# Final Agenda
# City Council Meeting
# July 20, 2004

A meeting of the Fayetteville City Council will be held on July 20, 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 July 6, 2004 meeting minutes.

   **APPROVED.**

2. **Architectural Contractors T-Hangar Construction:** A resolution awarding a construction contract to Architectural Contractors, Inc. in the amount of $314,135.00 to construct T-Hangar "H" at the Fayetteville Municipal Airport; approving a five percent (5%) project contingency of $15,707.00; and approving a budget adjustment of $9,695.00 for same.

   **PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 102-04.**

3. **Federal Aviation Administration Lease**: A resolution to approve a ten year lease of a brick building at the Municipal Airport to the Federal Aviation Administration at a beginning monthly rent of $2,350.00.

   **PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 103-04.**

4. **Tomlinson Asphalt–Wilson Park Basketball Court:** A resolution awarding a contract to Tomlinson Asphalt Company, Inc. in the amount of $32,977.00 for the renovation of the Wilson Park Basketball Court; approving a project contingency in the amount of $3,298.00.

   **PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 104-04.**

5. **Arkansas Parks and Tourism Grant for Braden Park Project:** A resolution authorizing the Fayetteville Parks and Recreation Division to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount up to $50,000.00 for the Braden Park Project.

   **PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 105-04.**

6. **One New Holland Tractor Purchase:** A resolution approving the purchase of one (1) New Holland TS115A Tractor from Williams Tractor and one (1) Tiger TRB-50C 20' side mower from the Countryside JD in the amount of $67,859.00.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 106-04.**

7. **Two New Holland Tractors Purchase:** A resolution approving the purchase of two (2) New Holland TS115A Tractors from Williams Tractor and two (2) Tiger TRR120C mowers from Countryside JD in the amount of $129,332.00.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 107-04.**

8. **Scottsdale Insurance:** A resolution approving a budget adjustment in the amount of $55,000.00 to add funds to the miscellaneous program to offset payments to Scottsdale Insurance.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 108-04.**

9. **COPS Methamphetamine Training Grant:** A resolution to authorize Mayor Coody to apply for a $164,900.00 Grant from the COPS Methamphetamine Training Initiative.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 109-04.**

10. **McClinton-Anchor Taxiway Extension:** A resolution awarding a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of $607,078.90 to construct Taxiways "A" and "E" Extensions at the Fayetteville Municipal Airport; and approving a ten percent (10%) project contingency of $60,708.00.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 110-04.**

## B. OLD 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. ***This Ordinance was left on the Second Reading at the July 6, 2004 City Council meeting.***

**PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4586.**

2. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

**PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4587.**

3. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

   **PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4588.**

4. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting***

   **PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4589**

5. ***ADDED ITEM: ISLAND ANNEXATION OF SIX PARCELS.***

   **PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4590.**

6. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

   **THIS ITEM WAS LEFT ON THE SECOND READING.**

C. **NEW BUSINESS:**

1. **Tyson Food Company Building Purchase:** A resolution authorizing city staff to develop and present to Tyson Foods, Inc. an Offer and Acceptance Contract for the purchase of property located at 1851 East Huntsville Road in an amount not to exceed $1,100,000.00; and approving a budget adjustment in the amount of $1,000,000.00 for the property purchase and $551,000.00 transfer from General Fund to Sales Tax Capital Improvement Fund.

   **PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 111-04.**

2. **OPO Enterprises, Inc. – Square Garden Lease:** A resolution approving a two year lease with OPO Enterprises, Inc. for rental rate of $1 per year plus other good and valuable consideration, for a period of two (2) years, and allowing the lessee five additional two (2) year periods renewing the lease for outdoor dining on the Town Square for a total lease period of twelve (12) years.

   **PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 112-04.**

3. **Lake Fayetteville Spillway Bridge and Trail:** A resolution awarding a contract to Mobley Contractors, Inc. in the amount of $877,709.20 to construct the Lake Fayetteville

Spillway Bridge and Multi-Use Trail; approving a project contingency in the amount of $43,885.00; and approving a budget adjustment in the amount of $376,340.00 for same.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 113-04.**

4. **ANX 04-01.00 ( Greenwood/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Jean Greenwood Jowers located southeast of the intersection of 46th Street and Persimmon Street containing approximately 160.00 acres.

   **THIS ITEM WAS LEFT ON THE FIRST READING.**

5. **ANX 04-02.00 (McBryde/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by C. Bryan McBryde located southwest of the Fayetteville Boys and Girls Club adjoining the extensions of Rupple Road and Persimmon Street containing approximately 80.00 acres.

   **THIS ITEM WAS LEFT ON THE FIRST READING.**

6. **ANX 04-04.00 (Tipton/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Robert and Minnie Beth Tipton located east of Double Springs Road adjoining the southeast corner of the Legacy Pointe Subdivision containing approximately 29.31 acres.

   **THIS ITEM WAS LEFT ON THE FIRST READING.**

7. **RZN 04-10.00 (Tipton/Sloan):** An ordinance rezoning that property described in rezoning petition RZN 04-10.00 as submitted by Raymond Smith for property located south of Wedington Drive and east of Double Springs Road abutting the Legacy Pointe Subdivision containing approximately 29.31 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

   **THIS ITEM WAS LEFT ON THE FIRST READING.**

8. **ANX 04-6.00 (Leigh Taylor Properties):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Highway 112 containing approximately 29.86 acres.

   **THIS ITEM WAS LEFT ON THE FIRST READING.**

9. **RZN 04-12.00 (Leigh Taylor Properties):** An ordinance rezoning that property described in rezoning petition RZN 04-12.00 as submitted by Chad White on behalf of Leigh Taylor Properties LLC for property located north of Highway 112/Howard Nickell Road and east of Highway 112 containing approximately 29.86 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre subject to a Bill of Assurance.

   **THIS ITEM WAS LEFT ON THE FIRST READING.**

10. **ANX 04-1083 (Marinoni):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the extensions of Rupple Road and Persimmon Street containing approximately 78.84 acres.

    **THIS ITEM WAS LEFT ON THE FIRST READING.**

11. **RZN 04-1084 (Marinoni):** An ordinance rezoning that property described in rezoning petition RZN 04-1084 as submitted by Bob Estes on behalf of Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the future extensions of Rupple Road and Persimmon Street containing approximately 78.84 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

    **THIS ITEM WAS LEFT ON THE FIRST READING.**

12. **ANX 04-1090 (Hays):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Hays Family Development, LLLP for property located at west of 54th Avenue adjoining the extension of West Persimmon Street containing approximately 37.30 acres.

    **THIS ITEM WAS LEFT ON THE FIRST READING.**

13. **RZN 04-1091 (Hays):** An ordinance rezoning that property described in rezoning petition RZN 04-1091 as submitted by Jim McCord on behalf of Hays Family Development, LLLP for property located west of 54th Avenue adjoining the extension of Persimmon Street containing approximately 49.40 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

    **THIS ITEM WAS LEFT ON THE FIRST READING.**

14. **ANX 04-1100 (Harper/Brandon):** An ordinance calling for the simultaneous detachment of about 10 acres owned by Craig and Karyn Harper from the City of Springdale, Arkansas and the annexation of those lands into the City of Fayetteville..

    **PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4591.**

15. **RZN 04-1101 (Harper/Brandon):** An ordinance rezoning that property described in rezoning petition RZN 04-1101 as submitted by Michelle Harrington on behalf of Gary Brandon Enterprises for property located at the south side of Albright Road west of George Anderson Road containing approximately 9.99 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

    **PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4592.**

16. **RZN 04-1099 (Brisiel):** An ordinance rezoning that property described in rezoning petition RZN 04-1099 as submitted by Tim Brisiel for property located south of Mount Comfort Road and west of Alpine Avenue containing approximately 2.19 acres from P-1, Institutional to RSF-4, Residential Single Family, four units per acre.

**PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4593.**

17. **RZN 04-1104 (Goff):** An ordinance rezoning that property described in rezoning petition RZN 04-1104 as submitted by Tom Hennelly for property located at north of the Goff Farm Road north of the Stonebridge Meadows Golf Course Club House containing approximately 17.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

**THIS ITEM WAS LEFT ON THE FIRST READING.**

18. **RZN 04-1111 (The Mill District):** An ordinance rezoning that property described in rezoning petition RZN 04-1111 as submitted by Rob Sharp for property located at the northwest corner of South School Avenue and 6th Street containing approximately 1.95 acres from I-1 Heavy Commercial, Light Industrial to C-2, Thoroughfare Commercial.

**PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4594.**

19. **Amber Drive Drainage:** A resolution to approve a budget adjustment of $100,000.00 to finance drainage improvements for Amber Drive.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 114.04.**

20. **Highway 71 East Square Redevelopment District #1:** An ordinance forming the Highway 71 East Square Redevelopment District Number One pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan.

**THIS ITEM WAS TABLED TO SPECIAL CITY COUNCIL MEETING, JULY 29, 2004.**

21. **Wilson Springs Sale Proceeds:** A resolution to express the intent of the City Council to use the proceeds from the sale of Wilson Springs for various projects or purposes.

**THIS ITEM WAS TABLED INDEFINITELY.**

**D. INFORMATIONAL:**

**Council Tour: July 19, 2004 at 4:30 p.m.**

**Meeting adjourned at 11:10 p.m.**

City Council Meeting July 20, 2004

| Subject: | Roll | | | | |
|---|---|---|---|---|---|
| Motion To: | | | | | |
| Motion By:<br>Seconded: | | | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | ✓ | | | |
| | Jordan | ✓ | | | |
| | Reynolds | absent | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Marr | ✓ | | | |
| | Mayor Coody | ✓ | | | |

| Subject: | Consent | | | | |
|---|---|---|---|---|---|
| Motion To: | | Approve | | | |
| Motion By:<br>Seconded: | | Davis<br>Jordan | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | ✓ | | | |
| | Jordan | ✓ | | | |
| | Reynolds | absent | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Marr | ✓ | | | |
| | Mayor Coody | | | | |

Consent

Passed
7-0
102-04
to
110-04

City Council Meeting July 20, 2004

| Subject: | R-PZD 04-1075 (Cambridge Crossing) | | | |
|---|---|---|---|---|
| Motion To: | 3rd read | Pass | | |
| Motion By: / Seconded: | Davis / Lucas | | | |
| Rhoads | ✓ | ✓ | | |
| Davis | ✓ | ✓ | | |
| Lucas | ✓ | ✓ | | |
| Jordan | ✓ | ✓ | | |
| Reynolds | Absent | Absent | | |
| Thiel | ✓ | ✓ | | |
| Cook | ✓ | ✓ | | |
| Marr | ✓ | ✓ | | |
| Mayor Coody | | | | |

#1 Old Business

Passed 7-0 4586

| Subject: | Annex. of 3 Islands U of A 704.84 Acres | | | |
|---|---|---|---|---|
| Motion To: | 2nd read | Amend U of A Zoning | to bring in R-A Zoning | |
| Motion By: / Seconded: | Lucas / Jordan | Jordan / Lucas | | |
| Rhoads | ✓ | ✓ | | |
| Davis | ✓ | ✓ | | |
| Lucas | ✓ | ✓ | | |
| Jordan | ✓ | ✓ | | |
| Reynolds | Absent | absent | | |
| Thiel | ✓ | ✓ | | |
| Cook | ✓ | ✓ | | |
| Marr | ✓ | ✓ | | |
| Mayor Coody | | | | |

#2 old Business

Amend to bring in as R-A Zoning.

City Council Meeting July 20, 2004

| Subject: | | Annex of Islands Ag of A 704.84 acres | | | |
|---|---|---|---|---|---|
| Motion To: | | 3rd read | Pass | | |
| Motion By: Seconded: | | Lucas Jordan | | | |
| | Rhoads | ✓ | ✓ | | |
| | Davis | ✓ | ✓ | | |
| | Lucas | ✓ | ✓ | | |
| | Jordan | ✓ | ✓ | | |
| | Reynolds | Absent | Absent | | |
| | Thiel | ✓ | ✓ | | |
| | Cook | ✓ | ✓ | | |
| | Marr | ✓ | ✓ | | |
| | Mayor Coody | | | | |

#2 old Bussiness

passed as Amended 7-2487

| Subject: | | Annex of Islands 461.74 Acres | | | |
|---|---|---|---|---|---|
| Motion To: | | 2nd read | | Amend to Amend/ remove Section #2 | |
| Motion By: Seconded: | | Davis Jordan | | Marr Lucas | |
| | Rhoads | ✓ | | ✓ | |
| | Davis | ✓ | | ✓ | |
| | Lucas | ✓ | | ✓ | |
| | Jordan | ✓ | | ✓ | |
| | Reynolds | absent | | absent | |
| | Thiel | ✓ | | ✓ | |
| | Cook | ✓ | | ✓ | |
| | Marr | ✓ | | ✓ | |
| | Mayor Coody | | | | |

#3 old Business

City Council Meeting July 20, 2004

| Subject: | | Annex of Orlando 461.74 Acres | | | |
|---|---|---|---|---|---|
| Motion To: | | Remove Section #3 Some parcels as stated by Alderman Marr | | | |
| Motion By: | | Marr | | | |
| Seconded: | | Jordan | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | ✓ | | | |
| | Jordan | ✓ | | | |
| | Reynolds | absent | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Marr | ✓ | | | |
| | Mayor Coody | | | | |

#3 old Business

| Subject: | | Annex of Orlands 461.74 acres | | | |
|---|---|---|---|---|---|
| Motion To: | | Section #4 Remove Parcels | | 3rd read | Pass |
| Motion By: | | Marr | | Jordan | |
| Seconded: | | Jordan | | Davis | |
| | Rhoads | ✓ | | ✓ | ✓ |
| | Davis | ✓ | | ✓ | ✓ |
| | Lucas | ✓ | | ✓ | ✓ |
| | Jordan | ✓ | | ✓ | ✓ |
| | Reynolds | absent | | absent | absent |
| | Thiel | ✓ | | ✓ | ✓ |
| | Cook | ✓ | | ✓ | ✓ |
| | Marr | ✓ | | ✓ | ✓ |
| | Mayor Coody | | | | |

#3 old Business passed 7-0 4588

City Council Meeting July 20, 2004

| Subject: | | Annex of Islands 168.747 Acres | | | |
|---|---|---|---|---|---|
| Motion To: | | 2nd read | 3rd read | Pass | |
| Motion By: / Seconded: | | Davis / Lucas | Davis / Jordan | | |
| | Rhoads | ✓ | ✓ | ✓ | |
| | Davis | ✓ | ✓ | ✓ | |
| | Lucas | ✓ | ✓ | ✓ | |
| | Jordan | ✓ | ✓ | ✓ | |
| | Reynolds | Absent | Absent | Absent | |
| | Thiel | ✓ | ✓ | ✓ | |
| | Cook | ✓ | ✓ | ✓ | |
| | Marr | ✓ | ✓ | ✓ | |
| | Mayor Coody | | | | |

#4 old Business

passed 7-0 4589

| Subject: | | Add as New Agenda Item Parcels Removed | | | |
|---|---|---|---|---|---|
| Motion To: | | Add to Agenda | | from islands to Annex into the City | |
| Motion By: / Seconded: | | Marr / Jordan | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | ✓ | | | |
| | Jordan | ✓ | | | |
| | Reynolds | Absent | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Marr | ✓ | | | |
| | Mayor Coody | | | | |

New Item added

City Council Meeting July 20, 2004

| Subject: | (6 Parcels) | | Added Parcels removed from islands to annex into the City. | | |
|---|---|---|---|---|---|
| Motion To: | | 2nd read | 3rd read | Pass | |
| Motion By: Seconded: | | Marr / Jordan | Marr / Jordan | | |
| | Rhoads | ✓ | ✓ | ✓ | |
| | Davis | ✓ | ✓ | ✓ | |
| | Lucas | ✓ | ✓ | ✓ | |
| | Jordan | ✓ | ✓ | ✓ | |
| | Reynolds | Absent | absent | Absent | |
| | Thiel | ✓ | ✓ | ✓ | |
| | Cook | ✓ | ✓ | ✓ | |
| | Marr | ✓ | ✓ | ✓ | |
| | Mayor Coody | | | | |

item added to Agenda / Passed 7-0 4590

| Subject: | | Re-Codification of Fayetteville Code | | | |
|---|---|---|---|---|---|
| Motion To: | | 2nd read | | | |
| Motion By: Seconded: | | Thiel / Davis | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | ✓ | | | |
| | Jordan | ✓ | | | |
| | Reynolds | Absent | Absent | Absent | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Marr | ✓ | | | |
| | Mayor Coody | | | | |

Left on the Second reading

City Council Meeting July 20, 2004

| Subject: | | Tyson Food Building Purchase | | | |
|---|---|---|---|---|---|
| Motion To: | | approve resolution | | | |
| Motion By: Seconded: | | Davis / Thiel | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | ✓ | | | |
| | Jordan | ✓ | | | |
| | Reynolds | Absent | | | |
| | Thiel | ✓ | | | |
| | Cook | N | | | |
| | Marr | N | | | |
| | Mayor Coody | | | | |

New Business #1

5/2 passed 111-04

| Subject: | | OPO Enterprises, Inc. Square Garden Lease | | | |
|---|---|---|---|---|---|
| Motion To: | | approve the resolution | | | |
| Motion By: Seconded: | | Davis / Jordan | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | ✓ | | | |
| | Jordan | ✓ | | | |
| | Reynolds | Absent | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Marr | ✓ | | | |
| | Mayor Coody | | | | |

New Business # 2

Passed 7-0 112-04

City Council Meeting July 20, 2004

| Subject: | Lake Fayetteville Spillway | | | |
|---|---|---|---|---|
| Motion To: | | approve | | |
| Motion By:<br>Seconded: | | Cook<br>Thiel | | |
| Rhoads | | ✓ | | |
| Davis | | ✓ | | |
| Lucas | | N | | |
| Jordan | | ✓ | | |
| Reynolds | | absent | | |
| Thiel | | ✓ | | |
| Cook | | ✓ | | |
| Marr | | ✓ | | |
| Mayor Coody | | | | |

New Business #3

Passed

6-1

113-04

| Subject: | ANX-04-1.00 (Greenwood/Sloan) | | | |
|---|---|---|---|---|
| Motion To: | | | | |
| Motion By:<br>Seconded: | | | | |
| Rhoads | | | | |
| Davis | | | | |
| Lucas | | | | |
| Jordan | | | | |
| Reynolds | | | | |
| Thiel | | | | |
| Cook | | | | |
| Marr | | | | |
| Mayor Coody | | | | |

New Business #4

Left on the first reading

City Council Meeting July 20, 2004

| Subject: | ANX-04-2.00 (McBryde / Sloan) | | | | |
|---|---|---|---|---|---|
| Motion To: | | | | | |
| Motion By: Seconded: | | | | | |
| | Rhoads | | | | |
| | Davis | | | | |
| | Lucas | | | | |
| | Jordan | | | | |
| | Reynolds | | | | |
| | Thiel | | | | |
| | Cook | | | | |
| | Marr | | | | |
| | Mayor Coody | | | | |

New Business #5

Left on the First Reading

| Subject: | ANX 04-0400 (Tipton / Sloan) | | | | |
|---|---|---|---|---|---|
| Motion To: | | | | | |
| Motion By: Seconded: | | | | | |
| | Rhoads | | | | |
| | Davis | | | | |
| | Lucas | | | | |
| | Jordan | | | | |
| | Reynolds | | | | |
| | Thiel | | | | |
| | Cook | | | | |
| | Marr | | | | |
| | Mayor Coody | | | | |

New Business #6

Left on the First Reading

City Council Meeting July 20, 2004

| Subject: | RZN 04-10.00 (Tipton/Sloan | | | | |
|---|---|---|---|---|---|
| Motion To: | | | | | |
| Motion By:<br>Seconded: | | | | | |
| | Rhoads | | | | |
| | Davis | | | | |
| | Lucas | | | | |
| | Jordan | | | | |
| | Reynolds | | | | |
| | Thiel | | | | |
| | Cook | | | | |
| | Marr | | | | |
| | Mayor Coody | | | | |

New Business #7

Left on the First Reading

| Subject: | ANX 04-6.00 Leigh Taylor | | | | |
|---|---|---|---|---|---|
| Motion To: | | | | | |
| Motion By:<br>Seconded: | | | | | |
| | Rhoads | | | | |
| | Davis | | | | |
| | Lucas | | | | |
| | Jordan | | | | |
| | Reynolds | | | | |
| | Thiel | | | | |
| | Cook | | | | |
| | Marr | | | | |
| | Mayor Coody | | | | |

New Business #8

Left on the first reading

City Council Meeting July 20, 2004

| Subject: | RZN - 04-12.00 Leigh Taylor | | | | |
|---|---|---|---|---|---|
| Motion To: | | | | | |
| Motion By:<br>Seconded: | | | | | |
| | Rhoads | | | | |
| | Davis | | | | |
| | Lucas | | | | |
| | Jordan | | | | |
| | Reynolds | | | | |
| | Thiel | | | | |
| | Cook | | | | |
| | Marr | | | | |
| | Mayor Coody | | | | |

#9
New
Business
Left on
the first
reading

| Subject: | ANX 04-1083 (Marinoni) | | | | |
|---|---|---|---|---|---|
| Motion To: | | | | | |
| Motion By:<br>Seconded: | | | | | |
| | Rhoads | | | | |
| | Davis | | | | |
| | Lucas | | | | |
| | Jordan | | | | |
| | Reynolds | | | | |
| | Thiel | | | | |
| | Cook | | | | |
| | Marr | | | | |
| | Mayor Coody | | | | |

#10
New
Business
Left on
the first
reading

City Council Meeting July 20, 2004

| Subject: | RZN 04-1084 (Marinoni) | | | | |
|---|---|---|---|---|---|
| Motion To: | | | | | |
| Motion By:<br>Seconded: | | | | | |
| | Rhoads | | | | |
| | Davis | | | | |
| | Lucas | | | | |
| | Jordan | | | | |
| | Reynolds | | | | |
| | Thiel | | | | |
| | Cook | | | | |
| | Marr | | | | |
| | Mayor Coody | | | | |

#11 New Business Left on the First Reading

| Subject: | ANX 04-1090 (Map) | | | | |
|---|---|---|---|---|---|
| Motion To: | | | | | |
| Motion By:<br>Seconded: | | | | | |
| | Rhoads | | | | |
| | Davis | | | | |
| | Lucas | | | | |
| | Jordan | | | | |
| | Reynolds | | | | |
| | Thiel | | | | |
| | Cook | | | | |
| | Marr | | | | |
| | Mayor Coody | | | | |

#12 New Business Left on the first reading

City Council Meeting July 20, 2004

| Subject: | RZN 04-1091 (Hays) | | | | |
|---|---|---|---|---|---|
| Motion To: | | | | | |
| Motion By:<br>Seconded: | | | | | |
| | Rhoads | | | | |
| | Davis | | | | |
| | Lucas | | | | |
| | Jordan | | | | |
| | Reynolds | | | | |
| | Thiel | | | | |
| | Cook | | | | |
| | Marr | | | | |
| | Mayor Coody | | | | |

#13
New
Business
Left on
the
first
reading

| Subject: | ANX - 04 - 1100 (Harper / Brandin) | | | | |
|---|---|---|---|---|---|
| Motion To: | | 2nd read | 3rd read | Pass | |
| Motion By:<br>Seconded: | | Davis<br>Marr | Jordan<br>Davis | | |
| | Rhoads | ✓ | ✓ | ✓ | |
| | Davis | ✓ | ✓ | ✓ | |
| | Lucas | ✓ | ✓ | ✓ | |
| | Jordan | ✓ | ✓ | ✓ | |
| | Reynolds | absent | absent | absent | |
| | Thiel | ✓ | ✓ | ✓ | |
| | Cook | ✓ | ✓ | NO | |
| | Marr | ✓ | ✓ | ✓ | |
| | Mayor Coody | | | | |

#14
New
Business

passed
6-1
4691

City Council Meeting July 20, 2004

| Subject: | | RZN – 04-1101 (Harper/Brandon) | | | |
|---|---|---|---|---|---|
| Motion To: | | Amend Subject to Springdale Approval | 2nd read | 3rd read | Pass |
| Motion By: Seconded: | | Davis / Marr | Davis / Marr | Rhoads / Jordan | |
| | Rhoads | ✓ | ✓ | ✓ | ✓ |
| | Davis | ✓ | ✓ | ✓ | ✓ |
| | Lucas | ✓ | ✓ | ✓ | ✓ |
| | Jordan | ✓ | ✓ | ✓ | ✓ |
| | Reynolds | Absent | Absent | Absent | Absent |
| | Thiel | ✓ | ✓ | ✓ | ✓ |
| | Cook | ✓ | ✓ | ✓ | ✓ |
| | Marr | ✓ | ✓ | ✓ | ✓ |
| | Mayor Coody | | | | |

#15

New Business

Passed 4592

Subject to ratification by City of Springdale

| Subject: | | RZN 04-1099 (Brissel) | | | |
|---|---|---|---|---|---|
| Motion To: | | 2nd read | 3rd read | Pass | |
| Motion By: Seconded: | | Jordan / Marr | Jordan / Lucas | | |
| | Rhoads | ✓ | ✓ | ✓ | |
| | Davis | ✓ | ✓ | ✓ | |
| | Lucas | ✓ | ✓ | ✓ | |
| | Jordan | ✓ | ✓ | ✓ | |
| | Reynolds | Absent | Absent | Absent | |
| | Thiel | ✓ | ✓ | ✓ | |
| | Cook | ✓ | ✓ | ✓ | |
| | Marr | ✓ | ✓ | ✓ | |
| | Mayor Coody | | | | |

#16

Passed 4593

City Council Meeting July 20, 2004

| Subject: | RZN- 04-1104 (Goff) | | | | |
|---|---|---|---|---|---|
| Motion To: | | | | | |
| Motion By:<br>Seconded: | | | | | |
| Rhoads | | | | | |
| Davis | | | | | |
| Lucas | | | | | |
| Jordan | | | | | |
| Reynolds | | | | | |
| Thiel | | | | | |
| Cook | | | | | |
| Marr | | | | | |
| Mayor Coody | | | | | |

New Business #17

Left on the First Reading

| Subject: | | RZN-04-1111 (The Mill District) | | | |
|---|---|---|---|---|---|
| Motion To: | | 2nd read | 3rd read | Pass | |
| Motion By:<br>Seconded: | | Marr<br>Davis | Jordan<br>Davis | | |
| Rhoads | | ✓ | ✓ | ✓ | |
| Davis | | ✓ | ✓ | ✓ | |
| Lucas | | ✓ | ✓ | ✓ | |
| Jordan | | ✓ | ✓ | ✓ | |
| Reynolds | | absent | absent | absent | |
| Thiel | | ✓ | ✓ | ✓ | |
| Cook | | ✓ | ✓ | ✓ | |
| Marr | | ✓ | ✓ | ✓ | |
| Mayor Coody | | | | | |

New Business #18

Passed

4594

City Council Meeting July 20, 2004

| Subject: | Timber Drive Drainage | | | | |
|---|---|---|---|---|---|
| Motion To: | | approve | | | |
| Motion By: / Seconded: | | Marr / Davis | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | ✓ | | | |
| | Jordan | ✓ | | | |
| | Reynolds | absent | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Marr | ✓ | | | |
| | Mayor Coody | | | | |

#19
New Business
Passed
114-04

| Subject: | Highway 71 East Square Redevelop. | | | |
|---|---|---|---|---|
| Motion To: | | Table until the July 29th Special | | |
| Motion By: / Seconded: | | Jordan / Lucas | | City Council meeting |
| | Rhoads | ✓ | | |
| | Davis | ✓ | | |
| | Lucas | ✓ | | |
| | Jordan | ✓ | | |
| | Reynolds | absent | | |
| | Thiel | ✓ | | |
| | Cook | ✓ | | |
| | Marr | ✓ | | |
| | Mayor Coody | | | |

#20
New
Business

City Council Meeting July 20, 2004

| Subject: | Wilson Springs Sale Proceeds | | | | |
|---|---|---|---|---|---|
| Motion To: | | Table Ind. | | | |
| Motion By: / Seconded: | | Marr / Cook | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | ✓ | | | |
| | Jordan | ✓ | | | |
| | Reynolds | Absent | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Marr | ✓ | | | |
| | Mayor Coody | | | | |

Tabled Indef.

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

Adjourned @ 11:10 pm

# Final Agenda
# City Council Meeting
# July 20, 2004

A meeting of the Fayetteville City Council will be held on July 20, 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 July 6, 2004 meeting minutes.

Passed

2. **Architectural Contractors T-Hangar Construction:** A resolution awarding a construction contract to Architectural Contractors, Inc. in the amount of $314,135.00 to construct T-Hangar "H" at the Fayetteville Municipal Airport; approving a five percent (5%) project contingency of $15,707.00; and approving a budget adjustment of $9,695.00 for same.

Passed

3. **Federal Aviation Administration Lease**: A resolution to approve a ten year lease of a brick building at the Municipal Airport to the Federal Aviation Administration at a beginning monthly rent of $2,350.00.

Passed

4. **Tomlinson Asphalt–Wilson Park Basketball Court:** A resolution awarding a contract to Tomlinson Asphalt Company, Inc. in the amount of $32,977.00 for the renovation of the Wilson Park Basketball Court; approving a project contingency in the amount of $3,298.00.

Passed

5. **Arkansas Parks and Tourism Grant for Braden Park Project:** A resolution authorizing the Fayetteville Parks and Recreation Division to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount up to $50,000.00 for the Braden Park Project.

Passed

6. **One New Holland Tractor Purchase:** A resolution approving the purchase of one (1) New Holland TS115A Tractor from Williams Tractor and one (1) Tiger TRB-50C 20' side mower from the Countryside JD in the amount of $67,859.00.

Passed

7. **Two New Holland Tractors Purchase:** A resolution approving the purchase of two (2) New Holland TS115A Tractors from Williams Tractor and two (2) Tiger TRR120C mowers from Countryside JD in the amount of $129,332.00.

Passed

8. **Scottsdale Insurance:** A resolution approving a budget adjustment in the amount of $55,000.00 to add funds to the miscellaneous program to offset payments to Scottsdale Insurance.

Passed

9. **COPS Methamphetamine Training Grant:** A resolution to authorize Mayor Coody to apply for a $164,900.00 Grant from the COPS Methamphetamine Training Initiative.

Passed

10. **McClinton-Anchor Taxiway Extension:** A resolution awarding a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of $607,078.90 to construct Taxiways "A" and "E" Extensions at the Fayetteville Municipal Airport; and approving a ten percent (10%) project contingency of $60,708.00.

**B. OLD BUSINESS:**

Passed.

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. ***This Ordinance was left on the Second Reading at the July 6, 2004 City Council meeting.***

Passed

2. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

passed

3. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

passed

4. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

Left on Second Reading

5. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

**C. NEW BUSINESS:**

passed

1. **Tyson Food Company Building Purchase:** A resolution authorizing city staff to develop and present to Tyson Foods, Inc. an Offer and Acceptance Contract for the purchase of property located at 1851 East Huntsville Road in an amount not to exceed $1,100,000.00; and approving a budget adjustment in the amount of $1,000,000.00 for the property purchase and $551,000.00 transfer from General Fund to Sales Tax Capital Improvement Fund.

Passed 2. **OPO Enterprises, Inc. – Square Garden Lease:** A resolution approving a two year lease with OPO Enterprises, Inc. for rental rate of $1 per year plus other good and valuable consideration, for a period of two (2) years, and allowing the lessee five additional two (2) year periods renewing the lease for outdoor dining on the Town Square for a total lease period of twelve (12) years.

Passed 3. **Lake Fayetteville Spillway Bridge and Trail:** A resolution awarding a contract to Mobley Contractors, Inc. in the amount of $877,709.20 to construct the Lake Fayetteville Spillway Bridge and Multi-Use Trail; approving a project contingency in the amount of $43,885.00; and approving a budget adjustment in the amount of $376,340.00 for same.

Left on 1st reading 4. **ANX 04-01.00 ( Greenwood/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Jean Greenwood Jowers located southeast of the intersection of 46th Street and Persimmon Street containing approximately 160.00 acres.

Left on 1st reading 5. **ANX 04-02.00 (McBryde/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by C. Bryan McBryde located southwest of the Fayetteville Boys and Girls Club adjoining the extensions of Rupple Road and Persimmon Street containing approximately 80.00 acres.

Left on first reading 6. **ANX 04-04.00 (Tipton/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Robert and Minnie Beth Tipton located east of Double Springs Road adjoining the southeast corner of the Legacy Pointe Subdivision containing approximately 29.31 acres.

Left on 1st reading 7. **RZN 04-10.00 (Tipton/Sloan):** An ordinance rezoning that property described in rezoning petition RZN 04-10.00 as submitted by Raymond Smith for property located south of Wedington Drive and east of Double Springs Road abutting the Legacy Pointe Subdivision containing approximately 29.31 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Left on 1st reading 8. **ANX 04-6.00 (Leigh Taylor Properties):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Highway 112 containing approximately 29.86 acres.

Left on 1st reading 9. **RZN 04-12.00 (Leigh Taylor Properties):** An ordinance rezoning that property described in rezoning petition RZN 04-12.00 as submitted by Chad White on behalf of Leigh Taylor Properties LLC for property located north of Highway 112/Howard Nickell Road and east of Highway 112 containing approximately 29.86 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre subject to a Bill of Assurance.

Left on 1st Reading

10. **ANX 04-1083 (Marinoni):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the extensions of Rupple Road and Persimmon Street containing approximately 78.84 acres.

Left on 1st reading

11. **RZN 04-1084 (Marinoni):** An ordinance rezoning that property described in rezoning petition RZN 04-1084 as submitted by Bob Estes on behalf of Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the future extensions of Rupple Road and Persimmon Street containing approximately 78.84 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Left on 1st reading

12. **ANX 04-1090 (Hays):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Hays Family Development, LLLP for property located at west of 54th Avenue adjoining the extension of West Persimmon Street containing approximately 37.30 acres.

Left on 1st reading

13. **RZN 04-1091 (Hays):** An ordinance rezoning that property described in rezoning petition RZN 04-1091 as submitted by Jim McCord on behalf of Hays Family Development, LLLP for property located west of 54th Avenue adjoining the extension of Persimmon Street containing approximately 49.40 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

passed

14. **ANX 04-1100 (Harper/Brandon):** An ordinance calling for the simultaneous detachment of about 10 acres owned by Craig and Karyn Harper from the City of Springdale, Arkansas and the annexation of those lands into the City of Fayetteville..

passed

15. **RZN 04-1101 (Harper/Brandon):** An ordinance rezoning that property described in rezoning petition RZN 04-1101 as submitted by Michelle Harrington on behalf of Gary Brandon Enterprises for property located at the south side of Albright Road west of George Anderson Road containing approximately 9.99 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

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16. **RZN 04-1099 (Brisiel):** An ordinance rezoning that property described in rezoning petition RZN 04-1099 as submitted by Tim Brisiel for property located south of Mount Comfort Road and west of Alpine Avenue containing approximately 2.19 acres from P-1, Institutional to RSF-4, Residential Single Family, four units per acre.

Left on First Reading

17. **RZN 04-1104 (Goff):** An ordinance rezoning that property described in rezoning petition RZN 04-1104 as submitted by Tom Hennelly for property located at north of the Goff Farm Road north of the Stonebridge Meadows Golf Course Club House containing approximately 17.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

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18. **RZN 04-1111 (The Mill District):** An ordinance rezoning that property described in rezoning petition RZN 04-1111 as submitted by Rob Sharp for property located at the northwest corner of South School Avenue and 6th Street containing approximately 1.95 acres from I-1 Heavy Commercial, Light Industrial to C-2, Thoroughfare Commercial.

Passed

19. **Amber Drive Drainage:** A resolution to approve a budget adjustment of $100,000.00 to finance drainage improvements for Amber Drive.

Tabled to 7/29

20. **Highway 71 East Square Redevelopment District #1:** An ordinance forming the Highway 71 East Square Redevelopment District Number One pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan.

Tabled Indef.

21. **Wilson Springs Sale Proceeds:** A resolution to express the intent of the City Council to use the proceeds from the sale of Wilson Springs for various projects or purposes.

**D. INFORMATIONAL:**

**Council Tour: July 19, 2004 at 4:30 p.m.**

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## D. INFORMATIONAL:

**Council Tour: July 19, 2004 at 4:30 p.m.**

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

## DEPARTMENTAL CORRESPONDENCE

TO: **City Council**

FROM: **Kit Williams**, City Attorney

DATE: **July 20, 2004**

RE: **How to amend island annexation ordinances**

**U of A Annexation – Old Business #2**

Please move to amend Section 2 from RSF-1, Residential Single Family, one unit per acre to RA, Residential Agricultural.

**Old Business #3 Annexation with most parcels:**

(1) Please move to amend Section 2 to add at the current end of the sentence: "except for parcels identified as numbers 001-11380-001 and 001-11399-000 which are assigned the zoning of RA, Residential Agriculture."

(2) Please move to remove from Section 3 the following parcel numbers (to be placed in a new annexation ordinance attached to this memo): 001-10757-001, 001-10763-000, 001-10763-000, 001-10764-000, and 765-13156-000.

(3) Please move to amend Section 4 to remove parcel numbers (to be placed in a new annexation ordinance attached to this memo): 001-11380-004 and 001-11380-003.

(4) Please move to suspend the rules to add to the agenda the new annexation ordinance covering those parcels just removed from the original annexation ordinance. I will have to read this relatively short ordinance (and it will only be on its first reading).

We do not need to amend the annexation ordinance south of Huntsville Road. I have attached the revised ordinances and the new one which includes its exhibits.

**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 R-A, Residential Agricultural, one-half 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 20th day of July, 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

DRAFT

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 except for parcels identified as numbers 001-11380-001 and 001-11399-000 which are assigned the zoning of RA, Residential Agricultural.

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 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; 001-11381-000, 001-11380-002, 001-11380-010, 001-11380-001, 001-11399-000, 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, 001-11401-000, 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 to Ward 4.

**PASSED** and **APPROVED** this 20th day of July, 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

**ORDINANCE NO. _____**

AN ORDINANCE TO ANNEX INTO THE CITY OF FAYETTEVILLE, ARKANSAS SIX PARCELS 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 001-10757-001, 001-10763-000, 001-10764-000, and 765-13156-000, to Ward 1.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby assigns the parcels identified as numbers 001-11380-004 and 001-11380-003 to Ward 4.

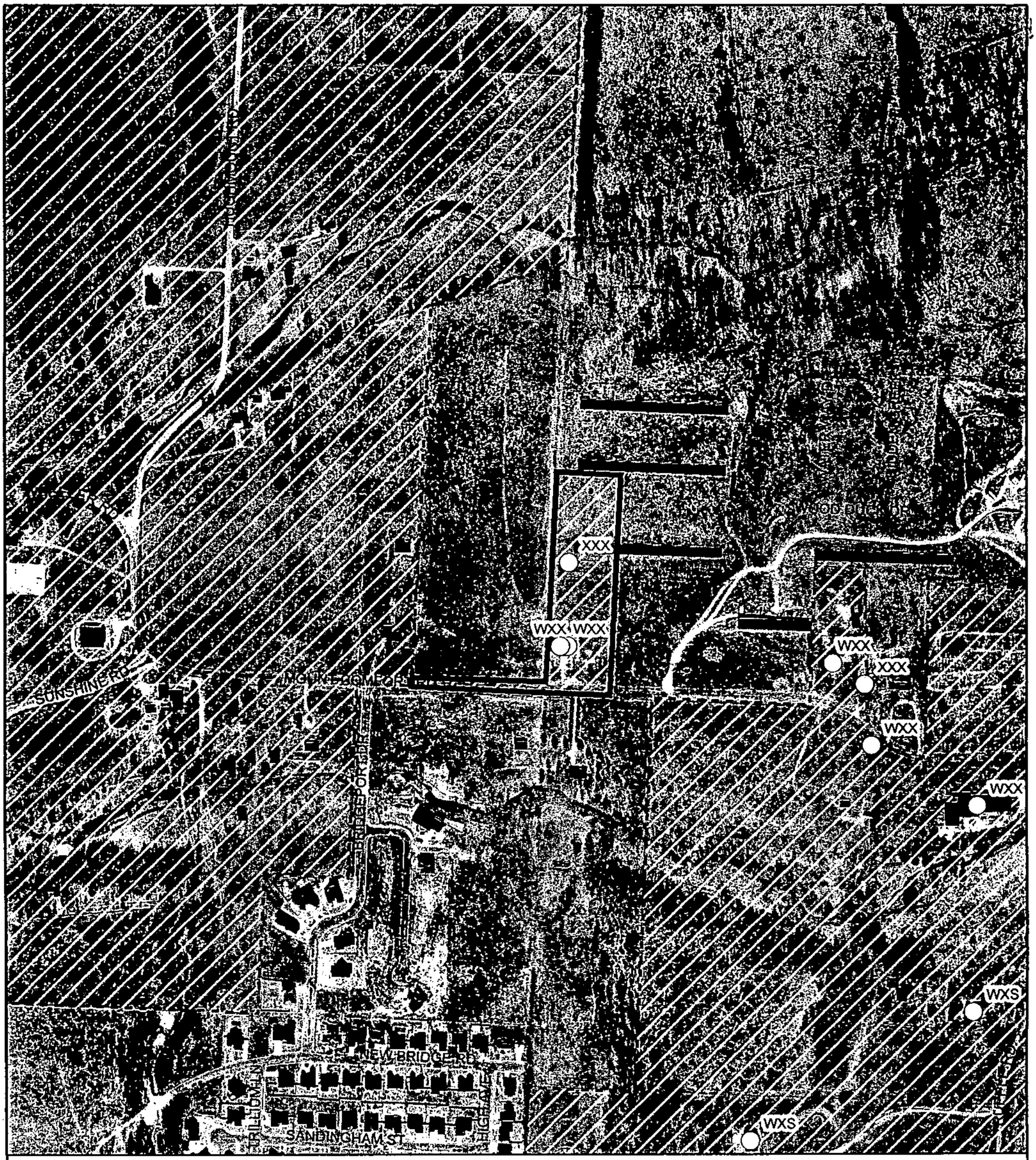
**PASSED** and **APPROVED** this 20th day of July, 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk




# Group 4, Description 1

Parcel # 001-11380-004
& Parcel # 001-11380-003

0 125 250 500 750 1,000 Feet

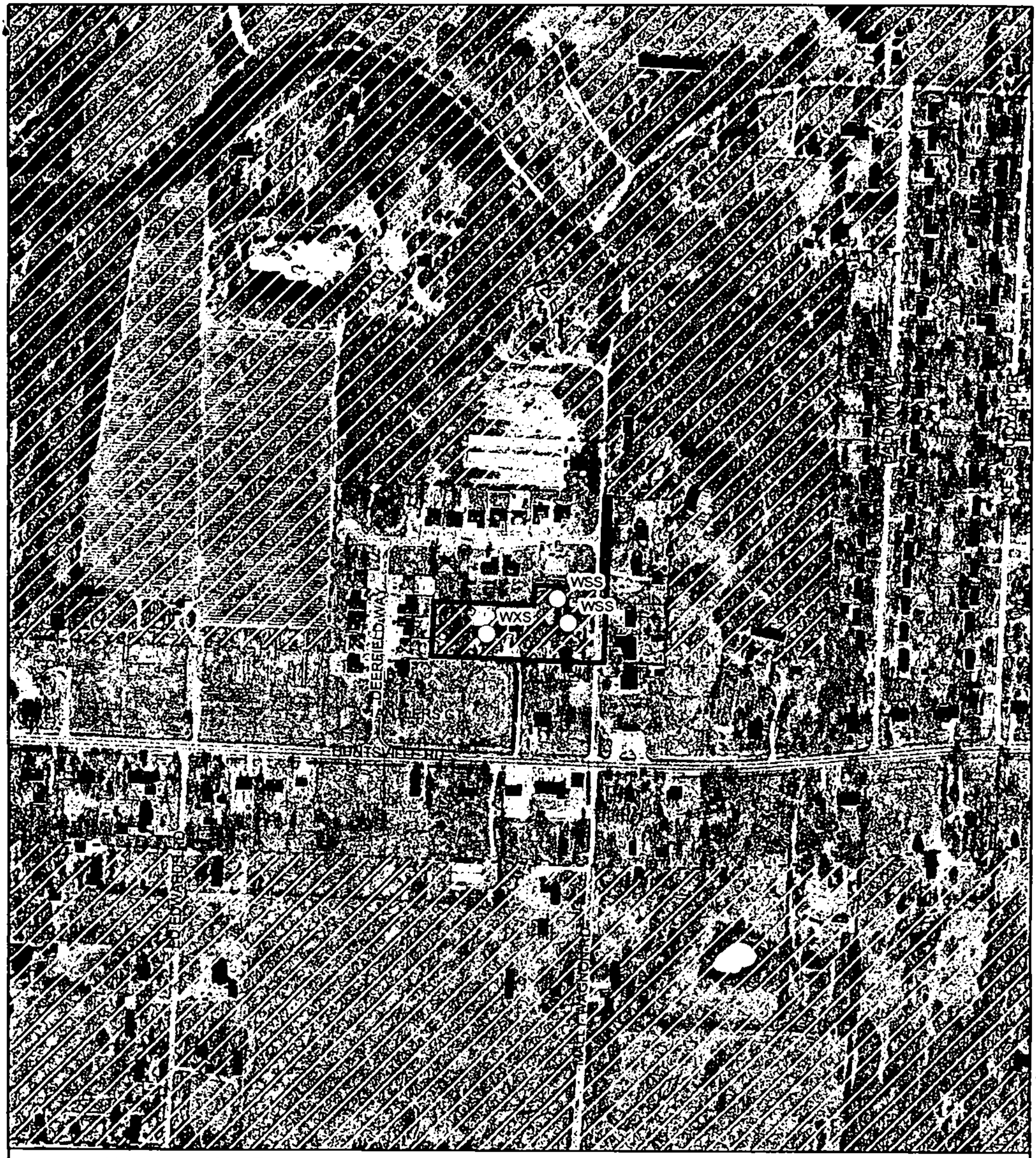
Date of Imagery: Feb. 14, 2000

Outside City of Fayetteville

Area to be Annexed

○ City Service

WSS = Water, Sewer, Solid Waste (respectively)
X = NO SERVICE




# Group 4, Description 2

Parcel Numbers: 001-10757-001
001-10763-000
001-10764-000
765-13156-000

0 125 250 500 750 1,000 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

**Exhibit B**

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 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.

A.9 COPS Methamphetamine Training Grant Add 70 Agenda 7-13-04 at Agenda Sess #10 Consent

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: July 20, 2004

**FROM:**

| Rick Hoyt | Police | Police |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** City Council authorize by resolution Mayor Coody to sign the application for the COPS Methamphetamine Training Initiative requesting $164,900.00. These funds will purchase equipment, fund training, hire one officer for 12 months to enhance Meth Lab enforcement and one employee to organize efforts, gather statistical data and inform the public and business community about the effects of Methamphetamine in our area. This employee will coordinate an effort to form partnerships to address the Meth Lab crisis.

**COST TO CITY:**

| Estimated $206,900.00 | $ - | |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| | $ - | |
| Account Number | Funds Used to Date | Program / Project Category Name |
| | $ - | |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** NA Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date

**CONTRACT/GRANT/LEASE REVIEW:**

| Accounting Manager | Date | Internal Auditor | Date |
|---|---|---|---|
| City Attorney | 7/14/04 Date | Purchasing Manager | Date |

**STAFF RECOMMENDATION:** Authorize Mayor Coody to sign COPS Methamphetamine Training Grant.

| Division Head | Date | Received in Mayor's Office | Date |
|---|---|---|---|
| Department Director | 7/12/04 Date | Cross Reference: | |
| Finance & Internal Services Dir. | 7-12-04 Date | Previous Ord/Res#: | |
| Chief Administrative Officer | 7-12-04 Date | Orig. Contract Date: | |
| Mayor | 7/12/04 Date | Orig. Contract Number: | |
| | | New Item: Yes No | |

Staff Review Form - Page 2

Description Methamphetamine Training Initiative Grant Meeting Date July 20, 2004

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

## DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and Members of the City Council

FROM: Rick Hoyt, Chief of Police
Frank Johnson, Captain

DATE: July 8, 2004

SUBJECT: COPS Methamphetamine Training Initiative

**BACKGROUND**

As background I would like to share a statement made by U.S. Representative Boozman at the Congressional Hearing on Methamphetamine (meth) held in Bentonville on June 28, 2004

> *"Methamphetamine poses problems of epidemic proportions across the country. My own State of Arkansas has the highest number of meth lab seizures per capita in the nation. Arkansas has become a crossroads for meth production and trafficking, making meth one of the top law-enforcement problems in the state."*

I agree with with Representatives Boozman's description of the meth problem. Our Fourth Judicial District Drug Task Force (4th DTF) seized 27 Meth labs during the fiscal year of 2000 and at the current rate 95 will be seized in the fiscal year 2004. This is a 351% increase in just four years with no sign of a slowdown. Methamphetamine is perhaps the most addictive illicit drug and affects generations of families including pre-teens to adults.

One effort to prevent drug abuse through education and rehabilitate drug offenders is provided by the Washington County Drug Court presided over by Judge Mary Ann Gunn. Judge Gunn holds court in area schools upon request and allow students to witness first hand the consequences of illegal drug use. Judge Gunn will request through this grant funds for training and equipment.

**Current status**

The City of Fayetteville, as the lead agency for the 4th DTF, received a COPS (Community Oriented Policing) grant package on Wednesday, July 7, 2004 notifying us that we were *selected* to receive up to $164,900.00 through the COPS Methamphetamine Training Initiative. This is a 1-year non-renewable grant and does not require matching funds but has some non-allowable expenses to efficiently implement the program. The

completed application must be in Washington D.C. on July 30, 2004; therefore we are requesting permission to complete the application.
The grant is broken into four basic areas:

- 30% of award for Training/Technical Assistance
- 20% of award for Education/Awaremness/Community Outreach
- 15% of award for Officer Overtime
- 30% to 35% of award for Equipment/ Supplies and Evaluation

After meeting with Police Department and Task Force staff and contacting Circuit Judge Mary Ann Gunn, the following is being considered for funding:

1. Provide employees participating in the training program to become Site Safety and Clandestine Lab Certified. This training is important to ensure the safety of officers on scene as well as the public living or working nearby.

2. Provide funding for overtime for officers investigating all cases involving illegal narcotics.

3. Provide for the addition of one additional officer to be assigned to the 4th DTF. This officer will maintain research trends concerning the Methamphetamine Lab crisis in our area and actively investigate drug cases. The grant-funded cost of the officer is $31,130.00 with $20,061 additional non-allowed operational expenses and cost above grant funding level.

4. Provide for the addition of a second officer to the Community Oriented Policing (COP) division to create partnerships between neighborhood associations, businesses, civic and faith based organizations and the Drug Court to define and initiate anti-methamphetamine strategies. The grant-funded cost of the officer is $31,130.00 with $20,061 additional non-allowed operational expenses and cost above grant funding level.

5. The budget within this grant for equipment is $49,470.00. The equipment being considered for funding through this grant will include audio recording devices and accessories, enclosed trailer with generator and lights to store and transport equipment utilized to secure clandestine lab sites while waiting for disposal crew, GPS tracking devices and tracking equipment utilizing night vision technology and a portable sound system.

**RECCOMENDATION**

The Police Department recommends the City Council authorize Mayor Coody to sign the application for the COPS Methamphetamine Training Initiative and accept the Assurances, Certifications and Disclosure of Lobbying Activities. This is a 12-month non-reoccurring grant and does not require the retention of personnel authorized by this process. Positions will be reduced through attrition if at the end of the grant the Department is unable to secure a funding source to maintain the positions. After the application is accepted and notification of award is received, the City Council will have an opportunity to review the complete application and accept or reject the award.

Current estimates for non-allowed or items costing more than allowed will be between $36,000.00 and $42,000.00. A budget adjustment with offsetting funding for the final amount will be attached for review and adoption.

**RESOLUTION NO. _____**

A RESOLUTION TO AUTHORIZE MAYOR COODY TO APPLY FOR A $164,900.00 GRANT FROM THE COPS METHAMPHETAMINE TRAINING INITIATIVE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves and authorizes Mayor Coody to sign the Application For Federal Assistance attached as Exhibit "A" in order to apply for a potential grant of $164,900.00 from the COPS Methamphetamine Training Initiative.

**PASSED** and **APPROVED** this the 20th day of July, 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____ DRAFT
**SONDRA SMITH**, City Clerk

# APPLICATION FOR FEDERAL ASSISTANCE

Version 7/03

| | |
|---|---|
| 1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction; Pre-application ☐ Construction ☐ Non-Construction | 2. DATE SUBMITTED 7/29/04 |
| | 3. DATE RECEIVED BY STATE |
| | 4. DATE RECEIVED BY FEDERAL AGENCY |
| | Applicant Identifier |
| | State Application Identifier |
| | Federal Identifier |

**5. APPLICANT INFORMATION**

| | |
|---|---|
| Legal Name: City of Fayetteville | Organizational Unit: |
| Organizational DUNS: 07-160-7688-0000 | Department: Fayetteville Police Department |
| Address: | Division: Fourth Judicial District Drug Task Force |
| Street: 100 A West Rock Street | Name and telephone number of person to be contacted on matters involving this application (give area code) |
| City: Fayetteville | Prefix: Mrs. First Name: Judy |
| County: Washington | Middle Name: K. |
| State: AR Zip Code: 72701 | Last Name: Cohea |
| Country: United States | Suffix: |
| 6. EMPLOYER IDENTIFICATION NUMBER (FIN): 71-6018462 | Email: jcohea@ci.fayetteville.ar.us |
| | Phone Number (give area code): (479) 587-3581 Fax Number (give area code): (479) 587-3570 |

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

If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.)

Other (specify) ☐ ☐

**7. TYPE OF APPLICANT: (See back of form for Application Types)**

C. Municipal

Other (specify)

**9. NAME OF FEDERAL AGENCY:** USDOJ Office of COPS

**10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:** 16-710

TITLE (Name of Program): COPS Methamphetamine Training Initiative

**11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:** Methamphetamine Project

**12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):** Cities of Fayetteville, Sprindale Counties of Washington and Madison

**13. PROPOSED PROJECT**

Start Date: 10-01-2004 Ending Date: 9-30-2005

**14. CONGRESSIONAL DISTRICTS OF:**

a. Applicant 3rd b. Project 3rd

**15. ESTIMATED FUNDING:**

| | |
|---|---|
| a. Federal | $ 164,900 |
| b. Applicant | $ |
| c. State | $ |
| d. Local | $ |
| e. Other | $ |
| f. Program Income | $ |
| g. TOTAL | $ 164,900 |

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

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

DATE: –

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

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

**17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?**

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

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

a. Authorized Representative

| | |
|---|---|
| Prefix: Mr. | First Name: Dan |
| Last Name: Goody | Middle Name: |
| b. Title: Mayor | Suffix: |
| d. Signature of Authorized Representative | c. Telephone Number (give area code): (479) 575-8330 |
| | e. Date Signed: 7/28/2004 |

Previous Edition Usable
Authorized for Local Reproduction

Standard Form 424 (Rev.9-2003)
Prescribed by OMB Circular A-102

# Certifications

## Regarding Lobbying; Debarment; Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements Coordination with Affected Agencies.

Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements Coordination with Affected Agencies.

Although the Department of Justice has made every effort to simplify the application process, other provisions of federal law require us to seek your agency's certification regarding certain matters. Applicants should read the regulations cited below and the instructions for certification included in the regulations to understand the requirements and whether they apply to a particular applicant. Signing this form complies with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying," 28 CFR Part 67, "Government-Wide Debarment and Suspension (Nonprocurement)", 28 CFR Part 83 Government-Wide Requirements for Drug-Free Workplace (Grants)," and the coordination requirements of the Public Safety Partnership and Community Policing Act of 1994. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered grant.

1. Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over $100,000, as defined at 28 CFR Part 69, the applicant certifies that:

A. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of any federal grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment or modification of any federal grant or cooperative agreement;

B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. Debarment, Suspension and Other Responsibility Matters (Direct Recipient)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.440 -

A. The applicant certifies that it and its principals:

(i) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of federal benefits by a state or federal court, or voluntarily excluded from covered transactions by any federal department or agency;

(ii) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) or private agreement or transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property, making false claims, or obstruction of justice, or commission of any offense indicating a lack of business integrity or business honesty that seriously affects your present responsibility.

(iii) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (A)(ii) of this certification; and

(iv) Have not within a three-year period preceding this application had one or more public transactions (federal, state or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. Drug-Free Workplace (Grantees Other Than Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 83, for grantees, as defined at 28 CFR Part 83, Sections 83 and 83.510 -

A. The applicant certifies that it will, or will continue to, provide a drug-free workplace by:

(i) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
(ii) Establishing an on-going drug-free awareness program to inform employees about -

(a) The dangers of drug abuse in the workplace;

(b) The grantee's policy of maintaining a drug-free workplace;

(c) Any available drug counseling, rehabilitation and employee assistance programs; and

(d) The penalties that may be imposed upon employees for drug-abuse violations occurring in the workplace;

(iii) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (i);

(iv) Notifying the employee in the statement required by paragraph (i) that, as a condition of employment under the grant, the employee will -

(a) Abide by the terms of the statement; and

(b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(v) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (iv)(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: COPS Office, 1100 Vermont Ave., NW, Washington, D.C. 20530. Notice shall include the identification number(s) of each affected grant.

(vi) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (iv)(b), with respect to any employee who is so convicted -

(a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement or other appropriate agency;
(vii) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (i), (ii), (iii), (iv), (v) and (vi).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:
Place of performance (street address, city, county, state, zip code)

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

4. Coordination

The Public Safety Partnership and Community Policing Act of 1994 requires applicants to certify that there has been appropriate coordination with all agencies that may be affected by the applicant's grant proposal if approved. Affected agencies may include, among others, the Office of the United States Attorney, state or local prosecutors, or correctional agencies. The applicant certifies that there has been appropriate coordination with all affected agencies.

Grantee Agency Name and Address:

City of Fayetteville

113 W. Mountain St. Fayetteville AR. 72701 Grantee IRS/ Vendor Number: 71-6018462

False statements or claims made in connection with COPS grants (including cooperative agreements) may result in fines, imprisonment, disbarment from participating in federal grants or contracts, and/or any other remedy available by law.

I certify that the assurances provided are true and accurate to the best of my knowledge.

Elections or other selections of new officials will not relieve the grantee entity of its obligations under this grant.

Typed Name and Title of Law Enforcement Executive (or Official with Programmatic Authority, as applicable):
Rick Hoyt, Chief of Police

Signature: Rick Hoyt Date: 7/12/2004

Typed Name and Title of Government Executive (or Official with Financial Authority, as applicable):
Dan Coody, Mayor

Signature: _____ Date: _____

U.S. Department of Justice
Office of Community Oriented Policing Services

# Assurances

Several provisions of federal law and policy apply to all grant programs. We (the Office of Community Oriented Policing Services) need to secure your assurance that the applicant will comply with these provisions. If you would like further information about any of these assurances, please contact your state's COPS Grant Program Specialist at (800) 421-6770.

By the applicant's authorized representative's signature, the applicant assures that it will comply with all legal and administrative requirements that govern the applicant for acceptance and use of federal grant funds. In particular, the applicant assures us that:

1. It has been legally and officially authorized by the appropriate governing body (for example, mayor or city council) to apply for this grant and that the persons signing the application and these assurances on its behalf are authorized to do so and to act on its behalf with respect to any issues that may arise during processing of this application.

2. It will comply with the provisions of federal law which limit certain political activities of grantee employees whose principal employment is in connection with an activity financed in whole or in part with this grant. These restrictions are set forth in 5 U.S.C. § 1501, et seq.

3. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, if applicable.

4. It will establish safeguards, if it has not done so already, to prohibit employees from using their positions for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.

5. It will give the Department of Justice or the Comptroller General access to and the right to examine records and documents related to the grant.

6. It will comply with all requirements imposed by the Department of Justice as a condition or administrative requirement of the grant, including but not limited to: the requirements of 28 CFR Part 66 and 28 CFR Part 70, or the Federal Acquisition Regulations, as applicable (governing cost principles); OMB Circular A-133 (governing audits) and other applicable OMB circulars; the applicable provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; 28 CFR Part 38.1; the current edition of the COPS Grant Monitoring Standards and Guidelines; and with all other applicable program requirements, laws, orders, regulations, or circulars.

7. If applicable, it will, to the extent practicable and consistent with applicable law, seek, recruit and hire qualified members of racial and ethnic minority groups and qualified women in order to further effective law enforcement by increasing their ranks within the sworn positions in the agency.

8. It will not, on the ground of race, color, religion, national origin, gender, disability or age, unlawfully exclude any person from participation in, deny the benefits of or employment to any person, or subject any person to discrimination in connection with any programs or activities funded in whole or in part with federal funds. These civil rights requirements are found in the non-discrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. § 3789(d)); Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Indian Civil Rights Act (25 U.S.C. §§ 1301-1303); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); Title II, Subtitle A of the Americans with Disabilities Act (ADA) (42 U.S.C. § 12101, et seq.); the Age Discrimination Act of 1975 (42 U.S.C. § 6101, et seq.); and Department of Justice Non-Discrimination Regulations contained in Title 28, Parts 35 and 42 (subparts C, D, E and G) of the Code of Federal Regulations.

A. In the event that any court or administrative agency makes a finding of discrimination on grounds of race, color, religion, national origin, gender, disability or age against the applicant after a due process hearing, it agrees to forward a copy of the finding to the Office of Civil Rights, Office of Justice Programs, 810 7th Street, NW, Washington, D.C. 20531.

B. Grantees that have 50 or more employees and grants over $500,000 (or over $1,000,000 in grants over an eighteen-month period), must submit an acceptable Equal Employment Opportunity Plan ("EEOP") or EEOP short form (if grantee is required to submit an EEOP under 28 CFR 42.302), that is approved by the Office of Justice Programs, Office for Civil Rights within 60 days of the award start date. For grants under $500,000, but over $25,000, or for grantees with fewer than 50 employees, the grantee must submit an EEOP Certification. (Grantees of less than $25,000 are not subject to the EEOP requirement.)

9. Pursuant to Department of Justice guidelines (June 18, 2002 Federal Register (Volume 67, Number 117, pages 41455-41472)), under Title VI of the Civil Rights Act of 1964, it will ensure meaningful access to its programs and activities by persons with limited English proficiency.

10. It will ensure that any facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify us if advised by the EPA that a facility to be used in this grant is under consideration for such listing by the EPA.

11. If the applicant's state has established a review and comment procedure under Executive Order 12372 and has selected this program for review, it has made this application available for review by the state Single Point of Contact.

12. Pursuant to Executive Order 13043, it will enforce on-the-job seat belt policies and programs for employees when operating agency-owned, rented or personally-owned vehicles.

13. It will not use COPS funds to supplant (replace) state, local, or Bureau of Indian Affairs funds that otherwise would be made available for the purposes of this grant, as applicable.

14. If the awarded grant contains a retention requirement, it will retain the increased officer staffing level and/or the increased officer redeployment level, as applicable, with state or local funds for a minimum of one full local budget cycle following expiration of the grant period.

15. It will not use any federal funding directly or indirectly to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law ratification, policy or appropriation whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy or appropriation as set forth in the Anti-Lobby Act, 18 U.S.C. 1913.

False statements or claims made in connection with COPS grants (including cooperative agreements) may result in fines, imprisonment, disbarment from participating in federal grants or contracts, and/or any other remedy available by law.

I certify that the assurances provided are true and accurate to the best of my knowledge.

Elections or other selections of new officials will not relieve the grantee entity of its obligations under this grant.

| | |
|---|---|
| Signature of Law Enforcement Executive (or Official with Programmatic Authority, as applicable) | Date: 7-13-04 |
| Signature of Government Executive (or Official with Financial Authority, as applicable) | Date |

*COPS Methamphetamine Training Initiative*
*Grants Administration Division*

# Special Condition:
# Criminal Intelligence Systems/28 C.F.R. Part 23

If your agency is receiving COPS grant funding for equipment that will be used to operate an *interjurisdictional* criminal intelligence system, you must agree to comply with the operating principles found at 28 C.F.R. Part 23. An "interjurisdictional criminal intelligence system" is generally defined as a system which receives, stores, analyzes, and exchanges or disseminates data regarding ongoing criminal activities (e.g., loan sharking, drug or stolen property trafficking, gambling, extortion, smuggling, bribery, and public corruption) and shares this data with other governmental jurisdictions (e.g., other cities, counties, or states). 28 C.F.R. Part 23 contains operating principles for these interjurisdictional criminal information systems which protect individual privacy and constitutional rights.

If you are simply using the COPS grant funds to operate a *single agency database* (or other unrelated forms of technology) and will not share criminal intelligence data with other jurisdictions, 28 C.F.R. Part 23 does not apply to this grant.

Please check one of the following lines, as applicable to your agency's use of this grant, and return this signed Special Condition with your application.

__X__ No, my agency will not use these COPS grant funds to operate an interjurisdictional criminal intelligence system.

_____ Yes, my agency will use these COPS grant funds to operate an interjurisdictional criminal intelligence system. By signing below, we assure that our agency will comply with the requirements of 28 C.F.R. Part 23.

Law Enforcement Executive Signature

Fayetteville Police Department
Agency Name

7-13-04
Date

Government Executive Signature

City of Fayetteville
Agency Name

Date

Special Condition: CIS / 28 C.F.R. Part 23 must be completed and returned with proposal

COPS

COMMUNITY ORIENTED POLICING SERVICES
U.S. DEPARTMENT OF JUSTICE

## Supplemental Signature Form:
## Notice of Grant Requirements

This Supplemental Signature Form must be signed and returned with your proposal.

*We certify that the information provided in the proposal is true and accurate to the best of our knowledge. To ensure compliance with the nonsupplanting requirement of the COPS statute, we certify that the agency has not already allocated state, local, or Bureau of Indian Affairs funds to implement this project. We also understand that any false statements or claims made in connection with COPS grants may result in fines, imprisonment, debarment from participating in federal grants or contracts, and/or any other remedy available by law to the federal government.*

In addition to the above certifications, you must indicate whether your agency will participate in an open-competitive bidding process or through a sole source justification (SSJ). Please check one of the following lines that applies to your procurement process for this grant.

__X__ The agency will be conducting an open-competitive bid process for the items listed in the Budget Detail Worksheets.

_____ The agency will be using a sole source justification.
(*Please complete the sole source justification sheet if applicable*).

Law Enforcement Executive Signature

Fayetteville Police Department
Agency Name

7/12/2004
Date

Government Executive Signature

City of Fayetteville
Agency Name

Date

[1] *Please be advised that a hold may be placed on this application if it is deemed that the applicant agency is not in compliance with federal civil rights laws and/or is not cooperating with an ongoing federal civil rights investigation.*

A. 10

McClinton Anchor
Taxiway Extension

**RESOLUTION NO. _____**

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO APAC-ARKANSAS, INC., McCLINTON-ANCHOR DIVISION IN THE AMOUNT OF $607,078.90 TO CONSTRUCT TAXIWAYS "A" AND "E" EXTENSIONS AT THE FAYETTEVILLE MUNCIPAL AIRPORT; AND APPROVING A TEN PERCENT (10%) PROJECT CONTINGENCY OF $60,708.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of $607,078.90 to construct the Taxiways "A" and "E" extensions at the Fayetteville Muncipal Airport. A copy of the contract, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a ten percent (10%) project contingency of $60,708.00.

**PASSED** and **APPROVED** this 20th day of July, 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

_____
**SONDRA SMITH**, City Clerk

DRAFT

C.1
Tyson Food
Bldg. Purchase

**RESOLUTION NO. _____**

A RESOLUTION AUTHORIZING CITY STAFF TO DEVELOP AND PRESENT TO TYSON FOODS, INC. AN OFFER AND ACCEPTANCE CONTRACT FOR THE PURCHASE OF PROPERTY LOCATED AT 1851 EAST HUNTSVILLE ROAD IN AN AMOUNT NOT TO EXCEED $1,100,000.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $1,000,000.00 FOR THE PROPERTY PURCHASE AND $551,000.00 TRANSFER FROM GENERAL FUND TO SALES TAX CAPITAL IMPROVEMENT FUND.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes City Staff to develop and present to Tyson Foods, Inc. an Offer and Acceptance contract for the purchase of property located at 1851 East Huntsville Road in an amount not to exceed $1,100,000.00, made contingent upon an investigation of the acceptability of the roof and the absence of any toxic materials or buried fuel tanks on said property.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of $1,000,000.00 for the property purchase and $551,000.00 transfer from General Fund to Sales Tax Capital Improvement Fund.

**PASSED AND APPROVED** this 20th day of July, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

C.2
OPO Enterprises

**RESOLUTION NO. _____**

A RESOLUTION APPROVING A TWO YEAR LEASE WITH OPO ENTERPRISES, INC. FOR RENTAL RATE OF $1 PER YEAR PLUS OTHER GOOD AND VALUABLE CONSIDERATION, FOR A PERIOD OF TWO (2) YEARS, AND ALLOWING THE LESSEE FIVE ADDITIONAL TWO (2) YEAR PERIODS RENEWING THE LEASE FOR OUTDOOR DINING ON THE TOWN SQUARE FOR A TOTAL LEASE PERIOD OF TWELVE (12) YEARS.

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

Section 1. That the City Council hereby approves a lease with OPO Enterprises, Inc for a rental rate $1 per year plus other good and valuable consideration, for a period of two (2) years, and allowing the Lessee five additional two (2) year periods renewing the lease for outdoor dining on the Town Square if mutually agreeable with the City. A copy of the lease with attachments are attached hereto marked Exhibit "A" and Exhibit "B" and made a part hereof.

**PASSED AND APPROVED** this ____ day of _____, 2004.

APPROVED:

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

**LEASE**

This Agreement, made and entered into this _____ day of _____, 2004, by and between the City of Fayetteville, whose address is 113 West Mountain, hereinafter called Lessor, and OPO Enterprises, Inc., whose address is 1 West Center, Fayetteville, Arkansas 72701, hereinafter called Lessee,

**WITNESSETH:**

1. **LEASED PREMISES.** For and in consideration of the rents, covenants and agreements herein entered into and agreed upon by the Lessee as obligations to the Lessor, the Lessor lets, leases and demises unto Lessee, subject to the terms and conditions contained herein, the following described property containing approximately 1,676.16 square feet more or less, situated in Washington County, Arkansas:

   See Exhibit B attached hereto and made a part hereof.

   To have and to hold said premises unto the said Lessee for and during the term herein stated, subject to the covenants, terms, conditions and liens herein contained.

2. **TERM.** This lease shall commence on the date of this agreement and shall extend for a term of two (2) years.

3. **OPTION TO EXTEND.** If the Lessee shall have fully performed every agreement and covenant on Lessee's part to have been kept and performed under the term of this lease at the time of exercise and at the time of renewal, the Lessee is hereby granted the right if mutually agreeable with the City an option to extend this lease, upon the same terms, for an additional period of two (2) years, with such option to be exercised in writing by the Lessee not later than one hundred eighty (180) days prior to the expiration of the basic or original term of this lease. Lessee may extend for up to four additional two (2) year extension periods utilizing the same procedures outlined above if mutually agreed to by both Lessee and Lessor for a total lease period of twelve (12) years.

4. **RENT.** Lessee agrees to pay to Lessor the rental rate of $1 per year plus other good and valuable consideration. The rental rate of $1 per year plus other good and valuable consideration shall constitute the basic rental for the lease.

5. **USE.** Lessee agrees to use the lease premises for the purpose of operating an outdoor dining area and for no other purpose or purposes without the written consent of Lessor having been obtained in advance.

6. **CONSTRUCTION OF IMPROVEMENTS.** All improvements constructed by the Lessee on the leased premises shall be accomplished within the boundaries of

the leased premises and Lessee shall make every effort to conduct such construction so as to have a minimal impact on the town square gardens.

7. **INGRESS AND EGRESS.** Access to the leased premise may be from the existing gate access along the west fence or from the existing access along the east line.

8. **MUSIC.** Lessee agrees that only live non-amplified music will be permitted on the property in compliance with all City codes.

9. **SIGNS AND ADVERTISING.** No sign, picture, advertisement, or notice shall be displayed on any part of the leased premises visible to the public without the previous consent, in writing, of the Lessor.

10. **SQUARE GARDEN & LITTER REMOVAL.** Lessee will be responsible for any damage to Square Garden plantings and shall provide daily litter removal from the Town Square.

11. **COST OF REPLANTING.** Lessee agrees to reimburse Lessor for all reasonable costs, including material and labor, incurred by Lessor in any replanting made necessary by the construction of any and all improvements made by the Lessee to the leased property or by damage caused by Lessee's patrons' use of the Square Garden.

12. **NON-SUCCESSION.** This lease agreement shall insure only to the benefit of and be binding upon the parties hereto and not to their respective heirs, successors and assigns.

13. **TAXES.** Lessee shall pay any and all ad valorem taxes special improvement district taxes levied and assessed against said premises and the improvements located thereon during the term of this lease.

14. **COMPLIANCE WITH LAWS.** Lessee agrees not to violate any law, ordinance, rule or regulation of any government authority having jurisdiction of the leased premises.

15. **INSURANCE OF PROPERTY.** Lessee shall be solely responsible for maintaining insurance on his property, including but not limited to movables, trade fixtures installed by Lessee, furniture, furnishings and inventory.

Lessee shall maintain during the term or this lease comprehensive general liability insurance in the amount of $1,000,000 for each occurrence, to protect all claims arising out of the use of leased premises that result in bodily injury, death, or property damage. The policy or policies shall contain a clause that the insurer will not cancel or decrease insurance coverage without giving the City 60 days notice in writing.

16. **RIGHT OF INSPECTION.** The Lessor shall have the right, in person or through Lessor's duly authorized representative, at all reasonable times to inspect the leased premises.

17. **ALTERATIONS.** Lessee shall have the right and privilege to make, at Lessee's expense, ordinary repairs and alterations to the leased premises; however, no alterations shall be made without the prior written consent of Lessor.

18. **FIXTURES.** All trade fixtures installed by Lessee or acquired by Lessee independently of this lease shall remain Lessee's property and may be removed by Lessee at the expiration of this lease; provided, however, Lessee shall restore the leased premises and repair any damage thereto caused by such removal.

19. **ACCEPTANCE OF PREMISES.** The Lessee shall be liable for all license fees, occupation taxes and the like in connection with the operation of any business on the leased premises, and shall pay all charges incurred by Lessee in connection with utility services of whatever kind or nature including any sewer charges and pickup of Lessee's trash and garbage.

20. **MAINTENANCE OF LEASED PREMISES.** The Lessee shall be liable for all license fees, occupation taxes and the like in connection with the operation of any business on the leased premises, and shall pay all charges incurred by Lessee in connection with utility services of whatever kind or nature including any sewer charges and pickup of Lessee's trash and garbage.

The Lessee shall be responsible for maintaining the improvements upon the leased premises in a satisfactory condition and the premises shall, at all times, be maintained in a neat and orderly condition. Lessee's business operations will be carried on in accordance with the highest standards for such businesses, particularly in the areas of cleanliness and service.

Lessee shall be responsible for repairs to fence surrounding the patio area if damage is caused by lessee use of leased area.

21. **INDEMNIFICATION OF LESSOR.** The Lessee shall defend, indemnify and hold the Lessor harmless against any expense, claim, loss or liability as the result of any breach by the Lessee, Lessee's agents, servant, employees, customers, visitors or licensees, of any covenant or condition of this lease, or as a result of the Lessee's use or occupancy of the demised premises, or the carelessness, negligence or improper conduct of the Lessee, Lessee's agents, servants, employees, customers, visitors or licensees. To facilitate the provisions hereof, the Lessee shall keep and maintain at all times during the term of this lease, or any extension thereof, in full force and effect with a company or companies acceptable to Lessor, insurance against third party liability by reason of the Lessee's occupancy of the demised premises with limits of liability thereunder of

not less than $100,000 per person and $500,000 per accident with $500,000 coverage for property damage.

22. **RETURN OF LEASED PROPERTY**. At the end of the term of this lease, or upon any other earlier termination, the Lessee agrees promptly and peaceably to restore possession of the leased premises to the Lessor in as good condition as they were when delivered to Lessee, ordinary wear and tear excepted. To accommodate this covenant, the Lessee hereby waives any and all notice to which Lessee may be entitled under the laws of the State of Arkansas as a prerequisite to a suit against Lessee for the unlawful detention of the property.

23. **NOTICES**. Any notice called for or permitted under the terms hereof shall be given in writing and sent by certified mail to the Lessee at P.O. Box 519, Flippen, AR 72634, and to the Lessor at 113 West Mountain, Fayetteville, Arkansas 72701.

24. **WASTE**. Lessee agrees not to commit waste, not permit waste to result or to be done to or upon the aforesaid property and premises; not to conduct any other business thereon or therein, nor store or permit to be stored thereon or therein any explosives, combustible substances or materials of any nature, which would increase the fire hazard or cause a premium to be charged for insurance higher than that charged for the present use of said property; and not to operate nor permit to be operated, nor to exist thereon or therein, any public or private nuisance.

25. **RIGHT TO CURE**. If the Lessee shall default in any of the covenants, agreements, conditions, or undertakings herein contained to be kept, observed and performed by the Lessee, the Lessor shall give notice of such default in writing to the Lessee and the Lessee shall have thirty (30) days from and after the giving of such notice to eliminate and/or cure the cause of such default. If said default is eliminated or cured within the aforementioned thirty (30) days, the Lessee shall not be considered in default or in breach of this lease.

26. **SEVERABILITY**. Each paragraph of this lease agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.

27. **INTERPRETATION**. This lease agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

28. **ENTIRE AGREEMENT**. This lease agreement contains the entire agreement of both parties hereto, and not other oral or written agreement shall be binding on the parties hereto.

29. **NON-WAIVER PROVISION.** The failure of the Lessor or Lessee to insist upon the strict and literal performance of any agreement or conditions herein or to exercise any option retained or granted by reason of a default by the lessee shall not constitute a waive of the Lessor's right thereafter to insist upon and enforce full performance of such conditions and agreements.

**IN WITNESS WHEREOF,** Lessor and Lessee have hereunto set their hands and seals and have caused their names to be hereunto affixed by the undersigned officers who are duly authorized to act, on this ___ day of _____, 2004.

LESSEE:

By: _____
Name & Title

ATTEST:

By: _____
Name & Title

LESSOR:

CITY OF FAYETTEVILLE, ARKANSAS
A Municipal Corporation.

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

C.12
Anx. 04-1090
C.13
RZN 04-1091

**JAMES N. McCORD**
*Attorney at Law*
11 N. WEST AVE.
SUITE #202
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMLE (479) 695-1135
jimmccordlaw@alltel.net

To: Fayetteville City Council

From: James N. McCord JNM
Attorney for Hays Family Development, LLLP et al. ("Applicants")

Date: July 14, 2004

Re: Annexation and Rsf-4 rezoning of property adjoining extension of Persimmon St reflected on Fayetteville Master Street Plan (ANX 04-1090; RZN 04-1091)

SUMMARY OF FACTS SUPPORTING
ANNEXATION AND Rsf-4 REZONING
(Detailed memorandum attached)

(1) City Planning Staff and the Fayetteville Planning Commission recommend approval of the annexation and Rsf-4 rezoning.

(2) The annexation is consistent with the City's Annexation Guiding Policies.

(3) Future Fire Station No. 7 will be located 1.97 miles from the property and can Provide emergency response to the property in approximately 4-6.5 minutes.

(4) The Fayetteville Police Department is of the opinion that annexation and Rsf-4 zoning (a) will not undesirably increase the load on police services, and (b) will not create an appreciable increase in traffic danger and congestion in the area.

(5) Adequate water and sewer lines are available to serve the property –

(6) Rsf-4 zoning is compatible with the City Land Use Plan (General Plan 2020).

(7) Rsf-4 zoning is compatible with nearby properties in terms of land use.

(8) Rsf-4 zoning is justified by the demand for attainable housing in the area. A less dense zoning classification would make development of a subdivision with attainable housing economically unfeasible.

pc: Hon. Dan Coody, Mayor
Sondra Smith, City Clerk
J.B. Hays

**JAMES N. McCORD**
*Attorney at Law*
11 N. WEST AVE.
SUITE #202
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMLE (479) 695-1135
jimmccordlaw@alltel.net

To: Fayetteville City Council

From: James N. McCord JNM
Attorney for Hays Family Development, LLLP et al. ("Applicants")

Date: July 14, 2004

Re: Annexation and Rsf-4 rezoning of property adjoining extension of Persimmon St reflected on Fayetteville Master Street Plan (ANX 04-1090; RZN 04-1091)

ANNEXATION

Applicants are requesting annexation of 37.30 acres located at the southwest corner of the intersection of 54th Avenue. and Persimmon Street. The property lies south of the westerly extension of Persimmon Street reflected on the Fayetteville Master Street Plan. (See attached vicinity map.)

Facts supporting annexation are:

(1) City Planning Staff recommends approval of the annexation;

(2) The Fayetteville Planning Commission recommends approval of the annexation;

(3) The annexation is consistent with the City's Annexation Guiding Policies-

(a) Annexation will not create an island or peninsula of unincorporated property;

(b) The property is contiguous to the city limits;

(c) The area will not divide a subdivision or neighborhood;

(d) The proposed boundaries follow property lines ;

(e) Public services can be provided efficiently to the area-

(i) Future Fire Station will be located 1.97 miles from the property and can provide emergency services to the property in approximately 4-6.5 minutes;

(ii) The Fayetteville Police Department is of the opinion that the annexation will not undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

(f) The area is currently served by utilities-

(i) An 8" water line is available to the property from 54th Ave.;

(ii) A 6" sewer line runs along 54th Ave. north of the property and can be extended by the developer when development occurs. (The recent city-wide wastewater capacity study does not conclude that development in this area should be be put on hold. When development of this property is proposed, the capacity of the Own Creek lift station will be examined.)

(g) The property is a larger annexation with reasonable boundaries avoiding the creation of islands or peninsulas.

REZONING

Applicants request rezoning from R-A to Rsf-4 for the 37.30 acres proposed for annexation plus an adjoining 12.10 acres to the north which is already within the city limits and is owned by Hays Family Development, LLLP. (See attached vicinity map.) Of the total 49.4 acres, the property owned by Hays entities (45.93 acres) is proposed for development. A single family residential subdivision compatible with the area is proposed. Rsf-4 zoning allows 4 single family dwellings per acre, but the actual density for the 45.93 acres can only be approximately 2.8 units per acre, because of the land area required for streets and utilities (45.93 acres x 2.8 units per acre.= 128 total units. Two existing houses are on the property.)

Facts supporting Rsf-4 zoning are:

(1) City Planning Staff recommends approval of the rezoning;

(2) The Fayetteville Planning Commission recommends approval of the rezoning;

(3) The City Land Use Plan (General Plan 2020) designates this area for residential use. Rsf-4 zoning is compatible with this designation;

(3) Rsf-4 zoning is compatible with nearby properties in terms of land use. Subdivisions with Rsf-4 zoning have been, and are being, developed in the area;

(4) Rsf-4 zoning is justified by the demand for attainable housing in the area. A less dense zoning classification would make the development of a subdivision with attainable housing economically unfeasible;

(5) An 8" water line is available to the property from 54th Ave and a 6" sewer line along 54th Ave can be extended to the property by the developer;

(6) The Fayetteville Police Department is of the opinion that Rsf-4 zoning will not undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area. A traffic signal has been installed at the intersection of Wedington Drive and Rupple Road.

(7) Future Fire Station No. 7 will be located 1.97 miles from the property and can provide emergency services to the property in approximately 4-6.5 minutes.

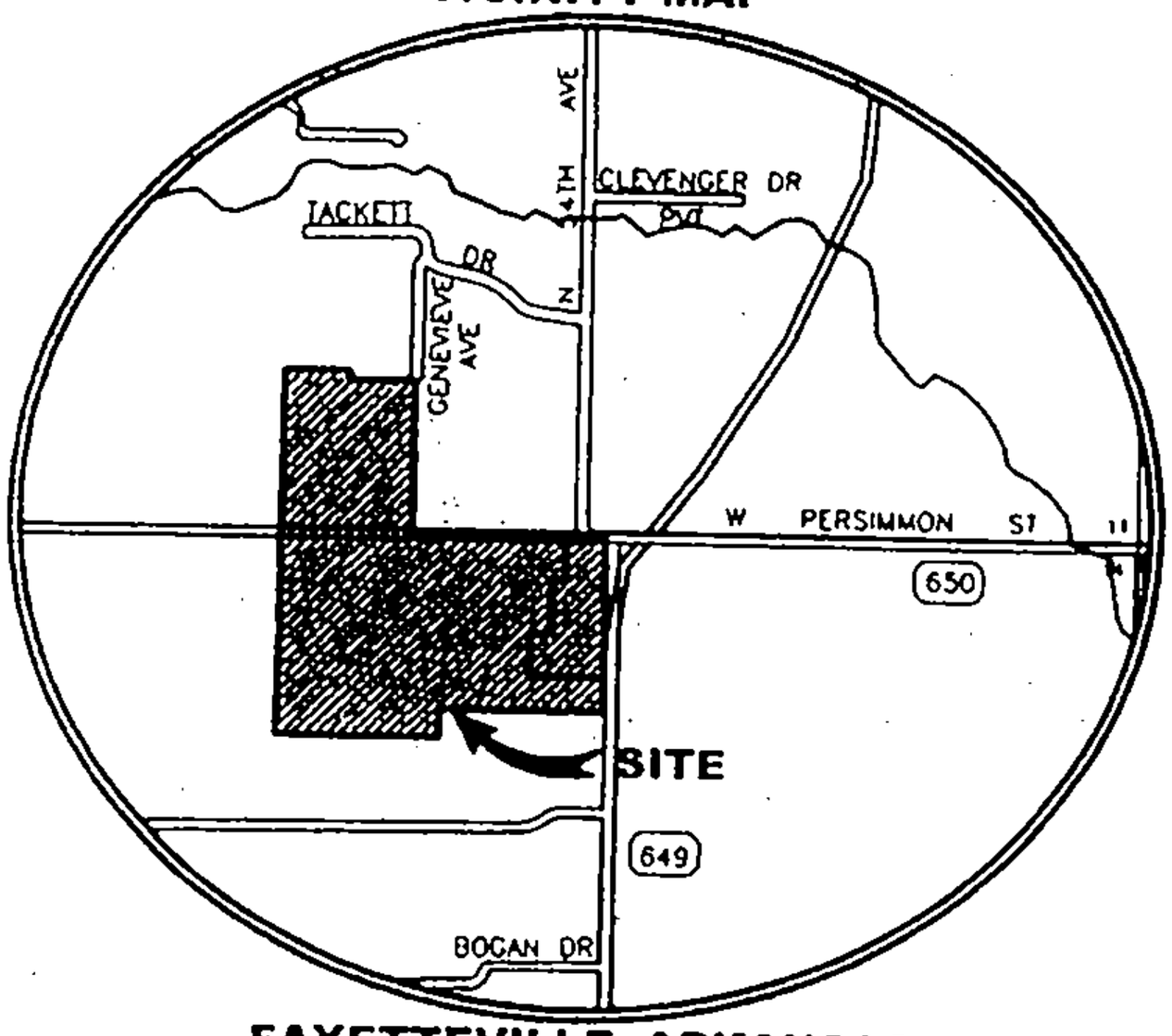
(8) At the time of development, the developer will construct Persimmon St. to City standards through the property and may be required to upgrade the adjoining County road. Cost-sharing by the developer for improvements to 54th Ave. may be considered.

CONCLUSION

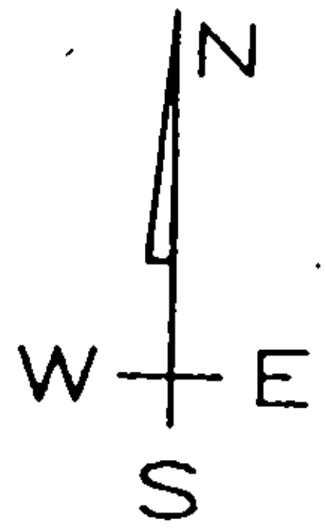
For the above reasons, Applicants respectfully request the Fayetteville City Council to annex their 37.30 acres and to rezone their 49.4 acres from R-A to Rsf-4.

pc: Hon. Dan Coody, Mayor
Sondra Smith, City Clerk
J.B. Hays

## VICINITY MAP




FAYETTEVILLE, ARKANSAS




PROPERTY OWNERS:

MASON W. & LARISSA E. NALL
1826 CROSSOVER RD. SUITE 1
FAYETTEVILLE, AR. 72701

MARVIN G. & FRANCES A. HOUSTON
4268 WAGON WHEEL RD.
SPRINGDALE, AR. 72762

TRACY L. & HOLLY A. THOMAS
425 N. 54TH AVE.
FAYETTEVILLE, AR. 72704

RANDALL G. & PEGGY J. LYNCH
P.O. BOX 124
FARMINGTON, AR. 72730

HAYS FAMILY DEV. LLP
HAYS FAMILY INVESTMENTS, LLP
2025 GREEN ACRES ROAD
FAYETTEVILLE, AR. 72703

C. 14
Anx. 04-11.00

**ORDINANCE NO. _____**

AN ORDINANCE CALLING FOR THE SMILULTANEOUS DETACHMENT OF ABOUT 10 ACRES OWNED BY CRAIG AND KARYN HARPER FROM THE CITY OF SPRINGDALE, ARKANSAS AND THE ANNEXATION OF THOSE LANDS INTO THE CITY OF FAYETTEVILLE

**WHEREAS**, A.C.A. §14-40-2101, **Simultaneous Detachment and Annexation**, provides that simultaneous detachment and annexation of lands can occur when the boundaries of two (2) municipalities are contiguous and adjoining one another, and one city desires to detach and the other city desires to annex the same parcel; and

**WHEREAS**, the Harper property complies with the standards for lands qualifying for simultaneous detachment and annexation which are set forth in A.C.A. §14-40-2101; and

**WHEREAS**, the City of Springdale Water and Wastewater Department has found it impractical for the City of Springdale to serve the Harper property with sanitary sewer service; and

**WHEREAS**, the City Council of Springdale, Arkansas approved Resolution No. 91-03 on October 28, 2003, declaring that the City has no objection to the detachment of the Harper property from the City of Springdale; and

**WHEREAS**, the necessary services of water and sewer are reasonably available to the Harper property or can reasonably be extended by the Harpers from the City of Fayetteville water and sewer mains; and

**WHEREAS**, the Harper property is immediately adjacent and contiguous to lands under the same ownership that have previously been annexed into the City of Fayetteville from the County.

**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 declares its desire to annex approximately 10 acres of land owned by Craig and Karyn Harper as described in Exhibit "A" if said land is detached from the City of Springdale.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby declares that if the City of Springdale concurs in the detachment and annexation of this land following the statutorily required public hearing, this property identified by Exhibit "A" shall be deemed annexed into the City of Fayetteville and assigned to Ward Three.

**PASSED** and **APPROVED** this 3rd day of August, 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

DRAFT

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

**EXHIBIT "A"**
**ANX 04-1100**

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING IN ALBRIGHT ROAD AND FROM WHICH A REFERENCE IRON SET ON THE SOUTH RIGHT OF WAY OF SAID ROAD BEARS S02°39'07"W – 18.94 FEET; THENCE S87°24'02"E 660.07 FEET ALONG THE NORTH LINE OF SAID 40 ACRE TRACT TO A POINT FROM WHICH A REFERENCE IRON SET ON THE SOUTH RIGHT OF WAY OF ALBRIGHT ROAD BEARS S02°34'53"W 19.29 FEET, THENCE S87°24'12"E – 658.24 FEET ALONG SAID NORTH LINE TO THE NORTHEAST CORNER OF SAID 40 ACRE TRACT, THENCE S02°31'12"W – 330.00 FEET ALONG THE EAST LINE OF SAID 40 ACRE TRACT, THENCE N87°24'07"W – 658.59 FEET, THENCE N87°24'24"W – 660.00 FEET TO AN EXISTING FENCE ON THE OCCUPIED WEST LINE OF SAID 40 ACRE TRACT, THENCE N02°34'07"E – 330.06 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING.

Agenda Session C.19
Amber Street Drainage

City Council [redacted] of July 13, 2004

Added at Agenda Session to the 7/20/04 City Council Meeting

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director and
Gary Dumas, Director of Operations

**From:** Mike Rozelle, Stormwater Engineer

**Date:** July 13, 2004

**Subject:** Amber Street Drainage Proposal

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## RECOMMENDATION

Staff recommends construction of drainage improvements to alleviate flooding at Amber Street and Old Wire Road.

## BACKGROUND

The house located at 1312 Amber St has experienced flooding three times this year; April 23, June 17, and July 3. In all three cases, runoff from south of Amber Street overflowed the existing pipes and inlets, across Amber Street and down the driveway at 1312 Amber flooding the house with up to 8 inches of water. Several factors have contributed to this including an excessive amount of high intensity rainfall, under designed storm system, and poorly graded lot conditions. Due to the fact that this flooding was repetitive and involved inundation of City drainage facilities, staff has analyzed the existing drainage to determine the amount of stormwater runoff and capacity of the system. The house has flooded several times in the past as far back as ten years ago. The drainage was installed as part of the Village subdivision built in 1986 and the drainage design was typically based on the highway department standards at the time. No detailed calculations were found for the drainage design, but it appears the system was not designed to the standard in place at that time. Staff is proposing two alternatives that will increase the capacity of the City owned drainage system.

## DISCUSSION

After evaluation of several alternatives to address this problem including a "do nothing" approach, installing a concrete lined channel on 1312 Amber and upgrading the entire drainage system between Amber Street and Elmwood drive to the north, staff proposes upgrading the existing 18" pipe under Amber Street to a 30" concrete pipe. The improvements would include a 30" pipe across Amber and through 1312 Amber to an

existing inlet on the private drive north of Amber. This pipe would carry the flow of all major storms up to a 100 year storm underground past 1312 Amber. During larger events flow would bypass the existing inlet and flow overland across the Miller property on Elmwood as it does currently. Some minor improvements may be needed on the private drive to effectively convey the overland flow from the larger storms. The cost of this proposed work is estimated at $100,000.

This work may require relocation of phone, electric and cable utilities and possibly sewer and water utilities and possible some additional easements. Some additional grading and site work by the homeowner will still be required on 1312 Amber to prevent future problems. However, the proposed improvements above will take care of any storm runoff associated with city facilities and offsite drainage areas.

**BUDGET IMPACT**

This project would normally be funded under the CIP "Other Drainage Improvements" or a specific CIP. However, these funds have been utilized on prior projects. A budget adjustment will be necessary in order to fund this project. Staff recommends approval in the amount of $100,000 in order to provide ample funds to address this drainage problem.

**RESOLUTION NO. _____**

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT OF $100,000.00 TO FINANCE DRAINAGE IMPROVEMENTS FOR AMBER DRIVE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment of $100,000.00 to finance drainage improvements for Amber Drive.

**PASSED** and **APPROVED** this 20th day of July, 2004.

APPROVED:

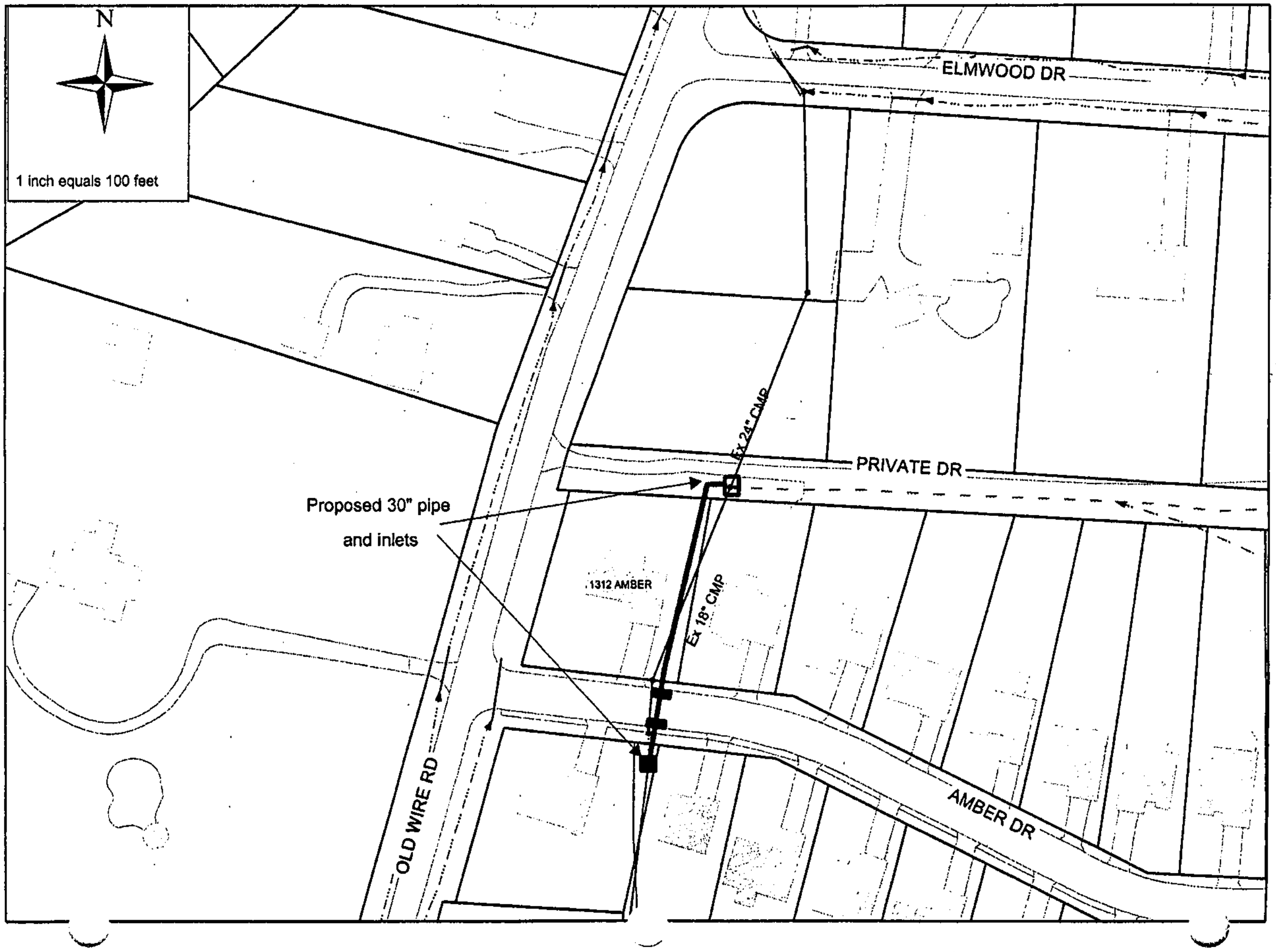
By: _____
**DAN COODY**, Mayor

DRAFT

ATTEST:

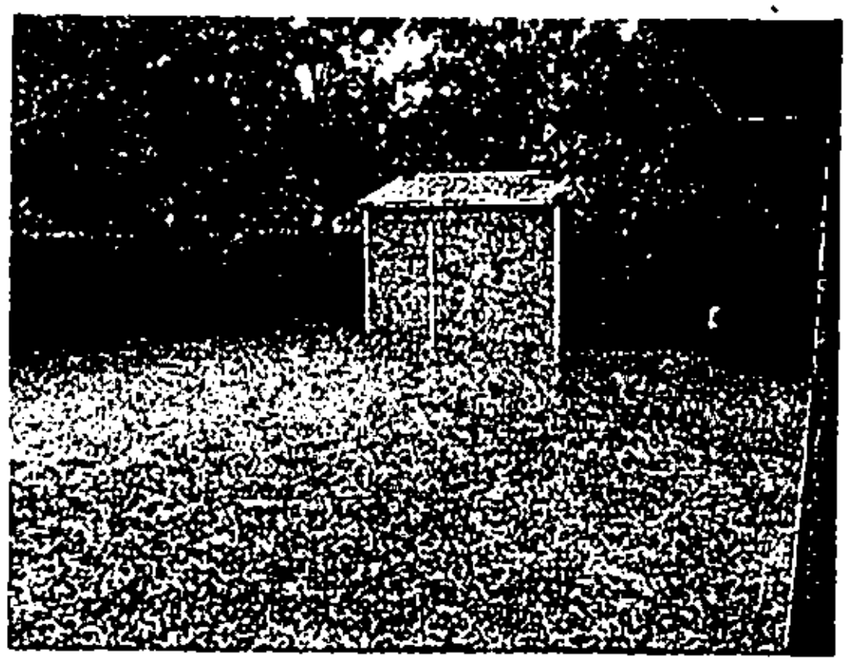
By: _____
**SONDRA SMITH**, City Clerk

AMBER STREET PROPOSAL



1312 Amber – June 17th

Behind 1312 Amber
Looking west to existing inlet



1334 Amber, Back up from Inlet

L.20
Hwy. 71 East
Square Redevelop.
District #1

**ORDINANCE NO. _____**

AN ORDINANCE FORMING THE HIGHWAY 71 EAST SQUARE REDEVELOPMENT DISTRICT NUMBER ONE PURSUANT TO AMENDMENT 78 OF THE ARKANSAS CONSTITUTION AND AUTHORIZING THE PREPARATION OF A PROJECT PLAN

**WHEREAS**, the City Council after 15 day published notice has held a public hearing at which all interested parties were given the opportunity to express their views on the proposed creation of the Highway 71 East Square Redevelopment District Number One of Fayetteville, Arkansas and its proposed boundaries; and

**WHEREAS**, prior to publication, a copy of said notice was sent by first-class mail to the chief executive officer of all local governmental and taxing entities having the power to levy taxes on property located within the proposed Highway 71 East Square Redevelopment District Number One of Fayetteville, Arkansas, and to the school board of any school district which includes property located within the proposed Highway 71 East Square Redevelopment District Number One of Fayetteville, Arkansas; and

**WHEREAS**, the City Council has designated the boundaries of the proposed Highway 71 East Square Redevelopment District Number One, of Fayetteville, Arkansas.

**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 establishes the boundaries of the Highway 71 East Square Redevelopment District Number One of Fayetteville, Arkansas as set forth on the map attached hereto as Exhibit "A" and incorporated herein.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby names the District the following name for identification purposes: Highway 71 East Square Redevelopment District Number One of Fayetteville, Arkansas.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby creates the Highway 71 East Square Redevelopment District Number One of Fayetteville, Arkansas as of September 20, 2004.

Section 4: That the City Council hereby finds that the real property within the Highway 71 East Square Redevelopment District Number One of Fayetteville, Arkansas, will be benefited by the redevelopment project by eliminating or preventing the

development or spread of blighted, deteriorated, or deteriorating areas, or discouraging the loss of commerce, or employment, or increasing employment, or any combination thereof.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby creates a separate and special fund into which shall be deposited all tax increment revenues, and all other revenues designated by the City for the benefit of the Highway 71 East Square Redevelopment District Number One of Fayetteville, Arkansas. All project costs shall be paid from this fund. This fund shall be known as the Highway 71 East Square Redevelopment District Number One of Fayetteville, Arkansas.

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the preparation of a Redevelopment Project.

**PASSED** and **APPROVED** this 3rd day of August, 2004.

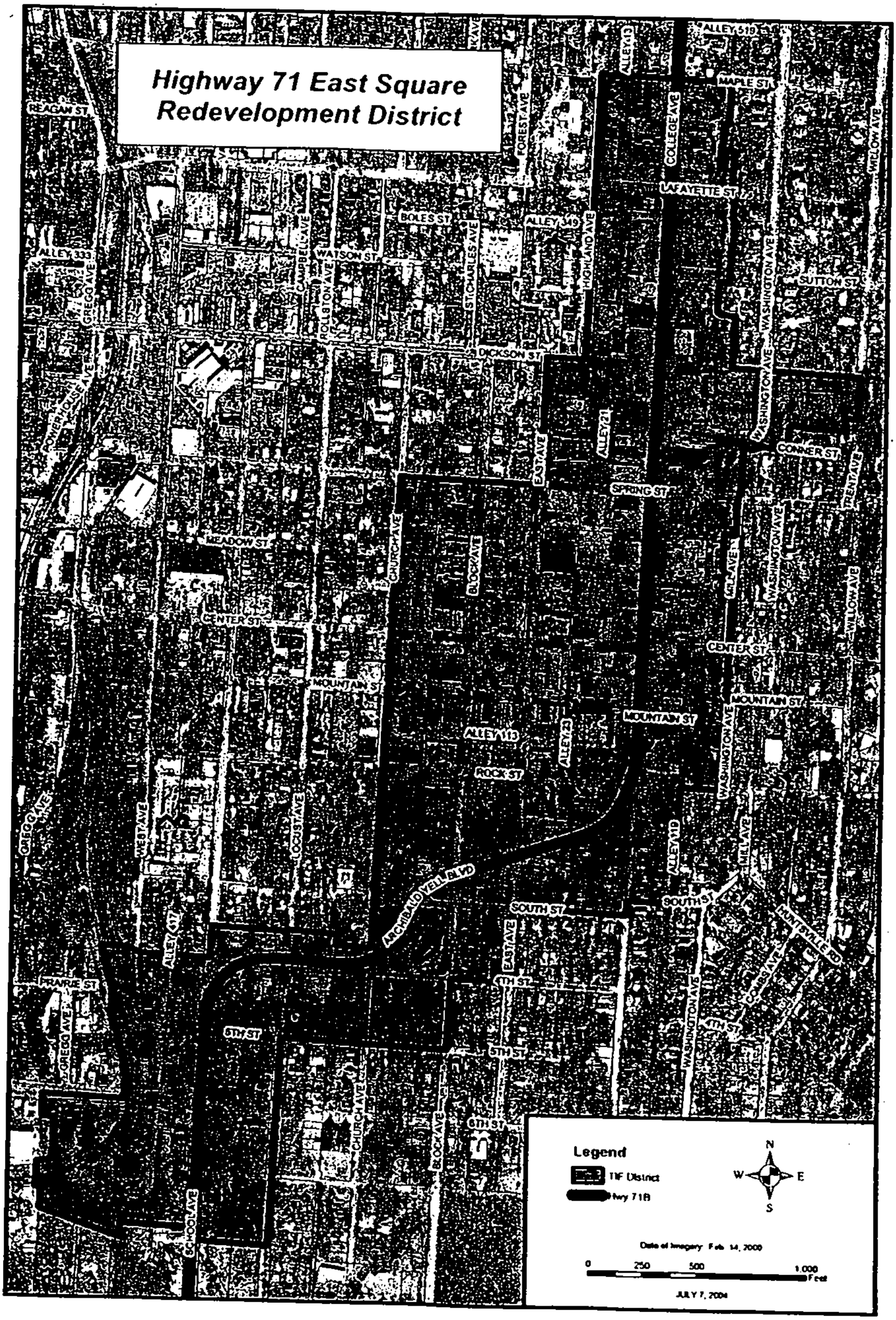
APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

# Highway 71 East Square Redevelopment District



# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

July 12, 2004

Dear Property Owner:

Notice of Public Hearing

The City of Fayetteville staff has been working hard to facilitate the redevelopment of the abandoned Mountain Inn in Fayetteville's downtown area.

The developers, along with city officials, several attorneys and investment bankers have been focusing on the creation of a Tax Increment Financing District (TIF) over the past several months. The TIF re-development option was made available recently by a constitutional amendment and accompanying state legislation. It has also received prominent mention in the recently completed Downtown Master Plan as one of the principal options to be considered in downtown redevelopment. For their part, the developers have been successful in securing new market tax credits along with support for financing from private sources. Success in securing alternative financing sources has certainly been encouraging, however the difficultly in redeveloping the site of the Mountain Inn demands that all avenues for funding assistance be explored. A TIF district is certainly one of those options.

As we open this discussion, it is important to note that a TIF **does not** call for new taxation or an increase in the tax rate. Rather, it simply applies the incremental increase due to added value or inflation to a project or projects that will be accepted and approved by the Fayetteville City Council. That step, namely the discussion and possible approval of the project plan, will occur only after the creation of the District itself.

All parties are now ready to proceed in requesting the Fayetteville City Council to establish a District of sufficient size to be able to secure an Incremental assessment that can assist in this crucially important downtown redevelopment. The first step in this process will be the preliminary introduction of the ordinance that would create the district on July 20th to be followed by a Public Hearing now scheduled at **6:30 P.M. on July 27th** for all concerned parties to thoroughly discuss the creation of the district.

You have been identified as a property owner in the proposed district and we are taking this opportunity to inform you of the dates of these important discussions. We have placed on the city web site a map of the proposed district along with copies of the relevant state statutes. We will also have available in the City Planning Office hard copies of the proposed district and the applicable state laws.

Please do not hesitate to contact any one of the individuals listed with any questions or concerns that you may have as we all begin discussions on this exciting and challenging project.

Hugh Earnest 575-8330

Tim Conklin 575-8265

Sincerely,

Hugh Earnest

Hugh Earnest
CAO

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

# NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that, pursuant to Arkansas Code Annotated §14-168-305, a public hearing will be conducted on July 27, 2004 at 6:30 p.m. in the City Administration Building, Room 326, 113 W. Mountain, Fayetteville, Arkansas, and that at said hearing all interested parties will be afforded a reasonable opportunity to express their views on the proposed creation and the proposed boundaries of a redevelopment district in the downtown area.

This Public hearing is to provide opportunity for the public to express views on the proposed creation of a redevelopment district and it's proposed boundaries.

All interested parties may appear and be heard at the public hearing. A copy of the proposed boundaries and other pertinent data is open and available for inspection in the Office of City Planning *(575-8267)*, 125 West Mountain Street, Fayetteville, Arkansas. All interested parties are invited to review the information.

Interpreters or TDD for hearing impaired are available for all public meetings. 72 hour notice is required. For further information or to request an interpreter, please call 575-8330.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

## DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
**City Council**
**Hugh Earnest**, Chief Administrative Officer
**Steve Davis**, Finance & Internal Services Director
**Tim Conklin**, Community Planning & Engineering Svs. Director

FROM: **Kit Williams**, City Attorney

DATE: **May 11, 2004**

RE: **Amendment 78 City and County Redevelopment**
**A.C.A. §14-168-301 to 322 Community Redevelopment Generally**

The citizens of Arkansas passed Amendment 78 to the Arkansas Constitution in November 2000. Amendment 78, **City and County Government Redevelopment**, had been submitted to the voters by the State Legislature. It empowered cities and counties to form redevelopment districts and issue bonds for "redevelopment projects."

> " '(R)edevelopment project' means an undertaking for eliminating, or preventing the development or spread of, slums or blighted, deteriorated, or deteriorating areas, for discouraging the loss of commerce, industry, or employment, or for increasing employment, or any combination thereof, as may be defined by the General Assembly."

The last phrase in the definition gives the legislature very broad authority to further define "redevelopment project."

The bonds for "redevelopment projects" could be financed by whatever increase occurs in the property taxes as a result of increases in property values

within the district. The schools, county, library, etc. would continue receiving the same amount of tax money before the establishment of the district, but would see no increase during the life of this district. The amount above the level of property taxes paid when the district was formed could be pledged and used to pay off bonds used to finance improvements to eliminate or prevent blighted or deteriorated areas.

The legislature was given power in Amendment 78 to "provide for implementation of this section by law."

In the 2003 legislative session, the General Assembly repealed the existing Arkansas Community Redevelopment Financing Act and enacted the Community Redevelopment Act (A.C.A. §14-168-301 et. seq.) to implement Amendment 78's provisions. This act covers 15 pages in the Arkansas Code with extensive definitions, explanations of powers, requirements for creating districts and project plans, and how to divide property taxes and finance bonds. I will attempt to give you an overview of this law (which is so new that there are no Court decisions clarifying or explaining its meaning).

TIF {Tax Increment Financing A.C.A. §14-168-305 (e)} can be used to finance improvements for a "redevelopment project" within a "redevelopment district." A.C.A. §14-168-301 (12) and (13). As explained earlier, the increase in property tax revenues after the redevelopment district was formed could be pledged to pay tax increment bonds which would help finance redevelopment projects. The entities receiving property taxes (schools, county, library, etc.) would not see declining revenues from this redevelopment district, but also would see no increase.

## CREATING A REDEVELOPMENT DISTRICT -

The City Council may upon its own initiative or upon request of affected property owners or the Fayetteville Planning Commission designate boundaries of a proposed redevelopment district. A public hearing is required after proper newspaper publication, fifteen days before such hearing. The City must also send letters to the County Judge, Public School Superintendent and School Board, Library Director and Library Board, Fire and Police Pension Boards and any other taxing entity that could be affected by tax incremental financing informing them of the possible redevelopment district formation and their right to be heard.

## DETERMINING THE BORDERS OF A REDEVELOPMENT DISTRICT

The major issue in such public hearing would likely be the proper boundaries for the redevelopment district. The wider the district, the more property and buildings will be affected – more revenue to the redevelopment district, less money to the schools and county.

But how large can or should a redevelopment district be? The City Council must answer the "should" part of this question. I will only discuss the legal implications (or the "can" part).

A "redevelopment district" must be a contiguous geographic area in which a "redevelopment project" is undertaken. A.C.A. §14-168-301. The City Council must make a finding:

> "that the real property within the redevelopment district will be benefited by eliminating or preventing the development or spread of slums or blighted, deteriorated, or deteriorating areas, or discouraging the loss of commerce, industry, or employment, or increasing employment, or any combination thereof." A.C.A. §14-168-305 (c) (4).

Therefore, if the Mountain Inn renovation, redevelopment, or removal and replacement is the primary "redevelopment project" goal, the City Council would need to provide factual reasons to support the required statutory finding that removing or rehabilitating this blighted structure **will benefit** every property within the designated "redevelopment district."

I do not think that anyone could argue that all the buildings between Center Street and Mountain Street from College Avenue to the alley behind the Bank of America would not be benefited from the redevelopment of the Mountain Inn. They are **all** at some risk from fire damage as long as the Mountain Inn remains in its blighted condition. From a legal point of view, I believe that the immediate neighboring structures across Center Street up to the Continuing Education Center are close enough to be legally benefited from the rehabilitation of the Mountain Inn.

I also believe that buildings across College Avenue from the old County Courthouse maybe all the way to Rock Street could benefit from the removal or

rehabilitation of the Mountain Inn which is very visible from all these buildings along College Avenue.

Once you get beyond this area, there may be legal questions about whether more distant property would actually be benefited from the rehabilitation of the Mountain Inn. The Old Ozark Theater building and 70 N. College are probably close enough, but government buildings (Sheriff's Office and Jail) are buffers for northern expansion of the district along College Avenue. Similarly, it could be difficult to justify northern expansion on the west side of College past Meadow Street and especially past Spring Street.

Extending the district on the west side of College Avenue South past the Federal Building, may be problematic since the massive Federal Court building and grounds may be determined to block most effects of the redevelopment of the currently blighted Mountain Inn.

The finding of the City Council based upon statements and facts presented at the public hearing should be entitled to deference by a Court if we are sued by taxing entities or citizens unhappy with the size, location or purpose of the redevelopment district. However, my advice is to make certain that all property within your adopted districts border clearly "will be benefited" by the project.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

## DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
**City Council**
**Hugh Earnest**, Chief Administrative Officer
**Steve Davis**, Finance & Internal Services Director
**Tim Conklin**, Community Planning & Engineering Svs. Director

FROM: **Kit Williams**, City Attorney

DATE: **May 21, 2004**

RE: **East Square Redevelopment Project**

The proposed East Square Redevelopment Project to assist in the replacement of the blighted Mountain Inn and Courts Building with a large, upscale hotel and convention center (with some commercial and 18 condos thrown in) would greatly enhance the immediate surrounding downtown area. It seems like this is the precise type of project envisioned by the voters and legislators when passing Amendment 78 and A.C.A. §14-168-301 et. seq. (The Act).

We do need to look very carefully at the statutory definitions and powers granted in the Community Redevelopment Chapter of Title 14, Local Government (The Act) to ensure the City has **legal** power to accomplish whatever redevelopment project you might wish to attempt. My memo of May 11th discussed a "redevelopment district" and how the City Council could determine the proper borders of such district (property that would be **benefited** by the project). This memo will examine how Tax Incremental Financing (TIF) money be used in a "redevelopment project."

Normally tax dollars such as Tax Increment Financing may only be used to finance **public** works or improvements. There is much language in the Act about using TIF for public works: "construction of public works and improvements", "public facilities, public housing", "construction of public facilities", "other public improvements" and "any capital improvements of a public nature." However, the broad definition of "redevelopment project" in A.C.A. §14-168-301 and Amendment 78 appears to grant even more leeway for TIF revenue.

Under the "Powers" section (A.C.A. §14-168-304) the city can "Construct capital improvements to be leased or sold to private entities in connection with the goals of the redevelopment project." Included within the definition of "Project costs" are: "(i) Capital costs, including, but not limited to, the actual costs of the construction of public works or improvements, **new buildings**, structures and fixtures, the demolition, alteration, remodeling, repair, or reconstruction of existing buildings ...."

"Project costs" specifically include "real property assembly costs" a "redevelopment project may include ...(t)he acquisition of land and improvements, if any within the redevelopment district and clearance of the land so acquired ...." A.C.A. §14-168-301 (13).

This tax increment financing could certainly be used for any necessary **demolition** because the statutory definition of "redevelopment project" also includes the language:

> "together with such site improvements necessary for preparation of any sites and making any land or improvements required in the project area available, by sale or by lease, ... for **development, redevelopment or rehabilitation by private enterprise for commercial** or industrial uses ...." (emphasis added).

Thus demolition and removal of debris would appear very appropriate expenditures of tax incremental funds as part of a land preparation for construction of a replacement building by private enterprise. However, I could find no absolutely specific and clear reference in the definition authorizing TIF financing for the **construction of privately owned buildings.** The definition speaks of "construction of capital improvements ... designed to alleviate deteriorating conditions or a blighted area or designed to increase or enhance the development of commerce ...." But does this mean tax dollars can supplement the construction costs of building a new privately owned building? I believe that answer may be "yes" for further reasons stated later. However, I would be more comfortable legally is the TIF money was only used for acquisition and clearing expenses or public improvements. Using TIF money to demolish and clear the site rather than to help build a privately owned commercial structure not only is much more traditional and accepted urban renewal, it also avoids issues of obtaining taxpayer benefits for taxpayer revenue that would be inherent if taxes were invested in construction of private property.

The very broad definition and authority given by the people through Amendment No. 78 to the legislature to define "redevelopment project" was seemingly extended to the City Council by the very last clause in the statutory definition:

> "(E) Any other projects the local governing body deems appropriate to carry out the purposes of this subchapter."

The General Assembly listed seven (7) purposes when they passed this act."

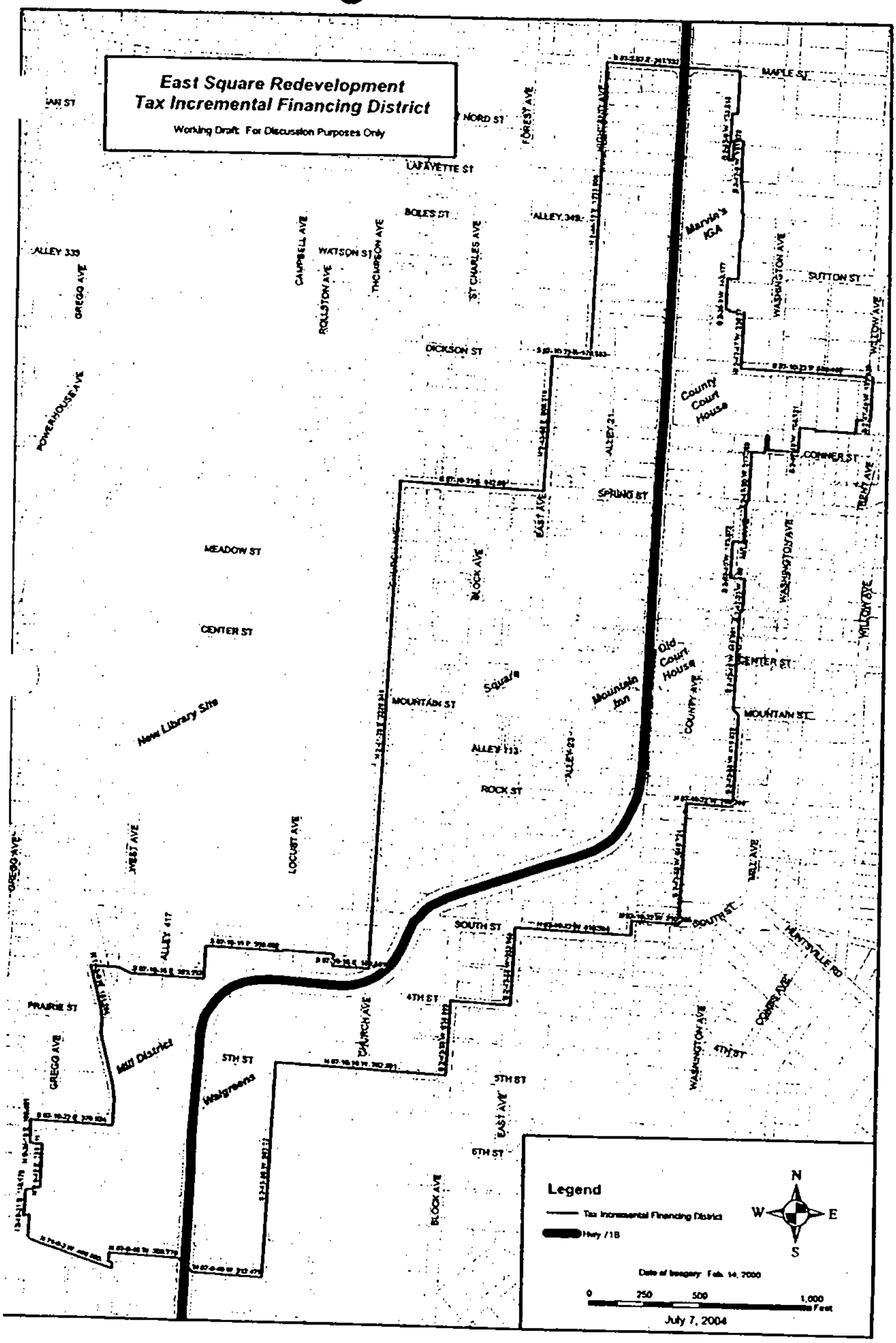
> "(b) The General Assembly declares the purpose of this act to be as follows: (1) To create a viable procedure by which a local government may finance redevelopment projects that improve the community; (2) To create a more stable and adequate source of funds for local governments to construct improvements and finance rehabilitation of distressed and blighted areas; and (3) To benefit the people of this state, for the increase of their commerce, welfare, and prosperity, and for the improvement of their living conditions; (4) To provide new employment opportunities; (5) To prevent, arrest, and alleviate blight and decay in communities; (6) To increase the supply of housing available at low rentals; and (7) To improve the tax base and to improve the general economy of the State of Arkansas by providing additional and alternative means for local governments to finance public facilities and residential, commercial, and industrial development and revitalization, all to the public benefit and good, in the manner provided in this act."

This last clause in the definition and the lengthy and broad purposes in the Act's preamble seem to give the City Council great leeway in determining what a worthy "redevelopment project" is. The legislature also stated: "it is the intent of the General Assembly that it (the Act) is to be broadly construed to effect its purpose." A.C.A. §14-168-302.

Thus, it seems that the proposed East Square Redevelopment meets the statutory definitions for eligibility for tax incremental financing. Now it is your policy decision about the advisability of going forward or not.

# East Square Redevelopment
# Tax Incremental Financing District

Working Draft: For Discussion Purposes Only



C. 21
Sale of Wilson Springs

**RESOLUTION NO. _____**

A RESOLUTION TO EXPRESS THE INTENT OF THE CITY COUNCIL TO USE THE PROCEEDS FROM THE SALE OF WILSON SPRINGS FOR VARIOUS PROJECTS OR PURPOSES

**WHEREAS**, the City of Fayetteville, Arkansas sold its property along I-540 known as Wilson Springs for about $5.2 million; and

**WHEREAS**, the City Council wishes to express its intent and planning to utilize these proceeds for various purposes.

**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 expresses its intention and plan to use the approximately $5.2 million proceeds from the sale of its I-540 land for the following purposes or projects:

(1) _____

(2) _____

(3) _____

(4) _____

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby requests the administration to present budgets and/or contracts that encompass the intentions and purposes expressed in Section 1.

**PASSED** and **APPROVED** this the 20th day of July, 2004.

APPROVED:

DRAFT

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

**PLANNING DIVISION CORRESPONDENCE**

| | |
|---|---|
| TO: | Mayor Coody<br>City Council |
| FROM: | Dawn T. Warrick, AICP, Zoning & Development Admin. |
| DATE: | July 13, 2004 |
| SUBJECT: | Annexation and Rezoning requests on 7/20/04 agenda |

The following information was requested by the City Council at the Agenda Session held July 13, 2004:

1. Future Land Use Maps – full size copies have been printed and distributed with this memo

2. Map of annexations by petition along Persimmon south of Wedington Drive – Maps have been produced and distributed with this memo (11" x 17"); staff plans to have a large map to display in council chambers for the meeting of 7/20/04

3. Lift station loading – Only three new projects on the west side have been approved by the City for development at this time.

**Approved Developments**

| | | | | | |
|---|---|---|---|---|---|
| Cross Keys | R-PZD | 38.5 | 2.8 units/acre | 108 | Owl Creek |
| Rupple Row | R-PZD | 41.7 | 6.24 units/acre | 260 | Owl Creek |
| Sundance | RSF-4 | 7.9 | 3.16 units/acre | 25 | Owl Creek |

It is the City's practiced methodology to monitor wastewater capacity based upon approved developments. The maximum number of units that may be built as determined by zoning is not always reliable. Many City ordinances must be accommodated which tend to reduce densities, however this is a site specific issue related to storm water detention, floodplain/floodway restrictions, tree preservation, parkland dedication and other design criteria.

| Lift Station | Avail. Capacity | Units Remaining |
|---|---|---|
| Owl Creek | 1923 | 1530 |
| Hamestring | 2906 | 2513 |

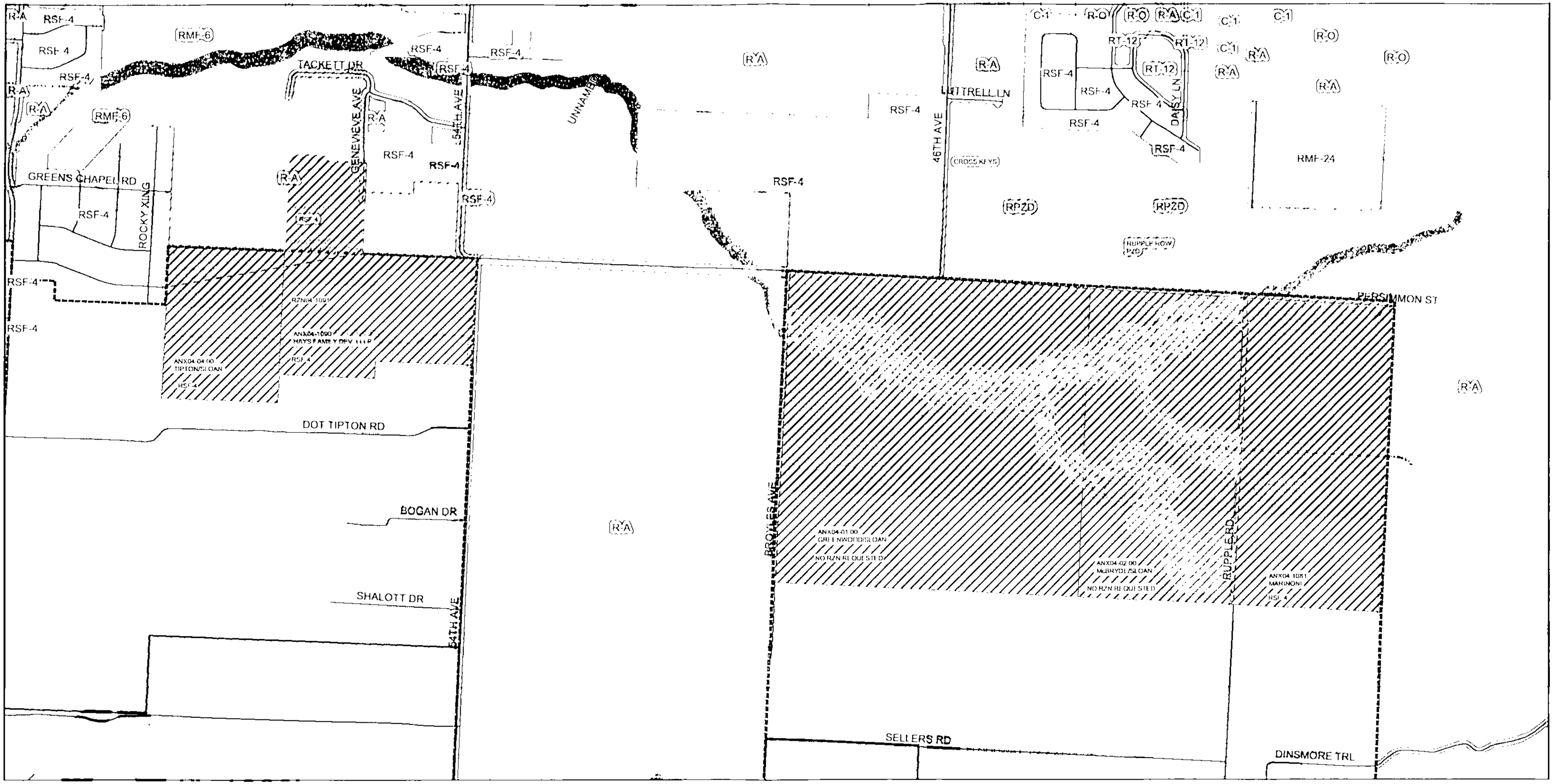
*Flow for Hamestring station includes flow from Crystal Springs, Owl Creek and Hamestring stations.*

The lift stations affected by these approved developments have sufficient capacity as shown in the table above. Based on preliminary calculations of expected densities uncommitted capacity is available to accommodate the proposed development areas. As projects are brought forward with specific densities, further analysis will be conducted.

4. Fire response times –

| Annexation Requests | Fire Response Time | Distance to Station | Nearest Station |
|---|---|---|---|
| Greenwood / Sloan | 2 min. 4 sec. | 1.1 miles | 7 |
| McBryde / Sloan | 0 min. 41 sec. | 0.4 miles | 7 |
| Tipton / Sloan | 4 min. 39 sec. | 2.9 miles | 7 |
| Marinoni | 1 min. 0 sec. | 0.49 miles | 7 |
| Hays | 4-5 min. | 1.97 miles | 7 |
| Leigh Taylor | 5 min. 56 sec. | 3.6 miles | 2 |
| Harper / Brandon | 13-14 min. (8-9 min.) | 4.73 miles (3.36) | 4 (Future 5) |
| **Rezoning Requests Only** | | | |
| Brisiel | 5-6 min. | 2.13 miles | 7 |
| Goff | 8-9 min. | 3.11 miles | 5 |
| Mill District | 1-2 min. | 0.48 miles | 1 |

# West Side Annexation Petitions




1"=1000'

0 700 1,400 2,800 4,200 5,600 Feet

**Legend**

| | | | | |
|---|---|---|---|---|
| City Limits | ANX04-02.00 | CPZD | I-1 | RT-12 |
| FLOODWAY | ANX04-01.00 | IPZD | I-2 | RMF-6 |
| 100 YEAR | ANX04 04.00 | RPZD | P-1 | RMF-12 |
| 500 YEAR | Streets | C-2 | R-A | RMF-18 |
| <Null> | Growth Area | C-3 | R-O | RMF-24 |
| ANX04-1090 | C-1 | C-4 | R-S | RMF-40 |
| ANX04-1083 | | | | RSF-4 |
| | | | | RZN04-1091 |

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

## PLANNING DIVISION CORRESPONDENCE

TO: City Council
FROM: Leif Olson
DATE: July 16, 2004
SUBJECT: Requested Zoning Designations in "Annexation Islands"

During City Council's agenda session on Tuesday, July 13, 2004, information was requested relating to properties located within the "Island Annexations" that requested a zoning designation different from RSF-1. The following list of properties and the accompanying maps will provide this information.

| Parcel Number | Owner / Agent | Requested Zoning |
|---|---|---|
| 001-16832-000 | U of A Ag. Farm | R-A |
| 765-15910-000 | | R-A |
| 765-15893-000 | | R-A |
| 765-13553-000 | | R-A |
| 765-21237-000 | Shiloh Comm. Church | P-1 |
| 001-11380-001 | Stan Thomas | R-A |
| 001-11395-000 | Trumbo and Co./ Tracy Hoskins | Industrial |
| 001-11399-000 | Berneda King | R-A |
| 098-00002-000 | Robert Ray | Commercial |
| 001-11176-000 | J.B. Hays | Commercial / R-A |
| 001-11176-002 | | |
| 001-11177-000 | | |

765-16832-000

765-15910-000

765-15893-000

765-13553-000

Legend

City Limit

Zoning

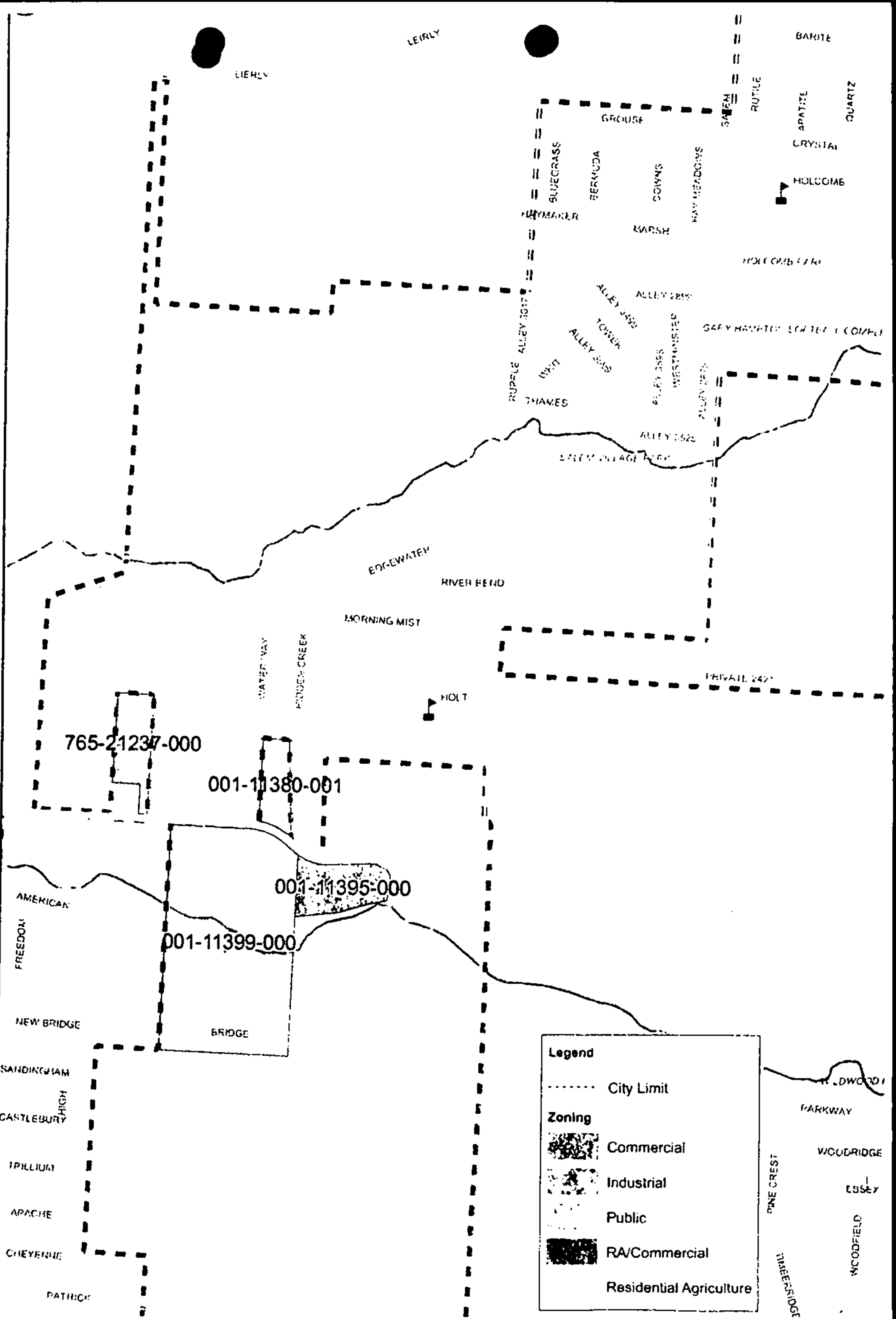
Commercial

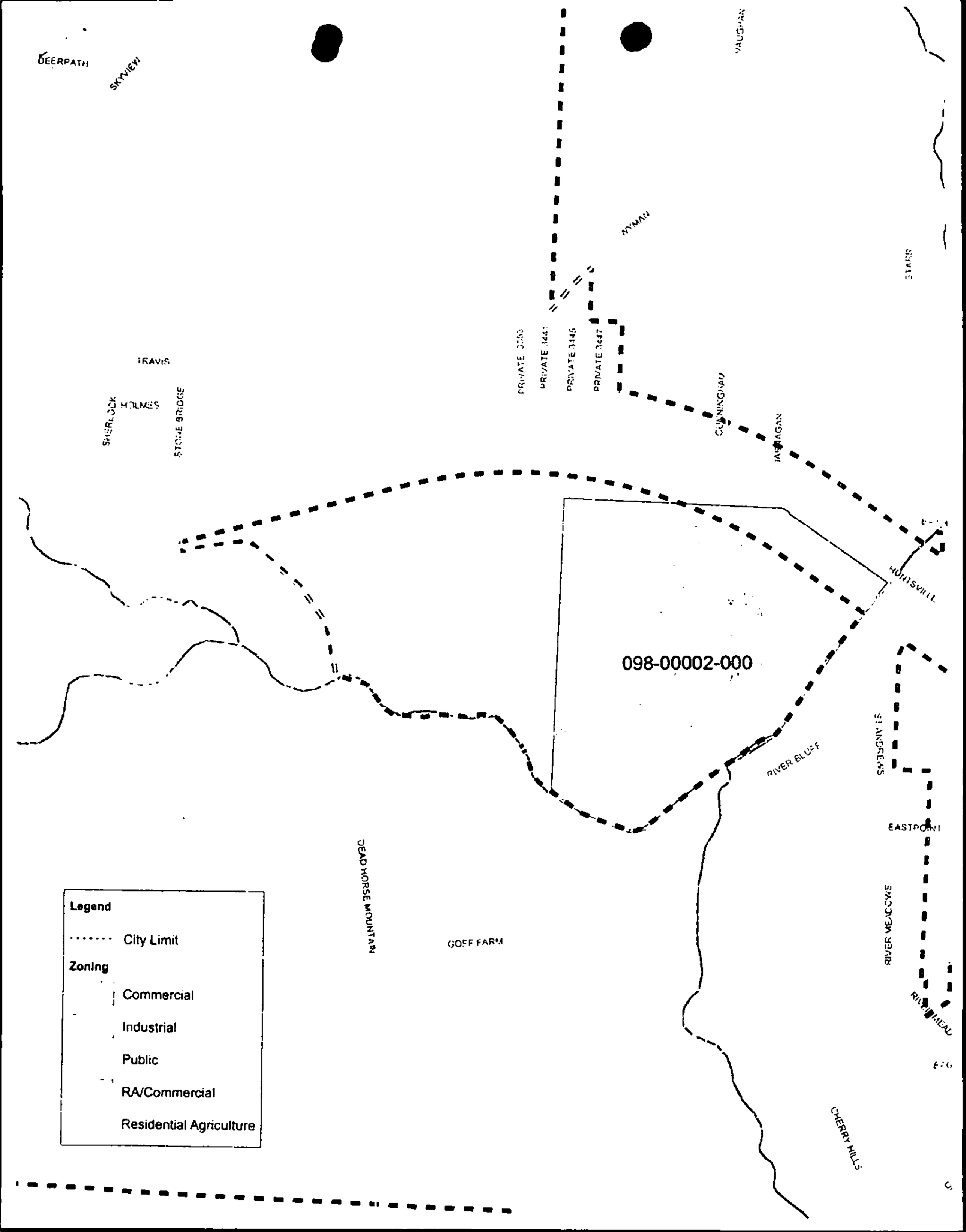
Industrial

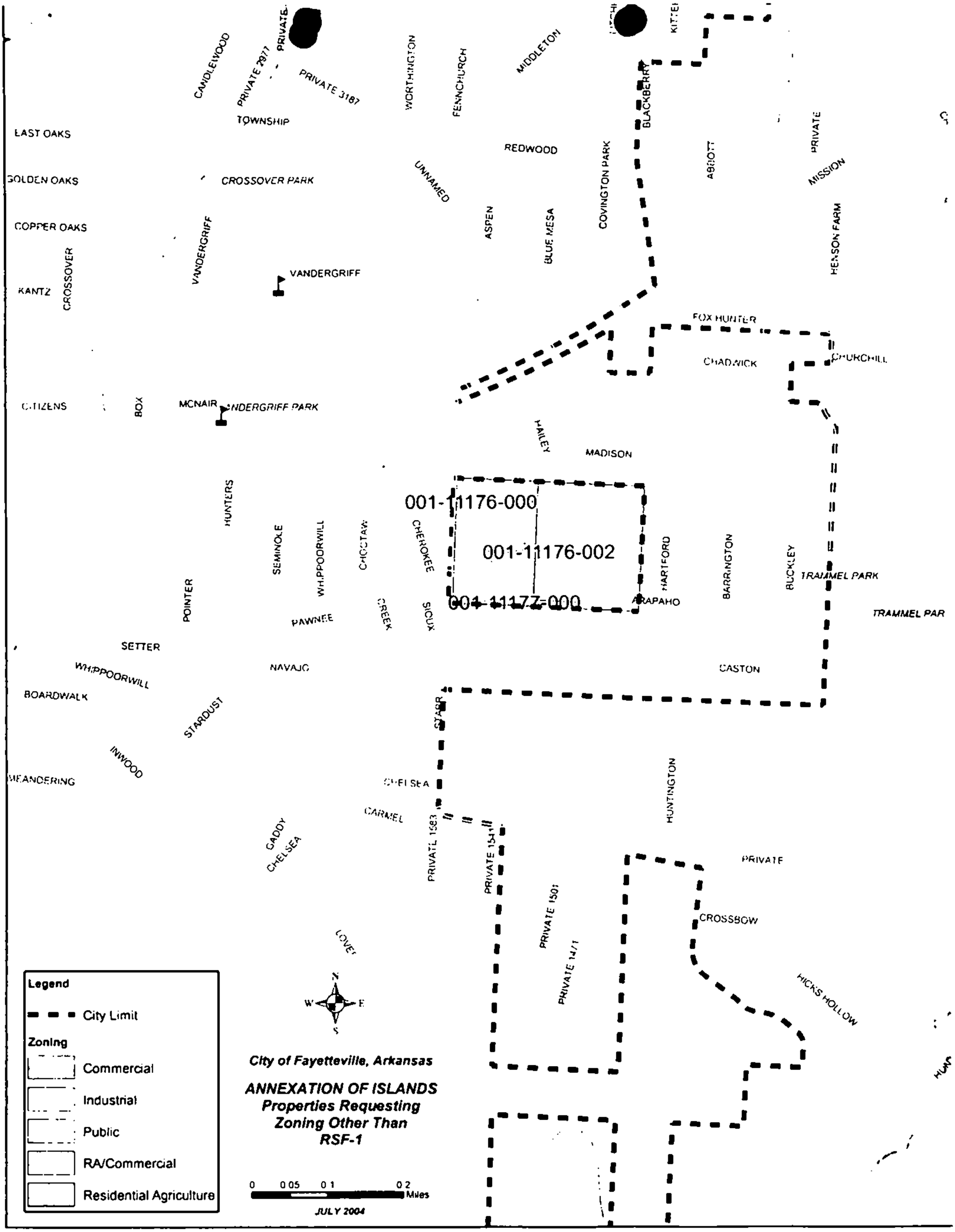
Public

RA/Commercial

Residential Agriculture


765-21237-000
001-11380-001
001-11395-000
001-11399-000
Legend
City Limit
Zoning
Commercial
Industrial
Public
RA/Commercial
Residential Agriculture
LEIRLY
BARITE
RUTILE
APATITE
QUARTZ
CRYSTAL
HOLCOMB
GROUSE
BLUEGRASS
BERMUDA
DOWNS
BAY MEADOWS
MARSH
THAMES
EDGEWATER
RIVER BEND
MORNING MIST
WATERWAY
ROGER CREEK
HOLT
AMERICAN
FREEDOM
NEW BRIDGE
BRIDGE
SANDRINGHAM
CASTLEBURY
HIGH
TRILLIUM
APACHE
CHEYENNE
PATRICK
PARKWAY
WOODRIDGE
ESSEX
WOODFIELD
PINE CREST
EDGEBROOK


DEERPATH
SKYVIEW
TRAVIS
SHERLOCK HOLMES
STONE BRIDGE
PRIVATE 3445
PRIVATE 3447
HYMAN
VAUGHAN
CUNNINGHAM
HUNTSVILLE
098-00002-000
RIVER BLUFF
ST ANDREWS
EASTPOINT
DEAD HORSE MOUNTAIN
GOFF FARM
RIVER MEADOWS
CHERRY HILLS
Legend
City Limit
Zoning
Commercial
Industrial
Public
RA/Commercial
Residential Agriculture


001-11176-000
001-11176-002
001-11177-000
CANDLEWOOD
PRIVATE 2977
PRIVATE
PRIVATE 3187
TOWNSHIP
WORTHINGTON
FENNCHURCH
MIDDLETON
BLACKBERRY
KITTEL
EAST OAKS
GOLDEN OAKS
COPPER OAKS
CROSSOVER PARK
REDWOOD
UNNAMED
ASPEN
BLUE MESA
COVINGTON PARK
ABBOTT
PRIVATE
MISSION
HENSON FARM
VANDERGRIFF
CROSSOVER
KANTZ
VANDERGRIFF
FOX HUNTER
CHADWICK
CHURCHILL
CITIZENS
BOX
MCNAIR
VANDERGRIFF PARK
HALEY
MADISON
HUNTERS
SEMINOLE
WHIPPOORWILL
CHOCTAW
CHEROKEE
HARTFORD
BARRINGTON
BUCKLEY
TRAMMEL PARK
TRAMMEL PAR
POINTER
PAWNEE
CREEK
SIOUX
ARAPAHO
SETTER
WHIPPOORWILL
NAVAJO
CASTON
BOARDWALK
STARDUST
STARR
INWOOD
MEANDERING
CHELSEA
HUNTINGTON
CARMEL
GADDY
CHELSEA
PRIVATE 1583
PRIVATE 1541
PRIVATE 1501
PRIVATE 1471
PRIVATE
CROSSBOW
HICKS HOLLOW
LOVET
N
W
E
S
Legend
City Limit
Zoning
Commercial
Industrial
Public
RA/Commercial
Residential Agriculture
City of Fayetteville, Arkansas
ANNEXATION OF ISLANDS
Properties Requesting
Zoning Other Than
RSF-1
0 0 05 0 1 0 2
Miles
JULY 2004

# Tentative Agenda
# City Council Meeting
# July 20, 2004

A meeting of the Fayetteville City Council will be held on July 20, 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 July 6, 2004 meeting minutes.

2. **Architectural Contractors T-Hangar Construction:** A resolution awarding a construction contract to Architectural Contractors, Inc. in the amount of $314,135.00 to construct T-Hangar "H" at the Fayetteville Municipal Airport; approving a five percent (5%) project contingency of $15,707.00; and approving a budget adjustment of $9,695.00 for same.

3. **Federal Aviation Administration Lease**: A resolution to approve a ten year lease of a brick building at the Municipal Airport to the Federal Aviation Administration at a beginning monthly rent of $2,350.00.

4. **Tomlinson Asphalt–Wilson Park Basketball Court:** A resolution awarding a contract to Tomlinson Asphalt Company, Inc. in the amount of $32,977.00 for the renovation of the Wilson Park Basketball Court; approving a project contingency in the amount of $3,298.00.

5. **Arkansas Parks and Tourism Grant for Braden Park Project:** A resolution authorizing the Fayetteville Parks and Recreation Division to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount up to $50,000.00 for the Braden Park Project. Skull Creek

6. **One New Holland Tractor Purchase:** A resolution approving the purchase of one (1) New Holland TS115A Tractor from Williams Tractor and one (1) Tiger TRB-50C 20' side mower from the Countryside JD in the amount of $67,859.00.

7. **Two New Holland Tractors Purchase:** A resolution approving the purchase of two (2) New Holland TS115A Tractors from Williams Tractor and two (2) Tiger TRR120C mowers from Countryside JD in the amount of $129,332.00.

8. **School Street Improvements:** A resolution approving the improvement schedule for School Avenue from Archibald Yell Boulevard to the intersection with Mountain Street; and approving a budget adjustment in the amount of $278,000.00 for same.

9. **Scottsdale Insurance:** A resolution approving a budget adjustment in the amount of $55,000.00 to add funds to the miscellaneous program to offset payments to Scottsdale Insurance.

## B. OLD 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. ***This Ordinance was left on the Second Reading at the July 6, 2004 City Council meeting.***

2. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

3. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

4. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

5. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

## C. NEW BUSINESS:

1. **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.

2. **McClinton-Anchor Taxiway Extension:** A resolution awarding a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of $607,078.90 to construct Taxiways "A" and "E" Extensions at the Fayetteville Municipal Airport; and approving a ten percent (10%) project contingency of $6,708.00.

12. **ANX 04-1083 (Marinoni):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the extensions of Rupple Road and Persimmon Street containing approximately 78.84 acres.

13. **RZN 04-1084 (Marinoni):** An ordinance rezoning that property described in rezoning petition RZN 04-1084 as submitted by Bob Estes on behalf of Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the future extensions of Rupple Road and Persimmon Street containing approximately 78.84 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

14. **ANX 04-1090 (Hays):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Hays Family Development, LLLP for property located at west of 54th Avenue adjoining the extension of West Persimmon Street containing approximately 37.30 acres.

15. **RZN 04-1091 (Hays):** An ordinance rezoning that property described in rezoning petition RZN 04-1091 as submitted by Jim McCord on behalf of Hays Family Development, LLLP for property located west of 54th Avenue adjoining the extension of Persimmon Street containing approximately 49.40 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

16. **ANX 04-1100 (Harper/Brandon):** An ordinance calling for the simultaneous detachment of certain lands from the City of Springdale, Arkansas and the annexation of those certain lands into the municipal limits of the City of Fayetteville; and for other purposes.

17. **RZN 04-1101 (Harper/Brandon):** An ordinance rezoning that property described in rezoning petition RZN 04-1101 as submitted by Michelle Harrington on behalf of Gary Brandon Enterprises for property located at the south side of Albright Road west of George Anderson Road containing approximately 9.99 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

18. **RZN 04-1099 (Brisiel):** An ordinance rezoning that property described in rezoning petition RZN 04-1099 as submitted by Tim Brisiel for property located south of Mount Comfort Road and west of Alpine Avenue containing approximately 2.19 acres from P-1, Institutional to RSF-4, Residential Single Family, four units per acre.

19. **RZN 04-1102 (Bradberry/Woolverton):** An ordinance rezoning that property described in rezoning petition RZN 04-1102 as submitted by James Foster for property located at the southwest corner of Rock Street and East Avenue containing approximately 0.39 acres from C-3, Central Commercial to R-O, Residential Office.

3. **Tyson Food Company Building Purchase:** A resolution authorizing city staff to develop and present to Tyson Foods, Inc. an offer and acceptance contract for the purchase of property located at 1851 East Huntsville Road.

4. **OPO Enterprises, Inc. – Square Garden Lease:** A resolution approving a two year lease with OPO Enterprises, Inc. for a rental rate of $1 per year plus other good and valuable consideration, for a period of two (2) years, and allowing the lessee five additional two (2) year periods renewing the lease for outdoor dining on the Town Square for a total lease period of twelve (12) years.

5. **Lake Fayetteville Spillway Bridge and Trail:** A resolution awarding a contract to Mobley Contractors, Inc. in the amount of $877,709.20 to construct the Lake Fayetteville Spillway Bridge and Multi-Use Trail; approving a project contingency in the amount of $43,885.00; and approving a budget adjustment in the amount of $376,340.00 for same.

6. **ANX 04-01.00 ( Greenwood/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Jean Greenwood Jowers located southeast of the intersection of 46th Street and Persimmon Street containing approximately 160.00 acres.

7. **ANX 04-02.00 (McBryde/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by C. Bryan McBryde located southwest of the Fayetteville Boys and Girls Club adjoining the extensions of Rupple Road and Persimmon Street containing approximately 80.00 acres.

8. **ANX 04-04.00 (Tipton/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Robert and Minnie Beth Tipton located east of Double Springs Road adjoining the southeast corner of the Legacy Pointe Subdivision containing approximately 29.31 acres.

9. **RZN 04-10.00 (Tipton/Sloan):** An ordinance rezoning that property described in rezoning petition RZN 04-10.00 as submitted by Raymond Smith for property located south of Wedington Drive and east of Double Springs Road abutting the Legacy Pointe Subdivision containing approximately 29.31 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

10. **ANX 04-6.00 (Leigh Taylor Properties):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Highway 112 containing approximately 29.86 acres.

11. **RZN 04-12.00 (Leigh Taylor Properties):** An ordinance rezoning that property described in rezoning petition RZN 04-12.00 as submitted by Chad White on behalf of Leigh Taylor Properties LLC for property located north of Highway 112/Howard Nickell Road and east of Highway 112 containing approximately 29.86 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre subject to a Bill of Assurance.

20. **RZN 04-1104 (Goff):** An ordinance rezoning that property described in rezoning petition RZN 04-1104 as submitted by Tom Hennelly for property located at north of the Goff Farm Road north of the Stonebridge Meadows Golf Course Club House containing approximately 17.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

21. **RZN 04-1111 (The Mill District):** An ordinance rezoning that property described in rezoning petition RZN 04-1111 as submitted by Rob Sharp for property located at the northwest corner of South School Avenue and 6th Street containing approximately 1.95 acres from I-0 Heavy Commercial, Light Industrial to C-2, Thoroughfare Commercial.

**D. INFORMATIONAL:**

**Council Tour: July 19, 2004**

# CITY COUNCIL AGENDA MEMO

**TO:** Mayor and City Council

**THRU:** Staff Contract Review Committee

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

**DATE:** June 30, 2004

**SUBJECT:** Approval of award of contract to build T Hangar H at the Fayetteville Municipal Airport, Drake Field to Architectural Constructors Inc.

---

**RECOMMENDATION:** Approve award of contract to construct T Hangar II at FMA Drake Field to Architectural Contractors Inc. for $314,135.00 plus a 5% contingency for a total project cost of $329,841.75. The Airport Board will approve the project at their July 8, 2004 meeting.

**BACKGROUND:** The Airport Board approved the construction of T hangar H in the 2004 capital program. The City Council approved Resolution 24-04 for the application and acceptance of a State of Aeronautics Grant for the construction in the amount of $100,000.00. The City Council Resolution 25-04 approved task order No. 3 with McClelland Consulting Engineers for the project engineering. The purpose of this council action is to approve the contract for construction.

**DISCUSSION:** This project was originally bid in May and all bids were rejected as they were more than 125% of engineering estimates. Estimates were recomputed due to the recent increase in the price of steel and the project was modified to reduce the cost. The original budget for the capital project proposed in 2003 was $250,000 plus engineering. The updated cost estimate was $378,488. The low bid, while in excess of the original price is acceptable in the current environment. The price will never be lower for the building. The low bid is below the updated estimate.

**BUDGET IMPACT:** Engineering estimate for the project was $378,488. Engineering fees are $18,850.00 and include design, bid documents and bid administration and construction oversight. The State Department of Aeronautics has approved a grant for $100,000.00 for this project. Total cost of $314,135 plus engineering is acceptable and funds are available.

Attachments: Staff Review Form, Construction Contract

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

**RESOLUTION NO. _____**

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO ARCHITECTURAL CONTRACTORS, INC., IN THE AMOUNT OF $314,135.00 TO CONSTRUCT T-HANGAR "H" AT THE FAYETTEVILLE MUNCIPAL AIRPORT; APPROVING A FIVE PERCENT (5%) PROJECT CONTINGENCY OF $15,707.00; AND APPROVING A BUDGET ADJUSTMENT OF $9,695.00 FOR SAME.

**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 awards a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of $314,135.00 to construct T-Hangar "H" at the Fayetteville Municipal Airport. A copy of the contract, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a five percent (5%) project contingency of $15,707.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment of $9,695.00 for same.

**PASSED** and **APPROVED** this 20th day of July, 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

DRAFT

# CONTRACT

THIS AGREEMENT, made and entered into on the _____ day of_____, 2004, by and between **Architectural Contractors, Inc.**, herein called Contractor, and the **City of Fayetteville, Arkansas**:

W I T N E S S E T H:

That **Architectural Contractors, Inc.**, for the consideration hereinafter fully set out, hereby agrees with the **City of Fayetteville** as follows:

1. That **Architectural Contractors, Inc.** shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled ***8 Bay T – Hangar, Hangar "H" for Fayetteville Municipal Airport, Fayetteville, Arkansas, June 2004***.

| | |
|---|---|
| Advertisement for Bids | Payment Bond |
| Instructions to Bidders | General Conditions |
| Bid and acceptance thereof | Supplemental Conditions |
| Performance Bond | Specifications |
| | Drawings (See Sheet Index below) |

SHEET INDEX

| Sheet No. | Description |
|---|---|
| 1 | Cover |
| 2 | Site Plan |
| 3 | Grading Plan |
| 4 | Floor Plan – T -Hangar "H" |
| 5 | Elevation and cross sections T - Hangar "H" |
| 6 | Foundation Plan – T - Hangar "H" |
| E-1 | Electrical Plan – T - Hangar "H" |
| E-2 | Electrical Details |

2. That the **City of Fayetteville** hereby agrees to pay to **Architectural Contractors, Inc.** for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount of: **Three Hundred Fourteen Thousand, One Hundred Thirty-Five Dollars ($314,135.00)**.

3. The Work will be substantially completed within **120** days after the date when the Contract Time commences to run as provided in the Notice To Proceed, and completed and ready for final payment in accordance with the General Conditions within **120** days after the date when the Contract Time commences to run. A Notice To Proceed, for materials purchasing only, shall be issued by the **City of Fayetteville** to **Architectural Contractors, Inc.** after execution of the Contract documents. A separate Notice To Proceed will be issued by **the City of Fayetteville** to

**Architectural Contractors, Inc.** to begin construction, at which time the **120** calendar day construction period shall begin.

4. Liquidated Damages: The **City of Fayetteville** and **Architectural Contractors, Inc.** recognize that time is of the essence of this Agreement and the **City of Fayetteville** will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize that the delays, expense, and difficulties involved in proving the actual loss suffered by the **City of Fayetteville** if the Work is not completed on time. Accordingly, instead of requiring any such proof, the **City of Fayetteville** and **Architectural Contractors, Inc.** agree that as liquidated damages for delay (but not as a penalty) **Architectural Contractors, Inc.** shall pay the **City of Fayetteville Five Hundred Dollars ($500.00)** for each day that expires after the time specified in Paragraph 3 if **Architectural Contractors, Inc.** shall neglect, refuse, or fail to complete the Work within the time specified as properly extended by the **City of Fayetteville.**

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

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

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

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

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

SEAL:

WITNESSES:

_____

**ARCHITECTURAL CONTRACTORS, INC.**

By _____
President Title

ATTEST:

_____
City Clerk

**CITY OF FAYETTEVILLE, ARKANSAS**

By _____
Dan Coody, Mayor

Approved as to form:

_____ Attorney for the **City of Fayetteville**

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

June 30, 2004

Mr. Ray Boudreaux
Airport Manager
Fayetteville Municipal Airport
4500 So. School Street, Suite F
Fayetteville, AR 72701

RECEIVED
JUL 01 2004
AIRPORT

RE: Recommendation to Award the Construction Contract
8-Bay T-Hangar Project

Dear Mr. Boudreaux:

Reference is made to the June 29th bid opening for the City's proposed T-Hangar project. As you know, we received two bids, with the lower of the two being reasonably close to the amount that the City has budgeted for the job.

The bid tabulation transmitted herewith verifies the accuracy of the bids submitted by the prospective contractors. The lowest bidder was, therefore, Architectural Contractors, Inc. with a Total Base Bid of $314,135.00.

Because we have worked with them on multiple occasions, we recognize that this Contractor is capable of satisfactorily completing this project. Also, importantly, the Contractor is appropriately licensed in the State of Arkansas. Therefore, we recommend that the City accept their bid and award the construction contract to Architectural Contractors, Inc. in the lump sum amount of $314,135.00.

June 30, 2004

However, if there are budgetary constraints that preclude the award of a contract for the bid amount then, based upon current law as we understand it, you may choose to negotiate with the Contractor in an attempt to reduce the cost. We will be happy to participate in such a negotiation but, frankly, we are unaware of any places where significant cost reductions are likely to be achieved without compromising the quality of the end product.

If/when the City makes a determination in this regard we will be happy to assist with the paperwork to move the project toward construction.

Meanwhile, if you have questions or comments regarding the process or about our recommendation, please let me know. We appreciate the opportunity to continue working with the City and we look forward to the successful completion of this project.

Sincerely,

McClelland Consulting Engineers, Inc.

Johnny Quinn, P.E.

Enclosure: Certified Bid Tabulation

Copy: Ms. Peggy Vice, Purchasing Mgr., Fayetteville, 113 W. Mountain

J:\2004\042104\Correspondence\Recommendation to Award Contract.doc

# BID 04-48

**City of Fayetteville**
**Fayetteville Municipal Airport**
**8 Bay T- Hangar "H"**
**June 29, 2004 2:00 p.m.**
**MCE Project FY042104**

| NAME OF BIDDER | TOTAL LUMP BASE BID | TRENCH & EXCAVATION SAFETY SYSTEM |
|---|---|---|
| | | |
| Architectural Contractors, Inc. | $314,135.00 | $100.00 |
| | | |
| VEI General Contractors | $339,800.00 | $200.00 |
| | | |
| | | |
| | | |

Certified by: John C. Quinn

John C. Quinn, P.E. #4314

J:\2004\042104\Bid Tab\Certified Bid Tab.wb2

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

| Budget Year | Department: General Government<br>Division: Aviation & Economic Development<br>Program: Capital | Date Requested | Adjustment Number |
|---|---|---|---|
| 2004 | | 7/1/2004 | |

| Project or Item Requested: | Project or Item Deleted: |
|---|---|
| $9,695 in Building Costs account. | $9,695 in Pavement Maintenance & Rehabilitation account. |
| **Justification of this Increase:** | **Justification of this Decrease:** |
| Will provide for an adjustment to the project budget for contingency expense. | This project is complete. Will use a portion of the unused budget. |

**Increase Expense (Decrease Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Building costs | 5550 | 3960 | 5804 | 00 | 9,695 | 03013 | 1 |
| | | | | | | | |

**Decrease Expense (Increase Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Pavement Maint & Rehab | 5550 | 3960 | 7820 | 29 | 9,695 | 00029 | 1 |
| | | | | | | | |

| Approval Signatures | | Budget Office Use Only | | |
|---|---|---|---|---|
| Requested By | Date | Type: A B C D E | | |
| Budget Manager | 7-2-04<br>Date | Date of Approval | Date | Initial |
| Department Director | July 1, 2004<br>Date | Posted to General Ledger | Date | Initial |
| Administrative Services Director | 7-6-04<br>Date | Posted to Project Accounting | Date | Initial |
| Mayor | 7/7/04<br>Date | Entered in Category Log | Date | Initial |

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
X CONTRACT REVIEW
____ GRANT REVIEW

Construct T-Hangar
Architectural Contractors,

For the Fayetteville City Council Meeting of: July 20, 2004

**FROM:**

| Ray M. Boudreaux | Aviation & Economic Development | General Government |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** A Resolution to award a contract with Architectural Contractors, Inc., Attn: Jay Berryman, 2013 N Old Missouri Rd, Springdale, AR, 72764, phone: 479-756-3547, to construct T-Hangar "H" at the Fayetteville Municipal Airport, Drake Field.

Approval of a 5% Project Contingency in the amount of $15,707.00. Approval of a Budget Adjustment in the amount of $9,695.00. Forward to Mayor for signature.

**COST TO CITY:**

| $329,842.00 | $ 350,000.00 | 8 Bay T-Hangars |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 5550.3960.5804.00 | $ 29,853.00 | Capital |
| Account Number | Funds Used to Date | Program / Project Category Name |
| 03013-1 | $ 320,147.00 | Airport |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** X Budgeted Item X Budget Adjustment Attached

Budget Manager — Date: 7.2.04

**CONTRACT/GRANT/LEASE REVIEW:**

Accounting Manager — Date: 7/1/04

Internal Auditor — Date:

City Attorney — Date: 7/2/04

Purchasing Manager — Date: 7-2-04

**STAFF RECOMMENDATION:** Staff recommends approval

Division Head — Date:

Department Director — Date: July 1, 2004

Finance & Internal Services Dir. — Date: 7-6-04

Chief Administrative Officer — Date: 7-6-04

Mayor — Date: 7/2/04

**Received in Mayor's Office** 7/6/04 P.M.

Cross Reference:

Previous Ord/Res#: 25-04 McClelland Eng
24-04 State Grant

Orig. Contract Date:

Orig. Contract Number:

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

ENTERED 7/2/04 TK

# CITY COUNCIL AGENDA MEMO

**TO:** Mayor and City Council

**THRU:** Staff Contract Review Committee

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

**DATE:** July 1, 2004

**SUBJECT:** Approval of Lease contract with the FAA for the building located at the Fayetteville Municipal Airport, Drake Field.

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**RECOMMENDATION:** Approve lease with the FAA for the Airway Facilities Maintenance building and forward to the Mayor for signature. The Federal Government requires the lessor to sign prior to their signing.

**BACKGROUND:** The Federal Aviation Administration has leased a building at the Fayetteville Municipal Airport since 1972. The current lease expires September 30, 2004. This is a new 10 year lease for the property. The FAA pays for utilities, insurance and maintenance. The airport maintains the structure and systems of the building. The FAA has made major improvements to the building and recently replaced all of the windows and doors to improve security. A portion of the building is used for the communications lines and demarcation frames that serve the airport radio and communications circuits.

**DISCUSSION:** The new lease contains the same provisions as the old except that the rent has increased to $2,350 per month. The rent further increases in years 6 through 10 to $2,585 per month.

**BUDGET IMPACT:** There is a revenue impact.

Attachments:
Staff Review Form
Letter from FAA Contracting Officer
Lease contract

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

ENTERED
7-2-04

**RESOLUTION NO. _____**

A RESOLUTION TO APPROVE A TEN YEAR LEASE OF A BRICK BUILDING AT THE MUNICIPAL AIRPORT TO THE FEDERAL AVIATION ADMINISTRATION AT A BEGINNING MONTHLY RENT OF $2,350.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the ten year Federal Aviation Administration Lease For Real Property attached as Exhibit A to lease a brick building at the municipal airport for a beginning monthly rent of $2,350.00.

**PASSED** and **APPROVED** this the 20th day of July, 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

U.S. Department
of Transportation
**Federal Aviation
Administration**

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

Fort Worth, Texas 76193-0054

JUN 24 2004

RECEIVED
JUN 28 2004
AIRPORT

Mr. Ray Boudreaux
Airport Manager
Fayetteville Municipal Airport
4500 S. School, Suite F
Fayetteville, AR 72701

Dear Mr. Boudreaux:

Lease No. DTFASW-05-L-00043
Systems Support Unit (SSU)
Fayetteville Municipal Airport
Fayetteville, Arkansas

I have enclosed four copies of the above referenced lease providing for the continued occupancy of the Federal Aviation Administration's Systems Support Unit at Fayetteville Municipal Airport, Fayetteville, Arkansas. The existing lease, DTFA07-00-L-01160, expires September 30, 2004, without provision for renewal.

If the document meets with your approval, please have all copies executed by the appropriate parties, insert the city's tax ID number in the blank provided, have the corporate certificate completed and return all copies to the Department of Transportation, Federal Aviation Administration, Property and Services Branch, ASW-54, Fort Worth, Texas 76193-0054. A copy will be returned for your records upon execution by the government.

Your cooperation and assistance are appreciated. If you have any questions, please feel free to call me at (817) 222-4366.

Sincerely,

Sharon E. Wynn

Sharon E. Wynn
Contracting Officer

Enclosures (4)

**FEDERAL AVIATION ADMINISTRATION**
**LEASE FOR REAL PROPERTY**

**LEASE NUMBER**
**DTFASW-05-L -00043**
**Date of Lease: _____**

1. **THIS LEASE,** entered into by and between the **CITY OF FAYETTEVILLE, ARKANSAS** whose address is Fayetteville Municipal Airport, 4500 S. School, Suite F, Fayetteville, AR 72701 and whose interest in the property hereinafter described is that of owner, hereby referred to as LESSOR, and the **UNITED STATES OF AMERICA,** hereinafter referred to as the GOVERNMENT OR FAA: WITNESSETH: The Parties hereto, and for the consideration hereinafter mentioned, covenant and agree as follows:

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2. **DESCRIPTION** – The LESSOR hereby leases to the GOVERNMENT the following described premises: SPACE -- approximately 2,205.05 square feet of floor space in a free-standing masonry and brick building located at Fayetteville Municipal Airport (Drake Field). Said building is more particularly shown in Exhibit "A," floor plan, dated December 15, 1993, attached hereto and made a part hereof. PARKING -- thirty-one (31) parking spaces for Government-owned vehicles and Government employees consisting of one space the handicapped; sixteen (16) spaces in front of the Building; and fourteen (14) spaces at the security fence line at the west end of the building. All of the above to be used for purposes as determined by the Federal Aviation Administration.

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3. **TERM** – To have and to hold, for the term commencing on October 1, 2004 and continuing through September 30, 2014 inclusive, PROVIDED, that adequate appropriations are available from year to year for the payment of rentals.

This lease succeeds lease number DTFA07-00-L-01160, which expires on September 30, 2004.

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4. **CANCELLATION** -- The GOVERNMENT may terminate this lease at any time, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the Government by giving at least 30 days notice in writing to the LESSOR. No rental shall accrue after the effective date of termination. Termination notice shall be delivered by registered mail; return receipt requested and mailed at least 30 days before the effective termination date.

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5. **RENTAL** – Rent in the amount of $28,200 per annum paid at the rate of $2,350 per month for years one through five shall be payable to the Lessor in arrears and will be due on the first workday of each month, without the submission of invoices or vouchers, subject to available appropriations. Rent in the amount of $31,020 per annum paid at the rate of $2,585 per month for years six through ten shall be payable to the Lessor in arrears and will be due on the first workday of each month, without the submission of invoices or vouchers, subject to available appropriations. Rent shall be considered paid on the date a check is dated or an electronic funds transfer is made. Rent for a period of less than a month shall be prorated. Checks will be made payable to: City of Fayetteville

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6. **SERVICES AND UTILITIES** – To be provided by LESSOR as part of rent. Services shall be Building Standard, unless level of service is prescribed elsewhere in the lease. The Government provides for the cost of services and utilities under separate contract.

Services, utilities, and maintenance will be provided daily, extending from 6:00 a.m. to 6:00 p.m. except Saturday, Sunday, and Federal holidays. Services supplied to technical equipment shall be supplied 24 hours a day, and seven days a week. The GOVERNMENT shall have access to the leased premises at all times, including the use of electrical services, toilets, lights, elevators, and GOVERNMENT office machines without additional payment.

- ☒ ELECTRICITY
- ☒ WATER (hot & cold)
- ☐ SNOW REMOVAL
- ☐ TRASH REMOVAL - Daily
- ☐ CHILLED DRINKING WATER
- ☒ HVAC – 68 to 74 DEG. F
- ☐ DAILY TOILET SUPPLIES & CLEANING
- ☐ DAILY JANITORIAL SERV. & SUPPLIES Daily dusting.
- ☒ GROUND MAINTENANCE
- ☐ WINDOW WASHING – Frequency washed twice yearly.
- ☐ CARPET CLEANING – Frequency daily vacuuming and shampooed twice yearly.
- ☒ INITIAL & REPLACEMENT LAMPS, TUBES, & BALLASTS

Lease DTFASW-05-L-00043
System Support Unit (SSU)
Fayetteville Municipal Airport
Fayetteville, AR

☐ EXTERIOR & INTERIOR DOOR LOCKS AND HARDWARE – Designed to accept 7-pin removable cores manufactured "Best Lock", which will be supplied by the Government.

☐ CARPET REPLACEMENT– Includes moving and return of furniture when replacing carpeting every 8 years or when the following happens:
1) Backing or underlayment is exposed.
2) There are noticeable variations in surface color or texture.

7. **HOLDOVER** – If, after expiration of the lease, the Government shall retain possession of the premises, the lease shall continue in force and effect on a day-to-day basis not to exceed 90 days. Rent shall be paid monthly in arrears on a prorated basis at the rate paid during the lease term.

8. **NOTICES** – All notices/correspondence shall be in writing, and shall be addressed as follows:

TO LESSOR: City of Fayetteville, Arkansas
Fayetteville Municipal Airport
4500 S. School, Suite F
Fayetteville, AR 72701

TO GOVERNMENT: Department of Transportation
Federal Aviation Administration
Property and Services Branch, ASW-54
Fort Worth, TX 76193

9. **GENERAL CLAUSES:**

a. **DAMAGE BY FIRE OR OTHER CASUALTY** - If the building or structure is partially or totally destroyed or damaged by fire or other casualty or if environmentally hazardous conditions are found to exist so that the leased premises is untenantable as determined by the GOVERNMENT, the GOVERNMENT may terminate the lease, in whole or in part, immediately by giving written notice to the LESSOR and no further rental will be due.

b. **MAINTENANCE OF THE PREMISES** - The LESSOR shall maintain the demised premises, including the building, grounds, and all equipment, fixtures, and appurtenances furnished by the LESSOR under this lease, in good repair and tenantable condition.

c. **FAILURE IN PERFORMANCE** - In the event the LESSOR fails to perform any service, to provide any item, or meet any requirement of this lease, the GOVERNMENT may perform the service, provide the item, or meet the requirement, either directly or through a contract. The GOVERNMENT may deduct any costs incurred for the service or item, including administrative costs, from the rental payments. No deduction of rent pursuant to this clause shall constitute default by the GOVERNMENT on this lease.

d. **ACCESSIBILITY** - The Building and the leased premises shall be accessible to the handicapped in accordance with FED-STD-795, the Uniform Federal Accessibility Standards (41 CFR 101-19.6, App. A) and all applicable state and local accessibility laws and regulations

e. **CONTRACT DISPUTES** - All contract disputes arising under or related to this contract shall be resolved under this clause, and through the FAA Office of Dispute Resolution for Acquisition (ODRA). Said disputes shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. The decision of the FAA shall be considered a final agency decision only after a Lessor has exhausted their administrative remedies for resolving a contract dispute under the FAA Dispute Resolution System.

A contract dispute shall be made in writing and signed by a Lessor or duly authorized representative of the Lessor and submitted to the Real Estate Contracting Officer, that it is disputed either as to liability or amount. Submission shall be within two years of the accrual of the contract claim involved. The Real Estate Contracting Officer's decision concerning the contract dispute shall be binding on the parties unless the Lessor appeals the matter to the FAA ODRA. The Real Estate Contracting Officer, upon request, will provide information relating to submitting a dispute. (Promulgated by ASW, 3/04)

f. **LESSOR'S SUCCESSORS** - The terms and provisions of this lease and the conditions herein bind the LESSOR and the LESSOR's heirs, executors, administrators, successors, and assigns.

g. **NO WAIVER** - No failure by the GOVERNMENT to insist upon strict performance of any provision of this lease, or failure to exercise any right, or remedy consequent to a breach thereof, shall constitute a waiver of any such breach in the future.

Lease DTFASW-05-L-00043
System Support Unit (SSU)
Fayetteville Municipal Airport
Fayetteville, AR

h. **GENERAL HEALTH AND SAFETY STANDARDS** – Local Health, Environmental (OSHA and EPA), and Safety Standards and Building Codes shall be complied with when accomplishing any cleaning, construction, renovation, remodeling, maintenance or testing done in the leased premises and areas connected to or integrated with the leased premises. Whenever FAA Standards require work processes or precautions to be provided, the Lessor shall coordinate with the FAA during the work so that proper requirements are met.

i. **FIRE AND SAFETY REQUIREMENTS** - All NFPA Standards addressed in this section reference the current edition of NFPA in place at the signing of this contract. At any point when construction takes place, systems should be brought into compliance according to the current edition of NFPA. The building shall, as required by Code, be equipped with automatic sprinklers which conform to NFPA No. 13, be maintained in accordance with NFPA No. 13A, have electrically supervised control valves (NFPA No. 13), and have water-flow alarm switches connected to automatically notify the local fire department (NFPA No. 72) or central station (NFPA No. 71). The notification of the fire department or central station shall be accomplished through the building fire alarm system. Regardless of code requirements when the leased premises (including garage areas under lease by the FAA) is on the 6th floor and above, or below grade, sprinklers are required.

A manual fire alarm system shall be provided, maintained, and tested by the LESSOR in accordance with NFPA Standard No. 71 and 72 in buildings, which are three (3) or more stories in height or contain more than 50,000 square feet gross floor area. The fire alarm system wiring and equipment must be electrically supervised and automatically notify the local fire department and conform to NFPA Standards No. 70 and 72. Engineered smoke control systems, if present, shall be maintained in accordance with the manufacturer's recommendations.

Fire-safety, equivalent to the requirements stated above in this clause, may be accepted, at the discretion of the RECO, if certified by a Licensed Fire Protection Engineer.

Portable fire extinguishers shall be provided, inspected, and maintained by the LESSOR in accordance with NFPA Standard No.10.

j. **INDOOR AIR QUALITY** - The LESSOR shall control contaminants at the source and/or operate the space in such a manner that the indicator levels for carbon monoxide (CO), carbon dioxide (CO2), and formaldehyde (HCHO), are not exceeded. The indicator levels for office area are as follows: CO-9 parts per million (PPM) time weighted average (TWA - 8-hour sample); CO2 - 1,000 PPM (TWA); HCHO - 0.1 PPM (TWA). All indoor air contaminant levels in leased premises will be kept below appropriate OSHA regulations or Consensus standards, whichever is stricter. Air quality and facility cleaning will be adequate to prevent the growth of mold, mildew and bacteria. Any visual evidence of these will require immediate sampling and remediation. Moisture/standing water will be controlled to prevent the growth of these.

During working hours, ventilation shall be provided in accordance with the latest edition of ANSI/ASHRAE Standard 62, *Ventilation for Acceptable Indoor Air Quality*. The FAA HVAC Checklist shall be reviewed with the Preconstruction checklist at the preconstruction meeting.

The LESSOR shall promptly investigate indoor air quality (IAQ) complaints and shall implement controls including alteration of building operating procedures (e.g., adjusting air intakes, adjusting air distribution, cleaning and maintaining HVAC, etc.). The FAA is responsible for addressing IAQ problems resulting from its own activities.

MSDS will be provided for all cleaning solutions used in the FAA spaces.

k. **OSHA REQUIREMENTS** - The LESSOR shall provide space, services, equipment, and conditions that comply with Occupational Safety and Health Administration (OSHA) safety and Health standards (29 CFR 1910 and 1926).

l. **RADON** - Radon levels in leased premises to the FAA shall not equal or exceed the EPA action level for homes of four (4 ) picocuries per liter (PCI/L). If radon levels are found to be at or above 4 PCI/L, the LESSOR shall develop and promptly implement a plan of corrective action.

m. **WARRANTY OF SPACE** –

(a) Notwithstanding inspection and acceptance by the Government or any provision concerning the conclusiveness thereof, the LESSOR warrants that all leased premises to the Government under this contract, spaces above suspended ceilings in the leased premises, air plenums elsewhere in the building which service the leased premises, engineering spaces in the same ventilation zone as the leased premises, public spaces and common use space (e.g., lobbies, hallways) will, at the time of acceptance and during the term of the lease contract, comply with the asbestos containing material (ACM) and polychlorinated biphenyl (PCB) requirements of the Toxic Substance Control Act. The RECO shall notify the LESSOR in writing, within 30 days after the discovery, of any failure to comply with the asbestos requirement. With any construction work, LESSOR would be required to comply with the OSHA regulations for Asbestos and relevant FAA orders.

(b) The leased premises shall be free of all asbestos-containing material, PCB's, Radon, and other environmentally hazardous substances. If either ACMs or PCBs are found to be in the leased premises the Government reserves the right to require the LESSOR, at no cost to the GOVERNMENT, to take whatever corrective action as might be required by the Toxic Substance Control Act, EPA regulations and state requirements. All facilities constructed prior to 1981 are to have an asbestos building survey conducted by a qualified inspector including a visual examination and bulk sampling. All ACM survey reports are to be made available to the RECO.

Lease DTFASW-05-L-00043
System Support Unit (SSU)
Fayetteville Municipal Airport
Fayetteville, AR

(c) If the LESSOR fails, after receipt of notice, to make correction within the specified period of time, the Government shall have the right to make correction and charge to the LESSOR the costs occasioned to the FAA or terminate the lease agreement at no cost to the Government.

(d) The rights and remedies of the FAA in this clause are in addition to any other rights and remedies provided by the law and under this contract.

(e) Definitions.

(1) "Acceptance", as used in this clause means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, the leased premises as ready for occupancy or approves a portion of the premises for occupancy in accordance with the provisions of this lease contract.

(2) "Correction", as used in this clause, means (i) the removal, encapsulation or enclosure of any friable asbestos materials found in the leased premises to the Government, spaces above suspended ceilings in the leased premises, air plenums elsewhere in the building which service the leased premises, public spaces, engineering spaces in the same ventilation zone as the leased premises and common use space (e.g., lobbies, hallways). Following such abatement actions, the LESSOR shall adhere to the FAA's required post-asbestos-abatement air monitoring program. (ii) With regard to non-friable asbestos materials in good condition, it means the establishment and execution of a special operations and maintenance program and an abatement plan, approved by the Government, to be implemented from the time the materials are discovered through the remainder of the lease term, and (iii) with regard to PCBs, it involves the removal or retrofitting, in accordance with EPA regulations, of any PCB equipment present in the building.

n. NON-RESTORATION - The FAA shall have no obligation to restore and/or rehabilitate, either wholly or partially, the premises under this lease. It is further agreed that the FAA may abandon in place any or all of the structures, improvements and/or equipment installed in or located upon said property by the FAA during its tenure. Notice of abandonment will be conveyed to the LESSOR in writing.

o. FACILITY SECURITY - Security requirements for Government occupied space must meet minimum security accreditation standards for the type of facility covered under by this lease. The FAA Facility Security Management Program defines facility security accreditation standard levels. The security requirements identified below are tailored specifically for the type of facility covered by this solicitation. The LESSOR shall provide or make accommodation to provide for all the security requirements listed herein for the leased premises covered by this lease agreement:

A final security assessment of the building shall be conducted to determine any additional security upgrades required to meet accreditation. The LESSOR shall provide maintenance services to the security upgrades installed within the leased premises and covered under this lease.

p. PERSONNEL SECURITY -

**Suitability Requirements for Individual(s) Employed or Hired by the LESSOR**

(1) The LESSOR shall provide a level of security, which reasonably deters unauthorized access, loitering, or disruptive acts to the premises leased by the government at all times.

(2) When the LESSOR provides services under the terms of this Lease, (e.g., janitorial, construction, maintenance, property management, or alterations/repair services), the Government may conduct background investigations of individual(s) employed or to be hired by the LESSOR to perform such services.

(3) Individual(s) will not be permitted unescorted access to provide services in or upon the Leased premises until the FAA Servicing Security Element (SSE) has received the documentation outlined in subparagraph (d), (i), (ii), and (iii), below and provided written authorization for the individual(s) to begin work.

(4) No later than ten (10) calendar days after the effective date of this Lease, (or the effective date of Supplemental Lease Agreement [SLA] or modification if this provision is included by SLA or modification to an existing lease), the LESSOR shall submit the following documentation for all individual(s) employed or hired by the LESSOR for whom unescorted access to the premises is required. Such documentation shall be submitted to the Government representative as designated by the RECO (RECO), or designee, for an access suitability determination.

(a) A completed FBI Fingerprint Card, FD-258 (single sheet). The Government will provide information pertaining to the location of fingerprint facilities. Each fingerprint card shall be printed in black ink or typewritten with all questions completed and is to be signed and dated by the applicant. The LESSOR will be responsible for all expenses associated with fingerprinting;

(b) A completed Identification Card/Credential Application, DOT Form 1681, with appropriate pictures of applicant; and,
(c) A Questionnaire for Public Trust Positions, Standard Form 85P, shall be completed and signed by the applicant in accordance with applicable instructions.

Lease DTFASW-05-L-00043
System Support Unit (SSU)
Fayetteville Municipal Airport
Fayetteville, AR

(5) The Government shall notify the LESSOR when individual(s) employed or hired by the LESSOR have been approved for unescorted access to the Leased premises.

(6) The LESSOR and all individuals employed or hired by the LESSOR shall display a Government issued identification badge when visiting or providing services in or upon the Leased premises and shall abide by all facility security measures as required by the Government

(7) The LESSOR shall submit the documentation required in subparagraph (d), (i), (ii), and (iii) of this Clause for any new individual(s) employed or hired by the LESSOR to perform services under this Lease. Such information shall be submitted to the Government within ten (10) calendar days of employment and/or hiring by the LESSOR.

(8) The LESSOR will immediately remove from the Leased premises any individual(s) employed or hired by the LESSOR to perform services under this Lease when the government has determined such individuals to be unsuitable for continued access to the Leased premises.

(9) Exemptions from Suitability Requirements

(a) Certain positions may be determined by the Government to be exempt from background investigative requirements. However, individual(s) employed or hired for such positions shall be escorted at all times while in or upon the Leased premises by FAA personnel located on-site or by an individual(s) employed or hired by the LESSOR, who has been properly investigated, favorable adjudicated, and authorized to provide escort services.

(b) When the Government determines any positions(s) to be exempt from investigative requirements, individuals employed in such positions are not required to complete the documentation as specified in subparagraph (d), (i), (ii), and (iii) of this Clause.

**Reporting Requirements**

(1) The LESSOR shall submit an initial report (to coincide with the effective date of this Lease) and subsequent quarterly reports (throughout the term of this Lease), providing the following information to the RECO, on or before the fifth day following each reporting period: A complete listing by full name, in alphabetical order, with the date of birth, place of birth (city, state, country), and position title of all individuals employed or hired by the LESSOR who will have or may require access to the Leased premises during the reporting period.

(2) The LESSOR shall notify the Government within one (1) day upon termination of any individual(s) employed or hired by the LESSOR to perform services under this Lease.

**Foreign Nationals Employed or Hired by the LESSOR**

(1) Each individual(s) employed or hired by the LESSOR to perform services under this Lease is to be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card Form I-151, or who presents other evidence from the United States Immigration and Naturalization Service that employment will not affect his/her immigration status.

(2) Aliens and foreign nationals employed or hired by the LESSOR to perform services under this Lease must have resided within the United States for three (3) years of the last five (5) years unless a waiver of this requirement has been granted by the SSE in accordance with FAA regulations.

**Government-Issued Keys, Identification Badges, Access Control Cards and Vehicle Decals**

(1) It may become necessary for the Government to issue keys, identification (ID) cards, vehicle decals, and/or access control cards to the LESSOR or to individual(s) employed or hired by the LESSOR to perform services. Immediately upon completion or termination of the Lease, the LESSOR shall return all such Government-issued items to the issuing office with notification to the RECO, or designee. When individuals who have been issued such items are terminated or are no longer required to perform work, the Government-issued items shall be returned to the Government within three (3) workdays. Improper use, possession or alteration of FAA issued keys, ID cards, access control cards is a violation of security procedures and is prohibited.

(2) In the event such keys, ID cards, vehicle decals or access control cards are not returned, the LESSOR understands and agrees that the Government may, in addition to any other withholding provision of the Lease, withhold fees to cover the cost of replacement for each key, ID card, vehicle decal and access control card not returned. If the keys, ID cards, vehicle decals, or access control cards are not returned within 30 days from the date the withholding action was initiated, the LESSOR will forfeit any amount so withheld.

(3) Access to aircraft ramp/hangar areas is authorized only to those individuals displaying a flight line identification card and for vehicles, a current ramp permit issued in accordance with Federal Aviation Regulations.
(4) The Government retains the right to inspect, inventory, or audit ID cards, keys, vehicle decals, and access control cards issued to the LESSOR or individual(s) employed or hired by the LESSOR to perform services in connection with the Lease at the convenience of the Government. Any items not accounted for to the satisfaction of the Government shall be assumed to be lost and the provisions of subparagraph (b) above shall apply.

Lease DTFASW-05-L-00043
System Support Unit (SSU)
Fayetteville Municipal Airport
Fayetteville, AR

(5) Keys and access control cards shall be obtained from the RECO, or designee, who will require the LESSOR, or individual(s) employed or hired by the LESSOR to perform services, to sign a receipt for each key obtained. Lost keys, ID cards, vehicle decals, and access control cards shall immediately be reported concurrently to the RECO, or designee, and the (RECO, or designee, to insert name of SSE staff and facility management office)

(6) Each individual(s) employed or hired by the LESSOR, during all times of on-site performance at the Government-leased facility, shall prominently display his/her current and valid identification card on the front portion of his/her body between the neck and waist.

(a) Individual(s) employed or hired by the LESSOR to perform services under this Lease shall submit complete documentation required under 1, Suitability Requirements for Individual(s) Employed or Hired by the LESSOR, above, and be authorized by the SSE to begin work prior to obtaining any ID media or vehicle decals.

(b) To obtain the ID card, each individual shall submit a DOT 1681 Form, signed by the individual and authorized by the RECO, or designee. The DOT 1681 shall be submitted at the same time the documentation outlined in 1, Suitability Requirements for Individual(s) Employed or Hired by the LESSOR, above is submitted. The DOT 1681 shall contain, at a minimum, under the "Credential Justification" heading, the name of the LESSOR, the Lease number or the appropriate acquisition identification number, the expiration date of the Lease or the service (whichever is sooner), and the required signatures. This paperwork shall be submitted to [RECO, or designee, to insert the name and location of the SSE staff] by the LESSOR in a sealed envelope either hand carried by the LESSOR or sent via U.S. mail to: [RECO or designee to insert mailing address]. The LESSOR will be notified when the DOT 1681 has been approved and is ready for processing by the [RECO, or designee, to insert name and location of the person who will process the document]. Arrangements for processing the identification cards, including photographs and lamination can be made by contacting [RECO, or designee, to insert point of contact with phone number].

(c) The LESSOR shall receive and sign for each ID card issued on the reverse of the DOT 1681. The Government, for accountability purposes, will track the DOT 1681.

(7) The LESSOR is responsible for ensuring final out-processing is completed for all departing individuals employed or hired by the LESSOR. Final out-processing will be completed by close of business the final workday for all individual(s) employed or hired by the LESSOR or the next day under special conditions. Contractor employee clearance forms, (RECO, or designee, to insert name of local contractor employee clearance form), will be completed by the LESSOR for each individual(s) employed or hired by the LESSOR to perform services, and copies will be distributed to the RECO, or designee, and the SSE, (RECO, or designee, to insert SSE staff) upon completion of such forms.

q. **The following clauses are incorporated by reference:** The full text of these clauses can be found via Internet at Space Lease Form

1. DEFAULT BY LESSOR (10/96)
2. COMPLIANCE WITH APPLICABLE LAWS (10/96)
3. OFFICIALS NOT TO BENEFIT (10/96)
4. COVENANT AGAINST CONTINGENT FEES (8/02)
5. ANTI-KICKBACK (10/96)
6. EXAMINATION OF RECORDS (10/96)
7. ELECTRONIC FUNDS TRANSFER (EFT) (11/97)
8. ASSIGNMENT OF CLAIMS (10/96)
9. SUBORDINATION, NONDISTRUBANCE AND ATTORNMENT (10/96)
10. INTEGRATED AGREEMENT (10/96)
11. EQUAL OPPORTUNITY (10/96)
12. AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS (10/96)
13. AFFIRMATIVE ACTION FOR DISABLED WORKERS (10/96)

Lease DTFASW-05-L-00043
System Support Unit (SSU)
Fayetteville Municipal Airport
Fayetteville, AR

IN WITNESS WHEREOF, the parties hereto have signed their names:

| 8a. NAME AND TITLE OF LESSOR/OWNER *(Type or Print)* | 8b. SIGNATURE OF OWNER | 8c. DATE |
|---|---|---|
| CITY OF FAYETTEVILLE, ARKANSAS<br>TAX ID # _____ | | SIGN HERE |

**THIS DOCUMENT IS NOT BINDING ON THE GOVERNMENT OF THE UNITED STATES OF AMERICA UNLESS SIGNED BELOW BY AUTHORIZED CONTRACTING OFFICER.**

| 9a. NAME OF REAL ESTATE CONTRACTING OFFICER *(Type or Print)* | 9b. SIGNATURE OF REAL ESTATE CONTRACTING OFFICER | 9c. DATE |
|---|---|---|
| SHARON E. WYNN | | |

Lease DTFASW-05-L-00043
System Support Unit (SSU)
Fayetteville Municipal Airport
Fayetteville, AR

# CORPORATE CERTIFICATE

I, _____, certify that I am the _____ of the Corporation named in the foregoing agreement, that _____ who signed on behalf to said corporation, was then _____ _____ thereof, that said agreement was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Dated this _____ day of _____, 20__.

Signed by _____

CORPORATE SEAL

STAFF REVIEW FORM - FINANCIAL OBLIGATION

___ AGENDA REQUEST
X CONTRACT REVIEW
___ GRANT REVIEW

Lease Agreement
DOT / FAA

For the Fayetteville City Council Meeting of: July 20, 2004

**FROM:**

| Ray M. Boudreaux | Aviation & Economic Development | General Government |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** Review and approve a lease contract with the Department of Transportation, Federal Aviation Administartion, c/o Property and Services Branch, ASW-54, Fort Worth, TX, 76193-0054, phone: Sharon E. Wynn, Contracting Officer, 817-222-4366, to lease property at the Fayetteville Municipal Airport, Drake Field., leased property address: 4370 S School, Fayetteville, AR, 72701.

Forward to the Mayor for signature.

**COST TO CITY:**

Revenue

| $28,200.00 | $ 993,609.00 | Chrgs-Serv |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 5550.0955.4455.00 | $ 526,005.00 | Airport Revenue |
| Account Number | Funds Used to Date | Program / Project Category Name |
| NA | $ 467,604.00 | General Government (Airport) |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** ✓ Budgeted Item ___ Budget Adjustment Attached

Budget Manager — Date: 7-2-04

**CONTRACT/GRANT/LEASE REVIEW:**

Accounting Manager — Date: 7/2/04

City Attorney — Date: 7/2/04

Internal Auditor — Date:

Purchasing Manager — Date: 7/2/04

**STAFF RECOMMENDATION:**

Division Head — Date:

Department Director — Date: 7/1/04

Finance & Internal Services Dir. — Date: 7-6-04

Chief Administrative Officer — Date: 7-6-04

Mayor — Date: 7/7/04

**Received in Mayor's Office** 7/6/04

Cross Reference:

Previous Ord/Res#: 117-99

Orig. Contract Date: Aug, 1999

Orig. Contract Number:

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

ENTERED 7-2-04 aw

City Council Meeting of

Agenda Item Number

# CITY COUNCIL AGENDA MEMO

**To:** Mayor Coody and City Council
**Thru:** Gary Dumas, Operations Director
**From:** Connie Edmonston, Parks & Recreation Director
**Date:** July 1, 2004
**Subject:** Wilson Park Basketball Court Renovation Project

## RECOMMENDATION

Approval of Bid #04-41 and award of contract to Tomlinson Asphalt Company, Inc. for renovation of the Wilson Park Basketball Court in the amount of $32,977 with a ten percent project contingency of $3,298, for a total project cost of $36,275.

## BACKGROUND

One of the most popular places to play basketball is Wilson Park. The courts are often full with teams waiting to play on the side. Even though the old courts are in bad condition, people continue to want to play at Wilson Park. The court surface needs repaired due to standing water, deterioating surface, and unsatisfactory safety boundaries. McClelland Engineers are under contract to design, prepare bid documents, and construction supervision for this project.

## DISCUSSION

This project basically consists of patching low areas in the asphalt, overlaying the court, applying a colored acrylic playing surface, stripping the courts, installing the basketball goals, and adding an asphalt ramp on the east side to meet ADA regulations. After consulting with citizens that utilize the basketball court at Wilson, it was concluded that the court was too long for recreational play. The court was shortened and two additional goals will be installed on the east side for participants who want to shoot baskets or are waiting to play a game. This project was limited in scope due to the trees surrounding the courts on the west and south ends, swimming pool drive way, drainage, and the slope on the north side. Projected schedule to complete this project is 1 to 2 weeks depending on the weather.

Bids were opened on June 21, 2004 with only one bid received by Tomlinson Asphalt Company in the amount of $32,977.

## BUDGET IMPACT

This is a CIP project included in the Parks Development Fund. Parks and Recreation Advisory Board approved additional funding for this project from the Park Land Dedication Southwest Park District Fund in the amount of $16,190 at the June 30, 2004 Special Meeting.

ENTERED
7-1-04
aw

**RESOLUTION NO. _____**

A RESOLUTION AWARDING A CONTRACT TO TOMLINSON ASPHALT COMPANY, INC. IN THE AMOUNT OF $32,977.00 FOR THE RENOVATION OF THE WILSON PARK BASKETBALL COURT; APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF $3,298.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards a contract to Tomlinson Asphalt Company, Inc. in the amount of $32,977.00 for the renovation of the Wilson Park basketball court.; and

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a project contingency in the amount of $3,298.00.

**PASSED** and **APPROVED** this 20th day of July 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

# DOCUMENT 00500

## CONTRACT

THIS AGREEMENT, made and entered into on the _____ day of _____, 2004, by and between Tomlinson Asphalt Company, Inc., herein called the Contractor, and the City of Fayetteville, Arkansas:

W I T N E S S E T H:

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

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Specifications and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled **Wilson Park Basketball Court Resurfacing Project**, dated May 2004.

| | |
|---|---|
| Advertisement for Bids | Payment Bond |
| Instructions to Bidders | General Conditions |
| Bid and acceptance thereof | Supplemental Conditions |
| Performance Bond | Specifications |
| | Drawings (1 Sheet Enclosed in App. C) |

2. That the City of Fayetteville hereby agrees to pay to the Contractor for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid in lawful money of the United States, the amount of: $32,977.

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

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

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

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

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

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

9. This contract will be interpreted and enforced according to the laws of the State of Arkansas.

10. City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the Contractor 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.

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

SEAL:

_____
CONTRACTOR

WITNESSES:

By _____

_____
Title

ATTEST:

CITY OF FAYETTEVILLE, ARKANSAS
OWNER

_____
City Clerk

By _____
Mayor

A-4
Tomlinson Asphalt-Wilson Park Basketball Court[1]
Page 6 of 12

BID: 04-41
DATE: 6/21/2004
TIME: 2:00 PM
CITY OF FAYETTEVILLE

## Wilson Park Basketball Court Re-surfacing

| | | | | |
|---|---|---|---|---|
| 1. Tomlinson Asphalt | $32,977.00 | $2,000.00 | $500.00 | $1,800.00 |

CERTIFIED BY: P Vice
P. VICE PURCH MGR

R Williams
WITNESS

6-21-04
DATE

Connie Edmonston - 1698_001.pdf

A.4.
Tomlinson Asphalt-Wilson Park Basketball Court
Page 7 of 12

# City Of Fayetteville

(Not a Purchase Order)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Vendor #: 3 | Vendor Name: Tomlinson Asphalt Company, Inc. | | | | | Requisition No.: | Date: 6/30/2004 | | |
| | | | | | | P.O Number: | Expected Delivery Date: | | |
| Address: | | | Fob Point: | | | Mail Yes:__ No:_X__ | | | |
| | | | | | | Taxable Yes:_ X No:___ | Quotes Attached Yes:____ No:__X__ | | |
| City: | State: | | Zip Code: | 75 | | Division Head Approval: | | | |
| Requester: Rachel Weber | | | Requester's Employee #: 2368 | | | Extension: 406 | | | |
| Item | Description | Quantity | Unit of Issue | Unit Cost | Extended Cost | Account Numbers | Project/Subproject # | Inventory # | Fixed Asset # |
| 1 | Wilson Park Basketball Court Resurfacing Project Per Bid 04-41 | 1 | LOT | 32,977.00 | $32,977.00 | 2250.9255.5314.00 | 00005.1 | | |
| 2 | | | | | | | | | |
| 3 | | | | | $0.00 | | | | |
| 4 | | | | | $0.00 | | | | |
| 5 | | | | | $0.00 | | | | |
| 6 | | | | | $0.00 | | | | |
| 7 | | | | | $0.00 | | | | |
| 8 | | | | | $0.00 | | | | |
| 9 | | | | | $0.00 | | | | |
| 10 | | | | | $0.00 | | | | |
| | Shipping/Handling | | Lot | | $0.00 | | | | |

Special Instructions:

_____

| | |
|---|---|
| Subtotal: | $32,977.00 |
| Tax: | |
| Total: | $32,977.00 |

Approvals:

Mayor: _____ Department Director:_____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager:_____

Dispatch Manager:_____ Utilities Manager:_____ Other:_____

Revised 6/17/03

# PARKS AND RECREATION ADVISORY BOARD

Special Meeting Minutes
June 30, 2004

**Opening:**
The special meeting of the Parks and Recreation Advisory Board was called to order at 5:33 p.m. on June 30, 2004 at Parks and Recreation Office 1455 Happy Hollow, Fayetteville, Arkansas by Connie Edmonston.

**Present:**
Parks and Recreation Advisory Board members Mauritson, Marley, Bailey, Colwell, Eads; City staff Edmonston, Hatfield, Malloy, and Weber and Audience.

**Discussion:**

**Arkansas Parks and Tourism Outdoor Grant**

Edmonston reviewed the requirements of the grant. Last year Parks and Recreation applied for this grant for the Lake Fayetteville Spillway Bridge and did not receive funding. The previous year $100,000 was awarded to Parks and Recreation for the Skate Park Project. The stipulations of the grant are a park boundary must be determined, funding for the project must be available, the property must be retained in perpetuity for outdoor recreation, must hold a public meeting, and bids and specs must be submitted with the grant application. From the public meetings Park Staff recommends Braden Park for the grant project.

**Mauritson moved to approve the request to apply for the Arkansas Parks and Tourism Outdoor Grant 50/50 matching funds for the development of Braden Park up to $50,000.**

**Bailey seconded the motion.**

**The motion was approved 5-0-0 with Bailey, Eads, Marley, Colwell, and Mauritson voting 'yes' with Pawlik Holmes, Hill, and Shoulders absent for the vote.**

**Wilson Park Basketball Court Resurfacing Project**

Tomlinson Asphalt Company, Inc. bid this project at $32,977. A 10% contingency in the amount of $3,298 for the project is needed with a

total cost of $36,275. There is a deficit of $16,190. This project was originally estimated three years ago at $20,000. The basketball court has been redesigned to improve the court allowing more goals for shooting. The basketball court surface will be like Walker Park Basketball Court.

**Mauritson moved to approve $16,190 from the Southwest Park District-Park Land Dedication Fund for Wilson Park basketball court renovation project.**

**Bailey seconded the motion.**

**The motion was approved 5-0-0 with Bailey, Eads, Marley, Colwell, and Mauritson voting 'yes' with Pawlik Holmes, Hill, and Shoulders absent for the vote.**

**Lake Fayetteville Spillway Bridge**

Two bids were received for this project. Sweetser Construction bid $1,321,760.50 and Mobley bid $877,709.20. The bids were so diverse because when a bidder is very busy, they bid according to their workload. The funds for this project were from several funds including Park Land Dedication Fund, State Grant Funding, and Capital Improvements The trail will be 12 feet wide and the bridge will have 4 piers. A study has been conducted to evaluate the soil and limestone. This project will allow better access for the citizens from one end of the park to another. The project will begin in August or September. The Lake Fayetteville Kiosk project is moving forward. This project will tie into the Lake Fayetteville Spillway Bridge project by using signage and general trails and parks information.

**Mauritson moved to approve the contract for Mobley in the amount of $877,709.20 for the Lake Fayetteville Spillway Bridge project.**

**Colwell seconded the motion.**

**The motion was approved 5-0-0 with Bailey, Eads, Marley, Colwell, and Mauritson voting 'yes' with Pawlik Holmes, Hill, and Shoulders absent for the vote.**

## Park Land Dedication Funds

Funds in the amount of $140,000 were requested and then approved by PRAB on May 14, 2004. These funds were verified from the Park Land Dedication Report which is included in your monthly PRAB Packet. This report is a month behind due to posting deadlines in our system. Due to the previous months request for $34,000 from this quadrant for the Lake Fayetteville Spillway Bridge at the April 5, 2004 PRAB meeting, these funds had not been posted causing the NE Quadrant to be overdrawn. Staff would like to decrease the $140,000 requested by $30,000. The request will change to $110,000 from the NE Quadrant for the Lake Fayetteville Spillway Bridge.

**Marley moved to amend the previous motion from the May 14, 2004 by decreasing the amount of Park Land Dedication Funds requested from the Northeast Park District from $140,000 to $110,000.**

**Mauritson seconded the motion.**

**The motion was approved 5-0-0 with Bailey, Eads, Marley, Colwell, and Mauritson voting 'yes' with Pawlik Holmes, Hill, and Shoulders absent for the vote.**

## Other Business

Colwell stated there was a Mountain Bike Race held at the North Pavilion at Veterans Memorial Park. Colwell explained this facility is ideal for events like these. At Lake Sequoyah there is a great opportunity for trails that accommodate both walkers and riders.

Adjournment

Meeting was adjourned at 6:10 p.m.

Minutes submitted by: Rachel Weber

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
X CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: July 20, 2004

**FROM:**

| Connie Edmonston | Parks & Recreation | Operations |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** Approval of Bid #04-41 and award of contract to Tomlinson Asphalt Company, Inc. for renovation of the Wilson Park Basketball Court in the amount of $32,977 with a project contingency amount $3,298 for a total project cost of $36,275.

**COST TO CITY:**

| | | |
|---|---|---|
| $36,275.00 | $ 45,070.00 | Tennis/Basketball Surface Renov |
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 2250-9255-5806.00 | $ 8,795.00 | Park Development |
| Account Number | Funds Used to Date | Program / Project Category Name |
| 00005.1 | $ 36,275.00 | Park Development |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** xx Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 7-1-04

**CONTRACT/GRANT/LEASE REVIEW:**

Accounting Manager — Date: 7/1/04

Internal Auditor — Date: 7/1/04

City Attorney — Date: 7/1/04

Purchasing Manager — Date: 7/2/04

**STAFF RECOMMENDATION:** Approval of contract and bid award

Division Head — Date: 6-30-04

Department Director — Date: 63004

Finance & Internal Services Dir. — Date: 7-6-04

Chief Administrative Officer — Date: 7-7-04

Mayor — Date: 7/7/04

**Received in Mayor's Office** — Date: 7/2/04 P.H.

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: (Yes) No

ENTERED 7-1-04 AW

City Council Meeting of

Agenda Item Number

# CITY COUNCIL AGENDA MEMO

**To:** Mayor Coody and City Council
**Thru:** Gary Dumas, Operations Director
**From:** Connie Edmonston, Parks & Recreation Director CE
**Date:** June 30, 2004
**Subject:** Arkansas Parks and Tourism Outdoor Grant Program

## RECOMMENDATION

Approval of a resolution authorizing the City to apply for up to $50,000 from the Arkansas Parks and Tourism 2005 Outdoor Recreation Grant for the development of Braden Park.

## BACKGROUND

Arkansas Parks and Tourism Outdoor 2005 Grants Program's purpose is to build outdoor recreation facilities. The grant requires a park boundary be determined in which must remain for outdoor recreation purposes for perpetuity. This is a 50/50 reimbursable matching grant program. This grant is funded by two sources:

1. Land and Water Conservation Fund (LWCF) is a federal program derived from the sale of federal surplus property, federal motor fuel tax and the Outer Continental Shelf mineral receipts.
2. Arkansas Natural and Cultural Resources Grant and Trust Fund (NCRGTF) is a state program based on funds collected from a tax on the transfer of certain real estate in the State of Arkansas.

In 2004, 63 cities applied for more than $7 million. Only 28 of the applicants received a total of $2.2 million available. Projections indicate there will be similar funds available in 2005. In 2003, the City of Fayetteville received $100,000 for construction of the skate park at Walker Park. Our city requested $250,000 matching funds for the Lake Fayetteville Spillway Bridge project in 2004; however, the project was not awarded grant funds. Park and Recreation Staff will be writing the grant application for 2005 which must include detailed budgets, site plans, and bidding and construction documents. The grant will be awarded by the Governor in January/February of 2005.

## DISCUSSION

Two public meetings were held on June 22 and 23, 2004 to gather citizen input of recreational desires within our City and to prioritize an eligible grant project. An outreach to ethnic minority populations, the elderly, and persons with diabilities was attained through group meetings, e-mails, distribution of public meeting brochures and telephone conversations. It was the consenus of citizens attending the meetings to develop Braden Park. Braden Park is located in Covington Subdivision, which is north of Vandergriff School off of Township. Braden Park was obtained by the Park Land Dedication Ordinance in 1999. It contains 2.25 acres uniquely shaped in a tear drop design within an island surrounded by the street and homes. The neighborhood has been very persistant over the past 4 years requesting development of the park. At the public meetings, the Braden Park neighborhood shared there ideas for the ammenities they wanted in the park. Park Planners will design the requested features in a park master plan

ENTERED 7-1-04 AW

**RESOLUTION NO. _____**

A RESOLUTION AUTHORIZING THE FAYETTEVILLE PARKS AND RECREATION DIVISION TO APPLY FOR AN ARKANSAS PARKS AND TOURISM OUTDOOR RECREATION GRANT IN AN AMOUNT UP TO FIFTY THOUSAND DOLLARS ($50,000.00) FOR THE BRADEN PARK PROJECT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Fayetteville Parks and Recreation Division to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount up to Fifty Thousand Dollars ($50,000.00) for the Braden Park Project.

**PASSED** and **APPROVED** this 20th day of July 2004.

APPROVED:

By: _____
**DAN COODY,** Mayor

ATTEST:

By: _____
**SONDRA SMITH,** City Clerk

DRAFT

that will be presented to the neighborhood and Parks and Recreation Advisory Board for final approval.

Parks and Recreation staff and Parks and Recreation Advisory Board endorses the development of Braden Park as an eligible project for this grant. See attached PRAB Special Meeting Minutes on June 3, 2004.

**BUDGET IMPACT**

2004 CIP Sales Tax Fund included $40,000 for Neighborhood Park Development in Braden Park. Additional funds of $10,000 would be obtained through the Park Land Dedication Fund – NE Park District or through private donations meeting the grant criteria. This grant will enable the project to have matching funds for a possible total of $100,000 of development in the park.

Attachment:
PRAB Meeting Minutes June 30, 2004
Resolution
Public Meeting Minutes-2

# PARKS AND RECREATION ADVISORY BOARD

Special Meeting Minutes
June 30, 2004

**Opening**:
The special meeting of the Parks and Recreation Advisory Board was called to order at 5:33 p.m. on June 30, 2004 at Parks and Recreation Office 1455 Happy Hollow, Fayetteville, Arkansas by Connie Edmonston.

**Present**:
Parks and Recreation Advisory Board members Mauritson, Marley, Bailey, Colwell, Eads; City staff Edmonston, Hatfield, Malloy, and Weber and Audience.

**Discussion:**

**Arkansas Parks and Tourism Outdoor Grant**

Edmonston reviewed the requirements of the grant. Last year Parks and Recreation applied for this grant for the Lake Fayetteville Spillway Bridge and did not receive funding. The previous year $100,000 was awarded to Parks and Recreation for the Skate Park Project. The stipulations of the grant are a park boundary must be determined, funding for the project must be available, the property must be retained in perpetuity for outdoor recreation, must hold a public meeting, and bids and specs must be submitted with the grant application. From the public meetings Park Staff recommends Braden Park for the grant project.

**Mauritson moved to approve the request to apply for the Arkansas Parks and Tourism Outdoor Grant 50/50 matching funds for the development of Braden Park up to $50,000.**

**Bailey seconded the motion.**

**The motion was approved 5-0-0 with Bailey, Eads, Marley, Colwell, and Mauritson voting 'yes' with Pawlik Holmes, Hill, and Shoulders absent for the vote.**

**Wilson Park Basketball Court Resurfacing Project**

Tomlinson Asphalt Company, Inc. bid this project at $32,977. A 10% contingency in the amount of $3,298 for the project is needed with a

total cost of $36,275. There is a deficit of $16,190. This project was originally estimated three years ago at $20,000. The basketball court has been redesigned to improve the court allowing more goals for shooting. The basketball court surface will be like Walker Park Basketball Court.

**Mauritson moved to approve $16,190 from the Southwest Park District-Park Land Dedication Fund for Wilson Park basketball court renovation project.**

**Bailey seconded the motion.**

**The motion was approved 5-0-0 with Bailey, Eads, Marley, Colwell, and Mauritson voting 'yes' with Pawlik Holmes, Hill, and Shoulders absent for the vote.**

**Lake Fayetteville Spillway Bridge**

Two bids were received for this project. Sweetser Construction bid $1,321,760.50 and Mobley bid $877,709.20. The bids were so diverse because when a bidder is very busy, they bid according to their workload. The funds for this project were from several funds including Park Land Dedication Fund, State Grant Funding, and Capital Improvements The trail will be 12 feet wide and the bridge will have 4 piers. A study has been conducted to evaluate the soil and limestone. This project will allow better access for the citizens from one end of the park to another. The project will begin in August or September. The Lake Fayetteville Kiosk project is moving forward. This project will tie into the Lake Fayetteville Spillway Bridge project by using signage and general trails and parks information.

**Mauritson moved to approve the contract for Mobley in the amount of $877,709.20 for the Lake Fayetteville Spillway Bridge project.**

**Colwell seconded the motion.**

**The motion was approved 5-0-0 with Bailey, Eads, Marley, Colwell, and Mauritson voting 'yes' with Pawlik Holmes, Hill, and Shoulders absent for the vote.**

## Park Land Dedication Funds

Funds in the amount of $140,000 were requested and then approved by PRAB on May 14, 2004. These funds were verified from the Park Land Dedication Report which is included in your monthly PRAB Packet. This report is a month behind due to posting deadlines in our system. Due to the previous months request for $34,000 from this quadrant for the Lake Fayetteville Spillway Bridge at the April 5, 2004 PRAB meeting, these funds had not been posted causing the NE Quadrant to be overdrawn. Staff would like to decrease the $140,000 requested by $30,000. The request will change to $110,000 from the NE Quadrant for the Lake Fayetteville Spillway Bridge.

**Marley moved to amend the previous motion from the May 14, 2004 by decreasing the amount of Park Land Dedication Funds requested from the Northeast Park District from $140,000 to $110,000.**

**Mauritson seconded the motion.**

**The motion was approved 5-0-0 with Bailey, Eads, Marley, Colwell, and Mauritson voting 'yes' with Pawlik Holmes, Hill, and Shoulders absent for the vote.**

## Other Business

Colwell stated there was a Mountain Bike Race held at the North Pavilion at Veterans Memorial Park. Colwell explained this facility is ideal for events like these. At Lake Sequoyah there is a great opportunity for trails that accommodate both walkers and riders.

Adjournment

Meeting was adjourned at 6:10 p.m.

Minutes submitted by: Rachel Weber

## RESOLUTION NO. _____

WHEREAS, _____, Arkansas seeks to improve the recreation facilities and wishes to seek grant funding assistance; and

WHEREAS, in order to obtain the funds necessary to develop and/or improve the site for such a recreation area, it is necessary to obtain a 50/50 Matching Grant from the Arkansas Department of Parks and Tourism's Outdoor Recreation Grant Program; and

WHEREAS, the plans for such recreation areas have been prepared and the price therefore has been established; and

WHEREAS, this governing body understands the grantee and grantor will enter into a binding agreement which obligates both parties to policies and procedures contained in the *Land and Water Conservation Fund Grants Manual* including, but not limited to the following; the park area defined by the project boundary map, submitted in the application, must remain in outdoor recreation use in perpetuity, regardless if the property is bought or developed with matching grant funds and; all present and future overhead utility lines within the project boundary must be routed away or placed underground and; the project area must remain open and available for use by the public at all resonable times of the day and year; facilities can be reserved for special events, league play, etc. but cannot be reserved, leased or assigned for exclusive use, and; the project area must be kept clean, maintained, and operated in a safe and healthful manner.

City Council/Quorum Court is well aware and apprised of the above-mentioned project, and will provide the local portion of the development cost of the entire project:.

NOW, THEREFORE, BE IT RESOLVED by the City Council/Quorum Court of _____, Arkansas that the Mayor/County judge is hereby authorized to make application to the Arkansas Department of Parks and Tourism for assistance to develop recreational facilities for the City/County; therefore such application shall be submitted as expediently as possible.

Passed this _____ day of _____, 2004.

APPROVED: _____ _____

Mayor/County Judge Clerk

# FAYETTEVILLE PARKS & RECREATION
# PUBLIC MEETING

Meeting Minutes
June 22, 2004

**Opening:**
Fayetteville Parks and Recreation hosted a public meeting at 5:30 p.m. in Vandergriff Elementary Gymnasium, Fayetteville, Arkansas 72701 for the purpose of obtaining public input for a subsequent grant application to the Arkansas Department of Parks and Tourism for matching grant funds.

**Present:**
Parks and Recreation staff Connie Edmonston, Steve Hatfield, Alison Jumper, Rebecca Ohman, Korey Malloy, and Rachel Weber; and Citizens Jeffery Kellar, Scott Vaughan, Kathleen Wong, Brandt Smith, Mary Jo Horn, Frances McAdam, and Cindy Stokes.

**Agenda**
The Arkansas Department of Parks and Tourism Outdoor Recreation Grants Program is a 50/50 matching grant. Funding for the grant comes from the Arkansas Natural and Cultural Resources Grant and Trust Fund and the federal Land and Water Conservation Fund. The purpose of the grant is to build outdoor recreation facilities.

**Discussion**
Parks Director Connie Edmonston explained requirements of the grant application and asked those in attendance for input for the planning of this application.

Prior to developing a park, Ms. Edmonston said a series of public meetings were needed to determine requests, a master plan of the park prepared, and approval from the Parks and Recreation Advisory Board. Because of strict grant requirements, potential projects are constricted because they must be ready to start once the application is made.

Attendees expressed a desire for Braden Neighborhood Park development. The 10 Year Parks Master Plan recommends the development of neighborhood parks network as a high priority based on public input

The citizens expressed the following needs for Braden Park

- Green space
- Play Structures
- Natural Area
- One Large Evergreen Tree w/ sidewalk for gathering
- Mulched paths throughout wooded areas
- Lighting
- Irrigation

- Dog Pots
- Signage
- Garden Club (In-kind)

Following discussion of possible projects, attendees supported the plan of applying for the matching grant for development of Braden Park.

**Adjournment**:
Meeting was adjourned at 6:45 p.m.

Minutes submitted by: Rachel Weber
Parks & Recreation Operations Assistant

# FAYETTEVILLE PARKS & RECREATION
# PUBLIC MEETING

Meeting Minutes
June 23, 2004

**Opening**:
Fayetteville Parks and Recreation hosted a public meeting at 12:00 p.m. in Room 219 of the City Administration Building located at 113 W. Mountain St., Fayetteville, Arkansas 72701 for the purpose of obtaining public input for a subsequent grant application to the Arkansas Department of Parks and Tourism for matching grant funds.

**Present**:
Parks and Recreation staff Connie Edmonston, Korey Malloy, and Rachel Weber; and Citizens Marian Kunetka, Cindy Stokes, and Frances McAdam

**Agenda**
The Arkansas Department of Parks and Tourism Outdoor Recreation Grants Program is a 50/50 matching grant. Funding for the grant comes from the Arkansas Natural and Cultural Resources Grant and Trust Fund and the federal Land and Water Conservation Fund. The purpose of the grant is to build outdoor recreation facilities.

**Discussion**
Parks Director Connie Edmonston explained requirements of the grant application and asked those in attendance for input for the planning of this application.

Prior to developing a park, Ms. Edmonston said a series of public meetings were needed to determine requests, a master plan of the park prepared, and approval from the Parks and Recreation Advisory Board. Because of strict grant requirements, potential projects are constricted because they must be ready to start once the application is made.

Attendees expressed a desire for Braden Neighborhood Park development. Cindy Stokes, member of Covington Neighborhood Association, said their neighborhood would like to have trails, benches, picnic area, a fire pit, and a small playground structure developed in this park. She also said the neighborhood would be willing to donate time for landscaping installation and maintenance as well as the funds to install an irrigation system within the park. Marian Kunetka said Walker Park Entry Sign would not really meet the recreational needs for this grant. The 10 Year Parks Master Plan recommends the development of neighborhood parks network as a high priority based on public input

Cindy Stokes expressed the following needs for Braden Park

- Lighting
- Sidewalks
- Benches
- Fire pit

- Playground
- Trails to link other neighborhoods
- Trail to Timbercrest

Marian Kunctka expressed the following needs for Walker Park:

- Benches along the new trails
- New trails to be linked
- Dog Pots
- Trash Cans
- Cleanup of Creek
- North Parking Lot Resurface
- Swimming Pool located at this park

Alex Stokes would like to see less smoking and no glass at the Walker Skate Park.

Following discussion of possible projects, attendees supported the plan of applying for the matching grant for development of Braden Park.

**Adjournment**:
Meeting was adjourned at 12:47 p.m.

Minutes submitted by: Rachel Weber
Parks & Recreation Operations Assistant

STAFF REVIEW FORM - FINANCIAL OBLIGATION

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Connie Edmonston | Parks & Recreation | Operations |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** Approval of a resolution authorizing the City to apply for up to $50,000 from the Arkansas Parks and Tourism Outdoor Recreation Grant for the Braden Park Project.

**COST TO CITY:**

| $50,000.00 | $ 50,000.00 | Neighborhood Park Development |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 4470.9470.5806300 | | Neighborhood Park Dev/ |
| 1010.1505.01 | $ - | Park Land Dedication - NE |
| Account Number | Funds Used to Date | Program / Project Category Name |
| 02013.1 | $ 50,000.00 | SalesTax/Park Land Dedication-NE |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — 7/10/4 Date

**CONTRACT/GRANT/LEASE REVIEW:**

Accounting Manager — 7/1/04 Date
Internal Auditor — 7/1/04 Date
City Attorney — 7/1/04 Date
Purchasing Manager — 7/2/04 Date

**STAFF RECOMMENDATION:** Approval of Resolution

Division Head — 6-30-04 Date
Department Director — 7-5-04 Date
Finance & Internal Services Dir. — 7-6-04 Date
Chief Administrative Officer — 7-6-04 Date
Mayor — 7/7/04 Date

**Received in Mayor's Office** 7/2/04 Date P.M.

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

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

ENTERED 7-01-04 AW

**CITY OF FAYETTEVILLE**
FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville AR 72701

# Interdepartmental Correspondence

**To:** Mayor/City Council

**Thru:** Gary Dumas, Director of Operations

**From:** David Bragg, Fleet Operations Superintendent *BBlan for D. Bragg*

**Date:** July 2, 2004

**Subject:** Purchase of 1 Right of Way Tractor with Mower

RECOMMENDATION: That City Council approve the purchase of a New Holland TS115A Tractor from Williams Tractor and a Tiger TRB-50C 20 foot side Mower from Countryside JD.

BACKGROUND: The Right of Way Tractor/mower, Unit #544 is 10 years old and in need of replacement.

The lowest bid for the New Holland tractor meets all specifications ($43,399.00). The lowest bid for the Tiger mower meets all specifications (24,460.00 each). The Alamo mower does not offer a safety brake valve or hydraulically controlled cutter head safety shield as specified. Both vendors have agreed to accept a split bid with the mower to be mounted on the New Holland tractor by the Tiger dealer.

Funds for this purchase are available in 9700.1920.5802.00, project #02083. Total cost for the tractor and mower will be $67,859.00

The recommendation to purchase this unit was presented to the Equipment Committee at the meeting of July 6, 2004.

**RESOLUTION NO. _____**

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) NEW HOLLAND TS115A TRACTOR FROM WILLIAMS TRACTOR AND ONE (1) TIGER TRB-50C 20' SIDE MOWER FROM COUNTRYSIDE JD IN THE AMOUNT OF $67,859.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one (1) New Holland TS115A tractor from Williams Tractor and one (1) Tiger TRB-50C 20' side mower from Countryside JD in the amount of $67,859.00.

**PASSED** and **APPROVED** this 20th day of July 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

DRAFT

# City of Fayetteville, Arkansas
## Request for Expansion/Replacement Equipment

Division: Transportation Program: Street-Right of Way Date of Request: 7-2-4

Acct.# Currently Charged: 2100-4110 Acct. # to be Charged: 2100-4110

Expansion ___ or Replacement X Date Required: _____

Unit # for Vehicle being Replaced: 541, 542, 543 + 544 Unit # for Expansion/Replacement: 578, 579 + 580

Purchase Price of Exp./Replace Vehicle: 197,191.00 CIP Budget / Project #4200.1920.5802 02083

~~Monthly~~ Motor Pool Charges for Current and/or Replacement Vehicle/Equipment: TOTAL FOR 4 UNITS:

Replacement: 0 Maintenance: 12,972.00 Overhead: 6936.00

# of Months Budgeted: 12 Total Budgeted: 19908.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment: TOTAL FOR 3 UNITS

Replacement: 899.00 each Maintenance: 150.00 each Overhead: 65.00 each

# of Months to be in Service for Current Year: 3 Old 9 months Current Year Expense: 1493.
New 3 months
TOTAL $ 10026.
24957

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

2 New Holland TS115A Tractors w/ Tiger TRR120C side + rear mowers;
1 New Holland TS115A Tractor w/ Tiger TRB-50C 20' mower.

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

The old units are 10 years old and in need of replacement.

Approval Signatures:

| | | | |
|---|---|---|---|
| Division Head | 7/2/14 Date | Finance & Internal Services Dir. | Date |
| Fleet Operations Superintendent | 7-2-4 Date | Chief Administrative Officer | Date |
| Budget Manager | Date | Mayor | Date |
| Department Director | Date | | |

Please return original form to Fleet when signed by all.

# CITY OF FAYETTEVILLE

## FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville AR 72701

## Interdepartmental Correspondence

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

**From:** David Bragg, Fleet Operations Supt.

**Date:** July 1, 2004

**Subject:** Purchase of 3 Replacement Right of Way Mowers

Bids were opened on June 17, 2004 for two tractors with twin side and rear mowers for use by Transportation Division. Two bids were received:

| | Tractor | Price | Mower | Price |
|---|---|---|---|---|
| Williams Tractor | New Holland TS115A | $44,399.00 | Alamo Versa | $21,199.00 |
| Countryside JD | John Deere 6420 | $56,924.00 | Tiger TRR120C | $20,267.00 |

The lowest bid for the New Holland tractor meets all specifications. The lowest bid for the Tiger mower meets all specifications. The Alamo mower does not offer a safety brake valve specified. Both vendors have agreed to accept a split bid with the mowers to be mounted on the New Holland tractor by the Tiger dealer. I recommend acceptance of the lowest bid from Williams tractor for two New Holland tractors in the amount of $88,798.00 and the lowest bid from Countryside Farm Equipment Co. for two Tiger mowers in the amount of $40,534.00.

Since these mowers each have two 60" cutter heads they will replace three units with one 60" cutter head each and free one operator for other duties. Units 541, 542, and 543 are all 10 years old and in need of replacement. Funds are available in Replacement Project Account 02083 for this purchase.

Bids were opened on June 17, 2004 for one tractor with 20 foot reach side mower for use by Transportation Division. Two bids were received:

| | Tractor | Price | Mower | Price |
|---|---|---|---|---|
| Williams Tractor | New Holland TS115A | $43,399.00 | Alamo Versa Boom | $27,499.00 |
| Countryside JD | John Deere 6420 | $56,924.00 | Tiger TRB-50C | $24,460.00 |

The lowest bid for the New Holland tractor meets all specifications. The lowest bid for the Tiger mower meets all specifications. The Alamo mower does not offer a safety brake valve or hydraulically controlled cutter head safety shield specified. Both vendors have agreed to accept a split bid with the mower to be mounted on the New Holland tractor by the Tiger dealer. I recommend acceptance of the lowest bid from Williams tractor for one New Holland tractor in the amount of $43,399.00 and the lowest bid from Countryside Farm Equipment Co. for one Tiger mower in the amount of $24,460.00.

This mower will replace unit 544 which is 10 years old and in need of replacement. Funds are available in Replacement Project Account 02083 for this purchase.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

David Bragg — Name
Fleet Operations — Division
Operations — Department

ACTION REQUIRED:

Approval of purchase of one New Holland TS115A Tractor w/ Tiger TRB-SDC 20' side mower.

COST TO CITY:

67,859.00 — Cost of this request
$ 338,556.00 — Category/Project Budget
Tractors/Mowers — Program Category / Project Name

9700.1920.5802.00 — Account Number
$ 129,407.00 — Funds Used to Date
Vehicles & Equipment — Program / Project Category Name

02083 — Project Number
$ 209,149.00 — Remaining Balance
Shop. — Fund Name

BUDGET REVIEW:

X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — 7-6-04 Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — 7/6/04 Date
Internal Auditor — Date
City Attorney — 7/7/04 Date
Purchasing Manager — 7-7-04 Date

STAFF RECOMMENDATION:

Division Head — 7/2/04 Date

Received in Mayor's Office — 7-7-04 Date

Department Director — Date

Finance & Internal Services Dir. — 7-7-04 Date

Chief Administrative Officer — 7-7-04 Date

Mayor — 7/7/04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7-2-04 AW

Staff Review Form - Page 2

Description N.H. Tractor w/ Mower Meeting Date July 20, 2004

Comments:

Budget Manager

Reference Comments:

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

# Fax Cover Sheet

| | |
|---|---|
| TO: | |
| COMPANY: | City of Fay - City Clerk office |
| ATTENTION: | Clarita |
| FAX NUMBER: | 718-7695 |
| NUMBER OF SHEETS INCLUDING COVER SHEET: | 3 |
| COMMENTS: | Copies of acceptance by Equipment Committee for purchase of 3 Replacement Right of Way Mowers. These I believe are on the Agenda meeting for July 20TH. |
| FROM: | Margaret Hattabaugh |
| DATE: | 7/7/04 |
| PHONE NUMBER: | 479-444-3495 |
| FAX NUMBER: | 479-444-3425 |

**CITY OF FAYETTEVILLE**
FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville AR 72701

## Interdepartmental Correspondence

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

**From:** David Bragg, Fleet Operations Supt.

**Date:** July 1, 2004

**Subject:** Purchase of 3 Replacement Right of Way Mowers

Bids were opened on June 17, 2004 for two tractors with twin side and rear mowers for use by Transportation Division. Two bids were received:

| | Tractor | Price | Mower | Price |
|---|---|---|---|---|
| Williams Tractor | New Holland TS115A | $44,399.00 | Alamo Versa | $21,199.00 |
| Countryside JD | John Deere 6420 | $56,924.00 | Tiger TRR120C | $20,267.00 |

The lowest bid for the New Holland tractor meets all specifications. The lowest bid for the Tiger mower meets all specifications. The Alamo mower does not offer a safety brake valve specified. Both vendors have agreed to accept a split bid with the mowers to be mounted on the New Holland tractor by the Tiger dealer. I recommend acceptance of the lowest bid from Williams tractor for two New Holland tractors in the amount of $88,798.00 and the lowest bid from Countryside Farm Equipment Co. for two Tiger mowers in the amount of $40,534.00.

Since these mowers each have two 60" cutter heads they will replace three units with one 60" cutter head each and free one operator for other duties. Units 541, 542, and 543 are all 10 years old and in need of replacement. Funds are available in Replacement Project Account 02083 for this purchase.

Bids were opened on June 17, 2004 for one tractor with 20 foot reach side mower for use by Transportation Division. Two bids were received:

| | Tractor | Price | Mower | Price |
|---|---|---|---|---|
| Williams Tractor | New Holland TS115A | $43,399.00 | Alamo Versa Boom | $27,499.00 |
| Countryside JD | John Deere 6420 | $56,924.00 | Tiger TRB-50C | $24,460.00 |

**CITY OF FAYETTEVILLE**
FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville AR 72701

# Interdepartmental Correspondence

**To:** Mayor/City Council

**Thru:** Gary Dumas, Director of Operations

**From:** David Bragg, Fleet Operations Superintendent

**Date:** July 2, 2004

**Subject:** Purchase of 2 Right of Way Tractors with Mowers

RECOMMENDATION: That City Council approve the purchase of 2 New Holland TS115A Tractors from Williams Tractor and 2 Tiger TRR120C Mowers from Countryside JD.

BACKGROUND: The three Right of Way Tractor/mowers (Units 541, 542, and 543) are all 10 years old and in need of replacement. Since the recommended replacement mowers have **two** 60" cutter heads each, the two units will replace the three old units which have one 60" cutter head each. This will free one operator for other duties.

The lowest bid for the New Holland tractor meets all specifications ($44,399.00 each.) The lowest bid for the Tiger mower meets all specifications (20,267.00 each.) The Alamo mower does not offer a safety brake valve as specified. Both vendors have agreed to accept a split bid with the mowers to be mounted on the New Holland tractor by the Tiger dealer.

Funds for this purchase are available in 9700.1920.5802.00, project #02083. Total cost for two tractors and two mowers will be $129,332.00

The recommendation to purchase these two units was presented to the Equipment Committee at the meeting of July 6, 2004.

**RESOLUTION NO. _____**

A RESOLUTION APPROVING THE PURCHASE OF TWO (2) NEW HOLLAND TS115A TRACTORS FROM WILLIAMS TRACTOR AND TWO (2) TIGER TRR120C MOWERS FROM COUNTRYSIDE JD IN THE AMOUNT OF $129,332.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of two (2) New Holland TS115A tractors from Williams Tractor and two (2) Tiger TRR120C mowers from Countryside JD in the amount of $129,332.00.

**PASSED** and **APPROVED** this 20th day of July 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

DRAFT

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

David Bragg (Name) | Fleet Operations (Division) | Operations (Department)

ACTION REQUIRED:

Approval of purchase of 2 New Holland T5115A Tractors w/ Tiger TRR120C mowers.

COST TO CITY:

| | | |
|---|---|---|
| 129,332.00 Cost of this request | $ 338,556.00 Category/Project Budget | Tractors / Mowers Program Category / Project Name |
| 9700.192058020 Account Number | $ 75.00 Funds Used to Date | Vehicles & Equipment Program / Project Category Name |
| 02083 Project Number | $ 338,481.00 Remaining Balance | Shop Fund Name |

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — 7-6-04 Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fortner — 7/6/04 Date (Accounting Manager)

D. J. White — 7/7/04 Date (City Attorney)

____ — ____ Date (Internal Auditor)

P Clico — 7-7-04 Date (Purchasing Manager)

STAFF RECOMMENDATION:

R Bragg — 7/2/04 Date (Division Head)

____ — ____ Date (Department Director)

Scott Shamp — 7-7-04 Date (Finance & Internal Services Dir.)

Hugh Earnest — 7-7-04 Date (Chief Administrative Officer)

Dan Coody — 7/7/04 Date (Mayor)

Received in Mayor's Office 7-7-04 Date

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

New Item: Yes No

ENTERED 7-7-04 aw

Staff Review Form - Page 2

Description 2 Tractors w/ mowers Meeting Date July 20, 2004

Comments:

Budget Manager

Reference Comments:

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

# City of Fayetteville, Arkansas
## Request for Expansion/Replacement Equipment

Division: Transportation Program: Street-Right of Way Date of Request: 7-2-4

Acct.# Currently Charged: 2100-4110 Acct. # to be Charged: 2100-4110

Expansion ___ or Replacement X Date Required: _____

Unit # for Vehicle being Replaced: 541, 542, 543 + 544 Unit # for Expansion/Replacement: 578, 579 + 580

Purchase Price of Exp./Replace Vehicle: 197,191.00 CIP Budget / Project #9700.1920.5802 02083

~~Monthly~~ Motor Pool Charges for Current and/or Replacement Vehicle/Equipment: TOTAL FOR 4 UNITS:

Replacement: 0 Maintenance: 12,972.00 Overhead: 6936.00

# of Months Budgeted: 12 Total Budgeted: 19908.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment: TOTAL FOR 3 UNITS

Replacement: 899.00 each Maintenance: 150.00 each Overhead: 65.00 each

# of Months to be in Service for Current Year: 3 Old 9 months Current Year Expense: 1493.
New 3 months
TOTAL $ 24957 - 10026.

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

2 New Holland TS115A Tractors w/ Tiger TRR120C side + rear mowers;
1 New Holland TS115A Tractor w/ Tiger TRB-50C 20' mower.

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

The old units are 10 years old and in need of replacement.

Approval Signatures:

| | | | |
|---|---|---|---|
| Division Head | 7/2/14 Date | Finance & Internal Services Dir. | Date |
| Fleet Operations Superintendent | 7-2-4 Date | Chief Administrative Officer | Date |
| Budget Manager | Date | Mayor | Date |
| Department Director | Date | Please return original form to Fleet when signed by all. | |

# CITY OF FAYETTEVILLE

## FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville AR 72701

## Interdepartmental Correspondence

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

**From:** **David Bragg, Fleet Operations Supt.**

**Date:** **July 1, 2004**

**Subject:** **Purchase of 3 Replacement Right of Way Mowers**

Bids were opened on June 17, 2004 for two tractors with twin side and rear mowers for use by Transportation Division. Two bids were received:

| | Tractor | Price | Mower | Price |
|---|---|---|---|---|
| Williams Tractor | New Holland TS115A | $44,399.00 | Alamo Versa | $21,199.00 |
| Countryside JD | John Deere 6420 | $56,924.00 | Tiger TRR120C | $20,267.00 |

The lowest bid for the New Holland tractor meets all specifications. The lowest bid for the Tiger mower meets all specifications. The Alamo mower does not offer a safety brake valve specified. Both vendors have agreed to accept a split bid with the mowers to be mounted on the New Holland tractor by the Tiger dealer. I recommend acceptance of the lowest bid from Williams tractor for two New Holland tractors in the amount of $88,798.00 and the lowest bid from Countryside Farm Equipment Co. for two Tiger mowers in the amount of $40,534.00.

Since these mowers each have two 60" cutter heads they will replace three units with one 60" cutter head each and free one operator for other duties. Units 541, 542, and 543 are all 10 years old and in need of replacement. Funds are available in Replacement Project Account 02083 for this purchase.

Bids were opened on June 17, 2004 for one tractor with 20 foot reach side mower for use by Transportation Division. Two bids were received:

| | Tractor | Price | Mower | Price |
|---|---|---|---|---|
| Williams Tractor | New Holland TS115A | $43,399.00 | Alamo Versa Boom | $27,499.00 |
| Countryside JD | John Deere 6420 | $56,924.00 | Tiger TRB-50C | $24,460.00 |

The lowest bid for the New Holland tractor meets all specifications. The lowest bid for the Tiger mower meets all specifications. The Alamo mower does not offer a safety brake valve or hydraulically controlled cutter head safety shield specified. Both vendors have agreed to accept a split bid with the mower to be mounted on the New Holland tractor by the Tiger dealer. I recommend acceptance of the lowest bid from Williams tractor for one New Holland tractor in the amount of $43,399.00 and the lowest bid from Countryside Farm Equipment Co. for one Tiger mower in the amount of $24,460.00.

This mower will replace unit 544 which is 10 years old and in need of replacement. Funds are available in Replacement Project Account 02083 for this purchase.

# Fax Cover Sheet

| | |
|---|---|
| **TO:** | |
| COMPANY: | City of Jay - City Clerk office |
| ATTENTION: | Clarita |
| FAX NUMBER: | 718-7695 |
| NUMBER OF SHEETS INCLUDING COVER SHEET: | 3 |
| COMMENTS: | Copies of acceptance by Equipment Committee for purchase of 3 Replacement Right of Way Mowers. These I believe are on the Agenda mater for July 20th. |
| FROM: | Margaret Nattaland |
| DATE: | 7/7/04 |
| PHONE NUMBER: | 479-444-3495 |
| FAX NUMBER: | 479-444-3425 |

# CITY OF FAYETTEVILLE

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville AR 72701

## Interdepartmental Correspondence

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

**From:** David Bragg, Fleet Operations Supt.

**Date:** July 1, 2004

**Subject:** Purchase of 3 Replacement Right of Way Mowers

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APPROVED 7/6/04

REYNOLDS
COOK
SWEETSER
MAER BY ROXY VIA REYNOLDS

# City Council Agenda Item

To: Mayor and City Council

From: Gary Dumas

Date: July 2, 2004

Subject: Resolution Approving Improvement Schedule for Archibald Yell/School Intersection, School/Mountain Intersection and School Street Improvement and Budget Adjustment

**Recommendation:** Staff recommends approval of the attached resolution regarding the schedule of improvements and budget adjustment for the Archibald Yell/School Intersection, School/Mountain Intersection and School Street Improvements.

**Background:** The community has invested over $23,000,000 in the creation of a new icon representing Fayetteville, the Blair Library, Fayetteville Public Library. Discussions prior to 2002 concerning the library's cost and budget revealed that some off-site improvements were to be undertaken and funded by Departments other than the Library. In June 2002, the Council's Street Committee gave their unanimous endorsement to the need for an analysis of the School Street/Archibald Yell Blvd. intersection and recommended that the Mayor authorize the activity at a cost of $13,600 through contract with Garver Engineers. The purpose of the study was an evaluation of alternative improved layouts of the intersection.

Subsequently in the fall of 2003 the City Council included in the 2004 Capital Improvement Program the School and Archibald Yell Intersection Improvement at a project cost of $100,000. Early this year the City's Engineering Division finalized plans for this intersection improvement and forwarded them o the Arkansas Highway and Transportation Department. That approval was received April 13, 2004.

In order to accomplish the basic improvement within the budget the city's Transportation Division scheduled the project within their work program and within the time constraints of the Water and Sewer Division improvements in the area and the construction schedule of the various Library contractors. Intersection improvements are scheduled to be complete by the end of July.

Somewhat coincident and overlapping the Library construction, the Dickson Street Improvement Project, and the Library opening, the Dover/Kohl Downtown Plan occurred. It enumerated many ideas for consideration and refinement. One of those involved the School/Archibald Yell intersection and a reconfiguration of Archibald Yell Blvd. These two potential improvements are very substantial and will require years if not decades to gain approval, design, fund and build. The purpose of the immediate project is to complete the entry to the new library in a contextual manner that ties three special places together, the new Library, Dickson Street and the Square.

**Discussion:** In order to take advantage of and to begin a process which will showcase the community's investments made in the new Library and in the Dickson Street enhancements, improvements beyond the basic intersection design are necessary.

These additional improvements include the use of material and lighting consistent with the Library and Dickson Street and the creation of a linkage or pathway between these destinations and the Square. This means that additional funds are necessary for

# City Council Agenda Item

appropriate signage, lighting, and intersection enhancements that will continue the theme created by Dickson Street.

Please refer to the attached slides for the options available to create this contextual linkage.

The street lights should be purchased from the manufacturer of the Dickson St. lights. There are two different light standards, the shorter street lights and the taller intersection lights. A bid waiver for these manufacturers will be forwarded to city council at a later date.

The recommended improvement options:

| | |
|---|---|
| • Complete enhancements at School and Archibald Yell | $ 19,000 |
| • Improve School and Mountain With asphalt intersection and brick crosswalks with pedestrian bump outs | $ 35,530 |
| • School and Mountain traffic control (4-way stop) | $ 0 |
| • Complete repair and overlay of School | $ 32,089 |
| • Purchase and install street lights along School | $165,953 |

**Budget Impact:** Funding for the project will be derived from the existing School/Archibald Yell CIP ($100,000), programmed School St. overlay ($34,778), and the remainder from unencumbered funds from Old Missouri Road Improvements - Rolling Hills to Old Wire and the portion from Mud Creek to Joyce Boulevard. The following is the fund information for this project:

- Number: 4470-9470-5809.00
- Project Numbers: 03007 & 03008
- Project Funds: $1,330,000.00
- Funds Encumbered: $886,586.00
- Remaining Funds: $443,414.00

Funds in Budget Adjustment - $278,000

**RESOLUTION NO. _____**

A RESOLUTION APPROVING THE IMPROVEMENT SCHEDULE FOR SCHOOL AVENUE FROM ARCHIBALD YELL BOULEVARD TO THE INTERSECTION WITH MOUNTAIN STREET; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $278,000.00 FOR SAME.

**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 Improvement Schedule for School Avenue from Archibald Yell Boulevard to the intersection with Mountain Street.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $278,000.00 for same.

**PASSED** and **APPROVED** this 20th day of July 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

DRAFT

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

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

Project or Item Requested:

$278,000 is requested in the School & Archibald Yell - Intersection project.

Project or Item Deleted:

$278,000 from the Old Missouri Improvements capital project.

Justification of this Increase:

Project funds are needed.

Justification of this Decrease:

Project funds remain.

**Increase Budget (Decrease Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Street improvements | 4470 | 9470 | 5809 | 00 | 278,000 | 04015 | 1 |
| | | | | | | | |

**Decrease Budget (Increase Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Street improvements | 4470 | 9470 | 5809 | 00 | 278,000 | 03007 | 1 |
| | | | | | | | |

Approval Signatures

| | |
|---|---|
| Requested By | Date |
| Budget Manager | 7-7-04 Date |
| Department Director | Date |
| Finance & Internal Services Director | Date |
| Mayor | Date |

Budget Office Use Only

Type: A B C D E

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

STAFF REVIEW FORM - FINANCIAL OBLIGATION

XXX AGENDA REQUEST
_____ CONTRACT REVIEW
_____ GRANT REVIEW

For the Fayetteville City Council Meeting of: July 20, 2004

**FROM:**

| Gary Dumas | | Operations Department |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** Resolution Approving Improvement Schedule for Archibald Yell/School Intersection, School/Mountain Intersection and School Street Improvements and Budget Adjustment

**COST TO CITY:**

| $278,000.00 | $ 100,000.00 | School/Archibald Yell Intersection |
|---|---|---|
| | Category/Project Budget | Program Category / Project Name |
| 4470-9470-5809.00 | $10,572 | Street Improvements |
| Account Number | Funds Used to Date | Program / Project Category Name |
| 04015 | $ 89,428.00 | Sales Tax Capital |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** XXXX Budgeted Item XXXXX Budget Adjustment Attached

Budget Manager — Date: 7-6-04

**CONTRACT/GRANT/LEASE REVIEW:**

Accounting Manager — Date: 7/6/04

Internal Auditor — Date

City Attorney — Date: 7/7/04

Purchasing Manager — Date

**STAFF RECOMMENDATION:**

Division Head — Date

Department Director — Date: 7/7/04

Finance & Internal Services Dir. — Date: 7-7-04

Chief Administrative Officer — Date: 7-7-04

Mayor — Date: 7/7/04

**Received in Mayor's Office** — Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: **Yes** No

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

## DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor
Hugh Earnest, Chief Administrative Officer
Steve Davis, Finance & Internal Services Director

FROM: Peggy Vice, Purchasing Manger

DATE: July 2, 2004

SUBJECT: Deductibles- Scottsdale Insurance

## Staff Recommendation:

Staff recommends approval of a budget adjustment in the amount of $55,000.00 to meet expense payments to Scottsdale Insurance for deductibles on law enforcement and professional liability insurance.

## Background

The City's law enforcement and professional liability insurance underwriter is Scottsdale Insurance. The policy has limits of $3,000,000 aggregate, $1,000,000 per occurrence and a $50,000 deductible.

## Discussion

There have been several claims with expenses in this year. A total of $29,005.57 has been paid thus far this year and another bill was received via fax on 7/2/04 in the amount of $12,097.99. The total of these expenses is $41,103.56. Staff requests council action to approve a budget adjustment in the amount of $55,000.00 to cover these deductible expenses, which includes an additional amount of $13,896.44 to cover any other deductible expense that may occur. There is currently only one open claim. It is claim # 00773256 La Tour.

**RESOLUTION NO. _____**

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $55,000.00 TO ADD FUNDS TO THE MISCELLANEOUS PROGRAM TO OFFSET PAYMENTS TO SCOTTSDALE INSURANCE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $55,000.00 to offset payments to Scottsdale Insurance.

**PASSED** and **APPROVED** this 20th day of July 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

DRAFT

Below is a history of claims expense deductibles paid out from 2000 to 2004:

| | | | |
|---|---|---|---|
| #773256 | LaTour | $29,225.50 | (Still Pending) |
| #821696 | French, Karen Etal | $35,191.57 | |
| #844405 | Wilkins, Collin | $20,466.71 | |
| #619885 | Williams, George Etal | $50,000.00 | |
| #639166 | Dorothy Cox & George W. | $ 2,006.20 | |
| #649170 | Brown, Andre | $ 2,765.06 | |
| #659941 | Steeves, Dustin | $24,406.77 | |
| #720611 | Neeley, Curtis | $ 2,535.40 | |

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

| Budget Year | Department: General Government<br>Division: Miscellaneous<br>Program: Miscellaneous | Date Requested | Adjustment Number |
|---|---|---|---|
| 2004 | | 7/20/2004 | |

Project or Item Requested:
$55,000 is requested in the Settlements account.

Project or Item Deleted:
None. Use of Fund Balance.

Justification of this Increase:
The funding is needed to cover the settlements account to offset payments to Scottsdale Insurance for the deductible billed from legal expense for three lawsuits.

Justification of this Decrease:
There is sufficient fund balance remaining in General Fund to meet 2004 obligations and to comply with City policy.

**Increase Budget (Decrease Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Settlements | 1010 | 6600 | 5311 | 09 | 55,000 | | |
| | | | | | | | |

**Decrease Budget (Increase Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Use of fund balance | 1010 | 0001 | 4999 | 99 | 55,000 | | |
| | | | | | | | |

Approval Signatures

| | |
|---|---|
| Requested By | Date |
| Budget Manager | 7-6-04 Date |
| Department Director | Date |
| Finance & Internal Services Director | 7-7-04 Date |
| Mayor | 7/7/04 Date |

Budget Office Use Only

Type: A B C D E

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

# STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: July 20, 2004

**FROM:**

| Peggy Vice | Purchasing | Finance & Internal Services |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** Approval of a budget adjustment to add funds to the Miscellaneous Program to offset payments to Scottsdale Insurance for the deductible billed from legal expense for three lawsuits.

**COST TO CITY:**

| # | | |
|---|---|---|
| $55,000.00 | $ 328,949.00 | Services & Charges |
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 1010.6600.5311.09 | $ 250,011.00 | Miscellaneous |
| Account Number | Funds Used to Date | Program / Project Category Name |
| | $ 78,938.00 | General |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** ____ Budgeted Item X Budget Adjustment Attached

Budget Manager — Date: 7.6.04

**CONTRACT/GRANT/LEASE REVIEW:**

Accounting Manager — Date: 7/6/04

City Attorney — Date: 7/7/04

Internal Auditor — Date:

Purchasing Manager — Date: 7/7/04

**STAFF RECOMMENDATION:** Approval

Division Head — Date: 7-2-04

Department Director — Date:

Finance & Internal Services Dir. — Date: 7-7-04

Chief Administrative Officer — Date: 7-7-04

Mayor — Date: 7/8/04

**Received in Mayor's Office** — Date:

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

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

ENTERED 7/6/04

City Council Meeting of July 06, 2004
Agenda Item Number

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

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

**Date:** 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.



ATTACHED 6/19/04

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**

DRAFT

**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 S74°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.

DRAFT

# 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<br>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-feet 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 un-developable 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/backs 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."***

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**PLANNING COMMISSION ACTION: yes Required**

**_____Approved _____Denied**

**Date: June 14, 2004**

**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/backs 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. w, an undesirable increase in load o. ublic services would not be created.**

***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 ~~Rupple 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

RECEIVED
JUN 09 2004
PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS

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 and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Will K Brown #128

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

| 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 |
| | | | | Future FS 3 | 2.32 miles | 5-6 minutes | 5-7 minutes | 3/year | 1/year | 2/year |
| RZN 04-1074 | Ames Trust | ANX 04-1073 | 1.97 | FS 5 | 3.17 miles | 7-8 minutes | 7-8 minutes | 0.68/year | 0.27/year | 0.41/year |
| | | | | Future FS 3 | 2.34 miles | 4-5 minutes | 4-5 minutes | 0.68/year | 0.27/year | 0.41/year |
| PZD 04-1075 | Cambridge Crossing | | 11.525 | FS 4 | 1.39 miles | 4-5 minutes | 4-5 minutes | 13/year | 5/year | 8/year |

# 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

| | ***Land Dedication Requirement*** | ***Money in Lieu*** |
|---|---|---|
| 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.

*Milholland Company*
*Engineering & Surveying*
Melvin L. Milholland, 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: 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: MLOengr@swbell.net

RECEIVED
MAY 06 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

*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, ASLA
Projects Manger

cc: Tracy Hoskins

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MAY 0 6 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

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

*Milholland Company*
*Engineering & Surveying*
Melvin L. Milholland, 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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MAY 0 6 2004
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.

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

*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

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MAY 0 6 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

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

# 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

RECEIVED
MAY 25 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

2ND Submission
RZN04-1057
6/2/2004

**COMMUNITY BANK OF NORTH ARKANSAS**

1685 E. JOYCE
FAYETTEVILLE, AR 72703

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.

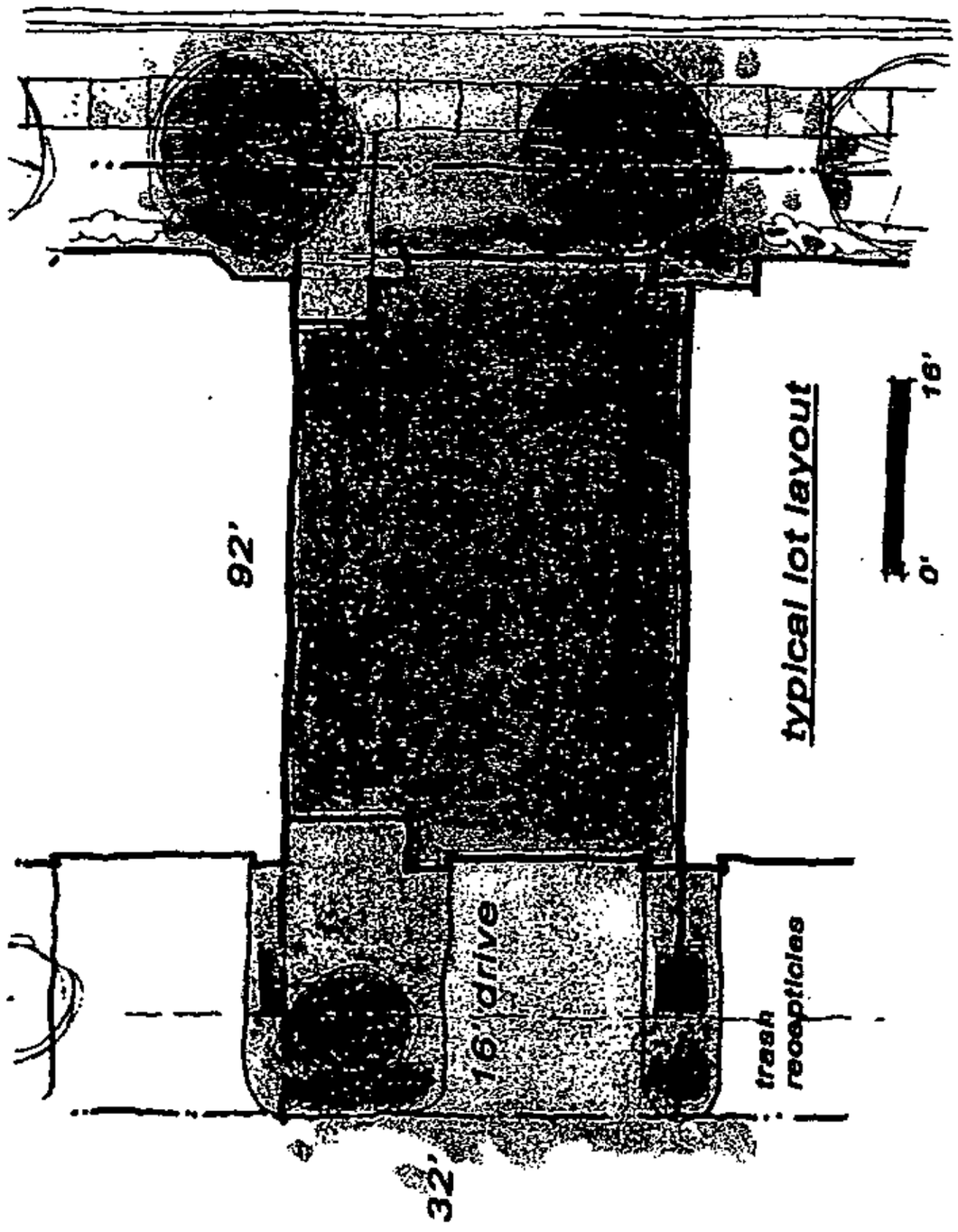
Sincerely,

P. Douglas Lynch
Executive Vice President-Community Bank of North Arkansas

Tracy K. Hoskins
Managing Member-Old Towne, LLC

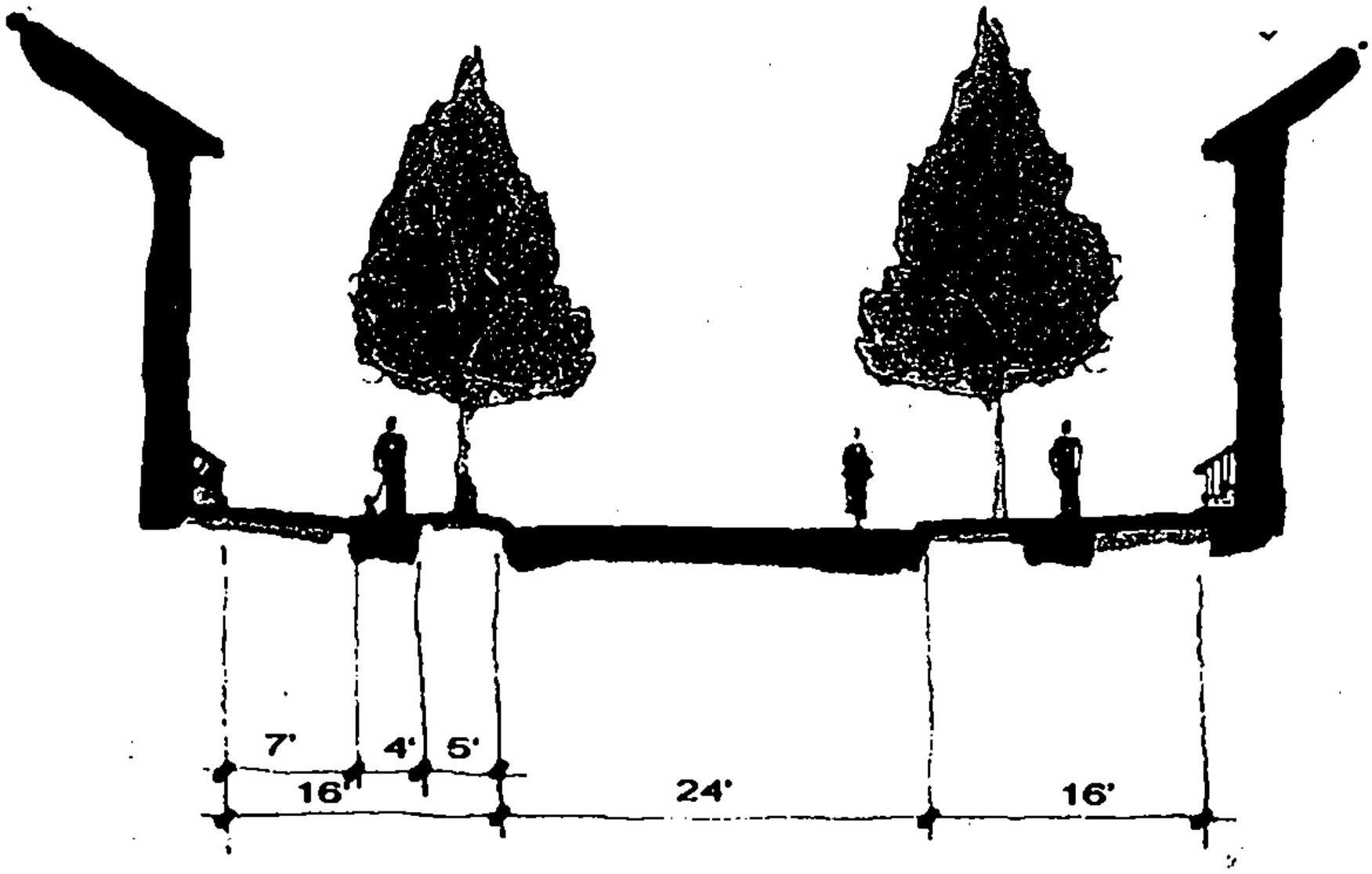
***typical street elevation***

**Cambridge Crossing, Fayetteville, Arkansas**




Cambridge Crossing, Fayetteville, Arkansas

Next Paradigm DEVELOPMENT




Typical Street Section

# CAMBRIDGE CROSSING

*A Master Planned Community*
*Fayetteville, Arkansas*

Paradigm Development Enterprises, Inc. 2223 N College - Fayetteville, AR 72703 - 479.236.0636

# 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:** Invalidation 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 [redacted], 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

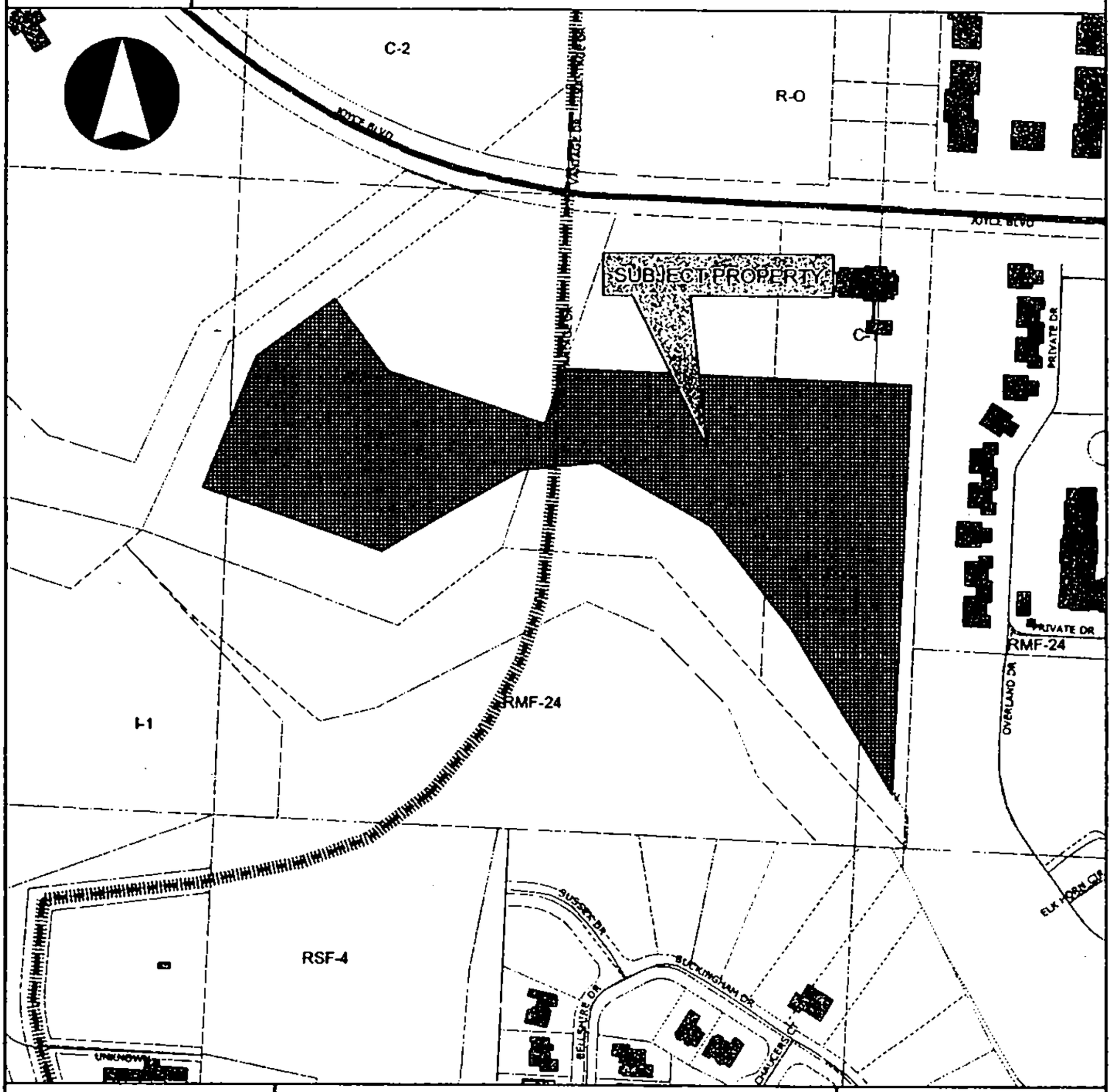
My Commission Expires:

_____

R-PZD04-1075

*Close Up View*

# CAMBRIDGE CROSSING




*Overview*

Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- R-PZD04-1075
- Fayetteville
- Outside City

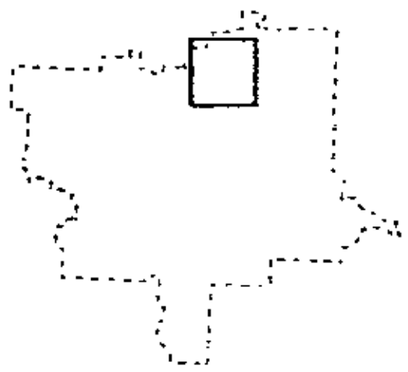
0 100 200 400 600 800 Feet

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

**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

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

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?

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.

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.

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.

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.

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?

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?

**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

x AGENDA REQUEST

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

FROM:

| Dawn Warrick, AICP | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

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.

STAFF RECOMMENDATION: Approval

Dawn Warrick — Division Head — 6/17/04 Date

City Attorney — 6/18/04 Date

Department Director — Date

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

Chief Administrative Officer — 6-22-04 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

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 Unincororated 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 Tueday, 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 |
|---|---|

| | |
|---|---|
| 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 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.** 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

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

**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% X $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 X 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 there 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 area, 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 Rupple 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

x AGENDA REQUEST

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

FROM:

| Tim Conklin | Comm. 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

City Attorney — 6-23-04 Date

Department Director — 6-23-04 Date

Finance & Internal Services Dir. — 6-23-04 Date

Chief Administrative Officer — 6-23-04 Date

Mayor — Date

Received in Mayor's Office — Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

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 Unincororated 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 Tueday, 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

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 |
|---|---|

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

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

**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:

DRAFT

By: _____
**DAN COODY**, Mayor

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

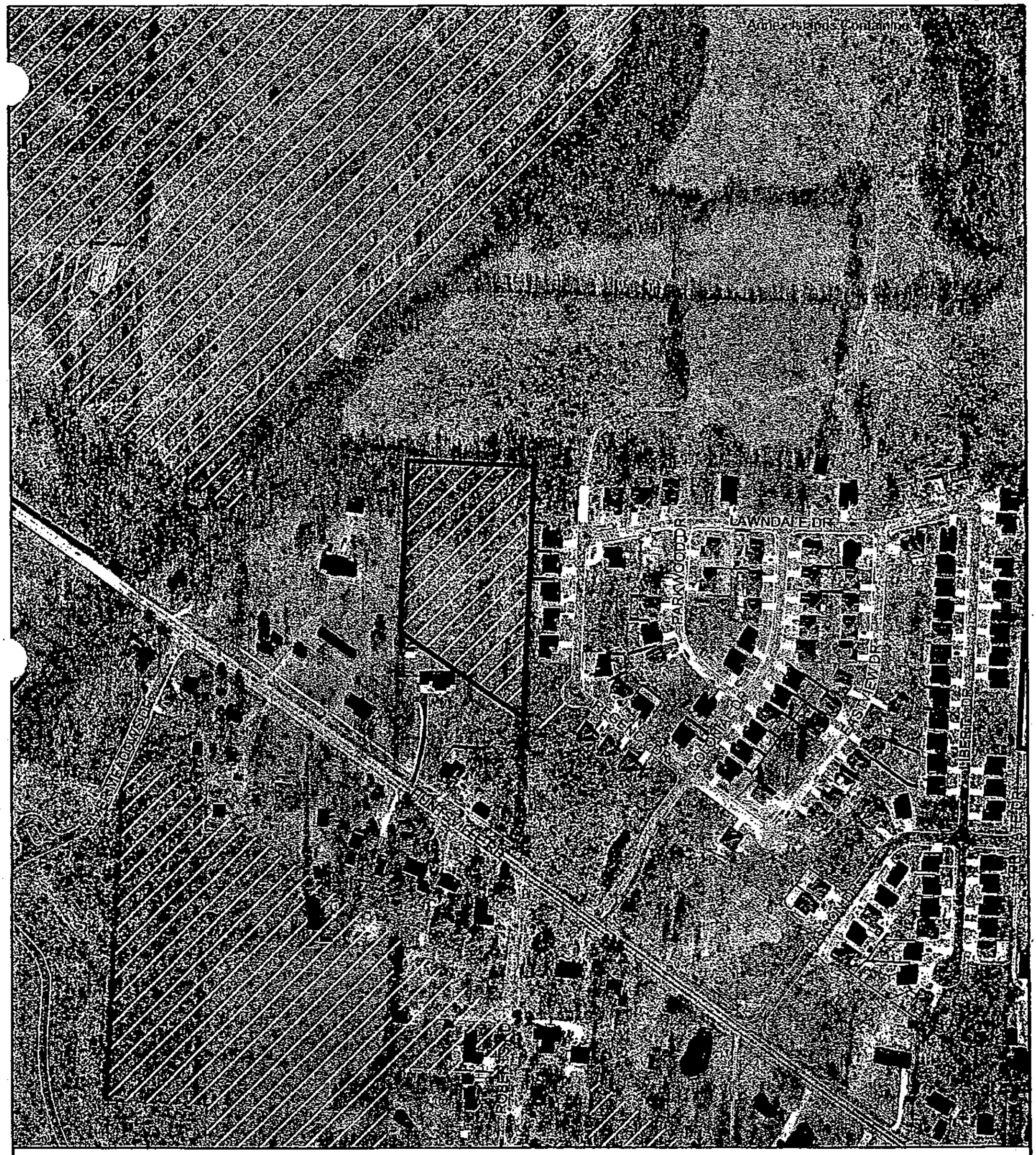
Date of Imagery: Feb. 14, 2000

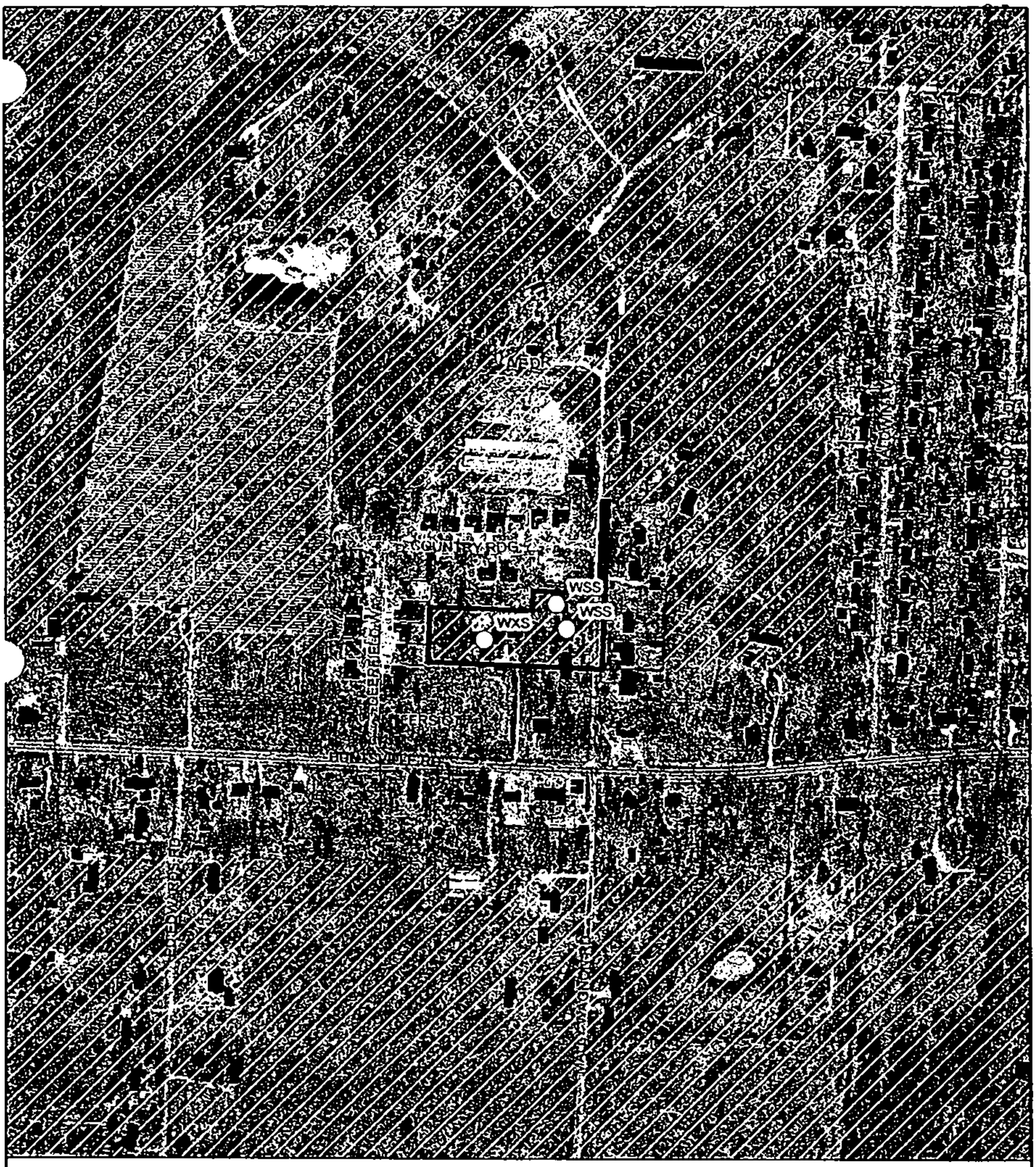
Outside City of Fayetteville

Area to be Annexed

City Service

WSS = Water, Sewer, Solid Waste (respectively)
X = NO SERVICE


Acres Islands Contained
DAWNDALE DR
PARKWOOD DR
LIBERTY DR
GENEVIEVE DR
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

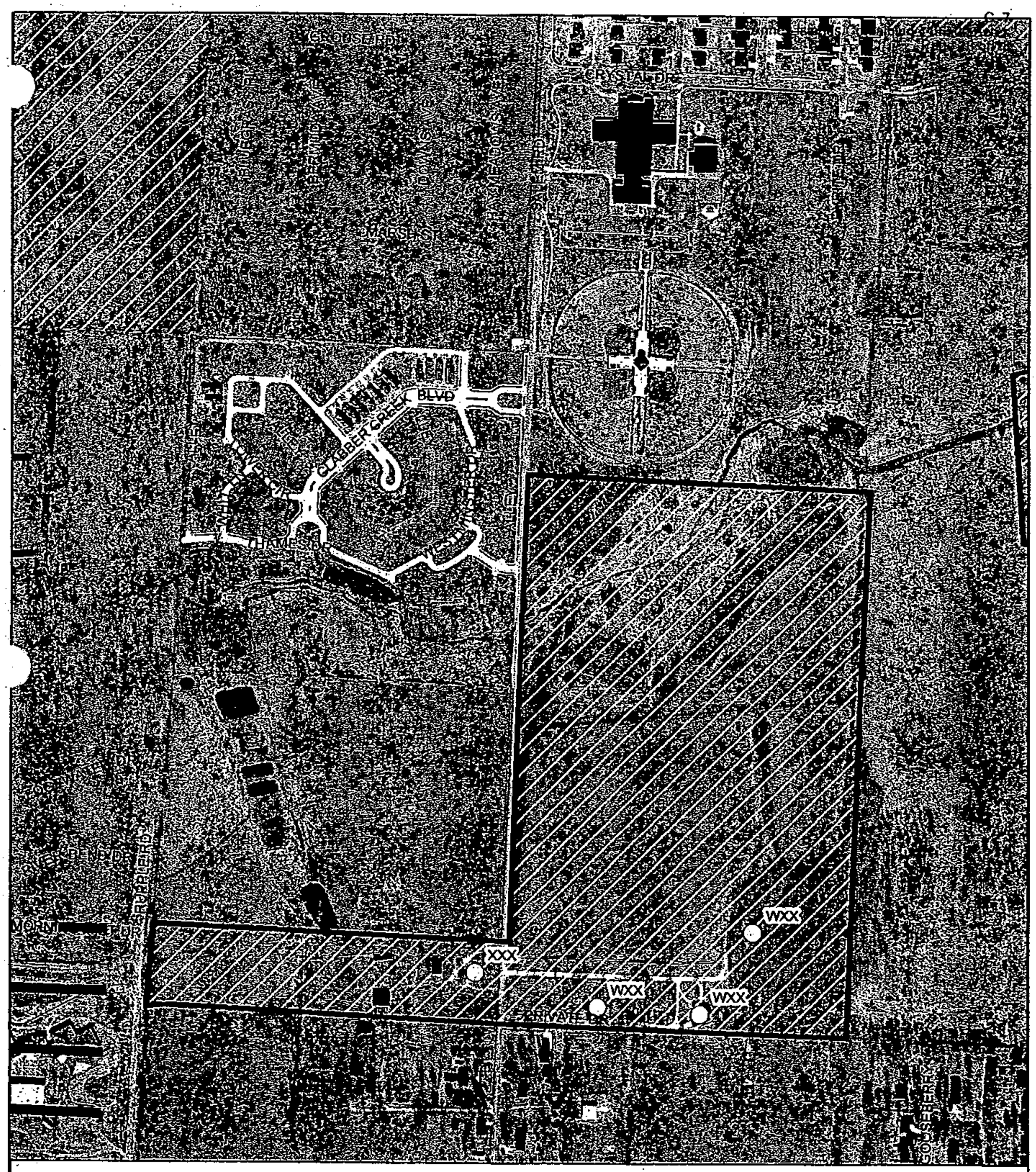
Date of Imagery: Feb. 14, 2000

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

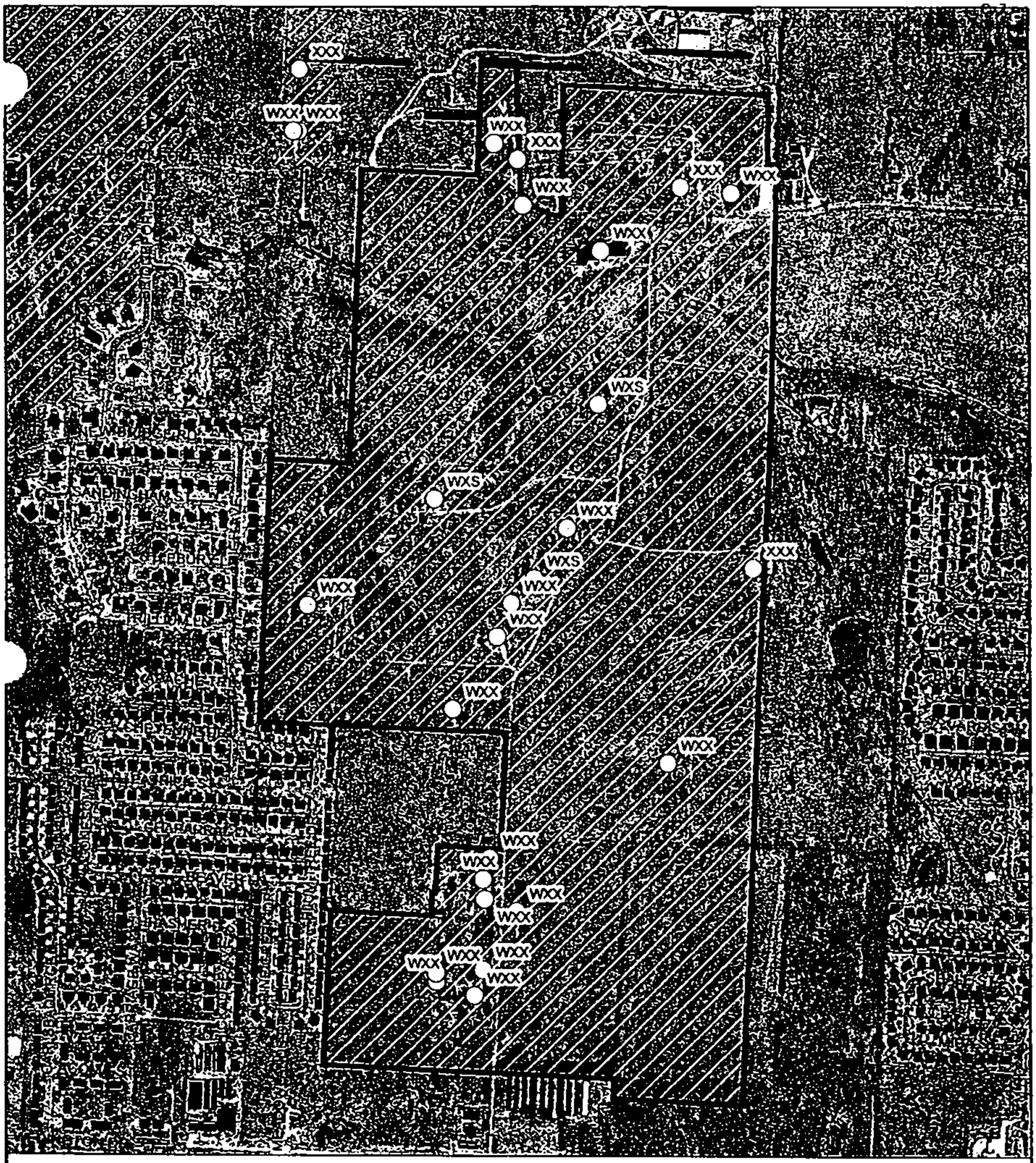
Date of Imagery: Feb. 14, 2000

Outside City of Fayetteville

Area to be Annexed

City Service

WSS = Water, Sewer, Solid Waste (respectively)
X = NO SERVICE


XXX
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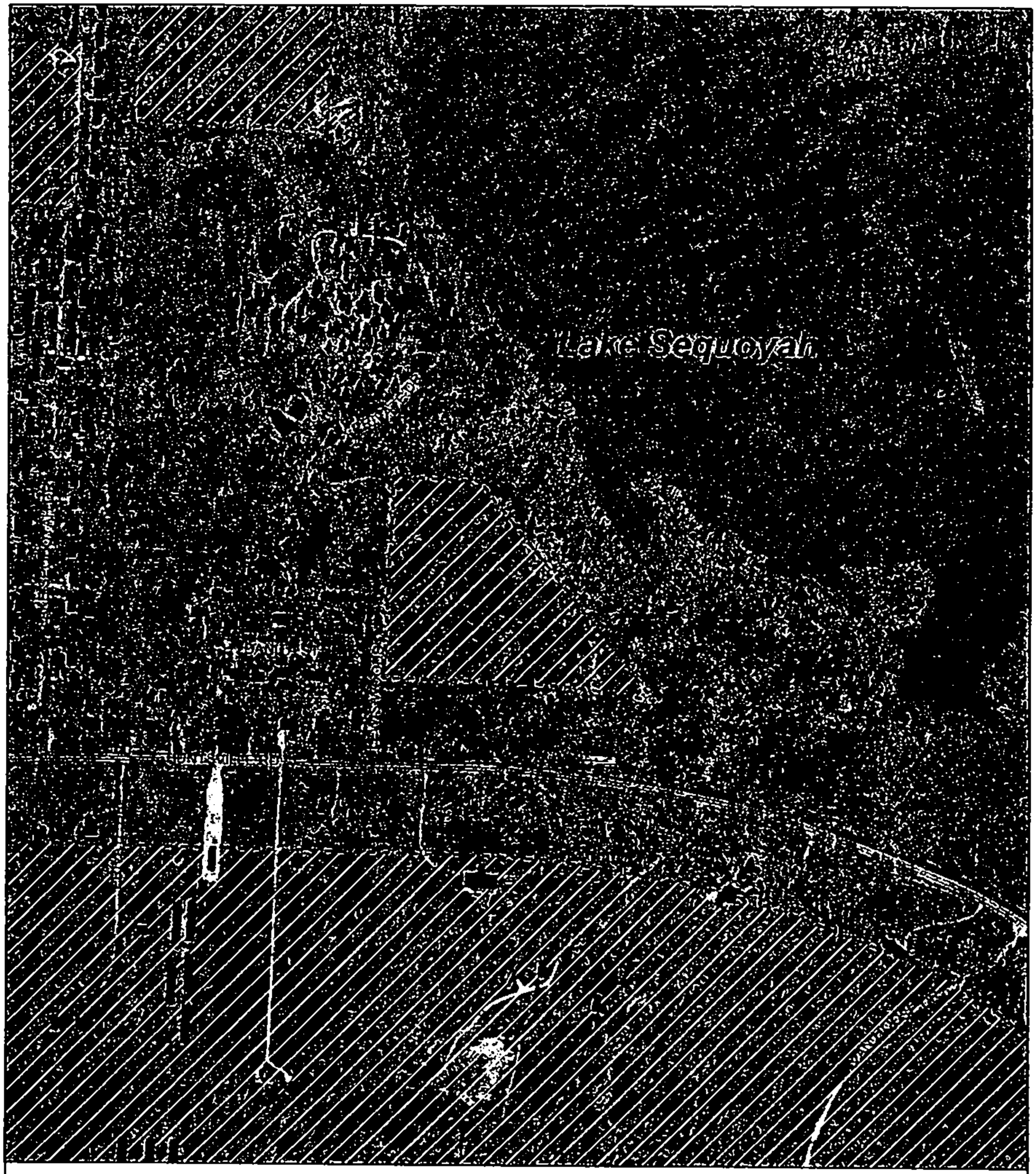
# Group 3, Description 10

0 50 100 200 300 400 Feet

Date of Imagery: Feb. 14, 2000

Outside City of Fayetteville

Area to be Annexed
(Offset from Cemetey 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

x AGENDA REQUEST

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

FROM:

| Tim Conklin | Comm. 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~~ 461.174 acres into the corporate city limits of the City of Fayetteville, Arkansas.

STAFF RECOMMENDATION: Approval.

Division Head — Date

City Attorney — 6-23-04 Date

Department Director — 6-2004 Date

Finance & Internal Services Dir. — 6-23-04 Date

Chief Administrative Officer — 6-23-04 Date

Mayor — Date

Received in Mayor's Office — Date

See Amendments to Ordinance & Summary

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

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 Unincororated 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 Tueday, 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 |
|---|---|

| | |
|---|---|
| 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 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.** 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

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

**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

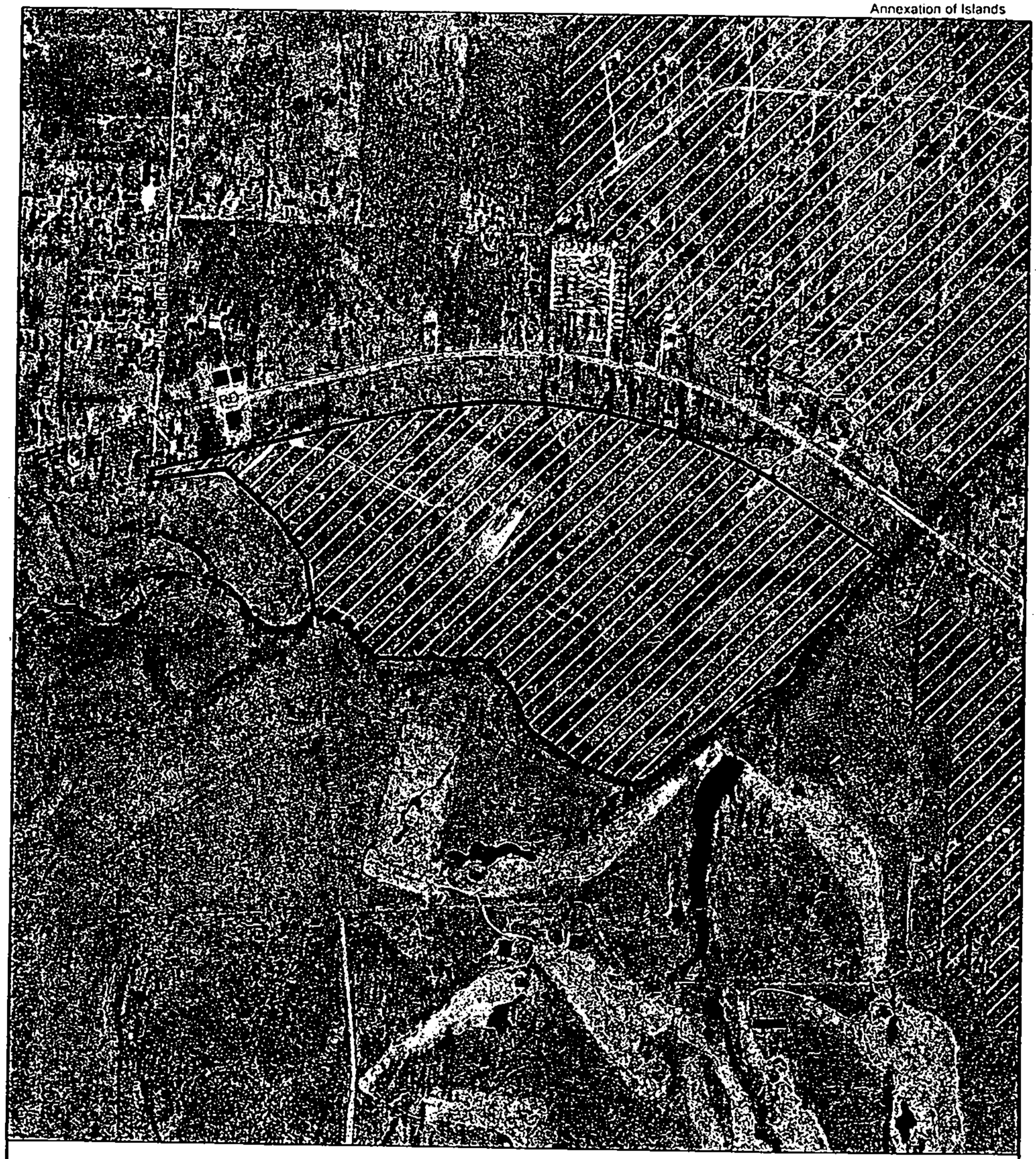
ATTEST:

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

x AGENDA REQUEST

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

FROM:

| Tim Conklin | Comm. 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~~ 168.747 acres into the corporate city limits of the City of Fayetteville, Arkansas.

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#: | |
| Chief Administrative Officer | 6-23-04 Date | Orig. Contract Date: | |
| | | Orig. Contract Number: | |
| | | New Item: Yes No | |
| Mayor | Date | | |

# 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

DRAFT

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 — Division Head — 6/18/04 Date

D. P. White — City Attorney — 6/18/04 Date

_____ — Department Director — _____ Date

Stephen Dow — Finance & Internal Services Dir. — 6-21-04 Date

Mark Garner — Chief Administrative Officer — 6-22-04 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**

ENTERED 6/18/04 gm

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 form 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: _____ DRAFT
**DAN COODY**, Mayor

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.*

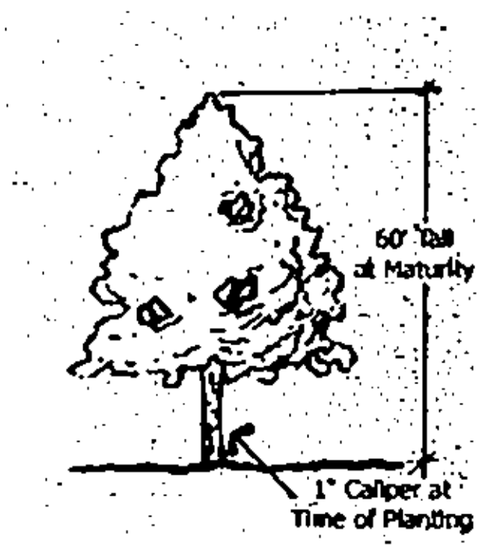
(i) *Landscaped area required.* A 15 foot wide landscaped area shall be provided along the front property line exclusive of right-of-way. Entrance drives, exit drives, and sidewalks are allowed to cross the 15 foot landscaped area provided the integrity of the landscaped area is maintained. Residential 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.

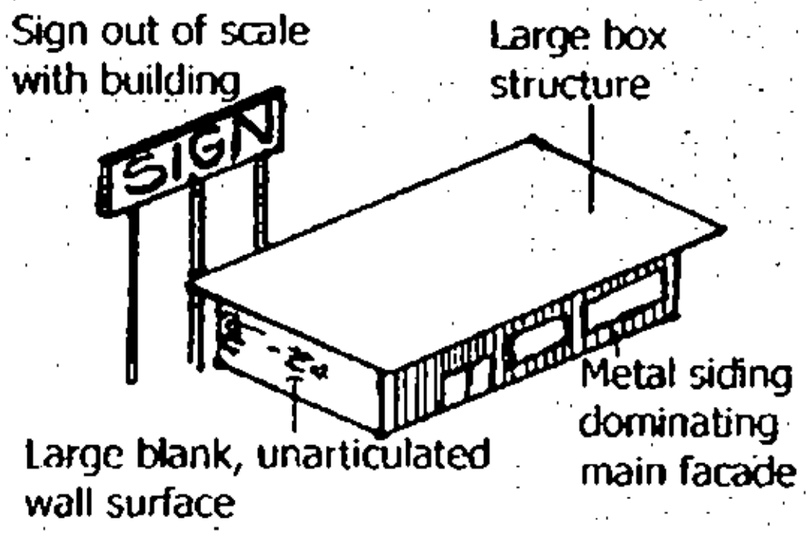
(2) *Construction and appearance design standards for commercial structures.*

(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 0 8 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,

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 DETRAMENTAL TO THIS NEIGHBORHOOD.

Document drafted by Kim Johnson. Signature of property or business owner witnessed by:

K A Johnson date: 6/7/04

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: 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

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: Elsie Counts

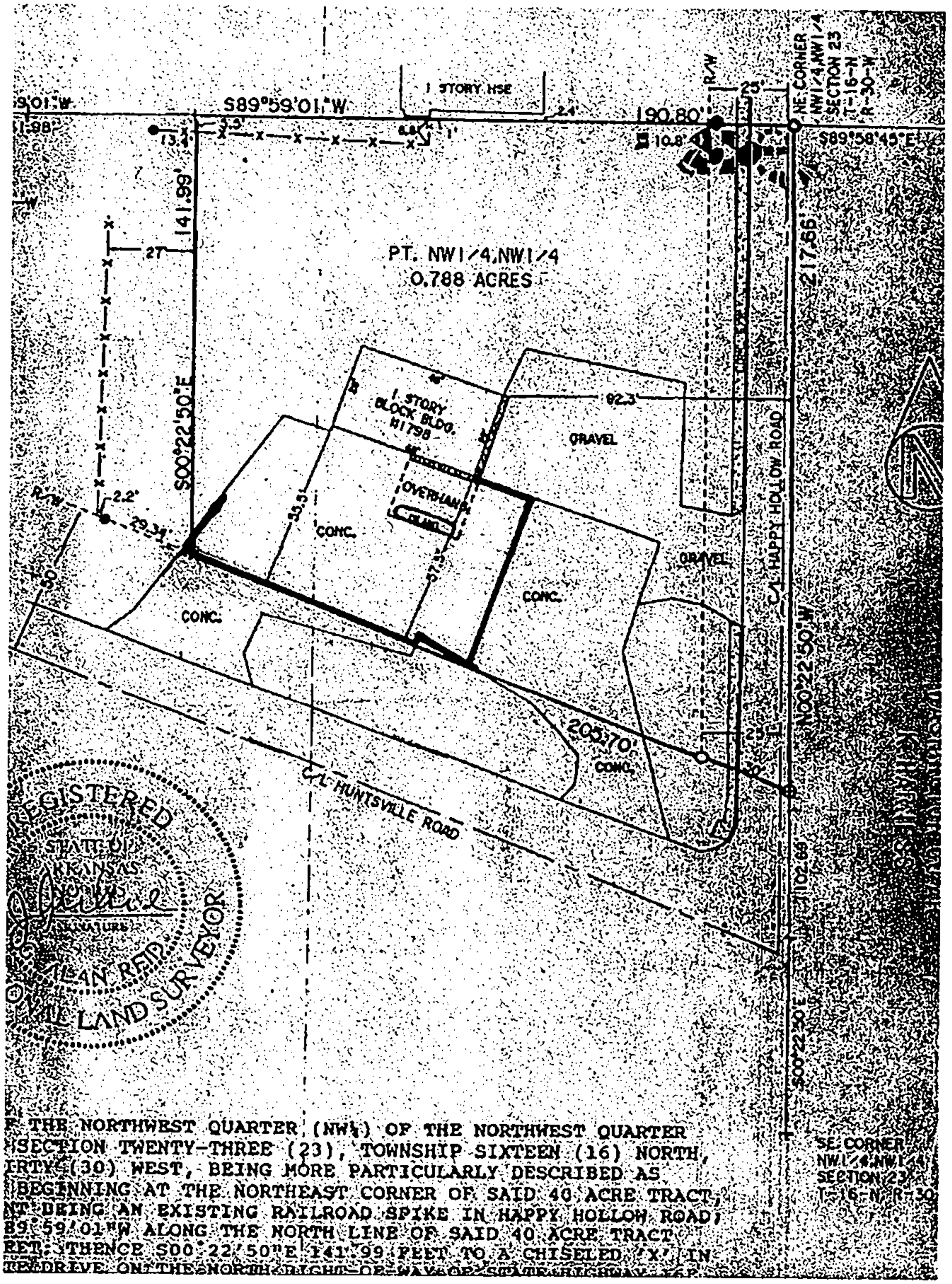
signature: _____ date: 6/8/04

address: Elsie Counts 1698 Happy Hollow Road

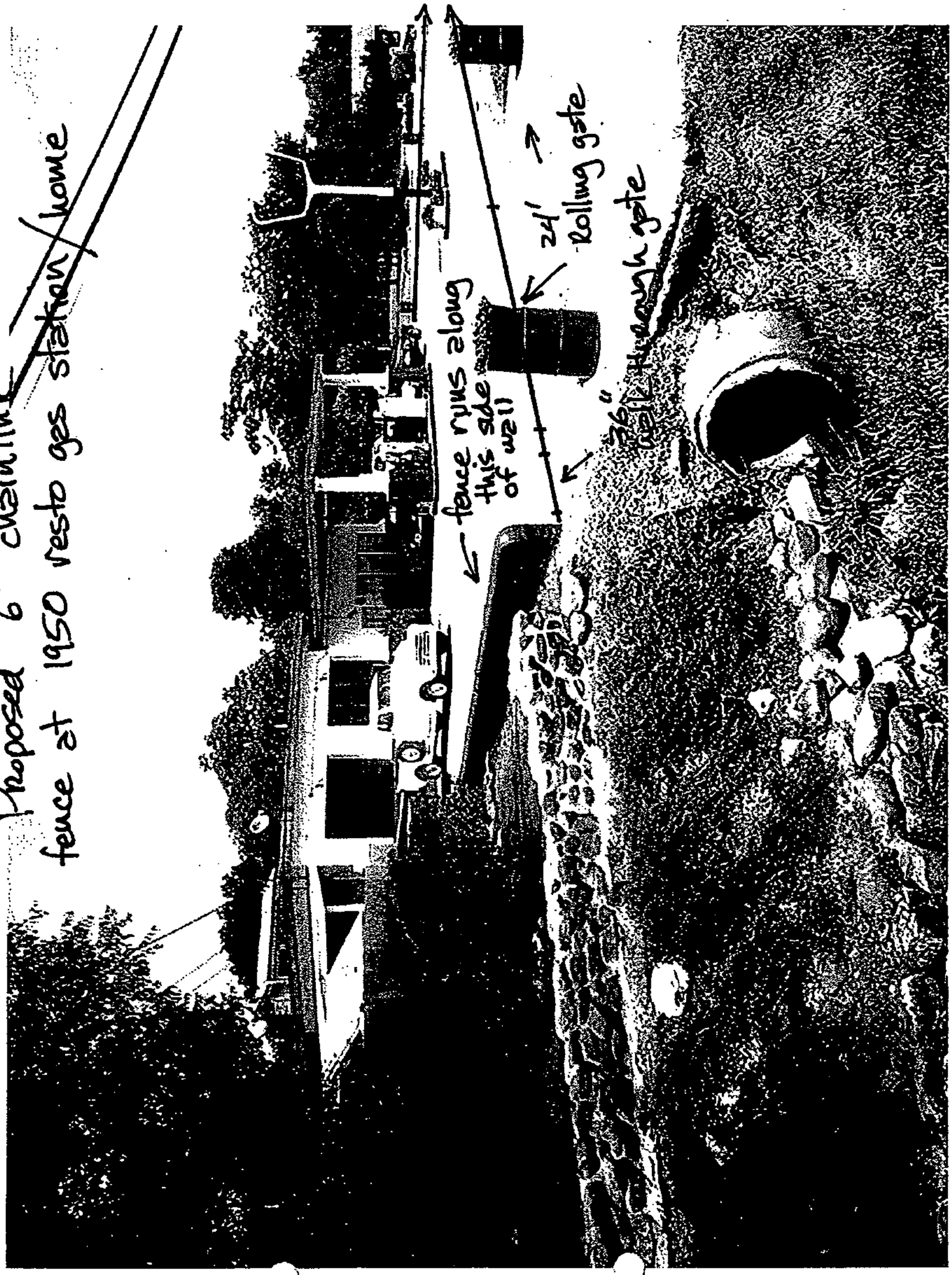
comments: _____

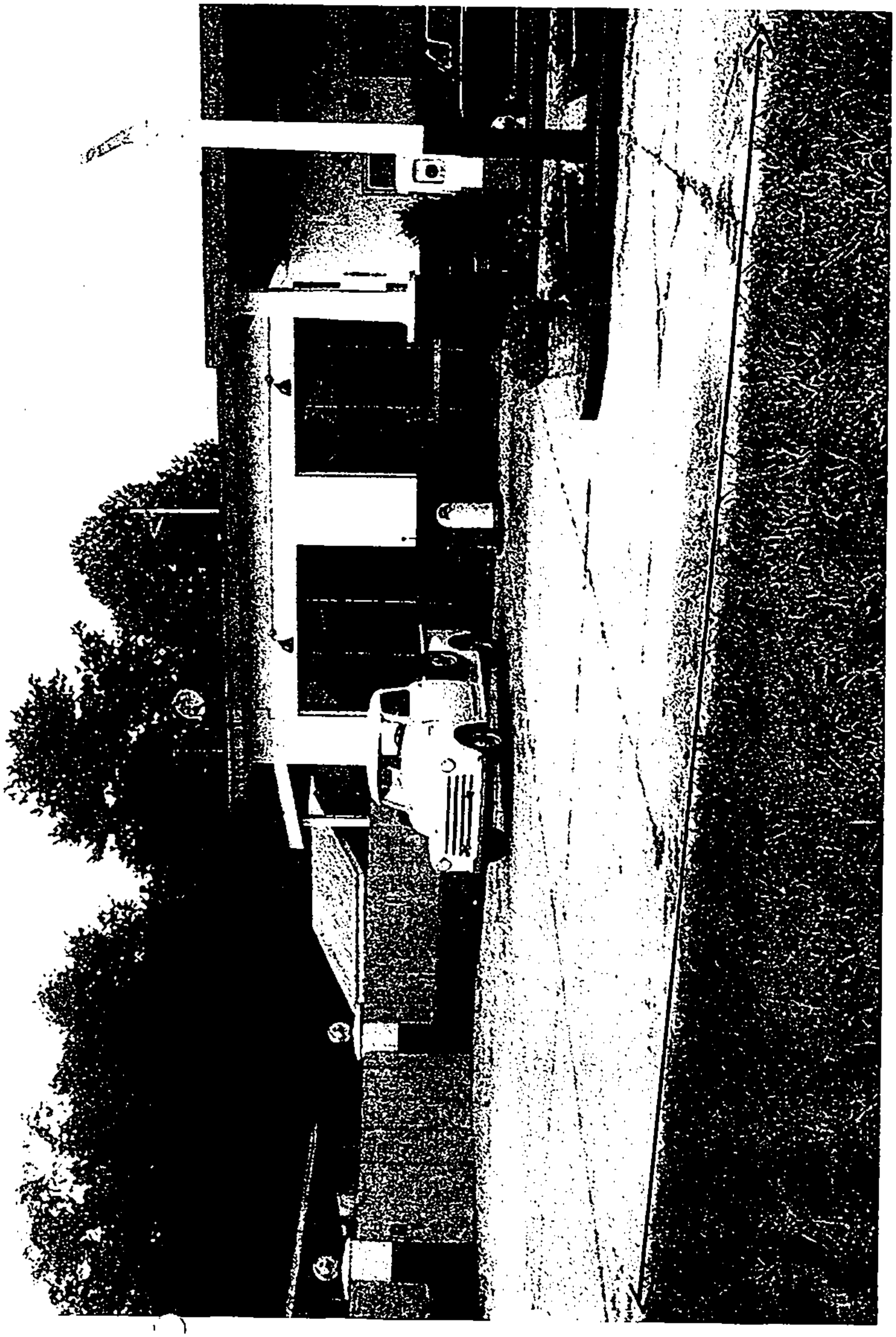
Document drafted by Kim Johnson. Signature of property or business owner witnessed by:

_____ date: 6/8/04

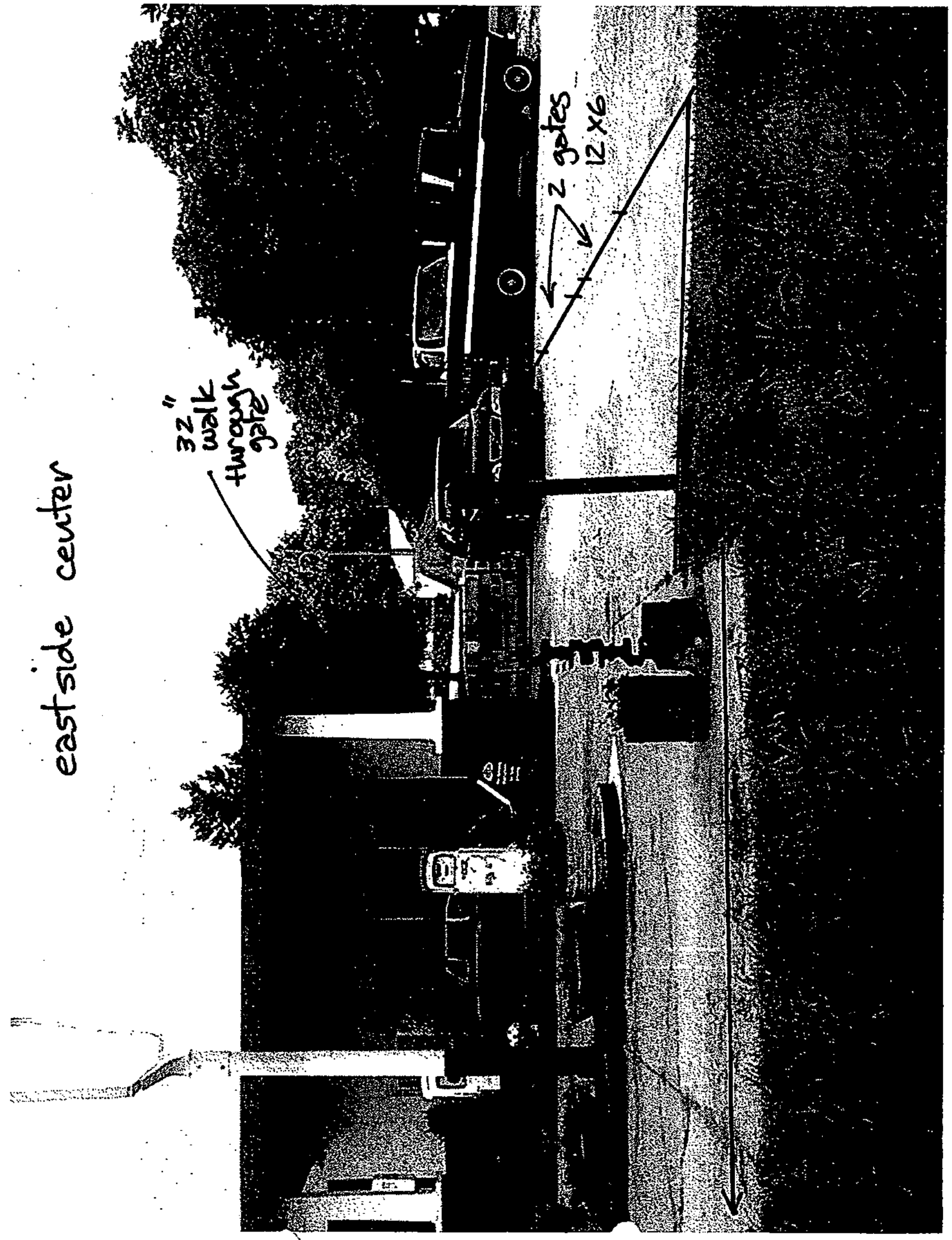



THE NORTHWEST QUARTER (NW¼) OF THE NORTHWEST QUARTER
SECTION TWENTY-THREE (23), TOWNSHIP SIXTEEN (16) NORTH,
IRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS
BEGINNING AT THE NORTHEAST CORNER OF SAID 40 ACRE TRACT,
NT BEING AN EXISTING RAILROAD SPIKE IN HAPPY HOLLOW ROAD;
89°59'01"W ALONG THE NORTH LINE OF SAID 40 ACRE TRACT
RET; THENCE S00°22'50"E 141.99 FEET TO A CHISELED 'X' IN
TE DRIVE ON THE NORTH RIGHT-OF-WAY OF STATE HIGHWAY 16


Proposed 6' chainlink fence at 1950 resto gas station/home
fence runs along this side of well
24' Rolling gate
Hwy 4 gate
36" Well

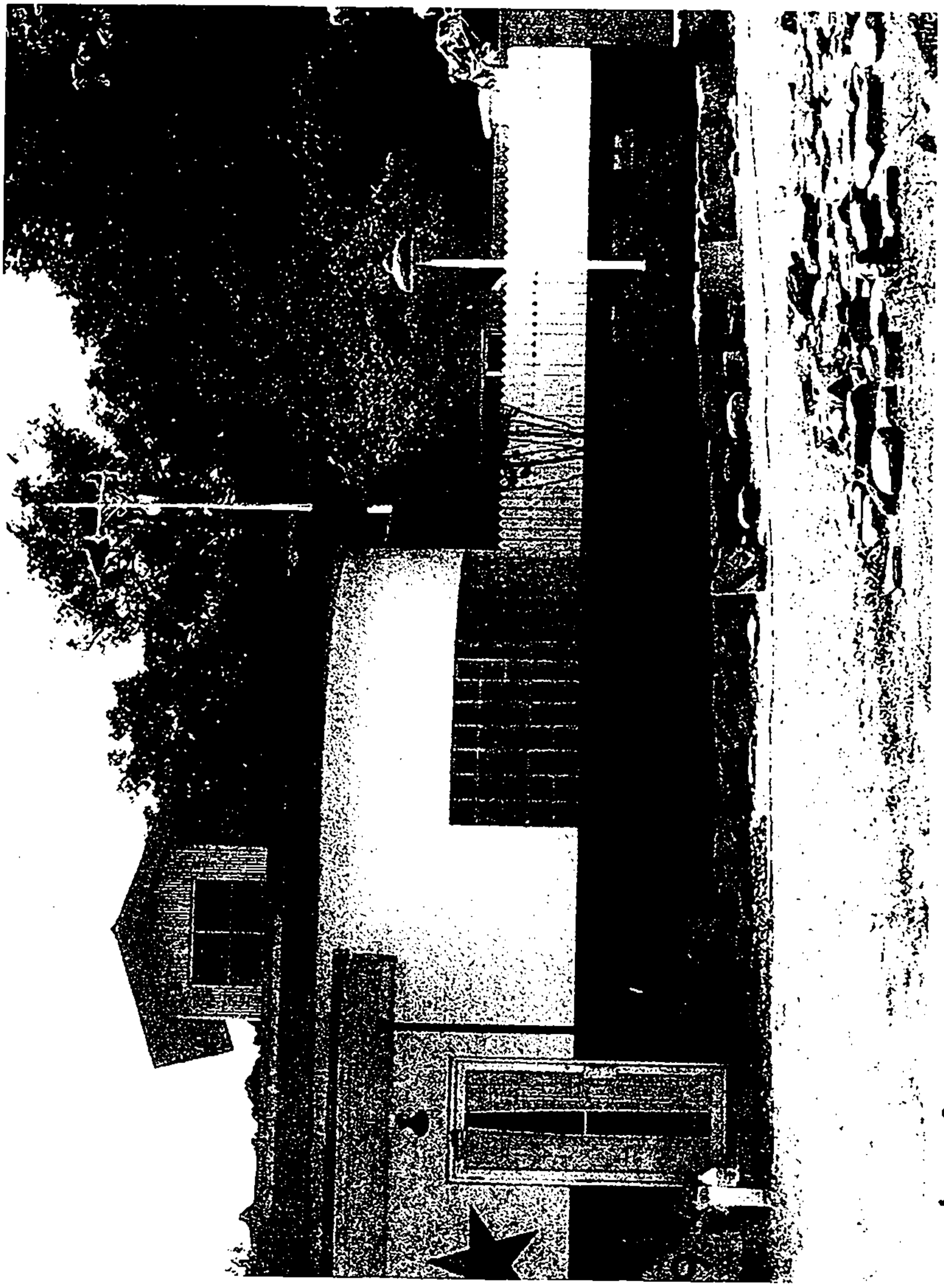


westside center

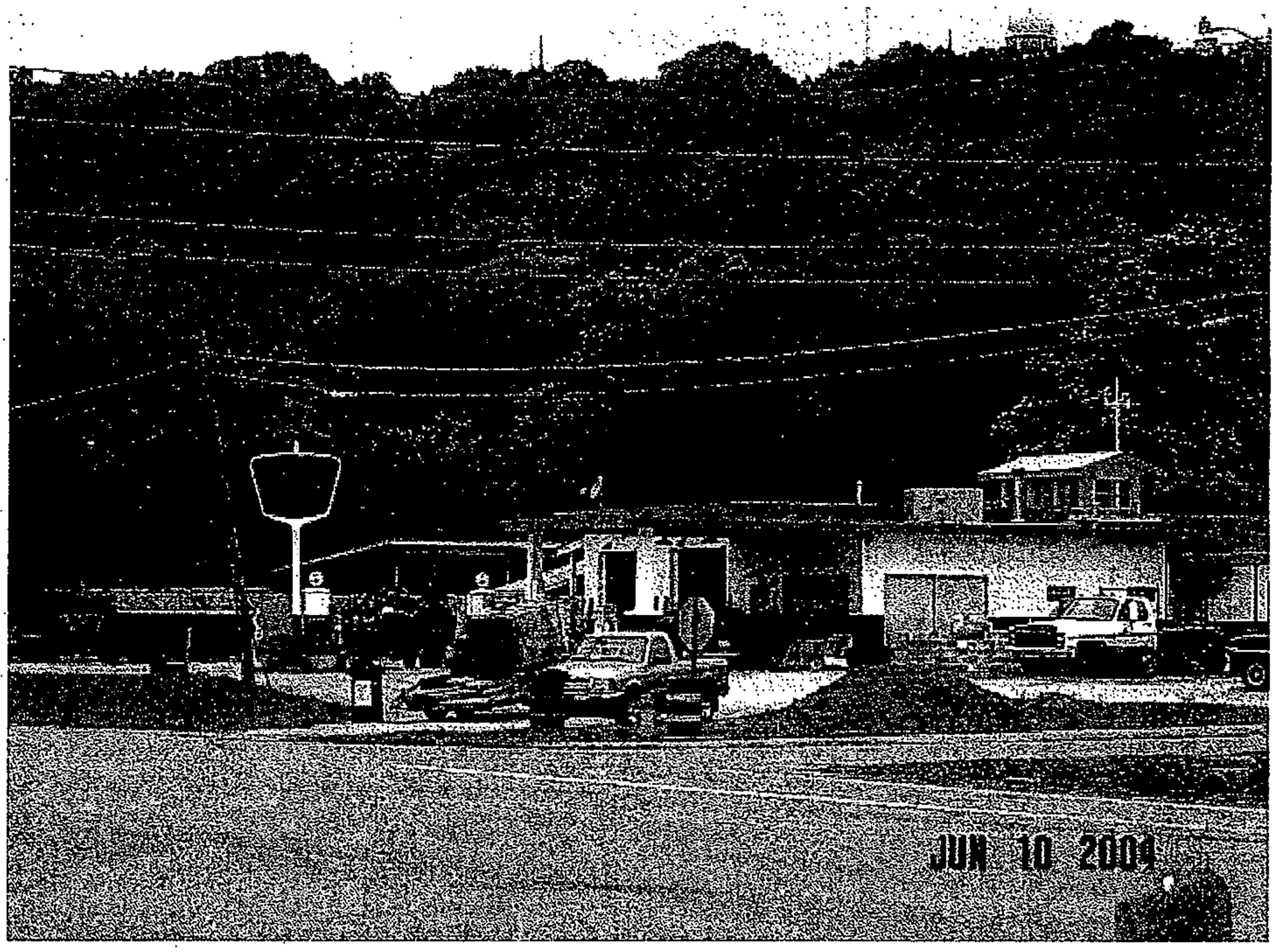

2 gates
12 x6
32"
walk
through
gate
east side center

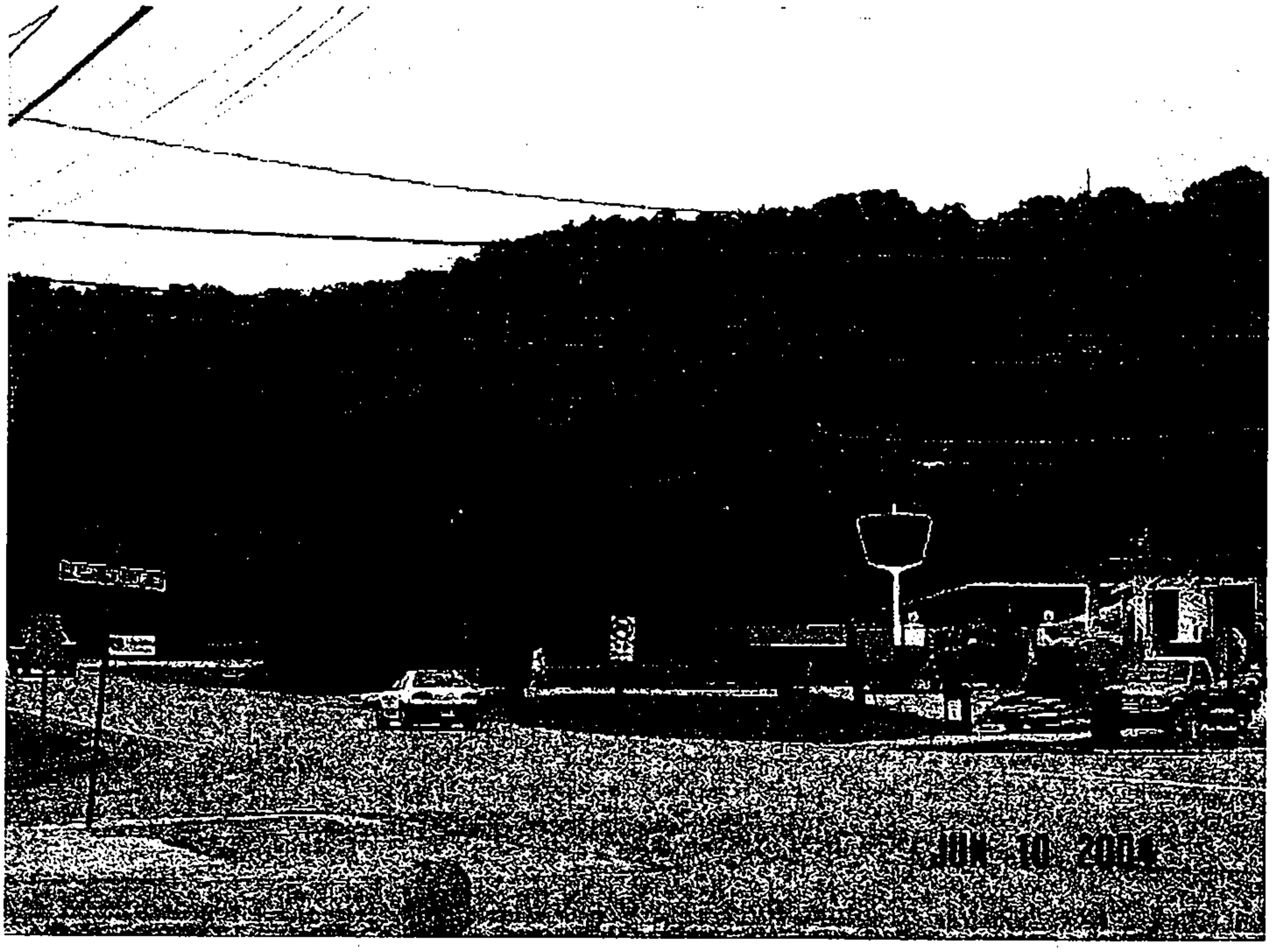
westside
fence attaches here
gate opens
24' candela
36" walk through gate

South east corner
2 gates 12'x6'
Private Drive



No fence on Hudson is the east side


JUN 10 2004


JUN 10 2004

FILE 563

# 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 it if 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.

NOTARY PUBLIC

Notary Public
My Commission Expires: May 13, 2004.

**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.

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

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.

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.

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.

**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 polices 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 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?

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: Rezonings are 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 it's 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.

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: Apryl Okoroafor Zoning: C-1 a Used Car Dealership W OK for 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: 442-9266 Fax: None

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 now and then reassemble them

I do not plan to sandblast complete cars or do complete paint jobs or ~~re~~ reupholster them, those jobs I will subcontract out -

I also will contract out any 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.

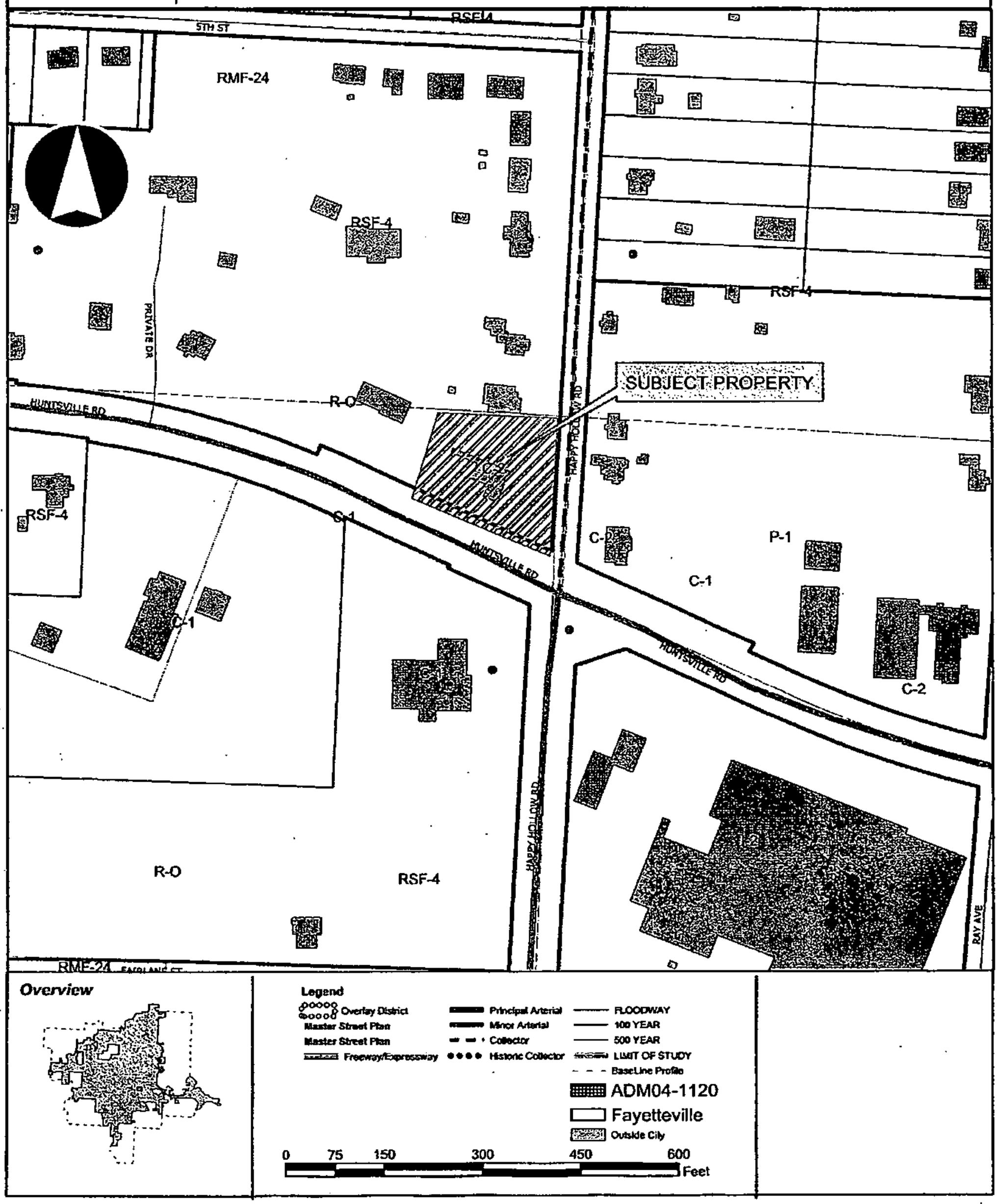
When completing these cars I intend to display and resell there.

I will probably have 10 - 15 cars in progress at the most and I will keep the area clean and secure.

AMD04-1120

*Close Up View*

# CLEM JOHNSON




*Overview*



**Legend**

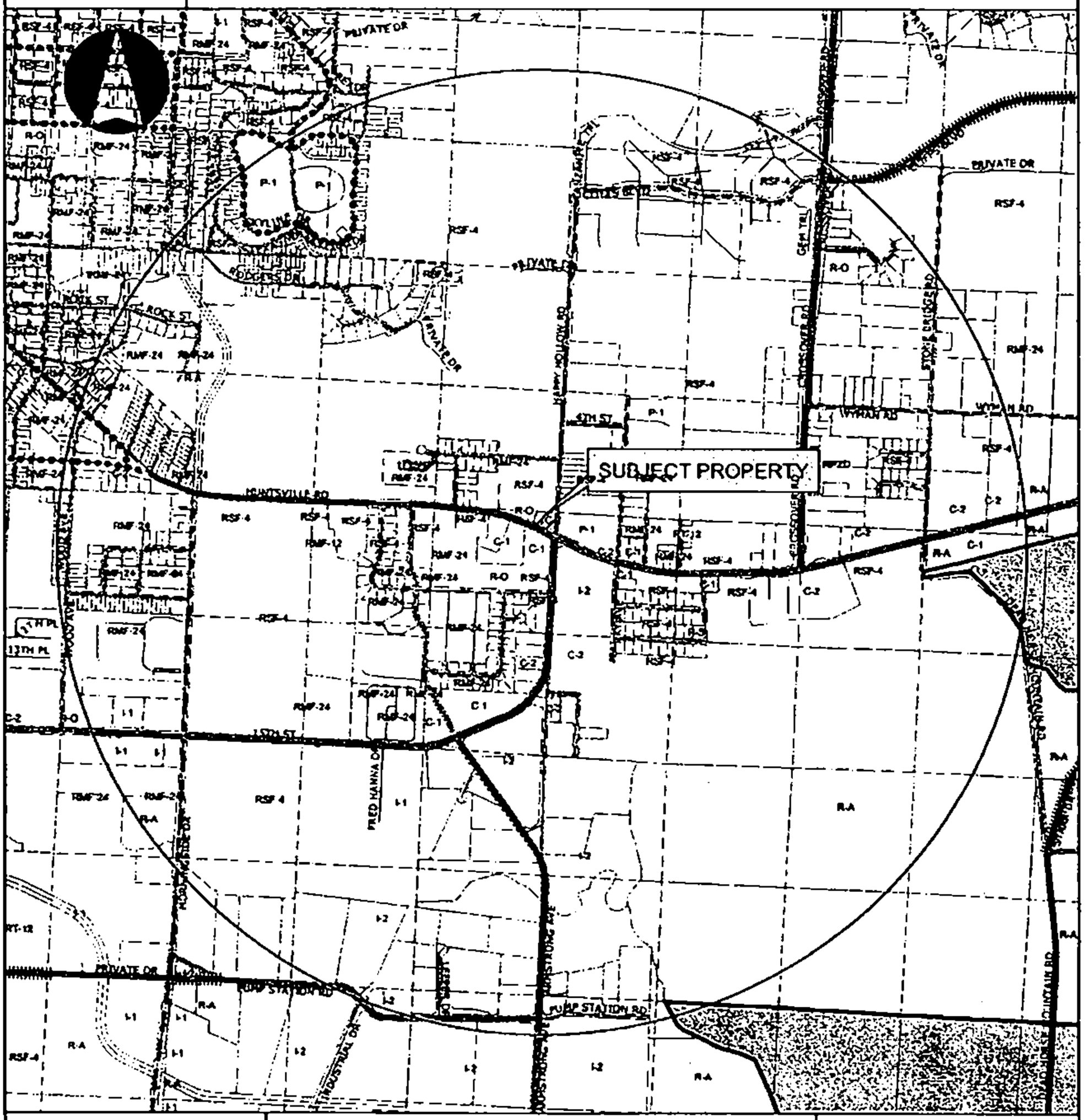
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
ADM04-1120
Fayetteville
Outside City

0 75 150 300 450 600
Feet

ADM04-1120

One Mile View

# CLEM JOHNSON




Overview

Legend

Subject Property

ADM04-1120

Boundary

Planning Area

Overlay District

Outside City

Streets

Existing

Planned

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

**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

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

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

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.

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

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.

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

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.

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?

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

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.

# CITY COUNCIL AGENDA MEMO

**TO:** Mayor and City Council

**THRU:** Staff Contract Review Committee

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

**DATE:** July 1, 2004

**SUBJECT:** Approval of contract to construct Taxiway "A" and Taxiway "E" extensions at the Fayetteville Municipal Airport, Drake Field with the McClinton-Anchor Division of APAC Arkansas Inc.

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**RECOMMENDATION:** Approve award of construction contract with the McClinton-Anchor Division of APAC Arkansas for $607,078.90 and a 10% contingency of $60,708.00 to construct Taxiway A and E extensions.

**BACKGROUND:** In previous action, the City Council approved Task Order #4 with McCLelland Consulting Engineers to design, bid, and provide construction oversight and assistance with application to the FAA and State of Arkansas for support for the extension of Taxiway A" to the south and the construction of Taxiway "E" to join the runway to Taxiway "A". This project is in conjunction with the USDA Forrest Service Fire Base and will allow a secondary route from the runway to the loading and parking stations currently under construction by APAC Arkansas. The FAA has notified the City of Fayetteville that funds are available for this project and that once acceptable bids are received, a grant award package will be forwarded to the City for approval and acceptance. Once accepted by the City Council, application will be made to the State for matching funds. This project will be funded 95% FAA and 5% Arkansas Department of Aeronautics.

**DISCUSSION:** This project is to extend Taxiway A to the south and to construct Taxiway E from the runway east to intersect with the extended Taxiway A.

**BUDGET IMPACT:** This project is fully funded by the FAA and the State of Arkansas Department of Aeronautics.

Attachments: Staff Review Form, Construction Contract

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

**RESOLUTION NO. _____**

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO APAC-ARKANSAS, INC., McCLINTON-ANCHOR DIVISION IN THE AMOUNT OF $607,078.90 TO CONSTRUCT TAXIWAYS "A" AND "E" EXTENSIONS AT THE FAYETTEVILLE MUNCIPAL AIRPORT; AND APPROVING A TEN PERCENT (10%) PROJECT CONTINGENCY OF $6,708.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of $607,078.90 to construct the Taxiways "A" and "E" extensions at the Fayetteville Muncipal Airport. A copy of the contract, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a ten percent (10%) project contingency of $6,708.00.

**PASSED** and **APPROVED** this 20th day of July 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

DRAFT

# STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
X CONTRACT REVIEW
____ GRANT REVIEW

Taxiway A Extension Phase II
APAC Div McClinton Anchor

For the Fayetteville City Council Meeting of: July 20, 2004

**FROM:**

| Ray M. Boudreaux | Aviation & Economic Development | General Government |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** A Resolution to approve a contract with McClinton-Anchor Division of APAC Arkansas Inc., PO Box 1367, Fayetteville, AR 72702-1367, phone: 521-3550, fax: 521-2826, to construct an Extension to Taxiway A & E at Fayetteville Municipal Airport, Drake Field.

Approval of a 10% Project Contingency in the amount of $60,708.00. Forward to the Mayor for signature.

**COST TO CITY:**

| $677,787.00 | $ 1,320,000.00 | Taxiway "A" Development Phase II |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 5550.3960.7820.32 | $ 84,110.00 | Airport Capital |
| Account Number | Funds Used to Date | Program / Project Category Name |
| 04025.1 | $ 1,235,890.00 | General (Airport) |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 7-2-04

**CONTRACT/GRANT/LEASE REVIEW:**

Accounting Manager — Date: 7/2/04
Internal Auditor — Date:
City Attorney — Date: 7/2/04
Purchasing Manager — Date: 7-2-04

**STAFF RECOMMENDATION:**

Division Head — Date:
Department Director — Date: 7/1/04
Finance & Internal Services Dir. — Date: 7-6-04
Chief Administrative Officer — Date: 7-6-04
Mayor — Date: 7/7/04

**Received in Mayor's Office** 7/6/04 Date 4:44 pm

Cross Reference:

Previous Ord/Res#: #51-04

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No X

ENTERED 7/8/04

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

July 2, 2004

Mr. Ray Boudreaux
Airport Manager
Fayetteville Municipal Airport
4500 So. School Street, Suite F
Fayetteville, AR 72701

RE: Recommendation to Award the Construction Contract
Taxiways "A" and "E" Extension

Dear Mr. Boudreaux:

Reference is made to the July 1st bid opening for the City's proposed project to extend Taxiways "A" and "E". As you know, we received two bids, both of which were below the Engineer's estimate and within the amount of money that the City has budgeted for the job.

The certified Bid Tabulation transmitted herewith verifies the accuracy of the bids submitted by the prospective contractors. The lowest bidder was, therefore, **McClinton-Anchor, a Division of APAC**, with a Total Base Bid of $607,078.90.

Because we have worked with this firm on multiple occasions, we recognize that this Contractor is capable of satisfactorily completing this project. Also, importantly, the Contractor is appropriately licensed in the State of Arkansas. Therefore, we recommend that the City accept their bid and award the construction contract to McClinton-Anchor in the amount of **$607,078.90**.

If/when the City makes a determination in this regard we will be happy to assist with the paperwork to move the project toward construction.

Meanwhile, if you have questions or comments regarding the process or about our recommendation, please let me know. We appreciate the opportunity to continue working with the City and we look forward to the successful completion of this project.

Sincerely,

McClelland Consulting Engineers, Inc.

Johnny Quinn, P.E.

Enclosure: Certified Bid Tabulation

Copy: Ms. Peggy Vice, Purchasing Mgr., Fayetteville, 113 W. Mountain

J:\20040421\0correspondence\Recommendation to Award Contract.doc

**Bid 04-49**
**July 1, 2004**
**TAXIWAYS "A" AND "E" EXTENSION, FAYETTEVILLE MUNICIPAL AIRPORT**
**MCE Project # FY042110**

| Item # | Description | Qty. | Unit | McClinton - Anchor | | Wilson Brothers | |
|---|---|---|---|---|---|---|---|
| | | | | Unit Price | Extended | Unit Price | Extended |
| 1 | Mobilization & Demobilization (Taxiway Extension) | 1 | LS | $28,614.00 | $28,614.00 | $52,500.00 | $52,500.00 |
| 2 | Topsoil Removal (Plan Quantity) | 3,500 | CY | $6.25 | $21,875.00 | $6.00 | $21,000.00 |
| 3 | Unclassified Excavation (Plan Quantity) | 1,200 | CY | $13.85 | $16,620.00 | $9.50 | $11,400.00 |
| 4 | Embankment from Excavation (Plan Quantity) | 3,500 | CY | $15.40 | $53,900.00 | $9.50 | $33,250.00 |
| 5 | Select Borrow Embankment (Plan Quantity) | 4,400 | CY | $15.70 | $69,080.00 | $11.00 | $48,400.00 |
| 6 | Topsoil Replacement (Plan Quantity) | 2,100 | CY | $11.75 | $24,675.00 | $5.75 | $12,075.00 |
| 7 | Undercut and Embankment Backfill | 1,500 | CY | $18.65 | $27,975.00 | $17.50 | $26,250.00 |
| 8 | Soil Stabilization Fabric | 6,250 | SY | $1.90 | $11,875.00 | $5.50 | $34,375.00 |
| 9 | Straw Bale Barrier | 100 | LF | $7.85 | $785.00 | $12.00 | $1,200.00 |
| 10 | Filter Fabric Barrier | 1,650 | LF | $4.05 | $6,682.50 | $6.50 | $10,725.00 |
| 11 | Crushed Aggregate Base Course | 2,800 | TN | $19.00 | $53,200.00 | $16.25 | $45,500.00 |
| 12 | 11-Inch Portland Cement Concrete Pavement | 4,075 | SY | $42.50 | $173,187.50 | $58.50 | $238,387.50 |
| 13 | Taxiway Joint Sealing | 1 | LS | $8,990.00 | $8,990.00 | $18,500.00 | $18,500.00 |
| 14 | Solid Sodding | 20 | SY | $10.15 | $203.00 | $11.40 | $228.00 |
| 15 | Seeding, Fertilizing and Mulching | 3 | AC | $2,557.80 | $7,673.40 | $2,700.00 | $8,100.00 |
| 16 | Taxiway Striping (Yellow) | 1,500 | LF | $1.20 | $1,800.00 | $1.25 | $1,875.00 |
| 17 | Black Outline Striping | 2,400 | LF | $1.15 | $2,760.00 | $1.20 | $2,880.00 |
| 18 | Pipe Underdrain System | 1,500 | LF | $10.20 | $15,300.00 | $12.00 | $18,000.00 |
| 19 | Trench and Excavation Safety System | 1 | LS | $1,817.00 | $1,817.00 | $100.00 | $100.00 |
| 20 | Runway Light Removal | 1 | EA | $127.00 | $127.00 | $140.00 | $140.00 |
| 21 | New Medium Intensity Taxiway Lights | 31 | EA | $264.00 | $8,184.00 | $285.00 | $8,835.00 |
| 22 | New Taxiway Light Base in Concrete | 31 | EA | $411.00 | $12,741.00 | $440.00 | $13,640.00 |
| 23 | New Taxiway Sign | 2 | EA | $2,497.00 | $4,994.00 | $2,700.00 | $5,400.00 |
| 24 | New Taxiway Sign (2 Panel) | 2 | EA | $3,172.00 | $6,344.00 | $3,400.00 | $6,800.00 |
| 25 | Taxiway Hold Sign (3 Panels) | 1 | EA | $4,141.00 | $4,141.00 | $4,450.00 | $4,450.00 |
| 26 | Lighting Cable, Counter and Cable Trench | 2,700 | LF | $5.10 | $13,770.00 | $5.45 | $14,715.00 |
| 27 | I-Inch Conduit for Lighting Cable | 250 | LF | $1.35 | $337.50 | $1.45 | $362.50 |
| 28 | 2-Inch Conduit for Lighting Cable | 2,200 | LF | $2.15 | $4,730.00 | $2.30 | $5,060.00 |
| 29 | 4-Way, 4-Inch Electrical Duct Encased | 200 | LF | $40.60 | $8,120.00 | $43.50 | $8,700.00 |
| 30 | 2-Way, 4-Inch Electrical Duct Encased (W/24" Split Conduit) | 100 | LF | $52.80 | $5,280.00 | $56.50 | $5,650.00 |
| 31 | Third Party Insurance Coverage (Non Eligible) (Rider Amount) | 1 | LS | $145.00 | $145.00 | $8,000.00 | $8,000.00 |
| 32 | Maintenance of Traffic for Aircraft (Closed Airport) | 1 | LS | $11,153.00 | $11,153.00 | $22,500.00 | $22,500.00 |
| | **TOTAL SCHEDULE I BID** | | | | $607,078.90 | | $688,998.00 |

Certified: John C. Quinn

John C. Quinn, P.E. #4314

# CONTRACT

THIS AGREEMENT, made and entered into on the____ day of _____. __2004, by and between **McClinton-Anchor, a Division of APAC,** herein called the Contractor, and the **City of Fayetteville**:

W I T N E S S E T H:

That **McClinton-Anchor, a Division of APAC**, for the consideration hereinafter fully set out, hereby agrees with the **City of Fayetteville** as follows:

1. That **McClinton-Anchor, a Division of APAC**, shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled:

***Taxiway "A" Extension and Taxiway "E", Fayetteville Municipal Airport, Drake Field, June 2004***

| | |
|---|---|
| Advertisement for Bids | Payment Bond |
| Instructions to Bidders | General Conditions |
| Bid and acceptance thereof | Supplemental Conditions |
| Performance Bond | Specifications |
| | Drawings – 14 Sheets |

2. That the **City of Fayetteville** hereby agrees to pay to **McClinton-Anchor, a Division of APAC** for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount of **Six Hundred Seven Thousand, Seventy-Eight & 90/100 Dollars ($607,078.90).**

3. The Work will be completed and ready for final payment in accordance with the General Conditions within **150** days after the date when the Contract Time commences to run, as provided in the Notice to Proceed.

4. Liquidated Damages: **City of Fayetteville** and **McClinton-Anchor, a Division of APAC,** recognize that time is of the essence of this Agreement and the **City of Fayetteville** will suffer financial loss if the Work is not completed within the times specified above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by **City of Fayetteville** if the Work is not completed on time. Accordingly, instead of requiring any such proof, **City of Fayetteville** and **McClinton-Anchor, a Division of APAC**, agree that as liquidated damages for delay (but not as a penalty) **McClinton-Anchor, a Division of APAC,** shall pay **City of Fayetteville Four Hundred Dollars ($400.00)** for each day that expires after the time specified in Paragraph 3 for completion and readiness for final payment.

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

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

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

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

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

SEAL:

WITNESSES:

_____

**McClinton-Anchor, a Division of APAC**

By James A. Cole

Admin Vice President
**Title**

ATTEST:

**CITY OF FAYETTEVILLE**

_____
City Clerk

By_____
Dan Coody, Mayor

# BUILDING SERVICES' OMNIBUS STATUS REPORT

*Ongoing Initiatives in the City Administration Building*

*A Study of Public Safety Departments: Needs and Implications*

*Building Services' Overall Space Plan*

CITY OF FAYETTEVILLE

Report prepared for Stephen Davis, Finance and Internal Services Director

September 2003

Coy Hurd, Ph.D.

*Executive Summary*

This omnibus report has been compiled (in part) for the purpose of researching the present and near future needs for operating space for Public Safety Divisions of city government. The research was accomplished by interviewing Heads of pertinent Divisions, and by referencing a space needs report completed in 1991. Supervisors were asked about current situations, then were further asked to project Division needs into the future. Divisions included in this report are City Prosecutor, Fire Department Administration, Fire Marshal, District Court, Police Department and Dispatch.

The study confirms that most of the Public Safety Divisions of city government are approaching an acute shortage of the facility space needed to effectively accomplish their important missions, and, that future growth will likely compound this problem. Calculations show that near a 30,000 square feet increase in space is needed to accommodate adequate operations of Public Safety Divisions seventeen years into the future. Some of these space needs have developed between 1991 and the present. The remainder of the additional space requirements is driven by future changes in staff and service delivery.

Building Services advocates a long-term approach to the overall question of space needs; an approach whose scope could extend into the late 2020s. This plan advocates the construction of a new facility to house the city's Public Safety Divisions, and further recommends that this complex be sited in the southern part of the city or in the North Garland area. Following the construction of the Joint Public Safety Command Center, a reallocation of space for the city offices remaining downtown could occur.

*Ongoing Initiatives*

Regardless of other remodeling efforts which occur, the strong probability exists that activity will take place in the City Administration Building in the near term. These likely events and projected costs are:

a) automatic locking system for City Administration Building and TCA.....$18,600

b) floor tile replacement, south portion of First Floor..... 3,700

c) recarpet building .....54,000

d) work in the Business Office

1. a pneumatic conveyance system for cash and checks.....17,200

2. installation of bullet resistant glass..... ...6,500

3. installation of camera and sound system.....5,500

4. installation of additional electronic locks.....800

5. ADA compliance issues regarding the counter.....3,500

6. emergency generator for City Administration Building.....35,000

total: $144,800

**Public Safety Departments: Needs and Implications**

*Police Department and Dispatch*

The greatest need for additional space appears to be the Fayetteville Police Department and the associated dispatch operation. The 155 current employees are housed in a 22,229 square foot facility. Not all of this area can be dedicated to the

ongoing operation, as support space (mechanical areas, janitorial closets, storage of evidence, freight elevator, other non assignable space such as hallways and holding cells) is included in this total. The current situation is one in which Police Department activities requiring privacy must take place adjacent to loud and bustling public areas.

The Dispatch area is extremely limited, including only where dispatch workers actually sit at consoles to complete their work. Combined support space and operations space in the Police facility amount to about 143 square feet per employee. The staff of this division is expected to grow in the future. The rate of growth for the Police Department and Central Dispatch is expected to be about twenty percent over a seventeen year period, from the 155 current positions to 186.

In 1991, City Administration commissioned Roth and Sheppard Architects of Denver, Colorado to study and project space needs for the operations of Police, Courts, and Prosecutor's Office. The study showed the projected need of the Fayetteville Police Department for year of 2002 to be 35,420 square feet. Projected into year of 2012, the need was estimated to be 38,637 square feet. From the information in the Roth study and from other sources, we can extrapolate the need in the year of 2020 to be in the 48,000 square feet range, 1.5 times the size of present quarters. The Roth Report projected a need in 2002 for 35,420 square feet; present conditions show a deficit of 13,191 square feet from this projection.

*District Court*

The District Court operates in an area of 2,848 square feet. This includes the Courtroom of 1,800 square feet. The Division has a total of eleven employees working in

this space (this averages to less than 100 square feet per employee if the courtroom is excluded).

Referencing the *Roth Report*, the need for 2002 was 4,456 square feet, and the need in 2012 will grow to 4,756 square feet. The extrapolation to 2020 is 15 employees (an increase from the present of thirty-six percent), increasing the need to near 5,000 square feet.

*City Prosecutor*

The City Prosecutor Division has a total of 13 employees utilizing 1,965 square feet of floor space (an average of about 150 per person). In 15 years, the Prosecutor expects that he will increase his operations to include 16 employees, and will need about 2,500 square feet.

*Fire Department Administration and the Fire Marshals*

The Fire Department Administration and the Fire Marshal component of the Fayetteville Fire Department Divisions would seem to be the areas of the Public Safety Divisions which have relatively small needs where expansion is concerned.

In the Fire Marshal component, at present, there are five employees utilizing 1,077 square feet. The seventeen year projection shows a likely sum of seven Marshals who will need about 1,500 square feet of space.

Currently the Fire Department Administration houses ten workers in an area of 2,617 square feet (about 260 square feet per). In seventeen years, the contingent will likely be twelve and the space need at 3,000 square feet. Leadership of this component

allows that this need could probably be met with more parsimonious use of the present space.

*Overall Physical Space Plan*

Building Services' action plan consists of two initiatives:

**1) develop options for combined Joint Public Safety Command Center (Police, Central Dispatch, Fire Administration, Fire Marshals, and Fire Training);**

**2) develop security enhancements for City Administration Building and City Maintenance Complex.**

The long-range alternative to this preferred plan is:

**Combine Planning, Engineering, Building Safety, and Community Code Enforcement into one building;**

With these Divisions in the same building (the TCA Complex), our customers will be able to "one stop shop;" the need for Fayetteville's citizens to trek from one building to the next for services will be lowered or eliminated. These Divisions (with congruent objectives and goals) will be able to more closely communicate and coordinate. This action would present the added benefit of freeing scarce space in the City Administration Building.

*Site selection for a Joint Public Safety Command Center*

Before a Joint Public Safety Command Center can be constructed, a matter of overriding importance will be strategic location. Major considerations include: ease of access (considering roadways and traffic patterns), efficiencies, location of ancillary services, and positive impacts (financial and social) to the community.

Consensus of opinion is that locating such a facility near downtown Fayetteville is not optimal due to difficult traffic patterns and lack of fast access to the interstate highway system. Areas of Fayetteville which have been tentatively identified as reasonable sites for such a complex are Sixth Street, Cato Springs Road, and, the North Garland area. All of these potential sites would provide the needed access to I 540. Locating around Sixth Street or Cato Springs could provide a needed social and economic impact for this part of Fayetteville. This envisioned facility would require approximately 80,000 square feet at a cost approaching sixteen million dollars.

The University has expressed a strong interest in a land swap that may provide an excellent site for consideration. Their proposed swap is one where the University would acquire Fire Station #2 (at the edge of campus on Garland Avenue). The City would thereby acquire acreage on the Experimental Farm adjacent to I 540.

*When the Joint Public Safety Command Center is Completed: What's Next?*

Once this long-range goal is met and the respective Divisions of Prosecutor, Court, Police, Dispatch, and Fire Department are located in a common command center, several opportunities then present themselves regarding space allocations for city administrative functions. The following is one likely scenario for an action plan:

a) designated Divisions move into Command Center thereby freeing-up the present 27,000 square feet Police Building,

b) Planning, Engineering, Building Safety and Community Code Enforcement Divisions relocate into the vacated building (the current Police and Courts Building. This will allow approximately 4,800 square feet for future growth),

c) Cable Administration moves into the TCA Complex (currently the Planning, Engineering and Code Enforcement Building. This will provide approximately 8,000 square feet for future growth),

d) The Ground and First Floor of the City Administration Building is remodeled to provide:

1) a more secure and technologically up-to-date City Council Chamber Room,

2) more space for Information Technology and Human Resources

3) more efficient Business Office,

4) increased meeting/conference rooms on the Second Floor.

e) the two city-owned metal buildings (PEG Building and the adjacent "blue building") are razed, and a needed personnel parking lot is created,

f) this parking lot then becomes a viable location for a potential building site when long-range future needs of City Administration become pronounced.

*Fayetteville Vision 2020: Guiding Principles*

The plan outlined in this report is congruent with at least five of the Guiding Principles adopted by the Fayetteville City Council.

**#2. Well Maintained City Infrastructure and Facilities**

A well designed and constructed complex to house Public Safety Divisions of the city will be more easily maintained in an efficient manner. The buildings now housing these Divisions are from another era of design, and were not constructed with energy efficiency and high-speed data transfer in mind.

**#3. Diverse, Growing Local Economy**

An efficient and very visible Public Safety component of local government could instill the confidence of present business owners and will encourage other interest to consider Fayetteville as the location for new enterprises.

**#4. Financially Sustainable City Government Providing Top Quality, Responsive Services**

A relocation of the Public Safety Divisions can place them in a more easily accessed position, thereby facilitating more responsive services.

**#5. Revitalized South Fayetteville**

The possibility of siting such a facility in the south part of Fayetteville could have a large impact on that area of the city in several respects. Refer to the above siting discussion.

**#10. Reputation as a "Safe Community"**

A highly visible public safety complex could have a tangible impact on the way citizens and visitors perceive our community, and on where the criminal elements of our society decide to operate.

# OFFER AND ACCEPTANCE CONTRACT

1. The **City of Fayetteville, Arkansas**, a municipal corporation, offers to buy, subject to the terms and conditions set forth herein, the following described property:

Parcel No. 765-15227-000 (Deed Book 1093 at Page 857)

Part of the Northeast Quarter (NE¼) of the Northwest Quarter(NW¼) of Section 23, Township 16 North of Range 30 West of Fifth (5th) Principal Meridian, Washington County, Arkansas, more particularly described as follows, to-wit: Beginning at a point on the east right of way of Highway 16 by-pass which is 10.00 feet East and N 00° 25' 00" E 200.00 feet from the SW corner of said NE¼ of NW¼ of Section 23, T-16-N, R-30-W; thence along said right of way N 00° 25' 00" E 40.00 feet, thence leaving said right of way East 90.00 feet, thence N 00° 25' 00" E 160.00 feet, thence West 90.00 feet to the East right of way of Highway 16 by-pass, thence along said right of way N 00° 25' 00" E 538.00 feet, thence N 69° 30' 00" E 114.00 feet to the intersection of the southerly right of way of Highway 16, thence along said right of way S 67° 54' 59" E 87.83 feet, thence S 70° 00' 00" E 233.00 feet, thence S 75° 31' 47" E 244.56 feet to the intersection of the West right of way of Ray Avenue, thence along said right of way S 01° 42' 54" W 294.69 feet, thence S 01° 00' 10" E 330.27 feet, thence leaving said right of way West 150.00 feet, thence South 179.30 feet to an existing fence line, thence along said fence line West 257.70 feet, thence leaving said fence line N 00° 25' 00" E 200.00 feet, thence West 240.00 feet to the Point of Beginning, Containing 11.16 acres, more or less, subject to right of way and easements of record.

(Also known as 1851 E. Huntsville Road, Fayetteville, Arkansas, and includes land, all buildings, and accoutrements.)

2. **Purchase Price**: Subject to the following conditions, the City of Fayetteville shall pay for the property at closing, the total and cash payment of **$1,100,000.00**.

3. **Contingent Earnest Money Deposit**: The City of Fayetteville herewith tenders a check for **$11,000.00** to **Tyson Foods, Inc.** (seller), as earnest money, which shall apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the City of Fayetteville by Tyson Foods, Inc. If title requirements are not fulfilled or Tyson Foods, Inc. fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the City of Fayetteville. If the City of Fayetteville fails to fulfill their obligations under this contract or, after all conditions have been met, the City of Fayetteville fails to close this transaction, the earnest money may, at the option of Tyson Foods, Inc., become liquidated damages to Tyson Foods, Inc.

4. Conveyance will be made to the City of Fayetteville by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by Tyson Foods, Inc.

5. Tyson Foods Inc. shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. Tyson Foods, Inc. shall pay for the cost of the title insurance.

6. Tyson Foods, Inc. agrees to allow the City of Fayetteville, if the City of Fayetteville so desires, at City of Fayetteville's expense, to survey the property. Tyson Foods, Inc. agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.

7. Taxes and special assessments due on or before closing shall be paid by Tyson Foods, Inc. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.

8. The closing date shall be within ninety (90) days after approval of this offer by the City Council, or January 31, 2005, whichever occurs first. If such date of closing falls on a weekend or holiday, it will be held the following working day.

9. Possession of the property shall be delivered to the City of Fayetteville on the date of closing.

10. Tyson Foods, Inc. hereby grants permission for the City of Fayetteville or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.

11. All fixtures, improvements and attached equipment are included in the purchase price.

12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by Tyson Foods, Inc.

13. Tyson Foods, Inc. shall rectify and remedy any conditions arising from the presence of asbestos and/or underground fuel storage tanks. Tyson Foods, Inc. shall pay all costs of any testing for existence of and all costs for removal of said asbestos and underground fuel storage tanks. Determination of the conditions must be complete prior to closing.

14. Tyson Foods, Inc. shall disclose to the City of Fayetteville any and all environmental hazards of which Tyson Foods, Inc. has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, the City of Fayetteville and Tyson Foods, Inc. shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Tyson Foods, Inc. shall cure such, at their expense; or, in the alternative, at the City of Fayetteville's discretion, the City of Fayetteville may cure such environmental hazard, and Tyson Foods, Inc. shall indemnify the City of Fayetteville for all costs associated with said cure.

15. This agreement shall be governed by the laws of the State of Arkansas.

16. This agreement, when executed by both the City of Fayetteville and Tyson Foods, Inc. shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.

17. This contract expires, if not accepted by Tyson Foods, Inc. on or before the 23rd day of July, 2004.

18. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within sixty (60) days of acceptance by Tyson Foods, Inc.

18. **NOTICE:** **THE CITY OF FAYETTEVILLE ASSERTS AND TYSON FOODS, INC. HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO CITY OF FAYETTEVILLE OF THE $11,000.00 EARNEST MONEY DEPOSIT.**

DRAFT

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 4

**TYSON FOODS, INC.**

_____ Date:_____

_____
[Please print or type Name and Title]

_____ Date:_____

_____
[Please print or type Name and Title]

**Agent or Witness**:

_____ Date:_____

**CITY OF FAYETTEVILLE, ARKANSAS,**
**A MUNICIPAL CORPORATION**

_____ Date:_____
Dan Coody, Mayor

_____ Date:_____
Sondra Smith, City Clerk

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 4

**ACKNOWLEDGMENT**

STATE OF ARKANSAS )
) ss.
COUNTY OF WASHINGTON )

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are _____ and _____, respectively, of **Tyson Foods, Inc.** and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said Tyson Foods, Inc., and further stated and acknowledged that he/she/they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2004.

_____
Notary Public

MY COMMISSION EXPIRES:

_____

---

**ACKNOWLEDGMENT**

STATE OF ARKANSAS )
) ss.
COUNTY OF WASHINGTON )

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody** and **Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor** and **City Clerk** of the **City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2004.

_____
Notary Public

MY COMMISSION EXPIRES:

_____

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

| Budget Year | Department: Sales Tax Capital Improvements | Date Requested | Adjustment Number |
|---|---|---|---|
| 2004 | Division: | 7/20/2004 | |
| | Program: | | |

**Project or Item Requested:**

$1,100,000 is requested for the purchase of the Tyson Foods complex located at 1851 East Huntsville Road.

**Project or Item Deleted:**

$150,000 from the Building Improvements capital project.

None. To recognize $551,000 from the sale of the public library.

None. To recognize $299,000 in additional investment earnings.

**Justification of this Increase:**

The complex will be used for a Joint Public Safety facility to be used by the Police Department, the Fire Department, and the Fayetteville District Court.

**Justification of this Decrease:**

A portion of the Building Improvements slated for 2004 will be moved to 2005.

The sale of the City's portion of the old Fayetteville Public Library will result in $551,000 in additional revenue.

The Sales Tax fund is estimated to have an additional $409,000 in revenue by the end of 2004.

**Increase Budget (Decrease Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Land acquisition | 4470 | 9470 | 5805 | 00 | 1,000,000 | 04008 | 1 |
| Transf to Cap Improvement | 1010 | 6600 | 7602 | 47 | 551,000 | | |

**Decrease Budget (Increase Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Interest-investments | 4470 | 0947 | 4708 | 00 | 299,000 | | |
| Transfer from General | 4470 | 0947 | 6602 | 01 | 551,000 | | |
| Gain/loss-sale of assets | 1010 | 0001 | 4881 | 02 | 551,000 | | |
| Building & grounds maint | 4470 | 9470 | 5400 | 00 | 150,000 | 02046 | 1 |

**Approval Signatures**

| | |
|---|---|
| Requested By | Date |
| Budget Manager | 7-6-04 Date |
| Department Director | Date |
| Finance & Internal Services Director | 7-7-04 Date |
| Mayor | 7/7/04 Date |

**Budget Office Use Only**

Type: A B C (D) E

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

# STAFF REVIEW FORM - FINANCIAL OBLIGATION

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: July 20, 2004

**FROM:**

| Coy Hurd | Building Services | Finance and Internal Services |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** The action required is the adoption of a resolution authorizing City Staff to develop and present to the Tyson Food Company an Offer and Acceptance Document regarding purchase of the Tyson Complex located at 1851 East Huntsville Road. The amount of the offer will not exceed $1,100,000 and is contingent upon an investigation of the acceptablity of the condition of the roof and the absence of any toxic materials or buried fuel tanks on the site. Please note the attached Space Needs Report. In addition, approval of the attached budget adjustment will be required.

**COST TO CITY:**

| $1,100,000.00 | $ 100,000.00 | Joint Public Safety Command Center |
|---|---|---|
| | Category/Project Budget | Program Category / Project Name |
| 4470.9470.5805.00 | 0 | Other Capital |
| Account Number | Funds Used to Date | Program / Project Category Name |
| 04008.1 | $ 100,000.00 | Sales Tax Captial+BK32 |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** XX Budgeted Item XX Budget Adjustment Attached

Budget Manager — 7-6-04 Date

**CONTRACT/GRANT/LEASE REVIEW:**

Accounting Manager — 7/6/04 Date

Internal Auditor — Date

City Attorney — 7/7/04 Date

Purchasing Manager — 7/7/04 Date

**STAFF RECOMMENDATION:**

Division Head — July 2 04 Date

**Received in Mayor's Office** 7-7-04 Date

Department Director — Date

Finance & Internal Services Dir. — 7-7-04 Date

Chief Administrative Officer — 7-7-04 Date

Mayor — 7/7/04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

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

7/6/04
TLH

# City Council Agenda Memo

To: Mayor and City Council

From: Gary Dumas

Date: June 25, 2004

Subject: Resolution Approving Lease with OPO Enterprises, Inc. for the patio within the Square Garden on the Town Square

**Recommendation:** Staff recommends approval of the attached resolution providing for the lease of the 1,676.16 square feet patio within the Square Garden on the Town Square for $1.00 annually plus other good and valuable consideration.

**Background:** The site of the former Hog City Diner has been vacant for several months. The former tenant provided some improvements and made the patio space useable. The City had and still has no investment in the patio improvements. A new tenant, OPO Enterprises, is now requesting a lease from the City for the patio area to be used in conjunction the new activity. This new enterprise will include a soda fountain, restaurant, and downstairs sports bar.

**Discussion:** The lease proposed differs from the prior lease in a few areas.

1. The term of the lease is for two years with 4 two year extensions.
2. Access to the patio may be gained through the existing gate along the west side of the property or through the opening along the east side.
3. Only live non-amplified music is permitted.
4. Lessee will be responsible for damage to plant materials and will provide daily litter control for the Garden and Inner Square.
5. Annual lease will be $1.00 plus other good and valuable consideration.

**Budget Impact:** There will be some savings of staff time in not having to perform daily maintenance cleaning the Gardens and Square.

**RESOLUTION NO. _____**

A RESOLUTION APPROVING A TWO YEAR LEASE WITH OPO ENTERPRISES, INC. FOR RENTAL RATE OF $1 PER YEAR PLUS OTHER GOOD AND VALUABLE CONSIDERATION, FOR A PERIOD OF TWO (2) YEARS, AND ALLOWING THE LESSEE FIVE ADDITIONAL TWO (2) YEAR PERIODS RENEWING THE LEASE FOR OUTDOOR DINING ON THE TOWN SQUARE FOR A TOTAL LEASE PERIOD OF TWELVE (12) YEARS.

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

Section 1. That the City Council hereby approves a lease with OPO Enterprises, Inc for a rental rate $1 per year plus other good and valuable consideration, for a period of two (2) years, and allowing the Lessee five additional two (2) year periods renewing the lease for outdoor dining on the Town Square if mutually agreeable with the City. A copy of the lease with attachments are attached hereto marked Exhibit "A" and Exhibit "B" and made a part hereof.

**PASSED AND APPROVED** this ____ day of _____, 2004.

APPROVED:

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

# LEASE

This Agreement, made and entered into this _____ day of _____, 2004, by and between the City of Fayetteville, whose address is 113 West Mountain, hereinafter called Lessor, and OPO Enterprises, Inc., whose address is 1 West Center, Fayetteville, Arkansas 72701, hereinafter called Lessee,

## WITNESSETH:

1. **LEASED PREMISES**. For and in consideration of the rents, covenants and agreements herein entered into and agreed upon by the Lessee as obligations to the Lessor, the Lessor lets, leases and demises unto Lessee, subject to the terms and conditions contained herein, the following described property containing approximately 1,676.16 square feet more or less, situated in Washington County, Arkansas:

   See Exhibit B attached hereto and made a part hereof.

   To have and to hold said premises unto the said Lessee for and during the term herein stated, subject to the covenants, terms, conditions and liens herein contained.

2. **TERM**. This lease shall commence on the date of this agreement and shall extend for a term of two (2) years.

3. **OPTION TO EXTEND**. If the Lessee shall have fully performed every agreement and covenant on Lessee's part to have been kept and performed under the term of this lease at the time of exercise and at the time of renewal, the Lessee is hereby granted the right if mutually agreeable with the City an option to extend this lease, upon the same terms, for an additional period of two (2) years, with such option to be exercised in writing by the Lessee not later than one hundred eighty (180) days prior to the expiration of the basic or original term of this lease. Lessee may extend for up to four additional two (2) year extension periods utilizing the same procedures outlined above if mutually agreed to by both Lessee and Lessor for a total lease period of twelve (12) years.

4. **RENT**. Lessee agrees to pay to Lessor the rental rate of $1 per year plus other good and valuable consideration. The rental rate of $1 per year plus other good and valuable consideration shall constitute the basic rental for the lease.

5. **USE**. Lessee agrees to use the lease premises for the purpose of operating an outdoor dining area and for no other purpose or purposes without the written consent of Lessor having been obtained in advance.

6. **CONSTRUCTION OF IMPROVEMENTS**. All improvements constructed by the Lessee on the leased premises shall be accomplished within the boundaries of

the leased premises and Lessee shall make every effort to conduct such construction so as to have a minimal impact on the town square gardens.

7. **INGRESS AND EGRESS.** Access to the leased premise may be from the existing gate access along the west fence or from the existing access along the east line.

8. **MUSIC.** Lessee agrees that only live non-amplified music will be permitted on the property in compliance with all City codes.

9. **SIGNS AND ADVERTISING.** No sign, picture, advertisement, or notice shall be displayed on any part of the leased premises visible to the public without the previous consent, in writing, of the Lessor.

10. **SQUARE GARDEN & LITTER REMOVAL.** Lessee will be responsible for any damage to Square Garden plantings and shall provide daily litter removal from the Town Square.

11. **COST OF REPLANTING.** Lessee agrees to reimburse Lessor for all reasonable costs, including material and labor, incurred by Lessor in any replanting made necessary by the construction of any and all improvements made by the Lessee to the leased property or by damage caused by Lessee's patrons' use of the Square Garden.

12. **NON-SUCCESSION.** This lease agreement shall insure only to the benefit of and be binding upon the parties hereto and not to their respective heirs, successors and assigns.

13. **TAXES.** Lessee shall pay any and all ad valorem taxes special improvement district taxes levied and assessed against said premises and the improvements located thereon during the term of this lease.

14. **COMPLIANCE WITH LAWS.** Lessee agrees not to violate any law, ordinance, rule or regulation of any government authority having jurisdiction of the leased premises.

15. **INSURANCE OF LESSEE'S PROPERTY.** Lessee shall be solely responsible for maintaining insurance on his property, including but not limited to movables, trade fixtures installed by Lessee, furniture, furnishings and inventory.

16. **RIGHT OF INSPECTION.** The Lessor shall have the right, in person or through Lessor's duly authorized representative, at all reasonable times to inspect the leased premises.

17. **ALTERATIONS**. Lessee shall have the right and privilege to make, at Lessee's expense, ordinary repairs and alterations to the leased premises; however, no alterations shall be made without the prior written consent of Lessor.

18. **FIXTURES**. All trade fixtures installed by Lessee or acquired by Lessee independently of this lease shall remain Lessee's property and may be removed by Lessee at the expiration of this lease; provided, however, Lessee shall restore the leased premises and repair any damage thereto caused by such removal.

19. **ACCEPTANCE OF PREMISES**. The Lessee shall be liable for all license fees, occupation taxes and the like in connection with the operation of any business on the leased premises, and shall pay all charges incurred by Lessee in connection with utility services of whatever kind or nature including any sewer charges and pickup of Lessee's trash and garbage.

20. **MAINTENANCE OF LEASED PREMISES.** The Lessee shall be liable for all license fees, occupation taxes and the like in connection with the operation of any business on the leased premises, and shall pay all charges incurred by Lessee in connection with utility services of whatever kind or nature including any sewer charges and pickup of Lessee's trash and garbage.

The Lessee shall be responsible for maintaining the improvements upon the leased premises in a satisfactory condition and the premises shall, at all times, be maintained in a neat and orderly condition. Lessee's business operations will be carried on in accordance with the highest standards for such businesses, particularly in the areas of cleanliness and service.

21. **INDEMNIFICATION OF LESSOR**. The Lessee shall defend, indemnify and hold the Lessor harmless against any expense, claim, loss or liability as the result of any breach by the Lessee, Lessee's agents, servant, employees, customers, visitors or licensees, of any covenant or condition of this lease, or as a result of the Lessee's use or occupancy of the demised premises, or the carelessness, negligence or improper conduct of the Lessee, Lessee's agents, servants, employees, customers, visitors or licensees. To facilitate the provisions hereof, the Lessee shall keep and maintain at all times during the term of this lease, or any extension thereof, in full force and effect with a company or companies acceptable to Lessor, insurance against third party liability by reason of the Lessee's occupancy of the demised premises with limits of liability thereunder of not less than $100,000 per person and $500,000 per accident with $500,000 coverage for property damage.

22. **RETURN OF LEASED PROPERTY**. At the end of the term of this lease, or upon any other earlier termination, the Lessee agrees promptly and peaceably to restore possession of the leased premises to the Lessor in as good condition as they were when delivered to Lessee, ordinary wear and tear excepted. To accommodate this covenant, the Lessee hereby waives any and all notice to which

Lessee may be entitled under the laws of the State of Arkansas as a prerequisite to a suit against Lessee for the unlawful detention of the property.

23. **NOTICES**. Any notice called for or permitted under the terms hereof shall be given in writing and sent by certified mail to the Lessee at P.O. Box 519, Flippen, AR 72634, and to the Lessor at 113 West Mountain, Fayetteville, Arkansas 72701.

24. **WASTE**. Lessee agrees not to commit waste, not permit waste to result or to be done to or upon the aforesaid property and premises; not to conduct any other business thereon or therein, nor store or permit to be stored thereon or therein any explosives, combustible substances or materials of any nature, which would increase the fire hazard or cause a premium to be charged for insurance higher than that charged for the present use of said property; and not to operate nor permit to be operated, nor to exist thereon or therein, any public or private nuisance.

25. **RIGHT TO CURE**. If the Lessee shall default in any of the covenants, agreements, conditions, or undertakings herein contained to be kept, observed and performed by the Lessee, the Lessor shall give notice of such default in writing to the Lessee and the Lessee shall have thirty (30) days from and after the giving of such notice to eliminate and/or cure the cause of such default. If said default is eliminated or cured within the aforementioned thirty (30) days, the Lessee shall not be considered in default or in breach of this lease.

26. **SEVERABILITY**. Each paragraph of this lease agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.

27. **INTERPRETATION**. This lease agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

28. **ENTIRE AGREEMENT**. This lease agreement contains the entire agreement of both parties hereto, and not other oral or written agreement shall be binding on the parties hereto.

29. **NON-WAIVER PROVISION**. The failure of the Lessor or Lessee to insist upon the strict and literal performance of any agreement or conditions herein or to exercise any option retained or granted by reason of a default by the lessee shall not constitute a waive of the Lessor's right thereafter to insist upon and enforce full performance of such conditions and agreements.

**IN WITNESS WHEREOF**, Lessor and Lessee have hereunto set their hands and seals and have caused their names to be hereunto affixed by the undersigned officers who are duly authorized to act, on this ___ day of _____, 2004.

LESSEE:

By: _____
Name & Title

ATTEST:

By: _____
Name & Title

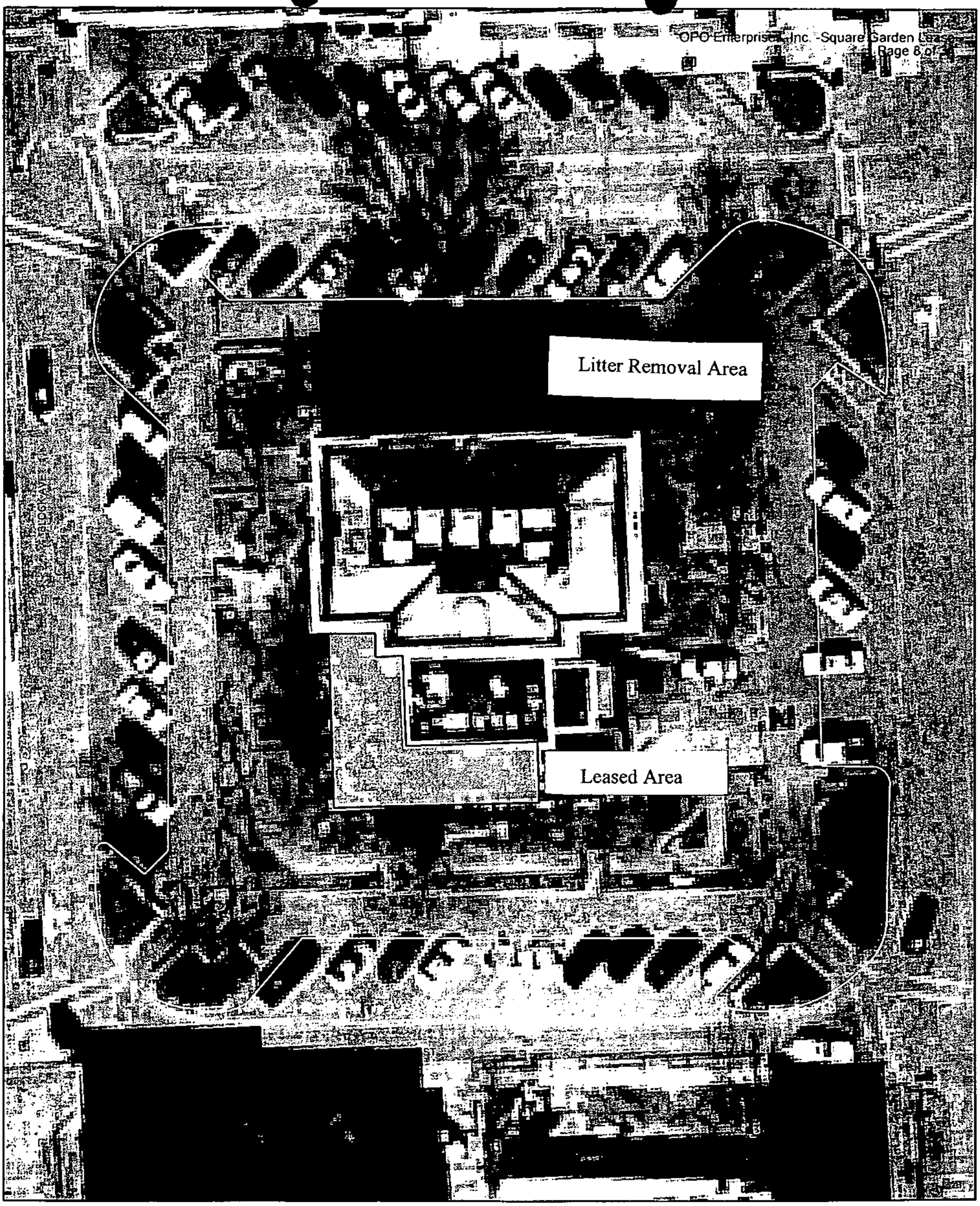
LESSOR:

CITY OF FAYETTEVILLE, ARKANSAS
A Municipal Corporation.

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk


Litter Removal Area
Leased Area
ST

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

## DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
**City Council**

FROM: **Kit Williams**, City Attorney

DATE: **July 1, 2004**

RE: **Lease of city-owned plaza adjoining the old Post Office on the Square**

In order to accommodate and encourage the Hog City Diner to occupy the old Post Office (which had remained empty after the "Old Post Office" and associated downstairs bar had closed), the City Council agreed to lease a portion of city owned lands adjoining the building upon several conditions.

The City agreed to charge only $1,677.00 annual rent for the first ten years. Extension of the lease would have the rent increased by the amount of Consumer Price Index increase since the inception of the lease. The reason for this very modest rent was primarily because Hog City agreed to build and pay for very substantial permanent improvements to our property so they could utilize it as an enclosed outdoor dining area for their restaurant.

The originally proposed rent had been three times higher ($419.25 per month or $5,031.00 annually). Hog City's president, Michael O'Brien agreed to that amount according to the minutes of the July 7, 1998 City Council meeting (attached). However, at the next City Council meeting, Mr. O'Brien requested a reduction to $1,677.00 annual rent. He stated: "They've been willing to risk close to a million dollars, and counting, in this project" (Minutes of July 21, 1998 City Council Meeting, page 3). He pointed out that he agreed to spend $3,000.00 to construct a new potting

shed for the city as well as numerous improvements on the city property "a beautiful fence, screening, lattice work, pillar columns, the concrete leveled and a fountain. These would remain if the restaurant ever closes." (Minutes of July 21, 1998 City Council Meeting, page 4).

> "Mayor Hanna stated it is not unusual for cities to give businesses incentives to locate there. It creates jobs, tax money, and, in this case, it brings back something to the square that has been missed. He felt a $1 a sq. ft. was a fair charge for the concrete driveway they already have the use of and will improve." (Minutes of July 21, 1998 City Council Meeting, page 5).

Even taking into consideration the $3,000.00 for the new potting shed and the many thousands of dollars of improvements made to turn a driveway into an enclosed seating area with a fountain and bar, the reduction of the rent from $5,031.00 to $1,677.00 only passed when Mayor Hanna broke the 4-4 aldermen vote.

Now the taxpayers of Fayetteville own a beautiful seating area for 75-80 people. (Minutes of July 7, 1998 City Council Meeting, page 8 – estimate by restaurant owner.) This improved, ready to go seating area is certainly worth far more than the $139.75 monthly rent agreed to by a divided City Council as an incentive for the improvements to be made.

One way to determine the fair rent would be to base it upon the rent being charged by the building's owner. The outdoor seating would constitute a very large increase in the restaurant's seating capacity for the six months or so per year it would be usable. However, a substantial portion of the total rent would be tied to the kitchen facilities inside so that amount would need to be deducted before whatever percentage of seasonal seating capacity the plaza represents could be used as a fair market rent amount.

Just as with all other city properties and assets, the City Council must ensure we receive fair market value for the taxpayers. The outdoor seating area for the old Post Office is not only surrounded by beautiful city paid landscaping, the improvements to the plaza were an investment for the taxpayers, financed by accepting a lower monthly rent to get the Hog City to build and pay for these improvements.

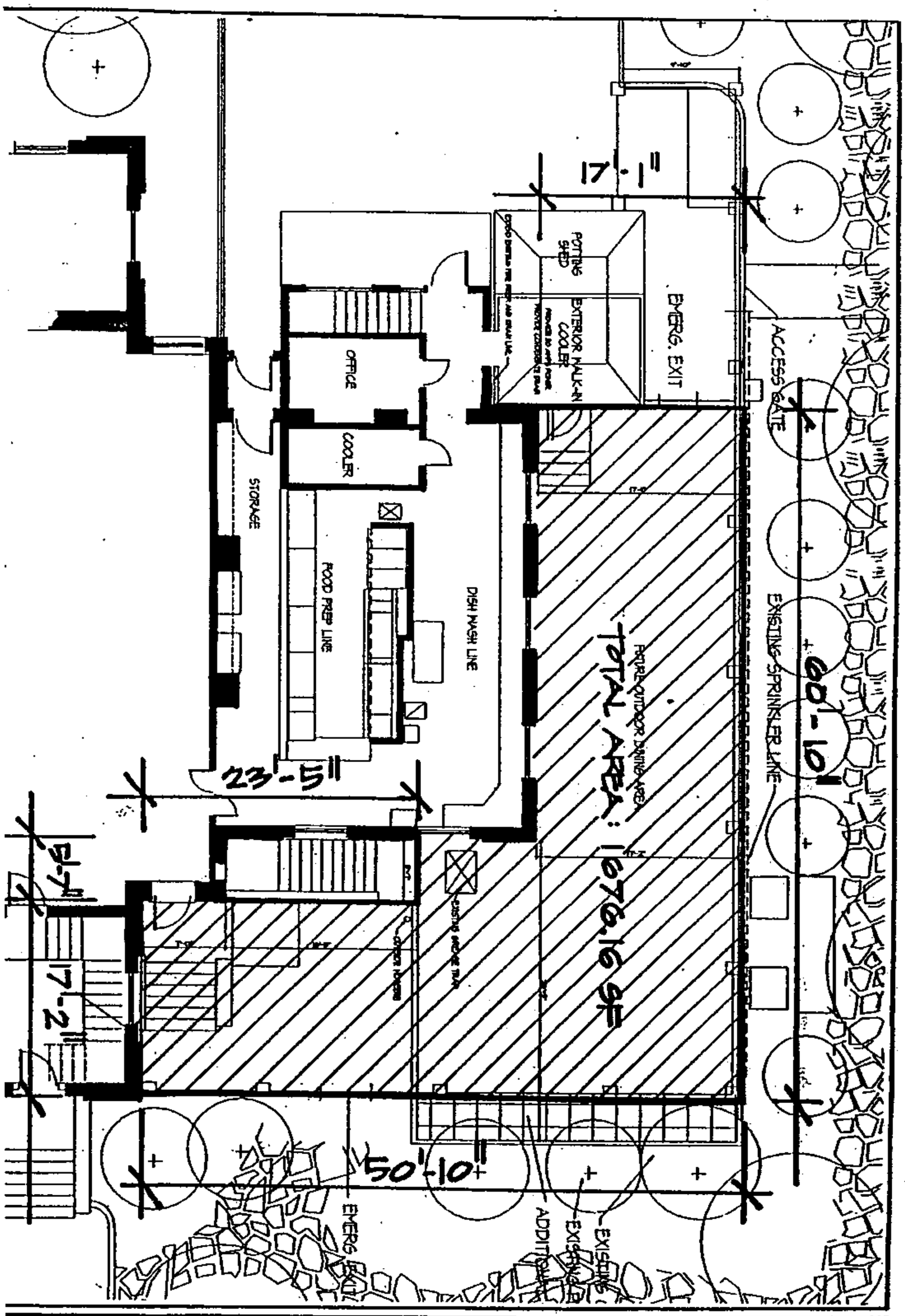
Not only is this plaza area beautiful and inviting, it may be important to the restaurant owners if they wish to allow a smoking area. It certainly provides an unique outdoor environment that the building otherwise cannot offer.

Music was also an important concern of the City Council in 1998 and was controlled in the first lease in paragraph 9.

> "Lessee agrees not to provide or allow any live music on the premises and any amplified music will be limited to background music for the outdoor dining area."

The new proposed lease allows "live non-amplified music" which can be far louder (drums, brass instruments, etc.) than "background music." Entry areas are changed to allow entry directly into the plaza (rather than through the old Post Office). Could this become a stand alone bar?

The amount of rent, control of music, and allowable access points should all be carefully considered before entering into a long term (12 year) lease of the city's enclosed plaza area adjoining the old Post Office.




ITTENBERG, DELONY & DAVIDSON, INC.

| SHEET | DATE | CONTENTS | PROJECT TITLE |
|---|---|---|---|
| | JOB NO. | SITE PLAN<br>SCALE 1:10 | HOG CITY DINER<br>OUTDOOR P |

the construction of this project total $454,498.71.

Mayor Hanna informed the Council that if this is passed at this meeting, the only thing preventing this from being completed this year would be procuring the steel.

Charles Venable, Assistant to the Public Works Director, stated the traffic count taken just after Joyce Street opened was 7,000 cars a day on this one-lane bridge. It has increased since then. This project will provide four lanes.

**Alderman Williams moved to accept the resolution. Alderman Daniel seconded. Upon roll call, the resolution passed on a vote of 7 to 0.**

**RESOLUTION 29-98 AS RECORDED IN THE CITY CLERK'S OFFICE.**

USE OF SQUARE GARDENS FOR OUTSIDE DINING

Mayor Hanna introduced consideration of a conceptual plan for outdoor dining on park property located within the Square Gardens.

Mike O'Brien, Cafe Company, stated there is an area where they have an existing easement that is part of the Parks Department that they would like to turn into outdoor dining. He passed out a handout regarding what is being proposed. He asked that the Council review this and recommend that the staff negotiate an agreement for the purpose of using this area for outdoor dining.

Richard Alderman, architect, used a drawing to walk through the area. He pointed out how this would provide convenient access for the handicapped. He stated this would not impact any of the existing gardens, except for moving a potting shed.

Mr. O'Brien stated this area would be closed to the public during non business hours. They are looking at the screening requirements.

Alderman Williams stated he would hate to see a tall fence. Outdoor dining was recommended in town meetings to enhance the downtown area. The attractiveness of this would be in sitting by the garden.

Mr. Alderman stated the screening is required and dictated by ABC. He stated he wanted the Council's approval to begin negotiation with the City staff to come up with what the City requires. They would also work with the historic people.

Mr. O'Brien stated the State law requires the classification of private club if open and serving alcohol on Sundays.

Alderman Williams stated he has a problem with making a public space into a private club. He pointed out that Jose's is both a

private club and not a private club.

Mr. O'Brien stated an integral part of their concept is the ability for people to imbibe and have choices of where they want to sit. The screening is a requirement for the liquor license.

Mr. Alderman stated there is no need to explore what the exact screening requirements are unless the Council gives some indication they are interested in this concept.

Alderman Young stated the Council would want to have that information.

Alderman Zurcher expressed reservations about having alcohol out in the Square Gardens.

Alderman Miller cautioned the Council about setting a precedent for leasing park land to a business.

Mayor Hanna stated the request is for approval for this business to work out with staff a plan to lease the easement and to have it presented to the Council.

**Alderman Trumbo moved this approval. Alderman Pettus seconded.**

Lonnie Gibson, former owner of the Old Post Office Restaurant, encouraged the Council to support this club. He stated he would like to be able to have a drink outside. This will bring people and money to the Square.

**Upon roll call, the motion carried on a vote of 7 to 0.**

WARD BOUNDARIES

Mayor Hanna introduced discussion of ward boundaries.

Mayor Hanna suggested that each alderman chose a configuration from the four suggested and submit it at the agenda session. This would be added first under old business at the next meeting.

Alderman Pettus asked for population trends.

Ben Mayes, Administrative Services Director, stated the choices are Alderman Schaper's, configuration D; Alderman Williams's, configuration E; Alderman Young's, configuration F; and Randy Zurcher's, configuration G.

**Adjournment**

Mayor Hanna adjourned the meeting at 10:05 p.m.

restrictive covenants to protect the neighbors. He supported putting a condemnation ordinance on first reading.

Alderman Pettus felt putting it on the first reading would be coercive.

Alderman Trumbo stated he favors free enterprise and did not support condemnation.

Alderman Williams stated condemnation would not be appropriate, if this were still Ms. January's property and she did not want it to be used for a city park. He stated she did want it to be a City park. This is a rare circumstance.

Paula Marinoni, audience member, stated this is a very special and important piece of property. The Arkansas Historic Preservation Program in Little Rock confirmed that the area just a block south of this property, called Big Spring, was the earliest documented settlement in Fayetteville. During the Battle of Fayetteville, minor skirmishes took place throughout the surrounding countryside. This area has never been developed. It has rock work, but the land has never been altered. The Council needs to think about preserving this area. It may be archaeologically significant. She quoted from Section 7.9 of the 2020 Plan regarding historical resources and their relationship to the community. She stated she discussed this in great detail with Ms. January over a year ago and Ms. January said she would like it to be preserved. In March, Ms. January again expressed her desire for this to be a park and preserved. The day before the Parks Board meeting recently, Ms. January said she would still like for this to be a park and that she would sell it to the City for $50,000. The current owners upped their offer knowing the City was intending to purchase the property. Ms. Marinoni stated she is working on a midtown trail that has over 50 historic sites. This could be added to that.

Mayor Hanna called for the vote.

*Upon roll call, the motion to put a condemnation ordinance on first reading failed on a vote of 4 to 2, with Aldermen Trumbo and Pettus voting no and Mayor Hanna declining to vote.*

HOG CITY DINER

Mayor Hanna introduced a resolution approving a patio area lease between the City of Fayetteville and Hog City Diner.

JULY 7, 1998

Alderman Pettus asked how many plants would have to be moved.

Richard Alderman, architect, showed drawings. They want just enough room along the curb to get in and get the work done. The contractor is required by the specifications to build the project from the inside out and not have any access or any movement through the gardens. They need two feet to put the posts in. He referred to site plan No. 1. He showed where a few plants would have to be moved.

Susan Ferrall, Square Gardens Manager, stated there is a lot of plant material that would have to be dug up in the heat of the summer. Everything will have to be potted, as there is no place to put it at this point. That park will have to be redesigned. She stated she would prefer to see this done after the freeze. This is the height of the season.

Mr. Alderman stated that from a financial standpoint, it is important to have this done by fall, when the students come back. He stated they have made every effort to restrict the contractor and to come up with a sequence of events to control the activity. He showed the back elevation as it will look. He stated it would take four to six weeks to complete.

Alderman Young asked what exactly will be constructed. He had envisioned a board deck.

Michael O'Brien, Cafe Company, stated they are proposing to level it with concrete, which would result in a retaining wall in an area that is now prone to flooding, sloping the concrete to distribute it. This also suits the American Disabilities Act and will be a smoother approach to the lift that will be placed at the entrance of the patio. He stated they would basically tie into the existing concrete at its highest level. If this ever were to revert back to the City, it will be an improved space. They will tie the drains from the building into an underground drainage system that will tie into the City's. The drainage problem will be corrected. It will be basically what is there now, but level.

Mr. Alderman stated decking is hard for a wheel chair to roll over and would have spaces which things could fall through.

Mr. O'Brien estimated the outdoor dining area would seat 75 to 80 people. He thought the outdoor area could be used about five months out of the year. He would like to see three to four table turn overs in the evening and two at lunch.

JULY 7, 1998

Alderman Schaper calculated the potential revenue from the outdoor dining to be $3,000 a day, gross. Rent typically goes around two to two and a half percent of the gross on an annual basis. He stated this would be a lot more than the dollar a square foot per year being proposed.

Mr. O'Brien responded that formula is based on improved space. This is unimproved, exterior space being used five months out of the year. All the improvements are at their expense.

Alderman Schaper stated the proposed terms represent a tremendous bargain. It is conservatively worth 10 times more.

Mr. O'Brien stated the City will get something for space that is not producing now. It will invigorate the town square and produce tax revenue.

Alderman Williams had concerns about the length of the lease. This lease is almost a deed. He stated citizens have expressed concern about increased noise from music and conversation.

Alderman Young was concerned about the option to extend on the same terms.

Alderman Schaper stated the question is whether this is a good idea, conceptually, or not. He has had calls from folks saying Dickson Street is the place for lively, outdoor eating. The square gardens are special. We need more public input on whether this is a wise thing to be doing.

Mayor Hanna stated he has been worried about the lack of activity around the square at night. There are not many people there to be disturbed at night. He stated the City will be getting their two percent just from the HMR tax. Many visitors have been disappointed not to find a restaurant in the middle of the square.

Mr. O'Brien stated the lease term of 25 years ties in with their commitment. They envision the revitalization of the downtown area.

Alderman Williams stated we need to look at the lease very carefully. Some people enjoy the quiet of the square.

Mr. O'Brien responded that he has had impressive, positive feed back from his customer base, which is 2,500 to 3,000 people a week.

JULY 7, 1998

Alderman Trumbo would like to see the lease have five-year increments, $3 a sq. ft., and CPI escalator clauses on the annual index for increases.

Mayor Hanna asked if Mr. O'Brien would be comfortable with an initial lease term of 10 years with five-year renewals and some kind of escalator clause.

Mr. O'Brien replied he would be.

Alderman Zurcher stated he was not sure this is a good concept, but he would consider a ten-year lease with five-year increments and all the numbers multiplied by ten and a guarantee that construction would not be started until after the first freeze.

Alderman Schaper suggested a five-year initial term.

Mr. O'Brien stated the proposal of ten years is acceptable.

Alderman Williams stated the City still needs to have some power and discretion and not have the lease automatically renew.

Alderman Schaper stated the outdoor music is a sensitive issue for him. The City owns this property. It is right next to the square gardens and he wants to protect the people who want to enjoy the gardens without intrusion.

Mayor Hanna asked if the City could have some kind of control over the music.

Mr. O'Brien stated that would be no problem.

Alderman Pettus asked about the cost of moving plants.

Mr. O'Brien stated they would absorb the expenses incurred. They would leave it up to Susan Ferrall to determine the costs. They could also provide assistance in relocating the plants. The time to develop the project is now. The market changes in the fall and waiting for the freeze would put them in the middle of bad weather and the Christmas light program.

Alderman Zurcher thought they should be able to wait one season, if they are in this for the long term.

Mayor Hanna asked if the lease could be reworked incorporating the items discussed and be voted on at the next meeting.

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JULY 7, 1998

Mr. O'Brien stated their preference would be for a ten-year lease, not five years.

Alderman Pettus asked about the clause in paragraph 20 of the lease which reads, "...not to conduct any business thereon..."

City Attorney Rose explained this refers to running a business other than this. He agreed to insert the word "other."

Mr. O'Brien stated time is of the essence to them. He asked if it could be voted on at this meeting, if they agreed to the ten-years terms, the $3 figure, and assisting Susan Ferrall as she dictates.

Alderman Williams stated the biggest mistakes made by the City have been when decisions were hurried.

Bill Stiles, 117 Rock, did not agree that this real estate is so valuable. There are a bunch of empty buildings on the square. The square is dying. This man wants to do something to bring people back to the square and the City should let him do it.

Paula Marinoni, citizen, stated she has expertise in judging the ambiance of a garden. She can tell what a garden has going for it and what it needs. Consistency is part of what makes a garden desirable to people. The square is not as vital as it used to be. She asked what guarantee there is that there would be no live, amplified music. People may want something different from Dickson Street, but she does not believe this will happen. These people have only been in business three or four months and we do not know them well; but they are getting ready to totally change the centerpiece of Fayetteville and drastically change the ambiance in the garden. She asked if it could be put in the lease that they can't have live, outdoor, amplified music.

Mayor Hanna stated they have told the City they wouldn't have and under the terms of the lease they can be told they can't do it.

Richard Alexander, resident of the historic district, downtown/Dickson St. developer, and board member of the Downtown Dickson Street Enhancement Project, encouraged the Council to view this project favorably and to get the best terms possible in the lease. The City's efforts to revitalize the downtown are aimed not just at tourism but at supporting businesses. The battle to save the square is not over. This project offers an ambiance and another reason to go to the gardens.

Bootsie Ackerman, Director of the Downtown Dickson Enhancement Project, stated they have asked citizens of Fayetteville what they'd like to see in the community. Outdoor dining is always mentioned. She stated the owners of this business want nothing more than to improve our community and add a beautiful business.

Ron Bumpass, representing the owner of the building, stated they supported the garden long before the City put money in it. He mentioned other cities that have revitalized with outdoor restaurants. The improvements made here will create more activity. No one else will use the property. He urged coming up with fair terms.

*Alderman Trumbo moved to table this until the next meeting. Alderman Pettus seconded. Upon roll call, the motion carried on a vote of 6 to 0.*

REFUND AND/OR ROLLBACK OF MILLAGE

Mayor Hanna introduced discussion of the millage refund/rollback.

Alderman Williams stated he would like to have input from the fire and police pension boards.

Eldon Roberts, Assistant Police Chief and employees' representative to the Police Pension Board, stated there are two pension plans. He foresees no financial problems regarding the new one. The old one is suffering. He gave a history of the police pension plans. Even with this increase, benefit increases cannot be given to people who retired long ago. He stated they cannot stand to lose any of the fund's assets and opposed use of the assets for any reason other than paying benefits. He supported not giving the money back until and unless we have to.

City Attorney Rose stated it might be conceivable to reimburse the pension funds out of the general fund, if the City desired.

Pete Reagan, Fire Captain and Fire Pension Board member, stated they have two systems. This millage affects the old pension system. The .5 mil produced $230,000 last year. The insurance turn back money is another source of income. There are no built-in cost-of-living increases in their fund. There have been benefit increases because the fund has done well at different times. He stated the fund is no longer actuarially sound. In order to receive funds, the millage would have to be increased to a full mil. They are currently $1.295 million under funded. He

City Attorney Rose replied it could be put anywhere the Council wants it. He stated he had passed out the changes that are necessary and a copy of the UDO. He explained it became a more complicated project because all the changes that had been made previously were made from the old ordinances, pre-UDO. Staff has not had yet a chance to verify that all the changes have been incorporated. It has been suggested that they need to look at it before it is read before the Council.

It was decided to remove this from the current agenda and to put it on the next one.

*Upon roll call, the motion to approve the consent agenda carried on a vote of 7-0-1, with Alderman Young abstaining.*

Alderman Trumbo asked if item H, Youth Center, under New Business could be moved to the beginning of New Business, as the Youth Center Board was meeting later that night. It was agreed to do this.

## OLD BUSINESS

HOG CITY DINER

Mayor Hanna introduced a resolution approving a patio area lease between the City of Fayetteville and Hog City Diner.

Alderman Williams handed out two proposed amendments to the lease. The first amendment was to Article 3, Option to Extend. He stated as it reads now, after the initial 10-year period at the option of the Lessee, not the City, the lease can be extended for up to five, five-year periods. He felt the Council sitting ten years from now should have the opportunity to use their own judgement to decide whether or not to continue the lease. That gives the Lessee ten years to recoup expenses. If everything is worked out, the lease could be extended with the approval of the City Council at that point in time.

Michael O'Brien, owner, stated they'd been surprised at the last Council meeting by the objections to the dollar amount proposed and the term proposed. He stated they had had choices in selecting where to build the restaurant. They felt the Old Post Office was an outstanding location, despite the fact that people were leaving the square. They've been willing to risk close to a million dollars, and counting, in this project. He stated objections to the dollar amount and term had caught him off guard, as two other cities are offering tax incentives,

concessions, and other things to entice them to put a restaurant in.

Mr. O'Brien stated he has done research since the last meeting. He stated the City negotiated a lease for the plaza portion of the town center with a private individual. It is a 25-year lease with $120,000 up-front payment for 11,500 sq. ft. That equates to $.42 a foot. He stated a number of the Council members had found fault with the proposed $1 per sq. ft. for the restaurant, yet it was double what the City had offered a private individual. He noted the concessions made to the other individual.

Mr. O'Brien stated his business would bring more people to the square. He asked for an explanation of the Council's action concerning these two lease situations.

Alderman Schaper responded that there is a significant difference between creating a public open space and leasing City land for an individual's profit.

Alderman Pettus agreed it is a double standard. The restaurant will bring a great deal of money and life to the square.

Mr. O'Brien stated he wanted to amend the proposed lease back to his original request of $1 a sq. ft., $1,677 a year, and a twenty-five year lease. He stated if the Council wants them to relocate, their method is inappropriate and unfair.

Alderman Daniel asked if he felt the $1 amount is a fair market price.

Mr. O'Brien replied he'd sat down with staff, based on instructions from the Council. At that time, it was conveyed to him that the town square was valued at $10 to $12 a sq. ft. He'd suggested taking 10% and deducting the cost incurred to build the potting shed and other improvements. This came to $1 a sq. ft., based on 1,677 sq. ft. He stated the improvements would be a beautiful fence, screening, lattice work, pillar columns, the concrete leveled, and a fountain. These would remain if the restaurant ever leaves.

Alderman Daniel agreed that this would be an asset to the square and the restaurant owners deserve some breaks.

Alderman Schaper agreed this would be nice, but it would be done for the benefit of the business owners. He stated he thought this amount had already been agreed to.

Alderman Trumbo stated he had suggested $3 a sq. ft. as compromise. The City's land agent had said the going rate for unimproved property is $1.50. Alderman Trumbo upped this to $3, which he thought was an equitable compromise.

Alderman Miller was open to the amendment, as most leases are up to the landlord as to whether they are open or not. He stated he often walks around the square at night and the only life there at that time is the restaurant. He stated the difference between the proposed rents is a drop in the bucket to the City.

Mayor Hanna stated it is not unusual for cities to give businesses incentives to locate there. It creates jobs, tax money, and, in this case, it brings back something to the square that has been missed. He felt a $1 a sq. ft. was a fair charge for the concrete driveway they already have the use of and will improve.

Alderman Zurcher stated he supports the resolution and does not think the restaurant owners are getting anti-business sentiment from the Council. The Council is trying to get the best deal for the citizens.

Alderman Williams reiterated his desire not to tie the future Council's hands regarding this. Ten years is plenty of time to recoup the investment.

Mr. O'Brien stated the future governing body would know they have him over a barrel, because it would be a very profitable venture and all the improvements would be in place. He did not want to find himself going through this again. He again requested that the lease be amended to the $1 a sq. ft., back to the original amount of $1,677 a sq. ft. Regarding the term, he stated this has been a very unpleasant experience and asked the Council to just say if they want the restaurant to go away.

Alderman Pettus stated that from her experience with commercial leases, ten years is ridiculous.

Alderman Williams stated that if the Council passed the lease without any provision for discretion in the future, it is a 35-year lease.

Alderman Young stated the decision is whether or not the Council wants the patio out there. He noted that according to the lease, the owners would have to comply with all City and State rules and ordinances.

Alderman Williams stated it would have to be a material breach proved in court before the lease could be broken. He asked Mr. O'Brien if he were saying that if the Council approves the lease extension in ten years, he would not want the Council to go forward with the lease.

Mr. O'Brien replied that is correct.

*Alderman Williams moved his amendment. Alderman Zurcher seconded. Upon roll call, the amendment failed on a vote of 1 to 7, with Alderman Williams voting yes.*

*Mayor Hanna stated it has been requested by the petitioner to put the monetary terms of the lease back to $1 a sq. ft.*

*Alderman Daniel so moved. Alderman Miller seconded. Upon roll call, the motion carried on a vote of 5-4-0, with Mayor Hanna voting yes and Aldermen Williams, Schaper, Young, and Zurcher voting no.*

Alderman Williams stated he had a proposed amendment on Article 6, Use. The current proposal states the Lessee agrees to use the leased premises for the purpose of operating an outdoor dining area and for no other purpose. He stated he wants to see outdoor dining but does not want to see a beer garden on the square.

*Alderman Williams moved to amend the lease to not allow alcoholic beverages to be sold or consumed on the City's leased premises. There was no second.*

Alderman Schaper stated he would not support this. It would be up to the owner to control the patrons and not cause any disturbances.

Alderman Trumbo also did not support this. There are adequate regulations to control this.

*Alderman Miller moved the resolution. There was no second.*

*Alderman Schaper stated he had an amendment to make concerning outdoor music. He read Article 9 and stated he would like to add words to further clarify it: "Such music shall not be loud enough to be plainly audible from the sidewalks of the square gardens." He stated "plainly audible" is a term used in the noise ordinance.*

Mr. O'Brien stated if someone stopped behind the patio, they may hear jazz but it would not be disruptive or offensive. The desire is for background music that allows for conversation but obscures nearby conversation. He stated this amendment is fine with him.

*Alderman Daniel seconded the amendment.*

Alderman Young stated any music will be plainly audible.

Mr. O'Brien stated he agreed with the amendment in principle, but you get into the definition of plainly audible. There is the public sidewalk and then there is the brick walkway in the garden about six to eight feet from the proposed screening.

Alderman Schaper stated his intent is the public sidewalk and describing it differently would be fine.

Alderman Young felt the original wording, which restricts the music to the premises, covers what Alderman Schaper is trying to do. As long as it is not intrusive, everyone will be happy.

Mr. O'Brien, upon further consideration, stated the phrasing in the lease is sufficient. If it is changed, it could come back to haunt them through one person's complaint. It is very subjective.

Alderman Trumbo agreed the language in Article 9 is more than sufficient.

*Upon roll call, the amendment failed on a vote of 3 to 5, with Aldermen Williams, Schaper, and Zurcher voting yes.*

*Alderman Young moved to approve the lease handed out at the agenda session with the one change on the price the Council amended. Alderman Miller seconded.*

Alderman Williams asked about parking spaces.

Alett Little, Planning Director, stated that under the parking proposal in the zoning ordinance for properties in C-3 and C-4., so long as those areas are not expanded, they are not required to provide additional parking. The question becomes is this area being expanded. The way the ordinance is currently written, parking for restaurants is calculated at one space per two hundred sq. ft. This would require eight or nine parking spaces.

There are two ways to address this. If there is adequate public parking within 600', a decision made by the Planning Commission, no additional parking is required. A waiver may be requested. The applicant would bring to the Planning Commission a request for shared parking with a signed agreement with a private landowner, or they could pay the fee of $1,200 per space waived. The applicant is the person leasing the property.

Alderman Schaper stated there is clearly adequate public parking within 600'.

*Upon roll call, the resolution passed on a vote 7 to 1, with Alderman Williams voting no.*

*RESOLUTION 100-98 AS RECORDED IN THE CITY CLERK'S OFFICE.*

CRACKER BARREL
Removed from agenda at applicant's request.

COMPENSATION FOR ALDERMEN
Mayor Hanna introduced an ordinance amending Section 31.16 of the Code of Fayetteville by increasing compensation for aldermen from $350 per month to $700 per month.

*City Attorney Rose read the ordinance for the second time.*

Alderman Miller stated he has always believed a city council should be paid a living wage. It was a fight to get even $350 a month. The present council is all college educated and running a business of over $80 million a year for $4.50 an hour. He said the additional $64,000 would not pay the Mayor's wages or the City Attorney's. It won't even buy a bathroom in a park. This is not a venue for the rich and famous. It is so everyone can dedicate the time needed to do the job right.

Alderman Daniel stated council work is rewarding but also stressful. Even so, she would not support a raise. She does not feel it would keep people from running.

Alderman Young reported that most people he's heard from have supported the increase.

Alderman Williams does not oppose an increase but thinks this is too much. The Council does not serve for money.

**RESOLUTION NO.** 100-98

MICROFILMED

A RESOLUTION APPROVING A LEASE WITH HOG CITY DINER FOR A ANNUAL RENTAL RATE OF $1,677 PAYABLE IN MONTHLY INSTALLMENTS OF $139.75, FOR A PERIOD OF TEN (10) YEARS, WITH A FIVE (5) YEAR OPTION, AND ALLOWING THE LESSEE FOUR ADDITIONAL FIVE (5) YEAR PERIODS RENEWING THE LEASE FOR OUTDOOR DINING ON THE TOWN SQUARE.

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

Section 1. That the City Council hereby approves a lease with Hog City Diner for a annual rental rate of $1,677 payable in monthly installments of $139.75, for a period of ten (10) years, with a five (5) year option, and allowing the Lessee four additional five (5) year periods renewing the lease for outdoor dining on the Town Square. A copy of the lease with attachments are attached hereto marked Exhibit "A" and Exhibit "B" and made a part hereof.

**PASSED AND APPROVED** this 21st day of July, 1998.

APPROVED:

By: _____
Fred Hanna, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT A

# LEASE

This Agreement, made and entered into this 21st day of July, 1998, by and between the City of Fayetteville, whose address is 113 West Mountain, hereinafter called Lessor, and Hog City Diner Company, whose address is 1 West Center, Fayetteville, Arkansas 72701, hereinafter called Lessee,

## WITNESSETH:

1. **LEASED PREMISES**. For and in consideration of the rents, covenants and agreements herein entered into and agreed upon by the Lessee as obligations to the Lessor, the Lessor lets, leases and demises unto Lessee, subject to the terms and conditions contained herein, the following described property containing approximately 1,676.16 square feet more or less, situated in Washington County, Arkansas:

See Exhibit A attached hereto and made a part hereof.

To have and to hold said premises unto the said Lessee for and during the term herein stated, subject to the covenants, terms, conditions and liens herein contained.

2. **TERM**. This lease shall commence on the date of this agreement and shall extend for a term of ten (10) years.

3. **OPTION TO EXTEND**. If the Lessee shall have fully performed every agreement and covenant on Lessee's part to have been kept and performed under the term of this lease at the time of exercise and at the time of renewal, the Lessee is hereby granted the right and option to extend this lease, upon the same terms, for an additional period of five (5) years, with such option to be exercised in writing by the Lessee not later than one hundred eighty (180) days prior to the expiration of the basic or original term of this lease. Lessee may extend for up to four additional five (5) year extension periods utilizing the same procedures outlined above.

4. **RENT**. Lessee agrees to pay to Lessor the annual rental rate of $1,677.00 payable in monthly installments of $139.75 each, to be paid in advance beginning on the first day of the month following the issuance of a Certificate of Occupancy for the leased premises and on the first day of each and every month thereafter. The annual rental rate of $1,677.00 shall constitute the basic rental for the lease.

During any five (5) year extension hereof, this lease shall be recalculated for such five (5) year term in accordance with the following procedure:

The basic rental herein set forth of $1,677.00 shall be divided by the figure in the Consumer Price Index appearing in the column "Food Items" or in any similar breakdown therein for the month of August 1998, and then multiplying that amount by the corresponding index for the month next preceding the first month of the next five (5) year term of this lease. The Consumer Price Index referred to is the [Revised 1953 Consumer Price Index U.S. (1957-1959 equal to 100) New Series

beginning with January, 1964 (reflecting the change in prices of goods and services purchased by city wage earners and clerical-worker families to maintain their level of living)] published by the Bureau of Labor Statistics, United States Department of Labor. If the Bureau of Labor Statistics changes the form or the basis of calculating the Consumer Price Index, the parties agree to request the Bureau to make available, for the life of this agreement, a monthly Consumer Price Index in its present form and calculated on the same basis as its present form as the Index for 1998. The figure so obtained shall be used for calculating a comparative rental figure for the extended term of this lease, and the Lessee shall be liable to the Lessor for whichever is the larger of the rental so calculated upon comparison thereof, and if it appears that the adjusted rental rate based upon fluctuations in the Consumer Price Index results in a larger minimum rental than that applying to the original term of this lease, then such larger sum of rent shall be the rental to be paid by the Lessee during the remaining or extended term of this lease.

5. **ADDITIONAL CONSIDERATION.** As additional consideration for the leased premises Lessee agrees to construct a new potting shed for use in maintaining the town square gardens at the location indicated on Exhibit "A", attached hereto at a cost not to exceed $3,000 and in a design mutually agreed upon by the parties hereto.

6. **USE.** Lessee agrees to use the lease premises for the purpose of operating an outdoor dining area and for no other purpose or purposes without the written consent of Lessor having been obtained in advance.

7. **CONSTRUCTION OF IMPROVEMENTS.** All improvements constructed by the Lessor on the leased premises shall be accomplished within the boundaries of the leased premises and Lessor shall make every effort to conduct such construction so as to have a minimal impact on the town square gardens. Construction shall proceed in substantially the same stages and manner as set forth in Section 01100 of the Project Manual attached hereto as Exhibit B.

8. **INGRESS AND EGRESS.** Except for emergency and handicapped access, all ingress and egress to and from the leased premises shall be through the Old Post Office building. Handicapped access is limited to the east area of the leased premises.

9. **MUSIC.** Lessee agrees not to provide or allow any live music on the premises and any amplified music will be limited to background music for the outdoor dining area.

10 **SIGNS AND ADVERTISING.** No sign, picture, advertisement, or notice shall be displayed on any part of the leased premises visible to the public without the previous consent, in writing, of the Lessor.

11. **COST OF REPLANTING.** Lessee agrees to reimburse Lessor for all reasonable costs, including material and labor, incurred by Lessor in any replanting made necessary by the construction of any and all improvements made by the Lessee to the leased property.

12. **NON-SUCCESSION.** This lease agreement shall insure only to the benefit of and be binding upon the parties hereto and not to their respective heirs, successors and assigns.

13. **TAXES.** Lessee shall pay any and all ad valorem taxes special improvement district taxes levied and assessed against said premises and the improvements located thereon during the term of this lease.

14. **COMPLIANCE WITH LAWS.** Lessee agrees not to violate any law, ordinance, rule or regulation of any governmental authority having jurisdiction of the leased premises.

15. **INSURANCE OF LESSEE'S PROPERTY.** Lessee shall be solely responsible for maintaining insurance on his property, including but not limited to movables, trade fixtures installed by Lessee, furniture, furnishings and inventory.

16. **RIGHT OF INSPECTION.** The Lessor shall have the right, in person or through Lessor's duly authorized representative, at all reasonable times to inspect the leased premises.

17. **ALTERATIONS.** Lessee shall have the right and privilege to make, at Lessee's expense, ordinary repairs and alterations to the leased premises; however, no alterations shall be made without the prior written consent of Lessor.

18. **FIXTURES.** All trade fixtures installed by Lessee or acquired by Lessee independently of this lease shall remain Lessee's property and may be removed by Lessee at the expiration of this lease; provided, however, Lessee shall restore the leased premises and repair any damage thereto caused by such removal.

19. **ACCEPTANCE OF PREMISES.** It is expressly understood and agreed by the Lessee that it is leasing the demised premises in its current condition and that if the plumbing or electrical wiring proves to be inadequate for its purposes that it may, at its own expense, have such required additional plumbing and electrical wiring installed.

20. **MAINTENANCE OF LEASED PREMISES.** The Lessee shall be liable for all license fees, occupation taxes and the like in connection with the operation of any business on the leased premises, and shall pay all charges incurred by Lessee in connection with utility services of whatever kind or nature including any sewer charges and pickup of Lessee's trash and garbage.

The Lessee shall be responsible for maintaining the improvements upon the leased premises in a satisfactory condition and the premises shall, at all times, be maintained in a neat and orderly condition. Lessee's business operations will be carried on in accordance with the highest standards for such businesses, particularly in the areas of cleanliness and service.

21. **INDEMNIFICATION OF LESSOR.** The Lessee shall defend, indemnify and hold the Lessor harmless against any expense, claim, loss or liability as the result of any breach by the

Lessee, Lessee's agents, servant, employees, customers, visitors or licensees, of any covenant or condition of this lease, or as a result of the Lessee's use or occupancy of the demised premises, or the carelessness, negligence or improper conduct of the Lessee, Lessee's agents, servants, employees, customers, visitors or licensees. To facilitate the provisions hereof, the Lessee shall keep and maintain at all times during the term of this lease, or any extension thereof, in full force and effect with a company or companies acceptable to Lessor, insurance against third party liability by reason of the Lessee's occupancy of the demised premises with limits of liability thereunder of not less than $100,000 per person and $500,000 per accident with $500,000 coverage for property damage.

22. **RETURN OF LEASED PROPERTY**. At the end of the term of this lease, or upon any other earlier termination, the Lessee agrees promptly and peaceably to restore possession of the leased premises to the Lessor in as good condition as they were when delivered to Lessee, ordinary wear and tear excepted. To accommodate this covenant, the Lessee hereby waives any and all notice to which Lessee may be entitled under the laws of the State of Arkansas as a prerequisite to a suit against Lessee for the unlawful detention of the property.

23. **NOTICES**. Any notice called for or permitted under the terms hereof shall be given in writing and sent by certified mail to the Lessee at 1 West Center, Fayetteville, Arkansas 72701, and to the Lessor at 113 West Mountain, Fayetteville, Arkansas 72701.

24. **WASTE**. Lessee agrees not to commit waste, nor permit waste to result or to be done to or upon the aforesaid property and premises; not to conduct any other business thereon or therein, nor store or permit to be stored thereon or therein any explosives, combustible substances or materials of any nature, which would increase the fire hazard or cause a premium to be charged for insurance higher than that charged for the present use of said property; and not to operate, nor permit to be operated, nor to exist thereon or therein, any public or private nuisance.

25. **RIGHT TO CURE**. If the Lessee shall default in any of the covenants, agreements, conditions, or undertakings herein contained to be kept, observed and performed by the Lessee, the Lessor shall give notice of such default in writing to the Lessee and the Lessee shall have thirty (30) days from and after the giving of such notice to eliminate and/or cure the cause of such default. If said default is eliminated or cured within the aforementioned thirty (30) days, the Lessee shall not be considered in default or in breach of this lease.

26. **SEVERABILITY**. Each paragraph of this lease agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.

27. **INTERPRETATION**. This lease agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

28. **ENTIRE AGREEMENT.** This lease agreement contains the entire agreement of both parties hereto, and not other oral or written agreement shall be binding on the parties hereto.

29. **NON-WAIVER PROVISION.** The failure of the Lessor or Lessee to insist upon the strict and literal performance of any agreement or condition herein or to exercise any option retained or granted by reason of a default by the lessee shall not constitute a waive of the Lessor's right thereafter to insist upon and enforce full performance of such conditions and agreements.

**IN WITNESS WHEREOF,** Lessor and Lessee have hereunto set their hands and seals and have caused their names to be hereunto affixed by the undersigned officers who are duly authorized so to act, on this 28 day of July, 1998.

LESSEE:

By: _____
Name & Title

ATTEST:

By: _____
Name & Title

LESSOR:

CITY OF FAYETTEVILLE, ARKANSAS
A Municipal Corporation.

By: _____
Fred Hanna, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

# STAFF REVIEW FORM - FINANCIAL OBLIGATION

XXX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: July 20, 2004

**FROM:**

| Gary Dumas | | Operations Department |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** Resolution Approving Lease with OPO Enterprises, Inc. for the patio within the Square Garden on the Town Square for $1.00 annually plus other good and valuable consideration.

**COST TO CITY:**

| ($1.00) | $ - | Parks |
|---|---|---|
| | Category/Project Budget | Program Category / Project Name |
| | $ | |
| Account Number | Funds Used to Date | Program / Project Category Name |
| | $ - | |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — 6-28-04 Date

**CONTRACT/GRANT/LEASE REVIEW:**

Marsha Fairbing (see Comment) — 6/28/04 Date — Accounting Manager
Danny Smith — 6/28/04 Date — Internal Auditor
City Attorney — Date
Purchasing Manager — Date

**STAFF RECOMMENDATION:**

Division Head — Date
Department Director — 6-25-04 Date
Finance & Internal Services Dir. — 7-6-04 Date
Chief Administrative Officer — 6-25-04 Date
Mayor — 7/7/04 Date

**Received in Mayor's Office** 6/30/04 P.H. Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

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

ENTERED 6/23/04 JL

Staff Review Form - Page 2

Description _____ Meeting Date July 20, 2004

Comments:

Budget Manager

Reference Comments:

Accounting Manager

The City will recognize the value of the Rental Revenue and the Expense of the Contract with OPO Enter. for pickup of the litter. The net effect will be $1.00 but each transaction will need to be recorded to meet accts. standards

City Attorney

This Lease is probably illegal because of lack of consideration for the taxpayers.

Purchasing Manager

The consideration aspect of the lease is in the cost the City currently pays staff to pick up litter around the Square. That cost is estimated to be approximately $100/wk $40/wk from the Parking Division and $60/wk from the Square Garden work group. That would make the consideration $5,200/year which is greater than the previous lease by more than $3,500 annually.

GD

ADA Coordinator

Internal Auditor

Grants Coordinator

FAYETTEVILLE
PARKS & RECREATION

# MEMORANDUM

Date: 7/7/04

To: Mayor Dan Coody and City Council Members

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

From: Steve Hatfield, Park Landscape Architect, Trails & Greenways Coordinator Steve

Reference: Lake Fayetteville Spillway Bridge and Trail

Subject: Contract Award

**Background:**
The Lake Fayetteville Spillway Bridge and Trail is a proposed multi-use trail that will connect Veterans Park and the North Shore Softball complex at Lake Fayetteville. This project has been talked about for years and was listed as a top priority in the adopted Parks Master Plan. This project includes 3,000 linear feet of hard surface trail and a 254 foot bridge. The design of the bridge will provide additional opportunities for viewing the lake and spillway from observation decks. The entire project will be accessible and will allow a wide cross-section of citizens and visitors the opportunity to enjoy the lake experience.

In 2003, the Parks and Recreation Division applied and were awarded a $51,247 dollar 50/50 matching grant from the Arkansas Recreational Trails Program for this project.

Funding for this project is coming from Park Land Dedication funds, $235,970, State Grant, $51,247, $309,284 From the Lake Fayetteville Improvements and $325,093 from the trails development project.

**Current Status:**
The project bids were opened on June 24th, 2004. There were two responsive bidders and the low bid was from Mobley Contractors, Inc. in the amount of $ 877,709.20

**Recommendation:**
Parks and Recreation staff recommends awarding the construction contract to Mobley Contractors, Inc. in the amount of $877,709.20 with a 5% project contingency of $43,885 for a total project cost of $921,594.20.

Attachments: Construction Contract
Bid Tabulation

cc: files



City of Fayetteville
Parks and Recreation Division
113 W. Mountain Street, Fayetteville, Arkansas 72701
Telephone: 501-718-7688
E-mail: shatfield@ci.fayetteville.ar.us

## Lake Fayetteville Spillway Bridge & Trail Project (02043.1)

- Sources of Funding

| | 2004 Budget | Encumbrances | Expenses | Remaining |
|---|---|---|---|---|
| Budget Breakdown before Additions: | | | | |
| Lake Fayetteville Improvements - Sales Tax | 96,422.00 | - | - | 96,422.00 |
| Lake Fayetteville Improvements - Parks Dev | 218,584.00 | 1,910.94 | 3,810.79 | 212,862.27 |
| Park Land Dedication | 235,970.00 | - | - | 235,970.00 |
| | 550,976.00 | 1,910.94 | 3,810.79 | 545,254.27 |
| Budget Additions: | | | | |
| Lake Fayetteville Grant | 51,247.00 | | | 51,247.00 |
| Trail Development | 325,093.00 | | | 325,093.00 |
| | 927,316.00 | 1,910.94 | 3,810.79 | 921,594.27 |

| Total Budget Breakdown: | | | | |
|---|---|---|---|---|
| Park Land Dedication | 235,970.00 | - | - | 235,970.00 |
| Lake Fayetteville Grant | 51,247.00 | - | - | 51,247.00 |
| Lake Fayetteville Improvements | 315,006.00 | 1,910.94 | 3,810.79 | 309,284.27 |
| Trail Development | 325,093.00 | - | - | 325,093.00 |
| | $ 927,316.00 | $ 1,910.94 | $ 3,810.79 | $ 921,594.27 |

**RESOLUTION NO. _____**

A RESOLUTION AWARDING A CONTRACT TO MOBLEY CONTRACTORS, INC. IN THE AMOUNT OF $877,709.20 TO CONSTRUCT THE LAKE FAYETTEVILLE SPILLWAY BRIDGE AND MULTI-USE TRAIL; APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF $43,885.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $376,340.00 FOR SAME.

**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 awards a contract to Mobley Contractors, Inc. in the amount of $877,709.20 to construct the Lake Fayetteville Spillway Bridge and Multi-Use Trail; and

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a project contingency in the amount of $43,885.00; and,

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $376,340.00 for same.

**PASSED** and **APPROVED** this 20th day of July 2004.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

DRAFT

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

| Budget Year | Department: Operations<br>Division: Parks & Recreation<br>Program: Parks Development Capital | Date Requested | Adjustment Number |
|---|---|---|---|
| 2004 | | | |

Project or Item Requested:

$376,340 Is being requested in the Lake Fayetteville Improvements capital project (02043).

Project or Item Deleted:

To move $51,247 in grant revenue and expense related to the Lake Fayetteville Trails capital project (03022).

To move $376,340 From the Trail Development capital project (02016).

Justification of this Increase:

These funds are necessary to complete Lake Fayetteville Spillway Bridge & Trail capital project.

Justification of this Decrease:

Sufficient funds remain in both projects to meet 2004 objectives.

**Increase Budget (Decrease Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Park improvements | 4470 | 9470 | 5806 | 00 | 325,093 | 02043 | 1 |
| Bridge & drainage improve | 2250 | 9255 | 5817 | 00 | 51,247 | 02043 | 1 |
| State grants | 2250 | 0925 | 4302 | 00 | 51,247 | 03022 | 1 |

**Decrease Budget (Increase Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Park improvements | 4470 | 9470 | 5806 | 00 | 325,093 | 02016 | 1 |
| State grants | 2250 | 0925 | 4302 | 00 | (51,247) | 02043 | 1 |
| Bridge & drainage improve | 2250 | 9255 | 5817 | 00 | 51,247 | 03022 | 1 |

Approval Signatures

| | |
|---|---|
| Requested By | Date |
| Budget Manager | 7-7-04 Date |
| Department Director | Date |
| Finance & Internal Services Director | Date |
| Mayor | 7/7/04 Date |

Budget Office Use Only

Type: A B C (D) E

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

Section 00500

# AGREEMENT

## BETWEEN CITY OF FAYETTEVILLE AND MOBLEY CONTRACTORS, INC.

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

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

**Article 1. WORK.**

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

The work generally consists of the construction of a 250 L.F. bridge a[illegible]ox. a 2,800 L.F. of 12' wide asphalt multi-use trail with base, associated earthwo[illegible]on for ***Lake Fayetteville Spillway Bridge and Trail Construction***; and a[illegible]he Drawings and Specifications.

**Article 2. ENGINEER.**

The Project has been designed by

City of Fayetteville Parks and Recreation Divisi[illegible]
1455 South Happy Hollow Road [illegible]Suite 204
Fayetteville, Arkansas 72701 [illegible]72211-6021

who is hereinafter called PARKS AND RECREATIO[illegible]OJECT MANAGER and who is to act as CITY OF FAYETTEVILLE's representative, [illegible]duties and responsibilities, and have the rights and authority assigned to ENGINEER in th[illegible]ontract Documents in connection with completion of the Work in accordance with the Contract documents.

**Article 3. CONTRACT TIME.**

3.1. The Work for ***the Project*** shall be substantially completed within **150** consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B & C of the General Conditions within **180** consecutive calendar days after the date when the Contract Time commences to run.

FEE
PRY
Signed Copy
To Follow

3.2. *Liquidated Damages.* CITY OF FAYETTEVILLE and MOBLEY CONTRACTORS, INC... recognize that time is of the essence of the Agreement and that CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, City of Fayetteville and MOBLEY CONTRACTORS, INC... agree that as liquidated damages for delay (but not as a penalty) MOBLEY CONTRACTORS, INC... shall pay CITY OF FAYETTEVILLE **Two hundred and fifty** dollars **($250.00)** for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if MOBLEY CONTRACTORS, INC... shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY OF FAYETTEVILLE, MOBLEY CONTRACTORS, INC... shall pay CITY OF FAYETTEVILLE **Two hundred and fifty** dollars **($250.00)** for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

**Article 4. CONTRACT PRICE.**

CITY OF FAYETTEVILLE shall pay MOBLEY CONTRACTORS, INC... for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

4.1. for all Work other than Unit Price Work, an amount equal to the sum of the established lump sums for each separately identified item of Lump Sum Work; and

4.2. for all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 4.2.

DRAFT

**Payment Items Continued on Next Page**

# PAYMENT ITEMS

| ITEM | DESCRIPTION | UNITS | QUAN. | UNIT $ | Total |
|---|---|---|---|---|---|
| 1 | MOBILIZATION | LS | 1.00 | $41,588.09 | 41,588.09 |
| 2 | STAKING | L.S. | 1.0 | 27,666 56 | 27,666.56 |
| 3 | TREE PROTECTION FENCING (18) | LF | 300.00 | 5 96 | 1,788.00 |
| 4 | BALED STRAW DITCH CHECKS | BALE | 64 | $40.00 | 2,560.00 |
| 5 | SAND BAG DITCH CHECKS | CY | 60 | $39.34 | 2,360.40 |
| 6 | SILT FENCE (18) | LF | 2,010 | $3.08 | 6,190.80 |
| 7 | SITE PREPARATION (2) (5) (6) (19) | LS | 1.0 | $27,337 50 | 27,337.50 |
| 8 | SEEDING | ACRE | 2.70 | $4,025.00 | 10,867.50 |
| 9 | MULCH COVER | ACRE | 2.70 | $1,350.00 | 3,645.00 |
| 10 | EXCAVATION SAFETY | LS | 1.00 | 695 25 | 695.25 |
| 11 | UNCLASSIFIED EXCAVATION | CY | 2,550 | $15.55 | 39,652.50 |
| 12 | ROCK EXCAVATION - STRUCTURES | CY | 37 | $276.89 | 10,244.93 |
| 13 | COMMON STRUCTURE EXCAVATION | CY | 214 | $64.72 | 13,850.08 |
| 14 | COMPACTED EMBANKMENT-SELECT HILLSIDE MATERIAL (BORROW) IN PLACE | CY | 1850.0 | 16 86 | 31,191.00 |
| 15 | AGGREGATE BASE (CLASS 7) (1) | CY | 888.6 | 42.17 | 37,472.26 |
| 16 | ASPHALT CONCRETE TYPE "3" (1) (3) (14) | TON | 413 4 | 69 25 | 28,627.95 |
| 17 | CONCRETE TRAIL (1) | SY | 3691.2 | 0.00 | 0.00 |
| 18 | CLASS S CONCRETE - BRIDGE | CY | 123 | $1,345.02 | 165,437.46 |
| 19 | CLASS S (AE) CONCRETE - BRIDGE | CY | 72 | $745.04 | 53,642.88 |
| 20 | RETAINING WALL (20) | SF | 1,000 | $37.28 | 37,280.00 |
| 21 | REINFORCING STEEL - BRIDGE | LB | 28180.00 | $1.23 | 34,661.40 |
| 22 | RAILING | LF | 256 | $94 50 | 24,192.00 |
| 23 | FILTER BLANKET | SY | 269 | $2 59 | 696.71 |
| 24 | RIPRAP | CY | 134 | $63 67 | 8,531.78 |
| 25 | SLOPE PROTECTION BLANKET | SY | 46 | $47 25 | 2,173 50 |
| 26 | (3) 72' PONY TRUSS BRIDGE SECTIONS (Includes erection) | LS | 1 | $247,340.93 | 247,340.93 |
| 27 | BENCH, (SURFACE MOUNT) (18) | EA. | 4.0 | 997.11 | 3,988.44 |
| 28 | BENCH ON CONCRETE PAD (18) | EA | 4.0 | 987.11 | 3,948.44 |
| 29 | CEDAR SIGN POST INSTALLED (13) | L.F. | 90.0 | 13.20 | 1,188.00 |
| 30 | NON-REMOVABLE BOLLARD (9) | EA | 8.0 | 492.08 | 3,936.64 |
| 31 | REMOVABLE BOLLARD (9) | EA | 4.0 | 761.91 | 3,047.64 |
| 32 | TRAFFIC STRIPE (PAINT) (4" WIDE) (7) (18) | L.F. | 250.0 | 2.52 | 630.00 |
| 33 | SHEET ALUMINUM SIGNS (16) | S.F. | 59.3 | 13.20 | 782.76 |
| 34 | 2 1/2" SQUARE TUBE POST (13) | L.F. | 56.0 | 8 80 | 492.80 |
| | | | SUB-TOTAL | | 877,709.20 |
| | | | TOTAL | | $877,709.20 |

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by PARKS AND RECREATION DIVISION PROJECT MANAGER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

## Article 5. PAYMENT PROCEDURES.

MOBLEY CONTRACTORS, INC... shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by PARKS AND RECREATION DIVISION PROJECT MANAGER as provided in the General Conditions.

5.1. *Progress Payments.* CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of MOBLEY CONTRACTORS, INC...'s Applications for Payment as recommended by PARKS AND RECREATION DIVISION PROJECT MANAGER, on or about the 1st day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below and SC-14.02 . All such payments will be measured by the schedule of values established in paragraph 2.07 of the General Conditions and based on the number of units completed in the case of Unit Price Work or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in case, less the aggregate of payments previously made and less such amounts as PARKS AND RECREATION DIVISION PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

90 percent of Work completed (with the balance of 10 percent being retainage), If Work has been 50 percent completed as determined by the PARKS AND RECREATION DIVISION PROJECT MANAGER and if the character and progress of the Work have been satisfactory to CITY OF FAYETTEVILLE and PARKS AND RECREATION DIVISION PROJECT MANAGER, CITY OF FAYETTEVILLE, on recommendation of PARKS AND RECREATION DIVISION PROJECT MANAGER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

100 percent of materials and equipment not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to CITY OF FAYETTEVILLE as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions. That is, if any such items are setup for that type payment in the Specifications.

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to MOBLEY CONTRACTORS, INC... to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as PARKS AND RECREATION DIVISION PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.3 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by PARKS AND RECREATION DIVISION PROJECT MANAGER as provided in said paragraphs 14.07.B & C.

**Article 6. MOBLEY CONTRACTORS, INC...'S REPRESENTATIONS.**

In order to induce CITY OF FAYETTEVILLE to enter into this Agreement MOBLEY CONTRACTORS, INC... makes the following representations:

6.1. MOBLEY CONTRACTORS, INC... has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."

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

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

6.4. MOBLEY CONTRACTORS, INC... has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. MOBLEY CONTRACTORS, INC... accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which MOBLEY CONTRACTORS, INC... is entitled to rely as provided in paragraph 4.02 of the General Conditions.

MOBLEY CONTRACTORS, INC... acknowledges that such reports and drawings are not Contract Documents and may not be complete for MOBLEY CONTRACTORS, INC...'s purposes. MOBLEY CONTRACTORS, INC... acknowledges that CITY OF FAYETTEVILLE and PARKS AND RECREATION DIVISION PROJECT MANAGER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. MOBLEY CONTRACTORS, INC... has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by MOBLEY CONTRACTORS, INC... and safety precautions and programs incident thereto. MOBLEY CONTRACTORS, INC... does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5. MOBLEY CONTRACTORS, INC... is aware of the general nature of work to be performed by CITY OF FAYETTEVILLE and others at the site that relates to the Work as indicated in the Contract Documents.

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

6.7. MOBLEY CONTRACTORS, INC... has given PARKS AND RECREATION DIVISION PROJECT MANAGER written notice of all conflicts, errors, ambiguities, or discrepancies that MOBLEY CONTRACTORS, INC... has discovered in the Contract Documents and the written resolution thereof by PARKS AND RECREATION DIVISION PROJECT MANAGER is acceptable to MOBLEY CONTRACTORS, INC... and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

**Article 7. CONTRACT DOCUMENTS**

The Contract Documents which comprise the entire agreement between CITY OF FAYETTEVILLE and MOBLEY CONTRACTORS, INC... concerning the Work consist of the following:

7.1. This Agreement (pages 1 to 7, inclusive).

7.2. Performance and Payment Bonds, (Exhibits A and B respectively).

7.3. Certificates of Insurance, (Exhibit C).

7.4. Documentation submitted by MOBLEY CONTRACTORS, INC. prior to Notice of Selection (Exhibit D).

7.5. General Conditions (pages 1 to 42, inclusive).

7.6. Supplementary Conditions (pages 1 to 13 inclusive).

7.9. Specifications consisting of Divisions 1 through 16 as listed in table of contents thereof.

7.10. Addenda numbers 1 through 4, inclusive.

7.11. One set of drawings (not attached hereto) consisting of: a cover sheet and additional sheets numbered two through twenty-eight with each sheet bearing the following general title: **Lake Fayetteville Spillway Bridge and Trail Construction.**

7.12. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

7.12.1. Notice to Proceed

7.12.2. All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

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

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

**Article 8. MISCELLANEOUS.**

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

DRAFT

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

8.3. CITY OF FAYETTEVILLE and MOBLEY CONTRACTORS, INC... each binds itself, it partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

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

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

8.6. Freedom of Information Act. City contract and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, MOBLEY CONTRACTORS, 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.

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**IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and MOBLEY CONTRACTORS, INC...** have signed this Agreement in quadruplicate. One counterpart each has been delivered to CITY OF FAYETTEVILLE and PARKS AND RECREATION DIVISION PROJECT MANAGER, and two counterparts have been delivered to MOBLEY CONTRACTORS, INC.... All portions of the Contract Documents have been signed, initialed, or identified by CITY OF FAYETTEVILLE and MOBLEY CONTRACTORS, INC... or identified by PARKS AND RECREATION DIVISION PROJECT MANAGER on their behalf.

This Agreement will be effective on _____, 2004 (which is the Effective Date of the Agreement).

| CITY OF FAYETTEVILLE: | **City of Fayetteville** | MOBLEY CONTRACTORS, INC...: |
|---|---|---|
| By: _____ | | By: |
| Mayor | | Title |
| [CORPORATE SEAL] | | [CORPORATE SEAL] |
| Attest _____ | | * Attest |
| Address for giving notices | | Address for giving notices |
| (If CITY OF FAYETTEVILLE is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.) | | License No. _____ Agent for service of process: |

* If a Corporation, attest by the Secretary.

(If MOBLEY CONTRACTORS, INC... is a corporation, attach evidence of authority to sign)

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# Exhibit A

# PERFORMANCE BOND

DRAFT

**Exhibit B**

# PAYMENT BOND

DRAFT

**Exhibit C**

# CERTIFICATES OF INSURANCE

DRAFT

# NOTICE TO PROCEED

TO: _____ DATE: _____

PROJECT: ***Lake Fayetteville Spillway Bridge and Trail Construction***

You are hereby notified to commence WORK in accordance with the Contract dated _____on or before _____,and you are to substantially complete the WORK within one hundred and twenty consecutive calendar days thereafter and have the Work complete and ready for final payment within thirty consecutive calendar days thereafter. The date for Substantial completion is therefore_____. The date for final completion is therefore_____.

CITY OF FAYETTEVILLE, ARKANSAS
City of Fayetteville

By _____
Trails and Greenways Coordinator

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by _____ this the _____ day of _____, **2004**.

By

Title

DRAFT

Lake Fayetteville Spillway Bridge

BID TABULATION

| ITEM | DESCRIPTION | UNITS | QUAN. | Landscape Architect Estimate UNIT $ | Landscape Architect Estimate ESTIMATE | Mobley Contractors UNIT $ | Mobley Contractors ESTIMATE | Sweetser Construction UNIT $ | Sweetser Construction ESTIMATE |
|---|---|---|---|---|---|---|---|---|---|
| 1 | MOBILIZATION | LS | 1.00 | $20,000.00 | $20,000.00 | 41,588.09 | 41,588.09 | [illegible]60,000.00 | [illegible]60,000.00 |
| 2 | STAKING | L.S. | 1.00 | 2,000.00 | 2,000.00 | 27,666.56 | 27,666.56 | [illegible]7,000.00 | [illegible]7,000.00 |
| 3 | TREE PROTECTION FENCING (18) | LF | 300.00 | 6.00 | 1,800.00 | 5.96 | 1,788.00 | [illegible]7.00 | [illegible]2,100.00 |
| 4 | BALED STRAW DITCH CHECKS | BALE | 64.00 | $7.93 | $507.52 | 40.00 | 2,560.00 | [illegible]12.00 | [illegible]768.00 |
| 5 | SAND BAG DITCH CHECKS | CY | 60.00 | $4.50 | $270.00 | 39.34 | 2,360.40 | [illegible]8.00 | [illegible]480.00 |
| 6 | SILT FENCE (18) | LF | 2,010.00 | $4.00 | $8,040.00 | 3.08 | 6,190.80 | [illegible]10.00 | [illegible]20,100.00 |
| 7 | SITE PREPARATION (2) (5) (6) (19) | LS | 1.00 | $13,270.00 | $13,270.00 | 27,337.50 | 27,337.50 | [illegible]75,000.00 | [illegible]75,000.00 |
| 8 | SEEDING | ACRE | 2.70 | $671.30 | $1,812.51 | 4,025.00 | 10,867.50 | [illegible]3.00 | [illegible]8.10 |
| 9 | MULCH COVER | ACRE | 2.70 | $656.75 | $1,773.23 | 1,350.00 | 3,645.00 | [illegible]3.00 | [illegible]8.10 |
| 10 | EXCAVATION SAFETY | LS | 1.00 | 500.00 | 500.00 | 695.25 | 695.25 | [illegible]7,500.00 | [illegible]7,500.00 |
| 11 | UNCLASSIFIED EXCAVATION | CY | 2,550.00 | $12.00 | $30,600.00 | 15.55 | 39,652.50 | [illegible]24.00 | [illegible]61,200.00 |
| 12 | ROCK EXCAVATION - STRUCTURES | CY | 37.00 | $236.49 | $8,750.13 | 276.89 | 10,244.93 | [illegible]400.00 | [illegible]14,800.00 |
| 13 | COMMON STRUCTURE EXCAVATION | CY | 214.00 | $27.22 | $5,825.08 | 64.72 | 13,850.08 | [illegible]75.00 | [illegible]16,050.00 |
| 14 | COMPACTED EMBANKMENT-SELECT HILLSIDE MATERIAL (BORR | CY | 1,850.00 | 10.00 | $18,500.00 | 16.86 | 31,191.00 | [illegible]16.00 | [illegible]29,600.00 |
| 15 | AGGREGATE BASE (CLASS 7) (1) | CY | 888.60 | 40.00 | 35,544.00 | 42.17 | 37,472.26 | [illegible]50.00 | [illegible]44,430.00 |
| 16 | ASPHALT CONCRETE TYPE "3" (1) (3) (14) | TON | 413.40 | 50.00 | 20,670.00 | 69.25 | 28,627.95 | [illegible]70.00 | [illegible]28,938.00 |
| 17 | CONCRETE TRAIL (1) | SY | 3,691.20 | 0.00 | 0.00 | | 0.00 | [illegible] | [illegible]0.00 |
| 18 | CLASS S CONCRETE - BRIDGE | CY | 123.00 | $850.00 | $104,550.00 | 1,345.02 | 165,437.46 | [illegible]1,500.00 | [illegible]184,500.00 |
| 19 | CLASS S (AE) CONCRETE - BRIDGE | CY | 72.00 | $462.50 | $33,300.00 | 745.04 | 53,642.88 | [illegible]900.00 | [illegible]64,800.00 |
| 20 | RETAINING WALL (20) | SF | 1,000.00 | $30.00 | $30,000.00 | 37.28 | 37,280.00 | [illegible]50.00 | [illegible]50,000.00 |
| 21 | REINFORCING STEEL - BRIDGE | LB | 28,180.00 | $0.90 | $25,362.00 | 1.23 | 34,661.40 | [illegible]2.00 | [illegible]56,360.00 |
| 22 | RAILING | LF | 256.00 | $100.00 | $25,600.00 | 94.50 | 24,192.00 | [illegible]150.00 | [illegible]38,400.00 |
| 23 | FILTER BLANKET | SY | 269.00 | $4.00 | $1,076.00 | 2.59 | 696.71 | [illegible]10.00 | [illegible]2,690.00 |
| 24 | RIPRAP | CY | 134.00 | $40.00 | $5,350.00 | 63.67 | 8,531.78 | [illegible]65.00 | [illegible]8,710.00 |
| 25 | SLOPE PROTECTION BLANKET | SY | 46.00 | $6.00 | $276.00 | 47.25 | 2,173.50 | [illegible]10.00 | [illegible]460.00 |
| 26 | (3) 72' PONY TRUSS BRIDGE SECTIONS (Includes erection) | LS | 1.00 | $180,798.00 | $180,798.00 | 247,340.93 | 247,340.93 | [illegible]500,000.00 | [illegible]500,000.00 |
| 27 | BENCH, (SURFACE MOUNT) (18) | EA. | 4.00 | 600.00 | 2,400.00 | 997.11 | 3,988.44 | [illegible]2,000.00 | [illegible]8,000.00 |
| 28 | BENCH ON CONCRETE PAD (18) | EA. | 4.00 | 800.00 | 3,200.00 | 987.11 | 3,948.44 | [illegible]2,500.00 | [illegible]10,000.00 |
| 29 | CEDAR SIGN POST INSTALLED (13) | L.F. | 90.00 | 12.00 | 1,080.00 | 13.20 | 1,188.00 | [illegible]15.00 | [illegible]1,350.00 |
| 30 | NON-REMOVABLE BOLLARD (9) | EA. | 8.00 | 165.00 | 1,320.00 | 492.08 | 3,936.64 | [illegible]800.00 | [illegible]6,400.00 |
| 31 | REMOVABLE BOLLARD (9) | EA. | 4.00 | 300.00 | 1,200.00 | 761.91 | 3,047.64 | [illegible]900.00 | [illegible]3,600.00 |
| 32 | TRAFFIC STRIPE (PAINT) (4" WIDE) (7) (18) | L.F. | 250.00 | 0.95 | 237.50 | 2.52 | 630.00 | [illegible]3.50 | [illegible]875.00 |
| 33 | SHEET ALUMINUM SIGNS (16) | S.F. | 59.30 | 13.75 | 815.38 | 13.20 | 782.76 | [illegible]15.00 | [illegible]889.50 |
| 34 | 2 1/2" SQUARE TUBE POST (13) | L.F. | 56.00 | 20.00 | 1,120.00 | 8.80 | 492.80 | [illegible]10.00 | [illegible]560.00 |
| | | | [illegible] | | | | 0.00 | [illegible] | [illegible]0.00 |
| | | | [illegible] | | | | 0.00 | [illegible] | [illegible]0.00 |
| | (#) Denotes construction notes on sheet 4 | | SUB-TOTAL | | 587,557.34 | | 877,709.20 | [illegible] | [illegible]1,305,576.70 |
| | | | 10% CONTINGENCY | | 58,755.73 | | | [illegible] | |
| | | | TOTAL | | **$646,313.07** | | **$877,709.20** | [illegible] | [illegible]$1,305,576.70 |

STAFF REVIEW FORM - FINANCIAL OBLIGATION

____ AGENDA REQUEST
X CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: July 20, 2004

**FROM:**

| Steve Hatfield | Parks & Recreation | Operations |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** Approval of contract to construct Lake Fayetteville Spillway Bridge and Trail with Mobley Construction in the amount of $877,709.20 with a 5% project project contingency of $43,885.00 for a total project cost of $921,594.20 and a BA in the amount of ~~$292,621.29~~ 376,340.20

**COST TO CITY:**

| $921,594.20 | $ 440,976.00 | Lake Fayetteville/Sequoyah Imprv |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 2250.9255.5817.00 | $ 5,722.00 | Capital |
| Account Number | Funds Used to Date | Program / Project Category Name |
| 02043.1 | $ 435,254.00 | Parks Devel Capital / Sales Tax |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** ____ Budgeted Item x Budget Adjustment Attached

Budget Manager — Date

**CONTRACT/GRANT/LEASE REVIEW:**

Marsha Fortner — 7/6/04 — Date
Accounting Manager

Internal Auditor — Date

D. P. White — 7/7/04 — Date
City Attorney

P Price — 7-7-04 — Date
Purchasing Manager

**STAFF RECOMMENDATION:**

Division Head — 7/2/2004 — Date

Department Director — 7/7/04 — Date

Finance & Internal Services Dir. — 7-7-04 — Date

Chief Administrative Officer — 7-7-04 — Date

Mayor — 7/9/04 — Date

**Received in Mayor's Office** 7-7-04 pm
Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

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

ENTERED 7/2/04 FWA

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

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

**Date:** July 2, 2004

**Subject**: Annexation for Greenwood/Sloan (ANX 04-01.00)

## RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Greenwood/Sloan. This action will incorporate a 160 acre tract of land contiguous with the city limits into the City of Fayetteville.

## BACKGROUND

The subject property contains approximately 160.0 acres of vacant property located south of Persimmon Street, and east of the future Broyles Avenue. The approved preliminary plats for Persimmon Place and Cross Keys R-PZD are located north of the subject property. The property is adjacent to city limits to the north and the west.

The applicant intends to develop a single family residential subdivision with amenities in conjunction with property to the east that is within the Planning Area and requesting annexation into the City of Fayetteville. Development of the land will most likely be in the form of a Planned Zoning District, as different zonings are required for single family lots (use unit 8) and a golf course (use unit 20). A conceptual masterplan for the property in question, along adjacent properties, has been submitted for review. The applicant requests annexation into the City of Fayetteville. This item was tabled by the Planning Commission at the request of the applicant on April 26, 2004. It was heard again at the Planning Commission meeting of June 28, 2004.

## DISCUSSION

On June 28, 2004, the Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval. The accompanying rezoning request was tabled by the Planning Commission with a vote of 6-3-0 with Commissioners Shackelford, Vaught, and Graves voting no.

## BUDGET IMPACT

None.

**ORDINANCE NO.**

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY OWNED BY JEAN GREENWOOD JOWERS LOCATED SOUTHEAST OF THE INTERSECTION OF 46TH STREET AND PERSIMMON STREET CONTAINING APPROXIMATELY 160.00 ACRES.

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

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

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

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

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

**PASSED AND APPROVED** this _____ day of _____, 2004.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

**EXHIBIT "A"**
**ANX 04-01.00**

THE NORTHWEST QUARTER (N ¼) OF SECTION THIRTEEN (13), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST, CONTAINING 160 ACRES, MORE OR LESS.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

## PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: May 19, 2004

**ANX 04-01.00: Annexation (Greenwood/Sloan, pp 477)** was submitted by Raymond Smith, Attorney on behalf of Jean Greenwood Jowers for property located SE of the intersection of 46th and Persimmon. The property is in the Planning Area and contains approximately 160.0 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

**RECOMMENDATION:**

**Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):**

| | | |
|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** | **YES** |
| | **O Approved** | **O Denied** |
| **Date: June 28, 2004** | | |
| **CITY COUNCIL ACTION:** | **Required** | **YES** |
| | **O Approved** | **O Denied** |
| **Date: July 20, 2004 (1st reading if recommended)** | | |

**BACKGROUND:**

This item was tabled by the Planning Commission at the request of the applicant at the regular Planning Commission meeting on April 26, 2004. Public comments were heard at this meeting regarding this annexation and accompanying rezoning request. Please reference ANX 04-04.00 Tipton/Sloan for the minutes of this meeting.

*Property description:* The subject property contains approximately 160.0 acres of vacant property located south of Persimmon Street, east of the future Broyles Avenue, and west of the southern extension of Rupple Rd. The approved preliminary plats for Persimmon Place and Cross Keys R-PZD are located north of the subject property. The property is adjacent to city limits to the north and the west.

*Proposal:* The applicant proposes the annexation of property into the City of Fayetteville.

*Request:* The request is to annex the subject property into the City of Fayetteville.

*Related Issues:* When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 160.0 acres to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning request, RZN 04-11.00, is an accompanying item to this annexation request.

Property that is developed and/or subdivided in the Planning Area of the City of Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, a uniform and consistent standard of development includes the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have none of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limits. In some cases, new subdivisions adjacent to one another have very different street construction, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits is required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use and tree preservation are not within the City's ability to control.

*Recommendation:* Staff recommends approval of the proposed annexation. The subject property is adjacent to the City of Fayetteville and will create an appropriate city boundary. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

**SURROUNDING LAND USE AND ZONING**

| Direction | Land Use | Zoning |
|---|---|---|
| North | Vacant (Persimmon Place and Cross Keys PPL under construction) | RSF-4, Residential Single Family, 4 units/acre<br>R-PZD 04-02.00 Cross Keys |
| South | Vacant | Planning Area |
| East | Vacant | Planning Area |
| West | Vacant | R-A, Residential Agricultural |

**INFRASTRUCTURE:**

**Streets:** The property has frontage along Persimmon and Broyles Road. Persimmon will be required to be improved along the frontage of this property. Broyles Road is currently under design to be improved as a part of the wastewater treatment plant project.

Surrounding Master Street Plan Streets:
North: Persimmon St. (future collector) and 46th Street (local)
South: Sellers Rd. (future minor arterial)
East: Rupple Rd. (future minor arterial)
West: Broyles Rd. (collector)

**Water:** The property will have access to an 8" looped water main system that is being installed with the Persimmon Place Subdivision. There is also a 12" main planned to be extended on the west side of this site to go to the proposed wastewater treatment plant. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

**Sewer:** The site currently has access to an 8" sewer main along the north property line and also through the middle of the site. Sewer will need to be extended within the development. This property's sewer will flow to the Owl Creek Lift Station (see attached charts for capacity information).

**Fire:** The subject property is located 1.1 miles from the future Fire Station #7. Normal driving time is 2 min. 4 seconds.

**Police:** It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services.

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

**FINDINGS:**

**11.6 ANNEXATION GUIDING POLICIES**

**BOUNDARIES**

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

**Finding:** **The requested annexation will not create an island or peninsula. It will significantly reduce the remaining area designated as Fayetteville's Planning Area in this portion of the City.**

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

**Finding:** **The proposed annexation area is adjacent to the City Limits to the north and west property boundaries.**

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

**Finding:** **This area does not consist of defined subdivisions or neighborhoods; however, future development plans may include the extension of the surrounding subdivisions to the north. The northern portion of this tract is designated as off-site drainage for the Cross Keys subdivision and is intended to provide detention for future residential development.**

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

**Finding:** **Proposed boundaries follow property lines.**

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

**Finding:** **Current conditions result in a response time of just more than 2 minutes for fire protection from the future Fire Station #7. Any development in this area would necessitate installation of hydrants to provide for fire protection. The site currently has access to an 8" sewer main along the north property line and also through the middle of the site. Sewer shall be extended at the time of development.**

**ENVIRONMENTALLY SENSITIVE AREAS**

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

**Finding:** **There are several tributaries crossing the subject property.**

## EMERGENCY AND PUBLIC SERVICES

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

**Finding:** **The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Sewer shall be extended from the 8" sewer main installed located north and through the property during the development of new subdivision(s). Access is available to an 8" water main being installed with Persimmon Place Subdivision.**

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

**Finding:** **Fire and police service shall be provided to this area with the same level of response and service as other developments in this area. Sewer and water improvements to the area will be provided for with the development of approved preliminary plats.**

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

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

## INFRASTRUCTURE AND UTILITIES

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

**Finding:** **Water, fire and police protection are currently provided in this area.**

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

**Finding:** **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.**

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

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

## INTERGOVERNMENTAL RELATIONS

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

**Finding:** **N/A**

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

**Finding:** **N/A**

## ADMINISTRATION OF ANNEXATIONS

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

**Finding:** **Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with surrounding developed property and the Residential classification of the area on the City's adopted Future Land Use Plan.**

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

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

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

**Finding:** **Conceptual development proposals for this property have not been submitted to the Planning Division. At the time the owner desires to develop this property, the applicant will be required to submit a proposal for review and approval by the Planning Commission.**

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

**Finding:** **This annexation includes approximately 160.0 acres owned by The Hoyet Greenwood Trust A when the petition for annexation was submitted. The property is currently owned by Sloan Properties, Inc. The large size and location of this tract creates an acceptable city boundary. It is also adjacent to the McBryde/Sloan (ANX 04-02.00) and Marinoni (ANX 04-1083) annexation requests creating a more comprehensive area for the consideration of the combined requests.**

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

**Finding:** **A fiscal impact assessment has not been conducted for this property.**

*From Fayetteville General Plan 2020 – 2002 Revision*

## 11.6 Annexation Guiding Policies

### Boundaries

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

### Environmentally Sensitive Areas

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

### Emergency and Public Services

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

### Infrastructure and Utilities

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

### Intergovernmental Relations

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

### Administration of Annexations

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

# FAYETTEVILLE

PC Meeting of May 24, 2004

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8202

## ENGINEERING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Matt Casey, Staff Engineer
DATE: April 20, 2004

**ANX 04-01.00: Annexation (Greenwood/Sloan, pp 477)** was submitted by Raymond Smith, Attorney on behalf of Jean Greenwood Jowers for property located SE of the intersection of 46th and Persimmon. The property is in the Growth Area and contains approximately 160.0 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

**RZN 04-11.00: Rezoning (Greenwood/Sloan, pp 477)** was submitted by Raymond Smith, Attorney on behalf of Jean Greenwood Jowers for property located SE of the intersection of 46th and Persimmon. The property is currently zoned R-A, Residential Agricultural, and contains approximately 160.0 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

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

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

**The property will have access to an 8" looped water main system that is being installed with the Persimmon Place Subdivision. There is also a 12" main planned to be extended on the west side of this site to go to the proposed wastewater treatment plant. An extension of the water main will be required to provide water supply and fire protection within any development on this property.**

**The site currently has access to an 8" sewer main along the north property line and also through the middle of the site. Sewer will need to be extended within the development. This property's sewer will flow to the Owl Creek Lift Station.**

**The property has frontage along Persimmon and Broyles Road. Persimmon will be required to be improved along the frontage of this property. Broyles Road is currently under design to be improved as a part of the wastewater treatment plant project.**

Name Matt Casey Department Engineering

Table 6

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

| Lift Station | Capacity [1] (gpm) | Capacity [1] (gpd) | Number of Units: Existing | Inactive | Built Not Occupied | Approved Not Built | Projected Peak Hourly Wastewater Flow [2] (gpd) | Percent Capacity Utilized | Remaining Capacity [3] (gpd) | Remaining Capacity [3] (units) |
|---|---|---|---|---|---|---|---|---|---|---|
| Crystal Springs | 260 | 374,400 | 141 | 0 | 233 | 508 | 223,560 | 59.7 | 150,840 | 670 |
| Hamestring | 1,600 | 2,304,000 | 2,510 | 125 | 898 | 680 | 1,650,000 [4] | 71.6 | 654,000 [5] | 2,906 [5] |
| Owl Creek | 437 | 629,280 | 336 | 25 | 317 | 286 | 280,000 | 44.5 | 349,280 | 1,552 |
| Total | | | 2,987 | 150 | 1,448 | 1,474 | | | | |

*1/ Firm capacity requires verification by OMI, Inc.*
*2/ Wastewater flow projected utilizing 161 gpd/unit plus existing dry-weather infiltration x dry-weather peaking factor.*
*3/ Based on dry-weather flow only. Does not include allowance for wet-weather inflow or infiltration.*
*4/ Flow for Hamestring Lift Station includes flow from Crystal Springs, Hamestring, and Owl Creek Lift Stations.*
*5/ Total remaining flow and units include all areas tributary to Hamestring Lift Station.*

# Projected Wastewater Capacity With Maximum Allowable Development of Recently Approved and Proposed Annexations and Rezonings

| Development | Maximum Additional Units | Lift Station |
|---|---|---|
| Shlegel*** | 290 | Crystal Springs |
| Dunnerstock** | 68 | Hamestring Creek |
| Cross Keys** | 108 | Owl Creek |
| Chance and Tuggle*** | 6 | Owl Creek |
| Tipton/Sloan | 117 | Owl Creek |
| Greenwood/Sloan | 640 | Owl Creek |
| McBryde/Sloan | 320 | Owl Creek |

| Lift Station | Current Remaining Capacity (units) | Approved Additional Units | Proposed Additional Units | Projected Remaining Capacity |
|---|---|---|---|---|
| Crystal Springs | 670 | 0 | 290 | 380 |
| Hamestring* | 2,906 | 68 | 0 | 1,357 |
| Owl Creek | 1,552 | 108 | 1,083 | 361 |

**Total remaing flow and units include all areas tributary to Hamestring Lift Station. Flow for Hamestring Lift Station includes flow from Crystal Springs, Hamestring, and Owl Creek Lift Stations*

***Approved by City Council.*

****Pending City Council action.*

# FAYETTEVILLE

RECEIVED
APR 20 2004
PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

April 19, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 04-01.00 (Greenwood/Sloan, pp 477)** and Rezoning **RZN 04-11.00 (Greenwood/Sloan, pp 477)** submitted by Raymond Smith, Attorney, on behalf of Jean Greenwood Jowersfor property located SE of the intersection of 46th and Persimmon would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

ETTEVILLE POLICE DEPARTMENT
BOX 1988
ETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

# FAYETTEVILLE

## FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-11.00 OWNER Greenwood/Sloan
ANNEXATON# 04-01.00 OWNER Greenwood/Sloan
LOCATION OF
PROPERTY SE of intersection of 46th & Persimmon

NEAREST FIRE STATION AND
LOCATION Station #7, Ruple Rd. (future)

RESPONSE TIME FROM FIRE STATION # 7 TO
LOCATION OF
PROPERTY 2 MINUTES 4 SECONDS.
TRAVEL MILES FROM FIRE STATION # 7 TO LOCATION OF
PROPERTY 1.1 .
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION

WATER SUPPLY WITH HYDRANTS
NEEDED? Yes

ADDITIONAL
COMMENTS.

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W. MALL
(501) 575-8271
FAX (501) 575-8272

FILED
'03 DEC 29 AM 11 19
KAREN POLLES PRITCHARD
CIRCUIT/PROBATE CLERK
WASHINGTON COUNTY

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

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

CASE NO. CC 2003-29

**PETITION FOR ANNEXATION**

Comes now, the Petitioner, Jean Greenwood Jowers, Trustee of The Hoyet Greenwood Trust A, and for her Petition for Annexation, states as follows:

1. Petitioner is the record owner of the following described real property situated in Washington County, Arkansas, to-wit:

> The Northwest Quarter (NW¼) of Section Thirteen (13), Township Sixteen (16) North, Range Thirty-one (31) West, containing 160 acres, more or less.

2. The above described property is adjacent to and contiguous to the present city boundary line for the City of Fayetteville, Washington County, Arkansas.

3. The above-described property is suitable for annexation to the City of Fayetteville, Arkansas, and is necessary for the proper growth, prosperity and management of the above-described real property and the City of Fayetteville, Arkansas.

4. Pursuant to Arkansas Code Annotated § 14-4-601 et seq, this Court has jurisdiction over the subject matter herein, and Petitioner requests that the above-described real property be annexed in and to the City of Fayetteville, Arkansas.

5. Petitioner further states that the law firm of Raymond C. Smith, P.A., Fayetteville, Arkansas, is authorized to act for and on behalf of the Petitioner in all matters connected with this Petition and subsequent hearings or annexation proceedings connected herewith.

6. Petitioner requests that this Court set a date for hearing on this Petition, not less

FROM WACO CLERK (TUE)APR 20 2004 11:25/ST. 11:23/NO. 6314274941 P 6

than thirty days after the filing of this Petition and subsequent hearings or annexation proceeding therewith.

WHEREFORE, Petitioner prays that the above-described real property be annexed to the City of Fayetteville, Washington County, Arkansas, pursuant to the provisions of Arkansas Law, after a hearing thereon as required by law; that this Court, by Order, fix a time and place for said hearing not less than thirty days from the filing of this Petition; and for all other proper and just relief which the Petitioner may be entitled.

JEAN GREENWOOD JOWERS, Trustee
THE HOYET GREENWOOD TRUST A

By

Raymond C. Smith
Attorney at Law
70 N. College Avenue, Suite 11
Fayetteville, AR 72701
(479) 521-7011
Ark. Bar No. 80135
Attorney for Petitioner

FROM WACO CLERK (TUE)APR 20 2004 11:25/ST. 11:23/NO. 6314274941 P 7

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS CASE NO. CC 2003-29

FILED
'04 FEB 5 AM 10 49
KAREN COMBS PUITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

**ORDER OF ANNEXATION**

On this 5th day of February, 2004, this cause comes on to be heard, the Petitioner, Jean Greenwood Jowers, Trustee of The Hoyet Greenwood Trust A, represented by her Attorney, Raymond C. Smith of Fayetteville, Arkansas, announcing ready for a hearing of the cause and there being no protests or objections filed, whereupon, the matter is submitted to the Court upon the verified petition filed herein, and the oral and documentary evidence adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed December 29, 2003, at which time the Court fixed February 5, 2004 at 10:00 a.m., as the date of hearing for said cause, and that a full thirty days notice of hearing was given as required by law and notice of publication is now on file with the Clerk of this Court and the Court has jurisdiction of this cause.

2. The Court is satisfied that the allegations of the petition are sustained by the proof, that the limits of the territory to be annexed have been properly filed, that the property owner has a freehold interest in the property hereinafter described in the petition and constitutes the real owner of the area affected.

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

> The Northwest Quarter (NW¼) of Section Thirteen (13) in Township Sixteen (16) North of Range Thirty-One (31) West, containing 160 acres, more or less.

4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is particularly adapted for urban

FEB 06 2004
PLANNING DIV.

purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

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

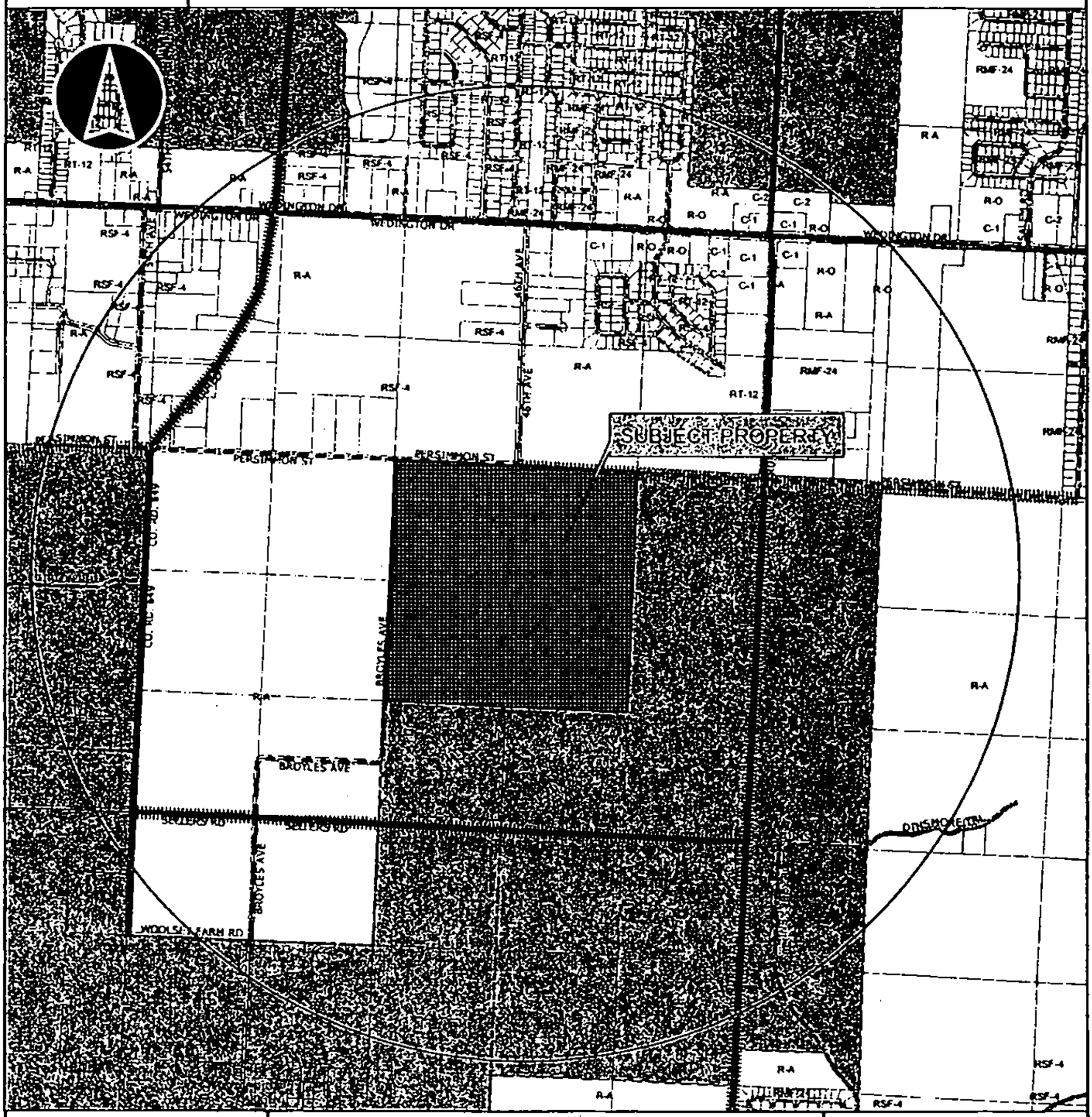
COUNTY JUDGE

RECEIVED
FEB 09 2004
PLANNING DIV.

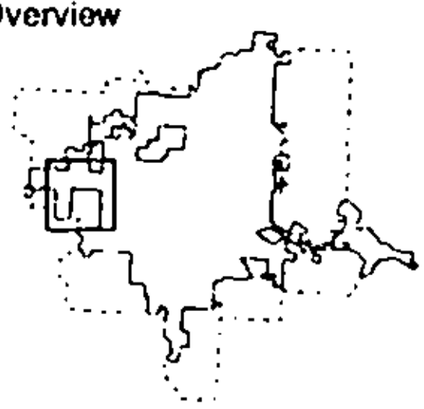
ANX04-01.00

One Mile View

# GREENWOOD/ SLOAN




Overview



Legend

Subject Property
- ANX04-01.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

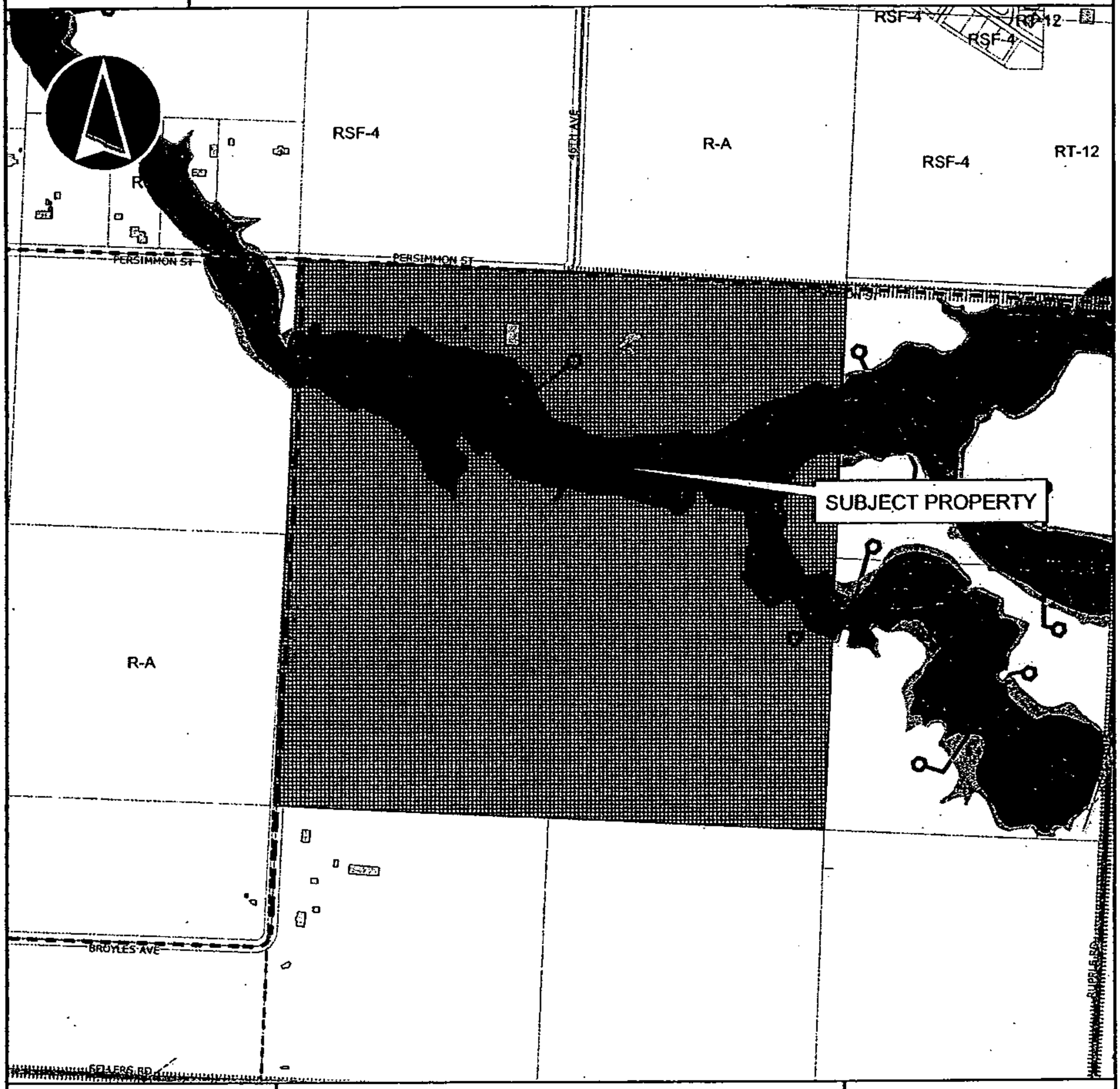
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

ANX04-01.00

# GREENWOOD/ SLOAN

*Close Up View*




*Overview*

**Legend**

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- City Limits
- ANX04-01.00
- Outside City

0 275 550 1,100 1,650 2,200 Feet

**ANX 04-01.00: Annexation (GREENWOOD/SLOAN, pp 477)** was submitted by Raymond Smith, Attorney on behalf of Jean Greenwood Jowers for property located SE of the intersection of 46th and Persimmon. The property is in the Planning Area and contains approximately 160.0 acres. The request is to annex the subject property into the City of Fayetteville.

**RZN 04-11.00: Rezoning (GREENWOOD/SLOAN, pp 477)** was submitted by Raymond Smith, Attorney on behalf of Jean Greenwood Jowers for property located SE of the intersection of 46th and Persimmon. The property is currently zoned R-A, Residential Agricultural, and contains approximately 160.0 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: I believe the next item on our agenda is ANX 04-01.00 for Greenwood/Sloan.

Morgan: This subject property contains approximately 160 acres of vacant property located south of Persimmon Street east of the future Broyles Avenue and west of the southern extension of Rupple Road. The approved Preliminary Plats for Persimmon Place and Cross Keys R-PZD are located just north of this subject property. The property is adjacent to the city limits to the north and the west. The applicant proposes the annexation of this property, 160 acres into the City of Fayetteville. Staff recommends approval of the proposed annexation based on findings within the staff report and that the subject property is adjacent to the City of Fayetteville and will create appropriate city boundaries. In conjunction with this annexation request is RZN 04-11.00 for Greenwood/Sloan. The applicant is requesting that the property be rezoned from R-A to RSF-4 should the preceding annexation request of 160 acres be approved. The applicant has submitted a Bill of Assurance limiting development to 1.5 units per acre. Staff is recommending approval of this rezoning request.

Ostner: Thank you Ms. Morgan. Is the applicant present? If you could step forward, introduce yourself and give us your presentation.

Smith: Good evening, my name is Raymond Smith. I submitted the application on behalf of Greenwood and Mr. Sloan of Sloan Properties. As was explained, this property is located southeast of the intersection of 46th and Persimmon. It is approximately 160 acres. It is adjacent to 40 acres for the Cross Keys subdivision which this would be part of the Cross Keys subdivision that is already in the city being developed. Mr. Sloan has quite a bit of detail here that he is passing out to you that shows the location of this property and what the plans are.

Sloan: I'm Charlie Sloan, the owner/developer of the 160 acres. What I have given you tonight is a drawing. This has my property which is the west 160 acres and then the McBryde property which is attached to mine on the east side running parallel. I am working with the McBrydes to help them develop theirs at the same time that I'm doing mine. What we have proposed here is a subdivision, we do have floodplain in this subdivision. We knew that going in. One of the questions that I had was what to do with that floodplain which would be open field for the neighborhood to look at. One day it dawned on me why not putting in a first T golf course for kids. It is across the street from the Boys Club and was it possible. We went and talked with the Boys and Girls Club, visited with them for a little bit and they said yes, that they would be interested in doing something if we could build it and make the revenue neutral for them so it didn't cost them anything to maintain. We sort of put our heads together and talked with a couple of other developers in that area that are already under construction right now and asked them if they would be willing to participate with us and they said yes. We are trying to take the floodplain, we have had a wetland study done and are avoiding all of the wetlands and we decided to see if we could get in a nine hole golf course. We have talked with the First Tee again to see if they would be interested in helping us out with the golf course that teaches kids nine core values. We plan on having lots that will range in different sizes from 145' lots to 95' lots around this golf course and down to the south of it. We do expect to bring this to you in phases. We are probably not going to go out there and do this all at one time. Knowing the city's situation with the sewer plant we do know that we have to do this in phases according to plan. Obviously, we are not going to build streets and get lots ready and find out that we don't have capacity. We understand that but we do already have the property. On the south corner coming up on the McBryde's southeast corner there is about 11 acres in there. Some is in the floodplain, some is not. There are some wetlands around it. Rather than try to work our way into the wetlands we decided just to make that a park for that area. That is what we would like to have. Once again, whoever maintains the golf course and has ownership has to maintain the park. Basically, what we are trying to do is put this in and offer it to the Boys and Girls Club to offer kids golf. It shouldn't cost them anything. There are scholarships to buy clubs for kids who can't afford it. It is a good amenity. There is still a lot of meshing of different people, architects and engineers that it has to go through. A lot of things that we did ask for is that it has to be environmentally friendly because there is a creek around this. We don't need to build pebble beach. We need to build a golf course that has low maintenance, something natural that keeps fertilizers and things like that down to a minimum. There are a lot of issues that we are trying to address. We will maintain a minimum of 20' buffer off of the creek. We have had the Corp. of Engineers out there with us. They have looked at our plans and said that they did not have problems with anything that we

were trying to do. We will need detention and things like that so there are a lot of issues still to address. What we would come through first would be the portion abutting Persimmon Street. We are building Persimmon Street now in the first phase of Cross Keys. We are building from 46th Street and over to the Nock property and the McBryde property and then it is going to be taken on over to Rupple Road for the Boys Club. Other than that, with staff's recommendation, we have met with other developers that are coming through tonight to get together so good things could happen that would benefit each one of us. One of the things hat we talked about that is not on my plat and I don't think it is really on his yet because it hasn't been worked out, we talked with the Corp. about maybe not having Rupple go straight south, go to the south of the property that the school would like to purchase and bring it away from the wetland area, south around the valley basically verses putting it on the side of the hill as it does now. Those are some issues that will have to be worked out. Right now it is just a concept plan. We feel comfortable with that 1.5 Bill of Assurance for my property and the McBryde property together. We left a little bit of flexibility. We did look at the RSF-2 zoning and the problem with that is that it requires the 100' lots and some of these lots are 90' or 95'. It is almost like a great thing for a PZD except it has so many people that would have to come together to make this work. We would like to at least go ahead and get started to build the road across there. We would like to get that started and then get some answers basically on what we need to do further to the south. We can do this in phases. This phase is going to be based on what city capacity is. We have been working closely with Greg Boettcher since a year ago on this thing to know what the capacity of the treatment plant was at knowing that if I purchased this property could I have capacity in 2006. We know that there are issues to face on this project. That is sort of where we are at. I bought my property January 9th. The McBrydes have owned their property for 24 years. We did not go out and make this decision based on the school. We made a decision to do this project. The Jowers asked me if I would be interested if they wanted to sale. Jean and I have been friends for years. They have been gracious to work with me and give me the opportunity on this project. We have already paid for it and purchased it. It is the same price whether it is in the floodplain or not. We did think that maybe bringing an amenity to Fayetteville would be great. I did talk to First Tee and there will be a First Tee golf course in Northwest Arkansas. They are fishing for a home. I would like for it to be in Fayetteville. I would like for it to be on this property. Right now I think that is where they would like to have it at.

Ostner: I will open the floor to public comment at this point.

Ralston: Good evening. I'm Linda Ralston. I'm fairly new to the Planning process. I just want a clarification. I know it was comment about the

RSF-2. I just wanted that clarified, it sounds like maybe a portion of this is commercial so I wondered if that all ties into the same zoning area. Are there different zonings? That is a comment just from being a little bit green. Also, through this area that is being talked about for Rupple Road and Persimmon and along that. Rupple Road I believe is no longer on the master street plan to go all the way through to Hwy. 62 or 6th Street. There is a lot coming together right in that area and I'm greatly concerned about a cul-de-sac almost bottlenecking.

Ostner: Thank you. Would someone else like to speak?

McGuire Bowman: I'm Dr. Kathy McGuire Bowman. I live at 2742 N. Cheryl Avenue. I'm actually almost reduced to hysterical laughter. I don't even know if I will be able to speak because I believe I have just heard that the disadvantaged children of the Jefferson School neighborhood are going to get to trade their neighborhood school for a golf course! That is just what they need. I would be curious whether this Greenwood/Sloan annexation included a golf course when they brought it before you before but decided to table it. If not, I would say that there has been some influence by those of who has been trying to take a closer look and maybe resisting all of this annexation because these people are now trying to put in amenities to make these things more attractive than what they might have been before. I do appreciate your hard work of sitting up here and doing all of the studying that you have to do. I want to say again almost hysterically, that we just got a notice from the tax assessor for our land. We have some land in Goshen and it's value has gone from $36,000 to $75,000 in one year and we don't even have sewers or a school or anything. Definitely things are going on here. I just want to point out that I imagine that the reason that this Greenwood/Sloan annexation came forward when it did, which was a couple of months ago and right at the same time as the McBryde/Sloan is because of the location of the school on the McBryde/Sloan plat. It was immediately after the McBryde/Sloan property was chosen as the most possible location of Jefferson School that this annexation came out. I just wanted to point out again that there is a tremendous relationship between school placement and development. I do feel in terms of the annexation task force and even getting the right of citizens to speak at the school board that it is really all too late. That the very wise entrepreneurs and business men and investment bankers in town have done wonderful long term planning and are all ready to leap out with everything already all planned, a ten year plan for schools and all of these things and before we barely have time to wake up it is going to be over. It is going to be over tonight a lot of it might be. Anyway, I don't know if we should annex or not. I am more looking at the relationship between school placement and development. With this school placement out here the Westside development is taken care of. Next it will be the Cummins Park school on the south side and that will take care of the development

out there, acres of development added on. Then there is going to be the Hissum School on Hissum Lane going out toward Goshen on Hwy. 45.

Ostner: Ms. Bowman, there is no school called for on this project that we are talking about tonight.

Bowman: We'll look at McBryde/Sloan to see if there is a school called for there either and we will wonder why not. Anyway, I just want to make a relationship between all of this annexation. It wouldn't be going on right now, they wouldn't have come forward except that the school got placed out there.

Ostner: Thank you. Are there other comments from the public? I am going to close it to the public and bring it back to the Commission. We have talked about both annexation and rezoning in the same conversations but really we are only looking at the annexation item first.

Anthes: In contrast to the last annexation that I voted against I do find that this particular parcel seems to fit more of the criteria for annexation guideline policy. One is that it is a piece of property that is tucked in a pocket that is almost completely wrapped with the City of Fayetteville. It is much closer to density and to a commercial neighborhood node at Wedington and Rupple and the Boys and Girls Club and a R-PZD that we just approved for Rupple Row and the fire station. We have density there that seems to speak to this property having more pressure for development than perhaps some of the more outlying areas. Also, we do have quite a large amount of environmentally sensitive area within this property that I would hope that the city could work with on. I had no idea about this golf course and the annexation, which way we choose to vote one way or the other has nothing to do with whether this amenity is offered. I will say that protecting that water way and making sure that whatever happens there, whether it is a golf course, greenspace, dedication or whatever, is handled in a way that contributes positively to the tributaries and streams in the area. If this is 160 acres, which seems to me is large, and would be something that I would be looking for a fiscal impact assessment on. However, since it seems like we have not ever required those before nor has the annexation task force, from what Commissioner Graves was saying, it doesn't seem like they are going to be requesting those reports. I guess I'm not going to let that hold me back on this site.

Graves: I don't necessarily think that the taskforce won't be asking for those kinds of reports. I think that the taskforce is looking at a wide range of things such as recommendations to make amendments to the General Plan when that occurs next year. Recommendations for the ordinances surrounding annexation and some guiding policies for annexation. The chance of getting a fiscal impact study for these particular properties in the time

frame that the taskforce has been organized could not have occurred. It is information that the taskforce is certainly interested in and has inquired about. I would expect that information much like the sewer impact study tat everyone waited on last year on annexation. I would expect that some of that type of information would be forthcoming as a result of recommendations coming out of the taskforce. It probably isn't something that we are going to see right away on some of the things that are coming before us in the meantime.

Shackelford: Staff, part of this request we have been given a Bill of Assurance limiting density to 1.5 units per acre. Just for the record to make sure we are all on the same page, Commissioner Vaught asked earlier what goes into the denominator of that calculation. We have talked about this area being a golf course and possibly greenspace that would be dedicated. You made the comment earlier that if it was a park that it would not go in to the calculation for density. What about if it is as proposed a golf course or if it is required to be set aside as greenspace? Would that go into the calculation for density?

Warrick: That is an issue pertinent to the rezoning which will be the next item that we are talking about. Not knowing what is going to happen my understanding is that 1.5 that is being offered with the Bill of Assurance for this project covers the whole 160 acres. We would certainly have to look at all of the variables with regard to whether or not the Parks Department wishes to have that property dedicated to the city so that it would then be under the city's ownership for the golf course. I am not sure that that is necessarily in the plans for this particular site. The golf course is relatively new for all of us I believe. Right now my understanding is that the offer by the developer is a calculation of 1.5 density over the entire 160 acres.

Shackelford: Obviously I am jumping the gun and talking about rezoning before we talk about annexation but I've already started so I'm going to finish. What about as the applicant indicated this thing comes in and is phased? Will the Bill of Assurance limiting it to 1.5 per acre, I don't understand how that is going to work because they bring in the first phase that is probably going to be greater than that density thinking that they are looking at the overall piece. How would you approach that as staff?

Warrick: Honestly, for this particular site it is a little bit problematic to look at one overall zoning. The speaker who made the first comments with regard to the golf course questioned the zoning and whether that was a different district and how that would be handled. We did some quick checking and golf courses are permitted in certain zoning districts but not in residential zoning districts. My suggestion would be that this area, because of the varying densities that the developer appears to be proposing and because

of the amenities that they have proposed with the golf course if it does come to fact and also the fact that there is a portion of this property that is covered by floodplain and floodway. This is a site that falls under the criteria that we would encourage a developer to process a Planned Zoning District. At that point they have some latitude with setting out densities and lot sizes and different types of community open space, which is part of the idea with regard to this golf course area if I'm understanding it the way that I believe it has been presented then it really does kind of fall under those types of projects that we would encourage someone to process as a Planned Zoning District. It is not something that really fits into the package of one existing zoning district for every portion of the site.

Shackelford: With that I have one more question. Have we seen a situation and is it possible to have a PZD when you have a project that encompasses more than one tract of property which brings in more than one applicant as this proposed development does?

Warrick: I think as long as all of the applicants were willing and served collectively as one voice then it is possible to do something like that. In many cases we see groups of individuals come together to make a request for a commercial development or in some cases an annexation. You will see later in the agenda there is an annexation proposal that has several different property owners represented in the petition. That is something where collectively it works better than individually. It is possible.

Ostner: My concern is that this is a terrific drawing. I've never even heard of First Tee and I'm blown away. It is an amazing concept but with an annexation and rezoning it is really just a suggestion. The applicant, good intentions aside, is not legally bound to this drawing. This is an idea that he wants to do. Mr. Shackelford raised a great point. If we rezone to single family, Mr. Sloan could run into a problem trying to rezone the golf course, can't get it rezoned and suddenly two years from now the golf course isn't built. I just want to make it clear that if this were a PZD we would have a lot more certainty that this terrific concept could be brought through. We are simply considering the annexation and the land use rezoning at this point.

Vaught: I guess my opinion on it is we need to look at whether we think it is appropriate to rezone and then we need to establish an appropriate rezoning, with or without a Bill of Assurance, with or without these concept drawings. Let the developer, if this is what he wants, work with city staff and hopefully he would be amicable to bringing forward a PZD. He understands the complications with breaking up a zone like this in these ways because you would have to break up the lots and then it gets funny with the Bill of Assurance and how do you calculate the 1.5. Those are a lot of my questions, even floodplain and actual creek acreage. I

don't know if that is included in the calculation. Is it included in the calculation of the 1.5?

Warrick: My guess is that it is. This is relatively new information for us.

Vaught: In my opinion it is prime to be annexed. It is definitely a residential area of town with it's location and with what is going on around it. With the Boys and Girls Club and with our statements that we would like to see heavier density in some areas like Rupple Road and some of these new areas that have come in. I would almost think that 1.5 units per acre is too low but I think that with the amount of floodplain that's where we are falling into that 1.5 units per acre because we can't build on a lot of this site. I would hope as a PZD we could possibly work with the applicant. If they came to us as one 240 acre site that would be a situation like we had on wilson springs where we had such a large area that the engineering work that had to be done on the site was overwhelming. It could possibly be one of those more confusing PZDs would be correct in this situation.

Ostner: Thank you. Matt, on 7.10 and 11 can you explain a little bit how I'm to read this? I'm understanding that there is sewer capacity for these projects but if you could just touch on how to read your charts for me.

Casey: The chart here on 7.10 lists the three major lift stations in the area. We are looking at Owl Creek lift station for this area but it also pumps directly into Hamestring Creek. Any impact we have on Owl Creek will also impact Hamstring Creek. What we have shown here are the estimated remaining units left that could be added to lift stations. If we add 200 units to the Owl Creek lift station we also need to figure that into the impact of the Hamestring Creek also. On the next page, Dawn may need to help me on this, I have not seen this table before. That was something that our Planning Division put together..

Warrick: I will try to help. On page 7.11 what we've tried to do is give the Planning Commission and City Council an understanding of what impact on that determined remaining capacity on those three lift stations on the west side of town that new development would have. This goes back to some degree to Ms. Clark's conversation earlier about having available the ability to serve new developments. We have in the first table included the various projects that have been submitted and processed through the city. The last four are items that we are seeing tonight but those are projects that we have been considering since he study was released. That study gives you the numbers on page 7.10 as available units or remaining capacity on each of those lift stations. Those numbers represent the maximum based on the zoning district that each of these developments have requested. It is not real numbers with regard to approved Preliminary Plats. It is a maximum density if it was fully developed at

that zoning that is being requested. We have calculated that out and projected remaining capacity, which is the last column in the second table on page 7.11. That indicates that there is remaining capacity in each of those lift stations to accommodate proposed developments at full density build out.

Ostner: This is with our current sewer system and is totally independent of our project?

Warrick: That is correct. That is without the Bills of Assurance that this developer has proposed. This is at the density that the underlying zoning would allow.

Ostner: The Bills of Assurance lower these numbers?

Warrick: Yes, they would lower these numbers significantly.

Vaught: If we approve this with the Bill of Assurance if he comes back through with a PZD it will trump that Bill of Assurance, is that correct?

Williams: That is correct because in fact, it would be a rezoning. It is like if he came back with a different kind of zoning that was approved and then the most current rezoning folds.

**MOTION:**

Shackelford: In an effort to keep this thing moving forward, I agree with the comments that Commissioner Anthes made earlier. I think that this annexation makes a lot of sense based on where it is in relationship to the other standards that we are charged to look at. I am going to go ahead and make a motion that we recommend approval of ANX 04-01.00.

Clark: Second.

Ostner: I have a question. I'm not sure if staff can answer it. On our findings our services, fire police and engineering have given us their report. On page 7.12 the Fayetteville Police Department's approval letter says that this project will not alter the population density or create an appreciable increase in traffic danger and congestion in the area. Wedington is a problem. It is less of a problem since it was widened. The Wedington/Betty Jo area is very problematic. I'm wondering what the capacity of Wedington might be. How close to capacity Wedington is flowing now. The accidents and the length of wait at that signal. I believe traffic should be right in here as an infrastructure that we have a finding for. I'm not sure the qualifications of the police department to consider the engineering of traffic flow. I would like to believe that they are fully

capable. I'm not sure they are. That is my question. Can you address any of those issues?

Warrick: I can request reports and traffic counts on that area to get an understanding. I can tell you that the Highway Department is working on improvements to Wedington west of Rupple. Rupple Road east all the way into Garland to Gregg Street has been improved and the Highway Department currently has a project that they are working on widening Rupple Road west I believe to Double Springs but I can get you the information on that. That is a project that they are currently under way with. I believe that they are looking at rights of way acquisition and easements and utility relocations at this point in time. That is something that I can tell you. I can also say that when the Police Department is reviewing this they are reviewing this for annexation of vacant land. Annexation of vacant land doesn't necessarily cause any new impact. A development certainly would. Their evaluation of an annexation is to determine whether or not they can reasonably serve it and whether or not they serve that existing development in that area right now.

Ostner: It is the same form letter for the rezoning as well.

Warrick: It is. I encourage them to evaluate that specifically as well. If they give the same area then I have to take it on faith that they have reviewed it. They go on our Zoning Review Tours with us and they look at these sites. In this particular area yes Wedington does have a tremendous amount of traffic on it. Hwy. 62 does as well. These projects that we are considering, this property specifically is right in between the two. The city is currently building Broyles Road which is the north/south connector street between those, at least to the south end of the city limits of Fayetteville where it will be picked up and exist in the city of Farmington. Then we have Rupple Road which is projected to connect Hwy. 62 and Hwy. 16 but it can't unless development occurs along that corridor or the City Council determines that is the high priority and it becomes a capital improvement project on one of the city's future capital plans. Persimmon is a projected connector street east and west between Hwy. 62 and Hwy. 16 is being pieced together as various properties develop. That street will connect Double Springs Road to Shiloh Drive, the outer road to I-540. Like I said, it is built in pieces and it is getting there but it won't be complete unless property is developed on either side or unless the City Council determines that is one of the highest priorities with regard to capital improvements that needs to be installed by the city. That is what I can tell you about the infrastructure in the area. I can request accident reports and traffic numbers and things like that if you would like.

Ostner: I would like to know more about the traffic. The strategic plan that the Council came up with and are very proud of it has a goal of improve

mobility and street quality. The top action for 2003 was an east/west connectivity plan. We have lots of east/west corridor issues in this town. I believe that Hwy. 62 and Wedington are two great examples. I'm not sue when we are going to solve them if we don't at least examine them now when we are looking at annexing 160 acres. Those are my concerns. I agree with Commissioner Anthes that this project is very different from the last project much further west that we looked at. I would be more inclined to annex this area. Is there further discussion? Could you call the roll?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of ANX 04-01.00 was approved by a vote of 9-0-0.

Thomas: The motion carries by a vote of nine to zero.

Ostner: The next item is the tandem item on this same piece of property, RZN 04-11.00 for Greenwood/Sloan. We have already heard the staff report. Are there any members of the public who would like to address this rezoning? I am going to close it to the public and bring it back to the Commission for comments.

Vaught: I have a question for the developer. I just wanted to make sure you understood a lot of these issues that we have been talking about.

Sloan: Yes. The golf course has been involved in this thing since the day that I walked in and told Mrs. Jowers that I would buy it. That was two days before we made the decision and that was almost a year ago that we were going to put the golf course in. I have spoken with a few people in Planning about it. We didn't want it out in public or anything right now because we still have to bring a lot of entities together to see if we could make it work. I don't like the fact that people think that I just brought this up to the table. It has always been on the table and I can bring witness after witness in here. Some of them are city employees. I see the problems with it. It probably should be a PZD. I don't mind pulling the rezoning and coming back with basically the same drawing and having the surveyors break out the boundaries and everything. Would a concept plat fly through verses doing the whole thing? I know that this got to be a question before. I guess in a sense that we can bring a concept plat in and then each phase completely drawn to actual scale and things like that. We can easily get the boundaries because we know that we are going to work within limited boundaries for the golf course. We know that the front lots are all going to be 300' deep. We have already made that determination. We just put the line 300' south of Persimmon and said that's it for those. We know where we are at there. You guys suggest the best way to do this and we are willing to work with it. That's not a problem pulling it back. I didn't realize the golf course needed to be in a separate zoning district. Homes are on the golf course. I have never built one and wouldn't be doing this except for it's a First Tee situation and it is worth the effort that we have to put in for it and we have enough people to support it. Once again, I don't mind bringing it back as a PZD. We would love to do concept rather than doing sewer and trying to work out everything on the last lot and the whole project may be two years away or three years before we can even break ground on it. That is the only question I've got. You guys advise us and we will try to work within that advisory. I see the problems I would have with the zoning. We were hoping that the Bill of Assurance would be the thing. Some of it was because all of the sudden we were asking for the RSF-4 and it looks like many homes could go in there. We are not looking for that. That was the reason for offering the Bill of Assurance that we wouldn't exceed that. I did not realize that the golf course needed to be in another zoning district.

Vaught: I would say that is something that you need to work with staff on. We have one other really large PZD that has come through as something similar. I don't know how it would work with a residential PZD or whatever this winds up being. That was more of a residential section and commercial section with defined lots. I don't know how it works.

Warrick: We have within our ordinance the mechanism to look at this the way Mr. Sloan wants to have this. You mentioned the springwoods Planned Zoning District. In that development they had 289 acres and broke it out into nine large lots and identified land use and density for each of those lots with the expectation that we would then follow that up and see development proposals on each of them. One thing that was unique about that project is that much of the infrastructure was already existing at least to provide access to each of the large lots that was being created because it is surrounded by various city streets. We are right now processing through the development review, two subdivisions for two of those lots that were created in the springwoods PZD. We are looking at lot 3 and lot 5 which are both single family subdivisions. I would suggest that we might be able to treat this in a very similar fashion where we look at the whole 240 acres and say that this large tract will be single family residential developed at a density of "X". This large tract would be commercial recreation developed for a First Tee golf course and then take it out in chunks that basically matches an appropriate development pattern. We would be looking initially at just blocks of property, large lots that would have to be followed up by Preliminary Plat or Large Scale Developments, whichever is appropriate, for each of those large lots under the conditions of the zoning that is set for the PZD.

Shackelford: Just a follow up question on that for the record. That, as you explained it, wouldn't be that much different from a developer's standpoint than doing it in phases. If you do Phase I of A,B,C subdivision and then you do Phase II you have to come through with a Preliminary Plat and that sort of thing, is that correct?

Warrick: It would be very similar to that although we would look at the whole grand scheme of things, the whole master plan up front to understand the relationship between the various uses and densities the major street connections that need to be talked about and identified at that time as well.

Vaught: All that said I don't think we should pull the rezoning request. I think that we are bound to assign some zoning to this and if we do nothing it is assigned R-A, which I don't necessarily think it is appropriately zoned. I think that we are bound to set some sort of zoning.

Ostner: I believe if we do set some sort of zoning we, in our minds, need to forget about the golf course, which is not compliant with the zoning district we

are granting. We are granting a zoning district, we are granting a density, we don't know about the golf course. I just wanted to clarify that.

Anthes: I'm encouraged to hear the developer discuss the possibility and probability now of a PZD for this property. The reason why is because I look at that R-1.5 and I look at the proximity of this to city services and commercial nodes and I find that density to be alarmingly low in certain parts of this parcel. That doesn't mean that it would be alarmingly low over the entire 260 acres. Some graduated use of possibly mixed density, mixed income and other uses rather than mere single family homes, particularly when we have talked about accessibility to things like golf courses. In fact, in looking at this where you have the lowest density might be something that I would ask you to look at possibly exchanging for the higher density and vice versa. That is to give more people access to the public amenity rather than fewer people access to the public amenity. Give more people public access and a closer walking arrangement to an already more dense zoning, which I think is about 7.9 units per acre just north of here and the commercial zone and the Boys and Girls Club. I'm heartened by that. I would like to see this come through as a PZD and I think one way we could do that if the applicant is willing is that we could table the rezoning request for reconsideration, which I believe we have done before on following an annexation. I will move to table RZN 04-1100.

Allen: Second.

Sloan: Does that allow us to come back with a PZD?

Anthes: Yes.

Sloan: I would do that. That keeps you guys thinking.

Shackelford: If we make a motion to table do we need to put a date specific on it or what are the repercussions of the motion as it stands?

Williams: You have some choices on that. You could have a motion to table to a definite date or you could motion to table indefinitely upon request of the applicant to get back on the agenda. You can do either way. Sometimes in parliamentary procedure a motion to table indefinitely is also a motion to kill because it usually means something doesn't ever come back up and I don't think that is your intent.

Shackelford: That was my concern because I don't think that is our intent either.

Anthes: I will restate my motion. I would move to table this rezoning request until time that the applicant requests it comes back before us with a different classification.

Allen: I will second.

Vaught: By tabling it we are not allowing him to jump right in where he was with a PZD, does he have to start all over with a PZD?

Warrick: A PZD is kind of a different ball of wax. It does go through a different review process than a rezoning does. We will have to start at the initial stage in looking at this as far as the development and land use classifications. To some degree he is starting back at the beginning but it is not just a request for rezoning at that point. It is a request for zoning and development combined approval. We are really getting back to the beginning with the development portion of it.

Vaught: By tabling this rezoning we are probably never going to vote on it again.

Warrick: Not as an independent rezoning without a development. If the developer does what I think he will do, which is process a PZD. The only thing in a PZD you do not hear that zoning independent of the development.

Vaught: Because of that I feel it is appropriate for us to go ahead and assign the zoning that we think is appropriate and a PZD will trump that when it comes back through.

Shackelford: I concur. I don't want to be problematic, especially with where we are on this agenda and where we have to go. I don't think that if we go ahead and make a recommendation for a rezoning that that has any affect whatsoever in this applicant and following the applicant's ability or desire to bring forth an R-PZD. I think that we need to look at this in tandem as our ordinances are written now and that we request annexation and assign a zoning to it. I think the question before us is RSF-4 appropriate given the surrounding land use of this property. I think that it is. I would like to go ahead and in the nature of what we are supposed to be doing, go ahead and recommend approval of that rezoning. Again, this is a recommendation for approval by the City Council so it will be reviewed there. Any development that came through on this would have to come back before this board as well. I don't think that we are giving up any control. I think we are keeping this thing moving so we are not asking the applicant to start over and we are not in any way inhibiting his ability or desire to bring forth an R-PZD.

Anthes: I respectfully disagree and that is because on 160 acre tract in this location I don't feel that there is one consistent zoning that makes sense across the

entire property and therefore, I couldn't find for one. In addition, I feel that there is a motion on the table and that that needs to be heard and I don't intend to withdraw it unless there is a procedural problem.

Williams: The motion to table would take precedence.

Sloan: What if we just went R-A right now? Let me just do the R-A and then we will come back because we were going to do the golf course and obviously, I need more density on the southern end of it. I don't mind coming back through if that is what we need to do to make this thing official.

Anthes: The reason why is if something happens and Mr. Sloan sales the entire piece of property then there would be development by right to a certain level of density that we haven't been able to study yet for it's appropriateness. That is why I would rather leave it either tabled or at a low density in favor of the PZD.

Warrick: If this rezoning request were withdrawn the annexation continued on, and if it were approved by Council then the default zoning designation would be applied to this property as R-A. Thereby basically resulting in what you were talking about and the property having to come through some sort of approval process to be developed with any density other than one unit per two acres. I would be willing to bet that the applicant wouldn't mind withdrawing in light of that result.

Anthes: Can I ask if the fees that are paid towards this rezoning request would then be able to be transferred to the PZD process?

Sloan: I'll answer that for you. No.

Warrick: We have spent a lot of staff time and materials on this. I'm pretty hesitant to do that.

Ostner: Mr. Sloan, would you like to withdraw this rezoning request? Currently we have a motion to table.

Sloan: R-A is fine. We will come back through with a PZD. I just don't know how fast the engineering firm can come back with the information. That's the biggest thing is just trying to coordinate everybody. That is the reason we were trying to stay with sort of a blanket zoning until you get about four different entities together and everybody fights over how many square feet they need for this or for that amenity and then what's left we will develop with residential. I'm not sure how quick we can pull that together but that was the reason for sort of avoiding the PZD. We did the PZD across the street. I liked it. We come to you, we show you exactly

what we are going to do, we guarantee we are going to do it and it makes the neighbors real happy. It is the same thing here except because of the time constraint, can we get in, do we spend more money knowing whether we are going to get annexed in or not. That was one of the issues and then can we get zoned so that we can do a concept like this. I guess that is where a PZD needs to be looked at as a concept PZD. That would be a strong issue. To me that is a great idea to allow us to run it through here. We don't spend as much money and time and then come back with all of the real drawings and everything else.

Ostner: It would seem to me procedurally that it would be more helpful for the Council to see this thing tabled than as an annexation with a withdrawn rezoning request. I would suggest that we go ahead and vote on the tabling on your behalf.

Warrick: I thought the annexation was already approved.

Ostner: By us.

Warrick: Now the request is…

Ostner: I'm just thinking in these chambers on a Tuesday night they have to look at an annexation with no rezoning request.

Warrick: They will have your minutes and they will have your recommendations and I think that there is a clear understanding of the expectations that we look at this as a comprehensive development plan and determine appropriate zoning based on the development plan for a PZD. I don't think that is too far of a reach from the policy that they have set out. Again, it is a policy that they look at those items together. It is really your determination. If it is tabled it is expected to come back as some type of zoning request. That is a little bit problematic because it wouldn't really be the same type of request. Very likely there would be additional land included in the PZD than just this 160 acres.

Vaught: I have a question. By not voting on annexation we are recommending R-A as an appropriate use of this thing. I don't think it is an appropriate use for this land. I think that we should put something on there because a PZD may never come before us. We don't know. He is intending to but something could happen tomorrow and it doesn't happen so we have to look at what is appropriate for this area. R-A is not and by right they could develop that to R-A. That is an area that we have talked about wanting something more than R-1.5 per acre. By R-A you are saying one per two acres.

Anthes: I'm saying to table it which is not R-A.

Vaught: It is R-A right now. If we don't send something forward it is R-A. I think that we should send something forward with it. I think that we need to consider the zoning and if R-A is not appropriate we should make a recommendation when we vote on annexations.

Ostner: I understand your concerns. I would tend to disagree. Land inside the city limits that is zoned R-A is not cost effective. When you are a land owner and you are sitting on R-A you are passing up a lot of opportunities. I believe the market speaks when R-A is zoned into the city it is going to be rezoned. R-A is not that bad. We have a motion to table unless he would like to withdraw.

Clark: Mr. Sloan, do you agree with tabling this so you can come back with a PZD?

Sloan: If I am tabling it and we go through and are annexed in we are automatically R-A anyway. If that is the consensus then we are fine with it.

Ostner: We have a motion and a second to table.

Sloan: We are tabling but technically if it gets annexed in we are going to be R-A anyway.

Ostner: That is how it will go. Is there further discussion to vote on the issue of tabling? Renee, could you please call the roll?

**Roll Call:** Upon the completion of roll call the motion to table was approved by a vote of 6-3-0 with Commissioners Shackelford, Vaught and Graves voting no.

Thomas: The motion carries by a vote of six to three.

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-01.00: (Greenwood/Sloan, pp 477) was submitted by Raymond Smith, Attorney on behalf of Jean Greenwood Jowers for property located southeast of the intersection of 46th Avenue and Persimmon Street containing approximately 160 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn L Warrick 7/6/04
Division Head Date

Received in Mayor's Office 7-7-04
Date

7/7/04
City Attorney Date

Department Director Date

7-7-04
Finance & Internal Services Dir. Date

7-7-04
Chief Administrative Officer Date

7/7/04
Mayor Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 7/6/04

City Council Meeting of July 20, 2004
Agenda Item Number

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

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

**Date:** July 2, 2004

**Subject:** Annexation for McBryde/Sloan (ANX 04-02.00)

## RECOMMENDATION

Planning Staff recommends approval of the requested annexation for McBryde/Sloan. This action will incorporate an 80 acre tract of land contiguous with the city limits into the City of Fayetteville.

## BACKGROUND

The subject property contains approximately 80.0 acres of vacant property located south of Persimmon Street, west of the future Broyles Avenue, and west of Rupple Rd. The approved preliminary plats for Persimmon Place and Cross Keys R-PZD and Rupple Row are located northwest of the subject property. The property is adjacent to city limits to the north and to the west should the City Council approve the preceding annexation (ANX 04-01.00).

The applicant intends to develop a single family residential subdivision in conjunction with 160 acres of property to the west (Greenwood/Sloan). Development of the land will most likely be in the form of a Planned Zoning District, as different zonings are required for single family lots (use unit 8) and a golf course (use unit 20). A conceptual masterplan for the property in question, along adjacent properties, has been submitted for review. The applicant requests annexation into the City of Fayetteville. This item, as well as the accompanying rezoning request, was tabled by the Planning Commission at the request of the applicant on April 26, 2004. It was heard again at the Planning Commission meeting of June 28, 2004.

## DISCUSSION

On June 28, 2004, the Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval. The accompanying rezoning request was tabled by the Planning Commission with a vote of 6-3-0 with Commissioners Shackelford, Vaught, and Graves voting no.

## BUDGET IMPACT

None.

**ORDINANCE NO.**

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY OWNED BY C. BRYAN MCBRYDE LOCATED SOUTHWEST OF THE FAYETTEVILLE BOYS AND GIRLS CLUB ADJOINING THE EXTENSIONS OF RUPPLE ROAD AND PERSIMMON STREET CONTAINING APPROXIMATELY 80.00 ACRES.

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

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

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

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

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

**PASSED AND APPROVED** this _____ day of _____, 2004.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

**EXHIBIT "A"**
**ANX 04-02.00**

THE NORTHWEST QUARTER (NW ¼) OF THE NORTHEAST QUARTER ( NE ¼) AND THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION THIRTEEN (13), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

## PLANNING DIVISION CORRESPONDENCE

| | |
|---|---|
| TO: | Fayetteville Planning Commission |
| FROM: | Suzanne Morgan, Associate Planner |
| THRU: | Dawn Warrick, AICP, Zoning & Development Administrator |
| DATE: | June 23, 2004 |

**ANX 04-02.00: Annexation (McBryde/Sloan, pp 477)** was submitted by Raymond Smith, Attorney, on behalf of C. Bryan McBryde for property located SE of the intersection of 46th and Persimmon. The property is in the Planning Area and contains approximately 80.0 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

**RECOMMENDATION:**

**Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):**

| | | | |
|---|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** | **YES** | |
| | **○ Approved** | | **○ Denied** |
| **Date: June 28, 2004** | | | |
| **CITY COUNCIL ACTION:** | **Required** | **YES** | |
| | **○ Approved** | | **○ Denied** |
| **Date: July 20, 2004 (1st reading if recommended)** | | | |

**BACKGROUND:**

This item was tabled by the Planning Commission at the request of the applicant at the regular Planning Commission meeting on April 26, 2004. Public comments were heard at this meeting regarding this annexation and accompanying rezoning request. Please reference ANX 04-04.00 Tipton/Sloan for the minutes of this meeting.

*Property description:* The subject property contains approximately 80.0 acres of vacant property located south of Persimmon Street, west of the future Broyles Avenue, and west of Rupple Rd. The approved preliminary plats for Persimmon Place and Cross Keys R-PZD and Rupple Row are located northwest of the subject property. The property is adjacent to city limits to the north and west should the City Council approve the preceding annexation (ANX 04-01.00).

*Proposal:* The applicant proposes the annexation of property into the City of Fayetteville.

*Request:* The request is to annex the subject property into the City of Fayetteville.

*Related Issues:* When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 80.0 acres to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning request, RZN 04-09.00, is an accompanying item to this annexation request.

Property that is developed and/or subdivided in the Planning Area of the City of Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, a uniform and consistent standard of development includes the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have none of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limits. In some cases, new subdivisions adjacent to one another have very different street construction, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits is required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use and tree preservation are not within the City's ability to control.

*Recommendation:* Staff recommends approval of the proposed annexation. The subject property is adjacent to the City of Fayetteville and will create an appropriate city boundary. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

**SURROUNDING LAND USE AND ZONING**

| Direction | Land Use | Zoning |
|---|---|---|
| North | Vacant (R-PZD 04-06.00 Rupple Row proposed) | RSF-4, Residential Single Family, 4 units/acre; RT-12, Residential Two and Three Family |
| South | Vacant | Planning Area |
| East | Vacant | Planning Area |
| West | Vacant | RSF-4, Residential Single Family, 4 units/acre Proposed with annexation and rezoning request |

**INFRASTRUCTURE:**

**Streets:** The property has frontage along unconstructed portions of Persimmon and Rupple Road. These roadways will need to be constructed as a part of any development on this site.

Surrounding Master Street Plan Streets:
North: Persimmon St. (future collector)
South: Sellers Rd. (future minor arterial)
East: Rupple Rd. (future minor arterial)
West: Broyles Rd. (collector)

**Water:** The property does not currently have access to public water mains. An 8" minimum water main will need to be extended from Rupple Road to serve this site.

**Sewer:** The site currently has access to an 8" sewer main along the north property line and also through the middle of the site. Sewer will need to be extended within the development. This property's sewer will flow to the Owl Creek Lift Station (see attached chart for capacity information).

**Fire:** The subject property is located 0.4 miles from the future Fire Station #7. Normal driving time is 0 min. 41 seconds.

**Police:** It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services.

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

**FINDINGS:**

## 11.6 ANNEXATION GUIDING POLICIES

### BOUNDARIES

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

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

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

**Finding:** **The proposed annexation area is adjacent to the City Limits to the north and west property boundaries should the preceding annexation for Greenwood/Sloan be approved.**

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

**Finding:** **This area does not consist of defined subdivisions or neighborhoods; however, future development plans may include the extension of the surrounding subdivisions to the north and west.**

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

**Finding:** **Proposed boundaries follow property lines.**

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

**Finding:** **Current conditions result in a response time of just less than 1 minutes for fire protection from the future Fire Station #7. Any development in this area would necessitate installation of hydrants to provide for fire protection. The site currently has access to an 8" sewer main along the north property line and also through the middle of the site. Sewer shall be extended at the time of development.**

### ENVIRONMENTALLY SENSITIVE AREAS

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

**Finding:** **There are several tributaries crossing the subject property.**

## EMERGENCY AND PUBLIC SERVICES

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

**Finding:** **The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Sewer shall be extended from the 8" sewer main installed located north and through the property during the development of new subdivision(s). The property does not currently have access to public water mains. An 8" minimum water main shall be extended from Rupple Road to serve this site.**

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

**Finding:** **Fire and police service shall be provided to this area with the same level of response and service as other developments in this area. Sewer and water improvements to the area will be provided for with the development of approved preliminary plats.**

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

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

## INFRASTRUCTURE AND UTILITIES

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

**Finding:** **Water, fire and police protection are currently provided in this area.**

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

**Finding:** **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.**

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

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

## INTERGOVERNMENTAL RELATIONS

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

**Finding:** **N/A**

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

**Finding:** **N/A**

## ADMINISTRATION OF ANNEXATIONS

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

**Finding:** **Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with surrounding developed property and the Residential classification of the area on the City's adopted Future Land Use Plan.**

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

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

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

**Finding:** **Conceptual development proposals for this property have not been submitted to the Planning Division. At the time the owner desires to develop this property, the applicant will be required to submit a proposal for review and approval by the Planning Commission.**

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

**Finding:** **This annexation includes approximately 80.0 acres which will create an acceptable city boundary.**

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

**Finding:** **A fiscal impact assessment has not been conducted for this property.**

*From Fayetteville General Plan 2020 – 2002 Revision*

## 11.6 Annexation Guiding Policies

### Boundaries

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

### Environmentally Sensitive Areas

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

### Emergency and Public Services

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

### Infrastructure and Utilities

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

### Intergovernmental Relations

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

### Administration of Annexations

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

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of May 24, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8202

## ENGINEERING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Matt Casey, Staff Engineer
DATE: April 20, 2004

**ANX 04-02.00: Annexation (McBryde/Sloan, pp 477)** was submitted by Raymond Smith, Attorney, on behalf of C. Bryan McBryde for property located SE of the intersection of 46th and Persimmon. The property is in the Planning Area and contains approximately 80.0 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

**RZN 04-09.00: Rezoning (McBryde/Sloan, pp 477)** was submitted by Raymond Smith, Attorney, on behalf of C. Bryan McBryde for property located SE of the intersection of 46th and Persimmon. The property is currently zoned R-A, Residential Agricultural, and contains approximately 80.0 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

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

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

**The property does not currently have access to public water mains. An 8" minimum water main will need to be extended from Rupple Road to serve this site.**

**The site currently has access to an 8" sewer main along the north property line and also through the middle of the site. Sewer will need to be extended within the development. This property's sewer will flow to the Owl Creek Lift Station.**

**The property has frontage along unconstructed portions of Persimmon and Rupple Road. These roadways will need to be constructed as a part of any development on this site.**

Name Matt Casey Department Engineering

Table 6

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

| Lift Station | Capacity 1/ (gpm) | Capacity 1/ (gpd) | Number of Units: Existing | Inactive | Built Not Occupied | Approved Not Built | Projected Peak Hourly Wastewater Flow 2/ (gpd) | Percent Capacity Utilized | Remaining Capacity 3/ (gpd) | Remaining Capacity 3/ (units) |
|---|---|---|---|---|---|---|---|---|---|---|
| Crystal Springs | 260 | 374,400 | 141 | 0 | 233 | 508 | 223,560 | 59.7 | 150,840 | 670 |
| Hamestring | 1,600 | 2,304,000 | 2,510 | 125 | 898 | 680 | 1,650,000 4/ | 71.6 | 654,000 5/ | 2,906 5/ |
| Owl Creek | 437 | 629,280 | 336 | 25 | 317 | 286 | 280,000 | 44.5 | 349,280 | 1,552 |
| Total | | | 2,987 | 150 | 1,448 | 1,474 | | | | |

*1/ Firm capacity requires verification by OMI, Inc.*
*2/ Wastewater flow projected utilizing 161 gpd/unit plus existing dry-weather infiltration x dry-weather peaking factor.*
*3/ Based on dry-weather flow only. Does not include allowance for wet-weather inflow or infiltration.*
*4/ Flow for Hamestring Lift Station includes flow from Crystal Springs, Hamestring, and Owl Creek Lift Stations.*
*5/ Total remaining flow and units include all areas tributary to Hamestring Lift Station.*

# Projected Wastewater Capacity With Maximum Allowable Development of Recently Approved and Proposed Annexations and Rezonings

| Development | Maximum Additional Units | Lift Station |
|---|---|---|
| Shlegel*** | 290 | Crystal Springs |
| Dunnerstock** | 68 | Hamestring Creek |
| Cross Keys** | 108 | Owl Creek |
| Chance and Tuggle*** | 6 | Owl Creek |
| Tipton/Sloan | 117 | Owl Creek |
| Greenwood/Sloan | 640 | Owl Creek |
| McBryde/Sloan | 320 | Owl Creek |

| Lift Station | Current Remaining Capacity (units) | Approved Additional Units | Proposed Additional Units | Projected Remaining Capacity |
|---|---|---|---|---|
| Crystal Springs | 670 | 0 | 290 | 380 |
| Hamestring* | 2,906 | 68 | 0 | 1,357 |
| Owl Creek | 1,552 | 108 | 1,083 | 361 |

**Total remaing flow and units include all areas tributary to Hamestring Lift Station. Flow for Hamestring Lift Station includes flow from Crystal Springs, Hamestring, and Owl Creek Lift Stations*

***Approved by City Council.*

****Pending City Council action.*

# FAYETTEVILLE

RECEIVED
APR 20 2004
PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

April 19, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 04-02.00 (McBryde/Sloan, pp 477)** and Rezoning **RZN 04-09.00 (McBryde/Sloan, pp 477)** submitted by Raymond Smith, Attorney, on behalf of C.Bryan McBryde for property located SE of the intersection of 46th and Persimmon would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

/ETTEVILLE POLICE DEPARTMENT
. BOX 1988
/ETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

# FAYETTEVILLE

## FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-09.00 OWNER McBryde/Sloan
ANNEXATON# 04-02.00 OWNER McBryde/Sloan
LOCATION OF
PROPERTY SE of intersection of 46th & Persimmon

NEAREST FIRE STATION AND
LOCATION Station #7, Ruple Rd. (future)

RESPONSE TIME FROM FIRE STATION # 7 TO
LOCATION OF
PROPERTY MINUTES 41 SECONDS.
TRAVEL MILES FROM FIRE STATION # 7 TO LOCATION OF
PROPERTY .4.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION

WATER SUPPLY WITH HYDRANTS
NEEDED? Yes

ADDITIONAL
COMMENTS. Routing, south on Ruple to end of road.

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W. MALL
(501) 575-8271
FAX (501) 575-8272

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

FILED
'03 Dec 29 AM 11 21
CIRCUIT COURT
& PROBATE CLERK
WASHINGTON CO. ARK.

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

CASE NO. CC 2003-30

**PETITION FOR ANNEXATION**

COMES now, C. Bryan McBryde of McBryde Family Limited Partnership, Petitioner, and for his Petition for Annexation, states and alleges as follows:

1. Petitioner is record title holder of the following described real property situated in Washington County, Arkansas:

> The Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) and the Southwest Quarter (SW1/4) of the Northeast Quarter (NE1/4) of Section Thirteen (13) in Township Sixteen (16) North of Range Thirty-One (31) West.

2. All of the above-described real property is adjacent to and contiguous to the present city boundary line for the City of Fayetteville, Washington County, Arkansas.

3. The above-described real property is suitable for annexation to the City of Fayetteville, Arkansas, and is necessary for the proper growth, prosperity and management of the land and the City of Fayetteville, Arkansas.

4. Pursuant to Arkansas Code Annotated § 14-40-601 et seq, this Court has jurisdiction over the subject matter herein, and Petitioner requests that the above-described real property be annexed in and to the City of Fayetteville, Arkansas.

5. Petitioner further states that the law firm of Raymond C. Smith, P.A. of Fayetteville, Arkansas, is authorized to act for and on behalf of the Petitioners in all matters connected with this Petition and subsequent hearings or annexation proceedings connected herewith (See Exhibit "A" attached hereto).

FROM WACO CLERK (TUE)APR 20 2004 11:26/ST. 11:23/NO. 6314274941 P 10

6. Petitioners request this Court set a date for hearing on this Petition, not less than thirty days after filing of this Petition and subsequent hearings or annexation proceedings therewith.

WHEREFORE, Petitioner prays that the above-described property be annexed to the City of Fayetteville, Washington County, Arkansas, pursuant to the provisions of Arkansas law, after a hearing thereon as required by law, and that this Court, by Order, fix a time and place for said hearing not less than thirty days from the filing of this Petition, and for all other relief which the Petitioners may be entitled.

C. Bryan McBryde
McBryde Family Limited Partnership
Petitioner

By: _____
Raymond C. Smith
Attorney at Law
70 N. College Ave. Suite 11
Fayetteville, AR 72701
Ark. Bar No. 80135
Attorney for Petitioners

FROM WACO CLERK (TUE)APR 20 2004 11:26/ST. 11:23/NO. 6314274941 P 11

# AUTHORIZATION

I, Bryan McBryde of McBryde Family Limited Partnership authorize the law firm of Raymond C. Smith, P.A., to act for and on behalf of the aforesaid Limited Partnership, in all matters relating to Rezoning, Planned Zoning District, Annexation, including but not limited to any and all petitions, applications, hearings and proceedings before or with the City of Fayetteville and County of Washington, for the following described real property situated in Washington County, Arkansas, to-wit:

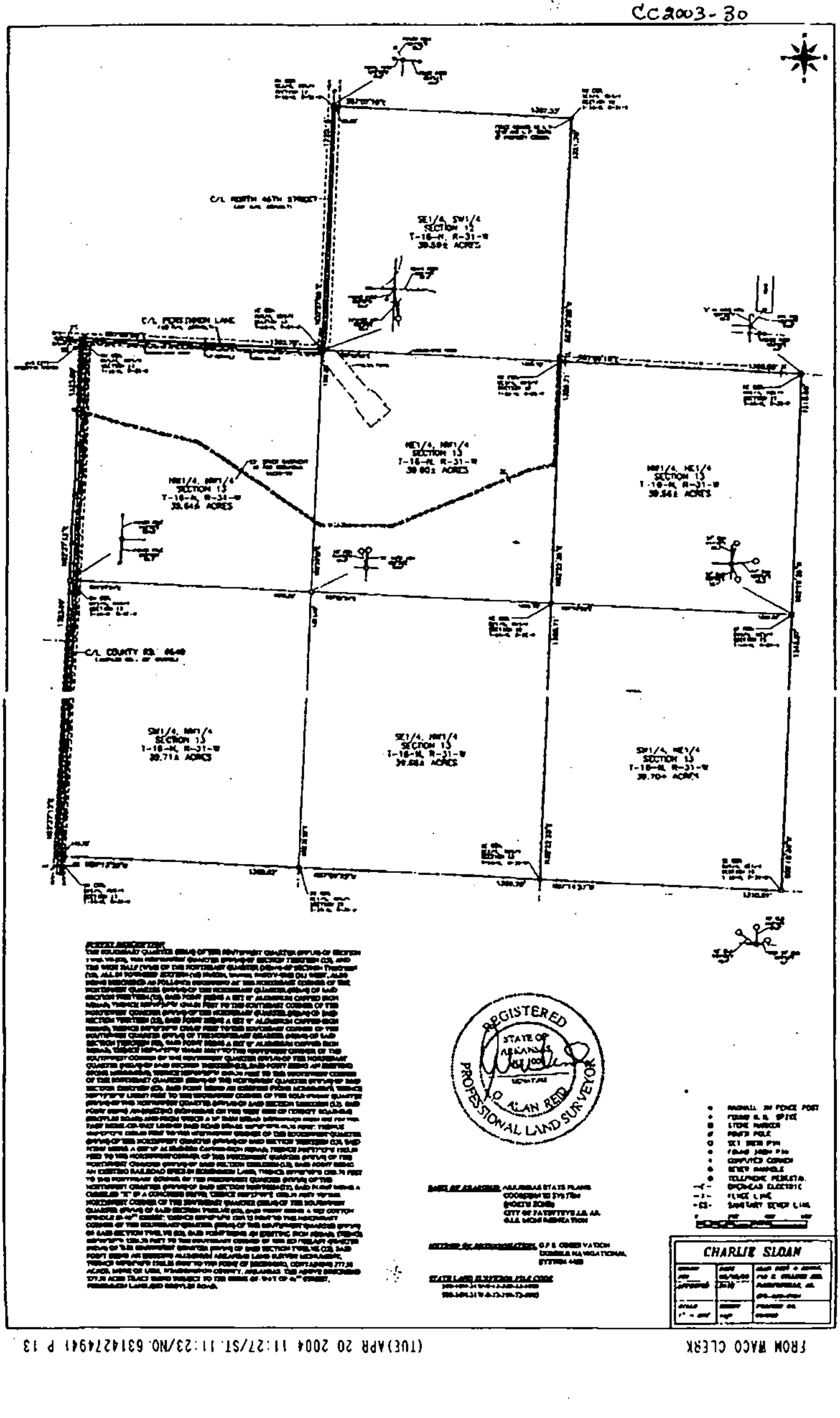
The Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) and the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section Thirteen (13), Township Sixteen (16) North, Range Thirty-One (31) West.

Date: December 29, 2003

Bryan McBryde
McBryde Family Limited Partnership

FROM WACO CLERK (TUE)APR 20 2004 11:27/ST. 11:23/NO. 6314274941 P 12

CC2003-30




FROM FAYETTEVILLE CLERK (TUE)APR 20 2004 11:27/ST. 11:23/NO. 6314274941 P 13

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

FILED
'04 FEB 5 AM 10 09
KAREN COBBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

IN THE MATTER OF
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS CASE NO. CC 2003-

**ORDER OF ANNEXATION**

On this 5th day of February, 2004, this cause comes on to be heard, the Petitioner, C. Bryan McBryde of McBryde Family Limited Partnership, represented by his Attorney, Raymond C. Smith of Fayetteville, Arkansas, announcing ready for a hearing of the cause and there being no protests or objections filed, whereupon, the matter is submitted to the Court upon the verified petition filed herein, and the oral and documentary evidence adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed December 29, 2003, at which time the Court fixed February 5, 2004 at 10:00 a.m., as the date of hearing for said cause, and that a full thirty days notice of hearing was given as required by law and notice of publication is now on file with the Clerk of this Court and the Court has jurisdiction of this cause.

2. The Court is satisfied that the allegations of the petition are sustained by the proof, that the limits of the territory to be annexed have been properly filed, that the property owner has a freehold interest in the property hereinafter described in the petition and constitutes the real owner of the area affected.

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

The Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) and the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section Thirteen (13), Township Sixteen (16) North, Range Thirty-One (31) West.

RECEIVED
FEB 09 2004
PLANNING

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

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

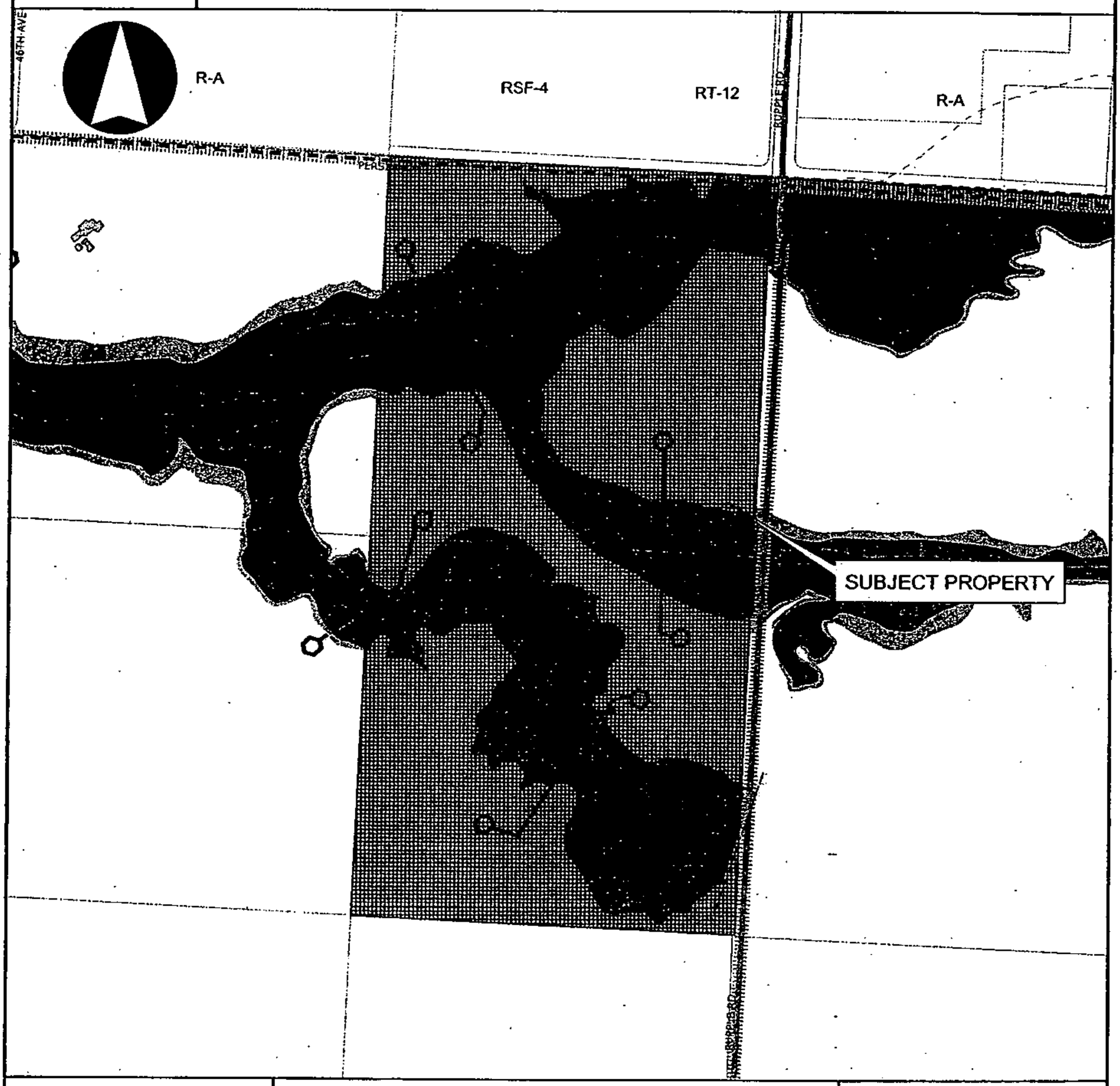
COUNTY JUDGE

RECEIVED
DEC 09 2004

ANX04-02.00

*Close Up View*

# McBRYDE/ SLOAN




*Overview*

**Legend**

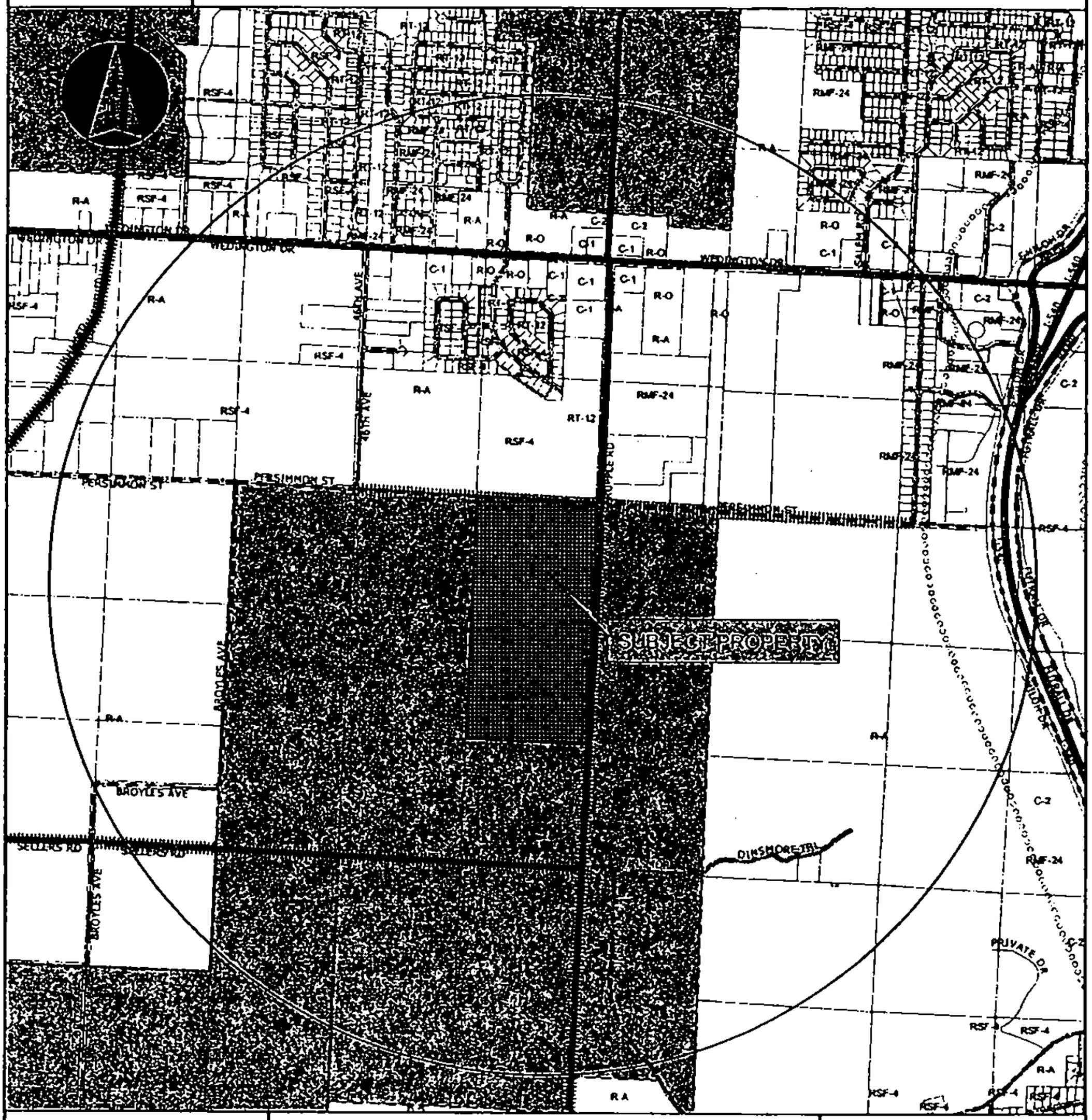
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- FLOODWAY
- 100-YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- ANX04-02.00
- Outside City

0 175 350 700 1,050 1,400 Feet

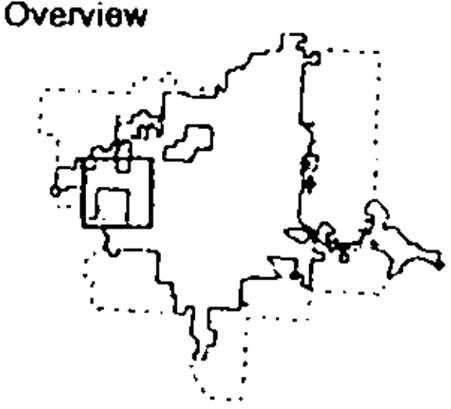
ANX04-02.00

One Mile View

# MCBRYDE/ SLOAN




Overview



Legend

Subject Property
- ANX04-02.00

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

**ANX 04-02.00: Annexation (McBRYDE/SLOAN, pp 477)** was submitted by Raymond Smith, Attorney, on behalf of C. Bryan McBryde for property located SE of the intersection of 46th and Persimmon. The property is in the Planning Area and contains approximately 80.0 acres. The request is to annex the subject property into the City of Fayetteville.

**RZN 04-09.00: Rezoning (MCBRYDE/SLOAN, pp 477)** was submitted by Raymond Smith, Attorney, on behalf of C. Bryan McBryde for property located SE of the intersection of 46th and Persimmon. The property is currently zoned R-A, Residential Agricultural, and contains approximately 80.0 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next item on our agenda is ANX 04-02.00 for McBryde/Sloan. Can we have the staff report please?

Morgan: This subject property contains approximately 80 acres of vacant property located south of Persimmon Street. It is located just east of the 160 acres we just discussed. The approved Preliminary Plats for Persimmon Place and Cross Keys R-PZD as well as Rupple Row are located to the northwest of the subject property. The property is adjacent to the city limits to the north and west should the City Council approve the preceding annexation. The applicant proposes annexation of this property into the City of Fayetteville. Staff recommends approval of the proposed annexation. Again, as with the previous item, the applicant is requesting RSF-4 zoning and again, a Bill of Assurance did mention this property limiting the density to 1.5 units per acre. The General Plan 2020 identifies this area as residential and staff is recommending approval of the rezoning.

Ostner: Thank you. Is the applicant present?

Sloan: I'm Charlie Sloan representing the McBrydes. This is Ray Smith.

Smith: This is a request to annex approximately 80 acres there that is located at the intersection of 46th Street and Persimmon. I believe it is shown on the drawing that Mr. Sloan provided to you in our discussion of the Greenwood property.

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

McGuire-Bowman: I'm back, I'm Dr. Kathy McGuire Bowman. I don't mean to be hostile to Mr. Sloan but I like to have things out on the table and know what is going on. I think that we make the best decisions if we know what is going on. I am confused. I think that the 20 acre plot or the relocated

Jefferson School is in this 80 acres but I don't know because it is not being talked about. I don't think we can make a decision without knowing that if in the future that's coming up. I think you should know that as you are making your consideration. Maybe it's important in terms of the rezoning than the annexation but you would certainly want to know if there is going to be a large scale development with a 1,100 student school. If this is going to get passed as RSF-4 and then in two weeks they are going to come back and say what we really needed was a Large Scale Development here. I am just confused and I would like to ask the developer does this 80 acre plot contain the 20 acres that Mr. Sloan has actively negotiated with Bobby New of the school district to purchase the Jefferson relocated 1,100 student school? If so, why isn't he including that in the request with the zoning this Large Scale Development request? Maybe this will come up maybe more at rezoning. Of the commission I would wonder can you deny this request for annexation and rezoning, especially the rezoning if you and I know that this Large Scale Development is included in it and it has not been brought up. It is not like it is going to be a new idea. It seems to be happening. I guess that is my concern that it is a totally different thing to be dealing with a Large Scale Development that is a school with the traffic congestion and density impact that that is going to have. If that is what is happening that is what we as planners all of us together, need to know is happening. I have a question for the developer. Is the Jefferson School 20 acres in this plot of 80 acres?

Ostner: We will get to that answer momentarily. Let's go ahead and hear from the public.

Ralston: I'm Linda Ralston. I will be very brief. I would concur with what Dr. Bowman just mentioned. I have been to a lot of meetings of the school district and we have been made aware of the 20 acres in the northeast corner of this property is what is being proposed. We know that the school district is awaiting annexation and rezoning on this particular plat. Thank you.

Ostner: Is there any further comment on this annexation proposal?

Gray: My name is Michael Gray. I'm the associate superintendent for Fayetteville schools. Dr. Bobby New sends his apologies that he cannot be here. He is out of state at an educational training conference. He sent me instead. We wanted to talk just a little bit because we have been in discussions with the owner and developer of this property for a site for the new school. We get from the Planning Department each time a development comes to you in every stage there is also a plat made with my name on it and it comes to the school. We have been getting that almost two years. It has been a very valuable tool. We do have a person on our staff that primary job is growth projections and trying to guide us into

knowing when we need schools and where. We have to try to determine where those populations are and where they are coming for selection of the school site or school additions. We feel even with this area, if this area were not zoned for Residential and the growth, the growth that is on the north side of Persimmon that is clearly in Fayetteville city limits all the way north of Holcomb Elementary School there are over 2,500 rooftops in plat right now in the existing Holcomb Elementary zone. We are scrambling to try to keep up with the growth that is already there. I need to explain to you that our school district boundaries are larger than the city's. We go from the east all the way to the Madison County line. That is 10 or 11 miles on the other side of Goshen and then into Farmington city limits. As a matter of fact, where the old Farmers & Merchant's bank there on Hwy. 62, right now it is a realty company, that is the boundary. We have to by our law serve those students. For the most part we are talking about serving students that are in the city limits of Fayetteville. Of course we can't build a school without sewer and we can't get sewer without being in the city. We are a little bit bound. We would encourage you to consider annexation for this property so that we can take advantage of Rupple Road extended south from Wedington. There is a new light there and it has got good access. There is a state of the art Boys and Girls Club that is second to none in the nation. For us to be able to partner with the city and the Boys and Girls Club and to give the parents of those students that benefit that is really what we need. We would encourage you to support this and lend us support that way. Thank you.

Ostner: Thank you Mr. Gray. Is there any other public comment? Seeing none, I am going to close it to the public and bring it back to the Commission. I believe our largest question by the public has been answered. Yes this is the parcel that the school district is looking for.

Vaught: I would just like to say that the annexation and rezoning are something separate from giving the school district to build on this land. That will have to come as a separate proposal. I'm assuming they are bound like the city that have to bring Large Scale Developments for this type of project?

Warrick: If the property is in the city it must comply with zoning and development regulations.

Vaught: We will see this again if that is what happens. That is part of our consideration. I think we are looking at should this be part of the city and what should it be zoned. That is the simple question before us right now.

Ostner: That is a good point. I believe if memory serves me well that schools are not allowed by right in an RSF-4 but they are a Conditional Use.

Warrick: Schools are a Conditional Use in most zoning districts and all residential zoning districts because of the impacts that were mentioned by one of the speakers earlier. You are talking about a traffic generator. You are talking about safety and traffic issues and just whether or not it is compatible in that particular location. Under an R-A district or under an RSF-4 district a school would be required to have a Conditional Use approval. If it was part of a PZD it would be looked at at that time when land use was determined for the tract.

Ostner: I just wanted to make it clear that that is another layer of scrutiny that rezoning this parcel tonight does not allow a school. I want to make that clear. It simply annexes and rezones to a single family residential.

**MOTION:**

Shackelford: Based on all of the comments that have been made here tonight and in an effort to move this on to the rezoning request I am going to make a motion that we recommend approval of ANX 04-02.00 based on staff findings.

Vaught: Second.

Ostner: Is there further discussion?

Anthes: I just want to state for the record that this piece of property has a tremendous amount of floodplain and floodway on it. I would consider this a highly environmentally sensitive area and I want the city engineers and staff to be able to look at grading and drainage in a very serious way on this piece of property. Therefore, I am going to support annexation.

Ostner: Thank you. Is there further discussion? Will you call the roll Renee?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of ANX 04-02.00 was approved by a vote of 9-0-0.

Thomas: The motion carries by a vote of nine to zero.

Ostner: The tandem item is RZN 04-09.00 for McBryde/Sloan. Our staff report has already been given.

Smith: On behalf of the owner and developer we would request that this be tabled, similar to what we did on the Greenwood/Jowers property .

Ostner: Thank you. Commissioners?

**MOTION:**

Anthes: Because of the degree of water running through this property, because of it's proximity to other services and again, a belief that a blanket zoning on this 80 acres is probably inappropriate, at the request of the applicant I move to table RZN 04-09.00.

Clark: Second.

Vaught: Once again I would like to point out by tabling you are giving it a blanket zone.

Ostner: Is there further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to table RZN 04-09.00 was approved by a vote of 6-3-0 with Commissioners Graves, Vaught and Shackelford voting no.

Thomas: The motion carries by a vote of six to three.

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-02.00: (McBryde/Sloan, pp 477) was submitted by Raymond Smith, Attorney, on behalf of Bryan McBryde for property located southeast of the intersection of 46th Avenue and Persimmon Street containing approximately 80.00 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn L. Warrick 7/6/04
Division Head Date

7/7/04
City Attorney Date

Department Director Date

7-7-04
Finance & Internal Services Dir. Date

7-7-04
Chief Administrative Officer Date

7/7/04
Mayor Date

Received in Mayor's Office 7-7-04
Date

Cross Reference:

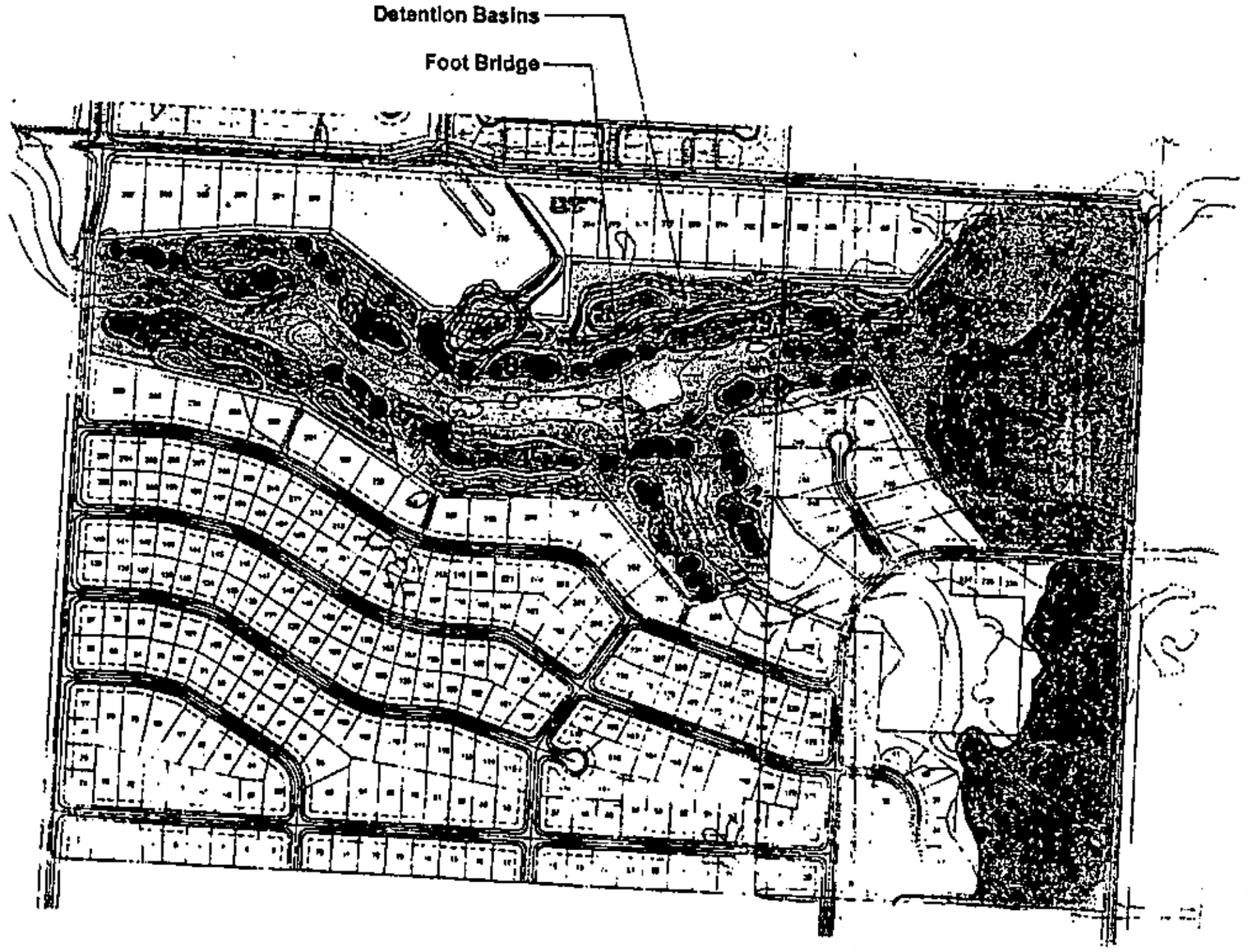
Previous Ord/Res#:

Orig. Contract Date:

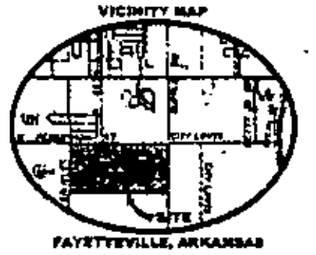
Orig. Contract Number:

New Item: Yes No

ENTERED 7/6/04




VICINITY MAP



FAYETTEVILLE, ARKANSAS

GRAPHIC SCALE

June 22, 2004

## Card of the Course

| Hole | Par | Blue | White | Junior |
|---|---|---|---|---|
| 1 | 3 | 150 | 140 | 110 |
| 2 | 3 | 130 | 110 | 80 |
| 3 | 3 | 150 | 130 | 100 |
| 4 | 4 | 320 | 300 | 230 |
| 5 | 4 | 340 | 320 | 240 |
| 6 | 3 | 190 | 170 | 140 |
| 7 | 3 | 170 | 150 | 120 |
| 8 | 3 | 160 | 140 | 110 |
| 9 | 4 | 310 | 290 | 220 |
| Total | 30 | 1930 | 1750 | 1350 |

MCBRYDE/GREENWOOD/SLOAN

# Cross Keys Golf Course

*Fayetteville Arkansas*

colligan golf design
220 E. Abram
Arlington Texas 76010
817-643-7401
colligangolf@sbcglobal.net

JORGENSEN & ASSOCIATES

CROSS KEYS SOUTH

CONCEPT PLAT

ANX 04-02.00 (McBryde/Sloan)
Page 30 of 30

C.7.

* McBryde & Greenwood / Sloan

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

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

**Date:** July 2, 2004

**Subject:** Annexation for Tipton/Sloan (ANX 04-04.00)

## RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Tipton/Sloan. This action will incorporate a 29.31 acre tract of land contiguous with the city limits into the City of Fayetteville.

## BACKGROUND

The subject property is 29.31 acres of vacant land located south of Wedington Drive and east of Double Springs Road. It abuts Legacy Pointe Subdivision Phase 2 along the east boundary of the subject tract. The property is adjacent to city limits to the north and a portion of its western boundary.

The applicant requests annexation into the City of Fayetteville, along with a companion rezoning request. This item was tabled by the Planning Commission at the request of the applicant on April 26, 2004. It was heard again at the Planning Commission meeting of June 28, 2004.

## DISCUSSION

On June 28, 2004, the Planning Commission voted 8-1-0 to forward this item to the City Council with a recommendation for approval with Commissioner Anthes voting no.

## BUDGET IMPACT

None.

**ORDINANCE NO.**

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY OWNED BY ROBERT AND MINNIE BETH TIPTON LOCATED EAST OF DOUBLE SPRINGS ROAD ADJOINING THE SOUTHEAST CORNER OF THE LEGACY POINTE SUBDIVISION CONTAINING APPROXIMATELY 29.31 ACRES.

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

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

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

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

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

**PASSED AND APPROVED** this _____ day of _____, 2004.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

**EXHIBIT "A"**
**ANX 04-04.00**

A PART OF THE NW ¼ OF THE NW ¼ OF SECTION 14, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING IRON PIPE; THENCE S87°39'18"E, ALONG THE NORTH LINE OF SAID 40 ACRE TRACT, 989.80 FEET TO A SET ½" REBAR; THENCE S02°37'05"W, 1289.84 FEET TO AN EXISTING REBAR; THENCE N87°38'05"W 990.30 FEET TO A SET ½ IRON REBAR ON THE WEST LINE OF SAID 40 ACRE TRACT, SAID POINT BEING N02°38'05"E, 34.24 FEET NORTH OF THE SW CORNER OF SAID 40 ACRE TRACT; THENCE N02°38'25"E, 1289.40 FEET TO THE POINT OF BEGINNING, CONTAINING 29.31 ACRES, MORE OR LESS.

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-04.00: (Tipton/Sloan, pp 475) was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, adjoining the SE corner of the Legacy Pointe subdivision containing approximately 29.31 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn I Warrick — Division Head — 7/6/04 Date

Received in Mayor's Office — 7-7-04 PM Date

City Attorney — 7/7/04 Date

Department Director — Date

Finance & Internal Services Dir. — 7-7-04 Date

Chief Administrative Officer — 7-7-04 Date

Mayor — 7/7/04 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 7/6/04

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

## PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: June 23, 2004

**ANX 04-04.00: Annexation (Tipton/Sloan, pp 475)** was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, adjoining the SE corner of the Legacy Pointe subdivision. The property is in the Planning Area and contains approximately 29.31 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

**RECOMMENDATION:**

**Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):**

| | | |
|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** | **YES** |
| | **O Approved** | **O Denied** |
| **Date: June 28, 2004** | | |
| **CITY COUNCIL ACTION:** | **Required** | **YES** |
| | **O Approved** | **O Denied** |
| **Date: July 20, 2004 (1st reading if recommended)** | | |

**BACKGROUND:**

This item was tabled by the Planning Commission at the request of the applicant at the regular Planning Commission meeting on April 26, 2004. Public comments were heard at this meeting regarding this annexation and accompanying rezoning request. The minutes from that meeting have been attached to this staff report.

*Property description:* The subject property contains approximately 29.31 acres of vacant property located south of Wedington Drive and east of Double Springs Rd. Persimmon Street, identified a collector on the Master Street Plan, is planned to bisect the northern portion of this property and connect with the existing western extension of Persimmon Street through Legacy Pointe Subdivision Phase 2. The property is adjacent to city limits to the north and a portion of its western boundary.

*Proposal:* The applicant proposes the annexation of property into the City of Fayetteville.

*Request:* The request is to annex the subject property into the City of Fayetteville.

*Related Issues:* When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 29.31 acres to RSF-4, Residential Single Family, 4 units per acre. The rezoning request, RZN 04-10.00, is an accompanying item to this annexation request.

Property that is developed and/or subdivided in the Planning Area of the City of Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, a uniform and consistent standard of development includes the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have none of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limits. In some cases, new subdivisions adjacent to one another have very different street construction, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits is required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use and tree preservation are not within the City's ability to control.

*Recommendation:* Staff recommends approval of the proposed annexation. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

**SURROUNDING LAND USE AND ZONING**

| Direction | Land Use | Zoning |
|---|---|---|
| North | Vacant | R-A, Residential Agricultural |
| South | Single-family/Agricultural | Planning Area |
| East | Vacant/Agricultural | Planning Area |
| West | Single-family (Legacy Pointe) | RSF-4, Residential Single Family, 4 units/acre |

**INFRASTRUCTURE:**

**Streets:** The property has frontage along the unconstructed portion of Persimmon. This roadway will need to be constructed as a part of any development on this site.

Surrounding Master Street Plan Streets:
North: Persimmon St. (planned collector) and Wedington Dr. (principal arterial)
South: Dot Tipton Rd. (collector)
East: 54th Avenue (planned principal arterial)
West: Double Springs Rd. (minor arterial)

**Water:** This property has access to an 8" water main stubbed out from Legacy Pointe Subdivision on the west side of the site. Water mains will need to be extended within the development.

**Sewer:** The site currently has access to an 8" sewer main stubbed out from Legacy Pointe Subdivision on the west side of the site. Sewer will need to be extended within the development. This property's sewer will flow to the Owl Creek Lift Station (see attached chart for capacity information).

**Fire:** The subject property is located 2.9 miles from the future Fire Station #7. Normal driving time is 4 min. 39 seconds.

**Police:** It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services.

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

**FINDINGS:**

**11.6 ANNEXATION GUIDING POLICIES**
**BOUNDARIES**

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

**Finding:** **The requested annexation will not create an island. The subject property is adjacent to city limits on to the north and partially to the west. Annexation of this tract will create a peninsula similar in size to surrounding city boundaries; however, an appropriate boundary will be created due to the area and configuration of the parcel.**

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

**Finding:** **The proposed annexation area is adjacent to the City Limits to the north and a portion to the west.**

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

**Finding:** **This area does not consist of defined subdivisions or neighborhoods; however, future development plans may include the extension of the surrounding subdivisions. Legacy Pointe Subdivision is located to the west of this property.**

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

**Finding:** **Proposed boundaries follow property lines.**

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

**Finding:** **Current conditions result in a response time of just less than 5 minutes for fire protection from the future Fire Station #7. Any development in this area would necessitate installation of hydrants to provide for fire protection. An 8" sewer main stubbed out from Legacy Pointe Subdivision is located on the west side of the site. When development is proposed, sewer will be extended.**

## ENVIRONMENTALLY SENSITIVE AREAS

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

**Finding:** **N/A**

## EMERGENCY AND PUBLIC SERVICES

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

**Finding:** **The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Sewer shall be extended from the 8" sewer main installed with the Legacy Pointe Subdivision to the west during the development of new subdivision(s).**

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

**Finding:** **Fire and police service shall be provided to this area with the same level of response and service as other developments in this area. Sewer and water improvements to the area will be provided for with the development of approved preliminary plats.**

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

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

**INFRASTRUCTURE AND UTILITIES**

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

**Finding:** **Water, fire and police protection are currently provided in this area.**

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

**Finding:** **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.**

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

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

**INTERGOVERNMENTAL RELATIONS**

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

**Finding:** **N/A**

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

**Finding:** **N/A**

**ADMINISTRATION OF ANNEXATIONS**

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

**Finding:** **Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with surrounding developed property and the Residential classification of the area on the City's adopted Future Land Use Plan.**

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

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

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

**Finding:** **Conceptual development proposals for this property have not been submitted to the Planning Division. At the time the owner desires to develop this property, the applicant will be required to submit a proposal for review and approval by the Planning Commission.**

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

**Finding:** **This annexation includes 29.31 acres owned by Robert and Minnie Tipton when the petition for annexation was made. The property is currently owned by Sloan Properties, Inc. The size and location of this tract creates an acceptable city boundary.**

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

**Finding:** **A fiscal impact assessment has not been conducted for this property.**

*From Fayetteville General Plan 2020 – 2002 Revision*

## 11.6 Annexation Guiding Policies

### Boundaries

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

### Environmentally Sensitive Areas

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

### Emergency and Public Services

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

### Infrastructure and Utilities

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

### Intergovernmental Relations

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

### Administration of Annexations

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

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of May 24, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8202

## ENGINEERING DIVISION CORRESPONDENCE

| | |
|---|---|
| TO: | Fayetteville Planning Commission |
| FROM: | Matt Casey, Staff Engineer |
| DATE: | April 20, 2004 |

**ANX 04-04.00: Annexation (Tipton/Sloan, pp 475)** was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, adjoining the SE corner of the Legacy Pointe subdivision. The property is in the Growth Area and contains approximately 29.31 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

**RZN 04-10.00: Rezoning (Tipton/Sloan, pp 475)** was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, Adjoining the SE corner of the Legacy Pointe subdivision. The property is currently zoned R-A, Residential Agricultural, and contains approximately 29.31 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

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

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

**This property has access to an 8" water main stubbed out from Legacy Pointe Subdivision on the west side of the site. Water mains will need to be extended within the development.**

**The site currently has access to an 8" sewer main stubbed out from Legacy Pointe Subdivision on the west side of the site. Sewer will need to be extended within the development. This property's sewer will flow to the Owl Creek Lift Station.**

**The property has frontage along the unconstructed portion of Persimmon. This roadway will need to be constructed as a part of any development on this site.**

Name Matt Casey Department Engineering

Table 6

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

| Lift Station | Capacity [1] (gpm) | Capacity [1] (gpd) | Number of Units: Existing | Number of Units: Inactive | Number of Units: Built Not Occupied | Number of Units: Approved Not Built | Projected Peak Hourly Wastewater Flow[2] (gpd) | Percent Capacity Utilized | Remaining Capacity[3] (gpd) | Remaining Capacity[3] (units) |
|---|---|---|---|---|---|---|---|---|---|---|
| Crystal Springs | 260 | 374,400 | 141 | 0 | 233 | 508 | 223,560 | 59.7 | 150,840 | 670 |
| Hamestring | 1,600 | 2,304,000 | 2,510 | 125 | 898 | 680 | 1,650,000[4] | 71.6 | 654,000[5] | 2,906[5] |
| Owl Creek | 437 | 629,280 | 336 | 25 | 317 | 286 | 280,000 | 44.5 | 349,280 | 1,552 |
| Total | | | 2,987 | 150 | 1,448 | 1,474 | | | | |

*1/ Firm capacity requires verification by OMI, Inc.*

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

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

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

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

# Projected Wastewater Capacity With Maximum Allowable Development of Recently Approved and Proposed Annexations and Rezonings

| Development | Maximum Additional Units | Lift Station |
|---|---|---|
| Shlegel*** | 290 | Crystal Springs |
| Dunnerstock** | 68 | Hamestring Creek |
| Cross Keys** | 108 | Owl Creek |
| Chance and Tuggle*** | 6 | Owl Creek |
| Tipton/Sloan | 117 | Owl Creek |
| Greenwood/Sloan | 640 | Owl Creek |
| McBryde/Sloan | 320 | Owl Creek |

| Lift Station | Current Remaining Capacity (units) | Approved Additional Units | Proposed Additional Units | Projected Remaining Capacity |
|---|---|---|---|---|
| Crystal Springs | 670 | 0 | 290 | 380 |
| Hamestring* | 2,906 | 68 | 0 | 1,357 |
| Owl Creek | 1,552 | 108 | 1,083 | 361 |

**Total remaing flow and units include all areas tributary to Hamestring Lift Station.*
*Flow for Hamestring Lift Station includes flow from Crystal Springs, Hamestring, and Owl Creek Lift Stations*
***Approved by City Council.*
****Pending City Council action.*

# FAYETTEVILLE

## FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-10.00 OWNER Tipton/Sloan
ANNEXATON# 04-04.00 OWNER Tipton/Sloan
LOCATION OF
PROPERTY East of Double Springs adjoining SE corner of Legacy Point S.D.

NEAREST FIRE STATION AND
LOCATION Station #7, Ruple Rd. (future)

RESPONSE TIME FROM FIRE STATION # 7 TO
LOCATION OF
PROPERTY 4 MINUTES 39 SECONDS.
TRAVEL MILES FROM FIRE STATION # 7 TO LOCATION OF
PROPERTY 2.9.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION

WATER SUPPLY WITH HYDRANTS
NEEDED? Yes

ADDITIONAL
COMMENTS ~~Ruple to Wedington~~ North on Ruple, west on Wedington, south on Double Springs, east on Persimmon routing at this time.

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W. MALL
(501) 575-8271
FAX (501) 575-8272

# FAYETTEVILLE

RECEIVED
APR 20 2004
PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

April 19, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 04-04.00 (Tipton/Sloan, pp 475)** and Rezoning **RZN 04-10.00 (Tipton/Sloan, pp 475) submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton** for property located east of Double Springs Road, adjoining the SE corner of the Legacy Point subdivision would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

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

CASE NO. CC 2003-

FILED
03 NOV 18 PM 3 42
CIRCUIT COURT
PROBATE
WASHINGTON
CLERK

**PETITION FOR ANNEXATION**

COMES now, Robert B. Tipton and Minnie Beth Tipton, husband and wife, Petitioners, and for their Petition for Annexation, state and allege as follows:

1. Petitioners are record title holders of the following described real property situated in Washington County, Arkansas:

> Part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Fourteen (14), Township Sixteen (16) North, Range Thirty-One (31) West, being more particularly described as follows to wit: Beginning at the Northwest corner of the Northwest corner of said forty acre tract, said point being an existing iron pipe, thence S 87°39'18" E along the North line of said forty acre tract, 989.90 feet to a set ½" rebar, thence S 02°37'05" W 1289.84 feet to an existing iron rebar, thence N 87°38'05" W 990.30 feet to a set ½" iron rebar on the West line of said forty acre tract, said point being N 02°38'05" E 34.24 feet North of the Southwest corner of said forty acre tract, thence N 02°38'05" E 1289.49 feet to the point of beginning, containing 29.31 acres, more or less, Washington County, Arkansas

2. All of the above-described real property is adjacent to and contiguous to the present city boundary line for the City of Fayetteville, Washington County, Arkansas.

3. The above-described real property is suitable for annexation to the City of Fayetteville, Arkansas, and is necessary for the proper growth, prosperity and management of the land and the City of Fayetteville, Arkansas.

4. Pursuant to Arkansas Code Annotated § 14-40-601 et seq, this Court has jurisdiction over the subject matter herein, and Petitioners request that the above-described real property be annexed in and to the City of Fayetteville, Arkansas.

FROM WACO CLERK (TUE)APR 20 2004 11:24/ST. 11:23/NO. 6314274941 P 2

5. Petitioners further state that the law firm of Raymond C. Smith, P.A. of Fayetteville, Arkansas, is authorized to act for and on behalf of the Petitioners in all matters connected with this Petition and subsequent hearings or annexation proceedings connected herewith.

6. Petitioners request this Court set a date for hearing on this Petition, not less than thirty days after filing of this Petition and subsequent hearings or annexation proceedings therewith.

WHEREFORE, Petitioners pray that the above-described property be annexed to the City of Fayetteville, Washington County, Arkansas, pursuant to the provisions of Arkansas law, after a hearing thereon as required by law, and that this Court, by Order, fix a time and place for said hearing not less than thirty days from the filing of this Petition, and for all other relief which the Petitioners may be entitled.

ROBERT B. TIPTON and
MINNIE BETH TIPTON, H&W
Petitioners

By: _____

Raymond C. Smith
Attorney at Law
70 N. College Ave. Suite 11
Fayetteville, AR 72701
Ark. Bar No. 80135
Attorney for Petitioners

FROM WACO CLERK (TUE)APR 20 2004 11:25/ST. 11:23/NO. 6314274941 P 3

## VERIFICATION

State of Arkansas )
) ss.
County of Washington )

We, Robert B. Tipton and Minnie Beth Tipton, husband and wife, the Petitioners herein, having first been duly sworn, do hereby state on oath that the facts, statements and allegations set forth and contained in the above and foregoing document are true and correct to the best of our knowledge, information and belief.

Robert B. Tipton
Robert B. Tipton, Petitioner

Minnie Beth Tipton
Minnie Beth Tipton, Petitioner

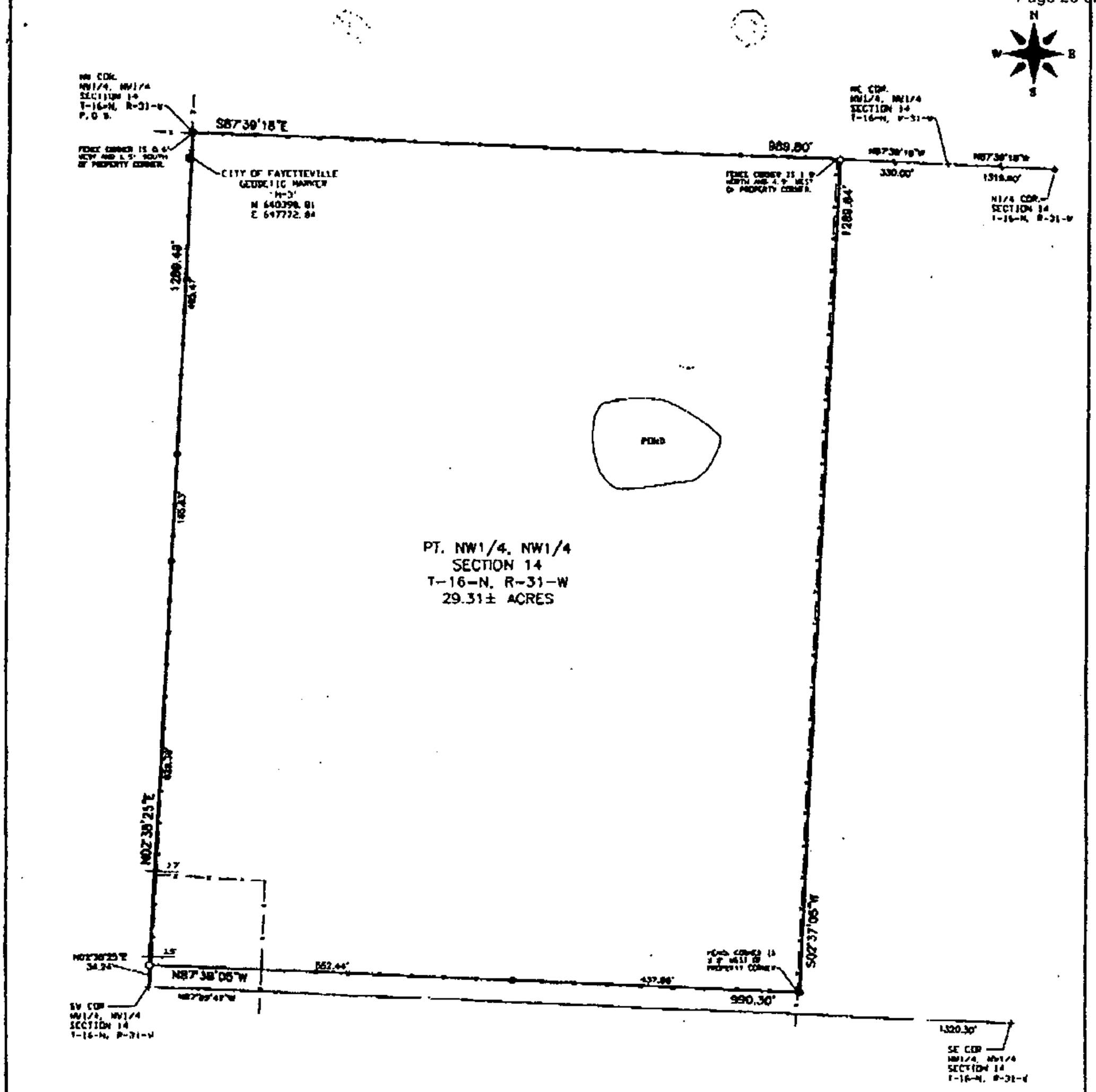
Subscribed and sworn to before the undersigned, a Notary Public, on this 30th day of September, 2003.

My Commission Expires:

Notary Public

Bob L. Mayes
County Of Washington
Notary Public - Arkansas
My Commission Exp. 02/12/2012

FROM WACO CLERK (TUE)APR 20 2004 11:25/ST. 11:23/NO. 6314274941 P 4




***SURVEY DESCRIPTION***

A PART OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION FOURTEEN (14), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING IRON PIPE; THENCE S87°39'18"E ALONG THE NORTH LINE OF SAID 40 ACRE TRACT 989.80 FEET TO A SET ½" IRON REBAR; THENCE S02°37'05"W 1289.84 FEET TO AN EXISTING IRON REBAR; THENCE N87°38'05"W 990.30 FEET TO A SET ½" IRON REBAR ON THE WEST LINE OF SAID 40 ACRE TRACT, SAID POINT BEING N02°38'25"E 34.24 FEET NORTH OF THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE N02°38'25"E 1289.49 FEET TO THE POINT OF BEGINNING, CONTAINING 29.31 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

***BASIS OF BEARINGS:*** ARKANSAS STATE PLANE COORDINATE SYSTEM (NORTH ZONE) CITY OF FAYETTEVILLE, AR. G.L.S. MONUMENTATION

***STATE LAND SURVEYOR FILE CODE***
500-16N-31W-0-14-440-72-1005

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE
ALAN REID

- FOUND R.R. SPIKE
- FOUND PIPE
- FOUND IRON PIN
- COMPUTED CORNER
- X FENCE LINE

0' 100' 200' 300'

| CHARLIE SLOAN | | |
|---|---|---|
| DRAWN JEC | DATE 09/10/03 | ALAN REID & ASSOC. 118 S. COLLEGE AVE. |
| APPROVED | DATE | FAYETTEVILLE, AR. 479-444-8784 |
| SCALE 1" = 100' | SHEET 1 of 1 | PROJECT NO. 03439 |

FROM WACO CLERK (TUE)APR 20 2004 11:25/ST. 11:23/NO. 6314274941 P 5

FILED
'03 DEC 22 AM 10 41
KAY F. H. CUMBUS PRITCHARD
CIR. & PROBATE CLERK
WASHINGTON COUNTY, ARK.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

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

CASE NO. CC 2003-27

ORDER OF ANNEXATION

Now on this 22nd day of December, 2003, this cause comes on to be heard, the Petitioners, ROBERT B. TIPTON AND MINNIE BETH TIPTON, husband and wife, represented by their attorney, Raymond C. Smith, P.A., of Fayetteville Arkansas, announcing ready for a hearing of the cause and there being no protests or objections filed, whereupon, the matter is submitted to the Court upon the verified petition filed herein, and the oral and documentary evidence adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on November 18th, 2003, at which time this Court fixed December 22nd, 2003, at 10:30 o'clock a.m., as the date of hearing for said cause, and that a full thirty (30) days notice of hearing was given as required by law and the notice of publication is now on file with the Clerk of this Court and the Court has jurisdiction of this cause.

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

RECEIVED
DEC 1 8 2003
PLAN. & DEV.

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

> Part of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of Section Fourteen (14), and part of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE1/4) of Section Fifteen (15) in Township Sixteen (16) North of Range Thirty-One (31) West, described as follows to wit: Beginning at the Northwest corner of the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼) of Section Fourteen (14) and running thence East 60 rods, thence South 1201.56 feet, thence West 824 feet, thence South 100 feet, thence West 100 feet, thence South 106.5 feet, more or less to the center line of the County Road, thence in a westerly direction along the center line of said County Road to a point 6.76 chains East of the West line of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section 15, thence North 80 rods to the point of beginning, containing thirty (30) acres, more or less.

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

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

County Judge

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SEP 10 2004
PLANNING

Ostner: The next item on the agenda is which is ANX 04-04.00 for Tipton/Sloan. Can we have a staff report please?

Morgan: The applicant is requesting to table the Annexation and Rezoning pairs for Tipton/Sloan, Greenwood/Sloan, and McBryde/Sloan until such time that a full Planning Commission is available. Those are the last six items.

Allen: Why were we not made aware of that earlier? It would've been nice so that people wouldn't have had to wait so long.

Ostner: This has been a published meeting. It is appropriate to hear from the public and even to make a few comments from the Commission before we end the issue. We will table these motions after we hear them. Since we haven't had really much of an introduction, I will introduce this item. This Annexation was submitted by Raymond Smith on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road adjoining the southeast corner of the Legacy Pointe Subdivision. The property is in the Growth Area and contains approximately 29.31 acres. The request is to annex the subject property into the City of Fayetteville. The applicant has tabled this item but we are going to open it up to the public for comments.

Davison: Thank you and I appreciate that. For those of you who don't know, my name is Sharon Davison and I have lived in or around the Fayetteville area for about 25 years. I would first like to really thank you all because you are doing very, very important work here. I would also like to say that you have given me a lot of hope tonight that we are going to get things a little back in control here. I really appreciated your frankness in acknowledging that you are new to this process but more importantly I was impressed with your willingness to ask questions. I am actually here tonight to make a request, which I think you followed the theme: Density, Traffic, Safety, please don't annex anymore. In watching, too, I was very proud at how you looked at each issue. Yes, it was appropriate in that case to annex that small piece on Crossover for it's situation. Yes, this other piece was appropriate to annex, not rezone. Excellent! Here we are at a totally, totally different thing as the end of your agenda will show. This is inappropriate annexation and inappropriate rezoning at this time. I think we'll find out this area is actually probably not going to be as good for building as people think because it's flat. We found some surprises in what is going on over there anyway. I will try to get back to my point. Quickly, I did want to address that my husband is at our son's baseball game tonight, but he wanted me to ask you to keep in mind three major things and that would be roads, sewer and taxes. To generalize, traffic counts, we are waiting on some traffic studies and we would hope that you maybe would wait on some of your decisions until we get a lot of this important data back instead of rushing all of this development. In fact, I

would like to add up how many things we actually approved tonight anyway, I think it is a few hundred units. If we had gone through this whole process tonight and these folks got all that they wanted, you, in one evening, would've approved over 1,400 units and that is a lot when we don't have roads and other things. He wants to know where the cars are going to go. Even if we build out here what is going to happen when they all come into town because we know what a mess that is. Our questions also is we are waiting for our new sewer to come on line. Staff, can you tell us the projected date of sewer coming on line?

Ostner: If you could keep your comments to us and we will try to ask them later.

Davison: I'm sorry, I didn't realize that was inappropriate. That is alright, that is a question that we want to make sure. Part of the deal is I have this new sewer thing in the mail today. We approved this tax under our Mayor Coody telling us we had to have this sewer to maintain ourselves. We have, I think, found out that's really not the case because look at what all is coming through here. My husband would also like to know about our subsidizing this as the tax payers. You will learn more about proportions and what developers pay but I think a lot of tax payers are a little concerned for their part for paying for roads and infrastructure for developing and the profit on our exterior which is actually not beneficial and works against the third item on our 2010 plan, Development of our Crown Jewels, the Square and Dickson Street. It works against planned and managed growth and it works against improved mobility and street quality. These are reasons that I am asking you to go ahead and not annex our property out west until we have more in line. Thanking you for staying strong and looking at issues and not just saying yes to everything. It would be frustrating when I've come in the past and developers would ask for things and there would be a feeling they had to give it because it was asked. In your position people are coming to you wanting to check their T's, they have pretty much dotted their I's over here but they are really coming to you to ask for favors, the exceptions and you have every right to say no, this is not appropriate at this time even under great pressure, which I know you often are. Our city is overburdened by infrastructure needs and new service demands. Let's get to the specifics over here on the mess, and it is a mess on the other side of I-540. Asbell has been flooded and dealing with issues for years and years and years. Those issues of being in that low lying area were exasperated when I-540 went in. We have done nothing yet to help those people who have lived in our town for 10, 20 or 30 years. The other problem on the other side of the highway, if you remember Wilson Springs, that whole section to what I call Marinoni Mountain, which is the mountain on the back side of all of this between 6th Street and Hwy. 16. It is a swamp. It is low lying. Everybody wants to build in there because it is easy to lay lines because it is flat. If you went out there today you would still see huge standing

sections of water in fields. You will also notice with a lot of these construction projects the extent of retention ponds that they need. The amount of trench drainage, the width of these drainages, that is a clue in itself. When I drove all the way down to where Persimmon will eventually go, that goes back to eventually, people want a lot of things before the streets and all are there. There is a huge water retention pond right about where I think Persimmon would have to go through if we go through there and that would end up making the street just right on the doorstep of the Boys and Girls Club then they are going to have to remediate whatever the water is in there because it really, really is wet over there. The issue for that, and this is my bombshell that the developers don't want you to know is that there is a lot of mold going on over there. We have already had mold growing in our new schools. Holcomb hasn't even been here for a few years. We don't want to talk about it but we are setting ourselves up. California has quite a rush on mold mitigation lawyers. Those are issues that are very, very real going on over there where there is too much water and that is why it wasn't built on or planned on before. Now, the third part is there are a little bit of things that I think hopefully you all find out about sort of plans that we are all left out of the loop between our city government and our school districts and some of these developers and I think if they were more up front about it and maybe you can research some of these connections because it seems that their plans are being made assuming that you are already going to approve all of this. That concerns me that we have done that. I will try to go ahead and close so other people can speak to this. One little comment on it is the school that we are trying to put in right next to the Boys and Girls Club, that directly relates to all of this property. This property all runs to what I consider Farmington. I used to live over there right behind Dot Tipton Road and we all called it Farmington. I understand that we are moving over there but that does not have to happen right now. There is something wrong if we only need 10 acres for a school but for some reason we are entering into a contract for 20 acres and we are being told don't worry about the 10 acres that is in the floodplain that you won't need to build on it anyway, you don't need it. So that is telling me that if I need to do a major project I have to buy two for one acreage. One acre I won't be able to use. Essentially, that means instead of paying $30,000 an acre, we are essentially paying more for one usable acre. There is something wrong with what is going on over here. I would just like to ask that you all please go ahead and check it out. Wait on some of this. Look at some of the projects. My whole thing is that if you go back through the past year and look at what has been approved you will be amazed. If you go out and look at what is going up you will be amazed. I think you can then step back and say wait a minute, we need to fix our roads first. Wait a minute, we need to get our sewer plant on line functioning before we make all kinds of promises to people. All I'm

asking you to do is please hold off on annexation and rezonings in major growth areas like that. Thank you.

Ostner: Is there anyone else from the public who would like to make a comment?

Bowman: I'm Dr. Kathy McGuire Bowman. I am here in kind of an unusual situation, I don't know quite how to do this but I think there needs to be a gap bridge and I'm going to try to do that. It may be hard to do it but I'm going to try. I did want to come to make sure that you realize the school board's proposed purchase of 20 acres from McBryde and Company next to the Boys and Girls Club fronting on Persimmon Street as the location for the Jefferson School relocation is intimately connected with the annexation request before you for acreage on Persimmon. Maybe you all knew that but I think there is not an overlap here between the school board's massive real estate planning that is going on now and what the Planning Commission is doing. I'm concerned that you have to bring those two things together that you need an overview of what the school board is doing because right now he school board is in a dramatically different role. They are, if you look at their overall plan which I gave you in the packet, the colorful news letter is called a long term capital investment plan. If you look at the overall what's happening, they've already closed Bates Elementary School. Now they are going to close, that's a neighborhood school in the city's center right behind the high school. Now they are going to close Jefferson Elementary on the south side and they are going to relocate it to west of I-540. In fact, at this Persimmon address. That is the proposal from the school board, the offer from McBryde who is listed here in your annexations at Persimmon, to sale 20 acres to the school board for the relocation of Jefferson School. This school is going to be unique to anything that has ever happened in Fayetteville. It is going to be different than anything that has ever happened in Fayetteville. It is going to be a combined elementary and middle school. It is going to have 1,000 students out right here where all of this development is happening. I'm a psychologist. Everything I know about education would go toward smaller schools, neighborhood schools, and here we are having this mega complex. I guess I wanted you to be aware that you need to look at the overall plan in terms of planning for the growth of our city. You need to realize that this development is being spurred by putting that school out there. Mayor Coody talks about how school placement drives development and that is what you need to be looking at. What is the school district doing, where is it placing schools and how is it driving development. When you start looking at the school board process you realize that it is not like the City Council process. There is very little opportunity for public input. I think that if you add these two things together, they need to be seen together. You will discover that development in Fayetteville is being determined by a handful of people. I gave you a list of the Capital Investment Planning

Committee. It did include Hugh Earnest from the city. That is another reason why school business has really become city business at this point. Hugh Earnest, City Manager, sat on the Capital Investment Planning Committee for the school board. Tim Conklin was on a sub-committee so they were intimately part of this planning when you look at the whole overall decisions in that capital plan you see that you are moving schools from the city to the outskirts of town including eventually, the high school is going to be relocated to the outskirts of town. Jefferson is being closed and it is a neighborhood school. It is really frightening if you look at it in context and look at the whole picture. When you see a lot of development happening on the west side you also need to understand that it is development being taken away from the south side by the location of the school. I was talking about the more closed process of the school board. Here is an example that may be a dramatic example of how decisions might be being made at the school district or school board level. I have been told that Mr. Hissum of "H" Farms going out towards Goshen was going to have a casino complex. I've been told that he went to the City Council in Goshen, told them that his casino idea had fallen apart and that now he was going to have a Fayetteville school on his property and then he has a whole plan. The plan was described in the paper and it includes, according to the new rules you have to have mostly greenspace along the highway but you are allowed to have 25% commercial frontage right on the highway. In his description of his packets there was 20 acres of frontage on the highway and the school district is always talking about 20 acre plots for their new schools. If you think about this from what I've seen hanging around the school board, the way it sounds is that Mr. Hissum as already made a plan with the school district to have a school on his property. That is where we have to get it folks. This does not come before the school board where the public might have a chance to have input. You have to consider the administrators who do not have any decision making power may be making deals with developers. Again, this needs to be looked at and that is what I'm asking, is that you, as the Planning Commission, begin to look at this. What is going on in terms of development here? How is it that these Persimmon developments have shown up tonight one week after the school board was approached with this surprise opportunity to buy land by the Boys and Girls Club, as if that hasn't been in the works for years since they got the Boys and Girls Club. I do have an example that I want to read. This is not particular to the school district but it is an example of this kind of under the table, possibly kind of relationships that go into development. This is from September 19, 2000. It is from the law office of Deb Sexton. Dear Mayor Hanna, in order to document the understanding between WHM Investments, Inc., McIlroy Company and the City of Fayetteville, City, this letter is being written. The Fayetteville Youth Center, d/b/a The Boys and Girls Club of Fayetteville, the old FYC is purchasing 9.69 acres in the Meadowlands Development from the McIlroy Company on which a new FYC building

will be built. McIlroy Company will deed six acres shaped to go around the new FYC building to be deeded to the city for new parking lots and playing fields in consideration for the city banking the six acres to be used for any parks and greenspace required by the city in order for the McIlroy Company to do any future development in the same quadrant of the city. He McIlroy Company has already deeded to the city and banked for future development, three acres of land adjacent to the above-referenced six acres causing a total of 18.69 contiguous acres to be available for a joint project for the FYC and the City. If the above describes an understanding of the transactions please indicate so by signing this letter and returning a copy to me. If you have any comments or questions please call. Sincerely, Deb Sexton for McIlroy Company. I wasn't here for all that planning time but the point here would be if this kind of an arrangement was made before it was brought to the voting arms of the public then that is problematic and I'm concerned that this is happening in a lot of the real estate deals going on. I do have a petition here. It does have 245 signatures of tax payers who have said that they would like to slow school board real estate action. I support further community and neighborhood discussion of the Jefferson School relocation decision. I respectfully request that the school board allow further public comment on the board's current plans for design and location of our public schools and that an outside mediator be called into negotiate such two way communications with myself of Fayetteville Hopes as the representative in choosing a mutually agreed upon outside mediator. Those of us who have been trying to deal with the school board on letting the public have access in the decision making have found that it is not an open and democratic process. It is driving development from what we see so I wanted to bring this to your attention. I know I'm taking a long time and it is late. I am just going to read one letter. Some people think that those of us trying to bring this out are our own little kooky clan so I want to read a letter from someone who heard what we are saying and validates it. This is from someone who has been here since 1974 and I never met him and he wrote this letter which echoes what we are trying to say. **INSERT LETTER HERE** I just want to make this clear that this is not a new idea. Again, I do have 245 other tax payers who very much want the way that the school district is driving real estate decisions to be considered and the example of all the new houses around the new Jefferson School, around the Boys and Girls Club, all of these things taken from the center of the city. The Boys and Girls Club was the first. You remember the battle. Mayor Coody came in just when that was happening and there was a lot of outcry and he said ok, ok, we will consider keeping it in the center of the city. Then we were told oh no, the Reynolds grant will be pulled. You cannot even consider, you cannot even talk about changing the location of this Boys and Girls Club because the money will get pulled. I would say, looking at this McIlroy letter that I just read, that this was a very predetermined first move. Now we've got the Boys and Girls Club what are they telling us?

They have to bus the Jefferson children over there now so that they can go to the Boys and Girls Club after school. It is very disturbing. I will stop. I'm sorry for taking so much time.

Ostner: I would like to assure you that we will completely revisit this issue when it is not actually tabled and we will vote on it.

McMillan: I'm Amy McMillan, I just want to say very brief, very brief, thank you for your time and your effort into this and it is very encouraging some of the votes that you guys made tonight. About 10 days I turned on the television and I saw Mayor Coody doing his show that he does and he is talking about an award that our city has received for being a livable community and I have to laugh to myself because I sit here and I look at the list of units that are going before you which have been tabled tonight. The total is so discouraging. I have driven out to Persimmon. I drove out there today. This land is under water. The land is under water. It lies in the floodplain. I wonder if soil samples have been taken and at what point are soil samples taken? I wonder how these units are going to affect our waste water treatment plant that has not even been built yet and I wonder how it will impact our south Fayetteville. My children attend Holcomb Elementary. This school is running at capacity. We are full. We cannot make anymore children. I will reiterate that yes, we do have a mold problem there. It is true. The roads that are out on the west side of Fayetteville, the four lane highway begins right at the development of our subdivision, it begins right there at the entrance. Anything past that towards Double Springs Road cannot sustain the traffic that they are trying to put out there. It cannot sustain it. I am urging you to please stay in support of that livable community, that Smart Growth plan. Thank you.

Ostner: Do we have any other citizens?

Marr: I'm Don Marr, 410 W. Holly. Thank you for letting me speak. I know it is not a common practice for the City Council to address the Planning Commission but I wanted to ask your assistance. In an effort for the Council, at least from my perspective, as we look at things that you vote on and we read the minutes of your meetings and we see 6-0 votes, 9-0 votes, etc., one of the things with a lot of these annexations coming forward that I want to ask you to pay particular attention to, at least from my perspective, is on page 14.7 of your packet. I just picked the largest annexation, which was the 160 acre one that has been tabled tonight. This would apply to all of them. You have the guiding principals of the General Plan 2020 and in that there are two things that stand out that I would like to really ask that you do strong due diligence with as a Commission. One of those is an annexation study should be completed on all annexation proposals. I don't know that in reading the reports that the Police report, the Fire report meet that requirement as the philosophical

principal of the 2020 Plan. The last one is on that same list from the 2020 Plan it is called 11.6.t which is Conduct a fiscal impact assessment on large annexations. It was interesting to me as I read through your packet in preparation for what we might see two weeks from now that if 160 acres, if you go to page 14.6 on that particular item, it says conduct a fiscal impact assessment on large annexations and the finding is n/a, not applicable. I don't know at what point it becomes significant enough to distinguish fiscal analysis. That is our biggest challenge at the Council level. Do we have the infrastructure in place to handle adding these additional pieces of land. I have had various Commissioners, I've heard you say it's the City Council's responsibility to look at the financial picture. It is a finding that you look at as a result of your packet and it is valuable to me as an alderman to know that it got debated much earlier in the process, that it wasn't one of the last issues that we looked at and to see what 8 or 9 other people's perspective was on it, particularly since you are a very diverse group of Commissioners. If you would do that at least, me asking you as an alderman and as a citizen, I think it will assist us in making better decisions. Thank you.

Ostner: Thank you. Do we have any other comments tonight? Are there any other announcements?

Pate: Just a reminder, I do believe we need to vote on all six items to table.

Clark: Staff, this follows up on what Alderman Marr just mentioned. As I look at all of this now tabled annexation, it is a lot of acreage. Every time I look through this packet the Police say there is no adverse impact, etc., etc. Has there ever been an example of a proposed annexation that the Police or the Fire have said no, we can't do that?

Pate: I believe so, yes. Specifically I can only thing of one incident reading through historical packets from 2001 and 2002.

Clark: My historical index is not in my packet.

Pate: Sure. I believe there was a property to the west of the springwoods, Wilson Springs area that was actually tabled for almost a year based on Fire Department comments and Waste Water impact. There was a property that was specifically tabled for those reasons. I can't list off the top of my head if there were others.

Clark: Do you have any idea how long ago that was?

Pate: I can get that information to you for sure.

Clark: How many acres were we talking about tonight alone?

Anthes: 269.3 acres in this section.

Clark: I'm troubled. I will follow up exactly on what Alderman Marr, who used to be my alderman, along with great Alderman Cook, have to understand where we draw the line and say no because we don't have the infrastructure. Hat troubles me, especially when I read some of the other comments of other aldermen when our decisions ultimately reach their desks and they say we don't have it. That troubles me and I'm not sure that I'm getting all of the information that I need to get and I'm new here so I don't know sometimes what all to ask for until I hear other comments. That does bother me and I'm really glad that we are tabling this tonight quite honestly because I want more time to look at it and to hear differing opinions and to listen to the constituents. I had no idea about the school board stuff. That was an education tonight. The infrastructure issues do trouble me considerably.

Vaught: I do have questions that might be a City Attorney question on what we can take into consideration as far as the school board issues. From what I understand I don't know how much of that really impacts the decision that we make because they are an independent body of ours. That is one thing that I would like an explanation on for the people here. The development impact on the area is definitely a consideration for us and all this stuff with the school is interesting, I just don't know how that plays into our overall consideration of things. Also, I don't know how there is a way to even quantify, there are two sides of development. There is a bad side because it creates demand but there is a good side because everyone of those homes when we annex them are going to pay a sewer tap fee, the impact fees we use to fund the building of our new sewer plant and to fund building of the new roads in the area. I don't know how we can develop better tools to be able to weigh all of those options. There is a give and take with everything. That is what I don't know what we even need to be asking for myself being relatively new as well.

Clark: Would that be the fiscal impact of this?

Vaught: I don't know, I've never seen a fiscal impact assessment.

Anthes: I want to thank the applicant for requesting to table these items tonight because I have several questions that I need to ask of the City Attorney who could not be present this evening. For the record, I would like the staff to take note of what I would like and maybe you can request this information. I am reading over and over the General Plan 2020 with regards to annexation and it is sort of distressingly vague. I'm looking here and I've added up these three requests for annexation that we are considering tabling are 269.31 acres. The entire year of 2000 to August,

2001 we approved four annexations that totaled 393.54 acres. That is not a tremendous amount more. I'm looking at what we require and we have a couple of things that may or may not apply here. One is 11.6.f which says annex environmentally sensitive areas which could be impacted by development and utilize appropriate development regulations to protect those areas. When I look at our maps it looks like we have an extreme amount of floodplain, flood way and streams and creeks in the areas of these properties, but I have no way to quantify whether or not there is an environmental impact because we don't have an environmental assessment impact report. The other things are two items that Alderman Marr referred to and that is requesting annexation studies and fiscal impact assessments. We particularly say a fiscal impact assessment on large annexations but we have no definition on what large is. 270 acres seems large to me but I have no way to say what is and what isn't large. The other thing is what I don't see in the General Plan 2020 is who is supposed to conduct and therefore, pay for, these assessment reports that we might need in order to make these judgments. That is what I would like to know from the City Attorney.

Ostner: I would like to also voice my concern over the amount of acreage and the decisions that we are going to make two weeks from tonight probably since we are going to come back to these issues. I agree that Chapter 11 out of our General Plan 2020 seems really like a mechanical how to annex. It really doesn't tell you any guidance on should we annex or should we annex there or there, what's the difference. I'm referring back to a lot of other knowledge that I've learned in other places. A different chapter of that General Plan 2020 is back in 2000 we made a bunch of projections. I believe this is Chapter 9. The 2020 Plan projected between 2000 and 2020 we would need to build 13,800 units of housing and they estimated about ½ of that will be homes, about half will be apartments. That comes to about 690 units per year to build. We could've done that tonight. Another thing, on that 2020 Plan, these are projections that take past development and they shoot a crystal ball in the future, but they estimate roughly about 5,000 acres of land will be needed for that 13,000 residents. We have got 2,800 acres of undeveloped residential land in the city limits, which is half of what this 20 year projection is asking for. This is land inside the city limits with streets, with adjoining sewers, no annexation required and it is already zoned Residential. I asked Jan in Planning to give a quick rundown of what we have done in the first three or four months of 2004. These are rough numbers and hopefully they are over instead of under, Final Plats, Preliminary Plats and PZD's, 381 lots have been approved. We have rezoned to allow for another 796 so that is over 1,000 lots that could be developed in 2004 which is almost 199 acres. My point is this: I'm not sure that there is a crowd of 10,000 people standing in line to buy homes or develop or build homes. I understand there are opportunities to

build terrific neighborhoods. That's great, we need good neighborhoods in this town. I'm not sure where is the best place for them.

Clark: Can I follow up on that? The thing that I'm also keeping in mind with these new annexation requests is the knowledge that Planning is going to start annexing islands that exist currently in the city. That is something that goes along with the plans that are in place already. I'm really concerned about annexation that goes outside that. I think you make some really good arguments Alan in the numbers are there. Opportunity, just because you have the opportunity, as my mother taught me as a young child, doesn't mean you need to do it all the time. I guess that's how I'm annexing new property. I'm really glad we are tabling this. Can we make a motion to table all at once or do we need to table them individually?

Pate: Individually.

Ostner: Ok, ANX 04-04.00.

**MOTION:**

Anthes: At the request of the developer I would like to move to table ANX 04-04.00.

Clark: Second.

Ostner: We have a motion by Ms. Anthes and a second by Ms. Clark, is there any further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to table ANX 04-04.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

**MOTION:**

Clark: At the request of the developer I would like to move to table RZN04-10.00.

Vaught: Second.

Ostner: We have a motion by Ms. Clark and a second by Mr. Vaught. Is there any further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to table RZN 04-10.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

**MOTION:**

Clark: At the request of the developer I would like to move to table ANX 04-01.00.

Allen: Second.

Ostner: We have a motion by Ms. Clark and a second by Ms. Allen, is there any further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to table ANX 04-01.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

**MOTION:**

Anthes: At the request of the developer I would like to move to table RZN 04-11.00.

Trumbo: Second.

Ostner: We have a motion by Ms. Anthes and a second by Mr. Trumbo, is there any further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to table RZN 04-11.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

**MOTION:**

Allen: I would like to move to table ANX 04-02.00.

Anthes: Second.

Ostner: We have a motion by Ms. Allen and a second by Ms. Anthes, is there any further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to table ANX 04-04.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

**MOTION:**

Allen: I move to table RZN 04-09.00

Anthes: Second.

Ostner: We have a motion by Ms. Allen and a second by Ms. Anthes is there any further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to table ANX 04-04.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

Ostner: That is the last item in our agenda. Do we have any further announcements?

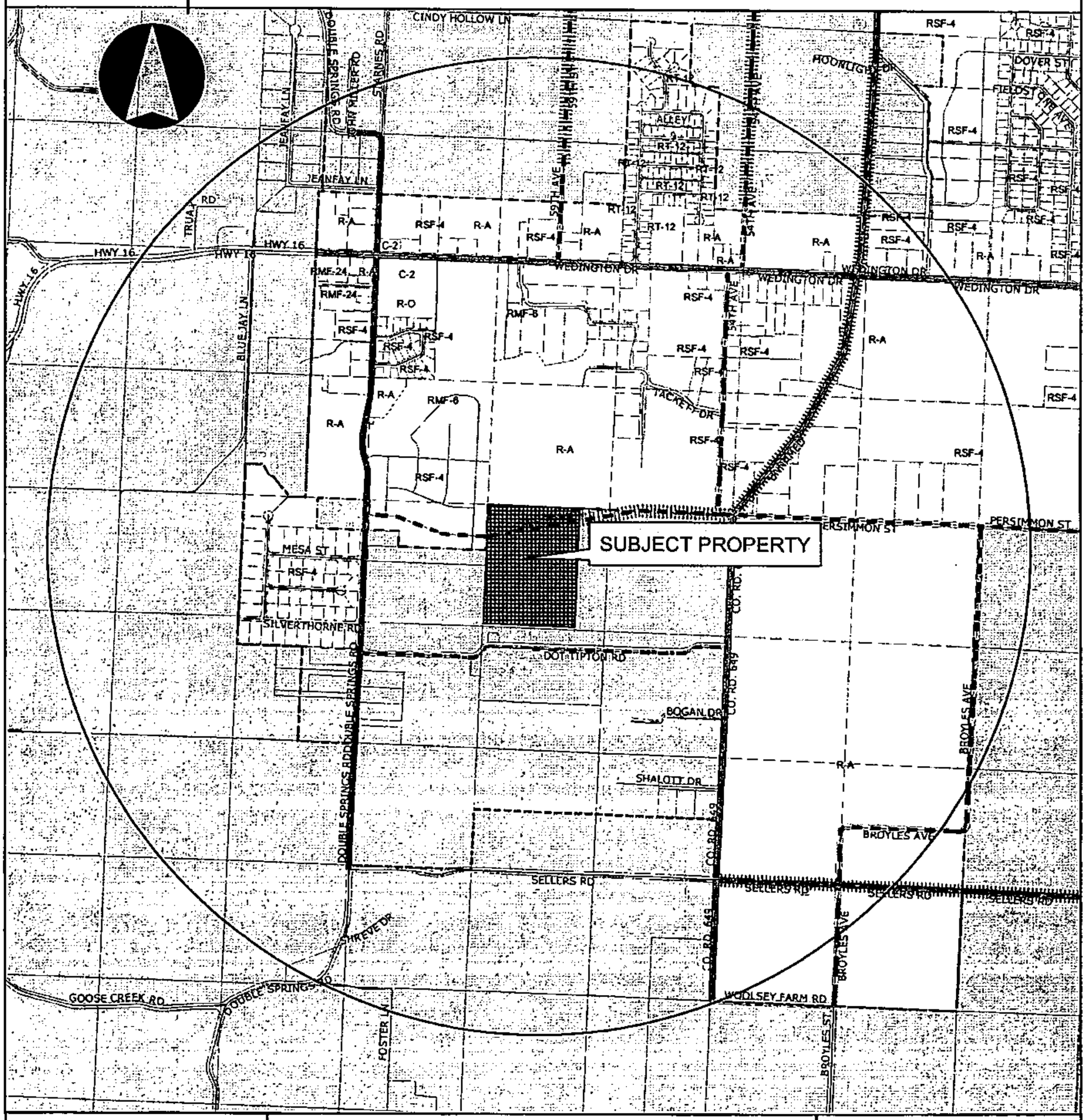
*Announcements*

**Meeting adjourned: 9:40 p.m.**

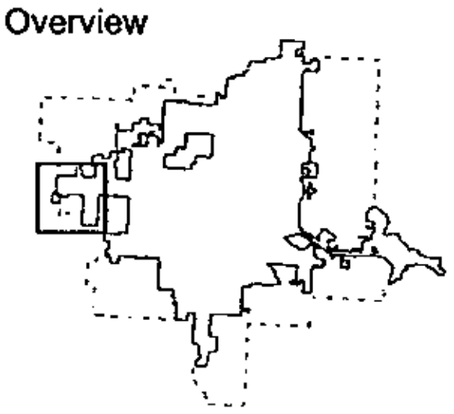
ANX04-04.00

One Mile View

# TIPTON/SLOAN




Overview



Legend

Subject Property
- ANX04-04.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

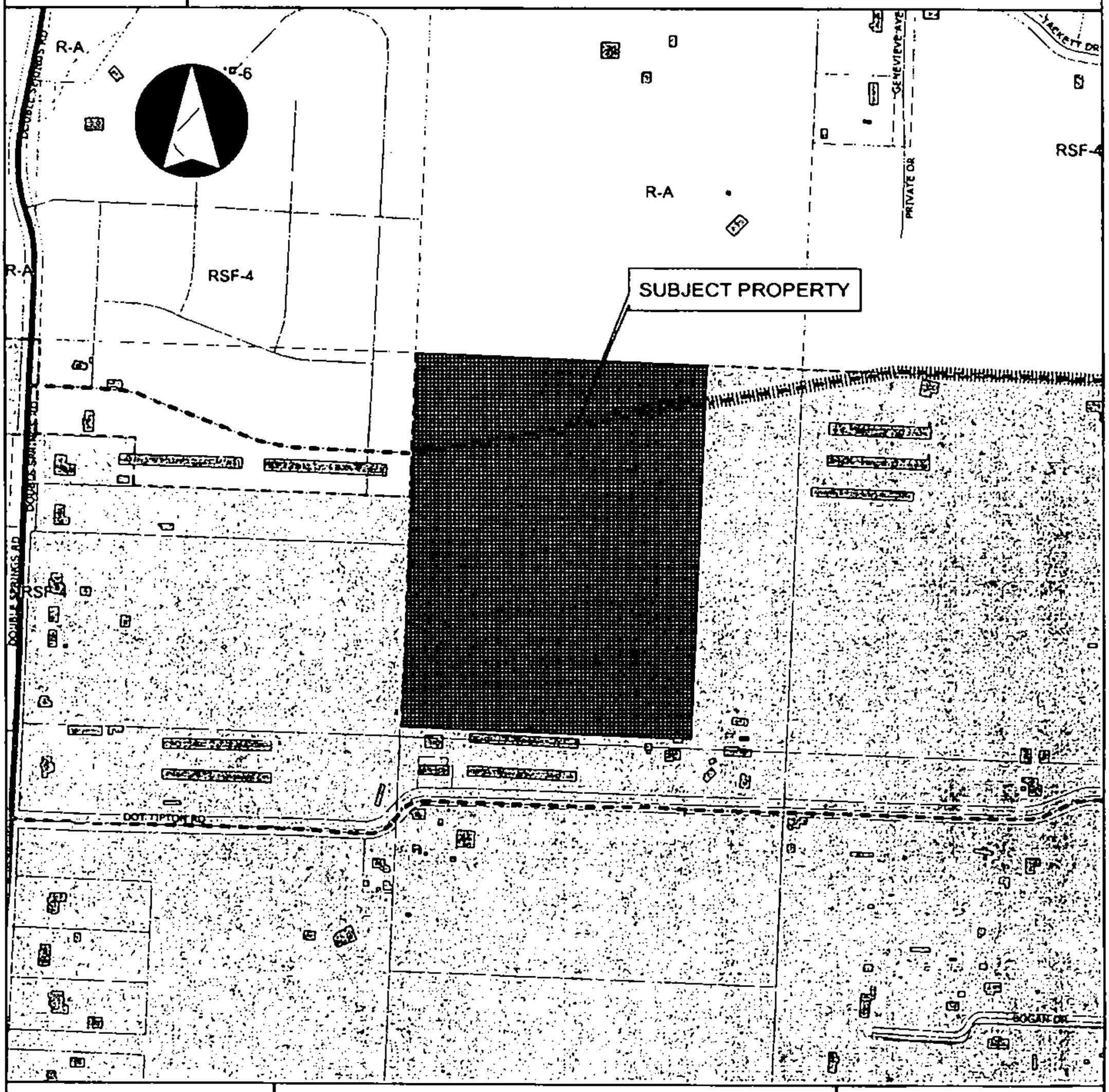
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

ANX04-04.00

*Close Up View*

# TIPTON/SLOAN




*Overview*

Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- ANX04-04.00

0 150 300 600 900 1,200 Feet

**ANX 04-04.00: Annexation (TIPTON/SLOAN, pp 475)** was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, adjoining the SE corner of the Legacy Point subdivision. The property is in the Planning Area and contains approximately 29.31 acres. The request is to annex the subject property into the City of Fayetteville.

**RZN 04-10.00: Rezoning (TIPTON/SLOAN, pp 475)** was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, Adjoining the SE corner of the Legacy Pointe subdivision. The property is currently zoned R-A, Residential Agricultural, and contains approximately 29.31 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next item on our agenda is ANX 04-04.00 for Tipton and Sloan.

Morgan: This item was tabled at the Planning Commission meeting of April 26, 2004. The subject property contains approximately 29.31 acres of vacant property. It is located south of Wedington Drive, east of Double Springs Road. The property is adjacent to the city limits to the north and a portion of it's western boundary is the Legacy Pointe Subdivision. Staff is recommending approval of the proposed annexation. Findings within the staff report support this recommendation. The applicant is also proposing to rezone this property from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre. The applicant has offered a Bill of Assurance limiting density to 2.9 units per acre for the future phase of the Legacy Pointe subdivision. The General Plan 2020 does designate this site as residential. Staff, therefore, is recommending approval of RZN 04-10.00 for Tipton, Sloan.

Ostner: Is the applicant present? If you would introduce yourselves and give us your presentation.

Smith: My name is Raymond Smith. I submitted the annexation request on behalf of the Tipton's and Mr. Sloan of Sloan Properties. This 29.31 acres is located adjacent to Legacy Pointe Subdivision that has already been approved and is being constructed. The 29.31 acres is located to the southeast of Phase II of Legacy Pointe. Mr. Sloan will be able to answer any questions that you may have in regard to specifics on this particular one.

Sloan: Hi, my name is Charlie Sloan. I am the owner and developer of this project. This will be Phase IV of the Legacy Pointe subdivision. It is the extension of Persimmon, which is at the south end of our property. The drawing that I handed you shows about 84 or 85 lots. We will probably end up with around 75 or 78 by the time that we work out detention.

There are some lots in here that we don't want. We want a certain size and these don't quite meet that size. Our covenants will be just like it was at Legacy Pointe. We will use that as our base. These might have a little bit higher square footage minimum on these lots than what was proposed. That is on the first phase to just give you a general layout concept of what we are trying to do. The second page that I gave you shows the extension that we have been working on trying to extend Persimmon over to 54th Street to make this connection from Double Springs over to 54th. The other item coming up with the Haye's is the property just to the east of my property, which Persimmon goes through. The other part, neither one of us own that piece of property but I have talked with that land owner and he has indicated that they would be willing to work with us on this to keep Persimmon as a 70' right of way street for a collector street. The proposal is too, that we have a city park in Legacy Pointe right now that is about four acres. The neighbor to the north to me has property that he has indicated he would be willing to sale to us. That was the original plan when we did the park for Legacy Pointe in that area to go ahead and buy another three or four acres along that Owl Creek. The trail system will go in there and will give us some good flat land for soccer fields or something like for additional so we will end up with a seven acre city park out there. That's all I have.

Ostner: Thank you. At this point I would like to open it up to the public. Please introduce yourself and give us your comment.

Davison: Good evening. My name is Sharon Davison. I would first, like to thank you all for being here and thank you all for letting me speak tonight. I do have a quick request to make. If you hear me out on this one time at the mic. I think it would be nice for all of to not have the agony of me coming back each time. I will try to be brief and I promise I won't mention a person's name unless I have a quick quote from our newspapers. This is just a reference to show the connectivity, the concern and the problems. I have been out of town so I have been behind on the newspaper. This is just a four day span. I will just have a couple of quick comments there and I do have specific comments related to this annexation and rezoning as we have discussed. I will quickly try to tie it up with two quick staff questions and then I will make a closing comment. I do want to make it clear that especially on these particular annexations that are coming up to you tonight. I don't consider these in the same type as some developers that have come in from out of town have done. I do not begrudge Dot Tipton's family. Their father made a good investment as a farmer years ago on that property. They deserve to have things come to them from that. We have Marinonis everywhere. They obviously deserve to have these things happen. I'm not familiar with Mr. Sloan or Mr. McBryde. The mansion there I can't blame anyone from changing and adjusting that. They are getting surrounded. Just quickly, before I make my specific

comments on the rezoning aspect and to point out the validity of the seriousness of the issues here. Again, the Times newspaper does give some good coverage on some decisions if we can't watch TV and keep up with everything. It is sort of disheartening to see that the biggest scandal in our town is the HUD scandal with how much coverage it is getting by our newspapers. Hopefully the Coody land deal will eventually get the coverage that it should be getting. We have seen the comments that all relate to development to the point of who is pushing the rezonings and who is making the deals and how come our city staff, and that is where the timing is coming from, respectfully asking you to wait, whoa, hold on. There is proof that our staff resources are being drained. You are going to be drained dry accommodating urban sprawl growth out west which is in our planned zone but that doesn't mean we have to have it all right now. Here in the paper for the whole picture of what is going on before you. The District Officials Seek to Discuss School Message. Fayetteville School District officials feel that they can efforts to replace the Jefferson Elementary School with a new central elementary school. According to District Administrators, several messages about school real estate decisions are being circulated by a few individuals who oppose plans to close Jefferson. Yes, I personally oppose plans to close Jefferson. That does not negate what I have to legitimately say. These are statements from our School Board.

Ostner: Ms. Davison, I'm sorry but this project is not related.

Davison: It is all related.

Ostner: If you could keep your comments, we are considering an annexation of the Tipton Sloan piece of property.

Davison: Ok. $125 million sewer project on schedule with the Mayor and a smiling picture. He can smile and shake hands. These connections are here. About what we are being asked to do, yes this is related to the pressure that is put on our infrastructure, our services, our people who are in town to protect folks that are here. Let's get on a little more topic here. Again, how our city is being run. Conklin said the affect these impact fees will have on the costs of homes will all depend on the developer. Even if the developer passes the costs along to the buyers they wouldn't be substantial enough to affect building affordable housing. The water and sewer impact fees already have been exempted for agencies such as Habitat For Humanity. There would be a possibility. Do you understand what I'm getting at? We haven't even addressed these issues because we are so far behind. The hillside taskforce, I sat here as Mr. Marr asked about that. He was told, sorry, we are too busy to deal with it now. These are people who have not only lived here for years. They are people on the corner of Olive and Spring who have generations going back in this town who are

being forced to accommodate someone because the old friendly Planning Commission did allow Greg House to push these things through. It got so bad...

Ostner: Ms. Davison, I'm sorry. You must stay on point.

Davison: It is on point because the main point is you are depriving the citizens that are in the core of your city. When you grant these rezonings you take from the people who have paid the way so these guys can pave the way to their dollars. They know the people who are being abused by neglect and sold out by the administrators. Our sewer isn't even going to be online until 2006. I remember an ad campaign that was put on our voters about improvement tax. Why? Pumping sewer. We have all forgotten, we are still pumping sewer across the mountain. He said it is on schedule but we are behind. This is related Sir. It is draining our resources. Once again, I've asked for my sidewalk to be fixed from one unscrupulous developer. I guess the city's plan is to wait until Greg House tears it all up and then we will put in a new one. That is going on at Spring. I have come in for over three years asking for that developer's destruction of city infrastructure. We couldn't even get that to happen. Annexation may be appropriate but when you annex we are willing to welcome you into our growth area and we trust extending a relationship. It is not unreasonable for us to say if you are wanting to wish, this is rezoning, this is the push, this is the gotta do it all at once, gotta do it now, no you don't. If the wish is to profit financially by development and subdivision, you need to wait your turn. That's all we are asking. Don't continue to overload our system. That's all we're asking. That is not unreasonable. There is strength amongst you to not to have to succumb to the rights of a developer. Topography, things such as these folks come in asking for favors. How much more clear can it get? When they are asking for a rezoning they are asking for a favor. You are going to give the favor at the cost and at the expense of other folks. One last little thing, our own council member is saying that we have problems. Residents who have already invested in city infrastructure aren't given less consideration than many residents as what we should have says Lioneld Jordan. Jordan says as residents move into newly constructed neighborhoods travel throughout the city increasing congestion. As long as the city only has 2.5 million to spend on roads per year the city will stay behind on growth. Where are we going to take that money from? When the hiring freeze stopped who were the first people hired? Six road crew members. Who is paying for that? We pay for it because we can't afford to buy our own library is how we are paying for it. The 2020 Plan does not mean tomorrow for a developer's right to develop. It means 2020. I don't think it is unreasonable to say we will annex this property but until our sewer is online in 2006 and we are not getting sued by Oklahoma and making sure that we can keep pumping it over the mountain I don't think that is

unreasonable. Here are my two questions that I don't expect to be answered by staff tonight, I have learned that. Why was the very important hillside taskforce delayed, put on a back burner, told that it was not important. I would like to know eventually an answer to that. Safety, I would like it published the rural accident report for the Wedington, Betty Jo area, which is where all of this is. Who is going to build a new exit off of I-540. There will have to be a new exit. There is no way no matter how they can do all of that traffic that 6th Street will accommodate what is going all the way out to Double Springs. Who is going to pay for the overpass for Persimmon once that goes? Let's not talk about that need. Those people can suffer that drive and worry about getting killed pulling out on Wedington because they've got to take a chance to get out there. That is also where the school district wants to put our kids. It is truly amazing. Attainable housing is not being pursued aggressively by the city. The city should provide some type of system. That's how progressive we are. Everything is not a conspiracy folks. I'm afraid a lot of you may not be near aware as the ones I know as a reality in my life. I'm not saying that's what is going on here. This is another level. TIF, Mountain Inn TIF, what is the whole south side of town TIF. It is a term similar to the military industrial complex in it's power of what is going on in our town right now. All we are asking is please, give us time to take a breath. That's all we are asking. Just give us a breath that are in here and you don't just jump through their hoops to give favors. At our expense to what degree? We are also accommodating other people who are swooping in for the profit and profit and dollars which some folks here seem to think if it is appropriate for one side it was for all. In closing, I do say what's going on here between the city, the school district, the developers, there is a lot going on. Here is the deal for you. Just ask them to slow down. If we at the city are not supporting urban sprawl, you've got to be kidding. Vote to annex if appropriate, vote no on all rezonings until Fall, 2006 when we might have a sewer on line. Thank you all.

Ostner: Thank you Ms. Davison. Are there other members of the public who would wish to comment on this item, the annexation for Tipton/Sloan? Seeing none, I will close it to the public and bring it back to the Commission for discussion. To start off, I believe our constituent did have a couple of direct questions. On the issue of the hillside taskforce, I can answer that. It was delayed because 2/3 of our membership left the Commission. We have not reappointed but we are going to reappoint tonight and get that taskforce started again. There are many things that the City Administration is doing. I'm not sure about the answer of the backburner, I wasn't at that conversation. On the taskforce we are going to carry on and do our due diligence as the Council has instructed us. The accident reports for the Wedington, Betty Jo area I'm also interested in. I was going to bring that up in some of these discussions. I believe the comment of course the Persimmon by duct or crossing I-540 is relevant to

the discussion of the increased traffic. I believe we will get to that directly. Commissioners?

Allen: Since this is the beginning of many annexations that we are getting ready to look at I will just pitch out this comment. Several months ago the Planning Commission and the City Council met jointly to discuss annexations and out of that meeting the Mayor appointed a committee of Planning Commissioners and City Council members to look at infrastructure problems, traffic and so on. I feel uncomfortable about proceeding with some of these annexations without a report from that committee. I know that yesterday when I went out to look at all of these annexations that traffic is certainly a consideration. I'm not saying that we shouldn't annex, I'm just saying that I would feel more comfortable hearing reports from that committee before we make these decisions.

Ostner: I would have to agree. I am very interested in what the task force is looking into. I haven't attended their meetings but from what I read in the paper they are gathering great information. Could our two or three members fill us in on what is going on?

Myers: We are still in the information gathering phase. We are meeting with representatives from the Police and the Fire and Water and Sewer to find out exactly what annexing means for the city as it is constituted now. I don't think we are very close to making a recommendation to Council. I would guess we would have to meet at least another four to five weeks before we are in a position to make a recommendation. If you feel strongly about not moving on any of these annexations until you have a report from that committee then you are talking August or September.

Warrick: With regard to the reason that these are back before you. The City Council has not instituted a moratorium. They were asked. They specifically decided that was not their desire at this point in time. Many of these items were tabled in late April. The applicant requested that they come off the table and be heard. There are some items that are also newer that are on this agenda as well. It is a matter of when people submit to the office, when they get through the county process, which is required if you are annexing into the city or making a request to annex into the city. It wasn't a situation that we even necessarily wanted to see six different annexation and rezoning pairs at the same meeting. It is a situation that the developers were ready to move forward and request that you take action on this. You are making a recommendation to the City Council and they will, of course, be required to confirm any recommendations or make their own decision with regard to final action with regard to annexations and rezonings. That is why these are here. We do not have direction from the City Council to hold up any applications that are coming through the review process.

Graves: I also serve on that taskforce and I agree with what Ms. Myers has said. I don't believe that there is going to be a report forth coming out of that taskforce as quickly as maybe the taskforce was charged with. That is not for lack of diligence on the part of the taskforce. It is just there is a lot of information that has been requested and as that information comes in it leads to requests for other information. That process may take a little longer than everybody would like. In the meantime, I believe I was the one that specifically asked the question at the joint meeting whether there was going to be a moratorium in the meantime. It seemed across the board that there wasn't a sentiment for anything like that including people on both sides of the issue on the City Council. This board, not being charged with policy making as such, it wouldn't be appropriate in my opinion for the Planning Commission to determine that there is some sort of de facto moratorium and that we are going to try to table all of these things. I also think that with respect to infrastructure concerns, although that is something you look at with annexation and all of these are accompanied by rezonings, I do know that with the taskforce one area that seems to be of a high priority with the members of the task force, again, on both sides of the issue, regardless of where they eventually fall with respect to annexing property in different areas around the city. One area that seems to be a priority to everyone is the area that we are looking at tonight around where the new treatment plant is going to be. I will be in favor of annexation of these properties. I know that Persimmon is certainly a high priority road as well and all of these border that particular road.

Ostner: Thank you Commissioner Graves.

Clark: In the 2020 Guidelines it says conduct a fiscal impact assessment on "large annexations". What is the definition of large?

Williams: I guess it is in the eye of the beholder. You would think if you put all of the annexations together that are facing you tonight that would certainly be a large annexation. I guess I would leave the interpretation of that to the Planning Department which actually drafted that particular policy. It wasn't part of the original plan that went through all of the hearings and everything else. This was added later by the Planning staff because they wanted to get some sort of annexation policy in effect. I would yield to Dawn Warrick, probably one of the authors of this.

Warrick: This is what Planning presented as a policy to the Planning Commission. It was recommended and forwarded to the Council for adoption. Large annexations, in looking back over the historical annexations for the City of Fayetteville, we have seen annexations from less than an acre to more than 1,300 acres. In fact, I believe we had an 11,000 acre annexation in the

1960's so they vary greatly. The annexation that the Council is considering with regard to annexing unincorporated islands that are currently surrounded by city limits is approximately 1,300 acres. I was not one who drafted that particular policy. However, my interpretation of that is that it would probably vary. In this particular case we saw several different applications that happened to come in and through various reasons, ended up on the same agenda. When we started looking at these annexations they were not all on the same agenda. They were in different rounds of review. Through items being tabled and different applications being submitted at different times we ended up with approximately 400 acres on tonight's agenda. When we look at that policy it is obviously subjective and some determinations have to be made as to what is large. We have not, since we adopted that policy back in 2002 seen this number of individual annexations come through at the same general time. We have seen this type of single annexation for properties of similar sizes at various times throughout the past several years. Again, it has just been at the same time. My expectation when we talk about doing a fiscal impact analysis on a large annexation I would expect that if the city were to initiate an annexation of several hundred acres or even thousands of acres of property, that we would need to prepare that for the Council.

Clark: Not individual pieces that are smaller? I'm struggling. I don't think it is fair to look at this and necessarily judge it as a whole but gosh it is going to have impact. Where do we draw the line? I just need clarification. Have we ever done a fiscal impact assessment?

Warrick: No.

Myers: That is one of the issues that the taskforce is struggling with right now.

Trumbo: Staff, if we don't annex this property can they still develop it to our Fayetteville city standards?

Warrick: This property is immediately adjoining the Fayetteville city limits and so the street standards would be to the Fayetteville street standards. They would not however, be required to provide detention, tree preservation or parkland. Of course, they would be very likely residential lots developed on septic systems because we do not extend sewer service beyond the city limits.

Trumbo: What about taxes? Would the City of Fayetteville receive the property taxes through the schools?

Warrick: Not property taxes. Sales taxes. The property tax to the schools is based more on the school district and not municipal boundaries. Any sales tax

generated would, of course, go to the breakouts for the various communities on sales tax.

Trumbo: I'm for annexation. The amounts don't bother me but I deal with lots of acres everyday and I see it happening all over Northwest Arkansas. I'm comfortable with it and I feel that if we don't this property is going to be developed without our input, without our regulations and zoning and we also miss out on tax dollars which pay for things that the city needs. It pays for the infrastructure as well. I'm not for a moratorium or holding off on this. I just want to be clear that not all of us feel that way.

Ostner: Thank you for those comments Mr. Trumbo. I would like to respond. I tend to disagree that these will be developed without us. Property in the county is simply not being developed at the rate that the City of Fayetteville is experiencing. Frankly, there is more profit to be made when you develop city lots. There is more incentive from the landowner to get into the city. He can offer more when he sales lots. I am not saying I'm against annexation. I wish in a perfect world, we could annex a lot of land, assuming everyone is happy with it, annex a lot of land and plan where and when, as Ms. Davison referred to, where and when we would like to develop areas. That is probably impossible but I believe it ought to be the goal that annexations and rezonings should be looked at in a completely different light. We are forced by our ordinance to look at them side by side. On every annexation request that we receive we also receive a rezoning request that a developer wants and needs to rezone that property to develop it once it is brought inside the city. It makes it difficult for Planning to go on because we wait until the market or the developer chooses to act on a certain area. I'm understanding Ms. Allen's reluctance to annex in the middle of the current state of things. In the newspaper this weekend there was an article that Northwest Arkansas is annexing at an incredible rate. The master plan was delivered to us tonight on our desk for review. TIFs are a big issue. I believe TIFs are important and there is a possibility of a drain of influence or attention. What are we tending to as a city? Are we tending to the borders, are we tending to our downtown, what are we looking at? I think we have a lot of things on our plate as a city per day. That is really the extent of my comment.

Clark: I have struggled with annexation and this one is no exception. However, I have a question for staff. I'm trying to figure out how all of these universes come together to a perfect world. If we annex and it now belongs to the city and then we go about zoning and rezone it as all of these petitioners have requested tonight. When they submit their Large Scale Developments if the sewer treatment plant is not on line, if the infrastructure is not ready to accommodate that growth that is the proper time as I understand it, to say no. Is that correct?

Warrick: You have the ability to say no at several different points.

Clark: Those are some key issues though?

Warrick: Absolutely. You will be addressing at the time of rezoning consideration the appropriate density. For Planning purposes, what is compatible, what is consistent with the General Plan, what is appropriate with regard to land use and density at that location. At the time of development, in this case we are looking very likely at a single family subdivision that will be submitting a Preliminary Plat if the property is annexed in the city. We will be looking at the infrastructure based on that development and the impacts caused by that development and what needs to be addressed and what is a roughly proportionate condition of approval with regard to impact of that development.

Clark: Theoretically speaking, not necessarily about any of these, if the infrastructure was not sufficient, if the waste water treatment plant was not on line, that would be a reason to not approve a proposed development?

Warrick: Yes.

**MOTION:**

Clark: That is what I thought I understood. For the record, general comments about annexation. Annexation does not scare me. Zoning scares me a lot. Annexation, we have growth boundaries right now that we have said we are going to grow out to. We are land locked. We go to those boundaries, other cities surround us and the county surrounds us. Having that boundary gives us an idea of how far we can grow and probably will grow. What we put on that annexed land however, is totally dependent upon the infrastructure. Zoning is critical. That is where I'm more concerned with the issue. When we have new developments we serve impact fees upon them. Those impact fees then help support the inner city that I do not think needs to be abandoned and must be cultivated and encouraged to re-grow or grow differently. Developers have to put a lot of money into developing infrastructure like streets, etc. in whatever they are proposing so that doesn't come out of tax payers pockets, it comes out of developer's packets. They are paying impact fees that can go and help the rest of the city. To me, annexation, if we don't do it now, we are going to face what could possibly happen if it is developed on it's own with county standards and then if we annex that property we have to pay to redo all of that. Septic tanks scare the heck out of me in terms of environmental impact. If it is annexed we control it. I am going to support ANX 04-04.00 and move for approval.

Shackelford: I will second.

Ostner: Is there further discussion?

Anthes: I understand that we have to look at all of these individually that we are looking at tonight and what we have to work with are our guiding policies that are in the General Plan 2020. I have some questions about some of the items on there with respect to this piece of property. It is the furthest reaching of the ones that we are looking at tonight in terms of distance from our city center. I have a hard time looking at our land use map which doesn't appear to tie directly to the population growth projections that the city will likely double in population within the next 15 years. Nor does it to my satisfaction identify neighborhood commercial centers to serve that increased population. Therefore, I feel like we have a General Plan that is not truly planned in terms of physical infrastructure and therefore, I don't know what is strategic or not in terms of annexations as tied to the long range plan. However, we do have some guiding policies. I have a few questions. On page 5.6 of our report the third finding says Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available. One of our things that we should look at is that public services must be able to be provided efficiently in newly annexed areas. Has staff received those reports from those divisions and does staff believe that the city can efficiently provide those services in this area?

Warrick: Those reports are on page 5.8, 5.9 and 5.10 of your packet. All of those divisions questioned did respond affirmatively that services could be provided to this area.

Anthes: Those services would be received in the same level of service as areas already within the city limits?

Warrick: That is what is indicated in these responses.

Anthes: I'm sorry for the redundancy. I just wanted to make sure that we talk through these things for the citizens that are here. We look at this particular piece of property is different from others in that we have a specific finding about annexing environmentally sensitive areas and this particular property found that was not applicable and that there was not an environmentally sensitive area.

Warrick: This is basically an old farm field. It is near Owl Creek but not on Owl Creek. We did not find that there were hillsides of any type on this particular property so we found that that finding was not applicable to this site.

Anthes: There is no floodplain or floodway on this site?

Warrick: No, not on this site.

Anthes: When I look at this and think about large annexations, 30 acres in the scope of what we have been looking at recently is not necessarily one of the largest annexations. However, I would like clarification of that in the future. I would ask the City Council to strongly endorse planning that helps us identify growth neighborhood centers and takes a good look at how our zoning responds to those things in light of the population growth projections that we are seeing in the news.

Warrick: Our General Plan is a general plan, it is a guiding policy. We are directed by that plan to update it every five years and we are gearing up for a 2005 update of that plan. I think that a lot of your comments are very pertinent to the type of information that this Planning Commission and the Council as well as staff desire to see as amendments implemented into that plan. I'm interested in pursuing some of that as w move into that update.

Ostner: In the General Plan under Plans and Policies, 9.8.i Establish performance zoning design standards to mitigate adverse impacts of contrasting land uses with residential land uses. This has not been adopted as an ordinance as of yet but it is quite a tool that we can really use in the future. Developing and implementing a tree performance type zoning system citywide would require a consultant and extensive additional studies and amendments to the zoning/development code. I'm agreeing with Ms. Anthes and I appreciate Ms. Warrick's comments.

Warrick: With regard to the performance zoning one thing that we have done and it is noted in the policy, about the ordinance regarding limited neighborhood commercial uses in a residential district. That ordinance was repealed when the City Council adopted Planned Zoning Districts, which is in part, our response to that policy directive. Planned Zoning Districts are performance zoning. That is a part of what we collectively have done to address that particular directive.

Anthes: I cannot find a specific compelling finding of fact on this particular piece of property as I do on some of the others that we might hear later this evening. The urgency for me on this particular parcel is not there. It is not tied into specific developments that we are seeing currently closer to our city center nor is it an environmentally sensitive area. Therefore, I will not support this annexation.

Graves: I will support the motion that is on the table. Addressing some of the factors that are present for this particular annexation under our General

Plan. I would first like to note that they are guiding policies. I'm not certain that with a guiding policy that every element has to be present every time. We would of course like to have a fiscal impact analysis on every one of these but I'm not sure it is economically feasible for the city to do an economic feasibility study on every 30 acre parcel that might come in. I think that the method that is utilized when applying for these is on a per development basis or per tract basis, you are likely not going to see a fiscal impact study regardless of how the plan is amended sometime next year and regardless of what everyone would like to see. That is probably more amenable to a situation where maybe an ordinance is passed and a large contingent of the population is voting on a larger annexation. A number of factors are present here under our guiding policies. Those include the presence of a planned residential use of this property under the General Plan. The fact that there are urbanized zones nearby on Persimmon Street on the northern edge although it is not developed immediately to the north. We did just approve a particular tract on the northern edge at the Genevieve and Tackett area. That area is developing and as you go further east there is a large number of urbanized areas there that are nearby. This is becoming an urbanized area. We also have, although not everyone here is privy to the information, because they haven't been at the task force meetings. This is an area that is already served by water and sewer service very nearby, although it is not extended onto these tracts. It is pretty immediately available without expenditure by the city. These are also areas that our fire and police are already servicing because on the northern edge it is already in the city. They are already having to patrol and serve those particular areas. As far as looking at city services right there without increasing the expenditures that the city would have to make to provide service to those areas. Also, this plan I would note hasn't been amended since the impact fees were implemented. Although, the impact fees do not fully address financial or fiscal impact or we don't know whether they do because we don't have fiscal impact studies. It certainly ameliorates it somewhat. I'm in support of annexing this property.

Ostner: Thank you Mr. Graves.

Shackelford: One final comment. We have talked about a lot of issues regarding rezoning and annexation tonight. Obviously, there are a lot of different opinions in the general public, on this board and on City Council. I think that is why this annexation subcommittee was formed. I too serve on that subcommittee. I don't think that any of us here are in a position to speak for that committee. It is way too early in the process to go that way. I look at these as just basic annexations. We are challenged and bound and directed by the ordinances as they exist today for reviewing these. We serve at the discretion and at the will for the City Council. The City Council very specifically discussed whether or not they wanted a

moratorium on these annexations and rezonings. That decision I don't think was supported by either side. I think that their request of us is that they go ahead and view these on a case by case basis. It takes City Council authorization to change those ordinances and until there are changes that come forth from either City Council by recommendation of this subcommittee or otherwise, we have to approach these as we did prior to this. While there is a lot of information that is being gathered, I think we have to operate under the same circumstances that we have in the past, which is on a case by case basis. I think staff has done a good job with their findings of fact on this. I think that this annexation is in line with what was approved in the past and what the City Council has basically, by not directing a moratorium, expressed an interest in going forward. We have to remember that we are the first step in this process. These are recommendations to the City Council and again, they are going to have final say on this. They are the ones that have encouraged us to keep these moving forward. I would encourage on this and other upcoming items tonight that we would consider due process and keep these things moving forward.

Ostner: I just have one other comment. We have talked a lot about ideas and philosophical conversations about annexation with our city. The big difference to me is annexations and these rezonings are about how much and when. I think we as a panel would agree that our city is growing. I don't think any of us want to stop it but how much do we grow and when? Do we grow now? Does this property get developed now or should it wait? There is a lot of undeveloped land between this property and our city center. There is a lot of undeveloped land between this property and I-540. For me it is more of a logistical issue of how much and when. It is at the furthest reach of the annexations that we are looking at tonight. There are many other projects with much greater acreage that are a lot closer. In my mind when city services and residents have to drive by vacant areas to get to where they are going, that is sprawl. Sprawl is bad. Sprawl is expensive. It increases drive times, it taxes the city. I'm in favor of annexation and I will probably vote for this tonight. However, on the rezoning and land use I'm not certain I will vote for it.

Allen: I wish I had a note from home to not have to vote on any of the annexations because I very much would like to have the report from this committee before we make the vote. However, I agree with Commissioner Clark about it not being the annexation, it is the zoning that is the primary concern. I will vote in favor of this annexation.

Ostner: Thank you Commissioner Allen. Is there further discussion? Can you call the roll please?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of ANX 04-04.00 was approved by a vote of 8-1-0 with Commissioner Anthes voting no.

Thomas: The motion carries by a vote of eight to one.

Ostner: Our next item is RZN 04-10.00 for Tipton/Sloan. We have heard the staff report.

Myers: Since this parcel is actually being developed as an extension of an already existing subdivision or development I don't have trouble at this particular time with this particular parcel in terms of rezoning it to RSF-4. I plan to vote for this rezoning.

Ostner: On that same note I appreciate the drawing which is not usually offered at this point. I'm pleased that there are no back fences facing street right of ways. Backs of houses should touch backs of houses. That is important. Is there anyone from the public who would like to speak on this issue?

McGuire-Bowman: I'm Dr. Kathy McGuire Bowman. I'm here tonight because I feel like this whole meeting is historic however it comes out. This whole time period that we are going through and the effort that you are making to struggle with this question of the growth of Fayetteville is really important. If it is true that you are actually considering prying apart the automatic annexation and rezoning that would be very exciting in itself. If that is what is happening I'm excited and encouraged.

Ostner: Is there anyone else from the public who would like to speak to this item? I will close it to the public and bring it back to the Commission.

Vaught: To address that comment. I think that we are required by city code to address land use when an annexation comes in. Annexations come in automatically R-A so we typically want to zone to something else because most areas that we annex aren't going to be agricultural. That is why we always look at them at the same time. I think it is important to look at land use when annexations come in but not necessarily accepting what the developers want. I think that is the issue. I am for this. I think the Bill of Assurance stated 2.9 units per acre. That is definitely not the most dense it could be. This area of town is going in that direction. This is an area that is soon going to have more and more development going on with the location of proposals out in this area and also with the Boys and Girls Club. I think it is an important area of Fayetteville. To me it is also important to have these developments in this area that extend these roadways and make improvements to roads. We discussed tonight another one that borders 54$^{th}$ and that could be very pertinent. It is a tool that we have used to fund our growth in this town. It goes both ways. We are at a

historic time in Fayetteville where we are growing on our edges and we are growing in the middle. As you read the papers as many of you have, you see the downtown master plan and the development that we already have. It is a challenge and drain on staff. I really appreciate their work in trying to keep up with this. I will be in support of this, especially with the Bill of Assurance limiting it to 2.9 units per acre.

**MOTION:**

Shackelford: I concur with what Commissioner Vaught said. I think that this rezoning to RSF-4 is a lot more in line with what is happening out there than the R-A zoning would be. I think that density wise it fits in with the development. Obviously, this is basically an expansion of an existing development in that area. I am going to go ahead and make a motion that we recommend approval of RZN 04-10.00 to the City Council.

Graves: Second.

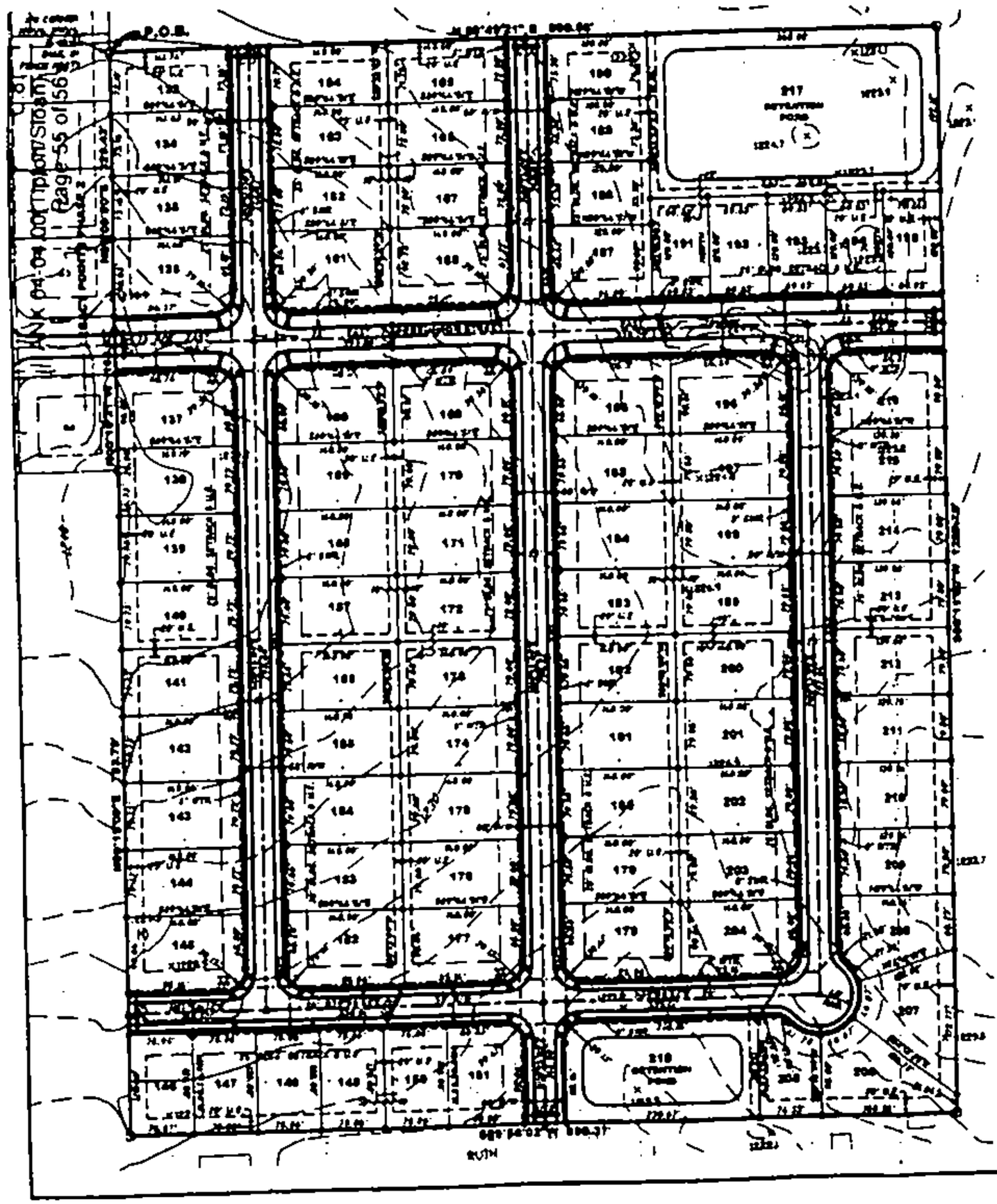
Anthes: Contrary to what we see, R-A or RSF-4 zoning are not the only two instruments of zoning available to us. I'm having a hard time understanding whether this should be this density, less dense or more dense without knowledge of our long range plans for our commercial centers and time that to population growth and our directives about sprawl or smart growth. Without those policies in place it is very hard to tell whether we are building to the correct density at this distance from our city center or not. I understand that this is an optimal density for developers developing single family residential units. They get a lot width and street frontage that works pretty well and I can appreciate that. I really want to see us look more carefully at specific locations and understand them in terms of bringing services to those areas and not just blanketing the perimeter of our city with a blanket of RSF-4 without mixed use being brought into that equation. Thank you._

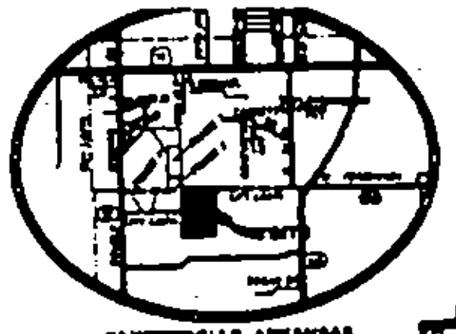
Clark: I would like to echo Commissioner Anthes' sentiments. I voted for annexation but I am not going to vote for rezoning. You might as well say blanket comments here as well. Until I know some of the answers to the infrastructure questions, to the financial impact questions I don't have enough knowledge to say if RSF-4 is proper density out here. If you follow the reason that it is connecting to another subdivision well then we might as well rezone everything else because it is a chain step right on down to the city. I am not going to do that. I encourage the taskforce and am in support of the taskforce. I know you all are working very hard and you are going to consider a lot of information. When I see some of that information maybe I will feel comfortable making these votes for rezoning. Annex it, great. It belongs to us and then we can zone it. When you zone it you have to answer some very substantive questions and I

don't have enough information to do that. I will be voting against the rezoning.

Ostner: Thank you Commissioner Clark. Is there further discussion? Will you call the roll please?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of RZN 04-10.00 was approved by a vote of 5-4-0 with Commissioners Anthes, Allen, Ostner and Clark voting no.



FAYETTEVILLE, ARKANSAS

N
W E
S

**DEVELOPER:**

SLOAN PROPERTIES, INC.
3650 KINGSBRIDGE PLACE
FAYETTEVILLE, AR 72703
(479) 444-8686

**ENGINEER:**

JORGENSEN & ASSOCIATES
CONSULTING ENGINEERS, INC.
124 WEST SUNBRIDGE SUITE B
FAYETTEVILLE, AR 72703
(479) 443-5127

**LEGEND**

- BOUNDARY CORNER
- SET IRON PIN
- STREET LIGHT
- FIRE HYDRANT
- SEWER MANHOLE
- EX. SEWER MANHOLE

UTILITY EASEMENT
FRONT BUILDING SETBACK
STREET CENTERLINE
8" WATERLINE
8" SEWER LINE
STORM DRAINAGE
NEW SIDEWALK

| STREET | RIGHT-OF-WAY | STREET WIDTH | SIDEWALK | SIDEWALK |
|---|---|---|---|---|
| Yorkstone Street | 70' | 51' | 6' | 6' |
| Grays Bay Road | 64' | 39' | 6' | 6' |
| Grouse Chapel Road | 64' | 39' | 6' | 6' |
| Rocky Crossing | 64' | 39' | 6' | 6' |

| BUILDING SETBACK TABLE | | | |
|---|---|---|---|
| ZONE | FRONT | SIDE | REAR |
| RSF-4 | 25' | 20' | 5' |

**LEGAL DESCRIPTION:**

PART OF THE NW1/4 OF THE NW1/4 OF SECTION 16, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF SAID NW1/4, NW1/4; THENCE N89°49'E 990.66 FEET; THENCE S00°08'00"W 1299.76 FEET; THENCE S89°58'52"W 990.37 FEET; THENCE N00°15'09"E 793.79 FEET; THENCE N89°51'E 165.63 FEET; THENCE N00°09'E 328.42 FEET TO THE P.O.B.; CONTAINING 29.29 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

**FLOOD PLAIN NOTE:**

THIS PROPERTY IS NOT AFFECTED BY THE 100 YEAR FLOOD PLAIN AS PER FIRM PANEL NUMBER 0040 D DATED 03-01-99.

TOTAL LOTS = 66

ZONING = RSF-4

TIPTON/SLOAN

Tipton/Sloan

PLAT PAGE 6479

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

LEGACY POINTE PHASE 4

PRELIMINARY PLAT

City Council Meeting of July 20, 2004
Agenda Item Number

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

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

**Date:** July 2, 2004

**Subject**: Rezoning request for Tipton/Sloan (RZN 04-10.00)

## RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 29.31 acres of property from R-A, Residential Agricultural to RSF-4, Residential Single Family – 4 units per acre.

## BACKGROUND

The subject property is 29.31 acres located south of Wedington Drive and east of Double Springs Road and abuts Legacy Pointe Subdivision Phase 2 along the east of the subject tract. Surrounding properties are zoned RSF-4 and R-A. The Future Land Use Plan identifies this property as Residential. The subject property is currently vacant. Property to the east is developed as residential.

The applicant proposes to rezone the 29.31 acre tract in anticipation of development of the property as an extension of the adjacent residential subdivision. The applicant proposes to zone the property of RSF-4 and has submitted a Bill of Assurance for City Council consideration which will limit density to 2.9 units per acre.

## DISCUSSION

This item, as well as the accompanying annexation request, was tabled by the Planning Commission at the request of the applicant on April 26, 2004. On June 28, 2004, the Planning Commission voted 5-4-0 to forward this rezoning request to the City Council with a recommendation for approval. Commissioners Anthes, Allen, Clark, and Oster voted no.

## BUDGET IMPACT

None.

**ORDINANCE NO. _____**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-10.00 AS SUBMITTED BY RAYMOND SMITH FOR PROPERTY LOCATED SOUTH OF WEDINGTON DRIVE AND EAST OF DOUBLE SPRINGS ROAD ABUTTING THE LEGACY POINTE SUBDIVISION CONTAINING APPROXIMATELY 29.31 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

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

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

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

**PASSED AND APPROVED this _____ day of _____, 2004.**

**APPROVED:**

**By:** _____
**DAN COODY, Mayor**

**ATTEST:**

**By:** _____
**Sondra Smith, City Clerk**

EXHIBIT "A"

**EXHIBIT "A"**

**RZN 04-10.00**

A PART OF THE NW ¼ OF THE NW ¼ OF SECTION 14, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING IRON PIPE; THENCE S87°39'18"E, ALONG THE NORTH LINE OF SAID 40 ACRE TRACT, 989.80 FEET TO A SET ½" REBAR; THENCE S02°37'05"W, 1289.84 FEET TO AN EXISTING REBAR; THENCE N87°38'05"W 990.30 FEET TO A SET ½ IRON REBAR ON THE WEST LINE OF SAID 40 ACRE TRACT, SAID POINT BEING N02°38'05"E, 34.24 FEET NORTH OF THE SW CORNER OF SAID 40 ACRE TRACT; THENCE N02°38'25"E, 1289.40 FEET TO THE POINT OF BEGINNING, CONTAINING 29.31 ACRES, MORE OR LESS.

DRAFT

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-10.00: (Tipton/Sloan, pp 475) was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, adjoining the southeast corner of the Legacy Pointe subdivision containing approximately 29.31 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

STAFF RECOMMENDATION: Approval.

Dawn I. Warrick — Division Head — 7/6/04 Date

Received in Mayor's Office — 7.7.04 Date

~~City Attorney~~ — 7/7/04 Date

Department Director — Date

Finance & Internal Services Dir. — Date

Hugh Earnest — Chief Administrative Officer — 7-7-04 Date

Dan Coody — Mayor — 7/7/04 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 7/6/04

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

## PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: June 23, 2004

**RZN 04-10.00: Rezoning (Tipton/Sloan, pp 475)** was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, Adjoining the SE corner of the Legacy Pointe subdivision. The property is currently zoned R-A, Residential Agricultural, and contains approximately 29.31 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

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

| | | |
|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** | **YES** |
| | **O Approved** | **O Denied** |
| **Date: June 28, 2004** | | |
| **CITY COUNCIL ACTION:** | **Required** | **YES** |
| | **O Approved** | **O Denied** |
| **Date: July 20, 2004 (1st reading if recommended)** | | |

**BACKGROUND: Please reference the associated ANX 04-04.00 staff report for additional background information.**

This item was tabled by the Planning Commission at the request of the applicant at the regular Planning Commission meeting on April 26, 2004. Public comments were heard at this meeting regarding this rezoning and accompanying annexation request. Please reference ANX 04-04.00 Tipton/Sloan for the minutes of this meeting.

*Property description:* The subject property contains approximately 29.31 acres of vacant property located south of Wedington Drive and east of Double Springs Rd. Persimmon Street, identified a collector on the Master Street Plan, is planned to bisect the northern portion of this property and connect with the existing western extension of Persimmon Street through Legacy Pointe Subdivision Phase 2. The property is adjacent to city limits to the north and a portion of its western boundary.

*Proposal:* The applicant's intent is to develop a single family residential subdivision.

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

*Related Issues:* When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 29.31 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 04-04.00, is an accompanying item to this rezoning request.

*Recommendation:* Staff recommends approval of the rezoning request based on the findings included in the staff report. Future development on this site will be regulated by the City to ensure adequate services, infrastructure, connectivity and consistent development within the surrounding area.

**SURROUNDING LAND USE AND ZONING**

| Direction | Land Use | Zoning |
|---|---|---|
| North | Vacant | R-A, Residential Agricultural |
| South | Single-family/Agricultural | Planning Area |
| East | Vacant/Agricultural | Planning Area |
| West | Single-family (Legacy Pointe) | RSF-4, Residential Single Family, 4 units/acre |

**INFRASTRUCTURE:**

**Streets:** The property has frontage along the unconstructed portion of Persimmon. This roadway will need to be constructed as a part of any development on this site.

Surrounding Master Street Plan Streets:
North: Persimmon St. (planned collector) and Wedington Dr. (principal arterial)
South: Dot Tipton Rd. (collector)
East: 54th Avenue (planned principal arterial)
West: Double Springs Rd. (minor arterial)

**Water:** This property has access to an 8" water main stubbed out from Legacy Pointe Subdivision on the west side of the site. Water mains will need to be extended within the development.

**Sewer:** The site currently has access to an 8" sewer main stubbed out from Legacy Pointe Subdivision on the west side of the site. Sewer will need to be extended within the development. This property's sewer will flow to the Owl Creek Lift Station.

**Fire:** The subject property is located 2.9 miles from the future Fire Station #7. Normal driving time is 4 min. 39 seconds.

**Police:** It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services.

**LAND USE PLAN:** General Plan 2020 designates the site as Residential. Rezoning this property to RSF-4 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 zoning for a single family residential subdivision is consistent with the future land use map and existing zoning to the west of the subject property. Adjacent property to the west (Legacy Pointe Subdivision Phases 1-3) is zoned RSF-4 and developed at 2.6 units per acre. Property to the north is vacant and within the R-A zoning district.**

**Rezoning the property to RSF-4 will increase the density, allowing for more intense residential use of the property and allow for development compatible to surrounding residential subdivisions. Access and provision of adequate services must be considered as this site is at the outskirts of the city and located on streets which need improvement.**

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

**Finding:** **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A higher density than the R-A zoning district allows for development of a subdivision with density appropriate in this area, and would provide compatibility with the adjoining and surrounding RSF-4 developments. In order to develop a residential subdivision on this property in a manner that is consistent with the future land use plan, a residential zoning district is needed.**

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

**Finding:** **The police department has determined the proposed density will not substantially alter the population density to create an undesirable affect on services. Access shall be evaluated at the time of development.**

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

**Finding:** **The proposed zoning would increase population density. The 29.31 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 14 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 117 dwelling units would be permitted. This increases the possible number of residential units substantially, but is consistent with land use and zoning within the City of Fayetteville and developing areas to the west and east.**

*Engineering* - **This property has access to an 8" water main stubbed out from Legacy Pointe Subdivision on the west side of the site. Water mains will need to be extended within the development.**

**The site currently has access to an 8" sewer main stubbed out from Legacy Pointe Subdivision on the west side of the site. Sewer will need to be extended within the development. This property's sewer will flow to the Owl Creek Lift Station.**

**The property has frontage along the unconstructed portion of Persimmon. This roadway will need to be constructed as a part of any development on this site.**

*Fire* - **The subject property is located 2.9 miles from the future Fire Station #7. Normal driving time is 4 min. 39 seconds.**

*Police* - **It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services.**

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**

## 161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

| | |
|---|---|
| Unit 1 | City-wide uses by right |
| Unit 3 | Public protection and utility facilities |
| Unit 6 | Agriculture |
| Unit 7 | Animal husbandry |
| Unit 8 | Single-family dwellings |
| Unit 9 | Two-family dwellings |
| Unit 37 | Manufactured homes |

(2) *Conditional uses.*

| | |
|---|---|
| Unit 2 | City-wide uses by conditional use permit |
| Unit 4 | Cultural and recreational facilities |
| Unit 20 | Commercial recreation, large sites |
| Unit 24 | Home occupations |
| Unit 36 | Wireless communications facilities |

(C) *Density.*

| | |
|---|---|
| Units per acre | One-half |

*(D) Bulk and area regulations.*

| | |
|---|---|
| Lot width minimum | 200 ft. |
| Lot Area Minimum:<br>Residential:<br>Nonresidential: | <br>2 acres<br>2 acres |
| Lot area per dwelling unit | 2 acres |

(E) *Setback requirements.*

| Front | Side | Rear |
|---|---|---|
| 35 ft. | 20 ft. | 35 ft. |

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

(G) *Building area.* None.

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

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

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

(D) *Bulk and area regulations.*

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

(E) *Setback requirements.*

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

(F) *Height.* None.

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

## CURRENT OWNERSHIP INFORMATION AND ANY PROPOSED OR PENDING PROPERTY SALES

Assessor's Parcel Number 001-11791-000, p/o NW¼ NW¼ Section Fourteen (14) & p/o SW¼ NE¼, Section Fifteen (15), T16N, R31W 30.00 acres, more or less. There are no proposed or pending property sales for this property.

## REASON FOR REQUESTED ZONING CHANGE

Parcel Number 001-11791-000 is currently zoned A-1 and will be annexed into the City of Fayetteville and zoned as R-A, It is proposed to re-zone the parcel to RSF-4 for development into a single family residential subdivision.

## LAND DEVELOPMENT

The development of this property is consistent with the land use of the residential areas surrounding the proposed development with slight increase in vehicle traffic.

## WATER/SEWER ACCESS

Access to an 8" water line and an 8" sewer line is available from nearby Persimmon Street of Legacy Pointe Subdivision, Phase II..

## DEGREE TO WHICH THE PROPOSED ZONING IS CONSISTENT WITH LAND USE PLANNING OBJECTIVES, PRINCIPLES AND LAND USE AND ZONING PLANS

The proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

## WHETHER THE PROPOSED ZONING IS JUSTIFIED AND/OR NEEDED AT THE TIME THE REZONING IS PROPOSED

The proposed rezoning is justified at this time in that it is in keeping with the policies and adopted plans of the City of Fayetteville. Zoning this property as RSF-4 is consistent with surrounding subdivision.

## WHETHER THE PROPOSED ZONING WOULD CREATE OR APPRECIABLY INCREASE TRAFFIC DANGER AND CONGESTION

The proposed zoning will not create or appreciably increase traffic danger and congestion.

## WHETHER THE PROPOSED ZONING WOULD ALTER THE POPULATION DENSITY AND THEREBY UNDESIRABLY INCREASE THE LOAD ON PUBLIC SERVICES INCLUDING SCHOOLS, WATER, AND SEWER FACILITIES

This increase is not expected to undesirably increase the load on public services including schools, water and sewer facilities. Improvements planned to the Fayetteville overall wastewater treatment system and the coming on line of the new wastewater treatment facility on the western side of Fayetteville should adequately provide services to the sub-division.

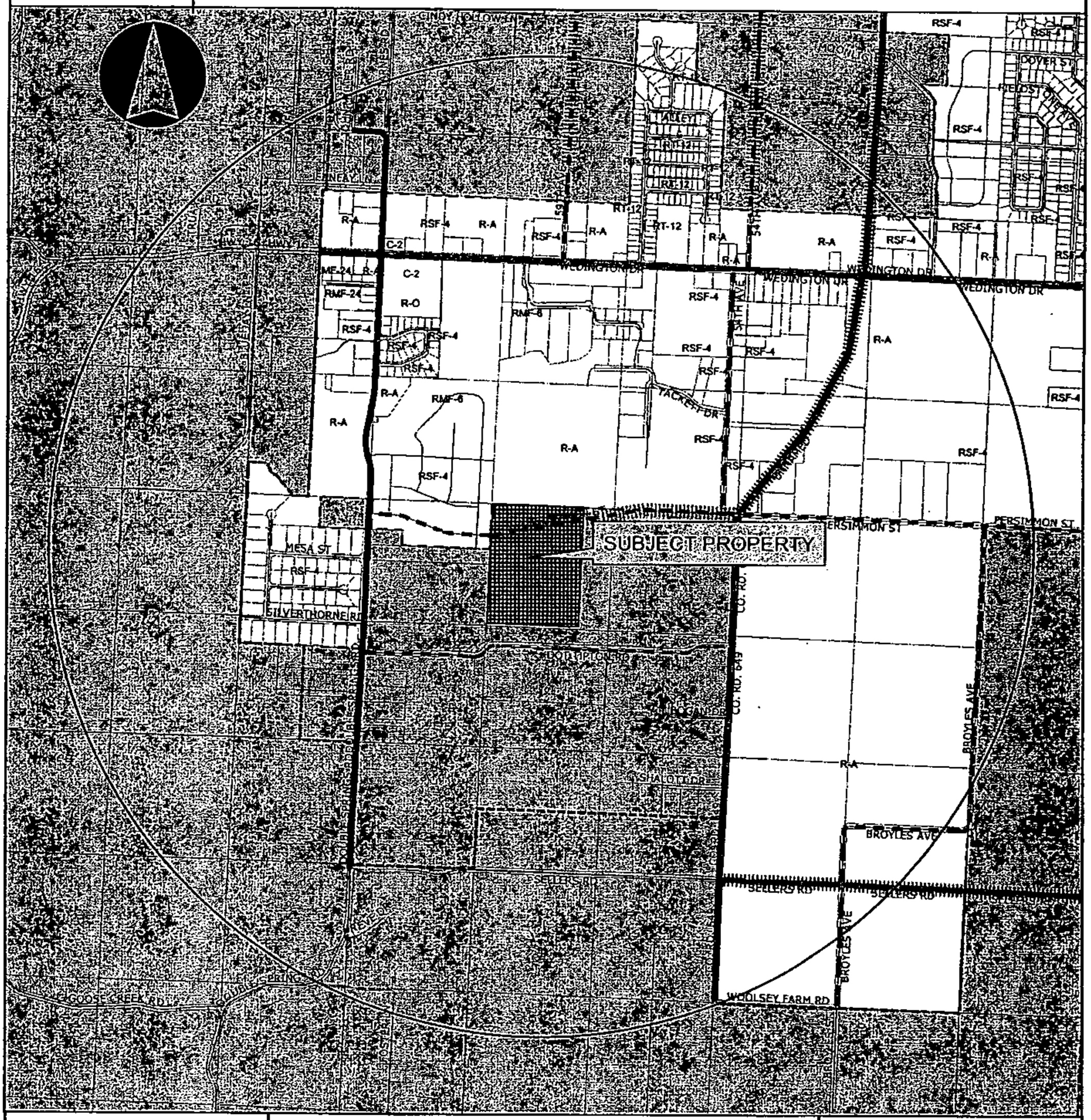
## WOULD IT BE IMPRACTICAL TO USE THE LAND FOR ANY OF THE USES PERMITTED UNDER ITS EXISTING ZONING CLASSIFICATION

This property is presently in the county but within the Fayetteville Growth Area. It would be impractical to maintain the A-1 or R-A zoning since it would be inconsistent with the surrounding areas already zoned as residential subdivisions,

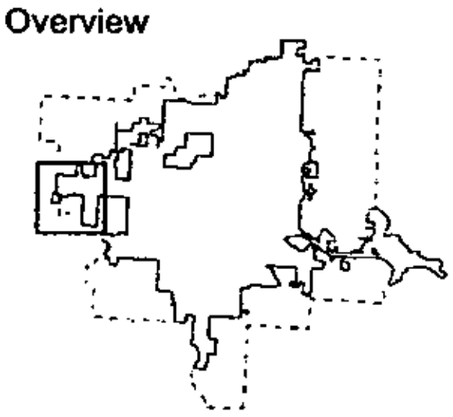
RZN04-10.00

One Mile View

# TIPTON/SLOAN




Overview



Legend

Subject Property
- RZN04-10.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

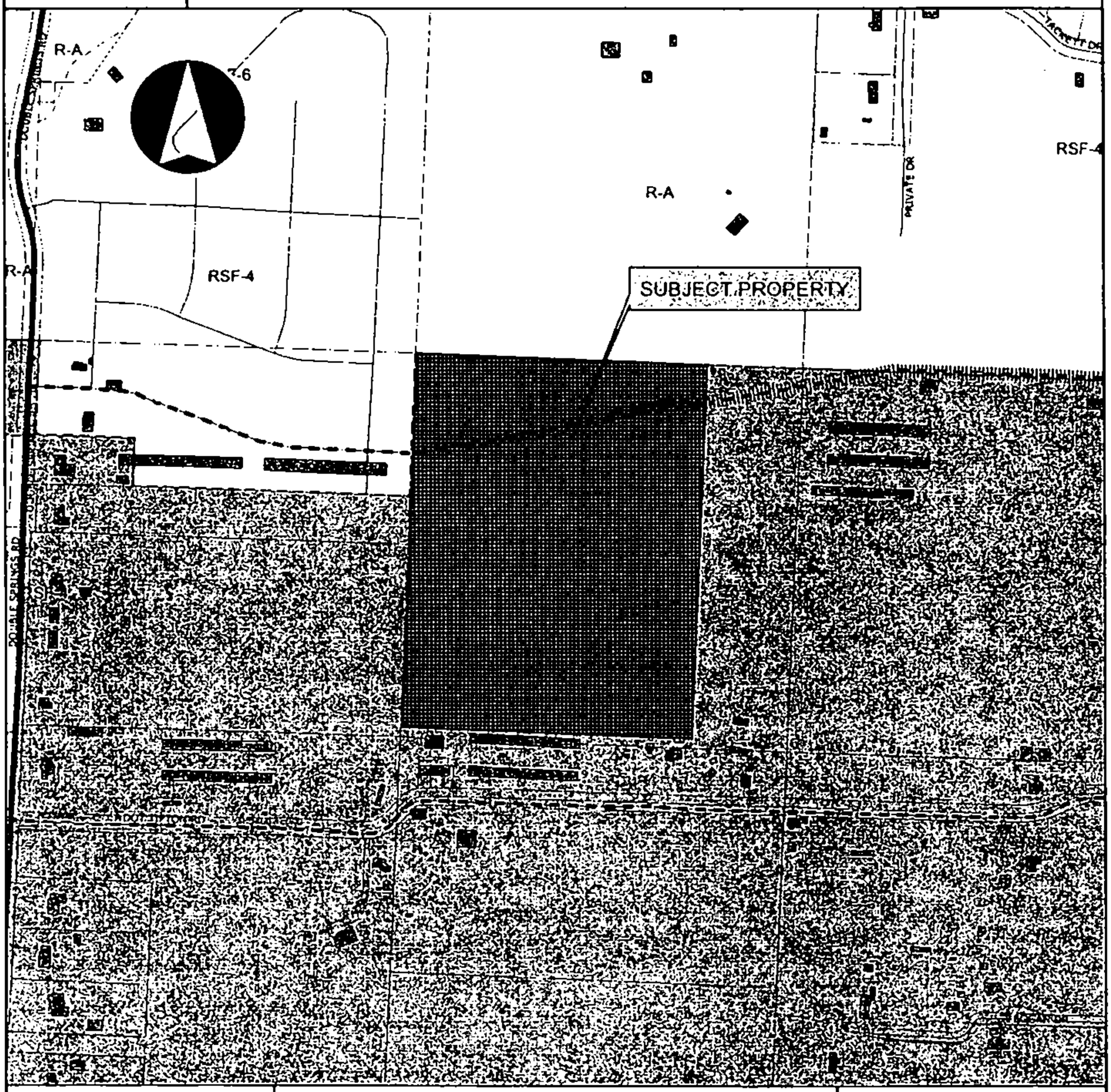
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN04-10.00

# TIPTON/SLOAN

***Close Up View***




***Overview***

Legend

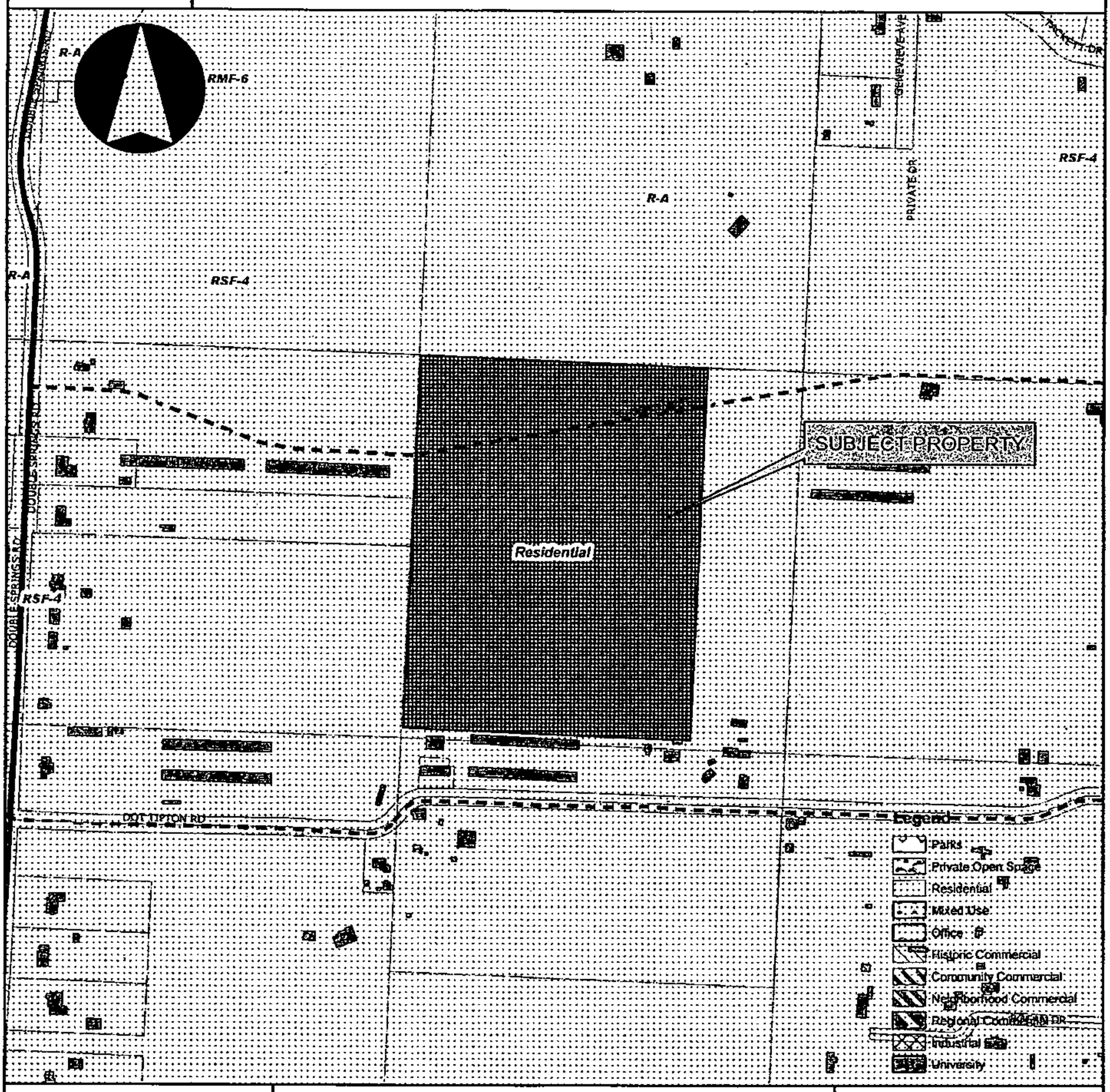
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- RZN04-10.00

0 150 300 600 900 1,200
Feet

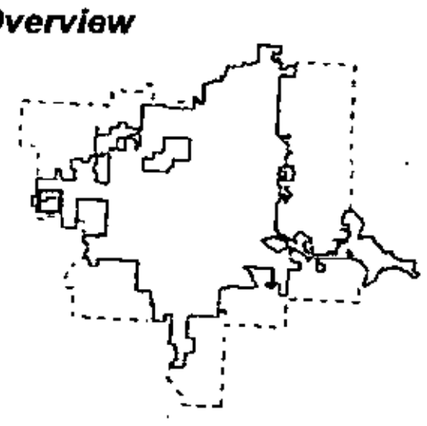
RZN04-10.00

*Future Land Use*

# TIPTON/SLOAN




*Overview*



*Legend*

**Subject Property**

RZN04-10.00

**Streets**

Existing

Planned

**Boundary**

Planning Area

Overlay District

City Limits

Outside City

**Master Street Plan**

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 175 350 700 1,050 1,400

Feet

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

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

**Date:** April 30, 2004

**Subject**: Annexation for Leigh Taylor Properties (ANX 04-06.00)

## RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Leigh Taylor Properties. This action will incorporate a 29.86 acre tract of land contiguous with the city limits to the south into the City of Fayetteville. The request is to annex the subject property into the City of Fayetteville.

## BACKGROUND

The subject property is 29.86 acres and located in north Fayetteville, north and east of Highway 112. The subject property is a part of a larger 40 acre tract under common ownership. The southern 10 acres is already within the City of Fayetteville and zoned R-A, Residential Agricultural. The property is adjacent to Forest Hills Estates within the Planning Area to the north. To the east is a portion of one intervening property from the Planning Area boundary. This tract of land is within an area proposed to be annexed by the City of Johnson and will be voted on by the citizens of Johnson and affected property owners on May 11, 2004. Staff believes the applicant submitted a petition for annexation to the County prior to the Johnson's call for election. The applicant submitted an accompanying rezoning request for the entire 40 acre tract. That request was tabled by the Planning Commission to allow for further consideration and discussion regarding public concerns of traffic volume and safety, density, and possible development plans.

*Proposal:* The applicant requests annexation into the City of Fayetteville.

## DISCUSSION

On April 26, 2004, the Planning Commission voted 6-0-0 to forward this item to the City Council with a recommendation for approval. The accompanying rezoning request was tabled.

## BUDGET IMPACT

None.

Tabled Indefinitely
6/1/04 City Council Meeting

ENTERED
4-30-04
TLM

7/6/04 Revd in Planning Said to re-Submit.

Left on 1st reading 5/18/04

**ORDINANCE NO.**

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY OWNED BY LEIGH TAYLOR PROPERTIES, LLC FOR PROPERTY LOCATED AT 2470 HWY. 112 CONTAINING APPROXIMATELY 29.86 ACRES.

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

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

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

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

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

**PASSED AND APPROVED** this _____ day of _____, 2004.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

**EXHIBIT "A"**
**ANX 04-06.00**

THE SW ¼ OF THE NW ¼ OF SECTION 28, TOWNSHIP 17 NORTH, RANGE 30 WEST, DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT OF BEGINNING BEING A SET COTTON SPINDLE; THENCE NORTH 00°09'01" WEST 1312.76 FEET TO A SET COTTON SPINDLE: THENCE ALONG THE SOUTH LINE OF FOREST HILLS SUBDIVISION, NORTH 89°59'52" EAST 1320.33 FEET TO A FOUND PINCHED IRON PIPE; THENCE SOUTH 00°15'33" EAST 1287.92 FEET TO A SET IRON PIN; THENCE CONTINUING SOUTH 00°15'33" EAST 26.60 FEET TO THE SOUTHEAST CORNER OF SAID SW ¼ OF THE NW ¼; THENCE NORTH 89°55'34" WEST 1322.84 FEET TO THE POINT OF BEGINNING, CONTAINING 39.855 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. SAID TRACT SUBJECT TO THE RIGHT OF WAY OF ARKANSAS STATE HIGHWAY NO. 112 ON THE SOUTH SIDE OF THE WEST SIDE THEREOF.

IN ACCORDANCE WITH A SURVEY BY DOUGLAS HEMINGWAY DATED NOVEMBER 4, 2003.

LESS AND EXCEPT THE SOUTH 330' OF SAID PROPERTY.

THE ACREAGE INCLUDED IN THE PROPERTY TO BE ANNEXED IS 29.86 ACRES, MORE OR LESS.

**IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS**

FILED
'04 FEB 17 PM 2 00
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

**In re:**

**ANNEXATION OF PROPERTY CONTIGUOUS TO THE CITY OF FAYETTEVILLE, ARKANSAS**

Case No. 2004-3

**PETITION FOR THE ANNEXATION OF PROPERTY CONTIGUOUS TO THE CITY OF FAYETTEVILLE, ARKANSAS**

Comes now the Petitioner, Cleve Branson, owner of certain real property located in Washington County, Arkansas, and petitions the Court as follows:

1. That the Petitioner, Cleve Branson, is the sole owner of certain real property located in Washington County, Arkansas, described as follows:

> The SW ¼ of the NW ¼ of Section 28, Township 17 North, Range 30 West, described as beginning at the Southwest corner of said 40 acre tract, said Point of Beginning being a set cotton spindle; thence North 00°09'01" West 1312.76 feet to a set cotton spindle; thence along the South line of Forest Hills Subdivision, North 89°59'52" East 1320.33 feet to a found pinched iron pipe; thence South 00°15'33" East 1287.92 feet to a set iron pin; thence continuing South 00°15'33" East 26.60 feet to the Southeast corner of said SW ¼ of the NW ¼; thence North 89°53'34" West 1322.84 feet to the Point of Beginning, containing 39.855 acres, more or less, Washington County, Arkansas. Said tract subject to the right-of-way of Arkansas State Highway No. 112 on the South side of the West side thereof.
>
> In accordance with a survey by Douglas Hemingway dated November 4, 2003.
>
> Less and Except the South 330' of said property.
>
> The acreage included in the property to be annexed is 29.86 acres more or less.

2. That all of said property is contiguous to and adjoins the City of Fayetteville, Arkansas.

FROM WACO CLERK (TUE)APR 20 2004 11:27/ST. 11:23/NO. 6314274941 P 14

3. That Petitioner respectfully requests that said property be annexed to, added to, and included within the boundaries of the City of Fayetteville, Arkansas.

4. That Petitioner respectfully requests that this Court set a date certain for a hearing of the Petition.

**WHEREFORE** premises considered, the Petitioner prays that this Court set a date certain for its hearing of this Petition; that the Court grant its Petition for Annexation to the City of Fayetteville, Arkansas; and for all other reasonable and proper relief to which this Court deems it entitled.

Respectfully submitted,

Curtis E. Hogue
**HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON, P.C.**
One East Center Street, Suite 315
Fayetteville, AR 72701-5388
Telephone (479) 973-5200
Facsimile (479) 973-0520
**ATTORNEYS FOR PETITIONER, CLEVE BRANSON**

418661.1:224275:01820



FROM WACO CLERK (TUE)APR 20 2004 11:28/ST. 11:23/NO. 6314274941 P 15

**IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS**

FILED
04 MAR 22 AM 9 23
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

**In re:**

**ANNEXATION OF PROPERTY CONTIGUOUS TO THE CITY OF FAYETTEVILLE, ARKANSAS**

**Case No. 2004-3**

**ORDER OF ANNEXATION**

Now on this 19th day of March, 2004, the Petition for Annexation of Property contiguous to the City of Fayetteville, filed by Cleve Branson, comes on for hearing and the same is submitted to the Court upon said Petition, proof of publication of notice, testimony before the Court, and other evidence presented, from all of which the Court finds:

1. That the Petition for Annexation of Property Contiguous to the City of Fayetteville was duly filed in the office of the County Clerk of Washington County, Arkansas; and that an Order was made fixing the time and place for a hearing on said Petition at this date and time in the County Court of Washington County, Arkansas.

2. That legal notice of the hearing was given as required by law and such notice of the hearing was published once a week for three consecutive weeks in the Arkansas Democrat-Gazette/Norwest Arkansas Times, a newspaper published in Washington County, Arkansas. Proof of publication has been made and filed with the Clerk of this Court.

3. That the Petitioner is the owner of the property to be annexed.

4. That the owner of the proposed annexed area shall derive substantial benefit from the annexation.

5. That the area to be annexed is part of the growth area of Fayetteville, Arkansas and the extension of the corporate boundaries is a realization of the natural growth of the City of Fayetteville.

6. That the lands to be annexed are contiguous to and adjoin the City of Fayetteville.

RECEIVED
MAR 18 2004

**IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS**

FILED
'04 FEB 17 PM 2 22
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

**In re:**

**ANNEXATION OF PROPERTY CONTIGUOUS TO THE CITY OF FAYETTEVILLE, ARKANSAS** Case No. 2004-3

**ORDER FOR HEARING**

Now on this 17th day of February, 2004, is presented the Petition of Cleve Branson for annexation of certain lands more particularly described therein to the City of Fayetteville, Arkansas, and this Court does hereby set the Petition for hearing on the 19th day of March, 2004 at 10:00 A.m., in the office of the County Judge, 280 N. College, Fayetteville, Arkansas; and notice of said hearing shall be given as provided by law.

HONORABLE JERRY HUNTON, COUNTY JUDGE

418661.1:224275:01820

V2-979

Cleve Branson
December 19, 2003
HWEI Job No. 03277A

# LEGAL DESCRIPTION NO. 3
# PROPERTY TO BE ANNEXED TO
# THE CITY OF FAYETTEVILLE

The SW ¼ of the NW ¼ of Section 28, Township 17 North, Range 30 West, described as beginning at the Southwest corner of said 40 acre tract, said Point of Beginning being a set cotton spindle; thence North 00°09'01" West 1312.76 feet to a set cotton spindle: thence along the South line of Forest Hills Subdivision, North 89°59'52" East 1320.33 feet to a found pinched iron pipe; thence South 00°15'33" East 1287.92 feet to a set iron pin; thence continuing South 00°15'33" East 26.60 feet to the Southeast corner of said SW ¼ of the NW ¼; thence North 89°55'34" West 1322.84 feet to the Point of Beginning, containing 39.855 acres, more or less, Washington County, Arkansas. Said tract subject to the right-of-way of Arkansas State Highway No. 112 on the South side of the West side thereof.

In accordance with a survey by Douglas Hemingway dated November 4, 2003.

Less and Except the South 330' of said property.

The acreage included in the property to be annexed is 29.86 acres more or less.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 26, 2004

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

## PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: April 20, 2004

**ANX 04-06.00: Annexation (Leigh Taylor Properties, pp 169)** was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112. The property is currently in the Planning Area and contains approximately 29.86 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

**RECOMMENDATION:**

**Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):**

| | | | |
|---|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** | **YES** | |
| | ○ **Approved** | ○ **Denied** | |
| **Date: April 26, 2004** | | | |
| **CITY COUNCIL ACTION:** | **Required** | **YES** | |
| | ○ **Approved** | ○ **Denied** | |
| **Date: May 18, 2004** | | | |

**BACKGROUND:**

*Property description:* The subject property contains approximately 29.86 acres of vacant property located north of Highway 112/Howard Nickell Rd and east of Highway 112. The property is adjacent to the city limits along its southern boundary where it abuts property owned by the applicant. Hills Estate subdivision is located to the north of this site and Lynn-Leigh Hill Estates is south of Hwy 112.

*Proposal:* The applicant proposes the annexation of property into the City of Fayetteville. A rezoning request for this property in conjunction with the property to the south has been submitted for this property.

*Request:* The request is to annex the subject property into the City of Fayetteville.

*Related Issues:* When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 29.86 acres, plus an additional 10 acres to the south, to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning request, RZN 04-12.00, is an accompanying item to this annexation request.

Property that is developed and/or subdivided in the Planning Area of the City of Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City, thereby allowing for a uniform and consistent standard of development. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, it allows for the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have none of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limit boundary. In some cases, new subdivisions adjacent to one another have very different street construction, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits are typically required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use, tree preservation, etc. are not within the City's ability to control.

*Recommendation:* Staff recommends approval of the proposed annexation. The subject property is adjacent to the City of Fayetteville and will create an appropriate city boundary. Future changes or additional development on this site will be regulated by the city allowing for more uniform and consistent development pattern.

## SURROUNDING LAND USE AND ZONING

| Direction | Land Use | Zoning |
|---|---|---|
| North | Single-family (Forest Hills Estates) | Planning Area |
| South | Vacant | R-A, Residential Agricultural |
| East | Single-family | Planning Area |
| West | Single-family | Planning Area |

## INFRASTRUCTURE:

**Streets:** Highway 112, a state highway, is located to the south and west of this property. Improvements to infrastructure will be assessed at the time of development.

Surrounding Master Street Plan Streets:
North: Forest View Rd (local street)
South: Highway 112 & Howard Nickell Rd (principal arterial)
East: Cris Hollow Rd. (local street)
West: Highway 112 (principal arterial)

**Water:** The property currently has access to a 6" water line along Highway 112. An extension of the water main will be required to provide water supply within any development on this property.

**Sewer:** Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive. The developers engineer will need to provide calculations to show that there is adequate capacity in the Highway 112 lift station. Upgrades to this station and/or force main may be required.

**Fire:** The subject property is located 3.6 miles from the Fire Station #2. Normal driving time is 5 min. 56 seconds.

**Police:** It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services.

The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. These two intersections have had 31 accidents in just over three years. The police department recommends the access to this area should be placed as far from these two intersections as possible. Access into future development shall be reviewed for safety at the time a development proposal is submitted to the city.

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

**FINDINGS:**

**11.6 ANNEXATION GUIDING POLICIES**
**BOUNDARIES**

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

**Finding:** **The requested annexation will extend an existing peninsula to the north. The extension will, however create an appropriate boundary due to the area and configuration of the parcel. No island will be created by annexing the subject property.**

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

**Finding:** **The proposed annexation area is adjacent to the City Limits to the south for approximately 1290 feet.**

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

**Finding:** **This area does not consist of defined subdivisions or neighborhoods; however, future development plans may include the extension of the surrounding subdivisions.**

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

**Finding:** **Proposed boundaries follow property lines.**

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

**Finding:** **Current conditions result in a response time of just less than 6 minute for fire protection from the Fire Station #2. Any development in this area would necessitate installation of hydrants to provide for fire protection. Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive. In addition, calculations shall be provided to show that there is adequate capacity in the Highway 112 lift station. Upgrades to this station and/or force main may be required. Sewer will need to be extended with development.**

## ENVIRONMENTALLY SENSITIVE AREAS

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

**Finding:** **N/A**

## EMERGENCY AND PUBLIC SERVICES

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

**Finding:** **The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Location of access to the property to ensure the safety of the public shall be considered at the time of development. Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive.**

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

**Finding:** **Fire and police service shall be provided to this area with the same level of response and service as other developments in this area. Sewer improvements to the area will be provided for with the development of approved preliminary plats.**

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

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

## INFRASTRUCTURE AND UTILITIES

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

**Finding:** **Water, fire and police protection are currently provided in this area.**

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

**Finding:** **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.**

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

**Finding:** **The proposed annexation is not part of a phased annexation initiated by the City. This tract of land is within an area proposed to be annexed by the City of Johnson and will be voted on by the citizens of Johnson and affected property owners on May 11, 2004.**

## INTERGOVERNMENTAL RELATIONS

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

**Finding:** **Annexation of this property will adjoin Fayetteville city limits with Johnson city limits at the northeastern most corner of the subject property.**

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

**Finding:** **N/A**

## ADMINISTRATION OF ANNEXATIONS

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

**Finding:** **Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with the Residential classification of the area on the City's adopted Future Land Use Plan.**

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

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

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

**Finding:** **Conceptual development proposals for this property have been submitted to the Planning Division; however, no application for development has been received. At the time the applicant desires to development the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.**

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

**Finding:** **This annexation includes 29.86 acres owned by Leigh Taylor Properties, Inc. and represented by Art Scott of Project Design. The combined requests create a reasonable boundary avoiding the creation of unusual boundary lines.**

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

**Finding:** **N/A**

*From Fayetteville General Plan 2020 – 2002 Revision*

## 11.6 Annexation Guiding Policies

### Boundaries

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

### Environmentally Sensitive Areas

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

### Emergency and Public Services

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

### Infrastructure and Utilities

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

### Intergovernmental Relations

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

### Administration of Annexations

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

# FAYETTEVILLE

## FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-12.00 OWNER Leigh Taylor Prop.
ANNEXATON# 04-06.00 OWNER Leigh Taylor Prop.
LOCATION OF
PROPERTY 2470 Hwy. 112

NEAREST FIRE STATION AND
LOCATION Station #2, 708 N. Garland

RESPONSE TIME FROM FIRE STATION # 2 TO
LOCATION OF
PROPERTY 5 MINUTES 56 SECONDS.
TRAVEL MILES FROM FIRE STATION # 2 TO LOCATION OF
PROPERTY 3.6 miles.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION Hwy. 112 at Deane Solomon

WATER SUPPLY WITH HYDRANTS
NEEDED? Yes

ADDITIONAL
COMMENTS

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W. MALL
(501) 575-8271
FAX (501) 575-8272

# FAYETTEVILLE

RECEIVED
APR 20 2004
PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

April 19, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **ANX 04-06.00 Annexation (Leigh Taylor Properties, pp 169)** and **RZN 04-12.00 Rezoning (Leigh Taylor Properties, pp 169)** submitted by Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112 would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services.

The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. In fact, these two intersections have had 31 accidents in just over three years. The access to this area should be places as far from these two intersections as possible.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

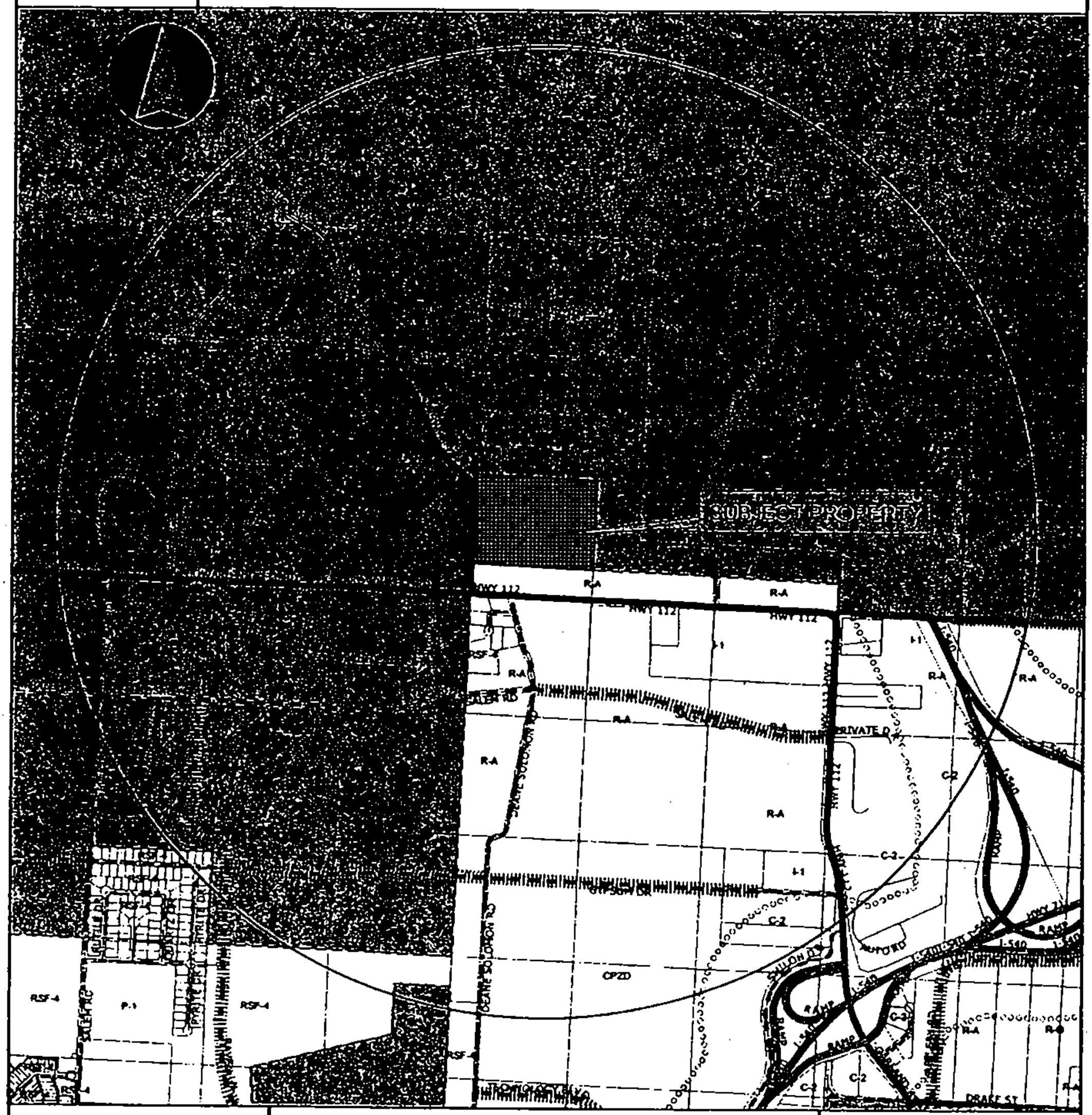
ETTEVILLE POLICE DEPARTMENT
BOX 1988
ETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

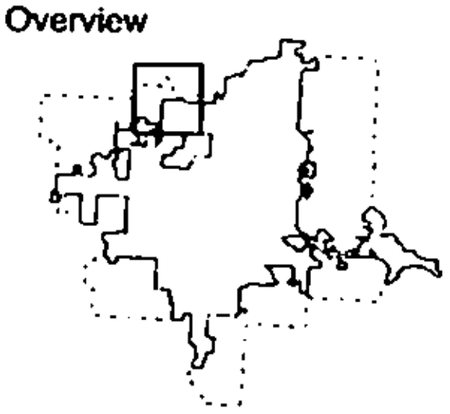
ANX04-06.00

One Mile View

# LEIGH TAYLOR PROPERTIES




Overview



Legend

Subject Property
ANX04-06.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

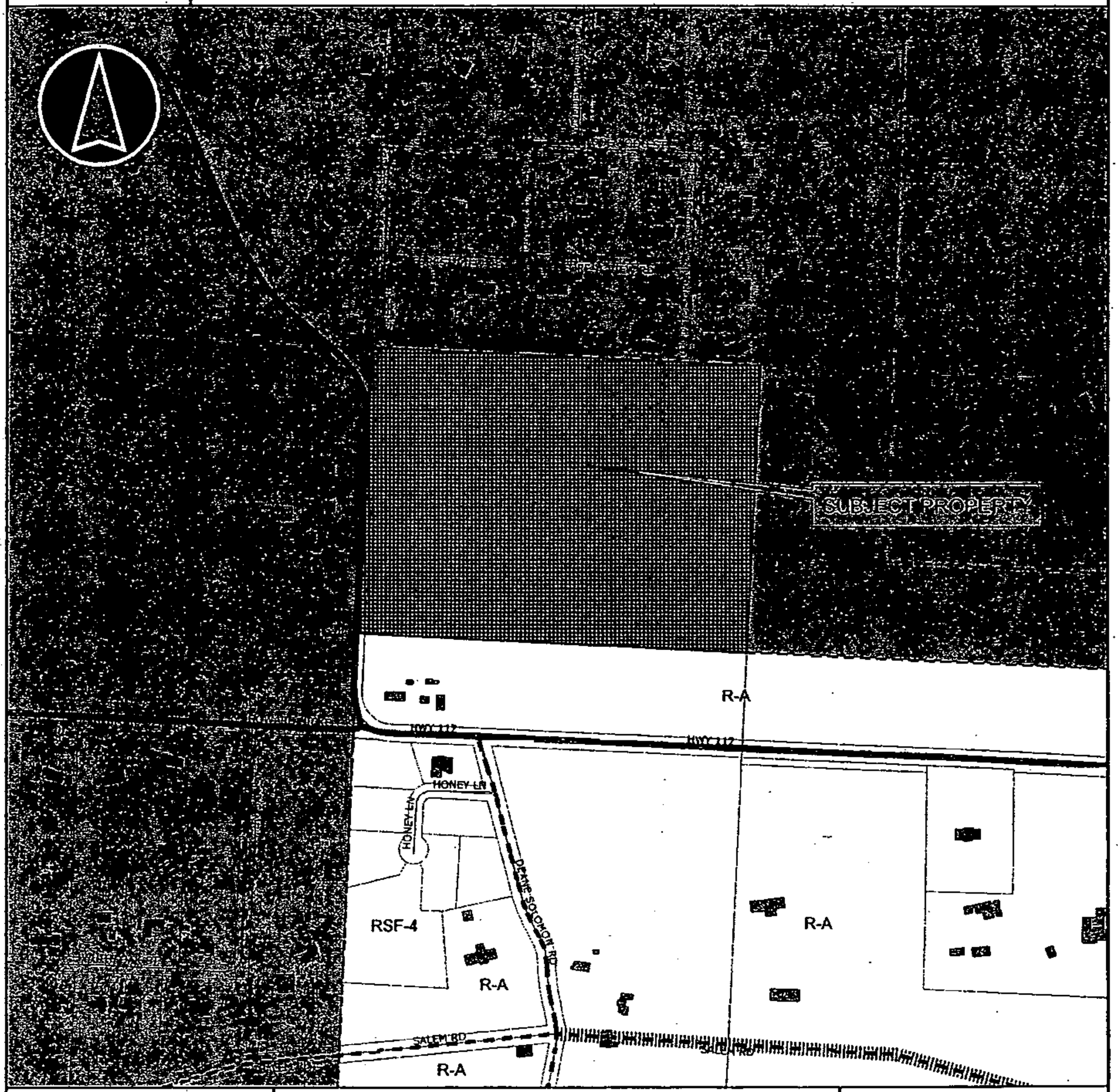
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

ANX04-06.00

# LEIGH TAYLOR PROPERTIES

***Close Up View***




***Overview***

**Legend**

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- ANX04-06.00

0 175 350 700 1,050 1,400 Feet

*Planning Commission*
*April 26, 2004*

**ANX 04-06.00: Annexation (Leigh Taylor Properties, pp 169)** was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112. The property is currently in the Planning Area and contains approximately 29.86 acres. The request is to annex the subject property into the City of Fayetteville.

**RZN 04-12.00: Rezoning (Leigh Taylor Properties, pp 169)** was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC. The property is currently zoned R-A, Residential Agricultural, and contains approximately 39.86 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next item on our agenda is another annexation, it is ANX 04-06.00 for Leigh Taylor Properties. If we could have the staff report please.

Morgan: This request was submitted by Chad White on behalf of Leigh Taylor Properties for property located at 2470 Hwy. 112. The request is to annex approximately 29.86 acres into the City of Fayetteville. If you look on page 10.12 that identifies the approximately 30 acre tract that is requested to be annexed into the city. The accompanying rezoning for Leigh Taylor Properties is a request to rezone this 30 acre tract as well as the 10 acre tract of land just north of Hwy. 112 to RSF-4. The annexation is 30 acres and the rezoning is for approximately 40 acres. Fire and Police have reviewed this item. It is approximately 5 minutes 56 seconds from Fire Station 2 and Police have reported that this annexation will not substantially alter the population density. However, they did comment that access to this site would be of concern due to the intersection of Hwy. 112 and Howard Nickle as well as Hwy. 112 and Deane Solomon. Access into future development will be reviewed for safety at the time of development when there is a development proposal submitted to the city. Improvements to street systems will be reviewed also at the time of development and staff finds that this is an appropriate location for annexation into the city. As I mentioned earlier, they are requesting a rezoning of this 30 acre tract as well as the additional 10 acres to the south. Staff finds that this proposed zoning for single family residential is compatible with the land use to the north and the south. There are two subdivisions in either direction. Property to the south within the city limits is zoned RSF-4 at this time as well as R-A. Staff finds that the zoning is consistent with the future land use map and existing development within this area. Public comment has been received regarding this proposal with regard to density, lot size and traffic volume. However, staff finds that in accordance with findings from other divisions such as Engineering, Fire and Police, staff is recommending approval of ANX 04-06.00 and RZN 04-12.00.

Ostner: Thank you. Is the applicant here?

*Planning Commission*
*April 26, 2004*

Hogue: Good evening, my name is Curtis Hogue. I'm an attorney in Fayetteville here on behalf of the applicant. I actually represented the applicant through the annexation process of the county. In reading the recommendation from staff and in looking at the findings made and the recommendations made and there was reference made to extenuating circumstances on this particular annexation. I'm not sure in particular what those are although I think that there are a number that apply here. In particular, as noted by the staff recommendation of this parcel 10 acres are within the city. We are asking to annex the entire parcel to bring it all into the city and then allow the total rezoning. I know that there are a couple of specific issues that were addressed in this. With me is Art Scott who is handling the engineering on behalf of the applicant and I'm sure can address some of those particular issues that were brought up in the report.

Scott: I think there were a number of pretty good concerns. First of all, if it was my property next door I would want to know what the density was too. The RSF-4 does allow for four units per acre. This developer is intending to build an upscale sized sort of premium lot in that zoning. It is a minimum of 80', which the zoning allows for 70' and then the normal depths are 130' to 140', which is another 30' or 40' larger in the rear than would be allowed by the typical zoning. The entire 40 acres would end up with their intention is around 108 to 110 units which is 2/3 of the maximum density. There will be a 2,400 minimum square foot home. The access and the proximity to that corner where Hwy. 112 makes that 90° corner would be a concern. We have on the south side very good visibility in both directions from where we intend to apply only one access point on the south and we only intend to have one access point on the west side on Hwy. 112 also with a stub out for connectivity to the north and to the east and both of those have ¼ mile along Hwy. 112 with very good visibility in both directions for access. Also, one other concern was drainage and that is always a concern when the development of 40 acres takes place. We will have to abide by all the city codes and detain any water before it leaves the site and keep it to a pre-development level so that shouldn't be a concern for the future and for the downstream properties. I will answer any questions you might have.

Ostner: At this point I will move it to the public comment period. Are there people who would like to comment on this item?

Futral: My name is Charlie Futral and I have property adjoining this property. I'm on the north side. I sit on one acre of land. I'm in the Forest Hills subdivision which is to the north here. I've lived here for nine years. We have a very established neighborhood. The houses surrounding this property are very established. My neighbors directly to the north of me sit on 1 ½ to 2 acres. My neighbors directly to the west of me who adjoin this have approximately 2 acres. His neighbor who adjoins this property

has approximately 3 ½ to 4 acres I believe. Throughout our neighborhood we are not equal to what they are designing here. You are talking about 80' lots here, we sit on one acre plots. Yes there are some properties in there that are less than one acre but not many. Most of them have multiple acres, up to 8 acres within our particular subdivision. Across the street to the west you have approved zoning for 2 acre lots. We had 4 acres and then you all came back with 2 acre lots. That is nowhere near this kind of density and there is nothing in our neighborhood that has this kind of density going on. The density is one of the primary concerns that we have as it relates to this property. We have several concerns that relate to density. One is property values as it relates to us and it relates to the whole neighborhood, not just our particular subdivision but in each direction from us. As we look at this we don't see that this is enhancing our property values out in the area where we are at. The concerns that relate to the density is the safety issue. What he just addressed on this curve, this is a curve where we have had two fatalities in the last nine years that I've lived here. There have been two fatalities, that is adjoining this property that is immediately on the southwest corner of this property. That doesn't include, I don't know the number of wrecks that have occurred along this stretch of road. It is a dangerous piece of road. It is a dangerous piece of road because it is narrow, because it doesn't have good visibility and because of the speed and the direction that cars come into. Mainly it is a narrow piece of road. It is a state highway that the City of Fayetteville is not going to come in and rebuild and neither is the developer. With all good intentions, everyone is trying to manage growth as it goes out into the community and one of the things that was talked about here this evening was the appropriateness of what is RSF-4. My concern and what I would like to suggest is that this be a RSF-1, one house per acre as the density issue. It raises the property values on the thing, it doesn't inculcate 250 or more cars into this dangerous situation of where fatalities are already occurring, they are on the record. We had a runner just down the street on Hwy. 112 as you come around the curve to the drive in theater along that stretch, we had a runner who was hit and killed a few years ago. You may remember that. There is the third fatality in less than 9 years. As we look at this the density is a real issue. One of the things that was mentioned here as we were listening closely to what was being said is that RSF-4 on a flat plain makes sense that you can see where you are going. It spreads it out. This is a rolling hill country that you are coming into. Another one of the big issues and concerns on this is that when you look at this plat, this is obviously not approved. It is the one that you all have probably all seen and had across your desk as you look at this approach.

Ostner: No.

Futral: May I bring it up?

Ostner: Sure.

Futral: For what it is worth, you need to see what is about to go in here. This is the plat that they have presented as an informal plat. Here is the dangerous curve, here is our subdivision. These are all one acre lots and more coming through here and if you watch this these are tree lines. These are all just trees but what you are seeing here, this area and this whole 1/3 of the property is a low area. These are trees in water. Their idea is that they are going to put a ditch as lots back up to each other and they are going to carry the water through here. This water is coming off of all this slope, all of this basin back over here which includes the development from Clear Creek. Clear Creek now is flowing water through our neighborhood which is an issue for me and for other neighbors there. It goes immediately into this neighborhood here at the north end of this and they think that they are going to handle it down here with an engineered detention pond. I don't think so. Especially after what we just saw this week as it goes through here. This is also a boggy area down through here. Now we are going to put density into a boggy area, not a flat area and not a nice dry area. We are going to go in and we are going to completely cut the trees and we are going to reshape this land to insert this kind of density. In a neighborhood where you have one acre lots, modest in many cases, not so modest in other cases. We have homes out in our area that would approach close to a million dollars and we have land that have been platted across the street that are 2 acre lots, 4 acre lots, that are not scheduled to carry this size of a home on it. What is going to happen to that gentlemen's property values as he goes along? I think density is the culprit here and it is the concern that we all have. Some of the reasons and things that are attached to it are safety on the roads. This is a very real issue out there. We already have proof of it with the fatalities that have occurred and the wrecks that occur. We also have land that is a rolling hill country. In this particular location and what I'm showing you here with these tree lines where the water flows, these are dry creek beds. Think of it like a bowl and what you are doing is our neighborhood is sloping into that bowl, the west is coming into that bowl and the east is flowing around and into that bowl. Their property, roughly 1/3, 25% to 30% of it is the bottom of the bowl as the water flows through it. One other thing, I would like to ask that the number of people that are here that are concerned about this raise their hands so that we have some sense of the neighborhood that has come to see you this evening. There are many neighbors here and some of which have lived here for 30 years, some of which have been here for 2 years and many of us that have been here for several years. Ron has been here since 1962 on this property so we are really very established and appreciate your concern and consideration with this.

*Planning Commission*
*April 26, 2004*

*Approximately 25 people raised hands*

McWhorter: My name is Rick McWhorter, I have property that is adjacent to the north side of this property right across the street from Charlie Futral. I don't know if you are aware but to go along with the density issue we received a report that came across from the Educator. It is a news letter from the Fayetteville Public Schools. One of the things that came out was a map showing large areas of development. In this blue area is exactly the property that we are looking at, or at least it is within that. If you were to count up and this map is not very good to be able to identify the actual number of homes, but if you were to count up the number of homes that are in these developed areas that are already either approved or in the process then we are looking at anywhere from around 600 new homes to around roughly 1,200 give or take. The school system figures one child per three lots is what their formula is. This would add a tremendous overflow to the school system, in particular the elementary school district that this serves. Holcomb Elementary School District is already in the process of having to build six new kindergarten classrooms to service a school system that is almost at full capacity already without even considering this development. When you start adding onto this you are adding a problem that is not just traffic, not just safety, not just drainage, but we are adding an issue that deals with public education here within the City of Fayetteville. As you are aware with the vision 2010 that is posted right behind you. You look at point 11, Quality and you start adding more and more student possibility in this area to an overflowing school then that is even creating more of a problem. I would like for you to consider that because I think Charlie was very eloquent in what he said. My other concern is the road through or at least the way we have seen the layout of the road through that would tie into Woodside Drive. The concern is the traffic flow through there and the service vehicles that would go through there and those kinds of concerns that we do not have at this point in time that I would hope you would consider keeping us from having that. We appreciate your time and we appreciate your concern. I think Charlie was very good at pointing out that drainage and density are major issues. Thank you.

Myers: I'm William Myers, I also live just to the north of the area. I'm certainly not going to go into as much detail but I would like to reinforce what Charlie has said. Particularly our concern is the population density and the traffic safety. For whatever it means I was born in Fayetteville in 1934 so I remember when the first traffic lights were put in in Fayetteville and you can't imagine the fuss that caused. I did some mental arithmetic and depending on however many children you expect people to have that is going to be a population density out there between 6,000 and 8,000 per square mile. I don't know what to compare that to but you guys can do that. The other thing I would express my concern about is the traffic. I

drive from my home out there to the University of Arkansas every morning and have done so for the past 18 years. The traffic is getting worse and worse and worse. If you look at the small development immediately to the south across Hwy. 112 from this corner the fencing company has a pretty good business of repairing the fence there where cars go a little bit too fast, miss the curve and go through the fence. Hwy. 112 which used to be an unpaved road that I hiked on as a boy scout, has become a very dangerous place to drive on. I hope you will not make it more dangerous. Thank you very much.

Ostner: Thank you Sir.

Clark: Good evening, my name is John Clark. I do think Charlie covered most bases. I would just simply add that RSF-4 is too dense for this area. I really can't add much more than what has already been said except to say that even though the visibility is good on those entrances, it is a dangerous venture to pull out on Hwy. 112 under the best circumstances. We would ask the Commission to do the right thing and consider a less dense rezoning there. The annexation, I think most of us welcome the annexation. Thank you.

Forbes: I am Bill Forbes. I live right across the street from John Clark. We have a 3" water main, what is going to happen to our water pressure from Fayetteville?

Casey: If this property is to be annexed and rezoned and if we see a development proposal on this property at that time we will look at the public infrastructure, water and sewer, and make sure tat there is adequate capacity to serve the development. If the capacity does not exist it will be up to the developer to provide the capacity for the area.

Forbes: We are already developed.

Casey: The developer of this property would have to supply the infrastructure to make sure there was adequate capacity to serve their property and also make sure there is no negative impact on the existing customers.

Forbes: Thank you. We have 26 houses on over 40 acres. As Charlie said just very few of them are on one acre or ¾ acre plots. Whoever was here before, we also have deer, quail, dove, they will be gone forever. The water detention, it appears on the plat like it is one lot, 100'x40', is that correct?

Scott: This is still in the preliminary stages.

Ostner: Excuse me Sir, you need to address us and we will ask him and that will keep things moving.

Forbes: If it fills up where does the water go? 26 of those lots that they have platted there are right on Hwy. 112. Instead of getting a fence knocked out you are going to have a home knocked out. Today I walked down there and they were surveying on the flat area while we were cutting yards and everybody doing fine, they were stuck in the mud down there with the surveyors. They were stuck in the mud down there Thursday before the big rains came. They are walking around out there in the flattest part with long boots on and doing a pretty good job. We have been a good friend to Fayetteville. We live about 400' out of the city limits. We have paid you guys for our fire insurance and the price got dearer and dearer. We have called you two times in 30 years. As far as calling the police I don't think we ever have and we sure don't need this right next to us. Thank you.

Kemp: Hello, my name is Jeff Kemp, I'm involved with the development near this subject property so I'm somewhat familiar with it and the area. I just once again, want to reinforce the problem that I think this density will pose as far as traffic. Not only do you have the 90° turn on Hwy. 112 on the southwest corner of the property. You also have Cris Hollow Road on the east side just as you top a hill Cris Hollow pulls out and I know from experience it is kind of a take your chances and pull out on. I just can't imagine the density of RSF-4 traffic in that area.

Ostner: If I could I would like to remind everyone to keep your comments short and if someone has already said what you are going to say just agree with them.

Wheeler: My name is Joan Wheeler, my late husband bought 40 acres south of this property in about 1968 and the back of my house faces Hwy. 112. It is my fence that they come through on a regular basis. The traffic is so bad out there I can't even imagine how dangerous it would be with that many houses added to that area. I hope that you won't consider the RSF-4.

Butcher: I'm Betty Butcher and this is my husband Perry. We live south, we are a neighbor of Joan's and we live south on Deane Solomon three houses down. People have come up and talked about the traffic. Most of the neighbors here are going north around the curve up to their homes there. I have to stop and turn south on Deane Solomon, which is approximately where they would put the opening of that subdivision. I cannot even explain to you how dangerous that is. You cannot see when you are looking at the Howard Nickle Road you cannot see what is coming, it is a blind spot and it is just right there. To have people coming out and turning left towards town on there with the amount of traffic going over there would just be suicide. It is a terrible idea. Thank you.

Ostner: Are there any other comments?

Riser: Hello, my name is Randall Riser and I'm a neighbor of everyone here that you have heard from already and I concur with everything that they have said. It is true beyond what you can even imagine if you haven't ever lived out there. One other thing that I would like to bring up is that the development that they are trying to put in here does not even fit the landscape of this area. This is a development you would see in downtown Dallas or some place like that. This should be planned better for the City of Fayetteville in my opinion. Thank you very much.

Ostner: Is there anyone else?

Futral: I know you all are really tired. I'm Anna Futral. In line with what he just said, there is not a TOPO map reflected with this plat and I think that the lay of the land is an issue.

Ostner: Thank you. Are there any other comments from the public?

Baird: I'm Laurie Baird and our property would be the one directly north to where this development is proposed. We have got five kids and we come out of that neighborhood and just coming here this evening I had to sit there forever trying to get out of the neighborhood and turning left. I have a true concern with all my kids going to the school there with all those houses how are we even going to get in and out of the neighborhood safely? I know I don't let my kids go on Hwy. 112 at all but just the cars and the traffic, I've assisted in some of those accidents. My husband has directed traffic as I've held bodies until the EMS unit can get there. I am really concerned about the density of all these houses that are going to be in there. Our square footage is about 4,000 sq.ft. in our home and we have an acre and a half and it isn't adding up right to having four houses per acre right next door to us with that much traffic too. I would like for you to consider that. Thank you.

Moore: I'm Benny Moore, we live at the northwest corner across the road from this development. We just got through building a new home and hopefully the development will compare with our house and look similar to it is what we were hoping. The north of us all of the homes are larger homes. I think Tyson has a minimum of 3,200 sq.ft. The 2 ½ acre blocks south of us have 3,200 sq.ft. minimum. Hopefully we won't get into this compacted settlement there. As far as safety, we have lived there about 20 years on the property and there have been deaths in that area and lots of wrecks. It is not a safe corner. Thank you.

Ostner: Do we have anymore comments from the public? Seeing none, I will close it to the public and bring it back to the Commission for discussion. Once again, we are discussing them together and we will vote on them separately.

Vaught: I think we need to discuss them separately in one respect with the fact that the annexation, I know this property is also being looked at by Johnson to be annexed. To me that adds a little bit more priority if we want control of what happens on this acreage we need to look at the annexation more seriously. If Johnson annexes it in, I don't know how the timing works. I know that they have a vote coming up but apparently I think Dawn was telling us since we had ours filed first it would take precedence, is that correct?

Morgan: We believe that is correct at this time. Their vote will be I believe May 11th to vote on the area and whether it will be annexed into Johnson.

Vaught: This is where I would like Kit to be here to answer questions about if we postpone this. If we turn this down then obviously they will be able to annex it in and then they will have control over what happens here. I think they are somewhat two separate. We could pass one and table the other or pass one and not pass the other. I think that is something to keep in mind as we talk about it but just for everyone to understand.

Anthes: I have a question for follow up on what Commissioner Vaught is talking about. One of the things that we look at is development pressure and we don't really have development pressure here so much as we have annexation pressure. We have got a situation where we've got another municipality that is looking at this piece of property which if it was annexed by that municipality, would subdivide this particular owners property into two parcels. That is troublesome I'm sure for them and for us in terms of how to look at how this owner would develop this property if it was in two different municipalities. That is one thing that I'm looking at. I would like to comment that it is interesting, the neighbors, there are a lot of them here and a lot of them have spoken about density but I only believe that one even mentioned the annexation at all. Obviously, the density is the thing that is the largest concern to those neighbors. I guess as far as the circumstances about that split, can staff tell us about what this would mean if this 40 acres ended up in two different municipalities and development came forward?

Pate: Essentially if that were to occur and the Johnson city limit moves south along the Fayetteville city limit our Planning boundary line also would move to where that line is. If a subdivision did occur on that piece of property, the portion in the City of Fayetteville would be reviewed by the City of Fayetteville and the portion in the City of Johnson would be

reviewed by the City of Johnson. Technically they would have no jurisdiction over our city municipal boundary and vice versa as well. It is a concern of staff and we believe that this petition was filed and released by the county prior to the election being called. I understand timing is definitely an issue with the applicant on this piece of property. As far as development regulations I believe we do have some subdivisions that have been phased, developed with one portion in Springdale and one portion in Fayetteville. It has been the subject of a lot of problems with regard to infrastructure improvements. Street standards are not the same with different cities. Additionally, the overall infrastructure with regard to water and sewer I would refer to our Engineering Division with regard to what types of infrastructure, public improvements if he has any knowledge of what Johnson does and how that would loop the system.

Casey: The water situation I would have to do some research on to see how the water service area boundary would change with the city limits change or if it would change at all. We would certainly have the ability to serve with water if that were allowed by the contract between the two cities. Sewer, on the other hand, would only be allowed for the small portion to the south of the site that is already in the City of Fayetteville. We cannot provide sewer service outside the city limits of Fayetteville unless it is specifically approved by the City Council.

Pate: Additionally, with regard to other findings we have made tonight, the confusion with regard to who responds to what calls comes up. I believe a citizen mentioned that they pay the City of Fayetteville Fire Department to serve their residents. That is how that works in areas outside the city limits but there is always some confusion with regard to emergency response calls about who actually works that call.

Anthes: While we are on the issue of water, our staff report does indicate that the property has an access to a 6" water line across Hwy. 112, is that indeed true based on an earlier comment?

Casey: I believe that to be the case. I don't have that on the maps here in front of me but I am the one who wrote that so I believe I consulted the maps before writing that so I would say yes, that is true.

Allen: If we annex this area it would come in as R-A. I would welcome these people into the City of Fayetteville in terms of an annexation but I do not see the RSF-4 as being compatible with the area and wouldn't be able to support that. I do think a good planner takes a long step backwards and looks at the whole picture and I don't think that's good planning.

Ostner: I would like to agree. We welcome this area to adjoin our city but I don't think RSF-4 is appropriate. I believe RSF-1 might be. I understand that

there is another area of RSF-4 nearby but this piece of land the context that it is in, is clearly less dense than RSF-4 on top of the safety issue. It is a very dangerous intersection and with the difference between RSF-4 and RSF-1 I believe is night and day.

Hogue: Can I make one comment? It is on the issue of annexation. I think if I understand the discussion, that there may not be a strong opposition on the annexation. You all asked some legitimate questions of staff about where are we if we are splitting this up and what is going on with the City of Johnson. When I spoke initially about extenuating circumstances, that is one of our concerns. In trying to sort out if this scenario what happens with Johnson. The only way that I can determine, and I don't know all of the answers because there is a whole lot going on up in that area with other municipalities, the only way that I was able to determine that we could solve a lot of those problems is if Fayetteville would allow the annexation and then we don't worry about all of those other problems that you asked questions about. Just simply addressing the annexation, there are some time constraints and that is certainly something that we would like to accomplish. From the concerned neighbors I didn't hear any direct objections to the annexation. I know there are other issues, a lot of greater issues, but that is certainly an issue to us tonight.

Anthes: The other thing I'm struggling about with the potential for that split is the issue of Hwy. 112 and that it borders two side of this property. If the property was split controlling access onto and off of Hwy. 112 in a manner that we could find to be acceptably safe would be very complicated.

Ostner: I would like to add at this point that the R-A zoning, which is automatic with coming into the city with an annexation does allow housing. It allows everything, it is simply two acre lots.

**MOTION:**

Clark: The whole issue of annexation and infrastructure issues concern me but the fact that if we don't annex this, this would be split between municipalities supercedes that concern. I would like to move that we approve ANX 04-06.00.

Allen: Second.

Ostner: I have a motion by Ms. Clark and a second by Ms. Allen. Is there any other discussion on the Annexation? Renee?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of ANX 04-06.00 by the City Council was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

Ostner: The tandem issue is RZN 04-12.00. We have already had some discussion.

Trumbo: As the citizens in that neighborhood have clearly stated, that is a very dangerous stretch of highway. Common sense to me says to add another 108 possible homes compounds the problem out there. I don't see how in good faith I could vote to allow that size of development at that place. I understand for the city to build affordable housing we have to have denser zonings but I don't believe it is appropriate right here considering how dangerous that highway is. I will not vote for this zoning.

Ostner: Thank you. Can we have that map that we tried to get together just showing us some general location?

Anthes: We don't have the City Attorney here so can someone tell us if the best way is to move for approval and vote it down or to table? I remember Mr. Williams telling us about the different strategies for that before I don't remember specifically what they were.

Ostner: I don't either.

Allen: I think we call for a motion and it fails for lack of one if I recall correctly if no one so moves.

Hogue: At that point would it then be tabled?

Ostner: I believe we are bound to vote on this issue. We can vote to table, we can vote to pass.

Pate: You can make a motion to table and table to a date certain or otherwise vote it up or down.

Vaught: If the applicant withdraws they start over is what I believe he said. If we vote to table it can come back as soon as the next meeting. What I would like to see is if the applicant has met with the neighbors. Have you met with the neighbors discussing these issues?

Scott: We have not.

Vaught: One thing that we typically like to see is that you meet with the neighbors and discuss these issues and see if you can come to a resolution and bring back something more amicable between everybody.

Hogue: That is with the zoning issue tabled?

Vaught: Yes.

Hogue: We will do that.

**MOTION:**

Vaught: I will make a motion to table RZN 04-12.00.

Trumbo: Second.

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

Anthes: I don't know that I'm not completely comfortable with leaving it as an R-A zoning. We could go ahead and vote tonight to deny the rezoning request and then we would still have an R-A zoning.

Ostner: There is currently a motion on the floor that needs to be voted on up or down. Do we have any further discussion?

Vaught: Since it is currently R-A, I think we should give the developer an opportunity to go speak with the neighboring land owners to see if they can come to some sort of a resolution without stopping the process. It could be a real quick discussion at the next meeting if it comes back and everyone still doesn't like it or we think it is not the right zoning. That would be my comment.

Ostner: Let's not forget that we did not annex it, we have simply forwarded it to the City Council. They have still got a long road before they are annexed. Is there any further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to table RZN 04-12.00 failed by a vote of 2-4 with Commissioners Clark, Allen, Anthes and Ostner voting no.

Thomas: The motion fails two to four.

Ostner: Are there more motions or discussion on this issue? We are still considering the rezoning of this item. The tabling motion failed so we are going to revisit it or do something.

Pate: Mr. Chair, based on the Planning Commission bylaws the way they are stated any Conditional Use or Rezoning request requires a five affirmative vote to carry. It is the applicant's prerogative to be able to table that

motion in order to come back to you with something that could potentially pass. Because we do not have a full Commission there are potentially three commissioners that could vote for this project. Therefore, it is appropriate to table this item if the applicant wishes to do that.

Scott: We do wish to do that.

Clark: Can I make one comment? Tabling it is certainly your prerogative and probably a wise course of action. I have a very extensive list of concerns that the neighbors have voiced that when you bring this back I sincerely hope that you have talked with them and can address some of them because I happen to agree with them.

Scott: We'll do our best.

Allen: I would agree with Commissioner Clark.

Anthes: Kit is not here so Jeremy, does this mean if the applicant still wishes to table we still then need to have a vote on our level to do that or they withdraw it?

Pate: That is a little unclear to me reading the bylaws whether it requires a vote to be tabled or not. Obviously, a vote has failed for that motion.

Clark: That motion was to table at our request, not their request.

Pate: There can be another motion on the floor to table this item I believe.

**MOTION:**

Ostner: With Mr. Pate's advise, he is not a lawyer, I would be willing to vote for a tabling on this issue. I am going to make a motion that we table it.

Clark: Based on Jeremy's suggestion and interpretation of the rules I guess I will second it.

Ostner: Do we have any further discussion?

Marr: Mr. Chair, I think your requirement is that a person who voted against tabling needs to motion to reconsider. You vote on that and then you can vote to table. Otherwise, your action won't be legal.

**MOTION:**

Anthes: I move to consider RZN 04-12.00.

*Planning Commission*
*April 26, 2004*

Clark: Second.

Ostner: We have a motion and a second, is there any further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to reconsider RZN 04-12.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

**MOTION:**

Anthes: I move to table RZN 04-12.00.

Ostner: I thought we just did.

Anthes: No, we moved to reconsider.

Vaught: I will second.

Ostner: We have a motion and a second. Renee?

**Roll Call:** Upon the completion of roll call the motion to table RZN 04-12.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-06.00: Annexation (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112. The property is currently in the Planning Area and contains approximately 29.86 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn I Warrick — Division Head — 4/30/04 Date

City Attorney — 4/30/04 Date

Department Director — Date

Finance & Internal Services Dir. — 5-3-04 Date

Chief Administrative Officer — 5-3-04 Date

Mayor — 5/3/04 Date

Received in Mayor's Office 4-30-04 pm Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

# LEIGH TAYLOR PROPERTIES LLC.

May 28, 2004

Fayetteville City Clerk
Fayetteville City Planner

Sir or Madaam,

This letter is being written to officially withdraw the Annexation and Rezoning request for the property of Leigh Taylor Properties LLC. The mentioned parcel is a 40-acre tract of land located on highway 112, approximately one mile north of I-540.

Again, it is the request of the land owners, Leigh Taylor Properties LLC., that this property NOT be annexed at this time. Thanks for your consideration in this matter.

Chad White
Leigh Taylor Properties LLC.

4738 STONEWALL CROSSING SPRINGDALE, AR 72764
479-841-4844 479-756-9775

RECEIVED
MAY 28 2004
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

05-28-04 A08:43 IN

7/6/04 Renee/Planning Put back on the Agenda
Tabled Indefinitely 7/1/04

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

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

**Date:** July 2, 2004

**Subject:** Rezoning request for Leigh Taylor Properties (RZN 04-12.00)

## RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 39.86 acres of property from R-A, Residential Agricultural to RSF-4, Residential Single Family – 4 units per acre.

## BACKGROUND

The subject property is 39.86 acres and located in north Fayetteville, north and east of Highway 112. Surrounding properties are zoned RSF-4 and R-A. The Future Land Use Plan identifies the southern 10 acres, north of Hwy 112, as Mixed Use and the remaining 29.86 acres as Residential. The subject property is currently vacant. Property to the north and southwest are developed as residential subdivisions.

The applicant proposes to rezone the 39.86 acre tract in anticipation of development of the property for a residential subdivision. The applicant proposes to zone the property of RSF-4 and has offered a Bill of Assurance limiting the density of approximately 2.48 units per acre resulting in a maximum of 99 lots. Other restrictions include the number and type of structures constructed on said lots, allowable uses limited to those specified under the RSF-4 zoning district, and the Property Owner's Association will extend an invitation for two property members of Forest Hills Estates to be members. The applicant has submitted a traffic study conducted by Peters & Associates.

Public comment has been received regarding concerns with traffic volume and safety, connectivity, and density.

## DISCUSSION

On April 26, 2004, the Planning Commission voted 6-0-0 to table this rezoning request and forward the accompanying annexation request to the City Council with a recommendation for approval. On June 28, 2004, the Planning Commission forwarded this rezoning request to the City Council with a vote of 5-4-0 with a recommendation of approval. Commissioners Anthes, Allen, Clark, and Ostner voted against the request.

**ORDINANCE NO. _____**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-12.00 AS SUBMITTED BY CHAD WHITE ON BEHALF OF LEIGH TAYLOR PROPERTIES, LLC FOR PROPERTY LOCATED NORTH OF HIGHWAY 112/HOWARD NICKELL RD AND EAST OF HIGHWAY 112 CONTAINING APPROXIMATELY 29.86 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE SUBJECT TO A BILL OF ASSURANCE.

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

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

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

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

**Section 3: That the subject property will be subject to a Bill of Assurance attached hereto and made a part hereof labeled as Exhibit "B" limiting the density of said property to 2.48 dwelling units per acre.**

**PASSED AND APPROVED this _____ day of _____, 2004.**

**APPROVED:**

**By:_____**
**DAN COODY, Mayor**

**ATTEST:**

**By: _____**
**Sondra Smith, City Clerk**

FILED

**EXHIBIT "A"**
**RZN 04-12.00**

THE SW ¼ OF THE NW ¼ OF SECTION 28, TOWNSHIP 17 NORTH, RANGE 30 WEST, DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT OF BEGINNING BEING A SET COTTON SPINDLE; THENCE NORTH 00°09'01" WEST 1312.76 FEET TO A SET COTTON SPINDLE: THENCE ALONG THE SOUTH LINE OF FOREST HILLS SUBDIVSION, NORTH 89°59'52"EAST 1320.33 FEET TO A FOUND PINCHED IRON PIPE; THENCE SOUTH 00°15'33" EAST 1287.92 FEET TO A SET IRON PIN. THENCE CONTINUING S00°15'33" EAST 26.60 FEET TO THE SOUTHEAST CORNER OF SAID SW ¼ OF THE NW ¼; THENCE NORTH 89°55'34" WEST 1322.84 FEET TO THE POINT OF BEGINNING, CONTAINING 39.855 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. SAID TRACT SUBJECT TO THE RIGHT OF WAY OF ARKANSAS STATE HIGHWAY NO. 112 ON THE SOUTH SIDE OF THE WEST SIDE THEREOF.

DRAFT

The accompanying annexation request was tabled by the City Council on May 18, 2004. The applicant has asked to bring that item off the table for consideration at this time.

**BUDGET IMPACT**

None.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

## PLANNING DIVISION CORRESPONDENCE

| | |
|---|---|
| TO: | Fayetteville Planning Commission |
| FROM: | Suzanne Morgan, Associate Planner |
| THRU: | Dawn Warrick, AICP, Zoning & Development Administrator |
| DATE: | June 23, 2004 |

**RZN 04-12.00: Rezoning (Leigh Taylor Properties, pp 169)** was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC. The property is currently zoned R-A, Residential Agricultural, and contains approximately 39.86 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

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

| | | |
|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** | **YES** |
| | **○ Approved** | **○ Denied** |
| **Date: June 28, 2004** | | |
| **CITY COUNCIL ACTION:** | **Required** | **YES** |
| | **○ Approved** | **○ Denied** |
| **Date: July 20, 2004 (1st reading if recommended)** | | |

**BACKGROUND:**

***Property description:*** The subject property contains approximately 39.86 acres of vacant property located north of Highway 112/Howard Nickell Rd and east of Highway 112. The property includes a 29.86 acre tract requested for annexation and an additional 10 acre tract zoned R-A, Residential Agricultural. Forest Hills Estate subdivision, platted at 1.17 units per acre, is located to the north of this site and Lynn-Leigh Hill Estates, platted at 1.06 units per acres, is south of Hwy 112.

This item was heard at the regular Planning Commission meeting of April 26, 2004 with an accompanying annexation request of 29.86 acres. The Planning Commission approved the annexation request with a vote of 6-0-0, and it has been tabled at City Council at the request of the applicant. Discussion and public comment was heard regarding the rezoning request, and the item was unanimously tabled. The applicant held a neighborhood meeting and has submitted a Bill of Assurance that limits development to a maximum density of 99 lots, or approximately

2.48 units per acre (see attached). In addition, the applicant has submitted a traffic analysis conducted by Peters & Associates Engineers (see attached).

***Public Comment:*** Staff has received comments from surrounding property owners regarding concerns with the proposed density, lot size, traffic volume/public safety, and the impact to surrounding neighborhoods.

***Proposal:*** The applicant's intent is to develop a single family residential subdivision.

***Request:*** The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 dwelling units per acre, should ANX 04-06.00 be approved.

***Recommendation:*** Staff recommends approval of the rezoning request based on the findings included in the staff report. Future development on this site will be regulated by the City to ensure adequate services, infrastructure, connectivity and consistent development within the surrounding area.

**SURROUNDING LAND USE AND ZONING**

| Direction | Land Use | Zoning |
|---|---|---|
| North | Single-family (Forest Hills Estates) | Planning Area |
| South | Single-family (Lynn-Leigh Hills) | RSF-4, Residential Single-family, 4 units/acre<br>R-A, Residential Agricultural |
| East | Single-family | Planning Area |
| West | Single-family | Planning Area |

**INFRASTRUCTURE:**

**Streets:** Highway 112, a state highway, is located to the south and west of this property. Improvements to infrastructure will be assessed at the time of development.

Surrounding Master Street Plan Streets:
North: Forest View Rd (local street)
South: Highway 112 & Howard Nickell Rd (principal arterial)
East: Cris Hollow Rd. (local street)
West: Highway 112 (principal arterial)

**Water:** The property currently has access to a 6" water line along Highway 112. An extension of the water main will be required to provide water supply within any development on this property.

**Sewer:** Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive. The developers engineer will need to

provide calculations to show that there is adequate capacity in the Highway 112 lift station. Upgrades to this station and/or force main may be required.

**Fire:** The subject property is located 3.6 miles from the Fire Station #2. Normal driving time is 5 min. 56 seconds.

**Police:** It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services.

The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. These two intersections have had 31 accidents in just over three years. The police department recommends the access to this area should be placed as far from these two intersections as possible. Access into future development shall be reviewed for safety at the time a development proposal is submitted to the city.

**LAND USE PLAN:** General Plan 2020 designates the northern 29.86 acres of this site requested for annexation Residential. The remaining 10 acres is designated for Multiple Use. Rezoning this property to RSF-4 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 zoning for a single family residential subdivision is compatible with the land use to the north and south. Adjacent property to the north, west, and a portion to the east are within the Planning Area. The land to the north and southwest is utilized for single family residential subdivisions, with a majority of the property to the east, west, and southeast vacant. The Future Land Use map identifies Multi-Use as the future use of the 10 acre tract located north of Hwy 112, a principal arterial, and currently zoned R-A. Rezoning the property to RSF-4 will increase the density, allowing for more intense residential use of the property and allow for development compatible with the northern tract of land considered for annexation with the previous item. Access and provision of adequate services must be considered as this site is at the outskirts of the city and located on streets which need improvement.**

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

**Finding:** **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A higher density than the R-A zoning district allows for development of a subdivision with density appropriate in this area, and would provide compatibility with the adjoining development. In order to develop a residential subdivision on this property in a manner that is consistent with the future land use plan, a residential zoning district is needed.**

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

**Finding:** **The police department has determined the proposed density will not substantially alter the population density to create an undesirable affect on services. However, there is concern with the future access to development on the property. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. Access shall be evaluated at the time of development.**

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

**Finding:** **The proposed zoning would increase population density. The 39.86 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 19 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 159 dwelling units would be permitted. This increases the possible number of residential units substantially, but is consistent with land use and zoning within the City of Fayetteville and developing areas to the south.**

*Engineering* - **The property currently has access to a 6" water line along Highway 112. An extension of the water main will be required to provide water supply within any development on this property.**

**Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive. The developers engineer will need to provide calculations to show that there is adequate capacity in the Highway 112 lift station. Upgrades to this station and/or force main may be required.**

**Highway 112, a state highway, is located to the south and west of this property. Improvements to infrastructure will be assessed at the time of development.**

*Fire -* **The subject property is located 3.6 miles from the Fire Station #2. Normal driving time is 5 min. 56 seconds.**

*Police -* **It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services.**

**The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. These two intersections have had 31 accidents in just over three years. The police department recommends that access to this area should be placed as far from these two intersections as possible.**

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**

## 161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

| | |
|---|---|
| Unit 1 | City-wide uses by right |
| Unit 3 | Public protection and utility facilities |
| Unit 6 | Agriculture |
| Unit 7 | Animal husbandry |
| Unit 8 | Single-family dwellings |
| Unit 9 | Two-family dwellings |
| Unit 37 | Manufactured homes |

(2) *Conditional uses.*

| | |
|---|---|
| Unit 2 | City-wide uses by conditional use permit |
| Unit 4 | Cultural and recreational facilities |
| Unit 20 | Commercial recreation, large sites |
| Unit 24 | Home occupations |
| Unit 36 | Wireless communications facilities |

(C) *Density.*

| | |
|---|---|
| Units per acre | One-half |

*(D) Bulk and area regulations.*

| | |
|---|---|
| Lot width minimum | 200 ft. |
| Lot Area Minimum:<br>Residential:<br>Nonresidential: | <br>2 acres<br>2 acres |
| Lot area per dwelling unit | 2 acres |

(E) *Setback requirements.*

| Front | Side | Rear |
|---|---|---|
| 35 ft. | 20 ft. | 35 ft. |

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

(G) *Building area.* None.

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

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

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

(D) *Bulk and area regulations.*

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

(E) *Setback requirements.*

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

(F) *Height.* None.

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

# FAYETTEVILLE

## FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-12.00 OWNER Leigh Taylor Prop.
ANNEXATON# 04-06.00 OWNER Leigh Taylor Prop.
LOCATION OF
PROPERTY 2470 Hwy. 112

NEAREST FIRE STATION AND
LOCATION Station #2, 708 N. Garland

RESPONSE TIME FROM FIRE STATION # 2 TO
LOCATION OF
PROPERTY 5 MINUTES 56 SECONDS.
TRAVEL MILES FROM FIRE STATION # 2 TO LOCATION OF
PROPERTY 3.6 miles.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION Hwy. 112 at Deane Solomon

WATER SUPPLY WITH HYDRANTS
NEEDED? Yes

ADDITIONAL
COMMENTS

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272

# FAYETTEVILLE

RECEIVED
APR 20 2004
PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

April 19, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **ANX 04-06.00 Annexation (Leigh Taylor Properties, pp 169)** and **RZN 04-12.00 Rezoning (Leigh Taylor Properties, pp 169)** submitted by Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112 would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services.

The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. In fact, these two intersections have had 31 accidents in just over three years. The access to this area should be places as far from these two intersections as possible.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

Deane Soloman / Howard Nickell

Hwy 112 query

QUERY NAME . . . . . ACCLOCAT
LIBRARY NAME . . . . COPS

| FILE | LIBRARY | MEMBER | FORMAT |
|---|---|---|---|
| PLACCM | NWSPSFLS | PLACCM | AMREC1 |
| PSGADR | NWSPSFLS | PSGADR | GAREC1 |

DATE . . . . . 04/19/04
TIME . . . . . 10:21:19

Query by Accident Location

04/19/04 10:21:19 PAGE 1

| Accident # | Date of Accident | Str# | Dir | Street | Dir | Cross Street | Accident Close to this Street |
|---|---|---|---|---|---|---|---|
| 200001368 | 2000/05/16 | | N | HWY ONE TWELVE | | HOWARD NICKELL | |
| 200002085 | 2000/07/20 | | N | HWY ONE TWELVE | | HOWARD NICKELL | |
| 200002803 | 2000/09/24 | | N | HWY ONE TWELVE | | HOWARD NICKELL | |
| 200003046 | 2000/10/16 | | W | HWY ONE TWELVE | | HOWARD NICKELL | |
| 200003231 | 2000/10/30 | | W | HWY ONE TWELVE | W | HOWARD NICKELL | |
| 200003371 | 2000/11/12 | | N | HWY ONE TWELVE | | HOWARD NICKELL | |
| 200101393 | 2001/05/29 | | N | HWY ONE TWELVE | | HOWARD NICKELL | |
| 200101409 | 2001/05/30 | | W | HWY ONE TWELVE | W | HOWARD NICKELL | |
| 200201201 | 2002/04/19 | | W | HWY ONE TWELVE | W | HOWARD NICKELL | |
| 200201207 | 2002/04/19 | | W | HWY ONE TWELVE | W | HOWARD NICKELL | |
| 200302873 | 2003/09/24 | | | HWY ONE TWELVE | | | HOWARD NICKELL |
| 200303730 | 2003/12/06 | | | HWY ONE TWELVE | | | HOWARD NICKELL |

* * * E N D O F R E P O R T * * *

QUERY NAME . . . . . ACCLOCAT
LIBRARY NAME . . . . COPS

| FILE | LIBRARY | MEMBER | FORMAT |
|---|---|---|---|
| PLACCM | NWSPSFLS | PLACCM | AMREC1 |
| PSGADR | NWSPSFLS | PSGADR | GAREC1 |

DATE . . . . . 04/29/04
TIME . . . . . 10:07:16

Query by Accident Location

04/19/04 10:07:16

| Accident # | Date of Accident | Str# | Dir | Street | Dir | Cross Street | Accident Close to this Street |
|---|---|---|---|---|---|---|---|
| 200000585 | 2000/02/26 | | | MT COMFORT | | DEANE SOLOMON | |
| 200001020 | 2000/04/12 | | | DEANE SOLOMON | | | |
| 200002474 | 2000/08/24 | | | DEANE SOLOMON | | | |
| 200100033 | 2001/01/05 | | W | MT COMFORT | N | DEANE SOLOMON | |
| 200103377 | 2001/11/26 | | | DEANE SOLOMON | | | |
| 200103395 | 2001/11/28 | | N | DEANE SOLOMON | W | HWY ONE TWELVE | |
| 200103523 | 2001/12/09 | | W | MT COMFORT | N | DEANE SOLOMON | |
| 200103543 | 2001/12/11 | | | DEANE SOLOMON | | | |
| 200200225 | 2002/01/23 | | | DEANE SOLOMON | | | |
| 200201101 | 2002/04/13 | | | DEANE SOLOMON | | | |
| 200201113 | 2002/04/14 | | | DEANE SOLOMON | | | |
| 200201992 | 2002/06/25 | | | DEANE SOLOMON | | | |
| 200202515 | 2002/08/09 | | | DEANE SOLOMON | | | |
| 200203627 | 2002/11/03 | | W | MOUNT COMFORT | N | DEANE SOLOMON | |
| 200203801 | 2002/11/21 | | | DEANE SOLOMON | | | |
| 200300110 | 2003/01/16 | | N | DEANE SOLOMON | | | |
| 200300736 | 2003/03/15 | | | DEANE SOLOMON | | | |
| 200301587 | 2003/05/31 | 2509 | N | DEANE SOLOMON | | | |
| 200400535 | 2004/02/21 | | | DEANE SOLOMON | | | MOUNT COMFORT |

* * * E N D O F R E P O R T * * *

March 17, 2004

Planning Department
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Attn: Dawn Warrwick

Dear Ms. Warrwick:

We have recently purchased the referenced 40 acre tract of land at the corner of Highway 112 and Howard Nickell Road. The southerly 10 acres are already in the city limits and are zoned R-A. We intend to annex and zone the property for single family residential development RSF-4. The property is adjacent to single family residential developments to the north and south and larger single family tracts to the east and west. The property to the immediate southwest boundary of this 40 acres is zoned RSF-4. There is some agricultural use to the south of the property but the majority of the local area is residential. The zoning change is necessary to develop the property for single family homes. The project will have access a safe distance from the 90 degree curve in Highway 112 which should have adequate capacity for the additional traffic. The property has city water on the south and west sides. The nearest sanitary sewer is located over a mile to the south or approximately 0.6 mile to the east. The capacity of the system on this side of town has been discussed and cleared by the city for new growth. The existing use of the property is R-A and is not the best use for the property based on current values of land in the area and should be developed as RSF-4 for the best value to the owners.

Sincerely,

R. Chad White

R. Chad White

March 17, 2004

City of Fayetteville
Planning Department
ATTN: Ms. Dawn Warrick
113 West Mountain
Fayetteville, AR 72701

RE: 40 Acres, Washington County, Arkansas

Dear Ms. Warrick:

We have recently purchased the referenced 40 acre tract of land at the northeast corner of Highway 112 and Howard Nickell Road. The southerly 10 acres are presently in the City of Fayetteville and we intend to annex the remaining northerly 30 acres, then rezone the property for single family residential development. The property is adjacent to single family residential developments to the north and south, with larger single family tracts to the east and west. Our intention is to develop the 40 acres into a neighborhood of approximately 108 homes similar in style to the subdivisions on the north and south of us. There is a ninety degree curve in Highway 112 on the southwest corner of the property. The neighborhood would access Highway 112 on the South and West property lines with an adequate distance from the ninety degree curve for safety. Highway 112 should have adequate capacity for the added traffic flows. Entry way signs would be similar to the existing subdivisions, keeping with the existing character of the area.

Sincerely,

R. Chad White
Owner

4738 STONEWALL CROSSING • SPRINGDALE, AR - 72764
PHONE: 479-756-9773 • FAX: 479-841-4844

# PROJECT DESIGN CONSULTANTS, INC.

June 23, 2004

**City of Fayetteville**
Planning Department
125 West Mountain
Fayetteville, AR 72701

**Attn:** Ms. Suzanne Morgan
**RE: Leigh Taylor Properties**
Dear Ms. Morgan:

Please recall that this project was tabled at the Planning Commission with one of the concerns from the commissioners being the density compared with the density of the Forest Hills Estates subdivision to the north. We have researched the plat of that subdivision and determined that the density of the first 300 feet (up to Forestview Road) is approximately 1.6 Lots per acre and for the next 325 feet (up to Dogwood Lane) the density is approximately 1.8 lots per acre. Our layout will propose approximately 2.25 units per acre in the northerly boundary of our subdivision and approximately 2.5 overall. This would help to establish compatibility from a zoning standpoint between the two subdivisions.

Sincerely,

N. Arthur Scott, PE
President

PETERS & ASSOCIATES
ENGINEERS, INC.

June 23, 2004

Mr. Art Scott P.E:
Project Design Consultants, Inc.
130 N. Main Street
Cave Springs, AR 72718

Bus: (479) 248-1161
Bus Fax: (479) 248-1462
E-mail: nascott@projectdesign-nwa.com

Re: P1021
PDCI - Highway 112 Subdivision
Fayetteville, Arkansas

Dear Mr. Scott:

As you requested, Peters & Associates Engineers, Inc. has conducted traffic analysis relating to a proposed residential development (Subdivision) located on the northeast quadrant where Howard Nickell Road intersects Highway 112 from the west in Fayetteville, Arkansas. The following are key findings:

- Arkansas State Highway and Transportation Department (AHTD) 2002 annual average daily (ADT) traffic counts for Highway 112 were researched and depict a two-way volume of approximately 4,300 vehicles per day just east of the site and 3,600 vehicles per day just north of the site.

- Highway 112 is currently a two-lane highway. The current volumes are well below the capacity of this type of two-lane roadway.

- The site is proposed to consist of 99 single family dwelling units. The Trip Generation, an Informational Report, 2003, published by the Institute of Transportation Engineers (ITE) and The Trip Generation Software (Version 5 by Microtrans), were utilized in calculating the magnitude of traffic volumes expected to be generated by the proposed residential land use of this development. These are reliable sources for this information and are universally used in the traffic engineering profession. These calculations indicate that approximately 947 vehicle trips (combined in and out) per average weekday are projected to be generated by the proposed residential land use on this site. Of this total, approximately 74 vehicle trips are estimated during the adjacent street weekday AM peak hour and approximately 100 vehicle trips are estimated during the adjacent street weekday PM peak hour are projected to be generated by the proposed residential land use on this site.

- Proposed access to the subdivision is proposed from two new streets. One of the streets (referred to in this report as South Street) is proposed to intersect Highway 112 approximately 1,000 feet east of the location of the Highway 112 bend where Howard Nickell Road intersects Highway 112 from the west. The other street (referred to in this report as West Street) is proposed to intersect Highway 112 approximately 720 feet north of the location of the Highway 112 bend where Howard Nickell Road intersects Highway 112 from the west. The majority of site-generated traffic volumes destined to and from the north (Bentonville, Highway 412, etc.) are expected to utilize the new West Street and the majority of site-generated traffic volumes destined to and from the east (Fayetteville, I-540, etc) are expected to utilize the new West Street.

- Sight distances for both of the proposed new streets at Highway 112 each have greater than 500 feet of sight-distance in either direction.

- Traffic accident history from 2000 to 2002 was researched as a part of this study. It was found that each year reported traffic accidents decreased (16 reported accidents in 2000, 7 reported accidents in 2001 and 4 reported accidents in 2002). Additionally, no fatalities were involved in any of these reported accidents.

If there are any questions concerning this additional information, please let me know.

Sincerely,
**PETERS & ASSOCIATES ENGINEERS, INC.**

Ernest J. Peters, P.E.
President

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

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

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

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

1. The use of Petitioner's property shall be limited to a maximum density of 2.48 dwelling units per acre comprised of 99 lots.

2. Other restrictions including number and type of structures upon the property are limited to 99 single family homes to be not less than 2,400 heated sq.ft each to include an enclosed two car garage. Exterior Walls will be no less than 80% brick, stone or approved masonry product, with architectural shingles. All yards will be sodded.

3. Activities that will be allowed upon petitioner's property are limited to those permitted in the RSF-4 zoning district.

4. When the Property Owner's Association is established two property owners from the Forest Hills Estates subdivision will be invited to serve on the board.

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

**IN WITNESS WHEREOF** and in agreement with all the terms and conditions stated above, I, Cleve Branson, as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

6/23/04
Date

Cleve D Branson
Printed Name

2604 Carrington Pointe Rd
Address
Ft. Smith, AR 72903

Cleve D Branson
Signature

**NOTARY OATH**

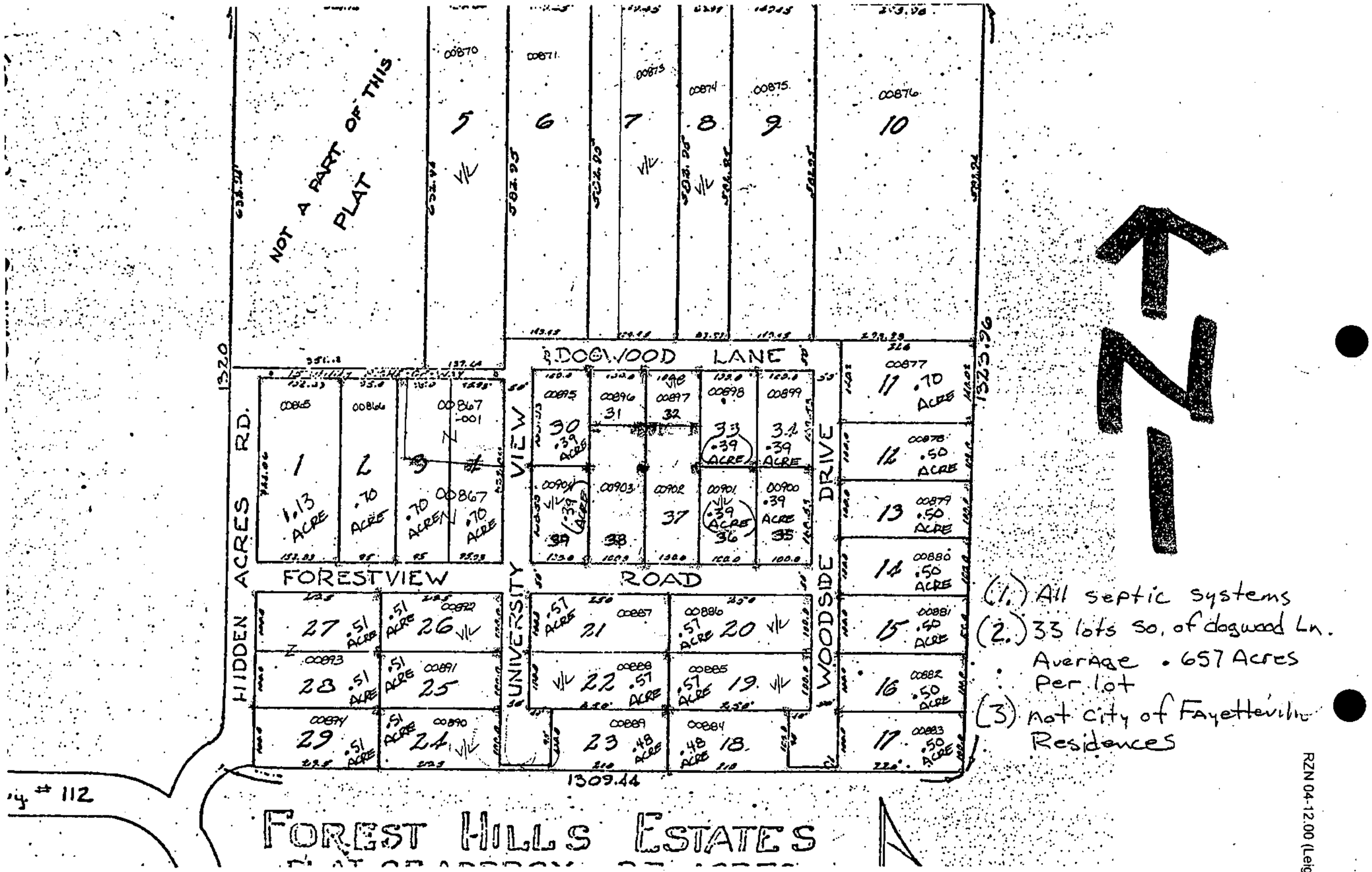
**STATE OF ARKANSAS** }
**COUNTY OF WASHINGTON** }

And now on this the 23rd day of June, 2004, appeared before me, Cleve Branson and after being placed upon his/her oath swore or affirmed that he agreed with the terms of the above Bill of Assurance and signed his name above.

Renee Thomas
**NOTARY PUBLIC**

My Commission Expires:
11-15-2011

Renee Thomas
County Of Washington
Notary Public - Arkansas
My Commission Exp. 11/15/2011




(1.) All septic systems
(2.) 33 lots so. of dogwood Ln.
∴ Average .657 Acres
∴ Per lot
(3) Not city of Fayetteville
∴ Residences

**ANX 04-06.00: Annexation (Leigh Taylor Properties, pp 169)** was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112. The property is currently in the Planning Area and contains approximately 29.86 acres. The request is to annex the subject property into the City of Fayetteville.

**RZN 04-12.00: Rezoning (Leigh Taylor Properties, pp 169)** was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC. The property is currently zoned R-A, Residential Agricultural, and contains approximately 39.86 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next item on our agenda is another annexation, it is ANX 04-06.00 for Leigh Taylor Properties. If we could have the staff report please.

Morgan: This request was submitted by Chad White on behalf of Leigh Taylor Properties for property located at 2470 Hwy. 112. The request is to annex approximately 29.86 acres into the City of Fayetteville. If you look on page 10.12 that identifies the approximately 30 acre tract that is requested to be annexed into the city. The accompanying rezoning for Leigh Taylor Properties is a request to rezone this 30 acre tract as well as the 10 acre tract of land just north of Hwy. 112 to RSF-4. The annexation is 30 acres and the rezoning is for approximately 40 acres. Fire and Police have reviewed this item. It is approximately 5 minutes 56 seconds from Fire Station 2 and Police have reported that this annexation will not substantially alter the population density. However, they did comment that access to this site would be of concern due to the intersection of Hwy. 112 and Howard Nickle as well as Hwy. 112 and Deane Solomon. Access into future development will be reviewed for safety at the time of development when there is a development proposal submitted to the city. Improvements to street systems will be reviewed also at the time of development and staff finds that this is an appropriate location for annexation into the city. As I mentioned earlier, they are requesting a rezoning of this 30 acre tract as well as the additional 10 acres to the south. Staff finds that this proposed zoning for single family residential is compatible with the land use to the north and the south. There are two subdivisions in either direction. Property to the south within the city limits is zoned RSF-4 at this time as well as R-A. Staff finds that the zoning is consistent with the future land use map and existing development within this area. Public comment has been received regarding this proposal with regard to density, lot size and traffic volume. However, staff finds that in accordance with findings from other divisions such as Engineering, Fire and Police, staff is recommending approval of ANX 04-06.00 and RZN 04-12.00.

Ostner: Thank you. Is the applicant here?

Hogue: Good evening, my name is Curtis Hogue. I'm an attorney in Fayetteville here on behalf of the applicant. I actually represented the applicant through the annexation process of the county. In reading the recommendation from staff and in looking at the findings made and the recommendations made and there was reference made to extenuating circumstances on this particular annexation. I'm not sure in particular what those are although I think that there are a number that apply here. In particular, as noted by the staff recommendation of this parcel 10 acres are within the city. We are asking to annex the entire parcel to bring it all into the city and then allow the total rezoning. I know that there are a couple of specific issues that were addressed in this. With me is Art Scott who is handling the engineering on behalf of the applicant and I'm sure can address some of those particular issues that were brought up in the report.

Scott: I think there were a number of pretty good concerns. First of all, if it was my property next door I would want to know what the density was too. The RSF-4 does allow for four units per acre. This developer is intending to build an upscale sized sort of premium lot in that zoning. It is a minimum of 80', which the zoning allows for 70' and then the normal depths are 130' to 140', which is another 30' or 40' larger in the rear than would be allowed by the typical zoning. The entire 40 acres would end up with their intention is around 108 to 110 units which is 2/3 of the maximum density. There will be a 2,400 minimum square foot home. The access and the proximity to that corner where Hwy. 112 makes that 90° corner would be a concern. We have on the south side very good visibility in both directions from where we intend to apply only one access point on the south and we only intend to have one access point on the west side on Hwy. 112 also with a stub out for connectivity to the north and to the east and both of those have ¼ mile along Hwy. 112 with very good visibility in both directions for access. Also, one other concern was drainage and that is always a concern when the development of 40 acres takes place. We will have to abide by all the city codes and detain any water before it leaves the site and keep it to a pre-development level so that shouldn't be a concern for the future and for the downstream properties. I will answer any questions you might have.

Ostner: At this point I will move it to the public comment period. Are there people who would like to comment on this item?

Futral: My name is Charlie Futral and I have property adjoining this property. I'm on the north side. I sit on one acre of land. I'm in the Forest Hills subdivision which is to the north here. I've lived here for nine years. We have a very established neighborhood. The houses surrounding this property are very established. My neighbors directly to the north of me sit on 1 ½ to 2 acres. My neighbors directly to the west of me who adjoin this have approximately 2 acres. His neighbor who adjoins this property

has approximately 3 ½ to 4 acres I believe. Throughout our neighborhood we are not equal to what they are designing here. You are talking about 80' lots here, we sit on one acre plots. Yes there are some properties in there that are less than one acre but not many. Most of them have multiple acres, up to 8 acres within our particular subdivision. Across the street to the west you have approved zoning for 2 acre lots. We had 4 acres and then you all came back with 2 acre lots. That is nowhere near this kind of density and there is nothing in our neighborhood that has this kind of density going on. The density is one of the primary concerns that we have as it relates to this property. We have several concerns that relate to density. One is property values as it relates to us and it relates to the whole neighborhood, not just our particular subdivision but in each direction from us. As we look at this we don't see that this is enhancing our property values out in the area where we are at. The concerns that relate to the density is the safety issue. What he just addressed on this curve, this is a curve where we have had two fatalities in the last nine years that I've lived here. There have been two fatalities, that is adjoining this property that is immediately on the southwest corner of this property. That doesn't include, I don't know the number of wrecks that have occurred along this stretch of road. It is a dangerous piece of road. It is a dangerous piece of road because it is narrow, because it doesn't have good visibility and because of the speed and the direction that cars come into. Mainly it is a narrow piece of road. It is a state highway that the City of Fayetteville is not going to come in and rebuild and neither is the developer. With all good intentions, everyone is trying to manage growth as it goes out into the community and one of the things that was talked about here this evening was the appropriateness of what is RSF-4. My concern and what I would like to suggest is that this be a RSF-1, one house per acre as the density issue. It raises the property values on the thing, it doesn't inculcate 250 or more cars into this dangerous situation of where fatalities are already occurring, they are on the record. We had a runner just down the street on Hwy. 112 as you come around the curve to the drive in theater along that stretch, we had a runner who was hit and killed a few years ago. You may remember that. There is the third fatality in less than 9 years. As we look at this the density is a real issue. One of the things that was mentioned here as we were listening closely to what was being said is that RSF-4 on a flat plain makes sense that you can see where you are going. It spreads it out. This is a rolling hill country that you are coming into. Another one of the big issues and concerns on this is that when you look at this plat, this is obviously not approved. It is the one that you all have probably all seen and had across your desk as you look at this approach.

Ostner: No.

Futral: May I bring it up?

Ostner: Sure.

Futral: For what it is worth, you need to see what is about to go in here. This is the plat that they have presented as an informal plat. Here is the dangerous curve, here is our subdivision. These are all one acre lots and more coming through here and if you watch this these are tree lines. These are all just trees but what you are seeing here, this area and this whole 1/3 of the property is a low area. These are trees in water. Their idea is that they are going to put a ditch as lots back up to each other and they are going to carry the water through here. This water is coming off of all this slope, all of this basin back over here which includes the development from Clear Creek. Clear Creek now is flowing water through our neighborhood which is an issue for me and for other neighbors there. It goes immediately into this neighborhood here at the north end of this and they think that they are going to handle it down here with an engineered detention pond. I don't think so. Especially after what we just saw this week as it goes through here. This is also a boggy area down through here. Now we are going to put density into a boggy area, not a flat area and not a nice dry area. We are going to go in and we are going to completely cut the trees and we are going to reshape this land to insert this kind of density. In a neighborhood where you have one acre lots, modest in many cases, not so modest in other cases. We have homes out in our area that would approach close to a million dollars and we have land that have been platted across the street that are 2 acre lots, 4 acre lots, that are not scheduled to carry this size of a home on it. What is going to happen to that gentlemen's property values as he goes along? I think density is the culprit here and it is the concern that we all have. Some of the reasons and things that are attached to it are safety on the roads. This is a very real issue out there. We already have proof of it with the fatalities that have occurred and the wrecks that occur. We also have land that is a rolling hill country. In this particular location and what I'm showing you here with these tree lines where the water flows, these are dry creek beds. Think of it like a bowl and what you are doing is our neighborhood is sloping into that bowl, the west is coming into that bowl and the east is flowing around and into that bowl. Their property, roughly 1/3, 25% to 30% of it is the bottom of the bowl as the water flows through it. One other thing, I would like to ask that the number of people that are here that are concerned about this raise their hands so that we have some sense of the neighborhood that has come to see you this evening. There are many neighbors here and some of which have lived here for 30 years, some of which have been here for 2 years and many of us that have been here for several years. Ron has been here since 1962 on this property so we are really very established and appreciate your concern and consideration with this.

*Approximately 25 people raised hands*

McWhorter: My name is Rick McWhorter, I have property that is adjacent to the north side of this property right across the street from Charlie Futral. I don't know if you are aware but to go along with the density issue we received a report that came across from the Educator. It is a news letter from the Fayetteville Public Schools. One of the things that came out was a map showing large areas of development. In this blue area is exactly the property that we are looking at, or at least it is within that. If you were to count up and this map is not very good to be able to identify the actual number of homes, but if you were to count up the number of homes that are in these developed areas that are already either approved or in the process then we are looking at anywhere from around 600 new homes to around roughly 1,200 give or take. The school system figures one child per three lots is what their formula is. This would add a tremendous overflow to the school system, in particular the elementary school district that this serves. Holcomb Elementary School District is already in the process of having to build six new kindergarten classrooms to service a school system that is almost at full capacity already without even considering this development. When you start adding onto this you are adding a problem that is not just traffic, not just safety, not just drainage, but we are adding an issue that deals with public education here within the City of Fayetteville. As you are aware with the vision 2010 that is posted right behind you. You look at point 11, Quality and you start adding more and more student possibility in this area to an overflowing school then that is even creating more of a problem. I would like for you to consider that because I think Charlie was very eloquent in what he said. My other concern is the road through or at least the way we have seen the layout of the road through that would tie into Woodside Drive. The concern is the traffic flow through there and the service vehicles that would go through there and those kinds of concerns that we do not have at this point in time that I would hope you would consider keeping us from having that. We appreciate your time and we appreciate your concern. I think Charlie was very good at pointing out that drainage and density are major issues. Thank you.

Myers: I'm William Myers, I also live just to the north of the area. I'm certainly not going to go into as much detail but I would like to reinforce what Charlie has said. Particularly our concern is the population density and the traffic safety. For whatever it means I was born in Fayetteville in 1934 so I remember when the first traffic lights were put in in Fayetteville and you can't imagine the fuss that caused. I did some mental arithmetic and depending on however many children you expect people to have that is going to be a population density out there between 6,000 and 8,000 per square mile. I don't know what to compare that to but you guys can do that. The other thing I would express my concern about is the traffic. I

drive from my home out there to the University of Arkansas every morning and have done so for the past 18 years. The traffic is getting worse and worse and worse. If you look at the small development immediately to the south across Hwy. 112 from this corner the fencing company has a pretty good business of repairing the fence there where cars go a little bit too fast, miss the curve and go through the fence. Hwy. 112 which used to be an unpaved road that I hiked on as a boy scout, has become a very dangerous place to drive on. I hope you will not make it more dangerous. Thank you very much.

Ostner: Thank you Sir.

Clark: Good evening, my name is John Clark. I do think Charlie covered most bases. I would just simply add that RSF-4 is too dense for this area. I really can't add much more than what has already been said except to say that even though the visibility is good on those entrances, it is a dangerous venture to pull out on Hwy. 112 under the best circumstances. We would ask the Commission to do the right thing and consider a less dense rezoning there. The annexation, I think most of us welcome the annexation. Thank you.

Forbes: I am Bill Forbes. I live right across the street from John Clark. We have a 3" water main, what is going to happen to our water pressure from Fayetteville?

Casey: If this property is to be annexed and rezoned and if we see a development proposal on this property at that time we will look at the public infrastructure, water and sewer, and make sure tat there is adequate capacity to serve the development. If the capacity does not exist it will be up to the developer to provide the capacity for the area.

Forbes: We are already developed.

Casey: The developer of this property would have to supply the infrastructure to make sure there was adequate capacity to serve their property and also make sure there is no negative impact on the existing customers.

Forbes: Thank you. We have 26 houses on over 40 acres. As Charlie said just very few of them are on one acre or ¾ acre plots. Whoever was here before, we also have deer, quail, dove, they will be gone forever. The water detention, it appears on the plat like it is one lot, 100'x40', is that correct?

Scott: This is still in the preliminary stages.

Ostner: Excuse me Sir, you need to address us and we will ask him and that will keep things moving.

Forbes: If it fills up where does the water go? 26 of those lots that they have platted there are right on Hwy. 112. Instead of getting a fence knocked out you are going to have a home knocked out. Today I walked down there and they were surveying on the flat area while we were cutting yards and everybody doing fine, they were stuck in the mud down there with the surveyors. They were stuck in the mud down there Thursday before the big rains came. They are walking around out there in the flattest part with long boots on and doing a pretty good job. We have been a good friend to Fayetteville. We live about 400' out of the city limits. We have paid you guys for our fire insurance and the price got dearer and dearer. We have called you two times in 30 years. As far as calling the police I don't think we ever have and we sure don't need this right next to us. Thank you.

Kemp: Hello, my name is Jeff Kemp, I'm involved with the development near this subject property so I'm somewhat familiar with it and the area. I just once again, want to reinforce the problem that I think this density will pose as far as traffic. Not only do you have the 90° turn on Hwy. 112 on the southwest corner of the property. You also have Cris Hollow Road on the east side just as you top a hill Cris Hollow pulls out and I know from experience it is kind of a take your chances and pull out on. I just can't imagine the density of RSF-4 traffic in that area.

Ostner: If I could I would like to remind everyone to keep your comments short and if someone has already said what you are going to say just agree with them.

Wheeler: My name is Joan Wheeler, my late husband bought 40 acres south of this property in about 1968 and the back of my house faces Hwy. 112. It is my fence that they come through on a regular basis. The traffic is so bad out there I can't even imagine how dangerous it would be with that many houses added to that area. I hope that you won't consider the RSF-4.

Butcher: I'm Betty Butcher and this is my husband Perry. We live south, we are a neighbor of Joan's and we live south on Deane Solomon three houses down. People have come up and talked about the traffic. Most of the neighbors here are going north around the curve up to their homes there. I have to stop and turn south on Deane Solomon, which is approximately where they would put the opening of that subdivision. I cannot even explain to you how dangerous that is. You cannot see when you are looking at the Howard Nickle Road you cannot see what is coming, it is a blind spot and it is just right there. To have people coming out and turning left towards town on there with the amount of traffic going over there would just be suicide. It is a terrible idea. Thank you.

Ostner: Are there any other comments?

Riser: Hello, my name is Randall Riser and I'm a neighbor of everyone here that you have heard from already and I concur with everything that they have said. It is true beyond what you can even imagine if you haven't ever lived out there. One other thing that I would like to bring up is that the development that they are trying to put in here does not even fit the landscape of this area. This is a development you would see in downtown Dallas or some place like that. This should be planned better for the City of Fayetteville in my opinion. Thank you very much.

Ostner: Is there anyone else?

Futral: I know you all are really tired. I'm Anna Futral. In line with what he just said, there is not a TOPO map reflected with this plat and I think that the lay of the land is an issue.

Ostner: Thank you. Are there any other comments from the public?

Baird: I'm Laurie Baird and our property would be the one directly north to where this development is proposed. We have got five kids and we come out of that neighborhood and just coming here this evening I had to sit there forever trying to get out of the neighborhood and turning left. I have a true concern with all my kids going to the school there with all those houses how are we even going to get in and out of the neighborhood safely? I know I don't let my kids go on Hwy. 112 at all but just the cars and the traffic, I've assisted in some of those accidents. My husband has directed traffic as I've held bodies until the EMS unit can get there. I am really concerned about the density of all these houses that are going to be in there. Our square footage is about 4,000 sq.ft. in our home and we have an acre and a half and it isn't adding up right to having four houses per acre right next door to us with that much traffic too. I would like for you to consider that. Thank you.

Moore: I'm Benny Moore, we live at the northwest corner across the road from this development. We just got through building a new home and hopefully the development will compare with our house and look similar to it is what we were hoping. The north of us all of the homes are larger homes. I think Tyson has a minimum of 3,200 sq.ft. The 2 ½ acre blocks south of us have 3,200 sq.ft. minimum. Hopefully we won't get into this compacted settlement there. As far as safety, we have lived there about 20 years on the property and there have been deaths in that area and lots of wrecks. It is not a safe corner. Thank you.

Ostner: Do we have anymore comments from the public? Seeing none, I will close it to the public and bring it back to the Commission for discussion. Once again, we are discussing them together and we will vote on them separately.

Vaught: I think we need to discuss them separately in one respect with the fact that the annexation, I know this property is also being looked at by Johnson to be annexed. To me that adds a little bit more priority if we want control of what happens on this acreage we need to look at the annexation more seriously. If Johnson annexes it in, I don't know how the timing works. I know that they have a vote coming up but apparently I think Dawn was telling us since we had ours filed first it would take precedence, is that correct?

Morgan: We believe that is correct at this time. Their vote will be I believe May 11th to vote on the area and whether it will be annexed into Johnson.

Vaught: This is where I would like Kit to be here to answer questions about if we postpone this. If we turn this down then obviously they will be able to annex it in and then they will have control over what happens here. I think they are somewhat two separate. We could pass one and table the other or pass one and not pass the other. I think that is something to keep in mind as we talk about it but just for everyone to understand.

Anthes: I have a question for follow up on what Commissioner Vaught is talking about. One of the things that we look at is development pressure and we don't really have development pressure here so much as we have annexation pressure. We have got a situation where we've got another municipality that is looking at this piece of property which if it was annexed by that municipality, would subdivide this particular owners property into two parcels. That is troublesome I'm sure for them and for us in terms of how to look at how this owner would develop this property if it was in two different municipalities. That is one thing that I'm looking at. I would like to comment that it is interesting, the neighbors, there are a lot of them here and a lot of them have spoken about density but I only believe that one even mentioned the annexation at all. Obviously, the density is the thing that is the largest concern to those neighbors. I guess as far as the circumstances about that split, can staff tell us about what this would mean if this 40 acres ended up in two different municipalities and development came forward?

Pate: Essentially if that were to occur and the Johnson city limit moves south along the Fayetteville city limit our Planning boundary line also would move to where that line is. If a subdivision did occur on that piece of property, the portion in the City of Fayetteville would be reviewed by the City of Fayetteville and the portion in the City of Johnson would be

reviewed by the City of Johnson. Technically they would have no jurisdiction over our city municipal boundary and vice versa as well. It is a concern of staff and we believe that this petition was filed and released by the county prior to the election being called. I understand timing is definitely an issue with the applicant on this piece of property. As far as development regulations I believe we do have some subdivisions that have been phased, developed with one portion in Springdale and one portion in Fayetteville. It has been the subject of a lot of problems with regard to infrastructure improvements. Street standards are not the same with different cities. Additionally, the overall infrastructure with regard to water and sewer I would refer to our Engineering Division with regard to what types of infrastructure, public improvements if he has any knowledge of what Johnson does and how that would loop the system.

Casey: The water situation I would have to do some research on to see how the water service area boundary would change with the city limits change or if it would change at all. We would certainly have the ability to serve with water if that were allowed by the contract between the two cities. Sewer, on the other hand, would only be allowed for the small portion to the south of the site that is already in the City of Fayetteville. We cannot provide sewer service outside the city limits of Fayetteville unless it is specifically approved by the City Council.

Pate: Additionally, with regard to other findings we have made tonight, the confusion with regard to who responds to what calls comes up. I believe a citizen mentioned that they pay the City of Fayetteville Fire Department to serve their residents. That is how that works in areas outside the city limits but there is always some confusion with regard to emergency response calls about who actually works that call.

Anthes: While we are on the issue of water, our staff report does indicate that the property has an access to a 6" water line across Hwy. 112, is that indeed true based on an earlier comment?

Casey: I believe that to be the case. I don't have that on the maps here in front of me but I am the one who wrote that so I believe I consulted the maps before writing that so I would say yes, that is true.

Allen: If we annex this area it would come in as R-A. I would welcome these people into the City of Fayetteville in terms of an annexation but I do not see the RSF-4 as being compatible with the area and wouldn't be able to support that. I do think a good planner takes a long step backwards and looks at the whole picture and I don't think that's good planning.

Ostner: I would like to agree. We welcome this area to adjoin our city but I don't think RSF-4 is appropriate. I believe RSF-1 might be. I understand that

there is another area of RSF-4 nearby but this piece of land the context that it is in, is clearly less dense than RSF-4 on top of the safety issue. It is a very dangerous intersection and with the difference between RSF-4 and RSF-1 I believe is night and day.

Hogue: Can I make one comment? It is on the issue of annexation. I think if I understand the discussion, that there may not be a strong opposition on the annexation. You all asked some legitimate questions of staff about where are we if we are splitting this up and what is going on with the City of Johnson. When I spoke initially about extenuating circumstances, that is one of our concerns. In trying to sort out if this scenario what happens with Johnson. The only way that I can determine, and I don't know all of the answers because there is a whole lot going on up in that area with other municipalities, the only way that I was able to determine that we could solve a lot of those problems is if Fayetteville would allow the annexation and then we don't worry about all of those other problems that you asked questions about. Just simply addressing the annexation, there are some time constraints and that is certainly something that we would like to accomplish. From the concerned neighbors I didn't hear any direct objections to the annexation. I know there are other issues, a lot of greater issues, but that is certainly an issue to us tonight.

Anthes: The other thing I'm struggling about with the potential for that split is the issue of Hwy. 112 and that it borders two side of this property. If the property was split controlling access onto and off of Hwy. 112 in a manner that we could find to be acceptably safe would be very complicated.

Ostner: I would like to add at this point that the R-A zoning, which is automatic with coming into the city with an annexation does allow housing. It allows everything, it is simply two acre lots.

**MOTION:**

Clark: The whole issue of annexation and infrastructure issues concern me but the fact that if we don't annex this, this would be split between municipalities supercedes that concern. I would like to move that we approve ANX 04-06.00.

Allen: Second.

Ostner: I have a motion by Ms. Clark and a second by Ms. Allen. Is there any other discussion on the Annexation? Renee?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of ANX 04-06.00 by the City Council was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

Ostner: The tandem issue is RZN 04-12.00. We have already had some discussion.

Trumbo: As the citizens in that neighborhood have clearly stated, that is a very dangerous stretch of highway. Common sense to me says to add another 108 possible homes compounds the problem out there. I don't see how in good faith I could vote to allow that size of development at that place. I understand for the city to build affordable housing we have to have denser zonings but I don't believe it is appropriate right here considering how dangerous that highway is. I will not vote for this zoning.

Ostner: Thank you. Can we have that map that we tried to get together just showing us some general location?

Anthes: We don't have the City Attorney here so can someone tell us if the best way is to move for approval and vote it down or to table? I remember Mr. Williams telling us about the different strategies for that before I don't remember specifically what they were.

Ostner: I don't either.

Allen: I think we call for a motion and it fails for lack of one if I recall correctly if no one so moves.

Hogue: At that point would it then be tabled?

Ostner: I believe we are bound to vote on this issue. We can vote to table, we can vote to pass.

Pate: You can make a motion to table and table to a date certain or otherwise vote it up or down.

Vaught: If the applicant withdraws they start over is what I believe he said. If we vote to table it can come back as soon as the next meeting. What I would like to see is if the applicant has met with the neighbors. Have you met with the neighbors discussing these issues?

Scott: We have not.

Vaught: One thing that we typically like to see is that you meet with the neighbors and discuss these issues and see if you can come to a resolution and bring back something more amicable between everybody.

Hogue: That is with the zoning issue tabled?

Vaught: Yes.

Hogue: We will do that.

**MOTION:**

Vaught: I will make a motion to table RZN 04-12.00.

Trumbo: Second.

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

Anthes: I don't know that I'm not completely comfortable with leaving it as an R-A zoning. We could go ahead and vote tonight to deny the rezoning request and then we would still have an R-A zoning.

Ostner: There is currently a motion on the floor that needs to be voted on up or down. Do we have any further discussion?

Vaught: Since it is currently R-A, I think we should give the developer an opportunity to go speak with the neighboring land owners to see if they can come to some sort of a resolution without stopping the process. It could be a real quick discussion at the next meeting if it comes back and everyone still doesn't like it or we think it is not the right zoning. That would be my comment.

Ostner: Let's not forget that we did not annex it, we have simply forwarded it to the City Council. They have still got a long road before they are annexed. Is there any further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to table RZN 04-12.00 failed by a vote of 2-4 with Commissioners Clark, Allen, Anthes and Ostner voting no.

Thomas: The motion fails two to four.

Ostner: Are there more motions or discussion on this issue? We are still considering the rezoning of this item. The tabling motion failed so we are going to revisit it or do something.

Pate: Mr. Chair, based on the Planning Commission bylaws the way they are stated any Conditional Use or Rezoning request requires a five affirmative vote to carry. It is the applicant's prerogative to be able to table that

motion in order to come back to you with something that could potentially pass. Because we do not have a full Commission there are potentially three commissioners that could vote for this project. Therefore, it is appropriate to table this item if the applicant wishes to do that.

Scott: We do wish to do that.

Clark: Can I make one comment? Tabling it is certainly your prerogative and probably a wise course of action. I have a very extensive list of concerns that the neighbors have voiced that when you bring this back I sincerely hope that you have talked with them and can address some of them because I happen to agree with them.

Scott: We'll do our best.

Allen: I would agree with Commissioner Clark.

Anthes: Kit is not here so Jeremy, does this mean if the applicant still wishes to table we still then need to have a vote on our level to do that or they withdraw it?

Pate: That is a little unclear to me reading the bylaws whether it requires a vote to be tabled or not. Obviously, a vote has failed for that motion.

Clark: That motion was to table at our request, not their request.

Pate: There can be another motion on the floor to table this item I believe.

**MOTION:**

Ostner: With Mr. Pate's advise, he is not a lawyer, I would be willing to vote for a tabling on this issue. I am going to make a motion that we table it.

Clark: Based on Jeremy's suggestion and interpretation of the rules I guess I will second it.

Ostner: Do we have any further discussion?

Marr: Mr. Chair, I think your requirement is that a person who voted against tabling needs to motion to reconsider. You vote on that and then you can vote to table. Otherwise, your action won't be legal.

**MOTION:**

Anthes: I move to consider RZN 04-12.00.

Clark: Second.

Ostner: We have a motion and a second, is there any further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to reconsider RZN 04-12.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

**MOTION:**

Anthes: I move to table RZN 04-12.00.

Ostner: I thought we just did.

Anthes: No, we moved to reconsider.

Vaught: I will second.

Ostner: We have a motion and a second. Renee?

**Roll Call:** Upon the completion of roll call the motion to table RZN 04-12.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

*Break*

May 20, 04

A SHORT SYNOPSIS:

Meeting of Lea Taylor Properties at Ozark Electric Community Room, and 36 neighbors 6PM, May 17. Excellent Bar BQ with trimmings furnished. Meeting lasted 1 hour +.

We were disappointed Taylor Properties came to the meeting with the same proposal that was put before the Planning Commission Apr 26. ... And no other.

Neighbors still have concerns:

The density of the planned 108 houses, surrounding property on all 4 sides is much less.

We were unanimous against a cut through to our neighborhood. Developer agreed to request a variance from the requirement. There is no easement to Woodside Dr, there is 10ft of private property north of the Taylor property line. We want to preserve the safety and integrity of our neighborhood. We would be more comfortable with a cul-de-sac, and not a dead end road adjacent to our property line. Developer (Cleve) brought up a plan to put masonry walls on perimeter of their property. We agreed, that would be nice.

Property Values: We are all afraid our values will fall, Developer Cleve said: "our property values will all rise on the same tide(?)"

Water Pressure: Fayetteville water comes to Forest Hills/Wooded Hollow in a 3 inch line close to 30 years old. After development - will we have the same pressure?

We appreciate the Taylor Properties telling us their plans. A number of us compiled our notes of the meeting, the following people agree the attached notes are fair and accurate :

Jimmie Forbes
Jamey Crowe
Gail McWhorter
Carl Randall
Joni Stutz
Carolyn S Moss
Jo Matthews
Brenda G. Bailey
Charles Stutzel
Donny Bailey
Ron Johnson
Linda Wallace
Patrick Denton
Bonny Moore
Doggie Borden
Carol L. Moore
James M. Borden

- Developer is willing to sign a Bill of Assurance that would be presented to the city committing to the following:
    - 2300 - 2600 s.f. minimum homes (at over $100 per square foot these homes will be around $300,000 homes)
    - Will not exceed more than 2.7 homes per acre
    - Fayetteville does not have an RSF-3 Zoning so they sought the RSF-4, although they do not intend to build 4 homes per acre
    - Basic restrictive covenants including no parking on street, pitch of roof, 75% stone/brick construction, etc..
    - 3 car garages
    - custom homes and plans - no cookie cutter development

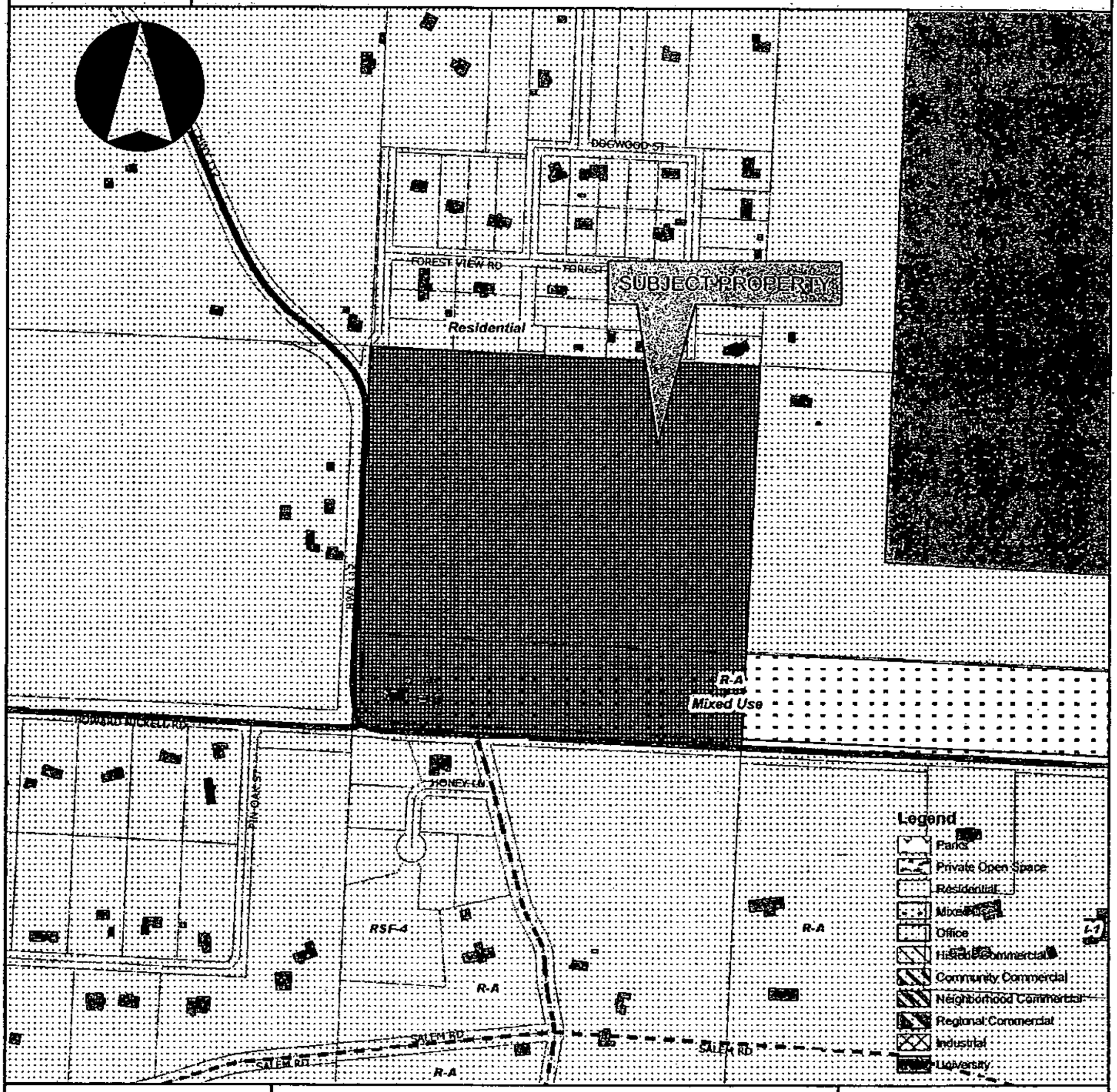
Additionally:

- Discussed potentially donating a portion of their land to the city/state for construction of turn lanes off of Highway 112 for both entrances.
- Discussed a masonry wall surrounding the property.
- Discussed moving the entrances/exits further from the corner and adding additional signage at the corner to alert drivers of the 45 degree turn.
- The cut through to our neighborhood was discussed - and the developer prefers not to cut through. It's a city requirement, but they'll be glad to seek a variance from the requirement with our support.
- A tree survey was completed this week. The development will be placing a % of trees in a conservation or buffer easement.
- Because of the cost of the infrastructure that must be built including streets and sewer, Developer cannot afford to sell 1 acre lots and will only break even at 2 houses on 1 acre lots.
- Developer believes that the city will strike 10 lots off the top as soon as a site plan is turned in for consideration as a matter of practice.
- Run off must be captured and released at the rate it is currently being generated and released on the site. They will build detention area to meet needs identified in studies to be completed once rezoning complete.
- Sewer and lift station cost is $400,000 and required for density greater than 1 home per acre. Concerned about whether the ground will perc if septic only.
- Developer wants to make us happy - but they must be able to potentially make a profit in order for them to commit to the project.

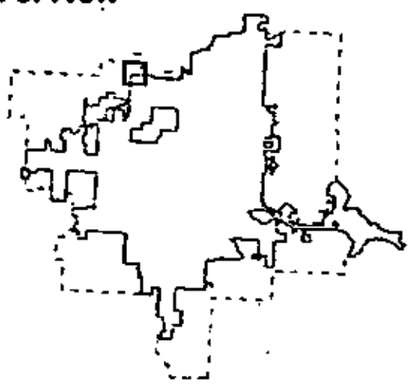
RZN04-12.00

*Future Land Use*

# LEIGH TAYLOR PROPERTIES




*Overview*



*Legend*

**Subject Property**

RZN04-12.00

**Streets**

Existing

Planned

**Boundary**

Planning Area

Overlay District

City Limits

Outside City

**Master Street Plan**

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

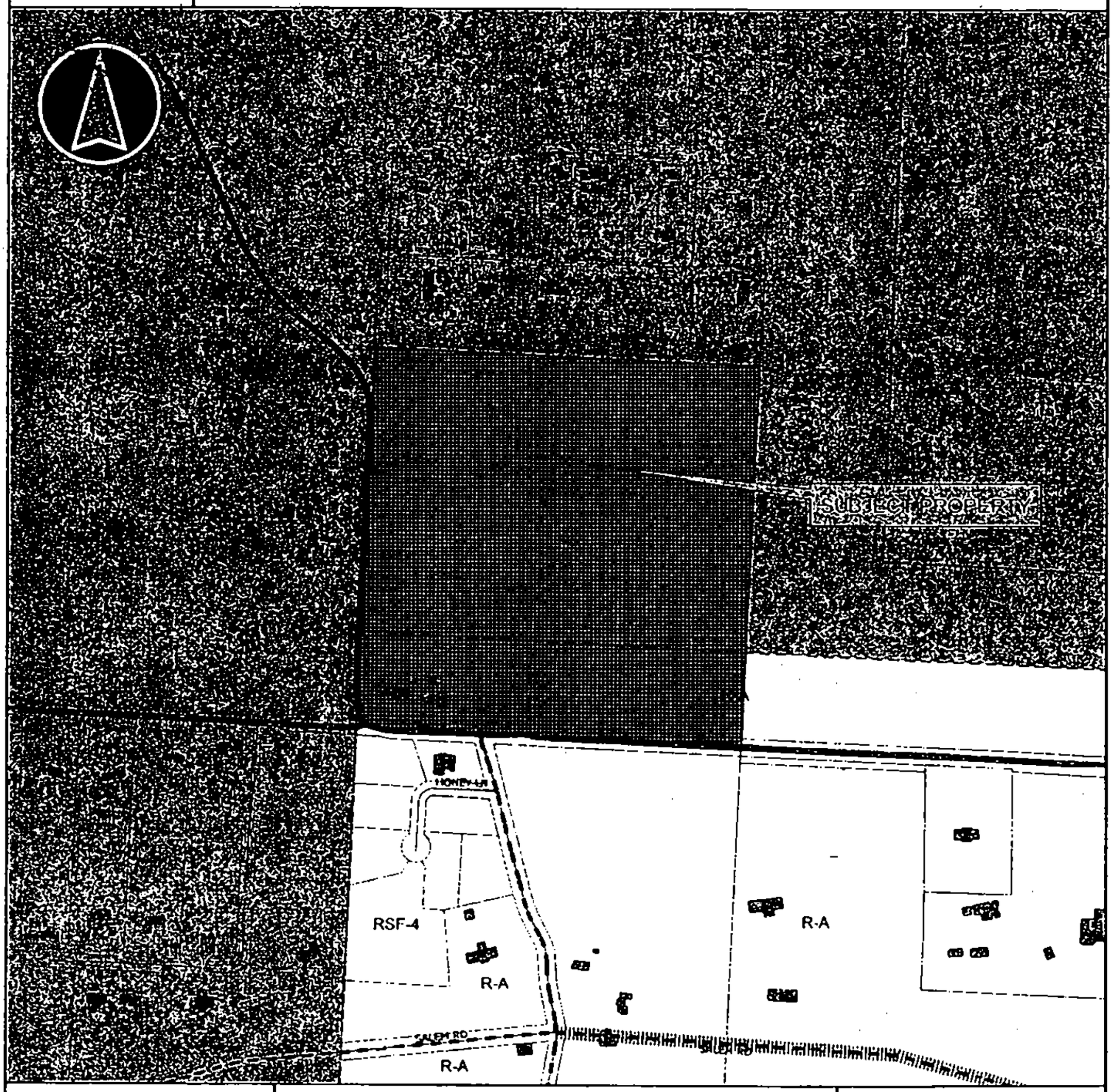
0 175 350 700 1,050 1,400

Feet

RZN04-12.00

# LEIGH TAYLOR PROPERTIES

*Close Up View*




*Overview*

Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Baseline Profile
- RZN04-12.00

0 175 350 700 1,050 1,400 Feet

RZN04-12.00

One Mile View

# LEIGH TAYLOR PROPERTIES

SUBJECT PROPERTY
R-A
HWY 112
I-1
RSF-4
SALEM RD
DUANE SOLOMON RD
GIBSON DR
PRIVATE D
HWY 112
C-2
CPZD
SHILOH D
RAMP
ABFORD
HWY 71
RSF-4
P-1
RSF-4
RSF-4
SALEM RD
RSF-4
RSF-4
RSF-4

**RZN 04-12.00: Rezoning (LEIGH TAYLOR PROPERTIES, pp 169)** was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC. The property is currently zoned R-A, Residential Agricultural, and contains approximately 39.86 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next item on our agenda is a Rezoning for Leigh Taylor Properties. Can we have the staff report please?

Morgan: The subject property contains approximately 39.82 acres of vacant property. It is located north of Hwy. 112 and Howard Nickell Road and east of Hwy. 112. The property includes a 29.86 acre tract requested for annexation and an additional 10 acre tract zoned R-A, Residential Agricultural. This item was heard at the regular Planning Commission meeting of April 26, 2004 with an accompanying annexation request for the 29.86 acres. The Planning Commission did approve this request and it has been tabled at this time at the City Council level. The applicant has held neighborhood meetings and has submitted a Bill of Assurance that limits development on this property to a maximum density of 99 lots or approximately 2.48 units per acre. The applicant has also submitted a traffic analysis conducted by Peters & Associates Engineers and the engineer is present. The applicant's intent is to develop a single family residential subdivision with the zoning of RSF-4. The General Plan 2020 does designate the northern 29.86 acres for residential and the remaining 10 acres is designated for mixed use. Staff is recommending approval for this rezoning request based on findings within the staff report.

Ostner: Is the applicant present? If you could introduce yourselves and give us your presentation.

Branson: My son in law is Chad White, I'm Cleve Branson. We welcome the opportunity to address the Planning Commission and the Washington County residents and the City of Fayetteville residents. We are pleased to report that since our last meeting with the local concerned citizens about a month ago that we had an open dialogue and a lot of conversation and we both expressed our concerns. We did have some differences. We tried to address those on both sides of the fence. On many of the issues we were able to work some items out but I would be remiss without saying that we did end up with a few differences. Not everybody is entirely on the same page as Chad and I would expect. The main issues being traffic and density and we have brought some specialists tonight to hopefully show that there shouldn't be quite as much concern as initially thought at our last meeting two months ago here. One of the main issues I think was drainage and certainly to those Fayetteville citizens to the south that is an issue. Art and the Planning Department certainly will address that if we are so approved with appropriate catch basins. Secondly, as far as the

density goes the RSF-4 allows up to 160 homes in that 40 acre subdivision and we have included in our Bill of Assurance, which all of you have a copy of and hopefully the local residents have that also. We want to assure them that we will not build over 99 homes if so approved by the Planning Commission. We think the size of the lots that we are proposing is comparable to the neighborhood. Certainly some of the lots to the north and south are larger but the majority of that reason is because they are on septic systems and not city sewer like we are going to bring to that particular subdivision. Chad has some issues that he wants to talk about like square footage.

White: In the Bill of Assurance also, we have stated that there would be a 2,400 sq.ft. minimum size on this particular subdivision. In looking at the homes in the Forest Hills subdivision to the north through the county records is about 400 sq.ft. larger than the average in that particular subdivision. We are actually staying in consistence with what is to our south. In the Lee subdivision those are a little larger in average with what we are trying to do. These are a little larger than what is to our north in the Forest Hills subdivision. We are staying consistent in that size and also in lot sizes and that sort of thing. I know that the subdivision to our north has around 75% of the lots as you will see on the plat that you have there of the Forest Hills subdivision, about 75% of those lots are ½ acre and under. We are staying real consistent with the size of lots as well with what we are proposing. Some of the citizens there had mentioned a buffer zone between our northern border and their southern border and also connectivity was an issue to their subdivision. They would not like that much traffic going into their subdivision. Of course we will ask that the city take that into consideration not to have connectivity or some other alternative. We are doing all that we can to help them out in that area. Our hands are tied due to what the city wants in that area. At this time I would like to ask Art Scott, the engineer on the project, to speak on the possible layout of the subdivision as far as drainage and buffer zone and that sort of thing.

Scott: Hello. My name is Art Scott. I would like to talk about a couple of the issues that came up in the neighborhood meeting. In talking with some of the neighbors on the south border of the subdivision to our north they all had a concern with I have no neighbors now and now I'm going to have three neighbors on my direct lot. What we tried to do is make the larger lots and some tree preservation area and greenspace area on that north side. Probably the western half of the north side is going to be all tree preservation area so the trees will be left in place there. On the east side the developers have agreed to add additional setback buffer area, no build area if you will, to buffer putting any out buildings or any homes next to the property lines next to the neighbors to the north. That subdivision at our north has five lots along that border. We propose eight so you can see

it is not a huge difference because of that tree preservation and greenspace area. One thing that Chad touched on was connectivity to the north. That was a big issue with everybody that we talked to in the neighborhood. They actually didn't want connectivity. We agreed with our two very good access points on Hwy. 112 that we didn't need to connect to the north. We are going to propose to connect to the east where there are no homes along that border right now. If staff approves we will go with no connectivity to the north. We could put a stub out street with some type of barricade, maybe a break away emergency access for that subdivision since it only has one access for the 40 acres. I would think that might be something that would be useful in case of emergency at that other entrance of their subdivision. We would agree to do something like that. The one thing I want to talk about on density and traffic, before I turn it over to Ernie Peters our Traffic Engineer, is that the ten acres on the south that is already in the city is presently zoned R-A but is planned on the 2020 Plan to be mixed use. That includes anything from small convenience store up to a 40,000 sq.ft. grocery store or 350 apartment units could be into that mixed use type plan. That would be considerably more traffic than we are generating with a subdivision of this size. At this time I would like to turn it over to Ernie Peters our Traffic Engineer.

Peters: Mr. Chairman, my name is Ernie Peters. I'm with Peters & Associates Engineers. We have done a traffic analysis related to this development. This development consists of 99 lots. It is a residential development, which is the lowest trip generating land use that is typically found in urban settings. We found as part of our analysis, which we have summarized in a letter dated June 23rd, which I believe you have in your packet, the list of our findings. Presently Hwy. 112 in this vicinity carries anywhere in the neighborhood of 4,300 vehicles per day as a two way volume. That is in the area just east of the curve or the intersection of Howard Nickell. North of that location around the curve the volume drops to about 3,600 vehicles per day, that is a two way volume. Hwy. 112 is currently just a two lane roadway in this area. The volumes that I cited are well below the capacity of a two lane roadway of this type. Capacity is simply not an issue. Hwy. 112 being just a two lane roadway, could easily carry 10,000 vehicles per day. The site is estimated to generate approximately 950 vehicle trips per day. This is based on standard trip generation values by the Institute of Transportation Engineers. These are broken out to be about 74 vehicle trips, either leaving or entering the subdivision during the a.m. peak hour and approximately 100 during the p.m. peak hour. The two access points or street intersections proposed as part of this development are configured at appropriate locations. They are well back away from the curve of the road. There are some horizontal/vertical curve situations there where sight distance is not good at all locations along the boundary of Hwy. 112. At the two locations where the street intersections are proposed the sight distance is in excess of 500' and 450' is the minimum that would be

necessary to have safe intersection sight distance for this location. Traffic accident history has been examined for the accidents of record for the years 2000 through 2002. Accident numbers have decreased during that time period ranging from 16 accidents during the year 2000 and down to only four accidents in this vicinity in 2002.. There have been no fatalities but there have been some injury accidents in the vicinity. Art mentioned that 10 acres of this 40 acre tract is currently on the 2020 Plan as mixed use development. That could accommodate a variety of uses but just to put the trip generation of this residential development into proper perspective, that ten acres under a mix of office and retail type uses could easily generate 5,000 vehicles per day compared to the less than 1,000 that we would expect this residential type use to generate. If there are any questions I would be glad to try to answer them. Thank you for your attention and consideration.

Ostner: Thank you Mr. Peters. At this point we will take public comment. Would anyone like to speak to this issue?

Futrall: Hello, I'm Charlie Futrall, I live at 3804 Woodside Drive. I am in the development directly to the north and I border on the northern border of the Taylor property as it approaches. I am in the northeast corner. When we were here last time, I say we as a group. There are a number of neighbors here now not just from our neighborhood but also from the houses to the south there. Most of us had not had any knowledge other than seeing the red sign out front and then coming up and getting some initial idea of this plat that had 108 houses on 108 lots and we were quite shocked not knowing what was going in. The last time we were here you asked for the developers to meet with us which they did. I give them great credit because they came around and put an introduction and come to this meeting in every mailbox and sure enough, they had a number of people there. Part of what is going on here is education on our part as a neighborhood. We are not developers or builders, we have lived here a long time. I have lived there nine years. We have some people in the audience that have lived there for 20 and possibly even 30 years in this neighborhood. It is a long, established neighborhood. It is a mixed neighborhood. We have small children, preschoolers and high school kids. We have people in retirement and we have people who work for the city and work for the government and work for the university and a number of corporations around. It is a wonderful area that we live in and we all love it. As we try to learn what was going on here, I am speaking for myself and can tell you kind of what has gone on with us as a neighborhood and other individuals can have their own say and own opinions about what has gone on here. Essentially, the developers that have come up I think are honest and have an intention of building a quality development. I say that from meeting them. They showed us some examples. They mentioned Stonewood over off Hwy. 265, Candlewood

which is a little more upscale but has some smaller homes in it that we could go and drive by and look at. I'm sure you all are familiar with these developments, they are beautiful. Their intents as I've heard this evening have changed some. They are really trying to accommodate the neighborhood. What we have done as individuals, I know I have and I know many people in the neighborhood have come around. We wanted one acre lots back there. It doesn't compute economically. It doesn't fit with bringing the sewer in and doing the things that you need to do. We are faced, like everybody else in this town, with the growth that is going on. We are right on the edge of the annexation issue and so on and so in trying to understand what is happening here we have done a real turn around. We have recognized that we have good developers here. I think their comment about wanting to provide the Bill of Assurance to make it 100% residential we are very much in favor of. We don't want the traffic that the gentleman eluded to. I didn't have a study of what that meant in terms of actual numbers but I think it is significant and it is a real point. As we look at this I can say it this way, I like the developers. I think these guys are sincere and I think they are going to build quality homes. I think it shows in the size of the homes. You can not build a 2,400 sq.ft. home in Fayetteville today and do it cheaply as far as real dollars. They are going to build nice, quality homes which will enhance our neighborhood in terms of dollar value, which is one of our big concerns when we first looked at the density, as it should be. Here are concerns as we might express them today saying that we recognize there is quality coming into our neighborhood and we appreciate that. The density is still a concern. I think that Mr. Branson stated it and I think that our neighborhood would still state that. At 99 homes he is still at the high end of what his expectations were when he walked in here. That has not changed. If you take 108 homes originally and take 10% off that is about what a builder is looking for. A R-2 would put 80 homes in there on 40 acres. That is a density that most of the people in our neighborhood would be thrilled to see and be happy with at this point, as opposed to when we first walked in here and not understanding the whole process and really trying to take a look at it. I know that is a turn around for many people in our neighborhood. Maybe there is a compromise between that 80 and the 99 homes that he is asking for. I think that what I would ask you to do, because the ultimate decision is going to be with you, is to look at this and where that compromise is and make sure it is here in writing on this amended Bill of Assurance. 99 homes is still 200 cars. Despite what the gentleman said as an engineer, I don't know how many of you have driven out and looked at this stretch of road. All of you have driven it at one time or another. It is narrow. It is narrow and it is short, quick turns and in spite of his discussion, right on the edge of this property at the 90° we have had a fatality there, maybe two fatalities since I've lived there in nine years. There was a runner hit down in front of the movie theater on this same Hwy. 112. Why were they hit? Bad shoulders, not enough room

and because of drivers swerving, pay attention to cell phones and all the reasons why wrecks happen. We cannot stop growth in our area. We can only ask you to consider that you are moving out into a more rural area. You do not have a road structure there. You are dealing with a state highway, it is not going to get corrected by the City of Fayetteville whatever you do. There is a real difference between 160 cars and 200 cars is my comment to this about density. I also think the comment about being in line with the neighborhood, our neighborhood at the minimum is ½ acre lots. I'm on a square acre, both of my neighbors are on two. The next neighbor is on three. Yes, they are on septic. Yes they are not going to get cut down to ¼ acre lots. Across the street the neighborhood above it is .65, .70 size lots. That is seven beautiful houses right there. The next thing is talking about not having a road into our neighborhood. I think that I can say with 99.9% our neighborhood does not want a road cut through connecting Woodside Drive. There are several reasons. We like the privacy that it gives us in terms of not having neighborhood traffic as it is. I think on an important level our subdivision was developed back in the late 1970's. Our road system, we pull over and let the other person pass. In doing that we haven't taken out the flowering tree or the pine trees or something else that is hanging over that road a little bit. Our roads are not designed for two way traffic and not opening up a subdivision like this into our subdivision. What you are going to be doing if you did that is creating real bottlenecks and constant traffic on roads that are not designed for two way traffic of that nature. It works well for 26 or 30 homes but it doesn't work well if you open this up to a subdivision which they will definitely use it both ways at all times of the day. We also discussed a buffer zone. I couldn't hear at the back of the room what they were discussing in terms of the northern boundary there which borders our neighborhood. We would like to see a 50' preservation area of trees to buffer the two neighborhoods. It would be appropriate and it gives a nice separation to what is going on there. That is something that we would like to see if at all possible. Again, this is something that you would dictate. I do not see it in the Bill of Assurance here. I did get a copy of it so I could look this over before the meeting. I want to go back to this Bill of Assurance. I understand that you all are faced with R-2 or R-4. If you just gave a blanket without this you would be giving them cart blanche obviously, to fulfill whatever they wanted. You would be giving them legal right. This is your only limitation if you do not put it to an R-2. I ask you to think about it carefully as you are doing this and make sure that any decisions that you make regarding this has that in it, that it is conditioned upon the builder being able to give a Bill of Assurance to the Planning Commission. I think that in essence the neighborhood has had a lot of discussion. We had after their meeting another neighborhood meeting. It was small town politics in motion I suppose. We met under the old oak tree behind Bill Forbes house and brought our lawn chairs and had plenty talk about. We are concerned about the safety issue here and I

think you should be too. We are very willing to compromise and accept the idea that we are going to have neighbors next door to us and I do want to say that I think that these developers will do a good job and build a quality neighborhood. If we could have some consideration with this buffer zone, if we could have some consideration for any safety considerations that your planners might give you in relation to dealing with the state highway. If you could consider less density, not going below 80 but less density than what has been requested we would appreciate it. Thank you.

Ostner: Thank you.

Forbes: I'm Bill Forbes, I live directly to the neighborhood to the north. When we were here on the 17th of May and the vote appeared to be going the wrong way Mr. Vaught and the lady said we would like you to come back with a different plan and you guys get together and have a meeting and talk it over. They bought us barbeque and we were 15 minutes into that barbeque before we finally figured out there was no different plan, it was still 108 houses. We were unanimous in this cut through. We don't want it coming to us. I'm one of the few people in my neighborhood who met Mr. Ingalls who developed this neighborhood. I met him because we have a covenant out there and they moved a double wide in on us. Mr. Ingall told me if you will look at your little plat there between the southern border and the end of that driveway is 10' that belongs to our neighborhood. It does not but up against that south property line. The property values we are still all afraid of will go down. I'm sorry I don't know the developer's last name but Cleve, he said our property values will rise with theirs all at the same time. End of quote. I really hope so. As far as our small lot houses, we have 36 houses and I would wager none of them are on ½ acre lot and most of them are on 1, 2, 3 and 7 acres. The developer is willing to sign a Bill of Assurance. They brought that up. I had never even heard the term. He said that would be presented to the Commission. I have not seen it. When he started telling us houses built 2,300 to 2,600 sq.ft., that was nice. $100 per square foot, then he said three car garages. I said three car garages? He said three car garages. None of our houses have a three car garage. We don't even have three car carports. Custom homes, no cookie cutters, a lot of brick are all their words. He even brought up masonry walls around the perimeter and that sounds good. The cut through we really don't want. A lot of us took notes and I have a copy of those notes that we took. I would like to see how those notes compare with the Bill of Assurance. I will give you each a copy of these and I'm through.

Ostner: Are there others that would like to speak to this issue? May I first ask that if there are other comments that you agree with let's just say I agree and try not to belabor the issues.

Myers: I'm Bill Myers. I will restrict myself to the safety issue. I am not a traffic engineer but I am a registered professional engineer. I was taught and I try to teach my students that if you can possibly design 99% safety into a project don't ever design 98% in. Something is liable to happen and when it happens you will bear not only the moral responsibility but you as an engineer will bear the legal responsibility for what happens. What I am concerned about is the traffic that is on the road now, the shape of the road because of the curve and Howard Nickell and Deane Solomon coming in at the corner and the significant dips by Chris Hollow Road. We have already committed for all of the traffic that is going to be added as a result of the Clear Creek development. There is more traffic that is going to be added to it with this. I am continuously reminded that the decision makers have to make their decisions based on a lot of things but I hope you will not do anything that compromises the safety. I'm just a little country engineer, but I want to discourage you from adding anymore traffic to that road than is absolutely necessary. I also would be happy with 80 houses. I would vote for it. The traffic is a significant thing and there are going to be people injured if we add much more to it. Thank you.

Ostner: Are there other members of the public who would like to speak?

Borden: Hello, my name is Jim Borden. My wife and I have lived out 112 since 1978 or 1979. We used to drive Hwy. 112 when a not a whole lot of traffic was on there. Peggy, my wife, worked at Mary Maestris and we drove back and forth. Hwy. 112 is a really windy road with a lot of dips and 90° turns. It is really dangerous, not just in that one area. I had the opportunity of taking video of just one afternoon. I can bring that to you guys if you want to see what happens out there everyday. We also have some aerial video of that area. The main thing about that is we have been out there a long time and I have seen a lot of people go off the road a lot of different times. Some of those people died. That is going to continue to happen. I believe that just by watching the people at those curves taking that little risk. One of these days they are not going to make that little jump out there. It is happening more and more because we have now I think four or five other homes going in just southwest of there by Holcomb Elementary. You have Salem Estates and Salem something else and then there is Salem Hills out there too. All of those people want to come out that way, especially if they are going to Springdale or north. You can see it all the time. It has grown and grown and grown. It is extremely dangerous out there. I know these guys had a traffic engineer come out but unless you are out there everyday it is something that you would really have a big concern about if you guys lived out there. I know these guys are probably going to try the best they can. I think as a neighborhood we would really like to see the R-2. That is the compromise that we thought was going to happen, not R-4 and then the compromise

would be R-4. If they get R-4 the assurance should be a lot less than the 99 homes, closer to the 80. I think they could still come out pretty good financially. That's all I have to say.

McWhorter: I'm Rick McWhorter. I'm at 3791 Midside. My property is directly to the north of what was originally going to be three lots that went across the back of my property. I'm a runner and I am a biker. I moved there in 1994. You will never catch me running or biking on Hwy. 112 it is so dangerous. It is not the capacity that is really the issue. An engineer can show you the capacity, show you the number of vehicles that go across there. What they cannot show is the dangerous curves and the location of the sight lines that are really difficult. We agree with the R-2. We could live with the R-2. When I heard the developer say something about a buffer zone to the north of their property, I didn't hear anything as to what kind of a distance they are looking at. I would hope that would be a strong consideration. There is some property there that the association at Woodside and Forest View does have along the property line. We would hope that would be a strong consideration. The cul-de-sac I think the developer was a little misleading in what he said when they were saying about an emergency break through. At our meeting at Ozark Electric there was absolute when you say 99.9% it was probably 100% that we do not want a road cut through our subdivision. We don't want any traffic to go through there whatsoever. If you put a break away emergency thing that will just encourage traffic to go through. Please consider that as a safety issue for us. We like our neighborhood and I will also mention the other thing that was brought up that has not been addressed is again, we are looking at development out our way. What kind of an impact is this going to have on the Fayetteville Public Schools? Our neighborhood is in the Fayetteville Public School district and what kind of impact is it going to be on an elementary school? You already know the developments that you have approved and you already know the figures. It will have an impact that is going to be long term, long reaching. I would hope that would be a part of your consideration. The developers are going to build a nice place. We have met with them. Our concern is how many nice places are going to go in. Please consider an R-2 for us.

Ostner: Thank you. Are there other members of the public who would like to speak? I am going to close it to the public and bring it back to the Commission for discussion.

Allen: There certainly to me seem to be many traffic problems in that location that really couldn't be identified very well in the traffic study. I wondered if I could speak to the developer for a moment please. I wondered if you might be willing to be open to a compromise with the neighborhood in terms of a density maybe 89?

White: On the Bill of Assurance, of course we started at 160 to 108 and now we have come down to 99 lots. Of course we know at this point once we get to the Planning Commission and start working on plats once you get into roads and drainage and that sort of thing you are going to start losing lots. 99 was just a starting point, a good round number if you will, 2.5 units per acre. That is something that we would be open to discussing. The reason we have come to RSF-4 is because there is no 2.5 zoning. To answer your question, that would be something we would be interested in talking about, sure.

Branson: I think there was a question about a buffer zone. Art will address that.

Scott: What I said was that the eastern half of the north boundary has the specimen trees that the city likes to see saved. That made an appropriate, logical tree preservation area. On the eastern half there are no real specimen trees that were found on the tree survey that related to the city's requirements. We could leave those tree specimens that are in there in place and leave a 50' buffer zone there and leave all of those trees there. They are smaller trees is what it is. They are newer growth. The older growth is on the west side.

Vaught: Staff and Engineering, could you speak to that corner of Hwy. 112 at the corner of the property and what we can and can't do? I know we can't put conditions on a project at this level. We will do it when they come forward with a development proposal but what can we do with a state highway and what are some ideas we can have for the safety concerns in this area when we get to that point?

Casey: Since that is a state highway we cannot make the developer improve it. We can make recommendations and have him coordinate with the Highway Department to see if they can get approvals for that but we do not have authority to pose those improvements on that highway. We can work with their traffic engineer to come up with some safe designs and present those to the Highway Department but it is not a city highway where we can make those improvements.

Scott: In that area there is a home there that will be removed. There are also a lot of trees in that area that will be taken out. If you go west bound on Hwy. 112 the problem that would cause a lot of accidents out there is you can't tell at some times of the year the trees are grown over all the signs. Right now the signs are all covered up. You can't really tell visibly that that road goes to the right and turns north. Since 2000 they put in a lot of signs and you can see the drastic drop. It is down less than 25% of what it was in 2000 because of those signs. They really help north bound and south bound. As you approach that curve when we are done we will have a radius out on the inside of that curve that is much larger and much more

clear than is existing today. That house right there that is there will be gone and that will be a visibility corridor through there. That is our intention to help alleviate some of that visibility problem.

Ostner: Do you know the radius of that curve right now approximately?

Scott: We haven't actually analyzed the radius of the curve. I could tell you what it is in a few minutes.

Ostner: I was just going to ask what the design speed of that road is. I know the speed limit is maybe 40 miles per hour.

Scott: I think there is a suggested speed of 25 miles per hour. When you drive it you can tell that is the design speed. That is a comfortable speed. 35 is very uncomfortable and that is how you can really tell the design speed. As you approach it from the east moving westbound there are so many trees in front of the signs that some of those you can't even see the 25 mile per hour suggested speed in some locations. What I didn't want to do was increase the radius of that curve which would increase the speed. I felt like the fact that it is a 25 mile per hour and most people that drive it everyday know it is a 25 mile per hour curve. They will tend to stay at that speed. I felt like if we increase the radius with the intersection of Deane Solomon Road it will cause a problem with that. That right there is an appropriate sight distance and it is safe. That yard on the west side of the intersection is mowed well. It is very safe at 25 miles per hour. I didn't want to do something to increase it to 45 and reduce that time frame that drivers have coming off of Deane Solomon.

Ostner: Commissioners, there has been discussion of a compromise of 89 lots if anyone would care to discuss that.

Vaught: I would like to ask the City Attorney how you would do that. Obviously, there is a Bill of Assurance and we can't ask for that. The developer has to offer that. Can you amend that after they present it or would they have to submit a new Bill of Assurance?

Williams: The applicant would have to amend that and they need to amend that without pressure. Obviously, what the Planning Commission can do when they make a recommendation, they could recommend a slightly different zoning. It is just a recommendation going to the City Council. If you recommended an RSF-2 that would actually only have 79 units the way I look at it because it is not quite 40 acres. I don't think it would be proper for you to request them to make a change in a Bill of Assurance. They may decide to make such a change to get in between the two numbers and submit that to the City Council if they so chose. We really can't get into a

negotiation with them about what number are you going to put in your Bill of Assurance.

Vaught: Staff, it is my understanding when we are calculating density, for say in RSF-2, if it was rounded 80 acres when we calculate maximum allowable density we back out dedications, is that correct?

Warrick: It would depend on whether or not that was an actual parkland dedication that was deeded to the city and then the remaining property would be calculated for density.

Vaught: Roadway dedications and all of that is included?

Warrick: No, that is all part of the gross property that is determined for density calculations.

Vaught: My concern is if we say let's drop them all the way to an RSF-2, we are really not limiting them to 80, we are limiting them to 70 or 75 which is a drastic change. That is why I'm cautious to do that.

Ostner: It is a perfect example of a PZD but that is not where we are tonight.

Anthes: Staff, looking at the Future Land Use map and a finding on page 3.3 referring to the land use map identifying multi-use as the future use of this 10 acre tract along Hwy. 112 and it being a principal arterial. I would like staff to comment on what is happening in the general area and why our 2020 Plan has called for multi-use in that location.

Warrick: There is a portion of property basically the ten acres along the south boundary continuing to the east that lies along the north side of Hwy. 112 that is designated on the General Plan future land use map to be mixed use. The majority of the property surrounding that is designated on that future land use plan to be residential. I wasn't a party to the 1995 decisions that enacted that or adopted that particular future land use designation for this particular area. That was a decision that went through approximately 26 public hearings, Planning Commission and City Council meetings. I don't know that I can tell you the exact reason. We are talking about a principal arterial which intersects another principal arterial and mixed use is a designation that gives the Planning Commission some latitude with regard to zoning decisions. It allows you to consider a variety of different applications and to choose the most appropriate ones. Obviously, a Residential Office is a specifically mixed use zoning district. A variety of different uses on different pieces of property throughout this area also creates a mixed use application on the zoning map. It is certainly within the Planning Commission's discretion and the Council's discretion to determine where residential is appropriate in a mixed use area, where

residential office or office type uses are appropriate and where some more intensive type uses might be appropriate. Based on the surroundings, based on the configuration of the property, based on traffic and safety issues those are all decisions that can go into determining the best, most appropriate use for a piece of property that is designated mixed on the future land use map. It does leave quite a bit of discretion but it also allows for more than just residential should it be deemed appropriate by both the Planning Commission and City Council.

Anthes: Thank you. We are looking at lot at our zoning map and at our future land use map these days and normally we see big areas of residential as it leads away from the city. The fact that during the development of this plan a very specific mixed use zone was placed along Hwy.112 has me question why with all of that public hearing. We are not seeing that in a lot of places and so I'm looking for the rational for that to see if we are missing something that other people felt were really important. The other question I have is for Mr. Peters. I understand what you are saying about the capacity of that roadway. I know that Garland Avenue heading south of I-540 carries like 16,000 cars per day with a similar profile. What I would like for you to do is speak to the geometry of that road and those curves and the sight lines and tell me how that fits into your calculations of capacity on that road.

Peters: They really don't go into the determination of the capacity. Capacity really is not an issue in an open roadway section. Where capacity becomes an issue is at intersections. There aren't any major intersections in the vicinity of this development. Capacity, in my traffic engineering perspective, is a moot point. I think probably what might be more realistic to look at is what would be an appropriate service volume. That is addressed in the city's regulations in terms of the volume that you could typically expect on a roadway by it's classification. As you have recognized, Hwy. 112 is a principal arterial street, although it is not built to that standard. If it were built to that standard and someday perhaps it will be. We did check with the Highway Department and they have no current plans for improvements to this section of Hwy. 112. Should it be built to what you would expect principal arterial standards to be it would be likely a four or five lane arterial street. That category of street at that number of lanes could carry as a service volume, in the neighborhood of 25,000 vehicles per day. As a two lane roadway in an open section where there are not major intersections it can accommodate much more than what is on it right now. It's capacity in terms of it's classification really isn't an issue I don't think. The 3,000 to 4,000 vehicles per day that are there now is not a high volume on a two lane roadway. To address the geometry, the horizontal curve, the major curve there at Howard Nickell is posted by the Highway Department at an advisory speed of 25 miles per hour. That is a safe speed for that curve. They have determined that. I

have driven it myself. Many of you probably have driven it too. You can safely negotiate that curve at 25 miles per hour. Sight distance can become an issue. Sight distance relates not only to curvature in the roadway, horizontal curvature but also the vertical geometry and any hills that might exist. We have examined both with respect to the points of intersection of the proposed streets to serve this subdivision. Both of those streets are at a point in terms of the vertical geometry with the dips and the hills, if you will, at such a point where there is adequate sight distance greater than 500' in both directions at each of those two intersection locations. As Mr. Scott has pointed out, the clearing in the curve without decreasing the curvature of the roadway but just clearing it out, I believe it will become safer in that you will be able, particularly for westbound movement approaching Howard Nickell, you will be able to see cars coming from the north on Hwy. 112 and I think that that clearing will make it even safer than what it is now. I think whatever has happened in the last three years the statistics indicate that the number of traffic accidents has actually gone down. In the most recent year that the Highway Department has summarized it is at 25% what it was three years ago. Another point that is a little off of your topic that I would like to make, and I think it was Mr. Morgan that spoke who has taken video in the area. Presently the volumes that we are seeing out there are likely higher than the volumes that I reported from the Highway Department because with the construction that is going on on I-540 right now I believe a lot of people are detouring and taking that as kind of a bypass. The volumes that we are presently seeing out there are probably greater than what it typically handles. Probably greater than what it will be when it goes back to normal and this subdivision is fully developed and the extra 950 cars a day are there.

Anthes: You mentioned that you didn't believe there was really an intersection issue here. The corner of Hwy. 112 and Howard Nickell Road appears to be a pretty significant intersection to me. Can you talk about that?

Peters: In that localized area you probably would consider it to be that. I think the volume on Howard Nickell is probably much less than it is on Hwy. 112. The difference in volume between a point east of that intersection and north of that intersection, the difference is about 700 vehicles on a daily basis. We didn't do volume counts on Howard Nickell. That is just not in traffic engineer's language that is not a major intersection.

Anthes: My final comments I want to make to the developers and that is I'm really looking to the 2020 Plan and what the goals of that are. I want to talk to you about a few things that I've heard neighbors mention and you mention in terms of how you considered the design of this property and this subdivision. We do have a policy of connectivity that I believe that we are going to be talking about more when you come to PPL. Mostly I want to

talk about the fact that because our General Plan 2020 looks at Hwy. 112 as an arterial with mixed use along it, to me that says something about what kind of presence we want to have along Hwy. 112. What I'm going to be looking for and want to talk to you about is another policy that we have that discourages perimeter walls and that also talks about a presence on that road, i.e. buildings and homes facing the street rather than backyards facing the street. I just want to get that in there at the beginning and put that on the record.

Allen: I was going to comment that as a long term resident of Fayetteville that has been on Hwy. 112 many times, I feel that as this stands the density of this project is not safe. To me that is our primary concern is to make sure that our citizens are safe. As this stands I will not be able to vote for this project. I feel like you have come a long way but in my view it is not there yet, it is not safe yet.

Ostner: I would have to agree with Commissioner Allen. I would like for this to be somewhere near RSF-2 which is about 78 lots or the compromise of 89 lots which we cannot ask for request of you. That's where I stand.

Vaught: My opinion is a little bit different since this is a rezoning to a designation. We will be able to revisit many of these issues at the time of a LSD, and we won't get to that Large Scale Development unless we rezone it to what we think is proper.

Ostner: It is actually a Preliminary Plat.

Vaught: Ok. Well, I'm more inclined to take those issues up and a lot of the safety issues have to do with possible improvements, curb cuts, the stuff about buffer zones and connectivity to the north are issues we'll address at that level. I'm more inclined if we think somewhere, I know RSF-4 is not appropriate with their Bill of Assurance they dropped it somewhere between the two. I am more inclined to approve this with the Bill of Assurance with the understanding that we would love to see it come back with fewer units and there is going to be extensive work and things that need to be done. For the safety issues, possible offsite improvements working with the state. Connectivity issues, buffer issues and all of those issues that will go through a Preliminary Plat. We are not giving them a right to go build right now. If we think this is an appropriate type density if the roads were ideal, that is what we are looking at. All of these other considerations if we think it could be safe for that density with some improvements is what I'm looking at. I'm more inclined to vote for it and see what happens at Preliminary Plat and see if they come back with less units. Those are all different options we have at that level.

Ostner: Just to be clear, we are considering granting them the right to build 99 lots. Whether we like the configuration or not at the time of Preliminary Plat is yet to be seen. If this passes tonight this becomes law so to speak and they do have the right.

**MOTION:**

Shackelford: One thing I would like to add to that, this doesn't become law. A rezoning is a recommendation to the City Council. Whatever we do tonight has to be ratified by City Council. I'm more inclined in following along the lines of Commissioner Vaught thinking that we go ahead and recommend this rezoning with the RSF-4 with the Bill of Assurance as it stands for 99 lots. Obviously, the developers have heard this conversation. They have mentioned that they are open to negotiation. Although we can't require negotiation with the surrounding neighborhoods it might be in their best interest to consider reducing that and rewriting their Bill of Assurance between now and the time that they meet with City Council where this can be heard again. There is a little bit of difference there. What we do tonight doesn't have any finality, it is simply a recommendation to City Council. Two things that have been said tonight that I want to make comment on and just some personal opinion. The growth on Hwy. 112 is I'm afraid is inevitable. If you look at what is happening with Clear Creek to the north of this property that is going to facilitate growth all up and down this corridor. If you look at the growth in Northwest Arkansas, alternative corridors to I-540 are going to develop, those being Hwy. 265 and Hwy. 112. We run into this situation. We talk a lot about density. That is something that we are going to have to come to terms with as our city grows towards the old boundaries. I think that it is unrealistic to think that new development in the outlying areas is there was no infrastructure in place and everybody was based on septic. As that infrastructure is put in I think that it is unrealistic to think that the density is going to stay the same as they become non-outlying areas. That is a struggle that we continue to have. My personal opinion the difference between 80 verses 89 verses 99 houses in this area isn't that great of a difference if you talk about the difference of 8, 9, 10 or 20 houses. I think the development in a five mile radius to the north, south and west of this property, any one development can have that much difference. This is a large area, a very growth oriented area and a lot of new development going on in a five mile radius of this. I'm not as hung up on the difference of 89 verses 80 verses 99 because I think if you will look in a five mile radius the addition or subtraction of 10 houses is going to be somewhat immaterial. I understand all of the concerns. Trust me, there are a lot of concerns out there. This is simply a recommendation for rezoning. I would encourage us to move forward with the RSF-4 with the Bill of Assurance as it is stated today. Obviously, the applicants have heard everything that has been said here and it might be in their best interest to reconsider reducing that number. We can't

require them to do that. The issues that we are talking about will be addressed at Preliminary Plat, those being connectivity. That is going to be a huge one to address. Buffer zone to the north of this property line is going to be something that we have to address and obviously, the ingress and egress in regards to safety on the corner of this. Those are all things that there will be lots more opportunity for us to have input on and make sure that we get this right for the community. Based on staff findings, based on the 2020 Plan I think this is in line with the development that we anticipated in 1995 for this part of town. I'm going to go ahead and make a motion that we recommend approval of RZN 04-12.00 with the Bill of Assurance as it is presented today to the City Council for approval.

Trumbo: Second.

Ostner: I have a motion and a second, is there further discussion by the Commission?

Clark: Just to refresh my memory, Hwy. 112 is State and there is absolutely nothing that we can do to this developer to mandate any improvements to Hwy. 112, is that true?

Warrick: As Matt said, the Planning Commission can make a recommendation for improvements. Any improvements that the city recommended for Hwy. 112 would have to be further coordinated and approved by the State Highway Department.

Ostner: Is there further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of RZN 04-12.00 to the City Council was approved by a vote of 5-4-0 with Commissioners Anthes, Allen, Clark and Ostner voting no.

Thomas: The motion carries by a vote of five to four.

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-12.00: (Leigh Taylor Properties, pp 169) was submitted by Chad White on behalf of Leigh Taylor Properties, LLC for property located north of Highway 112/Howard Nickell Road and east of Highway 112 containing approximately 39.86 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre subject to a Bill of Assurance.

STAFF RECOMMENDATION: Approval.

Dawn J. Warrick 7/2/04
Division Head Date

7/7/04
City Attorney Date

Department Director Date

Finance & Internal Services Dir. Date

Hugh Earnett 7-7-04
Chief Administrative Officer Date

Dan Coody 7/7/04
Mayor Date

Received in Mayor's Office 7-7-04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7/6/04

# 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

**Date:** June 29, 2004

**Subject**: Annexation request for Marinoni (ANX 04-1083)

## RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Marinoni. This action will incorporate a 78.84-acre tract of land into the City of Fayetteville. The request is to annex the property into Fayetteville's city limits.

## BACKGROUND

*Property Description:* The subject property contains approximately 78.84 acres located south of the Fayetteville Boys & Girls Club and adjoining extensions of both Persimmon Street and Rupple Road as reflected on the City's Master Street Plan. The property is adjacent to city limits to the east and the north. Approximately 240 acres immediately adjacent to the west has been recommended by the Planning Commission for City Council consideration to annex in the same manner. This configuration does not create an island of unincorporated property within the City limits, is contiguous to city limits, is adjacent to land newly developed and approved for development and thus meets these policies set forth by the Annexation Guiding Policies in the General Plan 2020.

*Proposal:* The applicant intends to develop a single family residential subdivision, in conjunction with several hundred adjacent acres already within the city limits. Development of the land will most likely be in the form of a Planned Zoning District, as densities for single family homes will likely vary significantly, depending upon terrain, floodplain, tree canopy, available and constructed access, among other factors. A conceptual masterplan for the property in question, along with other adjacent properties the applicant controls, has been submitted for review. Single family use, with a mixture of density, is the developer's primary intent for land use in this area, along with supporting facilities developing both on the applicant's property and on adjacent properties. The remainder of the applicant's property already lies within the City of Fayetteville limits.

## DISCUSSION

On June 28, 2004, the Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval of the annexation request.

## BUDGET IMPACT

None.

**ORDINANCE NO.**

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY OWNED BY PAUL AND SUELLEN MARINONI LOCATED SOUTH OF THE FAYETTEVILLE BOYS AND GIRLS CLUB ADJOINING THE EXTENSIONS OF RUPPLE ROAD AND PERSIMMON STREET CONTAINING APPROXIMATELY 78.84 ACRES.

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

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

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

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

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

**PASSED AND APPROVED** this _____ day of _____, 2004.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

**EXHIBIT "A"**
**ANX 04-1083**

THE FRACTIONAL EAST HALF (FRL. E ½) OF THE FRACTIONAL NORTHEAST QUARTER (FRL. NE ¼) OF SECTION 13, TOWNSHIP 16 NORTH, RANGE 31 WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT AN IRON PIN AT THE NORTHEAST CORNER OF SAID FRACTIONAL EAST HALF (FRL. E ½) OF THE FRACTIONAL NORTHEAST QUARTER (FRL. NE ¼) AND RUNNING THENCE N89 DEGREES 20' W ALONG AN EXISTING FENCE 1303.67 FEET, THENCE S00 DEGREES 01' W 2635.27 FEET, THENCE S89 DEGREES 37' E 1304.31 FEET, THENCE NORTH ALONG AN EXISTING FENCE 2632.02 FEET TO THE POINT OF BEGINNING, CONTAINING 78.84 ACRES, MORE OR LESS.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 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 23, 2004

**ANX 04-1083: Annexation (MARINONI, 478)**: Submitted by BOB ESTES for property located at THE SE END OF RUPPLE ROAD. The property is located in the Planning Area and contains approximately 78.84 acres. The request is to annex the subject property into the City of Fayetteville.

Property Owner: PAUL & SUELLEN MARINONI Planner: JEREMY PATE

**RECOMMENDATION:**

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

| | | |
|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** **YES** | |
| | **✓ Approved** | **○ Denied** |
| **Date: June 28, 2004** | CLARK 0/ SHACKELFORD 2nd | 9-0 |
| **CITY COUNCIL ACTION:** | **Required** **YES** | |
| | **○ Approved** | **○ Denied** |
| **Date: July 20, 2004** | | |

**BACKGROUND:**

*Property Description:* The subject property contains approximately 78.84 acres located south of the Fayetteville Boys & Girls Club and adjoins extensions of both Persimmon Street and Rupple Road as reflected on the City's Master Street Plan. The property is adjacent to city limits to the east and the north. Approximately 240 acres immediately adjacent to the west is currently on the Planning Commission agenda for consideration to annex and rezone in the same manner. This configuration does not create an island of unincorporated property within the City limits, is contiguous to city limits, is adjacent to land newly developed and approved for development and thus meets these policies set forth by the Annexation Guiding Policies in the General Plan 2020.

*Proposal:* The applicant intends to develop a single family residential subdivision, in conjunction

with several hundred adjacent acres already within the city limits. Development of the land will most likely be in the form of a Planned Zoning District, as densities for single family homes will likely vary significantly, depending upon terrain, floodplain, tree canopy, available and constructed access, among other factors. A conceptual masterplan for the property in question, along with other adjacent properties the applicant controls, has been submitted to staff and the Planning Commission for review. Single family use, with a mixture of density, is the developer's primary intent for land use in this area, along with supporting facilities developing both on the applicant's property and on adjacent properties. The remainder of the applicant's property already lies within the City of Fayetteville limits. The applicant is currently requesting an RSF-4 zoning district for the subject parcel as part of the Annexation Policy to "*Designate zoning districts for the property during the annexation process.*"

*Request:* The request is to annex the subject property into the City of Fayetteville

*Related Issues:* When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant requests the 78.84 acres be rezoned to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning request, RZN 04-1084, is an accompanying item to this annexation request.

*Recommendation:* Staff recommends approval of the annexation request. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern. Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, a uniform and consistent standard of development includes the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have none of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limits. In some cases, new subdivisions adjacent to one another have very different street construction, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits is required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use and tree preservation are not within the City's ability to control.

**SURROUNDING LAND USE AND ZONING**

| Direction | Land Use | Zoning |
|---|---|---|
| North | Single family residential | RSF-4, Residential Single Family, 4 units/acre |
| South | Single family residential | Planning Area |
| East | Vacant | RA, Residential Acre |
| West | Vacant | Planning Area |

**INFRASTRUCTURE:**

**Streets:** Currently the site only has access to Rupple Road at the northwest corner of the property. At the time of development, Rupple Road and Persimmon Street will need to be constructed along the property frontage for these roadways.

Surrounding Master Street Plan Streets:
North: Persimmon St. (planned collector)
West: Rupple Road (minor arterial)

**Water:** The property currently has access to a 12" water main along Rupple Road north of the site. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

**Sewer:** The site currently has access to an 8" sewer line along the north side 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. Also, approval of additional units added to the sewer system in this area will be dependant upon the remaining capacity in the Owl Creek lift station.

**Fire:** The subject property is located 0.493 miles from future Fire Station #7 on Rupple Road. Normal driving time is 1 minute. Water supply will be necessary for this property to develop. Anticipated service calls are projected to be 72 per year at full build-out with 4 units per acre.

**Police:** It is the opinion of the Fayetteville Police Department that this annexation and

rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

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

**FINDINGS:**

**11.6 ANNEXATION GUIDING POLICIES**

**BOUNDARIES**

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

**Finding: The requested annexation will not create an island of unincorporated property.**

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

**Finding: The proposed annexation area is adjacent to the city limits along its east and northern property line.**

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

**Finding: This area does not consist of defined subdivisions or neighborhoods. It is predominantly a vacant field. However, the conceptual masterplan submitted by the applicant indicates future development plans may include the extension of single family residential development s to the west and to the east.**

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

**Finding: Proposed boundaries follow property lines.**

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

**Finding: Current conditions result in a response time of 1 minute for fire protection from future Fire Station #7. The property has access to an 8" sewer line and a 12"water main to the north along Rupple Road. Additional utilities are being provided with development directly north of Persimmon St. Anticipated service calls are projected to be 72 per year at full build-out with 4 units per acre.**

## ENVIRONMENTALLY SENSITIVE AREAS

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

**Finding:** **Floodplain from Owl Creek, which is considered an environmentally sensitive area, regulated within the city limits, has been identified on this property.**

## EMERGENCY AND PUBLIC SERVICES

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

**Finding:** **Water and sewer lines are accessible. The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Fire service may also be adequately provided to the site with the completion of Fire Station #7 on Rupple Road. Should the property not be annexed, county and city property is served by different emergency services (police and fire). In the event of an emergency within unincorporated property, response time may lag due to differences in addressing.**

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

**Finding:** **Fire and police service shall be provided to this area with the same level of response and service as other developments in this area. Fire Station #7, currently under construction, was sited to better serve this area of the city. Sanitary sewer, storm sewer and water improvements to the area will be provided for with the development of the property through proper city staff and Planning Commission review.**

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

**Finding:** **These factors were taken into consideration in the responses and recommendations from various public service providers included in this report.**

## INFRASTRUCTURE AND UTILITIES

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

**Finding:** **Water, fire and police protection are currently provided in the vicinity.**

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the

demands of development unless there is a threat to public safety.

**Finding:** **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property. The developer is responsible for installing said public improvements,**

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

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

## INTERGOVERNMENTAL RELATIONS

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

**Finding:** **N/A**

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

**Finding:** **N/A**

## ADMINISTRATION OF ANNEXATIONS

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

**Finding:** **Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with surrounding developing property and the Residential classification of the area on the City's adopted Future Land Use Plan.**

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

**Finding:** **Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this request. Review comments are included as part of this staff report.**

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

**Finding:** **At the time the owner desires to develop this property, the applicant will be required to submit a proposal for review and approval by the Planning Commission. The conceptual plans submitted with this application are for review and comment only, in order to give the staff and the Planning Commission an understanding of the developer's intent for the area in question.**

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

**Finding:** **Staff finds that this request is of acceptable size. The request creates a reasonable boundary avoiding the creation of islands or peninsulas. The property directly to the west is currently under review for annexation and rezoning in kind, thus creating an acceptable boundary.**

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

**Finding:** **A fiscal impact assessment has not been conducted for this property.**

*From Fayetteville General Plan 2020 – 2002 Revision*

## 11.6 Annexation Guiding Policies

### Boundaries

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

### Environmentally Sensitive Areas

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

### Emergency and Public Services

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

### Infrastructure and Utilities

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

### Intergovernmental Relations

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

### Administration of Annexations

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

New Development Impact on Fire/Rescue Service Delivery

Fayetteville Fire Department

June 1, 2004 In-House
June 2, 2004 Technical

| 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| LSP 04-1093 | COULSON OIL | | | Future FS 7 | 0.875 miles | 2-3 minutes | 2-3 minutes | | | |
| FPL 04-1092 | Clabber Creek PH II | | | Future FS 7 | 1.54 miles | 4-5 minutes | 4-6 minutes | 20/year | 8/year | 12/year |
| CCP 04-1051 | Twin Springs Estates | | | Future FS 7 | 3.47 miles | 7.5-8.5 minutes | 7.5-8.5 minutes | 1/year | .40/year | .60/year |
| LSD 04-1094 | Joyce Med & Prof. | | | FS 4 | 2.18 miles | 6-7 minutes | 6-7 minutes | 5/year | 2/year | 3/year |
| | | | | Future FS 5 | 1.47 miles | 5-6 minutes | 5-6 minutes | 5/year | 2/year | 3/year |
| *In-House* | | | | | | | | | | |
| PLA 04-1096 | Schultz | | | | | | | | | |
| CUP 04-1095 | Sunbridge LC | | | FS 4 | 2.15 miles | 6-7 minutes | 6-7 minutes | .17/Year | N/A | N/A |
| CUP 04-1097 | Crumby/Childcare | | | | | | | | | |
| RZN 04-1099 | Bristel | | | Future FS 7 | 2.13 miles | 5-6 minutes | 5-6 minutes | 2/year | .80/year | 1.2/year |
| RZN 04-1102 | Bradberry/Woolv. | | | | | | | | | |
| RZN 04-1103 | Collins | | | FS 2 | 0.633 miles | 3-4 minutes | 3-4 minutes | | | |
| RZN 04-1104 | Goff | | | FS 5 | 3.11 miles | 8-9 minutes | 8-9.5 minutes | 16/year | 6/year | 10/year |
| | | | | Future FS 3 | 2.33 miles | 5-6 minutes | 5-6.5 minutes | 16/year | 6/year | 10/year |
| ANX 04-1083 | Marinoni | | 78.84 | Future FS 7 | 0.493 miles | 1 minute | 1-3.5 minutes | | | |
| RZN 04-1084 | Marinoni | | | | | | | 72/year | 29/year | 43/year |
| ANX 04-1090 | Hays | | 37.3 | Future FS 7 | 1.97 miles | 4-5 minutes | 4-6.5 minutes | | | |
| RZN 04-1091 | Hays | | | | | | | 34/year | 13/year | 21/year |
| ANX 04-1100 | Harper/Brandon | | 9.99 | FS 4 | 4.73 miles | 13-14 minutes | 13-14.5 minutes | | | |
| | | | | Future FS 5 | 3.36 miles | 8-9 minutes | 8-9.5 minutes | | | |
| RZN 04-1101 | Harper/Brandon | | | | | | | 9/year | 3/year | 6/year |

Insufficient Data for Calculations

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

June 18, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 04-1083 (Marinoni, pp 478)** and Rezoning **RZN 04-1084 (Marinoni, pp 478)** submitted by Bob Estes for property located at the SE end of Rupple Road would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

YETTEVILLE POLICE DEPARTMENT
O. BOX 1988
YETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

LAW OFFICE OF BOB ESTES
ONE EAST CENTER STREET, SUITE 200, FAYETTEVILLE, AR 72701-5302

TELEPHONE (479) 521-4900
FAX (479) 587-0700
email bobestes@arkansas.net

February 10, 2004

Mrs. Dawn T. Warrick
Fayetteville City Planning Department
Fayetteville, AR 72701

HAND DELIVERED

Re: In the Matter of the Annexation of Certain Lands to the City of Fayetteville, Arkansas
No. CC 2004--2

Dear Dawn:

Provided with this letter is a courtesy copy of the *Petition for Annexation* that I have filed today in the entitled matter. This is the legal description that you approved this past Friday, February 6, 2004.

With warmest regards.

Yours truly,

Bob Estes

BE:jb

Enclosure

cc: Mr. Tom Terminella

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

FILED

IN THE MATTER OF: '04 FEB 10 PM 4 04

KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

CASE NO. CC2004-2

ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

PETITION FOR ANNEXATION

Comes now, PAUL A. MARINONI, JR. AND SUELLEN M. MARINONI, husband and wife, Petitioners, and for their Petition for Annexation state as follows:

1. Petitioners, PAUL A. MARINONI, JR. AND SUELLEN M. MARINONI, husband and wife, are the record owners of the following described property situated in Washington County, Arkansas, to wit:

The Fractional East Half (Frl. E ½) of the Fractional Northeast Quarter (Frl. NE ¼) of Section 13, Township 16 North, Range 31 West, and being more particularly described as follows, to-wit: Beginning at an iron pin at the Northeast corner of said Fractional East Half (Frl. E ½) of the Fractional Northeast Quarter (Frl. NE ¼) and running thence N 89 degrees 20' W along an existing fence 1303.67 feet, thence S 00 degrees 01' W 2635.27 feet, thence S 89 degrees 37' E 1304.31 feet, thence North along an existing fence 2632.02 feet to the point of beginning, containing 78.84 acres, more or less.

2. All of the above described property is adjacent to and contiguous to the present city Boundary line for the City of Fayetteville, Washington County, Arkansas. A copy of the map of the property to be annexed is marked "Exhibit A" and "Exhibit B" and are attached to this Petition for Annexation.

3. The above-described property is suitable for annexation to the City of Fayetteville, Arkansas, and is necessary for the proper growth, prosperity and management of the above-described property and the City of Fayetteville, Arkansas.

4. Pursuant to the *A.C.A.§ 14-40-601 et seq,* this Court has jurisdiction over the subject matter herein, and Petitioners request that the above-described be annexed to the City of Fayetteville, Arkansas.

5. Petitioners further state that the Bob Estes, Attorney at Law, One East Center Street, Suite 200, Fayetteville, Arkansas, is authorized to act for and on behalf of the Petitioners in all matters connected with this Petition for Annexation and subsequent hearings or annexation proceedings regarding this Petition for Annexation.

6. Petitioners request that this Court set a date for hearing on this Petition, not less than thirty days after the filing of this Petition and subsequent hearings or annexation proceedings therewith.

WHEREFORE, Petitioners pray that the above-described property be annexed to the City of Fayetteville, Washington County, Arkansas, pursuant to the provisions of Arkansas law, after a hearing thereon as required by law; and that this Court, by Order, fix a time and place for said hearing not less than thirty days from the filing of this Petition; and for all other proper and just relief to which the Petitioners may be entitled.

PAUL A. MARINONI, JR. and SUELLEN M. MARINONI, husband and wife, Petitioners

BY Bob Estes

Bob Estes
Bar #75038
Their Attorney
Suite 200, One East Center
Fayetteville, AR 72701-5302
(479) 521-4900
Fax (479) 587-0700
email bobestes@arkansas.net

# VERIFICATION

COUNTY OF WASHINGTON )
)SS.
STATE OF ARKANSAS )

We, PAUL A. MARINONI, JR. and SUELEN M. MARINONI, husband and wife, Petitioners herein, upon our oath, state that we have read the foregoing Petition for Annexation, that the facts set out therein are true and correct to the best of my knowledge and belief.

Paul A. Marinoni Jr.
Paul A. Marinoni, Jr.

Suellen M. Marinoni
Suellen M. Marinoni

STATE OF ARKANSAS )
) SS.
COUNTY OF WASHINGTON )

On this the 28th day of January, 2004, before me, the undersigned officer, personally appeared PAUL A. MARINONI, JR and SUELLEN M. MARINONI who acknowledged themselves to be the persons who executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

OFFICIAL SEAL
JANICE E. BERRY
NOTARY PUBLIC-ARKANSAS
WASHINGTON COUNTY
MY COMM. EXPIRES 2-22-2006

Janice E. Berry
Notary Public

My Commission expires:

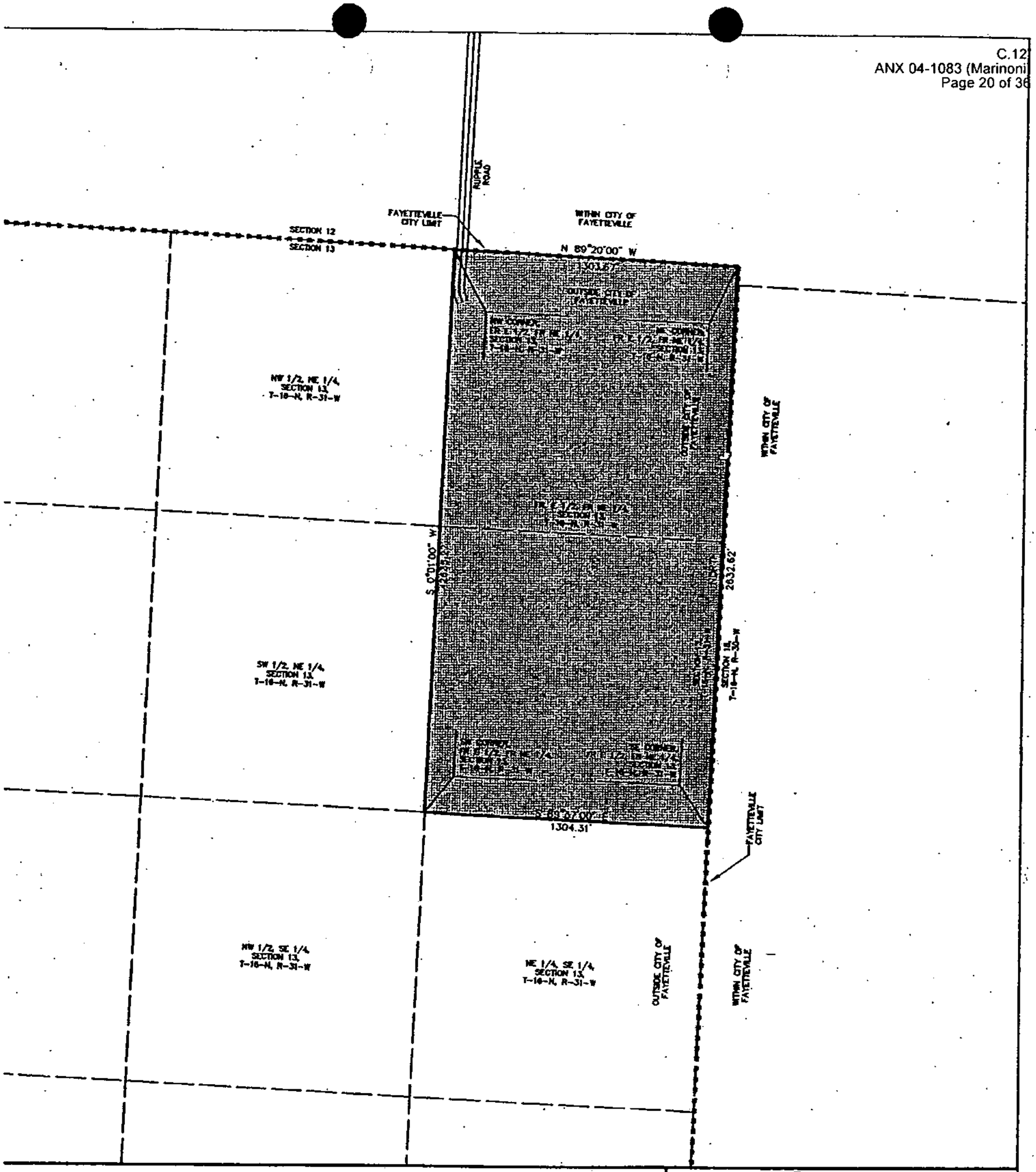
2-22-2006

# VICINITY MAP
## for MARINONI PROPERTY
## CITY OF FAYETTEVILLE PLANNING AREA
## WASHINGTON COUNTY, ARKANSAS

ENGINEERING SERVICES, INC.
CONSULTING ENGINEERS AND SURVEYORS
1207 SOUTH OLD MISSOURI RD.
SPRINGDALE, ARKANSAS 72765

© COPYRIGHT 2004, ENGINEERING SERVICES, INC. 01-23-04, 10:46 AM

**EXHIBIT A**




# MARINONI DEED

## CITY OF FAYETTEVILLE PLANNING AREA

## WASHINGTON COUNTY, ARKANSAS

**EXHIBIT B**

SCALE: 1"= 600'

ENGINEERING SERVICES, INC.
CONSULTING ENGINEERS AND SURVEYORS
1207 SOUTH OLD MISSOURI RD.
SPRINGDALE, ARKANSAS 72765
© COPYRIGHT 2004, ENGINEERING SERVICES, INC. 01-23-04, 10:46 AM
\\Server\d\Brian Spec\Terminello\Marinoni Deed on Quad.dwg

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF:

CASE NO.CC 2004-2

ANNEXATION OF CERTAIN LANDS TO THE CITY OF FAYETTEVILLE, ARKANSAS

FILED
'04 MAR 15 AM 9 54
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO., ARK.

ORDER OF ANNEXATION

Now on this 15th day of March, 2004, this cause comes on to be heard, the Petitioners, PAUL A. MARINONI, JR. AND SUEELLEN M. MARINONI, husband and wife, represented by their attorney, Bob Estes of Fayetteville, Arkansas, announcing ready for a hearing of the cause and there being no protests or objections filed, whereupon the matter is submitted to the Court upon the verified petition filed herein, and the oral and documentary evidence adduced, the Court being well and sufficiently advised finds:

1. The Petition for Annexation in this cause was filed on February 10, 2004, and this Court fixed March 15, 2004 as the date of hearing for said cause. A full 30-days notice of hearing was given as required by law and proof of publication of said notice is now on file with the Clerk of this Court.

2. This Court has jurisdiction over the parties and subject matter of this cause.

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MAY 12 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

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

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

> The Fractional East Half (Frl. E ½) of the Fractional Northeast Quarter (Frl. NE ¼) of Section 13, Township 16 North, Range 31 West, and being more particularly described as follows, to-wit: Beginning at an iron pin at the Northeast corner of said Fractional East Half (Frl. E ½) of the Fractional Northeast Quarter (Frl. NE ¼) and running thence N 89 degrees 20' W along an existing fence 1303.67 feet, thence S 00 degrees 01' W 2635.27 feet, thence S 89 degrees 37' E 1304.31 feet, thence North along an existing fence 2632.02 feet to the point of beginning, containing 78.84 acres, more or less.

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

IT IS THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made part of the City of Fayetteville, Arkansas, in accordance with Act No. 1 of the Acts of the Legislature of 1875 of the State of Arkansas and all Acts amendatory thereto, particularly including Act 142 of the Acts of Arkansas for the

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PLANNING DIVISION

year 1963, as codified in Ark. Code Ann. 14-40-601, et seq., and this Order shall be duly recorded by the Clerk of Washington County.

JERRY HUNTON
COUNTY JUDGE
WASHINGTON COUNTY
STATE OF ARKANSAS



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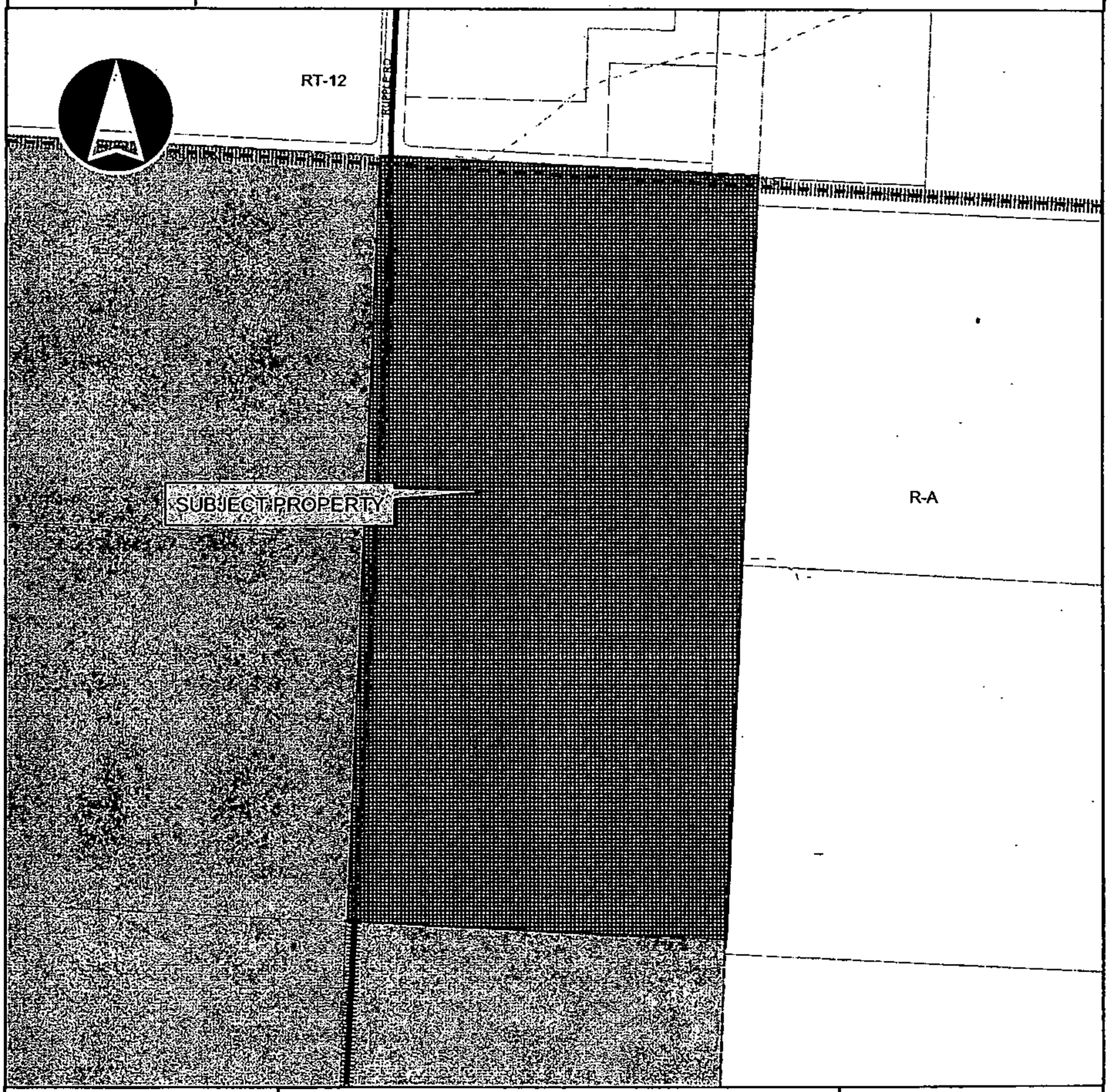
CITY OF FAYETTEVILLE
PLANNING DIVISION

ANX04-1083

***Close Up View***

# MARINONI




***Overview***

**Legend**

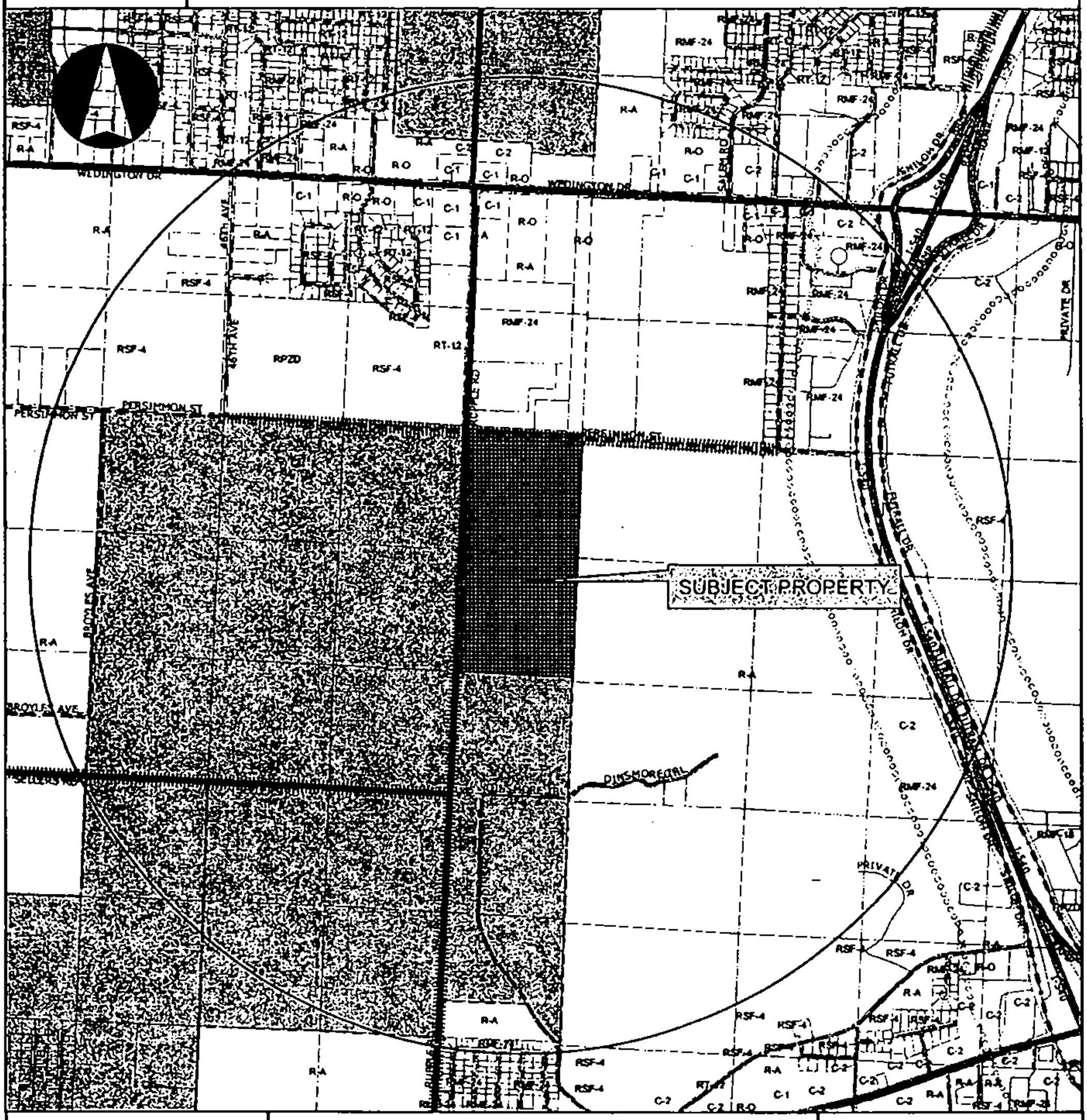
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- ANX04-1083

0 75150 300 450 600
Feet

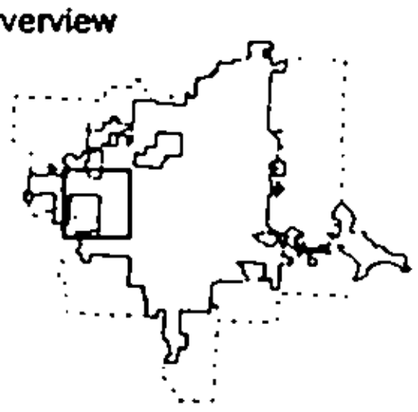
ANX04-1083

One Mile View

# MARINONI




Overview



Legend

Subject Property
- ANX04-1083

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

**ANX 04-1083: Annexation (MARINONI, 478)**: Submitted by BOB ESTES for property located at THE SE END OF RUPPLE ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 78.84 acres. The request is to annex the subject property into the City of Fayetteville.

**RZN 04-1084: Rezoning (MARINONI, 478)**: Submitted by BOB ESTES for property located at THE SE END OF RUPPLE ROAD. The property is in the Planning Area and contains approximately 78.84 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

Ostner: Our next item is ANX 04-1083 for Marinoni. If we could have a staff report please.

Pate: The next two items before us tonight on the new business agenda are the items for Annexation and Rezoning for Marinoni. This property is located at the southeast end of Rupple Road, south of where Persimmon Street is on the Master Street Plan to be extended to the east. It contains approximately 78.84 acres. The request from the applicant tonight is to annex the subject property into the City of Fayetteville and subsequently rezone that property to RSF-4. The property is directly south of the Boys and Girls Club which is on Rupple Road. The property does have access to water lines, sewer lines, fire and police services are also in this area and provided to this area. The city limits are directly to the north. Staff does find that this request is an acceptable size and does create a reasonable boundary along with those parcels that have been recommended for annexation to the City Council to the west. It is bordered by the city limits to the north and east as well. Staff is recommending for approval of the requested annexation. The associated rezoning request staff is also recommending approval of this requested rezoning. There are several developments that have been approved directly to the north, the Rupple Row PZD, the Cross Keys PZD and of course Persimmon Place, which is to the west. With regard to traffic, I would mention that a newly installed traffic signal is in place at the intersection of Rupple Road and Wedington. Additionally, a new fire station to serve this particular part of town is under construction currently. As you know, when property is annexed into the city it is zoned R-A. This applicant is requesting RSF-4. Staff is in favor of this request.

Ostner: Thank you Mr. Pate. Is the applicant present? Would you introduce yourself and give us your presentation?

Estes: Good evening Mr. Chairman. My name is Bob Estes and I have the privilege of standing here before you and representing your applicants, Mr. Paul Marinoni and Mrs. Sue Ellen Marinoni here seated in the third row to my right and to your left. Presented for you consideration this evening are three boards. In your packets you have 8 ½ x 11 retentions of

these boards which you may desire to refer to from time to time. As we begin, let me direct your attention first to the materials that are in your packet. The face page for this annexation contains an error. It reads that the property is zoned RSF-4 and contains approximately 78.84 acres. That is not true. The property is not zoned RSF-4. It is not permissible to have property zoned that is not annexed into the city. That is the first order of business that we have before us this evening is your consideration of the annexation. The boards and the renderings that have been prepared for your packet are there for your edification, for your study and for your review. So often we hear tell me the whole plan, tell me what you have in mind, tell me what you are going to do. This is the reason that I present to you this evening the concept plan. This is not a development plan. This is not a construction plan. This is a concept plan only. If you will please direct your attention to the board to my immediate left the proposed annexation, the 80 acre parcel is shaded out in orange. This is the 80 acre parcel that is before you this evening for annexation consideration and rezoning consideration. This concept plan was prepared by Cole and Associates in St. Louis. The Senior Land Planner, Mr. Jeremy Roach is here this evening should you have any questions regarding the concept plan. As we move through your consideration of the rezoning the request of course is to first annex the property into the City of Fayetteville. Staff recommends approval of this annexation request. The reason staff recommends approval is that the requested annexation number one, will not create an island of unincorporated property. Number two, the proposed annexation is of course, adjacent to the city limits along it's east boundary and along the northern property line. The area does not consist of any defined subdivisions or neighborhoods. The proposed boundaries of the annexation follow existing property lines. The infrastructure requirements are met in their entirety. Currently the site has access to Rupple Road at the northwest corner of the property. At the time of development Rupple Road and Persimmon will be improved. The property currently has access to a 12" water main along Rupple Road north of the site. At the time of development an extension of this water main will be provided. The subject property is located approximately ½ mile from the new fire station #7 on Rupple Road and response time is estimated to be one minute. It is the opinion of your Fayetteville Police Department that this annexation and the accompanying rezoning will not substantially alter the population density and thereby undesirably increase the load of services required. The floodplain from Owl Creek is considered an environmentally sensitive area. It is regulated within the city limits and it has been identified on this property which is an additional reason to grant annexation so that there may be proper regulation and control. The proposed annexation is not now a part of any phased annexation initiated by the city and last, but not least, staff finds that this request is of an acceptable and suitable size so no fiscal impact assessment has been requested and none has been conducted. I will yield the floor at

this time to public comment and then be back to answer any questions that you may have. The applicants, Mr. and Mrs. Marinoni are here, and Mr. Roach from St. Louis is here and is available to answer any of your questions regarding the concept plan.

Ostner: Thank you Mr. Estes. At this point I will open it up to the public. Would anyone like to speak to this annexation request?

**INSERT HERE**

McGuire-Bowman: I am Dr. Kathy McGuire Bowman again. Again, the Marinonis are good business people. I am not hostile toward them at all. I just want to point out that most likely the bringing forth of this annexation and rezoning at this specific moment is because of the Jefferson School relocation in this area has been decided. I am just pointing out, once again, that when a school lands somewhere suddenly development prices go way up. It is much more worthwhile to develop your property and that plans are in the works for similar school located development pushes in the southeast and the north. Everybody be ready because it is all already being planned. We have spent quite a bit of time out here because of the Jefferson School relocation. Rupple Road ends at the beginning of this Marinoni property at the present time. Rupple Road runs from Wedington to the new Boys and Girls Club, the new fire station and what will probably be the new school and all of this is down a dead end street. I guess it is going to be extended through this property so that there is some other way to get out. We cannot pour in 1,100 children's parents trying to pick them up from school, the Boys and Girls Club and 3,000 new homes into this block long dead end street. Just be aware that there is going to be a big plan there. There are also water problems. We have seen a lot of standing water in that whole area when we were looking at the Jefferson School floodplain. I'm sure you are going to take that into account. Thank you.

Ostner: Thank you Ms. Bowman. Are there any other members of the public who would like to speak to this annexation request? I am going to close it to the public and bring it back to the Commission for discussion. The first issue I wanted to go ahead and make clear is that Rupple is on the Master Street Plan to be extended to 6th Street. However, we do not have a pot of money to do that. We need development to drive that road, to build that road between this area. That is in the works. From two years ago, even one year ago, there was no Rupple Road. We are starting the process. I just wanted to touch on that item.

Vaught: As well as Persimmon to Shiloh Drive. Which, if all of these developments come through as proposed that will be another outlet, once again, funded by the development.

**MOTION:**

Clark: I move for approval of ANX 04-1083.

Shackelford: I will second.

Ostner: Is there further discussion? I would like to reiterate my concerns about traffic on Wedington and even the concerns about 6th Street if Rupple connects. Those are two big problems and we are compounding them. We are adding to them. I don't believe it is a reason to stop this project, especially the annexation part. I made my comments at length on the last item.

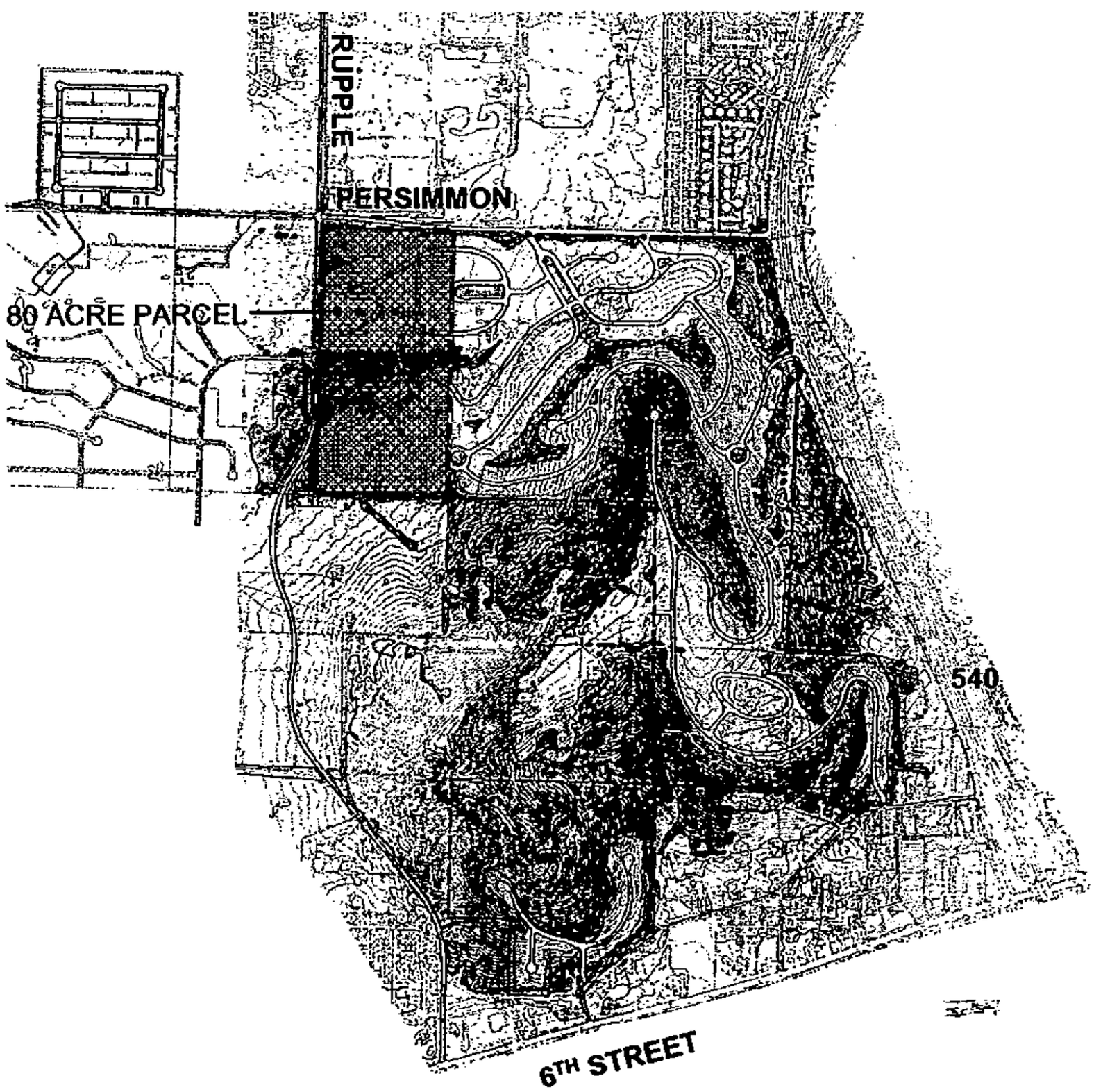
Allen: I would like to echo my same concerns.

Ostner: Is there further discussion? Would you call the roll Renee?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of ANX 04-1083 was approved by a vote of 9-0-0.

Thomas: The motion carries by a vote of nine to zero.

# PROPOSED ANNEXATION



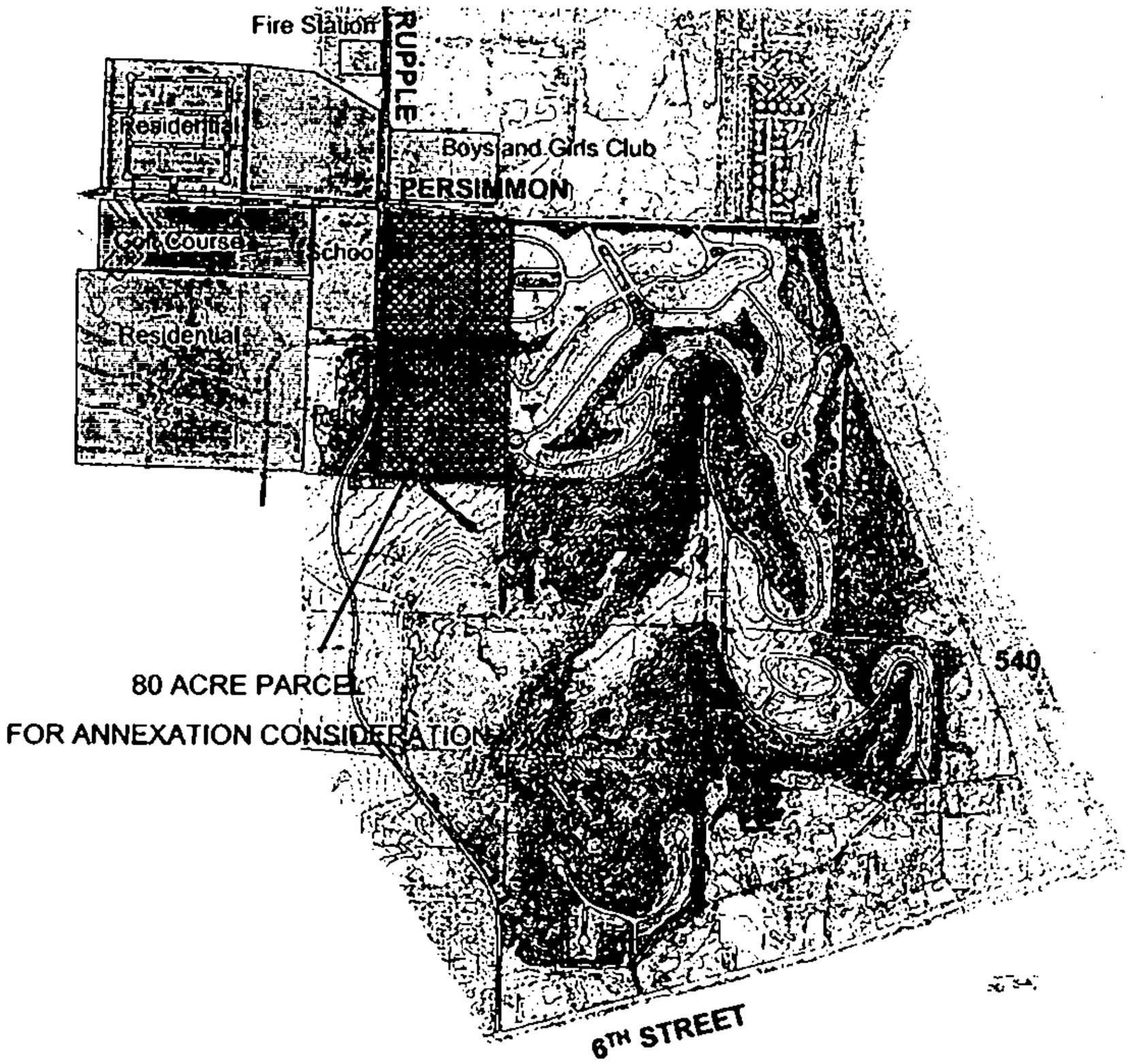

MARINONI

Terminella & Associates Inc.
***Marinoni Mountain – A Masterplanned Community*** ***June 28, 2004***

0 400' 800' 1200' N

Cole & Associates Inc. Crafton, Tull & Associates, Inc. The City of Fayetteville, Arkansas

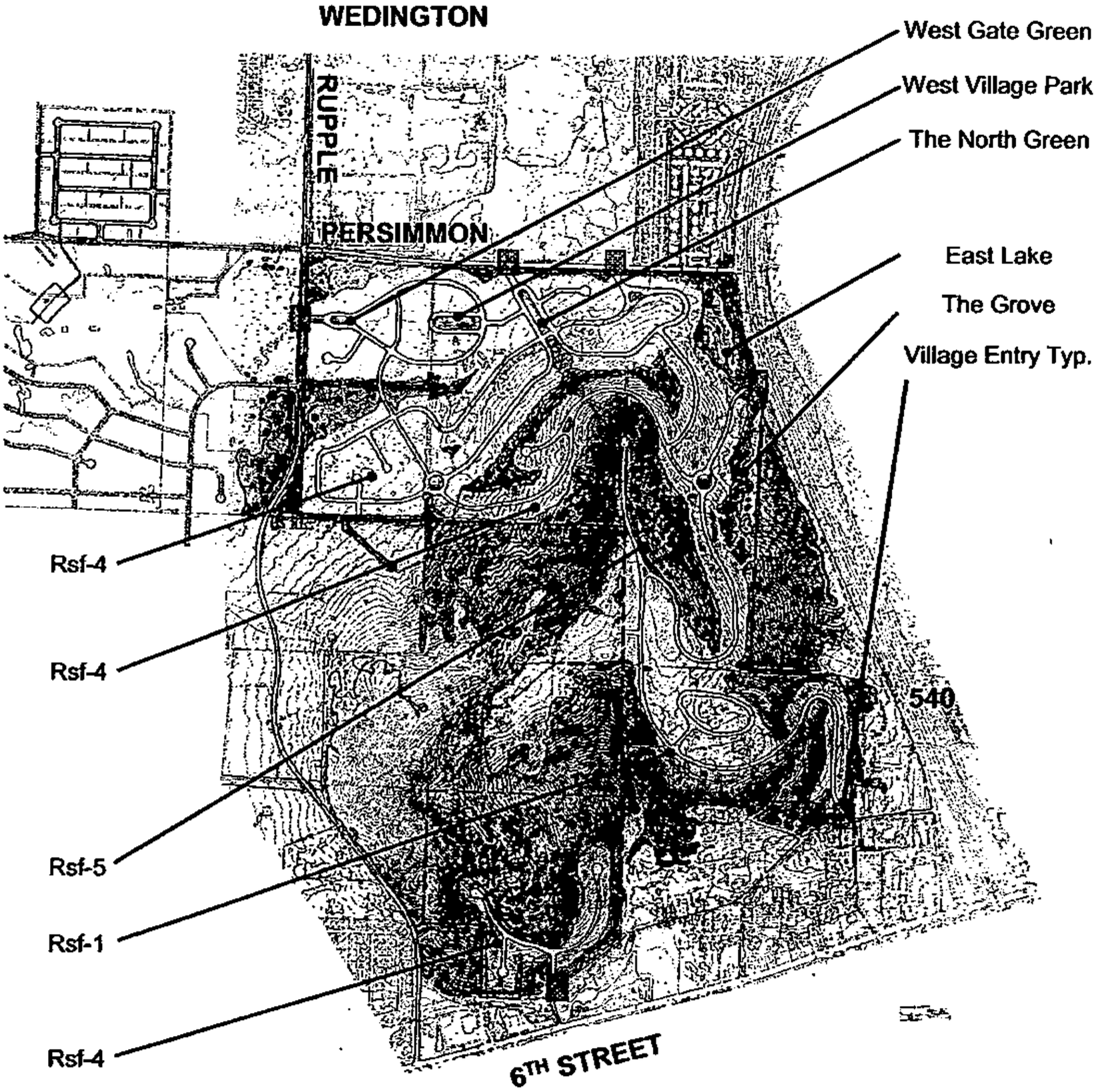
# ANNEXATION AND ADJACENT LAND USES




Cole & Associates Inc. Crafton, Tull & Associates, Inc. The City of Fayetteville, Arkansas

# ZONING DESIGNATIONS

# AND DEVELOPMENT AMENITIES




The City of Fayetteville, Arkansas
Crafton, Tull & Associates, Inc.
Cole & Associates Inc.

Terminella & Associates Inc.
***Marinoni Mountain – A Masterplanned Community*** ***June 28, 2004***

0 400' 800' 1200' N

# Cole & Associates Inc.

*Qualifications*

## Kevin E. Riggs, P.E.

*Executive Vice President*

**Education:**
University of Missouri - Rolla, Bachelor of Science Degree in Mechanical Engineering in 1991.

**Professional Affiliations:**
National Council of Examiners for Engineering and Surveying (NCEES)

Lambda Alpha International – Honorary Land Economics Society

Missouri Society of Professional Engineers (MSPE)

American Society of Engineers (ASCE)

**Registrations:**
Professional Civil Engineer in the states of Missouri, Illinois, Kansas, Ohio, Kentucky, Indiana, New Jersey, New York, Pennsylvania, Hawaii, Maryland, Colorado, Arizona, and Nebraska.

### Professional Summary:

Mr. Riggs has over 14 years of civil engineering experience He spent 8 years at Stock and Associates prior to joining Cole & Associates as Executive Vice President of the firm. As such, he is responsible for overseeing the entire engineering department, as well as corporate duties.

### Areas of Expertise:

- Stormwater Management and Simulation Models
- Sanitary Pump Stations and Force Mains
- Municipal and Governmental Affairs
- Erosion and Sediment Control Analysis and Design
- Road/Highways
- Storm Channels
- Flood Plain Studies
- Storm and Sanitary Systems
- Construction Inspection
- Geotechnical Analysis

### Project Experience:

**150,000 sq. ft. office complex, Miramar, Florida, Lucent Technologies:**
Design and permit stormwater quantity and water quality system.

**Baltimore Ravens Practice Facility, Baltimore, Maryland:** Project manager for a new facility for Ravens NFL franchise. Design and permitting of stormwater management and water quality systems.

**Rock-Cranbury Development, Cranbury, New Jersey:** Project manager for 250 acres of commercial and industrial development housing a 1,000,000 sq. ft. warehouse for Pearson Education. Design and permit stormwater management facility and water quality system.

**Sweetheart Cup Development, Carrol County, Maryland:** Project manager on a 100 acre development containing a 1,000,000 sq. ft. warehouse for Sweetheart Cup. Design stormwater management facility and water quality system.

**Keaton Corporate Parkway, O'Fallon, Missouri:** Design and permit approximately 1/2 mile of new road to serve an 80 acre industrial commercial development.

**Gateway Commerce Center, Madison County, Illinois:** Analyze, simulate and design a stormwater management system for 4,500 acre commercial and industrial development.

**Park 370, Hazelwood, Missouri:** Analyze, simulate and design a stormwater management system for a 500 acre commercial and industrial development.

**Morris-Cranbury Development, Cranbury, New Jersey:** Project manager on a 150 acre commercial and industrial development. Design and permit stormwater management and water quality systems.

**The Gap, Fishkill, New Jersey:** Project manager on a 250 acre development housing a 1,800,000 sq. ft. warehouse for Old Navy, an 800,000 sq. ft. warehouse for Banana Republic and a 400,000 sq. ft. warehouse for Gap Inc. Design and permit a stormwater management system and water quality systems.

**Schmalbach Lubeca, Columbia, South Carolina:** Project manager for a 300,000 sq. ft. manufacturing facility. Design and permit a 1/2 mile road extension, railroad extension and stormwater management facility.

**Villages at Springhurst, O'Fallon, Missouri:** Project Executive on an 800 unit residential mixed use plan.

# Cole & Associates Inc.

*Qualifications*

## Jeremy Don Roach, ASLA

*Senior Land Planner*

**Education:**
Kansas State University
Bachelor of Landscape Architecture, 1992
Certificate in Regional and Community Planning, 1992

**Professional Affiliations:**
American Society of Landscape Architects (ASLA)
President of Saint Louis Chapter, 2003-2004

**Registrations:**
Registered Landscape Architect in the state of Missouri

### Professional Summary:

Mr. Roach has over 12 years of landscape architectural experience. He spent over 7 years with HOK Inc. prior to joining Cole and Associates as Senior Land Planner. As such, he is responsible for project work from conceptual master planning phases through construction documentation.

### Areas of Expertise:

- Master Planning
- Community/Land Use Planning
- Planting Design
- Construction Documentation
- Urban Design
- Site Specific Landscape Architecture
- Sustainable Design Coordination

### Selected Project Experience:

**Perdido Key Resort – Pensacola, Florida.** Masterplan for the 250 acre, multi-use resort including condominiums, lofts and golf course villas. The project also included 350,000 SF of retail, five restaurants, three marina's, 4 hotels, spa and 6 acre pool complex.

**University of Oklahoma Research Campus – Norman, Oklahoma.** Masterplan for the 200 acre campus including research and development, lab, structured parking, residential, commercial, hotel, conference center and open space design.

**International Swimming Hall of Fame – Fort Lauderdale, Florida**
Project consisted of two waterfront sites totaling 18 acres, master planned to encompass new swimming facilities, a residential tower, medium density housing, parking structures and a beachfront park into a traditional urban design.

**Wrigley Innovation Center – Chicago, Illinois.** Masterplan for 7.4 acre site with 300,000 SF Global Innovation Center adjacent the Chicago River.

**Eli Lilly Tippecanoe – Lafayette, Indiana.** Programmatic masterplan for additional space at existing 2300 acre manufacturing facility including 210,000 SF office and laboratory, 30,000 SF of specialty space, 122,000 SF of warehouse and manufacturing and an redesign of both the main entries and service approaches.

**Eli Lilly Prince William – Manassas, Virginia.** Masterplan for 150 acre manufacturing and office facility including landscape plan within VDOT ROW.

**Wells Fargo Home Mortgage Jordan Creek Campus – West Des Moines, Iowa** - Master planning, schematic design and sustainable design coordination including alternative storm water conveyance and storage solutions for the 170 acre, 1,000,000 square foot campus.

**Washington University Learning and Teaching Center – Saint Louis, Missouri** - Site Development portion of 35,000,000 dollar project. The Center was a critical component of the integration of the BJC medical campus and the Washington University School of Medicine. Key elements of coordination included emergency access due to street closing, streetscape design encompassing a Euclid Avenue lighting study and accessible access to raised main level.

## Qualifications

**Jeremy Don Roach, ASLA**
*Senior Land Planner*

**Highway 141 Corridor Enhancement Study – Town and Country, Missouri** - Strategic visioning for the Highway corridor east of Interstate 40-61, including master planning of predominant and tangential commercial properties. The plan coordinated multiple corridor design strategies with applicable landscape, traffic, phasing, implementation and funding strategies. Effort received an ASLA Merit Award.

**William Rainey Harper College – Palatine, Illinois** - 235 acre campus master plan illustrating the preferred direction for facilities growth beyond the existing 922,000 square feet including new building organization, spatial definition, landscape treatment, vehicular circulation and parking.

**SC Johnson Wax Commercial Products Headquarters – Racine, Wisconsin** - 250,000 square foot office and laboratory facility on approximately 40 acres. Site design included water recharge zones within the parking lot, an 11 acre lake with constructed wetlands, indigenous plantings including a fruit orchard. The project was selected by the AIA as one of 1998's Top Ten Green Projects.

**Chicago Shakespeare Theater English Garden – Chicago, Illinois** - English Garden designed in concert with 7 story Shakespeare Theater complex on Chicago's Navy Pier. The approximately 2500 square foot garden follows traditional English garden motifs and planting characteristics.

**Marsa As' Sayah – Muharraq, Bahrain** - Masterplan for an approximately 1260 Acre Land Reclamation including 460 acres of a variety of residential densities, 20 acre commercial park, 25 acre harbor, 25 acre resort hotel parcel, 200 acre golf course. 40 acres of public beach and waterfront promenade, 50 acres of parks and public open space, 180 acres of roadways and 260 acres of inland watercourses.

**Centennial City – Manila, Philippines** - Masterplan and development program for a new urban district in Manila including a landscape plant material guide, urban artifacts, graphics and signage document for the 1500 hectare land reclamation in Manila Bay.

**Changying Residential Development – Beijing, China** - New Town master plan of approximately 4 hectares. Project included high rise residential, commercial, civic and community facilities and open spaces. Key elements of coordination included vehicular and pedestrian circulation, landscape, conceptual lighting, parking, playground and pavilion design.

**Dubai Marina – Dubai, United Arab Emirates** - Phase I municipal landscape design of public roadways, main entrances, plazas and waterfront promenade of project encompassing 6 residential towers and multiple villas constructed on dual podium structures. Overall project is intended to house approximately 90,000 expatriate workers upon full build out.

**Lake Town – Maharashtra, India** - Masterplan for the main entry into a 9,000 acre Hill station, or new resort town. Design reflected overall developments organic urban pattern while responding to the sites dramatic topography. Key elements of coordination included bus access and staging, gated entrances, sales office, hotel and retail facilities.

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-1083: (Marinoni, pp 478) was submitted by Bob Estes, Attorney on behalf of Paul and Suellen Marinoni for property located at the southeast end of Rupple Road containing approximately 78.84 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn D. Warrick 7/6/04
Division Head Date

Received in Mayor's Office 7-7-04
Date

[signature] 7/7/04
City Attorney Date

Department Director Date

[signature] 7-7-04
Finance & Internal Services Dir. Date

Hugh Earnest 7-7-04
Chief Administrative Officer Date

Dan Coody 7/7/04
Mayor Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7/6/04

# 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

**Date:** June 29, 2004

**Subject**: Rezoning request for Marinoni (RZN 04-1084)

---

## RECOMMENDATION

Planning Staff recommends approval of the requested rezoning for Marinoni. This action will rezone a 78.84-acre tract of land from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 DU/Acre. The request is to rezone the property to RSF-4.

## BACKGROUND

*Property Description:* The subject property contains approximately 78.84 acres located south of the Fayetteville Boys & Girls Club and adjoins an extension of Persimmon Street and Rupple Road as reflected on the City's Master Street Plan. The property is adjacent to city limits to the east and the north. Approximately 240 acres to the west have been recommended by the Planning Commission for annexation to the City Council. Rezoning requests for those particular properties have been tabled.

*Proposal:* The applicant intends to develop a single family residential subdivision, in conjunction with several hundred adjacent acres already within the city limits. Development of the land will most likely be in the form of a Planned Zoning District, as densities for single family homes will likely vary significantly, depending upon terrain, floodplain, tree canopy, available and constructed access, among other factors. A conceptual masterplan for the property in question, along with other adjacent properties the applicant controls, has been submitted to staff and the Planning Commission for review. Single family use, with a mixture of density, is the developer's primary intent for land use in this area, along with supporting facilities developing both on the applicant's property and on adjacent properties. The remainder of the applicant's property already lies within the City of Fayetteville limits. One of the guiding policies for Annexation states:

*11.6.0 Designate zoning districts for the property during the annexation process.*

The applicant is requesting an RSF-4 zoning district along with the associated annexation request, knowing that the desired development for the property is single family residential dwelling units, at some density to be determined, not to exceed 4 units per acre. The intended use is not to be for primarily agricultural purposes, as the default zoning district of R-A, Residential Agricultural, designates.

**DISCUSSION**

On June 28, 2004, the Planning Commission voted 5-4-0 to forward this item to the City Council with a recommendation for approval of the rezoning request, with Commissioners Anthes, Clark, Allen and Ostner voting no.

**BUDGET IMPACT**

None.

**ORDINANCE NO. _____**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1084 AS SUBMITTED BY BOB ESTES ON BEHALF OF PAUL AND SUELLEN MARINONI FOR PROPERTY LOCATED SOUTH OF THE FAYETTEVILLE BOYS AND GIRLS CLUB ADJOINING THE FUTURE EXTENSIONS OF RUPPLE ROAD AND PERSIMMON STREET CONTAINING APPROXIMATELY 78.84 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

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

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

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

**PASSED AND APPROVED this _____ day of _____, 2004.**

**APPROVED:**

**By:_____**
**DAN COODY, Mayor**

**ATTEST:**

**By: _____**
**Sondra Smith, City Clerk**

**EXHIBIT "A"**
**RZN 04-1084**

THE FRACTIONAL EAST HALF (FRL. E ½) OF THE FRACTIONAL NORTHEAST QUARTER (FRL. NE ¼) OF SECTION 13, TOWNSHIP 16 NORTH, RANGE 31 WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT AN IRON PIN AT THE NORTHEAST CORNER OF SAID FRACTIONAL EAST HALF (FRL. E ½) OF THE FRACTIONAL NORTHEAST QUARTER (FRL. NE ¼) AND RUNNING THENCE N89 DEGREES 20' W ALONG AN EXISTING FENCE 1303.67 FEET, THENCE S00 DEGREES 01' W 2635.27 FEET, THENCE S89 DEGREES 37' E 1304.31 FEET, THENCE NORTH ALONG AN EXISTING FENCE 2632.02 FEET TO THE POINT OF BEGINNING, CONTAINING 78.84 ACRES, MORE OR LESS.

DRAFT

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 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 23, 2004

**RZN 04-1084: Rezoning (MARINONI, 478)**: Submitted by BOB ESTES for property located at THE SE END OF RUPPLE ROAD. The property is zoned R-A, Residential Agricultural and contains approximately 78.84 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.
Property Owner: PAUL & SUELLEN MARINONI Planner: JEREMY PATE

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

| | | |
|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** **YES** | |
| | **⊘ Approved** | **○ Denied** |
| **Date: June 28, 2004** | Shackelford Q/Knight Q | 5-4 |
| **CITY COUNCIL ACTION:** | **Required** **YES** | |
| | **○ Approved** | **○ Denied** |
| **Date: July 20, 2004** | | |

**BACKGROUND: Please reference the associated ANX 04-1083 staff report for additional background information.**

*Property Description:* The subject property contains approximately 78.84 acres located south of the Fayetteville Boys & Girls Club and adjoins an extension of Persimmon Street and Rupple Road as reflected on the City's Master Street Plan. The property is adjacent to city limits to the east and the north. Approximately 240 acres immediately adjacent to the west is currently on the Planning Commission agenda for consideration to annex and rezone in the same manner. This configuration does not create an island of unincorporated property within the City limits, is contiguous to city limits, is adjacent to land newly developed and approved for development and thus meets these policies set forth by the Annexation Guiding Policies in the General Plan 2020.

*Proposal:* The applicant intends to develop a single family residential subdivision, in conjunction

with several hundred adjacent acres already within the city limits. Development of the land will most likely be in the form of a Planned Zoning District, as densities for single family homes will likely vary significantly, depending upon terrain, floodplain, tree canopy, available and constructed access, among other factors. A conceptual masterplan for the property in question, along with other adjacent properties the applicant controls, has been submitted to staff and the Planning Commission for review. Single family use, with a mixture of density, is the developer's primary intent for land use in this area, along with supporting facilities developing both on the applicant's property and on adjacent properties. The remainder of the applicant's property already lies within the City of Fayetteville limits. One of the guiding policies for Annexation states:

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

The applicant is requesting an RSF-4 zoning district along with the associated annexation request, knowing that the desired development for the property is single family residential dwelling units, at some density to be determined, not to exceed 4 units per acre. The intended use is not to be for primarily agricultural purposes, as the default zoning district of R-A, Residential Agricultural, designates.

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

*Related Issues:* When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant requests the 78.84 acres be rezoned toRSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 04-1083, is an accompanying item to this rezoning request.

*Recommendation:* Staff recommends approval of the rezoning request. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

**SURROUNDING LAND USE AND ZONING:**

| Direction | Land Use | Zoning |
|---|---|---|
| North | Boys & Girls Club | R-A, Residential Agricultural |
| South | Agricultural fields | Planning Area |
| East | Vacant, undeveloped | R-A, Residential Agricultural |
| West | Vacant; Sloan annexation requests | Planning Area |

**INFRASTRUCTURE:**

**Streets:** Currently the site only has access to Rupple Road at the northwest corner of the property. At the time of development, Rupple Road and Persimmon Street will need to be constructed along the property frontage for these roadways.

Surrounding Master Street Plan Streets:
North: Persimmon St. (planned collector)
West: Rupple Road (minor arterial)

**Water:** The property currently has access to a 12" water main along Rupple Road north of the site. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

**Sewer:** The site currently has access to an 8" sewer line along the north side 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. Also, approval of additional units added to the sewer system in this area will be dependant upon the remaining capacity in the Owl Creek lift station.

**Fire:** The subject property is located 0.493 miles from future Fire Station #7 on Rupple Road. Normal driving time is 1 minute. Water supply will be necessary for this property to develop. Anticipated service calls are projected to be 72 per year at full build-out with 4 units per acre.

**Police:** It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

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

**FINDINGS OF THE STAFF**

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

**Finding:** **The proposed zoning for a Single Family residential subdivision is compatible with adjacent and nearby single family residential land use. The General Plan designates this area for residential uses, which is compatible with the proposed RSF-4 zoning.**

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

rezoning is proposed.

**Finding:** **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A higher density than the default R-A zoning district allows is appropriate in this area, and would provide compatibility with adjoining developments that are zoned RSF-4, R-PZD and currently being developed with residential subdivisions. In order to provide the connectivity and network of public infrastructure with adjacent residential subdivisions in a manner that is consistent with the future land use plan and guiding policies of annexation, a residential zoning district is needed.**

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

**Finding:** **Development with the proposed zoning will provide additional traffic on streets in the area. Most streets in this area are undeveloped and will require full construction to city specifications. Rupple Road is the only currently constructed street in the vicinity, recently built with a 28-foot width. Three approved developments, Persimmon Place Subdivision, Cross Keys PZD and the Rupple Row PZD, along with developments to the west of the subject property, will combine to construct Persimmon Street west of Rupple Road. A traffic signal has also recently been installed and is in operation at the intersection of Rupple Road and Wedington Drive, currently the most likely means of access to the property. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the area.**

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

**Finding:** **The proposed zoning would increase population density in the area. Currently the property is vacant, undeveloped and virtually uninhabited, yielding no significant population. The 78.84 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 39 dwelling units (1 per 2 acres) if fully developed. With the proposed RSF-4 designation, 315 dwelling units could be permitted, if fully developed. This increases the possible number of residential dwelling units, however public service providers' assessments indicate that with public infrastructure provided by the developer in the construction of water, sanitary and storm sewer lines, streets and street lights, the increase in population density will not undesirably increase the load on public services.**

*Engineering* - **Currently the site only has access to Rupple Road at the northwest corner of the property. At the time of development, Rupple Road and Persimmon Street will need to be constructed along the property frontage for these roadways.**

**The property currently has access to a 12" water main along Rupple Road north of the site. An extension of the water main will be required to provide water supply and fire protection within any development on this property.**

**The site currently has access to an 8" sewer line along the north side 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. Also, approval of additional units added to the sewer system in this area will be dependant upon the remaining capacity in the Owl Creek lift station.**

*Fire:* **The subject property is located 0.493 miles from future Fire Station #7 on Rupple Road. Normal driving time is 1 minute. Water supply will be necessary for this property to develop. Anticipated service calls are projected to be 72 per year at full build-out with 4 units per acre.**

*Police:* **It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.**

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

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

**Finding:** **N/A**

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

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

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

(D) *Bulk and area regulations.*

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

(E) *Setback requirements.*

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

(F) *Height.* None.

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

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

LAW OFFICE OF BOB ESTES
ONE EAST CENTER STREET, SUITE 200, FAYETTEVILLE, AR 72701-5302

TELEPHONE (479) 521-4900
FAX (479) 587-0700
email bobestes@arkansas.net

May 12, 2004

Mrs. Dawn T. Warrick
Zoning and Development Administrator
City of Fayetteville
125 West Mountain
Fayetteville, AR 72701

HAND DELIVERED

Re: Marinoni Rezoning

Dear Dawn:

Please accept this letter as Mr. and Mrs. Marinoni's written description of their Rezoning Request addressing the following items.

Current fee simple ownership of the property is Paul A. Marinoni, Jr. and Suellen M. Marinoni, husband and wife. The reason for the requested zoning change is for a residential subdivision with anticipated three lots per acre density.

The property will relate to surrounding properties in terms of land use, traffic and appearance in that the property will provide future access, be compatible with the residential development occurring to the west and is consistent with the General Plan 2020.

Water and sewer are currently available on the perimeter of the property requested to be rezoned, and will be extended for any development. Should you have any questions concerning this rezoning request, please let me know and I will answer your questions.

With warmest regards.

Yours truly,

Bob Estes

BE:jb

RECEIVED
MAY 12 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

RECEIVED
MAY 17 2004
PLANNING DIV.

## LEGAL DESCRIPTION

The Fractional East Half (Frl. E ½) of the Fractional Northeast Quarter (Frl. NE ¼) of Section 13, Township 16 North, Range 31 West, and being more particularly described as follows, to-wit: Beginning at an iron pin at the Northeast corner of said Fractional East Half (Frl. E ½) of the Fractional Northeast Quarter (Frl. NE ¼) and running thence N 89 degrees 20' W along an existing fence 1303.67 feet, thence S 00 degrees 01' W 2635.27 feet, thence S 89 degrees 37' E 1304.31 feet, thence North along an existing fence 2632.02 feet to the point of beginning, containing 78.84 acres, more or less, situated in Washington County, Arkansas.

Submitted for RZN04-1083
Closure Error 3.1 ft.
5/19/2004 OK

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

Paul A. Marinoni Jr.
Applicant's Signature

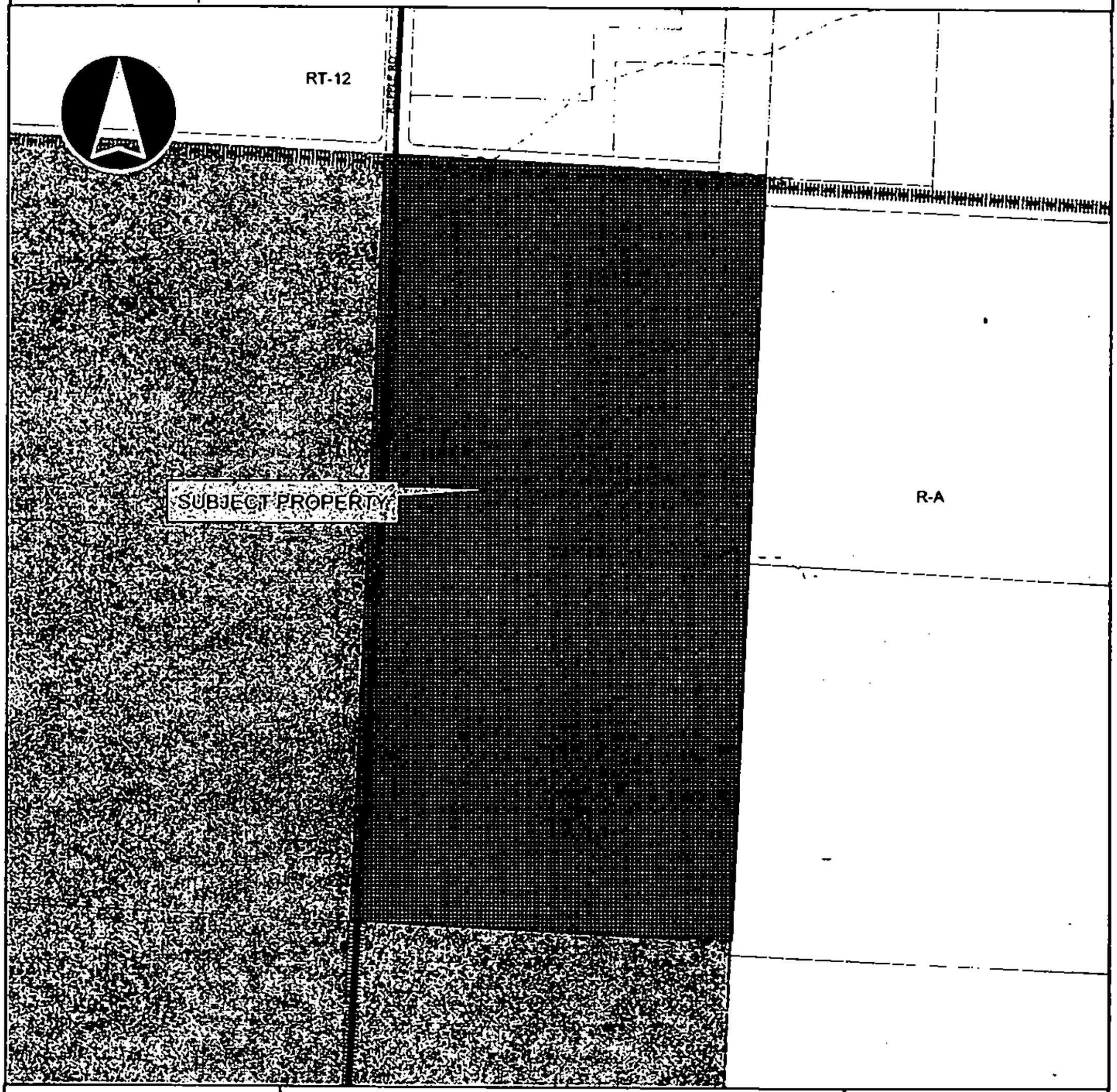
Arellen M. Marinoni

RECEIVED
MAY 12 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

RZN04-1084

*Close Up View*

# MARINONI




*Overview*

Legend

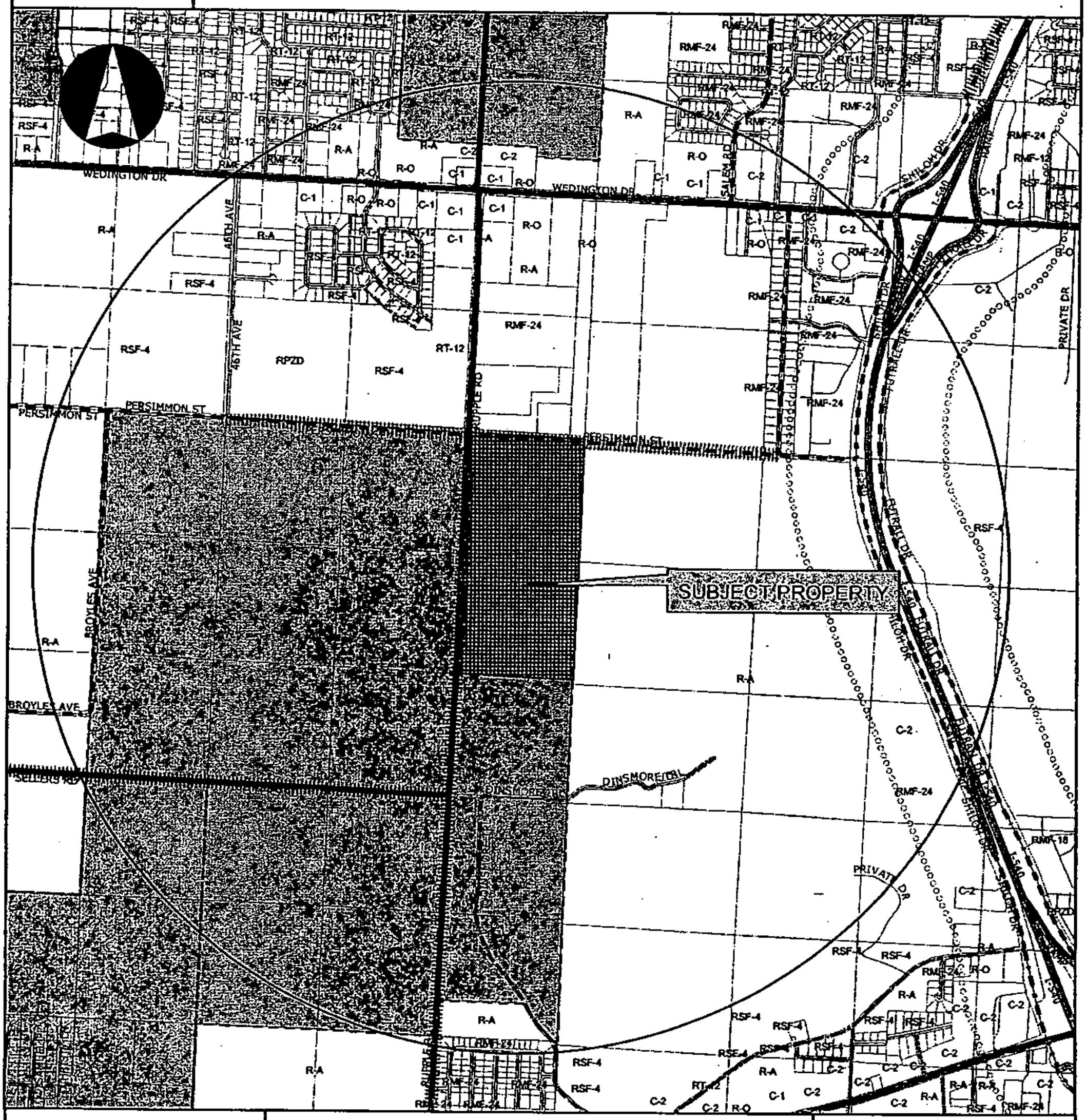
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- RZN04-1084

0 75150 300 450 600
Feet

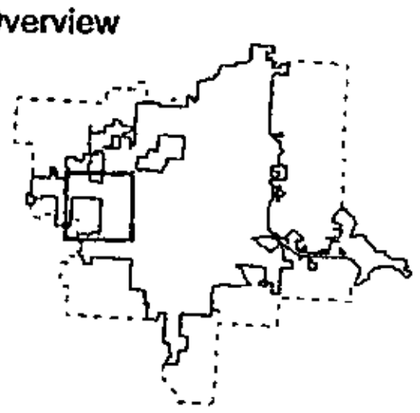
RZN04-1084

One Mile View

# MARINONI




Overview



Legend

Subject Property
- RZN04-1084

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

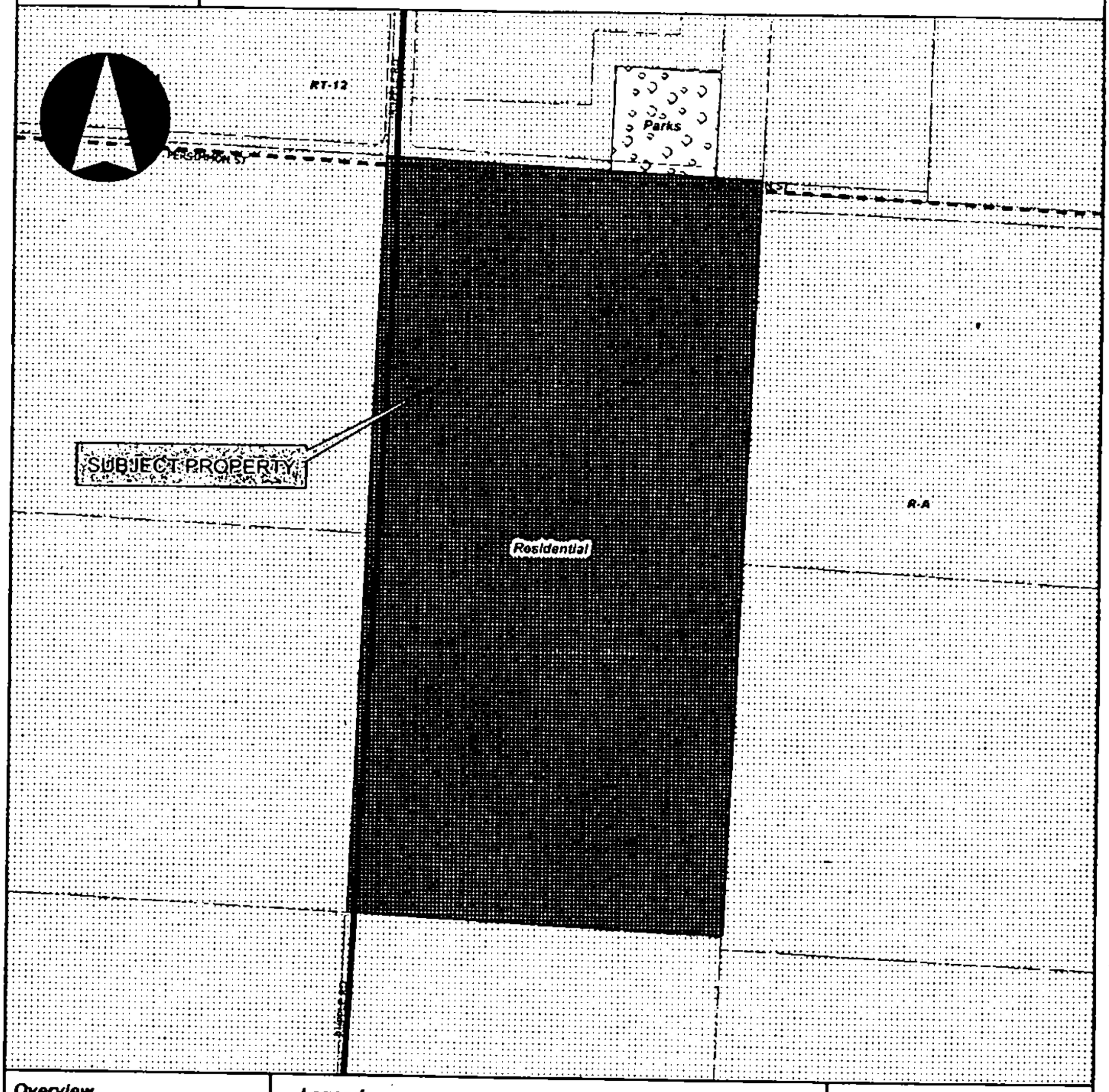
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

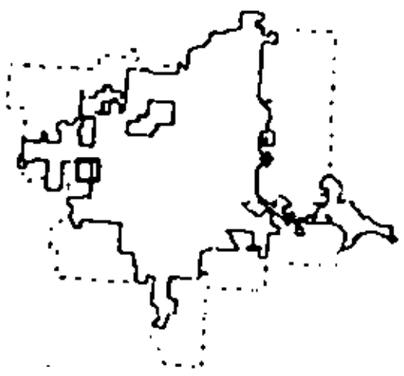
RZN04-1084

*Future Land Use*

# MARINONI




*Overview*



*Legend*

**Subject Property**
RZN04-1084

**Streets**
Existing
Planned

**Boundary**
Planning Area
Overlay District
City Limits
Outside City

**Master Street Plan**
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 175 350 700 1,050 1,400
Feet

Ostner: The tandem request is RZN 04-1084 for Marinoni. We have heard the staff report already. Mr. Estes, do you have any further presentation?

Estes: Mr. Chairman, the reason that you are seeing this rezoning request in tandem with the annexation request is that your 2002 annexation policy guide requires that when you consider an annexation you also consider density and land use. Density and land use is rezoning. It is for that reason that your applicants would request that you assign a zoning designation to this property. This property, unlike and different from the previous matters that you have heard on your agenda, has no non-conforming use and the request is to rezone to RSF-4. It is more probable than not that you will see a PZD for the property that you have just recommended to the City Council be annexed and the accompanying property owned by the applicants which is now in front of you. When you see that PZD it is more likely than not that your density will be less than the requested RSF-4. The reason for that is that if you will look at the material that is provided in your packet on 8 ½ x 11's you will see that there is greenspace and there is parkland. There will also be infrastructure, streets and curbs. With those additions you are going to see something of a mix closer to RSF-3. You are going to see an alternative to your standard RSF-4. It is more likely than not that what you are actually going to see in this mix in this particular area and perhaps the area to the immediate east, to your immediate right, is going to be something more kin to an RSF-3. The request for a rezoning comes to you with staff recommendation. The proposed zoning for a single family residential subdivision is compatible with adjacent and nearby single family residential land use. Your General Plan 2020 designates this for residential use, which is certainly compatible with RSF-4. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the area. The increase in population density will not undesirably increase the load on public services is the finding of your staff. As we have discussed, the property has access to a 12" water main and 8" sewer line and is within what is estimated to be a one minute drive time to the new Fire Station #7. Your applicants would request that you assign a zoning designation and that zoning designation be the requested RSF-4. I am going to yield the floor to public comment and be available to answer any questions that you may have.

Ostner: Thank you Mr. Estes. Would anyone like to comment about this issue?

Ralston: Linda Ralston. I just have a quick question. If Rupple Road ultimately is not developed all the way through, which would be certainly I feel key to what we have already discussed here tonight, I don't know if eminent domain comes in if someone doesn't want to sale their property or develop it if that is a possibility that Rupple doesn't go through because it is not

driven all the way through by development. I would be very concerned. That is just a thought. Goodnight.

McGuire Bowman: Dr. Kathy McGuire Bowman again. Hopefully this will be the end of all of this Westside stuff for a little while and we can all take a break. In terms of Mr. Ostner's comment about the city not being able to afford to put in Rupple Road and so we are depending on developers to help us. I know you also expressed your concerns about that. I do want to speak up on behalf of the citizens who are dreading the extension of Rupple Road through their forest preserved land which they have made into conservation easements and other things. Everybody is not waiting for developers to come and develop everything so we can get Rupple Road to go through. I know Mr. Ostner understands that as well but I felt someone should speak to that issue.

Ostner: Thank you. Is there further public comment? I am going to close it to the public and bring it back to the Commission.

Estes: On behalf of the applicant, if I may comment on the Rupple Road issue. As you look at the Master Street Plan today Rupple Road was shown as a dashed mark. It is not shown in its entirety on the Master Street Plan. What you have before you on these boards and the material in your packet shows a concept plan of connecting Rupple through 6th Street. The reason for that is that one thing that is of concern to us are our east/west corridors. We have two primary east/west corridors. We have Wedington and we have 6th Street. For those to be effective there needs to be some connectivity. The construction of Rupple Road through to 6th Street is not on the CIP listing and there is no indication that we are going to see it on the CIP at anytime in the near future. There are two ways that it is going to get done. One is private developers and the second is a private, sometimes called improvement district.. Either way, it is not feasible nor pragmatic nor practical to ask that the city at anytime in the near future provide connectivity from Wedington to 6th Street. Yet on the other hand we have to look toward the traffic that we are going to deal with and we need connectivity. The only way that we are going to get that Rupple Road built with private funds is with private developers. The only way that private developers are going to build that road is if they have their project in place. Let me speak specifically to the request that is before you this evening. That is that it is more probable than not that when you see this again you are going to see a proposal to build Rupple Road at least half way through the 80 acre tract and perhaps extending south to the southwest boundary. The applicants that I represent before you this evening do not own the property to extend Rupple Road down to 6th Street and do not have the capacity to do that. What they would have the capacity to do is to complete Rupple Road and Persimmon through the first 40 acres.

Ostner: Commissioners?

Anthes: This piece of property and the concept plan and where it is located to me speak to something that I can be more ready to look at and find a zoning for. It is a beautiful piece of property. I'm glad to see that it looks like there will be some conservation easements or parkland dedication through it. It is in an area that is close to commercial, service and civic use node with the Boys and Girls Club, with the C-1 zoning with the fire station and with the commercial activity that is on Wedington. I'm looking at the development proposal and in our staff report it talks about the proposal coming through with single family use with a mixture of density. What I would hate to see is this be all single family with that proximity to those uses and would like to see a mixture of uses and mixture of housing types in addition to the standard stand alone single family home. The amount of development that you can put on this property can stand a very wide range of uses and if indeed, a school does happen that nearby I would like to be able to have that school and those other uses be accessible to a greater number of people at a greater number of income levels. Therefore, when I'm looking for appropriate zoning for this property I'm looking for a mixed use zoning. We don't happen to have one in this city unless it is a PZD. The closest thing to that is probably an R-O. We are looking at Nock's property across the street which I believe is 6.7 units per acre. I see that an RSF-7 density makes some sense but again, the biggest mix of housing we would get in there would be a single family dwelling by right and a two family dwelling by conditional use. We are still not getting that kind of attached housing and mixed housing types. We have other residential zonings that encourage a greater variety of housing values but again, I think that to blanket this with an RT-12 doesn't necessarily send the right signal either. I would encourage you to come back with a PZD and I would welcome any other Commissioner's thoughts on the zoning.

Ostner: I would like to completely agree that the Boys and Girls Club is a terrific opportunity to offer alternatives to the standard market price home in Fayetteville. That concerns me. I'm not sure how to get there. Not to overstate the obvious, but these drawings are suggestions again, like the golf course and if everything went down the tubes we have rezoned to RSF-4. That's what counts tonight.

**MOTION:**

Shackelford: Back on some points that I made earlier. I understand your comments and I understand Commissioner Anthes' comments. We are challenged to look at a rezoning and annexation recommendation to City Council. I think that the RSF-4 is as compatible as our options are at this point. I am

going to go ahead and make a motion that we recommend RZN 04-1084 subject to all staff's findings.

Vaught: I will second.

Ostner: Is there further comment?

Anthes: For the record, the reason that I am going to vote against this is not because I feel like this is not sufficiently dense. It is because I feel like that we really need to look at something more comprehensively and I just want that to be on the record. Thank you.

Ostner: Is there further comment? Could you call the roll Renee?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of RZN 04-1084 was approved by a vote of 5-4-0 with Commissioners Ostner, Anthes, Allen and Clark voting no.

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1084: (Marinoni, pp , pp 478) was submitted by Bob Estes, Attorney, on behalf of Paul and Suellen Marinoni for property located at the southeast end of Rupple Road containing approximately 78.84 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

STAFF RECOMMENDATION: Approval.

Dawn I Warrick 7/6/04
Division Head Date

City Attorney 7/7/04
Date

Department Director Date

Finance & Internal Services Dir. Date

Hugh Earnest 7-7-04
Chief Administrative Officer Date

Dan Coody 7/7/04
Mayor Date

Received in Mayor's Office 7-7-04
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7/6/04

# 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

**Date:** June 29, 2004

**Subject**: Annexation request for Hays (ANX 04-1090)

---

## RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Hays. This action will incorporate a 37.30-acre tract of land contiguous with the city limits into the City of Fayetteville. The request is to annex the subject property into the City of Fayetteville.

## BACKGROUND

*Property Description:* The subject 37.30 acre tract of land is located west of 54th Street, adjoining the extension of W. Persimmon St. as reflected on the Master Street Plan. Adjacent to the city limits to the north and east, the configuration of land does not create an island of unincorporated property within the City limits.

*Proposal:* The applicant requests annexation into the City of Fayetteville, along with the companion rezoning request. The applicant(s) are a consortium of land owners within the Planning Area that have collectively requested their respective properties be annexed into the City of Fayetteville.

## DISCUSSION

On June 28, 2004, the Planning Commission voted 7-2-0 to forward this item to the City Council with a recommendation for approval of the annexation with a companion rezoning request, Commissioners Anthes and Oster voting no.

## BUDGET IMPACT

None.

**ORDINANCE NO.**

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY OWNED BY HAYS FAMILY DEVELOPMENT, LLLP LOCATED WEST OF 54$^{TH}$ AVENUE ADJOINING THE EXTENSION OF WEST PERSIMMON STREET CONTAINING APPROXIMATELY 37.30 ACRES.

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

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

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

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

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

**PASSED AND APPROVED** this _____ day of _____, 2004.

APPROVED:

DRAFT

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

**EXHIBIT "A"**
**RZN 04-1091**

PART OF THE NW ¼, NW ¼ AND PART OF THE NE ¼, NW ¼ OF SECTION 14, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW ¼, NW ¼ THENCE N89°59'11"E 995.13 FEET TO THE P.O.B., THENCE N89°59'11"E 665.91 FEET, THENCE S88°26'17"E 165.07 FEET, THENCE S89°55'17"E 825.00 FEET, THENCE SOUTH 904.23 FEET, THENCE WEST 835.88 FEET, THENCE S00°41'19"W 146.47 FEET, THENCE N89°49'12"W 825.49 FEET, THENCE N00°23'31"E 1053.60 FEET TO THE P.O.B, CONTAINING 37.30 ACRES, MORE OR LESS, SUBJECT TO R/W AND EASEMENTS OF RECORD.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

## PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Craig Carnagey, Senior Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: June 23, 2004

**ANX 04-1090: Annexation (HAYS, 475)**: Submitted by JAMES MCCORD for property located WEST OF 54th AVE. ADJOINING EXTENSION OF W. PERSIMMON ST (AS REFLECTED ON M.S.P.) The property is in the Planning Area and contains approximately 37.30 acres. The request is to annex the subject property into the City of Fayetteville.
Property Owner: HAYES FAMILY DEVELOPMENT, LLLP Planner: CRAIG CARNAGEY

**RECOMMENDATION:**

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

| | | |
|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** **YES** | |
| | **☑ Approved** | **○ Denied** |
| **Date: June 28, 2004** | Shackelford ©/Vaught © | 7-2 |
| **CITY COUNCIL ACTION:** | **Required** **YES** | |
| | **○ Approved** | **○ Denied** |
| **Date: July 20, 2004** | | |

**BACKGROUND:**

*Property description:* The subject property contains approximately 37.30 acres located west of 54th Avenue, and adjoins an extension of west Persimmon as reflected on the City's Master Street Plan. The property is adjacent to city limits to the east and the north. This configuration does not create an island of unincorporated property within the City limits.

*Request:* The request is to annex the subject property into the City of Fayetteville.

*Related Issues:* When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 37.30 acres to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning

request, RZN 04-1091, is an accompanying item to this annexation request.

Property that is developed and/or subdivided in the Planning Area of the City of Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, a uniform and consistent standard of development includes the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have none of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limits. In some cases, new subdivisions adjacent to one another have very different street construction, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits is required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use and tree preservation are not within the City's ability to control.

*Recommendation:* Staff recommends approval of the annexation request. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

## SURROUNDING LAND USE AND ZONING

| Direction | Land Use | Zoning |
|---|---|---|
| North | Single family residential | RSF-4, Residential Single Family, 4 units/acre |
| South | Single family residential | Planning Area |
| East | Vacant | RA, Residential Acre |
| West | Vacant | Planning Area |

## INFRASTRUCTURE:

**Streets:** Currently the site has access to Persimmon Street and 54th Avenue at the northeast corner of the property and County Road 649 along the east property line. At the time of development, Persimmon Street will need to be constructed through the development. County Road 649 will need to be brought up to current standards along the property frontage. Off-site improvements to 54th Avenue will be considered at the time of the development of the property.

Surrounding Master Street Plan Streets:
North: Persimmon St. (planned collector)
South: Dot Tipton Road. (unimproved collector )
East: 54th Avenue. (unimproved collector)
West: Double Springs Road (minor arterial)

**Water:** The property has access to an 8" water main along Persimmon Street and 54th Avenue. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

**Sewer:** The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. Approval of additional units added to the sewer system in this area will be dependant upon the remaining capacity in the Owl Creek lift station.

**Fire:** The subject property is located 1.97 miles from future Fire Station #7 on Rupple Road. Normal driving time is 4 -6.5 minutes. Water supply will be necessary for this property to develop.

**Police:** It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

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

**FINDINGS:**

**11.6 ANNEXATION GUIDING POLICIES**

## BOUNDARIES

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

**Finding: The requested annexation will not create an island of unincorporated property.**

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

**Finding: The proposed annexation area is adjacent to the city limits along its east and northern property line.**

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

**Finding: This area does not consist of defined subdivisions or neighborhoods. It is predominantly a vacant field. However, future development plans may include the extension of a subdivision to the west.**

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

**Finding: Proposed boundaries follow property lines.**

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

**Finding: Current conditions result in a response time of 4 to 6.5 minutes for fire protection from future Fire Station #7. The property has access to an 8" water main to the east along 54th Avenue.**

## ENVIRONMENTALLY SENSITIVE AREAS

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

**Finding: Wetlands, floodplain, and steep slopes have not been identified on this property.**

## EMERGENCY AND PUBLIC SERVICES

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

**Finding: Water and sewer lines are accessible. The police department reports that current levels of service would not be compromised and that coverage in this**

**area can be provided. Fire service may also be provided to the site within an acceptable response time.**

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

**Finding:** **Fire and police service shall be provided to this area with the same level of response and service as other developments in this area. Sewer and water improvements to the area will be provided for with the development of approved preliminary plats.**

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

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

## INFRASTRUCTURE AND UTILITIES

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

**Finding:** **Water, fire and police protection are currently provided in this area.**

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

**Finding:** **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.**

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

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

## INTERGOVERNMENTAL RELATIONS

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

**Finding:** **N/A**

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

**Finding:** **N/A**

## ADMINISTRATION OF ANNEXATIONS

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

**Finding:** **Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with surrounding developed property and the Residential classification of the area on the City's adopted Future Land Use Plan.**

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

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

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

**Finding:** **Conceptual development proposals for this property have not been submitted to the Planning Division. At the time the owner desires to develop this property, the applicant will be required to submit a proposal for review and approval by the Planning Commission.**

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

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

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

**Finding:** **A fiscal impact assessment has not been conducted for this property.**

## *From Fayetteville General Plan 2020 – 2002 Revision*

### 11.6 Annexation Guiding Policies

**Boundaries**

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

**Environmentally Sensitive Areas**

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

**Emergency and Public Services**

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

**Infrastructure and Utilities**

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

**Intergovernmental Relations**

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

**Administration of Annexations**

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

**Fayetteville Fire Department Service Delivery Impact: Zoning Review June 21,2004**

| 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| ANX 04-1083 | Marinoni | | 78.84 | Future FS 7 | 0.493 miles | 1 minute | 1-3.5 minutes | | | |
| RZN 04-1084 | Marinoni | | | | | | | 72/year | 29/year | 43/year |
| ANX 04-1090 | Hays | | 37.3 | Future FS 7 | 1.97 miles | 4-5 minutes | 4-6.5 minutes | | | |
| RZN 04-1091 | Hays | | | | | | | 34/year | 13/year | 21/year |
| RZN 04-1099 | Brisiel | | | Future FS 7 | 2.13 miles | 5-6 minutes | 5-6 minutes | 2/year | .80/year | 1.2/year |
| ANX 04-1100 | Harper/Brandon | | 9.99 | FS 4 | 4.73 miles | 13-14 minutes | 13-14.5 minutes | | | |
| | | | | Future FS 5 | 3.36 miles | 8-9 minutes | 8-9.5 minutes | | | |
| RZN 04-1101 | Harper/Brandon | | | | | | | 9/year | 3/year | 6/year |
| RZN 04-1102 | Bradberry/Woolv. | | | FS 1 | 0.337 miles | 1 minute | 1 minute | | | |
| RZN 04-1103 | Collins | | | FS 2 | 0.633 miles | 3-4 minutes | 3-4 minutes | 5/year | 2/year | 3/year |
| RZN 04-1104 | Goff | | | FS 5 | 3.11 miles | 8-9 minutes | 8-9.5 minutes | 16/year | 6/year | 10/year |
| | | | | Future FS 3 | 2.33 miles | 5-6 minutes | 5-6.5 minutes | 16/year | 6/year | 10/year |
| RZN 04-1111 | The Mill District | | | FS 1 | 0.476 miles | 1-2 minutes | 1-2 minutes | | | |

Insufficient Data for Calculations

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

June 18, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 04-1090 (Hays Family Development, LLLP, pp 475)** and Rezoning **RZN 04-1091 (Hays Family Development, LLLP, pp 475)** submitted by James McCord for property located west of 54th Ave. Adjoining extension of W. Persimmon St (As reflected on M.S.P.) would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

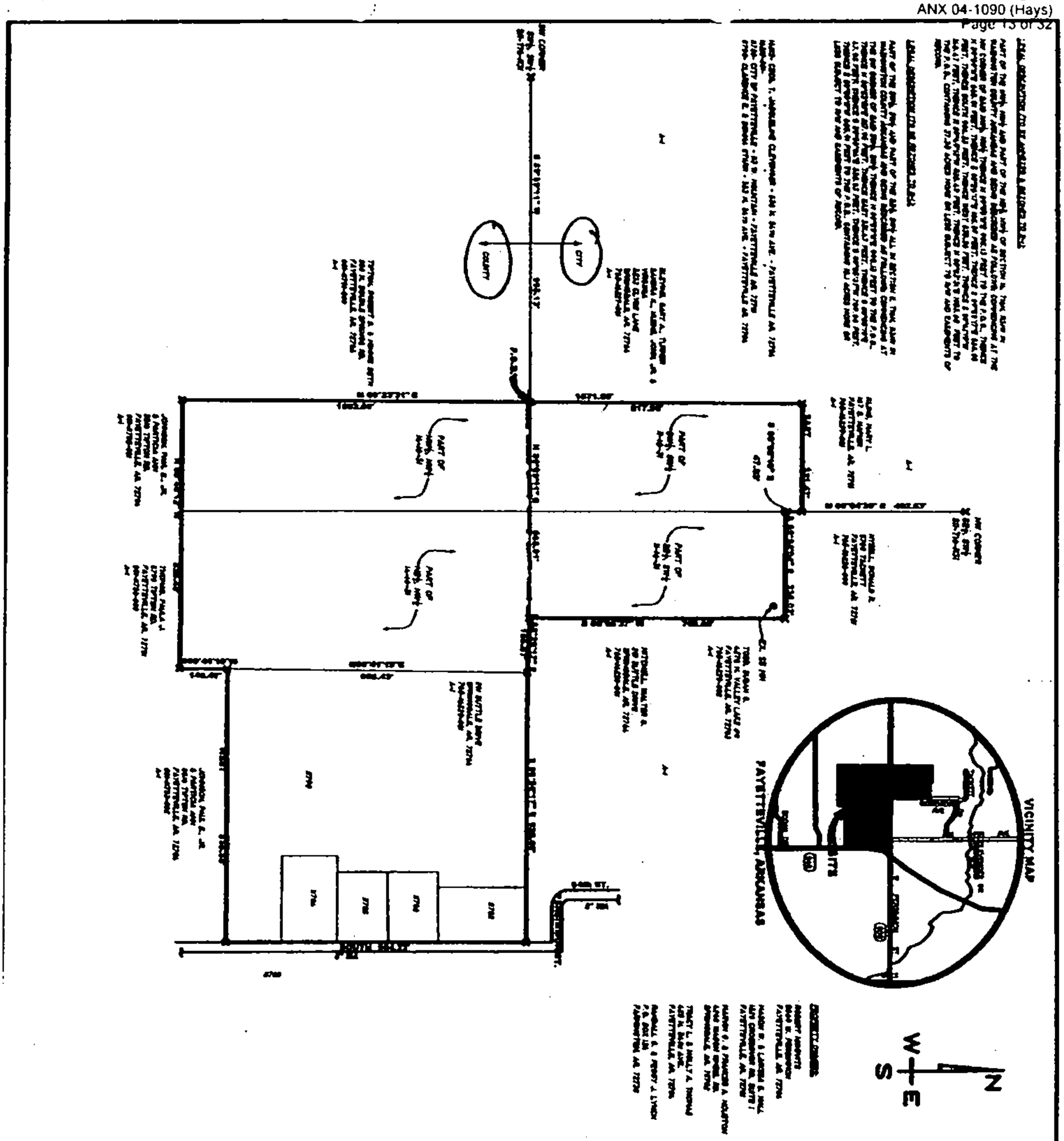
It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

AYETTEVILLE POLICE DEPARTMENT
:O. BOX 1988
AYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522




| JORGENSEN & ASSOCIATES<br>CIVIL ENGINEERS • SURVEYORS | SCALE: N.T.S. | DATE REVISED | CHECKED BY: | DRAWN BY: BJR |
|---|---|---|---|---|
| | DATE: 23MAY03 | 29JAN04 | DLJ | LP4\HAYS\HAYS |
| | ANNEXATION \ REZONING FOR | | | |
| | J.B. HAYS | | | |

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

FILED
'04 FEB 26 PM 2 27
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

**IN THE COUNTY COURT OF WASHINGTON COUNTY ARKANSAS**

**No. CC-2004-5**

**IN RE: ANNEXATION PETITION OF HAYS FAMILY DEVELOPMENT, LLLP et al.**

## ANNEXATION PETITION

For their Annexation Petition, the undersigned Petitioners state:

1. Petitioners are the owners of a majority of the real property described in Exhibit "A" attached hereto. Said property is contiguous to and adjoining the City of Fayetteville, Arkansas.

2. Petitioners name James N. McCord, attorney at law, as the person authorized to act on behalf of Petitioners in this annexation proceeding. James N. McCord can be contacted at 11 N. West Ave, Suite 202, Fayetteville, AR 72701; telephone (479) 695-1134; Fax (479) 695-1135.

3. Attached hereto as Exhibit "B" is an accurate map of the real property described in Exhibit "A" attached hereto.

WHEREFORE, the undersigned Petitioners pray that the Washington County Court enter an order granting this Petition and annexing the territory described in Exhibit "A" attached hereto to the City of Fayetteville, Arkansas.

PETITIONERS

Hays Family Development, LLLP

By: _____
J.B. Hays, General Partner

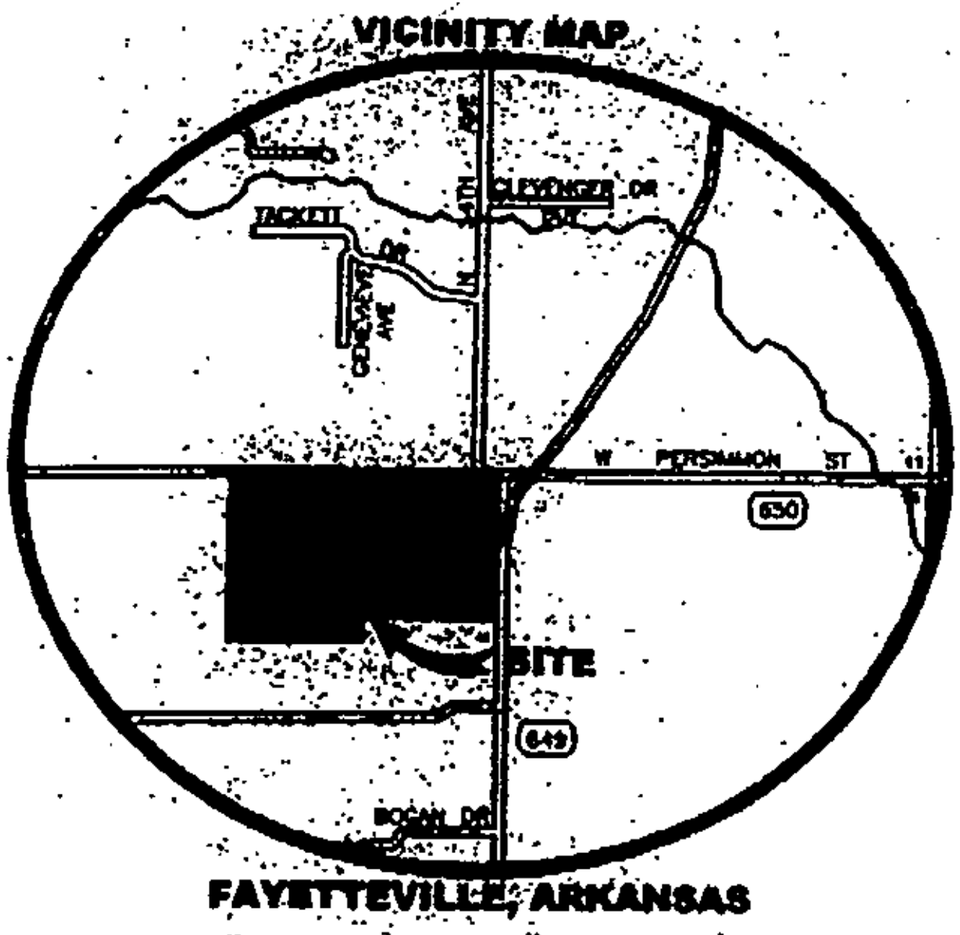
FROM WACO CLERK (THU)FEB 26 2004 15:55/ST. 15:52/NO. 6314274810 P 2

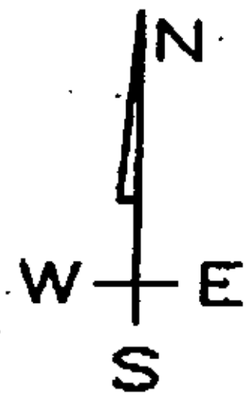
"A"

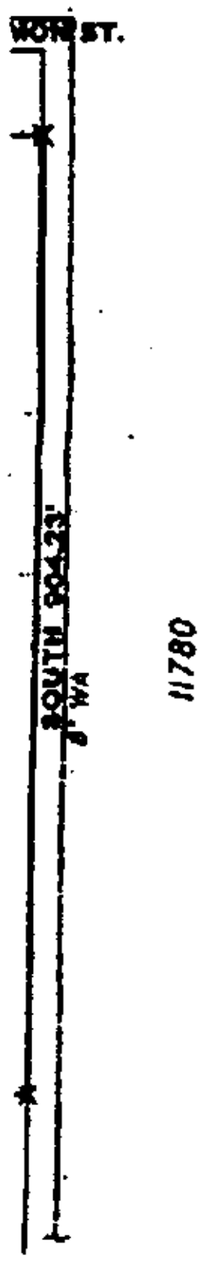
LEGAL DESCRIPTION (TO BE ANNEXED

PART OF THE NW¼. NW¼ AND PART OF THE NE¼. NW¼ OF SECTION 14. T16N. R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW¼. NW¼ THENCE N 89°59'11"E 995.13 FEET TO THE P.O.B.. THENCE N 89°59'11"E 665.91 FEET. THENCE S 88°26'17"E 165.07 FEET. THENCE S 89°55'17"E 825.00 FEET. THENCE SOUTH 904.23 FEET. THENCE WEST 835.88 FEET. THENCE S 00°41'19"W 146.47 FEET. THENCE N 89°49'12"W 825.49 FEET. THENCE N 00°23'31"E 1053.60 FEET TO THE P.O.B.. CONTAINING 37.30 ACRES MORE OR LESS SUBJECT TO R/W AND EASEMENTS OF RECORD.

FROM WACO CLERK (THU)FEB 26 2004 15:56/ST. 15:52/NO. 6314274810 P 8




*PROPERTY OWNERS:*

*11782*
*MASON W. & LARISSA E. NALL*
*1826 CROSSOVER RD. SUITE 1*
*FAYETTEVILLE, AR. 72701*

*11786*
*MARVIN G. & FRANCES A. HOUSTON*
*4268 WAGON WHEEL RD.*
*SPRINGDALE, AR. 72762*

*11785*
*TRACY L. & HOLLY A. THOMAS*
*425 N. 54TH AVE.*
*FAYETTEVILLE, AR. 72704*

*11784*
*RANDALL G. & PEGGY J. LYNCH*
*P.O. BOX 124*
*FARMINGTON, AR. 72730*

*11790*
*HAYS FAMILY DEV. LLP*
*HAYS FAMILY INVESTMENTS. LLP*
*2025 GREEN ACRES ROAD*
*FAYETTEVILLE. AR. 72703*

FROM WACO CLERK (THU)FEB 26 2004 15:56/ST. 15:52/NO. 6314274810 P 10

Signature page for Annexation Petition of Hays Family Development, LLLP, et al.

Hays Family Investments, LLLP

By: _____
J. B. Hays, General Partner

FROM MACO CLERK (THU)FEB 26 2004 15:55/ST. 15:52/NO. 6314274810 P 3

**Signature page of Annexation Petition of Hays Family Development, LLLP, et al.**

Randall G. Lynch

Peggy J. Lynch

FROM WACO CLERK (THU)FEB 26 2004 15:56/ST. 15:52/NO. 6314274810 P 4

Signature page of Annexation Petition of Hays Family Development, LLLP, et al.

12-4-03
Mason W. Nall

12-4-03
Larissa E. Nall

FROM MACO CLERK (THU)FEB 26 2004 15:56/ST. 15:52/NO. 6314274810 P 5

Signature page of Annexation Petition of Hays Family Development, LLLP, et al.

Marvin G. Houston

Marvin G. Houston

Frances Houston

Frances A. Houston

FROM WACO CLERK (THU)FEB 26 2004 15:56/ST. 15:52/NO. 6314274810 P 6

**Signature page of Annexation Petition of Hays Family Trust, LLLP, et al.**

Tracy L. Thomas

Holly A. Thomas

FROM WACO CLERK (THU)FEB 26 2004 15:56/ST. 15:52/NO. 6314274810 P 7

**IN THE COUNTY COURT OF WASHINGTON COUNTY ARKANSAS**

FILED
04 MAR 29 AM 11 52
KAREN COMBS PRATHER
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

**No. CC- 2004-5**

**IN RE: PETITION OF HAYS FAMILY DEVELOPMENT, LLLP et al. TO ANNEX PROPERTY TO CITY OF FAYETTEVILLE, ARKANSAS**

**ORDER OF ANNEXATION**

On this 29th day of March, 2004 comes on for hearing before the Washington County Court the Annexation Petition filed by Hays Family Development, LLLP et al. From a review of the case file and the proof, the Court finds:

1. The allegations of the petition are sustained by the proof;

2. The requirements for signatures under Ark. Code Ann. Sec. 14-40-601 have been complied with;

3. The limits of the territory to be annexed have been accurately described and an accurate map thereof made and filed; and,

4. The prayer of the petitioners is right and proper.

IT IS, THEREFORE, ORDERED that the Annexation Petition is hereby granted and the territory described in Exhibit "A" attached hereto is hereby annexed to the City of Fayetteville, Arkansas.

ENTERED this 29$^{h}$ day of March, 2004.

Washington County Judge

11782

11786

11785

11784

11780

SOUTH 904.23'

8' WA

835.88'

ISON, PAUL E., JR.
RTICIA ANN
PTON RD.
E, AR. 72704

LEGAL DESCRIPTION (TO BE ANNEXED & REZONED TO R-1)

PART OF THE NW¼. NW¼ AND PART OF THE NE¼. NW¼ OF SECTION 14. T16N. R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW¼. NW¼ THENCE N 89°59'11"E 995.13 FEET TO THE P.O.B.. THENCE N 89°59'11"E 665.91 FEET. THENCE S 88°26'17"E 165.07 FEET. THENCE S 89°55'17"E 825.00 FEET. THENCE SOUTH 904.23 FEET. THENCE WEST 835.88 FEET. THENCE S 00°41'19"W 146.47 FEET. THENCE N 89°49'12"W 825.49 FEET. THENCE N 00°23'31"E 1053.60 FEET TO THE P.O.B.. CONTAINING 37.30 ACRES MORE OR LESS SUBJECT TO R/W AND EASEMENTS OF RECORD

LEGAL DESCRIPTION (TO BE REZONED TO R-1):

PART OF THE SW¼. SW¼ AND PART OF THE SE¼. SW¼ ALL IN SECTION 11. T16N. R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SW¼. SW¼ THENCE N 89°59'11"E 995.13 FEET TO THE P.O.B.. THENCE N 00°23'31"E 817.95 FEET. THENCE EAST 331.47 FEET. THENCE S 00°05'10"E 47.93 FEET. THENCE S 89°58'04"E 330.03 FEET. THENCE S 00°05'37"W 769.66 FEET. THENCE S 89°59'11"W 665.91 FEET TO THE P.O.B.. CONTAINING 12.1 ACRES MORE OR LESS SUBJECT TO R/W AND EASEMENTS OF RECORD.

CHECKED:
DATE REVISED
SCALE: 1"=200'

INDGENSEN & ASSOCIATES

**From:** Planning
**To:** Carnagey, Craig; Morgan, Suzanne; Pate, Jeremy; Warrick, Dawn
**Date:** 6/17/04 11:25AM
**Subject:** Fwd: ANX 04-1090 and RZN 04-1091

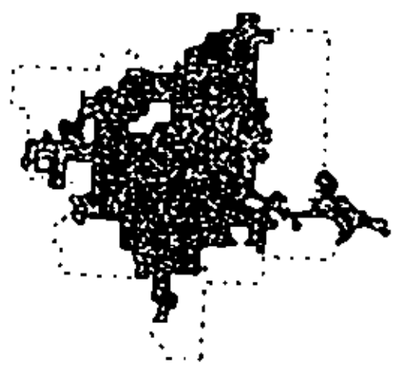
>>> PAULA THOMPSON <mspjdaisy@sbcglobal.net> 06/16/04 07:37PM >>>
This is in response to the second notice I have gotten as an adjoining property owner regarding actions before the Planning Commission. The first was 30 acres to my west, now 37 acres to my north, all to be rezoned for 4 units per acre.
Please, please, urge the planners and the commission to drive to these sites over any of the roads that will get you here. The city streets and county roads are barely two lane...in places not even that...and you are considering allowing the erection of some 268 residences, with an average of probably 3 or more cars each? Annex the land, but please do not rezone for that density unless you have surplus funds in reserve to upgrade the roads that will be handling all those cars. We already have terrible congestion on HWY 16W, accidents on an all too regular basis, and all the other ills that come with growth that outstrips the infrastructure and resources of the area.
Please, you are the only protection we have...and the last best hope for prairie wildlife that has been here since Peter Van Winkle came to this spot of ground in the 1840s. If you don't care about the native critters, please care about the two-legged road kill this will bring.
Paula Thompson
5790 W. Dot Tipton Road
Fayetteville, AR 72704

ANX04-1090

*Close Up View*

# HAYS FAMILY DEVELOPMENT, LLLP

*Overview*



Legend

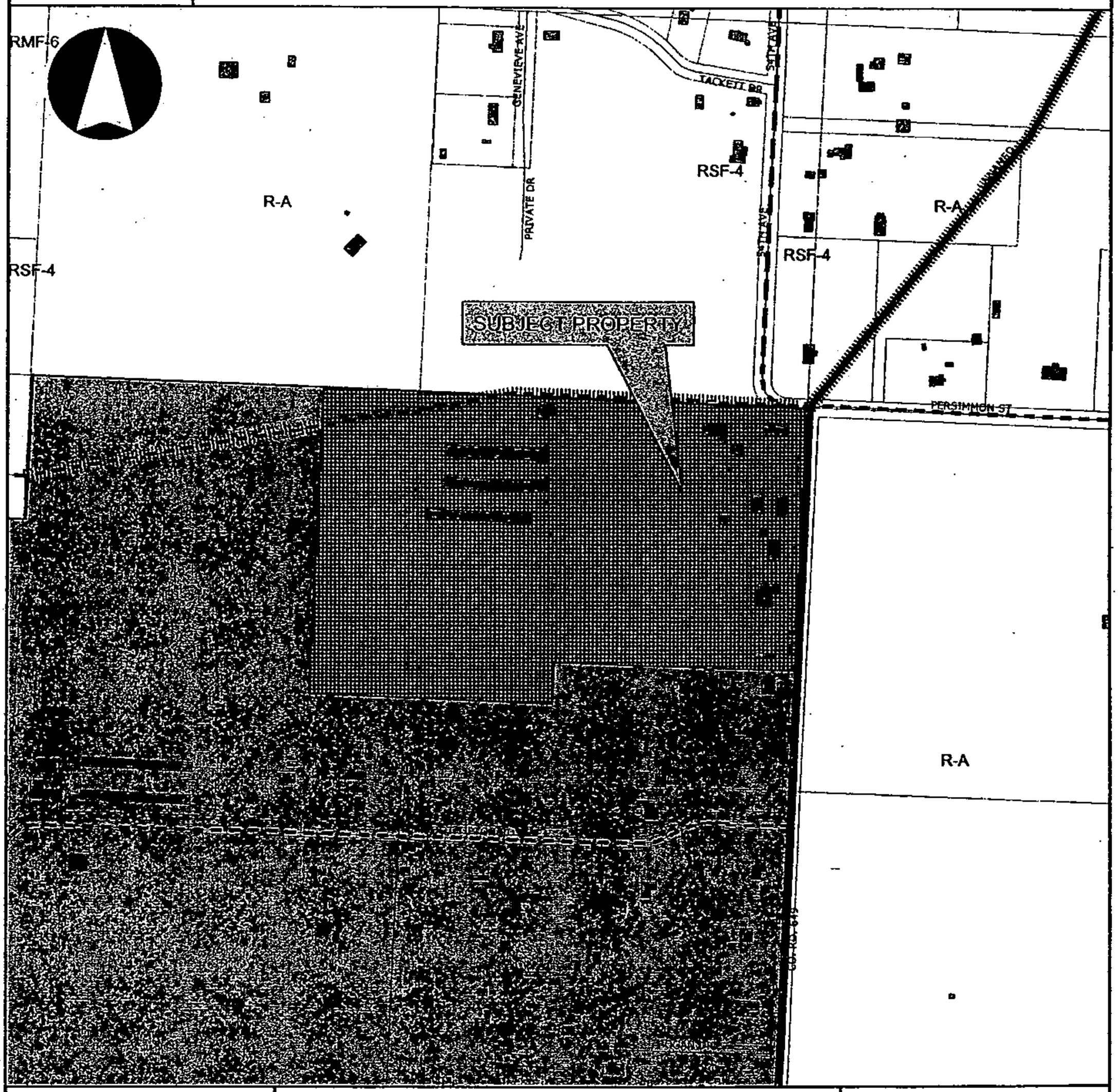
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- ANX04-1090
- Fayetteville
- Outside City

0 200 400 800 1,200 1,600 Feet

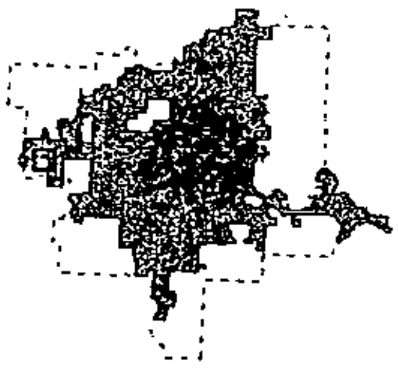
ANX04-1090

*Close Up View*

# HAYS FAMILY DEVELOPMENT, LLLP




*Overview*



**Legend**

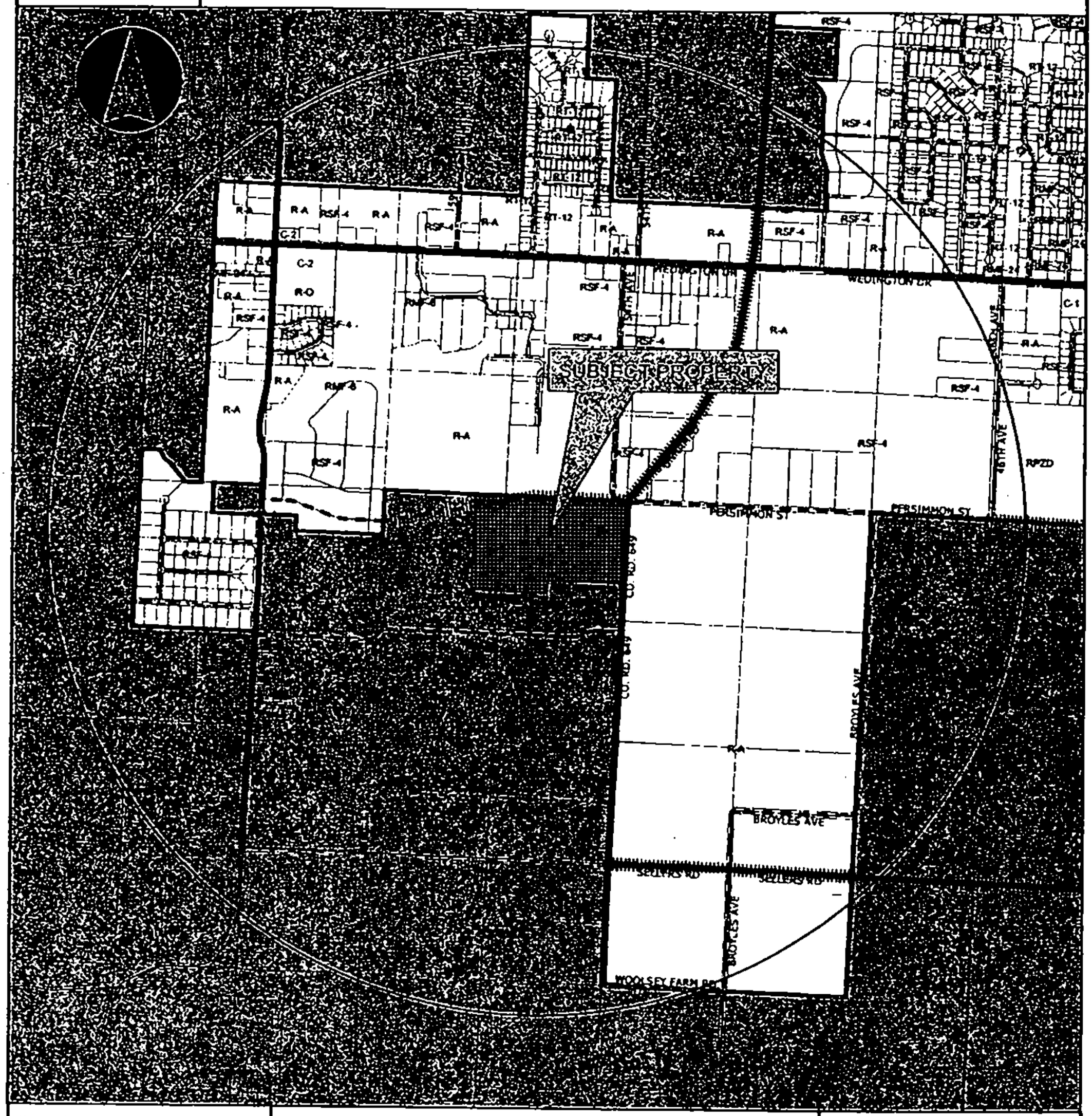
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
ANX04-1090
Fayetteville
Outside City

0 200 400 800 1,200 1,600
Feet

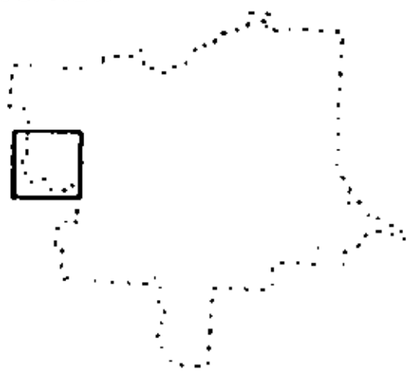
ANX04-1090

One Mile View

# HAYS FAMILY DEVELOPMENT, LLLP




Overview



Legend

Subject Property

ANX04-1090

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

**ANX 04-1090: Annexation (HAYS FAMILY DEVELOPMENT, LLLP, 475):** Submitted by JAMES MCCORD for property located at WEST OF 54th AVE ADJOINING EXTENSION OF W. PERSIMMON ST (AS REFLECTED ON M.S.P.). The property is in the Planning Area and contains approximately 37.30 acres. The request is to annex the subject property into the City of Fayetteville.

**RZN 04-1091: Rezoning (HAYS FAMILY DEVELOPMENT, LLLP, 475):** Submitted by JAMES MCCORD for property located at WEST OF 54th AVE ADJOINING EXTENSION OF W. PERSIMMON ST. (AS REFLECTED ON M.S.P.) The property is zoned R-A, Residential Agricultural, and contains approximately 49.40 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next item on our agenda is ANX 04-1090 for Hays.

Pate: This item and the following accompanying item for RZN 04-1091 for Hays are associated items. This property is located west of 54th Avenue adjoining the extension of West Persimmon Street as reflected on the Master Street Plan. The property is currently, of course, in the planning area and contains approximately 37.30 acres for annexation request. The applicant is requesting to annex the subject property into the City of Fayetteville. The property is adjacent to city limits to the east and the north. This configuration, as requested, does not create an island of unincorporated properties into the city limits. Currently the site has access to Persimmon Street and 54th Avenue at the northeast corner of the property, County Road 649 along the east property line. At the time of development Persimmon Street will need to be constructed through the development and additionally, staff will be evaluating offsite improvements to 54th Avenue at the time of development. Staff is recommending approval of the annexation request. The accompanying item, which is a rezoning request, if you would please refer to your revised staff report that was passed out this evening. Unfortunately, an erroneous staff report was passed out with your original packets with some different numbers on there. Hopefully the new packet has revised all of that. This request is to rezone the approximately 37.30 acres along with other property that this property owner, the Hays owner, along with other property owners are requesting to annex into the City of Fayetteville for a total of 49.40 acres. The additional 12.10 acres is directly to the north of this property. When property is annexed into the city it is zoned as R-A, Residential Agricultural. The applicant is requesting that the entire 49.40 acres be rezoned to RSF-4. The proposed rezoning to RSF-4 would allow for a maximum dwelling unit number of 197 dwelling units in this area. That is an increase in population density from what is allowed currently. However, the public service providers do state in the attached staff report that this will not increase appreciably an increased traffic danger in this area with proposed improvements with the development proposal in the

future. Staff is also recommending approval of the association RZN 04-1091.

Ostner: Thank you. Is the applicant present? If you could introduce yourself and tell us about your request.

McCord: My name is Jim McCord, I'm representing J.B. Hays who is present tonight. The annexation is for a property that is adjacent to the property approved earlier, the Sloan property approved for annexation and rezoning, it is immediately to the west of the Tipton/Sloan property. The annexation conforms with all of your annexation guideline policies with the City of Fayetteville, which Planning staff found to be the case and therefore, recommended approval. For those reasons the applicant requests approval of the annexation. I will address the rezoning when it is considered. At this time we respectfully request approval of the annexation.

Ostner: Thank you Mr. McCord. At this time I will open it up to the public. Would anyone like to speak to this annexation issue? Seeing none, I will close it to the public and bring it back to the Commission.

Anthes: I just want to reference comments I made five hours ago for the Tipton/Sloan property. I don't find for environmentally sensitive areas, nor do I find that development pressure is great in this area and those other comments that I said earlier.

Graves: I would do the same. There were a number of comments that I made numerating the reasons that I believed this fit the guiding policies under the city's annexation policy with regard to the Tipton/Sloan property. Those would be equally applicable as far as I'm concerned with this particular parcel.

**MOTION:**

Shackelford: I concur and will not repeat all of my conversation either that we have had on several of these but I think the points and conversation that we had on the Tipton/Sloan property applies to this property as well. Based on that, I am going to make a motion that we recommend for approval ANX 04-1090 to City Council.

Vaught: I will second.

Ostner: Is there further discussion on the annexation proposal? Renee?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of ANX 04-1090 to the City Council was approved by a vote of 7-2-0 with Commissioners Anthes and Ostner voting no.

Ostner: The tandem item is RZN 04-1091 for Hays.

McCord: Regarding the rezoning, Jeremy referred to some errors in the number of acres that I understand have been corrected. Just for the sake of clarity, the total acreage being requested with this rezoning is 49.40 acres. That includes 12.10 acres on the north side of Persimmon which is already in the City of Fayetteville. Regarding the density, RSF-4 is requested. From a practical standpoint by the time that the streets are put in and the utility setbacks only about three or slightly under three units per acre can be constructed. Also, there are two houses currently on the site and there are 3.47 acres that are the other four applicant's. There will be a little over 40 acres that can be developed and so the actual number of units that could be built with the RSF-4 density is a little over 120. That would be the true density. Again, city staff found that the requested rezoning is consistent with the General Plan 2020 and it conforms to the growth in the area. For those reasons, the applicant would respectfully request RSF zoning be recommended at this time.

Ostner: Thank you Mr. McCord. I will open it up to the public again for RZN 04-1091. Seeing none, I will close it to the public and bring it back to the Commission.

**MOTION:**

Vaught: I would say in general I agree with this. One thing I will say is that at the time of development this is a larger project to impact 54th as well as the possibility of Tipton/Sloan and there are going to be some offsite improvements that are definitely warranted, or will be provided by this project and the density I think will help support those. It is in line with the areas around it. I will make a motion to approve RZN 04-1091 and recommend approval by the City Council.

Trumbo: Second.

Ostner: I am going to vote against this because I believe it is too far out and I believe zoning is an issue of how much and when. I believe that there is a lot of land closer to town that we've recently annexed tonight that satisfies our demand.

Vaught: I do have one question for staff. I guess this is at the time of development but we just required some improvements to 54th. What I'm going to hate to see is improvements made and then ripped up and new improvements

made. Do we have some kind of coordination? If these developments come through in time before those improvements are made do we have some coordination process for the two developers? On 54th we approved some offsite improvements, how does that work, just for my knowledge?

Warrick: If the timing could be coordinated it would require that a Preliminary Plat, which you approved earlier tonight be amended. It could happen if we were able to determine that the timing was appropriate and that in fact, the improvements would be duplicated or one would have to be destroyed to install the other improvements. We certainly wouldn't want to see that happen. We don't want to see developers throw money away. When we are looking for infrastructure improvements we need to see those improvements on the ground so that they are there to provide benefit to the public. That is something that we certainly would look at. It really depends on timing as to how we are able to coordinate the two projects.

Ostner: Is there further discussion?

Allen: I just want to ask Mr. McCord why if you are anticipating that you will not be needing the RSF-4 and are going to be using RSF-3 then why would you request that?

McCord: RSF-4 is needed to permit the density we expect. RSF-2 would limit you to 2 and there is not an RSF-3. We have not seen the final figures from the engineer on what the actual density will turn out being. We think it is going to be around three units per acre. RSF-4 is where we need to be, knowing full well it is probably going to wind up about three units per acre because of the streets and all of that.

Ostner: Is there any further discussion?

Clark: Just cross apply everything that I said about zoning earlier. I am not going to support this until I have more information.

Allen: I have the same concern.

Ostner: Rence, can you call the roll please?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of RZN 04-1091 by the City Council was approved by a vote of 5-4-0 with Commissioners Anthes, Clark, Allen and Ostner voting no.

Thomas: The motion carries by a vote of five to four.

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-1090: (Hays, pp 475) was submitted by James McCord, Attorney on behalf of Hays Family Development, LLP for property located west of 54th Avenue, adjoining the extension of Persimmon Street containing approximately 37.30 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn J. Warrick — 7/6/04
Division Head — Date

Received in Mayor's Office 7-7-04
Date

[signature] — 7/7/04
City Attorney — Date

_____ — _____
Department Director — Date

_____ — _____
Finance & Internal Services Dir. — Date

Hugh Earnhardt — 7-7-04
Chief Administrative Officer — Date

Dan Coody — 7/7/04
Mayor — Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 7/7/04

# 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

**Date:** June 29, 2004

**Subject**: Rezoning request for Hays (RZN 04-1091)

## RECOMMENDATION

Planning Staff recommends approval of the requested rezoning for Hays. This action will rezone a 49.40-acre tract of land from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 DU/Acre. The request is to rezone the subject property to RSF-4.

## BACKGROUND

*Property Description:* The subject 49.40 acre tract of land is located west of 54th Street, adjoining the extension of W. Persimmon St. as reflected on the Master Street Plan and south of Tackett Dr/Genevieve Avenue. Approval of the preceding request to annex 37.30 acres into the City of Fayetteville is required for the subject 49.40 acres to be considered for rezoning to RSF-4. The difference in tract size is made up of an additional 12.1 acres already within the city limits, zoned R-A, Residential Agricultural, north and west of the 37.30-acre tract.

*Proposal:* The applicant requests a rezoning from R-A to RSF-4 to allow for development of single family homes at a maximum density of four (4) dwelling units per acre. The applicant(s) are a consortium of land owners within the Planning Area that have collectively requested their respective properties be annexed and rezoned.

## DISCUSSION

On June 28, 2004, the Planning Commission voted 5-4-0 to forward this item to the City Council with a recommendation for approval of the rezoning request, with Commissioners Anthes, Ostner, Clark and Allen voting no.

## BUDGET IMPACT

None.

**ORDINANCE NO. _____**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1091 AS SUBMITTED BY JIM MCCORD ON BEHALF OF HAYS FAMILY DEVELOPMENT, LLLP FOR PROPERTY LOCATED WEST OF 54TH AVENUE ADJOINING THE EXTENSION OF PERSIMMON STREET CONTAINING APPROXIMATELY 49.40 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

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

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

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

**PASSED AND APPROVED this _____ day of _____, 2004.**

**APPROVED:**

**By:** _____
**DAN COODY, Mayor**

**ATTEST:**

**By:** _____
**Sondra Smith, City Clerk**

DRAFT

**EXHIBIT "A"**
**RZN 04-1091**

PART OF THE NW ¼, NW ¼ AND PART OF THE NE ¼, NW ¼ OF SECTION 14, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW ¼, NW ¼ THENCE N89°59'11"E 995.13 FEET TO THE P.O.B., THENCE N89°59'11"E 665.91 FEET, THENCE S88°26'17"E 165.07 FEET, THENCE S89°55'17"E 825.00 FEET, THENCE SOUTH 904.23 FEET, THENCE WEST 835.88 FEET, THENCE S00°41'19"W 146.47 FEET, THENCE N89°49'12"W 825.49 FEET, THENCE N00°23'31"E 1053.60 FEET TO THE P.O.B, CONTAINING 37.30 ACRES, MORE OR LESS, SUBJECT TO R/W AND EASEMENTS OF RECORD.

And

PART OF THE SW ¼, SW ¼ AND PART OF THE SE ¼, SW ¼ ALL IN SECTION II, T16N, R31W IN WASHINGTON COUNTY ARKANAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SW ¼, SW ¼ THENCE N89°59'11"E 995.13 FEET TO THE P.O.B., THENCE N00°23'31"E 817.95 FEET, THENCE EAST 331.47 FEET, THENCE S00°05'10"E 847.93 FEET, THENCE S89°58'04"E 330.03 FEET, THENCE S00°05'37"W 769.66 FEET, THENCE S89°59'11"W 665.91 FEET TO THE P.O.B., CONTAINING 12.1 ACRES MORE OR LESS SUBJECT TO R/W AND EASEMENTS OF RECORD.

DRAFT

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

## PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Craig Carnagey, Senior Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: June 23, 2004

**RZN 04-1091: Rezoning (HAYS):** Submitted by JAMES MCCORD for property located WEST OF 54th AVE. ADJOINING EXTENSION OF W. PERSIMMON ST (AS REFLECTED ON M.S.P.) The property is zoned R-A, Residential Agricultural, and contains approximately 49.40 acres. The request is to rezone the property from R-A to RSF-4, Residential Single Family, 4 DU/Acre.
Property Owner: HAYES FAMILY DEVELOPMENT, LLLP Planner: CRAIG CARNAGEY

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

| | | |
|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** **YES** | |
| | **✓ Approved** | **○ Denied** |
| **Date: June 28, 2004** | Vaught ©/Trumbo © 6-4 | |
| **CITY COUNCIL ACTION:** | **Required** **YES** | |
| | **○ Approved** | **○ Denied** |
| **Date: July 20, 2004** | | |

**BACKGROUND: Please reference the associated ANX 04-1090 staff report for additional background information.**

*Property Description:* The subject property contains approximately 49.40 acres located west of 54th Avenue, and adjoins an extension of west Persimmon as reflected on the City's Master Street Plan. A 37.30-acre portion of the overall tract is the subject of the associated request for annexation into the city limits. The remaining 12.1 acres is currently within the City limits. The property is adjacent to city limits to the east and the north. This configuration does not create an island of unincorporated property within the City limits.

*Proposal:* The applicant intends to develop a single family residential subdivision.

*Request:* The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to

RSF-4, Residential Single Family, 4 Dwelling Units per Acre, should the preceding Annexation request be approved. 12.1 acres of this property are currently within the city, and zoned R-A.

*Related Issues:* When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the preceeding annexation is recommended for approval to City Council, the applicant would like to rezone the entire 49.40 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 04-1090, is an accompanying item to this rezoning request.

*Recommendation:* Staff recommends approval of the rezoning request. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

**SURROUNDING LAND USE AND ZONING:**

| Direction | Land Use | Zoning |
|---|---|---|
| North | Single family residential | RSF-4, Residential Single Family, 4 units/acre |
| South | Single family residential | Planning Area |
| East | Vacant | R-A, Residential Agricultural |
| West | Vacant | Planning Area |

**INFRASTRUCTURE:**

**INFRASTRUCTURE:**

**Streets:** Currently the site has access to Persimmon Street and 54th Avenue at the northeast corner of the property and County Road 649 along the east property line. At the time of development, Persimmon Street will need to be constructed through the development. County Road 649 will need to be brought up to current standards along the property frontage. Off-site improvements to 54th Avenue will be considered at the time of the development of the property.

Surrounding Master Street Plan Streets:
North: Persimmon St. (planned collector)
South: Dot Tipton Road. (unimproved collector )
East: 54th Avenue. (unimproved collector)
West: Double Springs Road (minor arterial)

**Water:** The property has access to an 8" water main along Persimmon Street and 54th Avenue. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

**Sewer:** The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. Approval of additional units added to the sewer system in this area will be dependant upon the remaining capacity in the Owl Creek lift station.

**Fire:** The subject property is located 1.97 miles from future Fire Station #7 on Rupple Road. Normal driving time is 4 -6.5 minutes. Water supply will be necessary for this property to develop.

**Police:** It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

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

**FINDINGS OF THE STAFF**

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

**Finding:** **The proposed zoning for a Single Family residential subdivision is compatible with adjacent and nearby single family residential land use. The General Plan designates this area for residential uses, which is compatible with the proposed RSF-4 zoning.**

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

**Finding:** **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A subdivision with this density in the R-A district could not be developed as it is currently zoned. A higher density than the R-A zoning district allows is appropriate in this area, and would provide compatibility with adjoining developments that are zoned RSF-4 and currently being developed with residential subdivisions. In order to provide the connectivity and network of public infrastructure with adjacent residential subdivisions in a manner that is consistent with the future land use plan and guiding policies of annexation, a residential zoning district is needed.**

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

**Finding:** **The proposed zoning will provide additional traffic on Local and Residential**

**streets in the area. Most streets in this area are unimproved or are being constructed to city specifications. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the area.**

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

**Finding:** **The proposed zoning would increase population density. The 49.40 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 24 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 197 dwelling units would be permitted. This increases the possible number of residential units, but is consistent with land use and zoning in the immediate vicinity.**

***Engineering -***

Currently the site has access to Persimmon Street and 54th Avenue at the northeast corner of the property and County Road 649 along the east property line. At the time of development, Persimmon Street will need to be constructed through the development. County Road 649 will need to be brought up to current standards along the property frontage. Off-site improvements to 54th Avenue will be considered at the time of the development of the property

The property has access to an 8" water main along Persimmon Street and 54th Avenue. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. Approval of additional units added to the sewer system in this area will be dependant upon the remaining capacity in the Owl Creek lift station.

***Fire*** - The subject property is located 1.97 miles from future Fire Station #7 on Rupple Road. Normal driving time is 4 -6.5 minutes. Water supply will be necessary for this property to develop.

***Police*** - It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

5. If there are reasons why the proposed zoning should not be approved in view of

considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

**Finding:** **N/A**

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

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

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

(D) *Bulk and area regulations.*

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

(E) *Setback requirements.*

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

(F) *Height.* None.

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

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

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

June 18, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 04-1090 (Hays Family Development, LLLP, pp 475)** and Rezoning **RZN 04-1091 (Hays Family Development, LLLP, pp 475)** submitted by James McCord for property located west of 54th Ave. Adjoining extension of W. Persimmon St (As reflected on M.S.P.) would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

## Fayetteville Fire Department Service Delivery Impact: Zoning Review June 21,2004

| 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| ANX 04-1083 | Marinoni | | 78.84 | Future FS 7 | 0.493 miles | 1 minute | 1-3.5 minutes | | | |
| RZN 04-1084 | Marinoni | | | | | | | 72/year | 29/year | 43/year |
| ANX 04-1090 | Hays | | 37.3 | Future FS 7 | 1.97 miles | 4-5 minutes | 4-6.5 minutes | | | |
| RZN 04-1091 | Hays | | | | | | | 34/year | 13/year | 21/year |
| RZN 04-1099 | Brisiel | | | Future FS 7 | 2.13 miles | 5-6 minutes | 5-6 minutes | 2/year | .80/year | 1.2/year |
| ANX 04-1100 | Harper/Brandon | | 9.99 | FS 4 | 4.73 miles | 13-14 minutes | 13-14.5 minutes | | | |
| | | | | Future FS 5 | 3.36 miles | 8-9 minutes | 8-9.5 minutes | | | |
| RZN 04-1101 | Harper/Brandon | | | | | | | 9/year | 3/year | 6/year |
| RZN 04-1102 | Bradberry/Woolv. | | | FS 1 | 0.337 miles | 1 minute | 1 minute | | | |
| RZN 04-1103 | Collins | | | FS 2 | 0.633 miles | 3-4 minutes | 3-4 minutes | 5/year | 2/year | 3/year |
| RZN 04-1104 | Goff | | | FS 5 | 3.11 miles | 8-9 minutes | 8-9.5 minutes | 16/year | 6/year | 10/year |
| | | | | Future FS 3 | 2.33 miles | 5-6 minutes | 5-6.5 minutes | 16/year | 6/year | 10/year |
| RZN 04-1111 | The Mill District | | | FS 1 | 0.476 miles | 1-2 minutes | 1-2 minutes | | | |

Insufficient Data for Calculations

# STATEMENT IN SUPPORT OF REZONING APPLICATION BY HAYS FAMILY DEVELOPMENT, LLLP et al.

(From R-A to Rsf-4)

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

Current ownership information is provided accurately on the Rezoning Application including the attached ownership cards from the office of the Washington County Assessor. There are no proposed or pending property sales at this time.

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

Rsf-4 zoning is requested (needed) for a residential subdivision, with approximately 3 lots per acre, consisting of single family dwellings proposed for development on the Hays property to meet a housing demand in the area.

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

The proposed use of the property is single family dwellings compatible with surrounding properties and is the land use recommended by the 2020 General Plan for the City of Fayetteville. Legacy Pointe subdivision is located shortly west of the subject property. Other surrounding land uses are single family residential and agricultural. Additional residential subdivisions are proposed for the area. When development occurs, Persimmon Street will have to be constructed to City street standards. The proposed development would add traffic to Wedington Drive via 54th Street, Rupple Road and Double Springs Road. Any signage would conform to the Fayetteville sign ordinance.

(d). Availability of water and sewer (state size of lines).

An 8" water line is available to the property from 54th Street. Ā 6" sewer line runs along 54th Street north of the property and would have to be extended by the developer.

**EXHIBIT "A"**
**RZN 04-1091**

PART OF THE NW ¼, NW ¼ AND PART OF THE NE ¼, NW ¼ OF SECTION 14, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW ¼, NW ¼ THENCE N89°59'11"E 995.13 FEET TO THE P.O.B., THENCE N89°59'11"E 665.91 FEET, THENCE S88°26'17"E 165.07 FEET, THENCE S89°55'17"E 825.00 FEET, THENCE SOUTH 904.23 FEET, THENCE WEST 835.88 FEET, THENCE S00°41'19"W 146.47 FEET, THENCE N89°49'12"W 825.49 FEET, THENCE N00°23'31"E 1053.60 FEET TO THE P.O.B, CONTAINING 37.30 ACRES, MORE OR LESS, SUBJECT TO R/W AND EASEMENTS OF RECORD.

And

PART OF THE SW ¼, SW ¼ AND PART OF THE SE ¼, SW ¼ ALL IN SECTION 11, T16N, R31W IN WASHINGTON COUNTY ARKANAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SW ¼, SW ¼ THENCE N89°59'11"E 995.13 FEET TO THE P.O.B., THENCE N00°23'31"E 817.95 FEET, THENCE EAST 331.47 FEET, THENCE S00°05'10"E 47.93 FEET, THENCE S89°58'04"E 330.03 FEET, THENCE S00°05'37"W 769.66 FEET, THENCE S89°59'11"W 665.91 FEET TO THE P.O.B., CONTAINING 12.1 ACRES MORE OR LESS SUBJECT TO R/W AND EASEMENTS OF RECORD.

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

James D McLeod
Applicant's Signature

Submitted for RZN04-1091

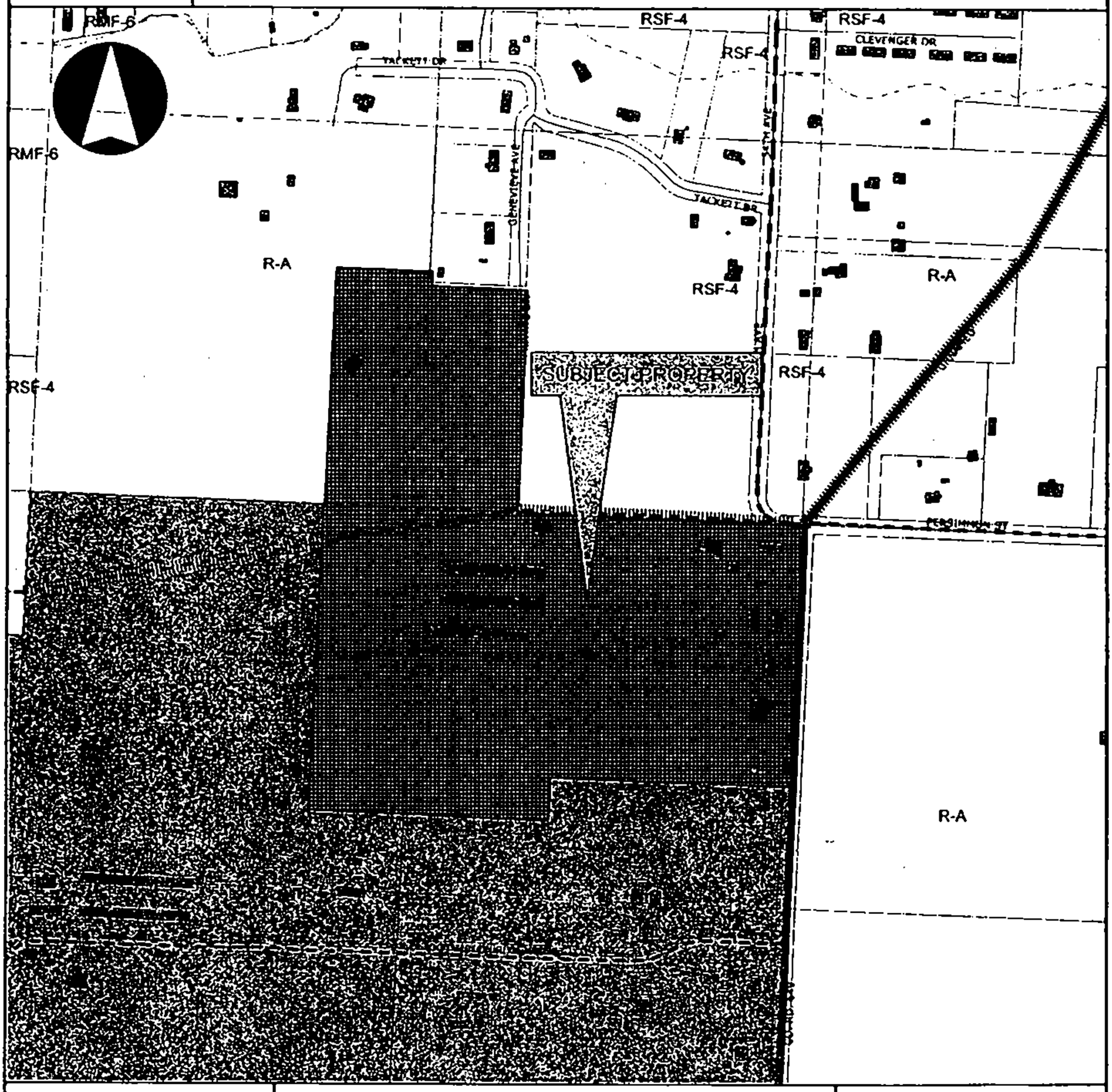
**From:** Planning
**To:** Carnagey, Craig; Morgan, Suzanne; Pate, Jeremy; Warrick, Dawn
**Date:** Thursday, June 17, 2004 11:25AM
**Subject:** Fwd: ANX 04-1090 and RZN 04-1091

>>> PAULA THOMPSON <mspjdaisy@sbcglobal.net> 06/16/04 07:37PM >>>
This is in response to the second notice I have gotten as an adjoining property owner regarding actions before the Planning Commission. The first was 30 acres to my west, now 37 acres to my north, all to be rezoned for 4 units per acre.
Please, please, urge the planners and the commission to drive to these sites over any of the roads that will get you here. The city streets and county roads are barely two lane...in places not even that...and you are considering allowing the erection of some 268 residences, with an average of probably 3 or more cars each? Annex the land, but please do not rezone for that density unless you have surplus funds in reserve to upgrade the roads that will be handling all those cars. We already have terrible congestion on HWY 16W, accidents on an all too regular basis, and all the other ills that come with growth that outstrips the infrastructure and resources of the area.
Please, you are the only protection we have...and the last best hope for prairie wildlife that has been here since Peter Van Winkle came to this spot of ground in the 1840s. If you don't care about the native critters, please care about the two-legged road kill this will bring.
Paula Thompson
5790 W. Dot Tipton Road
Fayetteville, AR 72704

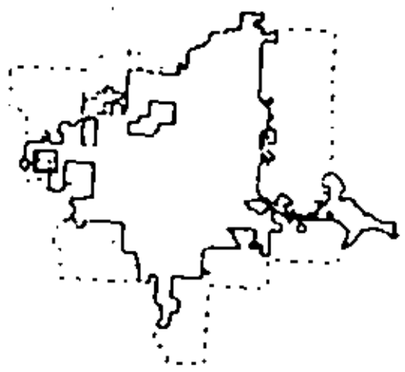
RZN04-1091

*Close Up View*

# HAYS FAMILY DEVELOPMENT, LLLP




*Overview*



Legend

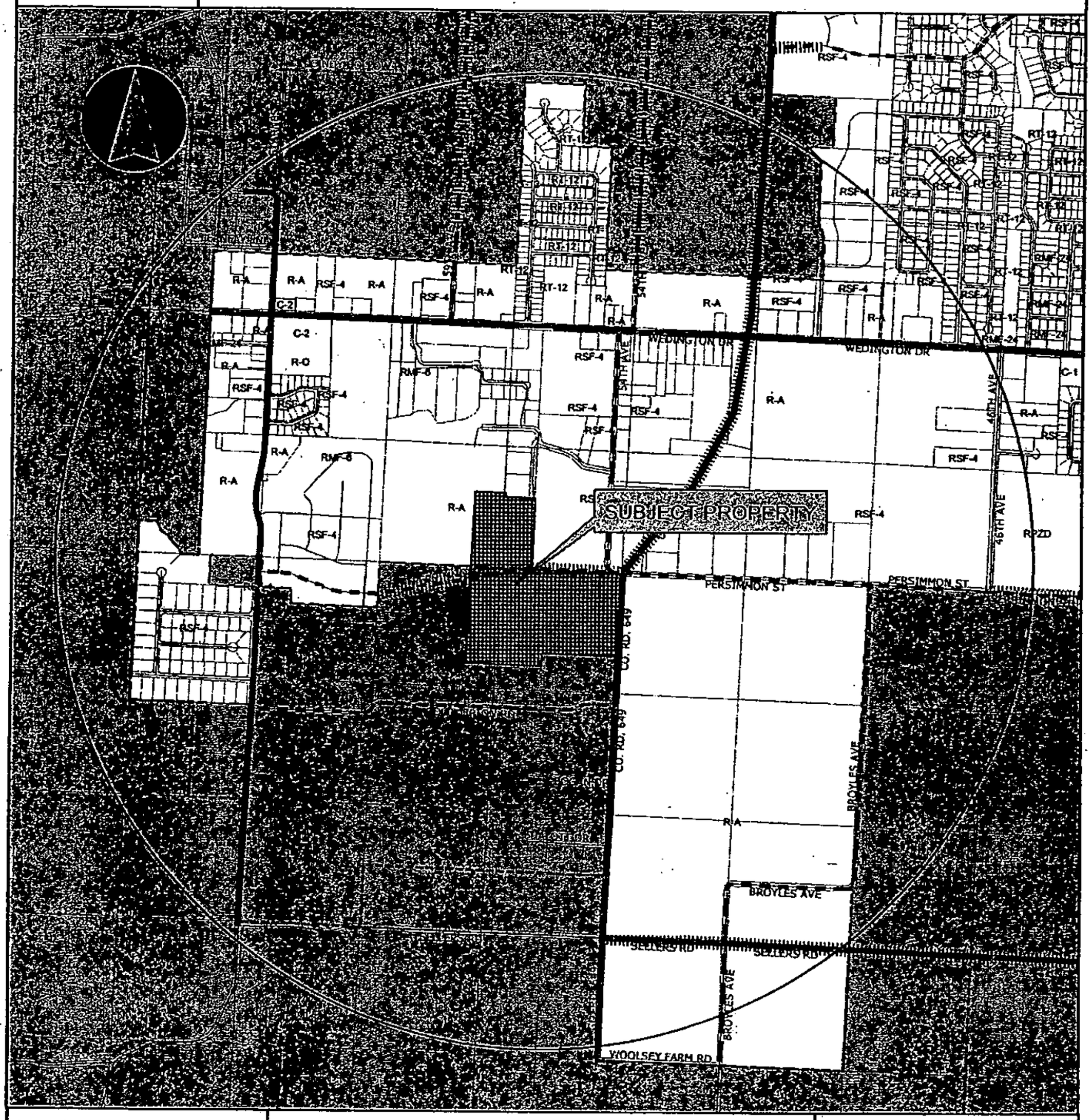
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Base line Profile
- RZN04-1091

0 200 400 800 1,200 1,600 Feet

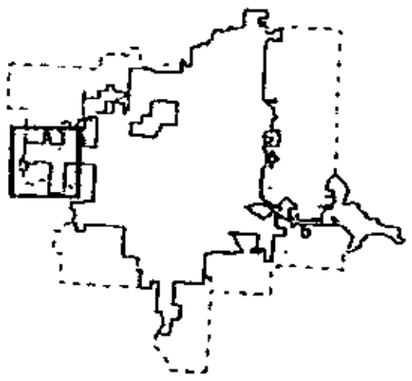
RZN04-1091

One Mile View

# HAYS FAMILY DEVELOPMENT, LLLP




Overview



Legend

Subject Property
- RZN04-1091

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

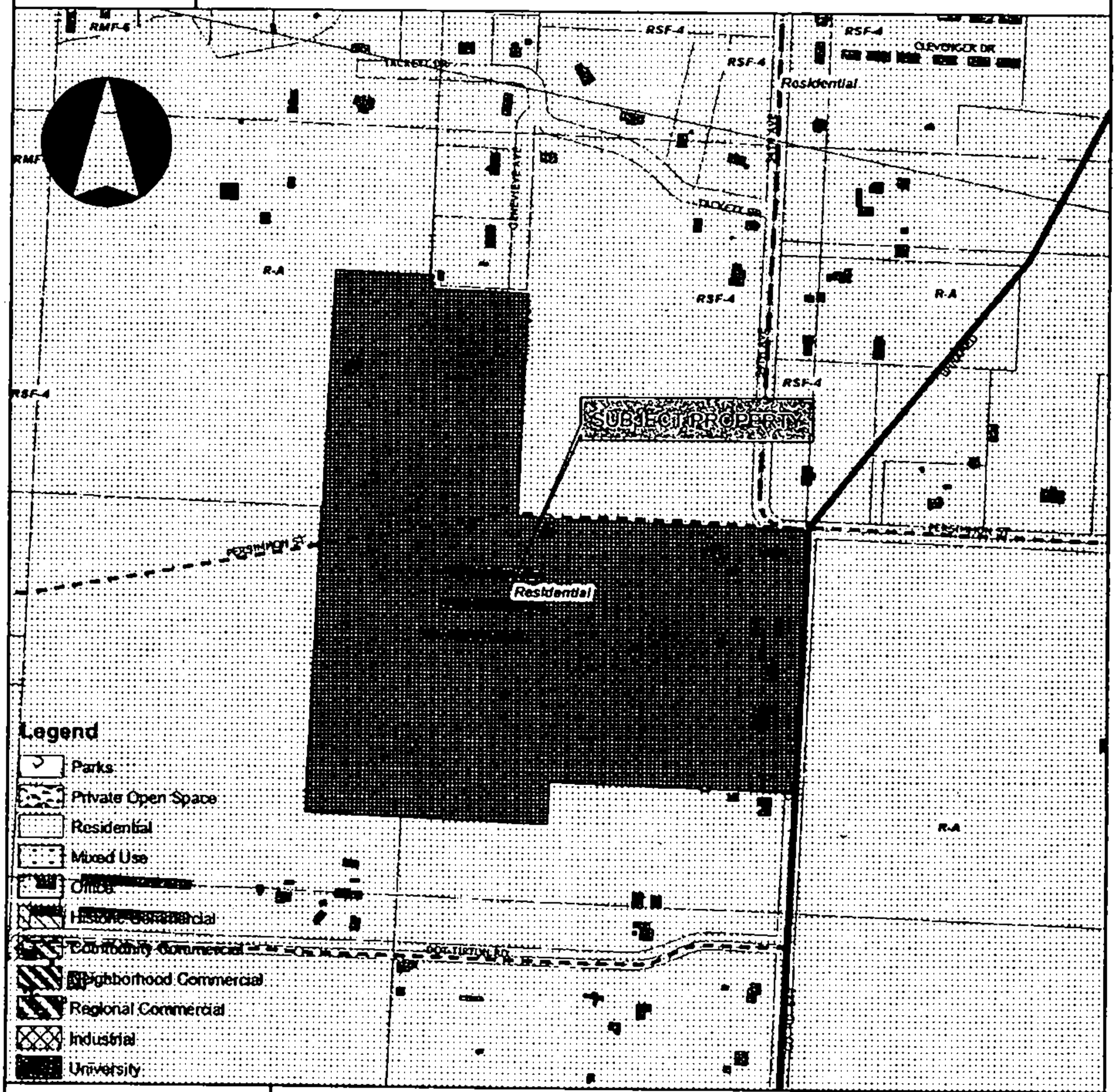
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

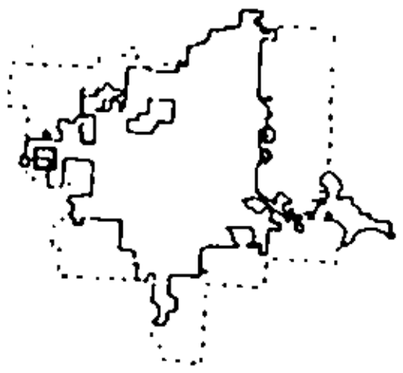
RZN04-1091

*Future Land Use*

# HAYS FAMILY DEVELOPMENT, LLLP




*Overview*



*Legend*

**Subject Property**

RZN04-1091

**Streets**

Existing

Planned

**Boundary**

Planning Area

Overlay District

City Limits

Outside City

**Master Street Plan**

Freeway/Expressway

Principal Arterial

Minor Arterial

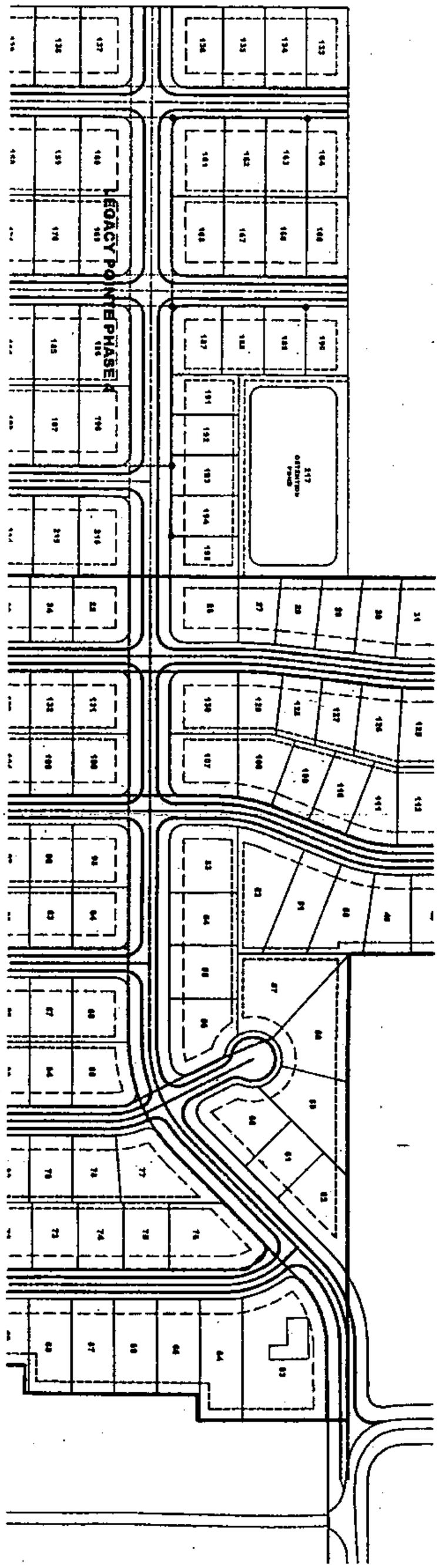
Collector

Historic Collector

0 200 400 800 1,200 1,600

Feet

**LEGACY POINTE PHASE 3**




HAYS

Hays

| JORGENSEN & ASSOCIATES<br>CIVIL ENGINEERS • SURVEYORS | SCALE: N.T.S. | DATE REVISED | CHECKED BY: | DRAWN BY: BJR |
|---|---|---|---|---|
| | DATE: 28JUNE04 | | DLJ | |
| | PRELIMINARY LAYOUT | | | 1/1 |

S W E N

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1091: (Hays, pp 478) was submitted by James McCord, Attorney, on behalf of Hays Family Development, LLP for property located west of 54th Avenue adjoining the future extension of Persimmon Street containing approximately 49.40 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

STAFF RECOMMENDATION: Approval.

Dawn L. Warrick — Division Head — 7/6/04 Date

Received in Mayor's Office — 7-7-04 Date

— City Attorney — 7/7/04 Date

— Department Director — Date

Cross Reference:

Previous Ord/Res#: _____

— Finance & Internal Services Dir. — Date

Orig. Contract Date: _____

Hugh Earnett — Chief Administrative Officer — 7-7-04 Date

Orig. Contract Number: _____

New Item: Yes No

Don Cooley — Mayor — 7/7/04 Date

ENTERED 7/6/04 rcm

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

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

**Date:** July 2, 2004

**Subject:** Annexation for Harper/Brandon (ANX 04-1100)

## RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Harper/Brandon. This action will incorporate a 9.99 acre tract of land contiguous with the city limits into the City of Fayetteville.

## BACKGROUND

The subject property contains to tracts of property equaling 9.99 acres. The property is currently a vacant field with one single family home located on the northeast corner of property. It is located south of Albright Road and west of George Anderson Rd within the City of Springdale. The property is adjacent to the Fayetteville City limits along its southern boundary where it abuts approximately 10 acres of property annexed and rezoned by the City Council on May 4, 2004.

The applicant proposes simultaneous detachment of 9.99 acres from the City of Springdale and annexation of property into the City of Fayetteville. The applicant will submit this request to Springdale after consideration by Fayetteville City Council. A rezoning request has been submitted for this property.

## DISCUSSION

On June 28, 2004, the Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval with an accompanying rezoning request.

## BUDGET IMPACT

None.

**ORDINANCE NO. _____**

**CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS**

**AN ORDINANCE CALLING FOR THE SIMULTANEOUS DETACHMENT OF CERTAIN LANDS FROM THE CITY OF SPRINGDALE, ARKANSAS AND THE ANNEXATION OF THOSE CERTAIN LANDS INTO THE MUNICIPAL LIMITS OF THE CITY OF FAYETTEVILLE; AND FOR OTHER PURPOSES.**

WHEREAS, A.C.A. § 14-40-2101, Simultaneous Detachment and Annexation, provides that simultaneous detachment and annexation of lands can occur when the boundaries of two (2) municipalities are contiguous and adjoining one another, and one municipality desires to detach and annex territory; and

WHEREAS, the City of Fayetteville desires to detach and annex certain lands owned by Craig and Karyn Harper located within the limits of the City of Springdale, more completely described below, hereinafter referred to as "the Harper Property"; and

WHEREAS, the Harper Property is situated along a common border which is contiguous and adjoining between the City of Springdale and the City of Fayetteville; and

WHEREAS, the Harper Property complies with the standards for lands qualifying for simultaneous detachment and annexation which are set forth in A.C.A. § 14-40-2101; and

WHEREAS, the City of Springdale Water and Wastewater Department has found it impractical for the City of Springdale to serve the Harper Property with sanitary sewer service; and

WHEREAS, the City Council of Springdale, Arkansas approved Resolution No. 91-03 on October 28, 2003, declaring that the City has no objection to the detachment of the Harper Property from the City of Springdale; and

WHEREAS, the necessary services of water, sewer, fire and police protection can be provided to the Harper Property by the City of Fayetteville in a reasonable period of time; and

WHEREAS, the Harper Property is immediately adjacent and contiguous to lands under the same ownership that have previously been annexed into the City of Fayetteville from the County; and

WHEREAS, upon the passage of this Ordinance, the City Council of Springdale, Arkansas will be required by law to conduct a public hearing within sixty (60) days following its passage and the City Council of Springdale, Arkansas may, at its next regularly scheduled meeting following the public hearing, bring this proposed ordinance up for a vote to concur in the detachment and annexation.

**NOW THEREFORE, BE IT ENACTED** by City of Fayetteville, Arkansas, as follows:

Section 1. The following described lands owned by Craig and Karyn Harper, consisting of 9.99 acres (the Harper Property), which is currently contained in the municipal limits of the City of Springdale, Arkansas is hereby proposed for detachment from the City of Springdale and annexation into the City of Fayetteville.

A part of the Southeast Quarter (SE ¼)of the Southeast Quarter (SE ¼)of Section Eighteen (18), Township Seventeen (17) North, Range Twenty-Nine (29) West, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at the Northwest corner of said 40 acre tract, said point being in Albright Road and from which a reference iron set on the South right-of-way of said road bears S 02°39'07" W - 18.94 feet; thence S 87°24'02" E - 6 60.07 feet along the North line of said 40 acre tract to a point from which a reference iron set on the South right-of-way of Albright Road bears S 02°34'53" W - 19.29 feet, thence S 87°24'12" E - 658.24 feet along said North line to the Northeast corner of said 40 acre tract, thence S 02°31'12" W - 330.00 feet along the East line of said 40 acre tract, thence S 87°24'07" E - 658.59 feet, thence S 87°24'24" W - 660.00 feet to an existing fence on the occupied West line of said 40 acre tract, thence N 02°34'07" E - 330.06 feet along said West line to the POINT OF BEGINNING.

Section 2. Upon the passage of this Ordinance, it shall be forwarded to the City of Springdale, which shall place it on an agenda for a public hearing within sixty (60) days of receipt.

Section 3. The City of Fayetteville shall publish legal notice of said public hearing to be held by the City of Springdale, setting out the legal description of the Harper Property, at least fifteen (15) days prior to the date of the public hearing.

Section 4. The City of Springdale, at its next regularly scheduled City Council meeting following the public hearing, may bring the proposed ordinance up for a vote to concur in the detachment and annexation.

Section 5. Upon the ordinance proposing the detachment and annexation being passed and concurred with by the City of Springdale and becoming final, the territory known as the Harper Property shall be deemed and taken to be a part and parcel of the

limits of Fayetteville, and the inhabitants thereof shall have and enjoy all the rights and privileges of the inhabitants within the original limits of the City of Fayetteville thereafter. Thereupon, all necessary urban services, such as sewer, water, police and fire protection, shall be extended to such area within a reasonable time.

**PASSED AND APPROVED** this ___ day of _____, 2004.

**APPROVED:**

_____
Mayor Dan Coody, City of Fayetteville

**ATTEST:**

_____
Sondra Smith, City Clerk

(SEAL)

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

## PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: June 23, 2004

**ANX 04-1100: Annexation (HARPER/BRANDON, 61)**: Submitted by MICHELE, A HARRINGTON for property located at THE S SIDE OF ALBRIGHT RD, W OF GEORGE ANDERSON ROAD. The property is in the City of Springdale and contains approximately 9.99 acres. The request is to annex the subject property into the City of Fayetteville.

Property Owner: CRAIG & KARYN HARPER
Submitted on behalf of:GARY BRANDON
Planner: SUZANNE MORGAN

**RECOMMENDATION:**

**Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):**

| | | |
|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** | **YES** |
| | **○ Approved** | **○ Denied** |
| **Date: June 28, 2004** | | |
| **CITY COUNCIL ACTION:** | **Required** | **YES** |
| | **○ Approved** | **○ Denied** |
| **Date: July 20, 2004 (1st reading if recommended)** | | |

**BACKGROUND:**

***Property description:*** The subject property contains to tracts of property equaling 9.99 acres. The property is currently a vacant field with one single family home located on the northeast corner of property. It is located south of Albright Road and west of George Anderson Rd within the City of Springdale. The property is adjacent to the Fayetteville City limits along its southern boundary where it abuts approximately 10 acres of property annexed and rezoned by the City Council on May 4, 2004.

***Proposal:*** The applicant proposes simultaneous detachment of 9.99 acres from the City of Springdale and annexation of property into the City of Fayetteville. The applicant will submit this request to Springdale after consideration by Fayetteville City Council (see attached letter and ordinance information). A rezoning request has been submitted for this property.

***Recommendation:*** Staff recommends approval of the proposed annexation. The subject property is adjacent to the City limits and is proposed to be developed as an extension of Copper Creek Subdivision which is currently under construction to the south.

**SURROUNDING LAND USE AND ZONING**

| Direction | Land Use | Zoning |
|---|---|---|
| North | Single-family on large lots | City of Springdale |
| South | Vacant | RSF-4, Residential Single Family, 4 units per acre |
| East | Single-family on large lots | City of Springdale |
| West | Vacant field | City of Springdale |

**INFRASTRUCTURE:**

**Streets:** George Anderson Road is not an improved roadway. At the time of development, street improvements will be recommended for the property frontage to widen the street to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks. The east side of the roadway will be in the county, and will need to be improved to current county standards. Albright Road will need to be improved to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks.

Surrounding Master Street Plan Streets:
North: Albright Rd. (no classification)
South: Zion Rd (collector)
East: George Anderson Rd. (collector) and Howard Anderson Rd.
West: Copper Creek Dr. (local)

**Water:** The property will have access to an 8" looped water main system that is being installed with Copper Creek Phase 2 subdivision. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

**Sewer:** The site will have access to an 8" sewer main that is being installed with Copper Creek Phase 2 subdivision. Sewer will need to be extended within the development. The developers engineer will need to provide calculations to show that there is adequate capacity in the Stonewood lift station. Upgrades to these stations and/or force mains may be required.

**Fire:** The subject property is located 4.73 miles from the Fire Station #4. Normal driving time is estimated at 13-14 minutes with an approximate response time of 13-14.5 minutes at maximum development. The property is located 3.36 miles from future Fire Station #5 at 833 Crossover Rd with a response time of 8-9 minutes and an estimated response time of 8-9.5 minutes at maximum build out.

**Police:** It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

**LAND USE PLAN:** General Plan 2020 has no designation for this property. The property to the south of this has been identified and zoned **Residential**.

**FINDINGS:**

**11.6 ANNEXATION GUIDING POLICIES**
**BOUNDARIES**

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

**Finding:** **The requested annexation will extend an existing peninsula to the north. The extension will, however create an appropriate boundary that will extend north of the City of Fayetteville into the City of Springdale.**

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

**Finding:** **The proposed annexation area is adjacent to the City Limits to the south for approximately 1300 feet.**

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

**Finding:** **This area does not consist of defined subdivisions or neighborhoods; however, future development plans may include the extension of the Copper Creek subdivision.**

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

**Finding:** **Proposed boundaries follow property lines.**

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

**Finding:** **Current conditions result in a response time of 13-14 minutes for fire protection from the Fire Station #4 and 8-9 minutes from future Fire Station #5. Any development in this area would necessitate installation of hydrants to provide for fire protection. The site will have access to an 8" sewer main that is being installed with Copper Creek Phase 2 subdivision. Sewer will need to be extended within the development. Verification that this area is**

**within the Fayetteville water service territory shall be determined at such time development occurs on the subject property. The City Council would pass a resolution at the time of development in order for this property to be incorporated into the City of Fayetteville's water territory.**

## ENVIRONMENTALLY SENSITIVE AREAS

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

**Finding:** **N/A**

## EMERGENCY AND PUBLIC SERVICES

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

**Finding:** **The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Sewer shall be extended from the 8" sewer main being installed with Copper Creek Ph. II to the south during the development of new subdivision(s).**

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

**Finding:** **Fire and police service shall be provided to this area with the same level of responds and service as other developments in this area. Sewer improvements to the area are being provided for with the development of approved preliminary plats.**

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

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

## INFRASTRUCTURE AND UTILITIES

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

**Finding:** **Water, fire and police protection are currently provided in this area.**

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

**Finding:** **Improvements to sewer and street systems and installation of fire hydrants**

**would be made necessary by the annexation should additional development occur on the subject property.**

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

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

## INTERGOVERNMENTAL RELATIONS

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

**Finding:** **Annexation of this property will incorporate property currently within Springdale jurisdiction into the City of Fayetteville.**

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

**Finding:** **N/A**

## ADMINISTRATION OF ANNEXATIONS

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

**Finding:** **Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with the Residential classification of the adjacent area on the City's adopted Future Land Use Plan. Property outside of the Planning Area was not given a designation on the Future Land Use Plan.**

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

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

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

**Finding:** **Development of this property has not been proposed. At the time the applicant desires to development the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.**

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

**Finding:** **This annexation includes two tracts of land totaling 9.99 acres owned by the Craig and Karyn Harper and represented by Gary Brandon Enterprises, Inc. The combined requests create a reasonable boundary avoiding the creation of unusual boundary lines.**

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

**Finding:** **N/A**

*From Fayetteville General Plan 2020 – 2002 Revision*

## 11.6 Annexation Guiding Policies

### Boundaries

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

### Environmentally Sensitive Areas

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

### Emergency and Public Services

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

### Infrastructure and Utilities

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

### Intergovernmental Relations

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

### Administration of Annexations

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

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 12, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8202

## ENGINEERING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Matt Casey, Staff Engineer
DATE: April 8, 2004

**ANX 04-1100: Annexation (HARPER/BRANDON, 61)**: Submitted by MICHELE, A HARRINGTON for property located at THE S SIDE OF ALBRIGHT RD, W OF GEORGE ANDERSON ROAD. The property is in the City of Springdale and contains approximately 9.99 acres. The request is to annex the subject property into the City of Fayetteville.
Property Owner: CRAIG & KARYN HARPER Submitted on behalf of:GARY BRANDON
Planner: SUZANNE MORGAN

**RZN 04-1101: Rezoning (HARPER/BRANDON, 61)**: Submitted by MICHELE, A HARRINGTON for property located at THE S SIDE OF ALBRIGHT ROAD, W OF GEORGE ANDERSON ROAD. The property is zoned R-A, Residential Agricultural and contains approximately 9.99 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.
Property Owner: CRAIG & KARYN HARPER Submitted on behalf of: GARY BRANDON
Planner: SUZANNE MORGAN

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

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

**The property will have access to an 8" looped water main system that is being installed with Copper Creek Phase 2 subdivision. An extension of the water main will be required to provide water supply and fire protection within any development on this property.**

**The site will have access to an 8" sewer main that is being installed with Copper Creek Phase 2 subdivision. Sewer will need to be extended within the development. The developers engineer will need to provide calculations to show that there is adequate capacity in the Stonewood lift station. Upgrades to these stations and/or force mains may be required.**

**George Anderson Road is not an improved roadway. At the time of development, street improvements will be recommended for the property frontage to widen the street to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks. The east side of the roadway will be in the county, and will need to be improved to current county standards. Albright Road will need to be improved to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks.**

Name Matt Casey Department Engineering

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

June 18, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 04-1100 (Harper/Brandon, pp 61)** and Rezoning **RZN 04-1101 (Harper/Brandon, pp 61)** submitted by Michele Harrington for property located at the intersection of George Anderson Rd, Lying N & S of Albright Rd. would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

AYETTEVILLE POLICE DEPARTMENT
O. BOX 1988
AYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

**Fayetteville Fire Department Service Delivery Impact: Zoning Review June 21,2004**

| 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| ANX 04-1083 | Marinoni | | 78.84 | Future FS 7 | 0.493 miles | 1 minute | 1-3.5 minutes | | | |
| RZN 04-1084 | Marinoni | | | | | | | | | |
| ANX 04-1090 | Hays | | 37.3 | Future FS 7 | 1.97 miles | 4-5 minutes | 4-6.5 minutes | 72/year | 29/year | 43/year |
| RZN 04-1091 | Hays | | | | | | | | | |
| RZN 04-1099 | Brisiel | | | Future FS 7 | 2.13 miles | 5-6 minutes | 5-6 minutes | 34/year | 13/year | 21/year |
| **ANX 04-1100** | **Harper/Brandon** | | **9.99** | **FS 4** | **4.73 miles** | **13-14 minutes** | **13-14.5 minutes** | 2/year | .80/year | 1.2/year |
| | | | | **Future FS 5** | **3.36 miles** | **8-9 minutes** | **8-9.5 minutes** | | | |
| RZN 04-1101 | Harper/Brandon | | | | | | | | | |
| RZN 04-1102 | Bradberry/Woolv. | | | | | | | 9/year | 3/year | 6/year |
| RZN 04-1103 | Collins | | | FS 1 | 0.337 miles | 1 minute | 1 minute | | | |
| RZN 04-1104 | Goff | | | FS 2 | 0.633 miles | 3-4 minutes | 3-4 minutes | 5/year | 2/year | 3/year |
| | | | | FS 5 | 3.11 miles | 8-9 minutes | 8-9.5 minutes | 16/year | 6/year | 10/year |
| RZN 04-1111 | The Mill District | | | Future FS 3 | 2.33 miles | 5-6 minutes | 5-6.5 minutes | 16/year | 6/year | 10/year |
| | | | | FS 1 | 0.476 miles | 1-2 minutes | 1-2 minutes | | | |

Insufficient Data for Calculations

HARRINGTON, MILLER, NEIHOUSE & KIEKLAK
A PROFESSIONAL ASSOCIATION
ATTORNEYS
118 East Emma Avenue * P.O. Box 687
Springdale, Arkansas 72765-0687
Telephone (479) 751-6464 * Fax (479) 751-9715
e-mail address: mail@arkansaslaw.com
www.arkansaslaw.com

Michele A. Harrington, P.A.
Stephen J. Miller, P.A.
John P. Neihouse, P.A.
(LL.M. in Taxation)*
Thomas N. Kieklak~

*Also licensed in Texas
~Also licensed in Florida

Angela G. Henry*
E. Justin Eichmann

*Of Counsel:* Stephen D. Stitt~

* Also Licensed in Oklahoma
~Also Licensed in Georgia

May 17, 2004

Dawn Warrick
City of Fayetteville Planning Dept.
113 W. Mountain Street
Fayetteville, AR 72701

Patsy Christic
City of Springdale Planning Dept.
201 Spring Street
Springdale, AR 72764

Re: Harper Simultaneous Detachment and Annexation to the City of Fayetteville, Arkansas

Dear Ladies:

Attached is the Ordinance I propose to use for the Simultaneous Detachment and Annexation of the Craig Harper 9.99 acres immediately north of the 9.99 acres from the County (also owned by the Harpers) that was just annexed by the City of Fayetteville last week. I am also sending this to you, Patsy. Since this is a relatively new statute, you might want your respective City Attorneys to review this and let me know if they desire changes.

The Harpers, with the assistance of Gary Brandon Enterprises, Inc, have asked me to submit this Ordinance proposing the detachment and annexation of this land to Fayetteville by May 20. I am told it would be scheduled to be heard at the Fayetteville Planning Commission meeting on June 28th, and then go to City Council in July.

Patsy, if this Ordinance proposing the detachment and annexation passes in Fayetteville (it will probably require at least 2, if not 3, readings), I will then forward it to you to schedule a public hearing in Springdale. Once I obtain the date from you of that hearing, I will assist Dawn in getting published the legal notice required by the statute (15 days prior). I assume that the public hearing will be at the Springdale Planning Commission, and if it is recommended forward,

then it would go to the Springdale City Council to concur with the detachment and annexation. I also assume that a separate document, perhaps a resolution, would be appropriate for Springdale to pass concurring in the detachment and annexation, but look to hear from you, Patsy, as to what you or the City Attorney think is needed.

Once the above steps are completed, after the usual 30 day period in which the Ordinance could of course be challenged as could any ordinance, the Ordinance becomes "final". Then this property is considered in Fayetteville for all purposes, and Fayetteville's Municipal Clerk certifies 1 copy of the plat of the annexed territory and 1 copy of the proposing Ordinance as adopted by both cities to the County Clerk, who is to forward both to the Secretary of State for recordation.

I have enclosed a copy of the Statute for your review. Please call me with any questions. I look forward to working with you both on this matter.

Sincerely,

HARRINGTON, MILLER, NEIHOUSE & KIEKLAK, P.A.

Michele A. Harrington
For the Firm

MAH/rtv

encls.

cc: Craig and Karyn Harper
Gary Brandon Enterprises, Inc.
Brian Moore, ESI, Inc.

Ord. ~ Sig. concurring.



**ARKANSAS CODE OF 1987 ANNOTATED**
**TITLE 14. LOCAL GOVERNMENT**
**SUBTITLE 3. MUNICIPAL GOVERNMENT**
**CHAPTER 40. ANNEXATION, CONSOLIDATION, AND DETACHMENT BY MUNICIPALITIES**
**SUBCHAPTER 21. SIMULTANEOUS DETACHMENT AND ANNEXATION**

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Current through the 2003 Regular Session

**14-40-2101** Simultaneous detachment and annexation by two (2) cities.

(a) When the boundaries of two (2) municipalities are contiguous to and adjoining one another, and one (1) municipality desires to detach and annex territory in another municipality, then the governing body of the municipality desiring to detach and annex territory may propose an ordinance calling for the simultaneous detachment of the lands from the one (1) municipality and the annexation of the lands into its municipal limits. The municipality desiring to annex land in the adjoining city, after the passage of the ordinance calling for detachment and annexation, shall send the ordinance to the governing body of the city or town in which the lands are located.

(b)(1) The ordinance will provide a legal description of the lands proposing to be detached and annexed and describe generally the reasons for proposing the action.

(2) The governing body of the city or town in which the lands are located shall conduct a public hearing within sixty (60) days of the proposal of the ordinance calling for the detachment and annexation.

(3) At least fifteen (15) days prior to the date of the public hearing, the governing body of the proposing municipality shall publish a legal notice setting out the legal description of the territory proposed to be detached and annexed. Municipal officials of the proposing city or town, officials of the city or town in which the lands are located, and property owners within the area proposed to be detached and annexed may appear at the public hearing to present their views on the proposal.

(c)(1) At the next regularly scheduled meeting following the public hearing, the governing body of the municipality in which the lands are located may bring the proposed ordinance up for a vote to concur in the detachment and annexation.

(2) If a majority of the total number of members of the governing body vote for the proposed detachment and annexation ordinance, then a prima facie case for detachment and annexation shall be established, and the proposing municipality shall proceed to render services to the newly annexed area.

(d) The decision of the municipal governing bodies shall be final unless suit is brought in the chancery court of the appropriate county within thirty (30) days after passage of the ordinance to review the mutual actions of the governing bodies.

(e)(1) As soon as the ordinance proposing the detachment and annexation is final, the territory shall be deemed and taken to be a part and parcel of the limits of the city or town annexing it, and the inhabitants residing therein shall have and enjoy all the rights and privileges of the inhabitants within the original limits of the city or town.

(2) The governing body of the annexing city or town shall direct the municipal clerk or recorder to duly certify one (1) copy of the plat of the annexed territory and one (1) copy of the proposing ordinance as adopted by both

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governing bodies to the county clerk.

(3) The clerk shall forward a copy of each document to the Secretary of State, who shall file and preserve them.

**History.** Acts 1999, No. 988, § 1.

<General Materials (GM) - References, Annotations, or Tables>

A.C.A. § 14-40-2101

AR ST § 14-40-2101

AR ST § 14-40-2101

END OF DOCUMENT

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**RESOLUTION NO. 91-03**

**A RESOLUTION RECOGNIZING THE REQUEST OF CRAIG AND KARYN HARPER OF THE CITY OF SPRINGDALE TO UTILIZE ARKANSAS CODE ANN. § 14-40-2101 TO HAVE THEIR PROPERTY SIMULTANEOUSLY DETACHED FROM THE CITY OF SPRINGDALE AND ANNEXED INTO THE CITY OF FAYETTEVILLE.**

**WHEREAS**, Craig Harper and Karyn Harper, husband and wife, of the City of Springdale, who own ten (10) acres ("the Subject Property") located at the corner of Albright Lane and George Andersen Road in the City of Springdale, have contacted city officials making known their request and desire to utilize Arkansas law to simultaneously detach their property from the City of Springdale and have it annexed into the City of Fayetteville. The Harpers feel their request is justified because the City of Springdale is unable to provide sanitary sewer services to this parcel; and

**WHEREAS**, the Harpers are annexing a separate parcel ten (10) acres owned by them and situated in Washington County between the city boundaries of Springdale and Fayetteville into Fayetteville, that property being adjacent and contiguous to the Subject Property, and intend to develop or sell for development the Subject Property concurrent with the development of said separate ten (10) acres located in the County. Sanitary sewer service for residential development will be required; and

**WHEREAS**, the Springdale Water and Wastewater Department has been contacted and it is impractical for the City of Springdale to serve the Subject Property with sanitary sewer, and they have no objection to its detachment; and

**WHEREAS**, the City of Springdale has no objection to the detachment of the Subject Property and recognizes the operation of Arkansas Code Ann. § 14-40-2101, and understands its obligations under this law to hold a public hearing on the issue of detachment of this property from the City of Springdale and annexation into the City of Fayetteville within sixty (60) days of the passage of an Ordinance by the Fayetteville City Council containing the legal description of the properties to be detached and annexed.

**NOW THEREFORE**, be it resolved that, by this Resolution, that if the City of Fayetteville proposes an ordinance to simultaneously detach the Subject Property from Springdale and annex it into Fayetteville, in accordance with Arkansas Code Ann. § 14-40-2101, the City of Springdale will concur with the detachment of the Subject Property and will hold a public hearing on the issue of simultaneous detachment and annexation of the Subject Property from Springdale to Fayetteville. Such a public hearing will provide a forum for the landowners be detached from the City of Springdale and annexed into the City of Fayetteville to make their desire and request known to the citizens of the City of Springdale, and for the citizens of Springdale to attend and have their opinions on the matter heard. Notice of such public hearing will be published in accordance with state law. After such public hearing, the City Council of the City of Springdale will take up the matter of adopting or rejecting the proposed Ordinance, in accordance with the health, safety, welfare and quality of life of the citizens of Springdale, Arkansas, as directed by state law.

PASSED and APPROVED this 28 day of October, 2003.

APPROVED:

Jerre M. Van Hoose

Mayor Jerre Van Hoose, City of Springdale

ATTEST:

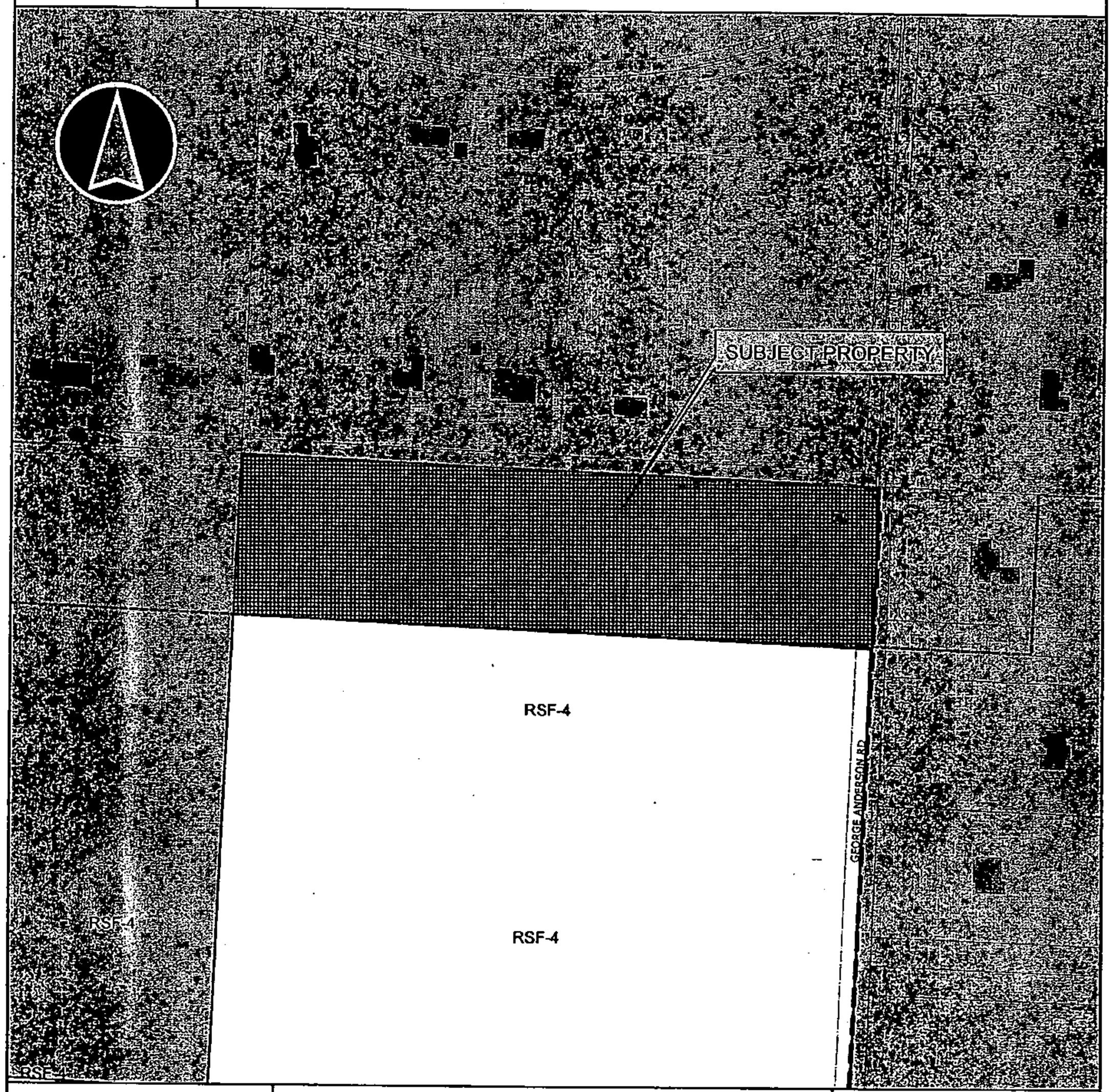
Denise Pearce

Denise Pearce, City Clerk

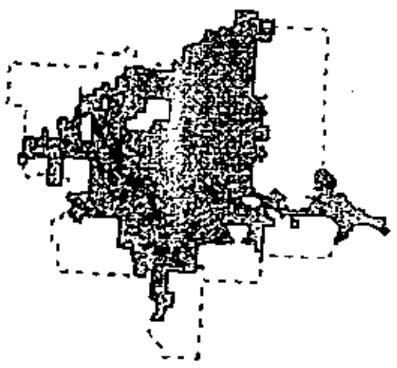
ANX04-1100

*Close Up View*

# HARPER / BRANDON




***Overview***



Legend

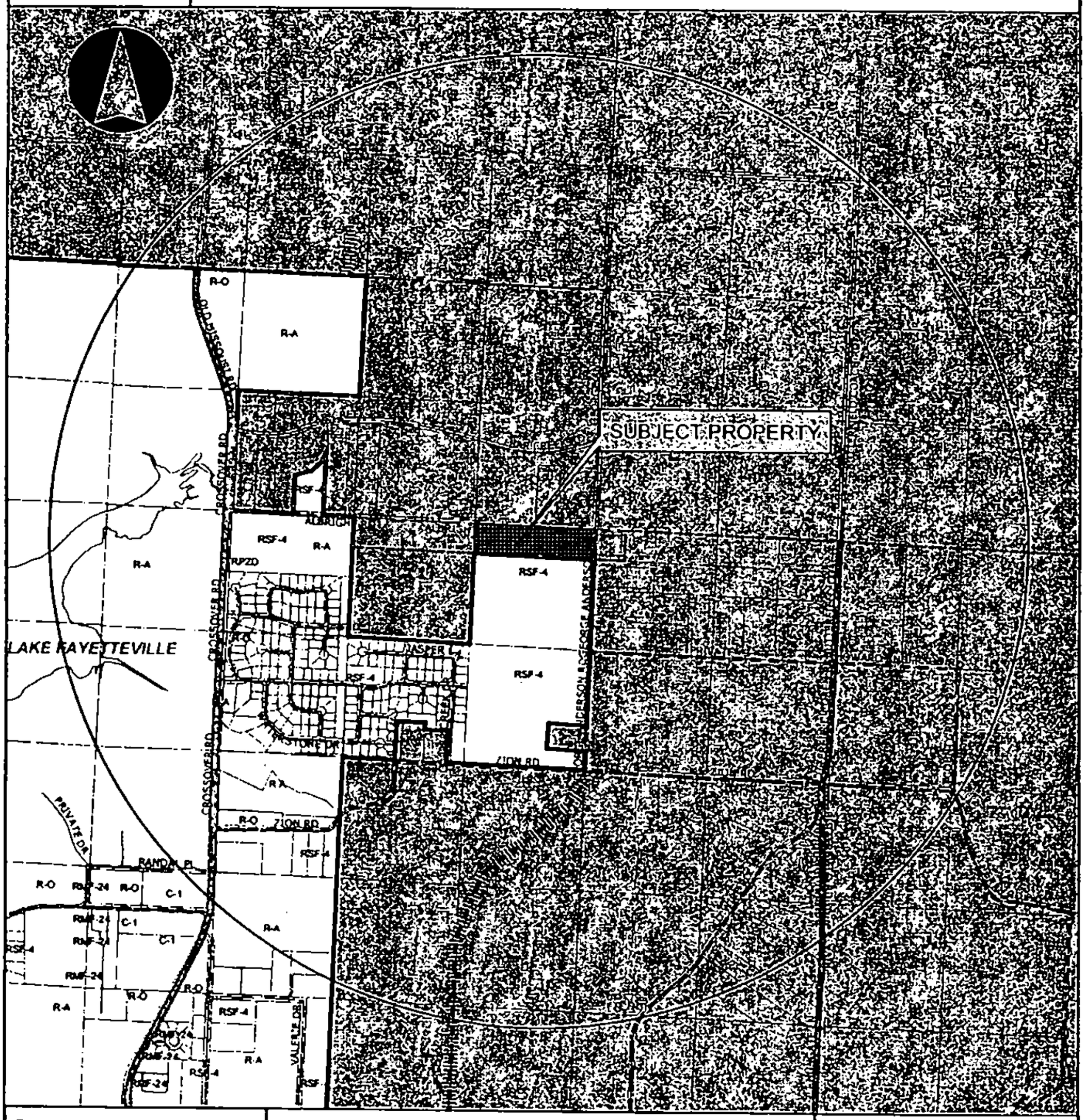
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
ANX04-1100
Fayetteville
Outside City

0 125 250 500 750 1,000 Feet

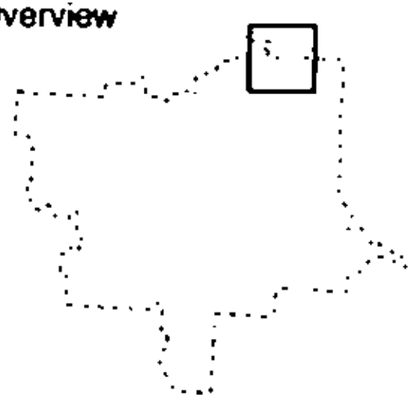
ANX04-1100

One Mile View

# HARPER / BRANDON




Overview



Legend

Subject Property

ANX04-1100

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

**ANX 04-1100: Annexation (HARPER/BRANDON, 61)**: Submitted by MICHELE A HARRINGTON for property located at THE S SIDE OF ALBRIGHT RD, W OF GEORGE ANDERSON ROAD. The property is in the City of Springdale and contains approximately 9.99 acres. The request is to annex the subject property into the City of Fayetteville.

**RZN 04-1101: Rezoning (HARPER/BRANDON, 61)**: Submitted by MICHELE A HARRINGTON for property located at THE S SIDE OF ALBRIGHT ROAD, W OF GEORGE ANDERSON ROAD. The property is zoned R-A, Residential Agricultural and contains approximately 9.99 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The last two items are ANX 04-1100 and RZN 04-1101 for Harper/Brandon.

Morgan: The subject property contains two tracts equaling 9.99 acres. This property is currently vacant with one single family home located on the northeast corner of the property. It is located south of Albright Road and west of George Anderson Road and it is located within the City of Springdale. This property adjoins a 10 acre tract to the north that was recently annexed and rezoned to RSF-4 by the City Council on May 4, 2004. The requested annexation will extend a subdivision that is located to the south. This area does not currently exist of a defined subdivision or neighborhoods. However, it will anticipate the extension of that subdivision. The Police Department reports that current levels of service will not be compromised and that coverage in this area can be provided. Staff is recommending approval for the annexation of this 9.99 acre property into the City of Fayetteville. Accompanying this request is RZN 04-1101 for a rezoning of the property from R-A, Residential Agricultural, to RSF-4 should the preceding annexation be approved. The developer's intent is to develop a single family residential subdivision on this property. Staff recommends approval of the rezoning based on findings located within the staff report.

Harrington: Good evening. My name is Micki Harrington. I represent the Brandons and the Harpers. Mr. Brandon is here. His engineer Brian Moore is here and they are available to answer any questions. This is, as she mentioned, sort of the second part of the annexation that was approved on May 4th. We had to bring them in separately because this one is, as you have noted, in the City of Springdale. We are seeking this annexation under a relatively new statute that I believe may be the first time the City of Fayetteville has seen. It is a fairly smooth procedure. I know that Mr. Williams has looked at this and we don't think there is any problem. I did go to the City of Springdale before I ever came here, though it was not required, just to make sure how they felt about letting go of 9.99 acres.

They were happy to do so because they feel they cannot serve it with sewer. They did pass a resolution last November, which is part of your packet. This was filed a long time ago and we finally got here because it was a little bit complicated given the procedure. We wanted to make sure that the other parcel was accepted before we came along with this one. This will be part of the same development. It will look exactly like the development to the south on the ten acres that you already approved. If there are any questions we are happy to address them.

Ostner: Thank you Ms. Harrington. I am going to open it up to the public. Is there anyone who would like to speak to this annexation and rezoning issue? I am going to close it to the public and bring it back to the Commission for discussion. How is it that Springdale can't or doesn't want to service this area for sewer?

Casey: I'm not familiar with the City of Springdale's sewer system. However, there is a creek between this property and the Springdale area that is currently being served by sewer. I know the property along Clear Creek Road are on septic. I don't know how far south their system actually extends but I know it is not to this property, not even to the creek in this area.

Moore: I'm Brian Moore with Engineering Services. Matt is right. There is a subdivision off of Ivy Lane which is north of the Clear Creek subdivision. Clear Creek is on septic systems. Ivy Lane was complete six months ago or so and it does have sewer into Springdale but we are well over a mile away I would say from sewer in Springdale. They don't have any use for that area. I think it was five to ten years ago that they tried to put a lift station in the Clear Creek area and the residents all signed a petition saying they did not want sewer in that area. At this time there is no way that there is going to be sewer out there. If I can answer anything else just let me know.

Clark: Due to the uniqueness of the situation, I will move for approval of ANX 04-1100.

Shackelford: I will second.

Ostner: Is there further discussion?

Anthes: I may have not quite understood the discussion about how the fire response times are calculated now. I'm seeing 13 to 14 minutes.

Warrick: The times are still calculated based on an actual drive time. It is not a drive time with sirens on but we have seen for the various subdivisions in this area, Copper Creek Phases I and II and the most recent annexation

that was processed earlier this year, there are longer drive times, longer response times in this area than the average.

Anthes: I just wanted to be sure we were all paying attention to that. It is also extending a peninsula but I also do understand about this impracticality. I just wanted to clarify that.

Shackelford: I personally appreciate you pointing out those fire response times considering I live in the adjoining neighborhood.

Clark: Aren't these drive times assuming speed limit? It is not assuming emergency response?

Warrick: They do drive the speed limit. I understand that if they are stopped at an intersection for an extended period of time they may stop the clock but they don't drive with sirens on and lights. They drive the speed limit with traffic.

Shackelford: The only negative to this area is it is kind of a no man's land. I have a Springdale address, a Springdale phone number, Springdale school district and Fayetteville city limits. I know I have had this conversation with Tim in the past, there are opportunities in the future whenever there is enough density population out here to request changes in those alignments. I would like to see that happen sometime.

Ostner: We have a motion and a second.

Allen: Do we need to talk more about the fire response times?

Ostner: I was going to. That concerns me greatly. It is a long stretch.

Graves: I would note that the property to the south has already been annexed in. The property to the southwest has been approved for annexation by the Planning Commission and is before the City Council. Those are areas that the Fire Department is already going to have to respond to as is. As Ms. Myers said, they will most likely serve those areas anyway under mutual aid agreements and the fact that Springdale has expressed no interest in servicing this area. I doubt that the response times will be much different for this particular small tract immediately of an area that we already annexed in and that the Fire Department will already have to serve this and police and water and sewer.

Ostner: Thank you. I suppose my follow up to my initial comment is that even though this is a long response time there is a lot of development between this area and the fire station. There is not near the expanses of

undeveloped area as with the Goff development which I voted against. Is there further discussion? Could you call the roll?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of ANX 04-1100 to the City Council was approved by a vote of 9-0-0.

Thomas: The motion carries nine to zero.

Ostner: The tandem item is RZN 04-1101 for Harper/Brandon. We have already heard the staff report. Would the applicant like to share some more words?

Harrington: I have nothing further other than this will be compatible, RSF-4 with the immediately south development and with the entire area up in there.

Ostner: Thank you. Is there anyone from the public who would like to comment on this rezoning request? Seeing no one left, I will close it to the public and bring it back to the Commission.

**MOTION:**

Shackelford: I concur that this rezoning request is in my opinion, in line with the existing development in this area. I concur with staff findings and make a motion that we recommend approval of RZN 04-1101 and forward it to the City Council as RSF-4.

Clark: Second.

Ostner: Is there further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of RZN 04-1101 to the City Council was approved by a vote of 9-0-0.

Thomas: The motion carries nine to zero.

Hillside Taskforce Appointment: Commissioner Trumbo
Commissioner Ostner
Commissioner Myers

*Announcements*

**Meeting adjourned: 12:03 a.m.**

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-1100: (Harper/Brandon, pp 61) was submitted by Michelle Harrington, Attorney on behalf of Gary Brandon Enterprises for property located south of Albright Road west of George Anderson Road containing approximately 9.99 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn I. Warrick — Division Head — 7/6/04 Date

Will need ordinance later — City Attorney — 7/7/04 Date

Department Director — Date

Finance & Internal Services Dir. — Date

Hugh Earnest — Chief Administrative Officer — 7-7-04 Date

Dan Coody — Mayor — 7/7/04 Date

Received in Mayor's Office 7-7-04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7/6/04

City Council Meeting of July 20, 2004
Agenda Item Number

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

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

**Date:** July 2, 2004

**Subject**: Rezoning request for Harper/Brandon (RZN 04-1101)

## RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 9.99 acres of property from R-A, Residential Agricultural to RSF-4, Residential Single-family, 4 units per acre.

## BACKGROUND

The subject property contains to tracts of property equaling 9.99 acres. The property is currently a vacant field with one single family home located on the northeast corner of property. It is located south of Albright Road and west of George Anderson Rd within the City of Springdale. The property is adjacent to the Fayetteville City limits along its southern boundary where it abuts approximately 10 acres of property annexed and rezoned RSF-4 by the City Council on May 4, 2004.

The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 dwelling units per acre, should the preceding Annexation request be approved. The developer's intent is to develop a single family residential subdivision as an extension of Copper Creek Ph. II.

## DISCUSSION

On June 28, 2004, the Planning Commission voted 9-0-0 to forward this rezoning request to the City Council with a recommendation for approval with an accompanying annexation request.

## BUDGET IMPACT

None.

**ORDINANCE NO. _____**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1101 AS SUBMITTED BY MICHELLE HARRINGTON ON BEHALF OF GARY BRANDON ENTERPRISES FOR PROPERTY LOCATED AT THE SOUTH SIDE OF ALBRIGHT ROAD WEST OF GEORGE ANDERSON ROAD CONTAINING APPROXIMATELY 9.99 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

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

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

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

DRAFT

**EXHIBIT "A"**
**RZN 04-1101**

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING IN ALBRIGHT ROAD AND FROM WHICH A REFERENCE IRON SET ON THE SOUTH RIGHT OF WAY OF SAID ROAD BEARS S02°39'07"W – 18.94 FEET; THENCE S87°24'02"E 660.07 FEET ALONG THE NORTH LINE OF SAID 40 ACRE TRACT TO A POINT FROM WHICH A REFERENCE IRON SET ON THE SOUTH RIGHT OF WAY OF ALBRIGHT ROAD BEARS S02°34'53"W 19.29 FEET, THENCE S87°24'12"E – 658.24 FEET ALONG SAID NORTH LINE TO THE NORTHEAST CORNER OF SAID 40 ACRE TRACT, THENCE S02°31'12"W – 330.00 FEET ALONG THE EAST LINE OF SAID 40 ACRE TRACT, THENCE N87°24'07"W – 658.59 FEET, THENCE N87°24'24"W – 660.00 FEET TO AN EXISTING FENCE ON THE OCCUPIED WEST LINE OF SAID 40 ACRE TRACT, THENCE N02°34'07"E – 330.06 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING.

DRAFT

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

## PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: June 23, 2004

**RZN 04-1101: Rezoning (HARPER/BRANDON, 61)**: Submitted by MICHELE, A HARRINGTON for property located at THE S SIDE OF ALBRIGHT ROAD, W OF GEORGE ANDERSON ROAD. The property is zoned R-A, Residential Agricultural and contains approximately 9.99 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.
Property Owner: CRAIG & KARYN HARPER Submitted on behalf of: GARY BRANDON
Planner: SUZANNE MORGAN

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

| | | |
|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** **YES** | |
| | **○ Approved** | **○ Denied** |
| **Date: June 28, 2004** | | |
| **CITY COUNCIL ACTION:** | **Required** **YES** | |
| | **○ Approved** | **○ Denied** |
| **Date: July 20, 2004 (1st reading if recommended)** | | |

**BACKGROUND: Please reference the associated ANX 04-1100 staff report for additional background information.**

***Property description:*** The subject property contains to tracts of property equaling 9.99 acres. The property is currently a vacant field with one single family home located on the northeast corner of property. It is located south of Albright Road and west of George Anderson Rd within the City of Springdale. The property is adjacent to the Fayetteville City limits along its southern boundary where it abuts approximately 10 acres of property annexed and rezoned RSF-4 by the City Council on May 4, 2004.

***Request:*** The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 dwelling units per acre, should the preceding Annexation

request be approved. The developer's intent is to develop a single family residential subdivision as an extension of Copper Creek Ph. II.

When property is annexed into the City, it is annexed as R-A, Residential Agricultural. If annexation request ANX 04-1100 is recommended for approval to City Council, the applicant would like to rezone the 9.99 acres to RSF-4, Residential Single-Family, 4 units per acre.

*Recommendation:* Staff recommends approval of the rezoning request based on the findings included in the staff report. Future development on this site will be regulated by the City to ensure adequate services, infrastructure, connectivity and consistent development within the surrounding area.

**SURROUNDING LAND USE AND ZONING:**

| Direction | Land Use | Zoning |
|---|---|---|
| North | Single-family on large lots | City of Springdale |
| South | Vacant | RSF-4, Residential Single Family, 4 units per acre |
| East | Single-family on large lots | City of Springdale |
| West | Vacant field | City of Springdale |

**INFRASTRUCTURE:**

**Streets:** George Anderson Road is not an improved roadway. At the time of development, street improvements will be recommended for the property frontage to widen the street to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks. The east side of the roadway will be in the county, and will need to be improved to current county standards. Albright Road will need to be improved to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks.

Surrounding Master Street Plan Streets:
North: Albright Rd. (no classification)
South: Zion Rd (collector)
East: George Anderson Rd. (collector) and Howard Anderson Rd.
West: Copper Creek Dr. (local)

**Water:** The property will have access to an 8" looped water main system that is being installed with Copper Creek Phase 2 subdivision. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

**Sewer:** The site will have access to an 8" sewer main that is being installed with Copper Creek Phase 2 subdivision. Sewer will need to be extended within the development. The developers engineer will need to provide calculations to show that there is adequate capacity in the Stonewood lift station. Upgrades to these

stations and/or force mains may be required.

**Fire:** The subject property is located 4.73 miles from the Fire Station #4. Normal driving time is estimated at 13-14 minutes with an approximate response time of 13-14.5 minutes at maximum development. The property is located 3.36 miles from future Fire Station #5 at 833 Crossover Rd with a response time of 8-9 minutes and an estimated response time of 8-9.5 minutes at maximum build out.

**Police:** It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

**LAND USE PLAN:** General Plan 2020 has no designation for this property. The property to the south of this has been identified for Residential use and zoned RSF-4.

**FINDINGS OF THE STAFF**

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

**Finding:** **The proposed zoning for a single family residential subdivision is compatible with the zoning to the south. Adjacent property to the east and west are within the City of Springdale. The land to the north and east is utilized for single family residential and agricultural uses, with vacant property to the west. The Springdale city limit and Albright Rd. create the northern property boundary and is developed for single family use. The general plan has no designation for this area as it is outside the City's Planning Area. The proposed zoning is, however, compatible with the surrounding zoning and designation for residential development on the Future Land Use Plan. Access and provision of adequate services must be considered as this site is at the outskirts of the city and located on streets which need improvement.**

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

**Finding:** **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A higher density than the R-A zoning district allows for development of a subdivision with density appropriate in this area, and would provide compatibility with the adjoining development. In order to develop a residential subdivision on this property in a manner that is consistent with the surrounding property, a residential zoning district is needed.**

3. A determination as to whether the proposed zoning would create or appreciably increase

traffic danger and congestion.

**Finding:** **The proposed zoning will provide additional traffic on Zion Rd to the south, George Anderson Rd to the east, and the infrastructure both existing and being constructed within Copper Creek Phases I and II. Improvements to George Anderson Rd and Albright Rd will be evaluated at the time of development in order to provide safe access to this site.**

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

**Finding:** **The proposed zoning would increase population density. The 9.99 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 4 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 39 dwelling units would be permitted. This increases the possible number of residential units substantially, but is consistent with zoning in the immediate vicinity.**

*Engineering* - **George Anderson Road is not an improved roadway. At the time of development, street improvements will be recommended for the property frontage to widen the street to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks. The east side of the roadway will be in the county, and will need to be improved to current county standards. Albright Road will need to be improved to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks.**

**The property will have access to an 8" looped water main system that is being installed with Copper Creek Phase 2 subdivision. An extension of the water main will be required to provide water supply and fire protection within any development on this property.**

**The site will have access to an 8" sewer main that is being installed with Copper Creek Phase 2 subdivision. Sewer will need to be extended within the development. The developers engineer will need to provide calculations to show that there is adequate capacity in the Stonewood lift station. Upgrades to these stations and/or force mains may be required.**

*Fire* - **The subject property is located 4.73 miles from the Fire Station #4. Normal driving time is estimated at 13-14 minutes with an approximate response time of 13-14.5 minutes at maximum development. The property is located 3.36 miles from future Fire Station #5 at 833 Crossover Rd with a response time of 8-9 minutes and an estimated response time of 8-9.5 minutes at maximum build out.**

*Police -* **It is the opinion of the Fayetteville Police Department that this annexation and rezoning <u>will</u> <u>not</u> substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.**

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

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

**Finding:** **N/A**

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

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

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

(D) *Bulk and area regulations.*

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

(E) *Setback requirements.*

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

(F) *Height.* None.

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

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

## ANSWERS TO ITEM #5
## APPLICATION FOR REZONING

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

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

**Current owners are Craig and Karyn Harper; Gary Brandon Enterprises, Inc. is assisting them with this development.**

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

**The proposed zoning is needed in order to develop this property into RSF-4 single family residential use.**

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

**This development will be similar to the other R-1 development to the south, Copper Creek Phase III, and will be compatible re land use, traffic, appearance, and signage.**

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

**Currently utilities have not been installed to the subject property, but it is intended that this development will tie onto the 8" water and 8" sewer lines currently existing in Copper Creek Phase III which is to the south.**

## ANSWERS TO ITEM #6
## APPLICATION FOR REZONING

6. The Planning Commission is required to make specific findings with regard to this application. The following are the written statements of the applicant:

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

**RSF-4 subdivision on this land is consistent with the development in the area and the land use plans and objectives of the City of Fayetteville.**

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

**RSF-4 zoning is the same as the surrounding property and compatible with the area, therefore is justified at this time.**

c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

**Although traffic will be increased slightly, Hwy 265 is sufficient to handle any increase.**

d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

**Density will be the same as the other RSF-4 developments in the area and is not expected to undesirably increase the load on public services.**

e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

**The existing zoning of A-1 does not allow for the proposed highest and best use of this land, which is that of RSF-4 residential development.**

**Fayetteville Fire Department Service Delivery Impact: Zoning Review June 21,2004**

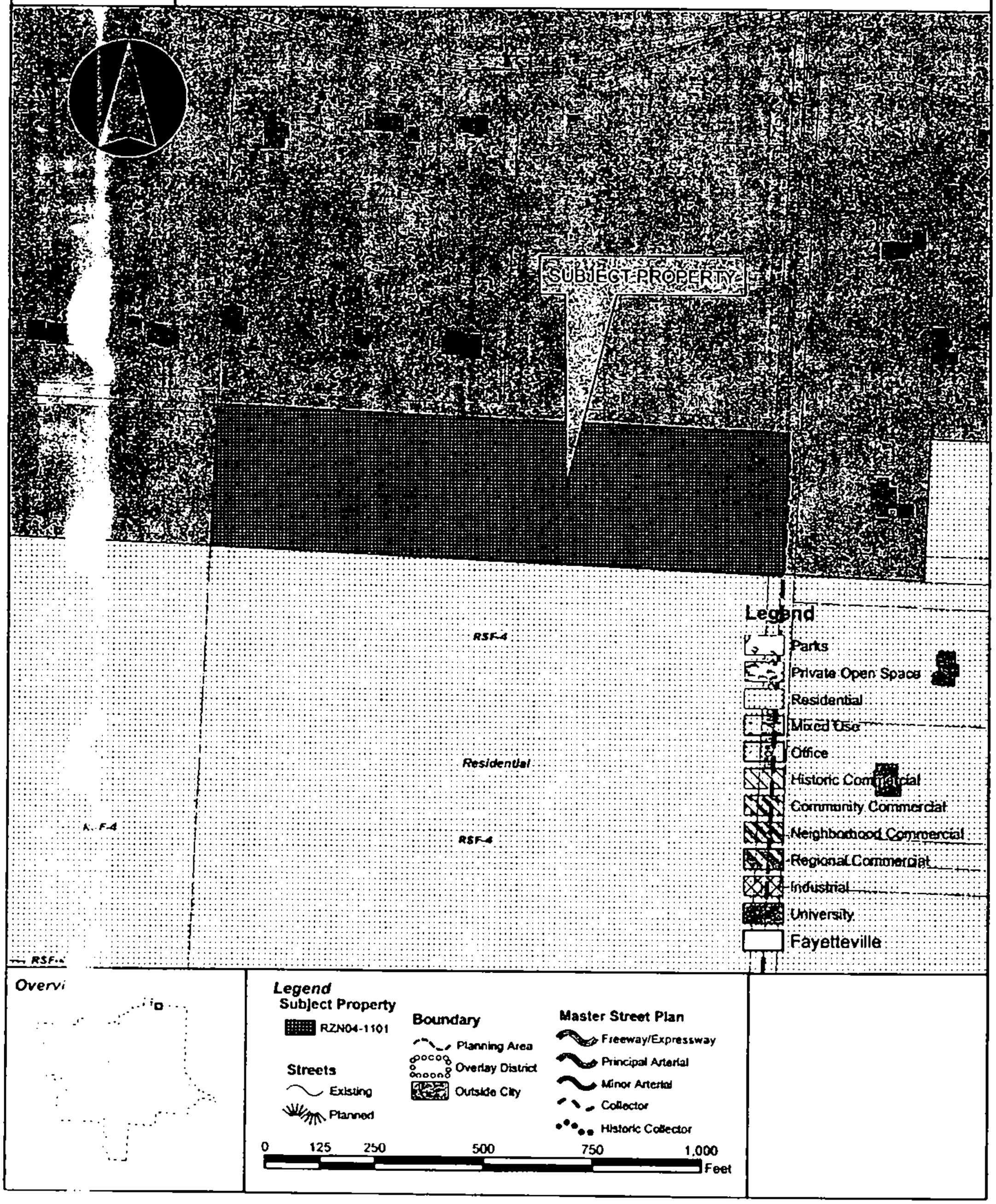
| Item | Subdivision | Annexation | Acres | Closest Fire Station | Distance from Fire Station | Response Time to Proposal area | Projected Response Time to Proposal Area at Maximum Build Out | Projected Calls for Service at Maximum Build Out | Projected Fire/Other Calls for Service at Maximum Build Out | Projected EMS Calls for Service at Maximum Build Out |
|---|---|---|---|---|---|---|---|---|---|---|
| ANX 04-1083 | Marinoni | | 78.84 | Future FS 7 | 0.493 miles | 1 minute | 1-3.5 minutes | | | |
| RZN 04-1084 | Marinoni | | | | | | | 72/year | 29/year | 43/year |
| ANX 04-1090 | Hays | | 37.3 | Future FS 7 | 1.97 miles | 4-5 minutes | 4-6.5 minutes | | | |
| RZN 04-1091 | Hays | | | | | | | 34/year | 13/year | 21/year |
| RZN 04-1099 | Brisiel | | | Future FS 7 | 2.13 miles | 5-6 minutes | 5-6 minutes | 2/year | .80/year | 1.2/year |
| ANX 04-1100 | Harper/Brandon | | 9.99 | FS 4 | 4.73 miles | 13-14 minutes | 13-14.5 minutes | | | |
| | | | | Future FS 5 | 3.36 miles | 8-9 minutes | 8-9.5 minutes | | | |
| **RZN 04-1101** | **Harper/Brandon** | | | | | | | 9/year | 3/year | 6/year |
| RZN 04-1102 | Bradberry/Woolv. | | | FS 1 | 0.337 miles | 1 minute | 1 minute | | | |
| RZN 04-1103 | Collins | | | FS 2 | 0.633 miles | 3-4 minutes | 3-4 minutes | 5/year | 2/year | 3/year |
| RZN 04-1104 | Goff | | | FS 5 | 3.11 miles | 8-9 minutes | 8-9.5 minutes | 16/year | 6/year | 10/year |
| | | | | Future FS 3 | 2.33 miles | 5-6 minutes | 5-6.5 minutes | 16/year | 6/year | 10/year |
| RZN 04-1111 | The Mill District | | | FS 1 | 0.476 miles | 1-2 minutes | 1-2 minutes | | | |

Insufficient Data for Calculations

RZN04-1101

*Future Land Use*

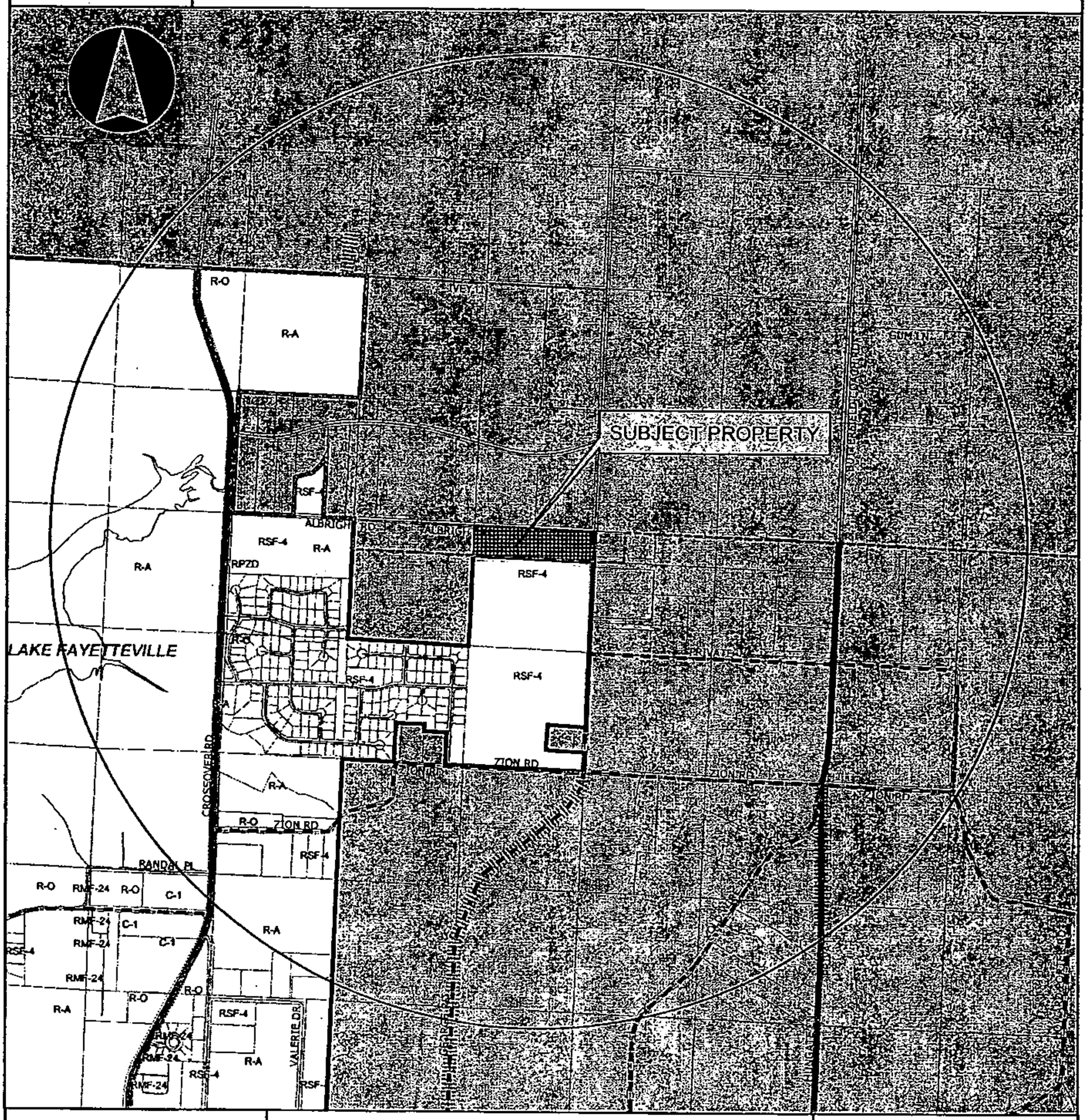
# HARPER / BRANDON



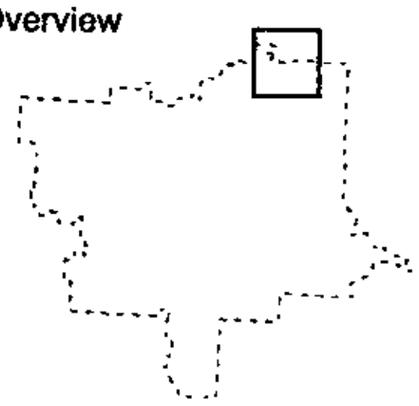
RZN04-1101

One Mile View

# HARPER / BRANDON




Overview



Legend

Subject Property

RZN04-1101

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

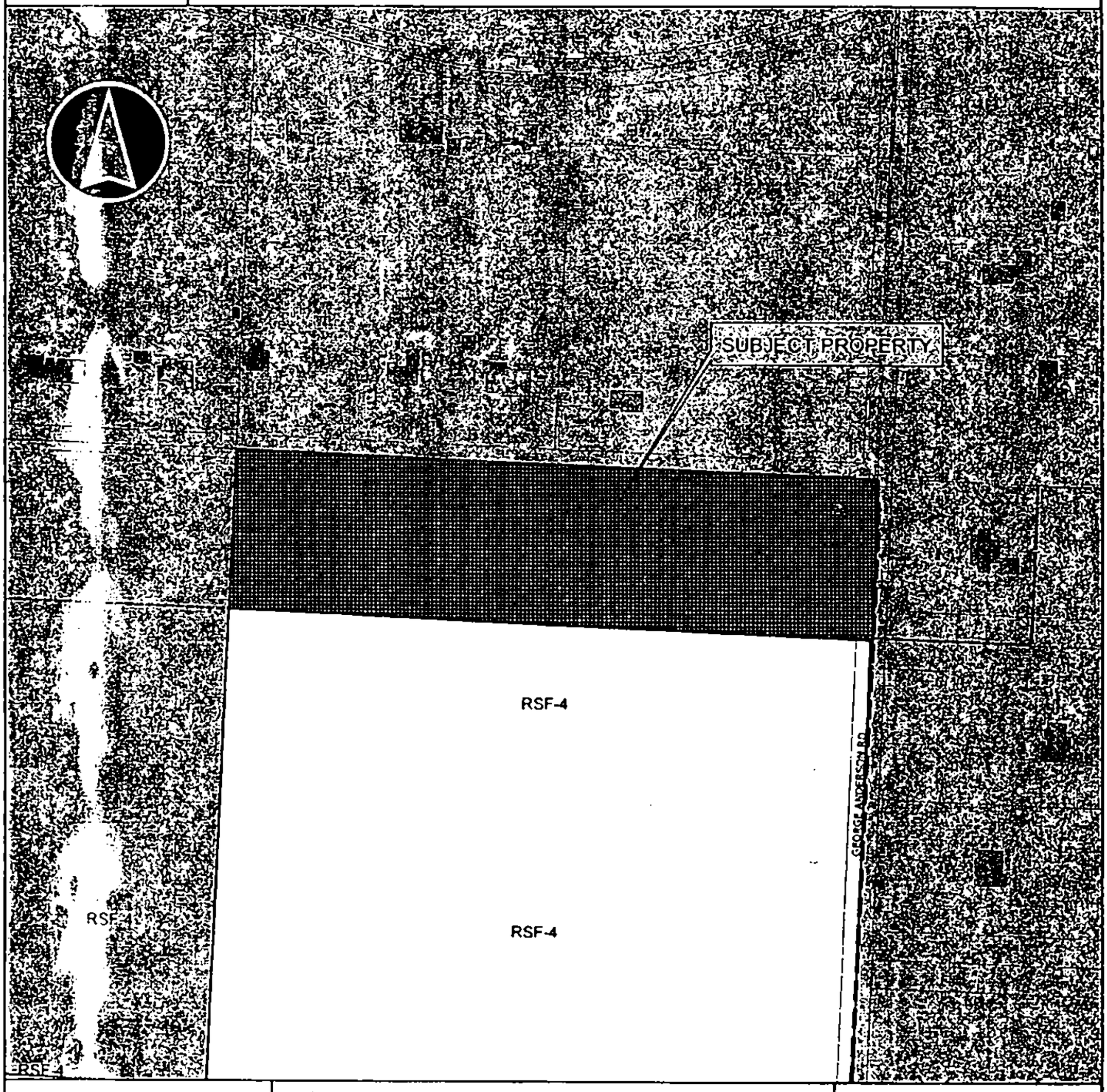
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN04-1101

*Close Up View*

# HARPER / BRANDON




*Overvi*

Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Baseline Profile
- RZN04-1101
- Fayetteville
- Outside City

0 125 250 500 750 1,000 Feet

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1101: (Harper/Brandon, pp 61) was submitted by Michelle Harrington, Attorney on behalf of Gary Brandon Enterprises for property located south of Albright Road west of George Anderson Road containing approximately 9.99 acres. The request is to rezone the subject property from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick — 7/6/04
Division Head — Date

Received in Mayor's Office — 7-7-04
Date

[signature] — 7/7/04
City Attorney — Date

_____ — _____
Department Director — Date

Cross Reference:

Previous Ord/Res#: _____

_____ — _____
Finance & Internal Services Dir. — Date

Orig. Contract Date: _____

Hugh Earnest — 7-7-04
Chief Administrative Officer — Date

Orig. Contract Number: _____

Dan Coody — 7/7/04
Mayor — Date

New Item: Yes No

ENTERED
7/6/04

# 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

**Date:** June 29, 2004

**Subject**: Rezoning request for Brisiel (RZN 04-1099)

## RECOMMENDATION

Planning Staff recommends approval of the requested rezoning for Brisiel. This action will rezone a 2.19-acre tract of land from P-1, Institutional to RSF-4, Residential Single Family, 4 DU/Acre. The request is to rezone the subject property to RSF-4.

## BACKGROUND

*Property Description:* The subject 2.19 acre tract of land is located on the south side of Mt. Comfort Road, immediately south of Fayetteville Baptist Church. Surrounding properties are zoned RSF-4 and are developed as either single family residential units or agricultural land. The subject tract is currently vacant, and is part of an overall 8.22-acre church-owned tract of land the applicant is attempting to purchase.

*Proposal:* The applicant requests a rezoning from P-1 to RSF-4 to allow for development of single family homes at a maximum density of four (4) dwelling units per acre. The applicant intends to purchase and develop approximately 5.5 acres of property, with a maximum total number of units not to exceed 22.

## DISCUSSION

On June 28, 2004, the Planning Commission voted 9-0-0 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 04-1099 AS SUBMITTED BY TIM BRISIEL FOR PROPERTY LOCATED SOUTH OF MT. COMFORT ROAD AND WEST OF ALPINE AVENUE CONTAINING APPROXIMATELY 2.19 ACRES FROM P-1, INSTITUTIONAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

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

**From P-1, Institutional to RSF-4, Residential Single-Family, Four Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.**

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

**PASSED AND APPROVED this _____ day of _____, 2004.**

**APPROVED:**

**By:_____**
**DAN COODY, Mayor**

**ATTEST:**

**By: _____**
**Sondra Smith, City Clerk**

DRAFT

**EXHIBIT "A"**
**RZN 04-1099**

PART OF THE NW ¼ OF THE SE ¼ OF SECTION 6, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID NW ¼, SE ¼ THENCE N89°44'19"W 345.16 FEET, THENCE S00°25'55"W 310.30 FEET TO THE P.O.B., THENCE S00°25'55"W 349.64 FEET, THENCE N89°45'00"W 310.00 FEET, THENCE N00°25'55"E 280.13 FEET, THENCE S89°43'01"E 190.00 FEET, THENCE N00°25'55"E 70.00 FEET, THENCE S89°34'05"E 120.00 FEET TO THE P.O.B.; CONTAINING 2.19 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

DRAFT

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 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 21, 2004

**RZN 04-1099: Rezoning (BRISIEL, 363)**: Submitted by TIM R. BRISIEL for property located at THE S SIDE OF MT COMFORT RD, W OF ALPINE AVENUE. The property is zoned P-1, INSTITUTIONAL and contains approximately 2.19 acres. The request is to rezone the subject property from P-1, Institutional, to RSF-4, Residential Single-family, 4 units per acre.
Property Owner: FAYETTEVILLE BAPTIST CHURCH 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** **YES** | |
| | **☑ Approved** | **○ Denied** |
| **Date: June 28, 2004** | Wright ⓐ/Myers ⓐ 9-0 | |
| **CITY COUNCIL ACTION:** | **Required** **YES** | |
| | **○ Approved** | **○ Denied** |
| **Date: July 20, 2004 (1st reading if recommended)** | | |

**Comments:** _____

**BACKGROUND:**

***Property description:*** The subject property is located south of Mt. Comfort Road, west of Alpine Drive, directly behind the Fayetteville Baptist Church. Surrounding properties are zoned RSF-4 and either developed as single family residential homes or agricultural land. The 2.19-acre tract is currently vacant, and is a part of the overall 8.22-acre church-owned tract, immediately south of the church building, house and parking lot.

*K:\Reports\2004\PC Reports\06-28-04\RZN 04-1099 (BRISIEL).doc*

***Proposal:*** The applicant proposes a rezoning of the subject property to facilitate development of a single family residential subdivision in the future. The property surrounding the church is zoned P-1, Institutional, a zoning district which includes uses such as churches, universities, hospitals, schools, etc. Surrounding properties are all zoned for single family use and designated as Residential on the Future Land Use Plan.

***Request:*** The request is to rezone the subject property from P-1, Institutional to RSF-4, Single Family Residential, 4 units per acre.

## SURROUNDING LAND USE AND ZONING

| Direction | Land Use | Zoning |
|---|---|---|
| North | Fayetteville Baptist Church | P-1, Institutional |
| South | Vacant, agricultural land | RSF-4, Res. Single Family, 4 DU/acre |
| East | Single family homes | RSF-4, Res. Single Family, 4 DU/acre |
| West | Single family homes on large lots | RSF-4, Res. Single Family, 4 DU/acre |

## INFRASTRUCTURE:

**Streets:** Currently the site does not have direct access to a public right-of-way. Access will most likely be proposed from Mt. Comfort Road to the north of the site. Street improvements will be evaluated at the time of development.

**Water:** The property currently does not have access to public water. An off-site water main extension will be required to serve this development. The main will need to be extended from the 12" main along Mt. Comfort Road north of this site.

**Sewer:** The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. The main may be extended from the existing sanitary sewer main located on Alpine Avenue to the east of this site.

**Fire:** The subject property is located 2.13 miles from the future Fire Station #7 on Rupple Road. Fire response time is approximately 5-6 minutes. Projected service calls for the subject property, at maximum build-out, is 2 calls per year.

**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 Residential use. Rezoning this property to RSF-4 is consistent with the land use plan and is compatible with surrounding land uses in the area.

**FINDINGS OF THE STAFF**

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

**Finding:** **The proposed rezoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans. Surrounding properties are residential in nature, with the exception of the church, and those that are vacant agricultural lands are currently zoned for residential use. The proposed RSF-4 zoning is compatible with adjacent properties, and allows for a more orderly pattern of growth.**

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 facilitate the Future Land Use plan for residential land use 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:** **Future development with the proposed zoning would potentially increase traffic accessing onto Mt. Comfort, however the increase would not cause appreciable increase in traffic danger and congestion in the area.**

*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 substantially 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 5-6 minutes (approx. 2.13 miles) from station #7 on Rupple Road. Hydrants may need to be installed to serve development on this property. Projected service calls for the subject property, at maximum build-out, is 2 calls per year.**

*Engineering* - **Currently the site does not have direct access to a public right-of-way. Access will most likely be proposed from Mt. Comfort Road to the north of the site. Street improvements will be evaluated at the time of development.**

**The property currently does not have access to public water. An off-site water main extension will be required to serve this development. The main will need to be extended from the 12" main along Mt. Comfort Road north of this site.**

**The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. The main may be extended from the existing sanitary sewer main located on Alpine Avenue to the east of this site.**

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

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

**Finding:** **N/A**

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

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

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

(D) *Bulk and area regulations.*

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

(E) *Setback requirements.*

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

(F) *Height.* None.

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

## 161.22 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.

*(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.

City of Fayetteville
Planning Division
125 W. Mountain Street
Fayetteville, AR 72701
479-575-8267

May 19, 2004

Dear Planning Commission:

Thank you for considering the attached rezoning request.

The proposed rezoning request is for the property located as part of the NW ¼ of the SE ¼ of Section 6, T16N, R30W in Washington County. This accounts for approximately 2.19 acres more or less. This acreage is a subset of a larger piece of land currently owned by the Fayetteville Baptist Church located at 2809 Mount Comfort Road, Fayetteville, AR 72703. The church owns approximately 8.22 acres more or less in total.

An agreement has been reached between Tim Brisiel (Buyer) and Fayetteville Baptist Church (Seller) on approximately 5.5 acres more or less to be developed as a single family residential subdivision. An offer has been signed with an anticipated closing date in August. Of the total 8.22 acres, 5.5 acres will be sold as part of this agreement with the remaining land staying with the church for church activities and future expansion.

The property surrounding the church is currently zoned P1 (Institutional). This request is to rezone 2.19 acres south of the church from P1 to RSF-4 to facilitate future development. The remaining land under contract is already zoned RSF-4.

As noted earlier this request is to facilitate a single family subdivision. This zoning designation is consistent with that of surrounding property and should complement the adjoining land.

The traffic impact of this development will be minimal based on the small size of this project (approximately 18 lots). The developer understands that minor improvements may have to be made where the development fronts Mount Comfort Road.

Thank you for your sincere consideration of this project.

Sincerely,

Tim Brisiel

RECEIVED
MAY 20 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

# Exhibit A

Legal Description of property to be rezoned (P-I to RSF-4) for:

Applicant: Tim Brisiel
Owner: Fayetteville Baptist Church

Part of the NW1/4 of the SE1/4 of Section 6, T16N, R30W in Washington County, Arkansas and being more particularly described as follows: Commencing at the NE corner of said NW1/4, SE1/4 thence N89°44'19"W 345.16 feet, thence S00°25'55"W 310.30 feet to the P.O.B., thence S00°25'55"W 349.64 feet, thence N89°45'00"W 310.00 feet, thence N00°25'55"E 280.13 feet, thence S89°43'01"E 190.00 feet, thence N00°25'55"E 70.00 feet, thence S89°34'05"E 120.00 feet to the P.O.B.; Containing 2.19 Acres more or less subject to easements and right of way of record.

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

Applicant Signature: / Applicant's Signature

Date: 5/20/04

Submitted For
RZN04-1099

RECEIVED
MAY 20 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

FROM SWBT KELLEY RD CONST (THU) 5. 20' 04 9:06/ST. 9:05/NO. 3760691397 P 2

310'

350'

16.14

13622

.254

13625

2.35A Fayetteville Baptist Church

13624

13625-002

2.35A. Fayetteville Baptist Church

Fayetteville Baptist Church

13624-001

W — SE

6

88'

127.5'

330'

13625-001

239'

192.5'

13626

330'

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

June 18, 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 04-1099: Rezoning (Brisiel, pp 363)** for property located on the south side of Mt. Comfort and west of Persimmon ST. would substantially alter the population density and thereby undesirably increase the load on public services or create and appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

AYETTEVILLE POLICE DEPARTMENT
O. BOX 1988
AYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

## New Development Impact on Fire/Rescue Service Delivery

June 1, 2004 In-House
June 2, 2004 Technical

### Fayetteville Fire Department

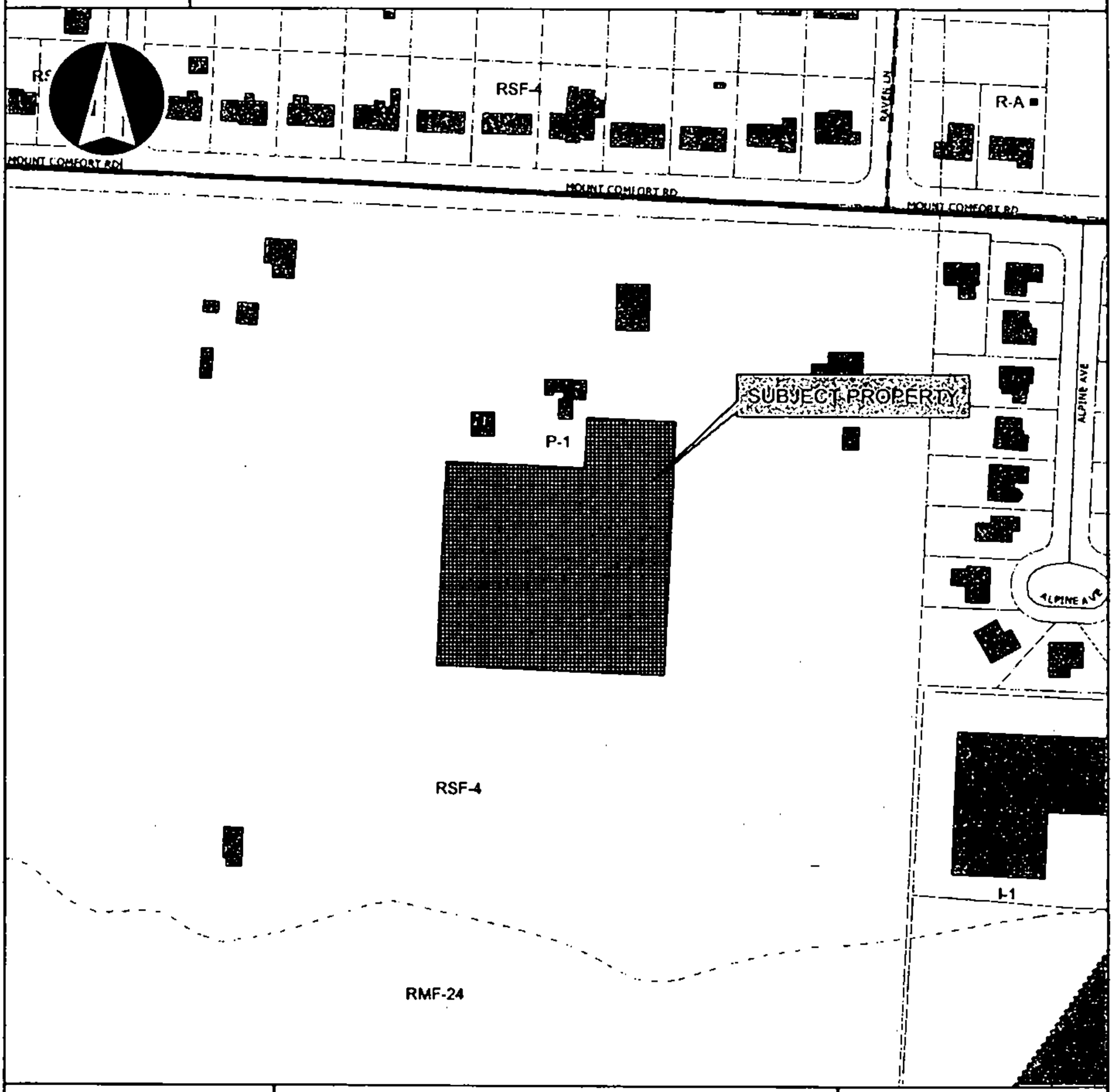
| Item | Subdivision | Annexation | Acres | Closest Fire Station | Distance from Fire Station | Response Time to Proposal area | Projected Response Time to Proposal Area at Maximum Build Out | Projected Calls for Service at Maximum Build Out | Projected Fire/Other Calls for Service at Maximum Build Out | Projected EMS Calls for Service at Maximum Build Out |
|---|---|---|---|---|---|---|---|---|---|---|
| LSP 04-1093 | COULSON OIL | | | Future FS 7 | 0.875 miles | 2-3 minutes | 2-3 minutes | | | |
| FPL 04-1092 | Clabber Creek PH II | | | Future FS 7 | 1.54 miles | 4-5 minutes | 4-6 minutes | 20/year | 8/year | 12/year |
| CCP 04-1051 | Twin Springs Estates | | | Future FS 7 | 3.47 miles | 7.5-8.5 minutes | 7.5-8.5 minutes | 1/year | .40/year | .60/year |
| LSD 04-1094 | Joyce Med & Prof. | | | FS 4 | 2.18 miles | 6-7 minutes | 6-7 minutes | 5/year | 2/year | 3/year |
| | | | | Future FS 5 | 1.47 miles | 5-6 minutes | 5-6 minutes | 5/year | 2/year | 3/year |
| *In-House* | | | | | | | | | | |
| PLA 04-1096 | Schultz | | | | | | | | | |
| CUP 04-1095 | Sunbridge LC | | | | | | | | | |
| CUP 04-1097 | Crumby/Childcare | | | FS 4 | 2.15 miles | 6-7 minutes | 6-7 minutes | .17/Year | N/A | N/A |
| RZN 04-1099 | Brisiel | | | Future FS 7 | 2.13 miles | 5-6 minutes | 5-6 minutes | 2/year | .80/year | 1.2/year |
| RZN 04-1102 | Bradberry/Woolv. | | | | | | | | | |
| RZN 04-1103 | Collins | | | FS 2 | 0.633 miles | 3-4 minutes | 3-4 minutes | | | |
| RZN 04-1104 | Goff | | | FS 5 | 3.11 miles | 8-9 minutes | 8-9.5 minutes | 16/year | 6/year | 10/year |
| | | | | Future FS 3 | 2.33 miles | 5-6 minutes | 5-6.5 minutes | 16/year | 6/year | 10/year |
| ANX 04-1083 | Marinoni | | 78.84 | Future FS 7 | 0.493 miles | 1 minute | 1-3.5 minutes | | | |
| RZN 04-1084 | Marinoni | | | | | | | 72/year | 29/year | 43/year |
| ANX 04-1090 | Hays | | 37.3 | Future FS 7 | 1.97 miles | 4-5 minutes | 4-6.5 minutes | | | |
| RZN 04-1091 | Hays | | | | | | | 34/year | 13/year | 21/year |
| ANX 04-1100 | Harper/Brandon | | 9.99 | FS 4 | 4.73 miles | 13-14 minutes | 13-14.5 minutes | | | |
| | | | | Future FS 5 | 3.36 miles | 8-9 minutes | 8-9.5 minutes | | | |
| RZN 04-1101 | Harper/Brandon | | | | | | | 9/year | 3/year | 6/year |

Insufficient Data for Calculations

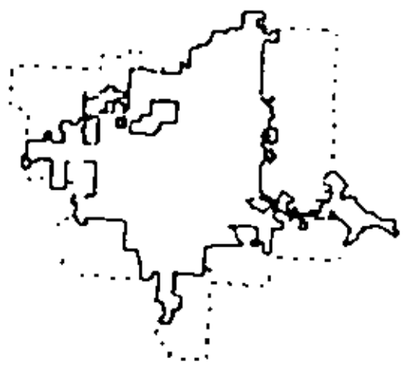
RZN04-1099

*Close Up View*

# BRISIEL




*Overview*



Legend

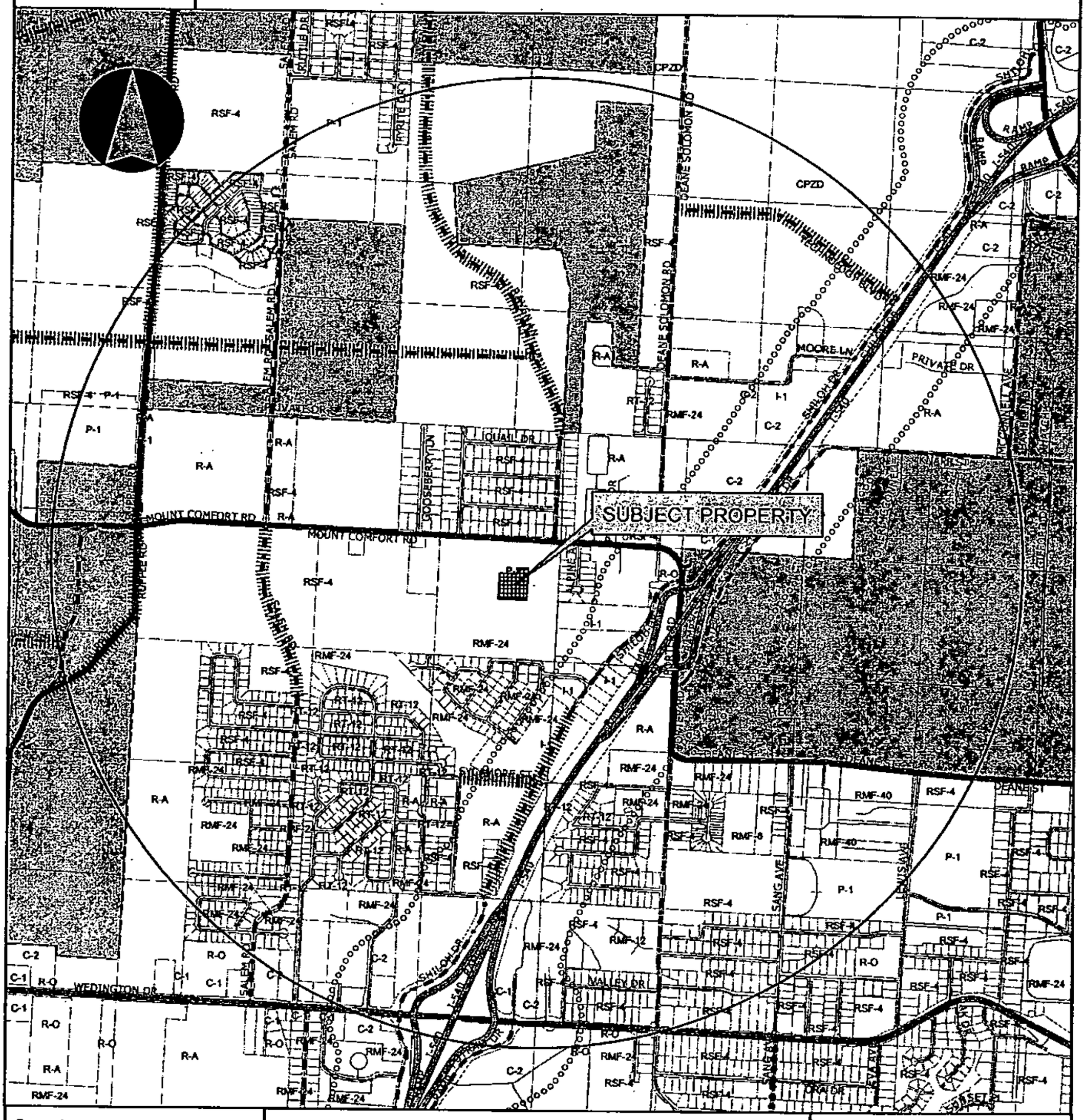
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- RZN04-1099

0 75 150 300 450 600 Feet

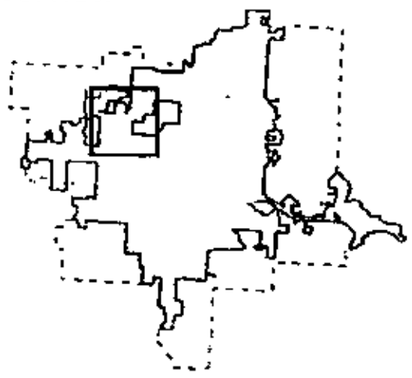
RZN04-1099

One Mile View

# BRISIEL




Overview



Legend

Subject Property
- RZN04-1099

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

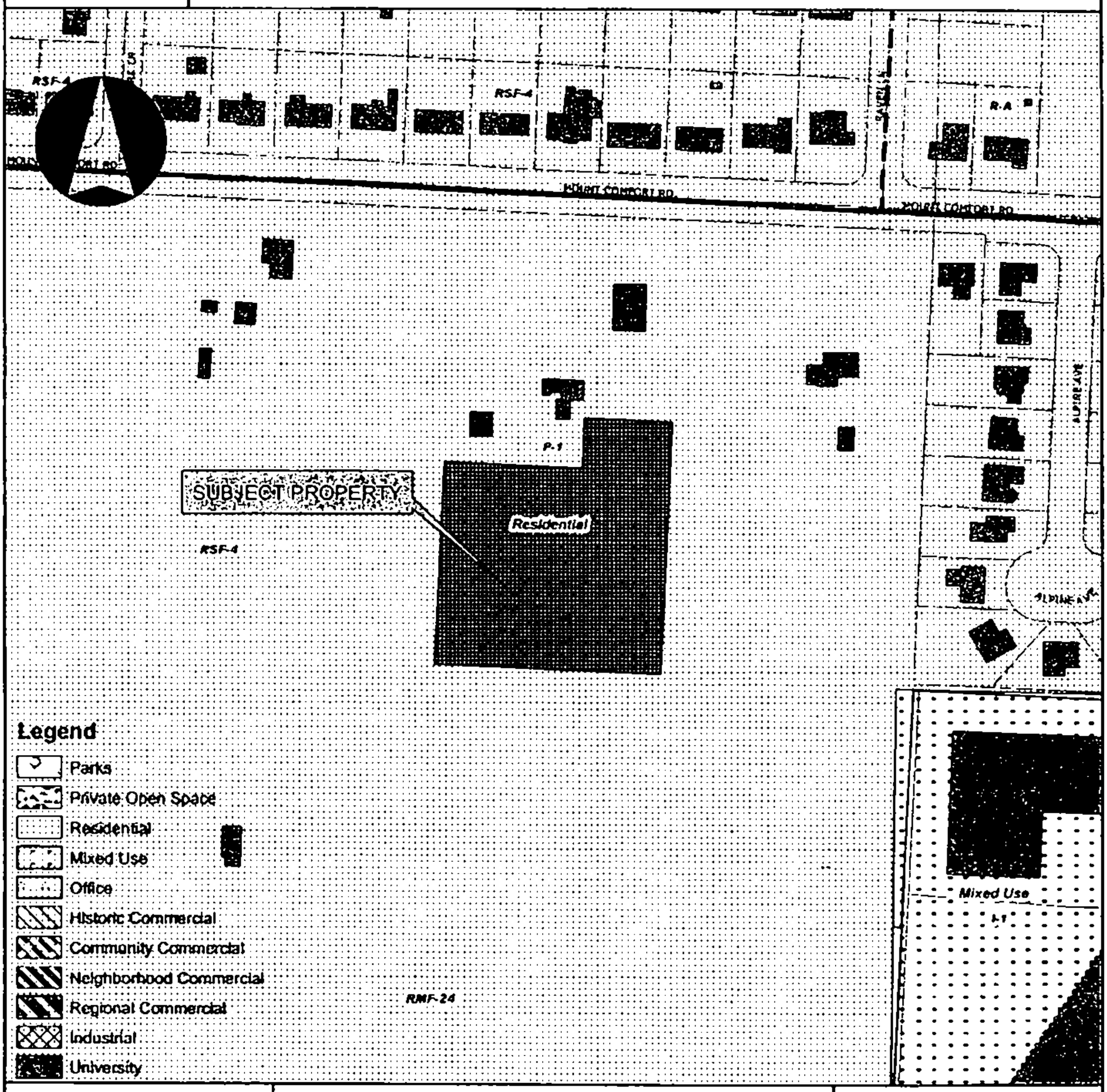
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

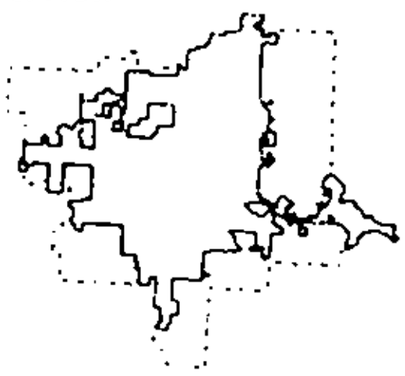
RZN04-1099

*Future Land Use*

# BRISIEL




*Overview*



*Legend*

**Subject Property**

RZN04-1099

**Streets**

Existing

Planned

**Boundary**

Planning Area

Overlay District

City Limits

Outside City

**Master Street Plan**

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 75 150 300 450 600

Feet

*Planning Commission*
*June 28, 2004*
*Page 91*

**RZN 04-1099: Rezoning (BRISIEL, 363)**: Submitted by TIM R. BRISIEL for property located at THE S SIDE OF MT COMFORT RD, W OF ALPINE AVENUE. The property is zoned P-1, INSTITUTIONAL and contains approximately 2.19 acres. The request is to rezone the subject property from P-1, Institutional, to RSF-4, Residential Single-family, 4 units per acre

Ostner: The next item on our agenda is another Rezoning. It is RZN 04-1099 for Brisiel.

Pate: This property is located on the south side of Mt. Comfort Road west of Alpine Avenue. The property that is directly south of the Fayetteville Baptist Church. It contains approximately 2.19 acres and is currently zoned P-1, Institutional. The future land use plan designates this particular piece of property for residential use. The applicant is requesting a rezoning to RSF-4, Residential Single Family, four units per acre. Surrounding properties are zoned RSF-4 and either developed as single family residential homes or agricultural land currently. The 2.19 acre tract is currently vacant and is part of an overall 8.22 acre church owned tract immediately south of that church building, house and parking lot. Access to the site, there is currently not access from this particular legal description to Mt. Comfort. Although, the overall tract does have access to Mt. Comfort. Street improvements likely will be evaluated and will occur at time of development. The developer is likely to process a Preliminary Plat for a subdivision in the future for a residential subdivision not to exceed four units per acre. The proposed rezoning is consistent with land use planning objectives, policies and principles. Surrounding properties are residential in nature and are currently zoned for residential development and use. Response time to the subject property from the fire department is approximately five to six minutes. It is approximately 2.13 miles. Staff is recommending approval of this rezoning request based on the findings in your report.

Ostner: Thank you. Is the applicant present? Could you introduce yourself and tell us about your project?

Brisiel: Good evening, my name is Tim Brisiel. I am the applicant and developer of the property in question. I am also joined by Dave Jorgensen, the engineer working on this project. We are requesting a rezoning of approximately 2.19 acres from P-1 to RSF-4. As Mr. Pate mentioned, this property is located about ½ mile west of the intersection of Mt. Comfort Road and I-540. It is part of a larger tract of land that the church currently owns, 8.22 acres It is Fayetteville Baptist Church. We have been working closely over the past couple of months and have reached an agreement for me to purchase about 5.5 acres for a small, single family subdivision. Of that 5.5 acres, 2.19 acres is still P-1 from the original tract the church owns. We are requesting a rezoning of the 2.19 acres from P-1 to RSF-4.

As the staff report indicated, the impact to all of the municipalities will be minimal based on just the size of this development. It is a rather small development on 5.5 acres. We respectfully request the approval of this rezoning request from P-1 to RSF-4.

Ostner: Thank you. At this time we will take public comment. Is there anyone who would like to speak to this issue? Seeing none, I will close it to the public and bring it back to the Commission.

Vaught: My only concern is with access. I assume there is some kind of access, I don't see an access easement or anything like that with this legal description but I assume one would have to be conveyed with the property. It is kind of a weird layout.

Warrick: At this point in time the tract that the church is located on, which is part of the property that you are considering to rezone, would have a split zoning designation. That is not necessarily uncommon. It doesn't happen a whole lot but we do have tracts in the city that have two different zoning districts applied to them. Upon any request for development we would have to address access and look at that either at the time of lot split or Preliminary Plat, whichever is requested in order to develop the single family subdivision that has been mentioned, there would have to be a public street developed to provide appropriate access.

**MOTION:**

Vaught: With that said, I will make a motion to approve RZN 04-1099.

Myers: Second.

Ostner: My comment or question was is that, and it is too soon because we are just looking at land use, but that access easement, I would hate to be a single use street. They build a street to access this development and all of the other open land around it doesn't get to use it.

Warrick: The city does have a policy for connectivity and we will look at that with any development proposal that we might be reviewing.

Ostner: Great. My next question, is Mt. Comfort a state highway?

Warrick: Our engineer says no.

Ostner: Traffic is bad on Mt. Comfort. We have been incrementally increasing traffic by tiny amounts for years. At what point do we request a developer to deal with Mt. Comfort?

Warrick: It is going to depend on the impact of the development, the number of units that are being proposed and the access that can be provided. We will certainly have to look at that and offsite improvements. On Mt. Comfort the last project that I can recall that we have specifically addressed for offsite improvements would be a subdivision further out west north of Bridgeport. A condition of the development was that Mt. Comfort between that project and Rupple Road be ensured to have a width no less than 24' and that the Y intersection of Rupple and Mt. Comfort be improved to provide 22' drive lanes in each of the two branches of that Y. That is an example of offsite improvements similar to what we were talking about on 54th Street earlier today where that was a development at the far reaches of the city limits that caused a need for greater offsite improvements because of the unavailability. It didn't really have good available adequate infrastructure and we wanted to ensure that there was improvement to hopefully reach that.

Ostner: Just to state it bluntly. What if everybody comes forward with two acre developments?

Warrick: We are going to review what we get. I don't know how to evaluate that without some sort of project.

Ostner: I understand. I'm just frustrated at things like this. This is a two acre development. I am in favor of it. I'm frustrated about Mt. Comfort. We have a motion and a second, is there further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of RZN 04-1099 to the City Council was approved by a vote of 9-0-0.

Thomas: The motion carries by a vote of nine to zero.

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1099 (Brisiel, pp 363) was submitted by Tim Brisiel for property located on the south side of Mt. Comfort Road, west of Alpine Avenue containing approximately 2.19 acres. The request is to rezone the subject property from P-1, Institutional to RSF-4, Residential Single Family, four units per acre.

STAFF RECOMMENDATION: Approval.

Dawn L. Warrick — Division Head — 7/6/04 Date

Received in Mayor's Office — 7-7-04 Date

— City Attorney — 7/7/04 Date

— Department Director — Date

— Finance & Internal Services Dir. — Date

Hugh Earnest — Chief Administrative Officer — 7-7-04 Date

Dan Coody — Mayor — 7/6/04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

7/6/04

City Council Meeting of July 20, 2004
Agenda Item Number

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

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

**Date:** July 2, 2004

**Subject**: Rezoning request for Bradberry/Woolverton (RZN 04-1102)

## RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 0.39 acres of property from C-3, Central Commercial, to R-O, Residential Office.

## BACKGROUND

The subject property is located at the southwest corner of the intersection of Rock St. and East Ave, one block south of the Square. The property is currently vacant and is zoned C-3, Central Commercial. Surrounding properties are zoned C-3, C-4, and R-O and are developed as variety of residential, commercial and governmental uses. The Future Land Use Plan identifies this property as Mixed Use.

The applicant's representative met with staff in May regarding development of the subject property and the lot to the south. The applicant proposes to construct a two-family dwelling (a single family home with an attached apartment) and a small office on this property in conjunction with the lot to the south, currently zoned Residential Office. The C-3 zoning district permits the development of multi-family dwellings of more than three units. Therefore, the staff could not permit the development of a residential structure three units or less. The requested zoning of Residential Office would allow for the construction of a single-family or two-family dwelling unit.

## DISCUSSION

On June 28, 2004, the Planning Commission forwarded this rezoning request to the City Council with a vote of 8-1-0 with a recommendation of approval. Commissioner Anthes voted no.

## BUDGET IMPACT

None.

**ORDINANCE NO. _____**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1102 AS SUBMITTED BY JAMES FOSTER FOR PROPERTY LOCATED AT THE SOUTHWEST CORNER OF ROCK STREET AND EAST AVENUE CONTAINING APPROXIMATELY 0.39 ACRES FROM C-3, CENTRAL COMMERCIAL TO R-O, RESIDENTIAL OFFICE.

**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-3, Central Commercial to R-O, Residential Office 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**

DRAFT

**EXHIBIT "A"**
**RZN 04-1102**

A PART OF BLOCK NUMBERED FORTY ONE (41) IN THE ORIGINAL TOWN (NOW CITY) OF FAYETTEVILLE, ARKANSAS, DESCRIBED AS BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK AND RUNNING THENCE WEST 80 FEET, THENCE SOUTH 185 FEET, THENCE EAST TO THE EAST LINE OF SAID BLOCK AND THENCE NORTH ON SAID LINE TO THE PLACE OF BEGINNING, EXCEPT EIGHTY (80) FEET OF EQUAL AND UNIFORM WIDTH OFF THE SOUTH SIDE OF SAID LOT HERETOFORE CONVEYED TO R.K. HODGES, AND MORE PARTICULARLY DESCRIBED IN DEED RECORD BOOK 223 AT PAGE 281.

DRAFT

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

## PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: June 22, 2004

**RZN 04-1102: Rezoning (BRADBERRY/WOOLVERTON, 523)**: Submitted by JAMES FOSTER for property located at SW CORNER OF ROCK STREET AND S. EAST AVENUE. The property is zoned C-3, CENTRAL COMMERCIAL and contains approximately 0.39 acres. The request is to rezone the subject property from C-3, Central Commercial, to R-O, Residential Office.
Property Owner: MCCLINTON ENTERPRISES Planner: SUZANNE MORGAN

**RECOMMENDATION:**

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

| | | |
|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** | **YES** |
| | **○ Approved** | **○ Denied** |
| **Date: June 28, 2004** | | |
| **CITY COUNCIL ACTION:** | **Required** | **YES** |
| | **○ Approved** | **○ Denied** |
| **Date: July 20, 2004 (1st reading if recommended)** | | |

**Comments:** _____

**BACKGROUND:**

***Property description:*** The subject property is located at the southwest corner of the intersection of Rock St. and East Ave, one block south of the Square. The property is currently vacant and is zoned C-3, Central Commercial. Surrounding properties are zoned C-3, C-4, and R-O and are developed as variety of residential, commercial and governmental uses.

The applicant's representative met with staff in May regarding development of the subject property and the lot to the south. The applicant proposes to construct a two-family dwelling (a single family home with an attached apartment) and a small office on this property in conjunction with the lot to the south, currently zoned Residential Office. The C-3 zoning district permits the development of multi-family dwellings of more than three units. Therefore, the staff could not permit the development of a residential structure three units or less. The requested zoning of Residential Office would allow for the construction of a single-family or two-family dwelling unit.

***Proposal:*** The applicant proposes a rezoning of the subject property to R-O, Residential Office to allow the development of a single family dwelling with a separate apartment and small office.

**SURROUNDING LAND USE AND ZONING**

| Direction | Land Use | Zoning |
|---|---|---|
| North | Fayetteville Town Centre | C-4, Downtown |
| South | Vacant | R-O, Residential Office |
| East | Residential (single and two family) | R-O, Residential Office |
| West | Parking lot | C-3, Central Commercial |

**INFRASTRUCTURE:**

**Streets:** Rock Street and East Avenue are improved roadways. Repairs to the existing pavement and/or curb may be required at the time of development.

**Water:** The property currently has access to a 4" main along Rock Street. This main should be sufficient for development of this property.

**Sewer:** The site has access to an 8" sewer main along Rock Street. This main should be sufficient for development of this property.

**Fire:** The subject property is located 0.337 miles from Fire Station #1. Fire response time is approximately 1 minute.

**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 Use. Rezoning this property to R-O is consistent with the land use plan for a residential use and is compatible with surrounding properties.

## 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 and policies and is compatible with adjacent properties in the same district. Surrounding properties are both residential and commercial in nature.**

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

**Finding:** **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. This property is currently vacant within the downtown area. Rezoning the property to R-O will allow the property to develop and permit a variety of uses compatible with the functions of Fayetteville's downtown and the surrounding property.**

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

**Finding:** **Future development with the proposed zoning would potentially increase traffic accessing onto Rock Street from East Avenue, a dead-end street. A rezoning to R-O would allow a variety of uses, including single-family, two-family, office and governmental facilities.**

*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 substantially 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 from Fire Station #1 is approximately 1 minute (approx. 0.337 miles).**

*Engineering* - **The property currently has access to a 4" water main and an 8" sewer main from Rock Street. These mains will be sufficient to supply water and sewer service at the time of development of this lot.**

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**

**161.15 District R-O, Residential Office**

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

(1) *Permitted uses.*

| | |
|---|---|
| Unit 1 | City-wide uses by right |
| Unit 5 | Government facilities |
| Unit 8 | Single-family dwellings |
| **Unit 9** | **Two-family dwellings** |
| Unit 11 | Manufactured home park |
| **Unit 12** | **Offices, studios and related services** |
| 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 13 | Eating places |
| Unit 24 | Home occupations |
| Unit 26 | Multi-family dwellings |
| Unit 36 | Wireless communications facilities |

(C) *Bulk and area regulations.*

(Per dwelling unit for residential structures)

(1) *Lot width minimum.*

| | |
|---|---|
| Manufactured home park | 100 ft. |
| Lot within a manufactured home park | 50 ft. |
| Single-family | 60 ft. |
| Two-family | 60 ft. |
| Three or more | 90 ft. |

(2) *Lot area minimum.*

| | |
|---|---|
| Manufactured home park | 3 acres |
| Lot within a manufactured home park | 4,200 sq. ft. |

| | |
|---|---|
| Townhouses: | |
| Development | 10,000 sq. ft. |
| Individual lot | 2,500 sq. ft. |
| Single-family | 6,000 sq. ft. |
| Two-family | 6,500 sq. ft. |
| Three or more | 8,000 sq. ft. |
| Fraternity or Sorority | 1 acre |

(3) *Land area per dwelling unit.*

| | |
|---|---|
| Manufactured home | 3,000 sq. ft. |
| Townhouses & apartments: | |
| No bedroom | 1,000 sq. ft. |
| One bedroom | 1,000 sq. ft. |
| Two or more bedrooms | 1,200 sq. ft. |
| Fraternity or Sorority | 500 sq. ft. per resident |

(D) *Density.*

| | |
|---|---|
| Units per acre | 4 to 24 |

(E) *Setback regulations.*

| | |
|---|---|
| Front | 30 ft. |
| Front, if parking is allowed between the right-of-way and the building | 50 ft. |
| Side | 10 ft. |
| Side, when contiguous to a residential district | 15 ft. |
| Rear, without easement or alley | 25 ft. |
| Rear, from center line of public alley | 10 ft. |

(F) *Height regulations.* There shall be no maximum height limits in R-O Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back with any boundary line of any RSF or RMF District an additional 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.

**161.18 District C-3, Central Commercial**

(A) *Purpose.* The Central Commercial District is designed to accommodate the commercial and related uses commonly found in the central business district, or regional shopping centers which provide a wide range of retail and personal service uses.

(B) *Uses.*

(1) *Permitted uses.*

| | |
|---|---|
| Unit 1 | City-wide uses by right |
| Unit 4 | Cultural and recreational facilities |
| Unit 5 | Government facilities |
| Unit 12 | Offices, studios, and related services |
| Unit 13 | Eating places |
| Unit 14 | Hotel, motel, and amusement facilities |
| Unit 15 | Neighborhood shopping goods |
| Unit 16 | Shopping goods |
| Unit 18 | Gasoline service stations & drive-in restaurants |
| Unit 19 | Commercial recreation, small sites |
| **Unit 26** | **Multi-family dwellings** |
| Unit 34 | Liquor stores |

(2) *Conditional uses.*

| | |
|---|---|
| Unit 2 | City-wide uses by conditional use permit |
| Unit 3 | Public protection and utility facilities |
| Unit 17 | Trades and services |
| Unit 28 | Center for collecting recyclable materials |
| Unit 35 | Outdoor music establishments |
| Unit 36 | Wireless communications facilities |

(C) *Density.* None.

(D) *Bulk and area regulations.* None

(E) *Setback regulations.*

| | Central Business District | Shopping Center |
|---|---|---|
| Front | 5 ft. | 25 ft. |
| Front, if parking is allowed between the right-of-way and the building | 50 ft. | 50 ft. |
| Side | None | None |
| Side, when contiguous to a residential district | 10 ft. | 25 ft. |
| Rear, without easement or alley | 15 ft. | 25 ft. |
| Rear, from center line of a public alley | 10 ft. | 10 ft. |

***APPLICANT / REPRESENTATIVE***: I certify under penalty of perjury that the foregoing statements and answers herein made all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval. I understand that the City might not approve what I am applying for, or might set conditions on approval.

Name (printed): James Foster Date: May 18, 2004

Signature: James Foster

***PROPERTY OWNER(S) / AUTHORIZED AGENT***: I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing. *(If signed by the authorized agent, a letter from each property owner must be provided indicating that the agent is authorized to act on his/her behalf.)*

***Owners (attach additional info if necessary):***

Name (printed): McClinton Enterprises Limited Partnership
Address - Box TBS 1983
Fayetteville AR 72702

Signature: Mark C. McClinton

Date: 05/19/04

Phone -
( ) 521 9131

Name (printed):

Address -

Signature:

Date:

Phone -
( )

**Checklist:**

***Include the following items with this application:***

- 1. Payment in full of applicable fees for processing the application ($325.00). *Checks should be written to the City of Fayetteville.*

- 2. A legal description of the property to be rezoned. A survey may be required if the property description can't accurately be platted or if it is described by referring to other deeds. ***This legal description shall be separate from any plat or survey and must reflect only that area to be rezoned.***

- 3. **Two sets** of typed, mailing labels listing the name and address of each adjacent property owner. May be found at the county assessor=s office.

- 4. A copy of the plat on record in the county assessor=s office. The owner=s name and the parcel number for every adjacent property shall be shown on this plat (map).

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

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

Ed Bradberry is in the process of acquiring three lots at the southwest corner of East Avenue and Rock Street for later transfer to son-in-law and daughter, Drs. Frederick and Karolyn Woolverton. Current owners of these lots, from north to south are David McClinton, Morriss & Ann Henry and Richard Alexander & Rob Merry-Ship. A condition of sale is that the City will allow the proposed residential development.

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

The McClinton lot is zoned C-3 and the other two are zoned R-O. The Woolvertons' desire to build their dwelling with separate apartment and small office on the vacant McClinton and Henry lots. The Alexander / Merry-Ship lot has an existing dwelling to remain. Planning staff advised that it would be necessary to rezone the McClinton lot from C-3 to R-O to allow this project to proceed.

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

The Woolvertons and their design team believe it important that this development occur at a scale that responds to the existing character of the surrounding neighborhood. This neighborhood contains a mix of uses but is primarily residential in character. A contemporary urban two-story structure is envisioned with a garden wall or fence defining the property edge. An important aspect of design will be made to preserve existing trees and enhance landscape. Vehicular access will be from East Avenue. No signage is anticipated at this time.

This site is within the Town Mountain South Neighborhood Association and the contact person has been advised of this application.

d. Availability of water and sewer (state size of lines).

Water: An 8" line is available along Rock with two fire hydrants located on adjacent street corners. There is also a 2 1/4" line along East Ave.

Sewer: An 8" line is accessible to the site along Rock Street.

6. The Planning Commission is required to make specific findings with regard to this application. The applicant shall provide written statements addressing the following:

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

Consistent with generally accepted goals for downtown, this project will convert two bare lots into residential and office use. Increasing residents in downtown is key to viability for commerce. Public safety is also enhanced as additional families choose to live downtown. This infill project will increase

development density compared to the existing condition.

b. Whether the proposed zoning is justified and/or needed at the time of the request.
The Woolvertons have a fixed timeframe to move from their apartment in Manhattan to their new home and office in Fayetteville. This requires acquiring the property by July 2004 in order for design and construction to proceed for a July 2005 move.

c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.
This rezoning will have no appreciable effect on traffic or congestion.

d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.
Although population density would be increased by three persons and occasional guests or clients at this site, this would cause no discernable increase in the load on public services.

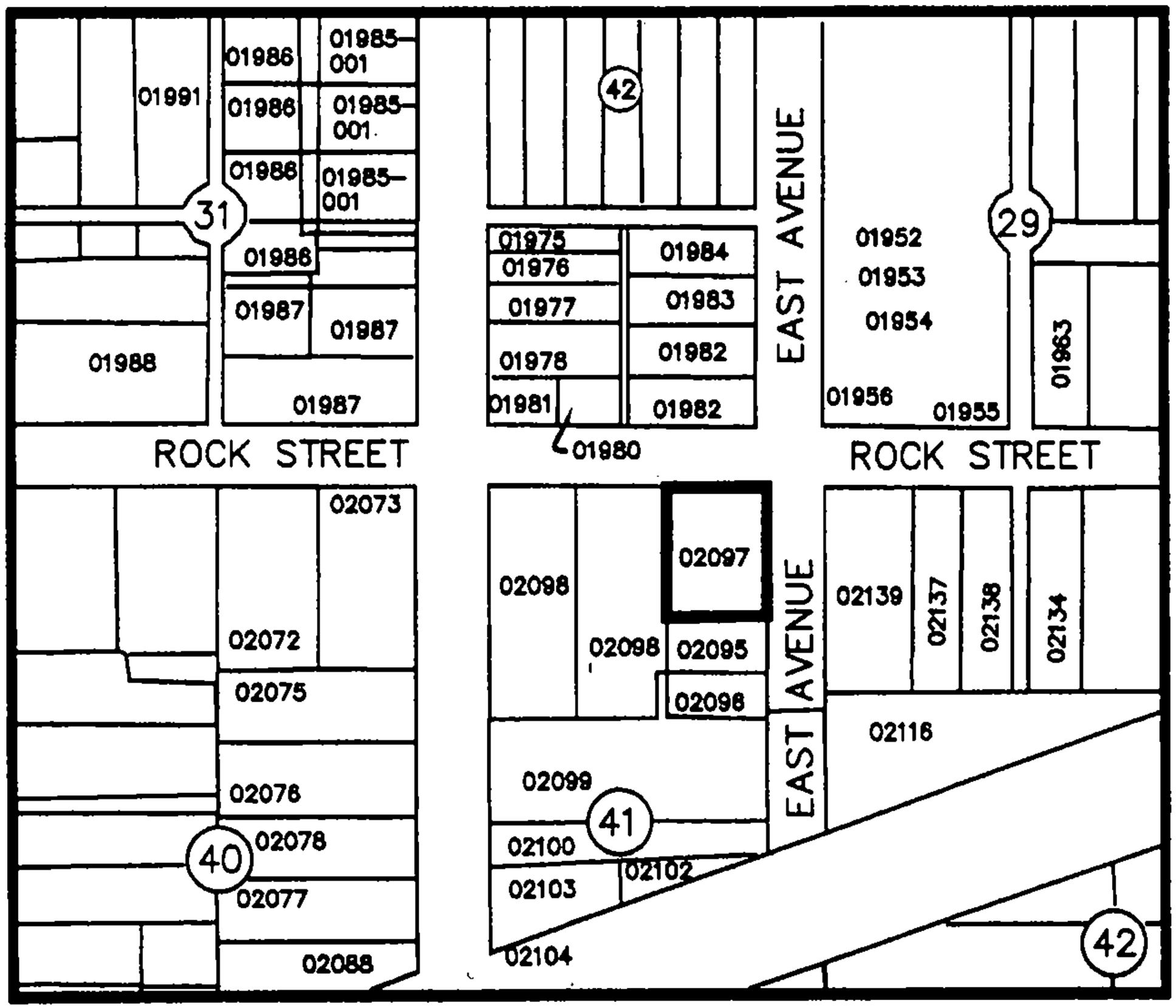
e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.
Staff have determined that this dwelling with apartment are not "multifamily" as would be permitted in C-3 even as a conditional use. Although accessory residential use in combination with an office would be permitted, the scale of the office to be included would accessory to the residential use. Drs. Fred and Karolyn Woolverton, both clinical psychologists, must separate most of their professional practice from their residence. It has been found impractical for the Woolvertons to develop this property for their peaceful enjoyment primarily as a home in the C-3 zone.

**Notice:**
Resources including current zoning regulations, General Plan 2020, Future Land Use Plan, Master Street Plan and Zoning maps are available for review in the Planning Office.

All applicants are encouraged to meet with a staff Planner prior to completing a Rezoning application.

# WOOLVERTON RESIDENCE

## PARCEL MAP




-02098-
ARKANSAS TEACHER RETIREMENT
100 MORGAN KEEGAN #120
LITTLE ROCK, AR 72202

-02139-
NEW DEAL III
PO BOX 1585
FAYETTEVILLE, AR 72702

-01956-
JAMES & MARY WILLIAMS
PO BOX 419
FAYETTEVILLE, AR 72702

-02095-
MORRISS & ANN HENRY
2465 COMMON
FAYETTEVILLE, AR 72703

-01982-
CITY OF FAYETTEVILLE
113 W MOUNTAIN
FAYETTEVILLE, AR 72701

June 18, 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 04-1102: Rezoning (Bradberry/Woolverton, pp 523)** for property located at the SW corner of Rock Street and S. East Ave. would substantially alter the population density and thereby undesirably increase the load on public services or create and appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

**Fayetteville Fire Department Service Delivery Impact: Zoning Review June 21,2004**

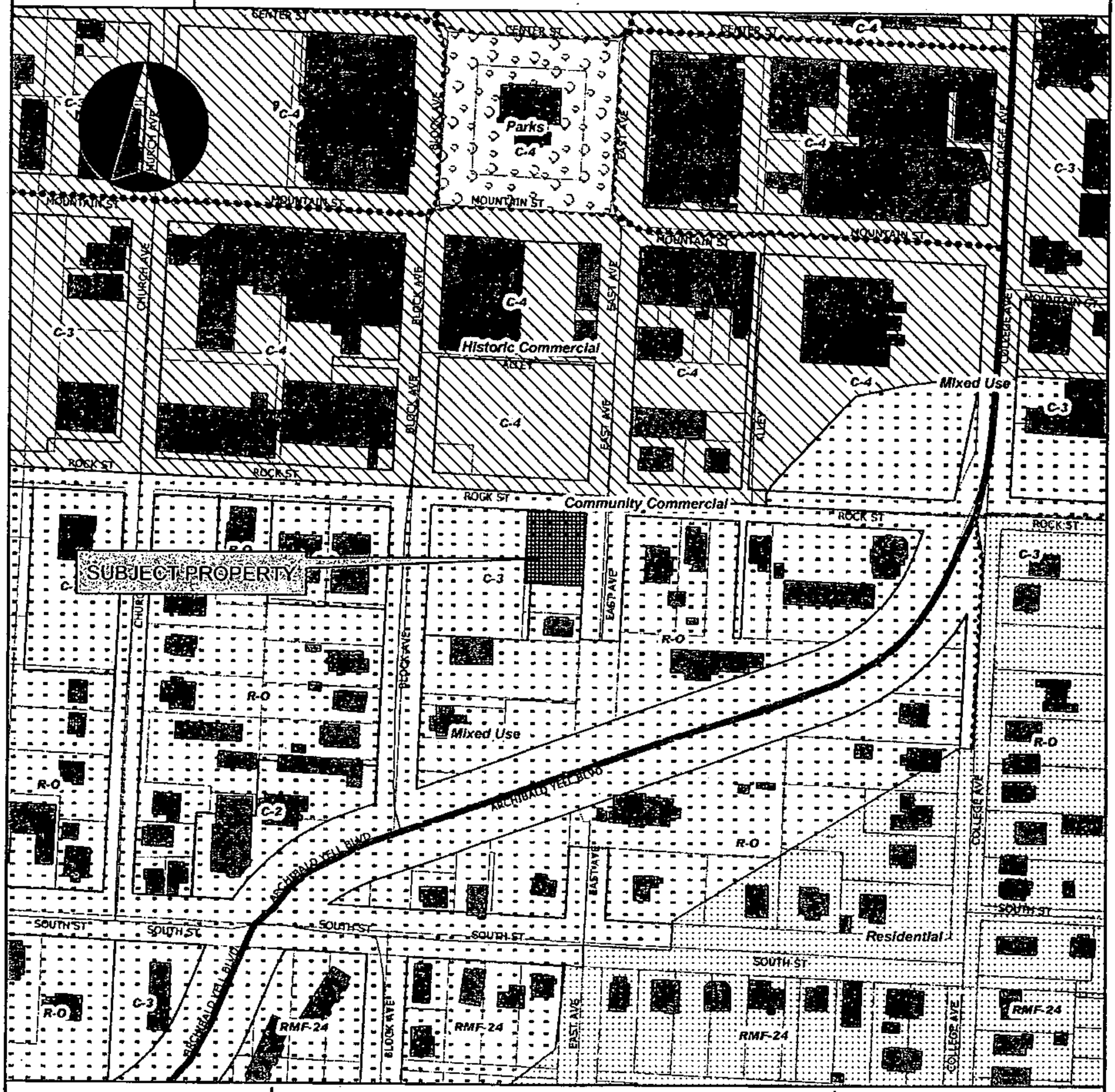
| Item | Subdivision | Annexation | Acres | Closest Fire Station | Distance from Fire Station | Response Time to Proposal area | Projected Response Time to Proposal Area at Maximum Build Out | Projected Calls for Service at Maximum Build Out | Projected Fire/Other Calls for Service at Maximum Build Out | Projected EMS Calls for Service at Maximum Build Out |
|---|---|---|---|---|---|---|---|---|---|---|
| ANX 04-1083 | Marinoni | | 78.84 | Future FS 7 | 0.493 miles | 1 minute | 1-3 5 minutes | | | |
| RZN 04-1084 | Marinoni | | | | | | | 72/year | 29/year | 43/year |
| ANX 04-1090 | Hays | | 37.3 | Future FS 7 | 1.97 miles | 4-5 minutes | 4-6.5 minutes | | | |
| RZN 04-1091 | Hays | | | | | | | 34/year | 13/year | 21/year |
| RZN 04-1099 | Brisiel | | | Future FS 7 | 2.13 miles | 5-6 minutes | 5-6 minutes | 2/year | 80/year | 1.2/year |
| ANX 04-1100 | Harper/Brandon | | 9.99 | FS 4 | 4.73 miles | 13-14 minutes | 13-14.5 minutes | | | |
| | | | | Future FS 5 | 3.36 miles | 8-9 minutes | 8-9 5 minutes | | | |
| RZN 04-1101 | Harper/Brandon | | | | | | | 9/year | 3/year | 6/year |
| RZN 04-1102 | Bradberry/Woolv. | | | FS 1 | 0.337 miles | 1 minute | 1 minute | [redacted] | | |
| RZN 04-1103 | Collins | | | FS 2 | 0 633 miles | 3-4 minutes | 3-4 minutes | 5/year | 2/year | 3/year |
| RZN 04-1104 | Goff | | | FS 5 | 3.11 miles | 8-9 minutes | 8-9.5 minutes | 16/year | 6/year | 10/year |
| | | | | Future FS 3 | 2.33 miles | 5-6 minutes | 5-6.5 minutes | 16/year | 6/year | 10/year |
| RZN 04-1111 | The Mill District | | | FS 1 | 0.476 miles | 1-2 minutes | 1-2 minutes | [redacted] | | |

[redacted] Insufficient Data for Calculations

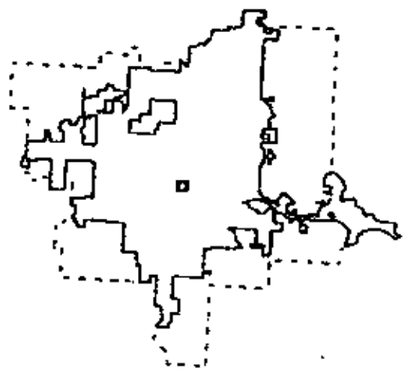
RZN04-1102

*Future Land Use*

# BRADBERRY/WOOLVERTON




*Overview*



*Legend*

**Subject Property**
- RZN04-1102

**Streets**
- Existing
- Planned

**Boundary**
- Planning Area
- Overlay District
- City Limits
- Outside City

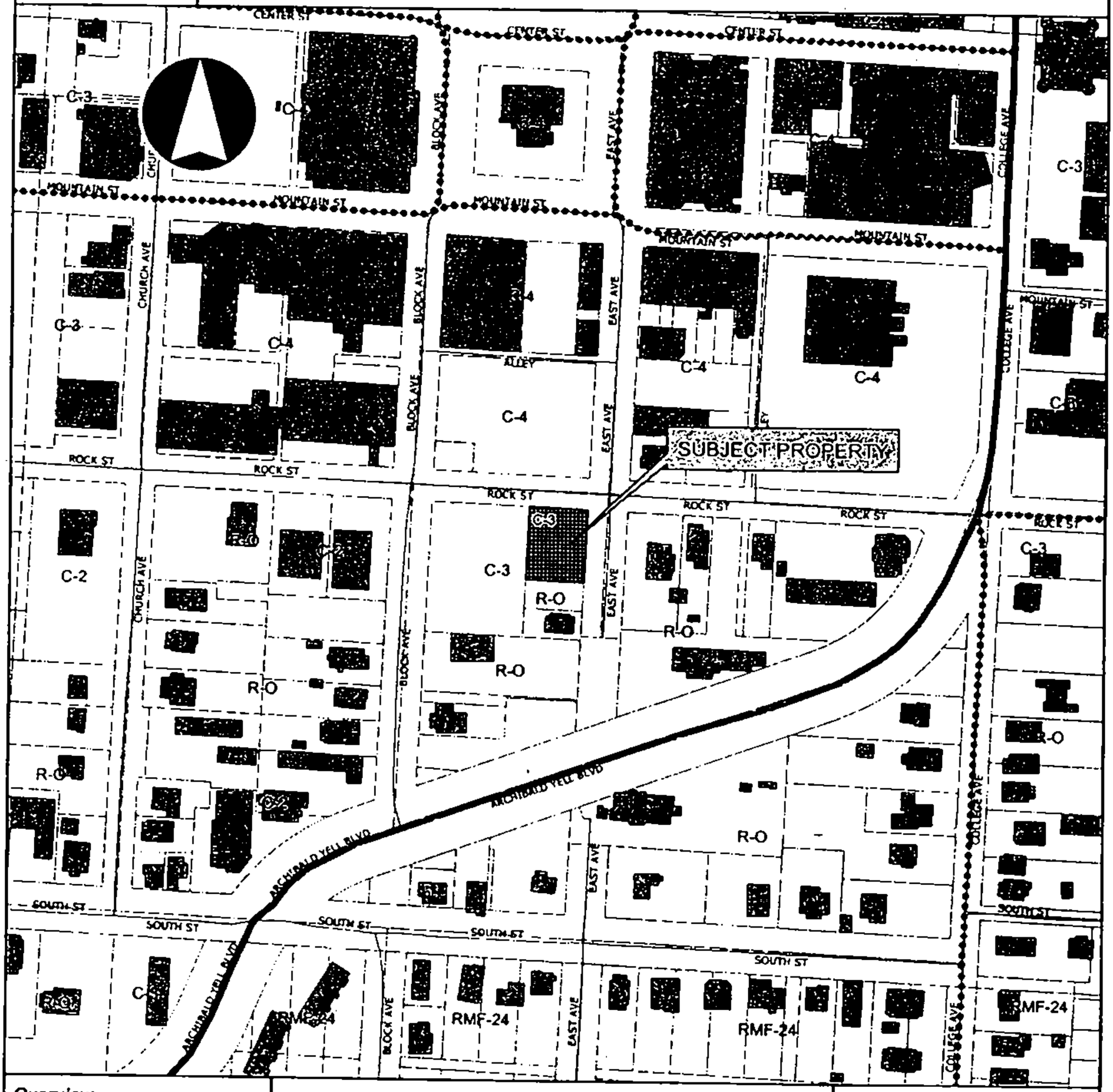
**Master Street Plan**
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 75 150 300 450 600 Feet

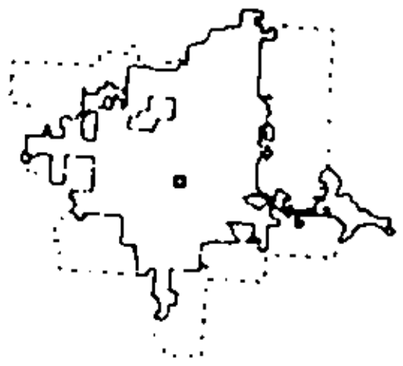
RZN04-1102

*Close Up View*

# BRADBERRY/WOOLVERTON




*Overview*



Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Base Line Profile
- RZN04-1102

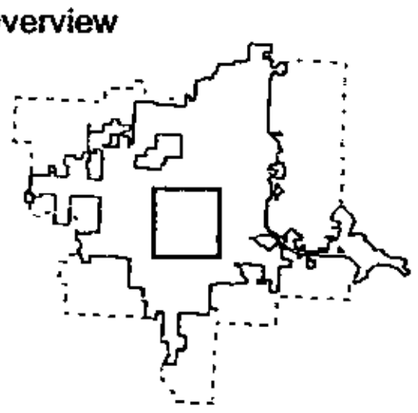
0 75 150 300 450 600 Feet

RZN04-1102

One Mile View

# BRADBERRY/WOOLVERTON

Overview



Legend

Subject Property
- RZN04-1102

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

*Planning Commission*
*June 28, 2004*
*Page 94*

**RZN 04-1102: Rezoning (BRADBERRY/WOOLVERTON, 523)**: Submitted by JAMES FOSTER for property located at SW CORNER OF ROCK STREET AND S. EAST AVENUE. The property is zoned C-3, CENTRAL COMMERCIAL and contains approximately 0.39 acres. The request is to rezone the subject property from C-3, Central Commercial, to R-O, Residential Office.

Ostner: The next item is RZN 04-1102 for Bradberry and Woolverton.

Morgan: The subject property is located at the southwest corner of the intersection of Rock Street and East Avenue. This is one block south of the square. The property is currently vacant and is zoned C-3, Central Commercial. Surrounding properties are zoned C-3, C-4 and R-O and are developed as a variety of residential, commercial and governmental uses. The applicant proposes to construct a single family home with an attached apartment and a small office on this property in conjunction with the lot to the south, which is zoned R-O. C-3 zoning will not permit the development of this proposed use. Therefore, the applicant is proposing a rezoning of this subject property from C-3 to R-O to allow the development as stated. Surrounding zonings are as follows: North is C-4, South and East is zoned R-O, and to the West is C-3. The future land use plan designates this site for mixed use. Rezoning this property R-O is consistent with the land use plan for a residential use and is compatible with the surrounding zonings. It will also allow the property to develop and permit a variety of uses compatible with the functions of Fayetteville's downtown and the surrounding properties. Police have stated that the rezoning will not substantially alter the population density and thereby undesirably increase load on public services. It is also located approximately one minute from fire station #1 and of a distance of .337 miles. Staff is therefore, recommending approval of this rezoning request.

Ostner: Is the applicant present? Would you introduce yourself and tell us about your request?

Foster: My name is Jim Foster. I appreciate your dedicated public service on this long evening. At least I'm paid for my time to be here. Fred and Caroline Woolverton and their daughter Kate have a dream of moving from an apartment in Manhattan to live in downtown Fayetteville. Your recommendation for rezoning tonight making it the same as the other lot to the south that they are going to be working with will make that possible. They intend to close, providing this is approved, Wednesday. Their proposed home and apartment for the guest would infill vacant lots and bring residents into our downtown. The density, if you consider the total parcels in the two dwellings is 7.45 dwelling units per acre. Although the R-O would permit this they don't have in mind a suburban type design. To the extent the city allows their contemporary two story project would define the street edge with a combination of a principal façade, garden

wall and also offering passers by a glimpse into the private domain behind the wall at the address of 11 W. Rock. If approved I think we will be meeting very soon with city staff to see how we can make this design even more consistent with the downtown master plan than the R-O zone typically implies it might be. We really want to be consistent with the intent of the future downtown master plan as we proceed with design. I will yield to comments from the public.

Ostner: Thank you Mr. Foster. Is there anyone from the public who would like to comment on this rezoning issue?

Henry: I'm Ann Henry and we own the 40' strip that is zoned R-O immediately to the south of it and we think it is obviously a better use of the whole thing to create a nice residential area than leaving it for something that in C-3 allows a recycling center, a filling station, etc. I think given everything else that is going on in that area that it would be a proper use to create that. Thank you.

Ostner: Is there any other comment from the public? Seeing none, I will close it to the public and bring it back to the Commission.

**MOTION:**

Allen: I see this as a positive request and I move for RZN 04-1102.

Myers: I will second.

Ostner: Do we have further comment?

Anthes: This particular parcel of land is one block from the Fayetteville downtown square. Two blocks from the Mountain Inn redevelopment area. Directly across the street from our second municipal parking deck, and the one that is underused at this point. When I read the downtown master plan I believe that it talks about residential infill in a way that is more dense than Residential Office zoning would allow. I'm also looking at the setbacks in R-O which are 30'. I think that a building on this site ought to sit on the corner. I know that might be available with some negotiation but the zoning implies a 30' setback. In C-3 it is a 5' setback, which I think is much more compatible in this area. In absence of a development plan in front of us I find it contrary to the directives of the master plan to infill with a single family residence in an area one block from the downtown square next to the parking deck. Therefore, I can't support the rezoning request.

Ostner: Thank you. Is there further discussion?

Clark: Based on Jill's comments, what was the rational for city staff's recommendation of approval? How did you balance it?

Warrick: City Council has not adopted the downtown master plan and while we do look to that and realize that that reflects the desires for the downtown area we don't have that in place. What we do have is the General Plan 2020 which designates this area as mixed use. We have spoken with the applicant and will continue to work with the applicant. We believe that this site is an area for redevelopment. It is obviously a vacant tract of land right now. People park on it quite frequently during the day. It is staff's belief that some development on this property which could then further be more intensely developed, if that is the decision later on, is more appropriate than leaving it as a vacant corner with nothing.

Anthes: We already have a C-3 zoning on this property which not only already exists, but also seems to support the ideas of that master plan whether or not it has been ratified. The other thing is that the Woolvertons certainly could live downtown if they in filled more densely, even on this site, and I don't believe that a down zoning is going to inhibit redevelopment but could maximize their profit on the property.

Ostner: I would have to respectfully disagree. I don't believe density means losing community character. I live downtown. Developments, houses and structures that offer families a place to live is in short supply, especially families who want to own. There are a lot of opportunities for apartments that you can't own and there are a lot of opportunities for tiny little homes that you can't really raise a family in. We are missing families downtown. This is a project that could offer a family a place to interact with downtown after 5:00. When the 5:00 whistle blows it gets real quiet and that is I believe, one of the goals of the master plan is to alleviate that. I will be voting for this rezoning. Is there further discussion? Renee, could you call the roll please?

**Roll Call:** Upon the completion of roll call the motion to approve RZN 04-1102 was approved by a vote of 8-1-0 with Commissioner Anthes voting no.

Thomas: The motion carries by a vote of eight to one.

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1102 (Bradberry/Woolverton, pp 523) was submitted by James Foster for property located at the southwest corner of Rock Street and East Avenue containing approximately 0.39 acres. The request is to rezone the subject property from C-3, Central Commercial to R-O, Residential Office.

STAFF RECOMMENDATION: Approval.

Dawn J. Warrick — Division Head — 7/6/04 Date

Received in Mayor's Office — 7-7-04 Date

City Attorney — 7/7/04 Date

Department Director — Date

Finance & Internal Services Dir. — Date

Chief Administrative Officer — 7-7-04 Date

Mayor — 7/7/04 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 7/6/04

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

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

**Date:** July 2, 2004

**Subject:** Rezoning request for Goff (RZN 04-1104)

## RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 17.50 acres of property from R-A, Residential Agricultural to RSF-4, Residential Single Family – 4 units per acre.

## BACKGROUND

The subject property is located north of Goff Farm Road. The property is currently large fields with one single family dwelling and surrounded to the south and west by the Stonebridge Meadows Golf Course, zoned R-A, and a creek to the east. The property immediately to the east is a large agricultural field with two single family dwellings. Further east is property developed as Stonebridge Meadows Phase I. Property to the south of this subdivision was rezoned to RSF-4 in May of 2003 and is currently under construction as Stonebridge Meadows Subdivision Phase II. The Future Land Use Plan identifies this property as Private Open Space.

The applicant requests that the subject property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single-family - 4 units per acre, to allow for the development of a 48 lot residential subdivision.

## DISCUSSION

On June 28, 2004, the Planning Commission forwarded this rezoning request to the City Council with a vote of 8-1-0 with a recommendation of approval. Commissioner Ostner voted no.

## BUDGET IMPACT

None.

**ORDINANCE NO. _____**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1104 AS SUBMITTED BY TOM HENNELLY FOR PROPERTY LOCATED NORTH OF GOFF FARM ROAD NORTH OF THE STONEBRIDGE MEADOWS GOLF COURSE CLUB HOUSE CONTAINING APPROXIMATELY 17.50 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

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

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

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

**PASSED AND APPROVED this _____ day of _____, 2004.**

**APPROVED:**

**By:_____**
**DAN COODY, Mayor**

**ATTEST:**

**By: _____**
**Sondra Smith, City Clerk**

DRAFT

**EXHIBIT "A"**
**RZN 04-1104**

A PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND A PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 16 NORTH, RANGE 30 WEST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT A PINT WHICH IS 1849.07" NORTH AND 1204.81 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 24 AND RUNNING THENCE S35°19'30"W 342.18 FEET TO THE CENTERLINE OF GOFF FARM ROAD, THENCE ALONG SAID CENTERLINE S89°58'40"W 98.72 FEET, THENCE N87°32'25"W 57.17 FEET, THENCE N77°51'39"W 85.47 FEET, THENCE N64°14'48"W 76.85 FEET, THENCE N44°38'24"W 75.47 FEET, THENCE N38°33'03"W 101.03 FEET, THENCE N37°09'01"W 85.69 FEET THENCE N34°29'11"W 59.18 FEET, THENCE N29°22'03"W 63.36 FEET, THENCE N23°17'54"W 75.96 FEET, THENCE N23°26'52"W 77.95 FEET THENCE N45°16'39"W 41.38 FEET, THENCE N68°55'57"W 40.91 FEET, THENCE N85°37'46"W 17.78 FEET, THENCE DEPARTING SAID CENTERLINE N41°18'26"E 1211.86 FEET, THENCE S61°13'55"E 175.00 FEET, THENCE S24°40'14"W 163.32 FEET, THENCE S04°31'14"W 519.57 FEET, THENCE S05°29'35"E 427.78 FEET, TO THE POINT OF BEGINNING. CONTAINING 17.50 ACRES MORE OR LESS, AND SUBJECT TO THAT PORTION IN COUNTY ROAD RIGHTS OF WAY AND UTILITY EASEMENTS OF RECORD.

DRAFT

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

## PLANNING DIVISION CORRESPONDENCE

| | |
|---|---|
| TO: | Fayetteville Planning Commission |
| FROM: | Suzanne Morgan, Associate Planner |
| THRU: | Dawn Warrick, AICP, Zoning & Development Administrator |
| DATE: | June 23, 2004 |

**RZN 04-1104: Rezoning (GOFF, 607)**: Submitted by TOM HENNELLY for property located at GOFF FARM ROAD, ACROSS FROM STONEBRIDGE MEADOWS GOLF COURSE CLUB HOUSE. The property is currently zoned R-A, Residential Agricultural, and contains approximately 17.50 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Property Owner: DASH GOFF
Submitted on behalf of: MIKE LAMBERTH
Planner: SUZANNE MORGAN

**RECOMMENDATION:**

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

| | | |
|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** | **YES** |
| | **○ Approved** | **○ Denied** |
| **Date: June 28, 2004** | | |
| **CITY COUNCIL ACTION:** | **Required** | **YES** |
| | **○ Approved** | **○ Denied** |
| **Date: July 20, 2004 (1st reading if recommended)** | | |

**Comments:** _____

_____

_____

**BACKGROUND:**

***Property description:*** The subject property is located north of Goff Farm Road. The property is currently vacant pasture and surrounded to the south and west by the Stonebridge Meadows Golf Course, zoned R-A, and a creek to the east. The property immediately to the east is a large agricultural field with two single family dwellings. Further east is property developed as

Stonebridge Meadows Phase I. Stonebridge Meadows Phase II is under construction just south of Phase I and was rezoned to RSF-4 in May of 2003. The applicant requests that the subject property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single-family - 4 units per acre, to develop a 48 lot residential subdivision as an extension of the approved surrounding subdivisions.

***Proposal:*** The applicant proposes a rezoning of the subject property from R-A, Residential Agricultural to RSF-4, Residential Single-family – 4 units per acre, to allow the development of a residential subdivision.

## SURROUNDING LAND USE AND ZONING

| Direction | Land Use | Zoning |
|---|---|---|
| North | Riparian Area | R-A, Residential Agricultural |
| South | Stonebridge Meadows Golf Course<br>Stonebridge Meadows Phase II (PPL under construction) | R-A, Residential Agricultural<br>RSF-4, Residential Single-family, 4 units per acre |
| East | Agricultural and Single family residential | R-A, Residential Agricultural |
| West | Stonebridge Meadows Golf Course | R-A, Residential Agricultural |

## INFRASTRUCTURE:

**Streets:** At the time of development, street improvements will be recommended for the property frontage to widen Goff Farm Road to 14' from centerline including storm drains, curb and gutter, pavement and sidewalks.

**Water:** The property has access to a 6" looped water main along Goff Farm Road. An extension of the water main will be required within the property to provide water supply and fire protection within any development on this property.

**Sewer:** The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. The main may be extended from the existing sanitary sewer main located on River Bluff Cove to the northeast of this site.

**Fire:** The subject property is located 3.11 miles from Fire Station #5. Fire response time is approximately 8-9 minutes with a projected response time of 8-9.5 minutes at maximum build out.

The subject property is located 2.33 miles from the proposed Fire Station #3. Fire response time is approximately 5-6 minutes with a projected response time of 5-6.5 minutes at maximum build out.

**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 **Private Open Space.** Rezoning this property to RSF-4 is consistent with the land use plan such that it will allow residential uses to be located in close proximity to open space (the golf course) and is compatible with surrounding properties.

**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 and policies and is compatible with zoning and use of adjacent properties. Surrounding properties are residential or agricultural in nature. The subject property provides for an extension of existing single family subdivisions.**

**The Future Land Use Plan identifies the subject property for Private Open Space. Property to the south (Stonebridge Meadows Phase II) was also identified as Private Open Space on the Future Land Use Plan. It was rezoned to RSF-4 in May of 2003. Rezoning the subject property to RSF-4 will be consistent with previous rezoning actions in the surrounding area.**

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

**Finding:** **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. It will provide the potential of development comparable to the approved subdivisions in this area and be served by the golf course.**

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

**Finding:** **Access to this site is provided by Goff Farm Road, a collector road on the Master Street Plan. Development of this 17.50 acre tract will not appreciably increase the traffic danger and congestion on this street.**

*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 increase population density. The approximately 17.50 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 8 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 70 dwelling units would be permitted. This increases the possible number of residential units, yet is consistent with land use and zoning within the City of Fayetteville and developing areas to the east and south. The proposed zoning would not substantially 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 from both Fire Station #5 is approximately 8-9.5 minutes at the maximum development of this area (approx. 0.311 miles). The proposed Fire Station #3 will be located 2.33 miles from the property having a projected response time of 5-6.5 minutes at maximum build out**

*Engineering* - **The property currently has access to a 6" looped water main along Goff Farm Road, which will be extended property at the time of development in order to supply water and fire protection. Sanitary sewer is not available to this site. An off-site sewer main extension will be required to serve this property at the time of development. The main may be extended from the existing sanitary sewer main located on River Bluff Cove to the northeast of this site.**

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**

## 161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

| | |
|---|---|
| Unit 1 | City-wide uses by right |
| Unit 3 | Public protection and utility facilities |
| Unit 6 | Agriculture |
| Unit 7 | Animal husbandry |
| Unit 8 | Single-family dwellings |
| Unit 9 | Two-family dwellings |
| Unit 37 | Manufactured homes |

(2) *Conditional uses.*

| | |
|---|---|
| Unit 2 | City-wide uses by conditional use permit |
| Unit 4 | Cultural and recreational facilities |
| Unit 20 | Commercial recreation, large sites |
| Unit 24 | Home occupations |
| Unit 36 | Wireless communications facilities |

(C) *Density.*

| | |
|---|---|
| Units per acre | One-half |

*(D) Bulk and area regulations.*

| | |
|---|---|
| Lot width minimum | 200 ft. |
| Lot Area Minimum:<br>Residential:<br>Nonresidential: | <br>2 acres<br>2 acres |
| Lot area per dwelling unit | 2 acres |

(E) *Setback requirements.*

| Front | Side | Rear |
|---|---|---|
| 35 ft. | 20 ft. | 35 ft. |

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

(G) *Building area.* None.

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

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

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

(D) *Bulk and area regulations.*

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

(E) *Setback requirements.*

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

(F) *Height.* None.

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

June 18, 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 04-1104: Rezoning (Goff, pp 607)** submitted by Tom Hennelly for property located at Goff Farm Road across from Stonebridge Meadows Gold Course Club House would substantially alter the population density and thereby undesirably increase the load on public services or create and appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

**Fayetteville Fire Department Service Delivery Impact: Zoning Review June 21,2004**

| 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| ANX 04-1083 | Marinoni | | 78.84 | Future FS 7 | 0.493 miles | 1 minute | 1-3.5 minutes | | | |
| RZN 04-1084 | Marinoni | | | | | | | 72/year | 29/year | 43/year |
| ANX 04-1090 | Hays | | 37.3 | Future FS 7 | 1.97 miles | 4-5 minutes | 4-6.5 minutes | | | |
| RZN 04-1091 | Hays | | | | | | | 34/year | 13/year | 21/year |
| RZN 04-1099 | Brisiel | | | Future FS 7 | 2.13 miles | 5-6 minutes | 5-6 minutes | 2/year | .80/year | 1.2/year |
| ANX 04-1100 | Harper/Brandon | | 9.99 | FS 4 | 4.73 miles | 13-14 minutes | 13-14.5 minutes | | | |
| | | | | Future FS 5 | 3.36 miles | 8-9 minutes | 8-9.5 minutes | | | |
| RZN 04-1101 | Harper/Brandon | | | | | | | 9/year | 3/year | 6/year |
| RZN 04-1102 | Bradberry/Woolv. | | | FS 1 | 0.337 miles | 1 minute | 1 minute | | | |
| RZN 04-1103 | Collins | | | FS 2 | 0.633 miles | 3-4 minutes | 3-4 minutes | 5/year | 2/year | 3/year |
| **RZN 04-1104** | **Goff** | | | **FS 5** | **3.11 miles** | **8-9 minutes** | **8-9.5 minutes** | **16/year** | **6/year** | **10/year** |
| | | | | **Future FS 3** | **2.33 miles** | **5-6 minutes** | **5-6.5 minutes** | **16/year** | **6/year** | **10/year** |
| RZN 04-1111 | The Mill District | | | FS 1 | 0.476 miles | 1-2 minutes | 1-2 minutes | | | |

Insufficient Data for Calculations

Tomlinson Asphalt Co., Inc.
Civil Engineering Division

PHONE (479) 521-3179

1411 W. VAN ASCHE
FAYETTEVILLE, ARKANSAS 72704

May 19, 2004

City of Fayetteville
113 West Mountain Dr.
Fayetteville, Arkansas 72701

Attn: Planning Commission

RE: Lamberth/Carlton Rezoning

Dear Commissioners:

On behalf of my clients, Mr. Mike Lamberth and Mr. Clay Carlton, the following information is submitted to supplement the attached application to rezone 17.5 acres from R-A to RSF-4. The property is currently owned by Mr. Dash Goff. The sale of the property is subject to the approval of both rezoning and preliminary plat. Mr. Lamberth and Mr. Carlton are proposing a 48 lot residential subdivision, north of Goff Farm Road and slightly north east of the Stonebridge Meadows Golf Course Club House.
The request for RSF-4 zoning is consistent with the land use planning objectives for this area, and is consistent with recent land use and zoning in surrounding developments. The rezoning is necessary to facilitate the sale of the property. The requested zoning will neither create, or appreciably increase, traffic danger or congestion. The developers will more than likely be required to improve and widen Goff Farm Road as a part of this project. The requested zoning will not dramatically alter the population density of the area. It would not be financially feasible to develop this property at a density of ½ units per acre as is permitted under the R-A zoning regulations.

Thank you for your consideration in this matter.

Sincerely,

Thomas A. Hennelly, P.E.

Tomlinson Asphalt Co., Inc.
Civil Engineering Division

PHONE (479) 521-3179

1411 W. VAN ASCHE
FAYETTEVILLE, ARKANSAS 72704

May 19, 2004

City of Fayetteville
113 West Mountain Dr.
Fayetteville, Arkansas 72701

Attn: Planning Department

RE: Lamberth/Carlton Rezoning

To Whom It May Concern:

On behalf of my clients, Mr. Mike Lamberth and Mr. Clay Carlton, the following information is submitted to supplement the attached application to rezone 17.5 acres from R-A to RSF-4. The property is currently owned by Mr. Dash Goff. The sale of the property is subject to the approval of both rezoning and preliminary plat. Mr. Lamberth and Mr. Carlton are proposing a 48 lot residential subdivision, north of Goff Farm Road and slightly north east of the Stonebridge Meadows Golf Course Club House. The requested zoning and to be proposed development are in keeping with nature of the surrounding subdivisions. This property has City of Fayetteville water available via an existing 6" line along its southern boundary (Goff Farm Road). Sewer is not immediately available. Plans for a lift station will have to be incorporated into this project. Thank you for your consideration in this matter. If you have any questions regarding this project please call me at 521-3179 (ofc), or 263-0556 (cell).

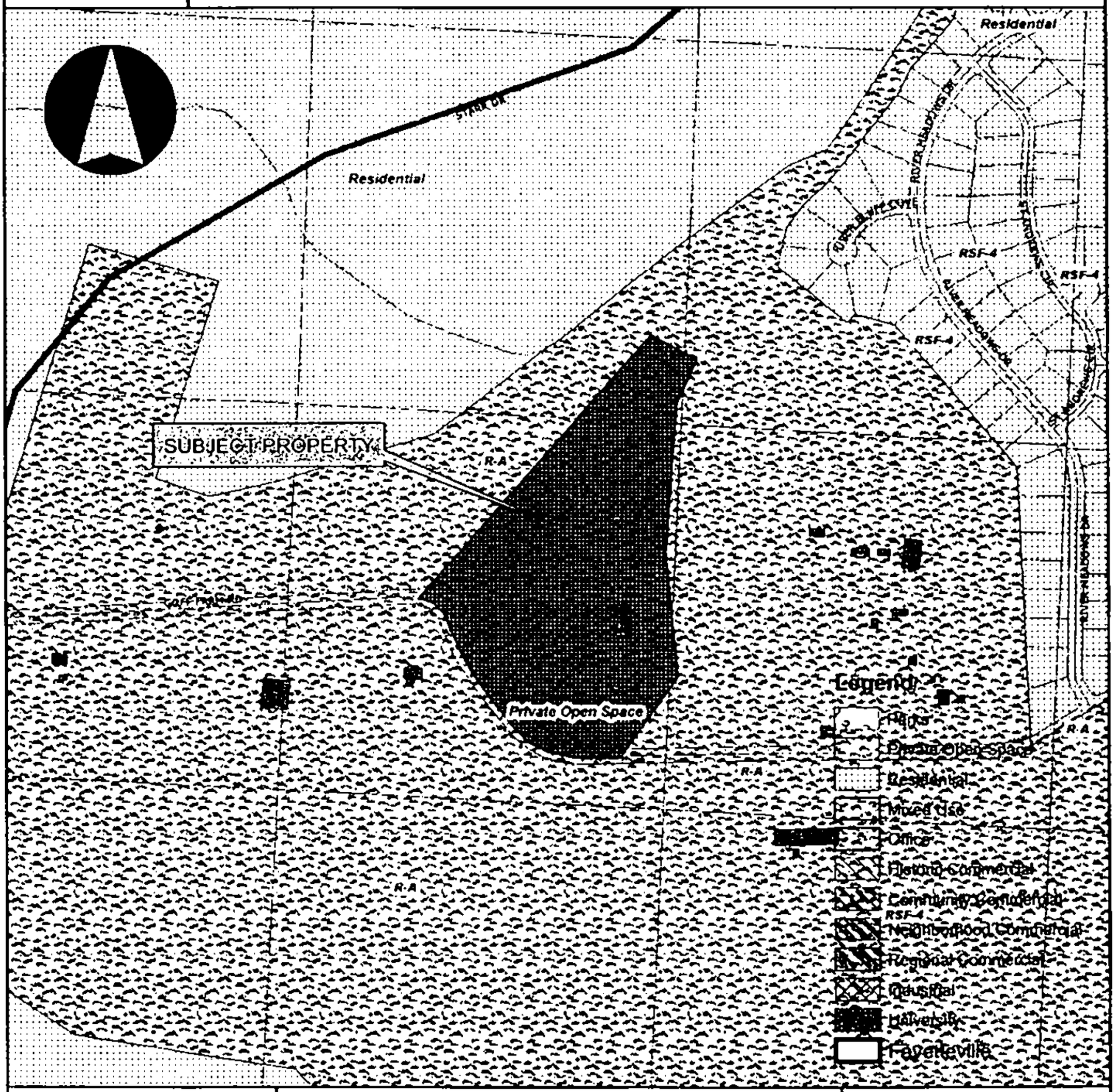
Sincerely,

Thomas A. Hennelly, P.E.

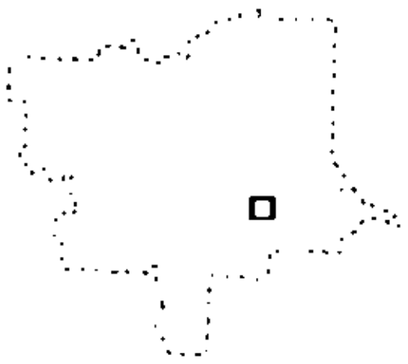
RZN04-1104

*Future Land Use*

# GOFF




*Overview*



*Legend*

**Subject Property**

RZN04-1104

**Streets**

Existing

Planned

**Boundary**

Planning Area

Overlay District

Outside City

**Master Street Plan**

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

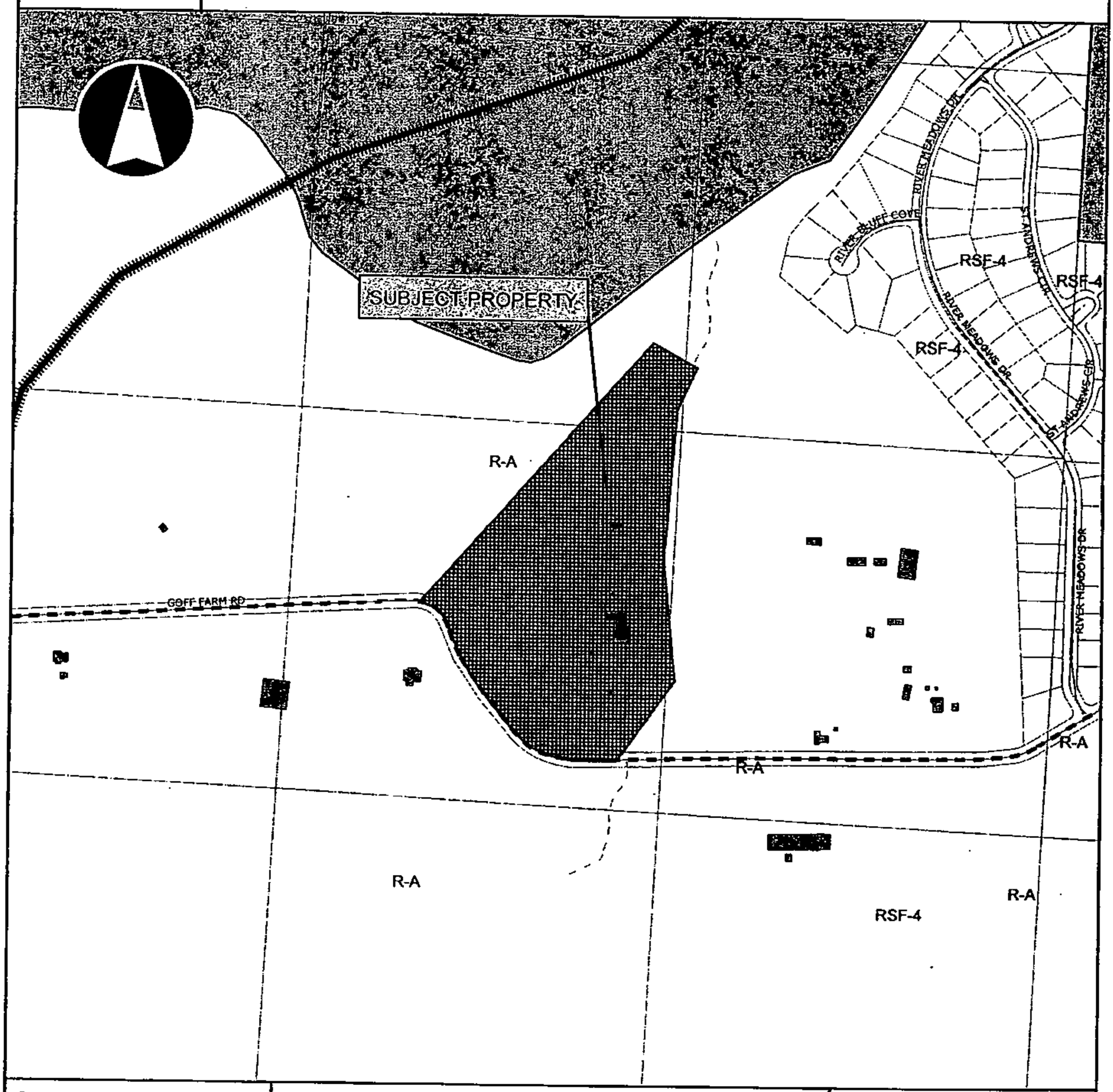
0 200 400 800 1,200 1,600

Feet

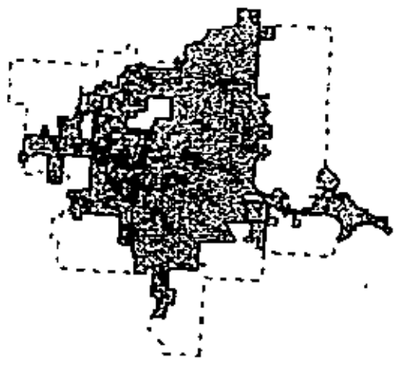
RZN04-1104

*Close Up View*

# GOFF




*Overview*



**Legend**

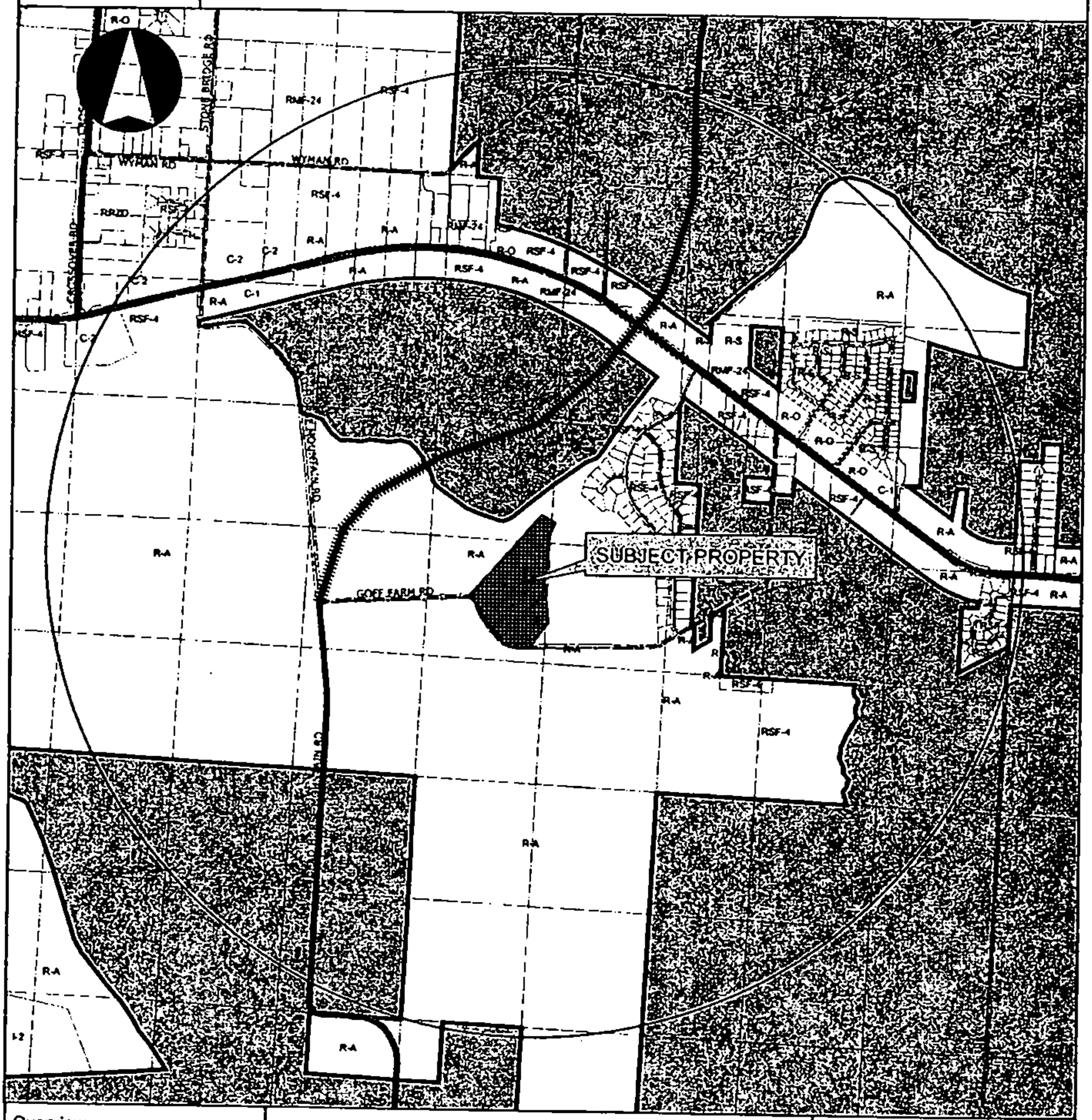
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
Baseline Profile
RZN04-1104
Fayetteville
Outside City

0 200 400 800 1,200 1,600
Feet

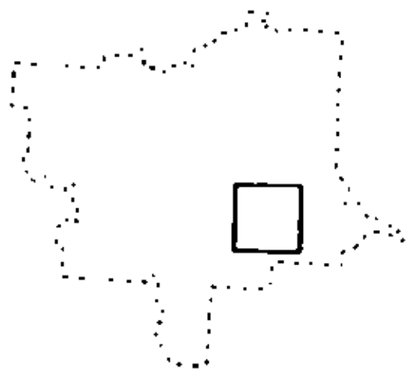
RZN04-1104

One Mile View

# GOFF




Overview



Legend

Subject Property

RZN04-1104

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 28, 2004*
*Page 86*

**RZN 04-1104: Rezoning (GOFF, 607)**: Submitted by TOM HENNELLY for property located at GOFF FARM ROAD, ACROSS FROM STONEBRIDGE MEADOWS GOLF COURSE CLUB HOUSE. The property is currently zoned R-A, Residential Agricultural, and contains approximately 17.50 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: Our next item is RZN 04-1104 for property located at Goff Farm Road.

Morgan: The subject property is located north of Goff Farm Road. The property is currently vacant with one single family home and surrounded to the south and west by Stonebridge Meadows Golf Course, zoned R-A and a creek to the east. The property immediately to the east is a large field with two single family dwellings. Further to the east is property developed as Stonebridge Meadows Phase I. Stonebridge Meadows Phase II is under construction just to the south of Phase I and was rezoned to RSF-4 in May, 2003. The applicant requests that the subject property be rezoned from R-A, Residential Agricultural to RSF-4 to develop a 48 lot residential subdivision as an extension of the approved surrounding subdivisions. Again, property to the north, south, east and west is R-A with two residential subdivisions to the east. The future land use plan designates this site for private open space. Staff finds that rezoning the property to RSF-4 is consistent with the land use plan in such that it will allow residential uses to be located in close proximity to the open space, the golf course, and is compatible with surrounding properties. Rezoning the subject property will be consistent with the previous rezoning actions in the surrounding area and it will promote orderly and consistent development patterns making use of existing infrastructure. Police have found that rezoning this property will not substantially alter the population density, thereby undesirably increasing the load on police services. Therefore, staff is recommending approval of the rezoning request based on these findings.

Ostner: Is the applicant present?

Hennelly: I'm Tom Hennelly with Tomlinson Asphalt Company. I'm the project engineer representing Mike Lambert and Clay Carlton. This rezoning that we are requesting, like Suzanne said is Dash Goff's parent's place. It is 17 acres. The property is 17.5 acres total but about 2 of those acres is the lake that is on the east side of it so you are really only looking at about 15 acres available for development.

Ostner: Thank you. At this time I will open it up to the public. Would anyone like to speak to this rezoning request? Seeing none, I will close it to the public and bring it back to the Commission.

*Planning Commission*
*June 28, 2004*
*Page 87*
**MOTION:**

Shackelford: Based on the lengthy conversation that we have had regarding rezoning tonight I think this falls in line with a lot of those same comments. This rezoning request is in line with development that has occurred in this area and I think it is compatible with what we want to see in this area. I am going to make a motion that we recommend approval of RZN 04-1104 to City Council.

Trumbo: Second.

Ostner: I would like to talk about traffic again. We probably don't have any more answers now than we did on the last issue. Hwy. 16 is terrible. It is backed up for miles. Do you know any information when the state might be widening?

Warrick: Other than that is a state highway and I don't know of any projects that are slated at this point in time on the highway capital lists for Hwy. 16.

Ostner: My second question was on the fire report. They gave a response time of 8 to 9 ½ minutes. That concerns me. The Fire Department has stated that their goal is for 90% of their calls to be 7 minutes or under. The reason that is their goal is our rating as a city falls when more than 90% of the calls take longer than 7 minutes. On page 17.4 the finding under fire does say that the proposed fire station #3 will be located 2.3 miles from the property having a projected response time of 5 to 6 ½ minutes at maximum build out. I don't believe that's really relevant. We have tried for years and we are finally breaking ground on fire station #7. I'm concerned that this is too far out to be developed.

Allen: I have the same concerns.

Graves: This is certainly an area if you look at the one mile view on page 17.12 of our packet that the fire department is already servicing and will have to service both on the northern edge of Hwy. 16 and on the southern edge of Hwy. 16. This is not going to appreciably increase the response times that the fire department is already facing in areas that have already been annexed in and developed. There are also on the northern side two islands that are currently under consideration by ordinance for annexation in by the City Council. You are going to continue to see the fire department have to go this distance to service this area and they already traverse Hwy. 16 as it is because if you look at our city map we go all the way out that far as it is along Hwy. 16 and they are going to continue to have to service this area. The fire department certainly has a lot of plans on the board for trying to be proactive rather than reactive as they have had to be in the past. As you well know, without development out there, without the need

to go out there and service those areas the chances of getting the fire department constructed in those areas aren't going to occur to service one or two developments. They are going out that far already and their response times aren't going to be different for this one parcel than they are for areas that have already been developed.

Ostner: I appreciate that. The counter point is two wrongs don't make a right. Poor service to an extreme edge of our town does not mean to increase poor service. Yes, the fire department needs more stations. However, once again this is an issue of not if to rezone but how much, where and when. There is a great deal of vacant property that they drive by on their way to getting to service calls. If a more orderly development pattern were adhered to filling in those areas another fire station would come on line with less of a stretch. I just felt like I needed to respond to that.

Vaught: In my opinion in a way this is filling in because it is not annexed. It is a little bit closer to town. It has better access. I know there are roads on the Master Street Plan. There is one on here for Starr Drive but once again, when are we going to see that built. I don't see this as increasing the area just because it is already in the city limits and they are going to build a minimal number of houses on it. It would be great to see this stuff further west with development west of Dead Horse Mountain Road. To me this is more of a filling in. I learned at the one annexation meeting I attended was the fire department's meeting and they already service a good deal of even the planning area through mutual aid agreements. That was one of their points that they made as we were looking at annexations and rezonings saying we are already servicing those areas. They were very proactive in that meeting and spoke about the new fire stations they were wanting to get and changing their philosophy in the future. For that reason, I will be voting for this.

Hennelly: If I could also make a point. It was less than a year ago that Stonebridge Phase II was approved, 153 residential lots which are further away from the fire station than this parcel is and this being a maximum of I don't believe we would be able to get anymore than 48 lots on it. We will actually have a quicker response time than it will for the David Lyle subdivision or the 153 lots which the city approved less than a year ago.

Shackelford: I concur with what Commissioner Vaught and what Commissioner Graves said. I totally agree with that. As has been mentioned, we did take a look at the fire stations and the fire coverage as far as our annexation subcommittee. One of the interesting comments that I took out of that was that these proposed developments and increase in density and increase in development a lot of times that brings about improved infrastructure and they actually anticipate response times could decline as infrastructure is improved in some of these outlying areas.

Ostner: I understand that but when? It could be ten years of excessive response times, which is not good for anyone. I understand that the fire department does a great job.

Clark: I think this is a classic example of where I'm going to trust all of the city services who are repeatedly asked can you handle this? Can you handle this? Can you handle this? Without a doubt and without exception since I've been on this Commission a short amount of time they have said sure, we can do it. I would just encourage the City Council members when they hear budget this year and everybody starts asking for more personnel because they are understaffed because of all of this growth to kind of make some people accountable. I am going to vote for this just because I think Christian may have a point that this is some degree of infill. It is not an annexed area, it is already part of the city. We've got departments like fire and police saying we can handle it. If our ratings go down because they don't have fire stations online, they said they could do it.

Graves: I was maybe not as clear as I would've like to have been. This particular parcel is in the city. It is already being served by our fire department. Unless all of the houses that are going to be developed on that property all went up at the same time I would expect the response time for the parcel as developed is not going to be any different than the parcel not developed.

Allen: When we get these reports about response times I guess I hadn't really thought about, until tonight, that they are talking about what is existing and not what is to be built. That troubles me to know when it becomes significant. That seems quite a long time in terms of safety for someone who has called the fire department.

Warrick: Our fire department just recently updated the way that they do their reports. This is one of their new ones. You can see on page 17.7 that for a variety of projects that you are hearing tonight they are looking at various parameters as opposed to just a drive time, which is what we had been getting. They are looking at projected calls within time frames. For this project they are stating that the closest fire station is #5, the distance is 3.11 miles and a response time to the proposed area, that would be today, between 8 and 9 minutes. They also are looking at projected calls to that area. They've got software that works on these projections that they plug the numbers into. They are stating at maximum build out they would be looking at approximately 16 calls for service per year. Projected fire or other calls at maximum build out would be six per year. EMS calls at 10. Those two numbers combined equals their estimated 16 calls per year. It does reduce the response time by a few minutes if the future fire station #3 proposed would be installed in the area that they have targeted. They are

talking about build out and projections as opposed to our previous reporting which was just it takes this long for us to get there.

Allen: That is much more understandable, thank you. I guess sometimes I have concerns about how much we stretch one way and how much we stretch the other way and when we are going to pop.

Ostner: We have a motion and a second, is there further discussion?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of RZN 04-1104 was approved by a vote of 8-1-0 with Commissioner Ostner voting no.

Thomas: The motion carries by a vote of eight to one.

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1104 (Goff, pp 607) was submitted by Tom Hennelly for property located on Goff Farm Road north of the Stonebridge Meadows Golf Course Club House containing approximately 17.50 acres. The request is to rezone the subject property from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

STAFF RECOMMENDATION: Approval.

Dawn L Warrick — Division Head — 7/6/04 Date

Received in Mayor's Office — 7.7.04 Date

— City Attorney — 7/7/04 Date

— Department Director — Date

— Finance & Internal Services Dir. — Date

Hugh Earnett — Chief Administrative Officer — 7-1-04 Date

Dan Coody — Mayor — 7/7/04 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 7/6/04

City Council Meeting of July 20, 2004
Agenda Item Number

# 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

**Date:** June 29, 2004

**Subject**: Rezoning request for The Mill District (RZN 04-1111)

---

## RECOMMENDATION

Planning Staff recommends approval of the requested rezoning for The Mill District. This action will rezone a 1.95-acre tract of land from I-1, Heavy Commercial/Light Industrial to C-2, Thoroughfare Commercial. The request is to rezone the subject property to C-2.

## BACKGROUND

*Property Description:* The subject 1.95-acre tract of land is located at the northwest corner of S. School Ave. and 6th Street. Surrounding properties are zoned C-1, C-2, and I-1 and are developed as primarily commercial properties. The Mill District is a large scale, multi-use, infill development, approved in 2000. There are currently offices, a café, and attached residential condominiums occupying the property. The eastern-most portion of the Mill District tract, currently greenspace, is zoned C-2.

*Proposal:* The applicant proposes a rezoning of the subject property to facilitate development on the site in a manner more appropriate with the Future Land Use Plan designation for Mixed Use for this particular property. The I-1 zoning district does not allow many of the Use Units allowed within the C-2 zoning district, such as a barber shop or hair salon, tenants whom the applicant would like to accommodate.

## DISCUSSION

On June 28, 2004, the Planning Commission voted 9-0-0 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 04-1111 AS SUBMITTED BY ROB SHARP FOR PROPERTY LOCATED AT THE NORTHWEST CORNER OF SOUTH SCHOOL AVENUE AND 6TH STREET CONTAINING APPROXIMATELY 1.95 ACRES FROM I-1, HEAVY COMMERCIAL, LIGHT INDUSTRIAL TO C-2, THOROUGHFARE 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 I-1, Heavy Commercial, Light Industrial to C-2, Thoroughfare 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**

DRAFT

**EXHIBIT "A"**
**RZN 04-1111**

PART OF THE FORMER ARKANSAS AND MISSOURI RAILROAD RIGHT OF WAY BETWEEN BLOCKS 14 AND 21 OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, AND ALL OF LOTS 17 THROUGH 21 OF BLOCK 14 OF THE FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, AS DESIGNATED UPON THE RECORDED PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

WITH THE POINT OF BEGINNING BEING THE NORTHEAST CORNER OF ABOVE MENTIONED LOT 21 IN BLOCK 14 OF THE FERGUSON'S ADDITION; THENCE NORTH 87D 10' 16" WEST 182.10 FEET; THENCE NORTH 14D 4' 43" WEST 52.26 FEET TO A POINT ON SOUTH SIDE OF THE PRAIRIE AVENUE RIGHT OF WAY AND 30 FEET FROM SAID RIGHT OF WAY CENTERLINE; THENCE NORTH 87D 10' 16" WEST 60.95 FEET ALONG SAID PRAIRIE AVENUE RIGHT OF WAY TO A POINT ON THE CENTER PRAIRIE TRAIL RIGHT OF WAY; THENCE, SOUTH 2D 26' 34" WEST 76.27 FEET ALONG EAST SIDE OF SAID TRAIL RIGHT OF WAY; THENCE SOUTH 14D 4' 43" EAST 212.04 FEET ALONG EAST SIDE OF SAID TRAIL RIGHT OF WAY; THENCE IN A SOUTHERLY DIRECTION ALONG A CURVE WITH A RADIUS OF 445.71 FEET AND A START ANGLE OF NORTH 75D 55' 24" EAST AND AN END ANGLE OF SOUTH 84D 11' 48" EAST FOR A DISTANCE OF 154.65 FEET ALONG SAID TRAIL RIGHT OF WAY TO A POINT ON THE STATE HIGHWAY 180 RIGHT OF WAY; THENCE SOUTH 87D 2' 46" EAST 175.30 FEET ALONG SAID HIGHWAY RIGHT OF WAY; THENCE NORTH 4D 4' 19" EAST 191.34 FEET ALONG THE EASTERN SIDE OF LOTS 17 AND PART OF 18; THENCE NORTH 2D 12' 6" EAST 190.98 FEET TO THE POINT OF BEGINNING.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 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 21, 2004 |

**RZN 04-1111: Rezoning (THE MILL DISTRICT, 523):** Submitted by ROBERT SHARP for property located at THE NW CORNER OF S SCHOOL AVENUE AND 6th STREET. The property is currently zoned I-1, Heavy Commercial/Light Industrial, and contains approximately 1.95 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial. 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** | **YES** |
| | **☑ Approved** | **○ Denied** |
| **Date: June 28, 2004** | Anthes ① / Allen ② 9-0 | |
| **CITY COUNCIL ACTION:** | **Required** | **YES** |
| | **○ Approved** | **○ Denied** |
| **Date: July 20, 2004 (1st reading if recommended)** | | |

**Comments:** _____

_____

_____

**BACKGROUND:**

***Property description:*** The subject property is located at the northwest corner of 6th Street and S. School. The Mill District is a large scale, multi-use infill development approved in 2000. There are currently offices, a café and attached residential condominiums occupied on the property. Surrounding properties are zoned C-2, C-1 and I-1, and are developed primarily as commercial uses.

***Proposal:*** The applicant proposes a rezoning of the subject property to facilitate development on the site in a manner more appropriate with the Future Land Use Plan designation for Mixed Use for this particular property. The I-1 zoning district does not allow many of the Use Units allowed within the C-2 zoning district. The eastern-most portion of the Mill District tract, currently greenspace, is zoned C-2.

***Request:*** The request is to rezone the subject property from I-1, Light Industrial/Heavy Commercial to C-2, Thoroughfare Commercial.

**SURROUNDING LAND USE AND ZONING**

| Direction | Land Use | Zoning |
|---|---|---|
| North | American Milling Co. | C-2, Thoroughfare Commercial |
| South | 6th Street, Farmer's Cooperative | I-1, Lt Industrial/Heavy Commercial |
| East | Walgreens | C-2, Thoroughfare Commercial |
| West | SF home, business | C-1, Neighborhood Comm, I-1, Lt Ind. |

**INFRASTRUCTURE:**

**Streets:** The property fronts onto and is accessed from Sixth Street (Hwy 62) and S. School, both of which do not require improvements at this time.

**Water:** The property has access to a 6" water main along Sixth Street. This main should be sufficient for development of this property.

**Sewer:** The site has access to an 8" sewer main across the site. This main should be sufficient for development of this property.

**Fire:** The subject property is located 0.476 miles from Fire Station #1 on Center Street. Fire response time is approximately 1-2 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 Use. Rezoning this property to C-2 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 both commercial and residential in nature, with some limited industrial operations surrounding. A C-2 zoning district would allow the approved large scale development to realize many of its goals to provide a mixed use development, comprised of neighborhood commercial, retail, residential and office uses**

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 facilitate the Future Land Use plan for mixed use land use 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. Development plans have been approved for the subject property, however the underlying industrial zoning does not allow for many of the small retail shops and businesses allowed in a commercial zoning district.**

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 additional traffic danger and congestion.**

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

**Finding:** **The proposed zoning would not substantially 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 1-**

**2 minutes (approx. 0.476 miles) from station #1 on Center Street.**

*Engineering* - **The property fronts onto and is accessed from Sixth Street (Hwy 62) and S. School, both of which do not require improvements at this time.**

**The property has access to a 6" water main along Sixth Street. This main should be sufficient for development of this property.**

**The site has access to an 8" sewer main across the site. This main should be sufficient for development of this property.**

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**

## 161.17 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

| | |
|---|---|
| Unit 1 | City-wide uses by right |
| Unit 4 | Cultural and recreational facilities |
| Unit 12 | Offices, studios and related services |
| Unit 13 | Eating places |
| **Unit 14** | **Hotel, motel, and amusement facilities** |
| **Unit 15** | **Neighborhood shopping goods** |
| **Unit 16** | **Shopping goods** |
| Unit 17 | Trades and services |
| Unit 18 | Gasoline service stations & drive-in restaurants |
| **Unit 19** | **Commercial recreation, small sites** |
| **Unit 20** | **Commercial recreation, large sites** |
| **Unit 33** | **Adult live entertainment club or bar** |
| **Unit 34** | **Liquor store** |

(2) *Conditional uses.*

| | |
|---|---|
| Unit 2 | City-wide uses by conditional use permit |
| Unit 3 | Public protection and utility facilities |
| Unit 21 | Warehousing and wholesale |
| Unit 28 | Center for collecting recyclable materials |
| Unit 32 | Sexually oriented business |
| 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 | 15 ft. |
| Rear | 20 ft. |

(F) *Height regulations.* In District C-2 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. No building shall exceed six stories or 75 feet in height.

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

## 161.20 District I-1, Heavy Commercial And Light Industrial

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted uses.*

| | |
|---|---|
| Unit 1 | City-wide uses by right |
| **Unit 3** | **Public protection and utility facilities** |
| Unit 4 | Cultural and recreational facilities |
| **Unit 6** | **Agriculture** |
| Unit 12 | Offices, studios and related facilities |
| Unit 13 | Eating places |
| Unit 17 | Trades and services |
| Unit 18 | Gasoline service stations & drive-in restaurants |
| **Unit 21** | **Warehousing and wholesale** |
| **Unit 22** | **Manufacturing** |
| **Unit 25** | **Professional offices** |
| **Unit 27** | **Wholesale bulk petroleum storage facilities with underground storage tanks** |

(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.

May 27, 2004

REGISTERED
ROBERT SHARP, ARCHITECT, INC.
525 SOUTH SCHOOL AVE STE 220
FAYETTEVILLE AR
PHONE: 479-442-0229
FAX: 479-442-8721
RSA

Planning Department
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

**RE: MILL DISTRICT REZONING**

To the Fayetteville Planning Commission and City Council:

The Mill District project at 525 South School is currently zoned both C-2 and I-1. This request for rezoning is to change the I-1 portion to be C-2.

The Fayetteville General Plan 2020 specifically requests private mixed-use development on the south side of town: "Much of south Fayetteville is shown as a mixed use area because it is in need of redevelopment and can accommodate future development."[1] The Mill District Project has advanced this goal directly by accommodating many varying uses.

However, due to the restructuring of the Use Units in the Unified Development Ordinance in the summer of 2003, some of the previously allowed uses are no longer acceptable under the I-1

---

[1] Fayetteville General Plan 2020, December 1995, page 74.

However, due to the restructuring of the Use Units in the Unified Development Ordinance in the summer of 2003, some of the previously allowed uses are no longer acceptable under the I-1 "Light Industrial / Heavy Commercial" zoning. For instance, a small barber shop or hair salon is no longer allowed. For this reason, the owner would like to change the zoning to all be C-2 zoning which will allow a greater mix of services for the burgeoning neighborhood.

Although these changes will most likely become unnecessary when the Dover-Kohl recommended form-based code system is put in place, which will encourage mixed-uses, the owner cannot wait until that ordinance takes affect.

We appreciate your consideration of this issue, and the resulting further development of quality services on the south side of Fayetteville.

Sincerely,

Laura Kelly

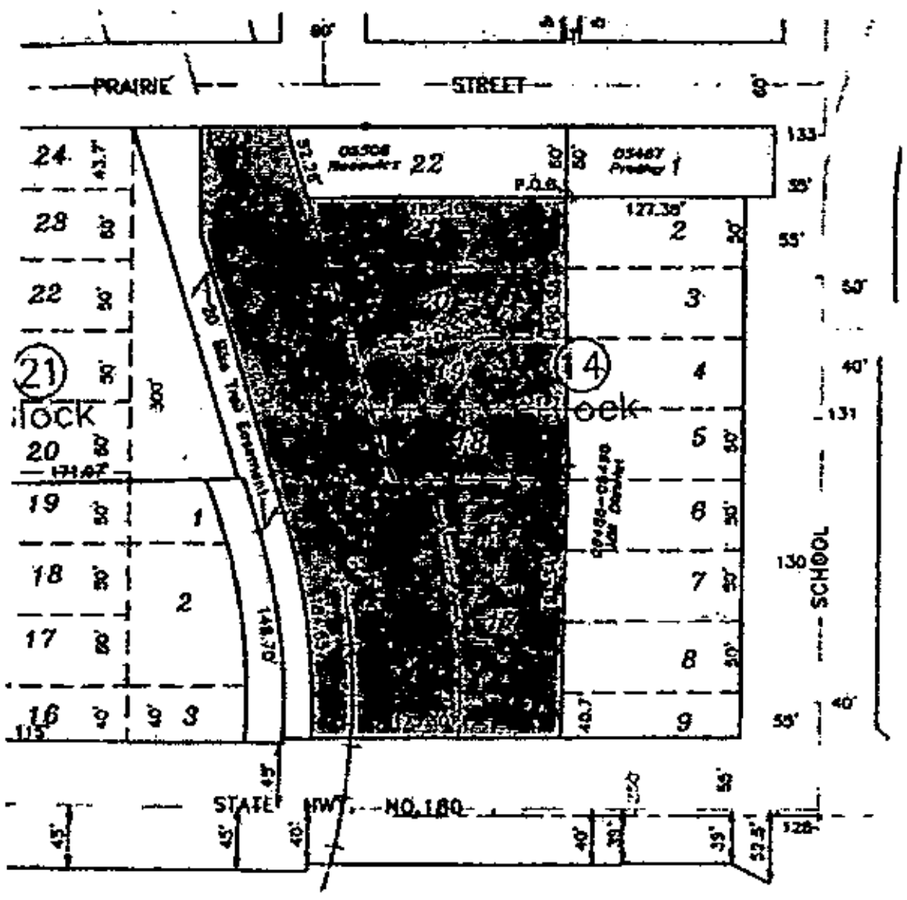
Robert Sharp, Architect

# Exhibit "A"

Legal Description of the I-1 area of the Mill District:

Part of the former Arkansas & Missouri Railroad right of way between Blocks 14 and 21 of Ferguson's Addition to the City of Fayetteville, and all of Lots 17 through 21 of Block 14 of the Ferguson's Addition to the City of Fayetteville, as designated upon the recorded plat of said Addition on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and more particularly described as follows:

With the Point of Beginning being the northeast Corner of above mentioned Lot 21 in Block 14 of the Ferguson's Addition; thence North 87d 10' 16" West 182.10 feet; thence North 14d 4' 43" West 52.26 feet to a point on south side of the Prairie Avenue right of way and 30 feet from said right of way centerline; thence North 87d 10' 16" West 60.95 feet along said Prairie Avenue right of way to a point on the Center Prairie Trail right of way; thence, South 2d 26' 34" West 76.27 feet along east side of said trail right of way; thence South 14d 4' 43" East 212.04 feet along east side of said trail right of way; thence in a Southerly direction along a curve with a radius of 445.71 feet and a start angle of North 75d 55' 24" East and an end angle of South 84d 11' 48" East for a distance of 154.65 feet along said trail right of way to a point on the State Highway 180 right-of-way; thence South 87d 2' 46" East 175.30 feet along said highway right-of-way: thence North 4d 4' 19" East 191.34 feet along the eastern side of Lots 17 and part of 18; thence North 2d 12' 6" East 190.98 feet to the Point of Beginning.




← Shaded area represents area described by above legal description.

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

Signature _____
Applicant's Signature

Laura Kelly, Robert Sharp Architect
28 May 2004

## Fayetteville Fire Department Service Delivery Impact: Zoning Review June 21,2004

| 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| ANX 04-1083 | Marinoni | | 78.84 | Future FS 7 | 0.493 miles | 1 minute | 1-3.5 minutes | | | |
| RZN 04-1084 | Marinoni | | | | | | | 72/year | 29/year | 43/year |
| ANX 04-1090 | Hays | | 37.3 | Future FS 7 | 1.97 miles | 4-5 minutes | 4-6.5 minutes | | | |
| RZN 04-1091 | Hays | | | | | | | 34/year | 13/year | 21/year |
| RZN 04-1099 | Brisiel | | | Future FS 7 | 2.13 miles | 5-6 minutes | 5-6 minutes | 2/year | .80/year | 1.2/year |
| ANX 04-1100 | Harper/Brandon | | 9.99 | FS 4 | 4.73 miles | 13-14 minutes | 13-14.5 minutes | | | |
| | | | | Future FS 5 | 3.36 miles | 8-9 minutes | 8-9.5 minutes | | | |
| RZN 04-1101 | Harper/Brandon | | | | | | | 9/year | 3/year | 6/year |
| RZN 04-1102 | Bradberry/Woolv. | | | FS 1 | 0.337 miles | 1 minute | 1 minute | | | |
| RZN 04-1103 | Collins | | | FS 2 | 0.633 miles | 3-4 minutes | 3-4 minutes | 5/year | 2/year | 3/year |
| RZN 04-1104 | Goff | | | FS 5 | 3.11 miles | 8-9 minutes | 8-9.5 minutes | 16/year | 6/year | 10/year |
| | | | | Future FS 3 | 2.33 miles | 5-6 minutes | 5-6.5 minutes | 16/year | 6/year | 10/year |
| RZN 04-1111 | The Mill District | | | FS 1 | 0.476 miles | 1-2 minutes | 1-2 minutes | | | |

Insufficient Data for Calculations

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS — POLICE DEPARTMENT

June 18, 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 04-1111: Rezoning (The Mill District pp 523)** submitted by Robert Sharp for property located a the NW corner of S. School Ave and 6th Street would substantially alter the population density and thereby undesirably increase the load on public services or create and appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

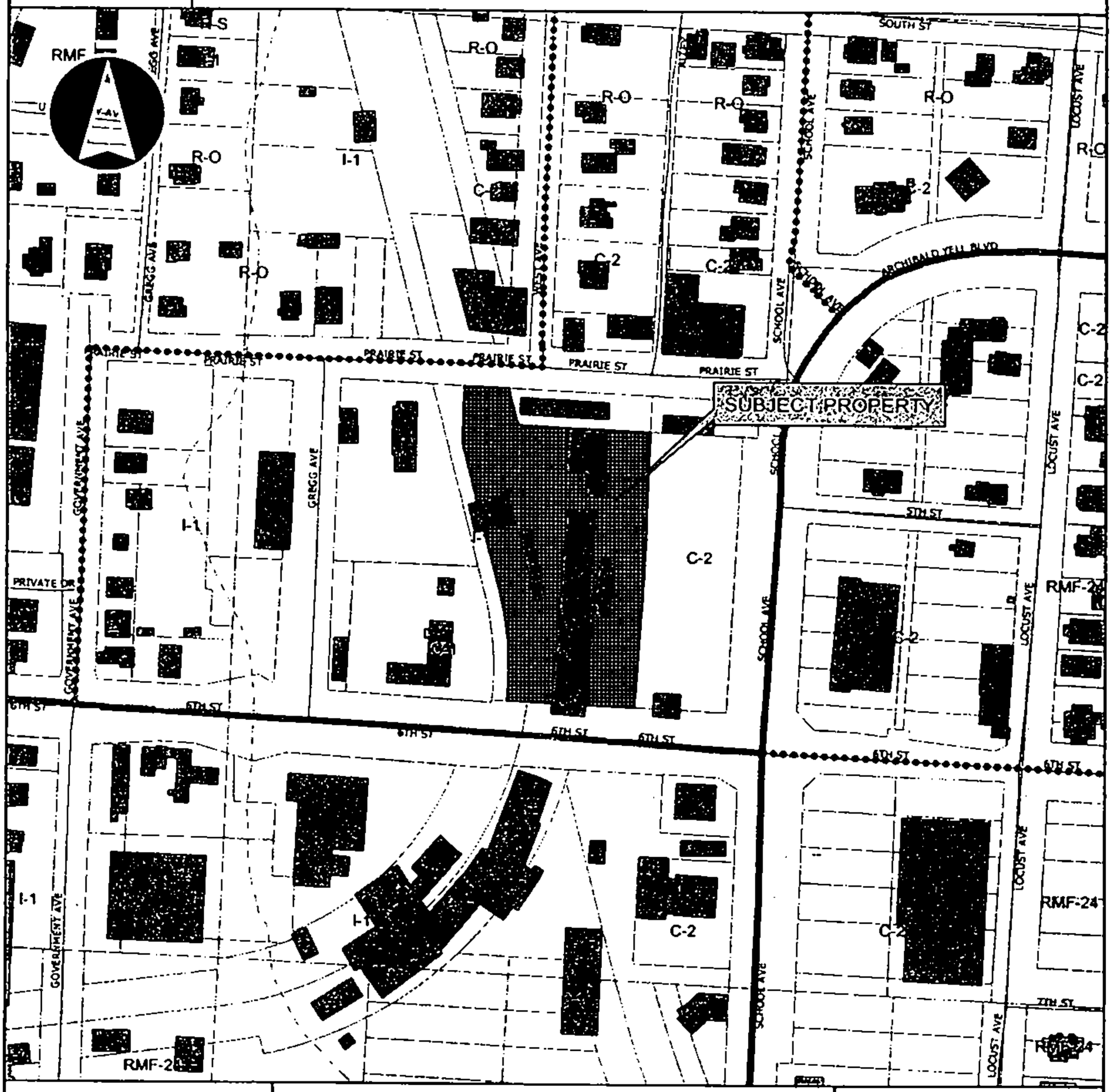
AYETTEVILLE POLICE DEPARTMENT
:O. BOX 1988
AYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

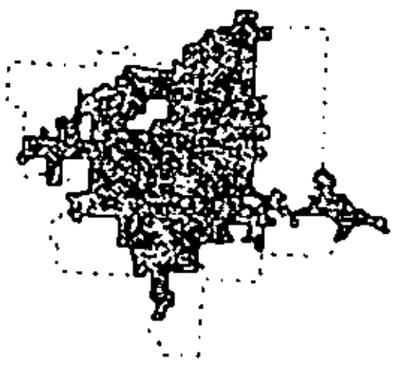
RZN04-1111

*Close Up View*

# THE MILL DISTRICT, LLC




*Overview*



Legend

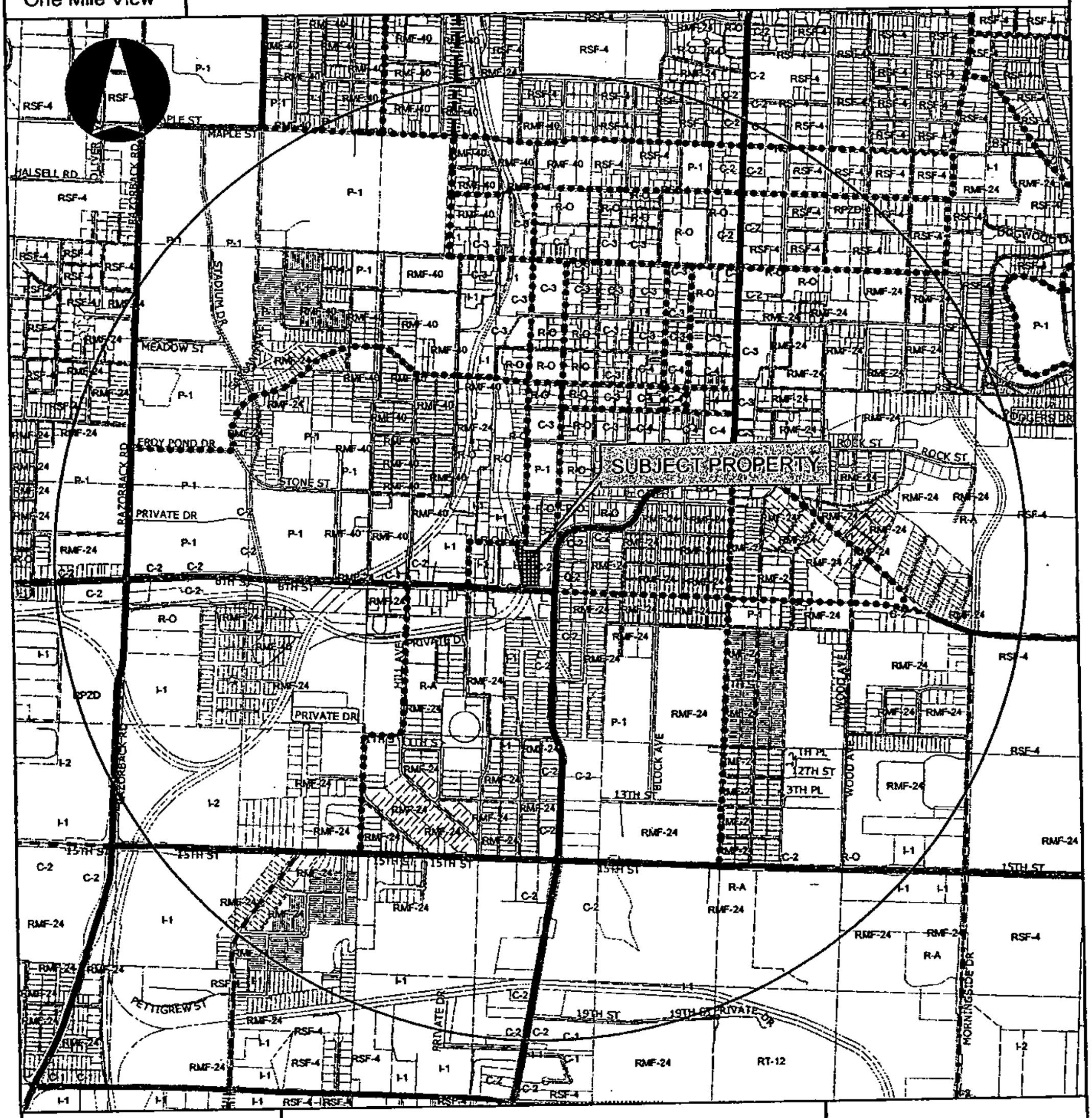
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- RZN04-1111
- Fayetteville
- Outside City

0 75 150 300 450 600 Feet

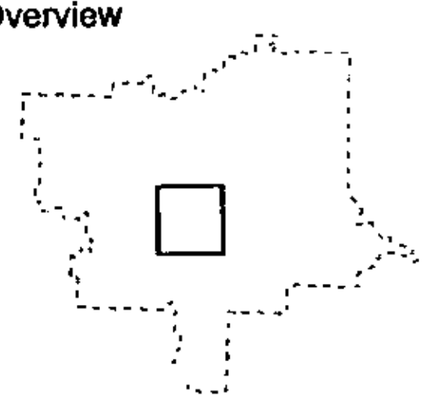
RZN04-1111

One Mile View

# THE MILL DISTRICT, LLC




Overview



Legend

Subject Property

RZN04-1111

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

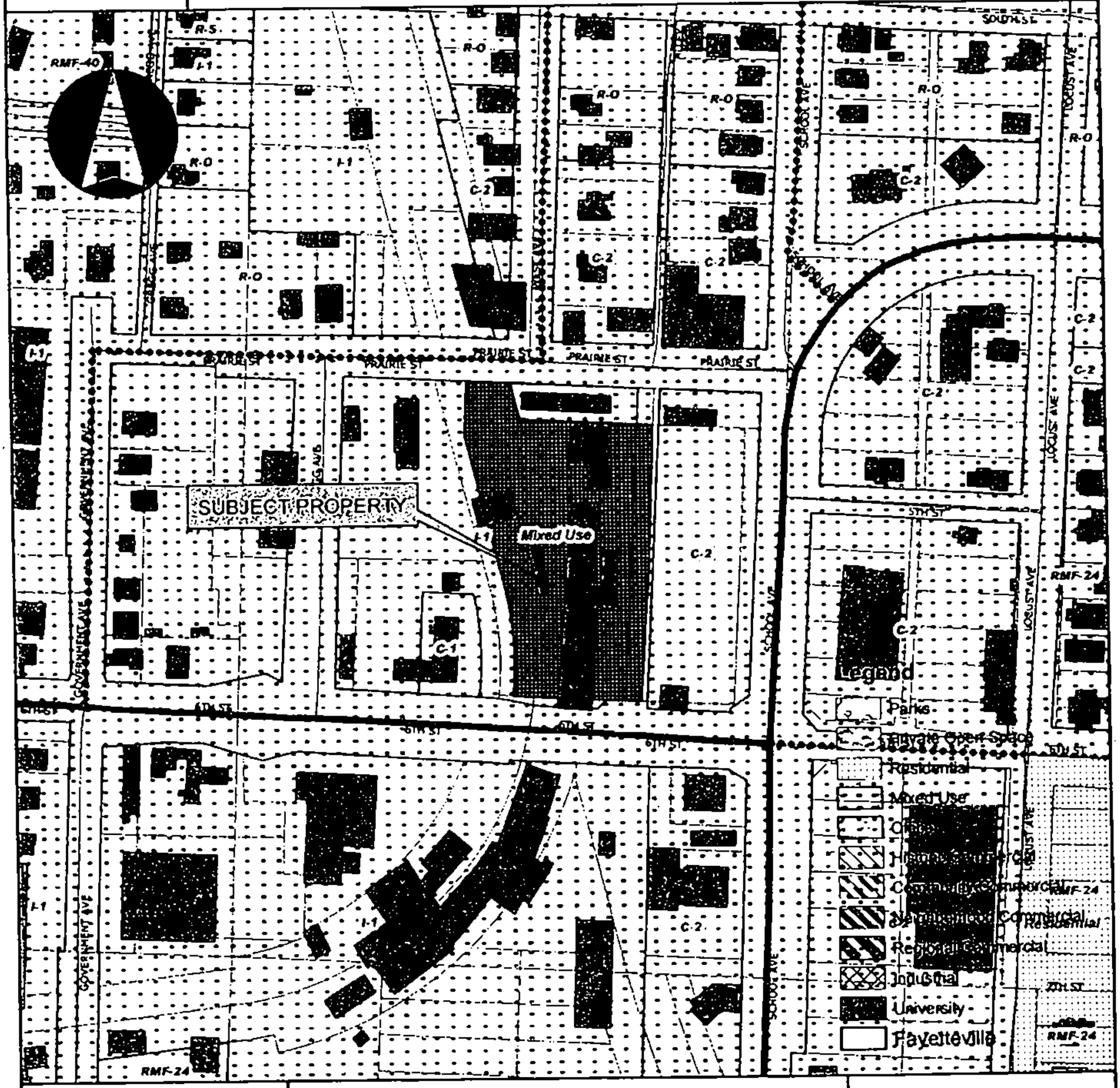
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN04-1111

# THE MILL DISTRICT, LLC

*Future Land Use*



*Planning Commission*
*June 28, 2004*
*Page 83*

**RZN 04-1111: Rezoning (THE MILL DISTRICT, 523):** Submitted by ROBERT SHARP for property located at THE NW CORNER OF S SCHOOL AVENUE AND 6th STREET. The property is currently zoned I-1, Heavy Commercial/Light Industrial, and contains approximately 1.95 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial.

Ostner: The next item on our agenda is RZN 04-1111.

Pate: This property is located at the northwest corner of S. School Avenue and 6th Street. It is currently zoned I-1, Heavy Commercial/Light Industrial and contains approximately 1.95 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial. The Mill District is a large scale, multi-use infill development project which was approved in the year 2000. Surrounding properties are zoned C-2, C-1 and I-1 and are developed primarily with commercial uses. The second half of the property is actually adjacent to 6th Street and S. School is already zoned C-2 which was processed as a Large Scale Development as an I-1 and C-2 zoning district. The applicant is proposing a rezoning of the subject property to facilitate development on the site in a manner which is more appropriate with the Future Land Use Plan designation from mixed use for this particular property. The I-1 zoning district does not allow many of the use units allowed within a commercial zoning district. The easternmost portion of the Mill District tract, which is currently greenspace, is zoned C-2. Staff finds that the proposed rezoning is consistent with land use plan objectives, principles and policies, as well as the future land use plan designation for mixed use in this area. Staff is recommending approval of the request by the applicant to rezone the property to C-2.

Ostner: Thank you. Is the applicant present? If you could introduce yourself and give us your presentation please.

Sharp: My name is Robert Sharp. I represent the Mill District LLC. We concur with the staff report for the recommended rezoning. I feel it is a more appropriate land use for that part of town and I would be happy to answer any questions.

Ostner: Thank you. At this point I will open it up to the public. Is there anyone from the public who would like to speak to this issue, rezoning of the Mill District? Seeing none, I will close it to the public and bring it back to the Commission. There are still some areas surrounding this that are zoned Industrial, how does this rezoning affect their zones?

Warrick: It doesn't affect their zones.

Ostner: Don't they get different setbacks and different rules when they abut a commercial zone?

Warrick: Usually the distances are based on commercial or industrial. There may be some slight setback changes but primarily when you have a difference between the setback from the boundary of an industrial property it would be a setback difference at a greater distance if the property adjacent were residential or agricultural and a lesser setback if the property was commercial or industrial.

Ostner: Thank you.

Anthes: I love this project. I wondered if you would be willing to omit Use Unit 18 from the rezoning request? Use Unit 18 is Gasoline Service Stations and Drive In Restaurants. I believe that this project and this piece of property and the way it is developed is walkable. The farmers market there on Thursday is great and I would hate to see drive through lanes and moving traffic through this site. Not that you would ever propose that but another owner in the future might. I would like for you to consider that and I wondered if you had comments.

Williams: Before you answer that I need to make a comment. That is in the nature of a Bill of Assurance that cannot be requested by the Planning Commission. You don't need to respond to that and probably should not and we should not make requests like that to applicants for rezonings.

Anthes: We know we have seen those things on other rezonings before and if the applicant likes to bring something like that forward they may. Is that the way those have happened in prior rezoning requests?

Williams: Yes. The applicant is the one who voluntarily offers such Bill of Assurance rather than being requested by either the City Council or the Planning Commission to in fact, bring forth a Bill of Assurance.

Anthes: I had seen those before and I stand corrected, thank you.

Ostner: If I could comment to that item. I believe Dover, Kohl drew a gas station that none of us had ever thought of. It didn't look like a gas station. It was sort of an alleyway. I think it was the corner of Maple and College. I live near this area. If someone could tuck a gas station like that I would be thrilled to not have to drive to Razorback to get gas. This is the proposed downtown master plan but the zone they are calling for I believe they are calling it neighborhood edge, are you familiar with that?

Sharp: I believe it is neighborhood center. It would allow the kind of use that we are talking about for this property, which is a hair salon and a dress shop.

Ostner: That was my next set of questions is if the master plan were approved in it's current form how would that affect this rezoning request?

Warrick: It wouldn't unless an ordinance were then approved to support the zoning designations that are suggested within that plan. That is what is moving forward through the review process. It is an informational item being presented to the City Council next week and staff is pleased that we are finally able to get the plan out for review. It is still going to take some time. Once the study has been adopted if the Council so chooses, then we will be directed to follow that up with ordinances to implement the plan.

Ostner: I guess what I'm shooting at is does this rezoning request fall in line with the goals and strategies of the downtown master plan?

Warrick: We believe it does within the parameters of our current zoning designation.

Ostner: Thank you.

**MOTION:**

Anthes: I move for approval of RZN 04-1111 with a positive recommendation to City Council.

Allen: I will second.

Ostner: Is there further discussion? Renee?

**Roll Call:** Upon the completion of roll call the motion to recommend approval of RZN 04-1111 was approved by a vote of 9-0-0.

Thomas: The motion carries by a vote of nine to zero.

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: July 20, 2004

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1111 (The Mill District, pp 523) was submitted by Rob Sharp for property located at the northwest corner of South School Avenue and 6th Street containing approximately 1.95 acres. The request is to rezone the subject property from I-1, Heavy Commercial, Light Industrial to C-2, Thoroughfare Commercial.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick — 7/1/04
Division Head — Date

7/7/04
City Attorney — Date

Received in Mayor's Office 7.7.04 Date

Department Director — Date

Finance & Internal Services Dir. — Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

Hugh Earnest — 7-7-04
Chief Administrative Officer — Date

Don Caddy — 7/7/04
Mayor — Date

ENTERED 7/6/04

# 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 21, 2004**

RE: **Passed Resolutions and Ordinances from City Council meeting of July 20, 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. **Architectural Contractors T-Hangar Construction:** Resolution awarding construction contract to Architectural Contractors, Inc., in the amount of $314,135.00 to construct T-Hangar "H" at the Fayetteville Municipal Airport; approving 5% project contingency of $15,707.00 and approving budget adjustment of $9,695.00 for same;

2. **Federal Aviation Administration Lease:** Resolution approving 10 year lease of brick building at Municipal Airport to Federal Aviation Administration at beginning monthly rent of $2,350.00;

3. **Tomlinson Asphalt-Wilson Park Basketball Court:** Resolution awarding contract to Tomlinson Asphalt Company, Inc. in amount of $32,977.00 for renovation of Wilson Park Basketball Court; and approving project contingency in amount of $3,298.00;

4. **Arkansas Parks & Tourism Grant for Braden Park Project:** Resolution authorizing Fayetteville Parks and Recreation Division to apply for Arkansas Parks and Tourism Outdoor Recreation Grant in amount up to $50,000.00 for Braden Park project;

5. **One New Holland Tractor Purchase:** Resolution approving purchase of one New Holland TS115A tractor from Williams Tractor and one Tiger TRB-50C 20' side mower from Countryside JD in the amount of $67,859.00;

6. **Two New Holland Tractors Purchase:** Resolution approving purchase of two New Holland TS115A tractors from Williams and two Tiger TRR 120C mowers from Countryside JD in amount of $129,332.00;

7. **Scottsdale Insurance:** Resolution approving budget adjustment in amount of $55,000.00 to add funds to the miscellaneous program to offset payments to Scottsdale Insurance;

8. **COPS Methamphetamine Training Grant:** Resolution authorizing Mayor Coody to apply for a $164,900.00 grant from COPS Methamphetamine Training Initiative;

9. **McClinton-Anchor Taxiway Extension:** Resolution awarding construction contract to APAC-Arkansas, Inc., McClinton-Anchor, Division in amount of $607,078.90 to construct taxiways "A" and "E" extensions at Fayetteville Municipal Airport; and approving 10% project contingency of $60,708.00;

10. **R-PZD 04-1075:** Ordinance establishing Residential Planned Zoning District (R-PZD 04-1075) located at Lot 6C, Vantage Square containing approximately 11.525 acres, more or less; amending Official Zoning Map of City of Fayetteville and adopting Associated Residential Development Plan as approved by Planning Commission;

11. **Annexation of U of A land:** Ordinance annexing into City of Fayetteville a large parcel of land owned by U of A which is completely surrounded by the incorporated limits of Fayetteville;

12. **Annexation of Islands:** Ordinance annexing into City of Fayetteville several parcels completely surrounded by incorporated limits of Fayetteville;

13. **Annexation of Islands:** Ordinance annexing into City of Fayetteville six parcels surrounded by incorporated limits of Fayetteville;

14. **Annexation of Islands:** Ordinance annexing into City of Fayetteville certain lands south of Huntsville Road which are completely surrounded by incorporated limits of Fayetteville;

15. **Tyson Food Company Building Purchase:** Resolution authorizing city staff to develop and present to Tyson Foods, Inc. an offer and acceptance contract for purchase of property located at 1851 E. Huntsville Road in amount not to exceed $1,100,000.00, conditioned on further City Council approval; and approving budget adjustment in amount of $1,000,000.00 for property purchase and $551,000.00 transfer from General Fund to Sales Tax Capital Improvement Fund;

16. **OPO Enterprises, Inc. – Square Garden Lease:** Resolution approving two year lease of 1.676 square feet of city property adjoining the Old Post Office building to OPO Enterprises, Inc. for an annual rental of $2,400.00;

17. **Lake Fayetteville Spillway Bridge & Trail:** Resolution awarding contract to Mobley Contractors, Inc. in amount of $877,709.20 to construct Lake Fayetteville Spillway Bridge and multi-use trail; approving project contingency in amount of $43,885.00 and approving budget adjustment in amount of $376,340.00 for same;

18. **ANX 04-1100:** Ordinance calling for simultaneous detachment of about 10 acres owned by Craig and Karyn Harper from City of Springdale and the annexation of those lands into the City of Fayetteville;

19. **RZN 04-1101:** Ordinance rezoning property described in rezoning petition RZN 04-1101 as submitted by Michelle Harrington on behalf of Gary Brandon Enterprises for property located at the south side of Albright Road, west of George Anderson Road containing approximately 9.99 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre;

20. **RZN 04-1099:** Ordinance rezoning that property described in rezoning petition RZN 04-1099 as submitted by Tim Brisiel for

property located south of Mt. Comfort Road and west of Alpine Avenue containing approximately 2.19 acres from P-1, Institutional to RSF-4, Residential Single Family, four units per acre;

21. **RZN 04-1111:** Ordinance rezoning property described in rezoning petition RZN 04-1111 as submitted by Rob Sharp for property located at northwest corner of S. School Avenue and 6th St., containing approximately 1.95 acres from I-1, Heavy Commercial, Light Industrial to C-2, Thoroughfare Commercial;

22. **Amber Drive Drainage**: Resolution approving budget adjustment of $100,000.00 to finance drainage improvements for Amber Drive.

Remove Item #19

Add Grant COPS Training

**Tentative Agenda**
**City Council Meeting**
**July 20, 2004**

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

Add I-540 Sale proceeds

**A. CONSENT:**

1. **Approval Of The Minutes:** Approval of the July 6, 2004 meeting minutes.

2. **Architectural Contractors T-Hangar Construction:** A resolution awarding a construction contract to Architectural Contractors, Inc. in the amount of $314,135.00 to construct T-Hangar "H" at the Fayetteville Municipal Airport; approving a five percent (5%) project contingency of $15,707.00; and approving a budget adjustment of $9,695.00 for same.

3. **Federal Aviation Administration Lease**: A resolution to approve a ten year lease of a brick building at the Municipal Airport to the Federal Aviation Administration at a beginning monthly rent of $2,350.00.

4. **Tomlinson Asphalt–Wilson Park Basketball Court:** A resolution awarding a contract to Tomlinson Asphalt Company, Inc. in the amount of $32,977.00 for the renovation of the Wilson Park Basketball Court; approving a project contingency in the amount of $3,298.00.

5. **Arkansas Parks and Tourism Grant for Braden Park Project:** A resolution authorizing the Fayetteville Parks and Recreation Division to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount up to $50,000.00 for the Braden Park Project.

6. **One New Holland Tractor Purchase:** A resolution approving the purchase of one (1) New Holland TS115A Tractor from Williams Tractor and one (1) Tiger TRB-50C 20' side mower from the Countryside JD in the amount of $67,859.00.

7. **Two New Holland Tractors Purchase:** A resolution approving the purchase of two (2) New Holland TS115A Tractors from Williams Tractor and two (2) Tiger TRR120C mowers from Countryside JD in the amount of $129,332.00.

Remove / Added to Special City Council Meeting 7/13/04

8. **School Street Improvements:** A resolution approving the improvement schedule for School Avenue from Archibald Yell Boulevard to the intersection with Mountain Street; and approving a budget adjustment in the amount of $278,000.00 for same.

9. **Scottsdale Insurance:** A resolution approving a budget adjustment in the amount of $55,000.00 to add funds to the miscellaneous program to offset payments to Scottsdale Insurance.

Add to Consent Cops grant

**B. OLD 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. ***This Ordinance was left on the Second Reading at the July 6, 2004 City Council meeting.***

2. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

Split

Need new ordinance

3. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

Ok

4. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

Need new ordinance

5. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

Add new Annexation ordinance

**C. NEW BUSINESS:**

Pull - Add to August 3

1. **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.

Consent

2. **McClinton-Anchor Taxiway Extension:** A resolution awarding a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of $607,078.90 to construct Taxiways "A" and "E" Extensions at the Fayetteville Municipal Airport; and approving a ten percent (10%) project contingency of $6,708.00.

3. **Tyson Food Company Building Purchase:** A resolution authorizing city staff to develop and present to Tyson Foods, Inc. an offer and acceptance contract for the purchase of property located at 1851 East Huntsville Road.

4. **OPO Enterprises, Inc. – Square Garden Lease:** A resolution approving a two year lease with OPO Enterprises, Inc. for a rental rate of $1 per year plus other good and valuable consideration, for a period of two (2) years, and allowing the lessee five additional two (2) year periods renewing the lease for outdoor dining on the Town Square for a total lease period of twelve (12) years.

5. **Lake Fayetteville Spillway Bridge and Trail:** A resolution awarding a contract to Mobley Contractors, Inc. in the amount of $877,709.20 to construct the Lake Fayetteville Spillway Bridge and Multi-Use Trail; approving a project contingency in the amount of $43,885.00; and approving a budget adjustment in the amount of $376,340.00 for same.

6. **ANX 04-01.00 ( Greenwood/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Jean Greenwood Jowers located southeast of the intersection of 46th Street and Persimmon Street containing approximately 160.00 acres.

7. **ANX 04-02.00 (McBryde/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by C. Bryan McBryde located southwest of the Fayetteville Boys and Girls Club adjoining the extensions of Rupple Road and Persimmon Street containing approximately 80.00 acres.

8. **ANX 04-04.00 (Tipton/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Robert and Minnie Beth Tipton located east of Double Springs Road adjoining the southeast corner of the Legacy Pointe Subdivision containing approximately 29.31 acres.

9. **RZN 04-10.00 (Tipton/Sloan):** An ordinance rezoning that property described in rezoning petition RZN 04-10.00 as submitted by Raymond Smith for property located south of Wedington Drive and east of Double Springs Road abutting the Legacy Pointe Subdivision containing approximately 29.31 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

10. **ANX 04-6.00 (Leigh Taylor Properties):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Highway 112 containing approximately 29.86 acres.

11. **RZN 04-12.00 (Leigh Taylor Properties):** An ordinance rezoning that property described in rezoning petition RZN 04-12.00 as submitted by Chad White on behalf of Leigh Taylor Properties LLC for property located north of Highway 112/Howard Nickell Road and east of Highway 112 containing approximately 29.86 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre subject to a Bill of Assurance.

DAWN
ANNEX.

Fire & Police response time

which lift stations are these Annex are on.
How many units on lift station now
How many can be added after these Annex.

12. **ANX 04-1083 (Marinoni):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the extensions of Rupple Road and Persimmon Street containing approximately 78.84 acres.

13. **RZN 04-1084 (Marinoni):** An ordinance rezoning that property described in rezoning petition RZN 04-1084 as submitted by Bob Estes on behalf of Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the future extensions of Rupple Road and Persimmon Street containing approximately 78.84 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

14. **ANX 04-1090 (Hays):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Hays Family Development, LLLP for property located at west of 54th Avenue adjoining the extension of West Persimmon Street containing approximately 37.30 acres.

15. **RZN 04-1091 (Hays):** An ordinance rezoning that property described in rezoning petition RZN 04-1091 as submitted by Jim McCord on behalf of Hays Family Development, LLLP for property located west of 54th Avenue adjoining the extension of Persimmon Street containing approximately 49.40 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Need new ord. from Kit

16. **ANX 04-1100 (Harper/Brandon):** An ordinance calling for the simultaneous detachment of certain lands from the City of Springdale, Arkansas and the annexation of those certain lands into the municipal limits of the City of Fayetteville; and for other purposes.

New ord. from Kit.

17. **RZN 04-1101 (Harper/Brandon):** An ordinance rezoning that property described in rezoning petition RZN 04-1101 as submitted by Michelle Harrington on behalf of Gary Brandon Enterprises for property located at the south side of Albright Road west of George Anderson Road containing approximately 9.99 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

18. **RZN 04-1099 (Brisiel):** An ordinance rezoning that property described in rezoning petition RZN 04-1099 as submitted by Tim Brisiel for property located south of Mount Comfort Road and west of Alpine Avenue containing approximately 2.19 acres from P-1, Institutional to RSF-4, Residential Single Family, four units per acre.

Remove perm.

19. **RZN 04-1102 (Bradberry/Woolverton):** An ordinance rezoning that property described in rezoning petition RZN 04-1102 as submitted by James Foster for property located at the southwest corner of Rock Street and East Avenue containing approximately 0.39 acres from C-3, Central Commercial to R-O, Residential Office.

Ask Dawn if this is to be removed permanently

20. **RZN 04-1104 (Goff):** An ordinance rezoning that property described in rezoning petition RZN 04-1104 as submitted by Tom Hennelly for property located at north of the Goff Farm Road north of the Stonebridge Meadows Golf Course Club House containing approximately 17.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

21. **RZN 04-1111 (The Mill District):** An ordinance rezoning that property described in rezoning petition RZN 04-1111 as submitted by Rob Sharp for property located at the northwest corner of South School Avenue and 6th Street containing approximately 1.95 acres from I-0 Heavy Commercial, Light Industrial to C-2, Thoroughfare Commercial.

I-1

**D. INFORMATIONAL:**

4:30 **Council Tour: July 19, 2004** ~~Rock Powerpoint Presentations for Council~~

Add

Auber Street

Highway 71 East Square Re-Development

District #1

~~Room 326 4:30 Powerpoint Presentations for Council~~

Council Tour to follow.

# Tentative Agenda
# City Council Meeting
# July 20, 2004

A meeting of the Fayetteville City Council will be held on July 20, 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 July 6, 2004 meeting minutes.

**B. OLD 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. ***This Ordinance was left on the Second Reading at the July 6, 2004 City Council meeting.***

2. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

3. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

4. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

5. **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 Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

C. **NEW BUSINESS:**

1. **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.

~~Consent — 2. Scottsdale Insurance Legal Fees:~~

3. **Tyson Food Company Building Purchase:** (3)

~~Consent~~ 4. **McClinton-Anchor Taxiway Extension:** (2) (R) 607,078.90

Consent — 5. **Architectural Contractors - T-Hangar Construction:** (R) 314,135.00

Consent — 6. **Department of Transportation Lease:** (R)

Consent — 7. **Tomlinson Asphalt – Wilson Park Basketball Court:** (R)

Consent 8. **Arkansas Parks and Tourism Grant for Braden Park Project:** (R)

~~9. Mobley Construction – Lake Fayetteville Spillway Bridge and Trail:~~

~~10. Amend Chapter 98 – Cost Recovery for Street Cleaning: An ordinance amending Chapter 98: Streets and Sidewalks, of the Code of Fayetteville, to provide for the recovery of the costs of removing dirt and debris spilt or tracked upon the streets.~~

11. **OPO Enterprises, Inc. – Square Garden Lease:** (R)

12. **School Street Improvements:** →

Consent — 13. **One New Holland Tractor Purchase:**

Consent — 14. **Two New Holland Tractors Purchase:**

~~15. [redacted] Plan:~~

16. **ANX 04-6.00 (Leigh Taylor Properties):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Highway 112 containing approximately 29.86 acres.

17. **ANX 04-01.00 (Greenwood/Sloan):**

18. **ANX 04-02.00 (McBryde/Sloan):**

19. **ANX 04-04.00 (Tipton/Sloan):**

20. **ANX 04-1083 (Marinoni):**

21. ANX 04-1090 (Hays):

22. ANX 04-1100 (Harper/Brandon):

23. RZN 04-10.00 (Tipton/Sloan):

24. RZN 04-12.00 (Leigh Taylor Properties):

25. RZN 04-1084 (Marinoni):

26. RZN 04-1091 (Hays):

27. RZN 04-1099 (Brisiel):

28. RZN 04-1101 (Harper/Brandon):

29. RZN 04-1102 (Bradberry/Woolverton):

30. RZN 04-1103 (Collins):

31. RZN 04-1104 (Goff):

32. RZN 04-1111 (The Mill District):

D. INFORMATIONAL:

Council Tour: July 19, 2004

NORTHWEST ARKANSAS EDITION

# Arkansas Democrat Gazette

## AFFIDAVIT OF PUBLICATION

I, Jill R. Scott, do solemnly swear that I am Legal Clerk of the Arkansas Democrat-Gazette/Northwest Arkansas Times newspaper, printed and published in Lowell, Arkansas, and that from my own personal knowledge and reference to the files of said publication, that advertisement of:

Final Agenda was inserted in the regular editions on 7/19/04.

PO# 04-386

** Publication Charge: $ 386.37

Subscribed and sworn to before me this

19 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.

Official Seal
SEAN-MICHAEL ARGO
Notary Public-Arkansas
WASHINGTON COUNTY
My Commission Expires 07-25-2013

RECEIVED
JUL 20 2004
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**Final Agenda**
**City Council Meeting**
**July 20, 2004**

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

City of Fayetteville

**A. CONSENT:**

**1. Approval Of The Minutes:** Approval of the July 6, 2004 meeting minutes.
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**5. Arkansas Parks and Tourism Grant for Braden Park Project:** A resolution authorizing the Fayetteville Parks and Recreation Division to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount up to $50,000.00 for the Braden Park Project.
**6. One New Holland Tractor Purchase:** A resolution approving the purchase of one (1) New Holland TS115A Tractor from Williams Tractor and one (1) Tiger TRB-50C 20' side mower from the Countryside JD in the amount of $67,859.00.
**7. Two New Holland Tractors Purchase:** A resolution approving the purchase of two (2) New Holland TS115A Tractors from Williams Tractor and two (2) Tiger TRR120C mowers from Countryside JD in the amount of $129,332.00.
**8. Scottsdale Insurance:** A resolution approving a budget adjustment in the amount of $55,000.00 to add funds to the miscellaneous program to offset payments to Scottsdale Insurance.
**9. COPS Methamphetamine Training Grant:** A resolution to authorize Mayor Coody to apply for a $184,900.00 Grant from the COPS Methamphetamine Training Initiative.
**10. McClinton-Anchor Taxiway Extension:** A resolution awarding a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of $607,078.90 to construct Taxiways "A" and "E" Extensions at the Fayetteville Municipal Airport; and approving a ten percent (10%) project contingency of $60,706.00.

**B.OLD 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. This Ordinance was left on the Second Reading at the July 6, 2004 City Council meeting.
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**C. NEW BUSINESS:**
**1. Tyson Food Company Building Purchase:** A resolution authorizing city staff to develop and present to Tyson Foods, Inc. an Offer and Acceptance Contract for the purchase of property located at 1851 East Huntsville Road in an amount not to exceed $1,100,000.00; and approving a budget adjustment in the amount of $1,000,000.00 for the property purchase and $551,000.00 transfer from General Fund to Sales Tax Capital Improvement Fund.
**2. OPO Enterprises, Inc. – Square Garden Lease:** A resolution approving a two year lease with OPO Enterprises, Inc. for rental rate of $1 per year plus other good and valuable consideration, for a period of two (2) years, and allowing the lessee five additional two (2) year periods renewing the lease for outdoor dining on the Town Square for a total lease period of twelve (12) years.
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**6. ANX 04-04.00 (Tipton/Sloan):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Robert and Minnie Beth Tipton located east of Double Springs Road adjoining the southeast corner of the Legacy Pointe Subdivision containing approximately 29.31 acres.
**7. RZN 04-10.00 (Tipton/Sloan):** An ordinance rezoning that property described in rezoning petition RZN 04-10.00 as submitted by Raymond Smith for property located south of Wedington Drive and east of Double Springs Road abutting the Legacy Pointe Subdivision containing approximately 29.31 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.
**8. ANX 04-6.00 (Leigh Taylor Properties):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Highway 112 containing approximately 29.86 acres.
**9. RZN 04-12.00 (Leigh Taylor Properties):** An ordinance rezoning that property described in rezoning petition RZN 04-12.00 as submitted by Chad White on behalf of Leigh Taylor Properties LLC for property located north of Highway 112/Howard Nickell Road and east of Highway 112 containing approximately 29.86 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre subject to a Bill of Assurance.
**10. ANX 04-1063 (Marinoni):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the extensions of Rupple Road and Persimmon Street containing approximately 78.84 acres.
**11. RZN 04-1064 (Marinoni):** An ordinance rezoning that property described in rezoning petition RZN 04-1064 as submitted by Bob Estes on behalf of Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the future extensions of Rupple Road and Persimmon Street containing approximately 78.84 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.
**12. ANX 04-1090 (Hays):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Hays Family Development, LLLP for property located at west of 54th Avenue adjoining the extension of West Persimmon Street containing approximately 37.30 acres.
**13. RZN 04-1091 (Hays):** An ordinance rezoning that property described in rezoning petition RZN 04-1091 as submitted by Jim McCord on behalf of Hays Family Development, LLLP for property located west of 54th Avenue adjoining the extension of Persimmon Street containing approximately 49.40 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.
**14. ANX 04-1100 (Harper/Brandon):** An ordinance calling for the simultaneous detachment of about 10 acres owned by Craig and Karyn Harper from the City of Springdale, Arkansas and the annexation of those lands into the City of Fayetteville..
**15. RZN 04-1101 (Harper/Brandon):** An ordinance rezoning that property described in rezoning petition RZN 04-1101 as submitted by Michelle Harrington on behalf of Gary Brandon Enterprises for property located at the south side of Albright Road west of George Anderson Road containing approximately 9.99 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.
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**18. RZN 04-1111 (The Mill District):** An ordinance rezoning that property described in rezoning petition RZN 04-1111 as submitted by Rob Sharp for property located at the northwest corner of South School Avenue and 6th Street containing approximately 1.95 acres from I-1 Heavy Commercial, Light Industrial to C-2, Thoroughfare Commercial.
**19. Amber Drive Drainage:** A resolution to approve a budget adjustment of $100,000.00 to finance drainage improvements for Amber Drive.
**20. Highway 71 East Square Redevelopment District #1:** An ordinance forming the Highway 71 East Square Redevelopment District Number One pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan.
**21. Wilson Springs Sale Proceeds:** A resolution to express the intent of the City Council to use the proceeds from the sale of Wilson Springs for various projects or purposes.

**D. INFORMATIONAL:**
**Council Tour:** July 19, 2004 at 4:30 p.m.

SPRINGDALE, AR

LAKE FAYETTEVILLE

JOHNSON, AR

UNIVERSITY OF ARKANSAS EXPERIMENTAL FARM

WASTE WATER TREATMENT PLANT

PROPOSED WASTE WATER TREATMENT PLANT

FARMINGTON, AR

GREENLAND, AR

# General Plan 2020

## *Future Land Use Plan*

### *City of Fayetteville, Arkansas*

N

W E

S

**Landuse**

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

**Master Street Plan**

CLASSIFICATION

- COLLECTOR, PLANNED
- COLLECTOR, EXISTING
- FREEWAY/EXPRESSWAY, PLANNED
- FREEWAY/EXPRESSWAY, EXISTING
- HISTORIC COLLECTOR, EXISTING
- MINOR ARTERIAL, PLANNED
- MINOR ARTERIAL, EXISTING
- PRINCIPAL ARTERIAL, PLANNED
- PRINCIPAL ARTERIAL, EXISTING
- UNCLASSIFIED

**Facilities**

- Schools

**Fire Stations**

- Existing
- Proposed 1998-2010
- Proposed 2010-2020

- Lakes
- Streams
- Flood Plain Boundary

**Boundaries**

- City Limits
- Planning Area
- Historic District
- School District
- Study Corridor

Slope >= 15%

0 0.5 1 2 Miles

JULY 14, 2004