the N.E. corner of the NW1/4 of the SE1/4 of said Section 20, thence N87°13'22"W 464.78 feet; thence S02°46'38"W 75.95 feet to the center line of a ditch; thence along the center line of said ditch as follows: S13°52'53"W 157.39 feet; thence S17°38'29"E 138.54 feet; thence S64°04'53"E 36.47 feet; thence S0°11'38"E 104.22 feet to the Point of Beginning; thence S0°11'38"E 89.61 feet; thence S14°47'06"E 227.46 feet; thence S30°02'E 82.11 feet to the West right-of-way for Razorback Road; thence S18°21'12"W 85.18 feet; thence leaving said right-of-way for Razorback Road N80°00'W along a creek 160.53 feet; thence N26°42'27"W 82.42 feet; thence N87°11'07"W 47.00 feet; thence S43°05'33"W 42.72 feet; thence S04°20'41"E 36.68 feet; thence S30°46'23"W 95.54 feet; thence S30°46'23"W 43.82 feet; thence S42°18'32"W 60.19 feet; thence S03°00'17"W 234.86 feet to a point on the North line of Meadow Vale Subdivision; thence along the North line of Meadow Vale Subdivision N87°09'34"W 220.24 feet to the NW corner of said Subdivision; thence along the East right-of-way of Ashwood Avenue N03°26'28"E 20.00 feet; thence along the North right-of-way of 18th Street N87°33'13"W 354.43 feet; thence along the East right-of-way of Arkansas Highway 16 Bypass N02°11'12"E 845.65 feet; thence S85°33'37"E 863.18 feet to the Point of Beginning, containing 14.66 acres, more or less, Washington County, Arkansas.

Also,

A Part of the E1/2 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 a found 3/4-inch iron pipe at the NE corner of said NE1/4 of the SW1/4; Thence S1°57'44"W 149.11 feet to a point on the West right-of-way line for Arkansas Highway 16 Bypass; Thence Southwesterly along said right-of-way along a 326.50 foot radius curve to the left having a delta angle of 26°56'10", an arc distance of 153.50 feet (the long chord of which bears S15°39'17"W a distance of 152.09 feet); Thence continuing along said West right-of-way line for Arkansas Highway 16 Bypass S2°11'12"W 713.25 feet to an existing concrete right-of-way marker; Thence S87°46'57"W 9.64 feet to an existing concrete right-of-way marker; Thence continuing Southwesterly along said West right-of-way line for Arkansas Highway 16 Bypass along a 236.50 foot radius curve to the right having a delta angle of 91°35'10", an arc distance of 378.04 feet (the long chord of which bears S48°08'49"W a distance of 339.06 feet); Thence S3°50'46"W 9.62 feet to a point on the North right-of-way line for 18th Street; Thence along said North right-of-way for 18th Street N87°10'48"W 374.29

feet to the West line of the E1/2 of said NE1/4 of the SW1/4; Thence N2°31'15"E 1263.02 feet to the NW corner of said E1/2 of the NE1/4 of the SW1/4; Thence S86°52'04"E 655.46 feet to the Point of Beginning, containing 17.844 acres, more or less. Subject to all easements and rights-of-way of record.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

C.I.
Forsgren,
Inc.

X AGENDA REQUEST
 X CONTRACT REVIEW
 GRANT REVIEW

For the Fayetteville City Council Meeting of: May 18, 2004

FROM:

Gary Coover

Name

Engineering

Division

Community Planning & Engineering

Department

ACTION REQUIRED: Award a construction contract to Forsgren, Inc., in the amount of \$652,762.00 and approve \$97,000 for project contingency for Bid No. 04-35, Construction of Drainage Improvements for the Holly/Vista and Cleveland/Sang Areas. Also to approve the attached budget adjustment in the amount of \$414,541.00 which will also cover the project contingency and right-of-way acquisition costs.

COST TO CITY:

<u>\$824,762.00</u>	<u>\$ 486,077.00</u>	<u>Holly & Vista Dr. Drainage Impr.</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>4470-9470-5817.00</u>	<u>\$ 75,855.80</u>	<u>Bridge/Drainage</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>02023</u>	<u>\$ 410,221.20</u>	<u>Sales Tax</u>
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 Attorney5-11-04
Date
Purchasing Manager
Date

STAFF RECOMMENDATION:

Division Head5-11-04
Date
Received in Mayor's Office
Date
Department Director5-11-04
Date
Cross Reference:
Finance & Internal Services Dir.5-11-04
Date
Previous Ord/Res#:
Chief Administrative Officer5-11-04
Date
Orig. Contract Date:
Mayor5/11/04
Date
Orig. Contract Number:
New Item:

Yes

No

RESOLUTION NO. _____

A RESOLUTION TO AWARD A CONSTRUCTION CONTRACT TO FORSGREN, INC. IN THE AMOUNT OF \$652,762.00, PLUS A CONTINGENCY OF \$97,000.00 FOR CONSTRUCTION OF DRAINAGE IMPROVEMENTS FOR THE HOLLY/VISTA AND CLEVELAND/SANG AREAS, AND TO APPROVE A BUDGET ADJUSTMENT OF \$414,541.00 FOR THIS PROJECT

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 awards a construction contract to Forsgren, Inc. in the amount of \$652,762.00, plus a contingency of \$97,000.00 for construction of drainage improvements for the Holly/Vista and Cleveland/Sang areas, and to approve a budget adjustment in the amount of \$414,541.00 for this project.

PASSED and APPROVED this the 18th day of May, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

SONDRA SMITH, City Clerk

TABULATION OF BIDS RECEIVED APRIL 26, 2004
DRAINAGE IMPROVEMENTS
HOLLY-VISTA AND CLEVELAND-SANG AREAS
FOR
CITY OF FAYETTEVILLE, ARKANSAS

USI Project No. 030923
Plans and Specifications Dated: April, 2004

Company: Arkansas License No.: Address: City, State:			Foregren, Inc. 0036900404 PO Box 368 Fort Smith, AR 72902			Mobley Contractors, Inc. 0003660904 PO Box 180 Morrilton, AR 72110			ENGINEER'S ESTIMATE		
Item No.	Quantity	Unit	Description	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
SCHEDULE A - HOLLY-VISTA AREA											
1.	1	Lump Sum	Site Preparation complete in place	\$28,000.00	\$28,000.00	\$72,931.33	\$72,931.33	\$25,000.00	\$25,000.00		
2.	204	L.F.	58" X 36" Reinforced Concrete Arch Pipe (Class 3) complete in place	\$180.00	\$36,720.00	\$173.84	\$35,463.36	\$200.00	\$40,800.00		
3.	1	Each	58" X 36" RCP Arch Pipe Flared End Section complete in place	\$2,500.00	\$2,500.00	\$2,953.13	\$2,953.13	\$3,000.00	\$3,000.00		
4.	285	L.F.	48" Reinforced Concrete Pipe (Class 3) complete in place	\$112.00	\$29,680.00	\$135.58	\$35,923.40	\$120.00	\$31,800.00		
5.	66	L.F.	42" Reinforced Concrete Pipe (Class 3) complete in place	\$120.00	\$7,920.00	\$124.58	\$8,222.28	\$100.00	\$6,600.00		
6.	1173	L.F.	36" Reinforced Concrete Pipe (Class 3) complete in place	\$78.00	\$91,494.00	\$92.82	\$108,877.88	\$80.00	\$93,840.00		
7.	180	L.F.	30" Reinforced Concrete Pipe (Class 3) complete in place	\$85.00	\$12,350.00	\$100.34	\$18,084.60	\$60.00	\$11,400.00		
8.	1	Each	30" Reinforced Concrete Pipe Flared End Section	\$800.00	\$800.00	\$925.95	\$925.95	\$1,500.00	\$1,500.00		
9.	25	L.F.	18" Reinforced Concrete Pipe (Class 3) complete in place	\$60.00	\$1,500.00	\$64.80	\$1,620.00	\$30.00	\$750.00		
10.	1	Lump Sum	6' X 4' Reinforced Box Culvert complete in place	\$31,000.00	\$31,000.00	\$30,855.19	\$30,855.19	\$35,000.00	\$35,000.00		
11.	1	Lump Sum	4' X 4' Reinforced Box Culvert (Pre-Cast or Cast-In-Place) complete in place	\$20,000.00	\$20,000.00	\$15,780.36	\$15,780.36	\$20,000.00	\$20,000.00		
12.	2	Each	Junction Box, 4' Type E, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place								
13.	1	Lump Sum	Relocate 8" Water Line under 6' X 4' RC Box, complete in place	\$3,000.00	\$6,000.00	\$3,345.61	\$8,691.22	\$3,500.00	\$7,000.00		
14.	1	Lump Sum	Relocate 12" Sanitary Sewer Line ("ForceMain"), complete in place	\$15,000.00	\$15,000.00	\$8,312.20	\$8,312.20	\$8,000.00	\$8,000.00		
15.	5	Each	Inlet Box, 5' Type C, Reinforced Concrete (or equivalent Type MO), Pre-cast or Cast-In-Place, complete in place	\$30,000.00	\$30,000.00	\$27,542.95	\$27,542.95	\$6,000.00	\$6,000.00		
15a.	1	Each	Inlet Box, 6' X 5' Type C, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$3,000.00	\$15,000.00	\$3,188.85	\$15,834.25	\$3,500.00	\$17,500.00		
16.	1	Each	Inlet Box, 6' X 4' Type C, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$3,200.00	\$3,200.00	\$3,334.38	\$3,334.38	\$3,500.00	\$3,500.00		
17.	2	Each	Inlet Box, 4' Type E, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$3,200.00	\$3,200.00	\$3,215.00	\$3,215.00	\$4,000.00	\$4,000.00		
18.	2	Each	Inlet Box, 4' Type E, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$2,800.00	\$5,600.00	\$3,415.04	\$6,830.08	\$3,500.00	\$7,000.00		
19.	1	Each	Inlet Box, 7' X 4' Type E, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$4,200.00	\$8,400.00	\$3,938.79	\$7,877.58	\$4,500.00	\$9,000.00		
20.	8	L.F.	Inlet Box, 5' Type E, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$3,000.00	\$3,000.00	\$3,379.71	\$3,379.71	\$3,500.00	\$3,500.00		
21.	451	L.F.	Curb Inlet Extensions, complete in place	\$125.00	\$1,000.00	\$183.42	\$1,467.36	\$20.00	\$160.00		
22.	120	S.Y.	Swale Construction, complete in place	\$8.00	\$3,608.00	\$29.52	\$13,313.52	\$20.00	\$8,020.00		
23.	2	Each	4" Concrete Channel Lining (for erosion control), complete in place	\$50.00	\$6,000.00	\$38.11	\$4,333.20	\$50.00	\$8,000.00		
24.	225	Ton	Trash Grate, complete in place	\$4,500.00	\$9,000.00	\$1,294.80	\$2,589.60	\$1,500.00	\$3,000.00		
25.	500	Ton	Asphalt for Street Repair, complete in place	\$58.00	\$13,050.00	\$27.50	\$8,187.50	\$90.00	\$20,250.00		
26.	200	L.F.	Aggregate Base Course (Class 7), complete in place	\$16.00	\$8,000.00	\$23.99	\$11,995.00	\$18.00	\$9,000.00		
			Curb and Gutter, complete in place	\$17.00	\$3,400.00	\$21.10	\$4,220.00	\$15.00	\$3,000.00		

Company				Foregren, Inc.		Mobley Contractors, Inc.		ENGINEER'S ESTIMATE	
Arkansas License No.:				0036900404		0003660904			
Address:				PO Box 368		PO Box 150			
City, State:				Fort Smith, AR 72802		Morrilton, AR 72110			
Item No.	Quantity	Unit	Description	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
TOTAL SCHEDULE A									
27.	3	Each	Reinstate Individual 4" Sanitary Sewer Service, complete in place	\$520.00	\$1,560.00	\$1,780.67	\$5,342.01	\$500.00	\$1,500.00
28.	1.2	Acre	Seeding, complete in place	\$1,100.00	\$1,320.00	\$3,300.00	\$3,960.00	\$500.00	\$600.00
29.	1	Lump Sum	Maintenance of Traffic, complete in place	\$33,000.00	\$33,000.00	\$62,140.63	\$62,140.63	\$10,000.00	\$10,000.00
30.	1	Lump Sum	Trench or Excavation Safety System, complete in place	\$1.00	\$1.00	\$2,050.00	\$2,050.00	\$5,000.00	\$5,000.00
31.	52	L.F.	Root Pruning of Existing Trees, complete in place	\$135.00	\$7,020.00	\$7.92	\$411.84	\$10.00	\$520.00
32.	250	L.F.	Remove and Reconstruct Existing Fence, complete in place	\$13.00	\$3,250.00	\$17.05	\$4,262.50	\$10.00	\$2,500.00
					\$441,573.00		\$535,907.97		\$403,740.00
SCHEDULE B - CLEVELAND-SANG AREA									
1.	1	Lump Sum	Site Preparation complete in place	\$15,000.00	\$15,000.00	\$2,280.00	\$2,280.00	\$10,000.00	\$10,000.00
2.	550	L.F.	36" Reinforced Concrete Pipe (Class 3) complete in place	\$105.00	\$57,750.00	\$66.75	\$36,712.50	\$80.00	\$44,000.00
3.	424	L.F.	24" Reinforced Concrete Pipe (Class 3) complete in place	\$52.00	\$22,048.00	\$43.11	\$18,278.64	\$45.00	\$19,080.00
4.	110	L.F.	18" Reinforced Concrete Pipe (Class 3) complete in place	\$80.00	\$8,800.00	\$32.28	\$3,550.80	\$30.00	\$3,300.00
5.	830	L.F.	Ditch 1 Sod Swale with 2' Bottom (Sta. 0+00 to Sta. 6+30), complete in place	\$17.00	\$10,710.00	\$12.70	\$8,001.00	\$15.00	\$9,450.00
6.	6	Each	4' Type C Inlet Box (or equivalent Type MO), Pre-Cast or Cast-In-Place complete in place	\$2,800.00	\$16,800.00	\$2,537.57	\$15,225.42	\$2,500.00	\$15,000.00
7.	24	L.F.	Curb Inlet Extensions, complete in place	\$125.00	\$3,000.00	\$114.60	\$2,750.40	\$20.00	\$480.00
8.	3	Each	Curb Inlet Neenah Type L Grate #R3578 (or equivalent) for Combination Inlet complete in place	\$4,000.00	\$12,000.00	\$955.01	\$2,865.03	\$1,500.00	\$4,500.00
9.	1	Lump Sum	4' Type E Junction Box (or equivalent Type MO), Pre-Cast or Cast-In-Place complete in place	\$2,800.00	\$2,800.00	\$2,441.60	\$2,441.60	\$2,500.00	\$2,500.00
10.	1	Each	36" Reinforced Concrete Pipe Flared End Section	\$1,200.00	\$1,200.00	\$968.61	\$968.61	\$2,500.00	\$2,500.00
11.	45	Ton	Asphalt Street Repair, complete in place	\$56.00	\$2,520.00	\$25.00	\$1,125.00	\$90.00	\$4,050.00
12.	900	Ton	Aggregate Base Course (Class 7), complete in place	\$16.00	\$14,400.00	\$19.61	\$17,649.00	\$18.00	\$16,200.00
13.	500	L.F.	Curb and Gutter, complete in place	\$12.00	\$6,000.00	\$13.75	\$6,875.00	\$15.00	\$7,500.00
14.	1	Each	Relocate Existing 6" Water Line (only if directed by Engineer)	\$5,000.00	\$5,000.00	\$4,970.65	\$4,970.65	\$3,000.00	\$3,000.00
15.	1	Each	Relocate Existing 8" Water Line (only if directed by Engineer)	\$8,000.00	\$8,000.00	\$5,144.16	\$5,144.16	\$4,000.00	\$4,000.00
16.	3	Each	Reinstate Individual 4" Sanitary Sewer Service, complete in place	\$520.00	\$1,560.00	\$1,266.09	\$3,798.27	\$500.00	\$1,500.00
17.	3	Each	Reinstate Individual Water 1" Service, complete in place	\$570.00	\$1,710.00	\$549.89	\$1,649.67	\$500.00	\$1,500.00
18.	0.2	Acre	Seeding, complete in place	\$1,100.00	\$220.00	\$4,500.00	\$900.00	\$500.00	\$100.00
19.	10	L.F.	Reconstruct Sidewalk, complete in place	\$52.00	\$520.00	\$55.39	\$553.90	\$30.00	\$300.00
20.	550	L.F.	Reconstruct Existing Fence, complete in place	\$13.00	\$7,150.00	\$9.50	\$5,225.00	\$10.00	\$5,500.00
21.	1	Lump Sum	Maintenance of Traffic, complete in place	\$14,000.00	\$14,000.00	\$4,895.63	\$4,895.63	\$5,000.00	\$5,000.00
22.	1	Lump Sum	Trench or Excavation Safety System, complete in place	\$1.00	\$1.00	\$1,220.00	\$1,220.00	\$5,000.00	\$5,000.00
					\$211,189.00		\$147,078.28		\$164,460.00
TOTAL SCHEDULE B									
DEDUCTIVE ALTERNATE NO. 1									
424	L.F.	24" Reinforced Concrete Pipe (Class 3) complete in place	\$48.00	\$20,352.00	\$43.11	\$18,278.64	\$45.00	\$19,080.00	
30	L.F.	18" Reinforced Concrete Pipe (Class 3) complete in place	\$70.00	\$2,100.00	\$32.28	\$968.40	\$30.00	\$900.00	
3	Each	4' Type C Inlet Box (or equivalent Type MO), Pre-Cast or Cast-In-Place	\$2,200.00	\$6,600.00	\$2,537.57	\$7,612.71	\$2,500.00	\$7,500.00	
12	L.F.	Curb Inlet Extensions, complete in place	\$85.00	\$1,020.00	\$114.60	\$1,375.20	\$20.00	\$240.00	
3	Each	Curb Inlet Neenah Type L Grate #R3578 (or equivalent) for Combination Inlet	\$3,500.00	\$10,500.00	\$955.01	\$2,865.03	\$1,500.00	\$4,500.00	
35	Ton	Asphalt Street Repair, complete in place	\$48.00	\$1,680.00	\$25.00	\$875.00	\$90.00	\$3,150.00	
625	Ton	Aggregate Base Course (Class 7), complete in place	\$14.00	\$8,750.00	\$19.61	\$12,256.25	\$18.00	\$11,250.00	
500	L.F.	Curb and Gutter, complete in place	\$10.00	\$5,000.00	\$13.75	\$6,875.00	\$15.00	\$7,500.00	
1	Each	Relocate Existing 6" Water Line (only if directed by Engineer)	\$4,500.00	\$4,500.00	\$4,970.65	\$4,970.65	\$3,000.00	\$3,000.00	
10	L.F.	Remove and Reconstruct Sidewalk, complete in place	\$45.00	\$450.00	\$55.39	\$553.90	\$30.00	\$300.00	

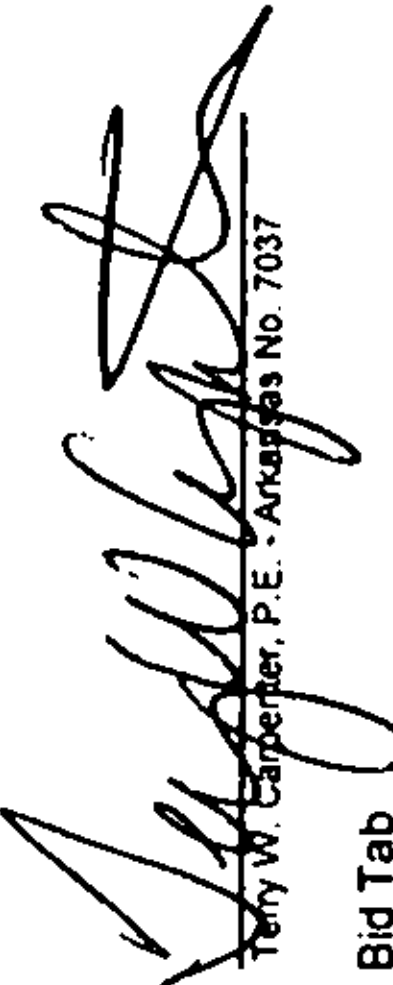
Company: Arkansas License Address: City, State:				Foregren, Inc. 0036900404 PO Box 388 Fort Smith, AR 72902				Mobley Contractors, Inc. 0003660904 PO Box 160 Morrilton, AR 72110				ENGINEER'S ESTIMATE			
Item No.	Quantity	Unit		Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount				
	1	Lump Sum	Site Preparation (partial), complete in place	\$4,000.00	\$4,000.00	\$2,280.00	\$2,280.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00				
	1	Lump Sum	Maintenance of Traffic (partial), complete in place	\$3,500.00	\$3,500.00	\$4,895.83	\$4,895.83	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00				
	1	Lump Sum	Trench or Excavation Safety System (partial), complete in place	\$0.50	\$0.50	\$1,220.00	\$1,220.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00				
Total Deductive Alternate No. 1					\$68,452.60		\$65,026.41				\$67,420.00				
DEDUCTIVE ALTERNATE NO. 3 ITEMS															
190	L.F.	30" Reinforced Concrete Pipe (Class 3), complete in place		\$53.00	\$10,070.00	\$100.34	\$19,084.80	\$80.00	\$11,400.00						
1	Each	30" Reinforced Concrete Pipe Flared End Section, complete in place		\$650.00	\$650.00	\$925.95	\$925.95	\$1,500.00	\$1,500.00						
1	Each	Junction Box, 4' Type E, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place		\$2,400.00	\$2,400.00	\$3,345.61	\$3,345.61	\$3,500.00	\$3,500.00						
0.5	Acres	Seeding, complete in place		\$950.00	\$475.00	\$3,300.00	\$1,650.00	\$500.00	\$250.00						
581	L.F.	36" Reinforced Concrete Pipe (Class 3), complete in place		\$68.00	\$39,508.00	\$92.82	\$53,928.42	\$80.00	\$46,480.00						
1	Each	7' X 4' Type E Inlet (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place		\$3,600.00	\$3,600.00	\$3,938.79	\$3,938.79	\$4,000.00	\$4,000.00						
1	Each	4' X 4' Type E Inlet (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place		\$2,400.00	\$2,400.00	\$3,415.04	\$3,415.04	\$3,000.00	\$3,000.00						
1	Each	4' X 4' Type E Junction Box (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place		\$2,400.00	\$2,400.00	\$3,415.04	\$3,415.04	\$3,000.00	\$3,000.00						
1	Each	Trash Grate, complete in place		\$3,800.00	\$3,800.00	\$1,294.80	\$1,294.80	\$1,500.00	\$1,500.00						
118	L.F.	Swale Construction		\$6.00	\$708.00	\$29.52	\$3,483.36	\$20.00	\$2,360.00						
1	Lump Sum	Site Preparation (partial), complete in place		\$4,000.00	\$4,000.00	\$2,000.00	\$2,000.00	\$7,000.00	\$7,000.00						
Total Deductive Alternate No. 3					\$70,011.00		\$96,461.61*				\$83,990.00				

TOTAL BID, SCHEDULES A AND B			\$652,762.00	\$682,986.25	\$688,200.00
Deductive Alternate No. 1 - Line 5 Station 0+00 to 4+54			\$68,452.60	\$65,026.41	\$67,420.00
TOTAL BID ACCEPTING DEDUCTIVE ALTERNATE NO. 1			\$584,309.50	\$617,959.84	\$500,780.00
Deductive Alternate No. 2 - Schedule B in its entirety			\$211,189.00	\$147,078.28	\$164,460.00
TOTAL BID ACCEPTING DEDUCTIVE ALTERNATE NO. 2			\$441,573.00	\$535,907.97	\$403,740.00
Deductive Alternate No. 3 - Line 2 Station 0+00 to Station 2+07 and Line 1 Station 12+98 to Station 19+97			\$70,011.00	\$96,461.61	\$83,980.00
TOTAL BID ACCEPTING DEDUCTIVE ALTERNATE NOS. 2 AND 3			\$371,562.00	\$439,446.36	\$319,750.00

*Amount corrected by Engineer

USI-Arkansas, Inc.
Consulting Engineers
4710 South Thompson, Suite 102
Springdale, AR 72764

Certified Correct:


Terry W. Carpenter, P.E. - Arkansas No. 7037

030923 Certified Bid Tab

AGREEMENT

THIS AGREEMENT is dated as of the _____ day of _____,

in the year 2004 by and between the City of Fayetteville (hereinafter called CITY) and Forsgren, Incorporated (hereinafter called FORSGREN).

CITY and FORSGREN, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

FORSGREN shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Approximately 3000 Linear Feet of RCP Storm Sewer Pipe, a 6' X 4' RCP Box Culvert, a 4' X 4' RCP Box Culvert, and approximately 500 Linear Feet of swales constructed, 21 Junction or Inlet Boxes, other miscellaneous items of work, and all necessary measures for erosion control and related miscellaneous items of work necessary for a complete installation as set out in the Bid, these Plans and Specifications No. 030923, dated April 2004, for the unit and lump sum prices bid in the Bid.

Article 2. ENGINEER

The Project has been designed by USI-Arkansas, Inc., Consulting Engineers, who is hereinafter called Engineer and who is to act as the CITY'S representative, assume all duties and responsibilities and have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIMES

- 3.1 The Work will be substantially completed within seventy five (75) days after the date when the Contract Times commence to run as provided in paragraph 2.3 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.13 of the General Conditions within ninety (90) days after the date when the Contract Times commence to run. These Contract Times include delays for normal (average) weather-related events, such as rain, snow, and freezing temperatures which may affect the progress of the construction in the following amounts on a per-month basis as hereinafter set out. Only weather-related delays in excess of these amounts will be considered for time extensions, if requested by the Forsgren.

Days Included in Contract Times
for Normal Weather-Related Events
(On A Monthly Basis)

January	11
February	9
March	8
April	8
May	8
June	8
July	7
August	7
September	7
October	7
November	7
December	8

FORSGREN shall include within the Contract Times the respective number of days (as shown above for each month during the Contract) for normal weather-related events, which may cause delays in the progress of the Work, and place a sufficient work force on the project to ensure completion of the Work within the Contract Times.

3.2 Liquidated Damages. CITY and FORSGREN recognize that time is of the essence of this Agreement and that CITY will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by the CITY if the Work is not completed on time. Accordingly, instead of requiring any such proof, the CITY and FORSGREN agree that as liquidated damages for delay (but not as a penalty) FORSGREN shall pay the CITY five hundred dollars (\$500.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if FORSGREN shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by the CITY, FORSGREN shall pay the CITY five hundred dollars (\$500.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE

The CITY shall pay FORSGREN for completion of the Work in accordance with the Contract Documents an amount in current funds for the performance of the Contract in accordance with the accepted Bid therefor, subject to additions and deductions, as provided in the Specifications, for unit and lump sum prices in the Bid, the total sum being

<u>Six Hundred Fifty-Two Thousand Seven Hundred Sixty-Two dollars</u>	<u>(\$652,762.00)</u>
Dollar Amount Written in Words	Total in Figures

As provided in paragraph 11.9 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by Engineer as provided in paragraph 9.10 of the General Conditions. Unit prices have been computed as provided in paragraph 11.9.2 of the General Conditions.

Article 5. PAYMENT PROCEDURES

FORSGREN shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Engineer will process applications for Payment as provided in the General Conditions.

5.1 Progress Payments; Retainage. The CITY shall make progress payments on account of the Contract Price on the basis of FORSGREN'S Applications for Payment as recommended by Engineer, on or about the 15th day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below. All such payments will be measured by the schedule of values established in paragraph 2.9 of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1 Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or the CITY may withhold, in accordance with paragraph 14.7 of the General Conditions:

90% of Work completed (with the balance being retainage). If Work has been 50% completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to the CITY and Engineer, the CITY, on recommendation of Engineer, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of Work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 95% of the Work completed.

100% of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to the CITY as provided in paragraph 14.2 of the General Conditions).

5.1.2 Upon Substantial Completion, in an amount sufficient to increase total payments to FORSGREN to 95% of the Contract Price (with the balance being retainage), less such amounts as Engineer shall determine, or the CITY may withhold, in accordance with paragraph 14.7 of the General Conditions.

5.2 Final Payment. Upon final completion and acceptance of the Work in accordance with paragraph 14.13 of the General Conditions, the CITY shall pay the remainder of the Contract Price as recommended by Engineer as provided in said paragraph 14.13.

Article 6. FORSGREN'S REPRESENTATIONS

In order to induce the CITY to enter into this Agreement, FORSGREN makes the following representations:

6.1 FORSGREN has examined and carefully studied the Contract Documents (including the Addenda listed in paragraph 7) and the other related data identified in the Bidding Documents including "technical data."

6.2 FORSGREN has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

6.3 FORSGREN is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.

6.4 FORSGREN has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in paragraph 4.2.1 of the General Conditions. FORSGREN accepts the determination set forth in paragraph 4.2.1 of the General Conditions of the extent of the "technical data" contained in such reports and drawings upon which FORSGREN is entitled to rely as provided in paragraph 4.2 of the General Conditions. FORSGREN acknowledges that such reports and drawings are not Contract Documents and may not be complete for FORSGREN'S purposes. FORSGREN acknowledges that the CITY and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. FORSGREN has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by FORSGREN and safety precautions and programs incident thereto. FORSGREN does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

6.5 FORSGREN is aware of the general nature of Work to be performed by the CITY and others at the site that relates to the Work as indicated in the Contract Documents.

6.6 FORSGREN has correlated the information known to FORSGREN, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

6.7 FORSGREN has given Engineer written notice of all conflicts, errors, ambiguities or discrepancies that FORSGREN has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to FORSGREN, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between CITY and FORSGREN concerning the Work consist of the following:

- 7.1 This Agreement.
- 7.2 Exhibits to this Agreement.
- 7.3 Performance, Payment and other Bonds.
- 7.4 Notice to Proceed.
- 7.5 General Conditions.
- 7.6 Specifications consisting of divisions and sections as listed in the Table of Contents.
- 7.7 Drawings consisting of 18 sheets.
- 7.8 Addenda numbers 1 to 1, inclusive.
- 7.9 FORSGREN's bid.
- 7.10 Documentation submitted by FORSGREN prior to Notice of Award.
- 7.11 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraphs 3.5 and 3.6 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article. The Contract Documents may only be amended, modified or supplemented as provided in paragraphs 3.5 and 3.6 of the General Conditions.

Article 8. MISCELLANEOUS

- 8.1 Terms used in this Agreement, which are defined in Article 1 of the General Conditions, will have the meanings indicated in the General Conditions.

8.2 FORSGREN and all Subcontractors shall pay not less than the minimum prevailing hourly wage rates as found by the Arkansas Department of Labor or as determined by the Court on Appeal to all workmen performing work under the Contract.

8.3 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.4 The CITY and FORSGREN each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.5 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the CITY and FORSGREN, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, the CITY and FORSGREN have signed this Agreement. One counterpart each has been delivered to the CITY, FORSGREN and Engineer. All portions of the Contract Documents have been signed, initialed or identified by CITY and FORSGREN or identified by Engineer on their behalf.

This Agreement will be effective on _____, 20____ (which is the Effective Date of the Agreement).

OWNER:

City of Fayetteville

By: _____
Dan Coody, Mayor

[Corporate Seal]

Attest _____
Sondra Smith, City Clerk

Address for Giving Notices

113 W. Mountain St.

Fayetteville, AR 72701

CONTRACTOR:

Forsgren, Inc.

By: *[Signature]*

VICE PRESIDENT
Title

[Corporate Seal]

Attest _____

Address for Giving Notices

PO Box 368

Fort Smith, AR 72902

STAFF REVIEW FORM - FINANCIAL OBLIGATION

C. 10.

Terracon, Inc.

XXXX AGENDA REQUEST
 CONTRACT REVIEW
 GRANT REVIEW

For the Fayetteville City Council Meeting of: May 18, 2004

FROM:

Gary Dumas

Operations

Name

Division

Department

ACTION REQUIRED: Resolution Authorizing the Mayor to Execute a Contract an Engineering Services with Terracon for Assessment and Preliminary Engineering of Urgent Repairs of Flood Related Damages in an Amount Not to Exceed \$50,000. Contract Amendments for Design, Bidding, Inspection and Contract Management of Construction Contracts Will Be Forwarded for City Council Action as Necessary

COST TO CITY:

<u>\$50,000.00</u>	<u>\$</u>	<u>Replacement and Disaster Recovery Fund</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>4270.9270.5314.00</u>	<u>\$</u>	<u>Replacement and Disaster Recovery Fund</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>04030.1</u>	<u>\$ 4,445,017.96</u>	<u>Replacement and Disaster Recovery Fund</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW:

Budgeted Item xxxxx Budget Adjustment Attached

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing 5/13/04
 Accounting Manager Date

Nancy Smith 5/13/04
 Internal Auditor Date

K. [Signature] 5/13/04
 City Attorney Date

P. [Signature] 5/13/04
 Purchasing Manager Date

STAFF RECOMMENDATION:

Division Head Date

[Signature] 5-12-04
 Department Director Date

[Signature] 5-12-04
 Finance & Internal Services Dir. Date

[Signature] 5-12-04
 Administrative Officer Date

Received in Mayor's Office

5/13/04
 Date P.H.

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

Mayor

Date

Description _____ Meeting Date May 18, 2004

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
From: Gary Dumas, Director of Operations
Date: May 3, 2004
Subject: **Resolution Authorizing the Mayor to Execute an Engineering Services Contract With Terracon for Assessment, Design, Bidding, Inspection and Contract Management for Urgent Repairs for Flood Related Damages**

RECOMMENDATION

Approve Contract with Terracon in an amount not to exceed \$50,000 based upon an hourly rate as contained within the contract, for the assessment, evaluation and preliminary engineering costs estimates as Phase 1 of a contract which will ultimately include design, bidding, inspection and contract management for Urgent Repairs for Flood Related Damages

BACKGROUND

During the week of April 18th significant and recurring rainfall events caused flooding throughout the Northwest Arkansas region. Luckily, most of the City of Fayetteville was spared the worst of the flooding. However, high, rapidly moving storm water did create some significant losses for the City of Fayetteville. The majority of these significant losses occurred to Kings Drive, the water and waste water system, debris piles in Lake Sequoyah, and to the spillway and dam structure at Lake Wilson. These losses will require substantial engineering and rehabilitation costs.

Certainly other public property was damaged such as fencing at the Airport, drainage structures blocked by flood debris, erosion along creek and river banks, etc. These losses, if rehabilitation is required can be addressed within normal operations, although there may be unanticipated expenses and budget adjustments necessary along with adjustments to the annual work program to address the manpower shifts necessitated by the flood events.

The significant losses known at this time, Kings Drive, water and sewer infrastructure, Lake Sequoyah, and the Wilson Lake spillway and dam, require immediate attention. Other areas such as Dead Horse Mountain Road Bridge, Lake Sequoyah Dam and Spillway, Lake Fayetteville Spillway Overlook, and other sites may become urgent as these and other areas continue to be investigated.

The Engineering Division does not have the resources available to undertake this investigation, design or contract administration.

DISCUSSION

The four identified areas are in need of urgent attention. Resources have not been budgeted for this engineering or rehabilitation.

The administration recommends and the consultant selection committee concurs that an engineering firm be retained for the first element of a multi-phased contract for Urgent Repairs for Flood Related Damages. This first element will be for assessment, evaluation and preliminary costs estimates for required rehabilitation. As information becomes available contract amendments will be brought forward for individual engineering projects. Construction contracts will then be bid.

On Friday April 30, FEMA representatives visited with local communities in Washington County in a preliminary assessment to determine if a Presidential Disaster Area Designation was warranted. That determination, as of this writing, has not been announced. If announced, the City of Fayetteville would be eligible to recover a part of the rehabilitation expenses. Funding for the engineering and rehabilitation will be from the City's Replacement and Disaster Recovery Fund. This fund will be reimbursed if Federal funding is secured for these projects.

BUDGET IMPACT

Funds will come from the Replacement and Disaster Recovery Fund.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT FOR ENGINEERING SERVICES WITH TERRACON, INC. IN THE AMOUNT OF \$50,000.00 FOR ASSESSMENT, DESIGN, BIDDING, INSPECTION AND CONTRACT MANAGEMENT SERVICES FOR REPAIRS RELATED TO THE RECENT FLOOD DAMAGE AND TO APPROVE A BUDGET ADJUSTMENT OF \$100,000.00

WHEREAS, the mid-April rainstorms caused flooding damage throughout Fayetteville and Northwest Arkansas; and

WHEREAS, flood damage to City property caused by this storm impacted Kings Drive, the dam structure at Lake Wilson, debris piled up in Lake Sequoyah, fencing at the airport, and various water, waste water, and drainage work and structures; and

WHEREAS, the Engineering Division does not have sufficient personnel resources to inspect and plan repairs for the urgently needed projects.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a contract for engineering services with Terracon, Inc. in the amount of \$50,000.00 (attached as Exhibit A) for assessment, design, bidding, inspection and contract management services for repairs related to the recent flood damage and approves a budget adjustment in the amount of \$100,000.00 (attached as Exhibit B) to pay for this contract and other potential work necessitated by the flood damage.

PASSED and APPROVED this the 18th day of May, 2004.

APPROVED:

By: _____

DRAFT
DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

**City of Fayetteville, Arkansas
Budget Adjustment Form**

Budget Year 2004	Department: Replacement Fund Exp Division: Program:	Date Requested 5/18/2004	Adjustment Number
----------------------------	---	------------------------------------	-------------------

Project or Item Requested:
\$100,000 in the Flood Damage Repair - 2004 capital project.

Project or Item Deleted:
None. From the Use of Fund Balance account.

Justification of this Increase:

Justification of this Decrease:
There is sufficient fund balance remaining to meet City Policy and 2004 objectives.

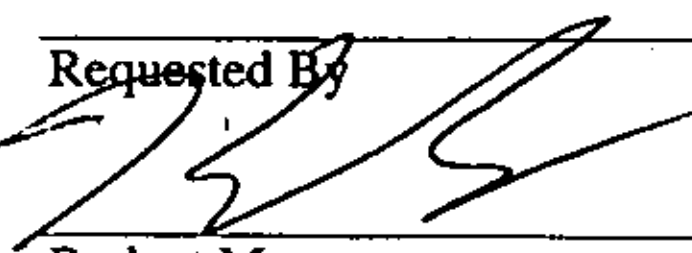
Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Professional services	4270	9270	5314	00	100,000	04030	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	4270	0927	4999	99	100,000		

Approval Signatures

Requested By 	Date 5-12-04
Budget Manager	Date
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Date of Approval	Initial	Date
Posted to General Ledger	Initial	Date
Posted to Project Accounting	Initial	Date
Entered in Category Log	Initial	Date

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
TERRACON, INC.

THIS AGREEMENT is made as of May 18, 2004, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and **Terracon, Inc.** with offices located in Springdale, AR (hereinafter called **Terracon**).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the assessment, design, permitting, construction, and maintenance, and in particular, the assessment of damage to infrastructure caused by recent flooding ("the Project"). Therefore, CITY OF FAYETTEVILLE and **Terracon** in consideration of their mutual covenants agree as follows:

Terracon shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of **Terracon's** services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field. If Construction Phase Services are to be provided by **Terracon** under this Agreement, the construction shall be executed under the observation of a professional engineer registered in the State of Arkansas in accordance with Arkansas Code Amended §22-9-101.

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of **Terracon**.
- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of **Terracon**.
- 1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES

2.1 General

2.1.1 Perform professional design services in connection with the Project as hereinafter stated, which shall include normal civil, structural, mechanical, and electrical engineering services and normal architectural design services incidental thereto.

2.1.1.1 The Scope of Services to be furnished by **Terracon** during the Preliminary Assessment Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.2 The Scope of Services to be furnished by **Terracon** during the Preliminary Design Phase is included in Section 2.3 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.3 The Scope of Services to be furnished by **Terracon** during the Final Design Phase, if any, will be finalized and contained in an amendment to this Agreement after Preliminary Design is completed.

2.1.1.4 The Scope of Services to be furnished by **Terracon** during the Bidding Phase, if any, will be finalized and contained in an amendment to this Agreement after Preliminary Design is completed.

2.1.1.5 The Scope of Services to be furnished by **Terracon** during the Construction Phase, if any, will be finalized and contained in an amendment to this Agreement after Preliminary Design is completed.

2.1.1.6 The preliminary Scope of Services to be furnished by **Terracon** for Resident Services during Construction, if any, will be finalized and contained in an amendment to this Agreement after Preliminary Design is completed.

2.2 Preliminary Assessment Phase

2.2.1 The Preliminary Assessment Phase will consist of an engineering analysis of multiple flood damaged public improvements. The assessment will evaluate the damage and its cause and determine if rehabilitation is appropriate or if other alternatives are more practical from an economic and use perspective.

2.3 Preliminary Design Phase

2.3.1 The Preliminary Design Phase will include the evaluation of alternatives, the development of a comprehensive project cost estimate, the creation of a project schedule, the acquisition of approvals from City of Fayetteville for the preliminary design, the completion of detailed surveys for engineering design if necessary, the development of right-of-way procurement needs if necessary, and the commencement of final design for the Project if approved by the City.

SECTION 3 - ADDITIONAL SERVICES

3.1 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by **Terracon** shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Grant and Loan Assistance

Prepare applications and supporting documents for governmental grants, loans, or advances.

3.1.2 Administrative Assistance

Provide Contract and Project administration to the degree authorized by CITY OF FAYETTEVILLE.

3.1.3 Miscellaneous Studies

3.1.4 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.1.5 Extra Services

3.1.5.1 Services not specifically defined heretofore that may be authorized by CITY OF FAYETTEVILLE.

3.2 Contingent Additional Services

3.2.1 If services described under Contingent Additional Services in Paragraph 3.2 are required due to circumstances beyond **Terracon's** control, **Terracon** shall notify CITY OF

FAYETTEVILLE and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If CITY OF FAYETTEVILLE deems that such services described in 3.2 are not required, CITY OF FAYETTEVILLE shall give prompt written notice to **Terracon**. If CITY OF FAYETTEVILLE indicates in writing that all or parts of such Contingent Additional Services are not required, **Terracon** shall have no obligation to provide those services.

3.2.2 Making revisions in Drawings, Specifications, or other documents when such revisions are:

3.2.2.1 Required because of inconsistent approvals or instructions previously given by CITY OF FAYETTEVILLE, including revisions made necessary by adjustments in CITY OF FAYETTEVILLE's program or Project Budget.

3.2.2.2 Required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.

SECTION 4 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of **Terracon**:

4.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.

4.2 Assist **Terracon** by placing at **Terracon's** disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

4.3 Guarantee access to and make all provisions for **Terracon** to enter upon public and private property as required for **Terracon** to perform his services under this Agreement.

4.4 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by **Terracon** and render in writing decisions pertaining thereto.

4.5 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.

4.6 Designate in writing a person to act as CITY OF FAYETTEVILLE's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY

OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

- 4.7 Give prompt written notice to **Terracon** whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect in the Project.
- 4.8 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees.
- 4.9 Pay for placement of legal notices and advertisements in newspapers or other publications required by program requirements of the Wastewater System Improvement Project.
- 4.10 Furnish, or direct **Terracon** to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.
- 4.11 If CITY OF FAYETTEVILLE's standard bidding requirements, Agreement forms and General Conditions are to be used, CITY OF FAYETTEVILLE shall provide copies of such documents for **Terracon's** use in coordinating the Contract Drawings and Specifications.
- 4.12 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to **Terracon** in a timely manner.

SECTION 5 - PERIOD OF SERVICE

- 5.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 5.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. **Terracon** will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

SECTION 6 - PAYMENTS

6.1 Compensation

6.1.1 Preliminary Design Phase Services

For the Scope of Services during the Preliminary Design Phase described herein, CITY OF FAYETTEVILLE authorizes fifty thousand dollars (\$50,000.00) as compensation for the scope of work set forth in Attachment A. **Terracon** will be compensated on the basis of a current schedule of hourly rates, the current schedule being attached to and made a part of this agreement. The costs and basis for compensation include all preliminary design costs, including labor, overhead, direct expenses, subcontracts and fees. The total contract amount authorize for the preliminary design phase services is fifty thousand dollars (\$50,000.00).

6.1.1.1 Subject to the City Council approval, adjustment of the contract amount may be made should **Terracon** establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

6.1.1.2 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE consistent with **Terracon's** normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by **Terracon** and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project design schedule as the basis for determining the value earned as the work is accomplished. Final payment for services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the Project.

6.1.2 Final Design Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Preliminary Phase Services.

6.1.3 Bidding Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Preliminary Phase Services.

6.1.4 Construction Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Preliminary Phase Services.

6.1.5 Post-Construction Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Preliminary Phase Services.

6.1.6 Resident Services During Construction

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Preliminary Phase Services.

6.1.7 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services", compensation to **Terracon** shall be negotiated at the time Additional services are authorized.

6.2 Statements

Statements and updated progress schedule for each calendar month will be submitted to CITY OF FAYETTEVILLE by signed original document. Statements will be based on **Terracon's** estimated percent of services completed at the end of the preceding month, and justified by the updated progress schedule.

6.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of **Terracon's** statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise **Terracon** in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

6.4 Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, **Terracon** shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by **Terracon** to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against **Terracon** or his sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

7.1.1 During the course of performance of these services, **Terracon** will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

Terracon will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

7.1.2 Construction Contractors shall be required to provide (or CITY OF FAYETTEVILLE may provide) Owner's Protective Liability Insurance naming CITY OF FAYETTEVILLE as a Named Insured and **Terracon** as additional insureds, or, to endorse CITY OF FAYETTEVILLE, and **Terracon** as additional insureds on construction Contractor's liability insurance policies covering claims for personal injuries and property damage. Construction Contractors shall be required to provide certificates evidencing such insurance to CITY OF FAYETTEVILLE, and **Terracon**. All contract insurance carriers shall be required to list CITY OF FAYETTEVILLE as certificate holder, furnishing copies of the contractor's insurance certificate to each party

7.1.3 CITY OF FAYETTEVILLE and **Terracon** waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of **Terracon's** services. If the services result in a Construction Phase, a provision similar to this shall be incorporated into all Construction Contracts entered into by CITY OF FAYETTEVILLE, and all construction Contractors shall be required to provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and **Terracon** for damage or liability covered by any construction Contractor's policy of insurance.

7.2 Professional Responsibility

7.2.1 **Terracon** will exercise reasonable skill, care, and diligence in the performance of **Terracon's** services and will carry out its responsibilities in accordance with customarily

accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to **Terracon** any defects or suspected defects in **Terracon's** services of which CITY OF FAYETTEVILLE becomes aware, so that **Terracon** can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE and **Terracon** further agree to impose a similar notification requirement on all construction contractors in the Bid Documents and shall require all subcontracts at any level to contain a like requirement. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of **Terracon**.

7.2.2 In addition **Terracon** will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by **Terracon's** Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 7.1.1.

7.3 Cost Opinions and Projections

Cost opinions and projections prepared by **Terracon** relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on **Terracon's** experience, qualifications, and judgment as a design professional. Since **Terracon** has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, **Terracon** does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by **Terracon**.

7.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of **Terracon's** services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the President or any Vice President of **Terracon**.

7.5 Termination

7.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

7.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.1.2 An opportunity for consultation with the terminating party prior to termination.

7.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that **Terracon** is given:

7.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.2.2 An opportunity for consultation with the terminating party prior to termination.

7.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

7.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

7.5.3.2 Any payment due to **Terracon** at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of **Terracon's** default.

7.5.4 If termination for default is effected by **Terracon**, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to **Terracon** for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by **Terracon** relating to commitments which had become firm prior to the termination.

7.5.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, **Terracon** shall:

7.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),

7.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by **Terracon** in performing this Agreement, whether completed or in process.

7.5.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

7.5.7 If, after termination for failure of **Terracon** to fulfill contractual obligations, it is determined that **Terracon** had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 7.5.4 of this clause.

7.6 Delays

In the event the services of **Terracon** are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond **Terracon's** reasonable control, **Terracon** shall be entitled to additional compensation and time for reasonable costs incurred by **Terracon** in temporarily closing down or delaying the Project.

7.7 Rights and Benefits

Terracon's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

7.8 Dispute Resolution

7.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and **Terracon** which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or **Terracon** in the performance of this Agreement, and disputes concerning payment.

7.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, but an action is initiated prior to exhaustion

of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 7.8.3 and 7.8.4 have been complied with.

7.8.3 Notice of Dispute

7.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

7.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give **Terracon** written Notice at the address listed in Paragraph 7.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

7.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and **Terracon** shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of **Terracon** and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

7.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to **Terracon** for services rendered by **Terracon**.

7.10 Publications

Recognizing the importance of professional development on the part of **Terracon's** employees and the importance of **Terracon's** public relations, **Terracon** may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to **Terracon's** services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to **Terracon**. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF

FAYETTEVILLE will not unreasonably withhold approval. The cost of **Terracon's** activities pertaining to any such publication shall be for **Terracon's** account.

7.11 Indemnification

7.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE, and **Terracon** from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

7.12 Computer Models

Terracon may use or modify **Terracon's** proprietary computer models in service of CITY OF FAYETTEVILLE under this Agreement, or **Terracon** may develop computer models during **Terracon's** service to CITY OF FAYETTEVILLE under this Agreement. Such use, modification, or development by **Terracon** does not constitute a license to CITY OF FAYETTEVILLE to use or modify **Terracon's** computer models. Said proprietary computer models shall remain the sole property of the **Terracon**. CITY OF FAYETTEVILLE and **Terracon** will enter into a separate license agreement if CITY OF FAYETTEVILLE wishes to use **Terracon's** computer models.

7.13 Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of CITY OF FAYETTEVILLE. **Terracon** may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by **Terracon** as part of the Services shall become the property of CITY OF FAYETTEVILLE when **Terracon** has been compensated for all Services rendered, provided, however, that **Terracon** shall have the unrestricted right to their use. **Terracon** shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of **Terracon**.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. **Terracon** makes no warranty as to the compatibility of these files

with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

7.14 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:

Terracon's address:

7.15 Successor and Assigns

CITY OF FAYETTEVILLE and **Terracon** each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor **Terracon** shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

7.16 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

7.17 Entire Agreement

This Agreement represents the entire Agreement between **Terracon** and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to **Terracon** a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether

or not signed by **Terracon**, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 8 - SPECIAL CONDITIONS

8.1 Additional Responsibilities of Terracon:

- 8.1.1** CITY OF FAYETTEVILLE's review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve **Terracon** of responsibility for the technical adequacy of the work. CITY OF FAYETTEVILLE's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- 8.1.2** **Terracon** shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by **Terracon**'s negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
- 8.1.3** **Terracon**'s obligations under this clause are in addition to **Terracon**'s other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against **Terracon** for faulty materials, equipment, or work.

8.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and **Terracon** arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

8.3 Audit: Access to Records

- 8.3.1** **Terracon** shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. **Terracon** shall also maintain the financial information and data used by **Terracon** in the preparation of support of the cost submission required for any negotiated

agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. **Terracon** will provide proper facilities for such access and inspection.

8.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

8.3.3 This right of access clause (with respect to financial records) applies to:

8.3.3.1 Negotiated prime agreements:

8.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

8.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

8.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of **Terracon**;

8.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

8.3.3.3.3 If the subagreement is terminated for default or for convenience.

8.4 Covenant Against Contingent Fees

Terracon warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by **Terracon** for the purpose of securing business. For breach or violation of this warranty, CITY OF

FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.5 Gratuities

8.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that **Terracon** or any of **Terracon's** agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, the State or Federal Government in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to **Terracon** terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

8.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against **Terracon** as it could pursue in the event of a breach of the Agreement by **Terracon**. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs **Terracon** incurs in providing any such gratuities to any such officer or employee.

8.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, **Terracon** will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7 Debarment And Suspension

I certify that to the best of my knowledge and belief that the company that I represent and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.

**DEBARMENT CERTIFICATION
AUTHORIZED REPRESENTATIVE**

COMPANY NAME: TELLACON
SIGNATURE: [Signature] DATE: 5/12/04
PRINTED NAME: Andy McCracken TITLE: OFFICE MANAGER

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and **Terracon**, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

Terracon
By: _____
Title: _____
OFFICE MANAGER

Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

Attachment A
Scope of Service for Preliminary Assessment Phase
Urgent assessment of Flood damage to Public Infrastructure

Project Background

The City of Fayetteville has a major investment in public infrastructure and is responsible for its operation, maintenance and improvement. Some of this infrastructure has been damaged during recent flood events. Due to the unforeseen project urgency, the short timeline for completion of this project and the workload of the city's engineering department; the City of Fayetteville will contract the engineering services to a private consultant. The immediate needs relate to completion of a assessment and preliminary design for the projects and the commencement of final design.

Scope of Work for Assessment and Design Services

The assessment and preliminary design services shall define the scope, nature, extent, costs and schedule for the project; therefore, this initial phase will be performed on an hourly rate basis. Due to the schedule challenges for this project, the assessment and preliminary design includes allowances for the commencement of certain final design elements; avoiding delays while negotiation of the final design phase services are being completed. The activities being authorized under the contact amount include:

Assessment and Preliminary Engineering Report-A written report will detail the project need, scope and outcomes. This report will include a description of existing facilities, evaluation of feasible alternatives, economic justification of recommended improvements, project cost prediction, project schedule, project right-of-way needs and summation of recommendations. The report shall define the project in sound economic and engineering terms, citing the specific benefits that will be realized.

Engineering Field Surveys-Upon approval of the preliminary engineer's report on the project, detailed engineering surveys shall be commenced under this scope of services. These surveys shall include topographic and level surveys, aerial photography, utility location verification, and schematic development of the construction drawings.

Final Design Phase/Bidding Phase/Construction Phase/Inspection Services-Once the scope of the project is defined, a detailed breakdown of additional engineering services needed to complete the project shall be developed for review, approval and inclusion in a contract amendment.

(See Attachment A – Addendum)

Attachment A - Addendum

The scope of services that Terracon is proposing for the Basic Services indicated under Items 2.2-Preliminary Assessment Phase and 2.3-Preliminary Design Phase of the Agreement for Professional Services is as follows:

- Item 2.2 The Scope of Services to be furnished by Terracon during the Preliminary Assessment Phase includes: reviewing available plans and as-built drawings relating to the designated public improvements; completing one or more site visits by an engineer or team of engineers and professionals to visually observe current conditions at the sites; completing a preliminary assessment of the current conditions observed at each site; making recommendations for additional intrusive explorations or testing that are considered to be needed for the preliminary or final design; developing a preliminary conceptual design for repairing those improvements that are observed to need repair; and, providing a report documenting the methods, observations, conclusions and preliminary conceptual design(s) from the Preliminary Assessment.
- Item 2.3 The Scope of Services to be furnished by Terracon during the Conceptual Design Phase includes: developing a preliminary conceptual design for repairs that are recommended; providing a preliminary opinion of cost and schedule for the recommended conceptual repair(s); and providing an estimated cost and schedule for completing final design, if recommended.

Additional intrusive explorations and testing, as well as surveying services described under the Engineering Field Surveys on Attachment A can be initiated under this scope of work as budget allows, but depending on the scope of services to be provided, these services may require modifications to the contract price in order to be completed.

Terracon

2004

Schedule of Services and Fees Geotechnical Services

I. PERSONNEL

Senior Principal/Program Manager	\$145.00/hour
Principal	130.00/hour
Senior Project Manager	110.00/hour
Project Manager	105.00/hour
Project Professional IV	102.00/hour
Project Professional III	90.00/hour
Project Professional II	81.00/hour
Project Professional I	70.00/hour*
Technician IV (3 hours minimum)	58.50/hour*
Technician III (3 hours minimum)	51.00/hour*
Technician II (3 hours minimum)	44.50/hour*
Technician I (3 hours minimum)	39.00/hour*
Draftsman/Cad Operator	52.00/hour
Clerical	44.00/hour
Subconsultant	Cost + 15%

* Increase hourly rate by 1.5 for Saturday, Sunday and Holiday work; minimum 4 hours

NOTE: Field services provided after 6:00 PM and prior to 6:00 AM subject to surcharge rates.
Deposition or court testimony at 1.5 times regular rate - minimum of \$100.00/hour

II. EXPENSES AND SUPPLIES

Vehicle Mileage Charge	0.45/mile
Per Diem, Lodging and Food	Minimum of 88.00/day
Miscellaneous charges, including analytical laboratory tests, shipping charges, rental equipment, outside labor, public transportation, materials, or other contracted services	Cost + 15%

III. DRILLING

Location and elevation of borings	
Two-person crew	114.00/hour
Stratification of Boring Logs	80.00/hour
Mobilization of equipment and personnel – Truck Drill.... (2.75/mile each way)	\$260.00/minimum
All-Terrain or Track-mounted Drill	(3.90/mile each way) 395.00/minimum
Support Vehicle	80.00/day
Additional charge for sloping, soft ground, or swampy sites where an ATV	285.00/day
(non-truck-mounted) drill rig is required	925.00/week

III. DRILLING (continued)

Auger Drill Rig

Auger drilling without undisturbed sampling 8.50/foot

For disturbed samples

0 - 40 pulling augers 28.00/sample

40 - 80 pulling augers 38.00/sample

Soil sampling using either split-barrel or Shelby tube sampler at 5-foot intervals in soil.

Depth-Feet

0 - 20 12.00/foot

20 - 40 13.25/foot

40 - 60 15.25/foot

60 - 80 18.50/foot

80 - 100 21.00/foot

Additional charge for drilling in weathered shale 6.50/foot

Additional charge for Hollow Stem Augers (if required)

0 - 40 4.00/foot

40 - 80 5.00/foot

Rotary Drill Rig

Soil sampling using either split-barrel sampler or Shelby tube sampler at 5-foot intervals in soil.

Depth-Feet

0 - 20 13.25/foot

20 - 40 15.25/foot

40 - 80 18.50/foot

(harder than $Q_u=5$ TSF or 50 blows/ft.) 22.50/foot

80 - 120 25.50/foot

(harder than $Q_u=5$ TSF or 50 blows/ft.) 31.00/foot

Additional charge for casing or drilling mud, where required.

Depth Feet

0 - 40 (Mud or NX Casing) 3.50/foot

(4" Casing) 5.25/foot

40 - 80 (Mud or NX Casing) 5.00/foot

(4" Casing) 6.75/foot

80 - 120 (Mud or NX Casing) 5.75/foot

(4" Casing) 8.25/foot

Drilling with organic fluids (additional) on request

When wash boring when temperature is below 20°, cost of hot water, if required Cost + 15%

Additional thin wall or split-spoon samples

Depth Feet

0 - 20 20.00/sample

20 - 40 27.00/sample

40 - 60 35.00/sample

60 - 80 50.00/sample

80 - 120 60.00/sample

Drilling and sampling in strata containing primarily broken bedrock, boulders, cobbles, slag or fill containing large percentages of concrete and/or steel, plus any material where standard penetrating resistance exceeds 100/6".

Depth-Feet

0 - 20 \$26.00/foot

20 - 40 28.00/foot

40 - 80 34.00/foot

80 - 120 39.50/foot

III. DRILLING (continued)

Rock Coring Set Up.....	90.00/boring
NX Coring (5' minimum) 0 - 40 feet	40.00/foot
+ 40 feet	42.00/foot
4 inch coring	on request
Wire Line coring.....	on request
Rock Bit Drilling	29.00/foot
Hourly charge for field personnel and drilling equipment	
Drilling w/truck-mount rig with two persons	170.00/hour
(Overtime)	195.00/hour
Drilling w/track-mount & ATV rig with two persons.....:	185.00/hour
(Overtime)	210.00/hour
Cost of special equipment for moving drilling equipment.....	Cost + 15%
about the site or for special permits	
Setup time per hole or for stand-by time	
Truck-mount.....	125.00/hour
Track-mount & ATV.....	140.00/hour
Well point installation in drilled borehole, installing plastic	195.00/hole
perforated pipe (3" max size) does not include drilling hole.....	5.50/foot
Additional charge for surface protector pipe and cap.....	Min. of 200.00
Plugging borehole with bentonite chips (max. 8" diameter)	5.00/foot

NOTE:

- a. Higher price for shallow holes or when there is a risk of losing or breaking augers.
- b. Environmental projects may have surcharge if hazardous site conditions.
- c. Rock bit and diamond bit wear will be charged at cost for hourly drilling and where hard or fractured rock results in excessive bit wear. All prices are for NX and BX size only.
- d. Wash boring and casing prices apply when washing through hollow stem augers.

IV. GEOPROBE SYSTEM

Mobilization	375.00 plus 0.75/mile
Unit Rental (Does not include personnel time)	
Geoprobe Sampling only	600.00/day
Geoprobe® with On-site Gas Chromatography Analysis	780.00/day
Gas Chromatograph only (10 samples)	265.00/day
Consumable Geoprobe® Supplies.....	Cost + 15%
Standby/Client Delay Time - van and operator.....	165.00/hour

V. GEOTECHNICAL AND MATERIALS EQUIPMENT RENTAL (Personnel time not included)

Nuclear Density and Moisture Measuring Equipment	\$5.50/test 45.00/day 150.00/week
Seismic Equipment	on request
Vibration Seismograph	160.00/day
Electrical Resistivity Equipment	85.00/day
Pressuremeter, Dutch Cone, Bore Hole Shear Equipment	240.00/day
Additional Pressuremeter Membranes or End Caps	175.00/each
Vane Shear Equipment.....	150.00/day

V. GEOTECHNICAL AND MATERIALS EQUIPMENT RENTAL (Continued)

Inclinometer	100.00/day 300.00/week 800.00/month
Inclinometer Casing.....	Cost + 15%
Instrumentation Equipment - Stress Strain	
Gauge	75.00/week
Dial Indicators	20.00/week
Jack - 30 Ton	125.00/week
60 Ton	130.00/week
Moisture meter (for moisture in wood, insulation, drywall).....	30.00/day
James R-Meter (for size and location of reinforcing steel).....	40.00/day
Profometer	100.00/day
Floor Flatness Equipment (Dipstick)	95.00/1/2 day 125.00/1 week 460.00/1 week
Maternity Meter	60.00/day
Probes	30.00/each
Brass 2 inch Cube Mold	8.00/day 30.00/week
Pulse Velocity	90.00/day
Windsor Probe	70.00/day
Set of Three Probes	50.00/set
Windsor Penetrometer	70.00/day 20.00/probe
Beam Mold	9.00/day 28.50/week
Cleaning, Beam Mold	12.50/each
Digital Camera	20.00/day

VI. SOIL LABORATORY TESTING

Identification

Atterberg Limits Determination (LL, PL)	50.00/test
Atterberg Limits Determination (C.O.E. Method)	100.00/test
Combined Analysis (Hydrometer and Sieve)	90.00/test
Density Determination (Shelby tube sample)	8.00/test
Density Determination (Irregular sample)	30.00/test
Hydrometer Analysis	65.00/test
Organic Content (by heating)	40.00/test
Shrinkage Limit Determination	53.00/test
Sieve Analysis (Unwashed)	54.00/test
Sieve Analysis (Washed over #200 sieve)	68.00/test
Specific Gravity Determination	59.00/test
Visual Engineering Classification	5.00/each
Moisture Content Determination	7.50/test
Soil Suction (ASTM, D-5298).....	30.00/test
Porosity	95.00/test
Pin Hole Dispersion.....	200.00/test
With Remolding of Sample.....	250.00/test
Sand Equivalent	135.00/test

VI. SOIL LABORATORY TESTING (Continued)

Consolidation

Consolidation Test on 2-1/2 inch diameter Specimen	
Regular increasing Load Increment to 16 tsf.....	385.00/test
Pressure-Void Ratio Curve	
Pressure-Void Ratio Curve (C.O.E. Method).....	520.00/test
Plotted Time Curves	65.00/each
Each additional Unloaded-Reload Cycle	\$110.00/cycle
Swell Test single pressure	100.00/test
Additional pressures	50.00/each
Swell Test (ASTM STP 479)	225.00/test

Shear Strength

Unconfined Compression	
Undisturbed Soil Sample	23.00/test
Undisturbed Soil Sample Corp Method	39.00/test
With Stress-Strain Curve	52.00/each
With Stress-Strain Curve Corp Method	67.00/each
Calibrated Hand Penetrometer or Torvane	3.50/each
Direct Shear FAST (cohesionless)	150.00/point
Direct Shear SLOW (cohesive)	250.00/point
Standard Sample Preparation	60.00/sample
Preparation on remolding for difficult samples	70.00/hour
Unconfined Compression on Cured Proctor Sample with Fly Ash	50.00/test

Triaxial Compression

	<u>Unconsolidated Undrained Test</u>	<u>Consolidated Undrained Test</u>	<u>Drained Test</u>
Total per Circle	\$ 160.00	\$ 400.00	On Request

Note: Test rates for 1.4 inch, 1.8 inch and 2.8 inch diameter samples. Rates for other diameter samples available upon request.

*Consolidated Undrained Test includes pore pressure measurements.
Consolidated Drained Test includes volume change measurement.*

Compaction and Density

Laboratory CBR	225.00/test
Modified Proctor (ASTM D 1557)	135.00/test*
Modified Proctor (ASTM D 1557) Corp Method	155.00/test*
Relative Density (ASTM D 4253 & D 4254 wet or dry method)	200.00/each
Standard Proctor (ASTM D 698)	123.00/each*
Standard Proctor (ASTM D 698) Corp Method	150.00/each*
Standard Proctor with Fly Ash (2 hour Delay)	185.00/each
Field CBR	On Request
* Additional charge for Coarse Agg Correction	18.00/each

VI. SOIL LABORATORY TESTING (continued)

Permeability

Constant Head Permeability Test	275.00/test
Falling Head Permeability Test	225.00/test
Preparation of Remolded Samples	58.00/each

Chemical Tests

pH (by meter)	\$27.00/each
Electrical Conductivity by slurry	27.00/each
Electrical Conductivity by Miller box.....	95.00/each
Chloride Concentration	68.00/each
Soluble Sulfate	65.00/each
Cation Exchange Capacity of Soil	115.00/each

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and Fayetteville City Council

THROUGH: Hugh Earnest, Chief Administrative Officer 

FROM: Stephen Davis, Finance & internal Services Director 

DATE: May 12, 2004

Subject: Storm Damage Reporting

Attached please find a report that has captured the cost recorded to date related to the April 23 storm event. A Federal Emergency declaration has been made that will enable the City to recover some or all of the costs related to repairing the damage to public assets caused by the storm event. The format of the report is to provide a summary on the first page and this data is collected in the Hansen system and periodic reports can and will be generated for City Council.

Additionally, a generic service request protocol has been established in Hansen to allow the City to define and capture the cost of any special event such as the storm damage of April 23 or cost associated with snow and ice removal. The protocol is included with this memo and titled "Tracking Storm Clean-up Costs in Hansen."

Please contact Stephen Davis at 575-8330 if you have any questions concerning this topic.

Thank you.

Cc: Department Directors
Scott Huddleston, IT Manager

City of Fayetteville
Event Report

ACTIVITIES RELATED TO 04/21-23/2004 STORM

<u>Department/Division</u>	<u>Total Costs of Activities</u>
STREET	\$1,019.61
SOLID WASTE	\$284.68
Total	\$1,304.29

City of Fayetteville

Event Report

ACTIVITIES RELATED TO 04/21-23/2004 STORM

Supplement 1 - Breakdown by Location and Type of Costs

STREET

Location

1412 E ROLLING HILLS DR

Labor	Vehicle	Stocked Materials	Other Materials	Contractor	Total Costs
\$15.57	\$34.80	\$0.00	\$0.00	0.00	\$50.37

Location

631 N WILLOW AVE

Labor	Vehicle	Stocked Materials	Other Materials	Contractor	Total Costs
\$242.38	\$34.20	\$0.00	\$0.00	0.00	\$276.58

Location

2655 N STANTON AVE

Labor	Vehicle	Stocked Materials	Other Materials	Contractor	Total Costs
\$242.38	\$42.30	\$0.00	\$0.00	0.00	\$284.68

Location

933 E TOWNSHIP ST

Labor	Vehicle	Stocked Materials	Other Materials	Contractor	Total Costs
\$15.57	\$42.30	\$0.00	\$0.00	0.00	\$57.87

Location

9 N RANCH DR

Labor	Vehicle	Stocked Materials	Other Materials	Contractor	Total Costs
\$307.81	\$42.30	\$0.00	\$0.00	0.00	\$350.11

SOLID WASTE

Location

1445 E OVERCREST ST

Labor	Vehicle	Stocked Materials	Other Materials	Contractor	Total Costs
\$242.38	\$42.30	\$0.00	\$0.00	0.00	\$284.68

Event Report

ACTIVITIES RELATED TO 04/21-23/2004 STORM

Supplement 2 - Breakdown by Location and Individual Costs

<u>Labor Costs</u>	<u>Vehicle Costs</u>	<u>Stocked Material Costs</u>
STREET	STREET	
1412 E ROLLING HILLS DR	1412 E ROLLING HILLS DR	
D. HARDING \$15.57	735 - FREIGHTLINER/BULK \$34.80	
631 N WILLOW AVE	631 N WILLOW AVE	
D. HARDING \$242.38		
2655 N STANTON AVE	735 - FREIGHTLINER/BULK \$34.20	
D. HARDING \$242.38	2655 N STANTON AVE	
933 E TOWNSHIP ST	735 - FREIGHTLINER/BULK \$42.30	
D. HARDING \$15.57	933 E TOWNSHIP ST	
9 N RANCH DR	735 - FREIGHTLINER/BULK \$42.30	
D. HARDING \$307.81	9 N RANCH DR	
SOLID WASTE	735 - FREIGHTLINER/BULK \$42.30	
1445 E OVERCREST ST		
D. HARDING \$242.38	SOLID WASTE	
	1445 E OVERCREST ST	
	735 - FREIGHTLINER/BULK \$42.30	

City of Fayetteville
Event Report

Contractor Costs

Other Material Costs

Tracking of Storm Clean-up Costs in Hansen

Costs incurred during activities related to clean-up after storms will be recorded on individual Service Requests within Hansen; these costs will include those for labor, vehicle/equipment, and material. In addition, the appropriate storm clean-up project will be indicated on each related Service Request. The purpose of this document is to describe the steps that will be taken to insure accurate reporting of these costs.

1. When Initiating a Service Request

When a Service Request for a storm clean-up activity is initiated within Hansen, the specific storm clean-up project will be designated on the Service Request form.

The screenshot shows the 'Service Request' form in the Hansen system. The form is titled 'Service Request' and has a toolbar with various icons. The main form area contains the following fields and sections:

- Service #**: 0
- Problem**: ST108
- Call Date**: 04/28/2004 10:54
- Priority**: 03
- Call Duration**: 00:00
- Taken By**: 0000
- Responsibility**: ST
- Source**: CALLIN
- Project**: (circled field)
- Budget #**: (empty field)
- ☐ Customer Contact Requested
- Service Request Progress**:
 - Schedule**: (not loaded)
 - Inspect**: (not loaded)
 - Resolve**: (not loaded)
- Knowledge Base**:
 - Search**: (empty field)

At the bottom of the form, there are tabs for 'Info', 'Calls', 'Comments', and 'Costs'. The 'Costs' tab is highlighted.

The "Project" field (circled above) will be used to record the storm clean-up project. Click in the field, enter "SC" and perform a Popup; the Project codes and descriptions will reflect the different storms for which clean-up projects are available. Select the appropriate project code. Continue entering the Service Request as usual.

2. When Resolving a Service Request

Verify that the "Project" field contains the code for the appropriate storm clean-up project; if no code or an incorrect code has been entered, follow the procedure above to correct it.

To enter the costs related to this Service Request, click on the **Costs** tab. The three types of costs that will be tracked are found on the second row of tabs and are entered as follows.

Labor - will be used to enter hours for each employee.

The screenshot shows the Labor Cost software interface. At the top, there is a header bar with fields for Date, Crew type, Job, Date, Employee ID, Pay type, and Hours. Below this is a large empty rectangular area. To the right of this area is a vertical toolbar containing three buttons: 'Insert' (with a plus icon), 'Modify' (with a pencil icon), and 'Delete' (with a trash can icon). A callout '1' points to the 'Insert' button. Below the main area is a 'Labor Cost' subform. It has a left sidebar with 'Costs' and 'Labor' tabs, and 'Labor' is selected. The main area of the subform contains several input fields: 'Employee ID' (with a callout '2'), 'Pay Type' (with a callout '3' pointing to a dropdown arrow), 'Hours Worked' (with a callout '4'), and 'Hourly Rate' (with a callout '5'). At the bottom of the subform is a table with columns for 'Employee ID', 'Pay Type', 'Hours Worked', and 'Hourly Rate'. The first row contains the values '0.00', 'REG/OT', and '0.0000'. A callout '6' points to the 'Add' button (with a plus icon) on the toolbar of the subform.

To record employee hours, click on the "Costs" tab and the "Labor" subtab, and click on the "Insert" button (1).

For each employee, follow the following procedure.

Enter the employee's ID in the "Employee ID" field (2).

Use the Popup in the "Pay Type" field (3) to select either "REG" for regular time or "OT" for overtime.

Enter the number of hours for that employee in the "Hours Worked" field (4).

Tab to the "Hourly Rate" field (5) and verify that the rate appears.

Click the "Add" button (6) on the toolbar to add that employee.

Vehicle - will be used to record vehicle costs.

The screenshot shows the 'Vehicle Cost' software interface. At the top, there is a menu bar with 'Charge Data', 'Type', 'ID', 'Date', and 'Expense Data'. Below this is a large empty rectangular area. To the right of this area is a vertical toolbar with several buttons; the top button, labeled 'Insert', is pointed to by a line from a circle containing the number '1'. Below the main area is a status bar with 'Enter per Labor' and 'Enter per Expense'. The bottom section of the window is titled 'Vehicle Cost' and contains a form with the following fields and controls:

- A toolbar with icons for file operations (new, open, save, print, etc.) and a circle containing the number '5' pointing to it.
- A date field showing '04/28/2004' and a time field showing '11:15', with a circle containing the number '2' pointing to the date field.
- A 'Vehicle ID' field with a text input box, pointed to by a circle containing the number '2'.
- A 'Usage' field with a text input box, pointed to by a circle containing the number '3'.
- A 'Rate' field with a text input box showing '0.0000', pointed to by a circle containing the number '4'.
- A 'Contract' field with a text input box, pointed to by a circle containing the number '3'.
- At the bottom right of the form is an 'Add' button, pointed to by a circle containing the number '5'.

To record vehicle costs, click on the "Costs" tab and the "Vehicle" subtab, and click on the "Insert" button (1).

For each vehicle, follow the following procedure.

Enter the vehicle's ID number in the "Vehicle ID" field (2).

Enter the number of hours for that vehicle in the "Usage" field (3).

Tab to the "Rate" field (4) and verify that the rate appears.

Click the "Add" button (5) on the toolbar to add that vehicle.

Extra Item - will be used to record material costs.

The image shows two overlapping windows from a software application. The top window is a table with columns: 'Extra Item', 'Description', and 'Quantity'. On its right side, there is a vertical toolbar with three buttons: 'Insert', 'Modify', and 'Delete'. A callout circle with the number '1' points to the 'Insert' button. The bottom window is titled 'Extra Item Cost' and contains several input fields. A callout circle with the number '2' points to the 'Extra Item' field, which has a dropdown arrow. A callout circle with the number '3' points to the 'Quantity' field. A callout circle with the number '4' points to the 'Rate' field, which displays '0.00'. A callout circle with the number '5' points to the 'Add' button on the toolbar. The 'Date' field shows '04/28/2004' and '11:15'. The 'Comments' field is a large text area at the bottom.

To record vehicle costs, click on the “Costs” tab and the “Extra Item” subtab, and click on the “Insert” button (1).

For each type of material, follow the following procedure.

Use the Popup to Select the type of material in the “Extra Item” field (2).

Enter the quantity of that material used in the “Quantity” field (3).

Tab to the “Rate” field (4) and verify that the rate appears.

Click the “Add” button (5) on the toolbar to add that type of material.

If the appropriate type of material does not appear on the popup listing, it will need to be added to the Code Definition – “Extra Item”.

After all of the costs are entered, continue to resolve the Service Request as usual.

**Tentative Agenda
City Council Meeting
May 18, 2004**

A meeting of the Fayetteville City Council will be held on May 18, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Agenda Session: Hugh Earnest - Discussion of TIFF Program
(Background info will be hand delivered to the City Council by Friday, May 7, 2004)

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the May 4, 2004 meeting minutes.
2. **David and Wayne Turnbull Offer and Acceptance Contract:** A resolution to approve the sale of a lot encompassing 3.26 acres in the south Industrial Park to David and Wayne Turnbull in the amount of \$68,630.00 and a budget adjustment as attached.
3. **Water Service Agreement with Springdale:** A resolution to approve an amendment to the water service agreement with Springdale to move the water service boundary so that 180 acres now with the Fayetteville Water Service Area can be moved into the Springdale Water Service Area.
4. **Sale of Ford Club Wagon Contract:** A resolution to waive the requirements for public auction or formal competitive bids for the sale of a 1997 Ford Club Wagon (Unit #2002) to the Fayetteville Youth Center, Inc.
5. **ADEQ Post Closure Trust Fund Authorization:** A resolution authorizing the Fayetteville Parks & Recreation Division to request funding from the Post Closure Trust Fund from the Arkansas Department of Environmental Quality (ADEQ) for the C & L Landfill study and remediation.
6. **Walker Park Senior Complex Budget Approval:** A resolution to approve a budget adjustment transferring \$24,649.87 into the Walker Park Senior Complex budget for the receipt of late property tax payments.

B. OLD BUSINESS:

1. **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 Ordinance was left on the First Reading at the May 4, 2004 City Council meeting.**

2. **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, but retaining this area as a utility easement. **This Ordinance was left on Second Reading at the May 4, 2004 City Council meeting.**

C. NEW BUSINESS:

1. **Forsgren, Inc. Construction Contract:** A resolution to award a construction contract to Forsgren, Inc. in the amount of \$652,762.00, plus a contingency of \$97,000 for construction of drainage improvements for the Holly/Vista and Cleveland/Sang areas, and to approve a budget adjustment of \$374,540.80 for this project.
2. **Mobley Contractors, Inc. Construction Contract:** A resolution to approve a construction contract with Mobley Contractors, Inc. in the amount of \$753,553.04 with a project contingency of \$133,032.96 for a total of \$886,586.00 for the reconstruction of Old Missouri Road from Joyce Boulevard to the Mud Creek Bridge and from Rolling Hills to Old Wire Road.
3. **Planning Commission Appeal; Hwy. 62 & Hanshew Dr.:** Appeal of the Planning Commissions April 26, 2004 decision to deny a rezoning request for property located at Hwy 62 and Hanshew Rd.
4. **David Howard Damage Claim Appeal:** Appeal of the City Administrations decision to deny a claim for damages by Mr. David Howard against the Fayetteville Water and Wastewater Department.
5. **Willow Creek:** A resolution to name the creek that runs just to the west of Willow Avenue and south of Spring Street "Willow Creek."
6. **Roll Off Style Container Bid Waiver:** An ordinance to waive formal competitive bidding requirements during 2004 for the purchase of roll off style steel containers by the Solid Waste Division and to approve a purchase of roll off containers on an amount not to exceed \$85,859.00.
7. **ANX 04-3.00 (Nooncaster):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Nooncaster Vineyards, Inc. located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres.
8. **RZN 04-08.00 (Nooncaster):** An ordinance rezoning that property described in Rezoning petition RZN 04-8.00 as submitted by Ray Smith on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units Per Acre.
9. **ANX 04-06.00 (Leigh Taylor Properties):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112 containing approximately 29.86 acres.

10. VAC 04-10.00 Right of Way (Paul Dunn): An ordinance approving VAC 04-10.00 to vacate and abandon a 25' portion of the platted right of way for Rebecca Street east of Vinson Avenue along the north boundary of Lot 8 of the Vinson Subdivision, retaining a utility easement within subject property as depicted on the attached map and legal description.

11. Sale of City Property to the Battered Women's Shelter: A resolution to encourage the City to consider the sale of about four acres of City property to the Battered Women's Shelter for the construction of a new shelter.

D. INFORMATIONAL:

1. The Mayor will be submitting two Engineering Contracts for consideration. One will deal with the Farmington water main relocation required by the widening of Hwy. 62. The second will be to assess and make recommendations to repair damage caused by recent flooding.

2. **Council Tour: May 17, 2004**

CITY COUNCIL AGENDA MEMO

TO: Mayor and City Council

THRU: Staff Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: April 22, 2004

SUBJECT: Approval of Sale of 3.26 acres of former parcel 15WX adjacent to Danaher Tool, to Wayne's Powder Coating, Inc.

RECOMMENDATION: Approve the sale of approximately 3.26 acres to Wayne's Powder Coating for construction of a powder coating plant for \$68,630.00.

BACKGROUND: Wayne and David Turnbull have signed an offer and acceptance contract, secured with \$1,000.00, to purchase 3.26 acres of land adjacent to Danaher Tool Company along Morningside Dr. in South Fayetteville. The property is to be used for the construction of a powder coating plant. The purchase is contingent on the company receiving a building permit for the project. The company provides services to Danaher Tool and several other companies in the South Industrial Park.

DISCUSSION: Wayne's Powder Coating was represented by a Broker from Lindsey and Associates Real Estate Company. Typical fees of 5% were added to the purchase price for payment of the fees for services provided by the Broker resulting in a sales price of \$21,000.00 per acre.

BUDGET IMPACT: This parcel was developed through a lot split for a previous purchaser who later decided not to purchase the property. The City will receive \$68,630.00 cash for the property. The City will pay \$3,431.50 from the proceeds to Lindsey and Associates for services associated with the sale. The City as the owner will be responsible to pay for the construction of sewer to serve the property. The cost of the sewer main will be paid from the proceeds of the sale.

Attachments: Offer and Acceptance Contract
Staff Review Form

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



RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE SALE OF A LOT
ENCOMPASSING 3.26 ACRES IN THE SOUTH
INDUSTRIAL PARK TO DAVID AND WAYNE
TURNBULL IN THE AMOUNT OF \$68,630.00
AND A BUDGET ADJUSTMENT AS ATTACHED

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
approves the offer and acceptance contract attached as Exhibit A and authorizes the sale
of parcel 15WX encompassing about 3.26 acres in the South Industrial Park for the
amount of \$68,630.00 to David Turnbull and Wayne Turnbull.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby
approves the budget adjustment to reflect the receipt of the funds as attached as
Exhibit B.

PASSED and APPROVED this the 18th day of May, 2004.

APPROVED:

DRAFT

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas

Budget Adjustment Form

David and Wayne Turnbull Offer and Acceptance Contract
Page 3 of 10

A. 2

Budget Year 2004	Department: General Government Division: Miscellaneous Program: Miscellaneous	Date Requested 5/18/2004	Adjustment Number
----------------------------	---	------------------------------------	-------------------

Project or Item Requested:

\$3,432 is requested in the professional services account and \$30,000 is requested in the Sewer Improvements account both of which are part of the Industrial Park Land Sale of Parcel 15WX 3.26 acres.

\$35,198 in the Use of Fund Balance account.

Project or Item Deleted:

\$68,630 is requested in the Gain/Loss of Assets revenue account.

Justification of this Increase:

The \$3,432 is needed to cover real estate commission fees related to the sale of the parcel. The \$30,000 is needed to construct a sewer main to the property.

There will be \$35,198 in additional revenue over expenses that will be contributed back into General Fund.

Justification of this Decrease:

The additional revenue will be recognized in General Fund.

Increase Budget (Decrease Revenue)

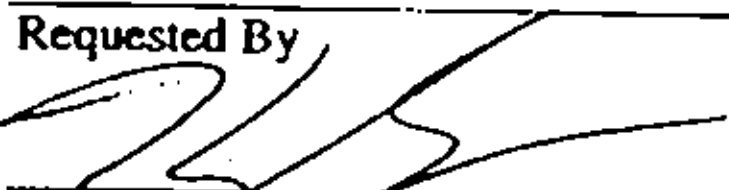
Account Name	Account Number				Amount	Project Number	
Professional services	1010	6600	5314	00	3,432	04031	1
Sewer improvements	1010	6600	5815	00	30,000	04031	1
Use of fund balance	1010	0001	4999	99	35,198		

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Gain/loss-sale of assets	1010	0001	4881	02	68,630	04031	1

Approval Signatures

Budget Office Use Only

Requested By  Date **4-29-07**

Budget Manager _____ Date _____

Department Director _____ Date _____

 Date **5-3-07**

Finance & Internal Services Director _____ Date _____

Mayor _____ Date _____

Type: A B C D E

Date of Approval _____

Posted to General Ledger _____

Posted to Project Accounting _____

Entered in Category Log _____

Initial	Date
Initial	Date
Initial	Date
Initial	Date

OFFER AND ACCEPTANCE CONTRACT

- ^{Turnbull}
1. David ~~Turnbull~~ and Wayne Turnbull, partners, herein offer to buy, subject to the terms and conditions set forth herein, the following described property:

A part of the Northwest Quarter (NW¼) of the Southeast Quarter (SE¼) of Section Twenty-seven (27) of Township Sixteen (16) North in Range Thirty (30) West of the Fifth Principal Meridian, being more particularly described as follows: Beginning at a Point on the east right of way line of Arkansas State Highway No. 156 (City Lake Road), said point being South 87° 23' 05" East 33.24 feet and South 11° 18' 04" East 6.93 feet of the Northwest corner of the NW¼ of the SE¼ of said Section 27, said point also being an existing iron at the Southwest corner of Lot No. Twelve (12) of the Fayetteville Industrial Park West to the City of Fayetteville, Arkansas, as per plat recorded in Plat Book 10 at Page 17 of the records of the Circuit Clerk and Ex-Officio recorder of Washington County, Arkansas; thence South 87° 26' 32" East 437.55 feet to a point, said point also being the southeast corner of Lot No. 12 of said Fayetteville Industrial Park West; thence South 01° 34' 34" West 356.21 feet to a point; thence North 87° 22' 54" West 356.92 feet to the east right of way line of Arkansas State Highway No. 156; thence with said east right of way line North 11° 38' 27" West 269.50 feet; thence continuing with said east right of way line North 09° 45' 29" West 96.74 feet to the Point of Beginning, containing 3.26 acres, more or less, subject to rights of way and easements of record.

2. **Purchase Price:** Subject to the following conditions, David and Wayne Turnbull shall pay for the property at closing, the total and cash payment of \$68,630.00.
3. **Contingent Earnest Money Deposit:** David and Wayne Turnbull herewith tenders a check for \$1,000 to the City of Fayetteville, a municipal corporation, as earnest money, which shall apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to David and Wayne Turnbull by the City of Fayetteville. If title requirements are not fulfilled or the City of Fayetteville fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to David and Wayne Turnbull. If David and Wayne Turnbull fail to fulfill their obligations under this contract or after all conditions have been met, David and Wayne Turnbull fails to close this transaction, the earnest money may, at the option of the City of Fayetteville, become liquidated damages to the City of Fayetteville. Alternatively, the City of Fayetteville may assert legal or equitable rights which it may have because of breach of this contract.
4. Conveyance will be made to David and Wayne Turnbull, partners, by General Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the City of Fayetteville.
5. The City of Fayetteville shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by David and Wayne Turnbull. The City of Fayetteville and David and Wayne Turnbull shall equally share in the cost of said title insurance policy.
6. City of Fayetteville agrees to allow David and Wayne Turnbull, if desired by David and Wayne Turnbull and at their expense, to survey the property. City of Fayetteville agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of David and Wayne Turnbull.

OFFER AND ACCEPTANCE CONTRACT

7. Taxes and special assessments due on or before closing shall be paid by the City of Fayetteville. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. The closing date shall be within sixty (60) days after approval of this contract by the Fayetteville City Council. This contract shall be submitted for Fayetteville City Council consideration within 30 days of acceptance and signature by both parties hereto.
9. Possession of the property shall be delivered to David and Wayne Turnbull on the date of closing.
10. The City of Fayetteville hereby grants permission for David and Wayne Turnbull or their designees or designates, to enter the above described property and improvements for the purpose of inspection and/or surveying.
11. All fixtures, improvements and attached equipment are included in the purchase price.
12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the City of Fayetteville.
13. City of Fayetteville shall disclose to David and Wayne Turnbull any and all environmental hazards of which City of Fayetteville has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, David and Wayne Turnbull and City of Fayetteville shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, the City of Fayetteville shall cure such at City of Fayetteville's expense, or in the alternative, at David and Wayne Turnbull's discretion, David and Wayne Turnbull may cure such environmental hazard, and City of Fayetteville shall indemnify David and Wayne Turnbull for all costs associated with said cure.
14. This agreement shall be governed by the laws of the State of Arkansas.
15. This agreement, when executed by both David and Wayne Turnbull and the City of Fayetteville shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all prior or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
17. This contract expires, if not accepted by the City of Fayetteville on or before the **17th day of April, 2004**.
18. It is understood that this offer to purchase is contingent upon receiving a permit to build on said property, the submittal of plans to the City of Fayetteville for such permit shall occur on or before the end of four (4) months from the date of acceptance by the City. In the event such permit has not been issued within a period of three months after original submittal, this Offer and Acceptance Document shall be considered null and void, and the earnest money specified herein shall be returned to David and Wayne Turnbull.

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 5

19. NOTICE: DAVID AND WAYNE TURNBULL ASSERT AND CITY OF FAYETTEVILLE HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO DAVID AND WAYNE TURNBULL OF THE \$1,000.00 EARNEST MONEY DEPOSIT.

City of Fayetteville:
a municipal corporation

Dan Coody, Mayor

Date: _____

WITNESS:

Sondra Smith, City Clerk

Date: _____

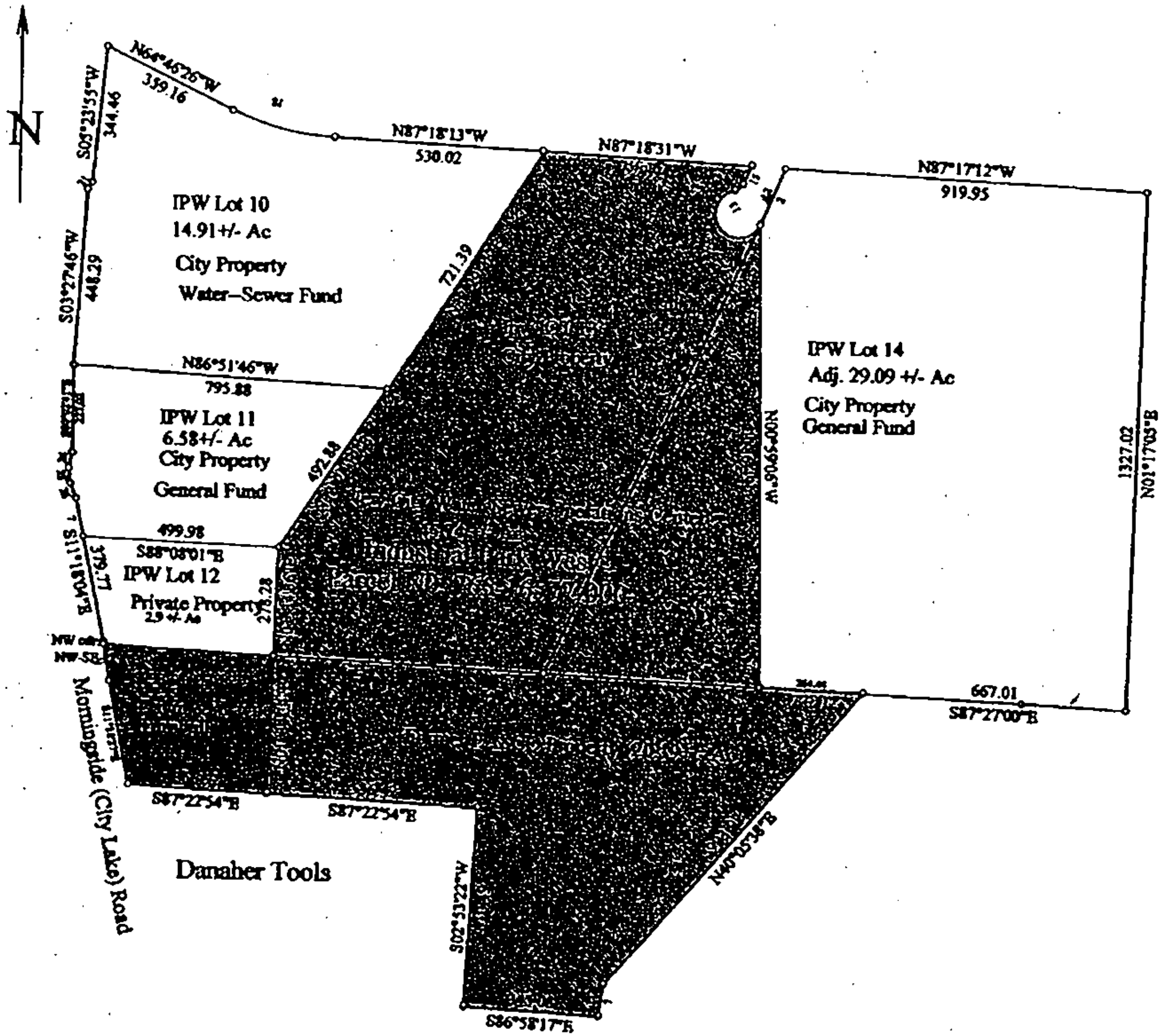
BUYERS:

David Turnbull
David Turnbull

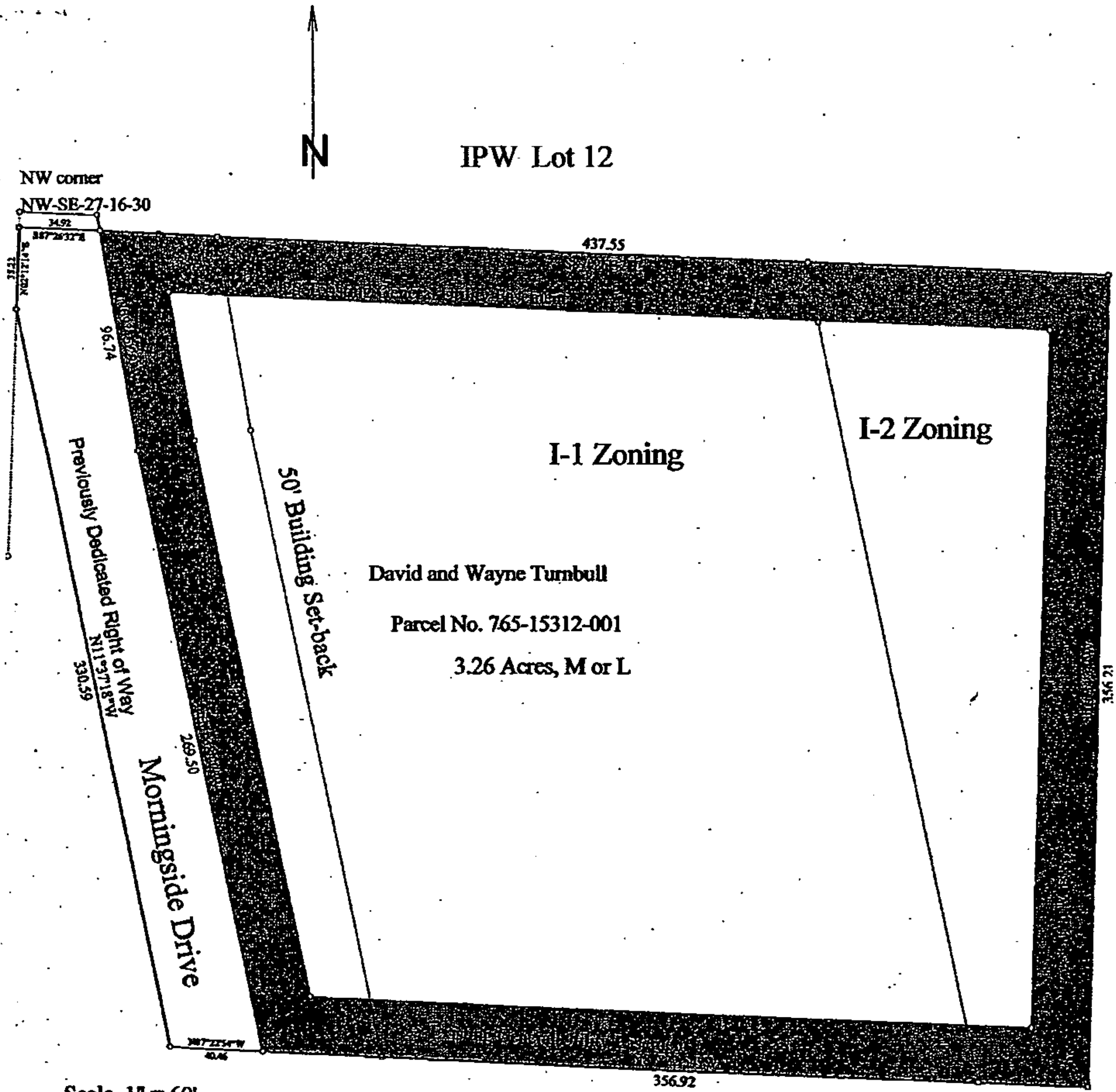
Date: 4/14/04

Wayne Turnbull
Wayne Turnbull

Date: 4-14-04



Title: Sale of 3.26 Ac Industrial Land to David & Wayne Turnbull		Date: 03-18-2004
Scale: 1 inch = 400 feet	File: IPWLnd-to-WS.Sur..des	



Scale 1" = 60'

Title: 3.26 Acre Industrial Tract: South of Industrial Park West

Date: 04-26-2004

Scale: 1 inch = 60 feet

File: 3.26acTurnbull.des

STAFF REVIEW FORM - FINANCIAL OBLIGATION

David and Wayne Turnbull Offer and Acceptance Contract
Page 9 of 10

A. 2

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

Sale of Land
 Waynes's Powder Coat

For the Fayetteville City Council Meeting of: May 18, 2004

FROM:

Ray M. Boudreaux

Aviation & Economic Development

General Government

Name

Division

Department

ACTION REQUIRED: Approval of an Offer and Acceptance Contract with David Turnbull and Wayne Turnbull, partners in a business called Wayne's Powder Coating, PO Box 609, Tontitown, AR, 72770, to sell 3.26 acres of property owned by the City, a part of parcel 15WX, for the amount of \$68,630.00.

Signature of the Mayor required.

COST TO CITY:

Revenue

\$68,630.00

\$

-

Contrib

Cost of this request

Category/Project Budget

Program Category / Project Name

1010.0001.4881.02

\$

-

General Fund Revenue

Account Number

Funds Used to Date

Program / Project Category Name

NA

\$

-

General

Project Number

Remaining Balance

Fund Name

BUDGET REVIEW:

Budgeted Item

☒ Budget Adjustment Attached

Budget Manager

Date

4/29/04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager

Date

4/29/04

Internal Auditor

Date

5/3/04

City Attorney

Date

4/29/04

Purchasing Manager

Date

5-3-04

STAFF RECOMMENDATION:

Approval

Division Head

Date

Department Director

Date

Apr 22, 2004

Finance & Internal Services Dir.

Date

5-4-04

Chief Administrative Officer

Date

5-3-04

Mayor

Date

5/4/04

Received in Mayor's Office

Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date: 4/30/2003

Orig. Contract Number: 917

New Item:

☒ Yes

No

4-29-04
TLMENTERED
4/29/04
TLM

Staff Review Form - Page 2

Description Sale of Land - Wayne's Powdercoat Inc. Meeting Date May 18, 2004

Comments:

Budget Manager

Item #17 has expiration date
that is already past due.

Accounting Manager

I will hold the \$1,000 check in
the accounting division until
approval of the agenda item.

City Attorney

Purchasing Manager

Normally we ask the Buyer to
pay real estate commission. If it
were over \$10,000 that's the only
way we could handle it but since it's
under it's probably okay
because there's no way to quote it.

ADA Coordinator

Internal Auditor

Grants Coordinator

Reference Comments:

CITY COUNCIL AGENDA MEMO

To: MAYOR AND CITY COUNCIL

From: Greg Boeltcher *Greg Boeltcher* **Thru:** Hugh Earnest
Water/Wastewater Director Chief Administrative Officer

Date: April 30, 2004

Subject: Resolution approving modification of the exclusive water service line between Fayetteville and Springdale transferring 180 acres into Springdale's exclusive water service area.

RECOMMENDATION

Fayetteville City Administration recommends approval of a resolution transferring 180 acres from Fayetteville's exclusive water service area to Springdale's exclusive water service area at the request of the property owner, Mr. Tom Terminella.

BACKGROUND

On June 15, 1967, concurrent with the implementation Beaver Water District's improvement project, the cities of Bentonville, Fayetteville, Rogers and Springdale agreed upon exclusive water service areas. As a part of this intermunicipal agreement, the cities retained the right to alter their exclusive water service areas by mutual agreement. On March 30, 2004, the Fayetteville Water and Sewer Committee reviewed a request by Mr. Tom Terminella for a modification of the exclusive water service area between Fayetteville and Springdale. The request before the committee involved the transfer of 180 acres northeast of Fayetteville (growth area) from the Fayetteville to the Springdale exclusive water service area. Details of the request, location drawings for the subject property and other supporting information is attached. The Fayetteville Water and Sewer Committee unanimously supported the change in water service area.

DISCUSSION

The exclusive water service areas developed over 35 years ago continue to provide a basis for long range infrastructure planning and eliminates redundancy in municipal facilities. The final decision on service must be based upon each respective water supply's current capacity availability and ability to provide services to a particular area. Factors that influence the release of the 180 acres include the following:

- * Subject property in growth area and contiguous to Springdale
- * Subject property abutts tracts being served by Springdale water/sewer
- * Subject property not contiguous to Fayetteville
- * Subject property not near Fayetteville water/sewer facilities

BUDGET IMPACT

The change in exclusive water service area has no budget impact.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AN AMENDMENT TO THE
WATER SERVICE AGREEMENT WITH SPRINGDALE TO
MOVE THE WATER SERVICE BOUNDARY SO THAT 180
ACRES NOW WITH THE FAYETTEVILLE WATER SERVICE
AREA BE MOVED INTO THE SPRINGDALE WATER
SERVICE AREA

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

Section 1: Upon request of the property owner and in light of the existing
infrastructure available to the 180 acre parcel identified in Exhibit A, the City Council of
Fayetteville hereby finds it is proper to adjust the water service boundary line between
Fayetteville and Springdale so that this 180 acre parcel is moved into the Springdale
water service area.

PASSED and APPROVED this the 18th day of May, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

SONDRA SMITH, City Clerk

Engineering Services, Inc.

1207 S. Old Missouri Rd. • P.O. Box 282 • Springdale, Arkansas 72765-0282

Phone: 479-751-8733 • Fax: 479-751-8746

RECEIVED

MAR 29 2004

**CITY OF FAYETTEVILLE
MAYOR'S OFFICE**

March 29, 2004

Mr. Greg Boettcher, P.E.
Water and Wastewater Director
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Water Service Territory Amendment
Washington County, Arkansas

Dear Mr. Boettcher:

ESI previously requested that approximately one hundred twenty acres be removed from the Fayetteville Water Service Territory. This letter is to request that an additional sixty acres be removed from the Fayetteville Water Service Territory, bringing the total amount of land to be removed to one hundred eighty acres. The drawings enclosed with this letter illustrate these properties and how they are situated in relation to several ongoing projects and Springdale and Fayetteville city limits. As shown, all the property in consideration lies within the Fayetteville Planning District, in Washington County.

The rationale for removing these lands from the Fayetteville Water Service Territory is the same as outlined in our letter to your office dated March 17 of this year.

Please note that the sewer for this parcel of land will gravity flow to the Grand Valley Subdivision master lift station.

Please contact this office if you have any questions or if any additional information is needed prior to the meeting. Thank you for your continued attention to this matter.

Sincerely,



Brian J. Moore, P.E.

Secretary/Treasurer



Consulting Engineers and Surveyors

Jerry W. Martin, P.E.
President

E. Walt LeFevre, P.E.
Senior Vice President

Philip C. Humbard, P.E., P.L.S.
Vice President

Brian J. Moore, P.E.
Secretary / Treasurer

at the intersection with Butterfield Coach Road.

The drawing submitted with this letter illustrates the location of the property requested to be removed from the Fayetteville Water Service Area and Grand Valley Subdivision.

We plan to attend the Water and Sewer Committee on March 30.

Please contact this office if you have any questions or if any additional information is needed prior to the meeting.

Sincerely,



Brian J. Moore, P.E.

Secretary/Treasurer



Consulting Engineers and Surveyors

Jerry W. Martin, P.E.
President

E. Walt LeFevre, P.E.
Senior Vice President

Philip C. Humbard, P.E.
Vice President

Brian J. Moore, P.E.
Secretary / Treasurer

Engineering Services, Inc.

1207 S. Old Missouri Rd. • P.O. Box 282 • Springdale, Arkansas 72765-0282
Phone: 479-751-8733 • Fax: 479-751-8746

RECEIVED

MAR 18 2004

**CITY OF FAYETTEVILLE
MAYOR'S OFFICE**

March 17, 2004

Mr. Greg Boettcher, P.E.
Water and Wastewater Director
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Water Service Territory Amendment
Washington County, Arkansas

Dear Mr. Boettcher:

This is in response to your letter dated March 4, 2004, requesting more information regarding the relative capabilities of the Springdale and Fayetteville water systems to provide water to the proposed development.

The nearest existing lines in the Fayetteville water system to the area in consideration are insufficient to serve the proposed subdivision. There is currently a 3" P.V.C. water line running along Guy Terry Road (WC 92) approximately 2,640 feet south of the project. Approximately 1,320 feet east of the project, along Butterfield Coach Road, there is presently a 2" P.V.C. water line. Neither of these lines are large enough to serve the proposed development.

The existing Fayetteville water lines which are large enough to serve the proposed development are not located near enough to feasibly serve it. There is an 18" water main to the south of the project, running along Gulley Road (WC 81). At its closest point to the proposed development (the intersection of Gulley Road and Howard Porter Road (WC539)) this water line is approximately one mile from the area to be served.

The developer will be extending water and sewer lines through Grand Valley Subdivision large enough to serve the proposed development. Grand Valley Subdivision is approximately 260 acres in size, and is immediately to the north of and adjacent to the property to be removed from the Fayetteville water service territory. The water lines within Grand Valley Subdivision will be connected to a Springdale 16" water main running along John Johnson Road and ending



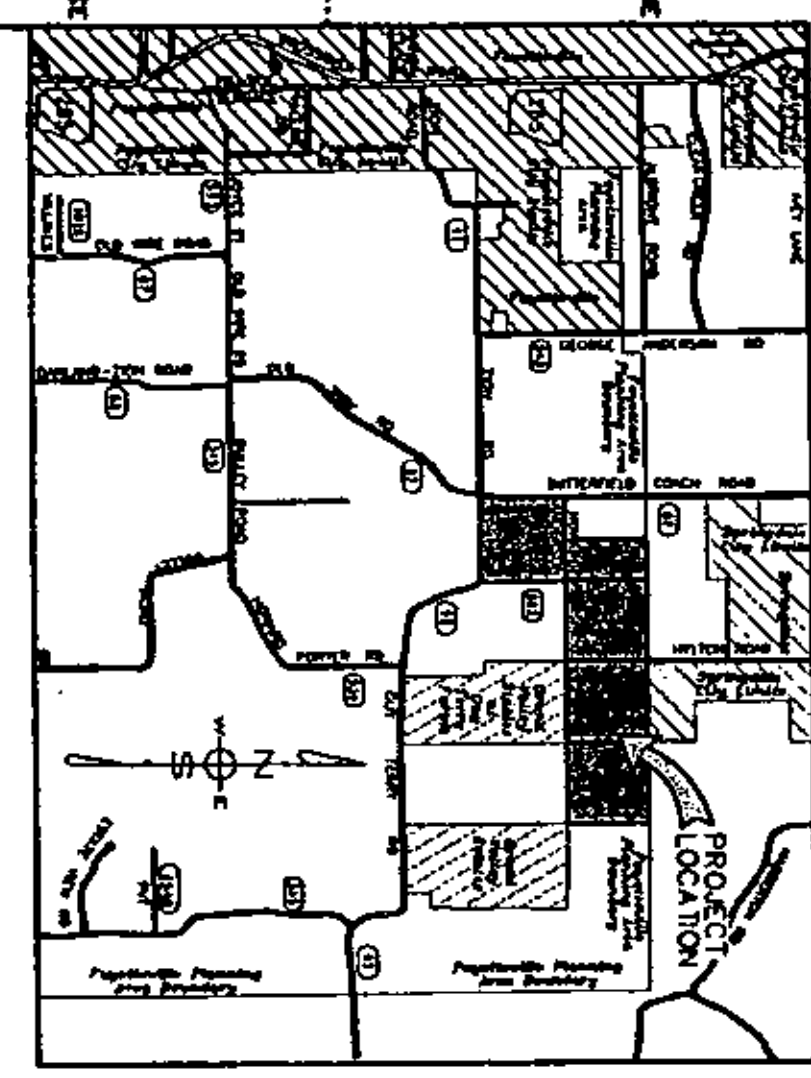
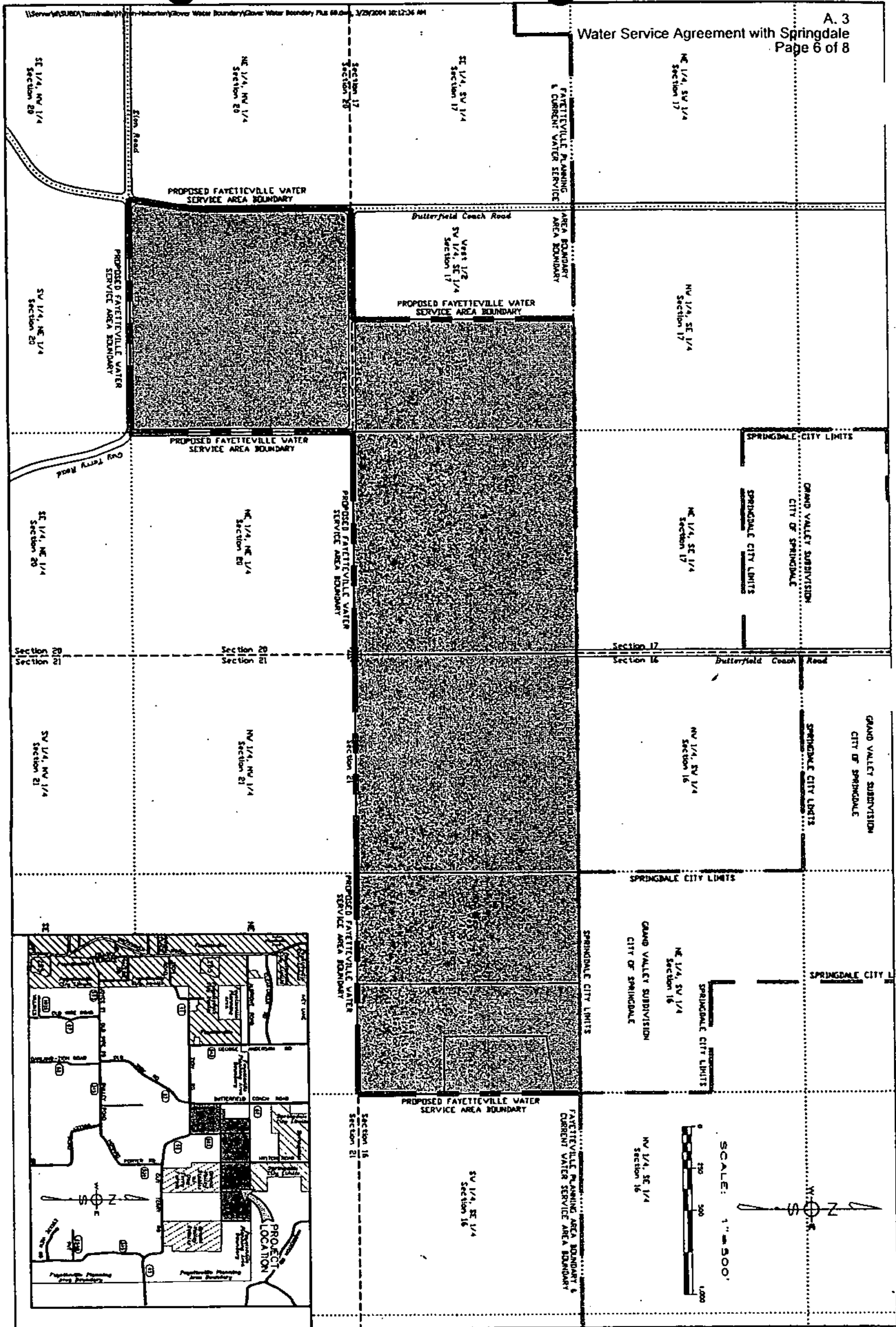
Consulting Engineers and Surveyors

Jerry W. Martin, P.E.
President

E. Walt LeFevre, P.E.
Senior Vice President

Philip C. Humbard, P.E., P.L.S.
Vice President

Brian J. Moore, P.E.
Secretary / Treasurer

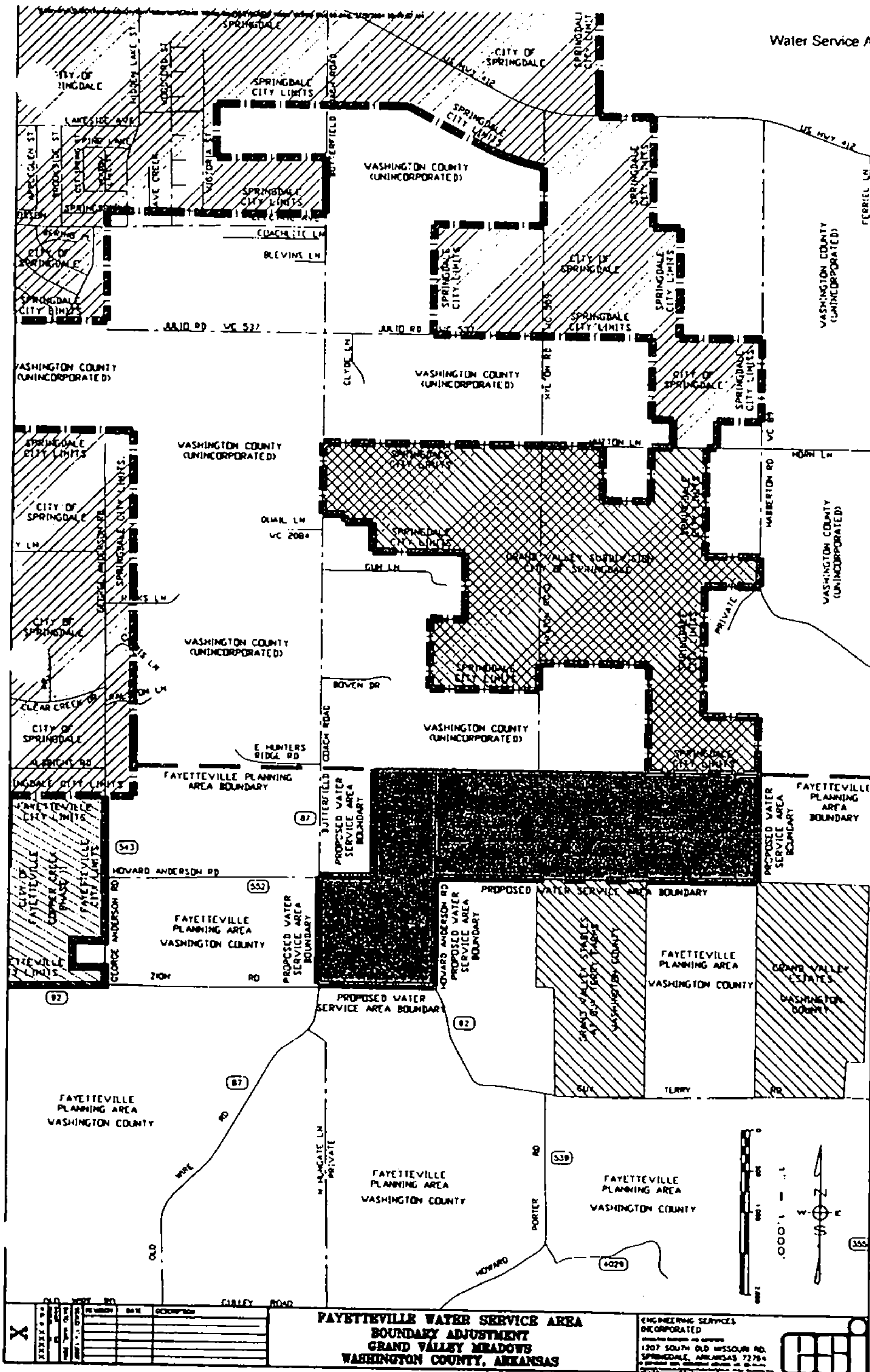


**FAYETTEVILLE WATER SERVICE AREA
BOUNDARY ADJUSTMENT
GRAND VALLEY MEADOWS
SPRINGDALE, ARKANSAS**

ENGINEERING SERVICES
INCORPORATED
1207 SOUTH OLD MISSOURI RD.
SPRINGDALE, ARKANSAS 72764
© 2004 ENGINEERING SERVICES, INC. ALL RIGHTS RESERVED.



REVISION	DATE	DESCRIPTION
1	01/20/04	INITIAL DESIGN
2	02/02/04	REVISED DESIGN
3	02/02/04	REVISED DESIGN
4	02/02/04	REVISED DESIGN
5	02/02/04	REVISED DESIGN
6	02/02/04	REVISED DESIGN
7	02/02/04	REVISED DESIGN
8	02/02/04	REVISED DESIGN
9	02/02/04	REVISED DESIGN
10	02/02/04	REVISED DESIGN



**FAYETTEVILLE WATER SERVICE AREA
BOUNDARY ADJUSTMENT
GRAND VALLEY MEADOWS
WASHINGTON COUNTY, ARKANSAS**

ENGINEERING SERVICES
INCORPORATED
1207 SOUTH OLD MISSOURI RD.
SPRINGDALE, ARKANSAS 72764



NO.	DATE	DESCRIPTION
1	10/1/88	PREPARED FOR THE CITY OF FAYETTEVILLE
2	10/1/88	REVISION: ADDED THE CITY OF FAYETTEVILLE
3	10/1/88	REVISION: ADDED THE CITY OF FAYETTEVILLE
4	10/1/88	REVISION: ADDED THE CITY OF FAYETTEVILLE
5	10/1/88	REVISION: ADDED THE CITY OF FAYETTEVILLE
6	10/1/88	REVISION: ADDED THE CITY OF FAYETTEVILLE
7	10/1/88	REVISION: ADDED THE CITY OF FAYETTEVILLE
8	10/1/88	REVISION: ADDED THE CITY OF FAYETTEVILLE
9	10/1/88	REVISION: ADDED THE CITY OF FAYETTEVILLE
10	10/1/88	REVISION: ADDED THE CITY OF FAYETTEVILLE

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council Meeting of: May 18, 2004

FROM:

Greg Boettcher

Administration

Water and Wastewater

Name

Division

Department

ACTION REQUIRED: Resolution approving modification of the exclusive water service line between Fayetteville and Springdale, transferring 180 acres into Springdale's exclusive water service area.

SUMMARY EXPLANATION: In accordance with the June 15, 1967, agreement between the cities served by the Beaver Water District, exclusive water service areas have been defined that may be altered only by mutual agreement between the affected cities. The property owner has requested that his 180 acres be moved to the Springdale exclusive water service area since the tract is contiguous with Springdale and Springdale water and sewer infrastructure is available, adequate and accessible.

STAFF RECOMMENDATION:

Division Head

Date

[Signature]

4-30-04

City Attorney

Date

[Signature]

4-30-04

Department Director

Date

[Signature]

5-3-04

Finance & Internal Services Dir.

Date

[Signature]

5-3-04

Chief Administrative Officer

Date

[Signature]

5/4/04

Mayor

Date

Received in Mayor's Office

5/3/04
Date P.H.

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date: .

Orig. Contract Number:

New Item:

Yes

No



City Council Meeting of May 18, 2004

Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council *Dan Coody*
Thru: Gary Dumas, Director of Operations
From: Connie Edmonston, Parks and Recreation Director *CE*
David Bragg, Fleet Operations Superintendent
Date: April 29, 2004
Subject: Fayetteville Boys and Girls Club Van

RECOMMENDATION

City Staff is requesting approval of a resolution to waive the requirements for public auction or formal competitive bids and to approve the contract of sale for the 1997 Ford Club Wagon Unit #2002 to the Fayetteville Youth Center, Inc.

BACKGROUND

The City purchased the 15 passenger Ford Club Wagon in 1997 for the Youth Center. For seven years, the Boys and Girls Club has used the van to transport children to the club or to recreational program sites. The City currently has an annual contract with the Club to provide recreational services for the citizens according to Ordinance 4532. Arkansas Code Annotated §14-58-306 allows the City to sell municipal property pursuant to our City Ordinances. Attached is a letter from Mayor Coody certifying the fair market value of the van.

DISCUSSION

The van is valued at \$8,285. The City's Equipment Committee unanimously approved for the van to be transferred to the Club. The City has no current use for this van. In order for the Club to continue to provide the current level of recreational services and to have the capability to expand programs that require transportation, this van is a necessity to meet the needs of our youth. Attached is the Contract of Sale stating the City would transfer the van to the Youth Center in exchange for their agreement to provide equal value of transportation and other services to Fayetteville citizens in programs such as their Outreach Program for at-risk youth and Hook-a-Kid on Golf. No additional vehicle or remuneration for this service will be provided in subsequent years.

BUDGET IMPACT

None.

Attachment:

Mayor Coody's Letter
Boys and Girls Club Memo
Proposed Resolution
Proposed Contract of Sale

RESOLUTION NO. _____

A RESOLUTION TO WAIVE THE REQUIREMENTS FOR PUBLIC AUCTION OR FORMAL COMPETITIVE BIDS FOR THE SALE OF A 1997 FORD CLUB WAGON (UNIT #2002) TO THE FAYETTEVILLE YOUTH CENTER, INC.

WHEREAS, the City owns a 1997 Ford Club Wagon (Unit #2002) with a fair market value of less than \$10,000.00; and

WHEREAS, it is in the best interest of the City of Fayetteville and its taxpayers to sell this vehicle to the Fayetteville Youth Center, Inc. in exchange for its agreement to provide transportation and other services to Fayetteville citizens in programs such as their Outreach Program for at-risk youth, the Hook-a-Kid-on-Golf program, etc.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that an exceptional circumstance exists such that the sale of a 1997 Ford Club Wagon (Unit #2000) with a fair market value of less than \$10,000.00 by public auction or formal competitive bids is neither feasible nor practical. The City Council thus hereby waives the requirement of public auction or competitive bids pursuant to its powers in §34.25 (B) of the Fayetteville Code and agrees to sell this vehicle to the Fayetteville Youth Center, Inc. for the equal value of transportation and other services to be provided by the Fayetteville Youth Center, Inc. to Fayetteville residents.

PASSED and APPROVED this the 18th day of May, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

A. 4
Sale of Ford Club Wagon Contract
Page 3 of 8

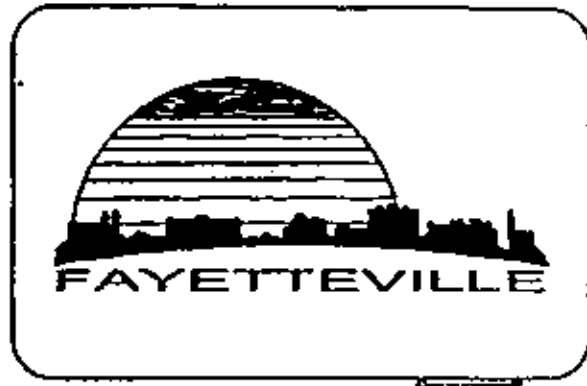
DEPARTMENTAL CORRESPONDENCE

TO: CITY COUNCIL

FROM: MAYOR DAN COODY

RE: CERTIFICATION FO THE FAIR MARKET VALUE OF A 1997 FORD
CLUB WAGON SUPER DUTY 15 PASSENGER VAN (#2002)

) Pursuant to A.C.A. §14-58-306, I certify that in my opinion the fair market value of the City's 1997 Ford Club Wagon Super Duty 15 Passenger Van (#2002) is less than \$10,000.00.



CITY OF FAYETTEVILLE

FLEET OPERATIONS

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

A. 4
Sale of Ford Club Wagon Contract
Page 4 of 8

Interdepartmental Correspondence

To: Mayor Dan Coody
Via: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Supt.
Date: April 22, 2004
Subject: Private Sale Valuation of Unit #2002

The valuation of \$8,285 for unit #2002 for proposed sale to the Boys and Girls Club was established using the Kelley Blue Book pricing guide. A copy of today's Kelley valuation is attached. The rating criteria used to value this vehicle is accurate in my opinion.



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BLUE BOOK PRIVATE PARTY REPORT

Arkansas • April 29, 2004

1997 Ford Club Wagon Super Duty Passenger Van[See Local Listings of This Car](#)[List Your Car For Sale Online](#)[Buy a New Car](#)[Free Lemon Check](#)[Auto Loans from 3.85% APR](#)[Insurance Quote](#)[Print "For Sale" Sign](#)[Payment Calculator](#)

Engine: V8 7.3L Turbo Diesel

Trans: Automatic

Drive: Rear Wheel Drive

Mileage: 33,000

Equipment

15 Passenger

XL

Air Conditioning

Power Steering

Tilt Wheel

Cruise Control

AM/FM Stereo

Dual Front Air Bags

ABS (4-Wheel)

Consumer Rated Condition:**Good**

"Good" condition means that the vehicle is free of any major defects. The paint, body and interior have only minor (if any) blemishes, and there are no major mechanical problems. In states where rust is a problem, this should be very minimal, and a deduction should be made to correct it. The tires match and have substantial tread wear left. A clean title history is assumed. A "good" vehicle will need some reconditioning to be sold at retail; however major reconditioning should be deducted from the value. Most recent model cars owned by consumers fall into this category.

Private Party Value**\$8,285**

Private Party value represents what you might expect to pay for a used car when purchasing from a private party. It may also represent the value you might expect to receive when selling your own used car to another private party.

[Get a Used Car Trade-In Value](#)[Get Invoice & MSRP on New Cars](#)[Get a Person to Person Auto Loan](#)**Dodge Links**

[All-new 2004 Dodge D](#)
Dodge Power.
Dodge Performance.
And now Dodge Bonus
Test Drive the all-new
dealer near you.
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[2004 Dodge Ram 1500](#)
Dodge Power.
Dodge Performance.
And now Dodge Bonus
Test Drive the 2004 R
[Dodge.com/bonus.ca](#)

CONTRACT OF SALE

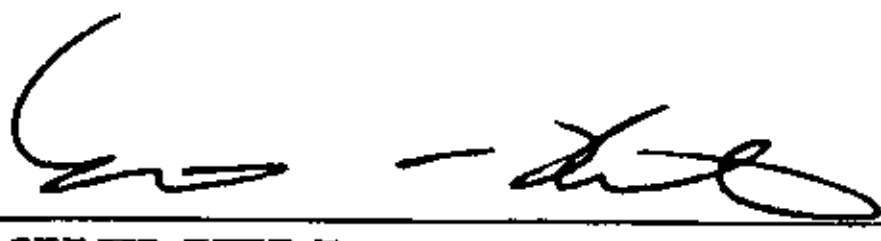
The City of Fayetteville ("City") and the Donald W. Reynolds Boys and Girls Club ("Youth Center") agree as follows:

The City of Fayetteville agrees to transfer complete ownership and title of a 1997 Ford Club Wagon – 15 passenger van (Unit #2002) to the Youth Center in exchange for educational, outreach, special event, and transportation services to be provided to Fayetteville citizens by the Youth Center.

The Donald W. Reynolds Boys and Girls Club agrees to provide at least that amount of educational, outreach, special event and transportation services to Fayetteville citizens during the upcoming 18 month period to equal the fair market value of the 1997 Ford Van being sold to the Youth Center by the City.

In accordance and agreement with the terms and promises above, we sign our names below.

DONALD W. REYNOLDS BOYS & GIRLS CLUB

By: 
MIKE HILL
President of the Board of Directors

Date Signed

CITY OF FAYETTEVILLE

By: _____
DAN COODY
Mayor Dan Coody

Date Signed

Attest:

By: _____
SONDRA SMITH, City Clerk

CONTRACT OF SALE

The City of Fayetteville ("City") and the Donald W. Reynolds Boys and Girls Club ("Youth Center") agree as follows:

The City of Fayetteville agrees to transfer complete ownership and title of a 1997 Ford Club Wagon – 15 passenger van (Unit #2002) to the Youth Center in exchange for educational, outreach, special event, and transportation services to be provided to Fayetteville citizens by the Youth Center.

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DONALD W. REYNOLDS BOYS & GIRLS CLUB

By: 
MIKE HILL
President of the Board of Directors

Date Signed

CITY OF FAYETTEVILLE

By: _____
DAN COODY
Mayor Dan Coody

Date Signed

Attest:

By: _____
SONDRA SMITH, City Clerk

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

XX AGENDA REQUEST

For the Fayetteville City Council Meeting of: May 18, 2004

FROM:

Connie Edmonston

Parks and Recreation

Operations

Name

Division

Department

ACTION REQUIRED: Approval of resolution to waive the requirements for public auction or formal competitive bids and to approve the contract of sale of the 1997 Ford Club Wagon Unit #2002 to the Fayetteville Youth Center, Inc.

SUMMARY EXPLANATION:
See attached memo.

STAFF RECOMMENDATION: Approval of Ordinance.

Connie Edmonston
Division Head

4-29-04
Date

Received in Mayor's Office

4/30/04
Date PH

Kud
City Attorney

4/29-04
Date

Mayor must sign memo inside
to permit sale.

David Jones
Department Director

4/30/04
Date

Cross Reference:

Atty Gen
Finance & Internal Services Dir.

5-3-04
Date

Previous Ord/Res#: 34.25(B) 14-58-306

Hugh Everett
Chief Administrative Officer

5-3-04
Date

Orig. Contract Date: _____

Orig. Contract Number: _____

Alan Coody
Mayor

5/3/04
Date

New Item: Yes No



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

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

From: Rebecca Ohman *RO*

Date: April 30, 2004

Subject: Resolution authorizing Parks and Recreation to request funding from the Arkansas Department of Environmental Quality (ADEQ) Post Closure Trust Fund for the C & L Landfill Study and Remediation.

RECOMMENDATION

Parks and Recreation Staff recommends accepting a resolution authorizing Parks and Recreation to request funding from the Arkansas Department of Environmental Quality (ADEQ) Post Closure Trust Fund for the C & L Landfill Study and Remediation.

BACKGROUND

On February 3, 2004, City Council passed and approved Resolution 13-04, "authorizing the Fayetteville Parks and Recreation Division to *apply for a* Post Closure Trust Fund *Grant* from the Arkansas Department of Environmental Quality (ADEQ) for the C & L Landfill Study and Remediation."

Parks and Recreation Staff submitted a request for funds to ADEQ on February 17, 2004. Upon review of the request packet, ADEQ asked that Resolution 13-04 be revised to replace the specific phrase, "...*apply for a* Post Closure Turst Fund *Grant*," with the phrase, "...request funding from the Arkansas Department of Environmental Quality (ADEQ) Post Closure Trust Fund." These changes may be reviewed in the attached, redlined resolution. Their re-wording follows the manner in which ADEQ will administer the fund, as a contract with the City rather than a grant.

DISCUSSION

Parks and Recreation and ADEQ have proceeded with the necessary steps to acquire funding for the C & L Landfill Study. A Memorandum of Agreement between the City and ADEQ which provides the majority of funding for the study was executed on April 27, 2004 and will be received on Monday, May 3, 2004.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE PARKS & RECREATION DIVISION TO REQUEST FUNDING FROM THE POST CLOSURE TRUST FUND FROM THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ) FOR THE C & L LANDFILL STUDY AND REMEDIATION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Fayetteville Parks & Recreation Division to request funding from the Post Closure Trust Fund from the Arkansas Department of Environmental Quality (ADEQ) for the C & L Landfill study and remediation.

PASSED and APPROVED this 18th day of May, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
SONDRA SMITH, City Clerk

RESOLUTION NO. 13-04

A RESOLUTION AUTHORIZING THE FAYETTEVILLE PARKS & RECREATION DIVISION TO ~~APPLY FOR A POST CLOSURE TRUST FUND GRANT~~ FROM THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ) FOR THE C & L LANDFILL STUDY AND REMEDIATION. *REQUEST FUNDING from the*

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Fayetteville Parks & Recreation Division to ~~apply for a Post Closure Trust Fund Grant~~ from the Arkansas Department of Environmental Quality (ADEQ) for the C & L Landfill study and remediation. *request funding from the*

PASSED and APPROVED this 3rd day of February, 2004.



APPROVED:

By: *Dan Coody*
DAN COODY, Mayor

ATTEST:

By: *Sondra Smith*
SONDRA SMITH, City Clerk



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council Meeting of: May 18, 2004

FROM:

Rebecca Ohman
Name

Parks and Recreation
Division

Operations
Department

ACTION REQUIRED: Resolution authorizing Parks and Recreation to request funding from the Arkansas Department of Environmental Quality Post Closure Trust Fund for the C & L Landfill Study and Remediation.

SUMMARY EXPLANATION: See attached

STAFF RECOMMENDATION:

Connie Edmonston
Division Head

4-30-04
Date

Received in Mayor's Office

4-30-04 gm
Date

[Signature]
City Attorney

4/29/04
Date

[Signature]
Department Director

4/30/04
Date

Cross Reference:

[Signature]
Finance & Internal Services Dir.

5-3-04
Date

Previous Ord/Res#: _____

[Signature]
Chief Administrative Officer

5-3-04
Date

Orig. Contract Date: _____

[Signature]
Mayor

5/3/04
Date

Orig. Contract Number: _____

New Item:

Yes

No



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

A. 6
Walker Park Senior Complex Budget Approval
Page 1 of 6

DEPARTMENTAL CORRESPONDENCE

May 18, 2004 City Council Meeting

TO: Mayor Dan Coody and the Fayetteville City Council
THROUGH: Stephen Davis, Director of Financial and Internal Services
FROM: Coy Hurd, Project Manager 
DATE: April 30, 2004
SUBJECT: A resolution approving a budget adjustment in the amount of \$24,650

) Recommendation: Staff recommends adoption of a resolution approving a budget adjustment to the Walker Park Senior Complex budget in the amount of \$24,650.

Background: These funds were generated from the special millage as delinquent property tax was collected.

Discussion: These funds must be spent on "brick and mortar" aspects of the Walker Park Senior Complex.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT
TRANSFERRING \$24,649.87 INTO THE WALKER PARK
SENIOR COMPLEX BUDGET FOR THE RECEIPT OF LATE
PROPERTY TAX PAYMENTS

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
approves the attached budget adjustment in the amount of \$24,649.87 from late or
delinquent property tax collections from the special millage into the Walker Park Senior
Complex budget.

PASSED and APPROVED this the 18th day of May, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

SONDRA SMITH, City Clerk

**City of Fayetteville, Arkansas
Budget Adjustment Form**

Walker Park Senior Complex Budget Approval
Page 3 of 6
A. 6

Budget Year 2004	Department: Sales Tax Capital Improvements Division: Program:	Date Requested 4/15/2004	Adjustment Number
----------------------------	---	------------------------------------	-------------------

Project or Item Requested:
\$24,650 is requested in the Walker Park Senior Complex capital project.

Project or Item Deleted:
None. \$24,650 from the Delinquent Property Taxes capital project.

Justification of this Increase:

Justification of this Decrease:

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Building costs	4470	9470	5804	00	24,650	96092	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Delinquent property taxes	4470	0947	4100	01	24,650		

Approval Signatures

Budget Office Use Only

Requested By 	Date 4-30-04
Budget Manager	Date
Department Director	Date
	4-15-04
Finance & Internal Services Director	Date
Mayor	Date

Type:	A	B	C	D	E
Date of Approval					
	Initial	Date			
Posted to General Ledger					
	Initial	Date			
Posted to Project Accounting					
	Initial	Date			
Entered in Category Log					
	Initial	Date			

City of Fayetteville, Arkansas

- Walker Park Senior Complex LTD Budget Information

Year	Account Number	Sales Tax	Parks Development	Community Development	Total
2004	4470.9470.5804.00	80,664.00			80,664.00
2003	4470.9470.5210.00	635.62			635.62
	4470.9470.5315.00	236.69			236.69
	4470.9470.5400.00	2,705.55			2,705.55
	2250.9255.5804.00		91,000.00		91,000.00
	4470.9470.5804.00	290,327.32			290,327.32
2002	2250.9250.5804.00		230,051.00		230,051.00
	4470.9470.5804.00	1,013,854.50			1,013,854.50
2001	4470.9470.5301.00	385.86			385.86
	2180.4990.5722.00			344,622.00	344,622.00
	2250.9250.5804.00		153,844.00		153,844.00
	4470.9470.5804.00	30,584.00			30,584.00
1997	2180.4990.5390.22			16,547.33	16,547.33
		<u>1,419,393.54</u>	<u>474,895.00</u>	<u>361,169.33</u>	<u>2,255,457.87</u>
	Budget Breakdown	1,419,393.54	474,895.00	361,169.33	2,255,457.87
	Expense Breakdown	1,341,429.20	474,895.00	361,169.33	2,177,493.53
	Remaining	<u>77,964.34</u>	<u>-</u>	<u>-</u>	<u>77,964.34</u>

Property Taxes Collected:

2004	21,743.38	21,743.38
2003	5,482.81	5,482.81
2002	89,591.07	89,591.07
2001	1,061,150.61	1,061,150.61
	<u>1,177,967.87</u>	<u>1,177,967.87</u>

Budget Adjustments Recognizing Property Taxes:

2004	-	-
2003	37,218.00	37,218.00
2002	116,100.00	116,100.00
2001	1,000,000.00	1,000,000.00
	<u>1,153,318.00</u>	<u>1,153,318.00</u>

Unrecognized Property Tax Revenues:

<u>24,649.87</u>	<u>24,649.87</u>
------------------	------------------

STAFF REVIEW FORM - FINANCIAL OBLIGATION

Walker Park Senior Complex Budget Approval
Page 5 of 6

A. 6

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: May 18, 2004

FROM:

Coy HurdBuilding ServicesFinancial and Internal Services

Name

Division

Department

Action Required: The City Council is requested to approve a budget adjustment transferring the amount of \$24,649.87 into the Walker Park Senior Complex Budget. These funds were generated from the special millage as delinquent property tax was collected.

COST TO CITY:

<u>\$24,649.87</u>	<u>\$ 80,664.00</u>	<u>Other Capital Improvements</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>4470.9470.5804.00</u>	<u>\$ 47,720.00</u>	<u>Walker Park Senior Complex</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>96092</u>	<u>\$ 32,944.00</u>	<u>Sales Tax Capital Improvement</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW:

X Budgeted Item xx Budget Adjustment Attached

[Signature]
Budget Manager4-30-04
Date

CONTRACT/GRANT/LEASE REVIEW:

<u>[Signature]</u> Accounting Manager	<u>4/30/04</u> Date	Internal Auditor	Date
<u>[Signature]</u> City Attorney	<u>4/30/04</u> Date	Purchasing Manager	Date

STAFF RECOMMENDATION:

[Signature] 4/30/04 Received in Mayor's Office 5/3/04
Division Head Date Date PH

Department Director

Date

Finance & Internal Services Dir.

Date

Chief Administrative Officer

Date

Mayor

Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

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 *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 Futrall 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 36	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 6 5 2004

PLANNING DIV.

POLICE DEPARTMENT

B. 1
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 "H. Brown", written over a horizontal line.

Lieutenant William Brown
Fayetteville Police Department

Apr 05 04 03:14p

Danny Farrar

(501) 444-3447

P. 5 B. 1
RZN 04-06 00 (The Crowne)
Page 11 of 24



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
15 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

B. 1
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.

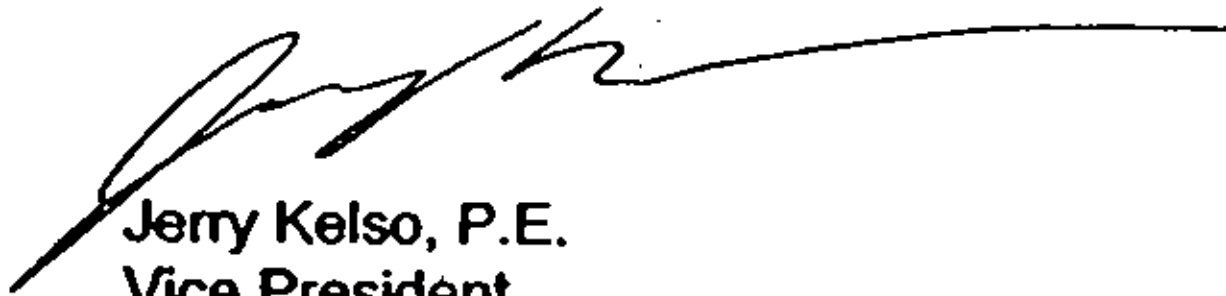
A r c h i t e c t s , E n g i n e e r s & S u r v e y o r s

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)

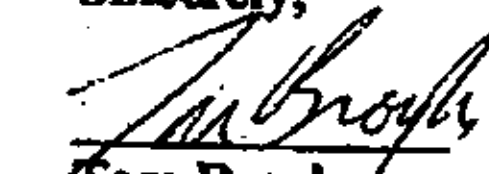
Entrance off 18th street

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,

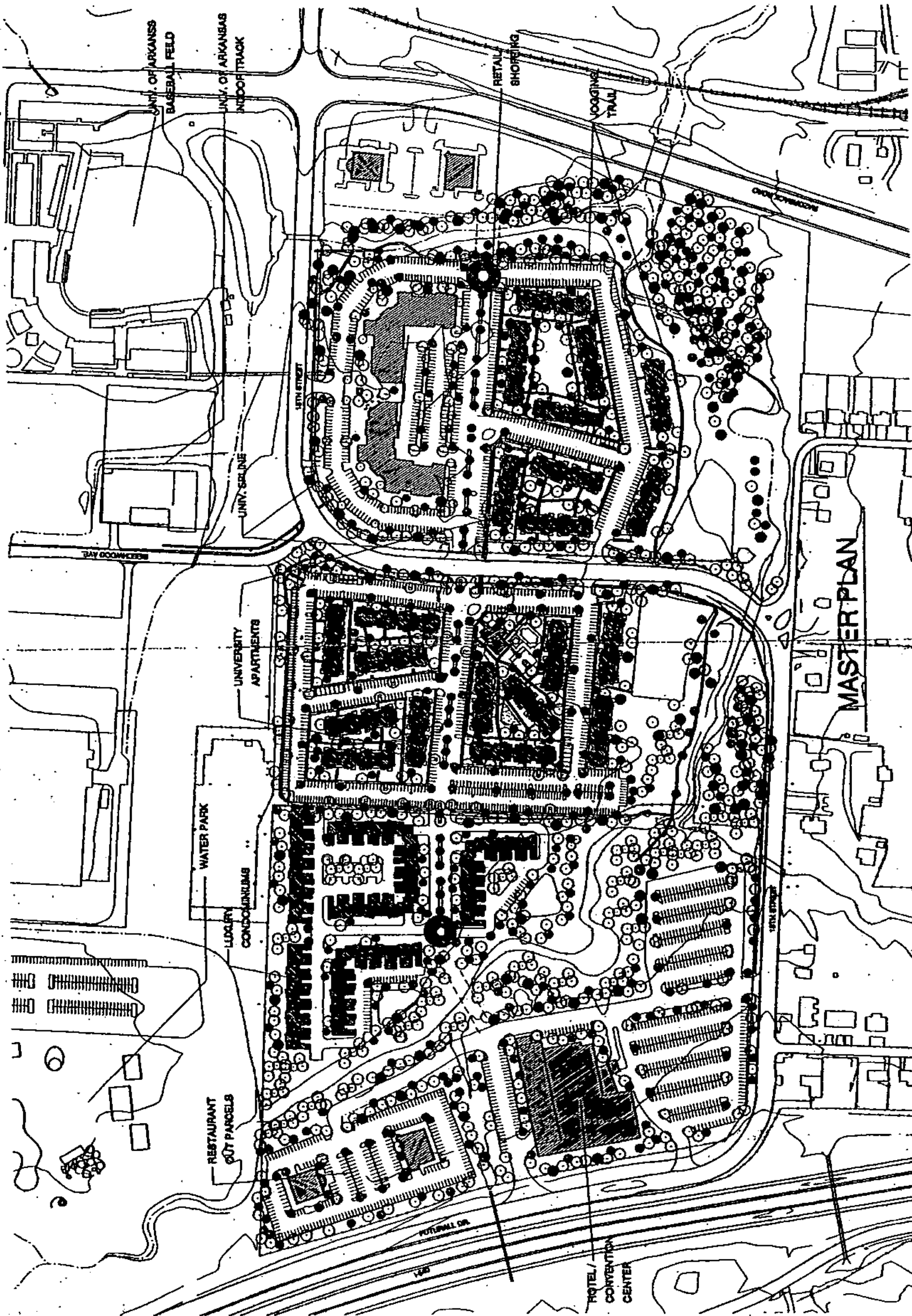

Tom Broyles


Crowne Fayetteville Associates

RECEIVED

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LEG DIV.

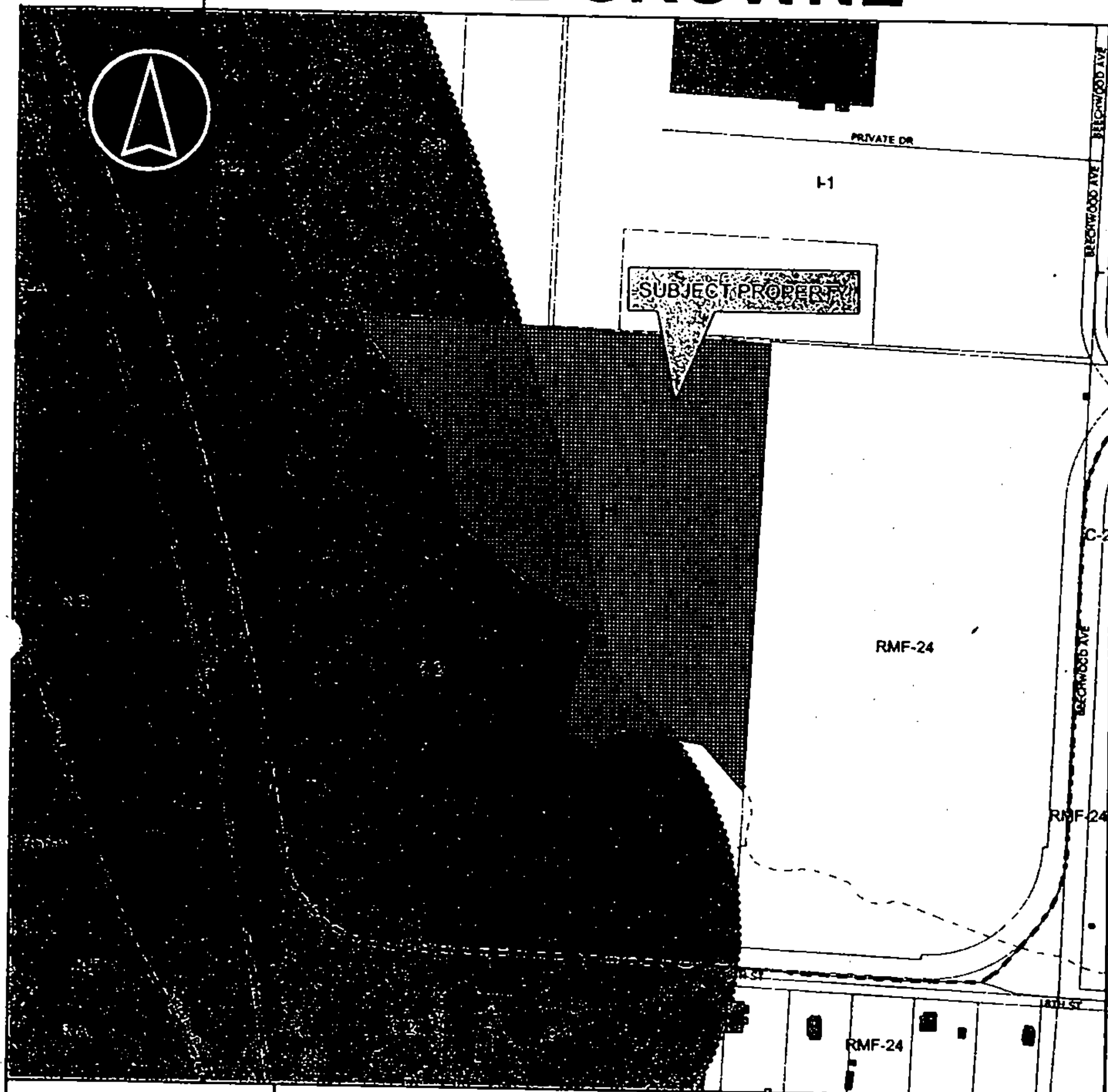


RZN04-06.00

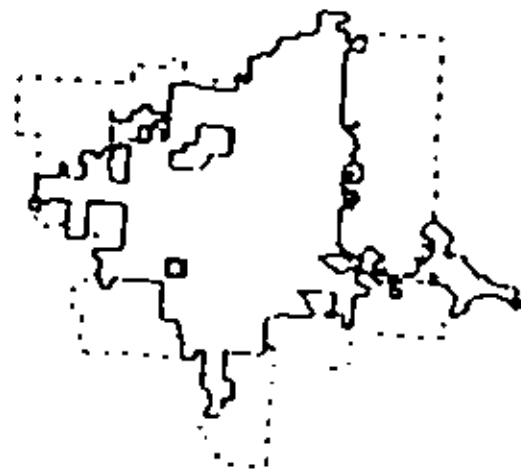
RZN 04-06.00 (The Crowne)
Page 17 of 24

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 | ▬ Basic Line Profile | |
| ▬ Outside City | | |
| | | ▬ RZN04-06.00 |

0 125 250 500 750 1,000 Feet

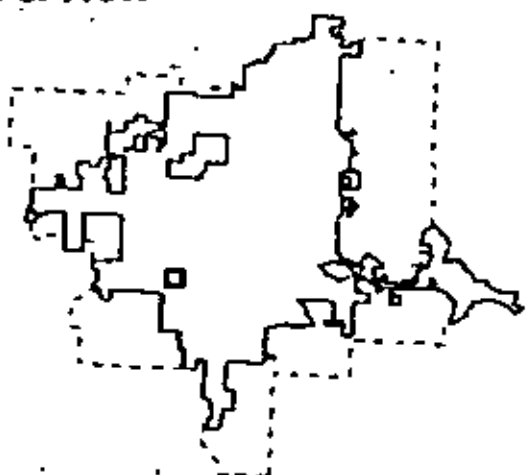
RZN04-06.00

Future Land Use

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

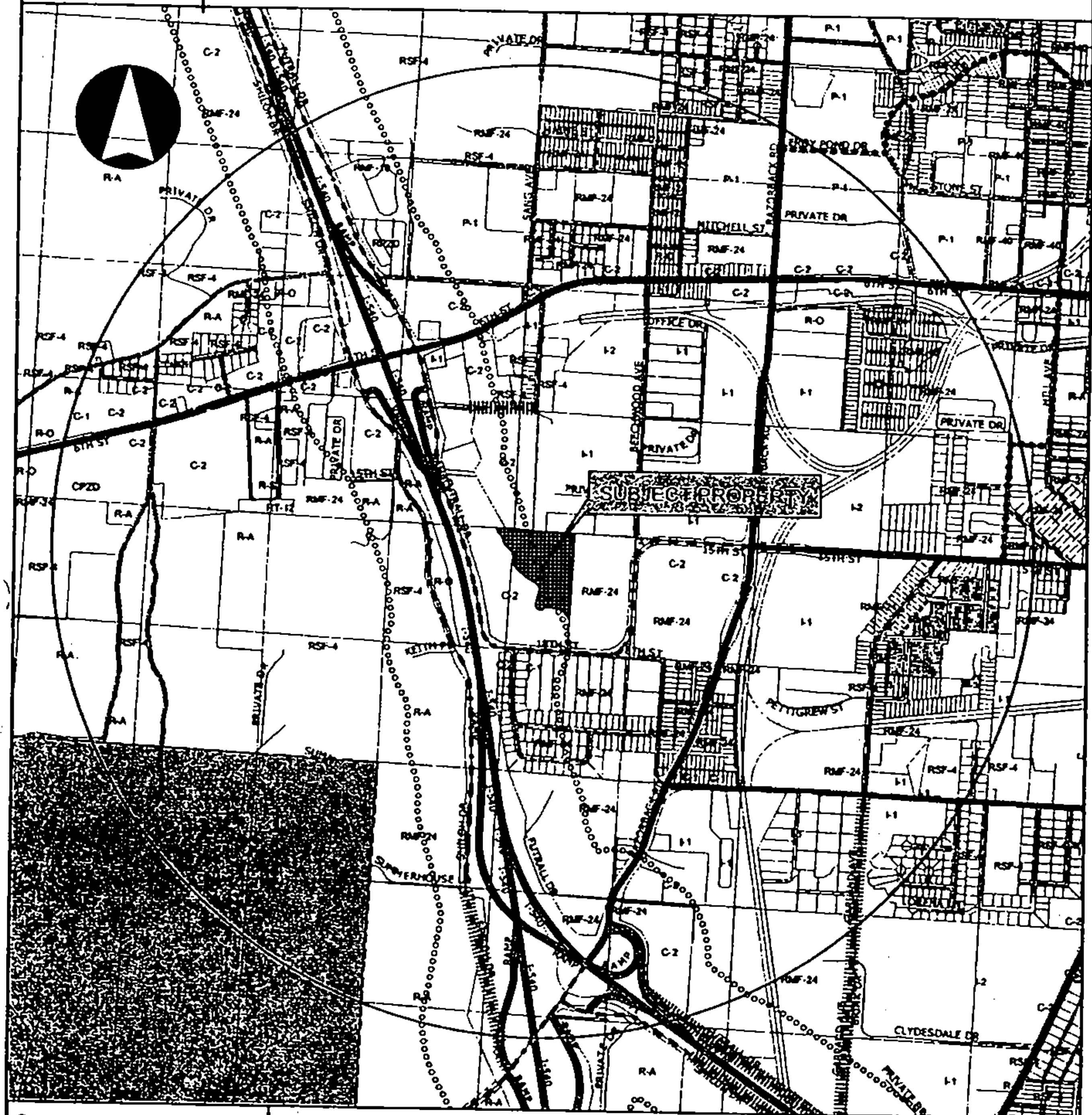
Historic Collector

0 75 150 300 450 600 Feet

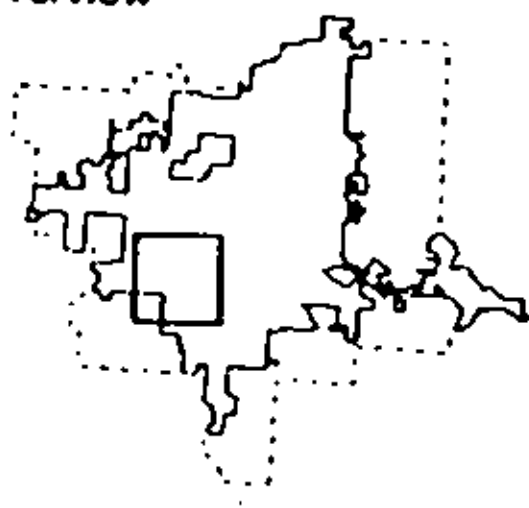
RZN04-06.00

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.

Planning Commission
April 12, 2004

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

B. 1
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 4/16/04
Division Head Date

Received in Mayor's Office

4/16/04
Date *pt**[Signature]* 4/16/04
City Attorney Date

Cross Reference:

[Signature] 4-20-04
Department Director Date
Finance & Internal Services Dir.

Previous Ord/Res#: _____

Orig. Contract Date: _____

[Signature] 4-20-04
Chief Administrative Officer 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 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.

Left on 2nd reading 5/4/04

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, BUT RETAINING THIS AREA AS A
UTILITY EASEMENT**

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, except as a utility easement.

**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; subject to retaining the entire area as a city utility easement pursuant to the condition of approval of the Planning Commission.

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 18th day of May, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

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.

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

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 Archaïs-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

✓ Approved Denied

Date: April 12, 2004

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

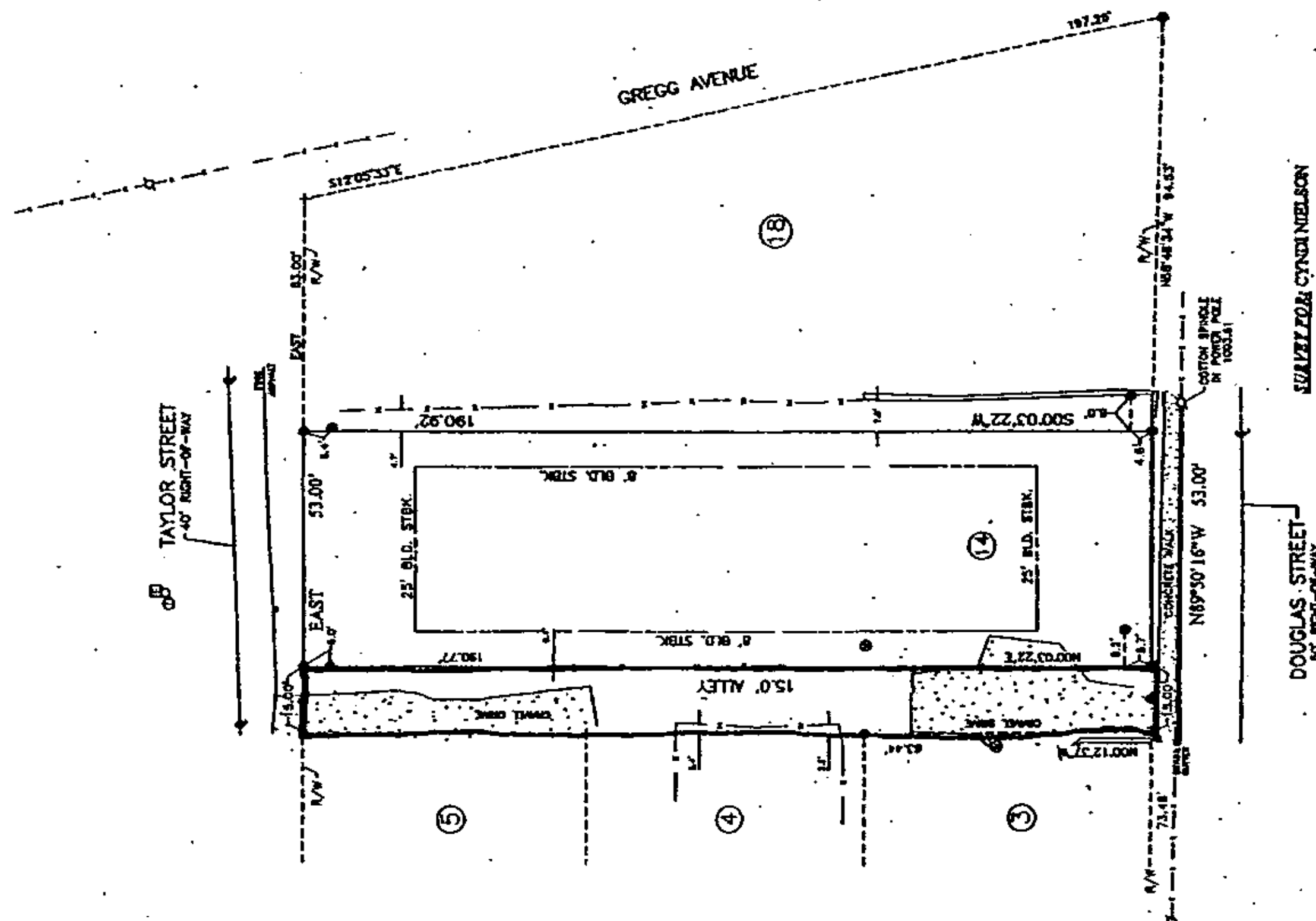
signature

SURVEY DESCRIPTION
LOT NUMBERED FOURTEEN (14) OF ARCHAS-BUSSELL 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 |
| ① | GAS METER |
| ② | SEWER CLEANOUT |
| ③ | SET IRON PIN |
| ④ | WATER METER |
| ● | EXISTING IRON PIN |
| + | COMPUTED CORNER |
| • | SEWER MANHOLE |
| ⊙ | ELECTRIC BOX |
| ⊖ | TELEPHONE / PEDESTAL |
| —E— | OVERHEAD ELECTRIC |
| —X— | FENCE LINE |
| —SS— | SANITARY SEWER LINE |

CYNDI NIELSON		ALLAN RYD & ASSOC.	
DRAWN	JCC	DATE	12/14/03
APPROVED	DATE	118 S. COLLEGE FAYETTEVILLE, AR. (479) 444-8784	
SCALE	SHEET	PROJECT NO.	
1" = 20'		03690	



PROPERTY ADDRESS: DOUGLAS STREET
FAYETTEVILLE, ARKANSAS

Don
City, Plainer

C.Y.N., LLC

**Post Office Box 1364
Fayetteville, AR 72702**

**(479) 839-2218 office
(479) 409-9618 cell**

February 11, 20004

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.

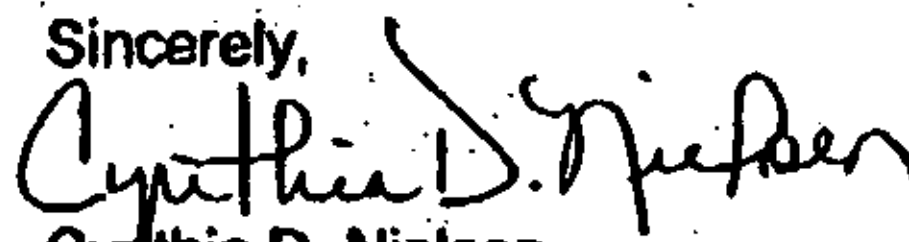
C.Y.N., LLC, and its members, David H. Kyle and Cynthia D. Nielsen (husband and wife), are the owners of the adjacent Lots 3 and 14. Currently, there is a pending real estate contract to sell Lot 14 between C.Y.N., LLC, seller, and Phil Phillips, aka Phillips FLP, buyer. The contract is contingent on 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,

M. Marie 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:

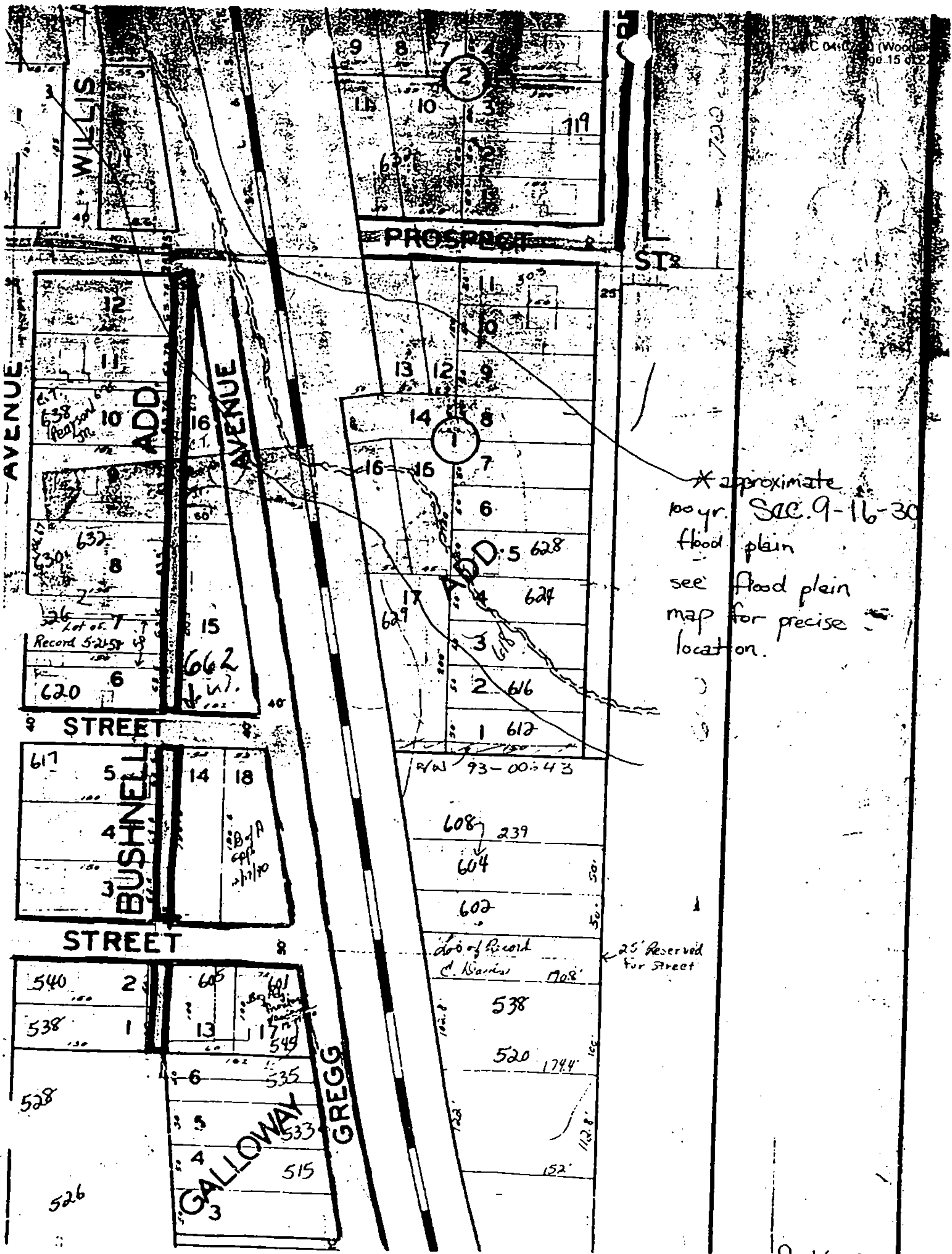
Ernest E. Lancaster

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

GREGG

GALLOWAY

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.

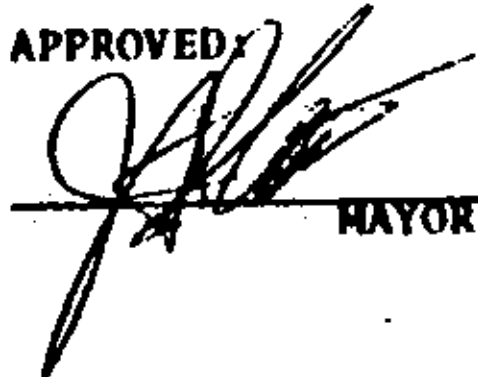
NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS,

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

REC 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.

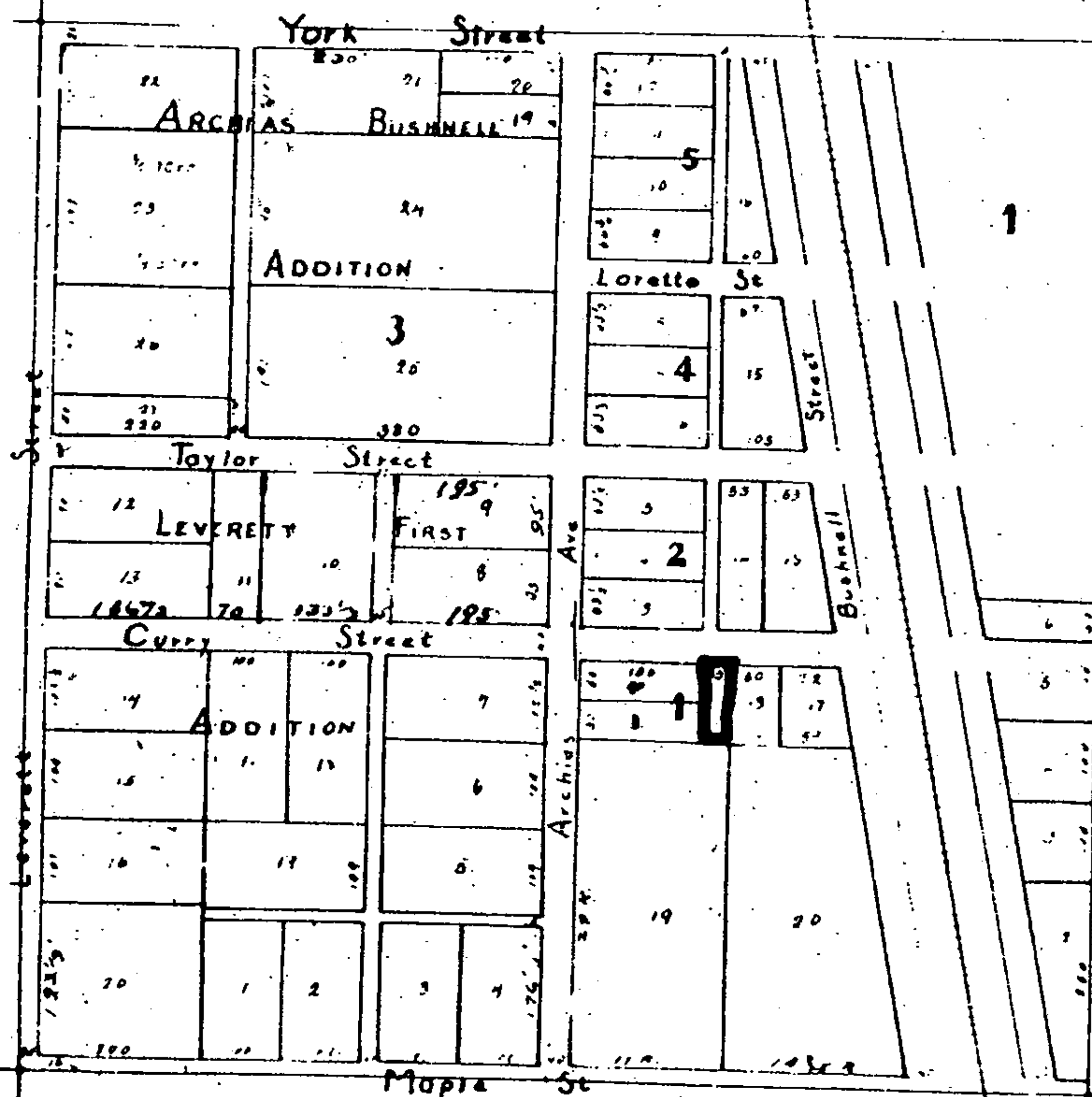


Lovetta Moore

CITY CLERK

804 PAGE 202

SE ¼ of SW ¼ 9-16-N Range -30 W



Filed for record August 26th A.D. 1893

Scale 200 feet = 1 inch

VAC04-07.00

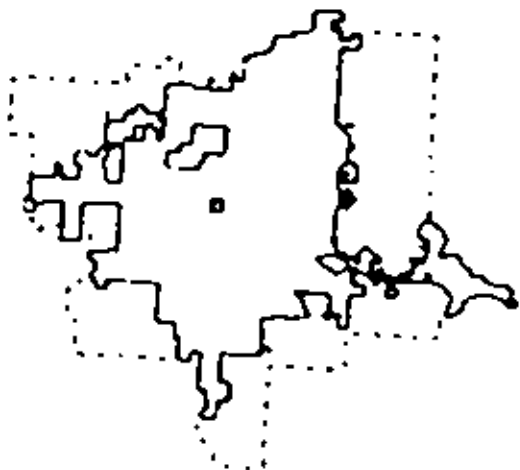
VAC 04-07.00 (Woodall)
19 of 22

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 |
|--|--|---|



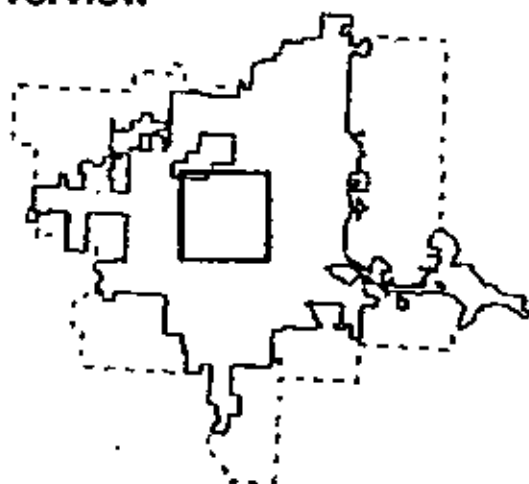
VAC04-07.00

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

B. 2
VAC 04-07.00 (Woodall)
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:

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:

[Signature]

Chief Administrative Officer

4-20-04
Date

New Item:

Yes

No

Mayor

Date



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Hugh Earnest, Chief Administrative Officer
From: Tim Conklin, Community Planning and Engineering Services Director
Date: April 30, 2004

Subject: Approval of a resolution awarding a construction contract to Forsgren, Inc. in the amount of \$652,762.00 for construction of drainage improvements in the vicinity of Holly, Vista, Sang, Cleveland and Berry Streets, a budget adjustment increasing the project budget, authorizing a project contingency of \$97,000 and establishing a right-of-way acquisition budget of \$75,000.

RECOMMENDATION

Staff recommends approval of the construction contract with Forsgren, Inc., establishment of the project contingency, establishment of a right-of-way budget and approval of a budget adjustment.

BACKGROUND

This construction project is in the approved Five Year Capital Improvements Program 2002-2006 with a projected cost of \$600,000. On July 2, 2002, the City entered into a consulting services agreement with US Infrastructure to perform engineering studies and develop recommendations for the Upper Hamestring Creek basin. Based on recommendations from these studies, on June 17, 2003, the City hired US Infrastructure to provide preliminary and final engineering designs for drainage improvements along Holly Street from Sang Avenue to Lewis Avenue and Wedington Road, and along Cleveland Street and Sang Avenue just south of Wedington Road. The value of the contract approved in 2003 was \$180,208 which left approximately \$420,000 to perform construction services associated with the drainage improvements.

DISCUSSION

Numerous meetings with the neighborhood and city staff have been conducted to insure that the proposed improvements would address the drainage issues along Holly Street from Sang Avenue to Lewis Avenue and Wedington Road, and along Cleveland Street and Sang Avenue just south of Wedington Road. The final construction bid documents were developed and the project was advertised.

Bids were opened on Monday, April 26, 2004, at 11:00am from two contractors. Forsgren, Inc., was the low bidder at \$652,762.00. The bid certification letter from US Infrastructure and bid tabulation sheet are attached to this memo.

Right-of-way acquisition costs for this project are estimated to be: \$75,000.

The bid documents listed three deductive alternates to assist the City in keeping the project within the remaining budget. These deductive alternates were included, in part, because the level of effort required to alleviate the drainage issues was more extensive than originally expected.

The first alternate deducted the proposed storm sewer line along Cleveland Street east of Sang Avenue. The second alternate deducted the entire Cleveland/Sang/Berry drainage design. The third alternate deducted the entire Cleveland/Sang/Berry drainage design and also certain portions of storm sewer pipe in the upper reaches of the Holly Street design.

Staff does not recommend acceptance of any of the deductive alternates.

A summary of the bid prices is as follows:

Entire Project as Designed	\$652,762.00
Deductive Alternate #1 (Cleveland storm sewer)	\$584,309.50
Deductive Alternate #2 (Cleveland storm sewer and ditch)	\$441,573.00
Deductive Alternate #3 (Cleveland/Sang/Berry, Holly storm pipe)	\$371,562.00

BUDGET IMPACT

As previously stated above, the original budget for this project was \$600,000. After deducting for the engineering contract and other project related expenses approximately \$410,000 remains. To fully fund the construction project, establish a project contingency and establish a right-of-way budget additional funding of \$414,541.00 is needed. The funding for this adjustment is proposed to come from Project #02108 *Other Drainage Improvements*, and Project #02097 *Drainage Study/Phase II Stormwater Management*. The funding identified from these other two projects is not needed for this year and can be used for this project.

#

RESOLUTION NO. _____

A RESOLUTION TO AWARD A CONSTRUCTION CONTRACT TO FORSGREN, INC. IN THE AMOUNT OF \$652,762.00, PLUS A CONTINGENCY OF \$97,000.00 FOR CONSTRUCTION OF DRAINAGE IMPROVEMENTS FOR THE HOLLY/VISTA AND CLEVELAND/SANG AREAS, AND TO APPROVE A BUDGET ADJUSTMENT OF \$374,540.80 FOR THIS PROJECT

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 awards a construction contract to Forsgren, Inc. in the amount of \$652,762.00, plus a contingency of \$97,000.00 for construction of drainage improvements for the Holly/Vista and Cleveland/Sang areas, and to approve a budget adjustment in the amount of \$374,540.80 for this project.

PASSED and APPROVED this the 18th day of May, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

SONDRA SMITH, City Clerk



USI-ARKANSAS, INC.
CONSULTING ENGINEERS

RECEIVED
APR 30 2004

Hand del. Eng.

April 30, 2004

Mr. Gary Coover, P.E.
City Engineer
City of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701

RE: Fayetteville Drainage Improvements
Holly/Vista and Cleveland/Sang Areas
USI Project No. 030923

Dear Gary:

Bids were received Monday, April 26, 2004, for construction of the above referenced drainage project. Forsgren, Incorporated, of Fort Smith, Arkansas submitted the low bid. Two bids were submitted, and the totals are shown below:

	<u>Total Bid</u>
Forsgren, Incorporated	\$652,762.00
Mobley Contractors, Inc.	\$682,986.25

A copy of the certified bid tabulation is included for your reference, along with a copy of the list of persons attending the bid opening. The engineer's estimate prior to receipt of bids was \$568,200.

At the request of the City, deductive alternates were included with the bid, in order of prioritized areas, to keep the project within the City's available funds. Deductive alternate 1 removes a portion of the drainage improvements scheduled for the Cleveland/Sang area and if chosen, would reduce the base bid to the following totals:

	<u>Total Bid Accepting Deductive Alt. 1</u>
Forsgren, Incorporated	\$584,309.50
Mobley Contractors, Inc.	\$617,959.84

Deductive alternate 2 removes the entire drainage improvements scheduled for the Cleveland/Sang area and if chosen, would reduce the base bid to the following totals:

	<u>Total Bid Accepting Deductive Alt. 2</u>
Forsgren, Incorporated	\$441,573.00
Mobley Contractors, Inc.	\$535,907.97

Mr. Gary Coover, P.E.
City Engineer
City of Fayetteville
4/30/2004
Page 2 of 2

Deductive alternate 3 removes the entire drainage improvements scheduled for the Cleveland/Sang area as well as a portion of the Holly/Vista area and if chosen, would reduce the base bid to the following totals:

	<u>Total Bid Accepting Deductive Alt. 3</u>
Forsgren, Incorporated	\$371,562.00
Mobley Contractors, Inc.	\$439,446.36

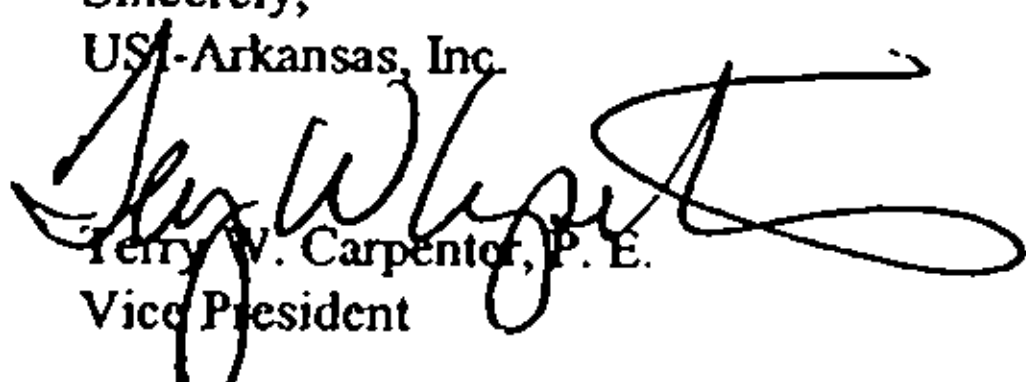
We have reviewed the Statement of Bidders Qualifications submitted by Forsgren, Inc., and based upon the information provided we believe them to be qualified for this project. They have been in business since 1936, and have successfully completed several street and drainage projects throughout Arkansas such as Phoenix Avenue West in Fort Smith, scheduled to be completed in Fall 2004, Kelley Highway in Fort Smith scheduled to be completed in Spring 2005, and the Rogers Municipal Airport Safety Improvements scheduled to be completed in Fall 2004.

While we have no way of verifying the present financial condition of Forsgren, Inc., the contract documents require the furnishing of 100 percent performance and payment bonds prior to authorization of the notice to proceed of construction. Therefore, we recommend that the City of Fayetteville award this contract to Forsgren Incorporated in the amount bid of \$652,762.00. We trust the City will concur in this recommendation.

The contract requires substantial completion of the project within 75 days and full completion and ready for final payment within 90 calendar days from the date of the issuance of the notice to proceed. Assuming a notice to proceed is issued May 31, the work should be substantially complete August 24, 2004 with final completion on September 8, 2004.

If you have any questions or need additional information, please do not hesitate to call.

Sincerely,
USI-Arkansas, Inc.


Terry W. Carpenter, P. E.
Vice President

TWC:aw
Enclosures

LIST OF ATTENDEES

BID OPENING

Bid #
04-35

**DRAINAGE IMPROVEMENTS
HOLLY-VISTA AND CLEVELAND-SANG AREAS**

for

City of Fayetteville, Arkansas
USI Project No. 030923
Monday, April 26, 2004
11:00 a.m.

RECEIVED
APR 30 2004

Hand del. Engr.

Name	Representing
<u>Richard Faulkner</u>	<u>Scarlock Industries</u>
<u>ANDY TUNNELL</u>	<u>" "</u>
<u>R. M. M. J.</u>	<u>Molloy</u>
<u>STEVE FORSGREN</u>	<u>FORSGREN</u>
<u>Brad Johnson</u>	<u>Scarlock</u>
<u>Amanda Wilson</u>	<u>USI - Arkansas, Inc.</u>
<u>P. U. L. C.</u>	<u>City of Fayetteville</u>
<u>GARY COOVER</u>	<u>" "</u>
<u>Steve Davis</u>	<u>City of Fayetteville</u>
<u>R. W. Ullmann</u>	<u>City of Fayetteville</u>

List of Attendees Bid Opening Project 030923

Name

Representing

Sid Norbash

City Eng.

TABULATION OF BIDS RECEIVED APRIL 26, 2004
DRAINAGE IMPROVEMENTS
HOLLY-VISTA AND CLEVELAND-SANG AREAS
FOR
CITY OF FAYETTEVILLE, ARKANSAS

USI Project No. 030923
Plans and Specifications Dated: April, 2004

Company:				Forsgren, Inc.		Mobley Contractors, Inc.	
Arkansas License No.:				00036900404		0003660804	
Address:				PO Box 368		PO Box 150	
City, State:				Fort Smith, AR 72902		Morrilton, AR 72110	
Item No.	Quantity	Unit	Description	Unit Price	Total Amount	Unit Price	Total Amount
SCHEDULE A - HOLLY-VISTA AREA							
1.	1	Lump Sum	Site Preparation complete in place	\$28,000.00	\$28,000.00	\$72,931.33	\$72,931.33
2.	204	L.F.	58" X 36" Reinforced Concrete Arch Pipe (Class 3) complete in place	\$180.00	\$36,720.00	\$173.84	\$35,463.36
3.	1	Each	58" X 36" RCP Arch Pipe Flared End Section complete in place	\$2,500.00	\$2,500.00	\$2,953.13	\$2,953.13
4.	265	L.F.	48" Reinforced Concrete Pipe (Class 3) complete in place	\$112.00	\$28,680.00	\$135.56	\$35,923.40
5.	66	L.F.	42" Reinforced Concrete Pipe (Class 3) complete in place	\$120.00	\$7,920.00	\$124.58	\$8,222.28
6.	1173	L.F.	36" Reinforced Concrete Pipe (Class 3) complete in place	\$78.00	\$91,484.00	\$92.82	\$108,877.86
7.	190	L.F.	30" Reinforced Concrete Pipe (Class 3) complete in place	\$65.00	\$12,350.00	\$100.34	\$19,084.60
8.	1	Each	30" Reinforced Concrete Pipe Flared End Section	\$800.00	\$800.00	\$925.95	\$925.95
9.	25	L.F.	18" Reinforced Concrete Pipe (Class 3) complete in place	\$60.00	\$1,500.00	\$64.80	\$1,620.00
10.	1	Lump Sum	6' X 4' Reinforced Box Culvert complete in place	\$31,000.00	\$31,000.00	\$30,855.18	\$30,855.19
11.	1	Lump Sum	4' X 4' Reinforced Box Culvert (Pre-Cast or Cast-In-Place) complete in place	\$20,000.00	\$20,000.00	\$15,780.36	\$15,780.36
12.	2	Each	Junction Box, 4' Type E, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$3,000.00	\$6,000.00	\$3,345.61	\$6,691.22
13.	1	Lump Sum	Relocate 8" Water Line under 8' X 4' RC Box, complete in place	\$15,000.00	\$15,000.00	\$6,312.20	\$6,312.20
14.	1	Lump Sum	Relocate 12" Sanitary Sewer Line ("ForceMain"), complete in place	\$30,000.00	\$30,000.00	\$27,542.95	\$27,542.95
15.	5	Each	Inlet Box, 5' Type C, Reinforced Concrete (or equivalent Type MO), Pre-cast or Cast-In-Place, complete in place	\$3,000.00	\$15,000.00	\$3,166.85	\$15,834.25
15a.	1	Each	Inlet Box, 6' X 5' Type C, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$3,200.00	\$3,200.00	\$3,334.36	\$3,334.36
16.	1	Each	Inlet Box, 6' X 4' Type C, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$3,200.00	\$3,200.00	\$3,215.00	\$3,215.00
17.	2	Each	Inlet Box, 4' Type E, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$2,800.00	\$5,600.00	\$3,415.04	\$6,830.08
18.	2	Each	Inlet Box, 7' X 4' Type E, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$4,200.00	\$8,400.00	\$3,838.79	\$7,877.58
19.	1	Each	Inlet Box, 5' Type E, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$3,000.00	\$3,000.00	\$3,379.71	\$3,379.71
20.	8	L.F.	Curb Inlet Extensions, complete in place	\$125.00	\$1,000.00	\$183.42	\$1,467.36
21.	451	L.F.	Swale Construction, complete in place	\$8.00	\$3,608.00	\$29.52	\$13,313.52
22.	120	S.Y.	4" Concrete Channel Lining (for erosion control), complete in place	\$50.00	\$6,000.00	\$36.11	\$4,333.20
23.	2	Each	Trash Grate, complete in place	\$4,500.00	\$9,000.00	\$1,294.80	\$2,589.60
24.	225	Ton	Asphalt for Street Repair, complete in place	\$58.00	\$13,050.00	\$27.50	\$6,187.50
25.	500	Ton	Aggregate Base Course (Class 7), complete in place	\$16.00	\$8,000.00	\$23.99	\$11,995.00
26.	200	L.F.	Curb and Gutter, complete in place	\$17.00	\$3,400.00	\$21.10	\$4,220.00

Company: Arkansas L.L.C. No.:			Forsgren, Inc. 0038900404			Mobley Contractors, Inc. 0003660904		
Address:			PO Box 368			PO Box 160		
City, State:			Fort Smith, AR 72902			Morrilton, AR 72110		
Item	Quantity	Unit	Description	Unit Price	Total Amount	Unit Price	Total Amount	Total Amount
27.	3	Each	Reinstate Individual 4" Sanitary Sewer Service, complete in place	\$520.00	\$1,560.00	\$1,780.67	\$5,342.01	
28.	1.2	Acres	Seeding, complete in place	\$1,100.00	\$1,320.00	\$3,300.00	\$3,960.00	
29.	1	Lump Sum	Maintenance of Traffic, complete in place	\$33,000.00	\$33,000.00	\$62,140.63	\$62,140.63	
30.	1	Lump Sum	Trench or Excavation Safety System, complete in place	\$1.00	\$1.00	\$2,050.00	\$2,050.00	
31.	52	L.F.	Root Pruning of Existing Trees, complete in place	\$135.00	\$7,020.00	\$7.92	\$411.84	
32.	250	L.F.	Remove and Reconstruct Existing Fence, complete in place	\$13.00	\$3,250.00	\$17.05	\$4,282.50	
TOTAL SCHEDULE A					\$441,673.00		\$636,907.97	\$0.00
SCHEDULE B - CLEVELAND-SANG AREA								
1.	1	Lump Sum	Site Preparation complete in place	\$16,000.00	\$16,000.00	\$2,280.00	\$2,280.00	
2.	550	L.F.	36" Reinforced Concrete Pipe (Class 3) complete in place	\$105.00	\$57,750.00	\$68.75	\$36,712.50	
3.	424	L.F.	24" Reinforced Concrete Pipe (Class 3) complete in place	\$52.00	\$22,048.00	\$43.11	\$18,278.04	
4.	110	L.F.	18" Reinforced Concrete Pipe (Class 3) complete in place	\$80.00	\$8,800.00	\$32.28	\$3,550.80	
5.	630	L.F.	Ditch 1 Sod Swale with 2' Bottom (Sta. 0+00 to Sta. 6+30), complete in place	\$17.00	\$10,710.00	\$12.70	\$8,001.00	
6.	6	Each	4" Type C Inlet Box (or equivalent Type MO), Pre-Cast or Cast-In-Place complete in place	\$2,800.00	\$16,800.00	\$2,537.67	\$15,225.42	
7.	24	L.F.	Curb Inlet Extensions, complete in place	\$125.00	\$3,000.00	\$114.60	\$2,750.40	
8.	3	Each	Curb Inlet Neenah Type L Grate #R3578 (or equivalent) for Combination Inlet complete in place	\$4,000.00	\$12,000.00	\$955.01	\$2,885.03	
9.	1	Lump Sum	4" Type E Junction Box (or equivalent Type MO), Pre-Cast or Cast-In-Place complete in place	\$2,800.00	\$2,800.00	\$2,441.60	\$2,441.60	
10.	1	Each	38" Reinforced Concrete Pipe Flared End Section	\$1,200.00	\$1,200.00	\$986.61	\$986.61	
11.	45	Ton	Asphalt Street Repair, complete in place	\$56.00	\$2,520.00	\$25.00	\$1,125.00	
12.	900	Ton	Aggregate Base Course (Class 7), complete in place	\$16.00	\$14,400.00	\$19.61	\$17,849.00	
13.	500	L.F.	Curb and Gutter, complete in place	\$12.00	\$6,000.00	\$13.75	\$6,875.00	
14.	1	Each	Relocate Existing 6" Water Line (only if directed by Engineer)	\$5,000.00	\$5,000.00	\$4,970.65	\$4,970.65	
15.	1	Each	Relocate Existing 8" Water Line (only if directed by Engineer)	\$8,000.00	\$8,000.00	\$5,144.16	\$5,144.16	
16.	3	Each	Reinstate Individual 4" Sanitary Sewer Service, complete in place	\$520.00	\$1,560.00	\$1,286.09	\$3,798.27	
17.	3	Each	Reinstate Individual 1" Service, complete in place	\$670.00	\$1,710.00	\$549.89	\$1,649.67	
18.	0.2	Acres	Seeding, complete in place	\$1,100.00	\$220.00	\$4,500.00	\$900.00	
19.	10	L.F.	Reconstruct Sidewalk, complete in place	\$52.00	\$520.00	\$55.39	\$553.80	
20.	550	L.F.	Reconstruct Existing Fence, complete in place	\$13.00	\$7,150.00	\$9.50	\$5,225.00	
21.	1	Lump Sum	Maintenance of Traffic, complete in place	\$14,000.00	\$14,000.00	\$4,895.63	\$4,895.63	
22.	1	Lump Sum	Trench or Excavation Safety System, complete in place	\$1.00	\$1.00	\$1,220.00	\$1,220.00	
TOTAL SCHEDULE B					\$211,189.00		\$147,078.28	\$0.00
DEDUCTIVE ALTERNATE NO. 1								
424	L.F.	24" Reinforced Concrete Pipe (Class 3) complete in place	\$48.00	\$20,352.00	\$43.11	\$18,278.04		
30	L.F.	18" Reinforced Concrete Pipe (Class 3) complete in place	\$70.00	\$2,100.00	\$32.28	\$968.40		
3	Each	4" Type C Inlet Box (or equivalent Type MO), Pre-Cast or Cast-In-Place	\$2,200.00	\$6,600.00	\$2,537.67	\$7,612.71		
12	L.F.	Curb Inlet Extensions, complete in place	\$85.00	\$1,020.00	\$114.60	\$1,375.20		
3	Each	Curb Inlet Neenah Type L Grate #R3578 (or equivalent) for Combination Inlet	\$3,500.00	\$10,500.00	\$955.01	\$2,885.03		
35	Ton	Asphalt Street Repair, complete in place	\$48.00	\$1,680.00	\$25.00	\$875.00		
625	Ton	Aggregate Base Course (Class 7), complete in place	\$14.00	\$8,750.00	\$19.61	\$12,256.25		
500	L.F.	Curb and Gutter, complete in place	\$10.00	\$5,000.00	\$13.75	\$6,875.00		
1	Each	Relocate Existing 6" Water Line (only if directed by Engineer)	\$4,500.00	\$4,500.00	\$4,970.65	\$4,970.65		
10	L.F.	Remove and Reconstruct Sidewalk, complete in place	\$45.00	\$450.00	\$55.39	\$553.90		

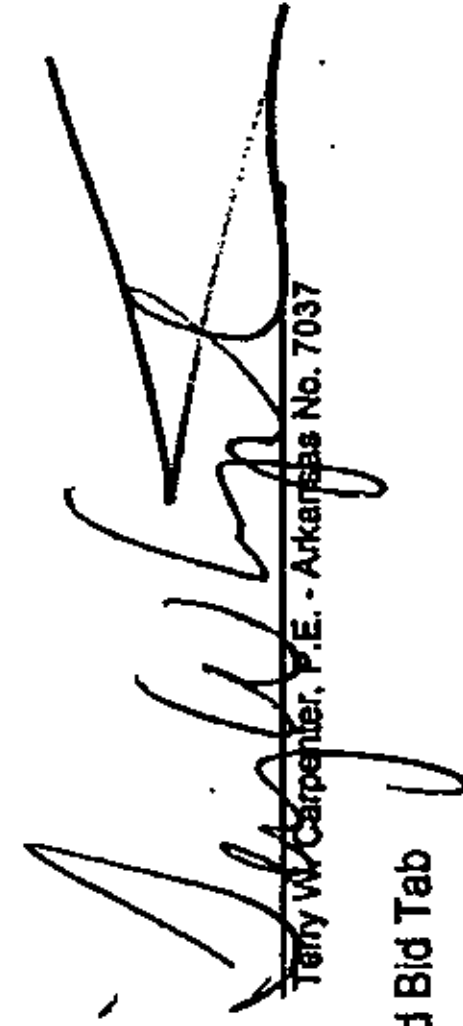
Company: Arkansas License No.: Address: City, State:			Forsgren, Inc. 0036900404 PO Box 366 Fort Smith, AR 72902			Mobley Contractors, Inc. 0003660804 PO Box 150 Morrilton, AR 72110		
Item No.	Quantity	Unit		Unit Price	Total Amount	Unit Price	Total Amount	
	1	Lump Sum	Site Preparation (partial), complete in place	\$4,000.00	\$4,000.00	\$2,280.00	\$2,280.00	
	1	Lump Sum	Maintenance of Traffic (partial), complete in place	\$3,500.00	\$3,500.00	\$4,895.83	\$4,895.83	
	1	Lump Sum	Trench or Excavation Safety System (partial), complete in place	\$0.50	\$0.50	\$1,220.00	\$1,220.00	
Total Deductive Alternate No. 1					\$8,452.50		\$85,026.41	\$0.00
DEDUCTIVE ALTERNATE NO. 3 ITEMS								
190		L.F.	30" Reinforced Concrete Pipe (Class 3), complete in place	\$53.00	\$10,070.00	\$100.34	\$19,084.80	
1		Each	30" Reinforced Concrete Pipe Flared End Section, complete in place	\$650.00	\$650.00	\$925.95	\$925.95	
1		Each	Junction Box, 4' Type E, Reinforced Concrete (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$2,400.00	\$2,400.00	\$3,345.61	\$3,345.61	
0.5		Acres	Seeding, complete in place	\$950.00	\$475.00	\$3,300.00	\$1,650.00	
581		L.F.	36" Reinforced Concrete Pipe (Class 3), complete in place	\$68.00	\$39,508.00	\$92.82	\$53,928.42	
1		Each	7' X 4' Type E Inlet (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$3,600.00	\$3,600.00	\$3,938.79	\$3,938.79	
1		Each	4' X 4' Type E Inlet (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$2,400.00	\$2,400.00	\$3,415.04	\$3,415.04	
1		Each	4' X 4' Type E Junction Box (or equivalent Type MO), Pre-Cast or Cast-In-Place, complete in place	\$2,400.00	\$2,400.00	\$3,415.04	\$3,415.04	
1		Each	Trash Grate, complete in place	\$3,800.00	\$3,800.00	\$1,294.80	\$1,294.80	
118		L.F.	Swale Construction	\$6.00	\$708.00	\$29.52	\$3,483.36	
1		Lump Sum	Site Preparation (partial), complete in place	\$4,000.00	\$4,000.00	\$2,000.00	\$2,000.00	
Total Deductive Alternate No. 3					\$70,011.00		\$98,461.61	\$0.00

TOTAL BID, SCHEDULES A AND B				\$682,762.00		\$682,986.25		\$0.00
Deductive Alternate No. 1 - Line 5 Station 0+00 to 4+54				\$68,452.50		\$65,026.41		\$0.00
TOTAL BID ACCEPTING DEDUCTIVE ALTERNATE NO. 1				\$584,309.50		\$617,959.84		\$0.00
Deductive Alternate No. 2 - Schedule B in its entirety				\$211,189.00		\$147,076.28		\$0.00
TOTAL BID ACCEPTING DEDUCTIVE ALTERNATE NO. 2				\$441,573.00		\$535,907.97		\$0.00
Deductive Alternate No. 3 - Line 2 Station 0+00 to Station 2+07 and Line 1 Station 12+98 to Station 19+97				\$70,011.00		\$96,461.61		\$0.00
TOTAL BID ACCEPTING DEDUCTIVE ALTERNATE NOS. 2 AND 3				\$371,562.00		\$439,446.36		\$0.00

*Amount corrected by Engineer

USI-Arkansas, Inc.
 Consulting Engineers
 4710 South Thompson, Suite 102
 Springdale, AR 72764

Certified Correct:


 Terry W. Carpenter, P.E. - Arkansas No. 7037

030923 Certified Bid Tab

**City of Fayetteville, Arkansas
Budget Adjustment Form**

C. 1
Forsgren, Inc. Construction Contract
Page 11 of 12

Budget Year 2004	Department: Community Planning/Engineering Division: Engineering Program: Operations & Administration	Date Requested 4/30/2004	Adjustment Number
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Project or Item Requested:
\$414,541 is requested in the Drainage Improvements for the Holly/Vista and Cleveland/Sang Areas.

Project or Item Deleted:
Funding from the Other Drainage Improvements capital fund and from Drainage Study/Phase II Stormwater Management that has remaining funds.

Justification of this Increase:
The funding is needed to cover the construction cost, right-of-way acquisition and contingency of the project.

Justification of this Decrease:
There are no anticipated cost shares or other drainage projects at this time, there are sufficient funds in 02097 to accomplish 2004 objectives.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Bridge & drainage improve	4470	9470	5817	00	414,541	02023	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Bridge & drainage improve	4470	9470	5817	00	231,062	02108	1
Bridge & drainage improve	4470	9470	5817	00	183,479	02097	1

Approval Signatures

Requested By	Date
	5-6-04
Budget Manager	Date
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Date of Approval

Initial	Date
Posted to General Ledger	Date
Posted to Project Accounting	Date
Entered in Category Log	Date

STAFF REVIEW FORM - FINANCIAL OBLIGATION

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council Meeting of: May 18, 2004

FROM:

<u>Gary Coover</u>	<u>Engineering</u>	<u>Community Planning & Engineering</u>
Name	Division	Department

ACTION REQUIRED: Award a construction contract to Forsgren, Inc., in the amount of \$652,762.00 and approve \$97,000 for project contingency for Bid No. 04-35, Construction of Drainage Improvements for the Holly/Vista and Cleveland/Sang Areas. Also to approve the attached budget adjustment in the amount of \$374,540.80 which will also cover the project contingency and right-of-way acquisition costs.

COST TO CITY:

<u>\$749,762.00</u>	<u>\$ 486,077.00</u>	<u>Holly & Vista Dr. Drainage Impr.</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>4470-9470-5817.00</u>	<u>\$ 75,855.80</u>	<u>Bridge/Drainage</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>02023</u>	<u>\$ 410,221.20</u>	<u>Sales Tax</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ☒ Budgeted Item ☒ Budget Adjustment Attached

[Signature] 4/30/04
Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

<u>[Signature]</u> <u>4/30/04</u>	<u>Internal Auditor</u> <u> </u>
Accounting Manager Date	Date
<u>[Signature]</u> <u>4/30/04</u>	<u>Purchasing Manager</u> <u> </u>
City Attorney Date	Date

STAFF RECOMMENDATION:

<u>[Signature]</u> <u>4-30-04</u>	<u>Received in Mayor's Office</u> <u>5/3/04</u>
Division Head Date	Date
<u>[Signature]</u> <u>4-30-04</u>	<u>Cross Reference:</u>
Department Director Date	
<u>[Signature]</u> <u>5-3-04</u>	<u>Previous Ord/Res#:</u>
Finance & Internal Services Dir. Date	
<u>[Signature]</u> <u>5-3-04</u>	<u>Orig. Contract Date:</u>
Chief Administrative Officer Date	
<u>[Signature]</u> <u>5/4/04</u>	<u>Orig. Contract Number:</u>
Mayor Date	

5/3/04
Date P.H.

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Tim Conklin, Community Planning and Engineering Services Director

Date: April 23, 2004

Subject: 1. Approval of a resolution awarding the construction contract in the amount of \$753,553.04 with Mobley Contractors, Inc. for the construction of Old Missouri Road, North & South Sections 2. Approval of a project contingency in the amount of \$133,032.96 which includes \$113,032.96 (15%) for unforeseen project expenditures and variations in final quantities; and \$20,000 for materials testing, in-house management & inspection.

RECOMMENDATION

Staff recommends approval of the resolution awarding the contract to Mobley Contractors, Inc. in the amount of \$753,553.04 and establishing a project contingency of \$133,032.96.

BACKGROUND

This road improvement project is the combination of two separate 2003 CIP projects: Old Missouri Road from Joyce Boulevard to Mud Creek Bridge, and Old Missouri Road from Rolling Hills to Old Wire Road.

Conceptual design plans were presented to the Street Committee on October 28, 2003. Four options were shown for the North Section (Joyce Blvd to Mud Creek Bridge). The Street Committee chose Option #1 for the North Section, and also accepted the proposed conceptual plan for the South Section.

The first section of Old Missouri Road from Stubblefield Road to Rolling Hills has been under construction and was recently opened to traffic on Friday, April 16, 2004. Mobley Contractors, Inc. was also awarded that construction contract.

DISCUSSION

The contract bids were opened on April 21, 2004. The project engineer has reviewed the bids and recommends awarding the contract to the low bidder, Mobley Contractors, Inc., in the amount of \$753,553.04 (see the attached bid tabulation sheet). The estimated total project costs including the project contingency for unforeseen project expenditures are as follows:

Contractor Bid Amount	\$ 753,553.04
Materials Testing	\$ 5,000.00
In-house Management & Inspection	\$ 15,000.00
15% Contingency	<u>\$ 113,032.96</u>
TOTAL	\$ 886,586.00

BUDGET IMPACT

Funds of \$1,330,000 are available as this project was budgeted as part of the 2003 Capital Improvement Program. It should be noted that approximately \$50,000 of this budget will be used by the Transportation Division to purchase new traffic signal equipment to upgrade the existing signalization at the intersection of Old Missouri Road and Joyce Boulevard.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONSTRUCTION CONTRACT WITH MOBERLY CONTRACTORS, INC. IN THE AMOUNT OF \$753,553.04 WITH A PROJECT CONTINGENCY OF \$133,032.96 FOR A TOTAL OF \$886,586.00 FOR THE RECONSTRUCTION OF OLD MISSOURI ROAD FROM JOYCE BOULEVARD TO THE MUD CREEK BRIDGE AND FROM ROLLING HILLS TO OLD WIRE ROAD

WHEREAS, the City Council Street Committee has approved the conceptual design for the improvement of Old Missouri Road to connect the recently improved section to Joyce Boulevard and to Old Wire Road; and

WHEREAS, Moberly Construction, Inc. was the low bidder for these construction projects.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the contract attached as Exhibit A which authorizes \$753,553.04, plus a contingency of \$133,032.96 for a total of \$886,586.00 to Moberly Construction, Inc. for the reconstruction and improvement of Old Missouri Road from Joyce Boulevard to the Mud Creek Bridge and from Rolling Hills Drive to Old Wire Road.

PASSED and APPROVED this the 18th day of May, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
SONDRA SMITH, City Clerk

**Old Missouri Road Improvements
North and South Sections**

Bid Opening, April 21, 2004 @ 2:00pm

Item No.	Description	Unit	Estimated Quantity	Mobley Contractors, Inc.		Forstgren, Inc.		Median Value		City of Fayetteville	
				Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
N1	Mobilization	LS	1	\$32,153.51	\$32,153.51	\$25,000.00	\$25,000.00	\$28,576.76	\$28,576.76	\$10,000.00	\$10,000.00
N2	Construction Staking	LS	1	\$7,426.56	\$7,426.56	\$11,180.00	\$11,180.00	\$9,303.28	\$9,303.28	\$8,000.00	\$8,000.00
N3	Maintenance of Traffic	LS	1	\$17,716.02	\$17,716.02	\$35,000.00	\$35,000.00	\$26,358.01	\$26,358.01	\$15,000.00	\$15,000.00
N4	Tree Protection Fencing	LF	400	\$3.03	\$1,212.00	\$4.10	\$1,640.00	\$3.57	\$1,426.00	\$5.00	\$2,000.00
N5	Excavation Safety	LS	1	\$325.00	\$325.00	\$2,730.00	\$2,730.00	\$1,627.50	\$1,627.50	\$2,500.00	\$2,500.00
N6	Cleaning and Grubbing	AC	0.35	\$8,946.43	\$3,131.25	\$18,900.00	\$6,615.00	\$13,923.22	\$4,873.13	\$6,000.00	\$2,100.00
N7	Cold Milling Asphalt & Concrete Pavement	SY	2,400	\$3.58	\$8,592.00	\$3.45	\$8,280.00	\$3.52	\$8,436.00	\$15.00	\$36,000.00
N8	Unclassified Excavation	CY	3,266	\$16.45	\$53,725.70	\$15.80	\$51,602.80	\$16.13	\$52,664.25	\$15.00	\$48,990.00
N9	Compacted Subgrade-Select Hillside Material (Borrow)	CY	2,300	\$16.30	\$37,490.00	\$17.80	\$40,940.00	\$17.05	\$39,215.00	\$20.00	\$46,000.00
N10	Borrow (Unclassified Fill)	CY	200	\$13.66	\$2,732.00	\$39.90	\$7,980.00	\$26.78	\$5,356.00	\$20.00	\$4,000.00
N11	Undercut and Backfill	CY	500	\$19.16	\$9,580.00	\$31.90	\$15,950.00	\$25.53	\$12,765.00	\$25.00	\$12,500.00
N12	6" Aggregate Base Course (Class 7)	TN	1,300	\$18.62	\$24,206.00	\$37.60	\$48,880.00	\$28.11	\$36,543.00	\$20.00	\$26,000.00
N13	Concrete Curb and Gutter	LF	3,000	\$9.76	\$29,280.00	\$8.35	\$25,050.00	\$9.06	\$27,165.00	\$12.00	\$36,000.00
N14	ACHM Binder Course (Type 2)	TN	1,000	\$40.65	\$40,650.00	\$40.60	\$40,600.00	\$40.63	\$40,625.00	\$60.00	\$60,000.00
N15	2" ACHM Surface Course (Type 2)	TN	800	\$43.98	\$35,184.00	\$41.70	\$33,360.00	\$42.84	\$34,272.00	\$60.00	\$48,000.00
N16	18-inch Reinforced Concrete Pipe (RCP)	LF	200	\$70.95	\$14,190.00	\$79.80	\$15,960.00	\$75.38	\$15,075.00	\$50.00	\$10,000.00
N17	24-inch Reinforced Concrete Pipe (RCP)	LF	650	\$46.35	\$30,127.50	\$48.20	\$31,330.00	\$47.28	\$30,728.75	\$60.00	\$39,000.00
N18	Drop Inlet (Type 'C' 4'x4' or 'MO' 4' Dia.)	EA	10	\$3,236.15	\$32,361.50	\$2,150.00	\$21,500.00	\$2,693.08	\$26,930.75	\$3,000.00	\$30,000.00
N19	Drop Inlet Extension (4')	EA	4	\$726.51	\$2,906.04	\$615.00	\$2,460.00	\$670.76	\$2,683.02	\$600.00	\$2,400.00
N20	Drop Inlet Extension (8')	EA	8	\$791.99	\$6,335.92	\$821.00	\$6,568.00	\$806.50	\$6,451.96	\$1,000.00	\$8,000.00
N21	Junction Box (4'x4')	EA	1	\$3,746.31	\$3,746.31	\$3,230.00	\$3,230.00	\$3,488.16	\$3,488.16	\$3,000.00	\$3,000.00
N22	Concrete Trail (4") w/ Agg. Base (4")	SY	1,150	\$30.77	\$35,385.50	\$32.60	\$37,490.00	\$31.59	\$36,437.75	\$40.00	\$46,000.00
N23	Concrete Driveway (6") w/ Agg. Base (6")	SY	150	\$48.81	\$7,321.50	\$52.90	\$7,935.00	\$50.86	\$7,628.25	\$50.00	\$7,500.00
N24	Concrete Access Ramp (4") w/ Agg. Base (4")	SY	10	\$99.08	\$990.80	\$32.50	\$325.00	\$65.79	\$657.90	\$60.00	\$600.00
N25	Detectable Warning Surfaces	SF	120	\$58.30	\$6,996.00	\$57.80	\$6,936.00	\$58.05	\$6,966.00	\$50.00	\$6,000.00
N26	Seeding and Mulching	AC	1.00	\$3,300.00	\$3,300.00	\$1,700.00	\$1,700.00	\$2,500.00	\$2,500.00	\$4,000.00	\$4,000.00
N27	Solid Sodding	SY	200	\$3.85	\$770.00	\$4.80	\$960.00	\$4.33	\$865.00	\$5.00	\$1,000.00
N28	Imported Top Soil	CY	300	\$27.47	\$8,241.00	\$15.00	\$4,500.00	\$21.24	\$6,370.50	\$25.00	\$7,500.00
N29	Baled Straw Ditch Check (E-1)	EA	25	\$31.07	\$776.75	\$90.60	\$2,265.00	\$60.84	\$1,520.88	\$15.00	\$375.00
N30	Baled Straw Filter Barrier (E-2)	EA	50	\$31.07	\$1,553.50	\$47.70	\$2,385.00	\$39.39	\$1,969.25	\$15.00	\$750.00
N31	Silt Fence (E-3)	LF	400	\$3.42	\$1,368.00	\$4.55	\$1,820.00	\$3.99	\$1,594.00	\$5.00	\$2,000.00
N32	Drop Inlet Silt Fence (E-6)	EA	11	\$141.95	\$1,561.45	\$215.00	\$2,365.00	\$178.48	\$1,963.23	\$100.00	\$1,100.00
N33	Thermoplastic Pavement Marking White or Yellow (6")	LF	6,400	\$0.55	\$3,520.00	\$0.55	\$3,520.00	\$0.55	\$3,520.00	\$1.00	\$6,400.00
N34	Thermoplastic Pavement Marking Yellow (12" Diagonal)	LF	300	\$6.60	\$1,980.00	\$6.55	\$1,965.00	\$6.58	\$1,972.50	\$10.00	\$3,000.00
N35	Thermoplastic Pavement Marking White (18")	LF	760	\$8.80	\$6,688.00	\$8.75	\$6,650.00	\$8.78	\$6,669.00	\$8.00	\$6,080.00
N36	Thermoplastic Pavement Marking White (24")	LF	150	\$11.00	\$1,650.00	\$10.90	\$1,635.00	\$10.95	\$1,642.50	\$12.00	\$1,800.00
N37	Thermoplastic Pavement Marking (Arrows)	EA	14	\$165.00	\$2,310.00	\$164.00	\$2,296.00	\$164.50	\$2,303.00	\$300.00	\$4,200.00
N38	Standard Signs	SF	6.25	\$38.50	\$240.63	\$32.70	\$204.38	\$35.60	\$222.50	\$40.00	\$250.00
N39	Slurry Seal	SY	3,000.00	\$1.50	\$4,500.00	\$2.45	\$7,350.00	\$1.98	\$5,925.00	\$3.00	\$9,000.00
North Section - Construction Cost					\$482,424.44		\$528,157.18		\$505,290.81		\$557,045.00

Bld Opening, April 21, 2004 @ 2:00pm

Page 6 of 20

Section 00500

AGREEMENT

BETWEEN CITY OF FAYETTEVILLE AND CONTRACTOR

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2004 by and between the *City of Fayetteville*, Arkansas and *Mobley Contractors, Inc.* (hereinafter called MOBLEY).

CITY OF FAYETTEVILLE and MOBLEY, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

MOBLEY shall complete all Work as specified or indicated in the Contract Documents.

The work generally consists of the construction of approximately 2,800 L.F. of 37' and 28' wide street with curb & gutter. The construction work will involve aggregate base, asphalt binder, and asphalt surfacing with associated earthwork, storm sewer, drainage structures, sidewalks, pavement markings, and all items indicated in the Drawings and Specifications.

Article 2. ENGINEER.

The Project has been designed by

City of Fayetteville Engineering Dept.
113 W. Mountain
Fayetteville, Arkansas 72701

who is hereinafter called ENGINEER and who is to act as CITY OF FAYETTEVILLE's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

Article 3. CONTRACT TIME.

3.1. The Work shall be substantially completed within 180 consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B & C of the General Conditions within 210 consecutive calendar days after the date when the Contract Time commences to run.

3.2. *Liquidated Damages.* CITY OF FAYETTEVILLE and MOBLEY recognize that time is of the essence of the Agreement and that CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, CITY OF FAYETTEVILLE and MOBLEY agree that as liquidated damages for delay (but not as a penalty) MOBLEY shall pay CITY OF FAYETTEVILLE One thousand dollars (\$1,000.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if MOBLEY shall neglect, refuse or fail to complete the remaining Work within the time

specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY OF FAYETTEVILLE, MOBLEY shall pay CITY OF FAYETTEVILLE One thousand dollars (\$1,000.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

CITY OF FAYETTEVILLE shall pay MOBLEY for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

4.1. for all Work other than Unit Price Work, an amount equal to the sum of the established lump sums for each separately identified item of Lump Sum Work; and

4.2. for all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 4.2.

Old Missouri Road Improvements North & South Sections

PAY ITEMS

North Section of Old Missouri Road

Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
N1	Mobilization	LS	1	\$32,153.51	\$32,153.51
N2	Construction Staking	LS	1	\$7,426.56	\$7,426.56
N3	Maintenance of Traffic	LS	1	\$17,716.02	\$17,716.02
N4	Tree Protection Fencing	LF	400	\$3.03	\$1,212.00
N5	Excavation Safety	LS	1	\$525.00	\$525.00
N6	Clearing and Grubbing	AC	0.35	\$8,946.43	\$3,131.25
N7	Cold Milling Asphalt & Concrete Pavement	SY	2,400	\$3.58	\$8,592.00
N8	Unclassified Excavation	CY	3,266	\$16.45	\$53,725.70
N9	Compacted Subgrade-Select Hillside Material (Borrow)	CY	2,300	\$16.30	\$37,490.00
N10	Borrow (Unclassified Fill)	CY	200	\$13.66	\$2,732.00
N11	Undercut and Backfill	CY	500	\$19.16	\$9,580.00
N12	6" Aggregate Base Course (Class 7)	TN	1,300	\$18.62	\$24,206.00
N13	Concrete Curb and Gutter	LF	3,000	\$9.76	\$29,280.00
N14	ACHM Binder Course (Type 2)	TN	1,000	\$40.65	\$40,650.00
N15	2" ACHM Surface Course (Type 2)	TN	800	\$43.98	\$35,184.00
N16	18-inch Reinforced Concrete Pipe (RCP)	LF	200	\$70.95	\$14,190.00
N17	24-inch Reinforced Concrete Pipe (RCP)	LF	650	\$46.35	\$30,127.50
N18	Drop Inlet (Type 'C' 4'x4' or 'MO' 4' Dia.)	EA	10	\$3,236.15	\$32,361.50
N19	Drop Inlet Extension (4')	EA	4	\$726.51	\$2,906.04
N20	Drop Inlet Extension (8')	EA	8	\$791.99	\$6,335.92
N21	Junction Box (4'x4')	EA	1	\$3,746.31	\$3,746.31

N22	Concrete Trail (4") w/ Agg. Base (4")	SY	1,150	\$30.77	\$35,385.50
N23	Concrete Driveway (6") w/ Agg. Base (6")	SY	150	\$48.81	\$7,321.50
N24	Concrete Access Ramp (4") w/ Agg. Base (4")	SY	10	\$99.08	\$990.80
N25	Detectable Warning Surfaces	SF	120	\$58.30	\$6,996.00
N26	Seeding and Mulching	AC	1.00	\$3,300.00	\$3,300.00
N27	Solid Sodding	SY	200	\$3.85	\$770.00
N28	Imported Top Soil	CY	300	\$27.47	\$8,241.00
N29	Baled Straw Ditch Check (E-1)	EA	25	\$31.07	\$776.75
N30	Baled Straw Filter Barrier (E-2)	EA	50	\$31.07	\$1,553.50
N31	Silt Fence (E-3)	LF	400	\$3.42	\$1,368.00
N32	Drop Inlet Silt Fence (E-6)	EA	11	\$141.95	\$1,561.45
N33	Thermoplastic Pavement Marking White or Yellow (6")	LF	6,400	\$0.55	\$3,520.00
N34	Thermoplastic Pavement Marking Yellow (12" Diagonal)	LF	300	\$6.60	\$1,980.00
N35	Thermoplastic Pavement Marking White (18")	LF	760	\$8.80	\$6,688.00
N36	Thermoplastic Pavement Marking White (24")	LF	150	\$11.00	\$1,650.00
N37	Thermoplastic Pavement Marking (Arrows)	EA	14	\$165.00	\$2,310.00
N38	Standard Signs	SF	6.25	\$38.50	\$240.63
N39	Slurry Seal	SY	3,000	\$1.50	\$4,500.00
North Section - Construction Costs					\$487,424.41

South Section of Old Missouri Road

Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
S1	Mobilization	LS	1	\$19,697.73	\$19,697.73
S2	Construction Staking	LS	1	\$7,426.56	\$7,426.56
S3	Maintenance of Traffic	LS	1	\$9,028.52	\$9,028.52
S4	Demolition	LS	1	\$18,610.70	\$18,610.70
S5	Excavation Safety	LS	1	\$606.25	\$606.25
S6	Clearing and Grubbing	LS	1	\$7,100.00	\$7,100.00
S7	Cold Milling Asphalt & Concrete Pavement	SY	1,055	\$3.58	\$3,776.90
S8	Unclassified Excavation	CY	790	\$14.18	\$11,202.20
S9	Compacted Subgrade-Select Hillside Material (Borrow)	CY	650	\$16.88	\$10,972.00
S10	Borrow (Unclassified Fill)	CY	500	\$13.89	\$6,945.00
S11	Undercut and Backfill	CY	300	\$18.54	\$5,562.00
S12	6" Aggregate Base Course (Class 7)	TN	500	\$22.24	\$11,120.00
S13	Concrete Curb and Gutter	LF	2,150	\$8.92	\$19,178.00
S14	ACHM Binder Course (Type 2)	TN	380	\$40.65	\$15,447.00
S15	2" ACHM Surface Course (Type 2)	TN	455	\$43.98	\$20,010.90
S16	18-inch Reinforced Concrete Pipe (RCP)	LF	295	\$43.34	\$12,785.30
S17	24-inch Reinforced Concrete Pipe (RCP)	LF	4	\$231.94	\$927.76
S18	18-inch Flared End Section (FES) (RCP) w/ Curtain Wall	EA	2	\$656.91	\$1,313.82
S19	24-inch Flared End Section (FES) (RCP) w/ Curtain Wall	EA	1	\$1,333.15	\$1,333.15

S20	Drop Inlet (Type 'C' 4'x4' or 'MO' 4' Dia.)	EA	5	\$3,514.75	\$17,573.75
S21	Drop Inlet Extension (8')	EA	4	\$1,145.01	\$4,580.04
S22	Concrete Swale w/ 3' Flat Bottom, 2:1 side slopes, 1' deep	LF	140	\$32.28	\$4,519.20
S23	Adjust Water Valve to Finished Grade	EA	3	\$270.29	\$810.87
S24	Relocate Water Meter	EA	1	\$1,578.52	\$1,578.52
S25	Modular Block Retaining Wall (3 ft. max. height)	SF SA	150	\$37.50	\$5,625.00
S26	Concrete Sidewalk (4") w/ Agg. Base (4")	SY	470	\$32.04	\$15,058.80
S27	Concrete Access Ramp (4") w/ Agg. Base (4")	SY	20	\$94.72	\$1,894.40
S28	Detectable Warning Surfaces	SF	48	\$58.30	\$2,798.40
S29	Concrete Driveway (6") w/ Agg. Base (6")	SY	176	\$34.58	\$6,086.08
S30	Seeding and Mulching	AC	0.40	\$9,625.00	\$3,850.00
S31	Solid Sodding	SY	460	\$3.85	\$1,771.00
S32	Imported Top Soil	CY	260	\$25.30	\$6,578.00
S33	Baled Straw Ditch Check (E-1)	EA	40	\$29.32	\$1,172.80
S34	Silt Fence (E-3)	LF	310	\$2.98	\$923.80
S35	Drop Inlet Silt Fence (E-6)	EA	5	\$162.17	\$810.85
S36	Erosion Control Mat (Miramat TM8 or equal)	SF	200	\$7.98	\$1,596.00
S37	Thermoplastic Pavement Marking White or Yellow (6")	LF	3,910	\$0.55	\$2,150.50
S38	Thermoplastic Pavement Marking Yellow (12" Diagonal)	LF	220	\$6.60	\$1,452.00
S39	Thermoplastic Pavement Marking White (24")	LF	120	\$11.00	\$1,320.00
S40	Thermoplastic Pavement Marking (Arrows)	EA	6	\$165.00	\$990.00
S41	4" Schedule 40 PVC Conduit	LF	140	\$7.82	\$1,094.80
S42	Meter Loop/Pedestrian Sign Relocation	LS	1	\$3,850.00	\$3,850.00
South Section Construction Costs					\$271,128.60
Grand Total Construction Cost North Section + South Section					\$753,553.04

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

Article 5. PAYMENT PROCEDURES

MOBLEY shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

5.1. *Progress Payments.* CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of MOBLEY's Applications for Payment as recommended by ENGINEER, on or about the 1st day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below and SC-14.02. All such payments will be measured by the schedule of values established in paragraph 2.07 of the General Conditions and based on the number of units completed in the case of Unit Price Work or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in case, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

90 percent of Work completed (with the balance of 10 percent being retainage), If Work has been 50 percent completed as determined by the ENGINEER, and if the character and progress of the Work have been satisfactory to CITY OF FAYETTEVILLE and ENGINEER, CITY OF FAYETTEVILLE, on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

100 percent of materials and equipment not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to CITY OF FAYETTEVILLE as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions. That is, if any such items are setup for that type payment in the Specifications.

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to MOBLEY to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as ENGINEER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.3 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraphs 14.07.B & C.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce CITY OF FAYETTEVILLE to enter into this Agreement MOBLEY makes the following representations:

6.1. MOBLEY has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."

6.2. MOBLEY has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, or furnishing of the Work.

6.3. MOBLEY is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

6.4. MOBLEY has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. MOBLEY accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which MOBLEY is entitled to rely as provided in paragraph 4.02 of the General Conditions.

MOBLEY acknowledges that such reports and drawings are not Contract Documents and may not be complete for MOBLEY's purposes. MOBLEY acknowledges that CITY OF FAYETTEVILLE and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. MOBLEY has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by MOBLEY and safety precautions and programs incident thereto. MOBLEY does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5. MOBLEY is aware of the general nature of work to be performed by CITY OF FAYETTEVILLE and others at the site that relates to the Work as indicated in the Contract Documents.

6.6. MOBLEY has correlated the information known to MOBLEY, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

6.7. MOBLEY has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that MOBLEY has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to MOBLEY and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between CITY OF FAYETTEVILLE and MOBLEY concerning the Work consist of the following:

- 7.1. This Agreement (pages 1 to 8, inclusive).
- 7.2. Performance and Payment Bonds (Exhibits A and B respectively).
- 7.3. Certificates of Insurance (Exhibit C).
- 7.4. Documentation submitted by MOBLEY prior to Notice of Selection (Exhibit D).
- 7.5. General Conditions (pages 1 to 42, inclusive).
- 7.6. Supplementary Conditions (pages 1 to 12 inclusive).
- 7.9. Specifications consisting of Divisions 1 through 16 as listed in table of contents thereof.
- 7.10. Addenda number 1.
- 7.11. One set of drawings (not attached hereto) consisting of a cover sheet and additional sheets numbered 1 through 43 with each sheet bearing the following general title:
Old Missouri Road Improvements, North & South Sections

7.12. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

7.12.1. Notice to Proceed

7.12.2. All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 8. MISCELLANEOUS.

8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3. CITY OF FAYETTEVILLE and MOBLEY each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

8.5. Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.

8.6. **Freedom of Information Act.** CITY OF FAYETTEVILLE contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, MOBLEY will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7. This contract must be interpreted under Arkansas Law.

APR-28-2004 WED 03:28 PM MOBLEY CONTRACTORS

FAX NO. 479 872 2285

P. 01 C. 2

64/28/2004 16:03 479-575-8282

ENGINEERING C.O.F.

Mobley Contractors, Inc. Construction Contract
PAGE 1 Page 13 of 20

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and MOBLEY have signed this Agreement in quadruplicate. One counterpart each has been delivered to CITY OF FAYETTEVILLE and ENGINEER, and two counterparts have been delivered to MOBLEY. All portions of the Contract Documents have been signed, initialed, or identified by CITY OF FAYETTEVILLE and MOBLEY or identified by ENGINEER on their behalf.

This Agreement will be effective on _____, 2004 (which is the Effective Date of the Agreement).

OWNER: City of Fayetteville

CONTRACTOR: Mobley Contractors, Inc.

By: _____
Mayor Dan Coody

By: R. F. Mobley, Jr.
Ron F. Mobley, Jr.
Vice President
Title

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

* Attest _____

* If a Corporation, attest by the Secretary.

Address for giving notices

Address for giving notices

(If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

License No. _____

Agent for service of process:

(If CONTRACTOR is a corporation, attach evidence of authority to sign)

Old Missouri Road Improvements, North & South Sections
City of Fayetteville
Engineering Division

RECEIVED
APR 28 2004

April 26, 2004
Page 00500-8

Lucy

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and MOBLEY have signed this Agreement in quadruplicate. One counterpart each has been delivered to CITY OF FAYETTEVILLE and ENGINEER, and two counterparts have been delivered to MOBLEY. All portions of the Contract Documents have been signed, initialed, or identified by CITY OF FAYETTEVILLE and MOBLEY or identified by ENGINEER on their behalf.

This Agreement will be effective on _____, 2004 (which is the Effective Date of the Agreement).

OWNER: City of Fayetteville

CONTRACTOR: Mobley Contractors, Inc.

By: _____
Mayor Dan Coody

By: _____
Ron F. Mobley, Jr.

Vice President
Title

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

* Attest _____

* If a Corporation, attest by the Secretary.

Address for giving notices

Address for giving notices

(If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

License No. _____

Agent for service of process:

(If CONTRACTOR is a corporation, attach evidence of authority to sign)

City Of Fayetteville

(Not a Purchase Order)

Vendor #: 2570		Vendor Name: Mobley Contractors, Inc.		Requisition No.:		Date: 4/26/2004			
Address: 705 Hatcher Road		Job Point:		P.O. Number:		Expected Delivery Date:			
City: Springdale		Zip Code: 72764-8464		Mail Yes: ☐ No: ☒		Quotas Attached Yes: ☐ No: ☐			
Requester: Paul Liberti		Ship to code: 90		Division Head Approval:					
		Requester's Employee #: 1516		Extension: 419					
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Construction Contract for Old Missouri Road Improvements, North & South Sections, Bld #04-30	1			\$753,553.04	4470.9470.5809.00	03007.20		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
Shipping/Handling			Lot		\$0.00				
Special Instructions:									
Return PQ to Engineering									
Subtotal:						\$753,553.04			
Tax:						\$0.00			
Total:						\$753,553.04			

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

CITY OF FAYETTEVILLE

**OLD MISSOURI ROAD IMPROVEMENTS
NORTH & SOUTH SECTIONS**

BID # 04-30

ADDENDUM #1

This Addendum #1 makes changes to the Bidding Requirements and Specifications. This Addendum #1 consists of Pages AD1-1 thru AD1-2. Should there be any conflicts between the previous Plans and/or Specifications and this addendum, this addendum supersedes those documents.

CHANGES TO THE BIDDING REQUIREMENTS:

Section 00300 – BID FORM

Page 00300-6, Insert Additional Bid Item N39, as follows, and include the cost in the subtotal for the "NORTH SECTION" BASE BID:

N39	3,000	Sq Yd	Slurry Seal			
				dollars	(\$ _____)/SY	\$ _____
				amount written in words	in figures	in figures

CHANGES TO THE SPECIFICATIONS:

Section 01025 - MEASUREMENT AND PAYMENT

Page 01025-15, Add the following paragraph:

00. Slurry Seal (Pay Item N39)

1. Description - Furnish and install slurry seal over the existing pavement of Old Missouri Road which is currently outside the project limits. It is intended to seal the remaining existing asphalt surface on Old Missouri Road which is not scheduled for any improvements. Slurry seal shall comply with AHTD Standard Specifications for Highway Construction, Section 418, Slurry Seal (2003 Edition).
2. Incidental Items - Mineral aggregate, mineral filler, asphalt emulsion, tack coat (if used), field control additives; designing the mixture (including trial mixtures required); performing quality control and acceptance sampling & testing; preparation of the surface; heating, mixing, hauling, placing, and finishing; and for all labor, equipment, tools, materials, and incidentals necessary to complete the work.
3. Related Items - None.
4. Units and Measurement - Payment shall be at the unit price per square yard of slurry seal furnished, installed, and accepted by the Engineer.
5. Partial Payment Provisions - None.

END OF ADDENDUM #1

The Bidder shall acknowledge receipt of the Addendum by return fax, as well as, by submitting a signed copy with his Proposal and acknowledging receipt on Page 00300-1 of the Bid Form.

Acknowledged by: _____

Notes:

1. This addendum becomes a part of the bidding documents.
2. Revised Page 00300-6 and Page 01025-15 are included for your convenience.

Item No.	Estimated Quantity	Unit	Description of Item and Unit Price Bid	Total Amount
N32	11	Each	Drop Inlet Silt Fence (E-6)	
			dollars (\$ _____)/EA	\$ _____
amount written in words			in figures	in figures
N33	6,400	Lin Ft	Thermoplastic Pavement Marking White or Yellow (6")	
			dollars (\$ _____)/LF	\$ _____
amount written in words			in figures	in figures
N34	300	Lin Ft	Thermoplastic Pavement Marking Yellow (12" Diagonal)	
			dollars (\$ _____)/LF	\$ _____
amount written in words			in figures	in figures
N35	760	Lin Ft	Thermoplastic Pavement Marking White (18")	
			dollars (\$ _____)/LF	\$ _____
amount written in words			in figures	in figures
N36	150	Lin Ft	Thermoplastic Pavement Marking White (24")	
			dollars (\$ _____)/LF	\$ _____
amount written in words			in figures	in figures
N37	14	Each	Thermoplastic Pavement Marking (Arrows)	
			dollars (\$ _____)/EA	\$ _____
amount written in words			in figures	in figures
N38	6.25	Sq Ft	Standard Signs	
			dollars (\$ _____)/SF	\$ _____
amount written in words			in figures	in figures
N39	3,000	Sq Yd	Slurry Seal	
			dollars (\$ _____)/SY	\$ _____
amount written in words			in figures	in figures

"NORTH SECTION" BASE BID..... \$ _____

NN. Meter Loop/Pedestrian Sign Relocation (Pay Item S42)

1. Description - Furnish and install all necessary equipment & materials to place existing overhead electrical service underground, relocate existing ground mounted meter loop, and relocate existing pedestrian sign & warning light, as indicated on the Drawings.
2. Incidental Items - Circuit breakers, electrical permits, coordination with local Utility, steel conduit, conduit fittings, wiring, ground rod, testing, removal of existing utility pole, and all equipment, materials, tools, labor, and any other item required to complete the work.
3. Related Items - PVC conduit shall be paid for under a separate pay item..
4. Units and Measurement - Payment shall be at the unit price per each Meter Loop/Pedestrian Sign relocated, installed, tested, and accepted by the Engineer.
5. Partial Payment Provisions - None.

OO. Slurry Seal (Pay Item N39)

1. Description - Furnish and install slurry seal over the existing pavement of Old Missouri Road which is currently outside the project limits. It is intended to seal the remaining existing asphalt surface on Old Missouri Road which is not scheduled for any improvements. Slurry seal shall comply with AHTD Standard Specifications for Highway Construction, Section 418, Slurry Seal (2003 Edition).
2. Incidental Items - Mineral aggregate, mineral filler, asphalt emulsion, tack coat (if used), field control additives; designing the mixture (including trial mixtures required); performing quality control and acceptance sampling & testing; preparation of the surface; heating, mixing, hauling, placing, and finishing; and for all labor, equipment, tools, materials, and incidentals necessary to complete the work.
3. Related Items - None.
4. Units and Measurement - Payment shall be at the unit price per square yard of slurry seal furnished, installed, and accepted by the Engineer.
5. Partial Payment Provisions - None.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

Not Used

End of Section 01025

ENTERED
4-26-04
RW

BELL COW, INC.

*P.O. Box 9741
Fayetteville, AR 72703
(479) 283-3408*

RECEIVED

APR 27 2004

**CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE**

Sandra Smith
Fayetteville City Clerk
113 W Mountain
Fayetteville, AR 72701

April 27, 2004

RE: Hwy 62 Rezoning Appeal

We respectfully appeal the planning commissions April 26th, 2004 decision to deny our rezoning request for our property located at Hwy 62 and Hanshew Rd.

We believe their decision was in error for the following reasons:

1. The density is consistent with surrounding property.
2. The city attorney was not present to address concerns over the impact of a conservation easement on a neighboring property.
3. They were only 5 commissioners available to vote (6 present, 1 recused)

Sincerely,



Craig L. Campbell
President, Bell Cow, Inc.

CITY OF FAYETTEVILLE, ARKANSAS

Planning Commission Appeal; Hwy. 62 & Hanshew Dr.
Page 2 of 38

C. 3

REZONING

FOR STAFF USE ONLY		FEE: \$325.00
Date Application Submitted:	_____	S-T-R: _____
Date Accepted as Complete:	_____	PP#: _____
Case / Appeal Number:	_____	Zone: _____
Public Hearing Date:	_____	

Please fill out this form completely, supplying all necessary information and documentation to support your request.
Your application will not be placed on the Planning Commission agenda until this information is furnished.

Application:

Indicate one contact person for this request: _____ Applicant ☒ Representative

Applicant (person making request):

Representative (engineer, surveyor, realtor, etc.):

Name- TRIANGLE BUILDERS SUPPLY, INC.

Name- ERIC JOHNSON

- REPRESENTATIVE

Address - P.O. Box 1585
FAYETTEVILLE, AR 72702

Address - P.O. Box 1585
FAYETTEVILLE, AR 72702

Phone -
(479) 442-4774
()

Phone -
(479) 442-4774
(479) 871-7239

Fax -
(479) 442-9368

Fax -
(479) 442-9368

Site Address / Location: HWY 62 + HANSHEW RD

Current Zoning District: R-A

Requested Zoning District: RSF-4

Assessor's Parcel Number(s) for subject property: 765-16272-001

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

BELL CON, INC.

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge

and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval. I understand that the City might not approve what I am applying for, or might set conditions on approval.

C. 3
Planning Commission Appeal Hwy. 62 & Hanshaw Dr.
Page 3 of 38

Name (printed): ERIC JOHNSON

Date: 3/9/04

Signature: 

PROPERTY OWNER(S) / AUTHORIZED AGENT: I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing. (If signed by the authorized agent, a letter from each property owner must be provided indicating that the agent is authorized to act on his/her behalf.)

Owners (attach additional info if necessary):

Name (printed): BEDSON, INC.

Address - 4

Signature: 

Phone -

Date: 3/9/04

()

Name (printed):

Address -

Signature:

Phone -

Date:

()

Checklist:

Include the following items with this application:

- ☒ 1. Payment in full of applicable fees for processing the application (\$325.00). Checks should be written to the City of Fayetteville.
- ☒ 2. A legal description of the property to be rezoned. A survey may be required if the property description can't accurately be platted or if it is described by referring to other deeds. This legal description shall be separate from any plat or survey and must reflect only that area to be rezoned.
- ☒ 3. Two sets of typed, mailing labels listing the name and address of each adjacent property owner. May be found at the county assessor's office.
- ☐ 4. A copy of the plat on record in the county assessor's office. The owner's name and the parcel number for every adjacent property shall be shown on this plat (map).
- ☒ 5. A written description of this request addressing the following items:
 - a. Current ownership information and any proposed or pending property sales.
 - b. Reason (need) for requesting the zoning change.
 - c. Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage.
 - d. Availability of water and sewer (state size of lines). This information is available from the City Engineering Division.

A part of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty-four (24), Township Sixteen (16) North, Range Thirty-one (31) West, being more particularly described, to-wit: Beginning at a point which is 558.0 feet South of the Northeast corner of said 40 acre tract, and running thence South 763.21 feet to the Southeast corner of said 40 acre tract, thence South 89 degrees 58 minutes 52 seconds West 1318.51 feet to the Southwest corner of said 40 acre tract, thence North 00 degrees 02 minutes 31 seconds West along the West line of said 40 acre tract 381.43 feet; thence Northeast to the point of beginning, containing 17.00 acres, more or less. Subject to that portion in Hanshew Avenue on the East and South side of herein described tract and subject to utility easements of record, if any.

Triangle Builders Supply, Inc.
P.O. Box 1585
Fayetteville, AR 72701
(479)442-4774 (479)442-9368 Fax

March 9, 2004

Planning Administrator
City of Fayetteville
Fayetteville, AR 72701

RE: Re-zoning Hanshew Road (RSF-4)

This is our application to re-zone a parcel described in attachment "A" to RSF-4.

The following additional items are attached hereto in accordance to the instructions furnished:

1. A check for the applicable fees
2. A legal description of the property to be re-zoned
3. Two sets of typed mailing labels listing the name and address of each adjacent property owner.
4. A plat from the tax assessor showing the adjacent property owners. The Owner's name and the parcel number is shown on the plat.

In response to the questions set forth in Paragraph 5:

a.) Ownership information:

- The property is currently owned by Bell Cow, Inc., 2002 W Meadow Street, Fayetteville, AR 72701.
- Triangle Builders Supply, Inc. has a contract to purchase the property.

b.) Reason for Request:

- Triangle Builders Supply, Inc desires re-zoning of the property to accommodate development of single family lots.

c.) Relationship to surrounding properties:

1. Land use of surrounding properties is as follows:

- North, West, and South, property is currently zoned R-A. This property is largely undeveloped.
- East property is currently zoned RSF-4. This property is partially developed as single family residential homes.

2. Signage:

- This re-zoning and development will not affect the signage of the adjacent property.

3. Traffic:

- Traffic will be increased by the number of residents who live in the community.

4. Appearance:

- The appearance should not conflict with surrounding property since there are no adjoining buildings.

d.) Availability of Water and Sewer:

- A 6" sewer line is available along Hanshew Road. A 6" water line is available along Hanshew Road. Utilities will be extended and looped as required.

The following addresses Paragraph 6 requirements:

a.) Land planning objectives:

- The General Plan 2020 calls for residential for this property, which is what we are proposing.

b.) Justification of Re-zoning:

- After pursuing a higher density in previous attempts, the city staff, and planning commission indicate that they view RSF-4 to be a more compatible density for the area.

c.) Traffic danger and congestion:

- Any development will of course increase traffic for this area, but this residential development should not be a large traffic generator.

d.) Why is development under the current zoning impractical?

- This property is in an area that is rapidly growing, and is very close to a major thoroughfare (Hwy 62). Thus it would not be well suited for development using large two acre lots.

Sincerely,

Eric Johnson

William Lazenby
1031 N College Ave
Fayetteville, AR 72701

Ruth McNeal
1585 Oak Manor Dr
Fayetteville, AR 72703

Ted & Lela Williams
3675 W 6th St
Fayetteville, AR 72701

Dewain & Le Ann McKee
14433 Harmon Rd
Fayetteville, AR 72704

Billy & Vickie Norvell
219 Briarhill Dr
Farmington, AR 72730

Barbara Moorman, Trustee
3450 Finger Road
Fayetteville, AR 72701

Warren Beard
1852 S Hanshew Dr
Fayetteville, AR 72701

Gary Tyree
4705 Wyman Road
Fayetteville, AR 72701

Randall & Susie Payne
10262 S AR Hwy 265
Fayetteville, AR 72701

Randall & Susie Payne
10262 S AR Hwy 265
Fayetteville, AR 72701

Gary Tyree
4705 Wyman Road
Fayetteville, AR 72701

Warren Beard
1852 S Hanshew Dr
Fayetteville, AR 72701

Barbara Moorman, Trustee
3450 Finger Road
Fayetteville, AR 72701

Billy & Vickie Norvell
219 Briarhill Dr
Farmington, AR 72730

Dewain & Le Ann McKee
14433 Harmon Rd
Fayetteville, AR 72704

Ted & Lela Williams
3675 W 6th St
Fayetteville, AR 72701

Ruth McNeal
1585 Oak Manor Dr
Fayetteville, AR 72703

William Lazenby
31 N College Ave
Fayetteville, AR 72701



TRIANGLE BUILDERS SUPPLY, INC.
P.O. BOX 1585
FAYETTEVILLE, AR 72702
479-442-4774

C. 3
Planning Commission Appeal; Hwy. 62 & Hanshaw Dr.
Page 8 4273

DATE 3/10/04

81-7416/2829

PAY
TO THE
ORDER OF

City of Fayetteville

\$ 325⁰⁰

Three Hundred Twenty Five & ⁰⁰/₁₀₀

DOLLARS  SECURITY
FEATURES
INCLUDED

UNITED BANK
P.O. BOX 1234
SPRINGDALE, AR 72765

Ronda L. Powell

FOR

Reserve

⑈004273⑈ ⑆282974161⑆ 016431388408⑈

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 04-07.00 AS SUBMITTED BY
ERIC JOHNSON ON BEHALF OF TRIANGLE BUILDERS, INC.
FOR PROPERTY LOCATED SOUTH OF HWY. 62 ON
HANSHEW ROAD, CONTAINING APPROXIMATELY 17.00
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

RECEIVED

MAY 05 2004

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

EXHIBIT "A"

RZN 04-07.00

A PART OF THE NORTHEAST QUARTER (NE ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION TWENTY-FOUR (24), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY ONE (31) WEST, BEING MORE PARTICULARLY DESCRIBED, TO WIT: BEGINNING AT A POINT WHICH IS 558.0 FEET SOUTH OF THE NORTHEAST CORNER OF SAID 40 ACRE TRACT, AND RUNNING THENCE SOUTH 763.21 FEET TO THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT, THENCE SOUTH 89 DEGREES 58 MINUTES 52 SECONDS WEST 1318.51 FEET TO THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT, THENCE NORTH 00 DEGREES 02 MINUTES 31 SECONDS WEST ALONG THE WEST LINE OF SAID 40 ACRE TRACT 381.43 FEET; THENCE NORTHEAST TO THE POINT OF BEGINNING, CONTAINING 17.00 ACRES, MORE OR LESS. SUBJECT TO THAT PORTION IN HANSHEW AVENUE ON THE EAST AND SOUTH SIDE OF HEREIN DESCRIBED TRACT AND SUBJECT TO UTILITY EASEMENTS OF RECORD, IF ANY.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 26, 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 21, 2004

RZN 04-07.00: Rezoning (Parnell/Hanshew, pp 595) was submitted by Eric Johnson on behalf of Triangle Builders Supply, Inc. for property located south of Hwy. 62 on Hanshew Road. The property is currently zoned R-A, Residential Agricultural, and contains approximately 17.00 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 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>	☒ Denied
Date: <u>April 26, 2004</u>	☐ Approved	4-3-1
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Denied
Date: <u>May 18, 2004 (1st reading if recommended)</u>	☐ Approved	

Comments: Terms approved

BACKGROUND:

History: A rezoning request from R-A to RMF-12 was first submitted for review at the October 13, 2003 Planning Commission meeting. At that time, the item was tabled to allow the applicant and staff time to review the proposal further. The rezoning request was reviewed a second time by Planning Commission on November 24, 2003, at which time a Bill of Assurance was introduced by the applicant limiting the proposed density to 9 dwelling units per acre,

providing a fifty-foot wide access easement north to 6th Street to be dedicated as a city street at the time of development, and providing conceptual plans for the planned townhouse-style development. The applicant withdrew the rezoning request at the second meeting, to pursue the possibility of processing a Planned Zoning District. Investigation of the PZD process proved to be beyond the scope of the applicant, and the rezoning request was resubmitted for RMF-12. In all meetings, staff recommended denial based on lack of compatibility with surrounding properties and how this potentially multi-family residential use would fit into a primarily single family neighborhood. The proposed density is too inconsistent with the surrounding properties, making this proposed rezoning inappropriate. The Planning Commission voted to deny the rezoning request from R-A to RMF-12 on January 26, 2004.

Property description: The subject property is located south of Hwy 62W (6th Street), west of the Lowe's Home Center, and south of the Magnolia Crossing subdivision. Surrounding properties are primarily large tracts which are vacant or sparsely developed with single family homes. The 17.00 acre site is heavily wooded, has significant areas of steep slopes and is somewhat remote. Access from Hwy 62W onto Hanshew Rd. to the property is not improved to city standards and would require full street improvements should a development occur on the subject property. Water and sewer services would have to be improved and extended to the site to provide utilities for future development.

Proposal: The applicant proposes to develop a subdivision of single family homes on the subject property.

Request: The request is to rezone the subject property from R-A, Residential Agricultural to RSF-4, Residential single family / 4 units per acre.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant	R-A, Residential Agricultural
South	Single family home – large acreage	R-A, Residential Agricultural
East	Single family homes	RSF-4, Single family residential / 4 units per acre
West	Vacant	R-A, Residential Agricultural

INFRASTRUCTURE:

Streets: Hanshew Road is a paved roadway in this area. However, this roadway does not meet the current design standards for a residential street. This roadway also has a severely deteriorating pavement section. If development occurs on this site, street improvements would be recommended for the full width of Hanshew Road including this property's frontage and offsite to Highway 62.

Water: The property currently has access to a 6" water line along Hanshew Road. 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 back to the 12" line along Highway 62 to provide dual feed for the development.

Sewer: The site currently has access to a 6" sewer main along Hanshew Road. Sewer will need to be extended within the development. Calculations will be requested at the time of development to determine if the existing 6" line can handle the additional flows from the project. If not, the main will need to be upgraded from the development to the main along Highway 62.

Fire: The subject property is located 2 miles from the Fire Station #6 on Hollywood Avenue. Normal driving time is 3 min. 54 seconds. Additional improved access will be necessary for the development of this property.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to RSF-4 is consistent with the land use plan and 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: The proposed rezoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans. Surrounding properties are residential or agricultural in nature. The efficient use of infrastructure and reasonable access to improved roads and utilities (water and sewer) are challenges to this site, therefore improvements will be required of the developer at the time of development. The proposed zoning is compatible with adjacent properties, in retaining a single family land use in this rather remote area of the City.

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 and needed in order to regulate the allowable uses on this property as well as provide the applicant an opportunity to develop single family homes on the property.

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

Finding: Traffic generation for the proposed zoning would increase the average trips per day from approximately 80 vehicle trips per day (8 single family homes) to a maximum of 680 vehicle trips per day (68 single family homes).

Police – It is the opinion of the Fayetteville Police department that an appreciable increase and traffic danger and congestion will not be created by this rezoning request.

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 result in an increase in maximum allowable density from the current zoning district of R-A (1 unit per 2 acres) of 8 dwelling units to a maximum of 68 residential units in the requested RSF-4 district.

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

Fire – Response time to the subject property (actual drive time) is 3 minutes 54 seconds (approx. 2 miles) from station #6 on Hollywood Ave. Additional access to the property will be needed with development, and improvements to the narrow roadway. Hydrants will also need to be installed to serve development on this property.

Engineering – The property currently has access to a 6" water line along Hanshew Road. 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 back to the 12" line along Highway 62 to provide dual feed for the development.

The site currently has access to a 6" sewer main along Hanshew Road. Sewer will need to be extended within the development. Calculations will be requested at the time of development to determine if the existing 6" line can handle the additional flows from the project. If not, the main will need to be upgraded from the development to the main along Highway 62.

Hanshew Road is a paved roadway in this area. However, this roadway does not meet the current design standards for a residential street. This roadway also has a severely deteriorating pavement section. If development occurs on

this site, street improvements would be recommended for the full width of Hanshew Road including this property's frontage and offsite to Highway 62.

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.

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land

until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

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

(G) *Building area.* None.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

Planning Commission Appeal: Hwy. 62 & Hanshew Dr.
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RECEIVED

APR 20 2004

PLANNING DIV.

POLICE DEPARTMENT

April 19, 2003

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed zoning RZN 04-07.00: Rezoning (Troy Parnell, pp 595) for property located on 6th Street on the Northwest corner of Hanshew Rd. 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 traffic congestion.

Sincerely,

A handwritten signature in black ink, appearing to read "Will B".

Lieutenant William Brown
Fayetteville Police Department



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 3
Planning Commission Appeal; Hwy. 62 & Hanshaw Dr.
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From: Fire Prevention Bureau

To: Planning Division

Date 10-6-03

REZONING ✓ ANNEXATION

REZONING # 03-32.00 OWNER Troy Parnal
ANNEXATION # 4 OWNER

LOCATION OF
PROPERTY South of 6th St on NW Corner of Hanshaw Rd.

NEAREST FIRE STATION AND
LOCATION # 6 Hollywood Street

RESPONSE TIME FROM FIRE STATION # 6 TO
LOCATION OF
PROPERTY 3 MINUTES 54 SECONDS.

TRAVEL MILES FROM FIRE STATION # 6 TO LOCATION OF
PROPERTY 2 miles

COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS Narrow Roadway

EXISTING FIRE HYDRANTS? IF SO
LOCATION

WATER SUPPLY WITH HYDRANTS
NEEDED? Yes

ADDITIONAL
COMMENTS access will be needed, no Fire Hydrants
located

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

Triangle Builders Supply, Inc.
P.O. Box 1585
Fayetteville, AR 72701
(479)442-4774 (479)442-9368 Fax

March 9, 2004

Planning Administrator
City of Fayetteville
Fayetteville, AR 72701

RE: Re-zoning Hanshew Road (RSF-4)

This is our application to re-zone a parcel described in attachment "A" to RSF-4.

The following additional items are attached hereto in accordance to the instructions furnished:

1. A check for the applicable fees
2. A legal description of the property to be re-zoned
3. Two sets of typed mailing labels listing the name and address of each adjacent property owner.
4. A plat from the tax assessor showing the adjacent property owners. The Owner's name and the parcel number is shown on the plat.

In response to the questions set forth in Paragraph 5:

a.) Ownership information:

- The property is currently owned by Bell Cow, Inc., 2002 W Meadow Street, Fayetteville, AR 72701.
- Triangle Builders Supply, Inc. has a contract to purchase the property.

b.) Reason for Request:

- Triangle Builders Supply, Inc desires re-zoning of the property to accommodate development of single family lots.

c.) Relationship to surrounding properties:

1. Land use of surrounding properties is as follows:
 - North, West, and South, property is currently zoned R-A. This property is largely undeveloped.
 - East property is currently zoned RSF-4. This property is partially developed as single family residential homes.
2. Signage:

- This re-zoning and development will not affect the signage of the adjacent property.

3. Traffic:

- Traffic will be increased by the number of residents who live in the community.

4. Appearance:

- The appearance should not conflict with surrounding property since there are no adjoining buildings.

d.) Availability of Water and Sewer:

- A 6" sewer line is available along Hanshew Road. A 6" water line is available along Hanshew Road. Utilities will be extended and looped as required.

The following addresses Paragraph 6 requirements:

a.) Land planning objectives:

- The General Plan 2020 calls for residential for this property, which is what we are proposing.

b.) Justification of Re-zoning:

- After pursuing a higher density in previous attempts, the city staff, and planning commission indicate that they view RSF-4 to be a more compatible density for the area.

c.) Traffic danger and congestion:

- Any development will of course increase traffic for this area, but this residential development should not be a large traffic generator.

d.) Why is development under the current zoning impractical?

- This property is in an area that is rapidly growing, and is very close to a major thoroughfare (Hwy 62). Thus it would not be well suited for development using large two acre lots.

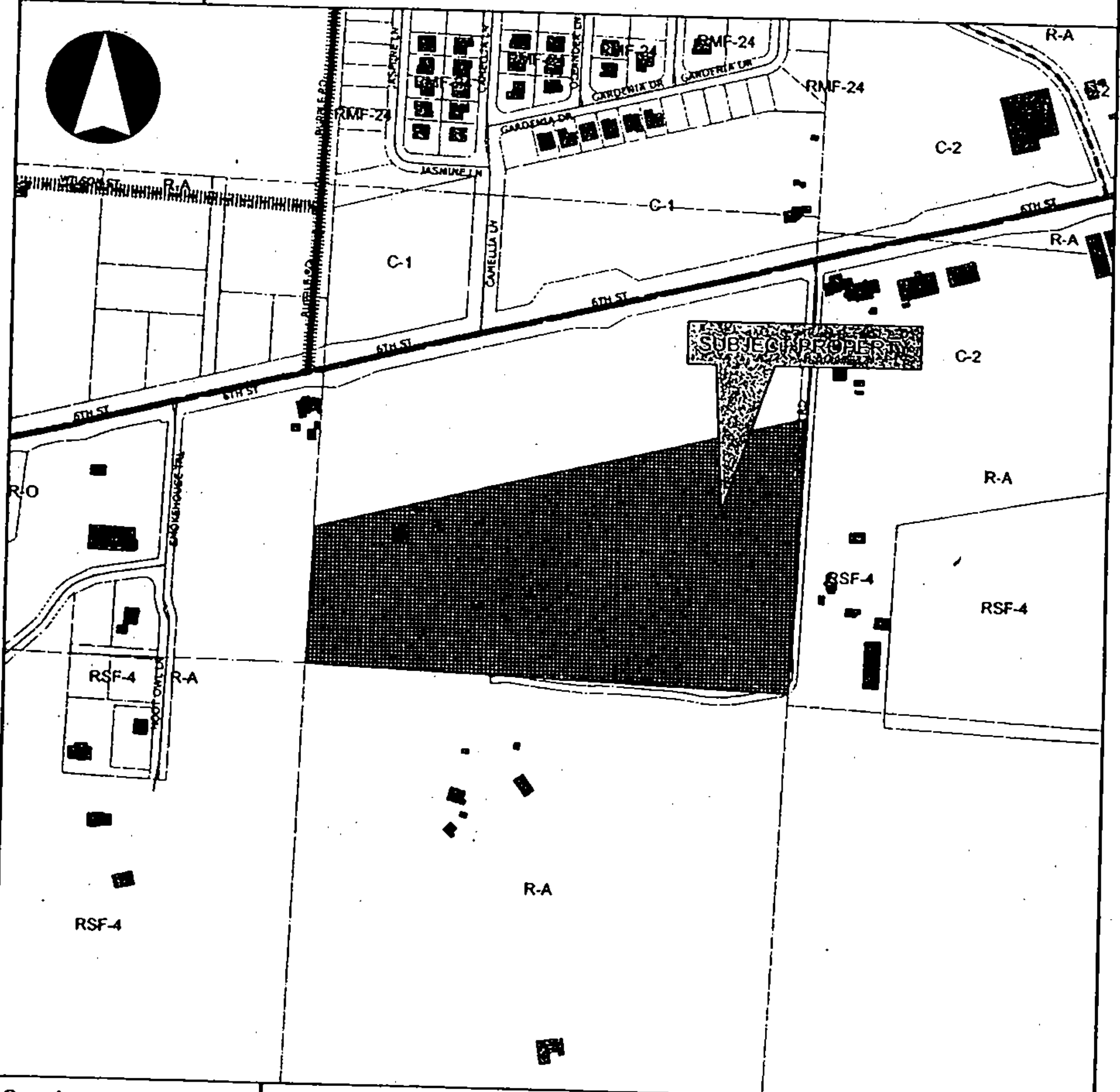
Sincerely,

Eric Johnson

RZN04-07.00

Close Up View

PARNELL/HANSHEW



Overview

Legend

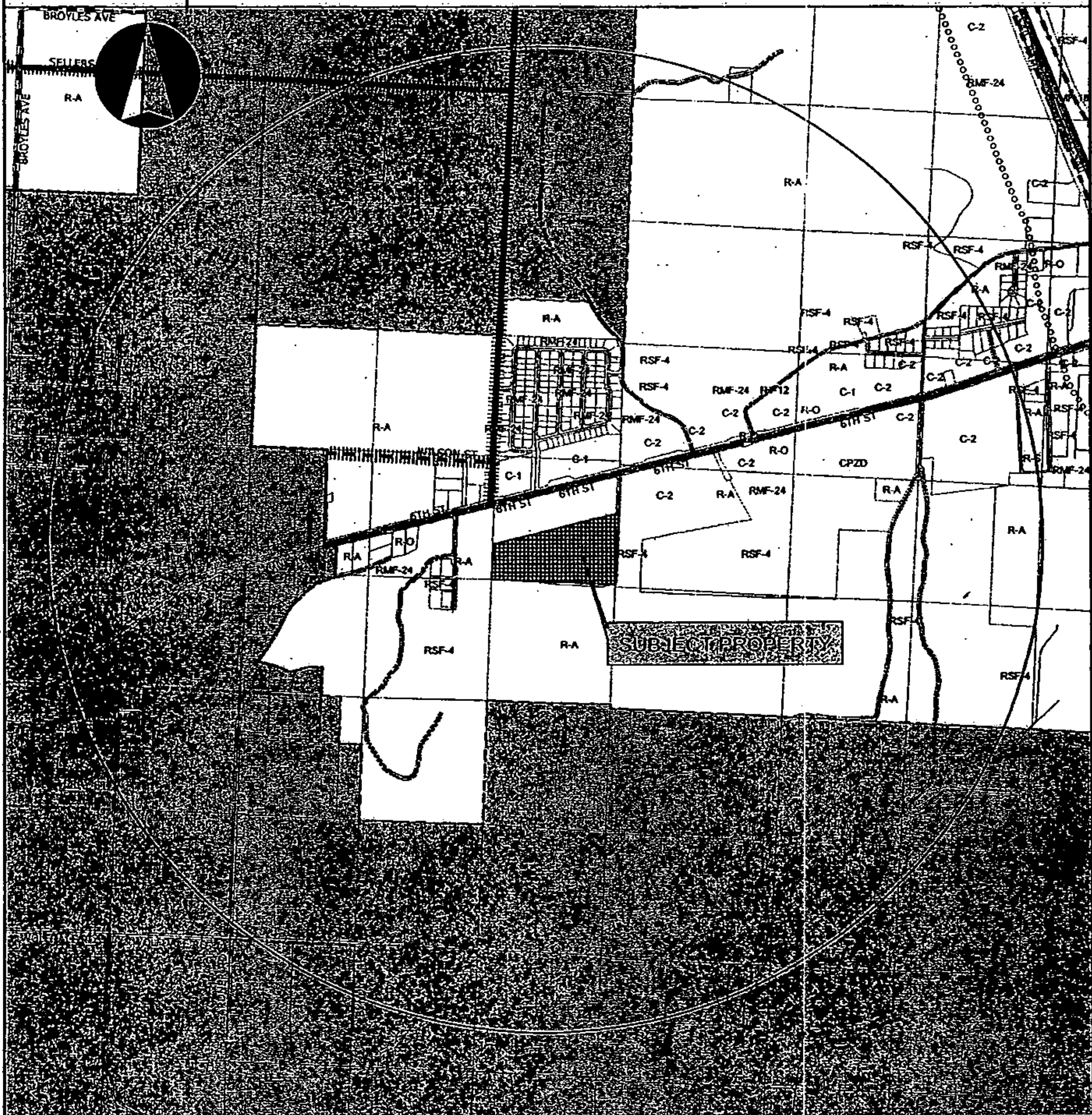
- | | | |
|--------------------|--------------------|------------------|
| ○ Overlay District | Principal Arterial | FLOODWAY |
| Master Street Plan | Minor Arterial | 100 YEAR |
| Master Street Plan | Collector | 500 YEAR |
| Freeway/Expressway | Historic Collector | LIMIT OF STUDY |
| | City Limits | BaseLine Profile |
| | Outside City | RZN04-07.00 |



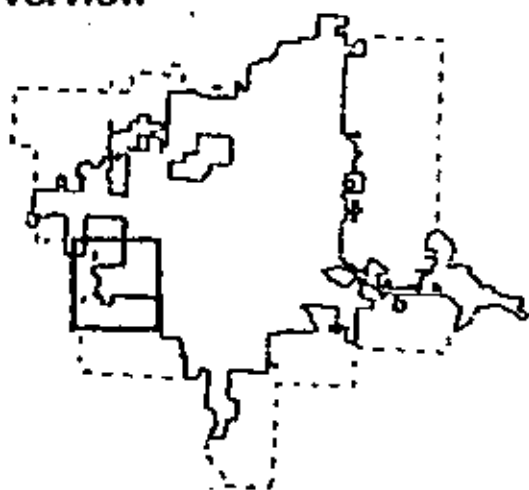
RZN04-07.00

One Mile View

PARNELL/HANSHEW



Overview



Legend

Subject Property

RZN04-07.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

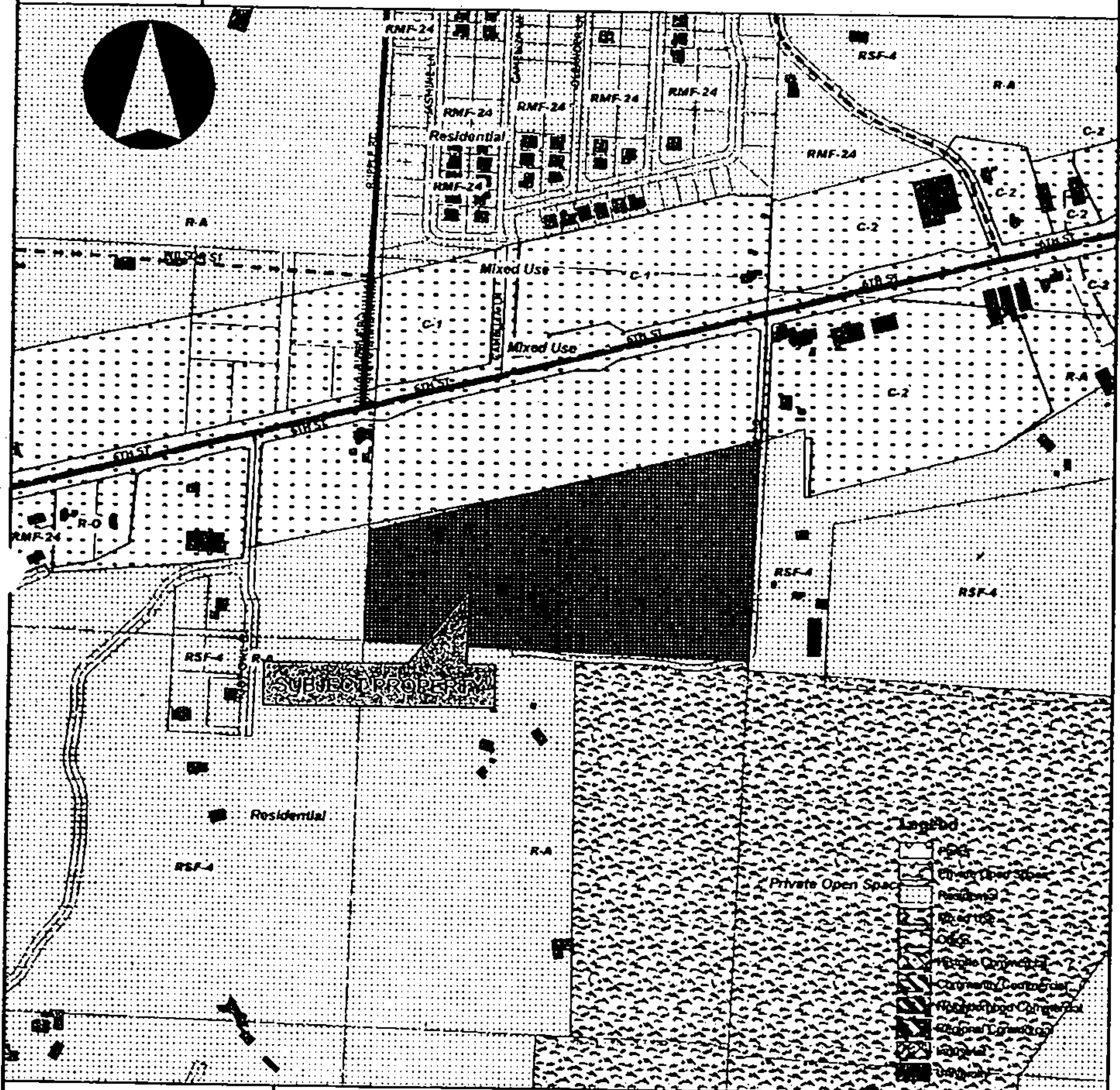
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

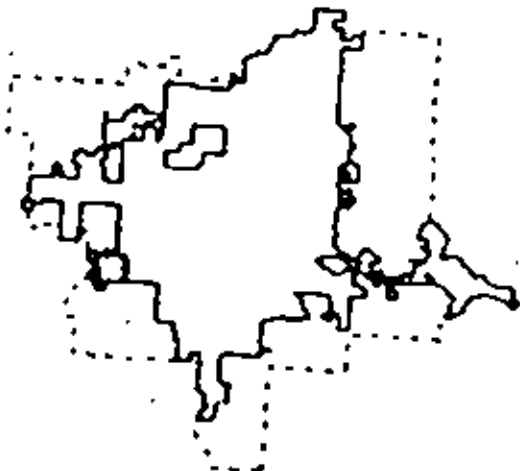
RZN04-07.00

Future Land Use

PARNELL/HANSHEW



Overview



Legend

Subject Property

RZN04-07.00

Streets

Existing
 Planned

Boundary

Planning Area
 Overlay District
 City Limits
 Outside City

Master Street Plan

Freeway/Expressway
 Principal Arterial
 Minor Arterial
 Collector
 Historic Collector

0 175 350 700 1,050 1,400 Feet

Legend

RMF-24
 R-A
 C-1
 C-2
 R-O
 RSF-4
 Residential
 Mixed Use
 Private Open Space
 Unimproved

From: "ORLT" <orlt@ipa.net>
To: <planning@ci.fayetteville.ar.us>
Date: Mon, Apr 26, 2004 4:23 PM
Subject: Re: 18 acre development on Hanshew Road

To: Tim Conklin, City of Fayetteville Planning
From: Gregg Galbraith

Executive Director
Ozark Regional Land Trust
427 South Main
Carthage, MO 64836
(417) 358-0852
orlt@ipa.net
www.orlt.org

I just became aware of a proposed development on Hanshew Road, Fayetteville, AR, which is adjacent to property owned by Barbara Moorman and her recently deceased mother, Louise DeMarco. That property is an 87-acre Conservation Reserve by virtue of the fact that the owners placed a permanent conservation easement (CE) on the property several years ago. The CE is held by the Wildlife Land Trust, a national organization, in conjunction with Ozark Regional Land Trust. Furthermore, plans are being made to eventually turn the property over to a conservation organization, in addition to the protection provided by the CE.

The dense development proposed next to this conservation sanctuary poses certain problems, threats, and nuisances to the Moorman Conservation Reserve. Despite the obvious concerns that the development is not a compatible activity to the conservation land, it is expected that the City will probably approve the development. The best we could probably hope for is a lower density of development and other design buffers.

However, there are at least a few design aspects which would greatly help us maintain the integrity and environment of the conservation property, including its wildlife:

- 1) A wall be constructed by the developer which would prevent people from trespassing, and intruding onto the conservation property. Such a wall must be permanent in design, and satisfactory to prevent intrusion.
- 2) Secondly, a buffer of land be created between the wall and the boundary of the protected property which is planted with only native plants and grasses. This will help prevent non-native and invasive grasses and trees, etc., from encroaching onto the conservation property.
- 3) We request the Planning Commission to require the developer to provide a bill of assurance that the buffer and wall will be provided before plots are sold.

I only learned of this meeting on Sunday, April 25th, and with this short notice, I will be unable to attend the hearing. In my absence, you can provide copies of this letter to the Planning Commission as my formal comments, and maybe my concerns known as a part of the hearing. If this can be postponed to a later date, I can appear in person to make my case with due notice.

Thank you,
Gregg Galbraith

From: "Jim Reed" <JReed@hsus.org>
To: <planning@ci.fayetteville.ar.us>
Date: Mon, Apr 26, 2004 9:20 AM
Subject: Proposed 18 acre residential development

To whom it concerns,

Please consider this formal comment on the proposed rezoning of the 18 acre development along Hanshew Road that will be heard at today's planning meeting.

The Humane Society of the United States Wildlife Land Trust permanently protects via a conservation easement 87 acres of forest land along Finger and Hanshew roads. Please note, Ozark Regional Land Trust also hold a permanent conservation easement on this property

We are opposed to any development near our wildlife sanctuary that is inconsistent with our wildlife habitat protection initiative.

As we understand this rezoning request from Agricultural to residential, the result would be rather high density residential subdivision development which would have serious negative effects on 87 acre permanently protected wildlife sanctuary.

We feel strongly that such a rezoning is inconsistent with the areas high conservation values of the area which include the presumed presence of three particularly rare species (listed by the state of Arkansas as being of special concern): Perideridia, the Swainson's Warbler and the rock jasmine.

Any development near our permanently protected sanctuary should have an adequate buffer to ensure the perpetuation of the fauna and flora we are engaged in protecting. To that end, please forward any and all information with respect to this and any future proposed rezoning to our office so we may provide more thorough comments.

Sincerely,

James M. Reed
Director of Sanctuaries
HSUS Wildlife Land Trust
2100 L. Street, NW
Washington, DC 20037

1-800-729-SAVE

CC: "Barbara Moorman" <cmoorman@ipa.net>

RZN 04-07.00: Rezoning (Parnell/Hanshew, pp 595) was submitted by Eric Johnson on behalf of Triangle Builders Supply, Inc. for property located south of Hwy. 62 on Hanshew Road. The property is currently zoned R-A, Residential Agricultural, and contains approximately 17.00 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: Next on the agenda is RZN 04-07.00 for Parnell.

Trumbo: Mr. Chair, I am going to need to recuse myself from this item due to a business relationship with this property.

Ostner: We have five and five Commissioners are required so we are going to go ahead and hear the item.

Pate: As you mentioned, five is a quorum and it does require five affirmative votes to go forward. This item is RZN 04-07.00 for Parnell on Hanshew Road submitted by Eric Johnson. You may remember this item has been before either the Subdivision Committee or the Planning Commission in a couple of different forms a couple of different times. I won't belabor the history but for the new Commissioners, the rezoning request was originally from R-A, Residential Agricultural to RMF-12, Residential Multi-family, 12 units per acre. That was submitted in October. Based on the surrounding land use, which is relatively agricultural and single-family in use with a relatively low density, we did not feel that was an appropriate land use nor an appropriate density for that area. In November the rezoning request was reviewed a second time by the Planning Commission at which time a Bill of Assurance was introduced by the applicant limiting the proposed density to nine dwelling units per acre. There were a few other items on that Bill of Assurance. The discussions at the Planning Commission level, you recommended that the applicant research a PZD to determine if it was feasible on this site. The applicant determined that it was not feasible for them to pursue a Planned Zoning District for this site and requested the same zoning again on January 26th. The Planning Commission did vote to deny that rezoning request from R-A to RMF-12 at that date. The current request is to rezone the property from R-A to RSF-4, Residential Single Family, four units per acre. The subject property is located south of 6th Street west of the Lowe's Home Center and south of the Magnolia Crossing subdivision. It does not directly front onto 6th Street but there is an intervening property. The 17 acre site is heavily wooded with significant areas of steep slopes. It is somewhat remote. If you reviewed your packets both the Fire Department, Police Department, Engineering Services have said that improvements will be necessary for this property to develop. Those are primarily along Hanshew Lane. Currently that is not up to city standards. The applicant does propose in the future to develop a subdivision of single family homes on the subject property not to exceed four units per acre.

Hanshew Road is a paved roadway in this area. However, it is substandard. It has severely deteriorating pavement and if development occurs on this site street improvements would be recommended for the full width of Hanshew Road including this property's frontage and offsite to Hwy. 62. Other services are available but will most likely need to be extended into this property to serve any future development. The subject property is located two miles from the fire station on Hollywood. The normal driving time is three minutes, fifty-four seconds which is well within the service time for emergency access there. The proposed rezoning is consistent with land use planning objectives in that it is residential and surrounding properties are also residential and/or agricultural in nature. As I mentioned before, staff was not in support of rezoning the property to a more densely populated zoning district. Also in conjunction with the multi-family zoning district. That has changed with this zoning request, I think staff believes for the better. Based on those findings, and a few others, staff is recommending approval of the requested rezoning included as a part of this report.

Ostner: Thank you Mr. Pate. Is the applicant present?

Johnson: My name is Eric Johnson, I'm here representing Triangle Builder Supply which has a contract to purchase this piece of ground. This is the same piece of ground that you all, except Ms. Clark, have seen before. I won't go into the history, I think Jeremy did a good job of conveying that. Our new zoning request will allow us to yield approximately 66 to 68 single family lots depending on the dedication of the right of way, which is going on right now with the Lot Split. I have one copy of a site study that we prepared and I would be happy to show it to the new Commissioner if she would like to look at it. We've contacted the neighbors who opposed the original request of RMF-12 and they indicated they had no objection. In fact, one of them indicated that she would support this project as currently presented. With that, I would be happy to answer any questions to the best of my ability.

Ostner: At this point I would like to share with you that since one of our members had to recuse it will take all of us so keep that in mind. I will open it up to the public. Is there anyone who would like to comment on this issue?

Moorman: My name is Barbara Moorman, I have a property that adjoins right across Hanshew Street. I got hold of the application papers only recently and I contacted two organizations that in a sense, have an ownership right on the property with me, because my property is under a conservation easement which means that I have divested myself of the right to do anything but live on the property and enjoy it. I do own it but I cannot make any changes. I can't pave, I can't cut trees for commercial logging, I can't kill the animals, I can't destroy the plants. The intention was to save to

preserve the natural character of this 90 acres. I believe you may have in front of you two letters, one from Jim Reed of the Humane Society of the United States Wildlife Protection Land Trust and the other from Greg Galbrath from Ozark Regional Land Trust. Both of them I assume you have the letters so I won't read them to you. They both express the feeling that the density requested in this rezoning, even though it is stepped down from a much more dense proposal, is a threat to what my property is trying to do. We've been there since 1960 and our intention has always been to preserve the property. I noticed in the application that there is no reference at all to this conservation easement of mine. The conservation easement is a document that is on file in the Planning Department, it is on file in the Circuit Clerk's office and it is recognized by the Federal Government. I do notice on the map that is provided with the application that there is a reference to private open space. I think that in this case, is ambiguous. It doesn't convey the full definition or impact or intention of what is happening on my property. What I have is what the city is negotiating with the Fayetteville National Heritage Department for Mt. Sequoyah. I think the city has talked about putting conservation easements there. It is the same kind of thing as what I'm trying to do. The letter of application from Triangle Builders, under land use of surrounding properties says that this property is largely undeveloped. Again, that is a little misleading. It isn't developed but the whole point is it is being preserved. To be accurate it should say that the surrounding property is permanently to be preserved in it's natural state. When you understand that deeds of title have been exchanged that divest me of the privilege of making money off of this property. My family has done this for a reason and these land trusts have agreed to take on the responsibility of watching over the protection of the property. I think that it becomes important when you realize that to state it, to acknowledge that. Another thing that is said in the application papers is that the appearance should not conflict with surrounding property since there are no adjoining buildings. I think again, that is somewhat inaccurate. Buildings are not the only possible thing that could be there. You have a natural landscape that is considered significant enough to be acknowledged by a national land trust, by the Federal Government and by a local land trust. There certainly is going to be a conflict, there is absolutely no doubt. I can stand on a hill and look over what has happened to west Fayetteville in the last 7 or 8 years and believe me, there is a tremendous contrast between what I see and what I'm seeing it from. Mr. Pate sent me a note this morning saying staff is aware that your property lies to the south of this tract. Again, that's not the full story. The Planning staff certainly is aware of who owns the property across the street but the Planning Commissioners should be aware. Not just of the ownership but of the nature of the enterprise that is going on across the street from this development. I think first of all that there should be a very visible acknowledgement in the application and in all of your paperwork regarding this development, of the existence of this

conservation property and of the nature of the conservation property, and of the terms of my conservation easement to promote the preservation of the natural landscape. Also, I have some specific concerns and the General Plan does pay lip service to preservation and protection of existing resources and natural features in Section 6. Specifically, my concerns are things that could adversely affect me as more roads get built and as development becomes more and more intense animals, birds; deer; foxes are backed up onto my property. The population is too intense for them. That is a concern to me because one thing I've been trying to do is maintain a natural state of things and not create an animal ghetto. I certainly don't want that but that is being imposed on me as I'm more and more beset by these intense residential developments that are going on. Another thing that is costing me an incredible amount of money is the invasive plant species that have been coming in as there is more and more development. I have actually seen people planting by blowing seeds up into the air. That certainly isn't the only thing that is happening but I'm getting a lot of invasive species. Invasive means that they kill off the natural vegetation. tree of heaven is one, bush honeysuckle is another. I could give you a list of about 25 but those are really serious because you don't have anymore oaks, you don't have anymore dogwood, you don't have anymore redbud or sycamore or whatever once tree of heaven and bush honeysuckle take over. You have it in Fayetteville in the city. You can control it because there are lots in the city and properties are smaller but if you are talking about a wooded hillside you really have an awful lot of trouble controlling it. You need crews. I think they are going to find that out on Mt. Sequoyah when they try taking care of that. I'm all in favor of taking care of it but it is made very difficult by the encroachment of this intense development this quickly, the speed with which development is taking place is making things more difficult too. I think I could give you more things that concern me but I won't. I think basically that the development is going to be too dense to take into consideration what is around it. It is not just me. There are other properties next to me. There are 65 acres adjoining me, it doesn't adjoin this property but it adjoins me, and everything has a domino affect, has been set aside or will be set aside for protection. I think that it should be less dense and I want to stress that there should be a buffer, a transitional kind of zoning. I know you don't have a conservation zoning but you should have it. Even in the absence of that you've got to establish buffers. You are looking at two extremely contradictory types of development, what is being proposed here, RSF-4 and what I've got which is total conservation. They couldn't be more in conflict with each other. I know Mr. Galbreth suggests the wall. I want a buffer of natural vegetation on this property that is being proposed for development. I am requesting that you think very seriously about that and some of the other suggestions that are made in these two letters that you have. Thank you very much for your attention.

Ostner: Thank you Ms. Moorman. Are there other people in the audience who would like to comment?

Wilkes: My name is Steve Wilkes, I live at 4188 W. 6th Street. This is my second time before you on a similar issue. My concern is for drainage into Farmington Branch. I'm concerned that as we continue to develop this corridor, and I do want to say I'm not opposed to development. I share many of the previous speakers concerns but I'm not opposed to developing south Fayetteville and west Fayetteville but I am very concerned about the infrastructure, including drainage and in my case particularly drainage, I happen to live on Farmington Branch. It runs right through my front yard, it is about 50' to 75' from my front door. I can tell you that last weekend when it went from being about 6' wide and 2" deep, which is it's normal state to being about 50' wide and 12' deep I was pretty scared. This is happening more and more frequently. It is much easier for that little creek to have a flashflood today than it was seven or eight years ago and I'm sure than it was 20 or 40 years ago. Every time we pave another square foot it makes the people downstream that much more susceptible. I probably lost \$4,000 or \$5,000 over the weekend. I don't really blame what happened on anybody but I do know that the subdivision that was put in upstream from me, the Camellia Road subdivision, I don't know what it's real name is, but I know that after that occurred we began to get very heavy silt built up. The streambed narrowed considerably. It got more shallow and I lost lots and lots of flowerbeds and retaining walls in an episode about 4 years ago. We rebuilt all of that but I lost a good deal of that the other night. Again, I'm not really blaming any particular person but I'm very concerned and very frustrated that we put in a Lowe's, we are putting in more subdivisions and every time we do this the water runs a little faster. It comes off the mountain side and in this case we lose that percolation that nature provides to us. I would like to hear that these things are being addressed and being looked at and that it is not just a promise in the wind that oh, it will change. What I know is that if you might have a 100-year flood, I'm making up numbers, but it might be 750 cubic feet per second or 1,500 cubic feet per second or whatever, but if it weren't for that additional 68 homes or additional 200 homes and all the pavement that that provided that flow might have been 400 cubic feet per second lower and my bridge might still be standing. That is my concern. I just wanted to bring it to you. I will probably bring it to you every time I see another big development go in. I just don't want you to forget that there are a lot of people living at the bottom of that valley, I'm one of them, that don't want to see our property destroyed because someone has built 68 homes upstream from us. Thank you for your time.

Bowman: I'm Kathy McGuire Bowman and I'm here to speak in general about slowing down development on the west side. I will just second what the

other people are saying. I think it is moving much too fast. I think it is not moving according to a smart growth plan. I think we, as citizens, elected a smart growth mayor on the assumption that we were going to have smart growth and protection of our neighborhoods and instead, we are having this huge, what looks to be urban sprawl model. I feel betrayed and very concerned and on this item I will just ask for a slow down of development on the west side. I will speak on later items. Thank you.

Ostner: Does anyone else want to comment on this issue? I will close it to the public and bring it back to the Commission for discussion.

Anthes: It is my understanding that we need five affirmative votes to pass a rezoning request and we have five commissioners here. This piece of property has been before us before and it has some troublesome qualities. First of all, I would just like to say that we have other single family zonings to us besides RSF-4. Maybe you wouldn't know it if you watched our meetings very often but it is true. We have compatibility issues with surrounding property. We have street conditions that have been problems. We have connectivity issues, we have had objections by neighbors. We have 10% to 15% slope on a large part of this property. I just would like to ask the applicant again if he feels comfortable going forward because my inclination is to table this item tonight.

Johnson: Unfortunately, I hate to hear that is your position, but due to time constraints on our part, we've been at this since October. I don't think we would be granted any further time extensions. I am going to have to bring it to the vote tonight. I would like to address some of your concerns. We will address all of these important issues back with you at the Large Scale Development process. We will address drainage, we will address roads, we will improve the utilities. We will do all the things that would be necessary for the development of this property. I was unaware that there were any other objecting property owners surrounding this property. I personally contacted every person that surrounded the property. The two that objected I have met with many, many times. One of them changed her tune and will, in fact, support RSF-4. That was Vicki Norvel from the last meeting. Mr. Beard who is not here tonight, indicated that he had no objections to this new plan. He didn't have any objections to the previous plan, he was just more concerned at what would happen to his property. To address a few of the previous concerns, what we are proposing would be kind of a residential buffer. That corridor of Hwy. 62 is very heavily traveled and the frontage I believe is to be zoned mixed use, commercial or retail or something like that. This would provide a buffer between a commercial retail zoning and the larger tracts. I was unaware that there were any conservation districts surrounding us. There is certainly not one on this property. In fact, it was clear cut less than 10 years ago. I have yet to see a deer or anything on this property. If you stand on Hanshew Road

you can hear the roar of the cars going back and forth. I can't imagine a deer wanting to be in that location. I may be wrong but I've been there several times and am yet to see one. As far as drainage, we will of course deal with those in accordance with city requirements, whatever those may be. We would like to work with the city on those issues. Fayetteville is growing. Development of this corridor I believe is eminent. The Lowe's is less than 2,000 yards to the east. There is a residential subdivision of much higher density just to our north across Hwy. 62. The surrounding property on the east and I believe on the west, is zoned RSF-4. I don't believe this is out of the compatibility of the surrounding property. I respectfully disagree with you on that. We would like a chance to deal with the city on the issues that you've raised regarding the street and the access and all of that. Tonight is the rezoning. I am going to ask that it comes to a vote because we are on time constraints. Thank you.

Allen: I would have to say that I have the same concerns as Commissioner Anthes. I do have concern about the speed of development in that area. I don't see RSF-4 being a buffer between a conservation area. I would not feel able to vote for this rezoning.

Clark: The idea that the conservation easement abuts this property came as a surprise to me. Is there any provision in our zoning that would've reflected it? To look at this you never would've known.

Pate: Really, as far as our city records, Ms. Moorman is right, it is filed at the county and is within our Planning offices as well. This private open space designation on the Future Land Use plan is really the only physical designation that we have on a map. The zoning is still overlaid, it is still a Residential Agricultural type of zoning in that area.

Clark: I've got to say that I realize growth is inevitable but it is my position that growth should be approached wisely, cautiously and with a full awareness of the surrounding issues. I'm sure that if you stand inside this development you are not going to see a deer. They are smarter than that, they are in the conservation area. I also agree with both of my fellow commissioners that this is not, in my opinion, a proper buffer for that type of land that we are encouraging citizens in the city to think about and to leave us some green area in the future. This troubles me and I'm sure that my fellow commissioners with a lot more experience than I, have other issues but I'm not inclined to support this at this time.

Vaught: I guess my concern is, we've seen this many times before and talked about many different issues and this has never been an issue in the past. It kind of bothers me that it is just now coming forward and it is an issue now. In the past it has never been raised as one of the issues we have not supported this project for. Now it is and part of me feels like we are imposing the

decision of a neighboring land owner to admirably donate a conservation easement and we are transposing that on a neighbor who did not make that decision with his property. Just balancing that is something that I think we should really think about. I have a hard time restricting a neighboring land owner in a sense. I do think RSF-4 is a good zoning here. It is far less than anything we've ever seen on this due to the commercial nature of 6th Street. I do think it would be a lot better of a buffer. It has gotten a lot better than when it first came before us and all of the restrictions and walls and things like that are things that we deal with later. I would be in support of rezoning this to RSF-4 and giving them the chance to come before us with a Large Scale Development that met these specific criteria. That being said, I would be in support of this to let them have a chance. We will have another say in what goes in here and how it is arranged and how things come in.

Anthes: I haven't actually made up my mind how I want to vote one way or the other on this. I just wanted to give the applicant this. You are under a time constraint. I believe that a denial actually puts you in a longer sequence of events than giving you the opportunity to hear this with the full panel up here that might change the outcome of that vote because we would have a full panel to discuss this and hear all of the issues and have the opportunity for a full debate. That's what I wanted to give you the opportunity to have. If you don't want that that is fine, we can vote tonight.

Vaught: If we table an item how soon can it come back?

Pate: If the item was tabled at this time it could come back to the next regular meeting of the Planning Commission. However, if it were denied there is a 10 day appeal process in which the applicant must appeal to the City Council and then it would go on the next slated City Council agenda which most likely would be more than two weeks out. I don't have that schedule in front of me but I would venture to say it would be more than two weeks.

Johnson: Our issue, I don't know how a delay of two weeks would affect the City Council's agenda. That final day is what we are concerned with. You recommend it to the City Council and then the City Council approves it. If it pushes back that City Council hearing date then we are going to be beyond our time allowance. Those are my issues. If they can be addressed through a postponement that's great but if not, I'm going to have to bring it to a vote.

Anthes: We can debate it here. I just wanted you to be really clear on what your options were.

Johnson: I understand and I appreciate that.

Vaught: I would also like to have the City Attorney here to answer some of the questions about neighboring conservation easements and how that transposes onto neighboring properties. That is something that I would like to get a legal opinion on personally.

Clark: I understand your time constraint but I would really favor putting this off to give you time to get some answers to some of our questions because I'm telling you I'm not going to support it. That is a bad thing for you. If we have more time and you have more time to investigate some of these issues that have been raised and give us some answers and there will be more Commissioners present next time then I think that would work in your favor quite honestly.

Johnson: I agree that it would. The problem comes that we have now had a contract on this piece of property for over nine months. The owner is probably going to be disinclined to give us much longer. We have come before you three times now trying to find something that fit and we have unfortunately, run out of time. I wish that the conservation easement had been brought up at one of the prior meetings. This is my first knowledge of anything regarding that. There is definitely no conservation easement on this piece of property. That's all that I'm aware of. I didn't go examine the adjacent properties to see if there was a conservation easement on their property but it is not on ours. That's all that I was looking at. I understand that her intent was to preserve hers for wildlife preservation but I don't believe that within this corridor that wildlife preservation is very viable. Honestly, that's my opinion. There is a junkyard to the east. There is a development to the west. Lowe's is less than 2,000 feet away. It is right in that corridor and everything behind that is much less dense. It is, in fact, inhabited by quite a bit of wildlife. I don't know if I can adequately address your concerns today. I just don't have anymore time. Those are my only issues.

Ostner: The comment that I have is similar to these three. I think it is too dense. RSF-4 is something that we use a lot. It is great in the flatland and it looks great, it is not too dense. It is too dense on this hill. I would be willing to vote for an RSF-1 or RSF-2 maybe, which is half the density that you are proposing. If I were to make a motion for that would you be amenable to RSF-2 tonight?

Johnson: I don't know. I am not the owner. I can't make that decision.

Clark: I know you couldn't answer my questions about potential buffers for the conservation easement?

- Johnson: I can probably go there. We have provided some information before on a previous layout where we did provide some buffer. We would be willing to work with the city. We would hope to do that in a Large Scale Development process, which would proceed after this so this would not be the final say. This is just a general land use zoning and then we would address all of how the streets were laid out and how the buffers, where they needed to be if you required them. I would like the opportunity to address those but I can't address them today, I hope I can address them with a Large Scale Development.
- Ostner: The problem with that approach is it doesn't really work well that way. After the rezoning there are very few rules upon you to adhere to. You get to develop at that density and you follow our mechanical rules. We can't require a buffer and we can't do this and that, that's why we have been requesting this PZD for so long which allows us to do that. We have been down that road.
- Johnson: We have been down that road very far. I appreciate it.
- Anthes: Staff, would you for our well being, remind us what we look for and can comment on for a rezoning?
- Pate: With regard to findings, they are in your staff report but just as an overview. Typically we look at compatibility with existing land use, which is obviously important as we have heard neighbors comment on the rezoning for this rezoning request before this to RMF-12. The neighbors tonight with regard to how compatible this specific land use is to adjoining properties. Additionally, we look at the density that is requested. The number that staff looked at for RSF determines the maximum potential density for that piece of property. At 17 acres, 4 units per acre I believe that is 68 units at a maximum to be developed on this piece of property. Typically in RSF-4, again, this is just a typical. In flatland development, agricultural land that is in the Wedington and Mt. Comfort area. Legacy Pointe I believe is developed at 2.6 units per acre and zoned RSF-4. Our range typically is from 2.6 to 3.2 units per acre in the RSF-4 zoning district, not to say that they couldn't go longer. Obviously, four units per acre is attainable, otherwise it would not be an option. Typically, when you actually calculate in all of the right of way dedication and the streets, lot sizes and configurations it lessens that density. Those are the two principal issues that we look at. Land use, compatibility and density. Additionally, we also ensure that there are adequate services to this lot and that we can provide those city services to this property. That's why we have Fire Department, Police Department, Engineering Services and Planning that make findings with regard to how well we could serve this property.

Anthes: I would like for us to come up with something that we can pass tonight. This applicant has been before us a lot of times. This is a complicated site and a complicated condition. If you just looked at it and looked at what was around it it would seem that when you have a C-2 that is approaching and you've got all these other things that are in this, it would seem in most areas of the city fairly easy to vote for an RSF-4 in that area. This is a more difficult site and I would like to come up with something that we could endorse. I think Commissioner Ostner was eluding to the fact that he could support a lower density. Maybe that is something that we should discuss.

Ostner: I don't think the applicant is able to make that decision.

Anthes: We can.

Johnson: I've considered that. If I did make that decision tonight I think we could withdraw it if it was unacceptable to the owner. Go ahead and make your discussion and see what you are willing to support. If it is something that is viable for us then we will proceed. If not, we will withdraw.

Anthes: I think that Jeremy brought up some really good ideas. The likelihood on a 10% or 15% slope with the greenspace dedications that you have talked about in the past, which I'm assuming you're still talking about doing and some other things, the likelihood is that we weren't going to actually approach the RSF-4 zone with any plans that you were going to do. It is just as Commissioner Ostner said, we are giving you the right to go as close to that as possible.

Vaught: Staff, on Large Scale Developments I know we work with the applicants on location of dedication on things like parkland, is there a way that at that level we can work with them to make the parkland dedication be abutting this corner of the property where the open space is instead of putting it on other parts of the lot? Can we require that kind of a condition or is that something we express and hope they follow at that level?

Pate: If this development were to be rezoned tonight or at the City Council level, to RSF-4 the typical process would then be for the applicant to submit a subdivision plat, a Preliminary Plat. At that time the general lot size and configuration based on our zoning ordinance under that zoning classification would be determined. Adequate infrastructure improvements including water lines, sewer lines, streets, and those types of things are addressed. There are provisions in our zoning codes to look at buffer strips at the time of development. Again, these are at the time of development, you are entirely correct. We are looking at the actual development of this property. Tonight we are really deciding land use and density and if this is compatible with our General Plan, which is

residential in this area. With regard to park land dedication, any residential project within the City of Fayetteville they do look at the potential acceptance of land dedication for their rational formula for park land dedication. What they have to base that decision on also though is their master park plan. It ultimately becomes the city's responsibility to maintain that property then so taking that land into ownership by the city parks department may not benefit them in anyway except for that buffer, which is obviously, important in this case. We do have a Buffer Strips and Screening portion in our ordinance. Whether this would be applicable at that time, the applicant has stated tonight that he could offer that. I'm not sure how much we could enforce a screen because typically it is against commercial uses. We would more likely be looking at a buffer strip required between this residential use and the commercial use to the south, which is not developed yet but it is C-2, Thoroughfare Commercial along Hwy. 62.

Clark: In your opening comments you said that it is going to be a potential of 66 to 68 lots so you are planning for that?

Johnson: That's just the potential. We have not done any further layouts. We provided one layout with a much higher density. We haven't gone there yet. Obviously, the site does not lend itself to where you can get the maximum density. There are a few areas of significant slope. Most of the area is sloped but it is not inconceivable to be developed. I don't know how many we can get on there in honesty. We would be willing to work with the city to find some medium ground if possible. The intent was to get as many lots as we could get on the land with providing that buffer between our property and the property that it adjoins to the south.

Ostner: May I remind the Commissioners to make their discussion fully available to the public and the reporters?

Clark: I'm just looking to you for leadership and guidance.

MOTION:

Ostner: From my leadership I'm going to make a motion that we vote on this. I am going to make a motion that we approve this.

Vaught: I will second.

Ostner: Before we vote, I am simply making a motion to get the ball rolling. I am going to vote against it. For the record, the issue is density. Does anybody want to talk more before we vote?

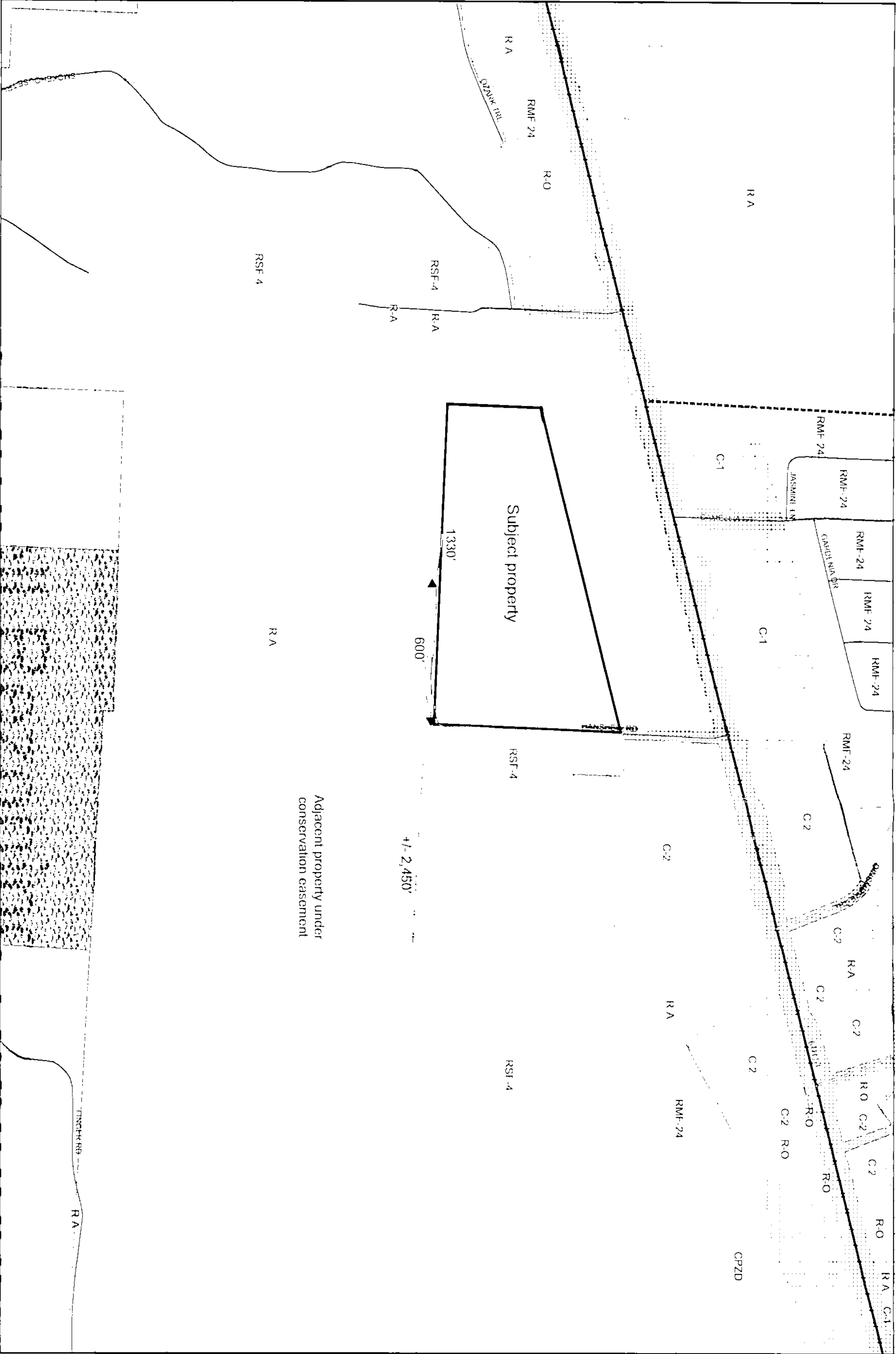
Clark: I call the question.

Planning Commission
April 26, 2004
Page 45

C. 3
Planning Commission Appeal; Hwy. 62 & Hanshew Dr.
Page 38 of 38

Roll Call: Upon the completion of roll call the motion to approve RZN 04-07.00 failed by a vote of 2-3 with Commissioners Ostner, Clark and Allen voting no.

Thomas: The motion fails two to three.

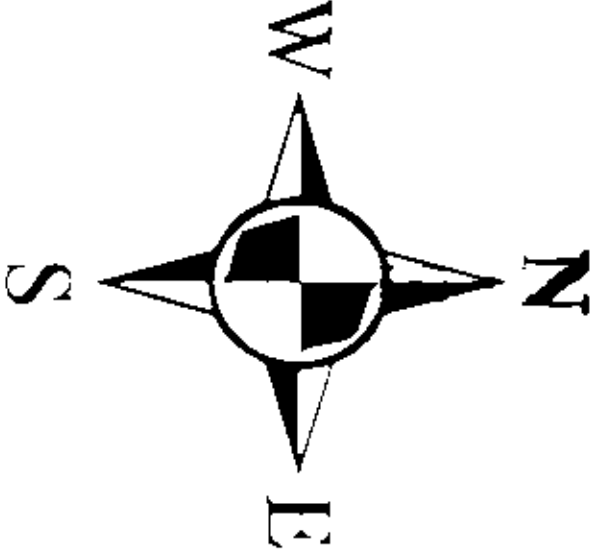


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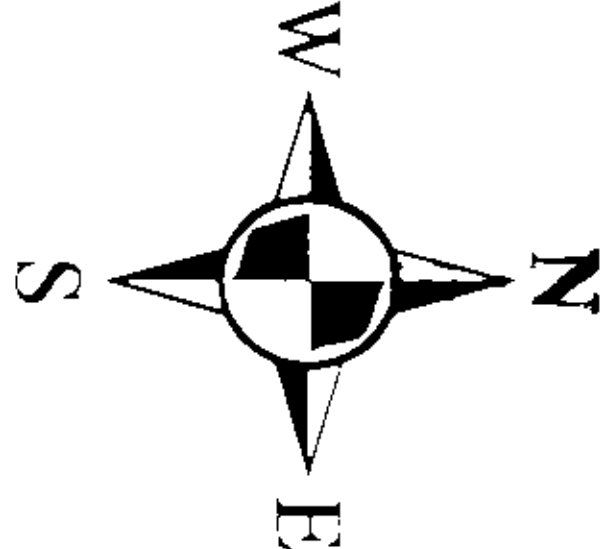
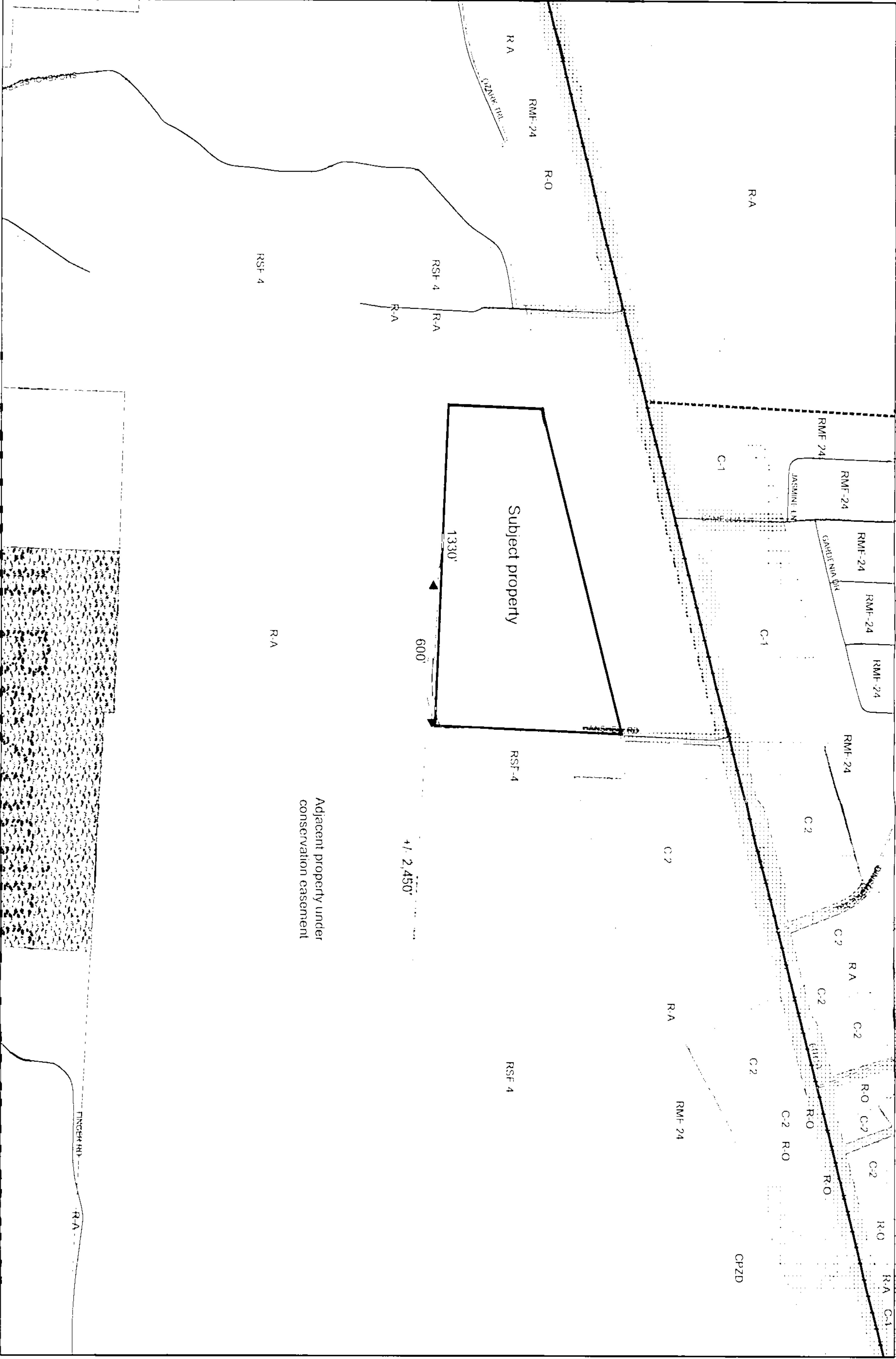
Future Land Use

LandUseType

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



Parnell Rezoning Request



Legend

Future Land Use

LandUseType

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

Parnell Rezoning Request

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Greg Boettcher, Water/Wastewater Director

Date: April 29, 2004

Subject: Appeal of Administrative Division denying claim for damages by Mr. David Howard against Fayetteville Water and Wastewater Department

RECOMMENDATION

The Fayetteville City Administration recommends denial of the \$1,041.56 in claimed damages by Mr. David Howard.

BACKGROUND

On February 22, 2004, Mr. David Howard filed a claim for damages in the amount of \$1,041.56 in connection with his property at 152 Ruth Street, Farmington, Arkansas. A copy of the claim for compensation including supporting documentation is included as Attachment "A". Investigation of the claim concluded that Fayetteville did not have responsibility for the alleged damages, the department report being included as Attachment "B". On April 22, 2004, a denial claim letter was forwarded to Mr. David Howard, copy enclosed as Attachment "C". On April 28, 2004, Mr. Howard requested an appeal to the Fayetteville City Council regarding the disposition of his claim.

DISCUSSION

The water meter and shut-off valve are the property of the water utility, they are not to be tampered with by customers and are not to be used as a main plumbing valve. Plumbing codes require each residence to have its own main valve on the water service entering the structure, said valve to facilitate plumbing repairs and temporary water service curtailment. This customer did not request that the water service be discontinued to allow repairs, in which case, city personnel could have closed the meter valve and broken piping connection to fully disconnect the dwelling from the water system. The unauthorized use of city facilities to perform building plumbing, the irresponsible act of having plumbing lines open inside the dwelling and the failure to use the building's main valve to isolate the building plumbing are all attributable to acts of others than the City of Fayetteville. The Fayetteville Water and Wastewater Department has no responsibility for the claimed damages.

City Council Meeting of May 18, 2004
Agenda Item Number

BUDGET IMPACT

It is recommended that the claim denial be upheld; therefore, there should be no budget impact. Claims of this nature are paid from the City of Fayetteville's self-insurance fund, the alleged damages would not be covered by any insurance policies of the city.

Attachment "A" C. 4
David Howard Damage Claim Appeal
Page 3 of 12
RECEIVED

MAR 11 2004

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

CITY OF FAYETTEVILLE CLAIM FORM

INSTRUCTIONS: Complete this form and clearly state the reason for the claim, amount you are claiming, and attach appropriate documentation including receipts or three estimates. Additional sheets may be used. Please mail to or drop by the:

City Administration Bldg., Mayor's Office,
113 W. Mountain, Fayetteville, AR 72701 (479-575-8330)
Fax-479-575-8257

CLAIMANT INFORMATION:

NAME: David E Howard

STREET ADDRESS: 152 Ruth St.

CITY, STATE & ZIP: Farmington. Ar

PHONE NO: 479-790-3254 SOCIAL SECURITY NO: 432-69-0780

INCIDENT INFORMATION:

Address of Occurrence: 152 Ruth St.

Date of Occurrence: 2/22/04

Nature of Occurrence: Sewer ☒ Water ☐ Pothole ☐ Other ☐

Amount Being Claimed: \$1,041.54

The undersigned hereby files a claim(s) against the City of Fayetteville, Arkansas for the following reason(s):

Water Meter Shut off valve broke letting water into
the house that had open valve due to repairs in bathroom
I had just replaced all the floor coverings throughout
the house (carpet vinyl, imitation hardwood) I have receipts
there is also - \$152.00 of wall covering I
don't have a receipt for

Signature

Pam Henson

Received by

Date

3/11/04

Date Received

Referred To

Date

DEPARTMENT DIRECTOR

DATE

ACCEPTED

DENIED

Statement	Date	- 2003 12
TO _____		

In Account With

Howard R. McMurray
13382 Kettle Spring Pl
Darien, CT

Terms			
1	07	4/25 earned @ 350	
2	20	4/25 Vnig @ 350	
3			30450
4			
5			
6			
7			
8			
9			
10			
11			
12			
			30450

Complete Restoration, Inc.
P.O. Box 162
Springdale, AR 72765 (419) 756-5383

CONFIDENTIAL

5201
 2000
 (Phone) 2000 370 3054
 (Date) 7/21/2017

[illegible]

THE HOME DEPOT 1403
675 EAST JOYCE BLVD.
FAYETTEVILLE, AR 72703 (479)571-4700

SALE 1403 00012 23841 11/22/03
11 JMC733 06:08 PM



✓ 734565105268 WALLPAPER 50.88
3 @ 16.96
✓ 082327214247 VNTGGRPSBRDR 35.88
3 @ 11.96
✓ 082327102094 WALLPAPER 15.96
SUBTOTAL 102.72
SALES 8.60
TOTAL \$111.32
XXXXXXXXXXXX2292 DEBIT 111.32
AUTH CODE 402910



1403 12 23841 11/22/2003 0367

YOUR OPINION COUNTS! COMPLETE A SURVEY
AT WWW.HOMEDEPOTOPINION.COM AND ENTER
TO WIN A \$300 HOME DEPOT GIFT CARD!

THE HOME DEPOT 1403
675 EAST JOYCE BLVD.
FAYETTEVILLE, AR 72703 (479)571-4700

SALE 1403 00012 27156 11/23/03
11 TRL98K 05:57 PM



082327214247 VNTGGRPSBRDR 11.96
734565105268 WALLPAPER 16.96
SUBTOTAL 28.92
SALES TAX 2.42
TOTAL \$31.34
XXXXXXXXXXXX2292 DEBIT 31.34
AUTH CODE 477983



1403 12 27156 11/23/2003 1324

YOUR OPINION COUNTS! COMPLETE A SURVEY
AT WWW.HOMEDEPOTOPINION.COM AND ENTER
TO WIN A \$300 HOME DEPOT GIFT CARD!

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

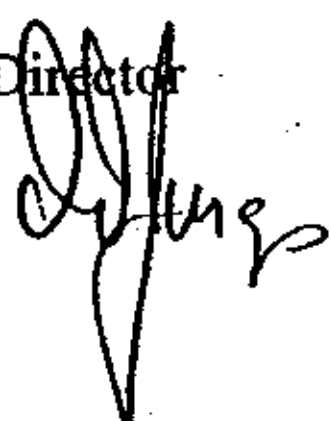
DEPARTMENTAL CORRESPONDENCE

Attachment "B" C. 4
David Howard Damage Claim Appeal
Page 8 of 12

RECEIVED

APR 20 2004

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

To: Greg Boettcher, Water/Sewer Director
From: David Jurgens, Water/Sewer 
Date: 16 April 2004
Subject: Citizen Claim- 152 Ruth (David E. Howard)

General. This claim for expenses is confusing. After significant discussion with Don Osburn, I do not feel it is valid. The claimant was doing internal plumbing work in his home, and disconnected fixtures within the home for repair on or about 14 February 2004. When he did so, he did not shut off the fixture valves in the bathroom that isolate the open pipes from the rest of the home plumbing.

There is no record of anyone asking the City to shut off the meter relating to his work inside the home. The business office keeps very accurate records of this information on a by-address basis. We thus have a greater than 95% certainty that the customer or someone working for him shut off the meter. If this did occur, it is a direct violation of City ordinances.

When the customer removed his fittings, he had no legal method of shutting off the water to the pipes servicing the missing fixtures without either 1) shutting off the fixture valves; or 2) shutting off the meter loop. If he did the former, then there would not have been any problem in the home. If he did the latter, then he violated City codes, thus eliminating the City's ability to check for this type problem and properly protect the customer. When City employees shut off a meter at the customer's request, based on his needing to work on the plumbing lines, it is common to check the leak detector to make sure no water is passing through the meter. Ultimately, it is the plumbing owner's responsibility to protect his own property from water coming out of his plumbing.

This leak was caused by not following City ordinances and basic prudent plumbing practices.

Recommendation. I recommend we deny this claim.

Additional Information. On or about 18 February, Meter Division employees locked off the meter (in a closed position) due to nonpayment. Given the number of meters they operate on a daily basis, they cannot swear whether this meter loop was on or off at the time they arrived. Obviously, they believe it was turned on, hence the trip to shut it off. On 22 February, in response to the customer's request, Meter Division employees removed the meter and discovered the cutoff valve was allowing a very small amount of water to pass through. The meter was read on both 18 February and 22 February- the reading did not change, indicating that it is impossible for more than 100 gallons of water to pass through the meter during this time. Looking at the

leak detection mechanism, 60 gallons passed through in this 100 gallon incremental reading on the dial. This sixty gallons could have passed through the meter at any time both before and after the meter was shut off.

The most likely scenario for the water to have gotten into his home is that, when Meter Division personnel went to the house to lock off the meter, they did a quick operation of the cutoff to make sure it was indeed shut off. This is very reasonable, as they had no reason to expect that the customer had illegally shut off his cutoff at the meter. Also, the cutoff may have needed some adjustment in order to get the lock holes to line up in order to lock meter closed.

cc: Don Osburn

FAYETTEVILLE

Attachment "c" C. 4
David Howard Damage Claim Appeal
Page 10 of 12

THE CITY OF FAYETTEVILLE, ARKANSAS

April 22, 2004

Mr. David E. Howard
152 Ruth Street
Farmington, AR

RE: **Water Damages Claim**
152 Ruth, Farmington, Arkansas

Dear Mr. Howard:

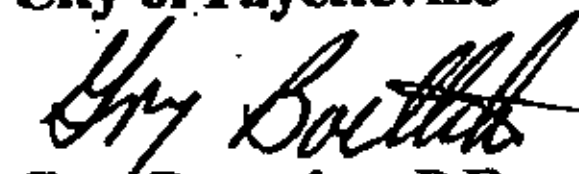
The City of Fayetteville has reviewed your claim of February 22, 2004 for water damages and must respectfully deny payment for such claim. The alleged water damages are directly attributed to the open water plumbing lines within your residence, a situation outside the City of Fayetteville's control and responsibility.

City policy allows claimants to appeal administrative actions to the City Council. If you wish to pursue this course, you should contact the City Clerk's office at 479-575-8323 to make arrangements for your appeal.

Should you have any questions concerning this matter, please feel free to contact me at 575-8330.

Very truly yours,

City of Fayetteville



Greg Boettcher, P.E.
Water and Wastewater Director

Cc: David Jurgens, Don Osburn, David Whitaker

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council Meeting of: May 18, 2004

FROM:

Greg Boettcher

W/S Operations

Water and Wastewater

Name

Division

Department

ACTION REQUIRED: Appeal of Administrative Division denying claim for damages by Mr. David Howard against Fayetteville Water and Wastewater Department.

SUMMARY EXPLANATION:

STAFF RECOMMENDATION:

Division Head

Date

[Signature]

4/29/04

City Attorney

Date

[Signature]

4/29/04

Department Director

Date

[Signature]

5-3-04

Finance & Internal Services Dir.

Date

[Signature]

5-3-04

Chief Administrative Officer

Date

[Signature]

5/3/04

Mayor

Date

Received in Mayor's Office

AM 5304
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF MAY 18, 2004

FROM:

ALDERMAN BRENDA THIEL

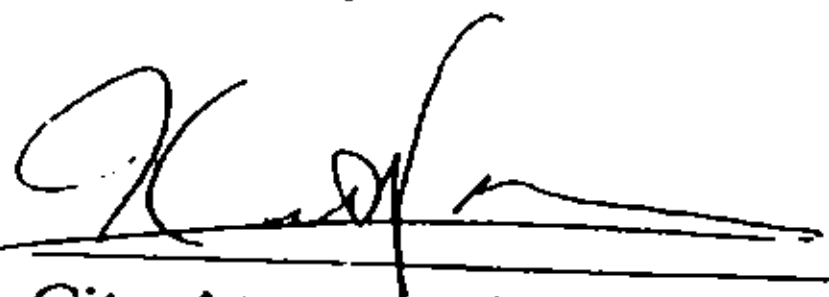
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Name The Creek That Runs Just To The West Of Willow Avenue South Of Spring Street "Willow Creek"

APPROVED FOR AGENDA:

Alderman

Date



4-30-04

City Attorney (as to form)

Date

RESOLUTION NO. _____

A RESOLUTION TO NAME THE CREEK THAT RUNS
JUST TO THE WEST OF WILLOW AVENUE SOUTH OF
SPRING STREET "WILLOW CREEK"

**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
names the creek that runs just to the west of Willow Avenue (south of Spring Street)
"Willow Creek" and requests that FEMA, USGS and all other agencies refer to this
tributary of the West Fork of the White River as "Willow Creek."

PASSED and APPROVED this the 18th day of May, 2004.

APPROVED:

By: _____

DRAFT
DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

City Council Agenda Item

To: Mayor and City Council
From: Gary Dumas
Date: April 29th, 2004
Subject: Bid waiver to purchase roll off style containers and receiver boxes

Recommendation: Staff recommends approving a bid waiver to receive the best prices possible for the purchase of roll off style and receiver box containers for the Solid Waste and Recycling Division.

Background: In February 2004 Best Pac Inc. was awarded bid 03-79 for the right to supply roll off style and receiver boxes to the Solid Waste and Recycling Division. Resolution number 15-04 gave the Solid Waste and Recycling Division the approval to purchase the containers with this bid. Recently staff tried to place the first order for roll-off style containers and were informed by Best Pac that they were no longer able to honor their bid due to recent spikes in steel prices increasing the costs of their containers. Because of these increases, the cost to the City went up approximately \$1,500 per container.

Discussion: Receiving a bid waiver to use another manufacturer will enable the city to receive the best prices possible for the purchase of these containers. Due to the recent increase in cost from this vendor, staff received new quotes from 3 other manufacturers: Gregory Design and Manufacturing, Waste Quip May Fab, and Downing Sales and Service. Staff analyzed the new quotes and have determined the City could save approximately \$300 per container on average with Waste Quip May Fab when comparing their lowest quotes with Best Pac's new price. The copies of these quotes are attached with this memo. Staff believes this justifies a need for a bid waiver.

These containers are purchased on an as-needed basis. Due to the uncertainty in the steel markets, receiving quotes from manufacturers before placing an order will give the Division the best price for ordering containers. The Water and Sewer Division has in the past been placed in situations like this and have been able to receive better prices by receiving a bid waiver for their materials.

The increase in business requests for the drop box program is prompting the need for immediate purchase of these containers.

Budget Impact: These containers were anticipated and budgeted into Solid Waste's Commercial Collection program within the container costs account, 5500.5010.5870.00. Currently there is \$135,856.72 left in this account. The purchase of these containers was authorized up to \$85,859 and will be covered within the budget.

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE FORMAL COMPETITIVE
BIDDING REQUIREMENT DURING 2004 FOR THE
PURCHASE OF ROLL OFF STYLE STEEL CONTAINERS
BY THE SOLID WASTE DIVISION AND TO APPROVE A
PURCHASE OF ROLL OFF CONTAINERS IN AN AMOUNT
NOT TO EXCEED \$85,859.00

WHEREAS, a previous bid was awarded by the city after competitive bidding in February, but could not be honored by the successful bidder due to an unanticipated jump in steel prices; and

WHEREAS, because of the volatility of steel prices (and hence the price of steel Roll Off style containers), normal competitive bidding procedures are unworkable, impractical and not feasible; and

WHEREAS, the Solid Waste Division proposes to obtain telephone or fax bids by direct solicitation of the suppliers who previously bid during the formal process and accept the lowest bid in this abbreviated procedure.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists in which formal competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding for the purchase of steel Roll Off style containers for the rest of 2004, but requires that the Solid Waste Division solicit fax bids from at least three suppliers and award the bid to the lowest bid submitted.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of Roll Off style containers by the procedure stated above in an amount of not to exceed \$85,859.00.

PASSED and APPROVED this 18th day of May, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT



2512 Henry Ladyn Drive • P.O. Box 325 • Fort Madison, IA. 52627

FACSIMILE TRANSMITTAL SHEET

TO:	Travis Dotson	FROM:	Craig Kelly
FAX NUMBER:	479-444-3478	DATE:	4/27/04
COMPANY:	City of Fayetteville	TOTAL NO. OF PAGES INCLUDING COVER:	2
PHONE NUMBER:		SENDER'S PHONE NUMBER:	319-463-7700
RE:		SENDER'S FAX NUMBER:	319-463-7643

☐ URGENT ☒ FOR REVIEW ☒ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

Travis

The following is the quote you requested for Roll Offs. If you have questions please give me a call 319-371-6485.

Thanks,
Craig Kelly
Gregory Design & Manufacturing

**Gregory Manufacturing**

2512 Henry Ladyn Drive

P.O. Box 325

Fort Madison, Iowa 52627

TO:City of Fayetteville
ATTN: Travis Dotson

PH: (319) 463-7700 FAX: (319) 463-7643

Quote Date:

4/27/04

Salesman:

Bill Coppage

Quote No:

Quote Approved:

Order Approved:

PURCHASE ORDER NO:

(TO ACKNOWLEDGE ORDER)

Quotation

ESTIMATED SHIPPING DATE		SHIPPED VIA	F.O.B.	TERMS	
3-4 weeks		Truck	FM	Net 30	
QUANTITY	DESCRIPTION	PRICE	AMOUNT		
	20 Yard Rectangular Roll Off Heavy	\$3,099	\$3,099		
	30 Yard Rectangular Roll Off Heavy	\$3,699	\$3,699		
	40 Yard Rectangular Roll Off Heavy	\$4,099	\$4,099		
QUOTE VALID 30 DAYS.			TOTAL		

PLEASE NOTE: Unless otherwise agreed to by Gregory Manufacturing Management;
Orders for custom products will not be processed without signed Purchase Order.

Quote

Attn: Travis

Quote Expires 5/4/04

WasteQuip / May FabP.O. Box 1029
Beeville, TX 78104Phone: (800) 242-0122
Fax: (361) 358-0418
E-mail: julie@mayfab.com
URL: http://www.wastequip.comQuote No. 38105
Quote Date 4/27/04Terms Net 30
Sales Rep. Steve Hurtt
Shipped VIA MF - OK
Painted will advise
Delivery 7-21 days ARO**SOLD TO:**

City of Fayetteville

Fayetteville, AR

Contact Person: Travis

E-mail Address:

Phone No.

Fax No. 479 444-3478

Mob. No.

SHIPPED TO:

City of Fayetteville

Fayetteville, AR

QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
	ROC	20 YD STD RECTANGULAR	2,894.00	
	ROC	30 YD STD RECTANGULAR	3,164.00	
	ROC	40 YD STD RECTANGULAR	3,568.00	
		NOTE WE CAN SHIP 4-5 PER TRUCKLOAD		
		IF WE SHIP 5 YOU WILL HAVE TO HANG		
		2 DOORS		
FREIGHT PER TRUCKLOAD IS \$425.00			SUBTOTAL	\$0.00
			SALES TAX	APPLICABLE
			FREIGHT	SEE FREIGHT
			TOTAL	\$0.00

Questions concerning this quote:

Call: Julie Fromme
(800) 242-0122

Thank you for the opportunity to quote the above.

Please give me a call if you have any questions.
Thank you, again and have a great day!!!*Julie Fromme*

Unless stated otherwise in writing, container sizes indicated on sales literature, invoices, price lists, quotations, and delivery tickets are nominal sizes. Actual volume may vary from nominal sizes.

Wastequip May Fab's specifications are subject to change without notice in order to accommodate improvements to its equipment.

Apr 27 04 04:00p

Downing Sales & Serv, Inc 4175896753

P. 1 C. 6
Roll Off Style Container Bid Waiver
Page 7 of 14

Downing Sales & Service, Inc.
3 Indigo Rd
Phillipsburg, MO 65722 5102
417 589 6227 Fax: 417 589 6753

April 27, 2004

Attn: Travis Dotson
City of Fayetteville
Fax: 479 444 3478

We are pleased to offer the following for your consideration:

1 - Roll Offs USA 30 Yard Open Top Rectangle Container \$3,575.00 5/TL

Or

1 - Roll Offs USA 40 Yard Open Top Rectangle Container \$4,099.00 4/TL

Specifications

- Standard Duty
- Floor: 3/16"
- Crossmembers: 18" centers
- Long sills: 6 X 2 X 3/16"
- Walls: 12 gauge
- Post spacing: 24"
- Top rails: 4 X 3 X 11 gauge
- Hook plates: 7/8"
- Rear rollers: 8" X 10"
- Push plates: 1/2"

Please Note: The above prices do not include any applicable sales tax. Freight is \$450.00/truckload to Fayetteville, AR.

These prices are good til May 1st, 2004.

We appreciate the opportunity to quote this equipment.

Sincerely,

Daniel Ellison (JD)

Daniel Ellison

DE/lc

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 6
Roll Off Style Container Bid Waiver
Page 8 of 14

DEPARTMENTAL CORRESPONDENCE

To: Travis Dotson
Solid Waste Division

From: Clarice Buffalohead-Pearman *cbp*
City Clerk Division

Date: February 9, 2004

Re: Resolution No. 15-04

Attached is a copy of the above resolution passed by the City Council February 3, 2004, approving the purchase of trash compactors and roll-off container/compactors. The resolution will be recorded in the city clerk's office and microfilmed.

If anything else is needed please let the clerk's office know.

/cbp

attachment(s)

cc: Nancy Smith, Internal Auditor

RESOLUTION NO. 15-04

A RESOLUTION APPROVING THE PURCHASE OF TRASH COMPACTORS AND ROLL-OFF CONTAINER/COMPACTORS IN AN AMOUNT NOT TO EXCEED \$85,859.00 FROM BES-PAC INC., AND DOWNING SALES, INC.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of trash compactors and roll-off container/compactors in an amount not to exceed \$85,859.00 from Bes-Pac Inc., and Downing Sales, Inc.

PASSED and APPROVED this 3rd day of February, 2004.



APPROVED:

By: *Dan Coody*
DAN COODY, Mayor

By: *Sondra Smith*
SONDRA SMITH, City Clerk



City Council Agenda Item

Preprint agenda date and
item number inserted by
city clerk

To: Mayor and City Council
From: Gary Dumas
Date: January 16th, 2004
Subject: Awarding Bid for Roll-Off Style Containers, Receiver Boxes, and
Compactors – Bid #03-78

Recommendation: Accept the lowest bids from BesPac Manufacturing of Easley, South Carolina and Downing Sales of Phillipsburg, Missouri for containers/receiver boxes and compactors respectively.

Background: The Solid Waste/Recycling Divisions present bid for containers, receiver boxes, and compactors has expired. The containers are used to receive trash and recycling items from construction sites, demolition staging and refuse from large commercial businesses.

Discussion:

The twelve month agreement will allow the purchase of the listed items at lowest price on an "As Needed" basis and are as follows:

Compactors
4yd hopper units @ \$8595.00/UNIT
40yd Receiver Boxes @ \$3645.00/UNIT
Container/Receiver Box
20yd drop boxes @ \$1947.00/UNIT
30yd drop boxes @ \$2195.00/UNIT
40yd drop boxes @ \$2349.00/UNIT
Receiver boxes various sizes @ \$3645.00/UNIT

The Solid Waste and Recycling Division, pursuant to resolution #131-02, will be expanding temporary drop box service as well as permanent compactor services during the 2004 fiscal year. The purchases of containers/receiver boxes and compactors will assist Solid Waste servicing its current customers and provide the equipment to expand the drop box and compactor services.

The Solid Waste/Recycling Division staff has inspected the low bidder's compactors and receiver/drop boxes to verify they meet current specifications.

The bid tab sheet from City of Fayetteville Purchasing Office is attached.

Budget Impact: These items were anticipated and budgeted into Solid Waste's Commercial Collection program within the container costs account. The projected cost of this project is \$85,859. These items are within their formal bids.

City of Fayetteville

Solid Waste Containers & Compactors

Bid: 03-79

Date: 12/18/03

Time: 11:30 AM

Item	Bes-Pac Inc.	Downing Sales and Service	Gregory Manufacturing	J.V. Manufacturing	K-Pac	RJM Waste Equipment Co.	Wastequip Mayfab
1	\$2,145.00	\$2,145.00	\$2,170.00	No Bid	No Bid	\$2,179.00	\$2,081.00
2	\$2,245.00	\$2,245.00	\$2,460.00	No Bid	No Bid	\$2,372.00	\$2,275.00
3	\$2,594.00	\$2,594.00	\$2,850.00	No Bid	No Bid	\$2,691.00	\$2,629.00
4	\$2,132.00	\$2,132.00	\$2,205.00	No Bid	No Bid	\$2,231.00	\$2,251.00
5	\$2,245.00	\$2,245.00	\$2,600.00	No Bid	No Bid	\$2,484.00	\$2,347.00
6	\$2,643.00	\$2,643.00	\$2,850.00	No Bid	No Bid	\$2,850.00	\$2,939.00
7	\$3,445.00	\$3,445.00	\$3,450.00	No Bid	No Bid	No Bid	\$4,513.00
8	\$3,600.00	\$3,600.00	\$3,900.00	No Bid	No Bid	No Bid	\$5,192.00
9	\$3,740.00	\$3,740.00	\$3,970.00	No Bid	No Bid	No Bid	No Bid
10	\$3,925.00	\$3,925.00	\$4,700.00	No Bid	No Bid	\$4,600.00	\$5,892.00
11	\$3,925.00	\$3,925.00	\$4,800.00	\$5,764.00	No Bid	\$4,850.00	\$5,892.00
12	\$3,445.00	\$3,445.00	\$3,700.00	\$3,998.00	No Bid	No Bid	\$3,422.00
13	\$3,570.00	\$3,570.00	\$3,800.00	\$4,196.00	No Bid	No Bid	\$3,606.00
14	\$3,640.00	\$3,640.00	\$3,900.00	No Bid	No Bid	\$3,630.00	\$3,826.00
15	\$3,795.00	\$3,795.00	\$4,400.00	\$4,568.00	No Bid	\$3,940.00	\$4,077.00
16	\$3,870.00	\$3,870.00	\$4,300.00	No Bid	No Bid	\$4,340.00	No Bid
17	\$9,150.00		\$10,100.00	\$8,805.00	\$9,534.00	No Bid	No Bid
18	\$9,490.00		\$10,100.00	\$9,023.00	\$9,534.00	No Bid	\$11,245.00
19	\$9,675.00		\$10,500.00	\$9,863.00	\$9,534.00	\$10,560.00	\$11,245.00
20	\$9,890.00		No Bid	\$10,039.00	\$10,060.40	\$10,590.00	\$11,325.00
21	\$10,700.00		\$11,000.00	\$10,279.00	\$10,365.60	\$10,610.00	\$11,400.00
22	\$11,120.00		\$11,758.00	\$10,838.00	\$10,671.15	\$10,810.00	\$11,520.00
23	\$11,900.00		No Bid	\$11,280.00	No Bid	\$12,580.00	\$12,225.00
24	\$12,410.00		No Bid	No Bid	No Bid	No Bid	No Bid
25	\$7,710.00		\$6,640.00	\$5,445.00	\$6,738.90	\$6,010.00	\$6,250.00
26	\$8,925.00		\$9,300.00	\$8,456.00	\$7,085.40	\$7,730.00	\$7,963.00
27	\$9,400.00		\$9,800.00	\$8,981.00	\$10,162.60	\$8,646.00	\$8,795.00
28	\$12,290.00		No Bid	\$15,221.00	\$14,100.80	\$12,950.00	\$10,250.00
29	\$6,200.00		No Bid	No Bid	No Bid	No Bid	No Bid
30	\$5,710.00		\$7,800.00	\$5,975.00	\$6,133.40	No Bid	\$5,853.00
31	\$6,300.00		\$8,100.00	\$6,235.00	\$6,343.40	No Bid	\$5,883.00
32	\$6,715.00		\$8,300.00	\$6,495.00	\$6,613.60	No Bid	\$6,272.00

Subtotals

\$192,409.00	\$186,816.00	\$159,453.00	\$145,461.00	\$116,877.25	\$126,653.00	\$171,168.00
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Exceptions for No Bids

0	0	\$57,736.00	\$61,696.00	\$91,738.00	\$85,716.00	\$36,454.00
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STAFF REVIEW FORM - FINANCIAL OBLIGATION

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: February 3rd, 2004

FROM:

Travis Dotson

Solid Waste and Recycling

Operations

Name

Division

Department

ACTION REQUIRED: Approval of resolution authorizing purchases up to \$85,859 for Roll-Off Style containers, Receiver Boxes and Compactors. Also accepting the low bid for containers/receiver boxes from Bes Pac Manufacturing of Easy, South Carolina and compactors from Downing Sales of Phillipsburg, Missouri. This is an annual bid allowing the Division to purchase this equipment at the lowest cost possible. Equipment will be purchased on a as needed basis to service customers.

COST TO CITY:

<u>\$85,859.00</u>	<u>\$160,000</u>	<u>Container Costs</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>5500-5010-5870-00</u>	<u>none</u>	<u>Not applicable</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>Not applicable</u>	<u>\$160,000</u>	<u>Solid Waste</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item Budget Adjustment Attached

[Signature] 1-16-04
Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

<u>[Signature]</u> <u>1/16/04</u>	<u>[Signature]</u> <u>1/16/04</u>
Accounting Manager Date	Internal Auditor Date
<u>[Signature]</u> <u>1/20/04</u>	<u>[Signature]</u> <u>1/20/04</u>
City Attorney Date	Purchasing Manager Date

STAFF RECOMMENDATION:

<u>[Signature]</u> <u>1-16-04</u>
Division Head Date
<u>[Signature]</u> <u>1-16-04</u>
Department Director Date
<u>[Signature]</u> <u>1-20-04</u>
Finance & Internal Services Dir. Date
<u>[Signature]</u> <u>1-21-04</u>
Chief Administrative Officer Date

Received in Mayor's Office 1-20-04
Date [Signature]

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

Mayor Date



STAFF REVIEW FORM - FINANCIAL OBLIGATION

C. 6
Roll Off Style Container Bid Waiver
Page 13 of 14

XX AGENDA REQUEST
 CONTRACT REVIEW
 GRANT REVIEW

For the Fayetteville City Council Meeting of: May 18th, 2004

FROM:

Travis Dotson

Name

Solid Waste and Recycling

Division

Operations

Department

ACTION REQUIRED: Approval of a bid waiver to authorize the Solid Waste and Recycling Division to purchase Roll Off Style containers in the amount up to \$85,859 in order to receive the best price possible for these containers. Equipment will be purchased on a as needed basis to service customers.

COST TO CITY:

\$ 85,859.00

Cost of this request

\$ 160,000.00

Category/Project Budget

Capital

Program Category / Project Name

5500-5010-5870-00

Account Number

\$ 24,143.00

Funds Used to Date

Commercial Collection

Program / Project Category Name

Not applicable

Project Number

\$ 135,857.00

Remaining Balance

Solid Waste

Fund Name

BUDGET REVIEW:

X

Budgeted Item

Budget Adjustment Attached

[Signature]
Budget Manager4-29-04
Date

CONTRACT/GRANT/LEASE REVIEW:

[Signature]
Accounting Manager4/30/04
Date

Internal Auditor

Date

[Signature]
City Attorney4/30/04
Date

Purchasing Manager

Date

STAFF RECOMMENDATION:

[Signature]
Division Head

Date

[Signature]
Department Director4/29/04
Date[Signature]
Finance & Internal Services Dir.5-3-04
Date[Signature]
Chief Administrative Officer5-3-04
Date[Signature]
Mayor5/4/04
Date

Received in Mayor's Office

Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No



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 29, 2004

Subject: Annexation for Nooncaster (ANX 04-03.00)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Nooncaster. This action will incorporate a 20.01 acre tract of land contiguous with the city limits on three sides into the City of Fayetteville. The request is to annex the subject property into the City of Fayetteville.

BACKGROUND

The subject property is 20.01 acres and located in north Fayetteville. The property is surrounded on three sides by developed or approved Fayetteville subdivisions: Stonewood Gardens to the west, Copper Creek Phase I to the south and Copper Creek Phase II to the east. To the north is one intervening property from the Springdale city limits. The subject property has been anticipated for growth by surrounding development; infrastructure has been stubbed out on all three sides to provide street connectivity and looped utility service for development on the 20-acre tract.

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

DISCUSSION

On April 26, 2004, the Planning Commission voted 6-0-0 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 THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY OWNED BY NOONCASTER VINEYARDS, INC, LOCATED EAST OF CROSSOVER AND NORTH OF HEARTHSTONE DRIVE CONTAINING APPROXIMATELY 20.01 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 04-03.00

A PART OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼) AND A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE SOUTHWEST QUARTER (SW ¼) ALL IN SECTION EIGHTEEN (18), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼), SAID POINT BEING AN EXISTING NAIL IN A FENCE CORNER POST; THENCE N87°10'45"W ALONG AN EXISTING FENCE 1320.09 FEET TO A SET IRON ON THE EAST BOUNDARY LINE OF STONEWOOD ADDITION, AN ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS; THENCE N02°31'40"E 644.76 FEET TO AN EXISTING IRON AT THE NORTHEAST CORNER OF SAID ADDITION; THENCE S87°31'29"E 9.46 FEET TO A SET IRON ON THE WEST LINE OF SAID SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼); THENCE N02°24'04"E 6.59 FEET TO AN EXISTING IRON AT THE NORTHWEST CORNER OF THE SOUTH HALF (S ½) OF SAID SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼); THENCE N02°24'04"E ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼) 8.80 FEET TO A SET IRON IN LINE WITH AN EXISTING FENCE; THENCE ALONG SAID FENCE, THE FOLLOWING BEARINGS AND DISTANCES:

S87°09'31"E	354.14 FEET TO A SET IRON;
S87°21'58"E	289.92 FEET;
S87°03'11"E	407.46 FEET;
S87°13'24"E	259.66 FEET TO A SET IRON ON THE EAST LINE OF SAID

SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼); THENCE S02°34'21"W 1.01 FEET TO AN EXISTING IRON AT THE NORTHEAST CORNER OF THE SOUTH HALF (S1/2) OF SAID SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼); THENCE S02°34'21"W 660.33 FEET TO THE POINT OF BEGINNING, CONTAINING 20.01 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 26, 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 21, 2004

ANX 04-03.00: Annexation (Nooncaster, pp 61) was submitted by Raymond Smith, Attorney, on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover Road and north of Hearthstone Drive (Stonewood S/D.) The property is in the Planning Area and contains approximately 20.01 acres. The request is to annex the subject 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>April 26, 2004</u>	☒ Approved <u>6-0-0</u> ☐ Denied
CITY COUNCIL ACTION:	Required <u>YES</u>
Date: <u>May 18, 2004</u>	☐ Approved ☐ Denied

BACKGROUND:

Property Description: The subject property is 20.01 acres of vacant property located in north Fayetteville. The property is surrounded on the west, south and east by platted subdivisions, currently in various phases of development. To the west is Stonewood Subdivision and to the south and east is Copper Creek Subdivision, Phases I and II, respectively. Right-of-way is stubbed from each of the three developments for future access and street connections. Single family residences are located north of the subject property along Albright Road.

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

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

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 20.01 acres to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning request, RZN 04-08.00, is an accompanying item to this annexation request.

Property that is developed and/or subdivided in the Planning Area of the City of Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City, thereby allowing for a uniform and consistent standard of development. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, it allows for the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have none of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limit boundary. In some cases, new subdivisions adjacent to one another have very different street construction, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits are typically required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use, tree preservation, etc. are not within the City's ability to control.

Recommendation: 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	Copper Creek S/D, Phase I	RSF-4, Res. Single Family, 4 DU/Acre
East	Copper Creek S/D, Phase II	RSF-4, Res. Single Family, 4 DU/Acre
West	Stonewood Subdivision	RSF-4, Res. Single Family, 4 DU/Acre

INFRASTRUCTURE:

- Streets:** Currently three streets are constructed or are being constructed to allow future access to development on the subject property. Stonewood Subdivision to west, Copper Creek I to the south and Copper Creek II to the east were all required to stub out street connections through the development review process to allow for future access to this property. With development of the subject property, the developer will be required to tie in to these street connections, allowing for connectivity through the subdivision. Additionally, connectivity to the north will be reviewed at that time.
- Water:** The property will have access to an 8" looped water main system that was installed with the Copper Creek Phase I Subdivision and Stonewood 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 was installed with the Copper Creek Phase Subdivision and Stonewood Subdivision. Sewer will need to be extended within the development. The developer's engineer will need to provide calculations to show that there is adequate capacity in the Stonewood lift station. Upgrades to this station and/or force mains may be required.
- Fire:** The subject property is located 3.9 miles from Fire Station #4 on Plainview. Normal driving time is 6 min. 03 seconds. Water supply will be necessary for this property to develop.

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 Fayetteville City Limits on the west, south and east.

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. Infrastructure is currently being installed on adjacent property and/or was stubbed out to serve this property in the future.

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 is 6 minutes, 3 seconds from Fire Station #4 on Plainview, a total of 3.9 miles. Water supply and fire hydrants will be required with development. Vehicle access will also be required with a twenty foot minimum wide access.

Police: The Fayetteville Police Department already serves this area, with city limits on three sides of the subject property. It is the opinion of the Fayetteville Police Dept. that this annexation request, and the associated rezoning request, will not substantially increase the load on police services.

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

Finding: Surrounding subdivisions anticipated the development of this tract, and subsequently have been required to provide access to public infrastructure should the property be annexed. The fire department can adequately respond to this area, and the Police Department already serves surrounding areas. The same level of service will be provided to this property as that provided to areas already within the city.

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: 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 was installed with the Copper Creek Phase Subdivision and Stonewood Subdivision. Sewer will need to be extended within the development. The developer's engineer will need to provide calculations to show that there is adequate capacity in the Stonewood lift station. Upgrades to this station and/or force mains may be required. If the existing lift stations are not capable of handling the increase in flow, then improvements must be made to accommodate the additional loads.

The proposed annexation and potential rezoning could result in 80 dwelling units. Using 2.21 persons per occupied unit (2000 Census for Fayetteville), the total population of this rezoning could be 177 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 20.01 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.

Fayetteville, Arkansas, and is necessary for the proper growth, prosperity and management of the land and the City of Fayetteville, Arkansas.

4. Pursuant to Arkansas Code Annotated § 14-40-601 et seq, this Court has jurisdiction over the subject matter herein, and Petitioner requests that the above-described real property be annexed in and to the City of Fayetteville, Arkansas.

5. Petitioner further states that the law firm of Raymond C. Smith, P.A. of Fayetteville, Arkansas, is authorized to act for and on behalf of the Petitioner in all matters connected with this Petition and subsequent hearings or annexation proceedings connected herewith (See Exhibit "A" attached hereto).

6. Petitioners request this Court set a date for hearing on this Petition, not less than thirty days after filing of this Petition and subsequent hearings or annexation proceedings therewith.

WHEREFORE, Petitioner prays 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 Order, fix a time and place for said hearing not less than thirty days from the filing of this Petition, and for all other relief which the Petitioners may be entitled.

Nooncaster Vineyards, Inc.
dba NVI Group, Inc.
Petitioner

By: 

Raymond C. Smith
Attorney at Law
70 N. College Ave. Suite 11
Fayetteville, AR 72701
Ark. Bar No. 80135
Attorney for Petitioners

AUTHORIZATION

I, Leslie Nooncaster, President of Nooncaster Vineyards, Inc., doing business as The NVI Group, Inc. authorize the law firm of Raymond C. Smith to act for and on our behalf of the aforesaid corporation, in all matters relating to the annexation and rezoning of the land, including but not limited to any and all petitions, applications, hearings, and proceedings before or with the City of Fayetteville, Arkansas and the County of Washington, Arkansas.

Date: January 7, 2004

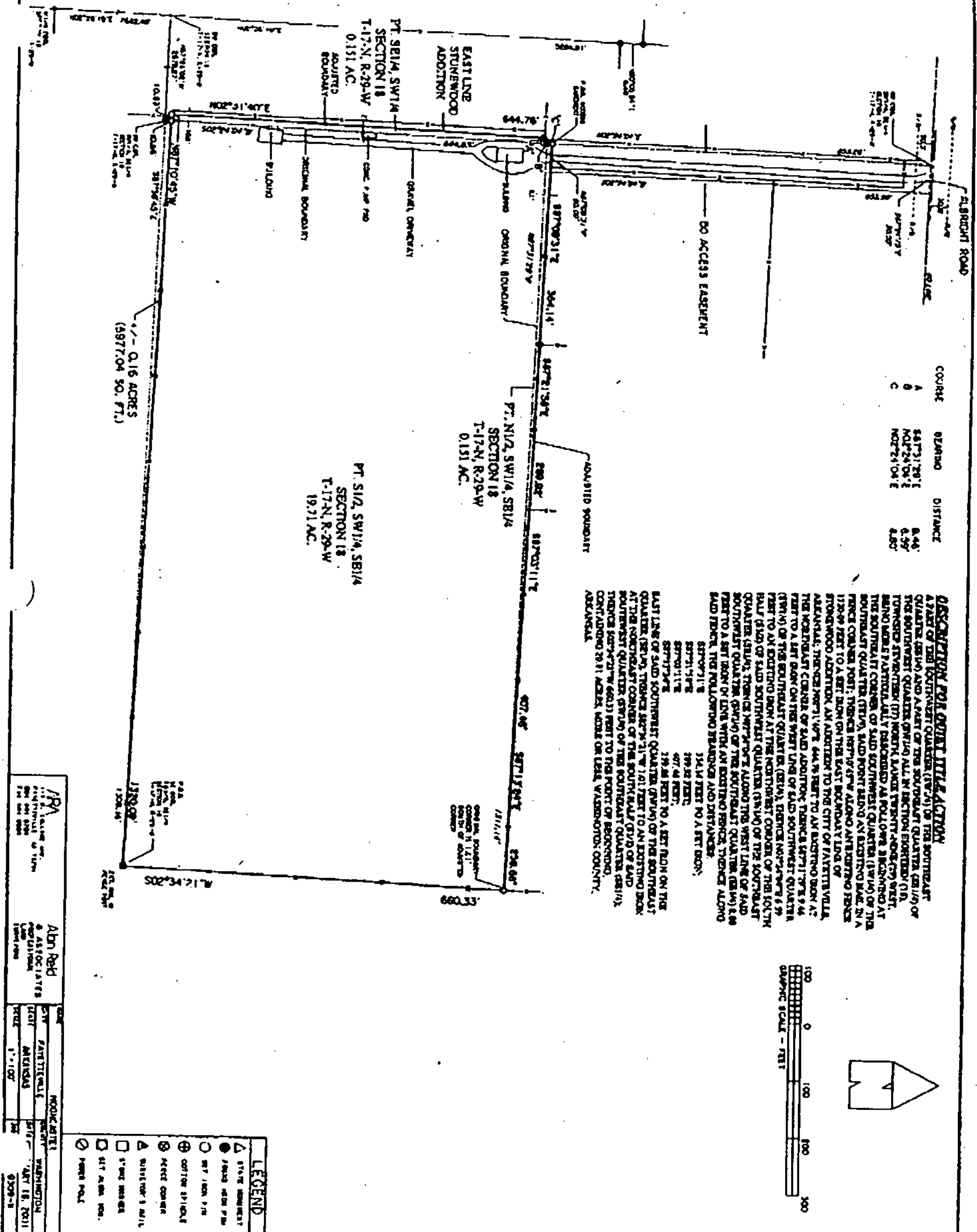
Leslie Nooncaster

Leslie Nooncaster

President

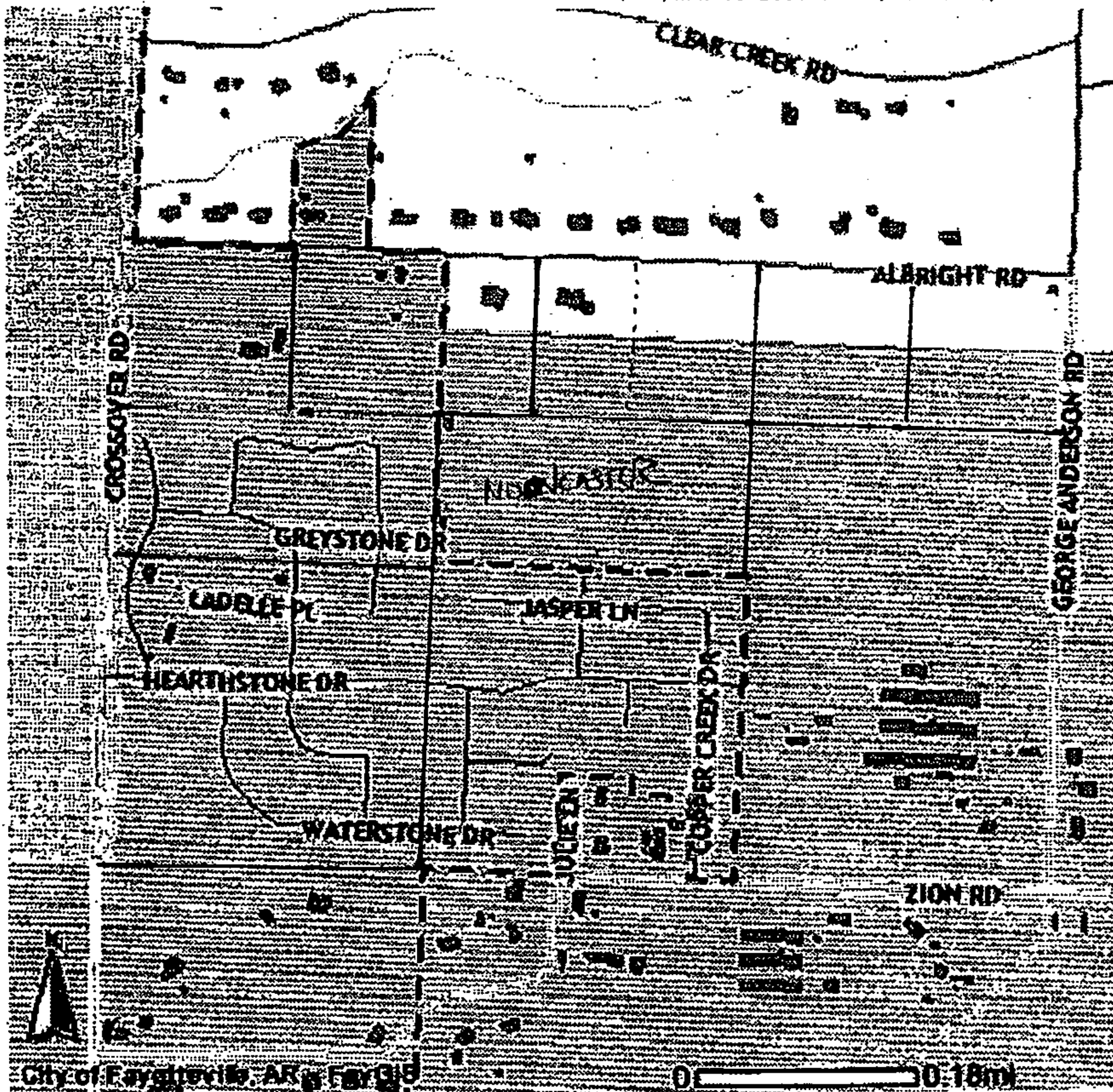
Nooncaster Vineyards, Inc.

dba The NVI Group, Inc.



FROM WACO CLERK

(FRI) APR 30 2004 11:17/ST. 11:15/NO. 6004074970 (N Boncaster)
Page 16 of 34



FILED

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

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

FILED FEB 27 PM 12 10
HARRIS, JAMES L. CLERK
GO. CL. OFFICE & CLERK
CASE NO. CC 2004-1

ORDER OF ANNEXATION

On this 27th day of February, 2004, this cause comes on to be heard, the Petitioner, Nooncaster Vineyards, Inc., doing business as NVI Group, Inc. represented by his Attorney, Raymond C. Smith of Fayetteville, Arkansas, announcing ready for a hearing of the cause and there being no protests or objections filed, whereupon, the matter is submitted to the Court upon the verified petition filed herein, and the oral and documentary evidence adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed January 8, 2004, at which time the Court fixed February 19, 2004 at 9:00 a.m., as the date of hearing for said cause, and that a full thirty days notice of hearing was given as required by law and notice of publication is now on file with the Clerk of this Court and the Court has jurisdiction of this cause.
2. The Court is satisfied that the allegations of the petition are sustained by the proof, that the limits of the territory to be annexed have been properly filed, that the property owner has a frechold interest in the property hereinafter described in the petition and constitutes the real owner of the area affected.
3. The land proposed to be annexed to the City of Fayetteville, Washington County, Arkansas in this cause is described as follows:

A part of the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) and a part of the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) all in Section Eighteen (18), Township Seventeen (17) North, Range Twenty-Nine (29) West, more particularly described as follows: Beginning at the Southeast corner of said Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4), said point being an existing nail in a fence corner post; thence N 87degrees 10minutes 45seconds West along an existing fence 1320.09 feet to

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PLANNING DIV.

a set iron on the East boundary line of Stonewood Addition, an Addition to the City of Fayetteville, Arkansas; thence N 02degrees 31minutes 40seconds E 644.76 feet to an existing iron at the Northeast corner of said addition; thence S 87degrees 31minutes 29seconds E 9.46 feet to a set iron on the West line of said Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4); thence N 02degrees 24minutes 04seconds E 6.59 feet to an existing iron at the Northwest corner of the South Half (S1/2) of said Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4); thence N 02degrees 24minutes 04seconds E along the West line of said Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) 8.80 feet to a set iron in line with an existing fence; thence along said fence, the following bearings and distances:

S 87degrees 09minutes 31seconds E	354.14 feet to a set iron;
S 87degrees 21minutes 58seconds E	289.92 feet;
S 87degrees 03minutes 11seconds E	407.46 feet;
S 87degrees 13minutes 24seconds E	259.66 feet to a set iron on the East

line of said Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4); thence S 02degrees 34 minutes 21seconds W 1.01 feet to an existing iron at the Northeast corner of the South Half (S1/2) of said Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4); thence S 02degrees 34minutes 21seconds W 660.33 feet to the point of beginning, containing 20.01 acres, more or less, Washington County, Arkansas.

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

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


COUNTY JUDGE

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PLANNING DIV.

Apr 21 04 10:30a

Danny Farrar

(501) 444-3447 ANX 04-3:00 (Nooncaster)
Page 19 of 34



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-08.00 OWNER Nooncaster Vineyards
ANNEXATION # 04-03.00 OWNER Nooncaster Vineyards

LOCATION OF
PROPERTY East of Crossover and north of Hearthstone

NEAREST FIRE STATION AND
LOCATION Station #4, 3385 N. Plainview

RESPONSE TIME FROM FIRE STATION # 4 TO
LOCATION OF
PROPERTY 6 MINUTES 3 SECONDS.
TRAVEL MILES FROM FIRE STATION # 4 TO LOCATION OF
PROPERTY 3.9
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION in Stonewood S.D.

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. MALL~~
~~(501) 575-8271~~
~~FAX (501) 575-8272~~



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 7
ANX 04-3.00 (Nooncaster)
Page 20 of 34
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POLICE DEPARTMENT

April 19, 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 Annexation ANX 04-03.00 (Nooncaster, pp 61) and Rezoning RZN 04-08.00 (Nooncaster, pp 61) submitted by Raymond Smith, Attorney, on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover Road and north of Hearthstone Drive (Stonewood S/D.) would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

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 an appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "H. William Brown".

Lieutenant William Brown
Fayetteville Police Department

CURRENT OWNERSHIP INFORMATION AND ANY PROPOSED OR PENDING PROPERTY SALES

Assessor's Parcel Number 001-15172-001, p/o SW $\frac{1}{4}$ SE $\frac{1}{4}$ & p/o SE $\frac{1}{4}$ SW $\frac{1}{4}$, S18, T16N, R30W 20.02 acres, more or less. There are no proposed or pending property sales for this property.

REASON FOR REQUESTED ZONING CHANGE

Parcel Number 001-15172-001 is currently zoned A-1 and will be annexed into the City of Fayetteville and zoned as R-A. It is proposed to re-zone the parcel to RSF-4 for development into a single family residential subdivision.

LAND DEVELOPMENT

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

WATER/SEWER ACCESS

8" water line runs East along Greystone Drive to West line of the property where it is plugged.

8" water line runs North along Running Springs Drive to South line of the property where it is plugged.

8" sewer line runs North along Running Springs Road to a manhole on the South line of the property.

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

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

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

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

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MAY 18 2004
CITY OF FAYETTEVILLE

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

The proposed zoning will not create or appreciably increase traffic danger and congestion. Extensions of Greystone Drive and Running Springs Drive into the subdivision would permit sub-division traffic access to Crossover Road (State Highway 265) a major arterial. Platted street to the East in Phase II of Copper Creek II would permit subdivision access to George Anderson Road

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

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

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

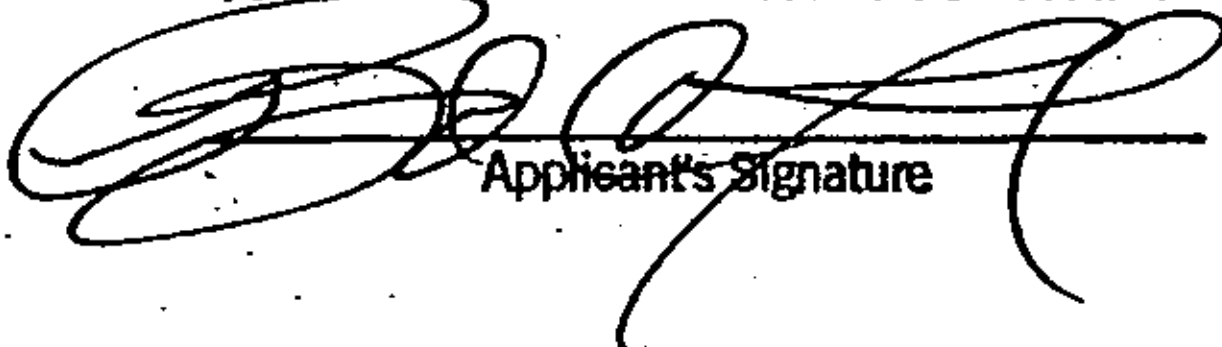
This property is presently in the county but within the Fayetteville Growth Area. It would be impractical to maintain the A-1 or R-A zoning since it would be inconsistent with the surrounding areas already zoned as residential subdivisions,

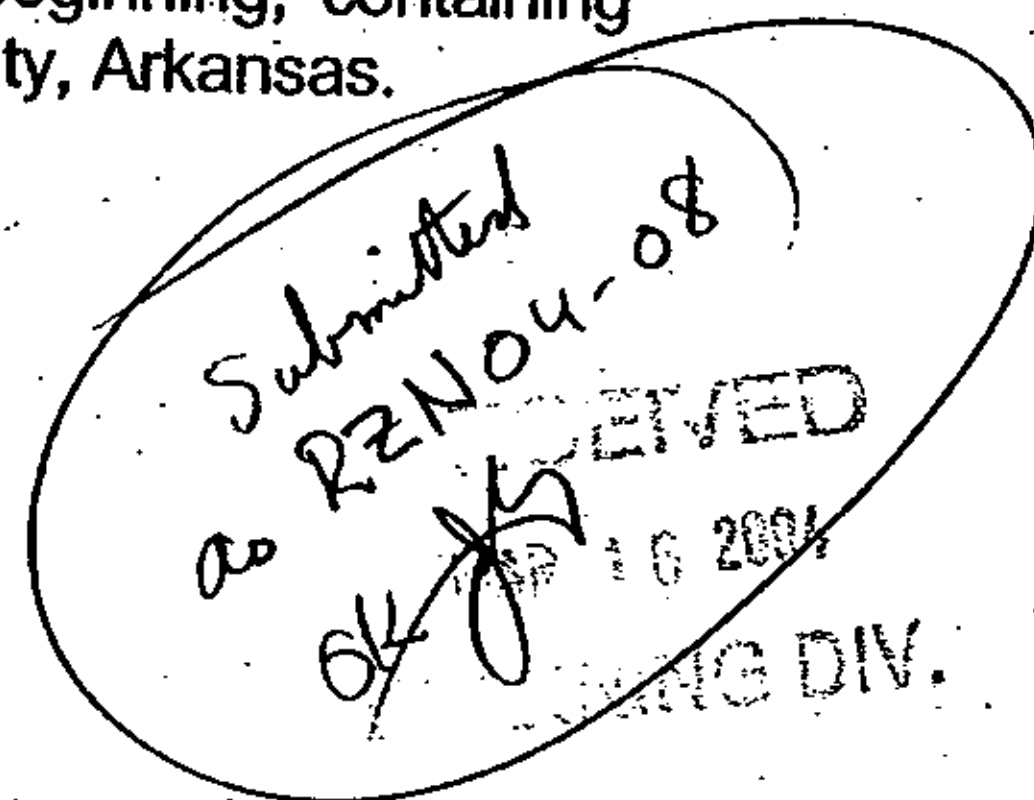
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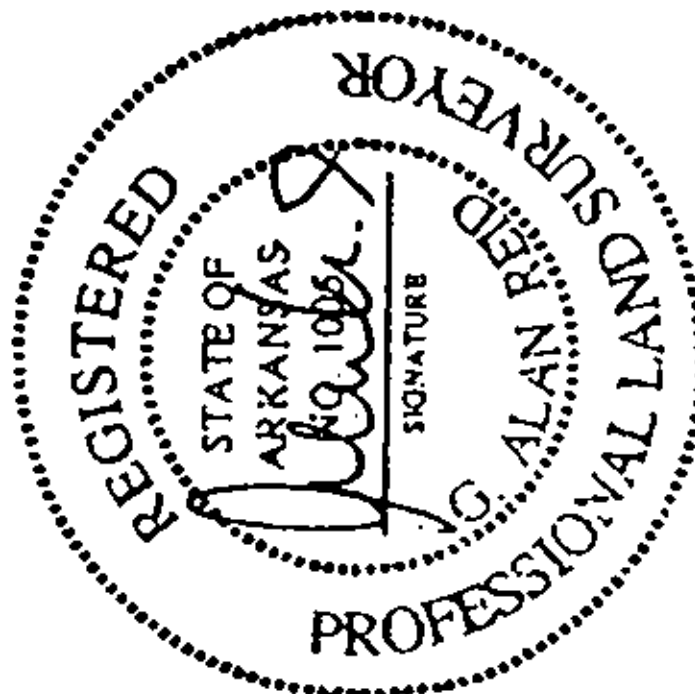
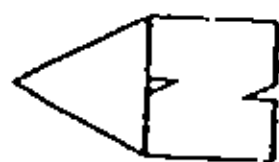


A part of the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) and a part of the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) all in Section eighteen (18), Township Seventeen (17) North, Range Twenty-nine (29) west, being more particularly described as follows: beginning at the Southeast corner of said Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4), said point being an existing nail in a fence corner post; thence N87°10'45"W along an existing fence 1320.09 feet to a set iron on the east boundary line of Stonewood Addition, an addition to the City of Fayetteville, Arkansas; thence N02°31'40"E 644.76 feet to an existing iron at the Northeast corner of said addition; thence S87°31'29"E 9.46 feet to a set iron on the west line of said Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4); thence N02°24'04"E 6.59 feet to an existing iron at the Northwest corner of the South Half (S1/2) of said Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4); thence N02°24'04"E along the west line of said Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) 8.80 feet to a set iron in line with an existing fence; thence along said fence, the following bearings and distances: S87°09'31"E 354.14 feet to a set iron; S87°21'58"E 289.92 feet; S87°03'11"E 407.46 feet; S87°13'24"E 259.66 feet to a set iron on the east line of said Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4); thence S02°34'21"W 1.01 feet to an existing iron at the Northeast corner of the South Half (S1/2) of said Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4); thence S02°34'21"W 660.33 feet to the point of beginning, containing 20.01 acres, more or less, Washington County, Arkansas.

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


Applicant's Signature





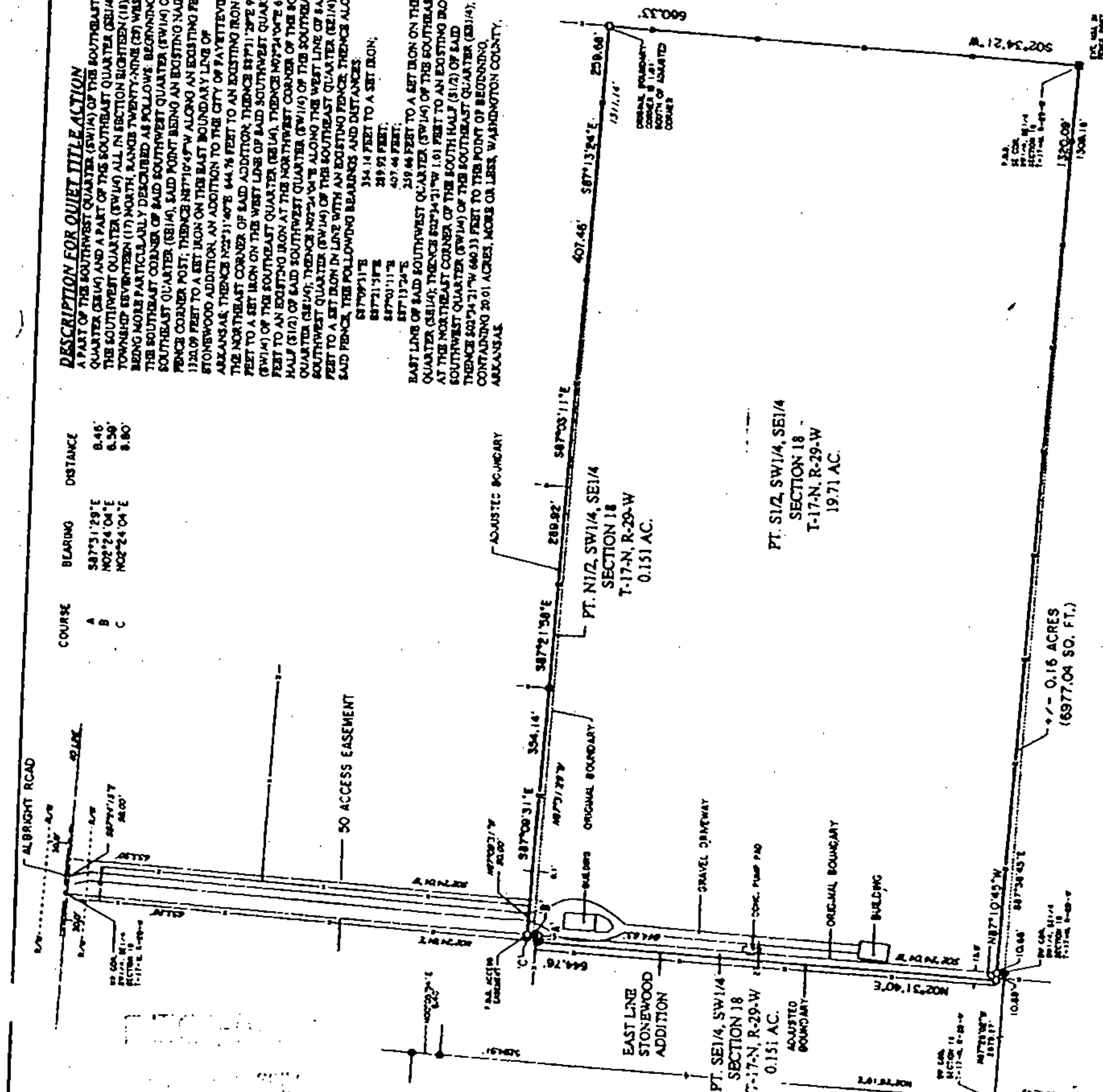
LEGEND	
△	STATE MONUMENT
●	FOUND IRON PIN
○	SET IRON PIN
⊗	COTTON SPINDLE
⊙	FENCE CORNER
▲	SURVEYOR'S MARK
□	STONE MARKER
◻	SET ALUM. MON.
⊖	POWER POLE

NAME	ALAN REID
CITY	FAVETTVILLE
STATE	ARKANSAS
DATE	FEBRUARY 16, 2001
NOONCASTER	NOONCASTER
ASSOCIATES	ASSOCIATES
WASHINGTON	WASHINGTON

DESCRIPTION FOR QUIET TITLE ACTION

A PART OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHEAST QUARTER (SE1/4) AND A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4) ALL IN SECTION EIGHTEEN (18), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER (SW1/4) OF THE SOUTHEAST QUARTER (SE1/4), SAID POINT BEING AN EXISTING NAIL IN A FENCE CORNER POST; THENCE NORTH 10° 45' 00" WEST ALONG AN EXISTING FENCE 1320.09 FEET TO A SET IRON ON THE EAST BOUNDARY LINE OF STONEWOOD ADDITION, AN ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, THENCE NORTH 31° 40' 00" WEST 644.76 FEET TO AN EXISTING IRON AT THE NORTHEAST CORNER OF SAID ADDITION, THENCE SOUTH 71° 29' 00" WEST TO A SET IRON ON THE WEST LINE OF SAID SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SE1/4), THENCE NORTH 72° 40' 00" WEST 6.59 FEET TO AN EXISTING IRON AT THE NORTHEAST CORNER OF THE SOUTH HALF (S1/2) OF SAID SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SE1/4), THENCE NORTH 72° 40' 00" WEST 6.59 FEET TO A SET IRON IN LINE WITH AN EXISTING FENCE, THENCE ALONG SAID FENCE, THE FOLLOWING BEARINGS AND DISTANCES:

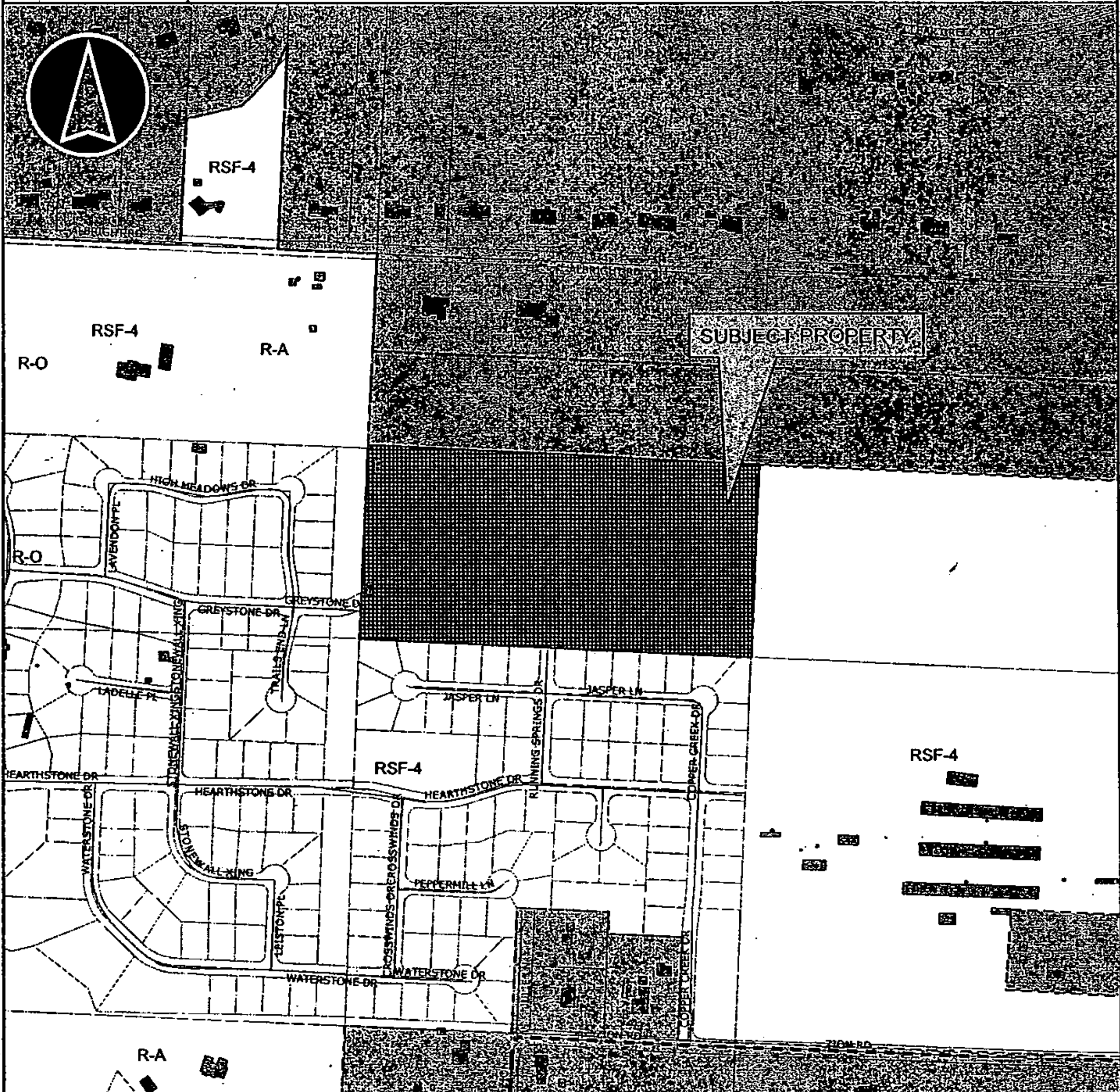
S17°09'11"E 354.14 FEET TO A SET IRON;
 S17°21'11"E 289.92 FEET;
 S17°03'11"E 407.46 FEET;
 S17°13'24"E 239.44 FEET TO A SET IRON ON THE EAST LINE OF SAID SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SE1/4); THENCE SOUTH 71° 29' 00" WEST 1.91 FEET TO AN EXISTING IRON AT THE NORTHEAST CORNER OF THE SOUTH HALF (S1/2) OF SAID SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SE1/4); THENCE SOUTH 72° 40' 00" WEST 6.59 FEET TO THE POINT OF BEGINNING, CONTAINING 20.01 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.



ANX04-03.00

Close Up View

NOONCASTER



Overview

Legend

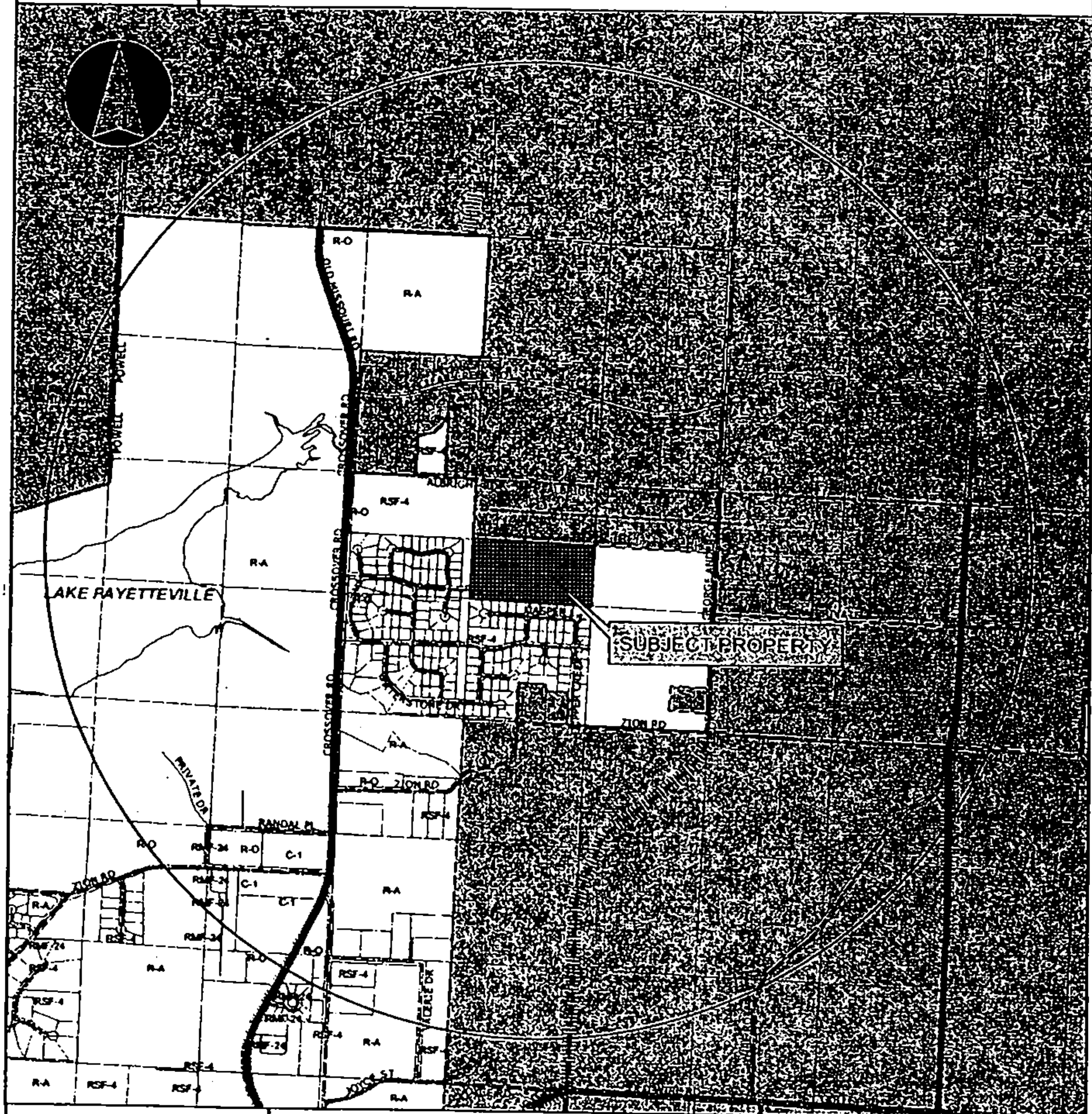
- Overlay District - Master Street Plan - Freeway/Expressway	- Principal Arterial - Minor Arterial - Collector - Historic Collector - City Limits - Outside City	- FLOODWAY 100 YEAR 500 YEAR - LIMIT OF STUDY - BaseLine Profile - ANX04-03.00
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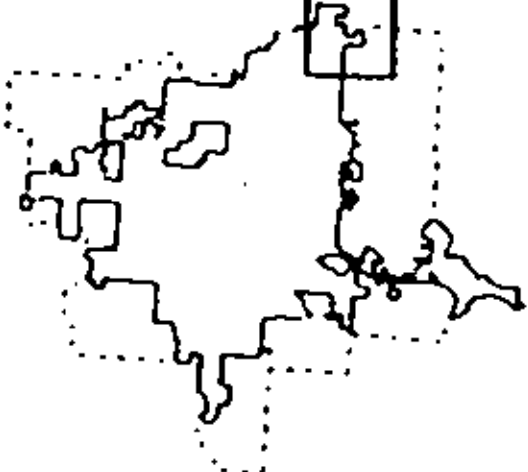
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One Mile View

NOONCASTER



Overview



Legend

Subject Property

ANX04-03.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

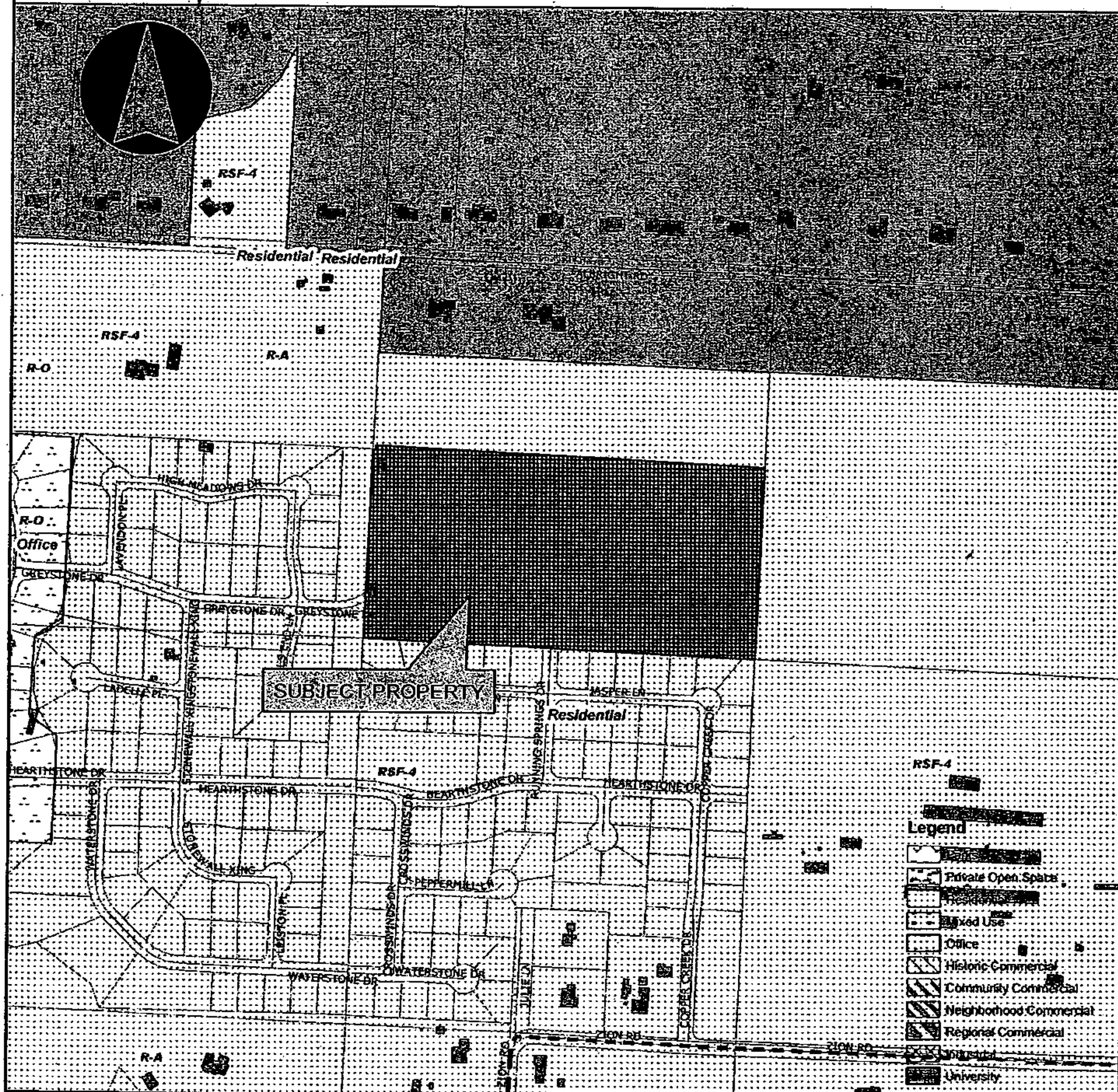
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

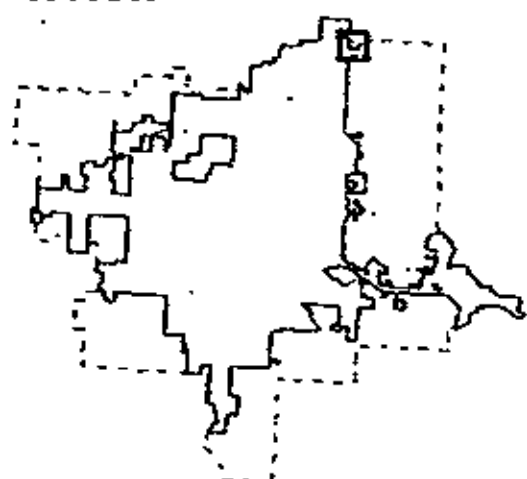
ANX04-03.00

Future Land Use

NOONCASTER



Overview



Legend

Subject Property



ANX04-03.00

Streets



Existing

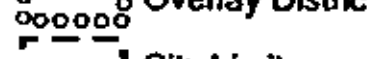


Planned

Boundary



Planning Area



Overlay District



City Limits



Outside City

Master Street Plan



Freeway/Expressway



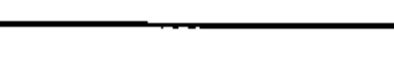
Principal Arterial



Minor Arterial



Collector



Historic Collector

0 175 350 700 1,050 1,400 Feet

Planning Commission
April 26, 2004

ANX 04-03.00: Annexation (Nooncaster, pp 61) was submitted by Raymond Smith, Attorney, on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover Road and north of Hearthstone Drive (Stonewood S/D.) The property is in the Planning Area and contains approximately 20.01 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 04-08.00: Rezoning (Nooncaster, pp 61) was submitted by Raymond Smith, Attorney, on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover Road and north of Hearthstone Drive (Stonewood S/D.) The property is currently zoned R-A, Residential Agricultural, and contains approximately 20.01 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 04-03.00 for Nooncaster. Can we have the staff report please?

Pate: I am going to review items nine and ten simultaneously. They are both on the same property. The first item is for the Annexation of the subject property and the second is to rezone that potential annexation to RSF-4.

Ostner: Jeremy, let me interrupt you. If someone can get our sixth Commissioner it would help. Thank you.

Pate: This property is 20.01 acres of vacant property located in north Fayetteville. The property is surrounded on the west, south and east by platted subdivisions currently in various phases of development from fully built out to just beginning construction. To the west is the Stonewood Subdivision. To the south and east is Copper Creek Phases I and II respectively. Right of way and city services including water and sewer are stubbed out from each of these three developments for future access and street connections to the subject property. Single family residents are located north of the subject property also along Albright Road. Portions of that property are in the county and portions are in the City of Springdale. The applicant is requesting with the first request to be annexed into the city limits. When a property is annexed into the city limits it is automatically zoned R-A, Residential Agricultural. If this annexation is recommended for approval the applicant is requesting that the property be designated RSF-4, Residential Single-Family, four units per acre. The property that is subdivided in the planning area outside of the city limits does not allow for enforcement of many of the regulations required within the city. Thereby allowing for uniform and consistent standard of development. When property that is consistent with the General Plan 2020 and the city's guiding policy of annexation is incorporated into the city undeveloped it allows for many things that we do not actually see such as grading and drainage review, detention, tree preservation review, parks land, code enforcement. There is always confusion of protection for public safety with regard to police and fire and

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who responds to that. The ability to require the same level of infrastructure improvements for new development as required within the city limits. That is important because in this specific property this area has been anticipated for future development as is on page 8.13 obvious with the stub outs of streets from the west, south and the east and the stub out of utilities to service this particular property. With regard to findings, obviously improvements will have to occur on this subject property to develop a single family subdivision. The timing of the requested annexation is sufficient. It is following essentially the development of the property surrounding it. It is under pressure to develop. Surrounding subdivisions did anticipate the development of this tract and subsequently have been required to provide access for public infrastructure should the property be annexed and developed. The Fire Department and Police Department say they do already adequately respond with the same level of service as in the city to these areas. There are issues with a lift station in this area which could potentially need to be upgraded with future development of the property. Those are things that I believe the applicant is aware of already and we have been in contact with the Engineering staff and the applicant on these issues with subsequent development proposals. Staff is recommending in favor of the annexation request based on those findings and also in favor of the rezoning request based on the findings found in item number nine of your staff report. I will leave that for any questions you may have.

Ostner: Thank you. Is the applicant present?

Smith: I'm Ray Smith representing Nooncaster Vineyards, Inc. and with me here this evening is John Nooncaster of Nooncaster Vineyards, Inc. I think Jeremy covered the main points there as far as both the annexation and the rezoning is concerned. This property is south of Albright Road and the property just to the north of this property is in the Springdale Planning area. This property is in the Fayetteville Planning area. The 20 acres will probably at this stage be developed somewhere between 40 and 50 lots all together. They will be single family dwellings compatible with the housing that is located both to the west and to the south of this. If there are any other questions I can answer on their behalf or if Mr. Nooncaster can answer we would be glad to answer them.

Ostner: Thank you Mr. Smith. Is there anyone from the public who would like to comment on this topic, the annexation and rezoning. We are discussing two at the same time for Nooncaster. I'm going to close it to the public and bring it back to the Commission. A question for staff. Is this property kitty corner to another property that we saw two weeks ago?

Pate: Yes it is. If you remember the Harper/Brandon annexation rezoning request that was at the last Planning Commission meeting. That was

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northeast of the subject property. If you go to the east that is a part of Copper Creek Phase II and directly north of that property the Planning Commission did recommend approval of that and I believe it is at the Council level at this time.

Ostner: Thank you.

MOTION:

Trumbo: I would like to make a motion to approve ANX 04-03.00.

Vaught: I will second.

Ostner: In the discussion of this I see this as a little bit different from the last issue we just saw. This is practically an infill annexation. On three sides it is developed and on the west side it is platted and streets are being cut. This seems like a good density fit for the neighborhood and I am going to support the annexation and the rezoning. Do we have any other discussion?

Allen: I would agree with the chair that those are the reasons that this is significantly different than the last rezoning.

Anthes: I would say that it is different than what we are going to hear later this evening for several reasons. One is that it is surrounded on three sides. There are stub outs for utilities and streets to this property from three different directions. Approving this annexation would be consistent with our recommendations from the property nearby and would be consistent with the development pattern that surrounds the property on three sides. Thank you.

Ostner: We have a motion on the annexation and a second. Is there further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to recommend approval of ANX 04-03.00 by the City Council was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

Ostner: Do we have a motion for the accompanying item, RZN 04-08.00?

MOTION:

Anthes: I will move to forward RZN 04-08.00 with a recommendation for approval to City Council.

Planning Commission
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Trumbo: Second.

Ostner: Is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to recommend approval of RZN 04-08.00 by the City Council was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C. 7
ANX 04-3.00 (Nooncaster)
Page 33 of 34x AGENDA REQUESTFor the Fayetteville City Council Meeting of: May 18, 2004

FROM:

Dawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-03.00: Annexation (Nooncaster, pp 61) was submitted by Raymond Smith, Attorney, on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover Road and north of Hearthstone Drive (Stonewood Subdivision.) The property is in the Planning Area and contains approximately 20.01 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn I. Warrick

Division Head

4/28/04
Date

Received in Mayor's Office

4-30-04
Date[Signature]

City Attorney

4/30/04
Date

Department Director

Date

[Signature]

Finance & Internal Services Dir.

5-3-04
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

[Signature]

Chief Administrative Officer

5-3-04
Date

New Item:

Yes

No

[Signature]

Mayor

5/3/04
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 29, 2004

Subject: Rezoning for Nooncaster (RZN 04-08.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 20.01 acres of property from R-A, Residential Agricultural to RSF-4, Residential single family 4 units/acre.

BACKGROUND

The subject property is 20.01 acres and located in north Fayetteville. The property is surrounded on three sides by developed or approved Fayetteville subdivisions zoned RSF-4, Residential Single Family, 4 units per acre: Stonewood Gardens to the west, Copper Creek Phase I to the south and Copper Creek Phase II to the east. To the north is one intervening County property south of the Springdale city limits. The subject property has been anticipated for growth by surrounding development; infrastructure has been stubbed out on all three sides to provide street connectivity and looped utility service for development on the 20-acre tract.

Proposal: The applicant proposes to rezone the 20.01 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 26, 2004, the Planning Commission voted 6-0-0 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 REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 04-08.00 AS SUBMITTED BY
RAY SMITH ON BEHALF OF NOONCASTER VINEYARDS,
INC. FOR PROPERTY LOCATED EAST OF CROSSOVER AND
NORTH OF HEARTHSTONE DRIVE CONTAINING
APPROXIMATELY 20.01 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 04-08.00

A PART OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼) AND A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE SOUTHWEST QUARTER (SW ¼) ALL IN SECTION EIGHTEEN (18), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼), SAID POINT BEING AN EXISTING NAIL IN A FENCE CORNER POST; THENCE N87°10'45"W ALONG AN EXISTING FENCE 1320.09 FEET TO A SET IRON ON THE EAST BOUNDARY LINE OF STONEWOOD ADDITION, AN ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS; THENCE N02°31'40"E 644.76 FEET TO AN EXISTING IRON AT THE NORTHEAST CORNER OF SAID ADDITION; THENCE S87°31'29"E 9.46 FEET TO A SET IRON ON THE WEST LINE OF SAID SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼); THENCE N02°24'04"E 6.59 FEET TO AN EXISTING IRON AT THE NORTHWEST CORNER OF THE SOUTH HALF (S ½) OF SAID SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼); THENCE N02°24'04"E ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼) 8.80 FEET TO A SET IRON IN LINE WITH AN EXISTING FENCE; THENCE ALONG SAID FENCE, THE FOLLOWING BEARINGS AND DISTANCES:

S87°09'31"E 354.14 FEET TO A SET IRON;
S87°21'58"E 289.92 FEET;
S87°03'14"E 407.46 FEET;
S87°13'24"E 252.66 FEET TO A SET IRON ON THE EAST LINE OF SAID SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼); THENCE S02°34'21"W 1.00 FEET TO AN EXISTING IRON AT THE NORTHEAST CORNER OF THE SOUTH HALF (S ½) OF SAID SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼); THENCE S02°34'21"W 660.33 FEET TO THE POINT OF BEGINNING, CONTAINING 20.01 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 26, 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 21, 2004

RZN 04-08.00: Rezoning (Nooncaster, pp 61) was submitted by Raymond Smith, Attorney, on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover Road and north of Hearthstone Drive (Stonewood S/D.) The property is currently zoned R-A, Residential Agricultural, and contains approximately 20.01 acres. The request is to rezone the subject property to 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>
	☒ Approved	☐ Denied
Date: <u>April 26, 2004</u>	6-0-0	
CITY COUNCIL ACTION:	Required	<u>YES</u>
	☐ Approved	☐ Denied
Date: <u>May 18, 2004</u>		

BACKGROUND: Please reference the associated ANX 04-03.00 staff report for additional background information.

Property Description: The subject property is 20.01 acres of vacant property located in north Fayetteville. The property is surrounded on the west, south and east by platted subdivisions, currently in various phases of development. To the west is Stonewood Subdivision and to the south and east is Copper Creek Subdivision, Phases I and II, respectively. Right-of-way is stubbed from each of the three developments for future access and street connections. Single family residences are located north of the subject property along Albright Road.

Proposal: The applicant intends 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 20.01 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 04-03.00, is an accompanying item to this rezoning request.

Recommendation: 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	Copper Creek S/D, Phase I	RSF-4, Res. Single Family, 4 DU/Acre
East	Copper Creek S/D, Phase II	RSF-4, Res. Single Family, 4 DU/Acre
West	Stonewood Subdivision	RSF-4, Res. Single Family, 4 DU/Acre

INFRASTRUCTURE:

Streets: Currently three streets are constructed or are being constructed to allow future access to development on the subject property. Stonewood Subdivision to west, Copper Creek I to the south and Copper Creek II to the east were all required to stub out street connections through the development review process to allow for future access to this property. With development of the subject property, the developer will be required to tie in to these street connections, allowing for connectivity through the subdivision. Additionally, connectivity to the north will be reviewed at that time.

Water: The property will have access to an 8" looped water main system that was installed with the Copper Creek Phase I Subdivision and Stonewood 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 was installed with the Copper Creek Phase Subdivision and Stonewood Subdivision. Sewer will need to be extended within the development. The developer's engineer will need to provide calculations to show that there is adequate capacity in the Stonewood lift station. Upgrades to this station and/or force mains may be required.

Fire: The subject property is located 3.9 miles from Fire Station #4 on Plainview. Normal driving time is 6 min. 03 seconds. Water supply will be necessary for this property to develop.

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 land 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 is currently being extended with the development of adjacent properties.

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 RSF-4 and currently being developed with residential subdivisions. In order to provide the connectivity and network of public infrastructure with adjacent residential subdivisions in a manner that is consistent with the future land use plan and guiding policies of annexation, 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 Local and Residential streets in the area. Most streets in this area are newly constructed or are being constructed to city specifications. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the area.

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

Finding: The proposed zoning would increase population density. The 20.01 acre

tract under an R-A, Residential Agricultural designation would allow for a maximum of 10 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 80 dwelling units would be permitted. This increases the possible number of residential units, but is consistent with land use and zoning in the immediate vicinity.

Engineering - The property will have access to an 8" looped water main system that was installed with the Copper Creek Phase I Subdivision and Stonewood 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 was installed with the Copper Creek Phase Subdivision and Stonewood Subdivision. Sewer will need to be extended within the development. The developer's engineer will need to provide calculations to show that there is adequate capacity in the Stonewood lift station. Upgrades to this station and/or force mains may be required.

Currently three streets are constructed or are being constructed to allow future access to development on the subject property. Stonewood Subdivision to west, Copper Creek I to the south and Copper Creek II to the east were all required to stub out street connections through the development review process to allow for future access to this property. With development of the subject property, the developer will be required to tie in to these street connections, allowing for connectivity through the subdivision. Additionally, connectivity to the north will be reviewed at that time.

Fire - The subject property is located 3.9 miles from Fire Station #4 on Plainview. Normal driving time is 6 min. 03 seconds. Water supply into the property will be necessary.

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.

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.

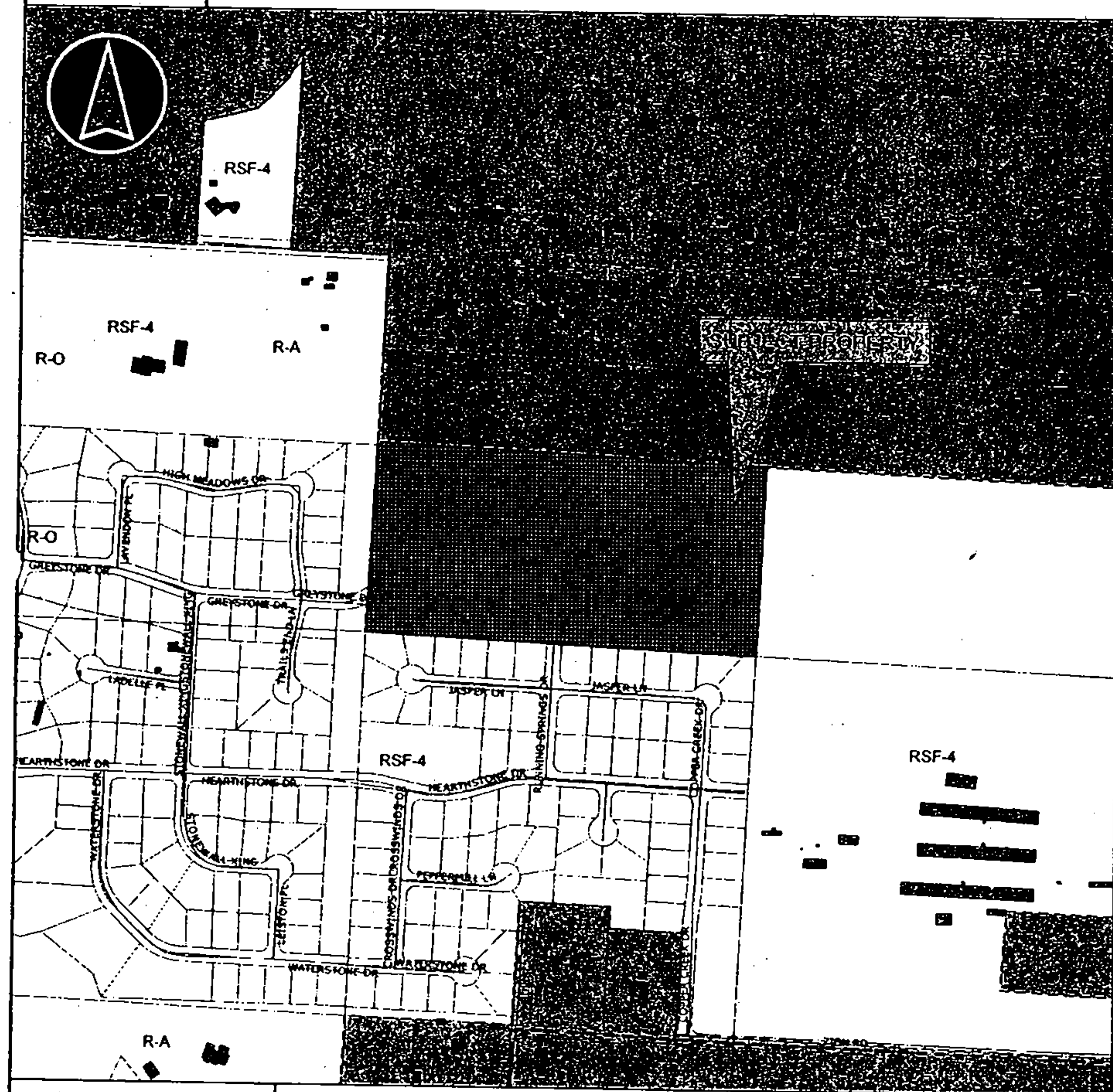
(F) *Height.* None.

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

RZN04-08.00

Close Up View

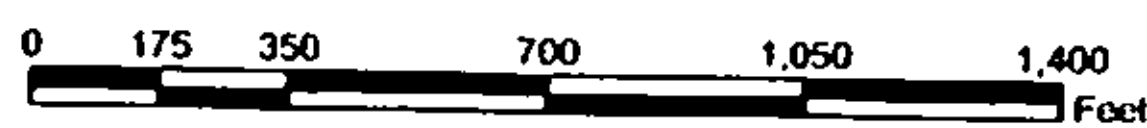
NOONCASTER



Overview

Legend

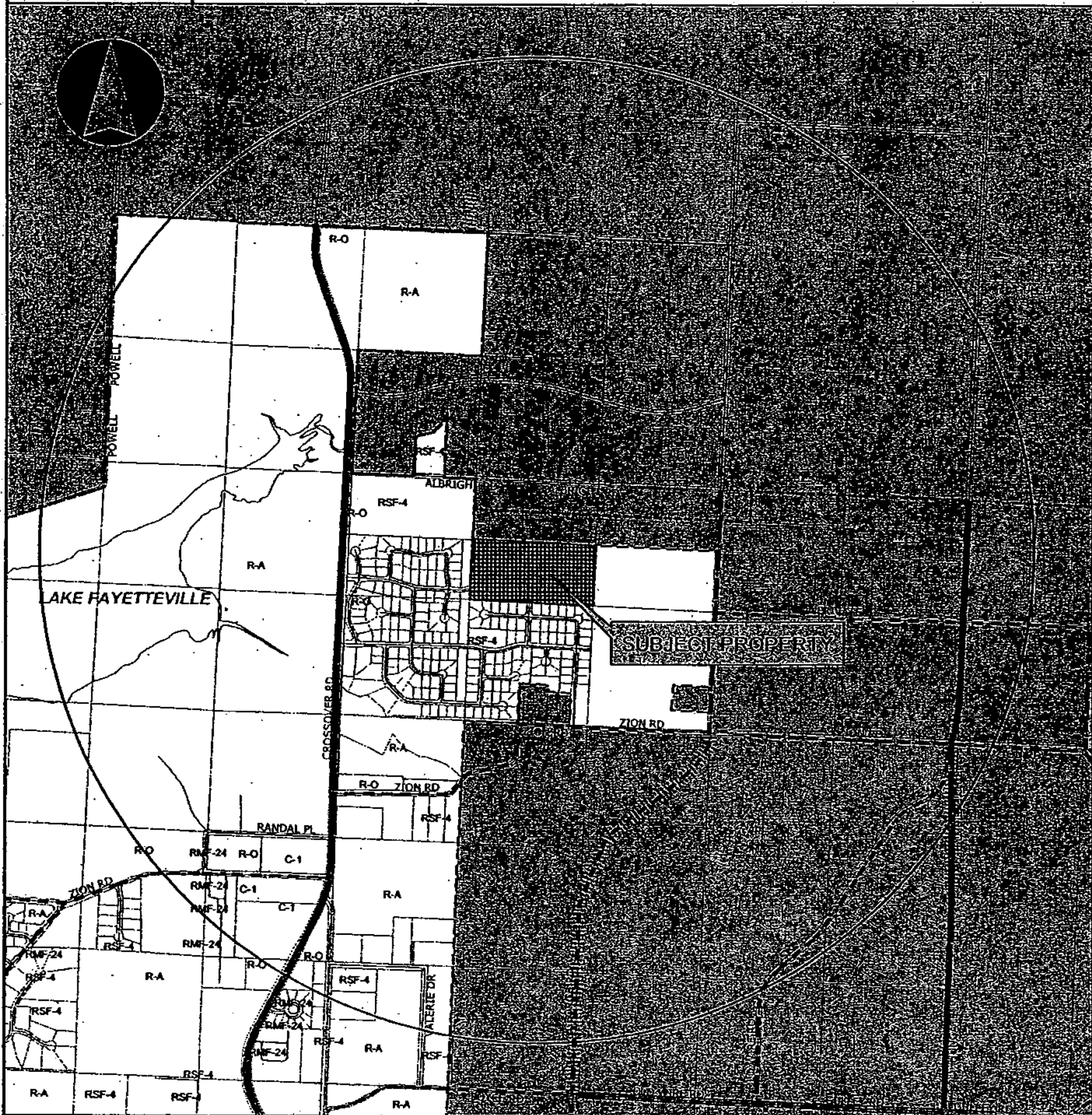
- | | | |
|--------------------|--------------------|------------------|
| ○ Overlay District | Principal Arterial | FLOODWAY |
| Master Street Plan | Minor Arterial | 100 YEAR |
| Master Street Plan | Collector | 500 YEAR |
| Freeway/Expressway | Historic Collector | LIMIT OF STUDY |
| | City Limits | BaseLine Profile |
| | Outside City | RZN04-08.00 |



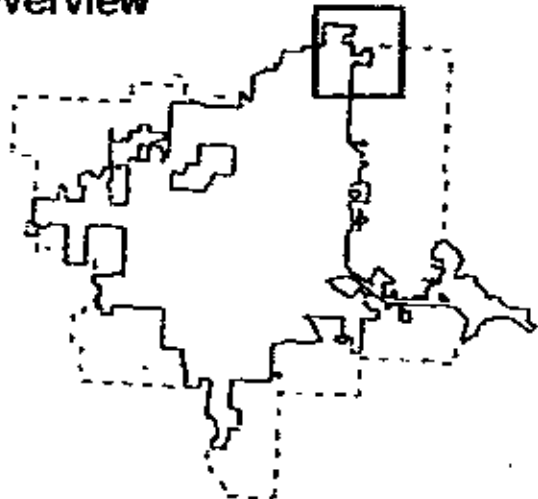
RZN04-08.00

One Mile View

NOONCASTER



Overview



Legend

Subject Property

RZN04-08.00

Streets

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Master Street Plan

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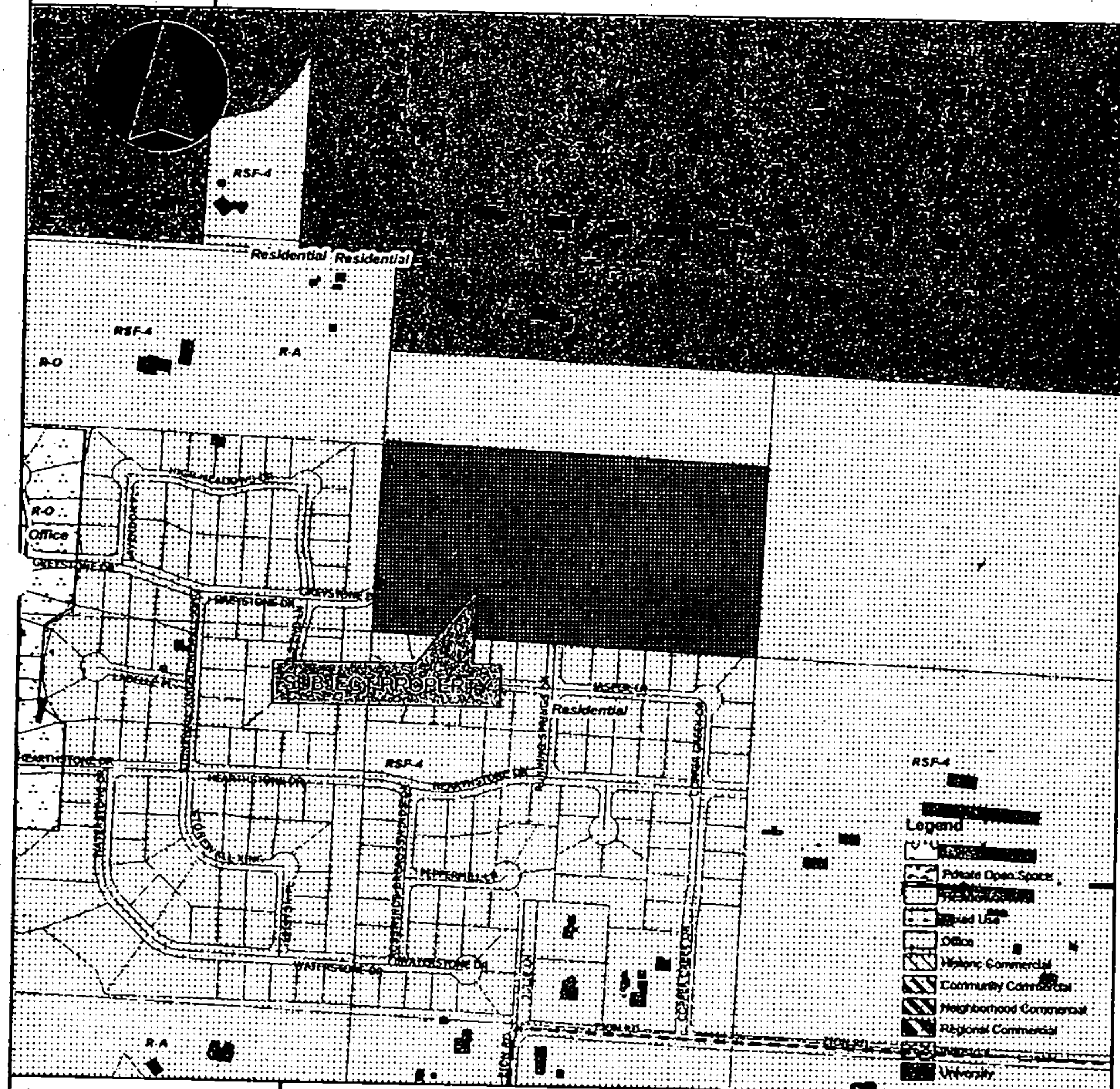
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

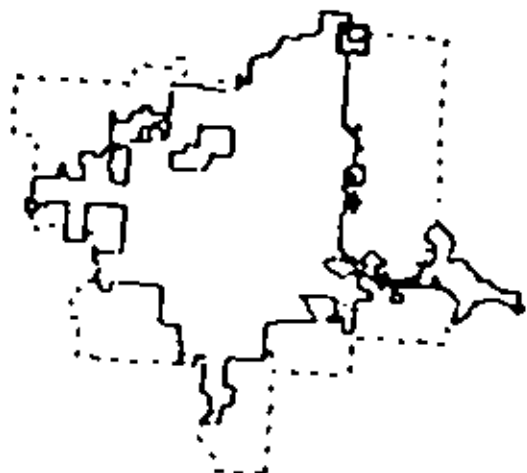
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Future Land Use

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0 175 350 700 1,050 1,400 Feet

Planning Commission
April 26, 2004

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Ostner: The next item on our agenda is ANX 04-03.00 for Nooncaster. Can we have the staff report please?

Pate: I am going to review items nine and ten simultaneously. They are both on the same property. The first item is for the Annexation of the subject property and the second is to rezone that potential annexation to RSF-4.

Ostner: Jeremy, let me interrupt you. If someone can get our sixth Commissioner it would help. Thank you.

Pate: This property is 20.01 acres of vacant property located in north Fayetteville. The property is surrounded on the west, south and east by platted subdivisions currently in various phases of development from fully built out to just beginning construction. To the west is the Stonewood Subdivision. To the south and east is Copper Creek Phases I and II respectively. Right of way and city services including water and sewer are stubbed out from each of these three developments for future access and street connections to the subject property. Single family residents are located north of the subject property also along Albright Road. Portions of that property are in the county and portions are in the City of Springdale. The applicant is requesting with the first request to be annexed into the city limits. When a property is annexed into the city limits it is automatically zoned R-A, Residential Agricultural. If this annexation is recommended for approval the applicant is requesting that the property be designated RSF-4, Residential Single-Family, four units per acre. The property that is subdivided in the planning area outside of the city limits does not allow for enforcement of many of the regulations required within the city. Thereby allowing for uniform and consistent standard of development. When property that is consistent with the General Plan 2020 and the city's guiding policy of annexation is incorporated into the city undeveloped it allows for many things that we do not actually see such as grading and drainage review, detention, tree preservation review, parks land, code enforcement. There is always confusion of protection for public safety with regard to police and fire and

who responds to that. The ability to require the same level of infrastructure improvements for new development as required within the city limits. That is important because in this specific property this area has been anticipated for future development as is on page 8.13 obvious with the stub outs of streets from the west, south and the east and the stub out of utilities to service this particular property. With regard to findings, obviously improvements will have to occur on this subject property to develop a single family subdivision. The timing of the requested annexation is sufficient. It is following essentially the development of the property surrounding it. It is under pressure to develop. Surrounding subdivisions did anticipate the development of this tract and subsequently have been required to provide access for public infrastructure should the property be annexed and developed. The Fire Department and Police Department say they do already adequately respond with the same level of service as in the city to these areas. There are issues with a lift station in this area which could potentially need to be upgraded with future development of the property. Those are things that I believe the applicant is aware of already and we have been in contact with the Engineering staff and the applicant on these issues with subsequent development proposals. Staff is recommending in favor of the annexation request based on those findings and also in favor of the rezoning request based on the findings found in item number nine of your staff report. I will leave that for any questions you may have.

Ostner: Thank you. Is the applicant present?

Smith: I'm Ray Smith representing Nooncaster Vineyards, Inc. and with me here this evening is John Nooncaster of Nooncaster Vineyards, Inc. I think Jeremy covered the main points there as far as both the annexation and the rezoning is concerned. This property is south of Albright Road and the property just to the north of this property is in the Springdale Planning area. This property is in the Fayetteville Planning area. The 20 acres will probably at this stage be developed somewhere between 40 and 50 lots all together. They will be single family dwellings compatible with the housing that is located both to the west and to the south of this. If there are any other questions I can answer on their behalf or if Mr. Nooncaster can answer we would be glad to answer them.

Ostner: Thank you Mr. Smith. Is there anyone from the public who would like to comment on this topic, the annexation and rezoning. We are discussing two at the same time for Nooncaster. I'm going to close it to the public and bring it back to the Commission. A question for staff. Is this property kitty corner to another property that we saw two weeks ago?

Pate: Yes it is. If you remember the Harper/Brandon annexation rezoning request that was at the last Planning Commission meeting. That was

Planning Commission
April 26, 2004

northeast of the subject property. If you go to the east that is a part of Copper Creek Phase II and directly north of that property the Planning Commission did recommend approval of that and I believe it is at the Council level at this time.

Ostner: Thank you.

MOTION:

Trumbo: I would like to make a motion to approve ANX 04-03.00.

Vaught: I will second.

Ostner: In the discussion of this I see this as a little bit different from the last issue we just saw. This is practically an infill annexation. On three sides it is developed and on the west side it is platted and streets are being cut. This seems like a good density fit for the neighborhood and I am going to support the annexation and the rezoning. Do we have any other discussion?

Allen: I would agree with the chair that those are the reasons that this is significantly different than the last rezoning.

Anthes: I would say that it is different than what we are going to hear later this evening for several reasons. One is that it is surrounded on three sides. There are stub outs for utilities and streets to this property from three different directions. Approving this annexation would be consistent with our recommendations from the property nearby and would be consistent with the development pattern that surrounds the property on three sides. Thank you.

Ostner: We have a motion on the annexation and a second. Is there further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to recommend approval of ANX 04-03.00 by the City Council was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

Ostner: Do we have a motion for the accompanying item, RZN 04-08.00?

MOTION:

Anthes: I will move to forward RZN 04-08.00 with a recommendation for approval to City Council.

Planning Commission
April 26, 2004

Trumbo: Second.

Ostner: Is there any further discussion? Rence?

Roll Call: Upon the completion of roll call the motion to recommend approval of RZN 04-08.00 by the City Council was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

May 18, 2004

FROM:

Dawn Warrick

Planning

CP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-08.00: (Nooncaster, pp 61) was submitted by Raymond Smith, Attorney, on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover Road and north of Hearthstone Drive (Stonewood Subdivision) containing approximately 20.01 acres. The newly annexed property will be zoned R-A, Residential Agricultural. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

STAFF RECOMMENDATION: Approval.

Dawn I Warrick
Division Head

4/30/04
Date

Received in Mayor's Office

4-30-04 Jm
Date

[Signature]
City Attorney

4/30/04
Date

Department Director

Date

[Signature]
Finance & Internal Services Dir.

5-3-04
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

[Signature]
Chief Administrative Officer

5-7-04
Date

[Signature]
Mayor

5/3/04
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 30, 2004

Subject: Annexation for Leigh Taylor Properties (ANX 04-06.00)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Leigh Taylor Properties. This action will incorporate a 29.86 acre tract of land contiguous with the city limits to the south into the City of Fayetteville. The request is to annex the subject property into the City of Fayetteville.

BACKGROUND

The subject property is 29.86 acres and located in north Fayetteville, north and east of Highway 112. The subject property is a part of a larger 40 acre tract under common ownership. The southern 10 acres is already within the City of Fayetteville and zoned R-A, Residential Agricultural. The property is adjacent to Forest Hills Estates within the Planning Area to the north. To the east is a portion of one intervening property from the Planning Area boundary. This tract of land is within an area proposed to be annexed by the City of Johnson and will be voted on by the citizens of Johnson and affected property owners on May 11, 2004. Staff believes the applicant submitted a petition for annexation to the County prior to the Johnson's call for election. The applicant submitted an accompanying rezoning request for the entire 40 acre tract. That request was tabled by the Planning Commission to allow for further consideration and discussion regarding public concerns of traffic volume and safety, density, and possible development plans.

Proposal: The applicant requests annexation into the City of Fayetteville.

DISCUSSION

On April 26, 2004, the Planning Commission voted 6-0-0 to forward this item to the City Council with a recommendation for approval. The accompanying rezoning request was tabled.

BUDGET IMPACT

None.



ORDINANCE NO.

AN ORDINANCE CONFIRMING THE ANNEXATION TO
THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN
PROPERTY OWNED BY LEIGH TAYLOR PROPERTIES, LLC
FOR PROPERTY LOCATED AT 2470 HWY. 112
CONTAINING APPROXIMATELY 29.86 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. Four.

PASSED AND APPROVED this ____ day of _____, 2004.

APPROVED:

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 04-06.00

THE SW ¼ OF THE NW ¼ OF SECTION 28, TOWNSHIP 17 NORTH, RANGE 30 WEST, DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT OF BEGINNING BEING A SET COTTON SPINDLE; THENCE NORTH 00°09'01" WEST 1312.76 FEET TO A SET COTTON SPINDLE; THENCE ALONG THE SOUTH LINE OF FOREST HILLS SUBDIVISION, NORTH 89°59'52" EAST 1320.33 FEET TO A FOUND PINCHED IRON PIPE; THENCE SOUTH 00°15'33" EAST 1287.92 FEET TO A SET IRON PIN; THENCE CONTINUING SOUTH 00°15'33" EAST 26.60 FEET TO THE SOUTHEAST CORNER OF SAID SW ¼ OF THE NW ¼; THENCE NORTH 89°55'34" WEST 1322.84 FEET TO THE POINT OF BEGINNING, CONTAINING 39.855 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. SAID TRACT SUBJECT TO THE RIGHT OF WAY OF ARKANSAS STATE HIGHWAY NO. 112 ON THE SOUTH SIDE OF THE WEST SIDE THEREOF.

IN ACCORDANCE WITH A SURVEY BY DOUGLAS HEMINGWAY DATED NOVEMBER 4, 2003.

LESS AND EXCEPT THE SOUTH 330' OF SAID PROPERTY.

THE ACREAGE INCLUDED IN THE PROPERTY TO BE ANNEXED IS 29.86 ACRES, MORE OR LESS.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

***04 FEB 17 PM 2 00**

In re:

ANNEXATION OF PROPERTY CONTIGUOUS TO THE CITY OF FAYETTEVILLE, ARKANSAS
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.
Case No. 2004-3

PETITION FOR THE ANNEXATION OF PROPERTY
CONTIGUOUS TO THE CITY OF FAYETTEVILLE, ARKANSAS

Comes now the Petitioner, Cleve Branson, owner of certain real property located in Washington County, Arkansas, and petitions the Court as follows:

1. That the Petitioner, Cleve Branson, is the sole owner of certain real property located in Washington County, Arkansas, described as follows:

The SW ¼ of the NW ¼ of Section 28, Township 17 North, Range 30 West, described as beginning at the Southwest corner of said 40 acre tract, said Point of Beginning being a set cotton spindle; thence North 00°09'01" West 1312.76 feet to a set cotton spindle; thence along the South line of Forest Hills Subdivision, North 89°59'52" East 1320.33 feet to a found pinched iron pipe; thence South 00°15'33" East 1287.92 feet to a set iron pin; thence continuing South 00°15'33" East 26.60 feet to the Southeast corner of said SW ¼ of the NW ¼; thence North 89°53'34" West 1322.84 feet to the Point of Beginning, containing 39.855 acres, more or less, Washington County, Arkansas. Said tract subject to the right-of-way of Arkansas State Highway No. 112 on the South side of the West side thereof.

In accordance with a survey by Douglas Hemingway dated November 4, 2003.

Less and Except the South 330' of said property.

The acreage included in the property to be annexed is 29.86 acres more or less.

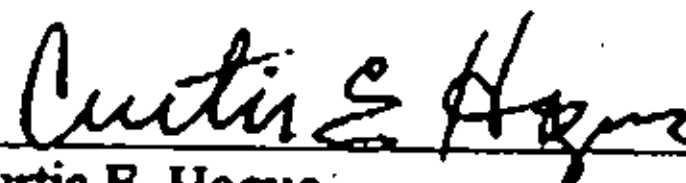
2. That all of said property is contiguous to and adjoins the City of Fayetteville, Arkansas.

3. That Petitioner respectfully requests that said property be annexed to, added to, and included within the boundaries of the City of Fayetteville, Arkansas.

4. That Petitioner respectfully requests that this Court set a date certain for a hearing of the Petition.

WHEREFORE premises considered, the Petitioner prays that this Court set a date certain for its hearing of this Petition; that the Court grant its Petition for Annexation to the City of Fayetteville, Arkansas; and for all other reasonable and proper relief to which this Court deems it entitled.

Respectfully submitted,



Curtis E. Hogue

**HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.**

One East Center Street, Suite 315

Fayetteville, AR 72701-5388

Telephone (479) 973-5200

Facsimile (479) 973-0520

**ATTORNEYS FOR PETITIONER,
CLEVE BRANSON**

418661.1:224275:01820

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

In re:

**ANNEXATION OF PROPERTY CONTIGUOUS
TO THE CITY OF FAYETTEVILLE, ARKANSAS**

ORDER OF ANNEXATION

Now on this 19th day of March, 2004, the Petition for Annexation of Property contiguous to the City of Fayetteville, filed by Cleve Branson, comes on for hearing and the same is submitted to the Court upon said Petition, proof of publication of notice, testimony before the Court, and other evidence presented, from all of which the Court finds:

1. That the Petition for Annexation of Property Contiguous to the City of Fayetteville was duly filed in the office of the County Clerk of Washington County, Arkansas, and that an Order was made fixing the time and place for a hearing on said Petition at this date and time in the County Court of Washington County, Arkansas.
2. That legal notice of the hearing was given as required by law and such notice of the hearing was published once a week for three consecutive weeks in the Arkansas Democrat-Gazette/Norwest Arkansas Times, a newspaper published in Washington County, Arkansas. Proof of publication has been made and filed with the Clerk of this Court.
3. That the Petitioner is the owner of the property to be annexed.
4. That the owner of the proposed annexed area shall derive substantial benefit from the annexation.
5. That the area to be annexed is part of the growth area of Fayetteville, Arkansas and the extension of the corporate boundaries is a realization of the natural growth of the City of Fayetteville.
6. That the lands to be annexed are contiguous to and adjoin the City of Fayetteville.

RECEIVED

MAR 18 2004

FILED
MAR 22 PM 9 23
Case No. 2004-3
KAREN COMBS PRITCHARD
CO. CLERK
WASHINGTON CO. ARK.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

FILED
04 FEB 17 PM 2 22

In re:

ANNEXATION OF PROPERTY CONTIGUOUS
TO THE CITY OF FAYETTEVILLE, ARKANSAS
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK. Case No. 2004-3

ORDER FOR HEARING

Now on this 17th day of February, 2004, is presented the Petition of Cleve Branson for annexation of certain lands more particularly described therein to the City of Fayetteville, Arkansas, and this Court does hereby set the Petition for hearing on the 19th day of March, 2004 at 10:00 A.m., in the office of the County Judge, 280 N. College, Fayetteville, Arkansas; and notice of said hearing shall be given as provided by law.


HONORABLE JERRY HUNTON, COUNTY JUDGE

V2-979

Cleve Branson
December 19, 2003
HWB Job No. 03277A

**LEGAL DESCRIPTION NO. 3
PROPERTY TO BE ANNEXED TO
THE CITY OF FAYETTEVILLE**

The SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 28, Township 17 North, Range 30 West, described as beginning at the Southwest corner of said 40 acre tract, said Point of Beginning being a set cotton spindle; thence North $00^{\circ}09'01''$ West 1312.76 feet to a set cotton spindle; thence along the South line of Forest Hills Subdivision, North $89^{\circ}59'52''$ East 1320.33 feet to a found pinched iron pipe; thence South $00^{\circ}15'33''$ East 1287.92 feet to a set iron pin; thence continuing South $00^{\circ}15'33''$ East 26.60 feet to the Southeast corner of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$; thence North $89^{\circ}55'34''$ West 1322.84 feet to the Point of Beginning, containing 39.855 acres, more or less, Washington County, Arkansas. Said tract subject to the right-of-way of Arkansas State Highway No. 112 on the South side of the West side thereof.

In accordance with a survey by Douglas Hemingway dated November 4, 2003.

Less and Except the South 330' of said property.

The acreage included in the property to be annexed is 29.86 acres more or less.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 26, 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 20, 2004

ANX 04-06.00: Annexation (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112. The property is currently in the Planning Area and contains approximately 29.86 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	☒ YES
	☒ Approved	☐ Denied
Date: April 26, 2004		
CITY COUNCIL ACTION	Required	☒ YES
	☒ Approved	☐ Denied
Date: May 18, 2004		

BACKGROUND:

Property description: The subject property contains approximately 29.86 acres of vacant property located north of Highway 112/Howard Nickell Rd and east of Highway 112. The property is adjacent to the city limits along its southern boundary where it abuts property owned by the applicant. Hills Estate subdivision is located to the north of this site and Lynn-Leigh Hill Estates is south of Hwy 112.

Proposal: The applicant proposes the annexation of property into the City of Fayetteville. A rezoning request for this property in conjunction with the property to the south has been submitted for this property.

Request: The request is to annex the subject property into the City of Fayetteville.

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 29.86 acres, plus an additional 10 acres to the south, to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning request, RZN 04-12.00, is an accompanying item to this annexation request.

Property that is developed and/or subdivided in the Planning Area of the City of Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City, thereby allowing for a uniform and consistent standard of development. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, it allows for the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have none of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limit boundary. In some cases, new subdivisions adjacent to one another have very different street construction, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits are typically required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use, tree preservation, etc. are not within the City's ability to control.

Recommendation: Staff recommends approval of the proposed annexation. The subject property is adjacent to the City of Fayetteville and will create an appropriate city boundary. Future changes or additional development on this site will be regulated by the city allowing for more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single-family (Forest Hills Estates)	Planning Area
South	Vacant	R-A, Residential Agricultural
East	Single-family	Planning Area
West	Single-family	Planning Area

INFRASTRUCTURE:

Streets: Highway 112, a state highway, is located to the south and west of this property. Improvements to infrastructure will be assessed at the time of development.

Surrounding Master Street Plan Streets:

North: Forest View Rd (local street)

South: Highway 112 & Howard Nickell Rd (principal arterial)

East: Cris Hollow Rd. (local street)

West: Highway 112 (principal arterial)

Water: The property currently has access to a 6" water line along Highway 112. An extension of the water main will be required to provide water supply within any development on this property.

Sewer: Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive. The developers engineer will need to provide calculations to show that there is adequate capacity in the Highway 112 lift station. Upgrades to this station and/or force main may be required.

Fire: The subject property is located 3.6 miles from the Fire Station #2. Normal driving time is 5 min. 56 seconds.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services.

The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. These two intersections have had 31 accidents in just over three years. The police department recommends the access to this area should be placed as far from these two intersections as possible. Access into future development shall be reviewed for safety at the time a development proposal is submitted to the city.

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 due to the area and configuration of the parcel. No island 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 1290 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 surrounding subdivisions.

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 less than 6 minute for fire protection from the Fire Station #2. Any development in this area would necessitate installation of hydrants to provide for fire protection. Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive. In addition, calculations shall be provided to show that there is adequate capacity in the Highway 112 lift station. Upgrades to this station and/or force main may be required. Sewer will need to be extended with 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: The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Location of access to the property to ensure the safety of the public shall be considered at the time of development. Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive.

- 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 response and service as other developments in this area. Sewer improvements to the area will be 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. This tract of land is within an area proposed to be annexed by the City of Johnson and will be voted on by the citizens of Johnson and affected property owners on May 11, 2004.

INTERGOVERNMENTAL RELATIONS

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

Finding: Annexation of this property will adjoin Fayetteville city limits with Johnson city limits at the northeastern most corner of the subject property.

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: Conceptual development proposals for this property have been submitted to the Planning Division; however, no application for development has been received. At the time the applicant desires to develop the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: This annexation includes 29.86 acres owned by Leigh Taylor Properties, Inc. and represented by Art Scott of Project Design. The combined requests create a reasonable boundary avoiding the creation of unusual boundary lines.

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.

Apr 21 04 10:30a

Danny Farrar

(501) 444-3448 (Leigh Taylor Properties)
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FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-12.00 OWNER Leigh Taylor Prop.
ANNEXATION # 04-06.00 OWNER Leigh Taylor Prop.

LOCATION OF
PROPERTY 2470 Hwy. 112

NEAREST FIRE STATION AND
LOCATION Station #2, 708 N. Garland

RESPONSE TIME FROM FIRE STATION # 2 TO
LOCATION OF
PROPERTY 5 MINUTES 56 SECONDS.
TRAVEL MILES FROM FIRE STATION # 2 TO LOCATION OF
PROPERTY 3.6 miles
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION Hwy. 112 at Deane Solomon

WATER SUPPLY WITH HYDRANTS
NEEDED? Yes

ADDITIONAL
COMMENTS

FIRE OFFICE
SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W. MALL
(501) 575-8271
FAX (501) 575-8272



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 9
ANX 04-06.00 (Leigh Taylor Properties)
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RECEIVED
APR 20 2004
PLANNING DIV.

POLICE DEPARTMENT

April 19, 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 04-06.00 Annexation (Leigh Taylor Properties, pp 169) and RZN 04-12.00 Rezoning (Leigh Taylor Properties, pp 169) submitted by Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112 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.

The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. In fact, these two intersections have had 31 accidents in just over three years. The access to this area should be places as far from these two intersections as possible.

Sincerely,

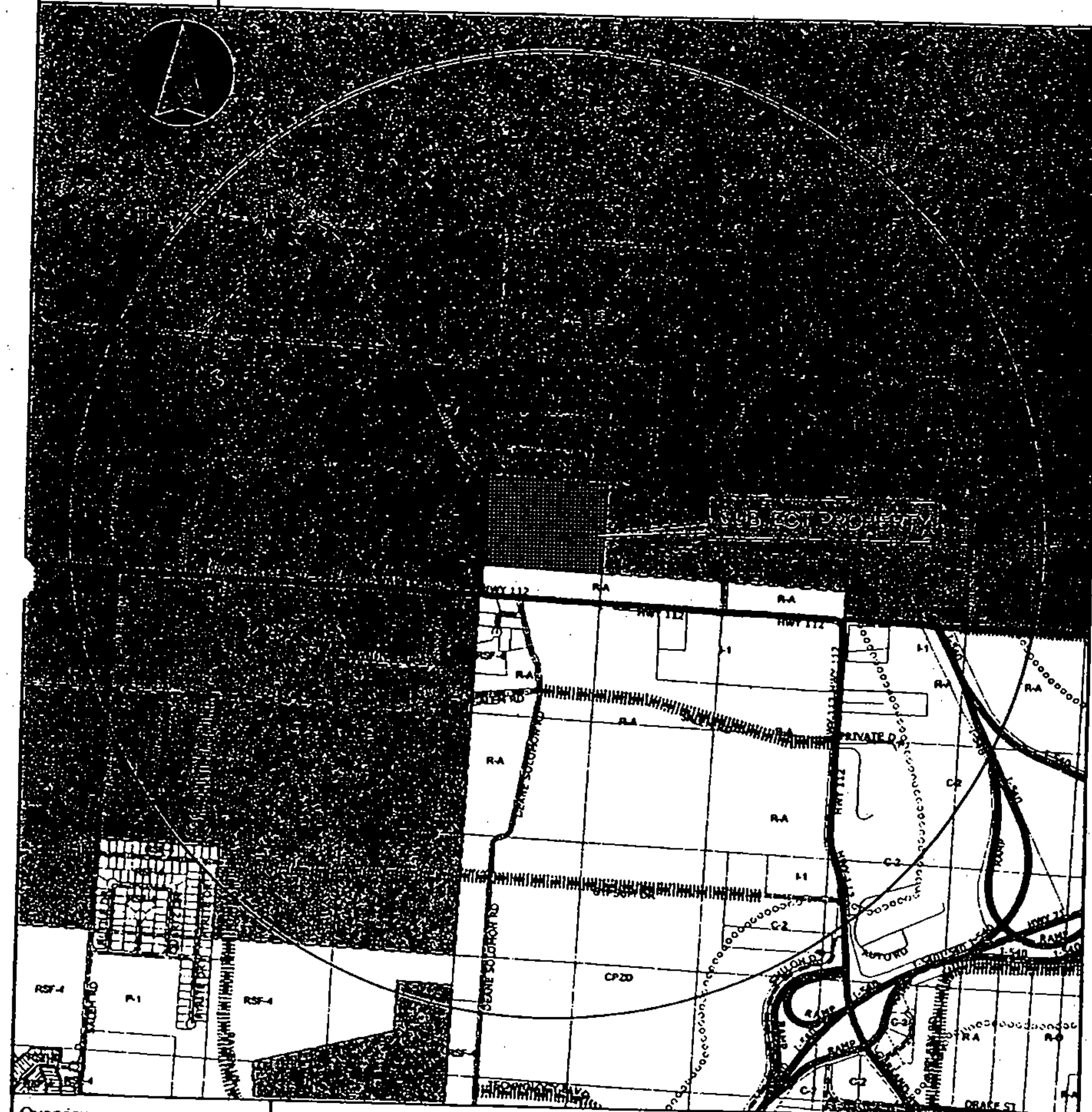
A handwritten signature in black ink, appearing to read "William Brown".

Lieutenant William Brown
Fayetteville Police Department

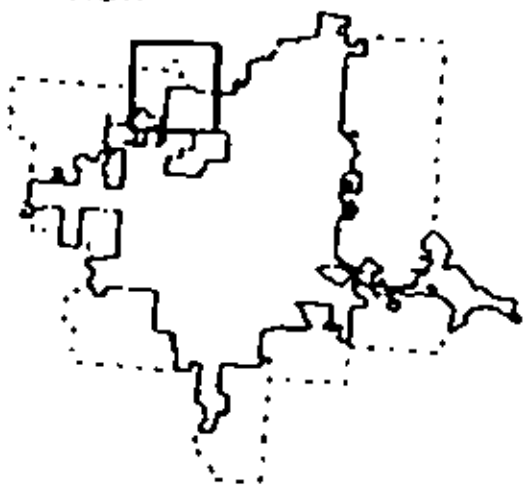
ANX04-06.00

One Mile View

LEIGH TAYLOR PROPERTIES



Overview



Legend

Subject Property

ANX04-06.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

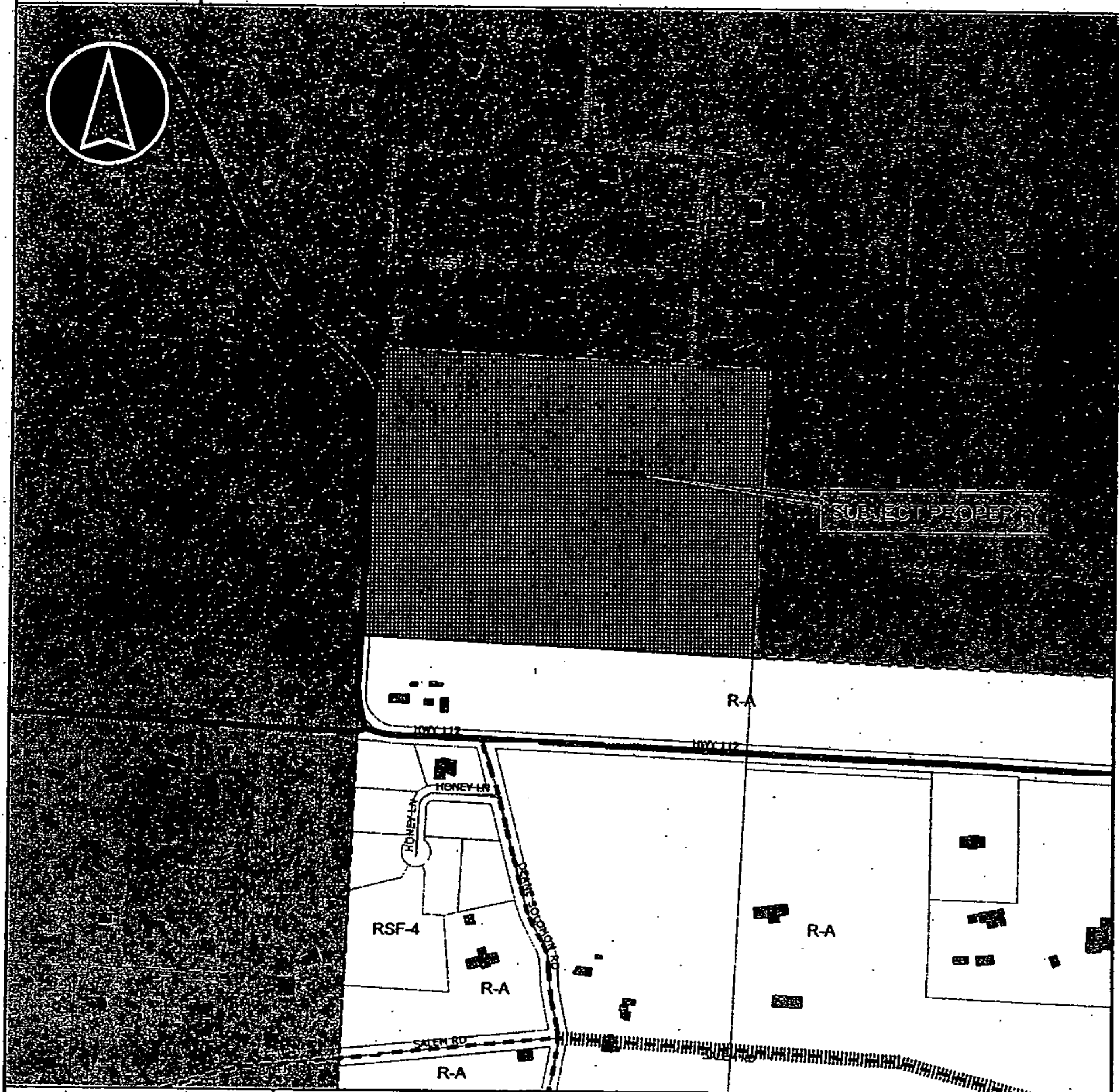
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

ANX04-06.00

Close Up View

LEIGH TAYLOR PROPERTIES



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	ANX04-06.00

0 175 350 700 1,050 1,400 Feet

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ANX 04-06.00: Annexation (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112. The property is currently in the Planning Area and contains approximately 29.86 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 04-12.00: Rezoning (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC. The property is currently zoned R-A, Residential Agricultural, and contains approximately 39.86 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 another annexation, it is ANX 04-06.00 for Leigh Taylor Properties. If we could have the staff report please.

Morgan: This request was submitted by Chad White on behalf of Leigh Taylor Properties for property located at 2470 Hwy. 112. The request is to annex approximately 29.86 acres into the City of Fayetteville. If you look on page 10.12 that identifies the approximately 30 acre tract that is requested to be annexed into the city. The accompanying rezoning for Leigh Taylor Properties is a request to rezone this 30 acre tract as well as the 10 acre tract of land just north of Hwy. 112 to RSF-4. The annexation is 30 acres and the rezoning is for approximately 40 acres. Fire and Police have reviewed this item. It is approximately 5 minutes 56 seconds from Fire Station 2 and Police have reported that this annexation will not substantially alter the population density. However, they did comment that access to this site would be of concern due to the intersection of Hwy. 112 and Howard Nickle as well as Hwy. 112 and Deane Solomon. Access into future development will be reviewed for safety at the time of development when there is a development proposal submitted to the city. Improvements to street systems will be reviewed also at the time of development and staff finds that this is an appropriate location for annexation into the city. As I mentioned earlier, they are requesting a rezoning of this 30 acre tract as well as the additional 10 acres to the south. Staff finds that this proposed zoning for single family residential is compatible with the land use to the north and the south. There are two subdivisions in either direction. Property to the south within the city limits is zoned RSF-4 at this time as well as R-A. Staff finds that the zoning is consistent with the future land use map and existing development within this area. Public comment has been received regarding this proposal with regard to density, lot size and traffic volume. However, staff finds that in accordance with findings from other divisions such as Engineering, Fire and Police, staff is recommending approval of ANX 04-06.00 and RZN 04-12.00.

Ostner: Thank you. Is the applicant here?

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Hogue: Good evening, my name is Curtis Hogue. I'm an attorney in Fayetteville here on behalf of the applicant. I actually represented the applicant through the annexation process of the county. In reading the recommendation from staff and in looking at the findings made and the recommendations made and there was reference made to extenuating circumstances on this particular annexation. I'm not sure in particular what those are although I think that there are a number that apply here. In particular, as noted by the staff recommendation of this parcel 10 acres are within the city. We are asking to annex the entire parcel to bring it all into the city and then allow the total rezoning. I know that there are a couple of specific issues that were addressed in this. With me is Art Scott who is handling the engineering on behalf of the applicant and I'm sure can address some of those particular issues that were brought up in the report.

Scott: I think there were a number of pretty good concerns. First of all, if it was my property next door I would want to know what the density was too. The RSF-4 does allow for four units per acre. This developer is intending to build an upscale sized sort of premium lot in that zoning. It is a minimum of 80', which the zoning allows for 70' and then the normal depths are 130' to 140', which is another 30' or 40' larger in the rear than would be allowed by the typical zoning. The entire 40 acres would end up with their intention is around 108 to 110 units which is 2/3 of the maximum density. There will be a 2,400 minimum square foot home. The access and the proximity to that corner where Hwy. 112 makes that 90° corner would be a concern. We have on the south side very good visibility in both directions from where we intend to apply only one access point on the south and we only intend to have one access point on the west side on Hwy. 112 also with a stub out for connectivity to the north and to the east and both of those have 1/4 mile along Hwy. 112 with very good visibility in both directions for access. Also, one other concern was drainage and that is always a concern when the development of 40 acres takes place. We will have to abide by all the city codes and detain any water before it leaves the site and keep it to a pre-development level so that shouldn't be a concern for the future and for the downstream properties. I will answer any questions you might have.

Ostner: At this point I will move it to the public comment period. Are there people who would like to comment on this item?

Futral: My name is Charlie Futral and I have property adjoining this property. I'm on the north side. I sit on one acre of land. I'm in the Forest Hills subdivision which is to the north here. I've lived here for nine years. We have a very established neighborhood. The houses surrounding this property are very established. My neighbors directly to the north of me sit on 1 1/2 to 2 acres. My neighbors directly to the west of me who adjoin this have approximately 2 acres. His neighbor who adjoins this property

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has approximately 3 1/2 to 4 acres I believe. Throughout our neighborhood we are not equal to what they are designing here. You are talking about 80' lots here, we sit on one acre plots. Yes there are some properties in there that are less than one acre but not many. Most of them have multiple acres, up to 8 acres within our particular subdivision. Across the street to the west you have approved zoning for 2 acre lots. We had 4 acres and then you all came back with 2 acre lots. That is nowhere near this kind of density and there is nothing in our neighborhood that has this kind of density going on. The density is one of the primary concerns that we have as it relates to this property. We have several concerns that relate to density. One is property values as it relates to us and it relates to the whole neighborhood, not just our particular subdivision but in each direction from us. As we look at this we don't see that this is enhancing our property values out in the area where we are at. The concerns that relate to the density is the safety issue. What he just addressed on this curve, this is a curve where we have had two fatalities in the last nine years that I've lived here. There have been two fatalities, that is adjoining this property that is immediately on the southwest corner of this property. That doesn't include, I don't know the number of wrecks that have occurred along this stretch of road. It is a dangerous piece of road. It is a dangerous piece of road because it is narrow, because it doesn't have good visibility and because of the speed and the direction that cars come into. Mainly it is a narrow piece of road. It is a state highway that the City of Fayetteville is not going to come in and rebuild and neither is the developer. With all good intentions, everyone is trying to manage growth as it goes out into the community and one of the things that was talked about here this evening was the appropriateness of what is RSF-4. My concern and what I would like to suggest is that this be a RSF-1, one house per acre as the density issue. It raises the property values on the thing, it doesn't inculcate 250 or more cars into this dangerous situation of where fatalities are already occurring, they are on the record. We had a runner just down the street on Hwy. 112 as you come around the curve to the drive in theater along that stretch, we had a runner who was hit and killed a few years ago. You may remember that. There is the third fatality in less than 9 years. As we look at this the density is a real issue. One of the things that was mentioned here as we were listening closely to what was being said is that RSF-4 on a flat plain makes sense that you can see where you are going. It spreads it out. This is a rolling hill country that you are coming into. Another one of the big issues and concerns on this is that when you look at this plat, this is obviously not approved. It is the one that you all have probably all seen and had across your desk as you look at this approach.

Ostner: No.

Futral: May I bring it up?

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Ostner: Sure.

Futral: For what it is worth, you need to see what is about to go in here. This is the plat that they have presented as an informal plat. Here is the dangerous curve, here is our subdivision. These are all one acre lots and more coming through here and if you watch this these are tree lines. These are all just trees but what you are seeing here, this area and this whole 1/3 of the property is a low area. These are trees in water. Their idea is that they are going to put a ditch as lots back up to each other and they are going to carry the water through here. This water is coming off of all this slope, all of this basin back over here which includes the development from Clear Creek. Clear Creek now is flowing water through our neighborhood which is an issue for me and for other neighbors there. It goes immediately into this neighborhood here at the north end of this and they think that they are going to handle it down here with an engineered detention pond. I don't think so. Especially after what we just saw this week as it goes through here. This is also a boggy area down through here. Now we are going to put density into a boggy area, not a flat area and not a nice dry area. We are going to go in and we are going to completely cut the trees and we are going to reshape this land to insert this kind of density. In a neighborhood where you have one acre lots, modest in many cases, not so modest in other cases. We have homes out in our area that would approach close to a million dollars and we have land that have been platted across the street that are 2 acre lots, 4 acre lots, that are not scheduled to carry this size of a home on it. What is going to happen to that gentlemen's property values as he goes along? I think density is the culprit here and it is the concern that we all have. Some of the reasons and things that are attached to it are safety on the roads. This is a very real issue out there. We already have proof of it with the fatalities that have occurred and the wrecks that occur. We also have land that is a rolling hill country. In this particular location and what I'm showing you here with these tree lines where the water flows, these are dry creek beds. Think of it like a bowl and what you are doing is our neighborhood is sloping into that bowl, the west is coming into that bowl and the east is flowing around and into that bowl. Their property, roughly 1/3, 25% to 30% of it is the bottom of the bowl as the water flows through it. One other thing, I would like to ask that the number of people that are here that are concerned about this raise their hands so that we have some sense of the neighborhood that has come to see you this evening. There are many neighbors here and some of which have lived here for 30 years, some of which have been here for 2 years and many of us that have been here for several years. Ron has been here since 1962 on this property so we are really very established and appreciate your concern and consideration with this.

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Approximately 25 people raised hands

McWhorter: My name is Rick McWhorter, I have property that is adjacent to the north side of this property right across the street from Charlie Futral. I don't know if you are aware but to go along with the density issue we received a report that came across from the Educator. It is a news letter from the Fayetteville Public Schools. One of the things that came out was a map showing large areas of development. In this blue area is exactly the property that we are looking at, or at least it is within that. If you were to count up and this map is not very good to be able to identify the actual number of homes, but if you were to count up the number of homes that are in these developed areas that are already either approved or in the process then we are looking at anywhere from around 600 new homes to around roughly 1,200 give or take. The school system figures one child per three lots is what their formula is. This would add a tremendous overflow to the school system, in particular the elementary school district that this serves. Holcomb Elementary School District is already in the process of having to build six new kindergarten classrooms to service a school system that is almost at full capacity already without even considering this development. When you start adding onto this you are adding a problem that is not just traffic, not just safety, not just drainage, but we are adding an issue that deals with public education here within the City of Fayetteville. As you are aware with the vision 2010 that is posted right behind you. You look at point 11, Quality and you start adding more and more student possibility in this area to an overflowing school then that is even creating more of a problem. I would like for you to consider that because I think Charlie was very eloquent in what he said. My other concern is the road through or at least the way we have seen the layout of the road through that would tie into Woodside Drive. The concern is the traffic flow through there and the service vehicles that would go through there and those kinds of concerns that we do not have at this point in time that I would hope you would consider keeping us from having that. We appreciate your time and we appreciate your concern. I think Charlie was very good at pointing out that drainage and density are major issues. Thank you.

Myers: I'm William Myers, I also live just to the north of the area. I'm certainly not going to go into as much detail but I would like to reinforce what Charlie has said. Particularly our concern is the population density and the traffic safety. For whatever it means I was born in Fayetteville in 1934 so I remember when the first traffic lights were put in in Fayetteville and you can't imagine the fuss that caused. I did some mental arithmetic and depending on however many children you expect people to have that is going to be a population density out there between 6,000 and 8,000 per square mile. I don't know what to compare that to but you guys can do that. The other thing I would express my concern about is the traffic. I

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drive from my home out there to the University of Arkansas every morning and have done so for the past 18 years. The traffic is getting worse and worse and worse. If you look at the small development immediately to the south across Hwy. 112 from this corner the fencing company has a pretty good business of repairing the fence there where cars go a little bit too fast, miss the curve and go through the fence. Hwy. 112 which used to be an unpaved road that I hiked on as a boy scout, has become a very dangerous place to drive on. I hope you will not make it more dangerous. Thank you very much.

Ostner: Thank you Sir.

Clark: Good evening, my name is John Clark. I do think Charlie covered most bases. I would just simply add that RSF-4 is too dense for this area. I really can't add much more than what has already been said except to say that even though the visibility is good on those entrances, it is a dangerous venture to pull out on Hwy. 112 under the best circumstances. We would ask the Commission to do the right thing and consider a less dense rezoning there. The annexation, I think most of us welcome the annexation. Thank you.

Forbes: I am Bill Forbes. I live right across the street from John Clark. We have a 3" water main, what is going to happen to our water pressure from Fayetteville?

Casey: If this property is to be annexed and rezoned and if we see a development proposal on this property at that time we will look at the public infrastructure, water and sewer, and make sure that there is adequate capacity to serve the development. If the capacity does not exist it will be up to the developer to provide the capacity for the area.

Forbes: We are already developed.

Casey: The developer of this property would have to supply the infrastructure to make sure there was adequate capacity to serve their property and also make sure there is no negative impact on the existing customers.

Forbes: Thank you. We have 26 houses on over 40 acres. As Charlie said just very few of them are on one acre or $\frac{3}{4}$ acre plots. Whoever was here before, we also have deer, quail, dove, they will be gone forever. The water detention, it appears on the plat like it is one lot, 100'x40', is that correct?

Scott: This is still in the preliminary stages.

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- Ostner: Excuse me Sir, you need to address us and we will ask him and that will keep things moving.
- Forbes: If it fills up where does the water go? 26 of those lots that they have platted there are right on Hwy. 112. Instead of getting a fence knocked out you are going to have a home knocked out. Today I walked down there and they were surveying on the flat area while we were cutting yards and everybody doing fine, they were stuck in the mud down there with the surveyors. They were stuck in the mud down there Thursday before the big rains came. They are walking around out there in the flattest part with long boots on and doing a pretty good job. We have been a good friend to Fayetteville. We live about 400' out of the city limits. We have paid you guys for our fire insurance and the price got dearer and dearer. We have called you two times in 30 years. As far as calling the police I don't think we ever have and we sure don't need this right next to us. Thank you.
- Kemp: Hello, my name is Jeff Kemp, I'm involved with the development near this subject property so I'm somewhat familiar with it and the area. I just once again, want to reinforce the problem that I think this density will pose as far as traffic. Not only do you have the 90° turn on Hwy. 112 on the southwest corner of the property. You also have Cris Hollow Road on the east side just as you top a hill Cris Hollow pulls out and I know from experience it is kind of a take your chances and pull out on. I just can't imagine the density of RSF-4 traffic in that area.
- Ostner: If I could I would like to remind everyone to keep your comments short and if someone has already said what you are going to say just agree with them.
- Wheeler: My name is Joan Wheeler, my late husband bought 40 acres south of this property in about 1968 and the back of my house faces Hwy. 112. It is my fence that they come through on a regular basis. The traffic is so bad out there I can't even imagine how dangerous it would be with that many houses added to that area. I hope that you won't consider the RSF-4.
- Butcher: I'm Betty Butcher and this is my husband Perry. We live south, we are a neighbor of Joan's and we live south on Deane Solomon three houses down. People have come up and talked about the traffic. Most of the neighbors here are going north around the curve up to their homes there. I have to stop and turn south on Deane Solomon, which is approximately where they would put the opening of that subdivision. I cannot even explain to you how dangerous that is. You cannot see when you are looking at the Howard Nickle Road you cannot see what is coming, it is a blind spot and it is just right there. To have people coming out and turning left towards town on there with the amount of traffic going over there would just be suicide. It is a terrible idea. Thank you.

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Ostner: Are there any other comments?

Riser: Hello, my name is Randall Riser and I'm a neighbor of everyone here that you have heard from already and I concur with everything that they have said. It is true beyond what you can even imagine if you haven't ever lived out there. One other thing that I would like to bring up is that the development that they are trying to put in here does not even fit the landscape of this area. This is a development you would see in downtown Dallas or some place like that. This should be planned better for the City of Fayetteville in my opinion. Thank you very much.

Ostner: Is there anyone else?

Futrel: I know you all are really tired. I'm Anna Futrel. In line with what he just said, there is not a TOPO map reflected with this plat and I think that the lay of the land is an issue.

Ostner: Thank you. Are there any other comments from the public?

Baird: I'm Laurie Baird and our property would be the one directly north to where this development is proposed. We have got five kids and we come out of that neighborhood and just coming here this evening I had to sit there forever trying to get out of the neighborhood and turning left. I have a true concern with all my kids going to the school there with all those houses how are we even going to get in and out of the neighborhood safely? I know I don't let my kids go on Hwy. 112 at all but just the cars and the traffic, I've assisted in some of those accidents. My husband has directed traffic as I've held bodies until the EMS unit can get there. I am really concerned about the density of all these houses that are going to be in there. Our square footage is about 4,000 sq.ft. in our home and we have an acre and a half and it isn't adding up right to having four houses per acre right next door to us with that much traffic too. I would like for you to consider that. Thank you.

Moore: I'm Benny Moore, we live at the northwest corner across the road from this development. We just got through building a new home and hopefully the development will compare with our house and look similar to it is what we were hoping. The north of us all of the homes are larger homes. I think Tyson has a minimum of 3,200 sq.ft. The 2 1/2 acre blocks south of us have 3,200 sq.ft. minimum. Hopefully we won't get into this compacted settlement there. As far as safety, we have lived there about 20 years on the property and there have been deaths in that area and lots of wrecks. It is not a safe corner. Thank you.

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Ostner: Do we have anymore comments from the public? Seeing none, I will close it to the public and bring it back to the Commission for discussion. Once again, we are discussing them together and we will vote on them separately.

Vaught: I think we need to discuss them separately in one respect with the fact that the annexation, I know this property is also being looked at by Johnson to be annexed. To me that adds a little bit more priority if we want control of what happens on this acreage we need to look at the annexation more seriously. If Johnson annexes it in, I don't know how the timing works. I know that they have a vote coming up but apparently I think Dawn was telling us since we had ours filed first it would take precedence, is that correct?

Morgan: We believe that is correct at this time. Their vote will be I believe May 11th to vote on the area and whether it will be annexed into Johnson.

Vaught: This is where I would like Kit to be here to answer questions about if we postpone this. If we turn this down then obviously they will be able to annex it in and then they will have control over what happens here. I think they are somewhat two separate. We could pass one and table the other or pass one and not pass the other. I think that is something to keep in mind as we talk about it but just for everyone to understand.

Anthes: I have a question for follow up on what Commissioner Vaught is talking about. One of the things that we look at is development pressure and we don't really have development pressure here so much as we have annexation pressure. We have got a situation where we've got another municipality that is looking at this piece of property which if it was annexed by that municipality, would subdivide this particular owners property into two parcels. That is troublesome I'm sure for them and for us in terms of how to look at how this owner would develop this property if it was in two different municipalities. That is one thing that I'm looking at. I would like to comment that it is interesting, the neighbors, there are a lot of them here and a lot of them have spoken about density but I only believe that one even mentioned the annexation at all. Obviously, the density is the thing that is the largest concern to those neighbors. I guess as far as the circumstances about that split, can staff tell us about what this would mean if this 40 acres ended up in two different municipalities and development came forward?

Pate: Essentially if that were to occur and the Johnson city limit moves south along the Fayetteville city limit our Planning boundary line also would move to where that line is. If a subdivision did occur on that piece of property, the portion in the City of Fayetteville would be reviewed by the City of Fayetteville and the portion in the City of Johnson would be

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—reviewed by the City of Johnson. Technically they would have no jurisdiction over our city municipal boundary and vice versa as well. It is a concern of staff and we believe that this petition was filed and released by the county prior to the election being called. I understand timing is definitely an issue with the applicant on this piece of property. As far as development regulations I believe we do have some subdivisions that have been phased, developed with one portion in Springdale and one portion in Fayetteville. It has been the subject of a lot of problems with regard to infrastructure improvements. Street standards are not the same with different cities. Additionally, the overall infrastructure with regard to water and sewer I would refer to our Engineering Division with regard to what types of infrastructure, public improvements if he has any knowledge of what Johnson does and how that would loop the system.

Casey: The water situation I would have to do some research on to see how the water service area boundary would change with the city limits change or if it would change at all. We would certainly have the ability to serve with water if that were allowed by the contract between the two cities. Sewer, on the other hand, would only be allowed for the small portion to the south of the site that is already in the City of Fayetteville. We cannot provide sewer service outside the city limits of Fayetteville unless it is specifically approved by the City Council.

Pate: Additionally, with regard to other findings we have made tonight, the confusion with regard to who responds to what calls comes up. I believe a citizen mentioned that they pay the City of Fayetteville Fire Department to serve their residents. That is how that works in areas outside the city limits but there is always some confusion with regard to emergency response calls about who actually works that call.

Anthes: While we are on the issue of water, our staff report does indicate that the property has an access to a 6" water line across Hwy. 112, is that indeed true based on an earlier comment?

Casey: I believe that to be the case. I don't have that on the maps here in front of me but I am the one who wrote that so I believe I consulted the maps before writing that so I would say yes, that is true.

Allen: If we annex this area it would come in as R-A. I would welcome these people into the City of Fayetteville in terms of an annexation but I do not see the RSF-4 as being compatible with the area and wouldn't be able to support that. I do think a good planner takes a long step backwards and looks at the whole picture and I don't think that's good planning.

Ostner: I would like to agree. We welcome this area to adjoin our city but I don't think RSF-4 is appropriate. I believe RSF-1 might be. I understand that

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there is another area of RSF-4 nearby but this piece of land the context that it is in, is clearly less dense than RSF-4 on top of the safety issue. It is a very dangerous intersection and with the difference between RSF-4 and RSF-1 I believe is night and day.

Hogue: Can I make one comment? It is on the issue of annexation. I think if I understand the discussion, that there may not be a strong opposition on the annexation. You all asked some legitimate questions of staff about where are we if we are splitting this up and what is going on with the City of Johnson. When I spoke initially about extenuating circumstances, that is one of our concerns. In trying to sort out if this scenario what happens with Johnson. The only way that I can determine, and I don't know all of the answers because there is a whole lot going on up in that area with other municipalities, the only way that I was able to determine that we could solve a lot of those problems is if Fayetteville would allow the annexation and then we don't worry about all of those other problems that you asked questions about. Just simply addressing the annexation, there are some time constraints and that is certainly something that we would like to accomplish. From the concerned neighbors I didn't hear any direct objections to the annexation. I know there are other issues, a lot of greater issues, but that is certainly an issue to us tonight.

Anthes: The other thing I'm struggling about with the potential for that split is the issue of Hwy. 112 and that it borders two side of this property. If the property was split controlling access onto and off of Hwy. 112 in a manner that we could find to be acceptably safe would be very complicated.

Ostner: I would like to add at this point that the R-A zoning, which is automatic with coming into the city with an annexation does allow housing. It allows everything, it is simply two acre lots.

MOTION:

Clark: The whole issue of annexation and infrastructure issues concern me but the fact that if we don't annex this, this would be split between municipalities supercedes that concern. I would like to move that we approve ANX 04-06.00.

Allen: Second.

Ostner: I have a motion by Ms. Clark and a second by Ms. Allen. Is there any other discussion on the Annexation? Renee?

Roll Call: Upon the completion of roll call the motion to recommend approval of ANX 04-06.00 by the City Council was approved by a vote of 6-0-0.

Planning Commission
April 26, 2004

- Thomas: The motion carries six to zero.
- Ostner: The tandem issue is RZN 04-12.00. We have already had some discussion.
- Trumbo: As the citizens in that neighborhood have clearly stated, that is a very dangerous stretch of highway. Common sense to me says to add another 108 possible homes compounds the problem out there. I don't see how in good faith I could vote to allow that size of development at that place. I understand for the city to build affordable housing we have to have denser zonings but I don't believe it is appropriate right here considering how dangerous that highway is. I will not vote for this zoning.
- Ostner: Thank you. Can we have that map that we tried to get together just showing us some general location?
- Anthes: We don't have the City Attorney here so can someone tell us if the best way is to move for approval and vote it down or to table? I remember Mr. Williams telling us about the different strategies for that before I don't remember specifically what they were.
- Ostner: I don't either.
- Allen: I think we call for a motion and it fails for lack of one if I recall correctly if no one so moves.
- Hogue: At that point would it then be tabled?
- Ostner: I believe we are bound to vote on this issue. We can vote to table, we can vote to pass.
- Pate: You can make a motion to table and table to a date certain or otherwise vote it up or down.
- Vaught: If the applicant withdraws they start over is what I believe he said. If we vote to table it can come back as soon as the next meeting. What I would like to see is if the applicant has met with the neighbors. Have you met with the neighbors discussing these issues?
- Scott: We have not.
- Vaught: One thing that we typically like to see is that you meet with the neighbors and discuss these issues and see if you can come to a resolution and bring back something more amicable between everybody.

Planning Commission
April 26, 2004

Hogue: That is with the zoning issue tabled?

Vaught: Yes.

Hogue: We will do that.

MOTION:

Vaught: I will make a motion to table RZN 04-12.00.

Trumbo: Second.

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

Anthes: I don't know that I'm not completely comfortable with leaving it as an R-A zoning. We could go ahead and vote tonight to deny the rezoning request and then we would still have an R-A zoning.

Ostner: There is currently a motion on the floor that needs to be voted on up or down. Do we have any further discussion?

Vaught: Since it is currently R-A, I think we should give the developer an opportunity to go speak with the neighboring land owners to see if they can come to some sort of a resolution without stopping the process. It could be a real quick discussion at the next meeting if it comes back and everyone still doesn't like it or we think it is not the right zoning. That would be my comment.

Ostner: Let's not forget that we did not annex it, we have simply forwarded it to the City Council. They have still got a long road before they are annexed. Is there any further discussion? Renec?

Roll Call: Upon the completion of roll call the motion to table RZN 04-12.00 failed by a vote of 2-4 with Commissioners Clark, Allen, Anthes and Ostner voting no.

Thomas: The motion fails two to four.

Ostner: Are there more motions or discussion on this issue? We are still considering the rezoning of this item. The tabling motion failed so we are going to revisit it or do something.

Pate: Mr. Chair, based on the Planning Commission bylaws the way they are stated any Conditional Use or Rezoning request requires a five affirmative vote to carry. It is the applicant's prerogative to be able to table that

Planning Commission
April 26, 2004

motion in order to come back to you with something that could potentially pass. Because we do not have a full Commission there are potentially three commissioners that could vote for this project. Therefore, it is appropriate to table this item if the applicant wishes to do that.

Scott: We do wish to do that.

Clark: Can I make one comment? Tabling it is certainly your prerogative and probably a wise course of action. I have a very extensive list of concerns that the neighbors have voiced that when you bring this back I sincerely hope that you have talked with them and can address some of them because I happen to agree with them.

Scott: We'll do our best.

Allen: I would agree with Commissioner Clark.

Anthes: Kit is not here so Jeremy, does this mean if the applicant still wishes to table we still then need to have a vote on our level to do that or they withdraw it?

Pate: That is a little unclear to me reading the bylaws whether it requires a vote to be tabled or not. Obviously, a vote has failed for that motion.

Clark: That motion was to table at our request, not their request.

Pate: There can be another motion on the floor to table this item I believe.

MOTION:

Ostner: With Mr. Pate's advise, he is not a lawyer, I would be willing to vote for a tabling on this issue. I am going to make a motion that we table it.

Clark: Based on Jeremy's suggestion and interpretation of the rules I guess I will second it.

Ostner: Do we have any further discussion?

Marr: Mr. Chair, I think your requirement is that a person who voted against tabling needs to motion to reconsider. You vote on that and then you can vote to table. Otherwise, your action won't be legal.

MOTION:

Anthes: I move to consider RZN 04-12.00.

Planning Commission
April 26, 2004

Clark: Second.

Ostner: We have a motion and a second, is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to reconsider RZN 04-12.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

MOTION:

Anthes: I move to table RZN 04-12.00.

Ostner: I thought we just did.

Anthes: No, we moved to reconsider.

Vaught: I will second.

Ostner: We have a motion and a second. Renee?

Roll Call: Upon the completion of roll call the motion to table RZN 04-12.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

 x AGENDA REQUEST

For the Fayetteville City Council Meeting of: May 18, 2004

FROM:

<u>Dawn Warrick</u>	<u>Planning</u>	<u>CP&E</u>
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-06.00: Annexation (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112. The property is currently in the Planning Area and contains approximately 29.86 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

 4/30/04
Division Head Date

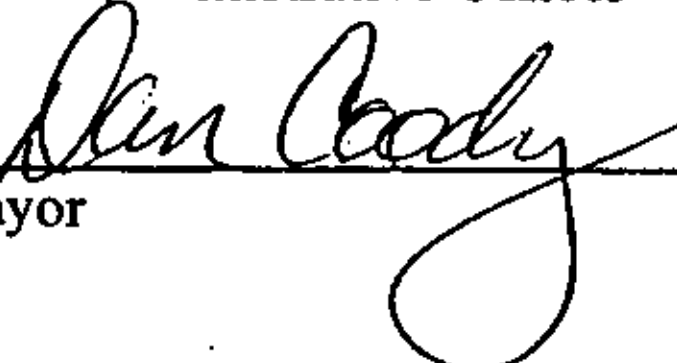
Received in Mayor's Office 4-30-04 gm
Date

 4/30/04
City Attorney Date

Department Director _____ Date _____

 5-3-04
Finance & Internal Services Dir. Date

 5-3-04
Chief Administrative Officer Date

 5/3/04
Mayor Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

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 29, 2004

Subject: Right of Way Vacation for Paul Dunn (VAC 04-10.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of an existing, platted street adjacent to the subject property.

BACKGROUND

The subject platted right-of-way is a portion of Rebecca Street that lies east of Vinson Avenue. The applicant intends to build a single family dwelling on the lot directly south of Rebecca Street. The applicant proposes to vacate 25 feet of Rebecca Street to provide 75 feet of frontage onto Vinson Avenue for development of the lot. Currently the lot is 50 feet wide, with front setbacks of 25 feet from the right-of-way line on both Vinson Avenue and Rebecca Street, creating a virtually un-buildable situation.

Much of the platted but unconstructed Rebecca Street right-of-way in this location has slopes greater than 25%, which is prohibitive for construction of a roadway. Additionally, much of the area surrounding this street is developed. Utilities are present in the right-of-way, therefore the full width will be retained as a utility easement.

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 26, 2004.

BUDGET IMPACT



ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-10.00 TO VACATE AND ABANDON A 25' PORTION OF THE PLATTED RIGHT OF WAY FOR REBECCA STREET EAST OF VINSON AVENUE ALONG THE NORTH BOUNDARY OF LOT 8 OF THE VINSON SUBDIVISION, RETAINING A UTILITY EASEMENT WITHIN SUBJECT PROPERTY 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 platted right of way 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 right of way, leaving all of its rights together with the rights of the public generally for use as a utility easement:

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

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" 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 04-10.00

A PARCEL OF LAND BEING A PART OF THE ABANDONED STREET FORMERLY KNOWN AS REBECCA STREET, LYING BETWEEN BLOCKS NUMBERED FIVE (5) AND SIX (6) IN MOUNTAIN VIEW ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF LOT NUMBERED EIGHT (8), IN BLOCK NUMBERED SIX (6) IN MOUNTAIN VIEW ADDITION FOR THE POINT OF BEGINNING; THENCE PROCEED IN A NORTHERLY DIRECTION PARALLEL WITH THE CENTERLINE OF VINSON STREET A DISTANCE OF 25.38 FEET TO A POINT ON THE CENTERLINE OF FORMER REBECCA STREET; THENCE EASTERLY ALONG THE CENTERLINE OF FORMER REBECCA STREET A DISTANCE OF 139.34 FEET, MORE OR LESS, TO A POINT 25.5 FEET NORTH OF THE NORTHEAST CORNER OF SAID LOT NUMBERED EIGHT (8); THENCE SOUTHERLY PARALLEL TO THE CENTERLINE OF VINSON STREET A DISTANCE OF 25.5 FEET TO THE NORTHEAST CORNER OF SAID LOT NUMBERED EIGHT (8); THENCE S89 DEGREES 56' 20" E ALONG THE NORTH LINE OF SAID LOT NUMBERED EIGHT (8) A DISTANCE OF 139.34 FEET TO THE NORTHWEST CORNER OF SAID LOT NUMBERED EIGHT (8), THE POINT OF BEGINNING.

10.78

VAC04-09.00

Close Up View

PAUL DUNN



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 | Outside City | BaseLine Profile |
| | | VAC04-09.00 |



Exhibit "B"

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 26, 2004

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

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 21, 2004

VAC 04-09.00: Vacation (Paul Dunn, pp 447) was submitted by Paul Dunn for property located at Lot 8, Block 4 of the Mt. View Addition. The property is zoned RSF-4, residential single family 4 units per acre. The request is to vacate a portion of Rebecca Street right of way.
Planner: Jeremy Pate

Findings: See the attached maps and legal descriptions for the exact locations of the requested right of way vacation.

Background: A 50' right of way for Rebecca Street was dedicated with the platting of Mt. View Addition. This portion of Rebecca Street has never been constructed. The topography in this area is prohibitive for the construction of a roadway. A large portion of this area has slopes greater than 25%.

Request: The applicant requests to vacate a portion of the existing Rebecca Street right-of-way, to the north of Lot 8, as described and depicted in the attached documents. The vacation request covers approximately 25 feet north of Lot 8, along the length of the northern property boundary. The right-of-way north of centerline (approximately 25 feet in width) will remain as public right-of-way at this time.

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

See Conditions of Approval

SW Bell

No Objections

Cox Communications

See Conditions of Approval

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

See Conditions of Approval

Transportation

See Conditions of Approval

Solid Waste

No Objections

Engineering

No Objections

Recommendation: Staff recommends approval of the proposed right of way vacation 04-09.00 subject to the following conditions:

Conditions of Approval:

1. The 50' right of way shall be dedicated as a 50' utility easement.

PLANNING COMMISSION ACTION: yes Required
_____ Approved _____ Denied

Date: April 26, 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 _____

CITY COUNCIL ACTION: yes Required
_____ Approved _____ Denied

Date: May 18, 2004

**PETITION FOR VACATION OF RIGHT AWAY
LOCATED IN LOT 8, BLOCK 4, MT. VIEW ADDITION, CITY OF
FAYETTEVILLE, ARKANSAS**

TO: The Fayetteville City Planning Commission and
The Fayetteville City Council

Lot 8, Block 4, Mt. View Addition

I would like to ask the city to vacate property on Lot 8, Block 4, part of Rebecca St., East of Vinson Avenue and West of Sequoyah Drive. This property will not be utilized for a public street. The property is 50 ft wide and does not meet current zoning requirements of the minimum 75 ft. Therefore, allowing me to gain 25 ft for the purpose of providing access to build a single family home on Lot 8.

I acknowledge that all requirements must be in by March 26, 2004. I will have all material by this date.

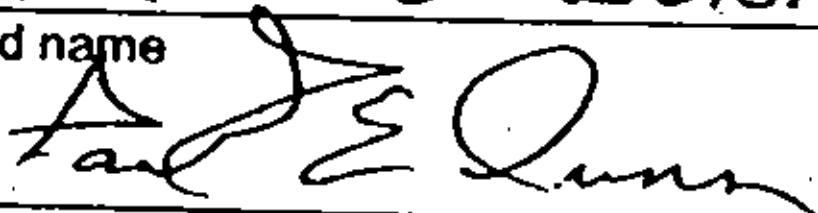
WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting 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 18 day of MARCH, 2004.

W. CAL CANFIELD V.P. DHC CORP
printed name


signature

AUL E DUNN
printed name


signature

Planning Commission
April 26, 2004

VAC 04-10.00: Vacation (Paul Dunn, pp 447) was submitted by Cal Canfield on behalf of Paul Dunn for property located at Lot 8 Block 4 of the Vinson Subdivision on Rebecca Street. The property is zoned RSF-4, Residential Single-family, 4 units per acre, and contains approximately 0.08 acres. The request is to vacate a portion of the dedicated R.O.W. for Rebecca St., east of Vinson Avenue.

Ostner: The next item on our agenda is VAC 04-10.00 for Paul Dunn. Can we have the staff report please?

Pate: This Vacation is submitted by Paul Dunn for property located at Lot 8 Block 4 of the t. View Addition. The property is currently zoned RSF-4. Currently a 50' right of way for Rebecca Street was dedicated with the platting of Mt. View Addition. This portion of Rebecca Street has never been constructed. There are portions to the east and west I believe that have been constructed. However, the topography in this area is prohibitive for the construction of a roadway. A large portion of this area has slopes greater than 25% which do not meet our city ordinances or codes with regard to constructing streets. Additionally, a majority of this area has been developed into a single family type neighborhood and is a cohesive neighborhood. The applicant at this time, owns Lot 8 or is looking to buy Lot 8, and the request to vacate a portion of the existing Rebecca Street right of way which is directly adjacent to this property. If you will look on page 3.8, the property that is shaded there is the subject legal description for the Vacation of right of way. The applicant's property is directly to the south of that. The Vacation request covers approximately 25' north of Lot 8 to the centerline of that existing right of way and then along the length of the northern property boundary to the east from Vincent Avenue. The right of way north of the centerline will remain as public right of way at this time. There have been no objections from adjacent property owners though we have heard a lot from property owners with curiosity to this action. The applicant has submitted required notification forms and staff is recommending approval of the proposed right of way vacation with one condition of approval that that right of way remain as a utility easement.

Ostner: Thank you. Is the applicant present? Would you come forward and introduce yourself and if you have a presentation.

Dunn: I am Paul Dunn. Actually, everything looks fine to me as long as I can build right up to the easement I am fine.

Ostner: We will take public comment and then get back to you. Is there anyone from the public who would like to comment on this issue? This is VAC 04-10.00. Ok, I'm going to close it to the public and bring it back to the Commission for comments and motions.

MOTION:

Allen: I move for approval of VAC 04-10.00.

Ostner: We have a motion by Ms. Allen and a second by Ms. Clark. Is there any further discussion? I would just like to say that this is a completely developed area and with this Vacation it would enable a lot that is probably un-buildable to be built upon. It is infill and it seems to be a good project to add a building in an area that is already filled with city services, roads, sewers and everything is already in place.

Allen: I forgot to add subject to the one condition of approval with this remaining a utility easement in my motion.

Ostner: Thank you. I have a question for staff. The condition of approval reads that the 50' right of way shall be dedicated as a 50' utility easement. I thought we were giving away half of that and making it a 25' utility easement?

Pate: Essentially the right of way Vacation request and the legal description that is attached thereto and that goes forward from here to the City Council is just the 25'. The remainder 25' north is actually right of way with utilities in it. We could modify the condition if necessary before it gets to City Council.

Ostner: We are changing the name of this 25' chunk from right of way to utility easement?

Pate: That is correct.

Ostner: Thank you. Is there any further discussion? Rence?

Roll Call: Upon the completion of roll call the motion to forward VAC 04-10.00 to the City Council was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

May 18, 2004

FROM:

Dawn Warrick

Planning

CP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-10.00: Vacation (Paul Dunn, pp 447) was submitted by Cal Canfield on behalf of Paul Dunn for property located at Lot 8 Block 4 of the Vinson Subdivision on Rebecca Street. The property is zoned RSF-4, Residential Single-family, 4 units per acre, and contains approximately 0.08 acres. The request is to vacate a portion of the dedicated R.O.W. for Rebecca St., east of Vinson Avenue.

STAFF RECOMMENDATION: Approval.

Dawn J. Warrick 4/30/04
Division Head Date

Received in Mayor's Office

4-30-04 gm
Date

[Signature] 4/30/04
City Attorney Date

Department Director Date

Cross Reference:

[Signature] 5-3-04
Finance & Internal Services Dir. Date

Previous Ord/Res#:

[Signature] 5-3-04
Chief Administrative Officer Date

Orig. Contract Date:

[Signature] 5/3/04
Mayor Date

Orig. Contract Number:

New Item:

Yes

No

ALDERMAN AGENDA REQUEST FORM

C. 11
Sale of Property to the Battered Women's Shelter
Page 1 of 2

FOR: COUNCIL MEETING OF MAY 18, 2004

FROM:

ALDERMAN BRENDA THIEL

ALDERMAN SHIRLEY LUCAS

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Encourage The City To Consider The Sale Of About Four Acres Of City Property To The Battered Women's Shelter For Construction Of A New Shelter

APPROVED FOR AGENDA:

1) After Review, Orally
Approved by Alderman Thiel 5-5-04
Alderman Date
After Review Orally
Approved by Alderman Lucas 5-5-04
Alderman Date
 5-5-04
City Attorney (as to form) Date

RESOLUTION NO. _____

**A RESOLUTION TO ENCOURAGE THE CITY TO
CONSIDER THE SALE OF ABOUT FOUR ACRES
OF CITY PROPERTY TO THE BATTERED WOMEN'S
SHELTER FOR CONSTRUCTION OF A NEW SHELTER**

WHEREAS, the Battered Women's Shelter has long offered vital protection and nurturing services to Fayetteville women and their children who have been victims of domestic battery; and

WHEREAS, the current Battered Women's Shelter is inadequate to fully meet the needs of all those Fayetteville citizens who need shelter, protection and services; and

WHEREAS, if the Battered Women's Shelter can obtain the ownership of about four acres of property, it is likely the Shelter can obtain funding to construction a much needed, new shelter.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby encourages the City to consider the sale of about four acres of city property near Highway 265 for the construction of a new Battered Women's Shelter.

PASSED and APPROVED this the 18th day of May, 2004.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

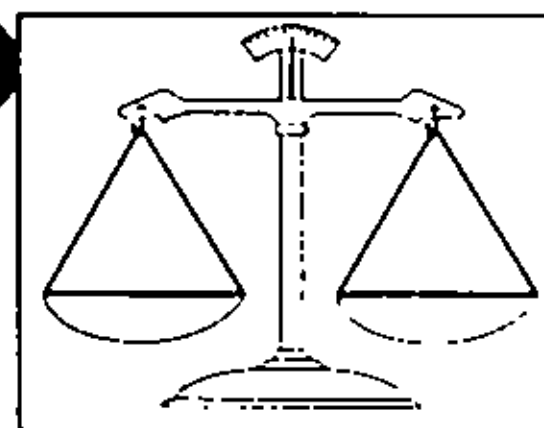
By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **May 19, 2004**

A handwritten signature in black ink, appearing to be 'Kit Williams', written over a horizontal line.

RE: **Passed Resolutions and Ordinances from City Council meeting of
May 18, 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. **David & Wayne Turnbull Contract:** Resolution approving sale of a lot encompassing 3.26 acres in south Industrial Park to David & Wayne Turnbull in amount of \$68,630.00 and budget adjustment as attached;
2. **Sale of Ford Club Wagon Contract:** Resolution to waive requirements for public auction or formal competitive bids for sale of 1997 Ford Club Wagon (Unit #2002) to Fayetteville Youth Center, Inc.;
3. **ADEQ Post Closure Trust Fund Authorization:** Resolution authorizing Fayetteville Parks & Recreation Division to request funding from Post Closure trust Fund from ADEQ for C&L Landfill study and remediation;
4. **Walker Park Senior Complex Budget Approval:** Resolution approving budget adjustment transferring \$24,649.87 into Walker Park Senior Complex budget for receipt of late property tax payments;
5. **Spout Spring Branch:** Resolution to name creek that runs just to west of Willow Avenue south of Spring Street "Spout Spring Branch";

6. **Sale of City Property to Project for Victims of Family Violence Inc.:**
Resolution encouraging City to consider sale of about four acres of City property to Project for Victims of Family Violence Inc. for construction of new shelter;
7. **McClelland Consulting Engineers, Inc. (Hwy. 62 Water Main):**
Resolution approving agreement for engineering services w/McClelland Consulting Engineers, Inc. in amount of \$60,000.00 for planning, field surveys and right-of-way services related to Hwy. 62 water main relocation in Farmington and approving budget adjustment of \$60,000.00;
8. **RZN 04-6.00:** Ordinance rezoning that property described in rezoning petition RZN 04-6.00 as submitted by Jerry Kelson of Crafton, Tull & Associated on behalf of 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;
9. **VAC 04-7.00:** Ordinance approving VAC 04-7.00 to vacate 15' alley between Taylor & Douglas Streets, west of Gregg Avenue as depicted on attached legal description, but retaining this area as utility easement;
10. **Forsgren, Inc. Construction Contract:** Resolution awarding construction contract to Forsgren, Inc. in amount of \$652,762.00, plus contingency of \$97,000.00 for construction of drainage improvements for Holly/Vista and Cleveland/Sang areas, and approving budget adjustment of \$414,541.00 for this project;
11. **Mobley Contractors, Inc. Construction Contract:** Resolution approving construction contract w/Mobley Contractors, Inc. in amount of \$753,553.04 w/project contingency of \$133,032.96 for total of \$886,586.00 for reconstruction of Old Missouri Road from Joyce Boulevard to Mud Creek Bridge and from Rolling Hills to Old Wire Road;
12. **Roll Off Style Container Bid Waiver:** Ordinance waiving formal competitive bidding requirement during 2004 for purchase of roll-off style steel containers by the solid waste Division and approving purchase of roll-off containers in amount not to exceed \$85,859.00;

13. **ANX 04-3.00:** Ordinance confirming annexation to City of Fayetteville of certain property owned by Nooncaster Vineyards, Inc. located east of crossover and north of Hearthstone Drive containing approximately 20.01 acres;
14. **RZN 04-8.00:** Ordinance rezoning property described in rezoning petition RZN 04-8.00 as submitted by Ray Smith on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units Per Acre;
15. **Terracon, Inc. Contract regarding flood damage:** Resolution approving contract for engineering services w/Terracon, Inc. in amount of \$50,000.00 for assessment, design, bidding, inspection and contract management services for repairs related to recent flood damage and approving budget adjustment of \$100,000.00.

Next Agenda Session
Meeting With Fayetteville
School Board regarding
TIF. after Agenda Session

Tentative Agenda
City Council Meeting
May 18, 2004

A meeting of the Fayetteville City Council will be held on May 18, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Agenda Session: Hugh Earnest - Discussion of TIF Program
(Background info will be hand delivered to the City Council by Friday, May 7, 2004)

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the May 4, 2004 meeting minutes.
2. **David and Wayne Turnbull Offer and Acceptance Contract:** A resolution to approve the sale of a lot encompassing 3.26 acres in the south Industrial Park to David and Wayne Turnbull in the amount of \$68,630.00 and a budget adjustment as attached.
3. **Water Service Agreement with Springdale:** A resolution to approve an amendment to the water service agreement with Springdale to move the water service boundary so that 180 acres now with the Fayetteville Water Service Area can be moved into the Springdale Water Service Area.
4. **Sale of Ford Club Wagon Contract:** A resolution to waive the requirements for public auction or formal competitive bids for the sale of a 1997 Ford Club Wagon (Unit #2002) to the Fayetteville Youth Center, Inc.
5. **ADEQ Post Closure Trust Fund Authorization:** A resolution authorizing the Fayetteville Parks & Recreation Division to request funding from the Post Closure Trust Fund from the Arkansas Department of Environmental Quality (ADEQ) for the C & L Landfill study and remediation.
6. **Walker Park Senior Complex Budget Approval:** A resolution to approve a budget adjustment transferring \$24,649.87 into the Walker Park Senior Complex budget for the receipt of late property tax payments.

B. OLD BUSINESS:

1. **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 Ordinance was left on the First Reading at the May 4, 2004 City Council meeting.**

2. **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, but retaining this area as a utility easement. **This Ordinance was left on Second Reading at the May 4, 2004 City Council meeting.**

C. NEW BUSINESS:

1. **Forsgren, Inc. Construction Contract:** A resolution to award a construction contract to Forsgren, Inc. in the amount of \$652,762.00, plus a contingency of \$97,000 for construction of drainage improvements for the Holly/Vista and Cleveland/Sang areas, and to approve a budget adjustment of \$374,540.80 for this project.
2. **Mobley Contractors, Inc. Construction Contract:** A resolution to approve a construction contract with Mobley Contractors, Inc. in the amount of \$753,553.04 with a project contingency of \$133,032.96 for a total of \$886,586.00 for the reconstruction of Old Missouri Road from Joyce Boulevard to the Mud Creek Bridge and from Rolling Hills to Old Wire Road.
3. **Planning Commission Appeal; Hwy. 62 & Hanshew Dr.:** Appeal of the Planning Commissions April 26, 2004 decision to deny a rezoning request for property located at Hwy 62 and Hanshew Rd.
4. **David Howard Damage Claim Appeal:** Appeal of the City Administrations decision to deny a claim for damages by Mr. David Howard against the Fayetteville Water and Wastewater Department.
5. **Willow Creek:** A resolution to name the creek that runs just to the west of Willow Avenue and south of Spring Street "Willow Creek."
6. **Roll Off Style Container Bid Waiver:** An ordinance to waive formal competitive bidding requirements during 2004 for the purchase of roll off style steel containers by the Solid Waste Division and to approve a purchase of roll off containers ~~on~~ *in* an amount not to exceed \$85,859.00.
7. **ANX 04-3.00 (Nooncaster):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Nooncaster Vineyards, Inc. located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres.
8. **RZN 04-08.00 (Nooncaster):** An ordinance rezoning that property described in Rezoning petition RZN 04-8.00 as submitted by Ray Smith on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units Per Acre.
9. **ANX 04-06.00 (Leigh Taylor Properties):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112 containing approximately 29.86 acres.

10. **VAC 04-10.00 Right of Way (Paul Dunn):** An ordinance approving VAC 04-10.00 to vacate and abandon a 25' portion of the platted right of way for Rebecca Street east of Vinson Avenue along the north boundary of Lot 8 of the Vinson Subdivision, retaining a utility easement within subject property as depicted on the attached map and legal description.

Consent

11. **Sale of City Property to the Battered Women's Shelter:** A resolution to encourage the City to consider the sale of about four acres of City property to the Battered Women's Shelter for the construction of a new shelter.

D. INFORMATIONAL:

1. The Mayor will be submitting two Engineering Contracts for consideration. One will deal with the Farmington water main relocation required by the widening of Hwy. 62. The second will be to assess and make recommendations to repair damage caused by recent flooding.

2. **Council Tour: May 17, 2004**

Add: Gary Dumas Agenda item,
have not yet received.
New Business

Add: McClalland Consulting
Engineers - Highway 62
Water Main.
Consent

**Tentative Agenda
City Council Meeting
May 18, 2004**

A meeting of the Fayetteville City Council will be held on May 18, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Agenda Session: Hugh Earnest - Discussion of TIFF Program
(Background info will be hand delivered to the City Council by Friday, May 7, 2004)

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the May 4, 2004 meeting minutes.
2. **David and Wayne Turnbull Offer and Acceptance Contract:** A resolution to approve the sale of a lot encompassing 3.26 acres in the south Industrial Park to David and Wayne Turnbull in the amount of \$68,630.00 and a budget adjustment as attached.
3. **Water Service Agreement with Springdale:** A resolution to approve an amendment to the water service agreement with Springdale to move the water service boundary so that 180 acres now with the Fayetteville Water Service Area can be moved into the Springdale Water Service Area.
4. **Sale of Ford Club Wagon Contract:** A resolution to waive the requirements for public auction or formal competitive bids for the sale of a 1997 Ford Club Wagon (Unit #2002) to the Fayetteville Youth Center, Inc.
5. **ADEQ Post Closure Trust Fund Authorization:** A resolution authorizing the Fayetteville Parks & Recreation Division to request funding from the Post Closure Trust Fund from the Arkansas Department of Environmental Quality (ADEQ) for the C & L Landfill study and remediation.
6. **Walker Park Senior Complex Budget Approval:** A resolution to approve a budget adjustment transferring \$24,649.87 into the Walker Park Senior Complex budget for the receipt of late property tax payments.

B. OLD BUSINESS:

1. **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 Becchwood Avenue containing approximately 10.93 Acres from I-1, Heavy Commercial, Light Industrial to RMF-12, Residential Multi Family, Twelve Units per acre. **This Ordinance was left on the First Reading at the May 4, 2004 City Council meeting.**

2. **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, but retaining this area as a utility easement. **This Ordinance was left on Second Reading at the May 4, 2004 City Council meeting.**

C. NEW BUSINESS:

1. **Forsgren, Inc. Construction Contract:** A resolution to award a construction contract to Forsgren, Inc. in the amount of \$652,762.00, plus a contingency of \$97,000 for construction of drainage improvements for the Holly/Vista and Cleveland/Sang areas, and to approve a budget adjustment of \$374,540.80 for this project.
2. **Mobley Contractors, Inc. Construction Contract:** A resolution to approve a construction contract with Mobley Contractors, Inc. in the amount of \$753,553.04 with a project contingency of \$133,032.96 for a total of \$886,586.00 for the reconstruction of Old Missouri Road from Joyce Boulevard to the Mud Creek Bridge and from Rolling Hills to Old Wire Road.
3. **Planning Commission Appeal; Hwy. 62 & Hanshew Dr.:** Appeal of the Planning Commissions April 26, 2004 decision to deny a rezoning request for property located at Hwy 62 and Hanshew Rd.
4. **David Howard Damage Claim Appeal:** Appeal of the City Administrations decision to deny a claim for damages by Mr. David Howard against the Fayetteville Water and Wastewater Department.
5. **Willow Creek:** A resolution to name the creek that runs just to the west of Willow Avenue and south of Spring Street "Willow Creek."
6. **Roll Off Style Container Bid Waiver:** An ordinance to waive formal competitive bidding requirements during 2004 for the purchase of roll off style steel containers by the Solid Waste Division and to approve a purchase of roll off containers on an amount not to exceed \$85,859.00.
7. **ANX 04-3.00 (Nooncaster):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Nooncaster Vineyards, Inc. located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres.
8. **RZN 04-08.00 (Nooncaster):** An ordinance rezoning that property described in Rezoning petition RZN 04-8.00 as submitted by Ray Smith on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units Per Acre.
9. **ANX 04-06.00 (Leigh Taylor Properties):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112 containing approximately 29.86 acres.

10. **VAC 04-10.00 Right of Way (Paul Dunn):** An ordinance approving VAC 04-10.00 to vacate and abandon a 25' portion of the platted right of way for Rebecca Street east of Vinson Avenue along the north boundary of Lot 8 of the Vinson Subdivision, retaining a utility easement within subject property as depicted on the attached map and legal description.

11. **Sale of City Property to the Battered Women's Shelter:** A resolution to encourage the City to consider the sale of about four acres of City property to the Battered Women's Shelter for the construction of a new shelter.

D. INFORMATIONAL:

1. The Mayor will be submitting two Engineering Contracts for consideration. One will deal with the Farmington water main relocation required by the widening of Hwy. 62. The second will be to assess and make recommendations to repair damage caused by recent flooding.
2. **Council Tour: May 17, 2004**

**Tentative Agenda
City Council Meeting
May 18, 2004**

A meeting of the Fayetteville City Council will be held on May 18, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

*waiting on
↑ call from Holt*
Agenda Session: Proposed Jail Closing Presentation by Chief Hoyt

Discussion of TIFF Program by Hugh Earnest

A. CONSENT: *(Background info will be hand delivered by Friday, ~~8:00 a.m.~~ May 7, 2004)*

1. **Approval Of The Minutes:** Approval of the May 4, 2004 meeting minutes.

B. OLD BUSINESS:

1. **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 Ordinance was left on the First Reading at the May 4, 2004 City Council meeting.**
2. **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 Ordinance was left on Second Reading at the May 4, 2004 City Council meeting.**

C. NEW BUSINESS:

- (3) R* 1. **Planning Commission Appeal; Hwy. 62 & Hanshew Dr.:** Appeal to the Planning Commissions April 26, 2004 decision to deny rezoning request for property located at Hwy 62 and Hanshew Rd.
- (4) R* 2. **David Howard Damage Claim Appeal:** Appeal of Administrative Division denying claim for damages by Mr. David Howard against Fayetteville Water and Wastewater Department.
- take
off* 3. **Raze and Removal (800 S. College):** A resolution to approve an order to raze and remove a dilapidated and unsafe structure located at 800 E. College Avenue, Fayetteville.

~~take off~~ 4. **Raze and Removal (408 E. Center Street):** A resolution to approve an order to raze and remove a dilapidated and unsafe structure located at 408 E. Center Street, Fayetteville.

R 5. **Willow Creek:** A resolution to name the creek that runs just to the west of Willow Avenue south of Spring Street "Willow Creek."

1. ~~1.~~ R 6. **Forsgren, Inc. Construction Contract:** A resolution to award a construction contract to Forsgren, Inc. In the amount of \$652,762.00, plus a contingency of \$97,000 for construction of drainage improvements for the Holly/Vista and Cleveland/Sang areas, and to approve a budget adjustment of \$374,540.80 for this project.

waiting revised memo
Con 7. **David/ Wayne Turnbull Offer and Acceptance Contract:** Approval of an Offer and Acceptance Contract with David Turnbull and Wayne Turnbull, partners in a business called Wayne's Powder Coating, PO Box 609, Tontitown, AR, 72770, to sell 3.26 acres of property owned by the City, a part of parcel 15WX, for the amount of \$68,630.00.

Cons 8. **Water Service Agreement with Springdale:** A resolution to approve an amendment to the water service agreement with Springdale to move the water service boundary so that 180 acres now with the Fayetteville Water Service Area be moved into the Springdale Water Service Area.

R 9. **Roll Off Style Container Bid Waiver:** An ordinance to waive formal competitive bidding requirement during 2004 for the purchase of roll off style steel containers by the Solid Waste Division and to approve a purchase of roll off containers on an amount not to exceed \$85,859.00.

Cons 10. **Sale of Ford Club Wagon Contract:** A resolution to waive the requirements for public auction or formal competitive bids for the sale of a 1997 Ford Club Wagon (Unit #2002) to the Fayetteville Youth Center, Inc.

2. ~~2.~~ R 11. **Mobley Contractors, Inc. Construction Contract:** A resolution to approve a construction contract with Mobley Contractors, Inc. in the amount of \$753,553.04 with a project contingency of \$133,032.96 for a total of \$886,586.00 for the reconstruction of Old Missouri Road from Joyce Boulevard to the Mud Creek Bridge and from Rolling Hills to Old Wire Road.

Cons 12. **ADEQ Post Closure Trust Fund Authorization:** A resolution authorizing the Fayetteville Parks & Recreation Division to request funding from the Arkansas Department of Environmental Quality (ADEQ) for the C & L Landfill study and remediation.

Cons 13. **Walker Park Senior Complex Budget Approval:** A resolution to approve a budget adjustment transferring \$24,649.87 into the Walker Park Senior Complex budget for the receipt of late property tax payments.

R 14. **ANX 04-3.00 (Nooncaster):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Nooncaster Vineyards, Inc. located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres.

R 15. RZN 04-08.00 (Nooncaster): An ordinance rezoning that property described in Rezoning petition RZN 04-8.00 as submitted by Ray Smith on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units Per Acre.

R 16. ANX 04-06.00 (Leigh Taylor Properties): An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 HWY. 112 containing approximately 29.86 acres.

R 17. VAC 04-10.00 Right of Way (Rebecca Street East of Vinson Subdivision): An ordinance approving VAC 04-10.00 to vacate and abandon a 25' portion of the platted right of way for Rebecca Street East of Vinson Subdivision, retaining a utility easement within subject property as depicted on the attached map and legal description.

18. Drake Field T- Hangar Contract: NO INFORMATION

19. Water Main Relocation Contract: NO INFORMATION

20. Flood Related Damages Contract: NO INFORMATION

D. INFORMATIONAL:

Council Tour: May 17, 2004

18

Add KW Item

→ The Mayor will be Submitting two Engineering Contracts for your consideration. One will deal with the Farmington watermain relocation required by the widening of Hwy 62. The second will be an eng. contract to ~~assess~~ assess and make recommendations to repair damage caused by recent flooding.

NORTHWEST ARKANSAS EDITION

Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

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

Final Agenda was inserted in the regular editions on
May 17, 2004.

PO# 04-386

** Publication Charge: \$ 243.27

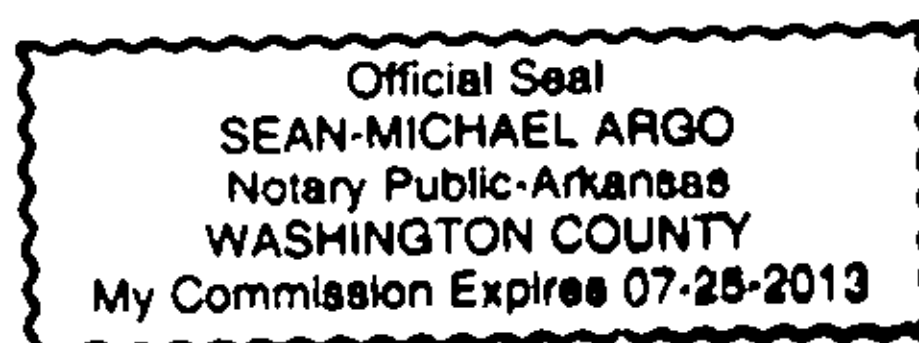
Subscribed and sworn to before me this

17 day of May, 2004.

Sean Michael Argo
Notary Public

My Commission Expires: 07/25/2013

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



RECEIVED

MAY 18 2004

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**Final Agenda
City Council Meeting
May 18, 2004**



A meeting of the Fayetteville City Council will be held on May 18, 2004 at 8:00 p.m. in Room 218 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. **Approval Of The Minutes:** Approval of the May 4, 2004 meeting minutes.
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3. **Water Service Agreement with Springdale:** A resolution to approve an amendment to the water service agreement with Springdale to move the water service boundary so that 180 acres now with the Fayetteville Water Service Area can be moved into the Springdale Water Service Area.
4. **Sale of Ford Club Wagon Contracts:** A resolution to waive the requirements for public auction or formal competitive bids for the sale of a 1997 Ford Club Wagon (Unit #2002) to the Fayetteville Youth Center, Inc.
5. **ADEQ Post Closure Trust Fund Authorizations:** A resolution authorizing the Fayetteville Parks & Recreation Division to request funding from the Post Closure Trust Fund from the Arkansas Department of Environmental Quality (ADEQ) for the C & L Landfill study and remediation.
6. **Walker Park Senior Complex Budget Approval:** A resolution to approve a budget adjustment transferring \$24,849.87 into the Walker Park Senior Complex budget for the receipt of late property tax payments.
7. **Spout Spring Branch:** A resolution to name the creek that runs just to the west of Willow Avenue and south of Spring Street "Spout Spring Branch."
8. **Sale of City Property to the Battered Women's Shelter:** A resolution to encourage the City to consider the sale of about four acres of City property to the Battered Women's Shelter for the construction of a new shelter.
9. **McClelland Consulting Engineers, Inc. (Highway 62 Water Main):** A resolution to approve an agreement for engineering services with McClelland Consulting Engineers, Inc. in the amount of \$60,000.00 for planning, field surveys and right-of-way services related to the Highway 62 water main relocation in Farmington and to approve a budget adjustment of \$60,000.00.

B. OLD BUSINESS:

1. **RZN 04-06.00 (The Crowns):** An ordinance rezoning that property described in rezoning petition RZN 04-8 00 as submitted by Jerry Kelso of Crafton, Tull & Associates on Behalf of the Crowns Limited Partnership for property located north of 18th Street and west of Birchwood Avenue containing approximately 10.93 Acres from J-1, Heavy Commercial, Light Industrial to RMF-12, Residential Multi-Family, Twelve Units per acre. This Ordinance was left on the First Reading at the May 4, 2004 City Council meeting.
2. **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, but retaining this area as a utility easement. This Ordinance was left on Second Reading at the May 4, 2004 City Council meeting.

C. NEW BUSINESS:

1. **Foregren, Inc. Construction Contracts:** A resolution to award a construction contract to Foregren, Inc. in the amount of \$852,762.00, plus a contingency of \$97,000 for construction of drainage improvements for the Holly/Mista and Cleveland/Sang areas, and to approve a budget adjustment of \$414,541.00 for this project.
2. **Mobley Contractors, Inc. Construction Contracts:** A resolution to approve a construction contract with Mobley Contractors, Inc. in the amount of \$753,553.04 with a project contingency of \$133,032.98 for a total of \$886,586.00 for the reconstruction of Old Missouri Road from Joyce Boulevard to the Mud Creek Bridge and from Rolling Hills to Old Wire Road.
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9. **VAC 04-10.00 Right of Way (Paul Dunlap):** An ordinance approving VAC 04-10.00 to vacate and abandon a 25' portion of the platted right of way for Rebecca Street east of Vinson Avenue along the north boundary of Lot 8 of the Vinson Subdivision, retaining a utility easement within subject property as depicted on the attached map and legal description.
10. **Terracon, Inc. Contract regarding Flood Damage:** A resolution to approve a contract for engineering services with Terracon, Inc. in the amount of \$50,000.00 for assessment, design, bidding, inspection and contract management services for repairs related to the recent flood damage and to approve a budget adjustment of \$100,000.00.

D. INFORMATIONAL:

1. **Council Team May 17, 2004**
2. **Kirk Williams - Report on the Housing Authority Board**