

**Final Agenda
City Council Meeting
July 6, 2004**

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

Downtown Master Plan Presentation

School Street Intersection Presentation

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the June 15, 2004 meeting minutes.

APPROVED.

2. **Library Design Systems, Inc. Contract:** A resolution to approve a contract with Library Design Systems, Inc. in the amount of \$34,650.00 to move library property (books, equipment, furniture, etc.) to the new library.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 96-04.

3. **DBE Program Participation Goals for FY2004:** A resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goals for FY2004.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 97-04.

4. **United States Postal Service Lease:** A resolution to approve a lease of a portion of the terminal building to the United States Postal Service for a beginning annual rent of \$19,200.00 for ten years with two 5 year options to renew.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 98-04.

B. OLD BUSINESS:

1. **VAC 04-11.00 (Houses Development Company):** An ordinance approving VAC 04-11.00 to vacate and abandon a 30' utility easement located on Lots 6, 7, 8, and 9 in block three and Lots 7, 8, and 9 of block four of Harrison's Addition as depicted on the attached map and legal description. *This ordinance was left on the first reading at the June 15, 2004 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4584.

C. NEW BUSINESS:

1. **Botanical Gardens Development:** A resolution to consider spending as much as \$750,000.00 in the development of The Botanical Garden of the Ozarks at Lake Fayetteville Park.

PASSED AS AMENDED AND SHALL BE RECORDED AS RESOLUTION NO. 99-04.

2. **Library Annex Sale:** A resolution to approve the sale of the City owned annex to the Fayetteville Public Library for \$551,000.00 pursuant to the bid from the Fulbright Building LLC.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 100-04.

3. **R-PZD 04-1075 (Cambridge Crossing):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1075 located at Lot 6C, Vantage Square containing approximately 11.525 acres, more or less; amending the official zoning map of the City of Fayetteville and adopting the Associated Residential Development Plan as approved by the Planning Commission.

THIS ITEM WAS LEFT ON THE SECOND READING.

4. **RZN 04-1080 (Trumbo):** An ordinance rezoning that property described in rezoning petition RZN 04-1080 as submitted by Jay Rodman for property located at 3198 W. 6th Street, containing approximately 0.81 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4585.

5. **Annexation of Islands (University of Arkansas Property Containing Approximately 704.84 acres):** An ordinance to annex into the City of Fayetteville, Arkansas a large parcel of land owned by the University of Arkansas which is completely surrounded by the incorporated limits of Fayetteville.

THIS ITEM WAS LEFT ON THE FIRST READING.

6. **Annexation of Islands (Containing Approximately 461.74 Acres):** An ordinance to annex into the City of Fayetteville, Arkansas several parcels completely surrounded by the incorporated limits of Fayetteville.

THIS ITEM WAS LEFT ON THE FIRST READING.

7. **Annexation of Islands (Containing Approximately 168.747 Acres):** An ordinance to annex into the City of Fayetteville, Arkansas certain lands south of Huntsville Road which are completely surrounded by the incorporated limits of Fayetteville.

THIS ITEM WAS LEFT ON THE FIRST READING.

- 8. Public Hearing (CTS Executive Transportation Certificate of Public Convenience):**
A Public Hearing to evaluate the necessity of issuing a Certificate of Public Convenience to CTS Executive Transportation.

REQUEST WAS WITHDRAWN.

- 9. Re-codification of the Fayetteville Code:** An ordinance adopting and enacting a new Code of Ordinances of the City of Fayetteville, Arkansas; providing for the repeal of certain ordinances not contained therein, except as herein expressly provided; and providing for the manner of amending the Code.

THIS ITEM WAS LEFT ON THE FIRST READING.

D. INFORMATIONAL:

No Council Tour

July 4th Holiday: July 5, 2004

Meeting adjourned at 10:40 p.m.

Adjourn 10:40 PM.

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

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

Approved
Res.
96-04
to
98-04

Subject:	Botanical Garden Development				
Motion To:		Approve resolution As Amended			
Motion By: Seconded:					
#1 New Business	Cook	✓			Jean
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
Passed As Amended 99-04	Mayor Coody				

Subject:	Library Annex Sale				
Motion To:		Approve			
Motion By: Seconded:		Davis Lucas			
#2 New Business	Cook	N			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
Passed 100-04	Mayor Coody				

Subject:	VAC. 04-11.00 Company				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Rhoads	Rhoads		Chief Besch
Seconded:		Davis	Marr		Susan Chabwick
	Cook	✓	✓	✓	Julie Gabel
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Lucas	✓	✓	N	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	N	
	Thiel	✓	✓	✓	
	Mayor Coody				

#1
Old
Business6/2
passed
Ordinance
#4584

Subject:	Botanical Gardens Development				
Motion To:		Amend Resolution to spend the money instead of not consider spending.	Amend name building after Carl Totemeier	Timber Frame	
Motion By:		Rhoads	Marr	Blaine Johnson	
Seconded:		Davis	Jordan	John Lewis	
	Cook	✓	✓	✓	Greg Lee
	Marr	✓	✓	✓	Dan Jensen/Hofst.
	Rhoads	✓	✓	✓	Bob Shouder
	Davis	✓	✓	✓	Dave Henaley
	Lucas	✓	✓	✓	Jeff Erb
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Mayor Coody				

#1
New
Business

Carl Totemeier.

Subject:	R - P2D 04-1075 Cambridge Crossing				
Motion To:		2nd read			
Motion By:		Davis			
Seconded:		Jordan			
#3 New Business Left on the Second Reading	Cook	✓			Tom Jeffcoat
	Marr	✓			Tracy Hoskins
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Mayor Coody				

Subject:	R Z N - 04-1080 Trumbo				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
#4 New Business Passed 6/2 4585	Cook	✓	✓	N	
	Marr	✓	✓	N	
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Mayor Coody				

Subject:	Annex Island (U of A)				
Motion To:					
Motion By:					
Seconded:					
	Cook				
	Marr				
	Rhoads				
	Davis				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Mayor Coody				

Left
on the
First
Reading
#5
New
Business

Subject:	Annex Island (461.74 Acres)				
Motion To:					
Motion By:					
Seconded:					
	Cook				
	Marr				
	Rhoads				
	Davis				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Mayor Coody				

Left
on the
First
Reading
#6
New
Business

Subject:	Amey Islands (168.747 Acres)				
Motion To:					
Motion By:					
Seconded:					
#7 New Business This Ordinance was left on the first Reading	Cook				
	Marr				
	Rhoads				
	Davis				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
Mayor Coody					

Subject:	Public Hearing (CTS Executive Transportation Certificate of Public Convenience.)				
Motion To:					
Motion By:					
Seconded:					
#8 New Business Request Withdrawn	Cook				
	Marr				
	Rhoads				
	Davis				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
Mayor Coody					

Subject:	Re - Codification of the Fayetteville				
Motion To:					Code
Motion By: Seconded:					
Left on the 1st reading	Cook			Section 94.04	
	Marr			Fireworks -	
	Rhoads			No changes to this	
	Davis			Section.	
	Lucas				
	Jordan			Section	
	Reynolds			Do not eliminate	
	Thiel			the Historic	
	Mayor Coody			District	

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

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D. INFORMATIONAL:

No Council Tour

July 4th Holiday: July 5, 2004

**City Council
Meeting Minutes
June 15, 2004**

A meeting of the Fayetteville City Council was held on June 15, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Mayor Coody called the meeting to order.

Nominating Committee Report:

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

Alderman Marr moved to approve the Nominating Committee report. **Alderman Lucas** seconded the motion. Upon roll call the motion was approved unanimously.

CONSENT:

Approval Of The Minutes: Approval of the May 18, 2004 meeting minutes and the June 1, 2004 meeting minutes.

RJN Group Sewer Rehabilitation: A resolution to approve an engineering contract with RJN Group, Inc. in the amount of \$226,978.00 for the design and bidding phase services for the sewer rehabilitation project.

Resolution 91-04 as Recorded in the Office of the City Clerk.

Tomlinson Asphalt Shiloh Drive Widening: A resolution awarding a construction contract to Tomlinson Asphalt Company, Inc. in the amount of \$186,218.75 for the widening of Shiloh Drive from Gregg Avenue to Steele Boulevard; and approving a project contingency in the amount of \$58,622.00.

Resolution 92-04 as Recorded in the Office of the City Clerk.

OMI Rebate Transfer of Funds: A resolution approving as budget adjustment transferring \$128,902.00 of Operations Management International (OMI) rebates from Water & Sewer Fund Balance to the Lift Station Improvements account.

Resolution 93-04 as Recorded in the Office of the City Clerk.

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

OLD BUSINESS:

R-PZD 04-06.00 (John Nock): An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-06.00 located on Ruppel Road south of Wedington Drive containing approximately 41.70 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. *The ordinance was left on the second reading at the June 1, 2004 City Council meeting.*

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

Mr. Williams read the ordinance.

Dawn Warrick, Planning: Staff received a letter of agreement today between the developer of the subdivision and the developer of the Ruppel Row PZD providing and assuring compliance with recommended condition of approval number three. This has to do with some guarantees that were made and a park land dedication that was made with the subdivision that created the lot for this development. What that does is verify that the 5.37 acres that were banked with that previous subdivision will be utilized by this development for a portion of their park land dedication requirements.

Alderman Thiel: These are not row houses, they are not attached.

Dawn Warrick: They are proposing to have zero lot lines but unattached structures.

Alderman Thiel: How far apart will they be?

Dawn Warrick: They will be spaced at a minimum of 10 feet.

Alderman Thiel: Are they going to be required to have fire walls.

Dawn Warrick: That will be addressed by our Building Safety Division with regard to code requirements; they will have to meet the 2000 International Building Code which is our adopted building code.

Alderman Jordan: For the record Dawn will you please tell the public how wide the streets are going to be in the development.

Dawn Warrick: The streets will be a standard 28 foot residential street section.

Geary Lowery, a resident voiced his concern with the width of Ruppel Road and the amount of traffic on that road. He also voiced his concern on the issue that not everyone in the City of Fayetteville has city services.

Sharon Davidson, a resident spoke on the density of this project. She also spoke on the traffic in this area.

Mayor Coody: When Ruppel Road was designed and approved it was designed as a four lane, two lanes to be built early on, and the other two lanes to be built when the population warranted it. The right of way has been secured for a four lane street. The planning was completed on this years ago. New developments have streets and sidewalks installed by the developer. We still will be doing the same work that we are doing downtown in the central part of the existing city with our comprehensive sidewalk plan and our paving plan. We are pouring a lot of money back into infrastructure improvement.

Alderman Reynolds: I would like to follow up on Brenda's question with the fire chief on the regulations on fire walls for these buildings.

Chief Bosch: If these structures are designed according to our codes, I believe the set back difference is accurate, I don't think they need fire walls between them unless they share a common wall between the units. If they are two separate stand alone units, as long as the spacing is accurate, then it should be okay.

Alderman Thiel: Right now the minimum would be 16 feet between structures because he have 8 foot set backs. This is not like anything that we have done. This allows a minimum of 10 feet between. My concern is 10 feet getting close enough that it is going to require fire walls and if so is that part of the project.

Chief Bosch: I think it will be okay, I feel very comfortable with the design. In new construction, with the construction materials that are used and the way the buildings are constructed, I feel very comfortable that this will not be an issue. I don't believe you need a common fire wall between the two structures.

Dawn Warrick: The distance, the spacing will be a minimum of 16 feet; I don't know if that is covered specifically in their covenants, we can certainly request that to be covered in their covenant. That is the standard spacing between single family homes in any residential district.

John Nock: We left it 10 in there because that was minimum standard. None of the plans for the development call for anything that would encroach more than 16 feet. There is the practical issue and the code issue; we are in compliance with both. All of these homes have the rear alley ways, which is a 20 foot alley which will be serviced by emergency vehicles. Not only do you have the side access but you have the front and rear access as well.

Alderman Reynolds: Is that 16 feet roof line to roof line or building to building?

John Nock: The standard plans range from 20 to 24 feet. We have kept in the covenants a minimum of 10 feet so if we wanted to have over hangs or bay windows or other things that might be considered part of the structure, you will still have the minimum width required by code.

Alderman Davis: You can not keep the flames from jumping from one roof to another, depending on the wind. That could happen in any residential area throughout the community.

Alderman Jordan: This is already zoned correct. What is the current zoning?

Dawn Warrick: The current zoning on the property is split, part of the property is currently zoned RSF-4 Residential Single Family Four Units per acre and a portion of the property is currently zoned RMF-24 Multi Family 24 Units per acre. The allowable density on the existing tract under existing zoning is 7.22 units per acre that is an average which would result in 301 dwelling units. The proposal is for 260 dwelling units which is a density of 6.24 units per acre. I was just reminded that a portion of the property is not RMF-24 it is RT-12.

Alderman Jordan: So the density is less.

Dawn Warrick: Yes.

Alderman Jordan: Since this is already zoned this would not have to come before City Council if they did not want to change the zoning.

Dawn Warrick: If the developer was proposing a subdivision or a project that met the zoning requirements under the existing designations that would be heard by the Planning Commission for development approval only.

Alderman Marr: At the last meeting we asked if the EMS response service could become a part of what we look at in response time, have we received any data on that issue.

Chief Bosch: We do not have any hard data to hand you, we did meet with Central EMS and it will be about a 6.5 to 7.0 minute response time to that location.

Alderman Marr: Their contract calls for 8 minutes average?

Chief Bosch: Yes.

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

Ordinance 4580 as Recorded in the Office of the City Clerk

Rupple Row Money in Lieu of Land: A resolution to accept the recommendation of the Parks and Recreation Advisory Board to accept \$7,482.75 in lieu of a portion of the parkland

dedication requirements of Ruppel Row Subdivision. *The resolution was tabled at the June 1, 2004 City Council meeting until the June 15, 2004 City Council meeting.*

Geary Lowery wanted to know why we take money in lieu of land instead of developing parks in neighborhoods that need them. He stated this area is going to need a park. He spoke of the areas in Fayetteville that he feels need parks.

Sharon Davidson asked where the money would go, to a general fund or the parks and trails fund.

Mayor Coody: The Parks Fund.

Sharon Davidson stated parks should stay in the area of the subdivisions. She asked the Council to not accept money in lieu of park land and that the park be built for this development.

John Nock: This money is for a small portion of the park land, there was 5.37 acres given at the time of the agreement to build the Boys and Girls Club. We have a pocket park on the property, it is one that is not maintained by the city but is maintained by the POA of the subdivision. In responsible development we are concerned with all of those issues.

Mayor Coody: Read the background on the project.

Connie Edmondson: The Boys and Girls Club leases land from the city, which is eight acres located east of their building. Their building is on their property.

Kit Williams: In our agreement with them they agreed to allow use of some of the park land. The park land is available at most times for people that are not members of the Boys and Girls Club. The building itself is not, that is a private building.

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

Resolution 94-04 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Washington County Inter-Local Agreement: An ordinance approving an inter-local agreement between Washington County, Arkansas, and the City of Fayetteville, Arkansas, concerning the expenditure of funds received from the Arkansas Department of Emergency Management and the disposition of various items of emergency equipment purchased with such funds.

Mr. Williams read the ordinance.

Chief Bosch: We were approached by Washington County regarding this inter-local agreement. In 2003 they applied for a Department of Homeland Security Emergency Preparedness Grant in

the amount of \$150,000. They received this grant to expend those funds on equipment to give to the cities and the rural fire departments. This agreement will allow them to give the equipment to us and we will keep it for three years in our inventory for our use and their use as well. There is no cost to the city.

Alderman Reynolds: Do you know what kind of equipment we are going to receive?

Chie Bosch: We are looking at some radio equipment and some batteries for our hand held radios.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4581 as Recorded in the Office of the City Clerk.

Shake's Building Sale: A resolution of intent to sell municipally owned property at the corner of Sang Avenue and Sixth Street (a portion of the former Shake's Frozen Custard Lot and building).

Mayor Coody stated there has been some confusion on this property, there was a statement in the paper about us not needing any of this property that was a misstatement. He also read a memo from October 30, 2002 that stated the remaining property that was not needed for right of way could be sold when the project was completed.

Alderman Davis: We also had a memo on October 17, 2002 that gave us four options on that location. We selected Option 4, which gave us the opportunity to purchase the entire parcel and at the end of the completion sell what we didn't use. The other options were keeping the property, buying the property and paying severance damages and the other was to take a portion of the Shake's property.

Sharon Davidson: The road design that is there now is that the original engineered design? If it is not the original design why was it changed? Did we give the full asking price of \$240,000 for the property? What would the cost have been if we used eminent domain to obtain the property? Are we expected to get a minimum of \$100,000 for that building?

Mayor Coody: The original design was built. We paid \$240,000.00 for the property. The cost of eminent domain, we try to avoid eminent domain as much as possible, we try to work as well as we can with property owners to achieve some kind of a fair balance between the public's interest and private interest. There is more to it than just condemning the portion of the property that we needed. We would have been shutting them down for 8 to 9 months, so we would have been liable for the real estate as well as the closing of their business for 8 to 9 months. The City Council and our legal department felt it would be cost effective to buy the property, close the intersection to get the job completed more quickly, then resale what we could. We will not know what we can get for the remaining property until we go through the process.

Alderman Reynolds: Will the sell of this building come back through the Council.

Mayor Coody: Yes.

Alderman Davis: Do we know at this point in time where those dollars would go?

Steve Davis, Finance and Internal Services Director: Sales Tax Capital Fund.

Kit Williams: It will certainly come back to the City Council because with this resolution you are agreeing your intent to sale and that you are not going to rezone the property prior to the sale. Then there will be two independent appraisals, after that it will come back to the Council and you will set a minimum amount that you will accept. It will then be advertised and bids will be taken. The bids will come back to Council and you will decide if you want to take one of those bids.

Alderman Rhoads moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 95-04 as Recorded in the Office of the City Clerk.

VAC 04-1070 (Gerald Tomlinson): An ordinance approving VAC 04-1070 to vacate and abandon a 45' existing right of way that extends north of the intersection of West Salem Road and Ruppel Road through The Estates at Salem Hills property and a 50' right of way that extends west of the intersection of Howard Nickel Road and Salem Road through The Estates at Salem Hills as depicted on the attached map and legal description.

Mr. Williams read the ordinance.

Dawn Warrick, Planning Division gave a brief description of the project.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4582 as Recorded in the Office of the City Clerk.

VAC 04-1105 (Thomas Lutz): An ordinance approving VAC 04-1105 to vacate and abandon a portion of a 10' utility easement designated for gas and water located at 1645 W. Sunrise Mountain Road as depicted on the attached map and legal description.

Mr. Williams read the ordinance.

Dawn Warrick, Planning Division gave a brief description of the project.

Alderman Thiel: The only thing that is on that is gas now?

Dawn Warrick: That is correct, the current easement is dedicated for gas and water, there is not a water line installed currently. The new replacement easement is a wider easement and it will be dedicated for gas, water and sewer for future needs.

Mayor Coody: So it is a net improvement on our end and for the petitioner.

Dawn Warrick: Yes.

A discussion followed on the location of the new home on this property.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4583 as Recorded in the Office of the City Clerk.

VAC 04-11.00 (Houses Development Company): An ordinance approving VAC 04-11.00 to vacate and abandon a 30' utility easement located on Lots 6, 7, 8, and 9 in block three and Lots 7, 8, and 9 of block four of Harrison's Addition as depicted on the attached map and legal description.

Dawn Warrick gave a brief description of the project. She stated on May 27, 2003 a large scale development was approved by the Planning Commission with certain conditions on that project approval.

That project was appealed to the City Council with regard to a condition to connect Center Street. The City Council heard that appeal on October 21, 2003, made a modification to that large scale development which included removing the condition to make the street connection to Center Street and also providing for a reduction in density of this large scale development from 39 units with 48 bedrooms to 26 units containing 42 bedrooms. That action was passed with Resolution 160-03.

Throughout each consideration at the Planning Commission and City Council level there were conditions with regard to this easement vacation and the dedication which is a condition of this easement vacation that is being proposed. Those were not modified by either the Planning Commission or the City Council through those actions when consideration of the large scale project was made.

The applicant did provide notification to all utility representatives, city division and adjoining property owners as required by ordinance, no objections were noted by utility representatives or city divisions. We did request the replacement easement over a different water line as a condition of this vacation. Staff recommended this action be approved with that condition.

At the Planning Commission meeting there were several members of the public that did come and had comments with regard to the project and on this request, those minutes from the Planning Commission meeting are included in your packet. The Planning Commission voted 5-3 with one abstention to forward this request to the City Council with a recommendation for denial. Staff's recommendation to Planning Commission and to the City Council was to approve this vacation request which is consistent with the actions that were previously taken on the project itself, the large scale development back in 2003.

Alderman Lucas: Does this easement go all the way down to Spring Street?

Dawn Warrick: I believe it does continue to the north, I do not have that document with me. I believe it would be consistent with the lay out of that subdivision.

Alderman Thiel: It seems the Planning Commission felt they could overturn the large scale development approval by turning this vacation down. Our city attorney sent us a memo stating that we have already approved the large scale development and that included this vacation.

Dawn Warrick: We brought this project through this process because this is the only way to vacate a utility easement. It was noted from the beginning with regard to the large scale that this would need to happen in order for the large scale to be approved the way that it was proposed.

Kit Williams: There was a time that the Planning Commission could have denied this large scale development but instead they passed it. They put a condition on that which later proved impossible that was appealed to the City Council. The Council could have denied the large scale development instead you approved the large scale development as amended and decreased the density. One of the conditions that was always there was the vacation of this easement that is not going to be needed. There is another easement that carries the water line up the hill. The problem about not approving this now, you made that as a condition of approval for the large scale development. It would be wrong and dangerous for you to place a condition on them and then make that impossible for them to fulfill by refusing to vacate this easement.

Mr. Williams stated a similar case and the Supreme Court ruling.

There would have to be some reason that you would turn down this unused, not to be used easement, which is going to be replaced and has already been approved in this large scale development to be replaced. As your lawyer I would have a difficult time trying to figure out what your reason is for turning down this easement vacation that nobody needs. We told them they have to do it, they are trying to do it and now to tell them that we are not going to let them do it, I think puts us in a very difficult legal position.

Holly Bryan, 107 N. Olive, voiced her opposition to the vacation as well as the size of the development. She is also opposed to the hammerhead use at the end of Olive instead of a cul-de-sac.

Julie Gable, 106 N. Olive, read a statement from her husband Mike Thomas opposing this development. He voiced his concern about the increase in traffic on Olive Street due to this development.

Geary Lowery voiced his concern about the project and the traffic in the city.

Susan Chadwick, Spring and Olive, asked for denial of the vacation. She voiced her concern about the development. She asked that a cul-de-sac be established at the south end of Olive Street for the safety of the neighborhood.

Mandy Bunch with EB Landworks representing Houses Development Corporation: We have been working with city staff since October 2002 to try to meet the ordinances and to meet the requirements of the boards. Mr. House has reduced the density far less than is allowed by ordinance for this zoning. It's zoning that has been the issue with the project since day one as far as the density. Mr. House has employed professionals to evaluate all of the facilities that have been in question tonight with the discussion including four different traffic report iterations. It has been determined by a professional traffic engineer that once the improvements have been made that have been required of this Council the street will be safe for that amount of traffic.

Alderman Davis: Is there a rush on this or could we table this for two weeks so that we can go out and look at the development.

Dawn Warrick: We don't have any specific timeframe. It's up to the Council as to how you want to deal with this and what your timeframe is.

Alderman Reynolds: If the fire and police department asked for a cul-de-sac to be installed and the neighbors would like a cul-de-sac why didn't we have one in the plan?

Tim Conklin: I will have to review the Plat Review minutes. I will get you that information, what the comments were during the development review.

Alderman Marr: I would like to request a copy of minutes from the Council discussion when we had the discussion on the large scale development.

Mandy Bunch: It is my understanding that the staff has reviewed this, as far as the hammerhead approach. We specifically looked at it for its meeting the new international fire code because the fire code did change during the process. Regarding the connectivity issue, one of the main reasons that there was a change and the reason you amended the ordinance with the appeal was that the Center Street right-of-way that everyone thought was there actually does not exist at all. That is way the resolution was made with the amendments that allowed the change in that. As far as the progress on the site we have actually not begun grading for the large scale development. We have cleared out some under brush, with special specific coordination with the tree and landscape administrator. Only the minimal about of trees, we were careful to make sure we actually had surveyors stake the tree preservation areas as approved and designed so that the soil borings could be taken.

Mayor Coody: Why did you prefer the hammerhead cul-de-sac versus the circular?

Mandy Bunch: A concern that we have had the entire time with Center Street is the right-of-way was a platted right-of-way but never constructed for obvious reasons given the slope conditions of the Center Street right-of-way. The reason the cul-de-sac was taken off, we have added a lot on on-street parking to help with the parking situation that has been a concern of the neighbors and also the topography of the area and trying to minimize the disturbance. The hammerhead did meet the fire code.

Alderman Marr: The minutes from the City Council meeting are in the packet, I am wanting the minutes from the original Planning Commission large scale discussion.

Alderman Thiel: If we denied this vacation it wouldn't stop this project at all, it looks like it is just affecting one building, is that correct?

Mandy Bunch: It does affect the project as permitted; it does considerably affect the number of units. I think that there are some changes that aren't preferred that could be made to process with the same density without the vacation, but I don't believe that is the way that we want to proceed at all.

Alderman Thiel: If we denied this vacation it would change the location of the buildings but it would not end the project?

Mandy Bunch: I think ways could be preceded to develop with the same density. One thing that we have done to maintain that existing building with the number of units up on the north line where the closest adjacent property owner is we actually have removed an entire building from that location. Keeping the more dense areas away from the currently developed areas has been a goal that we have tried to meet as well and that does that as well.

Alderman Marr: It would kill it because if you have it as a condition of approval that never gets met then how can you continue.

Kit Williams: That is absolutely correct. On page 22 of 36, condition 3 states approval shall be subject to the vacation of the 15 foot existing utility easement. If they don't meet that condition they don't have approval.

Mayor Coody: That puts us back to that catch 22 that we have put upon them a condition that we will not allow them to fulfill.

Alderman Rhoads moved to suspend the rules and go to the second reading. The motion failed for lack of a second.

This ordinance was left on the first reading.

Meeting Adjourned at 7:50 pm

Sondra Smith
City Clerk

Nominating Committee Report
Meeting: Monday, June 7, 2004
Room 111, City Hall 4:00 p.m.
Members Present – Kyle Cook, Shirley Lucas, Don Marr, Robert Rhoads

The Nominating Committee meeting was called to order at 4:00 p.m. CDT

The following is being submitted to the entire City Council for consideration.

Botanical Garden Society of the Ozarks, Inc.

No applicants applied that met the qualification of being a registered voter and resident of the City of Fayetteville. The position that remains to be filled is as follows:

- One Citizen-At-Large term ending 6/30/2007

Construction Board of Adjustments

The Nominating Committee unanimously recommends the following candidate for appointment:

- *O.E. Luttrell, (previously served on the Construction Board of Adjustments)* One Alternate term ending 3/31/2005

Telecommunications Board

The Nominating Committee unanimously recommends the following candidate for appointment:

- **Gregory Boyle** One unexpired term ending TBD

Tree & Landscape Advisory Board

The Nominating Committee is not making any recommendations for appointment to this committee because the applicants that applied failed to show up for their committee interviews (without any notification to the City Clerk's office) and the committee felt it was important to evaluate further – based on the importance of attendance at the committee meetings. The positions that remain to be filled are as follows:

- One unexpired Forestry term ending 12/31/2004
- One unexpired Environmental term ending 12/31/2004
- One University Representative term ending 12/31/2005

Walton Arts Center Council, Inc

The Nominating Committee had numerous applicants for this council, and reviewed the recommendations of the President/CEO of the Walton Arts Center, and recommends unanimously the following candidates for appointment:

- *Curt Rom –Appointment*, One term ending 06/30/2007
- *Jeff Schomburger – Appointment*, One term ending 6/30/2007

Walton Arts Center Foundation

The Nominating Committee had one applicant for the foundation position, and received a recommendation from President/CEO of the Walton Arts Center for this individual, so the nominating committee recommends unanimously the appointment of:

- ***Jeff Dunn – Appointment***, One term ending 6/30/2007

Youth Activities Committee

The Nominating Committee did not have any applicants for the Committee. Positions that remain to be filled are as follows:

- One Parent term ending 6/30/2006
- One Ramay Student term ending 6/30/2005

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front, when adjoining A or R districts	50 ft.
Front, when adjoining C, I, or P districts	25 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I, or P districts	10 ft.
Rear, when adjoining C, I, or P districts	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(VIII); Ord. No. 2351, 6-2-77; Ord. No. 2430, 3-21-78; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.039; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.21 District I-2, General Industrial

(A) *Purpose.* The General Industrial District is designed to provide areas for manufacturing and industrial activities which may give rise to substantial environment nuisances, which are objectionable to residential and business use.

(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 12	Offices, studios and related services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 28	Center for collecting recyclable materials

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 31	Facilities emitting odors and facilities handling explosives
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front, when adjoining A or R districts	100 ft.
Front, when adjoining C, I or P districts	50 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I or P districts	25 ft.
Rear	25 ft.

(F) *Height regulations.* There shall be no maximum height limits in I-2 Districts, provided, however, that any building which exceeds the height of 25 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(IX); Ord. No. 2351, 6-21-77; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.040; Ord. No. 3971, §2, 5-21-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.22 District P-1, Institutional

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

TITLE XV UNIFIED DEVELOPMENT CODE

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	20 ft.
Side, when contiguous to a residential district	25 ft.
Rear	25 ft.
Rear, from center line of public alley	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 60 % of the total area of such lot.

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.23 District E-1, Extraction

(A) *Purpose.* The Extraction District is designed to provide areas for the commercial removal of natural accumulations of sand, clay, silt, gravel, rock, and any mineral where such removal may cause groundwater problems, noise, dust, traffic problems, erosion, and safety concerns.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 30	Extractive uses

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
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(C) *Density.* None.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Lot width minimum	The proposed development shall have at least 200 feet of frontage on a state road or other adequate means of access compatible with sound land use planning principles.
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(2) *Lot area minimum.*

Lot area minimum	10 acres
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(E) *Setback regulations.*

From all property lines (including street frontage) when contiguous to all R districts	200 ft.
From all property lines (including street frontage) when contiguous to P, A, C, and I districts	100 ft.

(Code 1991, §160.047; Ord. No. 3546, 4-16-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.24 Design Overlay District (I-540 Highway Corridor)

(A) *Purpose.* The purpose of establishing a Design Overlay District for the I-540 Highway Corridor is as follows:

- (1) To protect and enhance the distinctive scenic quality of the I-540 Highway Corridor by providing for nonresidential developments which will maximize preservation and enhancement of the natural, rural, and open character of the terrain and foliage.
- (2) To address the issues of traffic and safety.
- (3) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, drainage and heat islands.
- (4) To preserve and enhance the economic value and viability of property within and near the Overlay District for the I-540 Highway Corridor.

(B) *Overlay District boundaries.* The Overlay District encompasses all lands lying within 660 feet of each side of the right-of-way of I-540 from the intersection of I-540 and State Highway 471 (a/k/a 71B) north to the city limits of Fayetteville, (a/k/a the 71 Bypass and/or John Paul Hammerschmidt Expressway), and also that portion known as State Highway 471S described more fully as that portion of State Highway 471 which connects I-540 to State Highway 471 (a/k/a North College) and all future extensions of I-540 within the City of Fayetteville. Said boundaries are set out on the official plat pages along with a legal description of such boundaries located in the Planning Division.

(C) *Application of Overlay District: Regulations and standards.* The regulations and standards contained herein shall apply to all nonresidential properties, (including, but not limited to new development), located within the Overlay District boundaries. Such regulations and standards

C.6
Annexation of
Islands

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communications facilities

(C) Density. None.

(D) Bulk and area regulations. None.

(E) Setback regulations.

Front, when adjoining A or R districts	50 ft.
Front, when adjoining C, I, or P districts	25 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I, or P districts	10 ft.
Rear, when adjoining C, I, or P districts	10 ft.

(F) Height regulations. There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(G) Building area. None.

(Code 1965, App. A, Art. 5(VII); Ord. No. 2351, 6-2-77; Ord. No. 2430, 3-21-78; Ord. No. 2516, 4-3-79; Ord. No. 1747, 8-29-70; Code 1991, §160.039; Ord. No. 4100, §2 (Ex. A), 6-16-88; Ord. No. 4178, 8-31-89)

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(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 12	Offices, studios and related services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 28	Center for collecting recyclable materials

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 31	Facilities emitting odors and facilities handling explosives
Unit 38	Wireless communications facilities

(C) Density. None.

(D) Bulk and area regulations. None.

(E) Setback regulations.

Front, when adjoining A or R districts	100 ft.
Front, when adjoining C, I or P districts	50 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I or P districts	25 ft.
Rear	25 ft.

(F) Height regulations. There shall be no maximum height limits in I-2 Districts, provided, however, that any building which exceeds the height of 25 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(G) Building area. None.

(Code 1965, App. A, Art. 5(IX); Ord. No. 2351, 6-21-77; Ord. No. 2516, 4-3-79; Ord. No. 1747, 8-29-70; Code 1991, §160.040; Ord. No. 3971, §2, 5-21-96; Ord. No. 4100, §2 (Ex. A), 6-16-88; Ord. No. 4178, 8-31-89)

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(B) Uses.

(1) Permitted uses.

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 28	Multi-family dwellings
Unit 38	Wireless communications facilities

(C) Density. None.

(D) Bulk and area regulations. None.

TITLE XV UNIFIED DEVELOPMENT CODE

(E) Setback regulations.

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	20 ft.
Side, when contiguous to a residential district	25 ft.
Rear	25 ft.
Rear, from center line of public alley	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 60 % of the total area of such lot.

(Code 1965, App. A., Art. 6(XI); Ord. No. 2603; Ord. No. 2803, 2-19-80; Ord. No. 2821, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-18-98; Ord. No. 4178, 8-31-99)

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(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 30	Extractive uses

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
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(C) *Density.* None.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Lot width minimum	The proposed development shall have at least 200 feet of frontage on a state road or other adequate means of access compatible with sound land use planning principles.
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(2) *Lot area minimum.*

Lot area minimum	10 acres
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(E) Setback regulations.

From all property lines (including street frontage) when contiguous to all R districts	200 ft.
From all property lines (including street frontage) when contiguous to P, A, C, and I districts	100 ft.

(Code 1991, §160.047; Ord. No. 3546, 4-16-91; Ord. No. 4100, §2 (Ex. A), 6-18-98; Ord. No. 4178, 8-31-99)

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(A) *Purpose.* The purpose of establishing a Design Overlay District for the I-540 Highway Corridor is as follows:

- (1) To protect and enhance the distinctive scenic quality of the I-540 Highway Corridor by providing for nonresidential developments which will maximize preservation and enhancement of the natural, rural, and open character of the terrain and foliage.
- (2) To address the issues of traffic and safety.
- (3) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, drainage and heat islands.
- (4) To preserve and enhance the economic value and viability of property within and near the Overlay District for the I-540 Highway Corridor.

(B) *Overlay District boundaries.* The Overlay District encompasses all lands lying within 660 feet of each side of the right-of-way of I-540 from the intersection of I-540 and State Highway 471 (a/k/a 71B) north to the city limits of Fayetteville, (a/k/a the 71 Bypass and/or John Paul Hammerschmidt Expressway), and also that portion known as State Highway 471S described more fully as that portion of State Highway 471 which connects I-540 to State Highway 471 (a/k/a North College) and all future extensions of I-540 within the City of Fayetteville. Said boundaries are set out on the official plat pages along with a legal description of such boundaries located in the Planning Division.

(C) *Application of Overlay District Regulations and standards.* The regulations and standards contained herein shall apply to all nonresidential properties, (including, but not limited to new development), located within the Overlay District boundaries. Such regulations and standards

**Tentative Agenda
City Council Meeting
July 6, 2004**

A meeting of the Fayetteville City Council will be held on July 6, 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 June 15, 2004 meeting minutes.
2. **Library Design Systems, Inc. Contract:** A resolution to approve a contract with Library Design Systems, Inc. in the amount of \$34,650.00 to move library property (books, equipment, furniture, etc.) to the new library.
3. **DBE Program Participation Goals for FY2004:** A resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goals for FY2004.
4. **United States Postal Service Lease:** A resolution to approve a lease of a portion of the terminal building to the United States Postal Service for a beginning annual rent of \$19,200.00 for ten years with two 5 year options to renew.

B. OLD BUSINESS:

1. **VAC 04-11.00 (Houses Development Company):** An ordinance approving VAC 04-11.00 to vacate and abandon a 30' utility easement located on Lots 6, 7, 8, and 9 in block three and Lots 7, 8, and 9 of block four of Harrison's Addition as depicted on the attached map and legal description. *This ordinance was left on the first reading at the June 15, 2004 City Council meeting.*

C. NEW BUSINESS:

1. **Recodification of the Fayetteville Code:** An ordinance adopting and enacting a new Code of Ordinances of the City of Fayetteville, Arkansas; providing for the repeal of certain ordinances not contained therein, except as herein expressly provided; and providing for the manner of amending the Code.
2. **Library Annex Sale:** A resolution to approve the sale of the City owned annex to the Fayetteville Public Library for \$551,000.00 pursuant to the bid from the Fulbright Building LLC.

3. **R-PZD 04-1075 (Cambridge Crossing):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1075 located at Lot 6C, Vantage Square containing approximately 11.525 acres, more or less; amending the official zoning map of the City of Fayetteville and adopting the Associated Residential Development Plan as approved by the Planning Commission.
4. **RZN 04-1080 (Trumbo):** An ordinance rezoning that property described in rezoning petition RZN 04-1080 as submitted by Jay Rodman for property located at 3198 W. 6th Street, containing approximately 0.81 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial.
5. **Annexation of Islands (University of Arkansas Property Containing Approximately 704.84 acres):** An ordinance to annex into the City of Fayetteville, Arkansas a large parcel of land owned by the University of Arkansas which is completely surrounded by the incorporated limits of Fayetteville.
6. **Annexation of Islands (Containing Approximately 461.74 Acres):** An ordinance to annex into the City of Fayetteville, Arkansas several parcels completely surrounded by the incorporated limits of Fayetteville.
7. **Annexation of Islands (Containing Approximately 168.747 Acres):** An ordinance to annex into the City of Fayetteville, Arkansas certain lands south of Huntsville Road which are completely surrounded by the incorporated limits of Fayetteville.
8. **Planning Commission Appeal (Clem Johnson):** A resolution to grant (or deny) an appeal from the Planning Commission's denial of a variance from the Commercial Design Standards.
9. **Botanical Gardens Development:** A resolution to consider spending as much as \$750,000.00 in the development of The Botanical Garden of the Ozarks at Lake Fayetteville Park.
10. **Public Hearing (CTS Executive Transportation Certificate of Public Convenience):** A Public Hearing to evaluate the necessity of issuing a Certificate of Public Convenience to CTS Executive Transportation.

D. INFORMATIONAL:

Council Tour:

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT WITH LIBRARY DESIGN SYSTEMS, INC. IN THE AMOUNT OF \$34,650.00 TO MOVE LIBRARY PROPERTY (BOOKS, EQUIPMENT, FURNITURE, ETC.) TO THE NEW LIBRARY

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 with Library Design Systems, Inc., attached as Exhibit "A", to move the Fayetteville Public Library property (books, equipment, furniture, etc.) from the existing Fayetteville Public Library to the new Fayetteville Public Library for the amount of \$34,650.00.

PASSED and APPROVED this the 6th day of July, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

SONDRA SMITH, City Clerk

CONTRACT (revised June 22, 2004)

Between the Contractor: Library Design Systems, Inc.
519 Pecore St.
Houston, Texas 77009
Tel. 713-869-4075
And the Owner: The City of Fayetteville
Administration Building
West Mountain Street
Fayetteville, Arkansas 72701
Tel. 479-571-7000
The Project: Relocation of Fayetteville Public Library

The Library Design Systems, Inc. and City of Fayetteville agree as set forth below.

Article 1

THE CONTRACT DOCUMENTS

1. This document, the Request for Proposal issued by the Fayetteville Public Library and proposal submitted by Library Design Systems, Inc. constitute the entire agreement between the parties. These form the Contract, and are as fully a part of the Contract as if attached to this Agreement and repeated herein.

Article 2

THE WORK

1. Library Design Systems, Inc. shall perform all the Work required by the Contract Documents, specifically its proposal as accepted by the City of Fayetteville to include:
 - a. All labor, materials, equipment and insurance as required for the Relocation of Fayetteville Public Library per Request For Proposal dated March 31, 2004 to include Amendments dated April 20, 2004, April 23, 2004, April 30, 2004.

Article 3

TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

1. The Work to be performed under this Contract shall be commenced As per Schedule, subject to adjustments caused by any delay in the completion of the new library and its availability to have items moved into it and shall be substantially completed not later than two weeks after receiving the Fayetteville Public Library's notification of the date to start the move.
2. Time is of the essence of this Contract.

Article 4

THE CONTRACT SUM

1. The City of Fayetteville shall pay Library Design Systems, Inc. in current funds for the performance of the Work the Contract Sum of THIRTY-FOUR THOUSAND SIX HUNDRED FIFTY dollars (\$34,650.00).
The Contract Sum is determined as follows:

Relocation Services	\$ 33,000.00
Performance Bond	\$ 1,650.00

Article 5

FINAL PAYMENT

1. Final payment, constituting the entire unpaid balance of the Contract Sum, shall be due when the Work described in this Contract is fully completed and performed in accordance with the Contract Documents and is satisfactory to the Fayetteville Public Library and City of Fayetteville, and shall be payable as follows:

THIRTY (30) DAYS FROM INVOICE DATE.

Article 6

INSURANCE

1. Library Design Systems, Inc. shall provide to the City of Fayetteville a copy of its liability insurance in the amount of \$4,000,000 to insure the value of any damage to Fayetteville Public Library or City of Fayetteville property.

Article 7

CHANGES IN WORK

1. 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 in advance of the change in scope, cost or fees.
2. Library Design Systems, Inc. may be ordered in writing by the City of Fayetteville, without invalidating the Contract, to make changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. The Contractor, prior to commencement of such changes or revised Work, shall submit promptly to the City of Fayetteville and the Fayetteville Public Library written copies of any claim for adjustment to the Contract Sum and Contract Time for such revised Work in a manner consistent with the Contract Documents.

Article 8

FREEDOM OF INFORMATION ACT

1. 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 request is presented to the City of Fayetteville, Library Design Systems, Inc. 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.

Article 9

JURISDICTION

1. Legal jurisdiction to resolve any disputes must be Washington County, Arkansas with Arkansas law applying to the case.

This Agreement entered into as of the day and year written below.

CONTRACTOR
Library Design Systems, Inc.

(signature)

(print name)

Date _____

Library Design Systems, Inc.
519 Pecore St.
Houston, TX 77009

OWNER
CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Date _____

Jun 18 04 10:05a

Library Design Systems

713-869-4168

P. 2 A.2.

06/18/2004 09:19

281481800548

FARMERS INSURANCE

Library Design Systems, Inc. Contract
Page 4 of 8**ACORD - CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YY)

06/17/04

PRODUCER

JUN JUGUILON INSURANCE AGENCY
12040 BEAMER RD, STE D
HOUSTON, TX 77089
281-481-8005

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION
ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE
HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR
ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURER A: FARMERS INSURANCE EXCHANGE
INSURER B: MID-CENTURY INSURANCE CO.
INSURER C: TRUCK INSURANCE EXCHANGE
INSURER D:
INSURER E:

INSURED LIBRARY DESIGN SYSTEMS, INC.

519 PECORE
HOUSTON, TX 77009
(713)869-4075

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING
ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR
MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH
POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
GENERAL LIABILITY				
☒ COMMERCIAL GENERAL LIABILITY				EACH OCCURRENCE \$2,000,000
CLAIMS MADE ☒ OCCUR				FIRE DAMAGE (Any one fire) \$75,000
				MED EXP (Any one person) \$5,000
A	7599-41-24	01-16-04	01-16-05	PERSONAL & ADV INJURY \$1,000,000
				GENERAL AGGREGATE \$4,000,000
				PRODUCTS - COMFYOP AGG \$4,000,000
GENERAL AGGREGATE LIMIT APPLIES PER:				
POLICY PROJECT LOC				
AUTOMOBILE LIABILITY				
ANY AUTO				COMBINED SINGLE LIMIT (See schedule) \$1,000,000
☒ ALL OWNED AUTOS				BODILY INJURY (Per person) \$
SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
B ☒ OWNED AUTOS	6935-84-52	01-16-04	01-16-05	PROPERTY DAMAGE (Per accident) \$500 DED
☒ NON-OWNED AUTOS				AUTO ONLY - EA ACCIDENT \$
				OTHER THAN EA ACC \$
				AUTO ONLY: AGG \$
GARAGE LIABILITY				EACH OCCURRENCE \$3,000,000
ANY AUTO				AGGREGATE \$
EXCESS LIABILITY				
☒ OCCUR				
CLAIMS MADE				
C	6935-50-28	01-16-04	01-16-05	U.S. STATE TORY LIMITS \$
DEDUCTIBLE				E.L. EACH ACCIDENT \$
RETENTION \$				E.L. DISEASE - EA EMPLOYEE \$
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				E.L. DISEASE - POLICY LIMIT \$
OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

CERTIFICATE HOLDER ☒ ADDITIONAL INSURED; INSURER LETTER:

Peggy Vice
Purchasing Manager
City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE INSURER SHALL BE RESPONSIBLE TO MAIL A WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENT OR REPRESENTATIVES.

AUTHOR: [Signature]

ACORD CERTIFICATE OF LIABILITY INSURANCEDATE (MM/DD/YYYY)
6/15/2004

PRODUCER

Marsh Advantage America
1000 Main Street, Suite 3000
Houston, Texas 77002
713-276-8000THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION
ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE
HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR
ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED

Library Design Systems, Inc.

P.O. Box 8540
Houston, TX 77249-8540

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: American Home Assurance Company

INSURER B:

INSURER C:

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING
ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR
MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH
POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC				EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Per occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPROP AGG \$
AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Per accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
GARAGE LIABILITY ☐ ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
EXCESS UMBRELLA LIABILITY ☐ OCCUR ☐ CLAIMS MADE DEDUCTIBLE \$ RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPORTION PART THE NEXT CUTIVE OFFICE AND/OTHER EXCLUDE 07 Yes, class B and/or SPECIAL PROVISIONS BELOW OTHER	WC1740155	1/16/04	1/16/05	☒ WESTATU- TORY LIMITS ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

RE: Fayetteville Public Library Relocation Services

CERTIFICATE HOLDER

City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701
Attn: Peggy Vice, Purchasing Manager

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION
DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN
NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL
IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR
REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Jaquelyn Williams

June 18, 2004

List of Proposals received in response to the RFP for Relocation Services for the
Fayetteville Public Library:

1. National Library Relocations, Inc.
70 Bridge Road
Central Islip, New York 11722-1411
2. American Interfile & Library Services, Inc.
55 Sweeneydale Avenue
Bay Shore, New York 11706
3. Apex and Robert E. Lee Moving & Storage
3195 Franklin-Limestone Rd.
Antioch, TN 37013
4. Graebel Movers, Inc.
2601 SE J. Street
Bentonville, AR 72712
5. William B. Meyer
255 Long Beach Blvd.
Stratford, CT 06615
6. Library Design Systems, Inc. **(SELECTED)**
P.O. Box 8540
Houston, TX 77249-8540

STAFF REVIEW FORM

 AGENDA REQUEST
 X CONTRACT REVIEW
 GRANT REVIEW

For the Fayetteville City Council Meeting of: _____

FROM: _____

<u>Louise Schaper</u>	<u>Fayetteville Public Library</u>	<u>General Government</u>
Name	Division	Department

ACTION REQUIRED: Review contract between Library Design Systems, Inc. and The City of Fayetteville for relocations services for the Fayetteville Public Library.

COST TO CITY:

\$ <u>34,650.00</u>	\$ <u>8,950,917</u>	<u>New Library</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>4150-9150-580400</u>	\$ <u>7,250,155</u>	<u>New Library</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>99073-1</u>	\$ <u>1,700,762</u>	<u>Library Construction Fund</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item Budget Adjustment Attached

[Signature] 6.21.04
Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

<u>[Signature]</u> <u>6/21/04</u>	<u>[Signature]</u> <u>6/21/04</u>
Accounting Manager Date	Internal Auditor Date
<u>[Signature]</u> <u>6/22/04</u>	<u> </u> <u> </u>
City Attorney Date	Purchasing Manager Date

STAFF RECOMMENDATION:

[Signature] 6/23/04
Division Head Date

Department Director _____ Date _____

[Signature] 6-23-04
Finance & Internal Services Dir. Date
St. Louis

Chief Administrative Officer _____ Date _____

[Signature] 6/23/04
Mayor Date

Cross Reference

New Item: Yes No

Previous Ord/Res#: _____

Orig. Contract Date _____

Orig. Contract Number _____



See Form for [Signature] Mayor
Joanna

Staff Review Form - Page 2

Description Contract Review: Relocation Services for the Library Meeting Date _____

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

Internal Auditor

*Contract has not been signed
by contractor*

Finance & Internal Services Director

Chief Administrative Officer

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

A.3.
DBE Program Participation Goals
Page 1 of 12

4500 School Ave., Suite F
Fayetteville, AR 72701
479.718.7642

AVIATION AND ECONOMIC DEVELOPMENT
RAY M. BOUDREAUX, DIRECTOR

TO: Fayetteville City Council
THRU: Ray M. Boudreaux, Director
Staff Review Committee
FROM: James L. Nicholson, Financial Coordinator / DBE Liaison
DATE: May 25, 2004
SUBJECT: Disadvantaged Business Enterprise (DBE) Program Goal Update for FY2004

Recommendation: Review & Approval of a Resolution to accept the Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Goal Update for FY2004.

Background: On October 14, 2000, the Fayetteville City Council approved the Fayetteville Municipal Airport's revised Disadvantaged Business Enterprise Program. The Airport's DBE Program is federally mandated under 49 CFR Part 26 for all Department of Transportation (DOT/FAA) grant recipients which anticipate receiving more than \$250,000 in federal funds in the fiscal year. Drake Field anticipates receiving approximately \$818,530, (Taxiway "A" Extension Phase II -USDA Forestry Service firebase project) from the DOT/FAA in FY 2004.

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

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

Discussion: The purpose of this item is a new resolution amending Fayetteville City Council Resolution No. 150-01-00. Resolution No. 150-01 approves the Revised Disadvantaged Business Enterprise Program to be implemented for all DOT/FAA grant assisted contracts entered into by the City of Fayetteville Municipal Airport.

The new resolution will accept and approve the airport's updated DBE participation goal for FY 2004.

Budget Considerations: No budget effect.

Action Requested: A motion to accept and approve the updated DBE participation Goal for FY 2004, and forward to the Fayetteville City Council.

/jn

Attachment: FY 2004 Goal Update & Methodology
Resolution 150-01

RESOLUTION NO. _____

A RESOLUTION TO ACCEPT AND APPROVE THE UPDATED
FAYETTEVILLE MUNICIPAL AIRPORT DISADVANTAGED
BUSINESS ENTERPRISE (DBE) PROGRAM PARTICIPATION
GOALS FOR FY2004.

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 accepts and approves the updated Fayetteville Municipal Airport
Disadvantaged Business Enterprise (DBE) Program participation goals for
FY2004.

PASSED and APPROVED this 6th day of July 2004.

APPROVED

DAN COODY, Mayor

ATTEST:

By

SONDRA SMITH, City Clerk

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2004 Update**

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

Goal Period: Project Based – AIP Grant No. 3-05-0020-0032-2004
Overall DBE Goal: For review 1.18%

Introduction to 2004 DBE Goal update: The City of Fayetteville / Fayetteville Municipal Airport DBE Goal update for Fiscal Year (FY) 2004 and extending through the completion of the Airport Improvement Project (AIP), is provided to describe the Airport Projects which are funded in part with Department of Transportation (DOT) / Federal Aviation Administration (FAA) funds, and to determine by the federally prescribed methodology the portion or percentage of those funds targeted for contract award to Disadvantaged Business Enterprises (DBE's) in accordance with Federal Regulations 49 CFR Part 26.

The Goal Update is a prerequisite for AIP grant funding for airports which anticipate receiving more than \$250,000 in federal funding from the DOT / FAA in the 2004 fiscal year.

The 2004 DBE Goal Update revises the DBE participation goal in federally funded airport contracts anticipated for the 2004 fiscal year, from that originally described in the airport's previously published DBE Program Plan and successive annual goal updates. The FY 2004 Goal Update is effective October 1st, 2003 through completion of the grant funded project.

Public Participation and Consultation in the DBE Goal Update process is a requirement under federal regulations at §26.45(g). The updated Goal and Methodology is published for 30 days prior to submittal to the FAA for approval. Comments on the Goal Update are accepted for 45 days after the date of public notification of its availability for public review. A number of interested private and public entities were selected to review and comment on the Goal Update, (see attachment #1 - list of consulting agencies). Public comments on the updated goal and methodology are incorporated with the submission to the FAA. *Public comments on the proposed FY 2004 Goal were received as of **/**/04, (see attachment #2 – comments)*

Comments on the FY 2004 DBE Goal Update may be submitted to the Fayetteville Municipal Airport's DBE Liaison Officer by phone, writing, fax, or e-mail to the following:

James Nicholson, DBE Liaison Officer
Fayetteville Municipal Airport / Drake Field
4500 South School Ave., Suite F
Fayetteville, AR 72701
479-718-7643
479-718-7646 fax
jnicholson@ci.fayetteville.ar.us

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2004 Update**

OVERALL GOALS (\$26.45)

Amount of Goal

Fayetteville Municipal Airport's overall goal for FY 2004 is: **1.18%**

Fayetteville Municipal Airport anticipates one AIP (federally funded) project in FY 2004. The estimated project cost is \$818,530 for Construction of an Extension to Taxiway "A". Thus, the projected dollar amount of DBE participation in the project is: **\$ 9,659**

Determination of Market Area

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

We used the most recent Census data available (2001) for Washington County, Arkansas and the four surrounding Arkansas counties, Benton, Crawford, Franklin, and Madison counties. Effectively all contractors for airport improvement work of the nature described in the first section have historically come from the local area, specifically, Washington, Crawford, and Benton County. Except that occasionally a contractor performing ancillary tasks may be recruited from a further distance. However, for the sake of including contractors within a reasonable, feasible range, two other counties bordering Washington County are included in this assessment: Franklin and Madison counties.

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

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

The available DBE Contractors in the Local Market Area are those listed as being certified DBE by the Arkansas State Highway & Transportation Department (AHTD), and listed in AHTD's "Disadvantaged Business Enterprise Directory," published March 15, 2004.

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2004 Update

Methodology - Step 1

The Fayetteville Municipal Airport / Drake field anticipates awarding one AIP funded project contract in FY 2004. The project consists of: Phase II Extend Taxiway "A" approximately 950 ft. South of the Phase I portion currently under construction, on the east side and parallel to Runway 16/34, connecting the Phase I portion of the project to Taxiway "E". This project is identified in the most recent draft of the Drake Field Airport Layout Plan.

Project No. 1 - Taxiway Extension

2002 NAICS Code	Work Item	DBE's in Local Market Area	All Available Firms
237310	Highway, Street & Bridge Construction	0	15
238110	Concrete Contractor	2	44
327320	Ready Mix Concrete Mfg	0	12
238210	Electrical Contractors	0	104
237310	Striping (Hwy, St, & Bridge Construction)	0	36
238910	Site Preparation Contractors	2	57
484220	Dump Trucking, local specialized	1	53
	Totals for this Construction Contract	5	321

Calculation of Base Figure

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

Base Figure = DBE contractors / all contractors

Base Figure = 5 / 321 = 1.55%

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2004 Update**

Methodology - Step 2

Step 2 is an adjustment to the base figure percentage from Step 1 so that the updated goal accurately reflects the actual attainable DBE participation in FY 2004 airport contracts.

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

DBE Goal Accomplishments - Historical Information

Year	Goal %	Accomplishment %	Project Type
2000	1.74	0	Access Road Construction
2001	.93	.42	Taxiway / Runway Rehabilitation
2003	.73	1.99	Taxiway Construction (committed)
Average %	1.33	.80	

Calculation of adjustment to DBE Base Figure

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

Base Figure + Historical Avg. / 2 = Adjusted Figure

$$(1.55 + .80) / 2 = 1.18$$

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2004 Update**

Other Factors

Research was conducted to determine if any DBE / small business disparity studies for the region were available. No disparity studies could be located for the region or state.

Research was conducted to determine the number of, and the services provided by, DBE-owned financial institutions in the state. A list of all minority owned banks in the U.S., sorted by state, indicates that there are no minority-owned banks in the state of Arkansas.

The latest U.S. Census Data for Hispanic population in the Northwest Arkansas Regional area indicates an increase of 815% from 1990 US Census in 2000. This is indicative of the recent influx of Hispanic emigrants to the area. Market research was conducted to determine the number of Hispanic-owned businesses in the State. Two Hispanic-issue, business-related organizations were contacted for their input. No applicable statistics were available from these groups. We anticipate that there will eventually be an increase of DBE's corresponding to the increase of local minority population as the new emigrants settle and become established.

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

Breakout of Estimated Race-Neutral and Race-Conscious Participation

In determining what percentage of the 2004 adjusted goal could be met through race-neutral means, we again reviewed historical DBE accomplishments for Fayetteville / Drake Field. FYV has not met its DBE goal in any year since 1997. Therefore, we estimate that in meeting our overall 2004 adjusted goal of 1.18%, we will obtain 0% from race-neutral participation and 1.18% from race-conscious measures (e.g. setting contract goals).

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2004 Update**

Attachment #1 - List of Consulting Agencies

ARKANSAS STATE HIGHWAY &
TRANSPORTATION DEPARTMENT
MR JAMES MOORE, DBE COODINATOR
PO BOX 2261
LITTLE ROCK AR 72203-2261
james.moore@ahtd.state.ar.us

ARKANSAS SBDC COLLEGE OF
BUSINESS ADMINISTRATION
100 SOUTH MAIN SUITE 401
LITTLE ROCK AR 72201

SMALL BUSINESS ADVANCEMENT NATIONAL CENTER
UNIVERSITY OF CENTRAL ARKANSAS
COLLEGE OF BUSINESS ADMINISTRATION
UCA BOX 5018201 DONAGHEY AVENUE
CONWAY AR 72035-0001

SMALL BUSINESS ASSOCIATION (SBA)
ARKANSAS DISTRICT OFFICE
CAROL J SILVERSTROM
2120 RIVERFRONT DRIVE SUITE 100
LITTLE ROCK AR 72202-1794
Fax: (501) 324-5199 or (501) 324-5491
carol.silverstrom@sba.gov
patricia.walker@sba.gov

ARKANSAS STATE CHAMBER OF COMMERCE
410 S CROSS
PO BOX 3645
LITTLE ROCK AR 72203-3645

VETERANS BUSINESS DEVELOPMENT OFFICE
ANDY LAMONICA
ARKANSAS DISTRICT OFFICE
2120 RIVER FRONT DRIVE ROOM 100
LITTLE ROCK AR 72202

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2004 Update**

ARKANSAS DEPARTMENT OF
ECONOMIC DEVELOPMENT
DBE OFFICER
ONE CAPITOL MALL
LITTLE ROCK AR 72201

FAYETTEVILLE CHAMBER OF COMMERCE
PO BOX 4216
FAYETTEVILLE AR 72702-4216

AIRPORT MINORITY ADVISORY COUNCIL
SHIRLINGTON GATEWAY
2800 SHIRLINGTON RD. SUITE 940
ARLINGTON VA 22206
PHONE (703) 379-5701 FAX (703) 379-5703

MINORITY BUSINESS DEVELOPMENT AGENCY
TO CONTACT US BY EMAIL: HELP@MBDA.GOV
TO CONTACT US BY PHONE: (888) 324-1551

AMERICAN ASSOC OF AIRPORT EXECUTIVES
DBE OFFICER
601 MADISON STREET
ALEXANDRA VA 22314
703-824-0500 PHONE
703-820-1395 FAX

AIRPORTS COUNCIL INTERNATIONAL-NORTH AMERICA
DBE OFFICER
1775 K STREET NW SUITE 500
WASHINGTON DC 20006
PHONE: 202 293-8500
FAX: 202 331-1362

HISPANIC WOMEN'S ORGANIZATION OF ARKANSAS
DBE OFFICER
PO BOX 6132
SPRINGDALE AR 72766
479-751-9494
hwoa@jcf.jonesnet.org

Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2004 Update

ARKANSAS WOMEN'S BUSINESS DEVELOPMENT CENTER
SOUTHERN FINANCIAL PARTNERS
605 MAIN STREET SUITE 203
ARCADELPHIA AR 71923
info@southernfinancialpartners.org

ARK MINORITY SUPPLIER DEVEL COUNCIL
ARMSDC/TEAM
300 SPRING BLDG SUITE 415
LITTLE ROCK, AR 72201
Tel (501) 374-7026 • Fax (501) 371-04
info@armsdc.org

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2004 Update**

Attachment #2 – Comments

**** comments on the 2004 Goal update were received as of **/**/04.**

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 6, 2004

FROM:

James Nicholson

Aviation & Economic Development

General Government

Name

Division

Department

ACTION REQUIRED: A Resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goal in 2004 for Airport Improvement Grant Project 3-05-0020-0032-2004, Extend Taxiway "A" Phase II.

SUMMARY EXPLANATION: The City of Fayetteville / Fayetteville Municipal Airport DBE Goal update for Fiscal Year (FY) 2004 is provided to describe the Airport Projects which are funded in part with Department of Transportation (DOT) / Federal Aviation Administration (FAA) funds, and to determine by the federally prescribed methodology the portion or percentage of those funds targeted for contract award to Disadvantaged Business Enterprises (DBE's) in accordance with Federal Regulations 49 CFR Part 26.

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

The 2004 DBE Goal Update revises the DBE participation goal in federally funded airport contracts anticipated for the 2004 fiscal year, from that originally described in the airport's previously published DBE Program Plan and successive annual goal updates.

STAFF RECOMMENDATION: Review and approve

Received in Mayor's Office

6/7/04
Date P.H.

Division Head

Date

J. J. Whit

6/7/04

City Attorney

Date

[Signature]

6-7-04

Department Director

Date

[Signature]

6-7-04

Finance & Internal Services Dir.

Date

[Signature]

6-8-04

Chief Administrative Officer

Date

[Signature]

6/9/04

Mayor

Date

Cross Reference:

Previous Ord/Res#:

147-00,
150-01, 81-03

Orig. Contract Date:

NA

Orig. Contract Number:

NA

New Item:

Yes

No X



CITY COUNCIL AGENDA MEMO

TO: Mayor

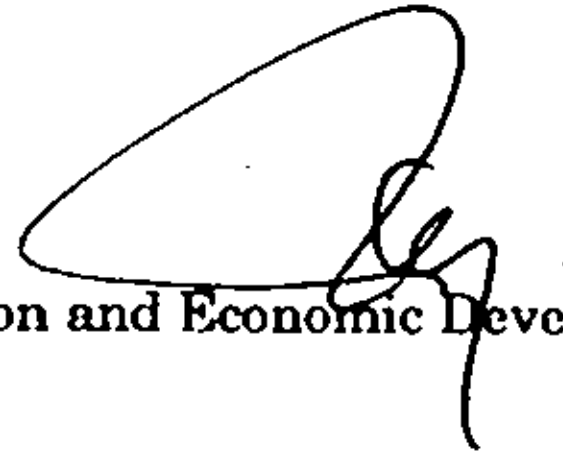
THRU: Staff Contract Review Committee

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

DATE: June 16, 2004

SUBJECT: Approval of Lease Contract with USPS for a Postal Service Center to be located in the Fayetteville Municipal Airport Terminal Building.

July 6, 2004



RECOMMENDATION: Approve Lease Contract with USPS. The Airport Board approved the contract at their June 10, 2004 meeting.

BACKGROUND: The USPS will lose the lease on their Greenland postal service center the end of this year. Following an extensive search of available buildings and property, the USPS and airport staff negotiated an agreement for the USPS to lease a portion of the airport terminal. The space in the airport terminal is only one of the sites being considered. The USPS must conduct a complete study to select a final location that most appropriately represents the needs of their customers. USPS is also conducting a public comment period where any comments received must be addressed. Should they select the terminal site, they will invest approximately \$100,000 to make the former car rental section of the building into a full service postal service center. Included will be a service desk, P. O. boxes and stamp machines, and all services normally found in a post office. We encouraged the post office to take additional space to accommodate increased service as the south side of the community continues to grow. Once open, with abundant parking and easy access, they anticipate that the new service center will take pressure off of the post office located on Dickson Street where parking is a problem and access difficult.

DISCUSSION: The USPS lease is for a total of 20 years. The prime term rate of \$1,600.00 per month recognizes their initial investment of \$100,000.00 to build out the space. Increases are every five years at the rate of 20% increase to the previous rate. The post office boxes alone will generate over 200 visits to the facility every day except Sunday. The additional activity will be beneficial to the restaurant and will help with new potential tenants in the building.

BUDGET IMPACT: Total first year revenue \$19,200.00. Total revenue over the term of the lease \$515,328.60.

NOTE: This is a US Government lease and must be signed by the City first.

Attachments: Staff Review Form
Lease: 3 copies

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director
479.718.7642

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A LEASE OF A PORTION
OF THE TERMINAL BUILDING TO THE UNITED STATES
POSTAL SERVICE FOR A BEGINNING ANNUAL RENT OF
\$19,200.00 FOR TEN YEARS WITH TWO 5 YEAR OPTIONS
TO RENEW

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the lease (attached as Exhibit "A") of 2,100 square feet of the terminal at the Fayetteville Municipal Airport to be used as the Greenland Post Office and 12 parking spaces for a beginning annual rent of \$19,200.00 for ten years with two 5 year options to renew at \$27,648.00 and then \$33,177.60 annual rental. The City Council authorizes Mayor Coody to execute this lease.

PASSED and APPROVED this the 6th day of July, 2004.

APPROVED:

By: _____

DRAFT
DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk



Lease

Facility Name/Location

GREENLAND - MAIN POST OFFICE (043663-002)
*** GREENLAND, AR 72737-9998

Washington COUNTY
Project: G05686

This LEASE, made and entered into by and between CITY OF FAYETTEVILLE hereinafter called the Lessor, and the United States Postal Service, hereinafter called the Postal Service:

In consideration of the mutual promises set forth and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1. The Lessor hereby leases to the Postal Service and the Postal Service leases from the Lessor the following premises, hereinafter legally described in paragraph 8, in accordance with the terms and conditions described herein and contained in the 'General Conditions to U.S. Postal Service Lease,' Section A, attached hereto and made a part hereof.

Upon which is a one story rock and masonry building and which property contains areas, spaces, improvements, and appurtenances as follows:

AREA	SQ. FEET	AREA	SQ. FEET
Net Floor Space	2,100	Joint Use/Common Areas:	
Platform	70	Parking and Maneuver	5,000
Parking and Maneuvering		Entrance, ext. walks	500
Other:			
Driveway			
Landscaping			
Sidewalks			

Joint/Common Use parking areas are an estimate for 11 parking spaces + 1 handicap space and drives that will normally be used by the post office out of the large joint use parking lot in front of the building.

Total Site Area: 2,100

2. RENTAL: The Postal Service will pay the Lessor an annual rental of: \$19,200.00

Nineteen Thousand Two Hundred and 00/100 Dollars

payable in equal installments at the end of each calendar month. Rent for a part of a month will be prorated. Rent checks shall be disbursed as follows:

payable to:

CITY OF FAYETTEVILLE
C/O AVIATION & ECONOMIC DEV
4500 S School Ave Suite F
Fayetteville AR 72701-8016

unless the Contracting Officer is notified, in writing by Lessor, of any change in payee or address at least sixty (60) days before the effective date of the change.

3. TO HAVE AND TO HOLD the said premises with their appurtenances:

FIXED TERM: The term beginning and ending for a total of 10 years.

4. **RENEWAL OPTIONS:** The Lease may be renewed at the option of the Postal Service, for the following separate and consecutive terms and at the following annual rentals:

RENEWAL OPTION	EFFECTIVE DATE	EXPIRATION DATE	PER ANNUM RENTAL
1	/1/2014	/31/2019	\$27,648.00
2	/1/2019	/31/2024	\$33,177.60

provided that notice is sent, in writing, to the Lessor at least 30 days before the end of the original lease term and each renewal term. All other terms and conditions of this Lease will remain the same during any renewal term unless stated otherwise herein.

5. **UTILITIES, SERVICES, AND EQUIPMENT:** Lessor, as part of the rental consideration, shall furnish the following utilities, services and equipment: (See Lessor Obligations of General Conditions (A.24) and/or attached addendum for definitions.)

Heating System & Fuel, Air Conditioning Equipment & Power, Light Fixtures & Power, Sewerage System and Service, Electrical System & Electricity, Water System and Service, Trash Removal, Snow Removal, Lessor will provide daily janitor service to all areas where access is available.

6. **OTHER PROVISIONS:** The following additional provisions, modifications, riders, layouts and/or forms were agreed upon prior to execution and made a part hereof:

Maintenance Rider - Lessor (M-1), UST Maintenance Rider - Lessor (U-1), The Postal Service shall accept the space in "as is" condition and shall provide the interior construction and finish out of the space at its own expense.

Lessor shall not provide adjacent space to entities majoring in the on-site consumption or direct sales of alcoholic beverages, i. e., liquor store, bar, adult entertainment, etc. A restaurant serving beer and/or alcohol containing drinks associated with meals is acceptable. See Attached Addendum.

*Rent shall increase to \$23,040.00 per annum beginning the first month of the second 5-year period of the base term of the lease (approx. 2010 - 2014).

7. The undersigned has completed the 'Representations and Certifications.' (See Section B).

8. **LEGAL DESCRIPTION:**

The northern portion of the Fayetteville Municipal Airport Terminal Building, Drake Field, Highway 71 South, Fayetteville, AR, as illustrated in the attached Page 2 (a).





Addendum

Facility Name/Location GREENLAND - MAIN POST OFFICE (043663-002)
*** GREENLAND, AR 72737-9998

County: Washington
Project: G05686

RENT: Rent shall increase to \$23,040.00 per annum beginning the first month of the second 5-year period of the base term of the lease (approx. 2010 - 2014).

*See Paragraph 6, Page 2

MAINTENANCE: The Postal Service shall maintain the interior of the leased space and the Lessor shall be responsible for maintainance of the exterior of the space.



Maintenance Rider USPS Responsibility (Partial)

- a. If the Postal Service is assuming maintenance responsibility for the demised premises for the first time, the Lessor must correct all maintenance deficiencies and obtain a written certification from a professional HVAC firm that the heating, ventilating and air conditioning systems have been maintained and are in proper working condition. The Lessor will remain responsible until all deferred maintenance work has been completed to the satisfaction of the Postal Service and Postal Service is in receipt of and accepts the aforementioned written certification.
- b. The term "demised premises" as used in this rider includes the premises described in the Lease, the improvements and appurtenances to such premises and all equipment and fixtures furnished, or to be furnished, by the Lessor under this Lease.
- c. The Postal Service is responsible for ordinary repairs to, and maintenance of the demised premises except for those repairs that are specifically made the responsibility of the Lessor in this Lease. The responsibility of the Postal Service as stated herein will be fulfilled at such time and in such manner as the Postal Service considers necessary to keep the demised premises in proper condition.
- d. The Lessor is responsible for:
- (1) Repairs to all common or joint use areas, common or joint use equipment and fixtures that may be included as part of this Lease.
 - (2) All repairs to structural elements and all parts of the roof system. The term "structural elements" as used in this clause is limited to the foundation, bearing walls, floors (not including floor covering), and column supports. The roof system includes, but is not limited to, the roof covering, flashing and insulation, and roof beams, joists, and deck.
 - (3) Repairs resulting from Acts of God, of a public enemy, riot or insurrection.
 - (4) Inspection, prevention and eradication of termites and any other wood eating insects and for repairs of any damage resulting therefrom.
 - (5) Repairs resulting from defects in building construction or installation of equipment, fixtures, or appurtenances furnished by the Lessor.
 - (6) Repairs resulting from fire or other casualties, unless such casualties were caused by the negligence of employees or agents of the Postal Service.
 - (7) Any ordinary repairs by the Postal Service which were made necessary by the failure of any element for which the Lessor is responsible.
- e. When the need arises for repairs which are the responsibility of the Lessor, including any repairs or actions for which the Lessor is responsible under paragraph a. hereof, the Postal Service will (except in emergencies) give the Lessor written notice of the needed repairs and will specify a reasonable deadline for completion of the work. A copy of such notice will be sent by certified or registered mail to the Lessor's mortgagee and assignee of monies due or to become due pursuant to this Lease whose names and addresses have been furnished to the Postal Service by the Lessor. If none of these parties (lessor, mortgagee or assignee) proceed with the work with such diligence so as to ensure completion within the time specified in the notice (or any extension thereof granted at the sole discretion of the Postal Service) or actually fails to complete the work within said time, the Postal Service has the right to perform the work, by contract or otherwise, and withhold the cost of such work (which may include administrative cost and/or interest) from payments due under this Lease. In addition, the Postal Service may proportionally abate the rent for any period the demised premises, or any part thereof, are determined by the Postal Service to have been rendered unavailable to it by reason of such condition. Alternatively, the Postal Service may, if the demised premises are determined to be unfit for occupancy, at its sole discretion, cancel this Lease without liability.



Lease

EXECUTED BY LESSOR this _____ day of _____, _____

OTHER GOVERNMENT AGENCY

Print Name & Title

Signature

Print Name & Title

Signature

Print Name & Title

Signature

Print Name & Title

Signature

Print Name & Title

Signature

Print Name & Title

Signature

Print Name & Title

Signature

Print Name & Title

Signature

Lessor, Address: CITY OF FAYETTEVILLE

C/O AVIATION & ECONOMIC DEV
4500 S School Ave Suite F Fayetteville AR 72701-8016

Telephone No: (479) 718-7642

Taxpayer ID: 71-6018462

Witness

Witness

ACCEPTANCE BY THE POSTAL SERVICE

Date: _____

LARRY L ANDREWS

Contracting Officer

PO BOX 667180

DALLAS TX 75266-7180

Address of Contracting Officer

Signature of Contracting Officer

SOUTHWEST FACILITIES SERVICE OFFICE



June 14, 2004

RAY BOUDREAUX
FAYETTEVILLE MUNICIPAL AIRPORT
4500 SCHOOL AVE SUITE F
FAYETTEVILLE AR 72701

Re: Greenland, AR - Main Post Office

Dear Ray,

Enclosed are three originals and a courtesy copy of the lease as we discussed over the phone this morning. Please review the document and if acceptable, **sign all three originals**, have them notarized, and **return all three originals** to my office in the enclosed, postage-paid envelope within 10 days. Also complete Pages B-1 through B-3 (Representations and Certifications). You may keep the extra copy for yourself. We will send an executed copy for your records.

On Page 1, paragraph 3, the beginning and ending term of the lease will be added upon completion of the interior finish-out; rent will commence at that time. The same also applies to the periods for the two renewal options. I found some pen and ink changes in Dave's file with regards to the "City of Fayetteville" being substituted for "Lessor". I cannot make those changes. This is a fixed document, meaning I can fill in the blanks only in certain parts. I have updated the lease to reflect that the City will be responsible for exterior maintenance and the Postal Service will have interior maintenance of the leased space.

If you have questions, please telephone me at 214.819.7271.

Sincerely,

A handwritten signature in cursive script that reads "Larry D. Brooks".

Larry D. Brooks
Real Estate Specialist

email: lbrooks1@usps.gov

RECEIVED
JUN 16 2004
AIRPORT

STAFF REVIEW FORM - FINANCIAL OBLIGATION

XX
AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

Lease Agreement
USPS

For the Fayetteville City Council Meeting of:

~~July 6, 2004~~ July 6, 2004

FROM:

Ray M. Boudreaux

Aviation & Economic Development

General Government

Name

Division

Department

ACTION REQUIRED: Review and approve a lease contract with the United States Postal Service, c/o Larry L. Andrews, PO Box 667180, Dallas, TX, 75266-7180, to lease a portion of the airport terminal building.

Forward to the Mayor for signature.

COST TO CITY:

Revenue	\$	993,609.00	Chrgs-Serv
\$19,200.00			
Cost of this request			Program Category / Project Name
5550.0955.4450.02	\$	494,625.00	Airport Revenue
Account Number			Program / Project Category Name
NA	\$	498,984.00	General Government (Airport)
Project Number			Fund Name

BUDGET REVIEW:

Budgeted Item	Budget Adjustment Attached
<u>[Signature]</u>	
<u>6-22-04</u>	
Budget Manager	Date

CONTRACT/GRANT/LEASE REVIEW:

<u>[Signature]</u>	<u>6/22/04</u>	<u>[Signature]</u>	<u>6/22/04</u>
Accounting Manager	Date	Internal Auditor	Date
<u>[Signature]</u>	<u>6/22/04</u>	<u>[Signature]</u>	<u>6/23/04</u>
City Attorney	Date	Purchasing Manager	Date

STAFF RECOMMENDATION:

<u>[Signature]</u>	<u>6/21/04</u>
Division Head	Date
<u>[Signature]</u>	<u>6-23-04</u>
Department Director	Date
<u>[Signature]</u>	<u>6-23-04</u>
Finance & Internal Services Dir.	Date
<u>[Signature]</u>	<u>6-23-04</u>
Chief Administrative Officer	Date

Received in Mayor's Office

6-23-04 am
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes X 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 *DTW*

Date: May 12, 2004

Subject: Utility Easement Vacation for Sequoyah Commons (VAC 04-11.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of two adjoining 15' platted utility easements bisecting the subject property.

BACKGROUND

The subject property is located between Olive Avenue and Fletcher Avenue, south of Spring Street. A 30' utility easement bisecting the property was dedicated with the platting of Harrison's Addition. The applicant currently has approval for a large scale development on this property for the construction of apartments with the existing utility easement impeding the proposed development. The Planning Commission approved the Sequoyah Commons large scale development on May 27, 2003 with a condition that the utility easement be vacated.

On October 21, 2003, the City Council considered an appeal from the developer of the Planning Commission's decision to require that Center Street be extended. The City Council passed a resolution to modify the conditions of the large scale development at this meeting. None of the modifications affected the condition to vacate the existing utility easement. The easement will need to be vacated in order to comply with the conditions of approval for the large scale development.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. The Water and Sewer Superintendent required an easement on either side of the existing 36" water line which lies parallel to Center Street, perpendicular to the subject easement. The condition of approval for the vacation states that an easement shall be dedicated a minimum of 10' on each side of the existing water line prior to City Council consideration.

Left on the first reading 6/15/04

Written and oral objections were received and made at the public hearing from neighboring property owners regarding the approved development and this vacation request.

The Planning Commission voted 5-3-1 to forward this item to the City Council with a recommendation for denial of this vacation request at the regular meeting of May 10, 2004. Commissioners Graves, Clark, Allen, Myres, and Anthes voted "no" with Commissioners Ostner, Vaught, and Trumbo voting "yes" and Commissioner Shackelford abstained.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-11.00 TO VACATE AND ABANDON A 30' UTILITY EASEMENT LOCATED IN LOTS 6, 7, 8, AND 9 IN BLOCK THREE AND LOTS 7, 8, AND 9 OF BLOCK FOUR OF HARRISON'S ADDITION 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 utility easements are not required for corporate purposes; and

WHEREAS, an easement shall be dedicated a minimum of 10' on each side of the existing 36" water line that parallels Center Street.

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

) Section 1: That the City of Fayetteville, Arkansas in consideration for petitioner dedicating a utility easement of 10 feet on each side of an existing 36" water main parallel to Center Street, hereby vacates and abandons the following described utility easements, 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 map labeled Exhibit "B" attached hereto and made a part hereof, 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 15th day of June, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT

EXHIBIT "A"
VAC 04-11.00

A FIFTEEN (15) FOOT WIDE PERMANENT UTILITY EASEMENT DESCRIBED AS RUNNING ALONG THE EASTERN PROPERTY LINE OF LOTS 6, 7, 8 AND 9 OF BLOCK 3 OF HARRISON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS.

A FIFTEEN (15) FOOT WIDE PERMANENT UTILITY EASEMENT DESCRIBED AS RUNNING ALONG THE WESTERN PROPERTY LINE OF LOTS 7, 8 AND 9 OF BLOCK 4 OF HARRISON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of May 10, 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: Suzanne Morgan, Associate Planner
Matt Casey P.E. Staff Engineer
DATE: May 05, 2004

VAC 04-11.00: Vacation (Sequoyah Commons, pp 485) was submitted by Mandy Bunch of EB Landworks on behalf of Houses Development Company, LLC for property located at Olive Avenue, south of Spring Street. The property is zoned RMF-24, Residential Multi-family, 24 units per acre. The request is to vacate existing utility easements located within the property to satisfy conditions of approval for LSD 02-29.10 (Sequoyah Commons Large Scale Development.) Planner: Suzanne Morgan

Findings: See the attached maps and legal descriptions for the exact locations of the requested utility easement vacation.

Background: A 30' utility easement was dedicated with the platting of Harrison's Addition. The applicant currently has approval for a large scale development on this property for the construction of apartments. The existing utility easement bisects the proposed development. The Planning Commission approved the Sequoyah Commons large scale development on May 27, 2003 with a condition that the utility easement be vacated. On October 21, 2003, the City Council considered an appeal from the developer of the Planning Commission's decision to require that Center Street be extended. The City Council passed a resolution to modify the conditions of the large scale development at this meeting, thereby making three modifications to the approved large scale development (see attached resolution). The easement will need to be vacated in order to comply with the conditions of approval for the large scale development. Should the vacation of the utility easements not be approved, the large scale development could not be permitted as approved by City Council.

Request: The applicant requests to vacate a portion of the existing utility easement as described and depicted in the attached documents. The vacation request covers approximately 15 feet on the east side of Lots 6-9 of Block 3 and 15' on the west side of Lots 7-9 of Block 4 of the Harrison's Addition.

Of the notified adjacent property owners, one voiced concern regarding the request. Staff has contacted the owner to gain more thorough understanding of these concerns.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

UTILITIES

Ozarks Electric

RESPONSE

No Objections

AEP/SWEPCO

No Objections

Arkansas Western Gas

No Objections

SW Bell

No Objections

Cox Communications

No Objections

CITY OF FAYETTEVILLE:

Water/Sewer

RESPONSE

See Conditions of Approval

Transportation

No Objections

Solid Waste

No Objections

Engineering

No Objections

Recommendation: Staff recommends approval of the proposed easement vacation 04-11.00
subject to the following condition:

Condition of Approval:

1. An easement shall be dedicated a minimum of 15' on each side of the existing 36" water line that parallels Center Street prior to City Council consideration of this request.

PLANNING COMMISSION ACTION: yes Required

 Approved Denied

Date: May 10, 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: _____

VAC 04-11.00: Vacation (Sequoyah Commons, pp 485) was submitted by Mandy Bunch of EB Landworks on behalf of Houses Development Company, LLC for property located at Olive Avenue, south of Spring Street. The property is zoned RMF-24, Residential Multi-family, 24 units per acre. The request is to vacate existing utility easements located within the property to satisfy conditions of approval for LSD 02-29.10 (Sequoyah Commons Large Scale Development.)

Ostner: The first item on the agenda is VAC 04-11.00 for Sequoyah Commons, if we can have the staff report please.

Shackelford: I am going to recuse myself from this vote. I have a business relationship with the owner.

Morgan: This property is located east of Olive Avenue and south of Spring Street. It is zoned RMF-24. A Large Scale Development was brought forward to the Planning Commission in May of last year and was proposed with buildings which were shown to be constructed within two 15' utility easements which is shown on page 1.17 of your report. The Planning Commission approved Sequoyah Commons Large Scale Development on May 27, 2003 with a condition that the utility easements be vacated. The City Council approved this item with modifications on October 21, 2003. These modifications, however, did not alleviate the requirement to vacate the utility easement. The easement will need to be vacated in order to comply with the conditions of approval for the Large Scale Development. Should the vacation of the utility easements not be approved the Large Scale Development could not be permitted as approved by both the City Council and the Planning Commission. The vacation request covers approximately 15' on the east side of lots 6 through 9 of block 3 and 15' on the west side of lots 7 through 9 of block 4 of the Harrison's Addition. Staff has received comments from two neighboring property owners and these comments have been included in your report. Also, notification was submitted by the applicant to the utility companies as well as to the city. There were no objections. However, comments were received from the water and sewer department and they are reflected in the condition of approval. Staff is recommending approval of the proposed easement vacation subject to the following conditions: 1) An easement shall be dedicated a minimum of 10' on each side of the existing 36" water line that parallels Center Street prior to City Council consideration of this request. Originally this condition stated 15' but it has been modified to 10' to be consistent with the fourth condition of approval for the Large Scale Development, which can be seen on page 1.8 of the staff report.

Ostner: Thank you Ms. Morgan. Is the applicant present?

Bunch: Good evening, my name is Mandy Bunch and I'm here representing House's Development Company tonight in the vacation request

represented by the staff report, which is pretty lengthy. Since the Planning Commission has last seen this there was a discussion with the City Council regarding street improvements. Basically, that came out in a wash because there wasn't appropriate right of way existing to expand Center Street as was originally approved by the Planning Commission. That's how things have come out in a wash and the units have been significantly reduced. I believe we had 51 in the original and he has gone down to 42. There were originally two buildings over here. Here is the nearest adjacent property owner. There were originally two buildings stacked in this area and what we've done is moved this building further and taken one building totally away so that there is a better buffer in that area and we can maintain more trees adjacent to them. Basically, the easement that we are looking to vacate runs through the center. There was an old road that was abandoned years ago in this location and there was a utility easement dedicated at that time. This easement needs to go away so that the property can develop in accordance with the Large Scale. The orange area is where we dedicated easements for the utilities. None of the utility companies or city department representatives have any objections to this. I'm here to answer any questions I guess. We are just here to try to comply with the requirements of our Large Scale.

Ostner: Thank you. At this point I will open it up to the public. Is there anyone who would like to comment on this Vacation request?

Thomas: Good evening, I'm Mike Thomas. I live at 106 N. Olive. That is one house away from where the apartments are going to be put. I didn't know about the last meeting that they had. I know that it is in the paper and everything but the last I heard was Mr. House would have to continue through Center Street and make it a complete full through street instead of a dead end there. That's where I thought we were. If you put 42 units or 51 units or wherever we are now, that's a lot of traffic on a short span of street that we are really worried about with a lot of children growing up in that area and that's kept us concerned through the last meetings I've been at for about a year on this issue. We've put in a lot of hours as neighbors on this exact issue. It really scares us how badly it is going to ruin that area up there. I hate to use the word rape but it seems like it is really going to rape that area up there and be totally different where we have a lot of greenspace. I notice the goals for 2008 is a beautiful city clean and green. This goes against that totally, I guarantee you. I have lived there for twelve years and we are going to have to move if it happens. If they expand our street that wide to accommodate the apartments we are going to lose two huge maple trees in our front yard. It will just be too close. They are right there. It is going to go over into our front yard so far that we will lose both maple trees that are on about a 3' diameter right now that cools our house in the summer and really protects us a lot and create a lot of beautiful color in our front yard. One is red and one is yellow in the

fall. Also, this politically correct word, multi living housing, is about 100' or so from the confederate cemetery. It is such a historic district there that I don't quite understand that they could put something like that in that area. Right now it just seems bazaar and surreal to me that something that large scale could be put in that area. They are just single dwelling homes there. I know this is not the City Council but I just wanted to let my thoughts be known and be part of your decision making. It feels to me that the meetings that we have and many times the neighbors have met and we've just been kind of placated by the Commission and the City Council and then the big developer comes in and does whatever he wants. None of our demands or anything that we've seen so far on that sheet that we had when Mr. House met with us, which I respect him a great deal for. He has met with the neighborhood three or four times now. Each time we give him a compromise and demands and now it seems like that's all been thrown away and we are just back at where he originally wanted to be, except not the 51 units, I will give him that. I just don't see how that neighborhood can withstand that kind of impact, especially on a dead end. One of our main requests is that if he is going to do it, it's his property, but it is still our neighborhood though that is being changed forever, is that that street continue through there to relieve some of the pressure. I ask you to look at how many bedrooms are in there, not just the units but bedrooms will decide how many cars are going to be in that area. It is going to just totally change that neighborhood and the people who are living in that neighborhood. I appreciate you taking that into consideration.

Ostner: Thank you Mr. Thomas. Is there anyone else who would like to speak on this issue?

Bryan: Hello, Holly Bryan, 107 N. Olive. Excuse the way I'm dressed. I have just returned from South Carolina. I found out about this meeting Friday evening when I called home and my mother said that there had been a sign placed at the end of Olive Street. I immediately sitting in the North Carolina airport this morning, called City Planning to enquire on what was coming before the Planning Commission this evening. She helped me walk through some things. I apologize if I'm not up to date entirely on what is actually in front of you. I believe it is the utility easement which was vacated probably about 20 years ago I believe. I've been opposed to this development. I would implore you this evening to think about how this vacation would affect other people in the neighborhood. Other single family homes developing later on, those on Center. I'm not familiar, like I said, I didn't have the map and I don't know where everything falls on the map. Just keep in mind all of the other additional property around Mr. House's property, what that is going to do if that is going to have an affect on someone else being able to develop. Thank you.

Chaddick: I'm Susan Chaddick and I live at 423 E. Olive. I'm on the corner of Olive and Spring Street. Pardon me, I live on Spring Street, not Olive. I am looking at having huge traffic at that particular corner. I'm here simply to state my opposition to the development. I see this as an opportunity to close the door on such a large scale development and I just simply want to voice my opposition to the development and my opposition to vacating those easements.

Gable: I'm Julie Gable, I live at 106 N. Olive. I just want to echo my neighbor's sentiments. As a native of Fayetteville I just really hate to see this happen. Please take that into consideration and thank you.

Ostner: Would anyone else like to comment on this Vacation request? Seeing none, I will close it to the public and bring it back to the Commission. I would just like to again, by making sure we all understand that the development has been approved, and we do not have the authority or the right to go back on our approval. This is about a vacation which is part of a development that has already been approved.

Warrick: Just to further clarify what you just stated, as far as the chain of events on this particular project, as Suzanne stated in her report, it was approved by the Planning Commission with certain conditions. One of those conditions specifically was appealed by the developer and that was the connection to Center Street. The project was then forwarded to the City Council for further consideration on that appeal. At that time, this was October, 2003, at that time the Council heard the request on the Large Scale Development with the changes as proposed by the developer. I would just like to read a statement from the minutes that kind of clears it up and synthesizes what the changes were at that point. "The motion was to reduce the density to 26 units, 42 bedrooms, eliminate the requirement for Center Street to be built and to have Olive Street evaluated by our City Engineering and Planning staff for the appropriate designs that addresses traffic flow and drainage for this development." That motion was seconded and approved on a 7 to 1 vote at the Council level. One of the conditions of this Large Scale at the Planning Commission level, as well as the City Council approval level, was to vacate this existing utility easement. There are no utilities in this easement and in order for the development to be built as shown on the plans the easement needs to be vacated. Staff is recommending that with the condition that an existing 36" water line have easements dedicated to satisfy the city's needs to maintain that particular water line. That water line runs along side the Center Street, which if there were right of way, would extend further to the east. That's why the condition is stated the way that it is. It does reflect what has been consistent through this Large Scale staff report from the time that it was at Planning Commission, through the time that it was heard at City Council. At this point that is the request that is before you is

a vacation of that utility easement. Vacations are unique in that they are items that are required to be heard by the Planning Commission. Regardless of your recommendation, however, they will go forward to the City Council for final action. The Vacation of an alley easement or right of way requires an ordinance at the Council level to be approved.

Ostner: Thank you. Commission?

Clark: If I'm understanding, I'm new here. Whether or not we approve this proposal, this development has been approved so that is moot at this point. We inherited it, I inherited it. All we are talking about is just the utility vacation, that's it, end of story?

Ostner: Yes.

Clark: Ok, I just wanted to be clear. Will we see any plans for the development of Olive to the street standards?

Warrick: No Ma'am, that was left in the hands of the City Planning and Engineering staff to review. The Engineering Division will have to release that project once construction documents have been reviewed and approved.

Clark: Will the neighbors have any input into this process?

Warrick: That is not part of the standard process.

Clark: Ok, but will the neighbors have any input into this process?

Warrick: Probably not.

Clark: What happens if in widening this street, this is probably way off the point since it's moot, what happens if widening the street causes destruction like Mr. Thomas was talking about with trees in the front yards and property?

Warrick: Let me ask the City Engineer address that and talk a little bit about their process when they are reviewing construction plans.

Coover: I'm Gary Coover, City Engineer. When we review the plans for this development we will be looking at all applicable city ordinances and design requirements. I know we have actually walked the street with Ms. Bunch and looked at some of the locations for some of the curbing and how the drainage will be handled through there. We have also looked at some of the tree preservation along that. We will be looking very carefully when the plans are finalized on that to make sure that it meets all city requirements.

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Williams: At the City Council level this was handled by a resolution. Let me read you the resolution. It says that the developer shall be required to improve Olive from Center to Spring up to residential street standards which can be modified or altered at the discretion of the Director of Planning, Engineering and Code Compliance (Tim Conklin) to avoid drainage problems and adverse impact to the established homes along Olive Street. I do think that probably there will be some input from the neighbors to Mr. Conklin in order to avoid this adverse impact. That's unusual. Usually we just require building up to street standards. In this case it was obvious that if we built to minimum street standards and put sidewalks on both sides that we were going to interfere with people's front yards and ruin their trees. I would expect the city staff, especially Mr. Conklin, to actually consult with the neighbors in order to try to ensure that there is not this adverse impact. That is very unusual but this is an unusual situation.

Clark: It seems that we are going to face it more and more if we are talking about infill. This to me seems to speak to that issue. I would hope that Mr. Conklin would talk to the residents throughout this widening process because there are some beautiful trees along that street.

Coover: There is some beautiful landscaping that people have put out in the right of way too and we would like to retain that as much as possible.

Clark: They have been there forever so that is definitely a concern. That's Tim Conklin.

Bunch: Just to address that situation, the reasons that the changes to the Olive Street improvements were even started was Greg bringing it up because we had been out there several times. There had been a lot of concerns from the neighbors on the west side, which is where Ms. Bryan's property is. There is a very steep slope going to her house. That's one of the reasons that we were hoping for a little levity with the Engineering and Planning Department to work with this. There is a 60' right of way on Olive. You would never know it because it is about 20' wide now but that is why we will be working with them. We actually had been working on trying to get it surveyed to get started on that since early December. That's where we are now and that's why this is coming back to you. We were delayed a little bit with our schedule and some of the other issues that were at hand. We are waiting on one utility company to come back and one other that I realized today. That's why we are a little delayed in this process too. This would've been a lot easier if we would've kept going down the chain at that point. I just wanted to bring that up with the street improvements because that was our side that brought that up. We plan on working with them.

Allen: I understand what staff has told us tonight. However, I was the lone descending vote with this project before because I feel that it is inconsistent with the neighborhood. I had some safety and traffic concerns. I know that this is just kind of a holding my own ground sort of thing to do, but consequently I will be opposed to the Vacation.

Clark: I like your ground and am going to join you there.

Vaught: As this is a continuation of a previously approved LSD at this level and at the City Council level that has undergone lots of scrutiny, I will move for approval of VAC 04-11.00.

Ostner: I have a motion by Commissioner Vaught, is there a second?

Trumbo: Second.

Ostner: I have a second by Commissioner Trumbo. Is there further discussion?

Anthes: I was present the evening you voted on this originally. I guess I'm perplexed because a lot of the decision to go ahead and approve the density was predicated on the second outlet to Center Street. I'm rather disappointed that we dropped back in the number of units but we didn't drop back in the number of units that would be equivalent to half of the traffic outlet of the project. I just want that recorded in the minutes. I want to thank the neighbors for showing up again. Thank you.

Vaught: That was something that at our level we did go with the second outlet and that was a City Council decision. In my opinion since they made that policy decision at their level it is not something today that is a factor on my decision on this. They are a higher level than us and have that say and they did.

Ostner: If I could ask staff, could you all fill us in more on the reasoning of Council to eliminate the Center Street extension?

Warrick: You have the minutes in your packet. The amount of right of way that the City believed to be existing in that location through research, turned out not to be existing. There was not right of way sufficient to install even a modified street to make that connection.

Ostner: As I recall, I believe the discussion at the Council level required condemnation and the creation of right of way for that extension and they did not see that as appropriate. I would tend to agree. The information that we were given at this level was the right of way is there, it is very old, do we want connectivity or not. That was a simple question to me at this level. If I had known there was not right of way I am not sure I would've

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voted to extend Center and condemn possibly a resident's home to make that connection. That's just my opinion. I just wanted to share that with the Commission that it's not cut and dry.

Clark: Would that knowledge have affected the debate and discussion about whether or not to even approve the Large Scale Development if there wasn't the possibility of an outlet. Olive Street is one of the trickiest streets in Fayetteville to maneuver. It has got a lot of kids on it and it is a beautiful street. If you put that density, density being defined to me as more people on that street, seems disaster. At that point if you knew you couldn't get to Center Street, period end of quote, Olive was your only outlet, would that have changed the whole course of debate at that point? Hind sight is 20/20 and it seems like the City Council is going to have the final word anyway. Just because this body has made a decision doesn't mean we have to confirm it just because we did it once. That is as my mother taught me when I jumped off the roof for the second time and broke my ankle. You don't do an unwise thing twice. I'm thinking put this much density in an area on a street that is almost shorter than this room is according disaster. If the Vacation is key I'm going to oppose the Vacation.

Ostner: On that point, I don't believe turning down this Vacation will stop this development.

Myres: I need some clarification. There is a sentence in this report that says should the vacation of the utility easement not be approved the Large Scale Development could not be permitted as approved by City Council. It seems to me that yes, if we do choose to deny this vacation that that would require something.

Vaught: The City Council hears vacations. They will hear this after us and they can override us.

Myres: Right, they can but that would basically throw it in their lap.

Ostner: Can I ask Mr. Williams for a clarification of if we turned this down?

Williams: One of the conditions of approval of the Large Scale Development was the vacation. Therefore, if it is not vacated then one of the terms and conditions have not been met. I think in fact, that both this body and the City Council, by voting in favor of the Large Scale Development, agreed to the vacation. Although, not formally and so that is why it is now back formally in front of you and will have to go back formally in front of the City Council. It basically was approved by both bodies on the front end and I would recommend to this body not to re-litigate something that has happened already in the past. The decision has been made. This is not the

decision about the Large Scale Development. This is a decision about vacating a utility easement. For that consideration you need to know whether or not this utility easement is needed. If it is needed then don't vacate it. If it is not needed, as all the utility companies have said, then it is appropriate to vacate it. That will be the same issue that the City Council will be looking at and those are sorts of issues that you need to be considering rather than trying to re-litigate something that has already happened before.

Trumbo: Being a member of the Commission and an ex-neighborhood of Olive Avenue I appreciate the neighbors coming. I think the reason I am going to vote for this is what Mr. Williams just said. We are here to decide whether this property should be vacated, not to stop the development. At this point in time I don't know what you can do but there are a lot of pieces of land on that hillside that are zoned with higher density and to the neighbors that are here and listening on T.V. I would suggest a planning map to see what your neighbors are zoned and possibly start at that point before this happens to someone else. I will be voting for this.

Graves: I appreciate what our esteemed city attorney stated as far as having implied the extended agreement of sorts potentially that this vacation might be approved if you are making it a condition you are in some way maybe saying that you are going to approve that condition whenever it comes back before the body. I also think that at the time this was originally approved there were a number of other conditions that were impliedly believed to have been a part of that project that are no longer there. They are no longer present. I, for one, do not necessarily feel, while I normally try to appreciate what I think would be a precedential effort by former members of the Planning Commission and City Council, or current members, this wasn't before me. I doubt that would've voted for it to begin with. I understand that the Large Scale Development is not what is before us, the vacation is what is before us. It is a condition on a Large Scale Development that was approved based on a number of conditions that turned out not to be true. I don't necessarily feel that my hands are tied and I am going to oppose this for those reasons.

Ostner: Thank you Commissioner Graves. Is there further discussion on this issue?

Myres: I call the question.

Ostner: Renee?

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Roll Call: Upon the completion of roll call the motion to recommend approval of VAC 04-11.00 to the City Council failed by a vote of 3-5-1 with Commissioners Myres, Clark, Anthes, Allen and Graves voting no and Commissioner Shackelford abstaining.

Thomas: The motion fails.

Warrick: Before everybody leaves if I might just remind everyone that a vacation is an item that does go forward to the City Council regardless of the Planning Commission's recommendation so this will be heard at the Council level.

PETITION TO VACATE UTILITY EASEMENTS LOCATED IN LOTS SIX (6), SEVEN(7), EIGHT (8) AND NINE (9) IN BLOCK NUMBERED THREE (3) AND LOTS SEVEN (7), EIGHT (8) AND NINE (9) OF BLOCK FOUR(4) ALL IN HARRISON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS.

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all owners of the real estate abutting the utility easements hereinafter sought to be abandoned and vacated, lying in Lots Six (6), Seven(7), Eight (8) and Nine (9) in Block Numbered Three (3) and Lots Seven(7), Eight (8) and Nine (9) of Block Four (4) all in Harrison's Addition to the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate utility easements which are described as follows:

Easement Description #1:

A Fifteen (15) foot wide permanent utility easement described as running along the eastern property line of Lots 6, 7, 8, and 9 of Block 3 of Harrison's Addition to the City of Fayetteville, Arkansas.

Easement Description #2:

A Fifteen (15) foot wide permanent utility easement described as running along the western property line of Lots 7, 8, and 9 of Block 4 of Harrison's Addition to the City of Fayetteville, Arkansas.

That the abutting real estate affected by said abandonment of the Utility Easements are Lots 5, 6, 7, 8, and 9 of Block 3 and Lots 5, 6, 7, 8, and 9 of Block 4 all in Harrison's Addition to the City of Fayetteville, Arkansas 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 above described easements.

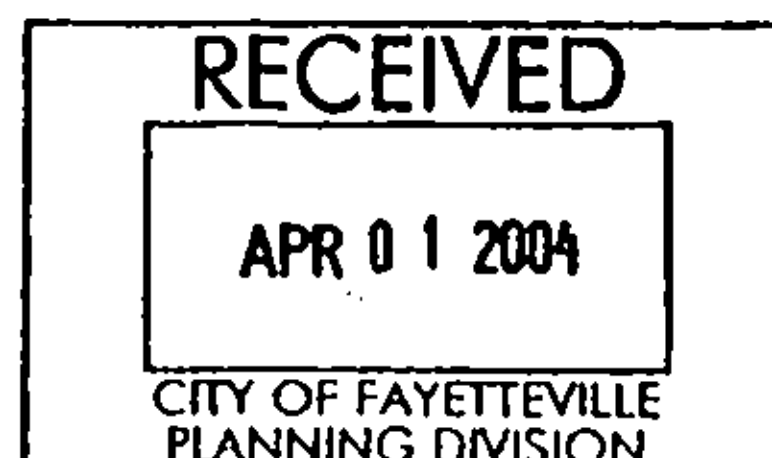
The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to the dedication of appropriate easements as required and that the above described real estate be used for their respective benefit and purpose as now approved by law.

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 the dedication of appropriate easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law, and as to that particular land the owner be free from the easements of the public for the use of said drainage easements.

Dated this First (1st) day of April, 2004.

Gregory T. House
Printed Name

[Signature]
Signature



**ADJACENT PROPERTY OWNER NOTIFICATION FORM FOR
RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS**

Date: 4/1/04 Address of vacation Eastern 15' of Lots 6, 7, 8, & 9 of Block 3 and Western 15' of Block 4 of Harrison's Addition to the City of Fayetteville

Adjacent Property Address: End of Olive Street South of Spring Street
Lots: 6, 7, 8 & 9 Block: 3 Subdivision: Harrison's Addition
Lots: 7, 8 & 9 Block: 4 Subdivision: Harrison's Addition

REQUESTED VACATION:

I have been notified of the petition to vacate the following: Utility Easements
described as follows:

Property Description:

NUMBERED SIX (6), SEVEN (7), EIGHT (8), AND NINE (9) OF BLOCK NUMBERED THREE (3) AND LOTS NUMBERED SEVEN (7), EIGHT (8), AND NINE (9) OF BLOCK NUMBERED FOUR (4), ALL IN HARRISON'S 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. SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

Easement Descriptions:

Easement Description #1:

A Fifteen (15) foot wide permanent utility easement described as running along the eastern property line of Lots 6, 7, 8, and 9 of Block 3 of Harrison's Addition to the City of Fayetteville, Arkansas.

Easement Description #2:

A Fifteen (15) foot wide permanent utility easement described as running along the western property line of Lots 7, 8, and 9 of Block 4 of Harrison's Addition to the City of Fayetteville, Arkansas.

ADJACENT PROPERTY OWNERS COMMENTS:

☐ I do not object to the vacation described above.

☒ I do object to the requested vacation because:

I have numerous concerns and would be willing to discuss them at length.

479 422-1515

Leslie Baker Cingmang
Signature of Property Owner(s)

RECEIVED

APR 1 2004

PLANNING DIV.

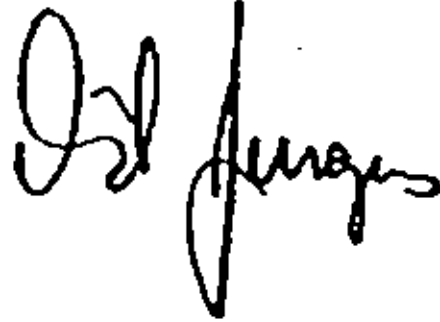
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Matt Casey, Engineering

From: David Jurgens, Water/Sewer



Date: May 31, 2003

Subject: Easement Vacation Request, Sequoyah Commons

I have no objection to vacating the north-south easement/right of way north of Center Street between Fletcher and Olive, on the following conditions:

1. The easements for the existing water lines be expanded to meet all current easement objectives (a copy of the current easement policy is attached).
2. Water for the proposed subdivision be installed so that all customers have adequate water pressure, that is not to be less than 45 psi at the meter for any address. This will require the development get its water from the Mt. Sequoyah pressure plane.
3. Adequate space is required for a sewer main to run downhill on the Center Street right of way. This sewer line is in the future plans as a significantly better routing from up hill in the vicinity of Fletcher, Summit, Texas Way and Lighton Trail. It may be we need to require this line be constructed as part of this subdivision, if the sewer mains downstream are too small or inappropriately located to receive more flow. If the mains downstream run under or very near to houses, it would be inappropriate to add more flow to them.

These issues must be met via the large scale/development process for the easement vacation to be valid.

Attachments: Easement Vacation Request

D:\WATER\Easmt Vacat Rqst Seq Commons.doc

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of May 27, 2003

113 W. Mountain St.
 Fayetteville, AR 72701
 Telephone: 501-575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission Members
 FROM: Jeremy Pate, Associate Planner
 Matt Casey, Staff Engineer
 THRU: Dawn Warrick, AICP, Zoning & Development Administrator
 DATE: May 27, 2003

LSD 02-29.10: Large Scale Development (Sequoyah Commons) was submitted by Mandy Bunch of EB Landworks on behalf of Greg House of Houses Development for property located between Olive Avenue & Fletcher Avenue, south of Spring Street. The property is zoned R-2, Medium Density Residential and contains approximately 2.06 acres with 39 dwelling units proposed (48 bedrooms).

Findings:

Proposal: The applicant proposes to construct seven (7) buildings containing thirty-nine (39) units consisting of one-bedroom apartments and two-bedroom townhouses for a total of forty-eight (48) bedrooms. Included in the development are the proposed improvements to Olive Avenue, construction of a connection to Walnut via Center Street, and the construction of fifty-six (56) parking spaces.

Parking:

	Total Spaces	Standard Spaces	ADA Spaces	Bike Racks
Required	48	48	3	2
Proposed	56 (on-site)	52	4	4
Proposed	9 (on-street)	9	-	-

* 1.35 parking stalls per bedroom

Existing Development: Vacant

Surrounding Land Use and Zoning:

Direction	Land Use	Zoning
North	Single family homes	R-2, Medium Density Residential
South	Vacant	R-2, Medium Density Residential
East	Duplex, Single family homes	R-1, Low Density Residential
West	Vacant	I-2, General Industrial

Water & Sewer: Available along Olive Avenue

Right-of-way being dedicated: No additional right-of-way dedication is required. There is currently 60 feet of right-of-way for Olive, 30 feet of right-of-way for Center, and 60 feet of right-of-way for Fletcher existing.

Street Improvements Proposed: Olive Avenue will be extended to Center Street. Center Street will be extended within existing right of way west to Walnut. (See attached letter from applicant, May 6, 2003.) The applicant will also widen portions of Olive Street which are currently narrower than 20'.

Access: Access is proposed by means of Olive Avenue which is currently substandard both in width (18'-20') and in surfacing (gravel adjacent to development). With the extension of Center Street, a second means of access is being provided.

Adjacent Master Street Plan Streets: None

Tree Preservation: Existing: 100.00%
Preserved: 21.25%
Required: 20%
Mitigation: None Required

Solid Waste & Recycling Division: Support the applicant's request, with one recommendation: Place one dumpster container at proposed site and the other in a more convenient location between buildings 1,2 and 6,7.

Background:

The original proposal by the applicant in the LSD review process requested that street improvements would be made only to that area located directly adjacent to the subject property. Staff is recommending in the Conditions of Approval that the applicant include in the proposed development the extension of Olive Avenue and connection to Center Street west to Walnut to fulfill the goal of the City's adopted policy of Connectivity in the General Plan 2020.

At the April 28, 2003 Planning Commission meeting, the Commission reviewed a concept plat for this project in order to give the applicant some direction regarding required street connections and improvements (Minutes are attached). The Planning Commission voted to require the extension of Center Street west to Olive and the construction of Olive Avenue along the entire western boundary of this project.

The applicant is requesting that the City participate in the construction of the Center Street extension.

City Council Resolution 94-96, Minimum Street Standards, August 06, 1996
Section 1-2 City Participation in Street Extension Costs:

The City may participate in the construction of streets either adjacent to a Development or on a street leading to a development if the need for such improvement is not totally caused by the Development in question. The appropriateness of any such cost sharing between the Owner/Developer and the City shall be determined by the Planning Commission based on City Ordinances governing the cost sharing of streets.

In no case shall the City participate in Local or Residential streets within Developments.

Where streets classified as Collector or higher are required to be constructed as part of a Development, the Owner/Developer shall be financially responsible for their share of the cost of the higher classified street. The developer's share shall be that cost which bears a rational nexus to the needs created by the development. In no case shall the developer be responsible for less than the cost of a standard 31 foot local street. In all cases, regardless of the developer's cost share, the Owner/Developer shall be responsible for the granting of all street right of way required by the higher street classification.

City participation in any cost sharing project shall be dependent upon the availability of funds.

The attached letter from the applicant and a memo from Staff dated April 18, 2003 address these cost-sharing alternatives.

On May 15, 2003, the Subdivision Committee forwarded the Large Scale Development to the full Planning Commission subject to all staff comments. Public comment and Subdivision Committee discussion included density, traffic, parking, shared costs for street improvements, and sidewalks.

RECOMMENDATION:

Staff recommends approval of the large scale development with the following conditions:

Conditions to Address / Discuss:

1. Applicant shall improve Olive Street its full width adjacent to the proposed project with curb and gutter on each side. Sidewalks are to be constructed on the east side only in accordance with City standards.
2. Applicant shall provide a connection within existing street ROW for Center Street between Olive and Walnut Streets to include a 20' paved section.
3. Approval shall be subject to the vacation of a 15 foot existing utility easement, which runs north/ south through the property.
4. A utility easement shall be granted a minimum of 10 feet on each side of all water and sewer lines to provide for maintenance of the line.

5. All buildings will be required to meet setbacks based on height.
6. Lighting shall be shielded and directed downward, away from adjacent residential properties.

Standard Conditions of Approval:

7. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
8. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
9. Payment of parks fees in the amount of \$15,327 (39 units @ \$393).
10. Large scale development shall be valid for one calendar year.
11. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy
 - e. Parks fees paid and/or deed recorded and copy received.

PLANNING COMMISSION ACTION: yes Required
 Approved Denied

Date: May 27, 2003

Comments:

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

By _____

Title _____

Date _____

RESOLUTION NO. 160-03

A RESOLUTION TO GRANT THE APPEAL OF GREG
HOUSE FOR HIS LSD 02-29 SEQUOYAH COMMONS
AS MODIFIED BY THE CITY COUNCIL

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 grants the appeal of Greg House in LSD 02-29 (Sequoiah Commons)
under all the conditions set forth by the Planning Commission with the following
exceptions or changes:

A. The developer will not be required to build or participate in the
cost of building Center Street from Olive to Walnut.

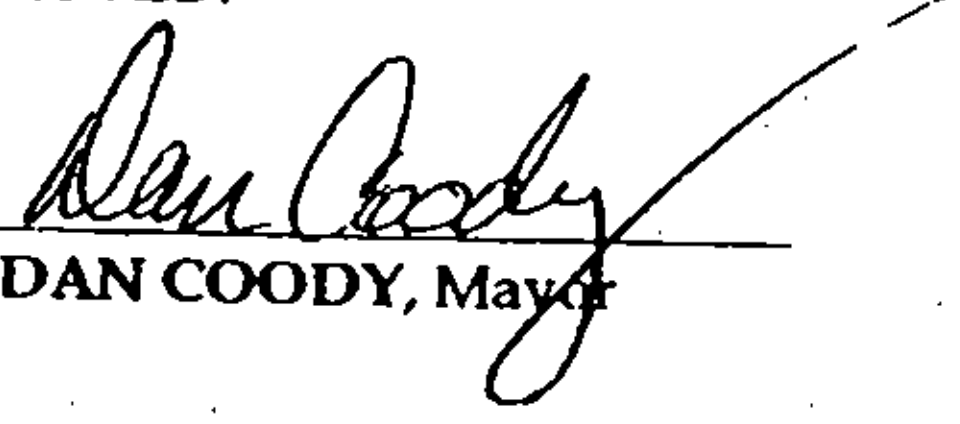
B. The developer shall be required to improve Olive from Center to
Spring up to the residential street standards which can be modified or altered by
the discretion of the Director of Planning, Engineering and Code Compliance to
avoid drainage problems and adverse impact to established homes along Olive
Street.

C. The Preliminary Plat is modified pursuant to the offer by Greg
House (developer) to reduce the density from 39 dwelling units with 48
bedrooms to 26 units with 42 bedrooms (including the elimination of one
building and the possible slight movement of another to provide more buffer to a
neighbor's single family home).

PASSED and APPROVED this the 21st day of October, 2003.



APPROVED:

By: 

DAN COODY, Mayor

By: 

SONDRA SMITH, City Clerk

RECEIVED

OCT 28 2003

PLANNING DIV.



NEW BUSINESS:

Houses Development Company, LLC: An appeal of Large Scale Development proposal LSD02.29.10.

Tim Conklin, Planning: Mr. House is appealing the Planning Commission's decision to require that Center Street be extended. His appeal is about whether or not he has to construct Center Street from Olive to Walnut. We originally thought there was 30 feet of right of way but it is our opinion that only 15 feet of right of way exists between Olive and Walnut Street. This is a change that the city staff and the developer were unaware of. Mr. House would have to acquire additional right of way to allow the street connection to occur. If the City Council does not approve a cost share for this street improvement the developer would be required to construct the street. The property owners would have to sell right of way to allow the street connection to occur if that doesn't happen then the City Council would have to go forward and make a decision whether or not to condemn property to provide additional access in this area and make the street connection. The city could also participate in a cost share to help build that street. The preliminary estimates were around \$100,000 for the project cost.

Tim Conklin explained the easements, right of ways, and the current ownership of property in the area of the proposed project. There was also discussion on how this would affect current property owners. Mr. Conklin said allowing this development without requiring additional street construction and connections would limit future development within this area.

Alderman Thiel: Was there a reduction on the improvements that were originally required on Olive?

Tim Conklin: Yes, staff did recommend a trade off with Mr. House, instead of developing Olive Street to a residential street standard; we recommended that it be improved to at least 20 feet and in exchange to building the street connecting Olive to Walnut, building a 20 foot street in that section and not a standard city street. The standard city street would only occur in front of his development which would allow some on street parking.

Alderman Thiel: If we approve this appeal is there any way to go back and acquire the things that were required before this trade off was made?

Tim Conklin: Yes.

Alderman Marr: We are asking a property owner to acquire right of way for off site improvements that do not adjoin his property, can we legally do that?

Kit Williams: There is some question about whether we legally can require that, constitutionality we can if we can prove the rational nexus in rough portionally of our demands. There is some question as to whether we can require him to go beyond his property limits to build infrastructure for the city.

Alderman Rhoads: The \$100,000, did that include the purchase of right of way?

Tim Conklin: That did not include the purchase of right of way. A ball park figure for right of way would be around \$2.30 per foot. The \$100,000 is what the developer came up with; I have not had a chance to verify that.

Greg House: Mr. Conklin told us that improving Center Street to Walnut would be necessary for his support of our large scale development. We informed him that the project would not be economically feasible if we were required to do that so we would consider a smaller project that was less than an acre so that we would not have to go through large scale development. Mr. Conklin after some thought said if we would bring our project to large scale development he would back off of his request to improve Center Street and we would work to find an alternative means of ingress and regress by improving Olive. We went to large scale and then Mr. Conklin changed his mind; we objected but agreed we would go along provided that our company would not be forced to carry the whole burden of paying for these off site improvements. We would be improving traffic flow for developable property that is unimproved in the surrounding area that had nothing to do with our project. Mr. Conklin proposed that the city might be responsible for a certain portion of these improvements because they didn't completely benefit our property. We submitted our rational nexus cost sharing proposal as a means of trying to move this project forward. Our concern was provided the Planning Commission agreed and we were approved and we came before the City Council, we might not be approved for the cost share or if we were approved the city might not have funds immediately and then our project would be stalled until the city had funds. We felt the Planning Commission should look at this either or, if we get the cost share approved we go down Center Street, if not let us go out Olive and improve Olive to residential street standards. We submitted an alternative as to connecting with Center Street and that is by going out Olive, by improving Olive as a residential street. This is supported by an independent traffic engineer study that shows there is more than enough capacity on Olive to meet the demand that our development and existing homes will place on Olive. Should there be future development there may be a problem, but that is the time that we need to deal with someone buying right of way or putting in an extra street. Our development does not over burden the traffic on Olive, if it is improved to residential street standards. Now that it has been determined that there is not enough right of way to improve what use to be Center Street, Planning staff has suggested that we buy the right of way. That is economically unfeasible and from timing prospective, it is not feasible.

A discussion continued on the project.

Mayor Coody: What is the difference between the existing streets that is there now on Olive versus a residential street what is the difference between the two?

Greg House: Most of the street is already 20 feet wide in pavement; there are a few areas that are 18 feet wide which we could bring up to the 20 foot wide pavement portion. A residential street takes 24 feet back to back of curb. By us adding curb and gutter system it will bring it up to residential street standard as far as the street is concerned. We presented an independent study from a traffic engineer supporting the traffic loads. The city has yet to come up with why the engineer is wrong or some alternative study to show that our traffic is too much.

Tim Conklin: When we started this process there was a lot of unknowns as we progressed through the process and understood the issues that faced these neighborhoods, staff thought it was more important to try to provide additional access into these areas.

A discussion followed on this project.

Alderman Marr: I think the Planning Commission was very reasonable when looking at this request. The road should handle the number of units proposed.

Alderman Marr moved to approve the request for appeal. **Alderman Rhoads** seconded.

Mayor Coody: How do we deal with the storm water run off onto other property?

Tim Conklin: They would be required to meet our storm water ordinance and our city street standard ordinance.

Alderman Davis: I hate to see Olive Street extended to where it would connect with Center at a future date in this point in time. The land to the south of the area we do not know what is going to happen there, I would hate for someone else to latch onto your extension. I think we have to be careful of the length of the extension.

There was a discussion on future development in the area and the length of the extension of Olive Street. There was also a discussion on the drainage issue.

Kit Williams: Was your motion simply to eliminate the need for the Center Street right of way construction, but all other conditions as required by the Planning Commission would stand as approved?

Alderman Marr: It was that but also to get Olive Street built to the original residential street standard requirements.

Kit Williams: I thought there was some discussion at Planning Commission that with the driveways coming down into Olive that if they built a sidewalk, that might affect some of the property owners?

Tim Conklin: That is correct; there would be some transitional issues with driveways in order to get that sidewalk in, with regard to the sidewalk you would have to redo driveways also in most likely in those areas. I think the motion needs to state what the recommendation was by Planning Commission for Olive Street if Center Street wasn't constructed.

Alderman Thiel: If Center Street moves within a few feet of Mr. Bryant's home, are we obligated then to buy the entire property, we can't just destroy the property for the street and not go ahead and buy the whole property.

Kit Williams: If we acquire right of way on the Bryant side, certainly the impact on their property would be part of what we would have to pay. If we are acquiring right of way on the other side so that we are using existing right of way and then buying right of way farther away from their house I am not sure since we don't adjoin their property they would be entitled to the diminution in value to their home because of having a street right next to it.

Alderman Marr: Is the primary concern the property owners on Center, or is it the drainage to the west side of Olive.

Alderman Thiel: I am not concerned about the drainage so much. My concern is for the Bryant's and the Center Street condemnation possibly and the people that live on Olive.

Kit Williams: If this appeal is turned down we can not put on a developer an impossible condition, only the City Council has the power to condemn property. We can only require a developer to pay that amount off site work, his cost share, we can't require anything more.

Alderman Marr: My motion was to grant the appeal not requiring Center Street and requiring Olive built to residential street standard and all other conditions of the Planning Commission.

Alderman Rhoads: Is this the type of infill that we would be looking for?

Tim Conklin: You could develop multi-family within these areas, it would probably be built a little differently, maybe a little less dense in order to meet some of the standards they are looking at right now. This type of parking design does meet our current regulations.

Alderman Jordan: Mr. House would you consider less density on your property?

Greg House: I would consider that if we could make an agreement this evening and not have to start the process over. I have offered to reduce the bedrooms to 42 and change the configurations from mostly one bedrooms to two bedrooms and have 26 units instead of 39 and keep the parking the same as we have it now. I think we are going to aggravate the problem on Olive if we have to curb and gutter it on the down hill side.

Tim Conklin: I do not approve development the Planning Commission does. What he is suggesting does not change what the Planning Commission looked at to the point that it would have to go back to the Planning Commission.

Kit Williams: Do you have enough from what Mr. House has described, that would be the final approval in this process.

Tim Conklin: Yes.

Alderman Marr: Do you still support curb and gutter on Olive?

Tim Conklin: Residential street standard does require curb and gutter. It would require additional work with regards to the driveways.

Alderman Lucas: Would it also include storm water control and drainage?

Tim Conklin: We would have to address that. It would have to meet our residential street standards because anything less without looking at it in detail, I am not prepared to make that recommendation.

Alderman Marr: I would like to change my motion to reduce the density to 26 units, 42 bedrooms, eliminate the requirement for Center Street to be built and to have Olive Street evaluated by our City Engineering and Planning staff for the appropriate design that addresses traffic flow and drainage for this development. Alderman Davis seconded. Upon roll call the motion passed 7-1. Alderman Lucas, Jordan, Thiel, Cook, Marr, Rhoads and Davis voting yes. Alderman Reynolds voting no.

Resolution 160-03 As Recorded In The Office Of The City Clerk.

Use Of Skateboards And Skates Upon Sidewalks: An ordinance to repeal § 74.08 of the Fayetteville Code and enact a replacement § 74.08 to clarify and expand the prohibition of using skateboards and skates upon sidewalks next to commercial, religious, governmental and industrial buildings and most City streets.

Mr. Williams read the ordinance.

Larry Olsen, a Fayetteville resident asked the council to reconsider the part of the ordinance that would not allow the skater to skate on the sidewalk or along the side of the road. He also asked the council to consider installing lights at the skate park to allow skating at night.

Rob Sharp a Fayetteville resident: It is already illegal for people to vandalize other people's property with a skate board or anything else. We just need more common courtesy between the skater, property owners and city officials. Skate boarding and roller skating should not be discouraged. I am concerned that if we pass this law people are not going to stop skating, they are going to go somewhere where they are not supervised. Streets belong to everyone. I really appreciate the new skate park. The skate park is great but it is not a substitute for skating on the streets it is just an extension of that.

Brian Casino a resident: Spoke against the ordinance.

Alderman Reynolds: We are not trying to discourage skateboarding. I am willing to drop section A from the ordinance and leave B, C and D.

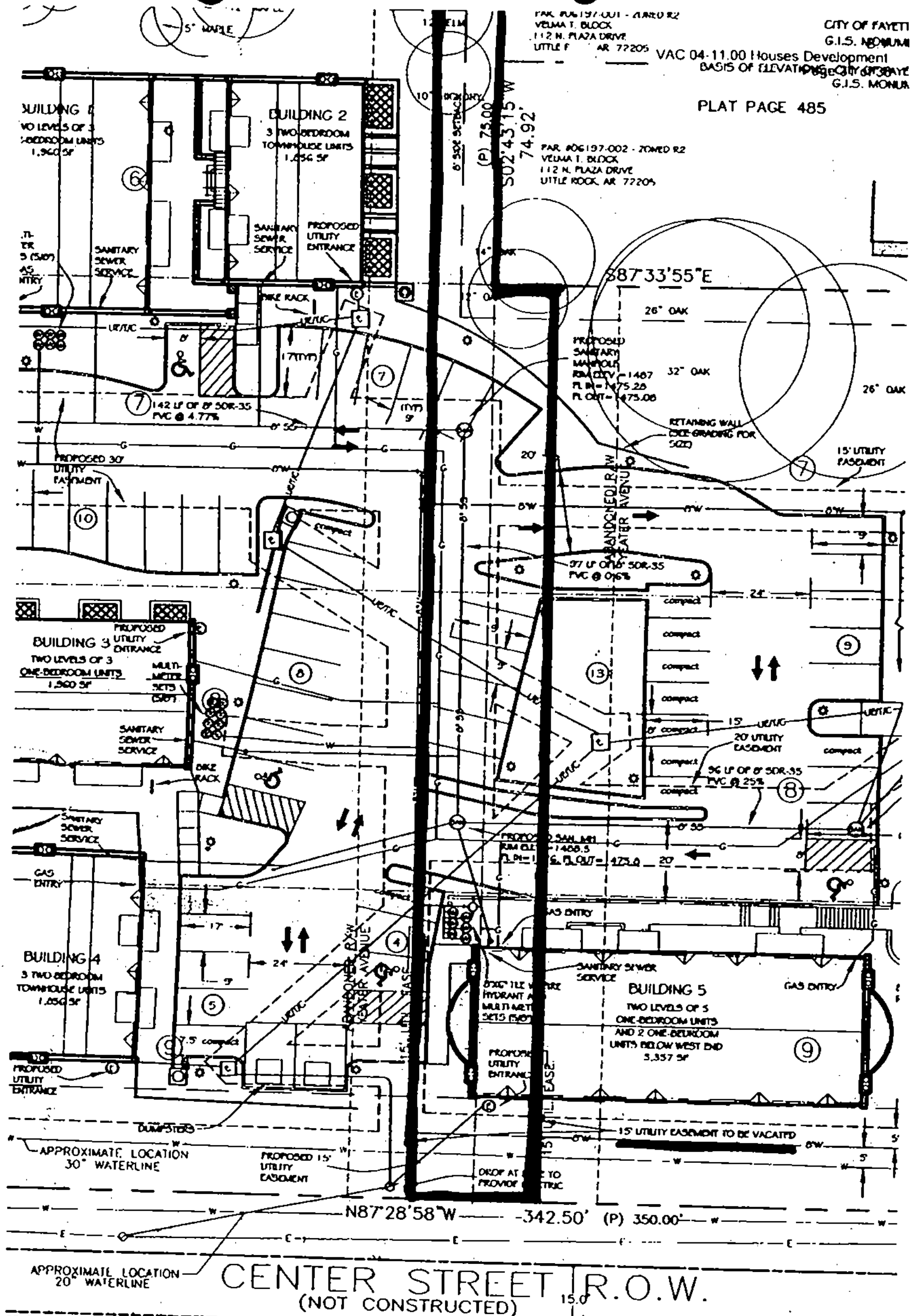
Kit Williams: The current ordinance says no person upon roller skates or riding in or by means of any coaster, toy vehicle or similar devise shall do upon any roadway. That was passed in 1965. If you repeal this section and repeal Section A of the proposed ordinance you will be making a significant change in the law.

There was a discussion on Play Streets.

Tim Conklin: Our traffic superintendent said his authority to designate play streets was removed from his duties several years ago, because there are no play streets in Fayetteville.

Kit Williams: I would recommend that play street be deleted then.

Alderman Marr: I understood that it would be a significant policy change if we struck section A. I would support eliminating Section A from this.



CITY OF FAYETTE
G.I.S. MONITOR
VAC 04-11.00 Houses Development
BASIS OF ELEVATIONS CITY OF FAYETTE
G.I.S. MONITOR

PLAT PAGE 485

PAR. #06197-002 - ZONED R2
VELMA T. BLOCK
112 N. PLAZA DRIVE
LITTLE ROCK, AR 72205

PROPOSED
SANITARY
MANHOLE
RIM ELEV. = 1467
F.L. IN = 1475.25
F.L. OUT = 1475.00

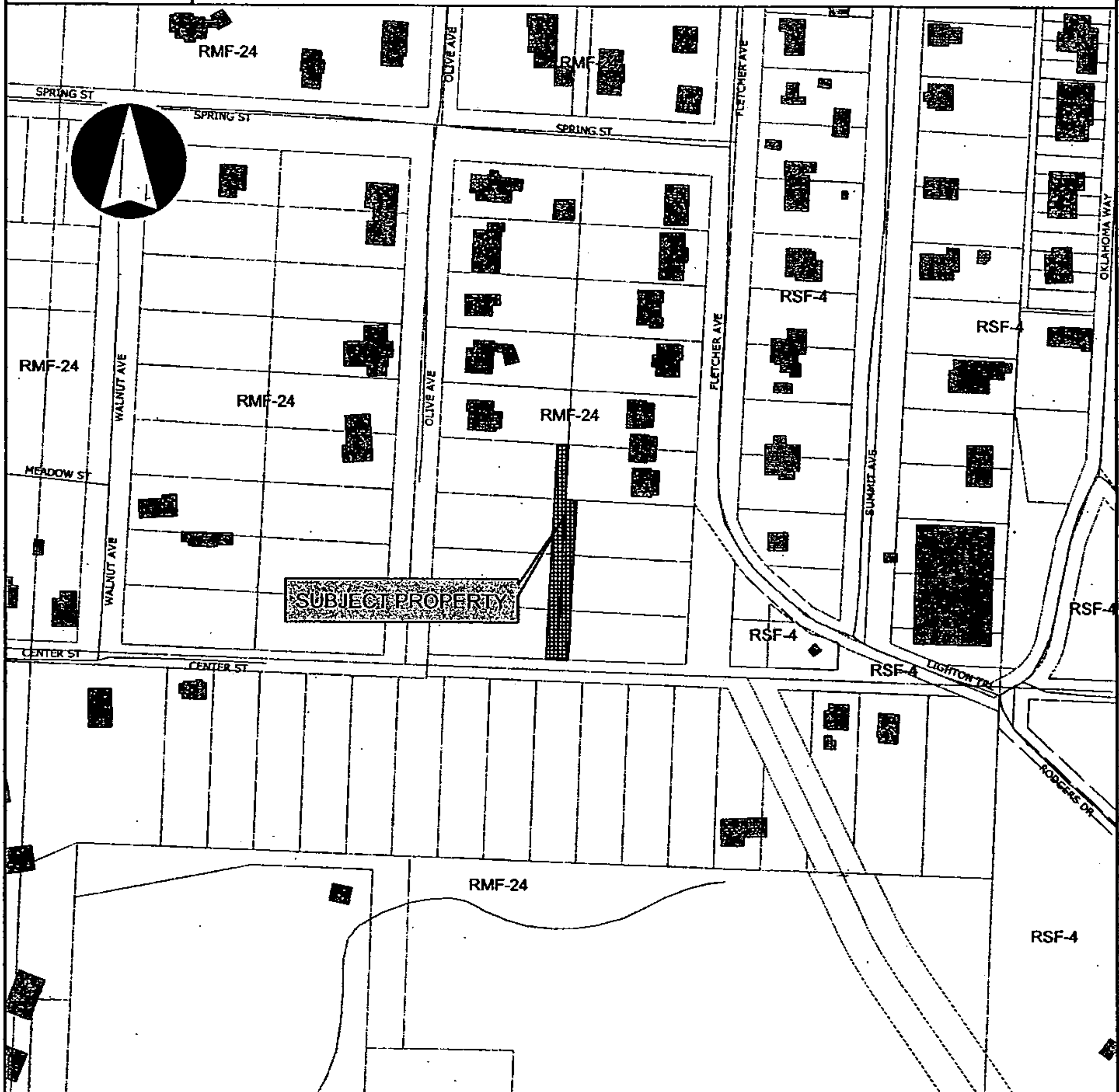
PROPOSED SAN. MANHOLE
RIM ELEV. = 1460.5
F.L. IN = 1475.0
F.L. OUT = 1475.0

3745 - ZONED R2 LARD MY. 329 N. AR 71632	PAR. #03745 - ZONED R2 BRIAN LEARD 1856 HWY. 329 DEQUEN, AR 71632	PAR. #03743-001 - ZONED R2 JESSIE BRYANT 417 E. CENTER	PAR. #03744 - ZONED R2 VERDA WATSON, ARCHIE & MANUEL BUCHANAN 1750 N. LEVERETT
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VAC04-11.00

Close Up View

SEQUOYAH COMMONS



Overview

Legend

- | | | |
|----------------------------|--------------------------|--------------------|
| ○ ○ ○ ○ ○ Overlay District | ▬ Principal Arterial | ▬ FLOODWAY |
| ▬ Master Street Plan | ▬ Minor Arterial | ▬ 100 YEAR |
| ▬ Master Street Plan | ▬ Collector | ▬ 500 YEAR |
| ▬ Freeway/Expressway | ● ● ● Historic Collector | ▬ LIMIT OF STUDY |
| | ▬ City Limits | ▬ BaseLine Profile |
| | ▬ Outside City | ▬ VAC04-11.00 |

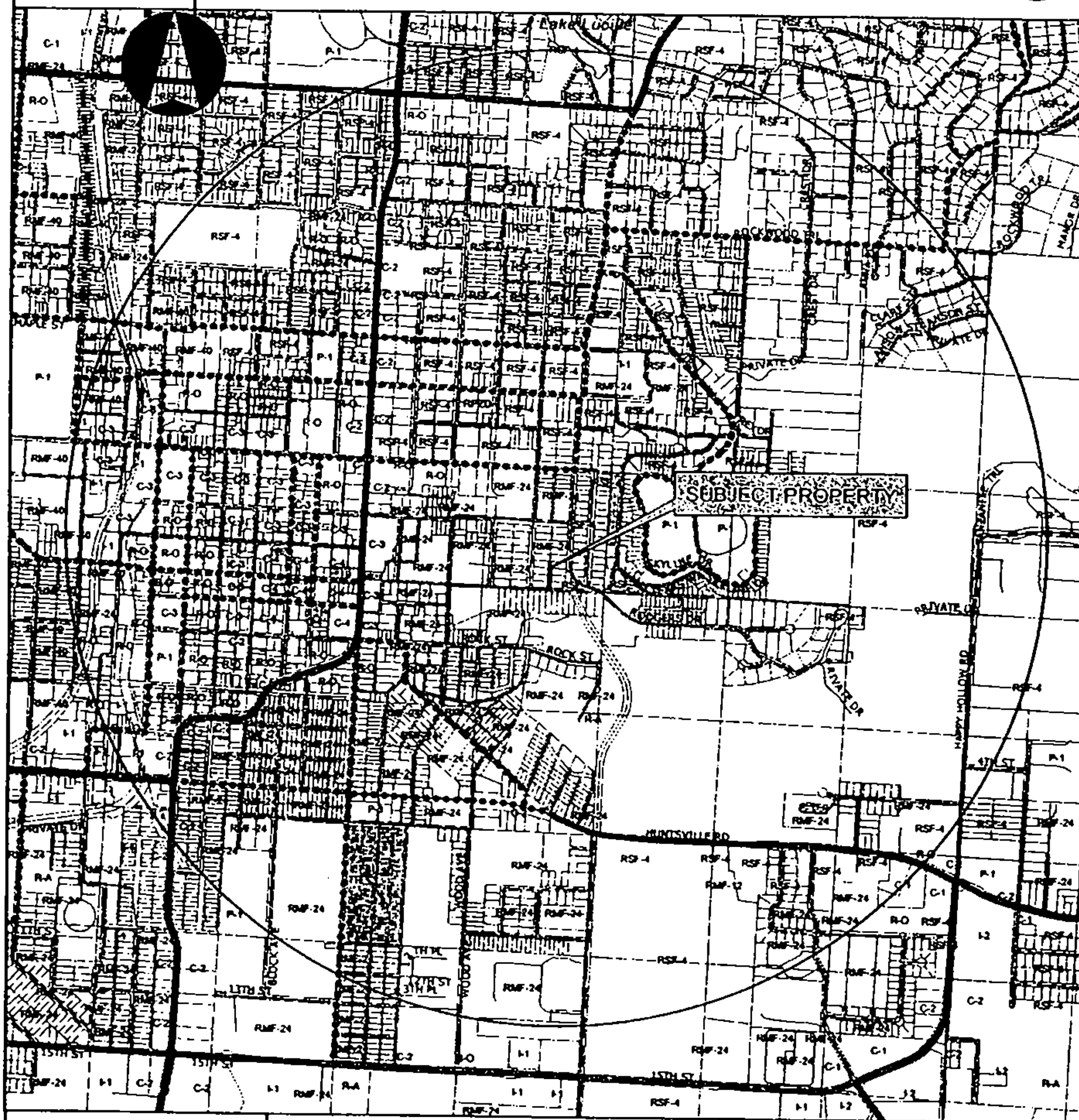
0 75 150 300 450 600 Feet

Exhibit "B"

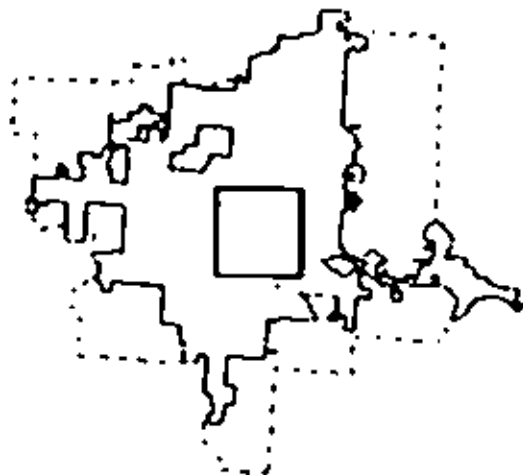
VAC04-11.00

One Mile View

SEQUOYAH COMMONS



Overview



Legend

Subject Property

VAC04-11.00

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



EB Land Works, Inc.

B.1.
VAC 04-11.00 Houses Development
Page 34 of 38

PO Box 3432, Fayetteville, Arkansas 72702-3432
phone 479.444.7769 fax 479.444.7793

May 18, 2004

Mrs. Sondra Smith, City Clerk
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701
Via email: ssmith@ci.fayetteville.ar.us
(Followed w/ Hard Copy via U.S. Mail)

RE: Utility Easement Vacation Request
Sequoyah Commons
Fayetteville, Arkansas

Dear Mrs. Smith:

On its May 10, 2004, the Fayetteville Planning Commission heard the request to vacate a utility easement within the subject property referenced above. The City Council approved this Large Scale Development with conditions, at their October 21, 2003 meeting with Resolution No. 160-03. Part of this approval included the requirement to vacate the easement.

The Planning Department will be forwarding this item (VAC 04-11.00) to the City Council to be placed on their agenda. Please accept this correspondence as the official request for this item to be placed on the June 15, 2004 Council Agenda.

Please call me if you need additional information, or have any questions.

Best Regards:

Mandy R. Bunch

c: Mr. Greg House, Houses Development Company, LLC
Mr. Rob Sharp, Architect

RECEIVED

MAY 19 2004

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

B.1.
VAC 04-11.00 Houses Development
Page 35 of 38 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

June 1, 20046/15/04 Per

FROM:

Mandy BunchDawn WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-11.00: Vacation (Sequoyah Commons, pp 485) was submitted by Mandy Bunch of EB Landworks on behalf of Houses Development Company, LLC for property located at Olive Avenue, south of Spring Street. The property is zoned RMF-24, Residential Multi-family, 24 units per acre. The request is to vacate existing utility easements located within the property to satisfy conditions of approval for LSD 02-29.10 (Sequoyah Commons Large Scale Development.)

STAFF RECOMMENDATION: Approval.

Dawn Warrick 5/12/04
Division Head Date(See Amended Ordinance)
OK 5-14-04
City Attorney Date

Received in Mayor's Office

5/17/04
Date PH[Signature] 5-12-04
Department Director Date[Signature] 5-17-04
Finance & Internal Services Dir. Date[Signature] 5-18-04
Chief Administrative Officer Date[Signature] 5/19/04
Mayor Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item:

Yes

No

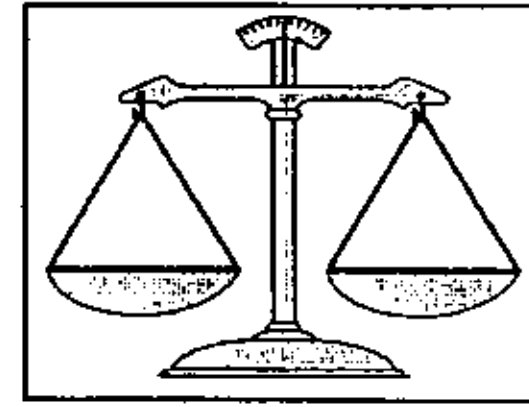


FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

B.1.
VAC 04-11.00 Houses Development
Page 36 of 38



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: City Council
Mayor Coody

FROM: Kit Williams, City Attorney

A handwritten signature in black ink, appearing to read "Kit Williams", with a long horizontal line extending to the right.

DATE: June 15, 2004

RE: VAC 04-11.00 (Houses Development Company)
Vacation of Utility Easement near Olive Street

Normally the City Council's decision whether or not to vacate a utility easement is almost totally discretionary as long as the statutory requirements have been met (no longer needed for corporate purposes). However, the vacation of the utility easement for Greg House's Large Scale Development presents a different issue.

HISTORY

The City Planning Department recommended approval of Sequoyah Commons as a Large Scale Development (LSD) with conditions of approval #3. "Approval shall be subject to the vacation of a 15 foot existing utility easement which runs north/south through the property." The Planning Department also required: "4. A utility easement shall be granted a minimum 10 feet on each side of all water and sewer lines to provide maintenance of the line."

Although there was considerable public opposition to the density of this project from neighbors, there was no objection to vacation of the existing easement and replacing it with utility easements where the water and sewer pipes would be located.

The Planning Commission approved the LSD for Sequoyah Meadows with the conditions as approved requiring the vacation of the existing, but not to be used, utility easement. Mr. House appealed the condition of approval which would have required him to construct Center Street from Olive to Walnut to the City Council. The appeal was granted on October 21, 2003 by a 7-1 vote. The City Council's approval still included the requirement that the old, unused utility easement be vacated.

CONSTITUTIONAL CONSIDERATIONS

“(T)he condition which the City wishes to impose on the granting of the building permit in this case would be constitutional if the ‘condition at issue ... is reasonably related to the public need or burden that [the plaintiff’s new construction] created or to which it continues.” Jones Insurance Trust v. City of Fort Smith, 731 F. Supp. 912, 914 (1990) quoting Nollan v. California Coastal Commission, 483 U.S. 825, 838 (1987).

Changing utility easements to conform with the engineered plat for the Large Scale Development is reasonably related to the public need created by the development. However, requiring a vacation of an easement and then denying such vacation when requested places an impossible burden on a developer. As I said during your deliberations concerning the appeal in this case: “(W)e cannot put on a developer an impossible condition” (City Council Minutes, October 21, 2003, page 6).

The United States Supreme Court considered the constitutionality of a city placing impossible conditions on a developer in the case, City of Monterey v. Delmonte Dunes, 526 U.S. 687 (1999). In that case the city placed several conditions on the proposed developer including “shifting and sometimes inconsistent positions.” Id. at 699. Delmonte Dunes sued the city and won \$1.45 million (even after the property was purchased by the state).

The Supreme Court quoted the jury instruction which had been offered by the City of Monterey.

"If you find that there existed a reasonable relationship between the city's decision and a legitimate public purpose, you should find in favor of the city." Id. at 701.

The inconsistent and shifting positions of the city were found by the Supreme Court to justify the jury's verdict of \$1.45 million for Delmonte Dunes.

What could be the legitimate public purpose to justify refusing to vacate an unused, unneeded utility easement to be replaced by one for the utilities as shown on the plat approved both by the Planning Commission and City Council? I can think of no such legitimate purpose.

There was a time to consider denying this Large Scale Development, **but that time has passed.** The Large Scale Development has been approved and now the developer is merely doing as he was required by that approval. I do not want to hear a Court state: "the city's denial of the final proposal (was) not substantially related to legitimate public interests" Id. at 702.

If the vacation of the unused easement is not granted, I can point to no public interest to be served in maintaining an unneeded and unused easement which will be replaced by a usable and used easement within an approved Large Scale Development. Thus, I believe that denying the vacation the City itself has required is inconsistent and virtually indefensible in a constitutional context.

Fayetteville has avoided constitutional problems in the past few years even when legislating in new areas of the law such as impact fees and development standards because we have carefully followed constitutional limits. Refusing to vacate this unneeded utility easement would expose Fayetteville to unnecessary liability for a constitutional takings claim.

City Council Agenda Memo City Council Meeting July 6, 2004

**To: Mayor Coody
 City Council**

From: Sondra Smith, City Clerk

Date: June 18, 2004

Subject: Recodification of the Fayetteville Code

Recommendation

The City Attorney's office and the City Clerk's office recommend that the new recodification of the Fayetteville Code be approved.

Background

We have conducted a review of the Fayetteville Code and after months of work the recodification is complete. The majority of the changes that have been made are due to ordinances that have been passed by the City Council requiring the code to be updated. The department directors have also reviewed their sections of the code.

Discussion

An updated electronic version of the Fayetteville Code will enable the staff and the citizens of the City of Fayetteville easy access to the code. Once the new codified version of the code is approved it will be updated as ordinances are passed by the City Council.

Budget Impact

None

ORDINANCE NO. _____

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, ARKANSAS; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT CONTAINED THEREIN, EXCEPT AS HEREIN EXPRESSLY PROVIDED; AND PROVIDING FOR THE MANNER OF AMENDING THE CODE

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

Section 1. That the Code of Ordinances ("the Code"), consisting of Titles I to XIII; each inclusive, is hereby adopted and enacted as the "Code of Fayetteville, Arkansas," and shall be treated and considered as a new and original comprehensive ordinance which shall supercede all other general and permanent ordinances passed by the City Council prior to the passage of this ordinance, to the extent provided in Section 2 hereof. The Unified Development Code, adopted June 3, 2003, and revised on July 1, 2003 and thereafter, shall constitute Title XV of the "Code of Fayetteville."

Section 2. That provisions of the Code shall be in full force and effect from and after the effective date of the Code and all ordinances of a general permanent nature of the City of Fayetteville, enacted on final passage prior to the passage of this ordinance, and not included in the Code or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of the Code, except as hereinafter provided. No Resolution of the City, not specifically mentioned, is hereby repealed.

Section 3. That the repeal provided for in Section 2 hereof shall not affect any of the following:

- a) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of the Code.
- b) Any ordinance promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds of the City, or any evidence of the City's indebtedness.
- c) Any contract or obligation assumed by the City.
- d) Any right or franchise granted by the City.
- e) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening or vacating any street or public way in the City.
- f) Any ordinance creating or otherwise relating to any water, sewer, or other improvement district.

- g) Any resolution or ordinance providing for the levy of taxes, appropriation, or for an annual budget.
- h) Any ordinance annexing territory to the City.
- i) Any zoning ordinance, and amendments thereto, and ordinances amending the zoning map or accepting and approving revised zoning maps.
- j) Any ordinance dedicating or accepting any plat or subdivision in the City.
- k) The entirety of Title XV, Unified Development Code.
- l) Any administrative ordinance or resolution not in conflict or inconsistent with the provisions of the Code.

The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 4. That any and all additions and amendments to the Code when passed in such a form as to indicate the intention of the City Council to make the same a part thereof, shall be deemed to be incorporated in the Code so that reference to the "Code of Fayetteville, Arkansas" shall be understood and intended to include such additions and amendments, and having the same force and effect as if originally included therein, as provided in Arkansas Code Annotated § 15-55-704.

Section 5. That three (3) copies of the Code shall be kept on file in the office of the City Clerk, preserved in loose-leaf form, or in such other form as the City Clerk may consider most expedient. These copies of the Code shall be available for all persons desiring to examine same. It shall be the express duty of the City Clerk, or someone authorized by him or her, to insert in their designated places all amendments or ordinances which indicate the intention of the City Council to make the same a part of the Code, and to extract from the Code all provisions which may be from time to time repealed. Additionally, the Fayetteville Code shall be placed upon the City's website for immediate consultation by Fayetteville citizens.

PASSED and APPROVED this 6th day of July, 2004.

APPROVED:

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

XXX AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 6, 2004

FROM:

Sondra Smith

City Clerk

City Clerk

Name

Division

Department

ACTION REQUIRED: Approval of the recodification of the Fayetteville Code

SUMMARY EXPLANATION: We have conducted a review of the Fayetteville Code and after months of work the recodification is complete. The majority of the changes that have been made are due to ordinances that have been passed by the City Council requiring the code to be updated. The department directors have also reviewed their sections of the code. An updated electronic version of the Fayetteville Code will enable the staff and the citizens of the City of Fayetteville easy access to the code. Once the new codified version of the code is approved it will be updated as ordinances are passed by the City Council.

STAFF RECOMMENDATION:

Sondra Smith 6/18/04
Division Head Date

D.P. Whit 6/18/04
City Attorney Date

Department Director Date

Steph 6-21-04
Finance & Internal Services Dir. Date

Ray Spence 6-22-04
Chief Administrative Officer Date

Mayor Date

Received in Mayor's Office

6/18/04 gm
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

Received in City Clerk's Office



FAYETTEVILLE

C.2.
Library Annex Sale
Page 1 of 14

THE CITY OF FAYETTEVILLE, ARKANSAS

Date: June 22, 2004
To: The Mayor and Council
From: Hugh Earnest 
Subject: Sale of Municipal Annex adjacent to Fayetteville Public Library

Recommendation

It is our recommendation that the council accept the bid submitted for the purchase of the referenced city owned property.

Background

Staff of the library and city worked together to prepare a request for proposal for sale of the Fayetteville Public Library complex at 217 E. Dickson. The complex is composed of the main library with approximately 24,000 square feet and the annex, a former professional building, with approximately 6600 square foot. The two buildings were connected in 1991. Both properties were listed in the Request for Proposal. As the Council knows, the Library Board of Trustees owns the main library and the City of Fayetteville owns the Annex. A copy of the RFP is attached.

Current Situation

The two entities received only one proposal for the respective properties. A selection committee composed of City staff, an Alderman, Library staff, Library Trustee and a representative of the neighborhood reviewed the proposal. After considerable discussion, the committee unanimously recommended that the proposal from the Fulbright Building LLC consisting of Richard Alexander, John Nock, Rob Merry-Ship, Ted Belden and John Tyson be accepted. The offer for the city portion is \$551,000 and the offer for the Library portion is \$1,201,000. Attached for your review is a copy of the proposal from the successful bidder and the offer and acceptance form.

Budget Impact

Sale of the annex will realize an amount of \$551,000 to the city. These proceeds will be placed in the city general fund unless we are instructed otherwise by Council.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE THE SALE OF THE
CITY OWNED ANNEX TO THE FAYETTEVILLE
PUBLIC LIBRARY FOR \$551,000.00 PURSUANT TO
THE BID FROM THE FULBRIGHT BUILDING LLC**

WHEREAS, on or about October 7, 2003, the City Council passed an ordinance to exempt a potential sale of the Library Annex from the requirements of Ordinance No. 4358 "In order to ensure neighborhood compatibility and preservation of the historic exterior of the Roberta Fulbright Library building ..."; and

WHEREAS, the City and Library Board prepared a Request For Proposals on April 15, 2003, for the sale of the Library and Annex; and

WHEREAS, the one proposer, Fulbright Building LLC, offered to purchase both structures for One Thousand Dollars more than their individually appraised value; and

WHEREAS, the Fayetteville Library Board of Trustees voted to sell the Fayetteville Public Library building to Fulbright Building LLC on June 21, 2004.

**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 agrees to sell the city-owned Library Annex to Fulbright Building LLC for \$551,000.00.

PASSED and APPROVED this the 6th day of July, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

STAFF REVIEW FORM

C.2.
Library Annex Sale
Page 3 of 14

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council Meeting of: July 6, 2004

FROM:

Hugh Earnest

General Government

Administration

Name

Division

Department

ACTION REQUIRED: Approve a resolution to accept an offer in the amount of \$551,000 from The Fulbright Building, LLC to purchase the Library Annex at 211 E. Dickson Street.

COST TO CITY:

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

BUDGET REVIEW: Budgeted Item Budget Adjustment Attached

Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager <u>Date</u>	Internal Auditor <u>Date</u>
<u>6-23-04</u>	
City Attorney <u>Date</u>	Purchasing Manager <u>Date</u>

STAFF RECOMMENDATION:

Division Head Date

Cross Reference

New Item: Yes No

Department Director Date

Previous Ord/Res#:

Finance & Internal Services Dir. Date

Orig. Contract Date

Chief Administrative Officer Date

Orig. Contract Number

Mayor Date

RESPONSE TO REQUEST FOR PROPOSAL TO
PURCHASE THE LIBRARY COMPLEX AT 217
EAST DICKSON STREET, FAYETTEVILLE
ARKANSAS



JUNE 4, 2004

BY
THE FULBRIGHT BUILDING, LLC

RICHARD ALEXANDER - ROB MERRY-SHIP - JOHN NOCK -
TED BELDEN - JOHN TYSON



THE LIBRARY COMPLEX

ROBERTA FULBRIGHT BUILDING and MEDARK BUILDING

RESPONSE TO REQUEST FOR PROPOSAL

DEVELOPMENT TEAM:

Richard Alexander
Phone: 479-521-9188

Rob Merry-Ship
Phone: 479-521-9188

John Nock
Phone: 479-530 6799

Project Partners:

Richard Alexander
Phone: 479-521-9188

Rob Merry-Ship
Phone: 479-521-9188

John Nock
Phone: 479-530 6799

Ted Belden
Phone: 501-580-3762

John Tyson
Phone: 479-290-4233

Principal Contact:

Richard Alexander
Phone: 479-521-9188
11 N. West Avenue
Fayetteville, AR 72701
Fax: 479-521-1889
richardalexander@
arkansas.net

REDEVELOPMENT PLAN AND DESCRIPTION OF PROPOSED USE

THE FULBRIGHT BUILDING, LLC COMPRISED OF RICHARD ALEXANDER, ROB MERRY-SHIP, JOHN NOCK, TED BELDEN AND JOHN TYSON PROPOSES TO ACQUIRE, REDEVELOP AND PRESERVE THE ROBERTA FULBRIGHT BUILDING AND THE ADJOINING MEDARK BUILDING WHICH CURRENTLY SERVE AS THE HOME OF THE FAYETTEVILLE PUBLIC LIBRARY.

IT IS THE RESPONDENT'S INTENT TO USE ITS BEST EFFORTS TO PLACE THE MAIN LIBRARY BUILDING ON THE NATIONAL REGISTER OF HISTORIC PLACES AND TO REDEVELOP THE INTERIOR OF THE LIBRARY COMPLEX INTO UPSCALE PROFESSIONAL OFFICE SPACE IN A MANNER CONSISTENT WITH THE OVERALL CHARACTER AND VISION OF ARCHITECT WARREN SEGRAVES ORIGINAL DESIGN. THE PRESERVATION OF THE EXTERIOR FAÇADE OF THE BUILDING, AS WELL AS THE EXISTING LANDSCAPING AND STREET FRONT, IS A PRIMARY COMPONENT OF THE REDEVELOPMENT PLAN; AS SUCH, THE MAJORITY OF THE REDEVELOPMENT WILL TAKE PLACE ON THE INTERIOR OF THE BUILDING. THE PROPOSED INTERIOR DESIGN WILL INCORPORATE FUNDAMENTAL ARCHITECTURAL PRINCIPLES THAT WILL DIRECTLY HARMONIZE WITH THE EXISTING EXTERIOR ELEMENTS.

IN SUMMARY, IT IS THE RESPONDENT'S INTENT TO PRESERVE THE EXTERIOR BUILDING ELEVATIONS, LANDSCAPING AND STREET FRONT OF THE PROPERTY AS IS. RESPONDENTS BELIEVE THAT THE PROPOSED REDEVELOPMENT OF THE INTERIOR SPACE AS UPSCALE PROFESSIONAL OFFICES IS COMPATIBLE WITH EXISTING ZONING AND THE NEIGHBORHOOD, AND WILL HAVE LESS IMPACT ON THE NEIGHBORHOOD, BY WAY OF TRAFFIC AND PARKING THAN THE BUILDINGS CURRENT USE.





THE LIBRARY COMPLEX

ROBERTA FULBRIGHT BUILDING and MEDARK BUILDING

PROPOSED OFFER

THE FULBRIGHT BUILDING, LLC OFFERS THE FOLLOWING:

1. \$1,201,000 FOR THE MAIN BUILDING AT 217 E. DICKSON ST.
2. \$551,000 FOR THE ANNEX AT 211 E. DICKSON ST.
3. A PLEDGE OF A \$50,000 TAX DEDUCTIBLE GIFT TO THE LIBRARY FOUNDATION TO BE SPENT AT THE DISCRETION OF THE LIBRARY BOARD OF TRUSTEES ON OR FOR THE NEW LIBRARY FACILITY

COMPLETE DETAIL OF THE OFFER IS OUTLINED IN ATTACHMENT D.

REDEVELOPMENT TIMELINE

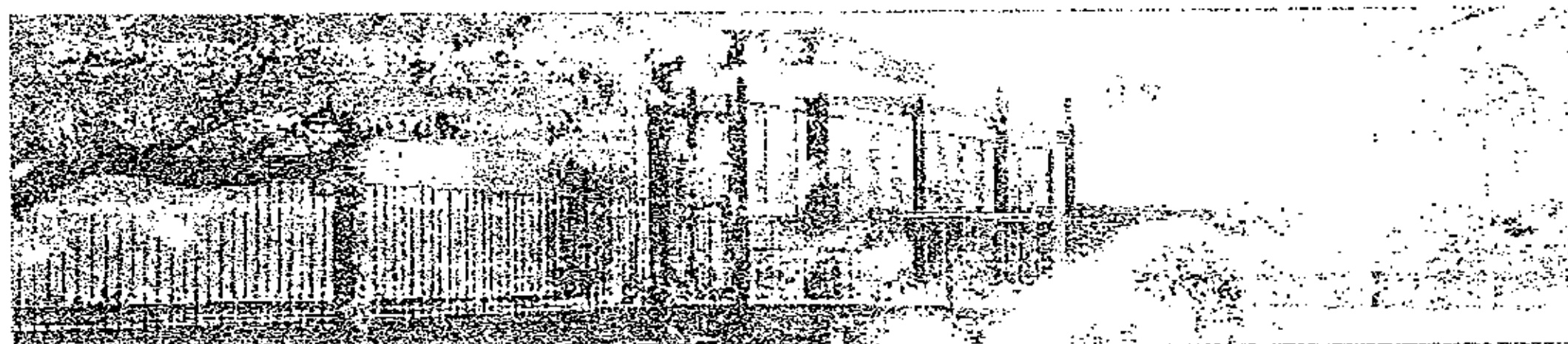
THE RESPONDENTS BELIEVE THE PROJECT WILL BE COMPLETED WITHIN 12-14 MONTHS.

THIS PROPOSAL SUBMITTED ON THE 4TH DAY OF JUNE, 2004
BY


RICHARD ALEXANDER, MANAGING
MEMBER, THE FULBRIGHT BUILDING, LLC

DEVELOPMENT TEAM

RICHARD ALEXANDER AND ROB MERRY-SHIP ARE WELL KNOWN IN THE AREA FOR THEIR COMMITMENT TO EXCELLENCE IN THE REVITALIZATION AND PRESERVATION OF HISTORIC STRUCTURES. THE DEVELOPERS HAVE EXTENSIVE EXPERIENCE IN DEVELOPING SIMILAR HIGH END MIXED USE COMMERCIAL, RESIDENTIAL AND PROFESSIONAL OFFICE PROJECTS IN THE HISTORIC DOWNTOWN FAYETTEVILLE AREA. THE FOLLOWING LIST INCLUDES EXAMPLES OF PROJECTS THE DEVELOPERS HAVE RECENTLY COMPLETED:



DEVELOPMENT TEAM:

Richard Alexander
Phone: 479-521-9188

Rob Merry-Ship
Phone: 479-521-9188

John Nock
Phone: 479-530-6799

Project Partners:

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John Nock
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Ted Belden
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John Tyson
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Principal Contact:

Richard Alexander
Phone: 479-521-9188
11 N. West Avenue
Fayetteville, AR 72701
Fax: 479-521-1889
richardalexander@
arkansas.net



THE LIBRARY COMPLEX

ROBERTA FULBRIGHT BUILDING and MLDARK BUILDING

DEVELOPMENT TEAM:

Richard Alexander
Phone: 479-521-9188

Rob Merry-Ship
Phone: 479-521-9188

John Nock
Phone: 479-530-6799

Project Partners:

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Rob Merry-Ship
Phone: 479-521-9188

John Nock
Phone: 479-530-6799

Ted Belden
Phone: 501-580-3762

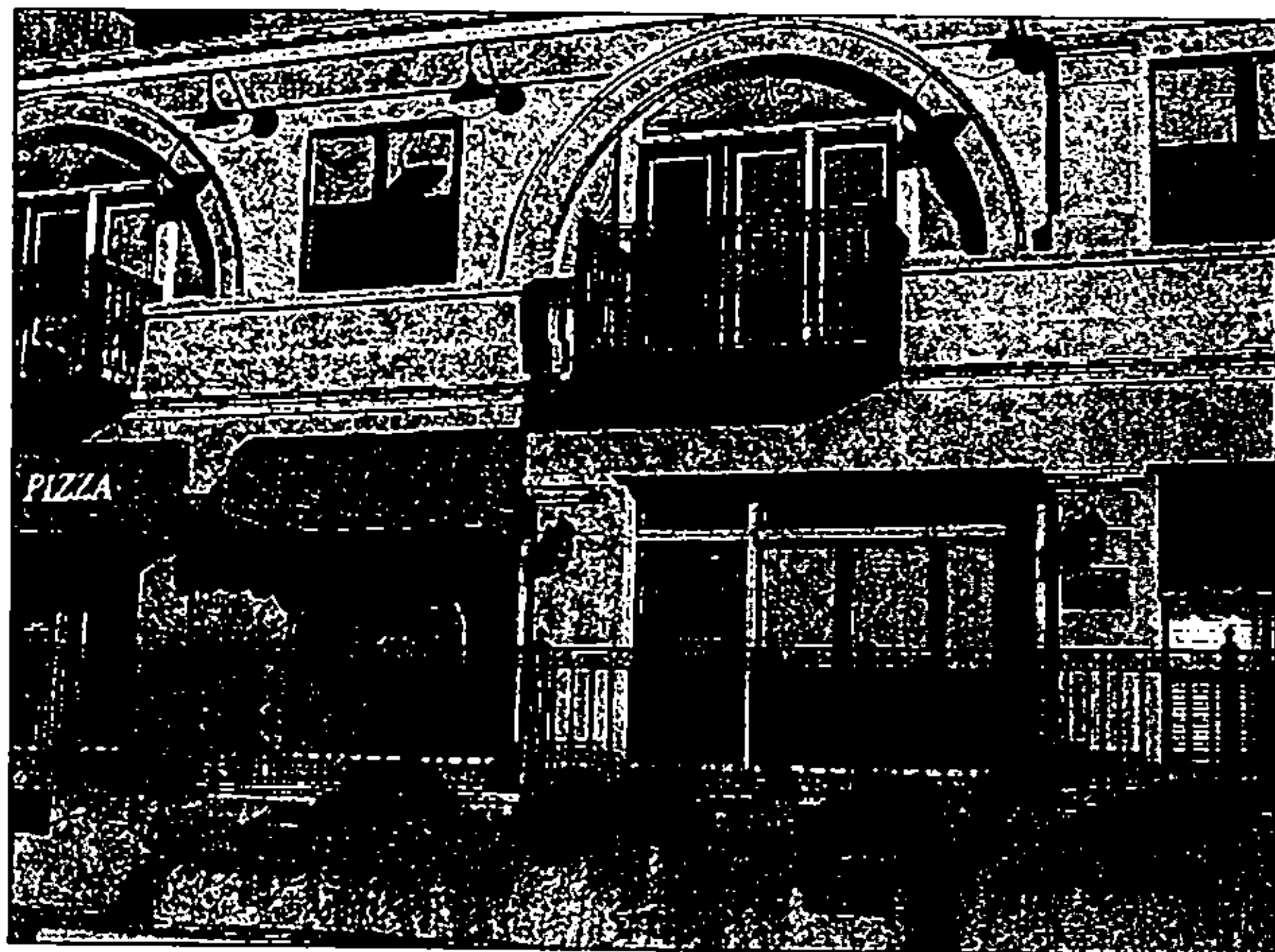
John Tyson
Phone: 479-290-4233

Principal Contact:

Richard Alexander
Phone: 479-521-9188
11 N. West Avenue
Fayetteville, AR 72701
Fax: 479 521-1889
richardalexander@
arkansas.net

THE ROLLSTON BUILDING

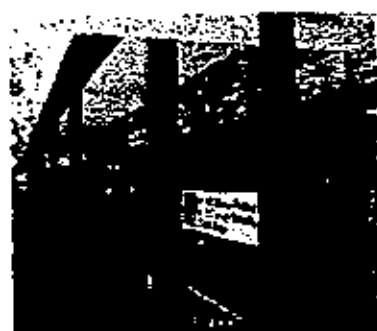
315 ROLLSTON AVE.
YEAR COMPLETED-1995
SIZE-10,000 SQ. FT.



THE ROLLSTON BUILDING WAS ONE OF THE FIRST MIXED-USE BUILDINGS IN DOWNTOWN FAYETTEVILLE. IT WAS A ONE STORY CINDERBLOCK WAREHOUSE THAT WAS CONVERTED INTO AN ALL STUCCO BUILDING HOUSING TWO RESTAURANTS ON THE BOTTOM FLOOR AND SIX LUXURY APARTMENTS ON THE SECOND FLOOR.

A&D COST: APPROX. \$1,000,000
DEVELOPMENT TIME: APPROX. 12 MOS.





THE LIBRARY COMPLEX

ROBERTA FULBRIGHT BUILDING and MEDARK BUILDING

CAMPBELL AVENUE TERRACE

340 N. CAMPBELL AVE.
YEAR COMPLETED-1997
SIZE-14,000 SQ. FT.

DEVELOPMENT TEAM:

Richard Alexander
Phone: 479-521-9188

Rob Merry-Ship
Phone: 479-521-9188

John Nock
Phone: 479-530-6799

Project Partners:

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Fayetteville, AR 72701
Fax: 479-521-1889
richardalexander@
arkansas.net



THIS NEW ALL BRICK STRUCTURE CONTAINS 14 HIGH END RESIDENTIAL APARTMENTS. THE SITE CAMPBELL AVENUE TERRACE OCCUPIES ONCE CONTAINED TWO CITY CONDEMNED STRUCTURES.

A&D COST: APPROX. \$1,200,000
DEVELOPMENT TIME: APPROX. 12 MOS.





THE LIBRARY COMPLEX

ROBERTA FULBRIGHT BUILDING and MEDARK BUILDING

THE OZARK BUILDING

2 N. COLLEGE AVE. YEAR
COMPLETED-1998
SIZE-15,000 SQ. FT.

DEVELOPMENT TEAM:

Richard Alexander
Phone: 479-521-9188

Rob Merry-Ship
Phone: 479-521-9188

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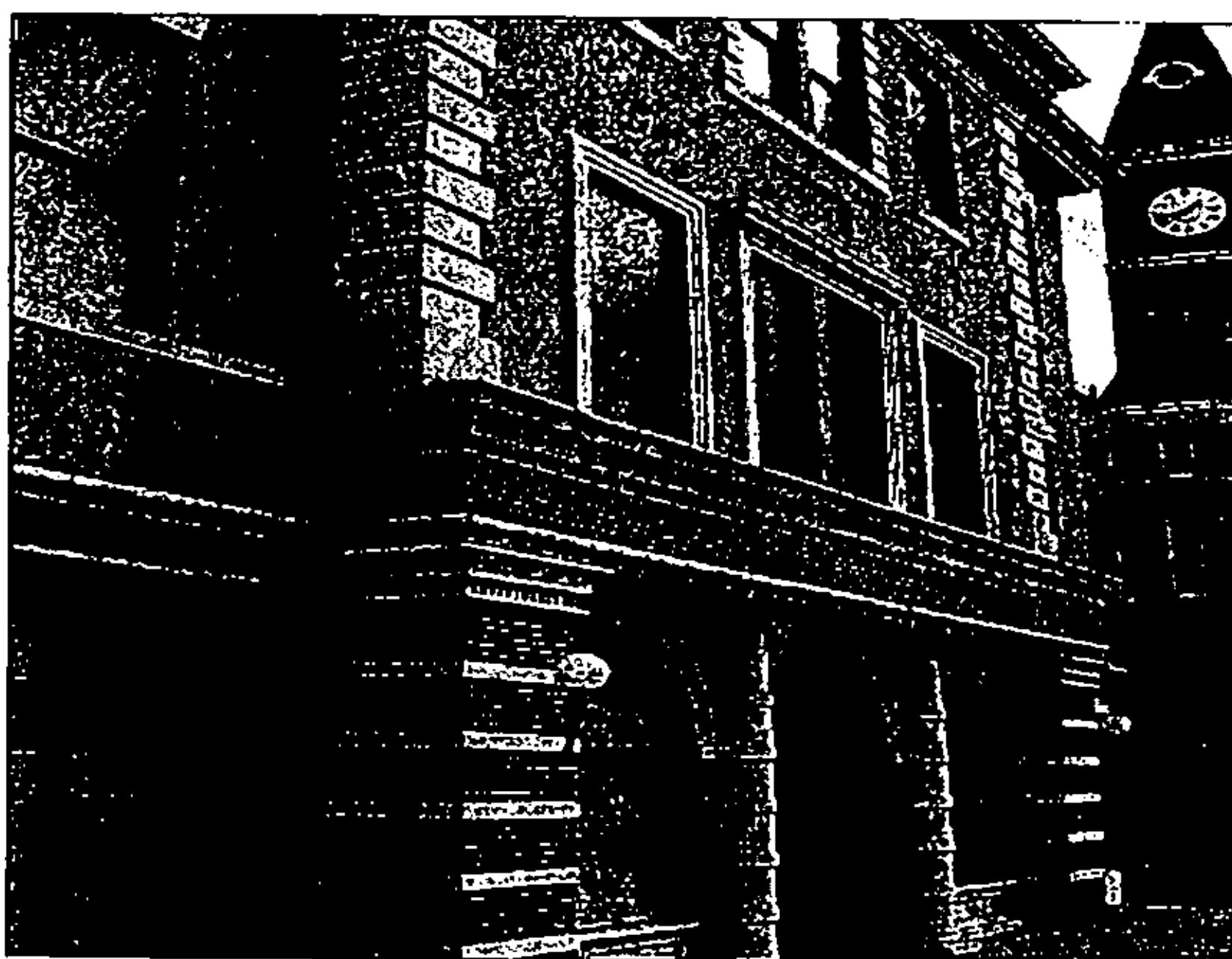
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THIS BUILDING WAS ORIGINALLY BUILT AS A THEATER AND OPERA HOUSE IN 1905. OVER TIME IT BECAME RUN DOWN AND DILAPIDATED. IN THE 1990s, LOCAL PRESERVATIONISTS BEGAN AN EFFORT TO SAVE IT. ALEXANDER AND MERRY-SHIP BOUGHT THE BUILDING FROM THE CITY OF FAYETTEVILLE IN 1996 FOR \$20,000 AND AFTER A \$1.4 MILLION RENOVATION, TURNED IT INTO AN UPSCALE OFFICE BUILDING, WHICH REOPENED IN AUGUST OF 1998. IT WAS SOLD IN 2002 FOR \$2.2 MILLION.

A&D COST: APPROX. \$1,400,000
DEVELOPMENT TIME: APPROX. 14 MOS.





THE LIBRARY COMPLEX

ROBERTA FULBRIGHT BUILDING and MEDARK BUILDING

DEVELOPMENT TEAM:

Richard Alexander
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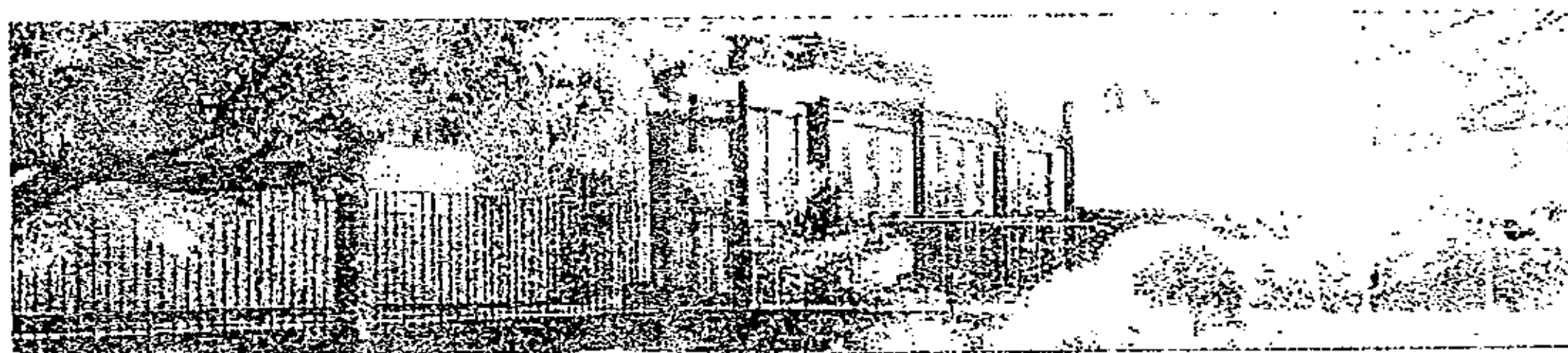
THE CAMPBELL-BELL BUILDING

15 S. BLOCK AVE.
YEAR COMPLETED-2000
SIZE-24,000 SQ. FT.



THE CAMPBELL-BELL BUILDING WAS FOR YEARS ONE OF THE REGION'S MOST POPULAR CLOTHING STORES. AFTER CLOSING IN THE MID 1990S, THE BUILDING SAT EMPTY FOR SEVERAL YEARS, BEFORE BEING PURCHASED IN 1998. THE TWO STORY STRUCTURE WAS RESTORED AND CONVERTED INTO OFFICE/RETAIL LEASE SPACE ON THE FIRST FLOOR WITH FOUR LUXURY CONDOMINIUMS ON THE SECOND FLOOR.

A&D COST: APPROX. \$2,500,000
DEVELOPMENT TIME: APPROX. 14 MOS.





THE LIBRARY COMPLEX

ROBERTA FULBRIGHT BUILDING and MEDARK BUILDING

DEVELOPMENT TEAM:

Richard Alexander
Phone: 479-521-9188

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Fax: 479-521-1889
richardalexander@
arkansas.net

U-ARK BOWL

644 W. DICKSON ST.
YEAR COMPLETED-2002
SIZE-32,000 SQ. FT.



THE U-ARK BOWL WAS BUILT IN 1949 AS A BOWLING ALLEY AND BALLROOM. ALEXANDER AND MERRY-SHIP PURCHASED THE BUILDING IN 2000 AND CONVERTED IT INTO A MIXED USE RESIDENTIAL/COMMERCIAL FACILITY. THE FIRST FLOOR CONSISTS OF 12,000 SQUARE FEET OF EVENT, MEETING, AND RETAIL SPACES. THE SECOND FLOOR CONSISTS OF 14 HIGH END CONDOMINIUMS, RANGING IN SIZE FROM 1,250 TO 2,000 SQ. FT.

A&D COST: APPROX. \$3,800,000
DEVELOPMENT TIME: APPROX. 16 MOS.





THE LIBRARY COMPLEX

ROBERTA FULBRIGHT BUILDING and MEDARK BUILDING

DEVELOPMENT TEAM:

Richard Alexander
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richardalexander@
arkansas.net

THE INN AT CARNALL HALL

UNIVERSITY OF ARKANSAS CAMPUS

YEAR COMPLETED-2003

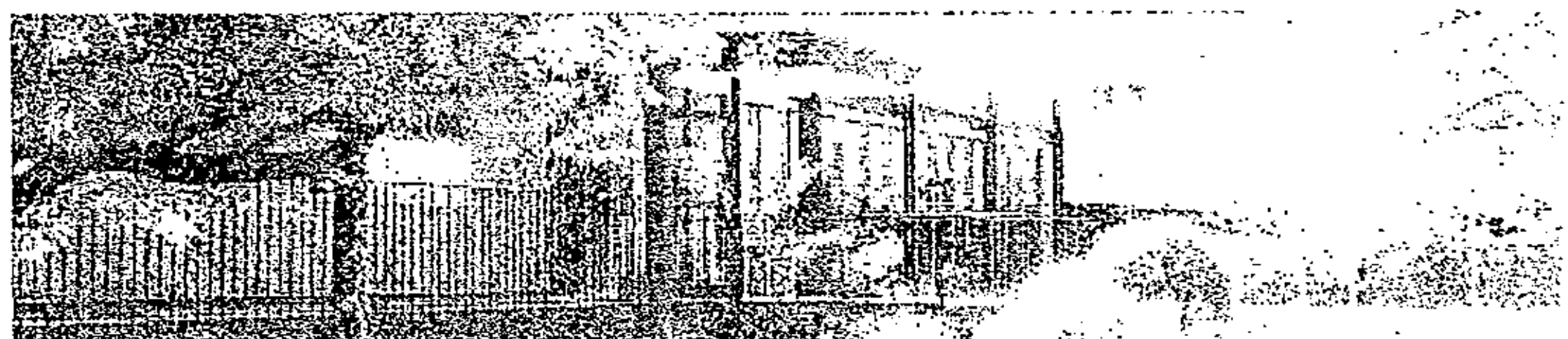
SIZE-50 ROOM 50,000 SQ. FT.



CARNALL HALL IS THE SECOND OLDEST BUILDING ON THE CAMPUS OF THE UNIVERSITY OF ARKANSAS. IT WAS BUILT IN 1905 AS A WOMEN'S DORMITORY AND WAS MUCH LATER USED AS OFFICE SPACE AND CLASSROOMS. THE BUILDING WAS VACATED IN 1991 AND LANGUISHED IN DISREPAIR FOR A DECADE. AFTER BEING CHOSEN BY THE UNIVERSITY IN 2001, ALEXANDER & MERRY-SHIP BEGAN AN \$8 MILLION RENOVATION PROJECT. CARNALL HALL IS NOW A BOUTIQUE UPSCALE HOTEL AND 4-STAR RESTAURANT. IT ALSO SERVES AS A WORKING CLASSROOM AND LABORATORY FOR THE UNIVERSITY'S BURGEONING HOSPITALITY PROGRAM.

A&D COST: APPROX. \$8,000,000

DEVELOPMENT TIME: APPROX. 14 MOS.





**FIRST
FEDERAL
BANK of Arkansas, FA**
— The Financial Institution of Choice —

Ross Mallioux
Executive Vice President
Chief Lending Officer

June 2, 2004

Mr. Richard Alexander
Fulbright Building, LLC
Fayetteville, AR 72701

RE: The Fulbright Complex
Roberta Fulbright Building and Medark Building

Dear Richard:

This letter will document for your files and ours that you have provided to us a proposal to purchase and renovate the existing Fayetteville Library complex, known in your proposal as the Fulbright Complex. This proposal as well as our conversations indicate several partners with you in this regard and outline the purchase and renovation costs and proposals therewith.

Per your request, this letter will document that First Federal Bank stands ready to accommodate you on this project per your proposal, and in the event that you need monies to purchase the land only, we stand ready to accommodate you with that request as well. We will also be more than happy to provide whatever documentation is acceptable and sufficient to the City of Fayetteville to verify that we stand ready to provide financing on this matter per what you have outlined in the proposal.

This approval is contingent upon clear title provided by the seller of the property as well as a first mortgage on the subject property to First Federal Bank of Arkansas and such documentations that would be pursuant to the proposal you have submitted as well as personal guaranties issued by the named guarantors you have provided to us with regard to this specific project.

We are excited to be a part of this project and look forward to working with you and your partners in the near future.

Should you need anything further in this regard, please do not hesitate to give me a call.

Sincerely yours,

Ross Mallioux
Executive Vice President, Chief Lending Officer

RM/bs

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: June 17, 2004

Subject: Residential Planned Zoning District for Cambridge Crossing (R-PZD 04-1075)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Cambridge Crossing. This action will establish a unique zoning district and approve a Preliminary Plat for a residential subdivision with 57 single family attached dwelling units.

BACKGROUND

Property description: The subject 11.525-acre tract of land is located south of Joyce Blvd. on Vantage Drive, a street extension newly constructed with Regions Bank. The property is bounded on the east by Butterfield Trail Village, to the north by Regions Bank, Community Bank and a vacant commercial lot, and to the south by Mud Creek. The property is currently zoned C-2, C-1, and R-O, and is surrounded by RMF-24, C-1 and C-2 properties. The Future Land Use Plan identifies this property for Residential and Regional Commercial use. The property is currently vacant.

Proposal: The applicant requests a rezoning and preliminary plat approval for an R-PZD consisting of 57 townhouse style lots, on which 57 attached dwelling units are to be located. Approximately 8 acres of the total 11.525 acres is to be developed at this time, yielding an actual density of 7.1 DU/acre. The remaining 3.5 acres is indicated as Phase II, and will be reviewed as a Planned Zoning District at a later date. The proposal utilizes a traditional residential urban neighborhood model, utilizing access and services from rear alleys, while buildings are required to be constructed at a "build-to" line, approximately 7 feet from the sidewalk. Lot 1 has been identified as community open space, and submitted draft covenants address architectural character, street tree plantings, and vegetative buffers between the public Mud Creek Trail and the proposed development.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on Monday, June 14, 2004. Approval of a planned zoning district requires City Council approval as it includes zoning (land use) as well as development approval (preliminary plat). Recommended conditions were approved by the Planning Commission, as were additional conditions, which are reflected in the attached staff report.



City Council Meeting of July 06, 2004
Agenda Item Number

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL
PLANNED ZONING DISTRICT TITLED R-PZD 04-1075
LOCATED AT LOT 6C, VANTAGE SQUARE
CONTAINING APPROXIMATELY 11.525ACRES, MORE
OR LESS; AMENDING THE OFFICIAL ZONING MAP OF
THE CITY OF FAYETTEVILLE; AND ADOPTING THE
ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN
AS APPROVED BY THE PLANNING COMMISSION

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

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

From C-2, Thoroughfare Commercial, C-1, Neighborhood Commercial and R-O,
Residential Office to R-PZD 04-1075 as shown in Exhibit "A" attached hereto and
made a part hereof.

Section 2. That the change in zoning classification is based upon the
approved development plan and development standards as shown on the plat and
approved by the Planning Commission on June 14, 2004.

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

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 04-1075

A PART OF THE REMAINDER OF ORIGINAL LOTS 6, 7 AND 8 OF THE VANTAGE SQUARE, UNIT 2, BEING LOCATED IN THE SE ¼ OF THE NE ¼ OF SECTION 26 AND THE SOUTH ½ THE NW ¼ OF SECTION 25, ALL IN T-17-N, R-30-W, DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF ORIGINAL LOT 7, SAID POINT BEING ON THE SOUTH RIGHT OF WAY OF JOYCE BOULEVARD; THENCE ALONG THE COMMON BOUNDARY OF SAID ORIGINAL LOTS 7 AND 8, S18°40'07"W 338.58 FEET TO THE POINT OF BEGINNING; THENCE S87°35'53"E 711.56 FEET TO A POINT 30 FEET WEST OF THE EAST BOUNDARY OF THE ORIGINAL LOT 6; THENCE S02°36'06"W 848.88 FEET TO A POINT ON THE NORTHERN BOUNDARY OF PROPERTY DEDICATED TO THE CITY OF FAYETTEVILLE IN INSTRUMENT NO. 9709229, SAID POINT BEING N02°36'06"E 65.69 FEET AND N31°09'08"W 53.99 FEET FROM ORIGINAL SOUTHEAST CORNER OF ORIGINAL LOT 6; THENCE ALONG SAID NORTHERN BOUNDARY OF CITY PROPERTY N31°09'08"W 402.01 FEET TO A FOUND IRON PIN, N38°08'36"W 263.00 FEET TO A FOUND IRON PIN, N60°15'18"W 267.00 FEET TO A FOUND IRON PIN, S84°23'03"W 155.00 FEET TO A FOUND IRON PIN, S59°46'24"W 335.00 FEET TO A FOUND IRON PIN, N70°30'18"W 388.96 FEET TO A FOUND IRON PIN, N21°50'33"E 292.26 FEET TO A FOUND IRON PIN, AND N53°28'19"E 200.91 FEET TO A FOUND IRON PIN; THENCE LEAVING SAID BOUNDARY OF CITY PROPERTY S36°32'10"E 185.39 FEET TO A FOUND IRON PIN; THENCE S71°21'36"E 338.61 FEET TO A SET IRON PIN, SAID POINT BEING ON THE COMMON BOUNDARY OF ORIGINAL LOTS 7 AND 8; THENCE ALONG SAID COMMON BOUNDARY N18°40'07"E 121.13 FEET TO THE POINT OF BEGINNING, CONTAINING 502038.564 SQUARE FEET OR 11.525 ACRES, MORE OR LESS, CITY OF FAYETTEVILLE, ARKANSAS. SUBJECT TO: AN INGRESS/EGRESS RIGHT OF WAY EASEMENT, 15 FEET OF EQUAL AND UNIFORM WIDTH ADJACENT TO THE WEST BOUNDARY OF INSTRUMENT NO. 95047028; ALL EASEMENTS OF RECORD AND EXISTING UTILITIES, LESS & EXCEPT LANDS CONVEYED TO THE CITY OF FAYETTEVILLE IN INSTRUMENT NO. 9709229.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 14, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
Matt Casey, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: ~~June 09, 2004~~ Revised 06-17-04

R- PZD 04-1075: Planned Zoning District (CAMBRIDGE CROSSING): Submitted by MEL MILHOLLAND for property located at LOT 6C, VANTAGE SQUARE. The property is zoned C-2, THOROUGHFARE COMMERCIAL, C-1, NEIGHBORHOOD COMMERCIAL, R-O, RESIDENTIAL OFFICE and contains approximately 11.525 acres. The request is to approve a Residential Planned Zoning District on the subject property with 57 dwelling units proposed. Property Owner: TRACY K. & LORI C. HOSKINS Planner: JEREMY PATE

Findings:

Proposal: The applicant requests a rezoning and preliminary plat approval for a residential subdivision within a unique R-PZD zoning district. The proposed use of the site is for a town-house style development consisting of 57 attached residential dwelling units and one (1) lot reserved for community greenspace. A future phase is identified on the western portion of the subject tract, to be reviewed as a Planned Zoning District at the time of development.

Existing Development: The site is currently vacant, with the newly constructed Regions Bank to the northwest. The tract of land proposed for development is Lot 6C of Vantage Square Subdivision, Unit 2.

Proposed Land Uses:

- Use Unit 1: City-wide Uses by Right
- Use Unit 10: Three Family Dwellings – Townhouse development, no more than three attached units
- Use Unit 26: Multi-family Dwellings – Townhouse development, more than three attached units.

Total proposed dwelling units on the 11.525-acre site is 57, therefore the current proposed density for the R-PZD is 4.9 DU/acre. The actual size of the Phase I development of Cambridge Crossing, excluding the Phase II portion of tract 6C, is approximately 8 acres, yielding a density of 7.1 DU/acre. The project site is currently zoned C-1, C-2 and R-O, allowing for a combination of commercial, retail, office and residential units, in their respective districts. The developer proposes a subdivision with attached units, with all access and services to be from rear alleys, and dwelling units to be sited close to the street. Protective covenants submitted with the PZD identify a front "build-to" line, to which the most forward point of each structure must be

located. Lot sizes and setbacks are proposed to be much smaller than those allowed in typical zoning districts, thus the need for processing a Planned Zoning District.

The vacant site is located in northeast Fayetteville, south of Joyce Blvd. Nearby land uses include the newly constructed Regions Bank, a vacant lot to the north, Community Bank, a large office complex currently under construction, the Post Office, Butterfield Trail Village and Mud Creek, with its associated floodplain and trail system.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Vacant lot, Community Bank, Regions Bank	C-2, Thoroughfare Commercial C-1, Neighborhood Commercial
South	Mud Creek, trail system	C-2, Thoroughfare Commercial
East	Butterfield Trail Village	RMF-24, Res Multifamily, 24 DU/Acre
West	Regions Bank, vacant	C-2, Thoroughfare Commercial

Water & Sewer: Water and sewer lines are being extended to serve the development.

Access: Access is from Vantage Drive, a street recently constructed with Regions Bank development. Vantage connects north to Joyce Blvd, where a future traffic signal is planned. The developer of the Stearns St. Apartment is currently continuing construction of Vantage Drive north from Joyce to eventually connect to Zion Road in the near future. A connection south will require a bridge over Mud Creek, which developers in the area are being assessed a proportionate share to construct.

The primary ingress/egress to the proposed 57 units is from Vantage Drive. Property to the east is developed (Butterfield Trail Village), to the south is Mud Creek, and to the north is the Community Bank and one vacant commercial lot which staff finds is too close to Vantage for another public street connection north. Staff has recommended, and the developer consented, to allow an alley to also connect to Vantage Drive, to provide a secondary means of ingress/egress for emergency, service and resident vehicles.

Interior to the project, public streets are being provided within a 40-foot right-of-way, 24-foot wide streets with sidewalks on both sides in most cases. All lots are prohibited from having street-front facing garages, and access must be from the provided rear alleys. All alleys are private, to be maintained by the HOA. The alleys are 12-16 feet in width, typically within a 20-foot utility easement to allow for rear utility service.

The City's policy of connectivity is met by the situation of the proposed residential community with direct access to a public trail, Mud Creek Trail, allowing pedestrian and bicyclist access to retail/commercial and restaurant areas in Steele Crossing, as well as east to Old Missouri Road.

Adjacent Master Street Plan Streets: Vantage Drive, Collector Street

Street Improvements: The only adjacent street is Vantage Drive, which is a newly constructed street that accesses Joyce Blvd. No improvements to this street are recommended at this time, with the exception of the continuation of a six-foot sidewalk at the right-of-way line along

Vantage Drive, to the south property line. Staff is recommending an assessment be made for a future traffic signal at Vantage Drive, a Collector Street, and Joyce Blvd, a Principal Arterial, based on the number of units proposed with Cambridge Crossing Phase I. Additionally, an assessment is recommended for a percentage of the cost of a future bridge crossing over Mud Creek along Vantage Drive, as indicated on the Master Street Plan (see attached memos).

Tree Preservation: Waived. No trees exist on-site

Parks: The Parks and Recreation board recommends accepting money-in-lieu of land in the amount of \$32,190.00 for 58 single family lots

Covenants: A draft of protective covenants, as well as the applicant's response to the Planned Zoning District requirements and description of the project have been submitted and are included in the staff report. Covenants are required to be presented in final form for approval at the time of Final Plat, and recorded with the Final Plat of the subdivision.

Background: The Cambridge Crossing PZD was reviewed at Technical Plat Review on April 14, 2004. The Subdivision Committee forwarded the project to the Planning Commission with a recommendation for approval on April 30, with several items to address. The following primary concerns have been addressed:

- Revised covenants have been submitted, including architectural treatment of the proposed residential structures (items #6-8), allowed use units (#2), a street tree commitment for 1 tree per 30 feet (#9), mail kiosk locations (#22, 4 kiosks located centrally), allowed on-street parking (not permanent), and all "unknowns" identified as requested
- Lot 1 or Lot 11 has been reserved for community open space and a pedestrian connection to the Mud Creek Trail, subject to Planning Commission approval. Additionally, a sidewalk allowing pedestrian access along the interior cross-alley to the public trail has been added.
- Conceptual sketches/sections have been revised where necessary to coordinate with site plans.
- The developer has acknowledged that a vegetative enhancement buffer between the alley and public trail is to be provided, with a note on the plat. Said planting plan is required to be submitted and approved prior to Final Plat.

Recommendation:

Staff recommends R-PZD 04-1075 be forwarded to the City Council with a recommendation for approval of the requested rezoning.

Staff recommends Planning Commission approval of the proposed preliminary plat in association with R-PZD 04-1075 subject to the following conditions:

Conditions of Approval:

1. Allowed uses in this R-PZD shall be restricted to Use Unit 1: City-wide Uses by Right, Use Unit 10: Three Family Dwellings – Townhouse development, no more than three attached units and Use Unit 26: Multi-family Dwellings – Townhouse development,

more than three attached units.

2. Future development of Phase II of the Cambridge Crossing PZD shall require processing and approval of a new Planned Zoning District.
- ✓3. Planning Commission determination of an appropriate off-site assessment for a future traffic signal at Vantage Drive and Joyce Blvd. *Staff recommends the developer be assessed \$5,544.00, due prior to Final Plat approval.*
- ✓4. Planning Commission determination of an appropriate off-site assessment for a future bridge crossing over Mud Creek along Vantage Drive. *Staff recommends the developer be assessed \$46,167.00 due prior to Final Plat approval.*
- ✓5. Planning Commission determination of a waiver request for the minimum street standards for radius of a curve. *Staff recommends in favor of this request, due to the fact that through traffic will not occur because of the surrounding developed and undevelopable land (Mud Creek), therefore a lower traffic volume will access the proposed public streets.*
6. Planning Commission determination of Community Open Space lot location. The developer has identified Lot 1 or Lot 11 as options. ~~The designated lot shall be labeled as such. With the applicant's addition of a mid-block pedestrian connection at the mid-block along the alley, staff recommends Lot 1 be utilized for said open space, finding that it provides a larger, more usable open space, along with a trail connection. Lot 1 is additionally a less desirable lot for a dwelling unit, for it does not have frontage onto a public street.~~ **AMENDED: LOT 1 SHALL BE DESIGNATED AS COMMUNITY OPEN SPACE.**
7. Parks fees in the amount of \$31,635.00 for 57 single family lots shall be paid by the developer prior to Final Plat approval.
8. Drainage outflows that affect the public trail shall be coordinated with Parks Staff.
9. Public streets within the proposed development shall allow for two-way traffic and on-street parking on one (1) side. Interior sidewalks shall be four (4) feet in width, with a five (5)-foot greenspace for the planting of street trees.
10. A street tree planting plan shall be submitted before final plat as part of the Planned Zoning District requirements.
11. A planting plan for a vegetative buffer of appropriate plant species shall be submitted for Planning Commission review and approval prior to Final Plat, pursuant to City Code (see attached, p.22), to provide a visual buffer between the Mud Creek public trail and the alley/back of dwellings on the subject property. The landscape buffer should ameliorate the view of development from this trail, and should consist of tree, shrub and groundcover species that are ecologically appropriate to the riparian corridor of Mud Creek. Said plantings shall be installed as approved by the Planning Commission prior to

the application of signatures to the Final Plat.

12. Lot 27 shall be prohibited from accessing directly onto Vantage Drive, as noted on the site plan.
13. Should the developer prove by study, and the City accept such study, that detention is not required for this development, those areas reserved for detention within drainage easements shall be considered community open space.
14. Sidewalk construction shall be in accordance with current standards to include six foot sidewalks along Vantage Drive at the right-of-way line and four-foot sidewalks along interior streets as shown on the site plan.

Standard Conditions of Approval:

15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
16. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
17. Street lights shall be provided along all adjacent and proposed streets at a spacing of no more than 300 feet where not currently present, pursuant to city ordinances.
18. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
19. Preliminary Plat shall be valid for one calendar year.

Additional Comments:

- a) Covenant #14 shall be revised to remove "by fencing" to allow alternative screening materials.
- b) Covenant #21 shall be revised to reflect "five" foot greenspace, not "four."

PLANNING COMMISSION ACTION: yes Required

Date: June 14, 2004

 Approved Denied

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

item.

By _____

Title _____

Date _____

Findings associated with R-PZD 04-1075 (Cambridge Crossing)

From §166 Development:

Sec. 166.06. Planned Zoning Districts (PZD).

(B) Development standards, conditions and review guidelines

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

FINDING: The subject property is adjacent to property zoned RMF-24, R-O, C-1, and C-2, with commercial development as the primary land use. Community Bank and Regions Bank both have offices along Joyce Blvd. adjacent to the property, and Community Bank owns the vacant lot between. Butterfield Trail Village exists to the east of the property, developed residentially, and Mud Creek and its associated floodplain and trail development is to the south. The subject property is currently zoned C-1, C-2, and R-O. The proposed number of dwelling units for this phase of development is 57, with an actual density of 7.1 dwelling units per acre. The proposed residential land use for attached dwelling units on separate lots is a compatible use with surrounding developed areas, providing housing in the vicinity while maintaining a compatible density with the Butterfield Trail Village nearby.

There are no trees located on the subject site. The City of Fayetteville owns property and is developing the Mud Creek Trail System south of the subject property, which is planned to extend east to Old Missouri Road and west to Steele Blvd. The applicant is required as part

of the PZD development to provide an appropriate pedestrian connection from the Cambridge Crossing community to the public trail system, as well as a community open space within the development itself. The 100-year floodplain affects lots 1-13, in the southeast corner of the property along Mud Creek. The developer plans to submit plans for a Letter of Map Revision, to raise the lots out of the floodplain. A vegetative buffer between the public trail and alley is required to ameliorate the potential effects of development along the trail, as well as provide privacy for the development.

The developer proposes to require rear vehicular access for all of the dwelling units, eliminating curb cuts along the interior streets and facing the front of the homes onto the public street at a build-to line. Streets are proposed to be 24 feet in width, with temporary/visitor parking allowed. A private alley accesses each of the proposed lots from the rear, along with all services and utilities. Staff finds the proposal achieves a satisfactory level of compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood.

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

FINDING: A street tree planting plan for the proposed neighborhood is required to be submitted for city approval, prior to final plat of the proposed development. Additionally, a planting plan for a vegetative buffer of appropriate plant species shall be submitted for Planning Commission review and approval to provide a visual buffer between the Mud Creek public trail and the alley/back of dwellings on the subject property. The landscape buffer should ameliorate the view of development from this trail, and should consist of tree, shrub and groundcover species that are ecologically appropriate to the riparian corridor of Mud Creek.

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

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

land uses.

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

FINDING: Vantage Drive, a Collector Street, is a newly constructed 28-foot wide street adjacent to the property on the west. Currently the only development served by this street is the new Regions Bank. Vantage Drive is planned to extend south across Mud Creek, and is currently being constructed north to Zion Road. The developer is to be assessed a percentage for a future traffic signal at the intersection of Joyce Blvd. and Vantage Drive, and a future bridge over Mud Creek.

Internal streets are proposed to be 24 feet in width, with 4-foot sidewalks on both sides of the street. Property is either developed or not to be developed (Mud Creek to the south) on all sides of the subject property, with the exception of one vacant commercial tract to the north, therefore a connection is not required at this time. Vehicular access to dwelling units is prohibited from the external streets, as well as the internal streets. All vehicular access to individual lots is to be rear-loaded, from alleys located within a 20-foot utility easement. Streets are to be constructed to meet all city codes. A waiver for turning radius along the proposed public street is requested, and recommended by city staff due to the low traffic volume projected for these streets.

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

FINDING: On-street parking is allowed on one side within the 24-foot street cross-section of a residential street with an alley, providing for "traditional neighborhood" development with access to properties from rear alleys. These streets provide access to residential property and are intended to be used only by local traffic. Additional guest parking is located on the southeast corner of the site.

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

FINDING: The residential land use proposed does not require specific buffers from adjacent development, however staff recommends a vegetative enhancement buffer between Mud Creek Trail and the proposed adjacent alley, to ameliorate the effects of

pedestrian traffic and the back of dwelling units, which is often considered private space. The applicant proposes to submit a planting plan prior to final plat to meet this requirement, utilizing a combination of trees, shrubs and groundcover that is ecologically appropriate for the Mud Creek riparian corridor. A street tree planting plan is also to be submitted for approval by the Landscape Administrator prior to final plat of the subdivision. A five-foot greenspace between curb and sidewalk has been identified for street tree plantings, and a preliminary tree planting plan has been submitted for Planning Commission review. In order to provide usable community open space interior to the project and simultaneously provide a pedestrian connection from the Cambridge Crossing community and the Mud Creek Trail, lot 1 and lot 11 have been identified as potential lots for community open space. With the provision of a sidewalk connection at midblock along the cross-alley, staff recommends lot 1 be utilized for the community open space, as it provides a larger, more usable open space than lot 1 and is also less desirable as a buildable lot, for its lack of street frontage.

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

FINDING: Sidewalk construction shall be in accordance with current standards to include a six foot sidewalk located at the right-of-way along Vantage Drive. Four-foot sidewalks are to be constructed on both sides of all proposed interior streets, or as indicated on the site plans.

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

FINDING: Street lights shall be provided along all streets adjacent to and within the proposed development, with spacing not to exceed 300 feet.

(8) *Water.* As required by §166.03.

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

(9) *Sewer.* As required by §166.03.

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

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

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

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

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

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

Paving Width (No On-Street Parking)

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

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

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

FINDING: The applicant is proposing public streets to serve the development, in accordance with city codes. Private alleys are to access individual lots, and the current proposal meets Master Street Plan requirements for width. The alleys are to be maintained by the Property Owner's Association, as described in the Protective Covenants.

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

FINDING: N/A

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

FINDING: N/A. No trees exist on the subject property.

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

FINDING: N/A

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

FINDING: No significant views have been identified in this area.

(E) *Revocation.*

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

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

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

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

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

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

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private

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

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

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

FINDING: The applicant has submitted Protective Covenants and Restrictions for Cambridge Crossing Planned Zoning District (see attached), establishing development guidelines and the existence of a Property Owner's Association. At the time of Final Plat, the covenants will be reviewed again for PZD compliance, and shall be filed at the County, pursuant to ordinance requirements. Maintenance of common space, detention ponds and private streets shall be addressed in covenants and on the final plat.

From §161 Zoning Regulations:

Sec. 161.25 Planned Zoning Districts

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

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

FINDING: The proposed R-PZD of 58 lots is located on property identified for residential use on the Future Land Use Plan. The proposed density and land use is compatible with adjacent development and will not negatively impact surrounding properties. The mixture

of attached, single family units in groups of two, three and four provides flexibility in the land use pattern, while maintaining a sense of compatibility with surrounding land uses. No negative impact is anticipated on future development; rather, the proposed development is anticipated to benefit the area as a whole, in providing for-sale residential dwelling units in an area that is rapidly growing with primarily office and commercial uses, while retaining a heightened sense of neighborhood character through the use of traditional neighborhood design principles. Common open space is being provided within the development, and the neighborhood will benefit from the adjacent Mud Creek trail system.

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

- 9.8.a Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.*
- 9.8.c Minimize through traffic on minor residential streets.*
- 9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.*
- 9.8.k Adopt a policy of connectivity, meaning that commercial areas and residential areas are easily accessible by vehicles, pedestrian and bicyclists.*

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

FINDING: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests and development ordinances. An ordinance is required to be drafted in order to create this Residential Planned Zoning District 04-1075 which will incorporate all conditions placed on the project by the Planning Commission and City Council. Covenants provided by the developer will be included in the R-PZD ordinance, and will be filed of record with the Final Plat. The proposed PZD will be forwarded to the City Council, should the Planning Commission vote in favor of approval.

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

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

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

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

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

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

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

FINDING: The proposed residential planned zoning district allows attached single family residential dwelling units which are compatible with, but varies from, surrounding property uses. A general rezoning would not allow the type of development the applicant is pursuing, based on the bulk and area requirements of typical zoning districts, therefore a Planned Zoning District is more appropriate for the proposed development. The proposed subdivision allows for a density and land use that is compatible with adjacent properties, yet also allows for a flexible site plan and layout. A harmonious relationship with surrounding developments is achieved, while allowing for a very different style and type of development. The adjacent Mud Creek corridor is a natural, physical feature currently being developed as a trail corridor, to which this development connects. Enhancement of ecologically appropriate vegetation and increased pedestrian activity along this trail corridor is anticipated from the proposed development.

(2) Permitted uses.

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

FINDING: The proposed attached townhouse-style dwelling units are permitted uses

within a Residential Planned Zoning District. The applicant has identified Use Units 1, 10, and 26 as noted above and on the plat, to be permitted by right in this district.

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

FINDING: The proposed PZD Phase I proposal is entirely residential in use.

REZONING RECOMMENDATION: Staff recommends approval of R-PZD 04-1075 with conditions as noted in the staff report.

LAND USE PLAN: General Plan 2020 designates this site Residential and Regional Commercial. Rezoning this property to R-PZD 04-1075 with multi-family/townhouse dwelling units is consistent with the land use plan and compatible with surrounding land uses and density in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning of the existing R-O, C-1 and C-2 property to the proposed R-PZD development with attached, townhouse-style residential dwelling units at a density of 7.1 units per acre is consistent with the General Plan 2020 that identifies this area for residential use. The proposed development is much different than typical single family or multifamily developments in the City of Fayetteville, with regard to alley access, site layout and organization, meeting many of the objectives and principles of the land use plan that promote traditional urban forms of development.

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

Finding: The proposed zoning is justified to the degree that commercial and office uses are not on the future land use plan for this area, and would be a much higher impact development. A smaller, low traffic residential community that supports the surrounding office and retail uses is more appropriate in this particular area.

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

Finding: The proposed zoning will not create or appreciably increase traffic danger or congestion for Vantage Drive, a collector street, or other streets in the area. Collectively, however, the surrounding developments warrant future construction of a traffic signal at Joyce Blvd. and Vantage Drive, to allow for a safer means of traffic movement.

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 57-lot development proposed would not appreciable alter the population density in the areas. Based on findings from public service providers, as

outlined b. n, an undesirable increase in load o. public services would not be created.

C.3.
Bridge Crossing)
Page 23 of 60

Fire - Water supply with fire hydrants is needed to serve development on this site. Fire station #4 will serve this site once it is constructed. Fire response time to the site is approximately 4-5 minutes, which is 1.39 miles from the property. At maximum build-out, the Fire Department anticipates 13 projected service calls per year, approximately 5 for Fire/other response and 8 for EMS response.

Police - Properties in this area of the city already receive police services. The same level of service will be provided to this site as is currently applied to the existing surrounding development. It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Engineering - The proposed subdivision has been reviewed for access to public utilities, including water and sewer, and will not undesirably increase the load on public services. Assessments are recommended for future construction of a traffic signal at Joyce Blvd. and Vantage Drive, and for a future bridge crossing over Mud Creek on Vantage Drive.

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

Finding: N/A

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.

Fayetteville, AR 72701

Telephone: 501-575-8264

ENGINEERING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Matt Casey P.E., Staff Engineer
DATE: Cambridge Crossing
Off-Site Assessments

The following is the Engineering Division's recommendation to the Planning Commission for off-site assessments:

BRIDGE OVER MUD CREEK:

The Engineering Division recommends that this subdivision be assessed for a percentage of the construction costs to construct a bridge over Mud Creek. The following is a rational nexus calculation for this offsite improvement:

Projected Traffic from development – (58 Lots * 9.57 vpd/lot) - 555 vpd

Assume 50 % of vehicle trips go south – 277 vpd

Collector traffic capacity = 6,000 vpd

% Traffic from development = 4.62%

Clabber Creek Bridge Costs:

\$1,000,000.00 – Based on approximate costs of downstream bridges in CMN Business Park

Cambridge Crossing Subdivision Percentage of Costs:

$.0462(\$1,000,000.00) = \$46,167.00$

Therefore, the Engineering Division recommends that the Cambridge Crossing Subdivision be assessed \$46,167.00 for the future Vantage Drive Bridge across Mud Creek.

TRAFFIC SIGNAL FOR VANTAGE AND JOYCE:

The Engineering Division recommends that the Cambridge Crossing subdivision be assessed for a percentage of the construction costs to construct a traffic signal at the intersection of Joyce Boulevard and Vantage Drive. The following is a rational nexus calculation for this offsite improvement:

Approximate Traffic Signal Cost = \$120,000.00

Projected Traffic from development – 555 vpd
Assume 50% of vehicle trips will use Vantage Signal– 278 vpd
Collector Street traffic capacity = 6,000 vpd
% Traffic from development = 4.62%

Cambridge Crossing Percentage of Costs:
 $0.0462(\$120,000.00) = \$5,544.00$

Therefore, the Engineering Division recommends that the Cambridge Crossing Subdivision be assessed \$5,544.00 for the future traffic signal at Joyce and Vantage.

SUMMARY OF RECOMMENDATIONS:

- | | |
|--|-------------|
| A. Offsite assessment for Vantage Drive Bridge over Mud Creek: | \$46,167.00 |
| B. Offsite Assessment for Ripple Road Bridge over Clabber Creek:
TRAFFIC SIGNAL FOR JOYCE & VANTAGE: | \$ 5,544.00 |

from 166.06 Planned Zoning District (PZD)

(B) Development standards, conditions and review guidelines

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



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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JUN 09 2004
PLANNING DIV.

C.3.
R-PZD 04-1075 (Cambridge Crossing)
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POLICE DEPARTMENT

June 8, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **R-PZD 04-1075: Planned Zoning District (Cambridge Crossing)** submitted by Mel Milholland for property located at lot 6C, Vantage Square would substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District 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,

Handwritten signature of William K. Brown with the number #128 written next to it.

Lieutenant William Brown
Fayetteville Police Department

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out	Projected Fire/Other Calls for Service at Maximum Build Out	Projected EMS Calls for Service at Maximum Build Out
RZN 04-1072	Jones	ANX 04-1071	7.47	FS 5	3.18 miles	8-9 minutes	8-10 minutes	3/year	1/year	2/year
RZN 04-1074	Ames Trust	ANX 04-1073	1.97	Future FS 3 FS 5	2.32 miles 3.17 miles	5-6 minutes 7-8 minutes	5-7 minutes 7-8 minutes	3/year 0.68/year	1/year 0.27/year	2/year 0.41/year
PZD 04-1075	Cambridge Crossing		11.525	Future FS 3 FS 4	2.34 miles 1.39 miles	4-5 minutes 4-5 minutes	4-5 minutes 4-5 minutes	0.68/year 13/year	0.27/year 5/year	0.41/year 8/year

X

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION

To: Fayetteville Planning Commission

Copy: Jeremy Pate, Associate Planner

From: Craig Carnagey, (Landscape Administrator)

Date: June 2, 2004

Subject: Subdivision Committee Review for Cambridge Crossing PZD

LANDSCAPE PLAN

1. A street tree planting plan will be requested for this planned zoning district. A minimum of five feet (5') of greenspace between the back of curb and the sidewalk will be needed for tree planting space.
2. A planting plan for a landscape screen between the Mud Creek multi-use trail, and the southern edge of this development is requested. This screen should obscure the view of all development from this trail, and consist of tree, shrub and groundcover species that are ecologically appropriate to the riparian corridor of Mud Creek.

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469

TO: Jeremy Pate, Associate Planner
FROM: Alison Jumper, Park Planner
DATE: June 3, 2004
SUBJECT: Parks & Recreation Subdivision Comments

Meeting Date: June 4, 2004
Item: R-PZD 04-1075, Cambridge Crossing, 175
Park District: NE
Zoned: RPZD
Billing Name & Address: Tracy Hoskins 3588 Buckingham Drive, Fayetteville, AR 72703

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	58 @ \$555 per unit = \$32,190
Multi Family	_____ @ .017 acre per unit = _____ acres	_____ @ \$393 per unit = \$ _____
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- PRAB recommended accepting money-in-lieu of land on April 5th, 2004. Parks fees are due in the amount of \$32,190 for 58 Single Family lots.
- Fees are due before issuance of final plat.
- Please provide visual buffer from alley and backs of building for Mud Creek Trail.
- Please consider providing additional pedestrian connections to the trail from the residences, particularly in the row of lots 2 through 16.
- Drainage outflows affecting the trail will need to be coordinated with Park Staff.

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

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R-PZD 04-1075 (Cambridge Crossing)
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REGISTRATIONS:

PE: AR, MO

PLS: AR

May 6, 2004

Project No. E-682

FAYETTEVILLE

125 West Mountain Street

Fayetteville, Arkansas 72701

ATTN: Planning and Engineering Division

RE: Vantage Square - Old Towne, Subdivision

The name is changed to Cambridge Crossing

Dear City Staff (Dawn Warrick, Matt Casey, and Craig Carnagey):

An application and supporting data of the referenced project, a 58-lot single unit (town home style) residential subdivision was submitted this day for your review and approval processing.

The property is a tract containing approximately 11.52 acres plus adjoining access easements on the site's east and north property lines. The property Owner, Tracy Hoskins, intends to build groupings of two and three story homes on the site. The adjoining property Owner, Community Bank, is granting access easements to the property for construction of private roadways and to provide access and a separate, additional entrance for emergency service vehicles. A copy of the proposed project Covenants is being submitted under separate cover by the Owner/Developer, Tracy Hoskins.

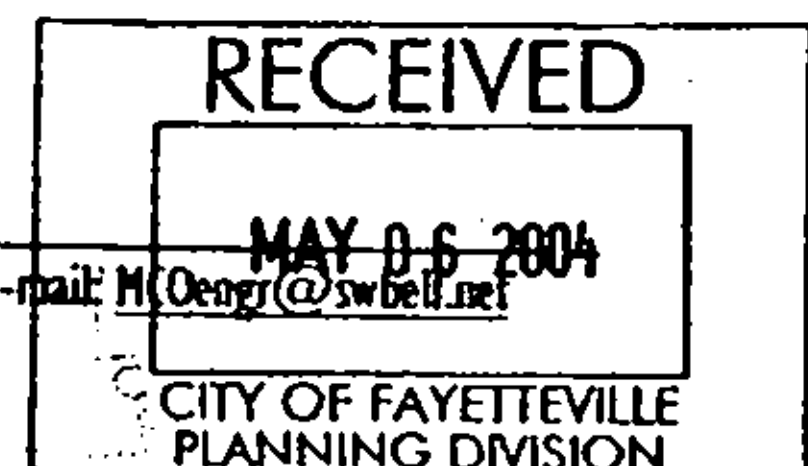
The project site is currently zoned R-O, and C-2. The requested PZD zone is for 0-foot side building setbacks, 7-foot front building setbacks with building facade on the building setback, and the rear setback 8-feet within the project and 18-feet along those lots to the south along Mund Creek and segment of the City's trail system.

This application request for a Planned Zoned District is in keeping with the general surrounding area and will present a new concept to the overall local/regional area. Also, a property line adjustment has been made to this project site and is in the process of being signed and recorded.

There is an existing sanitary sewer service mains located along the project site's east and south boundaries. Provisions will be made to re-connection of service to Community Bank and future service to Vantage Square Lot 7A when developed. Water service will be looped to/through the site form existing water mains near/along the project's east boundary and northwest corner.

The Parks Department has approved money in-lieu of land for this project.

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



Milholland Company

Engineering & Surveying

Melvin L. Milholland, PE, PLS

REGISTRATIONS:

PE: AR, MO

PLS: AR

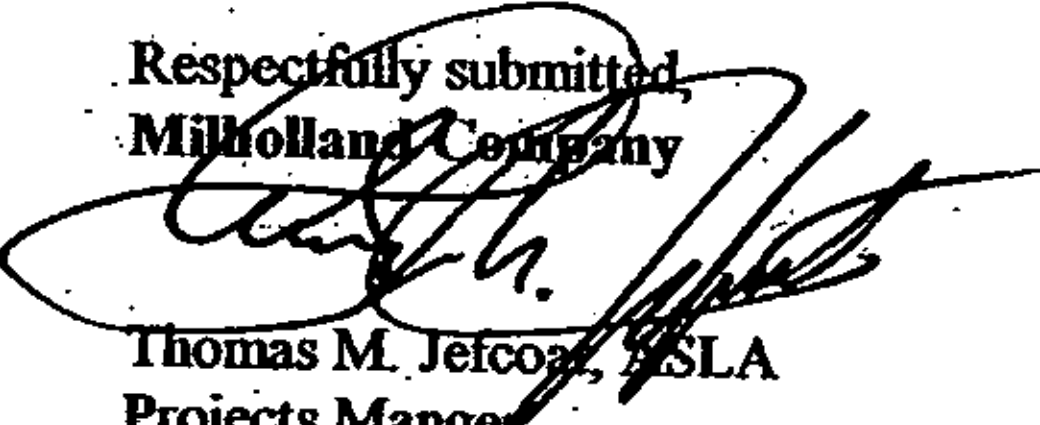
Mr. Hoskins intends to develop a community of town-homes with an identity of old world flavor, stability and quality. Some homes will be grouped while other may the separate creating vistas to Mud Creek and the City's trail system. In accomplishing this desired results, sidewalks are placed at building fronts and narrow streets (24-foot back of curb to back of curb are proposed), a 40-foot right-of-way. A roadway and sidewalks will be maintained by a community POA. While sidewalks are not shown on both sides of the proposed Creek Side Walk, provisions are being made to accomplish this and other indicated desired amenities (central mail kiosk, etc.)

There are no trees on the site requiring preservation. However, the Owner/Developer is proposing the installation of extensive landscaping and street tree plantings.

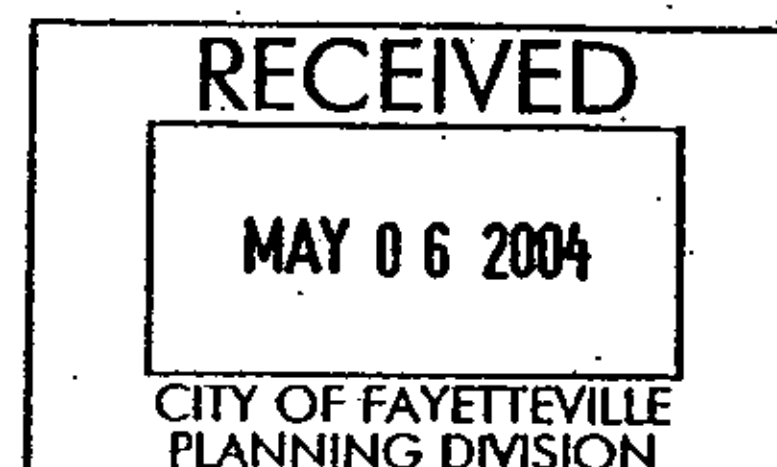
Grading of the site has been minimized.

Your comments and assistance in achieving the intended goals set for the development of this fashionable community of town-homes is greatly appreciated.

Respectfully submitted,
Milholland Company


Thomas M. Jefcoat, ES&LA
Projects Manager

cc: Tracy Hoskins



Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

REGISTRATIONS:

PE: AR, MO

PLS: AR

May 6, 2004

Project No. E-682

FAYETTEVILLE

125 West Mountain Street

Fayetteville, Arkansas 72701

ATTN: Planning and Engineering Division

RE: Cambridge Crossing

Dear City Staff (Dawn Warrick, Matt Casey, and Craig Carnagey):

The name of Vantage Square - Old Towne has now been changed to Cambridge Crossing. This correspondence is in response to Item 6 of the PZD Application Checklist.

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

Tracy Hoskins - Current Property Owner
Old Towne, LLC
2223 North College
Fayetteville, Arkansas 72703
479-582-3636

No pending sales. Tracy is proposing development of the property.

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

Request is for the development of residential property as groupings of town-homes. The Owner/Developer feels there is a need, high demand, for the proposed residential development style.

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

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CITY OF FAYETTEVILLE
PLANNING DIVISION

The proposed development is compatible with the surrounding land uses, existing and proposed. The Developer intends to provide a planned expansion of the project to offer shopping and office facilities to residents of Cambridge Crossing.

Milholland Company

Engineering & Surveying

Melvin L. Milholland, PE, PLS

REGISTRATIONS:

PE: AR, MO

PLS: AR

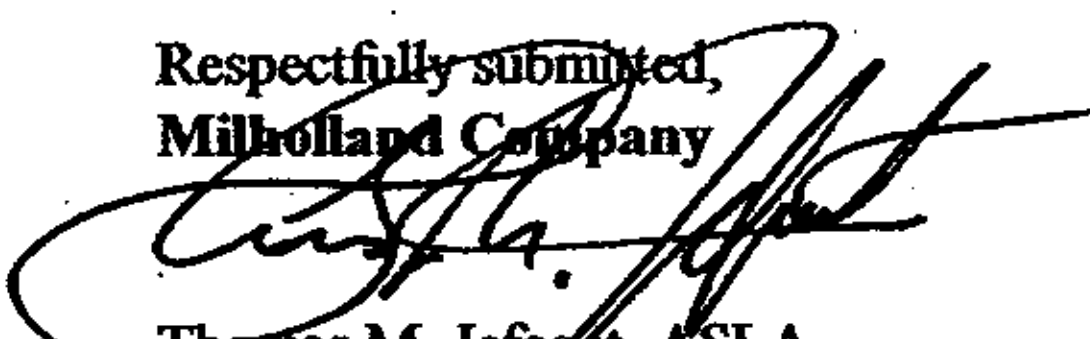
- Traffic is always a problematic issue. In this case the Owner/Developer is aware of cost sharing for a traffic signal at the intersection of Joyce Blvd. and roadway expansion across Mud Creek to improve traffic circulation.
- The development's appearance will complement, in contrast with, the existing surrounding residential and commercial developments.
- Signage will be limited to constructed appearance, and a possible pillared entrance treatment in compliance with City Code requirements.

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

There is existing 8" water service to east of the property and north of the property. There is existing 8" and larger sanitary sewer service to east of the property and along the south boundary of the project site.

Should there be additional questions, please call MCO.

Respectfully submitted,
Milholland Company


Thomas M. Jefcoat, ASLA
Projects Manger

cc: Tracy Hoskins

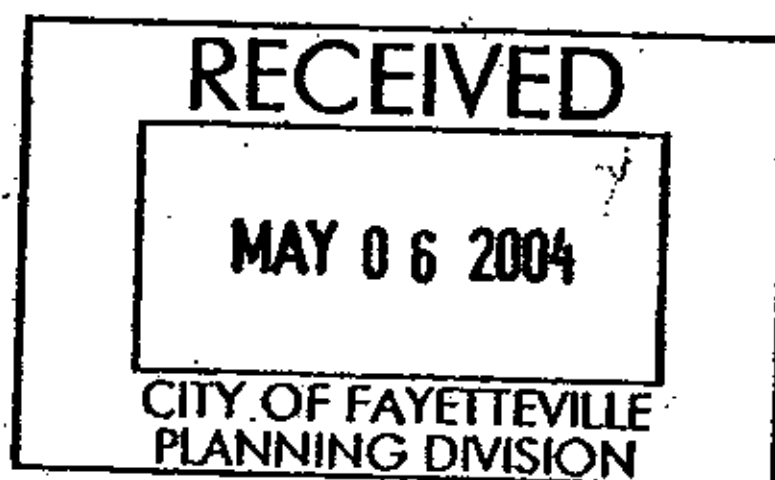
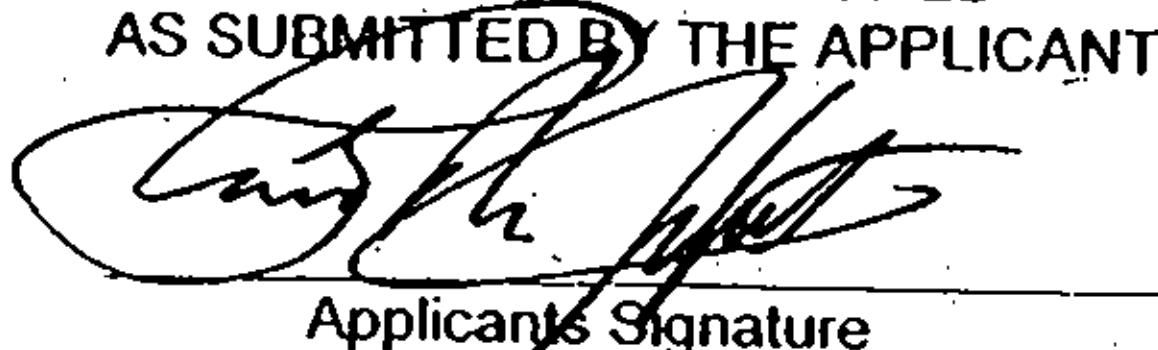
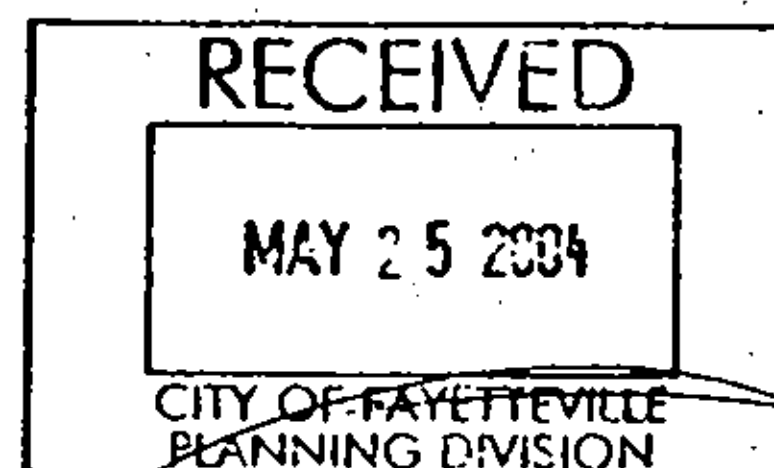


EXHIBIT "A"
R-PZD 04-1057

A PART OF THE REMAINDER OF ORIGINAL LOTS 6, 7, AND 8 OF VANTAGE SQUARE, UNIT 2, BEING LOCATED IN THE SE 1/4 OF THE NE 1/4 OF SECTION 26 AND THE SOUTH 1/2 THE NW 1/4 OF SECTION 25, ALL IN T-17-N, R-30-W, DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF ORIGINAL LOT 7, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY OF JOYCE BOULEVARD; THENCE ALONG THE COMMON BOUNDARY OF SAID ORIGINAL LOTS 7 AND 8, S18°40'07" W 338.58 FEET TO THE POINT OF BEGINNING; THENCE S87°35'53"E 711.56 FEET TO A POINT 30 FEET WEST OF THE EAST BOUNDARY OF THE ORIGINAL LOT 6; THENCE S02°36'06"W 848.88 FEET TO A POINT ON THE NORTHERN BOUNDARY OF PROPERTY DEDICATED TO THE CITY OF FAYETTEVILLE IN INSTRUMENT No. 9709229, SAID POINT BEING N02°36'06"E 65.69 FEET AND N31°09'08"W 53.99 FEET FROM ORIGINAL SOUTHEAST CORNER OF ORIGINAL LOT 6; THENCE ALONG SAID NORTHERN BOUNDARY OF CITY PROPERTY N31°09'08"W 402.01 FEET TO A FOUND IRON PIN, N38°08'36"W 263.00 FEET TO A FOUND IRON PIN, N60°15'18"W 267.00 FEET TO A FOUND IRON PIN, S84°23'03"W 155.00 FEET TO A FOUND IRON PIN, S59°46'24"W 335.00 FEET TO A FOUND IRON PIN, N70°30'18"W 388.96 FEET TO A FOUND IRON PIN, N21°50'33"E 292.26 FEET TO A FOUND IRON PIN, AND N53°28'19"E 200.91 FEET TO A FOUND IRON PIN; THENCE LEAVING SAID BOUNDARY OF CITY PROPERTY S36°32'10"E 185.39 FEET TO A FOUND IRON PIN; THENCE S71°21'36"E 338.61 FEET TO A SET IRON PIN, SAID POINT BEING ON THE COMMON BOUNDARY OF ORIGINAL LOTS 7 AND 8; THENCE ALONG SAID COMMON BOUNDARY N18°40'07"E 121.13 FEET TO THE POINT OF BEGINNING, CONTAINING 502038.564 SQUARE FEET OR 11.525 ACRES, MORE OR LESS, CITY OF FAYETTEVILLE, ARKANSAS. SUBJECT TO: AN INGRESS/EGRESS RIGHT-OF-WAY EASEMENT, 15 FEET OF EQUAL AND UNIFORM WIDTH, ADJACENT TO THE WEST BOUNDARY OF INSTRUMENT No. 95047028; ALL EASEMENTS OF RECORD AND EXISTING UTILITIES LESS & EXCEPT: LANDS CONVEYED TO THE CITY OF FAYETTEVILLE IN INSTRUMENT No. 9709229.

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


Applicants Signature



2nd Submission
RZNO4-1057
[Signature] 6/2/2004

**COMMUNITY BANK OF
NORTH ARKANSAS**

1685 E. JOYCE
FAYETTEVILLE, AR 72703

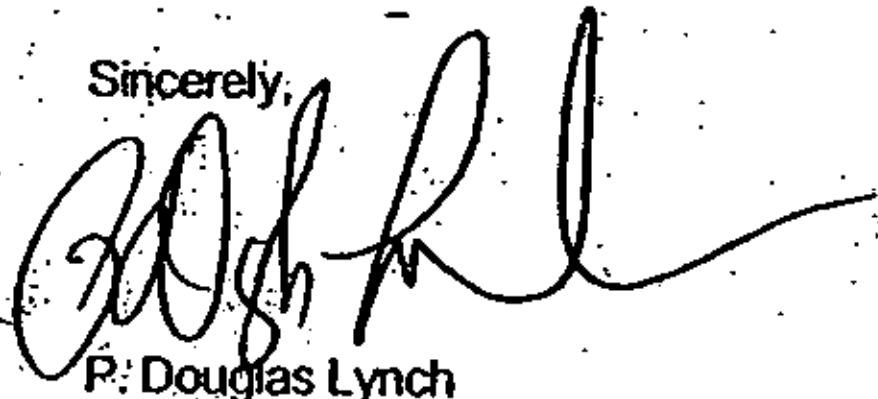
C.3.
R-PZD 04-1075 (Cambridge Crossing)
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May 20, 2004

OLD TOWNE, LLC,
CITY OF FAYETTEVILLE

As the owners of county parcel numbers 765-16850-000 (Lot 7A Vantage Square Unit Two), and 765-16849-001 (Pt Lot 6 Vantage Square Unit Two), we hereby grant permission to Old Towne, LLC to construct roads, streets, utilities, or other upon and through the previously granted easements as reflected on attached exhibit "A". This agreement is to run indefinitely and unconditionally with the property.

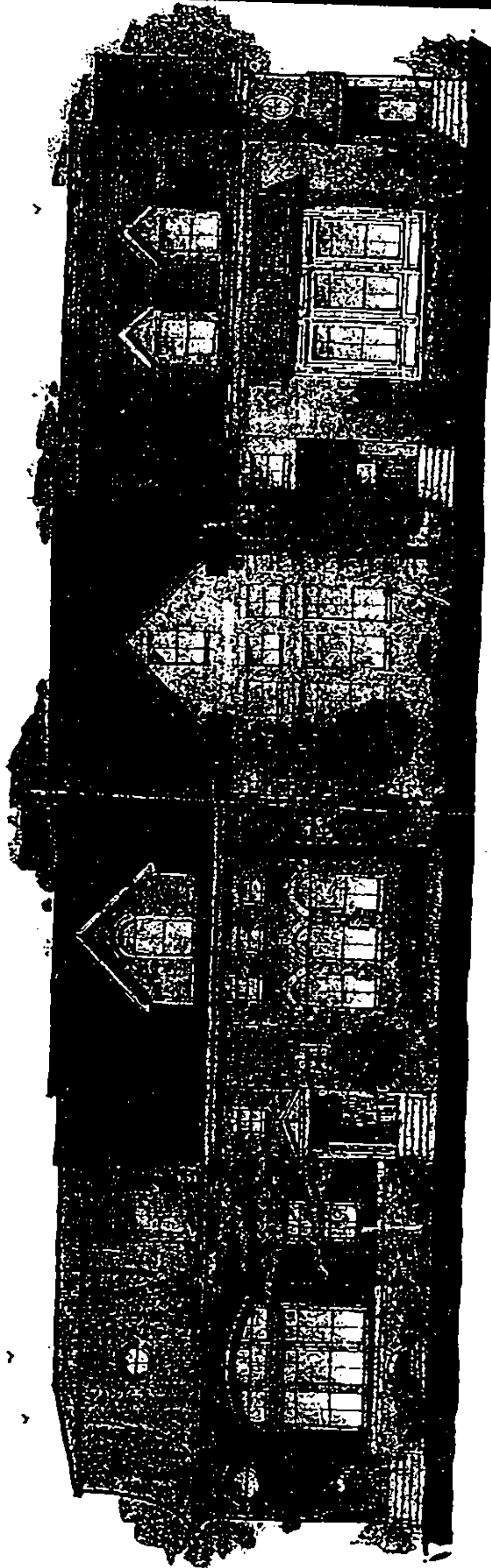
Sincerely,



P. Douglas Lynch
Executive Vice President-Community Bank of North Arkansas



Tracy K. Hoskins
Managing Member-Old Towne, LLC

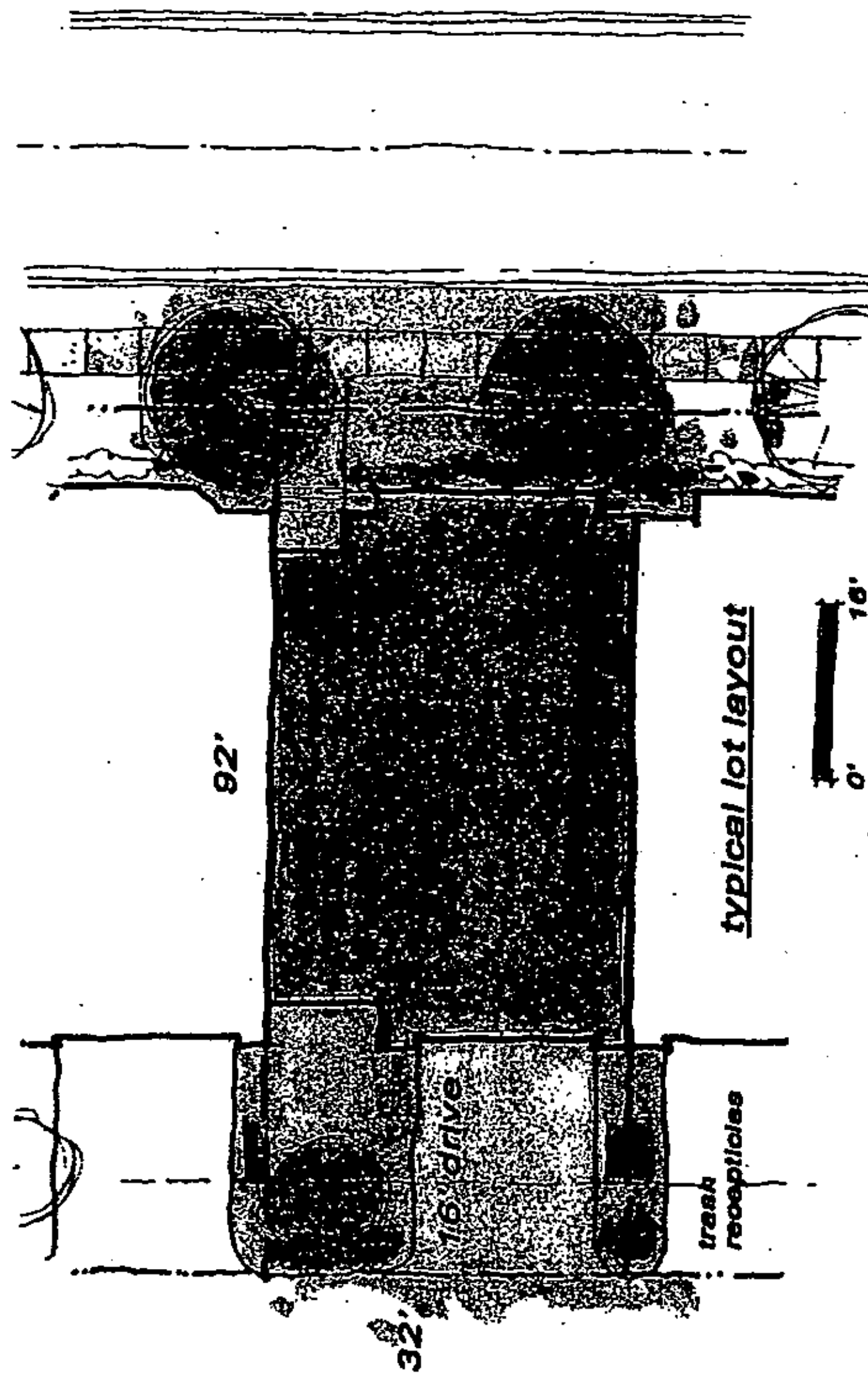


typical street elevation



Cambridge Crossing, Fayetteville, Arkansas

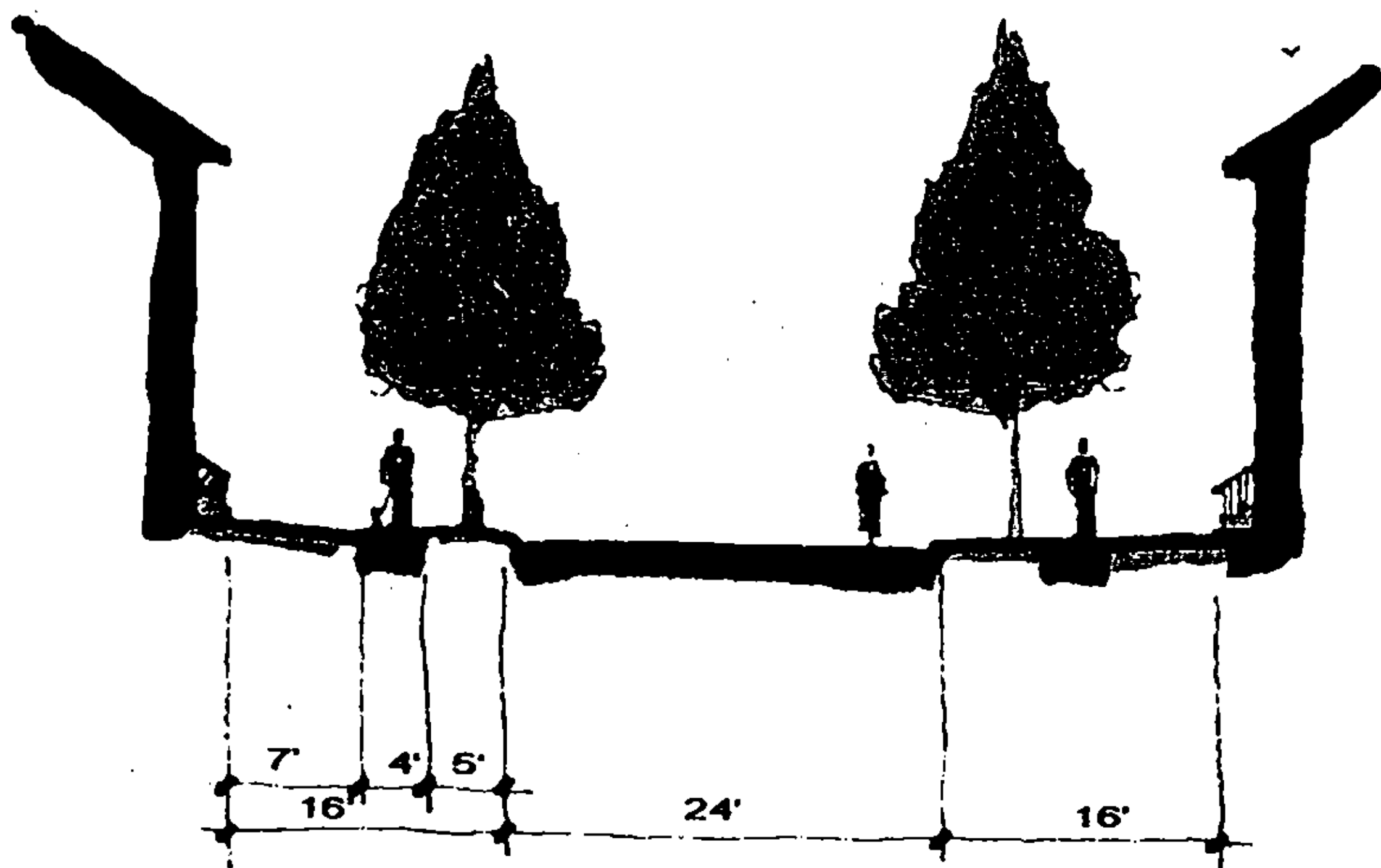
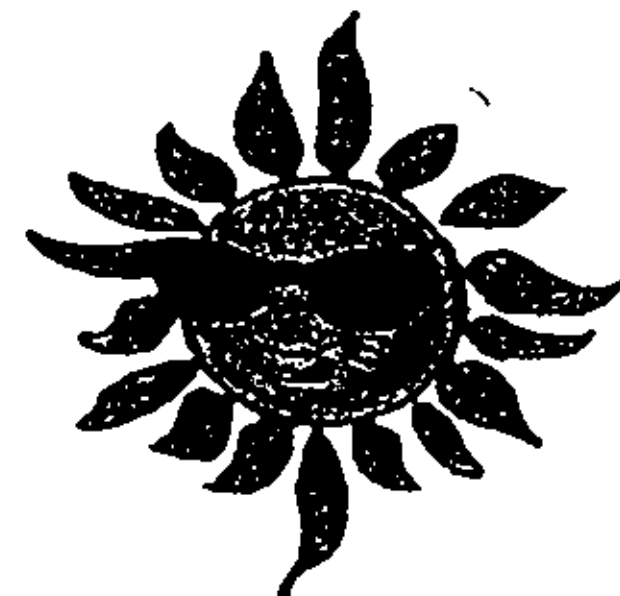




Cambridge Crossing, Fayetteville, Arkansas



ex.
Paradigm
DEVELOPMENT



Typical Street Section


CAMBRIDGE
CROSSING

A Master Planned Community
Fayetteville, Arkansas

Paradigm Development Enterprises, Inc. 2223 N. College - Fayetteville, AR 72703 - 479.236.6635

**PROTECTIVE COVENANTS AND RESTRICTIONS
FOR CAMBRIDGE CROSSING
FAYETTEVILLE, ARKANSAS**

OLD TOWNE, LLC (Developer) does hereby establish and create the following Protective Covenants, Restrictions and Architectural Control, which shall apply to all lots as shown on the recorded plat of the Cambridge Crossing PZD, found in Plat Book _____, page _____.

BE IT KNOWN BY THESE PRESENTS, that whereas Tracy K. Hoskins, trustee of the development of Cambridge Crossing, as owner and developer, do hereby enter the following covenants and restrictions:

DEFINITIONS

1. "Property" shall mean all the real property and improvements that are subject to these Covenants and Restrictions.
2. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title in any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.
3. "Lot" and "Lots" shall mean and refer to any parcel of land shown upon any recorded Plat of the Property upon which there has been or may be constructed a single-family residence.

PROPERTY AND LOT RESTRICTIONS

1. **GENERAL LIMITATIONS:** The subdivision and building codes of the City of Fayetteville, Arkansas, as they presently exist or are hereinafter amended, shall be and are hereby made applicable to the Property. All dwellings, buildings, fences, walls, structures, storage buildings, swimming pools, and improvements of every kind shall comply with said ordinances as they exist on the date of their construction. Any conflict between City ordinances and the provisions of these Protective Covenants shall be resolved in favor of the more restrictive provision. Building, architectural, and design specifications shall be in accordance with the regulations set forth in the Fayetteville Zoning Ordinance designated R-PZD (Residential); Use Unit 1 - city wide uses by right, Use Unit 10 - three family dwellings - townhome development, no more than three attached units, and Use Unit 26 - townhome development, more than three attached units.
2. **SINGLE-FAMILY RESIDENTIAL LAND USE AND BUILDING, TYPE:** Phase I lots shall only be used for single-family residential purposes. "Single Family" means one or more persons occupying a single dwelling, provided that unless all such persons are related by blood, marriage or adoption, no such family shall contain over three persons. No structure shall be erected on any Lot which exceeds three stories in height. No prefabricated, manufactured, mobile or modular housing shall be placed on

any lot. Phase II lots shall be "Mixed Use" including commercial, office, and residential.

3. **MINIMUM SQUARE FOOTAGE:** All dwellings shall be a minimum of 1,800 square feet of heated floor space (excluding garage).

4. **GARAGES:** Each dwelling shall have a garage for a minimum of two (2) cars with dimensions of not less than twenty-two (22) feet by twenty-two (22) feet. No carports will be allowed. No garage openings may face a public or private street. All garages must be rear or side entry and accessed from the provided drive located at the rear of each lot. All garages, whenever possible should be located to the rear of the structure. Under special conditions, this covenant may be modified by the CCAC (Cambridge Crossing Architectural Committee).

5. **YARD SPACE RESTRICTIONS AND BUILDING LOCATION:** The most forward point on the front of the house, inclusive of porches, shall be located at the property's front building setback line. Under special conditions, this covenant may be modified by the CCAC.

6. **ROOFS:** All structures constructed on the Property must use architectural metal, tile, wood shake or 40-year composition architectural shingles, and primary roofs must have a minimum of an 8/12 pitch. Secondary roofs, such as shed or veranda types may be a minimum of 4/12 pitch with the prior approval of the CCAC. Due to extreme architectural variations, the CCAC may approve modifications to this requirement on a case by case basis.

7. **EXTERIORS:** The exterior of all structures must be brick or stone, wood siding, or stucco. All chimneys shall be brick, stone, or stucco. All foundation shall be cover by brick and/or stone. No vinyl soffit, fascia, trim or siding will be permitted. Though vinyl windows are permitted, the CCAC encourages the use of wood type windows.

8. **ARCHITECTURAL CONTROL:** No ranch, contemporary, modern, a-frame, log, or gambrel style structures will be permitted. Cambridge Crossing is considered to be a traditional row house, high density neighborhood with an emphasis on **ARCHITECTURALLY DESIGN HOMES.**

All floor plans, elevations, specifications, plot plan showing the orientation of any structure, driveway and sidewalks, contractor, and proposed materials must be submitted and approved by Tracy Hoskins representative, Cambridge Crossing Architectural Committee, prior to starting construction. The CCAC will have 10 business days to approve the project or require modifications. The CCAC again will have 10 business days to respond each time documents, or revisions, are submitted. Once construction commences, revisions are discouraged, and must be approved by the HPAC.

9. **YARDS / LANDSCAPING:** All yards shall be fully sodded in front and in back within sixty (60) days of a certificate of occupancy being issued by the City of Fayetteville. All dwellings shall be landscaped with a landscaping package that is appropriate for the design of the dwelling and must be approved by the CCAC. Street trees will be planted no more than thirty feet apart between back of curb and sidewalks.

10. **LOT MAINTENANCE:** Prior to and during construction, all Lots shall be kept in a sanitary and attractive condition, and the Owner or occupant shall keep all weeds and grass thereon cut and neatly maintained and shall in no event use any Lot for storage of material or equipment except for normal residential purposes (except for during construction of residences or other structures.) Construction sites shall be kept neat, safe, and clear of debris at all times. Construction materials should be kept to the rear of the lot, obstructed from view, whenever possible. No burning of garbage, trash, or refuse is allowed (Except for during construction of residences or other structures and with the approval of the Fayetteville Fire Department).

11. **SIGHT DISTANCE AT INTERSECTIONS:** No fence, wall, hedge, or shrub which obstructs sight lines at intersections in the subdivision shall be permitted.

12. **HOME OCCUPATIONS, OFFENSIVE USES OR COMMERCIAL USES:** Home occupations, as defined and set forth in the ordinances of the City of Fayetteville, shall be prohibited. Further, no activity which may become an annoyance or nuisance to the neighborhood or which shall in any way unreasonably interfere with the quiet enjoyment of any Owner of a Lot or which degrades property values or distracts from the aesthetic beauty of the property shall be conducted thereon. No repair work, dismantling, or assembling of any motor vehicle or boat shall be done on any Lot unless in a fully enclosed garage or other structure, not in view from adjoining Lots or streets, and if only for noncommercial purposes. Further, no part of any Lot shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such nonresidential purpose. No childcare businesses to be allowed if more than four (4) unrelated children are involved. This area is for residential purposes only.

13. **STORAGE OF AUTOMOBILES, BOATS, TRAILERS, OTHER VEHICLES AND EQUIPMENT:** No automobiles, boats, trailers, motor homes, campers, recreational vehicles, motorcycles, buses, inoperative vehicles of any kind, cap rigs off trucks, or boat rigging shall be parked or stored permanently or semi-permanently on any public street right-of-way, yard area, or on driveways. Permanent or semi-permanent storage of such vehicles or items must be completely screened from public view either within the garage or behind a solid fence. For the purposes of these Protective Covenants, the phrase "semi-permanent" shall be defined as remaining on or about the same Lot without offsite movement for forty-eight or more consecutive hours. No eighteen wheel vehicles or any other vehicle requiring a commercial driver's license may be parked on any public or private street or any portion of any Lot except to deliver merchandise or materials to residents or construction sites.

14. **VISUAL SCREENING:** All clotheslines, equipment, garbage cans, woodpiles, refuse containers, storage piles, and household projects such as equipment repair shall be screened ~~by fencing~~, so as to conceal them from view of neighboring Lots or streets. All rubbish, trash, and garbage shall be kept in sanitary refuse containers with tightly fitting lids and shall be regularly removed from the Lots and not allowed to accumulate thereon.
15. **TEMPORARY STRUCTURES:** No trailer, tent, shack, garage, barn, recreational vehicle, mobile home, or other outbuilding shall be placed, constructed, erected or allowed to remain on a Lot if it is being used for human habitation either temporarily or permanently.
16. **STORAGE BUILDINGS:** No detached outbuildings may be constructed without prior written consent of the CCAC. If consent is granted, detached storage buildings may only be placed to the rear of the house, no closer to side lot line than the sides of the house and be a minimum of twenty (20) feet from the rear yard line, and must be enclosed inside privacy fence. All storage buildings shall use same roof and wall materials as used on the house.
17. **FENCES:** No fence shall be erected that is closer to the street than is the garage side door. If no garage side door, no closer to the front than the rear of the house. No fence shall be erected on adjoining side street that is closer to the street than the building setback line, which will be fifteen feet from the back of curb. No chain link or wire fencing shall be permitted. All wood privacy fences (rear yard only), shall have the good side turned toward the outside of the lot. That is, the framework that supports the fence is to be facing inward toward the backyard. All wood fencing must be kept in good repair. No privacy fencing shall exceed 6 feet in height. Any fencing, walls, or landscape walls located between the street and structure must be constructed of brick, stone (complementary of the structure), or wrought iron, must not exceed 4 feet in height, and must be approved by the CCAC. In effort to maintain lawns and landscape, workers must be provided access into any fenced area.
18. **SATELLITE DISHES:** All satellite dishes limited to eighteen inches in diameter shall be placed to the rear of the residence, no closer to side yard than the rear of the house and must be enclosed in privacy fence. Basketball goals are restricted to back yards only.
19. **HEATING AND COOLING DEVICES:** No structure on any Lot shall be permitted to have a heating or cooling device located in a window or any other opening which can be viewed from the street or adjoining Lots (this restriction does not apply during the construction of the structure).
20. **LIVESTOCK AND POULTRY:** No animals, livestock, or poultry of any kind shall be raised or kept on any Lot, except that dogs, cats or other household pets may be

kept, provided that they are not kept or maintained for any commercial purposes.

21. EASEMENTS, SIDEWALKS AND DRIVES: Easements for installation and maintenance of utilities, shared driveway entries, and drainage facilities are reserved as shown on the recorded Plat. No incinerator structures, buildings, fencing, or similar improvements shall be built or maintained within the area of the any easements. Owners are hereby put on notice that any structures, driveways, sidewalks, or plant material in the easements are subject to removal at the expense of the Owner(s) of the Lot on which the structure, driveways, sidewalks, or plant material is located. Easements as shown on the plat of said property are reserved for the construction, operation and maintenance of public utilities, their agents and employees, to enjoy free, open, and unobstructed access through, over, and along such easements to the end that their personnel, trucks, and work equipment may at all times install, service, operate, and maintain all utility facilities within the boundaries of said easements. Each individual lot owner shall construct a four foot wide sidewalk, ~~four~~^{five} feet from the back of curb. Sidewalks shall be of a light broom finish with expansion joints eight feet on center. All driveways shall be constructed of concrete or brick pavers.

22. MAILBOXES: No mailboxes will be installed upon any property. A mail kiosk is provided for each property owner, located conveniently for each block.

23. NO LIABILITY: Tracy Hoskins, the Developer, the CCAC, nor any other Owner shall be liable for damages to anyone submitting plans and specifications for approval, or to any Owner of a Lot affected by these Protective Covenants by reason of a mistake in judgment, negligence, or disapproval or failure to approve or disapprove any such plans and specifications and no approval or required modification of plans and specifications submitted shall be considered a warranty of any nature whatsoever pertaining to the suitability of such plans and specifications. Every person who submits plans and specifications for approval agrees that no action or suit for damage will be brought against Tracy Hoskins, the Developer, or the CCAC, its members, assigns, or any Owner(s).

24. DURATION OF COVENANTS: These Protective Covenants shall run with the land for a minimum period of thirty (10) years, until January 1, 2015, and shall be automatically extended for successive periods of five (5) years without further action unless terminated by a Vote of a majority of the Owners of Lots in the Property. Each lot owner will have one vote for each lot owned. The developer shall have FOUR votes for each lot owned.

25. SEVERABILITY: Invalidity of any restriction set forth herein, or any part thereof, by an order, judgment, or decree of any court, otherwise, shall not invalidate or affect any of the covenants and restrictions, or any part thereof, set forth herein, but they shall remain in full force and effect.

26. BINDING EFFECT AND AMENDMENT OF COVENANTS: All Owners shall be deemed to have agreed and covenanted with the Owners of all other Lots within the

Property, and with their heirs, successors, and assigns to conform to, and observe the restrictions, covenants, and stipulations contained herein.

27. **CAMBRIDGE CROSSING PROPERTY OWNERS ASSOCIATION:** The Cambridge Crossing Property Owners Assoc. (CCPOA) is responsible for the upkeep, maintenance, and repair of drainage easements, private streets, private alleyways, landscape islands and walls, irrigation systems, and any common areas or green spaces; and the lawn maintenance of each residence. Each lot owner will be assessed an annual fee of \$____, due and payable by January 10th of each year. The Developer shall be the director/overseer of the CCPOA until such time, that by majority vote of the property owners, another is appointed. Again, each lot owner will have one vote for each lot owned. The developer shall have FOUR votes for each lot owned.

28. **THE CITY OF FAYETTEVILLE,** Arkansas is a third party beneficiary to the covenants, and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants. In the event private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost of such maintenance to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes, and shall have a lien on the real property within the PZD for such cost. The City is hereby granted the right to use all private streets within this PZD for the purposes of providing fire and police protection, sanitation services, and other of the municipal functions. This section shall neither be amended nor terminated without approval of the City Council of Fayetteville, Arkansas.

IN WITNESS WHEREOF this instrument has been executed this _____ day of

Owner/Developer

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) SS.
COUNTY OF WASHINGTON)

On this day, before me personally appeared XXXXXXXXXX to me personally known, who acknowledge that she is the trustee of her respective trust, and that she, as such trustee, being authorized so to do, has executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal this _____ day of _____

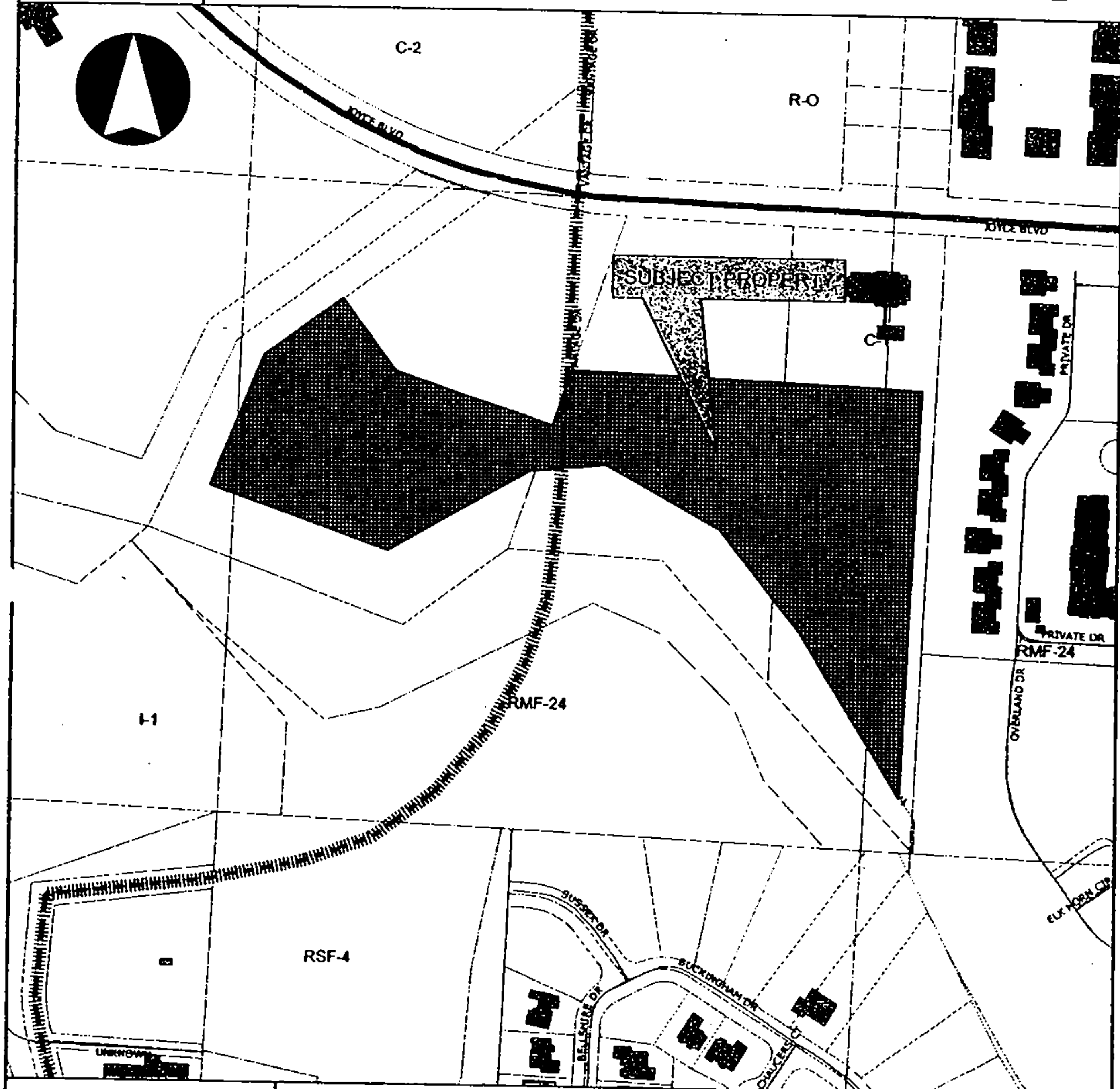
Notary Public

My Commission Expires:

R-PZD04-1075

Close Up View

CAMBRIDGE CROSSING



Overview



Legend

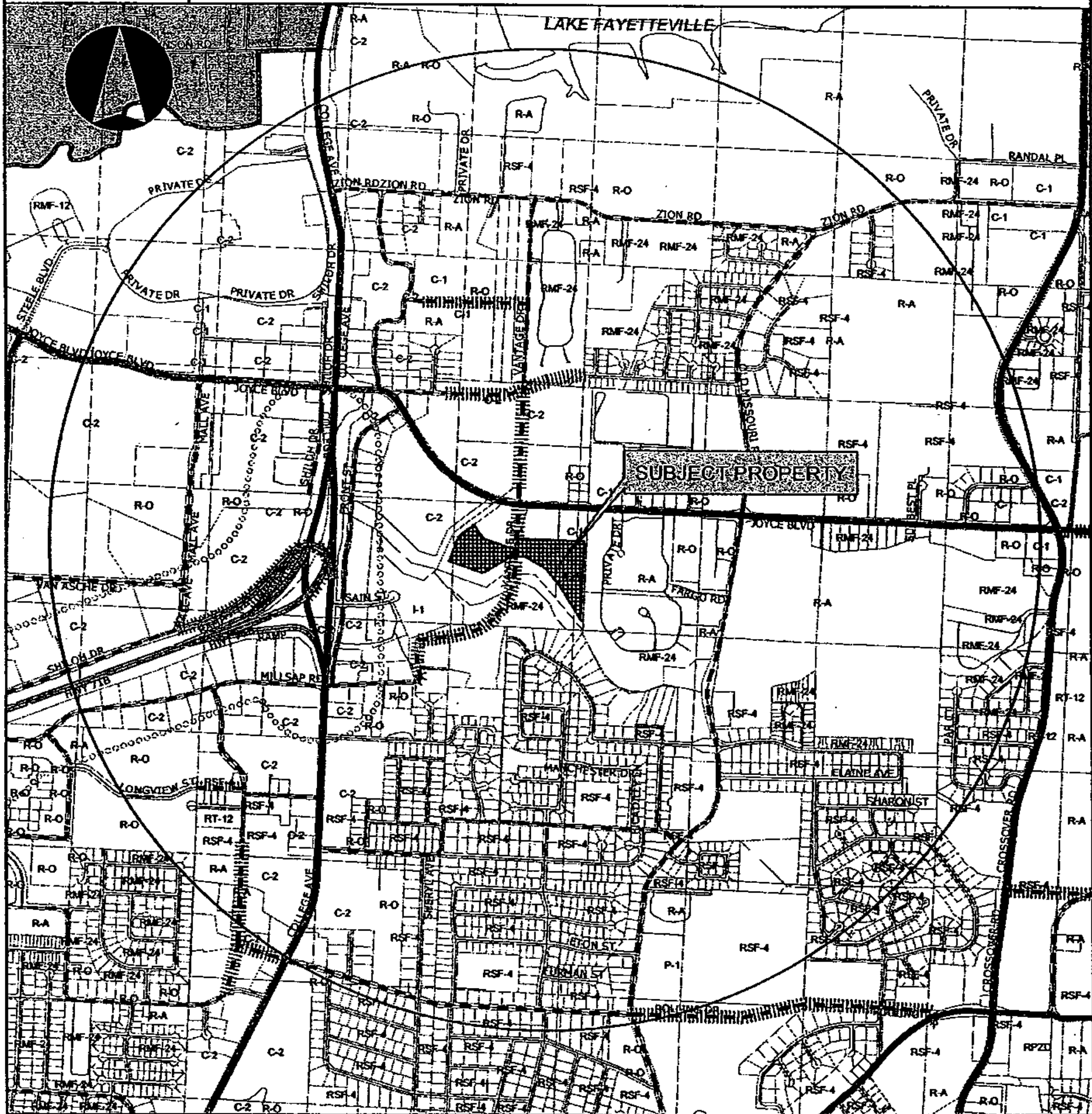
- | | | |
|--|---|---|
| <ul style="list-style-type: none"> Overlay District Master Street Plan Master Street Plan Freeway/Expressway | <ul style="list-style-type: none"> Principal Arterial Minor Arterial Collector Historic Collector | <ul style="list-style-type: none"> FLOODWAY 100 YEAR 500 YEAR LIMIT OF STUDY Base Line Profile |
| <ul style="list-style-type: none"> R-PZD04-1075 Fayetteville Outside City | | |

0 100 200 400 600 800 Feet

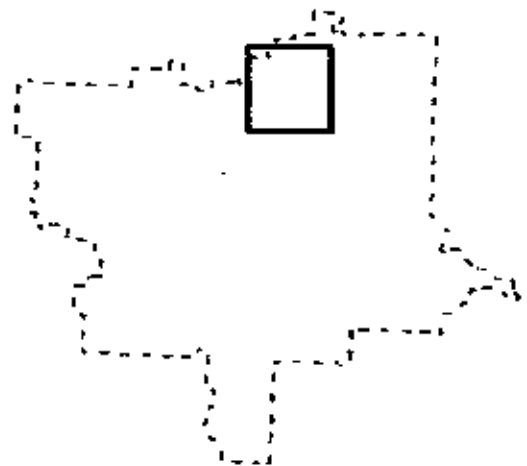
R-PZD04-1075

One Mile View

CAMBRIDGE CROSSING



Overview



Legend

Subject Property

R-PZD04-1075

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

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

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R-PZD 04-1075: Planned Zoning District (CAMBRIDGE CROSSING, 175): Submitted by MEL MILHOLLAND for property located at LOT 6C, VANTAGE SQUARE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 11.525 acres. The request is to approve a Residential Planned Zoning District on the subject property with 57 dwelling units proposed.

Ostner: The next item is a Planned Zoning District for Cambridge Crossing, R-PZD 04-1075. I believe Jeremy has the staff report.

Pate: The subject property is located off of Joyce Blvd. near the new Regions Bank which was just recently completed. The property is zoned C-2, Thoroughfare Commercial, C-1, Neighborhood Commercial and R-O, Residential Office and contains approximately 11.52 acres. The request tonight is to approve a rezoning and Preliminary Plat approval for a Residential Planned Zoning District. The proposed use of the site is for a townhouse style development consisting of 57 attached residential units and one lot reserved for community greenspace. A future phase identified on the western portion of the subject tract to be reviewed as a planned zoning district at the time of that development. The site is currently vacant. The proposed land uses on this particular site are listed there in your staff report on page 7.1, Use Unit 1 which is city wide uses by right. Use Unit 10, three family dwellings. In the townhouse development no more than three attached units. Use Unit 26, multi-family dwellings, townhouse development more than three attached units. The applicant and developer have limited four as the maximum number of attached units for this particular Residential Planned Zoning District. The total proposed dwelling units on the entire 11.5 acres is 57 yielding a density of 4.9 dwelling units per acre. As you can see, there is a Phase II. What I did is I calculated the eight acres that is currently being developed so the more actual real density of this project currently is 7.1 dwelling units per acre. The developer does propose a subdivision with attached units with all access and services to be from rear alleys and dwelling units to be built to a build to line which means the most forward point of each structure must be built to that line. Lot sizes and setbacks are proposed to be much smaller than those allowed in typical zoning districts. Therefore, the request for a Planned Zoning District is appropriate in this case. For surrounding land use and zoning, as I mentioned, the Regions Bank is located sort of to the west and north. Butterfield Trail Village is immediately to the east. Mudd Creek and the trail system is located directly to the south and the Community Bank with one vacant commercial lot is adjacent to the north along Joyce Blvd. This particular proposal accesses from Vantage Drive, which is a brand new street just recently constructed. There is a future traffic signal planned at that location. A connection south in the future is also planned. It is on the Master Street Plan and it will require a bridge over Mudd Creek to go any further. The developers in the area are being assessed a proportionate

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share to construct and staff has made a recommendation that this developer be assessed a proportionate share for that bridge as well as the traffic signal. Interior to the project public streets are being provided within a 40' right of way. A 24' cross section is proposed with sidewalks on both sides. All lots are prohibited from having street front facing garages. As I mentioned, access is all from rear alleys. Those alleys will be private to be maintained by the H.O.A. The Parks and Recreation Board did meet on this project and is recommending money in lieu of land. They obviously have land directly to the south. The city maintains the trail system there and constructed the trail system. They are recommending accepting money in lieu in this location in the amount of \$32,190. A draft of protective covenants has also been submitted. I will mention at Subdivision Committee the majority of the discussion centered around what is on page 7.3 under the background section. The Subdivision Committee spoke a lot about the covenants, what items were not identified. I will mention a couple of those for you. The revised covenants have been submitted including architectural treatment of proposed residential structures. The allowed use units that I mentioned. The street tree commitment which is also included as a conceptual street tree plan on the grading plan. As well as language in the covenants that address that 1 per 30 linear feet. The mail kiosks have been identified. On street parking is allowed, not permanent property. Those are specific items that the Subdivision had questions about. Additionally, there has been some concern about a reservation for community open space within this development. The applicant at this time has recommending Lot 1 and Lot 11 for that open space and pedestrian connection to Mudd Creek Trail. Additionally, they've also provided sidewalk at the mid-block alley connection which is not in the Subdivision Committee packets the last time. Also, the developer has acknowledged that a vegetative enhancement buffer between the alley and the trail is necessary. A couple of the many findings that staff is charged to make with this and the Planning Commission is charged to make with this request. I would direct your attention to page 7.14. Staff does feel that this property is appropriate for the Residential Planned Zoning District that is before us. It is identified as residential on the Future Land Use Plan. Proposed density and land use is compatible with adjacent development and will not negatively impact surrounding developments. Also, this proposal does meet several residential guiding policies in the General Plan 2020. It is utilizing principles of traditional residential urban design to create compatible, livable and accessible neighborhoods. Traffic is minimized on minor residential streets through this development. Additionally, it is also sited with access to roadways, alternative transportation modes and community amenities. Based on those findings of staff as well as public service providers, staff is recommending approval of this Planned Zoning District for the proposed Preliminary Plat as well as recommending this PZD be forwarded to the City Council with a recommendation for

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approval of the rezoning request. There are 19 conditions. We have received signed conditions of approval. I believe most of those I have discussed. There are a couple of Planning Commission specific determinations that do need to be made tonight. Item number three and five are directly related to those offsite assessments in the amount of \$46,167 for the assessment for a future bridge crossing. As well as \$5,544 for an assessment for a future traffic signal at Vantage and Joyce. Item number five, Planning Commission determination of a waiver request for minimum street standards for radius of a curve. That is obviously the tightest curve in the development at the southwest of the site. Item number six, Planning Commission determination of the community open space lot location. As I mentioned, the developer identified lot 1 or lot 11 as options for that. The designated lot shall be labeled as such on the plat. Staff has actually made a recommendation on which lot we would prefer to see. That is lot 1. It is the least desirable for a dwelling unit. It also allows for more usable space, it is a larger space than the other lots and additionally, the mid-block connection has been made with the sidewalk. If you have any questions I will be glad to answer them.

Ostner: Thank you Mr. Pate. Is the applicant present?

Jefcoat: I am Tom Jefcoat with Milholland Company. Jeremy did an adequate job in presenting the issues and we are in agreement with the 19 conditions of approval. I would like to point out however, that items three and four, the assessments made for the streetlights, we are not opposed to. We would like to stipulate that a time be placed on that. The \$46,000 for the bridge improvement we are still working with and question Engineering staff as to the actual determination of that use. We would also like to see some time limit placed on that, three to five years, if that money is placed in escrow and not used for the construction of that bridge that it be returned to the owner. The other thing that I would like to point out and have on record is that there is a detention study underway. We have made contact with staff. We are talking to the Engineering Department on a methodology and usable data in which to return the designated detention areas into open space, which are all recommendations that we have discussed at Subdivision level. I'm available to answer any questions that you may have. I appreciate your approval of this project.

Ostner: Thank you Mr. Jefcoat. Is there anyone from the public who would like to comment on this project? Seeing none, I will close it to the public and bring it back to the Commission for comments or questions.

Anthes: I just had a couple of questions on the protective covenants on item number four, would you be willing to insert some sort of support for the guest parking on the street as a strategy in the covenants so that the tenants understand that?

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Jefcoat: Certainly.

Anthes: There was one other thing. On item 21 there is a conflict between this and the items of approval. It says that each individual lot owner shall construct a 4' sidewalk 4' from the back of the curb but I believe that has been changed to 5'.

Jefcoat: Yes it has.

Anthes: Sidewalks shall be of a light broom finish with expansion joints 8' on center and I believe that our requirement is that those would be constructed through the drives.

Jefcoat: Yes, we do show those as constructed through the drives.

Anthes: If you would just make those amendments so that is clear I would appreciate it.

Ostner: This community open space that we are looking at lot 1 right now, what is that going to look like? How is it going to work? It is maintained by the H.O.A., is it accessible to the public?

Jefcoat: It belongs to the H.O.A. and the use of that would be left up to the determination of the H.O.A.

Ostner: I started thinking about it and the verbiage is very clear that the P.O.A. is responsible for the upkeep. I am reading 27 of your protective covenants. "Responsible for the upkeep, maintenance and repair... and any common areas or greenspaces." For me, I don't think I picture a little sign for Property Owners only please. I know we are not calling this a park. I wanted to know. It sounds like a private park.

Jefcoat: You say park but it is common open area to be used by the P.O.A.

Ostner: It is foreseeable that says only P.O.A. please? You are not ruling that out?

Jefcoat: No, we are not ruling that out. I am just questioning as to why the need for a sign.

Ostner: I don't think there should be a sign at all. I was thinking back to Subdivision.

Jefcoat: There would be no sign.

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Ostner: I would hope not. Our discussion at Subdivision, we talked about where this should be and how it should operate and I wondered if it was open to the public.

Jefcoat: There will be no sign that says that this is a private open area.

Ostner: Thank you. That's important. On number fourteen you are talking about visual screening. "Everything...garbage cans, equipment shall be screened by fencing." I wondered if you were interested in offering another form of screening that your C.C.A.C. could approve. I hate to see fences mandated if two neighbors want to grow a thicket between them. Is that something you all have considered?

Jefcoat: That would be a consideration of the P.O.A. They would have that option.

Ostner: The way this reads it doesn't really have the option. It just says fencing is the only screening.

Jefcoat: Let's say that they would be screened, it would leave that up to the option of the P.O.A. We will change that wording.

Ostner: On number four talking about the garages, a minimum of two cars with dimensions of not less than 22'x22'. You don't really refer to the dimensions of the driveways approaching those driveways, are you all interested in dictating how large or small? A lot of people would build a 22' wide driveway. Seeing as these are 35' lots.

Warrick: The city has a maximum driveway width for a residence of 24'.

Ostner: Their sketches have called out a 16' driveway which I think would be better. Those are my only questions.

Vaught: Is there a reason, I know there has been some issue raised at Subdivision and I believe we talked about it at agenda session about the greenspace. When you take out Phase II the density per acre goes way up. Is there a reason why we are not seeing it all together so we could get a better picture of the greenspace for the overall development? It looks like you guys are going significantly less dense in Phase II of this PZD is that correct?

Jefcoat: Phase II will be a later development.

Vaught: Significantly less dense?

Jefcoat: That has not been determined at this point.

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Vaught: In our numbers it is showing that. That's why I was just trying to understand.

Jefcoat: I think Jeremy addressed that with what the actual density is for the acreage that is being developed.

Warrick: The numbers that are in there indicate Phase II included with zero units on it or Phase II removed.

Vaught: So really our density is 7.1 units per acre.

Warrick: That is the density on the project site for this space.

Ostner: Do you all have approximate prices for these individual units?

Jefcoat: Not at this time.

Clark: The conditions of use that you all have hammered out are admirable. I thank you for those. I have a question about number six, the community open space, are you leaning towards lot 1 or lot 11? I know staff is recommending 1 but I'm not sure that it is in our rights to dictate.

Warrick: Staff has made a recommendation. The applicant has agreed to the conditions of approval. I don't know if they have any further comments on that but we expect that their agreement concurs with our recommendation.

Jefcoat: It does.

Clark: Ok.

Ostner: If it is approved as worded here it might be built either or and that would meet the condition of approval.

Clark: Is the developer leaning one way or the other? I really like Lot 1.

Jefcoat: We also liked Lot 1 at Subdivision Committee but we were dictated that 11 should be included so we therefore included 11 as a consideration.

Clark: If it is an or, I'm agreeing to the or here, 1 is acceptable to you all?

Jefcoat: Yes.

Clark: That would have to be a motion is that correct?

Ostner: Yes.

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- Vaught: The study about the detention is still under consideration, is that correct?
- Jefcoat: Yes. We have met with city staff and talked with the Engineering Department as to what available data they may have, where available data can be obtained and how they would like that data presented. We are in those stages of obtaining that data through the Engineering Department or through other sources and a methodology is being determined at this point.
- Vaught: If it is found detention is not needed, that won't be parkland dedicated, that will be private open space and it won't affect the parkland dedication correct?
- Jefcoat: That is correct. That will then be open space.
- Ostner: You eluded to an issue with conditions three and four, the traffic signal and the bridge crossing.
- Jefcoat: We are willing to be assessed for those improvements. The dollar amount for the bridge is somewhat in question. We have asked the Engineering Department to take a second look at that so we can get in agreement with the exact dollar on that. The traffic light and the bridge we place that money in escrow, we would like to see a time period placed on those funds.
- Warrick: By ordinance there is a time period established. The final numbers will again be reviewed and confirmed with the Final Plat for this project which you will see at a later date after infrastructure has been installed. With regard to the time frame, the ordinance calls for when an offsite improvement is not constructed within five years from the date of payment into the escrow account the Planning Commission may hold a public hearing. Generally that is at the request of the developer who has paid into that escrow account. All affected property owners would be notified and the Planning Commission then has three options as to how to determine what happens with that funding. Either the improvement would be found to be necessary that there might be a timely project coming down the pike that the money would be applied to or the improvement would be deemed unnecessary and the monies would then be either returned to the developer or to those person affected. The last option would be with written consent of the majority of property owners who have purchased lots in the subdivision may petition the Planning Commission to direct that money towards other improvements. You have got some options and those would be presented to you at the time of the applicant requesting a hearing at five years.
- Jefcoat: We just wanted to make that point to make sure that it is on record.

Planning Commission
June 14, 2004
Page 24

Williams: I want to be clear though that the monies are refunded to the then property owner so it would not necessarily be to the developer who paid the money unless you still own all the lots. That was a hotly contested issue a couple of years ago and the Planning Commission decided to refund the money to the current owners and then the ordinance was changed to make that true in every case.

Ostner: Do other commissioners have an issue with number five, the radius of the curve standards? Does anyone have a problem with number six?

Clark: I would like to see a determination made. I would like to see lot 1 as a designated greenspace. Quite honestly it seems to be a more functional choice. I do have another question. At one point we talked about Lot 58 being a dedicated guest parking and then you said it would go to greenspace.

Jefcoat: We were just talking about at that point it would be an option for that lot.

Clark: Ok, so it is going to be a sellable lot?

Jefcoat: Yes.

Clark: I would definitely like to see that condition mandate Lot 1.

Ostner: Is that a motion?

Clark: So moved.

Ostner: I will second that. I think it is good sense. It is the least developable and it makes good sense.

Shackelford: Is the motion to change the condition of approval or is the motion for approval with that condition being changed?

Clark: My motion would be to change that condition of approval to read "The developer has identified Lot 1 as open space." Then we will vote on the entire thing.

Vaught: I guess as a question for Mr. Williams, is that the proper way to do it? Normally we go ahead and make a condition of approval and then change it.

Williams: It is probably better to make the changes before you make the final adoption?

Planning Commission

June 14, 2004

Page 25

Shackelford: I'm just sad to learn we've been doing it wrong for the five years that I've been here.

Jefcoat: I would like to point out one additional thing. It was discussed in Subdivision and it was our understanding that should the detention facilities become usable open space then Lot 1 would also be gained back at that point. We have a considerable amount of open space and if those detention facilities become open space then those would satisfy the need for open space in three different locations instead of just one.

Ostner: I understand that.

Clark: That is not what I understood at Subdivision. I understood it was in addition to.

Jefcoat: No. The detention facilities are greenspace and the question came up as to the need for open space. If those green areas that are now detention facilities no longer exist as detention they would be our open space. We have three locations for those instead of just one.

Warrick: I think that that throws a few unknowns into the pile here. The study will be completed prior to Final Plat because of course that affects the infrastructure requirements. I think it would be appropriate for the Planning Commission to make a determination as to where they feel the community open space is appropriate based on the Preliminary Plat that you are looking at now. Understanding that based on this detention study there could be some changed conditions with regard to three other areas identified on the plat currently as detention. I'm not saying that Lot 1 should not be open space, because staff is obviously recommending that. We feel that it is appropriate. If there are changed conditions at the time of Final Plat I think it would be appropriate then to reevaluate that. We don't know that conditions are going to change.

Clark: What you are saying if we approve this amendment Lot 1 is the designated greenspace. But if the detention ponds are proven not necessary you could come back and petition us to reconsider what to do with those?

Warrick: Yes.

Clark: I'm not agreeing that if the detention ponds are not needed that you get Lot 1 back. At least me, we will discuss it as a whole panel but if you are going away thinking that that is not my impression. Lot 1 is my preference. If it changes we'll see it.

Ostner: Is there anymore discussion on this proposed amendment to Condition 6? Could you call the roll please?

Planning Commission
June 14, 2004
Page 26

Roll Call: Upon the completion of roll call the amendment to the condition of approval was approved by a vote of 8-0-0.

Anthes: Just to follow up a little bit on that last bit of discussion. Personally I would probably be looking for Lot 1 and Lot 58 to be greenspace if the detention was not able to be greenspace.

Jefcoat: Detention areas will always be greenspace.

Anthes: Right but not usable by the community.

Jefcoat: We more than adequately meet the greenspace requirements.

Anthes: Yes but this is a PZD and we are able to look at a goal of the Planned Zoning District is to promote community and if this board feels that that open space is required we can ask you to do that. That said, I will move for approval of R-PZD 04-1075 with a positive recommendation to the City Council and subject to all 19 conditions of approval as amended.

Shackelford: I will second.

Ostner: I have a motion by Ms. Anthes and a second by Mr. Shackelford. Is there further discussion? Could you call the roll please?

Roll Call: Upon the completion of roll call the motion to forward R-PZD 04-1075 to the City Council was approved by a vote of 8-0-0.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

R-PZD 04-1075 (Cambridge Crossing)
Page 59 of 60

C.3

x

AGENDA REQUEST

For the Fayetteville City Council Meeting of:

July 6, 2004

FROM:

Dawn Warrick, AICPPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

R-PZD 04-1075: Planned Zoning District (CAMBRIDGE CROSSING, 175): Submitted by MEI, MILHOLLAND for property located at LOT 6C, VANTAGE SQUARE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 11.525 acres. The request is to approve a Residential Planned Zoning District on the subject property with 57 dwelling units proposed.

STAFF RECOMMENDATION: Approval

Dawn Warrick 6/17/04
Division Head Date

City Attorney

[Signature] 6/18/04
Date

Received in Mayor's Office

6-18-04 gm
Date

Department Director

Date

Finance & Internal Services Dir.

Date

Chief Administrative Officer

Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item:

Yes

No

Mayor

Date

CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: June 17, 2004

Subject: Rezoning request for Trumbo (RZN 04-1080)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 0.81 acres of property from R-A, Residential Agricultural to C-1, Neighborhood Commercial.

BACKGROUND

Property description: The subject 0.81-acre tract of land is located on Hwy 62 (6th Street), directly north of the Lowe's Planned Zoning District. Surrounding properties are zoned C-1, C-2, R-O and C-PZD along 6th Street. The Future Land Use Plan identifies this property for Mixed Use. A single family home currently occupies the site, though vacant at this time. Similar properties are situated nearby, zoned for office or commercial use.

Proposal: The applicant proposes to rezone the 0.81-acre tract in anticipation of a future sale and development of the property for non-residential and non-agricultural uses. A specific anticipated use of the property has not been identified at this time. The requested zoning will provide convenience goods and personal services for persons living in the surrounding residential areas.

DISCUSSION

On June 14, 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 04-1080 AS SUBMITTED BY
JAY RODMAN FOR PROPERTY LOCATED AT 3198 W. 6TH
STREET, CONTAINING APPROXIMATELY 0.81 ACRES FROM
R-A, RESIDENTIAL AGRICULTURAL TO C-1,
NEIGHBORHOOD COMMERCIAL

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 C-1, Neighborhood Commercial as
shown in Exhibit "A" attached hereto and made a part hereof.

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 04-1080

A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT A POINT WHICH IS 679.07' SOUTH AND N89°17'58"W 1038.49' FROM THE NORTHEAST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE NORTH 265.12', THENCE S89°17'58"E 118.91', THENCE S87°21'53"E 26.30', THENCE S00°01'15"W 220.44' TO THE NORTH RIGHT OF WAY OF HIGHWAY 62 WEST, THENCE S73°50'50"W ALONG SAID RIGHT OF WAY, 151.06' TO THE POINT OF BEGINNING. CONTAINING 0.81 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS OF RECORD, IF ANY.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 14, 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: June 09, 2004

RZN 04-1080: Rezoning (TRUMBO, 557): Submitted by JAY RODMAN for property located at 3198 W 6TH STREET. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.81 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to C-1, Neighborhood Commercial.

Property Owner: DONNA TRUMBO

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>	
Date: <u>June 14, 2004</u>	☒ Approved	☐ Denied
	9-0-0	
CITY COUNCIL ACTION:	Required <u>YES</u>	
Date: <u>July 06, 2004 (1st reading if recommended)</u>	☐ Approved	☐ Denied

Comments: _____

BACKGROUND:

Property description: The subject property is located north of Hwy 62W (6th Street), north of the Lowe's development, west of Finger Road. Surrounding properties are primarily large tracts which are vacant or developed with as commercial properties. The 0.81-acre tract contains a single family dwelling, within an R-A zoning district. This lot is an existing non-conforming lot of record, as the R-A district requires a minimum 2.0 acre size. Property to the north and east is

zoned C-1, to the west R-O, and to south C-PZD, which is the Lowe's Home Center.

Proposal: The applicant has not disclosed a potential use or project on the site, though it is anticipated that a land use allowed within the C-1, Neighborhood Commercial zoning district will be pursued.

Request: The request is to rezone the subject property from R-A, Residential Agricultural to C-1, Neighborhood Commercial.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant	C-1, Neighborhood Commercial
South	Lowe's Home Center	C-PZD, Commercial PZD
East	Vacant	C-1, Neighborhood Commercial
West	Single Family home as a business	R-O, Residential Office

INFRASTRUCTURE:

Streets: The property fronts onto and is accessed from Sixth Street (Hwy 62) which is an improved five lane highway. If development occurs on this site, street improvements will only consist of replacement of any broken sections of curb and gutter and the installation of a 6' sidewalk located at the right-of-way.

Water: The property currently has access to a 12" water main on the south side of Sixth Street. An extension of the water main may be required to provide water supply and fire protection within any development on this property.

Sewer: The site currently has access to a 6" sewer line to the northwest of this property. A sewer main extension will need to be constructed to provide service to any development on this site. A capacity analysis may need to be conducted to verify line capacity before the extension will be allowed.

Fire: The subject property is located 1.5 miles from the Fire Station #6 on Hollywood Avenue. Fire response time is approximately 3-4 minutes.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services.

LAND USE PLAN: The Future Land Use Plan designates this site for Mixed Uses. Rezoning this property to C-1 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 commercial in nature, and those that are vacant are currently zoned for commercial or office land uses. The proposed C-1 zoning is compatible with adjacent properties, in converting a remnant tract of Residential-Agricultural along Hwy 62 to a more appropriate commercial designation.

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 utilize the subject property in an appropriate manner that is compatible with adjacent land uses.

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

Finding: There is no known proposed re-use of the site at this time. It is anticipated that a future commercial use on the property would increase traffic from that which is currently generated. However, Hwy 62 is a Principal Arterial, and a 5-lane improved highway in this location, which should adequately serve the increase on an 0.81-acre site. At the time of development, curb cuts/entry drives onto the property will be reviewed for safety.

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 not alter the population density in the area.

Public service providers have responded accordingly:

- 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 approximately 3-4 minutes (approx. 1.5 miles) from station #6 on Hollywood Ave. Hydrants may need to be installed to serve development on this property.
- Engineering –** The property currently has access to a 12" water main on the south side of Sixth Street. An extension of the water main may be required to provide water supply and fire protection within any development on this property.
- The site currently has access to a 6" sewer line to the northwest of this property. A sewer main extension will need to be constructed to provide service to any development on this site. A capacity analysis may need to be conducted to verify line capacity before the extension will be allowed.
- The property fronts onto and is accessed from Sixth Street (Hwy 62) which is an improved five lane highway. If development occurs on this site, street improvements will only consist of replacement of any broken sections of curb and gutter and the installation of a 6' sidewalk located at the right-of-way.

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

161.16 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in restaurants
Unit 25	Professional offices

(2) *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 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

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

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

April 19, 2004

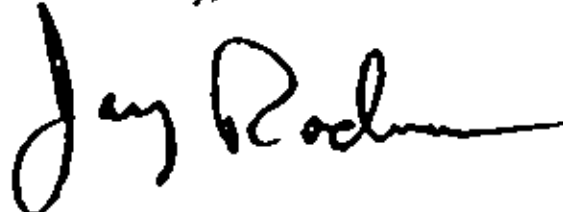
Planning Commission

To Whom It May Concern:

SUBJECT: REZONING APPLICATION: ITEMS 5 & 6.

- 5A. Donna Trumbo owner, Owner of 3198 W. 6th Street, has entered into a contract to sell the property pending the successful application for rezoning.
- 5B. Buyer has a contingency in the contract for zoning to C1 status.
- 5C. Property adjacent to and west of subject property is currently zoned RO; Property's adjacent to and east and North of subject property is currently zoned C1. Property to the immediate South of Subject property (Lowe's) is zoned CZPD. The potential buyer has not disclosed use of property.
- 5D. A six-inch water line is available along Old Farmington Road as well as along One Mile Road, a twelve-inch water line is available along the south side of Hwy. 62. A six-inch sewer line is available along the north side of Hwy. 62.
- 6A. As the majority of adjacent properties are zoned C1, we feel the proposed zoning is consistent with land use planning objectives, principles, and policies within this area.
- 6B. The proposed zoning is justified and needed at this time to meet the contractual obligations of the property owner.
- 6C. This property consists of .81 of an acre, while the eventual use will be commercial in nature, we do not foresee an appreciable increase in traffic and danger and or congestion.
- 6D. This property consist of .81 of an acre, while the eventual use will be commercial in nature, we do not foresee an appreciable increase in the load on public services including schools, water and sewer facilities.
- 6E. As the property fronts Hwy. 62, which carries in excess of thirty thousand cars per day, we don't believe that the current zoning allows for the highest and best use of the property.

Sincerely,



Jay Rodman

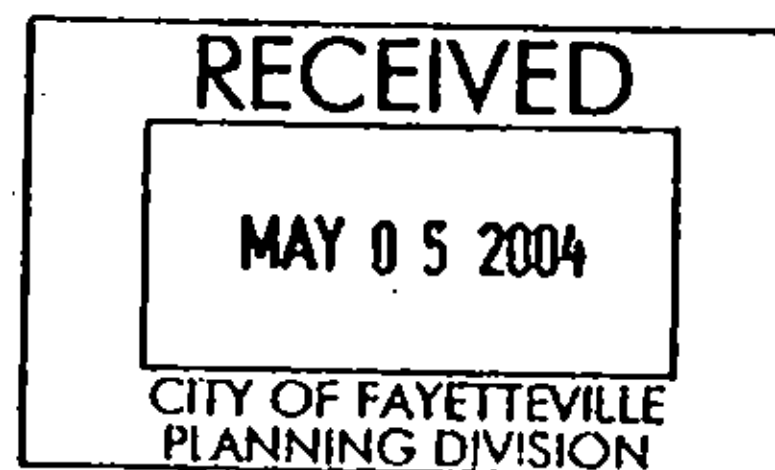
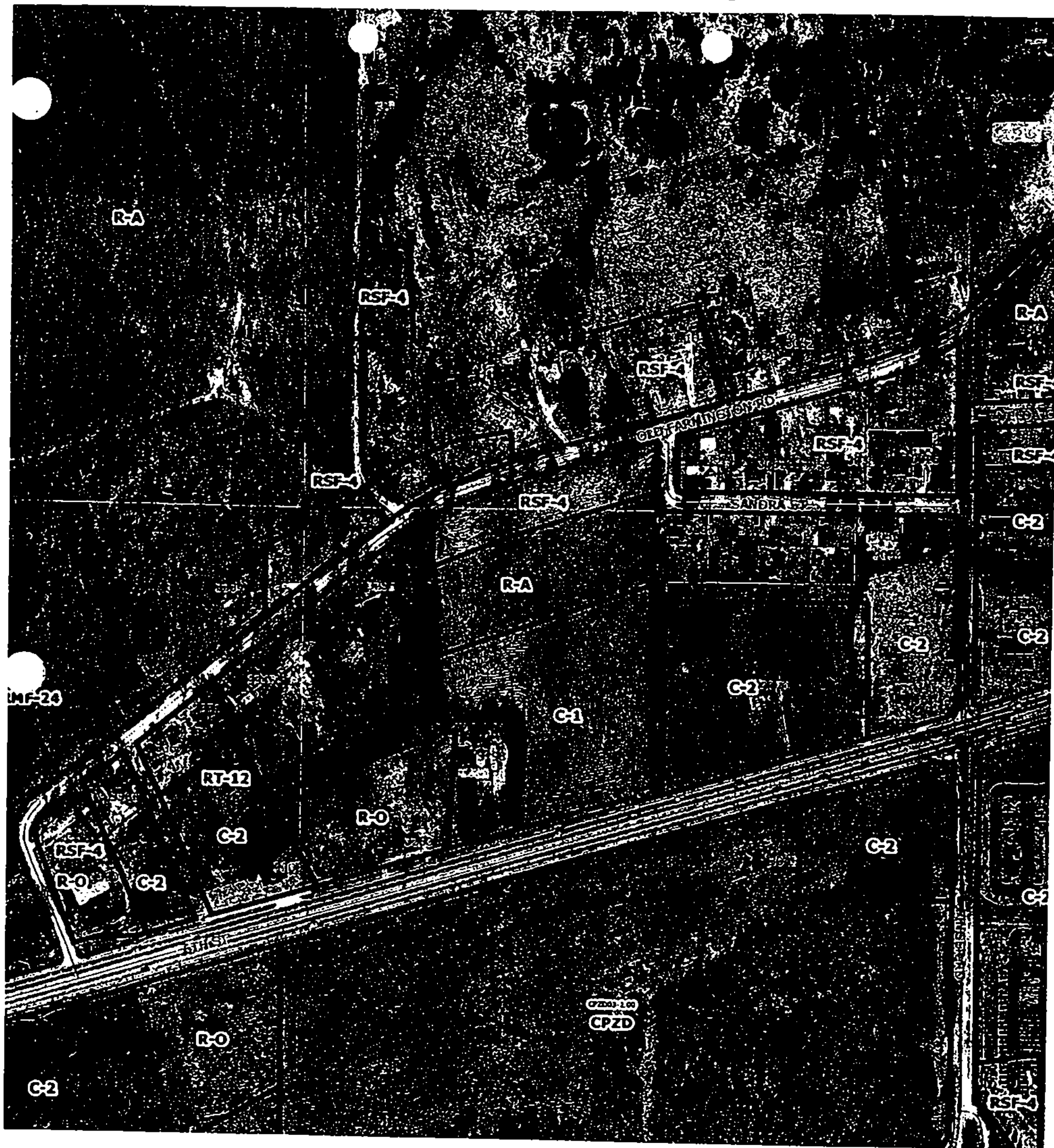
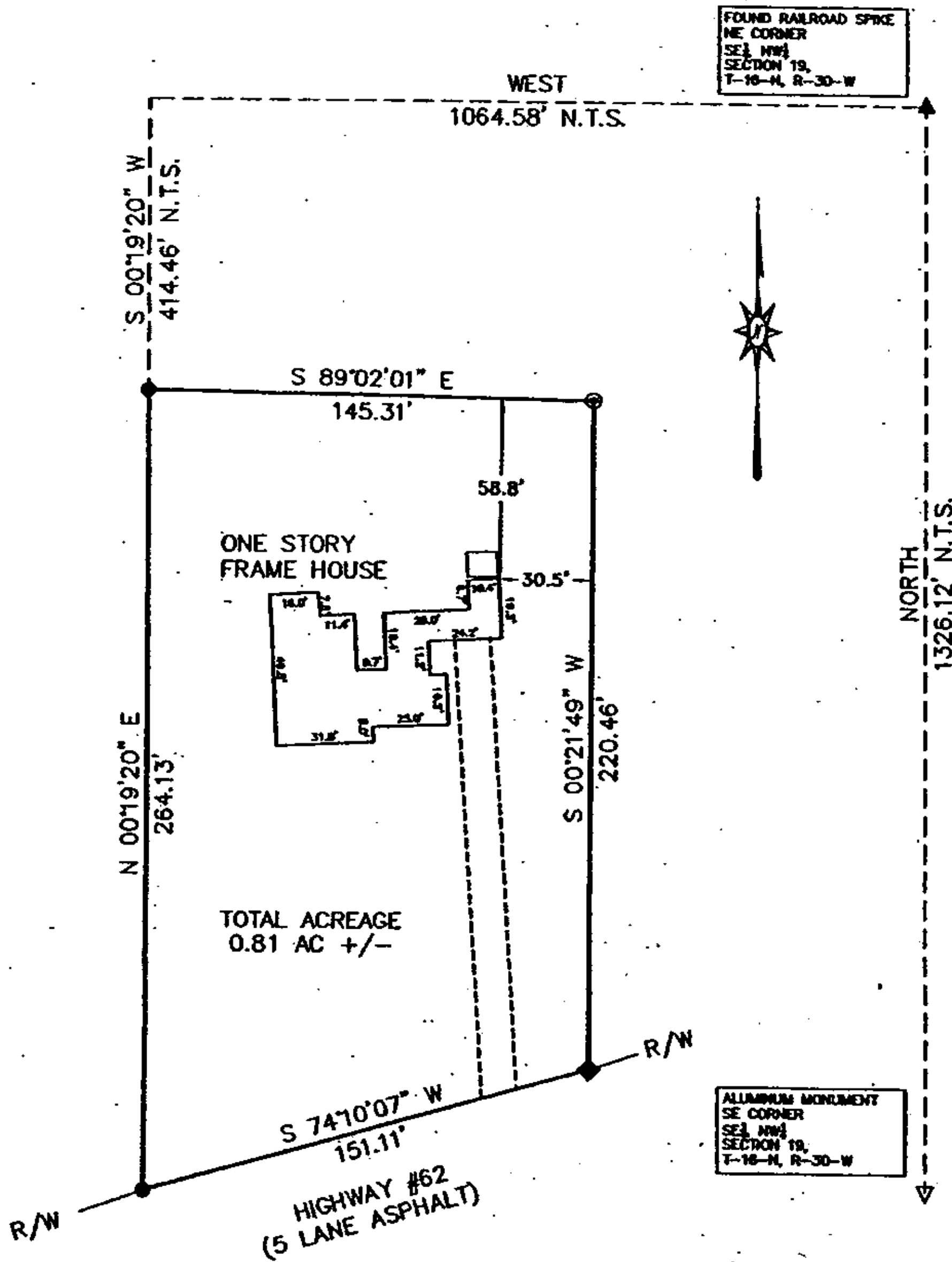


EXHIBIT "A"
RZN 04-1080

A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT A POINT WHICH IS 679.07' SOUTH AND N89°17'58"W 1038.49' FROM THE NORTHEAST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE NORTH 265.12', THENCE S89°17'58"E 118.91', THENCE S87°21'53"E 26.30', THENCE S00°01'15"W 220.44' TO THE NORTH RIGHT OF WAY OF HIGHWAY 62 WEST, THENCE S73°50'50"W ALONG SAID RIGHT OF WAY, 151.06' TO THE POINT OF BEGINNING. CONTAINING 0.81 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS OF RECORD, IF ANY.





SURVEYED FOR: NICKLE-HILL GROUP
BURKETT/ TRUMBO

SURVEY DESCRIPTION:

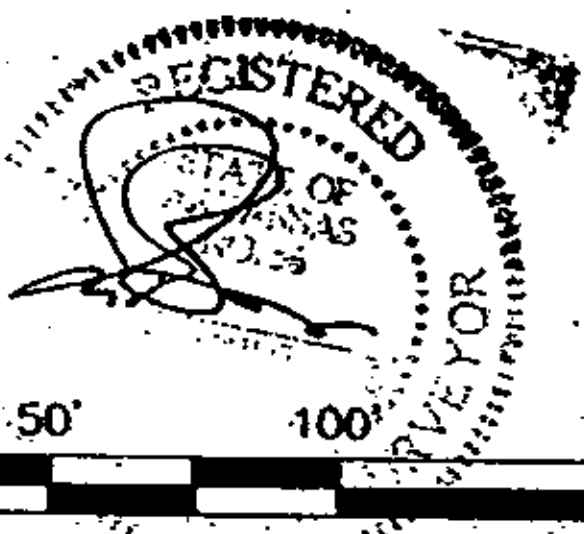
A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS 1064.58' WEST AND S00°19'20"W 414.46' FROM THE NORTHEAST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE S89°02'01"E 145.31', THENCE S00°21'49"W 220.46' TO THE NORTH RIGHT-OF-WAY OF HIGHWAY 62 WEST, THENCE S74°10'07"W ALONG SAID RIGHT-OF-WAY, 151.11', THENCE LEAVING SAID RIGHT-OF-WAY N00°19'20"E 264.13' TO THE POINT OF BEGINNING, CONTAINING 0.81 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS OF RECORD, IF ANY.

CERTIFICATION:

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 20TH DAY OF SEPTEMBER, 2003.

These standard symbols will be found in the drawing.

- ◆ P/K NAIL
- SET IRON PIN
- FOUND PIPE
- ◆ R/W MARKER
- ▲ RAILROAD SPIKE
- ▽ ALUMINUM MONUMENT
- FOUND IRON PIN
- STATE MONUMENT
- X—X— FENCE
- FOUND STONE



BLEW LAND SURVEYING

524 W. SYCAMORE 4

FAYETTEVILLE, AR

72703

479-443-4506

RECEIVED

MAY 05 2004

Scale: 1"=50'

Date: 09/19/03

Drawn: BDB

Checked: FWB

PLANNING DIVISION



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

RECEIVED

JUN 09 2004

PLANNING DIV.

C.4.
RZN 04-1080 (Trumbo)
Page 13 of 20

POLICE DEPARTMENT

June 8, 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 RZN 04-1080 Rezoning (Trumbo, pp 557) submitted by Jay Rodman for property located at 3198 W. 6th Street would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Rezoning District 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 traffic congestion.

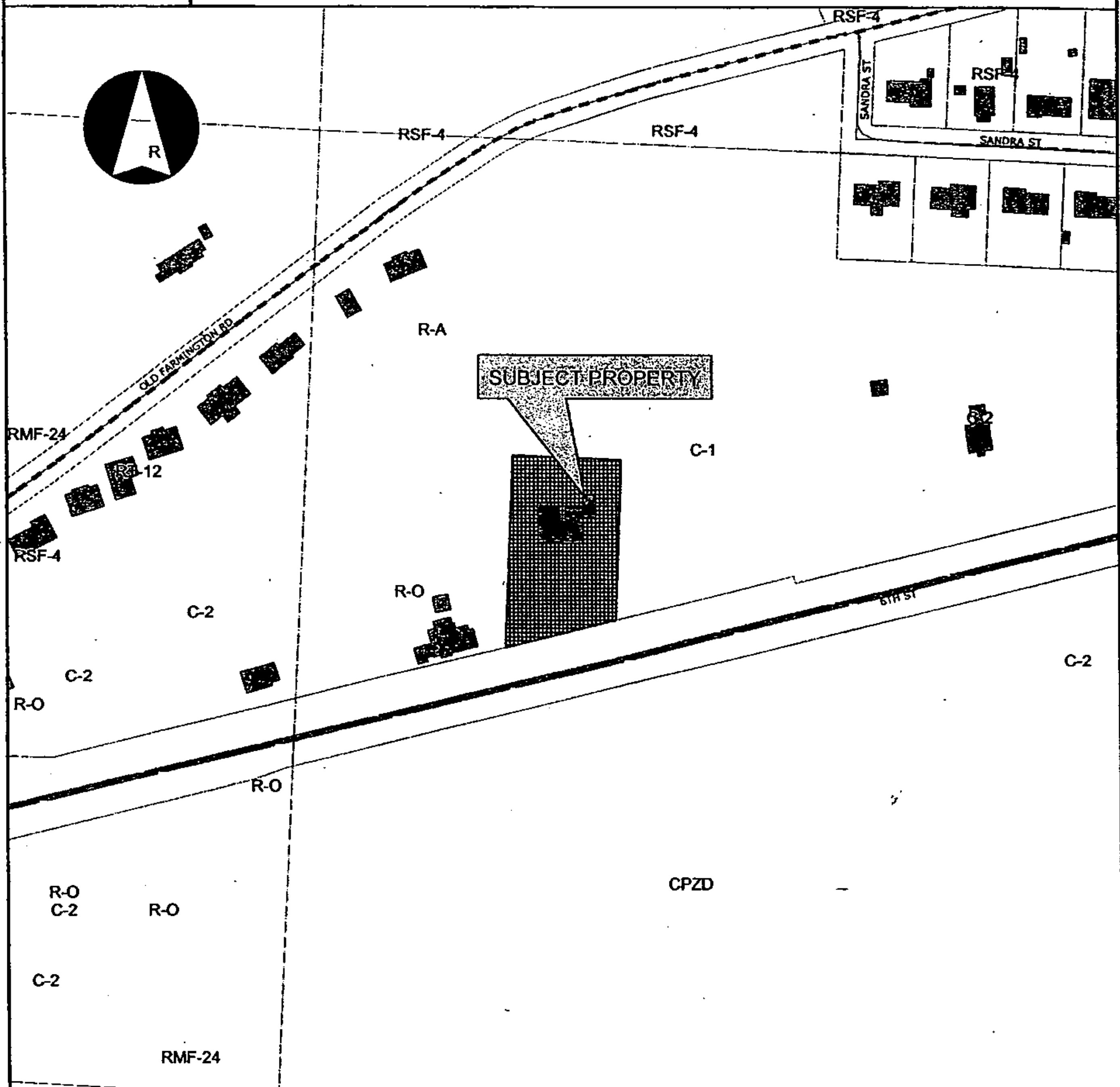
Sincerely,

Lieutenant William Brown
Fayetteville Police Department

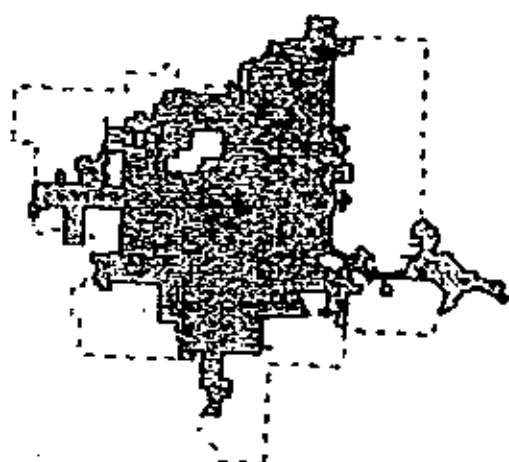
RZN04-1080

TRUMBO

Close Up View



Overview



Legend

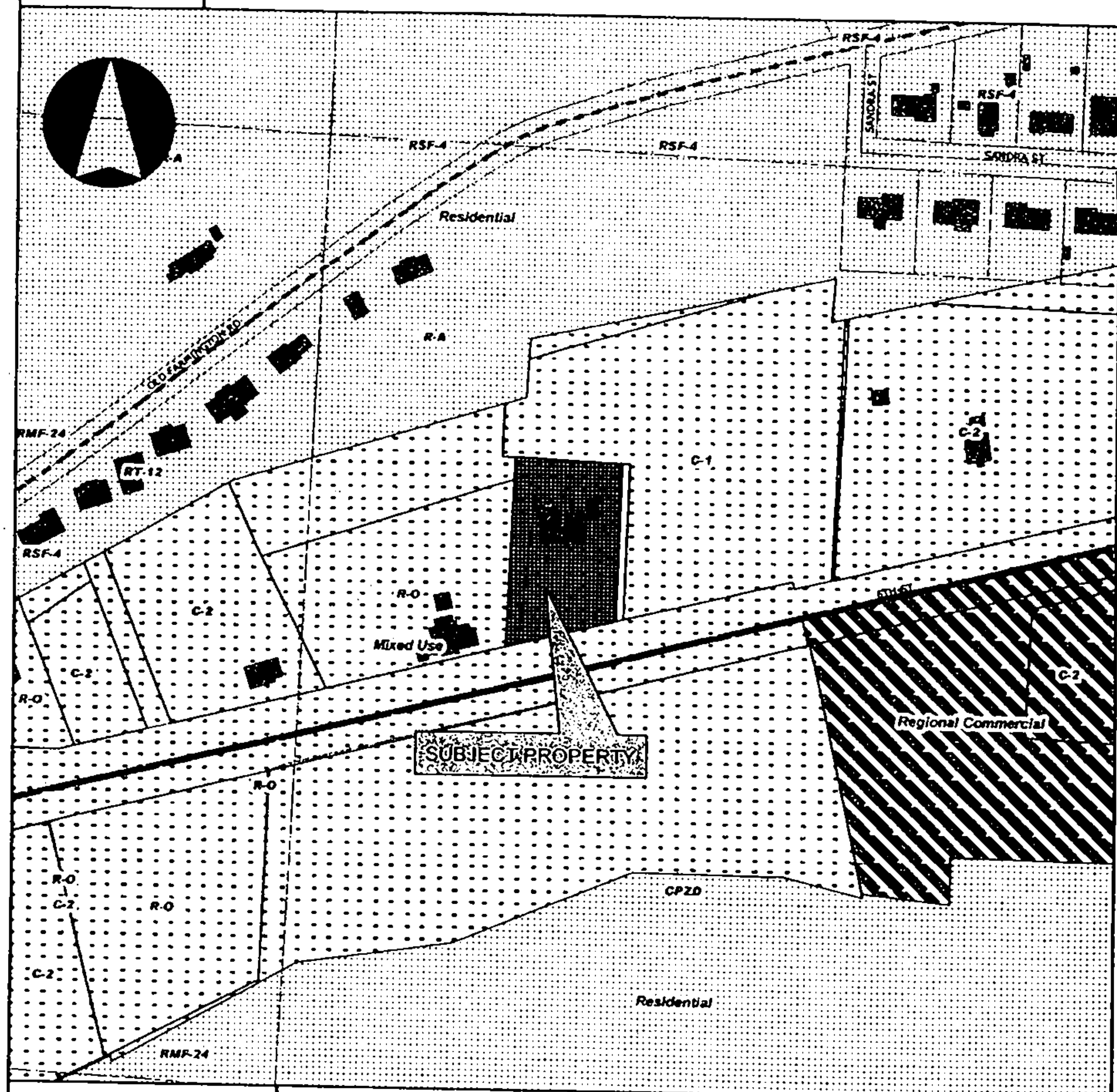
- | | | |
|------------------------|-------------------------|----------------------|
| ○○○○○ Overlay District | ▬▬▬ Principal Arterial | — FLOODWAY |
| Master Street Plan | ▬▬▬ Minor Arterial | — 100 YEAR |
| Master Street Plan | ▬▬ Collector | — 500 YEAR |
| Freeway/Expressway | ●●●● Historic Collector | ▬▬▬ LIMIT OF STUDY |
| | | ▬▬▬ Baseline Profile |
| | | ▬▬▬ RZN04-1080 |
| | | ▬▬▬ Fayetteville |
| | | ▬▬▬ Outside City |

0 75 150 300 450 600 Feet

RZN04-1080

Future Land Use

TRUMBO



Overview



Legend

Subject Property



RZN04-1080

Streets

Existing



Planned



Boundary

Planning Area



Overlay District



Outside City



Master Street Plan

Freeway/Expressway



Principal Arterial



Minor Arterial



Collector



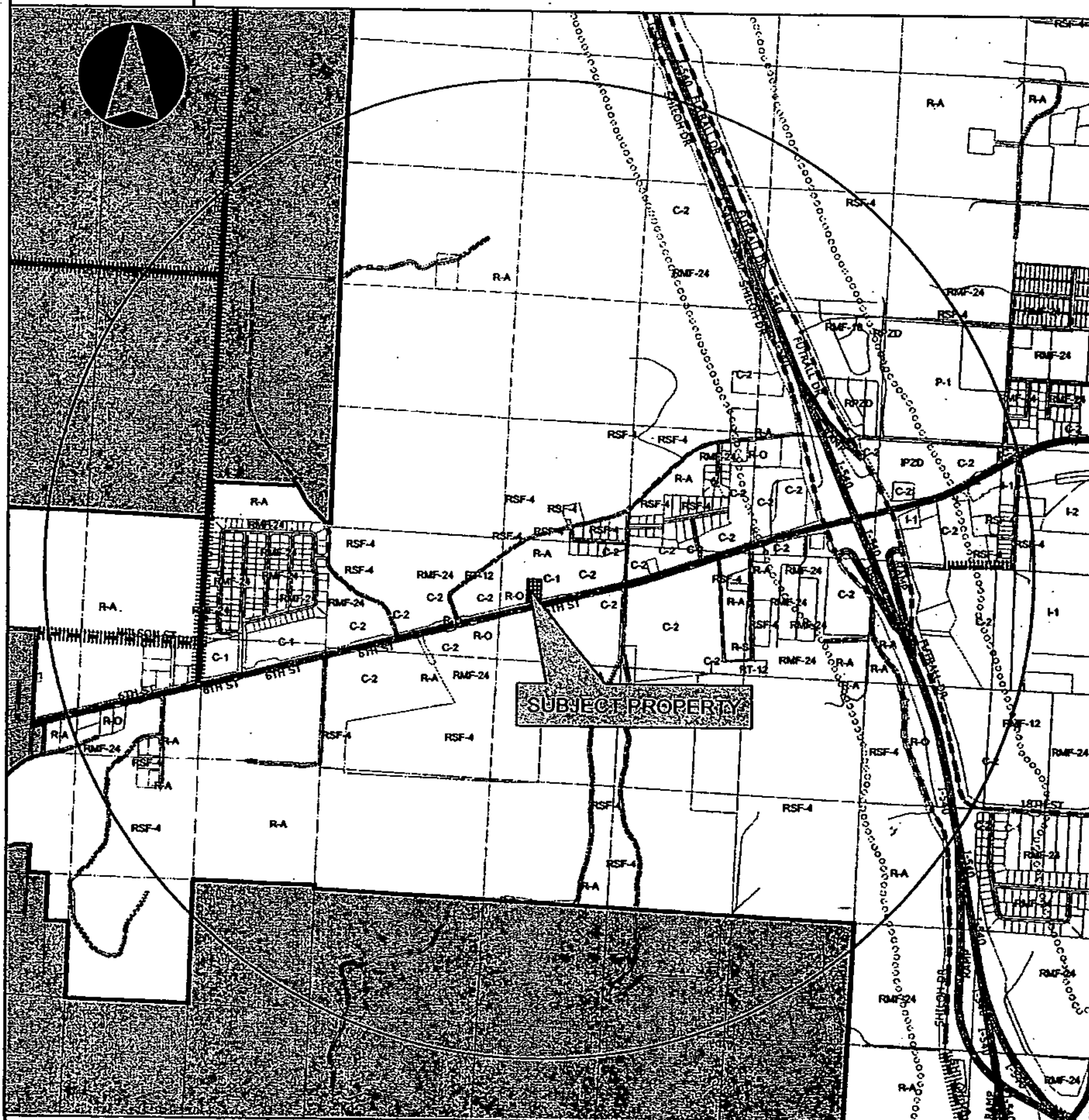
Historic Collector



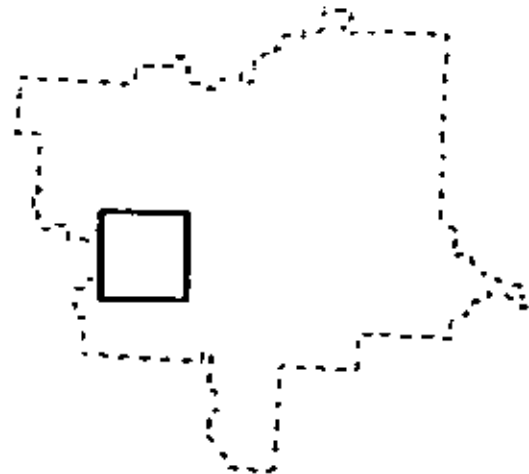
RZN04-1080

One Mile View

TRUMBO



Overview



Legend

Subject Property

RZN04-1080

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

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

June 14, 2004

Page 15

RZN 04-1080: Rezoning (TRUMBO, 557): Submitted by JAY RODMAN for property located at 3198 W 6TH STREET. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.81 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to C-1, Neighborhood Commercial.

Ostner: Our next item is RZN 04-1080 for Trumbo. If we could have the staff report Mr. Pate.

Pate: Thank you Mr. Chair. The subject property is located off of Hwy. 62 West, 6th Street, north of the Lowe's Planned Zoning District, west of Finger Road. The applicant is requesting a rezoning from the current zoning district, R-A, Residential Agricultural, to C-1, Neighborhood Commercial. The property consists of approximately 0.81 acres. There is an existing single family home on the property. Surrounding properties are primarily large tracts which are vacant or developed with commercial properties. This lot is an existing non-conforming lot of record as the R-A district requires a minimum 2.0 acre size. There are currently water and sewer services to the site as well as access to 6th Street. The fire response time to this property is approximately 3 to 4 minutes from Fire Station #6. As I mentioned, the property to the north is zoned C-1, to the south is a Commercial Planned Zoning District. To the east is C-1, Neighborhood Commercial and to the west is R-O, Residential Office. Staff is recommending approval of this rezoning request. Some of the findings that we have made and supplied in your staff report include the proposed rezoning is consistent with the land use plan objectives, principals and policies and with land use and zoning plans for this area. The future land use plan does call this site out for mixed uses. As I mentioned, surrounding properties are commercial in nature and those that are vacant are currently zoned for commercial or office uses. Therefore, the request for C-1, Neighborhood Commercial Zoning, is compatible with adjacent properties. It is the opinion of the public service providers in the City of Fayetteville that this rezoning request will not create an appreciable increase in traffic danger and congestion nor will it alter the population density in this area. With those findings, staff is recommending approval of the rezoning request.

Ostner: Thank you Mr. Pate. Is the applicant present? If you would sign in at the podium and introduce yourself.

Rodman: My name is Jay Rodman, I'm a commercial realtor with the Nickle Hill Group. We are representing the property owner that has entered into a contract to sale this property. The buyer has not indicated an end use to it but he does feel that the property would be more marketable in the future with an appropriate zoning. I'm here to answer any questions you may have.

Planning Commission

June 14, 2004

Page 16

Ostner: Is there anyone from the public who would like to speak to this rezoning? Seeing none, I will close it to the public and bring it back to the Commission for discussion.

MOTION:

Anthes: I believe this rezoning is consistent with our 2020 Plan and other surrounding zonings in the area. Therefore, I will move for approval of RZN 04-1080 recommending to City Council to approve the request.

Allen: I will second.

Ostner: I have a motion by Ms. Anthes and a second by Ms. Allen. Is there any further discussion? Rence?

Roll Call: Upon the completion of roll call the motion to forward RZN 04-1080 to the City Council with a recommendation for approval was approved by a vote of 8-0-0.

Thomas: The motion carries eight to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C.4.
RZN 04-1080 (Trumbo)
Page 19 of 20 x AGENDA REQUESTFor the Fayetteville City Council Meeting of: July 6, 2004

FROM:

Dawn Warrick, AICPPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1080: Rezoning (TRUMBO, 557): Submitted by JAY RODMAN for property located at 3198 W 6TH STREET. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.81 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to C-1, Neighborhood Commercial.

STAFF RECOMMENDATION: Approval

Dawn Warrick 6/17/04
Division Head Date

Received in Mayor's Office

6-18-04
Date *am**[Signature]* 6/18/04
City Attorney Date

Department Director

Date

Cross Reference:

[Signature] 6-21-04
Finance & Internal Services Dir. Date

Previous Ord/Res#: _____

Orig. Contract Date: _____

[Signature] 6-22-04
Chief Administrative Officer Date

Orig. Contract Number: _____

New Item:

Yes

No

Mayor

Date

City Council Meeting of July 6, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
From: Tim Conklin, Community Planning and Engineering Services Director
Date: June 23, 2004
Subject: Annexation of Unincorporated Areas Completely Surrounded by the City Limits

RECOMMENDATION

Planning Staff recommends approval of three ordinances annexing the unincorporated areas completely surrounded by the City Limits as authorized by A.C.A. § 14-40-501.

BACKGROUND

On June 1, 2004, the City Council approved three resolutions (Resolutions 87-04, 88-04, and 89-04) to propose ordinances calling for the annexation of parcels of land completely surrounded by the incorporated limits of the City of Fayetteville. A notice of Public Hearing was sent to all property owners by Certified Mail with return receipts on June 9, 2004 regarding a public hearing to be held on Tuesday, June 29, 2004 at 6:00 p.m. in room 219 and the City Council meeting on Tuesday, July 6, 2004.

The City of Fayetteville adopted an annexation policy in 2001 that recommends annexation of completely surrounded unincorporated areas or "islands" as part of the City's long range plan – General Plan 2020.

Annexing these unincorporated areas will allow for the following:

- Compatibility in land use and development standards
- Ability to plan and construct future City 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 – City police and fire

The following City services (including but not limited to) will be available after annexation:

- Trash Service
- Police Protection
- Fire Protection
- Sewer service if available - any extensions of public or private lines to serve these areas will be the responsibility of the property owner/developer
- Curbside recycling and yard waste pick up

City Council Meeting of July 6, 2004
Agenda Item Number

Staff has identified the following unincorporated areas (some areas include multiple parcels and property owners) completely surrounded by the City of Fayetteville which are proposed for annexation.

Candidate	Acres	Existing Land Use	2020 Future Land Use	Proposed Zoning
Group 1, Desc. 1	704.84	University Farm	University	RSF-1
Group 2, Desc. 1	168.747	Soil Quarry, Top Soil/Agricultural	Residential	RSF-1
Group 2, Desc. 2	12.232	Vacant	Residential	RSF-1
Group 3, Desc. 1	1.0	Residential	Residential	RSF-1
Group 3, Desc. 2	4.387	Vacant	Residential	RSF-1
Group 3, Desc. 3	26.83	Residential	Residential	RSF-1
Group 3, Desc. 4	2.815	Residential	Residential	RSF-1
Group 3, Desc. 5	74.913	Golf Course	Private Open Space	RSF-1
Group 3, Desc. 6	75.745	Residential / Ag	Residential	RSF-1
Group 3, Desc. 7	5.447	Residential	Residential	RSF-1
Group 3, Desc. 8	254.352	Residential/ Ag	Residential	RSF-1, R-A
Group 3, Desc. 9	4.00	Agricultural	Residential	RSF-1
Group 3, Desc. 10	.002	Cemetery	Residential	RSF-1
Total	1,335.31			

Source: City of Fayetteville, GIS, Annexation Candidates 2004.

* Please see attached requests by property owners for different zoning designations.

The proposed zoning designation for all of the islands is **RSF-1 Residential Single Family-One Unit Per Acre** except for the 3 acre parcel on Mt. Comfort Road to be zoned **R-A**.

There are currently 70 identified parcels and 55 addressed structures within the proposed annexation areas. Over half of the area to be annexed is owned by the University of Arkansas. The City held an informational meeting on May 20, 2004 for the property owners in the annexation areas.

Addressed Structures	Total
----------------------	-------

City Council Meeting of July 6, 2004
Agenda Item Number

Single Family	31
Commercial	8
Government	10
Non Profit	2
Residential Commercial Mix	1
Other –yard lines, power poles, etc.	3

Of the eight commercial structures that exist in the “islands”, four of the commercial uses are private businesses and not related to the University of Arkansas farm. There are approximately 3.72 miles of public paved roads within the areas to be annexed.

Some of the existing development within these areas is currently served by City utilities. The attached maps indicate the type of service by address point with “WSS” W= water, S= Sewer, S= Solid Waste for each addressed structure.

No City Services	18
Water Only	37
Water and Sewer	6
Water and Solid Waste	4
Water, Sewer, and Solid Waste	3

The current property tax millage impact of this annexation is an additional 0.8 mills.

- 1 mill is 1/10 of one cent (\$.001)
- Additional 0.8 mills on \$100,000 home ($\$20,000 \times 0.0008 \text{ mills}$) = \$16

BUDGET IMPACT

The proposed annexations are located adjacent to and within areas that are currently receiving City services. The impact on operating budgets is minimal.

RESOLUTION NO. 89-04

**A RESOLUTION TO PROPOSE AN ORDINANCE CALLING
FOR THE ANNEXATION OF UNIVERSITY OF ARKANSAS
LAND COMPLETELY SURROUNDED BY THE
INCORPORATED LIMITS OF FAYETTEVILLE**

WHEREAS, whenever the incorporated limits of Fayetteville have completely surrounded an unincorporated area, the City Council may propose an ordinance calling for the annexation of the land surrounded by the municipality; and

WHEREAS, the adopted Annexation Policy of the 2020 Plan recommends annexation of these "islands" of unincorporated areas completely surrounded by our city limits; and

WHEREAS, the state law requires the City to propose an ordinance calling for such ordinance prior to a public hearing thereon and prior to bringing the proposed ordinance up for a vote.

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

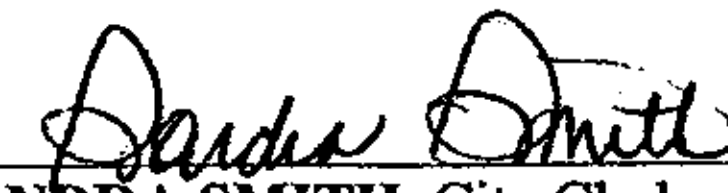
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby proposes the attached ordinance calling for the annexation of the University of Arkansas "island" of unincorporated land completely surrounded by the Fayetteville City limits will be considered for approval at a future City Council meeting after a public hearing is held on this annexation proposal.

PASSED and APPROVED this the 1st day of June, 2004.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



ORDINANCE NO. _____

AN ORDINANCE TO ANNEX INTO THE CITY OF FAYETTEVILLE, ARKANSAS A LARGE PARCEL OF LAND OWNED BY THE UNIVERSITY OF ARKANSAS WHICH IS COMPLETELY SURROUNDED BY THE INCORPORATED LIMITS OF FAYETTEVILLE

WHEREAS, the annexation policy of the City of Fayetteville adopted by the City Council is to annex those parcels of land which have become completely surrounded by the incorporated limits of Fayetteville; and

WHEREAS, after annexation into the City of Fayetteville, the inhabitants of those lands will be afforded the same services of police and fire protection and solid waste collection as current citizens of Fayetteville enjoy; and

WHEREAS, the University of Arkansas land identified in Exhibit A (map) and Exhibit B (legal descriptions) comply with at least one of the five requirements for annexation stated in A.C.A. §14-40-302; and

WHEREAS, at the time of the adoption of this ordinance, the highest and best use of these lands is NOT for agricultural or horticultural purposes.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby annexes into the City of Fayetteville, Arkansas the lands identified in Exhibit A (legal description) and Exhibit B (map).

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby assigns the zoning of these lands to be RSF-1, Residential Single Family, one unit per acre.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby assigns the property referenced in Exhibit "B" located east of Hwy. 112, Garland Avenue, to Ward Two and that property located west of Hwy. 112, Garland Avenue, to Ward Four.

PASSED and APPROVED this 6th day of July, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____

EXHIBIT "A"

GROUP 1
ANNEXATION

DESCRIPTION 1:

A part of Section 4, Township 16 North, Range 30 West; a part of Section 5, Township 16 North, Range 30 West; a part of Section 33, Township 17 North, Range 30 West; and a part of Section 34, Township 17 North, Range 30 West, all within Washington County, Arkansas, and being more particularly described as follows: Beginning at the Southwest corner of the SW-SE-33-17-30, thence with the South line of said SW-SE, South 87° 05' 43" East 605.583 feet to the Northeast corner of the SE-NW-5-16-30; thence continuing with said South line, South 87° 05' 43" East 704.059 feet to the Southwest corner of the SE-SE-33-17-30; thence continuing with said South line, South 87° 55' 41" East 131.084 feet; thence leaving said South line, North 03° 13' 08" East 1322.818 feet, to a point on the North line of said SE-SE-33-17-30; thence North 03° 09' 00" East 1321.648 feet, to a point on the North line of the NE-SE-33-17-30; thence with said North line, South 87° 41' 13" East 1172.492 feet, to the Northwest corner of the NW-SW-34-17-30; thence with the North line of said NW-SW-34-17-30, South 87° 24' 16" East 1312.343 feet, to the Northwest corner of the NE-SW-34-17-30; thence with the North line of said NE-SW-34-17-30, South 87° 24' 16" East 1312.342 feet, to the Northwest corner of the NW-SE-34-17-30; thence with the North line of said NW-SE-34-17-30, South 87° 25' 01" East 696.079 feet; thence leaving said North line, South 02° 32' 36" West 1307.063 feet, to a point on the North line of the SW-SE-34-17-30; thence continuing South 02° 32' 36" West 1313.556 feet to a point on the North line of the SW-NE-4-16-30; thence South 01° 43' 43" West 1271.898 feet to a point on the South line of said SW-NE-4-16-30; thence with said South line, North 86° 58' 06" West 126.61 feet to the Southeast corner of the SE-NW-4-16-30; thence with the South line of said SE-NW-4-16-30, North 87° 01' 58" West 1320.75 feet, to the Southeast corner of the SW-NW-4-16-30; thence with the South line of said SW-NW, North 87° 05' 19" West 1320.751 feet to the Southeast corner of the SE-NE-5-16-30; thence with the South line of said SE-NE-5-16-30, North 87° 05' 18" West 35.887 feet; thence leaving said South line, South 02° 18' 13" East 50.575 feet; thence South 00° 55' 17" West 53.539 feet; thence South 02° 35' 50" West 547.306 feet; thence North 87° 24' 20" West 15.0 feet; thence South 02° 35' 50" West 672.076 feet, to a point on the South line of the NE-SE-5-16-30; thence with said South line, North 86° 44' 08" West 615.029 feet; thence leaving said South line, South 02° 41' 43" West 976.309 feet; thence North 86° 54' 44" West 659.286 feet, to a point on the East line of the SW-SE-5-16-30; thence North 86° 54' 45" West 839.543 feet; thence North 84° 26' 21" West 302.113 feet; thence North 84° 26' 22" West 145.367 feet; thence continuing North 84° 26' 22" West 27.565 feet, to a point on the East line of the SE-SW-5-16-30; thence North 77° 24' 18" West 4.435 feet; thence North 77° 24' 20" West 20.06 feet; thence North 84° 03' 26" West 883.338 feet; thence North 84° 33' 25" West 21.727 feet; thence North 85° 33' 26" West 21.727 feet; thence North 86° 33' 24" West 21.727 feet; thence North 87° 33' 26" West 21.728 feet; thence North 88° 35' 22" West 23.153 feet; thence North 89° 32' 49" West 1423.477 feet; thence North 89° 14' 34" West 67.059 feet; thence North 60° 38' 32" West 67.547 feet; thence North 50° 37' 21" West 33.638 feet; thence North 29° 13' 28" West 40.194 feet; thence North 06° 10' 05" West 23.912 feet; thence North 01° 55' 19" West 21.362 feet; thence North 37° 54' 04" East 4.0 feet; thence North 02° 55' 49" East 492.006 feet; thence North 02° 15' 01" East 158.363 feet; thence North 02° 24' 47" East 187.175 feet, to a point on the South line of the NW-SW-5-16-30; thence North 03° 30' 02" East 458.953 feet; thence North 04° 06' 18" East 50.862 feet; thence continuing North 04° 06' 18" East 502.739 feet; thence North 05° 23' 42" West 106.891 feet; thence North 21° 14' 51" West 71.658 feet; thence North 82° 14' 30" East 171.035 feet; thence North 54° 12' 46" East 160.584 feet, to a point on the North line of the NW-SW-5-16-30; thence with said North line, South 86° 57' 51" East 1026.814 feet, to the Northwest corner of the NE-SW-5-16-30; thence with the North line of said NE-SW-5-16-30, South 87° 01' 29" East 527.809 feet; thence leaving said North line, North 02° 30' 05" East 1210.573 feet, to a point on the North line of the SE-NW-05-16-30; thence with said North line, South 87° 26' 43" East 211.099 feet, to the Point of Beginning and containing 704.84 acres, more or less.



Group 1, Description 1

0 450 900 1,800 2,700 3,600 Feet

Date of Imagery: Feb. 14, 2000

Outside City of Fayetteville



Area to be Annexed

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

COMMUNITY PLANNING AND ENGINEERING SERVICES DEPARTMENT

June 9, 2004

NOTICE OF PUBLIC HEARING

To Whom It May Concern:

On June 1, 2004, the City Council approved three resolutions (Resolutions 87-04, 88-04 and 89-04) to propose ordinances calling for the annexation of parcels of land completely surrounded by the incorporated limits of the City of Fayetteville. Your property has been identified as being located within an unincorporated area completely surrounded by the City of Fayetteville which is being proposed for annexation.

The City of Fayetteville adopted an annexation policy in 2001 that recommends annexation of completely surrounded unincorporated areas or "islands" as part of the City's long range plan – General Plan 2020. Annexing these unincorporated areas will allow for the following:

- Compatibility in land use and development standards
- Ability to plan and construct future City 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 – City police and fire

The following City services (including but not limited to) will be available after annexation:

- Trash Service
- Police Protection
- Fire Protection
- Sewer service if available- Any extensions of public or private lines to serve these areas will be the responsibility of the property owner/developer
- Curbside recycling and yard waste pick up

The current property tax millage impact of this annexation is an additional 0.8 mills.

- *For Example: Value – Your value is based on 20% of the market value of real estate (subject to limits of Amendment 79). If the fair market value of real estate is \$100,000, it will have a value of $20\% \times \$100,000 = \$20,000$. Multiply \$20,000 by the additional millage and this will equal your additional tax. (Source: Washington County, AR) as shown on next page:*

- 1 mill is 1/10 of one cent (\$.001)
- Additional 0.8 mills on \$100,000 home ($\$20,000 \times 0.0008$ mills) = \$16

Water and sewer rates inside the City are lower than outside the City. Additional information on the water, sewer, and trash rates are available at the Business Office located at 113 W. Mountain Street (521-1258).

NOTICE OF PUBLIC HEARING IMPORTANT MEETING DATES

The City has scheduled a public hearing and is notifying all property owners of their right to appear and present their views on the proposed annexations. The City of Fayetteville encourages you to attend the following public hearing and City Council meeting regarding these annexation proposals.

Annexation Public Hearing	Tuesday, June 29, 2004	6:00 p.m.	Room 219
City Council Meeting	Tuesday, July 6, 2004	6:00 p.m.	Room 219

All meetings will be held in the City Administration Building located at 113 W. Mountain Street, Fayetteville AR.

Please contact Leif Olson, Associate Planner, if you have any questions or need further information at 479-575-8269.

Sincerely,



Hugh Earnest
CAO



Tim Conklin
Community Planning
& Engineering Services Director

**Washington County Arkansas
2003 taxes collected in 2004
Ad Valorem Millage Rates
15 November 2003**

School District	City Description	Real Estate	Personal Property
Benton County	Rural	39.86	39.86
Elkins	Elkins	52.66	52.66
Elkins	Rural	47.66	47.66
Farmington	Farmington	53.51	53.51
Farmington	Fayetteville	49.31	49.31
Farmington	Rural	48.51	48.51
Fayetteville	Rural	52.16	52.16
Fayetteville	Elkins	57.16	57.16
Fayetteville	Farmington	57.16	57.16
Fayetteville	Fayetteville	52.96	52.96
Fayetteville	Goshen	52.16	52.16
Fayetteville	Johnson	57.16	57.16
Greenland	Fayetteville	45.96	45.96
Greenland	Greenland	48.06	48.06
Greenland	Rural	45.16	45.16
Greenland	West Fork	50.16	50.16
Lincoln	Lincoln	48.66	48.66
Lincoln	Rural	42.16	42.16
Prairie Grove	Prairie Grove	54.86	54.86
Prairie Grove	Rural	45.36	45.36
Springdale	Elm Springs	52.16	52.16
Springdale	Fayetteville	47.96	47.96
Springdale	Goshen	47.16	47.16
Springdale	Johnson	52.16	52.16
Springdale	Rural	47.16	47.16
Springdale	Springdale	52.86	52.86
Springdale	Tontitown	49.16	49.16
West Fork	Rural	46.16	46.16
West Fork	West Fork	51.16	51.16
Winslow	Rural	40.16	40.16
Winslow	Winslow	43.16	43.16

Taxes = Total Assessed Value x (0.001 x Millage)

From: Planning
To: Jurgens, David; Olson, Leif; Warrick, Dawn
Date: Monday, May 24, 2004 1:26PM
Subject: Fwd: (Rather be R-A)

>>> "Earlene Thomas" <etisma@cox-internet.com> 05/20/04 09:25PM >>>
Stan and Earlene Thomas
4050 Mt. Comfort Road
Fayetteville, AR. 72704
Phone 479-443-5719 or e-mail: etisma@cox-internet.com

May 20, 2004

Dawn Warrick
Zoning & Development Administrator
The City of Fayetteville, Arkansas
125 West Mountain Street
Fayetteville, AR. 72701
E-Mail planning@ci.fayetteville.ar.us phone 479-575-8267 or fax 479-575-8202

Dear Dawn Warrick,

It was a pleasure visiting with you today, following the meeting to discuss annexing properties into the city of Fayetteville. I want to follow up with a brief explanation of the concerns that we have pertaining to our land at 4050 Mount Comfort Road being annexed into the city. We do not object to being annexed into the city, but we do object to the restrictions that an R-1 zoning would have on us and any possible future owners of the property. We feel that an R-A zoning for our three acre parcel would be best suited for us and future tenants of the property. We own several horses that we maintain here as well as occasionally boarding them on other property in the Tontitown area. We have a 1200 square foot barn, and approximately one and one half acre of pasture, with quality horse fencing, that we use strictly for our horses. If horses were ever forbidden, the pasture and barn would be of little or no value, which we feel would lessen our property value.

Another concern that we feel should be addressed pertains to the possible availability of sewer to our property. We feel that if we are to pay the extra taxes associated with the annexation, that the use of the sewer services should not be cost prohibitive to us. We would ask that the sewer minimally be made available to our property. Additionally, the current septic tank with our house has lateral lines that extend onto the property of the new adjoining developers. It appears that the developer's digging has possibly damaged these lines, as there are pieces of broken pipes lying in the area above ground where these lines were located. (I have forgotten the name of the gentleman with the city sewer department that we were visiting with, and would be greatly appreciative if you could forward this correspondence to him)

We appreciate if these concerns are made available to the city council, as they make their decisions related to the upcoming area annexing, zoning, and surrounding developments.

Thanks Again,

Stan and Earlene Thomas

CC: Conklin, Tim

From: Dawn Warrick
To: etisma@cox-internet.com
Date: Wednesday, May 26, 2004 10:05AM
Subject: Annexation

Ms. Thomas,

Thank you for your email regarding the information session on annexation of unincorporated islands. I understand that you are requesting that your property be zoned R-A, Residential Agricultural to match the existing uses which are present on your property should the City Council vote to bring it into the City limits. I also understand that you are interested in obtaining access to connect to the City's sanitary sewer system and that you have concerns about construction activity adjacent to your property which may be affecting your septic system (lateral field). I will ask the Engineering Division to assist with evaluating the availability of sewer to your property and the infrastructure plans for the adjacent development. I think it would be helpful for you to sit down with staff to look more closely at this issue so that we may provide more specific information to you regarding the potential of a sewer connection and what your responsibilities would be. Please let me know if you would like me to coordinate such a meeting.

Thank you again for participating in this process. It is important that you and all of the affected property owners know that they can request information and communicate with the City regarding such an important activity as annexation. I will forward your concerns to the City Council as they begin to consider the annexation proposal and related issues.

Sincerely,

Dawn T. Warrick, AICP
Zoning & Development Administrator
Current Planning Division
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

(479) 575-8267 phone
(479) 575-8202 fax
planning@ci.fayetteville.ar.us

CC: Boettcher, Greg; Casey, Matt; Conklin, Tim; Coover, Gary

Annexation of Islands
Informational Meeting
Summary of Discussion
May 20, 2004

Introduction and background information was presented to the public by Tim Conklin, Director of Community and Engineering Services. Members of City Staff were present to answer particular questions in regard to their divisions. These members included Greg Boettcher (Administration), Chris Bosch (Fire Dept.), Terry Gulley (Transportation), Carrol Hill and Brian Pugh (Solid Waste), Frank Johnson (Police), and Dawn Warrick (Planning). After Tim Conklin presented the public with the background information a question and answer session followed.

Ralph and Geneva Cook of 410 Cunningham Ln. stated that they were happy being in the County and that they had no desire to come into the City of Fayetteville. A question arose to why they were notified and their neighbors were not. Staff later concluded that all of the ad joiners to the Cooks are already located within the City of Fayetteville.

Mary Ray, owner of Ray-Mo Small Engine 3815 E. Huntsville Rd, stated that her property was located in a floodplain and it was her understanding that State Law would not permit a municipality from annexing property located in a flood plain. In a telephone conversation earlier in the day she asked the same question of Staff and was directed to speak to Kit Williams the City's Attorney. Mrs. Ray was also concerned with having a commercial business being brought into the City with a residential zoning classification. If they were to lose their business in a flood would they be able to continue operating commercially?

Bill Wilson of 2431 N. Salem road had a question of operating his welding business in a proposed residential zone. Mr. Wilson stated that he would not have a problem being annexed, however, he would like to come in with a light industrial zoning classification.

Stan Thomas of 4050 Mt Comfort Rd. inquired about the City extending sewer service to his property. Currently the property surrounding Mr. Thomas is being developed into subdivisions and he requested information on tying into the sewer line. Apparently Mr. Thomas had his lateral lines damaged as a result of development on the adjoining property. The Thomas's also have a horse barn and pasture that they currently use to board horses. The Thomas's feel that if horses were not allowed due to being zoned residential that they would lose property value. They requested to be zoned R-A.

Other general questions that were asked dealt primarily with residents' ability to maintain their current agricultural uses once their land is annexed and re-zoned residential.

Because this is over 40 acres and over a hundred units, it is required to come before the Council if we don't just take only land. Because we have the park adjacent to the Boys and Girls center, about 8.5 acre park, we request that we accept their banked land of 5.37 acres, in addition to \$7,482 in money "in lieu of" as their requirement.

Mayor Coody: Since this item is tied to the previous item, which has not been approved, Mayor Coody stated that this would not be approved at this meeting but asked for any questions or comments from both the Council and the public.

There was no comment.

Alderman Marr moved to table the resolution until the June 15, 2004 City Council meeting. **Alderman Jordan** seconded the motion. Upon roll call the motion to table the resolution passed unanimously.

The resolution was tabled until the June 15, 2004 City Council meeting.

Annex Islands Containing 180.979 Acres: A resolution to propose an ordinance calling for the annexation of a large parcel of land completely surrounded by the incorporated limits of Fayetteville.

Tim Conklin, Planning Division: On the agenda are resolutions for three groups of annexations. The resolution is a resolution of intent to annex what are called "islands" or areas that are completely surrounded by the corporate limits of the City of Fayetteville. Mr. Conklin explained that this was something identified in 2001 as part of the General Plan annexation policy. This is just the first step in this process. If the City Council does go forward with the annexation of these islands, there will be a public hearing with the property owners within the islands toward the end of June. The item will then be placed on the Council agenda for July 6th.

Mr. Conklin explained that annexing these islands will allow us to have compatible land use and development standards within these areas, the ability to plan future capital improvements within those areas, the ability to require the same level of infrastructure improvements as new development occurs within these areas and will avoid confusion with emergency services since these areas are completely surrounded by the City. Residents within the areas will be able to obtain trash services, police protection, fire protection, sewer service if available (they would be responsible to extend any public or private lines) and also solid waste and recycling services.

There are 13 islands that exist within the City of Fayetteville, the largest being the University of Arkansas farm, which is over half of the 1,335 acres at 700 acres. The smallest is a cemetery within an existing development. Along with the annexation, RSF1 (Residential Single Family) zoning is being proposed. An informational meeting was held on May 20. Letters were sent out to property owners. There were some concerns with regard to zoning with some of the non-residential land uses within the area. There were also some concerns expressed about being brought into the City.

Alderman Jordan asked for clarification as to whether those residents who are currently using their property for farming or business would be allowed to continue to do that.

Tim Conklin: Anything that is brought into the City of Fayetteville that is existing would be allowed to remain as a legal non-conforming use. They would have restrictions on expanding those types of uses. But they would be allowed to keep horses or keep their small-engine auto repair business or that type of business.

Alderman Jordan: And we can either bring them in as a RSF1, or if we determine it necessary, we can bring them in as an RA?

Tim Conklin: Yes. You could bring them in as some other type of zoning, other than the RSF1 that is being proposed.

Alderman Thiel asked for clarification about doing all these annexations in one ordinance.

Mr. Williams explained that he had proposed that these annexations be done in three ordinances. There is a rule that if one of the parcels in an annexation ordinance is found not to be proper to be brought in, then the entire ordinance with all the parcels within that ordinance will not be brought in. There could be some question about the University property and one large landowner with property below Highway 16 East who has indicated he might contest the annexation. He felt it would be best to keep those two parcels separate.

There was some discussion about which parcels are included in each ordinance and how the ordinance will read.

Alderman Marr said that the letter in the packet from the attorney representing the owner of the large parcel of land south of Highway 16 East asserts that this property is not an island. He asked Tim Conklin to explain why the City feels it is an island.

Tim Conklin using a zoning map pointed out the location of the property. There are some smaller, remnant parcels off Huntsville Road that back up to this property. The parcel by itself is not completely surrounded by the city limits, but it is within an area that is completely surrounded by city limits. This could be the reason for the confusion over what the state law allows the city to annex within the City. The City has the ability to annex areas that are completely surrounded by the corporate limits of the city.

Alderman Marr asked the City Attorney if he believes this parcel of land meets the legal requirements to allow the Council to annex islands without election.

Mr. Williams: Yes. The statute says, "Whenever the incorporated limits of a municipality have completely surrounded an unincorporated area, the governing body of the municipality may propose an ordinance calling for the annexation of the land surrounded by the municipality." So even though there is more than one parcel in there, it is still completely surrounded by the incorporated limits of the city and therefore, this statute gives you the right to annex that if the other tests in the statute are met.

There was discussion of a bridge in the area being in need of repair and the need for building up a road to access the bridge from both directions. The flood damage was extensive and this could be a multi-million dollar project.

Alderman Marr: Thinking back to times when the Council has talked about the cost of annexations, infrastructure needs, etc. that go with that annexation, I want to be cautious to ensure that there is some benefit not only to the City, but to the landowners that are being annexed.

Karen Stewart: We have the land off Ruppel Road that is going to be annexed. I have heard all the comments about it but according to my mother, who is officially the owner, while I am the lessee, we have received no notice whatsoever about any annexation. We have not had the choice to write a letter or anything. The fact is I just heard about it a few days ago.

Mayor Coody asked Tim Conklin if letters had been sent out.

Tim Conklin: The planning division used County records on property ownership and sent out letters to the property owners. They were not certified letters. For the next meeting, the letters will be certified.

Mr. Williams explained that this is a cumbersome process. Before we can actually go forward at all with the annexation, we have to have a resolution and tell the public that we are considering looking at an ordinance. There then has to be a public hearing after publication and the certified letters. Only after that public hearing can it come back to the Council for them to consider the ordinance.

Karen Stewart asked if they now have an additional time period to ask for a certain classification.

Mr. Williams said the public hearing would be a good time to do that, or she could contact the Planning Division at any time and let them know her thoughts and concerns. The Planning Division can then present those concerns to the City Council.

In response to a further comment from Ms. Stewart, Mr. Williams said the state used to not allow agricultural land to be annexed. When the law was changed to allow annexation of agricultural property, a provision of the statute provided that property owners could continue their agricultural pursuits.

Alderman Jordan: I wanted the homeowners to know that I want to be fair in this process. I don't want to shut anyone's farm or business down. Whatever is currently being done on the property, the property owners should continue to be able to do.

Stan Thomas of Mt. Comfort Road expressed a concern about the cost of connecting with the sewer system. He asked if there would be a possibility that the City would bring the lines at least to the property lines to help with the cost of connecting.

Mayor Coody suggested Mr. Thomas speak with the Engineering staff to see what the possibilities might be.

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

Resolution 87-04 as Recorded in the Office of the City Clerk.

Annex Islands Containing 449.509 Acres: A resolution to propose an ordinance calling for the annexation of several parcels of land completely surrounded by the incorporated limits of Fayetteville.

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

Resolution 88-04 as Recorded in the Office of the City Clerk.

Annex Islands Containing 704.84 Acres: A resolution to propose an ordinance calling for the annexation of University of Arkansas land completely surrounded by the incorporated limits of Fayetteville.

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

Resolution 89-04 as Recorded in the Office of the City Clerk.

Raze and Removal 800 S. College: A resolution to approve an order to raze and remove a dilapidated and unsafe structure located at 800 S College Avenue, Fayetteville.

Hugh Earnest, Chief Administrative Officer: Yolanda Fields, Community Resources and Code Compliance has informed me that the individual who owns this property is demolishing it at this time. There are pictures that are evidence of this. I suggest that the Council table the item indefinitely to ensure that the demolition continues.

Alderman Marr: Considering a situation in the past when work would start then stop, I am a little uncomfortable with tabling the item indefinitely. I would prefer some time frame to look at to make sure the work is completed.

Alderman Davis agreed and asked if it would be possible to table the item for 60 days.

Alderman Thiel moved to table the resolution until the August 3, 2004 City Council meeting. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

The resolution was tabled until the August 3, 2004 City Council meeting.

Amend §171.01 of the Unified Development Code Residential Gates for Subdivisions: An ordinance to amend §171.01 of the Unified Development Code to add new subsection (D) restricting the installation of gates for residential subdivisions.

Mr. Williams read the ordinance.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C.5.
Annex Land U of A 704.84 Acres
Page 18 of 18 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

July 6, 2004

FROM:

Tim ConklinComm. Planning & Engr. Svcs.CP&E

Name

Division

Department

ACTION REQUIRED: Approval of an ordinance to annex unincorporated areas completely surrounded by the City of Fayetteville City Limits pursuant to A.C.A. §14-40-501.

U of A land

SUMMARY EXPLANATION:

Annexation of unincorporated areas, "islands", located within the City of Fayetteville corporate boundaries as described in the General Plan 2020, 2001 update, annexing approximately 704.84 acres into the corporate city limits of the City of Fayetteville, Arkansas.

STAFF RECOMMENDATION: Approval.

Division Head

Date

Received in Mayor's Office

Date

6-23-04

City Attorney

Date

6-23-04

Department Director

Date

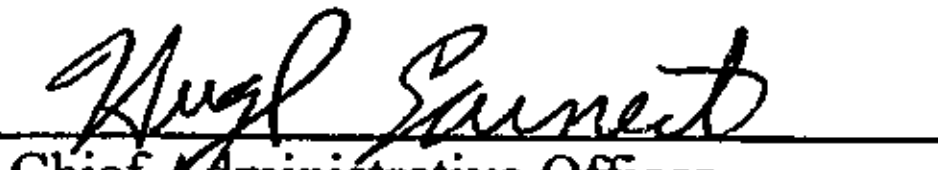
Cross Reference:

6-23-04

Finance & Internal Services Dir.

Date

Previous Ord/Res#:

6-23-04

Chief Administrative Officer

Date

Orig. Contract Number:

New Item:

Yes

No

Mayor

Date

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
From: Tim Conklin, Community Planning and Engineering Services Director
Date: June 23, 2004
Subject: Annexation of Unincorporated Areas Completely Surrounded by the City Limits

RECOMMENDATION

Planning Staff recommends approval of three ordinances annexing the unincorporated areas completely surrounded by the City Limits as authorized by A.C.A. § 14-40-501.

BACKGROUND

On June 1, 2004, the City Council approved three resolutions (Resolutions 87-04, 88-04, and 89-04) to propose ordinances calling for the annexation of parcels of land completely surrounded by the incorporated limits of the City of Fayetteville. A notice of Public Hearing was sent to all property owners by Certified Mail with return receipts on June 9, 2004 regarding a public hearing to be held on Tuesday, June 29, 2004 at 6:00 p.m. in room 219 and the City Council meeting on Tuesday, July 6, 2004.

The City of Fayetteville adopted an annexation policy in 2001 that recommends annexation of completely surrounded unincorporated areas or "islands" as part of the City's long range plan – General Plan 2020.

Annexing these unincorporated areas will allow for the following:

- Compatibility in land use and development standards
- Ability to plan and construct future City 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 – City police and fire

The following City services (including but not limited to) will be available after annexation:

- Trash Service
- Police Protection
- Fire Protection
- Sewer service if available - any extensions of public or private lines to serve these areas will be the responsibility of the property owner/developer
- Curbside recycling and yard waste pick up

City Council Meeting of July 6, 2004
Agenda Item Number

Staff has identified the following unincorporated areas (some areas include multiple parcels and property owners) completely surrounded by the City of Fayetteville which are proposed for annexation.

Candidate	Acres	Existing Land Use	2020 Future Land Use	Proposed Zoning
Group 1, Desc. 1	704.84	University Farm	University	RSF-1
Group 2, Desc. 1	168.747	Soil Quarry, Top Soil/Agricultural	Residential	RSF-1
Group 2, Desc. 2	12.232	Vacant	Residential	RSF-1
Group 3, Desc. 1	1.0	Residential	Residential	RSF-1
Group 3, Desc. 2	4.387	Vacant	Residential	RSF-1
Group 3, Desc. 3	26.83	Residential	Residential	RSF-1
Group 3, Desc. 4	2.815	Residential	Residential	RSF-1
Group 3, Desc. 5	74.913	Golf Course	Private Open Space	RSF-1
Group 3, Desc. 6	75.745	Residential / Ag.	Residential	RSF-1
Group 3, Desc. 7	5.447	Residential	Residential	RSF-1
Group 3, Desc. 8	254.352	Residential/ Ag	Residential	RSF-1, R-A
Group 3, Desc. 9	4.00	Agricultural	Residential	RSF-1
Group 3, Desc. 10	.002	Cemetery	Residential	RSF-1
Total	1,335.31			

Source: City of Fayetteville, GIS, Annexation Candidates 2004.

* Please see attached requests by property owners for different zoning designations.

The proposed zoning designation for all of the islands is **RSF-1 Residential Single Family-One Unit Per Acre** except for the 3 acre parcel on Mt. Comfort Road to be zoned **R-A**.

There are currently 70 identified parcels and 55 addressed structures within the proposed annexation areas. Over half of the area to be annexed is owned by the University of Arkansas. The City held an informational meeting on May 20, 2004 for the property owners in the annexation areas.

Addressed Structures	Total
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City Council Meeting of July 6, 2004
Agenda Item Number

Single Family	31
Commercial	8
Government	10
Non Profit	2
Residential Commercial Mix	1
Other - yard lines, power poles, etc.	3

Of the eight commercial structures that exist in the "islands", four of the commercial uses are private businesses and not related to the University of Arkansas farm. There are approximately 3.72 miles of public paved roads within the areas to be annexed.

Some of the existing development within these areas is currently served by City utilities. The attached maps indicate the type of service by address point with "WSS" W= water, S= Sewer, S= Solid Waste for each addressed structure.

No City Services	18
Water Only	37
Water and Sewer	6
Water and Solid Waste	4
Water, Sewer, and Solid Waste	3

The current property tax millage impact of this annexation is an additional 0.8 mills.

- o 1 mill is 1/10 of one cent (\$.001)
- o Additional 0.8 mills on \$100,000 home (\$20,000 X 0.0008 mills) = \$16

BUDGET IMPACT

The proposed annexations are located adjacent to and within areas that are currently receiving City services. The impact on operating budgets is minimal.

RESOLUTION NO. 88-04

**A RESOLUTION TO PROPOSE AN ORDINANCE CALLING
FOR THE ANNEXATION OF SEVERAL PARCELS OF LAND
COMPLETELY SURROUNDED BY THE INCORPORATED
LIMITS OF FAYETTEVILLE**

WHEREAS, whenever the incorporated limits of Fayetteville have completely surrounded an unincorporated area, the City Council may propose an ordinance calling for the annexation of the land surrounded by the municipality; and

WHEREAS, the adopted Annexation Policy of the 2020 Plan recommends annexation of these "islands" of unincorporated areas completely surrounded by our city limits; and

WHEREAS, the state law requires the City to propose an ordinance calling for such ordinance prior to a public hearing thereon and prior to bringing the proposed ordinance up for a vote.

**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 proposes the attached ordinance calling for the annexation of several "islands" of unincorporated land completely surrounded by the Fayetteville City limits will be considered for approval at a future City Council meeting after a public hearing is held on this annexation proposal.

PASSED and APPROVED this the 1st day of June, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk



ORDINANCE NO. _____

**AN ORDINANCE TO ANNEX INTO THE CITY OF
FAYETTEVILLE, ARKANSAS SEVERAL PARCELS
COMPLETELY SURROUNDED BY THE INCORPORATED
LIMITS OF FAYETTEVILLE**

WHEREAS, the annexation policy of the City of Fayetteville adopted by the City Council is to annex those parcels of land which have become completely surrounded by the incorporated limits of Fayetteville; and

WHEREAS, after annexation into the City of Fayetteville, the inhabitants of those lands will be afforded the same services of police and fire protection and solid waste collection as current citizens of Fayetteville enjoy; and

WHEREAS, all of the lands identified in Exhibit A (legal descriptions) and Exhibit B (map) comply with at least one of the five requirements for annexation stated in A.C.A. §14-40-302; and

WHEREAS, at the time of the adoption of this ordinance, the highest and best use of these lands is NOT for agricultural or horticultural purposes.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby annexes into the City of Fayetteville, Arkansas the lands identified in Exhibit A (map) and Exhibit B (legal description).

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby assigns the zoning of these lands to be RSF-1, Residential Single Family, one unit per acre.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby assigns the parcels identified as numbers 001-10695-000; 001-10677-002, 001-11176-000, 001-11176-002, 001-11177-000; 001-10757-001, (also: 765-13158-001), 001-10763-000, 001-10764-000, 765-13156-000, and 001-10800-000 on Exhibit "A" to Ward 1.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby assigns the parcels identified as numbers 001-16815-000, 001-16828-000, 765-16658-020, 765-16658-000; 001-16823-000 (also: 765-13599-000), 001-16823-001, 001-16823-002(also: 765-13599-001), 001-16825-001, 001-16826-000, 001-16826-001; 001-11380-004, 001-11380-003; 001-11380-001, 001-11381-000, 001-11380-002, 001-11380-010, 001-11380-021, 001-11380-011, (also: 765-13649-010), 001-11380-020, 001-11396-000, 001-11396-010, 001-11394-000, (also:

765-13649-000), 001-11398-000, (also: 765-13648-000), 001-11395-000, 001-11397-000, 001-11399-000, 001-11401-000, 001-11401-001, 001-11401-002, 001-11401-003, 001-11401-004, 001-11401-005, 001-11401-006, 001-11401-007, 001-11402-000, 001-11756-000, 001-11766-000, 001-11757-000, 001-11758-000, 001-11762-000, 001-11760-001, 001-11765-000, 001-11765-001, 001-11763-000, 001-11764-000, 001-11830-000; 765-16177-001, 765-21425-000 on Exhibit A to Ward 4.

PASSED and APPROVED this 6th day of July, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

SONDRA SMITH, City Clerk

EXHIBIT "A"

GROUP 3
ANNEXATIONS

DESCRIPTION 1:

A part of the West Half (W½) of the Northeast Quarter (NE¼) of Section 19, T-16-N, R-29-W, being more particularly described as follows: From the Northwest corner of the West Half (W½) of the Northeast Quarter (NE¼) of said Section 19, thence South 493.5 feet; thence South 88° 47' East 2.1 feet to a point in a North/South fence line for the Point of Beginning; thence leaving said fence line South 88° 47' East 140.00 feet; thence South 00° 01' West 310.0 feet; thence North 88° 47' West 140.00 feet to a point in a North/South fence line; thence along said fence line North 00° 01' East 310.0 feet to the Point of Beginning, containing 1.0 acres, more or less, Washington County, Arkansas. Subject to any easements and/or rights-of-way of record.

DESCRIPTION 2:

A part of the Fractional Northwest Quarter (Frac. NW¼) of the Fractional Northwest Quarter (Frac. NW¼) of Section 19, Township 16 North, Range 29 West, being more particularly described as follows: Commencing at the Northeast corner of said Frac. NW¼ of the Frac. NW¼; thence with the East line of said Frac. NW¼ of the Frac. NW¼, South 02° 42' 13" West 102.37 feet, to the Point of Beginning; thence continuing with said East line, South 02° 42' 13" West 680.322 feet; thence leaving said East line, North 53° 59' 48" West 400.616 feet; thence North 02° 42' 13" East 461.197 feet; thence South 87° 09' 24" East 334.839 feet, to the Point of Beginning and containing 4.387 acres, more or less.

DESCRIPTION 3:

A part of the West half (W½) of the Southeast Quarter (SE¼) of Section One (1), Township Sixteen (16) North, Range Thirty (30) West, and being more particularly described as follows, to-wit: Beginning at a point which is 610.64 feet North of the Southwest corner of said 80 acre tract, and running thence North 886.24 feet, thence N 89° 40' 42" E along the South line of Madison Avenue Subdivision Phase One 1320.56 [feet] to an existing Concrete Monument, thence S 00° 10' 40" E along the West line of Barrington Parke Subdivision Phase Two 884.25 feet, thence S 89° 35' 33" W 1321.72 feet to the point of beginning. Containing 26.83 acres, more or less. Subject to that portion in street right-of-way on the West side of herein described tract, and Utility easements of record.

DESCRIPTION 4:

A part of the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) and a part of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼), all within Section 20, Township 16 North, Range 29 West, Washington County, Arkansas, and being more particularly described as follows: Commencing at the Southeast corner of said SE¼ of the NW¼ of Section 20, thence with the East line of said SE¼ of the NW¼, North 02° 43' 14" East 348.765 feet, to the Point of Beginning; thence leaving said East line, North 87° 40' 13" West 533.538 feet; thence North 02° 19' 02" East 182.616 feet; thence South 87° 40' 30" East 326.019 feet; thence North 02° 44' 11" East 67.45 feet; thence South 87° 04' 24" East 214.571 feet; thence North 02° 15' 25" East 302.075 feet; thence South 87° 44' 35" East 16.307 feet; thence South 02° 02' 54" West 549.959 feet; thence North 87° 40' 03" West 26.104 feet, to the Point of Beginning and containing 2.815 acres, more or less.

DESCRIPTION 5:

A part of Section 32, Township 17 North, Range 30 West, Washington County, Arkansas, and being more particularly described as follows: Commencing at the Southeast corner of said Section 32, thence with the East line of the SE¼ of the SE¼ of said Section 32, North 02° 48' 50" East 756.166 feet, to the Point of Beginning; thence leaving said East line, North 86° 26' 54" West 268.038 feet; thence North 03° 10' 22" East 123.53 feet; thence North 09° 31' 30" West

101.76 feet; thence North 00° 26' 06" East 240.322 feet; thence North 87° 36' 56" West 299.26 feet; thence South 02° 19' 11" West 1220.635 feet, to a point on the South line of the SE¼ of the SE¼ of said Section 32; thence with said South line, North 87° 12' 07" West 164.189 feet; thence continuing with said South line, North 87° 22' 56" West 17.209 feet; thence leaving said South line, North 02° 16' 46" East 1555.31 feet; thence North 12° 39' 20" West 450.48 feet; thence North 87° 39' 20" West 413.912 feet, to a point on the West line of the NE¼ of the SE¼ of Section 32; thence continuing North 87° 39' 20" West 727.747 feet; thence North 03° 39' 20" West 652.458 feet, to a point on the South line of the SW¼ of the NE¼ of Section 32; thence North 03° 39' 46" West 6.042 feet; thence North 76° 32' 00" East 827.293 feet, to a point on the East line of the SW¼ of the NE¼ of Section 32; thence continuing North 76° 32' 00" East 753.384 feet; thence North 02° 01' 40" East 551.886 feet; thence South 86° 56' 51" East 603.925 feet, to a point on the East line of the SE¼ of the NE¼ of said Section 32; thence with said East line, South 02° 28' 11" West 986.15 feet, to the Southeast corner of said SE¼ of the NE¼; thence with the East line of the NE¼ of the SE¼ of said Section 32, South 02° 48' 50" West 1320.2 feet to the Southeast corner of said NE¼ of the SE¼; thence with the East line of the SE¼ of the SE¼ of said Section 32, South 02° 48' 50" West 564.035 feet, to the Point of Beginning and containing 74.913 acres, more or less.

DESCRIPTION 6:

A part of the Southwest Quarter (SW¼) of Section 32, Township 17 North, Range 30 West, and a part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section 31, Township 17 North, Range 30 West, Washington County, Arkansas, and being more particularly described as follows: Beginning at the Northwest corner of Frac. Section 6, Township 16 North, Range 30 West; thence North 04° 08' 08" East 326.674 feet; thence South 87° 42' 24" East 56.877 feet, to a point on the West line of the SW¼ of the SW¼ of said Section 32; thence South 87° 22' 00" East 1325.305 feet, to a point on the West line of the SE¼ of the SW¼ of said Section 32; thence with said West line, North 02° 00' 24" East 994.547 feet, to the Southwest corner of the NE¼ of the SW¼ of said Section 32; thence with the West line of said NE¼ of the SW¼, North 02° 21' 49" East 840.951 feet; thence leaving said West line, South 87° 26' 33" East 1327.59 feet to a point on the East line of said NE¼ of the SW¼; thence South 02° 33' 55" West 843.185 feet to the Northeast corner of the SE¼ of the SW¼ of said Section 32; thence with the East line of said SE¼ of the SW¼, South 02° 12' 19" West 1308.376 feet, to the Southeast corner of said SE¼ of the SW¼; thence with the South line of said SE¼ of the SW¼, North 87° 50' 09" West 1058.127 feet, to the Northeast corner of the SW¼ of the NW¼ of Fractional Section 06, Township 17 North, Range 30 West; thence continuing with said South line North 87° 50' 13" West 261.89 feet, to the Southeast corner of the SW¼ of the SW¼ of said Section 32; thence with the South line of said SW¼ of the SW¼, North 86° 58' 54" West 1320.371 feet, to the Southeast corner of the SE¼ of the SE¼ of said Section 31; thence with the South line of said SE¼ of the SE¼, South 84° 27' 48" West 74.719 feet, to the Point of Beginning and containing 75.745 acres, more or less.

DESCRIPTION 7:

A part of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) and a part of the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼), all within Section 1, Township 16 North, Range 31 West, all in Washington County, Arkansas, and being more particularly described as follows: Beginning at the Southeast corner of said SE-NW-1-16-31; thence with the South line of said SE-NW-1-16-31, North 87° 20' 37" West 516.99 feet; thence leaving said South line, North 03° 06' 35" East 36.829 feet; thence South 87° 49' 00" East 516.984 feet, to a point on the West line of said SW-NE-1-16-31; thence with said West line, North 03° 01' 47" East 827.072 feet thence leaving said West line, South 87° 15' 51" East 249.883 feet; thence South 03° 00' 16" West 868.309 feet, to a point on the South line of said SW-NE-1-16-31; thence with said South line, North 87° 13' 54" West 250.265 feet, to the Point of Beginning and containing 5.447 acres, more or less.

DESCRIPTION 8:

A part of Section 1, Township 16 North, Range 31 West, and a part of Section 12, Township 16 North, Range 31 West, all within Washington County, Arkansas, and being more particularly described as follows: Beginning at the Southwest corner of the SW-SE-1-16-31; thence with the West line of said SW-SE, North 02° 30' 11" East 1081.23 feet; thence leaving said West line, South 87° 29' 49" East 419.001 feet; thence North 02° 33' 05" East 1560.754 feet, to a point on the North line of the NW-SE-1-16-31; thence with said North line, South 87° 13' 36" East 610.003 feet; thence leaving said North line, North 02° 13' 49" East 613.141 feet; thence South 87° 33' 17" East 183.059 feet; thence South 01° 33' 23" East 713.63 feet; thence South 49° 29' 25" East 94.14 feet; thence South 67° 13' 25" East 122.6 feet; thence North 88° 58' 30" East 31.585 feet; thence North 01° 10' 18" East 692.76 feet; thence South 87° 13' 23" East 1080.42 feet; thence South 00° 56' 20" West 369.001 feet; thence South 88° 05' 31" East 49.527 feet, to a point on the East line of the SE-NE-1-16-31; thence with said East line, South 02° 40' 19" West 129.463 feet to the Southeast corner of said SE-NE; thence with West line of the SW¼ of the NW¼ of Fractional Section 6, Township 16 North, Range 30 West, South 02° 18' 52" West 46.308 feet, to the Northwest corner of the SW¼ of Frac. 6-16-30; thence with the West line of said SW¼ of Frac. 6-16-30, South 01° 34' 25" West 1319.736 feet, to the Northwest corner of the SW-SW of Frac. 6-16-30; thence continuing with the West line of the SW¼ of Frac. 6-16-30, South 02° 45' 30" West 1278.317 feet, to the Southeast corner of 1-16-31; thence continuing with the West line of said SW¼ Frac. 6-16-30, South 02° 45' 30" West 46.196 feet to the Northwest corner of Fractional Section 7, Township 16 North, Range 30 West; thence with the West line of said Frac. 7-16-30, South 02° 04' 36" West 1319.917 feet, to the Northwest corner of the SW-NW of Frac. 7-16-30; thence with the West line of said SW-NW, South 03° 01' 59" West 876.434 feet; thence leaving said West line, North 87° 16' 51" West 680.63 feet; thence North 03° 11' 05" East 107.191 feet; thence North 87° 21' 05" West 1525.79 feet; thence North 02° 41' 34" East 824.971 feet to a point on the North line of the SW-NE-12-16-31; thence with said North line, South 87° 13' 27" East 530.00 feet; thence leaving said North line, North 02° 42' 01" East 123.9 feet; thence South 87° 13' 29" East 17.721 feet; thence North 02° 42' 00" East 247.501 feet; thence South 87° 13' 28" East 329.266 feet, to a point on the East line of the NW-NE-12-16-31; thence with said East line, North 02° 44' 13" East 624.45 feet; thence leaving said East line, North 87° 31' 50" West 877.293 feet; thence North 87° 11' 58" West 421.609 feet, to a point on the West line of the NW-NE-12-16-31; thence with said West line, North 02° 08' 04" East 323.04 feet, to the Point of Beginning and containing 254.352 acres, more or less.

DESCRIPTION 9:

A part of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section 15, Township 16 North, Range 31 West, all in Washington County, Arkansas, and being more particularly described as follows: Commencing at the Northwest corner of said NW¼ of the NE¼, thence with the North line of said NW¼ of the NE¼, South 87° 57' 36" East 798.447 feet, to the Point of Beginning; thence continuing with said North line, South 87° 57' 36" East 528.00 feet, to the Northeast corner of said NW¼ of the NE¼; thence with the East line of said NW¼ of the NE¼, South 02° 31' 48" West 330.005 feet; thence leaving said East line, North 87° 57' 35" West 527.997 feet; thence North 02° 31' 46" East 330.003 feet, to the Point of Beginning and containing 4.00 acres, more or less.

DESCRIPTION 10:

A family cemetery 33.0 feet square in the NE¼ of the NW¼, all in Section 11, Township 16 North, Range 31 West, more particularly described as follows: Commencing at the West Quarter Corner of above mentioned Section, thence North 00° 41' 01" East 1430.18 feet along the West line of said Section and thence South 88° 15' 59" East 1814.34 feet to the Point of Beginning; said point being the Southwest corner of said family cemetery; thence North 00° 57' 30" East 33.0 feet; thence South 88° 02' 28" East 33.00 feet; thence South 00° 57' 30" West 33.00 feet; thence North 88° 02' 28" West 33.0 feet to the Point of Beginning and containing 0.02 acres, more or less, Washington County, Arkansas.

DESCRIPTION 11:

A part of the Southwest Quarter (SW¼) of the Northwest Quarter (NW¼) of Section 21, Township 16 North, Range 29 West, Washington County, Arkansas, being more particularly described as follows: Beginning at the Northwest corner of said SW¼ of the NW¼ of Section 21, thence with the North line of said SW¼ of the NW¼, South 87° 01' 27" East 331.225 feet; thence leaving said North line, South 38° 41' 25" East 1090.34 feet; thence North 80° 20' 26" West 144.262 feet; thence North 80° 50' 23" West 59.167 feet; thence North 81° 50' 24" West 59.166 feet; thence North 82° 50' 25" West 59.165 feet; thence North 83° 50' 27" West 59.165 feet; thence North 84° 50' 25" West 59.168 feet; thence North 85° 50' 24" West 59.165 feet; thence North 86° 50' 29" West 59.166 feet; thence North 87° 57' 05" West 72.479 feet; thence North 88° 33' 55" West 425.473 feet, to a point on the West line of said SW¼ of the NW¼; thence with said West line, North 02° 51' 00" East 787.357 feet, to the Point of Beginning and containing 12.232 acres, more or less.



Group 3, Description 1

0 145 290 580 870 1,160 Feet

Date of Imagery: Feb. 14, 2000



Outside City of Fayetteville

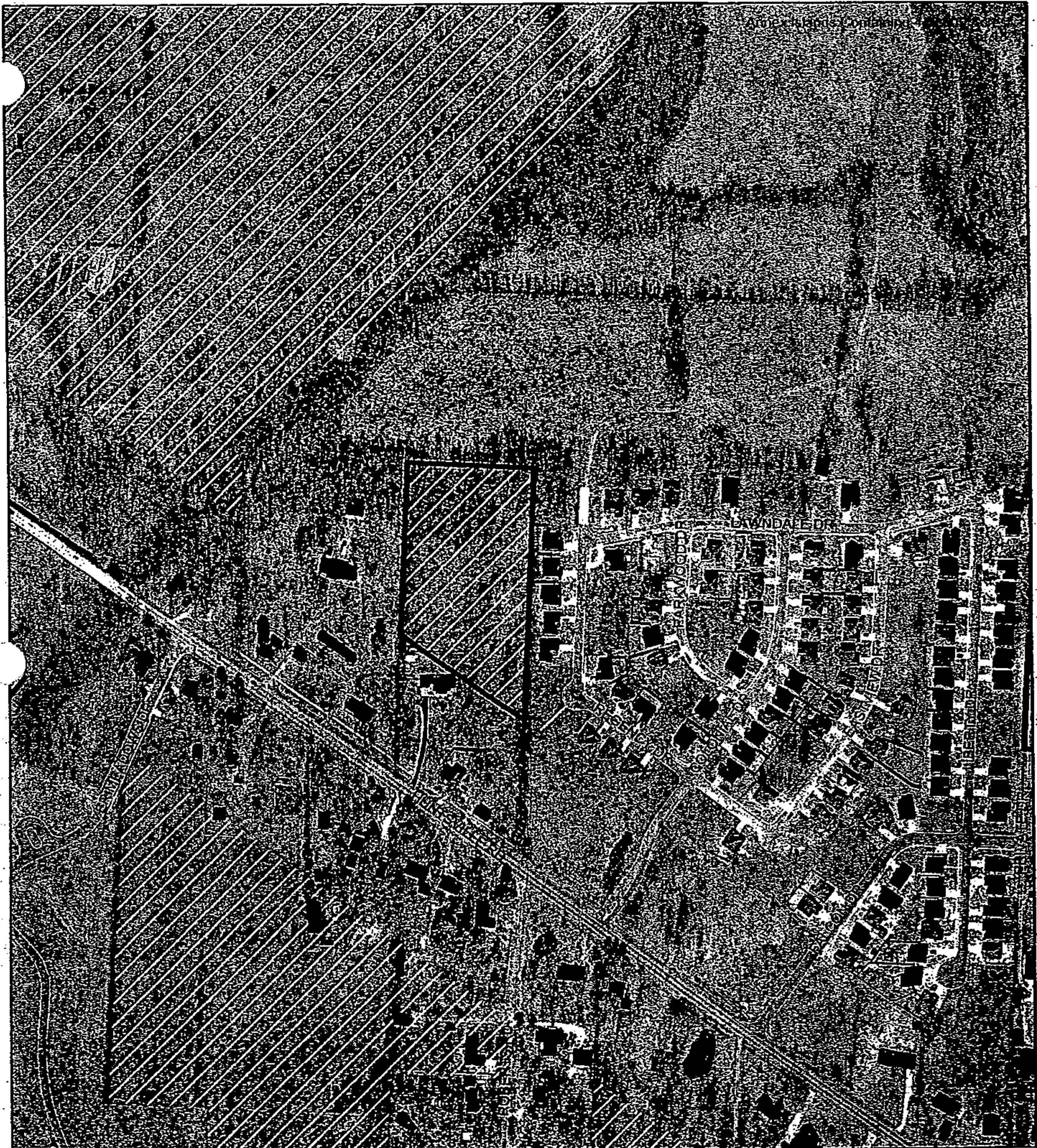


Area to be Annexed



City Service

WSS = Water, Sewer, Solid Waste (respectively)
X = NO SERVICE



Group 3, Description 2

0 140 280 560 840 1,120 Feet

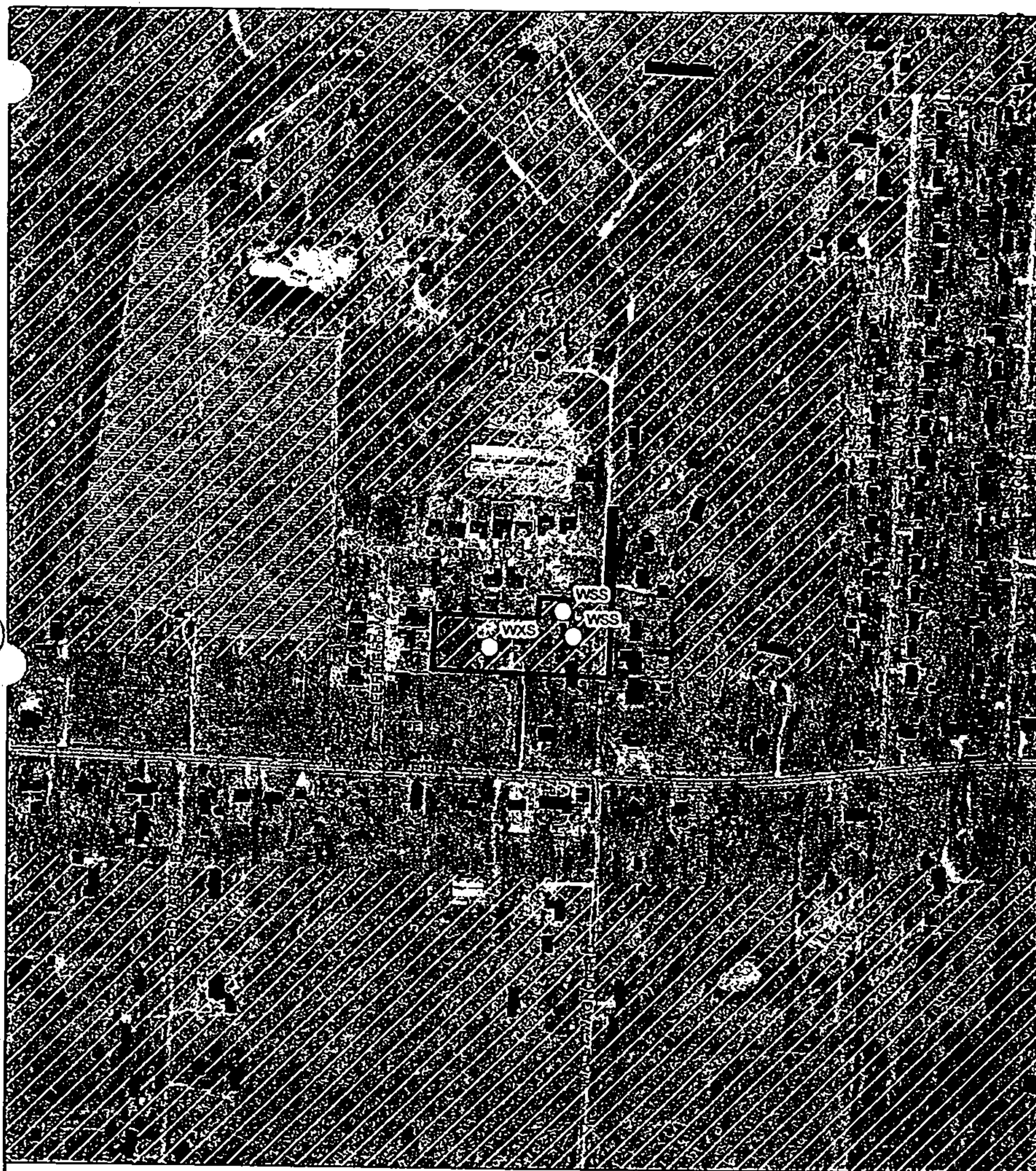
Date of Imagery: Feb. 14, 2000



Outside City of Fayetteville



Area to be Annexed



Group 3, Description 4

0 170 340 680 1,020 1,360 Feet

Date of Imagery: Feb. 14, 2000



Outside City of Fayetteville

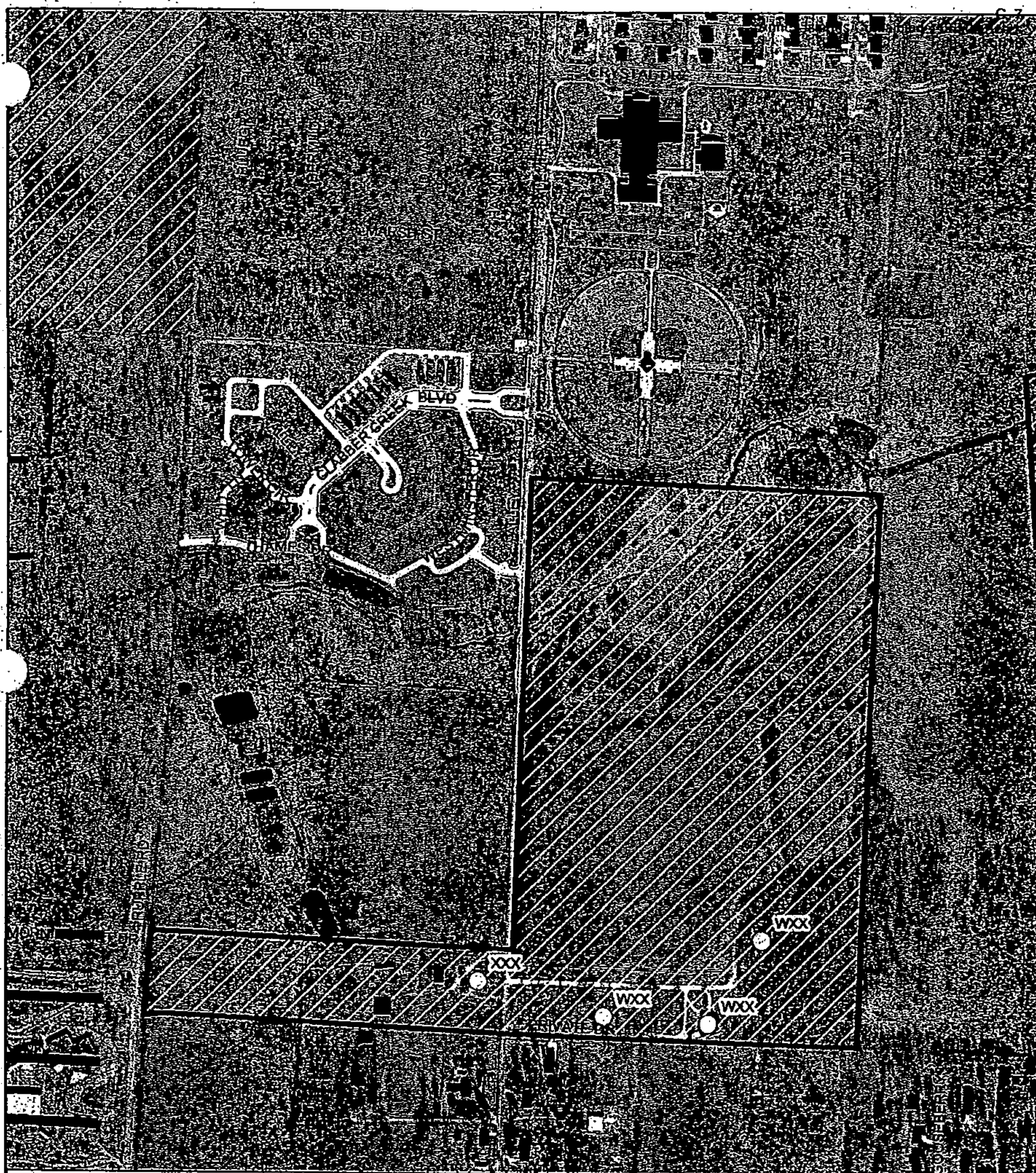


Area to be Annexed



City Service

WSS = Water, Sewer, Solid Waste (respectively)
X = NO SERVICE



Group 3, Description 6

0 200 400 800 1,200 1,600 Feet

Date of Imagery: Feb. 14, 2000



Outside City of Fayetteville



Area to be Annexed



City Service

WSS = Water, Sewer, Solid Waste (respectively)

X = NO SERVICE



Group 3, Description 8

0 280 560 1,120 1,680 2,240 Feet

Date of Imagery: Feb. 14, 2000



Outside City of Fayetteville



Area to be Annexed

○ City Service

WSS = Water, Sewer, Solid Waste (respectively)
X = NO SERVICE



Group 3, Description 10

0 50 100 200 300 400 Feet

Date of Imagery: Feb. 14, 2000



Outside City of Fayetteville



Area to be Annexed
(Offset from Cemetery Location)



Group 3, Description 11

0 205 410 820 1,230 1,640
Feet

Date of Imagery: Feb. 14, 2000



Outside City of Fayetteville



Area to be Annexed

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C.6.
Annex Islands 461.74 Acres
Page 18 of 18 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

July 6, 2004

FROM:

Tim ConklinComm. Planning & Engr. Svcs.CP&E

Name

Division

Department

ACTION REQUIRED: Approval of an ordinance to annex unincorporated areas completely surrounded by the City of Fayetteville City Limits pursuant to A.C.A. §14-40-501.

SUMMARY EXPLANATION:

Annexation of unincorporated areas, "islands", located within the City of Fayetteville corporate boundaries as described in the General Plan 2020, 2001 update, annexing approximately ~~449.509~~ acres into the corporate city limits of the City of Fayetteville, Arkansas.

461.174

STAFF RECOMMENDATION: Approval.

Division Head

Date



6-23-04

Date

Received in Mayor's Office

Date

See Amendment to
Ordinance & Summary

City Attorney

Department Director

Date



6-23-04

Date

Cross Reference:

Previous Ord/Res#:

Finance & Internal Services Dir.

Date



6-23-04

Orig. Contract Date:

Chief Administrative Officer

Date



6-23-04

Orig. Contract Number:

New Item:

Yes

No

Mayor

Date

City Council Meeting of July 6, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
From: Tim Conklin, Community Planning and Engineering Services Director
Date: June 23, 2004
Subject: Annexation of Unincorporated Areas Completely Surrounded by the City Limits

RECOMMENDATION

Planning Staff recommends approval of three ordinances annexing the unincorporated areas completely surrounded by the City Limits as authorized by A.C.A. § 14-40-501.

BACKGROUND

On June 1, 2004, the City Council approved three resolutions (Resolutions 87-04, 88-04, and 89-04) to propose ordinances calling for the annexation of parcels of land completely surrounded by the incorporated limits of the City of Fayetteville. A notice of Public Hearing was sent to all property owners by Certified Mail with return receipts on June 9, 2004 regarding a public hearing to be held on Tuesday, June 29, 2004 at 6:00 p.m. in room 219 and the City Council meeting on Tuesday, July 6, 2004.

The City of Fayetteville adopted an annexation policy in 2001 that recommends annexation of completely surrounded unincorporated areas or "islands" as part of the City's long range plan - General Plan 2020.

Annexing these unincorporated areas will allow for the following:

- Compatibility in land use and development standards
- Ability to plan and construct future City 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 - City police and fire

The following City services (including but not limited to) will be available after annexation:

- Trash Service
- Police Protection
- Fire Protection
- Sewer service if available - any extensions of public or private lines to serve these areas will be the responsibility of the property owner/developer
- Curbside recycling and yard waste pick up

City Council Meeting of July 6, 2004
Agenda Item Number

Staff has identified the following unincorporated areas (some areas include multiple parcels and property owners) completely surrounded by the City of Fayetteville which are proposed for annexation.

Candidate	Acres	Existing Land Use	2020 Future Land Use	Proposed Zoning
Group 1, Desc. 1	704.84	University Farm	University	RSF-1
Group 2, Desc. 1	168.747	Soil Quarry, Top Soil/Agricultural	Residential	RSF-1
Group 2, Desc. 2	12.232	Vacant	Residential	RSF-1
Group 3, Desc. 1	1.0	Residential	Residential	RSF-1
Group 3, Desc. 2	4.387	Vacant	Residential	RSF-1
Group 3, Desc. 3	26.83	Residential	Residential	RSF-1
Group 3, Desc. 4	2.815	Residential	Residential	RSF-1
Group 3, Desc. 5	74.913	Golf Course	Private Open Space	RSF-1
Group 3, Desc. 6	75.745	Residential / Ag	Residential	RSF-1
Group 3, Desc. 7	5.447	Residential	Residential	RSF-1
Group 3, Desc. 8	254.352	Residential/ Ag	Residential	RSF-1, R-A
Group 3, Desc. 9	4.00	Agricultural	Residential	RSF-1
Group 3, Desc. 10	.002	Cemetery	Residential	RSF-1
Total	1,335.31			

Source: City of Fayetteville, GIS, Annexation Candidates 2004.

* Please see attached requests by property owners for different zoning designations.

The proposed zoning designation for all of the islands is **RSF-1 Residential Single Family-One Unit Per Acre** except for the 3 acre parcel on Mt. Comfort Road to be zoned **R-A**.

There are currently 70 identified parcels and 55 addressed structures within the proposed annexation areas. Over half of the area to be annexed is owned by the University of Arkansas. The City held an informational meeting on May 20, 2004 for the property owners in the annexation areas.

Addressed Structures	Total
----------------------	-------

City Council Meeting of July 6, 2004
Agenda Item Number

Single Family	31
Commercial	8
Government	10
Non Profit	2
Residential Commercial Mix	1
Other -yard lines, power poles, etc.	3

Of the eight commercial structures that exist in the "islands", four of the commercial uses are private businesses and not related to the University of Arkansas farm. There are approximately 3.72 miles of public paved roads within the areas to be annexed.

Some of the existing development within these areas is currently served by City utilities. The attached maps indicate the type of service by address point with "WSS" W= water, S= Sewer, S= Solid Waste for each addressed structure.

No City Services	18
Water Only	37
Water and Sewer	6
Water and Solid Waste	4
Water, Sewer, and Solid Waste	3

The current property tax millage impact of this annexation is an additional 0.8 mills.

- o 1 mill is 1/10 of one cent (\$.001)
- o Additional 0.8 mills on \$100,000 home ($\$20,000 \times 0.0008$ mills) = \$16

BUDGET IMPACT

The proposed annexations are located adjacent to and within areas that are currently receiving City services. The impact on operating budgets is minimal.

RESOLUTION NO. 87-04

**A RESOLUTION TO PROPOSE AN ORDINANCE CALLING
FOR THE ANNEXATION OF A LARGE PARCEL OF LAND
COMPLETELY SURROUNDED BY THE INCORPORATED
LIMITS OF FAYETTEVILLE**

WHEREAS, whenever the incorporated limits of Fayetteville have completely surrounded an unincorporated area, the City Council may propose an ordinance calling for the annexation of the land surrounded by the municipality; and

WHEREAS, the adopted Annexation Policy of the 2020 Plan recommends annexation of these "islands" of unincorporated areas completely surrounded by our city limits; and

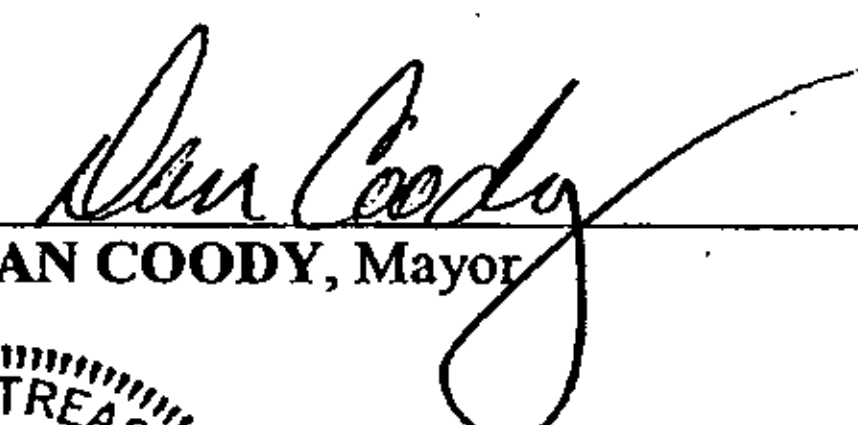
WHEREAS, the state law requires the City to propose an ordinance calling for such ordinance prior to a public hearing thereon and prior to bringing the proposed ordinance up for a vote.

**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 proposes the attached ordinance calling for the annexation of an "island" of unincorporated land south of Highway 16 East which is completely surrounded by the Fayetteville City limits will be considered for approval at a future City Council meeting after a public hearing is held on this annexation proposal.

PASSED and APPROVED this the 1st day of June, 2004.

APPROVED:

By: 

DAN COODY, Mayor

ATTEST:

By: 

SONDRA SMITH, City Clerk



ORDINANCE NO. _____

**AN ORDINANCE TO ANNEX INTO THE CITY OF FAYETTEVILLE,
ARKANSAS CERTAIN LANDS SOUTH OF HUNTSVILLE ROAD
WHICH ARE COMPLETELY SURROUNDED BY THE
INCORPORATED LIMITS OF FAYETTEVILLE**

WHEREAS, the annexation policy of the City of Fayetteville adopted by the City Council is to annex those parcels of land which have become completely surrounded by the incorporated limits of Fayetteville; and

WHEREAS, after annexation into the City of Fayetteville, the inhabitants of those lands will be afforded the same services of police and fire protection and solid waste collection as current citizens of Fayetteville enjoy; and

WHEREAS, all of the lands identified in Exhibit A (legal description) and Exhibit B (map) comply with at least one of the five requirements for annexation stated in A.C.A. §14-40-302; and

WHEREAS, at the time of the adoption of this ordinance, the highest and best use of these lands is NOT for agricultural or horticultural purposes.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby annexes into the City of Fayetteville, Arkansas the lands identified in Exhibit A (map) and Exhibit B (legal description).

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby assigns the zoning of these lands except Parcel No. 001-11230-000, to be RSF-1, Residential Single Family, one unit per acre.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby assigns the zoning of Parcel No. 001-11230-000 to be R-A, Residential Agricultural.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby assigns the parcels identified as numbers 001-11225-000 (also: 765-14261-000), 001-11227-000 (also: 765-14254-000), 001-11228-000 (also: 765-14259-000), 001-11230-000, 001-11228-001 (also: 765-14259-002), 001-11222-000, 098-00002-000, 098-00003-000, 098-00004-000, 098-00005-000, and 098-00001-000 on Exhibit "A" to Ward 1.

PASSED and APPROVED this 6th day of July, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

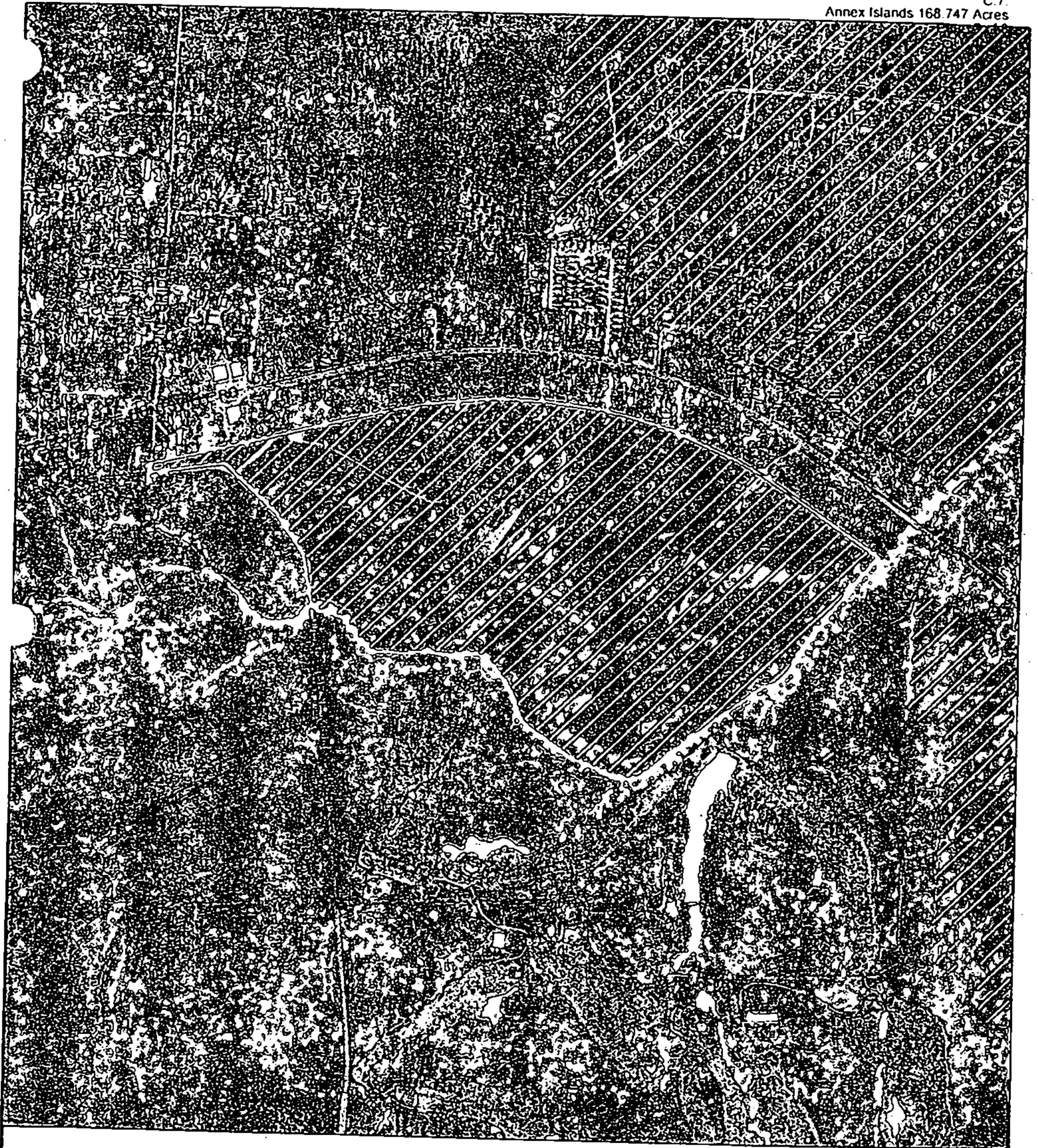
By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

GROUP 2
ANNEXATIONS

DESCRIPTION 1:

A part of Section 13, Township 16 North, Range 30 West, and a part of Section 24, Township 16 North, Range 30 West, all within Washington County, Arkansas, and being more particularly described as follows: Commencing at the Northwest corner of said Section 24-16-30; thence with the West line of said Section 24, South 02° 23' 30" West 416.373 feet, to the Point of Beginning; thence leaving said West line, North 75° 13' 48" East 1538.898 feet; thence North 80° 28' 00" East 749.5 feet; thence South 86° 27' 31" East 867.76 feet; thence South 71° 46' 23" East 983.14 feet; thence South 54° 41' 30" East 1215.993 feet; thence South 37° 46' 39" West 39.623 feet; thence continuing South 37° 46' 39" West 177.544 feet; thence South 37° 46' 37" West 228.627 feet; thence South 41° 09' 31" West 39.666 feet; thence South 34° 06' 05" West 244.482 feet; thence continuing South 34° 06' 05" West 408.187 feet; thence South 67° 18' 28" West 137.576 feet; thence South 53° 59' 01" West 473.769 feet; thence South 51° 14' 15" West 518.811 feet; thence South 56° 45' 51" West 65.65 feet; thence South 70° 59' 14" West 55.225 feet; thence North 83° 00' 12" West 51.695 feet; thence North 71° 13' 45" West 194.196 feet; thence North 68° 32' 03" West 182.469 feet; thence North 54° 11' 11" West 392.21 feet; thence North 38° 47' 53" West 60.794 feet; thence North 38° 48' 06" West 10.727 feet; thence North 17° 39' 43" West 145.382 feet; thence North 28° 45' 24" West 95.427 feet; thence North 36° 49' 44" West 169.697 feet; thence North 49° 07' 07" West 94.415 feet; thence North 76° 51' 28" West 98.911 feet; thence South 81° 28' 28" West 127.434 feet; thence North 84° 41' 01" West 215.53 feet; thence South 77° 13' 48" West 89.532 feet; thence North 85° 47' 17" West 159.223 feet; thence South 86° 20' 07" West 70.358 feet; thence North 52° 08' 42" West 112.869 feet; thence North 34° 40' 14" West 199.389 feet; thence North 73° 09' 20" West 70.575 feet; thence North 73° 09' 24" West 134.362 feet; thence North 73° 09' 25" West 33.056 feet; thence North 09° 30' 11" West 380.52 feet; thence North 34° 00' 11" West 346.501 feet; thence North 47° 00' 11" West 494.999 feet; thence South 81° 46' 49" West 508.668 feet; thence North 02° 23' 28" East 99.474 feet, to the Point of Beginning and containing 168.747 acres, more or less.



Group 2, Description 1

0 345 690 1,380 2,070 2,760 Feet

Date of Imagery: Feb. 14, 2000



Outside City of Fayetteville



Area to be Annexed

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C.7.
Annex Islands 168.747 Acres
Page 8 of 8 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

July 6, 2004

FROM:

Tim ConklinComm. Planning & Engr. Svcs.CP&E

Name

Division

Department

ACTION REQUIRED: Approval of an ordinance to annex unincorporated areas completely surrounded by the City of Fayetteville City Limits pursuant to A.C.A. §14-40-501.

SUMMARY EXPLANATION:

Annexation of unincorporated areas, "islands", located within the City of Fayetteville corporate boundaries as described in the General Plan 2020, 2001 update, annexing approximately ~~180.979~~ acres into the corporate city limits of the City of Fayetteville, Arkansas.

168.147

STAFF RECOMMENDATION: Approval.

Division Head

Date

Received in Mayor's Office

Date

City Attorney

6-23-04

Date

See Amendments to Ordinance
+ summary

Department Director

6-23-04

Date

Cross Reference:

Finance & Internal Services Dir.

6-23-04

Date

Previous Ord/Res#: _____

Orig. Contract Date: _____

Chief Administrative Officer

6-23-04

Date

Orig. Contract Number: _____

New Item:

Yes

No

Mayor

Date

RECEIVED

JUN 21 2004

**CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE**

June 19, 2004

City of Fayetteville
City Council
113 W. Mountain Street
Fayetteville, AR 72701

Dear Council Members:

Recently my wife and I went before the Planning Division Committee to request a variance in the fencing ordinance regarding commercially zoned property. Our request was denied in a 7 to 1 vote. We feel the issues around our request were not thoroughly heard, and; therefore, we wish to petition the City Council for an opportunity to appeal our request. It is our hope that you will consider the information contained in this letter and allow us to appear before your next regularly scheduled meeting.

We live and work in a vintage 1950's Sinclair Gas station. We are three plus years into restoring and improving the property located at the corner of Happy Hollow and Huntsville Road. We are both artists who, from young ages, have used our talents to make a living and improve our living environment(s). We both were attracted to Fayetteville because it is a place that embraces creativity, improvement and preservation beyond the status quo.

During an early stage of our particular restoration project, we experienced several incidents of theft and vandalism. Some of the thefts were of items of considerable value. We were not deterred from a project we considered a fascinating challenge. We moved in before we planned with our German Shepard dog, Mike. The theft and vandalism stopped.

Unfortunately, since that time, there have been two incidents with Mike involving a citizen and a Fayetteville Police Officer. On these occasions, he either grabbed or startled the person(s) involved. As a result, the dog was confined at the Fayetteville Animal Shelter for approximately two months.

A settlement agreement has been reached with the City Prosecutor's Office. Mike the dog is now home. Part of the agreement included the construction of additional fencing protecting the property from public entrance. The city offices of the Prosecutor, the Director of Animal Services and we agree the fence is key to accomplishing this. It is our belief that chain link is the best solution for a variety of reasons.

First and foremost, the smaller openings in the chain link material will provide the best protection of public passer bys. We do not feel that stock iron or vinyl fencing options

would provide this level of protection. In addition, the fencing would provide secure protection for our valuable, classic cars and commercial business projects.

Second, chain link fencing is "period correct" for the age of our gas station. We feel that we could utilize this material in such a way as it would not be considered unattractive or out of place. We would install such fence with the care we have taken with each part of our restoration. We are thoughtfully restoring and improving our gas station home and invite you to let us show you the level of our improvements to date.

Third, alternative types of fencing include custom iron or solid masonry. These options are cost prohibitive for us. Materials and labor would roughly be 2 to 4 times that of chain link. It seems that the term "undue hardship" the Planning Committee uses applies to financial impact. In most commercial property cases, cost would not have the degree of impact on a larger company, developer or contractor as it would have on an individual. We ask that you consider the "hardship" issue with this comparison in mind.

Thank you for your consideration,



Clem Johnson
1798 East Huntsville Road
Fayetteville, AR 72701

RESOLUTION NO. _____

A RESOLUTION TO GRANT (OR DENY) AN APPEAL
FROM THE PLANNING COMMISSION'S DENIAL OF
A VARIANCE FROM THE COMMERCIAL DESIGN
STANDARDS

WHEREAS, the Commercial Design Standards found in §166.14 of the Unified Development Code prohibit chain link fence "closer to the street than the front of the building in zoning districts C-1, C-2, C-3, C-4 and R-O"; and

WHEREAS, "Residential uses are exempt from this requirement"; and

WHEREAS, the Planning Commission may grant a variance from commercial design standards for "Undue hardship" as applied to the proposed development "so that substantial justice may be done and the public interest served," {§156 (C)}; and

WHEREAS, a petitioner may appeal to the City Council from "decisions of the Planning Commission concerning commercial design standards," {§155.05 (A) (5)}; and

WHEREAS, the City Council determines that the appeal should be granted (or denied) and the variance granted (or denied) after careful consideration of the public interest, substantial justice, and petitioner's argument concerning undue hardship.

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 grants (or denies) the appeal of Mr. and Mrs. Clem Johnson and grants (or denies) the variance as requested by Mr. and Mrs. Clem Johnson with the following conditions:

PASSED and APPROVED this the 6th day of July, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 14, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn Warrick, AICP, Zoning & Development Administrator
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: June 10, 2004

ADM 04-1120: Administrative Item (CLEM JOHNSON): Submitted by CLEM JOHNSON for property located at 1798 E HUNTSVILLE ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.78 acres. The request is to allow a waiver of Commercial Design Standards to allow a chain link fence in front of the structure at the subject property. Planner: Dawn Warrick

RECOMMENDATION:

Staff recommends denial of this administrative request based on the findings included as part of this report.

BACKGROUND:

Property description: The subject property is located at the northwest corner of Huntsville Rd. and Happy Hollow Rd. The property contains approximately 0.79 acres and is zoned C-2, Thoroughfare Commercial. A very specific Bill of Assurance was accepted by the City Council in 1998 at the time that this property was rezoned from C-1, Neighborhood Commercial. That guarantee (see attached) only permits this property to operate for the existing use (restoration and sales of used vehicles) or any use permitted in the C-1 zoning district. The action to change the zoning of this property was a 5-4-0 vote by a previous City Council which required a tie-breaker by the mayor. The original Bill of Assurance included a provision that all of the vehicles associated with this business (no more than 15) were to be located behind a 6' wooden fence. This Bill of Assurance was later amended to allow for a metal fence of the same height to screen the vehicles associated with this business.

Approximately 18 months ago, the City did receive complaints regarding restoration activities and parked vehicles being located in front of the structure in violation of the bill of assurance. This violation was remedied by the applicant after notification by the City.

Request: The applicant's request is to allow chain link fence in front of a commercial structure. The applicant is working with several agencies to obtain custody of his dog which is currently confined at the Fayetteville Animal Shelter pending an upcoming trial date (see attached letter from the applicant). The proposed fence location would enclose the entire front of the property

adjoining Huntsville Rd. from the structure to the street right-of-way to the western property line and back to the building (see attached site plan). This area contains roughly 5,400 s.f. of the property. This request constitutes a waiver of the City's Commercial Design Standards (§166.14).

Recommendation: Staff recommends denial of this request for a chain link fence. The City of Fayetteville sets a high standard for all commercial developments. It is important to the quality of development within the City that these standards are enforced equally. The subject property is located at a very visible and key intersection leading into Fayetteville. It is desirable to improve upon the appearance of commercial properties as changes are requested. Proper application of adopted commercial design standards will allow positive improvements that are consistent throughout the City. If this regulation is relaxed or waived to the degree proposed, the desirable result of having such regulations cannot be accomplished.

The section of the ordinance which specifically addresses the types of fences permitted within commercial developments is clear (see attached). The intent is to permit appropriate fencing which is compatible with the development as well as the surrounding uses. This site was originally developed as a gas service station in the 1950's. The applicant states that he has gone to extensive measures to restore the character of this structure and site. In keeping with that theme, gas service stations are not typically fenced off from adjoining streets. Open access to the front of the structure is a part of the function of this type of site and to enclose the front of the site with fencing is not demonstrative of the historic use of this site nor the present commercial uses conducted at this location.

The rear yard of this property is already enclosed with a metal screen wall. This was installed to screen vehicles and other activities of the restoration operation which is conducted on-site. The original bill of assurance offered to secure the current zoning of this property included a provision that all vehicles be located behind a wood board fence however, that bill of assurance was later amended to allow the metal wall/fence.

While there are certainly issues related to the applicant's pet which have spurred this request, staff is charged with reviewing this waiver request against the City's ordinances which regulate commercial development. The result of having a chain link fence in front of a commercial structure in this location is undesirable and does not comport to the purposes stated in the City's adopted Commercial Design Standards ordinance.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family residence	RSF-4, Residential Single Family 4 units/acre
South	Funeral home	C-1, Neighborhood Commercial
East	Single family residence	C-2, Thoroughfare Commercial
West	Accounting office	R-O, Residential Office

LAND USE PLAN: General Plan 2020 designates this site Community Commercial.

166.14 Commercial Design And Development Standards

(A) *Purposes.*

- (1) To protect and enhance Fayetteville's appearance, identity, and natural and economic vitality.
- (2) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, and drainage.
- (3) To protect and preserve the scenic resources distributed throughout the city which have contributed greatly to its economic development, by attracting tourists, permanent part-time residents, new industries, and cultural facilities.
- (4) To preserve the quality of life and integrate the different zones and uses in a compatible manner.
- (5) To address the issues of traffic, safety, and crime prevention.
- (6) To preserve property values of surrounding property.
- (7) To provide good civic design and arrangement.

(B) *Applicability.* The standards set forth herein shall apply in the following zoning districts, except as noted:

- (1) R-O, Residential Office;
- (2) C-1, Neighborhood Commercial;
- (3) C-2, Thoroughfare Commercial;
- (4) C-3, Central Commercial;
- (5) C-4, Downtown;
- (6) I-1, Heavy Commercial and Light Industrial;
- (7) I-2, General Industrial;
- (8) P-1, Institutional;
- (9) E-1, Extraction;
- (10) PZD, Planned Zoning District when commercial, office, institutional and industrial uses are planned.
- (11) Any other zoning district when commercial, office, institutional, and industrial uses are allowed as a conditional use.

(C) *Site development standards.* The following site development standards shall apply when either new development or expansion of 25% of the existing building square footage occurs.

(1) *Landscaping.* Landscaping is required as follows:

(a) *Landscaping general provisions.*

- (i) Landscaping shall be provided which is sufficient to provide soil stability and suitable drainage.
- (ii) Trees, shrubs, groundcover and grass shall be the primary source of landscaping and shall be placed

and/or retained in such a manner as to reduce runoff.

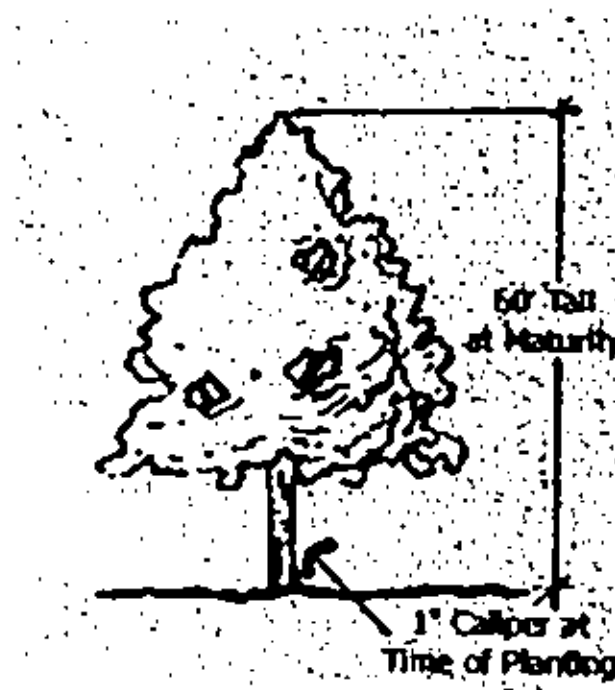
- (iii) The current property owner shall properly maintain all landscaping and shall replace any landscaping that dies or is damaged.
- (iv) Native vegetation should be used when possible in order to minimize watering.
- (v) Landscaping should attempt to incorporate existing on-site trees and shrubbery.
- (vi) Providing outdoor spaces and places for people to gather is encouraged.

(b) *Landscaping along front property lines.*

- (i) *Landscaped area required.* A 15 foot wide landscaped area shall be provided along the front property line exclusive of right-of-way. Entrance drives, exit drives, and sidewalks are allowed to cross the 15 foot landscaped area provided the integrity of the landscaped area is maintained. Residential uses and zoning district C-3 and C-4 shall be exempt from this requirement.

(ii) *Trees.*

- a. Trees shall be planted in the 15 foot landscaped area at a ratio of one tree per 30 feet of front property line and may be planted together in groups. No group may count more than 25% of the required number.
- b. Species selection shall be at the discretion of the developer. However, species which are listed in the *City of Fayetteville Tree Preservation, Protection and Landscape Manual* under the tree section guide are encouraged.
- c. Trees planted shall have a two inch caliper (diameter) measured six inches above ground level at the time of planting with at least 50% with an expected mature height of 60 feet or more. In cases of existing overhead power lines, trees shall be planted that will not interfere with existing power lines.



- d. Each tree shall have a minimum of 100 square feet of permeable surface located under the potential canopy of the tree. Paving blocks, bricks, and iron and/or plastic grates, may be used over the tree root system to allow air and water into the root system.

(2) *Screening for commercial buildings and development.*

- (a) Screening shall mean a view obscuring fence, view obscuring berm, view obscuring architectural treatment, or view obscuring vegetation, or combination of the four, of sufficient height to prevent the view of the screened items from vehicular and pedestrian traffic on adjacent streets, and from residential property. Vegetation shall be planted at a density sufficient to become view obscuring within two years

from the date of planting.

- (b) Mechanical and utility equipment, trash enclosures, and outdoor storage of material and equipment shall be screened if visible from the highway/street right-of-way or from residential property as set forth below:

(i) *Mechanical and utility equipment.* All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting building. Mechanical and utility equipment over 30 inches in height shall meet building setbacks.

(ii) *Trash enclosures.* Trash enclosures shall be screened with access not visible from the street.

- (3) *Fences.* The following types, height, and location of fences shall be prohibited:

(a) *Razor and/or barbed wire.* Razor and/or barbed wire fences are prohibited if visible from the street right-of-way or a residence, unless and except barbed wire fences are used for agricultural purposes.

(b) *Chain link.* Chain link fence is prohibited if closer to the street than the front of the building in zoning districts C-1, C-2, C-3, C-4, and R-O. Residential uses are exempt from this requirement.

(c) *Height of fences in front buildings.* Fences located in front of the primary structure may be solid up to 30 inches in height. Any part of a fence which exceeds 30 inches in height shall not obstruct the view of the primary structure from the right-of-way.

- (4) *Site coverage.* A maximum of 85% of the development site may be covered by the ground floor of any structure, parking lots, sidewalks, and private streets and drives or any other impermeable surface. Zoning districts C-3, C-4, and the Design Overlay District are exempt from this requirement.

- (5) *Driveways.* Shared drives and cross access between properties shall be encouraged to developed and undeveloped properties, except in C-3 and C-4 zones.

- (D) *Design elements guidelines for commercial structures.*

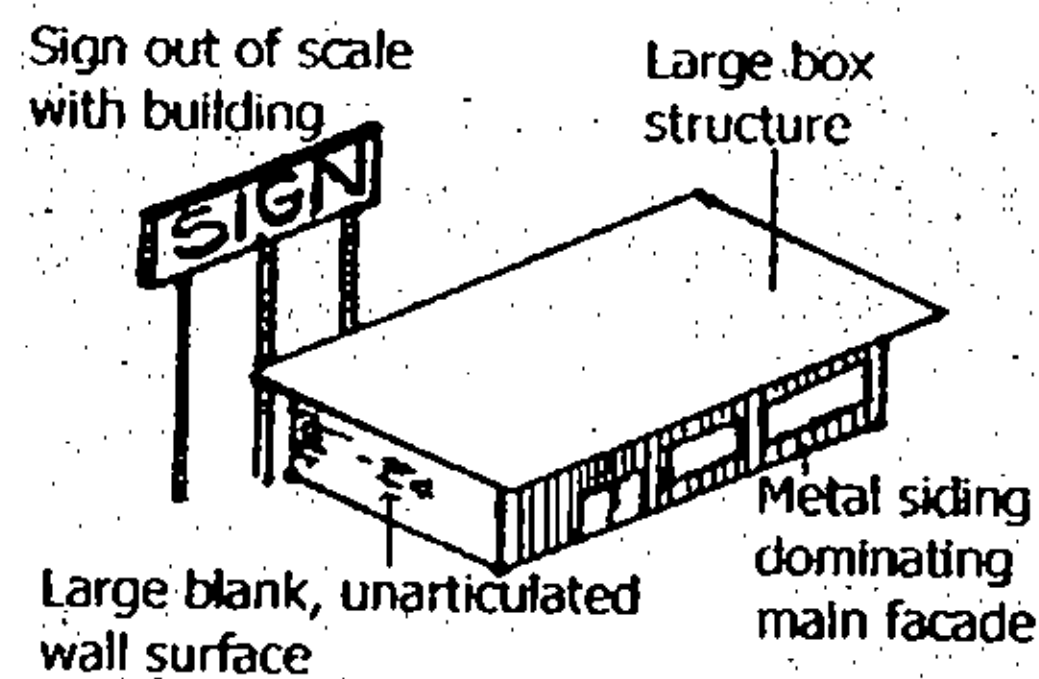
- (1) The elements to avoid or minimize include:

- (a) Unpainted concrete precision block walls;
- (b) Square "boxlike" structures;
- (c) Metal siding which dominates the main facade;
- (d) Large blank, unarticulated wall surfaces;
- (e) Large out of scale signs with flashy colors.

- (2) *Construction and appearance design standards for commercial structures.*

- (a) A commercial structure or development shall be designed to avoid or minimize the elements set forth in (1)(a) – (d) above.
- (b) A commercial development which contains more than one building should incorporate a recurring, unifying, and identifiable theme for the entire development site.
- (c) A development should provide compatibility and transition between adjoining developments.

Design Element Guidelines, Commercial



(E) *Design review.*

(1) *Submittals.* The following drawings, information, and plans shall be submitted to the Planning Commission for design review and approval with large scale development applications, when applicable; or, submitted to the Planning Division for design review and approval with, or prior to, building permit applications for non-large scale development.

(a) *Elevations.* Rendered elevation drawing of main facade at 1/16 inch to one (1) foot (minimum) scale showing adjoining context and a description of external building materials.

(b) *Landscaping.* Proposed landscaping to be used as screening shall be shown on the tree preservation plan or site plan.

(2) *Build out.* Upon approval of a large scale development, or issuance of a building permit, build-out of the project shall conform to the drawings, information, and plans approved.

(a) *Amendments.* Amendments to the drawings, information, and plans shall be submitted to the planning division. Amendments which are determined to be insignificant or minor may be approved by the Planning Division. Significant amendment shall be approved by the Planning Commission when approval was given through the large scale development process, or by the planning division when approval was given through the building permit process.

(b) *Review.* Amendments shall be considered using the same standards as the initial design approval.

(c) *Noncompliance.* Failure to build-out the project according to the approved drawings, information, and plans, or approved amendments thereto, shall render the large scale development approval, or the building permit approval void.

(F) *Variances.* (See Chapter 156.)

(Code 1991, §160.124; Ord. No. 4004, §1, 10-15-96; Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross reference(s)—Specific Districts §161.13 through §161.21; Appeals, Ch. 155; Variances, Ch. 156.

RECEIVED

JUN 08 2004

PLANNING DIV.

June 6, 2004

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

Dear Committee Members:

My wife and I live and work in a vintage 1950's Sinclair Gas station. We are three plus years into restoring and improving the property located at the corner of Happy Hollow and Huntsville Road. I am writing to request a variance in the fencing ordinance regarding commercially zoned property. It is our hope that you will consider the information contained in this letter and allow the construction of a 6' chain link fence along partial frontage of Huntsville Road.

During an early stage of our restoration project, we experienced several incidents of theft and vandalism. Some of the thefts were of items of considerable value. We moved in before planned with our German Shepard dog, Mike. The theft and vandalism stopped.

Unfortunately, since that time, there have been two incidents with Mike involving a citizen and a Fayetteville Police Officer. On these occasions, he either grabbed or startled the person(s) involved. As a result, the dog is currently confined at the Fayetteville Animal Shelter a trial date set for July 14, 2004.

However, a settlement agreement is in the works. Part of the agreement includes the construction of additional fencing protecting the property from public entrance. It should be noted that the city offices of the Prosecutor, the Director of Animal Services and we agree the fence is key to finalizing this agreement. It is our belief that chain link is the best solution for a variety of reasons.

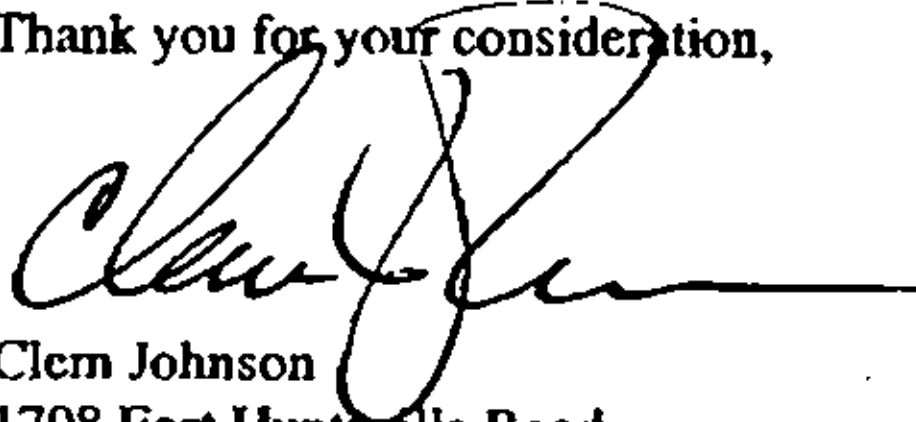
First and foremost, the smaller openings in the chain link material will provide the best protection of public passer bys. We do not feel that stock iron or vinyl fencing options would provide this level of protection. In addition, the fencing would provide secure protection for our valuable, classic cars and commercial business projects.

Second, chain link fencing is "period correct" for the age of our gas station. It would also allow visibility of a structure and grounds we are thoughtfully restoring and improving.

Third, alternative types of fencing include custom iron or solid masonry. These options are cost prohibitive. Materials and labor would roughly be 2 to 4 times that of chain link. In addition, these alternatives could require a longer construction period. Our interest is in finalizing the agreement and expediting the release of Mike, our dog, before any deterioration of his mental state can occur.

In closing, we would respectfully ask that the committee make a decision during the meeting to allow this requested fence variance. Our site plan and a petition from our residential and business neighbors are attached.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read 'Clem Johnson', with a long horizontal flourish extending to the right.

Clem Johnson
1798 East Huntsville Road
Fayetteville, AR 72701

PETITION

I am a residential or business neighbor having property, facing or adjoining the property at 1798 East Huntsville Road (the corner of Happy Hollow and Huntsville Road). It is my understanding that the property owners, Clem and Kim Johnson, wish to petition the Fayetteville Planning Division Committee for a variance to allow a 6' chain link fence along part of the frontage of Huntsville Road and bisecting the property to join other fence structure and building structure. The primary consideration is protection of public passer bys. Further consideration is to expedite a settlement in a dog related issue with the Fayetteville City Prosecutor's office.

I would have no objection to this 6' chain link fence.

PROPERTY OWNER/BUSINESS OWNER :

printed name: Don & Brenda Thompson

signature: Don Thompson Brenda Thompson date: 6-7-04

address: 685 S. Happy Hollow Rd.

comments: _____

I FEEL ANYTHING THE JOHNSON'S DO IN
THIS REGARD WILL NOT BE DETRIMENTAL
TO THIS NEIGHBORHOOD.

Document drafted by Kim Johnson. Signature of property or business owner witnessed by:

KA Johnson date: 6/7/04

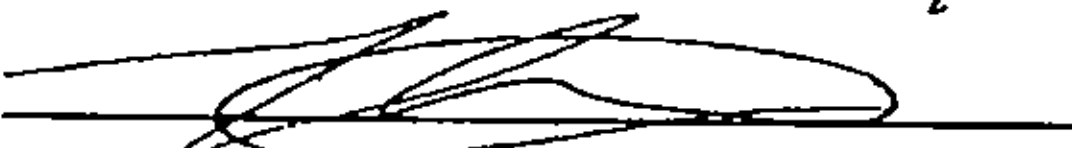
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I would have no objection to this 6' chain link fence.

PROPERTY OWNER/BUSINESS OWNER:

printed name: Dr Kimberly Taylor

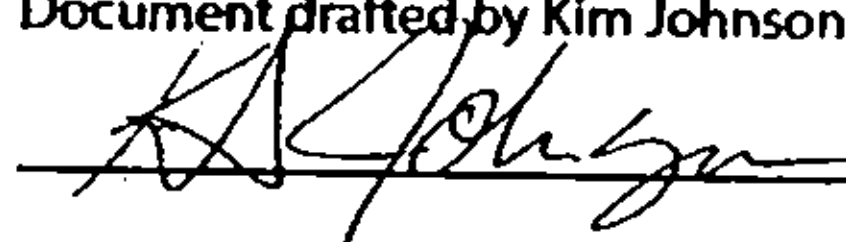
signature: 

date: 6/7/04

address: 778 Happy Hollow Rd 72701

comments: _____

Document drafted by Kim Johnson. Signature of property or business owner witnessed by:

 date: 6/7/04

PETITION

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I would have no objection to this 6' chain link fence.

PROPERTY OWNER/BUSINESS OWNER :

printed name: Elsie Counts

signature: _____

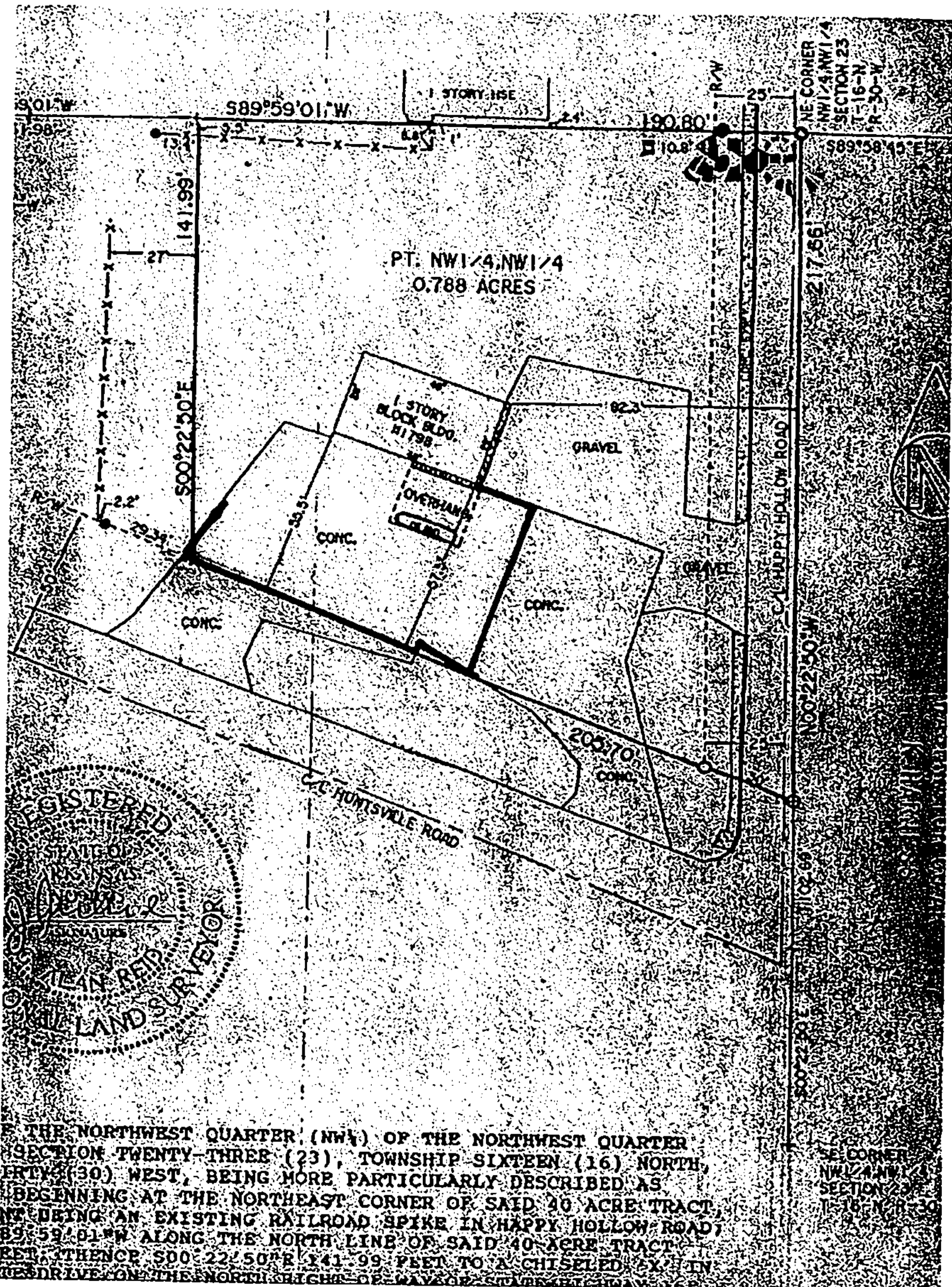
date: 6/8/04

address: Elsie Counts 1298 Happy Hollow Road

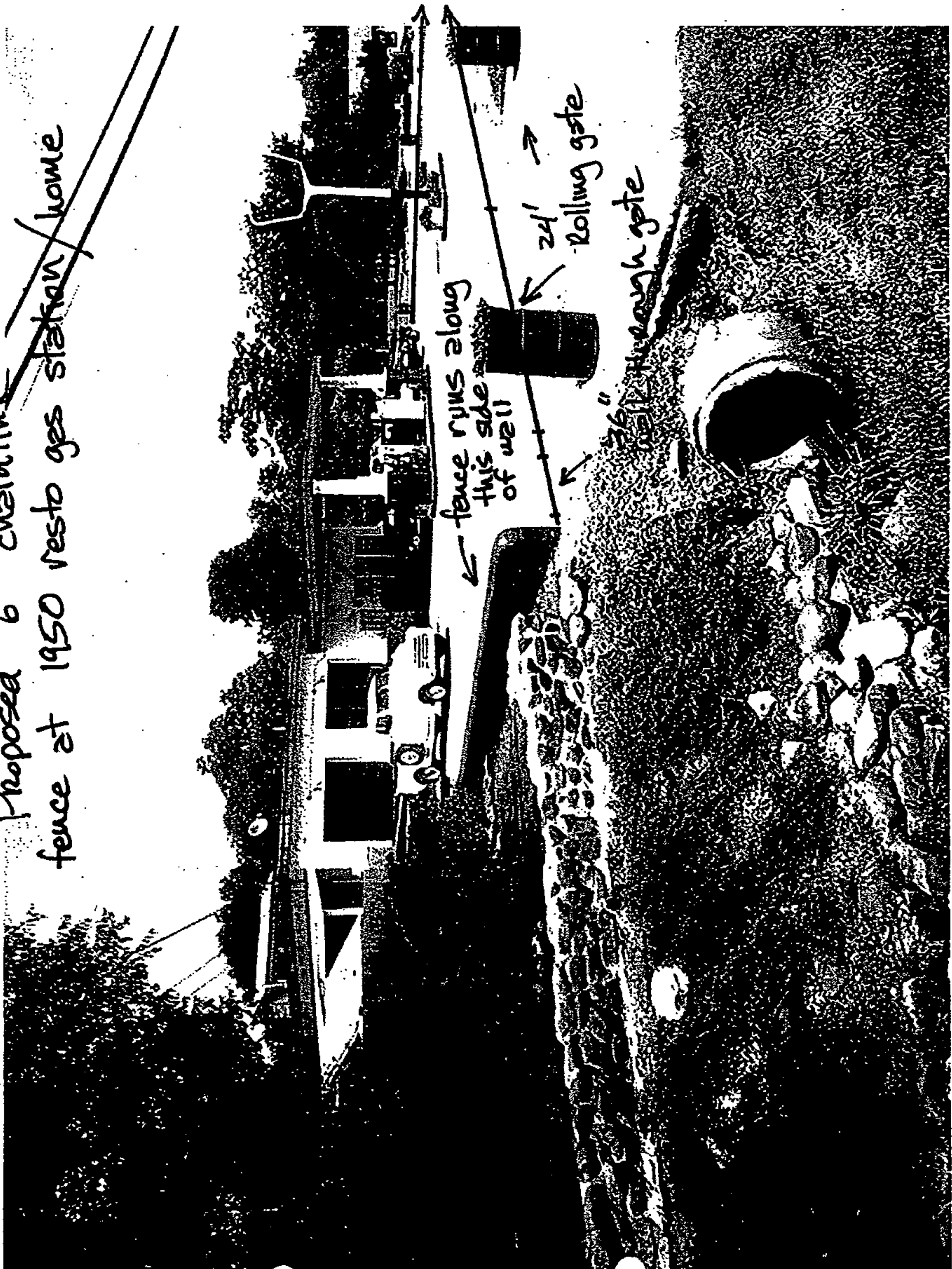
comments: _____

Document drafted by Kim Johnson. Signature of property or business owner witnessed by:

[Signature] date: 6/8/04



Proposed 6' chainlink
fence at 1950 resto gas station/home



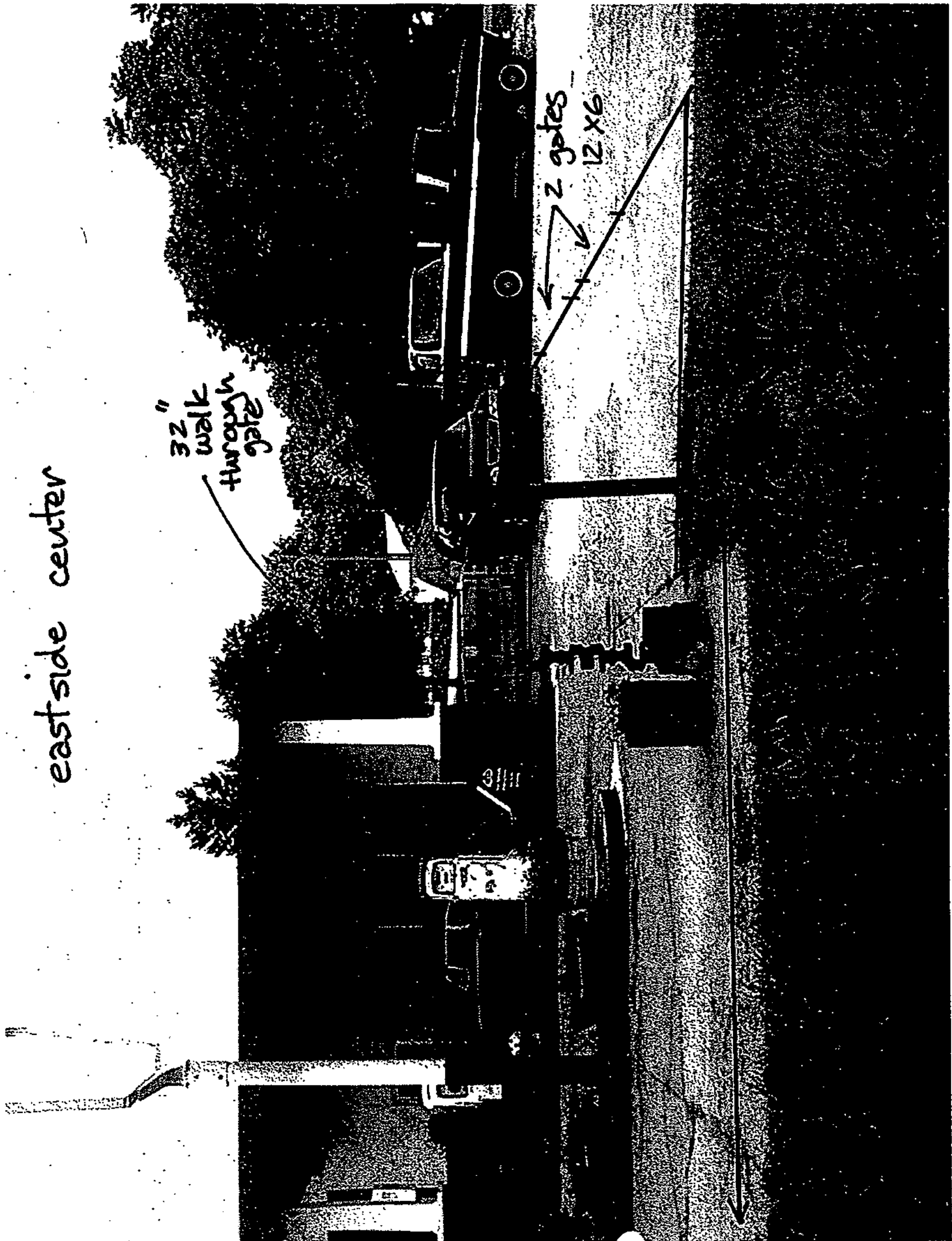
westside center



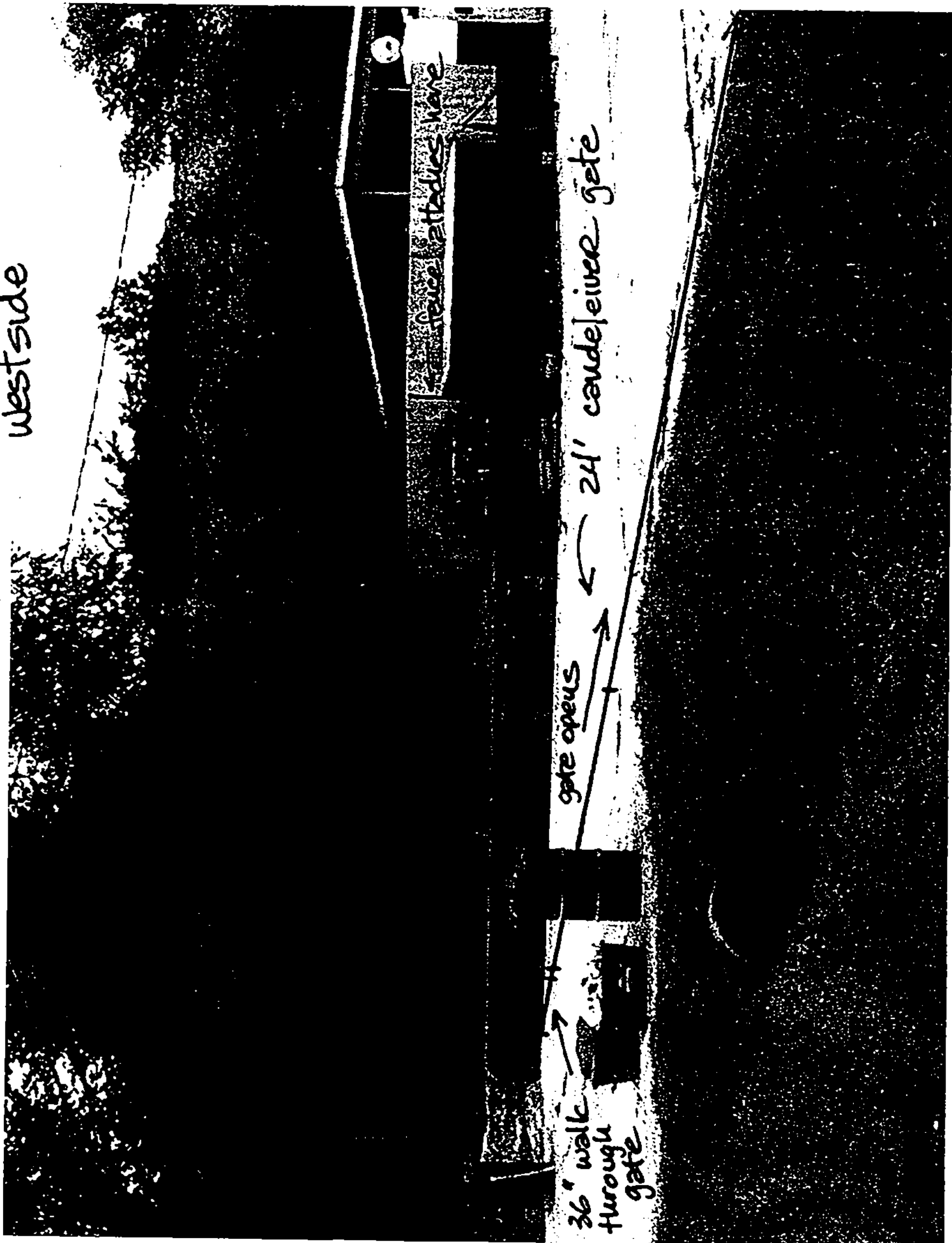
east side center

32"
walk
through
gate

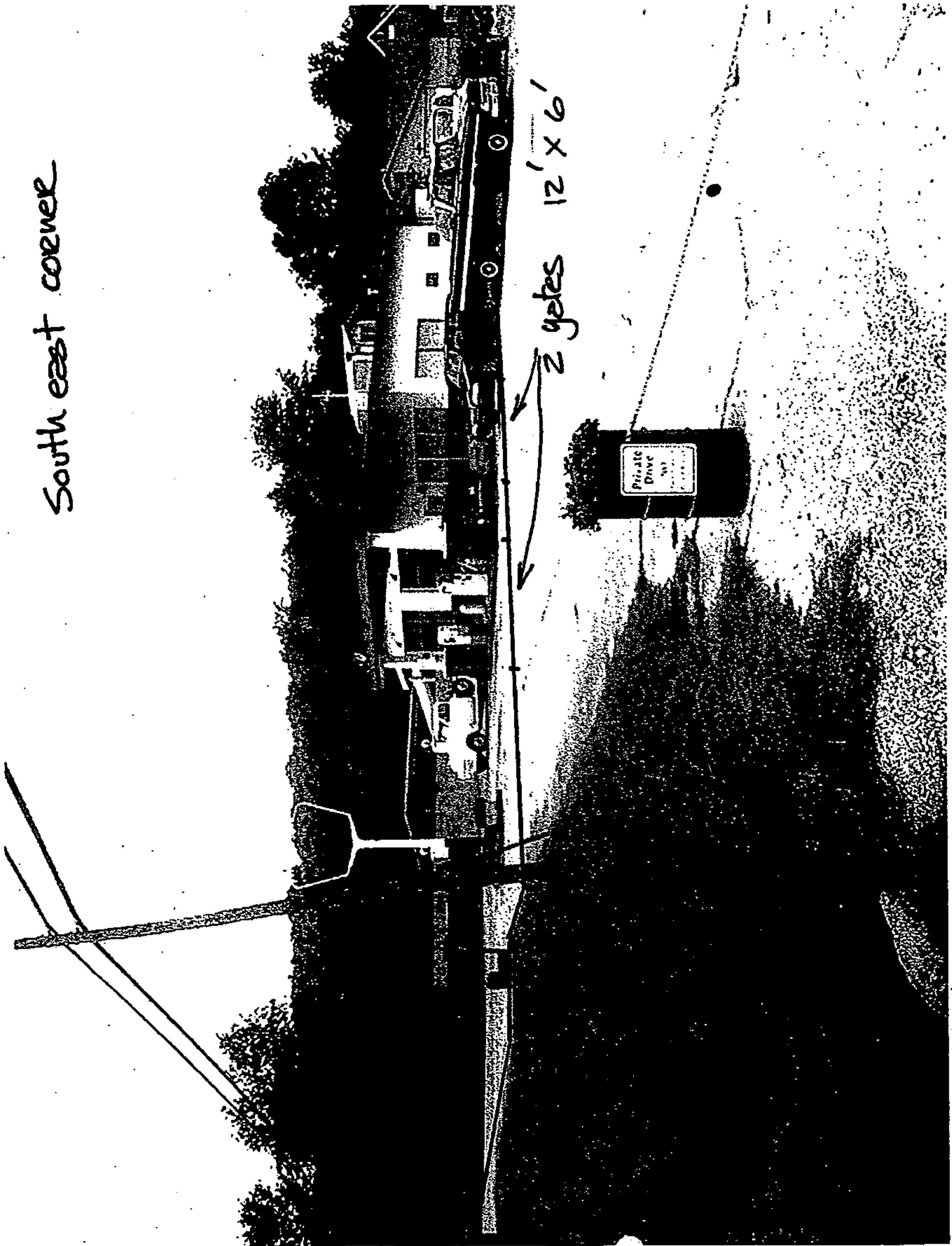
2 gates -
12 x 6

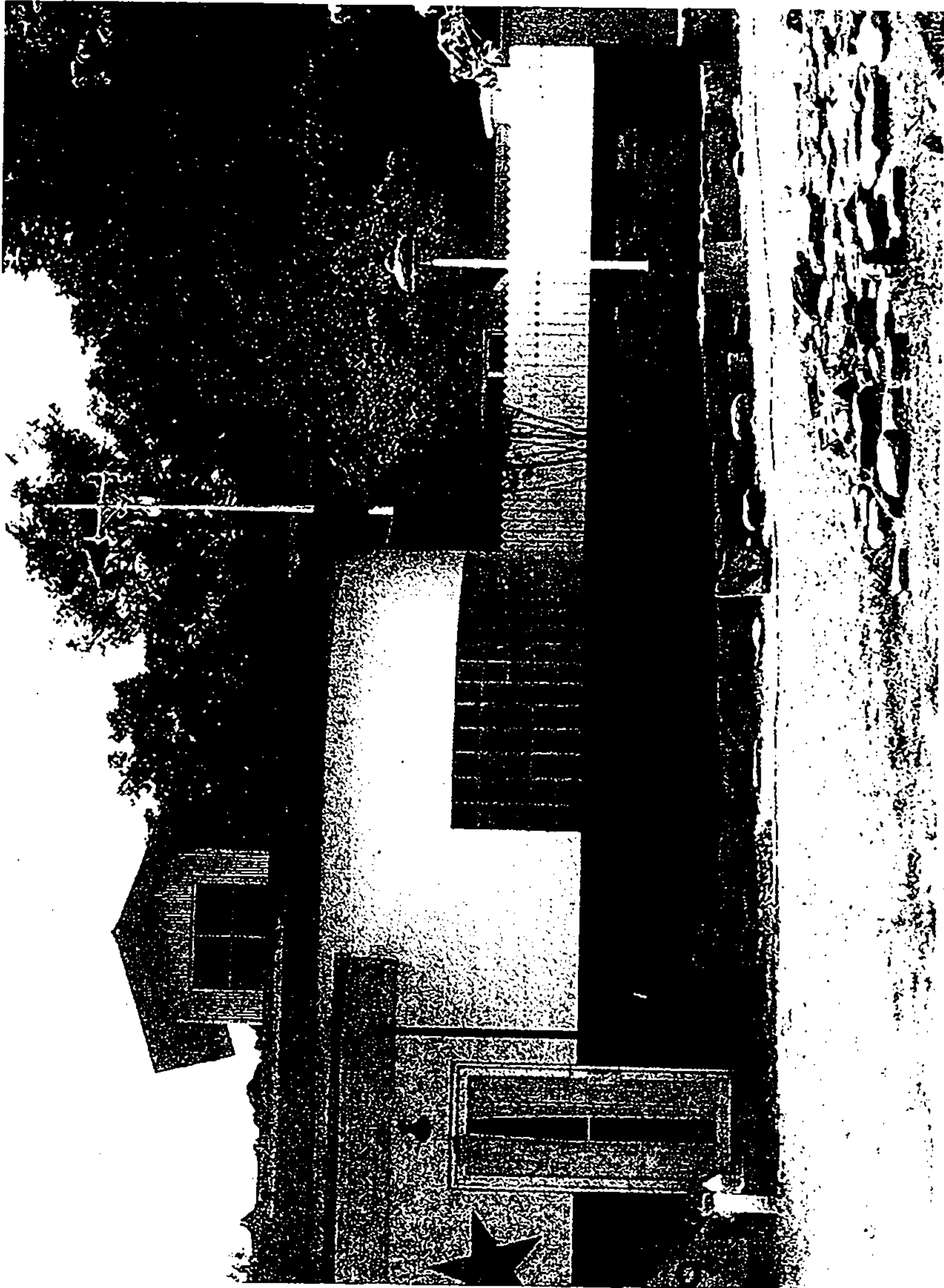


west side



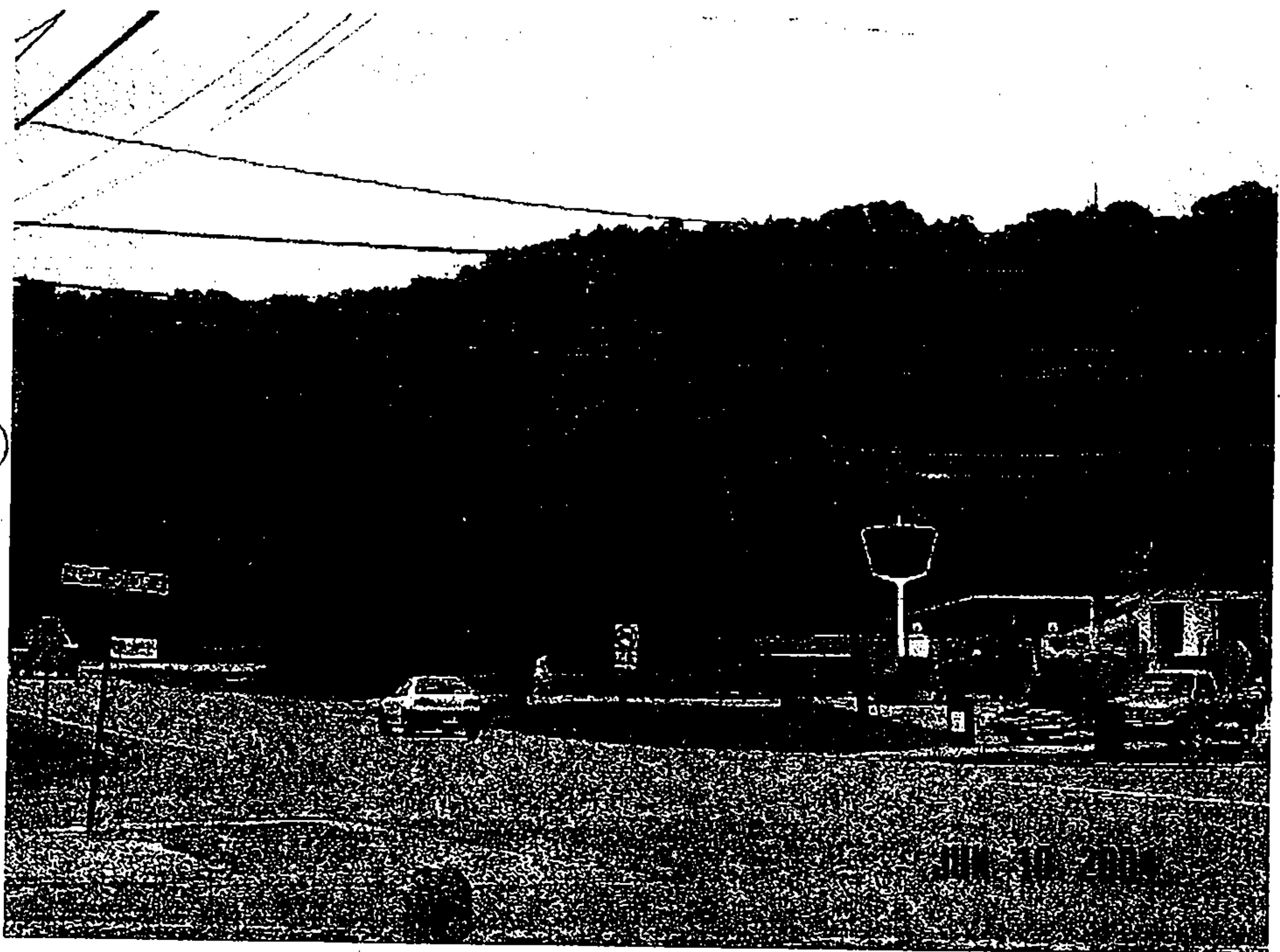
South east corner





No fence on this the east side













AMENDED BILL OF ASSURANCE

This declaration of a Bill of Assurance is made this 3 day of May, 2001, by
Clem Johnson, successor owner to Littlefield Investment Co. of real property located in the City of
Fayetteville, Washington County, Arkansas, and more particularly described as follows, to-wit:

A part of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of Section Twenty-Three (23), Township Sixteen (16) North, Range Thirty (30) West, being more particularly described as follows: Beginning at the Northeast corner of said 40 acre tract, said point being an existing railroad spike in Happy Hollow Road; thence S89°59'01"W along the north line of said 40 acre tract 190.80 feet; thence S00°22'50"E 141.99 feet to a chiseled "X" in a concrete Drive on the North right of way of State Highway 16E (Huntsville Road); thence S68°26'03"E along said right of way 205.70 feet to a set cotton spindle in happy hollow road on the east line of said 40 acre tract; thence N00°22'50"W 217.66 feet to the point of beginning, containing 0.788 acres, more or less, Fayetteville, AR. The above described 0.788 acre tract being subject to the right of way of Happy Hollow Road along the entire east boundary.

WHEREAS, Littlefield Investment Co. applied to the City of Fayetteville for a rezoning of the above described real property from C-1 to C-2 on July 6, 1999; and

WHEREAS, said rezoning was approved by the City Council by Ordinance 4175; and

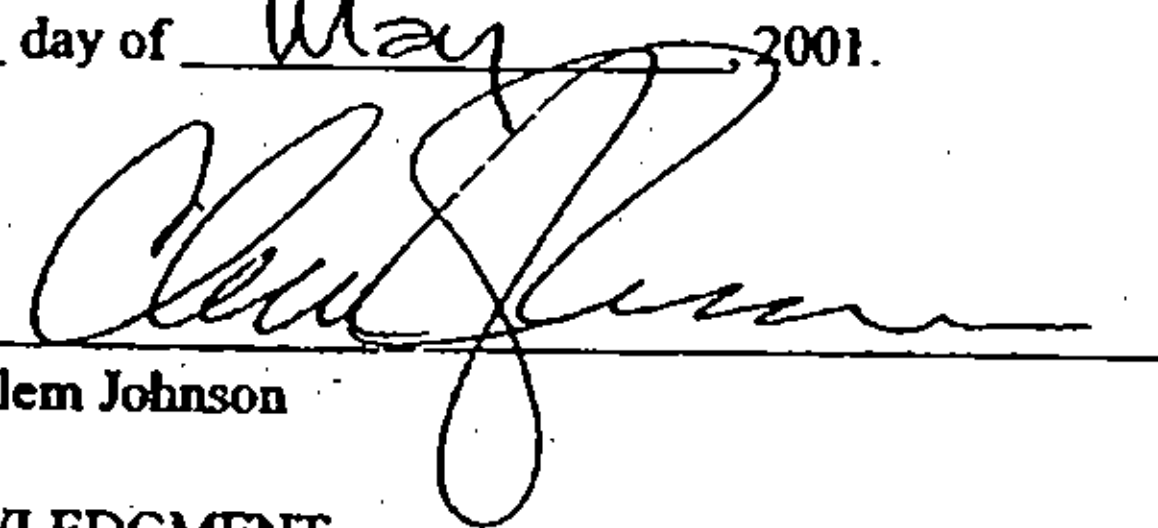
WHEREAS, Littlefield Investment Co., owner at that time, and Clem Johnson, present owner, desire to restrict the use of the property described hereinabove to a used car lot and/or automobile restoration and repair for a maximum of fifteen (15) vehicles to be located behind a six (6) foot metal fence or any use allowable in a C-1 zoning.

NOW, THEREFORE, Clem Johnson, present owner, hereby declares that the real property described herein shall be held, developed, transferred, sold, conveyed, and occupied subject to the restriction that if it is zoned C-2 by the City Council of the City of Fayetteville the use thereof shall be restricted to a "used car lot and/or automobile restoration and repair for a maximum of fifteen (15) vehicles to be located behind a six (6) foot metal fence" (which requires C-2 zoning), or any use

allowable in a C-1 zone. In the event that said property ceases to be used as a used car lot and/or automobile restoration and repair for a maximum of fifteen (15) vehicles behind a six (6) foot metal fence for one (1) year, said property shall be rezoned to C-1 by the City of Fayetteville.

Nothing contained herein shall prohibit Clem Johnson from petitioning the City of Fayetteville for the removal of this Bill of Assurance or seeking a different zoning classification.

WITNESS my hand and seal this 3 day of May, 2001.


Clem Johnson

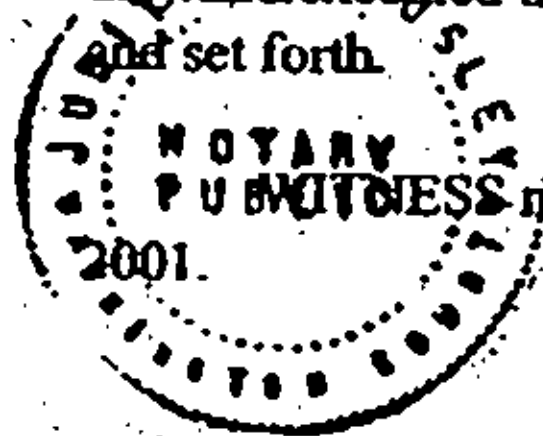
ACKNOWLEDGMENT

STATE OF ARKANSAS)

)SS.

COUNTY OF WASHINGTON)

Now on this 3rd day of May, 2001, came before me, the undersigned Notary Public within and for the aforesaid County and State, Dennis Caudle, who acknowledged that they had executed the foregoing Bill of Assurance for the consideration and purposes therein mentioned and set forth.



WITNESS my hand and seal as such Notary Public this 3rd day of May, 2001.


Dennis C. Caudle

Notary Public

My Commission Expires: May 13, 2004

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HARDIN PROPERTY SETTLEMENT

A resolution approving settlement of City v. Hardin, CIV. 99-561, and payment of just compensation for the taking of real property in the amount of \$52,396.50.

RESOLUTION 102-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK

Cyrus Young moved to approve the Consent Agenda. Bob Davis seconded the motion. Upon roll call, the motion carried unanimously.

OLD BUSINESS:

RZ 98-22

An ordinance approving rezoning request RZ 98-22 submitted by Richard Osborne on behalf of Littlefield Investment Company for property located at 1798 East Huntsville Road. The property is zoned C-1, Neighborhood Commercial, and contains approximately 0.788 acres. The request is to rezone the property to C-2, Thoroughfare Commercial, for the purpose of installing a used car lot. Item was left on second reading at the July 20, 1999 City Council meeting.

City Attorney Jerry Rose read the ordinance for the third time.

Alderman Daniel commented that she had driven by there today and was not in favor of the rezoning because it is next to a residential area, and although it has been vacant for a while she would like to wait for something more attractive than a used car lot to be there.

Alderman Trumbo mentioned that the building there now is dilapidated and run down. His dilemma was whether to keep it as is and wait for someone else to come in who would return it to a pump station and car repair, or to rezone it to C-2 whereby it could be cleaned up for a used car dealership and have a viable, tax-paying business.

Alderman Davis said that, with its present zoning, there were plenty of other commercial uses that could go into a C-1 zoning other than a gas station.

Alderman Reynolds and Alderman Austin both stated that, being aldermen for Ward 1, they had not received any phone calls on this rezoning.

Alderman Santos asked if this rezoning would comply with the City's 2020 Plan.

Tim Conklin, City Planner, replied that the C-2 zoning is not consistent with the 2020 Plan, where it was currently designated as Community Commercial. The Planning Department staff had recommended denial of this petition.

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The attorney for the petitioner, Richard Osborne, mentioned that he had looked after this property for four years and had had five inquiries for potential businesses, the only reasonable usage for the site being a used car lot. The others had included: a flea market (which he didn't think would be very attractive for an entry street into Fayetteville), and an appliance repair service (for which they hadn't been able to reach an agreement). He thought this part of town was improving. The proposal the man had made for the used car lot includes upgrading the building and grounds.

Alderman Trumbo asked whether a gas station at that location just hadn't worked, given that they had had Fina come in and clean up the location and put in a nice sign.

Richard Osborne stated that it hadn't worked. Now they have children throwing rocks through the windows and other standard vacant building activities.

Alderman Davis asked how many years the Fina station had been gone.

Richard Osborne replied that it has been between eight and ten years since Fina was there, and over five years since it has been vacant.

Mayor Fred Hanna stated that he thought the last business in there had been a used tire business. He also stated that he had understood that Mr. Littlefield had bought the site with the purpose of putting a convenience store in that location. He wondered if he was keeping the property with the notion of putting a convenience store there one day.

Richard Osborne explained that Mr. Littlefield, who died two years ago, predates convenience stores, that he had started business during World War II, at which time there were no such stores, to Mr. Osborne's knowledge. It was a gas station at the time. Littlefield's company had since decided that a convenience store would not work in that location.

Alderman Davis asked if this put the City in a "watchdog" position that would be difficult to maintain.

Tim Conklin stated that the Bill of Assurance contained wording which clarified that the property would be used for the purpose of a used car lot or other uses allowed in a C-1 zoning, and otherwise would revert back to a C-1 zoning. He had spoken with the City Attorney, who had informed him that it would take a city ordinance to cause such a reversion. Therefore, it would be up to City staff to monitor the location to ensure that it was being used as a car lot; and if at any time, for a period of one year it was not used for that purpose, the City Council would need to pass an ordinance to reenact the C-1 zoning.

Richard Osborne mentioned that they would honor that, and that they were merely trying to put

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something in that location, anything being an improvement over what they've had in the past five years.

Alderman Austin mentioned that he thought we should honor the work of the staff on the 2020 plan. But, on the other hand, he felt it was okay to make a change in the process, similar to a builder making a change to a blueprint. He was in favor of granting the request.

Richard Osborne stated that the Planning Commission had approved the rezoning on the condition that the Bill of Assurance be approved also.

Alderman Trumbo reiterated that he was also in favor of granting the request based on the fact that we currently have a vacant, run-down eyesore building there when we could have an ongoing business tax-paying enterprise.

Alderman Russell asked for clarification from the City Attorney, that if we pass this rezoning and another owner buys the property, the conditions would be passed on to the new property owner.

Jerry Rose answered yes.

Alderman Russell asked further, if it was true that there would be no "automatic reverter" back to C-1 if the new property owner wished to use the location for a C-2 usage other than a car lot.

Jerry Rose answered that there would be nothing automatic and that it would have to come back to City Council for an ordinance to be passed to rezone the property back to C-1. However, he mentioned, it would be helpful to have the wording contained in the Bill of Assurance to help pass that ordinance. Also, the documents related to this rezoning would be recorded in the County Clerk's office; therefore, any future property owner would be alerted to the restrictions in usage put upon the property.

Alderman Santos stated that car lots are one of the businesses that benefits from economies of conglomeration, and from being close together, which he thinks is a good thing. Neighborhood commercial zoning is intended to create pockets of commercial opportunities for residents of the neighborhood, to reduce traffic on the other streets. A used car lot is intended to draw traffic from the entire region into this neighborhood. Therefore, the Council would be preventing what the Master Plan had in mind for this area if they rezone this property.

Alderman Trumbo stated that those were all good points, but reminded the Council that there had been a number of complaints about the property as it is.

Richard Osborne concurred that the property is a mess, and he would hate to see what goes on there at night.

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Alderman Russell stated that he agreed with Alderman Santos. Although he also agrees that the property is in vast, dire need of help, he does not think that the City government should do spot rezoning for a business to accommodate the most reasonable offer they had gotten. He hoped that they would eventually get a reasonable offer to fix up the property, but he didn't think that they needed a rezoning to accomplish that.

Alderman Austin asked whether there was a car lot on the south side of Huntsville Road, about one mile further east, down by Bob's Market that was also C-2 zoning. Tim Conklin replied yes.

Jerry Rose stated that they were on the third and final reading.

Upon roll call, the vote on the motion was tied: Davis, Daniel, Santos, and Russell voting nay. City Attorney Jerry Rose alerted the Mayor that he could vote as the tie-breaker. The Mayor voted for the motion, stating that the property would be better used as a used car lot than remaining vacant. The motion carried by a vote of 5-4-0.

ORDINANCE 4175 AS RECORDED IN THE OFFICE OF THE CITY CLERK

FAYETTEVILLE TOWN CENTER

A resolution approving a construction contract for the Fayetteville Town Center with Nabholz Construction Co. for a negotiated bid amount of \$7,346,408; contingency amount of \$150,000; and approval of Change Order #1 in the amount of \$970,162; plus approval of a budget adjustment.

Mayor Fred Hanna mentioned that they had requested the opinion of the Attorney General on this matter and it had been received, and that the City Attorney was satisfied that the Attorney General's opinion allows the Council to do what they had been asking to do, and was probably even more lenient, showing that the City had exercised an overabundance of caution. The vote on \$7,346,408 was due tonight to meet the contract deadline with Nabholz Construction. They should then vote on the items that had been put back in.

Alderman Trumbo did not think that approving the contract itself was controversial, as it had been presented to the voters with the sufficient bond postings that were certified. Alderman Trumbo made a motion to approve the resolution to approve the contract, and then get into the more controversial parts of it. Bob Davis seconded the motion.

Alderman Russell questioned if they approved the contract, then voted down the extra money, then would the town center be built without those add-ons. Mayor Hanna said yes. Alderman Russell said that he would like to discuss the extra money before approving the contract.

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He thought the City could spend money on the facility.

No action was taken.

NEW BUSINESS

RZ 98-22

An ordinance approving rezoning request RZ 98-22 submitted by Richard Osborne on behalf of Littlefield Investment Company for property located at 1798 East Huntsville Road. The property is zoned C-1, Neighborhood Commercial, and contains approximately 0.788 acres. The request is to rezone the property to C-2, Thoroughfare Commercial for the purpose of installing a used car lot.

Mr. Rose read the ordinance.

Alderman Austin moved to suspend the rules and move to the second reading. Alderman Daniels seconded the motion. Upon roll call the motion carried by a vote of 6-2-0, Santos and Russell voting nay.

Mr. Rose read the ordinance of the second time.

The applicant was not present.

Alderman Daniel stated she was not in favor of the rezoning because there were a lot of used car lots in town. The rezoning request was not consistent with the city's 2020 land use plan, which had shown a C-1 designation.

Alderman Santos thought the rezoning was inconsistent with the land use plan and it was not recommended by the staff. He asked if it was legal to accept a bill of assurance for a rezoning.

Mr. Tim Conklin, City Planner, added there had been some discussion of a bill of assurance stating that if the property was not used as a car lot then it would revert back to the C-1 designation. He stated the property could not revert back. The most that could be offered would be to limit the use of the property to a used car lot.

Mr. Rose stated any changes would have to come back to Council for a vote.

Alderman Reynolds stated the property was in disrepair and was abandoned.

The item was left on the second reading.

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**RZ98-22: REZONING
LITTLEFIELD INVESTMENT CO, PP 565**

This request was submitted by Richard Osborne on behalf of Littlefield Investment Company for property located at 1798 East Huntsville Road. The property is zoned C-1, Neighborhood Commercial, and contains approximately 0.54 acres. The request is to rezone the property to C-2, Thoroughfare Commercial for the purpose of installing a used car lot.

Staff does not recommend the approval of the requested rezoning from C-1 to C-2 because there are adequate vacant C-2 parcels in the city to accommodate the proposed use. The Land Use Plan shows the area to be Community Commercial, therefore, the rezoning proposed is not consistent with the land use planning objective, principles, and policies of the land use and zoning plans.

Richard Osborne and Conway Massey were present on behalf of the project.

Commission Discussion

Osborne: I would like to address the items one and two that the land use planning objective, principles, and policies are not consistent with the General Plan 2020. There is C-2 in the area. It is across the street. It is the Mexican Original Plant. Other than that, there is C-2 in the City that is appropriate but not in that part of the city. We have had three inquiries in the past two years. One was for a small appliance repair which we did not feel would be appropriate there. The other was a flea market. We felt the used car lot is a better use for that area which we cannot do without C-2 zoning. I have a loose view of the General Plan. It is not sculpted in granite and therefore it can be altered. I feel this would be an appropriate use in that area. This has not been the finest part of Fayetteville and it is upgrading and I think this will be a continuation of the upgrade. It's ugly now and we'd like to do something nice and progressive there. This would not increase the frequency of traffic or increase of population density. We would appreciate your fair consideration and the opportunity to improve the property. There is only one other used car lot in that area which is west of the what was formerly Watson's Super Market. I have the platted survey for staff.

Little: Thank you.

Public Discussion

None.

Further Commission Discussion

Odom: Car lots are only allowed in C-2. Is that correct?

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Little: That is correct.

Odom: Would we be able to grant a rezoning contingent upon it being for one particular use.

Little: No. That would not be advisable unless offered by the applicant.

Osborne: We will offer a Bill of Assurance that it will only be rezoned for a used car lot. If something else were to occur we would simply come back.

Hoffman: Is there not any way to grant a conditional use?

Little: No.

Forney: Rezoning is a really important part of our work and we need to exercise a lot of care. I think the General Land Use Plan should be our proper guide and I appreciate the staff's report. I appreciate the applicant's view that this area is not being used to its full potential. I am optimistic about the future of that intersection given the increased development north of there. Since this property is for lease, I think rezoning to accommodate a rental opportunity seems contingent and short sighted. Rezoning should be a long term decision.

Odom: I wasn't originally going to support this but since the offer of the Bill of Assurance, I'm not as concerned about it.

Forney: How does this work? What would happen to the zoning on the site after the lease expires?

Little: It would be C-1 or it could be used again for another used car lot.

MOTION

Mr. Odom made a motion to approve 98-22 to rezone the property from C-1 to C-2 with a Bill of Assurance that this will be used for a used car lot only and the zoning will revert to C-1 at the expiration of the lease or change in use.

Mr. Ward seconded the motion.

Further Discussion

Little: This will be limited to one use.

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Forney: How often do we do this?

Little: Limiting to one use is unusual. It says it is not appropriate for that zone except for that one use. It is not generally advisable to do that. I think at the City Council level the City Attorney will caution the Council against that.

Forney: Have we done this before?

Little: Not just for one use.

Forney: We have a mechanism and it may not address the specific cases as we think it should. We are putting ourselves in an awkward position. I think we'll see a lot of people come in here to rezone for just one use. That is not a good way to treat our land use plan. If we don't like the way our regulations are we should revise the regulations.

Odom: This would not be allowed as conditional use in C-1.

Upon Roll Call

Upon roll call, the motion passed with a vote of 5-4-0. Mr. Forney, Ms. Hoover, Ms. Johnson, and Mr. Tucker voted against the motion.

Planning Division Record of Conversation

Employee: April Okoroafor

Zoning: C-1 ^{WOK for} _{aloud call} ^{ship} _{Case No:}

Date: 8/27/99 Time: 8:30

Walk-in: X Telephone: _____ Plat Page # _____

C of Z: _____ Zoning Determination: _____ Food Plain Determination: _____ FEMA Map # _____

Name of Client: Clem Johnson

Business: Car Restoration

Location in question: 1798 E Huntsville Rd

Phone Number of Client: 442-9286 Fax: same

Nature of Call: _____

My plans are to recycle antique & classic cars and to completely restore them to original condition -

I will need to disassemble, paint small parts, recondition any parts that are not available new and then reassemble them

I do not plan to sandblast complete cars or do complete paint jobs or ~~repolster~~ reupholster them, those jobs I will subcontract out -

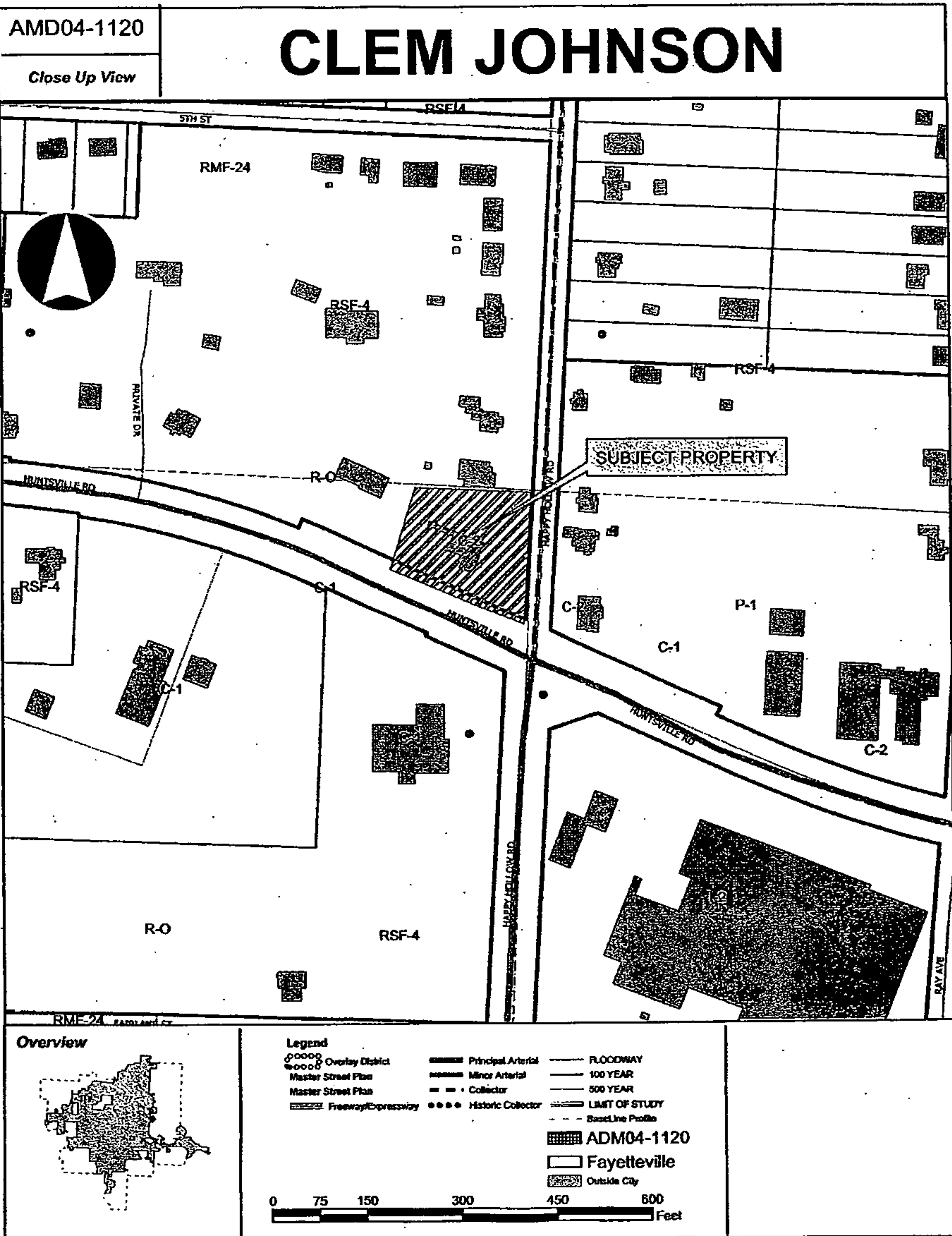
I also will contract out and machining of motors or other parts which require large industrial tooling.

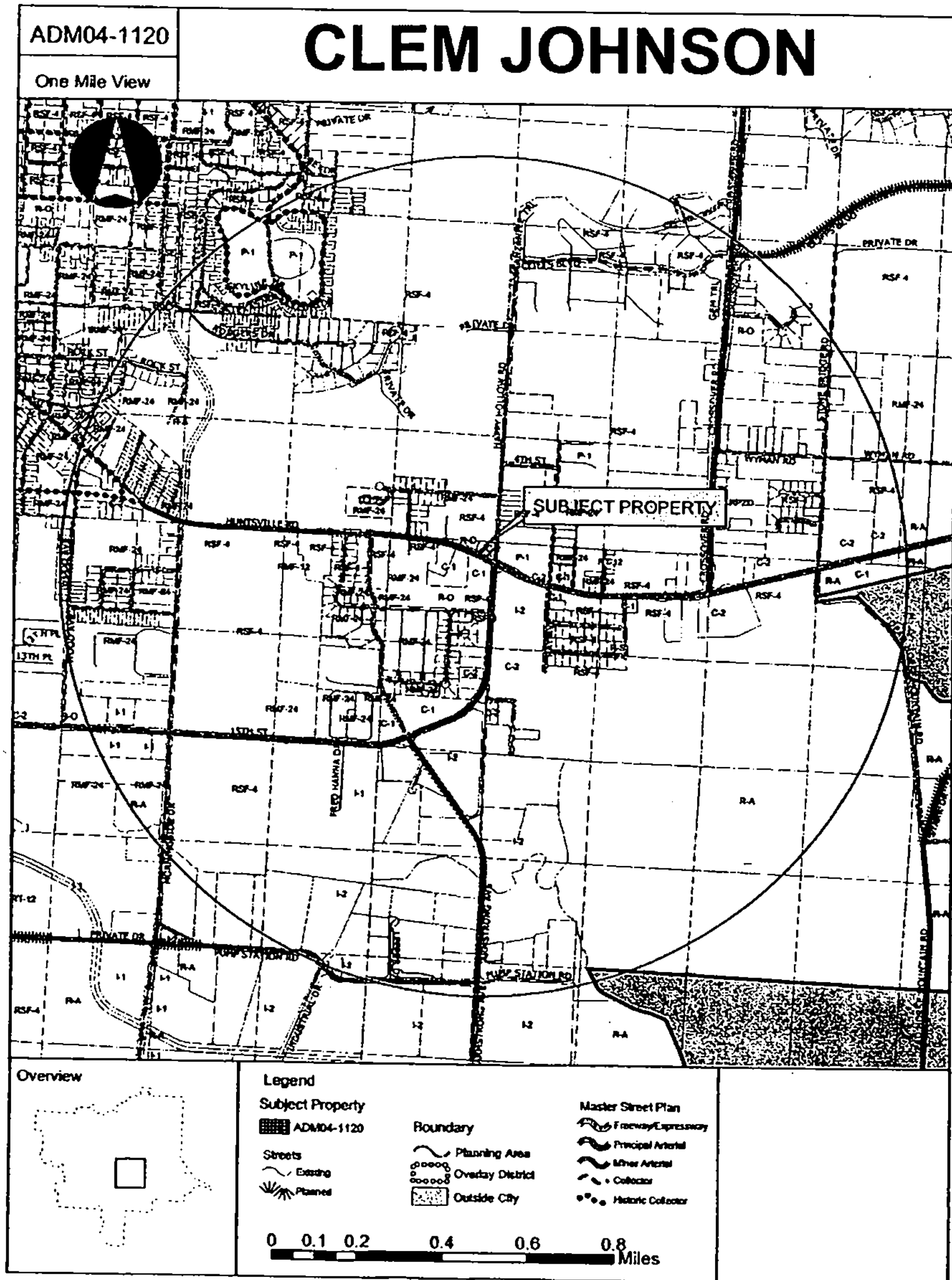
I need an office on site, restrooms and work space -

There is a floor lift which needs repair and a grease pit which I will clean up and properly dispose of.

When completing these cars I intend to display and resell them.

I will probably have 10-15 cars in progress at the most and I will keep the area clean and secure.





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ADM 04-1120: Administrative Item (CLEM JOHNSON): Submitted by CLEM JOHNSON for property located at 1798 E. HUNTSVILLE ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL, and contains approximately 0.78 acres. The request is to allow a waiver of Commercial Design Standards to allow a chain link fence in front of the structure at the subject property.

Ostner: The next item on the agenda is ADM 04-1120 for Clem Johnson.

Warrick: I did pass out some additional information this evening in your packet regarding this particular item. That includes a newspaper article that as published this weekend and also some photographs that were taken on the site this morning, just to get you some current information on what the current conditions are on the site. This applicant's request is to allow a chain link fence in front of a commercial structure. The property is located at the corner of Happy Hollow and Huntsville Road. The area that the applicant proposes to fence in with this application contains roughly 5,400 sq.ft. of the property. This request constitutes a waiver of the city's adopted commercial design standards. The City of Fayetteville sets a high standard for all commercial developments. Staff feels that it is important to the quality of development in the city that these standards are enforced equally. The subject property is located at a very visible and key intersection leading into Fayetteville. It is desirable to improve upon the appearance of commercial properties as changes are requested. Proper application of adopted commercial design standards will allow for positive improvements that are consistent throughout the city. The property is zoned and functions as a commercial operation. While it is also a residence, that fact is not by default, changes to a residential structure or change the principal use. Residential accessory uses are permitted and are encouraged in commercial districts. Again, that does not change the primary function of this site from being Commercial and from it being commercially zoned. The applicant states that he has gone to extensive measures to restore the character of this structure and site. It is a 1950's gas station. In keeping with that theme a gas service station, staff feels are not typically fenced off from adjoining streets. Open access to the front of the structure is part of the function of this type of site. To enclose the front of the site with fencing is not demonstrative of the historic use of the site, nor the present commercial uses conducted at this location. Staff recommends denial of this request.

Ostner: Thank you Ms. Warrick. Is the applicant present? If you would please sign the sheet at the podium and introduce yourselves.

Johnson: I couldn't hear Ms. Warrick but it sounded like she didn't want us to have our fence. I don't know if you guys have got the photographs that we took that in of showed the fence. The property is commercial, yes. We moved in three years ago and at that time it was just an empty shell of a concrete

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block. We've done a lot of work there and made it quite a nice place and a lot of people like it. I do have two more signed petitions from the other neighbors that were on vacation last week. They both agree that they like the idea. That covers all of the neighbors that we have. It is true that it is a restoration project. It is an old 50's gas station, Sinclair Gas Station. According to the City Code we could only have a wood privacy fence, which wasn't really utilized in the 1950's or a concrete masonry fence or a metal, wrought iron type of fence. Those, I guess would be allowed, is that right?

Warrick: Yes.

Johnson: None of those would be appropriate for a 1950's gas station. We are needing the fence for a couple of reasons, one is to protect the antique cars that we have and restore there but also our dog, a german shepherd, was shot by a Fayetteville police officer. I'm sure most of you guys know the story. We have been required by the animal shelter and the County Prosecutor to construct this fence. It is true that we do have a fence in the backyard that we thought was adequate but they want secondary protection coming out of our front doors. Right now we have gates that are just temporarily applied to the building so that we could get the dog out early. I don't think they are going to let that be what they would call the secondary protection. We really need the fence.

Johnson: They are also unattractive. The current gates, in my opinion, don't fit the building and are unattractive. Several of our neighbors have said how unattractive they are. They are quality as far as construction wise, they are just unattractive.

Johnson: If you see the property or have driven by the property you know that we are not going to just throw up some shawdy fence just to get by with this. If we are going to do a chain link fence it will be well constructed, well maintained and it will be a nice fence. So what do you guys think?

Ostner: We are going to open it up to the public and get back with you. At this point I will open it up to the public for any comments. Is there anyone who would like to speak to this issue?

Hawkins: Good evening, my name is Loren Hawkins. I live at 1101 S. Duncan. I wanted to make a couple of comments that are somewhat reiterating the Johnsons. They have really created an asset out of what was for a long time an eye sore on this corner, an abandoned gas station turned into a showplace. I believe they can be well trusted to erect this fence. The alternative fencing, the wood and masonry would actually detract quite a bit from what they have created on this corner. I love to go by and see the restoration of old vehicles occurring. I also would like you to strongly

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consider the reason for this fence. There was never any kind of objection to this dog until the Fayetteville police man shot him. That whole issue seems to now be placed on this dog. Never has there been any questions of the police officer's actions. I think that probably the most affective reason for this fence is to keep the policemen and the skateboarders off of this private property. I would really appreciate it if you would consent to this request. I believe it is good to the city. The Johnsons have been an asset to the city in many ways. Thank you.

Ostner: Would anyone else like to speak on this issue? I will close it to the public and bring it back to the Commission for discussion.

Williams: Let me call your attention to the actual test that you should be applying in this according to our Unified Development Code. It is not actually a waiver. It is a variance as it is defined in the variance section. It says that when we are going to consider a variance of the design standards the applicant should show what's called undue hardship. It says if the provisions of the standards are shown by the developer, or in this case, the applicant, to cause undue hardship as they apply to his proposed development the city Planning Commission may grant a variance to the developer from such provisions so that substantial justice may be done and the public interest secured provided the variation will not have the affect of nullifying the intent and purpose of the development regulations. In addition, in granting variances the Planning Commission may impose such conditions as will, in it's judgment, secure substantially the objective of the standards or requirements so varied. At this point the petitioner is seeking to vary the standards which do not allow a chain link fence in front of the building. It does allow it in the back where I think it is now. He is asking that development standard be varied so that the chain link fence can be in the front. I think that one thing that you should consider is that this has been a request or a demand from the prosecutor in this case in order to ensure that the dog does not escape the premises in the future.

Ostner: Thank you Mr. Williams.

Clark: Is this fencing that is currently up, which is in fact, fairly ugly from what I saw today, acceptable to the plea bargain agreement, the settlement?

Johnson: Are you talking about the gates that are on the doors?

Clark: Yes. The one you put up today.

Johnson: My understanding is that is just temporary. The dog had been impounded for two months and we were worried about his well being. This was a temporary solution to get the dog out early. The problem is that they want

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a secondary barrier and you would have to open both doors at the same time that way to get out the dog could get out.

Clark: They are requiring you to fence 5,600 sq.ft. or something like that?

Johnson: This is a compromise. They would allow it to go out enough that the doors would open but then that cuts our place in half. We have driveways and overhangs where we work on vehicles. The further the fence is from the building to me, the more attractive the fence would be to the property. If it is up close then it starts to look like a cage in front. If the fence is far enough away from the building and chain link you can see through the fence and see more of the building.

Clark: As I was looking through this material today I found the amended Bill of Assurance. I am not sure who I should address this to. As I was reading through this in May, 2001 it seems like in this Bill of Assurance there was supposed to have already been a 6' metal fence around the front of the property. Am I misreading this?

Johnson: When I first got the property and started fixing it up we needed a fence in the back because the city won't allow you to have cars that are in forms of construction, different parts of development in the eye of the public so we had to have a fenced area to put cars that were still in the progress of being worked on. That was put behind and it was a corrugated metal fence. I went before the city to be allowed to do that fence also. That was all in the back.

Clark: So all of this is supposed to be in the back?

Johnson: No, the fence in the back is not what the prosecutor and animal control people are wanting.

Clark: I know what they want. Just to be honest with you, it seems to me that in 2001 there was supposed to be a 6' metal fence around the entire property. Is that the way that I'm reading this Bill of Assurance?

Warrick: The way that the Bill of Assurance reads is that the use would be restricted to a used car lot and/or automobile restoration and repair for a maximum of 15 vehicles to be located behind a 6' metal fence. Wherever the vehicles are, they are supposed to be, by this Bill of Assurance, located behind that metal fence.

Clark: They are in the front?

Johnson: And the back.

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Clark: That troubles me to some extent. I'm a big advocate of Mike the dog but this troubles me. It seems like there should've been a metal fence there in 2001 but that doesn't do anything to us in 2004.

Vaught: When I look at this from the undue hardship portion, if we wouldn't allow a fence at all then I could see a situation where it creates an undue hardship. We do allow fence there and our regulations call for a fence located in front of primary structures may be solid up to 30" in height, any part of the fence which exceeds 30" in height shall not obstruct the view of the primary structure from the right of way. A fence is allowed by our code there. That was known in 2001 when the Bill of Assurance were due. I know it is a unique situation but he can build a fence there. We are not telling him he can't build a fence, we are telling him he can't build a chain link fence. That's the way that I look at it. Therefore, I don't know if I can support a variance on that for those reasons. I understand staff's argument too. We have design standards that are applied across the whole city and we need to be fair with those. We wouldn't allow other people necessarily to do a chain link fence when we allow a fence of some sort.

Shackelford: Staff, based on Commissioner Vaught's statements and our City Attorney Kit Williams, about the type of fencing that is allowed in the front of a building in a commercial standard, would a privacy fence be allowed? That wouldn't be allowed in front of this building either because it is over 30" in height?

Warrick: There would have to be openings in it to not obstruct the view of the primary structure. It would have to be some type of fence that allowed visibility to the structure above that 30" mark.

Johnson: The prosecuting attorney and the animal shelter say it has to be a 6' fence for whatever type it is.

Shackelford: They didn't say privacy fence or any type of fencing?

Johnson: No, there again, I'm not trying to build walls between the property, which I think is an attractive part of the city to put a privacy fence or a wall fence to a certain height and then slatted wood or something that you could see through beyond that. To me it detracts from the property and more or less kind of makes us feel like we are caged.

Anthes: I agree that this property has been attractively restored. What I'm struggling with is that we have commercial design standards that are applied throughout our city and when you read those commercial design standards they deal directly with the structure and the visibility of the structure and the impact to the city. Nowhere are we allowed, as far as I can tell, and maybe Kit can give us some direction on that, to consider the

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shelter or a dog in the application of design standards. I guess what I'm wondering is that to me this fence, once it is permitted or not permitted, will be there or not be there for the life of the structure, far beyond the life of any particular animal or human being will be there. Therefore, the design standards have to pertain to the structure and our ordinances. I guess I would like you to tell us Mr. Williams if it seems out of our scope to even consider the fact that there is a dog involved in here when we are talking about this fence.

Williams: I would say that it is not totally without your, above or something that you should not consider. Undue hardship is not defined and it is not defined intentionally. It is going to rely upon your common sense. You might not feel that maintaining a dog there in a way that the prosecutor will allow it to be there is unique and enough to be an undue hardship on the developer to override the normal commercial design standards. I will say that if you choose the other way and say yes, because of this unique situation we are going to override them and grant a variance. There are certain things that you can do with a variance. The fence would not have to be there forever. You can say that the fence will be there as long as Mike is there. Once Mike is gone then the need for the fence is no longer there and the fence can be removed. There are other possible things that you can look at. I know I built a chain link fence around my yard and I got a vinyl coated black fence. It is much more attractive. It is not totally invisible but it doesn't jump out like the metal fences. It might would be something that you would consider as some sort of mitigation toward the normal ban that we have on chain link fences. When it is a variance request by the petitioners the Planning Commission has much discretion. That's all I'm trying to say. You might feel that this is not undue hardship and that is the way you should vote. If you do feel like it is undue hardship but you want to put conditions on it you can do that too. It is really pretty much within your discretion. Your only guidelines are substantial justice may be done and the public interest secured.

Anthes: I guess I'm finding it hard to define dog ownership as a unique situation when I look at the majority of the people in the City of Fayetteville. I'm also looking at it expressly states in our ordinances that chain link is prohibited if closer to the street than the front of the building in these zoning districts, C-1 and C-2. There is very direct direction in our ordinances about what is and what is not allowed in this zoning district. I am just having a hard time finding the hardship in this instance.

Johnson: Let's not talk about the dog or the hardship.

Anthes: I actually wasn't directing that to you. I was directing that comment to Commissioners.

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Johnson: Ok, can I respond?

Ostner: Sure.

Johnson: You talk about the design standard that you have for commercial properties. Those are drawn up and it is pretty much the standard across the board. I don't know that you allow for restoration or projects that are period dated projects. That is kind of what we have here. It just seems like we are being put in a category of new industrial or commercial buildings that are being built today. The chain link is just period correct. It is just something that would've been done had this been done at the same time the station was. Yeah, a lot of gas stations don't have fencing around them but at the same time, a lot of gas stations, which were no longer gas stations, turned into used car lots. I do have a Bill of Assurance to be a used car lot on that property. If you want to protect cars you put them behind a fence. If you put them behind a solid wood or masonry fence nobody can see your cars. If it were true to it's Bill of Assurance, which is a used car lot, chain link would be really the best solution for that.

Ostner: I'm not recollecting 50's chain link in the front yards is my sticking point on that.

Johnson: It was the hot fence in the late 40's.

Ostner: Not in front yards by my recollection.

Johnson: This is not a yard. This is a concrete gas station front yard. It is all concrete out there. But it is our residence too so it does have dual purpose.

Ostner: I understand that but a 30" tall white picket would actually be period correct but it doesn't suit your needs is sort of where this comes to a lot of our heads. It doesn't work. It doesn't help you in my opinion. In this project your zoning is a little bit of commercial allowing for residential so it is different. It is still zoned commercial and in my opinion, there are other options other than the chain link. Sort of what Commissioner Vaught said, you can still get your enclosure with your issues with your animal and the other police and what not.

Johnson: Then we have a cost problem.

Ostner: I understand that.

Clark: If we exclude consideration of the dog, what would the undue hardship of a different type of fence be? I am thinking the undue hardship to the dog

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is what's winning my opinion. Absent the dog, what is the undue hardship which would justify a chain link fence variance?

Johnson: I would think probably protecting the cars that we have and the cars that we restore. My wife and I are both graphic artists and we construct projects for trade shows. Those often have to be done in the front yard for space considerations to protect that. We have had vandalism and theft that are recorded with the Police Department. It is kind of like to protect it but yet not to close it off where it is not visible.

Clark: Visibility would be the undue hardship?

Johnson: I think that as far as I'm concerned, two way visibility is important for me. We come and go late nights when we are on a project and it is like a department store keeping the lights on so that intruders can be seen from the outside. I think that the invisibility from the street and the police being able to see that there is someone or something that may be a rye, I think that is an important consideration of mine.

Anthes: I think this property is so attractive and I hate to see a fence of any sort in front of it frankly. Have you guys considered other methods like the electric wires or anything like that that would retain the animal and not deal with the appearance of the front of the structure?

Johnson: I think that the concern of the animal control people and the prosecutor's office is also that the public not be allowed entrance into that property. In the incident that occurred the public was on the property and did gain entrance to the property because there were no barricades. We are talking about vehicle traffic and we are also talking about foot traffic. We do have some driveway barricades at this time and some signs posted but as early as 11:00 today I had someone walking across the property.

Vaught: I still go back to my original thoughts. We are not saying you can't have a fence, we are saying you can't have a chain link fence. I don't see, there are lots of options other than chain link, for visibility. You can go to a fencing contractor. I know the cost is different but per our code I just don't see it being undue hardship. A lot of people could walk in and say they have a visibility problem or want to control traffic problem. That's why we have the code that allows a fence. I am just not seeing us reach that criteria. Per our code, you say that you have a car lot, you could never put cars on the front of this property because it has to be behind a 6' tall fence that seems to be unable to see through it, a metal or wood fence, and you are not allowed to build that on the front part of this property. It seems to me in the Bill of Assurance those cars were pretty much told to stay in the back.

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Johnson: Not to my understanding. To my understanding that was the cars that were not titled and tagged. You could actually sale cars out in the front but behind the fence were cars that would have to be titled and tagged. That was my understanding back when we originally did this.

Vaught: I don't see that in the Bill of Assurance. I don't know if anyone here was on the Commission in 2001. Nancy, do you remember this?

Allen: No I don't.

Vaught: In my opinion that's the way it reads.

Myres: From a design perspective, which is the way I see everything, I can actually see an instance where a chain link fence that wasn't silver, as Kit mentioned, there are a couple of different options for vinyl coating on these fences that are relatively attractive. The fact that this was originally a gas station that still looks like a gas station that has been restored to maintain it's appearance. It does seem that of all the fencing options that are available, chain link is the most reasonable. Having said that, I think there might be ways that that chain link could be incorporated with other elements such as pillars or posts that mimic the ones that are already present on the property that could create fencing that was a combination of something that was sensitive to the building as well as meeting the criteria of safety and security and maintaining a distance between the public and your dog and the public and your cars. Granted, I realize that that kind of attention to detail is going to be more expensive than just putting up a chain link fence that is uncoated and just industrial fencing. If you think about a 6' tall silver chain link fence with the typical posts it does remind me of an industrial lot someplace that is not necessarily detail or service oriented but industrial like construction and that sort of thing. I just wish that there was some sort of compromise that we could make between the letter of the law and the good will of the applicants in trying to find a solution to the problems that they have been faced with. I don't have any other suggestions to make. I feel like I'm caught between-agreeing with everybody else's opinion that this is what the ordinance says and wanting to find some way to make it possible for you to put up a fence that is in keeping with the building but is something that won't break the bank so to speak.

Ostner: It is not easy to design by committee. The design standards present problems like this every once in a while. Having come to this forum trying to design things where we should all be sitting around a table drawing.

Vaught: I have a question for staff or Mr. Williams, whichever. On this on a variance, what is the appeals process?

Planning Commission
June 14, 2004
Page 13

Williams: Dawn, do you know if they have a right to appeal to the City Council if this variance is denied? Ok, I do see that there is an appeal to the City Council from a decision by the Planning Commission concerning commercial design standards so I would assume that it would also be variations from the commercial design standards.

Clark: Do we have a copy of what type of fencing is going to make the powers in animal control happy?

Johnson: All they mentioned was chain link. That was their solution to the problem.

Clark: So the City animal shelter suggested something that violates the city code.

Johnson: They told the special appointed prosecuting attorney that that was what he should recommend in the settlement and that's what we agreed to do to get the dog out early. I don't know what we will do if we can't do what they ask, we may have to go back and renegotiate. I don't know.

MOTION:

Allen: I am quite an animal lover. I feel very sympathetic to your plight. However, I do feel that you do have options in this situation. I can't see how there is an undue hardship since there are options for you. I will be the goat and move to deny ADM 04-1120.

Ostner: I have a motion by Commissioner Allen, do I have a second?

Shackelford: I will second.

Ostner: Is there further discussion?

Anthes: I would just like to state that the prosecutor and the staff of the animal shelter are not the bodies of the city that are charged with design or interpretation of commercial design standards and therefore, I can't take their specific recommendations as applicable to our standards.

Shackelford: I would also like to make one quick comment. Obviously, I seconded the motion for denial. This is a direct violation of city ordinance and code. We are challenged to look under hardship, as our city attorney said, and I think visibility is a possible argument. As far as specific costs I don't think that could be considered undue hardship. We force or encourage or require developers and others to live up to our codes and our ordinances everyday. Most of those times there are extensive costs. That is really the

Planning Commission
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Page 14

test that I struggle with. I just don't think I can get there with that being undue hardship. That is the reason that I will support the motion.

Ostner: Is there further discussion? Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to deny ADM 04-1120 was approved by a vote of 7-1-0 with Commissioner Myres voting no.

Thomas: The motion carries seven to one.

ALDERMAN AGENDA REQUEST FORM

C.9.
Botanical Gardens Development
Page 1 of 2

FOR: COUNCIL MEETING OF JULY 6, 2004

FROM:

ALDERMAN ROBERT RHOADS

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Consider Spending As Much As \$750,000.00 In The Development The Botanical Garden Of The Ozarks At Lake Fayetteville Park

APPROVED FOR AGENDA:

ROBERT RHOADS, Alderman

Date


City Attorney (as to form)

6-23/04

Date

RESOLUTION NO. _____

A RESOLUTION TO CONSIDER SPENDING AS MUCH
AS \$750,000.00 IN THE DEVELOPMENT OF THE
BOTANICAL GARDEN OF THE OZARKS AT LAKE
FAYETTEVILLE PARK

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
expresses its intent to consider spending as much as \$750,000.00 in the development of
the Botanical Garden of the Ozarks at Lake Fayetteville Park.

PASSED and APPROVED this 6th day of July, 2004.

APPROVED:

By: **DRAFT**

DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE

C.10
Public Hearing
CTS Executive Transportation
Page 1 of 12

THE CITY OF FAYETTEVILLE, ARKANSAS

Date: June 23, 2004
To: The Mayor and Council
From: Hugh Earnest 
Subject: Request for Public Hearing on a Certificate of Public Convenience and Necessity

Recommendation

The council should schedule a public hearing to evaluate the necessity of issuing a Certificate to CTS executive transportation.

Background

Several council members have asked city staff to update the ordinances that govern this area of regulation. We have been meeting with the Police department, the Fleet division and have furnished a first rough draft to the city attorney's office. The draft will also be circulated and reviewed by an ad hoc council committee.

Discussion

We have attached the appropriate material that is currently required by our existing ordinances. It should be noted that the primary request being made by the applicant covers transportation to and from the regional airport.

CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY APPLICATION/RENEWAL

As required to comply with Chapter 117 of the Fayetteville Code of Ordinances.

***** APPLICANT *****

Geoffrey Huddleston 2943 Coach lite Ln. Springdale AR 479-841-9813
Name Address Phone Number

Describe your experience in the transportation of passengers.

Licensed at NWARA under CTS For 1.5 years as a
Shuttle Company, worked under JTS Since 1998 @
NWARA

List your financial status, including the amount of all unpaid judgments against you and the nature of the transaction or acts giving rise to said judgments.

***** BUSINESS *****

CTS Express 479-841-9813
Names of Business Phone Number

2401 1/2 W Shady Grove Springdale AR 72764
Business Location

P.O. Box 444 Johnson AR 72745
Business Mailing Address

How many vehicles will be available for your operation or control?

4

List below the location of proposed depots and terminals.

Door to Door

Describe the color scheme or insignia to be used to designate your vehicles.

White with yellow - Black and white checker board
letters are black Against white & yellow

What is your proposed rate schedule?

1.75 Pick up - 1.40 Per mile

List the hours between which you propose to provide taxicab service to the general public, and the days, if any, on which you do not propose to provide taxicab service to the general public.

24 hrs A day 7 days a week

List the names and addresses of all officers and stockholders of the company if incorporated.

Describe the experience of all officers and stockholders in the transportation of passengers.

List the financial status of the officers and stockholders of the company, if incorporated, including the amount of all unpaid judgments against any of them and the nature of the transactions of acts giving rise to said judgments.

To whom should complaints be directed?

Geoffrey Huddleston

Please give any facts which you believe tend to prove that public convenience and necessity require the granting of a certificate.

Taxi Cab Service in The City of Fayetteville
Takes Longer Than Necessary, Cars Are Unkept
and in Need of Constant Repair, Very Unprofessional

Accounting

Date

Chief Admin. Officer

Date

Police Department

Date

Mayor

Date

City Attorney

Date

City Clerk

Date

Return completed form to the
City Clerk's Office, 113 West Mountain Street, Fayetteville, AR. 72701

**2004 TAXI CAB PRIVILEGE PERMIT
APPLICATION**

Regulated by Title XI, Chapter 117 of the City of Fayetteville Code of Ordinances

I (We) do hereby make application to the City of Fayetteville, Arkansas for a 2004 Taxi Cab Service Privilege Permit as regulated by City Ordinance, and hereby do submit answers to the following questions under oath.

(PLEASE PRINT OR TYPE)

NAME OF BUSINESS CTS Express

LOCATION OF BUSINESS 2401 1/2 W. Shady Grove Rd Springdale AR.

MAILING ADDRESS P.O. Box 444 Johnson AR. 72745

LIST ALL PERSONS OWNING OR HOLDING INTEREST IN THE BUSINESS:

NAME	ADDRESS	PHONE
<u>Geoffrey Huddleston</u>	<u>2943 Coachline Springdale</u>	<u>479-841-9813</u>
_____	_____	_____
_____	_____	_____

(Attach supplement for additional information if necessary)

BASE FEE \$ 100.00

(4 CABS x \$3.00) \$ 116.00

TOTAL FEE \$
=====

I have attached check number _____ in the amount of
\$ 116.00 to cover the 2004 Taxi Cab Service Privilege Permit.

ATTACH PROOF OF LIABILITY INSURANCE _____

Applicant's
Signature Geoffrey Huddleston

PRINT/TYPE NAME Geoffrey Huddleston SSN: 385 - 80 - 6516

Title Owner Date _____

RETURN COMPLETED APPLICATION TO: CITY OF FAYETTEVILLE
ACCOUNTING DIVISION
113 WEST MOUNTAIN
FAYETTEVILLE, AR 72701

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID KB

DATE (MM/DD/YY)

Public Hearing

05/04/04

Page 1 of 12

PRODUCER

Farris Insurance Agency, Inc.
P.O. Box 345
Springdale AR 72765
Phone: 479-756-6330 Fax: 479-756-9262

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE**INSURED**

CTS, LLC
attn: Geoff Huddleston
PO Box 444
Johnson AR 72741

INSURER A: Cypress Insurance Company

INSURER B:

INSURER C:

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY				EACH OCCURRENCE \$
	☐ COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire) \$
	☐ CLAIMS MADE ☐ OCCUR				MED EXP (Any one person) \$
					PERSONAL & ADV INJURY \$
					GENERAL AGGREGATE \$
	GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COMP/OP AGG \$
	☐ POLICY ☐ PRO-JECT ☐ LOC				
A	AUTOMOBILE LIABILITY	ARA000254	01/06/04	01/06/05	COMBINED SINGLE LIMIT (Ea accident) \$ 300000
	☐ ANY AUTO				BODILY INJURY (Per person) \$
	☐ ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	☒ SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	☐ HIRED AUTOS				
	☐ NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	☐ ANY AUTO				OTHER THAN EA ACC \$
					AUTO ONLY: AGG \$
	EXCESS LIABILITY				EACH OCCURRENCE \$
	☐ OCCUR ☐ CLAIMS MADE				AGGREGATE \$
					\$
	☐ DEDUCTIBLE				\$
	☐ RETENTION \$				\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU-TORY LIMITS \$
					OTHER \$
					E.L. EACH ACCIDENT \$
					E.L. DISEASE - EA EMPLOYEE \$
					E.L. DISEASE - POLICY LIMIT \$
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

The above is a lienholder in reference to: 1999 Chevrolet Astro Van

CERTIFICATE HOLDER

N

ADDITIONAL INSURED; INSURER LETTER:

CANCELLATION

FIRSTWB

First Western Bank & Trust
479-936-2013
2722 West Walnut
Rogers AR 72756

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Jason S. Keeling

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP 10 KH
CTSLL-1C-10
DATE OF REVISION
06/04/04
06/04/04

PRODUCER

arris Insurance Agency, Inc.
P.O. Box 345
Springdale AR 72765
Phone: 479-756-6330 Fax: 479-756-9262

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ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE
HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR
ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED

CTS, LLC
attn: Geoff Huddleston
PO Box 444
Johnson AR 72741

INSURER A: Cypress Insurance Company

INSURER B:

INSURER C:

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING
ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR
MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH
POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO- JECT ☐ LOC				EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPROP AGG \$
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☒ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS	ARA000254	01/06/04	01/06/05	COMBINED SINGLE LIMIT (Ea accident) \$ 300000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY ☐ ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	EXCESS LIABILITY ☐ OCCUR ☐ CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU- TORY LIMITS ☐ OTH- ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

CERTIFICATE HOLDER

N

ADDITIONAL INSURED; INSURER LETTER:

CANCELLATION

NWARR-1

Northwest AR Regional Airport
Attn: Kelly Johnson
1 Airport Blvd, Suite 100
Bentonville AR 72712

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION
DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN
NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL
IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR
REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Jason S. Keeling

Neal R. Pendergraft

E. J. Ball Plaza
112 West Center Street
P. O. Box 1948
Fayetteville, Arkansas 72701
Telephone: 479-442-6213 Fax: 479-442-6233

June 8, 2004

City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Re: CTS Transportation
Mr. Geoff Huddleston

To Whom It May Concern:

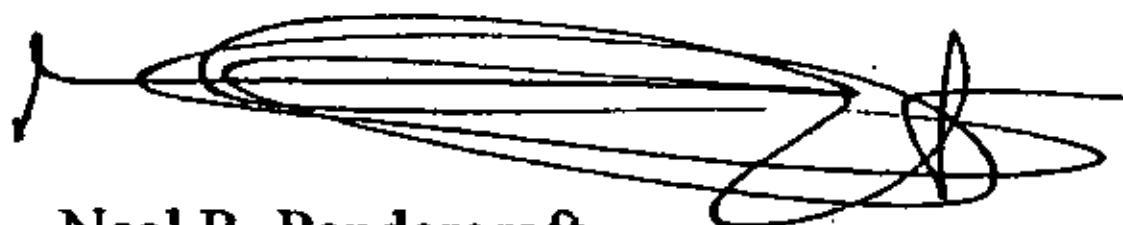
Please accept this letter as my formal recommendation that Mr. Huddleston and his company be granted permission to operated in the City of Fayetteville.

I have known Mr. Huddleston for many years. He is a man of integrity and high moral character. For years I have contracted with Mr. Huddleston's company to take me and my family to various out of town events as well as for occasional transportation to the regional airport. While I have inquired into other transportation or cab companies here in Fayetteville, I have been unable to find anyone who operates with Mr. Huddleston's professionalism. He operates clean, well maintained vehicles that are always on time. Usually, Mr. Huddleston drives my family on our trips. Occasionally he will send another driver, each of whom I have found to be extremely proficient and professional.

In my opinion, Mr. Huddleston operates the highest quality transportation service in Northwest Arkansas. His services are needed here in Fayetteville. It is without reservation that I recommend that Mr. Huddleston be permitted to operated in the City of Fayetteville.

Please feel free to contact me at the office number above if I may provide you with any further information on Mr. Huddleston and CTS.

Sincerely,



Neal R. Pendergraft

Barbara Tyson
2699 East Randal Place
Jayetteville, Arkansas 72703

June 6, 2004

To Whom It May Concern:

When needing transportation, my family and I rely upon the services of Jeff Guddleston Transport.

The qualities of comfort, reliability, trust and safety have been consistent; such that a seven year relationship has been developed, and continues.

There are few situations, of which, the safety and well-being of my niece, I would trust. However, their safety, well-being and comfort, with special attention, has always been provided by Jeff. With this, comes the highest order of importance.

Jeff and his staff offer peace of mind, in knowing safety and trust are two of the many qualities of their business ethics and conduct. Respectfully,
Barbara Tyson



Regional Jet Center

6/8/04

To Whom It May Concern:

Regional Jet Center is located at the Northwest Arkansas Regional Airport. We cater to the needs of pilots and passengers from Private and Corporate planes that visit our area. We provide arrangements for transportation, catering, and hotel needs.

I have been recommending CTS Express to our clients for their transportation needs for two years. CTS has proven to be accessible, reliable, and prompt. Their drivers are courteous and professional; their cars are clean and well maintained. They offer a collection of vehicles to accommodate our passengers.

Please don't hesitate to contact me if I can be of further assistance.

Sincerely,

Jennie Selvey
Customer Service Representative



3906 Greathouse Springs Road
P.O. Box 409
Johnson, Arkansas 72741

June 8, 2004

To whom it may concern:

As we are a small, specialty property in an area swelling with cookie cutter chains, we focus much of our time and energy on making our guests feel special. We cater to their needs and requests with an extra special touch that we pride ourselves, our every employee, with delivering. However, there are some services that we are not equipped to provide. In such situations, we turn to only those who we can trust to provide our guests with the same care and reliability that we ourselves offer. When it comes to transportation services, we invariably call one man, Geoffrey Huddleston of CTS Express. Over the years we have developed a strong rapport with Geoff as a reliable and friendly business man. Whether he is shuttling one of our regulars, someone staying with us for the first time, or a famous celebrity we know they will be treated as a celebrity. We often have guests requesting transportation to downtown Fayetteville to enjoy the fine dining or the night life. It would please us greatly to know that we could call on CTS Express were they afforded the opportunity to do business freely in those areas.

Sincerely,


Jeff Huddleston
Staff and Management,
Inn at the Mill

June 14,2004

Dears Sirs,

C.T.S. Shuttle service is wonderful to work with. We call them for guest pickup to or from

the airport in Lowell. They are Fast, Friendly and Fair to our guest. We get Great comments on

their performance from our guest.

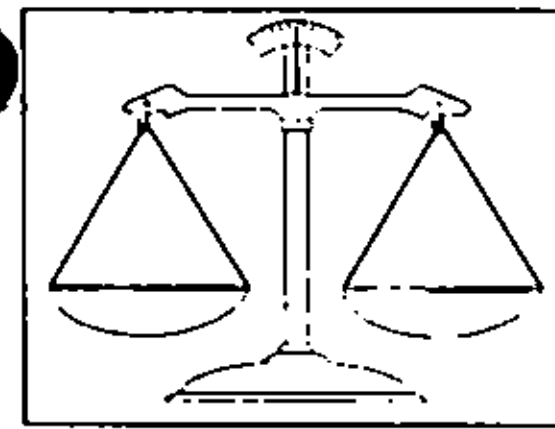
Lynda Hickmon
Front Office Manager

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: **July 7, 2004**

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal line extending from the end of the signature.

RE: **Passed Resolutions and Ordinances from City Council meeting of July 6, 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. **Library Design Systems, Inc. Contract:** Resolution to approve a contract with Library Design Systems, Inc. in the amount of \$34,650.00 to move library property (books, equipment, furniture, etc.) to the new library;
2. **DBE Program Participation Goals for FY2004:** Resolution accepting and approving updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goals for FY2004;
3. **United States Postal Service Lease:** Resolution approving the lease of a portion of the terminal building to the United States Postal Service for a beginning annual rent of \$19,200.00 for ten years with two 5 year options to renew;
4. **VAC 04-11.00:** Ordinance approving VAC 04-11.00 to vacate and abandon a 30' utility easement located on Lots 6, 7, 8 and 9 in block three and Lots 7, 8, and 9 of block four of Harrison's Addition as depicted on attached map and legal description;

5. **Botanical Gardens Development:** Resolution to authorize the expenditure of \$750,000.00 for capital improvements for the Botanical Garden of the Ozarks at Lake Fayetteville Park;
6. **Library Annex Sale:** Resolution to approve the sale of the City owned annex to the Fayetteville Public Library for \$551,000.00 pursuant to the bid from the Fulbright Building LLC;
7. **RZN 04-1080:** Ordinance to rezone property described in rezoning petition RZN 04-1080 as submitted by Jay Rodman for property located at 3198 W. 6th Street, containing approximately 0.81 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial.

Downtown Master
Plan Pres.

**Tentative Agenda
City Council Meeting
July 6, 2004**

A meeting of the Fayetteville City Council will be held on July 6, 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 June 15, 2004 meeting minutes.
2. **Library Design Systems, Inc. Contract:** A resolution to approve a contract with Library Design Systems, Inc. in the amount of \$34,650.00 to move library property (books, equipment, furniture, etc.) to the new library.
3. **DBE Program Participation Goals for FY2004:** A resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goals for FY2004.
4. **United States Postal Service Lease:** A resolution to approve a lease of a portion of the terminal building to the United States Postal Service for a beginning annual rent of \$19,200.00 for ten years with two 5 year options to renew.

B. OLD BUSINESS:

1. **VAC 04-11.00 (Houses Development Company):** An ordinance approving VAC 04-11.00 to vacate and abandon a 30' utility easement located on Lots 6, 7, 8, and 9 in block three and Lots 7, 8, and 9 of block four of Harrison's Addition as depicted on the attached map and legal description. *This ordinance was left on the first reading at the June 15, 2004 City Council meeting.*

C. NEW BUSINESS:

1. **Recodification of the Fayetteville Code:** An ordinance adopting and enacting a new Code of Ordinances of the City of Fayetteville, Arkansas; providing for the repeal of certain ordinances not contained therein, except as herein expressly provided; and providing for the manner of amending the Code.
2. **Library Annex Sale:** A resolution to approve the sale of the City owned annex to the Fayetteville Public Library for \$551,000.00 pursuant to the bid from the Fulbright Building LLC.

3. **R-PZD 04-1075 (Cambridge Crossing):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1075 located at Lot 6C, Vantage Square containing approximately 11.525 acres, more or less; amending the official zoning map of the City of Fayetteville and adopting the Associated Residential Development Plan as approved by the Planning Commission.
4. **RZN 04-1080 (Trumbo):** An ordinance rezoning that property described in rezoning petition RZN 04-1080 as submitted by Jay Rodman for property located at 3198 W. 6th Street, containing approximately 0.81 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial.
5. **Annexation of Islands (University of Arkansas Property Containing Approximately 704.84 acres):** An ordinance to annex into the City of Fayetteville, Arkansas a large parcel of land owned by the University of Arkansas which is completely surrounded by the incorporated limits of Fayetteville.
6. **Annexation of Islands (Containing Approximately 461.74 Acres):** An ordinance to annex into the City of Fayetteville, Arkansas several parcels completely surrounded by the incorporated limits of Fayetteville.
7. **Annexation of Islands (Containing Approximately 168.747 Acres):** An ordinance to annex into the City of Fayetteville, Arkansas certain lands south of Huntsville Road which are completely surrounded by the incorporated limits of Fayetteville.
8. **Planning Commission Appeal (Clem Johnson):** A resolution to grant (or deny) an appeal from the Planning Commission's denial of a variance from the Commercial Design Standards.
9. **Botanical Gardens Development:** A resolution to consider spending as much as \$750,000.00 in the development of The Botanical Garden of the Ozarks at Lake Fayetteville Park.
10. **Public Hearing (CTS Executive Transportation Certificate of Public Convenience):** A Public Hearing to evaluate the necessity of issuing a Certificate of Public Convenience to CTS Executive Transportation.

D. INFORMATIONAL:

~~Council Item~~

**Tentative Agenda
City Council Meeting
July 6, 2004**

A meeting of the Fayetteville City Council will be held on July 6, 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 June 15, 2004 meeting minutes.

B. OLD BUSINESS:

1. **VAC 04-11.00 (Houses Development Company):** An ordinance approving VAC 04-11.00 to vacate and abandon a 30' utility easement located on Lots 6, 7, 8, and 9 in block three and Lots 7, 8, and 9 of block four of Harrison's Addition as depicted on the attached map and legal description. *This ordinance was left on the first reading at the June 15, 2004 City Council meeting.*

C. NEW BUSINESS:

- ✓ 1. **R-PZD 04-1075 (Cambridge Crossing):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1075 located at Lot 6C, Vantage Square containing approximately 11.525 acres, more or less; amending the official zoning map of the City of Fayetteville and adopting the Associated Residential Development Plan as approved by the Planning Commission.
- ✓ 2. **RZN 04-1080 (Trumbo):** An ordinance rezoning that property described in rezoning petition RZN 04-1080 as submitted by Jay Rodman for property located at 3198 W. 6th Street, containing approximately 0.81 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial.

~~3. **Planning Commission Appeal (Clem Johnson):**~~

4. **Annexation of Islands:**

- ✓ 5. **Planning Commission Appeal (Clem Johnson):** Appeal of the Planning Commissions June 14, 2004 decision to deny property owner Clem Johnson to install a chain link fence on property located at 1798 E Huntsville Road.

6. **Library Design Systems, Inc. Contract:**

→ 7. **Library Annex Sale:**

Res.
from
Kit

Consent-

Hugh

(Last)

8. Public Hearing (Certificate of Public Convenience for CTS Executive Transportation):

~~9. OBO Enterprises, Inc. (Lease of Square Garden Patio):~~

Consent

10. DBE Program Participation Goals for FY2004: A resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goals for FY2004.

Consent Kit

11. United States Postal Service Lease:

1
NB

12. Recodification of the Fayetteville Code: An ordinance adopting and enacting a new Code of Ordinances of the City of Fayetteville, Arkansas; providing for the repeal of certain ordinances not contained therein, except as herein expressly provided; and providing for the manner of amending the Code.

Botanical Gardens

D. INFORMATIONAL:

Council Tour: ?????

**Tentative Agenda
City Council Meeting
July 6, 2004**

A meeting of the Fayetteville City Council will be held on July 6, 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 June 15, 2004 meeting minutes.

B. OLD BUSINESS:

1. **VAC 04-11.00 (Houses Development Company):** An ordinance approving VAC 04-11.00 to vacate and abandon a 30' utility easement located on Lots 6, 7, 8, and 9 in block three and Lots 7, 8, and 9 of block four of Harrison's Addition as depicted on the attached map and legal description. *This ordinance was left on the first reading at the June 15, 2004 City Council meeting.*

C. NEW BUSINESS:

- 6/18/04
1. **R-PZD 04-1075 (Cambridge Crossing):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1075 located at Lot 6C, Vantage Square containing approximately 11.525 acres, more or less; amending the official zoning map of the City of Fayetteville and adopting the Associated Residential Development Plan as approved by the Planning Commission.

- 6/18/04
2. **RZN 04-1080 (Trumbo):** An ordinance rezoning that property described in rezoning petition RZN 04-1080 as submitted by Jay Rodman for property located at 3198 W. 6th Street, containing approximately 0.81 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial.

- placeholder only
3. ~~Downtown Master Plan Adoption:~~

- Does not have to be routed
4. **Planning Commission Appeal (Clem Johnson):** Appeal of the Planning Commissions June 14, 2004 decision to deny property owner Clem Johnson to install a chain link fence on property located at 1798 E Huntsville Road.

- 6/21/04
5. ~~Library Design Systems, Inc. Contract:~~

- placeholder only
6. **Library Annex Sale:**

6/18/04

7. **Public Hearing (Certificate of Public Convenience for CTS Executive Transportation):**

6/18/04

8. **OPO Enterprises, Inc. (Lease of Square Garden Patio):**

6/7/04

9. **DBE Program Participation Goals for FY2004:** A resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goals for FY2004.

6/22/04

10. **United States Postal Service Lease:**

6/18/04

11. **Recodification of the Fayetteville Code:** An ordinance adopting and enacting a new Code of Ordinances of the City of Fayetteville, Arkansas; providing for the repeal of certain ordinances not contained therein, except as herein expressly provided; and providing for the manner of amending the Code.

D. INFORMATIONAL:

Council Tour: ?????

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:

Jina O. Argue was inserted in the regular editions on July 3, 2004.

PO# 04-380

** Publication Charge: \$ 171.72

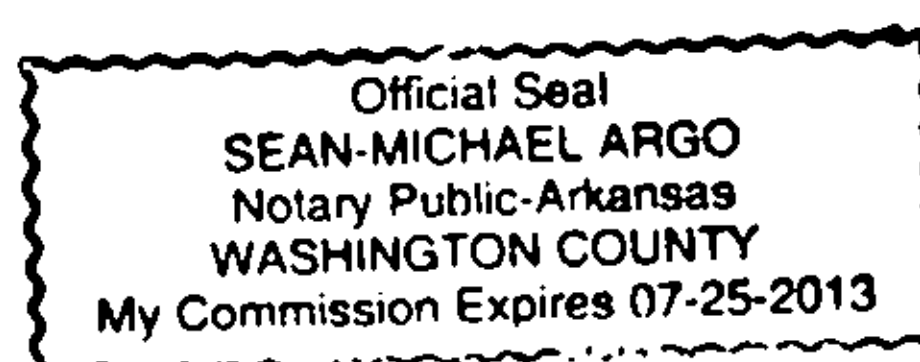
Subscribed and sworn to before me this

06 day of July, 2004.

Sean-Michael Argo
Notary Public

My Commission Expires: 07/25/2013

** Please do not pay from Affidavit.
An invoice will be sent.



**Final Agenda
City Council Meeting
July 6, 2004**

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



Downtown Master Plan Presentation

School Street Intersection Presentation

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the June 15, 2004 meeting minutes
2. **Library Design Systems, Inc. Contract:** A resolution to approve a contract with Library Design Systems, Inc. in the amount of \$34,650.00 to move library property (books, equipment, furniture, etc.) to the new library
3. **DBE Program Participation Goals for FY2004:** A resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goals for FY2004.
4. **United States Postal Service Lease:** A resolution to approve a lease of a portion of the terminal building to the United States Postal Service for a beginning annual rent of \$19,200.00 for ten years with two 5 year options to renew

B. OLD BUSINESS:

1. **VAC 04-11.00 (Houses Development Company):** An ordinance approving VAC 04-11.00 to vacate and abandon a 30' utility easement located on Lots 6, 7, 8, and 9 in block three and Lots 7, 8, and 9 of block four of Harrison's Addition as depicted on the attached map and legal description. This ordinance was left on the first reading at the June 15, 2004 City Council meeting.

C. NEW BUSINESS:

1. **Botanical Gardens Development:** A resolution to consider spending as much as \$750,000.00 in the development of The Botanical Garden of the Ozarks at Lake Fayetteville Park.
2. **Library Annex Sale:** A resolution to approve the sale of the City owned annex to the Fayetteville Public Library for \$551,000.00 pursuant to the bid from the Fulbright Building LLC.
3. **R-PZD 04-1075 (Cambridge Crossing):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1075 located at Lot 6C, Vantage Square containing approximately 11.525 acres, more or less; amending the official zoning map of the City of Fayetteville and adopting the Associated Residential Development Plan as approved by the Planning Commission.
4. **RZN 04-1080 (Thumb):** An ordinance rezoning that property described in rezoning petition RZN 04-1080 as submitted by Jay Rodman for property located at 3198 W. 6th Street, containing approximately 0.81 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial.
5. **Annexation of Islands (University of Arkansas Property Containing Approximately 704.84 acres):** An ordinance to annex into the City of Fayetteville, Arkansas a large parcel of land owned by the University of Arkansas which is completely surrounded by the incorporated limits of Fayetteville.
6. **Annexation of Islands (Containing Approximately 461.74 Acres):** An ordinance to annex into the City of Fayetteville, Arkansas several parcels completely surrounded by the incorporated limits of Fayetteville.
7. **Annexation of Islands (Containing Approximately 168.747 Acres):** An ordinance to annex into the City of Fayetteville, Arkansas certain lands south of Huntsville Road which are completely surrounded by the incorporated limits of Fayetteville.
8. **Public Hearing (CTS Executive Transportation Certificate of Public Convenience):** A Public Hearing to evaluate the necessity of issuing a Certificate of Public Convenience to CTS Executive Transportation.
9. **Re-codification of the Fayetteville Code:** An ordinance adopting and enacting a new Code of Ordinances of the City of Fayetteville, Arkansas, providing for the repeal of certain ordinances not contained therein, except as herein expressly provided; and providing for the manner of amending the Code.

D. INFORMATIONAL:

No Council Tour
July 6th Holiday: July 5, 2004

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:

Linda Ogunda was inserted in the regular editions on
July 3, 2004.

PO# 04-386

** Publication Charge: \$ 171.72

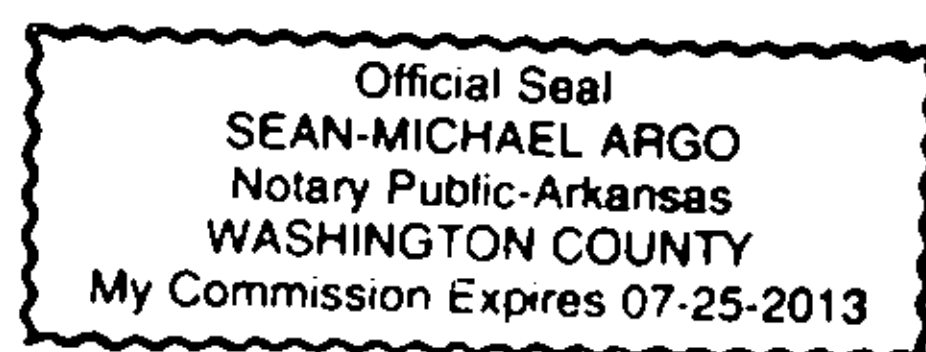
Subscribed and sworn to before me this

18 day of Aug, 2004.

Sean-Michael Argo
Notary Public

My Commission Expires: 07/25/2013

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RECEIVED
AUG 20 2004
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**Final Agenda
City Council Meeting
July 6, 2004**

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Downtown Master Plan Presentation

School Street Intersection Presentation

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D. INFORMATIONAL:

No Council Tour
July 4th Holiday: July 5, 2004