

**Final Agenda
City Council Meeting
August 3, 2004**

A meeting of the Fayetteville City Council will be held on August 3, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Election of Vice Mayor: Appointed Alderman Lioneld Jordan as vice mayor replacing Bob Davis.

Fill Alderman Vacancy: Appointed Conrad Odom to fill the unexpired term of Bob Davis.

A. CONSENT:

1. **Approval of the Minutes:** Approval of the June 29, 2004 Annexation Public Hearing minutes and the July 20, 2004 City Council meeting minutes.

APPROVED.

2. **Sequoyah Pressure Plane Project:** A resolution confirming the City of Fayetteville's intent to proceed with improvements to the Sequoyah Water System; establishing a new capital improvements project account titled Sequoyah Pressure Plane Improvements; and approving a budget adjustment transferring the amount of \$271,427.00 from the Collection System Capacity Management Project to the Sequoyah Pressure Plane Improvements Project in order to initiate work on the project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 115-04.

3. **Interoperable Communications Program Grant:** A resolution authorizing the Fayetteville Police Department to apply for a Community Oriented Policing Services Interoperable Communications Programs Grant from the U.S. Department of Justice to provide for a Fiber Optic Link between the Police Department and the New Washington County Jail and to establish a Regional Law Enforcement Data-Sharing Network.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 116.04.

4. **Robert Kohler II Contract Amendment:** A resolution approving an amendment to the contract entered into June 7, 2002 with Robert Kohler III in an amount not to exceed \$9000.00 to provide additional owner's representative services to the New Fayetteville Public Library.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 117-04.

5. **Library Facilities Manager:** A resolution authorizing partial year funding for one (1) full-time Facilities Manager at the New Fayetteville Public Library; and approving a budget adjustment of \$16,750.00 from the use of Fund Balance to the transfer to Library Board Account.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 118-04.

6. **Razorback Transit Contract:** A resolution approving a contract with the University of Arkansas Razorback Transit in the amount of \$25,000.00 to provide public transit service to the citizens of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 119-04.

7. **DOT/FAA AIP Grant Extension of Taxiway "A":** A resolution authorizing the Aviation and Economic Development Division to apply and accept an Airport Improvement Program Grant (AIPG) from the U.S. Federal Aviation Administration in the amount of \$657,299.00; and an Arkansas Department of Aeronautics Grant in the amount of \$34,595.00 for the Taxiway "A" & "E" Extension Project in support of the USDA Forest Service Fire Tanker Base.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 120-04.

B. OLD BUSINESS:

1. **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. *This Resolution was tabled at the June 1, 2004 City Council meeting to the August 3, 2004 City Council meeting.*

THIS ITEM WAS TABLED INDEFINITELY.

2. **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 Ordinance was left on the Second Reading at the July 20, 2004 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4595.

3. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4596.

4. **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 Ruppel Road and Persimmon Street containing approximately 80.00 acres. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4597.

5. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

THIS ITEM WAS LEFT ON THE SECOND READING.

6. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

THIS ITEM WAS LEFT ON THE SECOND READING.

7. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

THIS ITEM WAS LEFT ON THE SECOND READING.

8. **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 39.86 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre subject to a Bill of Assurance. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

THIS ITEM WAS LEFT ON THE SECOND READING.

9. **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 Ruppel Road and Persimmon Street containing approximately 78.84 acres. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4598.

10. **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 Ruppel 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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4599.

11. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

THIS ITEM WAS LEFT ON THE SECOND READING.

12. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

THIS ITEM WAS LEFT ON THE SECOND READING.

13. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4600.

- 14. 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 ordinance was tabled at the July 20, 2004 City Council meeting to the July 29, 2004 City Council meeting. This ordinance was left on the First Reading at the July 29, 2004 City Council meeting.*

THIS ITEM WAS LEFT ON THE FIRST READING.

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.

THIS ITEM WAS TABLED INDEFINITELY.

- 2. Waste Management Contract Amendment #4:** A resolution rejecting contract Amendment No. 4 with Waste Management of Arkansas, Inc. to transport and dispose of municipal solid waste and for operation of the city transfer station.

THIS ITEM WAS TABLED INDEFINITELY.

- 3. Purchase 2 to 8 Yard Dumpsters:** An ordinance to waive formal competitive bidding requirements during 2004 for the purchase of 2 to 8 yard dumpsters by the Solid Waste Division and to approve the purchase of 2 to 8 yard dumpsters in an amount not to exceed \$63,000.00.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4601.

- 4. RZN 04-1103 (Collins):** An ordinance rezoning that property described in rezoning petition RZN 04-1103 as submitted by Jeffery Collins for property located at the 1280 Hendrix Street containing approximately 0.51 acres from RSF-4, Residential Single Family, four units per acre to RT-12, Residential two and three family.

THIS ITEM WAS LEFT ON THE SECOND READING.

- 5. ANX 04-1071 (Jones):** An ordinance annexing that property described in annexation petition ANX 04-1071 annexing to the City of Fayetteville, Arkansas certain property owned by Vera Jones located south of Huntsville Road east of the Stonebridge Addition, and west of Roberts Road containing approximately 5.66 acres.

THIS ITEM WAS LEFT ON THE FIRST READING.

6. **RZN 04-1072 (Jones):** An ordinance rezoning that property described in rezoning petition RZN 04-1072 as submitted by Milholland Company on behalf of Vera Jones for property located south of Huntsville Road, east of the Stonebridge Addition and west of Roberts Road containing approximately 5.66 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

THIS ITEM WAS LEFT ON THE FIRST READING.

7. **ANX 04-1073 (Ames):** An ordinance annexing that property described in annexation petition ANX 04-1073 annexing to the City of Fayetteville, Arkansas certain property owned by the Ames Family Trust located south of Huntsville Road west of Roberts Road containing approximately 1.97 acres.

THIS ITEM WAS LEFT ON THE FIRST READING.

8. **RZN 04-1074 (Ames):** An ordinance rezoning that property described in rezoning petition RZN 04-1074 as submitted by Milholland Company on behalf of the Ames Family Trust for property located on the west side of Roberts Road south of Huntsville Road containing approximately 1.97 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

THIS ITEM WAS LEFT ON THE FIRST READING.

9. **VAC 04-1119 (Petrino):** An ordinance approving VAC 04-1119 to vacate and abandon 7' of the existing 15' utility easements on the west side of Lot 5B and the east side of Lot 5A as depicted on the attached map and legal description.

THIS ITEM WAS LEFT ON THE FIRST READING.

D. INFORMATIONAL:

Council Tour: August 2, 2004 – Mountain Inn, Police Station, and Courts Building.

Meeting adjourned at 8:50 p.m.

Adjourn at 8:50 pm

Subject:	Roll				
Motion To:					
Motion By: Seconded:					
Jordan	✓				
Reynolds	✓				
Thiel	✓				
Cook	✓				
Marr	✓				
Rhoads	at 8:50 ✓				
Lucas	✓				
Mayor Coody	✓				

Subject:	Vice Mayor				
Motion To:		Appt. Alderman Jordan	Appt. Alderman Marr		
Motion By: Seconded:		Marr Lucas	Reynolds Rhoads	Jordan	Marr
Jordan				✓	did not
Reynolds				✓	want to
Thiel				✓	serve
Cook				✓	
Marr				✓	
Rhoads				✓	
Lucas				✓	
Mayor Coody					

Alderman
Jordan
Appointed
as Vice
Mayor

Subject:	Alderman Vacancy				
Motion To:		Appoint	Conrad Odum	to the	Alderman Vacancy
Motion By: Seconded:		<u>Marr</u> Thiel		Conrad Odum	of Bob Davis
Appoint Conrad Odum as Alderman	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Lucas	✓			
	Mayor Coody				

Subject:	Consent				
Motion To:		Approve			
Motion By: Seconded:		<u>Jordan</u> Reynolds			
passed Res. 115-04 to 120-04	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Lucas	✓			
	Mayor Coody				

Subject:	Raze & Removal 800 S College				
Motion To:		Table			
Motion By:		Indefinitely			
Seconded:		Marr			
		Jordan			
Jordan ✓	✓				
Reynolds	✓				
Thiel	✓				
Cook	✓				
Marr ✓	✓				
Rhoads	✓				
Lucas	✓				
Mayor Coody					

#1
old
Business

Tabled
Indefinitely

Subject:	Re-Codification of the Fayetteville Code				
Motion To:		3rd	Pass		
Motion By:		read			
Seconded:		Thiel			
		Cook			
Jordan	✓	✓			
Reynolds	✓	✓			
Thiel	✓	✓			
Cook	✓	✓			
Marr	✓	✓			
Rhoads	✓	✓			
Lucas	✓	✓			
Mayor Coody					

#2
old
Business

Passed
4595

Subject:	ANX 04-1.00 Greenwood/Slam				
Motion To:		2nd read	3rd read	Pass	
Motion By: Seconded:		Lucas Reynolds	Reynolds Lucas		
# 3 old Business passed 4596	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				

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

Subject:	A N X - 04-02.00 Mc Bryde/Sloan				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Thiel	Lucas		
#4 old Business Passed 4597	Jordan	✓	✓ Lucas	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				

Subject:	A N X - 04-04.00 Tipton/Sloan				
Motion To:		2nd read			
Motion By:		Rhoads			
Seconded:		Reynolds			
#5 old Business Left on 2nd read	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Lucas	✓			
	Mayor Coody				

Subject:	R2N. 04-10.00 (Tipton/Sloan)				
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
# 6 Old Business Left on Second Reading	Jordan ✓	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Lucas	✓			
	Mayor Coody				

Subject:	ANK 04-6.00 (Leigh Taylor Properties)				
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Cook			
# 7 Old Business Left on Second Reading	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook ✓	✓			
	Marr	✓			
	Rhoads	✓			
	Lucas	✓			
	Mayor Coody				

Subject:	RZN 04-12.00 (Leigh Taylor Properties)				
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
#8 old Business Left on the Second Reading	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Lucas	✓			
	Mayor Coody				

Subject:	ANX 04-1083 (Marianne)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Reynolds		
#9 old Business passed 4598	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				

Subject:	RZN 04-1084 (Marinoni)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		<u>Jordan</u>	<u>Reynolds</u>		
Seconded:		Reynolds	Jordan		
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				

#10
old
Business
Passed
4599

Subject:	ANX- 04-1090 (Hays)				
Motion To:		2nd read			
Motion By:		<u>Jordan</u>			
Seconded:		Lucas			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Lucas	✓			
	Mayor Coody				

#11
old
Business
Left on
Second
Reading

Subject:	RZN-04-1091 (Hays)				
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Lucas	✓			
	Mayor Coody				

#12

old

Business

Left on the

Second

Reading

Subject:	RZN-04-1104 (Goff)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Reynolds		
Seconded:		Reynolds	Thiel		
	Jordan	Absent ^{Vote} during	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				

#13

old

Business

Passed

4600

Subject:	Highway 71 East Square Redevelopment				
Motion To:		2nd read	3rd read		District #1
Motion By:		Lucas	Rhoads		
Seconded:		Marr.			
#14 old Business Left on Second Reading	Jordan	✓	NO		① Karen Rees
	Reynolds	✓	Second		② Don Loftin
	Thiel	✓	to go		③ Bill Greenhaw
	Cook	✓	to the		Greenhaw
	Marr	✓	third.		④ Marie Hillcrest Towers
	Rhoads	✓	Therefore		Towers
	Lucas	✓	this was		⑤ Don Loftin
	Mayor Coody		left on the		
			Second Reading.		

Subject:	Planning Commission Appeal (Clem Johnson)				
Motion To:		Table	Indef.		
Motion By:		Thiel			
Seconded:		Johnson Reynolds			
#1 New Business Table Indefinite	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Lucas	✓			
	Mayor Coody				

Subject:	Waste Management Contract Amendment #4/				
Motion To:		Table Indef.			
Motion By:		Marr			
Seconded:		Jordan			
#2 New Business I added Indefinitely	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Lucas	✓			
	Mayor Coody				

Subject:	Purchase 2 to 8 Yard Dumpsters				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Marr	Jordan		
Seconded:		Jordan	Reynolds		
#3 New Business Passed 4601	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				

Subject:	RZN-04-1103 (Collins)				
Motion To:		2nd read			
Motion By:		Lucas			
Seconded:		Reynolds			
# 4 New Business Left on Second Reading	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Lucas	✓			
	Mayor Coody				

Subject:	ANY-04-1071 (Jones)				
Motion To:					
Motion By:					Tom Jeffcoat
Seconded:					
# 5 New Business Left on the first Reading	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Lucas				
	Mayor Coody				

Subject:	RZN 04-1072 (Jones)				
Motion To:					
Motion By:					
Seconded:					
Jordan					
Reynolds					
Thiel					
Cook					
Marr					
Rhoads					
Lucas					
Mayor Coody					

#6
New
Business

Left on
the first
Reading

Subject:	ANX- 04-1073 (AMES)				
Motion To:					
Motion By:					
Seconded:					
Jordan					
Reynolds					
Thiel					
Cook					
Marr					
Rhoads					
Lucas					
Mayor Coody					

#7
New
Business

Left on
the first
Reading

Subject:	RZN. 04-1074 (AMES)				
Motion To:					
Motion By: Seconded:					
# 8 New Business	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
Left on the First Reading	Rhoads				
	Lucas				
	Mayor Coody				

Subject:	VAC - 04-1119 (Petrino)				
Motion To:					
Motion By: Seconded:					
# 9 New Business	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
Left on the First Reading	Rhoads				
	Lucas				
	Mayor Coody				

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A meeting of the Fayetteville City Council will be held on August 3, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Election of Vice Mayor

Fill Alderman Vacancy

A. CONSENT:

1. **Approval of the Minutes:** Approval of the June 29, 2004 Annexation Public Hearing minutes and the July 20, 2004 City Council meeting minutes.
2. **Sequoyah Pressure Plane Project:** A resolution confirming the City of Fayetteville's intent to proceed with improvements to the Sequoyah Water System; establishing a new capital improvements project account titled Sequoyah Pressure Plane Improvements; and approving a budget adjustment transferring the amount of \$271,427.00 from the Collection System Capacity Management Project to the Sequoyah Pressure Plane Improvements Project in order to initiate work on the project.
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4. **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 Ruppel Road and Persimmon Street containing approximately 80.00 acres. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
5. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
6. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

7. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
8. **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 39.86 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre subject to a Bill of Assurance. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
9. **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 Ruppel Road and Persimmon Street containing approximately 78.84 acres. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
10. **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 Ruppel 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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
11. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
12. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

13. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
14. **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 ordinance was tabled at the July 20, 2004 City Council meeting to the July 29, 2004 City Council meeting. This ordinance was left on the First Reading at the July 29, 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. **Waste Management Contract Amendment #4:** A resolution rejecting contract Amendment No. 4 with Waste Management of Arkansas, Inc. to transport and dispose of municipal solid waste and for operation of the city transfer station.
3. **Purchase 2 to 8 Yard Dumpsters:** An ordinance to waive formal competitive bidding requirements during 2004 for the purchase of 2 to 8 yard dumpsters by the Solid Waste Division and to approve the purchase of 2 to 8 yard dumpsters in an amount not to exceed \$63,000.00.
4. **RZN 04-1103 (Collins):** An ordinance rezoning that property described in rezoning petition RZN 04-1103 as submitted by Jeffery Collins for property located at the 1280 Hendrix Street containing approximately 0.51 acres from RSF-4, Residential Single Family, four units per acre to RT-12, Residential two and three family.
5. **ANX 04-1071 (Jones):** An ordinance annexing that property described in annexation petition ANX 04-1071 annexing to the City of Fayetteville, Arkansas certain property owned by Vera Jones located south of Huntsville Road east of the Stonebridge Addition, and west of Roberts Road containing approximately 5.66 acres.
6. **RZN 04-1072 (Jones):** An ordinance rezoning that property described in rezoning petition RZN 04-1072 as submitted by Milholland Company on behalf of Vera Jones for property located south of Huntsville Road, east of the Stonebridge Addition and west of Roberts Road containing approximately 5.66 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

7. **ANX 04-1073 (Ames):** An ordinance annexing that property described in annexation petition ANX 04-1073 annexing to the City of Fayetteville, Arkansas certain property owned by the Ames Family Trust located south of Huntsville Road west of Roberts Road containing approximately 1.97 acres.
8. **RZN 04-1074 (Ames):** An ordinance rezoning that property described in rezoning petition RZN 04-1074 as submitted by Milholland Company on behalf of the Ames Family Trust for property located on the west side of Roberts Road south of Huntsville Road containing approximately 1.97 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.
9. **VAC 04-1119 (Petrino):** An ordinance approving VAC 04-1119 to vacate and abandon 7' of the existing 15' utility easements on the west side of Lot 5B and the east side of Lot 5A as depicted on the attached map and legal description.

D. INFORMATIONAL:

Council Tour: August 2, 2004 – Mountain Inn, Police Station, and Courts Building

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

A meeting of the Fayetteville City Council was 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.

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

ABSENT: Alderman Reynolds

Mayor Coody called the meeting to order.

Alderman Thiel announced a Ward 1 meeting to be held Monday, August 2 at 6:00 p.m. at Root Elementary Cafeteria. The primary topic will be the traffic and safety issues on Crossover Rd., but any other topics of interest can also be discussed.

Alderman Marr stated that the Council is currently taking applications for City committees. The committee vacancies are posted on the City website. Interviews will begin very soon.

Alderman Jordan announced that there would be a Ward 4 meeting on Monday, July 26 at 7:00 p.m. at City Hall, Room 111.

Mayor Coody awarded a plaque to Alderman Bob Davis in appreciation for his service to the City of Fayetteville and City Council from January 1999 to July 2004.

CONSENT:

Approval Of The Minutes: Approval of the July 6, 2004 meeting minutes.

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.

Resolution 102-04 as Recorded in the Office of the City Clerk.

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.

Resolution 103-04 as Recorded in the Office of the City Clerk.

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.

Resolution 104-04 as Recorded in the Office of the City Clerk.

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.

Resolution 105-04 as Recorded in the Office of the City Clerk.

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.

Resolution 106-04 as Recorded in the Office of the City Clerk.

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.

Resolution 107-04 as Recorded in the Office of the City Clerk.

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.

Resolution 108-04 as Recorded in the Office of the City Clerk.

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

Resolution 109-04 as Recorded in the Office of the City Clerk.

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.

Resolution 110-04 as Recorded in the Office of the City Clerk.

Alderman Davis moved to approve the Consent Agenda as read. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

OLD BUSINESS:

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.*

Alderman Davis moved to suspend the rules and go to the third and final reading. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Mr. Williams read the ordinance.

Dawn Warrick, Planning Division stated that the land agent's office in the City engineering division has been working on a project to acquire easements to move forward with the installation of necessary infrastructure for the west side wastewater treatment plant. This particular project has a 40' sewer easement that runs along the south property line. There are two 10' temporary construction easements that the City has identified as necessary for this project within the boundaries of this property. Staff would recommend that the Council add an additional condition of approval to this item reading, *"The applicant shall execute necessary easement documents in order to grant temporary construction easements to the City of Fayetteville for the WL1 line associated with the new wastewater treatment plant. These documents shall be executed prior to approval of construction plans for the subdivision"*.

Thomas Jefcoat, Milholland Company said these temporary easements were new items for his consideration but they could be worked out to meet the City's requirements.

Alderman Cook asked **Steve Hatfield** from the Parks & Recreation Division about the desirability of the buffer between the trail and this project, questioning whether the buffer might simply serve to shut off the trail from site of the public. His concern was that too much shrubbery would hide the trail from the public and might cut down on its usage.

Steve Hatfield, Parks & Recreation stated he had not seen the project's final landscape plan. He said that his department would like to see some openings to allow access for pedestrians; however, they would also like to have some areas with shade.

Dawn Warrick said that the detail of the buffer has not been finalized at this point. Prior to a final plat, a detailed landscape plan will be reviewed by Planning and Parks staff to ensure that it provides screening to residents with back yards in this area but also enough landscaping, trees, shade and openings to satisfy the needs of the Parks department with regard to the trail.

Mayor Coody opened the floor up for public input.

Cyrus Young discussed concerns about another PZD (Rupple Rd.) and his understanding that the developer had begun moving dirt and had been issued a grading permit without the Engineering Division having a grading plan from the developer. He asked Mayor Coody how the developer was allowed to begin construction without a grading plan and a proper grading permit.

Tim Conklin responded to Mr. Young's concerns at the request of Mayor Coody. He said that the developer did apply for and was issued a grading permit to stockpile topsoil. A permit has not been issued for grading of the site for construction of the subdivision. He will report back to the Council with further information when he has had the opportunity to speak with the Engineering staff on this issue.

Cyrus Young said the ordinance does not make a provision for stockpiling of topsoil. He said the developer must have a grading plan to be issued a permit and he wanted to know how this developer was issued a permit without a grading plan. He asked if the developer of the PZD currently under consideration was going to be allowed the same privileges and stated his belief that this was not legal.

Tim Conklin stated that he would direct Staff to follow the City's ordinance in this and every issue. He repeated that he will look further into the detail of this item and will report back to the Council.

There being no further discussion from the public, Mayor Coody turned the discussion back to the City Council.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4586 as Recorded in the Office of the City Clerk.

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.*

Alderman Lucas moved to suspend the rules and go to the second reading. **Alderman Jordan** seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Mr. Williams said that he had received a letter from University counsel requesting that the zoning of this parcel be changed from RSF-1 (Residential Single Family) to RA (Residential Agricultural).

Alderman Jordan moved to amend Section 2 from RSF-1, Residential Single Family, one unit per acre to RA, Residential Agricultural. Alderman Lucas seconded the motion. Upon roll call the motion to amend the ordinance passed 7-0. Alderman Reynolds was absent.

Alderman Lucas moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Mayor Coody opened the floor for public discussion. There was none.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4587 as Recorded in the Office of the City Clerk.

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.*

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Mr. Williams explained to the Council that this ordinance would have to be amended several times. One amendment would amend a couple of parcels in the Ruppel Road area that the landowners wish to be zoned as Residential Agricultural. A second amendment would address six parcels that are largely surrounded by the City. When an annexation was done in this area, the annexation did not go to the middle of the road, leaving two small sections of road right of way not annexed. All the individuals within the two islands in question wish to be annexed. He said he felt the City has substantially complied with the State statute because there is nothing usable between the landowners and the County, only street right-of-way. But because of his concerns that there could possibly be some sort of legal challenge, he recommended that those parcels be removed from the main ordinance and placed in their own ordinance. If the Council chooses to go forward with this recommendation, the new ordinance will have to be added on the agenda. The City Attorney would then read the new ordinance, which would be on its first reading.

Alderman Marr moved 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 Agricultural." Alderman Lucas seconded the

motion. Upon roll call the motion to amend the ordinance passed 7-0. Alderman Reynolds was absent.

Alderman Marr moved to amend the ordinance to remove from Section # 3 the following parcel numbers: 001-10757-001, 001-10763-000, 001-10763-000, 001-10764-000, and 765-13156-000 to be placed in a new annexation ordinance. Alderman Jordan seconded the motion. Upon roll call the motion to amend the ordinance passed 7-0. Alderman Reynolds was absent.

Alderman Marr moved to amend the ordinance to amend Section #4 to remove parcel numbers 001-11380-004 and 001-11380-003 to be placed in a new annexation ordinance. Alderman Jordan seconded the motion. Upon roll call the motion to amend the ordinance passed 7-0. Alderman Reynolds was absent.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Davis seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Mayor Coody opened the floor for public discussion.

Crystal G, 1760 Starr Rd, stated that her situation was similar to what the Council had already discussed. She asked that the property be deferred from being annexed for a period of time because it is RA. Within the property, there are several different uses including an office. She has spoken to the Planning Division and they have asked for legal descriptions. Dave Jorgenson could not produce those within 24 hours because the property has always been viewed as a whole. The owners are not fighting on the annexation but would like to have time to do everything properly so there will be no problem in the future. She asked that her property be removed from this ordinance and placed in another ordinance if possible.

Mr. Williams explained that by both City ordinance and State statute, all parcels coming in through this annexation are guaranteed the right to continue their agricultural uses. The Council had made the decision at the last meeting to bring everything in as RSF-1 or RA. He suggested that the land be annexed in and if the landowner wishes to change the zoning after that time, she should come back to the Council with that request. However, the property is grandfathered in with its current uses; nothing will change with regard to how it can be used. If it is used for agricultural or office now, it can continue to be used that way.

Crystal stated her concern that if the office that is currently on the property were to burn down, the property would not be zoned to rebuild that office.

Alderman Thiel stated that since the property that is currently being used as a dental office has been there for quite some time and the neighbors do not object to that use, she sees no problem with the property being rezoned in the future if the need should arise or if the property owner

wishes to change it. However, at this time it would be easiest for the Council to bring all the properties in zoned consistently.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4588 as Recorded in the Office of the City Clerk.

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.*

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Alderman Thiel asked if all the property being discussed in Group #2 is owned by Mr. Combs.

Mr. Williams said Mr. Combs only owns about 80 acres of the land in question.

Alderman Thiel said she had understood that Mr. Comb's property was going to be separated out as a separate ordinance. She asked if the other adjoining property owner objects to the annexation also.

Mr. Conklin explained that the property owners did attend a couple of meetings and did express concern with regard to the zoning that would be applied to the property. There is currently a lawnmower repair shop there and they did have some objections. The reason for keeping the parcels as one group is that state law speaks of annexation of areas completely surrounded by the City limits. If you only annex a portion of the area, then you have one side of the property not adjacent to the City limits.

Mayor Coody opened the floor to the public. There was none.

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Alderman Marr said that two memos from the City Attorney that included communications from the attorney of the owner of the largest parcel of land in this item. The memos mentioned the use of firearms being allowed on City annexed land and the use of shotguns. He wanted to

be clear that the current vote would be just to annex the land, with no provision for allowing firearms and hunting.

Mr. Williams stated that the Council is voting on the annexation ordinance only. If someone wants to change Fayetteville code in order to eliminate the prohibition on hunting or use of firearms in the City limits, that would be a separate item and is not before the Council tonight.

Alderman Thiel: It concerns me that the Council is annexing property when the owner is objecting to that annexation; however there are many new developments around this parcel of land and I am also concerned that if the City doesn't have some control over the use of firearms on this property there will most likely be concerns expressed by the neighbors of this property who are in the City limits.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. **Alderman Reynolds** was absent.

Ordinance 4589 as Recorded in the Office of the City Clerk.

Alderman Marr moved to suspend the rules to add to the agenda the new annexation ordinance covering those parcels just removed from the original annexation ordinance. **Alderman Jordan** seconded the motion. Upon roll call the motion to add the parcels to the agenda passed 7-0. **Alderman Reynolds** was absent.

Annex Parcels Removed from the Islands: An ordinance to annex into the City of Fayetteville, Arkansas six parcels surrounded by the incorporated limits of Fayetteville.

Mr. Williams read the ordinance.

Alderman Marr moved to suspend the rules and go to the second reading. **Alderman Jordan** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public discussion. There was none.

Alderman Marr moved to suspend the rules and go to the third and final reading. **Alderman Jordan** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. **Alderman Reynolds** was absent.

Ordinance 4590 as Recorded in the Office of the City Clerk.

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*

Alderman Thiel moved to suspend the rules and go to the second reading. **Alderman Davis** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Mr. Williams read the ordinance

Mr. Williams noted that the changes that were requested at the last Council meeting have been made in the Code and it is now ready for passage unless the Council wishes to make further changes.

Alderman Thiel wanted to clarify that the Council is bringing the current code up to date and not making any major changes in the Code.

Mr. Williams agreed that there are not any significant, major changes being made, though there are some substantive changes. However, but those changes are pretty much being made simply to get the Code in line with State law or to change such things as staff titles, which have been changed since the Code was written. The changes are being made basically to get the Code up to date and to get an agreed-upon code that is in digital format that can be posted on the City's website so all citizens can have access. Any changes to be made in the future will be easier with the digital format and the Code can be kept current from this point on.

Alderman Marr said he had not finishing reading the Code and asked that the item be left on the second reading.

Mayor Coody opened the floor for public discussion. There was none.

The Ordinance was left on the Second Reading.

NEW BUSINESS:

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.

Fire Chief Chris Bosch gave a presentation on the facility and how the Fire Department could use the facility. In 2004 the Fire Department set goals for the organization, including a

six-minute response time 90% of the time for every place in the City. That goal was also identified in the 2004 Deployment Study requested by the Council and distributed in February. The Deployment Study also identified the need to relocate some of the Fire Department's existing resources and to add new resources. One of the relocations needs noted was Fire Station #5 on Crossover Rd., south of Mission Blvd, to the northern part of Crossover, somewhere near Old Wire Rd. The need to locate a new fire station in the southeast corridor of the City somewhere in the area of Huntsville and Happy Hollow was also identified. Both response time needs on the east side of the City and internal needs for future growth and expansion could be addressed with this proposed facility. A fire station at this location would allow the Fire Department to reduce response time throughout the City because when resources are added in one area, it releases resources from another area. It will also help the Department to meet the future response needs and goals recommended by the ISO. There are also many benefits associated with consolidating Fire Department resources by placing Fire prevention, training and administration together, including making public access to services easier.

Police Captain Frank Johnson gave a presentation on how the Police Department could use this facility. He spoke of the space needs of the Police Department. The current space is filled, with very little room to grow. The proposed site would provide plenty of growing room to meet future needs. He discussed advantages of sharing training space with other departments. He spoke of limitations in the current space and problems associated with that limitation. He then said that there are many things the Department would need to look into, including security needs, before they could say that the proposed space would be usable as a Police Building, but it would definitely meet the space needs.

Steve Davis, Finance and Internal Services Director gave a presentation on the purchase of this building and where the funds to purchase this building would come from. Mr. Davis said that in addressing both the Fire Department and Police Department space needs, they have the opportunity to either build stand-alone facilities or, with this proposed site, share the facility between the Police Department, District Court, Prosecuting Attorney, Fire Administration and an additional Fire Station. If the City builds stand-alone facilities, there would need to be three buildings – two fire stations and a combined Police Department/District Court/Prosecutor's Office. The cost for those three facilities is estimated at \$22,156,000. If the Mexican Original facility at 1851 E. Huntsville is purchased, it can house the Fire Administration, Fire Station #3, Police Department, District Court, Prosecutor's Office and still have approximately 40,000 sq. ft. left over for other municipal needs at a cost of approximately \$14,455,000. The cost difference is \$7.7 million.

Alderman Rhoads asked Mr. Davis if he is comfortable that the estimate for the Mexican Original facility is a pretty solid number.

Steve Davis said he felt the number was solid. He stated that both numbers were taken off fairly recent costs in the bid market. These numbers are only valid for 2004, however, with the construction market and material prices, there is no way to know what the costs might be in the future. But there is always a significant cost difference between remodeling an existing facility and building a brand new one.

Alderman Rhoads asked if the same effort, same time, same assumptions were used to get to both numbers.

Steve Davis: Yes. The difference between the two numbers is essentially that with the 1851 E. Huntsville property, the foundation system, concrete floor, walls, roof, parking facilities, etc. are already there. Both estimates also include land acquisition costs. Land acquisition for three stand-alone facilities was estimated at approximately \$100,000 per acre.

Alderman Rhoads: How much extra space would be result at the East Huntsville location?

Steve Davis: The East Huntsville location is 126,000 square feet located on 11.8 acres, more or less. After the needs of Police, Fire, District Court and Prosecutor's office are met; there would still be approximately 40,000 square feet of space left. The stand-alone facilities estimate was based on 80,000 square feet of space, plus two fire stations at about 7,800 square feet on about the same acreage.

Alderman Thiel: In speaking of the three stand-alone facilities: joint public safety complex, Fire Station #3 with equipment and Fire Station #5, asked if this would only replace one of those fire stations.

Steve Davis said the \$14 million number would build two fire stations plus the joint public safety complex. The Fire Station #5 relocation will cost approximately \$1,850,000 by the time land is purchased and construction is completed. If the City builds Fire Station #3 and equips it, it will cost \$3,170,000. If the Mexican Original facility is used for Fire Station #3 and it is equipped, the City will spend \$2,162,000.

Alderman Davis: Asked where the money for the renovation will come from.

Steve Davis: The dollars for the renovation and dollars for the construction of Fire Station #3 and #5, under all scenarios, will have to be found. In everything being presented to the Council today, the money will have to be located.

Alderman Davis asked what time frame the administration is looking at doing all this.

Steve Davis: Fire Station #3 would be the first priority. Staff would expect to purchase land by the end of 2004 and have occupancy by the end of 2005. The next year, Station #5 would be relocated. The time frame currently being estimated is no earlier than 2007.

Mayor Coody asked for clarification from Mr. Davis about funds available for the purchase price for the property.

Steve Davis: If the City Council approves the budget adjustment, the money is available to purchase the property. The bulk of that money will come from the sale of the library, as well as some additional interest earnings. Some money was also pulled from other building projects. There is also \$100,000 in the 2004 Capital Plan for this facility.

Alderman Jordan asked if impact fees, which can be used for police and fire needs, could be used on a building.

Mr. Williams said he thought that fire and police impact fees could be used for a building if they expand the capacity. They cannot be used for current, ongoing operations.

Alderman Davis asked if impact fee dollars have to stay in the areas in which they are assessed or if they can be used anywhere in the city.

Mr. Williams: Since this particular facility will be serving the entire City, impact fees from all over the City could be used for it. However, if a single fire station were being built in a particular area, the question would arise as to whether it would be considered as a part of the entire fire department or as an individual facility. Mr. Williams was uncertain about that question, but felt comfortable that use of impact fees for this particular facility would be appropriate.

Alderman Rhoads: Presuming that money can be found, where does this project rank in the City Administration's priorities?

Mayor Coody: We need to build more fire stations. The fire station on Ruppel Rd. is the first fire station built in 26 or 28 years and the City is playing catch up.

Alderman Rhoads said he understood that need, but this is more than a fire station. He asked where the other parts of this proposal, the police station, police training needs, etc. fit into the City's priorities.

Mayor Coody: Some priorities can be advanced by finding opportunities and taking advantage of them. If we did not have an opportunity to buy this building at this price, the City would probably still be looking at three stand alone buildings and, over time, probably spend a lot more money. One of the reasons this particular piece of property is being considered is its purchase price.

Steve Davis: Tyson's asking price for the property is \$1.5 million. If the City can purchase the property for \$1.1 million, we would be getting the 126,000 sq. ft. building basically for the price of the land. We don't know if Tyson will accept that offer. The City is saying that we can find \$1.1 million. The next step is to negotiate with Tyson's to see if they will accept that offer.

Alderman Davis clarified that all the Council is doing tonight is giving the mayor and staff the ability to present an offer to Tyson's, then the issue would be brought back to the Council.

Alderman Thiel said we need a fire station to serve the south and east part of Fayetteville. He asked a question about the amount of money budgeted in the CIP for the 04-08 budget.

Steve Davis: The cost of building a free standing fire station and equipping it in Ward 1 to serve south Fayetteville and east Fayetteville would be \$3,170,000. What you get is a 7800 sq. feet

fire station. If you purchase the Mexican Original facility with 11.8 acres and 126,000 sq. feet, you get a 7800 sq. ft. fire station and 119,000 square feet more to address other municipal needs.

Alderman Thiel said her point is that the City will spend that money anyway for a fire station. It just makes sense to buy something that will serve a great many more purposes at what appears to be a total cost avoidance of over \$4 million.

Steve Davis said he would expect that by the time it is finished, the cost avoidance would be closer to \$7 million.

Mayor Coody wanted to point out again that if Tyson does negotiate down to \$1.1 million, which is possible but not certain, and with commercial rents as low as \$8 per sq. ft for a year, the City would be buying this building for the same price someone would rent if for one year. In addition, the City would have to be putting money into acquiring right-of-way for that intersection anyway.

Alderman Davis: Has the administration thought ahead to what will be done with the current fire station on Hwy 265 and the current police facility?

Steve Davis said he couldn't answer about Fire Station #5, but as to the current Police/Courts building, he explained that Coy Hurd wrote a space assessment report last October that was distributed to the City Council. In that report it was noted that if a joint public safety complex became possible, it would free up space to relocate Planning, Building Safety, Engineering and Community Code Enforcement staff to the current Police/Courts building. With the current Engineering/Planning space freed up, the staff currently housed in the metal buildings on Rock Street could be relocated to Mountain St.

Alderman Lucas agreed that a fire station is important. She also feels the police need more room, but wanted to be sure to consider if the Mexican Original facility is the appropriate place for a police building.

Mayor Coody said that at this point, the City is simply looking at projected, possible uses. The Parks Department might be able to use part of the facility. It is pretty open ended as to uses.

Alderman Cook agreed that the space was needed. But the question is: Is this the right building? He said he had serious doubts about the numbers presented by staff as far as remodel costs vs. new costs. He said he had particular problems with the building itself because of its configuration due to past uses. He feels it will take a lot more to remodel that particular building than is being estimated.

Alderman Marr wants to make sure the City doesn't just find a good deal and then try to make it work. He prefers that we find out what we need and then look for the best deal for what we need. He questioned the numbers on page 4 of the packet; regardless of location, the exact same construction/renovation/additional facility cost of \$13,440,000. He asked if that was a standard number and where the numbers come from. I am not opposed to looking at what space the City needs and when it is needed, but I'm trying to get comfortable that we are not just making it fit.

If the police department outlined what is ideal for access, security, etc. would it be at this facility? It also concerns him that the additional space will fill up quicker than 20 years, simply because it is available.

Steve Davis: In 1991-92, the City commissioned Roth and Shepherd to provide a space-needs assessment for the current police/courts building. At that time it was determined, based on growth rate being experienced at that time that the current facility would be suitable until 2012. Our growth rate has not been what it was in 1991-92. We have already gone past the staffing levels that would have allowed the facility to remain suitable to 2012. District Court and Police have both reported that their space needs have reached a critical point.

Alderman Marr: In that study, were there recommendations about whether the location should be within the population center, population growth area, where was the target for a locating expanded services?

Steve Davis: In the planning that went into developing the report that was distributed last year, the key locations from the police department perspective were Cato Springs and I540 or I12 and I540. Those were the preferred locations because of easy access to the bypass and easy access to a 4-lane State highway. In looking at the Mexican Original site, it has easy access to a four-lane highway (getting ready to improve the intersection at Huntsville Rd. and 15th St. is a proposed project) and easy access to Hwy 265, which is also a State Highway, that functions as a by-pass on the east corridor. This location was not their ideal choice, but it was also not available to be considered when the report was distributed last October.

Alderman Thiel: This location may be not be the first choice by the Police Department, but there does need to be a fire station in this location. The idea of combining the two into one facility would obviously lend some cost savings. She shared Kyle's concerns about renovation costs because they are very difficult to project. She did notice that in the offer and acceptance, Tyson's would be held responsible for removal of any environmental hazards, etc. I see the location as very accessible and a good location.

Alderman Rhoads: If this is indeed as good a deal as presented and if it is going to enhance services in that part of town, maybe it is something worth passing.

Alderman Jordan: It tends to agree with Aldermen Rhoads and Thiel. The fire station is probably the number one priority. If the City just buys the building and puts in the fire station, what would the cost be?

Steve Davis: Approximately \$3,170,000 to put equipment in it.

Alderman Jordan: What was the cost of Fire Station #7?

Steve Davis: \$1.6 million, plus equipment. They are proposing about \$1.2 million worth of equipment. It would cost approximately \$1.8 to build a fire station here as opposed to about \$1.6 to build Fire Station #7.

Alderman Davis asked if the City is looking at putting a sub-station of the police department somewhere in the northwest area of the City in the future.

Captain Johnson: The PD has thought about locating the community arm of the policing division offsite, but not a 24-7 substation that would duplicate all the services provided at the headquarters. That has been discussed but has not reached the planning stage.

There was some discussion about the potential need for a substation in that area if the PD headquarters is moved, distances involved, access, possible delays in response time, etc.

Captain Johnson: With the exception of the investigative and administrative component of a police department, the location is not as important as it would be for a fire department. For the most part, officers are mobile, out in their cars, and response time wouldn't be an issue.

Chief Bosch: The Deployment Study mentioned earlier lays out the needs of the Fire Department over the next twelve to fifteen years. In that study, Fire Station #3, located in this area, along with Fire Station #5 are both the #1 and #1A priorities for the Fire Department. In the 04-08 CIP Budget, funds were requested for replacement of Fire Station #5 and the addition of Fire Station #3. The projects were unfunded because of the lack of capital money available. This potential purchase presents an opportunity to relocate Station 5, add Station 3 and consolidate support services. He stated that he is very comfortable with this and thinks it is a very good project. In regard to the goal set by the Fire Department for 6-minute response time 90% of the time, Engine #5 on Crossover Rd. is only meeting that goal 50% of the time because their call volume is in the southeast and northeast corridor, outside their 1-½ to 2-½ mile response radius. We have to move Station #5, and when that station is moved, a station has to be added to serve south and east Fayetteville. As to what would be done with the property housing Fire Station #5, it could be used for other city services or could be sold.

Alderman Marr said he resented Chief Bosch's comment that the Council's questioning of financial issues meant that they did not support and understand the need for a new fire station. He said that he feels the Council understands the need for response time coverage. The question is whether this is the best place. This is also much more square footage that is needed for a fire station. The concern is over how that will be used, what is going to happen with existing space and what are the operating costs to continue those spaces and take on the new ones.

Chief Bosch said he was sorry if his comments were offensive, he did not intend for them to be. He simply wanted to state that he saw the need from the perspective of the Fire Department and felt this is a good opportunity to take positive steps.

Mayor Coody opened the floor for public comment.

Cyrus Young suggested that if the Council is not deciding tonight whether or not to buy the Tyson building, the resolution should be changed.

Mayor Coody: The way an offer and acceptance is handled, the Council will authorize the Mayor to negotiate a contract with Tyson's. A price will be agreed upon, which will have to come back to the Council for approval.

Cyrus Young said the wording should be changed to say that the resolution authorizes the Mayor to negotiate. What it now says is that the mayor will offer a contract. He also suggested that if a contract is offered, that somewhere in that contract the seller guarantees the roof will not leak for a certain period of time.

Alderman Thiel: I wondered if, since the other Ward 1 alderman is not present tonight, the issue could be tabled until the next meeting.

Alderman Davis reminded the Council that in two weeks, Ward 3 will have one less representative also. He would prefer to go forward with the vote now.

There was a general consensus among Council members to go forward with the vote.

Alderman Davis suggested taking Cyrus' suggestion to change the ordinance from an offer and acceptance to allow the mayor to negotiate with Tyson, not to exceed the estimated amount of \$1.1 million.

Mayor Coody said, though the wording of the resolution might be misunderstood, all contracts have to be accepted by the City Council.

Mr. Williams: In listening to the Council, it is obvious that their intent is not to authorize a sale without further City Council action. Any expenditure such as this would have to be clearly done by action of the City Council. Though the resolution is somewhat misleading because it offers a budget adjustment, he, as City Attorney, will interpret the resolution to mean that any proposed offer would have to come back to the City Council for final approval.

Alderman Marr wanted to clarify: \$1.8 million, purchase the building and get a fire station; \$1.6 million to build a fire station in this area with 7800 square feet.

Steve Davis: On Page 4, line 37-line 42: Construction cost of a fire station is \$1,620,000; cost of fire apparatus is \$1,320,000; land purchase is \$230,000. Taking out the fire apparatus, it would cost \$1,850,000 to buy land and construct a fire station. Including cost of land purchase, it would be approximately \$1.9 million to put a fire station at this location.

Alderman Davis moved to approve the resolution. **Alderman Thiel** seconded the motion. Upon roll call the resolution passed 5-2. **Alderman Rhoads, Davis, Lucas, Jordan and Thiel** voting yes. **Alderman Cook and Marr** voted no. **Alderman Reynolds** was absent.

Resolution 111-04 as Recorded in the Office of the City Clerk.

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.

Gary Dumas, Direction of Operations: Kit has rewritten the contract so you will have to ask him what the contract says now because I haven't seen a current copy of it.

Mayor Coody: All right, first I want to clear up a misconception while Kit is busy with Mr. Fancher. I think there must have been some miscommunication thinking that we would be expecting the simple sales tax or the HMR tax to be the consideration for the dollar a year and what we were intending was to have them do quite a bit of work around the square, cleaning it up, making sure it was policed, picked up, litter free a couple of times a day every day for a year for that dollar. So that was the consideration we were talking about.

Gary Dumas: That's correct. And the value of that consideration was about \$5,200 a year from existing staff time that is spent on the Square currently.

Mayor Coody: That's just to clear that up. I know we are looking at a different lease right now but I didn't want folks thinking we were just trying to give something away for a dollar a year and have no other consideration, because that never was the plan.

Alderman Davis: We have another lease we are suppose to receive?

Mayor Coody: To Mr. Williams, do we have another lease? Have you passed one out?

Kit Williams: Yes. I have passed one out to each one of you and I can report that I have gone over this lease with the Fanchers and I have a signed copy of the lease by Mr. Fancher, signing for the corporation. He is right here and he can address you. As I pointed out in my memo, the consideration would be \$2400 a year, payable at \$200 a month; still very reasonable. However it is over a 40% increase from what the rates were in the previous lease that the City agreed to. And it is up to you all still to decide what you want to do, obviously; this is land that you control as a City Council. But I think that at this point in time it probably could stand the test of adequacy from a legal point of view.

Alderman Rhoads: Yes. I have a question, Kit. You indicated that the lease was about 43% greater than what it was before. But, under the old lease, with the old tenant, weren't they required to do a number of things, as far as constructing things and things of that nature that obviously brought consideration to the table? My general notion is that just having something viable in that spot is a good thing. And I'm not going to be disabused of that notion I don't think. But, I want to make sure also that we're getting a really good deal. Give me an apples-to-apples if you could, Kit.

Mr. Williams: Well, obviously the earlier developer of this spot, the Hog City Diner, did spend many thousands of dollars to level the concrete, to put in the columns with the wall. Spent about \$3,000 to build us a potting shed because we had been using that place as a place for our, to grow plants for the Square. And so there was a lot of considerations that they gave us and I think that

one of the reasons the City Council agreed to a fairly low rent, \$139.75 a month, was in order to give the Hog City Diner a chance to amortize all their expenses that they had invested. Unfortunately, of course, after a few years Hog City left and so, at that point in time the improvements because the City's, as always. It was placed in the lease that the improvements would remain ours. And so they are now to our benefit. They have now created a nice seating area in there that can seat, according to what the Hog City Diner owner said, 75 to 80 customers, so it vastly increases the seating capacity; not as much as the restaurant, of course that is only seasonal seating also, not more than six months a year. But it does provide a very nice place. I have eaten out there myself, enjoyed sitting underneath the trees, surrounded by our beautiful garden. Of course they have walls up and you can't see the gardens too well, but you know they are there. I would say, as I did in my memo, that \$200 a month is probably the absolute minimum that I would be able to sign off on as your City Attorney and that is what I have done with the Fanchers. And like I say, they have also signed this lease for that amount.

Alderman Rhoads: But, and maybe Kit, maybe someone else can answer, but the value that the prior tenant gave the City was approximately how much versus \$200 a month?

Mr. Williams: They did not tell us precisely how much their improvements cost. That was not part of the negotiation. We knew that the potting shed improvement was going to be not more than \$3000, but maybe it didn't even cost that much for them to build that. I think it was several thousands of dollars, but I can't tell you how much it was.

Alderman Rhoads: Mr. Dumas, do you know? Do you have an estimate?

Gary Dumas: (response inaudible)

Alderman Rhoads: All right.

Mayor Coody: How are you today, Mr. Fancher. Welcome to town. I hope all your future experiences are more pleasant than what you have been suffering here lately.

Gary Fancher: I'm just fine. And we appreciate the help you have given us so far. You were talking about the improvements, we were over there today looking at those improvements and I was just talking to your attorney. The pipes are broken; those are going to have to be repaired. The potting, the landscaping, which is so wonderful has also created another little problem which caused some more flooding downstairs so we're trying to correct that. As it has grown up it has gone over those drains on the lower part of the building. So we've had roto-rooter over there today and I've been back in the back, so there's quite a bit of work that's going to have to be accomplished before we'll be able to use that. We're going to have to possibly tear the concrete up just to fix the pipes that are broken. Some of the fixturing that's out there is going to have to be replaced. There'll be some additional expenses we're going to have to put on ourselves to bring this up to par. One of the things, when we came here, about a year and a half ago we started trying to negotiate with Mr. Bumpas to lease the property. And one of the things that made us want to come here is, with our present operation in Flippin we have inside dining and outside dining. And so this is just the perfect mix for that. I'm not sure that – I'm sure you could extract to the nth degree on the property – I think that we're going to bring some other

things to your community that is going to be above and beyond just the financial remuneration, just exactly what you can get out of us. We think that what we've agreed to is adequate. I think it does give the City some reason to say they've got remuneration for their property without putting a bind on us that we're not going to be able to meet financially. We think this is plenty adequate. We hope that you feel the same way. We're going to bring some nice things, we think to your community. When we come to the community, we're going to be totally involved in your community, whether it be the Chamber...as we came here; we found a number of our clients, customers that now go to Flippin. So I think you're going to find that we're going to be an asset to your community and bring more than just - I would hope that you'll not just put a dollar figure on us coming here, on that piece of property. We feel like that this is certainly adequate and I hope that you do also.

Mayor Coody: I'd like to add that we're very glad that you're coming into the downtown area because we've needed someone in that building ever since it's been vacant for the last couple of years.

Mr. Fancher: We just think the place is awesome. When we first came over here, my son had kept insisting that we come look at Fayetteville. We were looking at three other locations. And the Depot is what we came to look at, then when we saw this building, we just fell in love with it. I mean, it is a gorgeous place and we felt like, with the kind of operation that we have, it's just going to be a perfect mix. So we can't wait to get open. We're hoping to be open in September; that may be optimistic. We'd like to be open by the 1st, but I don't know if it's going to come that quickly.

Alderman Thiel: Well, I'm certainly glad someone's going to occupy that space. It needs to be occupied and of course, I think the Square Gardens totally enhance and add to the value of any property, any commercial business that is located downtown. But, at the last meeting I had asked, and I was absent for a moment whenever we started this discussion, but I had asked the staff to find out approximately, not that necessarily we would use that price, but it would be kind of a starting point for us to consider, kind of an estimate of what the fair market price for a lease on that type of property would be. Did they get that? Did someone already ask that question and get a response to it? I had asked that at the last meeting.

Gary Dumas: The lease was with ... Bumpas...

Alderman Thiel: And I think that Mr. Davis said that we probably couldn't get that and I think I said then, well, could you get an estimate. In other words, based on the market value. Yes, we did ask that...

Gary Dumas: I have no idea what downtown...

Alderman Thiel: So we still don't know that?

Gary Dumas: No.

Alderman Thiel: So that kind of, I guess, is frustrating to me because, you know, looking at the initial lease, what, how many years ago?

Kit Williams: It was about four years – five years ago. Maybe six years ago.

Alderman Thiel: Five years ago that we did that. And that was supposed to have been estimated, I guess, at the market value of ...during that period...

Kit Williams: I don't remember actually any market value analysis being presented to the City Council at that time. It was...

Alderman Thiel: Where did they come up with that figure? I mean can you...do you remember?

Kit Williams: I'm not sure the...

Mayor Coody: If I remember right, it was about \$1 a square foot – it's about 1647 square feet. I think that's close. And it was about a dollar a square foot.

Kit Williams: That's what it comes up to.

Alderman Marr: According to the minutes, page 23 and 34 in the minutes of July 21, 1998 that our City Attorney gave us, the City's land agent said the going rate for unimproved property was \$1.50 a square foot. And Alderman Trumbo suggested that a \$3 per square foot rate be evaluated for the lease.

Kit Williams: But that was later then reduced by two-thirds to the dollar a square foot.

Alderman Thiel: Right.

Alderman Lucas: Due to the construction they were going to do.

Alderman Thiel: And that was based on, basically that reduction was in consideration of the capital improvements that that business was going to make on the property.

Kit Williams: That was one of the factors. Another factor was the same thing I think that you're looking at right now, the desire to get a prime building on the Fayetteville Square occupied again by a restaurant. At that point in time, the City Council was faced also with the empty old post office, which had been empty for a period of time and we were very much wanting, as part of ...to maintain the life and vitality of the Square, to have another business in there.

Alderman Thiel: Well, I might also add that it does cost a great deal to maintain the Square Gardens, which does enhance that building, something like a \$127,000 just for the operation and our HMR taxes, which would be derived from this such business cannot be used for operations, they can only be used for capital improvements and, you know, whatever we consider, whether

it's...if we do agree, you know, that the \$2400 is enough, I would urge that that go directly, as directly as it can, to the Parks Department to be used in operations to therefore cover some of the \$127,000 plus that it takes to maintain the Square Gardens.

Mr. Fancher: I can assure you that, as you well know, that the amount we are paying is not properly fair market value. I don't know if it makes any difference to you, but when I first came to Flippin, Arkansas twenty-seven years ago, they needed someone there to get some stimulus going. They had no doctor, they had no pharmacy, so they were encouraging us to come and did so and gave us some considerations for doing it, for much the same reasons that you're talking here. I can't tell you that that's enough money. I can tell that's probably all we're going to be able to pay. And we do want to be here. But we do have a limit as to what we can pay for that, strictly because it is going to be used a limited amount of time throughout – just for seasons. We do expect to get some benefit but we also expect to be paying taxes. We expect to be bringing – to change your economy downtown. We expect you're going to have more people coming downtown, that may be good or bad. I think that you're going to see, hopefully, some other businesses come back if there are some more activities downtown. We think that we're going to be good for your downtown and we think we're going to bring you more to your community than what you – than just setting a dollar amount on what you're going to get for that parcel of land. It is certainly important to us to have – it is part of our business plan. And when we were doing this, we probably have made a wrong assumption that it might be somewhere close to the same rental, since it was about two years ago when they went out of business. So we made an assumption there that it might be close. That was a mistake on our part. We probably should have started here first before we started trying to negotiate a lease with Mr. Bumpas. But we want to lease the property and we hope that you all find that this is an equitable amount; with the other things we bring to the table.

Alderman Marr: I have a question on the lease for the City Attorney. I was... in item #8, under music; the lessee agrees that only live, non-amplified music will be permitted on the property. My concern is that we have an outdoor music ordinance for a business that has not been in place for twelve months or not a grandfathered business and I want to make sure that whatever our normal ordinance process that someone would go to is not being waived by the language in this lease. Because, to me, I think that looking at the Square thing, while I understand the value to the citizen is the use of their asset, sort of speak, for the lease, I'm not as concerned about that and I'm glad to have the business done as long as, I think, the protection of what the City Council has as a result of these...this outdoor space coming, is to make sure that the garden spaces and the public spaces surrounding that square are protected for the citizens to use because it is, in essence, in my opinion a public park just like other public parks that we have. And I want to make sure that we're not authorizing something in a lease that, you know, I realize it says non-amplified, but trust me, I've been through a lot of discussions with a lot of people in Ward 2 in the center of town in our non-established entertainment district yet, where we fight about what's amplified, what's not, what's loud, what's not, and I really want to know that it's going to go through that process.

Kit Williams: Well let me assure you that it – that this does not waive any City ordinances. If you read the entire paragraph 7, it ends with talking about the music "which shall not be loud enough to disturb persons enjoying the Square Gardens". I placed that in there to make sure that

it would not be a nuisance to anyone that wants to be enjoying themselves at the Square Gardens. And also there's another provision in here, paragraph 12 that says that the enterprise..."OPO Enterprises, Inc. agrees not to violate any law, ordinance, rule or regulation of any governmental authority", so obviously we're not waiving any particular ordinance on this, in this lease. And you couldn't waive an ordinance with a resolution anyway. An ordinance takes priority over a resolution, so ... this is something, I'm sure we'll work with them and from what they have suggested, I don't think it's going to be something that would be causing any sort of violation of any of the ordinances. And we'll work with them to make sure they fully comply.

Alderman Marr: So, this lease still would require that they go through conditional...outdoor conditional music hearing?

Kit Williams: I would think that would probably be correct. Even though it's going to be non-amplified, I think that would be...but with these provisions in here, I'm sure that that conditional use would be granted, there's...

Alderman Marr: I'm not saying that I'm against it. I'm for it. I'll probably speak on it, it's in our ward but I want to know it's going to go through that process.

Kit Williams: Oh, yes. It'll go through the process. If they're not disturbing people in the Square Gardens, they're not disturbing the neighbors....

Alderman Marr: Thank you. That'll make all the people who called me happy.

Mr. Fancher: We haven't been able to book the Eagles yet out there....

Mayor Coody: It's KISS we're worried about.

Mr. Fancher: Oh, okay.

Alderman Davis: Mayor, if I may make a comment. I hope this ... if this goes through; I hope it brings some commerce back to downtown. Right now, if you walk down Center Street you see the old Greer's Abstract building, currently vacant, Bronson's Abstract is vacant. You go on the other side, on the south side of Center Street, you've got the Hoffbrau, you've got the Café Santa Fe, which is currently vacant, you also have the commercial building between those two restaurants that's probably 40 to 50% vacant at this point of time, the whole second floor is vacant. The E.J. Ball Plaza building is probably 35 to 40% vacant, that's a seven-story building that we have downtown. On the other side of this location, Mountain Street, you've got the Niblock Law Firm, I believe, which is right now vacant because they've moved. Then you've got the old Blue Bird Café ... or Red Bird Café, which sits there, and it's vacant. So, hopefully, if this goes and is successful, it will bring other people downtown to the community and it will help this area of town be successful again.

Mr. Fancher: That is certainly our goal.

Mayor Coody: Does anyone from the public have any comment on this item before us tonight?

Gary Dumas: Mayor, I would point out that there are speakers on the OPO building, the Old Post Office building that are operated by the Town Center. And it is amplified music but that is, that has nothing to do with this operator here. The Town Center controls that amplification. It plays various times throughout the year.

Alderman Davis: It's used for Autumnfest and Lights of the Ozarks.

Marilyn Heffner, Town Center: There's both kinds of amplification there. The A&P Commission bought for Lights of the Ozark two speakers on the – to the north side and the south side. There's also speakers on the south side, just for the actual area that you're considering leasing. One.

Mayor Coody: Thank you. Anyone else have any comments on this item? Seeing none, I'll close it to public comment. Is there any other comment or question on this item at the Council?

Alderman Thiel: Can I just say one thing?

Mayor Coody: Yes, please.

Alderman Thiel: After looking at your illustration of what you have in Flippin, I mean, this building is just so perfect for, you know, this sort of thing. It just really fits. It looks like it would be a great thing.

Mayor Coody: I'll entertain a motion to approve the resolution.

Alderman Davis: So moved.

Mayor Coody: Now, we would be amending it from the one in the book, right?

Kit Williams: Yes. I will amend the resolution to conform with the new contract.

Mayor Coody: Okay. So we can just approve this and you'll take care of the rest of it?

Kit Williams: Yes.

Mayor Coody: Okay. Was there a motion and a second?

Alderman Davis moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the resolution passed 7-0. Alderman Reynolds was absent.

Resolution 112-04 as Recorded in the Office of the City Clerk.

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.

Steve Hatfield, Parks & Recreation Division made a presentation about the project. He stated that it is a pedestrian bridge and also a linear trail that will connect the Veterans' Park on the south to the baseball complex on the north. It is a connection that has been in the Parks recommendation for a long time. This is the second time it has been bid. It is an expensive project. The Parks Division has looked at options, and there are possibly more options they can look at to make it come closer to the City's cost estimate as presented in the packet. The estimate was \$662,000 and the low bid was \$887,000.

Alderman Thiel asked how this bid compares to the cost of some of the recent trail construction projects, per square foot.

Mr. Hatfield: The Center Prairie Trail, which is currently under construction downtown, running from Center to Prairie Street came in at approximately \$180 a linear foot. The West Mud Creek Trail ended up costing approximately \$80 a linear foot. Prices for trails jump around quite a bit. Those are the comparisons on the two most recent projects.

Alderman Thiel asked about the cost per linear foot of this project.

Mr. Hatfield: It is about 3200 linear feet. The bid tab in the packet shows the cost of the superstructure of the bridge, 3 spans of 254 foot total, the bid being \$247 for that item.

Mayor Coody: After doing some rough calculating, he estimated that the cost would be about \$280 to \$290 a linear foot, with the bulk of that being the bridge.

Mr. Hatfield stated that the other two projects did not include a structure such as the bridge.

Alderman Thiel: I have followed the process of developing plans for this trail and bridge over the years, and I am concerned that rebidding the project, even with reducing the scope of the work by narrowing the bridge down and eliminating the overlooks, with the fluctuation of steel prices she is concerned that the City could very likely end up with same price, if not more. And if the City continues to send bids out and then decide not to follow through once they are bid, she is concerned contractors who will bid on the jobs will be reduced. This could definitely increase the bid amounts coming in. She is opposed to pulling this bid back to redesign because of the cost associated with that process, as well as the possibility that the grant that has been received toward this might be jeopardized.

Alderman Davis asked if the staff had looked at putting the bridge in any other location.

Steve Hatfield: In the design process, the staff looked at three locations. Two other locations were within the lake area. Costs were not figured specifically for those spans. The location selected is about the same length as the other two locations and the height of the three were approximately the same.

Alderman Davis asked if anyone had done any drilling to establish how deep you would have to go to reach solid rock.

Steve Hatfield: There was a geotechnical report done on the exact boring sites for this bridge. The contractors who bid on the project had that boring report. They are aware of what is under there and what it will take to get where they need to go.

There was some discussion regarding the four observation decks shown on the bridge plan and whether they were necessary.

Alderman Cook said he supports the observation decks and feels they are a positive addition to the bridge. I agree with Alderman Thiel that the decision should now be made and the trail finished.

Alderman Davis: Since the original estimate was lower than the bid amount, the extra dollars have to come from somewhere. He asked Mr. Hatfield what other trail projects would have to be put on the back burner because the dollars would have to go to this project.

Steve Hatfield said that no currently funded trail projects were put on the back burner. The money could be used on any one of the top projects on the newly adopted master plan list.

Alderman Davis: I would like to have a bridge of some sort but is concerned with the price on this one.

Steve Hatfield said there are certainly probably other ways to do this. The staff has looked at several options. Pricing is really hard to estimate.

Alderman Marr agreed that this is a lot of money. I think the City would be investing in a quality of life here and he feels that it is important to finish some of these trails. He liked the connectivity this project would create with existing parks.

Alderman Lucas asked how high off the ground the bridge would be.

Steve Hatfield said he didn't have the exact figure. He estimated somewhere around 25 to 28 feet.

Alderman Lucas expressed concern about the safety issue, such as a child falling off the bridge.

Steve Hatfield said there would be childproof railing along the entire bridge, as well as the retaining wall at the end of the bridge. Unless the child was completely unattended and could climb a 48" railing, there shouldn't be a problem.

Alderman Lucas: I struggle with the cost. I wonder why it was necessary to go to the high area to build the bridge across.

Steve Hatfield said it was all a matter of ADA accessibility. You could lower the bridge but it wouldn't substantially lower the cost because you are still paying for the superstructure. The only thing that would be reduced is the cost of concrete on the columns. Also, lowering it substantially would substantially increase the trail sections because of the multiple switchbacks, which would also create the potential of a lot of tree loss.

Alderman Lucas said she wasn't comfortable with the cost and questioned whether the bump outs are necessary.

Steve Hatfield: As part of the cost estimate in the preliminary stage, staff did look at putting a standard column there instead of what the current plan shows. There was a savings of approximately \$35,000 (anticipated costs, not bid costs) to not do the overlooks.

Alderman Thiel again stated that she feels if the project is rebid, the redesign costs, time elements and the fluctuating cost of steel could be a problem. Also, since there were only two bidders this time, there may only be one or none next time. The City is sending a bad message out to contractors in this very competitive market. A bid next time could come in at the same price or more and the City would end up with a lesser product.

Mayor Coody said he has never advocated going out to bid for a third time. He said he thought it would make more sense to look at a completely different design, one that would accomplish pretty much the same goal but not have \$932,000 attached to it. He said he would love to have this bridge. It is first class and a quality job. But if we have \$900,000 to spend on the trail system in Fayetteville, is this the best place to put it?

Alderman Cook asked when the bid estimates were done.

Steve Hatfield said staff had come up with that figure approximately two weeks before the bids were open.

Mayor Coody opened the floor for public comment.

Jennifer Michaels, Lake Fayetteville Watershed Partnership stated the Partnership normally concerns itself with water quality issues, but felt that the bridge was really important. She lives on the north shore of the lake, so is familiar with the traffic in the area. Trail use has increased a great deal, but they would like to see more families with children and she feels the bridge is critical to that. At this time, the trail is not complete. The spillway is dangerous and a bridge is needed. A bridge would make the trail more useful and make it a top quality park with a five-mile trail that is complete. She also feels ADA accessibility is very important. Although it sounds like a lot of money, she encouraged the Council to invest in the park that is already there and complete the trail.

Wade Caldwell, Chair of Parks & Recreation Advisory Board: He agrees the bridge is very expensive. The Parks & Recreation Division and Board have been saving for quite a while to be able to accomplish this. Other than the bump outs, the bridge design is quite spartan, with no ornamental ironwork, etc. There is nothing else like it in Arkansas; it would be great for

Fayetteville. We have the funds. We have a \$51,000 grant and \$80,000 in green space fees in the northeast quadrant that must be spent before the end of 2004; \$35,000 that must be spent before the end of 2005. This is part of the Parks' long-term plan. He doesn't think it will get any cheaper. He thinks it is something the City should do.

Mayor Coody asked Steve Hatfield how much money is available for Skull Creek Trail construction for next year.

Steve Hatfield: We don't have any money next year specifically set aside for any particular trail project. Money hasn't been identified specifically for Skull Creek.

Mayor Coody: So we wouldn't build any trails next year?

Steve Hatfield: They continue to wait for the federal government to pass the Transportation Bill, which would help the division focus where the next project will be. He stated that the calls he is getting indicated that Skull Creek is in the top priority. It is in the top four of the Parks' priority matrix. If even a portion of the right-of-way is dedicated or donated to the City, it would easily jump to number one in priority.

Alderman Davis: Right now 1% HMR tax, equaling approximately \$1.5 million per year, is dedicated to Parks. Are none of those dollars being put toward future trails programs?

Connie Edmonston, Parks Superintendent: The money coming from the HMR taxes were budgeted two or three years ago for this project. The parkland dedication funds have really been what have made this project possible. Almost \$236,000 came from the parkland dedication fund from development that occurred in the northeast district.

Alderman Davis again asked if any of the HMR tax revenue directed to the Parks is being put towards the trails programs.

Connie Edmonston: Actually there are two sources of funds to the Parks – the sales tax and the HMR tax. We have been using the sales tax for the trails projects. When Parks & Recreation received the Trails Division into their division, the Trails Division had money from sales tax and they continue to use that. But Parks has supplemented it. In the next couple of years, most of those funds are going towards the Community Park. But that can be reevaluated.

Alderman Marr asked for clarification about whether the \$235,000 from parkland dedication was quadrant specific. And is Skull Creek in the same quadrant as Lake Fayetteville.

Connie Edmonston: Yes, it is quadrant specific. No, Skull Creek is not in the same quadrant; it is in the northwest quadrant. There is quite a bit of funding in the northwest quadrant that could be earmarked toward Skull Creek.

Alderman Marr made the point that at least 30% of this money could not be spent on Skull Creek even if this project was not done.

Connie Edmonston: Correct.

Steve Hatfield wanted to clarify that he didn't mean that the City doesn't have any funding for trails. But it is not specifically earmarked for Skull Creek. In response to a question from Mayor Coody, Mr. Hatfield said that \$350,000 is budgeted next year for trails.

Alderman Jordan asked if this project was the top of the list for priorities at this time.

Steve Hatfield said that it was the top priority.

Alderman Jordan said he understood the Parks Board unanimously voted for this project. He asked why this project is at the top of the list.

Steve Hatfield: As part of the Parks master planning ten-year process, a focus group, a steering committee, and a mail-out survey all indicated that this project was a top priority. It wasn't evaluated in the Trails Master Plan that was adopted last year. No interior or existing trails were analyzed.

Alderman Davis asked Steve exactly where the funds for this project would be coming from. He understood that \$237,000 was coming from parkland dedication; \$50,000 from the grant....

Steve Hatfield: \$376,340 will be coming from trail development fund.

Alderman Lucas asked if money for the Skull Creek Trail would only be taken from the northwest quadrant, even though it's going down the center?

Steve Hatfield explained that the only parkland dedication funds that could be used for that project would be those coming from the northwest quadrant. He said other trail project funds could hopefully be parlayed into more grant opportunities to be put toward that project.

Alderman Cook moved to approve the resolution. **Alderman Thiel** seconded the motion. Upon roll call the resolution passed 6-1. **Alderman Rhoads, Davis, Jordan, Thiel, Cook** and **Marr** voting yes. **Alderman Lucas** voted no. **Alderman Reynolds** was absent.

Resolution 113-04 as Recorded in the Office of the City Clerk.

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.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment.

Dr. Kathy McGuire Bauman said she is concerned about this and the following annexation, as well as the Marinoni annexation/rezoning. She said she felt the City should have an annexation study before major annexations with the accompanying infrastructure problems occur. She thinks the rush in this case is brought about because of the proposed location of the school, which is located in the next annexation item request. She indicated her concern that planning of school locations could be happening in a closed committee with no press or public input.

Charlie Sloan, Owner and Developer said that he is simply bringing this issue before the Council, as he would normally do. He stated that it has not been rushed; the school issue is of no importance to him. He said he bought the property and closed on it on January 8. The Council has already approved a section across the street from this property and building is already in process there. He said the school approached him well after the property had been purchased. He reviewed some of the plans he and the McBryde family had for the property involved. He denied any conspiracy and said he knows nothing about the school's planning process.

Alderman Thiel asked if Persimmon St. was going to be built out all the way.

Dawn Warrick: Yes.

Alderman Thiel asked about extending it on out to Shiloh Drive.

Dawn Warrick said the piece of Persimmon that will actually make the connection to Shiloh Drive has been built. As development occurs along those corridors, those developers will bear the responsibility of building that portion of the street segment within their development.

Mayor Coody asked Hugh Earnest if the City had any involvement in the determination to move the school out to the west.

Hugh Earnest: Absolutely not.

This Ordinance was left on the First Reading.

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 Ruppel Road and Persimmon Street containing approximately 80.00 acres.

Mr. Williams read the ordinance

Dr. Kathy McGuire Bauman said he believes citizens should be involved in the decision making of their cities. Discussed the Capital Investment Planning Committee of the School Board, which she said includes only: Howard Hamilton, School Board and Arvest Bank; Ron Edwards of UA Plant; Hugh Earnest, City; Jeff Koenig of Northwest Arkansas Business Council; Dennis Hunt of the Chamber of Commerce; three school principals; one parent who is the PTO president. She expressed concern that no teachers, parents, neighborhood associations or environmental groups are on the committee. She then expressed concern about other groups she

sees coming about that will have no public money involved, therefore will not have to have public involvement in the meetings. She is opposed to these annexations and promoted an ordinance that says no City employee can sit on closed committees without permission from City Council.

J. B. Hayes said he thinks Mr. Sloan has done a great job with this project and is doing some things that will help the Boys & Girls Club. He would like to see this project approved and not held up further.

There being no further public comment, the item was returned to the City Council.

This Ordinance was left on the First Reading.

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.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment.

Citizen from the audience: This is the fourth phase of Legacy Pointe and Persimmon goes through this property. Water and sewer have already been brought in to this property and they are now trying to work with Dr. Hayes so that Persimmon can be built now, not later.

There being no further public comment, the item was brought back to the Council.

This Ordinance was left on the First Reading.

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.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment. There was none.

This Ordinance was left on the First Reading.

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.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment. There was none.

This Ordinance was left on the First Reading.

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.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment.

Charlie Futrall said he lives on the north side of this property and his property adjoins the property. He passed out some descriptions of his subdivision. He wanted to express his and his neighbors' concerns about this development. He said the neighborhood is not as dense as it looks on paper because many of the homes are built on double and triple lots. This is an established neighborhood; many residents have been there for over 20 years. The builders of the subject development have been very open and helpful to the neighbors. There have been some things discussed that the neighbors would like to see the Council work with the Planning Commission to make sure happen. These items include density, a 50-foot buffer zone, and not doing the street connectivity. One of the biggest concerns is the traffic that would result within the neighborhood.

Williams Myers also lives to the north of the proposed rezoning. He stated that he is a registered, professional engineer and in his training, safety comes first. He feels the addition of 200 cars to Hwy 112 will stress an already dangerous highway and that injury to the public will likely result. He quoted statistics from the 2002 annual highway counts conducted by the Arkansas State Highway and Transportation Department and numbers from a survey conducted by the Fayetteville Police Department earlier this month. He also quoted accident statistics for this area. He recommended that the item not be approved.

Bill Forbess asked the Council to look at a map at 10 feet of private property between the property line of Taylor and Forrest Hills subdivision. This was put there when the property was platted out in 1964 to keep a cut through from coming through. He discussed density of this project in contrast to the density of Forrest Hills.

Zed Johnson, a resident of the neighborhood adjoining the subject annexation, said he is concerned with safety and would like for planning to include setting aside land at the Howard Nickell intersection to correct a very dangerous situation. More traffic coming from this high-density development will increase the danger. He also asked that the City look at ensuring that a

fire station in that area is high priority. He would prefer the item not be approved; but if it is, he asked that these two concerns be addressed.

A citizen from the audience said she lives alone and with the addition of all the new homes and she is concerned about her safety in her home.

There being no further public comment, the discussion was returned to the Council.

This Ordinance was left on the First Reading.

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 Ruppel Road and Persimmon Street containing approximately 78.84 acres.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment. There was none.

This Ordinance was left on the First Reading.

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 Ruppel Road and Persimmon Street containing approximately 78.84 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment. There was none.

This Ordinance was left on the First Reading.

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.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment. There was none.

This Ordinance was left on the First Reading.

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.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment. There was none.

This Ordinance was left on the First Reading.

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.

Mr. Williams read the ordinance

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Davis seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion passed 6-1. Alderman Rhoads, Davis, Lucas, Jordan, Thiel and Marr voting yes. Alderman Cook voting no. Alderman Reynolds was absent.

Ordinance 4591 as Recorded in the Office of the City Clerk.

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.

Mr. Williams read the ordinance

Mr. Williams said he did not think this item should be passed tonight. Said the property cannot be properly annexed until Springdale has a public hearing and passes an ordinance or resolution.

Micki Harrington said she thought there were two choices. The Council can wait on the rezoning or it could be passed subject to the concurrence of the Springdale City Council. She said she is happy to do it either way.

Alderman Davis asked other Council members if anyone has a problem with passing the rezoning subject to action by Springdale.

There was a general agreement to move forward in this way.

Alderman Davis moved to amend the ordinance to be subject to ratification by the City of Springdale. **Alderman Marr** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Alderman Davis moved to suspend the rules and go to the second reading. **Alderman Marr** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Mr. Williams read the ordinance

Alderman Rhoads moved to suspend the rules and go to the third and final reading. **Alderman Jordan** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Mr. Williams read the ordinance.

Mayor Coody opened the floor for public comment. There was none.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Ordinance 4592 as Recorded in the Office of the City Clerk.

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.

Mr. Williams read the ordinance

Alderman Jordan moved to suspend the rules and go to the second reading. **Alderman Marr** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Mr. Williams read the ordinance

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Mayor Coody opened the floor for public comment. There was none.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Ordinance 4593 as Recorded in the Office of the City Clerk.

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.

Mr. Williams read the ordinance

Alderman Thiel said she would prefer not to advance on this item since Alderman Reynolds had some concerns and is not present.

Mayor Coody opened the floor to public comment.

Tom Hennelly, Tomlinson Asphalt said there is sufficient city infrastructure in this area to support this project at four units per acre. The only infrastructure that will need to be added is an additional lift station and a force main to carry the wastewater generated from this project to the existing sewer line.

This Ordinance was left on the First Reading.

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.

Mr. Williams read the ordinance

Alderman Marr moved to suspend the rules and go to the second reading. Alderman Davis seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Alderman Jordan moved to suspend the rules and go to the third and final reading. **Alderman Davis** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Mr. Williams read the ordinance.

Mayor Coody opened the floor for public comment. There was none.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Ordinance 4594 as Recorded in the Office of the City Clerk.

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

Gary Dumas, Director of Operations: One property in this neighborhood has had three major floods over the last three months. Amber Drive has also flooded to the depth of about 18", limiting access to this neighborhood. Staff is proposing drainage improvements in this area to accommodate street drainage and for drainage of the flooded property. Action on this resolution would create a project and give staff authority to engineer the improvements and bid the project out.

Alderman Cook said he struggles with this item, primarily about putting this amount of money into one problem when there are similar problems across the city. He thinks it would be more appropriate to look at the drainage problem citywide.

Gary Dumas said the staff had also been faced with these same questions. This subdivision was built back in the 1980's and different standards were in place at that time. An engineering analysis today indicates that the developer probably did not satisfy the design standards in place at the time. The builder of this house not raising up the floor elevation to get positive drainage around the house compounded that problem. But this still would not have solved the street flooding in the area. He said he shares **Alderman Cook's** concern about not having a comprehensive plan for drainage throughout the City. He stated that he feels this particular problem is unique in that there have been three major floods within the last three months. He said he thinks the standards in place today and the ones being looked at with the storm water management program will address the drainage issues of the future, but there are still 50 to 100 years of problems from the past that will have to be resolved at some point. He does not think that individual problems can be ignored as long as the budget exists, but does feel the larger issue must be addressed also.

Alderman Thiel expressed concern about whether the problem with flooding in this particular house would be solved with this improvement.

Gary Dumas: The property owner will have to address lot drainage around his house. The City's responsibility is in addressing the drainage that was not adequately addressed by the

developer. He described what would be accomplished with replacing the drainage pipe in this area.

Alderman Thiel was also concerned about putting this much money toward one house when there are so many other problems.

Alderman Davis said he didn't think it mattered whose house it is, the City has the responsibility to provide adequate infrastructure for all its citizens, whether it is drainage or streets. Said he thought some of the developments in the area have added to this flooding problem. In this particular instance of flooding, the water went around the box culvert and down the drive of this homeowner. That is not adequate city infrastructure and should be addressed.

Gary Dumas said there are drainage issues throughout the City. Most of them still exist because they are expensive to solve and very complex.

Alderman Jordan asked the property owner how long the flooding problem had existed.

The property owner said he had owned the property approximately eight months and had been flooded three times in the past two months. He spoke of the problems he had encountered because of the flooding and his inability to get repairs completed until the drainage issues are addressed. In answer to a question from Alderman Marr, he said that the former owners made no disclosure of flooding problems in the past.

Gary Dumas said that some of the engineering staff is familiar with this property and is aware of flooding in the early to mid-nineties, but that is not documented in the record. The property has had several owners since it was constructed.

Alderman Marr asked if there were any other maintenance methods that might provide a fix for this issue while a more comprehensive study is done throughout the city to avoid spending this amount of money on this one home.

Gary Dumas said the staff analysis indicates that this is the least expensive improvement that could be made to address the problem.

Alderman Marr asked if there was any recourse to go back to the developer for not meeting the requirements of that development.

Mr. Williams said the City would most likely be precluded by the Statute of Limitations, just as the homeowner would be.

Alderman Marr said he feels the Council needs to figure out how they will address this issue of drainage as citizens make complaints. Also, he thought it was another issue to consider when the Council votes to bring more land into the city, the cost involved in maintaining it.

Alderman Jordan questioned how to handle claims from other home and business owners for flood damage.

Gary Dumas clarified that this is not compensating the homeowner. This homeowner has put in a claim for damage that was denied. The City has admitted no liability on any of these flooding issues. But this is an improvement the City can reasonably make to avoid the problem in the future. He asked for direction from the Council as to whether they would like staff to prepare a CIP item for a community-wide drainage study.

There was general agreement from the Council that this was needed.

Alderman Thiel was concerned about the many other homeowners and business owners who were also affected by the flooding. She asked for and received some clarification about this particular problem and how it would be fixed. Felt that if the floods on Amber Street affected traffic, then this became a safety issue.

Mayor Coody opened the floor for public comment. There was none.

Alderman Marr moved to approve the resolution. **Alderman Davis** seconded the motion. Upon roll call the resolution passed 7-0. **Alderman Reynolds** was absent.

Resolution 114-04 as Recorded in the Office of the City Clerk.

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.

Alderman Jordan moved to table the ordinance until the July 29, 2004 Special City Council meeting. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

This item was tabled to the July 29, 2004 Special City Council meeting.

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.

Alderman Davis wanted to discuss this item. Going back to the Citizen Survey done in 2003, the top concerns were streets, transportation and utilities at 63%. He does not think that 37% of the Wilson Springs proceeds going to street improvement is adequate.

Alderman Thiel said that the figure of \$5.2 million is not a true figure since \$700,000 has to go back into the property.

Alderman Cook agreed that transportation is a huge concern but he does not want to advocate just putting the money into the street fund. He thinks it should go into individual projects, picked by the Council on the basis of importance. He believes that Skull Creek can fit the transportation needs and discussed its value to the City.

Alderman Davis agreed that the money should go to specific projects that do not currently have money allocated to them. He talked about several needs. Said he believes decisions have to be made to divide the dollars up in a way that takes care of what the citizens say their concerns are. He agreed with Alderman Cook regarding the value of Skull Creek.

Alderman Jordan agreed that the infrastructure of the city has to be built. Thinks a lot of this will take long range planning and they have to start somewhere.

Mayor Coody talked about what is being done currently for street improvements.

Alderman Marr said the difficulty he has with this resolution is in dealing with this issue tonight. He thinks we need to look more fully into how to leverage the money, looking at grants, matches, etc. to see how it can be turned into more money. Said he feels discussion on allocation of the money should be an item discussed through the strategic planning of the Council.

Alderman Rhoads said he would like for staff to put together something that would define, as much as possible, where our funds are coming from and what the expectations are for continuing to receive those funds. He also would like to know where the City is in its reserves at this point, where we want to be and if any of this money should be put toward reserve funds.

Mayor Coody talked about the City's reserves. By cutting waste, the City has managed to keep its reserves at a good level. Spoke of the possibility of going to the citizens and asking them to extend the quarter cent tax currently allocated to the jail construction that should be completed this winter. If that quarter penny is extended for 30 months and is used to match the \$7.7 million dollars from the State, the City would have enough money to build the eastern by-pass that is badly needed. These are things that should be discussed by the Council in strategic planning.

Hugh Earnest: In response to a question from the Council, he said that Dr. Sumek has suggested two possible dates to reschedule the Strategic Planning meeting: August 19-21 and August 26-28. He asked the Council to get back with the staff about their preferences.

Mayor Coody opened the floor to public comment. There was none.

Alderman Marr moved to table the resolution indefinitely. **Alderman Cook** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

Meeting Adjourned at 11:10 p.m.

**City Council
Annexation Public Hearing
June 29, 2004**

A Public Hearing on Annexations was held on June 29, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Absent: Mayor Coody

Vice Mayor Davis called the Public Hearing to order.

Tim Conklin, Director of Community Planning and Engineering Services: This evening this is a Public Hearing for the annexation of the unincorporated areas completely surrounded by the City of Fayetteville. This is on your July 6, 2004 City Council Agenda, the actual ordinances, there are three ordinances which we discussed earlier this evening at agenda session. The purpose of this meeting is to hear from the impacted property owners within the islands and have the property owners express their views and issues or concerns with regard to this proposed annexation. Once again this is a Public Hearing, it's required under Arkansas code annotated, state law with regard to annexing the islands that are completely surrounded. There is no action that the City Council has to take this evening; the action once again will be at the City Council meeting July 6, 2004.

Vice Mayor Davis: Thank you Tim. Is there anyone that would like to address the Council?

Jeff Erf, 2711 Woodcliff Road, Fayetteville: I just had some questions concerning the annexation of the state experiment station off of 112. I was going through the whereas clauses and I had some questions. Under the ordinance it states the research station complies with at least one of the five requirements for annexation stated in Arkansas Code 14-43-02, I was wondering if I could get specifics on which five those were.

City Attorney Kit Williams: The five are in the statutes and there are several, number four certainly would work where it says when the lands are needed for any proper municipal purposes such as the extension of needed police regulation. There are also several others in there, so our allegations are that at least one of those five is appropriate for each one of these annexation parcels. Specifically number 4 and then I would also say number five which states when they are valuable by reason of the adaptability for prospective municipal uses. So even though at this point in time it is used as an

educational institution, they certainly would be quite adaptable to other municipal uses. I think it is clear that they do meet the statutory requirement for an annexation.

Jeff Erf: It is my understanding that the university has its own police department which patrols that section of property. So getting back to number four about the extension of police regulation I would question that. Also, the one that I have the most trouble with is there is a clause here that says *whereas at the time of the adoption of this ordinance the highest and best use of these lands*, that would be the experiment station, *is not for agricultural or horticultural purposes*. I'm just wondering it's the state's research center.

Kit Williams: Probably its best uses are for education.

Jeff Erf: According to this you are stating that the best use is single family housing, is that how I interpret?

Kit Williams: No, the proposed rezoning would be for R-1 Residential Single Family one house per acre. That doesn't mean that would be the way it would eventually end up with the university if in fact the university sold this land and it fell into private homes then the new owner could certainly come to the City Council and request whatever rezoning they wanted.

Jeff Erf: What the ordinance is complying is that the best use for that property is residential single family homes. That is more value than having a research station there.

Kit Williams: No what it is saying is that it is a higher and better use than agricultural or horticultural uses.

Jeff Erf: Okay I thought that is what I just said. You are saying higher and better uses for residential housing than for agricultural research.

Kit Williams: The statute doesn't talk about research; the statute says agricultural or horticultural uses in other words a farm.

Jeff Erf: It actually says purposes.

Kit Williams: Therefore a scientific or educational sort of institution is not just a farm it's different than that.

Jeff Erf: I would disagree with you there.

Kit Williams: I should note for the record that the university was contacted before we ever went forward on this and they are in total agreement to be annexed into the City of Fayetteville.

Jeff Erf: I am sure they would be that brings me to my next point. Back in 1988 the university was under contract with the City of Fayetteville for fire protection and for a

one year period they paid the city \$32,000. Since that time the city has gone into another agreement where they are leasing the city Lewis Field where the soccer fields are and in return the city is giving them fire protection over the experiment station and also leasing another piece of city property near the entrance of 6th Street, I'm not sure exactly where the property is. I guess my point is there is some value there that the city gets, with that not being a part of the city, I am just wondering if you annex that in what happens to the current agreement between the city and the university as far as the contract for Lewis Field goes. In the future if we build a community park we will get out of that lease and there will be some issues there that the city will have to deal with.

Kit Williams: I have reviewed the lease, as you stated the lease was between the city and the University of Arkansas, it was entered into in 1993. The primary parts of the lease were the fact that the university wanted to build a parking lot on its south entrance, which it did, a very large parking lot. The city on the other hand needed space for its growing soccer program which had been at Asbell School and they wanted to go across the street and develop some of the university lands for soccer fields, which they have done. We have even built facilities, restrooms, parking lots and things like that there. This lease was for 25 years and another component of that we told the university we would no longer charge them for fire protection. So if they are brought in, annexed in, of course we are not going to charge them for fire protection, which we couldn't anyway for the next 14 years. This lease would still be in effect, I would think because as long as they are leasing our property, then we have a right to lease theirs. I don't think anything has changed, I think this lease would still be in full force and effect. I don't really think that the annexation of the University of Arkansas Experimental Farms is going to affect this lease at all.

Jeff Erf: That could be true but there may be a different lease if there is a community park built and there is no need for the fields at Lewis Field. The university has indicated that they want that property back and want to build from what I have heard residential student housing there. You all probably know more about this than I do but I just wanted to bring it up for discussion. Thank you for your time.

Alderman Rhoads: Mr. Vice Mayor may I ask Mr. Erf a question?

Vice Mayor Davis: Yes sir.

Alderman Rhoads: First of all I appreciate you have always done your home work when you get up to speak to us. I am sure glad Kit is here because I probably couldn't answer all those questions. What I am curious about is what do you want us to do and why.

Jeff Erf: One of my concerns is that the university cost the city a lot of money, there are a lot for example false alarms on campus. It's taking time and costing the city to control traffic and that sort of thing. What I am saying is that the city in the past there has been a value, they have gotten something out of the university for providing fire protection for

that property. Now if it is annexed into the city, I presume there will no longer be that value.

Alderman Rhoads: So you are advocating that we do not annex this?

Jeff Erf: I am not advocating anything at this point; I am just trying to put it out there for you. I haven't heard all the sides yet and I haven't made a decision but I don't want the city to miss an opportunity to get a few bucks from the university if there is a possibility for that.

Alderman Marr: Jeff, I guess the comment as you bring those issues up that come to my mind are that by not having it annexed I think it makes it more difficult for us. If they decide in the future to ever build on those pieces of land, that today are used for other uses to collect impact fees which we recently invoiced as a result of the expansion of the parking lot and to buildings, I see that as a positive. That may be a little more challengeable if it's not a part of the city, why would they have to pay fees to the city for expanding, if in the future they built dorms on say the agricultural site. I also think it gives us, one of our goals was a stronger partnership or working with the university, in that while they aren't required to come to us, I know that in Ward 2 we often have complaints from citizens talking about the fact that they buy homes and they level them into parking lots or they develop without going through the city process. I think it makes a more compelling argument to encourage them to do that like they did with Maple Street with the Street Committee and some of the other locations if they are in the boundary of the city. So, I think your points are valid but I don't think they relate to this particular island. I think the cost of fire services and that particular contract agreement is something we may want to rethink in the future, but I think there are some positives on this particular item.

Jeff Erf: There could be, I've been out of town and I am just catching up. It seems to be that the city has gone annexation crazy lately without knowing what the ramifications of that are. I am just trying to work it through right now.

Alderman Marr: I don't disagree with you on that, I think I voted against the last few, but I think getting the islands in is certainly something that I am more comfortable with because it makes more sense when it's surrounded.

Alderman Thiel: Actually I had questioned Tim about this at the agenda meeting whenever we were looking at this tract and he reminded me that the parcel that was across I-540 that was the fireworks stand that we had to deal with a couple of years, we ended up having to buy it basically for future road right of way. That parcel was outside the city limits because it at one time had been part of the Agri Farm. There is another parcel just like that that lies across Shiloh Drive there just forming a little triangle, that is not really part of the farm itself but it is a concern because it's lying in a very visible area.

Jeff Erf: That is not part of the annexation that you are talking about. You are talking about property besides university property then, it is not all university property, there is other property there?

Vice Mayor Davis: It is all university property.

Alderman Thiel: I am saying that that property at one time had been part probably of, isn't that what you said Tim?

Jeff Erf: Well I am confused because I would think the state wouldn't permit selling fireworks on its property.

Tim Conklin: It does include portions of I-540 which is owned by the Arkansas Highway and Transportation Department.

Alderman Thiel: That doesn't necessarily bring it into the city limits.

Tim Conklin: Yes, but we are talking about annexing areas completely surrounded by the city limits.

Jeff Erf: I understand that, I am talking specifically about the research station. The area in green there does that include other property besides university property?

Tim Conklin: It does include areas of Interstate 540.

Jeff Erf: Which is owned by the Highway Department?

Tim Conklin: Yes.

Vice Mayor Davis: Jeff, if you would, there is a log in form on the podium, would you please sign it.

Jeff Erf: Sure.

Vice Mayor Davis: Who's next?

Jeff Erf: Thanks for your time.

Vice Mayor Davis: Thank you.

Don Golf, a citizen of Fayetteville and a member of Shiloh Community Church: Shiloh Community Church owns four acres of the parcel that is outlined in group three description seven there on Mount Comfort Road. We attended the informational meeting earlier and all of our questions were answered from the aspect of we understand that we can come in and use our land as we are currently using it. We are more than 50% complete in a large scale development, so we have a building going up that we expect to

be in September. Our request is that we would like to be considered for P-1 zoning instead of R-1 Conditional Use.

Kit Williams: That is the zoning that the city has set forth for churches and it would be quite appropriate to zone them P-1. Tim do we know which parcel number they are?

Tim Conklin: Yes we do.

Alderman Thiel: Is that group three description seven?

Don Golf: Yes madam. We only own a portion of that, that would be towards the top of the page and about 60 feet that runs down the right hand side, which gives us annex to Mount Comfort.

Vice Mayor Davis: Can you give Tim a copy of the legal for that particular piece of property?

Tim Conklin: We have the legal, if you recall they were part of an annexation to avoid creating an island and withdrew, we have the file, we have the legal, and we have their name we will be able to get that.

Vice Mayor Davis: Shirley did you have a question?

Alderman Lucas: Yes, I was wondering how we handle it, I would like to make a suggestion or motion or whatever we have to do to change that to get their designation.

Kit Williams: If it is a consensus of the City Council we can change that. Is that okay Tim?

Tim Conklin: Once again tonight is the Public Hearing portion, I am listening to the comments from public and the elected officials and we can bring that forward.

Kit Williams: We'll have the amendment ready to go at the next meeting. We will have to present the ordinance at the agenda session but we will have it amended and ready to go.

Alderman Jordan: I don't have a problem.

Alderman Marr: Tim could you at some point I guess when this comes back forward, what are the signification differences between the P-1 zoning and the zoning that was proposed? I know that downtown when we deal with church rezonings and P-1 zonings what often comes up is parking, compatibility with neighborhoods, things of that nature. I am not completely positive on where this sits; I will go drive by it.

Tim Conklin: I can provide that to you at the City Council meeting.

Vice Mayor Davis: Anyone else wishes to address us this evening?

Karen Stewart: We own the property there off Mount Comfort. I have written a letter to staff about having an agriculture zoning because there is no house there. All there is are animals and agricultural things and we have no intention of ever building any houses out there. When we bought the property it also stipulated in there that we couldn't build chicken houses or any of that. I was wondering if the property across the road from us has an R-A rating why don't we.

Kit Williams: You certainly can request the City Council to.

Karen Stewart: Okay, I request that.

Alderman Jordan: Okay.

Karen Stewart: Is there anything else.

Alderman Jordan: No.

Alderman Thiel: Tim are you making notes of that?

Tim Conklin: Yes

Karen Stewart: Did you receive our letter?

Tim Conklin: We do have your letter. Could you state your address?

Karen Stewart: 6178 East Huntsville Road.

Vice Mayor Davis: Is there anything else that you would like to add?

Karen Stewart: No.

Vice Mayor Davis: Is there anyone else that would like to address us?

Stan Thomas of 4050 Mount Comfort: I live in Fayetteville, I have three acres and I earlier requested that it be zoned R-A and I believe that, in just reviewing the notes in the summary, it looks like you are going to go along with that suggestion or at least move toward that direction. I would appreciate it if we could get an R-A zoning there.

Vice Mayor Davis: Is there anyone else that would like to talk to us about the annexations? I guess seeing none, this meeting is adjourned.

Meeting Adjourned at 6:25 pm

**Tentative Agenda
City Council Meeting
August 3, 2004**

A meeting of the Fayetteville City Council will be held on August 3, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Agenda Session Only: Presentation of Audit Report by the Chairman of the Audit Committee

Election of Vice Mayor

Fill Alderman Vacancy

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the July 20, 2004 meeting minutes.
2. **Sequoyah Pressure Plane Project:** A resolution confirming the City of Fayetteville's intent to proceed with improvements to the Sequoyah Water System; establishing a new capital improvements project account titled Sequoyah Pressure Plane Improvements; and approving a budget adjustment transferring the amount of \$271,427.00 from the Collection System Capacity Management Project to the Sequoyah Pressure Plane Improvements Project in order to initiate work on the project.
3. **Interoperable Communications Program Grant:** A resolution authorizing the Fayetteville Police Department to apply for a Community Oriented Policing Services Interoperable Communications Programs Grant from the U.S. Department of Justice to provide for a Fiber Optic Link between the Police Department and the New Washington County Jail and to establish a Regional Law Enforcement Data-Sharing Network.
4. **Robert Kohler II Contract Amendment:** A resolution approving an amendment to the contract entered into June 7, 2002 with Robert Kohler III in an amount not to exceed \$9000.00 to provide additional owner's representative services to the New Fayetteville Public Library.
5. **Library Facilities Manager:** A resolution authorizing partial year funding for one (1) full-time Facilities Manager at the New Fayetteville Public Library; and approving a budget adjustment of \$16,750.00 from the use of Fund Balance to the transfer to Library Board Account.

6. **Razorback Transit Contract:** A resolution approving a contract with the University of Arkansas Razorback Transit in the amount of \$25,000.00 to provide public transit service to the citizens of Fayetteville.

B. OLD BUSINESS:

1. **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. *This Resolution was tabled at the June 1, 2004 City Council meeting to the August 3, 2004 City Council meeting.*
2. **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 Ordinance was left on the Second Reading at the July 20, 2004 City Council meeting.*
3. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
4. **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 Ruppel Road and Persimmon Street containing approximately 80.00 acres. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
5. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
6. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

7. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
8. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
9. **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 Ruppel Road and Persimmon Street containing approximately 78.84 acres. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
10. **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 Ruppel 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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
11. **ANX 04-1090 (Hays):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Hays Family Development, LLP for property located at west of 54th Avenue adjoining the extension of West Persimmon Street containing approximately 37.30 acres. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
12. **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, LLP 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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
13. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

C. NEW BUSINESS:

1. **DOT/FAA AIP Grant Extension of Taxiway "A":** A resolution authorizing the Aviation and Economic Development Division to apply and accept an Airport Improvement Program Grant (AIPG) from the U.S. Federal Aviation Administration in the amount of \$657,299.00; and an Arkansas Department of Aeronautics Grant in the amount of \$34,595.00 for the Taxiway "A" & "E" Extension Project in support of the USDA Forest Service Fire Tanker Base.
2. **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.
3. **Cost Recovery for Street Cleaning Activities:** 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 or tracked upon the streets.
4. **Waste Management Contract Amendment #4:** A resolution rejecting contract Amendment No. 4 with Waste Management of Arkansas, Inc. to transport and dispose of municipal solid waste and for operation of the city transfer station.
5. **Purchase 2 to 8 Yard Dumpsters:** An ordinance to waive formal competitive bidding requirements during 2004 for the purchase of 2 to 8 yard dumpsters by the Solid Waste Division and to approve the purchase of 2 to 8 yard dumpsters in an amount not to exceed \$63,000.00.
6. **RZN 04-1103 (Collins):** An ordinance rezoning that property described in rezoning petition RZN 04-1103 as submitted by Jeffery Collins for property located at the 1280 Hendrix Street containing approximately 0.51 acres from RSF-4, Residential Single Family, four units per acre to RT-12, Residential two and three family.
7. **ANX 04-1071 (Jones):** An ordinance annexing that property described in annexation petition ANX 04-1071 annexing to the City of Fayetteville, Arkansas certain property owned by the Vera Jones located south of Huntsville Road east of the Stonebridge Addition, and west of Roberts Road containing approximately 5.66 acres.
8. **RZN 04-1072 (Jones):** An ordinance rezoning that property described in rezoning petition RZN 04-1072 as submitted by Milholland Company on behalf of Vera Jones for property located south of Huntsville Road, east of the Stonebridge Addition and west of Roberts Road containing approximately 5.66 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.
9. **ANX 04-1073 (Ames):** An ordinance annexing that property described in annexation petition ANX 04-1073 annexing to the City of Fayetteville, Arkansas certain property owned by the Ames Family Trust located south of Huntsville Road west of Roberts Road containing approximately 1.97 acres.

10. RZN 04-1074 (Ames): . An ordinance rezoning that property described in rezoning petition RZN 04-1074 as submitted by Milholland Company on behalf of the Ames Family Trust for property located on the west side of Roberts Road south of Huntsville Road containing approximately 1.97 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

11. VAC 04-1119 (Petrino): An ordinance approving VAC 04-1119 to vacate and abandon 7' of the existing 15' utility easements on the west side of Lot 5B and the east side of Lot 5A as depicted on the attached map and legal description.

D. INFORMATIONAL:

Brite Ideas: Approval of a proposal from Brite Ideas of NWA to provide expertise and oversight to the 2004 lights of the Ozarks Display, to be installed and maintained by the City, in an amount not to exceed \$10,000.

Council Tour: August 2, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest
Chief Administrative Officer

From: Greg Boettcher
Water/Wastewater Director



Date: July 15, 2004

Subject: Resolution establishing the Sequoyah Pressure Plane capital improvement project, prioritizing the project, authorizing preliminary work and approving a budget adjustment to cover preliminary costs

RECOMMENDATION

Fayetteville City Administration recommends approval of resolution confirming intent to proceed with the correction of deficiencies in the Sequoyah Water System, capturing a cost-saving opportunity.

BACKGROUND

On November 10, 2003, the Fayetteville Planning Commission approved the concept plat for the Stone Mountain Subdivision, the conditions of approval requiring the development to resolve water supply concerns as part of its infrastructure improvements. Over the course of several months, the developer has completed detailed hydraulic studies of the water supply system that serves the development, has submitted preliminary plans for private participation in the needed improvements and has participated in numerous negotiations with the City Administration to establish our respective infrastructure responsibilities. The end result of this process is set forth in the attached correspondence of May 3, 2004 from Jorgensen & Associates. Under this private infrastructure participation offer, the developer will upgrade selected water lines from 8-inch to 12-inch to correspond to master plan needs, will provide a site for the future municipal water booster station, will construct off-site interconnecting 12-inch water mains and will pay \$90,000.00 as a contribution-in-aid at the time of final plat approval. The value of the private contributions towards the long-range needs of the Sequoyah water system needs is approximated at \$500,000.00.

The acceptance of this negotiated infrastructure improvement proposal from the developer of Stone Mountain Subdivision requires a reciprocal commitment by the City of Fayetteville. Fayetteville's acceptance of the private participation will necessitate completion of other public improvements to fully satisfy the needs of the Sequoyah Water System. Such improvements are anticipated to include the construction of additional elevated water storage capacity and a new water booster station; subject to validation by the city's engineering consultant. Construction of capital improvements to correct the Mount Sequoyah water system deficiencies have been a long-standing need and continuing priority of the Fayetteville water system. This public-private partnership reduces public expense for a necessary capital improvement project. This arrangement

leverages the effectiveness of public funds using private development assistance, creating mutual benefits.

DISCUSSION

In the preliminary engineering analysis, the costs for correcting the Sequoyah Water System problems were predicted at \$1,870,000.00. The city's portion of this project will be reduced to \$1,370,000.00 if this cost-sharing opportunity is accepted. Upon confirmation of the City Council's acceptance of this arrangement, the first activity will be the selection of an engineering consultant, the negotiation of a professional services contract (to cover preliminary design, completion of public involvement efforts, provision of citizen communications, preparation of detailed project cost estimates, completion of final engineering design and preparation of a contract award recommendation). Due to the specialized nature of this project (hydraulic, electrical, foundations) it is not possible to design this project using in-house resources. Approval of the resolution will place this project in the city's short-term capital improvement program with resources to be allocated over the coming budget years to fully fund the local share of the project. It is expected that the project will require 20 months for completion. A letter outlining the anticipated project activities, the predicted scheduling, the probable cash flows and related preliminary project planning is attached for reference. A map of the Sequoyah Pressure Plane is also attached showing the areas benefited by this project.

BUDGET IMPACT

The passage of this resolution affirms the City Council's prioritization of the Sequoyah Water Improvements in coming capital improvement budgets to capture the advantages offered by the developer of Stone Mountain Subdivision. It is proposed that a budget adjustment be approved to transfer remaining uncommitted funds in the wastewater study project (\$271,427.00) to a new capital project account titled Sequoyah Pressure Plane Improvements. This fund transfer will provide current year funding for engineering services and other preliminary project costs. As the 2005 budget is developed funding sources (other capital improvement funds, available fund balance and accumulated water impact fees) will be identified to fully budget remaining project costs. The engineering consultant will develop detailed and current project costs estimates as the work progresses to assist in the financial planning and budgeting activities.

RESOLUTION NO. _____

A RESOLUTION CONFIRMING THE CITY OF FAYETTEVILLE'S INTENT TO PROCEED WITH IMPROVEMENTS TO THE SEQUOYAH WATER SYSTEM; ESTABLISHING A NEW CAPITAL IMPROVEMENTS PROJECT ACCOUNT TITLED SEQUOYAH PRESSURE PLANE IMPROVEMENTS; AND APPROVING A BUDGET ADJUSTMENT TRANSFERRING THE AMOUNT OF \$271,427.00 FROM THE COLLECTION SYSTEM CAPACITY MANAGEMENT PROJECT TO THE SEQUOYAH PRESSURE PLANE IMPROVEMENTS PROJECT IN ORDER TO INITIATE WORK ON THE 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 confirms the City of Fayetteville's intent to proceed with improvements to the Sequoyah Water System; and,

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby establishes a new Capital Improvements Project account titled Sequoyah Pressure Plane Improvements; and,

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment transferring the amount of \$271,427.00 from the Collection System Capacity Management Project to the Sequoyah Pressure Plane Improvements Project in order to initiate work on the project.

PASSED and APPROVED this 3rd day of August 2004.

APPROVED:

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

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

A. 2.
Sequoyah Pressure Plane Project
Page 4 of 18

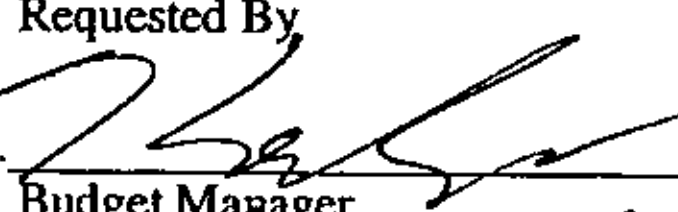
Budget Year 2004	Department: Water & Wastewater Division: Water & Sewer Maintenance Program: Sewer Mains Construction	Date Requested 8/3/2004	Adjustment Number
--------------------------------	--	---------------------------------------	-------------------

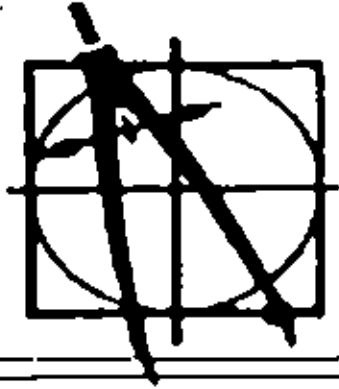
Project or Item Requested: \$271,427 in the Sequoyah Pressure Plan Improvements capital project.	Project or Item Deleted: \$271,427 from the Collection System Capacity Management capital project.
---	---

Justification of this Increase:	Justification of this Decrease: Project is complete and needs to be transferred to new project.
---------------------------------	--

Increase Budget (Decrease Revenue)							
Account Name		Account Number				Amount	Project Number
Professional services		5400	5700	5314	00	271,427	04036 1

Decrease Budget (Increase Revenue)							
Account Name		Account Number				Amount	Project Number
Professional services		5400	5700	5314	00	249,927	98047 1
Legal services		5400	5700	5314	01	21,500	98047 1

Approval Signatures		Budget Office Use Only			
Requested By	Date	Type:	A	B	C
	7-14-04				D
Budget Manager	Date	Date of Approval			
	7-14-04				
Department Director	Date	Posted to General Ledger			
	7-15-04				
Finance & Internal Services Director	Date	Posted to Project Accounting			
Mayor	Date	Entered in Category Log			



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.
CHRISTOPHER B. BRACKETT, P.E.

RECEIVED

MAY 03 2004

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

5-3-04

Att: Greg Boettcher
Re: Stone Mountain Subd.

Dear Greg;

Attached herewith please find a copy of the plat of phase 1 of Stone Mountain Subdivision, which shows the location of 8" & 12" water lines along with primary pressure plane, and Mt. Sequoyah pressure plane lines.

Please note the location of the booster pump station. You may decide that the existing station could be improved but I'll leave that up to you and your consultant. Naturally it would eliminate the piping to and from the new station.

Please note the Primary System would connect to Stonebridge Rd and eventually to the South to Wyman Rd.

Once the City decides on the pump station (new or rehab existing) please call.

As mentioned, the developer has paid \$14,857.25 for McGoodwin Williams & Yates to study the water pressure problem in this area and the Hyland Park area. As previously documented, this area has a pressure problem and it seems like this general area (Hyland Park) should have been included in the Master Water Study. If anything it might be appropriate to assess this developer 13% of the study cost.

We realize that it would be beneficial for this developer and the city to cost share the improvements in this area.

Therefore the developer agrees to install a 12" line from Hwy 265 up to the proposed tank. This includes surveying, engineering and inspection for this line. In addition, the developer will pay \$90,000 at the time of final plat. This would be their total contribution for this problem. Also this would cover the cost of the MW & Y study to date.

Please review this and call concerning any questions or comments you may have.

Thank you.

Sincerely,



David L. Jorgensen, P.E.

**HYLAND PARK/STONE MOUNTAIN SUBDIVISION IMPROVEMENTS
OPINION OF PROBABLE COST**

Alternate 1

ITEM	Unit	Quantity	Unit Cost	Estimated Cost	Subtotals
A. Tank 500,000 Gallon Hydropillar Tank	LS	1	\$ 690,000	\$ 690,000	\$ 690,000
B. Pump Station Pump Station (4 Pump Station)	LS	1	\$ 450,000	\$ 450,000	\$ 450,000
C. Piping 8-inch C-900 Pipe (Line 1)	LF	800	\$ 10	\$ 8,000	
12-inch C-900 Pipe (Line 2)	LF	9,000	\$ 25	\$ 225,000	
16-inch DI Pipe (Line 3)	LF	200	\$ 50	\$ 10,000	\$ 243,000
D. Fire Hydrants Fire Hydrants	EA.	11	\$ 1,500	\$ 16,500	\$ 16,500
E. Fittings 8-inch C-900 Pipe	LS	1	\$ 1,000	\$ 1,000	
12-inch C-900 Pipe	LS	1	\$ 25,000	\$ 25,000	\$ 26,000
F. Valves 12-inch C-900 Pipe	EA.	3	\$ 1,670	\$ 1,670	\$ 1,670
G. Taps and Street Crossings 6-inch Tap	EA.	1	\$ 2,000	\$ 2,000	
12-inch Tap	EA.	1	\$ 5,000	\$ 5,000	
24-inch Tap	EA.	1	\$ 10,000	\$ 10,000	
Miscellaneous Street Crossings	LS	1	\$ 10,000	\$ 10,000	\$ 27,000
H. Testing Pump Station, Waterlines, etc.	LS	1	\$ 10,000	\$ 10,000	\$ 10,000
TOTAL - CONSTRUCTION					\$ 1,464,170
Contingencies, Engineering & Administration					\$ 415,000
TOTAL - PROJECT					\$ 1,879,170



July 15, 2004

**Mayor Dan Coody and
Fayetteville City Council**

**Re: Sequoyah Pressure Plane Improvements Project
Preliminary Implementation and Financing Plan**

Dear Mayor and City Council Members:

A resolution to approve a capital project partnership is scheduled for consideration at the August 3, 2004 City Council meeting. An opportunity linked with the development of Stone Mountain Subdivision enables correction of long-standing water distribution inadequacies in the Sequoyah Pressure Plane. This communication details the justification for the recommended action, the initiation plan for the project and the anticipated completion schedule. This resolution constitutes a commitment to the project and an obligation to complete the work in a timely fashion.

Under this shared approach to capital improvement of the municipal water system, the private developer will be responsible for all pipeline construction, will dedicated a booster station site and will contribute \$90,000.00 in cash towards the public construction portion of the project. Under such arrangement the City of Fayetteville will be committed to the construction of the complimentary Sequoyah pressure plane improvements, such work anticipated to include a new water booster station and additional water storage capacity. Each party's respective contribution will, in combination, correct serious water supply deficiencies in the Sequoyah pressure plane and provide reserve capacity for the predicted future needs. It is to be emphasized that the development of the Stone Mountain Subdivision does not create the inadequacies in this segment of the water distribution system. Rather the development provides an opportunity to use private funds to leverage the city's resources, enabling community needs to be met at lowered public expense.

Approval of the resolution will launch parallel efforts by both the city administration and the developer to complete an interconnected and interrelated infrastructure project. The city's project responsibilities must be coordinated with the private construction to allow the improvements to be completed concurrent with the new service demands. This implementation goal requires tasks and finances to be incorporated into a target schedule to allow tracking of progress and full funding of the city's project. The action plan for this project is summarized as follows:



TASK DESCRIPTION	RESPONSIBILITY	START DATE	COMPELTION DATE
Approve Resolution	City Council	August 2, 2004	August 2, 2004
Budget Adjustment to Fund Initial Costs	City Council	August 2, 2004	August 2, 2004
Engineering Selection Committee	Staff	August 9, 2004	August 9, 2004
Engineering Contract Approval	City Council	September 21, 2004	September 21, 2004
Preliminary Design Concept Completed	Consultant	October 15, 20004	October 15, 2004
Public Involvement and Communication	Consultant, Staff	November 1, 2004	December 1, 2004
Final Design	Consultant	January 1, 2005	June 1, 2005
Budget Adjustment for FY 2005	City Council	January 1, 2005	January 1, 2005
Acquisitions and Approvals	Consultant, State, Staff	May 1, 2005	July 1, 2005
Advertise for Bids	Staff	July 15, 2005	August 15, 2005
Award Construction Contract	City Council	September 15, 2005	September 15, 2005
Project Construction	Contractor	October 15, 2005	March 15, 2006
Closeout Project	Staff	April 2006	April 2006

Based upon the above schedule, the anticipated cash flow for the project is predicted as follows for each month:

CASH EXPENDITURES BY MONTH IN \$1,000 BEGINNING NOVEMBER 2004																			
2004		2005												2006					
N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	Total
0	20	30	50	50	50	50	50	10	5	5	50	150	100	150	200	250	150	50	1,370

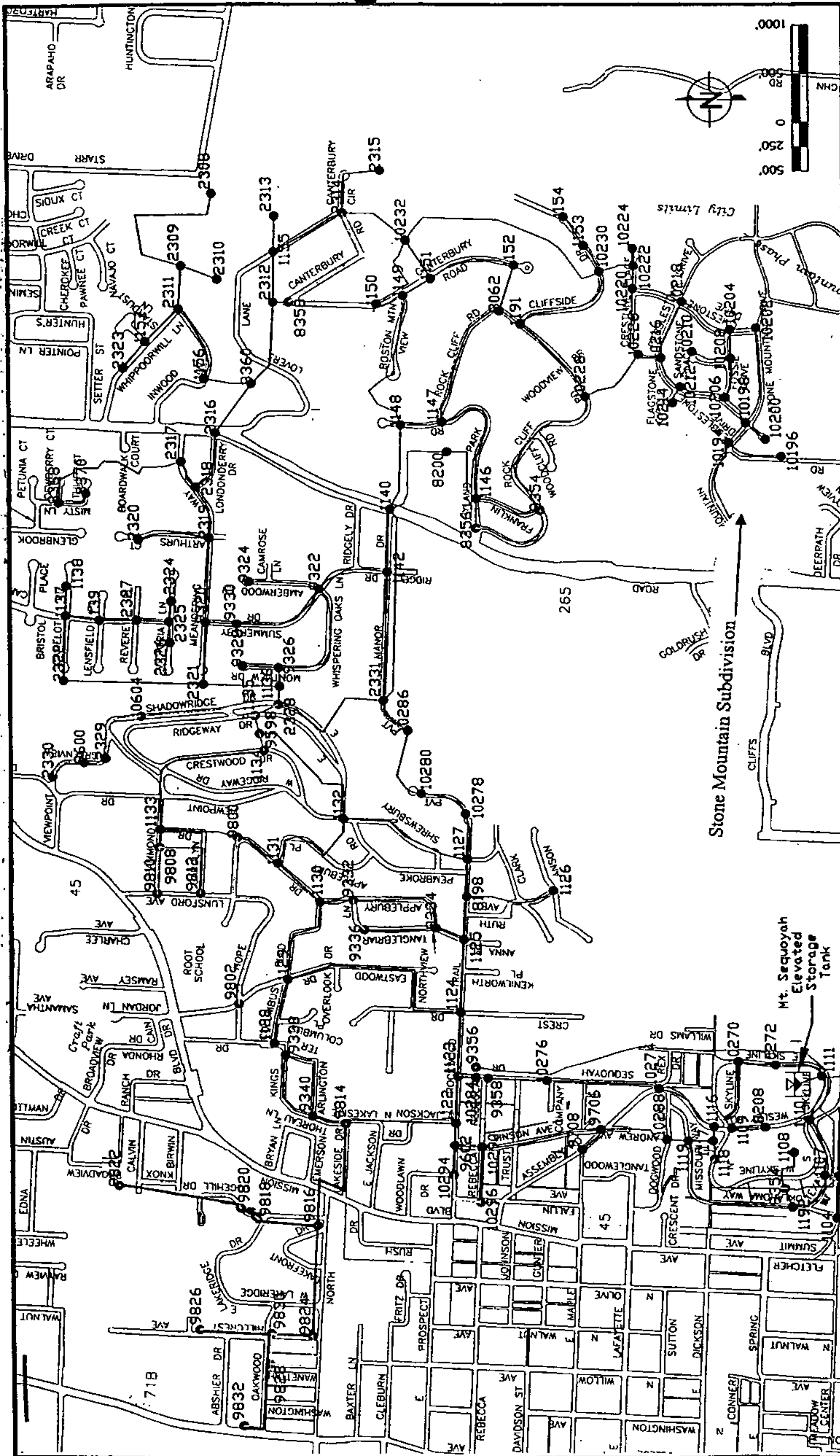
This project's financial advantages warrant approval of the negotiated public-private partnership and a commitment to complete the city's portion of the infrastructure improvement program. The completion schedule has been presented to illustrate the need for prompt decisions to ensure that the parallel responsibilities (city and developer) proceed on a common timeline.

If there are questions on this matter, please do not hesitate to contact me at 479575.8330.

Very Truly Yours,

CITY OF FAYETTEVILLE

Greg Boettcher
Water and Wastewater Director



Legend

- 2" OR LESS WATERLINE
- 4" WATERLINE
- 6" WATERLINE
- 8" WATERLINE
- 10" - 12" WATERLINE
- 10204 Node ID

Mt. Sequoyah Pressure Plane

McGoodwin Williams & Yates
Engineering Corporation

Figure XXX

A. 2.
Page 10 of 10

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of November 10, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
Matt Casey, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: November 5, 2003

PPL 02-13.10: Preliminary Plat (Stone Mountain, pp. 488/489) was submitted by Jorgensen and Assoc. on behalf of Bill Conner for property located South of Hyland Park and east of Crossover Rd. The property is zoned RSF-4, Residential Single-family and contains 82.74 acres. The request is for a residential subdivision with 115 lots proposed. Planner: Suzanne Morgan

Findings:

Proposal: The applicant is requesting to create a residential subdivision of 115 lots on 82.74 acres. Two lots are to be used for detention and one 8.19 acre lot is proposed for park land dedication. The location of the proposed subdivision extends east off of Crossover Rd to the border of the City and Planning Area and is zoned RSF-4, Residential Single-family with 4 units per acre.

Surrounding Land Use: Land to the north, south, and west is zoned RSF-4 with Planning Area to the east. All land is single-family residential in nature.

Water & Sewer: Water and sewer will be extended to serve this development.

Right-of-way being dedicated: The applicant requests an amendment to the Master Street Plan for the minor arterial (90') bisecting the property. The request is to relocate this planned road further south as Stone Mountain Drive at a lesser dedication of 70', a collector road. (see attached map)

The following streets are being proposed with 50' rights-of-way: Crestline Place, Pebblestone Drive, Flagstone Circle, Limestone Drive, Fossil Drive, Sandstone Place, and Stone Bridge Road. Connectivity will be provided to Crossover on the west, Stone Bridge Road to the south, and in two locations to the east for future street connections.

Adjacent Master Street Plan Streets: Crossover Road (Collector)

Tree Preservation: Existing canopy: 33.94%
Required canopy: 25.0%
Preserved canopy: 24.88%
Mitigation required: \$3,150 to the Tree Escrow Account

Parks: The Parks and Recreation Advisory Board accepted a land dedication on January 15, 2002. PRAB accepted a banking credit of excess park land dedicated. The park land dedication for 112 single family lots is 2.68 acres. The owners have proposed to dedicate 8.19 acres, leaving a banking credit of 5.51 acres for the southeast park district.

Background: Stone Mountain Phase I was heard at Technical Plat Review on May 15, 2002. It was tabled due to concerns regarding water pressure problems in the vicinity. The project was heard again at Technical Plat Review on September 30, 2003 and at Subdivision Committee on October 30, 2003 at which time the Subdivision Committee forwarded the project to the Planning Commission. Discussion for this project included the request for a Master Street Plan amendment.

Recommendation: Staff recommends approval of PPL 02-13.10 with the following conditions:

Conditions of Approval:

1. Add a note to the plat stating the existing private drive shall be removed prior to Final Plat approval.
2. Payment into the Tree Escrow Account in the amount of \$3,150.
3. All street names shall be approved by the 9-1-1 Coordinator.
4. Any outstanding issues with the legal description shall be resolved prior to final plat approval.
5. Necessary property line adjustments to the east of the project boundary and to lot 51 shall be approved prior to development of infrastructure.
6. If any water pressure problems arise that might impact this proposed subdivision or the adjacent residents preventative actions shall be addressed and resolved through an approved water system design.
7. Planning Commission determination of waiver request for Stone Mountain Drive to be constructed at a 14% grade for approximately 1400 feet. City street standards allow for a 10% grade with an allowance up to 15% for 300 feet. *Staff is in support of this request due to the connectivity Stone Mountain Drive provides to the east on Crossover Road.*

8. Planning Commission determination of the proposed Master Street Plan Amendment to relocate the planned minor arterial Cliffs Boulevard to the proposed location of Stone Mountain Drive and to reduce the street classification from a minor arterial to a collector street. *Staff recommends removal of the Cliffs Boulevard eastern extension. The proposed revision to the Master Street Plan based on the recent traffic study performed by Bucher, Willis and Ratliff does not include the construction of the minor arterial in this location due to unsuitable topography.*
9. The developer shall comply with all conditions of the Parks and Recreation Board. All conditions as noted in the attached Memo dated October 29, 2003 are applicable and shall be considered, by reference, as part of the official Conditions of Approval.

Standard Conditions of Approval:

10. 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)
11. 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.
12. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
13. Sidewalk construction in accordance with current standards to include a minimum four foot sidewalk and a minimum of six feet of green space on all interior roads and a six foot sidewalk with a minimum of ten feet of green space along Stone Mountain Drive. Sidewalks shall be installed or guaranteed in accordance with Ch. 158.01 prior to final plat approval.
14. Preliminary Plat approval shall be valid for one calendar year.
15. Additional conditions:
 - a. _____
 - b. _____
 - c. _____

PLANNING COMMISSION ACTION: yes Required
 Approved Denied

Date: November 10, 2003

Comments:

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

By _____

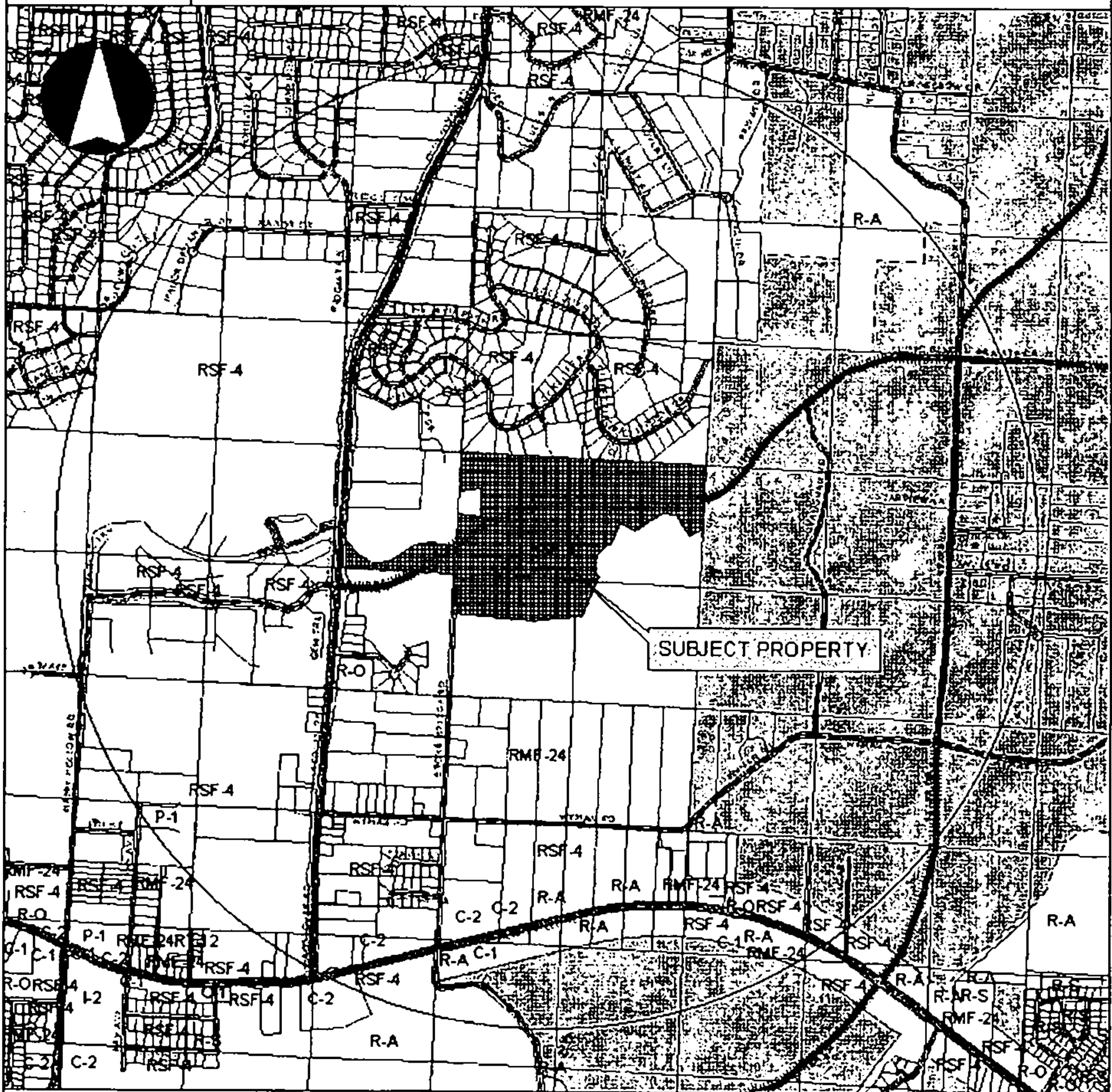
Title _____

Date _____

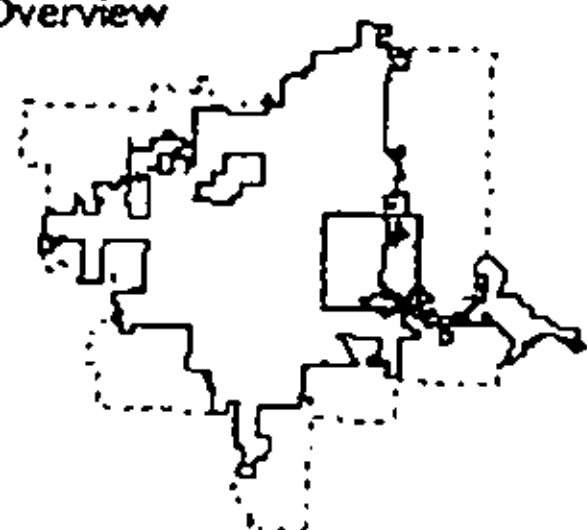
PPL02-13.10

One Mile View

STONE MOUNTAIN SUBDIVISION



Overview



Legend

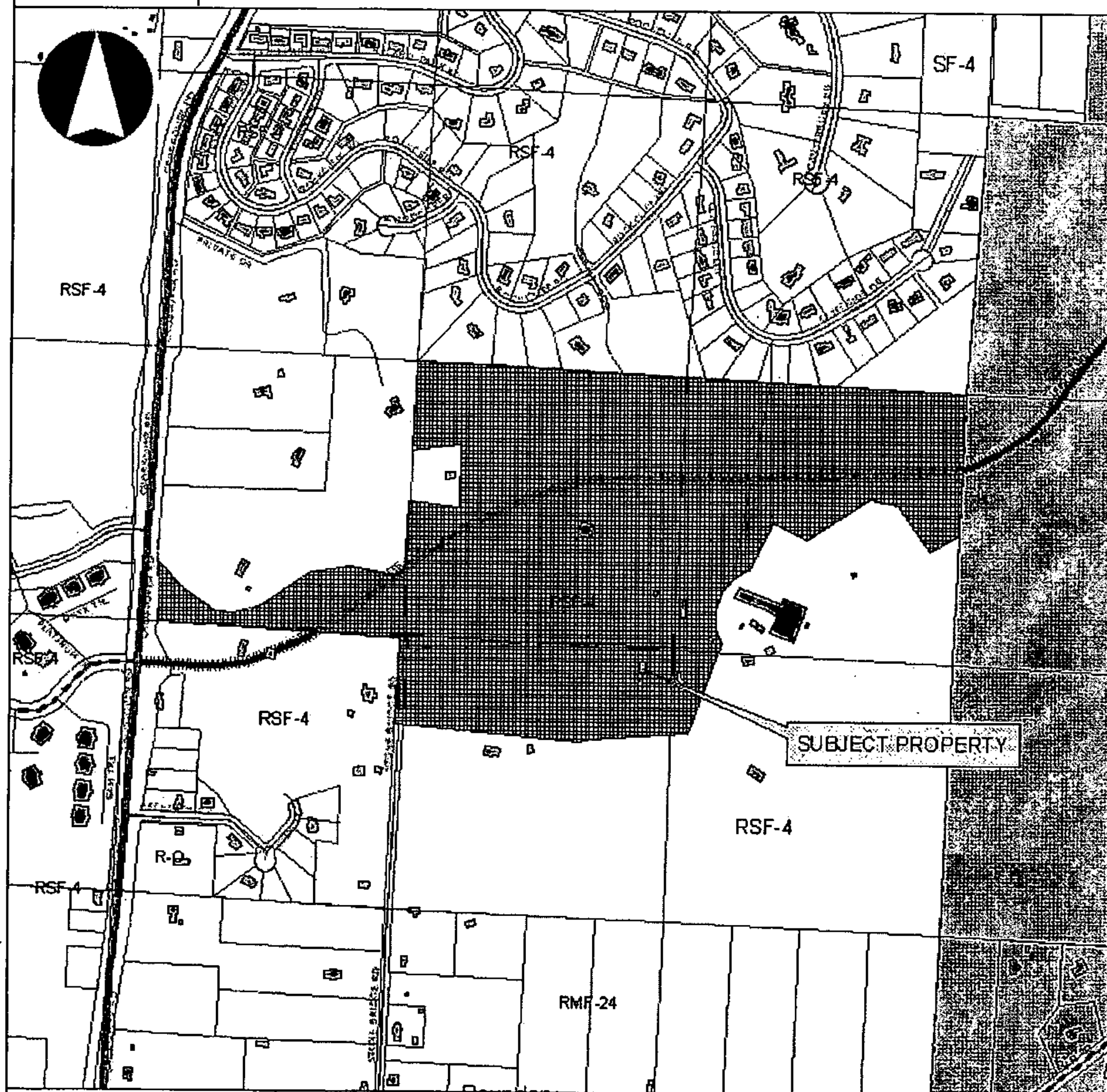
	PPL02-13.10		Streets		Master Street Plan		Major Arterial
	Overlay District		Streets		Freeway/Expressway		Collector
	Existing Master Street Plan		Streets		Principal Arterial		Historic Collector
	Future Master Street Plan		Streets		Planning Area		City Limits
	Outside City				City Limits		Outside City

0 0.125 0.25 0.5 0.75 1 Miles

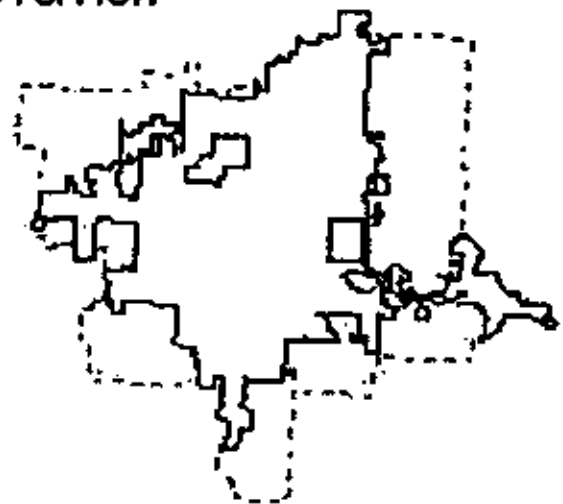
PPL02-13.10

Close Up View

STONE MOUNTAIN SUBDIVISION



Overview



Legend

- | | | |
|------------------|------------------|--------------------|
| Subject Property | Planning Area | Master Street Plan |
| PPL02-13.10 | Overlay District | Freeway/Expressway |
| Streets | City Limits | Principal Arterial |
| Existing | Outside City | Minor Arterial |
| Planned | | Collector |
| | | Historic Collector |

0 250 500 1,000 1,500 2,000 Feet

STAFF REVIEW FORM - FINANCIAL OBLIGATION

 X AGENDA REQUEST
 CONTRACT REVIEW
 GRANT REVIEW

For the Fayetteville City Council Meeting of: August 3, 2004

FROM:

<u>Greg Boettcher</u>	<u>Water/Wastewater</u>	<u>Water/Wastewater</u>
Name	Division	Department

ACTION REQUIRED: Passage of resolution establishing a Sequoyah Pressure Plane capital improvement project, prioritizing the project for funding, authorizing preliminary/final design and approving a budget adjustment to initiate work on the project.

COST TO CITY:

<u>\$0.00</u>	<u>\$ 318,835.00</u>	<u>Water/Wastewater</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>5400.5700.5314.00</u>	<u>\$ 47,408.00</u>	<u>Wastewater System Improvements</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>04036.1</u>	<u>\$ 271,427.00</u>	<u>Water and Sewer</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: Budgeted Item X Budget Adjustment Attached

[Signature]
 Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

<u><i>[Signature]</i></u> <u>7/15/04</u>	<u><i>[Signature]</i></u> <u>7/15/04</u>	
Accounting Manager Date	Internal Auditor Date	
<u><i>[Signature]</i></u> <u>7/15/04</u>	<u><i>[Signature]</i></u> <u>7/15/04</u>	
City Attorney Date	Purchasing Manager Date	

STAFF RECOMMENDATION:

<u> </u> <u> </u>	Date	
<u><i>[Signature]</i></u>	<u>7-15-04</u>	
Division Head	Date	
<u> </u> <u> </u>	<u>7-16-04</u>	
Department Director	Date	
<u><i>[Signature]</i></u>	<u>7-16-04</u>	
Finance & Internal Services Dir.	Date	
<u> </u> <u> </u>	<u>7/16/04</u>	
Chief Administrative Officer	Date	
<u><i>[Signature]</i></u>	<u>7/16/04</u>	
Mayor	Date	

Received in Mayor's Office 7/15/04
 Date P.H.

Cross Reference:
 Previous Ord/Res#:
 Orig. Contract Date:
 Orig. Contract Number:

New Item: Yes No



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and Members of the City Council

FROM: Frank Johnson, Chief of Police *FH*

DATE: July 16, 2004

SUBJECT: Application for a COPS Interoperable Communications Grant

BACKGROUND:

On July 6, 2004 the Fayetteville Police Department received a grant application from the Justice Department's Office of Community Policing Services announcing an \$80,000,000.00 competitive grant process for Interoperable Communications Technology programs. Applications were made available to 50 of the largest Metropolitan Statistical Areas (MSAs) including the Fayetteville-Springdale-Rogers, AR MO MSA. This MSA comprises law enforcement agencies in Benton, Washington, Madison, and McDonald Co. Missouri. The combined population for this MSA is 347,045. The Fayetteville Police Department qualifies to apply for up to \$3,000,000.00 in funding with a 25% or \$1,000,000.00 match for a total project of \$4,000,000.00. Our project will not require the full amount allowed.

CURRENT STATUS:

The project being drafted will include two functions; (1) connect the current police department with the new Washington County Jail utilizing fiber optics cabling connectivity, and; (2) establish a regional data-sharing network.

(1) Fiber Optic Connectivity

We are exploring the possibilities of using current street right-of way or utility easements to bury the cable or lease pole space if cable must go through the air at any point in the route. The route is being defined so it will allow us to also connect the Mobile Data site controller located on Mt. Sequoyah to the Washington County Courthouse, to the Mexican Original location for future connection, to provide a junction for connecting all City facilities located on Happy Hollow Road, and to provide a junction to the new Water and Sewer Operations Center.

While discussing this route with an engineering firm that had managed a University of Arkansas fiber project, a possibility of completing a fiber ring by connecting to their fiber became evident. The importance of running our data over a complete ring increases fault tolerance by allowing us to continue to pass data in the event the cable is accidentally severed.

If this grant request is approved and awarded, it will provide 75% funding for the fiber connection that is being considered as part of the cost of the future Public Safety Center. The fiber optics cable will provide a stable environment to pass data and will be sized for future growth of all city services data needs.

(2) Regional Data-Sharing Network

The second function for which we are requesting funding is the establishment of a regional data-sharing network. The police department hosted an informational meeting that was attended by eighteen police executives representing all counties and the larger cities within our MSA. Chief Rick Hoyt described the data-sharing network and requested a "Letter of Interest" form from agencies interested in either providing data to the network or accessing the data stored within the network.

During the meeting all agencies were given the ability to request funding to cover the cost of hardware and software needed to put their information on the regional data-sharing network. This Letter of Interest will include the amount of funds each agency will request and will also state their agency's responsibility for the matching funds. A "Memorandum of Understanding" adopted by the governing body officially obligating the matching funds will replace these Letters of Interest.

This regional data sharing system will allow law enforcement officials real time access to information throughout the MSA. The current process of using phone calls, messaging, and faxes to locate suspect, victim, or witness information is time consuming and unproductive. The data-sharing network will allow officers to enter a name with date of birth or other identifying characteristics and determine if other law enforcement agencies in the area have had contact or are looking for the same individual. This grant essentially provides participating law enforcement agencies with a tool to utilize data to improve criminal investigations.

RECOMMENDATION:

The Police Department recommends City Council authorize Mayor Coody to sign the Interoperable Communication Technology grant application. The estimated cost to the City should not exceed \$300,000.00, which equals the projected cost of the fiber connection contained in the proposal to purchase the Mexican Original property. If this grant is awarded the City Council will have an opportunity to accept or reject before any funds are obligated. The Police Department will continue to research all items needed to complete these projects and have documented estimates of the total costs.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE POLICE DEPARTMENT TO APPLY FOR A COMMUNITY ORIENTED POLICING SERVICES INTEROPERABLE COMMUNICATIONS PROGRAMS GRANT FROM THE U.S. DEPARTMENT OF JUSTICE TO PROVIDE FOR A FIBER OPTIC LINK BETWEEN THE POLICE DEPARTMENT AND THE NEW WASHINGTON COUNTY JAIL AND TO ESTABLISH A REGIONAL LAW ENFORCEMENT DATA-SHARING NETWORK.

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 Police Department to apply for a Community Oriented Policing Services (COPS) Interoperable Communications Programs Grant from the U.S. Department of Justice to provide for a fiber optic link between the Police Department and the new Washington County Jail and to establish a regional law enforcement data-sharing network.

PASSED and APPROVED this 3rd day of August 2004.

DRAFT

ATTEST:
By _____
SONDRA SMITH, City Clerk

APPROVED:

By _____

DAN COODY, Mayor

STAFF REVIEW FORM - FINANCIAL OBLIGATION

A. 3.
Interoperable Communications Grant
Page 5 of 6

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☒ GRANT REVIEW

For the Fayetteville City Council Meeting of: August 3, 2004

FROM:

Frank JohnsonPolicePolice

Name

Division

Department

ACTION REQUIRED: City Council authorize Mayor Dan Coody to sign the Office of the Community Oriented Policing Services Interoperable Communications program grant application. If awarded this grant will provide 75% funding for the fiber connection between the Washington County Jail and the Fayetteville Police Department. Also included in the request is funding to establish a regional data sharing network.

COST TO CITY:

Estimate

\$300,000.00

\$

-

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:

N/A Budgeted ItemN/A Budget Adjustment AttachedNo budget adjustment needed until grant awarded.7-19-04

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

Denise M. Hinger

Accounting Manager

7/19/04

Date

Nancy Smith

Internal Auditor

7/19/04

Date

D. J. Whit

City Attorney

7/19/04

Date

W. L. W.

Purchasing Manager

7/20/04

Date

STAFF RECOMMENDATION: Authorize Mayor Coody to sign the Interoperable Communications Grant

Received in Mayor's Office

7/20/04

Date

Division Head

Date

Frank Johnson

Department Director

7/16/04

Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

Steph Davis

Finance & Internal Services Dir.

7-20-04

Date

Hugh Egan

Chief Administrative Officer

7-21-04

Date

Dan Coody

Mayor

7/21/04

Date



City Council Meeting of August 3, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Hugh Earnest, Chief Administrative Officer
From: Louise Schaper, Executive Director -Library
Date: July 15, 2004
Subject: **Change Order to Contract with Robert Kohler III**

RECOMMENDATION

Approve a resolution amending the contract for owner's representative services to be performed in conjunction with the construction of a new city library with Robert Kohler III in the amount not to exceed \$9000.

BACKGROUND

This project is on budget. However, due to initial rock removal and the recent wet weather, a minimum of a one to a maximum of a three-month extension is needed for owner's representation services to complete the new city library. The original resolution, No. 45-02, stipulated an amount not to exceed \$72,000.00 at the rate of \$3,000.00 a month. This amount will be depleted with the payment for services rendered from July 6 through August 5.

Approval of this request is necessary to complete the project and ensure follow through on all pending and punch list items, as well as any facilities equipment training needed.

DISCUSSION

Approval of this request is necessary to complete the project and ensure follow through on all pending and punch list items, as well as any facilities equipment training needed. Mr. Kohler has done an excellent job in performing the owner's representative function.

BUDGET IMPACT

No impact on the project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE CONTRACT ENTERED INTO JUNE 7, 2002 WITH ROBERT KOHLER III IN AN AMOUNT NOT TO EXCEED \$9,000.00 TO PROVIDE ADDITIONAL OWNER'S REPRESENTATIVE SERVICES TO THE NEW FAYETTEVILLE PUBLIC LIBRARY.

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

Section 1. That the City Council of Fayetteville, Arkansas, hereby approves an Amendment to the Contract entered into June 7, 2002 with Robert Kohler III IN an amount not to exceed \$9,000.00 to provide additional Owner's Representative services to the new Fayetteville Public Library. A copy of the Amendment, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 3rd day of August 2004.

ATTEST:

By: _____
SONDRA SMITH, City Clerk

APPROVED:
By: _____
DAN COODY, Mayor

**AMENDMENT TO THE CONTRACT
BETWEEN
THE CITY OF FAYETTEVILLE AND ROBERT KOHLER III**

This Contract Amendment, entered into this _____ day of _____, 2004, by and between the City of Fayetteville, a municipal corporation, hereinafter referred to as the "City," and Robert Kohler III.

WHEREAS, the City has engaged Robert Kohler III to serve as the City's Owner's Representative during the construction of the new public library; and,

WHEREAS, difficulties with site geology, and frequent heavy rains have combined to extend the project past the originally projected completion date; and

WHEREAS, the City desires that Mr. Kohler render Owner's Representative services through to the completion of construction.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter provided, the City and Robert Kohler III agree as follows:

1. **Professional Services.** Robert Kohler III shall furnish Owner's Representative services to the City through completion of construction of the new public library, consistent with the terms and conditions set forth in the original contract dated June 7, 2002, which is attached hereto and incorporated herein by reference.
2. **Compensation.** For the services provided by Robert Kohler III, the City shall compensate Robert Kohler III as set forth in Paragraph 9 of the above-mentioned original contract, but in no case shall the remaining compensation exceed \$9,000.00.
3. **Non-waiver.** It is agreed that the failure of any party to invoke any of the available remedies under this Amendment or under law in the event of one or more breaches or defaults by any party under the agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

4. **Severability.** Each paragraph of this Amendment 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 shall remain in full force and effect.
5. **Governing Law.** This Amendment shall be interpreted according to and enforced under the laws of the State of Arkansas.
6. **Supplemental Nature of the Amendment.** The parties agree and understand that this Amendment is supplemental to the original Contract, and that it does not alter, amend or abridge any of the rights, obligations, or duties of the parties not expressly addressed herein.

IN WITNESS WHEREOF, the City and Robert Kohler III have executed this Agreement on or as of the date first written above.

ROBERT KOHLER III

ATTEST:

CITY OF FAYETTEVILLE

SONDRA SMITH, City Clerk

By: _____
DAN COODY, Mayor

RESOLUTION NO. 45-02

A RESOLUTION TO APPROVE A CONTRACT FOR OWNER'S REPRESENTATION SERVICES IN CONJUNCTION WITH THE CONSTRUCTION OF THE NEW CITY LIBRARY WITH ROBERT KOHLER III IN THE AMOUNT NOT TO EXCEED \$72,000.00 AT THE RATE OF \$3,000.00 PER MONTH

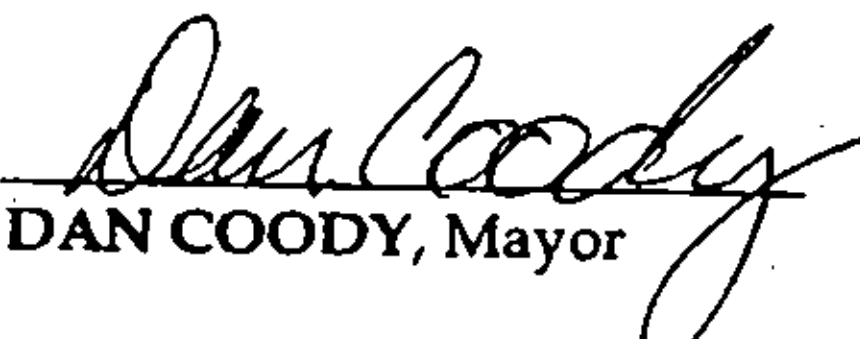
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the Contract for Owner's Representative Services To Be Performed In Conjunction With The Construction Of A New Main Library (attached as Exhibit A) in the amount of \$3,000.00 per month not to exceed \$72,000.00 total and authorizing the mayor to sign this Contract.

PASSED and APPROVED this the 19th day of March, 2002

APPROVED:

By:


DAN COODY, Mayor




Gregory Woodruff, City Clerk



CITY OF FAYETTEVILLE & FAYETTEVILLE PUBLIC LIBRARY

**CONTRACT FOR OWNER'S REPRESENTATIVE SERVICES TO BE PERFORMED IN
CONJUNCTION WITH THE CONSTRUCTION OF A NEW MAIN LIBRARY**

This Agreement, is entered into on this 7th day of June, 2002, between the City of Fayetteville, hereinafter known as the "City", the Board of Trustees of the Fayetteville Public Library, hereinafter known as "Library," and Robert Kohler III, hereinafter known as "Owner's Representative".

WHEREAS the City and Library desire "owner's representative" services to be utilized in the completion of the planned new main library, hereinafter referred to as the "Project" and the "Work".

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City, Library, and Owner's Representative agree as follows:

1. COMMENCEMENT

2.1 This Agreement shall begin on the date first written above.

2. GENERAL

2.1. Owner's Representative shall be the designated representative of the City and Library consistent with AIA A201-1997 General Conditions of the Contract for Construction, paragraph 2.1.1. However, Owner's Representative, although expected to provide guidance and direction on all financial and economic matters relating to the Project, shall not have authority to obligate the City or Library financially without appropriate notice to and approval from the City and Library. Through services of Owner's Representative, the City (a/k/a "Owner") endeavors to provide a responsive and experienced team member to serve the public's interest while promoting cooperation with Contractor and Architect members of the tripartite building team.

2.2. Communications by Owner's Representative relating to the Project shall in general be restricted to the Owner and Architect. Owner's Representative shall communicate with the Contractor with full knowledge of the Architect and Owner. Owner's Representative shall not communicate with SubContractors or material suppliers except with full knowledge and approval of the Contractor and Architect.

2.3. Owner's Representative primary contact with the Owner is Hugh Earnest, Urban Development Department Director of the City, and with the Library is Louise Schaper, Library Director.

2.4. Office space with computer hardware, software and email for the Owner's Representative will be provided by the Owner at the request of either party. If not requested of Owner or required by Owner, Owner's Representative will provide office space with computer hardware, software and email. Owner's Representative will provide cellular phone.

6/6/2002

1

3. DUTIES AND RESPONSIBILITIES

3.1. Owner's Representative will make decisions with respect to all matters requiring the Owner's approval or authorization. Additionally, Owner's Representative shall:

3.1.1. In forming a basis for decisions, review estimates prepared by others including Contractor-initiated proposals and response to proposal requests to ensure that the estimates respond to the proposal, do not duplicate services provided in the base contract, reflect Contractor pricing consistent with the base contract, and confirm that schedule impacts, if any, are properly disclosed.

3.1.2. Analyze claims for additional cost or time extensions and either resolve the matters or recommend action to the Owner. In matters impacting construction cost and time, approval of Change Orders requires consent of the Fayetteville City Council. When a prompt decision is in the Owner's interest, decisions to authorize a Construction Change Directive may be made by the Owner's Representative after review and consultation with the City and Library primary contacts, to the extent contract authority has been delegated to the City and Library primary contacts.

3.1.3. When requested by Architect, render a timely recommendation to the Owner for (a) decision(s) on deviation(s) from the Contract Documents, substitute materials or equipment, and other appropriate matters considering the recommendation of the Architect.

3.1.4. Order the Contractor to stop the Work or any portion thereof but only if based on paragraph 3.3 hereinbelow.

3.2. Owner's Representative shall coordinate and expedite all aspects of the project and Work related to the Owner's responsibilities.

3.3. Owner's Representative shall process and manage Change Orders and Construction Change Directives with the Contractor, Architect, City Purchasing Manager and City Council.

3.4. Owner's Representative shall continually verify that project management tools and software, including the master project schedule, is in place, appropriately managed, and updated. The Owner's Representative shall also alert Owner and Architect of conditions that might lead to delay in completion of the Work or result in cost overruns.

3.5. Owner's Representative shall attend periodic team meetings of the Architect and Contractor and any other job-related meetings and see that information or decisions needed from Owner are promptly addressed.

3.6. Owner's Representative shall attend regular and ad-hoc meetings with the Urban Development Director, Library Director and their representatives, and shall attend Library Board and staff meetings as needed.

3.7. Owner's Representative shall attend City Council meetings when necessary.

3.8. Owner's Representative shall review monthly Applications for Payment and recommend disposition to Architect, and shall assist in expediting payment of Certificates for Payment.

6/6/2002

2

- 3.9. Owner's Representative shall monitor the progress and quality of construction to keep the Owner's primary contacts informed weekly and no less frequently than monthly, and report monthly to the Owner the status of the project to include conformance with bid documents, compliance with construction schedule and value of work performed and materials stored. Owner's Representative is to notify the Architect immediately if, in the Owner's Representative's opinion, Work does not conform to the Contract Documents or requires special inspection, testing or scheduling. Owner's Representative will report on the project's critical path showing all tasks that could easily delay the project or cause cost overruns. Owner's Representative will prepare promptly, or as needed, a listing of unresolved items/issues, problems or decisions pending that require the Owner's response in order to maintain the project schedule.
- 3.10. Owner's Representative shall Participate in inspections for Substantial and Final Completion in conjunction with the Architect and Contractor, and also perform independent walk through of project and develop written reports for the Owner.
- 3.11. Owner's Representative shall ensure that communications by Owner's Representative are prepared in written, computer-readable form in a Microsoft software product that is backed-up at the end of each day's use, provide a monthly archive copy for the Owner, and maintain a log book of activities observed at the site in a manner approved by Owner.
- 3.12. Owner's Representative shall maintain records in an orderly manner, and include Contract Documents, correspondence, site logs and visit reports, Change Orders, Construction Change Directives, Certificates for Payment and other items provided to Owner for information, authorization or decision.
- 3.13. Owner's Representative shall communicate the current status of the project with neighborhood residents and businesses on a regular and ad-hoc basis. This may involve written, electronic, and face-to-face communication. Owner's Representative will disseminate public information to the broader community if needed and approved by the City and Library primary contacts.
- 3.14. Owner's Representative shall provide negotiation and facilitation where necessary in working with the Architect and Contractor as equal team members so as to provide positive results consistent with the spirit of this community-based design.
- 3.15. Owner's Representative shall furnish a certificate of insurance addressed to the City showing that he carries general liability insurance in the amount of \$1,000,000 that shall be maintained throughout the term of this Agreement.
- 3.16. Owner's Representative shall furnish a certificate of insurance addressed to the City showing that he carries professional liability insurance in the amount of \$500,000 that shall be maintained throughout the term of this Agreement.

4. LIMITATIONS OF AUTHORITY

Owner's Representative, in acting on behalf of the Owner, shall not exceed the rights and authorities of the Owner pursuant to the agreement between the Owner and Architect and the General and Supplementary Conditions. Furthermore, Owner's Representative shall NOT:

6/6/2002

3

- 4.1. Assume any of the responsibilities of the Architect or the Contractor.
- 4.2. Expedite the Work for the Contractor.
- 4.3. Have control over or charge of or be responsible for construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the Work.
- 4.4. Interpret the Contract Documents or reject Work performed.
- 4.5. Make changes in the Contract Documents other than through the process covered under "Duties and Responsibilities" section above.

5. COMPLIANCE WITH FEDERAL, STATE AND LOCAL RULES AND REGULATIONS

- 5.1. Owner's Representative shall submit to the City any and all documents demonstrating compliance with all federal, state, and local rules and regulations. Such demonstrations shall be provided at the request of the City. The City's failure to request supporting documentation, however, shall not excuse any failure on Owner's Representative's part to have complied with the applicable federal, state, and local rules and regulations.
- 5.2. Owner's Representative shall confirm that all contracts for services, and other procurement for materials, services, or construction shall be carried out in compliance with applicable federal, state, and local rules and regulations.

6. RECORDS AND REPORTS

Owner's Representative agrees to provide a report regarding the progress status of the project on a monthly basis during the terms of this agreement. The report will contain, at a minimum, the information described in paragraph 3(9).

7. AGREEMENT'S TIME-FRAME

The time-frame for this Agreement shall be set at the discretion of the Owner and expire no later than on the date of final completion. The City and Owner's Representative shall have the right to terminate this Agreement upon written notice. In the event of termination, the City shall pay Owner's Representative for all services performed to date of termination.

8. HOLD HARMLESS AND INDEMNIFICATION

Owner's Representative shall hold harmless, defend and indemnify the City and the Library from any and all claims, actions, suits, charges and judgments whatsoever that arise out of Owner's Representative performance or nonperformance of the services or subject matter called for in this Agreement.

9. BUDGET

- 9.1. It is expressly agreed and understood that the total amount to be paid to Owner's Representative shall not exceed \$3000 monthly.
- 9.2. Owner's Representative shall render to the City and Library a Request for Payment at the end of each month. The City and Library agree to make every effort to pay each invoice within thirty days of receipt of the invoice.

6/6/2002

4

10. ENTIRE AGREEMENT.

This Agreement contains the entire agreement and understanding between the parties as to the subject matter of this Agreement and mergers and supersedes all prior agreements, commitments, representations, and discussions between the parties pertaining to the subject matter of the Agreement.

11. NOTICES

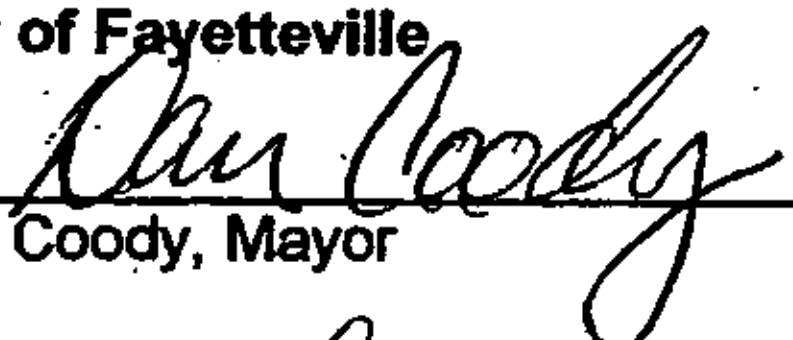
All notices required or permitted under this Agreement shall be submitted in writing to the other party to this Agreement, by certified mail, return receipt requested, which notice shall be effective three (3) days after deposit therein addressed to the following:

City of Fayetteville
Dan Coody
Mayor
113 West Mountain St.
Fayetteville, AR 72701

Robert Kohler III
695 Gray Avenue
Fayetteville, AR 72701

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

City of Fayetteville


Dan Coody, Mayor

Attested By:

Fayetteville Public Library


Louis Gottsponer, President

Attested by:

Robert Kohler Consulting


Robert Kohler

Attested by:

6/6/2002

5

STAFF REVIEW FORM

OK *Robert Kohler III Contract* A. 4.
Page 11 of 12

X AGENDA REQUEST
X CONTRACT REVIEW
GRANT REVIEW

No Amendment attached
YH

For the Fayetteville City Council Meeting of: August 3, 2004

FROM:

Louise Schaper

Fayetteville Public Library

General Government

Name

Division

Department

ACTION REQUIRED: Approve a change order to the contract with Robert Kohler III for owner's representation services for the new city library in an amount not to exceed \$9000.

COST TO CITY:

\$ 9000.00
8,000.00
Cost of this request

\$ 8,950,917
Category/Project Budget

New Library
Program Category / Project Name

4150-9150-5804-00
Account Number

\$ 7,253,954
Funds Used to Date

New Library
Program / Project Category Name

99073-1
Project Number

\$ 1,696,963
Remaining Balance

Library Construction Fund
Fund Name

BUDGET REVIEW:

X

Budgeted Item

Budget Adjustment Attached

[Signature]
Budget Manager

7-17-04
Date

CONTRACT/GRANT/LEASE REVIEW:

[Signature] 7/16/04
Accounting Manager **See Comment* Date

[Signature] 7/16/04
Internal Auditor Date

[Signature] 7/20/04
City Attorney Date

[Signature] 7/16/04
Purchasing Manager Date

STAFF RECOMMENDATION:

Division Head

Date

Cross Reference

New Item: Yes No

Department Director

Date

Previous Ord/Res#: 45-02

[Signature] 7-20-04
Finance & Internal Services Dir. Date

Orig. Contract Date 3/19/02

[Signature] 7-21-04
Chief Administrative Officer Date

Orig. Contract Number 837

[Signature]
Mayor

7/21/04
Date



Staff Review Form - Page 2

Description Change order to the contract with Robert Kohler III. Meeting Date _____

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

*The amendment needs to be OK'd
attached before we can
sign off on it.*

Purchasing Manager

Internal Auditor

Finance & Internal Services Director

Chief Administrative Officer

City Council Meeting of August 3, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Hugh Earnest, Chief Administrative Officer 
From: Louise Schaper, Executive Director -Library
Date: July 15, 2004
Subject: **Budget adjustment and increase to the library transfer in the amount of \$16,750.**

RECOMMENDATION

The Library Board of Trustees recommends approval of a budget adjustment and increase to the library transfer in the amount of \$16,750 to fund a facility manager for the new library for the remainder of 2004.

BACKGROUND

The new Fayetteville Public Library facility will open October 9. The facility is currently in its final completion. The 88,000 square foot building has complex and highly sophisticated mechanical, electrical, plumbing, security, book conveyance, and audiovisual systems in addition to green building systems such as automatic sunshades, cistern etc. The facility manager will be responsible for building systems, repairs, housekeeping, landscaping, security, and the mechanical and electrical aspects of the book conveyance system.

DISCUSSION

The library planned to request funds for this position in the 2005 budget cycle. It is now apparent that having a qualified facilities manager on-board during the final completion when building systems training is taking place and during the first few months of operation is crucial. Coy Hurd has studied the building's systems and recommended to the library that this position be filled as soon as possible.

BUDGET IMPACT

This request is for partial year funding for a facilities manager. A full year funding with benefits is \$49,915. Details about the library's 2005 budget needs will be presented to the City Council concurrently with the City's five-year budget forecast in late August or early September.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING PARTIAL YEAR FUNDING FOR ONE (1) FULL-TIME FACILITIES MANAGER AT THE NEW FAYETTEVILLE PUBLIC LIBRARY; AND APPROVING A BUDGET ADJUSTMENT OF \$16,750.00 FROM THE USE OF FUND BALANCE TO THE TRANSFER TO LIBRARY BOARD ACCOUNT.

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 partial year funding for one (1) Full-Time Facilities Manager at the new Fayetteville Public Library; and,

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment of \$16,750.00 from the Use of Fund Balance to the Transfer to Library Board Account.

PASSED and APPROVED this 3rd day of August 2004

ATTEST:

By: _____

SONDRA SMITH, City Clerk

APPROVED:

By: _____

DAN COODY, Mayor

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

A. S.
Library Facilities Manager
Page 3 of 4

Budget Year 2004	Department: General Government Division: Library Program: Library	Date Requested 8/3/2004	Adjustment Number
--------------------------------	--	---------------------------------------	--------------------------

Project or Item Requested: \$16,750 is requested in the Transfer to Library Board account.	Project or Item Deleted: \$16,750 is proposed from the Use of Fund Balance.
--	---

Justification of this Increase: These funds will be used for the partial year funding of a Facilities Manager position.	Justification of this Decrease: Sufficient funding remains to comply with City policy.
---	--

Increase Budget (Decrease Revenue)						
Account Name	Account Number				Amount	Project Number
Transfer to library board	1010	5240	5720	00	16,750	

Decrease Budget (Increase Revenue)						
Account Name	Account Number				Amount	Project Number
Use of fund balance	1010	0001	4999	99	16,750	

Approval Signatures		Budget Office Use Only					
Requested By	Date	Type:	A	B	C	D	E
Budget Manager	Date	Date of Approval			Initial	Date	
Department Director	Date	Posted to General Ledger			Initial	Date	
Finance & Internal Services Director	Date	Posted to Project Accounting			Initial	Date	
Mayor	Date	Entered in Category Log			Initial	Date	

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council Meeting of: August 3, 2004

FROM:

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

ACTION REQUIRED: Approve a budget adjustment and increase to the transfer to the library in the amount of \$16,750.

COST TO CITY:

\$ <u>16,750.00</u>	\$ <u>845,500.00</u>	<u>Library</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>1010.5240.5720.00</u>	\$ <u>493,208.00</u>	<u>Library</u>
Account Number	Funds Used to Date	Program / Project Category Name
	\$ <u>352,292.00</u>	<u>General Fund</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ☒ Budgeted Item ☒ Budget Adjustment Attached

[Signature] 7/16/04
Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

<u>[Signature]</u> <u>7/16/04</u>	<u>[Signature]</u> <u>7/16/04</u>
Accounting Manager Date	Internal Auditor Date
<u>[Signature]</u> <u>7/16/04</u>	<u>[Signature]</u> <u>7/16/04</u>
City Attorney Date	Purchasing Manager Date

STAFF RECOMMENDATION:

<u>Division Head</u>	<u>Date</u>
<u>Department Director</u>	<u>Date</u>
<u>[Signature]</u> <u>7-16-04</u>	Date
Finance & Internal Services Dir.	
<u>[Signature]</u> <u>7-20-04</u>	Date
Chief Administrative Officer	
<u>[Signature]</u> <u>7/21/04</u>	Date
Mayor	

Cross Reference

New Item: Yes No

Previous Ord/Res#: _____

Orig. Contract Date _____

Orig. Contract Number _____



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor

FROM: Hugh Earnest, Chief Administrative Officer

DATE: July 14, 2004

Subject: Annual funding for Razorback Transit

Recommendation

Staff recommends approval of the attached contract between the City and Razorback Transit.

Discussion

This contract and contract amount are for public transit services incorporated in the 2004 Budget.

Budget Impact

The budget for this item is \$25,000.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH THE UNIVERSITY OF ARKANSAS RAZORBACK TRANSIT IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) TO PROVIDE PUBLIC TRANSIT SERVICE TO THE CITIZENS OF FAYETTEVILLE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves a contract with the University of Arkansas Razorback Transit in the amount of Twenty-Five Thousand Dollars (\$25,000.00) to provide public transit service to the citizens of Fayetteville. A copy of the contract marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 3rd day of August 2004.

APPROVED:

By _____

DAN COODY, Mayor

ATTEST:

By _____

SONDRA SMITH, City Clerk

**CITY OF FAYETTEVILLE
CONTRACT FOR SERVICES**

This Agreement is entered into on this _____ day of _____, _____ between the City of Fayetteville, hereinafter known as the "City" and Board of Trustees of the University of Arkansas, acting for and on behalf of the University of Arkansas, Fayetteville -- Razorback Transit, hereinafter known as "UAF," an Arkansas governmental unit.

WHEREAS the City has determined that a public need exists for fixed route public transit services within the city limits of Fayetteville.

WHEREAS UAF has developed a fixed route public transit service within the City limits.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and UAF agree as follows:

1. This Agreement will begin on the date first written above.
2. UAF agrees to develop, operate and maintain a fixed route public transit system and allow Fayetteville residents free use of the same system. UAF reserves the right to refuse service to anyone for violation of transit service rules. UAF reserves the right to determine the route structure of the transit system.
3. UAF agrees to provide written quarterly and annual reports to the City that describes the activities undertaken during the preceding period concerning its public transit system and also report on the following performance measure: Estimated number of passengers by route. The quarterly reports are to be submitted to the Project Coordinator as soon as practical after the end of the quarter. The data will be reported for the current quarter, current year-to-date, and prior year-to-date.
4. UAF agrees to make available all records pertaining to public transit fixed route and paratransit service, except those restricted by federal regulations, for review by the City and City auditors as requested. UAF agrees to comply with the Arkansas Freedom of Information Act as applicable.
5. For the purpose of this Agreement, the Project Coordinator for the City will be the City Chief Administrative Officer or his/her designee. The Project Coordinator for UAF will be UAF Transit and Parking Director Gary Smith or his successor or designee. Communications pertaining to this agreement will be through the respective Project Coordinators for the City and UAF.
6. **Terms of Performance.** The term of performance for this agreement will expire December 31, 2004 and may be extended for one or more one-year terms, up to an additional three years, subject to approval of a budget containing funding for the service and written agreement of both parties.

8. Budget. The City agrees to pay UAF and UAF agrees to accept as payment in full for its services \$25,000.00 for 2004. The amounts to be paid for services in future budget years are dependent on the amounts appropriated by City Council for each budget year. It is understood that a reduction in City funding may require a reduction in transit service.
9. UAF shall provide and maintain in force at all times during the term of the contract, for its own employees, coverage for worker's compensation to the extent required by law.
10. UAF shall render to the City, a Request for Payment at the end of each year and the City will pay the invoice within thirty days of receiving the invoice in the City's Accounting Division.
11. Notices. All notices required or permitted under this agreement will be submitted in writing to the other party in this agreement by personal delivery to the address below, or by certified mail, return receipt requested, in which case notice will be effective three (3) days after deposit therein addressed to the following:

City of Fayetteville	University of Arkansas
	Transit and Parking
Dan Coody	Gary Smith
Mayor	Director
113 West Mountain St.	155 Razorback Road ADSB 131
Fayetteville, AR 72701	Fayetteville, AR 72701
12. Neither party may assign any of its rights or obligations under this agreement, without the express written consent of the other, nor shall this agreement be construed to bestow any rights or benefits upon anyone other than UAF and the City.
13. The parties agree and understand that this Agreement is exclusive of any and all other agreements, and that it in no way alters, amends or abridges any rights, obligations or duties of the parties contained in such agreements.
14. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of any other breaches by either party.
15. This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this agreement shall be valid unless made in writing and signed by the duly authorized agents of the City and UAF.
16. Severability. Each paragraph of this agreement is severable from all other paragraphs. If any paragraph or subparagraph is found to be invalid or

unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.

17. Interpretation. This contract shall be interpreted according to and enforced under the laws of the State of Arkansas.
17. Non-Appropriation. The parties recognize that performance of this Contract by UAF may be dependent in whole or in part upon the appropriation of state or federal funds. If a state or federal legislative body fails to appropriate the necessary funds, then by written notice to City, UAF may cancel all or the remaining portion of this Agreement without further duty or obligation. In the event that this Contract must be terminated prior to the end of the term pursuant to this clause, the amounts due to UAF by City shall be pro-rated. The parties recognize and understand that appropriation is a legislative act and is beyond the control of UAF.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

University of Arkansas

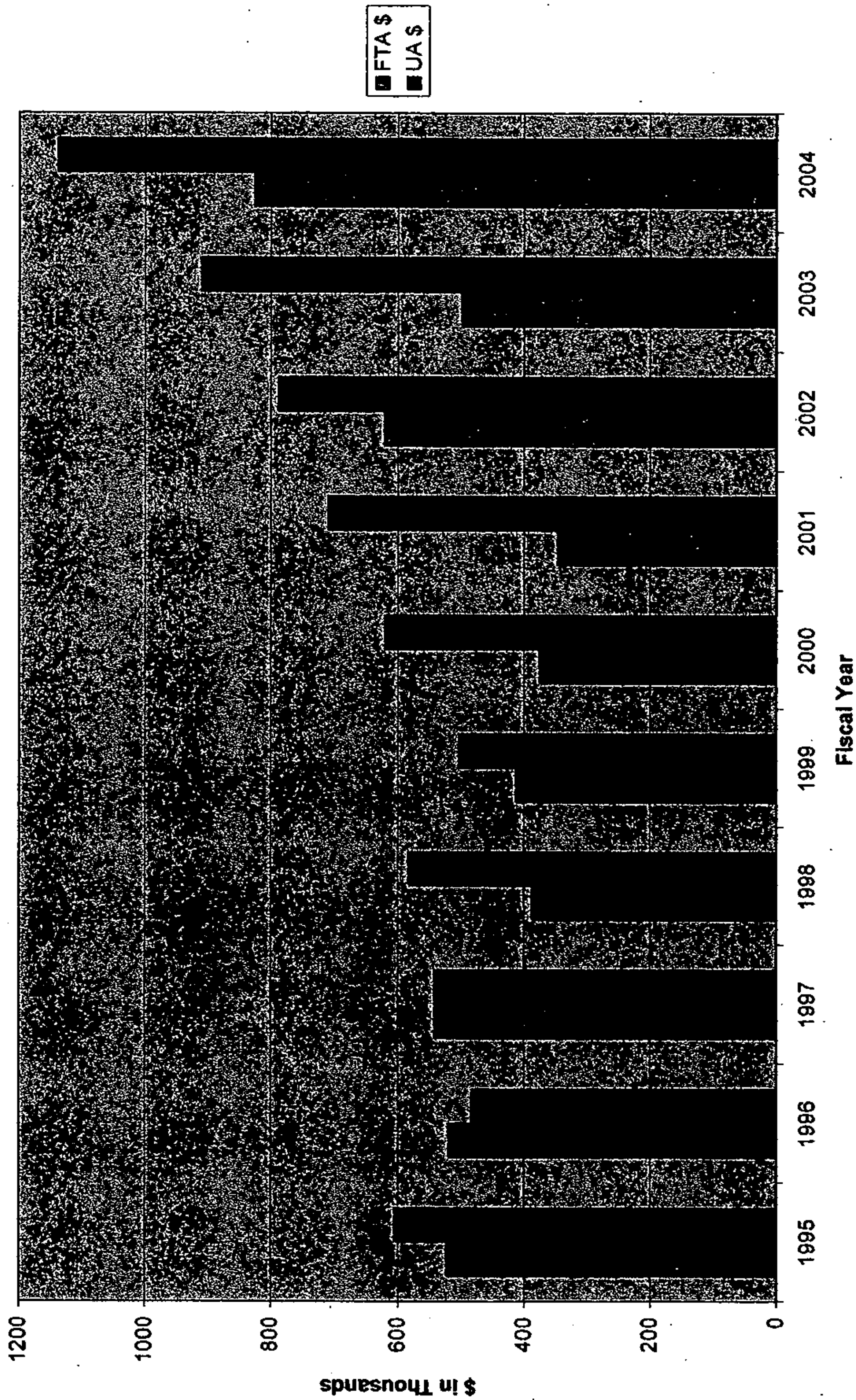
City of Fayetteville

Dan Coody, Mayor

Attested By:

Attested By:

Razorback Transit Funding



FY04 accounting period still open, numbers subject to change.
FY03 was the first year of the rental vehicle tax. FY03 UA includes \$272,541 and FY04 UA includes \$248,978 in rental vehicle tax.

STAFF REVIEW FORM

A. 6
Razorback Transit Contract
Page 7 of 8

XX AGENDA REQUEST
 _____ CONTRACT REVIEW
 _____ GRANT REVIEW

For the Fayetteville City Council Meeting of: August 3, 2004

FROM:

Hugh EarnestChief Administrative OfficerGeneral Government

Name

Division

Department

ACTION REQUIRED: Approval of a contract with Razorback Transit for public transit services in 2004 at a cost of \$25,000.

COST TO CITY:

<u>\$25,000.00</u>	<u>\$</u>	<u>25,000.00</u>	<u>Transfers</u>
Cost of this request			Program Category / Project Name
<u>1010-6600-5728.00</u>	<u>\$</u>	<u>-</u>	<u>Miscellaneous</u>
Account Number			Program / Project Category Name
	<u>\$</u>	<u>25,000.00</u>	<u>General Fund</u>
Project Number			Fund Name
		<u>Remaining Balance</u>	

BUDGET REVIEW: ✓ Budgeted Item Budget Adjustment Attached
Budget Manager7/14/04
Date

CONTRACT/GRANT/LEASE REVIEW:

Marda Fushing
Accounting Manager7/15/04
DateNancy Smith
Internal Auditor7/15/04
DateD. F. Whit
City Attorney7/15/04
DateP. Uice
Purchasing Manager7/15/04
DateSTAFF RECOMMENDATION: Approval of contract.

Division Head

Date

Department Director

Date

Finance & Internal Services Dir.

Date

Chief Administrative Officer

Date

Mayor

Date

Cross Reference

New Item: Yes NoPrevious Ord/Res#: Orig. Contract Date Orig. Contract Number 

Description _____ Meeting Date _____

Comments:

Budget Manager

Reference Comments:

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

*Contract not signed by other
party*

Grants Coordinator

June 1, 2004
Agenda

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Tim Conklin, Community Planning and Eng. Services Director *T.C.*
From: Yolanda Fields, CRCC Director *[Signature]*
Date: April 27, 2004
Subject: Raze & Removal of property on 800 S. College Ave.

RECOMMENDATION

Staff recommends a resolution to order the raze and removal of the structure.

BACKGROUND

Service Request #7202, Case #1582: Code Compliance received a complaint about the unsafe building on the property owned by Daniel Bryant. The property is located on 800 S College Ave. An Unsafe Buildings violation notice was sent to the owners on September 2, 2003. Tim Bryant signed for the notice on September 4, 2003. By ordinance the owners were given until October 6, 2003 to acquire a permit and make repairs or to demolish and remove the building.

DISCUSSION

There is not a current building permit on this building. The Fire Marshal assessed the property on November 6, 2003 and determined the structure should be secured and the owner of the property obtain the proper permits for construction, plumbing, and electrical. Building Services was notified on November 6, 2003 about the building without permits, refer to Service Request #9348 for details. Work on the structure has ceased, the structure appears to be beyond repair.

BUDGET IMPACT

Contracting the raze and removal of the property would cost approximately \$4,000.00. The cost would be billed to the property owners. If payment is not received, the city will place a lien on the property for the amount of the raze and removal.

Tabled to 8/3/04 mtg

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AN ORDER TO RAZE AND
REMOVE A DILAPIDATED AND UNSAFE STRUCTURE
LOCATED AT 800 E. COLLEGE AVENUE, FAYETTEVILLE

WHEREAS, by certified mail, the owner of the dilapidated and unsafe building was notified on September 4, 2003 that because the building was dilapidated, unsafe, unsanitary or detrimental to the public welfare, the owner must repair or demolish the building; and

WHEREAS, the owners have not obtained the required permits, nor performed satisfactory repairs, nor demolished the building; and

WHEREAS, §95.04 of the Code of Fayetteville in compliance with state law grants the City Council the power to order the razing and removal of such building after a public hearing upon proof that such building is dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

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, after a public hearing on this issue, hereby finds that the building at 800 S. College Avenue, Fayetteville has been shown to be and is dilapidated, unsafe, unsanitary, or detrimental to the public welfare to such an extent that an order for the building's razing and removal should be and hereby is issued.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby directs that a lien in the reasonable cost of the razing and removal of the structure be placed on this property until such lien amount, plus any allowed interest, is paid in full.

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

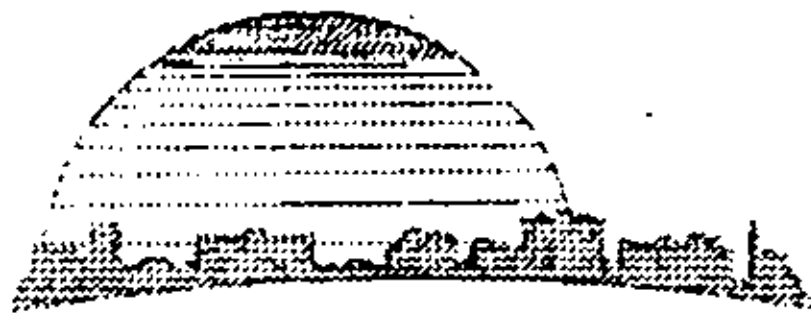
APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk



HELPING TO BUILD A BETTER COMMUNITY

Raze and Removal 800 S College
Page 3 of 20
City of Fayetteville, Arkansas
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Fax 479- 444-3445

B. 1.
ed in
Building re
und...

VIOLATION NOTICE

September 2, 2003

CASE NO. 01582

Owner: Daniel Bryant
319 E. Maple
Fayetteville, AR 72701

RE: Property @ 800 S. College, Fayetteville, AR
WC Parcel# 765-05672-000

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. Please feel free to call our office at (479) 575-8240 for clarification of this notice or advice on how to correct the problem.

Suspected Violation That Needs Correction:

' 173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

Please obtain a building permit and make repairs as required or demolish the building and remove all debris from the lot.

Potential Penalties if not corrected within thirty (30) days from the service of this Notice include: Condemnation.

Appeal: If you disagree with our conclusion that your property contains a violation of the ordinance listed above, you have a right to file an appeal with the City Council.

Sincerely,

Chris Parsons
Code Compliance Officer

7002 2410 0001 0284 9426

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To *Daniel Bryant*
Street, Apt. No.,
or PO Box No. *319 E Maple*
City, State, ZIP+4 *Fayetteville AR 72701*

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece or on the front if space permits. 1. Article Addressed to: <i>Daniel Bryant</i> <i>319 E Maple</i> <i>Fayetteville, AR 72701</i> 2. Article Number (Transfer from service label) <i>7002 2410 0001 0284 9426</i>	A. Signature <i>Daniel Bryant</i> ☒ Agent ☐ Addressee B. Received by (Printed Name) <i>Daniel Bryant</i> C. Date of Delivery <i>9/4/03</i> D. Is delivery address different from item 1? ☐ Yes ☒ No If YES, enter delivery address below: 3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. 4. Restricted Delivery? (Extra Fee) ☐ Yes

PS Form 3800, August 2001 102595-02-M-1540

WARRANTY DEED
Single Person



KNOW ALL MEN BY THESE PRESENTS:

That I, Todd Thompson, a single person, hereinafter called Grantor, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to me in hand paid by Daniel Bryant, a single person, hereinafter called Grantee, do hereby grant, bargain and sell unto the said Grantee and Grantee's heirs and assigns, the following described land, situate in Washington County, State of Arkansas, to-wit:

Lots Numbered One (1) and Two (2) in Block Numbered Two (2), Glen Wood Park Addition, an Addition to the City of Fayetteville, Arkansas, as per plat of said Addition on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantee's heirs and assigns, forever. And I, the said Grantor, hereby covenant that I am lawfully seized of said land and premises, that the same is unencumbered, and that I will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS my hand and seal on this 12th day of June, 2003.

B. J. Thompson
Todd Thompson

THIS INSTRUMENT PREPARED BY:
Richard L. Miller, Attorney At Law
P.O. Box 3354
Fayetteville, Arkansas 72702

Doc ID: 000374800001 Type: REL
Recorded: 06/12/2003 at 10:01:55 AM
Fee Amt: \$8.00 Page 1 of 1
Washington County, AR
Bette Stancos Circuit Clerk
File **2003-00031674**

I certify under penalty of false swearing that at least the correct amount of documentary stamps have been placed on this instrument.

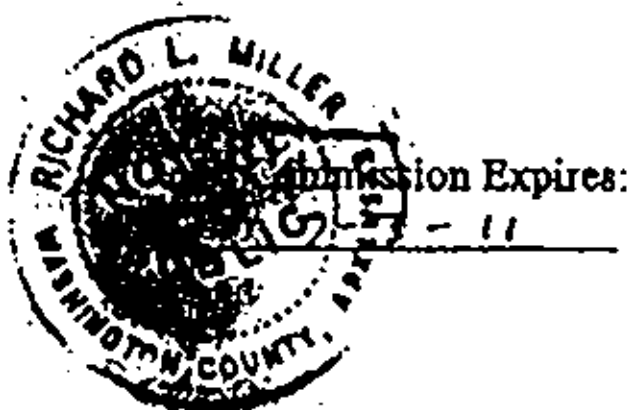
Grantee (or Agent)
Signature [Signature]
Address [Address]

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

On this the 12th day of June, 2003, before me, a notary public, personally appeared Todd Thompson, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and acknowledged that he had executed the same for the purposes herein set forth.

In witness whereof I hereunto set my hand and official seal.



Richard L. Miller
Notary Public

Record 1 of 1 Last Updated 04/26/04

Parcel Number: 765-05672-000 Prev. Parcel Number: 139315-000-00 Type: RI

Location: 800 S COLLEGE AVE

Owner Name: BRYANT, DANIEL

Mailing Address: 319 E. MAPLE FAYETTEVILLE AR 72701

Lot:

Block:

S-T-R: 22-16-30

Addition: GLENWOOD PARK

School District: FAYETTEVILLE SCH, FAY

Tax District: 011

City: FAYETTEVILLE

Legal: LOTS 1-2 BLOCK 2

Current Year A79 Credit Status: 0

Last Appraised: 2001

	Appraised Value	Taxable Value
Land	10,000	2,000
Improvement	20,000	4,000
Total	30,000	6,000

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit Status	A79	Net Total Tax	Total Tax Paid	Payment Status
2003	6,000	\$17.76	\$0.00	\$0.00	\$0.00			\$17.76	\$0.00	
2002	6,000	\$311.76	\$0.00	\$0.00	\$0.00		N	\$311.76	\$311.76	PAID
2001	5,566	\$289.21	\$0.00	\$0.00	\$0.00			\$289.21	\$289.21	PAID
2000	5,060	\$265.65	\$0.00	\$0.00	\$0.00			\$265.65	\$265.65	PAID
1999	5,060	\$259.07	\$0.00	\$0.00	\$0.00			\$259.07	\$259.07	PAID
1998	5,060	\$259.58	\$0.00	\$0.00	\$0.00			\$259.58	\$259.58	PAID
1997	5,060	\$259.58	\$0.00	\$0.00	\$0.00			\$259.58	\$259.58	PAID
1996	5,060	\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	\$0.00	PAID
1995	5,060	\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	\$0.00	PAID

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2002	39215	5/8/2003	\$311.76	\$0.00	\$0.00	\$0.00	\$0.00	\$311.76
2001	25869	4/19/2002	\$289.21	\$0.00	\$0.00	\$0.00	\$0.00	\$289.21
2000	8785	10/18/2001	\$265.65	\$0.00	\$0.00	\$0.00	\$0.00	\$265.65
1999	11754	10/11/2000	\$259.07	\$0.00	\$0.00	\$0.00	\$0.00	\$259.07

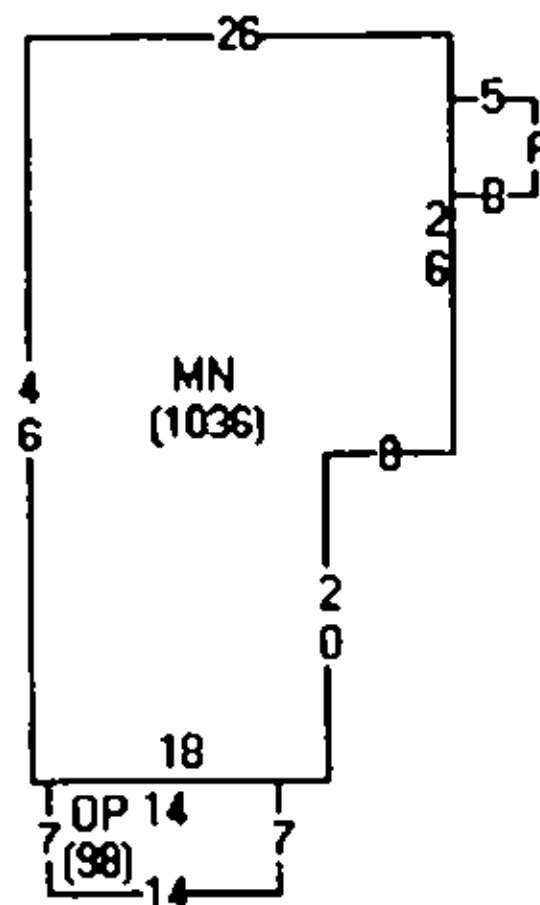
Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
6/12/2003	2003	31674	BRYANT, DANIEL		WD	23,000	75.90
PYM 2003-31674 WD \$75.90 REV (23M)							
5/7/2003	2003	25699	THOMPSON, TODD		WD	19,000	62.70
PMW 2003-25699 WD \$62.70 REV (19M)							

4/18/2002	2002 55571	BUILD A HOME	WD	11,970	39.50
KST 2002-55571 WD\$39.50 (12M)					
2/28/2002	2002 34464	WILKINS, FLORAYNE	QC	0	0.00
LRR 2002-34464 QCD NO REV					
2/26/1991	1405 812	WILKINS, ROBERT G., ET AL	WD	0	0.00
NO REV.- ALSO 11408,16823,16831,16830,16829.					
1/24/1986	1166 894	WILKINS, ROBERT G. & FLORAYNE;	WD	29,000	31.90
REED, PAUL F. & VIRGINIA W.					
1/1/1985	1125 7	CARLISLE, BETTY JO; CARLISLE,		0	0.00

Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Age or Year Constructed	Basement Area
1	SF	MV	1036	1036	70	676

Sketch:



[Next Item](#) |
 [Previous Item](#) |
 [Return to Search Results](#) |
 [Modify Search](#) |
 [New Search](#)



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

B. 1.
Raze and Removal 800 S College
Page 8 of 20

To: Code Enforcement Division

Date: 11-06-03

Ref: Property Assessment
800 South College

From: Dennis Ledbetter
Fire Marshal

I received an assignment to assess the property at 800 South College. This was a wood frame single family dwelling. The structure was unsecured at the time of the inspection. There was construction work being done on the exterior and interior of the structure. It is recommended the structure be secured and the owner of the property obtain the proper permits for construction, plumbing and electrical.

City of Fayetteville

113 West Mountain
Fayetteville, AR 72701
(479)521-7700 Fax (479)575-8316

B. 1
Raze and Removal 800 S College
UNSAFE BLDG Case

Report Date 04/27/2004 03:35 PM

Submitted By 2285

Page 1

Case # 1582

Case Information**Stages**

	Date / Time	By
Processed	04/27/2004 15:28	2285
Resolved		
Expires		

Associated Information

Case Group	173.08	UNSAFE BUILDINGS
Priority		☒ Auto Reviews
Resolution Code		
Source	CE	CODE COMPLIANCE
Name	DU/CB	

Applications Affected

☒ Building Application ☒ Project Application ☒ Use Application ☐ License Application ☐ Case

Description of Case

6-23-03, cp, Inspection revealed vacant house with several broken windows. Window in back of house missing altogether.
9-02-03, cp, Letter returned unclaimed - will send to new address
and new owner of property- Daniel Bryant.
10-16-03, cp & cb, R/I showed very little action taken by owner. Window at the back of house still broken indicating unsafe structure.
11-6-03cb, fire marshal inspected and found construction work being done to the interior. I added SR#9348, building without a permit. We will continue to monitor the progress of SR#9348 until further action from our department.
2-10-04cb, no change in months, we continued to monitor and no progress was made, looks like they are not going to continue the renovation. Will proceed with this case.
2-24-04cb, no change
3-23-04cb, no change, will process with agenda request
4-7-04du, still no change
4-21-04du, no change, possible grass/weed violation soon
4-27-04cb, submitted agenda request and sent letter to owners informing them of the meeting.

Project #	Project/Phase Name	Phase #
Size/Area	Size Description	

Customer Service

Service #	Problem	Resolution Code	Resolved Date
-----------	---------	-----------------	---------------

7202	CE834		
------	-------	--	--

Property/Site Information

Address 800 S COLLEGE AVE
FAYETTEVILLE AR 72701-

Location

Owner/Tenant

Contact ID AC2948 Name DANIEL BRYANT

Mailing Address 319 E MAPLE

City FAYETTEVILLE

ZIP/PC

Day Phone

Fax

Organization

State/Province AR

Country

☐ Foreign

Evening Phone

Mobile #

Contact ID AC2482

Name TODD THOMPSON

Mailing Address 15 N LOCUST APT 6

City FAYETTEVILLE

ZIP/PC 72701

Day Phone

Fax

Organization

State/Province AR

Country

☐ Foreign

Evening Phone

Mobile #

City of Fayetteville

113 West Mountain
Fayetteville, AR 72701
(479)521-7700 Fax (479)575-8316

B. 1.
Raze and Removal 800 S College
UNSAFEBLDG Case

Report Date 04/27/2004 03:35 PM**Submitted By** 2285

Page 2

Linked Addresses

800 S COLLEGE AVE
FAYETTEVILLE, AR 72701-

AP Linked Addresses

No Addresses are linked to this Application

Linked Parcels

765-05672-000

AP Linked Parcels

No Parcels are linked to this Application

Applicants/Contacts

Primary	N	Capacity	OWNER	Contact ID	AC2482	☐ Foreign
Effective		Expire				
Name	TODD THOMPSON			Address	15 N LOCUST APT 6	
Day Phone		Eve Phone			FAYETTEVILLE	
Pager		PIN #			AR	
Fax		Mobile			72701	
E-Mail						
Organization		Position			Profession	
Comments	No Comments					

Primary	N	Capacity	OWNER	Contact ID	AC2948	☐ Foreign
Effective		Expire				
Name	DANIEL BRYANT			Address	319 E MAPLE	
Day Phone		Eve Phone			FAYETTEVILLE	
Pager		PIN #			AR	
Fax		Mobile				
E-Mail						
Organization		Position			Profession	
Comments	No Comments					

Contractors

No Contractors

Item Description**Item Status**

Check Fees	Fees Successful
Check Inspections	Inspections Successful
45783 CE CIT #1 CODE COMPLIANCE CITATION DEL.	Waived
29839 CE FOLLOW #1 CODE COMPLIANCE FOLLOW-UP	Failed
36633 CE FOLLOW #2 CODE COMPLIANCE FOLLOW-UP	Failed
37738 CE FOLLOW #3 CODE COMPLIANCE FOLLOW-UP	Failed
38668 CE FOLLOW #4 CODE COMPLIANCE FOLLOW-UP	Failed
40758 CE FOLLOW #5 CODE COMPLIANCE FOLLOW-UP	Failed
42687 CE FOLLOW #6 CODE COMPLIANCE FOLLOW-UP	Failed
45093 CE FOLLOW #7 CODE COMPLIANCE FOLLOW-UP	Waived
29840 CE PRECNCL #1 CODE COMPLIANCE PRE-COUNCIL	Waived
45784 CE PRECT #1 CODE COMPLIANCE PRE-COURT	Waived
16141 CEINI #1 XXX-OLD CE SERV REQ INITIAL	Closed
23630 CERIN #1 XXX-OLD CODE ENFORCEMENT REINS	Failed
27370 CERIN #2 XXX-OLD CODE ENFORCEMENT REINS	Failed
28432 CERIN #3 XXX-OLD CODE ENFORCEMENT REINS	Failed
28975 CERIN #4 XXX-OLD CODE ENFORCEMENT REINS	Waived

City of Fayetteville
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B. 1.
Raze and Removal 800 S College
UNSAFE BLDG Case

Report Date 04/27/2004 03:35 PM

Submitted By 2285

Page 3

Item Description	Item Status
Check Reviews	Reviews Failed
10851 CE SUPV CODE COMPLIANCE SUPERVISOR	Incomplete
7108 CE SUPV CODE COMPLIANCE SUPERVISOR	Approved
Check Conditions	Conditions Failed
REC CIT RECORD CITATIONS ON DETAIL TAB	Approved, N/A
CC RR CITY COUNCIL RAZE & REMOVE	Unapproved
CERT RECD LOG TYPE OF "RECD" CERT MAIL	Approved, DONE
CERT SENT CERTIFIED MAIL SENT	Approved, DONE
Check Alert Conditions	Alert Conditions Successful
Check Licenses	Not Checked
Check Children Status	Children Successful
Check Open Cases	1
Case # 2266	

Inspections

Inspection # 45783 Inspection Type CE CIT # 1 Assigned To Call
Inspected By Order/Group 0 Scheduled Preference
Comments

Inspection Details

No Inspection Details

Inspection # 38668 Inspection Type CE FOLLOW # 4 Assigned To 2285 Call
Inspected By 2285 Order/Group 0 Scheduled 03/25/2004 16:15 Preference
Comments

Inspection Details

No Inspection Details

Inspection # 37738 Inspection Type CE FOLLOW # 3 Assigned To 2285 Call
Inspected By 2285 Order/Group 0 Scheduled 03/11/2004 14:15 Preference
Comments

Inspection Details

No Inspection Details

Inspection # 40758 Inspection Type CE FOLLOW # 5 Assigned To 2285 Call 04/07/2004 14:04
Inspected By 732 Order/Group 0 Scheduled 04/07/2004 15:23 Preference
Comments

Inspection Details

No Inspection Details

Inspection # 36633 Inspection Type CE FOLLOW # 2 Assigned To 2285 Call
Inspected By 2285 Order/Group 0 Scheduled 02/26/2004 13:10 Preference
Comments

Inspection Details

No Inspection Details

City of Fayetteville

113 West Mountain
Fayetteville, AR 72701
(479)521-7700 Fax (479)575-8316

B. 1.
Raze and Removal 800 S College
UNSAFEBLDG Case
Page 12 of 20

Report Date 04/27/2004 03:35 PM**Submitted By** 2285**Page** 4**Inspections**

Inspection # 45093 **Inspection Type** CE FOLLOW **#** 7 **Assigned To** 732 **Call** 04/21/2004 16:00
Inspected By **Order/Group** 0 **Scheduled** 05/07/2004 16:00 **Preference**
Comments

Inspection Details

No Inspection Details

Inspection # 29839 **Inspection Type** CE FOLLOW **#** 1 **Assigned To** 2285 **Call**
Inspected By 2285 **Order/Group** 0 **Scheduled** **Preference**
Comments

Inspection Details

No Inspection Details

Inspection # 42687 **Inspection Type** CE FOLLOW **#** 6 **Assigned To** 732 **Call** 04/07/2004 14:05
Inspected By 732 **Order/Group** 0 **Scheduled** 04/21/2004 16:00 **Preference**
Comments

Inspection Details

No Inspection Details

Inspection # 29840 **Inspection Type** CE PRECNCL **#** 1 **Assigned To** **Call**
Inspected By **Order/Group** 0 **Scheduled** **Preference**
Comments

Inspection Details

No Inspection Details

Inspection # 45784 **Inspection Type** CE PRECT **#** 1 **Assigned To** **Call**
Inspected By **Order/Group** 0 **Scheduled** **Preference**
Comments

Inspection Details

No Inspection Details

Inspection # 16141 **Inspection Type** CEINI **#** 1 **Assigned To** 2284 **Call** 06/23/2003 08:00
Inspected By 2284 **Order/Group** 0 **Scheduled** 06/25/2003 13:27 **Preference**
Comments

6-23-03, cp, inspection revealed vacant building with broken windows. Window in back of house gone all together.

Inspection Details

No Inspection Details

Inspection # 23630 **Inspection Type** CERIN **#** 1 **Assigned To** 2284 **Call** 10/16/2003 11:35
Inspected By 2284 **Order/Group** 0 **Scheduled** 10/16/2003 11:36 **Preference**
Comments

10-16-03, cp & cb, R/I showed very little action had been taken. There are still busted out windows in the back of house making it a safety concern.

Inspection Details

No Inspection Details

City of Fayetteville

113 West Mountain
Fayetteville, AR 72701
(479)521-7700 Fax (479)575-8316

B. 1.
Raze and Removal 800 S College
UNSAFE BLDG Case

Report Date 04/27/2004 03:35 PM

Submitted By 2285

Page 5

Inspections

Inspection # 27370 Inspection Type CERIN # 2 Assigned To Call
Inspected By Order/Group 0 Scheduled Preference
Comments
Schedule after counsel action

Inspection Details

No Inspection Details

Inspection # 28432 Inspection Type CERIN # 3 Assigned To 2285 Call
Inspected By 2285 Order/Group 0 Scheduled Preference
Comments
waiting for fire marshal's inspection

Inspection Details

No Inspection Details

Inspection # 28975 Inspection Type CERIN # 4 Assigned To Call
Inspected By Order/Group 0 Scheduled Preference
Comments

Inspection Details

No Inspection Details

Review Activities

Comp By	Act #	Act Type	Status	Waived	Issued	Started	Completed
2285	7108	CE SUPV	1	N	11/20/2003 11:03	04/27/2004 15:28	04/27/2004 15:29
	10851	CE SUPV	0	N	04/27/2004 15:29	04/27/2004 15:30	

Activity Review Details

No Activity Review Details

Check Conditions

Condition	Approval	Approved By	Approved Date	Applied By	Applied Date	Assigned
GIS VERIFY N	DONE	2284 GIS verified	06/23/2003 16:19	2284	06/23/2003 16:19	2284
REC CIT N	N/A	2285	04/27/2004 15:29	2285	04/27/2004 15:28	
CC RR N				2285	04/27/2004 15:29	
CERT RECD N	DONE	2285	11/20/2003 11:02	2285	11/20/2003 11:02	
CERT SENT N	DONE	2285	11/20/2003 11:03	2285	11/20/2003 11:02	
SRIMG N	DONE	2284 photos on file	06/23/2003 16:09	2284	06/23/2003 16:09	2284
POST PHOTO N	DONE	2284 Not used. Letter sent. #7001-1940-0001-4906-2727	06/23/2003 16:27	2284	06/23/2003 16:27	2284

City of Fayetteville

113 West Mountain
Fayetteville, AR 72701
(479)521-7700 Fax (479)575-8316

B. 1.
Raze and Removal 800 S College
UNSAFE BLDG Case

Report Date 04/27/2004 03:35 PM**Submitted By** 2285

Page 6

Check Conditions	Approval	Approved By	Approved Date	Applied By	Applied Date	Assigned
Condition	Supervisor Required	Comments				

Employee ID	Last	First	MI	Comments
2285	BALL	CHAD		case sent to my desk for further action

Log Action	Description	Entered By	Start	Stop
Comments				

RECD	CERTIFIED MAIL SIGNATURE DATE	2284	09/16/2003 11:34	
Rec'd signed Tim Bryant 9/4/03				

DEED #	DEED # REQUIRED	2284	09/16/2003 11:31	
Book 2003 Page 31674				

CORRES	CORRESPONDENCE SENT OR RECD.	2284	06/23/2003 16:41	
Letter sent #7001-1940-0001-4906-2727				
Letter returned unclaimed-				
will send to new address				
7002-2410-0001-0284-9426				

COLLEGE AVE.

~~9TH ST~~

WASHINGTON-AVE

800

812

816

818

820

822

185

- 943

961

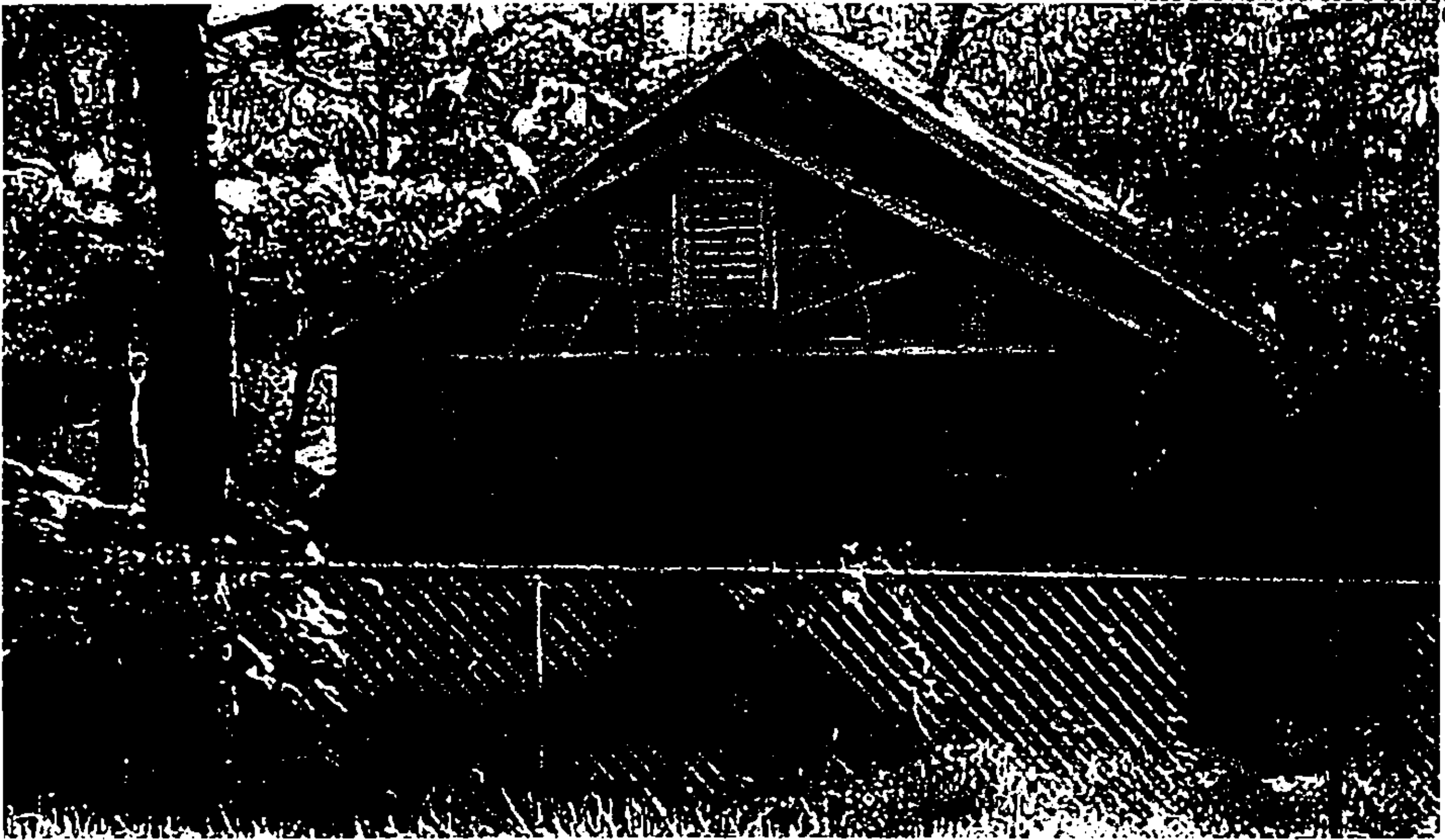
1973

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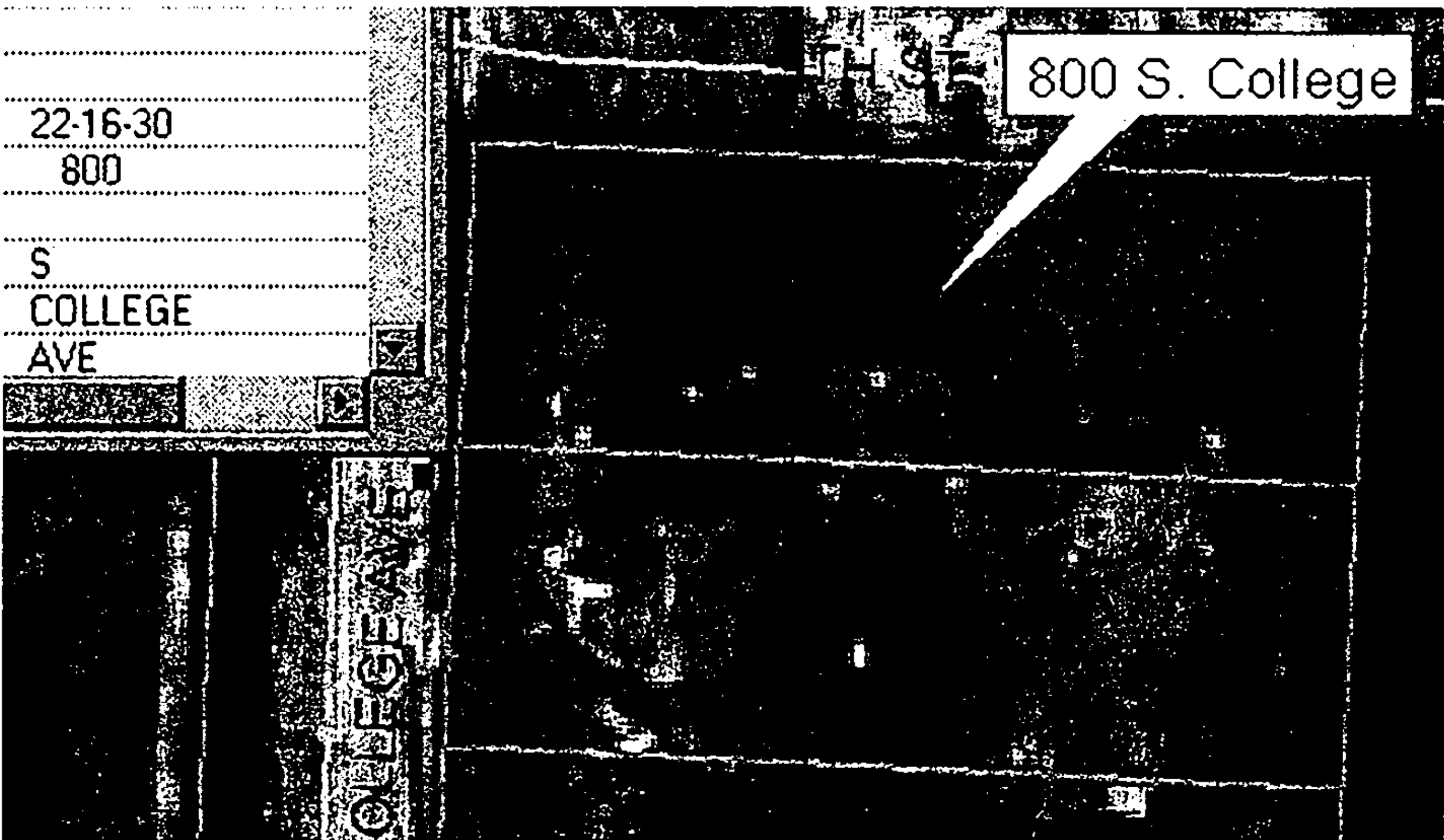
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970





800 S College



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

B. 1.
Raze and Removal 800 S College
Page 18 of 20YES AGENDA REQUESTFor the Fayetteville City Council Meeting of: May 18, 2004

FROM:

Chad BallCom Res & Code ComCom Plan & Engr Services

Name

Division

Department

ACTION REQUIRED: Public Hearing and Resolution to order the Raze and Removal of the dilapidated structure located at 800 S College Ave, Fayetteville, AR 72701**SUMMARY EXPLANATION:**

See attached Memo

STAFF RECOMMENDATION: Staff recommends the Raze and Removal of the property.[Signature]
Division Head4-29-04
Date

Received in Mayor's Office

5/3/04
Date [Signature][Signature]
City Attorney5/2/04
Date[Signature]
Department Director4-30-04
DateCross Reference:[Signature]
Finance & Internal Services Dir.5-3-04
Date

Previous Ord/Res#: _____

[Signature]
Chief Administrative Officer5-8-04
Date

Orig. Contract Date: _____

[Signature]
Mayor5/4/04
Date

Orig. Contract Number: _____

New Item:

Yes

No



RESOLUTION NO. _____

A RESOLUTION TO APPROVE AN ORDER TO RAZE AND REMOVE A DILAPIDATED AND UNSAFE STRUCTURE LOCATED AT 800 S. COLLEGE AVENUE, FAYETTEVILLE

WHEREAS, by certified mail, the owner of the dilapidated and unsafe building was notified on September 4, 2003 that because the building was dilapidated, unsafe, unsanitary or detrimental to the public welfare, the owner must repair or demolish the building; and

WHEREAS, the owners have not obtained the required permits, nor performed satisfactory repairs, nor demolished the building; and

WHEREAS, §95.04 of the Code of Fayetteville in compliance with state law grants the City Council the power to order the razing and removal of such building after a public hearing upon proof that such building is dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

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, after a public hearing on this issue, hereby finds that the building at 800 S. College Avenue, Fayetteville has been shown to be and is dilapidated, unsafe, unsanitary, or detrimental to the public welfare to such an extent that an order for the building's razing and removal should be and hereby is issued.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby directs that a lien in the reasonable cost of the razing and removal of the structure be placed on this property until such lien amount, plus any allowed interest, is paid in full.

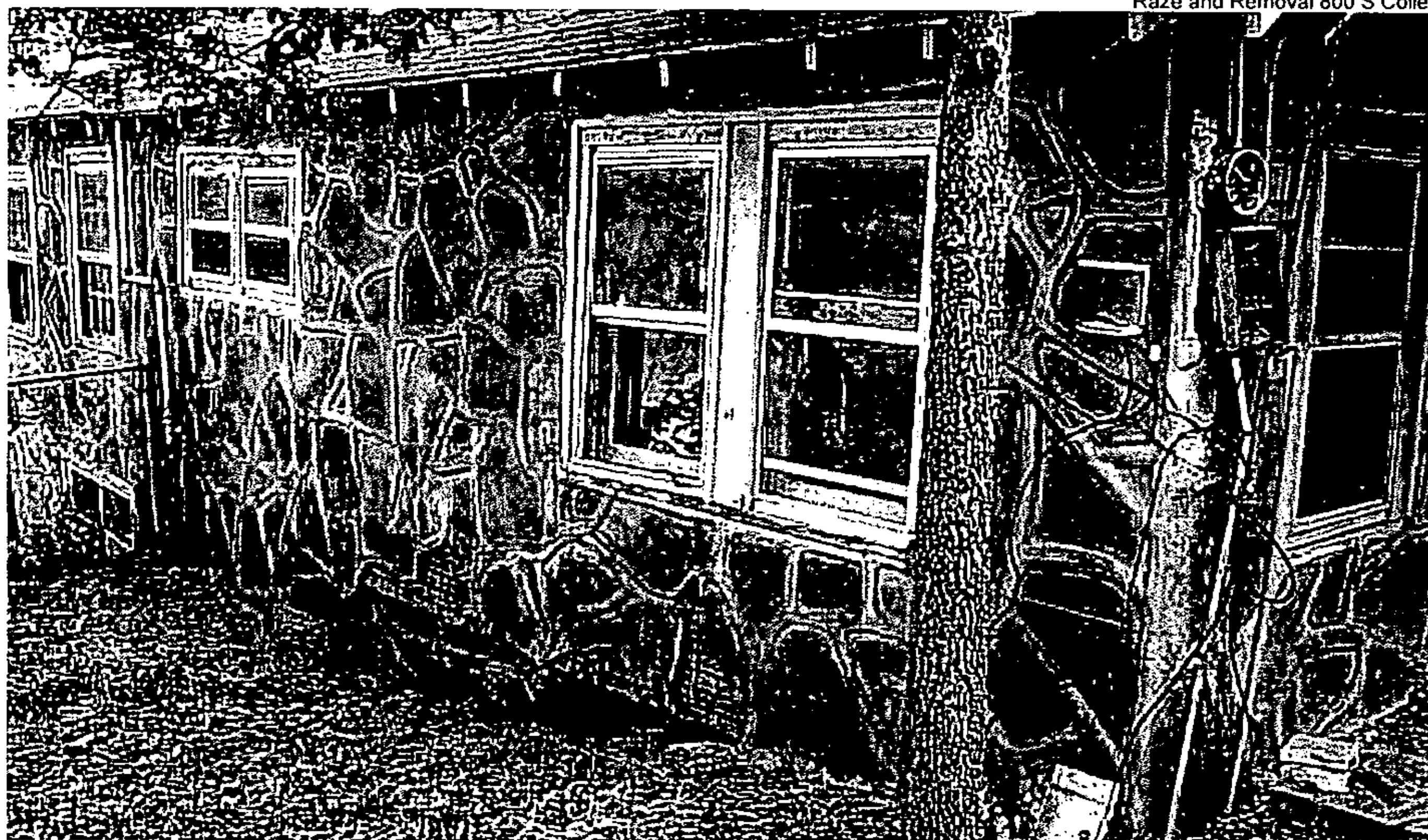
PASSED and APPROVED this the 1st day of June, 2004.

APPROVED:

By: **DRAFT**
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk



800 S College Ave



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

Received in Mayor's Office

6/18/04 gm
Date

D.P. Whit

City Attorney

6/18/04

Date

Cross Reference:

Previous Ord/Res#: _____

Department Director

Date

Orig. Contract Date: _____

Stephane

Finance & Internal Services Dir.

6-21-04

Date

Orig. Contract Number: _____

Ray Sumner

Chief Administrative Officer

6-22-04

Date

New Item:

Yes

No

Received in City Clerk's Office

Mayor

Date



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: 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 $\frac{1}{4}$) 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 <u>YES</u>	☐ Approved	☐ Denied
Date:	<u>June 28, 2004</u>		
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date:	<u>July 20, 2004 (1st reading if recommended)</u>		

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 Ruppel 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 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: Ruppel 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

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 04-01.00: 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/}		Number of Units			Projected Peak Hourly Wastewater Flow ^{2/} (gpd)	Percent Capacity Utilized	Remaining Capacity ^{3/} (gpd)	Remaining Capacity ^{3/} (units)
	(gpm)	(gpd)	Existing	Inactive	Built				
Crystal Springs	260	374,400	141	0	233	223,560	59.7	150,840	670
Hamestring	1,600	2,304,000	2,510	125	898	1,650,000 ^{4/}	71.6	654,000 ^{5/}	2,906 ^{5/}
Owl Creek	437	629,280	336	25	317	280,000	44.5	349,280	1,552
Total			2,987	150	1,448				

^{1/} 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 remaining 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

THE CITY OF FAYETTEVILLE, ARKANSAS

RECEIVED

APR 20 2004

PLANNING DIV.

POLICE DEPARTMENT

B. 3.
ANX 04-01.00 (Greenwood/Sloan)
Page 15 of 42

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 Jowers 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 an appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown".

Lieutenant William Brown
Fayetteville Police Department



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-11.00 OWNER Greenwood/Sloan

ANNEXATION # 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 POLISS PRITCHARD
CLERK
WASHINGTON COUNTY, ARKANSAS

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:

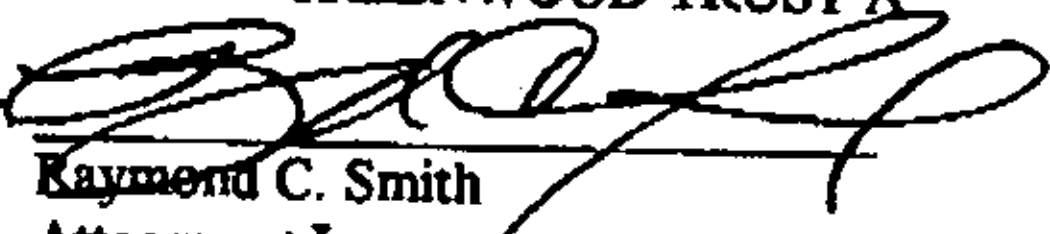
1. Petitioner is the record owner of the following described real property situated in
Washington County, Arkansas, to-wit:

The Northwest Quarter (NW $\frac{1}{4}$) 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

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

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

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 readiness for 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.

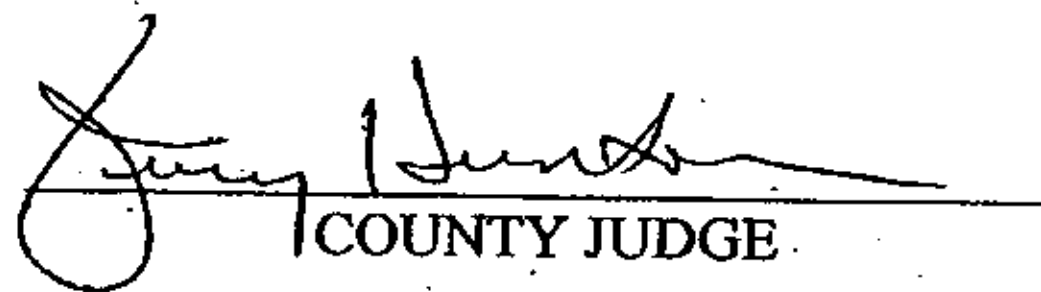
4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is particularly adapted for urban

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KAREN COMBS PITCHARD
CLERK & PROBATE CLERK
WASHINGTON CO. ARK.

REC'D 0 0 2004
CLERK 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

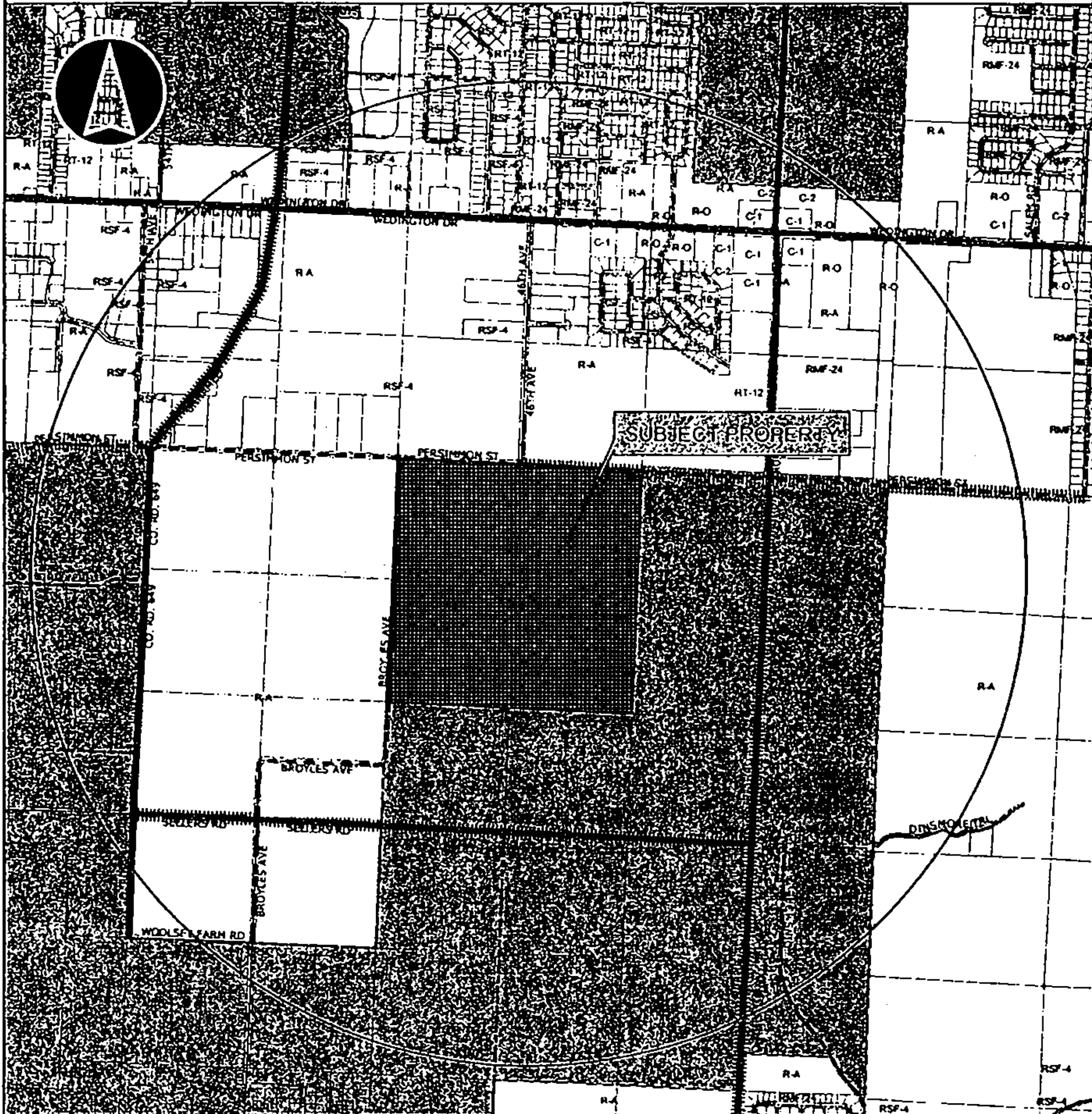
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PLANNING DIV.

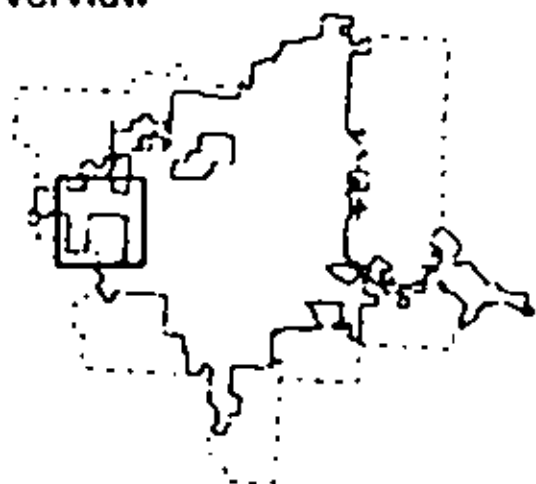
ANX04-01.00

GREENWOOD/ SLOAN

One Mile View



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

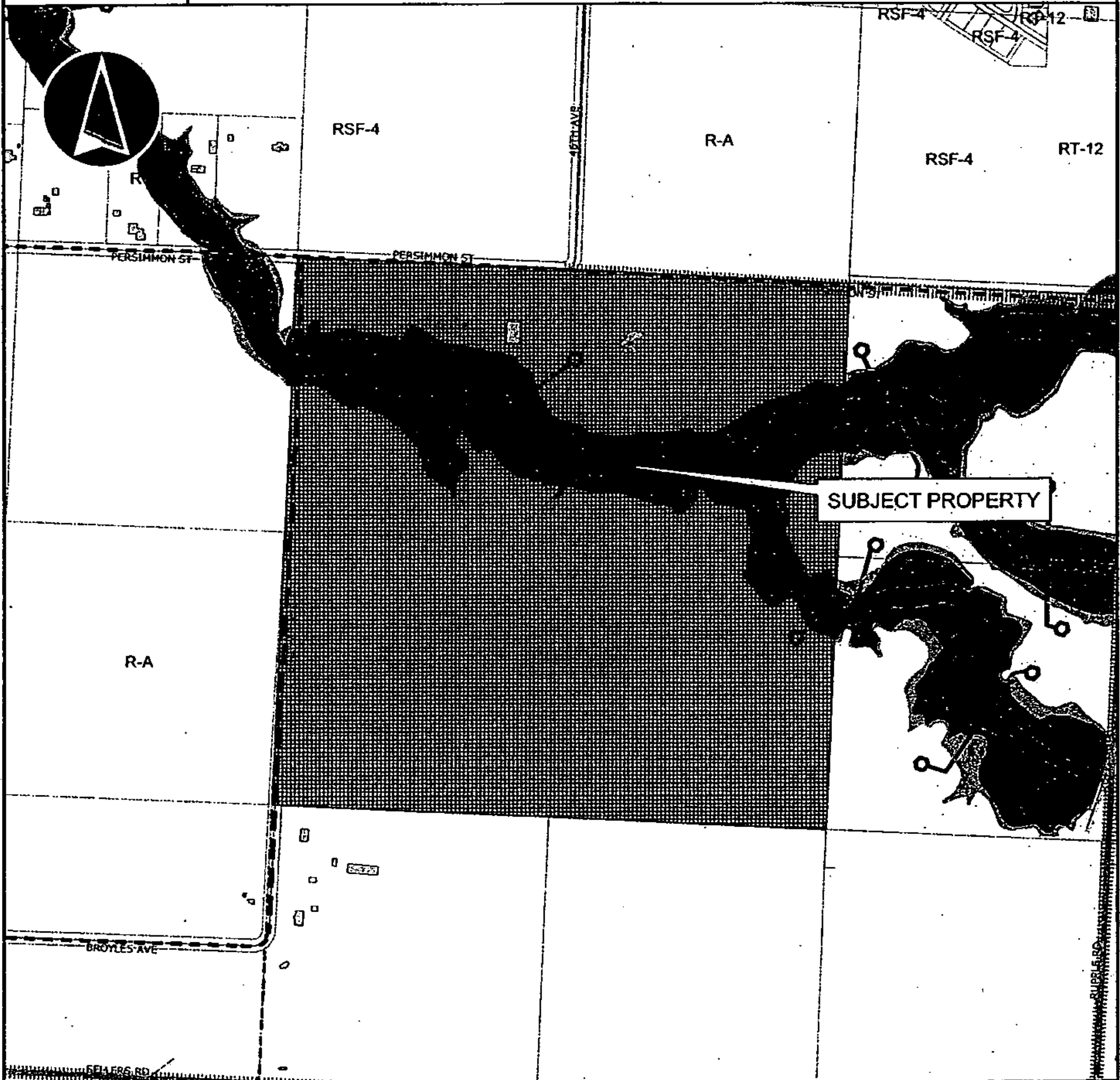
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

ANX04-01.00

Close Up View

GREENWOOD/ SLOAN



Overview

Legend

- | | | |
|--------------------------|--------------------------|----------------------|
| ○○○○○ Overlay District | ▬▬▬▬▬ Principal Arterial | ▬▬▬ FLOODWAY |
| Master Street Plan | ▬▬▬ Minor Arterial | ▬▬▬ 100 YEAR |
| Master Street Plan | ▬▬▬ Collector | ▬▬▬ 500 YEAR |
| ▬▬▬▬▬ Freeway/Expressway | ●●●● Historic Collector | ▬▬▬ LIMIT OF STUDY |
| | | ▬▬▬ BaseLine Profile |
| | | ▬▬▬ 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 Ruppel 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.

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 Ruppel 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 that 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 Ruppel 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 versus 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 Ruppel Road and Persimmon and along that. Ruppel 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 Ruppel and the Boys and Girls Club and a R-PZD that we just approved for Ruppel 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 that 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 I.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 its 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 Ruppel 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 Hamstring 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 Hamstring 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 the 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 Ruppel. Ruppel 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 Ruppel 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 Ruppel 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

Planning Commission
June 28, 2004
Page 58

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 sure 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.

Planning Commission

June 28, 2004

Page 59

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.

Planning Commission

June 28, 2004

Page 60

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

Planning Commission
June 28, 2004
Page 61

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.

Planning Commission

June 28, 2004

Page 62

- 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

Planning Commission
June 28, 2004
Page 63

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

Planning Commission
June 28, 2004
Page 64

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.

Planning Commission
June 28, 2004
Page 65

- 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

B. 3.
ANX 04-1 00 (Greenwood/Sloan)
Page 41 of 42x AGENDA REQUESTFor the Fayetteville City Council Meeting of: July 20, 2004

FROM:

Dawn WarrickPlanningCP&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 I. Warrick 7/6/04
Division Head Date

Received in Mayor's Office

7-7-04
Date DM[Signature] 7/7/04
City Attorney Date

Department Director Date

[Signature] 7-7-04
Finance & Internal Services Dir. Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

[Signature] 7-7-04
Chief Administrative Officer Date

New Item:

Yes

No

[Signature] 7/7/04
Mayor Date

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: 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 Ruppel Rd. The approved preliminary plats for Persimmon Place and Cross Keys R-PZD and Ruppel 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	<u>YES</u>
	☐ Approved	☐ Denied
Date:	<u>June 28, 2004</u>	
CITY COUNCIL ACTION:	Required	<u>YES</u>
	☐ Approved	☐ Denied
Date:	<u>July 20, 2004 (1st reading if recommended)</u>	

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 Ruppel Rd. The approved preliminary plats for Persimmon Place and Cross Keys R-PZD and Ruppel 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 Ripple 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 Ripple 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: Ripple 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 Ripple 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 Ruppel 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 Ruppel 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 Ruppel 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/}		Number of Units			Approved Not Built	Projected Peak Hourly Wastewater Flow ^{2/} (gpd)	Percent Capacity Utilized	Remaining Capacity ^{3/} (gpd)	Remaining Capacity ^{3/} (units)
	(gpm)	(gpd)	Existing	Inactive	Built Not Occupied					
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 remaining 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

THE CITY OF FAYETTEVILLE, ARKANSAS

RECEIVED

APR 20 2004

PLANNING DIV.

POLICE DEPARTMENT

B. 4.
04-02.00 (McBryde/Sloan)
Page 14 of 30

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 an appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "H. W. Brown".

Lieutenant William Brown
Fayetteville Police Department



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-09.00 OWNER McBryde/Sloan

ANNEXATION # 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

ED
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 2003-30
COMES PRITOMATE
& PROBATE CLERK
WASHINGTON CO. ARK.

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 (SW¼) of the Northeast Quarter (NE¼) 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.

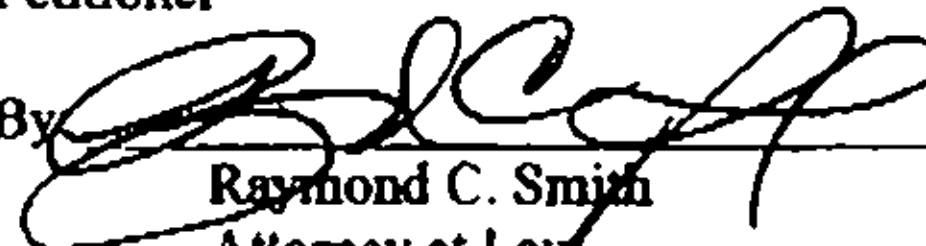
5. Petitioner further states that the law firm of Raymond C. Smith, P.A. of
Fayetteville, Arkansas, is authorized to act for and on behalf of the Petitioners
in all matters connected with this Petition and subsequent hearings or annexation
proceedings connected herewith (See Exhibit "A" attached hereto).

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

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:

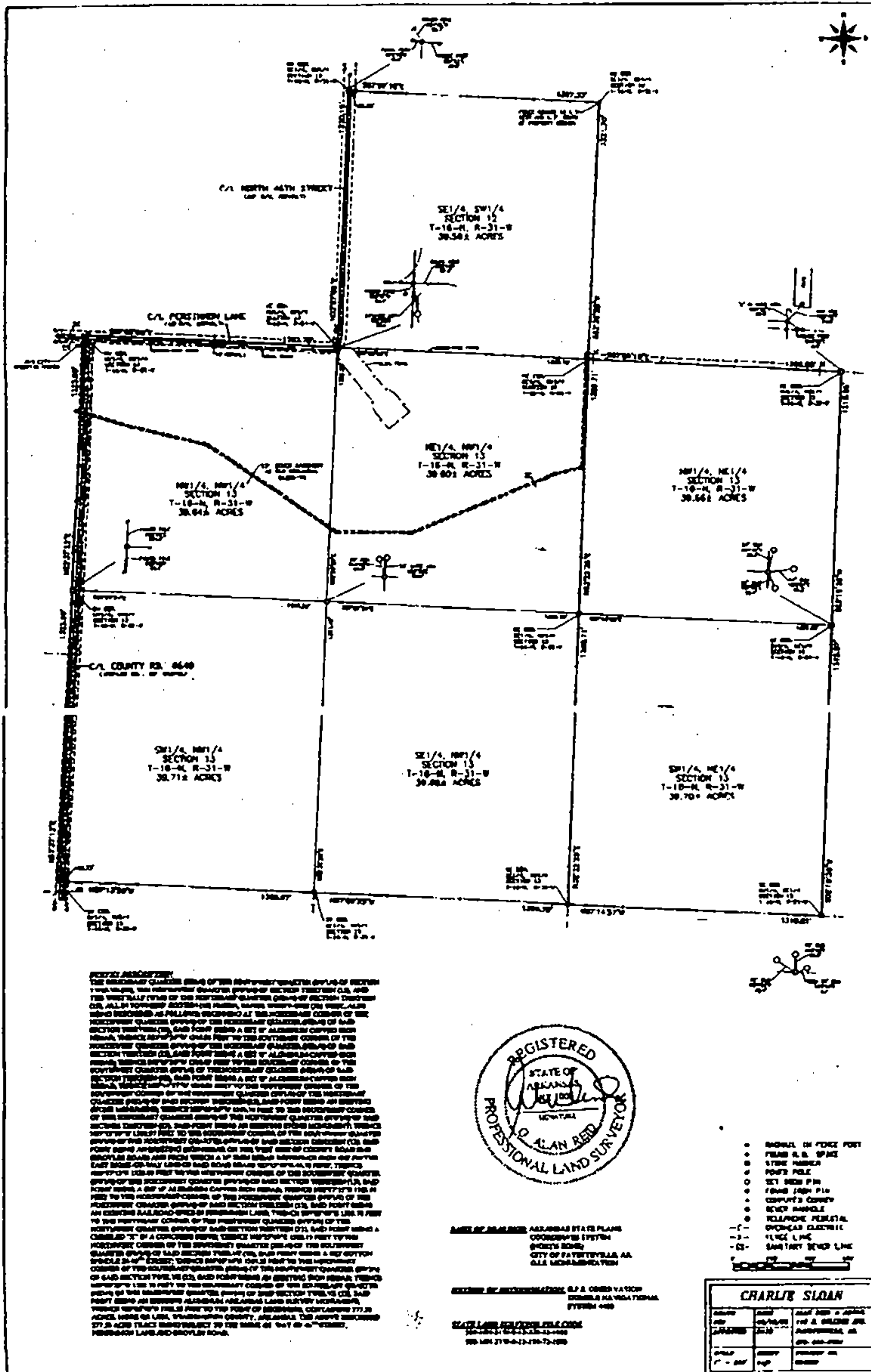
The Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) and the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section Thirteen (13); Township Sixteen (16) North, Range Thirty-One (31) West.

Date: December 29, 2003



Bryan McBryde
McBryde Family Limited Partnership

CC 2003-30



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

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 (NW¹/₄) of the Northeast Quarter (NE¹/₄)
and the Southwest Quarter (SW¹/₄) of the Northeast Quarter (NE¹/₄)
of Section Thirteen (13), Township Sixteen (16) North, Range
Thirty-One (31) West.

FILED

FEB 09 2004

PLANNING DIV.

04 FEB 5 AM 10 10
SARAH COBBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

FILED

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

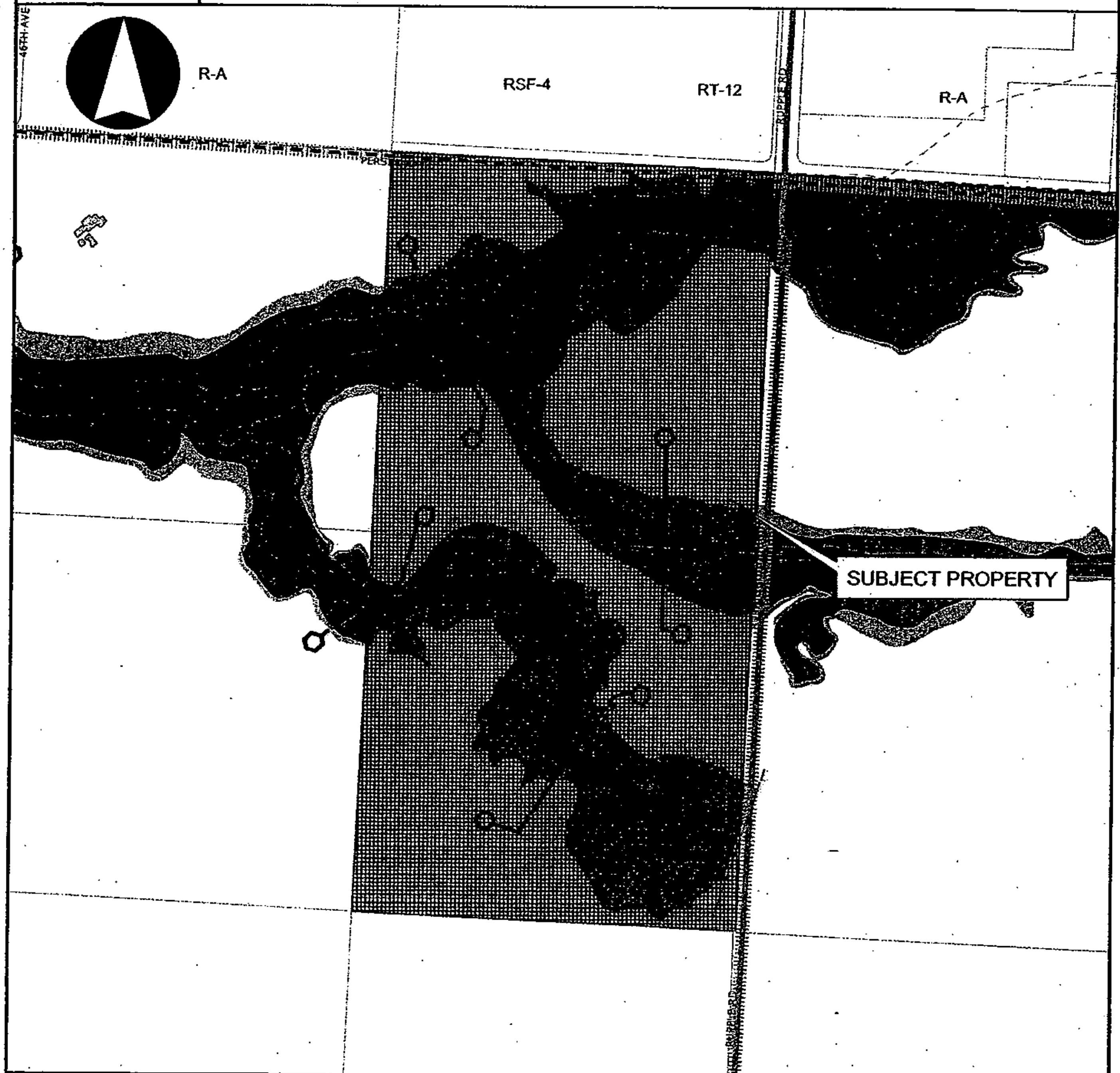
DEC 09 2024

PL-1-1-1-1-1

ANX04-02.00

Close Up View

McBRYDE/ SLOAN



Overview

Legend

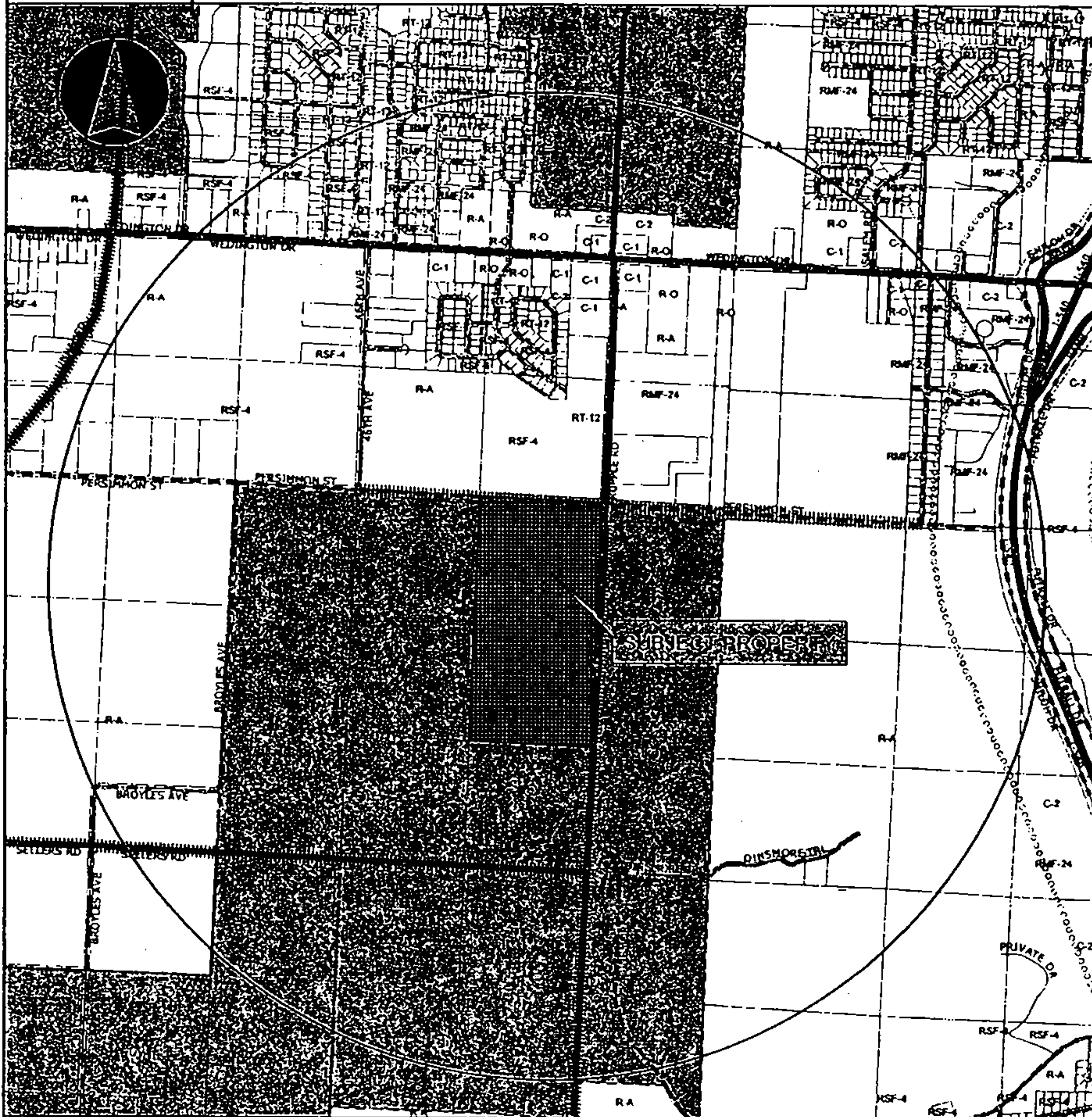
- | | | |
|----------------------------|----------------------------|------------------|
| ○ ○ ○ ○ ○ Overlay District | ▬ Principal Arterial | ▬ FLOODWAY |
| Master Street Plan | ▬ Minor Arterial | ▬ 100-YEAR |
| Master Street Plan | ▬ Collector | ▬ 500 YEAR |
| ▬ Freeway/Expressway | ● ● ● ● Historic Collector | ▬ LIMIT OF STUDY |
| ▬ City Limits | ▬ BaseLine Profile | ▬ ANX04-02.00 |
| | | ▬ Outside City |

0 175 350 700 1,050 1,400 Feet

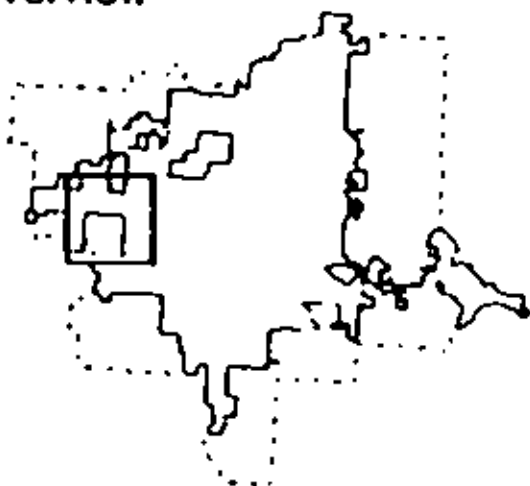
ANX04-02.00

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

Planning Commission

June 28, 2004

Page 66

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 Ruppel 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

Planning Commission
June 28, 2004
Page 67

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

Planning Commission
June 28, 2004
Page 68

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 Rurple 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.

Planning Commission

June 28, 2004

Page 69

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.

Planning Commission
June 28, 2004
Page 70

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

B. 4.
Anx 04-02.00 (McBryde/Sloan)
Page 29 of 30 x AGENDA REQUESTFor the Fayetteville City Council Meeting of: July 20, 2004

FROM:

Dawn WarrickPlanningCP&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 Warrick 7/6/04
Division Head Date

Received in Mayor's Office

7-7-04
Date *am**[Signature]* 7/7/04
City Attorney Date

Department Director Date

[Signature] 7-7-04
Finance & Internal Services Dir. Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

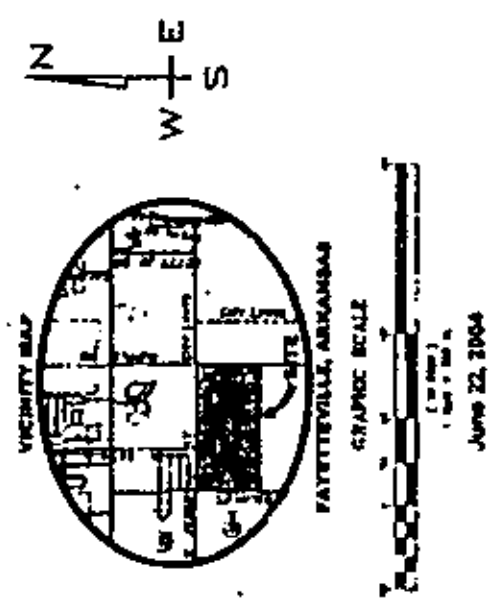
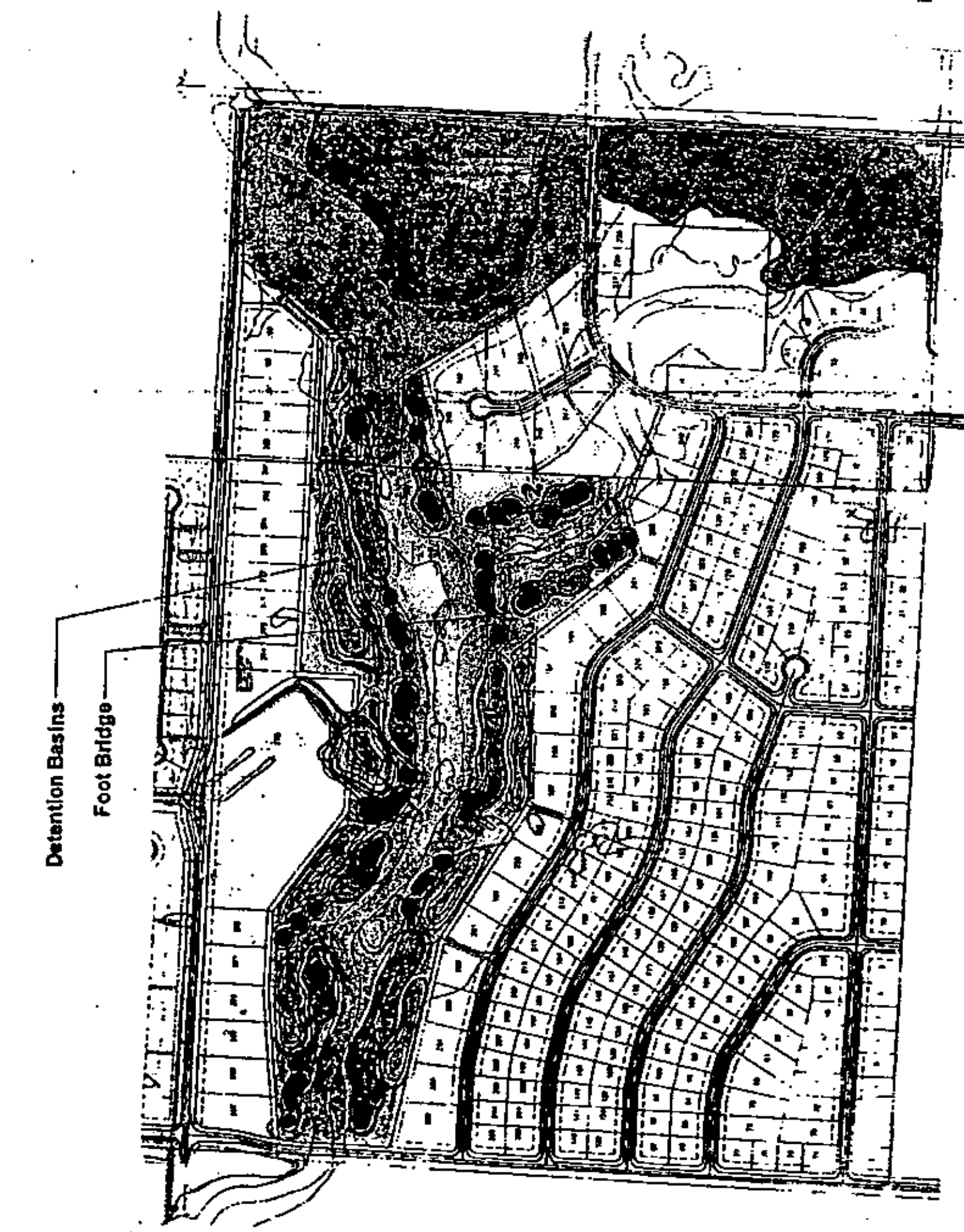
[Signature] 7-7-04
Chief Administrative Officer Date

New Item:

Yes

No

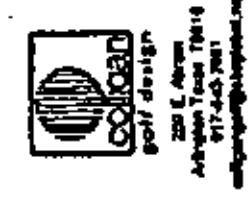
[Signature] 7/7/04
Mayor Date



Card of the Course

Hole	Par	Blue	White	Junior
1	3	160	140	110
2	3	130	110	80
3	3	150	130	100
4	4	200	180	150
5	4	240	220	190
6	3	190	170	140
7	3	170	150	120
8	3	180	160	130
9	4	310	290	230
Total	30	1930	1730	1330

MCBRYDE/GREENWOOD/SLOAN



Cross Keys Golf Course Fayetteville Arkansas

MCBRYDE & GREENWOOD/SLOAN
 1001 E. Main Street
 Fayetteville, AR 72701
 479-443-7811

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

B. 5.
ANX 04-04.00 (Tipton/Sloan)
Page 4 of 56 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

July 20, 2004

FROM:

Dawn WarrickPlanningCP&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.

Maura J. Church 7/6/04
Division Head Date*[Signature]* 7/7/04
City Attorney Date

Received in Mayor's Office

7-7-04
Date *DM*

Department Director Date

Stephen Davis 7-7-04
Finance & Internal Services Dir. Date*Russ Gurnest* 7-7-04
Chief Administrative Officer Date*Don Cooley* 7/7/04
Mayor Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item:

Yes

No



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	<u>YES</u>	
	☐ Approved		☐ Denied
Date: <u>June 28, 2004</u>			
CITY COUNCIL ACTION:	Required	<u>YES</u>	
	☐ Approved		☐ Denied
Date: <u>July 20, 2004 (1st reading if recommended)</u>			

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

^{1/} 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 Hamestrung Lift Station includes flow from Crystal Springs, Hamestrung, and Owl Creek Lift Stations.

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

Projected Wastewater Capacity With Maximum Allowable Development of Recently Approved and Proposed Annexations and Rezoning

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 remaining 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

ANNEXATION # 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 59 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

THE CITY OF FAYETTEVILLE, ARKANSAS

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APR 20 2004
PLANNING DIV.

B. 5.
ANX 04-04.00 (Tipton/Sloan)
Page 16 of 56

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,

A handwritten signature in black ink, appearing to read "William Brown".
Lieutenant William Brown
Fayetteville Police Department

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

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.

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JAMES COMBS, CLERK
U.S. & PROBATE
WASHINGTON COUNTY, ARK.

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

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.

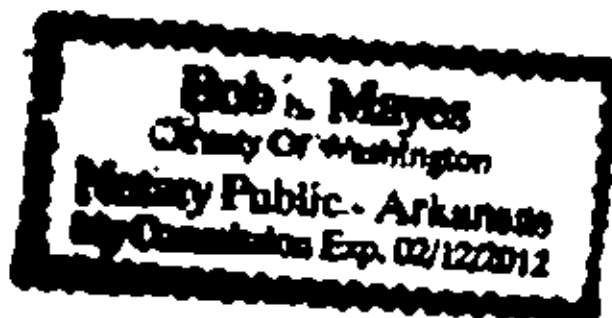
Robert B. Tipton
Robert B. Tipton, Petitioner

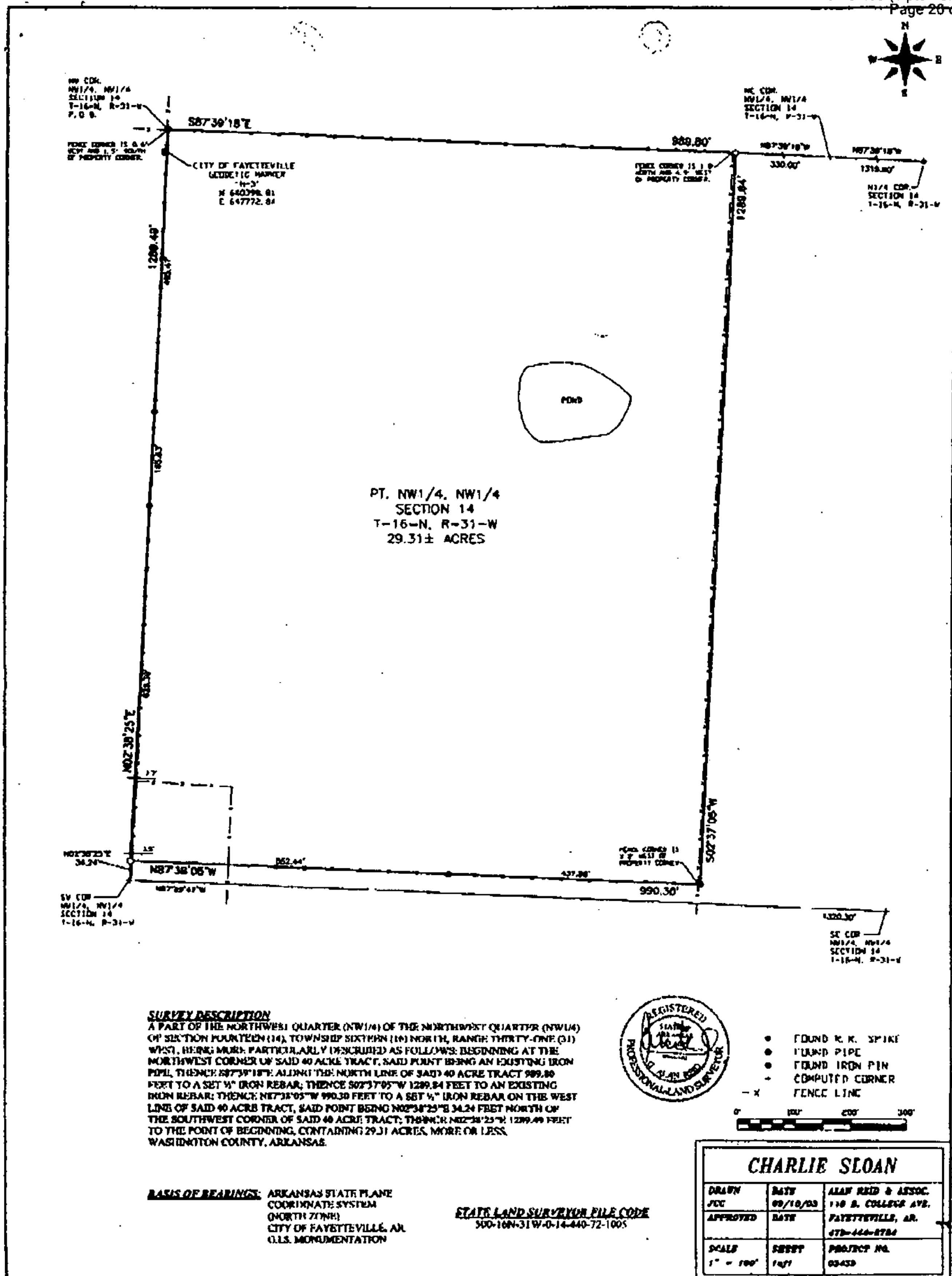
Minnie Beth Tipton
Minnie Beth Tipton, Petitioner

Subscribed and sworn to before the undersigned, a Notary Public, on this 30th day of September, 2003.

My Commission Expires:

Bob L. Mayes
Notary Public





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 1/2" IRON REBAR; THENCE S07°37'05"W 1289.84 FEET TO AN EXISTING IRON REBAR; THENCE N07°38'05"W 990.30 FEET TO A SET 1/2" 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. U.S. MONUMENTATION

STATE LAND SURVEYOR FILE CODE
500-106431 W-0-14-440-72-1005



- FOUND R. K. SPIKE
- FOUND PIPE
- FOUND IRON PIN
- COMPUTED CORNER
- X FENCE LINE



CHARLIE SLOAN

DRAWN JCC	DATE 09/10/03	ALAN REID & ASSOC. 110 S. COLLEGE AVE. FAYETTEVILLE, AR. 870-444-8784
APPROVED	DATE	
SCALE 1" = 100'	SHEET 1 of 1	PROJECT NO. 03433

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.

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MADE COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON COUNTY, ARK.

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 1/4) 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 1/4) of the Northwest Quarter (NW 1/4) 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 1/4) of the Northeast Quarter (NE 1/4) 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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PLANNING DIV.

- 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 the 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?

Planning Commission
April 26, 2004
Page 71

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

Planning Commission
April 26, 2004
Page 72

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 think 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?

Planning Commission
April 26, 2004
Page 73

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. That 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,

Planning Commission
April 26, 2004
Page 74

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 1/2 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

Planning Commission
April 26, 2004
Page 75

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.

Planning Commission

April 26, 2004

Page 76

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.

Planning Commission
April 26, 2004
Page 77

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? Rence?

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?

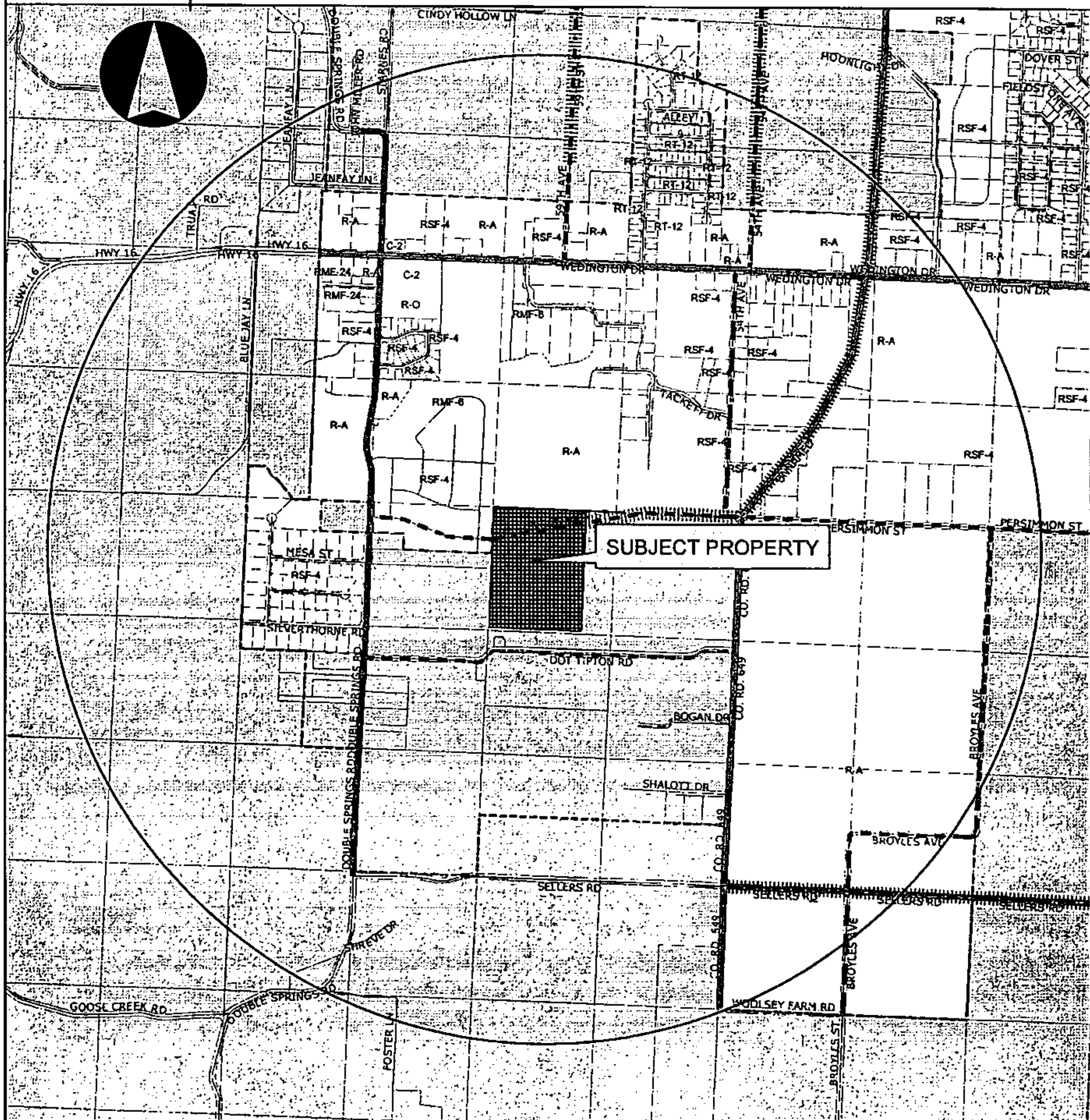
Announcements

Meeting adjourned: 9:40 p.m.

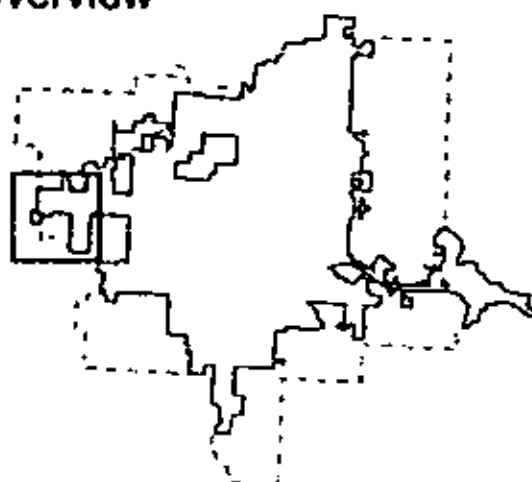
ANX04-04.00

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

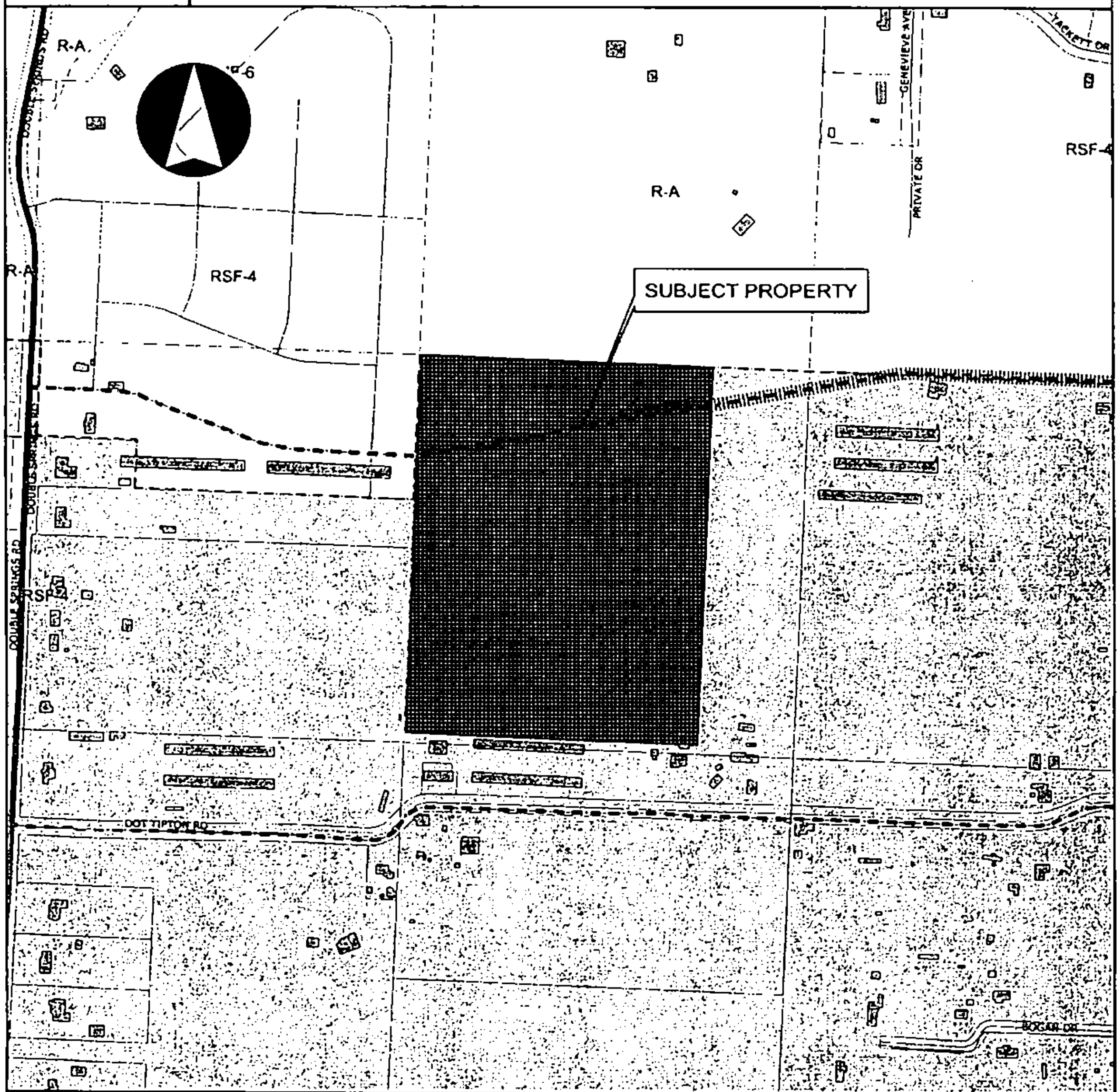
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

ANX04-04.00

TIPTON/SLOAN

Close Up View



Overview

Legend

- | | | |
|--------------------------|--------------------------|----------------------|
| ○○○○○ Overlay District | ——— Principal Arterial | ——— FLOODWAY |
| ●●●●● Master Street Plan | ——— Minor Arterial | ——— 100 YEAR |
| ——— Master Street Plan | - - - Collector | ——— 500 YEAR |
| ——— Freeway/Expressway | ●●●●● Historic Collector | ——— LIMIT OF STUDY |
| | ——— City Limits | ——— BaseLine Profile |
| | □ □ □ Outside City | ■ ■ ■ ANX04-04.00 |



Planning Commission
June 28, 2004
Page 31

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.

Planning Commission
June 28, 2004
Page 32

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

Planning Commission
June 28, 2004
Page 33

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

Planning Commission
June 28, 2004
Page 34

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

Planning Commission
June 28, 2004
Page 35

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

Planning Commission
June 28, 2004
Page 36

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.

Planning Commission
June 28, 2004
Page 37

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

Planning Commission
June 28, 2004
Page 38

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

Planning Commission

June 28, 2004

Page 39

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?

Planning Commission
June 28, 2004
Page 40

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.

Planning Commission

June 28, 2004

Page 41

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.

Planning Commission
June 28, 2004
Page 42

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 we 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

Planning Commission
June 28, 2004
Page 43

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

Planning Commission
June 28, 2004
Page 44

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?

Planning Commission

June 28, 2004

Page 45

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 54th 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

Planning Commission
June 28, 2004
Page 46

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

Planning Commission
June 28, 2004
Page 47

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.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: 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"

RZN 04-10.00

A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ 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 $\frac{1}{2}$ " REBAR; THENCE S02°37'05"W, 1289.84 FEET TO AN EXISTING REBAR; THENCE N87°38'05"W 990.30 FEET TO A SET $\frac{1}{2}$ 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

B. 6.
RZN 04-10.00 (Tipton/Sloan)
Page 4 of 14 x AGENDA REQUESTFor the Fayetteville City Council Meeting of: July 20, 2004

FROM:

Dawn WarrickPlanningCP&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 J. Warrick 7/6/04
Division Head Date*K. Warrick* 7/7/04
City Attorney 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 *gym*

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item:

Yes

No



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	<u>YES</u>	
	☐ Approved		☐ Denied
Date: <u>June 28, 2004</u>			
CITY COUNCIL ACTION:	Required	<u>YES</u>	
	☐ Approved		☐ Denied
Date: <u>July 20, 2004 (1st reading if recommended)</u>			

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:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

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

(G) *Building area.* None.

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 subdivision.

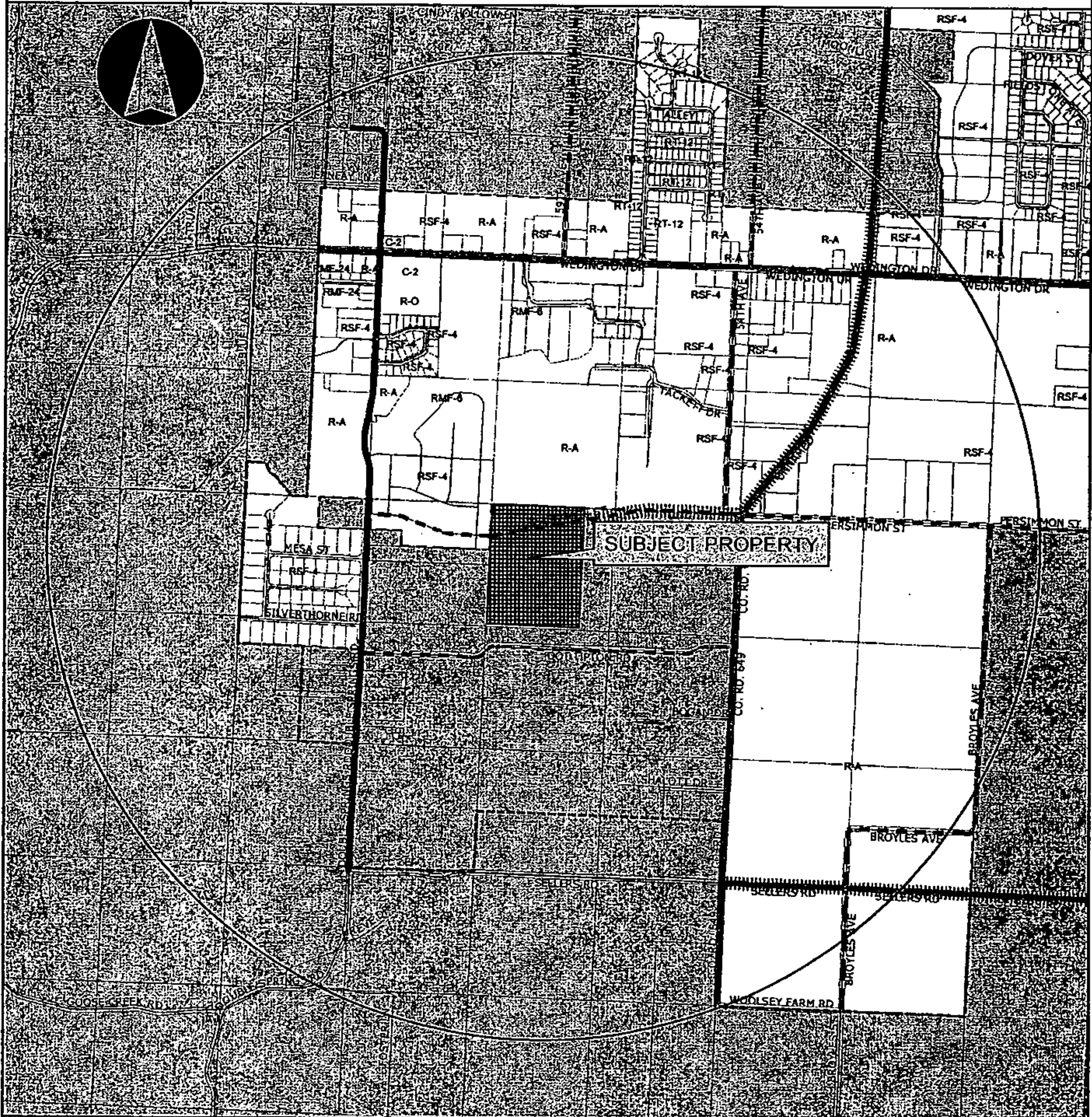
**WOULD IT BE IMPRACTICAL TO USE THE LAND FOR ANY OF THE
USES PERMITTED UNDER ITS EXISTING ZONING
CLASSIFICATION**

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,

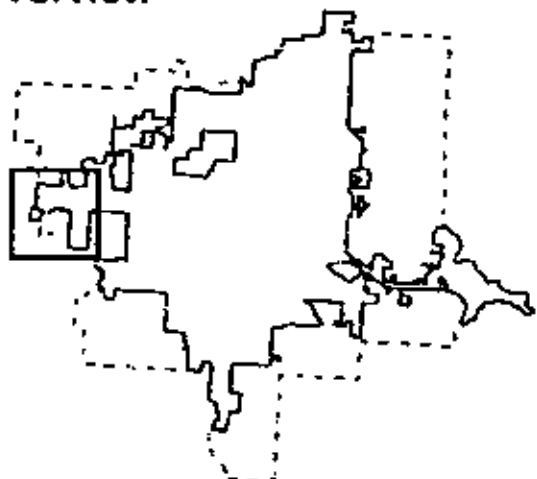
RZN04-10.00

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

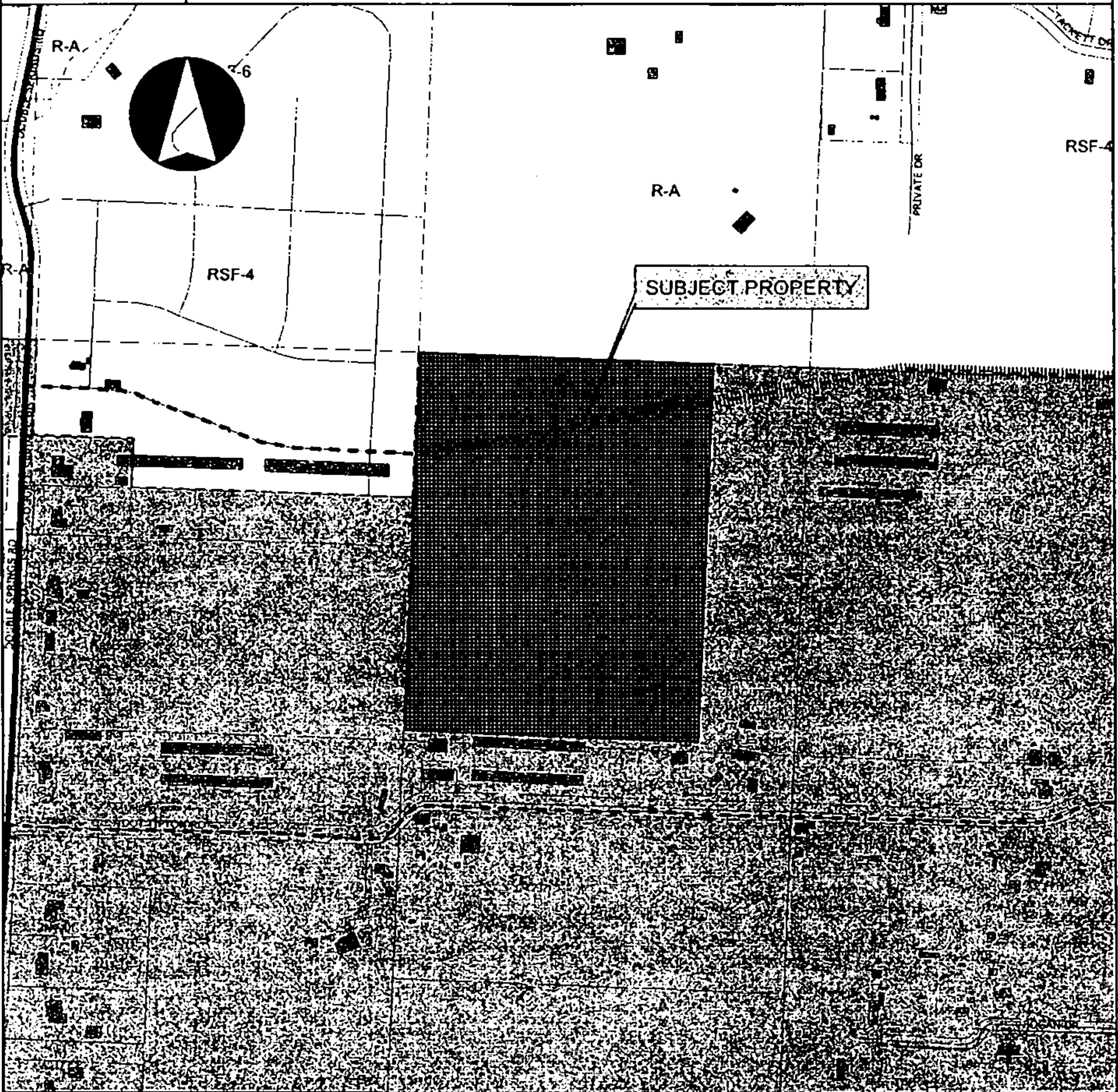
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN04-10.00

TIPTON/SLOAN

Close Up View



Overview

Legend

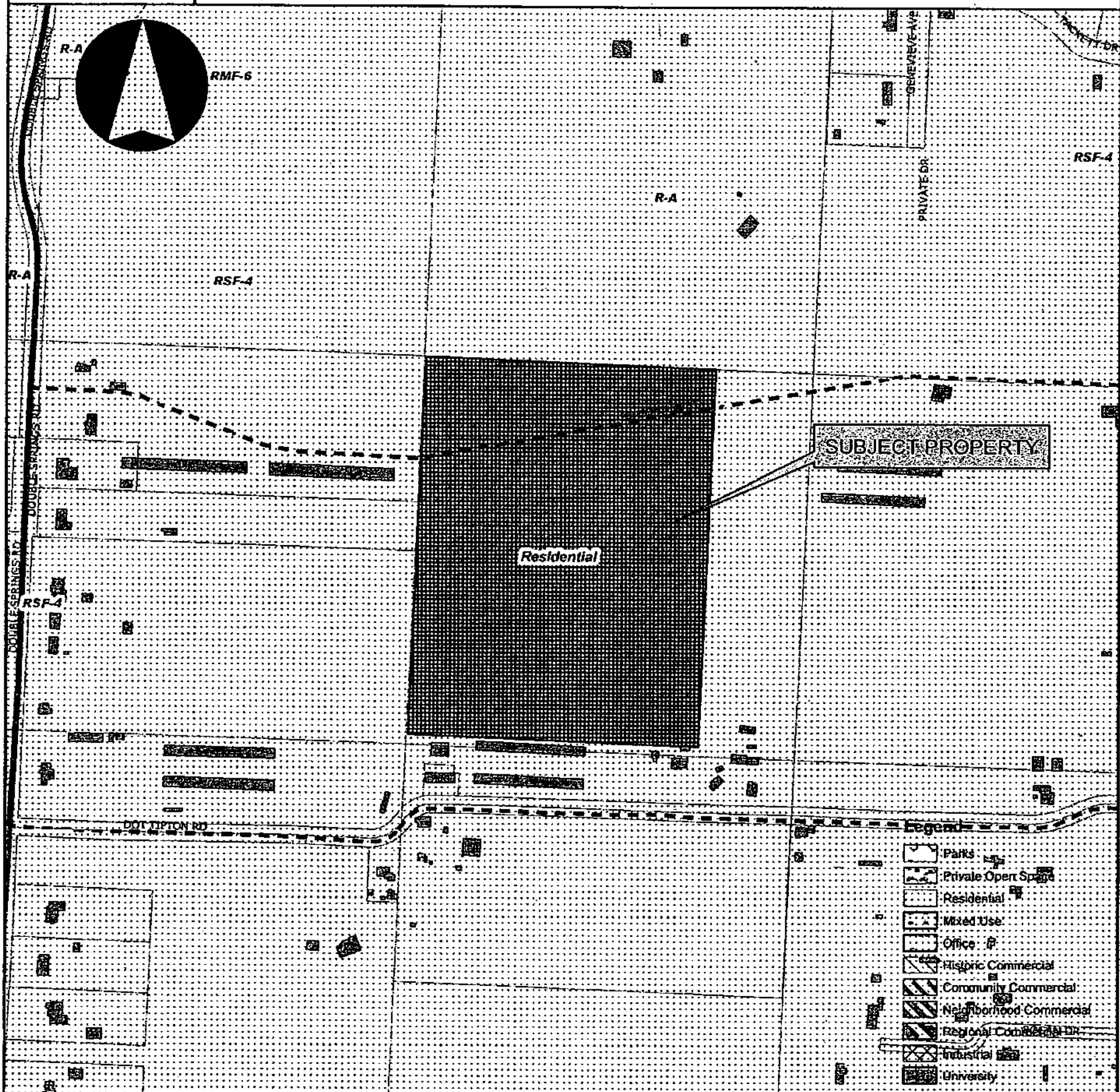
- | | | |
|----------------------------|--------------------|------------------|
| o o o o o Overlay District | Principal Arterial | FLOODWAY |
| Master Street Plan | Minor Arterial | 100 YEAR |
| Master Street Plan | Collector | 500 YEAR |
| Freeway/Expressway | Historic Collector | LIMIT OF STUDY |
| City Limits | Outside City | BaseLine Profile |
| | | RZN04-10.00 |

0 150 300 600 900 1,200
Feet

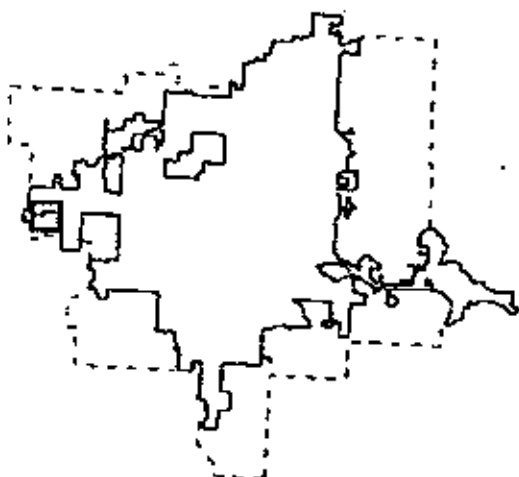
RZN04-10.00

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*



7/6/04 Reva 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

*04 FEB 17 PM 2 00

In re:

ANNEXATION OF PROPERTY CONTIGUOUS
TO THE CITY OF FAYETTEVILLE, ARKANSAS

KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.
Case No. 2004-3

**PETITION FOR THE ANNEXATION OF PROPERTY
CONTIGUOUS TO THE CITY OF FAYETTEVILLE, ARKANSAS**

Comes now the Petitioner, Cleve Branson, owner of certain real property located in Washington County, Arkansas, and petitions the Court as follows:

1. That the Petitioner, Cleve Branson, is the sole owner of certain real property located in Washington County, Arkansas, described as follows:

The SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 28, Township 17 North, Range 30 West, described as beginning at the Southwest corner of said 40 acre tract, said Point of Beginning being a set cotton spindle; thence North $00^{\circ}09'01''$ West 1312.76 feet to a set cotton spindle; thence along the South line of Forest Hills Subdivision, North $89^{\circ}59'52''$ East 1320.33 feet to a found pinched iron pipe; thence South $00^{\circ}15'33''$ East 1287.92 feet to a set iron pin; thence continuing South $00^{\circ}15'33''$ East 26.60 feet to the Southeast corner of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$; thence North $89^{\circ}53'34''$ West 1322.84 feet to the Point of Beginning, containing 39.855 acres, more or less, Washington County, Arkansas. Said tract subject to the right-of-way of Arkansas State Highway No. 112 on the South side of the West side thereof.

In accordance with a survey by Douglas Hemingway dated November 4, 2003.

Less and Except the South 330' of said property.

The acreage included in the property to be annexed is 29.86 acres more or less.

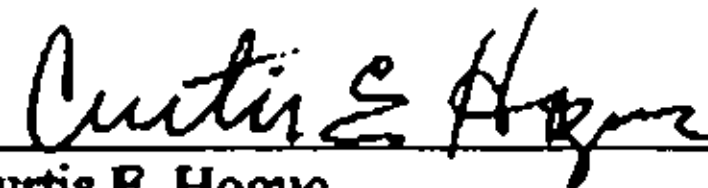
2. That all of said property is contiguous to and adjoins the City of Fayetteville, Arkansas.

3. That Petitioner respectfully requests that said property be annexed to, added to, and included within the boundaries of the City of Fayetteville, Arkansas.

4. That Petitioner respectfully requests that this Court set a date certain for a hearing of the Petition.

WHEREFORE premises considered, the Petitioner prays that this Court set a date certain for its hearing of this Petition; that the Court grant its Petition for Annexation to the City of Fayetteville, Arkansas; and for all other reasonable and proper relief to which this Court deems it entitled.

Respectfully submitted,



Curtis E. Hogue
**HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.**
One East Center Street, Suite 315
Fayetteville, AR 72701-5388
Telephone (479) 973-5200
Facsimile (479) 973-0520
**ATTORNEYS FOR PETITIONER,
CLEVE BRANSON**

418661.1-224275-01820

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

In re:

**ANNEXATION OF PROPERTY CONTIGUOUS
TO THE CITY OF FAYETTEVILLE, ARKANSAS**

ORDER OF ANNEXATION

Now on this 19th day of March, 2004, the Petition for Annexation of Property contiguous to the City of Fayetteville, filed by Cleve Branson, comes on for hearing and the same is submitted to the Court upon said Petition, proof of publication of notice, testimony before the Court, and other evidence presented, from all of which the Court finds:

1. That the Petition for Annexation of Property Contiguous to the City of Fayetteville was duly filed in the office of the County Clerk of Washington County, Arkansas; and that an Order was made fixing the time and place for a hearing on said Petition at this date and time in the County Court of Washington County, Arkansas.
2. That legal notice of the hearing was given as required by law and such notice of the hearing was published once a week for three consecutive weeks in the Arkansas Democrat-Gazette/Norwest Arkansas Times, a newspaper published in Washington County, Arkansas. Proof of publication has been made and filed with the Clerk of this Court.
3. That the Petitioner is the owner of the property to be annexed.
4. That the owner of the proposed annexed area shall derive substantial benefit from the annexation.
5. That the area to be annexed is part of the growth area of Fayetteville, Arkansas and the extension of the corporate boundaries is a realization of the natural growth of the City of Fayetteville.
6. That the lands to be annexed are contiguous to and adjoin the City of Fayetteville.

RECEIVED

MAR 18 2004

FILED
04 MAR 22 PM 9 23
Case No. 2004-3
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

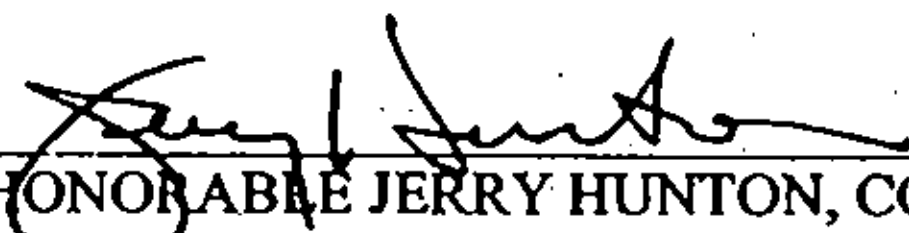
*04 FEB 17 PM 2 22

In re:

ANNEXATION OF PROPERTY CONTIGUOUS
TO THE CITY OF FAYETTEVILLE, ARKANSAS
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.
Case No. 2004-3

ORDER FOR HEARING

Now on this 17th day of February, 2004, is presented the Petition of Cleve Branson for annexation of certain lands more particularly described therein to the City of Fayetteville, Arkansas, and this Court docs 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 $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 28, Township 17 North, Range 30 West, described as beginning at the Southwest corner of said 40 acre tract, said Point of Beginning being a set cotton spindle; thence North $00^{\circ}09'01''$ West 1312.76 feet to a set cotton spindle; thence along the South line of Forest Hills Subdivision, North $89^{\circ}59'52''$ East 1320.33 feet to a found pinched iron pipe; thence South $00^{\circ}15'33''$ East 1287.92 feet to a set iron pin; thence continuing South $00^{\circ}15'33''$ East 26.60 feet to the Southeast corner of said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$; thence North $89^{\circ}55'34''$ West 1322.84 feet to the Point of Beginning, containing 39.855 acres, more or less, Washington County, Arkansas. Said tract subject to the right-of-way of Arkansas State Highway No. 112 on the South side of the West side thereof.

In accordance with a survey by Douglas Hemingway dated November 4, 2003.

Less and Except the South 330' of said property.

The acreage included in the property to be annexed is 29.86 acres more or less.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 26, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: April 20, 2004

ANX 04-06.00: Annexation (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112. The property is currently in the Planning Area and contains approximately 29.86 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):

PLANNING COMMISSION ACTION:	Required	☒ YES
	☒ Approved	☐ Denied
Date: <u>April 26, 2004</u>		
CITY COUNCIL ACTION:	Required	☒ YES
	☒ Approved	☐ Denied
Date: <u>May 18, 2004</u>		

BACKGROUND:

Property description: The subject property contains approximately 29.86 acres of vacant property located north of Highway 112/Howard Nickell Rd and east of Highway 112. The property is adjacent to the city limits along its southern boundary where it abuts property owned by the applicant. Hills Estate subdivision is located to the north of this site and Lynn-Leigh Hill Estates is south of Hwy 112.

Proposal: The applicant proposes the annexation of property into the City of Fayetteville. A rezoning request for this property in conjunction with the property to the south has been submitted for this property.

Request: The request is to annex the subject property into the City of Fayetteville.

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 29.86 acres, plus an additional 10 acres to the south, to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning request, RZN 04-12.00, is an accompanying item to this annexation request.

Property that is developed and/or subdivided in the Planning Area of the City of Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City, thereby allowing for a uniform and consistent standard of development. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, it allows for the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have none of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limit boundary. In some cases, new subdivisions adjacent to one another have very different street construction, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits are typically required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use, tree preservation, etc. are not within the City's ability to control.

Recommendation: Staff recommends approval of the proposed annexation. The subject property is adjacent to the City of Fayetteville and will create an appropriate city boundary. Future changes or additional development on this site will be regulated by the city allowing for more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single-family (Forest Hills Estates)	Planning Area
South	Vacant	R-A, Residential Agricultural
East	Single-family	Planning Area
West	Single-family	Planning Area

INFRASTRUCTURE:

Streets: Highway 112, a state highway, is located to the south and west of this property. Improvements to infrastructure will be assessed at the time of development.

Surrounding Master Street Plan Streets:

North: Forest View Rd (local street)

South: Highway 112 & Howard Nickell Rd (principal arterial)

East: Cris Hollow Rd. (local street)

West: Highway 112 (principal arterial)

Water: The property currently has access to a 6" water line along Highway 112. An extension of the water main will be required to provide water supply within any development on this property.

Sewer: Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive. The developers engineer will need to provide calculations to show that there is adequate capacity in the Highway 112 lift station. Upgrades to this station and/or force main may be required.

Fire: The subject property is located 3.6 miles from the Fire Station #2. Normal driving time is 5 min. 56 seconds.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services.

The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. These two intersections have had 31 accidents in just over three years. The police department recommends the access to this area should be placed as far from these two intersections as possible. Access into future development shall be reviewed for safety at the time a development proposal is submitted to the city.

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

FINDINGS:

**11.6 ANNEXATION GUIDING POLICIES
BOUNDARIES**

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

Finding: The requested annexation will extend an existing peninsula to the north. The extension will, however create an appropriate boundary due to the area and configuration of the parcel. No island will be created by annexing the subject property.

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

Finding: The proposed annexation area is adjacent to the City Limits to the south for approximately 1290 feet.

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

Finding: This area does not consist of defined subdivisions or neighborhoods; however, future development plans may include the extension of the surrounding subdivisions.

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

Finding: Proposed boundaries follow property lines.

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

Finding: Current conditions result in a response time of just less than 6 minute for fire protection from the Fire Station #2. Any development in this area would necessitate installation of hydrants to provide for fire protection. Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive. In addition, calculations shall be provided to show that there is adequate capacity in the Highway 112 lift station. Upgrades to this station and/or force main may be required. Sewer will need to be extended with development.

ENVIRONMENTALLY SENSITIVE AREAS

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

Finding: N/A

EMERGENCY AND PUBLIC SERVICES

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

Finding: The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Location of access to the property to ensure the safety of the public shall be considered at the time of development. Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive.

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

Finding: Fire and police service shall be provided to this area with the same level of response and service as other developments in this area. Sewer improvements to the area will be provided for with the development of approved preliminary plats.

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

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

INFRASTRUCTURE AND UTILITIES

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

Finding: Water, fire and police protection are currently provided in this area.

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

Finding: Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.

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

Finding: The proposed annexation is not part of a phased annexation initiated by the City. This tract of land is within an area proposed to be annexed by the City of Johnson and will be voted on by the citizens of Johnson and affected property owners on May 11, 2004.

INTERGOVERNMENTAL RELATIONS

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

Finding: Annexation of this property will adjoin Fayetteville city limits with Johnson city limits at the northeastern most corner of the subject property.

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

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

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

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with the Residential classification of the area on the City's adopted Future Land Use Plan.

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

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

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

Finding: Conceptual development proposals for this property have been submitted to the Planning Division; however, no application for development has been received. At the time the applicant desires to develop the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: This annexation includes 29.86 acres owned by Leigh Taylor Properties, Inc. and represented by Art Scott of Project Design. The combined requests create a reasonable boundary avoiding the creation of unusual boundary lines.

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

Finding: N/A

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

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

Environmentally Sensitive Areas

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

Emergency and Public Services

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

Infrastructure and Utilities

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

Intergovernmental Relations

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

Administration of Annexations

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

Apr 21 04 10:30a

Danny Farrar

(501) 444-3448 / (501) 444-3449 (Leigh Taylor Properties)
Page 17 of 38



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-12.00 OWNER Leigh Taylor Prop.

ANNEXATION # 04-06.00 OWNER Leigh Taylor Prop.

LOCATION OF
PROPERTY 2470 Hwy. 112

NEAREST FIRE STATION AND
LOCATION Station #2, 708 N. Garland

RESPONSE TIME FROM FIRE STATION # 2 TO
LOCATION OF

PROPERTY 5 MINUTES 56 SECONDS.

TRAVEL MILES FROM FIRE STATION # 2 TO LOCATION OF
PROPERTY 3.6 miles

COMMENTS ON FIRE DEPT.

ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO

LOCATION Hwy. 112 at Deane Solomon

WATER SUPPLY WITH HYDRANTS

NEEDED? Yes

ADDITIONAL

COMMENTS.

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W. MALL
(501) 575-8271
FAX (501) 575-8272



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

B. 7.
ANX 04-6.00 (Leigh Taylor Properties)
Page 18 of 38
RECEIVED
APR 20 2004
PLANNING DIV.

POLICE DEPARTMENT

April 19, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **ANX 04-06.00 Annexation (Leigh Taylor Properties, pp 169) and RZN 04-12.00 Rezoning (Leigh Taylor Properties, pp 169)** submitted by Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112 would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services.

The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. In fact, these two intersections have had 31 accidents in just over three years. The access to this area should be places as far from these two intersections as possible.

Sincerely,

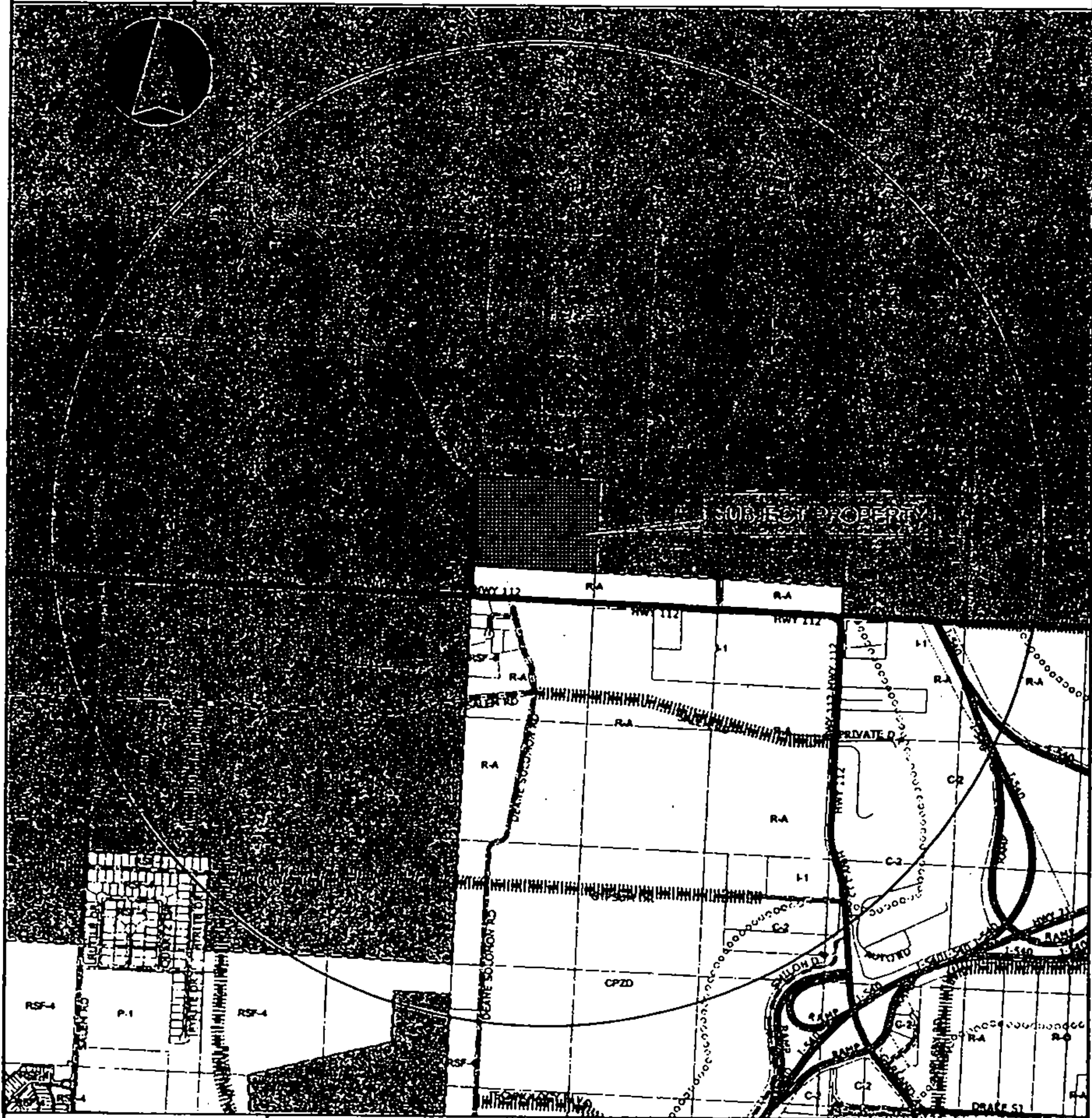
A handwritten signature in black ink, appearing to read "William Brown".

Lieutenant William Brown
Fayetteville Police Department

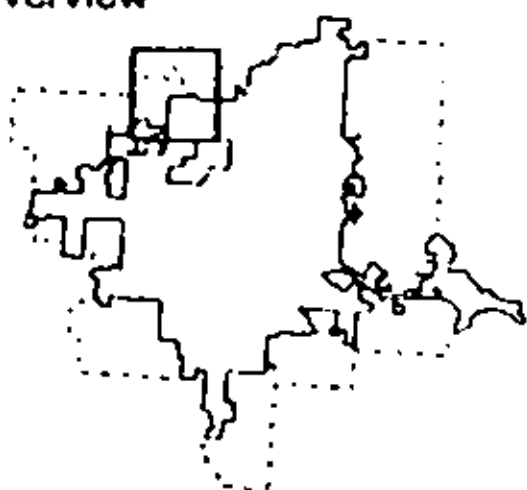
ANX04-06.00

One Mile View

LEIGH TAYLOR PROPERTIES



Overview



Legend

Subject Property

ANX04-06.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

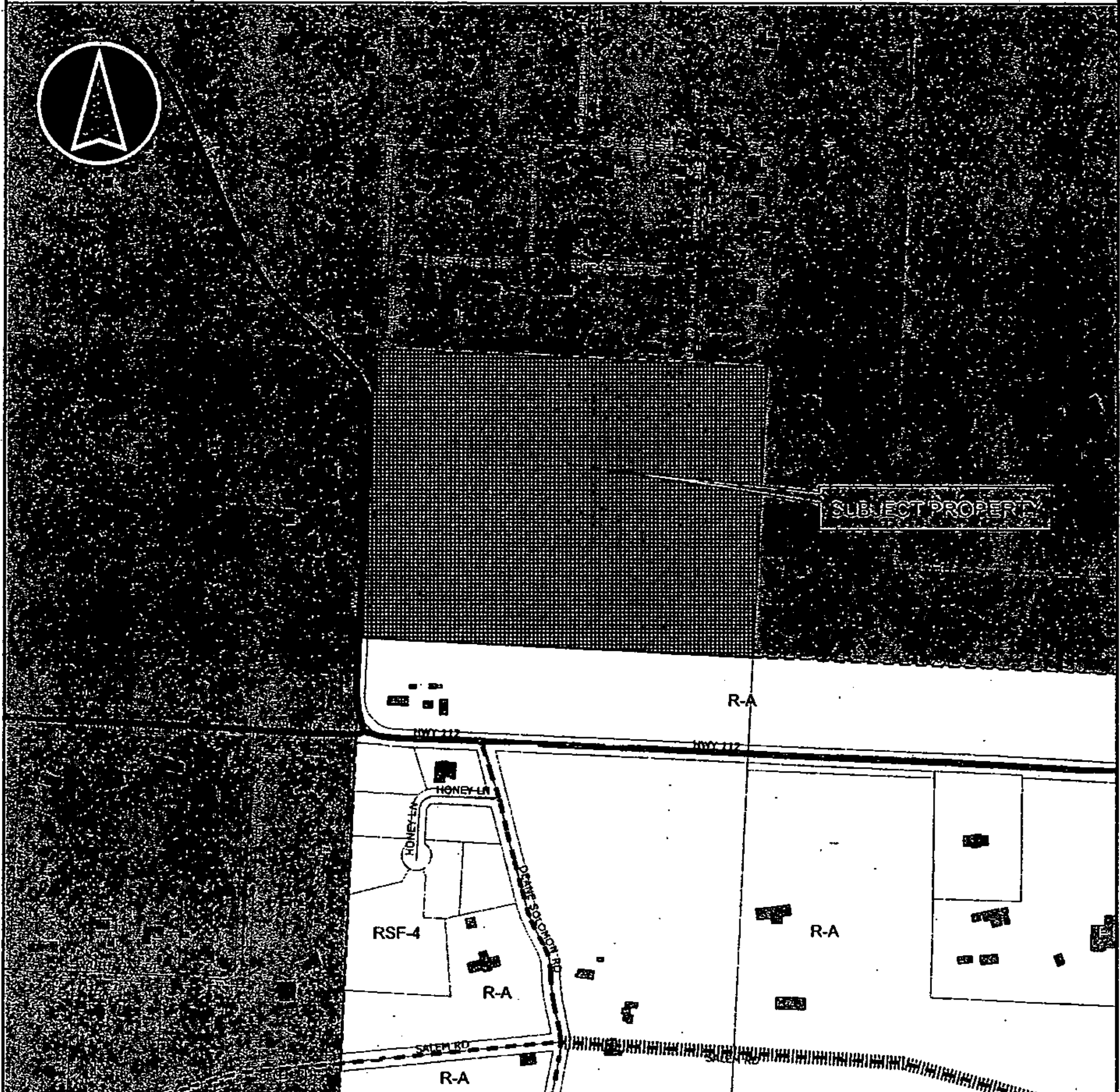
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

ANX04-06.00

Close Up View

LEIGH TAYLOR PROPERTIES



Overview

Legend

Overlay District	Principal Arterial	FLOODWAY
Master Street Plan	Minor Arterial	100 YEAR
Master Street Plan	Collector	500 YEAR
Freeway/Expressway	Historic Collector	LIMIT OF STUDY
	City Limits	BaseLine Profile
	Outside City	ANX04-06.00



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

Planning Commission
April 26, 2004

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?

Planning Commission
April 26, 2004

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

Planning Commission
April 26, 2004

drive from my home out there to the University of Arkansas every morning and have done so for the past 18 years. The traffic is getting worse and worse and worse. If you look at the small development immediately to the south across Hwy. 112 from this corner the fencing company has a pretty good business of repairing the fence there where cars go a little bit too fast, miss the curve and go through the fence. Hwy. 112 which used to be an unpaved road that I hiked on as a boy scout, has become a very dangerous place to drive on. I hope you will not make it more dangerous. Thank you very much.

Ostner: Thank you Sir.

Clark: Good evening, my name is John Clark. I do think Charlie covered most bases. I would just simply add that RSF-4 is too dense for this area. I really can't add much more than what has already been said except to say that even though the visibility is good on those entrances, it is a dangerous venture to pull out on Hwy. 112 under the best circumstances. We would ask the Commission to do the right thing and consider a less dense rezoning there. The annexation, I think most of us welcome the annexation. Thank you.

Forbes: I am Bill Forbes. I live right across the street from John Clark. We have a 3" water main, what is going to happen to our water pressure from Fayetteville?

Casey: If this property is to be annexed and rezoned and if we see a development proposal on this property at that time we will look at the public infrastructure, water and sewer, and make sure that there is adequate capacity to serve the development. If the capacity does not exist it will be up to the developer to provide the capacity for the area.

Forbes: We are already developed.

Casey: The developer of this property would have to supply the infrastructure to make sure there was adequate capacity to serve their property and also make sure there is no negative impact on the existing customers.

Forbes: Thank you. We have 26 houses on over 40 acres. As Charlie said just very few of them are on one acre or $\frac{3}{4}$ acre plots. Whoever was here before, we also have deer, quail, dove, they will be gone forever. The water detention, it appears on the plat like it is one lot, 100'x40', is that correct?

Scott: This is still in the preliminary stages.

Planning Commission
April 26, 2004

- 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.

Planning Commission
April 26, 2004

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.

Planning Commission
April 26, 2004

- 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

Planning Commission
April 26, 2004

—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

Planning Commission
April 26, 2004

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? Rencee?

Roll Call: Upon the completion of roll call the motion to recommend approval of ANX 04-06.00 by the City Council was approved by a vote of 6-0-0.

Planning Commission
April 26, 2004

- Thomas: The motion carries six to zero.
- Ostner: The tandem issue is RZN 04-12.00. We have already had some discussion.
- Trumbo: As the citizens in that neighborhood have clearly stated, that is a very dangerous stretch of highway. Common sense to me says to add another 108 possible homes compounds the problem out there. I don't see how in good faith I could vote to allow that size of development at that place. I understand for the city to build affordable housing we have to have denser zonings but I don't believe it is appropriate right here considering how dangerous that highway is. I will not vote for this zoning.
- Ostner: Thank you. Can we have that map that we tried to get together just showing us some general location?
- Anthes: We don't have the City Attorney here so can someone tell us if the best way is to move for approval and vote it down or to table? I remember Mr. Williams telling us about the different strategies for that before I don't remember specifically what they were.
- Ostner: I don't either.
- Allen: I think we call for a motion and it fails for lack of one if I recall correctly if no one so moves.
- Hogue: At that point would it then be tabled?
- Ostner: I believe we are bound to vote on this issue. We can vote to table, we can vote to pass.
- Pate: You can make a motion to table and table to a date certain or otherwise vote it up or down.
- Vaught: If the applicant withdraws they start over is what I believe he said. If we vote to table it can come back as soon as the next meeting. What I would like to see is if the applicant has met with the neighbors. Have you met with the neighbors discussing these issues?
- Scott: We have not.
- Vaught: One thing that we typically like to see is that you meet with the neighbors and discuss these issues and see if you can come to a resolution and bring back something more amicable between everybody.

Planning Commission
April 26, 2004

Hogue: That is with the zoning issue tabled?

Vaught: Yes.

Hogue: We will do that.

MOTION:

Vaught: I will make a motion to table RZN 04-12.00.

Trumbo: Second.

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

Anthes: I don't know that I'm not completely comfortable with leaving it as an R-A zoning. We could go ahead and vote tonight to deny the rezoning request and then we would still have an R-A zoning.

Ostner: There is currently a motion on the floor that needs to be voted on up or down. Do we have any further discussion?

Vaught: Since it is currently R-A, I think we should give the developer an opportunity to go speak with the neighboring land owners to see if they can come to some sort of a resolution without stopping the process. It could be a real quick discussion at the next meeting if it comes back and everyone still doesn't like it or we think it is not the right zoning. That would be my comment.

Ostner: Let's not forget that we did not annex it, we have simply forwarded it to the City Council. They have still got a long road before they are annexed. Is there any further discussion? 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

Planning Commission
April 26, 2004

motion in order to come back to you with something that could potentially pass. Because we do not have a full Commission there are potentially three commissioners that could vote for this project. Therefore, it is appropriate to table this item if the applicant wishes to do that.

Scott: We do wish to do that.

Clark: Can I make one comment? Tabling it is certainly your prerogative and probably a wise course of action. I have a very extensive list of concerns that the neighbors have voiced that when you bring this back I sincerely hope that you have talked with them and can address some of them because I happen to agree with them.

Scott: We'll do our best.

Allen: I would agree with Commissioner Clark.

Anthes: Kit is not here so Jeremy, does this mean if the applicant still wishes to table we still then need to have a vote on our level to do that or they withdraw it?

Pate: That is a little unclear to me reading the bylaws whether it requires a vote to be tabled or not. Obviously, a vote has failed for that motion.

Clark: That motion was to table at our request, not their request.

Pate: There can be another motion on the floor to table this item I believe.

MOTION:

Ostner: With Mr. Pate's advise, he is not a lawyer, I would be willing to vote for a tabling on this issue. I am going to make a motion that we table it.

Clark: Based on Jeremy's suggestion and interpretation of the rules I guess I will second it.

Ostner: Do we have any further discussion?

Marr: Mr. Chair, I think your requirement is that a person who voted against tabling needs to motion to reconsider. You vote on that and then you can vote to table. Otherwise, your action won't be legal.

MOTION:

Anthes: I move to consider RZN 04-12.00.

Planning Commission
April 26, 2004

Clark: Second.

Ostner: We have a motion and a second, is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to reconsider RZN 04-12.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

MOTION:

Anthes: I move to table RZN 04-12.00.

Ostner: I thought we just did.

Anthes: No, we moved to reconsider.

Vaught: I will second.

Ostner: We have a motion and a second. Renee?

Roll Call: Upon the completion of roll call the motion to table RZN 04-12.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

B. 7.
ANX 04-6.00 (Leigh Taylor Properties)
Page 36 of 38 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

May 18, 2004

FROM:

Dawn WarrickPlanningCP&E

Name

Division

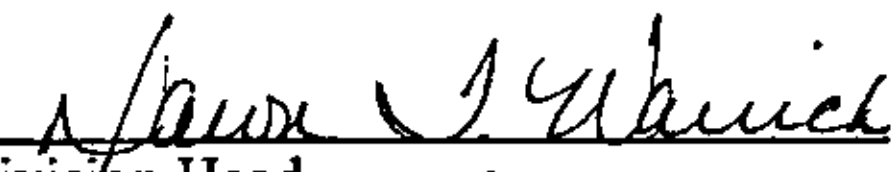
Department

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.

 4/30/04
Division Head Date

Received in Mayor's Office

4-30-04 gm
Date 4/30/04
City Attorney Date

Department Director Date

 5-3-04
Finance & Internal Services Dir. Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

 5-3-04
Chief Administrative Officer Date

New Item:

Yes

No

 5/3/04
Mayor Date

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.

RECEIVED

MAY 28 2004

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

4738 STONEWALL CROSSING SPRINGDALE, AR 72764
479-841-4844 479-756-9775

05-28-04 A08:43 IN

7/6/04 Renee/Planning
put black on the agenda
Tabled indefinitely C/L of

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

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 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 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, L.L.C. 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 <u>YES</u>	☐ Approved	☐ Denied
Date: <u>June 28, 2004</u>			
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>July 20, 2004 (1st reading if recommended)</u>			

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 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:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

- (E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

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

- (G) *Building area.* None.

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.

Apr 21 04 10:30a

Danny Farrar

(501) 444-3447

P.2 B.8

RZN 04-12.00 (Leigh Taylor Properties)
Page 11 of 62



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-12.00 OWNER Leigh Taylor Prop.

ANNEXATION# 04-06.00 OWNER Leigh Taylor Prop.

LOCATION OF
PROPERTY 2470 Hwy. 112

NEAREST FIRE STATION AND
LOCATION Station #2, 708 N. Garland

RESPONSE TIME FROM FIRE STATION # 2 TO
LOCATION OF

PROPERTY 5 MINUTES 56 SECONDS.

TRAVEL MILES FROM FIRE STATION # 2 TO LOCATION OF
PROPERTY 3.6 miles

COMMENTS ON FIRE DEPT.

ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO

LOCATION Hwy. 112 at Deane Solomon

WATER SUPPLY WITH HYDRANTS

NEEDED? Yes

ADDITIONAL

COMMENTS.

MAIN OFFICE

115 SOUTH CHURCH ST.

(501) 444-3448 / (501) 444-3449

FAX (501) 575-8272

~~SUBSTATION~~

~~N.W. MALL~~

~~(501) 575-8271~~

~~FAX (501) 575-8272~~



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

RECEIVED
APR 20 2004
PLANNING DIV.

B. 8.
REN 04-12.00 (Leigh Taylor Properties)
Page 12 of 62

POLICE DEPARTMENT

April 19, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **ANX 04-06.00 Annexation (Leigh Taylor Properties, pp 169)** and **RZN 04-12.00 Rezoning (Leigh Taylor Properties, pp 169)** submitted by Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112 would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services.

The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. In fact, these two intersections have had 31 accidents in just over three years. The access to this area should be places as far from these two intersections as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown".

Lieutenant William Brown
Fayetteville Police Department

Deane Soloman / Howard Nickell

Hwy 112 query

QUERY NAME	ACCLOCAT	
LIBRARY NAME	COPS	
FILE	LIBRARY	MEMBER
PLACOM	NWSP9PLS	PLACOM
PSGADR	NWSP9PLS	PSGADR
DATE	04/19/04	
TIME	10:21:19	

Query by Accident Location

PAGE 1

04/19/04 10:21:19

Accident #	Date of Accident	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

*** END OF REPORT ***

QUERY NAME	ACCLOCAT	
LIBRARY NAME	COPS	
FILE	LIBRARY	MEMBER
PLACON	NWSPSPLS	PLACON
PSQADR	NWSPSPLS	PSQADR
DATE	04/19/04	
TIME	10:07:16	
		FORMAT
		AVRECI
		QARECI

Query by Accident Location

PAGE 1

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

*** END OF REPORT ***

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

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

PROJECT DESIGN CONSULTANTS, INC.

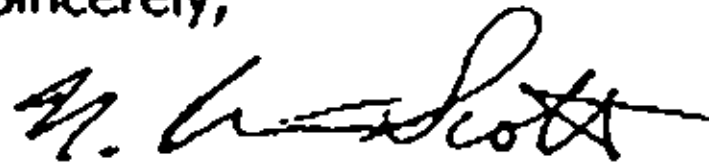
June 23, 2004

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.

Mr. Art Scott P.E.
June 23, 2004
Page 2

- 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
Fr. Smith, Arz 72903

Cleve D Branson
Signature

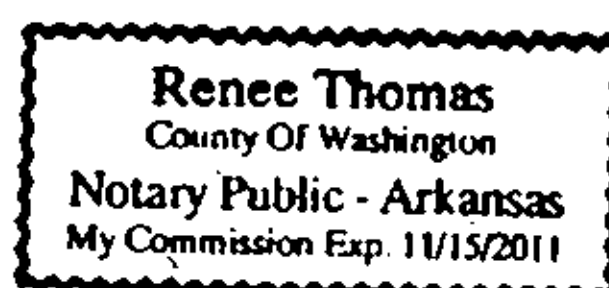
NOTARY OATH

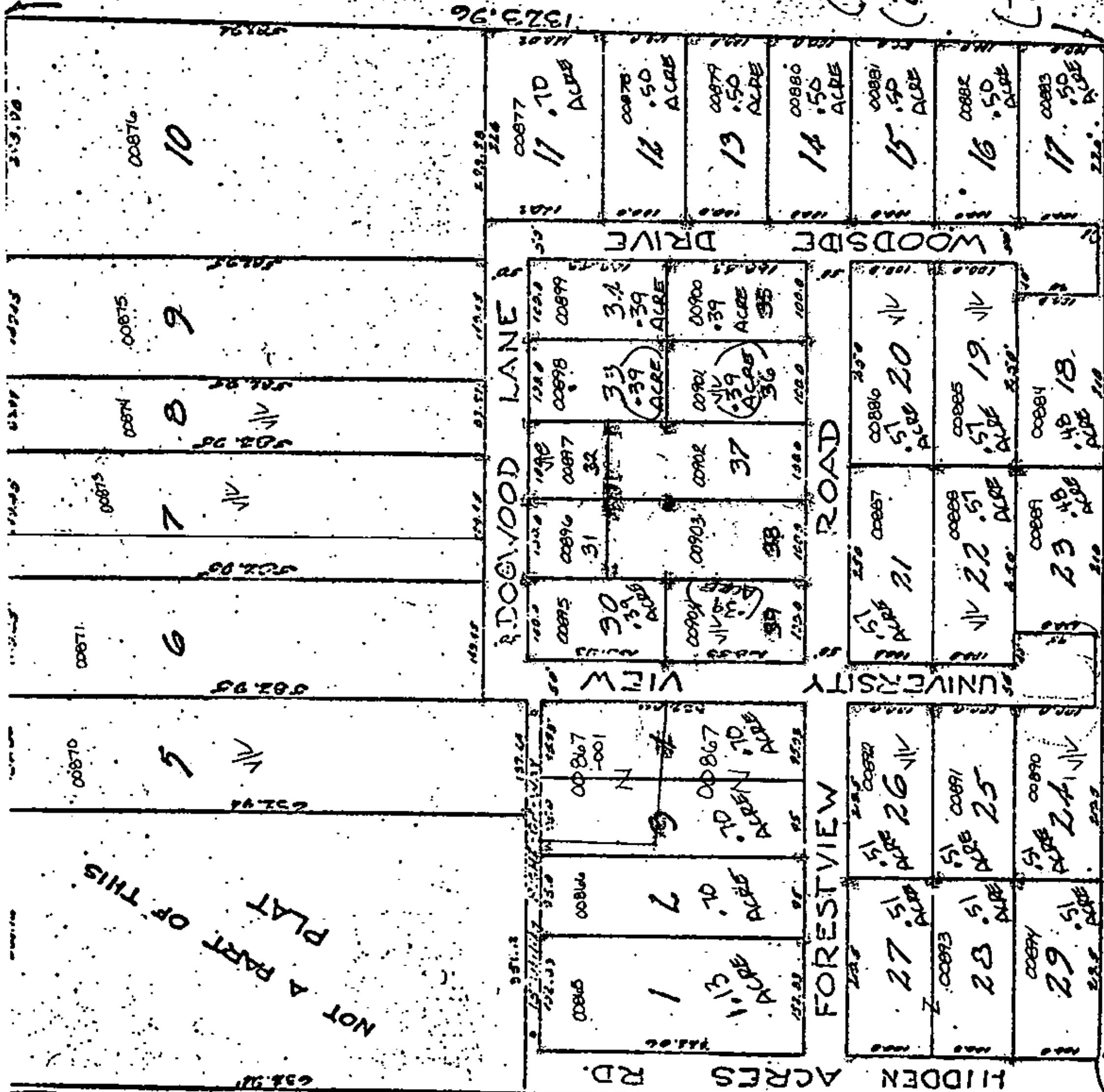
STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

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





- (1.) All septic systems
- (2.) 33 lots so, of dogwood Ln.
- (3.) Average .657 Acres Per lot
- (4.) not city of Fayetteville Residences

FOREST HILLS ESTATES

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 1/4 mile along Hwy. 112 with very good visibility in both directions for access. Also, one other concern was drainage and that is always a concern when the development of 40 acres takes place. We will have to abide by all the city codes and detain any water before it leaves the site and keep it to a pre-development level so that shouldn't be a concern for the future and for the downstream properties. I will answer any questions you might have.

Ostner: At this point I will move it to the public comment period. Are there people who would like to comment on this item?

Futral: My name is Charlie Futral and I have property adjoining this property. I'm on the north side. I sit on one acre of land. I'm in the Forest Hills subdivision which is to the north here. I've lived here for nine years. We have a very established neighborhood. The houses surrounding this property are very established. My neighbors directly to the north of me sit on 1 1/2 to 2 acres. My neighbors directly to the west of me who adjoin this have approximately 2 acres. His neighbor who adjoins this property

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.

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 $\frac{3}{4}$ acre plots. Whoever was here before, we also have deer, quail, dove, they will be gone forever. The water detention, it appears on the plat like it is one lot, 100'x40', is that correct?

Scott: This is still in the preliminary stages.

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 1/2 acre blocks south of us have 3,200 sq.ft. minimum. Hopefully we won't get into this compacted settlement there. As far as safety, we have lived there about 20 years on the property and there have been deaths in that area and lots of wrecks. It is not a safe corner. Thank you.

- 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
~~Jim Forbes~~
 Carl Knudsen
 Cynthia Moss
 Randall R.
 Charles Fitch
 H. Wallman
 Barbara Wallman
 Benny Moore
 Carol L. Moore
 James R. Moore
 Gail McWhorter
 Luk Michel
 Tom Stuef
 B. Matthews
 Brenda G. Bailey
 Donny Bailey
 Ron Johnson
 Zen Johnson
 Patrick Denton
 Degen Borden
 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

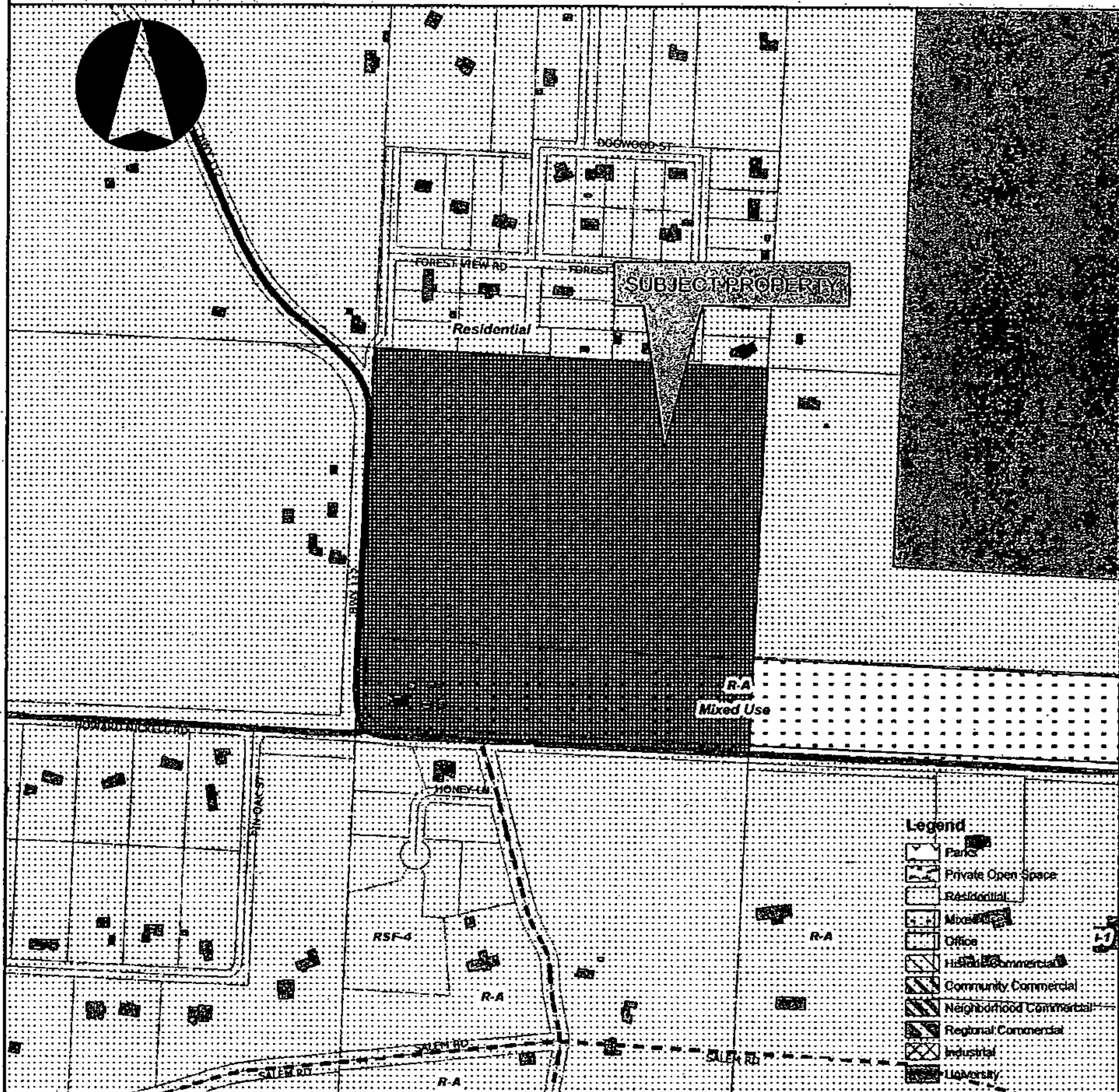
Additionally:

- 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.

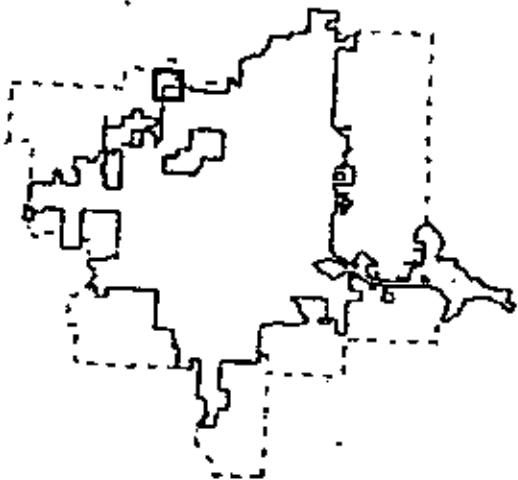
RZN04-12.00

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

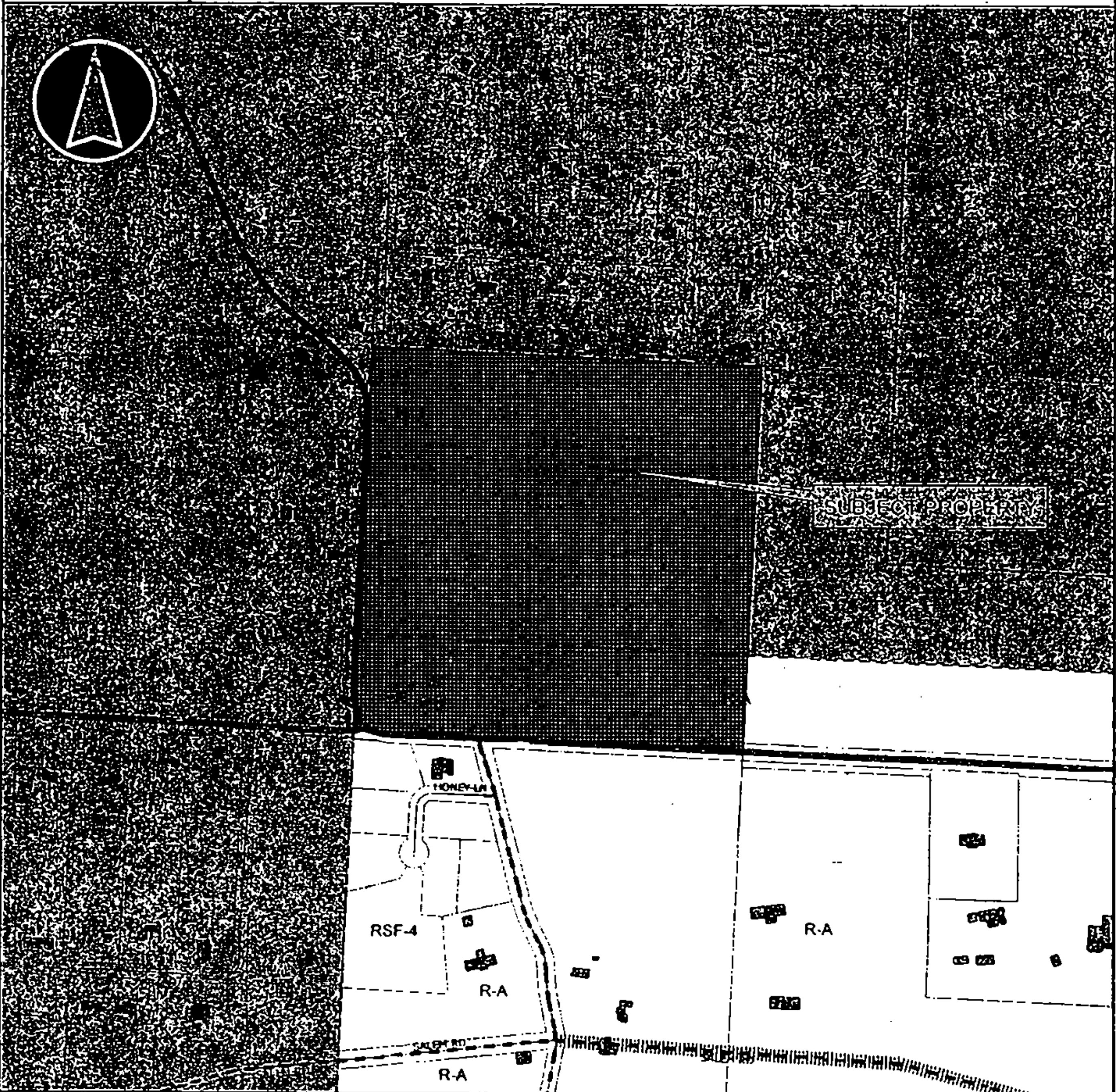
Historic Collector

0 175 350 700 1,050 1,400 Feet

RZN04-12.00

Close Up View

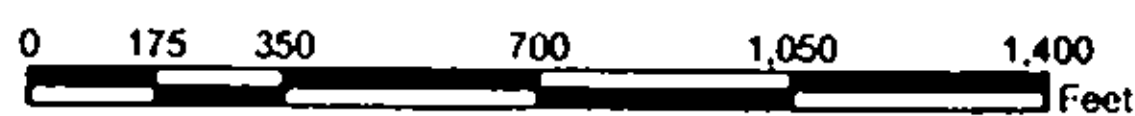
LEIGH TAYLOR PROPERTIES



Overview

Legend

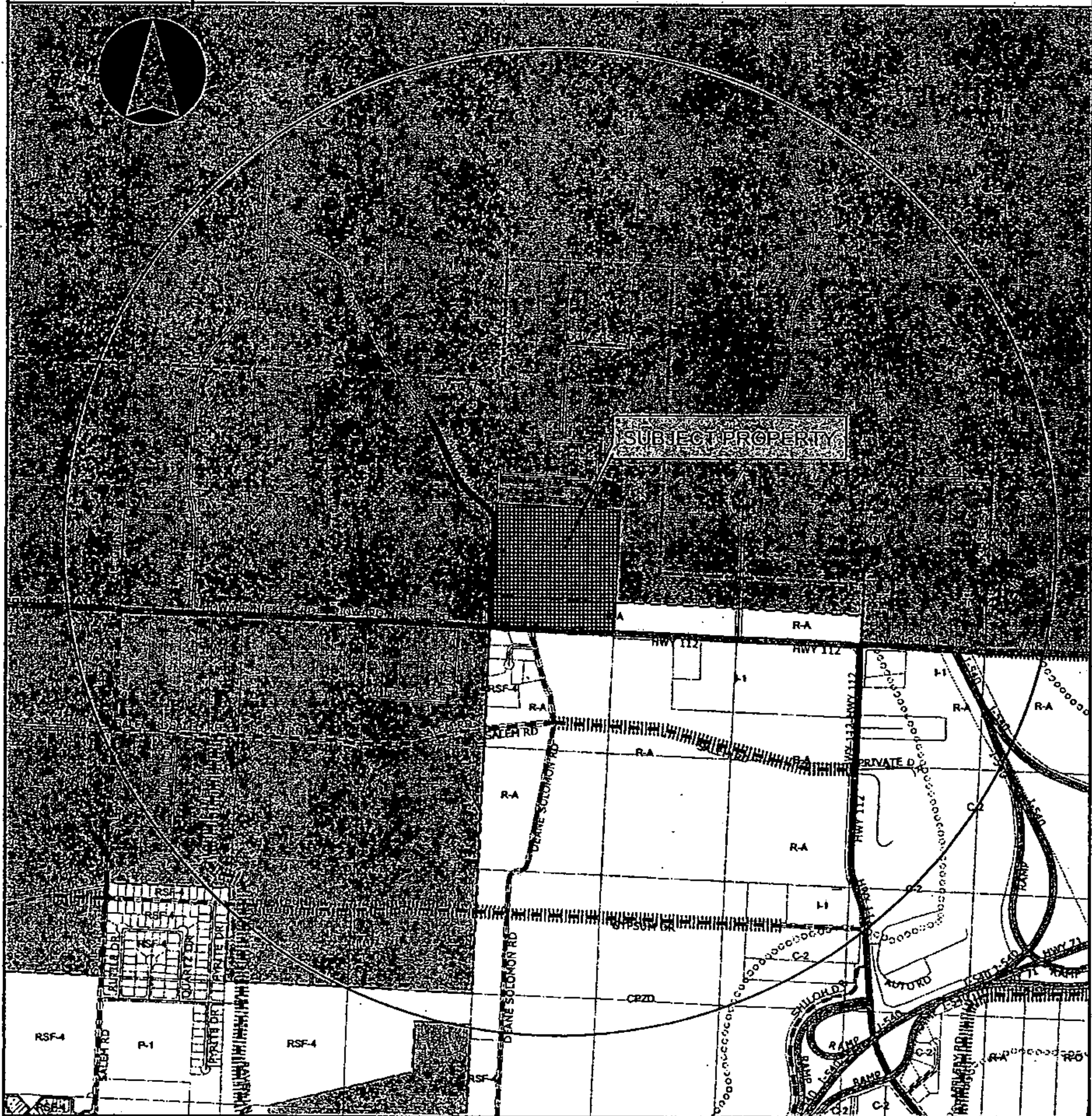
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|------------------------|--------------------|------------------|
| ○○○○○ Overlay District | Principal Arterial | FLOODWAY |
| Master Street Plan | Minor Arterial | 100 YEAR |
| Master Street Plan | Collector | 500 YEAR |
| Freeway/Expressway | Historic Collector | LIMIT OF STUDY |
| | City Limits | Baseline Profile |
| | Outside City | RZN04-12.00 |



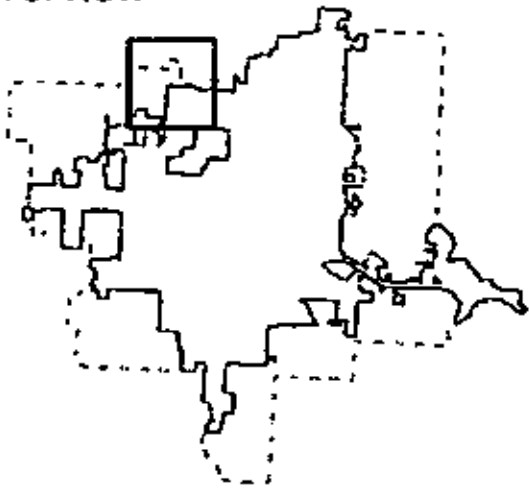
RZN04-12.00

One Mile View

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 0.1 0.2 0.4 0.6 0.8 Miles

Planning Commission
June 28, 2004
Page 6

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

Planning Commission
June 28, 2004
Page 7

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 1/2 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

Planning Commission
June 28, 2004
Page 8

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

Planning Commission
June 28, 2004
Page 9

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

Planning Commission
June 28, 2004
Page 10

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

Planning Commission
June 28, 2004
Page 11

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

Planning Commission
June 28, 2004
Page 12

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.

Planning Commission
June 28, 2004
Page 13

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

Planning Commission
June 28, 2004
Page 14

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?

Planning Commission

June 28, 2004

Page 15

- 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

Planning Commission
June 28, 2004
Page 16

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

Planning Commission
June 28, 2004
Page 17

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

Planning Commission
June 28, 2004
Page 18

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

Planning Commission
June 28, 2004
Page 19

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

Planning Commission
June 28, 2004
Page 20

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.

Planning Commission
June 28, 2004
Page 21

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

Planning Commission
June 28, 2004
Page 22

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? Renec?

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

B. 8.
RZN 04-12.00 (Leigh Taylor Properties)
Page 62 of 62 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

July 20, 2004

FROM:

Dawn WarrickPlanningCP&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*[Signature]* 7/7/04
City Attorney Date

Received in Mayor's Office

7-7-04
Date *gun*

Department Director Date

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



CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: June 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 Ruppel 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 <u>YES</u>
Date: <u>June 28, 2004</u>	☒ Approved ☐ Denied CLARK / SHACKELFORD 9-0
CITY COUNCIL ACTION:	Required <u>YES</u>
Date: <u>July 20, 2004</u>	☐ Approved ☐ Denied

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 Ruppel 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 Ruppel Road at the northwest corner of the property. At the time of development, Ruppel 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: Ruppel Road (minor arterial)

Water: The property currently has access to a 12" water main along Ruppel 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 Ruppel 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 Ruppel 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 Ruppel 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.

June 1, 2004 In-House
June 2, 2004 Technical

New Development Impact on Fire/Rescue Service Delivery

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	20/year	8/year	12/year
FPL 04-1092	Clabber Creek PH II			Future FS 7	1.54 miles	4-5 minutes	4-6 minutes	1/year	40/year	60/year
CCP 04-1051	Twin Springs Estates			Future FS 7	3.47 miles	7.5-8.5 minutes	7.5-8.5 minutes	5/year	2/year	3/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			
In-House										
PLA 04-1096	Schultz			FS 4	2.15 miles	6-7 minutes	6-7 minutes	17/Year	N/A	N/A
CUP 04-1095	Sunbridge LC									
CUP 04-1097	Crumbly/Childcare			Future FS 7	2.13 miles	5-6 minutes	5-6 minutes	2/year	80/year	12/year
RZN 04-1099	Bristle									
RZN 04-1102	Bradberry/Woolv.			FS 2	0.633 miles	3-4 minutes	3-4 minutes			
RZN 04-1103	Collins			FS 5	3.11 miles	8-9 minutes	8-9.5 minutes	16/year	6/year	10/year
RZN 04-1104	Goff			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	72/year	29/year	43/year
RZN 04-1084	Marinoni									
ANX 04-1090	Hays		37.3	Future FS 7	1.97 miles	4-5 minutes	4-6.5 minutes	34/year	13/year	21/year
RZN 04-1091	Hays									
ANX 04-1100	Harper/Brandon		9.99	FS 4	4.73 miles	13-14 minutes	13-14.5 minutes	9/year	3/year	6/year
RZN 04-1101	Harper/Brandon			Future FS 5	3.36 miles	8-9 minutes	8-8.5 minutes			

Insufficient Data for Calculations



FAYETTEVILLE

B. 9.
ANX 04-1083 (Marinoni)
Page 13 of 36

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 Ruppel 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 an appreciable increase in traffic danger and congestion in the area.

Sincerely,


Lieutenant William Brown
Fayetteville Police Department

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

CASE NO. CC 2004-2

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 $\frac{1}{2}$) of the Fractional Northeast Quarter (Frl. NE $\frac{1}{4}$) 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 $\frac{1}{2}$) of the Fractional Northeast Quarter (Frl. NE $\frac{1}{4}$) 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.

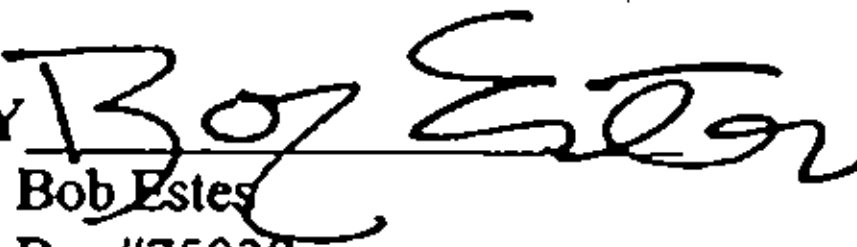
4. Pursuant to the *A.C.A. § 14-40-601 et seq.*, this Court has jurisdiction over the subject matter herein, and Petitioners request that the above-described be annexed to the City of Fayetteville, Arkansas.

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
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)

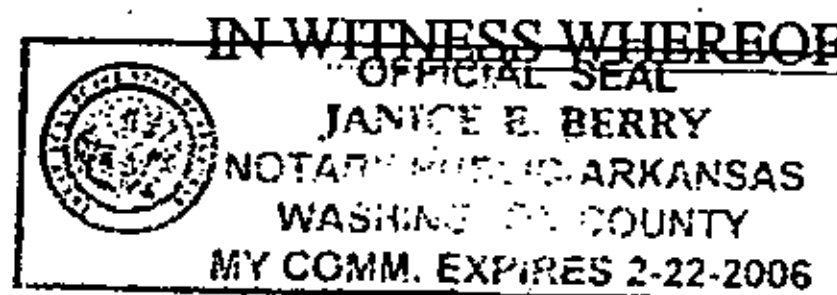
We, PAUL A. MARINONI, JR. and SUELEN M. MARINONI, husband and wife,
Petitioners herein, upon our oath, state that we have read the foregoing Petition for Annexation, that
the facts set out therein are true and correct to the best of my knowledge and belief.

Paul A. Marinoni Jr.
Paul A. Marinoni, Jr.

Suellen M. Marinoni
Suellen M. Marinoni

STATE OF ARKANSAS)
)SS.
COUNTY OF WASHINGTON)

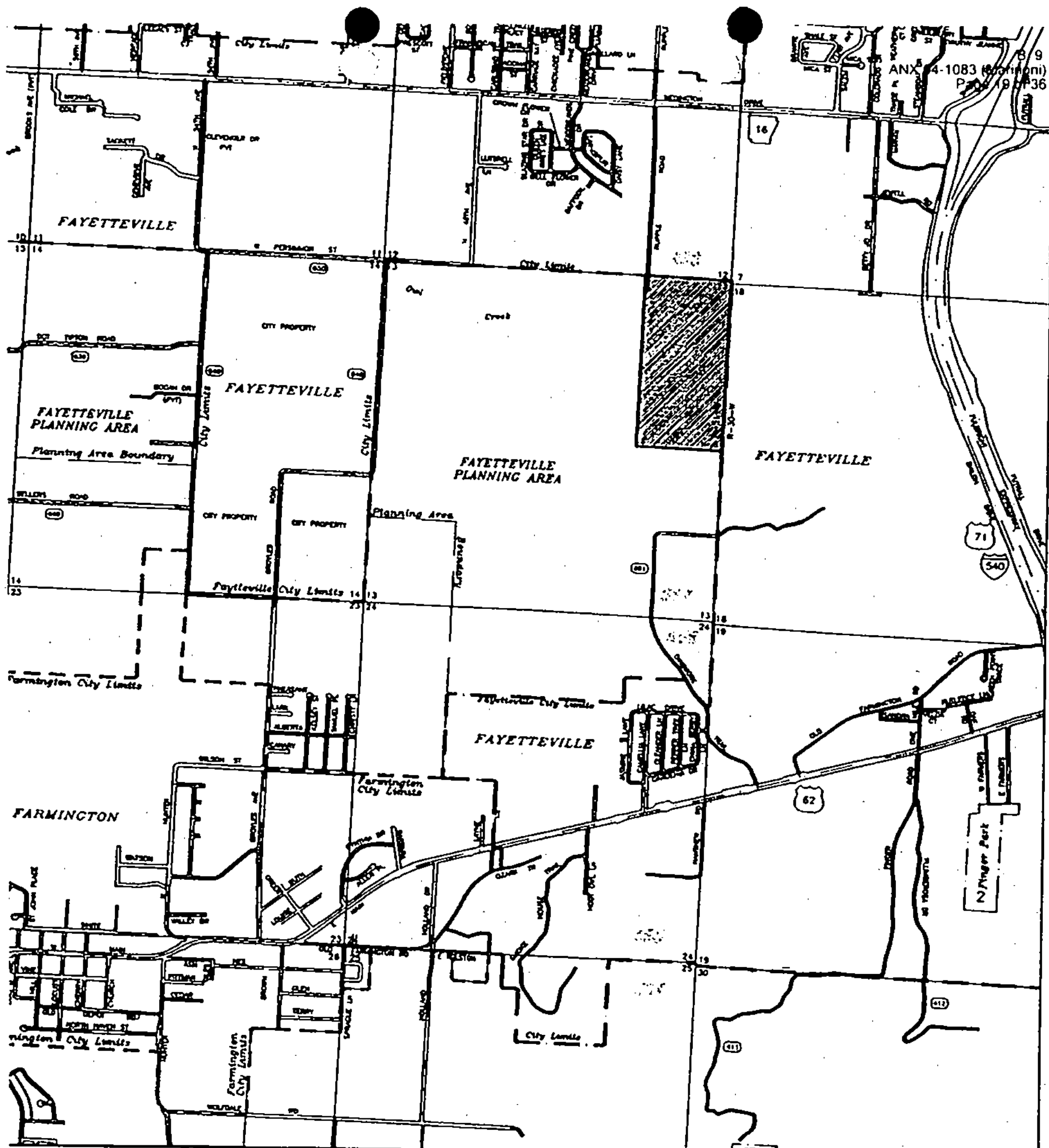
On this the 28th day of January, 2004, before me, the undersigned officer, personally
appeared PAUL A. MARINONI, JR and SUELLEN M. MARINONI who acknowledged
themselves to be the persons who executed the foregoing instrument for the purposes therein
contained.



Janice E. Berry
Notary Public

My Commission expires:

2-22-2006



VICINITY MAP
for MARINONI PROPERTY
CITY OF FAYETTEVILLE PLANNING AREA
WASHINGTON COUNTY, ARKANSAS

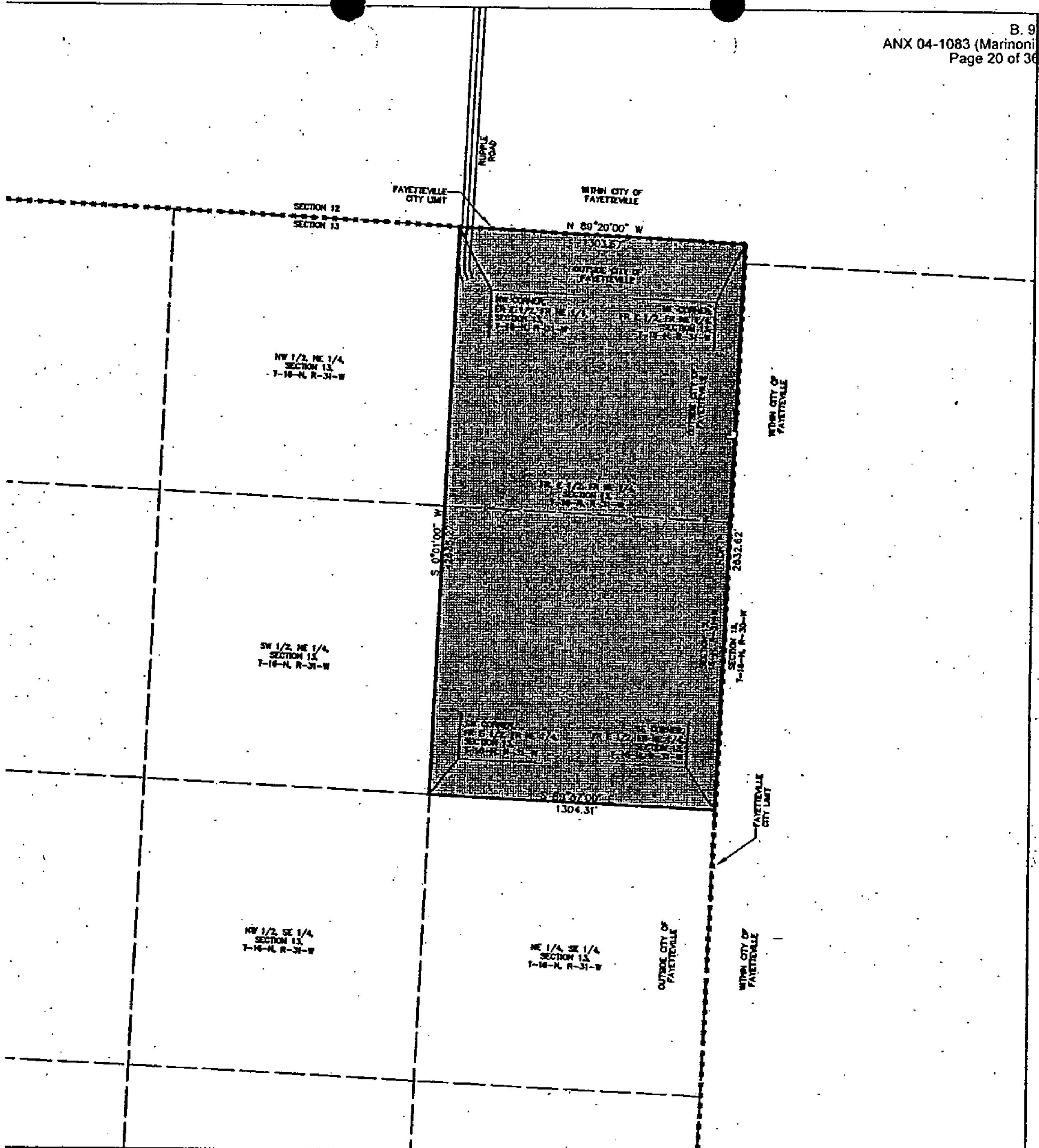


ENGINEERING SERVICES, INC.
 CONSULTING ENGINEERS AND SURVEYORS
 1207 SOUTH OLD MISSOURI RD.
 SPRINGDALE, ARKANSAS 72765

© COPYRIGHT 2004, ENGINEERING SERVICES, INC. 01-23-04, 10 46 44
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EXHIBIT A



MARINONI DEED

CITY OF FAYETTEVILLE PLANNING AREA

WASHINGTON COUNTY, ARKANSAS

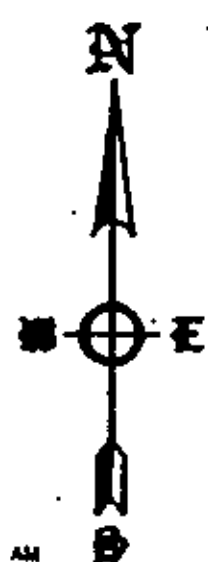
EXHIBIT B

SCALE: 1" = 600'



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CONSULTING ENGINEERS AND SURVEYORS
1207 SOUTH OLD MISSOURI RD.
SPRINGDALE, ARKANSAS 72765

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IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF:

CASE NO. CC 2004-2

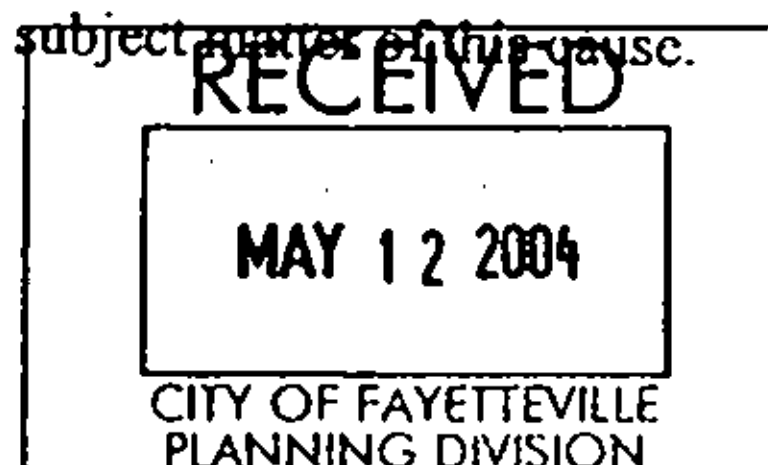
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

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.



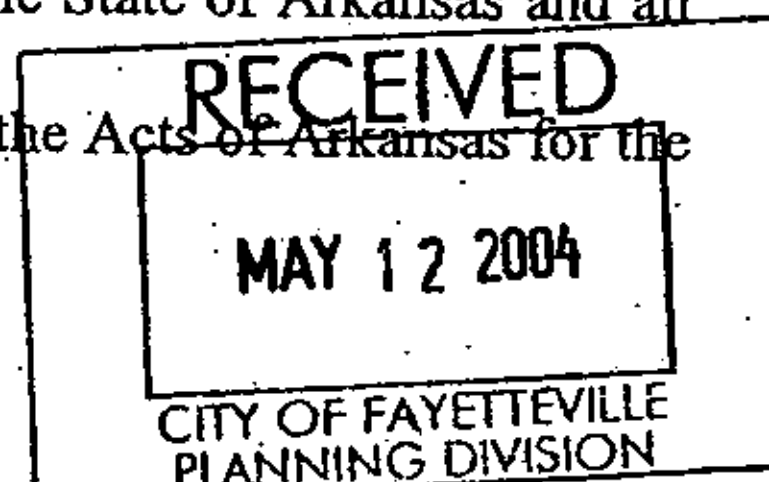
3. The Court is satisfied that the allegations of the Petition for Annexation are sustained by the proof. The limits of the territory to be annexed have been properly filed. The property owners having a freehold interest in the property hereinafter described joined in the petition and constitute the 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 $\frac{1}{2}$) of the Fractional Northeast Quarter (Frl. NE $\frac{1}{4}$) 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 $\frac{1}{2}$) of the Fractional Northeast Quarter (Frl. NE $\frac{1}{4}$) 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.

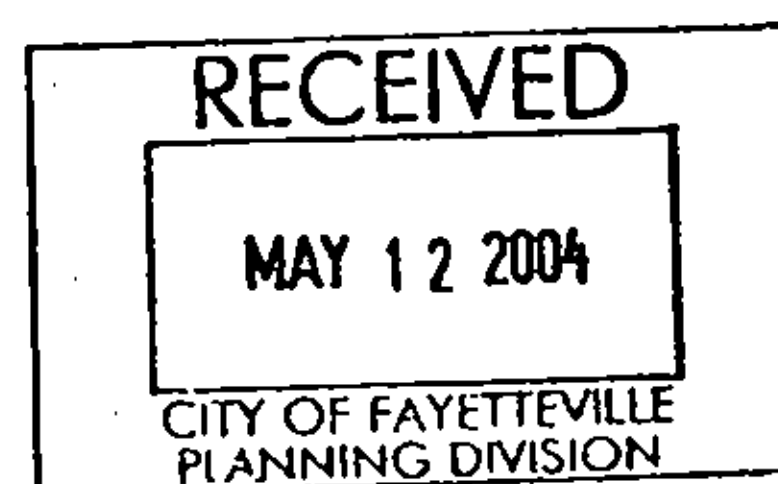
5. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is peculiarly adapted for urban purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

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



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.

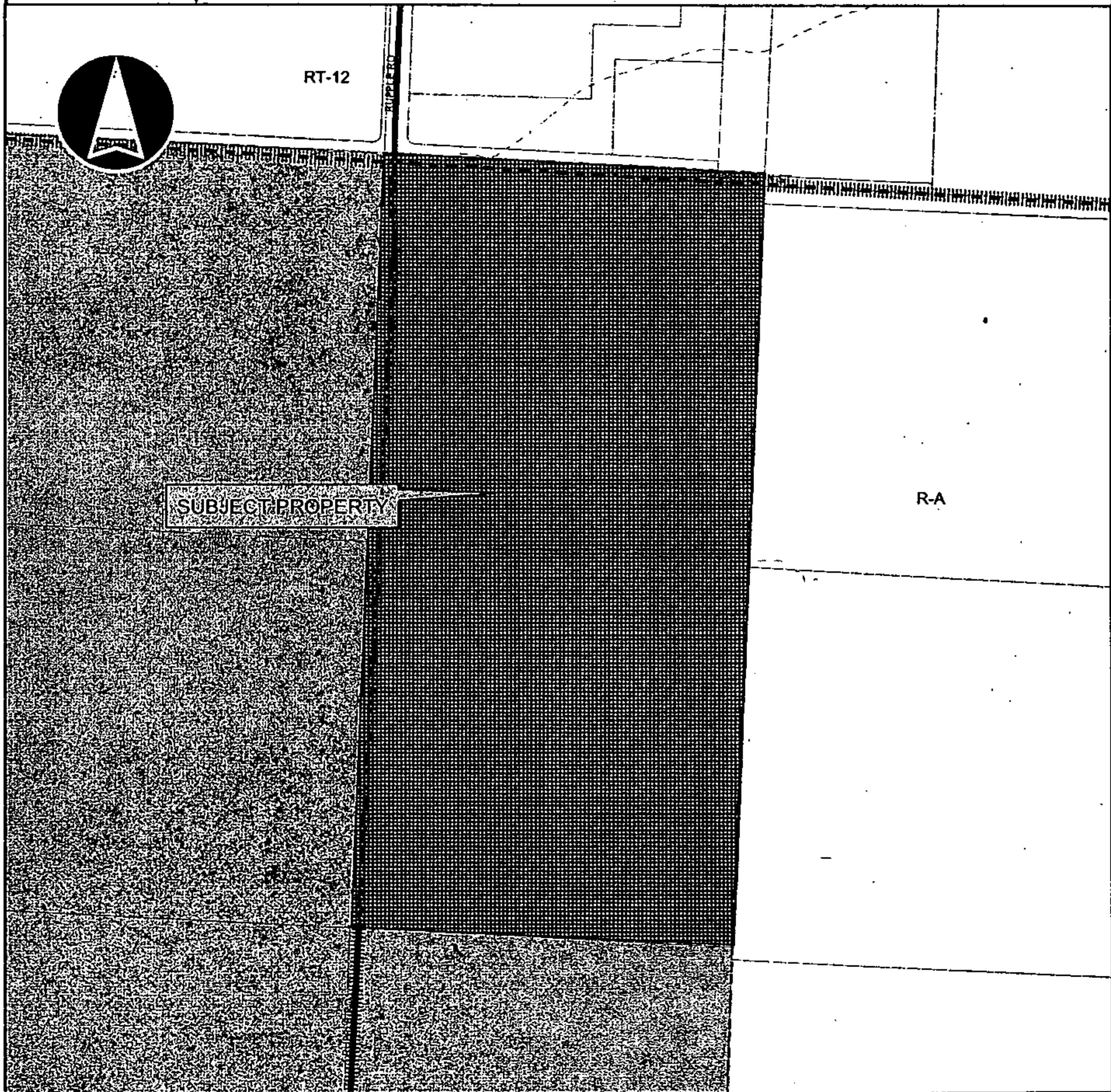

JERRY HUNTON
COUNTY JUDGE
WASHINGTON COUNTY
STATE OF ARKANSAS



ANX04-1083

Close Up View

MARINONI



Overview

Legend

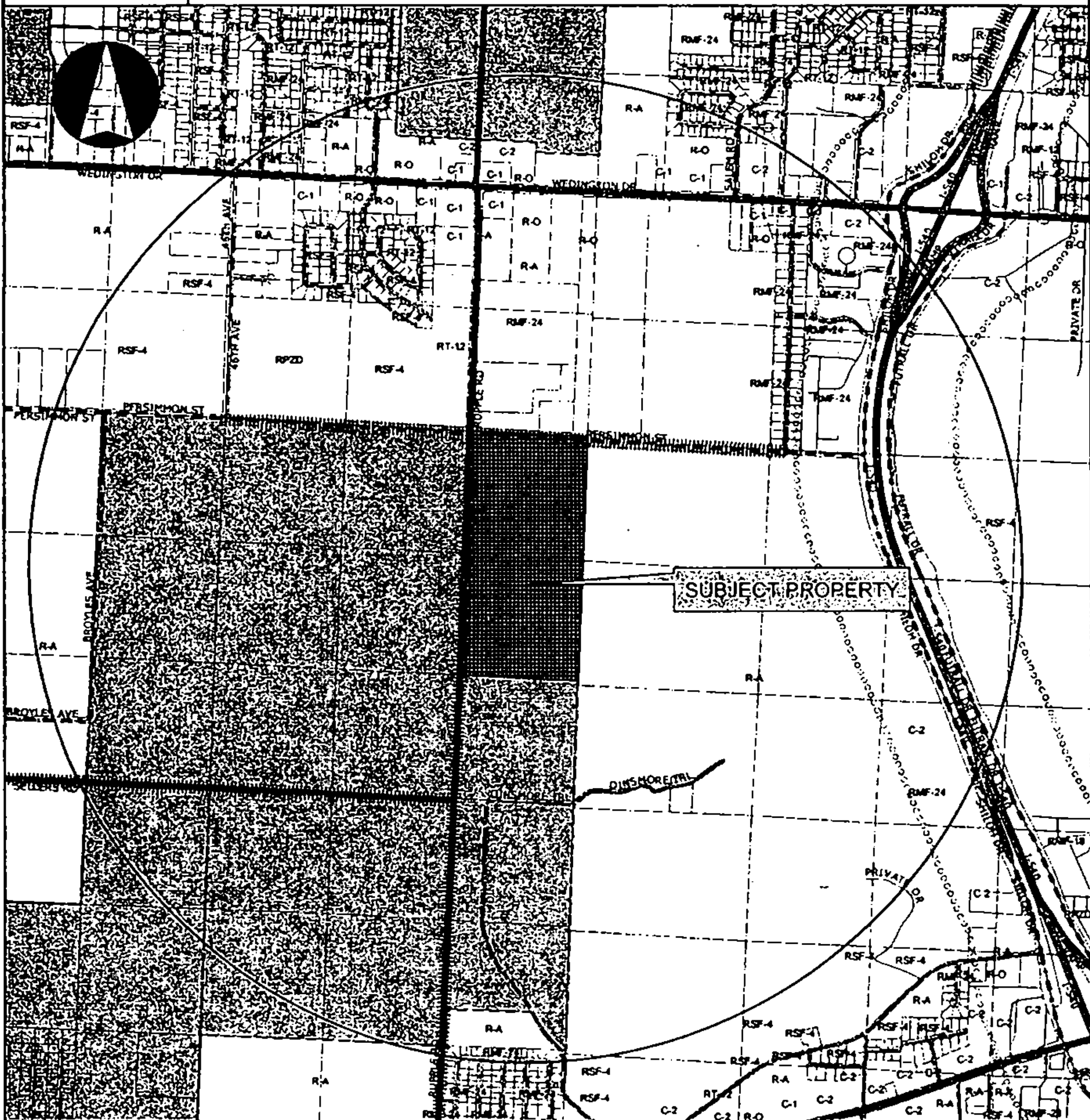
○○○○○ Overlay District	▬▬▬▬▬ Principal Arterial	▬ FLOODWAY
Master Street Plan	▬▬▬▬▬ Minor Arterial	▬ 100 YEAR
Master Street Plan	▬▬▬▬▬ Collector	▬ 500 YEAR
▬▬▬▬▬ Freeway/Expressway	●●●●● Historic Collector	▬▬▬▬▬ LIMIT OF STUDY
	▬▬▬▬▬ City Limits	▬▬▬▬▬ BaseLine Profile
	▬▬▬▬▬ Outside City	▬▬▬▬▬ ANX04-1083

0 75 150 300 450 600
Feet

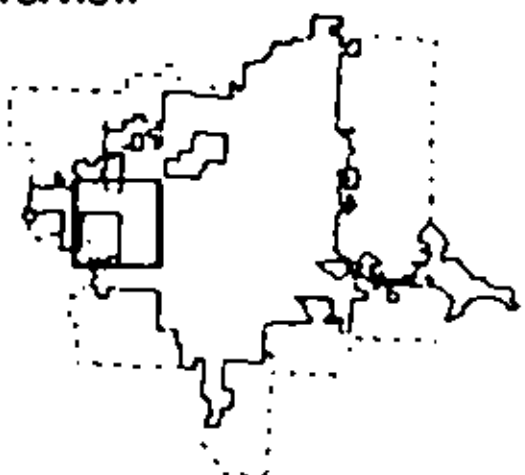
ANX04-1083

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

Planning Commission

June 28, 2004

Page 71

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 Ruppel 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 Ruppel 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 Ruppel 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 Ruppel 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 1/2 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 Ruppel Road at the northwest corner of the property. At the time of development Ruppel Road and Persimmon will be improved. The property currently has access to a 12" water main along Ruppel 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 1/2 mile from the new fire station #7 on Ruppel 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

Planning Commission
June 28, 2004
Page 73

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. Ruppel Road ends at the beginning of this Marinoni property at the present time. Ruppel 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 Ruppel 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 Ruppel 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.

Planning Commission
June 28, 2004
Page 74

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 Ruppel 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.

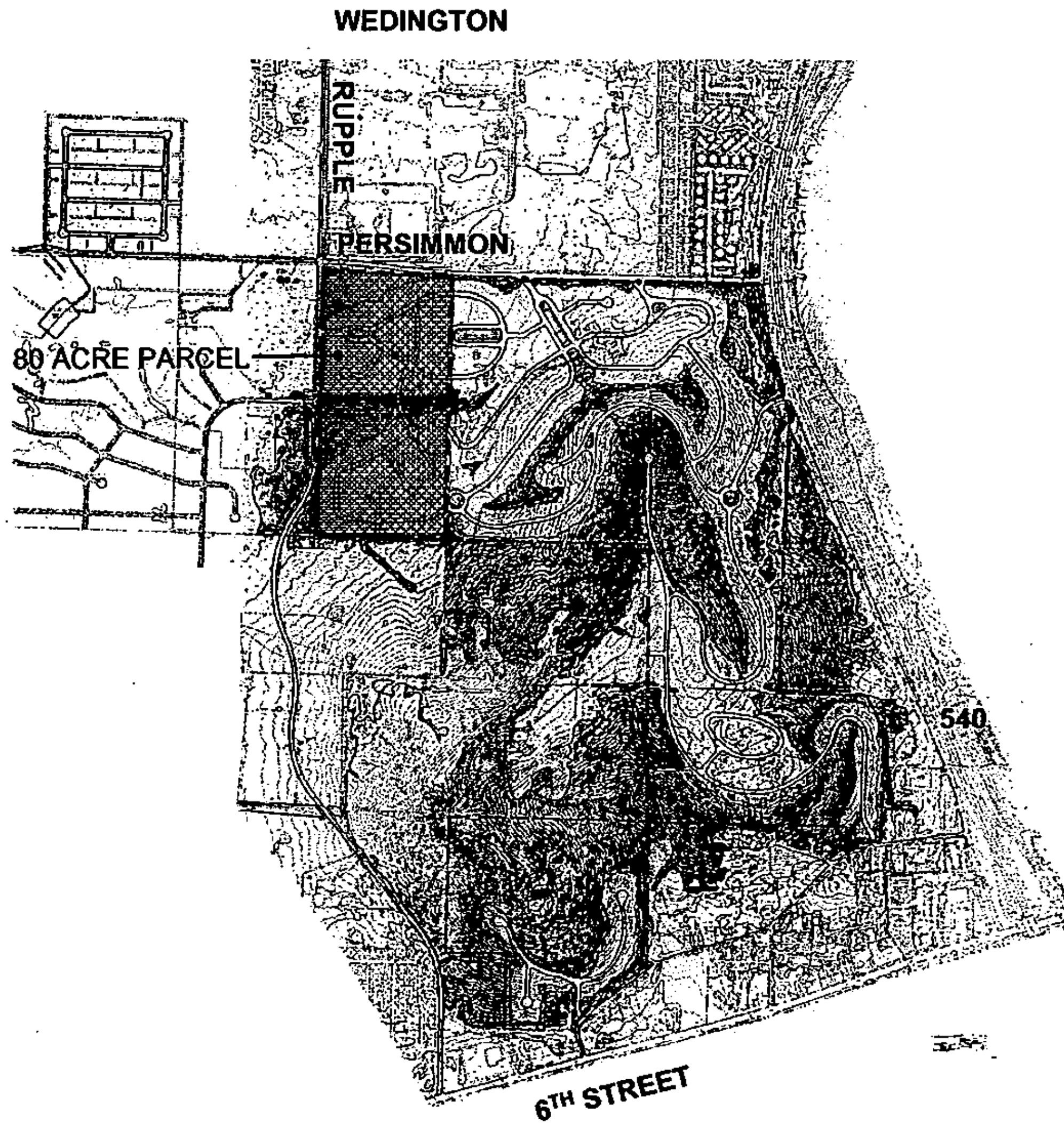
Allen: I would like to echo my same concerns.

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



The City of Fayetteville, Arkansas

Crafton, Tull & Associates, Inc.

Cole & Associates Inc.

MARINONI

Terminella & Associates Inc.

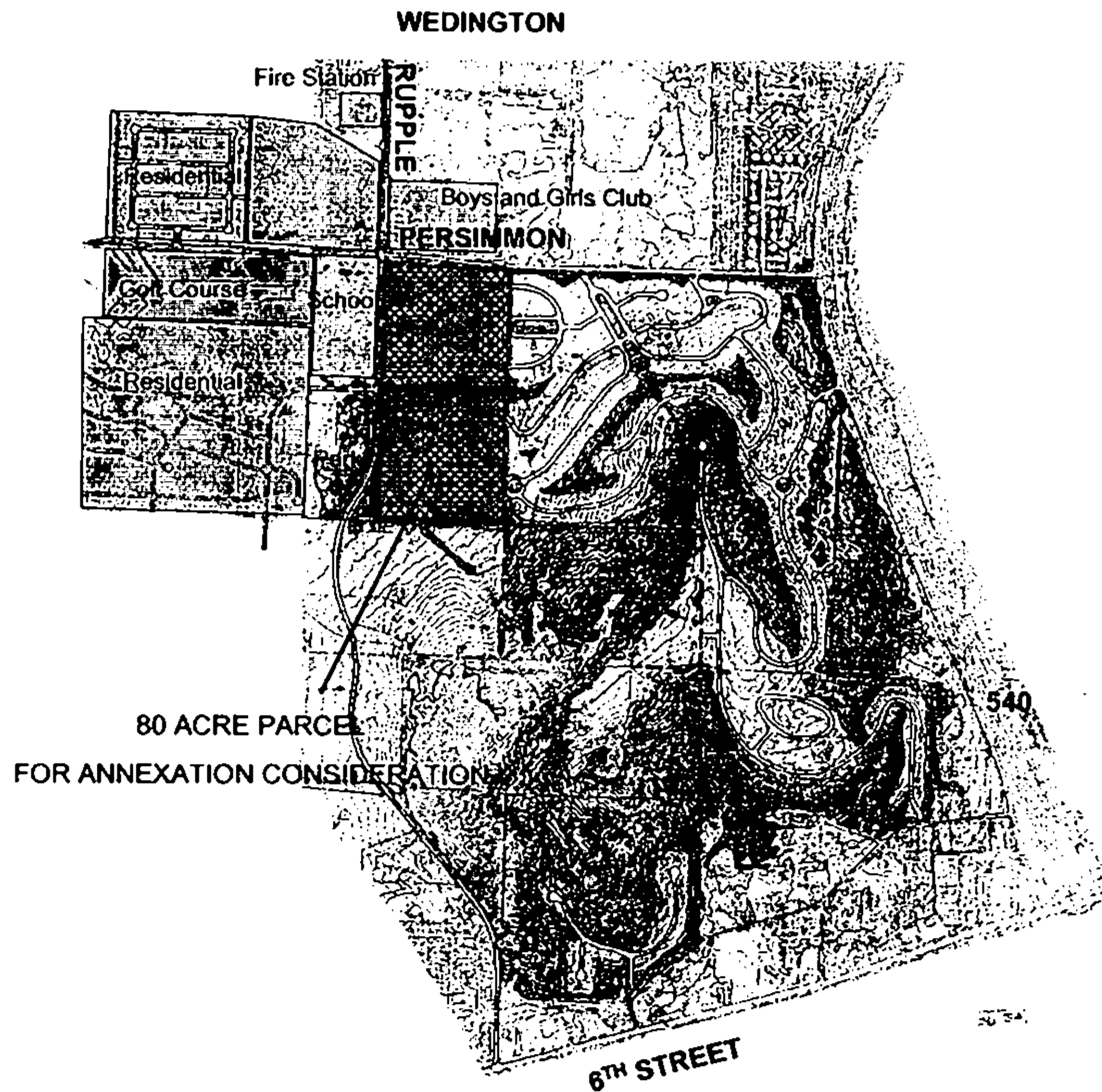
Marinoni Mountain – A Masterplanned Community

June 28, 2004

0 400 800 1200



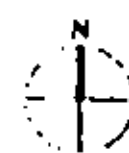
ANNEXATION AND ADJACENT LAND USES



The City of Fayetteville, Arkansas

Crafton, Tull & Associates, Inc.

Cole & Associates Inc.

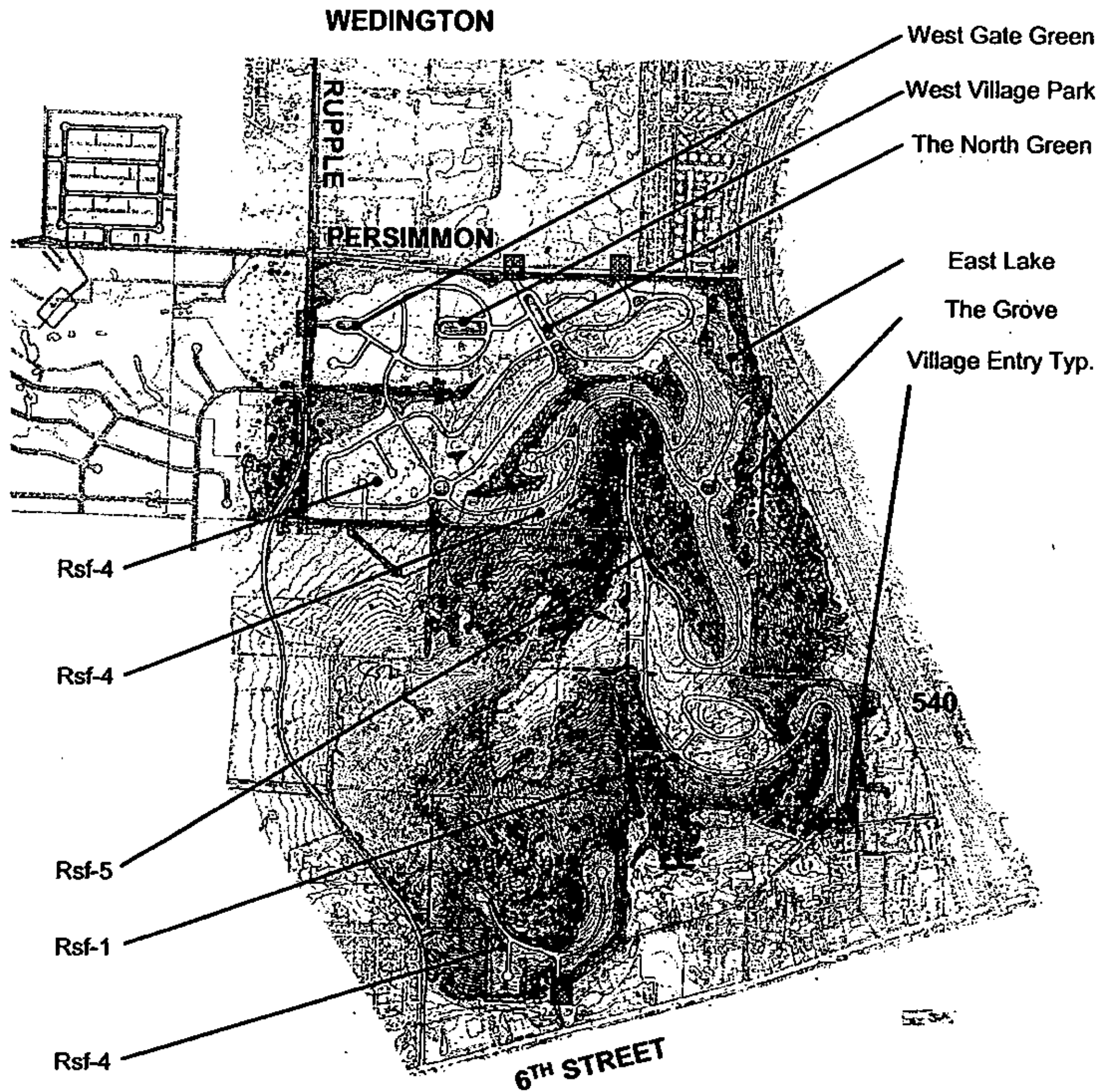


ZONING DESIGNATIONS AND DEVELOPMENT AMENITIES

The City of Fayetteville, Arkansas

Crafton, Tull & Associates, Inc.

Cole & Associates Inc.



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, Pennsyl-
vania, Hawaii, Maryland, Colo-
rado, 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, Carroll 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.

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 pre-dominant 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

B. 9.
ANX 04-1083 (Marinoni)
Page 36 of 36 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

July 20, 2004

FROM:

Dawn WarrickPlanningCP&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 Ruppel Road containing approximately 78.84 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn Warrick 7/6/04
Division Head Date

Received in Mayor's Office

7-7-04
Date *DM**K. [Signature]* 7/7/04
City Attorney Date

Department Director Date

[Signature] 7-7-04
Finance & Internal Services Dir. Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

Hugh Saunert 7-7-04
Chief Administrative Officer Date

New Item:

Yes

No

Don Cook 7/7/04
Mayor Date

CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: June 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 Ruppel 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.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.

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 <u>YES</u>
Date: <u>June 28, 2004</u>	☒ Approved ☐ Denied
	Shackelford 0/Night 0 5-4
CITY COUNCIL ACTION:	Required <u>YES</u>
Date: <u>July 20, 2004</u>	☒ Approved ☐ Denied

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:

11.6.0 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.

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 to RSF-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 Ruppel Road at the northwest corner of the property. At the time of development, Ruppel 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: Ruppel Road (minor arterial)

Water: The property currently has access to a 12" water main along Ruppel 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 Ruppel 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. Ruppel 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 Ruppel Row PZD, along with developments to the west of the subject property, will combine to construct Persimmon Street west of Ruppel Road. A traffic signal has also recently been installed and is in operation at the intersection of Ruppel 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 Ruppel Road at the northwest corner of the property. At the time of development, Ruppel 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 Ruppel 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 Ruppel 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)

K:\Reports\2004\PC Reports\06-28-04\RZN 04-1084 (MARINONI).doc

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.

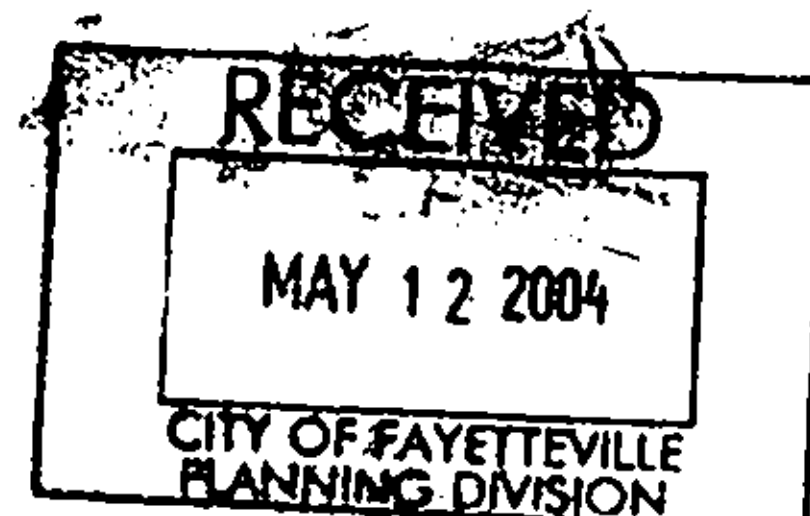
Water and sewer are currently available on the perimeter of the property requested to be rezoned, and will be extended for any development. Should you have any questions concerning this rezoning request, please let me know and I will answer your questions.

With warmest regards.

Yours truly,


Bob Estes

BE:jb



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

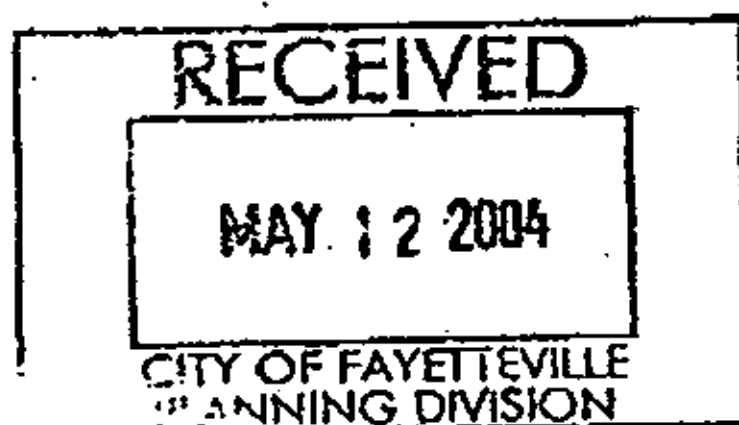
Closure Error 3.1 ft.

5/19/2004 OK

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

Paul A. Marinoni R.O.
Applicant's Signature

Suzellen M. Marinoni



RZN04-1084

Close Up View

MARINONI



RT-12

SUBJECT PROPERTY

R-A

Overview

Legend

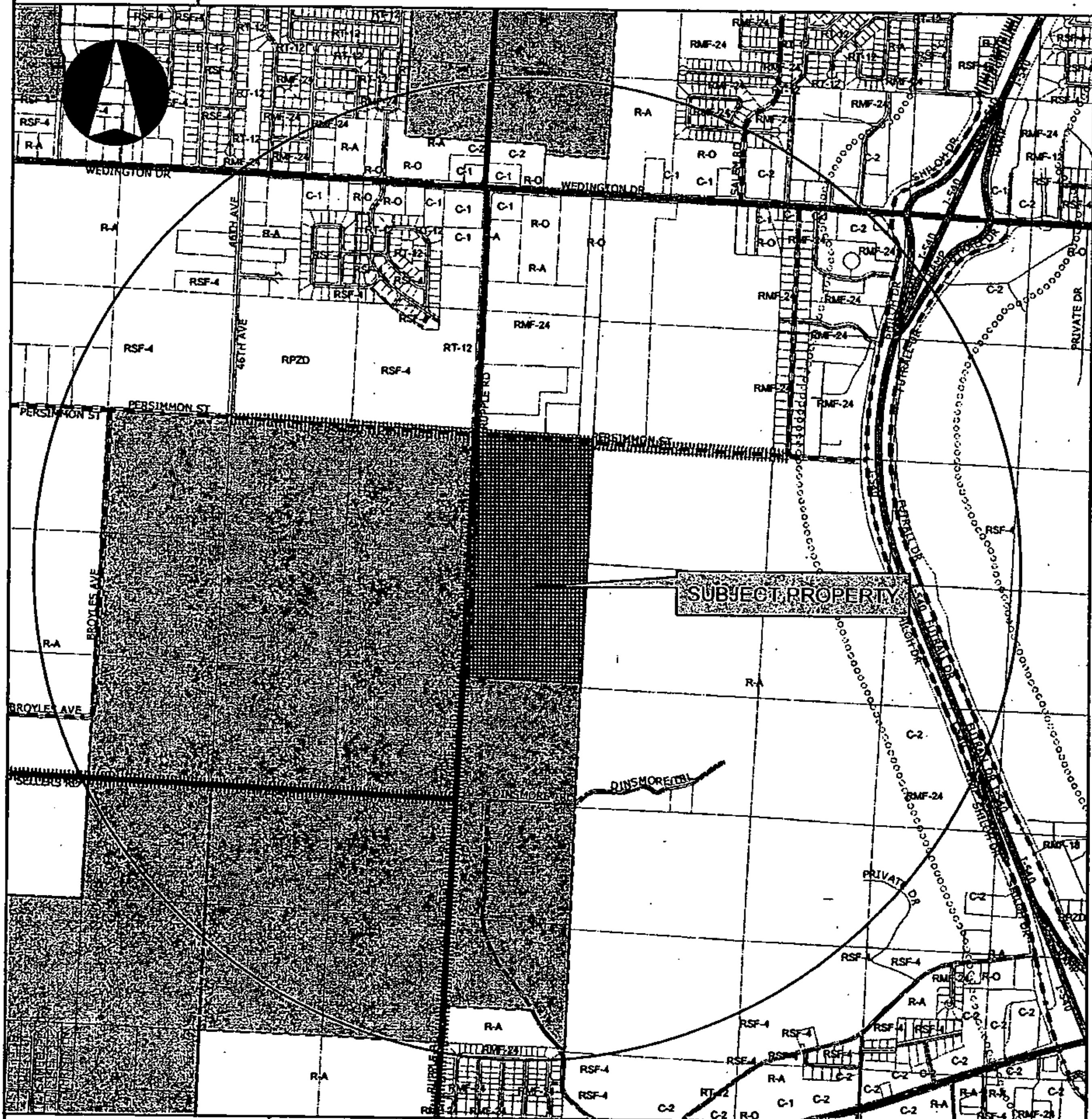
○ ○ ○ ○ ○	Overlay District	▬	Principal Arterial	▬	FLOODWAY
○ ○ ○ ○ ○	Master Street Plan	▬	Minor Arterial	▬	100 YEAR
▬	Master Street Plan	▬	Collector	▬	500 YEAR
▬	Freeway/Expressway	● ● ● ●	Historic Collector	▬	LIMIT OF STUDY
		▬	City Limits	▬	BaseLine Profile
		▬	Outside City	▬	RZN04-1084

0 75 150 300 450 600
Feet

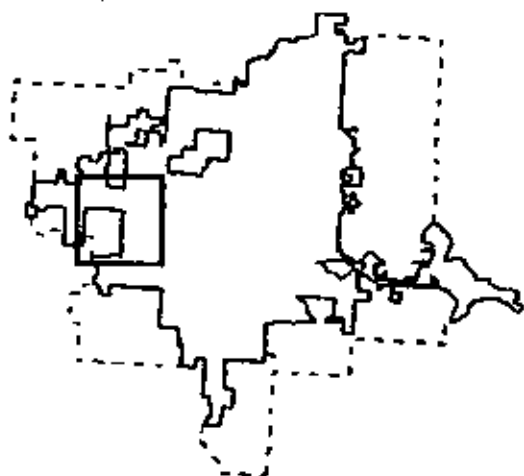
RZN04-1084

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

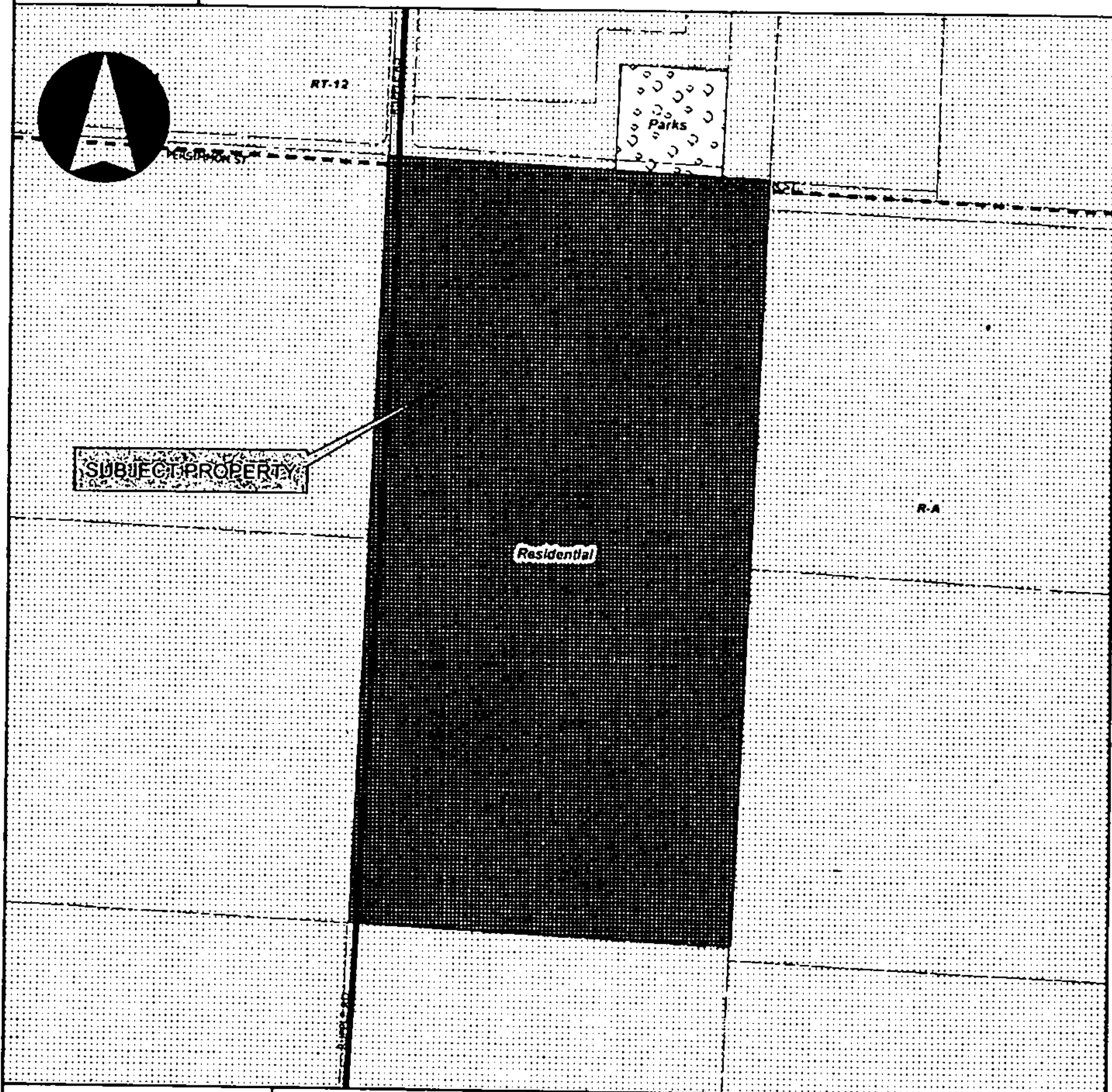
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

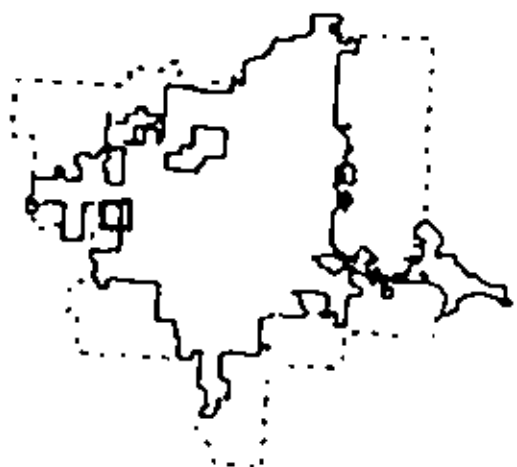
RZN04-1084

Futuro 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 Ruppel 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 Ruppel 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 Ruppel 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 Ruppel 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 Ruppel 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 Ruppel Road issue. As you look at the Master Street Plan today Ruppel 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 Ruppel 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 Ruppel 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 Ruppel 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 Ruppel 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 Ruppel 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 Ruppel 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

Planning Commission
June 28, 2004
Page 78

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

B.10.
RZN 04-1084 (Marinoni)
Page 20 of 20 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

July 20, 2004

FROM:

Dawn WarrickPlanningCP&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 Ruppel 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*[Signature]* 7/7/04
City Attorney Date

Received in Mayor's Office

7-7-04
Date *AM*_____
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



CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: June 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 54TH 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 <u>YES</u>	☒ Approved	☐ Denied
Date: <u>June 28, 2004</u>	Shankelford ⁰ /Vaught ⁰	7-2	
CITY COUNCIL ACTION:	Required <u>YES</u>	☒ Approved	☐ Denied
Date: <u>July 20, 2004</u>			

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 Ruppel 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	72/year	29/year	43/year
RZN 04-1084	Marinoni									
ANX 04-1090	Hays		37.3	Future FS 7	1.97 miles	4-5 minutes	4-6.5 minutes	34/year	13/year	21/year
RZN 04-1091	Hays							2/year	80/year	1.2/year
RZN 04-1099	Brisiel		9.99	Future FS 7	2.13 miles	5-6 minutes	5-6 minutes			
ANX 04-1100	Harper/Brandon			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			FS 1	0.337 miles	1 minute	1 minute	9/year	3/year	6/year
RZN 04-1102	Bradberry/Woolv.			FS 2	0.633 miles	3-4 minutes	3-4 minutes			
RZN 04-1103	Collins			FS 5	3.11 miles	8-9 minutes	8-9.5 minutes	5/year	2/year	3/year
RZN 04-1104	Goff			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	16/year	6/year	10/year

Insufficient Data for Calculations



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

B. 11.
ANX 04-1090 (Hays)
Page 12 of 32

POLICE DEPARTMENT

June 18, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

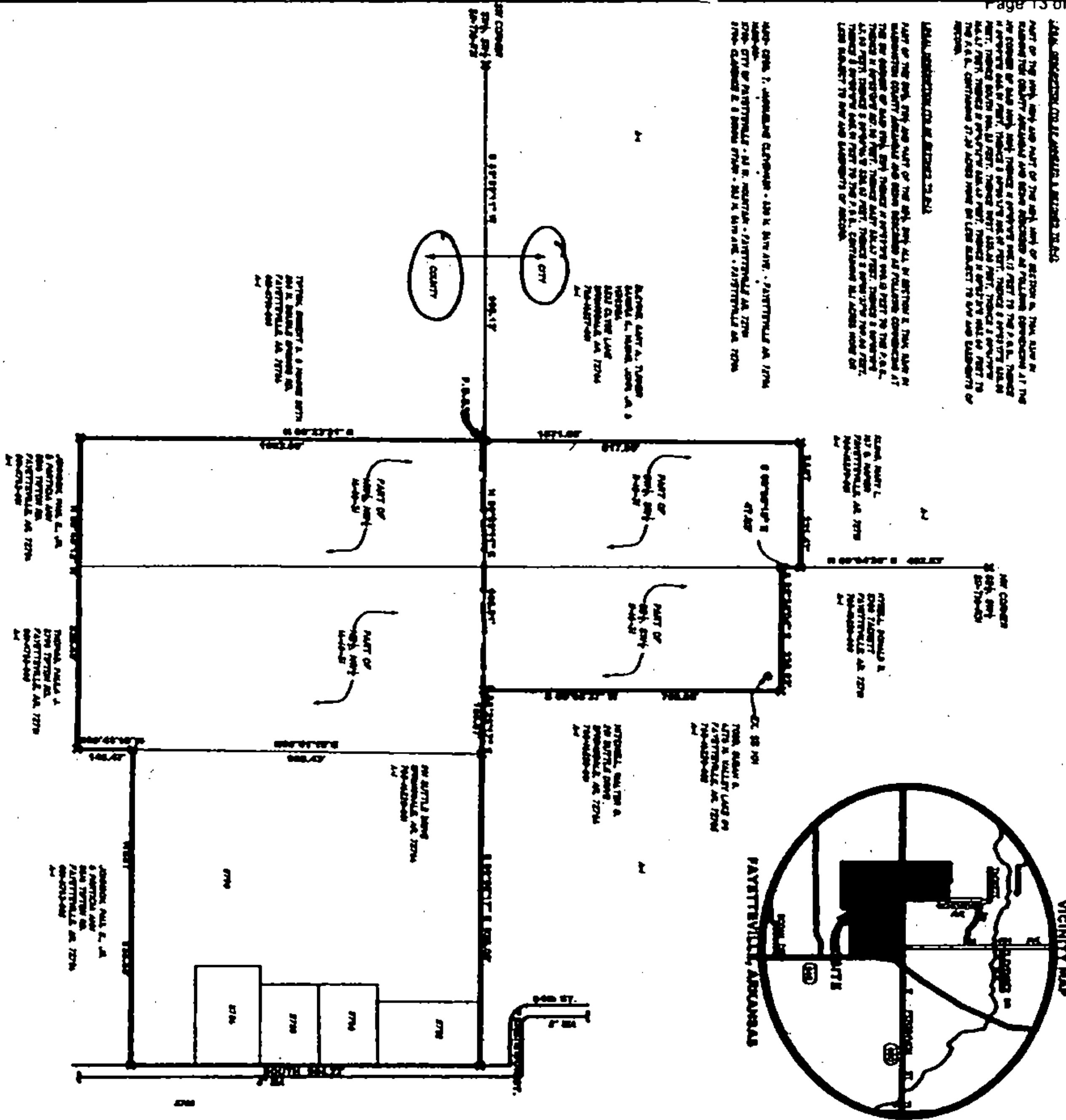
This document is in response to the request for a determination of whether the proposed Annexation ANX 04-1090 (Hays Family Development, LLLP, pp 475) and Rezoning RZN 04-1091 (Hays Family Development, LLLP, pp 475) submitted by James McCord for property located west of 54th Ave. Adjoining extension 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,

A handwritten signature in black ink, appearing to read "William Brown", is written over the typed name.

Lieutenant William Brown
Fayetteville Police Department



JORGENSEN & ASSOCIATES
 CIVIL ENGINEERS • SURVEYORS

101 WEST SUBURBIDE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 583-0803

SCALE: N.T.S.	DATE REVISED	CHECKED BY:	DRAWN BY:
DATE: 23MAY03	29JAN04	DLJ	LP4\HAYS\HAYS
ANNEXATION \ REZONING FOR			
J.B. HAYS			

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

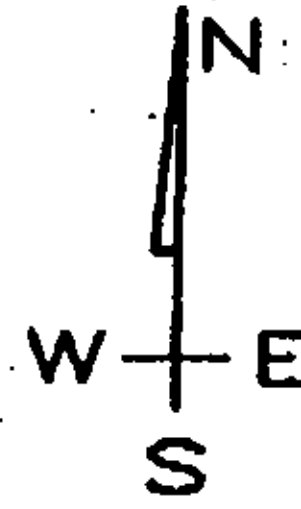
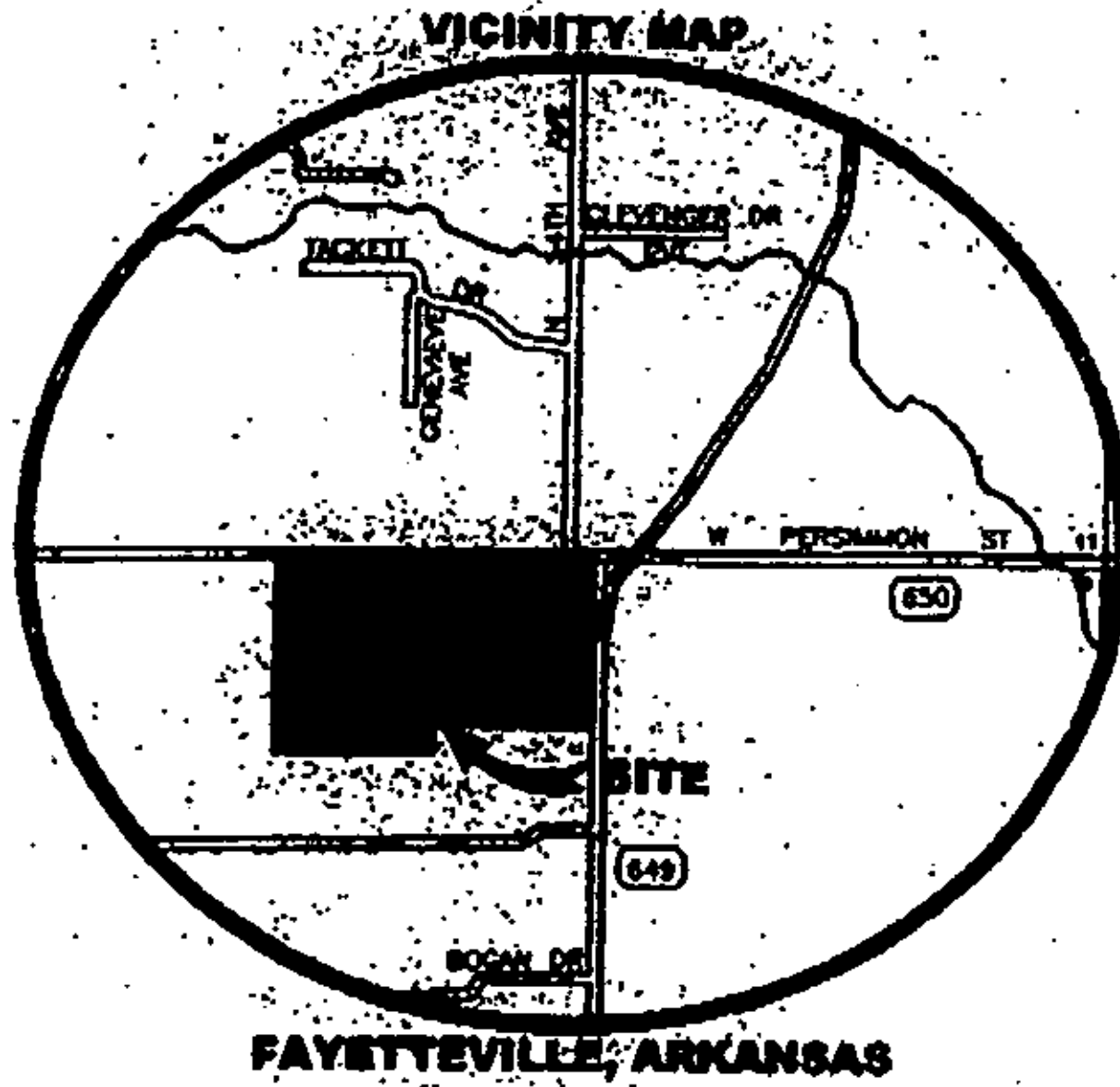
Hays Family Development, LLLP

By: J.B. Hays
J.B. Hays, General Partner

"A"

LEGAL DESCRIPTION (TO BE ANNEXED)

PART OF THE NW $\frac{1}{4}$, NW $\frac{1}{4}$ AND PART OF THE NE $\frac{1}{4}$, NW $\frac{1}{4}$ OF SECTION 14, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW $\frac{1}{4}$, NW $\frac{1}{4}$ 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 57.30 ACRES MORE OR LESS SUBJECT TO R/W AND EASEMENTS OF RECORD.



WOW ST.



11780

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

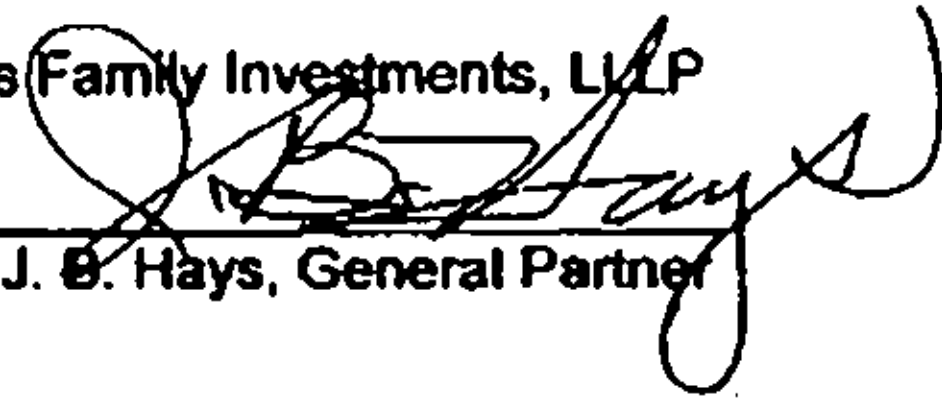
11785
TRACY L. & HOLLY A. THOMAS
425 N. 54TH AVE.
FAYETTEVILLE, AR. 72704

11784
RANDALL G. & PEGGY J. LYNCH
P.O. BOX 124
FARMINGTON, AR. 72730

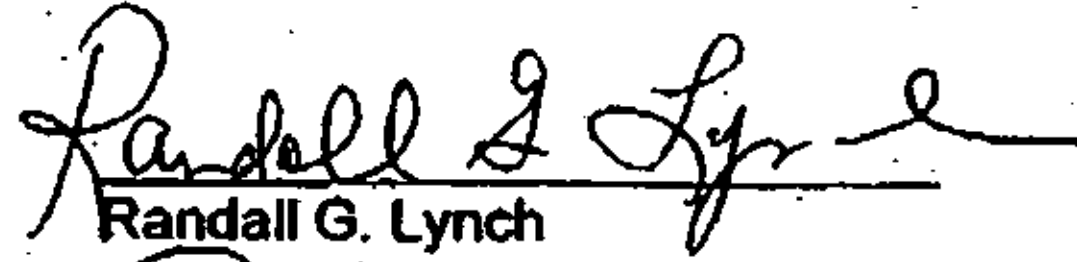
11790
HAYS FAMILY DEV. LLP
HAYS FAMILY INVESTMENTS. LLP
2025 GREEN ACRES ROAD
FAYETTEVILLE, AR. 72703

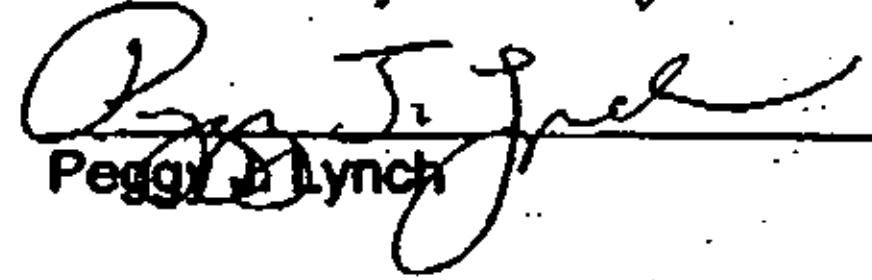
Signature page for Annexation Petition of Hays Family Development, LLLP, et al.

Hays Family Investments, LLLP

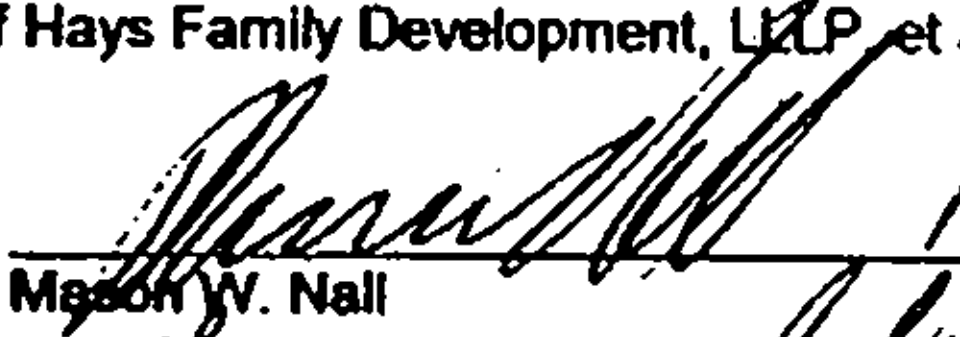
By: 
J. B. Hays, General Partner

Signature page of Annexation Petition of Hays Family Development, LLLP, et al.

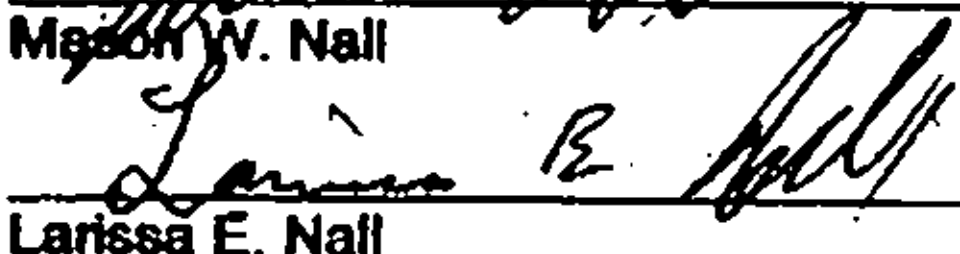

Randall G. Lynch


Peggy J. Lynch

Signature page of Annexation Petition of Hays Family Development, LLP et al.


Mason W. Nall

12-4-03


Larissa E. Nall

12-4-03

Signature page of Annexation Petition of Hays Family Development, LLLP, et al.

Marvin G. Houston
Marvin G. Houston

Frances A. Houston
Frances A. Houston

Signature page of Annexation Petition of Hays Family Trust, LLLP, et al.


Tracy L. Thomas


Holly A. Thomas

IN THE COUNTY COURT OF WASHINGTON COUNTY ARKANSAS

FILED

No. CC-2004-5 04 MAR 29 AM 11 52

**IN RE: PETITION OF HAYS FAMILY DEVELOPMENT, LLLP et al.
TO ANNEX PROPERTY TO CITY OF FAYETTEVILLE, ARKANSAS**

**KAREN COMBS PRATT
CO. & PROBATE CLERK**

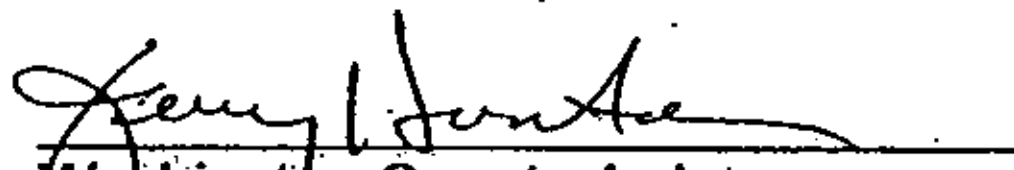
ORDER OF ANNEXATION WASHINGTON CO. ARK.

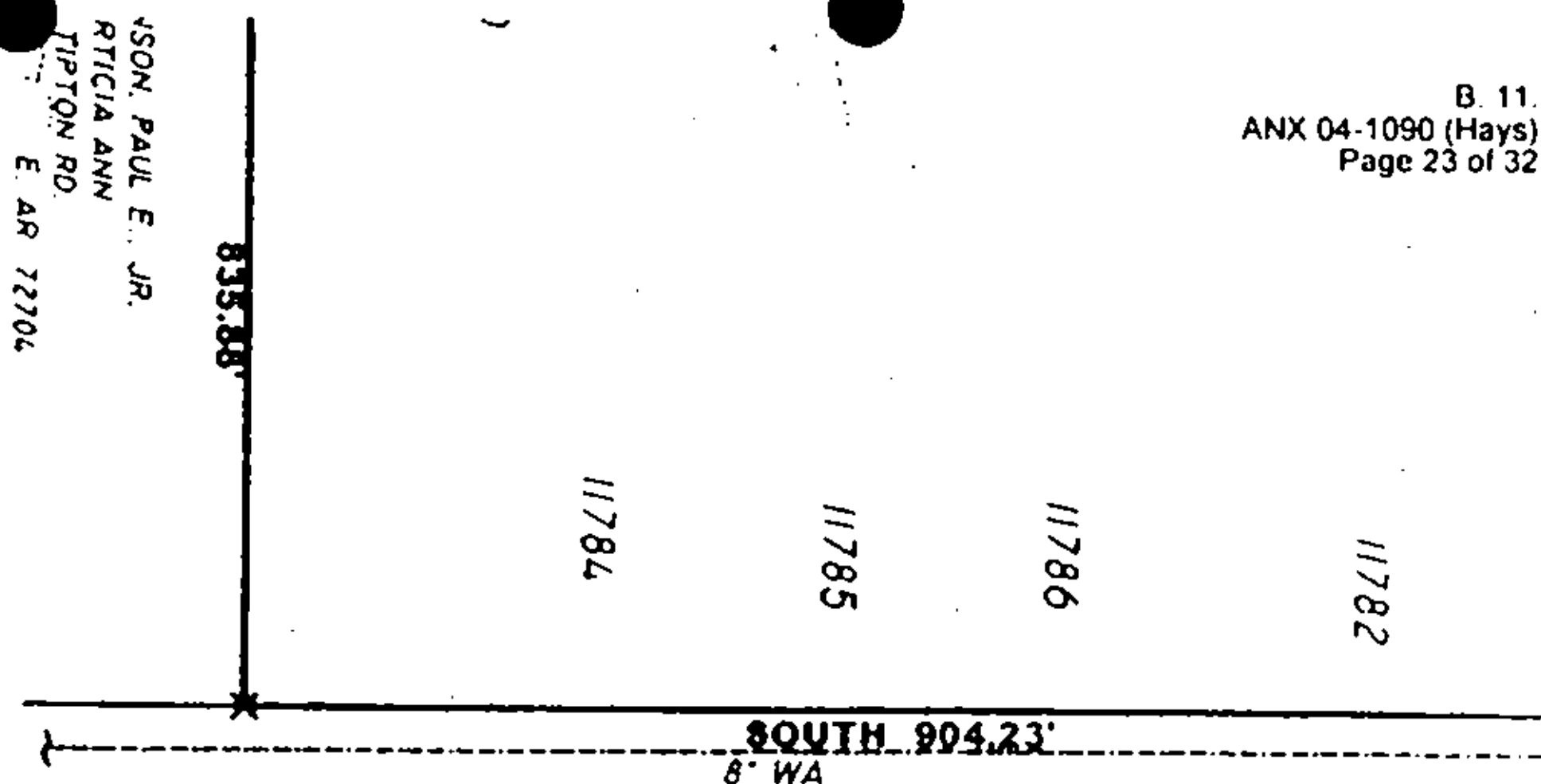
On this 29th day of March, 2004 comes on for hearing before the Washington County Court the Annexation Petition filed by Hays Family Development, LLLP et al. From a review of the case file and the proof, the Court finds:

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 29th day of March, 2004.


Washington County Judge



SON, PAUL E., JR.
RTICIA ANN
TIPTON RD.
E. AR 72706

11780

*** LEGAL DESCRIPTION (TO BE ANNEXED & REZONED TO R-1)**

PART OF THE NW $\frac{1}{4}$, NW $\frac{1}{4}$ AND PART OF THE NE $\frac{1}{4}$, NW $\frac{1}{4}$ OF SECTION 14, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW $\frac{1}{4}$, NW $\frac{1}{4}$ 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 SW $\frac{1}{4}$, SW $\frac{1}{4}$ AND PART OF THE SE $\frac{1}{4}$, SW $\frac{1}{4}$ ALL IN SECTION 11, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SW $\frac{1}{4}$, SW $\frac{1}{4}$ 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.

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 <mspjdaissy@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.

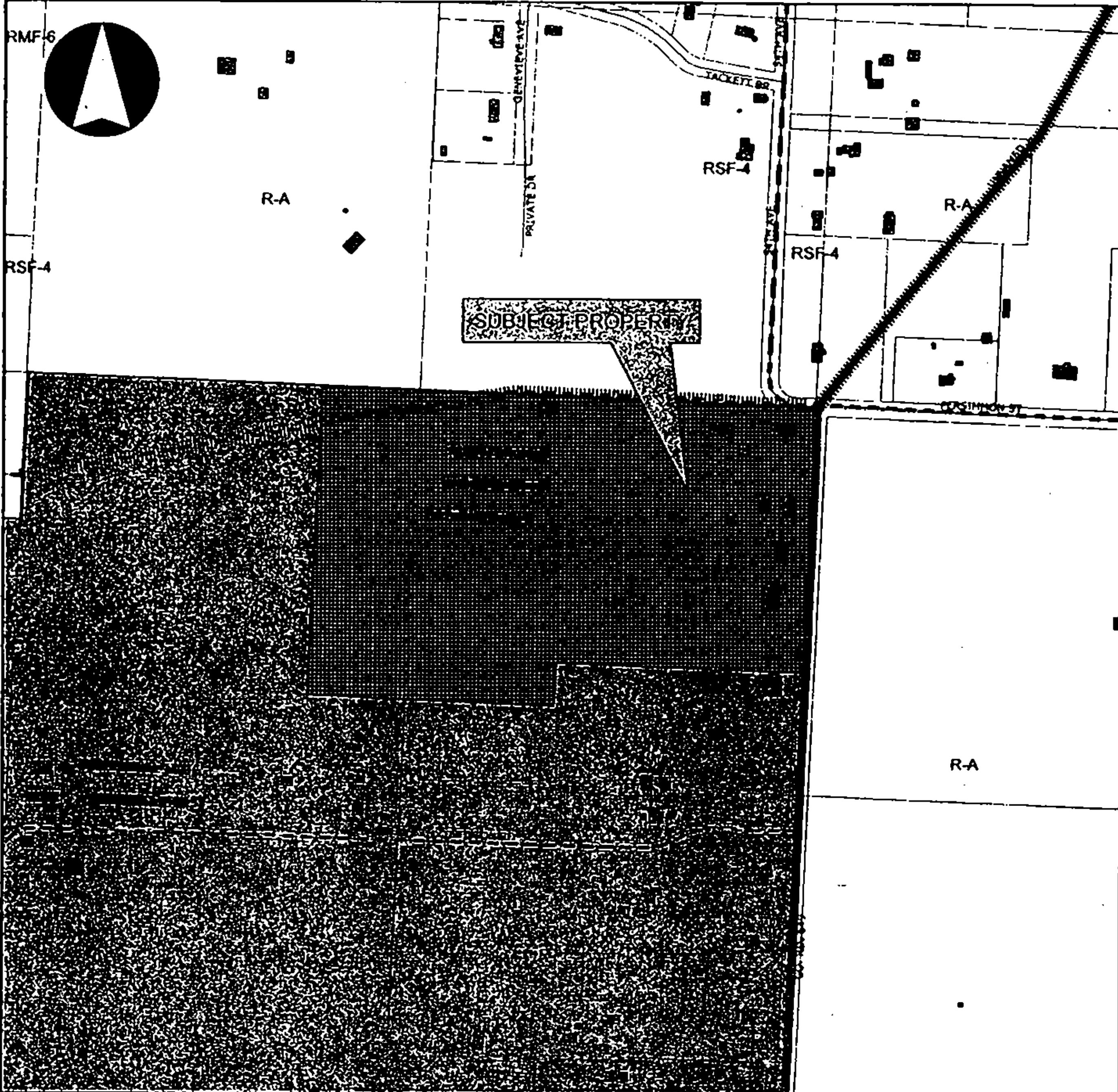
Please, you are the only protection we have...and the last best hope for prairie wildlife that has been here since Peter Van Winkle came to this spot of ground in the 1840s. If you don't care about the native critters, please care about the two-legged road kill this will bring.

Paula Thompson
5790 W. Dot Tipton Road
Fayetteville, AR 72704

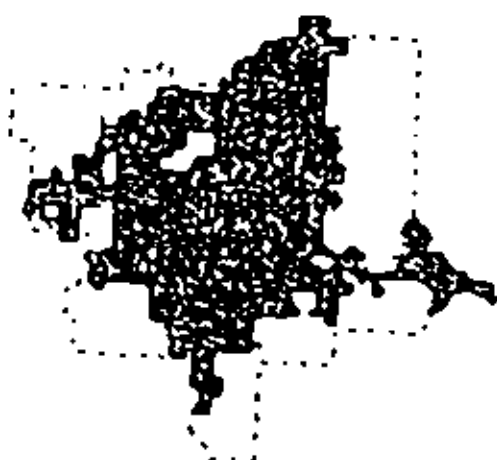
ANX04-1090

HAYS FAMILY DEVELOPMENT, LLLP

Close Up View



Overview



Legend

- | | | |
|-------------------------|--------------------|------------------|
| oooo Overlay District | Principal Arterial | FLOODWAY |
| oooo Master Street Plan | Minor Arterial | 100 YEAR |
| Master Street Plan | Collector | 500 YEAR |
| Freeway/Expressway | Historic Collector | LIMIT OF STUDY |
| | | BaseLine Profile |
| | | ANX04-1090 |
| | | Fayetteville |
| | | Outside City |

0 200 400 800 1,200 1,600 Feet

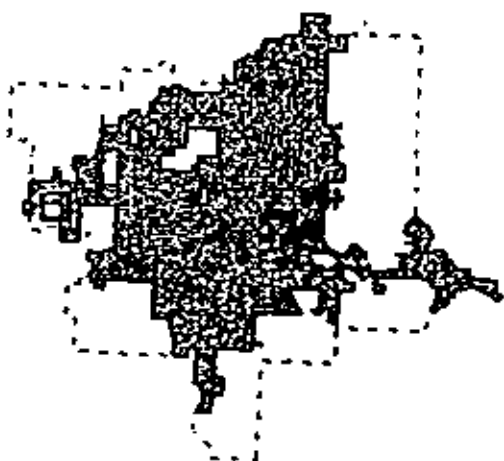
ANX04-1090

HAYS FAMILY DEVELOPMENT, LLLP

Close Up View



Overview



Legend

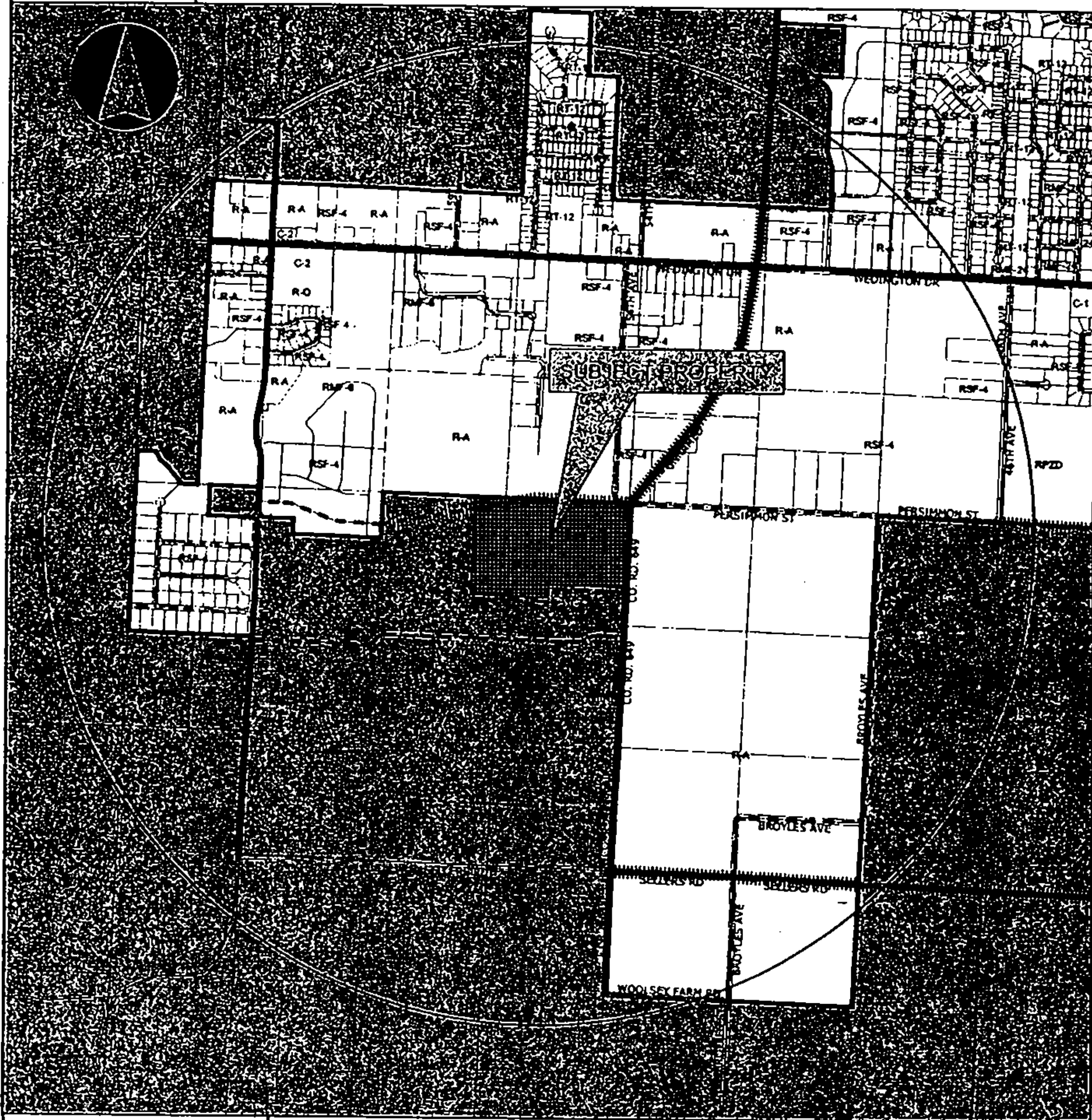
- | | | |
|------------------------------|--------------------------|--------------------|
| ○ ○ ○ ○ ○ Overlay District | ▬ Principal Arterial | ▬ FLOODWAY |
| ○ ○ ○ ○ ○ Master Street Plan | ▬ Minor Arterial | ▬ 100 YEAR |
| ▬ Master Street Plan | ▬ Collector | ▬ 500 YEAR |
| ▬ Freeway/Expressway | ● ● ● Historic Collector | ▬ LIMIT OF STUDY |
| | | ▬ BaseLine Profile |
| | | ▬ ANX04-1090 |
| | | ▬ Fayetteville |
| | | ▬ Outside City |

0 200 400 800 1,200 1,600 Feet

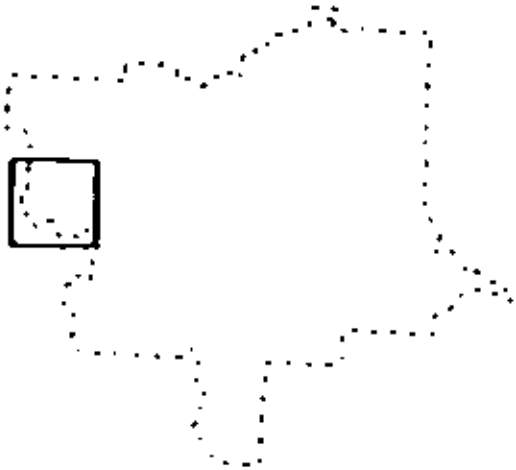
ANX04-1090

HAYS FAMILY DEVELOPMENT, LLLP

One Mile View



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: Renee, 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

B. 11.
ANX 04-1090 (Hays)
Page 32 of 32 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

July 20, 2004

FROM:

Dawn WarrickPlanningCP&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 Warrick
Division Head7/6/04
Date

Received in Mayor's Office

7-7-04
Date *DM**K. Warrick*
City Attorney7/7/04
Date

Department Director

Date

Cross Reference:

Previous Ord/Res#: _____

Finance & Internal Services Dir.

Date

Orig. Contract Date: _____

Hugh Samuels
Chief Administrative Officer7-7-04
Date

Orig. Contract Number: _____

Mayor

Dan Coody
Date

New Item:

Yes

No



CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

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

EXHIBIT "A"
RZN 04-1091

PART OF THE NW $\frac{1}{4}$, NW $\frac{1}{4}$ AND PART OF THE NE $\frac{1}{4}$, NW $\frac{1}{4}$ OF SECTION 14, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW $\frac{1}{4}$, NW $\frac{1}{4}$ 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 $\frac{1}{4}$, SW $\frac{1}{4}$ AND PART OF THE SE $\frac{1}{4}$, SW $\frac{1}{4}$ ALL IN SECTION 11, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SW $\frac{1}{4}$, SW $\frac{1}{4}$ 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.

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 <u>YES</u>
Date: <u>June 28, 2004</u>	☒ Approved ☐ Denied
	Vaughn ^o /Trumbo ^o 6-4
CITY COUNCIL ACTION:	Required <u>YES</u>
Date: <u>July 20, 2004</u>	☐ Approved ☐ Denied

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 Ruppel 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 Ruppel 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

B. 12.
RZN 04-1091 (Hays)
Page 10 of 20

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, LLP, pp 475) and Rezoning RZN 04-1091 (Hays Family Development, LLP, 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,

A handwritten signature in black ink, appearing to read "William Brown".

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	72/year	29/year	43/year
RZN 04-1084	Marinoni									
ANX 04-1090	Hays		37.3	Future FS 7	1.97 miles	4-5 minutes	4-6.5 minutes			
RZN 04-1091	Hays									
RZN 04-1099	Brisel		9.99	Future FS 7	2.13 miles	5-8 minutes	5-6 minutes	34/year	13/year	21/year
ANX 04-1100	Harper/Brandon			FS 4	4.73 miles	13-14 minutes	13-14.5 minutes	2/year	80/year	1.2/year
RZN 04-1101	Harper/Brandon			Future FS 5	3.36 miles	8-9 minutes	8-9.5 minutes			
RZN 04-1102	Bradberry/Woolv.			FS 1	0.337 miles	1 minute	1 minute	9/year	3/year	6/year
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	5/year	2/year	3/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	16/year	6/year	10/year

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, Ruppel 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. A 6" sewer line runs along 54th Street north of the property and would have to be extended by the developer.

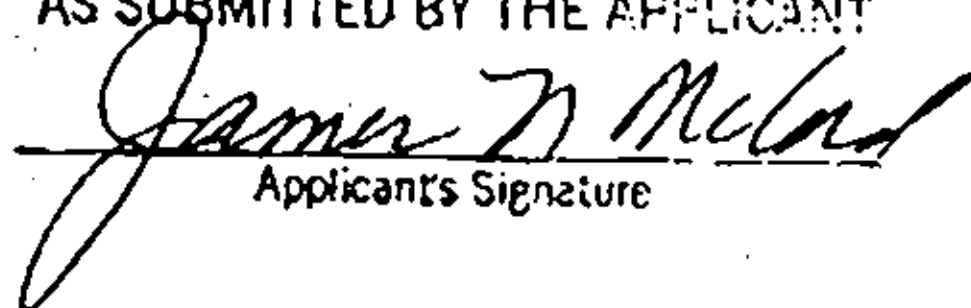
EXHIBIT "A"
RZN 04-1091

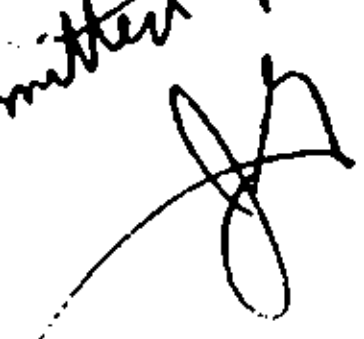
PART OF THE NW ¼, NW ¼ AND PART OF THE NE ¼, NW ¼ OF SECTION 14, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW ¼, NW ¼ THENCE N89°59'11"E 995.13 FEET TO THE P.O.B., THENCE N89°59'11"E 665.91 FEET, THENCE S88°26'17"E 165.07 FEET, THENCE 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 ARKANSAS 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


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 <mspjdaissy@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.

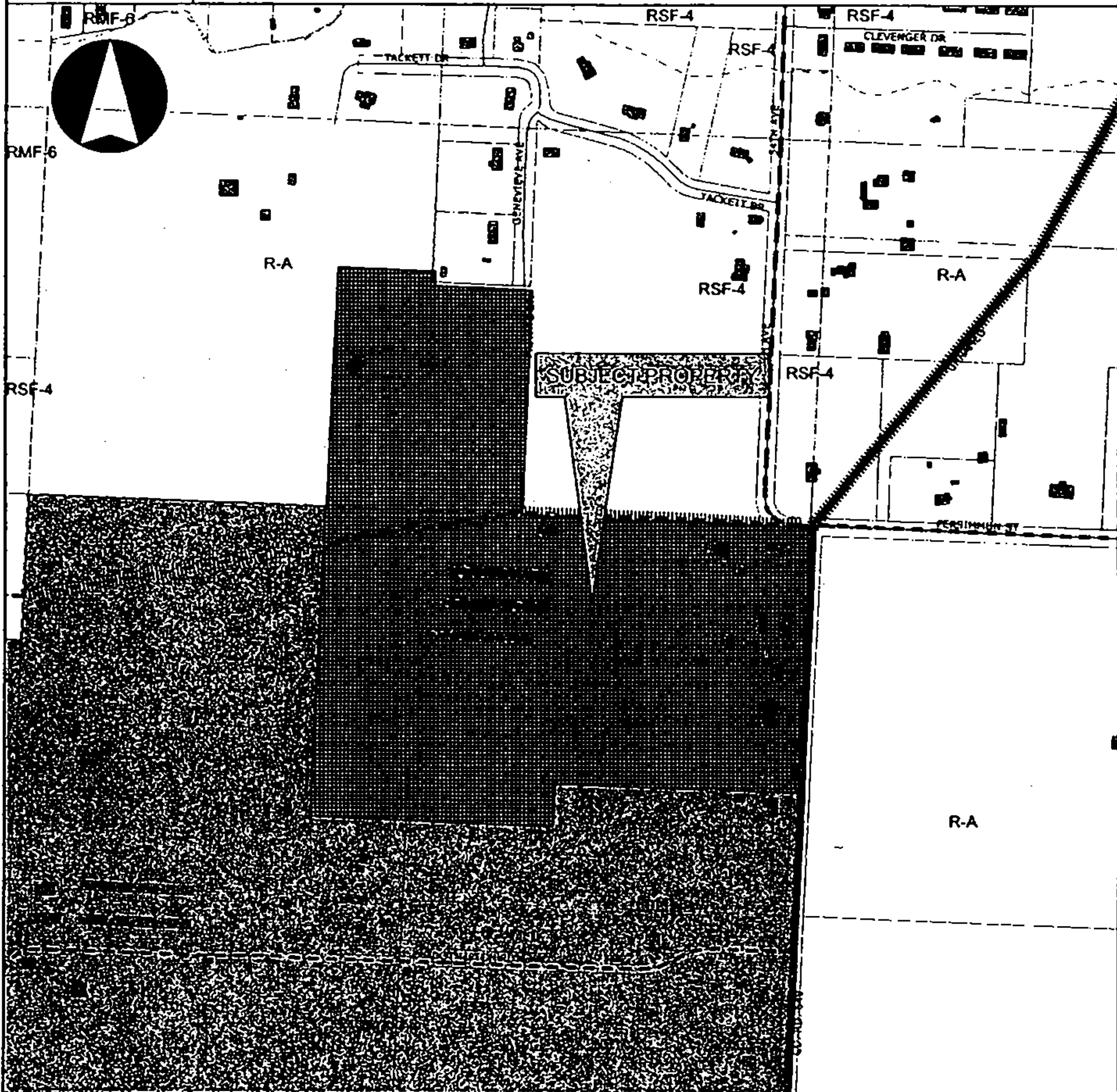
Please, you are the only protection we have...and the last best hope for prairie wildlife that has been here since Peter Van Winkle came to this spot of ground in the 1840s. If you don't care about the native critters, please care about the two-legged road kill this will bring.

Paula Thompson
5790 W. Dot Tipton Road
Fayetteville, AR 72704

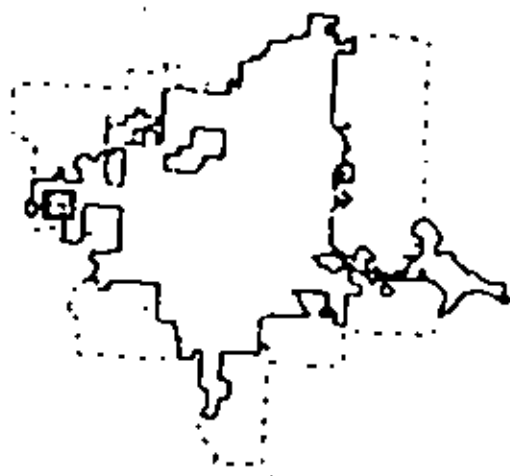
RZN04-1091

HAYS FAMILY DEVELOPMENT, LLLP

Close Up View



Overview



Legend

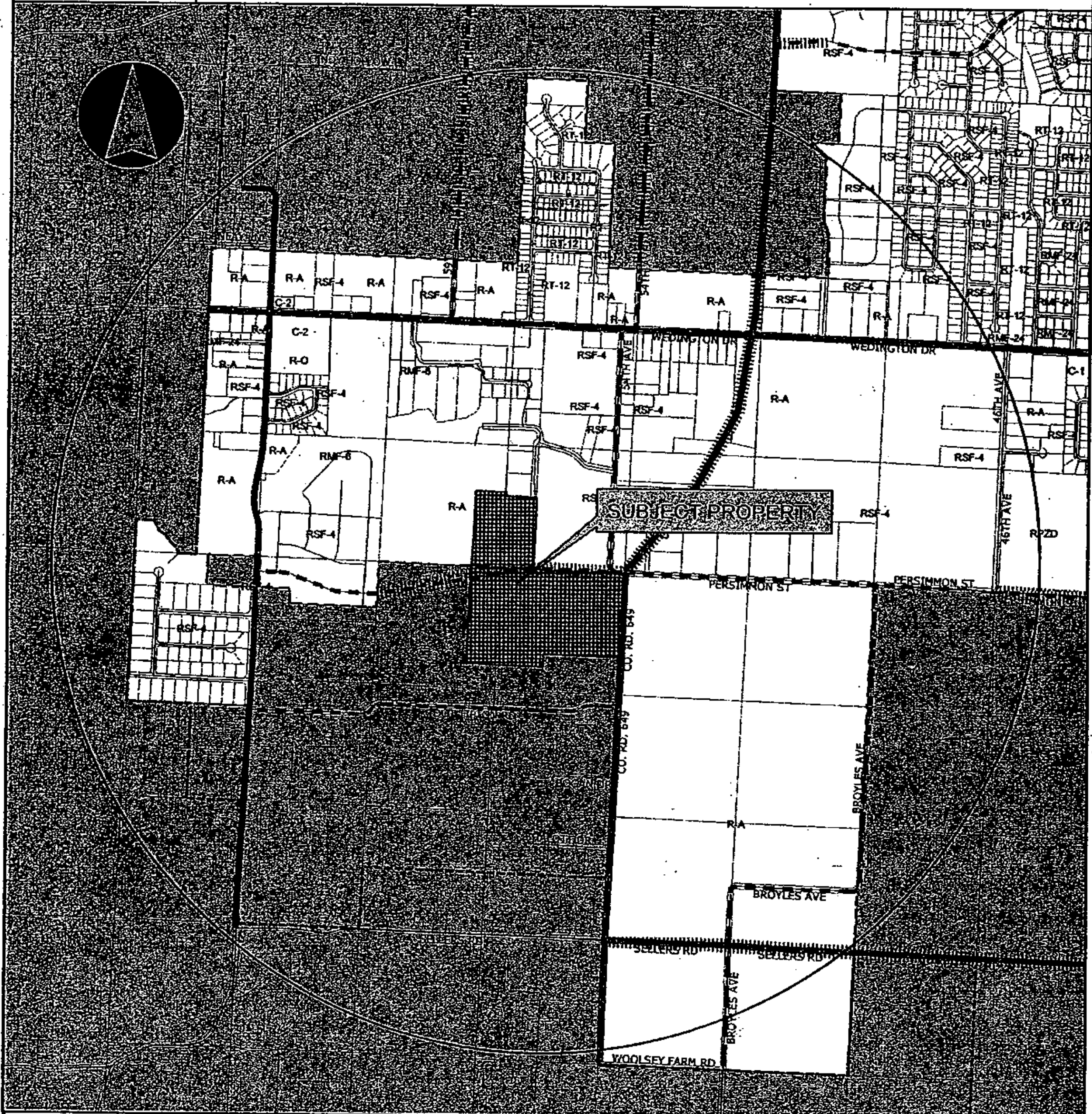
○ ○ ○ ○ ○ Overlay District	▬ Principal Arterial	▬ FLOODWAY
▬ Master Street Plan	▬ Minor Arterial	▬ 100 YEAR
▬ Master Street Plan	▬ Collector	▬ 500 YEAR
▬ Freeway/Expressway	● ● ● Historic Collector	▬ LIMIT OF STUDY
	▬ City Limits	▬ Base Line Profile
	▬ Outside City	▬ RZN04-1091

0 200 400 800 1,200 1,600 Feet

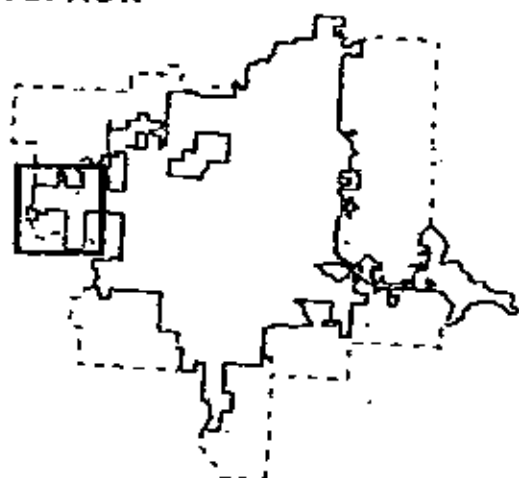
RZN04-1091

HAYS FAMILY DEVELOPMENT, LLLP

One Mile View



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

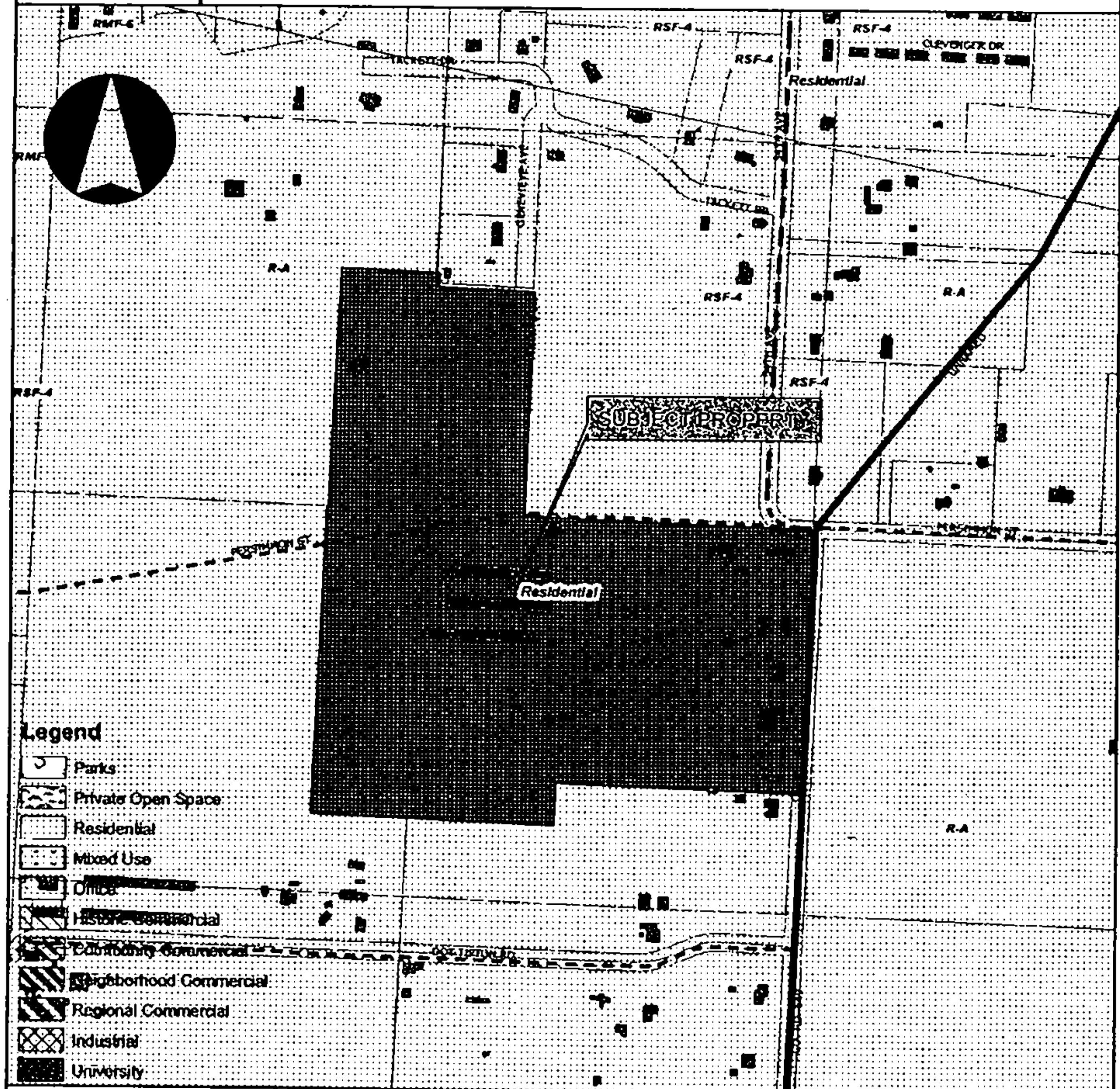
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN04-1091

Future Land Use

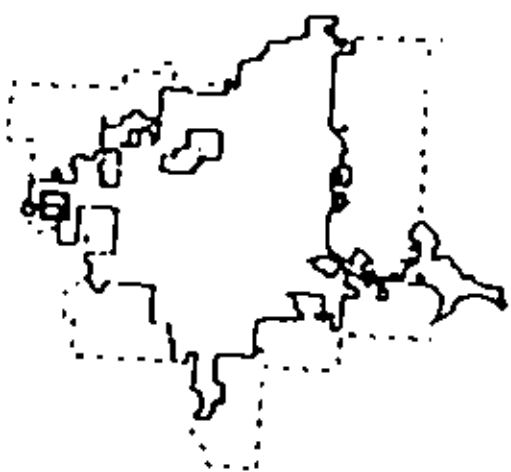
HAYS FAMILY DEVELOPMENT, LLLP



Legend

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

Overview



Legend

Subject Property

- RZN04-1091

Streets

- Existing
- Planned

Boundary

- Planning Area
- Overlay District
- City Limits
- Outside City

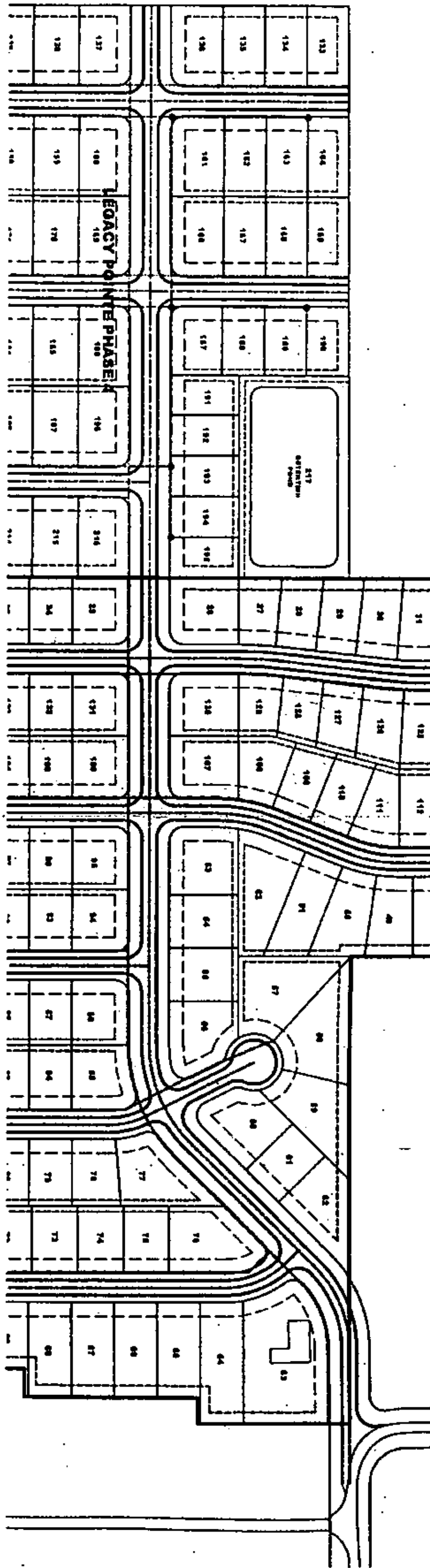
Master Street Plan

- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector



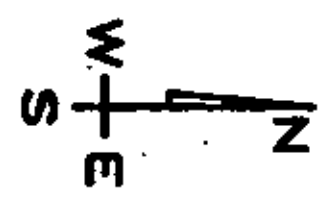
LEGACY POINTE PHASE 3

B. 12.
RZN 04-1091 (Hays)
Page 18 of 20



HAYS

Hays



JORGENSEN & ASSOCIATES CIVIL ENGINEERS • SURVEYORS	SCALE: N.T.S.	DATE REVISED:	CHECKED BY:	DRAWN BY:
	DATE: 11/1/2004		DLJ	DLJ
PRELIMINARY LAYOUT				
				1

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

8. 12.
RZN 04-1091 (Hays)
Page 19 of 20 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

July 20, 2004

FROM:

Dawn WarrickPlanningCP&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 I. Warrick 7/6/04
Division Head Date*[Signature]* 7/7/04
City Attorney Date

Received in Mayor's Office

7-7-04
Date *gm*

Department Director Date

Finance & Internal Services Dir. Date

Muel Sarmento 7-7-04
Chief Administrative Officer Date*Jim Cordy* 7/7/04
Mayor Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item:

Yes

No



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: 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

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°19'50"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 121.86 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.

Submitted on behalf of: MIKE LAMBERTH

Property Owner: DASH GOFF
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 <u>YES</u>	☐ Approved	☒ Denied
Date: <u>June 28, 2004</u>			
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Approved	☒ Denied
Date: <u>July 20, 2004 (1st reading if recommended)</u>			

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 Stonebridge Meadows Phase II (PPL under construction)	R-A, Residential Agricultural 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:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

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

(G) *Building area.* None.

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

B. 13.
RZN 04-1104 (Goff)
Page 11 of 22



PHONE (479) 521-3179

1411 W. VAN ASCHE
FAYETTEVILLE, ARKANSAS 72704

City of Fayetteville
113 West Mountain Dr.
Fayetteville, Arkansas 72701

May 19, 2004

Attn: Planning Commission

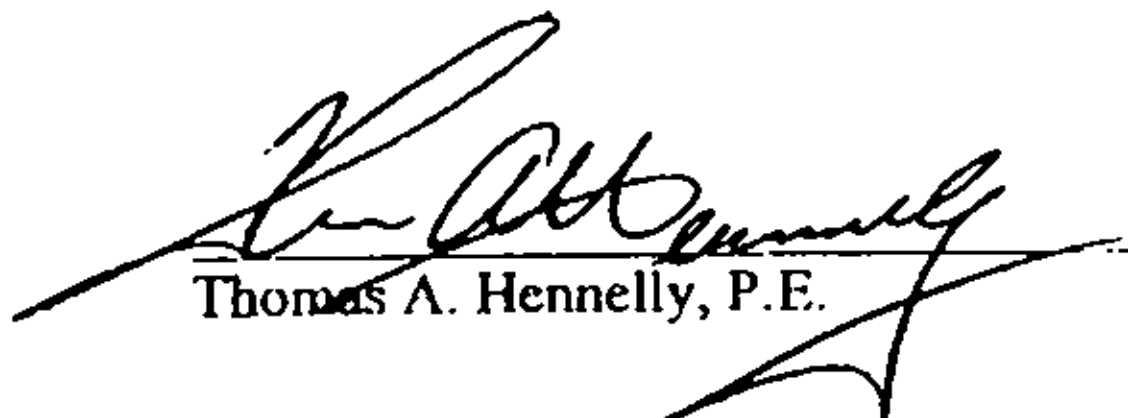
RE: Lamberth/Carlton Rezoning

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 1/2 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

B. 13.
RZN 04-1104 (Goff)
Page 12 of 22



PHONE (479) 521-3179

1411 W. VAN ASCHE
FAYETTEVILLE, ARKANSAS 72704

City of Fayetteville
113 West Mountain Dr.
Fayetteville, Arkansas 72701

May 19, 2004

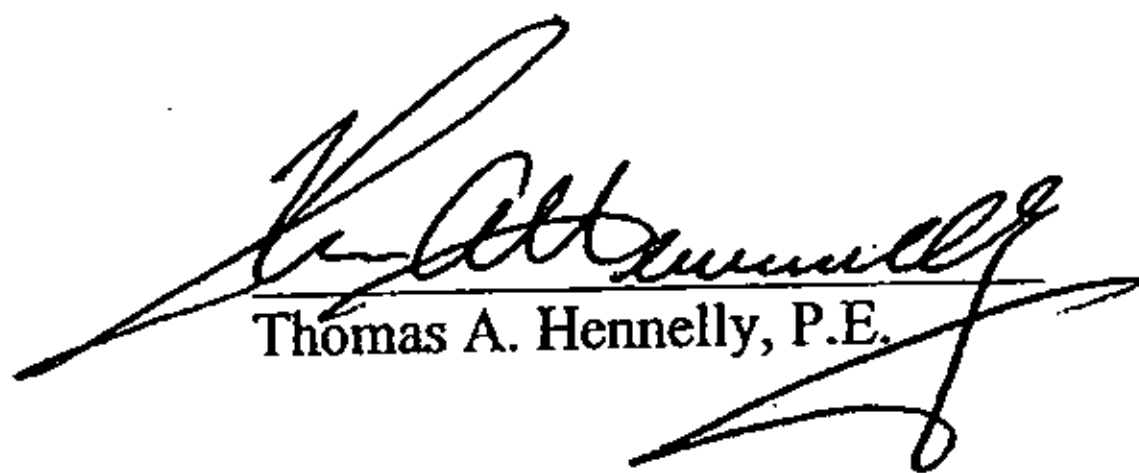
Attn: Planning Department

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,

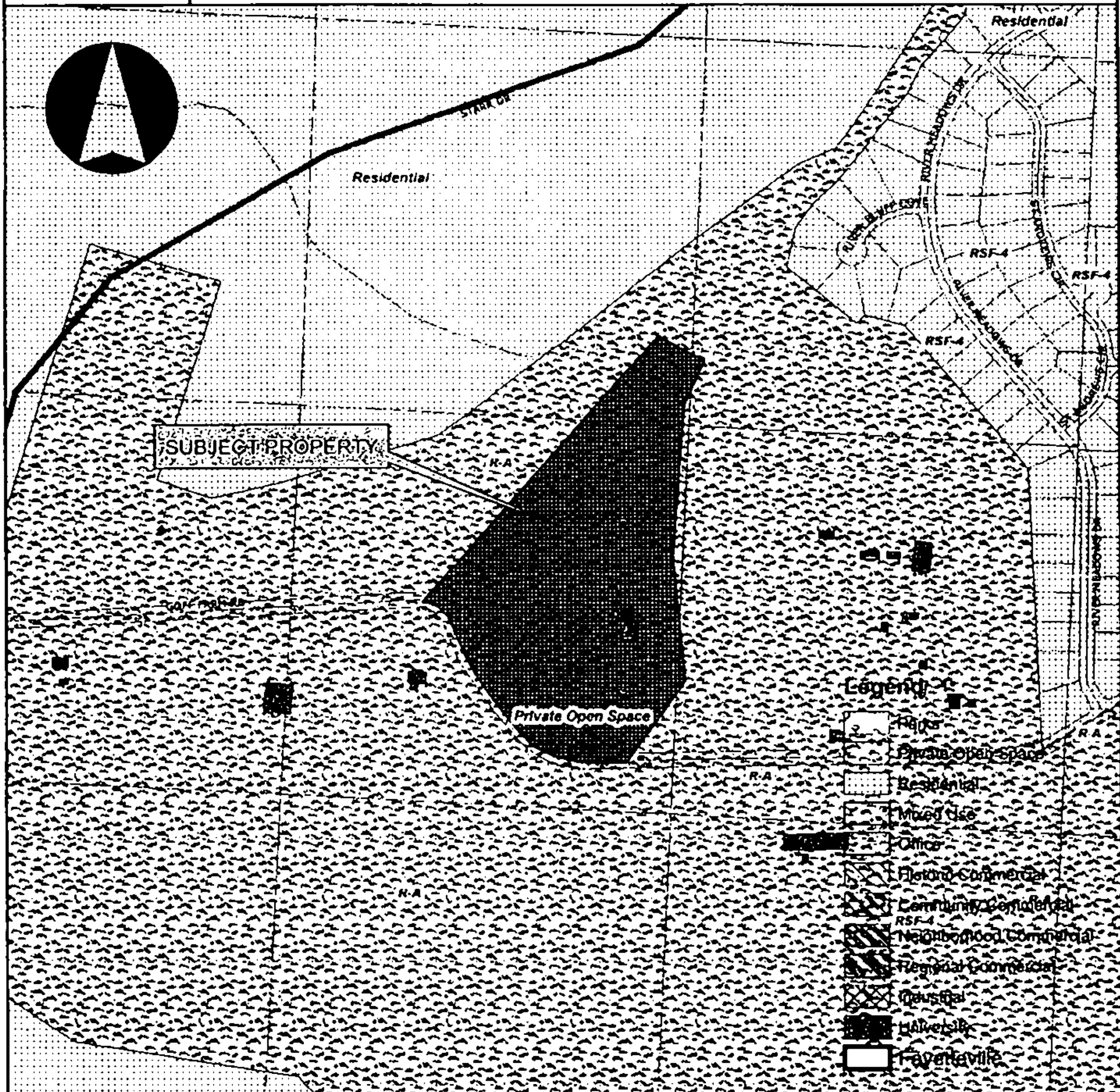


Thomas A. Hennelly, P.E.

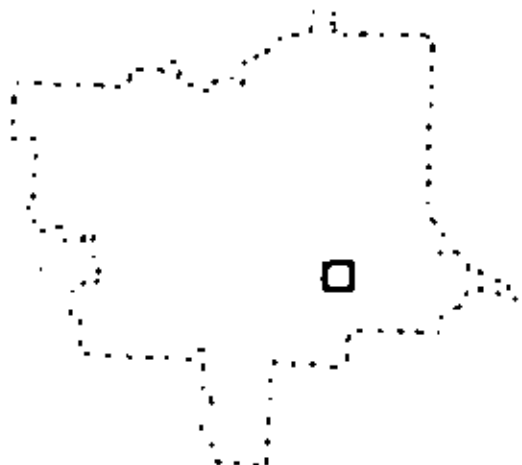
RZN04-1104

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

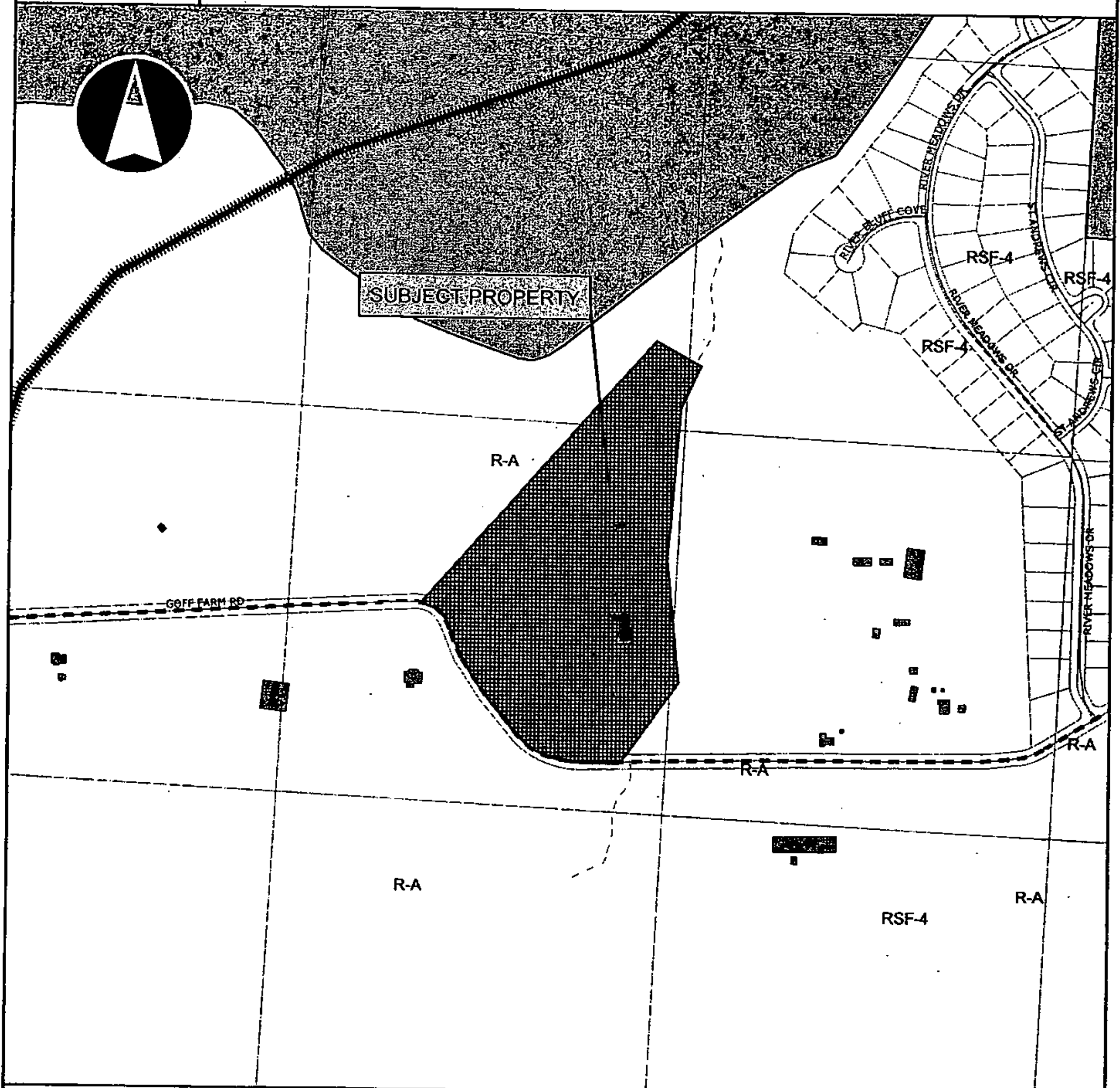
Historic Collector

0 200 400 800 1,200 1,600 Feet

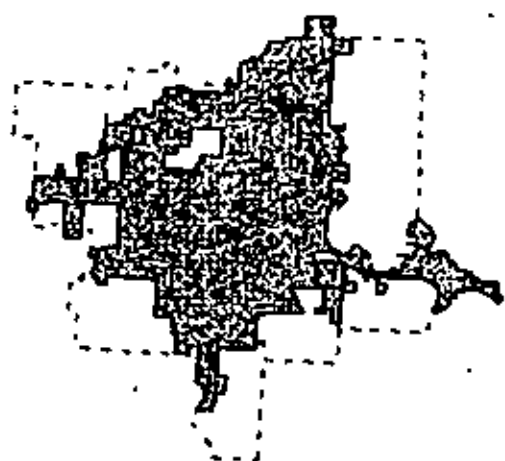
RZN04-1104

Close Up View

GOFF



Overview



Legend

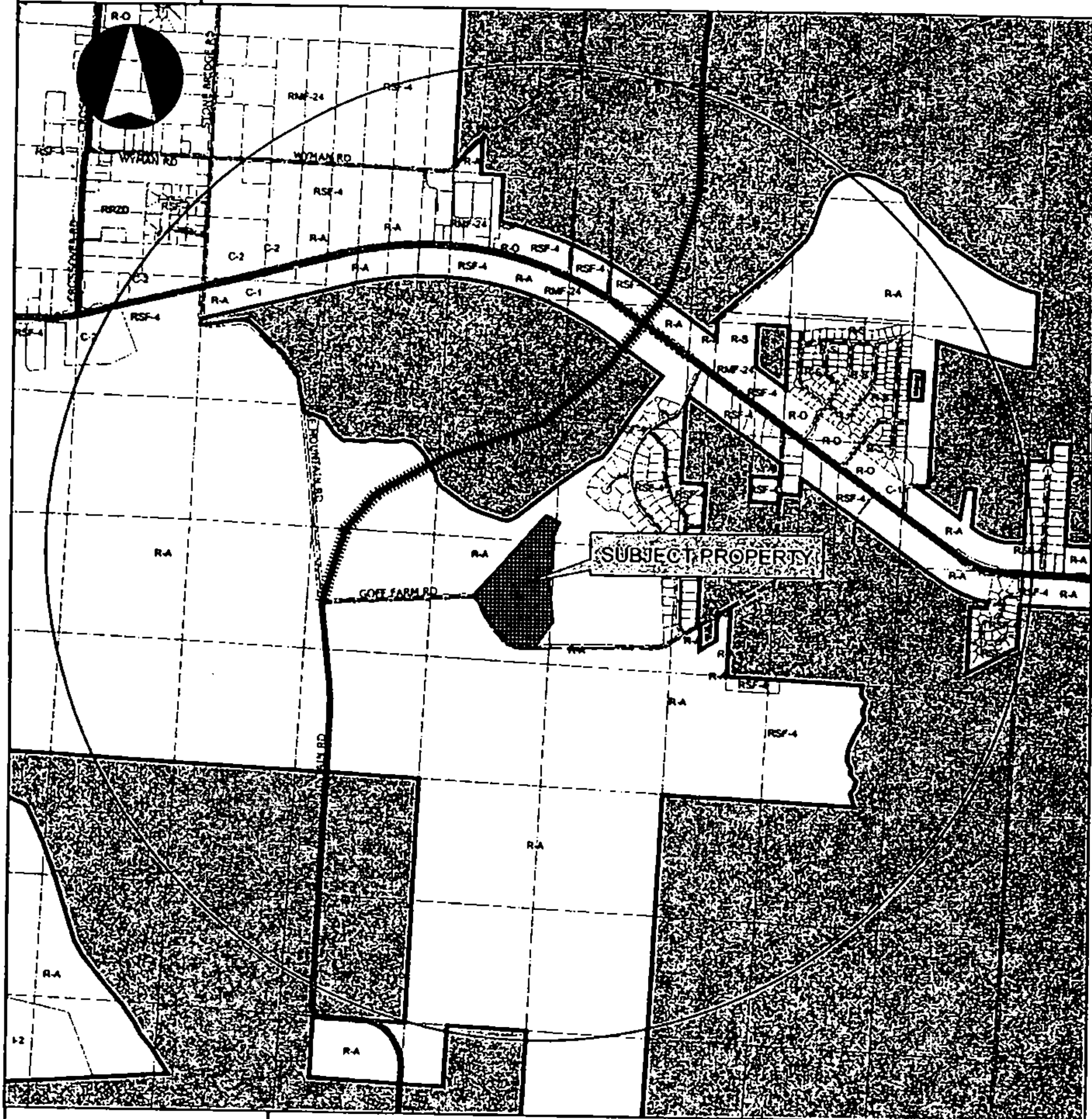
- | | | |
|----------------------|----------------------|--------------------|
| ○ Overlay District | ▨ Principal Arterial | — FLOODWAY |
| Master Street Plan | ▨ Minor Arterial | — 100 YEAR |
| Master Street Plan | ▨ Collector | — 500 YEAR |
| ▨ Freeway/Expressway | ● Historic Collector | ▨ LIMIT OF STUDY |
| | | ▨ BaseLine Profile |
| | | ▨ RZN04-1104 |
| | | ▨ Fayetteville |
| | | ▨ Outside City |

0 200 400 800 1,200 1,600 Feet

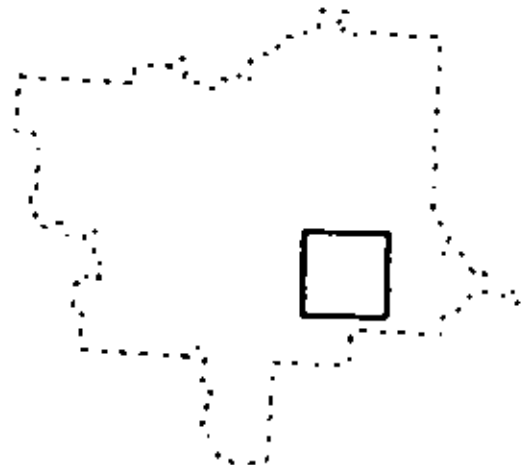
RZN04-1104

GOFF

One Mile View



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

Planning Commission
June 28, 2004
Page 88

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.

Planning Commission
June 28, 2004
Page 89

- 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

Planning Commission
June 28, 2004
Page 90

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.

B. 13
RZN 04-1104 (Goff)
Page 21 of 22

July 20, 2004

Department

ENTERED
7/6/04
JH

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 16, 2004

SUBJECT: Approval of AIP-32, 95% grant from the FAA and SAAG 5% matching grant from the State of Arkansas Department of Aeronautics to fund the project to construct Taxiway "A" and Taxiway "E" extensions at the Fayetteville Municipal Airport, Drake Field.

RECOMMENDATION: Approve application and acceptance of grants to construct Taxiway A and Taxiway E extensions in support of the USDA Forest Service Fire Base construction project.

BACKGROUND: The FAA has notified the City of Fayetteville that funds are available through FAA AIP-32 95% grant for this project. The Arkansas Department of Aeronautics provides 5% matching grants to airports that have been approved for federal funding through FAA grants.

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
FAA AIP-32 grant application
Arkansas Department of Aeronautics SAAG Grant Application

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 AUTHORIZING THE AVIATION & ECONOMIC DEVELOPMENT DIVISION TO APPLY FOR AND ACCEPT AN AIRPORT IMPROVEMENT PROGRAM GRANT (AIPG) FROM THE U.S. FEDERAL AVIATION ADMINISTRATION IN THE AMOUNT OF \$657,299.00; AND AN ARKANSAS DEPARTMENT OF AERONAUTICS GRANT IN THE AMOUNT OF \$34,595.00 FOR THE TAXIWAY "A" & "E" EXTENSION PROJECT IN SUPPORT OF THE USDA FOREST SERVICE FIRE TANKER BASE.

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 Aviation & Economic Development Division to apply for and accept an Airport Improvement Program Grant (AIPG) from the U.S. Federal Aviation Administration in the amount of \$657,299.00 and an Arkansas Department Of Aeronautics Grant in the amount of \$34,595.00 for the Taxiway "A" & "E" Extension Project in support of the USDA Forest Service Fire Tanker Base.

PASSED and APPROVED this 3rd day of August 2004.

APPROVED

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

ARKANSAS DEPARTMENT OF AERONAUTICS
APPLICATION FOR STATE AIRPORT AID

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

Date of Request: July 16, 2004

Name of Airport: Fayetteville Municipal Airport (Drake Field)

Name and address of City/County Commission sponsoring request:

Airport Department Person to Contact about project:

4500 South School, Suite F Ray M. Boudreaux, Director

Fayetteville, AR 72701

Phone/~~Fax~~ Number: (479) 718-764 ~~Phone~~/Fax Number: (479) 718-7646

Name and address of Engineering Firm (If Applicable):

McClelland Consulting Engineers, Inc. Contact Person: Wayne Jones

1810 N. College, P.O. Box 1229

Fayetteville, AR 72702-1229 Phone/Fax Number: (479) 443-2377

-fax: (479) 443-9241

Describe the work to be accomplished: _____

Extend east side parallel Taxiway and construct connecting

Taxiway to Runway (see attached map) and Bid Tabulation

State and Local Project Costs:
Please indicate: X 50-50% Match
 75-25% Match
X 95- 5% Match

Federal AIP Projects:

N/A

Total Cost of Project _____
Local Share/Funds _____
Local Share/In-Kind _____
State Share _____

Total Cost of Project 692,039
Federal Share (95%) 657,437
Local Share _____
State Share (5%) 34,602

State Airport Aid Application
Page Two

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

Funds:

Source of Funds FAA Grant (95%)

Source of In-Kind Services

Estimate starting date of project: 8-15-04

Estimate completion date of project: 3-31-05

Project will be for: New Airport Existing Airport X

Is land to be leased or purchased? N/A

Description of land and cost per acre: N/A

Provide the Federal AIP Grant Number (AIP Projects Only)

3-05-0020-032-2004

State Representatives for your area:

State Senator Sue Madison

State Representative Bill Pritchard (District 8)

State Airport Aid Application
Page Three

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

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

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

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

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

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

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

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

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

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

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this _____ day of July, 2004.

City of Fayetteville

Name of Sponsor

Authorized Signature

Title

Don Cook Mayor

F-1

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

TAXPAYER ID #: SOCIAL SECURITY NUMBER OR FEDERAL ID NUMBER SUBCONTRACTOR: SUBCONTRACTOR NAME:

☐ Yes ☐ No

IS THIS FOR:

☐ Goods? ☐ Services? ☐ Both?

TAXPAYER ID NAME:

YOUR LAST NAME:

M.I.:

FIRST NAME:

ADDRESS:

CITY: STATE: ZIP CODE: COUNTRY:

AS A CONDITION OF RENEWING OR OBTAINING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held (sonator, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and how are they related to you? (i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)	Relation
	Current	Former		From MM/YY	To MM/YY		
General Assembly	(1)	(2)					
Constitutional Officer	(3)	(4)					
State Board or Commission Member	(5)	(6)					
State Employee	(7)	(8)					

☐ (9) None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held (sonator, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?	Ownership Interest (%)	Position of Control
	Current	Former		From MM/YY	To MM/YY			
General Assembly	(A)	(B)						
Constitutional Officer	(C)	(D)						
State Board or Commission Member	(E)	(F)						
State Employee	(G)	(H)						

☐ (I) None of the above applies

*NOTE: PLEASE LIST ADDITIONAL DISCLOSURES ON SEPARATE SHEET OF PAPER IF MORE SPACE IS NEEDED

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

F-2

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.

2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.

3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature [Signature] Title Mayor Date 7/16/04
Entity Contact Person _____ Title _____ Phone No. _____

AGENCY USE ONLY

Agency Number _____ Agency Contact Name _____ Person _____ Contact Phone No. _____ Contract or Grant No. _____

FORMS AVAILABLE FROM OFFICE OF DISCLOSURE AND REVIEW (501) 682-5407

*NOTE: PLEASE LIST ADDITIONAL DISCLOSURES ON SEPARATE SHEET OF PAPER IF MORE SPACE IS NEEDED

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

DOT/FAA AIP Grant

Page 8 of 30

1. TYPE OF SUBMISSION: Application ☒ Construction ☐ Non-Construction	Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED July 2004	Applicant Identifier FY042110
		3. DATE RECEIVED BY STATE	State Application Identifier AID-3-05-0020-032-2004
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

3. APPLICANT INFORMATION

Legal Name: City of Fayetteville	Organizational Unit: Airport Department
Address (give city, county, state, and zip code): Airport Department 4500 S. School, Suite F Fayetteville, AR 72701	Name and telephone number of the person to be contacted on matters involving this application (give area code): Ray Boudreaux, Director of Aviation 479-718-7642

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

7 1 — 6 0 1 8 4 6 2

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

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

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

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

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

9. NAME OF FEDERAL AGENCY:

DOT FAA SW Region, Ft. Worth, TX

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

2 0 1 0 6

TITLE: Airport Improvement

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

Extend Eastside Parallel Taxiway "A" to connecting Taxiway "E" and construct Taxiway "E" from Runway to Taxiway "A"

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

Washington County, Arkansas

13. PROPOSED PROJECT:

Start Date
8-15-04

Ending Date
3-31-05

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant
Third

b. Project

Third

15. ESTIMATED FUNDING:

a. Federal	\$ 657,299.00
b. Applicant	\$ 145.00
c. State	\$ 34,595.00
d. Local	\$.00
e. Other	\$.00
f. Program Income	\$.00
g. TOTAL	\$ 692,039.00

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

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

DATE

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

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes ☒ If "Yes," attach an explanation.

☐ No

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

a. Typed Name of Authorized Representative Dan Coody	b. Title Mayor	c. Telephone number 479-575-8330
d. Signature of Authorized Representative 	e. Date Signed 7/16/04	

Previous Editions Not Usable

Standard Form 424 (REV. 1-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 80-R0184

PART II

PROJECT APPROVAL INFORMATION
SECTION A

Item 1.

Does this assistance request require State, local, regional, or other priority rating?

_____ Yes ☒ No

Name of Governing Body _____

Priority Rating _____

Item 2.

Does this assistance request require State, or local advisory, educational or health clearances?

_____ Yes ☒ No (Attach Documentation)

Name of Agency or Board _____

Item 3.

Does this assistance request require clearinghouse review in accordance with OMB Circular A-95? (Attach Comments)

☒ Yes _____ No

Item 4.

Does this assistance request require State, local, regional or other planning approval?

_____ Yes ☒ No

Name of Approving Agency _____

Date _____

Item 5.

Is the proposed project covered by an approved comprehensive plan?

_____ Yes ☒ No

Check one: State

Local

Regional

Location of plan _____

Item 6.

Will the assistance requested serve a Federal installation?

_____ Yes _____ No

Name of Federal Installation _____

Federal Population benefiting from Project _____

Item 7.

Will the assistance requested be on Federal land or installation?

_____ Yes ☒ No

Name of Federal Installation _____

Location of Federal Land _____

Percent of Project _____

Item 8.

Will the assistance requested have an impact or effect on the environment?

_____ Yes ☒ No

See instruction for additional information to be provided.

Item 9.

Will the assistance requested cause the displacement of individuals families, businesses, or farms?

_____ Yes ☒ No

Number of:

Individuals _____

Families _____

Businesses _____

Farms _____

Item 10.

Is there other related Federal assistance on this project previous, pending, or anticipated?

_____ Yes ☒ No

See instructions for additional information to be provided.

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 04-R020

PART II - SECTION C (SECTION B OMITTED)

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use.—The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

The Sponsor has adopted Drake Field Ordinance 2607 which regulates and restricts all land use activities in the vicinity of Drake Field. This ordinance was adopted January 20, 1980 and as amended.

2. Defaults.—The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

3. Possible Disabilities.—There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

4. Land.—(a) The Sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport, subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

The Sponsor hold fee simple title to Tract A and easements shown in Tract B of the attached property map, Exhibit "A". Title for Tracts A and B were approved under previous projects. Status has not changed since approval.

Land and easements acquired under AIP 3-0020-05-11 & 15 include easements, Tracts C, D, F, J, G, and K; Fee Simple Tract D, E, and H.

*State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

PART III - BUDGET INFORMATION - CONSTRUCTION

DOT/FAA AIP Grant
Page 11 of 30

SECTION A - GENERAL

1. Federal Domestic Assistance Catalog No. 20.106

2. Functional or Other Breakout

SECTION B - CALCULATION OF FEDERAL GRANT

Cost Classification	Use only for revisions		Total Amount Required
	Latest Approved Amount	Adjustment + or (-)	
1. Administration expense	\$	\$	\$ 850.00
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			29,890
5. Other architectural engineering fees			12,250
6. Project inspection fees			41,970
7. Land development			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement			607,079
12. Equipment			
13. Miscellaneous			
14. Total (Lines 1 through 13)			692,039
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			692,039
17. Less: Ineligible Exclusions			145
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)			691,894
20. Federal Share requested of Line 19			657,299
21. Add Rehabilitation Grants Requested (100 Percent)			
22. Total Federal grant requested (Lines 20 & 21)			657,299
23. Grantee share			145
24. Other shares State Aeronautics Dept.			34,595
25. Total project (Lines 22, 23 & 24)	\$	\$	\$ 692,032

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO 60-50114

SECTION C - EXCLUSIONS

Classification	Ineligible for Participation (1)	Excluded from Contingency Provision (2)
26		
a.	\$	\$
b.		
c.		
d.		
e.		
f.		
g. Totals	\$	\$

SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE

27. Grantee Share	\$
a. Securities	
b. Mortgages	
c. Appropriations (By Applicant)	145
d. Bonds	
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. TOTAL - Grantee share	145
28. Other Shares	
a. State	34,595
b. Other	
c. Total Other Shares	34,595
29. TOTAL	\$ 34,740

SECTION E - REMARKS

These Documents are attached and I incorporated Herein:
 1. Property map Exhibit "A" dated June, 1991
 2. Standard DOT Part V Assurances and Title VI Assurances

PART IV PROGRAM NARRATIVE (Attach - See Instructions)

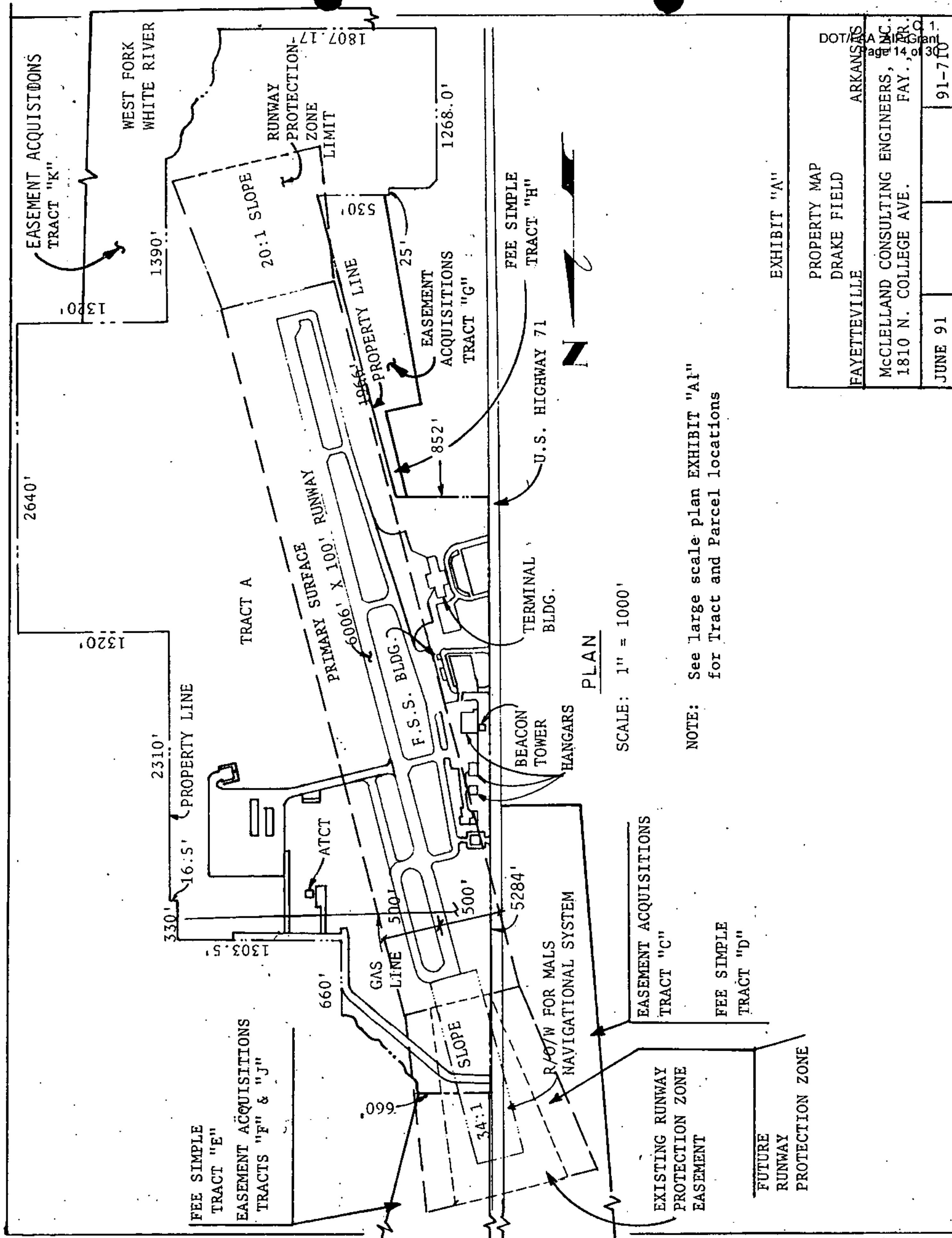
PART IV

PROGRAM NARRATIVE STATEMENT

PARALLEL TAXIWAY EXTENSION AND CONNECTING TAXIWAY FAYETTEVILLE MUNICIPAL AIRPORT FAYETTEVILLE, ARKANSAS

The proposed improvements are located at Fayetteville Municipal Airport, Drake Field, Fayetteville Municipal Airport, Fayetteville, Arkansas. The objective of these improvements is to provide an extension of the parallel taxiway and a connecting taxiway to the runway, in accordance with the Master Plan Update completed in June 1999.

1. The engineering services for and the construction of an extension of the parallel taxiway on the east side of the runway and a connecting taxiway to the runway to serve the USDA Forest Service Fire Fighting Tanker Base and the based aircraft located on the east side GA apron. These taxiways will minimize aircraft crossing the runway near midfield and potential runway incursions.



PART V

ASSURANCES

Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.
2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.
3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in the grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of the grant agreement shall remain in full force and effect during the life of the project.

C. Sponsor Certification. The sponsor hereby assures and certifies, with respect to this grant that

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act - 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1 2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Civil Rights Act of 1984 - Title VI - 42 U.S.C. 2000d through d-4.
- o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- q. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.¹
- r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- t. Copeland Antikickback Act - 18 U.S.C. 874.¹
- u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

- Executive Order 11246 - Equal Employment Opportunity¹
- Executive Order 11990 - Protection of Wetlands
- Executive Order 11998 - Flood Plain Management
- Executive Order 12372 - Intergovernmental Review of Federal Programs.
- Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 14 CFR Part 150 - Airport noise compatibility planning.
- d. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- i. 49 CFR Part 20 - New restrictions on lobbying.
- j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.^{1 2}
- m. 49 CFR Part 26 - Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
- n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.¹
- o. 49 CFR Part 29 - Government wide debarment and suspension (non-procurement) and government wide requirements for drug-free workplace (grants).
- p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.¹

Office of Management and Budget Circulars

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

³ 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in the grant agreement.

2. Responsibility and Authority of the Sponsor.

- a. **Public Agency Sponsor:** It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
 - b. **Private Sponsor:** It has legal authority to apply for the grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.
3. **Sponsor Fund Availability.** It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement which it will own or control.
4. **Good Title.**
- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
 - b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
 - b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in the grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of the grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
 - c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
 - d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
 - e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
 - f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in the grant agreement and shall insure that such arrangement also requires compliance therewith.
6. Consistency with Local Plans. The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.
7. Consideration of Local Interest. It has given fair consideration to the interest of communities in or near where the project may be located.
8. Consultation with Users. In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.
9. Public Hearings. In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.
10. Air and Water Quality Standards. In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.
11. Pavement Preventive Maintenance. With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.
12. Terminal Development Prerequisites. For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.
13. Accounting System, Audit, and Record Keeping Requirements.
- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
 - b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. **Minimum Wage Rates.** It shall include, in all contracts in excess of \$2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.
15. **Veteran's Preference.** It shall include in all contracts for work on any project funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Veterans of the Vietnam era and disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.
16. **Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into the grant agreement.
17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.
18. **Planning Projects.** In carrying out planning projects:
 - a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
 - b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
 - c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
 - d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
 - e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
 - f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
 - g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
 - h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.
19. **Operation and Maintenance.**
 - a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary.

In furtherance of this assurance, the sponsor will have in effect arrangements for-

 - (1) Operating the airport's aeronautical facilities whenever required;
 - (2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - (3) Promptly notifying airmen of any condition affecting aeronautical use of the airport.

Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
 - b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.
20. **Hazard Removal and Mitigation.** It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
21. **Compatible Land Use.** It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
 - (1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - (2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or nontenants and signatory carriers and nonsignatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights. It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure. It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. Provided, however, that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections. It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - (i) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - (ii) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft. It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that-

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities. It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities.
30. **Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.
31. **Disposal of Land.**
- a. For land purchased under a grant for airport noise compatibility purposes, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will, at the discretion of the Secretary, 1) be paid to the Secretary for deposit in the Trust Fund, or 2) be reinvested in an approved noise compatibility project as prescribed by the Secretary.
- b. (1) For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (a) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (b) be paid to the Secretary for deposit in the Trust Fund if no eligible project exists.
- (2) Land shall be considered to be needed for airport purposes under this assurance if (a) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (b) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- c. Disposition of such land under (a) or (b) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.
32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.
33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated 7/1/99 and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.
36. **Access By Intercity Buses.** The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.
37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

CURRENT FAA ADVISORY CIRCULARS FOR AIP/PFC PROJECTS

Updated on: 7/1/99

The following apply to both AIP and PFC Projects

NUMBER	TITLE
70/7460-1J	Obstruction Marking and Lighting
150/5000-13	Announcement of Availability--RTCA Inc., Document RTCA-221, Guidance and Recommended Requirements for Airport Surface Movement Sensors
150/5210-5B	Painting, Marking and Lighting of Vehicles Used on an Airport
150/5210-7B	Aircraft Fire and Rescue Communications
150/5210-13A	Water Rescue Plans, Facilities, and Equipment
150/5210-14A	Airport Fire and Rescue Personnel Protective Clothing
150/5210-15	Airport Rescue & Firefighting Station Building Design
150/5210-18	Systems for Interactive Training of Airport Personnel
150/5210-19	Driver's Enhanced Vision System (DEVS)
150/5220-4B	Water Supply Systems for Aircraft Fire and Rescue Protection
150/5220-10B	Guide Specification for Water/Foam Type Aircraft Rescue and Firefighting Vehicles
150/5220-13B	Runway Surface Condition Sensor Specification Guide
150/5220-16B	Automated Weather Observing Systems for NonFederal Applications
150/5220-17A	Design Standards for Aircraft Rescue Firefighting Training Facilities
150/5220-18	Buildings for Storage and Maintenance of Airport Snow and Ice Control Equipment and Materials
150/5220-19	Guide Specification for Small, Dual-Agent Aircraft Rescue and Firefighting Vehicles
150/5220-20, CHG 1	Airport Snow and Ice Control Equipment
150/5220-21A	Guide Specification for Lifts Used to Board Airline Passengers With Mobility Impairments
150/5300-13, CHG 1, 2, 3, 4, 5	Airport Design
150/5300-14	Design of Aircraft Deicing Facilities
150/5320-5B	Airport Drainage
150/5320-6D	Airport Pavement Design and Evaluation
150/5320-12C	Measurement, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces
150/5320-14	Airport Landscaping for Noise Control Purposes
150/5320-16	Airport Pavement Design for the Boeing 777 Airplane
150/5325-4A, CHG 1	Runway Length Requirements for Airport Design
150/5340-1G	Standards for Airport Markings
150/5340-4C, CHG 1 & 2	Installation Details for Runway Centerline Touchdown Zone Lighting Systems
150/5340-5B, CHG 1	Segmented Circle Airport Marker System
150/5340-14B, CHG 1 & 2	Economy Approach Lighting Aids
150/5340-17B	Standby Power for Non-FAA Airport Lighting Systems
150/5340-18C, CHG 1	Standards for Airport Sign Systems
150/5340-19	Taxiway Centerline Lighting System
150/5340-21	Airport Miscellaneous Lighting Visual Aids
150/5340-23B	Supplemental Wind Cones
150/5340-24, CHG 1	Runway and Taxiway Edge Lighting System
150/5340-27A	Air-to-Ground Radio Control of Airport Lighting Systems
150/5345-3D	Specification for L821 Panels for Remote Control of Airport Lighting
150/5345-5A	Circuit Selector Switch
150/5345-7D, CHG 1	Specification for L824 Underground Electrical Cable for Airport Lighting Circuits

CURRENT FAA ADVISORY CIRCULARS FOR AIP/PFC PROJECTS
Updated on: 7/1/99

NUMBER	TITLE
150/5345-10E	Specification for Constant Current Regulators Regulator Monitors
150/5345-12C	Specification for Airport and Heliport Beacon
150/5345-13A	Specification for L841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26B, CHG 1 & 2	Specification for L823 Plug and Receptacle, Cable Connectors
150/5345-27C	Specification for Wind Cone Assemblies
150/5345-28D, CHG 1	Precision Approach Path Indicator (PAPI) Systems
150/5345-39B, CHG 1	FAA Specification L853, Runway and Taxiway Centerline Retroreflective Markers
150/5345-42C, CHG 1	Specification for Airport Light Bases, Transformer Housings, Junction Boxes and Accessories
150/5345-43E	Specification for Obstruction Lighting Equipment
150/5345-44F, CHG 1	Specification for Taxiway and Runway Signs
150/5345-45A	Lightweight Approach Light Structure
150/5345-46A	Specification for Runway and Taxiway Light Fixtures
150/5345-47A	Isolation Transformers for Airport Lighting Systems
150/5345-49A	Specification L854, Radio Control Equipment
150/5345-50, CHG 1	Specification for Portable Runway Lights
150/5345-51, CHG 1	Specification for Discharge-Type Flasher Equipment
150/5345-52	Generic Visual Glideslope Indicators (GVGI)
150/5345-53A, (including addendum)	Airport Lighting Equipment Certification Program
150/5360-9	Planning and Design of Airport Terminal Facilities at NonHub Locations
150/5360-12A	Airport Signing & Graphics
150/5360-13, CHG 1	Planning and Design Guidance for Airport Terminal Facilities
150/5370-2C	Operational Safety on Airports During Construction
150/5370-10A CHG 1, 2, 3, 4, 5, 6, 7, 8, 9	Standards for Specifying Construction of Airports
150/5390-2A	Heliport Design
150/5390-3	Vertiport Design

The following apply to AIP Projects only

NUMBER	TITLE
150/5100-14C	Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects
150/5200-30A, CHG 1 & 2	Airport Winter Safety and Operations
150/5200-33	Hazardous Wildlife Attractants On or Near Airports
150/5300-15	Use of Value Engineering for Engineering Design of Airport Grant Projects
150/5370-11, CHG 1	Use of Nondestructive Testing Devices in the Evaluation of Airport Pavements
150/5370-12	Quality Control of Construction for Airport Grant Projects
150/5370-6B	Construction Progress and Inspection Report-Airport Grant Program

The following apply to PFC Projects only

NUMBER	TITLE
150/5000-12	Announcement of Availability - Passenger Facility Charge (PFC) Application (FAA Form 5500-1)

STANDARD DOT TITLE VI ASSURANCES

City of Fayetteville (hereinafter referred to as the Sponsor) hereby agrees that as a condition to receiving Federal financial assistance from the Department of Transportation (DOT), it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all requirements imposed by 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.

Without limiting the above general assurance, the Sponsor agrees concerning Project No. AIP 3-05-0020-032 (hereinafter referred to as the Project) that:

1. Each "program" and "facility" (as defined in Sections 21.23(e) and 21.23(b)) will be conducted or operated in compliance with all requirements of the Regulations.

2. It will insert the following notification in all solicitations for bids issued in connection with the Project and in adapted form in all proposals for negotiated agreements:

City of Fayetteville, in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, hereby notifies all bidders that it will affirmatively assure that minority business enterprises are afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

3. It will insert the clauses of Attachment 1 of this assurance in every contract subject to the Act and the Regulations.

4. Where Federal financial assistance is received to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

5. Where Federal financial assistance is in the form or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.

6. It will include the appropriate clauses set forth in Attachment 2 of this assurance, as a covenant running with the land, in any future deeds,

leases, permits, licenses, and similar agreements entered into by the Sponsor with other parties: (a) for the subsequent transfer of real property acquired or improved with Federal financial assistance under this Project and (b) for the construction or use of or access to space on, over, or under real property acquired or improved with Federal financial assistance under this Project.

7. This assurance obligates the Sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the Sponsor retains ownership or possession of the property.

8. It will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other sponsors, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this assurance.

9. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

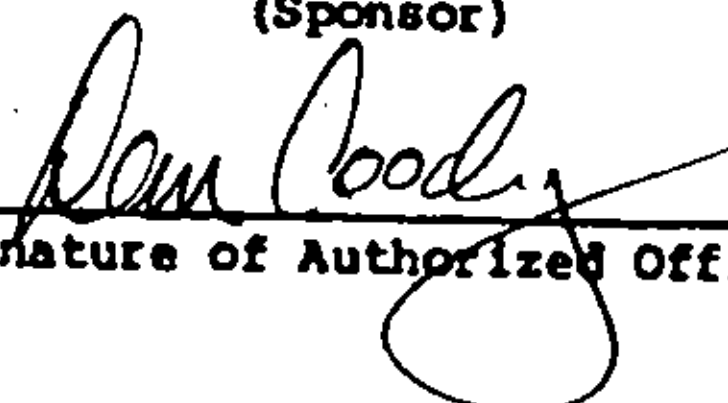
THIS ASSURANCE is given in consideration of and for the purpose of obtaining Federal financial assistance for this Project and is binding on its contractors, the sponsor, subcontractors, transferees, successors in interest and other participants in the Project. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Sponsor.

DATED July, 2004

City of Fayetteville

(Sponsor)

By


(Signature of Authorized Official)

Attachments 1 and 2

CONTRACTOR CONTRACTUAL REQUIREMENTS

ATTACHMENT 1 TO STANDARD DOT TITLE VI ASSURANCE

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations. The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to--
 - a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - b. Cancellation, termination, or suspension of the contract, in whole or in part.
6. Incorporation of Provisions. The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

CLAUSES FOR DEEDS, LICENSES, LEASES, PERMITS OR SIMILAR INSTRUMENTS

ATTACHMENT 2

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by City of Fayetteville

1. The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.
2. The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

Certification for Contracts, Grants, Loans, and Cooperative
Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

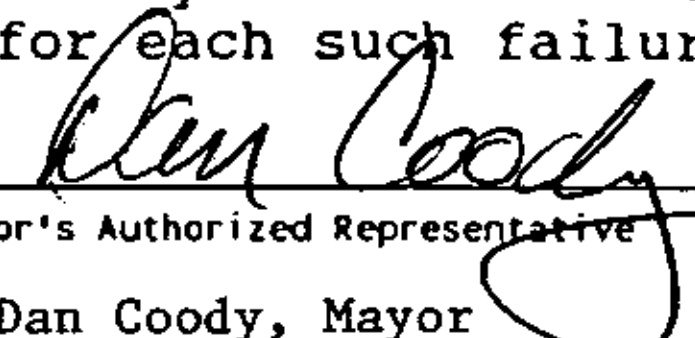
(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) 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 contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontract, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signed


Sponsor's Authorized Representative

Dated

7/16/09

Dan Coody, Mayor

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

1. The sponsor certifies that it will provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the sponsor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

b. Establishing a drug-free awareness program to inform employees about -

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

(2) The sponsor's policy of maintaining a drug-free workplace;

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

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement requirement by paragraph a;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will -

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

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

e. Notifying the Federal Aviation Administration within 10 days after receiving notice under subparagraph d(2), from an employee or otherwise receiving actual notice of such equipment;

f. Taking one of the following actions within 30 days of receiving notice under subparagraph d(2), with respect to any employee who is so convicted -

(1) Taking appropriate personnel action against such employees, up to and including termination; or

(2) 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;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a through f.

2. The sponsor shall insert in the space provided below the site(s) for the performance of the work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Fayetteville Municipal Airport, Drake Field

Fayetteville, Washington County, Arkansas 72701

STAFF REVIEW FORM - FINANCIAL OBLIGATION

AGENDA REQUEST
CONTRACT REVIEW
X GRANT REVIEW

FAA/Dept Aero Grants
AIP 32

For the Fayetteville City Council Meeting of: August 3, 2004

FROM:

Ray M. BoudreauxAviation & Economic DevelopmentGeneral Government

Name

Division

Department

ACTION REQUIRED: A resolution to approve application for DOT/FAA AIP Grant 3-05-0200-0032-2004, 95% funding for: Extend Taxiway "A" Phase II. Approve application for Arkansas Department of Aeronautics grant for 5% match funding for DOT/FAA grant. Approve acceptance of grant awards.

REVENUE TO CITY:

\$ 34,595 State

\$ 657,299 Fed

Cost of this request

5550.0955.6803.00

5550.0955.6820.32

Account Number

04025.1

Project Number

\$ 1,320,000.00

Category/Project Budget

\$ 84,960.00

Funds Used to Date

\$ 1,235,040.00

Remaining Balance

Taxiway "A" Development-Phase II

Program Category / Project Name

Airport Capital

Program / Project Category Name

Airport

Fund Name

BUDGET REVIEW:

X

Budgeted Item

Budget Adjustment Attached

[Signature]
Budget Manager7-16-04
Date

CONTRACT/GRANT/LEASE REVIEW:

[Signature]
Accounting Manager7/16/04
Date[Signature]
Internal Auditor7/19/04
Date[Signature]
City Attorney7/19/04
Date[Signature]
Purchasing Manager7/19/04
Date

STAFF RECOMMENDATION:

[Signature]
Division HeadJuly 16, 2004
Date

Received in Mayor's Office

7/19/04
Date[Signature]
Department Director7-20-04
Date

Cross Reference:

[Signature]
Finance & Internal Services Dir.7-20-04
DatePrevious Ord/Res#: #51-04Orig. Contract Date: 4/6/2004[Signature]
Chief Administrative Officer7-21-04
DateOrig. Contract Number: 917, Task Order 4[Signature]
Mayor7/21/04
DateNew Item: Yes No X

June 19, 2004

City of Fayetteville
City Council
113 W. Mountain Street
Fayetteville, AR 72701

Dear Council Members:

Recently my wife and I went before the Planning Division Committee to request a variance in the fencing ordinance regarding commercially zoned property. Our request was denied in a 7 to 1 vote. We feel the issues around our request were not thoroughly heard, and; therefore, we wish to petition the City Council for an opportunity to appeal our request. It is our hope that you will consider the information contained in this letter and allow us to appear before your next regularly scheduled meeting.

We live and work in a vintage 1950's Sinclair Gas station. We are three plus years into restoring and improving the property located at the corner of Happy Hollow and Huntsville Road. We are both artists who, from young ages, have used our talents to make a living and improve our living environment(s). We both were attracted to Fayetteville because it is a place that embraces creativity, improvement and preservation beyond the status quo.

During an early stage of our particular restoration project, we experienced several incidents of theft and vandalism. Some of the thefts were of items of considerable value. We were not deterred from a project we considered a fascinating challenge. We moved in before we planned with our German Shepard dog, Mike. The theft and vandalism stopped.

Unfortunately, since that time, there have been two incidents with Mike involving a citizen and a Fayetteville Police Officer. On these occasions, he either grabbed or startled the person(s) involved. As a result, the dog was confined at the Fayetteville Animal Shelter for approximately two months.

A settlement agreement has been reached with the City Prosecutor's Office. Mike the dog is now home. Part of the agreement included the construction of additional fencing protecting the property from public entrance. The city offices of the Prosecutor, the Director of Animal Services and we agree the fence is key to accomplishing this. It is our belief that chain link is the best solution for a variety of reasons.

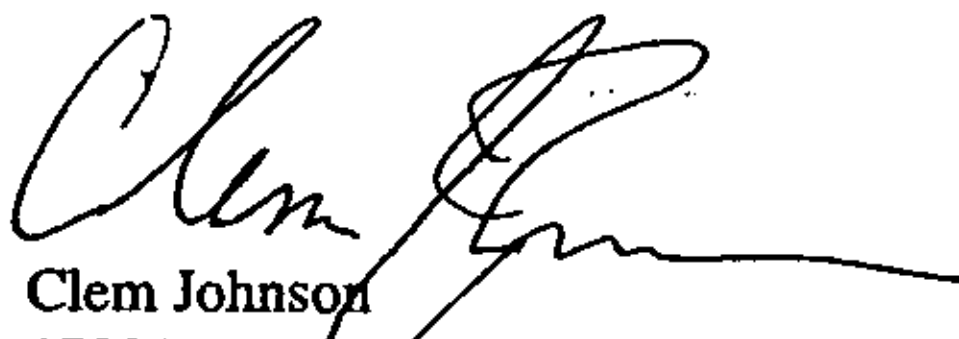
First and foremost, the smaller openings in the chain link material will provide the best protection of public passer bys. We do not feel that stock iron or vinyl fencing options

would provide this level of protection. In addition, the fencing would provide secure protection for our valuable, classic cars and commercial business projects.

Second, chain link fencing is "period correct" for the age of our gas station. We feel that we could utilize this material in such a way as it would not be considered unattractive or out of place. We would install such fence with the care we have taken with each part of our restoration. We are thoughtfully restoring and improving our gas station home and invite you to let us show you the level of our improvements to date.

Third, alternative types of fencing include custom iron or solid masonry. These options are cost prohibitive for us. Materials and labor would roughly be 2 to 4 times that of chain link. It seems that the term "undue hardship" the Planning Committee uses applies to financial impact. In most commercial property cases, cost would not have the degree of impact on a larger company, developer or contractor as it would have on an individual. We ask that you consider the "hardship" issue with this comparison in mind.

Thank you for your consideration,



Clem Johnson
1798 East Huntsville Road
Fayetteville, AR 72701

RESOLUTION NO. _____

A RESOLUTION TO GRANT (OR DENY) AN APPEAL
FROM THE PLANNING COMMISSION'S DENIAL OF
A VARIANCE FROM THE COMMERCIAL DESIGN
STANDARDS

WHEREAS, the Commercial Design Standards found in §166.14 of the Unified Development Code prohibit chain link fence "closer to the street than the front of the building in zoning districts C-1, C-2, C-3, C-4 and R-O"; and

WHEREAS, "Residential uses are exempt from this requirement"; and

WHEREAS, the Planning Commission may grant a variance from commercial design standards for "Undue hardship" as applied to the proposed development "so that substantial justice may be done and the public interest served," {§156 (C)}; and

WHEREAS, a petitioner may appeal to the City Council from "decisions of the Planning Commission concerning commercial design standards," {§155.05 (A) (5)}; and

WHEREAS, the City Council determines that the appeal should be granted (or denied) and the variance granted (or denied) after careful consideration of the public interest, substantial justice, and petitioner's argument concerning undue hardship.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby grants (or denies) the appeal of Mr. and Mrs. Clem Johnson and grants (or denies) the variance as requested by Mr. and Mrs. Clem Johnson with the following conditions:

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

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 14, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn Warrick, AICP, Zoning & Development Administrator
THRU: Tim Conklin, AICP, Community, Planning & Engineering Services Director
DATE: June 10, 2004

ADM 04-1120: Administrative Item (CLEM JOHNSON): Submitted by CLEM JOHNSON for property located at 1798 E HUNTSVILLE ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.78 acres. The request is to allow a waiver of Commercial Design Standards to allow a chain link fence in front of the structure at the subject property. Planner: Dawn Warrick

RECOMMENDATION:

Staff recommends denial of this administrative request based on the findings included as part of this report.

BACKGROUND:

Property description: The subject property is located at the northwest corner of Huntsville Rd. and Happy Hollow Rd. The property contains approximately 0.79 acres and is zoned C-2, Thoroughfare Commercial. A very specific Bill of Assurance was accepted by the City Council in 1998 at the time that this property was rezoned from C-1, Neighborhood Commercial. That guarantee (see attached) only permits this property to operate for the existing use (restoration and sales of used vehicles) or any use permitted in the C-1 zoning district. The action to change the zoning of this property was a 5-4-0 vote by a previous City Council which required a tie-breaker by the mayor. The original Bill of Assurance included a provision that all of the vehicles associated with this business (no more than 15) were to be located behind a 6' wooden fence. This Bill of Assurance was later amended to allow for a metal fence of the same height to screen the vehicles associated with this business.

Approximately 18 months ago, the City did receive complaints regarding restoration activities and parked vehicles being located in front of the structure in violation of the bill of assurance. This violation was remedied by the applicant after notification by the City.

Request: The applicant's request is to allow chain link fence in front of a commercial structure. The applicant is working with several agencies to obtain custody of his dog which is currently confined at the Fayetteville Animal Shelter pending an upcoming trial date (see attached letter from the applicant). The proposed fence location would enclose the entire front of the property

adjoining Huntsville Rd. from the structure to the street right-of-way to the western property line and back to the building (see attached site plan). This area contains roughly 5,400 s.f. of the property. This request constitutes a waiver of the City's Commercial Design Standards (§166.14).

Recommendation: Staff recommends denial of this request for a chain link fence. The City of Fayetteville sets a high standard for all commercial developments. It is important to the quality of development within the City that these standards are enforced equally. The subject property is located at a very visible and key intersection leading into Fayetteville. It is desirable to improve upon the appearance of commercial properties as changes are requested. Proper application of adopted commercial design standards will allow positive improvements that are consistent throughout the City. If this regulation is relaxed or waived to the degree proposed, the desirable result of having such regulations cannot be accomplished.

The section of the ordinance which specifically addresses the types of fences permitted within commercial developments is clear (see attached). The intent is to permit appropriate fencing which is compatible with the development as well as the surrounding uses. This site was originally developed as a gas service station in the 1950's. The applicant states that he has gone to extensive measures to restore the character of this structure and site. In keeping with that theme, gas service stations are not typically fenced off from adjoining streets. Open access to the front of the structure is a part of the function of this type of site and to enclose the front of the site with fencing is not demonstrative of the historic use of this site nor the present commercial uses conducted at this location.

The rear yard of this property is already enclosed with a metal screen wall. This was installed to screen vehicles and other activities of the restoration operation which is conducted on-site. The original bill of assurance offered to secure the current zoning of this property included a provision that all vehicles be located behind a wood board fence however, that bill of assurance was later amended to allow the metal wall/fence.

While there are certainly issues related to the applicant's pct which have spurred this request, staff is charged with reviewing this waiver request against the City's ordinances which regulate commercial development. The result of having a chain link fence in front of a commercial structure in this location is undesirable and does not comport to the purposes stated in the City's adopted Commercial Design Standards ordinance.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family residence	RSF-4, Residential Single Family 4 units/acre
South	Funeral home	C-1, Neighborhood Commercial
East	Single family residence	C-2, Thoroughfare Commercial
West	Accounting office	R-O, Residential Office

LAND USE PLAN: General Plan 2020 designates this site Community Commercial.

166.14 Commercial Design And Development Standards

(A) *Purposes.*

- (1) To protect and enhance Fayetteville's appearance, identity, and natural and economic vitality.
- (2) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, and drainage.
- (3) To protect and preserve the scenic resources distributed throughout the city which have contributed greatly to its economic development, by attracting tourists, permanent part-time residents, new industries, and cultural facilities.
- (4) To preserve the quality of life and integrate the different zones and uses in a compatible manner.
- (5) To address the issues of traffic, safety, and crime prevention.
- (6) To preserve property values of surrounding property.
- (7) To provide good civic design and arrangement.

(B) *Applicability.* The standards set forth herein shall apply in the following zoning districts, except as noted:

- (1) R-O, Residential Office;
- (2) C-1, Neighborhood Commercial;
- (3) C-2, Thoroughfare Commercial;
- (4) C-3, Central Commercial;
- (5) C-4, Downtown;
- (6) I-1, Heavy Commercial and Light Industrial;
- (7) I-2, General Industrial;
- (8) P-1, Institutional;
- (9) E-1, Extraction;
- (10) PZD, Planned Zoning District when commercial, office, institutional and industrial uses are planned.
- (11) Any other zoning district when commercial, office, institutional, and industrial uses are allowed as a conditional use.

(C) *Site development standards.* The following site development standards shall apply when either new development or expansion of 25% of the existing building square footage occurs.

(1) *Landscaping.* Landscaping is required as follows:

(a) *Landscaping general provisions.*

- (i) Landscaping shall be provided which is sufficient to provide soil stability and suitable drainage.
- (ii) Trees, shrubs, groundcover and grass shall be the primary source of landscaping and shall be placed

and/or retained in such a manner as to reduce runoff.

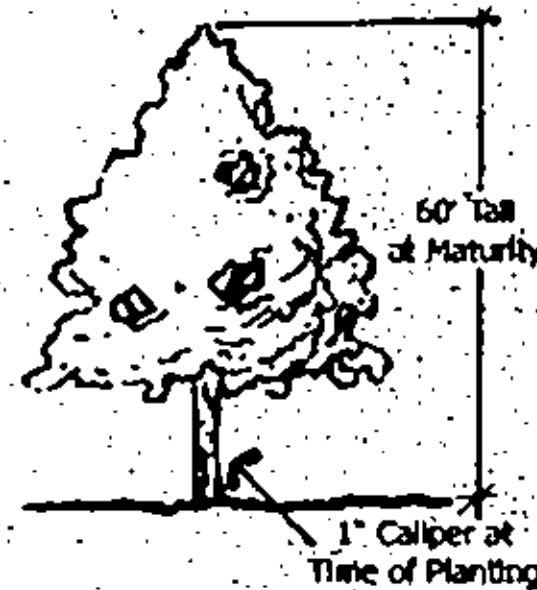
- (iii) The current property owner shall properly maintain all landscaping and shall replace any landscaping that dies or is damaged.
- (iv) Native vegetation should be used when possible in order to minimize watering.
- (v) Landscaping should attempt to incorporate existing on-site trees and shrubbery.
- (vi) Providing outdoor spaces and places for people to gather is encouraged.

(b) *Landscaping along front property lines.*

- (i) *Landscaped area required.* A 15 foot wide landscaped area shall be provided along the front property line exclusive of right-of-way. Entrance drives, exit drives, and sidewalks are allowed to cross the 15 foot landscaped area provided the integrity of the landscaped area is maintained. Residential uses and zoning district C-3 and C-4 shall be exempt from this requirement.

(ii) *Trees.*

- a. Trees shall be planted in the 15 foot landscaped area at a ratio of one tree per 30 feet of front property line and may be planted together in groups. No group may count more than 25% of the required number.
- b. Species selection shall be at the discretion of the developer. However, species which are listed in the *City of Fayetteville Tree Preservation, Protection and Landscape Manual* under the tree section guide are encouraged.
- c. Trees planted shall have a two inch caliper (diameter) measured six inches above ground level) at the time of planting with at least 50% with an expected mature height of 60 feet or more. In cases of existing overhead power lines, trees shall be planted that will not interfere with existing power lines.



- d. Each tree shall have a minimum of 100 square feet of permeable surface located under the potential canopy of the tree. Paving blocks, bricks, and iron and/or plastic grates, may be used over the tree root system to allow air and water into the root system.

(2) *Screening for commercial buildings and development.*

- (a) Screening shall mean a view obscuring fence, view obscuring berm, view obscuring architectural treatment, or view obscuring vegetation, or combination of the four, of sufficient height to prevent the view of the screened items from vehicular and pedestrian traffic on adjacent streets, and from residential property. Vegetation shall be planted at a density sufficient to become view obscuring within two years

from the date of planting.

- (b) Mechanical and utility equipment, trash enclosures, and outdoor storage of material and equipment shall be screened if visible from the highway/street right-of-way or from residential property as set forth below:

(i) *Mechanical and utility equipment.* All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting building. Mechanical and utility equipment over 30 inches in height shall meet building setbacks.

(ii) *Trash enclosures.* Trash enclosures shall be screened with access not visible from the street.

(3) *Fences.* The following types, height, and location of fences shall be prohibited:

(a) *Razor and/or barbed wire.* Razor and/or barbed wire fences are prohibited if visible from the street right-of-way or a residence, unless and except barbed wire fences are used for agricultural purposes.

(b) *Chain link.* Chain link fence is prohibited if closer to the street than the front of the building in zoning districts C-1, C-2, C-3, C-4, and R-O. Residential uses are exempt from this requirement.

(c) *Height of fences in front buildings.* Fences located in front of the primary structure may be solid up to 30 inches in height. Any part of a fence which exceeds 30 inches in height shall not obstruct the view of the primary structure from the right-of-way.

(4) *Site coverage.* A maximum of 85% of the development site may be covered by the ground floor of any structure, parking lots, sidewalks, and private streets and drives or any other impermeable surface. Zoning districts C-3, C-4, and the Design Overlay District are exempt from this requirement.

(5) *Driveways.* Shared drives and cross access between properties shall be encouraged to developed and undeveloped properties, except in C-3 and C-4 zones.

(D) *Design elements guidelines for commercial structures.*

(1) The elements to avoid or minimize include:

(a) Unpainted concrete precision block walls;

(b) Square "boxlike" structures;

(c) Metal siding which dominates the main facade;

(d) Large blank, unarticulated wall surfaces;

(e) Large out of scale signs with flashy colors.

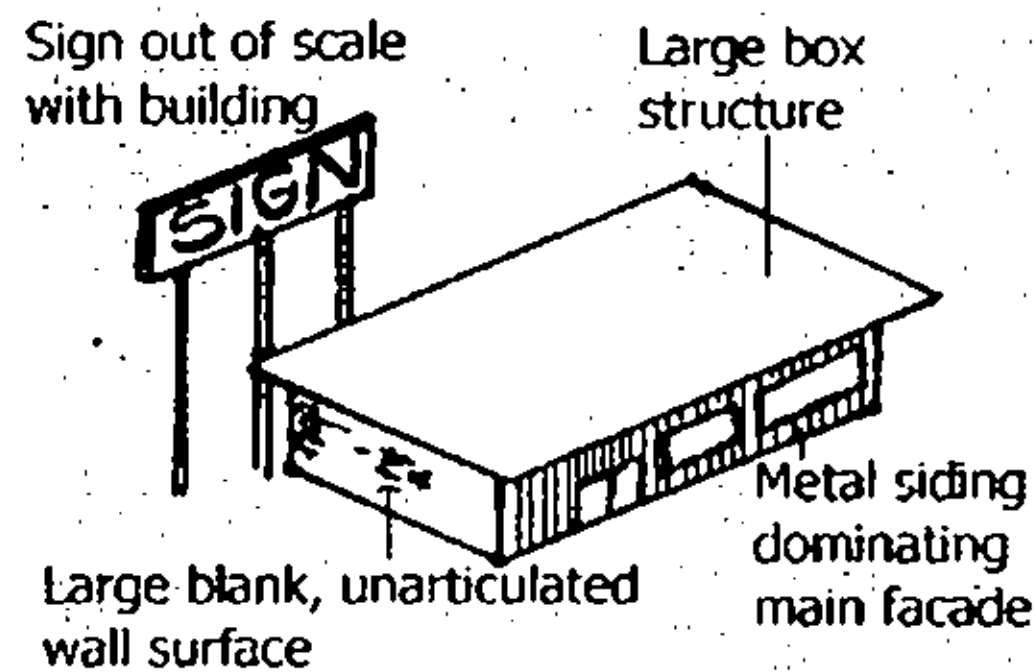
(2) *Construction and appearance design standards for commercial structures.*

(a) A commercial structure or development shall be designed to avoid or minimize the elements set forth in (1)(a) – (d) above.

(b) A commercial development which contains more than one building should incorporate a recurring, unifying, and identifiable theme for the entire development site.

(c) A development should provide compatibility and transition between adjoining developments.

Design Element Guidelines, Commercial



(E) *Design review.*

- (1) *Submittals.* The following drawings, information, and plans shall be submitted to the Planning Commission for design review and approval with large scale development applications, when applicable; or, submitted to the Planning Division for design review and approval with, or prior to, building permit applications for non-large scale development.
 - (a) *Elevations.* Rendered elevation drawing of main facade at 1/16 inch to one (1) foot (minimum) scale showing adjoining context and a description of external building materials.
 - (b) *Landscaping.* Proposed landscaping to be used as screening shall be shown on the tree preservation plan or site plan.
- (2) *Build out.* Upon approval of a large scale development, or issuance of a building permit, build-out of the project shall conform to the drawings, information, and plans approved.
 - (a) *Amendments.* Amendments to the drawings, information, and plans shall be submitted to the planning division. Amendments which are determined to be insignificant or minor may be approved by the Planning Division. Significant amendment shall be approved by the Planning Commission when approval was given through the large scale development process, or by the planning division when approval was given through the building permit process.
 - (b) *Review.* Amendments shall be considered using the same standards as the initial design approval.
 - (c) *Noncompliance.* Failure to build-out the project according to the approved drawings, information, and plans, or approved amendments thereto, shall render the large scale development approval, or the building permit approval void.

(F) *Variances. (See Chapter 156.)*

(Code 1991, §160.124; Ord. No. 4004, §1, 10-15-96; Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross reference(s)—Specific Districts §161.13 through §161.21; Appeals, Ch. 155; Variances, Ch. 156.

RECEIVED

JUN 08 2004

PLANNING DIV.

June 6, 2004

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

Dear Committee Members:

My wife and I live and work in a vintage 1950's Sinclair Gas station. We are three plus years into restoring and improving the property located at the corner of Happy Hollow and Huntsville Road. I am writing to request a variance in the fencing ordinance regarding commercially zoned property. It is our hope that you will consider the information contained in this letter and allow the construction of a 6' chain link fence along partial frontage of Huntsville Road.

During an early stage of our restoration project, we experienced several incidents of theft and vandalism. Some of the thefts were of items of considerable value. We moved in before planned with our German Shepard dog, Mike. The theft and vandalism stopped.

Unfortunately, since that time, there have been two incidents with Mike involving a citizen and a Fayetteville Police Officer. On these occasions, he either grabbed or startled the person(s) involved. As a result, the dog is currently confined at the Fayetteville Animal Shelter a trial date set for July 14, 2004.

However, a settlement agreement is in the works. Part of the agreement includes the construction of additional fencing protecting the property from public entrance. It should be noted that the city offices of the Prosecutor, the Director of Animal Services and we agree the fence is key to finalizing this agreement. It is our belief that chain link is the best solution for a variety of reasons.

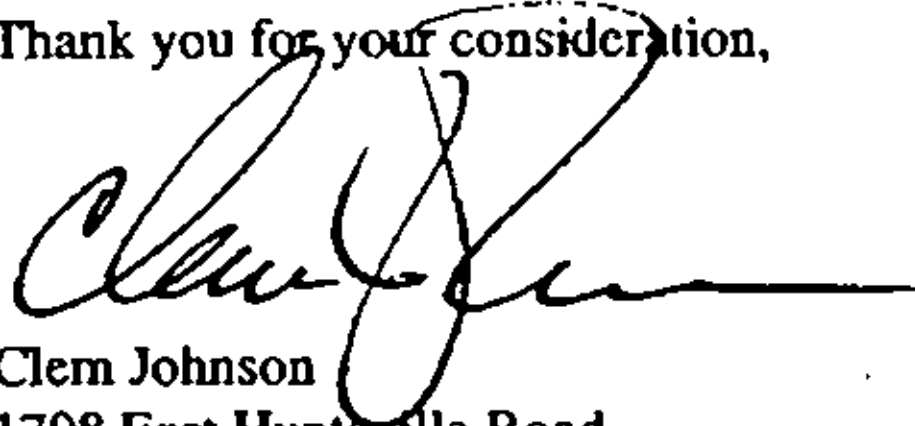
First and foremost, the smaller openings in the chain link material will provide the best protection of public passer bys. We do not feel that stock iron or vinyl fencing options would provide this level of protection. In addition, the fencing would provide secure protection for our valuable, classic cars and commercial business projects.

Second, chain link fencing is "period correct" for the age of our gas station. It would also allow visibility of a structure and grounds we are thoughtfully restoring and improving.

Third, alternative types of fencing include custom iron or solid masonry. These options are cost prohibitive. Materials and labor would roughly be 2 to 4 times that of chain link. In addition, these alternatives could require a longer construction period. Our interest is in finalizing the agreement and expediting the release of Mike, our dog, before any deterioration of his mental state can occur.

In closing, we would respectfully ask that the committee make a decision during the meeting to allow this requested fence variance. Our site plan and a petition from our residential and business neighbors are attached.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read 'Clem Johnson', with a long horizontal flourish extending to the right.

Clem Johnson
1798 East Huntsville Road
Fayetteville, AR 72701

PETITION

I am a residential or business neighbor having property, facing or adjoining the property at 1798 East Huntsville Road (the corner of Happy Hollow and Huntsville Road). It is my understanding that the property owners, Clem and Kim Johnson, wish to petition the Fayetteville Planning Division Committee for a variance to allow a 6' chain link fence along part of the frontage of Huntsville Road and bisecting the property to join other fence structure and building structure. The primary consideration is protection of public passer bys. Further consideration is to expedite a settlement in a dog related issue with the Fayetteville City Prosecutor's office.

I would have no objection to this 6' chain link fence.

PROPERTY OWNER/BUSINESS OWNER :

printed name: Don & Brenda Thompson

signature: Don Thompson Brenda Thompson date: 6-7-04

address: 685 S. Happy Hollow Rd.

comments: _____

I FEEL ANYTHING THE JOHNSON'S DO IN
THIS REGARD WILL NOT BE DETRIMENTAL
TO THIS NEIGHBORHOOD.

Document drafted by Kim Johnson. Signature of property or business owner witnessed by:

KA Johnson date: 6/7/04

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

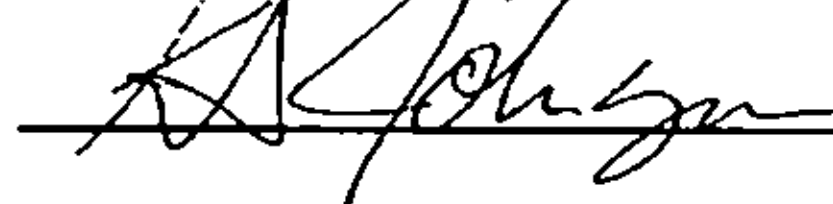
signature: 

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: _____

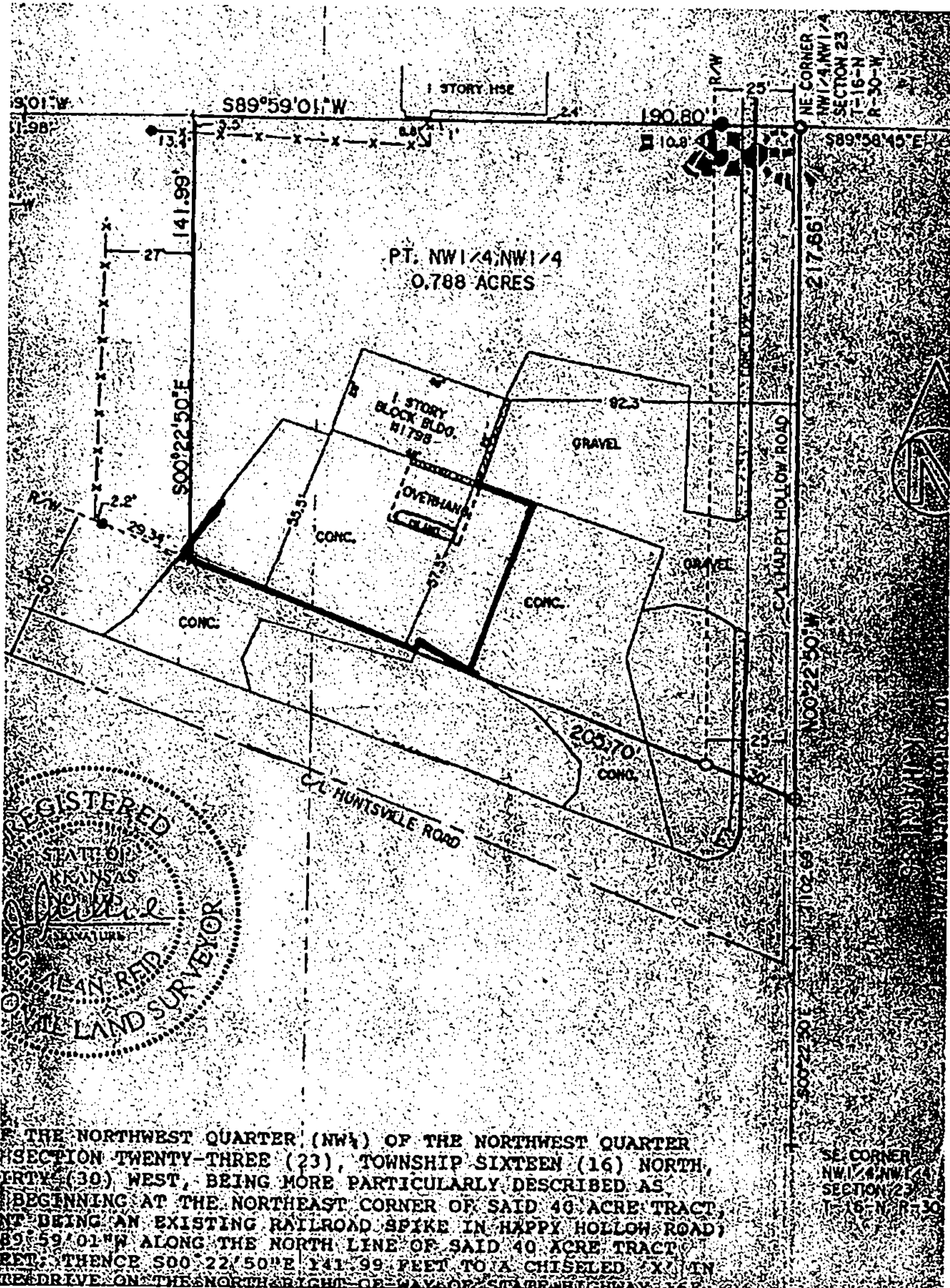
date: 6/8/04

address: Elsie Counts 1798 Happy Hollow Road

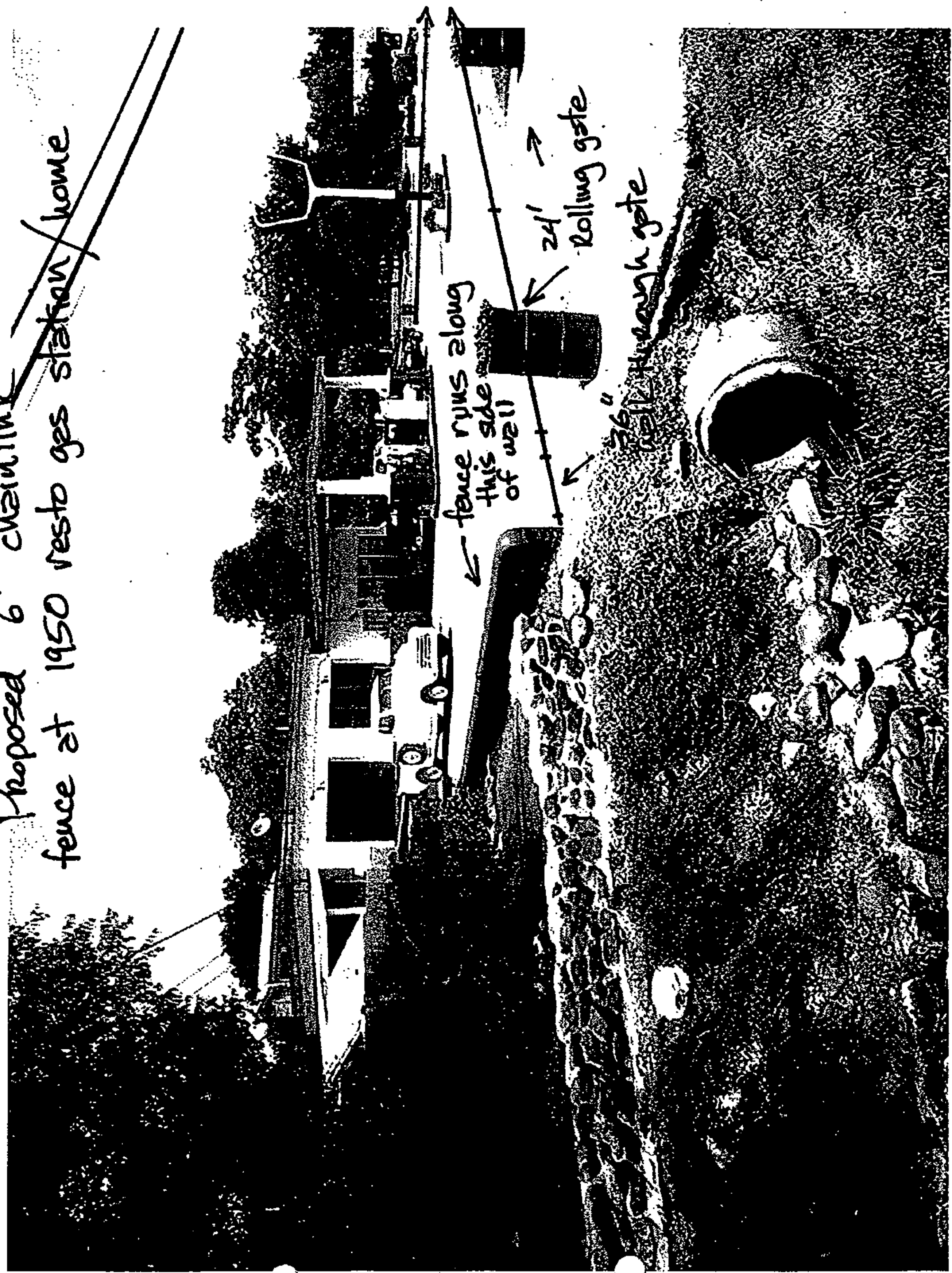
comments: _____

Document drafted by Kim Johnson. Signature of property or business owner witnessed by:

Kim Johnson date: 6/8/04



Proposed 6' chainlink
fence at 1950 resto gas station/home



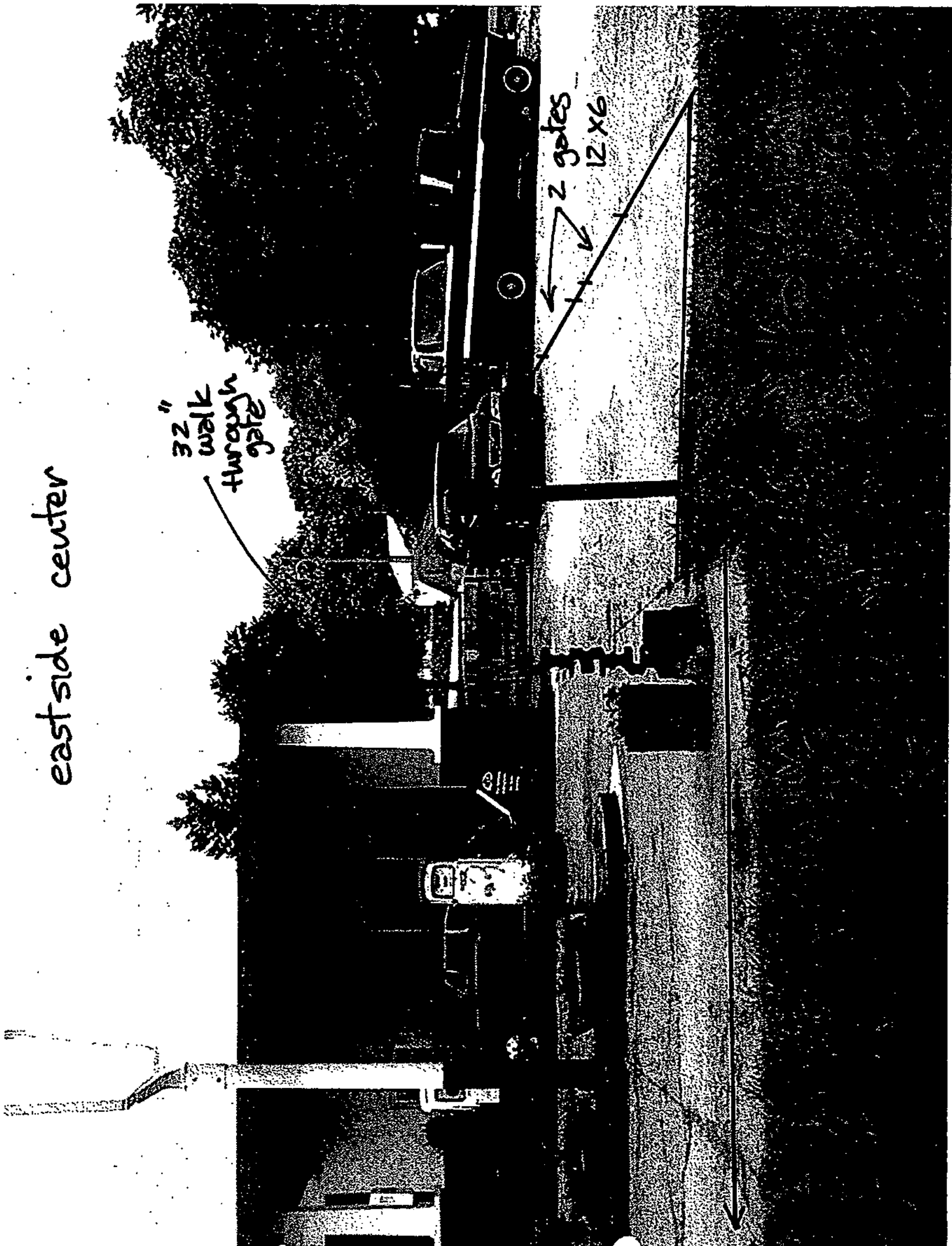
westside center



east side center

32"
walk
through
gate

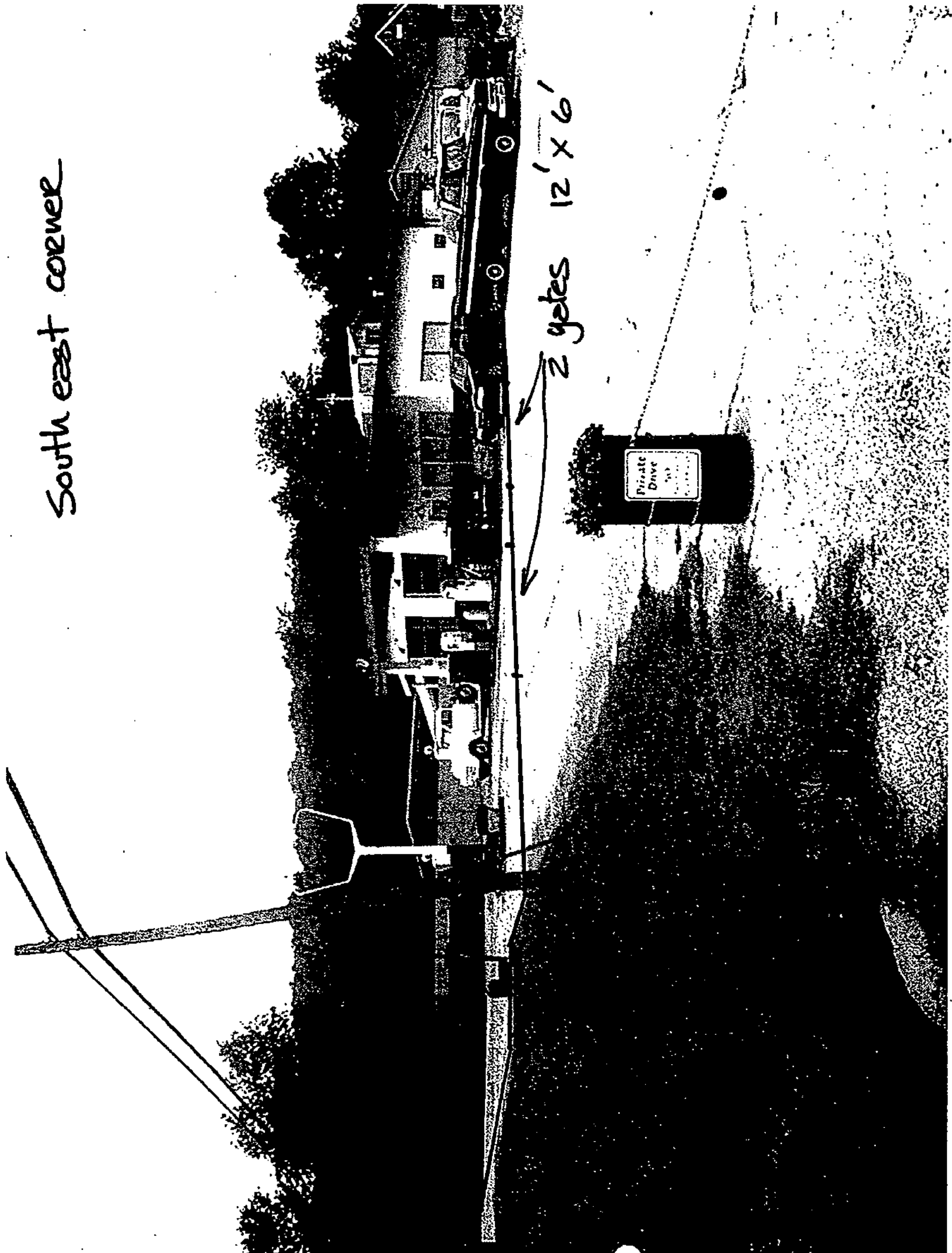
2 gates
12x6



west side



South east corner





No fence on this the east side













AMENDED BILL OF ASSURANCE

This declaration of a Bill of Assurance is made this 3 day of May, 2001, by

Clem Johnson, successor owner to Littlefield Investment Co. of real property located in the City of Fayetteville, Washington County, Arkansas, and more particularly described as follows, to-wit:

A part of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of Section Twenty-Three (23), Township Sixteen (16) North, Range Thirty (30) West, being more particularly described as follows: Beginning at the Northeast corner of said 40 acre tract, said point being an existing railroad spike in Happy Hollow Road; thence S89°59'01"W along the north line of said 40 acre tract 190.80 feet; thence S00°22'50"E 141.99 feet to a chiseled "X" in a concrete Drive on the North right of way of State Highway 16E (Huntsville Road); thence S68°26'03"E along said right of way 205.70 feet to a set cotton spindle in happy hollow road on the east line of said 40 acre tract; thence N00°22'50"W 217.66 feet to the point of beginning, containing 0.788 acres, more or less, Fayetteville, AR. The above described 0.788 acre tract being subject to the right of way of Happy Hollow Road along the entire east boundary.

WHEREAS, Littlefield Investment Co. applied to the City of Fayetteville for a rezoning of the above described real property from C-1 to C-2 on July 6, 1999; and

WHEREAS, said rezoning was approved by the City Council by Ordinance 4175; and

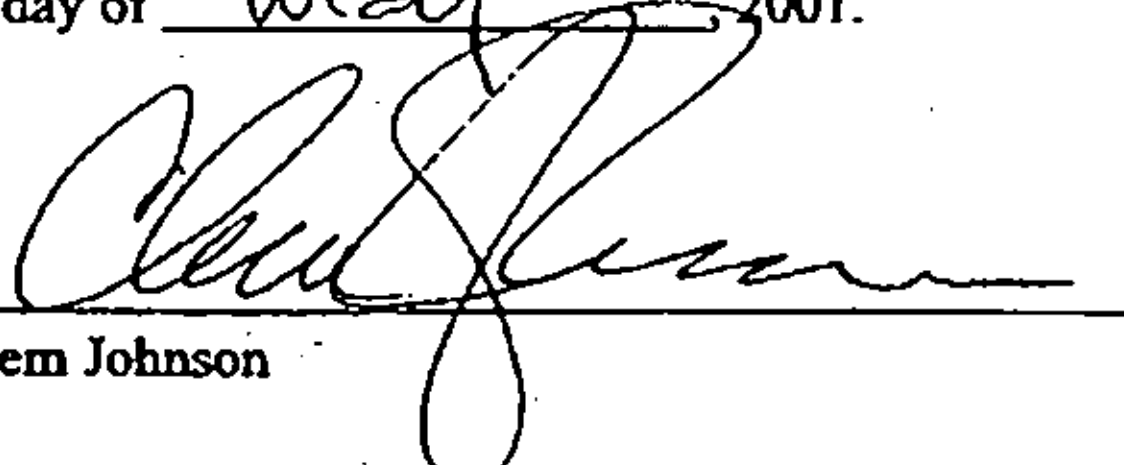
WHEREAS, Littlefield Investment Co., owner at that time, and Clem Johnson, present owner, desire to restrict the use of the property described hereinabove to a used car lot and/or automobile restoration and repair for a maximum of fifteen (15) vehicles to be located behind a six (6) foot metal fence or any use allowable in a C-1 zoning.

NOW, THEREFORE, Clem Johnson, present owner, hereby declares that the real property described herein shall be held, developed, transferred, sold, conveyed, and occupied subject to the restriction that if it is zoned C-2 by the City Council of the City of Fayetteville the use thereof shall be restricted to a "used car lot and/or automobile restoration and repair for a maximum of fifteen (15) vehicles to be located behind a six (6) foot metal fence" (which requires C-2 zoning), or any use

allowable in a C-1 zone. In the event that said property ceases to be used as a used car lot and/or automobile restoration and repair for a maximum of fifteen (15) vehicles behind a six (6) foot metal fence for one (1) year, said property shall be rezoned to C-1 by the City of Fayetteville.

Nothing contained herein shall prohibit Clem Johnson from petitioning the City of Fayetteville for the removal of this Bill of Assurance or seeking a different zoning classification.

WITNESS my hand and seal this 3 day of May, 2001.


Clem Johnson

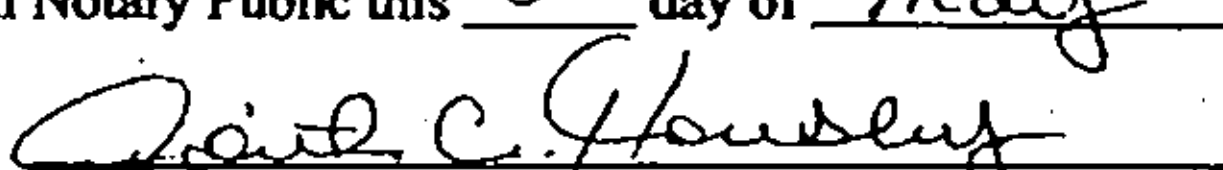
ACKNOWLEDGMENT

STATE OF ARKANSAS)
)SS.
COUNTY OF WASHINGTON)

Now on this 3rd day of May, 2001, came before me, the undersigned Notary Public within and for the aforesaid County and State, Dennis Caudle, who acknowledged that they had executed the foregoing Bill of Assurance for the consideration and purposes therein mentioned and set forth.



WITNESS my hand and seal as such Notary Public this 3rd day of May, 2001.


Notary Public

My Commission Expires: May 13, 2004.

595

City Council Minutes
August 3, 1999
Page 3

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.

596

City Council Minutes
August 3, 1999
Page 4

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

597

City Council Minutes
August 3, 1999
Page 5

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.

598

City Council Minutes
August 3, 1999
Page 6

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.

Fayetteville City Council
July 20, 1999
Page 7

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.

Minutes of Planning Commission Meeting
January 11, 1999
Page 32

**RZ98-22: REZONING
LITTLEFIELD INVESTMENT CO, PP 565**

This request was submitted by Richard Osborne on behalf of Littlefield Investment Company for property located at 1798 East Huntsville Road. The property is zoned C-1, Neighborhood Commercial, and contains approximately 0.54 acres. The request is to rezone the property to C-2, Thoroughfare Commercial for the purpose of installing a used car lot.

Staff does not recommend the approval of the requested rezoning from C-1 to C-2 because there are adequate vacant C-2 parcels in the city to accommodate the proposed use. The Land Use Plan shows the area to be Community Commercial, therefore, the rezoning proposed is not consistent with the land use planning objective, principles, and policies of the land use and zoning plans.

Richard Osborne and Conway Massey were present on behalf of the project.

Commission Discussion

Osborne: I would like to address the items one and two that the land use planning objective, principles, and policies are not consistent with the General Plan 2020. There is C-2 in the area. It is across the street. It is the Mexican Original Plant. Other than that, there is C-2 in the City that is appropriate but not in that part of the city. We have had three inquiries in the past two years. One was for a small appliance repair which we did not feel would be appropriate there. The other was a flea market. We felt the used car lot is a better use for that area which we cannot do without C-2 zoning. I have a loose view of the General Plan. It is not sculpted in granite and therefore it can be altered. I feel this would 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?

Minutes of Planning Commission Meeting
January 11, 1999
Page 33

Little: That is correct.

Odom: Would we be able to grant a rezoning contingent upon it being for one particular use.

Little: No. That would not be advisable unless offered by the applicant.

Osborne: We will offer a Bill of Assurance that it will only be rezoned for a used car lot. If something else were to occur we would simply come back.

Hoffman: Is there not any way to grant a conditional use?

Little: No.

Forney: Rezoning is a really important part of our work and we need to exercise a lot of care. I think the General Land Use Plan should be our proper guide and I appreciate the staff's report. I appreciate the applicant's view that this area is not being used to its full potential. I am optimistic about the future of that intersection given the increased development north of there. Since this property is for lease, I think rezoning to accommodate a rental opportunity seems contingent and short sighted. Rezoning should be a long term decision.

Odom: I wasn't originally going to support this but since the offer of the Bill of Assurance, I'm not as concerned about it.

Forney: How does this work? What would happen to the zoning on the site after the lease expires?

Little: It would be C-1 or it could be used again for another used car lot.

MOTION

Mr. Odom made a motion to approve 98-22 to rezone the property from C-1 to C-2 with a Bill of Assurance that this will be used for a used car lot only and the zoning will revert to C-1 at the expiration of the lease or change in use.

Mr. Ward seconded the motion.

Further Discussion

Little: This will be limited to one use.

Minutes of Planning Commission Meeting
January 11, 1999
Page 34

Forney: How often do we do this?

Little: Limiting to one use is unusual. It says it is not appropriate for that zone except for that one use. It is not generally advisable to do that. I think at the City Council level the City Attorney will caution the Council against that.

Forney: Have we done this before?

Little: Not just for one use.

Forney: We have a mechanism and it may not address the specific cases as we think it should. We are putting ourselves in an awkward position. I think we'll see a lot of people come in here to rezone for just one use. That is not a good way to treat our land use plan. If we don't like the way our regulations are we should revise the regulations.

Odom: This would not be allowed as conditional use in C-1.

Upon Roll Call

Upon roll call, the motion passed with a vote of 5-4-0. Mr. Forney, Ms. Hoover, Ms. Johnson, and Mr. Tucker voted against the motion.

Planning Division Record of Conversation

Employee: April Okoroafor Zoning: C-1 ^{WOK for} ~~also~~ ^{dealership} ~~Case No:~~
Date: 8/27/99 Time: 8:30 Walk-in: X Telephone: _____ Plat Page # _____
C of Z: _____ Zoning Determination: _____ Food Plain Determination: _____ FEMA Map # _____

Name of Client: Clem Johnson
Business: Car Restoration
Location in question: 1798 E Huntsville Rd
Phone Number of Client: 442-9286 Fax: same

Nature of Call: _____

My plans are to recycle antique & classic cars and to completely restore them to original condition -

I will need to disassemble, paint small parts, recondition any parts that are not available now and then reassemble them

I do not plan to sandblast complete cars or do complete paint jobs or ~~rep~~ reupholster them, those jobs I will subcontract out -

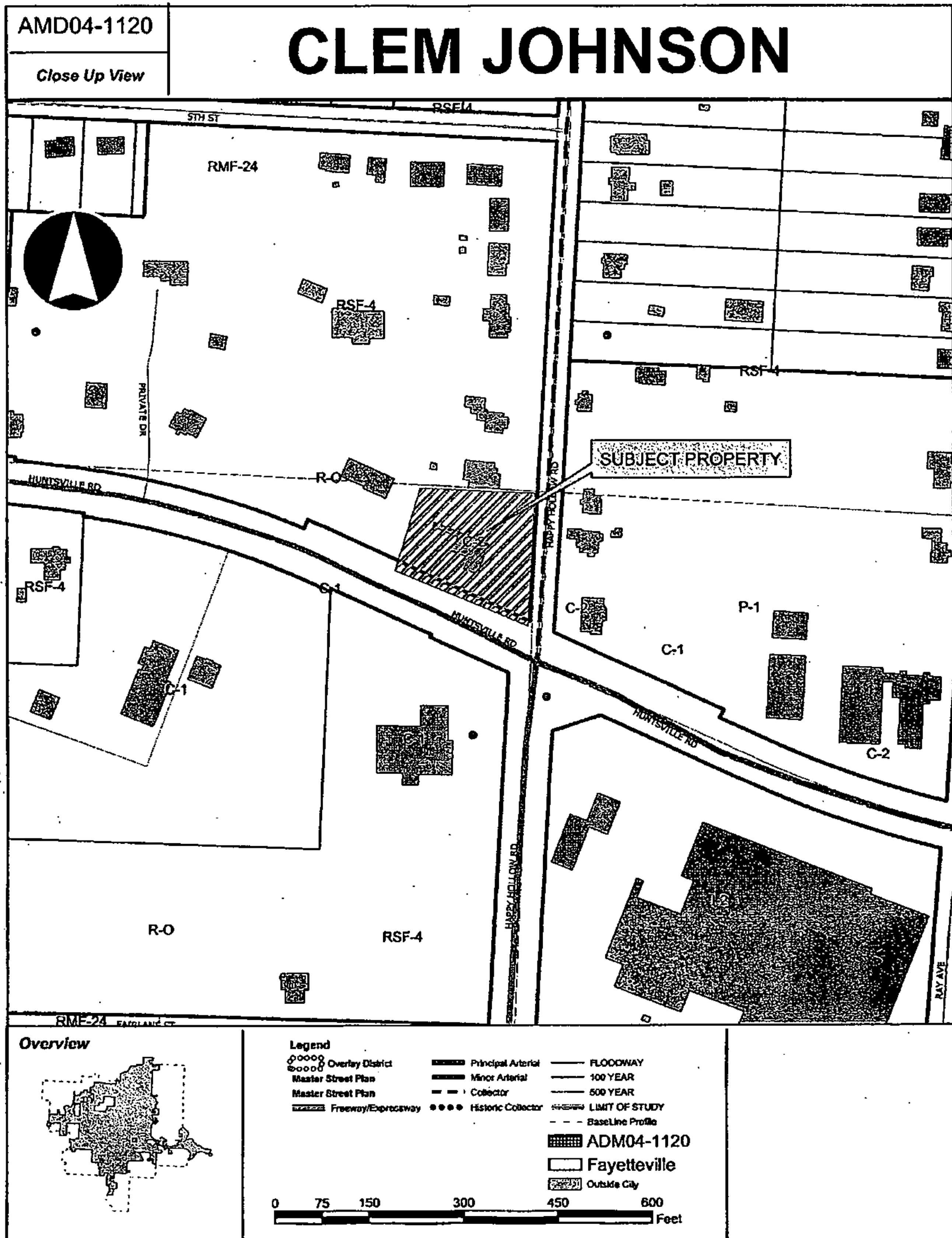
I also will contract out and machining of motors or other parts which require large industrial tooling.

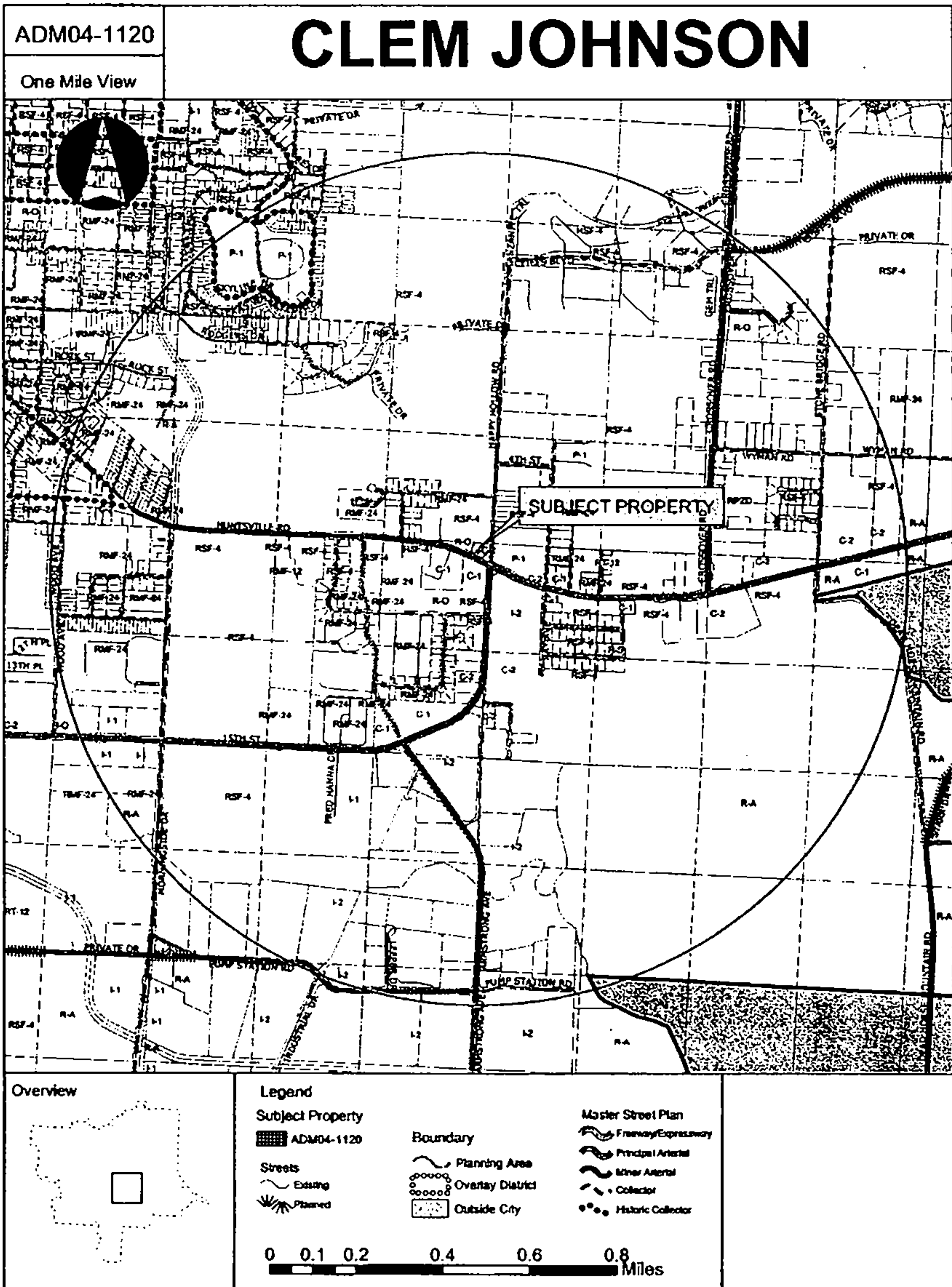
I need an office on site, restrooms and work space -

There is a floor lift which needs repair and a grease pit which I will clean up and properly dispose of.

When completing these cars I intend to display and resell them.

I will probably have 10-15 cars in progress at the most and I will keep the area clean and secure.





Planning Commission

June 14, 2004

Page 4

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 was 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

Planning Commission
June 14, 2004
Page 5

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

Planning Commission
June 14, 2004
Page 6

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

Planning Commission
June 14, 2004
Page 7

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.

Planning Commission

June 14, 2004

Page 8

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

Planning Commission
June 14, 2004
Page 9

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 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.

Planning Commission

June 14, 2004

Page 10

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

Planning Commission
June 14, 2004
Page 11

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.

Planning Commission

June 14, 2004

Page 12

Johnson: Not to my understanding. To my understanding that was the cars that were not titled and tagged. You could actually sale cars out in the front but behind the fence were cars that would have to be titled and tagged. That was my understanding back when we originally did this.

Vaught: I don't see that in the Bill of Assurance. I don't know if anyone here was on the Commission in 2001. Nancy, do you remember this?

Allen: No I don't.

Vaught: In my opinion that's the way it reads.

Myres: From a design perspective, which is the way I see everything, I can actually see an instance where a chain link fence that wasn't silver, as Kit mentioned, there are a couple of different options for vinyl coating on these fences that are relatively attractive. The fact that this was originally a gas station that still looks like a gas station that has been restored to maintain it's appearance. It does seem that of all the fencing options that are available, chain link is the most reasonable. Having said that, I think there might be ways that that chain link could be incorporated with other elements such as pillars or posts that mimic the ones that are already present on the property that could create fencing that was a combination of something that was sensitive to the building as well as meeting the criteria of safety and security and maintaining a distance between the public and your dog and the public and your cars. Granted, I realize that that kind of attention to detail is going to be more expensive than just putting up a chain link fence that is uncoated and just industrial fencing. If you think about a 6' tall silver chain link fence with the typical posts it does remind me of an industrial lot someplace that is not necessarily detail or service oriented but industrial like construction and that sort of thing. I just wish that there was some sort of compromise that we could make between the letter of the law and the good will of the applicants in trying to find a solution to the problems that they have been faced with. I don't have any other suggestions to make. I feel like I'm caught between agreeing with everybody else's opinion that this is what the ordinance says and wanting to find some way to make it possible for you to put up a fence that is in keeping with the building but is something that won't break the bank so to speak.

Ostner: It is not easy to design by committee. The design standards present problems like this every once in a while. Having come to this forum trying to design things where we should all be sitting around a table drawing.

Vaught: I have a question for staff or Mr. Williams, whichever. On this on a variance, what is the appeals process?

Planning Commission
June 14, 2004
Page 13

Williams: Dawn, do you know if they have a right to appeal to the City Council if this variance is denied? Ok, I do see that there is an appeal to the City Council from a decision by the Planning Commission concerning commercial design standards so I would assume that it would also be variations from the commercial design standards.

Clark: Do we have a copy of what type of fencing is going to make the powers in animal control happy?

Johnson: All they mentioned was chain link. That was their solution to the problem.

Clark: So the City animal shelter suggested something that violates the city code.

Johnson: They told the special appointed prosecuting attorney that that was what he should recommend in the settlement and that's what we agreed to do to get the dog out early. I don't know what we will do if we can't do what they ask, we may have to go back and renegotiate. I don't know.

MOTION:

Allen: I am quite an animal lover. I feel very sympathetic to your plight. However, I do feel that you do have options in this situation. I can't see how there is an undue hardship since there are options for you. I will be the goat and move to deny ADM 04-1120.

Ostner: I have a motion by Commissioner Allen, do I have a second?

Shackelford: I will second.

Ostner: Is there further discussion?

Anthes: I would just like to state that the prosecutor and the staff of the animal shelter are not the bodies of the city that are charged with design or interpretation of commercial design standards and therefore, I can't take their specific recommendations as applicable to our standards.

Shackelford: I would also like to make one quick comment. Obviously, I seconded the motion for denial. This is a direct violation of city ordinance and code. We are challenged to look under hardship, as our city attorney said, and I think visibility is a possible argument. As far as specific costs I don't think that could be considered undue hardship. We force or encourage or require developers and others to live up to our codes and our ordinances everyday. Most of those times there are extensive costs. That is really the

Planning Commission
June 14, 2004
Page 14

test that I struggle with. I just don't think I can get there with that being undue hardship. That is the reason that I will support the motion.

Ostner: Is there further discussion? Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to deny ADM 04-1120 was approved by a vote of 7-1-0 with Commissioner Myres voting no.

Thomas: The motion carries seven to one.

City Council Agenda Item

To: Mayor and City Council
From: Gary Dumas 
Date: June 17, 2004
Subject: Ordinance Change Codifying Current Practice of Billing Contractors, Businesses and Others When Street Cleaning Services Are Required to Correct Their Lack of Response

Recommendation: Staff recommends approval of the attached Ordinance codifying current practice of billing contractors, businesses and others when street cleaning services are required to correct their lack of response.

Background: City Code Section 169.04.F requires the removal of mud/dirt from public streets. Any debris, soil, or mud from development sites reaching a public street must be immediately removed. The Engineering Division normally responds to complaints concerning this development requirement. However, occasionally the Transportation Division will also become involved when compliance is not voluntarily achieved. With the Transportation Division involvement, normally a street sweeping operation is undertaken. When this occurs the responsible party is billed for services at an overtime rate; since normal work must still be performed in addition to the extra work cleaning problems created by a specific party.

The current code requirement only addresses "development sites." On occasion, some businesses generate dirt, mud or debris on the street and may not have the capacity to perform necessary street cleaning activities. This could result from spilled loads of sand, gravel, offal, etc., or simply businesses that track mud, dirt and other debris on to the street such as along Warford and 13th St.

Discussion: A code provision is necessary to specifically permit the recovery of costs for these activities. On occasion and for specific circumstances the cleaning activities may become almost routine, if the business owner(s) are not responsive to correcting their own problems. This Code provision will allow appropriate cost recovery processes be utilized as necessary.

The proposed procedure would be:

1. A certified letter from the Transportation Division Manager would be sent to the responsible party.
2. The responsible party would be given three business days to correct the problem.
3. Transportation Division staff would undertake the street cleaning and bill responsible party for all costs of cleaning at the overtime rate if the issue is not resolved within three business days.
4. The responsible party would have the right to appeal the initial notice in the certified letter or the costs of the street cleaning to the Director of Operations.

Budget Impact: Expenses for providing the service necessitated by others will be recovered.

ORDINANCE NO. _____

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.

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

Section 1. That Chapter 98: Streets and Sidewalks, of the Code of Fayetteville is hereby amended by inserting the following:

§98.08 Spilling or Tracking Debris onto Public Streets

- (A) Any person who spills dirt, gravel, sand, offal, or any other similar material, or who tracks mud, dirt or other debris onto the public streets of the City of Fayetteville shall be responsible for the prompt and thorough clearance and cleaning thereof. The Transportation Division Manager is hereby authorized to order the responsible party to clear and clean the affected street(s). The Transportation Division Manager shall give the responsible party written notice, via certified mail, to perform such acts within 3 business days of receipt of notice.
- (B) If the responsible party fails to clear and clean the affected street(s) within 3 business days of receipt of notice, Transportation Division staff shall undertake the street cleaning, and bill the responsible party for the costs thereof, at the overtime rate for said staff.
- (C) The responsible party may request that the Director of Operations conduct an administrative review of such an order, or the appropriateness of the amount assessed for the cleaning. The decision of the Director of Operations shall constitute final administrative action in the matter.

PASSED and APPROVED this ____ day of July 2004.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

NON
STAFF REVIEW FORM - FINANCIAL OBLIGATION

C. 3.
Cost Recovery Street Cleaning
Page 3 of 4

XXX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of:

20
July 8, 2004

FROM:

Gary Dumas

Operations Department

Name

Division

Department

ACTION REQUIRED: Approve Code Section 98.08 to specifically permit the cost recovery for street cleaning activities necessiated by spillage or tracking of debris, mud, dirt, offal , or other material on to street right of way

COST TO CITY:

~ \$0.00

\$

-

Transportation

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:

Budgeted Item

Budget Adjustment Attached

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

Purchasing Manager

Date

STAFF RECOMMENDATION:

Division Head

Date

Department Director

Date

Finance & Internal Services Dir.

Date

Chief Administrative Officer

Date

Received in Mayor's Office

Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

Mayor

Date



Staff Review Form - Page 2

Description _____ Meeting Date July 6, 2004

Comments:

Reference Comments:

Budget Manager

Accounting Manager

All billings must be routed through
the Accounting Division for
proper tracking, collection, etc.
ADano

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

City Council Agenda Item

To: Mayor and City Council

From: Gary Dumas



Date: July 14, 2004

Subject: Consideration of Amendment No. 4 to the contract with Waste Management of Arkansas to Transport and Dispose of Municipal Solid Waste and for operation of the City's Transfer Station and granting a 6.8% increase and consideration of a budget adjustment

Recommendation: Consider request by Waste Management of Arkansas for rate increase of 6.8% for the transport and disposal of municipal solid waste and for operation of the city's transfer station. The staff recommends that the Waste Management requested rate increase be denied and that the City Council instruct the staff to negotiate a reduced disposal rate at the landfill when hauled by the City.

Background: On September 25, 1995 the city entered into a contract with Sunray Services, Inc., now Waste Management of Arkansas for transport and disposal of municipal solid waste and for operation of the city's transfer station. The contract established the various rates for specific activities to be performed. The contract also allowed fees to be adjusted between the City and the contractor not more than twice per year based upon demonstrable and material changes in the contractor's cost of doing business beyond the contractor's control.

Since September 25, 1995 there have been three contract amendments. These amendments adjusted the rates as outlined in the following table. Amendment No. 3 approved on May 18, 1999 also executed the first 5-year option. The original contract was due to expire on September 25, 2001

Initial contract rates on September 25, 1995 were:

- a. For operation of the transfer station - \$4.00 per ton of waste delivered to the station.
- b. For outgoing transport of waste delivered to the city's transfer station - \$6.85 per ton.
- c. For disposal of waste delivered to the city's transfer station - \$18.00 per ton.
- d. For disposal of waste delivered to the contractor's landfill or contractor's transfer station - \$28.85 per ton.
- e. For accepting, transporting and disposing of waste from sources other than the City of Fayetteville - \$40.00 per ton.
- f. For accepting waste from sources other than the City of Fayetteville: \$1.25/bag until rate exceeds \$20.65; or \$20.65 minimum up to 1,000 pounds; after 1,000 \$41.28/ton (effective 1-1-97)

Since the initial contract, the rates have been amended as follows. The date authorized by resolution is indicated, the effective date is shown in brackets if different. The parenthesis indicates errors in rate adjustments. It appears that fee f. has changed over time at a greater rate of increase than other fees.

City Council Agenda Item

Date	9-25-95	1-1-97	1-1-98	5-18-99 {1-1-99}	5-18-99 {8-31-01}	8-1-04 proposed
a.	\$4.00	\$4.13	\$4.13	\$4.13	\$4.13	\$4.41
b.	\$6.85	\$7.07	\$5.07	\$5.07	\$5.07	\$5.41
c.	\$18.00	\$18.00	\$18.00	\$19.00	\$20.00	\$21.36
d.	\$28.85	\$29.20	\$27.20	\$28.20	\$29.20	\$31.19 (\$31.18)
e.	\$40.00	\$41.28	\$39.28	\$41.28	\$41.28	\$42.72
f.	0	\$41.28	\$41.28	\$42.75	\$42.75	\$45.66

Based upon the initial contract document, Waste Management of Arkansas will need to justify their requested rate increase.

Discussion: Waste Management of Arkansas has indicated in their correspondence requesting the rate change that the rates have not increased since January 1999. The Resolution adopting the most recent rate increase is dated May 18, 1999. The amendment implemented the increase retroactively to January 1, 1999 with an additional increase effective August 31, 2001.

The Consumer Price Index, not seasonally adjusted, U.S. Cities, All Items, from 2001 through May 2004 has been 6.8%. Waste Management of Arkansas has requested this magnitude of rate adjustment. No other supporting information has been provided.

Additional Issues: Rate d. is for disposal of waste delivered to the Contractor's landfill or transfer station. This rate is the disposal fee only when delivered to the Contractor's landfill; there is no handling or transporting of the waste by the Contractor; the waste is hauled by the City. This rate should be the disposal rate plus ancillary weigh station charge only, with no handling or hauling charges included.

During the closure of the Tontitown Landfill, Waste Management utilized the Transfer Station and composting area to accept construction and demolition debris, bulky waste and super bulky waste, all in accordance with the ADEQ permit for the Transfer Station. However, since the reopening of the Tontitown Landfill and the City's entry into the drop box market, Waste Management has chosen to enforce an item in the General Specifications attached to the initial contract and not permit the use of the Transfer Station for construction debris, bulky waste, or super bulky waste. This decision by Waste Management has required the City to haul the drop boxes to the landfill; this has been problematic as the landfill attendant has on occasion not permitted entry into the landfill due to his or her misinterpretation of the contract. The landfill disposal fee is \$28.75/ton per rate d. in the contract. The Contract and General Provisions should be modified to include class 4 waste material (construction and demolition debris, bulky waste and super bulky waste) as material accepted at the Transfer Station for the normal transfer station rate; and the disposal fee paid by the City when hauled by the City to the landfill should be the disposal fee and ancillary weigh station charge only.

City Council Agenda Item

Waste Management of Arkansas is a wholly owned subsidiary of the Waste Management, Inc. The following is taken from the parent company's statement of Quarterly Earnings as found on their website and concerns their financial status and profitability.

Waste Management Announces First Quarter 2004 Earnings

HOUSTON - April 29, 2004 -- Waste Management, Inc. (NYSE: WMI) today announced financial results for its first quarter ended March 31, 2004. Revenues for the quarter were \$2.90 billion as compared to \$2.73 billion in the year ago period, or an increase of 6.0%. Net income for the quarter was \$152 million, or \$0.26 per diluted share, as compared to \$61 million, or \$0.10 per diluted share in the prior year period. Net income before considering a favorable \$8 million cumulative effect of change in accounting principle for the quarter was \$144 million, or \$0.25 per diluted share. In the 2003 quarter, net income before considering unfavorable cumulative effect of changes in accounting principles of \$46 million was \$107 million, or \$0.18 per diluted share. Net income before cumulative changes increased 34.6% in 2004 as compared to the prior year's quarter.

Waste Management Announces 4th Quarter and Full Year 2003 Earnings

HOUSTON - February 12, 2004 -- Waste Management, Inc. (NYSE: WMI) today announced financial results for its fourth quarter and for the year ended December 31, 2003. Revenues for the quarter were \$2.97 billion as compared with \$2.81 billion in the year ago period.

For the full year 2003, Waste Management reported operating revenues of \$11.57 billion, compared with \$11.14 billion in 2002. Net income before cumulative effect of change in accounting principles for the year was \$719 million, or \$1.21 per diluted share, compared with \$820 million and \$1.33 for the year 2002. Net income after considering cumulative effect of change in accounting principles was \$630 million for 2003 and \$822 million for 2002.

Additionally from the Waste Management Annual Report as found on their website

Competition

The solid waste industry is very competitive. Competition comes from a number of publicly-held solid waste companies, private solid waste companies, and large commercial and industrial companies handling their own waste collection or disposal operations. We also have competition from municipalities and regional government authorities with respect to residential and commercial solid waste collection and solid waste landfills. The municipalities and regional governmental authorities can subsidize the cost of service through the use of tax revenues and tax-exempt financing and therefore have a competitive advantage. Operating costs, disposal costs and collection fees vary widely throughout the geographic areas in which we operate. The prices that we charge are determined locally, and typically vary by the volume and weight, type of waste collected, treatment requirements, risk of handling or disposal, frequency of collections, distance to final disposal sites, labor costs and amount and type of equipment furnished to the customer. We face intense competition based on quality of service and pricing. Under certain customer service contracts, our ability to pass on cost increases to our customers may be limited. From time to time, competitors may reduce the price of their services and accept lower margins in an effort to expand or maintain market share or to successfully obtain competitively bid contracts.

This information concerning Waste Management, Inc. is referenced in part due to two other service providers who have recently offered their services. The following is a summary of these offers as compared to the Waste Management request.

City Council Agenda Item

	Disposal /Ton	Hauling and or Transfer Station	\$/Ton	Annual Savings	Additional System Income from Current Outside Haulers	Total Additional Revenue
Vendor 1	\$21.00	\$8.32 by City	\$29.32	\$87,780	\$28,697	\$116,477
Vendor 2	\$20.50	\$2.61 by City	\$23.61	\$357,680	\$42,400	\$400,080
Waste Management	\$21.36	\$9.82	\$31.18	\$90,000+ added cost		

City of Fayetteville Solid Waste Budget	System Income as a % of Budget Vendor 1	System Income as a % of Budget Vendor 2	Probable Minimum Rate Increase with Waste Management Rate
\$7,148,155	1.6% savings	5.6% savings	1.3% increase
City of Fayetteville Solid Waste Disposal Budget			
\$1,232,204	9.5% savings	32% savings	7.3% increase

Vendor 1 would provide disposal service at \$21.00/ton delivered to their landfill. The city would be required to provide hauling services and operation of the transfer station for an estimated \$8.32/ton. This option would have a cost of \$29.32/ton for a saving of \$1.86/ton. Annual equipment costs are included in the rate structure; capital purchases would be through a lease/purchase agreement, Amendment 65 arrangement, with the lease retired in 5 years with the additional system revenue and Solid Waste reserves. After the fifth year this income would be used to repay the reserves and minimize any future rate adjustments.

Vendor 2 has offered to haul and provide disposal services for \$20.50/ton. The City would be required to operate the transfer station for an estimated \$2.61/ton. This option would have a cost of \$23.61/ton for a savings of \$7.57/ton. Annual equipment costs are included in the rate structure; capital purchases would be through a lease/purchase agreement, Amendment 65 arrangement, with the lease retired in the first year with the additional system revenue. After the first year this income would be used to minimize or eliminate any future rate adjustments.

City Council Agenda Item

Given the profitability of Waste Management, Inc. from their financial reporting and the other readily available options for service at a greatly reduced cost, the rate increase should not be granted.

Additionally, there is no rationale for charging a disposal rate of \$20.00 at the transfer station and then a disposal rate of \$29.20 at the landfill if we haul the waste to the landfill. The staff recommends that the Waste Management requested rate increase be denied and that the City Council instruct the staff to negotiate a reduced disposal rate at the landfill when hauled by the City and that the General Provisions of the Contract be amended to specifically allow Class 4 waste to be handled at the transfer station as it was during the Tontitown Landfill closure by ADEQ.

As per contract language the annual continuation of the contract, is "subject to annual approval of the budget by the Fayetteville City Council." Given the very competitive nature of the landfill business, the City Council during budget discussions may wish to discuss funding disposal services at a lesser rate.

Budget Impact: No budget impact if the request is denied. If the requested increase by Waste Management is approved the annual impact will be approximately \$90,000 dependant upon annual tonnage.

RESOLUTION NO. _____

A RESOLUTION REJECTING CONTRACT AMENDMENT #4
WITH WASTE MANAGEMENT OF ARKANSAS, INC. TO
TRANSPORT AND DISPOSE OF MUNICIPAL SOLID WASTE
AND FOR OPERATION OF THE CITY'S TRANSFER STATION.

**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 rejects Contract Amendment #4 with Waste Management of Arkansas,
Inc. to transport and dispose of municipal solid waste and for operation of the
city's transfer station.

PASSED and APPROVED this 3rd day of August 2004

APPROVED:

By _____
DAN COODY, Mayor

ATTEST:

By _____
SONDRA SMITH, City Clerk

AMENDMENT #4

Contract with Waste Management of Arkansas, Inc.
for the Operation of Transfer Station,
and Transport and Disposal of Municipal Solid Waste

The City of Fayetteville, by agreement dated September 25, 1995, contracted with Waste Management of Arkansas, Inc. as successor-in-interest to Sunray Services, Inc. for the operation of Fayetteville's transfer station, and transport and disposal of municipal solid waste. Amendment #4 does hereinafter amend the contracted terms of the agreement as specified in Section 3 of the contract document. The approved amendments to Section 3 of the contract document are as follows:

- Section 3.(a) For operation of the City Transfer Station, currently \$4.13 per ton, effective August 1, 2004, of solid waste delivered to the Transfer Station, \$4.41 per ton;
- Section 3.(b) For outgoing transport of solid waste delivered to the City Transfer Station, currently \$5.07 per ton, effective August 1, 2004, based on incoming weight delivered to the Transfer Station, \$5.41 per ton;
- Section 3.(c) For its disposal of waste delivered to the City Transfer Station, currently \$20.00 per ton; effective August 1, 2004, for its disposal of waste delivered to the City Transfer Station, \$21.36 per ton;
- Section 3.(d) For disposal of solid waste delivered to Contractor's landfill or transfer station, currently \$29.20 per ton; effective August 1, 2004, for disposal of solid waste delivered to Contractor's landfill or transfer station, \$31.19;~~8~~
- Section 3.(e) For accepting at the City's Transfer Station and disposing of solid waste generated from other sources other than the City of Fayetteville, currently \$40.00 per ton,; effective August 1, 2004, of waste delivered to the Transfer Station, \$42.72 per ton.
- Section 3.(f) A minimum charge for accepting solid waste from sources other than the City of Fayetteville, currently \$1.30 per bag until exceeds \$20.65, or \$20.65 minimum up to 1,000 pounds, effective August 1, 2004, \$1.39 per bag until exceeds \$22.05, or \$22.05 minimum up to 1,000 pounds. After 1,000 pounds, other sources will be charged currently \$42.75 per ton, effective August 1, 2004, \$45.66 per ton.

IN WITNESS WHEREOF, the parties to these presents have executed this Amendment #4 of the contract for the operation of Fayetteville's transfer station, and transport and disposal of municipal solid waste to be effective August 1, 2004.

CITY OF FAYETTEVILLE, ARKANSAS

ATTEST:

By: _____
Dan Coody, as Mayor

Date: _____

City Clerk

WASTE MANAGEMENT OF ARKANSAS, INC.

By: _____
Roger Lawrence, as authorized signatory

Date: _____

Gary-

Attached is Amendment #4 amending the fee structure in the Agreement between the City and Waste Management.

Also, I am faxing to you the Consumer Price Index Table – All Urban Customers – All Items that we used to calculate a 6.8% fee adjustment.

Please note that we used the time of the Annual Rate for 2001 (even though we have not had an increase since January 1, 1999) as our beginning date, and we used May 2004 as the ending date.

The calculation is as follows:

$$\frac{189.1 - 177.1}{12.0} = \text{Annual 2001}$$

$$12.0/177.1 = .068 \times 100 = 6.8\%$$

Section 3.(a) We are proposing an increase of 6.8%, changing the rate from \$4.13 to \$4.41. This is the first time this item has been increased since January 1, 1997.

Section 3.(b) We are proposing an increase of 6.8%, changing the rate from \$5.07 to \$5.41. In 1997, this item's fee was \$7.07 per ton.

Section 3.(c) We are proposing an increase of 6.8%, changing the rate from \$20.00 to \$21.36. This is the first time this item has been increased since January 1, 1999.

Section 3.(d) We are proposing an increase of 6.8%, changing the rate from \$29.20 to \$31.19. This is the first time this item has been increased since January 1, 1999.

Section 3.(e) We are proposing an increase of 6.8%, changing the rate from \$40.00 to \$42.72. This is the first time this item has ever been increased.

Section 3.(f) We are proposing an increase of 6.8%, changing the rate from \$1.30 to \$1.39, and changing the minimum from \$20.65 to \$22.05, and changing the over 1,00 pound fee from \$42.75 to \$45.66. This is the first time this item has been increased since January 1, 1999.



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 Change Output
Options:

 From: 1994 To: 2004
☐ include graphs NEW!

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Data extracted on: July 8, 2004 (11:27:15 AM)

Consumer Price Index - All Urban Consumers

Series Id: CUUR0000SA0
 Not Seasonally Adjusted
 Area: U.S. city average
 Item: All items
 Base Period: 1982-84=100

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
1994	146.2	146.7	147.2	147.4	147.5	148.0	148.4	149.0	149.4	149.5	149.7	149.7	148.2	147.2	149.3
1995	150.3	150.9	151.4	151.9	152.2	152.5	152.5	152.9	153.2	153.7	153.6	153.5	152.4	151.5	153.2
1996	154.4	154.9	155.7	156.3	156.6	156.7	157.0	157.3	157.8	158.3	158.6	158.6	156.9	155.8	157.9
1997	159.1	159.6	160.0	160.2	160.1	160.3	160.5	160.8	161.2	161.6	161.5	161.3	160.5	159.9	161.2
1998	161.6	161.9	162.2	162.5	162.8	163.0	163.2	163.4	163.6	164.0	164.0	163.9	163.0	162.3	163.7
1999	164.3	164.5	165.0	166.2	166.2	166.2	166.7	167.1	167.9	168.2	168.3	168.3	166.6	165.4	167.8
2000	168.8	169.8	171.2	171.3	171.5	172.4	172.8	172.8	173.7	174.0	174.1	174.0	172.2	170.8	173.6
2001	175.1	175.8	176.2	176.9	177.7	178.0	177.5	177.5	178.3	177.7	177.4	176.7	177.1	176.6	177.5
2002	177.1	177.8	178.8	179.8	179.8	179.9	180.1	180.7	181.0	181.3	181.3	180.9	179.9	178.9	180.9
2003	181.7	183.1	184.2	183.8	183.5	183.7	183.9	184.6	185.2	185.0	184.5	184.3	184.0	183.3	184.6
2004	185.2	186.2	187.4	188.0	189.1										

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

C. 4.
Waste Management
Page 10 of 12

Budget Year 2004	Department: Operations Division: Solid Waste & Recycling Program: Solid Waste Fund Revenue	Date Requested 8/3/2004	Adjustment Number
--------------------------------	---	---------------------------------------	--------------------------

Project or Item Requested:

\$49,670 is requested in the solid waste disposal account in the Commercial Collection program; \$29,628 is requested in the solid waste disposal account in the Residential Collection program; and \$7,842 is requested in the solid waste disposal account in the Commercial Drop Collection account.

Project or Item Deleted:

No project is deleted. Reserves will fund this contract increase.

Justification of this Increase:

These increases are necessary to fund a 6.8% increase to the contract with Waste Management to transport and dispose of municipal solid waste and for operation of the City's transfer station.

Justification of this Decrease:

Use of reserve funds is required to meet this contract increase.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number
Solid waste disposal	5500	5010	5316	00	22,230	
Solid waste disposal	5500	5020	5316	00	13,260	
Solid waste disposal	5500	5030	5316	00	3,510	

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number
Use of fund balance	5500	0950	4999	99	39,000	

Approval Signatures

Gary Dumas	7/15/2004
Requested By	Date
 Budget Manager	 Date
 Department Director	 Date
 (see to finance)	7-20-04
Finance & Internal Services Director	Date
 Mayor	 Date

Budget Office Use Only

Type:	A	B	C	<u>D</u>	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: August 3, 2004

FROM:

Gary Dumas

Operations Department

Name

Division

Department

ACTION REQUIRED: Consideration of Amendment No. 4 to the contract with Waste Management of Arkansas to Transport and Dispose of Municipal Solid Waste and for operation of the City's Transfer Station and granting a 6.8% increase

COST TO CITY:

\$39,000 for remainder of 2004	\$ 1,265,002.00	
	\$ 909,354.00	Services and charges
	\$ 176,003.00	
5500.5010.5316.00	Category/Project Budget	Program Category / Project Name
	\$573,746	Commercial Collection
5500.5020.5316.00	\$437,839	Residential Collection
5500.5030.5316.00	\$81,535	Commercial Drop Collection
Account Number	Funds Used to Date	Program / Project Category Name
	\$ 691,256.00	
	\$ 471,515.00	
N / A	\$ 94,468.00	Solid Waste
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW:

☒ X

Budgeted Item

XXXXX

Budget Adjustment Attached

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

Denise Hingle 7/16/04
Accounting Manager Date

Danny Smith 7/16/04
Internal Auditor Date

D. F. Whit 7/16/04
City Attorney Approved as to form Date

P. Uice 7/16/04
Purchasing Manager Date

ONLY.

STAFF RECOMMENDATION:

Division Head

Date

Department Director

Date

Finance & Internal Services Dir.

Date

Chief Administrative Officer

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 Agenda Item

To: Mayor and City Council
From: Gary Dumas 
Date: July 16th, 2004
Subject: Bid waiver to purchase front and rear load style dumpsters

Recommendation: Staff recommends approving a bid waiver to receive the best prices possible for the purchase of front and rear load style dumpsters for the Solid Waste and Recycling Division.

Background: On February 3, 2004 Wastequip May-Fab was awarded bid 03-80 for the right to supply front and rear load style dumpsters to the Solid Waste and Recycling Division. Resolution number 14-04 gave the Solid Waste and Recycling Division the approval to purchase the containers with this bid. Staff was informed in February that the prices for dumpsters would not increase more than 6%, however, recently when staff placed an order for the dumpsters the prices had risen above the 6% figure.

Discussion: Due to the uncertainty in the steel market, receiving a bid waiver would allow the Solid Waste Division to competitively receive quotes for front and rear load style containers and receive the best prices possible for the purchase of these containers. The recent new quotes from Wastequip increased the approved bid prices in a range from \$118 to \$170 per container depending on the size. Due to this recent increase in cost, staff received new quotes from 2 other manufacturers: Bes-Pac, and Downing Sales and Service which are attached along with Wastequip's new quotes in this agenda request. Staff analyzed the new quotes and has determined a savings if allowed to use the manufacturer with the lowest quotes per container size. Staff believes this justifies a need for a bid waiver.

These dumpsters are purchased on an as-needed basis. Again, due to the uncertainty in the steel markets, receiving quotes from manufacturers before placing an order will give the Division the best price for ordering dumpsters. Recently the Solid Waste Division made a similar request to issue a bid waiver for purchasing roll-off style containers because of increasing steel prices and the manufacturers increase in container prices. An ordinance to waive formal competitive bidding requirements during 2004 was approved on May 18th, 2004, Ordinance number 45-75.

Budget Impact: These containers were anticipated and budgeted into Solid Waste's Commercial Collection program within the container costs account, 5500.5010.5870.00. Currently there is \$125,342.03 left in this account. The purchase of these dumpsters was authorized up to \$63,000 and will be covered within the budget.

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE FORMAL COMPETITIVE BIDDING REQUIREMENTS DURING 2004 FOR THE PURCHASE OF 2 TO 8 YARD DUMPSTERS BY THE SOLID WASTE DIVISION AND TO APPROVE THE PURCHASE OF 2 TO 8 YARD DUMPSTERS IN AN AMOUNT NOT TO EXCEED \$63,000.00.

WHEREAS, a previous bid was awarded by the city after competitive bidding in February, but could not be honored by the successful bidder due to an unanticipated jump in steel prices; and

WHEREAS, because of the volatility of steel prices (and hence the price of steel 2 to 8 yard dumpsters), normal competitive bidding procedures are unworkable, impractical and not feasible; and

WHEREAS, the Solid Waste Division proposes to obtain telephone or fax bids by direct solicitation of the suppliers who previously bid during the formal process and accept the lowest bid in this abbreviated procedure.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists in which formal competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding for the purchase of steel 2 to 8 yard dumpsters for the rest of 2004, but requires that the Solid Waste Division solicit fax bids from at least three suppliers and award the bid to the lowest bid submitted.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of 2 to 8 yard dumpsters by the procedure stated above in an amount of not to exceed \$63,000.00.

PASSED and APPROVED this 3rd day of August 2004

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DOWNING SALES & SERVICE, INC.
3 INDIGO ROAD
PHILLIPSBURG, MO 65722
 417/589-6227 Phone 417/589-6753 Fax

July 2, 2004

To: Travis
 City of Fayetteville, AR

UPDATED PRICING

<u>Item #</u>	<u>Description</u>	<u>Unit Price</u>	<u>Qty/TL</u>
1.	Rear Load Container, 2 cubic yard Plastic Lids	\$ 351.00 each	92
2.	Front Load Container, 4 cubic yard Slant, No Side Doors, Plastic Lids	\$ 466.00 each	20
3.	Front Load Container, 6 cubic yard Slant, No Side Doors, Plastic Lids	\$ 590.00 each	14
4.	Front Load Container, 8 cubic yard Slant, No Side Doors, Plastic Lids	\$ 690.00 each	8
5.	Front Load Recycling Container, 4 cu yd Slant, Plastic Lids, Mail Slots	\$ 488.00 each	20
6.	Front Load Recycling Container, 6 cu yd Plastic Lids, (2) Metal Side Doors, Mail Slots	\$ 642.00 each	14
7.	Front Load Recycling Container, 8 cu yd Plastic Lids, (2) Metal Side Doors, Mail Slots	\$ 736.00 each	9
Option:	Front Load Container, 2 cubic yard Plastic Lids	\$ 350.00 each	44

Options: Add \$ 49.00 for Automatic Locks (Serious Brand) on Recycle Container
 Add \$45.00 for Metal Lids in Lieu of Plastic Lids

Prices do not include freight or any applicable sales tax. Sales tax will be added at time
 of invoicing at the applicable sales tax rate unless exemption certificate is provided.

Freight to Fayetteville, AR is \$450.00 per truckload.

Thank you for the opportunity to bid this equipment. If you have any questions, please
 call.

Daniel Ellison

Quote

Quote Expires 7/21/04

Attn: Travis

WasteQuip / May FabP.O. Box 1029
Beeville, TX 78104Phone: (800) 242-0122
Fax: (361) 358-0418
E-mail: julie@mayfab.com
URL: http://www.wastequip.comQuote No. 38183
Quote Date 7/14/04Terms Net 30
Sales Rep. Steve Hurtt
Shipped VIA MF - TX
Painted Fayetteville Red
Delivery will advise**SOLD TO:**

City of Fayetteville

Fayetteville, AR

Contact Person: Travis

E-mail Address:

Phone No.

Fax No. 479 444-3478

Mob. No.

SHIPPED TO:

City of Fayetteville

Fayetteville, AR

QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
	REL	2 YD STRAIGHT REL POLY BLACK	371.00	
	FEL	4 YD SLANT 2 POLY BLACK LIDS	457.00	
	FEL	6 YD SLANT 2 POLY BLACK LIDS	569.00	
	FEL	8 YD SLANT 2 POLY BLACK LIDS	669.00	
SEE LONG TERM PRICE MODIFIER - ATTACHED			SUBTOTAL	\$0.00
FREIGHT PER TRUCKLOAD IS \$482.00			SALES TAX	APPLICABLE
			FREIGHT	SEE NOT
			TOTAL	\$0.00

Questions concerning this quote:

Call: Julie Fromme
(800) 242-0122

Thank you for the opportunity to quote the above.

Please give me a call if you have any questions.
Thank you, again and have a great day!!!*Julie Fromme*

Unless stated otherwise in writing, container sizes indicated on sales literature, invoices, price lists, quotations, and delivery tickets are nominal sizes. Actual volume may vary from nominal sizes.

Wastequip May Fab's specifications are subject to change without notice in order to accommodate improvements to its equipment.

LONG TERM PRICE MODIFIER

Future orders or increased quantities will be subject to adjustment at any time the Steel Index (as defined below) increases or decreases by 5% or more. In the event of any such increase or decrease, pricing will be increased or decreased, as the case may be, by one-half of the total percentage amount of such increase or decrease (including the 5% threshold amount.) By way of example, if the price of steel as measured by the Steel Index increases by 6%, the price of containers will increase 3%. For purposes of this Agreement, the Steel Index will be the American Metal Market Steel Base Price Index, Hot Rolled Sheet, Midwest Index, \$35.00 per hundred weight FOB mill as of April 1, 2004.

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 Collins (RZN 04-1103)

RECOMMENDATION

The Planning Commission recommends approval of an ordinance rezoning approximately 0.51 acres of property from RSF-4, Residential Single Family, 4 DU/Acre to RT-12, Residential Two & Three Family, 12 DU/Acre, based on the findings included in the attached staff report.

BACKGROUND

Property description: The subject 0.51-acre tract of land is located at 1280 Hendrix Street, west of Garland Ave., north of Mt. Comfort Road. The Future Land Use Plan identifies this property for Residential Use. Surrounding properties are zoned RSF-4 and are developed as single family residential homes. Two triplexes currently occupy the site, and are considered nonconforming uses in the RSF-4 zoning district. The structures were permitted in 2001 under an erroneous zoning classification. Subsequent to construction of these units, the error was found, corrected and the zoning map returned to its correct designation. The structures may exist *in situ*, until such time as they are destroyed and/or removed from the property.

Proposal: The applicant proposes to rezone the 0.51-acre tract in anticipation of future sale of the property for use as two and three family dwellings.

DISCUSSION

On June 28, 2004, against the recommendation of staff, the Planning Commission voted 7-2-0 to forward this item to the City Council with a recommendation for approval of the rezoning, with Commissioners Ostner and Allen voting against.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1103 AS SUBMITTED BY JEFFERY COLLINS FOR PROPERTY LOCATED AT 1280 HENDRIX STREET CONTAINING APPROXIMATELY 0.51 ACRES FROM RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE TO RT-12, RESIDENTIAL TWO AND THREE FAMILY.

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 RSF-4, Residential Single Family, Four Units Per Acre to RT-12, Residential Two and Three Family 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 04-1103

LOT 6, BLOCK 1, HENDRIX ADDITION TO THE CITY OF FAYETTEVILLE,
ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE
CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY,
ARKANSAS.

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 04-1103: Rezoning (COLLINS, 404): Submitted by JEFFERY, T. COLLINS for property located at 1280 HENDRIX STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.51 acres. The request is to rezone the subject property from RSF-4, Residential Single-family, 4 units per acre, to RT-12, Residential Two and Three-family.
Planner: JEREMY PATE

RECOMMENDATION:

Staff recommends denial of the requested rezoning based on the findings included as part of this report.

PLANNING COMMISSION ACTION:	Required <u>YES</u>
Date: <u>June 28, 2004</u>	☒ Approved ☐ Denied Trumbo ⁹ /Shackelford ⁹ 7-2
CITY COUNCIL ACTION:	Required <u>YES</u>
Date: <u>July 20, 2004 (1st reading if recommended)</u>	☐ Approved ☐ Denied

Comments: _____

BACKGROUND:

Property description: The subject property is located at the northeast corner of Hendrix St and Addington Avenue, west of Garland Ave. Currently a 6-unit multifamily development (two triplexes) exists on site, constructed in 2001. These units were permitted under an erroneous zoning classification in 2001, which was corrected soon thereafter. Surrounding properties are zoned RSF-4 and are developed as single family residential homes along Addington Avenue,

Maxwell Drive and Hendrix Street.

The existing use of the property for three-family dwellings (Use Unit 10) is not allowed by right nor by conditional use in the RSF-4 zoning district and is, therefore, considered a nonconforming use on this property. Nonconforming uses are considered incompatible with permitted uses in their respective zoning district. Nonconforming uses may not be enlarged, increased, or moved on the property. If a nonconforming use ceases for more than 120 days, any subsequent use of the land shall conform to zoning district regulations. If a structure is destroyed to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the zoning district in which it is located.

Public Comment: Numerous comments have been received at the Planning Division, many of which are included in the staff report. The surrounding neighborhood residents who have submitted comments resoundingly oppose the rezoning and express desire for the property to be permanently zoned RSF-4. *(A request for rezoning property may be submitted by its respective property owner at any time, subject to the regulations set forth by the Unified Development Code.)*

History: In April 2002, a highly contested rezoning was approved by the City Council for property located at the corner of Hendrix St. and Garland Ave. (Brock Thompson), several lots east of the subject property. The Thompson property, as is the case with the subject property, for many years appeared on the City's zoning map as R-1.5 (RT-12). It was discovered with extensive research that a drafting error had occurred in the process of converting the official City zoning map from a hand drawn graphic to a digitized document, a process that began in 1995. The error was discovered when a project proposal was reviewed for the Thompson property. Staff researched this area of the map and determined the property was actually zoned R-1 (RSF-4) on the City's 1970 official zoning map and that no ordinance approved by the City Council had occurred since that time rezoning the property from its original zoning district. The applicant subsequently requested the rezoning to RT-12. Extensive public comment was received at that time, much of which referred to the subject property's development as triplexes. Minutes from the Planning Commission and deciding City Council meeting are included.

A similar rezoning request was heard by the Planning Commission in February of 2003, involving property on Deane St. (RZN 03-8.00 (McKinney)). This particular rezoning request from R-1 to R-1.5 was denied (see attached minutes).

Since the 2002 finding, the entire City of Fayetteville Zoning map has undergone extensive review and research, and a new, official zoning map was adopted in July, 2003.

Proposal: The applicant proposes a rezoning of the subject property to facilitate future reconstruction of multifamily units on the subject property, should they be destroyed or removed.

Request: The request is to rezone the subject property from RSF-4, Single Family Residential, 4 units per acre to RT-12, Residential Two and Three Family, 12 Units per acre.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family home	RSF-4, Res. Single Family, 4 DU/acre
South	Single family home	RSF-4, Res. Single Family, 4 DU/acre
East	Single family home	RSF-4, Res. Single Family, 4 DU/acre
West	Single family home	RSF-4, Res. Single Family, 4 DU/acre

INFRASTRUCTURE:

- Streets:** The property fronts onto and is accessed from Hendrix Street, which is an unimproved Local Street.
- Water:** The property has access to a 6" water main along Hendrix Street. This main should be sufficient for development of this property. The property is currently developed with 6 units.
- Sewer:** The site has access to a 6" sewer main along Hendrix Street. The developers engineer will need to provide calculations to show that there is adequate capacity in this sewer main. Upgrades to the sewer main may be required with future development.
- Fire:** The subject property is located 0.633 miles from Fire Station #2. Fire response time is approximately 3-4 minutes. Projected service calls for the subject property, at maximum build-out, is 5 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 RT-12 is consistent with the land use plan for a residential use, however it is not compatible with the surrounding density and single family dwelling land use in the surrounding 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 not consistent with land use planning objectives and policies to a degree that provides compatibility with adjacent properties in the same district. Surrounding properties are residential in nature, not unlike the existing land use on the subject site. However, the surrounding properties represent a cohesive single family land use, as opposed to the multi-family land use erroneously allowed in 2001 on the property. A rezoning to RT-12 would constitute a "spot zone," creating a separate and distinct zoning district "island" amidst the surrounding RSF-4 zoning district, a condition against which the City of Fayetteville's policies advise. Staff finds the proposed RT-12 zoning is not compatible with adjacent zoning and development already in place.

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 not justified or needed in order to retain the use of the property as it was permitted in 2001. The existing use is considered nonconforming, so that it may not be reconstructed or enlarged, however it may remain as a nonconforming use until such time as the units are destroyed or removed.

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

Finding: A rezoning to RT-12 would allow a maximum of 6 units on the 0.51 acre site (12 units/acre), the number of units currently existing on-site. Rezoning the property, therefore, would not result in an increase of traffic accessing onto Hendrix Street. Maintaining the current RSF-4 zoning designation, however, would ensure reduction of trips generated if the property were ever redeveloped under a single family zoning district.

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 3-4 minutes (approx. 0.633 miles) from station #2. Projected service calls for the subject property, at maximum build-out, is 5 calls per year.

Engineering - The property fronts onto and is accessed from Hendrix Street, which is an unimproved Local Street.

The property has access to a 6" water main along Hendrix Street. This main should be sufficient for development of this property. The property is currently developed with 6 units.

The site has access to a 6" sewer main along Hendrix Street. The developers engineer will need to provide calculations to show that there is adequate capacity in this sewer main. Upgrades to the sewer main may be required with future development.

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.

161.09 District RT-12, Residential Two And Three Family

(A) *Purpose.* The RT-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings

(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 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	12 or less
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(D) *Bulk and area regulations.*

	Single-family	Two-family	Three-family
Lot width minimum	60 ft.	70 ft.	90 ft.
Lot area minimum	6,000 sq. ft.	7,260 sq. ft.	10,890 sq. ft.
Land area per dwelling unit	6,000 sq. ft.	3,630 sq. ft.	3,630 sq. ft.

(E) *Setback requirements.*

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

(F) *Height regulations.*

Building height maximum	30 ft.
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(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area.

We are requesting that the property at 1280 Hendrix Street (Street addresses: 1526, 1528, 1530, 1534, 1536, and 1538 Addington) be rezoned from single family R 1 to R 1.5.

Currently two structures are located at the property. These are townhouse style apartments with each building representing 3 apartment units for a total of 6 units at the site. These apartments have been occupied since late 2001 and early 2002.

Current Ownership and pending/proposed property sales-

The property is owned by Cheesehead LLC, an Arkansas company. The members of Cheesehead LLC are Jeffery Collins, Fayetteville, Paul Goss, Bella Vista, and Neil Gulsvig, Mosinee, Wisconsin. The property was purchased shortly after it was constructed by Marc Crandall, Crandall Homes, Inc. The purchase occurred in late 2001.

The property is currently under contract for sale to Ben and Sylvia Schlegel. The broker for the sale is Ramsay Ball of Lane Real Estate in Bentonville, AR.

Reason for requesting rezoning-

The current zoning does not allow the property to be rebuilt if it was to be destroyed. This implies a loss of value and is impeding the sale of the property.

The property was erroneously zoned R 1.5 at the time we purchased it. This zoning directly influenced the sale price of the property. At some point after we had purchased the property, the error was discovered by Fayetteville City Planning and was corrected. We were not informed and probably would not know that the zoning had been in error had we not entered into a sale and through the due diligence process, the error was discovered.

How will the property relate to surrounding properties in terms of land use, traffic, appearance, and signage?

The property has been operated as multi-family housing for several years. It is currently "part" of the neighborhood. While other structures on adjacent properties are single-family houses, the townhouse style units seem to represent a mild departure from the current feel of the neighborhood. Most of the existing homes are small and probably built in the 1950's and 1960's. The land use therefore is essentially unchanged, with the primary difference being density.

The landscaping includes old trees, which have been preserved on the site. Additionally, no signage is present.

Availability of water and sewer-

The water line is a 6 inch line and the sewer line is also 6 inches at the site.

The degree to which the proposed rezoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans-

I believe that the rezoning would minimally alter the current land use plan for the area. What is being requested is not a drastic divergence from the current zoning (i.e. from residential to commercial).

Whether the proposed zoning is justified and/or needed at the time of request-

Without rezoning the property a significant loss will occur to the current owners. This loss would be caused by either our or the buyers inability to rebuild the structure. This would, again, cause a significant reduction in the value of the property due to the erroneous zoning at the time the construction was permitted and a certificate of occupancy was issued.

Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

I assume that this was a consideration at the time of construction and given the project was permitted; it would seem safe to assume that the answer to this question is that construction was not deemed to significantly increase congestion or danger from increased traffic.

Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

The rezoning of this parcel will not alter existing population density given the structure currently exists and is occupied. Therefore, I would assume the impact from rezoning on services to be negligible as well.

Why would it be impractical to use the land for any of the uses permitted under its existing zoning?

I would say that single family housing is a practical use of the land had multi-family not been permitted and built on the parcel. I would also argue that the existing structures are also an acceptable use. It is not whether the existing zoning is practical or not, just that investments were made in the property given information provided by the city which turns out to be incorrect. We are not seeking to build a different structure or modify the existing structures on the property; we are simply asking to be allowed to maintain the value of the property.

From: Planning
To: Pate, Jeremy; Warrick, Dawn
Date: 6/17/04 11:21AM
Subject: Fwd: RZN 04-1103: Rezoning (COLLINS, 404)

>>> "Joyce Richards" <joycerichards@hotmail.com> 06/15/04 12:38PM >>>
We have received your letter today dated June 10, 2004, regarding the proposed rezoning adjacent to our property at 1231 South Maxwell.

When these buildings were constructed, the zoning at that time was one of the "mistakes" on the city zoning map. It was then corrected after the map was studied and redrawn.

We would ask you to deny this rezoning because it seems that you would be reverting to a mistake which after much study and time on your part, you chose to correct.

As residents who drive on Hendrix often and who have a long-standing relationship within the area (we bought our home on Stephens in 1974 and the Maxwell house in 1996), we feel the current structures on Hendrix are more than "a mild departure from the current feel of the neighborhood", and ask you to not grant this rezoning.

Richard and Joyce Richards
1673 North Stephens
Fayetteville AR 72703

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<http://join.msn.click-url.com/go/onm00200361ave/direct/01/>

From: Snicker Barr <snickerbarinar@yahoo.com>
To: <lljordan7@hotmail.com>, <SLucasWard4@aol.com>
Date: 6/21/04 9:17AM
Subject: Re-zoning on Hendrix

I am writing to you to express my concerns about the continuing re-zoning problems caused by the mistake in the map conversion in our neighborhood.

I understand that the tri-plexes built at the corner of Hendrix and Addington have been sold and the new owners are asking for re-zoning to be permanent.

I would like to ask that you uphold your previous promises not to make an "island" in the middle of our neighborhood and keep this conditional zoning to apply to this structure only. If they should suffer loss of the building, it should revert back to the original zoning and fix the problem (mistake). When we went through this the last time, we were promised that no more re-zoning would occur in this neighborhood.

Please make this a permanent ruling and attachment to this property so that all future transactions can be aware of it and not make our neighborhood go through this time and time again. Mr. Crandall should have been honest in his real estate transactions, but barring that, should this not have been revealed in a title search? The new owners should have known about this when they purchased the property.

Thank you for your time.

Janet Bowlin

CC: <planning@ci.fayetteville.ar.us>

From: "T. L. Phelan" <tlphelan@arkansasusa.com>
To: <planning@ci.fayetteville.ar.us>
Date: 6/20/04 8:37PM
Subject: AGAINST -- rezoning request at Hendrix and Addington

Where does the line get drawn by the city council or planning commission between re-visiting our neighborhood with a mistake they made in the first place or keeping the zoning correct?! Since the current owners are not the original owners, then the situation that the current owners find themselves in would be "caveat emptor".....the zoning should NOT be reverted to the mistake simply to alleviate a problem that MIGHT happen in the future. If and when a loss happened due to disaster, then the owners could even be different from who they are now. If a loss happened because of a sales transaction and property values associated with the zoning, then I repeat -- "caveat emptor". And, IF it happens in the future that they experience a loss because of the zoning, then I state, again, that they need to consider suing the city and/or the real estate agency -- but keep the zoning correct -- the way it should have been in the first place!

And I will take this opportunity to remind one and all that the white haired 60-something fellow named Earnest (is it) who holds a position having something to do with development for the city (and who sits on the city council), rebuked us at the conclusion of the first round of this mess by trying to put the blame off on us, the residents of the neighborhood, for not having caught the city's mistake. He ignores the fact that the city staff is getting paid to do their job correctly -- operative word here is "correctly" -- and he was/is attempting to not be accountable to us, the citizens -- the ones that he, the planning commission, and the city, is suppose to serve.....and serve correctly.

— T. L. Phelan
1171 N. Maxwell Dr.
Fayetteville, AR 72703
USA
tlphelan@arkansasusa.com

<—Original Message—>

<From: T. L. Phelan [mailto:tlphelan@arkansasusa.com]
<Sent: Sunday, June 20, 2004 2:10 PM
<To: 'Lynn Fisher'; 'Joyce Richards'; 'cbh02@uark.edu';
<'clgray@uark.edu'; 'darleenterry@yahoo.com'; 'dfredric@uark.edu';
<'djjamie@cox-internet.com'; 'hiscouple@netzero.net';
<'Jarlovmic@aol.com'; 'jbowlin@engr.uark.edu';
<'KDPHILLIPS@cox-internet.com'; 'kevnbro@earthlink.net';
<'lwmler@ars.state.ar.us'; 'txt02@uark.edu';
<'mlouts@fayettevillelibrary.org'; 'vwhuens@aol.com';
<'zmoon@cox-internet.com'
<Subject: RE: rezoning request at Hendrix and Addington
<
<

<that's the way it reads to me.....where does the line get
<drawn by the city council between re-visiting our
<neighborhood with a mistake they made in the first place. I
<say if the owner of that property experiences a loss because
<of it, let them sue the city, but keep the zoning correct --

<the way it should have been in the first place!

<

<And I will take this opportunity to remind one and all that
<the white haired 60-something fellow named Earnest (is it)
<who holds a position having to do with development for the
<city, rebuked us at the conclusion of the first round of this
<mess by trying to put the blame off on us, the residents of
<the neighborhood, for not having caught the city's mistake.
<He ignores the fact that the city staff is getting paid to do
<their job right, and he was/is attempting to not be
<accountable to us, the citizens -- the ones that he is
<suppose to serve.....and serve correctly. Remind your
<councilperson of this!

<

<-- T. L. Phelan
< 1171 N. Maxwell Dr.
< Fayetteville, AR 72703
< USA
< tlphelan@arkansasusa.com

<

<

<--Original Message--

<<From: Lynn Fisher [mailto:lfisher@uark.edu]
<<Sent: Wednesday, June 16, 2004 5:16 PM
<<To: Joyce Richards; cbh02@uark.edu; clgray@uark.edu;
<<darleenterry@yahoo.com; dfredric@uark.edu; djjamie@cox-internet.com;
<<hiscouple@netzero.net; Jarlovmic@aol.com; jbowlin@engr.uark.edu;
<<KDPHILLIPS@cox-internet.com; kevnbro@earthlink.net;
<<lwmler@ars.state.ar.us; lxt02@uark.edu;
<<mloots@fayettevillelibrary.org; tlphelan@arkansasusa.com;
<<vwuans@aol.com; zmoon@cox-internet.com
<<Subject: Re: rezoning request at Hendrix and Addington

<<

<<

<<Am I interpreting this correctly?
<<It sounds to me as though the owners, who were able to build
<<the triplexes
<<because of a zoning mistake (which is now corrected,
<<right?), want to
<<revisit the issue and make the original mistake permanent.
<<Since the 1950s,
<<the street has been zoned for single family residential
<<units. Is this once
<<again an issue, because the property may not sell for as much
<<as the owner
<<is asking?

<<

<<Lynn Fisher

<<

<<

<<

<<On 15/6/04 8:30 AM, "Joyce Richards"
<<<joycerichards@hotmail.com> wrote:

<<

<<> There is a rezoning request for the property at Hendrix and
<<Addington where

< > the triplexes are located. The property is currently up for sale.

< >

< > According to the papers filed with the city Planning

< > Division, the reason

< > for this request is "to allow the property to be rebuilt if

< > it was to be

< > destroyed. This implies a loss of value and is impeding

< > the sale of the

< > property. The property was erroneously zoned R 1.5 at

< > the time we

< > purchased it. This zoning directly influenced the sale

< > price of the

< > property. At some point after we had purchased the

< > property, the error was

< > discovered by Fayetteville City Planning and was corrected.

< > We were not

< > informed and probably would not know that the zoning had

< > been in error had

< > we not entered into a sale and through the due diligence

< > process, the error

< > was discovered."

< >

< >

< > I have my own feelings and concerns on this matter. If you

< > have feelings

< > and concerns, it might be in your best interest to contact

< > the Planning

< > Division and our councilmen to express them.

< >

< > SLucasWard4@aol.com

lljordan7@hotmail.com

< >

< >

< > I plan to visit the planning offices again and express my

< > opinion. This

< > matter will be voted on by the Planning Commission on June

< > 28 at 5:30, and I

< > plan to be there.

< >

< >

< > Getting married? Find great tips, tools and the latest

< > trends at MSN Life

< > Events. <http://lifeevents.msn.com/category.aspx?cid=married>

< >

< >

< >

< >

< >

< >

CC: <lljordan7@hotmail.com>, <SLucasWard4@aol.com>, "Joyce Richards (E-mail)"
<joycerichards@hotmail.com>

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	72/year	29/year	43/year
RZN 04-1084	Marinoni									
ANX 04-1090	Hays		37.3	Future FS 7	1.97 miles	4-5 minutes	4-8.5 minutes			
RZN 04-1091	Hays									
RZN 04-1099	Brislel		9.99	Future FS 7	2.13 miles	5-6 minutes	5-6 minutes	34/year	13/year	21/year
ANX 04-1100	Harper/Brandon			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			FS 1	0.337 miles	1 minute	1 minute	9/year	3/year	6/year
RZN 04-1102	Bradberry/Woolv.			FS 2	0.633 miles	3-4 minutes	3-4 minutes			
RZN 04-1103	Collins			FS 5	3.11 miles	8-9 minutes	8-9.5 minutes	5/year	2/year	3/year
RZN 04-1104	Goff							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

C. 6.
RZN 04-1103 (Collins)
Page 20 of 62

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 04-1103: Rezoning (Collins, pp 404)** submitted by Jeffery Collins for property located at 1280 Hendrix 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

LAND USE EXECUTIVE SUMMARY

ANNEXATIONS — Petition by owner — absolute discretion

Does the City Council want this land within our city limits?

REZONING — Substantial discretion afforded City Council

1. 20/20 Plan objectives
2. Public opposition that is logical and reasonable
3. Traffic
4. Safety and Fire protection
5. Good civic design and efficiency
6. Adequacy of public facilities (sewage, water)
7. Noise
8. Litter
9. Decrease in value of adjoining land
10. Appropriate and best use of land
11. Compatibility with adjacent zones (spot zoning)

Large Scale Development/Preliminary Plats — Little or no discretion

May be denied **only** pursuant to U.D.C. §166.05 (C)(7)(d) if:

1. development plan not submitted in accordance with requirements of UDC
2. development would violate city, state or federal law
3. developer refused to dedicate appropriate infrastructure
4. development would create or compound a dangerous traffic condition
5. water unavailable; sewer unavailable and septic tank not feasible
6. developer refuses to comply with on and off site development requirements

Planned Zoning Districts — substantial discretion for zoning issues

Density, good civic design and other zoning considerations are proper considerations for PZD requests.

Planning Commission

January 14, 2002

Page 12

RZN 02-1.00 Rezoning (Schmitt, pp 404) was submitted by Robert Schmitt for property located at 1140 Hendrix and 110 Garland. The property is zoned R-1, Low Density Residential and contains approximately 1.36 acres. The request is to rezone to R-1.5, Moderate Density Residential.

Estes: The next item on the agenda is item number three, this is a rezoning request submitted by Mr. Robert Schmitt for property located at 1140 Hendrix and 110 Garland. The property is zoned R-1, Low Density Residential and contains approximately 1.36 acres. The request is to rezone to R-1.5, Moderate Density Residential. Staff recommends approval of the requested rezoning based on the findings that are included as a part of your report. Is the applicant or the applicant's representative present?

Osborne: Yes Sir, we appreciate the opportunity to appear and we are very happy with the staff recommendation and we stand on it. I am Rick Osborne representing Bobby Schmitt.

Estes: Thank you Mr. Osborne.

PUBLIC COMMENT:

Estes: Is there any member of the audience who would like to provide public comment on this rezoning request 02-1.00?

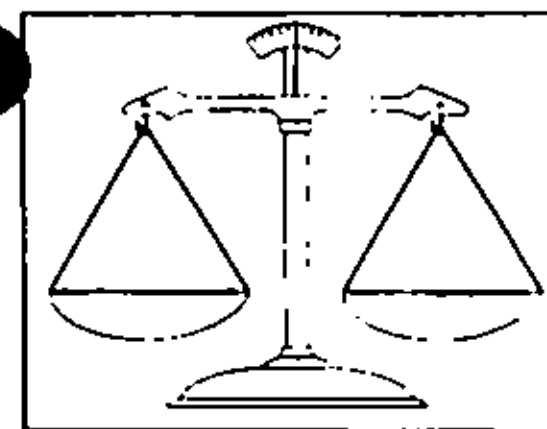
Davidson: Yes Sir. My name is Sharon Davidson, I live on Rodgers Drive in Fayetteville. Actually, I would like to start with, I have heard the unfortunate news that Commissioner Estes' term is about to expire on us and I consider that a big loss to us in Fayetteville. I have watched him handle these meetings and people and projects and he has done it extremely well in my opinion. I am a little concerned that we won't have his great expertise in the years ahead dealing with the very reason why I'm standing up here right now, Mr. Schmitt. Inappropriate R-2 zoning is one of his issues. We have issues all over the place with Mr. Schmitt and actually I haven't had enough time to research this newest one myself. I notice again he is wanting a favor from us while he is costing us exorbitant amounts of money to accommodate him. His newest thing we can get to, I didn't hear much about it here. We don't usually hear much about it because they don't want to tell us much about it. Let's know that you can go to each one of his existing projects and find problems everywhere, complaints everywhere. I am only aware of four projects that this man is involved in. I guess this makes the fifth and there could be some hidden ones and I'm just coming familiar with it. The first major problem was on Markham Hill with this gentleman. He chose to insert a house in an area on a lot which he knew well was not zoned. Excuse me if some of my terminology is incorrect here. He knew what he was doing when he put this house in. We have situations from contractors that the house is already taking in water in the

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

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

DATE: **August 4, 2004**

RE: **Passed Resolutions and Ordinances from City Council meeting of August 3, 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. **Sequoyah Pressure Plane Project:** Resolution confirming City of Fayetteville's intent to proceed w/improvements to Sequoyah Water System; establishing new capital improvements project account titled Sequoyah Pressure Plane Improvements; approving budget adjustment transferring amount of \$271,427.00 from collection system capacity management project to Sequoyah Pressure Plane Improvements Project in order to initiate work on project;
2. **Interoperable Communications Program Grant:** Resolution authorizing Fayetteville Police Department to apply for Community Oriented Policing Services Interoperable Communications Programs grant from U.S. Department of Justice to provide for fiber optic link between Police Department and new Washington County Jail and to establish a regional law enforcement data-sharing network;
3. **Robert Kohler III Contract Amendment:** Resolution approving amendment to contract entered into June 7, 2002 w/Robert Kohler III in amount not to exceed \$9000.00 to provide additional owner's representative services to New Fayetteville Public Library;

4. **Library Facilities Manager:** Resolution authorizing partial year funding for one full time facilities manager at new Fayetteville Public Library; and approving budget adjustment of \$16,750.00 from use of fund balance to the transfer to Library Board account;
5. **Razorback Transit Contract:** Resolution approving contract w/U of A Razorback Transit in amount of \$25,000.00 to provide public transit service to citizens of Fayetteville;
6. **DOT/FAA AIP Grant Extension of Taxiway "A":** Resolution authorizing Aviation and Economic Development Division to apply and accept an Airport Improvement Program Grant (AIPG) from U.S. Federal Aviation Administration in amount of \$34,595.00 for Taxiway "A" and "E" Extension Project in support of USDA Forest Service Fire Tanker Base;
7. **Re-codification of Fayetteville Code:** Ordinance adopting and enacting new Code of Ordinances of City of Fayetteville; providing for repeal of certain ordinances not contained therein, except as herein expressly provided; and providing for the manner of amending the Code;
8. **ANX 04-01.00:** Ordinance confirming annexation to City of Fayetteville of certain property owned by Jean Greenwood Jowers, located southeast of intersection of 46th Street and Persimmon Street containing approximately 160 acres;
9. **ANX 04-2.00:** Ordinance confirming annexation to City of Fayetteville certain property owned by C. Bryan McBryde, located southwest of Fayetteville Boys and Girls Club adjoining extensions of Ruppel Road and Persimmon Street containing approximately 80 acres;
10. **ANX 04-1083:** Ordinance confirming annexation to City of Fayetteville certain property owned by Paul and Suellen Marinoni located south of Fayetteville Boys and Girls Club adjoining extension of Ruppel Road and Persimmon Street containing approximately 78.84 acres;

11. **RZN 04-1084:** Ordinance rezoning 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 Fayetteville Boys and Girls Club adjoining future extensions of Ruppel 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. **RZN 04-1104:** Ordinance rezoning property described in Rezoning Petition RZN 04-1104 submitted by Tim Hennelly for property located north of Goff Farm Road north of Stonebridge Meadows Golf Course Clubhouse, containing approximately 17.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per acre;
13. **Purchase of 2 to 8 yard dumpsters:** Ordinance waiving formal competitive bidding requirements during 2004 for purchase of 2 to 8 yard dumpsters by Solid Waste Division and to approve purchase of 2 to 8 yard dumpsters in amount not to exceed \$63,000.00.

*Agenda
Session*

**Tentative Agenda
City Council Meeting
August 3, 2004**

A meeting of the Fayetteville City Council will be held on August 3, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

~~Agenda Session Only: Presentation of Audit Report by the Chairman of the
Audit Committee~~

Election of Vice Mayor

Fill Alderman Vacancy

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the July 20, 2004 meeting minutes.
2. **Sequoyah Pressure Plane Project:** A resolution confirming the City of Fayetteville's intent to proceed with improvements to the Sequoyah Water System; establishing a new capital improvements project account titled Sequoyah Pressure Plane Improvements; and approving a budget adjustment transferring the amount of \$271,427.00 from the Collection System Capacity Management Project to the Sequoyah Pressure Plane Improvements Project in order to initiate work on the project.
3. **Interoperable Communications Program Grant:** A resolution authorizing the Fayetteville Police Department to apply for a Community Oriented Policing Services Interoperable Communications Programs Grant from the U.S. Department of Justice to provide for a Fiber Optic Link between the Police Department and the New Washington County Jail and to establish a Regional Law Enforcement Data-Sharing Network.
4. **Robert Kohler II Contract Amendment:** A resolution approving an amendment to the contract entered into June 7, 2002 with Robert Kohler III in an amount not to exceed \$9000.00 to provide additional owner's representative services to the New Fayetteville Public Library.
5. **Library Facilities Manager:** A resolution authorizing partial year funding for one (1) full-time Facilities Manager at the New Fayetteville Public Library; and approving a budget adjustment of \$16,750.00 from the use of Fund Balance to the transfer to Library Board Account.

6. **Razorback Transit Contract:** A resolution approving a contract with the University of Arkansas Razorback Transit in the amount of \$25,000.00 to provide public transit service to the citizens of Fayetteville.

B. OLD BUSINESS:

1. **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. *This Resolution was tabled at the June 1, 2004 City Council meeting to the August 3, 2004 City Council meeting.*
2. **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 Ordinance was left on the Second Reading at the July 20, 2004 City Council meeting.*
3. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
4. **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 Ruppel Road and Persimmon Street containing approximately 80.00 acres. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
5. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*
6. **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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

7. 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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

of Accidents
at the Curve.

Need new
ordinance

- 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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

39.86

9. 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 Ruppel Road and Persimmon Street containing approximately 78.84 acres. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

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- ✓ 11. 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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

- ✓ 12. 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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

- ✓ 13. 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 Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

Size of
sewer
main
Kyle asked

C. NEW BUSINESS:

- Consent*
- ✓ 1. **DOT/FAA AIP Grant Extension of Taxiway "A":** A resolution authorizing the Aviation and Economic Development Division to apply and accept an Airport Improvement Program Grant (AIPG) from the U.S. Federal Aviation Administration in the amount of \$657,299.00; and an Arkansas Department of Aeronautics Grant in the amount of \$34,595.00 for the Taxiway "A" & "E" Extension Project in support of the USDA Forest Service Fire Tanker Base.

2. **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.

- move to next agenda*
3. **Cost Recovery for Street Cleaning Activities:** 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 or tracked upon the streets.

4. **Waste Management Contract Amendment #4:** A resolution rejecting contract Amendment No. 4 with Waste Management of Arkansas, Inc. to transport and dispose of municipal solid waste and for operation of the city transfer station.

5. **Purchase 2 to 8 Yard Dumpsters:** An ordinance to waive formal competitive bidding requirements during 2004 for the purchase of 2 to 8 yard dumpsters by the Solid Waste Division and to approve the purchase of 2 to 8 yard dumpsters in an amount not to exceed \$63,000.00.

6. **RZN 04-1103 (Collins):** An ordinance rezoning that property described in rezoning petition RZN 04-1103 as submitted by Jeffery Collins for property located at the 1280 Hendrix Street containing approximately 0.51 acres from RSF-4, Residential Single Family, four units per acre to RT-12, Residential two and three family.

7. **ANX 04-1071 (Jones):** An ordinance annexing that property described in annexation petition ANX 04-1071 annexing to the City of Fayetteville, Arkansas certain property owned by ~~the~~ Vera Jones located south of Huntsville Road east of the Stonebridge Addition, and west of Roberts Road containing approximately 5.66 acres.

8. **RZN 04-1072 (Jones):** An ordinance rezoning that property described in rezoning petition RZN 04-1072 as submitted by Milholland Company on behalf of Vera Jones for property located south of Huntsville Road, east of the Stonebridge Addition and west of Roberts Road containing approximately 5.66 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

9. **ANX 04-1073 (Ames):** An ordinance annexing that property described in annexation petition ANX 04-1073 annexing to the City of Fayetteville, Arkansas certain property owned by the Ames Family Trust located south of Huntsville Road west of Roberts Road containing approximately 1.97 acres.

✓ 10. RZN 04-1074 (Ames): An ordinance rezoning that property described in rezoning petition RZN 04-1074 as submitted by Milholland Company on behalf of the Ames Family Trust for property located on the west side of Roberts Road south of Huntsville Road containing approximately 1.97 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

✓ 11. VAC 04-1119 (Petrino): An ordinance approving VAC 04-1119 to vacate and abandon 7' of the existing 15' utility easements on the west side of Lot 5B and the east side of Lot 5A as depicted on the attached map and legal description.

D. INFORMATIONAL:

Brite Ideas: Approval of a proposal from Brite Ideas of NWA to provide expertise and oversight to the 2004 lights of the Ozarks Display, to be installed and maintained by the City, in an amount not to exceed \$10,000.

Council Tour: August 2, 2004

Police Station ?

Courts

Mantani Inn.

Add TIF - Do not send out
Last Final Agenda until Friday,
Under Do we can see what reading
Old the Ordinance will be on.
Business

Sonda
from
Gina

**Tentative Agenda
City Council Meeting
August 3, 004**

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Election of Vice Mayor
Fill Alderman Vacancy / *Keep on*
(Agenda Session only)

A. CONSENT:

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C. NEW BUSINESS:

Make this item # 2 → 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. **Sequoyah Pressure Plane Project:** A resolution confirming the City of Fayetteville's intent to proceed with improvements to the Sequoyah Water System; establishing a new capital improvements project account titled Sequoyah Pressure Plane Improvements; and approving a budget adjustment transferring the amount of \$271,427.00 from the Collection System Capacity Management Project to the Sequoyah Pressure Plane Improvements Project in order to initiate work on the project.

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Consent 7. **Robert Kohler II Contract Amendment:** A resolution approving an amendment to the contract entered into June 7, 2002 with Robert Kohler III in an amount not to exceed \$9000.00 to provide additional owner's representative services to the New Fayetteville Public Library.

Consent 8. **Library Facilities Manager:** A resolution authorizing partial year funding for one (1) full-time Facilities Manager at the New Fayetteville Public Library; and approving a budget adjustment of \$16,750.00 from the use of Fund Balance to the transfer to Library Board Account.

9. **Bright Ideas of NWA Contract:** *Put under D - Informational item for discussion (Agenda Session Only)*

make item #1 10. **DOT/FAA AIP Grant Extension of Taxiway "A":** A resolution authorizing the Aviation and Economic Development Division to apply and accept an Airport Improvement Program Grant (AIPG) from the U.S. Federal Aviation Administration in the amount of \$657,299.00; and an Arkansas Department of Aeronautics Grant in the amount of \$34,595.00 for the Taxiway "A" & "E" Extension Project in support of the USDA Forest Service Fire Tanker Base.

Consent 11. **Razorback Transit Contract:** *Steve is tracking it down.*

12. **RZN 04-1103 (Collins):** An ordinance rezoning that property described in rezoning petition RZN 04-1103 as submitted by Jeffery Collins for property located at the 1280 Hendrix Street containing approximately 0.51 acres from RSF-4, Residential Single Family, four units per acre to RT-12, Residential two and three family.

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D. INFORMATIONAL:

Council Tour: August 2, 2004

Bright Ideas of NWA Contract

Audit Report: Add to agenda at Agenda Session Only

Raze and Removal 1533 Duncan: Hugh will talk to Kit-

Newspaper Advertising: Peggy is taking care of this.

Hugh said Swifty might want to add a Taxi Cab item, but Kit said to wait until the 2nd meeting or until the re-codification has passed it's 30 days.