Final Agenda
City Council Meeting
August 17, 2004

A meeting of the Fayetteville City Council will be held on August 17, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Regional/Community Park: Informational item to be presented at the City Council Meeting

Nominating Committee Report: Appoint Betty Turner and Robin Ross to Public Housing Authority.

APPROVED.

A. CONSENT:

1. **Approval of the Minutes:** Approval of the June 30, 2004, July 13 and July 29 Special City Council meetings minutes.

   APPROVED.

2. **Asphalt Striping, LLC:** A resolution awarding Bid #04-55 to Asphalt Striping, LLC in the amount of $27,860.00 for application of approximately 425,000 feet of yellow and white reflectorized paint pavement markings.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 121-04.

3. **Lamar Anderson Parking Space Agreement:** A resolution authorizing the Mayor and the City Clerk to execute a lease agreement with Mr. Lamar Anderson of 15 South Block Avenue, Suite 203, for one (1) parking space in Fayetteville Municipal Parking Lot 1, located at 160 West Mountain Street, and bounded by Church Avenue, Mountain Street, and Center Street.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 122-04.

4. **Radisson Hotel Parking Lease:** A resolution authorizing the Mayor and the City Clerk to execute a lease amendment with the Radisson Hotel to extend the existing parking lease for a period of one (1) year.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 123-04.

5. **Meyer, Scherer & Rockcastle Contract:** A resolution approving contract amendment 16 to the contract with Meyer, Scherer & Rockcastle LTD. In the amount of $9,515.00 for items associated with off-site improvements at the intersection of Mountain Street and School Avenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 124-04.

6. **Crossland Construction Library Change Order No. 19 & 19A:** A resolution approving Change Order #19 to the contract with Crossland Construction Company, Inc. in an amount not to exceed $180,000.00 for improvements to Rock Street and the intersection of School Avenue and Mountain Street; the installation of pavers in the crosswalk at Archibald Yell Boulevard; and approving a budget adjustment in the amount of $60,000.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 125-04.

B. OLD BUSINESS:

1. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4602.

2. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4603.

3. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting***

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4604.

4. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4605.

5. **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. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4606.

6. **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. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4607.

7. **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 Special City Council meeting. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4608.

8. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4609.

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

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4610.

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

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4611.

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

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4612.

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

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4613.

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

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4614.

C. NEW BUSINESS:

1. **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.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4615.

2. **VAC 04-1134 (Sang/Hollywood Shakes Building, 520):** An ordinance approving VAC 04-1134 to vacate a portion of right of way on the north side of property located at 1050 West Sixth Street as depicted on the attached map and legal description.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4616.

3. **VAC 04-1136 (U of A Parking Garage, 483):** An ordinance approving VAC 04-1136 to vacate and abandon a portion of right of way for William Street, Buchanan Avenue and two fifteen foot alleys located between William Street and Dickson Street as described on the attached map and legal description. Also, accepting the dedication of easements for Southwestern Bell, the City of Fayetteville, and the public in general, described in the attached easement documents labeled as exhibits hereto.

TABLED UNTIL NOVEMBER 16, 2004 CITY COUNCIL MEETING.

4. **Shake's Building Sale Solicitation of Bids:** A resolution to grant approval to solicit sealed bids from the public to purchase the portion of city property (formerly Shake's Frozen Custard) not used for the intersection improvement on Sixth Street.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 126-04.

5. **Arkansas Highway & Transportation Department Highway 265 Improvements:** A resolution expressing the intent of the Fayetteville City Council to participate with the Arkansas Highway and Transportation Department on improvements to Highway 265 from Highway 45 to the northern City limits.

TABLED TO SEPTEMBER 7, 2004 CITY COUNCIL MEETING.

6. **Executive Session to consider whether to seek the removal of Fayetteville Housing Authority Commissioner Nancy Bolin.**

VOTED TO REMOVE AS COMMISSIONER PENDING A NOTIFICATION TO MS. BOLIN AND A PUBLIC HEARING.

D. INFORMATIONAL:

Council Tour: August 16, 2004

MEETING ADJOURNED AT 10:55 P.M.

City Council Meeting August 17, 2004

Meeting Adjourned at 10:55 pm.

Subject:	Roll				
Motion To:					
Motion By: Seconded:					
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	absent during roll Call only!			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody	✓			

Subject:	Nominating Committee Report				
Motion To:		approve report		Public	Housing
Motion By: Seconded:		Marr / Thiel		Authority:	
	Reynolds	✓			
	Thiel	✓		Betty Turner	
	Cook	✓		Robin Ross	
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

Approve the report

passed

City Council Meeting August 17, 2004

Subject:	Consent				
Motion To:		approve			
Motion By: Seconded:		Cook / Marr			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

Approved

Res 121-04 to 125-04

Subject:	ANX - 04-04.00 (Tipton / Sloan)				
Motion To:		3rd read	Pass		
Motion By: Seconded:		Lucas / Jordan			
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Odom	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

#1 Old Business

Passed 4602

City Council Meeting August 17, 2004

Subject:	RZN- 04-10.00 Lipton / Sloan				
Motion To:		3rd read	Pass		
Motion By: Seconded:		Reynolds NO Second Motion			
	Reynolds		✓		Developer? Mr. Sloan
	Thiel	NO	✓		
	Cook	Roll	✓		
	Marr	Call	✓		
	Rhoads	on	✓		
	Odom	3rd	✓		
	Lucas	read due	✓		
	Jordan	to no	✓		
	Mayor Coody	Second to Suspend the rules.			

#2 old Business passed 4603

Subject:	ANX- 04-6.00 Leigh Taylor				
Motion To:		3rd read	Pass		Properties
Motion By: Seconded:		Lucas Jordan			
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	N		
	Marr	✓	N		
	Rhoads	✓	Recuse		
	Odom	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	N		
	Mayor Coody		✓		

#3 Old Business passed 4/3/recuse/ Mayor Coody voted yes Breaking to pass the ordinance 4604

City Council Meeting August 17, 2004

Subject:		RZN - 04-12.00 (Leigh Taylor Properties)			
Motion To:		3rd read	Pass		
Motion By: / Seconded:		NONE / NONE			
	Reynolds	There was	✓		
	Thiel	no motion and no	✓		
	Cook	Second to	N		
	Marr	Suspend the Rules and	N		
	Rhoads	go to the	Recuse		
	Odom	third reading.	✓		
	Lucas		✓		
	Jordan		N		
	Mayor Coody		yes		

4 old Business

4/3/recuse Mayor Coody Voted yes to pass the ordinance 4605

Subject:		ANX - 04-1090 (Harp)			
Motion To:		3rd read	Pass		
Motion By: / Seconded:		Jordan / Lucas			
	Reynolds	✓	✓		
	Thiel	absent during vote	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Odom	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

5 old Business

passed 4606

City Council Meeting August 17, 2004

Subject:	RZN - 04-1091 (Harp)				
Motion To:		3rd read	Pass		
Motion By: Seconded:		Jordan Reynolds			
	Reynolds	✓	✓		
#6	Thiel	✓	✓		
old	Cook	✓	✓		
Business	Marr	✓	✓		
	Rhoads	✓	✓		
passed	Odom	✓	✓		
4607	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

Subject:	Highway 71 East Square				
Motion To:		3rd read	[illegible]		
Motion By: Seconded:		Marr Thiel			
	Reynolds	✓			
#7	Thiel	✓			
	Cook	✓			
old	Marr	✓			
Business	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

City Council Meeting August 17, 2004

Highway 71 East Square

Subject:	Extend the Boundary				
Motion To:		Extend the Boundary			move boundary add Block
Motion By: Seconded:		Marr / Reynolds			
	Reynolds	✓			
	Thiel	N			
	Cook	✓			
	Marr	✓			
	Rhoads	N			
	Odom	✓			
	Lucas	N			
	Jordan	N			
	Mayor Coody	Mayor Coody	~~Choose~~ Chose not	to vote	

#7 old Business

4/4 Failed

Subject:	Highway 71 East Square				
Motion To:		Pass			
Motion By: Seconded:					
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

#7 old Business

4608

City Council Meeting August 17, 2004

Subject:	RZN-04-1103 (Collins)				
Motion To:		3rd read	Pass		
Motion By: / Seconded:		Reynolds / Marr			
	Reynolds	✓	N		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Odom	✓	✓		
	Lucas	✓	N		
	Jordan	✓	N		
	Mayor Coody				

#8 old Business passed 5/3 4609

Subject:	ANX 04-1071 (Jones)				
Motion To:		2nd read	3rd read	Pass	
Motion By: / Seconded:		Rhoads / Marr	Reynolds / Lucas		Nel Mitholland / Mitholland
	Reynolds	✓	✓	✓	Engineering
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

#9 old Business passed 4610

City Council Meeting August 17, 2004

Subject:		RZN 04-1012 (Jones)			
Motion To:		2nd read	3rd read	Pass	
Motion By: / Seconded:		Thiel / Lucas	Reynolds / Lucas		
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

#10 old Business passed 4611

Subject:		ANX 04-1073 (Ames)			
Motion To:		2nd read	3rd read	Pass	
Motion By: / Seconded:		Thiel / Reynolds	Reynolds / Thiel		
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

#11 old Business passed 4612

City Council Meeting August 17, 2004

Subject:	RZN-04-0074 (AMES)				
Motion To:		2nd read	3rd read	Pass	
Motion By: Seconded:		Reynolds / Thiel	Reynolds / Odom		
	Reynolds ✓	✓	✓	✓	
	Thiel ✓	✓	✓	✓	
#12	Cook	✓	✓	✓	
old	Marr	✓	✓	✓	
Business	Rhoads	✓	✓	✓	
Passed	Odom	✓	✓	✓	
4613	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

Subject:	VAC-04-1119 (Petrina)				
Motion To:		2nd read	3rd read	Pass	
Motion By: Seconded:		Jordan / Lucas	Jordan / Lucas		
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
#14	Cook	✓	✓	✓	
old	Marr	✓	✓	✓	
Business	Rhoads	✓	✓	✓	
Passed	Odom	✓	✓	✓	
4614	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

City Council Meeting August 17, 2004

Subject:		Cost Recovery for Street Cleaning Activities			
Motion To:		Amend Subsection to read may	instead of shall	2nd read	
Motion By: Seconded:		Reynolds / Jordan		Marr / Jordan	
	Reynolds	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
	Rhoads	✓		✓	
	Odom	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Mayor Coody				

#1 New Business passed

Subject:		Cost Recovery for Street Cleaning Activities.			
Motion To:		3rd read	Pass		
Motion By: Seconded:		Jordan / Reynolds			
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Odom	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

#1 New Business passed 4615

City Council Meeting August 17, 2004

Subject:		VAC - 04-1134 Sang / Hollywood (Shakes)			
Motion To:		2nd read	3rd read	Pass	
Motion By: Seconded:		Jordan / Lucas	Jordan / Reynolds		
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

#2 New Business passed 4616

Subject:		VAC 04-1136 U of A Parking Garage			
Motion To:		Table until November 16, 2004			
Motion By: Seconded:					
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

#3 New Business Tabled until Nov. 16, 2004

City Council Meeting August 17, 2004

Subject:	Shake's Building Sale Solicitation of Bids				
Motion To:		Sale building for $178,000			
Motion By: Seconded:		Marr / Cook			Leave it for one month
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

#4 New Business Passed 126-04

Subject:	Arkansas Highway & Trans. Dept. Highway 265				
Motion To:		Table until the next meeting			Improvements
Motion By: Seconded:		Cook / Thiel	September 7, 2004		
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	N			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

#5 New Business

7/1 passed to table until Sept. 7, 2004

City Council Meeting August 17, 2004

Subject:	Executive Session to Consider the				
Motion To:		Go into Executive Session		removal of	
Motion By: Seconded:		Rhoads / Reynolds		Fayetteville Housing Authority Commissioner Nancy Bolin.	
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

Subject:	Executive Session to Consider the				
Motion To:		Charge with misconduct based on her conviction		removal of Fayetteville Housing	
Motion By: Seconded:		Cook / Rhoads	of the FOIA Violation.	Authority Commissioner Nancy Bolin.	
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

Charge with Misconduct passed

Final Agenda
City Council Meeting
August 17, 2004

A meeting of the Fayetteville City Council will be held on August 17, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Regional/Community Park: Informational item to be presented at the City Council Meeting

A. CONSENT:

1. **Approval of the Minutes:** Approval of the June 30, 2004, July 13 and July 29 Special City Council meetings minutes.

2. **Asphalt Striping, LLC:** A resolution awarding Bid #04-55 to Asphalt Striping, LLC in the amount of $27,860.00 for application of approximately 425,000 feet of yellow and white reflectorized paint pavement markings.

3. **Lamar Anderson Parking Space Agreement:** A resolution authorizing the Mayor and the City Clerk to execute a lease agreement with Mr. Lamar Anderson of 15 South Block Avenue, Suite 203, for one (1) parking space in Fayetteville Municipal Parking Lot 1, located at 160 West Mountain Street, and bounded by Church Avenue, Mountain Street, and Center Street.

4. **Radisson Hotel Parking Lease:** A resolution authorizing the Mayor and the City Clerk to execute a lease amendment with the Radisson Hotel to extend the existing parking lease for a period of one (1) year.

5. **Meyer, Scherer & Rockcastle Contract:** A resolution approving contract amendment 16 to the contract with Meyer, Scherer & Rockcastle LTD. In the amount of $9,515.00 for items associated with off-site improvements at the intersection of Mountain Street and School Avenue.

6. **Crossland Construction Library Change Order No. 19 & 19A:** A resolution approving Change Order #19 to the contract with Crossland Construction Company, Inc. in an amount not to exceed $180,000.00 for improvements to Rock Street and the intersection of School Avenue and Mountain Street; the installation of pavers in the crosswalk at Archibald Yell Boulevard; and approving a budget adjustment in the amount of $60,000.

B. OLD BUSINESS:

1. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

2. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

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4. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

5. **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. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

6. **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. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

7. **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 Special City Council meeting. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

8. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

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

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

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

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

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

C. NEW BUSINESS:

1. **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.

2. **VAC 04-1134 (Sang/Hollywood Shakes Building, 520):** An ordinance approving VAC 04-1134 to vacate a portion of right of way on the north side of property located at 1050 West Sixth Street as depicted on the attached map and legal description.

3. **VAC 04-1136 (U of A Parking Garage, 483):** An ordinance approving VAC 04-1136 to vacate and abandon a portion of right of way for William Street, Buchanan Avenue and two fifteen foot alleys located between William Street and Dickson Street as described on the attached map and legal description. Also, accepting the dedication of easements for Southwestern Bell, the City of Fayetteville, and the public in general, described in the attached easement documents labeled as exhibits hereto.

4. **Shake's Building Sale Solicitation of Bids:** A resolution to grant approval to solicit sealed bids from the public to purchase the portion of city property (formerly Shake's Frozen Custard) not used for the intersection improvement on Sixth Street.

5. **Arkansas Highway & Transportation Department Highway 265 Improvements:** A resolution expressing the intent of the Fayetteville City Council to participate with the Arkansas Highway and Transportation Department on improvements to Highway 265 from Highway 45 to the northern City limits.

6. **Executive Session to consider whether to seek the removal of Fayetteville Housing Authority Commissioner Nancy Bolin.**

D. INFORMATIONAL:

Council Tour: August 16, 2004

Final Agenda
City Council Meeting
August 17, 2004

A meeting of the Fayetteville City Council will be held on August 17, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Regional/Community Park: Informational item to be presented at the City Council Meeting

A. CONSENT:

1. **Approval of the Minutes:** Approval of the June 30, 2004, July 13 and July 29 Special City Council meetings minutes.

2. **Asphalt Striping, LLC:** A resolution awarding Bid #04-55 to Asphalt Striping, LLC in the amount of $27,860.00 for application of approximately 425,000 feet of yellow and white reflectorized paint pavement markings.

3. **Lamar Anderson Parking Space Agreement:** A resolution authorizing the Mayor and the City Clerk to execute a lease agreement with Mr. Lamar Anderson of 15 South Block Avenue, Suite 203, for one (1) parking space in Fayetteville Municipal Parking Lot 1, located at 160 West Mountain Street, and bounded by Church Avenue, Mountain Street, and Center Street.

4. **Radisson Hotel Parking Lease:** A resolution authorizing the Mayor and the City Clerk to execute a lease amendment with the Radisson Hotel to extend the existing parking lease for a period of one (1) year.

5. **Meyer, Scherer & Rockcastle Contract:** A resolution approving contract amendment 16 to the contract with Meyer, Scherer & Rockcastle LTD. In the amount of $9,515.00 for items associated with off-site improvements at the intersection of Mountain Street and School Avenue.

6. **Crossland Construction Library Change Order No. 19 & 19A:** A resolution approving Change Order #19 to the contract with Crossland Construction Company, Inc. in an amount not to exceed $180,000.00 for improvements to Rock Street and the intersection of School Avenue and Mountain Street; the installation of pavers in the crosswalk at Archibald Yell Boulevard; and approving a budget adjustment in the amount of $60,000.

B. OLD BUSINESS:

1. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

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6. **Executive Session to consider whether to seek the removal of Fayetteville Housing Authority Commissioner Nancy Bolin.**

D. INFORMATIONAL:

Council Tour: August 16, 2004

Special City Council
Meeting Minutes
June 30, 2004

A meeting of the Fayetteville City Council was held on June 30, 2004 at 5:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Mayor Coody called the meeting to order.

NEW BUSINESS:

A discussion of the Fayetteville Housing Authority Board

Mayor Coody: I have only done this once in the last four years. We wanted to call a Special City Council meeting so we could go into an Executive Session to discuss an issue that we have. Since we haven't done this in three years now you are going to have to hold me by the hand and go through the process because it has been so long. Do we just adjourn to the next room to go into an Executive Session?

City Attorney Kit Williams: Let me read you what the statues say Mr. Mayor. It says "*Executive Sessions will be permitted only for the purpose of considering employment, appointment, promotion, demotion, discipline or resignation of any public officer or employee. The specific purpose of the Executive Session shall be announced in public before going into Executive Session.*" As I stated in my memo to you of June 14th I believe the Public Housing Commissioners are public officials covered by this particular act and therefore it would be appropriate if you so desire to go into Executive Session to discuss disciplining a public official. However I think to do that there would need to be a motion and a second and a vote to actually go into Executive Session with a clear purpose expressed in that motion. Then all of you would retire into Executive Session, I would not go there the City Clerk would not go there. No firm decision obviously would be made there, you can just discuss this and then you would need to reconvene back out here, any motions would be appropriate at that point in time.

Mayor Coody: I would entertain a motion for someone to if so interested to move for an Executive Session and express the purpose thereof.

Alderman Reynolds: So move.

Mayor Coody: And the expressed purpose would be to discuss disciplinary actions of one of our public officers?

Kit Williams: You would probably want to say of the Fayetteville Housing Authority.

Mayor Coody: Of the Fayetteville Housing Authority.

Alderman Reynolds: The remaining members of the Housing Authority.

Mayor Coody: We have a motion is there a second?

Alderman Thiel: Second.

Mayor Coody: We have a motion and a second to adjourn into Executive Session to discuss the Fayetteville Housing Authority situation.

Alderman Rhoads: Is that discussable?

Mayor Coody: Yes, that would be discussable wouldn't it?

Alderman Marr: I just have a question, the public officials, I guess is what we call them that would be discussed, are they allowed to present their case in Executive Session to the Council?

Kit Williams: They can when requested by the Council. They are one of the few people that can go back into Session with you. I cannot and other people cannot but the person that you are discussing can go as well. They talked about immediate supervisors and stuff which is not really the case in this circumstance, but they could go back there. I really think it is the right of the Council to determine if they wish them to be back there.

Alderman Marr: Do we have anywhere or can we get a copy of, if we go into Session, the memo that you gave us a while back about what the criteria is for evaluating.

Kit Williams: I have a copy of it, if you want me to make more copies I can or else I can just give you my original.

Mayor Coody: We can just look at the original and take it back in there with us if that is alright. Any other questions?

Alderman Davis: Do we allow for public comment before we go into Executive Session to discuss the Fayetteville Housing Authority or not?

Mayor Coody: I guess that will be for us to determine if we want public comment on the item or not.

Kit Williams: Normally I think most things that come before you before you vote you usually do. It is really pretty much up to you it's not required that any city allow public comment, we normally do.

Alderman Rhoads: Swifty your motion was to do what now? Was to consider....

Alderman Reynolds: The members on the Housing Authority.

Alderman Rhoads: The three remaining and to consider their performance?

Alderman Reynolds: Yes.

Alderman Rhoads: I presume in considering their performance whether we believe that their performance merits them to be off or continue performing the role of commissioners. Am I capturing the essence of the motion?

Alderman Reynolds: Yes

Alderman Rhoads: The remaining members are not here and I am not sure if I am comfortable with even having a conversation without them being, I mean I guess you can have conversation in Executive Session without them and then you can ask them to come to your Executive Session, which if they are not here, I don't know how that's going to happen and then have another special meeting to do that. When I first heard of this desire to have an Executive Session and discuss this issue, one of the things that I mentioned was that I thought we should have them present, notified about this. Notified what we intended on doing so they could come in and chat with us and tell us why we're right or why we're wrong in whatever thinking and whatever thoughts that we have about the subject of their performance. Without them here I am not in favor of even going into an Executive Session just to preliminarily discuss it.

Alderman Marr: Where they notified, where the Housing Authority notified of this meeting?

Sondra Smith: The Final Agenda for this meeting was published in the Northwest Arkansas Times.

Kit Williams: I have spoken with the attorney for one of the commissioners and they're will aware of this particular meeting. I should note that at the Executive Session and if you come back into session later you will not be allowed of course at that point in time to remove anyone. If you look at the statue which I enclosed with my memo and which you will take out with you, removal can only occur after the commissioner has been given a copy of the charges at least ten days prior to the hearing on the charges and the commissioner has had an opportunity to be heard in person. The only thing that this council could do at this point in time, the most extreme action you could take would be to basically instruct me to draw up certain charges that would then be presented to this commissioner; she would then have a right to a hearing before this City Council before any official action could be taken. You would have to be informed of the various facts publicly about why she might be removed for cause.

Mayor Coody: Does that answer your question? Are there any other questions?

Alderman Thiel: So basically we would have to have this meeting this discussion, either we could do it right publicly or we could go into the Executive Session which I think would be preferable since we are talking about a person, an individual, or individuals but we would have to

do this anyway right, is that what you are saying? We would have to have this discussion before we could ..... so we won't be making....

Kit Williams: The City Council needs to give me direction if the City Council desires that you present charges to the commissioner about why this commissioner should be removed from office. I won't do that on my own, I'll do that only if the City Council instructs me to. You don't have to go into Executive Session for that, you could vote it right now if you wanted to without any further discussion.

Alderman Thiel: What are we going to be voting on?

Kit Williams: Your vote would be in relation to Arkansas Code annoted 14-169-210 which is called removal of commissioners and you would say pursuant to that statue you wish that I present charges based upon one of the three criteria or two of the three criteria in order to remove this commissioner and then she would have to get formal notice of that. At a later date then there could be something kind of like a trail in front of the City Council where the evidence would be presented to substantiate the charges if there was sufficient evidence and then it would be up to you to decide by vote whether or not to remove this commissioner.

Mayor Coody: Wow.

Kit Williams: It's a somewhat painful process.

Mayor Coody: So this is different than the memo that was, I mean more detail I guess than the memo that came out a little while back about meeting in Executive Session for the purpose of discussing employment.

Kit Williams: The Executive Session I understand today is simply to discuss what you want to do. Do you want to go forward or not.

Mayor Coody: Alright we have a motion and a second to meet, yes sir.

Alderman Rhoads: I am trying to refresh my memory, I know when we talked about this in open council meeting before we discussed that, to some degree we had sort of the same range of things that we could do that the City Attorney described for us. I think were we finally ended up was to look at the Fayetteville Housing Board a little closer by us attending meetings. I have attended two meetings, I attended the one I think it was Monday, again with the idea of trying to determine whether it's a functional or dysfunctional group. We also I think at least this was discussed when we voted on it to wait to see if the criminal charges panned out. Now we see that one person has plea and we have seen people resign form the board. We will see people I presume brought in to interview, because as a matter of fact I know of someone that is going to interview for a position on the board. I'm wondering if we are going about this in maybe somewhat the wrong order. Before I vote to do something that some folks are facing criminal charges for doing, I would really like to make sure it's absolutely necessary and I don't know if I think it is absolutely necessary at this point. I would love to hear my fellow aldermen tell me why I am wrong or right or what ever.

Alderman Thiel: I would just like to point out one thing you mentioned that the commissioners are in the process of getting applications to replace the two that have left and there are currently three remaining commissioners, one of those has still got the pending trial. Those three as long as there is a quorum will be appointing the replacements.

Mayor Coody: We will have to ratify them.

Alderman Thiel: We would ratify them but that's what it is ratification, we do not appoint them, whereas with them not having a quorum then the Council would be in the position of replacing the members. I think this is kind of a pivotal point because of them making the decision. The existing commissioners one of who might, if they are sentenced with the charges they have gotten through the judicial system; I think there is an issue there with that that concerns me. I would rather see the Council appointing the replacements at this point in time because I have attended these meetings for several years off and on. Even thought there have been some replacements all the way through this process it has not been, they are not functioning like they should be, they never have. I would like to see maybe the City Council get in and make these appointments, not that we are any smarter or better than they are but obviously there have been some poor choices. There have been some improvements but they have actually gone back in some ways too. We really, to me it is quite embarrassing, other cities do have very, very good public housing commissions, very effective and even though we are doing a lot, you know they have a voucher program, but it's been stagnant for so many years.

Alderman Rhoads: Is our desire to look at the remaining members on the board or to just look at one unparticular and determine whether that person is not meeting up to the standards that Mr. Williams puts in his memo.

Alderman Thiel: Well I think the way the motion was said that we were going to discuss the remaining the members.

Alderman Rhoads: Members.

Alderman Thiel: I will leave it based on the motion that was made.

Mayor Coody: I know we are talking about personalities here and with personalities using personalities none of us, I am speaking for myself here, I don't feel comfortable talking about people who are trying to do something for the community in public and pointing out their flaws and weaknesses. I would rather do this in Executive Session where everybody could feel comfortable to say what they think and we could all come to a conclusion about whether we want to move forward and have Kit do his work or we can leave things as they are. I think that for a fair airing of our concerns, I think that an Executive Session is probably called for.

Alderman Davis: I am glad to hear what Robert just said because from the previous discussion it appeared that we were only going to look at one individual from the way the discussion had been lead. As Brenda said they've been dysfunctional for some time and haven't carried out their responsibilities the way they should have to be the best board they could be. I agree that we

shouldn't look at just one we need to look at all of the members and revaluate if we are going to go into Executive Session.

Alderman Thiel: That is the motion.

Alderman Reynolds: That's the motion.

Alderman Davis: Okay, but the discussion has been....

Mayor Coody: The motion is to discuss all.

Alderman Marr: I guess to your point of whether it's the right timing, we got the memo April 30th, we had our first discussion about this board our first meeting in May, we've had almost 60 days or close to it for people to go and access it. Personally I was the one descending vote I think last time about whether we took a more lenient action. The reason was at the time because I thought the item that was hit was more misconduct related, which we have three areas, inefficiency, neglect or misconduct and I thought of it as misconduct. Since that time and in observing and hearing what's happening I am more concerned about inefficiency of all of the remaining members. So understanding that the process is around we are going to have to have a hearing, we can't just remove them based on what the City Attorney has said. At some point we need to indicate whatever process that we are going to use if we still continue to believe that it is inefficient and I think that's where I'm at. I would like to have that discussion and determine whether the things I think are inefficient are things that the rest of you think or vise versa.

Alderman Rhoads: I understand and definitively believe that inefficiency is the area that we should hone in on. I also know how serious it is to ask our City Attorney to lay these charges at someone's feet. If it's permissible to have them come in and talk to us the first time we go into Executive Session before we, that's what I said Brenda before, we might not make a decision to bring charges against somebody if we had a chance to talk to them and hear their side of the story or hear what they have to say about efficiency versus inefficiency. Therefore saving that person the pain and trouble of having charges of inefficiency and a desire of this Council to have them removed brought against them. I 'm just trying to, unless I see that Council as not functioning at all and things going array then I'm not real keen on rushing to an Executive Session. That's what I specifically asked and if anyone desires who I've asked I would be glad to tell you who I've asked, but I asked before this meeting that those people be present so they could be notified and be present right here in this forum be able to say, yes I would like to be with you the first time you talk about me and my potential inefficiencies. That's my point.

Mayor Coody: I know that you spoke with me about this and of course I know that one of the subjects has been apprised of this situation through their attorney that we are meeting today about this very subject. Another one is in New Jersey right now and the third I don't know about. I still think that we need to have the Executive Session so that we can discuss some of the issues that are going on; even Little Rock knows that we are having this meeting and would like to know the outcome of it.

Alderman Cook: My comment Robert would be that we are only going in Session to discuss. We may come out and vote not to do anything. To me if we do that then the follow up would be to bring those commissioners forward and talk to them at that time because we may not feel like the charges are serious enough to levy against them but we do feel strongly enough about the Housing Authority Board that we want to see some change there. We may decide in our discussions that we want to just move on as it is, replace the members that are on there and move forward from there. I don't see the problem with us going in there and discussing it because we may come to a decision that it may not be that we levy charges against them.

Alderman Davis: If we decide to go into this Executive Session and we decide to bring charges up against the three individuals that remain, when we come out of Executive Session what do we have to state at that point in time before the public?

Kit Williams: You would certainly need to have a motion and a second and vote on it, but I would also like some explanations about why you believe it is appropriate to bring these particular charges against any of the three remaining members that you might be considering. You don't have to lay out everything but obviously there are three different factors to look at and they are not applicable to all this individuals either. Two of those individuals were not there when they improperly went into Executive Session and so certainly misconduct could not be alleged against them only inefficiency. Another one of the members is almost brand new and it would be very difficult I think to establish reasonable grounds. You might know better than I because you have been going to their meetings but with a brand new member, I don't know if there is any kind of a track record to establish anything at this point in time. I would like some explanation. As Alderman Cook said you can come back and say that you decided not to take any action at this time, you want to look at something else. You are not committed to take any action just by going back in there and discussing this.

Alderman Rhoads: May I follow up with that point please Bob. Suppose we go in and decide that we don't want to levy any charges do we then have to come out and vote on that?

Kit Williams: No, you do have to come back out and reconvene but there is no motion that has to be done.

Alderman Rhoads: But we can't vote on anything in Executive Session on this issue?

Kit Williams: No you do not vote in Executive Session, so any motions would need to be made publicly.

Alderman Rhoads: Sounds very productive. Okay thank you.

Mayor Coody: Anyone form the public want to public want to address us on this, yes madam.

Ann Vaughn, Vice President of the Tenants Council at Hillcrest Towers: I know you don't name names and I am not going to either but the one that is left that was in that illegal meeting, I was there for that meeting and I heard exactly who said what to Mr. Couch and what he replied. That's just an example of her conduct for a year every since she was on the board. The reason

they had to hire a facilitator or mediator was because of the contentiousness that was caused by her. The new commissioner she is in law school, doing summer school and she has already missed several meetings and she may even resign. Janet Richardson, I like her, I don't have anything against her. We need a Housing Board that can really do come work, there is so much that needs to be done and it can be done.

Mayor Coody: We have a motion and a second to go into Executive Session. Shall the motion pass?

Upon roll call the motion to go into Executive Session passed 6-2. Alderman Thiel, Cook, Marr, Lucas, Jordan and Reynolds voting yes. Alderman Rhoads and Davis voting no.

The Council went into Executive Session.

The Council returned from Executive Session.

Alderman Marr moved to make no appointments to the Housing Authority Board until the City Council could hold a Special City Council meeting and go into Executive Session with the members of the Housing Authority Board present. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

When the Special City Council meeting date is scheduled the City Council requested that the City Clerk send certified letters to the commissioners of the Housing Authority Board requesting them to attend the meeting.

Meeting Adjourned at 6:15 pm

Special City Council
Meeting Minutes
July 13, 2004

A special meeting of the Fayetteville City Council will be held on **July 13, 2004 at 6:00 p.m. in Room 219** of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Mayor Coody called the meeting to order.

Alderman Lucas and Thiel were absent during roll call only.

Alderman Davis moved to suspend the rules and add the School Street Improvements to the agenda. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent during the vote.

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

Gary Dumas, Director of Operations: At the last meeting we had a PowerPoint presentation on the proposed School Street improvements. We had a Street Committee meeting yesterday afternoon to discuss this, just prior to that we had a meeting with the contractors of the library and they had some particular issues on timing for this intersection. That is why this is before you tonight instead of waiting a week. Their issues are that they are in the process now of lying curb and gutter on the Mountain Street and School intersection. There will be some changes to that configuration if the Council approves the proposals that were outlined in the presentation last night and last week. What we have before you is that item and the budget adjustment to accommodate that. There are three parts to the project, one is the Archiball Yell, School intersection, which essentially we have enough budget capacity already within the existing CIP and then the transportation overlay program, to accommodate that improvement except for some of the enhancements, to turn that intersection into a gate way. It will be a much safer gate way because we are removing five points of conflict down to two. The second issue is pedestrian safety and aesthetics at the Mountain and School intersection. The issue there is whether to brick the intersection and brick the crosswalks, very similar to Dickson Street with small pedestrians bump outs narrowing the street, providing some traffic calming and reducing the amount of space that pedestrians have to cross the street to the library. The Street Committee considered that last night and recommended brick crosswalks and an asphalt intersection with a four way stop sign. The third element is street lighting on School Street, which is by far the most

expensive part of the entire project. I think that if we are trying to create an entry way into the library and Dickson Street we need to continue the improvement that we began at the library, continue them down to Archiball Yell to create a very significant gate way. There is a budget adjustment included that's for $278,000 and the agenda packet indicates how well that money would be utilized.

Alderman Davis: I assume in your dollar amount you have gone back and calculated all the cost with inclusion of the brick and asphalt versus the brick and brick, is that correct?

Gary Dumas: Yes, the brick and asphalt is the $278,000 that was our recommendation, the brick and brick would have added about $55,000.

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

Thank you very much; I'm sure the contractor and the library appreciate this.

Resolution 101-04 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

A discussion of the Fayetteville Housing Authority Board:

Mayor Coody: Would you bring us up to date on the letters that you sent out.

Sondra Smith, City Clerk: We sent certificated letters, return receipt out to all the members of the Board, we have one member that since resigned, Dusty Miller, we received back notice that they did receive their certified letters. I believe the two remaining members are here tonight.

Mayor Coody: Kit since we have never done this before what are the parliamentary rules on how we go into this?

Kit Williams, City Attorney: Certainly you are doing it correct by beginning this in open session, if you wish to adjourn into an Executive Session you can. You can invite the person that you are considering the personnel action about back in with you, if they chose to go, they can go back one at time. They should not both be back there at the same time, only the City Council and the Mayor will be in the Executive Session and one of the commissioners, if they so choose to go back there. I have some handouts of my previous memos so that you can see what the law says about that and what you should do. I could note also for the record that I think the Little Rock office of the Housing and Urban Development has a representative here that might wish to address the Council concerning their history with this particular Fayetteville Housing Authority and maybe bring you some facts that you might not be aware of. He is here tonight; he came up from Little Rock so that he could address you.

Jess Jesse Westover, Public Housing Director for the U.S. Department of Housing and Urban Development: I basically am responsible for the management and performance oversight of 108 Housing Authorities in the State of Arkansas. The reason that I am here tonight is basically to support Ms. Janet Richardson as the Board Chair of the Housing Authority. During the past few years I have been personally involved as a Public Housing Director to work with the Housing Authority in guiding the Board through some changes.

I would like to give a little history about what our involvement has been and bring you up to speed as to where we are today. In early 2002 I had previous conservations with city representative Yolanda Fields at a housing conference relative to the role of the Housing Authority in working with the city regarding meeting and addressing affordable housing needs. The department at that time was also considering working with the Housing Authorities through the PHA's annual plan that they have, they have a Section Eight Annual Plan and they have a public housing plan, how that works in levering with the cities consolidated plan. During that same time we had some concerns as to performance of the management of the Housing Authority relative to an occupancy policy issue that kind of triggered my concern in regards to management of the Housing Authority that we then put on our radar.

Mayor, if you recall in July 31, 2002, Ms. Jackson and I paid a visit to the City of Fayetteville along with three other cities in this area which was Fort Smith, Springdale and Rogers in a effort to promote, again what I was talking about in regards to working with the cities, to implement the PHA's plan and consolidated plan to address the citywide and communitywide needs of affordable housing. It is a big initiative and still is a big initiative with the department. I must say my impression was the meeting went very well with Ms. Jackson in the Mayor's office to illustrate our concern and willingness to work with the city to foster that effort. After our meeting with the city we did have a meeting with the Housing Authority again to see exactly what was going on with the Housing Authority relative to meeting with the city and discussing with the city what is in the PHA's plan to address affordable housing needs in the community of Fayetteville. We also toured the sites, it was my first visit to Fayetteville and I was concerned about the condition of the high rise regarding the staining that was going on to the exterior of the building, I am concerned about that and we have been working with this Housing Authority.

We met with the management of the Housing Authority and discussed the process in which the Housing Authority meets with the city and it wasn't a real good relationship that we saw at that point, so we were concerned about that. There was a vacancy on the Board of the Housing Authority, we worked as we always do with boards, we work constantly with boards throughout the state. We do put on numerous training sessions as to the roles and responsibilities with boards, at least four times a year at housing conferences that are held across the state and we also do, I am speaking for myself and the Chief Counsel in the Little Rock office, we do go visit specially with PHA's that are struggling again on boards to educate them what their roles and responsibilities are. Our involvement here is no different than what we would normally do with Housing Authorities. What got us concerned was some management issues and at the same time working with the key cities regarding addressing affordable housing needs through such things as mixed finance, not necessarily Hope Six type projects, but mixed finance. In the process of replacing the board members, we gave guidance on such things as what to look for in a board member, what can we bring to boards that will foster those types of opportunities. Janet

Richardson has always been the one whether she was Chairman of the Board or just a commissioner; she was the one that seemed to step up to the plate. She worked with our office to move this Board forward, understanding that there was a need to improve the relationship.

In the early stages there were questions such as who does the Board work for; the Board is the responsible entity over the Housing Authority. The Executive Director works for the Board of Commissioners, they are boss, so that is the kind of dialogue that we had with the Housing Authority.

We went ahead with working with them to replace the commissioner, at that time we felt that the expertise that Nancy Bolin brought onto the Board was something that would foster the need and move forward the partnership with the City of Fayetteville.

As you recall there was a session that was held here in Fayetteville where partners in the community were brought in to discuss affordable housing, I believe the university was a part of that process, I felt the first step was getting a meeting together to address the communitywide needs. I felt it was a beginning of that process for the Housing Authority and we did have two Board members present at the meeting and the Executive Director was there. In the meeting you could tell the tone of the style of management that was at the Housing Authority was not to move forward in home ownership, other activities and programs that are out there for Housing Authorities to apply for. That was something we were trying to foster again to move forward the opportunities of housing, not only in this community but all communities, its part of our job.

The meeting that was held in December, I felt again was the first step for the Housing Authority again in getting them to meet with the city to sit down and actually discuss the dollars associated with what they had in their plan, how is it going toward improving the quality of the housing stock that they currently had. They do receive annual funds on an annual basis too, it is an entitlement, so they do not have to apply for it, the money is automatic to maintain the viability of the projects and we are concerned about that viability always being up.

We moved forward and the vacancy was filled on the Board in January by Nancy Bolin, in March recognizing that we needed to continue on with Board training, I and Chief Counsel, John Monday came up in March and provided again training for the Housing Authority Board again on what their roles and responsibilities were. Again I want to emphasize this is not uncommon for us to do this, we do this quite often, it is a major responsibility and it is a nonpaying job. We are doing all we can in the effort to improve the quality of the housing and the operations of the Housing Authorities.

April of 2003 is when the Board recognized that there was a need in change for management of the Housing Authority and as a result of that Mr. Wilson retired which created the vacancy as ED. Our roles and my teams role as oversight of this Housing Authority we have the responsibility to assist them through these processes, whether it is Modernization Coordinator or FSS Coordinator, we provide them assistance in that process. Some of these positions are specialized and we look to giving them specific information as to what they need to hire these positions, so we worked with the Board in that process. Mr. Wilson left the employment of the Housing Authority in May and Ms. Swain became the new Executive Director. My personal

opinion, not as a HUD official, Ms. Swains problems began at the Housing Authority was the fact that in the process of hiring an Executive Director Ms. Bolin had applied for the position. My opinion is that that's when the friction started on the Board, when she was not selected as Executive Director of the Housing Authority, from that point on it appears that there has been some disruption on the Board relative to making decisions on the Board. Again we tried to work through those but I have no control over the Commissioners all I can do is assist them in their process. We will continue to do so.

My team and I are committed to again fostering this whole process of meeting affordable housing needs in Fayetteville, I've got a lot of experience in this and I know how difficult it is in the mixed finance era to really pull these plans off to get what you need in these cities. As far as I am concerned we will be a part of that process, they can bring something to the table in the city and that is what we look forward to working with the Housing Authority on. Basically that is what I wanted to say.

Mayor Coody: Does anyone have any questions for Mr. Westover?

Alderman Thiel: Did Ms. Bolin ask your agency whether or not that was appropriate that she stay on the Board and apply for the job? Is that something that would have been considered a conflict of interest?

Mr. Westover: The Board we guided through the process was that there was nothing wrong for a commissioner to apply, however we encouraged the Board to not allow her participation in the process. All of the applications went to Janet Richardson, they were held by Janet Richardson, they were reviewed by Janet Richardson and the remaining commissioners. There was a pool of people there was some good quality candidates on that list, our encouragement was that if Ms. Bolin was selected then she would have to immediately resign as a commissioner. I would have to consider a waiver to allow her to be the Executive Director at that point per our regulations.

Alderman Thiel: There was nothing requiring that she resign prior to or even after unless she was selected as the ED.

Mr. Westover: There is a requirement even for me as a Public Housing Director if I was to leave the department I would have to wait one year before I could actually represent any Housing Authority or any program matter.

Alderman Marr: In your working relationships around the state with the various Housing Boards, where does the Fayetteville Housing Authority rank in terms of successes, efficiencies and progress, are we considered one of the top Housing Authority Boards, an average board, a board with needs improvement, I mean if you were looking at it on a scale in comparison to those other entities that you work with.

Mr. Westover: Those two issues that you raised, we do have a performance program for both the Section Eight Program and the Public Housing Program. We have what they call PHAS which is a public housing assessment system and Housing Authorities are evaluated on performance by a number of indicators. It looks at the physical side of the house, the financial

side, the management side and the resident satisfaction side. Three of those four components are independently scored and at the end of the physical year for the Housing Authority they are given a score and I believe, I don't have the score off the top of my head, there is troubled, standard and high performer, and you are either a standard or a high performer. Likewise with the Section Eight program there are another set of performance indicators called SEMAP, it is a Section Eight Management assessment program, again it is based on the physical year and you are not troubled in those areas. The second part of your question relative to the Board when you stop and look at when Housing Authorities were formulated and how long ago that was, there are bylaws, most of the time when we have our training sessions one of the first questions that we ask, is if the Board is aware or are the commissioners aware of the bylaws and nine times out of ten the answer is no. Just because they are tucked away in a closet or a file cabinet somewhere and have been done years ago, so our effort is to blow the dust off and pull them out, explain to them what their roles and responsibilities are and mentor them in that process. It is a big job that they have, they set the policy of the Housing Authority, they set the tone for the Housing Authority and I think that is part of the problem with a lot of Housing Authorities is that the Board doesn't understand that if they want a Section Eight home ownership program it is their desire, it is not the Executive Directors desire, they take the direction from the Board and I think that is quite common. I can not mandate a home ownership program all I can do is promote, that is our goal to really promote those opportunities in communities.

We have 108 Public Housing Authorities but we also have an additional 78 Section Eight agencies. So there is a lot out there in communities, as I mentioned when we picked the four cities it was the cities that we felt the real potential was there. If you looked into the PHA's plan and you looked at the money that is associated with their PHA plan, you will see that there is quite a bit that flows in and out of this Housing Authority to do a number of things, improve the quality of houses, and create programs for the resident services. That is the kind of stuff that we are educating the Housing Authority on, what they can bring to and they have done that. It was our recommendation that they hire a Modernization Coordinator, because it is so technical and we are concerned about dollars that you spend that you are getting quality for the money, that you are spending and working through that process. So it was our recommendation to hire a Modernization Coordinator, they have done that, it was our recommendation to go after the FSS program, they have done that and they have someone that is running it for them. We are now talking about a Residents Services Coordinator, these types of things, so I think we are moving in that direction it's just that we have this problem that we are dealing with and I understand your situation and you have to make some decisions.

Mayor Coody: Does that answer your question?

Alderman Marr: Yes

Alderman Rhoads: I thought I heard the question was how we ranked against others in the state. I think I heard that you said that they rated standard, I think.

Mr. Westover: You had a standard to high performance; Ms. Swain might know the answer to that question.

Alderman Rhoads: Perhaps this is a subjective answer that's required here, but how did our Board rank against others in the state in your mind?

Mr. Westover: They are right there with the majority of the Housing Authorities, they need assistance, and there is room for improvement, no doubt about it.

Alderman Rhoads: So in other words everybody in the state is all basically in one pack and they are all about the same?

Mr. Westover: We have some that are more involved, to give you an example.....

Alderman Rhoads: That's alright I just wanted a general rating. My question which is different, you had indicated that you were here in March, I think to give the Board training, what did you train on? Did you train on the Freedom of Information Act requirements and responsibilities?

Mr. Westover: Specifically I am not sure, we talked about having a meeting and things like that but as far going into Executive Sessions I don't recall that we actually specifically talked about that. We were mostly training on what their roles and responsibilities were as commissioners, setting policy, what does that mean, if you look at the number of policies that they have, procurement, personnel, its on down the line, so that was more targeted towards that at that point.

Alderman Rhoads: When you indicated that the one test PHAS, you indicated that one of the scores would be in regard to management, is the Boards management or is it management of the facilities.

Mr. Westover: Management of the Housing Authorities through implemented policies. The policies that the Housing Authority and the Board adopts really impact the management of the Housing Authority.

Alderman Rhoads: So it's not a specific test just for the quality or how well the Board is operating is there?

Mr. Westover: There is no assessment for the Board.

Alderman Reynolds: I didn't catch the total number of Housing Authorities that you are in charge.

Mr. Westover: 108.

Alderman Reynolds: 108, and how many of that 108 have you had to get help for like ours where they had to hire mediation to help them through a problem?

Mr. Westover: This is the only one.

Alderman Reynolds: This is the only one. Thank you.

Alderman Marr: I am curious, are you aware of any other city municipalities holding hearings to remove Board members with any Housing Authority around the state?

Mr. Westover: No and luckily we're there before that happens to educate, depending on the issues what's at hand. We try to work with the Board to get them back on track. A lot of it they are just not aware of what their roles and responsibilities are, there are a number of them, that's why we felt it was very important to go out and put on training, we've been doing that. We have gone to specific districts and held commissioner training because a lot of the commissioners can't come to the conferences because they have jobs. Sometimes we go to them because they can't come to us, but there has to be some form of indication that there is a need to do that. We manage by risk based on the systems that generate scores, if there is a risk there then of course. I or my staff may feel there is a need, when there is a new Executive Director, a need for us to get involved and we will step in, it can be a number of different ways.

Alderman Marr: To follow up on that, if I heard your answer right, you haven't done that because typically you are there before we get to that point.

Mr. Westover: Yes.

Alderman Marr: Is it your opinion that we as a Council are over reacting, that the issues are not to the legitimacy of removal, that our expectations are too high. I mean you obviously have been involved in this Board in training and yet we all fell like we are concerned about the efficiency issue whether we are getting things accomplished that we need to get accomplished. I guess I am looking from your prospective are our expectations too high?

Mr. Westover: I feel the leadership is there. My opinion is the leadership is there, it is where do we go from this point in regards to building capacity to do the job. Like I said with Ms Richardson, when we had our earlier meetings on the need of affordable housing, there was an understanding of that partnership, I feel that that has always been there.

Alderman Marr: Did I also understand correctly that you were involved in the selection of Board members and comfortable or recommended the appointment of Ms. Bolin?

Mr. Westover: We are not involved in the selection process, what we do is we advise the commissioners on how to recruit. That can be a number of ways, through the City Council, some cities do go to the City Council and ask for recommendations, they will run ads, but we don't get into the process of actually the selection that is their responsibility.

Alderman Marr: So I didn't hear you correctly then when you said there was a recommendation or you were comfortable with the appointment of Ms. Bolin?

Mr. Westover: What I said was her credentials at that time seemed to be what we were again moving towards in the affordable housing type desire in the community. It appeared that there were some good credentials there that would enhance the Board from that perspective.

Alderman Marr: Do you have the same communication with Ms. Bolin that you have with Ms. Richardson?

Mr. Westover: I have always responded to any commissioner that has called me.

Alderman Marr: Have you had any calls from anybody other than Ms. Richardson or Ms. Bolin?

Mr. Westover: No, the Executive Director we always work with them.

Alderman Marr: Thank you.

Alderman Reynolds: I was surprised to hear you say that yourself and the General Council came to Fayetteville and held classes with the Housing Authority members, your General Council, don't they ever hand out the FOIA booklets that come from I think the AG's office with the rules and regulations of the FOIA.

Mr. Westover: A lot of times we will take those to the conferences that we go to four times a year, that information is available then. Again when we came here it was specifically to look at the roles and responsibilities relative to the policies in the decision making. Understanding that some of our difficulties were with the management of the Housing Authority getting the management of the Housing Authority to move forward under the direction of the Board. It was more designed around that process on what their roles and responsibilities as a Board was, setting policy. We didn't spend a lot of time at that meeting to discuss in the event you went into an Executive Session, how to conduct or the FOIA.

Alderman Reynolds: Thank you.

Alderman Davis: If the funds are not spent, the federal funds, do those funds go back to the federal government.

Mr. Westover: Yes, the funds that I was talking about that they get on an annual basis, they have a two year obligation and a two year expenditure requirement and if they are not within 90% obligation within that two years or they have not expended 100% in the four years, HUD will recapture those funds.

Alderman Davis: Has our Housing Board been sending money back in the past?

Mr. Westover: No, we watch that very closely.

Alderman Jordan: Obviously you have spent some time with this Board is that correct?

Mr. Westover: Yes.

Alderman Jordan: Would you say quite a bit of time?

Mr. Westover: As much as needed, yes.

Alderman Jordan: Then you know this Board pretty well, would you say?

Mr. Westover: Not necessarily the Board, we new the situation and the problems.

Alderman Jordan: In your analysis, what was your greatest concern with this Board?

Mr. Westover: Their lack of understanding of what their responsibility was, the direction of the Housing Authority, where did this Housing Authority want to go relative to what's desirable in the community.

Alderman Jordan: But isn't it true that a lot of these commissioners have served for several years?

Mr. Westover: Yes that is true.

Alderman Jordan: And they still didn't know their duties.

Mr. Westover: No.

Alderman Lucas: You said the leadership is there, are you referring to Ms. Richardson or to the Board as a whole.

Mr. Westover: Ms. Richardson at this point.

Alderman Lucas: I wanted to follow up on the lack of understanding of what their responsibilities were, you talked about having training sessions, is that ordinarily enough to train the Board?

Mr. Westover: This Housing Authority does participate in the conferences at least four times a year, so we were here but at the same time they go and attend the conferences where we also do commissioner training, so its an on going.....

Alderman Lucas: So ordinarily that's enough training for a Board to know their responsibilities?

Mr. Westover: Yes, if you looked at the policies there is a stack of them and there is a lot to digest in how they set those policies. There is definitely a relationship between the Executive Director and the Housing Authority Board on flowing information up as HUD regulations change, all of that has an impact on the policy. That is one of their primary jobs is to understand those policies and get them involved now in the past it was not uncommon that the information did not flow to the commission. That happens an awful lot that is one of the reasons why we put on annual training that is one of their primary functions, not on running the Housing Authority on a day to day basis that is not their function that is why they hire the Executive Director. They have to have the confidence in the Executive Director to run the day to day business of the

Housing Authority that ties into those performance indicators that we have. That is how we assess Housing Authorities; their main function for them is the oversight.

Alderman Rhoads: Of the 100 plus Boards that you are responsible for are they all mandated by federal law that none of these folks are paid they are all volunteer commissioners is that true?

Mr. Westover: I believe the Act allows up to $300 per commissioner per year.

Alderman Rhoads: Per year

Mr. Westover: Yes.

Alderman Rhoads: Did I understand you right when you walked up to the podium that you indicated that you were here to support Ms. Richardson?

Mr. Westover: In her efforts as the Board chair, yes.

Alderman Rhoads: Specifically you mentioned her and no one else, was that by design?

Mr. Westover: I think right now that is about all that is left on the Board.

Alderman Rhoads: There is another one left on the Board, are you specifically not supporting her?

Mr. Westover: No, I didn't say that.

Alderman Rhoads: I am not trying to be cute with you; I am just trying to figure out exactly where you are coming from. You are supporting Ms. Richardson but you are not willing to vocally support anyone else on the Board.

Mr. Westover: Yes.

Alderman Davis: Are we over reacting, you didn't really answer the question, basically yes or no.

Mr. Westover: I think the Council is accurate in being concerned and I felt that is one of the reasons that I needed to come up and at least express what we've been doing with the Housing Authority so you wouldn't think that they were just totally out there on their own. It's my opinion that it is at your level at this point to make some decisions on what you want to do.

Alderman Davis: Well, you have the expertise with being involved with 108 Housing Authorities and with that expertise I think the Council would like to know with a yes or no, are we over reacting?

Mr. Westover: I think you've got ....

Alderman Davis: Yes or no?

Mayor Coody: Let me ask a more direct question. If you were in our shoes what would be your recommendation for action?

Mr. Westover: Obviously you have some criminal violations to the state statue so I think you are bound to evaluate those actions and proceed under state statue of what your authority is and move forward on whatever design you make in your decisions of replacing the Board. I think that is purely within your privy.

Alderman Marr: In the statue, our City Attorney has advised us that the statue involved enables the removal of a commissioner where there is substantial danger to the rights and interest of the public because of inefficiency, neglect or misconduct. I would like to know from your prospective what would be examples of inefficiency on a Public Housing Board, what would be examples of neglect? I think we all have an idea of what is misconduct.

Mr. Westover: An attorney could probably answer that better than I could. Inefficiency is an on going process of not setting policy to have the Housing Authority operate in an efficient manner, those policies do exist to allow them to do that. Again, that is why we get involved in making sure that the policies do get to that direction that is about the only way a Board would be inefficient, if they are not moving the Housing Authority forward. I think in the past because the information didn't flow up to the Board, I think they just saw their responsibility as they were told what their responsibility was, to sign checks and basically that was it. Beyond that as we stepped in and we started getting them to understand that the management of the Housing Authority is directly under their supervision, now take control of that and move the Housing Authority forward.

Alderman Marr: Would returning unused funds that were received, would that be serious enough to be considered neglect.

Mr. Westover: That would be evaluated under our assessment system that we have, they would be scored a lower score because of that.

Alder**man Marr:** So is that a yes it would or no it wouldn't.

Mr. Westover: Yes.

Alderman Thiel: I think you have mentioned that the prior Executive Director was basically directing the Board rather than the other way around, which obviously is a concern, and that the past Board and some of the current Board wasn't even aware of their responsibility. There is one commissioner here that was part of that original Board. Who brought it to your attention to start attending the Commission meetings to basically start informing them? This went on for quite some time and apparently you weren't being involved in saying you have a problem here. At what point and who basically encouraged the state to come down and get more involved in the Commission and their need possibly for a new Executive Director and some Board training?

Mr. Westover: Well, my first involvement was at a housing conference where Yolanda and I had a conversation on this. What the city is doing, how do we get the Housing Authority to be a part of that process, which I am definitely involved in that process relative to the PHA plan. That's indicator number one that we may have some concern which I would look at any Housing Authority in that process to foster that. Our meeting with the Mayor in July again was because like I said there's potential at this Housing and the city, they are not a large Housing Authority, they are medium size, but they have sufficient amount of funds coming into the Housing Authority that can be levered in meeting some of the affordable housing needs for the community. That aspect as an apart of the goal in increasing the opportunity for affordable housing that is something we would do in any Housing Authority. Because we are here and had the meetings there was that sense on my part from the Housing Authorities that I deal with that we needed to do that as a gesture in moving it forward.

Alderman Thiel: So it was basically Yolanda Fields who represents our CDBG fund and the city administration that invited you to become more involved.

Mr. Westover: A part of that HUD has cylinders, at that meeting in December there was a Community Planning Development Director at that meeting to look at tax credits, home funds, public housing funds how that all can be utilized in the process to leverage, there are some tremendous things that are going on out there, Housing Authorities can issue bonds. We don't have housing development funds anymore so it is difficult for Housing Authorities to develop new developments on their own without that kind of leveraging going on through the mixed finance process which is quite involved but successful, but they can't do it by themselves. In speaking to the Mayor and Yolanda about where the city wanted to go in affordable housing, it was an opportunity for us to get involved on a positive way.

Mayor Coody: Any other questions? Thank you very much for your comments. I will open it now to public comment, I would like to keep the comments brief about three to four minutes please, we will be giving an opportunity for Ms. Bolin and Ms. Richardson to visit with us in Executive Session I would suspect. Does anybody want to address us as a Council right now? I will close it to public comment, what is the Council's wish; do we need to retire into Executive Session?

Kit Williams: If you do you need to have a motion and let me just read you the statue about removal, it is very short and it will guide you if you do want to go into Executive Session. It says: *the commissioner of a City Housing Authority may be removed from office for inefficiency or neglect of duty or misconduct in office only by a vote of a majority of the City Council. B) Removal shall occur only after the commissioner has been given a copy of the charges at least ten days prior to the hearing on the charges and the commissioner has had an opportunity to be heard in person by the Council.* So if you come back and make a decision your decision would be whether or not you wish to go forward with charges against either one of the commissioners for this particular hearing. At that point in time you will so instruct me by a motion by a majority of the City of Fayetteville Council then I would go forward and follow the statue and attempt to schedule probably another Special City Council meeting where other evidence and statements can be presented including public statements by the commissioner. That might be the subject of your motion.

Alderman Thiel: So in other words when we come out of Executive Session the only motion we could make tonight would be to file these charges against this person. Would we at that time have to elaborate on why?

Kit Williams: No, you would not but it would probably be helpful to me if you did indicate whether it was for misconduct, inefficiency or neglect or more than one and direct me to go forward and then I will proceed at that point in time if so directed.

Alderman Thiel: Okay. Thank you.

Alderman Rhoads: Kit do you have a sense of how to define inefficiency, neglect or misconduct?

Kit Williams: Well the misconduct in relation to potentially breaking state law would certainly be the clearest, most easily proven, less argued about. Neglect would almost be like someone that has not been going to the meetings. Inefficiency would be much more like they just haven't been getting the job done, maybe they just didn't understand it, maybe they didn't care if they understood it or not, they were just not going to do anything or else being disruptive where the commission could not function and where at the meetings they would not get much done because there would be acrimony and things like that. I think that would be the inefficiency, more difficult to prove certainly I think than the others. I will certainly do my best no matter what your charges to me might be.

Alderman Marr: I have one more question for the gentleman that was here form Little Rock. Currently with the last resignation we now have only two commissioners which means it is impossible to have a quorum. Is it true under their bylaws that any future appointment for the open slots would have to be made by the Council?

Mr. Westover: Yes.

Kit Williams: That is state law and the state law says that if a position remains open and unfilled for 45 days that the City Council can appoint and fill that position. Since they can not have a quorum at this point in time because there are only two commissioners out of five there, then they can not have a meeting so they can not appoint anyone. I think we have to wait, even though it is obvious that they can not appoint. The City Council would still have to wait 45 days before an appointment can be made.

Mayor Coody: Any other questions or comments?

Alderman Thiel: That is not jeopardizing anything?

Kit Williams: The Executive Director of course is still continuing to run the Housing Authority it just means they would not be able to have meetings and whether or not they have something the Board would actually have to do, I don't know. Unfortunately they can not do it because neither they nor you can appoint anybody at this point in time.

Alderman Marr moved to go into Executive Session to visit with each of the remaining commissioners independently of each other with the Council in Executive Session to discuss the Councils concerns over inefficiency, neglect or misconduct. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Kit Williams: Do you wish to invite one of them back with you?

Mayor Coody: Yes, would we come out and invite one then come out and invite the other?

The City Council went into Executive Session at 6:50 p.m.

The City Council returned from Executive Session at 9:20 p.m.

Alderman Rhoads: I would like to move to take no action against either of the two remaining commissioners; however that is not to say that I and others can speak their mind if they feel differently, but that's not to say that I think there are not problems there because I do believe there are problems there. I just don't believe and I guess I am making a motion and I am kind of arguing my motion, I apologize for that, I just don't think there is evidence for us to show misconduct, negligence or inefficiency, although like I said I think there are problems there. Part of my motion is that we would ask Janet if she would set down as chair and she indicated that she would in her discussions with us. We think, at least I think that is probably the thing to do to get things started. The last part of the motion is for this Council to immediately seek candidates and appoint three new commissioners.

Alderman Davis: May I add to that Robert?

Mayor Coody: Is there a second?

Alderman Davis: I will second that but I would like to make an amendment to that, that one of the three new members that would be appointed would be acting chair of that committee.

Mayor Coody: Do we have the authority to make that motion?

Kit Williams: I don't think we can choose the chair. We have to abide by the state statue which means we don't have the power to appoint until one of the positions has been open for 45 days without an appointment. However long that will be, that is when the statue says the City Council can appoint at this point neither the Board, because they only have two members, nor the City Council because of the 45 days can appoint a member.

Alderman Rhoads: 45 days from what.

Kit Williams: From the date the position became open.

Alderman Rhoads: But we can go ahead and start the process immediately.

Kit Williams: Certainly you can interview.

Mayor Coody: Alright.

Alderman Marr: Mayor I have a question for the City Attorney on that. Which date are we using the last commissioners resignation date or the first commissioners resignation date?

Kit Williams: It is the first commissioner's date for the first appointment and then the next commissioner can be appointed 45 days after that position became open.

Alderman Marr: What is that date?

Kit Williams: I don't have that particular date.

Alderman Thiel: There are three dates.

Mayor Coody: The first one was Gary Gartons resignation. Do you know roughly when that was?

Alderman Rhoads: Two weeks ago or there about.

Mayor Coody: So it would be another month before we would have a quorum and roughly another 45 days before we would have a full Board.

Kit Williams: Yes, it will be 45 days form when that position became vacant, of course once they have a quorum they actually would have a statuary right to recommend an appointment themselves.

Mayor Coody: Alright, just to recommend?

Kit Williams: They could appoint subject to your approval. The City Council would not have to approve the replacement.

Mayor Coody: Does that answer your question? One thing that I think was made clear is that all of us want to see the Fayetteville Housing Authority fulfill its obligation and its deep need to provide housing for those of us in Fayetteville who need it the most. We have deep concerns, while we appreciate very much the service and the volunteerism shown by the Board members that we've talked to, there are some concerns about the leadership ability of both of the parties to get the job done in a good fashion. Meaning that we would hope, strongly encourage one of the new appointees to be named chair that is something we would very much like to see so we can bring strong leadership to the Board. Also one concern is that we would hope that some aggressive personalities make a real, real concerted effort to become more team oriented and more willing to work in a committee environment. If we don't see some positive changes we will have to fall back and have to do something else. We can't let the current inadequacies with what we have seen in the last several months persist, we have too many people relying too

heavily on this Board to work properly. I know some other City Council people would probably like to add their two cents worth.

Alderman Jordan: There is not a day that I don't think about the low income people in this city. I was raised poor and I know what it's like. When I see the type of infighting that I see going on, on this Housing Board it breaks my heart. There's people out there, we know around 15% of our population in this city could be working below federal poverty level and they need your help, they don't need the infighting. I don't know what the Board needs to do but you need to pull it together. You don't need to do it for me and you don't need to do it for the Council, you don't need to do it for the Mayor, you don't need to do it for yourself but you need to do it for the people of this city. That's what is important, that's what needs to be addressed and that is what you need to do.

Alderman Thiel: My concern is that the Executive Director and that the Board over the years has not been nearly as aggressive as I think they could be in providing new housing to meet our tripling population. I know this exercise has been difficult for everyone involved including us, believe me but if nothing comes out of this but we get three new commissioners that are really dedicated and will devote the time necessary to making sure that our Public Housing Authority is seeking every means possible to providing affordable housing both rental and possibility home ownership, I think that is all we can ask. At least that good thing would have come out of this. I think this Housing Authority needed to be aired quite some time ago and I think it just finally collimated into all of this, I just hope this Council appoints and finds three good people to serve on that commission. I hope that you can try to move forward and forget some of the issues that have happened in the past and try to provide more housing for the citizens of Fayetteville that need it,

Alderman Lucas: The thing the Housing Authority has got to do is work together, they are volunteers, I know, but if they can't work agreeably together and I am hoping that the three new ones and the two that are on the commission now will work closely together for the poor people of Fayetteville, the people that need help with housing. I volunteer down at CEO and I see people that don't have homes, that are living in cars, that can't meet their rent, that need help, we have so many good people that need help. It bothers me that a volunteer commission can't work together without a mediator and a facilitator. They are spending money that should be used for people that need the housing, to try to keep the meetings going, that shouldn't be. If people can't work together on a commission then they need to recognize that for the good of the city they don't need to be on that commission, I don't care what their agenda is. They need to be able to work together and I think you can, there are lots of knowledgeable people. The two people that are on the commission have lots of knowledge in the Housing Authority and their mission that they should be carrying out. You need to work together and think of who you are working for. You are not working for yourself, as Lioneld said, for us or anything; you're working for the people that need your help. I have high hopes for this and I just hope it works out.

Alderman Reynolds: We have gone from a little berg here to 60,000 people and to think that somebody hasn't done their job and we're sitting at 300 vouchers with 60,000 people, I think that is an embarrassment, somebody has failed.

Alderman Marr: If we weren't talking about a voluntary board and we weren't talking about legal proceedings that had definitions that certainly I myself have a disagreement with. I think members of the Board came forward with their own definitions of inefficiency and neglect. The bottom line though is if this was a company and we had a board working like this not only do I think the shareholders would fire this board, I think that the leadership within this company would have gotten rid of it and started over. I understand that there are requirements that have to be met. I want to make it clear that I hope if anything comes from this at least from my perspective and I think it is clear with our meetings with the remaining individuals and will certainly be made to those that interview for future appoints, as a Council member I will take ratifying Board members much more seriously. I am not going to just take the word of this Board, I want to know more about philosophies, I want to know that they are committed to more vouchers, I want to know that they are committed to more programming, that they have a passion for action plans that they are held accountable to, that they have a passion for performance reviews of the Executive Director, that they have a passion for the nominating process. I want to know that they care about the reputation of public housing in Fayetteville. I want to know that they have a goal for better facilities in the city and not necessarily just new facilities but improving what we have. If they aren't committed to that and they aren't committed to revaluating rules and staying with the times then I will never vote for their appointment. I want to make that very clear. I think one thing we learned tonight is what power we do have. The accountability that I hope that the Board will take upon itself is that when it has members that it has appointed or appoints in the future when it has quorums in place that there is a accountability that the board holds to each other and that if things aren't working or that the progress of public housing is being impeded by that, that we be bigger than our egos and we either remove people or as a Board the leadership within that Board takes action. Those are the things that are important to me. I hope that tomorrow morning is the last day on the front page of a newspaper talking about ineffectiveness of this Board. I hope that the future articles are talking about the areas that I spoke to. Thank you.

Kit Williams: Let me see if I can say what this motion is. I would suggest that maybe the motion could be fairly simple that the City Council takes no disciplinary action at this time. I would think that that would be a motion that expresses your intent but if that doesn't express all of your intent.....

Alderman Rhoads: Add to that, that we would vote to take no action at this time because the chair has agreed to resign the chair.

Kit Williams: We probably can't enforce that; we can put that in the motion if you want to but....

Alderman Rhoads: I think I would like that in there because that's why at least I personally support taking, one of the reasons, I support taking no action at this time because I think there is going to be a change in the leadership of that Board.

Alderman Rhoads moved that the City Council take no disciplinary action at this time partly because the chair has agreed to resign the chairmanship. Alderman Davis seconded the motion.

Alderman Davis: Do you mind if I add my amendment on there. We hope that one of the three future appointees would be chair or do we need to leave that out. We made that statement, hopefully they understood that.

Kit Williams: I am saying that I think you have the right to discharge commissioners, but we really don't have the right to tell them who is going to be their chair or not.

Alderman Davis: We will leave it like it is.

Alderman Marr: Can we send a recommendation to the Board for consideration.

Kit Williams: Certainly you can have any kind of communication you want to have.

Mayor Coody: We can send a City Council resolution to the Board expressing our feelings.

Alderman Rhoads: I like my motion the way we just talked about it with what I added.

Upon roll call the motion passed unanimously.

Mayor Coody: I think you can tell by the comments up here that this has been tough on everyone. We really, really have high hopes that this Board will get itself turned around and be as productive as we need for it to be for the good of the citizens of this town. We are putting a lot of faith in the fact that you all will go the extra mile to work as hard as you can to make this work.

Meeting Adjourned at 9:40 pm

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July 12, 2004

University of Arkansas
UA Facilities Management
521 S. Razorback Road
Fayetteville, AR 72701

RE: Scope of Work and Cost Estimate
Transportation Master Plan
University of Arkansas - Fayetteville

Dear Mr. Huneycutt:

Martin/Alexiou/Bryson, PLLC (M/A/B) is pleased to submit a scope of work and cost estimate in response to the Request for Proposal (RFP) dated June 28, 2004. The attached document includes the following sections (in this order):

- Project Understanding and Goals
- Stakeholder Involvement
- A Scope of Services for each phase (Phases1A, Phase 1B, and Phase2), including
  - Project Purpose
  - Stakeholder Involvement
  - Work Products
- Obligations of the University and City
- Project Timeline
- Basis of Compensation (all phases)

The scopes for all three phases are very comprehensive, representing our general approach and methodologies, and generally reflecting the RFP. However, the finalization of the scope and associated costs requires more detailed discussions on each item with the University (and City for some tasks). Therefore, this scope and cost estimate must be considered preliminary and subject to change. If the cost exceeds the University's budget, there are several areas of scope (and cost) that could be reduced without compromising the project objectives.

We have added to out team ***Cloud Gehshan Associates (CGA)***, a leader in developing wayfinding and sign programs. CGA was included in our original team, and the firm's qualifications were submitted to you by Fedex last week.

Please do not hesitate contact to me at (919) 881-1243 or georgealexiou@mabtrans.com if you need additional information or have any questions.

Sincerely yours,
MARTIN/ALEXIOU/BRYSON, PLLC

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UNIVERSITY of ARKANSAS

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UNIVERSITY OF ARKANSAS

Proposal to Undertake

CAMPUS TRANSPORTATION STUDY

PROJECT UNDERSTANDING AND GOALS

The University of Arkansas, located in Fayetteville and the flagship campus of the University of Arkansas system, is experiencing significant growth which is anticipated to continue into the foreseeable future. This growth brings with it pressure on limited land resources and the transportation infrastructure serving the campus. This is further compounded by the campus being located within a region that is expected to almost double its population over the next 20 years, placing unprecedented demands on the region's transportation system and necessitating new approaches to addressing future transportation needs.

The anticipated growth of the flagship campus requires the preparation of a Transportation Master Plan. This will accompany the update of the 1998 Campus Master Plan that will be concurrently undertaken by University staff. The development of the Transportation Master Plan must be undertaken within the context of regional transportation issues, goals, and plans, as well as Campus Master Plan goals. The City's recent *Traffic and Transportation Study*, which outlines the City's transportation needs and priorities for the next 20 years, identifies traffic congestion as the highest priority but stresses solutions which increasingly emphasize reducing vehicular traffic, multi-modalism, and smart growth. It also identifies the University as a major travel generator, and highlights the need for close cooperation in developing solutions.

The Transportation Master Plan also must reflect the University's commitment to sustainability principles, and enhancing the pedestrian environment and aesthetics of the campus (a common theme among the major campuses we are assisting). The University is seeking forward-thinking, sustainable transportation solutions that not only address mobility but also contribute to the University's mission and vision.

One early manifestation of the University's growth is the need for more buildings and more parking. One parking deck is under construction and another planned for the North Campus. The impacts of these must be addressed early in the study (Phase 1A of the overall transportation study). The planning and impacts of another deck proposed in the *Downtown Master Plan* to jointly serve businesses in the Dickson Street corridor and University students, will be the focus of a second study (Phase 1B) which will be an extension of the Phase I study.

The overall Transportation Master Plan (the Phase 2 study) will begin at the same time as the Phase 1A study. Work undertaken for both Phase 1 studies, and in particular the development of a traffic simulation model, will feed into and be expanded on in the overall study. The 1998 *Campus Master Plan* provides a starting point for the Transportation Master Plan. It identified a number of transportation problems and issues, proposed design principles to guide circulation and parking, and offered recommendations, many of which may still be valid today. Several improvements recommended in that plan have been implemented.

STAKEHOLDER INVOLVEMENT

A critical element of all three studies is stakeholder involvement to ensure all possible information is factored into the study, all concerns and desires are heard, and the best possible solutions and plan results. All these in turn will help build support and consensus for the transportation plan and recommendations of each study phase. Stakeholders include segments of the University population, the community (neighborhoods, businesses, organizations and groups, and individuals), and City regional and State governments agencies. To ensure a successful outcome, our team will take a proactive and "hands-on" approach to involving stakeholders.

Some of the projects that may be proposed by the University have implications for the surrounding neighborhoods and the traveling public, in addition to fulfilling the University's mission. The legitimate concerns of all these stakeholders, and potentially groups within the University, must be addressed. Community and neighborhood groups have made it clear that they want to be heard and actively participate. The University recognizes that broader participation will help identify and avoid unacceptable impacts, and develop effective mitigation strategies that balance the benefits and impacts of the projects. Moreover, by conducting studies in an open forum, consensus can be reached step-by-step to ensure broad buy-in of the findings and recommendations by all stakeholders.

Agreement on key issues and factors at the appropriate step in any study will avoid surprises later in the study. Therefore, meetings must be thoughtfully structured to carefully explain issues and options, and make group decisions. The emphasis of our approach is on making clear decisions that keep a study moving forward. Each phase of a study must conclude with a clear direction. Therefore, the opinions and concerns of all interested parties must be aggressively sought out early so that they can be factored into the technical work and addressed in the conclusions and recommendations.

The senior members of our team are very accustomed and skilled at working with stakeholders in a variety of settings. Many of our campus projects have involved multiple committees, both within and outside the campus. Typical committee membership has included mayors and councilpersons/commissioners, public agency staff, departments of transportation, individual neighborhoods, community groups, the university president/chancellor, top administrators, faculty, staff and students. Many projects have involved separate presentations or workshops with neighborhoods to examine and resolve specific issues. Other projects have entailed tiered technical committees and policy committees as a means of ensuring buy-in on all technical assumptions, methodologies, and results at every step of the process, and acting on key findings to make recommendations. We have earned the respect of many of transportation, political, and business leaders for our professional expertise, broad understanding of issues, ability to get decisions made, and ability to communicate information. We believe in being respectful and responsive, but with the goal of reaching closure.

SCOPE OF SERVICES

Following is a proposed scope of services for achieving the project goals. A separate scope of services is provide for each study phase, however it is assumed that Phase 1 and Phase 2 will run concurrently. The scopes will be refined based on feedback from the steering committee.

PHASE 1A – LEVERETT NEIGHBORHOOD/HARMON AND NORTH CAMPUS DECK

PURPOSE

This Phase 1A study will provide an assessment of the Harmon Avenue deck that is scheduled to open in April 2005, and a planned deck on the north side of the campus (in the vicinity of Douglas and Leverett Streets. The study will be structured to capture and understand the cumulative impacts of both decks.

The Phase 1A study will be undertaken concurrently with the Transportation Master Plan. Because counts cannot be collected until at least one week after school reopens (i.e., one week after August 23), the study will be completed in late November.

STAKEHOLDER INVOLVEMENT

At the outset of the entire study, an overall stakeholder involvement strategy and program will be developed in consultation with the University. At a minimum this will include regular meetings with all stakeholders (groups and individuals), more formal meetings (with presentations), workshops (including charrettes), and an interactive website (to be provided by the University).

Phase 1A stakeholder involvement will focus on the communities bordering the northern, eastern, and southern edges of the campus as these have the greatest potential of being impacted by the projects. Two meetings are proposed for this purpose (included as tasks below). In addition, less formal meetings will be held with individuals or smaller groups as needed. M/A/B also will provide all material for placement on the University's website.

M/A/B will prepare all meeting notices, background materials, and follow-up documentation of the meeting, and make the presentations. The University will organize the venues and equipment, and publicize meetings.

TASKS

(Note: The initial tasks of the Phase 2 Transportation Master Plan will be undertaken concurrent with the Phase 1A tasks. These tasks provide a necessary framework for the Phase 1A and 1B studies. The overlap of tasks for the various phases is shown on the project timeline.)

1A-1 Review Potential Deck Sites for North Campus Deck

Potential sites for a North Campus deck will be identified and evaluated (criteria for this task are detailed under Phase 2). This also is the kick-off trip for the project.

1A-2 Collect Intersection, Roadway and Traffic Data

A study area will be defined to address the potential combined impacts of the Harmon and North Campus decks. The study area will be the area bordered by Center Street, Garland Avenue, Cleveland Street, and Arkansas and Whitham Avenues.

Information to be collected for streets includes:

- Widths
- Number of lanes
- Posted speed
- Parking
- Bike lanes
- Grades
- Sight distance limitations
- Sidewalk characteristics
- Daily (24-hour) traffic counts

Information to be collected for intersections:

- Number and type of lanes on each approach
- Lane widths
- Length of storage
- Type of control
- Signal phasing/timing data
- Pedestrian crossings

It is anticipated that up to 30 intersections may be encompassed by the study area. The following is a preliminary list of intersections that may be included (this list will be reviewed and finalized with the University and City):

1. Center and University
2. Center and Duncan
3. California and Harmon
4. California and Virginia
5. Dickson and University
6. Dickson and Arkansas
7. Dickson and Duncan
8. Dickson and Buchanan
9. Dickson and Ozark
10. Maple and Arkansas
11. Maple and Whitham
12. Maple and Leverett
13. Maple and Storer
14. Maple and Oakland
15. Maple and Lindell
16. Maple and Garland

17. Douglas and Whitham
18. Douglas and Leverett
19. Douglas and Storer
20. Douglas and Oakland
21. Douglas and Lindell
22. Douglas and Garland
23. Cleveland and Whitham
24. Cleveland and Leverett
25. Cleveland and Storer
26. Cleveland and Oakland
27. Cleveland and Lindell
28. Cleveland and Garland

Counts will be collected for the two A.M. and P.M peak periods (two hours in each period). It is assumed new counts will be required at half the intersections. The counts will include pedestrians, cyclists, and trucks/buses. These counts will provide an assessment of current conditions, including traffic for all existing parking facilities (including the Garland parking deck).

For costing purposes it is assumed that new counts will be required at a total of 25 intersection and 20 mid-block locations for the entire transportation study.

1A-3 Develop Traffic Simulation Model

The development of a campus-wide Synchro/SimTraffic simulation model that includes the above streets and intersections will be commenced in this task. This model will be expanded and enhanced in the subsequent study phases.

The model will be built on the City's existing model. Additional street network will be entered, including existing geometric and timing/phasing data. Where appropriate, signalized intersections will be grouped according to the City's signal system zones, and timing splits will be optimized within these zones using cycle lengths provided by the City.

1A-4 Conduct Existing Conditions Traffic Analysis

The model will be applied to assess existing conditions for the A.M. and P.M. peak periods. This will include level-of-service (LOS) for intersections and specific movements, delays, and queuing. Existing problems will be identified and mapped.

1A-5 Conduct No-Build Conditions Traffic Analysis

The model then will be applied to assess future conditions for the year both planned decks would be open, but without the decks or other changes in campus parking. This provides an assessment of future conditions that can be expected even if the University does not grow or add parking. Background growth factors will be based on historic growth rates and other information the City may provide. Anticipated problems and constraints will be identified and mapped.

In addition, changes in midblock traffic also will be calculated (daily and peak hour) so that residents on particular streets can understand how much traffic will grow because of regional growth.

1A-6 Present Findings to University and City

A meeting will be held with University and City staff to present the findings to date. The University and City will be asked to review these findings prior to the first community meeting. Information will be distributed beforehand, so that the community meeting can be held on the following day (or possibly the same evening).

1A-7 Conduct Community Meeting #1

The background information will be presented at the first community meeting. The purpose of this meeting will be to introduce the community to the overall transportation study, and the study process and schedule. The Phase I study will be outlined, and the background information from the preceding tasks presented in powerpoint and displays. Attendees will be asked to mark maps and fill out a questionnaire to identify existing concerns and issues, and anticipated issues related to the parking decks. This may include traffic, pedestrian circulation, transit needs, other University impacts, and opposition to any decks north of Maple Street.

1A-8 Determine Parking Supply Changes

In preparation for analyzing the traffic impacts of the planned decks, all potential parking losses and gains within the study area between now and the time the North Campus parking deck opens will be estimated. Any other potential changes in trip generation also will be identified.

1A-9 Determine Vehicular Trip Generation

Peak hour and daily trip generation rates will be developed for the two decks based on surveys and projected users. The campus will be divided into zones for the purpose of trip generation of new decks, other changes in the parking supply, and changes in trip generators.

1A-10 Determine Vehicular Trip Distribution

Traffic will be distributed and assigned to the street network based on the geocoding results (see Phase 2), existing traffic counts, and any available regional data. The distribution of trips will be based on the zones described above. This traffic will be added to the no-build traffic.

1A-11 Conduct Build Conditions Traffic Analysis

The simulation model then will be applied to assess future conditions with both planned decks open. Anticipated problems will be identified and mapped. In addition, changes in midblock traffic also will be calculated (daily and peak hour) so that residents on particular streets have measure of how traffic will change on their street.

Options for capacity and safety improvements will be identified and shown on drawings and other graphics for presentation to the community at the second meeting. These will be reviewed with the University and City beforehand. In addition to possible intersection improvements, potential traffic calming techniques to control the speed and or volume of traffic on a particular street will be identified. Order-of-magnitude costs will be developed for the North Campus deck and all street improvements. (While it would be possible to assess each deck separately, this would entail additional cost.)

In the event that there is consensus by the University and City that the proposed size of the North Campus deck cannot be accommodated by the street system, the deck size will be reduced and the traffic analysis redone.

1A-12 Identify Additional Needs and Improvements

The final destinations of the deck users will be projected, and the preferred mode of travel determined (walking, transit, or cycling). Deficiencies in existing facilities or services for each mode will be identified, and improvements proposed. Particular attention will be given to pedestrian safety. Order-of-magnitude costs will be developed for improvements.

1A-13 Present Findings to University and City

A meeting will be held with University and City staff to present the findings to date. The University and City will be asked to review these findings prior to the second community meeting. Information will be distributed beforehand, so that the community meeting can be held on the following day (or possibly the same evening).

1A-14 Conduct Community Meeting #2

The findings will be presented at a second community meeting. Following a presentation, attendees will be asked to break into groups and mark up maps showing the preferred improvements and identifying any other issues that should be addressed.

If required, perspectives of the North Campus deck can be prepared (not included in the cost estimate).

1A-15 Develop Wayfinding and Visitors Center

Recommendations for wayfinding for the two decks will be developed by team member Cloud Gehshan Associates (CGA). Their methodology for developing a wayfinding plan is described under Phase 2. It is important that the Phase 2 wayfinding study and plan development precede the recommendations for wayfinding for the individual decks. Therefore, it recommended that as the overall wayfinding plan is being prepared (and after initial concepts are agreed on), CGA should design temporary signs for the Harmon deck that can function for its opening in April 2005, and have included that as a separate work product. Because this needs to happen quickly, before the entire sign system can be designed, the signs can test out some of the concepts outlined in the Wayfinding Master Plan in advance of the design process. Other wayfinding recommendations, such as pedestrian directionals at the garages or visitor information centers, will be included in the Master Plan and will not be part of the Phase 1 efforts, as the Phase 1 decks would not open until well after completion of the Master Plan.

1A-16 Finalize Plan and Prepare Report

Following a meeting with the University and City to review comments from the second community meeting, a draft and final report will be prepared. A single report will be prepared for both decks. The report will document the study and all recommendations for mitigating impacts and serving users of the decks. The total order-of-magnitude cost will be finalized.

The study does not preclude the possibility that no decks be located on the north side of Maple Street. In that event, alternative sites will be identified as part of the Transportation Master Plan study (Phase 2).

WORK PRODUCTS

The Phase 1A study will produce:

- A report documenting the study, including diagrams depicting existing, no-build and build traffic conditions, and any recommendations for transportation improvements or changes.
- An executive summary of the report.
- Temporary wayfinding signs for signs for the Harmon deck.
- All documents in a pdf format suitable for posting on the University's website.

PHASE 1B – DOWNTOWN DISTRICT AND WEST AVE./DICKSON ST. DECK

PURPOSE

The draft Downtown Master Plan identifies a need for a 1,200-space parking deck at the southwest corner of Dickson Street and West Avenue to serve merchants, Walton Arts Center patrons, and students. The Phase 1B study will provide an assessment of this deck. The study will be structured to capture and understand the cumulative impacts of this and both decks studied in Phase 1A.

The Phase 1B study will follow the completion of the Phase IA, but will be undertaken concurrently with the Transportation Master Plan. It will be completed within approximately four months.

STAKEHOLDER INVOLVEMENT

Phase 1B stakeholder involvement will include two meetings (as in Phase IA) focusing on businesses and communities along and around Dickson Street. In addition, less formal meetings will be held with individuals or smaller groups as needed. M/A/B also will provide all material for placement on the University's website.

One difference to the Phase I meetings will be that following the presentation at the second meeting, attendees will be asked to break into groups and mark up maps showing the preferred improvements and identifying any other issues that should be addressed.

TASKS

(Note – where these tasks are similar to 1A tasks, the detailed task descriptions are not repeated).

1B-1 Review Background Information

M/A/B will review the Downtown Master Plan findings and recommendations, and meet with City and University officials to confirm the need, location, target size, and shared use arrangements of the proposed deck. M/A/B will visit the site and identify any locational or access issues prior to the meeting.

1B-2 Meet with Local Businesses

M/A/B will meet with local businesses to discuss their needs and obtain any input for the study (one meeting to be organized by University/City).

1B-3 Develop Initial Concept Plan

A concept plan(s) for the parking deck will be prepared, taking into account site constraints, height limitations, City regulations (setbacks, landscaping, etc.), access, sidewalks needs. The plan(s) will include the footprint, typical floor layout, ramp configurations, and vehicular and pedestrian access. The opportunity to integrate other

uses (e.g., retail, police substation) into the street level faces of the deck also will be explored. (A fuller list of criteria for this task are detailed under Phase 2).

The development of a concept plan will allow:

- The feasibility of deck on this site to be assessed,
- The actual number of spaces to be determined,
- The integration of other land uses into the site to be studied, and
- Site issues to be identified.

The initial plans will be presented to the City and University for review and comments. The final number of spaces will be used in the traffic study.

1B-4 Collect Intersection, Roadway and Traffic Data

A study area will be defined to address the potential combined impacts of the decks. The streets and intersections within this study area will be added to the traffic simulation model developed for the Harmon and North Campus decks analysis.

It is anticipated that up to 10 intersections along Dickson Street, Center Street, and possibly LaFayette Street will be added to the model (bringing the total number of intersections in the model to approximately 40). The following is a preliminary list of intersections that may be included (this list will be reviewed and finalized with the University and City):

- Dickson and West
- Dickson and School
- Dickson and Locust
- Dickson and Church
- Dickson and Block
- Dickson and Highland
- Dickson and College
- Lafayette and West
- Maple and West

Counts will be collected for the A.M. and P.M peak periods (two hours in each period). It is assumed new counts will be required at half the intersections. The counts will include pedestrians, cyclists, and trucks/buses.

1B-5 Expand Traffic Simulation Model

The Synchro/SimTraffic simulation model developed in Phase 1A will be expanded to included the above streets and intersections.

1B-6 Conduct Existing Conditions Traffic Analysis

The model will be applied to assess existing conditions for the A.M. and P.M. peak periods. This will include level-of-service (LOS) for intersections and specific movements, delays, and queuing. Existing problems will be identified and mapped.

1B-7 Conduct No-Build Conditions Traffic Analysis

The model then will be applied to assess future conditions for the year the deck is projected to open, but without the deck. Anticipated problems and constraints will be identified and mapped.

1B-8 Present Findings to University and City

A meeting will be held with University and City staff to present the findings to date. The University and City will be asked to verify these findings prior to meeting with the community. Information will be distributed beforehand, so that the community meeting can be held on the following day (or possibly the same evening).

1B-9 Conduct Community Meeting #1

The background information will be presented at the first community meeting that will include local businesses and residents. The purpose of this meeting will be to introduce the community to the project, and the study process and schedule. The study will be outlined, and the background information from the preceding tasks presented in powerpoint and displays. Attendees will be asked to mark maps and fill out a questionnaire to identify existing concerns and issues, and anticipated issues related to the parking decks. This may include traffic, pedestrian circulation, transit needs, and any other issues.

1B-10 Identify Other Changes in Area

Other planned projects that may affect traffic patterns within the study area will be identified for inclusion in the simulation model.

1B-11 Determine Vehicular Trip Generation

Peak hour and daily trip generation rates will be developed for the decks based on surveys and projected users. The campus will be divided into zones for the purpose of trip generation of new decks, other changes in the parking supply, and changes in trip generators.

1B-12 Determine Vehicular Trip Distribution

Traffic will be distributed and assigned to the street network based on existing traffic patterns and any available regional data. This traffic will be added to the no-build traffic.

1B-13 Conduct Build Conditions Traffic Analysis

The simulation model then will be applied to assess future conditions with the deck. Anticipated problems will be identified and mapped.

Options for capacity and safety improvements will be identified and shown on drawings and other graphics for presentation to the community at the second meeting. These will be reviewed with the University and City beforehand. In addition to possible intersection improvements, potential traffic calming techniques to control the speed and or volume of

traffic on any affected residential streets will be identified. Order-of-magnitude costs will be developed for the deck and all street improvements.

1B-14 Identify Additional Needs and Improvements

The final destinations of the deck users will be projected, and the preferred mode of travel determined. Deficiencies in existing facilities or services for each mode will be identified, and improvements proposed. Particular attention will be given to pedestrian and transit connections to the campus. Order-of-magnitude costs will be developed for improvements.

1B-15 Present Findings to University and City

A meeting will be held with University and City staff to present the findings to date. The University and City will be asked to review these findings prior to the second community meeting. Information will be distributed beforehand, so that the community meeting can be held on the following day (or possibly the same evening).

1B-16 Conduct Community Meeting #2

The findings will be presented at a second community meeting. Following a presentation, attendees will be asked to break into groups and mark up maps showing the preferred improvements and identifying any other issues that should be addressed.

If required, perspectives of the deck can be prepared (not included in the cost estimate).

1B-17 Identify Potential Funding

The relative benefit to the University and City will be assessed, and potential funding options and management arrangements proposed.

1B-18 Wayfinding and Visitors Center

Wayfinding for this deck will be included in Phase 2, as the deck would not open until well after completion of the Master Plan. However, wayfinding issues and options will be considered as part of the Phase 1B study, for which approximately 60 hours of assistance has been allocated.

1B-19 Finalize Plan and Prepare Report

Following a meeting with the University and City to review comments from the second community meeting, a draft and final report will be prepared. The report will document the study and all recommendations for mitigating impacts and serving users of the decks. The total order-of-magnitude cost will be finalized.

WORK PRODUCTS

The Phase 1B study will produce:

- A report documenting the study, including diagrams depicting existing, no-build and build traffic conditions, and any recommendations for transportation improvements or changes.
- An executive summary of the report.
- All documents in a pdf format suitable for posting on the University's website.

PHASE 2 – TRANSPORTATION MASTER PLAN

PURPOSE

The development of the Transportation Master Plan will be undertaken concurrently and interactively with the Master Plan update being undertaken by the University. The Transportation Plan will be multi-modal and holistic, with an emphasis on state-of-the-art sustainable options and solutions which reflect the University's vision and mission. The Plan also will respect adjacent neighborhoods, and consider regional trends. This is the approach M/A/B applies to all its master planning projects.

Following is an outline of the key tasks that will be required to be develop the Transportation Plan. While task are described by mode below, all of the transportation elements (both physical and policy) are clearly interrelated, and no single issue or mode is studied and addressed in isolation. Moreover, because of this interrelationship, the development of the Plan is dynamic in that the development of a particular transportation element evolves as other elements are progressed and refined. For example, any changes considered for the street system must consider bicycle and transit circulation goals and needs. While the description of the tasks is sequential, the reality is that the planning process is far from sequential. This should be kept in mind as one reads the task descriptions. Ultimately, what results is a package of transportation improvements and policies that is internally consistent, reflective of the vision and priorities, and implementable. In that respect, the Master Plan update also will provide an essential framework for the transportation study and decisions.

STAKEHOLDER INVOLVEMENT

Unlike the Phase I studies, Phase 2 stakeholder involvement will be more ongoing and more closely related to the process for updating the Master Plan. This will include:

- Meetings with the Master Plan team at least once every two months.

- Presentations and workshops with the University community (administrators, faculty, staff, students).

- Two charrettes:
  - Near beginning of the study to present project goals and objectives, background information, etc., for the purpose of soliciting input on problems, concerns, and desires.
  - Near completion of transportation concepts to solicit comments of the draft findings and recommendations.

  The proposed timing of these charrettes is shown on the project timeline.

- Providing ongoing information for the University's website.

The charrettes may be stand-alone (i.e., for the transportation plan only), or combined with charrettes that the may undertaken for the Campus Master Plan update. Each charrette will occur over one to two days.

M/A/B will be responsible for handout materials, conducting the meetings, presentations, and minutes. The University will provide and organize the venues and send out meeting notices.

TASKS

2-1 Review Available Traffic and Parking Data

The purpose of this major task is to establish an overview and assessment of existing and projected transportation conditions and issues. It also will provide a preliminary framework for the Phase I studies.

All existing transportation data will be collected from the University, City of Fayetteville, Northwest Arkansas Regional Planning Commission, Arkansas Department of Transportation, and field observations. This will be reviewed and summarized, and missing data that will be necessary for the study identified.

Transportation data will include roadway and intersection inventory, daily and peak period traffic counts and projections, University parking data (inventory, occupancy, turnover rates, trip generation rates, permit allocation, policies, etc), and accident statistics (the collection and review of transit services, bicycle facilities, trip reduction measures, etc., will begin here but are addressed under separate tasks). No surveys to collect missing or additional data are included in the fee.

This task will include a half-day tour of the campus to view field conditions and specific locations of interest or concern.

2-2 Review Relevant Planning Documents and Processes

All planning and transportation reports for the regions will be reviewed to understand existing and projected transportation issues and problems, and regional/City plans, goals and priorities. In addition, City, regional, and State transportation officials will be interviewed.

Planned transportation improvements that may impact the University will be obtained and reviewed. Outside agencies will be contacted to determine the current status of projects that may be included in the region's long-range transportation plans or transportation improvement programs. Proposals will be marked on a base map, and key features and issues summarized.

M/A/B also will review the City, regional and State transportation planning and budgeting processes to determine the requirements and deadlines for applying for funding for projects that may emerge as part of the Campus Transportation Plan.

2-3 Undertake Transportation Surveys

Two surveys are proposed to gather more detailed information regarding travel patterns and behavior:

1. Geocoding with GIS employee and student addresses to map where they live. This provides invaluable information for:

- Refining transit services at the City and regional level.
- Identifying park-and-ride, vanpooling and carpooling potential at the regional level.
- Refining transit services in the area around the University where students and employees area living.
- Determining the approach directions to the campus.

2. Undertaking a survey of the university community via an email questionnaire regarding their parking and transportation patterns. A survey email service, Zoomerang, will be utilized to collect and tabulate the data. Information collected will include:

- Parking characteristics and needs (including where parked, on or off-campus)
- Daily trip origin and campus destination(s)
- Arrival and departure times
- Travel during the day
- Mode of travel (typically and occasionally)
- Interest in using alternatives
- Reasons for not using alternative modes
- General comments on transportation concerns, issues, ideas, etc.

This information will be mapped and summarized in tables and graphs. The fee assumes a total of 2,000 completed surveys.

2-4 Undertake Peer Review

M/A/B will collect transportation data from peer institutions to be identified by the University (M/A/B already has data from many universities). Data listed in the Request for Proposal will be included, as well as strategies being used to reduce parking and traffic. The data will be summarized in text, tables and graphs.

2-5 Forecast Parking Needs (Initial Estimates)

A parking needs assessment will be undertaken in two phases:

- An initial assessment based on maintaining existing parking ratios as the University grows (described below). The results of this initial analysis will be used to check or confirm the parking needs for the Phase I studies and decks, and to provide a baseline for parking and alternative mode decisions.

- A final needs assessment based on changes in policies, enhancement of alternative modes, and measures to encourage use of those modes (described in later task).

Parking maps and data will be obtained from the University. Based on this data, interviews with staff, and the results of the survey, M/A/B will determine the extent of any current parking shortfall or surplus, and other parking issues or problems.

Following is an outline of the steps that will be undertaken to project future needs:

- The approximate potential parking losses and gains that may result from the Campus Master Plan will be estimated (this estimate will be revised as the Master Plan study progresses). Gains will include the Harmon deck.

- The future estimated parking demand based on (a) potential build-out of the Master Plan (or other measures of potential growth), and (b) current ratios of parking to employees and students will be determined. This estimate also will be continually updated as the Campus Master Plan study progresses, and several growth scenarios may be considered. Future demand will be estimated by user type, and will include special events needs to the extent these exceed typical weekday demands.

- This increase in demand will be added to the parking losses to project the hypothetical future parking need based on current parking ratios.

The cost of providing this parking will be estimated (capital and ongoing operating and maintenance), and translated into permit price increases. In addition, the amount of land needed and the net increases in traffic, will be estimated so that the University understands the implications of continuing current policies.

2-6 Establish Principles, Goals and Objectives

Based on the preceding tasks, and the initial Campus Master Plan tasks, a set of guiding principles will be established for the Transportation Master Plan. These then will be translated into goals and objectives, and priorities, which the University will be asked to adopt.

2-7 Assess Potential for Travel Demand Management

This task will focus on identifying or refining existing and potential travel demand management (TDM) measures, and estimating their impact on parking demand. Potential measures to be studied for improvement or implementation include:

- Improved bus transit (service and facilities)
- Campus shuttles
- Para-transit
- Bus pass programs (UPASS)
- Park-and-ride
- Car and van-pools
- Flex parking systems
- Parking pricing/incentives for using alternatives
- Pedestrian facilities and conditions
- Bicycling facilities
- SAFE programs for walking, cycling, buses
- Other motorized and non-motorized modes
- Telecommuting
- Variable/flexible work hours
- Car sharing
- Emergency ride home

- Campus housing

Specific tasks include:

1. Reviewing existing TDM measures being implemented by the University and the City. As part of analyzing future TDM options, it will be critical to evaluate the existing TDM plan. Historical data also may provide a baseline for the University's success with and responsiveness to specific TDM measures that have been implemented or tried over time. Any past transportation surveys may also provide insights into the effectiveness of various measures, as well identifying opportunities for improvements. Discussions with staff and other members of the University community will shed light not only on perceptions of effectiveness, but the overall receptiveness to new measures.

2. Reviewing measures and strategies being implemented at other universities that are leaders in TDM (from a previous task). These include the University of Washington in Seattle, the University of Wisconsin in Madison, and the University of North Carolina at Chapel Hill.

3. Evaluating the findings of the survey (from a previous task) to gain insights into interest in and obstacles to using alternatives.

4. Identifying improvements and enhancements to existing measures, identifying additional measures, and estimating their role and effectiveness in reducing parking needs and contributing to other campus objectives. The baseline data from Step 1, coupled with an analysis of programs at similar universities, will provide the inputs for an analysis of possible additional TDM measures.

In addition to more traditional qualitative evaluation measures, a number of quantitative systems are available for predicting the outcomes (at an order-of-magnitude scale) of various measures. M/A/B will utilize a model it is currently developing for another large state flagship university to analyze a number of TDM scenarios and develop meaningful results that can provide a quantitative input for estimating future parking demands. The regional travel forecasting model being developed may also provide more direct results for improvements that may already be included in that model (e.g., bus transit).

Potential parking reductions from TDM measures will be estimated and a menu of options and their impacts presented to the University. Target reductions will established based on University feedback. These may be adjusted based as the impacts of growth on the street network are assessed and decisions are made about the level of desired growth and how to accommodate the associated transportation demands.

The TDM measures that are ultimately selected for the Transportation Plan will be detailed along with an implementation plan.

2-8 Develop Parking Plan

The preliminary estimates of potential parking reductions resulting from TDM measures will be used to adjust future parking needs. This may be undertaken for various growth scenarios, by campus precinct, and user type (with particular emphasis on visitors and

special event needs). The results will be compared with parking ratios at similar universities.

In conjunction with the Campus Master Plan team, potential sites for additional parking to satisfy the projected parking needs will be identified and evaluated. Criteria for selecting and ranking sites will include:

- Proximity to major destinations (within 5 to 10 minute walk)
- Which users can be served
- Site capacity (number of spaces)
- Topography
- City regulations (height, setbacks, landscaping, etc.)
- Overall cost and cost per net space
- Vehicular access
- Street capacity and suitability
- Pedestrian and transit access
- Potential to serve special events
- Compatibility with adjacent land uses
- Potential to integrate other uses
- Visual impacts
- Community impacts

The initial selected locations will be tested in the traffic simulation model, and adjustments made if necessary (in size, access, or even completely eliminating a site if traffic impacts are unacceptable and cannot be mitigated).

Recommendations will be made for parking allocation and pricing, based on a review of current policies and practices at peer institutions.

2-9 Complete and Apply Traffic Simulation Model

The simulation model developed and described in Phase 1 will be expanded to included additional streets and intersections, particularly along the western edge of the campus. The initial study area (from Phase 1) will be expanded to encompass the impacts of other potential campus projects, as well as include current major or problematic intersections.

It is anticipated that counts will be required at up to 10 additional intersections along Dickson Street, Center Street, and possibly LaFayette Street (bringing the total number of intersections in the model to approximately 50). The following is a preliminary list of intersections that may be included (this list will be reviewed and finalized with the University and City):

- Razorback and State Highway 62
- Razorback and Leroy Pond
- Razorback and Meadow
- Razorback and Markham
- Razorback and Maple
- Razorback and Clevelend
- Garland and State Highway 62

- Maple and Stadium

The data described in Phase I will be collected for these intersections. It is assumed new counts will be required at half the intersections.

The model will be applied to assess existing conditions for the A.M. and P.M. peak periods. This will include level-of-service (LOS) for intersections and specific movements, delays, and queuing. Existing problems will be identified and mapped.

(The Request for Proposals identifies other periods that may need to be analyzed. While this could be undertaken, the cost to collect the data and develop the simulation model for those periods would be significant and is not included in this proposal. It is recommended that a sample of full day counts first be collected and analyzed to determine the need for analyzing additional periods.)

The model then will be applied to assess conditions for a number of future year horizons in 5-year increments to 2030. Background growth will be added to existing traffic counts using growth rates to be determined with the City (based on regional growth projections or initial findings from the TransCAD model the City is developing. Regardless, M/A/B has extensive experience using a variety of both manual and model techniques for forecasting growth, including the use of TransCAD models which we are developing for several clients).

(While developing a model to test 5-year growth increments is desirable, it has significant cost implications. There may be alternative, more cost-effective methods for determining the timing of needed improvements.)

As in Phase 1, trip generation rates will be developed for new growth, projects and decks, based on surveys and projected users. The campus will be divided into zones for the purpose of trip generation.

As in Phase 1, traffic will be distributed and assigned to the street network based on the geocoding results, existing traffic counts, and any available regional data. The distribution of trips will be based on the zones.

The results of the modeling will identify congestion points and other traffic problems. These will be described in text, charts, and maps. The improvements that would be needed to provide acceptable level-of-service will be identified, along with their impact on the pedestrian environment (safety and comfort), streetscape, adjacent land uses, etc.

The threshold levels of traffic that trigger intersection failure and improvements at specific locations will be estimated and related to specific Campus Master Plan initiatives which may be revisited (this will entail an iterative loop between the Master Plan and Transportation Master Plan where the simulation model tests and provides feedback on Master Plan projects and other proposals – see below).

At the completion of the study, following final decisions on the level and location of growth, the amount of parking being added, preferred street improvements and changes, etc, the traffic simulation model will be rerun model to finalize the transportation plan and

improvements. In addition, the final growth plan will be converted into socio-economic projections in a format that can be directly imported into TransCAD.

2-10 Assess Growth Impacts and Implications

This task is a continuation of the preceding task. Exceeding the street network capacity (existing or future with whatever improvement are feasible) must not necessarily imply that future campus growth must be constrained by this limitation (although it is certainly cannot be ignored). If growth is desirable for other reasons, then the focus must turn to reducing traffic, in addition to modifying the Campus Master Plan. It is probably at this stage of the study where interaction between the two teams will be the most intense (and creative), for the decisions made at this point will shape the future image of the campus.

It is at this stage that the potential for alternative modes to reduce parking and traffic will reviewed and balanced (in addition for the potential for broader City improvements to divert through traffic away from campus streets). It is also at this point that the University must make fundamental decisions about the type of campus environment it wants to create (walkable versus auto-oriented, urban versus suburban, the amount of on-campus housing, etc.).

The outcome of this interaction will provide the final direction for the Transportation Master Plan, including the amount and location of future parking, parking policies, street modifications (capacity improvements and traffic calming), transit service enhancements, bicycle improvements, and final TDM measures).

2-11 Develop Street Plans

Based on the outcome of the preceding tasks, recommendations will be made for changes to the street network. Capacity and safety improvements will be identified and shown on plans and other graphics. In addition to possible intersection improvements, potential traffic calming techniques to control the speed and or volume of traffic on particular streets will be identified. Recommendations on street design and characteristics that are emerging from joint efforts of transportation engineering organizations and the Congress for The New Urbanism will be applied where appropriate.

2-12 Identify Transit Service Improvements

Transit changes will be developed in close consultation with all agencies providing services. These agencies will be interviewed to better understand current and anticipated deficiencies and goals. Existing services will be reviewed, including routing, ridership data, and costs. Transit routes serving the campus will be mapped in GIS. Any plans for regional expansion also will be reviewed. The address data obtained from the geocoding will be overlaid in the transit routes to identify services changes for the Razorback Transit and the City system. These changes will consider changing needs as the campus (and region) grows, and meeting the goals of the overall Transportation Plan. The efficiency of transit circulation will be considered in any changes to the street network.

Policies and programs to encourage use of transit will be considered under the heading of TDM

2-13 Identify Bicycle Improvements

A bicycle committee will be formed, consisting of University staff, City transportation planning staff, and individual cyclists and cycling groups. Bicycle usage and plans, and other information available from the University, and from observations, will be described and presented. City plans and programs for cyclists will be reviewed and summarized.

Conflicts and deficiencies will be documented and marked on maps. The committee will assist M/A/B identify desire lines (i.e., the key origin and destinations of cyclists (existing and prospective). Findings from the email survey also will be considered.

Based on this information, M/A/B will identify and recommend improvements for cyclists. On and off-street improvements will be identified. Recommendations will be shown on maps and described in text and tables, along with standards, typical sections, photos, costs, priorities, phasing, and responsibilities).

M/A/B also will recommend education, enforcement and other policies to support cyclists (e.g., bicycle storage lockers, equipment storage lockers, showers, signage, safety programs, etc.)

It is anticipated that up to four meetings will be held with the bicycle committee.

2-14 Identify Pedestrian Improvements

In conjunction with the Campus Master Plan update team, M/A/B will identify major pedestrian flows, and facility deficiencies. Major pedestrian flows will be mapped, and any available accident data, conflicts and deficiencies will be documented and marked on maps. Recommendations will be made for improving street crossings and sidewalks.

2-15 Develop Wayfinding Plan

During the programming phase of the Campus Master Plan, team member Cloud Gehshan Associates (CGA) will conduct a thorough investigation of the campus and conduct interviews with staff, faculty and students. CGA will then analyze the results and prepare a report, showing a visual audit of the campus relevant to existing signage, observations about current wayfinding, and an assessment of problems and opportunities. The recommendations report includes wayfinding recommendations (system logic, information sequence, sample journeys, viewpoint on visitor's centers, non-sign wayfinding devices and terminology) and signage recommendations (campus image, sign types needed, examples of sign types from other campuses, use of identity, use of fonts/colors/symbols, need for specialty items such as interpretive and banners, maintenance strategy). M/A/B will assist CGA by providing information on arrival and circulation patterns, etc.

The overall design methodology for the developing the wayfinding plan is described below. We understand that the objective is to improve wayfinding on the campus and its surrounding neighborhoods. More specifically, the challenge is to create a reliable and helpful sign system that supports self-navigation. We understand that the broader goal

is to have enthusiastic students, faculty and visitors who are pleased with their experience while on campus.

For the program to be successful over the long term, we believe the development process must include the following components:

Stakeholder Involvement
The creation of a representative Stakeholder Group is critical to the success of a project. We find that active and sustained participation by those that have a vested interest in the project's success fosters a true "sense of ownership" in the resulting products. It is also extremely important to involve all those that are critical to the project's approval or implementation. This group should include representatives from the University, Arkansas DOT, and City.

Mission Statement
Creating a standardized, attractive and visually cohesive visitor wayfinding system is a major undertaking in which many people (sometimes with differing opinions) will be involved. Having clear agreements on the goals and implementation priorities of the project is essential as concepts are developed and scrutinized by the stakeholders committee.

Design Excellence
Signs must be especially designed for the vehicular environment, where drivers have very limited time to read them. Messages and symbols must have maximum legibility. Selected colors must have sufficient contrast and be fade-resistant. Posts must be detailed with breakaway joints acceptable to the state highway department. Signs must be vandal and theft-resistant. Fabrication costs must be reasonable. CGA tests design concepts in the field with full-size mockups to confirm both their effectiveness and appearance.

Communication of Identity
Signs carry tangible messages – information and direction; they also send intangible messages about the character and spirit of the place. When signage projects a positive and clear identity it also helps orient visitors and lets them know they have "arrived." Signs are often the only continuous thread in an extended "neighborhood" like this with a broad range of architectural styles, landscape, lighting and street furniture. For this project, it is important that the sign system will help create a unifying and distinctive character for the University of Arkansas while it solves wayfinding problems.

Plan for Ongoing Inventory and Maintenance
Though not requested as part of this project, planning for the maintenance and updating of the sign system is a future imperative. It is important to set up administration of the sign system to handle the eventualities of outdated information, physical wear and tear, highway re-routing, etc. If an operational system is put in place to address each of these situations, the initial investment in the sign program will continue to pay dividends.

Marketing Coordination
Many visitors begin their visit at home with brochures, advertisements or websites. The wayfinding components of this "pre-visit" information, such as directions and maps, must be coordinated with the sign system to give maximum assistance to visitors. Names for places and other terminology must be exactly the same in print, signage and electronic

applications. Symbols used on signs, or images of the signs themselves, might be shown to visitors before they arrive. As an optional service, we can assist the client with this coordination.

Cloud Gehshan Associates is a leader in developing wayfinding and sign programs for complex facilities, including many colleges and universities. CGA has designed sign programs for the Ohio State University, University of Texas at Austin, Drexel University, Bryn Mawr College and the University of Maryland. They have also distinguished themselves in designing sign programs for cities and towns, including the City of Richmond, Virginia, where practical wayfinding is blended with placemaking and identity development. M/A/B and CGA have collaborated on several planning projects

2-16 Provide Assistance to Campus Master Plan Details

This ongoing phase entails working closely with all those involved in developing plan details for the campus (the Campus Master Plan and the landscaping plan in particular). M/A/B will advise and respond to transportation details arising from the development of the district or precinct plans. Transportation elements that will be addressed include roadways, site access, parking needs, allowance for potential transit and access, bus circulation, bicycle routes, pedestrian routes, etc.

2-17 Finalize Improvements

In this task the various components of the Transportation Master Plan will be optimized and finalized. Final adjustments will be made to ensure all elements are fully compatible with and supportive of each other, and account for the final decisions on growth and the finalized Campus Master Plan. Order-of-magnitude costs will be developed for improvements.

2-18 Compile Plan

The final task will be compilation and documentation of the Transportation Master Plan. This will include a report with supporting maps, graphics, tables, and charts, and an executive summary to be incorporated into the Campus Master Plan.

2-19 Project Management

This task applies to internal management as well as communication with the Client. The project manager will maintain regular communication with team members via meetings, memos, emails, phone calls, and conference calls. At all times, every team member will be aware of the status of the project, findings developed by other team members, and upcoming products and deadlines.

The project manager will inform the University in a timely way of the technical progress and fiscal status of the project via the following methods:

- Detailed Progress Reports that will accompany each monthly invoice, including work completed in the past month, the amount of budget expended by task during the invoice period, the total amount of budget expended, and the amount of budget remaining.

- Issues memorandums/emails as needed, identifying critical ongoing or upcoming issues that could affect the schedule, budget or outcome of the project, and options and recommendations for addressing them.

- Regular phone calls (or meetings) to review issues and upcoming tasks and events.

We wish to highlight two elements of our management approach.

Commitment
M/A/B is proud of its demonstrated commitment to meeting clients' needs. At both the company and individual levels, we are committed to partnering with our clients to achieve their goals and mission. We approach every assignment with this commitment uppermost in our minds, and it guides every decision we make during a project. This commitment translates into providing our clients the best possible outcomes, recommendations, and products, delivered on time, and respectful of agreed-upon budgets. It also translates into implementable and credible solutions, derived from solid, state-of-the art technical methods and analyses, and a decision-based, inclusive study process that welcomes input and participation by stakeholders.

Critical to the success of even the smallest campus project is understanding how it fits into and supports the vision for the institution, and how it relates to the other projects or initiatives. Our team understands the complexities of universities, their missions, and the challenges they face at multiple levels. We truly understand the "big picture". Our experience at the University of North Carolina at Chapel Hill is a good example of this. M/A/B was intimately involved in the preparation of the Master Plan for the main campus. Subsequently, M/A/B staff have been assisting the University obtain approvals for its 6 million SF, 8-year Development Plan. Transportation is a major issue in the Town of Chapel Hill, and M/A/B, under an on-call services contract through 2008, has the responsibility to advise and guide the University, and prepare and update a Transportation Impact Analysis report every two years. Finally, at the project level, we are involved in detailed studies and the design of individual projects. At every step of the way, regardless of at which level we are working, we are cognizant of how individual projects contribute to the University's mission and Master Plan principles, and how the legal requirements of the Town-approved Development Plan affect project details. In Chapel Hill, the Town staff and elected officials we have worked with have come to respect our technical expertise, our professionalism and integrity, and our commitment to contributing towards good, sustainable transportation systems.

Decision-making
The study process is critical to the success of any project, and must provide the information and build the understanding and consensus necessary for making effective decisions. It includes how information is presented, how stakeholders are engaged, how meetings are structured, how decisions are made, etc. The process starts with agreeing on a format for making decisions, followed by establishing and agreeing on project objectives. From these are derived evaluation criteria and measures. All options and choices are then evaluated against these criteria. In this way each decision becomes a solid building block for moving forward. Agreement on key issues and factors at the appropriate step in any study will avoid surprises later in the study. Therefore, meetings must be thoughtfully structured to carefully explain issues and options, and make group decisions.

We wish to highlight two aspects of our general management approach:

- A focus on technical information that is key to assessing feasibility and consequences and making decisions in each phase. This implies always keeping the study objectives in mind, and collecting data or undertaking analysis that contribute to that goal.

- A focus on making clear decisions that keep the study moving forward. Each step of a study must conclude with a clear direction. Therefore, the opinions and concerns of all interested parties must be aggressively sought out early so that they can be factored into the technical work and addressed.

We strongly believe it is the role and responsibility of the consulting team, and specifically the project manager, to lead the study. Effective project management is the key to a successful project. Leadership means understanding and anticipating the variety of issues that typically arise in these studies, finding practical ways to address them, and presenting them to the decision-makers and stakeholders in such a way that options and decisions are clear.

WORK PRODUCTS

The Phase 2 study will produce:

- Technical memorandums at the end of individual studies (TDM, bicycle, transit, etc.)
- Draft and final reports (stand alone documents)
- An executive summary of the report
- All maps, figures and diagrams to illustrate the recommendations
- All documents in a pdf format suitable for posting on the University's website
- Maps and descriptions of proposed street changes
- A parking plan and policies
- A TDM implementation plan and policies
- A bike plan and policies
- A transit plan and policies
- Pedestrian improvements and policies
- Standards and guidelines, typical sections, blow-ups and photos to better illustrate proposed designs
- A wayfinding plan (as described under the wayfinding task)

OBLIGATIONS OF UNIVERSITY AND CITY

The roles and obligations of the University of Arkansas for the study shall include:

- Providing all available parking and transit data (as described in the relevant tasks)
- Providing up-to-date electronic aerials and site plans of the campus and any other pertinent areas, including sidewalks and rights-of-way
- Providing approved nomenclature for all buildings and destinations
- Providing any University regulations pertaining to signage
- Providing all data for estimating current and future special event needs by location
- Providing all Master Plan information
- Assisting in coordinating the Campus Master Plan update with the Transportation Master Plan
- Identifying all groups and individuals to be involved in the study
- Organizing meeting venues and notifying participants (groups and individuals)
- Establishing an interactive website

The roles and obligations of the City of Fayetteville for the study shall include:

- Providing existing Synchro/SimTraffic files
- Providing the University socio-economic growth data for the TransCAD model
- Providing mapping in electronic format
- Providing signal plans for signalized intersections
- Providing all existing traffic counts
- Providing growth rates for traffic counts
- Reviewing and approving the methodologies for undertaking the traffic analyses
- Reviewing the simulation model
- Providing the latest city, county or state regulations pertaining to signage

PROJECT TIMELINE

An estimated project timeline is included on the following page. The following should be noted:

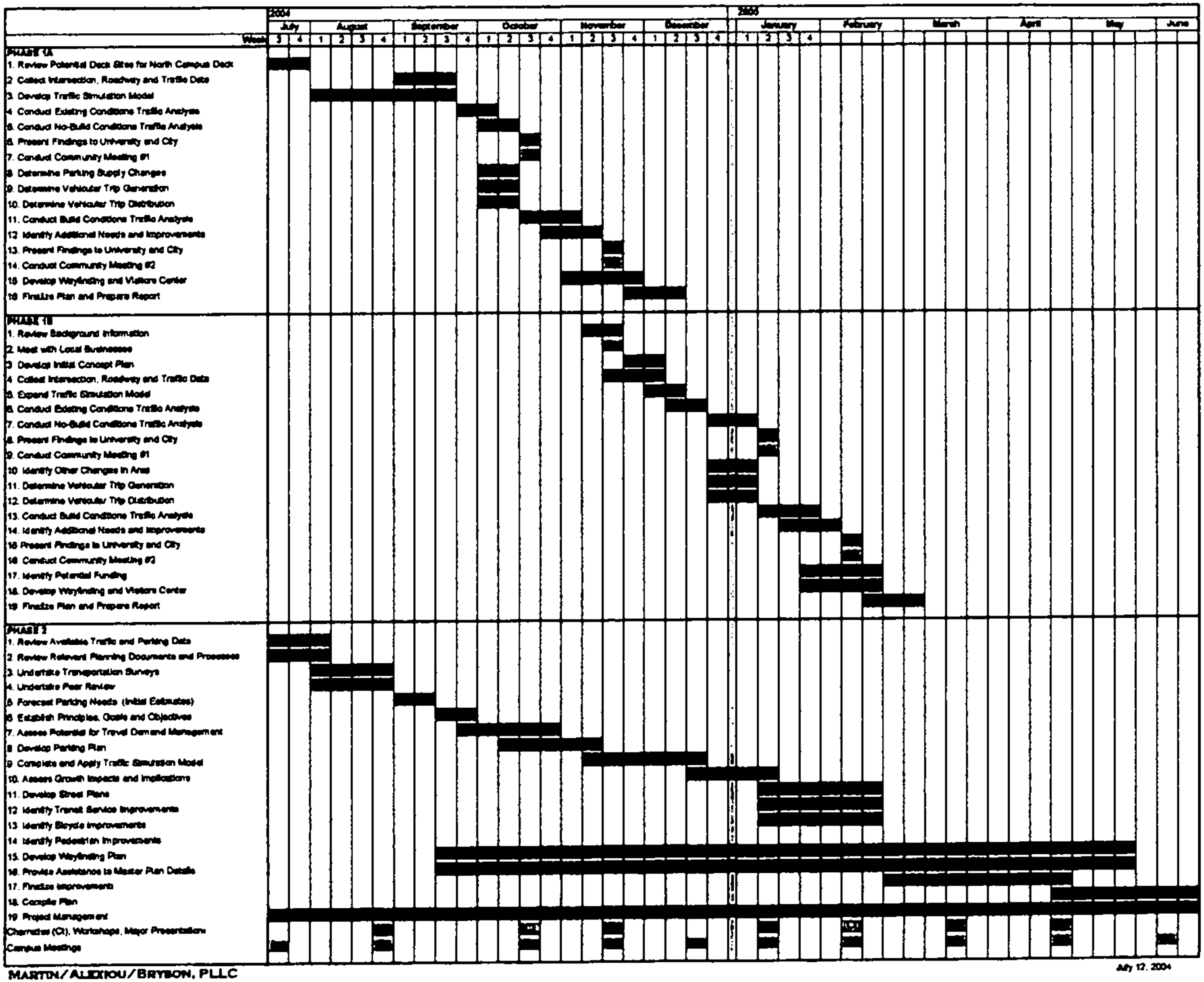
- The timeline assumes a certain process and schedule for the Campus Master Plan update. This timeline is very flexible, and any necessary adjustments can be made to ensure the two studies are complementary.

- The Phase 1A and 1B studies will be undertaken concurrently with the Transportation Master Plan.

- While there is an urgency regarding the Phase 1A study, counts cannot be collected until at least one week after school reopens. Therefore, the study will be completed in late November. If all the counts are available (which is most unlikely), Phase 1A can be completed earlier.

- Trips and meetings for Phases 1 and 2 coincide. Where they are required for Phases 1A and 1B, the hours (and cost) are included in those phases.

University of Arkansas Transportation Study
PROJECT TIMELINE



MARTIN/ALEXIOU/BRYSON, PLLC

July 12, 2004

University of Arkansas
Transportation Study
Hours by Task by Person

PHASES 1A & IB

	Project Manager	Trans. Planner	Sn. Traffic Engineer	Traffic Engineer	CADD/ Graph.	Admin	Total
Phase 1A							
1. Review Potential Deck Sites for North Campus Deck	16	0	16	0	8	0	40
2. Collect Intersection, Roadway and Traffic Data	8	0	16	8	6	0	38
3. Develop Traffic Simulation Model	4	0	32	48	8	0	92
4. Conduct Existing Conditions Traffic Analysis	4	0	8	24	2	0	38
5. Conduct No-Build Conditions Traffic Analysis	4	0	8	16	0	0	28
6. Present Findings to University and City	8	0	8	0	4	0	20
7. Conduct Community Meeting #1	12	0	12	0	12	0	36
8. Determine Parking Supply Changes	4	0	8	8	4	0	24
9. Determine Vehicular Trip Generation	2	0	8	2	0	0	12
10. Determine Vehicular Trip Distribution	4	0	8	16	0	0	28
11. Conduct Build Conditions Traffic Analysis	4	0	8	24	4	0	40
12. Identify Additional Needs and Improvements	16	8	24	24	24	0	96
13. Present Findings to University and City	8	0	8	0	4	0	20
14. Conduct Community Meeting #2	12	0	12	0	12	0	36
15. Develop Wayfinding and Visitors Center (M/A/B)	4	0	4	0	0	0	8
CGA - see attached cost sheet							221
16. Finalize Plan and Prepare Report	12	12	24	32	32	6	118
Subtotal	***122***	***20***	***204***	***202***	***120***	***6***	***895***
Phase 1B							
1. Review Background Information	4	0	4	0	0	0	8
2. Meet with Local Businesses	4	0	4	0	0	0	8
3. Develop Initial Concept Plan	8	8	4	0	8	0	28
4. Collect Intersection, Roadway and Traffic Data	2	0	8	8	4	0	22
5. Expand Traffic Simulation Model	2	0	16	24	2	0	44
6. Conduct Existing Conditions Traffic Analysis	2	0	8	16	2	0	28
7. Conduct No-Build Conditions Traffic Analysis	2	0	8	16	0	0	26
8. Present Findings to University and City	4	0	4	0	4	0	12
9. Conduct Community Meeting #1	12	0	12	0	12	0	36
10. Identify Other Changes in Area	2	0	6	6	2	0	16
11. Determine Vehicular Trip Generation	2	0	4	2	0	0	8
12. Determine Vehicular Trip Distribution	0	0	6	16	0	0	22
13. Conduct Build Conditions Traffic Analysis	4	0	8	16	0	0	28
14. Identify Additional Needs and Improvements	8	8	24	20	8	0	68
15 Present Findings to University and City	4	0	4	0	4	0	12
16. Conduct Community Meeting #2	12	0	12	0	12	0	36
17. Identify Potential Funding	16	16	0	0	0	0	32
18. Develop Wayfinding and Visitors Center (M/A/B)	4	0	4	0	0	0	8
CGA - see attached cost sheet							60
19. Finalize Plan and Prepare Report	12	12	20	28	24	6	102
Subtotal	***100***	***44***	***152***	***152***	***82***	***6***	***596***

Total IA and IB Transportation	**1,210**
Total IA and 1B Wayfinding	**281**

University of Arkansas **PHASE 2**

Transportation Study

Hours by Task by Person

	Project Manager	Trans. Planner	Sr. Traffic Engineer	Traffic Engineer	CADD/ Graph.	Admin	Total
Phase 2							
1. Review Available Traffic and Parking Data	16	16	16	0	0	0	48
2. Review Relevant Planning Documents and Processes	8	8	0	0	0	0	16
3. Undertake Transportation Surveys	40	112	24	0	12	12	200
4. Undertake Peer Review	12	24	0	0	0	0	36
5. Forecast Parking Needs (Initial Estimates)	8	12	0	0	0	0	20
6. Establish Principles, Goals and Objectives	8	8	0	0	0	0	16
7. Assess Potential for Travel Demand Management	36	60	0	0	0	0	96
8. Develop Parking Plan	48	32	32	0	8	0	120
9. Complete and Apply Traffic Simulation Model	24	0	40	80	16	0	160
10. Assess Growth Impacts and Implications	24	24	32	24	0	0	104
11. Develop Street Plans	24	12	36	36	36	0	144
12. Identify Transit Service Improvements	36	24	8	4	8	0	80
13. Identify Bicycle Improvements	36	24	8	4	16	0	88
14. Identify Pedestrian Improvements	24	16	16	4	12	0	72
15. Develop Wayfinding Plan (M/A/B)	8	0	16	8	8	0	40
CGA - see attached cost sheet							978
16. Provide Assistance to Master Plan Details	36	24	36	24	16	0	136
17. Finalize Improvements	36	36	36	36	36	0	180
18. Compile Plan	40	40	32	40	54	12	218
19. Project Management	48	0	0	0	0	16	64
Charrettes, Workshops, Major Presentations	80	60	60	0	60	12	292
Campus Meetings	80	32	60	0	24	12	208
Subtotal	672	564	472	280	306	64	**3316**

Transportation Plan	2,338
Wayfinding Plan	978

Leigh Taylor Properties

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. A buffer area will be provided along the north property line 50 feet in width. No structures shall be built within this buffer strip.

6. 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, Chad White, as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

8/17/04
Date

CHAD WHITE
Printed Name

4738 Stonewall Crossing
Springdale, AR 72764
Address

Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 17th day of August, 2004, appeared before me, Chad White 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.

Clarice Buffalohead-Pearman
NOTARY PUBLIC

My Commission Expires:
May 08, 2010

NOTARY PUBLIC
CLARICE BUFFALOHEAD-PEARMAN
WASHINGTON CO., AR

From: "Joyce Richards" <joycerichards@hotmail.com>
To: <joycerichards@hotmail.com>, <Ward1_pos1@ci.fayetteville.ar.us>, <Ward2_pos1@ci.fayetteville.ar.us>, <Ward1_pos2@ci.fayetteville.ar.us>, <Ward2_pos2@ci.fayetteville.ar.us>, <Ward3_pos1@ci.fayetteville.ar.us>, <Ward3_pos2@ci.fayetteville.ar.us>, <Ward4_pos1@ci.fayetteville.ar.us>, <Ward4_pos2@ci.fayetteville.ar.us>, <bthiel@ipa.net>, <RRhoads@HallEstill.com>, <lljordan7@hotmail.com>, <mayor@ci.fayetteville.ar.us>, <city_clerk@ci.fayetteville.ar.us>, <SLucasWard4@aol.com>
Date: Fri, Aug 13, 2004 8:42 AM
Subject: RE: RZN 04-1103: Rezoning (Collins, pp 404)

Again, I am asking you not to spot zone in our neighborhood. At your meeting August 3, someone said Hendrix Street is not really a part of our area. I beg to differ. Those of us who have lived in this area consider our neighborhood to be bordered by Mt. Comfort, Stephens, North Maxwell and Garland. Those of us who walk and travel in that area, travel the streets within those borders which include Addington and Carter. We are a community within the larger community of Fayetteville, and I ask you to be considerate of our wishes and not change the character of this area. I ask you to follow the recommendation of your planning staff and deny this request. Thank you.

Joyce Richards
1673 North Stephens
Fayetteville AR 72703

On the road to retirement? Check out MSN Life Events for advice on how to get there! http://lifeevents.msn.com/category.aspx?cid=Retirement

From: "Linda Ralston" <ralston2@cox-internet.com>
To: "Brenda Thiel" <bthiel@ipa.net>, "Don Marr" <donmarr@swbell.net>, "Kyle Cook" <Ward2_pos1@ci.fayetteville.ar.us>, "Lioneld Jordan" <lljordan7@hotmail.com>, "Robert Rhoads" <RRhoads@HallEstill.com>, "Shirley Lucas" <ward4_pos1@ci.fayetteville.ar.us>, "Sondra Smith" <ssmith@ci.fayetteville.ar.us>, "Kit Williams" <kwilliams@ci.fayetteville.ar.us>
Date: 8/9/04 11:55AM
Subject: Concerns about TIF

Good Monday morning, City Council members and friends...

I'm confused and concerned about the TIF project. Please allow me to explain.

It's been said that it will not cost the City anything. Yet it's already cost us (citizens, city staff, elected officials) much time and energy researching and planning this thing out-resources that do indeed have value, right?? And not to be trivial, but to further the idea of the TIF, we mandatorily (and rightfully!) had to have a public hearing which cost extra utilities, Government channel usage, and even paper. It might be said that these naturally absorbed costs are more than a fair trade-off to receive all the 'perks' that are waiting us in the near future. Since the Council would become the governing body of this redevelopment district, it certainly brings about extra demands on your time and also for those who follow you in the 25 years ahead. I've always thought that y'all are underpaid for your service to our fair city, especially now with massive concerns of infrastructure and annexation. With these extra duties, I would be one of the first that would suggest a pay increase evaluation on your behalf. If the mayor can go from approximately $73,000 in 2000 to around $83,000 at present (averaging $2500 a year), when's it your turn??

Something that I'm also concerned about with the TIF involves the ownership transfers that need to occur before this "baby can fly". Will the City need to buy the property from Stella Moga (sp?) in Ohio-is it even for sale?? Maybe my friends and I might want to buy it from her, have it razed, and either resurrect it or sell the land to the highest bidder! Or is it for sale to only certain people who have become friends with her?? Maybe Stella will sell it only to Richard Alexander?? Do we really have to be this involved with private developers to help our town?? I mean, they're only talking about needing a $3 million TIF bond for this project vs. pouring $25 million of private funds into west Dickson Street, stated in a recent announcement. Sure, I want my hometown to prosper and retain it's wonderful character and charm. Do we have to continue forcing things, though?? It seems like we are engaged in a competition with our sister cities to the north- as you know, a private Economic Development Council is now in existence in town representing the powers that be, namely the City, the U of A, and the Chamber. Of course, the way it is set up, this Development Council does not fall under the FOIA guidelines. And now they've hired a gentleman from back East who has never lived here before (but has family here, huh?) and now he's supposed to be our "cheerleader"??? There's no way Mr. Rust can begin to represent the citizens, because he's not coming here to do that. He along with this small private group are going to decide who to invite to come "live with us". Give me a break!! And yes, I'm a bit off topic

from the TIF. And yet it does all fit together, doesn't it??

Back to the TIF, one of my biggest concerns still remains the power of eminent domain. One of you even wondered at the special TIF council meeting on July 29th about the possibility of abandoned houses being taken through condemnation in the district. Sitting in the audience that night, I saw a couple of you react to the comment as if to say "Oh no, don't say that-we've already stated that we would never do that!" Yes, it appears to be an impossible challenge to promise that eminent domain will never occur in a project like this when it is an inherent factor. By the way, how do we know what the Dept. of Transportation will allow as we attempt to remove the supposed blight of College/Archibald Yell? If we want to boulevard, traffic calm, and sidewalk, will we need extra land on both sides? Such stuff could seemingly make you eat your words. And I don't want to see you have to do that!!

Back to the mandatory concerns of infrastructure and annexation--has there been a special Council meeting called to discuss just these topics?? Perhaps I may have missed them. If there have been no such meetings, how is it that the optional TIF project was able to earn it's very own special meeting?? As a result, you potentially can approve this thing in a much shorter time window (only 2 weeks and 5 days between 3 meetings compared to a usual 4 weeks between 3 meetings). I believe there's a lot that still needs to be asked and answered. And yes, let's take one TIF discussion at a time, please-hopefully y'all will not get "caught up in the moment" and have us involved in another TIF before we see how or if this one can move forward first.

Thanks for your time in reviewing my message and doing what's right for the whole of Fayetteville. I plan on seeing you at Council Tuesday evening.

With appreciation,

Linda Ralston 444-0078

PS Please pick up a current Fayetteville Free Weekly (8/5) if you have not already done so. Excellent Op Ed on page 4 titled "Where's the Mayor, Where's the Council" concerning the closing of Jefferson School. Incredibly insightful questions are raised: "What is keeping our mayor and city council from questioning the school board's decision?" and "By remaining mute on the closure of our neighborhood schools, are we doing what is right for our town?"

CC: "nw-ar" <nw-ar-list@nw-ar.com>

8/17/04 Old Business #13 UAC 04-1119 (Petrino)

From Chapter 161 – Fayetteville UDC

161.13 District Rmf-24, Residential Multi-Family – Twenty-Four Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	4 to 24

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a Manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses: •Development •Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments: •No bedroom •One bedroom •Two bedroom	 1,700 sq. ft. 1,700 sq. ft. 2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) Setback requirements .

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

Cross reference(s)--Variance, Ch. 156.

(F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

From Chapter 157 – Fayetteville UDC

(D) *Side setbacks.*

(1) Internal side setbacks may be varied on one side to permit zero lot line development, provided the side setback opposite the zero lot line is at least 15 feet. On the periphery of the development no structure shall be placed closer than eight (8) feet to the side property line. The intent is to allow freedom of design within development, but not to affect future structure placement on adjoining property.

(2) Side setbacks may be varied to permit common walls between townhouses. There shall be no specific requirements as to minimum lot width, lot area, or minimum area per dwelling unit for townhouses or condominiums; but townhouses and condominiums shall conform to the district densities, setback requirements, height regulations, parking and access requirements, and all other applicable city ordinances.

From Chapter 151 – Fayetteville UDC

Dwelling, two-family. (Zoning) A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

Dwelling unit. (Zoning) One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Townhouse. (Zoning) Two or more single-family dwelling units constructed in a series of attached units with property lines separating each unit.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

March 4, 2004

Ms. Sue Jensen
1980 N Caton Drive
Fayetteville, AR 72701

RE: Response to neighborhood concerns

Dear Ms. Jensen:
In response to our conversation of last week regarding concerns of your neighborhood, I offer the following information:

Budgetext
A building permit was issued to allow the alteration of 32,860 s.f. of space within an existing structure changing the use from warehouse to office. The zoning of this property is I-1, Heavy Commercial Light Industrial. The proposed use of office is permitted by right in this zoning district. Modifications to the existing parking areas are included in this proposal. The applicant will be adding parking to accommodate new use areas within the structure as required by §172.01 which states the various parking ratios based on use.

Improvements to public infrastructure are not placed on a project at the time of issuance of a building permit. Street and other off-site improvements are required when a large scale development or subdivision is proposed and reviewed by the Planning Commission.

The various phases of the Point West subdivision were reviewed by Planning Commission with improvements assessed for on-site as well as off-site and delayed improvements based upon the impact of the development. The Point West subdivision was reviewed as a subdivision of industrial property containing a total of 37 lots on which projects could be developed. The use of any property within this subdivision is restricted to those uses permitted by right within the I-1, Heavy Commercial, Light Industrial zoning district.

After the project has built out, if there are new demands placed on public infrastructure in the area which were not deemed to be the responsibility of that subdivision or large scale development, the responsibility for those improvements is the City's. To manage these needs, the City adopts a capital improvements plan (CIP) identifying necessary improvements which are prioritized and funded at the discretion of the City Council.

Mt. Comfort Rd. / Shiloh Drive intersection

The City's adopted CIP for 2004-2008 does identify acquisition of right of way for improvements at the intersection of Mt. Comfort Rd. and Shiloh Drive. This project is anticipated to cost 1.5 million dollars between 2005 and 2008. After right of way acquisition is complete, engineering, design and installation of the approved improvement will need to be scheduled in the CIP. The City Council revisits the CIP biannually to review priorities and assess new needs.

Shiloh Drive Extension

The extension of Shiloh Drive south to Dorothy Jeane St. is identified in the adopted CIP document as an unfunded project. The project is estimated to cost approximately 1.6 million dollars. (more information about the City's CIP may be found at www.accessfayetteville.org)

Lot split – Lot 5, Pine Valley Phase V

An application for lot split approval was submitted by Sandra Petrino and Ed Prince, represented by Blew Land Surveying on December 4, 2003. This application was to allow the division of lot 5, Phase V, Pine Valley into two equal lots providing the applicant the ability to build two townhomes on this property. Under current zoning regulations, zero lot lines may be allowed for townhome development (see attached code reference).

This application was processed as any other development request meeting the same submittal deadline. I have attached a schedule of meetings with descriptions for your reference. You will see that this item was heard by the Technical Plat Review Committee on December 17, 2003 and then at the Subdivision Committee on December 30, 2003.

Public notification is required to be posted and placed in the newspaper for this type of item. A red public hearing sign was posted on the subject property, and a notice of public hearing was placed in the newspaper (NWA Times). As a courtesy, the Planning Division routinely sends notices to adjoining property owners using contact information submitted by the project applicant. I have attached a copy of the notice which was mailed to adjoining property owners. This letter was dated and sent on December 22, 2003. Also attached is a copy of the sign information from the public hearing sign that was posted on the site.

The notice which is posted in the newspaper and the information placed on the public hearing sign also state the dates of public hearings relating to development requests. In accordance with the Unified Development Code and Planning Commission bylaws, certain types of developments may be approved by the Subdivision Committee.

This lot split was approved unanimously by the Subdivision Committee on December 30, 2003. A copy of the staff report for this item is also attached.

Building permits were requested for the two resulting lots in order for townhomes to be constructed. The issuance of these permits is allowed under City zoning and development regulations.

I believe that I have covered the information that we discussed. Should you require additional information or have questions, please feel free to contact the Planning Division at 575-8267.

Sincerely,

Dawn T. Warrick

Dawn T. Warrick, AICP
Zoning & Development Administrator

cc: Tim Conklin, CP&E Services Director
Courtney McDade, Neighborhood Coordinator

K:\Dawn\2004 Correspondence\jensen_response.doc

(D) *Side setbacks.*

(1) Internal side setbacks may be varied on one side to permit zero lot line development, provided the side setback opposite the zero lot line is at least 15 feet. On the periphery of the development no structure shall be placed closer than eight (8) feet to the side property line. The intent is to allow freedom of design within development, but not to affect future structure placement on adjoining property.

(2) Side setbacks may be varied to permit common walls between townhouses. There shall be no specific requirements as to minimum lot width, lot area, or minimum area per dwelling unit for townhouses or condominiums; but townhouses and condominiums shall conform to the district densities, setback requirements, height regulations, parking and access requirements, and all other applicable city ordinances.

From Fayetteville Planning Commission Bylaws

ARTICLE IV. COMMITTEES

C. A Subdivision Committee consisting of at least three Planning Commissioners shall serve as a standing committee that reviews development items after Technical Plat Review and makes recommendations to the Planning Commission; the remaining six (6) members of the Planning Commission shall be named as alternates who shall sit with full voting rights in lieu of a regular member or members who are absent from the meeting. The Chair shall designate the order of alternates. The developer is required to give notice to adjacent property owners and provide proof of same to the Planning Administrator at least seven (7) days prior to the Subdivision Committee meeting.

1. The Subdivision Committee shall approve, disapprove, refer back to the developer for more information, or refer to the Planning Commission development items.

2. <u>For final approval, it shall require a unanimous vote of the Subdivision Committee to carry the following items:</u>
   a. Large Scale Developments;
   b. <u>Lot Splits;</u>
   c. The right to have a rehearing before the full Planning Commission;
   d. Final Plats; and,
   e. Sidewalk variances for projects other than large scale developments or subdivisions.

3. No development item can receive final approval at Subdivision Committee level if waivers are being sought. Any development with a waiver request (except for sidewalk variances) must be forwarded to Planning Commission. All preliminary plats shall be referred to the Planning Commission for action.

DATE: December 22, 2003
TO: Adjoining Property Owners
FROM: Dawn Warrick, Zoning and
Development Administrator

The Fayetteville Planning Commission has been asked to review a proposed Lot Split adjacent to your property.

The Development is described as follows:

LSP 04-04.00: Lot Split (Lot 5, Pine Valley V, pp 94) was submitted by Blew Land Surveying on behalf of Sandra Petrino for property located at Lot 5, Phase V of Pine Valley Addition. The property is zoned RMF-24, Residential Multi-family, 24 units per acre and contains approximately 0.62 acres. The request is to divide the parent tract into two tracts of 0.31 and 0.31 acres each. Planner: Jeremy Pate

Public hearings for this item include:
Subdivision Committee **Tuesday December 30, 2003** 8:30 am Rm 219
in the City Administration Building at 113 W. Mountain Street. You are invited to attend the meetings, public comment is welcome. Items can be removed from agendas on short notice, so please call the **Planning Division at 575-8267** to verify the item you are interested will be heard as stated above.

Applicant:	Sandra Petrino Prince	Phone:	530-4100
Address:	1914 E Mission Blvd Fayetteville AR 03	Fax:	
Representative	Blew Land Surveying	Phone:	443-4506
Address:	524 W Sycamore St. #4 Fayetteville AR 03	Fax:	582-1883
Neighborhood Assoc.:	Pine Valley N.A.	Phone:	
Contact:	Sue Jensen	Email:	jensen34@netzero.comom
Staff Planner	Jeremy Pate	Phone:	575-8267

LOT SPLITS

LSP 04-4.00 Sandra Petrino

The request is to divide the subject property into two tracts of 0.31 and 0.31 acres respectively.
Planner: Jeremy Pate

PUBLIC HEARINGS

Subdivision Committee:
Date: Thursday, December 30, 2003
Time: 8:30 a.m.
Place: Room 219 - 113 W. Mountain Street (City Administration Building)

Planning Commission:
Date: Monday, January 12, 2004
Time: 5:30 pm.
Place: Room 219 - 113 W. Mountain Street (City Administration Building)

Some items may be approved at the Subdivision Committee meeting. Those not approved will be forwarded to the Planning Commission.

Submitted by: Blew Land Surveying

All interested parties may appear and be heard at the public hearing. A copy of the proposed amendments and other pertinent data is open and available for inspection in the Office of City Planning *(575-8267)*, 125 West Mountain Street, Fayetteville, Arkansas. All interested parties are invited to review the petitions. Interpreters or TDD for hearing impaired are available for all public meetings. 72 hour notice is required. For further information or to request an interpreter, please call 575-8330.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

SC Meeting of December 30, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO:	Subdivision Committee Members
FROM:	Jeremy Pate, Associate Planner
	Matt Casey, Staff Engineer
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	December 23, 2003

LSP 04-04.00: Lot Split (Lot 5, Pine Valley V, pp 94) was submitted by Blew Land Surveying on behalf of Sandra Petrino for property located at Lot 5, Phase V of Pine Valley Addition. The property is zoned RMF-24, Residential Multi-family, 24 units per acre and contains approximately 0.62 acres. The request is to divide the parent tract into two tracts of 0.31 and 0.31 acres each. Planner: Jeremy Pate

Findings:

Proposal: The subject tract was platted as Lot 5 within Pine Valley Subdivision, Phase V, in April of 2002. The applicant proposes to split the existing lot in half, resulting in two 0.31-acre tracts. City ordinance allows for a lot to be split and internal side setbacks to be varied on one side to permit zero lot line development. Side setbacks may be varied to permit common walls between townhouses, with provisions (see attached ordinance). There shall be no specific requirements as to minimum lot width, lot area, or minimum area per dwelling unit, however all other development regulations remain applicable.

Surrounding Zoning: The property is surrounded by RMF-24, Residential Multi-Family, 24 DU/Acre, developed predominantly in duplexes (Pine Valley Subdivision). Zoning to the north includes RSF-4 and P-1.

Right-of-way being dedicated: Sufficient right-of-way exists along Wildwood Drive.

Recommendation: Staff recommends approval of **LSP 04-04.00** at the Subdivision Committee level with the following conditions:

Conditions of Approval:

1. Development within the 100-year floodplain shall require a formal Floodplain Development permit, in addition to required Grading & Drainage permits.

2. Development on the subject tracts shall be limited to one (1) two-family dwelling unit in total, in accordance with all applicable City Ordinances and permitting regulations.

Standard Conditions of Approval:

3. 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)

Additional conditions:

a. _____

b. _____

c. _____

Subdivision Committee Action: ☑ Approval ☐ Forwarded to P.C.
Meeting Date: **December 30, 2003**
Comments: _____

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

_____ Signature

_____ Date

LSP 04-04.00: Lot Split (Lot 5, Pine Valley pp 94) was submitted by Blew Land Surveying on behalf of Sandra Petrino for property located at Lot 5, Phase V of Pine Valley Addition. The property is zoned RMF-24, Residential Multi-Family, 24 units per acre and contains approximately 0.62 acres. The request is to divide the subject tract into two tracts of 0.31 acres and 0.31 acres respectively.

Pate: Item five is LSP 04-04.00 for Lot 5 of Pine Valley Phase V submitted by Blew Land Surveying on behalf of Sandra Petrino. Is there anyone here for that Lot Split?

Jensen: I am actually here in a little different fashion. I represent the neighborhood association.

Pate: Ok, so you don't represent the applicant?

Jensen: No.

Pate: We don't take public comment at the Technical Plat meeting. Basically, we won't hear this item if there is not a representative. Unless someone shows up we will not hear this item and it will be on the next Technical Plat Review meeting.

Insert here from end of meeting:

Pate: We will go back a couple of items. Item number five, a Lot Split for Pine Valley submitted by Blew & Associates. Basically the request here is this is an existing lot that is platted and pursuant to our ordinance requirements you can do a zero lot line to sell off each side of this to split the lot down the middle basically.

Gibson: The only comment I have on this is that our existing is on the north side of Wildwood Drive.

Pate: What we need from Planning is ordinance requirements for side setbacks, I've included those and I believe you have met everything that we require. Also, there should be a certificate of ownership and dedication signature block added and I've included that as well.

Blew: We are dedicating that 15' on the side.

Pate: Matt?

Matt Casey – Staff Engineer

Casey: Show the existing water and sewer mains out here on Wildwood. Also, label the Base Flood Elevations for the 10-year floodplain and label the

minimum finished floor elevations for each of these lots. It should be 2' above BFE for each lot. That's all I have.

Pate: There are no additional parks fees because there are no additional units being added. It is just a reconfiguration of a lot. That is the bulk of our comments.

LSP 04-04.00: Lot Split (Lot 5, Pine Valley V, pp 94) was submitted by Blew Land Surveying on behalf of Sandra Petrino for property located at Lot 5, Phase V of Pine Valley Addition. The property is zoned RMF-24, Residential Multi-family, 24 units per acre and contains approximately 0.62 acres. The request is to divide the parent tract into two tracts of 0.31 and 0.31 acres each.

Bunch: The next item on the agenda is also a Lot Split for Lot 5 of the Pine Valley Subdivision submitted by Blew Land Surveying on behalf of Sandra Petrino for property in the Pine Valley subdivision. The request is to split the lot into two parcels. Jeremy, can you give us the staff report on this please?

Pate: This is Lot 5 of the Pine Valley Phase V development off of Wildwood Drive. It was approved as a Final Plat in April, 2002. The applicant is proposing to split this existing lot in half resulting two .31 acre tracts. City ordinance does allow for a lot to be split and internal side setbacks to be varied on one side to permit zero lot line development. There are no specific requirements as to minimum lot area or lot width area per dwelling unit on such a lot. However, all other development regulations remain applicable. Building permitting has to go through the same process as well. Sufficient right of way exists along Wildwood Drive so no additional needs to be dedicated. Staff recommends approval of LSP 04-04.00 at this level with a total of three conditions. Two of which, number one development in a 100-year floodplain requires formal floodplain development permits. Development on the subject tract shall be limited to one two family dwelling unit in total and in accordance with all other applicable city ordinances and permitting regulations.

Bunch: Since this is a Lot Split, parks, are there any additional comments?

Ohman: No Sir, they met the requirements with the original development of the Pine Valley subdivision.

Bunch: Engineering, are there any comments?

Casey: No sir.

Bunch: Tree preservation?

Carnagey: No Sir.

Bunch: That being said, we will allow you to introduce yourself and tell us about your project.

Blew: My name is Buckley Blew. I am with Blew Land Surveying. My project is we are splitting lot 5 Pine Valley Phase V. The owner of the property

wants to split the property so they can sell each side of the duplex separately. That's it.

Bunch: At this time we will take public comment. Is there anyone in the audience who would like to address the Committee for Pine Valley Phase V lot V? Seeing none, I will bring it back to the Committee for questions, comments or motions.

Ostner: On condition number two do I understand that to mean a duplex will be built spanning these two lots?

Pate: That is correct. There will be a common wall basically on the lot line so there will be one unit per lot as opposed to two units on one lot.

Warrick: I would just add that the construction standard changes when you separate ownership between two sides of a structure and the building code addresses that through fire walls and separations or openings. I believe that the way that this will have to be permitted since it is not already constructed, there will be two building permits required for this joined structure since there will be separate ownership on each side. The construction standard is different. I would just recommend that you convey to the owner to work with our Building Safety Division to ensure that they follow the proper code in order to sell these two units separately.

Bunch: Thank you Dawn. This appears to be a very straight forward lot split with the explanation Ms. Warrick gave us. I would entertain a motion for approval at this level.

MOTION:

Anthes: So moved.

Ostner: Second.

Bunch: I will concur. Good luck with your project.

FAYETTEVILLE

Planning Commission
2004 Schedule of Meetings

This schedule applies to the all project applications requiring Subdivision Committee or Planning Commission consideration.

	Materials Deadline 10:00 a.m.	In-House Review (Staff Only)	Technical Plat Review Wed., 9:00 a.m.	Revision Submittal (#1) by 10:00 a.m.	Subdivision Committee Thurs., 8:30 a.m.	Revision Submittal (#2) by 10:00 a.m.	Agenda Session & Tour Thurs., 3:30 p.m.	Planning Commission Mon., 5:30 pm
1	December 04	December 15	December 17	December 23	December 30	January 05	January 08	January 12
2	December 18	December 29	December 31	January 07	January 15	January 20	January 22	January 26
3	January 02	January 12	January 14	January 21	January 29	February 02	February 05	February 09
4	January 15	January 26	January 28	February 04	February 12	February 17	February 19	February 23
5	January 29	February 09	February 11	February 18	February 26	March 01	March 04	March 08
6	February 12	February 23	February 25	March 03	March 11	March 15	March 18	March 22
7	March 04	March 15	March 17	March 24	April 01	April 05	April 08	April 12
8	March 18	March 29	March 31	April 07	April 15	April 19	April 22	April 26
9	April 01	April 12	April 14	April 21	April 29	May 03	May 06	May 10
10	April 15	April 26	April 28	May 05	May 13	May 17	May 20	May 24
11	May 06	May 17	May 19	May 26	June 03	June 07	June 10	June 14
12	May 20	June 01*	June 02	June 09	June 17	June 21	June 24	June 28
13	June 03	June 14	June 16	June 23	July 01	July 06	July 08	July 12
14	June 17	June 28	June 30	July 07	July 15	July 19	July 22	July 26
15	July 01	July 12	July 14	July 21	July 29	August 02	August 05	August 09
16	July 15	July 26	July 28	August 04	August 12	August 16	August 19	August 23
17	August 05	August 16	August 18	August 25	September 02	September 07	September 09	September 13
18	August 19	August 30	September 01	September 08	September 16	September 20	September 23	September 27
19	September 02	September 13	September 15	September 22	September 30	October 04	October 07	October 11
20	September 16	September 27	September 29	October 06	October 14	October 18	October 21	October 25
21	September 30*	October 11	October 13	October 20	October 28	November 01	November 04	November 08
22	October 14	October 25	October 27	November 03	November 10*	November 15	November 18	November 22
23	November 04	November 15	November 17	November 24	December 02	December 06	December 09	December 13 (last meeting of 2004)

* Indicates change in schedule due to holiday

STAFF REVIEW FORM

Consent #6
Crossland Library
Change Order #19
and 19A.

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: August 17, 2004

FROM:

Louise Schaper	Fayetteville Public Library	General Government
Name	Division	Department

ACTION REQUIRED: Approve two contract amendments with Crossland Construction and a budget adjustment. Amendment 19 - Add NTE $80,000 Improvements to the Intersection of Mountain and School Streets and Laying the cross-walk at Archibald Yell.
Amendment 19A - Add NTE $60,000 for removal of unsuitable street materials on Rock Street and reinstallation of suitable street materials.

COST TO CITY:

CO 19A - NTE $60,000	$ 8,950,917.00	Library (Off-Site Improvements)
CO 19- NTE $80,000	$ 378,000.00	School & Archibald Yell Intersect:
Cost of this request		Program Category / Project Name
4470.9470.5809.00	$ 7,500,713.00	Library Improvements
4470.9470.5809.00	$ 10,613.00	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
99073-1	$ 1,450,204.00	
04015-1	$ 367,387.00	Sales Tax Capital
Project Number	Remaining Balance	Fund Name

F ET REVIEW: X Budgeted Item X Budget Adjustment Attached

Budget Manager — Date 8-10-04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date 8/10/04
Internal Auditor — Date 8/10/04
City Attorney — Date 8/10/04
Purchasing Manager — Date

STAFF RECOMMENDATION:

8/10/04

Division Head — Date

Department Director — Date

Finance & Internal Services Dir. — Date 8-10-04

Chief Administrative Officer — Date

Mayor — Date

Cross Reference

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

Previous Ord/Res#:

Orig. Contract Date

Orig. Contract Number

ENTERED 8/10/04

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER #19 TO THE CONTRACT WITH CROSSLAND CONSTRUCTION COMPANY, INC. IN AN AMOUNT NOT TO EXCEED $180,000.00 FOR IMPROVEMENTS TO ROCK STREET AND THE INTERSECTION OF SCHOOL AVENUE AND MOUNTAIN STREET; THE INSTALLATION OF PAVERS IN THE CROSSWALK AT ARCHIBALD YELL BOULEVARD; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $60,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves Change Order #19 to the contract with Crossland Construction Company, Inc. in an amount not to exceed $180,000.00 for improvements to Rock Street and the intersection of School Avenue and Mountain Street; and the installation of pavers in the crosswalk at Archibald Yell Boulevard. A copy of Change Order #19, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of $60,000.00.

PASSED and **APPROVED** this 17th day of August 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Sales Tax Capital Improvements Division: Program:	Date Requested	Adjustment Number
2004		8/17/2004	

Project or Item Requested:

$60,000 is requested in the New Library Building capital project.

Project or Item Deleted:

None. $60,000 from the Investment Earnings revenue account.

Justification of this Increase:

The additional funding is requested for removal of unsuitable street materials on Rock Street and reinstallation of suitable street materials.

Justification of this Decrease:

Currently the City is expected to receive Investments is projected to receive $200,000 over what was budgeted in 2004.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Street improvements	4470	9470	5809	00	60,000	99073	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Interest-investments	4470	0947	4708	00	- 60,000		

Approval Signatures

Requested By — Date

Budget Manager — Date 8-10-04

partment Director — Date

Finance & Internal Services Director — Date 8-10-04

Mayor — Date

Budget Office Use Only

Type: A B C (D) E

Date of Approval — Initial — Date

Posted to General Ledger — Initial — Date

Posted to Project Accounting — Initial — Date

Entered in Category Log — Initial — Date

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Hugh Earnest, Chief Administrative Officer
Steve Davis, Chief Financial Officer

From: Louise Schaper, Executive Director, Fayetteville Public Library
Date: August 9, 2004
Subject: Unexpected and unbudgeted costs associated with the new library's offsite improvements

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RECOMMENDATION

Staff recommends approval of a contract adjustment in the amount of $60,000 with Crossland Construction Company Inc. for Change Order #19a which covers unforeseen excavation of Rock Street required in order to bring it up to City standards.

BACKGROUND

As you know, the City of Fayetteville is rebuilding the streets around the site of the new library. All four sides of the site and the contiguous public walks and streets have been impacted by this off-site construction. Completion of these streets and walks is on the critical path to the October 9th opening of the new library and, given recent weather conditions, is behind schedule.

Unfortunately, the contractor encountered unusual subsurface conditions on Mountain Street between School and West. These conditions caused the contractor to test Rock Street between School and West. The same conditions in the substrate, requiring additional depth in the undercut from 11 inches to up to 4 feet, were identified. Terracon Consulting Engineers and City engineers confirmed the findings.

These findings will require approximately 400% more unsuitable soil to be removed plus hand digging around the already existing utilities in order to complete the Rock Street improvements.

This unforeseen subsurface condition will cost from $40,000 to $60,000 in additional funds for off-site work. We are in the process of confirming if all of the Off-Site Improvements funding has been exhausted or encumbered.

DISCUSSION

Everyone associated with the project is working hard to bring the project in on budget and on schedule. While the building construction continues to be on budget, the improvements to the adjacent streets have been more extensive than expected. Because we have only 8.5 weeks to complete the project and because rebuilding Rock Street is a critical path item, this work must be authorized in an expeditious manner.

We appreciate all the support and encouragement you have given the project team and will continue, with your support, to do our best to complete this project as expected.

BUDGET IMPACT

This unforeseen subsurface condition will require $60,000 more in funding than were approved for off-site improvements.

# # #

STAFF REVIEW FORM

X AGENDA REQUEST
X CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council Meeting of: August 17, 2003

FROM:

Louise Schaper	Fayetteville Public Library	General Government
Name	Division	Department

ACTION REQUIRED: Approve a contract adjustment in the amount of $73,300 with Crossland Construction Company Inc. for Change Order ~~#19~~ #18 which covers improvements to the intersection of Mountain and School streets and laying the pavers in the crosswalk at Archibald Yell.

#19

COST TO CITY:

$ 73,300.00	378,000	School & Archibald Yell
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5809.00	10,613	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
04015-1	367,387	Sales Tax Capital
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ___ Budget Adjustment Attached

Budget Manager — Date 8-2-04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date 8/2/04
Internal Auditor — Date 8/2/04
~~City Attorney — Date~~ ~~See Comments~~
Purchasing Manager — Date 8/4/04

STAFF RECOMMENDATION:

Division Head — Date 8/30/04

Department Director — Date

Finance & Internal Services Dir. — Date 8-4-04

Chief Administrative Officer — Date 8-04-04

Mayor — Date 8/5/04

Cross Reference

New Item: Yes (No)

Previous Ord/Res#:

Orig. Contract Date

Orig. Contract Number 843

8/30/04

AmirmoezFosterHaileyJohnson

AFHJ

Architects & Planners

MEMORANDUM

August 10, 2004

To: Cathy Rew

From: Jim Foster

Reference: Fayetteville Public Library, CO 19

CO 19 is transmitted for checking. If contractor must sign today, we must fax to Priest. Not sure where he is at the moment. He will be in town to sign tomorrow.

I've got a noon meeting. If this is OK as typed, it is ready to go and I'll leave it on our counter. I can take it to Steve or Kit after lunch.

Post Office Box 790 • 100 West Center, Suite 302 • Fayetteville, AR 72702 • 479-442-5565 • FAX 479-442-8849

AIA Contract Administration
G701 Change Order

(Instructions on the reverse side)

Distribution List:
Owner _____
Architect _____
Contractor _____
Field _____
Other _____

PROJECT *(Name and address)*:
FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN STREET
FAYETTEVILLE ARKANSAS 72701

TO CONTRACTOR *(Name and address)*:
CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST – PROJECT MANAGER
14149 E. Admiral Place
Tulsa, OK 74116

CHANGE ORDER NUMBER: 19

DATE: 10 August 04

ARCHITECT'S PROJECT NUMBER 2000073-00

CONTRACT DATE: 21 MAY 2002

CONTRACT FOR: GENERAL CONSTRUCTION

THE CONTRACT IS CHANGED AS FOLLOWS:
(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

A. Provide an allowance in the amount of $80,000 for additional public street intersection work at [illegible] Street and School Avenue as defined in construction documents issued by Garver Engineers and intersection work at School Avenue and Archibald Yell to as defined by construction documents to be issued by the City Engineering Department. This work may be completed after the Date for Substantial Completion.

B. Provide an allowance in the amount of $60,000 for additional excavation, disposal, backfill and compaction to correct unsuitable subgrade in public streets at a unit price of $20.25 per cubic yard, plus tax and allowed markup.

The original (Contract Sum) ~~(Guaranteed Maximum Price)~~ was	$17,633,[illegible]
The net change by previously authorized Change Orders	1,635,[illegible]
The (Contract Sum) ~~(Guaranteed Maximum Price)~~ prior to this Change Order was	19,269,[illegible]
The (Contract Sum) ~~(Guaranteed Maximum Price)~~ will be (increased) ~~(decreased) (unchanged)~~ by this Change Order in the amount of	140,[illegible]
The new (Contract Sum) ~~(Guaranteed Maximum Price)~~ including this Change Order will be	19,409,[illegible]
The Contract Time will be ~~(increased) (decreased)~~ (unchanged) by _____	( ) days
The date of Substantial Completion as of the date of this Change Order therefore is	July 31, 2004

NOTE: *This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have not been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order may be executed to supersede the Construction Change Directive.*

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT *(Firm name)*	CONTRACTOR *(Firm name)*	OWNER *(Firm name)*
Associate Architect AFHJ ARCHITECTS	CROSSLAND CONST. CO. INC.	CITY OF FAYETTEVILLE
ADDRESS PO BOX 790 FAYETTEVILLE, AR 72702	ADDRESS PO BOX 907 ROGERS, AR 72756	ADDRESS [illegible] WEST MOUNTAIN ST FAYETTEVILLE AR 72701
BY *(Signature)* James R Foster	BY *(Signature)*	BY *(Signature)*
(Typed name) JAMES FOSTER	*(Typed name)* JOHN PRIEST	*(Typed name)* MAYOR DAN COODY
DATE 10 Aug 04	DATE	DATE

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures changes will not be obscured.

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AIA Contract Administration
G701 Change Order

(Instructions on the reverse side)

Distribution List:
Owner _____
Architect _____
Contractor _____
Field _____
Other _____

PROJECT *(Name and address)*:
FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN STREET
FAYETTEVILLE ARKANSAS 72701

TO CONTRACTOR *(Name and address)*:
CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST – PROJECT MANAGER
14149 E. Admiral Place
Tulsa, OK 74116

CHANGE ORDER NUMBER: 19

DATE: 10 August 04

ARCHITECT'S PROJECT NUMBER: 2000073-00

CONTRACT DATE: 21 MAY 2002

CONTRACT FOR: GENERAL CONSTRUCTION

THE CONTRACT IS CHANGED AS FOLLOWS:
(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

A. Provide an allowance in the amount of $80,000 for additional public street intersection work at Mountain Street and School Avenue as defined in construction documents issued by Garver Engineers and intersection work at School Avenue and Archibald Yell to as defined by construction documents to be issued by the City Engineering Department. This work may be completed after the Date for Substantial Completion.

B. Provide an allowance in the amount of $60,000 for additional excavation, disposal, backfill and compaction to correct unsuitable subgrade in public streets at a unit price of $20.25 per cubic yard plus tax and allowed markup.

The original (Contract Sum) ~~(Guaranteed Maximum Price)~~ was	$ 17,633,931.00
The net change by previously authorized Change Orders	$ 1,636,819.44
The (Contract Sum) ~~(Guaranteed Maximum Price)~~ prior to this Change Order was	$ 19,270,750.44
The (Contract Sum) ~~(Guaranteed Maximum Price)~~ will be (increased) ~~(decreased) (unchanged)~~ by this Change Order in the amount of	$ 140,000.00
The new (Contract Sum) ~~(Guaranteed Maximum Price)~~ including this Change Order will be	$ 19,409,750.44
The Contract Time will be ~~(increased) (decreased)~~ (unchanged) by	0) days
The date of Substantial Completion as of the date of this Change Order therefore is	July 31, 2004

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ARCHITECT *(Firm name)*	CONTRACTOR *(Firm name)*	OWNER *(Firm name)*
Associate Architect AFHJ ARCHITECTS	CROSSLAND CONST. CO. INC.	CITY OF FAYETTEVILLE
ADDRESS PO BOX 790 FAYETTEVILLE, AR 72702	ADDRESS PO BOX 907 ROGERS, AR 72756	ADDRESS WEST MOUNTAIN ST FAYETTEVILLE, AR 72701
BY *(Signature)*	BY *(Signature)*	BY *(Signature)*
(Typed name) JAMES FOSTER	*(Typed name)* JOHN PRIEST	*(Typed name)* MAYOR DAN COODY
DATE 10 AUG 04	DATE	DATE

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AIA Contract Administration
G701 Change Order

(Instructions on the reverse side)

Distribution List:
Owner _____
Architect _____
Contractor _____
Field _____
Other _____

PROJECT *(Name and address)*:
FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN STREET
FAYETTEVILLE ARKANSAS 72701

TO CONTRACTOR *(Name and address)*:
CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST – PROJECT MANAGER
14149 E. Admiral Place
Tulsa, OK 74116

CHANGE ORDER NUMBER: 19

DATE: 10 August 04

ARCHITECT'S PROJECT NUMBER 2000073-00

CONTRACT DATE: 21 MAY 2002

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DATE 10 AUG 04	DATE	DATE

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AIA Contract Administration
G701 Change Order

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Owner _____
Architect _____
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Field _____
Other _____

PROJECT *(Name and address)*:
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401 WEST MOUNTAIN STREET
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TO CONTRACTOR *(Name and address)*:
CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST – PROJECT MANAGER
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Associate Architect AFHJ ARCHITECTS	CROSSLAND CONST. CO. INC.	CITY OF FAYETTEVILLE
ADDRESS PO BOX 790 FAYETTEVILLE, AR 72702	ADDRESS PO BOX 907 ROGERS, AR 72756	ADDRESS WEST MOUNTAIN ST FAYETTEVILLE AR 72701
BY *(Signature)*	BY *(Signature)*	BY *(Signature)*
JAMES FOSTER *(Typed name)*	JOHN PRIEST *(Typed name)*	MAYOR DAN COODY *(Typed name)*
10 AUG 04 DATE	DATE	DATE

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Combined With Change order #19 on 8/17 Agenda

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer and Steve Davis, Finance and Internal Services Director

From: Louise Schaper, Executive Director, Fayetteville Public Library

Date: August 9, 2004

Subject: Unexpected and unbudgeted costs associated with the new library's offsite improvements

---

RECOMMENDATION

Staff recommends approval of a contract adjustment in the amount of $60,000 with Crossland Construction Company Inc. for Change Order #19a which covers unforeseen excavation of Rock Street required in order to bring it up to City standards.

BACKGROUND

As you know, the City of Fayetteville is rebuilding the streets around the site of the new library. All four sides of the site and the contiguous public walks and streets have been impacted by this off-site construction. Completion of these streets and walks is on the critical path to the October 9th opening of the new library and, given recent weather conditions, is behind schedule.

Unfortunately, the contractor encountered unusual subsurface conditions on Mountain Street between School and West. These conditions caused the contractor to test Rock Street between School and West. The same conditions in the substrate, requiring additional depth in the undercut from 11 inches to up to 4 feet, were identified. Terracon Consulting Engineers and City engineers confirmed the findings.

These findings require that an estimated 400% more unsuitable soil be removed plus hand labor to dig around the already existing utilities in order to complete the Rock Street improvements. The final cost of soil removable will be a reconciliation change order at the conclusion of this project.

We estimate that this unforeseen subsurface condition will cost from $40,000 to $60,000 in additional funds for off-site work. We are in the process of confirming if all Off-Site Improvements funds have been exhausted or encumbered.

DISCUSSION

As you know we are committed to bringing the new library and all off-site work associated with it in on budget and have, prior to this unforeseen situation, been successful. Because we have only 8.5 weeks to complete the project and because

ENTERED 8/10/04

rebuilding Rock Street is a critical path item, this work must be authorized in an expeditious manner.

Everyone associated with the project is working hard to bring the project in on budget and on schedule. While the building construction continues to be on budget, the improvements to the adjacent streets have been more extensive than expected.

We appreciate all the support and encouragement you have given the project team and will continue, with your support, to do our best to complete this project as expected.

BUDGET IMPACT

This unforeseen subsurface condition will require approximately $60,000 more in funding than were approved for off-site improvements.

# # #

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Louise Schaper, Executive Director, Fayetteville Public Library

Date: July 30, 2004

Subject: Contract adjustment in the amount of $73,300 with Crossland Construction Company Inc. for Change Order #19 which covers improvements to the intersection of Mountain and School streets and laying the pavers in the crosswalk at Archibald Yell

CO #19

RECOMMENDATION

We recommend approval of a contract adjustment in the amount of $73,300 with Crossland Construction Company Inc. for Change Order #19 which covers improvements to the intersection of Mountain and School streets and laying the pavers in the crosswalk at Archibald Yell

BACKGROUND

Improvements are currently underway in the reconstruction of the School Ave. and Archibald Yell intersection to the south of the library site. On July 13, 2004 the City Council approved additional improvements to School Ave. and the intersection of Mountain and School to enhance the approach to the new library driving north on School Ave. from Archibald Yell. Specific improvements include (1) construction of pedestrian crosswalk at the four corners of Mountain and School including required ADA accessibility; (2) modifications to sidewalks, curb and gutter; and (3) street narrowing for traffic calming.

DISCUSSION

The intersection of Mountain St. and School Ave. has been a safety concern since construction on the new library began. A need has been identified for traffic calming and four-way stop signs. In addition, there is a desire to enhance the esthetics and provide design continuity with Dickson St. in pavers at the crosswalks of the intersection.

BUDGET IMPACT

This is within the budget established by Council for these improvements.

STAFF REVIEW FORM

X AGENDA REQUEST
X CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council Meeting of: August 17, 2003

FROM:

Louise Schaper	Fayetteville Public Library	General Government
Name	Division	Department

ACTION REQUIRED: Approve a contract adjustment in the amount of $73,300 with Crossland Construction Company Inc. for Change Order ~~#19~~ which covers improvements to the intersection of Mountain and School streets and laying the pavers in the crosswalk at Archibald Yell.

#19

COST TO CITY:

$ 73,300.00	378,000	School & Archibald Yell
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5809.00	10,613	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
04015-1	367,387	Sales Tax Capital
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ___ Budget Adjustment Attached

Budget Manager — Date 8-2-04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date 8/2/04
Internal Auditor — Date 8/2/04
~~City Attorney — Date 8/10/04~~ See Comments
Purchasing Manager — Date 8/4/04

STAFF RECOMMENDATION:

Division Head — Date 8/30/04

Department Director — Date

Finance & Internal Services Dir. — Date 8-4-04

Chief Administrative Officer — Date 8-04-04

Mayor — Date 8/8/04

Cross Reference

New Item: Yes (No)

Previous Ord/Res#:

Orig. Contract Date

Orig. Contract Number 843

8/30/04
TCM

Staff Review Form - Page 2

Description Budget adjustment and increase to the library transfer Meeting Date August 3, 2004

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

We will draft the resolution, when the c/o is provided

Purchasing Manager

No C/O to review

Internal Auditor

Finance & Internal Services Director

Chief Administrative Officer

#5 add ins

ORDINANCE NO.

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY OWNED BY HAYS FAMILY DEVELOPMENT, LLP 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 17th day of August, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

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.

EXHIBIT "A"
RZN 04-1091

PART OF THE NW ¼, NW ¼ AND PART OF THE NE ¼, NW ¼ OF SECTION 14, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW ¼, NW ¼ THENCE N89°59'11"E 995.13 FEET TO THE P.O.B., THENCE N89°59'11"E 665.91 FEET, THENCE S88°26'17"E 165.07 FEET, THENCE S89°55'17"E 825.00 FEET, THENCE SOUTH 904.23 FEET, THENCE WEST 835.88 FEET, THENCE S00°41'19"W 146.47 FEET, THENCE N89°49'12"W 825.49 FEET, THENCE N00°23'31"E 1053.60 FEET TO THE P.O.B, CONTAINING 37.30 ACRES, MORE OR LESS, SUBJECT TO R/W AND EASEMENTS OF RECORD.

And

PART OF THE SW ¼, SW ¼ AND PART OF THE SE ¼, SW ¼ ALL IN SECTION II, T16N, R31W IN WASHINGTON COUNTY ARKANAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SW ¼, SW ¼ THENCE N89°59'11"E 995.13 FEET TO THE P.O.B., THENCE N00°23'31"E 817.95 FEET, THENCE EAST 331.47 FEET, THENCE S00°05'10"E 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.

ORDINANCE NO. _____

#6 Ord Ens

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

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 17th day of August, 2004.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

8/17/04 Old Business #8 RZN 04-1103 RZN-04-1103 Collins

with their new cable installation. They had completed approximately thirty percent of the city. It appeared to him that Cox was reluctant to discuss an important franchise. They have some points to make. They have been at this for some time. The city had a technical committee putting together our version of what an institutional network needs to be for the city. The Council had several options. They could table it, pass it, or remove it from the table with the threat that they could bring it back before them at any time. It was his opinion that if they were going to have any movement on this issue that they would be better served by having the staff and others to use this to negotiate on the franchise. On February 4, he had stated that they had indications from their attorney in Washington that they were considering some give on a reduced life-line tier. In a later e-mail that he had received from Mr. Grogan has shown some change in Cox=s position. They were firm in their communications. There appeared to be not much give at all. The only card the city held was the length of the franchise. He recommended that they table the item.

Alderman Zurcher stated Cox=s customer service was lacking. They did not care what the subscriber thought about this rate increase. The only way the city could hold them accountable for a fair rate was to do this audit. The lowest tier that they were proposing was only a $1.50 less than it was to get the next tier. They did not want the consumer to get the lowest tier. They were keeping citizen from getting a more affordable tier. They needed to offer a lower life-line tier.

Alderman Young stated he had observed these negotiations for years. One of the things that he had observed was the lack of resolve on the part of the city. He thought they were faced with the same problem today. He proposed that they passed both of the things. It would take a while to get the data together. If they came to an agreement then they could pass a resolution rescinding this resolution.

Alderman Santos stated he had received an e-mail with rates around the country. It seemed to him that other people were getting a better deal than they were giving them. From what he could gather it seemed that if the satellite companies were able to compete with Cox.

Alderman Davis stated he had received more calls with people concerned about losing MSNBC, than about the rate structure.

Mr. Earnest stated it had to do with analog and digital. MSNBC was still carried as an analog. Once they could get MSNBC in digital format it would added to the upper tier.

Alderman Zurcher moved to approve the resolution. Alderman Thiel seconded. Upon roll call the motion carried by a vote of 6-2-0. Trumbo and Davis voting nay.

RESOLUTION 26-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-1.00: An ordinance approving RZN 02-1.00 as submitted by Robert Schmitt for property located at 1140 Hendrix and 1110 Hendrix. The property is zoned R-1, Low Density Residential, and contains approximately 1.36 acres. The request is rezone to R-1.5, Moderate Density Residential. The ordinance was left on the first reading at the February 5, 2002, meeting.

Alderman Young moved to suspend the rules and move to the second reading. Alderman Davis seconded the motion. Upon roll call the motion carried 6-2-0. Jordan and Zurcher voting nay. *Mr. Williams read the ordinance.*

Alderman Jordan stated he had received a petition from the people in the area. They were concerned about traffic congestion, drainage and crime rate.

Ms. Sharon Davidson, an area resident, stated they needed to fix the problem with the map and fix the zoning issues. She questioned if they really needed these apartments.

Ms. Emma Sue Hanna, an area resident, stated traffic and crime in this area was the neighborhood=s first concern. There were a number of apartments in this area that were vacant. She asked them to consider that this was one of the last remaining neighborhoods. People were coming in and renovating the neighborhood. It was coming back to life. This was their home and they would like to keep it the way it was. She suggested they build a couple homes.

Mr. Jerry Lang, an area resident, asked the aldermen if they would like to have a duplex built behind his house. It would be ten years before they widened Garland.

Ms. Joyce Richards, an area resident, presented a petition. People in the neighborhood cared. She asked that they not rezone the property. People had lived in this neighborhood for twenty, thirty, fifty years. They have years invested in this area. They were looking for a return in their investment just like Broc Thompson.

Janet Bolin, an area resident, stated she had lived here since she was fourteen. She had seen a lot of changes to the neighborhood. She asked them to preserve the integrity of the older neighborhoods. Quality of life in their neighborhood has decreased. Their street has been paved once since 1966. She sited problems with traffic and water and sewer.

Alice Richards, an area resident, stated a mistake in zoning had allowed two triplexes to be put up in her back yard. She felt that was an invasion into their neighborhood. She asked the council not to rezone the property.

Mr. David Davidson, an area resident, stated people in this area did not want to see the zoning change or the additional apartments. There are concerns about drainage and traffic.

Mr. Steve Frankenburger, an area resident, stated this was a simple issue of neighborhood preservation and property rights. The property belonged to the individual, but it should be a give that the zoning belonged to all of them in the neighborhood. Zoning was a contract between neighbors.

Alderman Thiel asked number of units proposed for the site.

Mr. Conklin stated they have offered a Bill of Assurance for a maximum of nine units. There was one single family home on the property. They would add two units to the single family home, then add two

additional triplexes.

Alderman Trumbo stated the purchasers had taken out a loan contingent upon the zoning that the city had showed them. What was their exposure legally?

Mr. Williams stated he did not believe they were legally liable, but only a judge and jury could decide that. He thought their sovereign immunity would protect them. His advise to the Planning Commission was that from a legal point of view they were not liable. Even if negligence could be shown when they were transferring from a paper map to a digital map. The error had been done by mistake. He thought they would be protected by the tort immunity statute. The reason that statute was drafted to protect the city from these types of suits from damages. He did not believe they would be liable for damages.

Mr. Earnest stated a representative of the city had given them a letter stating the property was R-1.5. That was a direct result of a request from the bank.

Alderman Thiel stated regardless of what the Planning office did, would the council rezone this, if this was not the case. She would not consider rezoning this after hearing from the neighbors.

Alderman Jordan stated the people in the area wanted to preserve their neighborhood. He would not want those triplexes in his neighborhood. He knew mistakes had been made, but to rezone this would be another mistakes.

Alderman Young asked how long it was going to take to present a revised map to the council.

Mr. Conklin explained he had discovered the mistake. He did not want this to happen again. It will take approximately two weeks to print out their zoning map on clear plastic and overlay that on their 1970 map, which was colored in crayon. Their GIS department would have to make any adjustments to the map. He hoped they could bring something forward to the city council in a month to a month and a half. He would proposed that they adopt an official map with signatures. The map could change every two weeks. He believed they needed an official map.

In response to questions, Mr. Conklin stated they were going to identify discrepancies and make the necessary adjustments. They were not going to change any zonings that have not been approved by the City Council. It was difficult to take a 1970's map and put it into a digital format.

Alderman Santos stated the property could not return to the commercial use because the grandfather clause no longer applied because it had been vacant for more than six months.

Mr. Earnest stated Garland Avenue was a principle street. It made planning sense to talk about using higher density against principle arterials or collectors. It becomes logical that those cars would not go back into neighborhood, but would go out towards the collector. When they talked about smart growth and higher density in existing neighborhoods, this is a case in point. They were going to be facing this issue over and over, if they were concerned about sprawl. This area of the state was going to grow. This area was going to under increased pressure for housing.

Alderman Trumbo asked if he was advocating the rezoning.
Mr. Earnest stated it made since from a planning perspective. There was one house on the property now. The rest of it was vacant. Quality development on this property could just as easily be a positive benefit to the neighborhood if it was done properly.

Alderman Trumbo stated that was from a planners perspective. From a neighbor standpoint, that did not make any sense.

Alderman Reynolds stated a mistake had been made and they had put triplexes in the neighborhood. These people loved their neighborhood just like everyone else. They wanted to keep their neighborhood as it was at this time.

Alderman Trumbo asked Mr. Osburn if this property was not rezoned would his client still develop the property?

Mr. Osburn stated he could not answer the question.

Alderman Davis asked Mr. Osburn to meet with the neighbors.

THE ORDINANCE WAS LEFT ON THE SECOND READING.

RZN 02-2.00: An ordinance approving rezoning request RZN 02-2.00 as submitted by Craig Hull of Nickle-Hill Group on behalf of Andy Bethell for property located at the northeast corner of Joyce Blvd. and Crossover Road. The property is zoned C-1, Neighborhood Commercial and contains approximately 1.94 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the first reading at the February 5, 2002, meeting.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Ms. Hull stated the Planning Commission had approved their request and they had filed a Bill of Assurance.

Alderman Davis stated there was a bill of assurance on the property which would limit the use of the property.

Alderman Trumbo moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

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

OLD BUSINESS

RZN 02-1.00: An ordinance approving RZN 02-1.00 as submitted by Robert Schmitt for property located at 1140 Hendrix and 1110 Hendrix. The property is zoned R-1, Low Density Residential, and contains approximately 1.36 acres. The request is rezone to R-1.5, Moderate Density Residential. The ordinance was left on the first reading at the February 5, 2002, meeting and left on the second reading at the February 19, 2002 meeting.

Alderman Jordan moved to table the ordinance. Alderman Davis seconded. Upon roll call the motion carried unanimously.

THE ORDINANCE WAS TABLED ON THE SECOND READING UNTIL THE MARCH 19, 2002 MEETING.

CIVIL SERVICE: An ordinance adding two additional members to the Fayetteville Civil Service Commission. This ordinance was left on the first reading at the February 19, 2002 meeting.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance for the second time.

Alderman Thiel stated she thought a larger commission would better reflect the increase size and diversity of the city.

Mr. Dominic Swanfield, F.O.P., stated if it was a problem, then they were fine with that. They had originally brought it up in hopes of adding a little more balance to the commission. The current system was fine. They would like to have two more added.

Alderman Davis stated there were problems with a number of committees having enough to create a quorum. He questioned if it would be harder to get a quorum by increasing the number of members.

Alderman Thiel stated if they increased they membership by two, then they would only need one more member for a quorum. They would increase their odds of getting a quorum.

Mr. Williams reminded the Council that in the absence of Alderman Zurcher, it did not change the number of votes required to pass an ordinance. The number of votes required to pass an ordinance or resolution remains five, a majority of the number of whole persons elected to position.

POLICIES AND PROCEDURES: A resolution amending the Rules of Order and Procedure - Mayor / City Council, pertaining to the selection process for members of citizen committees.

RESOLUTION 48-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 01-55: A resolution awarding the Item No. 1,2,3,4,5,7,9 and 10 in the amount of $991,835 to Ron Blackwell Ford and Item No. 8 and 11 in the amount of $105,622.80 to Landers Ford and approval of a budget adjustment.

RESOLUTION 49-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Santos moved to approve the Consent Agenda. Alderman Reynolds seconded. Upon roll call the motion carried unanimously.

OLD BUSINESS

RZN 02-1.00: An ordinance approving request RZN 02-1.00 for property located at 1140 Hendrix and 1110 Hendrix. The property is zoned R-1, Low Density Residential, and contains approximately 1.36 acres. The request is rezone to R-1.5, Moderate Density Residential. The ordinance was tabled on the second reading at the March 5, 2002 meeting.

Alderman Davis moved to take the item off the table. Alderman Santos seconded. Upon roll call the motion carried unanimously.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Davis seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Mr. Brock Thompson, property owner, stated they had spent about six month evaluating where they wanted to do this project. He had family in Fayetteville, Arkansas. They had looked at the zoning. They had received a letter from the city stating this property was R-1.5 which would work for his project. He had held a neighborhood meeting in which twenty to twenty-five neighbors came along with several aldermen. At least fifty percent of the neighbors had changed their minds and were in favor of the project. With all the expansion going on in Fayetteville, it was only a matter of time before this property developed. He was not a professional builder or contractor. He was adding a lot of extras because he was trying to heighten the professionalism of the tenants that he wanted. Seventy-five percent of each unit would be brick. He was asking for a total of nine units. They were going to be nice. They were going to go above and beyond in the landscaping and the interiors. He presented a picture of the proposed project with landscaping.

Ms. Hanna stated the neighborhood association was requesting the property be left as R-1. They had met with Mr. Thompson at that meeting they had agreed unanimously that they would request the council to leave the property at R-1. She read a letter from Ms. Richards objecting the rezoning. She expressed concern about the increase in traffic. She had lived on Stevens for thirty years. There were a lot of others who had lived there twenty-five and thirty years. They were a permanent neighborhood.

Ms. Jeanie Sanderland, an area resident, stated she was concerned about the possible of triplexes. She was also concerned about the traffic and the destruction of trees on the property. She would like to see the property stay at its current zoning.

Mr. Palmer Alice, an area resident, stated he had lived there for approximately six years. This last year two triplexes had gone up. His concern with this project was that it would open the door for more properties to be developed. If there were the case, then he would ask them not to rezone this property. However, he understood that this was a mistake and that Mr. Thompson had purchased property understanding that the zoning was R-1.5. If that was the case, then he was entitled to build what he wanted to build. He did not have a problem with him and he liked what Mr. Thompson was proposing. He thought it would improve the neighborhood.

Mr. Conklin stated most of the rezoning activity that they had seen in that area had been on property that had been vacant or used for non-residential purposes in the past. They have not seen too much activity. The likelihood was not very high, when they had lots already developed with single-family homes. Garland Avenue was classified as a principle arterial. In the future, it was planned to be a four lane road and State highway. Typically, they did see a transition of different types of residential uses. Also, within their comprehensive plan it did talk about a mixture of residential type uses.

Mr. John David Lindsey, Lindsey and Associates, they had the property listed for sale. Their information had been that this property was R-1.5. Mr. Thompson had bought the property under that assumption. There was a second ingress and egress to this subdivision on the Mt. Comfort Road. He thought that would help with traffic, but this property being right on the corner of Garland, the R-1.5 zoning would be a perfect fit. This project will not affect the property values in that neighborhood.

Ms. Carla Grey, an area resident, stated this had been a mistake, but there were a lot of strong feelings over this issue. The neighborhood association was against spot rezoning, but they were divided on whether or not they believe that it should be left R-1 or if they should go R-1.5 as part of a larger plan. She asked what they could do about the existing triplex that was also a mistake.

Mr. Conklin stated what has occurred was that back in 1995 they took a 1970's map and digitized it. During that process, R-1.5 had been entered into that area. With regard to the previous triplexes being build, the error had not been discovered. This mistake had not been discovered until now. What they were doing now was going back and reviewing the rezoning. They were going to go back and look at thirty-two years worth of ordinances. From there they were going to bring back a zoning map for adoption. They have not address the issue of the triplexes in the R-1 zoning district. They were there, they were permitted, they were built and occupied. He did not have the answers on how to justify the past mistakes.

Alderman Jordan stated the neighbors were concerned about how this area was going to be rezoned.

Mr. Conklin stated in their General Plan, that the council adopted in 1995 it stated they would look at industrial, Heavy Industrial area, identify them and determine whether or not those need to remain I-1. The first neighborhood that they had looked at was west of the square. It has transitioned from two active rail lines to one active rail lines. The process was to work with the neighborhood

associations to identify. He was concerned with them saying they were going to rezone the entire city. There were many areas that were not zoned industrial that were currently zoned. It was not his intention to rezone the entire city. They were working with neighborhoods. This was going to come from the neighborhoods to them. It was not going to be them telling the industrial neighborhoods what to do. It was a pilot process, they have not done this in thirty-two years. They will improve on the process and they will continue the process. He may need more help in the future too. This was going to take more and more staff time.

Ms. Mona York, an area resident, stated her property adjoined this property on the east side. She had originally signed the petition, since then she has seen what was proposed. She did not object to this at all. She did not see how this was going to harm her. She thought it might make the area a little more beautiful. She did not have any problem getting out onto Garland.

Ms. Sawyer, an area resident, stated she supported the development. The area was going to develop anyway. She hoped that it would be an improvement to the neighborhood.

Ms. Ada Washington, an area resident, stated she would love to see something come in as pretty as this in their neighborhood. She had lived there twenty years and she had not see anything positive happen there. She was definitely for the development. The last ten years had been terrible. This seemed positive to him.

Mr. Scott Roberts, an area resident, stated Mr. Thompson had purchased the property based on it being R-1.5, information that had been given out by the city. He wanted to be able to trust the system. He wanted to be able to make investments in the future himself. He wanted to be able to rely on the information given to him.

Mr. Greg Henry, an area resident, stated he was relying on the city's records of zoning to invest in property. He did not believe they should be able to change what has been committed to Mr. Thompson. He was in favor of this project.

Ms. Terry Faylyn, an area resident, stated she has lived here for sixteen years. The city had made a mistake and she felt for Mr. Thompson, but she wanted to remind the council that the other people in the neighborhood also purchased their property with the understanding that neighborhood was zoned R-1.

Ms. Bolin, an area resident, stated that the other property owners had purchased their property with the assurance that it was R-1. When Mayor Coody ran for office, he had stated that he would support neighborhood associations and he would listen to them. This association was opposed to this. No every one in the neighborhood was at the meeting, but those that vote decide for the rest of them. They were opposed to this. They would like to keep this neighborhood a post-war expansion neighborhood with affordable housing.

Mr. Osburn stated a vote on this rezoning was not setting a precedent on any other rezoning. He felt if the same mistake had not happen on the triplexes, they would not be facing so much opposition. R-1.5 made perfect since as a transition from Garland to the neighborhood.

Mr. Thompson stated he had made every effort to talk to as many people as possible. He has

proposed a Bill of Assurance on some of things that he has committed to. He had previously committed to a Bill of Assurance saying nine units. He was now committing to other things that they talked about at the neighborhood meeting that he could make work for the bank. Which was all the extras, single level, with landscaping, trees, privacy fence, and security system.

Mayor Coody asked if that included using the design that he was presenting tonight?

Mr. Thompson replied he was trying to elevate the amount of professionalism that he was going to attract into that area. These will rent from a thousand to eleven hundred per month.
He had spent $160,000 on this property that for the past eight years been zoned R-1.5. If he reduced the number of units he would not be able to spend as much money on materials. He would not be able to do brick and put in as many sixteen foot trees as he wanted or the security system.

Mr. Williams stated it would require five affirmative votes for this to pass. He noted there were two members missing.

Mr. Thompson stated he would be in favor of waiting two more weeks.

Alderman Davis moved to table the item for two more weeks. Alderman Santos seconded.

Alderman Young stated he would like to see from both sides of the homeowners. It appeared to him that the neighborhood was split. He would like to hear from every one.

Upon roll call the motion carried unanimously.

ORDINANCE WAS TABLED ON THE THIRD READING.

CIVIL SERVICE: An ordinance adding two additional members to the Fayetteville Civil Service Commission. The ordinance was tabled on the third reading at the March 5, 2002 meeting.

Alderman Santos moved to take the item off the table. Alderman Jordan seconded. The motion carried unanimously.

Alderman Thiel stated she thought adding two commissioners would better reflect their increase size and the diversity of our city. Commissioners had six-year terms and they had five commissioners. They had seven applicants for the one open position. People were willing and qualified and had the time.

Alderman Davis stated he was opposed to it because trying to get that many people together would be more difficult. He had spoken to three of the commissioners. They had all told him that there was no reason to add any more members. It was hard enough now to get meeting times arranged. There were times when they had to meet for three or four consecutive days, all day. They had very good applicants, but there were a few who were surprised when they told them they would need two or three days. He had not heard from the police force.

Alderman Thiel stated she had spoken with Tad Scott, FOP, and stated he was in favor of this. They were still supporting this.

#10-Reg Bus

ORDINANCE NO. _____

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

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 17th day of August, 2004.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 04-1072

A PART OF THE SW ¼ OF THE NW ¼ OF SECTION 19, T-16-N, R-29-W OF THE 5TH PRINCIPAL MERIDIAN, DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 19, AND CONTINUING THENCE ALONG A COMMON LINE BETWEEN RANGE 29 WEST AND RANGE 30 WEST N02-46-52 E 1320.00 FEET TO THE SOUTHWEST CORNER OF THE NW ¼ OF THE SW ¼ OF SAID SECTION 19, AND CONTINUING THENCE N02-46-52E 515.60 FEET (DEED CALL 508.70 FEET) AND S87-13-08 E 265.56 FEET (DEED CALL 284.61 FEET) TO THE INTERSECTION OF THE CENTERLINE (DEED CALL TO CENTERLINE OF SAID ROAD, IN LINE WITH FENCE TO NORTH) OF COUNTY ROAD NO. 170 AND A NORTH/SOUTH FENCE; SAID POINT BEING NEAR THE SOUTHEAST CORNER OF STONE BRIDGE MEADOWS SUBDIVISION, AND CONTINUING THENCE ALONG EAST BOUNDARY OF SAID SUBDIVISION N02-46-01 E 884.49 FEET (DEED CALL 884.84 FEET) TO THE POINT OF BEGINNING; SAID POINT BEING A FOUND IRON PIPE AND AN IRON RE BAR ON THE EAST BOUNDARY OF SAID SUBDIVISION; THENCE N 02-46-01 E 679.44 FEET ALONG SAID EAST BOUNDARY OF SUBDIVISION TO AN EXISTING DEED CALLED FENCE THENCE ALONG SAID DEED CALLED FENCE S87-15-25 E 281.00 FEET; THENCE S02-46-01 W 398.03 FEET; THENCE S87-20-26E 198.67 FEET TO AN EXISTING FENCE CORNER; THENCE 02-28-59W 281.00 FEET TO AN EXISTING FENCE ON THE SOUTHERN PROPERTY BOUNDARY; THENCE CONTINUING ALONG SAID FENCE N87-20-26 W 481.09 FEET TO THE POINT OF BEGINNING, CONTAINING 5.66 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

8/17/04 Old Business #13 UAC 04-1119 (Petrino)

From Chapter 161 – Fayetteville UDC

161.13 District Rmf-24, Residential Multi-Family – Twenty-Four Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	4 to 24

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a Manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses: •Development •Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments: •No bedroom •One bedroom •Two bedroom	 1,700 sq. ft. 1,700 sq. ft. 2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) Setback requirements .

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

Cross reference(s)–Variance, Ch. 156.

(F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

From Chapter 157 – Fayetteville UDC

(D) *Side setbacks.*

(1) Internal side setbacks may be varied on one side to permit zero lot line development, provided the side setback opposite the zero lot line is at least 15 feet. On the periphery of the development no structure shall be placed closer than eight (8) feet to the side property line. The intent is to allow freedom of design within development, but not to affect future structure placement on adjoining property.

(2) Side setbacks may be varied to permit common walls between townhouses. There shall be no specific requirements as to minimum lot width, lot area, or minimum area per dwelling unit for townhouses or condominiums; but townhouses and condominiums shall conform to the district densities, setback requirements, height regulations, parking and access requirements, and all other applicable city ordinances.

From Chapter 151 – Fayetteville UDC

Dwelling, two-family. (Zoning) A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

Dwelling unit. (Zoning) One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Townhouse. (Zoning) Two or more single-family dwelling units constructed in a series of attached units with property lines separating each unit.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

March 4, 2004

Ms. Sue Jensen
1980 N Caton Drive
Fayetteville, AR 72701

RE: Response to neighborhood concerns

Dear Ms. Jensen:
In response to our conversation of last week regarding concerns of your neighborhood, I offer the following information:

Budgetext
A building permit was issued to allow the alteration of 32,860 s.f. of space within an existing structure changing the use from warehouse to office. The zoning of this property is I-1, Heavy Commercial Light Industrial. The proposed use of office is permitted by right in this zoning district. Modifications to the existing parking areas are included in this proposal. The applicant will be adding parking to accommodate new use areas within the structure as required by §172.01 which states the various parking ratios based on use.

Improvements to public infrastructure are not placed on a project at the time of issuance of a building permit. Street and other off-site improvements are required when a large scale development or subdivision is proposed and reviewed by the Planning Commission.

The various phases of the Point West subdivision were reviewed by Planning Commission with improvements assessed for on-site as well as off-site and delayed improvements based upon the impact of the development. The Point West subdivision was reviewed as a subdivision of industrial property containing a total of 37 lots on which projects could be developed. The use of any property within this subdivision is restricted to those uses permitted by right within the I-1, Heavy Commercial, Light Industrial zoning district.

After the project has built out, if there are new demands placed on public infrastructure in the area which were not deemed to be the responsibility of that subdivision or large scale development, the responsibility for those improvements is the City's. To manage these needs, the City adopts a capital improvements plan (CIP) identifying necessary improvements which are prioritized and funded at the discretion of the City Council.

Mt. Comfort Rd. / Shiloh Drive intersection

The City's adopted CIP for 2004-2008 does identify acquisition of right of way for improvements at the intersection of Mt. Comfort Rd. and Shiloh Drive. This project is anticipated to cost 1.5 million dollars between 2005 and 2008. After right of way acquisition is complete, engineering, design and installation of the approved improvement will need to be scheduled in the CIP. The City Council revisits the CIP biannually to review priorities and assess new needs.

Shiloh Drive Extension

The extension of Shiloh Drive south to Dorothy Jeane St. is identified in the adopted CIP document as an unfunded project. The project is estimated to cost approximately 1.6 million dollars. (more information about the City's CIP may be found at www.accessfayetteville.org)

Lot split – Lot 5, Pine Valley Phase V

An application for lot split approval was submitted by Sandra Petrino and Ed Prince, represented by Blew Land Surveying on December 4, 2003. This application was to allow the division of lot 5, Phase V, Pine Valley into two equal lots providing the applicant the ability to build two townhomes on this property. Under current zoning regulations, zero lot lines may be allowed for townhome development (see attached code reference).

This application was processed as any other development request meeting the same submittal deadline. I have attached a schedule of meetings with descriptions for your reference. You will see that this item was heard by the Technical Plat Review Committee on December 17, 2003 and then at the Subdivision Committee on December 30, 2003.

Public notification is required to be posted and placed in the newspaper for this type of item. A red public hearing sign was posted on the subject property, and a notice of public hearing was placed in the newspaper (NWA Times). As a courtesy, the Planning Division routinely sends notices to adjoining property owners using contact information submitted by the project applicant. I have attached a copy of the notice which was mailed to adjoining property owners. This letter was dated and sent on December 22, 2003. Also attached is a copy of the sign information from the public hearing sign that was posted on the site.

The notice which is posted in the newspaper and the information placed on the public hearing sign also state the dates of public hearings relating to development requests. In accordance with the Unified Development Code and Planning Commission bylaws, certain types of developments may be approved by the Subdivision Committee.

This lot split was approved unanimously by the Subdivision Committee on December 30, 2003. A copy of the staff report for this item is also attached.

Building permits were requested for the two resulting lots in order for townhomes to be constructed. The issuance of these permits is allowed under City zoning and development regulations.

I believe that I have covered the information that we discussed. Should you require additional information or have questions, please feel free to contact the Planning Division at 575-8267.

Sincerely,

Dawn T. Warrick

Dawn T. Warrick, AICP
Zoning & Development Administrator

cc: Tim Conklin, CP&E Services Director
Courtney McDade, Neighborhood Coordinator

K:\Dawn\2004 Correspondence\jensen_response.doc

(D) *Side setbacks.*

(1) Internal side setbacks may be varied on one side to permit zero lot line development, provided the side setback opposite the zero lot line is at least 15 feet. On the periphery of the development no structure shall be placed closer than eight (8) feet to the side property line. The intent is to allow freedom of design within development, but not to affect future structure placement on adjoining property.

(2) Side setbacks may be varied to permit common walls between townhouses. There shall be no specific requirements as to minimum lot width, lot area, or minimum area per dwelling unit for townhouses or condominiums; but townhouses and condominiums shall conform to the district densities, setback requirements, height regulations, parking and access requirements, and all other applicable city ordinances.

From Fayetteville Planning Commission Bylaws

ARTICLE IV. COMMITTEES

C. A Subdivision Committee consisting of at least three Planning Commissioners shall serve as a standing committee that reviews development items after Technical Plat Review and makes recommendations to the Planning Commission; the remaining six (6) members of the Planning Commission shall be named as alternates who shall sit with full voting rights in lieu of a regular member or members who are absent from the meeting. The Chair shall designate the order of alternates. The developer is required to give notice to adjacent property owners and provide proof of same to the Planning Administrator at least seven (7) days prior to the Subdivision Committee meeting.

1. The Subdivision Committee shall approve, disapprove, refer back to the developer for more information, or refer to the Planning Commission development items.

2. <u>For final approval, it shall require a unanimous vote of the Subdivision Committee to carry the following items:</u>
   a. Large Scale Developments;
   <u>b. Lot Splits;</u>
   c. The right to have a rehearing before the full Planning Commission;
   d. Final Plats; and,
   e. Sidewalk variances for projects other than large scale developments or subdivisions.

3. No development item can receive final approval at Subdivision Committee level if waivers are being sought. Any development with a waiver request (except for sidewalk variances) must be forwarded to Planning Commission. All preliminary plats shall be referred to the Planning Commission for action.

DATE: December 22, 2003
TO: Adjoining Property Owners
FROM: Dawn Warrick, Zoning and Development Administrator

The Fayetteville Planning Commission has been asked to review a proposed Lot Split adjacent to your property.

The Development is described as follows:

LSP 04-04.00: Lot Split (Lot 5, Pine Valley V, pp 94) was submitted by Blew Land Surveying on behalf of Sandra Petrino for property located at Lot 5, Phase V of Pine Valley Addition. The property is zoned RMF-24, Residential Multi-family, 24 units per acre and contains approximately 0.62 acres. The request is to divide the parent tract into two tracts of 0.31 and 0.31 acres each. Planner: Jeremy Pate

Public hearings for this item include:
Subdivision Committee **Tuesday December 30, 2003 8:30 am Rm 219**
in the City Administration Building at 113 W. Mountain Street. You are invited to attend the meetings, public comment is welcome. Items can be removed from agendas on short notice, so please call the **Planning Division at 575-8267** to verify the item you are interested will be heard as stated above.

Applicant:	Sandra Petrino Prince	Phone:	530-4100
Address:	1914 E Mission Blvd Fayetteville AR 03	Fax:	
Representative	Blew Land Surveying	Phone:	443-4506
Address:	524 W Sycamore St. #4 Fayetteville AR 03	Fax:	582-1883
Neighborhood Assoc.:	Pine Valley N.A.		
		Phone:	
Contact:	Sue Jensen	Email:	jensen34@netzero.comom
Staff Planner	Jeremy Pate	Phone:	575-8267

LOT SPLITS

LSP 04-4.00 Sandra Petrino

The request is to divide the subject property into two tracts of 0.31 and 0.31 acres respectively.
Planner: Jeremy Pate

PUBLIC HEARINGS

Subdivision Committee:
Date: Thursday, December 30, 2003
Time: 8:30 a.m.
Place: Room 219 - 113 W. Mountain Street (City Administration Building)

Planning Commission:
Date: Monday, January 12, 2004
Time: 5:30 pm.
Place: Room 219 - 113 W. Mountain Street (City Administration Building)

Some items may be approved at the Subdivision Committee meeting. Those not approved will be forwarded to the Planning Commission.

Submitted by: Blew Land Surveying

All interested parties may appear and be heard at the public hearing. A copy of the proposed amendments and other pertinent data is open and available for inspection in the Office of City Planning *(575-8267)*, 125 West Mountain Street, Fayetteville, Arkansas. All interested parties are invited to review the petitions. Interpreters or TDD for hearing impaired are available for all public meetings. 72 hour notice is required. For further information or to request an interpreter, please call 575-8330.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

SC Meeting of December 30, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO:	Subdivision Committee Members
FROM:	Jeremy Pate, Associate Planner
	Matt Casey, Staff Engineer
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	December 23, 2003

LSP 04-04.00: Lot Split (Lot 5, Pine Valley V, pp 94) was submitted by Blew Land Surveying on behalf of Sandra Petrino for property located at Lot 5, Phase V of Pine Valley Addition. The property is zoned RMF-24, Residential Multi-family, 24 units per acre and contains approximately 0.62 acres. The request is to divide the parent tract into two tracts of 0.31 and 0.31 acres each. Planner: Jeremy Pate

Findings:

Proposal: The subject tract was platted as Lot 5 within Pine Valley Subdivision, Phase V, in April of 2002. The applicant proposes to split the existing lot in half, resulting in two 0.31-acre tracts. City ordinance allows for a lot to be split and internal side setbacks to be varied on one side to permit zero lot line development. Side setbacks may be varied to permit common walls between townhouses, with provisions (see attached ordinance). There shall be no specific requirements as to minimum lot width, lot area, or minimum area per dwelling unit, however all other development regulations remain applicable.

Surrounding Zoning: The property is surrounded by RMF-24, Residential Multi-Family, 24 DU/Acre, developed predominantly in duplexes (Pine Valley Subdivision). Zoning to the north includes RSF-4 and P-1.

Right-of-way being dedicated: Sufficient right-of-way exists along Wildwood Drive.

Recommendation: Staff recommends approval of **LSP 04-04.00** at the Subdivision Committee level with the following conditions:

Conditions of Approval:

1. Development within the 100-year floodplain shall require a formal Floodplain Development permit, in addition to required Grading & Drainage permits.

2. Development on the subject tracts shall be limited to one (1) two-family dwelling unit in total, in accordance with all applicable City Ordinances and permitting regulations.

Standard Conditions of Approval:

3. 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)

Additional conditions:

a. _____

b. _____

c. _____

Subdivision Committee Action: ☑ Approval ☐ Forwarded to P.C.
Meeting Date: **December 30, 2003**
Comments: _____

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature _____ Date _____

LSP 04-04.00: Lot Split (Lot 5, Pine Valley pp 94) was submitted by Blew Land Surveying on behalf of Sandra Petrino for property located at Lot 5, Phase V of Pine Valley Addition. The property is zoned RMF-24, Residential Multi-Family, 24 units per acre and contains approximately 0.62 acres. The request is to divide the subject tract into two tracts of 0.31 acres and 0.31 acres respectively.

Pate: Item five is LSP 04-04.00 for Lot 5 of Pine Valley Phase V submitted by Blew Land Surveying on behalf of Sandra Petrino. Is there anyone here for that Lot Split?

Jensen: I am actually here in a little different fashion. I represent the neighborhood association.

Pate: Ok, so you don't represent the applicant?

Jensen: No.

Pate: We don't take public comment at the Technical Plat meeting. Basically, we won't hear this item if there is not a representative. Unless someone shows up we will not hear this item and it will be on the next Technical Plat Review meeting.

Insert here from end of meeting:

Pate: We will go back a couple of items. Item number five, a Lot Split for Pine Valley submitted by Blew & Associates. Basically the request here is this is an existing lot that is platted and pursuant to our ordinance requirements you can do a zero lot line to sell off each side of this to split the lot down the middle basically.

Gibson: The only comment I have on this is that our existing is on the north side of Wildwood Drive.

Pate: What we need from Planning is ordinance requirements for side setbacks, I've included those and I believe you have met everything that we require. Also, there should be a certificate of ownership and dedication signature block added and I've included that as well.

Blew: We are dedicating that 15' on the side.

Pate: Matt?

Matt Casey – Staff Engineer

Casey: Show the existing water and sewer mains out here on Wildwood. Also, label the Base Flood Elevations for the 10-year floodplain and label the

minimum finished floor elevations for each of these lots. It should be 2' above BFE for each lot. That's all I have.

Pate: There are no additional parks fees because there are no additional units being added. It is just a reconfiguration of a lot. That is the bulk of our comments.

LSP 04-04.00: Lot Split (Lot 5, Pine Valley V, pp 94) was submitted by Blew Land Surveying on behalf of Sandra Petrino for property located at Lot 5, Phase V of Pine Valley Addition. The property is zoned RMF-24, Residential Multi-family, 24 units per acre and contains approximately 0.62 acres. The request is to divide the parent tract into two tracts of 0.31 and 0.31 acres each.

Bunch: The next item on the agenda is also a Lot Split for Lot 5 of the Pine Valley Subdivision submitted by Blew Land Surveying on behalf of Sandra Petrino for property in the Pine Valley subdivision. The request is to split the lot into two parcels. Jeremy, can you give us the staff report on this please?

Pate: This is Lot 5 of the Pine Valley Phase V development off of Wildwood Drive. It was approved as a Final Plat in April, 2002. The applicant is proposing to split this existing lot in half resulting two .31 acre tracts. City ordinance does allow for a lot to be split and internal side setbacks to be varied on one side to permit zero lot line development. There are no specific requirements as to minimum lot area or lot width area per dwelling unit on such a lot. However, all other development regulations remain applicable. Building permitting has to go through the same process as well. Sufficient right of way exists along Wildwood Drive so no additional needs to be dedicated. Staff recommends approval of LSP 04-04.00 at this level with a total of three conditions. Two of which, number one development in a 100-year floodplain requires formal floodplain development permits. Development on the subject tract shall be limited to one two family dwelling unit in total and in accordance with all other applicable city ordinances and permitting regulations.

Bunch: Since this is a Lot Split, parks, are there any additional comments?

Ohman: No Sir, they met the requirements with the original development of the Pine Valley subdivision.

Bunch: Engineering, are there any comments?

Casey: No sir.

Bunch: Tree preservation?

Carnagey: No Sir.

Bunch: That being said, we will allow you to introduce yourself and tell us about your project.

Blew: My name is Buckley Blew. I am with Blew Land Surveying. My project is we are splitting lot 5 Pine Valley Phase V. The owner of the property

wants to split the property so they can sell each side of the duplex separately. That's it.

Bunch: At this time we will take public comment. Is there anyone in the audience who would like to address the Committee for Pine Valley Phase V lot V? Seeing none, I will bring it back to the Committee for questions, comments or motions.

Ostner: On condition number two do I understand that to mean a duplex will be built spanning these two lots?

Pate: That is correct. There will be a common wall basically on the lot line so there will be one unit per lot as opposed to two units on one lot.

Warrick: I would just add that the construction standard changes when you separate ownership between two sides of a structure and the building code addresses that through fire walls and separations or openings. I believe that the way that this will have to be permitted since it is not already constructed, there will be two building permits required for this joined structure since there will be separate ownership on each side. The construction standard is different. I would just recommend that you convey to the owner to work with our Building Safety Division to ensure that they follow the proper code in order to sell these two units separately.

Bunch: Thank you Dawn. This appears to be a very straight forward lot split with the explanation Ms. Warrick gave us. I would entertain a motion for approval at this level.

MOTION:

Anthes: So moved.

Ostner: Second.

Bunch: I will concur. Good luck with your project.

FAYETTEVILLE

Planning Commission
2004 Schedule of Meetings

This schedule applies to the all project applications requiring Subdivision Committee or Planning Commission consideration.

	Materials Deadline 10:00 a.m.	In-House Review (Staff Only)	Technical Plat Review Wed., 9:00 a.m.	Revision Submittal (#1) by 10:00 a.m.	Subdivision Committee Thurs., 8:30 a.m.	Revision Submittal (#2) by 10:00 a.m.	Agenda Session & Tour Thurs., 3:30 p.m.	Planning Commission Mon., 5:30 pm
1	December 04	December 15	December 17	December 23	December 30	January 05	January 06	January 12
2	December 18	December 29	December 31	January 07	January 15	January 20	January 22	January 26
3	January 02	January 12	January 14	January 21	January 29	February 02	February 05	February 09
4	January 15	January 26	January 28	February 04	February 12	February 17	February 19	February 23
5	January 29	February 09	February 11	February 18	February 26	March 01	March 04	March 08
6	February 12	February 23	February 25	March 03	March 11	March 15	March 18	March 22
7	March 04	March 15	March 17	March 24	April 01	April 05	April 08	April 12
8	March 18	March 29	March 31	April 07	April 15	April 19	April 22	April 26
9	April 01	April 12	April 14	April 21	April 29	May 03	May 06	May 10
10	April 15	April 26	April 28	May 05	May 13	May 17	May 20	May 24
11	May 06	May 17	May 19	May 26	June 03	June 07	June 10	June 14
12	May 20	June 01*	June 02	June 09	June 17	June 21	June 24	June 28
13	June 03	June 14	June 16	June 23	July 01	July 06	July 08	July 12
14	June 17	June 28	June 30	July 07	July 15	July 19	July 22	July 26
15	July 01	July 12	July 14	July 21	July 29	August 02	August 05	August 09
16	July 15	July 26	July 28	August 04	August 12	August 16	August 19	August 23
17	August 05	August 16	August 18	August 25	September 02	September 07	September 09	September 13
18	August 19	August 30	September 01	September 08	September 16	September 20	September 23	September 27
19	September 02	September 13	September 15	September 22	September 30	October 04	October 07	October 11
20	September 16	September 27	September 29	October 06	October 14	October 18	October 21	October 25
21	September 30	October 11	October 13	October 20	October 28	November 01	November 04	November 08
22	October 14	October 25	October 27	November 03	November 10*	November 15	November 18	November 22
23	November 08	November 15	November 17	November 24	December 02	December 06	December 09	December 13 (last meeting of 2004)

* Indicates change in schedule due to holiday

Time & Place Information

Note: Dates designated with an asterisk (*) on the attached schedule indicate that a holiday has caused a slight schedule change.

Materials Deadline:

All project applications and materials must be received by the Sr. Planning Clerk no later than 10:00 a.m. on the submittal deadline indicated on the attached schedule. Applications must be complete; if all required materials are not received, the project will be removed from process and returned to the applicant or representative. **PLATS MUST BE FOLDED**

In-House Review:

(Staff only)

This is a meeting of staff members from various divisions involved with the development process. Staff discusses each project and makes recommendations and comments which are provided to the applicant at the Technical Plat Review meeting.

Technical Plat Review:

Wednesdays, 9:00 a.m., Room 219 - City Hall

The project applicant or representative must be present at this meeting. Staff comments will be provided and reviewed. Utility representatives will be available at this meeting to discuss easement and service requirements for the proposed development. Each project is reviewed and discussed.

*Revisions are requested based upon this meeting - unless directed otherwise, 30 copies of the revised project plat are required to be submitted to the Planning Division no later than 10:00 a.m. on the revision submittal date indicated on the attached schedule. PLATS MUST BE FOLDED / ELEVATION PACKETS COLLATED AND STAPLED

Subdivision Committee:

Thursdays, 8:30 a.m., Room 219 - City Hall

The project applicant or representative must be present at this meeting. The Subdivision Committee (a subcommittee of the Planning Commission) will review and discuss each project. This is a public hearing and public comments will be taken.

*If revisions are requested as a result of this meeting - unless directed otherwise, 23 copies of the revised project plat are required to be submitted to the Planning Division no later than 10:00 a.m. on the revision submittal date indicated on the attached schedule. PLATS MUST BE FOLDED / ELEVATION PACKETS COLLATED AND STAPLED

Agenda Session & Tour:

Thursdays, 3:30 p.m., Planning Division Office, 125 W. Mountain

The full planning commission meets to discuss the agenda for an upcoming meeting. They tour the project sites and review staff reports, requesting additional information as necessary. The order of the agenda is finalized. This is a public meeting, applicants or representatives may attend however attendance is not mandatory.

Planning Commission:

Mondays, 5:30 p.m., Room 219 - City Hall

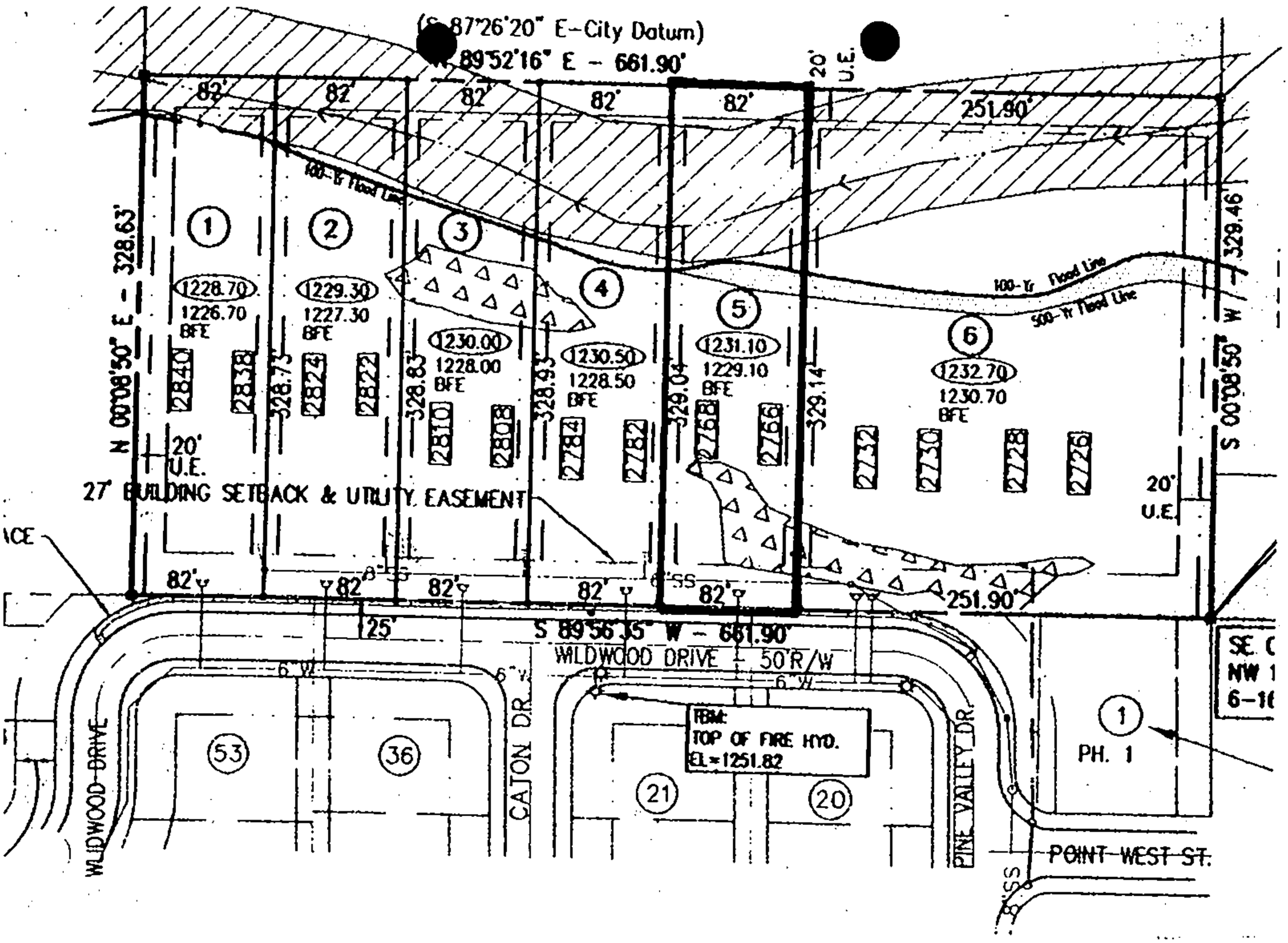
The Planning Commission meets every second and fourth Monday. These meetings are open to the public.

The project applicant or representative must be present at this meeting. The Planning Commission will hear items on the agenda before them and action will be taken at this time. The applicant must be prepared to answer questions concerning their project.

* Refer to the "**Plats Required for Submittal**" chart attached to this schedule, applications and available in the office.

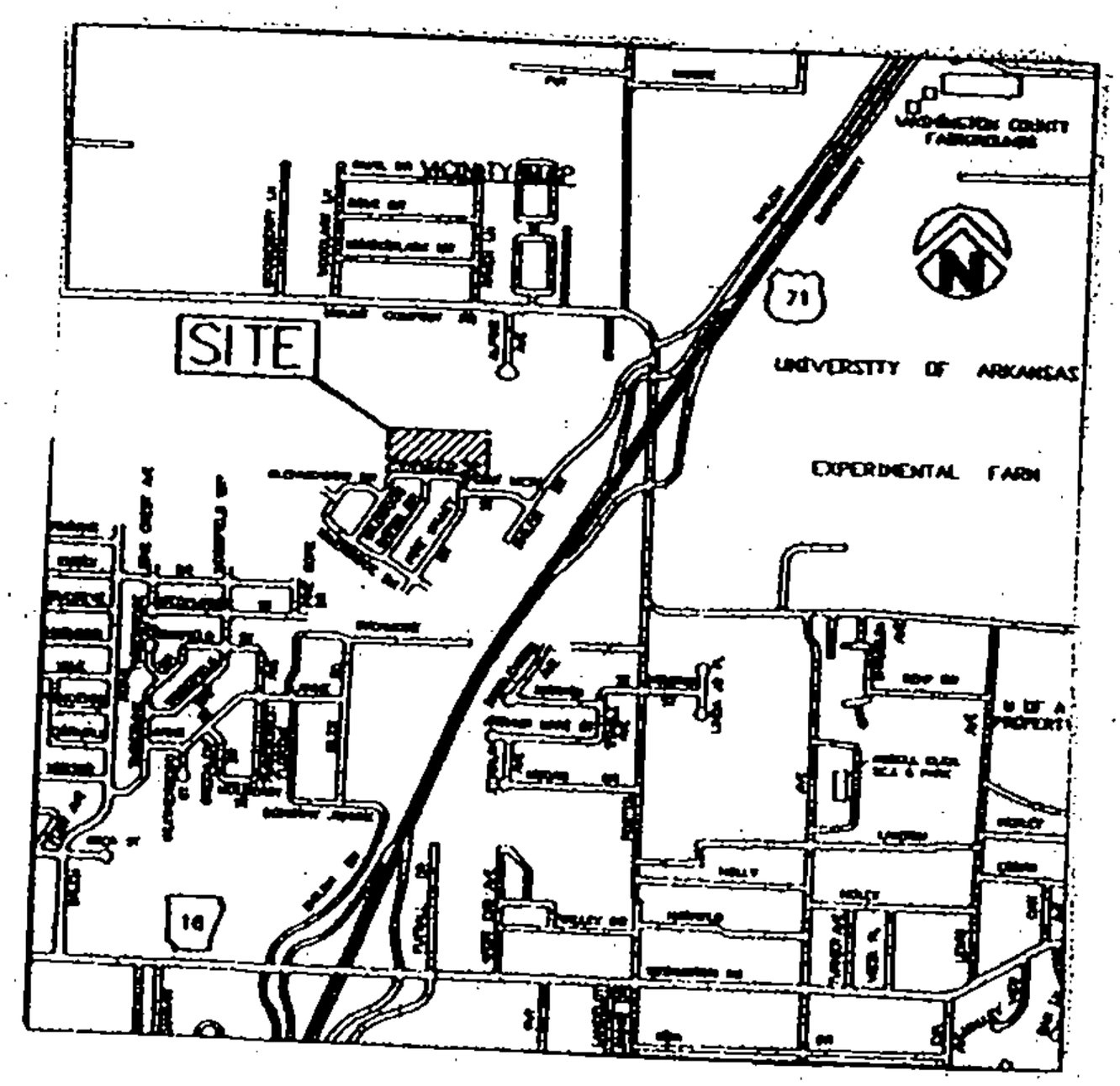
**Detailed checklists are included on each project application.

**For additional information, please contact the Planning Division at 575-8264.



VAC04-1119
PATRINO LOT 5
PINE VALLEY PH V

13 Old Business



#3 - New Bus

ORDINANCE NO. ____

AN ORDINANCE APPROVING VAC 04-1136 TO VACATE AND ABANDON A PORTION OF RIGHT OF WAY FOR WILLIAM STREET, BUCHANAN AVENUE AND TWO FIFTEEN FOOT ALLEYS LOCATED BETWEEN WILLIAM STREET AND DICKSON STREET AS DESCRIBED ON THE ATTACHED MAP AND LEGAL DESCRIPTION; ALSO, ACCEPTING THE DEDICATION OF EASEMENTS FOR SOUTHWESTERN BELL, THE CITY OF FAYETTEVILLE, AND THE PUBLIC IN GENERAL, DESCRIBED IN THE ATTACHED EASEMENT DOCUMENTS LABELED AS EXHIBITS HERETO

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described streets and alleys are not required for corporate purposes.

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

Section 1: That the City of Fayetteville, Arkansas hereby vacates and abandons all of its rights together with the rights of the public generally, in and to the following described streets and alleys:

See Exhibit "A" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That the City of Fayetteville hereby accepts the dedication of the easements described in the easement documents attached hereto and labeled Exhibits "C" through "F".

PASSED and **APPROVED** this 17th day of August, 2004.

APPROVED: DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

SIX HUNDRED THIRTY SEVEN FEET OF WILLIAM STREET BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL OF WILLIAMS STREET LYING EAST OF BUCHANAN AVENUE AND WEST OF DUNCAN AVENUE, SUBJECT TO ITS RESERVATION AS A UTILITY EASEMENT.

ALSO:

EIGHT HUNDRED TWENTY THREE FEET OF BUCHANAN AVENUE MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL OF BUCHANAN AVENUE LYING SOUTH OF DICKSON STREET AND NORTH OF FAIRVIEW STREET.

ALSO:

ALL OF A 15' ALLEY LYING EAST OF LOT 1 AND LOT 12 OF SHREVE'S ADDITION TO THE CITY OF FAYETTEVILLE, AS RECORDED IN THE RECORDS OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS, SUBJECT TO ITS RESERVATION AS A UTILITY EASEMENT TO ARKANSAS WESTERN GAS CORPORATION.

ALSO:

ALL OF A 15' ALLEY LYING SOUTH OF LOTS 1, 2, 3, 4, 5&6 OF SHREVE'S ADDITION TO THE CITY OF FAYETTEVILE, AS RECORDED IN THE RECORDS OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS, SUBJECT TO THE RESERVATION OF THE AREA OF ALLEY WAY SOUTH OF LOTS 1 & 2 AS A UTILITY EASEMENT TO ARKANSAS WESTERN GAS CORPORATION.

New Business #3

8/17/04

UAC 04-1136
U of A Parking Garage

AR 04 00 ____

RIGHT OF WAY AND EASEMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

GRANTOR(S): Board of Trustees of the University of Arkansas
2404 North University Avenue
Little Rock, AR 72207

in consideration of one dollar, paid, and other good and valuable considerations, receipt of which is acknowledged, have and by these presents do grant and convey unto GRANTEE, SOUTHWESTERN ELECTRIC POWER COMPANY, its associated and allied companies and their respective successors and assigns, herein referred to as GRANTEE, a perpetual right of way and easement over and through a part of the following described property:

> A part of Shreve's Addition and Block 3 of J. H. McIlroy's University Subdivision to the City of Fayetteville as described in Deed Records 335-332, 2003-53825, 761-44, 1200-484, 688-163, 728-114, 728-440 and 729-124 of the Records of the Circuit Clerk, Washington County, Arkansas.

Said right of way and easement is described as follows:

> An easement 20 feet of equal and uniform width, the centerline of said easement beginning at a point on the South right-of-way line of Dickson Street and 3.7 feet Westerly of the Northwest corner of Lot 6 of said Shreve's Addition; thence S2°50'W along an existing overhead electrical utility line a distance of 823 feet, more or less, to a point on the North right-of-way line of Fairview Street, said point being 7.6 feet Westerly of the Southwest corner of Lot 1 in Block 3 of said J.H. McIlroy's University Subdivision.

With the right to construct, reconstruct, repair, replace, change the size and capacity of, modify, operate, maintain, inspect, remove a line or lines of underground and/or overhead facilities, including, but not limited to, poles, structures, wires cables, conduits, guys, anchors, and other fixtures and equipment as the GRANTEE may from time to time require for the distribution of electric current, and other forms of energy, and for the transmission or communication of data, audio and video information. Together with the right of ingress and egress to said right of way and easement at all times with equipment and personnel across GRANTOR'S lands for the purpose of constructing, operating and maintaining said lines and related facilities and making all necessary repairs, alterations or removal of any of its property placed thereon, provided that GRANTEE shall repair, replace, or pay for actual damages which may be the result of construction, maintenance and operation of its facilities. GRANTOR shall not construct nor permit to be

Work Order No. DSW0004250

constructed, any structure or building of any type or nature, including swimming pools, on or adjacent to the said easement right of way that would prevent the use or endanger the said facilities or that would cause a violation of the National Electric Safety Code. In addition, the GRANTEE may trim, treat, cut down, or remove any trees, growth and vegetation without incurring damages (within the right of way or which could grow into the right of way) which may interfere with GRANTEE'S lines and other facilities.

Said easement shall remain in effect until such time as an alternative routing for GRANTEE'S utility line is determined and agreed upon by GRANTEE and executed together with removal of existing overhead electrical utility line, thereby ensuring continued service to GRANTEE'S existing customers located along Fairview Street and Buchanan Avenue who are serviced via said utility line, whereupon this utility easement shall become null and void.

To have and hold the above described easement and rights unto the GRANTEE, its successors and assigns, forever or until said right of way and easement is finally abandoned.

SIGNED AND DATED, this 10th day of August, 2004.

BOARD OF TRUSTEES OF THE
UNIVERSITY OF ARKANSAS

Seal

ATTEST:

By: Stanley E. Reed
Title: Vice Chairman

By: Jane Rogers
Title: Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF PULASKI

On this 10 day of August, 2004, before me, the undersigned notary public, personally appeared Stanley E. Reed and Jane Rogers, Vice Chairman and Secretary, respectively, to me well known as the duly authorized officers of the Board of Trustees of the University of Arkansas, who executed the foregoing document, and who stated and acknowledged that they have so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 10 day of August, 2004.

NOTARY PUBLIC

My Commission Expires: 9/12/2013

Tiffany L. Smith
County Of Pulaski
Notary Public - Arkansas
My Commission Exp. 09/12/2013

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

#5 New Business
Arkansas Highway & Transportation Dept.
Highway 265
Improvements.

XXX AGENDA REQUEST

For the Fayetteville City Council Meeting of: August 17, 2004

FROM:

Gary Dumas		Operations
Name	Division	Department

ACTION REQUIRED: Resolution of Intent to Participate with AHTD on Improvements to Highway 265 from Highway 45 to the North City Limits

SUMMARY EXPLANATION:

The AHTD has requested a City Council Resolution supporting the Highway 265 project.

STAFF RECOMMENDATION: Approval of Resolution

Division Head	Date
D P. White	8/9/04
City Attorney	Date
Gary Dumas	8-6-04
Department Director	Date
Stephen Sam	8-9-04
Finance & Internal Services Dir.	Date
Hugh Spurlock	8-10-04
Chief Administrative Officer	Date
Dan Coody	8/10/04
Mayor	Date

Received in Mayor's Office 8/9/04 Date
P/H

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: X Yes No

ENTERED
Sec
8/6/04

City Council Meeting of

Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: City Council
From: Dan Coody, Mayor
Date: August 6, 2004
Subject: **Resolution of Intent to Participate with AHTD on Improvements to Highway 265 from Highway 45 to the North City Limits**

RECOMMENDATION: Approve attached Rolution,

BACKGROUND: Earlier this Spring the City of Fayetteville responded to a challenge from AHTD for local participation in helping to resolve local transportation issues on State facilities. By City Council Resolution the city committed $7.7 million to match an equal or greater State share for improvements to facilities on or relieving facilities at or beyond capacity on the State System located within Fayetteville. The projects listed as a high priority in Fayetteville were:

Highway Projects

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

Local Street Linkages for Traffic Relief

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

Studies

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

Subsequent to this Resolution the AHTD proposed that the Highway 265 Corridor from Highway 45 to Rogers become a regional priority as well as a State priority. The AHTD has indicated that the communities to the north have been requested participate in this Corridor improvement also.

As Mayor, I have brought this to the Street Committee and discussed it with the Council. Based upon that discussion, I forwarded a letter to the AHTD indicating the City of Fayetteville's interest in partnering with AHTD and our neighbors to the north in creating this 265, eastern bypass for I-540.

DISCUSSION

The AHTD has requested a City Council Resolution supporting the Highway 265 project.

My recommendation to the Council is to approve the attached Resolution supporting the 265 project, contingent upon our neighboring communities to the north also participating so that this Highway 265 corridor will become in essence an eastern bypass providing the needed relief for I-540.

RESOLUTION NO. _____

A RESOLUTION EXPRESSING THE INTENT OF THE FAYETTEVILLE CITY COUNCIL TO PARTICIPATE WITH THE ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT ON IMPROVEMENTS TO HIGHWAY 265 FROM HIGHWAY 45 TO THE NORTHERN CITY LIMITS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby expresses its intent to participate with the Arkansas Highway and Transportation Department on improvements to Highway 265 from Highway 45 to the northern city limits.

Section 2. That the City Council's support for this project is expressly conditioned upon the commitment of our neighboring communities to the north to participate in the improvement of Highway 265 north to Rogers, Arkansas.

PASSED and **APPROVED** this 17th day of August 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

Tentative Agenda
City Council Meeting
August 17, 2004

A meeting of the Fayetteville City Council will be held on August 17, 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 2003 Audit

Regional/Community Park: Informational item to be presented at the City Council Meeting

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the August 3, 2004 meeting minutes.

2. **Asphalt Striping, LLC:** A resolution awarding Bid #04-55 to Asphalt Striping, LLC in the amount of $27,860.00 for application of approximately 425,000 feet of yellow and white reflectorized paint pavement markings.

3. **Lamar Anderson Parking Space Agreement:** A resolution authorizing the Mayor and the City Clerk to execute a lease agreement with Mr. Lamar Anderson of 15 South Block Avenue, Suite 203, for one (1) parking space in Fayetteville Municipal Parking Lot 1, located at 160 West Mountain Street, and bounded by Church Avenue, Mountain Street, and Center Street.

4. **Radisson Hotel Parking Lease:** A resolution authorizing the Mayor and the City Clerk to execute a lease amendment with the Radisson Hotel to extend the existing parking lease for a period of one (1) year.

B. OLD BUSINESS:

1. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

2. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

3. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting***

4. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

5. **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. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

6. **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. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

7. **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 Special City Council meeting. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

8. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

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

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

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

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

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

C. NEW BUSINESS:

1. **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.

2. **VAC 04-1134 (Sang/Hollywood Shakes Building, 520):** An ordinance approving VAC 04-1134 to vacate and abandon a portion of right of way on the north side of property located at 1050 West Sixth Street as depicted on the attached map and legal description.

3. **VAC 04-1136 (U of A Parking Garage, 483):** An ordinance approving VAC 04-1136 to vacate and abandon a portion of right of way for William Street, Buchanan Avenue and two fifteen foot alleys located between William Street and Dickson Street as described on the attached map and legal description. Also, accepting the dedication of easements for Southwestern Bell, the City of Fayetteville, and the public in general, described in the attached easement documents labeled as exhibits hereto.

4. **Shake's Building Sale Solicitation of Bids:** A resolution to grant approval to solicit sealed bids from the public to purchase the portion of city property (formerly Shake's Frozen Custard) not used for the intersection improvement on Sixth Street.

5. **Meyer, Scherer & Rockcastle Contract:** A resolution approving contract amendment 16 to the contract with Meyer, Scherer & Rockcastle LTD. In the amount of $9,515.00 for items associated with off-site improvements at the intersection of Mountain Street and School Avenue.

6. **Crossland Construction Library Change Order No. 19:** A resolution approving Change Order #19 to the contract with Crossland Construction Company, Inc. in an amount not to exceed $80,000.00 for intersection work at Mountain Street and School Avenue.

D. INFORMATIONAL:

Council Tour: August 16, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer
Steve Davis, Finance & Internal Service Director

From: Perry Franklin, Transportation Superintendent

Date: July 22, 2004

Subj: Resolution approving Bid#04-55 for the installation of Reflectorized Paint Pavement Markings

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Recommendation

Staff recommends approval of a resolution awarding Bid#04-55 for application of approximately 425,000 feet of Yellow and White Reflectorized Paint Pavement Markings to the overall low bidder Asphalt Striping, LLC of Fayetteville.

Background

The Transportation Division is responsible for the marking of center lines and other markings on public streets in Fayetteville which are not Maintained by the Arkansas Highway and Transportation Department. Most collectors and arterials are marked with a double yellow line. White is used for all one-way center lines, turn lane lines, Bike lane lines and all word/symbol pavement markings.

Discussion

All pavement markings are installed according to the MUTCD (Manual on Uniform Traffic Control Devices) and are required by the Federal Highway Administration and the State of Arkansas. All pavement marking procedures and material used must meet the current Arkansas High and Transportation Department specifications. Safety and visibility are provided to the pedestrian and vehicle operator by installing pavement markings .20 mils thick and imbedded with glass beads for night time reflectivity. The Transportation does not have enough pavement marking quantities to warrant the purchase of equipment and training of drivers. Typically streets are marked once or twice a year, depending on the volume of traffic.

Guiding Principle #4 and #10

Award of Bid#04-55 is an effort by Transportation to accomplish "Guiding Principles #4 & #10":

* By providing clearly marked pavement markings to guide and inform pedestrians and vehicles

* By maintaining all pavement markings on an annual basis to ensure visibility under all conditions encountered by pedestrians and vehicles

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #04-55 TO ASPHALT STRIPING, LLC IN THE AMOUNT OF $27,860.00 FOR APPLICATION OF APPROXIMATELY 425,000 FEET OF YELLOW AND WHITE REFLECTORIZED PAINT PAVEMENT MARKINGS.

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

Section 1. That the City Council of Fayetteville, Arkansas, hereby awards Bid #04-55 to Asphalt Striping, LLC in the amount of $27,860.00 for application of approximately 425,000 feet of Yellow and White Reflectorized Paint Pavement Markings.

PASSED and **APPROVED** this 17th day of August 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

BID: 04-55
DATE: 7/19/2004
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Reflectorized Paint Pavement Markings

BIDDERS						
1. Asphalt Striping Service	0.049	0.049	$60.00	$48.00	$25.00	.89 paint 1.75 plastic
2. Advanced Warnings	0.12	0.12	$45.00	$65.00	$85.00	0.75
3. Time Striping	0.10	0.10	$75.00	$100.00	$120.00	$1.00

CERTIFIED BY: P Vice
P. VICE PURCH MGR

R Williams
WITNESS

7-19-04
DATE

INVITATION TO BID

BID #	DATE ISSUED:	DATE AND TIME OF OPENING:
04-55	July 2, 2004	July 19, 2004 at 2:00 PM

BUYER:	DATE REQUIRED:
City of Fayetteville, AR	30 DAYS ARO

F. O. B.	BUYER'S PHONE #	GUARANTEED DELIVERY DATE:
Fayetteville, AR	(479) 575-8228	Sept 20, 04

ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL
1	Reflectorized Paint Marking White (4") Linear Feet	Approx. 25,000	.049	$1225
2	Reflectorized Paint Marking Yellow (4") Linear Feet	Approx. 400,000	.049	$19600
3	Reflectorized Paint Marking (Arrows) Each	Approx. 60	$60	$3600
4	Reflectorized Paint Marking (words) (ONLY, LANE, etc.) Each	Approx. 40	$48	$1920
5	Reflectorized Paint Marking (symbols) (Bike, ADA, etc.) Each	Approx. 25	$25	$625
6	Reflectorized Paint Marking (4" Line Removal) Linear Feet	Approx. 1,000	89¢ paint $1.75 plastic	$890 $1750
	*** All pavement marking material and lay down procedures must meet current AHTD specifications.**		**TAX:**	none
	RESTRICTIONS OR EXCEPTIONS TO THE BID MUST BE NOTED:		**GRAND TOTAL:**	$27,860 $28,720 with plastic removal.

More or less of the quantities indicated may be purchased. For tabulation purposes use highest quantity to figure totals.

EXECUTION OF BID

Upon signing this Bid, the bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent information regarding the articles being bid on, and agree to furnish these articles at the prices stated.

UNSIGNED BIDS WILL BE REJECTED	NAME OF FIRM: Asphalt Striping Service LLC	PHONE: 4795820317	TAX PERMIT: n/A	
	BUSINESS ADDRESS: 1301 Sunny Hill Dr	CITY AND STATE: Fayetteville AR		ZIP: 72703
	AUTHORIZED SIGNATURE: Steve Holst	TITLE: General Member		DATE: 7/19/04

Asphalt Striping Service
Steve Holst
1301 Sunny Hill Dr.
Fayetteville, AR 72703
(479) 582-0317 Mobile (479) 841-2332

INVITATION TO BID

BID #	DATE ISSUED:	DATE AND TIME OF OPENING:
04-55	July 2, 2004	July 19, 2004 at 2:00 PM

BUYER:	DATE REQUIRED:
City of Fayetteville, AR	30 DAYS ARO

F. O. B.	BUYER'S PHONE #	GUARANTEED DELIVERY DATE:
Fayetteville, AR	(479) 575-8228	5 DAYS

ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL
1	Reflectorized Paint Marking White (4") Linear Feet	Approx. 25,000	$0.10	$2,500.00
2	Reflectorized Paint Marking Yellow (4") Linear Feet	Approx. 400,000	$0.10	$40,000.00
3	Reflectorized Paint Marking (Arrows) Each	Approx. 60	$75.00	$4,500.00
4	Reflectorized Paint Marking (words) (ONLY, LANE, etc.) Each	Approx. 40	$100.00	$4,000.00
5	Reflectorized Paint Marking (symbols) (Bike, ADA, etc.) Each	Approx. 25	$120.00	$3,000.00
6	Reflectorized Paint Marking (4" Line Removal) Linear Feet	Approx. 1,000	$1.00	$1,000.00
	* All pavement marking material and lay down procedures must meet current AHTD specifications.		TAX: 6.125%	$3,368.75
	RESTRICTIONS OR EXCEPTIONS TO THE BID MUST BE NOTED:		GRAND TOTAL:	$58,368.75
	More or less of the quantities indicated may be purchased. For tabulation purposes use highest quantity to figure totals.			

EXECUTION OF BID

Upon signing this Bid, the bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent information regarding the articles being bid on, and agree to furnish these articles at the prices stated.

UNSIGNED BIDS WILL BE REJECTED	NAME OF FIRM: TIME STRIPING, INC.	PHONE: 479-806-3411	TAX PERMIT: 0117875-17-001	
	BUSINESS ADDRESS: P.O. BOX 1236	CITY AND STATE: VAN BUREN, AR		ZIP: 72957
	AUTHORIZED SIGNATURE: John Tousseau	TITLE: Vice President		DATE: 7-19-04

INVITATION TO BID

BID #	DATE ISSUED:	DATE AND TIME OF OPENING:
04-55	July 2, 2004	July 19, 2004 at 2:00 PM

BUYER:	DATE REQUIRED:
City of Fayetteville, AR	30 DAYS ARO

F. O. B.	BUYER'S PHONE #	GUARANTEED DELIVERY DATE:
Fayetteville, AR	(479) 575-8228	30 CALENDAR DAYS

ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL
1	Reflectorized Paint Marking White (4") Linear Feet	Approx. 25,000	.12	$3,000.00
2	Reflectorized Paint Marking Yellow (4") Linear Feet	Approx. 400,000	.12	$48,000.00
3	Reflectorized Paint Marking (Arrows) Each	Approx. 60	45.00	$2,700.00
4	Reflectorized Paint Marking (words) (ONLY, LANE, etc.) Each	Approx. 40	65.00	$2,600.00
5	Reflectorized Paint Marking (symbols) (Bike, ADA, etc.) Each	Approx. 25	85.00	$2,125.00
6	Reflectorized Paint Marking (4" Line Removal) Linear Feet	Approx. 1,000	.75	$750.00
	*** All pavement marking material and lay down procedures must meet current AHTD specifications.**		**TAX:**	
	RESTRICTIONS OR EXCEPTIONS TO THE BID MUST BE NOTED:		**GRAND TOTAL:**	$59,175.00
	More or less of the quantities indicated may be purchased. For tabulation purposes use highest quantity to figure totals.			

EXECUTION OF BID

Upon signing this Bid, the bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent information regarding the articles being bid on, and agree to furnish these articles at the prices stated.

UNSIGNED BIDS WILL BE REJECTED	NAME OF FIRM: ADVANCED WARNINGS	PHONE: 918/682-0039	TAX PERMIT: 0250859-76-001	
	BUSINESS ADDRESS: P.O. BOX 1911	CITY AND STATE: MUSKOGEE, OK		ZIP: 74402
	AUTHORIZED SIGNATURE: [signature]	TITLE: OPERATIONS MANAGER		DATE: 07/15/04

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:

Date: 7/22/2004

P.O Number:

Expected Delivery Date

Vendor #: 5326

Vendor Name: ASPHALT STRIPING

Mail Yes:__ No:____

Address:

Fob Point:

Taxable Yes:__ No:____

Quotes Attached Yes:

City:

State:

Zip Code:

Ship to code:

Division Head Approval: 07/22/04

Requester: JOHN NELSON

Requester's Employee #: 1003

Extension: 492

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #
1	REFLECTORIZED PAINT PAVEMENT MARKINGS	1	JOB	27,860.00	$27,860.00	2100.4120.5315.00		
2					$0.00			
3	PER BID #04-55				$0.00			
4	RESOLUTION # _____				$0.00			
5					$0.00			
6					$0.00			
7					$0.00			
8					$0.00			
9					$0.00			
10					$0.00			
	Shipping/Handling		Lot		$0.00			

Special Instructions:

Subtotal: $27,860.00

Tax: ~~$1,752.86~~

Total: ~~$29,612.86~~

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: August 17, 2004

FROM:

Perry Franklin	Transportation	Operations
Name	Division	Department

ACTION REQUIRED: A resolution awarding Bid #04-55 to Asphalt Striping, LLC for reflectorized paint pavement markings in the amount of $27,860.

COST TO CITY:

$27,860.00	$ 30,000.00	Services and Charges
Cost of this request	Category/Project Budget	Program Category / Project Name
2100.4120.5315.00	$ 967.00	Street Maintenance
Account Number	Funds Used to Date	Program / Project Category Name
N/A	$ 29,033.00	Street
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 7-27-04

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing — Accounting Manager — Date: 7/27/04
Nancy Smith — Internal Auditor — Date: 7/27/04
D. P. White — City Attorney — Date: 7/27/04
P. Vice — Purchasing Manager — Date: 7/27/04

STAFF RECOMMENDATION:

Division Head — Date: 7/22/04
Department Director — Date: 7/27/04
Finance & Internal Services Dir. — Date: 7-27-04
Chief Administrative Officer — Date: 7-28-04
Mayor — Date: 7/27/04

Received in Mayor's Office — Date: 7/27/04 7:14

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

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

ENTERED 7/27/04

CONTRACT REVIEW MEMO

TO: Mayor Dan Coody

THRU: Gary Dumas, Director of Operations

FROM: Sharon Crosson, Parking Manager

DATE: July 21, 2004

SUBJECT: Approval of Parking Lease Agreement with Lamar Anderson

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RECOMMENDATION

Staff recommends approving a Parking Lease Agreement with Lamar Anderson located at 15 S. Block Ave. Suite 203. The lease will be for one (1) parking space in the Fayetteville Municipal Parking Lot 1, west of the Campbell Bell Building between Mountain, Church, and Center Streets, a/k/a 160 West Mountain Street. The term of the lease will run for one (1) year.

BACKGROUND

The City currently holds leases on 25 parking spaces in Parking Lot 1. Arkansas NBC News leases 13 spaces; Town and Country Shop leases 4 spaces for retail customers; David & Cathy, Inc. lease 2 spaces for retail customers; the remaining 6 spaces are leased to 3 of the 4 residents living in the Campbell Bell Building: Gail and Jerry Moore (2), Mr. and Mrs. Ted Belden (2), and David Banks (2). Lamar Anderson has made a formal request to lease one space and is the only resident of the building that does not have a leased parking space.

DISCUSSION

The expiration date of the contract has been set to expire in one year when all the other 25 spaces expire. This will enable all of the contracts to be renewed at the same time to ensure equality and consistency.

BUDGET IMPACT

The parking meter currently located in space 31 of Lot 1 generates $410 annually. Leasing this space would increase this revenue to $600 annually.

RESOLUTION NO. _____

AN RESOLUTION AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE A LEASE AGREEMENT WITH MR. LAMAR ANDERSON OF 15 SOUTH BLOCK AVENUE, SUITE 203, FOR ONE (1) PARKING SPACE IN FAYETTEVILLE MUNICIPAL PARKING LOT 1, LOCATED AT 160 WEST MOUNTAIN STREET, AND BOUNDED BY CHURCH AVENUE, MOUNTAIN STREET, AND CENTER STREET.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and the City Clerk to execute a Lease Agreement with Lamar Anderson of 15 South Block Avenue, Suite 203, for one (1) parking space in Fayetteville Municipal Parking Lot 1, located at 160 West Mountain Street, and bounded by Church Avenue, Mountain Street, and Center Street. A copy of the Lease Agreement, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and **APPROVED** this 17th day of August 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

LEASE

This Agreement, made and entered into this _____ day of _____ 2004, by and between the City of Fayetteville, Arkansas, a Municipal Corporation, 113 W. Mountain, Fayetteville, Arkansas, and Lamar Anderson, 15 South Block Ave. Suite 203, Fayetteville, AR 72701, **Witnesseth:**

1. **Leased Premises.** For and in consideration of the rents, covenants and agreements herein entered into and agreed upon by Lamar Anderson as obligations to the City of Fayetteville, the City of Fayetteville lets, leases and demises unto Lamar Anderson, subject to the terms and conditions contained herein, the following described property situated in Washington, County, Arkansas:

> One (1) parking space, known as "Space 31," as set forth on Exhibit "A" attached hereto, located in the Fayetteville Municipal Parking Lot 1, west of the Campbell Bell Building between Mountain, Church, and Center Streets, a/k/a/ 160 West Mountain Street, Fayetteville, Arkansas.

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

2. **Term.** This term shall commence on September 1, 2004, and shall extend for a term of one (1) year, ending at midnight on August 31, 2005.

3. **Rent.** Lamar Anderson agrees to pay to City of Fayetteville as rental for the first year of this lease the sum of $50.00 per space per month. Thereafter, the rent shall be adjusted each year at the lease anniversary date to an amount charged for comparable lease spaces in this lot. If no comparables exist, rates will be the same as the Town Center parking deck rates. Each monthly payment is due in advance and payable on or before the fifteenth of each month. A late fee shall be imposed, at the highest rate allowable by law, on all payments which are not received by City of Fayetteville within five (5) business days from the due date.

4. **Use.** Lamar Anderson agrees to use the lease premises only for the purpose of vehicle parking for use of Lamar Anderson. However, it is understood that the City of Fayetteville will not provide enforcement for restrictive parking spaces identified in this lease.

5. **Improvements.** Lamar Anderson may make the following improvements: Install private parking notices on meter poles. Design for all improvements shall be approved by the City of Fayetteville. Any such improvement shall be solely at Lamar Anderson's

expense. Upon termination or expiration of this lease, such improvements shall be considered affixed to the premises and shall remain unless City of Fayetteville requires removal.

6. **Assignment.** Lamar Anderson shall not assign this lease or sublet the leased premises without prior written consent of the City of Fayetteville. Consent for any assignment or subletting shall only be considered at the same rates as established in Paragraph 17. above. Any such assignment or subletting shall in no way relieve Lamar Anderson from liability for the obligation imposed by this lease. Lamar Anderson may only be released from liability by a specific written release executed by City of Fayetteville.

7. **Holdover.** Lamar Anderson hereby agrees that upon termination of this lease by expiration or by earlier termination for any reason whatsoever, Lamar Anderson will peaceably deliver possession of the leased premises to City of Fayetteville. In the event Lamar Anderson shall be permitted by City of Fayetteville to hold over after the expiration or termination of this lease, said holding over, in the absence of any written agreement to the contrary, shall be construed as a tenancy from calendar month to calendar month at a monthly rental equal to the rental for the last month paid under this lease, or as may be amended on the anniversary of the term set forth in Paragraph 2. above. A month-to-month tenancy arising by Lamar Anderson's holding over under this paragraph may be terminated by written notice from either party to the other party on or before the day on which any monthly rent is due with termination not becoming effective until the day on which the next following monthly rental would have otherwise become due. In the event it should become necessary for City of Fayetteville to institute any action at law to recover possession at the time of termination, whenever and however termination may occur, Lamar Anderson agrees that it will pay all costs and expenses of such action, including reasonable attorney's fees.

8. **Termination.** City of Fayetteville hereby reserves the right to terminate this Lease at anytime during the term of this Lease if it is determined by the Fayetteville City Council that the leased premises is needed for a valid public purpose. If City of Fayetteville terminates the lease prior to expiration of the term in Paragraph 2., City of Fayetteville shall compensate Lamar Anderson on a prorated basis of the actual cost to make improvements to the premises.

9. **Compliance with Laws.** Lamar Anderson agrees not to violate any law, ordinance, rule or regulation of any government authority having jurisdiction of the leased premises.

10. **Non-Waiver.** It is agreed that the failure of City of Fayetteville to invoke any of the available remedies under this lease or under law in the event of one or more breaches or defaults by Lamar Anderson under the lease shall not be construed as a waiver of such

provisions and conditions and shall not prevent City of Fayetteville from invoking such remedies in the event of any future breach or default.

11. **Insurance.** Lamar Anderson shall be solely responsible for maintaining insurance on any improvements made to the leased premises, as well as for general public liability insurance.

12. **Succession.** This lease agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns.

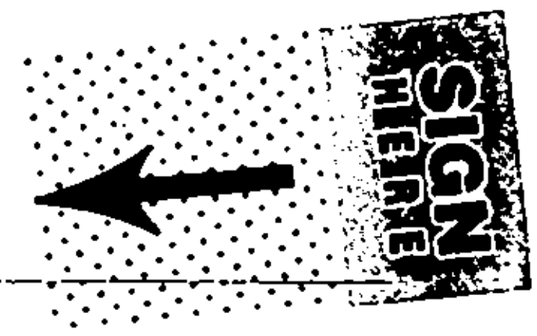
13. **Severability.** Each paragraph of this lease agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full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

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

15. **Entire Agreement.** This lease agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto. This lease agreement supersedes all prior agreements, contracts and understandings of any kind between the parties relating to the subject matter hereof. This agreement may be executed in all or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on this _____ day of _____, 2004.

CITY OF FAYETTEVILLE:



By:_____
DAN COODY, Mayor

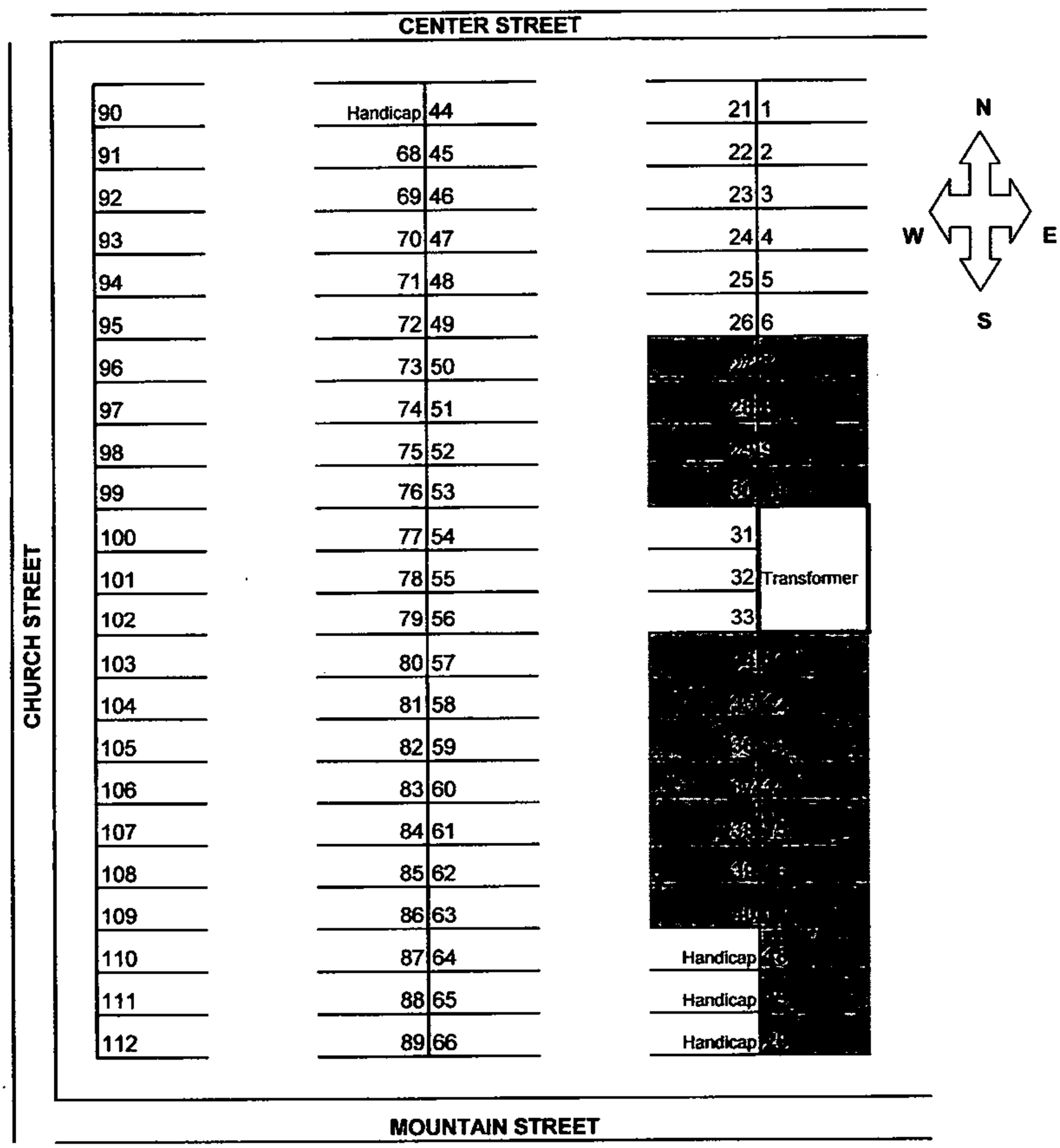
ATTEST:

By:_____
SONDRA SMITH, City Clerk

_____
LAMAR ANDERSON

"EXHIBIT A"

PARKING LOT 1



STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: August 17, 2004

FROM:

Sharon Crosson	Parking Management	Operations
Name	Division	Department

Approval of Lease Agreement with Lamar Anderson located at 15 S. Block Ave. Suite 203 for the lease of one (1) parking space for one (1) year.

COST TO CITY:

($600.00)		Revenue - Rent Lot 1
Cost of this request	Category/Project Budget	Program Category / Project Name
2130-0913-4426-01	$ -	Parking Management
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	Off-Street Parking
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 7-29-04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 7/29/04
Internal Auditor — Date: 7/30/04
City Attorney — Date: 7/30/04
Purchasing Manager — Date: 7/30/04

STAFF RECOMMENDATION:

Division Head — Date: 7-26-04
Department Director — Date: 8-2-04
Finance & Internal Services Dir. — Date
Chief Administrative Officer — Date: 8-3-04
Mayor — Date: 8/3/04

Received in Mayor's Office — Date: 8/2/04 P.M.

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

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

ENTERED 7-28-04

CONTRACT REVIEW MEMO

TO: Mayor Dan Coody

THRU: Gary Dumas, Director of Operations

FROM: Sharon Crosson, Parking Manager

DATE: July 21, 2004

SUBJECT: Amendment to Lease Agreement with Radisson Hotel for Parking Garage Lease

---

RECOMMENDATION

Staff recommends amending the Lease Agreement with the Radisson Hotel to extend the term for one (1) additional year. The lease is for the use of 180 parking spaces in the municipal parking garage located on Meadow Street.

BACKGROUND

The City entered into the original Lease Agreement with FOURTEN SOUTH BROADWAY CORPORATION d/b/a The Hilton Hotel on October 16, 1990. The term of the lease ran for a period of fourteen years and ends on September 30, 2004. The Hotel leases the entire first level and third level of the parking garage. The parking equipment was installed by the City of Fayetteville and was designed to collect revenues for the Hotel. However, the equipment has been somewhat unreliable and many motorists have been "stuck" in the parking garage.

DISCUSSION

City staff and the hotel management are working together to redesign the parking equipment to be more efficient and profitable for the hotel and make parking easier for the hotel clients and other downtown visitors. There are many aspects of the existing lease that are subject to change with the final parking equipment plans, therefore, we wish to leave the existing contract as is until the plan can be finalized and implemented.

BUDGET IMPACT

The Radisson Hotel currently pays $85,440.00 annually to the City for the lease of the parking garage. This revenue would remain the same by amending the contract to run for another year. The hotel pays the same rate per parking space as an individual pays for a comparable space.

RESOLUTION NO. _____

AN RESOLUTION AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE A LEASE AMENDMENT WITH THE RADISSON HOTEL TO EXTEND THE EXISTING PARKING LEASE FOR A PERIOD OF ONE (1) YEAR.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and the City Clerk to execute a Lease Amendment with the Radisson Hotel to extend the existing parking lease for a period of one (1) year. A copy of the Lease Amendment, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and **APPROVED** this 17th day of August 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

AMENDMENT TO THE LEASE
BETWEEN
THE CITY OF FAYETTEVILLE AND THE RADISSON HOTEL

This Lease Amendment, entered into this _____ day of _____, 2004, by and between the City of Fayetteville, a municipal corporation, and the Radisson Hotel, Fayetteville Arkansas.

In consideration of the mutual covenants and conditions hereinafter provided, the City of Fayetteville and the Radisson Hotel agree as follows:

1. **Lease Extension.** The Radisson Hotel shall continue to lease parking spaces in the Municipal Parking Deck for one (1) additional year, ending on the 30th day of September, 2005, consistent with the terms and conditions set forth in the original lease agreement dated October 16, 1990, which is attached hereto and incorporated herein by reference as if set forth word for word in its entirety.

2. **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.

3. **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.

4. **Governing Law.** This Amendment shall be interpreted according to and enforced under the laws of the State of Arkansas.

5. **Supplemental Nature of the Amendment.** The parties agree and understand that this Amendment is supplemental to the original Lease, and that it does not alter, amend or abridge any of the rights, obligations, or duties of the parties not expressly addressed herein.

6. **Warrant of Authority.** Each of the undersigned warrants that he or she has the full right, power and authority to execute this lease on behalf of the party indicated for the purposes herein contained.

IN WITNESS WHEREOF, the City of Fayetteville and the Radisson Hotel have executed this Amendment on or as of the date first written above.

ATTEST:

_____

THE RADISSON HOTEL

By: _____

ATTEST:

_____

SONDRA SMITH, City Clerk

CITY OF FAYETTEVILLE

By: _____

DAN COODY, Mayor

AMENDMENT TO THE LEASE
BETWEEN
THE CITY OF FAYETTEVILLE AND THE RADISSON HOTEL

This Lease Amendment, entered into this _____ day of _____, 2004, by and between the City of Fayetteville, a municipal corporation, and the Radisson Hotel, Fayetteville Arkansas.

In consideration of the mutual covenants and conditions hereinafter provided, the City of Fayetteville and the Radisson Hotel agree as follows:

1. **Lease Extension.** The Radisson Hotel shall continue to lease parking spaces in the Municipal Parking Deck for one (1) additional year, ending on the 30th day of September, 2005, consistent with the terms and conditions set forth in the original lease agreement dated October 16, 1990, which is attached hereto and incorporated herein by reference as if set forth word for word in its entirety.

2. **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.

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6. **Warrant of Authority**. Each of the undersigned warrants that he or she has the full right, power and authority to execute this lease on behalf of the party indicated for the purposes herein contained.

IN WITNESS WHEREOF, the City of Fayetteville and the Radisson Hotel have executed this Amendment on or as of the date first written above.

ATTEST:

_____

THE RADISSON HOTEL

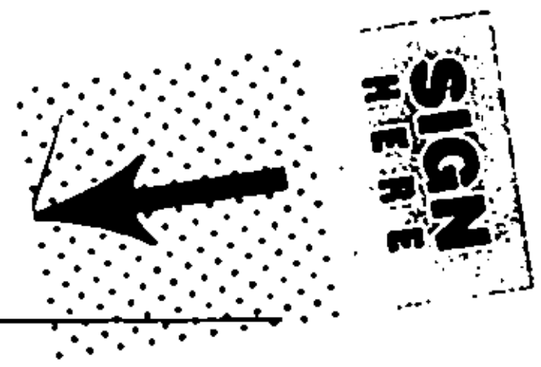
By: _____

ATTEST:

_____

SONDRA SMITH, City Clerk

CITY OF FAYETTEVILLE



By: _____

DAN COODY, Mayor

COPY

LEASE AGREEMENT

THIS LEASE made and entered into effective the 16th day of October, 1990, by and between CITY OF FAYETTEVILLE, ARKANSAS, hereinafter referred to as the "Landlord", and FOURTEN SOUTH BROADWAY CORPORATION, hereinafter referred to as the "Tenant".

W I T N E S S E T H:

The Landlord, for and in consideration of the rents hereinafter reserved, and of the covenants and agreements hereinafter set forth, to be kept and performed by the Tenant, does hereby grant, demise and lease to the Tenant, and the Tenant does hereby hire, take and lease from the Landlord, that parcel of land situated in the County of Washington and State of Arkansas, and more particularly described as:

> One hundred and eighty parking spaces located in a multi-level parking deck located upon real property more particularly described as:
>
> A part of Block Numbered Fifteen (15) in the original plat of the City of Fayetteville, Arkansas, described as follows: Beginning at a point 127 feet west of the northeast corner of said Block Fifteen; and running thence west 177 feet; thence south 206 feet; thence east 177 feet; thence north 206 feet to the place of beginning.

said parcel of land and parking spaces hereinafter referred to as the "Leased Premises".

1. Term of Lease. This Lease shall be effective as of the 1st day of October, 1990 and shall run for a period of fourteen (14) years, ending on 30th day of September, 2004.

2. Right of First Refusal. If at any time during the term of this Lease the Landlord receives an acceptable bona fide offer to purchase the Leased Premises, or any part thereof, the Landlord shall submit a written copy of such offer to Tenant giving Tenant thirty (30) days within which to elect to meet such offer.

At the expiration of the term of this Lease representatives of the Landlord and Tenant agree to enter into discussions regarding the feasibility and desirability of the Landlord selling and the Tenant purchasing the entire multi-level parking deck.

3. Parking Spaces. This Lease shall be for the entire first level of the Leased Premises consisting of Ninety-One (91) parking

25|op

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20|of

spaces, Forty-Nine (49) parking spaces on the third level of the Leased Premises and, as leases to third parties of parking spaces on the third level of the Leases Premises expire, such spaces shall be rented by Tenant until Tenant's total rented parking spaces is One Hundred and Eighty (180).

4. Rent. The Tenant shall pay to the Landlord as rent for the Leased Premises the following:

9|of at $25
49 of at $20

(a) From October 1, 1990 through September 30, 1993 the sum of twenty-five dollars per month per parking space rented on the first level of the Leased Premises and the sum of twenty dollars per month per parking space rented on the third level of the Leased Premises.

(b) Following the initial three years of the term of this Lease and every three years thereafter until the termination of this Lease, the Landlord shall adjust the amount of rent to be charged for the next three years of the leased term, provided however, the rent charged shall never be in excess of the monthly rental per parking space that is being charged to third parties.

The monthly rental shall be payable in consecutive monthly installments payable in advance on or before the first day of every calendar month.

5. Use. From and after the Possession Date, the Tenant and his subtenants or occupants shall have the right to use the Leased Premises, or permit the Leased Premises to be used or occupied for any lawful use permitted by present and future building codes, zoning and other laws.

6. Repairs.

The Landlord shall, during the term of this Lease and any renewal or extension thereof, at its sole expense, keep the Leased Premises in as good order and repair as it is at the date of the commencement of this Lease, reasonable wear and tear and damage by accidental fire or other casualty not within the control of Landlord excepted. The Tenant shall not knowingly commit or willfully permit to be committed on the Leased Premises any act or thing contrary to the rules and regulations prescribed from time to time by either federal, state or municipal authority.

7. Casualty. If at any time the Leased Premises or the building which forms the principal component of the Leased Premises should be damaged by fire or any major casualty to the fault of the Lessee and the cost of repairing the damage does not exceed 35% of the value of the improvements of the premises herein leased or the building which forms the principal component part of the Leased

COPY

Premises, then Lessor shall as soon as reasonably practical repair the damage caused by said fire or other casualty. If, however, the damage should exceed 35% of the value of the improvements of the premises herein leased or the building which forms the principal component part of the Leased Premises, then Lessor shall have the option of either repairing said premises or terminating this Lease as of the date of said fire or other casualty by notice to lessee within thirty (30) days after said date. If the damages should render the Leased premises untenantable for the use of Lessee's business as set forth herein, the rental from the date of said fire, or any major casualty not the fault of the Lessee, to the date of the completion of the restoration of the premises shall be abated, such abatement being figured on a pro rata basis of the rentals, herein provided.

In the event the damage should exceed 35% of the value of the improvements of the premises herein leased or the building which forms the principal component part of the Leased Premises and the Landlord makes the decision not to repair the Leased Premises such a decision must be submitted in writing to the Tenant. Upon receipt of the notice from Landlord the Tenant has thirty (30) days to elect either, or both, of the following options:

(a) To purchase the entire Leased Premises from Landlord at its then fair market value and/or

(b) to repair the Leased Premises at Tenant's sole and exclusive expense with all terms of the Lease Agreement, except for abatement of rent provided for herein, continuing in effect.

8. Lighting and Painting. Landlord shall, during the term of this Lease and any renewal or extension thereof, at its sole expense, keep, in the same manner as it is as of the date of the commencement of this Lease, the Leased Premises lighted, have all parking spaces properly striped and the premises painted.

9. Parking Attendant. Landlord shall, during the term of this Lease and any renewal or extension thereof, at its sole expense, provide a parking attendant for the Leased Premises who shall be an employee of Landlord or Landlord's management company. The parking attendant shall be present at the Leased Premises seven days a week during the hours between 6:00 a.m. and midnight each day. In lieu of a parking attendant the Landlord has the option to install and maintain a mechanical device to control the ingress and egress from the Leased Premises.

10. Insurance. The Landlord will maintain and pay for such liability, fire and extended coverage insurance on the Leased Premises, including any improvements, as Landlord deems to be necessary for its own protection. Tenant shall insure his interest

COPY

in the Leased Premises and improvements for his protection and will not participate in any insurance carried by the Landlord.

11. Taxes. The Landlord shall pay all real estate taxes and special assessments, if any, during the term of the Lease.

12. Utilities/Janitorial. The Landlord shall pay for all utility service and janitorial service in the Leased Premises.

13. Nuisance. The Tenant covenants and agrees that Tenant will not use or allow the Leased Premises to be used for any purpose or in any manner which would constitute or create a nuisance, which would constitute waste, which would interfere with the lawful rights of owners, tenants or occupants to adjoining property or which would in any way be contrary to the law, ordinances, orders, rules, regulations or requirements of the federal, state, county or municipal governments or any department, board or bureau thereof. The Tenant further agrees that Tenant will promptly comply with the requirements of any of the aforesaid authorities with reference to the installation, erection, construction, use, repair or modifications or any improvements situated upon the Leased Premises during the term of this Lease.

14. Holding Over. An occupancy by the Tenant of the Leased Premises beyond the expiration of this Lease as herein provided shall be a tenancy from month to month.

15. Notices. All notices, demands and requests provided for or permitted to be given under this Agreement must be in writing and shall be deemed to have been properly given or served by depositing the same in the United States Mail, addressed to the Landlord or to the Tenant, as the case may be, prepaid and certified mail, return receipt requested, at the party's last known address. All notices, demands and requests shall be effective seventy-two (72) hours after being deposited in the United States Mail. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request. Either party shall have the right from time to time and at any time upon at least ten (10) days written notice thereof, to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

16. Memorandum of Lease for Recording. From and after the Possession Date, at the request of the Tenant, the Landlord and the Tenant shall join in the execution of a Memorandum of Lease in proper form for recording in the proper office or offices wherein the property is situated.

17. Legal Representatives, Successors and Assigns. It is further covenanted and agreed by and between the Landlord and the

COPY

Tenant, that all covenants, agreements, provisions, conditions and undertakings in this Lease contained shall extend to and be binding upon the heirs, executors, successors and assigns of the respective parties hereto, the same as if they were in every case named and expressed, and shall be construed as covenants and conditions running with the land and the reversion; and that wherever in this Lease reference is made to either the Landlord or the Tenant hereto, it shall be held to include and apply to (wherever and whenever applicable) the heirs, executors, successors, personal or legal representatives and assigns of the Landlord or the Tenant, the same as if in each and every case so expressed.

18. Condemnation. If during the term of this Lease, or any renewal thereof, all or substantially all of the Leased Premises shall be taken or condemned by a competent authority for any purpose or use, then the Lease shall terminate immediately after the vesting of title in such authority and rent shall be paid to and adjusted as of that day. The term "all or substantially all" shall be deemed to mean a taking of all of the Leased Premises or a taking of such portion of the Leased Premises that the Tenant cannot reasonably operate in the remainder in substantially the same manner as before.

19. Right Upon Default. Whenever the Tenant shall do either of the following:

(a) Default in the payment of any installment of monthly rent and continue in default for thirty (30) days after the Landlord gives the Tenant written notice specifying the default; or

(b) Fails to timely pay monthly rental payments for four or more months during any consecutive twelve (12) month period during the term of this lease may, at the discretion of the Lessor constitute default.

(c) Default in any other covenant of the Tenant in this Lease and fail to commence (subject to unavoidable delay) to take steps to remedy same within twenty (20) days after the Landlord gives the Tenant written notice specifying same; then the Landlord may terminate this Lease upon ten (10) days written notice of his intent to so terminate, provided the termination shall not be allowed if either of the following provisions are complied with during the notice period or at any prior time:

(i) The Tenant proceeds to cure same or takes remedies to cure same; or

(ii) The Tenant contests the amount claimed to be due or any other item for which an amount could be estimated (definite or estimated), and the Tenant deposits the contested amount in an escrow account with instructions to the escrow agent

COPY

to disburse the amount in accordance with the written agreement of the Tenant and the Landlord or in accordance with the order of a court exercising jurisdiction over the controversy.

20. Assignability. Tenant shall not, without the written consent of Landlord, assign this lease, or any rights thereunder, or sublet any part of the Leased Premises, provided however, Tenant is authorized to assign this Lease as part of any sale of the hotel that is located adjacent to the Leased Premises provided that, at the time of the closing of the sale, it is the intention of the purchaser to continue to operate the purchased improvements as a hotel. Upon any assignment of this lease by the Tenant the Tenant is released and discharged from any further obligations or liabilities it has hereunder and any assignee of the Tenant shall have all rights belonging to the Tenant under this Lease.

21. Entire Agreement. All previous negotiations and understandings between the Landlord and the Tenant, or their respective agents and employees, with respect to the Lease Agreement set forth herein are merged in this Lease Agreement which alone fully and completely expresses the parties' rights, duties and obligations.

22. Amendments. No waivers, alterations or modifications of this Lease shall be valid unless written upon or attached to the fully executed copies of this Lease and further executed by both the Landlord and the Tenant herein.

23. Binding. This Lease shall be binding upon the parties and upon their heirs, successors and assigns. This Lease shall be construed under the laws of the State of Arkansas.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed the day and year first above mentioned.

LANDLORD:

CITY OF FAYETTEVILLE, ARKANSAS

BY: William R. Pantos

TITLE: Mayor

ATTEST:

Sherry L. Thomas

COPY

TENANT:

FOURTEN SOUTH BROADWAY CORPORATION

BY: Steven Sluig

TITLE: Vice President

ATTEST:

Frederick L Sang

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

On this day before me, a Notary Public, duly commissioned, qualified and acting within and for said county and state, appeared the within named WILLIAM A. MARTIN and SHERRYL THOMAS, being the MAYOR and CITY CLERK, respectively, of CITY OF FAYETTEVILLE, ARKANSAS, and who had been designated to execute the above instrument, to me personally well known, who stated they were duly authorized in their respective capacities to execute the foregoing instrument and further stated and acknowledged that they had so signed, executed, and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this 16th day of OCTOBER, 1990.

NOTARY PUBLIC

My commission expires:
April 26, 1996

COPY

ACKNOWLEDGMENT

STATE OF New York)
) ss.
COUNTY OF New York)

On this day before me, a Notary Public, duly commissioned, qualified and acting within and for said county and state, appeared the within named Steven L. Ring and Frederick L. Sarg, being ~~the~~ Vice Presidents ~~and~~ _____, ~~respectively~~, of FOURTEN SOUTH BROADWAY CORPORATION, and who had been designated to execute the above instrument, to me personally well known, who stated they were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed, and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this 15th day of October, 1990.

Susan Bock
NOTARY PUBLIC

My commission expires:

_____

SUSAN BOCK
Notary Public, State of New York
No. 41-4961404
Qualified in Queens County
Certificate Filed in New York County
Commission Expires May 22, 1992

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: August 17, 2004

FROM:

Sharon Crosson	Parking Management	Operations
Name	Division	Department

Approval of Contract Amendment with the Radisson Hotel to extend existing parking lease contract for one (1) year.

COST TO CITY:

($85,440.00)	$ 85,440.00	Revenue - Rent Lot 9 Deck
Cost of this request	Category/Project Budget	Program Category / Project Name
2130-0913-4426-09	$ -	Parking Management
Account Number	Funds Used to Date	Program / Project Category Name
	$ 85,440.00	Off-Street Parking
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 7.29.04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 7/29/04
Internal Auditor — Date: 7/30/04
City Attorney — Date: 7/30/04
Purchasing Manager — Date: 7/30/04

STAFF RECOMMENDATION:

Division Head — Date: 7-26-04
Department Director — Date: 8-2-04
Finance & Internal Services Dir. — Date:
Chief Administrative Officer — Date: 8-3-04
Mayor — Date: 8/3/04

Received in Mayor's Office 8/2/04 Date 4:14

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

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

ENTERED 7/28

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.

Left on 2nd reading 8/3/04
Left on 1st reading 7/20/04

ORDINANCE NO.

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY OWNED BY ROBERT AND MINNIE BETH TIPTON LOCATED EAST OF DOUBLE SPRINGS ROAD ADJOINING THE SOUTHEAST CORNER OF THE LEGACY POINTE SUBDIVISION CONTAINING APPROXIMATELY 29.31 ACRES.

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

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

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

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

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 04-04.00

A PART OF THE NW ¼ OF THE NW ¼ OF SECTION 14, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING IRON PIPE; THENCE S87°39'18"E, ALONG THE NORTH LINE OF SAID 40 ACRE TRACT, 989.80 FEET TO A SET ½" REBAR; THENCE S02°37'05"W, 1289.84 FEET TO AN EXISTING REBAR; THENCE N87°38'05"W 990.30 FEET TO A SET ½ IRON REBAR ON THE WEST LINE OF SAID 40 ACRE TRACT, SAID POINT BEING N02°38'05"E, 34.24 FEET NORTH OF THE SW CORNER OF SAID 40 ACRE TRACT; THENCE N02°38'25"E, 1289.40 FEET TO THE POINT OF BEGINNING, CONTAINING 29.31 ACRES, MORE OR LESS.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-04.00: (Tipton/Sloan, pp 475) was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, adjoining the SE corner of the Legacy Pointe subdivision containing approximately 29.31 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Division Head — 7/6/04 Date

City Attorney — 7/7/04 Date

Department Director — Date

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

Chief Administrative Officer — 7-7-04 Date

Mayor — 7/7/04 Date

Received in Mayor's Office 7-7-04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7/6/04

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
THRU:	Dawn Warrick, AICP, Zoning & Development Administrator
DATE:	June 23, 2004

ANX 04-04.00: Annexation (Tipton/Sloan, pp 475) was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, adjoining the SE corner of the Legacy Pointe subdivision. The property is in the Planning Area and contains approximately 29.31 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):

PLANNING COMMISSION ACTION:	**Required**	**YES**	
	O Approved		**O Denied**
Date: June 28, 2004			
CITY COUNCIL ACTION:	**Required**	**YES**	
	O Approved		**O Denied**
Date: July 20, 2004 (1st reading if recommended)			

BACKGROUND:

This item was tabled by the Planning Commission at the request of the applicant at the regular Planning Commission meeting on April 26, 2004. Public comments were heard at this meeting regarding this annexation and accompanying rezoning request. The minutes from that meeting have been attached to this staff report.

Property description: The subject property contains approximately 29.31 acres of vacant property located south of Wedington Drive and east of Double Springs Rd. Persimmon Street, identified a collector on the Master Street Plan, is planned to bisect the northern portion of this property and connect with the existing western extension of Persimmon Street through Legacy Pointe Subdivision Phase 2. The property is adjacent to city limits to the north and a portion of its western boundary.

Proposal: The applicant proposes the annexation of property into the City of Fayetteville.

Request: The request is to annex the subject property into the City of Fayetteville.

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 29.31 acres to RSF-4, Residential Single Family, 4 units per acre. The rezoning request, RZN 04-10.00, is an accompanying item to this annexation request.

Property that is developed and/or subdivided in the Planning Area of the City of Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, a uniform and consistent standard of development includes the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have none of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limits. In some cases, new subdivisions adjacent to one another have very different street construction, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits is required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use and tree preservation are not within the City's ability to control.

Recommendation: Staff recommends approval of the proposed annexation. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant	R-A, Residential Agricultural
South	Single-family/Agricultural	Planning Area
East	Vacant/Agricultural	Planning Area
West	Single-family (Legacy Pointe)	RSF-4, Residential Single Family, 4 units/acre

INFRASTRUCTURE:

Streets: The property has frontage along the unconstructed portion of Persimmon. This roadway will need to be constructed as a part of any development on this site.

Surrounding Master Street Plan Streets:
North: Persimmon St. (planned collector) and Wedington Dr. (principal arterial)
South: Dot Tipton Rd. (collector)
East: 54th Avenue (planned principal arterial)
West: Double Springs Rd. (minor arterial)

Water: This property has access to an 8" water main stubbed out from Legacy Pointe Subdivision on the west side of the site. Water mains will need to be extended within the development.

Sewer: The site currently has access to an 8" sewer main stubbed out from Legacy Pointe Subdivision on the west side of the site. Sewer will need to be extended within the development. This property's sewer will flow to the Owl Creek Lift Station (see attached chart for capacity information).

Fire: The subject property is located 2.9 miles from the future Fire Station #7. Normal driving time is 4 min. 39 seconds.

Police: It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services.

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

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES
BOUNDARIES

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

Finding: **The requested annexation will not create an island. The subject property is adjacent to city limits on to the north and partially to the west. Annexation of this tract will create a peninsula similar in size to surrounding city boundaries; however, an appropriate boundary will be created due to the area and configuration of the parcel.**

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

Finding: **The proposed annexation area is adjacent to the City Limits to the north and a portion to the west.**

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

Finding: **This area does not consist of defined subdivisions or neighborhoods; however, future development plans may include the extension of the surrounding subdivisions. Legacy Pointe Subdivision is located to the west of this property.**

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

Finding: **Proposed boundaries follow property lines.**

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

Finding: **Current conditions result in a response time of just less than 5 minutes for fire protection from the future Fire Station #7. Any development in this area would necessitate installation of hydrants to provide for fire protection. An 8" sewer main stubbed out from Legacy Pointe Subdivision is located on the west side of the site. When development is proposed, sewer will be extended.**

ENVIRONMENTALLY SENSITIVE AREAS

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

Finding: **N/A**

EMERGENCY AND PUBLIC SERVICES

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

Finding: **The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Sewer shall be extended from the 8" sewer main installed with the Legacy Pointe Subdivision to the west during the development of new subdivision(s).**

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

Finding: **Fire and police service shall be provided to this area with the same level of response and service as other developments in this area. Sewer and water improvements to the area will be provided for with the development of approved preliminary plats.**

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

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

INFRASTRUCTURE AND UTILITIES

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

Finding: **Water, fire and police protection are currently provided in this area.**

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

Finding: **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.**

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

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

INTERGOVERNMENTAL RELATIONS

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

Finding: **N/A**

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

Finding: **N/A**

ADMINISTRATION OF ANNEXATIONS

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

Finding: **Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with surrounding developed property and the Residential classification of the area on the City's adopted Future Land Use Plan.**

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

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

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

Finding: **Conceptual development proposals for this property have not been submitted to the Planning Division. At the time the owner desires to develop this property, the applicant will be required to submit a proposal for review and approval by the Planning Commission.**

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: **This annexation includes 29.31 acres owned by Robert and Minnie Tipton when the petition for annexation was made. The property is currently owned by Sloan Properties, Inc. The size and location of this tract creates an acceptable city boundary.**

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

Finding: **A fiscal impact assessment has not been conducted for this property.**

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

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

Environmentally Sensitive Areas

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

Emergency and Public Services

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

Infrastructure and Utilities

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

Intergovernmental Relations

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

Administration of Annexations

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of May 24, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8202

ENGINEERING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Matt Casey, Staff Engineer
DATE:	April 20, 2004

ANX 04-04.00: Annexation (Tipton/Sloan, pp 475) was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, adjoining the SE corner of the Legacy Pointe subdivision. The property is in the Growth Area and contains approximately 29.31 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

RZN 04-10.00: Rezoning (Tipton/Sloan, pp 475) was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, Adjoining the SE corner of the Legacy Pointe subdivision. The property is currently zoned R-A, Residential Agricultural, and contains approximately 29.31 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

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

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

This property has access to an 8" water main stubbed out from Legacy Pointe Subdivision on the west side of the site. Water mains will need to be extended within the development.

The site currently has access to an 8" sewer main stubbed out from Legacy Pointe Subdivision on the west side of the site. Sewer will need to be extended within the development. This property's sewer will flow to the Owl Creek Lift Station.

The property has frontage along the unconstructed portion of Persimmon. This roadway will need to be constructed as a part of any development on this site.

Name Matt Casey Department Engineering

Table 6

SUMMARY OF PRELIMINARY CAPACITY ASSESSMENT
WESTERN PORTION OF THE CITY

Lift Station	Capacity 1/ (gpm)	Capacity 1/ (gpd)	Number of Units: Existing	Number of Units: Inactive	Number of Units: Built Not Occupied	Number of Units: Approved Not Built	Projected Peak Hourly Wastewater Flow 2/ (gpd)	Percent Capacity Utilized	Remaining Capacity 3/ (gpd)	Remaining Capacity 3/ (units)
Crystal Springs	260	374,400	141	0	233	508	223,560	59.7	150,840	670
Hamestring	1,600	2,304,000	2,510	125	898	680	1,650,000 4/	71.6	654,000 5/	2,906 5/
Owl Creek	437	629,280	336	25	317	286	280,000	44.5	349,280	1,552
Total			2,987	150	1,448	1,474				

1/ Firm capacity requires verification by OMI, Inc.
2/ Wastewater flow projected utilizing 161 gpd/unit plus existing dry-weather infiltration x dry-weather peaking factor.
3/ Based on dry-weather flow only. Does not include allowance for wet-weather inflow or infiltration.
4/ Flow for Hamestring Lift Station includes flow from Crystal Springs, Hamestring, and Owl Creek Lift Stations.
5/ Total remaining flow and units include all areas tributary to Hamestring Lift Station.

Projected Wastewater Capacity With Maximum Allowable Development of Recently Approved and Proposed Annexations and Rezonings

Development	Maximum Additional Units	Lift Station
Shlegel***	290	Crystal Springs
Dunnerstock**	68	Hamestring Creek
Cross Keys**	108	Owl Creek
Chance and Tuggle***	6	Owl Creek
Tipton/Sloan	117	Owl Creek
Greenwood/Sloan	640	Owl Creek
McBryde/Sloan	320	Owl Creek

Lift Station	Current Remaining Capacity (units)	Approved Additional Units	Proposed Additional Units	Projected Remaining Capacity
Crystal Springs	670	0	290	380
Hamestring*	2,906	68	0	1,357
Owl Creek	1,552	108	1,083	361

**Total remaing flow and units include all areas tributary to Hamestring Lift Station. Flow for Hamestring Lift Station includes flow from Crystal Springs, Hamestring, and Owl Creek Lift Stations*

***Approved by City Council.*

****Pending City Council action.*

FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-10.00 OWNER Tipton/Sloan
ANNEXATON# 04-04.00 OWNER Tipton/Sloan
LOCATION OF
PROPERTY East of Double Springs adjoining SE corner of Legacy Point S.D.

NEAREST FIRE STATION AND
LOCATION Station #7, Ruple Rd. (future)

RESPONSE TIME FROM FIRE STATION # 7 TO
LOCATION OF
PROPERTY 4 MINUTES 39 SECONDS.
TRAVEL MILES FROM FIRE STATION # 7 TO LOCATION OF
PROPERTY 2.9.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION

WATER SUPPLY WITH HYDRANTS
NEEDED? Yes

ADDITIONAL
COMMENTS ~~Ruple to Wedington~~ North on Ruple, west on Wedington, south on Double Springs, east on Persimmon routing at this time.

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

~~SUBSTATION
N.W. MALL
(501) 575-8271
FAX (501) 575-8272~~

FAYETTEVILLE

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APR 20 2004
PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

April 19, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 04-04.00 (Tipton/Sloan, pp 475)** and Rezoning **RZN 04-10.00 (Tipton/Sloan, pp 475) submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton** for property located east of Double Springs Road, adjoining the SE corner of the Legacy Point subdivision would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF
ANNEXATION OF CERTAIN LANDS TO
THE CITY OF FAYETTEVILLE, ARKANSAS

CASE NO. CC 2003-27

FILED
03 NOV 18 PM 3 42
CIRCUIT COURTS, PROBATE CLERK
WASHINGTON CO.

PETITION FOR ANNEXATION

COMES now, Robert B. Tipton and Minnie Beth Tipton, husband and wife, Petitioners, and for their Petition for Annexation, state and allege as follows:

1. Petitioners are record title holders of the following described real property situated in Washington County, Arkansas:

> Part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Fourteen (14), Township Sixteen (16) North, Range Thirty-One (31) West, being more particularly described as follows to wit: Beginning at the Northwest corner of the Northwest corner of said forty acre tract, said point being an existing iron pipe, thence S 87°39'18" E along the North line of said forty acre tract, 989.90 feet to a set ½" rebar, thence S 02°37'05" W 1289.84 feet to an existing iron rebar, thence N 87°38'05" W 990.30 feet to a set ½" iron rebar on the West line of said forty acre tract, said point being N 02°38'05" E 34.24 feet North of the Southwest corner of said forty acre tract, thence N 02°38'05" E 1289.49 feet to the point of beginning, containing 29.31 acres, more or less, Washington County, Arkansas

2. All of the above-described real property is adjacent to and contiguous to the present city boundary line for the City of Fayetteville, Washington County, Arkansas.

3. The above-described real property is suitable for annexation to the City of Fayetteville, Arkansas, and is necessary for the proper growth, prosperity and management of the land and the City of Fayetteville, Arkansas.

4. Pursuant to Arkansas Code Annotated § 14-40-601 et seq, this Court has jurisdiction over the subject matter herein, and Petitioners request that the above-described real property be annexed in and to the City of Fayetteville, Arkansas.

FROM WACO CLERK (TUE)APR 20 2004 11:24/ST. 11:23/NO. 6314274941 P 2

5. Petitioners further state that the law firm of Raymond C. Smith, P.A. of Fayetteville, Arkansas, is authorized to act for and on behalf of the Petitioners in all matters connected with this Petition and subsequent hearings or annexation proceedings connected herewith.

6. Petitioners request this Court set a date for hearing on this Petition, not less than thirty days after filing of this Petition and subsequent hearings or annexation proceedings therewith.

WHEREFORE, Petitioners pray that the above-described property be annexed to the City of Fayetteville, Washington County, Arkansas, pursuant to the provisions of Arkansas law, after a hearing thereon as required by law, and that this Court, by Order, fix a time and place for said hearing not less than thirty days from the filing of this Petition, and for all other relief which the Petitioners may be entitled.

ROBERT B. TIPTON and
MINNIE BETH TIPTON, H&W
Petitioners

By: _____
Raymond C. Smith
Attorney at Law
70 N. College Ave. Suite 11
Fayetteville, AR 72701
Ark. Bar No. 80135
Attorney for Petitioners

FROM WACO CLERK (TUE)APR 20 2004 11:25/ST. 11:23/NO. 6314274941 P 3

VERIFICATION

State of Arkansas)
) ss.
County of Washington)

We, Robert B. Tipton and Minnie Beth Tipton, husband and wife, the Petitioners herein, having first been duly sworn, do hereby state on oath that the facts, statements and allegations set forth and contained in the above and foregoing document are true and correct to the best of our knowledge, information and belief.

Robert B. Tipton
Robert B. Tipton, Petitioner

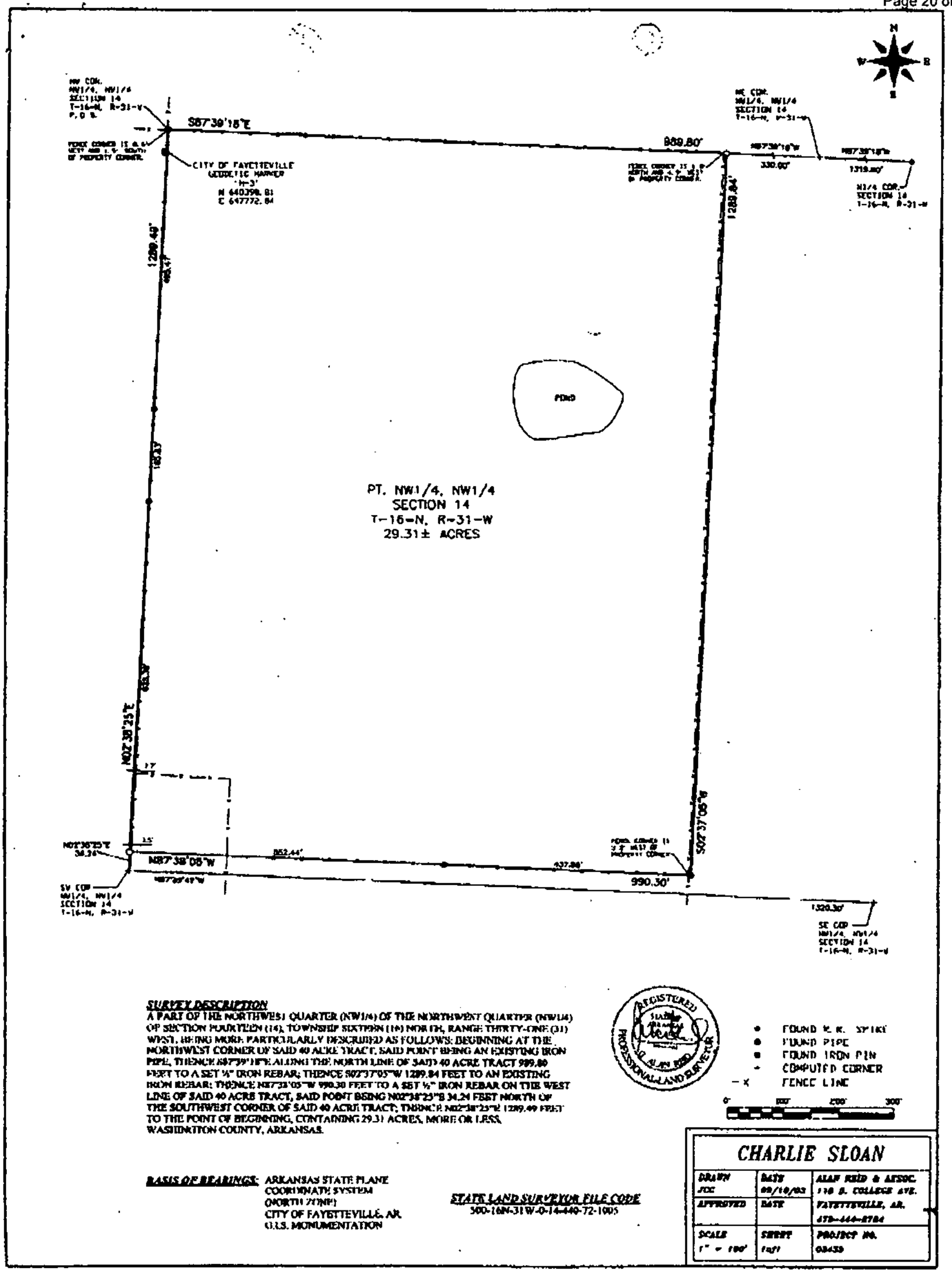
Minnie Beth Tipton
Minnie Beth Tipton, Petitioner

Subscribed and sworn to before the undersigned, a Notary Public, on this 30th day of September, 2003.

My Commission Expires:

Notary Public

Bob A. Mayes
County of Washington
Notary Public - Arkansas
My Commission Exp. 02/12/2012



SURVEY DESCRIPTION

A PART OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION FOURTEEN (14), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING IRON PIPE, THENCE S87°39'18"E ALONG THE NORTH LINE OF SAID 40 ACRE TRACT 989.80 FEET TO A SET ½" IRON REBAR; THENCE S02°37'05"W 1289.84 FEET TO AN EXISTING IRON REBAR; THENCE N87°38'05"W 990.30 FEET TO A SET ½" IRON REBAR ON THE WEST LINE OF SAID 40 ACRE TRACT, SAID POINT BEING N02°38'25"E 34.24 FEET NORTH OF THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE N02°38'25"E 1289.49 FEET TO THE POINT OF BEGINNING, CONTAINING 29.31 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

REGISTERED STATE OF ARKANSAS ALAN REID PROFESSIONAL LAND SURVEYOR

- FOUND R.R. SPIKE
- FOUND PIPE
- FOUND IRON PIN
- COMPUTED CORNER
- X FENCE LINE

0' 100' 200' 300'

BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM (NORTH ZONE) CITY OF FAYETTEVILLE, AR. G.I.S. MONUMENTATION

STATE LAND SURVEYOR FILE CODE
500-16N-31W-0-14-440-72-1005

CHARLIE SLOAN		
DRAWN JCC	DATE 09/10/03	ALAN REID & ASSOC. 110 S. COLLEGE AVE.
APPROVED	DATE	FAYETTEVILLE, AR. 479-444-8784
SCALE 1" = 100'	SHEET 1of1	PROJECT NO. 03439

FILED
'03 DEC 22 AM 10 41
WASHINGTON COUNTY
CO. & PROBATE CLERK
FAYETTEVILLE, ARK.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF
ANNEXATION OF CERTAIN LANDS TO
THE CITY OF FAYETTEVILLE, ARKANSAS

CASE NO. CC 2003-27

ORDER OF ANNEXATION

Now on this 22nd day of December, 2003, this cause comes on to be heard, the Petitioners, ROBERT B. TIPTON AND MINNIE BETH TIPTON, husband and wife, represented by their attorney, Raymond C. Smith, P.A., of Fayetteville Arkansas, announcing ready for a hearing of the cause and there being no protests or objections filed, whereupon, the matter is submitted to the Court upon the verified petition filed herein, and the oral and documentary evidence adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on November 18th, 2003, at which time this Court fixed December 22nd, 2003, at 10:30 o'clock a.m., as the date of hearing for said cause, and that a full thirty (30) days notice of hearing was given as required by law and the notice of publication is now on file with the Clerk of this Court and the Court has jurisdiction of this cause.

2. The Court is satisfied that the allegations of the petition are sustained by the proof; that the limits of the territory to be annexed have been properly filed; that the property owners having a freehold interest in the property hereinafter described joined in the petition and constitute of the real owners of the area affected.

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PLANNING DIV.

3. The land proposed to be annexed to the City of Fayetteville, Washington County, Arkansas in this cause is described as follows:

> Part of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of Section Fourteen (14), and part of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE1/4) of Section Fifteen (15) in Township Sixteen (16) North of Range Thirty-One (31) West, described as follows to wit: Beginning at the Northwest corner of the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼) of Section Fourteen (14) and running thence East 60 rods, thence South 1201.56 feet, thence West 824 feet, thence South 100 feet, thence West 100 feet, thence South 106.5 feet, more or less to the center line of the County Road, thence in a westerly direction along the center line of said County Road to a point 6.76 chains East of the West line of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section 15, thence North 80 rods to the point of beginning, containing thirty (30) acres, more or less.

4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is particularly adapted for urban purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made part of the City of Fayetteville, Arkansas, in accordance with Act No. 1 of the acts of the Legislature of 1875 of the State of Arkansas and all acts amendatory thereto, particularly including Act 142 of the Acts of Arkansas for the year 1963, as codified in Ark. Code Ann. 14-40-601, et seq., and this Order shall be duly recorded by the Clerk of Washington County.

County Judge

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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 he school board is in a dramatically different role. They are, if you look at their overall plan which I gave you in the packet, the colorful news letter is called a long term capital investment plan. If you look at the overall what's happening, they've already closed Bates Elementary School. Now they are going to close, that's a neighborhood school in the city's center right behind the high school. Now they are going to close Jefferson Elementary on the south side and they are going to relocate it to west of I-540. In fact, at this Persimmon address. That is the proposal from the school board, the offer from McBryde who is listed here in your annexations at Persimmon, to sale 20 acres to the school board for the relocation of Jefferson School. This school is going to be unique to anything that has ever happened in Fayetteville. It is going to be different than anything that has ever happened in Fayetteville. It is going to be a combined elementary and middle school. It is going to have 1,000 students out right here where all of this development is happening. I'm a psychologist. Everything I know about education would go toward smaller schools, neighborhood schools, and here we are having this mega complex. I guess I wanted you to be aware that you need to look at the overall plan in terms of planning for the growth of our city. You need to realize that this development is being spurred by putting that school out there. Mayor Coody talks about how school placement drives development and that is what you need to be looking at. What is the school district doing, where is it placing schools and how is it driving development. When you start looking at the school board process you realize that it is not like the City Council process. There is very little opportunity for public input. I think that if you add these two things together, they need to be seen together. You will discover that development in Fayetteville is being determined by a handful of people. I gave you a list of the Capital Investment Planning

Committee. It did include Hugh Earnest from the city. That is another reason why school business has really become city business at this point. Hugh Earnest, City Manager, sat on the Capital Investment Planning Committee for the school board. Tim Conklin was on a sub-committee so they were intimately part of this planning when you look at the whole overall decisions in that capital plan you see that you are moving schools from the city to the outskirts of town including eventually, the high school is going to be relocated to the outskirts of town. Jefferson is being closed and it is a neighborhood school. It is really frightening if you look at it in context and look at the whole picture. When you see a lot of development happening on the west side you also need to understand that it is development being taken away from the south side by the location of the school. I was talking about the more closed process of the school board. Here is an example that may be a dramatic example of how decisions might be being made at the school district or school board level. I have been told that Mr. Hissum of "H" Farms going out towards Goshen was going to have a casino complex. I've been told that he went to the City Council in Goshen, told them that his casino idea had fallen apart and that now he was going to have a Fayetteville school on his property and then he has a whole plan. The plan was described in the paper and it includes, according to the new rules you have to have mostly greenspace along the highway but you are allowed to have 25% commercial frontage right on the highway. In his description of his packets there was 20 acres of frontage on the highway and the school district is always talking about 20 acre plots for their new schools. If you think about this from what I've seen hanging around the school board, the way it sounds is that Mr. Hissum as already made a plan with the school district to have a school on his property. That is where we have to get it folks. This does not come before the school board where the public might have a chance to have input. You have to consider the administrators who do not have any decision making power may be making deals with developers. Again, this needs to be looked at and that is what I'm asking, is that you, as the Planning Commission, begin to look at this. What is going on in terms of development here? How is it that these Persimmon developments have shown up tonight one week after the school board was approached with this surprise opportunity to buy land by the Boys and Girls Club, as if that hasn't been in the works for years since they got the Boys and Girls Club. I do have an example that I want to read. This is not particular to the school district but it is an example of this kind of under the table, possibly kind of relationships that go into development. This is from September 19, 2000. It is from the law office of Deb Sexton. Dear Mayor Hanna, in order to document the understanding between WHM Investments, Inc., McIlroy Company and the City of Fayetteville, City, this letter is being written. The Fayetteville Youth Center, d/b/a The Boys and Girls Club of Fayetteville, the old FYC is purchasing 9.69 acres in the Meadowlands Development from the McIlroy Company on which a new FYC building

will be built. McIlroy Company will deed six acres shaped to go around the new FYC building to be deeded to the city for new parking lots and playing fields in consideration for the city banking the six acres to be used for any parks and greenspace required by the city in order for the McIlroy Company to do any future development in the same quadrant of the city. He McIlroy Company has already deeded to the city and banked for future development, three acres of land adjacent to the above-referenced six acres causing a total of 18.69 contiguous acres to be available for a joint project for the FYC and the City. If the above describes an understanding of the transactions please indicate so by signing this letter and returning a copy to me. If you have any comments or questions please call. Sincerely, Deb Sexton for McIlroy Company. I wasn't here for all that planning time but the point here would be if this kind of an arrangement was made before it was brought to the voting arms of the public then that is problematic and I'm concerned that this is happening in a lot of the real estate deals going on. I do have a petition here. It does have 245 signatures of tax payers who have said that they would like to slow school board real estate action. I support further community and neighborhood discussion of the Jefferson School relocation decision. I respectfully request that the school board allow further public comment on the board's current plans for design and location of our public schools and that an outside mediator be called into negotiate such two way communications with myself of Fayetteville Hopes as the representative in choosing a mutually agreed upon outside mediator. Those of us who have been trying to deal with the school board on letting the public have access in the decision making have found that it is not an open and democratic process. It is driving development from what we see so I wanted to bring this to your attention. I know I'm taking a long time and it is late. I am just going to read one letter. Some people think that those of us trying to bring this out are our own little kooky clan so I want to read a letter from someone who heard what we are saying and validates it. This is from someone who has been here since 1974 and I never met him and he wrote this letter which echoes what we are trying to say. **INSERT LETTER HERE** I just want to make this clear that this is not a new idea. Again, I do have 245 other tax payers who very much want the way that the school district is driving real estate decisions to be considered and the example of all the new houses around the new Jefferson School, around the Boys and Girls Club, all of these things taken from the center of the city. The Boys and Girls Club was the first. You remember the battle. Mayor Coody came in just when that was happening and there was a lot of outcry and he said ok, ok, we will consider keeping it in the center of the city. Then we were told oh no, the Reynolds grant will be pulled. You cannot even consider, you cannot even talk about changing the location of this Boys and Girls Club because the money will get pulled. I would say, looking at this McIlroy letter that I just read, that this was a very predetermined first move. Now we've got the Boys and Girls Club what are they telling us?

They have to bus the Jefferson children over there now so that they can go to the Boys and Girls Club after school. It is very disturbing. I will stop. I'm sorry for taking so much time.

Ostner: I would like to assure you that we will completely revisit this issue when it is not actually tabled and we will vote on it.

McMillan: I'm Amy McMillan, I just want to say very brief, very brief, thank you for your time and your effort into this and it is very encouraging some of the votes that you guys made tonight. About 10 days I turned on the television and I saw Mayor Coody doing his show that he does and he is talking about an award that our city has received for being a livable community and I have to laugh to myself because I sit here and I look at the list of units that are going before you which have been tabled tonight. The total is so discouraging. I have driven out to Persimmon. I drove out there today. This land is under water. The land is under water. It lies in the floodplain. I wonder if soil samples have been taken and at what point are soil samples taken? I wonder how these units are going to affect our waste water treatment plant that has not even been built yet and I wonder how it will impact our south Fayetteville. My children attend Holcomb Elementary. This school is running at capacity. We are full. We cannot make anymore children. I will reiterate that yes, we do have a mold problem there. It is true. The roads that are out on the west side of Fayetteville, the four lane highway begins right at the development of our subdivision, it begins right there at the entrance. Anything past that towards Double Springs Road cannot sustain the traffic that they are trying to put out there. It cannot sustain it. I am urging you to please stay in support of that livable community, that Smart Growth plan. Thank you.

Ostner: Do we have any other citizens?

Marr: I'm Don Marr, 410 W. Holly. Thank you for letting me speak. I know it is not a common practice for the City Council to address the Planning Commission but I wanted to ask your assistance. In an effort for the Council, at least from my perspective, as we look at things that you vote on and we read the minutes of your meetings and we see 6-0 votes, 9-0 votes, etc., one of the things with a lot of these annexations coming forward that I want to ask you to pay particular attention to, at least from my perspective, is on page 14.7 of your packet. I just picked the largest annexation, which was the 160 acre one that has been tabled tonight. This would apply to all of them. You have the guiding principals of the General Plan 2020 and in that there are two things that stand out that I would like to really ask that you do strong due diligence with as a Commission. One of those is an annexation study should be completed on all annexation proposals. I don't know that in reading the reports that the Police report, the Fire report meet that requirement as the philosophical

principal of the 2020 Plan. The last one is on that same list from the 2020 Plan it is called 11.6.t which is Conduct a fiscal impact assessment on large annexations. It was interesting to me as I read through your packet in preparation for what we might see two weeks from now that if 160 acres, if you go to page 14.6 on that particular item, it says conduct a fiscal impact assessment on large annexations and the finding is n/a, not applicable. I don't know at what point it becomes significant enough to distinguish fiscal analysis. That is our biggest challenge at the Council level. Do we have the infrastructure in place to handle adding these additional pieces of land. I have had various Commissioners, I've heard you say it's the City Council's responsibility to look at the financial picture. It is a finding that you look at as a result of your packet and it is valuable to me as an alderman to know that it got debated much earlier in the process, that it wasn't one of the last issues that we looked at and to see what 8 or 9 other people's perspective was on it, particularly since you are a very diverse group of Commissioners. If you would do that at least, me asking you as an alderman and as a citizen, I think it will assist us in making better decisions. Thank you.

Ostner: Thank you. Do we have any other comments tonight? Are there any other announcements?

Pate: Just a reminder, I do believe we need to vote on all six items to table.

Clark: Staff, this follows up on what Alderman Marr just mentioned. As I look at all of this now tabled annexation, it is a lot of acreage. Every time I look through this packet the Police say there is no adverse impact, etc., etc. Has there ever been an example of a proposed annexation that the Police or the Fire have said no, we can't do that?

Pate: I believe so, yes. Specifically I can only thing of one incident reading through historical packets from 2001 and 2002.

Clark: My historical index is not in my packet.

Pate: Sure. I believe there was a property to the west of the springwoods, Wilson Springs area that was actually tabled for almost a year based on Fire Department comments and Waste Water impact. There was a property that was specifically tabled for those reasons. I can't list off the top of my head if there were others.

Clark: Do you have any idea how long ago that was?

Pate: I can get that information to you for sure.

Clark: How many acres were we talking about tonight alone?

Anthes: 269.3 acres in this section.

Clark: I'm troubled. I will follow up exactly on what Alderman Marr, who used to be my alderman, along with great Alderman Cook, have to understand where we draw the line and say no because we don't have the infrastructure. Hat troubles me, especially when I read some of the other comments of other aldermen when our decisions ultimately reach their desks and they say we don't have it. That troubles me and I'm not sure that I'm getting all of the information that I need to get and I'm new here so I don't know sometimes what all to ask for until I hear other comments. That does bother me and I'm really glad that we are tabling this tonight quite honestly because I want more time to look at it and to hear differing opinions and to listen to the constituents. I had no idea about the school board stuff. That was an education tonight. The infrastructure issues do trouble me considerably.

Vaught: I do have questions that might be a City Attorney question on what we can take into consideration as far as the school board issues. From what I understand I don't know how much of that really impacts the decision that we make because they are an independent body of ours. That is one thing that I would like an explanation on for the people here. The development impact on the area is definitely a consideration for us and all this stuff with the school is interesting, I just don't know how that plays into our overall consideration of things. Also, I don't know how there is a way to even quantify, there are two sides of development. There is a bad side because it creates demand but there is a good side because everyone of those homes when we annex them are going to pay a sewer tap fee, the impact fees we use to fund the building of our new sewer plant and to fund building of the new roads in the area. I don't know how we can develop better tools to be able to weigh all of those options. There is a give and take with everything. That is what I don't know what we even need to be asking for myself being relatively new as well.

Clark: Would that be the fiscal impact of this?

Vaught: I don't know, I've never seen a fiscal impact assessment.

Anthes: I want to thank the applicant for requesting to table these items tonight because I have several questions that I need to ask of the City Attorney who could not be present this evening. For the record, I would like the staff to take note of what I would like and maybe you can request this information. I am reading over and over the General Plan 2020 with regards to annexation and it is sort of distressingly vague. I'm looking here and I've added up these three requests for annexation that we are considering tabling are 269.31 acres. The entire year of 2000 to August,

2001 we approved four annexations that totaled 393.54 acres. That is not a tremendous amount more. I'm looking at what we require and we have a couple of things that may or may not apply here. One is 11.6.f which says annex environmentally sensitive areas which could be impacted by development and utilize appropriate development regulations to protect those areas. When I look at our maps it looks like we have an extreme amount of floodplain, flood way and streams and creeks in the areas of these properties, but I have no way to quantify whether or not there is an environmental impact because we don't have an environmental assessment impact report. The other things are two items that Alderman Marr referred to and that is requesting annexation studies and fiscal impact assessments. We particularly say a fiscal impact assessment on large annexations but we have no definition on what large is. 270 acres seems large to me but I have no way to say what is and what isn't large. The other thing is what I don't see in the General Plan 2020 is who is supposed to conduct and therefore, pay for, these assessment reports that we might need in order to make these judgments. That is what I would like to know from the City Attorney.

Ostner: I would like to also voice my concern over the amount of acreage and the decisions that we are going to make two weeks from tonight probably since we are going to come back to these issues. I agree that Chapter 11 out of our General Plan 2020 seems really like a mechanical how to annex. It really doesn't tell you any guidance on should we annex or should we annex there or there, what's the difference. I'm referring back to a lot of other knowledge that I've learned in other places. A different chapter of that General Plan 2020 is back in 2000 we made a bunch of projections. I believe this is Chapter 9. The 2020 Plan projected between 2000 and 2020 we would need to build 13,800 units of housing and they estimated about ½ of that will be homes, about half will be apartments. That comes to about 690 units per year to build. We could've done that tonight. Another thing, on that 2020 Plan, these are projections that take past development and they shoot a crystal ball in the future, but they estimate roughly about 5,000 acres of land will be needed for that 13,000 residents. We have got 2,800 acres of undeveloped residential land in the city limits, which is half of what this 20 year projection is asking for. This is land inside the city limits with streets, with adjoining sewers, no annexation required and it is already zoned Residential. I asked Jan in Planning to give a quick rundown of what we have done in the first three or four months of 2004. These are rough numbers and hopefully they are over instead of under, Final Plats, Preliminary Plats and PZD's, 381 lots have been approved. We have rezoned to allow for another 796 so that is over 1,000 lots that could be developed in 2004 which is almost 199 acres. My point is this: I'm not sure that there is a crowd of 10,000 people standing in line to buy homes or develop or build homes. I understand there are opportunities to

build terrific neighborhoods. That's great, we need good neighborhoods in this town. I'm not sure where is the best place for them.

Clark: Can I follow up on that? The thing that I'm also keeping in mind with these new annexation requests is the knowledge that Planning is going to start annexing islands that exist currently in the city. That is something that goes along with the plans that are in place already. I'm really concerned about annexation that goes outside that. I think you make some really good arguments Alan in the numbers are there. Opportunity, just because you have the opportunity, as my mother taught me as a young child, doesn't mean you need to do it all the time. I guess that's how I'm annexing new property. I'm really glad we are tabling this. Can we make a motion to table all at once or do we need to table them individually?

Pate: Individually.

Ostner: Ok, ANX 04-04.00.

MOTION:

Anthes: At the request of the developer I would like to move to table ANX 04-04.00.

Clark: Second.

Ostner: We have a motion by Ms. Anthes and a second by Ms. Clark, is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to table ANX 04-04.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

MOTION:

Clark: At the request of the developer I would like to move to table RZN04-10.00.

Vaught: Second.

Ostner: We have a motion by Ms. Clark and a second by Mr. Vaught. Is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to table RZN 04-10.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

MOTION:

Clark: At the request of the developer I would like to move to table ANX 04-01.00.

Allen: Second.

Ostner: We have a motion by Ms. Clark and a second by Ms. Allen, is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to table ANX 04-01.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

MOTION:

Anthes: At the request of the developer I would like to move to table RZN 04-11.00.

Trumbo: Second.

Ostner: We have a motion by Ms. Anthes and a second by Mr. Trumbo, is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to table RZN 04-11.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

MOTION:

Allen: I would like to move to table ANX 04-02.00.

Anthes: Second.

Ostner: We have a motion by Ms. Allen and a second by Ms. Anthes, is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to table ANX 04-04.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

MOTION:

Allen: I move to table RZN 04-09.00

Anthes: Second.

Ostner: We have a motion by Ms. Allen and a second by Ms. Anthes is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to table ANX 04-04.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

Ostner: That is the last item in our agenda. Do we have any further announcements?

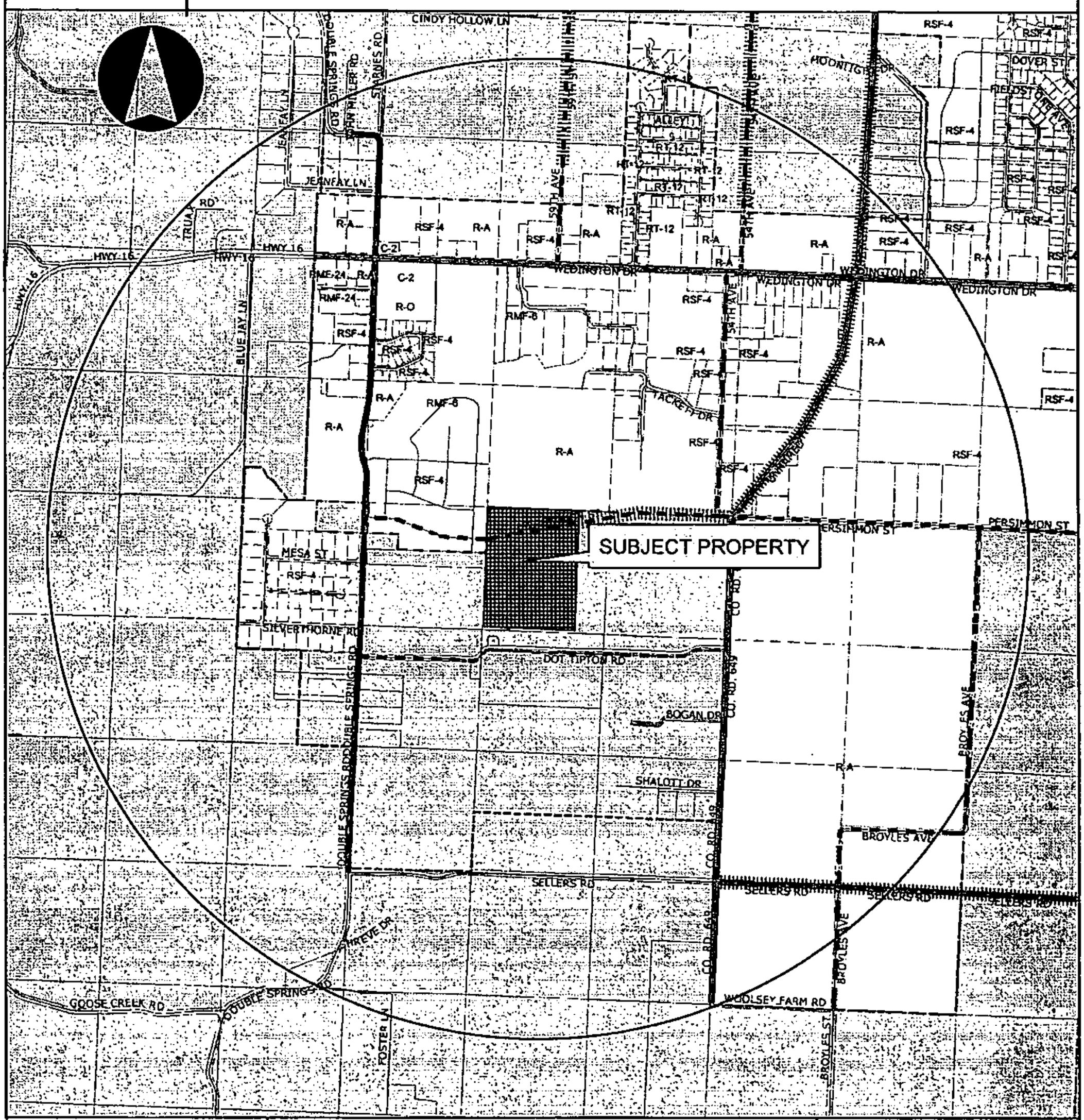
Announcements

Meeting adjourned: 9:40 p.m.

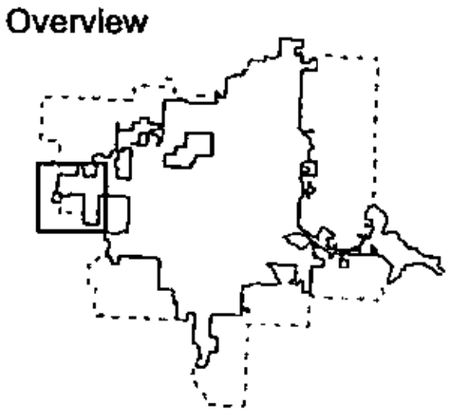
ANX04-04.00

One Mile View

TIPTON/SLOAN



Overview



Legend

Subject Property
- ANX04-04.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

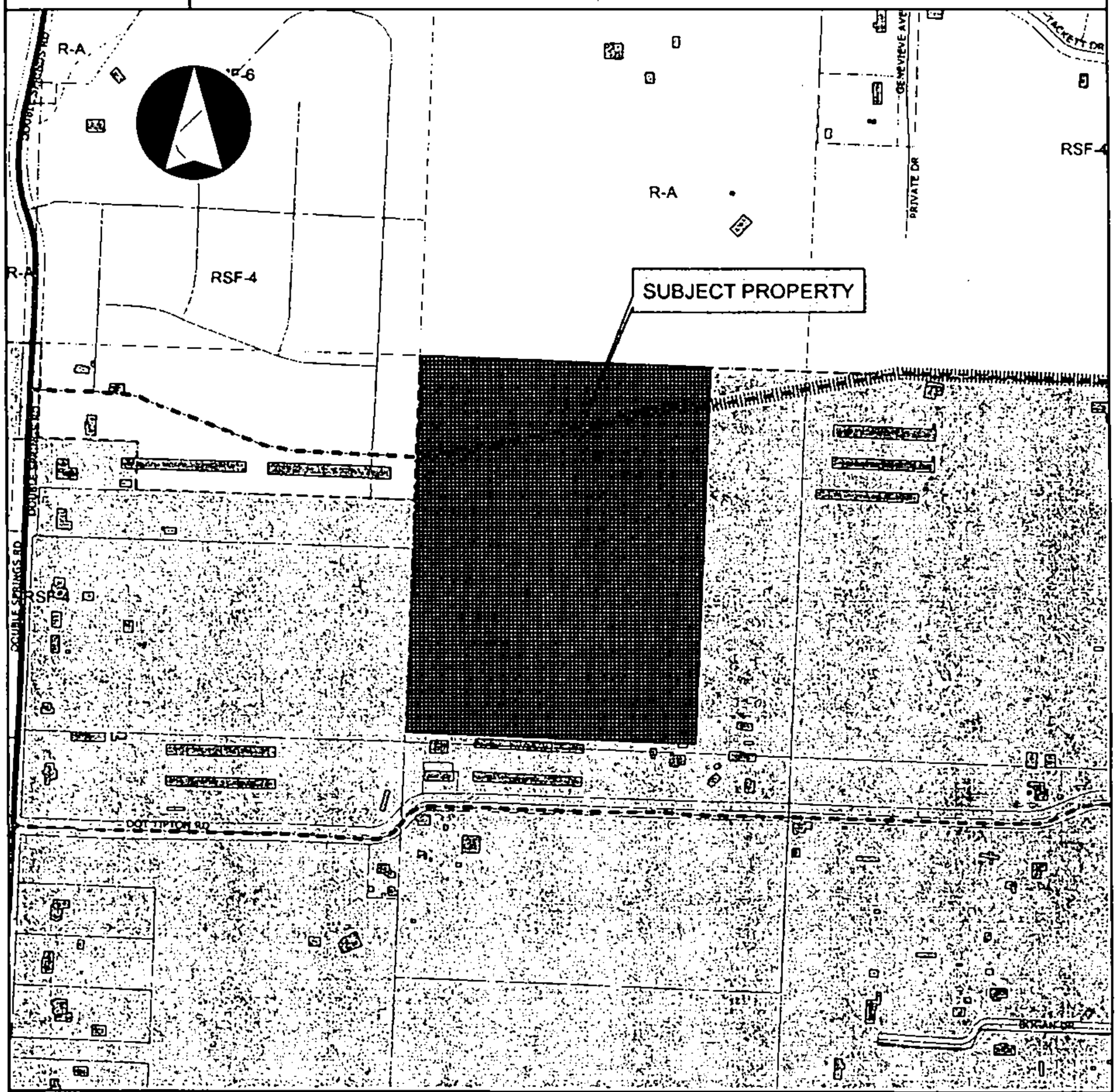
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

ANX04-04.00

Close Up View

TIPTON/SLOAN



Overview

Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Baseline Profile
- ANX04-04.00

0 150 300 600 900 1,200 Feet

ANX 04-04.00: Annexation (TIPTON/SLOAN, pp 475) was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, adjoining the SE corner of the Legacy Point subdivision. The property is in the Planning Area and contains approximately 29.31 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 04-10.00: Rezoning (TIPTON/SLOAN, pp 475) was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, Adjoining the SE corner of the Legacy Pointe subdivision. The property is currently zoned R-A, Residential Agricultural, and contains approximately 29.31 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next item on our agenda is ANX 04-04.00 for Tipton and Sloan.

Morgan: This item was tabled at the Planning Commission meeting of April 26, 2004. The subject property contains approximately 29.31 acres of vacant property. It is located south of Wedington Drive, east of Double Springs Road. The property is adjacent to the city limits to the north and a portion of it's western boundary is the Legacy Pointe Subdivision. Staff is recommending approval of the proposed annexation. Findings within the staff report support this recommendation. The applicant is also proposing to rezone this property from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre. The applicant has offered a Bill of Assurance limiting density to 2.9 units per acre for the future phase of the Legacy Pointe subdivision. The General Plan 2020 does designate this site as residential. Staff, therefore, is recommending approval of RZN 04-10.00 for Tipton, Sloan.

Ostner: Is the applicant present? If you would introduce yourselves and give us your presentation.

Smith: My name is Raymond Smith. I submitted the annexation request on behalf of the Tipton's and Mr. Sloan of Sloan Properties. This 29.31 acres is located adjacent to Legacy Pointe Subdivision that has already been approved and is being constructed. The 29.31 acres is located to the southeast of Phase II of Legacy Pointe. Mr. Sloan will be able to answer any questions that you may have in regard to specifics on this particular one.

Sloan: Hi, my name is Charlie Sloan. I am the owner and developer of this project. This will be Phase IV of the Legacy Pointe subdivision. It is the extension of Persimmon, which is at the south end of our property. The drawing that I handed you shows about 84 or 85 lots. We will probably end up with around 75 or 78 by the time that we work out detention.

There are some lots in here that we don't want. We want a certain size and these don't quite meet that size. Our covenants will be just like it was at Legacy Pointe. We will use that as our base. These might have a little bit higher square footage minimum on these lots than what was proposed. That is on the first phase to just give you a general layout concept of what we are trying to do. The second page that I gave you shows the extension that we have been working on trying to extend Persimmon over to 54th Street to make this connection from Double Springs over to 54th. The other item coming up with the Haye's is the property just to the east of my property, which Persimmon goes through. The other part, neither one of us own that piece of property but I have talked with that land owner and he has indicated that they would be willing to work with us on this to keep Persimmon as a 70' right of way street for a collector street. The proposal is too, that we have a city park in Legacy Pointe right now that is about four acres. The neighbor to the north to me has property that he has indicated he would be willing to sale to us. That was the original plan when we did the park for Legacy Pointe in that area to go ahead and buy another three or four acres along that Owl Creek. The trail system will go in there and will give us some good flat land for soccer fields or something like for additional so we will end up with a seven acre city park out there. That's all I have.

Ostner: Thank you. At this point I would like to open it up to the public. Please introduce yourself and give us your comment.

Davison: Good evening. My name is Sharon Davison. I would first, like to thank you all for being here and thank you all for letting me speak tonight. I do have a quick request to make. If you hear me out on this one time at the mic. I think it would be nice for all of to not have the agony of me coming back each time. I will try to be brief and I promise I won't mention a person's name unless I have a quick quote from our newspapers. This is just a reference to show the connectivity, the concern and the problems. I have been out of town so I have been behind on the newspaper. This is just a four day span. I will just have a couple of quick comments there and I do have specific comments related to this annexation and rezoning as we have discussed. I will quickly try to tie it up with two quick staff questions and then I will make a closing comment. I do want to make it clear that especially on these particular annexations that are coming up to you tonight. I don't consider these in the same type as some developers that have come in from out of town have done. I do not begrudge Dot Tipton's family. Their father made a good investment as a farmer years ago on that property. They deserve to have things come to them from that. We have Marinonis everywhere. They obviously deserve to have these things happen. I'm not familiar with Mr. Sloan or Mr. McBryde. The mansion there I can't blame anyone from changing and adjusting that. They are getting surrounded. Just quickly, before I make my specific

comments on the rezoning aspect and to point out the validity of the seriousness of the issues here. Again, the Times newspaper does give some good coverage on some decisions if we can't watch TV and keep up with everything. It is sort of disheartening to see that the biggest scandal in our town is the HUD scandal with how much coverage it is getting by our newspapers. Hopefully the Coody land deal will eventually get the coverage that it should be getting. We have seen the comments that all relate to development to the point of who is pushing the rezonings and who is making the deals and how come our city staff, and that is where the timing is coming from, respectfully asking you to wait, whoa, hold on. There is proof that our staff resources are being drained. You are going to be drained dry accommodating urban sprawl growth out west which is in our planned zone but that doesn't mean we have to have it all right now. Here in the paper for the whole picture of what is going on before you. The District Officials Seek to Discuss School Message. Fayetteville School District officials feel that they can efforts to replace the Jefferson Elementary School with a new central elementary school. According to District Administrators, several messages about school real estate decisions are being circulated by a few individuals who oppose plans to close Jefferson. Yes, I personally oppose plans to close Jefferson. That does not negate what I have to legitimately say. These are statements from our School Board.

Ostner: Ms. Davison, I'm sorry but this project is not related.

Davison: It is all related.

Ostner: If you could keep your comments, we are considering an annexation of the Tipton Sloan piece of property.

Davison: Ok. $125 million sewer project on schedule with the Mayor and a smiling picture. He can smile and shake hands. These connections are here. About what we are being asked to do, yes this is related to the pressure that is put on our infrastructure, our services, our people who are in town to protect folks that are here. Let's get on a little more topic here. Again, how our city is being run. Conklin said the affect these impact fees will have on the costs of homes will all depend on the developer. Even if the developer passes the costs along to the buyers they wouldn't be substantial enough to affect building affordable housing. The water and sewer impact fees already have been exempted for agencies such as Habitat For Humanity. There would be a possibility. Do you understand what I'm getting at? We haven't even addressed these issues because we are so far behind. The hillside taskforce, I sat here as Mr. Marr asked about that. He was told, sorry, we are too busy to deal with it now. These are people who have not only lived here for years. They are people on the corner of Olive and Spring who have generations going back in this town who are

being forced to accommodate someone because the old friendly Planning Commission did allow Greg House to push these things through. It got so bad...

Ostner: Ms. Davison, I'm sorry. You must stay on point.

Davison: It is on point because the main point is you are depriving the citizens that are in the core of your city. When you grant these rezonings you take from the people who have paid the way so these guys can pave the way to their dollars. They know the people who are being abused by neglect and sold out by the administrators. Our sewer isn't even going to be online until 2006. I remember an ad campaign that was put on our voters about improvement tax. Why? Pumping sewer. We have all forgotten, we are still pumping sewer across the mountain. He said it is on schedule but we are behind. This is related Sir. It is draining our resources. Once again, I've asked for my sidewalk to be fixed from one unscrupulous developer. I guess the city's plan is to wait until Greg House tears it all up and then we will put in a new one. That is going on at Spring. I have come in for over three years asking for that developer's destruction of city infrastructure. We couldn't even get that to happen. Annexation may be appropriate but when you annex we are willing to welcome you into our growth area and we trust extending a relationship. It is not unreasonable for us to say if you are wanting to wish, this is rezoning, this is the push, this is the gotta do it all at once, gotta do it now, no you don't. If the wish is to profit financially by development and subdivision, you need to wait your turn. That's all we are asking. Don't continue to overload our system. That's all we're asking. That is not unreasonable. There is strength amongst you to not to have to succumb to the rights of a developer. Topography, things such as these folks come in asking for favors. How much more clear can it get? When they are asking for a rezoning they are asking for a favor. You are going to give the favor at the cost and at the expense of other folks. One last little thing, our own council member is saying that we have problems. Residents who have already invested in city infrastructure aren't given less consideration than many residents as what we should have says Lioneld Jordan. Jordan says as residents move into newly constructed neighborhoods travel throughout the city increasing congestion. As long as the city only has 2.5 million to spend on roads per year the city will stay behind on growth. Where are we going to take that money from? When the hiring freeze stopped who were the first people hired? Six road crew members. Who is paying for that? We pay for it because we can't afford to buy our own library is how we are paying for it. The 2020 Plan does not mean tomorrow for a developer's right to develop. It means 2020. I don't think it is unreasonable to say we will annex this property but until our sewer is online in 2006 and we are not getting sued by Oklahoma and making sure that we can keep pumping it over the mountain I don't think that is

unreasonable. Here are my two questions that I don't expect to be answered by staff tonight, I have learned that. Why was the very important hillside taskforce delayed, put on a back burner, told that it was not important. I would like to know eventually an answer to that. Safety, I would like it published the rural accident report for the Wedington, Betty Jo area, which is where all of this is. Who is going to build a new exit off of I-540. There will have to be a new exit. There is no way no matter how they can do all of that traffic that 6th Street will accommodate what is going all the way out to Double Springs. Who is going to pay for the overpass for Persimmon once that goes? Let's not talk about that need. Those people can suffer that drive and worry about getting killed pulling out on Wedington because they've got to take a chance to get out there. That is also where the school district wants to put our kids. It is truly amazing. Attainable housing is not being pursued aggressively by the city. The city should provide some type of system. That's how progressive we are. Everything is not a conspiracy folks. I'm afraid a lot of you may not be near aware as the ones I know as a reality in my life. I'm not saying that's what is going on here. This is another level. TIF, Mountain Inn TIF, what is the whole south side of town TIF. It is a term similar to the military industrial complex in it's power of what is going on in our town right now. All we are asking is please, give us time to take a breath. That's all we are asking. Just give us a breath that are in here and you don't just jump through their hoops to give favors. At our expense to what degree? We are also accommodating other people who are swooping in for the profit and profit and dollars which some folks here seem to think if it is appropriate for one side it was for all. In closing, I do say what's going on here between the city, the school district, the developers, there is a lot going on. Here is the deal for you. Just ask them to slow down. If we at the city are not supporting urban sprawl, you've got to be kidding. Vote to annex if appropriate, vote no on all rezonings until Fall, 2006 when we might have a sewer on line. Thank you all.

Ostner: Thank you Ms. Davison. Are there other members of the public who would wish to comment on this item, the annexation for Tipton/Sloan? Seeing none, I will close it to the public and bring it back to the Commission for discussion. To start off, I believe our constituent did have a couple of direct questions. On the issue of the hillside taskforce, I can answer that. It was delayed because 2/3 of our membership left the Commission. We have not reappointed but we are going to reappoint tonight and get that taskforce started again. There are many things that the City Administration is doing. I'm not sure about the answer of the backburner, I wasn't at that conversation. On the taskforce we are going to carry on and do our due diligence as the Council has instructed us. The accident reports for the Wedington, Betty Jo area I'm also interested in. I was going to bring that up in some of these discussions. I believe the comment of course the Persimmon by duct or crossing I-540 is relevant to

the discussion of the increased traffic. I believe we will get to that directly. Commissioners?

Allen: Since this is the beginning of many annexations that we are getting ready to look at I will just pitch out this comment. Several months ago the Planning Commission and the City Council met jointly to discuss annexations and out of that meeting the Mayor appointed a committee of Planning Commissioners and City Council members to look at infrastructure problems, traffic and so on. I feel uncomfortable about proceeding with some of these annexations without a report from that committee. I know that yesterday when I went out to look at all of these annexations that traffic is certainly a consideration. I'm not saying that we shouldn't annex, I'm just saying that I would feel more comfortable hearing reports from that committee before we make these decisions.

Ostner: I would have to agree. I am very interested in what the task force is looking into. I haven't attended their meetings but from what I read in the paper they are gathering great information. Could our two or three members fill us in on what is going on?

Myers: We are still in the information gathering phase. We are meeting with representatives from the Police and the Fire and Water and Sewer to find out exactly what annexing means for the city as it is constituted now. I don't think we are very close to making a recommendation to Council. I would guess we would have to meet at least another four to five weeks before we are in a position to make a recommendation. If you feel strongly about not moving on any of these annexations until you have a report from that committee then you are talking August or September.

Warrick: With regard to the reason that these are back before you. The City Council has not instituted a moratorium. They were asked. They specifically decided that was not their desire at this point in time. Many of these items were tabled in late April. The applicant requested that they come off the table and be heard. There are some items that are also newer that are on this agenda as well. It is a matter of when people submit to the office, when they get through the county process, which is required if you are annexing into the city or making a request to annex into the city. It wasn't a situation that we even necessarily wanted to see six different annexation and rezoning pairs at the same meeting. It is a situation that the developers were ready to move forward and request that you take action on this. You are making a recommendation to the City Council and they will, of course, be required to confirm any recommendations or make their own decision with regard to final action with regard to annexations and rezonings. That is why these are here. We do not have direction from the City Council to hold up any applications that are coming through the review process.

Graves: I also serve on that taskforce and I agree with what Ms. Myers has said. I don't believe that there is going to be a report forth coming out of that taskforce as quickly as maybe the taskforce was charged with. That is not for lack of diligence on the part of the taskforce. It is just there is a lot of information that has been requested and as that information comes in it leads to requests for other information. That process may take a little longer than everybody would like. In the meantime, I believe I was the one that specifically asked the question at the joint meeting whether there was going to be a moratorium in the meantime. It seemed across the board that there wasn't a sentiment for anything like that including people on both sides of the issue on the City Council. This board, not being charged with policy making as such, it wouldn't be appropriate in my opinion for the Planning Commission to determine that there is some sort of de facto moratorium and that we are going to try to table all of these things. I also think that with respect to infrastructure concerns, although that is something you look at with annexation and all of these are accompanied by rezonings, I do know that with the taskforce one area that seems to be of a high priority with the members of the task force, again, on both sides of the issue, regardless of where they eventually fall with respect to annexing property in different areas around the city. One area that seems to be a priority to everyone is the area that we are looking at tonight around where the new treatment plant is going to be. I will be in favor of annexation of these properties. I know that Persimmon is certainly a high priority road as well and all of these border that particular road.

Ostner: Thank you Commissioner Graves.

Clark: In the 2020 Guidelines it says conduct a fiscal impact assessment on "large annexations". What is the definition of large?

Williams: I guess it is in the eye of the beholder. You would think if you put all of the annexations together that are facing you tonight that would certainly be a large annexation. I guess I would leave the interpretation of that to the Planning Department which actually drafted that particular policy. It wasn't part of the original plan that went through all of the hearings and everything else. This was added later by the Planning staff because they wanted to get some sort of annexation policy in effect. I would yield to Dawn Warrick, probably one of the authors of this.

Warrick: This is what Planning presented as a policy to the Planning Commission. It was recommended and forwarded to the Council for adoption. Large annexations, in looking back over the historical annexations for the City of Fayetteville, we have seen annexations from less than an acre to more than 1,300 acres. In fact, I believe we had an 11,000 acre annexation in the

1960's so they vary greatly. The annexation that the Council is considering with regard to annexing unincorporated islands that are currently surrounded by city limits is approximately 1,300 acres. I was not one who drafted that particular policy. However, my interpretation of that is that it would probably vary. In this particular case we saw several different applications that happened to come in and through various reasons, ended up on the same agenda. When we started looking at these annexations they were not all on the same agenda. They were in different rounds of review. Through items being tabled and different applications being submitted at different times we ended up with approximately 400 acres on tonight's agenda. When we look at that policy it is obviously subjective and some determinations have to be made as to what is large. We have not, since we adopted that policy back in 2002 seen this number of individual annexations come through at the same general time. We have seen this type of single annexation for properties of similar sizes at various times throughout the past several years. Again, it has just been at the same time. My expectation when we talk about doing a fiscal impact analysis on a large annexation I would expect that if the city were to initiate an annexation of several hundred acres or even thousands of acres of property, that we would need to prepare that for the Council.

Clark: Not individual pieces that are smaller? I'm struggling. I don't think it is fair to look at this and necessarily judge it as a whole but gosh it is going to have impact. Where do we draw the line? I just need clarification. Have we ever done a fiscal impact assessment?

Warrick: No.

Myers: That is one of the issues that the taskforce is struggling with right now.

Trumbo: Staff, if we don't annex this property can they still develop it to our Fayetteville city standards?

Warrick: This property is immediately adjoining the Fayetteville city limits and so the street standards would be to the Fayetteville street standards. They would not however, be required to provide detention, tree preservation or parkland. Of course, they would be very likely residential lots developed on septic systems because we do not extend sewer service beyond the city limits.

Trumbo: What about taxes? Would the City of Fayetteville receive the property taxes through the schools?

Warrick: Not property taxes. Sales taxes. The property tax to the schools is based more on the school district and not municipal boundaries. Any sales tax

generated would, of course, go to the breakouts for the various communities on sales tax.

Trumbo: I'm for annexation. The amounts don't bother me but I deal with lots of acres everyday and I see it happening all over Northwest Arkansas. I'm comfortable with it and I feel that if we don't this property is going to be developed without our input, without our regulations and zoning and we also miss out on tax dollars which pay for things that the city needs. It pays for the infrastructure as well. I'm not for a moratorium or holding off on this. I just want to be clear that not all of us feel that way.

Ostner: Thank you for those comments Mr. Trumbo. I would like to respond. I tend to disagree that these will be developed without us. Property in the county is simply not being developed at the rate that the City of Fayetteville is experiencing. Frankly, there is more profit to be made when you develop city lots. There is more incentive from the landowner to get into the city. He can offer more when he sales lots. I am not saying I'm against annexation. I wish in a perfect world, we could annex a lot of land, assuming everyone is happy with it, annex a lot of land and plan where and when, as Ms. Davison referred to, where and when we would like to develop areas. That is probably impossible but I believe it ought to be the goal that annexations and rezonings should be looked at in a completely different light. We are forced by our ordinance to look at them side by side. On every annexation request that we receive we also receive a rezoning request that a developer wants and needs to rezone that property to develop it once it is brought inside the city. It makes it difficult for Planning to go on because we wait until the market or the developer chooses to act on a certain area. I'm understanding Ms. Allen's reluctance to annex in the middle of the current state of things. In the newspaper this weekend there was an article that Northwest Arkansas is annexing at an incredible rate. The master plan was delivered to us tonight on our desk for review. TIFs are a big issue. I believe TIFs are important and there is a possibility of a drain of influence or attention. What are we tending to as a city? Are we tending to the borders, are we tending to our downtown, what are we looking at? I think we have a lot of things on our plate as a city per day. That is really the extent of my comment.

Clark: I have struggled with annexation and this one is no exception. However, I have a question for staff. I'm trying to figure out how all of these universes come together to a perfect world. If we annex and it now belongs to the city and then we go about zoning and rezone it as all of these petitioners have requested tonight. When they submit their Large Scale Developments if the sewer treatment plant is not on line, if the infrastructure is not ready to accommodate that growth that is the proper time as I understand it, to say no. Is that correct?

Warrick: You have the ability to say no at several different points.

Clark: Those are some key issues though?

Warrick: Absolutely. You will be addressing at the time of rezoning consideration the appropriate density. For Planning purposes, what is compatible, what is consistent with the General Plan, what is appropriate with regard to land use and density at that location. At the time of development, in this case we are looking very likely at a single family subdivision that will be submitting a Preliminary Plat if the property is annexed in the city. We will be looking at the infrastructure based on that development and the impacts caused by that development and what needs to be addressed and what is a roughly proportionate condition of approval with regard to impact of that development.

Clark: Theoretically speaking, not necessarily about any of these, if the infrastructure was not sufficient, if the waste water treatment plant was not on line, that would be a reason to not approve a proposed development?

Warrick: Yes.

MOTION:

Clark: That is what I thought I understood. For the record, general comments about annexation. Annexation does not scare me. Zoning scares me a lot. Annexation, we have growth boundaries right now that we have said we are going to grow out to. We are land locked. We go to those boundaries, other cities surround us and the county surrounds us. Having that boundary gives us an idea of how far we can grow and probably will grow. What we put on that annexed land however, is totally dependent upon the infrastructure. Zoning is critical. That is where I'm more concerned with the issue. When we have new developments we serve impact fees upon them. Those impact fees then help support the inner city that I do not think needs to be abandoned and must be cultivated and encouraged to re-grow or grow differently. Developers have to put a lot of money into developing infrastructure like streets, etc. in whatever they are proposing so that doesn't come out of tax payers pockets, it comes out of developer's packets. They are paying impact fees that can go and help the rest of the city. To me, annexation, if we don't do it now, we are going to face what could possibly happen if it is developed on it's own with county standards and then if we annex that property we have to pay to redo all of that. Septic tanks scare the heck out of me in terms of environmental impact. If it is annexed we control it. I am going to support ANX 04-04.00 and move for approval.

Shackelford: I will second.

Ostner: Is there further discussion?

Anthes: I understand that we have to look at all of these individually that we are looking at tonight and what we have to work with are our guiding policies that are in the General Plan 2020. I have some questions about some of the items on there with respect to this piece of property. It is the furthest reaching of the ones that we are looking at tonight in terms of distance from our city center. I have a hard time looking at our land use map which doesn't appear to tie directly to the population growth projections that the city will likely double in population within the next 15 years. Nor does it to my satisfaction identify neighborhood commercial centers to serve that increased population. Therefore, I feel like we have a General Plan that is not truly planned in terms of physical infrastructure and therefore, I don't know what is strategic or not in terms of annexations as tied to the long range plan. However, we do have some guiding policies. I have a few questions. On page 5.6 of our report the third finding says Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available. One of our things that we should look at is that public services must be able to be provided efficiently in newly annexed areas. Has staff received those reports from those divisions and does staff believe that the city can efficiently provide those services in this area?

Warrick: Those reports are on page 5.8, 5.9 and 5.10 of your packet. All of those divisions questioned did respond affirmatively that services could be provided to this area.

Anthes: Those services would be received in the same level of service as areas already within the city limits?

Warrick: That is what is indicated in these responses.

Anthes: I'm sorry for the redundancy. I just wanted to make sure that we talk through these things for the citizens that are here. We look at this particular piece of property is different from others in that we have a specific finding about annexing environmentally sensitive areas and this particular property found that was not applicable and that there was not an environmentally sensitive area.

Warrick: This is basically an old farm field. It is near Owl Creek but not on Owl Creek. We did not find that there were hillsides of any type on this particular property so we found that that finding was not applicable to this site.

Anthes: There is no floodplain or floodway on this site?

Warrick: No, not on this site.

Anthes: When I look at this and think about large annexations, 30 acres in the scope of what we have been looking at recently is not necessarily one of the largest annexations. However, I would like clarification of that in the future. I would ask the City Council to strongly endorse planning that helps us identify growth neighborhood centers and takes a good look at how our zoning responds to those things in light of the population growth projections that we are seeing in the news.

Warrick: Our General Plan is a general plan, it is a guiding policy. We are directed by that plan to update it every five years and we are gearing up for a 2005 update of that plan. I think that a lot of your comments are very pertinent to the type of information that this Planning Commission and the Council as well as staff desire to see as amendments implemented into that plan. I'm interested in pursuing some of that as w move into that update.

Ostner: In the General Plan under Plans and Policies, 9.8.i Establish performance zoning design standards to mitigate adverse impacts of contrasting land uses with residential land uses. This has not been adopted as an ordinance as of yet but it is quite a tool that we can really use in the future. Developing and implementing a tree performance type zoning system citywide would require a consultant and extensive additional studies and amendments to the zoning/development code. I'm agreeing with Ms. Anthes and I appreciate Ms. Warrick's comments.

Warrick: With regard to the performance zoning one thing that we have done and it is noted in the policy, about the ordinance regarding limited neighborhood commercial uses in a residential district. That ordinance was repealed when the City Council adopted Planned Zoning Districts, which is in part, our response to that policy directive. Planned Zoning Districts are performance zoning. That is a part of what we collectively have done to address that particular directive.

Anthes: I cannot find a specific compelling finding of fact on this particular piece of property as I do on some of the others that we might hear later this evening. The urgency for me on this particular parcel is not there. It is not tied into specific developments that we are seeing currently closer to our city center nor is it an environmentally sensitive area. Therefore, I will not support this annexation.

Graves: I will support the motion that is on the table. Addressing some of the factors that are present for this particular annexation under our General

Plan. I would first like to note that they are guiding policies. I'm not certain that with a guiding policy that every element has to be present every time. We would of course like to have a fiscal impact analysis on every one of these but I'm not sure it is economically feasible for the city to do an economic feasibility study on every 30 acre parcel that might come in. I think that the method that is utilized when applying for these is on a per development basis or per tract basis, you are likely not going to see a fiscal impact study regardless of how the plan is amended sometime next year and regardless of what everyone would like to see. That is probably more amenable to a situation where maybe an ordinance is passed and a large contingent of the population is voting on a larger annexation. A number of factors are present here under our guiding policies. Those include the presence of a planned residential use of this property under the General Plan. The fact that there are urbanized zones nearby on Persimmon Street on the northern edge although it is not developed immediately to the north. We did just approve a particular tract on the northern edge at the Genevieve and Tackett area. That area is developing and as you go further east there is a large number of urbanized areas there that are nearby. This is becoming an urbanized area. We also have, although not everyone here is privy to the information, because they haven't been at the task force meetings. This is an area that is already served by water and sewer service very nearby, although it is not extended onto these tracts. It is pretty immediately available without expenditure by the city. These are also areas that our fire and police are already servicing because on the northern edge it is already in the city. They are already having to patrol and serve those particular areas. As far as looking at city services right there without increasing the expenditures that the city would have to make to provide service to those areas. Also, this plan I would note hasn't been amended since the impact fees were implemented. Although, the impact fees do not fully address financial or fiscal impact or we don't know whether they do because we don't have fiscal impact studies. It certainly ameliorates it somewhat. I'm in support of annexing this property.

Ostner: Thank you Mr. Graves.

Shackelford: One final comment. We have talked about a lot of issues regarding rezoning and annexation tonight. Obviously, there are a lot of different opinions in the general public, on this board and on City Council. I think that is why this annexation subcommittee was formed. I too serve on that subcommittee. I don't think that any of us here are in a position to speak for that committee. It is way too early in the process to go that way. I look at these as just basic annexations. We are challenged and bound and directed by the ordinances as they exist today for reviewing these. We serve at the discretion and at the will for the City Council. The City Council very specifically discussed whether or not they wanted a

moratorium on these annexations and rezonings. That decision I don't think was supported by either side. I think that their request of us is that they go ahead and view these on a case by case basis. It takes City Council authorization to change those ordinances and until there are changes that come forth from either City Council by recommendation of this subcommittee or otherwise, we have to approach these as we did prior to this. While there is a lot of information that is being gathered, I think we have to operate under the same circumstances that we have in the past, which is on a case by case basis. I think staff has done a good job with their findings of fact on this. I think that this annexation is in line with what was approved in the past and what the City Council has basically, by not directing a moratorium, expressed an interest in going forward. We have to remember that we are the first step in this process. These are recommendations to the City Council and again, they are going to have final say on this. They are the ones that have encouraged us to keep these moving forward. I would encourage on this and other upcoming items tonight that we would consider due process and keep these things moving forward.

Ostner: I just have one other comment. We have talked a lot about ideas and philosophical conversations about annexation with our city. The big difference to me is annexations and these rezonings are about how much and when. I think we as a panel would agree that our city is growing. I don't think any of us want to stop it but how much do we grow and when? Do we grow now? Does this property get developed now or should it wait? There is a lot of undeveloped land between this property and our city center. There is a lot of undeveloped land between this property and I-540. For me it is more of a logistical issue of how much and when. It is at the furthest reach of the annexations that we are looking at tonight. There are many other projects with much greater acreage that are a lot closer. In my mind when city services and residents have to drive by vacant areas to get to where they are going, that is sprawl. Sprawl is bad. Sprawl is expensive. It increases drive times, it taxes the city. I'm in favor of annexation and I will probably vote for this tonight. However, on the rezoning and land use I'm not certain I will vote for it.

Allen: I wish I had a note from home to not have to vote on any of the annexations because I very much would like to have the report from this committee before we make the vote. However, I agree with Commissioner Clark about it not being the annexation, it is the zoning that is the primary concern. I will vote in favor of this annexation.

Ostner: Thank you Commissioner Allen. Is there further discussion? Can you call the roll please?

Roll Call: Upon the completion of roll call the motion to recommend approval of ANX 04-04.00 was approved by a vote of 8-1-0 with Commissioner Anthes voting no.

Thomas: The motion carries by a vote of eight to one.

Ostner: Our next item is RZN 04-10.00 for Tipton/Sloan. We have heard the staff report.

Myers: Since this parcel is actually being developed as an extension of an already existing subdivision or development I don't have trouble at this particular time with this particular parcel in terms of rezoning it to RSF-4. I plan to vote for this rezoning.

Ostner: On that same note I appreciate the drawing which is not usually offered at this point. I'm pleased that there are no back fences facing street right of ways. Backs of houses should touch backs of houses. That is important. Is there anyone from the public who would like to speak on this issue?

McGuire-Bowman: I'm Dr. Kathy McGuire Bowman. I'm here tonight because I feel like this whole meeting is historic however it comes out. This whole time period that we are going through and the effort that you are making to struggle with this question of the growth of Fayetteville is really important. If it is true that you are actually considering prying apart the automatic annexation and rezoning that would be very exciting in itself. If that is what is happening I'm excited and encouraged.

Ostner: Is there anyone else from the public who would like to speak to this item? I will close it to the public and bring it back to the Commission.

Vaught: To address that comment. I think that we are required by city code to address land use when an annexation comes in. Annexations come in automatically R-A so we typically want to zone to something else because most areas that we annex aren't going to be agricultural. That is why we always look at them at the same time. I think it is important to look at land use when annexations come in but not necessarily accepting what the developers want. I think that is the issue. I am for this. I think the Bill of Assurance stated 2.9 units per acre. That is definitely not the most dense it could be. This area of town is going in that direction. This is an area that is soon going to have more and more development going on with the location of proposals out in this area and also with the Boys and Girls Club. I think it is an important area of Fayetteville. To me it is also important to have these developments in this area that extend these roadways and make improvements to roads. We discussed tonight another one that borders 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

historic time in Fayetteville where we are growing on our edges and we are growing in the middle. As you read the papers as many of you have, you see the downtown master plan and the development that we already have. It is a challenge and drain on staff. I really appreciate their work in trying to keep up with this. I will be in support of this, especially with the Bill of Assurance limiting it to 2.9 units per acre.

MOTION:

Shackelford: I concur with what Commissioner Vaught said. I think that this rezoning to RSF-4 is a lot more in line with what is happening out there than the R-A zoning would be. I think that density wise it fits in with the development. Obviously, this is basically an expansion of an existing development in that area. I am going to go ahead and make a motion that we recommend approval of RZN 04-10.00 to the City Council.

Graves: Second.

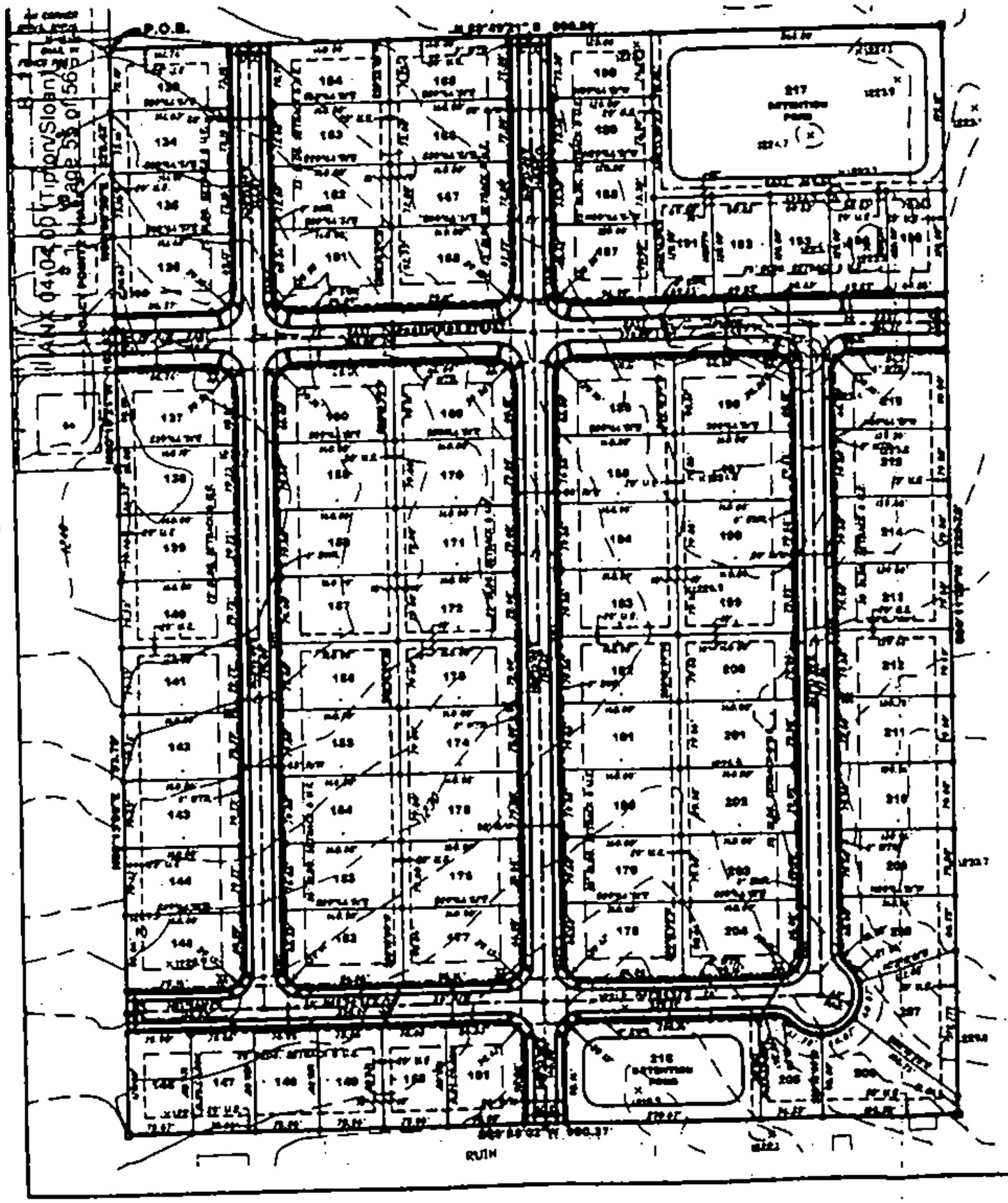
Anthes: Contrary to what we see, R-A or RSF-4 zoning are not the only two instruments of zoning available to us. I'm having a hard time understanding whether this should be this density, less dense or more dense without knowledge of our long range plans for our commercial centers and time that to population growth and our directives about sprawl or smart growth. Without those policies in place it is very hard to tell whether we are building to the correct density at this distance from our city center or not. I understand that this is an optimal density for developers developing single family residential units. They get a lot width and street frontage that works pretty well and I can appreciate that. I really want to see us look more carefully at specific locations and understand them in terms of bringing services to those areas and not just blanketing the perimeter of our city with a blanket of RSF-4 without mixed use being brought into that equation. Thank you.

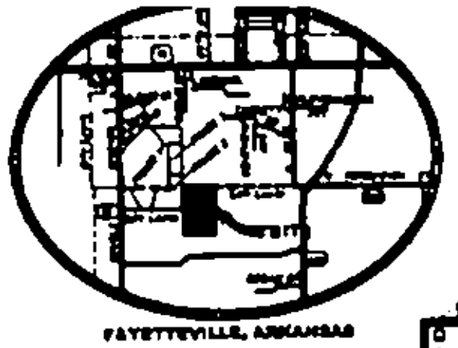
Clark: I would like to echo Commissioner Anthes' sentiments. I voted for annexation but I am not going to vote for rezoning. You might as well say blanket comments here as well. Until I know some of the answers to the infrastructure questions, to the financial impact questions I don't have enough knowledge to say if RSF-4 is proper density out here. If you follow the reason that it is connecting to another subdivision well then we might as well rezone everything else because it is a chain step right on down to the city. I am not going to do that. I encourage the taskforce and am in support of the taskforce. I know you all are working very hard and you are going to consider a lot of information. When I see some of that information maybe I will feel comfortable making these votes for rezoning. Annex it, great. It belongs to us and then we can zone it. When you zone it you have to answer some very substantive questions and I

don't have enough information to do that. I will be voting against the rezoning.

Ostner: Thank you Commissioner Clark. Is there further discussion? Will you call the roll please?

Roll Call: Upon the completion of roll call the motion to recommend approval of RZN 04-10.00 was approved by a vote of 5-4-0 with Commissioners Anthes, Allen, Ostner and Clark voting no.





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LEGEND

- SOUTHWEST CORNER
- SET IRON PIN
- STREET LIGHT
- FIRE HYDRANT
- SEWER MANHOLE
- CO. SEWER MANHOLE
- UTILITY EASEMENT
- FRONT BUILDING SETBACK
- STREET CENTERLINE
- 8" WATERLINE
- 8" SEWER LINE
- STORM DRAINAGE
- NEW SIDEWALK

DEVELOPER:

BLAH PROPERTIES, INC.
3450 KNOTTINGHAM PLACE
FAYETTEVILLE, AR 72703
(479) 444-4444

ENGINEER:

JORGENSEN & ASSOCIATES
CONSULTING ENGINEERS, INC.
904 WEST SUNSHINE SUITE 5
FAYETTEVILLE, AR 72704
(479) 442-9127

Street	Right-of-Way	Street Width	Sidewalk	Easement
Tuckaseegee Street	70'	26'	6'	6'
Grays Gap Road	50'	26'	4'	6'
Greens Chapel Road	50'	26'	4'	6'
Rocky Crossing	50'	26'	4'	6'

BUILDING SETBACKS (ABLE)			
Zoning	Front	Side	Rear
RSF-4	25'	20'	5'

LEGAL DESCRIPTION:

PART OF THE NW1/4, OF THE NW1/4, OF SECTION 16, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF SAID NW1/4, NW1/4; THENCE N89°15'02"E 990.50 FEET, THENCE S00°16'00"E 1299.74 FEET, THENCE S89°15'02"W 990.37 FEET, THENCE N00°15'09"E 793.79 FEET, THENCE N00°16'01"W 163.63 FEET, THENCE N00°00'00"E 335.62 FEET TO THE P.O.B.; CONTAINING 29.29 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

FLOOD PLAIN NOTE:

THIS PROPERTY IS NOT AFFECTED BY THE 100 YEAR FLOOD PLAIN AS PER FEMA MAPS/REPORTS DATED 09-20-99.

TOTAL LOTS = 66

ZONING = RSF-4

TIPTON/SLOAN

Tipton/Sloan

PLAT PAGE: 04-70

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

LEGACY POINTE PHASE 4

PRELIMINARY PLAT

1 / 1

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: July 2, 2004

Subject: Rezoning request for Tipton/Sloan (RZN 04-10.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 29.31 acres of property from R-A, Residential Agricultural to RSF-4, Residential Single Family - - 4 units per acre.

BACKGROUND

The subject property is 29.31 acres located south of Wedington Drive and east of Double Springs Road and abuts Legacy Pointe Subdivision Phase 2 along the east of the subject tract. Surrounding properties are zoned RSF-4 and R-A. The Future Land Use Plan identifies this property as Residential. The subject property is currently vacant. Property to the east is developed as residential.

The applicant proposes to rezone the 29.31 acre tract in anticipation of development of the property as an extension of the adjacent residential subdivision. The applicant proposes to zone the property of RSF-4 and has submitted a Bill of Assurance for City Council consideration which will limit density to 2.9 units per acre.

DISCUSSION

This item, as well as the accompanying annexation request, was tabled by the Planning Commission at the request of the applicant on April 26, 2004. On June 28, 2004, the Planning Commission voted 5-4-0 to forward this rezoning request to the City Council with a recommendation for approval. Commissioners Anthes, Allen, Clark, and Oster voted no.

BUDGET IMPACT

None.

Left on 2nd reading 8/3/04
Left on 1st reading 7/20/04

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:

<u>Section 1:</u> 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.

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

PASSED AND APPROVED this_____ day of _____, 2004.

APPROVED:

By:_____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

DRAFT

EXHIBIT "A"

RZN 04-10.00

A PART OF THE NW ¼ OF THE NW ¼ OF SECTION 14, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING IRON PIPE; THENCE S87°39'18"E, ALONG THE NORTH LINE OF SAID 40 ACRE TRACT, 989.80 FEET TO A SET ½" REBAR; THENCE S02°37'05"W, 1289.84 FEET TO AN EXISTING REBAR; THENCE N87°38'05"W 990.30 FEET TO A SET ½ IRON REBAR ON THE WEST LINE OF SAID 40 ACRE TRACT, SAID POINT BEING N02°38'05"E, 34.24 FEET NORTH OF THE SW CORNER OF SAID 40 ACRE TRACT; THENCE N02°38'25"E, 1289.40 FEET TO THE POINT OF BEGINNING, CONTAINING 29.31 ACRES, MORE OR LESS.

DRAFT

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-10.00: (Tipton/Sloan, pp 475) was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, adjoining the southeast corner of the Legacy Pointe subdivision containing approximately 29.31 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick 7/6/04
Division Head Date

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

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7/6/04

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
THRU:	Dawn Warrick, AICP, Zoning & Development Administrator
DATE:	June 23, 2004

RZN 04-10.00: Rezoning (Tipton/Sloan, pp 475) was submitted by Raymond Smith, Attorney, on behalf of Robert and Minnie Beth Tipton for property located east of Double Springs Road, Adjoining the SE corner of the Legacy Pointe subdivision. The property is currently zoned R-A, Residential Agricultural, and contains approximately 29.31 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

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

PLANNING COMMISSION ACTION:	**Required**	**YES**	
	O Approved		**O Denied**
Date: June 28, 2004			
CITY COUNCIL ACTION:	**Required**	**YES**	
	O Approved		**O Denied**
Date: July 20, 2004 (1st reading if recommended)			

BACKGROUND: Please reference the associated ANX 04-04.00 staff report for additional background information.

This item was tabled by the Planning Commission at the request of the applicant at the regular Planning Commission meeting on April 26, 2004. Public comments were heard at this meeting regarding this rezoning and accompanying annexation request. Please reference ANX 04-04.00 Tipton/Sloan for the minutes of this meeting.

Property description: The subject property contains approximately 29.31 acres of vacant property located south of Wedington Drive and east of Double Springs Rd. Persimmon Street, identified a collector on the Master Street Plan, is planned to bisect the northern portion of this property and connect with the existing western extension of Persimmon Street through Legacy Pointe Subdivision Phase 2. The property is adjacent to city limits to the north and a portion of its western boundary.

Proposal: The applicant's intent is to develop a single family residential subdivision.

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

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 29.31 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 04-04.00, is an accompanying item to this rezoning request.

Recommendation: Staff recommends approval of the rezoning request based on the findings included in the staff report. Future development on this site will be regulated by the City to ensure adequate services, infrastructure, connectivity and consistent development within the surrounding area.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant	R-A, Residential Agricultural
South	Single-family/Agricultural	Planning Area
East	Vacant/Agricultural	Planning Area
West	Single-family (Legacy Pointe)	RSF-4, Residential Single Family, 4 units/acre

INFRASTRUCTURE:

Streets: The property has frontage along the unconstructed portion of Persimmon. This roadway will need to be constructed as a part of any development on this site.

Surrounding Master Street Plan Streets:
North: Persimmon St. (planned collector) and Wedington Dr. (principal arterial)
South: Dot Tipton Rd. (collector)
East: 54th Avenue (planned principal arterial)
West: Double Springs Rd. (minor arterial)

Water: This property has access to an 8" water main stubbed out from Legacy Pointe Subdivision on the west side of the site. Water mains will need to be extended within the development.

Sewer: The site currently has access to an 8" sewer main stubbed out from Legacy Pointe Subdivision on the west side of the site. Sewer will need to be extended within the development. This property's sewer will flow to the Owl Creek Lift Station.

Fire: The subject property is located 2.9 miles from the future Fire Station #7. Normal driving time is 4 min. 39 seconds.

Police: It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services.

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

FINDINGS OF THE STAFF

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

Finding: **The proposed zoning for a single family residential subdivision is consistent with the future land use map and existing zoning to the west of the subject property. Adjacent property to the west (Legacy Pointe Subdivision Phases 1-3) is zoned RSF-4 and developed at 2.6 units per acre. Property to the north is vacant and within the R-A zoning district.**

Rezoning the property to RSF-4 will increase the density, allowing for more intense residential use of the property and allow for development compatible to surrounding residential subdivisions. Access and provision of adequate services must be considered as this site is at the outskirts of the city and located on streets which need improvement.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A higher density than the R-A zoning district allows for development of a subdivision with density appropriate in this area, and would provide compatibility with the adjoining and surrounding RSF-4 developments. In order to develop a residential subdivision on this property in a manner that is consistent with the future land use plan, a residential zoning district is needed.**

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

Finding: **The police department has determined the proposed density will not substantially alter the population density to create an undesirable affect on services. Access shall be evaluated at the time of development.**

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

Finding: **The proposed zoning would increase population density. The 29.31 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 14 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 117 dwelling units would be permitted. This increases the possible number of residential units substantially, but is consistent with land use and zoning within the City of Fayetteville and developing areas to the west and east.**

Engineering - **This property has access to an 8" water main stubbed out from Legacy Pointe Subdivision on the west side of the site. Water mains will need to be extended within the development.**

The site currently has access to an 8" sewer main stubbed out from Legacy Pointe Subdivision on the west side of the site. Sewer will need to be extended within the development. This property's sewer will flow to the Owl Creek Lift Station.

The property has frontage along the unconstructed portion of Persimmon. This roadway will need to be constructed as a part of any development on this site.

Fire - **The subject property is located 2.9 miles from the future Fire Station #7. Normal driving time is 4 min. 39 seconds.**

Police - **It is the opinion of the Fayetteville Police Department that this annexation <u>will</u> <u>not</u> 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.

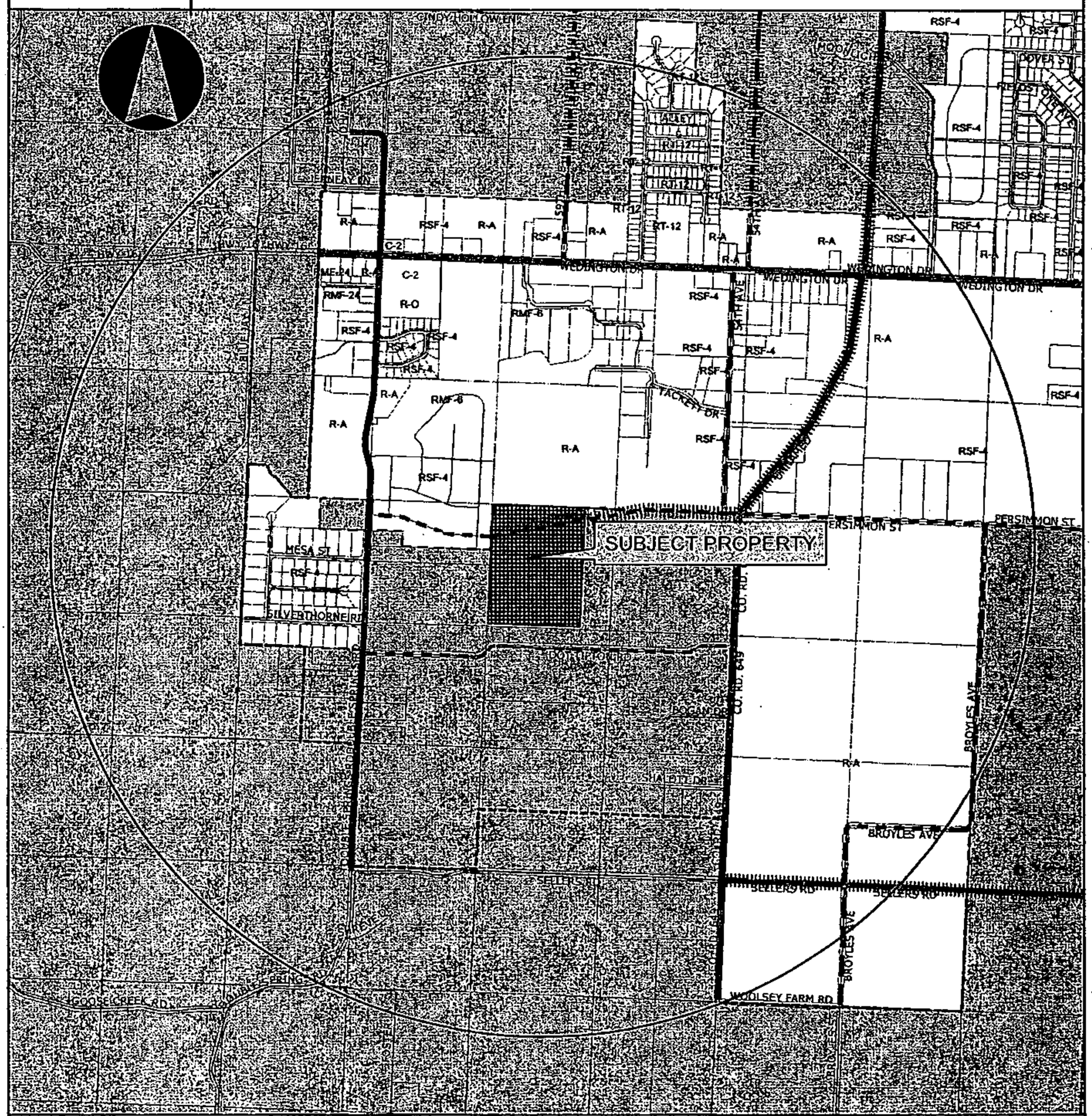
WOULD IT BE IMPRACTICAL TO USE THE LAND FOR ANY OF THE USES PERMITTED UNDER ITS EXISTING ZONING CLASSIFICATION

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,

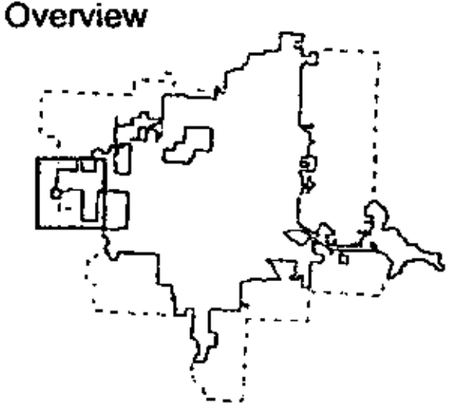
RZN04-10.00

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

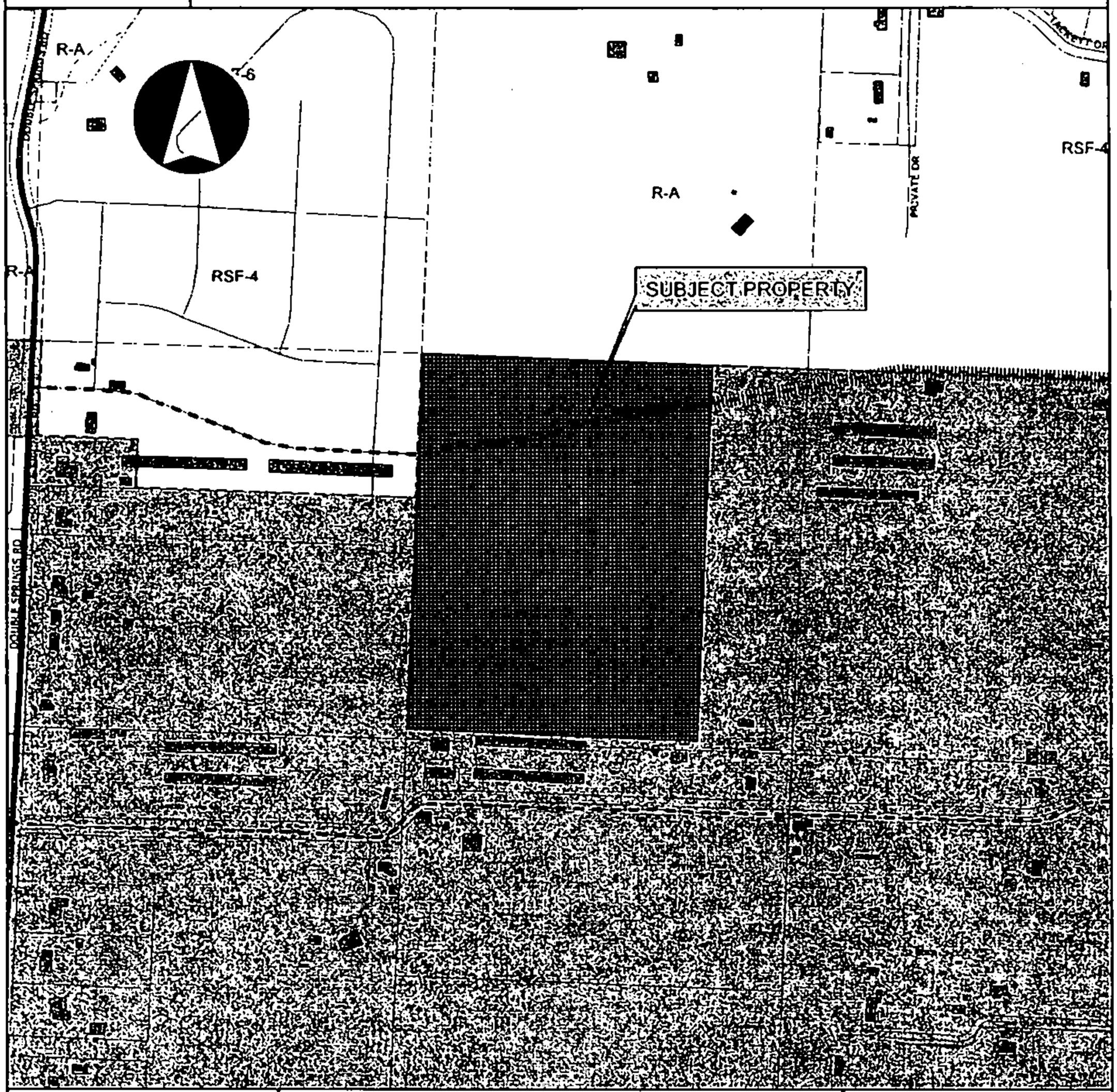
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN04-10.00

TIPTON/SLOAN

Close Up View



Overview

Legend

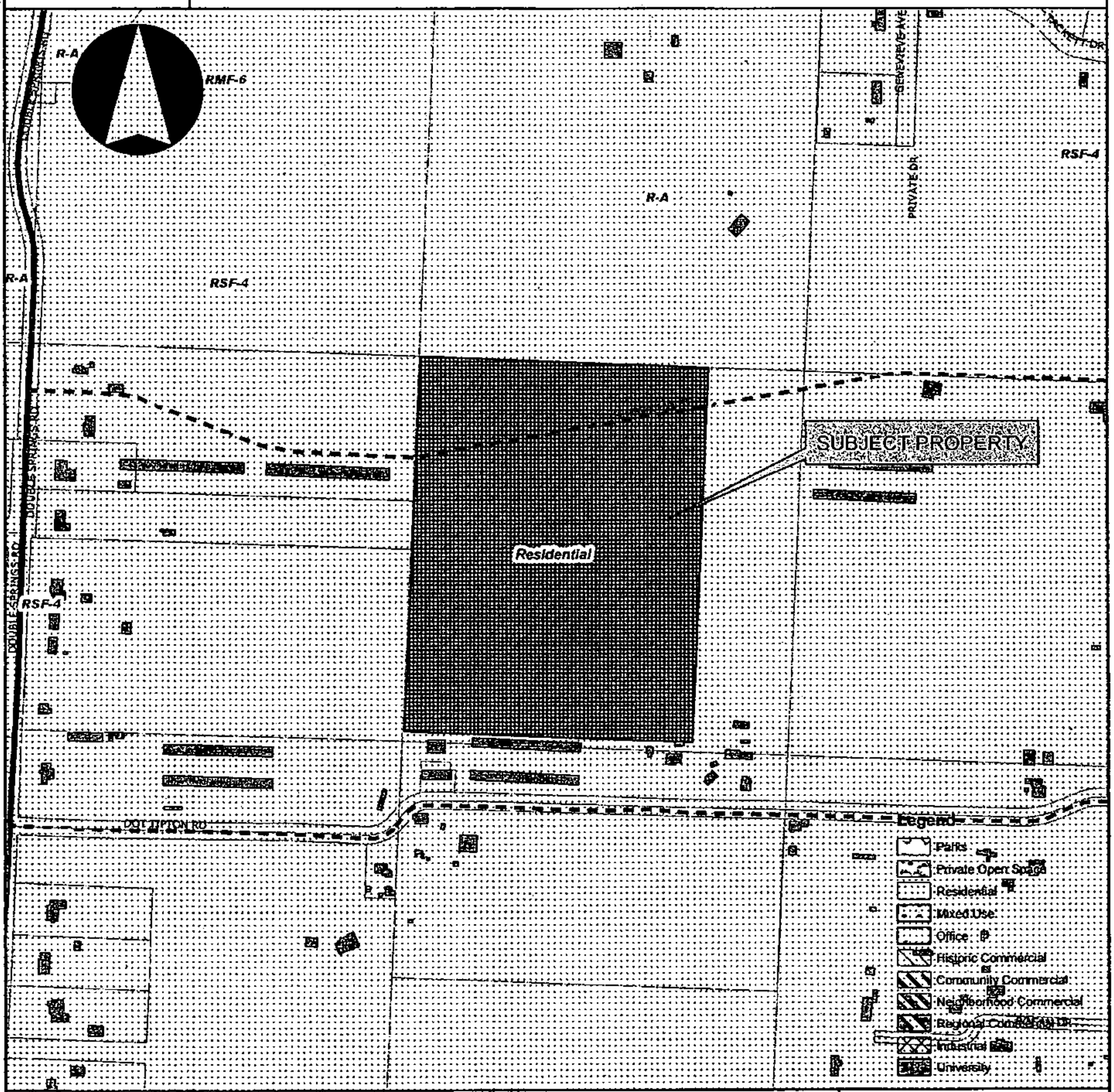
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- RZN04-10.00

0 150 300 600 900 1,200 Feet

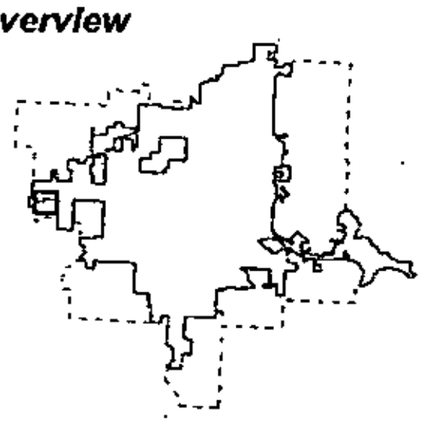
RZN04-10.00

Future Land Use

TIPTON/SLOAN



Overview



Legend

Subject Property

RZN04-10.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 175 350 700 1,050 1,400 Feet

BILL OF ASSURANCE

FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of **RZN 04-10.00 (Tipton/Sloan)** request for a zoning consideration, the owner, developer, or buyer of this property, (hereinafter "Petitioner") **SLOAN PROPERTIES, INC.**, 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 terms of this Bill of Assurance in the Circuit Court of Washington County, Arkansas and agrees that if the Petitioner or Petitioner's successors or assigns violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and the City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonably rely** upon all 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 real 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 an overall average density of 2.9 houses per acre in Phase IV, Legacy Pointe Sub-Division.

2. Other restrictions including number and type of structures upon the property are limited to RSF-4 and shall meet or exceed previous phases of Legacy Pointe Subdivision.

3. Petitioner will file separate amended Bill of Assurance and Protective Covenants for Legacy Pointe Sub-Division to supplement the density restrictions set out herein.

4. .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 and recorded for record in the Washington County 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, **SLOAN PROPERTIES, INC.**, as the owner, developer or buyer (Petitioner) **voluntarily offers** all such assurances and sign the corporation's name

below.

Date: June 21, 2004

Sloan Properties, Inc.

By: _____
Charles W. Sloan, President

NOTARY OATH

STATE OF ARKANSAS)
)ss.
COUNTY OF WASHINGTON)

Now on this the 21st day of June, 2004, appeared before me, Charles W. Sloan, President of Sloan Properties, Inc., and after being placed upon his oath swore or affirmed that he agree with the terms of the above Bill of Assurance and sign his name above.

My Commission Expires:

8-18-2009

_____
Notary Public

"OFFICIAL SEAL"
Raymond C. Smith
Notary Public, State of Arkansas
County of Washington
My Commission Exp. 08/18/2009

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Notary Public

"OFFICIAL SEAL"
Raymond C. Smith
Notary Public, State of Arkansas
County of Washington
My Commission Exp. 08/18/2009

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: April 30, 2004

Subject: Annexation for Leigh Taylor Properties (ANX 04-06.00)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Leigh Taylor Properties. This action will incorporate a 29.86 acre tract of land contiguous with the city limits to the south into the City of Fayetteville. The request is to annex the subject property into the City of Fayetteville.

BACKGROUND

The subject property is 29.86 acres and located in north Fayetteville, north and east of Highway 112. The subject property is a part of a larger 40 acre tract under common ownership. The southern 10 acres is already within the City of Fayetteville and zoned R-A, Residential Agricultural. The property is adjacent to Forest Hills Estates within the Planning Area to the north. To the east is a portion of one intervening property from the Planning Area boundary. This tract of land is within an area proposed to be annexed by the City of Johnson and will be voted on by the citizens of Johnson and affected property owners on May 11, 2004. Staff believes the applicant submitted a petition for annexation to the County prior to the Johnson's call for election. The applicant submitted an accompanying rezoning request for the entire 40 acre tract. That request was tabled by the Planning Commission to allow for further consideration and discussion regarding public concerns of traffic volume and safety, density, and possible development plans.

Proposal: The applicant requests annexation into the City of Fayetteville.

DISCUSSION

On April 26, 2004, the Planning Commission voted 6-0-0 to forward this item to the City Council with a recommendation for approval. The accompanying rezoning request was tabled.

BUDGET IMPACT

None.

Tabled Indefinitely
6/1/04 City Council Meeting

ENTERED
4-30-04
TLM

Left on 1st reading 5/18/04

Left on 2nd reading 8/3/04
Left on 1st reading 7/20/04
7/6/04 Resa in Planning said to re-submit..

ORDINANCE NO.

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY OWNED BY LEIGH TAYLOR PROPERTIES, LLC FOR PROPERTY LOCATED AT 2470 HWY. 112 CONTAINING APPROXIMATELY 29.86 ACRES.

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

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

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

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

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 04-06.00

THE SW ¼ OF THE NW ¼ OF SECTION 28, TOWNSHIP 17 NORTH, RANGE 30 WEST, DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT OF BEGINNING BEING A SET COTTON SPINDLE; THENCE NORTH 00°09'01" WEST 1312.76 FEET TO A SET COTTON SPINDLE: THENCE ALONG THE SOUTH LINE OF FOREST HILLS SUBDIVISION, NORTH 89°59'52" EAST 1320.33 FEET TO A FOUND PINCHED IRON PIPE; THENCE SOUTH 00°15'33" EAST 1287.92 FEET TO A SET IRON PIN; THENCE CONTINUING SOUTH 00°15'33" EAST 26.60 FEET TO THE SOUTHEAST CORNER OF SAID SW ¼ OF THE NW ¼; THENCE NORTH 89°55'34" WEST 1322.84 FEET TO THE POINT OF BEGINNING, CONTAINING 39.855 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. SAID TRACT SUBJECT TO THE RIGHT OF WAY OF ARKANSAS STATE HIGHWAY NO. 112 ON THE SOUTH SIDE OF THE WEST SIDE THEREOF.

IN ACCORDANCE WITH A SURVEY BY DOUGLAS HEMINGWAY DATED NOVEMBER 4, 2003.

LESS AND EXCEPT THE SOUTH 330' OF SAID PROPERTY.

THE ACREAGE INCLUDED IN THE PROPERTY TO BE ANNEXED IS 29.86 ACRES, MORE OR LESS.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

FILED
'04 FEB 17 PM 2 00
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

In re:

ANNEXATION OF PROPERTY CONTIGUOUS TO THE CITY OF FAYETTEVILLE, ARKANSAS

Case No. 2004-3

PETITION FOR THE ANNEXATION OF PROPERTY
CONTIGUOUS TO THE CITY OF FAYETTEVILLE, ARKANSAS

Comes now the Petitioner, Cleve Branson, owner of certain real property located in Washington County, Arkansas, and petitions the Court as follows:

1. That the Petitioner, Cleve Branson, is the sole owner of certain real property located in Washington County, Arkansas, described as follows:

> The SW ¼ of the NW ¼ of Section 28, Township 17 North, Range 30 West, described as beginning at the Southwest corner of said 40 acre tract, said Point of Beginning being a set cotton spindle; thence North 00°09'01" West 1312.76 feet to a set cotton spindle; thence along the South line of Forest Hills Subdivision, North 89°59'52" East 1320.33 feet to a found pinched iron pipe; thence South 00°15'33" East 1287.92 feet to a set iron pin; thence continuing South 00°15'33" East 26.60 feet to the Southeast corner of said SW ¼ of the NW ¼; thence North 89°53'34" West 1322.84 feet to the Point of Beginning, containing 39.855 acres, more or less, Washington County, Arkansas. Said tract subject to the right-of-way of Arkansas State Highway No. 112 on the South side of the West side thereof.
>
> In accordance with a survey by Douglas Hemingway dated November 4, 2003.
>
> Less and Except the South 330' of said property.
>
> The acreage included in the property to be annexed is 29.86 acres more or less.

2. That all of said property is contiguous to and adjoins the City of Fayetteville, Arkansas.

FROM WACO CLERK (TUE)APR 20 2004 11:27/ST. 11:23/NO. 6314274941 P 14

3. That Petitioner respectfully requests that said property be annexed to, added to, and included within the boundaries of the City of Fayetteville, Arkansas.

4. That Petitioner respectfully requests that this Court set a date certain for a hearing of the Petition.

WHEREFORE premises considered, the Petitioner prays that this Court set a date certain for its hearing of this Petition; that the Court grant its Petition for Annexation to the City of Fayetteville, Arkansas; and for all other reasonable and proper relief to which this Court deems it entitled.

Respectfully submitted,

Curtis E. Hogue
HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON, P.C.
One East Center Street, Suite 315
Fayetteville, AR 72701-5388
Telephone (479) 973-5200
Facsimile (479) 973-0520
ATTORNEYS FOR PETITIONER, CLEVE BRANSON

418661.1:224275:01820

FROM WACO CLERK (TUE)APR 20 2004 11:28/ST. 11:23/NO. 6314274941 P 15

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

FILED
'04 MAR 22 AM 9 23
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

In re:

ANNEXATION OF PROPERTY CONTIGUOUS TO THE CITY OF FAYETTEVILLE, ARKANSAS

Case No. 2004-3

ORDER OF ANNEXATION

Now on this 19th day of March, 2004, the Petition for Annexation of Property contiguous to the City of Fayetteville, filed by Cleve Branson, comes on for hearing and the same is submitted to the Court upon said Petition, proof of publication of notice, testimony before the Court, and other evidence presented, from all of which the Court finds:

1. That the Petition for Annexation of Property Contiguous to the City of Fayetteville was duly filed in the office of the County Clerk of Washington County, Arkansas, and that an Order was made fixing the time and place for a hearing on said Petition at this date and time in the County Court of Washington County, Arkansas.

2. That legal notice of the hearing was given as required by law and such notice of the hearing was published once a week for three consecutive weeks in the Arkansas Democrat-Gazette/Norwest Arkansas Times, a newspaper published in Washington County, Arkansas. Proof of publication has been made and filed with the Clerk of this Court.

3. That the Petitioner is the owner of the property to be annexed.

4. That the owner of the proposed annexed area shall derive substantial benefit from the annexation.

5. That the area to be annexed is part of the growth area of Fayetteville, Arkansas and the extension of the corporate boundaries is a realization of the natural growth of the City of Fayetteville.

6. That the lands to be annexed are contiguous to and adjoin the City of Fayetteville.

RECEIVED
MAR 18 2004

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

FILED
'04 FEB 17 PM 2 22
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

In re:

ANNEXATION OF PROPERTY CONTIGUOUS TO THE CITY OF FAYETTEVILLE, ARKANSAS Case No. 2004-3

ORDER FOR HEARING

Now on this 17th day of February, 2004, is presented the Petition of Cleve Branson for annexation of certain lands more particularly described therein to the City of Fayetteville, Arkansas, and this Court does hereby set the Petition for hearing on the 19th day of March, 2004 at 10:00 A.m., in the office of the County Judge, 280 N. College, Fayetteville, Arkansas; and notice of said hearing shall be given as provided by law.

HONORABLE JERRY HUNTON, COUNTY JUDGE

418661.1:224275:01820

V2-979

Cleve Branson
December 19, 2003
HWEI Job No. 03277A

LEGAL DESCRIPTION NO. 3
PROPERTY TO BE ANNEXED TO
THE CITY OF FAYETTEVILLE

The SW ¼ of the NW ¼ of Section 28, Township 17 North, Range 30 West, described as beginning at the Southwest corner of said 40 acre tract, said Point of Beginning being a set cotton spindle; thence North 00°09'01" West 1312.76 feet to a set cotton spindle: thence along the South line of Forest Hills Subdivision, North 89°59'52" East 1320.33 feet to a found pinched iron pipe; thence South 00°15'33" East 1287.92 feet to a set iron pin; thence continuing South 00°15'33" East 26.60 feet to the Southeast corner of said SW ¼ of the NW ¼; thence North 89°55'34" West 1322.84 feet to the Point of Beginning, containing 39.855 acres, more or less, Washington County, Arkansas. Said tract subject to the right-of-way of Arkansas State Highway No. 112 on the South side of the West side thereof.

In accordance with a survey by Douglas Hemingway dated November 4, 2003.

Less and Except the South 330' of said property.

The acreage included in the property to be annexed is 29.86 acres more or less.

\03277A\LEGAL DESCRIPTIONS.doc

EXHIBIT
C

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 26, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
THRU:	Dawn Warrick, AICP, Zoning & Development Administrator
DATE:	April 20, 2004

ANX 04-06.00: Annexation (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112. The property is currently in the Planning Area and contains approximately 29.86 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):

PLANNING COMMISSION ACTION:	**Required**	**YES**
	⊙ Approved	**⊙ Denied**
Date: April 26, 2004		
CITY COUNCIL ACTION:	**Required**	**YES**
	⊙ Approved	**⊙ Denied**
Date: May 18, 2004		

BACKGROUND:

Property description: The subject property contains approximately 29.86 acres of vacant property located north of Highway 112/Howard Nickell Rd and east of Highway 112. The property is adjacent to the city limits along its southern boundary where it abuts property owned by the applicant. Hills Estate subdivision is located to the north of this site and Lynn-Leigh Hill Estates is south of Hwy 112.

Proposal: The applicant proposes the annexation of property into the City of Fayetteville. A rezoning request for this property in conjunction with the property to the south has been submitted for this property.

Request: The request is to annex the subject property into the City of Fayetteville.

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 29.86 acres, plus an additional 10 acres to the south, to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning request, RZN 04-12.00, is an accompanying item to this annexation request.

Property that is developed and/or subdivided in the Planning Area of the City of Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City, thereby allowing for a uniform and consistent standard of development. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, it allows for the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have none of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limit boundary. In some cases, new subdivisions adjacent to one another have very different street construction, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits are typically required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use, tree preservation, etc. are not within the City's ability to control.

Recommendation: Staff recommends approval of the proposed annexation. The subject property is adjacent to the City of Fayetteville and will create an appropriate city boundary. Future changes or additional development on this site will be regulated by the city allowing for more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single-family (Forest Hills Estates)	Planning Area
South	Vacant	R-A, Residential Agricultural
East	Single-family	Planning Area
West	Single-family	Planning Area

INFRASTRUCTURE:

Streets: Highway 112, a state highway, is located to the south and west of this property. Improvements to infrastructure will be assessed at the time of development.

Surrounding Master Street Plan Streets:
North: Forest View Rd (local street)
South: Highway 112 & Howard Nickell Rd (principal arterial)
East: Cris Hollow Rd. (local street)
West: Highway 112 (principal arterial)

Water: The property currently has access to a 6" water line along Highway 112. An extension of the water main will be required to provide water supply within any development on this property.

Sewer: Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive. The developers engineer will need to provide calculations to show that there is adequate capacity in the Highway 112 lift station. Upgrades to this station and/or force main may be required.

Fire: The subject property is located 3.6 miles from the Fire Station #2. Normal driving time is 5 min. 56 seconds.

Police: It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services.

The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. These two intersections have had 31 accidents in just over three years. The police department recommends the access to this area should be placed as far from these two intersections as possible. Access into future development shall be reviewed for safety at the time a development proposal is submitted to the city.

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

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES
BOUNDARIES

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

Finding: **The requested annexation will extend an existing peninsula to the north. The extension will, however create an appropriate boundary due to the area and configuration of the parcel. No island will be created by annexing the subject property.**

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

Finding: **The proposed annexation area is adjacent to the City Limits to the south for approximately 1290 feet.**

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

Finding: **This area does not consist of defined subdivisions or neighborhoods; however, future development plans may include the extension of the surrounding subdivisions.**

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

Finding: **Proposed boundaries follow property lines.**

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

Finding: **Current conditions result in a response time of just less than 6 minute for fire protection from the Fire Station #2. Any development in this area would necessitate installation of hydrants to provide for fire protection. Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive. In addition, calculations shall be provided to show that there is adequate capacity in the Highway 112 lift station. Upgrades to this station and/or force main may be required. Sewer will need to be extended with development.**

ENVIRONMENTALLY SENSITIVE AREAS

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

Finding: N/A

EMERGENCY AND PUBLIC SERVICES

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

Finding: **The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Location of access to the property to ensure the safety of the public shall be considered at the time of development. Sewer will need to be extended to serve this site. The nearest sewer main is located to the east at Van Asche Drive.**

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

Finding: **Fire and police service shall be provided to this area with the same level of response and service as other developments in this area. Sewer improvements to the area will be provided for with the development of approved preliminary plats.**

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

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

INFRASTRUCTURE AND UTILITIES

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

Finding: **Water, fire and police protection are currently provided in this area.**

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

Finding: **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.**

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

Finding: **The proposed annexation is not part of a phased annexation initiated by the City. This tract of land is within an area proposed to be annexed by the City of Johnson and will be voted on by the citizens of Johnson and affected property owners on May 11, 2004.**

INTERGOVERNMENTAL RELATIONS

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

Finding: **Annexation of this property will adjoin Fayetteville city limits with Johnson city limits at the northeastern most corner of the subject property.**

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

Finding: **N/A**

ADMINISTRATION OF ANNEXATIONS

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

Finding: **Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with the Residential classification of the area on the City's adopted Future Land Use Plan.**

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

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

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

Finding: **Conceptual development proposals for this property have been submitted to the Planning Division; however, no application for development has been received. At the time the applicant desires to development the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.**

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: **This annexation includes 29.86 acres owned by Leigh Taylor Properties, Inc. and represented by Art Scott of Project Design. The combined requests create a reasonable boundary avoiding the creation of unusual boundary lines.**

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

Finding: **N/A**

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

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

Environmentally Sensitive Areas

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

Emergency and Public Services

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

Infrastructure and Utilities

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

Intergovernmental Relations

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

Administration of Annexations

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

FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-12.00 OWNER Leigh Taylor Prop.
ANNEXATON# 04-06.00 OWNER Leigh Taylor Prop.
LOCATION OF
PROPERTY 2470 Hwy. 112

NEAREST FIRE STATION AND
LOCATION Station #2, 708 N. Garland

RESPONSE TIME FROM FIRE STATION # 2 TO
LOCATION OF
PROPERTY 5 MINUTES 56 SECONDS.
TRAVEL MILES FROM FIRE STATION # 2 TO LOCATION OF
PROPERTY 3.6 miles.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION Hwy. 112 at Deane Solomon

WATER SUPPLY WITH HYDRANTS
NEEDED? Yes

ADDITIONAL
COMMENTS

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

~~SUBSTATION~~
~~N.W.A. MALL~~
~~(501) 575-8271~~
~~FAX (501) 575-8272~~

FAYETTEVILLE

RECEIVED
APR 2 0 2004
PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

April 19, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **ANX 04-06.00 Annexation (Leigh Taylor Properties, pp 169)** and **RZN 04-12.00 Rezoning (Leigh Taylor Properties, pp 169)** submitted by Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112 would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services.

The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. In fact, these two intersections have had 31 accidents in just over three years. The access to this area should be places as far from these two intersections as possible.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

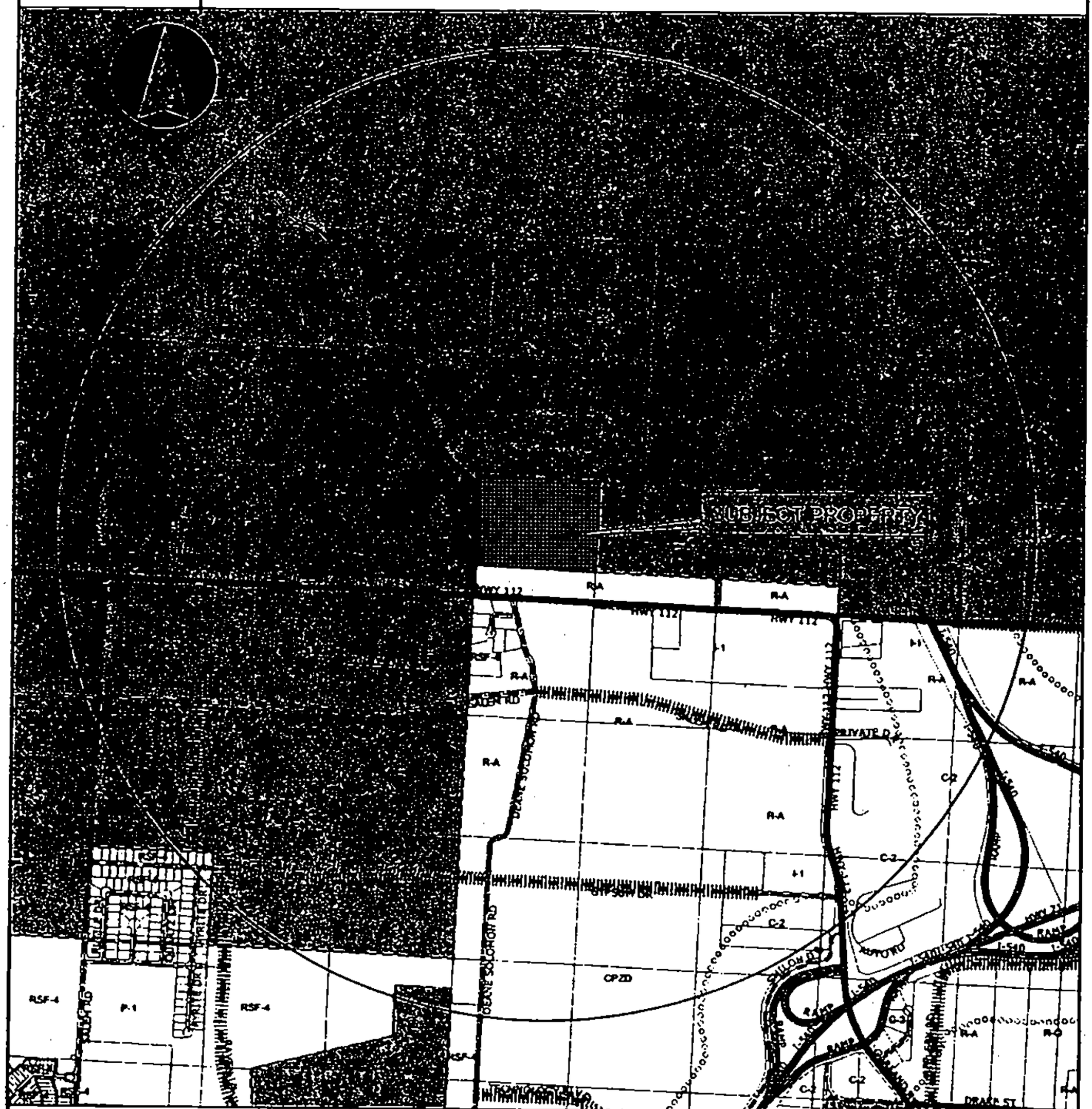
ETTEVILLE POLICE DEPARTMENT
BOX 1988
ETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

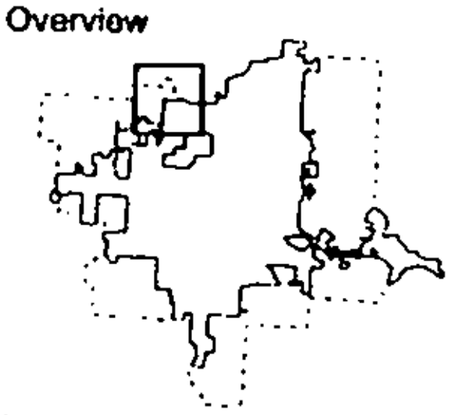
ANX04-06.00

One Mile View

LEIGH TAYLOR PROPERTIES



Overview



Legend

Subject Property
- ANX04-06.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

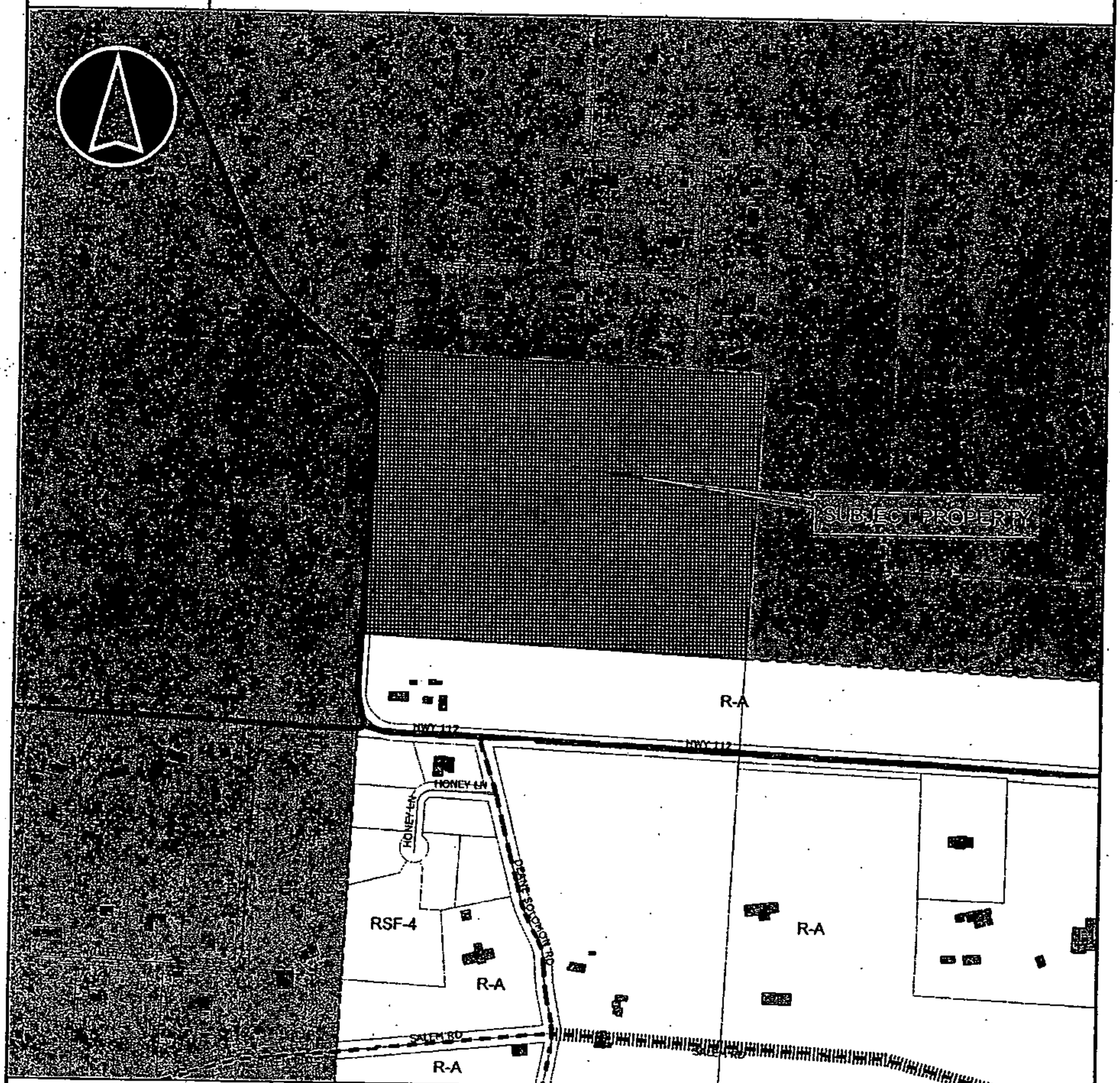
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

ANX04-06.00

Close Up View

LEIGH TAYLOR PROPERTIES



Overview

Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- ANX04-06.00

0 175 350 700 1,050 1,400 Feet

Planning Commission
April 26, 2004

ANX 04-06.00: Annexation (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112. The property is currently in the Planning Area and contains approximately 29.86 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 04-12.00: Rezoning (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC. The property is currently zoned R-A, Residential Agricultural, and contains approximately 39.86 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next item on our agenda is another annexation, it is ANX 04-06.00 for Leigh Taylor Properties. If we could have the staff report please.

Morgan: This request was submitted by Chad White on behalf of Leigh Taylor Properties for property located at 2470 Hwy. 112. The request is to annex approximately 29.86 acres into the City of Fayetteville. If you look on page 10.12 that identifies the approximately 30 acre tract that is requested to be annexed into the city. The accompanying rezoning for Leigh Taylor Properties is a request to rezone this 30 acre tract as well as the 10 acre tract of land just north of Hwy. 112 to RSF-4. The annexation is 30 acres and the rezoning is for approximately 40 acres. Fire and Police have reviewed this item. It is approximately 5 minutes 56 seconds from Fire Station 2 and Police have reported that this annexation will not substantially alter the population density. However, they did comment that access to this site would be of concern due to the intersection of Hwy. 112 and Howard Nickle as well as Hwy. 112 and Deane Solomon. Access into future development will be reviewed for safety at the time of development when there is a development proposal submitted to the city. Improvements to street systems will be reviewed also at the time of development and staff finds that this is an appropriate location for annexation into the city. As I mentioned earlier, they are requesting a rezoning of this 30 acre tract as well as the additional 10 acres to the south. Staff finds that this proposed zoning for single family residential is compatible with the land use to the north and the south. There are two subdivisions in either direction. Property to the south within the city limits is zoned RSF-4 at this time as well as R-A. Staff finds that the zoning is consistent with the future land use map and existing development within this area. Public comment has been received regarding this proposal with regard to density, lot size and traffic volume. However, staff finds that in accordance with findings from other divisions such as Engineering, Fire and Police, staff is recommending approval of ANX 04-06.00 and RZN 04-12.00.

Ostner: Thank you. Is the applicant here?

Hogue: Good evening, my name is Curtis Hogue. I'm an attorney in Fayetteville here on behalf of the applicant. I actually represented the applicant through the annexation process of the county. In reading the recommendation from staff and in looking at the findings made and the recommendations made and there was reference made to extenuating circumstances on this particular annexation. I'm not sure in particular what those are although I think that there are a number that apply here. In particular, as noted by the staff recommendation of this parcel 10 acres are within the city. We are asking to annex the entire parcel to bring it all into the city and then allow the total rezoning. I know that there are a couple of specific issues that were addressed in this. With me is Art Scott who is handling the engineering on behalf of the applicant and I'm sure can address some of those particular issues that were brought up in the report.

Scott: I think there were a number of pretty good concerns. First of all, if it was my property next door I would want to know what the density was too. The RSF-4 does allow for four units per acre. This developer is intending to build an upscale sized sort of premium lot in that zoning. It is a minimum of 80', which the zoning allows for 70' and then the normal depths are 130' to 140', which is another 30' or 40' larger in the rear than would be allowed by the typical zoning. The entire 40 acres would end up with their intention is around 108 to 110 units which is 2/3 of the maximum density. There will be a 2,400 minimum square foot home. The access and the proximity to that corner where Hwy. 112 makes that 90° corner would be a concern. We have on the south side very good visibility in both directions from where we intend to apply only one access point on the south and we only intend to have one access point on the west side on Hwy. 112 also with a stub out for connectivity to the north and to the east and both of those have ¼ mile along Hwy. 112 with very good visibility in both directions for access. Also, one other concern was drainage and that is always a concern when the development of 40 acres takes place. We will have to abide by all the city codes and detain any water before it leaves the site and keep it to a pre-development level so that shouldn't be a concern for the future and for the downstream properties. I will answer any questions you might have.

Ostner: At this point I will move it to the public comment period. Are there people who would like to comment on this item?

Futral: My name is Charlie Futral and I have property adjoining this property. I'm on the north side. I sit on one acre of land. I'm in the Forest Hills subdivision which is to the north here. I've lived here for nine years. We have a very established neighborhood. The houses surrounding this property are very established. My neighbors directly to the north of me sit on 1 ½ to 2 acres. My neighbors directly to the west of me who adjoin this have approximately 2 acres. His neighbor who adjoins this property

has approximately 3 ½ to 4 acres I believe. Throughout our neighborhood we are not equal to what they are designing here. You are talking about 80' lots here, we sit on one acre plots. Yes there are some properties in there that are less than one acre but not many. Most of them have multiple acres, up to 8 acres within our particular subdivision. Across the street to the west you have approved zoning for 2 acre lots. We had 4 acres and then you all came back with 2 acre lots. That is nowhere near this kind of density and there is nothing in our neighborhood that has this kind of density going on. The density is one of the primary concerns that we have as it relates to this property. We have several concerns that relate to density. One is property values as it relates to us and it relates to the whole neighborhood, not just our particular subdivision but in each direction from us. As we look at this we don't see that this is enhancing our property values out in the area where we are at. The concerns that relate to the density is the safety issue. What he just addressed on this curve, this is a curve where we have had two fatalities in the last nine years that I've lived here. There have been two fatalities, that is adjoining this property that is immediately on the southwest corner of this property. That doesn't include, I don't know the number of wrecks that have occurred along this stretch of road. It is a dangerous piece of road. It is a dangerous piece of road because it is narrow, because it doesn't have good visibility and because of the speed and the direction that cars come into. Mainly it is a narrow piece of road. It is a state highway that the City of Fayetteville is not going to come in and rebuild and neither is the developer. With all good intentions, everyone is trying to manage growth as it goes out into the community and one of the things that was talked about here this evening was the appropriateness of what is RSF-4. My concern and what I would like to suggest is that this be a RSF-1, one house per acre as the density issue. It raises the property values on the thing, it doesn't inculcate 250 or more cars into this dangerous situation of where fatalities are already occurring, they are on the record. We had a runner just down the street on Hwy. 112 as you come around the curve to the drive in theater along that stretch, we had a runner who was hit and killed a few years ago. You may remember that. There is the third fatality in less than 9 years. As we look at this the density is a real issue. One of the things that was mentioned here as we were listening closely to what was being said is that RSF-4 on a flat plain makes sense that you can see where you are going. It spreads it out. This is a rolling hill country that you are coming into. Another one of the big issues and concerns on this is that when you look at this plat, this is obviously not approved. It is the one that you all have probably all seen and had across your desk as you look at this approach.

Ostner: No.

Futral: May I bring it up?

Ostner: Sure.

Futral: For what it is worth, you need to see what is about to go in here. This is the plat that they have presented as an informal plat. Here is the dangerous curve, here is our subdivision. These are all one acre lots and more coming through here and if you watch this these are tree lines. These are all just trees but what you are seeing here, this area and this whole 1/3 of the property is a low area. These are trees in water. Their idea is that they are going to put a ditch as lots back up to each other and they are going to carry the water through here. This water is coming off of all this slope, all of this basin back over here which includes the development from Clear Creek. Clear Creek now is flowing water through our neighborhood which is an issue for me and for other neighbors there. It goes immediately into this neighborhood here at the north end of this and they think that they are going to handle it down here with an engineered detention pond. I don't think so. Especially after what we just saw this week as it goes through here. This is also a boggy area down through here. Now we are going to put density into a boggy area, not a flat area and not a nice dry area. We are going to go in and we are going to completely cut the trees and we are going to reshape this land to insert this kind of density. In a neighborhood where you have one acre lots, modest in many cases, not so modest in other cases. We have homes out in our area that would approach close to a million dollars and we have land that have been platted across the street that are 2 acre lots, 4 acre lots, that are not scheduled to carry this size of a home on it. What is going to happen to that gentlemen's property values as he goes along? I think density is the culprit here and it is the concern that we all have. Some of the reasons and things that are attached to it are safety on the roads. This is a very real issue out there. We already have proof of it with the fatalities that have occurred and the wrecks that occur. We also have land that is a rolling hill country. In this particular location and what I'm showing you here with these tree lines where the water flows, these are dry creek beds. Think of it like a bowl and what you are doing is our neighborhood is sloping into that bowl, the west is coming into that bowl and the east is flowing around and into that bowl. Their property, roughly 1/3, 25% to 30% of it is the bottom of the bowl as the water flows through it. One other thing, I would like to ask that the number of people that are here that are concerned about this raise their hands so that we have some sense of the neighborhood that has come to see you this evening. There are many neighbors here and some of which have lived here for 30 years, some of which have been here for 2 years and many of us that have been here for several years. Ron has been here since 1962 on this property so we are really very established and appreciate your concern and consideration with this.

Planning Commission
April 26, 2004

Approximately 25 people raised hands

McWhorter: My name is Rick McWhorter, I have property that is adjacent to the north side of this property right across the street from Charlie Futral. I don't know if you are aware but to go along with the density issue we received a report that came across from the Educator. It is a news letter from the Fayetteville Public Schools. One of the things that came out was a map showing large areas of development. In this blue area is exactly the property that we are looking at, or at least it is within that. If you were to count up and this map is not very good to be able to identify the actual number of homes, but if you were to count up the number of homes that are in these developed areas that are already either approved or in the process then we are looking at anywhere from around 600 new homes to around roughly 1,200 give or take. The school system figures one child per three lots is what their formula is. This would add a tremendous overflow to the school system, in particular the elementary school district that this serves. Holcomb Elementary School District is already in the process of having to build six new kindergarten classrooms to service a school system that is almost at full capacity already without even considering this development. When you start adding onto this you are adding a problem that is not just traffic, not just safety, not just drainage, but we are adding an issue that deals with public education here within the City of Fayetteville. As you are aware with the vision 2010 that is posted right behind you. You look at point 11, Quality and you start adding more and more student possibility in this area to an overflowing school then that is even creating more of a problem. I would like for you to consider that because I think Charlie was very eloquent in what he said. My other concern is the road through or at least the way we have seen the layout of the road through that would tie into Woodside Drive. The concern is the traffic flow through there and the service vehicles that would go through there and those kinds of concerns that we do not have at this point in time that I would hope you would consider keeping us from having that. We appreciate your time and we appreciate your concern. I think Charlie was very good at pointing out that drainage and density are major issues. Thank you.

Myers: I'm William Myers, I also live just to the north of the area. I'm certainly not going to go into as much detail but I would like to reinforce what Charlie has said. Particularly our concern is the population density and the traffic safety. For whatever it means I was born in Fayetteville in 1934 so I remember when the first traffic lights were put in in Fayetteville and you can't imagine the fuss that caused. I did some mental arithmetic and depending on however many children you expect people to have that is going to be a population density out there between 6,000 and 8,000 per square mile. I don't know what to compare that to but you guys can do that. The other thing I would express my concern about is the traffic. I

drive from my home out there to the University of Arkansas every morning and have done so for the past 18 years. The traffic is getting worse and worse and worse. If you look at the small development immediately to the south across Hwy. 112 from this corner the fencing company has a pretty good business of repairing the fence there where cars go a little bit too fast, miss the curve and go through the fence. Hwy. 112 which used to be an unpaved road that I hiked on as a boy scout, has become a very dangerous place to drive on. I hope you will not make it more dangerous. Thank you very much.

Ostner: Thank you Sir.

Clark: Good evening, my name is John Clark. I do think Charlie covered most bases. I would just simply add that RSF-4 is too dense for this area. I really can't add much more than what has already been said except to say that even though the visibility is good on those entrances, it is a dangerous venture to pull out on Hwy. 112 under the best circumstances. We would ask the Commission to do the right thing and consider a less dense rezoning there. The annexation, I think most of us welcome the annexation. Thank you.

Forbes: I am Bill Forbes. I live right across the street from John Clark. We have a 3" water main, what is going to happen to our water pressure from Fayetteville?

Casey: If this property is to be annexed and rezoned and if we see a development proposal on this property at that time we will look at the public infrastructure, water and sewer, and make sure tat there is adequate capacity to serve the development. If the capacity does not exist it will be up to the developer to provide the capacity for the area.

Forbes: We are already developed.

Casey: The developer of this property would have to supply the infrastructure to make sure there was adequate capacity to serve their property and also make sure there is no negative impact on the existing customers.

Forbes: Thank you. We have 26 houses on over 40 acres. As Charlie said just very few of them are on one acre or ¾ acre plots. Whoever was here before, we also have deer, quail, dove, they will be gone forever. The water detention, it appears on the plat like it is one lot, 100'x40', is that correct?

Scott: This is still in the preliminary stages.

Ostner: Excuse me Sir, you need to address us and we will ask him and that will keep things moving.

Forbes: If it fills up where does the water go? 26 of those lots that they have platted there are right on Hwy. 112. Instead of getting a fence knocked out you are going to have a home knocked out. Today I walked down there and they were surveying on the flat area while we were cutting yards and everybody doing fine, they were stuck in the mud down there with the surveyors. They were stuck in the mud down there Thursday before the big rains came. They are walking around out there in the flattest part with long boots on and doing a pretty good job. We have been a good friend to Fayetteville. We live about 400' out of the city limits. We have paid you guys for our fire insurance and the price got dearer and dearer. We have called you two times in 30 years. As far as calling the police I don't think we ever have and we sure don't need this right next to us. Thank you.

Kemp: Hello, my name is Jeff Kemp, I'm involved with the development near this subject property so I'm somewhat familiar with it and the area. I just once again, want to reinforce the problem that I think this density will pose as far as traffic. Not only do you have the 90° turn on Hwy. 112 on the southwest corner of the property. You also have Cris Hollow Road on the east side just as you top a hill Cris Hollow pulls out and I know from experience it is kind of a take your chances and pull out on. I just can't imagine the density of RSF-4 traffic in that area.

Ostner: If I could I would like to remind everyone to keep your comments short and if someone has already said what you are going to say just agree with them.

Wheeler: My name is Joan Wheeler, my late husband bought 40 acres south of this property in about 1968 and the back of my house faces Hwy. 112. It is my fence that they come through on a regular basis. The traffic is so bad out there I can't even imagine how dangerous it would be with that many houses added to that area. I hope that you won't consider the RSF-4.

Butcher: I'm Betty Butcher and this is my husband Perry. We live south, we are a neighbor of Joan's and we live south on Deane Solomon three houses down. People have come up and talked about the traffic. Most of the neighbors here are going north around the curve up to their homes there. I have to stop and turn south on Deane Solomon, which is approximately where they would put the opening of that subdivision. I cannot even explain to you how dangerous that is. You cannot see when you are looking at the Howard Nickle Road you cannot see what is coming, it is a blind spot and it is just right there. To have people coming out and turning left towards town on there with the amount of traffic going over there would just be suicide. It is a terrible idea. Thank you.

Ostner: Are there any other comments?

Riser: Hello, my name is Randall Riser and I'm a neighbor of everyone here that you have heard from already and I concur with everything that they have said. It is true beyond what you can even imagine if you haven't ever lived out there. One other thing that I would like to bring up is that the development that they are trying to put in here does not even fit the landscape of this area. This is a development you would see in downtown Dallas or some place like that. This should be planned better for the City of Fayetteville in my opinion. Thank you very much.

Ostner: Is there anyone else?

Futral: I know you all are really tired. I'm Anna Futral. In line with what he just said, there is not a TOPO map reflected with this plat and I think that the lay of the land is an issue.

Ostner: Thank you. Are there any other comments from the public?

Baird: I'm Laurie Baird and our property would be the one directly north to where this development is proposed. We have got five kids and we come out of that neighborhood and just coming here this evening I had to sit there forever trying to get out of the neighborhood and turning left. I have a true concern with all my kids going to the school there with all those houses how are we even going to get in and out of the neighborhood safely? I know I don't let my kids go on Hwy. 112 at all but just the cars and the traffic, I've assisted in some of those accidents. My husband has directed traffic as I've held bodies until the EMS unit can get there. I am really concerned about the density of all these houses that are going to be in there. Our square footage is about 4,000 sq.ft. in our home and we have an acre and a half and it isn't adding up right to having four houses per acre right next door to us with that much traffic too. I would like for you to consider that. Thank you.

Moore: I'm Benny Moore, we live at the northwest corner across the road from this development. We just got through building a new home and hopefully the development will compare with our house and look similar to it is what we were hoping. The north of us all of the homes are larger homes. I think Tyson has a minimum of 3,200 sq.ft. The 2 ½ acre blocks south of us have 3,200 sq.ft. minimum. Hopefully we won't get into this compacted settlement there. As far as safety, we have lived there about 20 years on the property and there have been deaths in that area and lots of wrecks. It is not a safe corner. Thank you.

Ostner: Do we have anymore comments from the public? Seeing none, I will close it to the public and bring it back to the Commission for discussion. Once again, we are discussing them together and we will vote on them separately.

Vaught: I think we need to discuss them separately in one respect with the fact that the annexation, I know this property is also being looked at by Johnson to be annexed. To me that adds a little bit more priority if we want control of what happens on this acreage we need to look at the annexation more seriously. If Johnson annexes it in, I don't know how the timing works. I know that they have a vote coming up but apparently I think Dawn was telling us since we had ours filed first it would take precedence, is that correct?

Morgan: We believe that is correct at this time. Their vote will be I believe May 11th to vote on the area and whether it will be annexed into Johnson.

Vaught: This is where I would like Kit to be here to answer questions about if we postpone this. If we turn this down then obviously they will be able to annex it in and then they will have control over what happens here. I think they are somewhat two separate. We could pass one and table the other or pass one and not pass the other. I think that is something to keep in mind as we talk about it but just for everyone to understand.

Anthes: I have a question for follow up on what Commissioner Vaught is talking about. One of the things that we look at is development pressure and we don't really have development pressure here so much as we have annexation pressure. We have got a situation where we've got another municipality that is looking at this piece of property which if it was annexed by that municipality, would subdivide this particular owners property into two parcels. That is troublesome I'm sure for them and for us in terms of how to look at how this owner would develop this property if it was in two different municipalities. That is one thing that I'm looking at. I would like to comment that it is interesting, the neighbors, there are a lot of them here and a lot of them have spoken about density but I only believe that one even mentioned the annexation at all. Obviously, the density is the thing that is the largest concern to those neighbors. I guess as far as the circumstances about that split, can staff tell us about what this would mean if this 40 acres ended up in two different municipalities and development came forward?

Pate: Essentially if that were to occur and the Johnson city limit moves south along the Fayetteville city limit our Planning boundary line also would move to where that line is. If a subdivision did occur on that piece of property, the portion in the City of Fayetteville would be reviewed by the City of Fayetteville and the portion in the City of Johnson would be

reviewed by the City of Johnson. Technically they would have no jurisdiction over our city municipal boundary and vice versa as well. It is a concern of staff and we believe that this petition was filed and released by the county prior to the election being called. I understand timing is definitely an issue with the applicant on this piece of property. As far as development regulations I believe we do have some subdivisions that have been phased, developed with one portion in Springdale and one portion in Fayetteville. It has been the subject of a lot of problems with regard to infrastructure improvements. Street standards are not the same with different cities. Additionally, the overall infrastructure with regard to water and sewer I would refer to our Engineering Division with regard to what types of infrastructure, public improvements if he has any knowledge of what Johnson does and how that would loop the system.

Casey: The water situation I would have to do some research on to see how the water service area boundary would change with the city limits change or if it would change at all. We would certainly have the ability to serve with water if that were allowed by the contract between the two cities. Sewer, on the other hand, would only be allowed for the small portion to the south of the site that is already in the City of Fayetteville. We cannot provide sewer service outside the city limits of Fayetteville unless it is specifically approved by the City Council.

Pate: Additionally, with regard to other findings we have made tonight, the confusion with regard to who responds to what calls comes up. I believe a citizen mentioned that they pay the City of Fayetteville Fire Department to serve their residents. That is how that works in areas outside the city limits but there is always some confusion with regard to emergency response calls about who actually works that call.

Anthes: While we are on the issue of water, our staff report does indicate that the property has an access to a 6" water line across Hwy. 112, is that indeed true based on an earlier comment?

Casey: I believe that to be the case. I don't have that on the maps here in front of me but I am the one who wrote that so I believe I consulted the maps before writing that so I would say yes, that is true.

Allen: If we annex this area it would come in as R-A. I would welcome these people into the City of Fayetteville in terms of an annexation but I do not see the RSF-4 as being compatible with the area and wouldn't be able to support that. I do think a good planner takes a long step backwards and looks at the whole picture and I don't think that's good planning.

Ostner: I would like to agree. We welcome this area to adjoin our city but I don't think RSF-4 is appropriate. I believe RSF-1 might be. I understand that

there is another area of RSF-4 nearby but this piece of land the context that it is in, is clearly less dense than RSF-4 on top of the safety issue. It is a very dangerous intersection and with the difference between RSF-4 and RSF-1 I believe is night and day.

Hogue: Can I make one comment? It is on the issue of annexation. I think if I understand the discussion, that there may not be a strong opposition on the annexation. You all asked some legitimate questions of staff about where are we if we are splitting this up and what is going on with the City of Johnson. When I spoke initially about extenuating circumstances, that is one of our concerns. In trying to sort out if this scenario what happens with Johnson. The only way that I can determine, and I don't know all of the answers because there is a whole lot going on up in that area with other municipalities, the only way that I was able to determine that we could solve a lot of those problems is if Fayetteville would allow the annexation and then we don't worry about all of those other problems that you asked questions about. Just simply addressing the annexation, there are some time constraints and that is certainly something that we would like to accomplish. From the concerned neighbors I didn't hear any direct objections to the annexation. I know there are other issues, a lot of greater issues, but that is certainly an issue to us tonight.

Anthes: The other thing I'm struggling about with the potential for that split is the issue of Hwy. 112 and that it borders two side of this property. If the property was split controlling access onto and off of Hwy. 112 in a manner that we could find to be acceptably safe would be very complicated.

Ostner: I would like to add at this point that the R-A zoning, which is automatic with coming into the city with an annexation does allow housing. It allows everything, it is simply two acre lots.

MOTION:

Clark: The whole issue of annexation and infrastructure issues concern me but the fact that if we don't annex this, this would be split between municipalities supercedes that concern. I would like to move that we approve ANX 04-06.00.

Allen: Second.

Ostner: I have a motion by Ms. Clark and a second by Ms. Allen. Is there any other discussion on the Annexation? Renee?

Roll Call: Upon the completion of roll call the motion to recommend approval of ANX 04-06.00 by the City Council was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

Ostner: The tandem issue is RZN 04-12.00. We have already had some discussion.

Trumbo: As the citizens in that neighborhood have clearly stated, that is a very dangerous stretch of highway. Common sense to me says to add another 108 possible homes compounds the problem out there. I don't see how in good faith I could vote to allow that size of development at that place. I understand for the city to build affordable housing we have to have denser zonings but I don't believe it is appropriate right here considering how dangerous that highway is. I will not vote for this zoning.

Ostner: Thank you. Can we have that map that we tried to get together just showing us some general location?

Anthes: We don't have the City Attorney here so can someone tell us if the best way is to move for approval and vote it down or to table? I remember Mr. Williams telling us about the different strategies for that before I don't remember specifically what they were.

Ostner: I don't either.

Allen: I think we call for a motion and it fails for lack of one if I recall correctly if no one so moves.

Hogue: At that point would it then be tabled?

Ostner: I believe we are bound to vote on this issue. We can vote to table, we can vote to pass.

Pate: You can make a motion to table and table to a date certain or otherwise vote it up or down.

Vaught: If the applicant withdraws they start over is what I believe he said. If we vote to table it can come back as soon as the next meeting. What I would like to see is if the applicant has met with the neighbors. Have you met with the neighbors discussing these issues?

Scott: We have not.

Vaught: One thing that we typically like to see is that you meet with the neighbors and discuss these issues and see if you can come to a resolution and bring back something more amicable between everybody.

Hogue: That is with the zoning issue tabled?

Vaught: Yes.

Hogue: We will do that.

MOTION:

Vaught: I will make a motion to table RZN 04-12.00.

Trumbo: Second.

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

Anthes: I don't know that I'm not completely comfortable with leaving it as an R-A zoning. We could go ahead and vote tonight to deny the rezoning request and then we would still have an R-A zoning.

Ostner: There is currently a motion on the floor that needs to be voted on up or down. Do we have any further discussion?

Vaught: Since it is currently R-A, I think we should give the developer an opportunity to go speak with the neighboring land owners to see if they can come to some sort of a resolution without stopping the process. It could be a real quick discussion at the next meeting if it comes back and everyone still doesn't like it or we think it is not the right zoning. That would be my comment.

Ostner: Let's not forget that we did not annex it, we have simply forwarded it to the City Council. They have still got a long road before they are annexed. Is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to table RZN 04-12.00 failed by a vote of 2-4 with Commissioners Clark, Allen, Anthes and Ostner voting no.

Thomas: The motion fails two to four.

Ostner: Are there more motions or discussion on this issue? We are still considering the rezoning of this item. The tabling motion failed so we are going to revisit it or do something.

Pate: Mr. Chair, based on the Planning Commission bylaws the way they are stated any Conditional Use or Rezoning request requires a five affirmative vote to carry. It is the applicant's prerogative to be able to table that

motion in order to come back to you with something that could potentially pass. Because we do not have a full Commission there are potentially three commissioners that could vote for this project. Therefore, it is appropriate to table this item if the applicant wishes to do that.

Scott: We do wish to do that.

Clark: Can I make one comment? Tabling it is certainly your prerogative and probably a wise course of action. I have a very extensive list of concerns that the neighbors have voiced that when you bring this back I sincerely hope that you have talked with them and can address some of them because I happen to agree with them.

Scott: We'll do our best.

Allen: I would agree with Commissioner Clark.

Anthes: Kit is not here so Jeremy, does this mean if the applicant still wishes to table we still then need to have a vote on our level to do that or they withdraw it?

Pate: That is a little unclear to me reading the bylaws whether it requires a vote to be tabled or not. Obviously, a vote has failed for that motion.

Clark: That motion was to table at our request, not their request.

Pate: There can be another motion on the floor to table this item I believe.

MOTION:

Ostner: With Mr. Pate's advise, he is not a lawyer, I would be willing to vote for a tabling on this issue. I am going to make a motion that we table it.

Clark: Based on Jeremy's suggestion and interpretation of the rules I guess I will second it.

Ostner: Do we have any further discussion?

Marr: Mr. Chair, I think your requirement is that a person who voted against tabling needs to motion to reconsider. You vote on that and then you can vote to table. Otherwise, your action won't be legal.

MOTION:

Anthes: I move to consider RZN 04-12.00.

Clark: Second.

Ostner: We have a motion and a second, is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to reconsider RZN 04-12.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

MOTION:

Anthes: I move to table RZN 04-12.00.

Ostner: I thought we just did.

Anthes: No, we moved to reconsider.

Vaught: I will second.

Ostner: We have a motion and a second. Renee?

Roll Call: Upon the completion of roll call the motion to table RZN 04-12.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-06.00: Annexation (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112. The property is currently in the Planning Area and contains approximately 29.86 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick 4/30/04
Division Head Date

4/30/04
City Attorney Date

Department Director Date

5-3-04
Finance & Internal Services Dir. Date

5-3-04
Chief Administrative Officer Date

5/3/04
Mayor Date

Received in Mayor's Office 4-30-04 pm
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

LEIGH TAYLOR PROPERTIES LLC.

May 28, 2004

Fayetteville City Clerk
Fayetteville City Planner

Sir or Madaam,

This letter is being written to officially withdraw the Annexation and Rezoning request for the property of Leigh Taylor Properties LLC. The mentioned parcel is a 40-acre tract of land located on highway 112, approximately one mile north of I-540.

Again, it is the request of the land owners, Leigh Taylor Properties LLC., that this property NOT be annexed at this time. Thanks for your consideration in this matter.

Chad White
Leigh Taylor Properties LLC.

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 back on the agenda
Tabled Indefinitely 6/1/04

August 3, 2004
City Council Meeting
Old Business

#7 & #8 Leigh Taylor Properties

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 Forbess
Ella Forbess
Carl Rosell
Carolyn S. Moss
Charles Estal
Hurlman
Amelia Wallace
Benny Moore
Carol L. Moore
Jamey Moore
Joni Shelf
Jo Matthews
Brenda G. Bailey
Donny Bailey
Ron Johnson
Zen Johnson
Patrick Penton
Peggy Borden
James M. Borden
Gail McCharter
Rick McKee

- 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.

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Hurlman
Amalia Walker
Benny Moore
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Jamey Moore
Gail McWhorter
Tom Shep
J. Matthews
Brenda G. Bailey
Danny Bailey
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Leigh Taylor Properties
ANX 04-6.00

1998 - 2002 Police Reported Crashes
Hwy 112, Sect Logmile 3.15 - 3.77
(Chris Hollow Rd - Hidden Acres Rd. ± .10)

August 3, 2004 City Council Meeting
Old Business #7

2002													
Number	Date	Time	Hwy	Sect	L M	Dist		Reference	Severity	# Fat	# Inj	Type of Collision	Alc
200207827	01/28/2002	8:14	112	01	3.08	60FT	S	BERRY ST	5	0	0	REAR END	N
200225637	05/18/2002	11:58	112	01	3.10	100 FT	S	HUGHES ST	5	0	0	SINGLE VEHICLE CRASH	N
200224135	05/03/2002	16:00	112	01	3.13			CR 1116	5	0	0	SINGLE VEHICLE CRASH	N
200203153	01/30/2002	7:19	112	01	3.56			DEANE ST	5	0	0	REAR END	N
200219843	04/19/2002	15:46	112	01	3.64			HOWARD NICKELL RD	3	0	1	HEAD ON	N
200219849	04/19/2002	17:13	112	01	3.64			HOWARD NICKEL RD	4	0	2	SIDESWIPE OPP. DIRECTION	N
200253148	09/25/2002	8:19	112	01	3.65	40 FT	N	HOWARD NICKELL RD	5	0	0	SIDESWIPE SAME DIRECTION	N

2001													
Number	Date	Time	Hwy	Sect	L M	Dist		Reference	Severity	# Fat	# Inj	Type of Collision	Alc
200147988	09/06/2001	18:39	112	01	3.12			HUGHES ST	5	0	0	ANGLE	N
200161370	11/28/2001	9:27	112	01	3.56			W HWY 112	5	0	0	SINGLE VEHICLE CRASH	N
200143276	08/28/2001	19:14	112	01	3.56			DEANE ST	5	0	0	REAR END	N
200128179	05/31/2001	17:00	112	01	3.64			UNKNOWN	4	0	2	ANGLE	N
200128205	05/29/2001	12:54	112	01	3.64			UNKNOWN	5	0	0	SINGLE VEHICLE CRASH	N
200129661	05/30/2001	7:28	112	01	3.64			HOWARD NICKALL RD	4	0	2	SIDESWIPE OPP. DIRECTION	N
200168443	12/28/2001	2:34	112	01	3.64			HOWARD NICKELL DR	5	0	0	SINGLE VEHICLE CRASH	N
200134325	06/23/2001	1:45	112	01	3.66	393 FT	N	CR 1116	5	0	0	SINGLE VEHICLE CRASH	N
200135206	06/25/2001	19:31	112	01	3.86			GREATHOUSE SPRINGS RD	5	0	0	SINGLE VEHICLE CRASH	N

2000													
Number	Date	Time	Hwy	Sect	L M	Dist		Reference	Severity	# Fat	# Inj	Type of Collision	Alc
200009851	02/24/2000	16:18	112	01	3.08	50FT	N	BERRY ST	5	0	0	SINGLE VEHICLE CRASH	N
200014668	03/29/2000	14:25	112	01	3.14			CR 116	3	0	1	HEAD ON	N
200067417	12/11/2000	14:50	112	01	3.17			UNKNOWN	5	0	0	REAR END	N
200021657	04/30/2000	21:53	112	01	3.50	300FT.	S	DEANE SOLOMON RD.	5	0	0	SINGLE VEHICLE CRASH	N
200057388	10/21/2000	17:05	112	01	3.50			UNKNOWN	5	0	0	ANGLE	N
200061054	11/08/2000	17:59	112	01	3.56			UNKNOWN	5	0	0	REAR END	N
200053760	10/10/2000	6:46	112	01	3.56	20 FT	W	DEANE SOLOMON RD	3	0	1	HEAD ON	N
200059346	11/01/2000	12:18	112	01	3.57	100 FT	S	DEANE ST	5	0	0	REAR END	Y
200055085	10/16/2000	7:17	112	01	3.64			UNKNOWN	4	0	1	REAR END	N
200050192	09/24/2000	16:16	112	01	3.64			UNKNOWN	5	0	0	ANGLE	N
200032816	06/19/2000	14:00	112	01	3.64			CR 1116	5	0	0	SIDESWIPE OPP. DIRECTION	N
200032831	06/24/2000	9:06	112	01	3.64			CR 1116	2	0	3	HEAD ON	N
200061047	11/12/2000	21:52	112	01	3.64			UNKNOWN	5	0	0	SINGLE VEHICLE CRASH	N
200058170	10/26/2000	5:42	112	01	3.64			HOWARD NICKEL RD	5	0	0	SIDESWIPE OPP. DIRECTION	N
200025399	05/16/2000	8:38	112	01	3.64			HOWARD NICKELL ROAD	5	0	0	SINGLE VEHICLE CRASH	N
200058201	10/30/2000	10:07	112	01	3.64			UNKNOWN	3	0	1	ANGLE	N
200038254	07/20/2000	9:07	112	01	3.64			HOWARD NICKELL ROAD	2	0	2	HEAD ON	N
200039435	07/26/2000	7:00	112	01	3.76			UNK	5	0	0	SINGLE VEHICLE CRASH	N
200004585	01/26/2000	21:49	112	01	3.76	175 FT		CR 893	5	0	0	SINGLE VEHICLE CRASH	N

INJURY SEVERITY LEVELS

Fatal Injury (code 1) –
Any injury that directly results in the death of a living person within 30 days of a motor vehicle crash.

Incapacitating Injury (code 2) –
Any injury, other than a fatal injury, which prevents the injured person from walking, driving or normally continuing the activities the person was capable of performing before the injury occurred.

Inclusions:
- Severe lacerations
- Broken or distorted limbs
- Skull or chest injuries
- Abdominal injuries
- Unconsciousness at or when taken from the scene
- Unable to leave the scene without assistance
- And others

Exclusions:
- Momentary unconsciousness
- And others

Non-Incapacitating Injury (code 3) –
Any injury other than a fatal injury or an incapacitating injury, which is evident to observers at the scene.

Inclusions:
- Lump on head
- Abrasions
- Bruises
- Minor lacerations
- And others

Exclusions:
- Limping (the injury cannot be seen)
- And others

Possible Injury (code 4) –
Any injury reported or claimed which is not a fatal injury, incapacitating injury or non-incapacitating evident injury.

Inclusions:
- Momentary unconsciousness
- Claim of injuries not evident, complaint of pain
- Limping, nausea, hysteria
- And others

Property Damage Only (PDO) – or – Non-Injury (code 5) –
No personal injury.

Inclusions:
- Harm to wild animals, or birds, which have monetary value
- And others

Exclusions:
- Mechanical failure during normal operation, such as tire blowout, broken fan belt or axle

City Council Meeting of July 20, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: July 2, 2004

Subject: Rezoning request for 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.

Left on 2nd reading 8/3/04
Left on 1st reading 7/20/04

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.

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 39.86 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 20th day of July, 2004.

APPROVED:

DRAFT

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 SUBDIVSION, NORTH 89°59'52"EAST 1320.33 FEET TO A FOUND PINCHED IRON PIPE; THENCE SOUTH 00°15'33" EAST 1287.92 FEET TO A SET IRON PIN. THENCE CONTINUING S00°15'33" EAST 26.60 FEET TO THE SOUTHEAST CORNER OF SAID SW ¼ OF THE NW ¼; THENCE NORTH 89°55'34" WEST 1322.84 FEET TO THE POINT OF BEGINNING, CONTAINING 39.86 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.

BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS

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

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

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

1. The use of Petitioner's property shall be limited to a maximum density of 2.48 dwelling units per acre comprised of 99 lots.

2. Other restrictions including number and type of structures upon the property are limited to 99 single family homes to be not less than 2,400 heated sq.ft each to include an enclosed two car garage. Exterior Walls will be no less than 80% brick, stone or approved masonry product, with architectural shingles. All yards will be sodded.

3. Activities that will be allowed upon petitioner's property are limited to those permitted in the RSF-4 zoning district.

4. When the Property Owner's Association is established two property owners from the Forest Hills Estates subdivision will be invited to serve on the board.

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

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Cleve Branson, as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

6/23/04
Date

Cleve D Branson
Printed Name

2604 Carrington Pointe Rd
Address
Ft. Smith, AR 72903

Cleve D Branson
Signature

NOTARY OATH

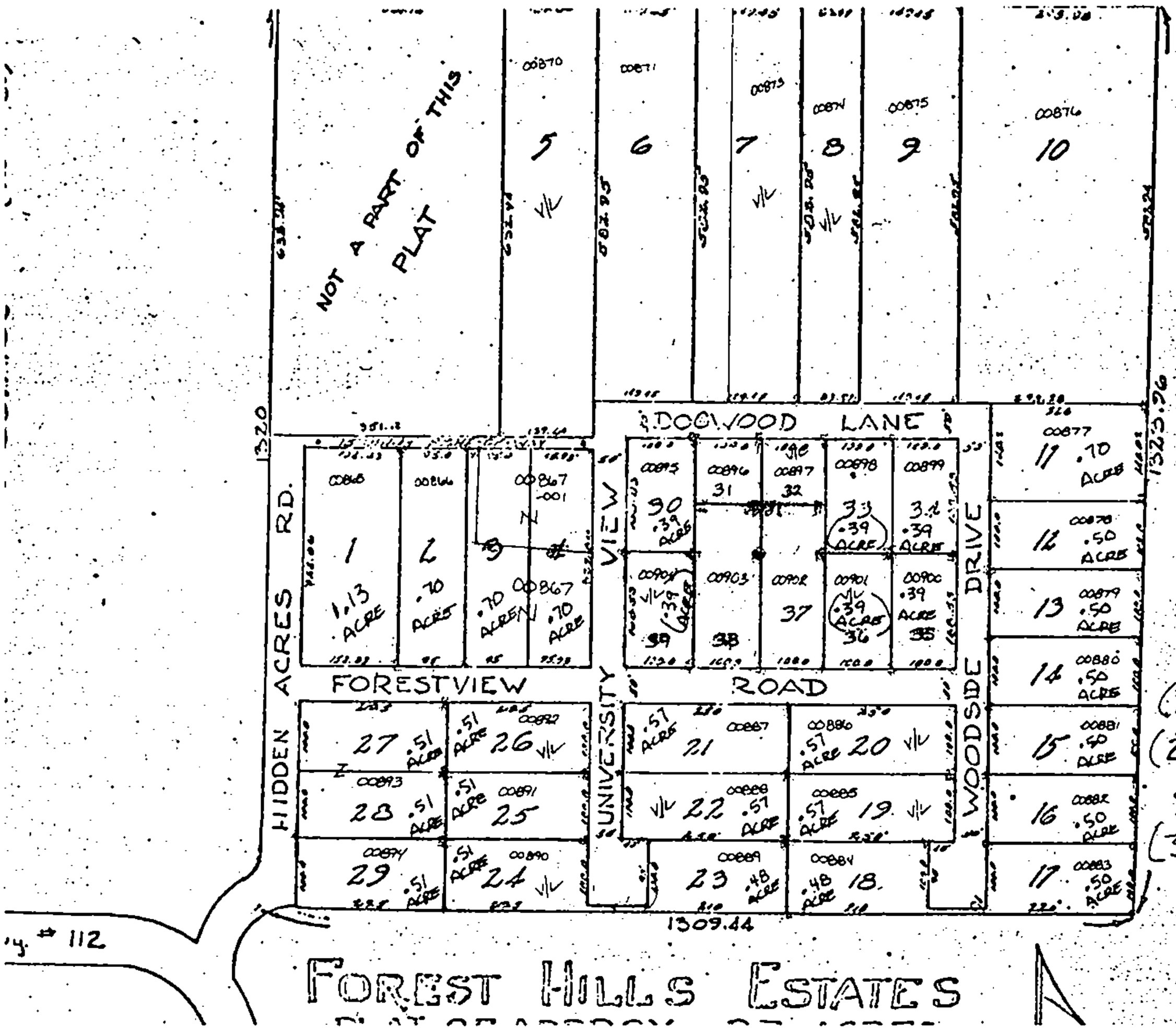
STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 23rd day of June, 2004, appeared before me, Cleve Branson and after being placed upon his/her oath swore or affirmed that he agreed with the terms of the above Bill of Assurance and signed his name above.

Renee Thomas
NOTARY PUBLIC

My Commission Expires:
11-15-2011

Renee Thomas
County Of Washington
Notary Public - Arkansas
My Commission Exp. 11/15/2011



(1.) All septic systems
(2.) 33 lots so. of dogwood Ln.
Average .657 Acres
Per lot
(3) not city of Fayetteville
Residences

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
THRU:	Dawn Warrick, AICP, Zoning & Development Administrator
DATE:	June 23, 2004

RZN 04-12.00: Rezoning (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC. The property is currently zoned R-A, Residential Agricultural, and contains approximately 39.86 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

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

PLANNING COMMISSION ACTION:	**Required**	**YES**
	○ Approved	**○ Denied**
Date: June 28, 2004		
CITY COUNCIL ACTION:	**Required**	**YES**
	○ Approved	**○ Denied**
Date: July 20, 2004 (1st reading if recommended)		

BACKGROUND:

Property description: The subject property contains approximately 39.86 acres of vacant property located north of Highway 112/Howard Nickell Rd and east of Highway 112. The property includes a 29.86 acre tract requested for annexation and an additional 10 acre tract zoned R-A, Residential Agricultural. Forest Hills Estate subdivision, platted at 1.17 units per acre, is located to the north of this site and Lynn-Leigh Hill Estates, platted at 1.06 units per acres, is south of Hwy 112.

This item was heard at the regular Planning Commission meeting of April 26, 2004 with an accompanying annexation request of 29.86 acres. The Planning Commission approved the annexation request with a vote of 6-0-0, and it has been tabled at City Council at the request of the applicant. Discussion and public comment was heard regarding the rezoning request, and the item was unanimously tabled. The applicant held a neighborhood meeting and has submitted a Bill of Assurance that limits development to a maximum density of 99 lots, or approximately

2.48 units per acre (see attached). In addition, the applicant has submitted a traffic analysis conducted by Peters & Associates Engineers (see attached).

Public Comment: Staff has received comments from surrounding property owners regarding concerns with the proposed density, lot size, traffic volume/public safety, and the impact to surrounding neighborhoods.

Proposal: The applicant's intent is to develop a single family residential subdivision.

Request: The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 dwelling units per acre, should ANX 04-06.00 be approved.

Recommendation: Staff recommends approval of the rezoning request based on the findings included in the staff report. Future development on this site will be regulated by the City to ensure adequate services, infrastructure, connectivity and consistent development within the surrounding area.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single-family (Forest Hills Estates)	Planning Area
South	Single-family (Lynn-Leigh Hills)	RSF-4, Residential Single-family, 4 units/acre 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 <u>will</u> <u>not</u> 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.

FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 4/20/04

REZONING XX ANNEXATION XX

REZONING # 04-12.00 OWNER Leigh Taylor Prop.
ANNEXATON# 04-06.00 OWNER Leigh Taylor Prop.
LOCATION OF
PROPERTY 2470 Hwy. 112

NEAREST FIRE STATION AND
LOCATION Station #2, 708 N. Garland

RESPONSE TIME FROM FIRE STATION # 2 TO
LOCATION OF
PROPERTY 5 MINUTES 56 SECONDS.
TRAVEL MILES FROM FIRE STATION # 2 TO LOCATION OF
PROPERTY 3.6 miles.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS

EXISTING FIRE HYDRANTS? IF SO
LOCATION Hwy. 112 at Deane Solomon

WATER SUPPLY WITH HYDRANTS
NEEDED? Yes

ADDITIONAL
COMMENTS

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

~~SUBSTATION~~
~~N.W. MALL~~
~~(501) 575-8271~~
~~FAX (501) 575-8272~~

FAYETTEVILLE

RECEIVED
APR 2 0 2004
PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

April 19, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **ANX 04-06.00 Annexation (Leigh Taylor Properties, pp 169)** and **RZN 04-12.00 Rezoning (Leigh Taylor Properties, pp 169)** submitted by Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112 would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services.

The access to this development is a concern. The intersections of Hwy 112 and Howard Nickle Road as well as Hwy 112 and Deane Solomon are dangerous. There is a hillcrest, which makes pulling out from Deane Solomon hazardous. The curve at the intersection with Howard Nickle has been a factor in many accidents. In fact, these two intersections have had 31 accidents in just over three years. The access to this area should be places as far from these two intersections as possible.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

Deane Soloman / Howard Nickell

Hwy 112 query

QUERY NAME . . . . . ACCLOCAT
LIBRARY NAME . . . . COPS

FILE	LIBRARY	MEMBER	FORMAT
PLACCM	NWSPSFLS	PLACCM	AMREC1
PSGADR	NWSPSFLS	PSGADR	GAREC1

DATE 04/19/04
TIME 10:21:19

Query by Accident Location

04/19/04 10:21:19 PAGE 1

Accident #	Date of Accident	Str#	Dir	Street	Dir	Cross Street	Accident Close to this Street
200001368	2000/05/16		N	HWY ONE TWELVE		HOWARD NICKELL	
200002085	2000/07/20		N	HWY ONE TWELVE		HOWARD NICKELL	
200002803	2000/09/24		N	HWY ONE TWELVE		HOWARD NICKELL	
200003046	2000/10/16		W	HWY ONE TWELVE		HOWARD NICKELL	
200003231	2000/10/30		W	HWY ONE TWELVE	W	HOWARD NICKELL	
200003371	2000/11/12		N	HWY ONE TWELVE		HOWARD NICKELL	
200101393	2001/05/29		N	HWY ONE TWELVE		HOWARD NICKELL	
200101409	2001/05/30		W	HWY ONE TWELVE	W	HOWARD NICKELL	
200201201	2002/04/19		W	HWY ONE TWELVE	W	HOWARD NICKELL	
200201207	2002/04/19		W	HWY ONE TWELVE	W	HOWARD NICKELL	
200302873	2003/09/24			HWY ONE TWELVE			HOWARD NICKELL
200303730	2003/12/06			HWY ONE TWELVE			HOWARD NICKELL

* * * E N D O F R E P O R T * * *

QUERY NAME . . . . . ACCLOCAT
LIBRARY NAME . . . . COPS

FILE	LIBRARY	MEMBER	FORMAT
PLACCM	NWSPSFLS	PLACCM	AMREC1
PSGADR	NWSPSFLS	PSGADR	GAREC1

DATE 04/19/04
TIME 10:07:16

Query by Accident Location

04/19/04 10:07:16 PAGE 1

Accident #	Date of Accident	Str#	Dir	Street	Dir	Cross Street	Accident Close to this Street
200000585	2000/02/26			MT COMFORT		DEANE SOLOMON	
200001020	2000/04/12			DEANE SOLOMON			
200002474	2000/08/24			DEANE SOLOMON			
200100033	2001/01/05		W	MT COMFORT	N	DEANE SOLOMON	
200103377	2001/11/26			DEANE SOLOMON			
200103395	2001/11/28		N	DEANE SOLOMON	W	HWY ONE TWELVE	
200103523	2001/12/09		W	MT COMFORT	N	DEANE SOLOMON	
200103543	2001/12/11			DEANE SOLOMON			
200200225	2002/01/23			DEANE SOLOMON			
200201101	2002/04/13			DEANE SOLOMON			
200201113	2002/04/14			DEANE SOLOMON			
200201992	2002/06/25			DEANE SOLOMON			
200202515	2002/08/09			DEANE SOLOMON			
200203627	2002/11/03		W	MOUNT COMFORT	N	DEANE SOLOMON	
200203801	2002/11/21			DEANE SOLOMON			
200300110	2003/01/16		N	DEANE SOLOMON			
200300736	2003/03/15			DEANE SOLOMON			
200301587	2003/05/31	2509	N	DEANE SOLOMON			
200400535	2004/02/21			DEANE SOLOMON			MOUNT COMFORT

* * * E N D O F R E P O R T * * *

March 17, 2004

Planning Department
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Attn: Dawn Warrwick

Dear Ms. Warrwick:

We have recently purchased the referenced 40 acre tract of land at the corner of Highway 112 and Howard Nickell Road. The southerly 10 acres are already in the city limits and are zoned R-A. We intend to annex and zone the property for single family residential development RSF-4. The property is adjacent to single family residential developments to the north and south and larger single family tracts to the east and west. The property to the immediate southwest boundary of this 40 acres is zoned RSF-4. There is some agricultural use to the south of the property but the majority of the local area is residential. The zoning change is necessary to develop the property for single family homes. The project will have access a safe distance from the 90 degree curve in Highway 112 which should have adequate capacity for the additional traffic. The property has city water on the south and west sides. The nearest sanitary sewer is located over a mile to the south or approximately 0.6 mile to the east. The capacity of the system on this side of town has been discussed and cleared by the city for new growth. The existing use of the property is R-A and is not the best use for the property based on current values of land in the area and should be developed as RSF-4 for the best value to the owners.

Sincerely,

R. Chad White

R. Chad White

March 17, 2004

City of Fayetteville
Planning Department
ATTN: Ms. Dawn Warrick
113 West Mountain
Fayetteville, AR 72701

RE: 40 Acres, Washington County, Arkansas

Dear Ms. Warrick:

We have recently purchased the referenced 40 acre tract of land at the northeast corner of Highway 112 and Howard Nickell Road. The southerly 10 acres are presently in the City of Fayetteville and we intend to annex the remaining northerly 30 acres, then rezone the property for single family residential development. The property is adjacent to single family residential developments to the north and south, with larger single family tracts to the east and west. Our intention is to develop the 40 acres into a neighborhood of approximately 108 homes similar in style to the subdivisions on the north and south of us. There is a ninety degree curve in Highway 112 on the southwest corner of the property. The neighborhood would access Highway 112 on the South and West property lines with an adequate distance from the ninety degree curve for safety. Highway 112 should have adequate capacity for the added traffic flows. Entry way signs would be similar to the existing subdivisions, keeping with the existing character of the area.

Sincerely,

R. Chad White

R. Chad White
Owner

4738 STONEWALL CROSSING • SPRINGDALE, AR • 72764
PHONE: 479-756-9773 • FAX: 479-841-4844

PROJECT DESIGN CONSULTANTS, INC.

June 23, 2004

City of Fayetteville
Planning Department
125 West Mountain
Fayetteville, AR 72701

Attn: Ms. Suzanne Morgan
RE: Leigh Taylor Properties
Dear Ms. Morgan:

Please recall that this project was tabled at the Planning Commission with one of the concerns from the commissioners being the density compared with the density of the Forest Hills Estates subdivision to the north. We have researched the plat of that subdivision and determined that the density of the first 300 feet (up to Forestview Road) is approximately 1.6 Lots per acre and for the next 325 feet (up to Dogwood Lane) the density is approximately 1.8 lots per acre. Our layout will propose approximately 2.25 units per acre in the northerly boundary of our subdivision and approximately 2.5 overall. This would help to establish compatibility from a zoning standpoint between the two subdivisions.

Sincerely,

N. Arthur Scott, PE
President

PETERS & ASSOCIATES
ENGINEERS, INC.

June 23, 2004

Mr. Art Scott P.E.
Project Design Consultants, Inc.
130 N. Main Street
Cave Springs, AR 72718

Bus: (479) 248-1161
Bus Fax: (479) 248-1462
E-mail: nascott@projectdesign-nwa.com

Re: P1021
PDCI - Highway 112 Subdivision
Fayetteville, Arkansas

Dear Mr. Scott:

As you requested, Peters & Associates Engineers, Inc. has conducted traffic analysis relating to a proposed residential development (Subdivision) located on the northeast quadrant where Howard Nickell Road intersects Highway 112 from the west in Fayetteville, Arkansas. The following are key findings:

- Arkansas State Highway and Transportation Department (AHTD) 2002 annual average daily (ADT) traffic counts for Highway 112 were researched and depict a two-way volume of approximately 4,300 vehicles per day just east of the site and 3,600 vehicles per day just north of the site.

- Highway 112 is currently a two-lane highway. The current volumes are well below the capacity of this type of two-lane roadway.

- The site is proposed to consist of 99 single family dwelling units. The Trip Generation, an Informational Report, 2003, published by the Institute of Transportation Engineers (ITE) and The Trip Generation Software (Version 5 by Microtrans), were utilized in calculating the magnitude of traffic volumes expected to be generated by the proposed residential land use of this development. These are reliable sources for this information and are universally used in the traffic engineering profession. These calculations indicate that approximately 947 vehicle trips (combined in and out) per average weekday are projected to be generated by the proposed residential land use on this site. Of this total, approximately 74 vehicle trips are estimated during the adjacent street weekday AM peak hour and approximately 100 vehicle trips are estimated during the adjacent street weekday PM peak hour are projected to be generated by the proposed residential land use on this site.

- Proposed access to the subdivision is proposed from two new streets. One of the streets (referred to in this report as South Street) is proposed to intersect Highway 112 approximately 1,000 feet east of the location of the Highway 112 bend where Howard Nickell Road intersects Highway 112 from the west. The other street (referred to in this report as West Street) is proposed to intersect Highway 112 approximately 720 feet north of the location of the Highway 112 bend where Howard Nickell Road intersects Highway 112 from the west. The majority of site-generated traffic volumes destined to and from the north (Bentonville, Highway 412, etc.) are expected to utilize the new West Street and the majority of site-generated traffic volumes destined to and from the east (Fayetteville, I-540, etc) are expected to utilize the new West Street.

- Sight distances for both of the proposed new streets at Highway 112 each have greater than 500 feet of sight-distance in either direction.

- Traffic accident history from 2000 to 2002 was researched as a part of this study. It was found that each year reported traffic accidents decreased (16 reported accidents in 2000, 7 reported accidents in 2001 and 4 reported accidents in 2002). Additionally, no fatalities were involved in any of these reported accidents.

If there are any questions concerning this additional information, please let me know.

Sincerely,
PETERS & ASSOCIATES ENGINEERS, INC.

Ernest J. Peters, P.E.
President

ANX 04-06.00: Annexation (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112. The property is currently in the Planning Area and contains approximately 29.86 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 04-12.00: Rezoning (Leigh Taylor Properties, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC. The property is currently zoned R-A, Residential Agricultural, and contains approximately 39.86 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next item on our agenda is another annexation, it is ANX 04-06.00 for Leigh Taylor Properties. If we could have the staff report please.

Morgan: This request was submitted by Chad White on behalf of Leigh Taylor Properties for property located at 2470 Hwy. 112. The request is to annex approximately 29.86 acres into the City of Fayetteville. If you look on page 10.12 that identifies the approximately 30 acre tract that is requested to be annexed into the city. The accompanying rezoning for Leigh Taylor Properties is a request to rezone this 30 acre tract as well as the 10 acre tract of land just north of Hwy. 112 to RSF-4. The annexation is 30 acres and the rezoning is for approximately 40 acres. Fire and Police have reviewed this item. It is approximately 5 minutes 56 seconds from Fire Station 2 and Police have reported that this annexation will not substantially alter the population density. However, they did comment that access to this site would be of concern due to the intersection of Hwy. 112 and Howard Nickle as well as Hwy. 112 and Deane Solomon. Access into future development will be reviewed for safety at the time of development when there is a development proposal submitted to the city. Improvements to street systems will be reviewed also at the time of development and staff finds that this is an appropriate location for annexation into the city. As I mentioned earlier, they are requesting a rezoning of this 30 acre tract as well as the additional 10 acres to the south. Staff finds that this proposed zoning for single family residential is compatible with the land use to the north and the south. There are two subdivisions in either direction. Property to the south within the city limits is zoned RSF-4 at this time as well as R-A. Staff finds that the zoning is consistent with the future land use map and existing development within this area. Public comment has been received regarding this proposal with regard to density, lot size and traffic volume. However, staff finds that in accordance with findings from other divisions such as Engineering, Fire and Police, staff is recommending approval of ANX 04-06.00 and RZN 04-12.00.

Ostner: Thank you. Is the applicant here?

Hogue: Good evening, my name is Curtis Hogue. I'm an attorney in Fayetteville here on behalf of the applicant. I actually represented the applicant through the annexation process of the county. In reading the recommendation from staff and in looking at the findings made and the recommendations made and there was reference made to extenuating circumstances on this particular annexation. I'm not sure in particular what those are although I think that there are a number that apply here. In particular, as noted by the staff recommendation of this parcel 10 acres are within the city. We are asking to annex the entire parcel to bring it all into the city and then allow the total rezoning. I know that there are a couple of specific issues that were addressed in this. With me is Art Scott who is handling the engineering on behalf of the applicant and I'm sure can address some of those particular issues that were brought up in the report.

Scott: I think there were a number of pretty good concerns. First of all, if it was my property next door I would want to know what the density was too. The RSF-4 does allow for four units per acre. This developer is intending to build an upscale sized sort of premium lot in that zoning. It is a minimum of 80', which the zoning allows for 70' and then the normal depths are 130' to 140', which is another 30' or 40' larger in the rear than would be allowed by the typical zoning. The entire 40 acres would end up with their intention is around 108 to 110 units which is 2/3 of the maximum density. There will be a 2,400 minimum square foot home. The access and the proximity to that corner where Hwy. 112 makes that 90° corner would be a concern. We have on the south side very good visibility in both directions from where we intend to apply only one access point on the south and we only intend to have one access point on the west side on Hwy. 112 also with a stub out for connectivity to the north and to the east and both of those have ¼ mile along Hwy. 112 with very good visibility in both directions for access. Also, one other concern was drainage and that is always a concern when the development of 40 acres takes place. We will have to abide by all the city codes and detain any water before it leaves the site and keep it to a pre-development level so that shouldn't be a concern for the future and for the downstream properties. I will answer any questions you might have.

Ostner: At this point I will move it to the public comment period. Are there people who would like to comment on this item?

Futral: My name is Charlie Futral and I have property adjoining this property. I'm on the north side. I sit on one acre of land. I'm in the Forest Hills subdivision which is to the north here. I've lived here for nine years. We have a very established neighborhood. The houses surrounding this property are very established. My neighbors directly to the north of me sit on 1 ½ to 2 acres. My neighbors directly to the west of me who adjoin this have approximately 2 acres. His neighbor who adjoins this property

has approximately 3 ½ to 4 acres I believe. Throughout our neighborhood we are not equal to what they are designing here. You are talking about 80' lots here, we sit on one acre plots. Yes there are some properties in there that are less than one acre but not many. Most of them have multiple acres, up to 8 acres within our particular subdivision. Across the street to the west you have approved zoning for 2 acre lots. We had 4 acres and then you all came back with 2 acre lots. That is nowhere near this kind of density and there is nothing in our neighborhood that has this kind of density going on. The density is one of the primary concerns that we have as it relates to this property. We have several concerns that relate to density. One is property values as it relates to us and it relates to the whole neighborhood, not just our particular subdivision but in each direction from us. As we look at this we don't see that this is enhancing our property values out in the area where we are at. The concerns that relate to the density is the safety issue. What he just addressed on this curve, this is a curve where we have had two fatalities in the last nine years that I've lived here. There have been two fatalities, that is adjoining this property that is immediately on the southwest corner of this property. That doesn't include, I don't know the number of wrecks that have occurred along this stretch of road. It is a dangerous piece of road. It is a dangerous piece of road because it is narrow, because it doesn't have good visibility and because of the speed and the direction that cars come into. Mainly it is a narrow piece of road. It is a state highway that the City of Fayetteville is not going to come in and rebuild and neither is the developer. With all good intentions, everyone is trying to manage growth as it goes out into the community and one of the things that was talked about here this evening was the appropriateness of what is RSF-4. My concern and what I would like to suggest is that this be a RSF-1, one house per acre as the density issue. It raises the property values on the thing, it doesn't inculcate 250 or more cars into this dangerous situation of where fatalities are already occurring, they are on the record. We had a runner just down the street on Hwy. 112 as you come around the curve to the drive in theater along that stretch, we had a runner who was hit and killed a few years ago. You may remember that. There is the third fatality in less than 9 years. As we look at this the density is a real issue. One of the things that was mentioned here as we were listening closely to what was being said is that RSF-4 on a flat plain makes sense that you can see where you are going. It spreads it out. This is a rolling hill country that you are coming into. Another one of the big issues and concerns on this is that when you look at this plat, this is obviously not approved. It is the one that you all have probably all seen and had across your desk as you look at this approach.

Ostner: No.

Futral: May I bring it up?

Ostner: Sure.

Futral: For what it is worth, you need to see what is about to go in here. This is the plat that they have presented as an informal plat. Here is the dangerous curve, here is our subdivision. These are all one acre lots and more coming through here and if you watch this these are tree lines. These are all just trees but what you are seeing here, this area and this whole 1/3 of the property is a low area. These are trees in water. Their idea is that they are going to put a ditch as lots back up to each other and they are going to carry the water through here. This water is coming off of all this slope, all of this basin back over here which includes the development from Clear Creek. Clear Creek now is flowing water through our neighborhood which is an issue for me and for other neighbors there. It goes immediately into this neighborhood here at the north end of this and they think that they are going to handle it down here with an engineered detention pond. I don't think so. Especially after what we just saw this week as it goes through here. This is also a boggy area down through here. Now we are going to put density into a boggy area, not a flat area and not a nice dry area. We are going to go in and we are going to completely cut the trees and we are going to reshape this land to insert this kind of density. In a neighborhood where you have one acre lots, modest in many cases, not so modest in other cases. We have homes out in our area that would approach close to a million dollars and we have land that have been platted across the street that are 2 acre lots, 4 acre lots, that are not scheduled to carry this size of a home on it. What is going to happen to that gentlemen's property values as he goes along? I think density is the culprit here and it is the concern that we all have. Some of the reasons and things that are attached to it are safety on the roads. This is a very real issue out there. We already have proof of it with the fatalities that have occurred and the wrecks that occur. We also have land that is a rolling hill country. In this particular location and what I'm showing you here with these tree lines where the water flows, these are dry creek beds. Think of it like a bowl and what you are doing is our neighborhood is sloping into that bowl, the west is coming into that bowl and the east is flowing around and into that bowl. Their property, roughly 1/3, 25% to 30% of it is the bottom of the bowl as the water flows through it. One other thing, I would like to ask that the number of people that are here that are concerned about this raise their hands so that we have some sense of the neighborhood that has come to see you this evening. There are many neighbors here and some of which have lived here for 30 years, some of which have been here for 2 years and many of us that have been here for several years. Ron has been here since 1962 on this property so we are really very established and appreciate your concern and consideration with this.

Approximately 25 people raised hands

McWhorter: My name is Rick McWhorter, I have property that is adjacent to the north side of this property right across the street from Charlie Futral. I don't know if you are aware but to go along with the density issue we received a report that came across from the Educator. It is a news letter from the Fayetteville Public Schools. One of the things that came out was a map showing large areas of development. In this blue area is exactly the property that we are looking at, or at least it is within that. If you were to count up and this map is not very good to be able to identify the actual number of homes, but if you were to count up the number of homes that are in these developed areas that are already either approved or in the process then we are looking at anywhere from around 600 new homes to around roughly 1,200 give or take. The school system figures one child per three lots is what their formula is. This would add a tremendous overflow to the school system, in particular the elementary school district that this serves. Holcomb Elementary School District is already in the process of having to build six new kindergarten classrooms to service a school system that is almost at full capacity already without even considering this development. When you start adding onto this you are adding a problem that is not just traffic, not just safety, not just drainage, but we are adding an issue that deals with public education here within the City of Fayetteville. As you are aware with the vision 2010 that is posted right behind you. You look at point 11, Quality and you start adding more and more student possibility in this area to an overflowing school then that is even creating more of a problem. I would like for you to consider that because I think Charlie was very eloquent in what he said. My other concern is the road through or at least the way we have seen the layout of the road through that would tie into Woodside Drive. The concern is the traffic flow through there and the service vehicles that would go through there and those kinds of concerns that we do not have at this point in time that I would hope you would consider keeping us from having that. We appreciate your time and we appreciate your concern. I think Charlie was very good at pointing out that drainage and density are major issues. Thank you.

Myers: I'm William Myers, I also live just to the north of the area. I'm certainly not going to go into as much detail but I would like to reinforce what Charlie has said. Particularly our concern is the population density and the traffic safety. For whatever it means I was born in Fayetteville in 1934 so I remember when the first traffic lights were put in in Fayetteville and you can't imagine the fuss that caused. I did some mental arithmetic and depending on however many children you expect people to have that is going to be a population density out there between 6,000 and 8,000 per square mile. I don't know what to compare that to but you guys can do that. The other thing I would express my concern about is the traffic. I

drive from my home out there to the University of Arkansas every morning and have done so for the past 18 years. The traffic is getting worse and worse and worse. If you look at the small development immediately to the south across Hwy. 112 from this corner the fencing company has a pretty good business of repairing the fence there where cars go a little bit too fast, miss the curve and go through the fence. Hwy. 112 which used to be an unpaved road that I hiked on as a boy scout, has become a very dangerous place to drive on. I hope you will not make it more dangerous. Thank you very much.

Ostner: Thank you Sir.

Clark: Good evening, my name is John Clark. I do think Charlie covered most bases. I would just simply add that RSF-4 is too dense for this area. I really can't add much more than what has already been said except to say that even though the visibility is good on those entrances, it is a dangerous venture to pull out on Hwy. 112 under the best circumstances. We would ask the Commission to do the right thing and consider a less dense rezoning there. The annexation, I think most of us welcome the annexation. Thank you.

Forbes: I am Bill Forbes. I live right across the street from John Clark. We have a 3" water main, what is going to happen to our water pressure from Fayetteville?

Casey: If this property is to be annexed and rezoned and if we see a development proposal on this property at that time we will look at the public infrastructure, water and sewer, and make sure tat there is adequate capacity to serve the development. If the capacity does not exist it will be up to the developer to provide the capacity for the area.

Forbes: We are already developed.

Casey: The developer of this property would have to supply the infrastructure to make sure there was adequate capacity to serve their property and also make sure there is no negative impact on the existing customers.

Forbes: Thank you. We have 26 houses on over 40 acres. As Charlie said just very few of them are on one acre or ¾ acre plots. Whoever was here before, we also have deer, quail, dove, they will be gone forever. The water detention, it appears on the plat like it is one lot, 100'x40', is that correct?

Scott: This is still in the preliminary stages.

Ostner: Excuse me Sir, you need to address us and we will ask him and that will keep things moving.

Forbes: If it fills up where does the water go? 26 of those lots that they have platted there are right on Hwy. 112. Instead of getting a fence knocked out you are going to have a home knocked out. Today I walked down there and they were surveying on the flat area while we were cutting yards and everybody doing fine, they were stuck in the mud down there with the surveyors. They were stuck in the mud down there Thursday before the big rains came. They are walking around out there in the flattest part with long boots on and doing a pretty good job. We have been a good friend to Fayetteville. We live about 400' out of the city limits. We have paid you guys for our fire insurance and the price got dearer and dearer. We have called you two times in 30 years. As far as calling the police I don't think we ever have and we sure don't need this right next to us. Thank you.

Kemp: Hello, my name is Jeff Kemp, I'm involved with the development near this subject property so I'm somewhat familiar with it and the area. I just once again, want to reinforce the problem that I think this density will pose as far as traffic. Not only do you have the 90° turn on Hwy. 112 on the southwest corner of the property. You also have Cris Hollow Road on the east side just as you top a hill Cris Hollow pulls out and I know from experience it is kind of a take your chances and pull out on. I just can't imagine the density of RSF-4 traffic in that area.

Ostner: If I could I would like to remind everyone to keep your comments short and if someone has already said what you are going to say just agree with them.

Wheeler: My name is Joan Wheeler, my late husband bought 40 acres south of this property in about 1968 and the back of my house faces Hwy. 112. It is my fence that they come through on a regular basis. The traffic is so bad out there I can't even imagine how dangerous it would be with that many houses added to that area. I hope that you won't consider the RSF-4.

Butcher: I'm Betty Butcher and this is my husband Perry. We live south, we are a neighbor of Joan's and we live south on Deane Solomon three houses down. People have come up and talked about the traffic. Most of the neighbors here are going north around the curve up to their homes there. I have to stop and turn south on Deane Solomon, which is approximately where they would put the opening of that subdivision. I cannot even explain to you how dangerous that is. You cannot see when you are looking at the Howard Nickle Road you cannot see what is coming, it is a blind spot and it is just right there. To have people coming out and turning left towards town on there with the amount of traffic going over there would just be suicide. It is a terrible idea. Thank you.

Ostner: Are there any other comments?

Riser: Hello, my name is Randall Riser and I'm a neighbor of everyone here that you have heard from already and I concur with everything that they have said. It is true beyond what you can even imagine if you haven't ever lived out there. One other thing that I would like to bring up is that the development that they are trying to put in here does not even fit the landscape of this area. This is a development you would see in downtown Dallas or some place like that. This should be planned better for the City of Fayetteville in my opinion. Thank you very much.

Ostner: Is there anyone else?

Futral: I know you all are really tired. I'm Anna Futral. In line with what he just said, there is not a TOPO map reflected with this plat and I think that the lay of the land is an issue.

Ostner: Thank you. Are there any other comments from the public?

Baird: I'm Laurie Baird and our property would be the one directly north to where this development is proposed. We have got five kids and we come out of that neighborhood and just coming here this evening I had to sit there forever trying to get out of the neighborhood and turning left. I have a true concern with all my kids going to the school there with all those houses how are we even going to get in and out of the neighborhood safely? I know I don't let my kids go on Hwy. 112 at all but just the cars and the traffic, I've assisted in some of those accidents. My husband has directed traffic as I've held bodies until the EMS unit can get there. I am really concerned about the density of all these houses that are going to be in there. Our square footage is about 4,000 sq.ft. in our home and we have an acre and a half and it isn't adding up right to having four houses per acre right next door to us with that much traffic too. I would like for you to consider that. Thank you.

Moore: I'm Benny Moore, we live at the northwest corner across the road from this development. We just got through building a new home and hopefully the development will compare with our house and look similar to it is what we were hoping. The north of us all of the homes are larger homes. I think Tyson has a minimum of 3,200 sq.ft. The 2 ½ acre blocks south of us have 3,200 sq.ft. minimum. Hopefully we won't get into this compacted settlement there. As far as safety, we have lived there about 20 years on the property and there have been deaths in that area and lots of wrecks. It is not a safe corner. Thank you.

Ostner: Do we have anymore comments from the public? Seeing none, I will close it to the public and bring it back to the Commission for discussion. Once again, we are discussing them together and we will vote on them separately.

Vaught: I think we need to discuss them separately in one respect with the fact that the annexation, I know this property is also being looked at by Johnson to be annexed. To me that adds a little bit more priority if we want control of what happens on this acreage we need to look at the annexation more seriously. If Johnson annexes it in, I don't know how the timing works. I know that they have a vote coming up but apparently I think Dawn was telling us since we had ours filed first it would take precedence, is that correct?

Morgan: We believe that is correct at this time. Their vote will be I believe May 11th to vote on the area and whether it will be annexed into Johnson.

Vaught: This is where I would like Kit to be here to answer questions about if we postpone this. If we turn this down then obviously they will be able to annex it in and then they will have control over what happens here. I think they are somewhat two separate. We could pass one and table the other or pass one and not pass the other. I think that is something to keep in mind as we talk about it but just for everyone to understand.

Anthes: I have a question for follow up on what Commissioner Vaught is talking about. One of the things that we look at is development pressure and we don't really have development pressure here so much as we have annexation pressure. We have got a situation where we've got another municipality that is looking at this piece of property which if it was annexed by that municipality, would subdivide this particular owners property into two parcels. That is troublesome I'm sure for them and for us in terms of how to look at how this owner would develop this property if it was in two different municipalities. That is one thing that I'm looking at. I would like to comment that it is interesting, the neighbors, there are a lot of them here and a lot of them have spoken about density but I only believe that one even mentioned the annexation at all. Obviously, the density is the thing that is the largest concern to those neighbors. I guess as far as the circumstances about that split, can staff tell us about what this would mean if this 40 acres ended up in two different municipalities and development came forward?

Pate: Essentially if that were to occur and the Johnson city limit moves south along the Fayetteville city limit our Planning boundary line also would move to where that line is. If a subdivision did occur on that piece of property, the portion in the City of Fayetteville would be reviewed by the City of Fayetteville and the portion in the City of Johnson would be

reviewed by the City of Johnson. Technically they would have no jurisdiction over our city municipal boundary and vice versa as well. It is a concern of staff and we believe that this petition was filed and released by the county prior to the election being called. I understand timing is definitely an issue with the applicant on this piece of property. As far as development regulations I believe we do have some subdivisions that have been phased, developed with one portion in Springdale and one portion in Fayetteville. It has been the subject of a lot of problems with regard to infrastructure improvements. Street standards are not the same with different cities. Additionally, the overall infrastructure with regard to water and sewer I would refer to our Engineering Division with regard to what types of infrastructure, public improvements if he has any knowledge of what Johnson does and how that would loop the system.

Casey: The water situation I would have to do some research on to see how the water service area boundary would change with the city limits change or if it would change at all. We would certainly have the ability to serve with water if that were allowed by the contract between the two cities. Sewer, on the other hand, would only be allowed for the small portion to the south of the site that is already in the City of Fayetteville. We cannot provide sewer service outside the city limits of Fayetteville unless it is specifically approved by the City Council.

Pate: Additionally, with regard to other findings we have made tonight, the confusion with regard to who responds to what calls comes up. I believe a citizen mentioned that they pay the City of Fayetteville Fire Department to serve their residents. That is how that works in areas outside the city limits but there is always some confusion with regard to emergency response calls about who actually works that call.

Anthes: While we are on the issue of water, our staff report does indicate that the property has an access to a 6" water line across Hwy. 112, is that indeed true based on an earlier comment?

Casey: I believe that to be the case. I don't have that on the maps here in front of me but I am the one who wrote that so I believe I consulted the maps before writing that so I would say yes, that is true.

Allen: If we annex this area it would come in as R-A. I would welcome these people into the City of Fayetteville in terms of an annexation but I do not see the RSF-4 as being compatible with the area and wouldn't be able to support that. I do think a good planner takes a long step backwards and looks at the whole picture and I don't think that's good planning.

Ostner: I would like to agree. We welcome this area to adjoin our city but I don't think RSF-4 is appropriate. I believe RSF-1 might be. I understand that

there is another area of RSF-4 nearby but this piece of land the context that it is in, is clearly less dense than RSF-4 on top of the safety issue. It is a very dangerous intersection and with the difference between RSF-4 and RSF-1 I believe is night and day.

Hogue: Can I make one comment? It is on the issue of annexation. I think if I understand the discussion, that there may not be a strong opposition on the annexation. You all asked some legitimate questions of staff about where are we if we are splitting this up and what is going on with the City of Johnson. When I spoke initially about extenuating circumstances, that is one of our concerns. In trying to sort out if this scenario what happens with Johnson. The only way that I can determine, and I don't know all of the answers because there is a whole lot going on up in that area with other municipalities, the only way that I was able to determine that we could solve a lot of those problems is if Fayetteville would allow the annexation and then we don't worry about all of those other problems that you asked questions about. Just simply addressing the annexation, there are some time constraints and that is certainly something that we would like to accomplish. From the concerned neighbors I didn't hear any direct objections to the annexation. I know there are other issues, a lot of greater issues, but that is certainly an issue to us tonight.

Anthes: The other thing I'm struggling about with the potential for that split is the issue of Hwy. 112 and that it borders two side of this property. If the property was split controlling access onto and off of Hwy. 112 in a manner that we could find to be acceptably safe would be very complicated.

Ostner: I would like to add at this point that the R-A zoning, which is automatic with coming into the city with an annexation does allow housing. It allows everything, it is simply two acre lots.

MOTION:

Clark: The whole issue of annexation and infrastructure issues concern me but the fact that if we don't annex this, this would be split between municipalities supercedes that concern. I would like to move that we approve ANX 04-06.00.

Allen: Second.

Ostner: I have a motion by Ms. Clark and a second by Ms. Allen. Is there any other discussion on the Annexation? Renee?

Roll Call: Upon the completion of roll call the motion to recommend approval of ANX 04-06.00 by the City Council was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

Ostner: The tandem issue is RZN 04-12.00. We have already had some discussion.

Trumbo: As the citizens in that neighborhood have clearly stated, that is a very dangerous stretch of highway. Common sense to me says to add another 108 possible homes compounds the problem out there. I don't see how in good faith I could vote to allow that size of development at that place. I understand for the city to build affordable housing we have to have denser zonings but I don't believe it is appropriate right here considering how dangerous that highway is. I will not vote for this zoning.

Ostner: Thank you. Can we have that map that we tried to get together just showing us some general location?

Anthes: We don't have the City Attorney here so can someone tell us if the best way is to move for approval and vote it down or to table? I remember Mr. Williams telling us about the different strategies for that before I don't remember specifically what they were.

Ostner: I don't either.

Allen: I think we call for a motion and it fails for lack of one if I recall correctly if no one so moves.

Hogue: At that point would it then be tabled?

Ostner: I believe we are bound to vote on this issue. We can vote to table, we can vote to pass.

Pate: You can make a motion to table and table to a date certain or otherwise vote it up or down.

Vaught: If the applicant withdraws they start over is what I believe he said. If we vote to table it can come back as soon as the next meeting. What I would like to see is if the applicant has met with the neighbors. Have you met with the neighbors discussing these issues?

Scott: We have not.

Vaught: One thing that we typically like to see is that you meet with the neighbors and discuss these issues and see if you can come to a resolution and bring back something more amicable between everybody.

Hogue: That is with the zoning issue tabled?

Vaught: Yes.

Hogue: We will do that.

MOTION:

Vaught: I will make a motion to table RZN 04-12.00.

Trumbo: Second.

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

Anthes: I don't know that I'm not completely comfortable with leaving it as an R-A zoning. We could go ahead and vote tonight to deny the rezoning request and then we would still have an R-A zoning.

Ostner: There is currently a motion on the floor that needs to be voted on up or down. Do we have any further discussion?

Vaught: Since it is currently R-A, I think we should give the developer an opportunity to go speak with the neighboring land owners to see if they can come to some sort of a resolution without stopping the process. It could be a real quick discussion at the next meeting if it comes back and everyone still doesn't like it or we think it is not the right zoning. That would be my comment.

Ostner: Let's not forget that we did not annex it, we have simply forwarded it to the City Council. They have still got a long road before they are annexed. Is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to table RZN 04-12.00 failed by a vote of 2-4 with Commissioners Clark, Allen, Anthes and Ostner voting no.

Thomas: The motion fails two to four.

Ostner: Are there more motions or discussion on this issue? We are still considering the rezoning of this item. The tabling motion failed so we are going to revisit it or do something.

Pate: Mr. Chair, based on the Planning Commission bylaws the way they are stated any Conditional Use or Rezoning request requires a five affirmative vote to carry. It is the applicant's prerogative to be able to table that

motion in order to come back to you with something that could potentially pass. Because we do not have a full Commission there are potentially three commissioners that could vote for this project. Therefore, it is appropriate to table this item if the applicant wishes to do that.

Scott: We do wish to do that.

Clark: Can I make one comment? Tabling it is certainly your prerogative and probably a wise course of action. I have a very extensive list of concerns that the neighbors have voiced that when you bring this back I sincerely hope that you have talked with them and can address some of them because I happen to agree with them.

Scott: We'll do our best.

Allen: I would agree with Commissioner Clark.

Anthes: Kit is not here so Jeremy, does this mean if the applicant still wishes to table we still then need to have a vote on our level to do that or they withdraw it?

Pate: That is a little unclear to me reading the bylaws whether it requires a vote to be tabled or not. Obviously, a vote has failed for that motion.

Clark: That motion was to table at our request, not their request.

Pate: There can be another motion on the floor to table this item I believe.

MOTION:

Ostner: With Mr. Pate's advise, he is not a lawyer, I would be willing to vote for a tabling on this issue. I am going to make a motion that we table it.

Clark: Based on Jeremy's suggestion and interpretation of the rules I guess I will second it.

Ostner: Do we have any further discussion?

Marr: Mr. Chair, I think your requirement is that a person who voted against tabling needs to motion to reconsider. You vote on that and then you can vote to table. Otherwise, your action won't be legal.

MOTION:

Anthes: I move to consider RZN 04-12.00.

Clark: Second.

Ostner: We have a motion and a second, is there any further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to reconsider RZN 04-12.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

MOTION:

Anthes: I move to table RZN 04-12.00.

Ostner: I thought we just did.

Anthes: No, we moved to reconsider.

Vaught: I will second.

Ostner: We have a motion and a second. Renee?

Roll Call: Upon the completion of roll call the motion to table RZN 04-12.00 was approved by a vote of 6-0-0.

Thomas: The motion carries six to zero.

Break

May 20, 04

A SHORT SYNOPSIS:

Meeting of Lea Taylor Properties at Ozark Electric Community Room, and 36 neighbors 6PM, May 17. Excellent Bar BQ with trimmings furnished. Meeting lasted 1 hour +.

We were disappointed Taylor Properties came to the meeting with the same proposal that was put before the Planning Commission Apr 26. ... And no other.

Neighbors still have concerns:

The density of the planned 108 houses, surrounding property on all 4 sides is much less.

We were unanimous against a cut through to our neighborhood. Developer agreed to request a variance from the requirement. There is no easement to Woodside Dr, there is 10ft of private property north of the Taylor property line. We want to preserve the safety and integrity of our neighborhood. We would be more comfortable with a cul-de-sac, and not a dead end road adjacent to our property line. Developer (Cleve) brought up a plan to put masonry walls on perimeter of their property. We agreed, that would be nice.

Property Values: We are all afraid our values will fall, Developer Cleve said: "our property values will all rise on the same tide(?)"

Water Pressure: Fayetteville water comes to Forest Hills/Wooded Hollow in a 3 inch line close to 30 years old. After development - will we have the same pressure?

We appreciate the Taylor Properties telling us their plans. A number of us compiled our notes of the meeting, the following people agree the attached notes are fair and accurate :

Jimmie Forbes
Gail McWhorter
Carl Moss
Brenda G. Bailey
Charles Fitzal
Ron Johnson
Lee Johnson
Patrick Penton
Benny Moore
Carol L. Moore
James M. Borden

- Developer is willing to sign a Bill of Assurance that would be presented to the city committing to the following:
    - 2300 - 2600 s.f. minimum homes (at over $100 per square foot these homes will be around $300,000 homes)
    - Will not exceed more than 2.7 homes per acre
    - Fayetteville does not have an RSF-3 Zoning so they sought the RSF-4, although they do not intend to build 4 homes per acre
    - Basic restrictive covenants including no parking on street, pitch of roof, 75% stone/brick construction, etc..
    - 3 car garages
    - custom homes and plans - no cookie cutter development

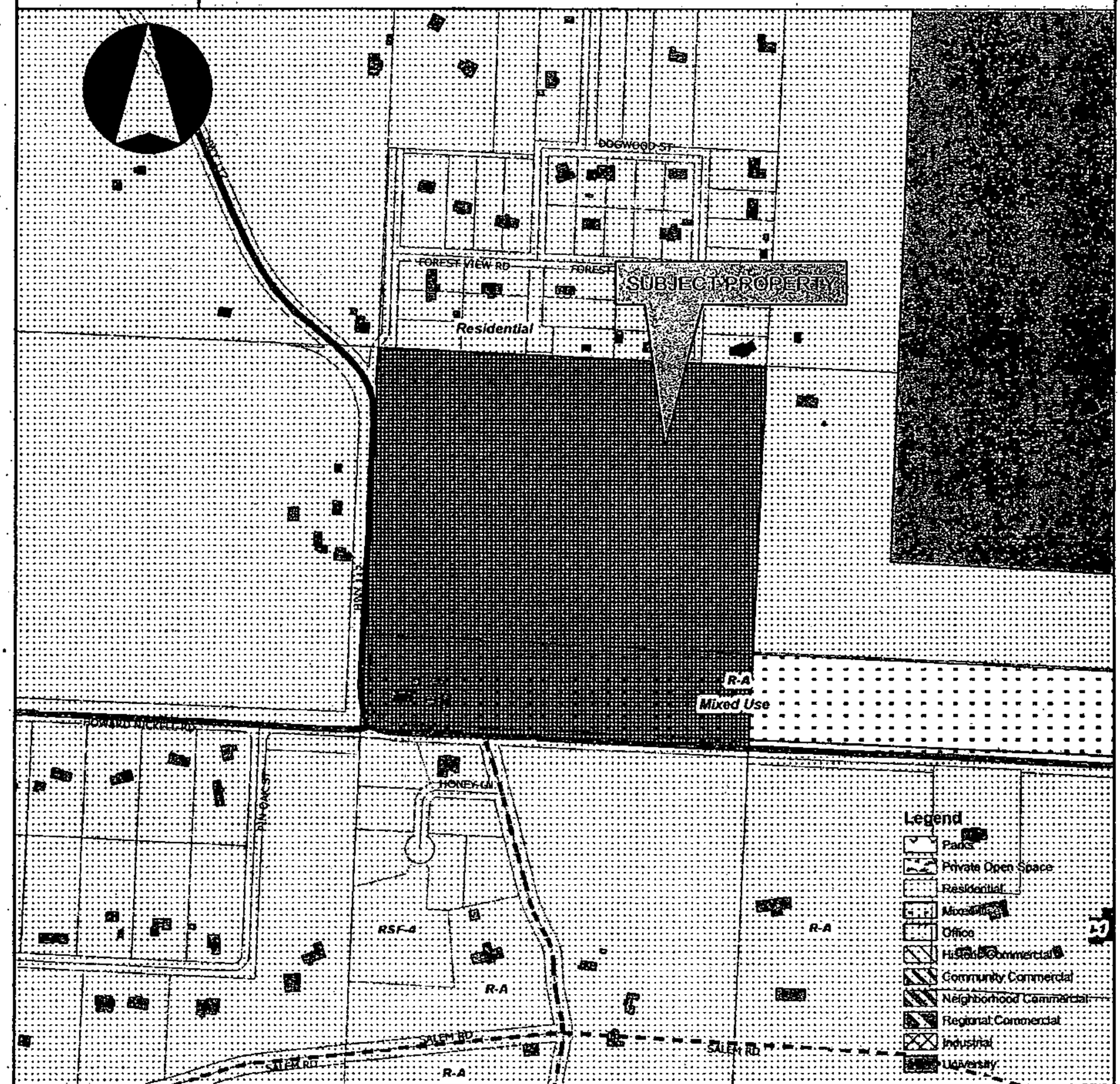
Additionally:

- Discussed potentially donating a portion of their land to the city/state for construction of turn lanes off of Highway 112 for both entrances.
- Discussed a masonry wall surrounding the property.
- Discussed moving the entrances/exits further from the corner and adding additional signage at the corner to alert drivers of the 45 degree turn.
- The cut through to our neighborhood was discussed - and the developer prefers not to cut through. It's a city requirement, but they'll be glad to seek a variance from the requirement with our support.
- A tree survey was completed this week. The development will be placing a % of trees in a conservation or buffer easement.
- Because of the cost of the infrastructure that must be built including streets and sewer, Developer cannot afford to sell 1 acre lots and will only break even at 2 houses on 1 acre lots.
- Developer believes that the city will strike 10 lots off the top as soon as a site plan is turned in for consideration as a matter of practice.
- Run off must be captured and released at the rate it is currently being generated and released on the site. They will build detention area to meet needs identified in studies to be completed once rezoning complete.
- Sewer and lift station cost is $400,000 and required for density greater than 1 home per acre. Concerned about whether the ground will perc if septic only.
- Developer wants to make us happy - but they must be able to potentially make a profit in order for them to commit to the project.

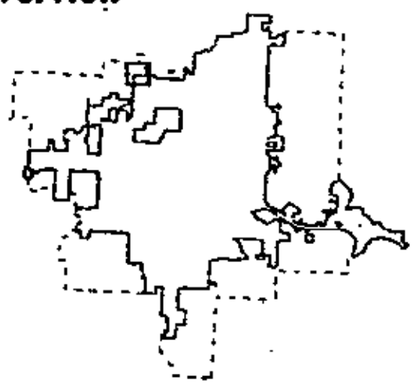
RZN04-12.00

Future Land Use

LEIGH TAYLOR PROPERTIES



Overview



Legend

Subject Property

RZN04-12.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

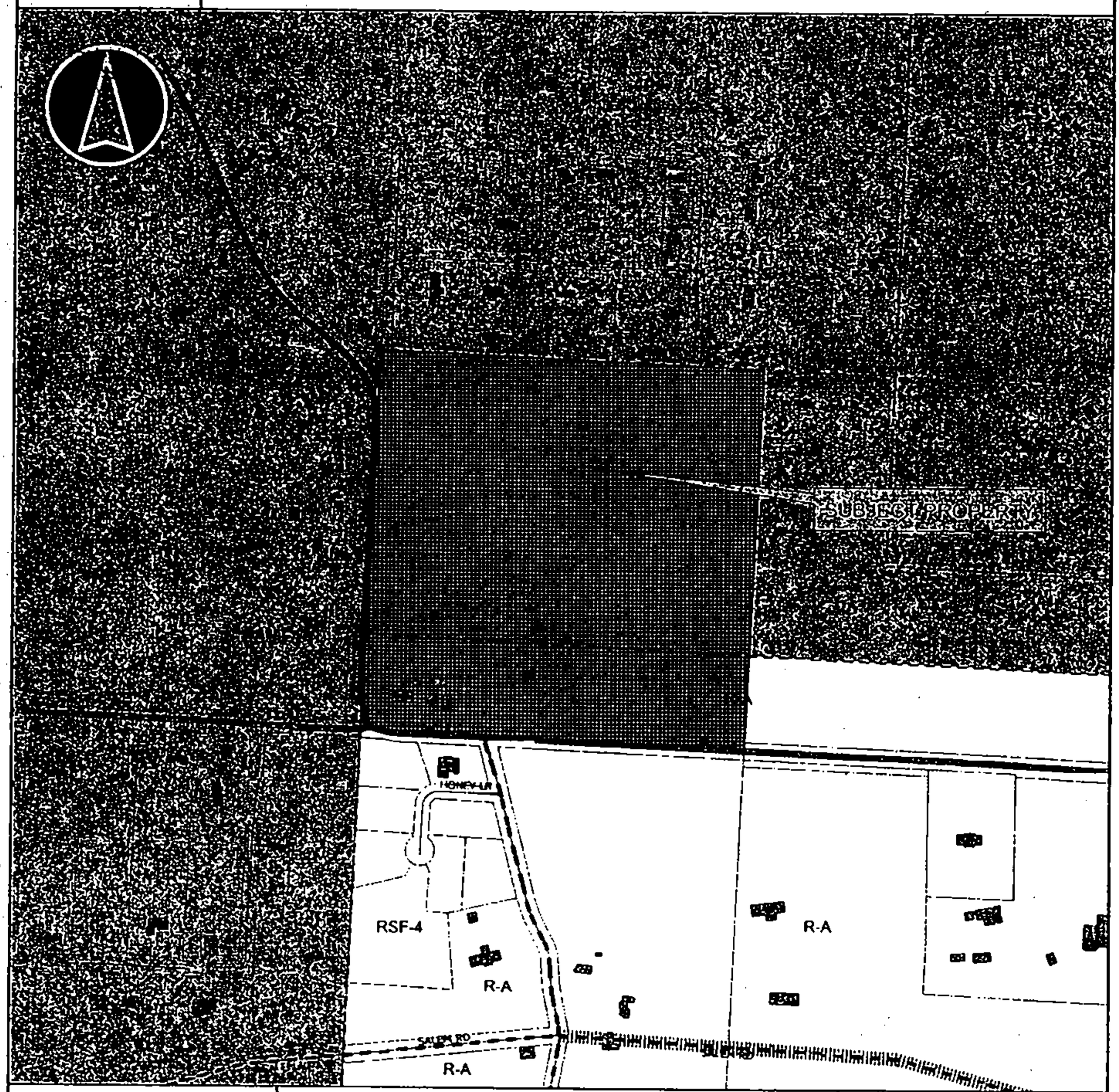
Historic Collector

0 175 350 700 1,050 1,400 Feet

RZN04-12.00

LEIGH TAYLOR PROPERTIES

Close Up View



Overview

Legend

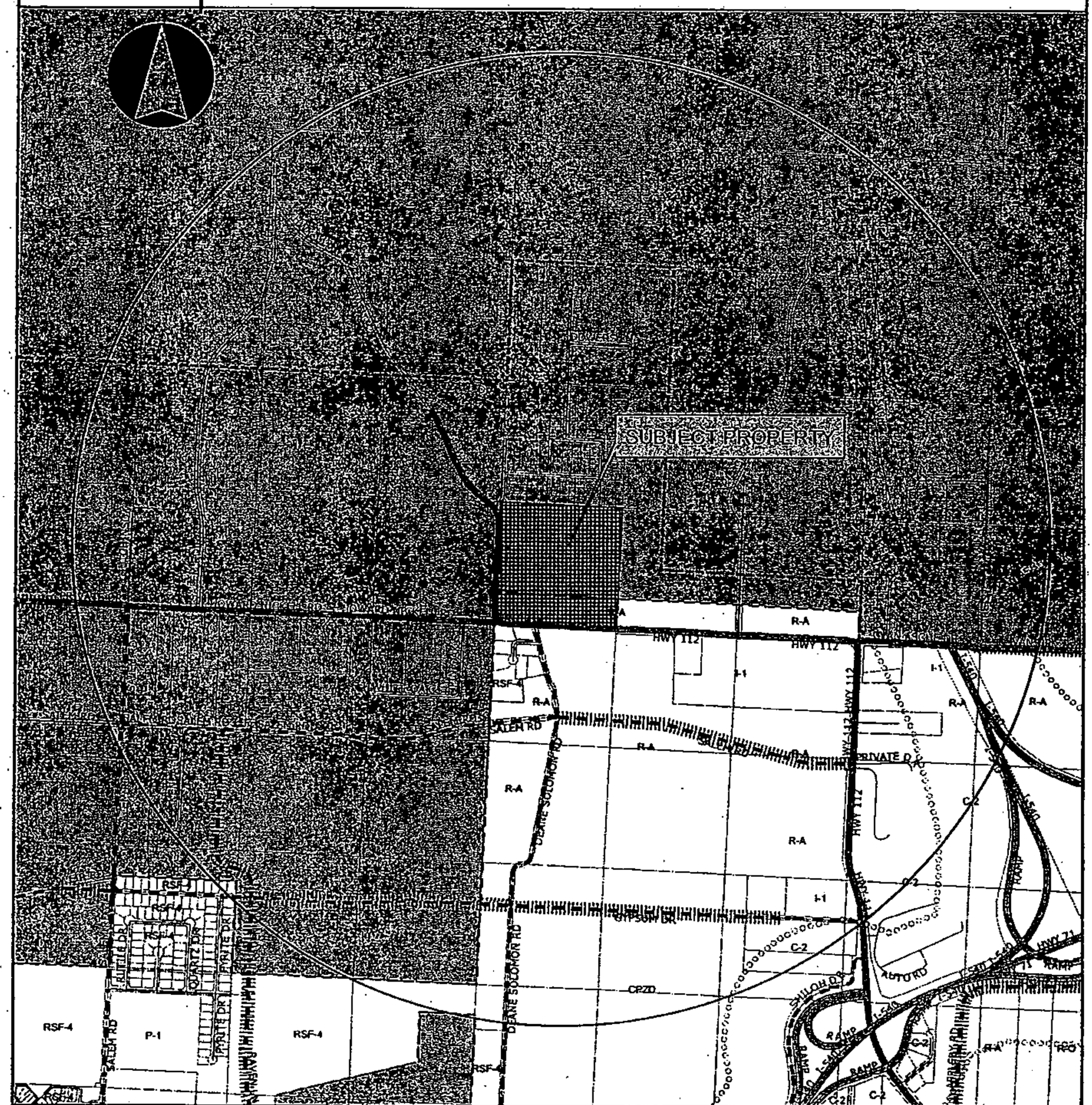
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Baseline Profile
- RZN04-12.00

0 175 350 700 1,050 1,400 Feet

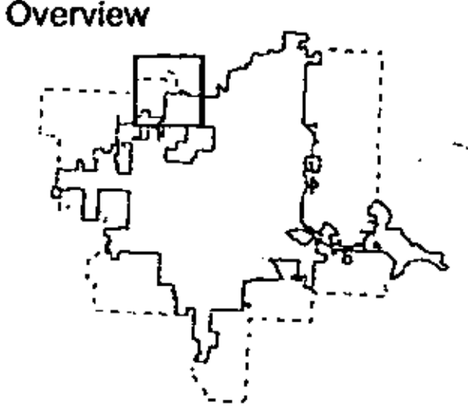
RZN04-12.00

One Mile View

LEIGH TAYLOR PROPERTIES



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

RZN 04-12.00: Rezoning (LEIGH TAYLOR PROPERTIES, pp 169) was submitted by R. Chad White on behalf of Leigh Taylor Properties, LLC. The property is currently zoned R-A, Residential Agricultural, and contains approximately 39.86 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next item on our agenda is a Rezoning for Leigh Taylor Properties. Can we have the staff report please?

Morgan: The subject property contains approximately 39.82 acres of vacant property. It is located north of Hwy. 112 and Howard Nickell Road and east of Hwy. 112. The property includes a 29.86 acre tract requested for annexation and an additional 10 acre tract zoned R-A, Residential Agricultural. This item was heard at the regular Planning Commission meeting of April 26, 2004 with an accompanying annexation request for the 29.86 acres. The Planning Commission did approve this request and it has been tabled at this time at the City Council level. The applicant has held neighborhood meetings and has submitted a Bill of Assurance that limits development on this property to a maximum density of 99 lots or approximately 2.48 units per acre. The applicant has also submitted a traffic analysis conducted by Peters & Associates Engineers and the engineer is present. The applicant's intent is to develop a single family residential subdivision with the zoning of RSF-4. The General Plan 2020 does designate the northern 29.86 acres for residential and the remaining 10 acres is designated for mixed use. Staff is recommending approval for this rezoning request based on findings within the staff report.

Ostner: Is the applicant present? If you could introduce yourselves and give us your presentation.

Branson: My son in law is Chad White, I'm Cleve Branson. We welcome the opportunity to address the Planning Commission and the Washington County residents and the City of Fayetteville residents. We are pleased to report that since our last meeting with the local concerned citizens about a month ago that we had an open dialogue and a lot of conversation and we both expressed our concerns. We did have some differences. We tried to address those on both sides of the fence. On many of the issues we were able to work some items out but I would be remiss without saying that we did end up with a few differences. Not everybody is entirely on the same page as Chad and I would expect. The main issues being traffic and density and we have brought some specialists tonight to hopefully show that there shouldn't be quite as much concern as initially thought at our last meeting two months ago here. One of the main issues I think was drainage and certainly to those Fayetteville citizens to the south that is an issue. Art and the Planning Department certainly will address that if we are so approved with appropriate catch basins. Secondly, as far as the

density goes the RSF-4 allows up to 160 homes in that 40 acre subdivision and we have included in our Bill of Assurance, which all of you have a copy of and hopefully the local residents have that also. We want to assure them that we will not build over 99 homes if so approved by the Planning Commission. We think the size of the lots that we are proposing is comparable to the neighborhood. Certainly some of the lots to the north and south are larger but the majority of that reason is because they are on septic systems and not city sewer like we are going to bring to that particular subdivision. Chad has some issues that he wants to talk about like square footage.

White: In the Bill of Assurance also, we have stated that there would be a 2,400 sq.ft. minimum size on this particular subdivision. In looking at the homes in the Forest Hills subdivision to the north through the county records is about 400 sq.ft. larger than the average in that particular subdivision. We are actually staying in consistence with what is to our south. In the Lee subdivision those are a little larger in average with what we are trying to do. These are a little larger than what is to our north in the Forest Hills subdivision. We are staying consistent in that size and also in lot sizes and that sort of thing. I know that the subdivision to our north has around 75% of the lots as you will see on the plat that you have there of the Forest Hills subdivision, about 75% of those lots are ½ acre and under. We are staying real consistent with the size of lots as well with what we are proposing. Some of the citizens there had mentioned a buffer zone between our northern border and their southern border and also connectivity was an issue to their subdivision. They would not like that much traffic going into their subdivision. Of course we will ask that the city take that into consideration not to have connectivity or some other alternative. We are doing all that we can to help them out in that area. Our hands are tied due to what the city wants in that area. At this time I would like to ask Art Scott, the engineer on the project, to speak on the possible layout of the subdivision as far as drainage and buffer zone and that sort of thing.

Scott: Hello. My name is Art Scott. I would like to talk about a couple of the issues that came up in the neighborhood meeting. In talking with some of the neighbors on the south border of the subdivision to our north they all had a concern with I have no neighbors now and now I'm going to have three neighbors on my direct lot. What we tried to do is make the larger lots and some tree preservation area and greenspace area on that north side. Probably the western half of the north side is going to be all tree preservation area so the trees will be left in place there. On the east side the developers have agreed to add additional setback buffer area, no build area if you will, to buffer putting any out buildings or any homes next to the property lines next to the neighbors to the north. That subdivision at our north has five lots along that border. We propose eight so you can see

it is not a huge difference because of that tree preservation and greenspace area. One thing that Chad touched on was connectivity to the north. That was a big issue with everybody that we talked to in the neighborhood. They actually didn't want connectivity. We agreed with our two very good access points on Hwy. 112 that we didn't need to connect to the north. We are going to propose to connect to the east where there are no homes along that border right now. If staff approves we will go with no connectivity to the north. We could put a stub out street with some type of barricade, maybe a break away emergency access for that subdivision since it only has one access for the 40 acres. I would think that might be something that would be useful in case of emergency at that other entrance of their subdivision. We would agree to do something like that. The one thing I want to talk about on density and traffic, before I turn it over to Ernie Peters our Traffic Engineer, is that the ten acres on the south that is already in the city is presently zoned R-A but is planned on the 2020 Plan to be mixed use. That includes anything from small convenience store up to a 40,000 sq.ft. grocery store or 350 apartment units could be into that mixed use type plan. That would be considerably more traffic than we are generating with a subdivision of this size. At this time I would like to turn it over to Ernie Peters our Traffic Engineer.

Peters: Mr. Chairman, my name is Ernie Peters. I'm with Peters & Associates Engineers. We have done a traffic analysis related to this development. This development consists of 99 lots. It is a residential development, which is the lowest trip generating land use that is typically found in urban settings. We found as part of our analysis, which we have summarized in a letter dated June 23rd, which I believe you have in your packet, the list of our findings. Presently Hwy. 112 in this vicinity carries anywhere in the neighborhood of 4,300 vehicles per day as a two way volume. That is in the area just east of the curve or the intersection of Howard Nickell. North of that location around the curve the volume drops to about 3,600 vehicles per day, that is a two way volume. Hwy. 112 is currently just a two lane roadway in this area. The volumes that I cited are well below the capacity of a two lane roadway of this type. Capacity is simply not an issue. Hwy. 112 being just a two lane roadway, could easily carry 10,000 vehicles per day. The site is estimated to generate approximately 950 vehicle trips per day. This is based on standard trip generation values by the Institute of Transportation Engineers. These are broken out to be about 74 vehicle trips, either leaving or entering the subdivision during the a.m. peak hour and approximately 100 during the p.m. peak hour. The two access points or street intersections proposed as part of this development are configured at appropriate locations. They are well back away from the curve of the road. There are some horizontal/vertical curve situations there where sight distance is not good at all locations along the boundary of Hwy. 112. At the two locations where the street intersections are proposed the sight distance is in excess of 500' and 450' is the minimum that would be

necessary to have safe intersection sight distance for this location. Traffic accident history has been examined for the accidents of record for the years 2000 through 2002. Accident numbers have decreased during that time period ranging from 16 accidents during the year 2000 and down to only four accidents in this vicinity in 2002. There have been no fatalities but there have been some injury accidents in the vicinity. Art mentioned that 10 acres of this 40 acre tract is currently on the 2020 Plan as mixed use development. That could accommodate a variety of uses but just to put the trip generation of this residential development into proper perspective, that ten acres under a mix of office and retail type uses could easily generate 5,000 vehicles per day compared to the less than 1,000 that we would expect this residential type use to generate. If there are any questions I would be glad to try to answer them. Thank you for your attention and consideration.

Ostner: Thank you Mr. Peters. At this point we will take public comment. Would anyone like to speak to this issue?

Futrall: Hello, I'm Charlie Futrall, I live at 3804 Woodside Drive. I am in the development directly to the north and I border on the northern border of the Taylor property as it approaches. I am in the northeast corner. When we were here last time, I say we as a group. There are a number of neighbors here now not just from our neighborhood but also from the houses to the south there. Most of us had not had any knowledge other than seeing the red sign out front and then coming up and getting some initial idea of this plat that had 108 houses on 108 lots and we were quite shocked not knowing what was going in. The last time we were here you asked for the developers to meet with us which they did. I give them great credit because they came around and put an introduction and come to this meeting in every mailbox and sure enough, they had a number of people there. Part of what is going on here is education on our part as a neighborhood. We are not developers or builders, we have lived here a long time. I have lived there nine years. We have some people in the audience that have lived there for 20 and possibly even 30 years in this neighborhood. It is a long, established neighborhood. It is a mixed neighborhood. We have small children, preschoolers and high school kids. We have people in retirement and we have people who work for the city and work for the government and work for the university and a number of corporations around. It is a wonderful area that we live in and we all love it. As we try to learn what was going on here, I am speaking for myself and can tell you kind of what has gone on with us as a neighborhood and other individuals can have their own say and own opinions about what has gone on here. Essentially, the developers that have come up I think are honest and have an intention of building a quality development. I say that from meeting them. They showed us some examples. They mentioned Stonewood over off Hwy. 265, Candlewood

which is a little more upscale but has some smaller homes in it that we could go and drive by and look at. I'm sure you all are familiar with these developments, they are beautiful. Their intents as I've heard this evening have changed some. They are really trying to accommodate the neighborhood. What we have done as individuals, I know I have and I know many people in the neighborhood have come around. We wanted one acre lots back there. It doesn't compute economically. It doesn't fit with bringing the sewer in and doing the things that you need to do. We are faced, like everybody else in this town, with the growth that is going on. We are right on the edge of the annexation issue and so on and so in trying to understand what is happening here we have done a real turn around. We have recognized that we have good developers here. I think their comment about wanting to provide the Bill of Assurance to make it 100% residential we are very much in favor of. We don't want the traffic that the gentleman eluded to. I didn't have a study of what that meant in terms of actual numbers but I think it is significant and it is a real point. As we look at this I can say it this way, I like the developers. I think these guys are sincere and I think they are going to build quality homes. I think it shows in the size of the homes. You can not build a 2,400 sq.ft. home in Fayetteville today and do it cheaply as far as real dollars. They are going to build nice, quality homes which will enhance our neighborhood in terms of dollar value, which is one of our big concerns when we first looked at the density, as it should be. Here are concerns as we might express them today saying that we recognize there is quality coming into our neighborhood and we appreciate that. The density is still a concern. I think that Mr. Branson stated it and I think that our neighborhood would still state that. At 99 homes he is still at the high end of what his expectations were when he walked in here. That has not changed. If you take 108 homes originally and take 10% off that is about what a builder is looking for. A R-2 would put 80 homes in there on 40 acres. That is a density that most of the people in our neighborhood would be thrilled to see and be happy with at this point, as opposed to when we first walked in here and not understanding the whole process and really trying to take a look at it. I know that is a turn around for many people in our neighborhood. Maybe there is a compromise between that 80 and the 99 homes that he is asking for. I think that what I would ask you to do, because the ultimate decision is going to be with you, is to look at this and where that compromise is and make sure it is here in writing on this amended Bill of Assurance. 99 homes is still 200 cars. Despite what the gentleman said as an engineer, I don't know how many of you have driven out and looked at this stretch of road. All of you have driven it at one time or another. It is narrow. It is narrow and it is short, quick turns and in spite of his discussion, right on the edge of this property at the 90° we have had a fatality there, maybe two fatalities since I've lived there in nine years. There was a runner hit down in front of the movie theater on this same Hwy. 112. Why were they hit? Bad shoulders, not enough room

and because of drivers swerving, pay attention to cell phones and all the reasons why wrecks happen. We cannot stop growth in our area. We can only ask you to consider that you are moving out into a more rural area. You do not have a road structure there. You are dealing with a state highway, it is not going to get corrected by the City of Fayetteville whatever you do. There is a real difference between 160 cars and 200 cars is my comment to this about density. I also think the comment about being in line with the neighborhood, our neighborhood at the minimum is ½ acre lots. I'm on a square acre, both of my neighbors are on two. The next neighbor is on three. Yes, they are on septic. Yes they are not going to get cut down to ¼ acre lots. Across the street the neighborhood above it is .65, .70 size lots. That is seven beautiful houses right there. The next thing is talking about not having a road into our neighborhood. I think that I can say with 99.9% our neighborhood does not want a road cut through connecting Woodside Drive. There are several reasons. We like the privacy that it gives us in terms of not having neighborhood traffic as it is. I think on an important level our subdivision was developed back in the late 1970's. Our road system, we pull over and let the other person pass. In doing that we haven't taken out the flowering tree or the pine trees or something else that is hanging over that road a little bit. Our roads are not designed for two way traffic and not opening up a subdivision like this into our subdivision. What you are going to be doing if you did that is creating real bottlenecks and constant traffic on roads that are not designed for two way traffic of that nature. It works well for 26 or 30 homes but it doesn't work well if you open this up to a subdivision which they will definitely use it both ways at all times of the day. We also discussed a buffer zone. I couldn't hear at the back of the room what they were discussing in terms of the northern boundary there which borders our neighborhood. We would like to see a 50' preservation area of trees to buffer the two neighborhoods. It would be appropriate and it gives a nice separation to what is going on there. That is something that we would like to see if at all possible. Again, this is something that you would dictate. I do not see it in the Bill of Assurance here. I did get a copy of it so I could look this over before the meeting. I want to go back to this Bill of Assurance. I understand that you all are faced with R-2 or R-4. If you just gave a blanket without this you would be giving them cart blanche obviously, to fulfill whatever they wanted. You would be giving them legal right. This is your only limitation if you do not put it to an R-2. I ask you to think about it carefully as you are doing this and make sure that any decisions that you make regarding this has that in it, that it is conditioned upon the builder being able to give a Bill of Assurance to the Planning Commission. I think that in essence the neighborhood has had a lot of discussion. We had after their meeting another neighborhood meeting. It was small town politics in motion I suppose. We met under the old oak tree behind Bill Forbes house and brought our lawn chairs and had plenty talk about. We are concerned about the safety issue here and I

think you should be too. We are very willing to compromise and accept the idea that we are going to have neighbors next door to us and I do want to say that I think that these developers will do a good job and build a quality neighborhood. If we could have some consideration with this buffer zone, if we could have some consideration for any safety considerations that your planners might give you in relation to dealing with the state highway. If you could consider less density, not going below 80 but less density than what has been requested we would appreciate it. Thank you.

Ostner: Thank you.

Forbes: I'm Bill Forbes, I live directly to the neighborhood to the north. When we were here on the 17th of May and the vote appeared to be going the wrong way Mr. Vaught and the lady said we would like you to come back with a different plan and you guys get together and have a meeting and talk it over. They bought us barbeque and we were 15 minutes into that barbeque before we finally figured out there was no different plan, it was still 108 houses. We were unanimous in this cut through. We don't want it coming to us. I'm one of the few people in my neighborhood who met Mr. Ingalls who developed this neighborhood. I met him because we have a covenant out there and they moved a double wide in on us. Mr. Ingall told me if you will look at your little plat there between the southern border and the end of that driveway is 10' that belongs to our neighborhood. It does not but up against that south property line. The property values we are still all afraid of will go down. I'm sorry I don't know the developer's last name but Cleve, he said our property values will rise with theirs all at the same time. End of quote. I really hope so. As far as our small lot houses, we have 36 houses and I would wager none of them are on ½ acre lot and most of them are on 1, 2, 3 and 7 acres. The developer is willing to sign a Bill of Assurance. They brought that up. I had never even heard the term. He said that would be presented to the Commission. I have not seen it. When he started telling us houses built 2,300 to 2,600 sq.ft., that was nice. $100 per square foot, then he said three car garages. I said three car garages? He said three car garages. None of our houses have a three car garage. We don't even have three car carports. Custom homes, no cookie cutters, a lot of brick are all their words. He even brought up masonry walls around the perimeter and that sounds good. The cut through we really don't want. A lot of us took notes and I have a copy of those notes that we took. I would like to see how those notes compare with the Bill of Assurance. I will give you each a copy of these and I'm through.

Ostner: Are there others that would like to speak to this issue? May I first ask that if there are other comments that you agree with let's just say I agree and try not to belabor the issues.

Myers: I'm Bill Myers. I will restrict myself to the safety issue. I am not a traffic engineer but I am a registered professional engineer. I was taught and I try to teach my students that if you can possibly design 99% safety into a project don't ever design 98% in. Something is liable to happen and when it happens you will bear not only the moral responsibility but you as an engineer will bear the legal responsibility for what happens. What I am concerned about is the traffic that is on the road now, the shape of the road because of the curve and Howard Nickell and Deane Solomon coming in at the corner and the significant dips by Chris Hollow Road. We have already committed for all of the traffic that is going to be added as a result of the Clear Creek development. There is more traffic that is going to be added to it with this. I am continuously reminded that the decision makers have to make their decisions based on a lot of things but I hope you will not do anything that compromises the safety. I'm just a little country engineer, but I want to discourage you from adding anymore traffic to that road than is absolutely necessary. I also would be happy with 80 houses. I would vote for it. The traffic is a significant thing and there are going to be people injured if we add much more to it. Thank you.

Ostner: Are there other members of the public who would like to speak?

Borden: Hello, my name is Jim Borden. My wife and I have lived out 112 since 1978 or 1979. We used to drive Hwy. 112 when a not a whole lot of traffic was on there. Peggy, my wife, worked at Mary Maestris and we drove back and forth. Hwy. 112 is a really windy road with a lot of dips and 90° turns. It is really dangerous, not just in that one area. I had the opportunity of taking video of just one afternoon. I can bring that to you guys if you want to see what happens out there everyday. We also have some aerial video of that area. The main thing about that is we have been out there a long time and I have seen a lot of people go off the road a lot of different times. Some of those people died. That is going to continue to happen. I believe that just by watching the people at those curves taking that little risk. One of these days they are not going to make that little jump out there. It is happening more and more because we have now I think four or five other homes going in just southwest of there by Holcomb Elementary. You have Salem Estates and Salem something else and then there is Salem Hills out there too. All of those people want to come out that way, especially if they are going to Springdale or north. You can see it all the time. It has grown and grown and grown. It is extremely dangerous out there. I know these guys had a traffic engineer come out but unless you are out there everyday it is something that you would really have a big concern about if you guys lived out there. I know these guys are probably going to try the best they can. I think as a neighborhood we would really like to see the R-2. That is the compromise that we thought was going to happen, not R-4 and then the compromise

would be R-4. If they get R-4 the assurance should be a lot less than the 99 homes, closer to the 80. I think they could still come out pretty good financially. That's all I have to say.

McWhorter: I'm Rick McWhorter. I'm at 3791 Midside. My property is directly to the north of what was originally going to be three lots that went across the back of my property. I'm a runner and I am a biker. I moved there in 1994. You will never catch me running or biking on Hwy. 112 it is so dangerous. It is not the capacity that is really the issue. An engineer can show you the capacity, show you the number of vehicles that go across there. What they cannot show is the dangerous curves and the location of the sight lines that are really difficult. We agree with the R-2. We could live with the R-2. When I heard the developer say something about a buffer zone to the north of their property, I didn't hear anything as to what kind of a distance they are looking at. I would hope that would be a strong consideration. There is some property there that the association at Woodside and Forest View does have along the property line. We would hope that would be a strong consideration. The cul-de-sac I think the developer was a little misleading in what he said when they were saying about an emergency break through. At our meeting at Ozark Electric there was absolute when you say 99.9% it was probably 100% that we do not want a road cut through our subdivision. We don't want any traffic to go through there whatsoever. If you put a break away emergency thing that will just encourage traffic to go through. Please consider that as a safety issue for us. We like our neighborhood and I will also mention the other thing that was brought up that has not been addressed is again, we are looking at development out our way. What kind of an impact is this going to have on the Fayetteville Public Schools? Our neighborhood is in the Fayetteville Public School district and what kind of impact is it going to be on an elementary school? You already know the developments that you have approved and you already know the figures. It will have an impact that is going to be long term, long reaching. I would hope that would be a part of your consideration. The developers are going to build a nice place. We have met with them. Our concern is how many nice places are going to go in. Please consider an R-2 for us.

Ostner: Thank you. Are there other members of the public who would like to speak? I am going to close it to the public and bring it back to the Commission for discussion.

Allen: There certainly to me seem to be many traffic problems in that location that really couldn't be identified very well in the traffic study. I wondered if I could speak to the developer for a moment please. I wondered if you might be willing to be open to a compromise with the neighborhood in terms of a density maybe 89?

White: On the Bill of Assurance, of course we started at 160 to 108 and now we have come down to 99 lots. Of course we know at this point once we get to the Planning Commission and start working on plats once you get into roads and drainage and that sort of thing you are going to start losing lots. 99 was just a starting point, a good round number if you will, 2.5 units per acre. That is something that we would be open to discussing. The reason we have come to RSF-4 is because there is no 2.5 zoning. To answer your question, that would be something we would be interested in talking about, sure.

Branson: I think there was a question about a buffer zone. Art will address that.

Scott: What I said was that the eastern half of the north boundary has the specimen trees that the city likes to see saved. That made an appropriate, logical tree preservation area. On the eastern half there are no real specimen trees that were found on the tree survey that related to the city's requirements. We could leave those tree specimens that are in there in place and leave a 50' buffer zone there and leave all of those trees there. They are smaller trees is what it is. They are newer growth. The older growth is on the west side.

Vaught: Staff and Engineering, could you speak to that corner of Hwy. 112 at the corner of the property and what we can and can't do? I know we can't put conditions on a project at this level. We will do it when they come forward with a development proposal but what can we do with a state highway and what are some ideas we can have for the safety concerns in this area when we get to that point?

Casey: Since that is a state highway we cannot make the developer improve it. We can make recommendations and have him coordinate with the Highway Department to see if they can get approvals for that but we do not have authority to pose those improvements on that highway. We can work with their traffic engineer to come up with some safe designs and present those to the Highway Department but it is not a city highway where we can make those improvements.

Scott: In that area there is a home there that will be removed. There are also a lot of trees in that area that will be taken out. If you go west bound on Hwy. 112 the problem that would cause a lot of accidents out there is you can't tell at some times of the year the trees are grown over all the signs. Right now the signs are all covered up. You can't really tell visibly that that road goes to the right and turns north. Since 2000 they put in a lot of signs and you can see the drastic drop. It is down less than 25% of what it was in 2000 because of those signs. They really help north bound and south bound. As you approach that curve when we are done we will have a radius out on the inside of that curve that is much larger and much more

clear than is existing today. That house right there that is there will be gone and that will be a visibility corridor through there. That is our intention to help alleviate some of that visibility problem.

Ostner: Do you know the radius of that curve right now approximately?

Scott: We haven't actually analyzed the radius of the curve. I could tell you what it is in a few minutes.

Ostner: I was just going to ask what the design speed of that road is. I know the speed limit is maybe 40 miles per hour.

Scott: I think there is a suggested speed of 25 miles per hour. When you drive it you can tell that is the design speed. That is a comfortable speed. 35 is very uncomfortable and that is how you can really tell the design speed. As you approach it from the east moving westbound there are so many trees in front of the signs that some of those you can't even see the 25 mile per hour suggested speed in some locations. What I didn't want to do was increase the radius of that curve which would increase the speed. I felt like the fact that it is a 25 mile per hour and most people that drive it everyday know it is a 25 mile per hour curve. They will tend to stay at that speed. I felt like if we increase the radius with the intersection of Deane Solomon Road it will cause a problem with that. That right there is an appropriate sight distance and it is safe. That yard on the west side of the intersection is mowed well. It is very safe at 25 miles per hour. I didn't want to do something to increase it to 45 and reduce that time frame that drivers have coming off of Deane Solomon.

Ostner: Commissioners, there has been discussion of a compromise of 89 lots if anyone would care to discuss that.

Vaught: I would like to ask the City Attorney how you would do that. Obviously, there is a Bill of Assurance and we can't ask for that. The developer has to offer that. Can you amend that after they present it or would they have to submit a new Bill of Assurance?

Williams: The applicant would have to amend that and they need to amend that without pressure. Obviously, what the Planning Commission can do when they make a recommendation, they could recommend a slightly different zoning. It is just a recommendation going to the City Council. If you recommended an RSF-2 that would actually only have 79 units the way I look at it because it is not quite 40 acres. I don't think it would be proper for you to request them to make a change in a Bill of Assurance. They may decide to make such a change to get in between the two numbers and submit that to the City Council if they so chose. We really can't get into a

negotiation with them about what number are you going to put in your Bill of Assurance.

Vaught: Staff, it is my understanding when we are calculating density, for say in RSF-2, if it was rounded 80 acres when we calculate maximum allowable density we back out dedications, is that correct?

Warrick: It would depend on whether or not that was an actual parkland dedication that was deeded to the city and then the remaining property would be calculated for density.

Vaught: Roadway dedications and all of that is included?

Warrick: No, that is all part of the gross property that is determined for density calculations.

Vaught: My concern is if we say let's drop them all the way to an RSF-2, we are really not limiting them to 80, we are limiting them to 70 or 75 which is a drastic change. That is why I'm cautious to do that.

Ostner: It is a perfect example of a PZD but that is not where we are tonight.

Anthes: Staff, looking at the Future Land Use map and a finding on page 3.3 referring to the land use map identifying multi-use as the future use of this 10 acre tract along Hwy. 112 and it being a principal arterial. I would like staff to comment on what is happening in the general area and why our 2020 Plan has called for multi-use in that location.

Warrick: There is a portion of property basically the ten acres along the south boundary continuing to the east that lies along the north side of Hwy. 112 that is designated on the General Plan future land use map to be mixed use. The majority of the property surrounding that is designated on that future land use plan to be residential. I wasn't a party to the 1995 decisions that enacted that or adopted that particular future land use designation for this particular area. That was a decision that went through approximately 26 public hearings, Planning Commission and City Council meetings. I don't know that I can tell you the exact reason. We are talking about a principal arterial which intersects another principal arterial and mixed use is a designation that gives the Planning Commission some latitude with regard to zoning decisions. It allows you to consider a variety of different applications and to choose the most appropriate ones. Obviously, a Residential Office is a specifically mixed use zoning district. A variety of different uses on different pieces of property throughout this area also creates a mixed use application on the zoning map. It is certainly within the Planning Commission's discretion and the Council's discretion to determine where residential is appropriate in a mixed use area, where

residential office or office type uses are appropriate and where some more intensive type uses might be appropriate. Based on the surroundings, based on the configuration of the property, based on traffic and safety issues those are all decisions that can go into determining the best, most appropriate use for a piece of property that is designated mixed on the future land use map. It does leave quite a bit of discretion but it also allows for more than just residential should it be deemed appropriate by both the Planning Commission and City Council.

Anthes: Thank you. We are looking at lot at our zoning map and at our future land use map these days and normally we see big areas of residential as it leads away from the city. The fact that during the development of this plan a very specific mixed use zone was placed along Hwy.112 has me question why with all of that public hearing. We are not seeing that in a lot of places and so I'm looking for the rational for that to see if we are missing something that other people felt were really important. The other question I have is for Mr. Peters. I understand what you are saying about the capacity of that roadway. I know that Garland Avenue heading south of I-540 carries like 16,000 cars per day with a similar profile. What I would like for you to do is speak to the geometry of that road and those curves and the sight lines and tell me how that fits into your calculations of capacity on that road.

Peters: They really don't go into the determination of the capacity. Capacity really is not an issue in an open roadway section. Where capacity becomes an issue is at intersections. There aren't any major intersections in the vicinity of this development. Capacity, in my traffic engineering perspective, is a moot point. I think probably what might be more realistic to look at is what would be an appropriate service volume. That is addressed in the city's regulations in terms of the volume that you could typically expect on a roadway by it's classification. As you have recognized, Hwy. 112 is a principal arterial street, although it is not built to that standard. If it were built to that standard and someday perhaps it will be. We did check with the Highway Department and they have no current plans for improvements to this section of Hwy. 112. Should it be built to what you would expect principal arterial standards to be it would be likely a four or five lane arterial street. That category of street at that number of lanes could carry as a service volume, in the neighborhood of 25,000 vehicles per day. As a two lane roadway in an open section where there are not major intersections it can accommodate much more than what is on it right now. It's capacity in terms of it's classification really isn't an issue I don't think. The 3,000 to 4,000 vehicles per day that are there now is not a high volume on a two lane roadway. To address the geometry, the horizontal curve, the major curve there at Howard Nickell is posted by the Highway Department at an advisory speed of 25 miles per hour. That is a safe speed for that curve. They have determined that. I

have driven it myself. Many of you probably have driven it too. You can safely negotiate that curve at 25 miles per hour. Sight distance can become an issue. Sight distance relates not only to curvature in the roadway, horizontal curvature but also the vertical geometry and any hills that might exist. We have examined both with respect to the points of intersection of the proposed streets to serve this subdivision. Both of those streets are at a point in terms of the vertical geometry with the dips and the hills, if you will, at such a point where there is adequate sight distance greater than 500' in both directions at each of those two intersection locations. As Mr. Scott has pointed out, the clearing in the curve without decreasing the curvature of the roadway but just clearing it out, I believe it will become safer in that you will be able, particularly for westbound movement approaching Howard Nickell, you will be able to see cars coming from the north on Hwy. 112 and I think that that clearing will make it even safer than what it is now. I think whatever has happened in the last three years the statistics indicate that the number of traffic accidents has actually gone down. In the most recent year that the Highway Department has summarized it is at 25% what it was three years ago. Another point that is a little off of your topic that I would like to make, and I think it was Mr. Morgan that spoke who has taken video in the area. Presently the volumes that we are seeing out there are likely higher than the volumes that I reported from the Highway Department because with the construction that is going on on I-540 right now I believe a lot of people are detouring and taking that as kind of a bypass. The volumes that we are presently seeing out there are probably greater than what it typically handles. Probably greater than what it will be when it goes back to normal and this subdivision is fully developed and the extra 950 cars a day are there.

Anthes: You mentioned that you didn't believe there was really an intersection issue here. The corner of Hwy. 112 and Howard Nickell Road appears to be a pretty significant intersection to me. Can you talk about that?

Peters: In that localized area you probably would consider it to be that. I think the volume on Howard Nickell is probably much less than it is on Hwy. 112. The difference in volume between a point east of that intersection and north of that intersection, the difference is about 700 vehicles on a daily basis. We didn't do volume counts on Howard Nickell. That is just not in traffic engineer's language that is not a major intersection.

Anthes: My final comments I want to make to the developers and that is I'm really looking to the 2020 Plan and what the goals of that are. I want to talk to you about a few things that I've heard neighbors mention and you mention in terms of how you considered the design of this property and this subdivision. We do have a policy of connectivity that I believe that we are going to be talking about more when you come to PPL. Mostly I want to

talk about the fact that because our General Plan 2020 looks at Hwy. 112 as an arterial with mixed use along it, to me that says something about what kind of presence we want to have along Hwy. 112. What I'm going to be looking for and want to talk to you about is another policy that we have that discourages perimeter walls and that also talks about a presence on that road, i.e. buildings and homes facing the street rather than backyards facing the street. I just want to get that in there at the beginning and put that on the record.

Allen: I was going to comment that as a long term resident of Fayetteville that has been on Hwy. 112 many times, I feel that as this stands the density of this project is not safe. To me that is our primary concern is to make sure that our citizens are safe. As this stands I will not be able to vote for this project. I feel like you have come a long way but in my view it is not there yet, it is not safe yet.

Ostner: I would have to agree with Commissioner Allen. I would like for this to be somewhere near RSF-2 which is about 78 lots or the compromise of 89 lots which we cannot ask for request of you. That's where I stand.

Vaught: My opinion is a little bit different since this is a rezoning to a designation. We will be able to revisit many of these issues at the time of a LSD, and we won't get to that Large Scale Development unless we rezone it to what we think is proper.

Ostner: It is actually a Preliminary Plat.

Vaught: Ok. Well, I'm more inclined to take those issues up and a lot of the safety issues have to do with possible improvements, curb cuts, the stuff about buffer zones and connectivity to the north are issues we'll address at that level. I'm more inclined if we think somewhere, I know RSF-4 is not appropriate with their Bill of Assurance they dropped it somewhere between the two. I am more inclined to approve this with the Bill of Assurance with the understanding that we would love to see it come back with fewer units and there is going to be extensive work and things that need to be done. For the safety issues, possible offsite improvements working with the state. Connectivity issues, buffer issues and all of those issues that will go through a Preliminary Plat. We are not giving them a right to go build right now. If we think this is an appropriate type density if the roads were ideal, that is what we are looking at. All of these other considerations if we think it could be safe for that density with some improvements is what I'm looking at. I'm more inclined to vote for it and see what happens at Preliminary Plat and see if they come back with less units. Those are all different options we have at that level.

Ostner: Just to be clear, we are considering granting them the right to build 99 lots. Whether we like the configuration or not at the time of Preliminary Plat is yet to be seen. If this passes tonight this becomes law so to speak and they do have the right.

MOTION:

Shackelford: One thing I would like to add to that, this doesn't become law. A rezoning is a recommendation to the City Council. Whatever we do tonight has to be ratified by City Council. I'm more inclined in following along the lines of Commissioner Vaught thinking that we go ahead and recommend this rezoning with the RSF-4 with the Bill of Assurance as it stands for 99 lots. Obviously, the developers have heard this conversation. They have mentioned that they are open to negotiation. Although we can't require negotiation with the surrounding neighborhoods it might be in their best interest to consider reducing that and rewriting their Bill of Assurance between now and the time that they meet with City Council where this can be heard again. There is a little bit of difference there. What we do tonight doesn't have any finality, it is simply a recommendation to City Council. Two things that have been said tonight that I want to make comment on and just some personal opinion. The growth on Hwy. 112 is I'm afraid is inevitable. If you look at what is happening with Clear Creek to the north of this property that is going to facilitate growth all up and down this corridor. If you look at the growth in Northwest Arkansas, alternative corridors to I-540 are going to develop, those being Hwy. 265 and Hwy. 112. We run into this situation. We talk a lot about density. That is something that we are going to have to come to terms with as our city grows towards the old boundaries. I think that it is unrealistic to think that new development in the outlying areas is there was no infrastructure in place and everybody was based on septic. As that infrastructure is put in I think that it is unrealistic to think that the density is going to stay the same as they become non-outlying areas. That is a struggle that we continue to have. My personal opinion the difference between 80 verses 89 verses 99 houses in this area isn't that great of a difference if you talk about the difference of 8, 9, 10 or 20 houses. I think the development in a five mile radius to the north, south and west of this property, any one development can have that much difference. This is a large area, a very growth oriented area and a lot of new development going on in a five mile radius of this. I'm not as hung up on the difference of 89 verses 80 verses 99 because I think if you will look in a five mile radius the addition or subtraction of 10 houses is going to be somewhat immaterial. I understand all of the concerns. Trust me, there are a lot of concerns out there. This is simply a recommendation for rezoning. I would encourage us to move forward with the RSF-4 with the Bill of Assurance as it is stated today. Obviously, the applicants have heard everything that has been said here and it might be in their best interest to reconsider reducing that number. We can't

require them to do that. The issues that we are talking about will be addressed at Preliminary Plat, those being connectivity. That is going to be a huge one to address. Buffer zone to the north of this property line is going to be something that we have to address and obviously, the ingress and egress in regards to safety on the corner of this. Those are all things that there will be lots more opportunity for us to have input on and make sure that we get this right for the community. Based on staff findings, based on the 2020 Plan I think this is in line with the development that we anticipated in 1995 for this part of town. I'm going to go ahead and make a motion that we recommend approval of RZN 04-12.00 with the Bill of Assurance as it is presented today to the City Council for approval.

Trumbo: Second.

Ostner: I have a motion and a second, is there further discussion by the Commission?

Clark: Just to refresh my memory, Hwy. 112 is State and there is absolutely nothing that we can do to this developer to mandate any improvements to Hwy. 112, is that true?

Warrick: As Matt said, the Planning Commission can make a recommendation for improvements. Any improvements that the city recommended for Hwy. 112 would have to be further coordinated and approved by the State Highway Department.

Ostner: Is there further discussion? Renee?

Roll Call: Upon the completion of roll call the motion to recommend approval of RZN 04-12.00 to the City Council was approved by a vote of 5-4-0 with Commissioners Anthes, Allen, Clark and Ostner voting no.

Thomas: The motion carries by a vote of five to four.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-12.00: (Leigh Taylor Properties, pp 169) was submitted by Chad White on behalf of Leigh Taylor Properties, LLC for property located north of Highway 112/Howard Nickell Road and east of Highway 112 containing approximately 39.86 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre subject to a Bill of Assurance.

STAFF RECOMMENDATION: Approval.

Dawn J. Warrick 7/2/04
Division Head Date

7/7/04
City Attorney Date

Department Director Date

Finance & Internal Services Dir. Date

Hugh Earnest 7-7-04
Chief Administrative Officer Date

Dan Coody 7/7/04
Mayor Date

Received in Mayor's Office 7-7-04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7/6/04

City Council 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: 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.

Left on 2nd reading 8/3/04
Left on 1st reading 7/20/04

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** **YES**	
	☑ **Approved**	○ **Denied**
Date: June 28, 2004	Shackelford ©/Veught © 7-2	
CITY COUNCIL ACTION:	**Required** **YES**	
	○ **Approved**	○ **Denied**
Date: July 20, 2004		

BACKGROUND:

Property description: The subject property contains approximately 37.30 acres located west of 54th Avenue, and adjoins an extension of west Persimmon as reflected on the City's Master Street Plan. The property is adjacent to city limits to the east and the north. This configuration does not create an island of unincorporated property within the City limits.

Request: The request is to annex the subject property into the City of Fayetteville.

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 37.30 acres to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning

request, RZN 04-1091, is an accompanying item to this annexation request.

Property that is developed and/or subdivided in the Planning Area of the City of Fayetteville, outside of the city limits, does not allow for the enforcement of many regulations required within the City. When property that is consistent with the General Plan 2020 and the City's guiding policy of annexation is incorporated into the city and developed, a uniform and consistent standard of development includes the following:

- Compatibility in land use and development standards
- Ability to plan future capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – police and fire – who responds
- Police Protection
- Fire Protection
- Trash Service
- Sewer service
- Water service
- Street standards (curb and gutter) and construction specifications
- Sidewalks, based on the Master Street Plan
- Street lights
- Grading and Drainage review
- Detention
- Zoning Regulations (setbacks, bulk and area requirements, land use)
- Code enforcement
- Tree Preservation
- Parks land dedication

Without appropriate annexation, developers of property in the Planning Area are offered water service from the City of Fayetteville, but have none of the other regulatory responsibilities for development. Many of the public services offered to citizens of Fayetteville in adjacent properties are not offered to those beyond the city limits. In some cases, new subdivisions adjacent to one another have very different street construction, creating problems with transition and the establishment of an efficient network of infrastructure. Property that develops directly adjacent to the city limits is required to develop within City specifications for street construction. However, other requirements such as parks, detention, grading and drainage, zoning/land use and tree preservation are not within the City's ability to control.

Recommendation: Staff recommends approval of the annexation request. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family residential	RSF-4, Residential Single Family, 4 units/acre
South	Single family residential	Planning Area
East	Vacant	RA, Residential Acre
West	Vacant	Planning Area

INFRASTRUCTURE:

Streets: Currently the site has access to Persimmon Street and 54th Avenue at the northeast corner of the property and County Road 649 along the east property line. At the time of development, Persimmon Street will need to be constructed through the development. County Road 649 will need to be brought up to current standards along the property frontage. Off-site improvements to 54th Avenue will be considered at the time of the development of the property.

Surrounding Master Street Plan Streets:
North: Persimmon St. (planned collector)
South: Dot Tipton Road. (unimproved collector)
East: 54th Avenue. (unimproved collector)
West: Double Springs Road (minor arterial)

Water: The property has access to an 8" water main along Persimmon Street and 54th Avenue. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

Sewer: The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. Approval of additional units added to the sewer system in this area will be dependant upon the remaining capacity in the Owl Creek lift station.

Fire: The subject property is located 1.97 miles from future Fire Station #7 on Rupple Road. Normal driving time is 4 -6.5 minutes. Water supply will be necessary for this property to develop.

Police: It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

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

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES

BOUNDARIES

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

Finding: **The requested annexation will not create an island of unincorporated property.**

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

Finding: **The proposed annexation area is adjacent to the city limits along its east and northern property line.**

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

Finding: **This area does not consist of defined subdivisions or neighborhoods. It is predominantly a vacant field. However, future development plans may include the extension of a subdivision to the west.**

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

Finding: **Proposed boundaries follow property lines.**

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

Finding: **Current conditions result in a response time of 4 to 6.5 minutes for fire protection from future Fire Station #7. The property has access to an 8" water main to the east along 54th Avenue.**

ENVIRONMENTALLY SENSITIVE AREAS

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

Finding: **Wetlands, floodplain, and steep slopes have not been identified on this property.**

EMERGENCY AND PUBLIC SERVICES

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

Finding: **Water and sewer lines are accessible. The police department reports that current levels of service would not be compromised and that coverage in this**

area can be provided. Fire service may also be provided to the site within an acceptable response time.

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

Finding: **Fire and police service shall be provided to this area with the same level of response and service as other developments in this area. Sewer and water improvements to the area will be provided for with the development of approved preliminary plats.**

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

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

INFRASTRUCTURE AND UTILITIES

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

Finding: **Water, fire and police protection are currently provided in this area.**

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

Finding: **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.**

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

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

INTERGOVERNMENTAL RELATIONS

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

Finding: **N/A**

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

Finding: **N/A**

ADMINISTRATION OF ANNEXATIONS

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

Finding: **Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with surrounding developed property and the Residential classification of the area on the City's adopted Future Land Use Plan.**

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

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

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

Finding: **Conceptual development proposals for this property have not been submitted to the Planning Division. At the time the owner desires to develop this property, the applicant will be required to submit a proposal for review and approval by the Planning Commission.**

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

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

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

Finding: **A fiscal impact assessment has not been conducted for this property.**

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

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

Environmentally Sensitive Areas

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

Emergency and Public Services

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

Infrastructure and Utilities

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

Intergovernmental Relations

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

Administration of Annexations

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

Fayetteville Fire Department Service Delivery Impact: Zoning Review June 21,2004

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out	Projected Fire/Other Calls for Service at Maximum Build Out	Projected EMS Calls for Service at Maximum Build Out
ANX 04-1083	Marinoni		78.84	Future FS 7	0.493 miles	1 minute	1-3.5 minutes			
RZN 04-1084	Marinoni							72/year	29/year	43/year
*C ANX 04-1090	Hays		37.3	Future FS 7	1.97 miles	4-5 minutes	4-6.5 minutes			
RZN 04-1091	Hays							34/year	13/year	21/year
RZN 04-1099	Brisiel			Future FS 7	2.13 miles	5-6 minutes	5-6 minutes	2/year	.80/year	1.2/year
ANX 04-1100	Harper/Brandon		9.99	FS 4	4.73 miles	13-14 minutes	13-14.5 minutes			
				Future FS 5	3.36 miles	8-9 minutes	8-9.5 minutes			
RZN 04-1101	Harper/Brandon							9/year	3/year	6/year
RZN 04-1102	Bradberry/Woolv.			FS 1	0.337 miles	1 minute	1 minute			
RZN 04-1103	Collins			FS 2	0.633 miles	3-4 minutes	3-4 minutes	5/year	2/year	3/year
RZN 04-1104	Goff			FS 5	3.11 miles	8-9 minutes	8-9.5 minutes	16/year	6/year	10/year
				Future FS 3	2.33 miles	5-6 minutes	5-6.5 minutes	16/year	6/year	10/year
RZN 04-1111	The Mill District			FS 1	0.476 miles	1-2 minutes	1-2 minutes			

Insufficient Data for Calculations

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

June 18, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 04-1090 (Hays Family Development, LLLP, pp 475)** and Rezoning **RZN 04-1091 (Hays Family Development, LLLP, pp 475)** submitted by James McCord for property located west of 54th Ave. Adjoining extension of W. Persimmon St (As reflected on M.S.P.) would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

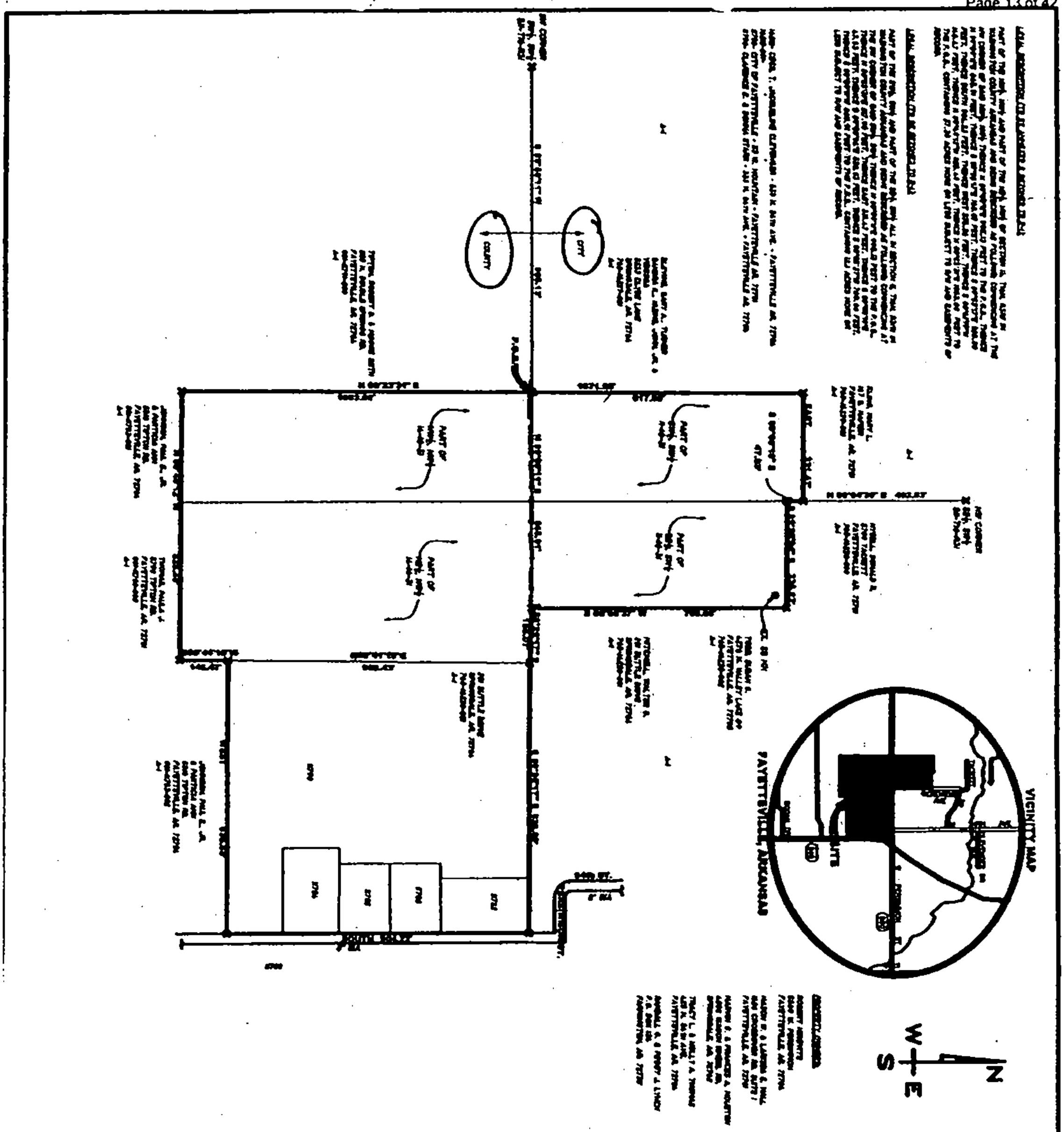
It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

AYETTEVILLE POLICE DEPARTMENT
:O. BOX 1988
AYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522



JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS
134 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 •(479) 443-9127 •FAX (479) 521-0887

SCALE: N.T.S.	DATE REVISED	CHECKED BY:	DRAWN BY: BJR
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

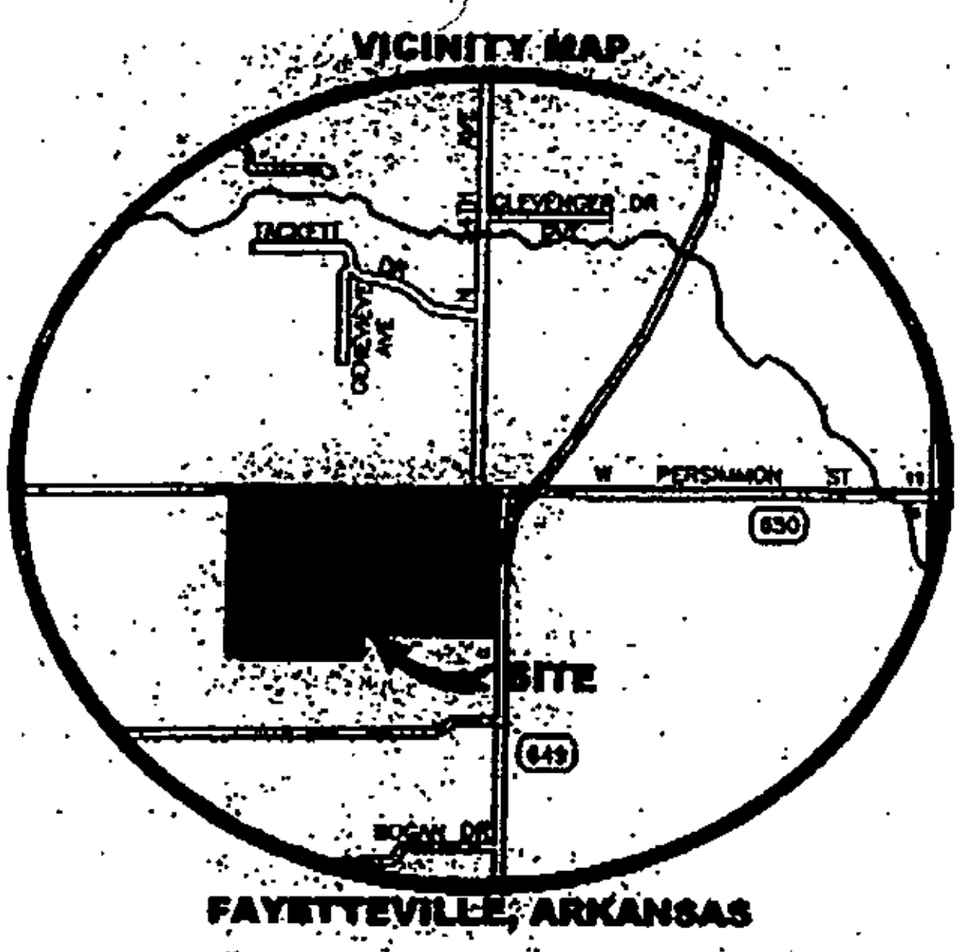
By: J.B. Hays
J.B. Hays, General Partner

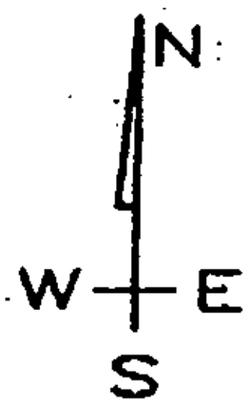
"A"

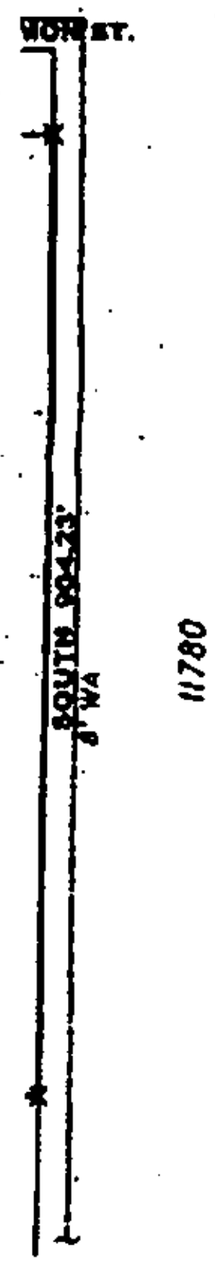
LEGAL DESCRIPTION (TO BE ANNEXED

PART OF THE NW¼. NW¼ AND PART OF THE NE¼. NW¼ OF SECTION 14. T16N. R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW¼. NW¼ THENCE N 89°59'11"E 995.13 FEET TO THE P.O.B.. THENCE N 89°59'11"E 665.91 FEET. THENCE S 88°26'17"E 165.07 FEET. THENCE S 89°55'17"E 825.00 FEET. THENCE SOUTH 904.23 FEET. THENCE WEST 835.88 FEET. THENCE S 00°41'19"W 146.47 FEET. THENCE N 89°49'12"W 825.49 FEET. THENCE N 00°23'31"E 1053.60 FEET TO THE P.O.B.. CONTAINING 37.30 ACRES MORE OR LESS SUBJECT TO R/W AND EASEMENTS OF RECORD.

FROM WACO CLERK (THU)FEB 26 2004 15:56/ST. 15:52/NO. 6314274810 P 8







PROPERTY OWNERS:

11782
MASON W. & LARISSA E. NALL
1826 CROSSOVER RD. SUITE 1
FAYETTEVILLE, AR. 72701

11786
MARVIN G. & FRANCES A. HOUSTON
4268 WAGON WHEEL RD.
SPRINGDALE, AR. 72762

11785
TRACY L. & HOLLY A. THOMAS
425 N. 54TH AVE.
FAYETTEVILLE, AR. 72704

11784
RANDALL G. & PEGGY J. LYNCH
P.O. BOX 124
FARMINGTON, AR. 72730

11790
HAYS FAMILY DEV. LLP
HAYS FAMILY INVESTMENTS. LLP
2025 GREEN ACRES ROAD
FAYETTEVILLE, AR. 72703

FROM WACO CLERK (THU)FEB 26 2004 15:56/ST. 15:52/NO. 6314274810 P 10

Signature page for Annexation Petition of Hays Family Development, LLLP, et al.

Hays Family Investments, LLLP

By: _____
J. B. Hays, General Partner

Signature page of Annexation Petition of Hays Family Development, LLLP, et al.

Randall G. Lynch

Peggy J. Lynch

FROM WACO CLERK (THU)FEB 26 2004 15:56/ST. 15:52/NO. 6314274810 P 4

Signature page of Annexation Petition of Hays Family Development, LLLP et al.

12-4-03
Mason W. Nall

12-4-03
Larissa E. Nall

FROM WACO CLERK (THU)FEB 26 2004 15:56/ST. 15:52/NO. 6314274810 P 5

Signature page of Annexation Petition of Hays Family Development, LLLP, et al.

Marvin G. Houston

Marvin G. Houston

Frances A. Houston

Frances A. Houston

Signature page of Annexation Petition of Hays Family Trust, LLLP, et al.

Tracy L. Thomas

Holly A. Thomas

FROM WACO CLERK (THU)FEB 26 2004 15:56/ST. 15:52/NO. 6314274810 P 7

IN THE COUNTY COURT OF WASHINGTON COUNTY ARKANSAS

FILED

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, PROTHONOTARY
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

ORDER OF ANNEXATION

On this 29th day of March, 2004 comes on for hearing before the Washington County Court the Annexation Petition filed by Hays Family Development, LLLP et al. From a review of the case file and the proof, the Court finds:

1. The allegations of the petition are sustained by the proof;

2. The requirements for signatures under Ark. Code Ann. Sec. 14-40-601 have been complied with;

3. The limits of the territory to be annexed have been accurately described and an accurate map thereof made and filed; and,

4. The prayer of the petitioners is right and proper.

IT IS, THEREFORE, ORDERED that the Annexation Petition is hereby granted and the territory described in Exhibit "A" attached hereto is hereby annexed to the City of Fayetteville, Arkansas.

ENTERED this 29h day of March, 2004.

Kenny Jonathan

Washington County Judge

11782

11786

11785

11784

11780

SOUTH 904.23'

8' WA

835.88'

NSON, PAUL E., JR.
RTICIA ANN
TIPTON RD
E, AR. 72704

LEGAL DESCRIPTION (TO BE ANNEXED & REZONED TO R-1)

PART OF THE NW¼, NW¼ AND PART OF THE NE¼, NW¼ OF SECTION 14, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW¼, NW¼ THENCE N 89°59'11"E 995.13 FEET TO THE P.O.B.. THENCE N 89°59'11"E 665.91 FEET, THENCE S 88°26'17"E 165.07 FEET, THENCE S 89°55'17"E 825.00 FEET, THENCE SOUTH 904.23 FEET, THENCE WEST 835.88 FEET, THENCE S 00°41'19"W 146.47 FEET, THENCE N 89°49'12"W 825.49 FEET, THENCE N 00°23'31"E 1053.60 FEET TO THE P.O.B.. CONTAINING 37.30 ACRES MORE OR LESS SUBJECT TO R/W AND EASEMENTS OF RECORD.

LEGAL DESCRIPTION (TO BE REZONED TO R-1):

PART OF THE SW¼, SW¼ AND PART OF THE SE¼, SW¼ ALL IN SECTION 11, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SW¼, SW¼ THENCE N 89°59'11"E 995.13 FEET TO THE P.O.B.. THENCE N 00°23'31"E 817.95 FEET, THENCE EAST 331.47 FEET, THENCE S 00°05'10"E 47.93 FEET, THENCE S 89°58'04"E 330.03 FEET, THENCE S 00°05'37"W 769.66 FEET, THENCE S 89°59'11"W 665.91 FEET TO THE P.O.B.. CONTAINING 12.1 ACRES MORE OR LESS SUBJECT TO R/W AND EASEMENTS OF RECORD.

CHECKED:

DATE REVISED

SCALE: 1"=200'

JORGENSEN & ASSOCIATES

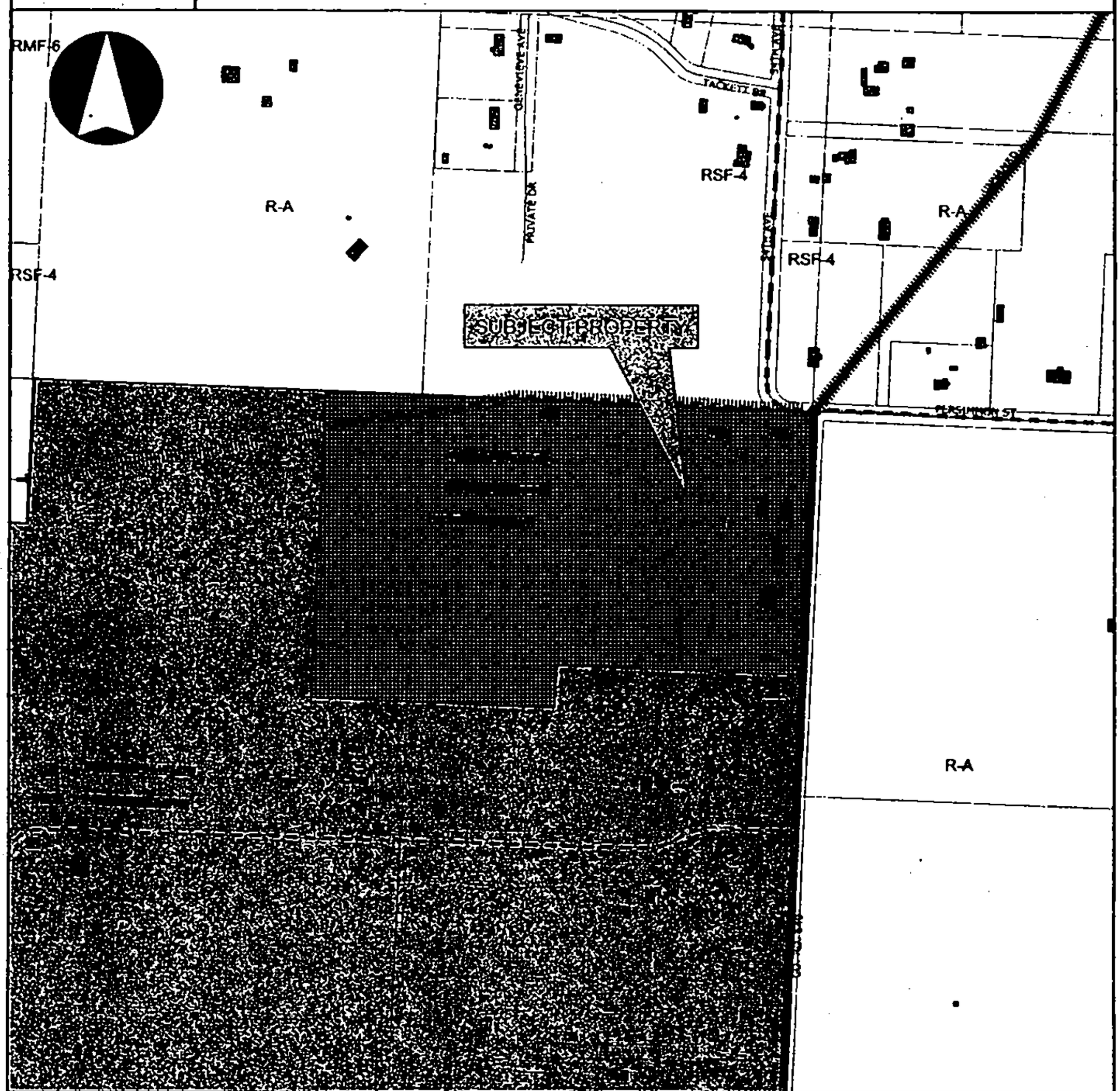
From: Planning
To: Carnagey, Craig; Morgan, Suzanne; Pate, Jeremy; Warrick, Dawn
Date: 6/17/04 11:25AM
Subject: Fwd: ANX 04-1090 and RZN 04-1091

>>> PAULA THOMPSON <mspjdaisy@sbcglobal.net> 06/16/04 07:37PM >>>
This is in response to the second notice I have gotten as an adjoining property owner regarding actions before the Planning Commission. The first was 30 acres to my west, now 37 acres to my north, all to be rezoned for 4 units per acre.
Please, please, urge the planners and the commission to drive to these sites over any of the roads that will get you here. The city streets and county roads are barely two lane...in places not even that...and you are considering allowing the erection of some 268 residences, with an average of probably 3 or more cars each? Annex the land, but please do not rezone for that density unless you have surplus funds in reserve to upgrade the roads that will be handling all those cars. We already have terrible congestion on HWY 16W, accidents on an all too regular basis, and all the other ills that come with growth that outstrips the infrastructure and resources of the area.
Please, you are the only protection we have...and the last best hope for prairie wildlife that has been here since Peter Van Winkle came to this spot of ground in the 1840s. If you don't care about the native critters, please care about the two-legged road kill this will bring.
Paula Thompson
5790 W. Dot Tipton Road
Fayetteville, AR 72704

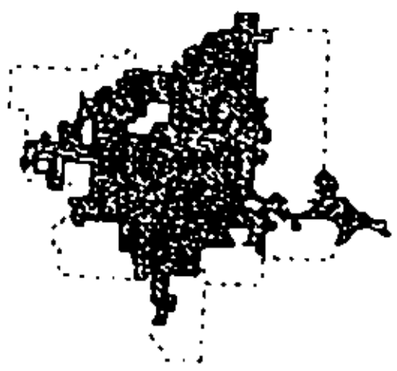
ANX04-1090

HAYS FAMILY DEVELOPMENT, LLLP

Close Up View



Overview



Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- ANX04-1090
- Fayetteville
- Outside City

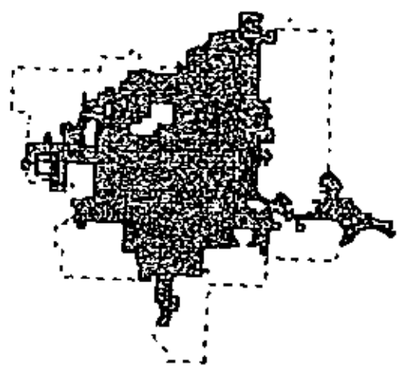
0 200 400 800 1,200 1,600 Feet

ANX04-1090

HAYS FAMILY DEVELOPMENT, LLLP

Close Up View

Overview



Legend

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- Master Street Plan
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- Freeway/Expressway
- Principal Arterial
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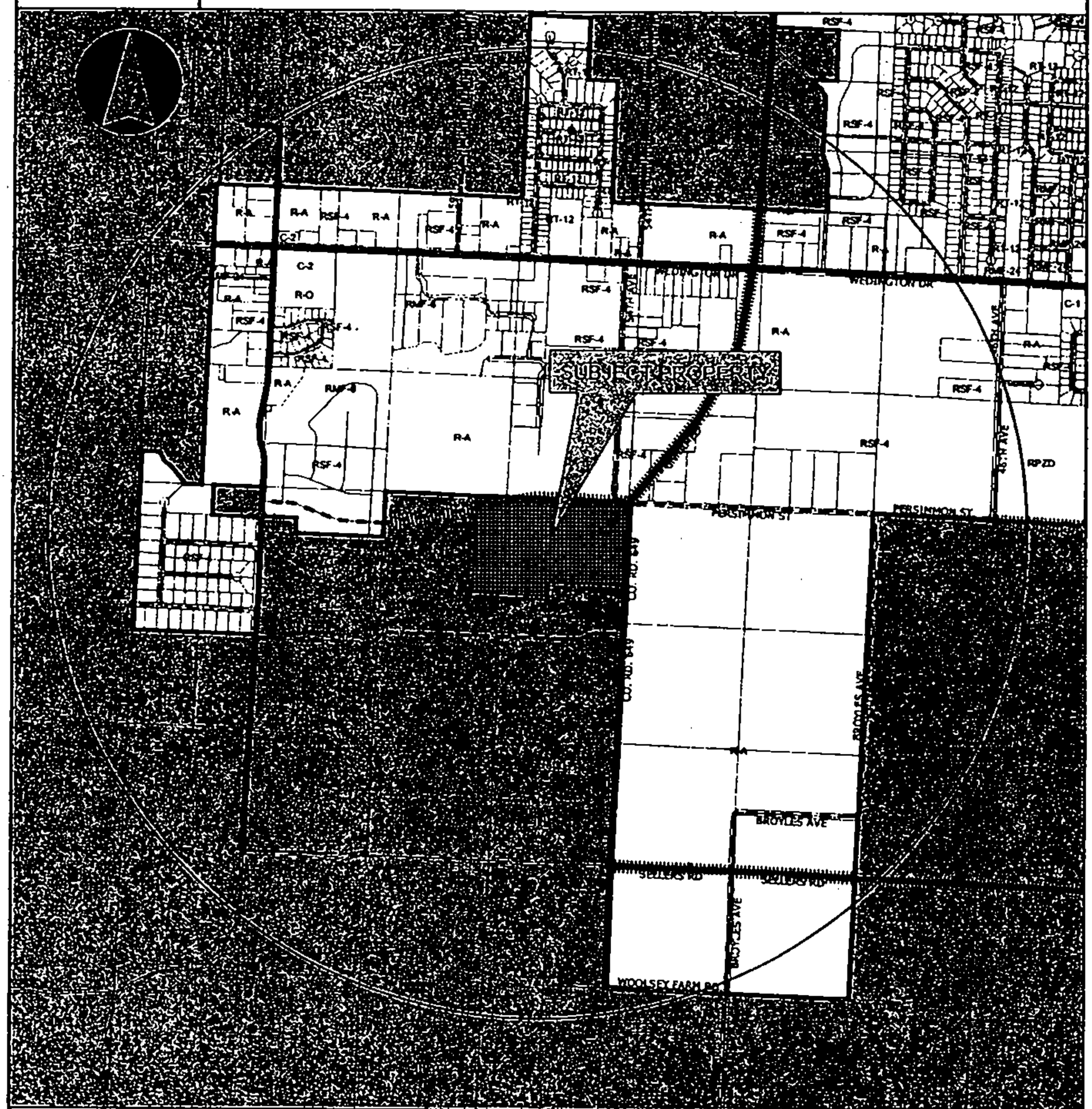
0 200 400 800 1,200 1,600 Feet

ANX04-1090

One Mile View

HAYS FAMILY DEVELOPMENT, LLLP



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

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-1090: (Hays, pp 475) was submitted by James McCord, Attorney on behalf of Hays Family Development, LLP for property located west of 54th Avenue, adjoining the extension of Persimmon Street containing approximately 37.30 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick — 7/6/04
Division Head — Date

City Attorney — 7/7/04
Date

Department Director — Date

Finance & Internal Services Dir. — Date

Hugh Earnest — 7-7-04
Chief Administrative Officer — Date

Dan Coody — 8/7/04
Mayor — Date

Received in Mayor's Office 7-7-04
Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 7/6/04

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

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

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

(f) The area is currently served by utilities-

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

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

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

REZONING

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

Facts supporting Rsf-4 zoning are:

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

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

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

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

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

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

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

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

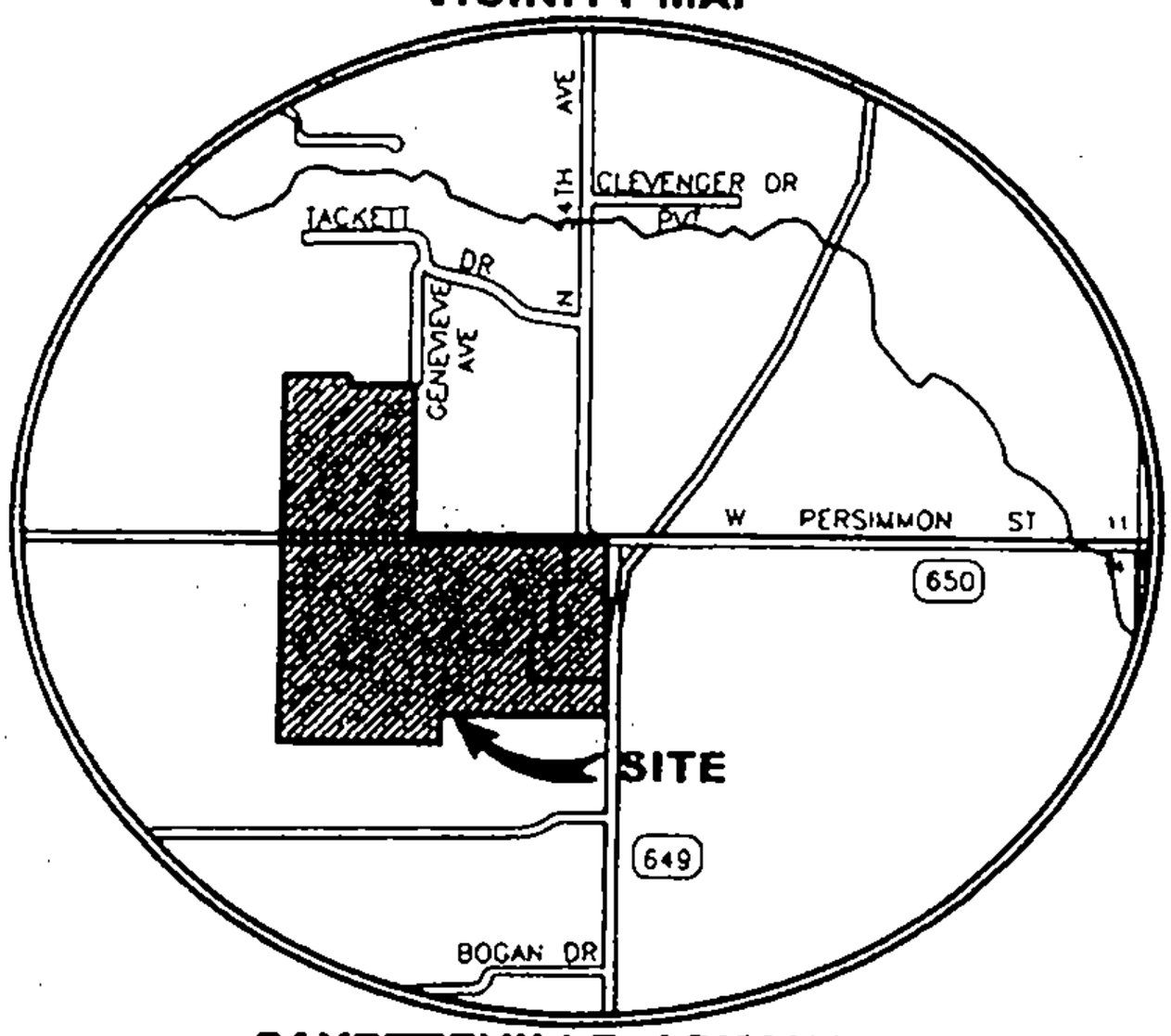
(8) At the time of development, the developer will construct Persimmon St. to City standards through the property and may be required to upgrade the adjoining County road. Cost-sharing by the developer for improvements to 54th Ave. may be considered.

CONCLUSION

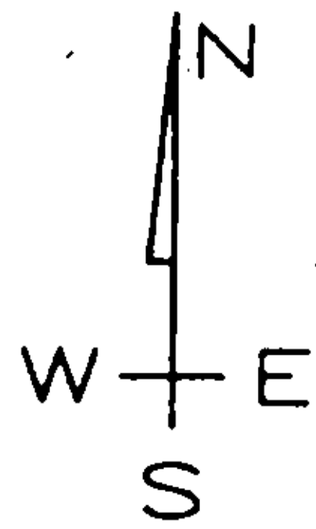
For the above reasons, Applicants respectfully request the Fayetteville City Council to annex their 37.30 acres and to rezone their 49.4 acres from R-A to Rsf-4.

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

VICINITY MAP



FAYETTEVILLE, ARKANSAS



PROPERTY OWNERS:

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

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

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

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

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

B.11
Anx. 04-1090
B.12
RZN 04-1091

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

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

To: Fayetteville City Council

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

Date: July 14, 2004

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

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

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

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

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

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

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

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

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

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

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

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(f) The area is currently served by utilities-

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

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

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

REZONING

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

Facts supporting Rsf-4 zoning are:

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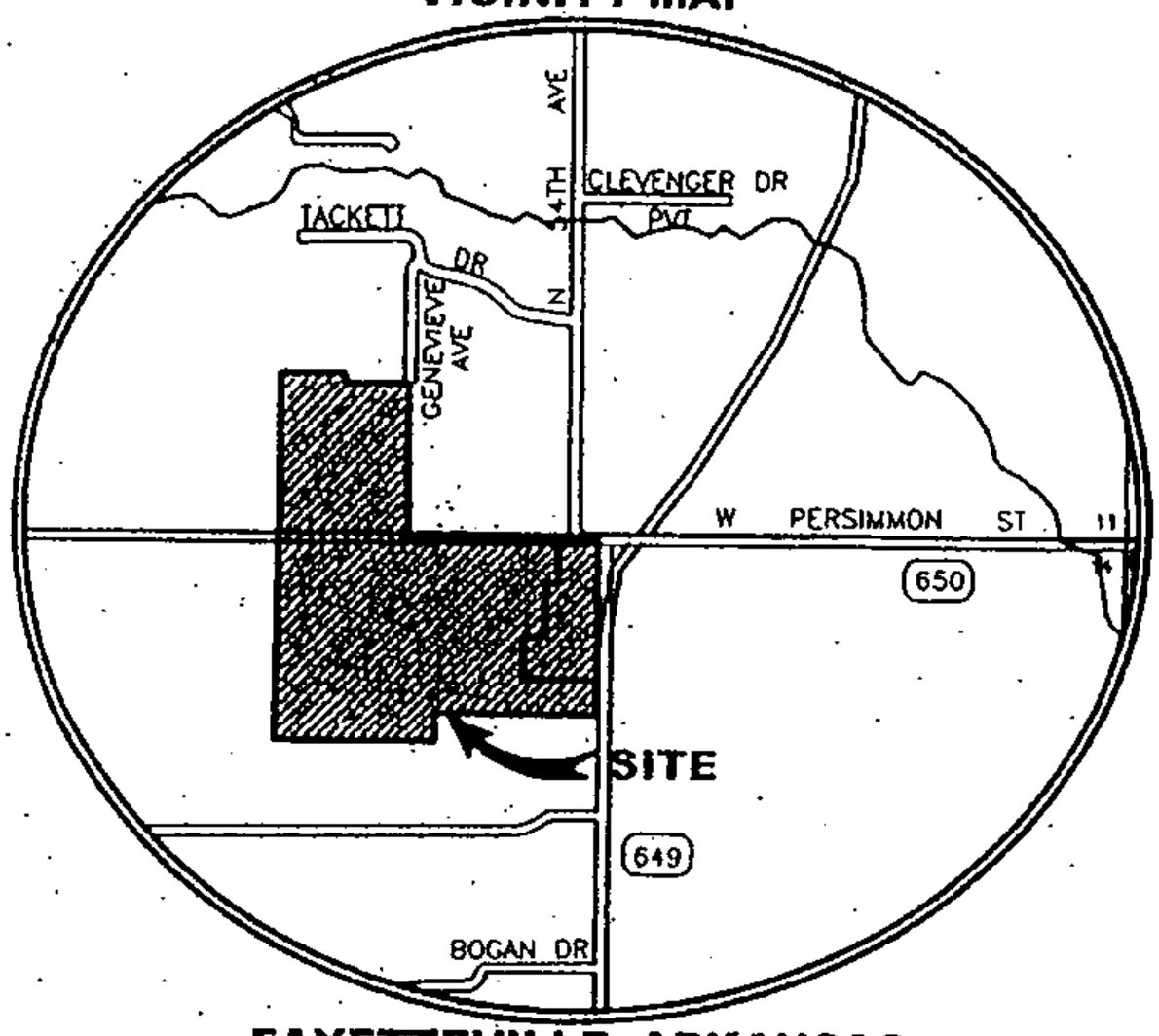
(2) The Fayetteville Planning Commission recommends approval of the rezoning;

VICINITY MAP



FAYETTEVILLE, ARKANSAS

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2025 GREEN ACRES ROAD
FAYETTEVILLE, AR. 72703

Anx. 04-1090

C. 13

RZN 04-1091

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

TELEPHONE (479) 695-1134
FACSIMLE (479) 695-1135
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To: Fayetteville City Council

From: James N. McCord JNM
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Date: July 14, 2004

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

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

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

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

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

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

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

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

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

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

To: Fayetteville City Council

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

Date: July 14, 2004

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

ANNEXATION

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

Facts supporting annexation are:

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

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

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

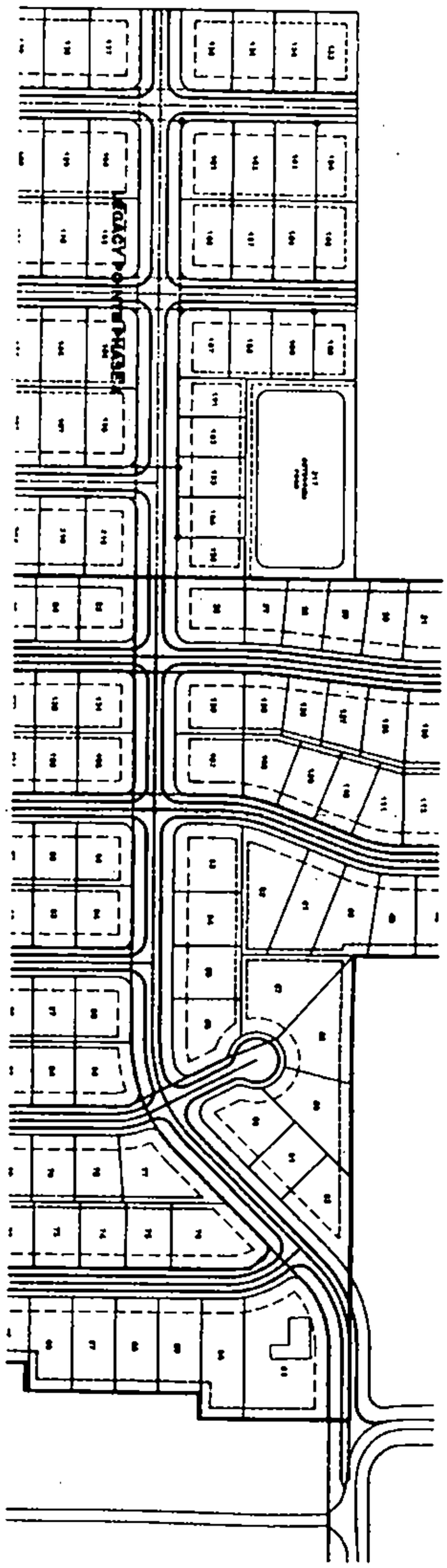
(a) Annexation will not create an island or peninsula of unincorporated property;

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

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

(d) The proposed boundaries follow property lines ;

LEGACY POINTE PHASE 3



HAYS

ANX ex. 1090
K2H04. 1941

Left on left reading 7/21/04

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

PRELIMINARY LAYOUT

1/1

W
S
E
N

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 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.

Left on 2nd reading 8/3/04
Left on 1st reading 7/20/04

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1091 AS SUBMITTED BY JIM MCCORD ON BEHALF OF HAYS FAMILY DEVELOPMENT, LLLP FOR PROPERTY LOCATED WEST OF 54TH AVENUE ADJOINING THE EXTENSION OF PERSIMMON STREET CONTAINING APPROXIMATELY 49.40 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

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

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

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By:_____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

DRAFT

EXHIBIT "A"
RZN 04-1091

PART OF THE NW ¼, NW ¼ AND PART OF THE NE ¼, NW ¼ OF SECTION 14, T16N, R31W IN WASHINGTON COUNTY ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW ¼, NW ¼ THENCE N89°59'11"E 995.13 FEET TO THE P.O.B., THENCE N89°59'11"E 665.91 FEET, THENCE S88°26'17"E 165.07 FEET, THENCE S89°55'17"E 825.00 FEET, THENCE SOUTH 904.23 FEET, THENCE WEST 835.88 FEET, THENCE S00°41'19"W 146.47 FEET, THENCE N89°49'12"W 825.49 FEET, THENCE N00°23'31"E 1053.60 FEET TO THE P.O.B, CONTAINING 37.30 ACRES, MORE OR LESS, SUBJECT TO R/W AND EASEMENTS OF RECORD.

And

PART OF THE SW ¼, SW ¼ AND PART OF THE SE ¼, SW ¼ ALL IN SECTION 11, T16N, R31W IN WASHINGTON COUNTY ARKANAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SW ¼, SW ¼ THENCE N89°59'11"E 995.13 FEET TO THE P.O.B., THENCE N00°23'31"E 817.95 FEET, THENCE EAST 331.47 FEET, THENCE S00°05'10"E 47.93 FEET, THENCE S89°58'04"E 330.03 FEET, THENCE S00°05'37"W 769.66 FEET, THENCE S89°59'11"W 665.91 FEET TO THE P.O.B., CONTAINING 12.1 ACRES MORE OR LESS SUBJECT TO R/W AND EASEMENTS OF RECORD.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 28, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Craig Carnagey, Senior Planner
THRU:	Dawn Warrick, AICP, Zoning & Development Administrator
DATE:	June 23, 2004

RZN 04-1091: Rezoning (HAYS): Submitted by JAMES MCCORD for property located WEST OF 54th AVE. ADJOINING EXTENSION OF W. PERSIMMON ST (AS REFLECTED ON M.S.P.) The property is zoned R-A, Residential Agricultural, and contains approximately 49.40 acres. The request is to rezone the property from R-A to RSF-4, Residential Single Family, 4 DU/Acre.

Property Owner: HAYES FAMILY DEVELOPMENT, LLLP Planner: CRAIG CARNAGEY

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	**Required** **YES**	
	☑ **Approved**	○ **Denied**
Date: June 28, 2004	Vaught ©/Trumbo ® 5-4	
CITY COUNCIL ACTION:	**Required** **YES**	
	○ **Approved**	○ **Denied**
Date: July 20, 2004		

BACKGROUND: Please reference the associated ANX 04-1090 staff report for additional background information.

Property Description: The subject property contains approximately 49.40 acres located west of 54th Avenue, and adjoins an extension of west Persimmon as reflected on the City's Master Street Plan. A 37.30-acre portion of the overall tract is the subject of the associated request for annexation into the city limits. The remaining 12.1 acres is currently within the City limits. The property is adjacent to city limits to the east and the north. This configuration does not create an island of unincorporated property within the City limits.

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

Request: The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to

RSF-4, Residential Single Family, 4 Dwelling Units per Acre, should the preceding Annexation request be approved. 12.1 acres of this property are currently within the city, and zoned R-A.

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the preceeding annexation is recommended for approval to City Council, the applicant would like to rezone the entire 49.40 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 04-1090, is an accompanying item to this rezoning request.

Recommendation: Staff recommends approval of the rezoning request. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single family residential	RSF-4, Residential Single Family, 4 units/acre
South	Single family residential	Planning Area
East	Vacant	R-A, Residential Agricultural
West	Vacant	Planning Area

INFRASTRUCTURE:

INFRASTRUCTURE:

Streets: Currently the site has access to Persimmon Street and 54th Avenue at the northeast corner of the property and County Road 649 along the east property line. At the time of development, Persimmon Street will need to be constructed through the development. County Road 649 will need to be brought up to current standards along the property frontage. Off-site improvements to 54th Avenue will be considered at the time of the development of the property.

Surrounding Master Street Plan Streets:
North: Persimmon St. (planned collector)
South: Dot Tipton Road. (unimproved collector)
East: 54th Avenue. (unimproved collector)
West: Double Springs Road (minor arterial)

Water: The property has access to an 8" water main along Persimmon Street and 54th Avenue. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

Sewer: The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. Approval of additional units added to the sewer system in this area will be dependant upon the remaining capacity in the Owl Creek lift station.

Fire: The subject property is located 1.97 miles from future Fire Station #7 on Rupple Road. Normal driving time is 4 -6.5 minutes. Water supply will be necessary for this property to develop.

Police: It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

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

FINDINGS OF THE STAFF

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

Finding: **The proposed zoning for a Single Family residential subdivision is compatible with adjacent and nearby single family residential land use. The General Plan designates this area for residential uses, which is compatible with the proposed RSF-4 zoning.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A subdivision with this density in the R-A district could not be developed as it is currently zoned. A higher density than the R-A zoning district allows is appropriate in this area, and would provide compatibility with adjoining developments that are zoned RSF-4 and currently being developed with residential subdivisions. In order to provide the connectivity and network of public infrastructure with adjacent residential subdivisions in a manner that is consistent with the future land use plan and guiding policies of annexation, a residential zoning district is needed.**

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

Finding: **The proposed zoning will provide additional traffic on Local and Residential**

streets in the area. Most streets in this area are unimproved or are being constructed to city specifications. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the area.

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

Finding: **The proposed zoning would increase population density. The 49.40 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 24 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 197 dwelling units would be permitted. This increases the possible number of residential units, but is consistent with land use and zoning in the immediate vicinity.**

Engineering -

Currently the site has access to Persimmon Street and 54th Avenue at the northeast corner of the property and County Road 649 along the east property line. At the time of development, Persimmon Street will need to be constructed through the development. County Road 649 will need to be brought up to current standards along the property frontage. Off-site improvements to 54th Avenue will be considered at the time of the development of the property

The property has access to an 8" water main along Persimmon Street and 54th Avenue. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. Approval of additional units added to the sewer system in this area will be dependant upon the remaining capacity in the Owl Creek lift station.

Fire - The subject property is located 1.97 miles from future Fire Station #7 on Rupple Road. Normal driving time is 4 -6.5 minutes. Water supply will be necessary for this property to develop.

Police - It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

5. If there are reasons why the proposed zoning should not be approved in view of

considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

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

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

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

(D) *Bulk and area regulations.*

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

(E) *Setback requirements.*

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

(F) *Height.* None.

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

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

June 18, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 04-1090 (Hays Family Development, LLLP, pp 475)** and Rezoning **RZN 04-1091 (Hays Family Development, LLLP, pp 475)** submitted by James McCord for property located west of 54th Ave. Adjoining extension of W. Persimmon St (As reflected on M.S.P.) would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

Fayetteville Fire Department Service Delivery Impact: Zoning Review June 21,2004

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out	Projected Fire/Other Calls for Service at Maximum Build Out	Projected EMS Calls for Service at Maximum Build Out
ANX 04-1083	Marinoni		78.84	Future FS 7	0.493 miles	1 minute	1-3.5 minutes			
RZN 04-1084	Marinoni							72/year	29/year	43/year
ANX 04-1090	Hays		37.3	Future FS 7	1.97 miles	4-5 minutes	4-6.5 minutes			
RZN 04-1091	Hays							34/year	13/year	21/year
RZN 04-1099	Brisiel			Future FS 7	2.13 miles	5-6 minutes	5-6 minutes	2/year	.80/year	1.2/year
ANX 04-1100	Harper/Brandon		9.99	FS 4	4.73 miles	13-14 minutes	13-14.5 minutes			
				Future FS 5	3.36 miles	8-9 minutes	8-9.5 minutes			
RZN 04-1101	Harper/Brandon							9/year	3/year	6/year
RZN 04-1102	Bradberry/Woolv.			FS 1	0.337 miles	1 minute	1 minute			
RZN 04-1103	Collins			FS 2	0.633 miles	3-4 minutes	3-4 minutes	5/year	2/year	3/year
RZN 04-1104	Goff			FS 5	3.11 miles	8-9 minutes	8-9.5 minutes	16/year	6/year	10/year
				Future FS 3	2.33 miles	5-6 minutes	5-6.5 minutes	16/year	6/year	10/year
RZN 04-1111	The Mill District			FS 1	0.476 miles	1-2 minutes	1-2 minutes			

Insufficient Data for Calculations

STATEMENT IN SUPPORT OF REZONING APPLICATION BY HAYS FAMILY DEVELOPMENT, LLLP et al.

(From R-A to Rsf-4)

5(a). Current ownership information and any proposed or pending property sales.

Current ownership information is provided accurately on the Rezoning Application including the attached ownership cards from the office of the Washington County Assessor. There are no proposed or pending property sales at this time.

(b). Reason (need) for requesting the zoning change.

Rsf-4 zoning is requested (needed) for a residential subdivision, with approximately 3 lots per acre, consisting of single family dwellings proposed for development on the Hays property to meet a housing demand in the area.

(c). Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

The proposed use of the property is single family dwellings compatible with surrounding properties and is the land use recommended by the 2020 General Plan for the City of Fayetteville. Legacy Pointe subdivision is located shortly west of the subject property. Other surrounding land uses are single family residential and agricultural. Additional residential subdivisions are proposed for the area. When development occurs, Persimmon Street will have to be constructed to City street standards. The proposed development would add traffic to Wedington Drive via 54th Street, Rupple Road and Double Springs Road. Any signage would conform to the Fayetteville sign ordinance.

(d). Availability of water and sewer (state size of lines).

An 8" water line is available to the property from 54th Street. 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

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Submitted for RZN04-1091

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

James D McLard
Applicant's Signature

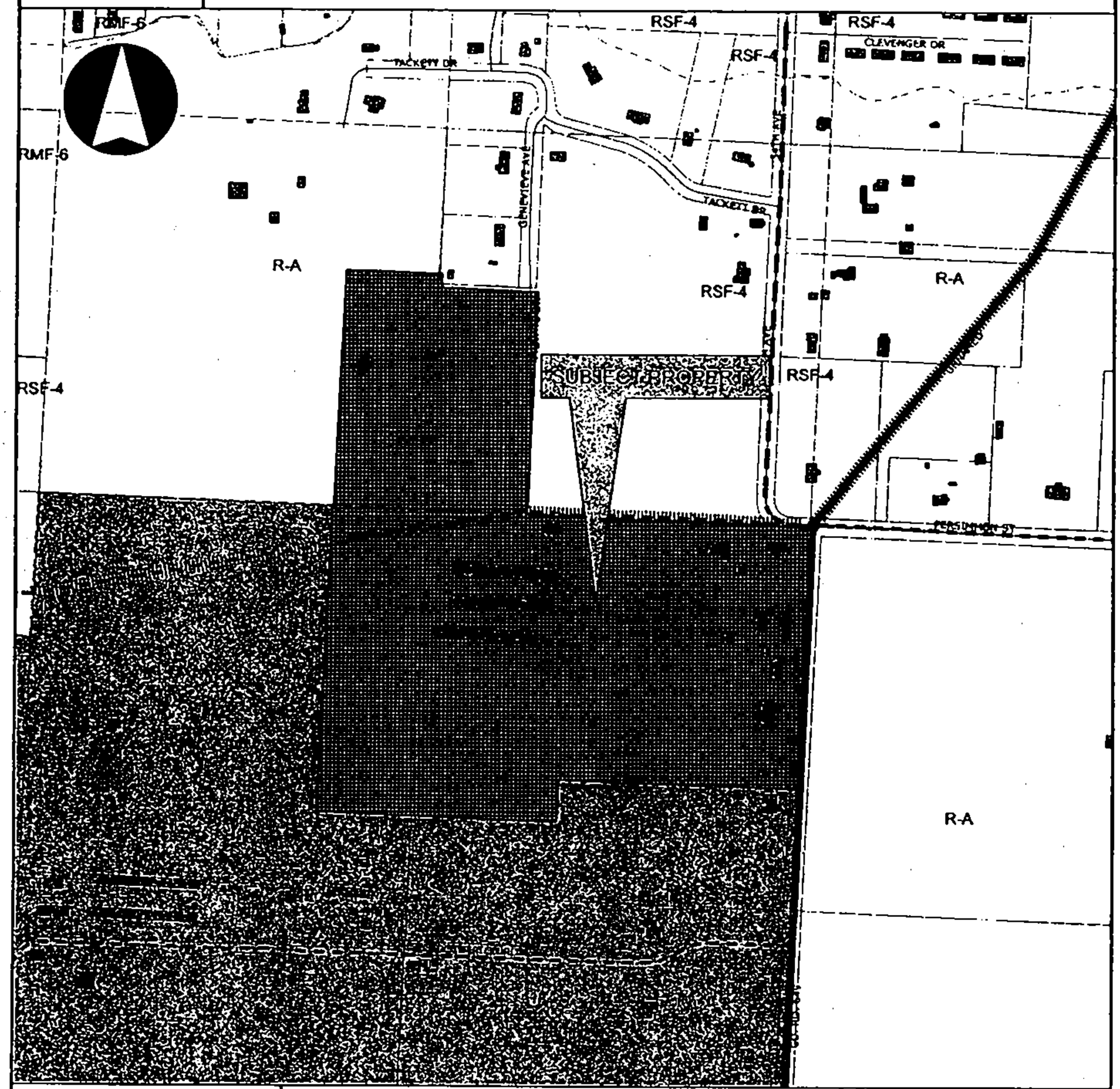
From: Planning
To: Carnagey, Craig; Morgan, Suzanne; Pate, Jeremy; Warrick, Dawn
Date: Thursday, June 17, 2004 11:25AM
Subject: Fwd: ANX 04-1090 and RZN 04-1091

>>> PAULA THOMPSON <mspjdaisy@sbcglobal.net> 06/16/04 07:37PM >>>
This is in response to the second notice I have gotten as an adjoining property owner regarding actions before the Planning Commission. The first was 30 acres to my west, now 37 acres to my north, all to be rezoned for 4 units per acre.
Please, please, urge the planners and the commission to drive to these sites over any of the roads that will get you here. The city streets and county roads are barely two lane...in places not even that...and you are considering allowing the erection of some 268 residences, with an average of probably 3 or more cars each? Annex the land, but please do not rezone for that density unless you have surplus funds in reserve to upgrade the roads that will be handling all those cars. We already have terrible congestion on HWY 16W, accidents on an all too regular basis, and all the other ills that come with growth that outstrips the infrastructure and resources of the area.
Please, you are the only protection we have...and the last best hope for prairie wildlife that has been here since Peter Van Winkle came to this spot of ground in the 1840s. If you don't care about the native critters, please care about the two-legged road kill this will bring.
Paula Thompson
5790 W. Dot Tipton Road
Fayetteville, AR 72704

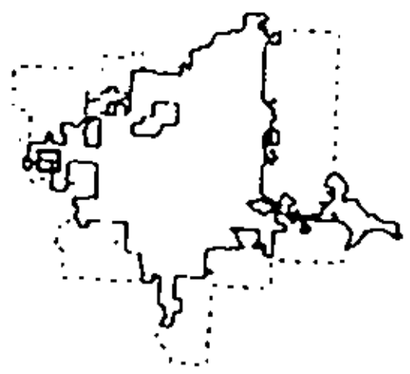
RZN04-1091

Close Up View

HAYS FAMILY DEVELOPMENT, LLLP



Overview



Legend

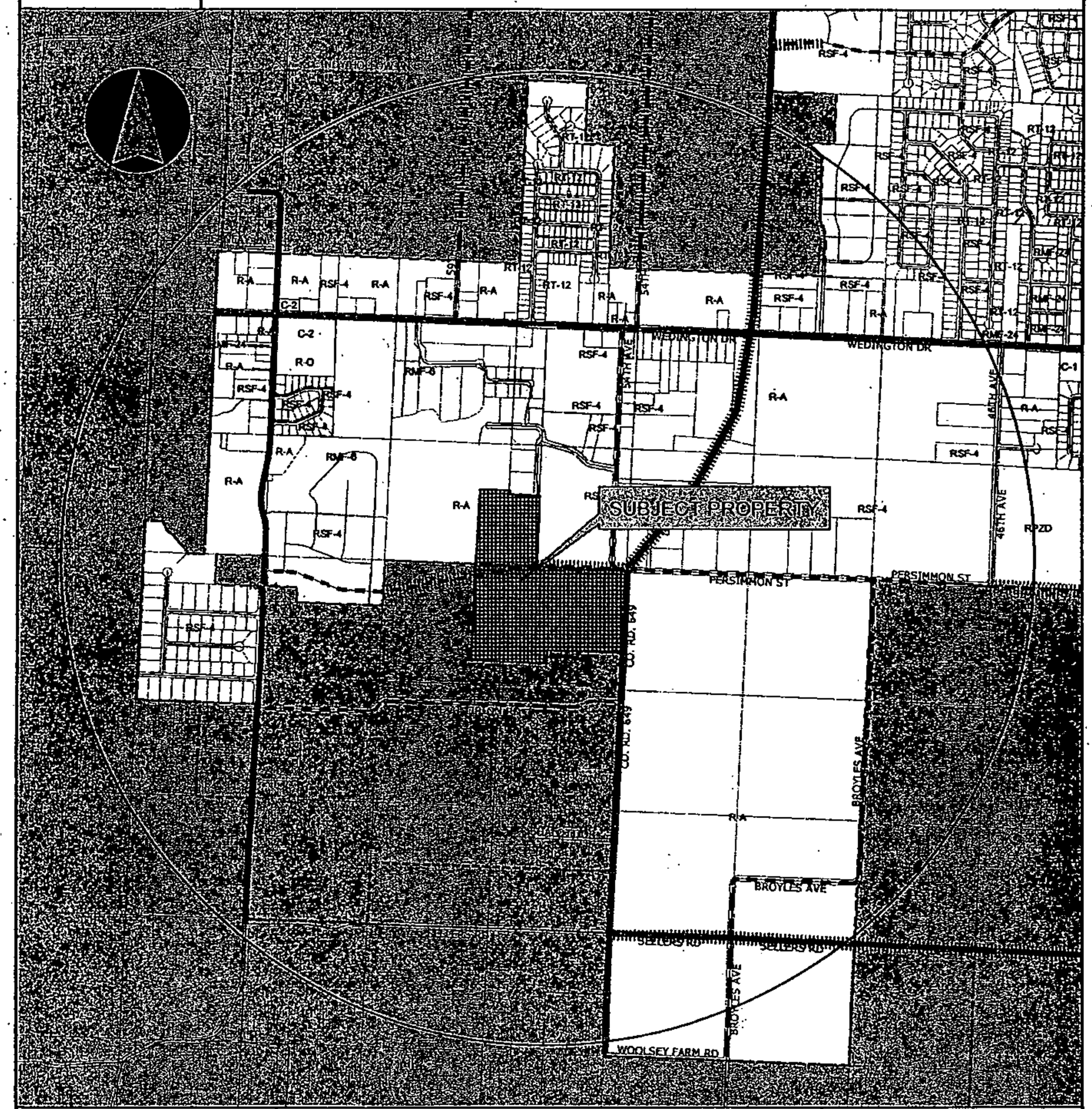
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Baseline Profile
- RZN04-1091

0 200 400 800 1,200 1,600 Feet

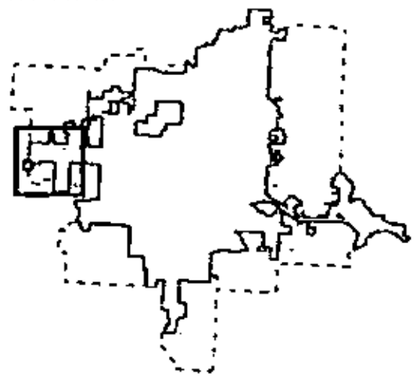
RZN04-1091

One Mile View

HAYS FAMILY DEVELOPMENT, LLLP



Overview



Legend

Subject Property
- RZN04-1091

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

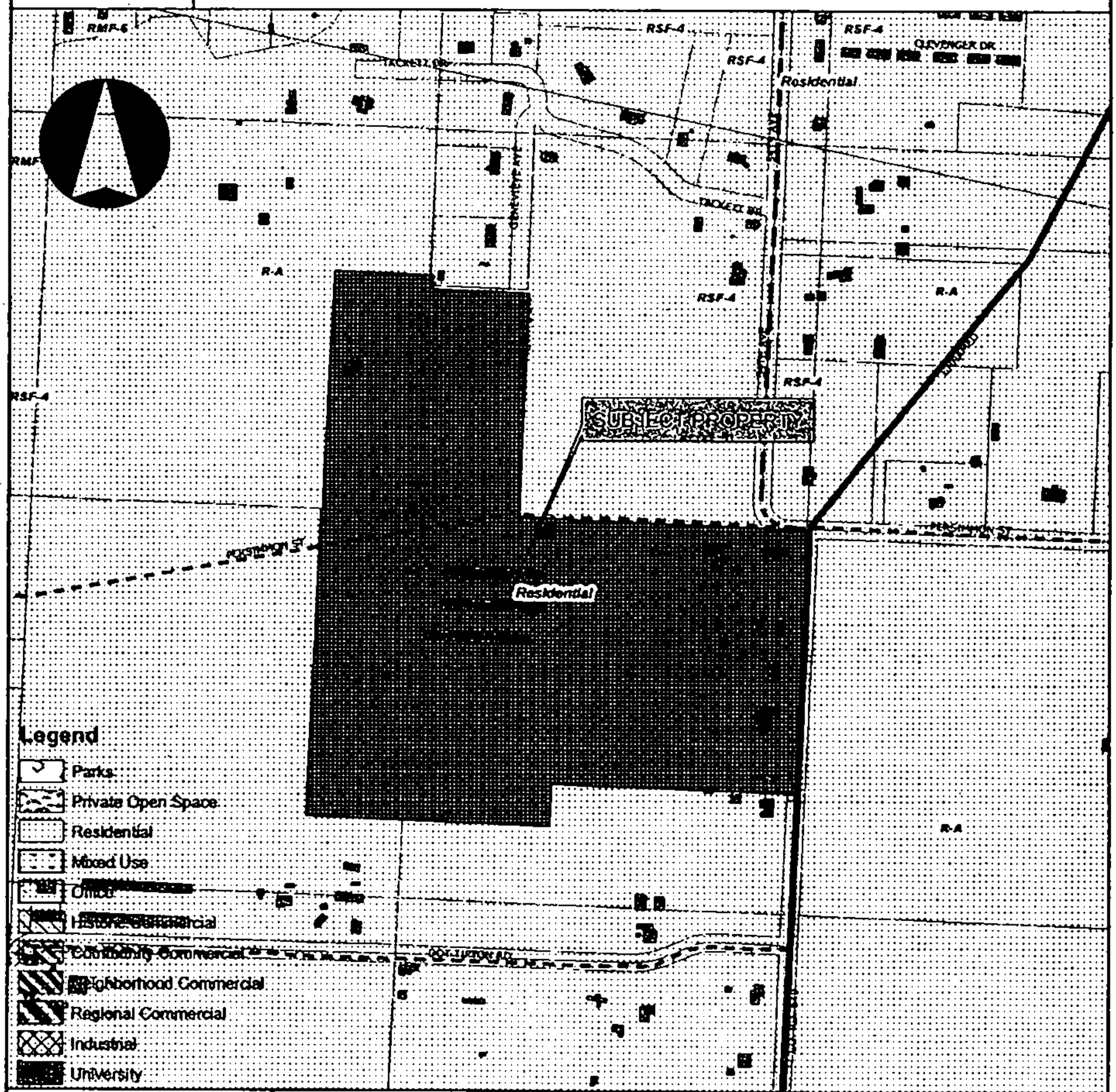
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

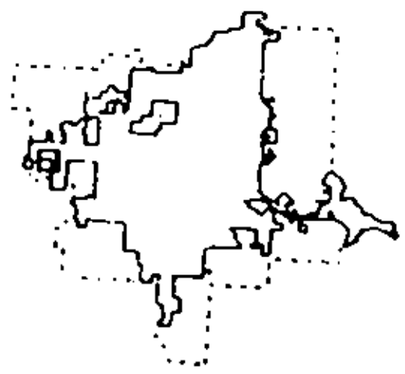
RZN04-1091

Future Land Use

HAYS FAMILY DEVELOPMENT, LLLP



Overview



Legend

Subject Property

RZN04-1091

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

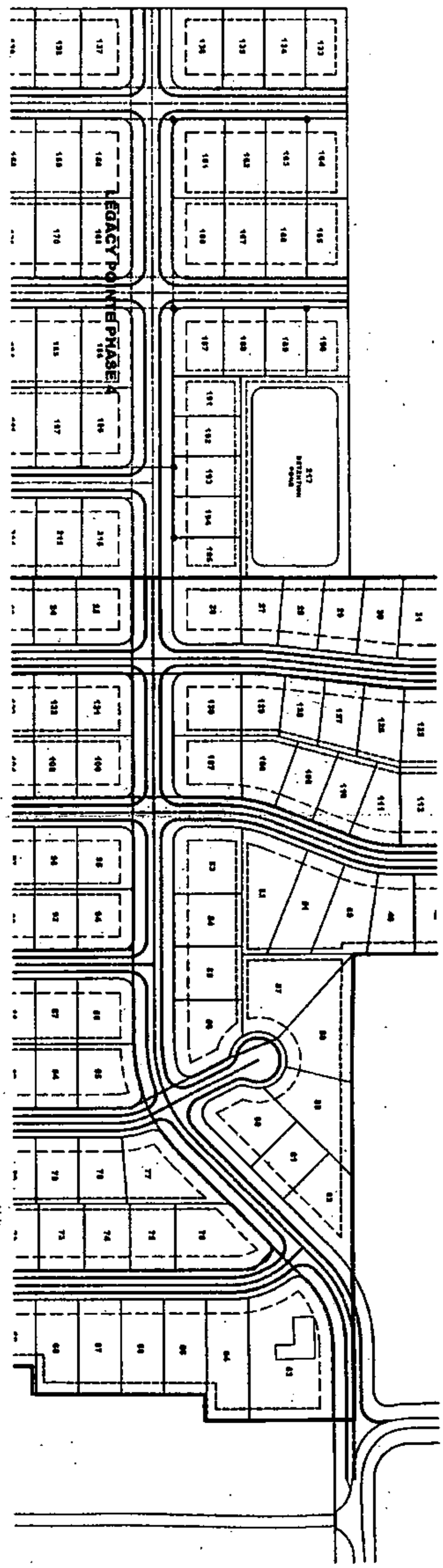
Principal Arterial

Minor Arterial

Collector

Historic Collector

0 200 400 800 1,200 1,600 Feet



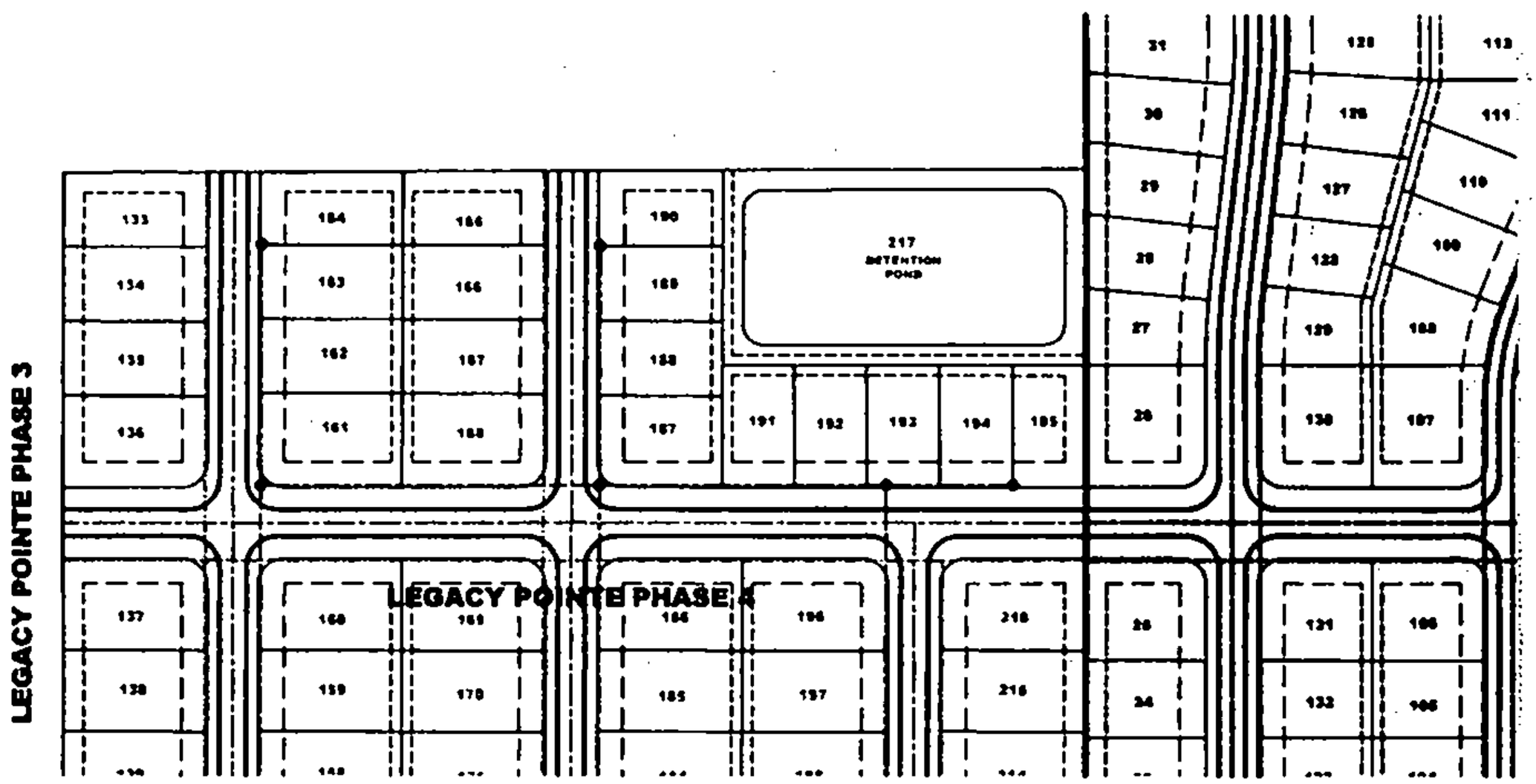
HAYS

Hays

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

SCALE: N.T.S.	DATE REVISED	CHECKED BY: DLJ	DRAWN BY: BJR
DATE: 09JUN04			

PRELIMINARY LAYOUT 1/1


LEGACY POINTE PHASE 3
LEGACY POINTE PHASE 4
217
RETENTION
POND

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1091: (Hays, pp 478) was submitted by James McCord, Attorney, on behalf of Hays Family Development, LLP for property located west of 54th Avenue adjoining the future extension of Persimmon Street containing approximately 49.40 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick 7/16/04
Division Head Date

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

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7/6/04

B.11
Anx. 04-1090
B .12
RZN 04-1091

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

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

To: Fayetteville City Council

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

Date: July 14, 2004

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) The area is currently served by utilities-

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

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

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

REZONING

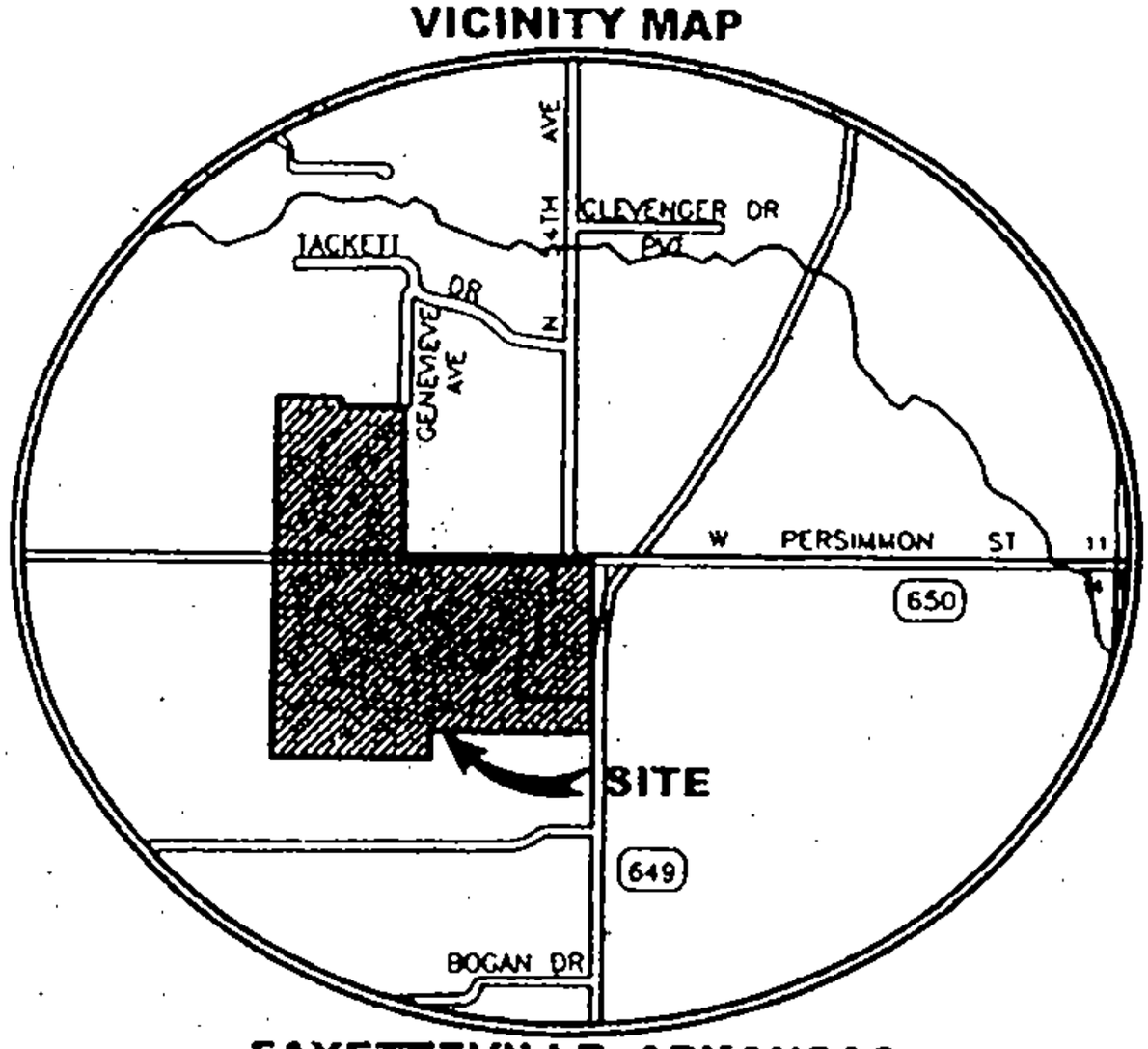
Applicants request rezoning from R-A to Rsf-4 for the 37.30 acres proposed for annexation plus an adjoining 12.10 acres to the north which is already within the city limits and is owned by Hays Family Development, LLLP. (See attached vicinity map.) Of the total 49.4 acres, the property owned by Hays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

Facts supporting Rsf-4 zoning are:

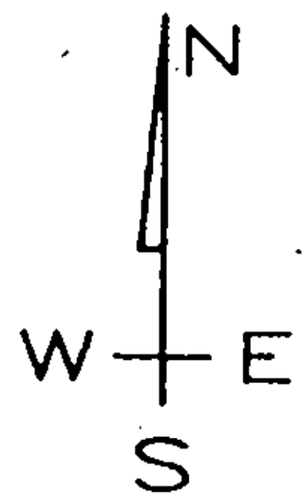
(1) City Planning Staff recommends approval of the rezoning;

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

VICINITY MAP



FAYETTEVILLE, ARKANSAS



PROPERTY OWNERS:

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

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

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

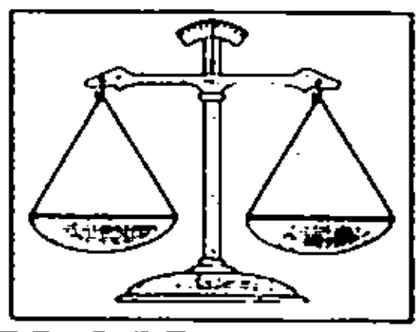
RANDALL G. & PEGGY J. LYNCH
P.O. BOX 124
FARMINGTON, AR. 72730

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
City Council
Hugh Earnest, Chief Administrative Officer

CC: **Honorable Gordon Wilbourn**

FROM: **Kit Williams**, City Attorney

DATE: **June 24, 2004**

RE: **TIF District Establishment**

Gordon Wilbourn and I have discussed general legal issues surrounding establishing a redevelopment district and financing improvements, acquisitions and demolitions within such district using TIF (Tax Incremental Financing) bonds. I have provided a couple of detailed legal memos to you on this subject.

We can do nothing further until the City Council or Administration presents a concrete development district/plan for analysis and consideration. This is a new law so legal analysis will always be somewhat limited, especially if concepts involving complicated property concepts such as future interests in land are involved. We will wait for any proposal that might be provided.

Left on 2nd reading 8/3/04
Left on 1st Reading 7/29/04
move to 7/29 Sp. CC Mtg

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

July 12, 2004

Dear Property Owner:

Notice of Public Hearing

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

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

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

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

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

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

Hugh Earnest 575-8330

Tim Conklin 575-8265

Sincerely,

Hugh Earnest

Hugh Earnest
CAO

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

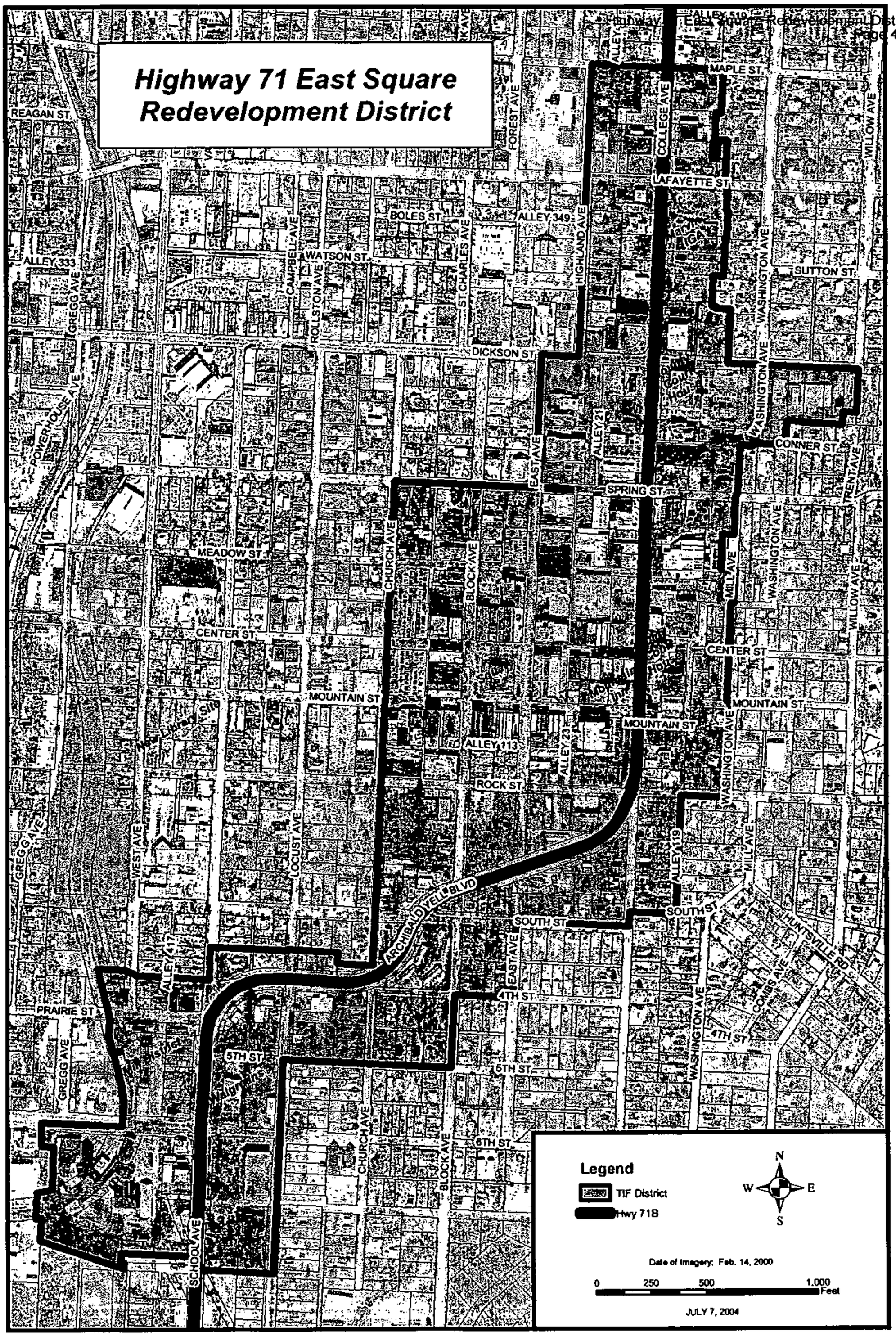
NOTICE OF PUBLIC HEARING

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

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

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

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


Highway 71 East Square
Redevelopment District
REAGAN ST.
FOREST AVE
ALLEY 519
MAPLE ST.
COLLEGE AVE
WILLOW AVE
LAFAYETTE ST.
BOLES ST.
ALLEY 349
HIGHLAND AVE
ALLEY 333
WATSON ST.
CAMPBELL AVE
ROLLSTON AVE
ST. CHARLES AVE
GREGG AVE
SUTTON ST.
WASHINGTON AVE
DICKSON ST.
POWERHOUSE AVE
ALLEY 21
CONNER ST.
EAST AVE
SPRING ST.
TRENT AVE
MEADOW ST.
CHURCH AVE
BLOCK AVE
MILL AVE
CENTER ST.
MOUNTAIN ST.
ALLEY 113
ALLEY 23
ROCK ST.
WEST AVE
LOCUST AVE
ALLEY 119
ARCHIBALD YELL BLVD
SOUTH ST.
HUNTSVILLE RD
ALLEY 417
4TH ST.
COMBS AVE
PRAIRIE ST.
5TH ST.
6TH ST.
SCHOOL AVE
Legend
TIF District
Hwy 71B
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Date of Imagery: Feb. 14, 2000
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Feet
JULY 7, 2004

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

ORDINANCE NO. _____

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

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

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

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

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby establishes the boundaries of the Highway 71 East Square Redevelopment District Number One of Fayetteville, Arkansas as set forth on the map attached hereto as Exhibit "A" and incorporated herein.

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

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

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

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

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

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

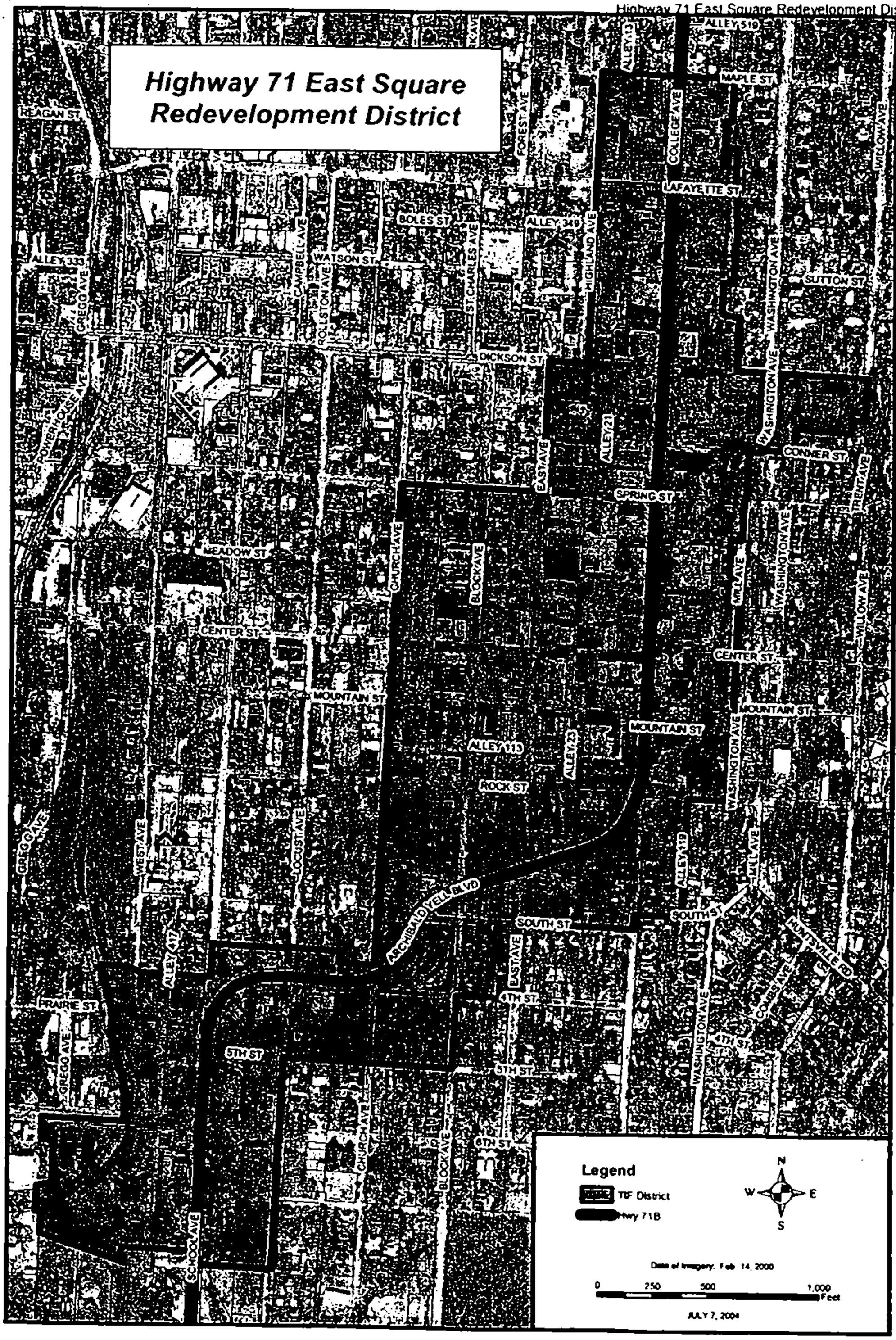
PASSED and **APPROVED** this 3rd day of August, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk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POWER HOUSE AVE
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LAFAYETTE ST
WILLOW AVE
SUTTON ST
WASHINGTON AVE
DICKSON ST
ALLEY 21
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MOUNTAIN ST
ALLEY 113
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LOCUST AVE
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ALLEY 419
SOUTH ST
HUNTSVILLE RD
COMBS AVE
PRAIRIE ST
4TH ST
5TH ST
6TH ST
SCHOOL AVE
Legend
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Feet
JULY 7, 2004

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

July 12, 2004

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Hugh Earnest 575-8330

Tim Conklin 575-8265

Sincerely,

Hugh Earnest

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CAO

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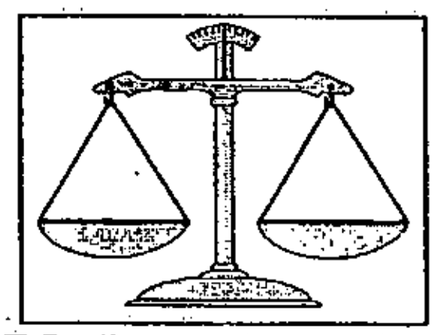
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS



LEGAL DEPARTMENT

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

DEPARTMENTAL CORRESPONDENCE

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

FROM: **Kit Williams**, City Attorney

DATE: **May 11, 2004**

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

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

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

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

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

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

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

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

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

CREATING A REDEVELOPMENT DISTRICT

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

DETERMINING THE BORDERS OF A REDEVELOPMENT DISTRICT

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

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

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

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

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

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

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

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

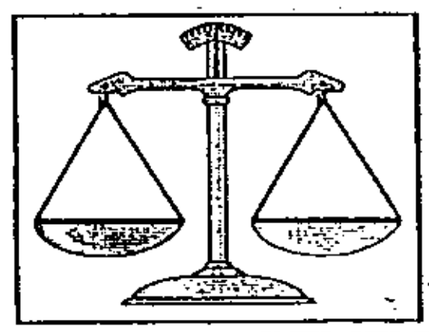
Once you get beyond this area, there may be legal questions about whether more distant property would actually be benefited from the rehabilitation of the Mountain Inn. The Old Ozark Theater building and 70 N. College are probably close enough, but government buildings (Sheriff's Office and Jail) are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

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

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS



LEGAL DEPARTMENT

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

DEPARTMENTAL CORRESPONDENCE

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

FROM: **Kit Williams**, City Attorney

DATE: **May 21, 2004**

RE: **East Square Redevelopment Project**

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

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

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

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

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

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

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

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

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

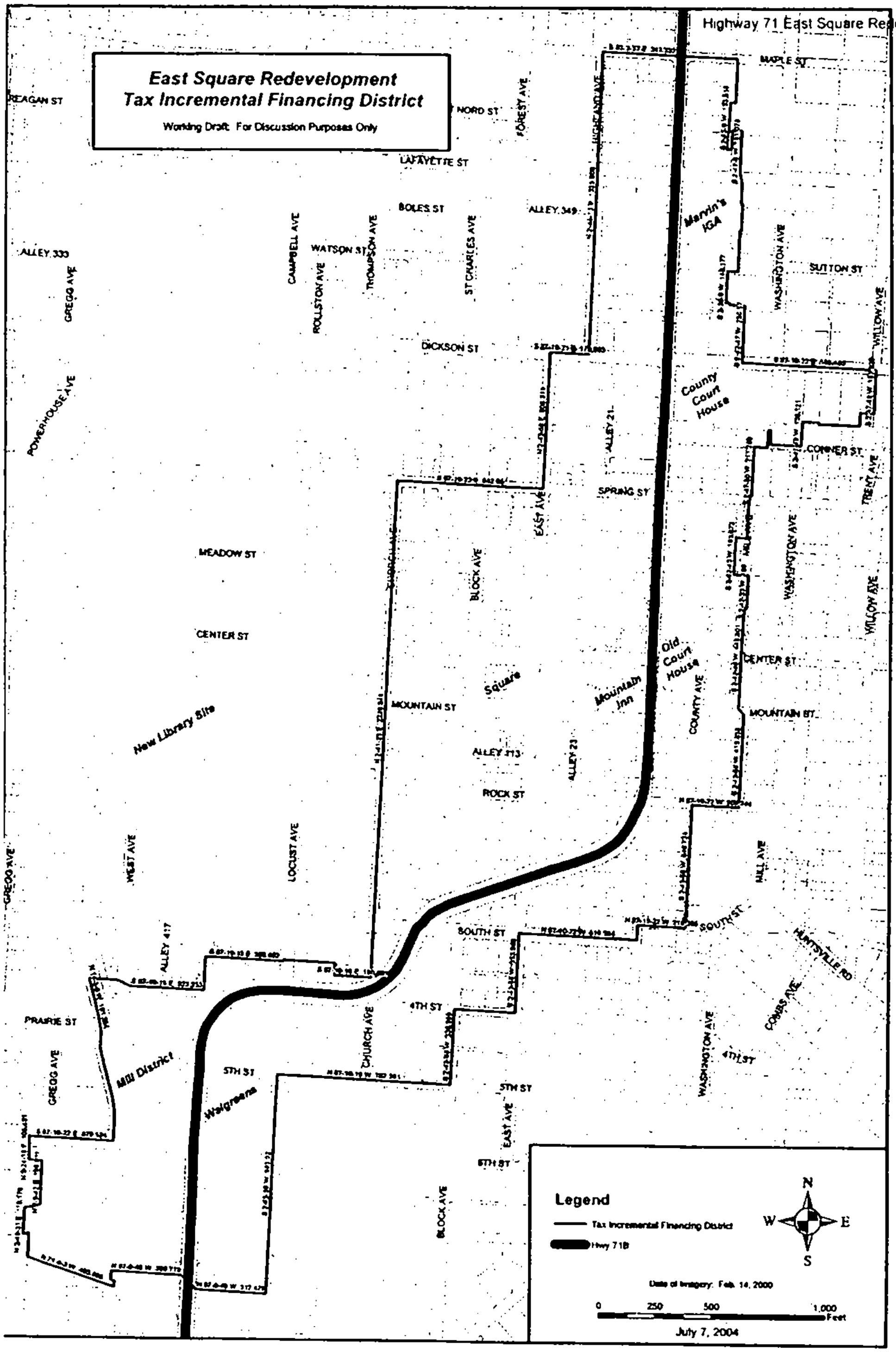
> "(E) Any other projects the local governing body deems appropriate to carry out the purposes of this subchapter."

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

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

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

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


East Square Redevelopment
Tax Incremental Financing District
Working Draft: For Discussion Purposes Only
REAGAN ST
NORD ST
FOREST AVE
LAFAYETTE ST
BOLES ST
ALLEY 349
ALLEY 333
GREGG AVE
CAMPBELL AVE
WATSON ST
ROLLSTON AVE
THOMPSON AVE
ST CHARLES AVE
DICKSON ST
POMERHOUSE AVE
MAPLE ST
Marvin's IGA
WASHINGTON AVE
SUTTON ST
WILLOW AVE
County Court House
ALLEY 21
CORNER ST
TRENT AVE
SPRING ST
EAST AVE
MEADOW ST
BLOCK AVE
CENTER ST
Square
Mountain Inn
Old Court House
COUNTY AVE
MOUNTAIN ST
New Library Site
ALLEY 313
ROCK ST
WEST AVE
LOCUST AVE
HILL AVE
SOUTH ST
HUNTSVILLE RD
ALLEY 417
PRAIRIE ST
4TH ST
CHURCH AVE
COMBS AVE
Mill District
5TH ST
Walgreens
6TH ST
Legend
Tax Incremental Financing District
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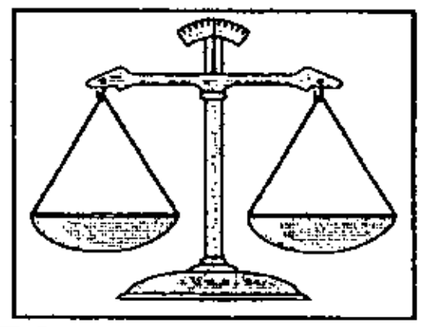
July 7, 2004

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS



LEGAL DEPARTMENT

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

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
City Council

FROM: **Kit Williams**, City Attorney

DATE: **July 29, 2004**

RE: **Redevelopment District and TIF bonds**

GENERAL FACT SHEET

1. "(T)he real property within the redevelopment district (must) be benefited by eliminating (blight) ...." A.C.A. §14-168-305 (c)(4).

2. "The boundaries of a redevelopment district may be modified from time to time by ordinance of the local government." A.C.A. §14-168-305 (f).

3. "Upon creation of the redevelopment district, (the City Council) shall cause the preparation of a project plan ...." A.C.A. §14-168-306 (a).

4. The City Council "shall hold a public hearing at which interested parties are allowed a reasonable opportunity to express their views on the proposed project plan." A.C.A. §14-168-306 (e).

5. The project plan's "approval shall be by ordinance which contains a finding that the plan is economically feasible." A.C.A. §14-168-306 (f).

6. "The local governing body may adopt by ordinance an amendment to a project plan." A.C.A. §14-168-307 (a).

ORDINANCE NO. _____

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

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

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

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

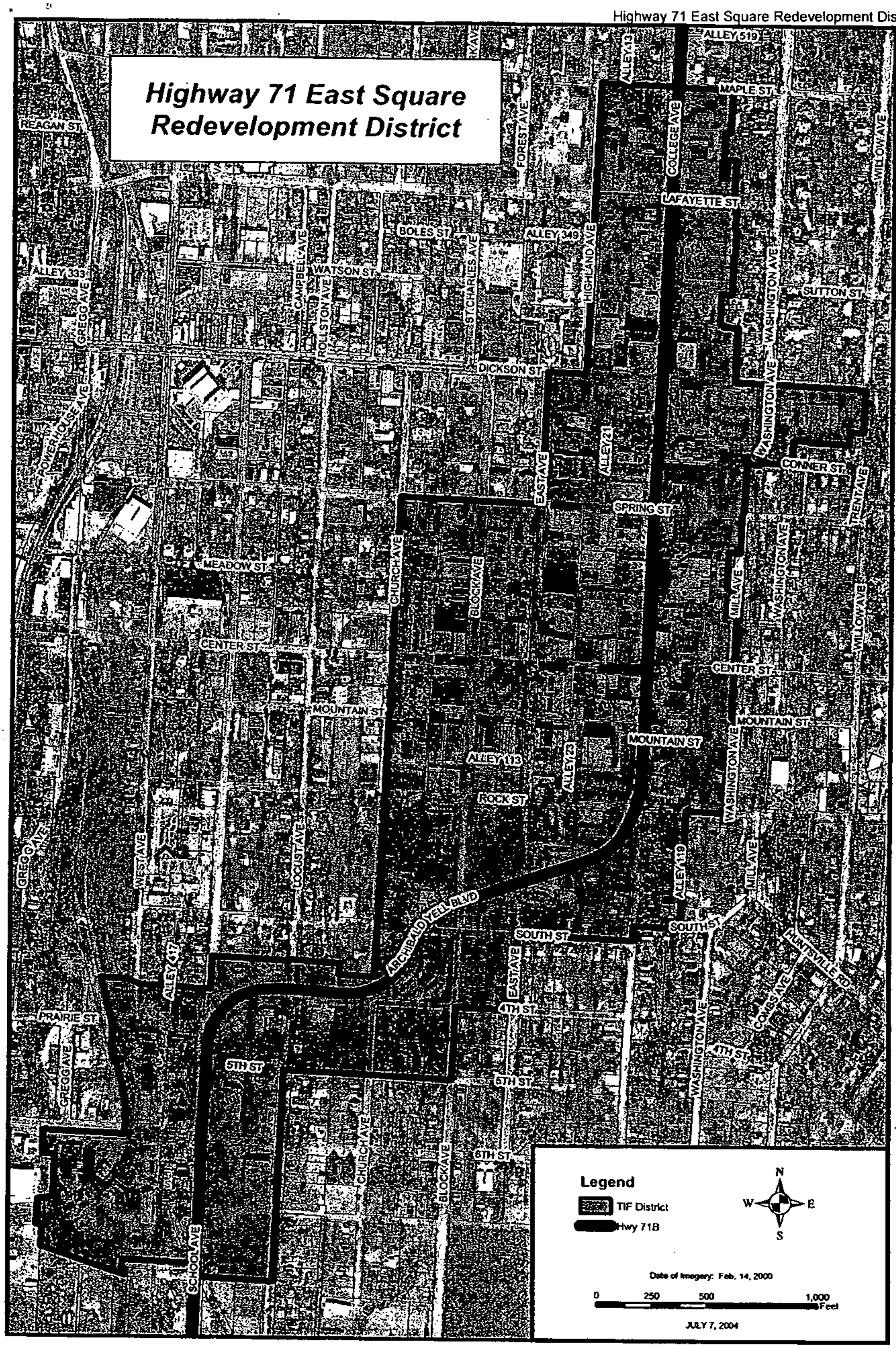
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby establishes the boundaries of the Highway 71 East Square Redevelopment District Number One of Fayetteville, Arkansas as set forth on the map attached hereto as Exhibit "A" and incorporated herein.

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

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

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


Highway 71 East Square Redevelopment District
REAGAN ST
ALLEY 519
MAPLE ST
COLLEGE AVE
LAFAYETTE ST
WILLOW AVE
FOREST AVE
BOLES ST
ALLEY 349
HIGHLAND AVE
ALLEY 333
WATSON ST
CAMPBELL AVE
ROLLSTON AVE
ST CHARLES AVE
GREGG AVE
SUTTON ST
WASHINGTON AVE
DICKSON ST
POWERHOUSE AVE
CONNER ST
EAST AVE
SPRING ST
TRENT AVE
MEADOW ST
CHURCH AVE
BLOCK AVE
MILL AVE
CENTER ST
MOUNTAIN ST
ALLEY 113
ALLEY 23
ROCK ST
WESTAVE
LOCUST AVE
ALLEY 119
ARCHIBALD YELL BLVD
SOUTH ST
HUNTSVILLE RD
COMBS AVE
ALLEY 417
PRAIRIE ST
4TH ST
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6TH ST
SCHOOL AVE
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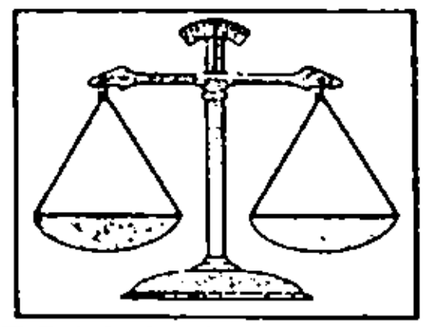
JULY 7, 2004

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS



LEGAL DEPARTMENT

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

DEPARTMENTAL CORRESPONDENCE

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

FROM: **Kit Williams**, City Attorney

DATE: **May 11, 2004**

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

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

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

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

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

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

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

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

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

CREATING A REDEVELOPMENT DISTRICT

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

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

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

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

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

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

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

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

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

LEGAL DEPARTMENT

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

TO: **Dan Coody**, Mayor
City Council

FROM: **Kit Williams**, City Attorney

DATE: **July 29, 2004**

RE: **Redevelopment District and TIF bonds**

GENERAL FACT SHEET

1. "(T)he real property within the redevelopment district (must) be benefited by eliminating (blight) ...." A.C.A. §14-168-305 (c)(4).

2. "The boundaries of a redevelopment district may be modified from time to time by ordinance of the local government." A.C.A. §14-168-305 (f).

3. "Upon creation of the redevelopment district, (the City Council) shall cause the preparation of a project plan ...." A.C.A. §14-168-306 (a).

4. The City Council "shall hold a public hearing at which interested parties are allowed a reasonable opportunity to express their views on the proposed project plan." A.C.A. §14-168-306 (e).

5. The project plan's "approval shall be by ordinance which contains a finding that the plan is economically feasible." A.C.A. §14-168-306 (f).

6. "The local governing body may adopt by ordinance an amendment to a project plan." A.C.A. §14-168-307 (a).

TIF Bonds

A. "Every bond issued ... shall recite on its face that it is a special obligation bond payable solely from the tax increment and other revenues pledged for its repayment." A.C.A. §14-168-314 (c).

B. "To increase the security and marketability of redevelopment bonds or notes, the local government may:

> (1) Create a lien for the bondholders upon any public improvements or public works financed by the bonds; or
>
> (2) Make such covenants and do any and all such actions ... which tend to make the bonds or notes more marketable ...." A.C.A. §14-168-318.

C. TIF Bonds would initially be debts supported only by incremental millage tax payments from the County Collector. The City Council could grant liens (mortgages) on infrastructure improvements and could even pledge "other revenues" to make the TIF bonds more marketable. That would seem to run counter to the attractiveness of tax incremental financing by tying up city general revenue and could lead to legal problems in this developing area of a brand new law.

City Council Meeting of ~~July 20~~ AUG 3, 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.

Lofton 2nd reading 8/3/04

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:

<u>Section 1:</u> 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.

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

DRAFT

EXHIBIT "A"
RZN 04-1103

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**	**YES**
	☑ **Approved**	○ **Denied**
Date: June 28, 2004	Trumbo ① / Shackelford ② 7-2	
CITY COUNCIL ACTION:	**Required**	**YES**
	○ **Approved**	○ **Denied**
Date: July 20, 2004 (1st reading if recommended)		

Comments: _____

BACKGROUND:

Property description: The subject property is located at the 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

(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.

(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 a. 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

MSN 9 Dial-up Internet Access fights spam and pop-ups – now 3 months FREE!
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 contining 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';
<'lwmiller@ars.state.ar.us'; 'lxt02@uark.edu';
<'mloots@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;
< <lwmiller@ars.state.ar.us; lxt02@uark.edu;
< <mloots@fayettevillelibrary.org; tlphelan@arkansasusa.com;
< <vwhuens@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			
RZN 04-1084	Marinoni							72/year	29/year	43/year
ANX 04-1090	Hays		37.3	Future FS 7	1.97 miles	4-5 minutes	4-6.5 minutes			
RZN 04-1091	Hays							34/year	13/year	21/year
RZN 04-1099	Brisiel			Future FS 7	2.13 miles	5-6 minutes	5-6 minutes	2/year	.80/year	1.2/year
ANX 04-1100	Harper/Brandon		9.99	FS 4	4.73 miles	13-14 minutes	13-14.5 minutes			
				Future FS 5	3.36 miles	8-9 minutes	8-9.5 minutes			
RZN 04-1101	Harper/Brandon							9/year	3/year	6/year
RZN 04-1102	Bradberry/Woolv.			FS 1	0.337 miles	1 minute	1 minute			
RZN 04-1103	Collins			FS 2	0.633 miles	3-4 minutes	3-4 minutes	5/year	2/year	3/year
RZN 04-1104	Goff			FS 5	3.11 miles	8-9 minutes	8-9.5 minutes	16/year	6/year	10/year
				Future FS 3	2.33 miles	5-6 minutes	5-6.5 minutes	16/year	6/year	10/year
RZN 04-1111	The Mill District			FS 1	0.476 miles	1-2 minutes	1-2 minutes			

Insufficient Data for Calculations

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

June 18, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **RZN 04-1103: 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

YETTEVILLE POLICE DEPARTMENT
O. BOX 1988
YETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

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.

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

basement. We have those types of issues with his projects. I believe that this is the gentleman who had students sign papers stating they were domestic servants for other students so that he could make money in an area that was not supposed to be treated that way. I think that was the first I heard of him. Now we are coming up to Olive Street. He has got this hill, it is sort of like a pock mark situation.

Estes: Ms. Davidson, this is a request for rezoning property.

Davidson: Ok, bring me back in line but the whole point is it is a request for something. We are having issues with Mr. Schmitt up on the hill. I'm asking you is if we have to address this issue.

Estes: Ms Davidson, do this for me, stay focused on the agenda item that is before us. It is a request to rezone property located at 1140 Hendrix and 110 Garland. Please focus on that issue and if you have any comments that you feel would edify us or educate us in that regard please provide them.

Davidson: That is what I thought I was doing and that is our problem with this situation Sir. These are relative to this situation and the fact that our city is at capacity or almost capacity for our sewage system. The fact that there are a lot of inappropriate projects going in and the fact that this man has a track record for inappropriate projects leads me to say that I don't trust this project. I would like to know a whole lot more about his plans for this project and I would also like to see some good faith from this man in any of his actions or intentions with the city. Here is a suggestion Mr. Schmitt. You want a favor here, every project wants a favor, every project also circumvents our rules with deliberate actions. You would like this zoned up. We are fortunate that we have gotten, and I thank you for that as well, the R-1.5 zoning to try and have a little stop gap while we deal with our major issue in Fayetteville as Commissioners now need to know is inappropriate R-2 zoning. This is very indicative of how our city can be degraded within a few years as far as our neighborhoods. Here is the deal, if he wants to show good faith in what he is doing in our area, how about voluntary downgrading, downzoning that piece of property on Fletcher Mr. Schmitt? You've shown such ill will to every neighborhood you have inserted yourself in, how about that 1.5?

Estes: Mrs. Davidson. . .

Davidson: You can downzone right? Can I not request that be considered that he do that?

Estes: Mrs. Davidson, please keep your comments brief, keep them to the point, keep them

focused on the agenda item.

Davidson: It is all on the point, it is a very big point and it is the point. I say please do this man no favors, please research what he is saying he wants to do. You well know Sir, he says he wants to do one thing and he ends up doing another. This is where we need to start addressing it. I ask you to please address the issue with the problem of this man and his developments. Do not grant him any favors, variances or waivers. Please do not grant this request for rezoning. Good day.

Estes: Thank you Mrs. Davidson. Is there anyone else who would like to provide public comment on this issue? If so, please keep your comments brief, to the point and relevant to the agenda item being considered so that everyone has a chance to speak and we may continue with the meeting. Please tell us who you are, where you live and provide us with the benefits of your comments.

Sawyer: My name is Valerie Sawyer, I live at 1224 W. Hendrix. I represent myself, my son and a couple of other property owners on my street. I have three concerns. One is that I do realize that in Fayetteville there is always going to be a housing shortage. We keep growing, we have got a college. I realize that we need more apartments but I still have some concerns. One is traffic. There is already a lot of traffic on Garland. It needs to be wider but there is just no way to make it wider. Secondly, the apartments that are already in that neighborhood bring in a lot of crime and there was an article in the paper recently about the crime in those neighborhoods but my biggest problem is drainage. The ditches that come from both directions down Garland go down at the back of this property down a ditch that is parallel and between Hendrix and Maxwell. The ditch goes and eventually ceases to be a ditch and it is just a big flood area that is behind my property. I also represent the owners of my property. They were hoping that they would be back in town in time to be at this meeting but they couldn't be here. After it rains, the yard to the side of my house is a swamp. I signed a lease because I wanted my son to have a yard to play in but after it rains for several days we can't play in that yard. I don't mind because the birds like it and I like the birds but there is a pond behind my house for days after it rains and if they pave that... some apartments were built, two triplexes were built down my street and they just paved the whole thing because drainage is so bad in that area that once they realized that they were just going to have mud for people to park in they just paved this entire lot front to back and took out a lot of trees. I just hope that someone, some of you could come look at that property site after the next rain because my son and I walk across it sometimes taking a shortcut to a friend's house and after it rains it is really swampy over there. I hope that someone will come look at it and walk on it after a rain and look at the ditch that suddenly ceases to be a ditch and becomes a pond before you

allow this type of project to happen. If you could figure out a way to make it drain in a responsible way then I wouldn't be quite so against it though I would prefer that my neighborhood stay a neighborhood and not turn into apartments. That is all I have, thank you.

Estes: Thank you Ms. Sawyer.

Richards: My name is Joyce Richards and I did forward to Ms. Strain a copy of my comments. I will read them, I don't know if you got them.

Conklin: They are on page 3.6.

Richards: Ok. My family and I have lived at 1673 N. Stevens for many years, since 1974 when we bought that property at 1231 S. Maxwell which backs up to the two triplexes which were put in last fall. My son and his family live there and my concerns are number one, a lot of traffic already goes up and down Hendrix. In part because that street is used as a cutoff to get to Mount Comfort because of the bottleneck that is there at Oak Plaza if you have ever gone through there in the morning, the afternoon, anytime of day, it is bad. Many people walk up and down Hendrix or they ride their bicycles up and down there. There are no sidewalks on that street if you are going to put more traffic through there it is going to be a greater danger. Number two, Garland already has complexes up and down between Oak Plaza and Agri Park, Magnolia Place, Garland Gardens just to name a few and they are also not very far away from College Park over there on Mount Comfort. Multiple dwellings would increase that traffic problem that is already there. I know that Garland is scheduled to be widened but that doesn't help us right now. It doesn't mean that it will help us if you put more apartment buildings up and down that street. Number three, the apartment complexes on Garland are in or near that high crime area which was in the Gazette. I put December 10th but it is really December 9th. I think if you put more people in that area that you are only going to increase the possibility of more crime. The more people in an area the greater the crime rate. I just don't think we need to expand that problem anymore to the west or I would ask you not to. Number four, there were two triplexes that were built down there. I guess my question to you is if we start rezoning here does that mean that that is going to become an apartment strip all the way down Hendrix? If it is going to go all the way down, will it come down my street, turn the corner a domino effect? Does this start a precedent that means that we aren't going to be able to come back to you to say please no more of this? She talked about the drainage but there is also a problem with the sewer and water system because I know that there have been water breaks up and down Garland because we have gone and watched them with my grandsons where they come and fix it. I don't know if those even actually hook up to

there but I would assume that they would have some effect on it. I just ask you please don't do this.

Estes: Thank you Mrs. Richards. Is there any other member of the audience who would like to provide public comment on this rezoning request?

Lane: Good evening, my name is Jarod Lane. I live at 1227 S. Maxwell. I am just going to ask you guys to please not pass this. I like to have my house I bought six years ago, I have two small children and I like to have that Norman Rockwell effect. I like my yard, I like to be able to go up and down my street, I like to sleep at night. If we do this and we start passing this and building these, Ms. McBroom owns a lot of property in the back of my house, she is probably going to be able to build some more back there. All the college kids like to stay up late and we have already got College Park up there and it makes a lot of noise so please don't pass this. Thank you.

Estes: Thank you Jarod, is there anyone else in the audience that would like to provide public comment on this requested rezoning?

Richards, A.: My name is Allison Richards, I live at 1231 S. Maxwell. I guess I would like to start out briefly with waking up one morning to chainsaws and bulldozers on Hendrix bulldozing the lot and putting in two triplexes in what has normally been a single family dwelling residence. I have two small children, we ride bikes, we run. There aren't any sidewalks in that neighborhood. The crime rate is high, we watch police cars go up and down the streets and I would just like to ask you not to rezone, make more apartments in a residential neighborhood.

Estes: Thank you Ms. Richards, is there anyone else that wishes to provide public comment on this requested rezoning? Seeing none, I'll bring it back to the applicant's representative, Mr. Osborne for any comments.

Osborne: Thank you Mr. Estes. The two triplexes to which they refer are Marc Crandall's project. It is west of this. It is three or four lots down Maxwell Street. This property is on Garland. The young lady had some good points, the first one or the second one I guess it was. Traffic is a problem in that area, I think we all know it. We are contributing land to widen Garland. I don't know what else we can do besides that. We have committed to that. We, of course, will have a drainage plan which the city will have an opportunity to approve. Crime, I think they are talking about College Park. We are talking about one triplex, three or four blocks from College Park. I admit, College Park is noisy and there is probably crime over there. There is probably less crime on this site with this triplex than

there would have been before. This was a mechanic's garage used as a C-1 nonconforming use in an R-1 zone. Mr. Schmitt, I think you know this, Mr. Schmitt bought this having been advised by the city that it was R-1.5. Thus, he bought it having his plans for the triplex. We thought we were kind of downzoning when we bought it. We were going to put a triplex there from day one. As I said, it was a mechanic's garage and I think these people would prefer a triplex to a mechanic's garage in that place. That is about all I've got to say. If you have any questions I will be glad to try and answer them.

Estes: Thank you Mr. Osborne.

Richards: Can I respond to that?

Estes: No Ma'am, the floor is closed for public comment, thank you. Mr. Conklin, could you provide us with some background? We have our packet and have our material and have read and studied it but that is exclusive to us and of course hasn't been distributed to those people that are concerned about this rezoning request. Would you give us some background explaining to us why this item is on our agenda tonight and why it is before us?

Conklin: Sure. This item is on your agenda due to a series of events that have occurred over the past several years. Back in 1995 our zoning map was changed from a hand drawn map that was colored in with crayons to a digital zoning map. At the time that the map was digitized or put into a digital format this area was shown as R-1.5. The applicant this evening that is before you, looked at our zoning map that is on our website and on our wall in our office that was redone into a digital format and it did show R-1.5. He applied for what is called a property line adjustment. At that time I asked my staff to go back and do a zoning history of this particular piece of property to identify the ordinance that rezoned it to R-1.5. At that time it was discovered that there were no ordinances that we could find in our offices or the City Clerk's office that showed that property to be rezoned. We asked the applicant to meet with us and we discussed the situation and advised him that a rezoning request would have to be applied for and brought forward to the Planning Commission and the City Council. That is where we are at today. I do not know when exactly that drafting error occurred on our zoning map. I think it has been there for many years. However, it has now been changed. It shows as R-1 and on the internet it has been corrected as well. We took a couple of other steps a couple of years ago, we transferred all of the official mapping down to our geographic information coordinator who keeps up our zoning map. It is no longer done within the Planning Division. There are some safeguards that have been implemented. This is one of the situations where we had no idea that there was an error in the map until I had my staff go back and research this particular piece of property and they could not find that. That is the main reason why we

are here tonight. It is true that the applicant did come to our office and did look at a map that showed R-1.5 on this piece of property.

Estes: Mr. Conklin, did a drafting error occur during the process of converting the official city zoning map from a hand drawn graphic to a digital document and is that the reason that this item is before us this evening is to correct that error?

Conklin: That is correct. To the best of my knowledge that is the only logical reason that I can think of why it was shown that way. The person that digitalized our map misread a hand drawn map and put R-1.5 on the map in that area. I have looked back and I have not been able to find any other ordinances or documentation with regard to that. Once we did discover that, it was our duty to make sure that the applicant was aware that that piece of property was not zoned R-1.5, as was shown on the map and that the only way that property could be rezoned is to go through this process through Planning Commission and City Council. That is where we are at today.

Estes: My memory is the same as Mr. Osborne's. Ever since I can remember for the last forty years there has been a mechanic's garage on that property, would that be a C-2 use?

Conklin: Yes, C-2.

Estes: Would R-1.5 be a downzoning from C-2? Commissioners, are there any other questions?

Marr: Mr. Chair, I guess I have a question for Tim. Tim, I apologize that I don't have my land use map with me tonight. Could you maybe at least, in looking at the property maps on 3.7 and 3.8, on our land use plan it refers in our back ground information that it is consistent with the land use plan and allows us a transition from commercial to residential or from R-2?

Conklin: We do have R-2 zoning immediately to the east. Our land use plan does show this as residential land use.

Marr: It says a mix of housing types within the area and we will provide a transition from R-2 zoning across Garland. How far back on our land use plan does the R-1.5 go?

Conklin: We do not show individual zoning districts on our land use plan.

Marr: You just show it as residential.

Conklin: We show as residential with the policy being, we encourage mixed use type developments where appropriate and allow flexibility for developers and individuals to live in communities that have an opportunity for mixed residential housing types.

Marr: Is there a typical transition geographic area that is done in planning that says R-2 is this much, R-1, R-1.5. How do you transition to that? Is it blocks, is it multiple blocks, is it sections? I am just trying to get a feel. One of the concerns I heard was in this area now becoming with this rezoning would we see this whole area develop into a multi unit as opposed to single family unit zoning?

Conklin: Typically, in newer developments you will see a transition between commercial and then you may have a block of multifamily that can step down to some townhouses and some single family. I have seen that. In these areas you typically find a mixed use type of residential housing types in some of these areas. I think you have to look at it on a case by case basis and make your recommendation based on whether or not the findings can be met and the bylaws.

Marr: One other question. On the determination of whether it would alter population density and in my mind that is an increase in traffic, etc. I drive through this area quite a bit and I certainly understand the comments about the increased traffic and the increase in potential danger. As a result of that, it says slightly. When does it become moderately or more because we are going from a five unit capacity, if I read this correctly, to twelve units per acre or sixteen in this case. That seems more than slightly to me. I guess maybe in terms of we already have just three streets up a back log of people trying to turn onto Sycamore and Deane and Garland at rush hour time periods. What I don't want to do is create another situation because of our zoning a hundred yards down.

Conklin: Garland Avenue is on our Master Street Plan as a principal arterial street. In the future it is planned to be widened to that standard. The standard is designed to carry large volumes of traffic, anywhere from 16,000 to 18,000 vehicles per day. When we look at traffic we are looking at what the streets are, our Master Street Plan classifications and what these streets are designed for. In the future what they are designed to handle. That is what we are looking at in this location.

Allen: Looking at the map on page 3.7, is basically all of the property that is visible on this map east of Garland R-2 and west of Garland R-1?

Conklin: Yes, that is pretty much true. College Park Apartments is zoned R-2. All to the east and north on Garland is zoned R-2.

Marr: Where is the triplex, the current ones? Not the one proposed with this zoning on this particular drawing we are looking at.

Conklin: If you look at Addington Avenue it goes north it would be on that lot, those two triplexes right there.

Marr: Ok, thank you.

Hoffman: I have a question for our City Attorney. In reading the background, it looks like the applicant purchased the property with the understanding from our map at the time that it was R-1.5 and I think that has been established. If for some reason the zoning were not to pass at this level or the Council level, would the city be responsible, could they be sued for this or would that be something that the title company should've picked up on and it would go to the title company?

Williams: I wouldn't want to advise an applicant whether or not he should sue the city.

Hoffman: I'm not after that, I'm just curious.

Williams: Obviously, the city does have it's statutory immunity for negligent actions that we would attempt to assert in any sort of suit if that happened. I am not telling you that that would be an absolute bar to any potential liability that we would have. The applicant also might look toward a title company or something like that that might have missed this. The title company would be saying that they relied on the official map that was put on the website and that we had. You are just making a recommendation to the City Council. City Council has to make the final decision and they will be the ones deciding the liability question also if it has to come up there. They certainly rely a lot upon your recommendations. I think they usually follow what the Planning Commission does here so it is very important to them. I think that a lot of the motivation probably from our Planning staff was the fact that we did make a mistake and we acknowledge that mistake. It was inadvertent, we did not want to make it, but it was made and it did put all of these parties in an awkward and difficult position and I think that is why they encouraged them if they wanted to go forward that they did have to come before the Planning Commission and the City Council in order to rectify this problem. Even though we did make a mistake we have to rely upon the actual ordinance and the ordinance said this is R-1.

Hoffman: Thank you. I absolutely agree that it puts everybody in a difficult situation. I have one more comment about the former use of the property having been for a mechanic's garage. In my mind that use is, although commercial in nature, not so much of an impact on the neighborhood as an additional sixteen units might be because its hours of operation are only during the daytime. I have heard a lot of concern expressed about night time activity and a lot of activity happening after hours. The last question I have is for the applicant I

guess. I have heard the word triplex with regard to your proposal for this and I know that we don't have a site plan or anything other than the rezoning in front of us but did you plan on developing to the full sixteen units? If you don't mind talking about that if you could tell us how many units you are actually going to propose on this. I'm just asking, let me reiterate.

Osborne: We don't mind. We are just asking for eight additional units and there is a house that we intend to leave there which will make a total of nine units.

Hoffman: Thank you very much, that is all I had.

Estes: Are there any other questions or comments?

Bunch: Yes Mr. Chairman, I have a couple of questions. One for staff. On the widening scheduled for Garland, is that portion of Garland State Highway 112 and is that tied up in state problems or will it be on the city capital improvement program and if so when?

Conklin: It is on the transportation improvement plan for the state highway. I don't have the exact date, I think it may be ten years out.

Bunch: It will go to a four lane at some point in time and that portion of Garland is State Highway?

Conklin: Yes, it is State Highway. That is subject to change every three years as they do the transportation improvement program. For example, Garland Avenue wasn't even discussed prior to a few years ago with regard to between Maple and North Street but that can change over time.

Bunch: One other question. The term lot line adjustment has been interjected into the mix. This is 1.36 acres is that going to become two lots or what has transpired? That was an administrative decision on the lot line adjustment?

Conklin: Those are administrative decisions. It is basically moving the existing lots lines around. As long as it met the R-1 zoning we approved it based on R-1 zoning.

Bunch: What is the current status? Is it one lot, two lots, three lots?

Conklin: I'm not sure, it did not increase the number of lots. It moves the lot lines around.

Osborne: It is two.

Bunch: It would be one lot for the existing structure and then a second lot for the proposed structures?

Osborne: Yes.

Estes: Are there any other questions or comments? The existing structure is a mechanic's garage and that is a C-2 permitted use. Some of the other things. . .

Shackelford: There is also a house.

Osborne: We are leaving the house and tearing down the garage.

Estes: Right. The garage is on the corner of Garland and Hendrix and that is a C-2 use. Other C-2 uses that are permitted by right are adult live entertainment, clubs or bars. If it was my property I would much rather something other than a C-2 and would much prefer 1.5. As I look at the Commercial Thoroughfare of Garland it would seem to me that from a planning perspective the appropriate use would be C-1. Again, I would much prefer it if I was a property owner.

Richards: Wouldn't the school keep the live entertainment out?

Estes: The school could keep it from becoming a bar but it could not keep it from becoming a live adult entertainment facility. That is a permitted use as a matter of right in a C-2 zoning district.

Hoffman: It can't be within a thousand feet of the school.

Estes: I think it is to serve alcohol.

Hoffman: I don't know but I don't think we are talking about a strip bar though.

Estes: Well, just to reveal to you a little bit of my thought process, I'm going to vote in favor of the rezoning request and the reason is because I consider it a downzoning. I consider it much less intrusive and offensive than other possible zoning and the permitted uses that fall within that zoning. Are there any comments?

Motion:

Ward: My thoughts on that particular piece of property is that everything along Hwy. 112 and

Garland Avenue probably should be zoned C-1, Neighborhood Commercial. Pretty much everything that is left along there has already become everything from convenience stores to restaurants to rental properties all up and down Hwy. 112 now. It is not a highly desirable area for a single family home anymore. The traffic has become too dense out there along Garland Avenue. In some ways, the first 300 feet to the west there should be zoned commercial, C-1. This R-1.5 is a very moderate density residential which I think is a much easier thing to live with if I had residential back in there on Hendrix or any of those other streets back there. I am going to go ahead and make a motion that we forward RZN 02-1 for this 1.36 acres.

Estes: We have a motion by Commissioner Ward to recommend approval of RZN 02-1 is there a second?

Shackelford: I'll second.

Estes: We have a second by Commissioner Shackelford. Is there any other discussion?

Hoffman: I can't vote for the rezoning in the absence of a Bill of Assurance limiting the number of units to the proposed 8. I feel that 16 is too dense for the residential traffic along Hendrix Street. I am in agreement with what Commissioners Ward and Shackelford say about the traffic on Garland. However, I do believe that this will negatively impact the single family character and use to the single family neighborhood to the west. If there were something like that...

Osborne: We would make that offer, eight units plus the house that is already there.

Hoffman: For the total of nine?

Osborne: Yes.

Hoffman: I want to make it clear that I'm not asking for that, you are offering it.

Estes: We have a motion by Commissioner Ward and a second by Commissioner Shackelford to approve. . .

Ward: I'll make a motion to amend my motion.

Estes: We have an amendment by Commissioner Ward which incorporates the Bill of Assurance now offered by the applicant, does the second concur?

Shackelford: Sure.

Bunch: On this lot line adjustment, a question for the applicant. Does the 1.36 acres include both the proposed duplexes and the existing house that will remain? There has been a lot line adjustment and we don't have that before us so we don't know how many acres the existing house sits upon and whether or not this project would come through as a large scale development. That is one of the questions that would also have an effect with the neighborhood's concerns if we could see this project again. If it comes through as a large scale development there would be a little more over site on it. Could the applicant please tell me what the breakdown is on the size and whether you anticipate bringing this through as a large scale?

Conklin: These were existing lots when we looked at the lot line adjustment. Because they are existing and individually they are less than an acre we can not require them to go through large scale development.

Bunch: Now what we have presented to us is a 1.36.

Conklin: It is more than one tract.

Bunch: Just for the record, that is two tracts and would not have to go through the large scale development process.

Conklin: We've looked at it and yes, the ordinance reads that anything over an acre is required to go through large scale development.

Bunch: Thank you.

Estes: We have a motion by Commissioner Ward and a second by Commissioner Shackelford to recommend approval of this rezoning request subject to a Bill of Assurance that the project will not exceed nine units. Is there any other discussion? Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to forward RZN 02-1.00 was approved by a vote of 5-4-0 with Commissioners Marr, Hoover, Allen and Bunch voting against it.

Estes: The motion passes by a vote of five to four. That is a recommendation only to the Fayetteville City Council for approval of the rezoning request.

RESOLUTION 54-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PAGERS: A resolution increasing the City's annual pager/cell phone allotment by $2,810.16. The increase will allow the Fire Department to save approximately $60,000 in the 2002 CIP Budget scheduled for an upgrade to the High Band Paging System.

RESOLUTION 55-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PROPERTY SALE: A resolution approving the sale of City owned property in the Fayetteville Industrial Park identified as a lot split of Parcel R containing approximately 7.75 acres for $20,000 per acre or an amount not to exceed $155,000 and approval of a budget adjustment.

RESOLUTION 56-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SAGE HOUSE: A resolution approving a lease agreement between the City of Fayetteville and Sage House.

RESOLUTION 57-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Santos moved to approve the Consent Agenda. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

OLD BUSINESS

RZN 02-1.00: An ordinance approving rezoning request RZN 02-1.00 for property located at 1140 Hendrix and 1110 Hendrix. 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. The ordinance was tabled on the third reading at the March 5, 2002 meeting.

Alderman Davis moved to remove the item from the table. Alderman Santos seconded. Upon roll call the motion carried unanimously.

Mr. James Parish, an area resident, stated he had lived in this neighborhood for thirty years. The area had been R-1. He asked why the neighborhood should pay for their mistake. The neighborhood was totally against this. This was a good neighborhood. People were starting to bring the area back up.

Ms. Joyce Richards, an area resident, stated as president of the neighborhood association, she would be the only one speaking against the rezoning. The association had meet and taken a vote. The majority of the residents in attendance said "no" to the rezoning. There were five votes for a conditional "yes", however the conditions were not stated at that time. There were nineteen votes "no". The council had received their petition with approximately 116 names from residences in the

area. The others were to the southwest of them, but they were affect by the traffic. They were against this rezoning. She asked them to help them maintain the character of their neighborhood. They already had transition zones. Hendrix was on the city's schedule to be repaved in 2003. Their neighborhood did not need more traffic. The law could not be changed by a clerk making a mistake on a computer. They were not breaking the faith with the ones who would get the benefit of the mistake. They were breaking faith with the voters who for years thought this was R-1. They needed to protect this neighborhood.

Ms. Terry Faylyn, an area resident, stated she had been on Maxwell since 1985. Mr. Thompson had presented a bidder with a petition. The petition did not have addresses written on them. She had looked at some of the signers. Some of them were across town and out in the county. She believed that the significance of opinion regarding the rezoning should be weighted in favor of those that actually live the neighborhood association area since they would be the ones most affected. She did not believe the city should favor one developer over a neighborhood when the fault lies with the city. Mayor Coody had reportedly told a class that they were going to make it right. She believed that the residents of the neighborhood association all purchased their property in good faith and that the neighborhood should stay R-1.

Ms. Valerie Sawyer, an area resident, stated she was a renter. She was concerned by what trees would get left. There were some really nice trees that she would like to see saved. There should be some kind of compromise. Her son wanted to come to the meeting tonight because his favorite tree was a big red bud. He wanted to see the trees saved more than he cared what got built there. She realized Fayetteville was going to need more housing. She was more or less in favor of the rezoning, but there should be some conditions.

Mr. Scott Roberts, an area resident, stated he had lived here for three years. He thought Mr. Thompson had bent over backward in terms of the presentation that he had put together as well as what he was trying to do with the land he was developing. This person was investing in a community that was a great place to live and a great place to invest in. He was also looking to purchase some property in the area. If they voted against this thing, the word of the city would be no good. He wanted to be able to trust the city and the system. If something had been done wrong, then they should do the right thing.

Ms. Mona York, an area resident, stated Mr. Thompson's project was in her back yard. She did not have any problems with it. She supported it.

Mr. Brock Thompson, applicant, stated he had provided books last week which provided a lot of information. He was at Harps last week and he did go door to door. He tried to get out to the community in terms of getting people to understand exactly the situation that happened with his project. He did not represent that he got all those signatures at Harps. They were going to see some conflicting houses that were covered. He spoke with Ms. Brown last night. She had lived on the property for seventeen years. She did not plan on moving anywhere. She understood about the

expansion on Garland. She signed the petition. Her indication was that they were bringing something new to their property. She was in favor. The owner across the street was in favor of this. He brought one neighbor tonight who was in favor of this.

Mr. Osburn stated some residents were concerned about traffic. There was no reason for the traffic from this development to go to the west. They were going to go east, north or south.

Ms. Sharon Davidson, an area resident, stated they needed to realized property owners have been getting ran over by single individuals who come in and buy property for development. As a community they were drained on all of their services, yet they were being run over by people who came in, not to be part of our community, but to profit. They were going to approve this because they were afraid of a law suit from a single individual who was trying to manipulate their whole community. They should be worried about law suit from collective groups, such as neighborhoods.

Ms. Carla Grey, an area resident, stated they had been presented with two conflicting maps. So that they did not get the wrong idea, they were both correct. The original petition, when it went around, she signed it. When the sign first went up in the corner lot, they did all think that it was apartments. After the triplexes were built on Hendrix, the idea of apartments on that corner was freighting because it looked like their neighborhood was being sliced up like a pie. A lot of information had come out since the first petition was circulated. Mr. Thompson had purchased the property thinking that it was zoned R-1.5. He did not buy residential lots trying to rezone them. She did not understand until after the last city council meeting that the triplex behind her was R-1, with improper use. One of the biggest fears that the neighborhood had collectively was triplex in the middle of the street, triplexes on the corner. How could anyone say no to triplexes in between. After she found out that the triplexes in the middle of the street were R-1 with improper use, they can not be used as leverage to rezone anything else on that block. She felt that her neighborhood was protected. Garland was scheduled to be a five-lane highway at some point. There were two houses there now that had been on the market for a very long time because no one wants to live where a large highway is going to be put. She did not believe single family homes would ever have a chance of being owner occupied. More and more neighbors have dropped out on the opposition to this rezoning. She was one of them. The right thing for this lot was R-1.5.

Alderman Davis asked how many years had it been that the city had showed this on the city map as being R-1.5.

Mr. Conklin stated the map had been converted in 1995.

Alderman Davis stated so for the past seven years it had been showed incorrectly. How long ago was the prior triplex built on Hendrix.

Mr. Conklin stated it was last summer.

Alderman Davis asked if he had not brought this to their attention, would they be here tonight. The property would still be shown as R-1.5.

Mr. Conklin stated that was correct. That was what happened to the last one. He wanted to make sure that there was an actual ordinance for this one. They could not find one. After they could not find one, twenty-four hours later the map was changed on the website and their office. He then advised Mr. Thompson. And recommended that he go through the rezoning process.

Alderman Davis stated it was his understanding that someone on the city staff wrote a letter confirming that this was a R-1.5 to a financial institution.

Mr. Conklin stated a letter had been written.

Alderman Davis stated neighborhood associations needed to come to city hall from time to time to check their zoning.

Mr. Conklin stated he did not want this to ever happen again. He had been through the map once. He was in the process of looking at thirty-two years of ordinances. He would be bring forward a map. He wanted to make sure. They now have better technology. This area zoning classification was done by arrows. It was very difficult to see that from the 1970 zoning map which had been hand done with crayon.

Alderman Davis stated it had been seven years. The city has written him and given their word that it was zoned R-1.5. as neighbors needed to check from time to time to make sure that the city had the zoning on the map as they believe is correct. He did not see how they could back and tell him tough luck. If they did that, how could the citizens ever trust them on anything again.

Alderman Jordan stated they talked about the word of the city to Mr. Thompson, but what about the word of the city to the individuals that lived inside the city limits. The neighbors bought their property in good faith, believing that this was R-1 zoning. They expected to finish their lives out in that neighborhood. That neighborhood has come forth and stated they wanted the city to stand by them and protect their neighborhood and quality of life.

Alderman Theil stated the organized association had made a statement, but the people closer to where this was going to be built were for it. In her mind they weighed heavier than the others. Those were the neighbors next to the property. she was trying to weigh which set of neighbors to listen too.

Alderman Santos stated Garland Avenue has been a state highway for years. People should have known that more dense development was going to occur on a state highway. Three of the last city plans that he has worked with have been expecting more dense development along Garland Avenue. That was why the highway department was planning on widening it. Almost fifty percent of the

traffic from the University came from Garland. The University was trying to expand by fifty percent. Without even the mistake being made the proper thing to do is to rezone the property for more dense development. Which is what they see more and more of along Garland. The project Mr. Thompson has brought them was more compatible and serves has a better buffer to this neighborhood than the kind of dense apartments across the street. They had to expect that development. They had to respect their plans. A lot of people other than the people in this neighborhood contributed to making the plans. There were a lot of goals that they set forth in those plans that they want more dense development in the center of the city, within walking distance of schools and shopping centers. There was a transit line already here. That will make the transit line more efficient to have higher density. This was good for all of Fayetteville.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 5-2, Jordan and Young voting nay, Mayor Coody voting yea.

ORDINANCE 4384 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-5.00: An ordinance approving rezoning request RZN 02-5.00 for property located west of I-540 and south of Point West Phase I and east of Pine Valley Phase I. The property is zoned I-1, Heavy Commercial / Light Industrial and R-2, Medium Density Residential and contains approximately 14.84 acres. The request is to rezone to R-1.5, Moderate Density Residential. The ordinance was left on the first reading at the March 5, 2002 meeting.

Mr. Williams stated the applicant had sent a memo withdrawing the request. The applicant would have to reapply and start from scratch if he wanted to have the item reconsidered.

REMOVED FROM AGENDA.

CDBG: A presentation regarding the 2002 Community Development Block Grant.

Mr. Hugh Earnest, stated presented a overview of their program. This program gave them the opportunities for the city to provide additional money for housing. They can utilize the funding for further cost of bonds for the provision of new home construction. They may be able to pay money in advance to issue bonds to get a large one time sum of money and get far more aggressive in construction of affordable housing in the city. They can also subsides transportation needs. They need to improve their outreach relative to development of area plan. They need to involve more people in the community to make sure that they were meeting the needs of the neighborhood.

They had several projects that they had not been moving money on. Sage House, $153,635. Project for Victims of Family Violence $460,335, and Yvonne Richardson Center $104,000. This money was just sitting there. What the federal regulators have told them was that they needed to more aggressively move this money within a defined time frame or in affect the city will be penalized by reduced allocations in the future. They understood the issue they are facing and he believed the

RZN 03-8.00: Rezoning (McKinney, pp 365) was submitted by Nathan McKinney for property located at 1631 Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 1.9 acres. The request is to rezone to R-1.5, Moderate Density Residential.

Estes: The next item on the agenda is RZN 03-8.00 submitted by Nathan McKinney for property located at 1631 Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 1.9 acres. The request is to rezone to R-1.5, Moderate Density Residential. Staff recommends denial of the requested rezoning based on the findings that are included as a part of your packet. Is the applicant present? If you have a presentation would you please come forward and provide us with the benefit of your presentation?

McKinney: My name is Nathan McKinney and I have no formal presentation for you in addition to what you obviously have received in your packet. There is a little story and extenuating circumstances behind this request and I would be happy to repeat that if it would be a benefit to this Commission.

Estes: Thank you Mr. McKinney. Is there any member of the audience who would like to provide comment on RZN 03-8.00? If so, would you please come forward, say your name, and provide us with the benefit of your comments.

Richards: My name is Joyce Richards and I have property that is probably a block and a half down the fence line from Mr. McKinney's property. As I understand it, this is a rezoning request for which no specific development plan has been submitted and who knows what changes may occur before the development actually takes place. It seems that the most prudent course of action would be to wait and see a concrete proposal, not to offer a blank check for an unknown with no specifics and no assurances. I would ask you to follow the advice of your Planning office and deny this request and perhaps sometime in the future you will have an opportunity to consider whether a rezoning should take place at that time and whether that rezoning would uphold the neighborhoods that surround it because things do have a way of changing.

Estes: Thank you Joyce.

Bryant: City Staff and Planning Commissioners, my name is Rebecca Bryant. I am an adjacent property owner. I believe you have quite a detailed note from me about my opinions and thoughts about this request. I am just here to show you that I care, that I do have financial interests at stake and I would hope that you take my concerns about the quality of life into consideration as well for the neighborhood as a whole and as a fabric. Since this would be a request for a spot rezoning and Lewis Street has been the traditional boundary between high density and low density residential in the area. Thank you.

Estes: Thank you Rebecca. Is there anyone else who would like to provide us with the benefit of your comments regarding this requested rezoning? Seeing none, I will bring it back to the Commission for discussions, comments, questions of Mr. McKinney and motions.

Ward: Tim, will you give us a little rundown of how this came about? I read the materials a couple of days ago but I would like to be refreshed.

Conklin: Sure. Back around 1995 the city took a 1970 zoning map and digitized that map in order to put it onto a computer and to view it on a computer. At that time there was a mistake made in a region of that map that involved multiple properties and it was shown as R-1.5 instead of the R-1. This mistake was discovered just over a year ago when staff researched to find the ordinance that changed a particular piece of property to the R-1.5. It was at that time that we discovered that that was incorrectly shown on the map. The map was changed. Mr. McKinney stopped by the office and noticed that it was changed and we are here today with a situation where what was shown on the map for several years actually was incorrect and there was no ordinance. It was a drafting error. Staff is attempting to make sure the map is 100% correct and we will be bringing forward a map fairly soon to the City Council.

Estes: Does that answer your question?

Ward: Yes. I guess this has happened more than once where people have looked at a map of the city and looked at the zoning and bought the property with the idea that it was zoned something different than what it really was, how have we handled those in the past?

Conklin: The only one I am aware of is a property on Garland and Hendrix that was a nonconforming use of the property for many years. City staff did recommend that rezoning. We ended up with a very detailed Bill of Assurance with regard to what can be built on the property and how it is going to look. That is the only one that I can recall.

Ward: If we table this tonight and ask for the applicant to come in with some kind of a Planned Zoning District that we kind of get the full blown project looked at it would be something that I definitely would consider, especially since the applicant definitely bought the property with the idea that it was zoned something and now it has changed in the middle of the stream. What is your thought on that?

Conklin: That is what staff was recommending. Staff was trying to avoid the process that we went through previously where we ended up with 75% brick and porches and different things on the structure by the time it was all said and done. However, I don't think the applicant, Mr. McKinney has any immediate plans to develop the property. He has stated that to staff.

Estes: Is there any further discussion?

McKinney: Mr. Chairman, may I make one further statement?

Estes: No Mr. McKinney, it is closed to you and closed to public comment and is now before the Commission. When we look at any item that comes before us my thinking is that we need clear and convincing evidence to support findings of fact in opposition to staff's recommendation and I do not find it here. What I do see is what is sometimes called spot zoning or speculative zoning. If the property is rezoned to R-1.5 Mr. McKinney, this comment is not directed towards you at all, if it is rezoned you are free to sell the property to someone else and they may do whatever they please with it within that zoning designation. That is one reason that we have the Planned Zoning District provision now so that as these matters come before us on a rezoning we can see specifically what is being done and most importantly is that your neighbors can see what is happening. Right now we have a request for what I would characterize as speculative zoning or spot zoning and I do not see any clear and convincing evidence to support a finding of fact in opposition to staff's recommendation and I would not support the rezoning. Let me do this. Let me call three times for a motion. Is there a motion?

Shackelford: I would like to ask a question of our City Attorney. Situations like this have always troubled me. I think the argument could be made that property value is affected by zoning of said property. This applicant basically purchased this property after reviewing the zoning and relying on an admitted error or omission of a city employee of the specific zoning. In your opinion does the applicant have any legal recourse against the city for any error or omission of specific zoning that may have been relayed to him by a city employee?

Williams: I think not. This is the same situation that happened on Garland on that property, I think my opinion at that point was that the city is protected by sobrum immunity for mistakes like this. It would make even admitted mistakes where the map was not done properly. That is not the final decision. In fact, as you remember in the Garland case, eventually that property was rezoned. It had a very extensive Bill of Assurance attached to it, as the City Planner told us. From a legal point of view I don't think we are in very serious trouble here. It is certainly something that was a very unfortunate mistake and it is up to you all to decide what you want to do at this point.

Shackelford: It is an unfortunate mistake and that is why I would like to see some sort of compromise reached to where the applicant and the neighbors could come to some sort of agreement over the future development of this property. It has been mentioned here a couple of times that it is a spot rezoning. Tim, if there was a development on this property that would need a R-1.5 zoning would you support rezoning it for a specific development?

Conklin: We have two methods that we can look at with regard to potentially changing the land use. The first method, R-1 allows for a Conditional Use for a duplex. This lot is fairly large, the possibilities would be there to add additional units. The second one is our Planned Zoning District, which allows development review and zoning to go through the same process and deal with issues of compatibility and how to mitigate any adverse impacts to adjoining neighbors. It depends on the project and what is being proposed. I really can't answer your question at this time. We set that up almost as a performance based type zoning where we can look at how to mitigate adverse impacts with regard to zoning and land use.

Shackelford: With that being said, I guess what I am trying to do is just to state that my preference would be that we worked towards some sort of compromise on this situation. This is an unfortunate incident. This incident did occur due to an error made by a city employee and in that situation I would like to see city staff and this board work with the applicant in any way possible to find some sort of compromise and solution to this.

Bunch: A question of procedure. If this is categorically denied at this level is it a year before it can come up again since this is a rezoning request?

Conklin: Yes if they reapply for the same zoning request they can't come back for a year. If they apply for something different they can petition the Commission. It also can be appealed to City Council.

Bunch: If it fails for lack of a motion what would be the situation then? Would that come under the same one year restriction or would it just be like a tabling?

Williams: I feel that before you have no action on this that really you should ask the applicant because he does have the right to appeal an adverse decision to the City Council but if you make no decision then you have put him in limbo so I think it would only be fair to ask Mr. McKinney if he wants to move forward, if he would rather have it tabled. He is the applicant here and I think we need to get his input on what his plans are. Even if you vote eight zero against this here he might want to take it up to the City Council on appeal. On the other hand, maybe he would like more time. I think we need to get an input from him Mr. Chairman.

Bunch: I would like to question the applicant. Now that you have had the opportunity to hear the discussion, what is the nature of your request at this time?

McKinney: I would be thrilled to see compromises but at this point, as I have indicated earlier, I have no plans or designs to develop the property in the next several years. I have made several decisions regarding the property based on the fact that it was zoned R-1.5 according to the city staff and the map, which I inquired of them on several occasions. Not just one, but on several. I want to be a good neighbor and I want the neighbors to ultimately be very proud of any future development but I would develop

the property. I just don't know. There has been a diminished value between the time that I bought the property and for five years hence when it was zoned R-1.5 according to God and everybody and today. The other thing that is quite bothersome is not only did I not trust that map but I inquired of the city staff and was told repeatedly that is the zoning and then when I discovered the change, I discovered the change. There was no word and no letter whatsoever that the zoning map had been changed and I just ask for everybody on this Commission to be cognizant and mindful of that but I certainly would seek any compromise that could be proposed and that is the kind of approach I would take to this.

Estes: Commissioner Bunch, is that responsive to your questions?

Bunch: Somewhat. Also, Mr. McKinney, you had wished earlier to make another comment after discussion was closed. I just wanted to give you an opportunity to give you the chance to make that comment.

McKinney: That was it. The map was wrong and I didn't trust it so I asked the City Planner at that time to clarify that for me and I was told in very short and terse language that the map was right and not to question it and then I discovered that the map had been changed. No one informed me that it had been changed. In effect, diminishing the value of my property, at least in my mind. In all due respect, could it have been monkied up anymore? I don't know how. That is as troublesome as anything.

Bunch: Mr. McKinney, do you feel that if you were to bring this back through in the future since you have no plans at this time, utilizing the new tool that we have available, the Planned Zoning District, do you think that that might restore some of the value of this property and give you an opportunity to develop it a little more fully than an R-1 zoning?

McKinney: It certainly could and there is no total loss of course but I am not sure that I am going to be the one that carries anything through here. I may choose to sell the property at some future date. Your planning staff told me that right there are a certain number of units in R-1.5 and a considerably restricted number of units allowed in R-1 and that is just a diminished value, it just is. I respect the position you are in. I ask that you, as Commissioner Shackelford has suggested, offer some alternatives. I would certainly be willing to consider them.

Bunch: That concludes my questions.

Estes: Thank you Mr. McKinney.

Ward: I don't think that we will ever make this thing fair for what Mr. McKinney has had happen here. I am very sympathetic to his case because I have seen this happen more than once. I think all I can offer is as a Commission we can say we will be sympathetic if you bring a project to us showing exactly what it is going to be, how

many units, etc. Without that at this point I don't think any of us are willing to, I don't know what we could compromise anyway. It is zoned R-1, we do have the Planned Zoning Districts now. We would be very sympathetic for you if you brought some project to us and let us look at it and take it from there. I think that would restore any value that you possibly could have in your mind that is lost. My feeling is I would like to just table this and go on down the road.

Estes: Mr. McKinney, let me just say this. The specific item that you brought to us is a rezoning request. As your Planning Commission you have asked us to act on that request. We can not sit here and negotiate a compromise with you regarding any aspect of the future use of this property. You have asked us to act on the rezoning request. You can pull it, we can table it, if there is a motion we can vote it up or down. If we vote it up then you have got the relief that you came here for. If we vote it down you can appeal it. As your chair I want to be sure that you understand your options at this point. I have said I would call for a motion three times and I have called for a motion once and there was no motion and I will call twice again and if there is no motion it will fail for lack of a motion.

McKinney: Mr. Chairman, I submitted this request on the advice of Kit and I still don't understand what will happen if it is tabled.

Estes: Typically when an item is tabled it is tabled for a time certain and then it is brought back to us. The issue I see with tabling it is that you have told us that you have no immediate plans for the property. You have also told us that you may sell the property.

McKinney: And I may not. That is exactly right and I think that is my point. I feel like I have suffered a diminished value in the property regardless of the ultimate use today. In the future some of that may be restored but the advice that the City Attorney gave me is that memories are short and it is best to go ahead and proceed now while everybody understands the situation and I think that was good advice. While the words that you all are using are very reassuring, how many of you all are going to be around? I may not be either.

Estes: Let me go ahead and call for a motion twice more. Is there a motion? Is there a motion?

Shackelford: I am also confused on the difference of an item dying from a lack of motion as compared to a denial.

Estes: If there is not a motion then the requested rezoning will fail for lack of a motion. The applicant could bring this identical request back but this applicant must wait one year before doing so. If this applicant wanted to bring back a different request regarding this specific piece of property the applicant could do that tomorrow but the applicant

will be precluded from bringing this identical request back within one year if it fails for lack of a motion.

Williams: Can I ask our City Planner, is it your understanding Tim if there is no motion and so it fails for a lack of motion would Mr. McKinney then have a right to appeal to the City Council even though there has been no actual action taken by the Planning Commission?

Conklin: I would assume that that means it fails, as our chair has stated in the record and that he has a right to appeal to City Council. That would be my interpretation.

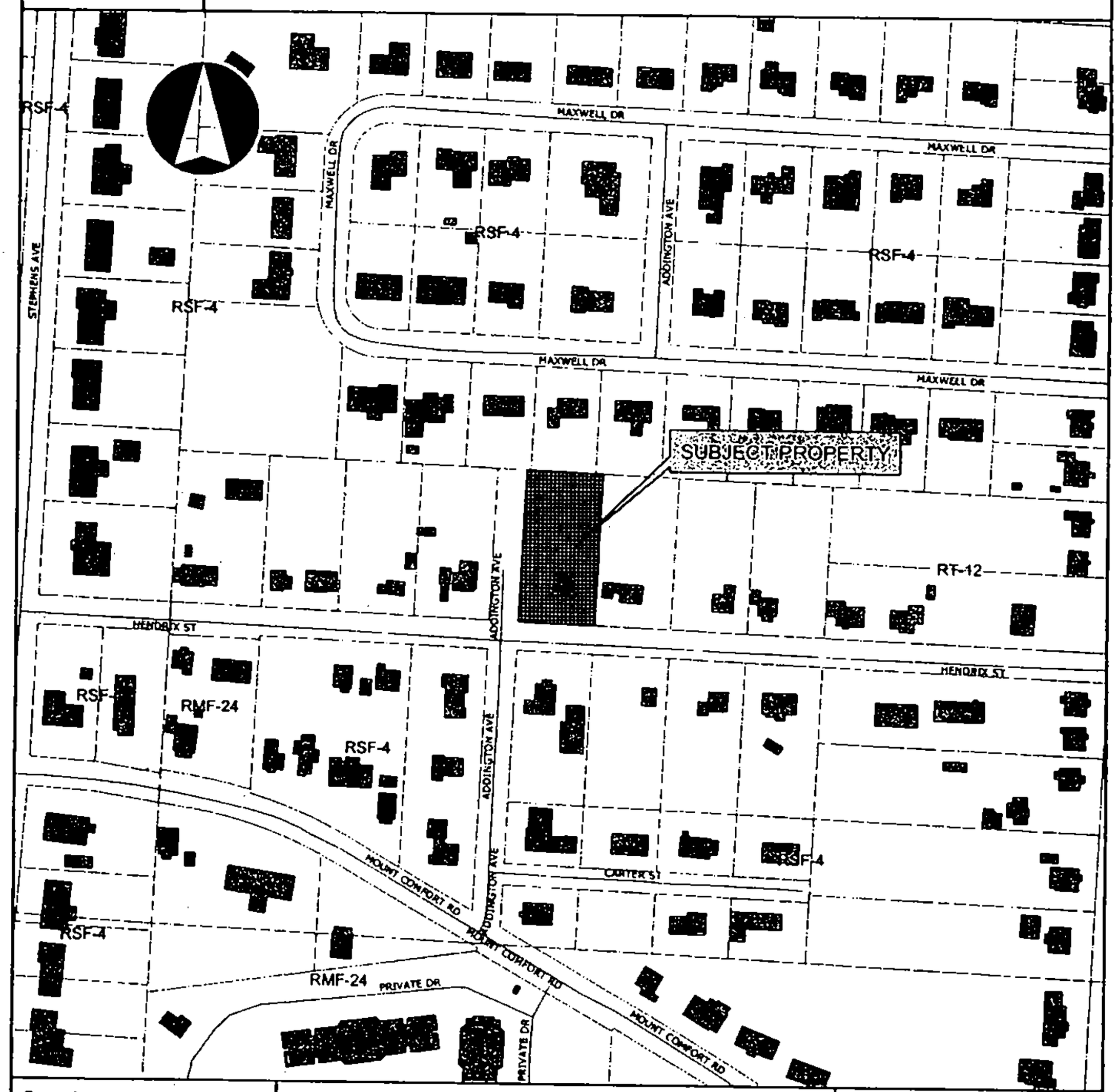
Williams: Thank you.

Estes: RZN 03-8.00 fails for lack of a motion.

RZN04-1103

Close Up View

COLLINS



Overview

Legend

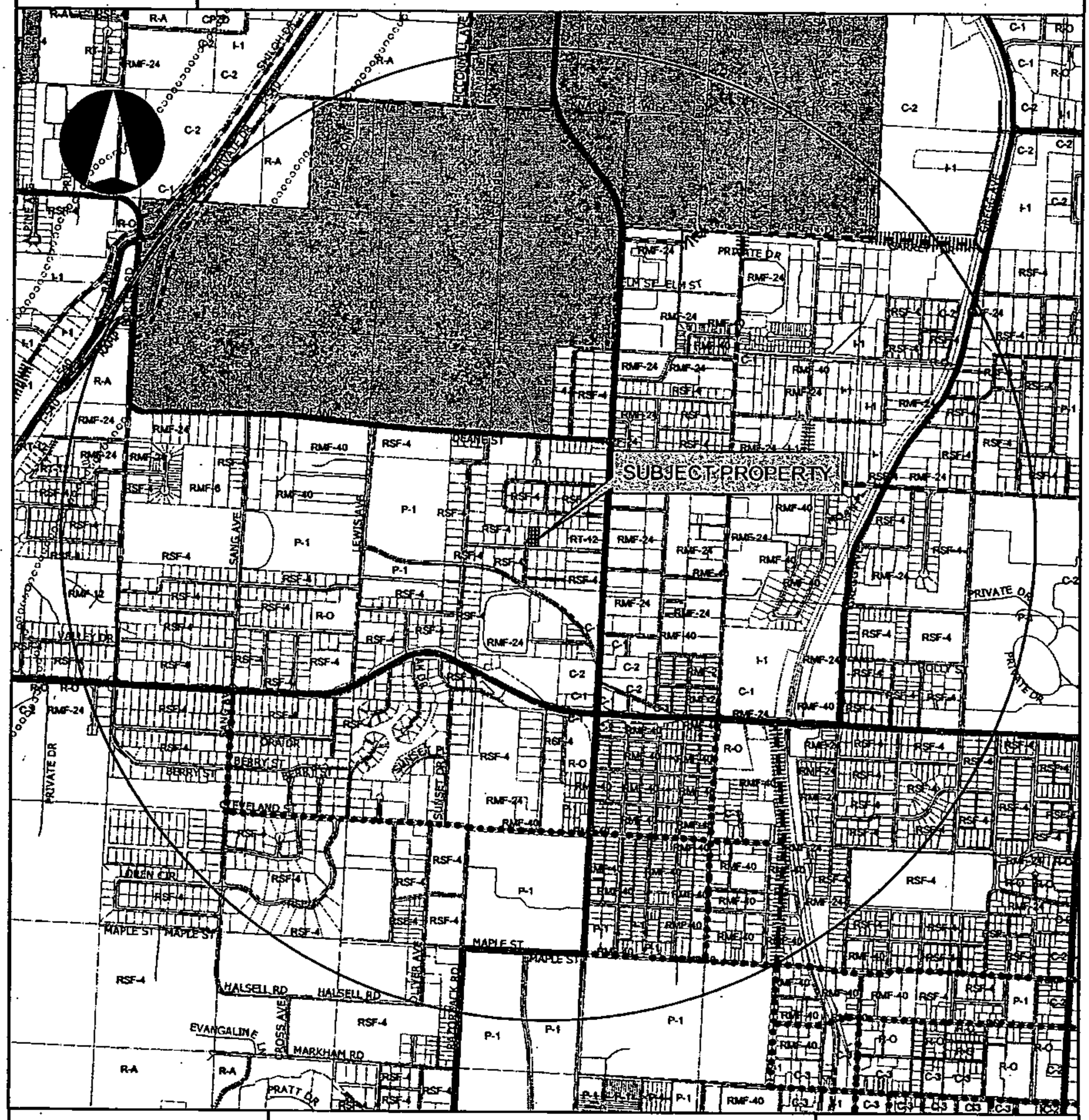
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Baseline Profile
- RZN04-1103

0 75 150 300 450 600 Feet

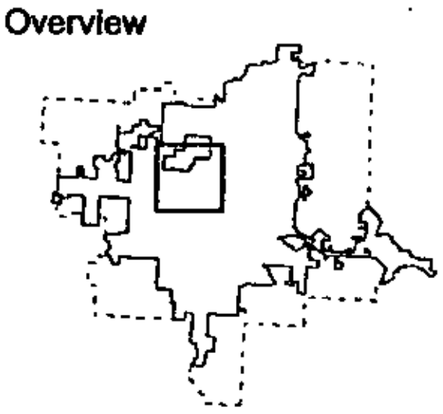
RZN04-1103

One Mile View

COLLINS



Overview



Legend

Subject Property
- RZN04-1103

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

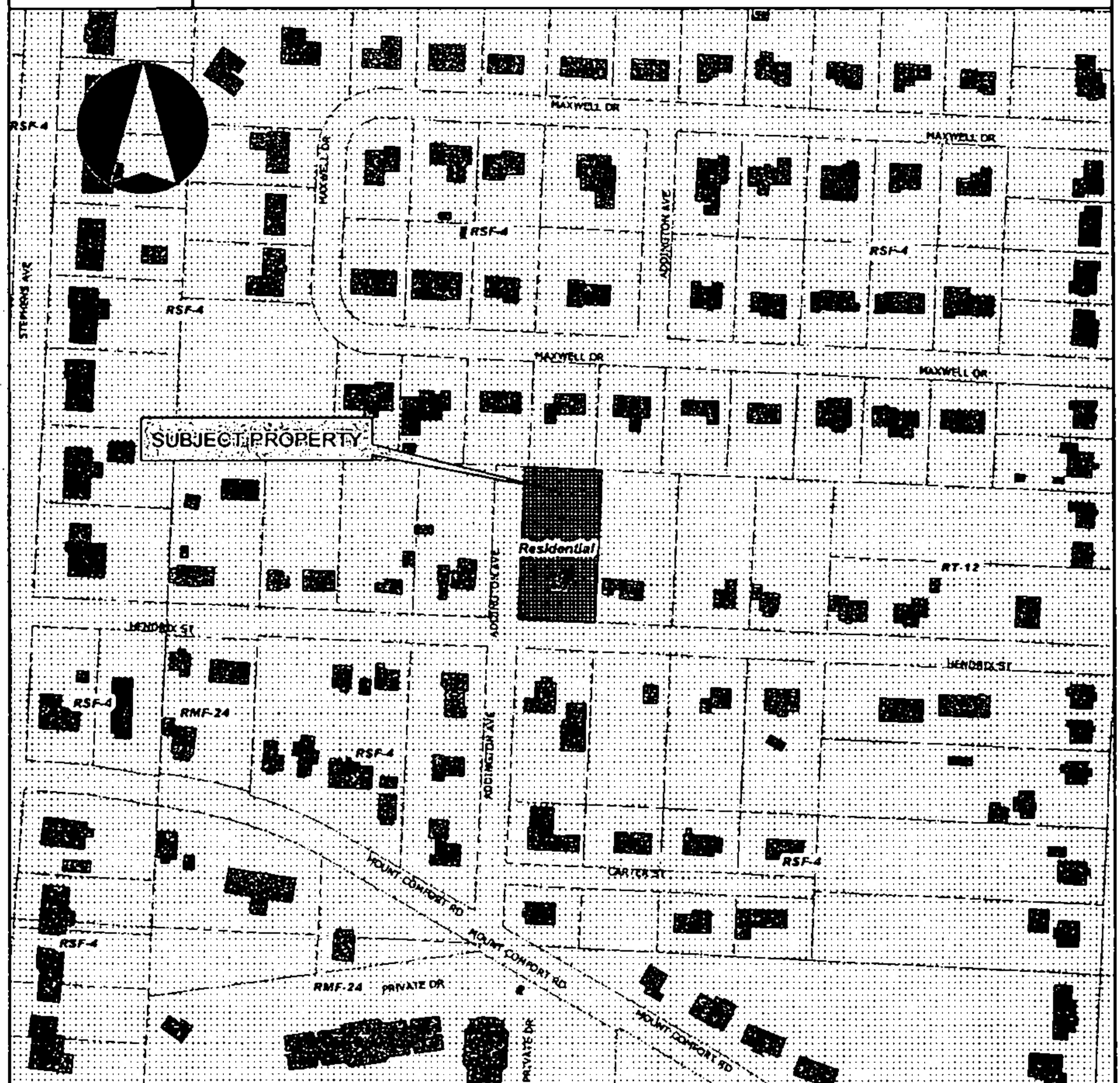
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN04-1103

Future Land Use

COLLINS



Overview

Legend

Subject Property

RZN04-1103

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 75 150 300 450 600 Feet

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.

Ostner: Our next item is RZN 04-1103 for Collins.

Pate: Thank you Mr. Chair. This property is located at 1280 Hendrix Street, which is west of Garland Avenue. The property is currently zoned RSF-4 and contains approximately .051 acres. Currently there is a six unit multi-family development consisting of two triplexes which exist on the site constructed in 2001. Surrounding properties are zoned RSF-4 and are developed as single family residential homes along Addington Avenue to the west is Hendrix Street and Maxwell Drive to the north. The existing use of the property for a three family dwelling is not a use that is allowed by right, nor by Conditional Use in the RSF-4 zoning district. Therefore, it is considered a non-conforming use on this property. The applicant is requesting a rezoning from the RSF-4 zoning district to RT-12, Residential Two and Three family. Staff has received numerous comments, most of which are included in your staff report as emails or letters to the Planning Division. Additionally, there have been several phone messages taken. All of those comments have been in opposition to this rezoning request. To the findings of staff, the future land use plan designates this site for residential use. The proposed rezoning staff finds is not consistent with land use plan objectives and policies to a degree that provides compatibility with adjacent properties in the same district. These are findings of fact that staff is required to make, as is the Planning Commission in it's recommendation to the City Council. Surrounding properties are residential in nature not unlike the existing land use on the subject site. However, the surrounding properties do represent a cohesive single family land use as opposed to the multi-family land use currently 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. An additional finding of fact, the proposed zoning is not justified nor needed in order to retain the use of the property as it was permitted in 2001. The existing use is considered non-conforming so that it may not be reconstructed or enlarged, however, it may remain as a non-conforming use until such time as the units are destroyed or removed. With these findings staff recommends denial of the requested rezoning to RT-12.

Ostner: Thank you Mr. Pate. Is the applicant present? Could you introduce yourself and tell us about your request?

Collins: My name is Jeff Collins. I'm here representing both myself and my partners who are owners of the property in question. The story behind this property is a relatively interesting one. When it was constructed the city maps were erroneously drawn such that the zoning was shown to be R-1.5 at the time, which allowed for the development of this particular configuration. It was constructed and purchased in December, 2001 by myself and it was subsequently made part of a limited partnership with several other properties. It has been operated since December, 2001 as a set of townhouse style multi-family units. At some point unbeknownst to either myself or the other owners of the property the underlying zoning was changed by the city. Apparently, the maps were found to be in error and they were not showing that the zoning shouldn't have been R-1.5 but rather R-1, which has subsequently become the RSF-4. The city, after finding the error, did not notify either myself or any of the property owners to the best of my knowledge. Certainly I was never notified as the managing member of the partnership. It wasn't until we attempted to sale all of the buildings that were within the partnership that we were notified by the appraiser for the buyers that the underlying zoning was not compatible with the existing use. Interestingly, the appraiser for this particular property is the exact same appraiser that I used and therefore, constitutes the extent of our due diligence on the property when we first purchased it. There are a couple of things that I would like to point out which I find relatively interesting. That is to the question a determination of whether the proposed zoning is justified and/or needed at the time that the rezoning is proposed. Staff says it is not justified in order to retain use. From my perspective, a fundamental right of a property owner is the right of resale. The underlying zoning is an impairment to the sale of the property. In fact, we have closed on two of the three buildings within this sale but we are unable to close on this particular building because of the underlying zoning issue, which of course, is why I'm here today. In addition, under five, if there are reasons why the proposed zoning could not be approved, are there any extenuating circumstances that justify the zoning. I think that while this situation is particularly unfortunate and certainly as I drive the neighborhood and as I revisit the discussion by the Planning Commission regarding the corner on Hendrix and Garland, which many of you probably recall, where a gentleman had purchased the property expressly because he understood the property to be zoned R-1.5 with the intention of building multi-family on that corner and then found out after the fact but before starting construction that the zoning was not appropriate for that use. I am certainly sympathetic to the idea that this is perhaps a difficult situation. Whether or not it is a request for a spot zoning I think is for you all to decide. I would point out that three parcels away is the property on the corner of Hendrix and Garland which is multi-family and within a stone's throw of this particular property there is a very large multi-family development on Mt. Comfort Road which is literally a block to a block and a half from this particular property. In addition, as I

go back through and read the testimony from the request for rezoning for that corner lot one of the things that strikes me is the discussion of transitional properties. This isn't to say that somehow our property is perhaps a buffer between a commercial zone and a residential zone but that in the course of that conversation Tim Conklin discusses particularly that the least divergent use would be townhouse style multi-family. That is exactly what has been developed on this particular property. Due to an unfortunate set of circumstances to which I have very little control I'm here in front of you asking for a rezoning of this particular property so that we can consummate the sale of the units that are there now to potential buyers. Thank you very much.

Ostner: Thank you Mr. Collins. Is there anyone from the public who would like to speak?

Broom: My name is Mildred Broom. I have lived on Hendrix Street for 50 plus years. It has been single family all that time. I would really like to keep it single family. Thank you.

Ostner: Thank you.

Richards: I'm Joyce Richards. We own property to the north of the triplexes. At the time that they were built we received a letter saying they were going to be built. I called the planning office and they said yes, this is how it is zoned. I said to myself but Hendrix is a street of houses. They said no, triplexes can go up. Then, about two years ago the corner property on Garland and Hendrix came up. I and other people in the neighborhood said the same thing again. This is not a street of triplexes. This is a street of houses. The city said there has been a mistake in the zoning map and so the triplexes were built. At that time the city told us we are sorry, no more triplexes and in good faith we believed them. Now here we are again. During the last two years the city took that map and went over it, probably as a result of these two mistakes, corrected the mistakes. They spent much time, many hours, probably lots of taxpayer dollars correcting all of those mistakes. Now we have the new corrected zoning map. Now you are being asked to revert to the mistake that was there to begin with. I say no, don't do that please. Hendrix is zoned for houses. We would like to keep it that way. We've already got two mistakes on it. Don't go back. We in the neighborhood who drive down that street everyday lots of times, more than once a day, see those mistakes every time we go down there. I say let's not change the map again. Leave it like it is. It is correct now.

Gray: Hi, I'm Carla Gray. My property does share a border with Mr. Collins' property. Like he said, the property does have an interesting story. I don't have answers but I do have some questions. There was a progress. His property was built and then the triplexes on the corner came up and they

were separate issues. Marc Crandall was the developer and in January, 2002 when the conversations began on the property on Hendrix and Garland the corner triplex is Brock Thompson. It was a long, sad story and it was a mistake. During that time I did talk to Dan Coody about what was going on. As kind of an olive branch, because it was a mistake and these things happen, he did say that he had contacted Marc Crandall and asked for a privacy fence around the triplexes on Hendrix. It was a mistake. It was a good will gesture for the developer to do. That was 2002 so I guess I'm a little confused as to why the Mayor would call Marc Crandall if this gentleman owned the property at that time. That confuses me. The other thing that confuses me is that Marc Crandall has Campus Properties.com and in April and May, 2002 it was listed as one of Campus Properties.com's offerings. I feel like maybe there are more questions that need to be asked. It appears that Marc Crandall, who was aware of this at the time when Dan Coody called him and said we've got a problem, that maybe there were more business dealings. Maybe there are some partnerships here that we are not aware of. The dates don't add up. Does that make sense? The property in the statement I read, if it was sold in December, 2001 what was Marc Crandall, the original developer, who was according to a conversation the Mayor said he had with him, why was he still involved if he no longer owned it? I am against rezoning. It was a mistake. Conditional Use works for me but I'm not for a spot rezoning of this neighborhood. Thank you.

Ostner: Is there further public comment?

Ball: I'm Ramsey Ball. I represent Cheesehead in this transaction. I wanted to go through a couple of things.

Ostner: I'm sorry Sir, are you part of the application or are you a resident?

Ball: I'm a resident and part of the application.

Ball: I wanted to address a couple of issues. When you make a map change on a rezoning, that is a de facto rezoning, I think in this city. If you are doing due diligence on a property and you want to find out what the zoning of the property is you go to the city and you look at the map. If the map shows the property is zoned for multi-family then the assumption that it is zoned for multi-family. It is not an issue that comes up in title work. You don't go to a title company to try to find out if a property is zoned multi-family or single-family. You go to the city. If the city changes the map then they have affectively rezoned the property. An issue of fairness would be whether the property owner is notified. If a property owner wants to go rezone their own property the city requires them to post a notice, to contact the neighbors, to do legal notices. In this case this property was rezoned but the property owner was not notified. There was

no notice posted on the property. It would appear to be a process that would be unfair going back the other way. There appears to be an issue about whether to continue the use of the property. If it is grandfathered in why do we need to have it rezoned. If the property is damaged to a certain degree then the owner can be required to not use the property the way it is now. If the property was damaged and you have six town homes on a property the city could require him to come in and remove those damaged six town homes and replace them with a single house. I think anyone here would realize that that would be a loss in value on the property. Another issue is land use. Jeff spoke briefly to this but the land use for this area is residential. It shows on the land use plan as residential. Are town homes appropriate for residential land use? The answer of course, is yes. Town homes are a part of residential land use. Are town homes a good transition from multi-family to single family and the answer, I think, is yes. These town homes provide a good transition from a higher use to single family. Fayetteville is a city with a mix of multi-family and single family. I think everyone here realizes that Fayetteville is full of single family dwellings that are next to multi-family dwellings. It is what makes Fayetteville grow. I live on a street that is a complete mix of multi-family and single family dwellings. That is why I love being in Fayetteville. It boils down to are these town homes an acceptable use for this property. I think the answer for that is yes. They are very acceptable. They are there right now. Are they an acceptable use to continue? Is it a fair resolution of this situation to rezone this property to allow their continued use? I think it is the only resolution. Thank you for your time.

Ostner: Is there anyone else from the public who would like to speak to this issue? I am going to close it to the public and bring it back to the Commission.

Graves: I have a question for the City Attorney as to what he believes might be the legal affect of reliance upon a map that was in error and what kind of problems it may cause to not rezone it as requested.

Williams: As you are aware, we have faced this issue already a couple of different times on a couple of mistakes that were made very similar to this and not discovered until later. Even if the city was negligent in mislabeling the map originally the city is protected by sovereign immunity for mistakes like that. It is very unlikely that the city would be liable itself for the mistake that was obviously made. The city did not rezone this property. It was not zoned by the mistake on the map. That was just an error. As you are probably aware, zoning decisions are made by the City Council passing an ordinance. There was no ordinance that said that this property was R-1.5. It was never zoned R-1.5. There was a mistake when an employee for some reason misread the old map when he was transferring it to the new map and put the wrong color in or put the wrong notation in and it was not caught for a long time. The city obviously made a mistake

here like it did in the other case. From just the purely legal point of view and not saying whether or not there is justification like the City Council found in one particular case and didn't in another. From a purely legal point of view I don't think the city is liable in this particular case because of our sovereign immunity even though we did make a mistake.

Shackelford: Kit, this cannot exist under a Conditional Use so this may not even play into it but what about undue hardship? Would that come into play at all in this case? The inability to sale the property?

Williams: Certainly that kind of concept can be apparent when you consider this rezoning request. That is one of the many factors that you can consider is the hardship on the applicant. I think that probably was considered in both of the other cases that came before. The one that was turned down was vacant land with no definite plans prepared by the applicant. In fact, several members of the Planning Commission said if you came through with a Planned Zoning District or with a Bill of Assurance that said this is what will be on there then we would look at it much more carefully. Since he just wanted it rezoned to R-1.5 at that point the Planning Commission wasn't willing to rezone it to that. This is a slightly different situation since there are already houses there. There are insurance problems I understand as well as sale problems so this is a little bit different situation than if it is just vacant land.

Shackelford: I would agree with that. I think this is a very unique situation. I don't think that there are very many people who would support this rezoning request if there weren't already existing structures on it. Unfortunately, this is one of the more intriguing things we have to talk about tonight and it is late in the night. I think that we have to give this some consideration. I understand that the city is protected by sovereign immunity and I understand that this is not a good situation regardless of the direction we go because if we turn this down guess what, tomorrow those triplexes are still in the middle of the neighborhood and we haven't changed a thing. I would ask that we give this the consideration that it is due. Sovereign immunity obviously, is a point that keeps us out of legal trouble but it doesn't really keep us from doing the right thing. In the business world when you have an employee that makes a mistake sometimes you have to step up and help that person and help that entity take responsibility for that mistake and try to do the right thing by the customer. I think that we at least owe this an opportunity with that same context and that same conversation in this situation. Thanks.

Graves: Is there, other than just going to the map, is there another place? If I'm going to just look at the deed or the land records for that property that I would be able to in some way reasonably easily be able to determine what the actual zoning is for that property?

Williams: When you say reasonably easily I would probably say no at the time that this was done. What happened and the way that it was finally resolved is Tim Conklin spent many, many hours going through all of the old zoning ordinances to ensure that there were no other mistakes other than the one that first appeared. That is when he found the couple of other mistakes by going back through the ordinances, which is feasible but is certainly not easily done. Most persons surely would not want to go through that. Now it would not have to be done. The City Council has adopted the zoning map officially and now when changes are made we can change it all digitally so the map now is correct. It took a lot of work by the Planning staff and it is now correct. We apologize for the fact that sometime in the late 90's or maybe 2000 or so, that there was a mistake that was made. Now it is your burden and City Council's burden to decide what you are going to do because this mistake was made and some triplexes were built where triplexes should not have been allowed to be built and so the neighbors are concerned and yet you have an owner who says I can't get insurance, I can't sale. You really have two rights out there. There are no wrongs and it is your duty to balance them and decide where you want to go.

Ostner: Thank you Mr. Williams. There is a similar situation on my street. There is a multi-family apartment building in an R-O zone which does not allow this density yet time marches on. He has filed for small insurance claims, made repairs and he is allowed to fix his property. I'm sure if it burned to the ground there would be a big problem on how to replace it and what to do. His rights are upheld. It is a non-conforming use that doesn't conform to the zone. That's my problem. I'm trying to separate the history from what I see is the salient issue. They have a non-conforming use. I think they want to further a non-conforming use. It is inappropriate for the neighborhood. They've got their project. It is up and running and they would like to sale it. I believe they want to sale it with a bonus. The bonus being hey, now we've got the zone. Right now there is no bonus. They have to sale it without the guarantee in hand that if it burns to the ground they could rebuild the triplexes. I am not in favor of this because I believe it is inappropriate for the neighborhood. Time can march on with this non-conforming use as they do all over town.

Collins: The idea that we can just sort of move forward and sell it and somewhere we are getting a bonus out of the rezoning, in fact, we will not be able to sale the property without the rezoning. The sale is contingent on being able to rezone the property. If you don't rezone the property you cannot sale the property. The reason is that the value of the property is in it's use. If it is not allowed to be used as it is currently being used the value is not there. If you have been to that neighborhood, I know I have spoken with several of you who have driven that neighborhood. You know what is

there. If it burns to the ground what we are capable of rebuilding in no way, in no way, compensates us for the net present value of all of the rents that we intend to accumulate over the lifetime of those units. Single family houses will not compensate for the current value which is contingent upon it being able to be used as it has been used. The idea of somehow without the rezoning we just march on into time and the whole world is groovy is not accurate. If you don't rezone it you take away one of my fundamental property rights, the right to sale the property. I cannot sale it without the rezoning.

Ostner: I guess I'm not understanding how things can't be sold without the rezoning. They are sold everyday with non-conforming uses.

Collins: You are right. We can resale the property. The difference is the value from resale will not be the same as the value with the rezoning. The current situation, the current transaction is dependent upon the rezoning. If it doesn't go through then what you've basically done, when I purchased the property, part of the value, part of the reason I paid X dollars for that property was because my understanding was the zoning was R-1.5. I would not have paid what I paid had the zoning been different. I had my people, my representatives, my agents go to the city, the only place where you can find out what anything is zoned and said what is it zoned? R-1.5. Are you sure? Yeah I'm sure, look at the big map with the colors, it is R-1.5. We said thank you very much, we turned around, walked out and I handed over a check. At some point, unbeknownst to me, no one calls, no letters, no nothing, the underlying zoning has changed. The value, my dollars went out of my pocket to someone else. No one calls, no one writes. No one tells me that this is an issue until I go to sale the property. Now you are telling me that we took money from you. I'm sorry, because some clerk in some point in the 1980's used the wrong color pen. We appreciate where you are at but you should bare the price of this, this is your responsibility. I'm not exactly sure how I follow that logic. The city can say this is a non-conforming use, it doesn't fit with our master plan and it is too dense. You know what it is too dense by? We have ½ acre, we have six units right now. If we tore those six units down how many units can we build? Two. You are talking about four additional units. When you ask the fire department and the police department if this is a burden, traffic, water, is this a burden? No, no, it's been operating. You permitted the dam thing. It has been operating. The burden is psychological. If you choose to rezone the burden is psychological on my fellow neighbors. If you don't rezone it the burden is financial and it is on me. I respectfully disagree with what you just said. In the end you are asking to take money from me and I didn't participate in the mistake.

Vaught: I can definitely understand the applicant's frustration. Where I have a hard time is the fact that we permitted these facilities to be built, the city did. In a way that is us saying hey, this is what it is. I know in the other case it did come up at the time of construction and it really should've here. I will take a different approach at it. I don't know if RT-12 is too dense for this area. When I step back and look at the overall picture of this neighborhood, the one mile view, within ½ mile you've got RMF-24. You've got all over the place, even abutting Hendrix and Mt. Comfort. You've got heavy C-1 and C-2, your close proximity to the University which is surrounded by RMF-40. You've got RMF-40 on the other side of Garland as well as RMF-24 and RT-12 close to this property. It is close to a school, it is close to shopping, it is close to the University. It seems like if we were looking at a map now like we were on the west side and said what should this be it might be a little more dense than what it is now. On that side, I don't know if I have a problem with RT-12 and the fact that it is surrounded by RSF-4 is a little problematic. As it reads on all of this I'm not sure that a heavier zone would be non-conforming. I would be inclined to vote for this request.

Graves: I would concur with what Commissioner Shackelford and Commissioner Vaught have said, particularly in light of what our City Attorney has also said. While I have sympathy for the concerns of the surrounding residents of the area this certainly isn't out of line with what is already there. However it got there, it is that way now. The RT-12 on Garland and the RMF-24, which is about 1/10 a mile away on Hendrix. Maybe I'm wrong but I would presume that no one on this commission went and thumbed through all of the ordinances of the city before they bought their current residence. That seems to me not to be a reasonable expectation. It wouldn't be a reasonable presumption to assume whatever was told to Mr. Collins' seller was passed along to him in some fashion. This seems to be a situation where there is a hardship and it would be appropriate to rezone as requested.

Shackelford: I will try to be brief but in my opinion there is a hardship. With my current position being involved in financing commercial properties on a daily basis, I would like to clarify a little bit what the problem is. Without the proper zoning you have two major issues. First of all, if somebody came to me wanting to use this property as collateral for a loan, if they don't have the proper zoning there is no way I can guarantee that the value of that property will convey over time. What it might appraise for now would have to be discounted back to what is available in that area which might mean a 75% or greater discount in appraised value so as a collateral value I'm going to have to back that out, which obviously, is a very significant impact to the land owner. The second problem is, our City Attorney touched on it briefly, would be insurance purposes. There is no way that an insurance company is going to underwrite this to the value

that is currently on this location because if it burned down quite simply they couldn't rebuild it. There is no way that a bank is going to loan money on a piece of property that could depreciate up to 75% in value and could not have hazard insurance coverage equal to or equivalent to the current value. That is the uniqueness that the applicant is eluding to as far as the sale is dependent upon the rezoning. There are some very valid points to that being on the other side of that table there is no way that I am going to loan current market value on this property without that rezoning because there is no guarantee that that value is going to convey over time. Without the rezoning I understand this applicant's comments about the inability to sale the property based on my daily experience in this market.

Myers: I live two blocks away from this property and have struggled with this issue since it was presented to us last week. It is an inappropriate use for the neighborhood. However, I think it would be punitive of us to penalize the current owner for a mistake that really no one can take responsibility for. It is a mistake that happened. The property is there. I think he bought it in good faith. I think the concern of myself and my fellow neighbors is to in the future that our nice little single family neighborhood stays that way. Again, the reality is that building is there already and us refusing to change the zoning is not going to remove the building. Let's assume that we have one of our 25 year tornadoes and it takes the entire neighborhood out, that's an extreme possibility I think. Since he bought the property in good faith putting him in a position where if the property were destroyed that he could not rebuild to it's current standard I think is punitive and I think we really ought to grant his request.

Clark: Since we are talking about punitive and promises and faults, I'm looking through the requests that came before with the corner on Hendrix and Garland. How many times did that come through?

Warrick: This particular site has not. There are two other sites within this general area that were both subject to the same mistake on the zoning map that have both come to the Planning Commission and Council requesting rezonings. One of them at the corner of Hendrix and Garland was rezoned. The other request on Deane Street was not rezoned.

Clark: It seems like some promises were made to neighbors at that point that this would stay single family and this wouldn't happen again. I'm concerned about that. Yet at the same time I'm trying to balance the punitive nature to the current property owner.

Myers: What it comes right down to is the building is there.

Clark: Absolutely.

Vaught: On Deane Street there was no building.

MOTION:

Trumbo: To me it is this, the city made a mistake. I believe regardless, the gentleman bought the property understanding that it was zoned this way. He invested his hard earned money into this. To not change the zoning to me would create undue hardship and for those reasons, and for those reasons only, I am going to go ahead and make a motion to approve RZN 04-1103.

Shackelford: I will second and would like to add that this obviously, again, is a recommendation to City Council. It is their call on final zoning issues. I wish them luck as they weigh through this as we have.

Ostner: The comment I would like to make is I was given a land use executive summary by our City Attorney. Under rezoning the substantial discretion is afforded by the City Council. I'm assuming by Planning Commission also when we make decisions on rezonings. There are eleven items there. Many of which I believe this project touches on. The 2020 Plan objectives clearly demonstrate the importance of neighborhoods and the legitimacy of neighborhoods and how they should be protected. Even Ms. Myers agrees that this is not a good part of this neighborhood. Public opposition that is logical and reasonable. We have a strong neighborhood who has voiced it's opposition which I agree with. Decrease in value of adjoining land. A single family home next to this has been decreased in value easily. Not by the zoning but by it being built in my mind.

Myers: We can't do anything about that.

Ostner: We can't do anything about a lot of things tonight. I'm talking about the decisions we are able to make. The compatibility with adjacent zones (spot zoning) and I believe this is a clear example of spot zoning. I'm empathetic that you've been dealt a sour hand but you do have your project built that could be sold in a non-conforming way. I will be voting against the rezoning for those reasons.

Anthes: I think we can all agree that this is a difficult situation in a slew of difficult situations this evening and it is late. I do want to make some comments. I used to own and live in a home down the street from where Commissioner Myers lives now. I'm very sympathetic to in tact neighborhoods in general around the University and in other places. However, I've probably flip flopped my feeling on this one every hour since agenda on Thursday and thought about it really hard. What I've come up with is that I can't look at this in terms of value or loss of value, I have to look at it in terms of land use. I stand on this property and I know that three houses

down there is a multi-family RT-12 development. I know that Garland Avenue is slated by the Highway Department to be four lanes. I've seen the drawings and that is pretty soon. I know that there is a Harps and other shopping and restaurants within two blocks of this property. I can stand on the corner of Hendrix and look over and see College Park and see new construction going up over there. When I think about the car trips and people and the ability to walk to commercial services and what is already happening in this kind of fringe area I think that these couple of streets between Mt. Comfort and Hendrix are a medley. They are one of those medolies that is unique and not really part of the in tact sub neighborhood that is back behind on Maxwell Drive. For that reason and because of a lot of discussion this evening, I believe I will vote to support this rezoning.

Ostner: Thank you. We have a motion and a second. Is there further discussion? Rence?

Roll Call: Upon the completion of roll call the motion to recommend approval of RZN 04-1103 was approved by a vote of 7-2-0 with Commissioners Allen and Ostner voting no.

Thomas: The motion carries by a vote of seven to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1103: (Collins, pp 404) was submitted by Jeffery Collins for property located at 1280 Hendrix Street. 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.

STAFF RECOMMENDATION: Denial.

Division Head	7/6/04 Date	Received in Mayor's Office 7-7-04 Date
City Attorney	7/7/04 Date	
Department Director	Date	Cross Reference:
		Previous Ord/Res#:
Finance & Internal Services Dir.	Date	Orig. Contract Date:
Chief Administrative Officer	7-7-04 Date	Orig. Contract Number:
Mayor	7/7/04 Date	New Item: Yes No

ENTERED 7/6/04

RZN 04-1103
(Collins)

61

New Business
8/3/04
City Council
Meeting

PETITION AGINST REZONING ON HENDRIX STREET

We, the undersigned, oppose the rezoning of the Addington/Hendrix property from RSF-4 residential single family, to RT-12, residential two and three family. We ask that the council consider zoning mistakes made by the city on this street in the past and reject any further spot rezoning.

NAME	DATE	ADDRESS	How long lived at location
1. Emma Sue Stewart	7/19/04	1686 Stephens	34 yrs -
2. Frances S. Talley		1634 Stephens	34 yrs
3. Stan Miller		1620 Stephens	24 years
4. Alpha Novelle Miller		1620 Stephens	
5. Kathy E. Miller		1620 Stephens	
6. Dianna Drain		1619 Stephens Fay. AR 72703	26 yrs.
7. Stephanie M. Drain		1619 Stephens Fayetteville AR 72703	24 yrs
8. Betty L. Stewart		1633 Stephens Ave Fayetteville, Ar. 72703	40 yrs.
9. Mary D. Stewart		1633 Stephens Fayetteville, Ark 72703	40 yr.
10. Sheri Albfeeler		1722 N. Stephens Ave. Fayetteville, AR 72703	
11. Shel Albfeeler		1722 N Stephens Ave Fayetteville AR 72703	
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	NAME	DATE	ADDRESS	# years lived in your home
1.	Kay Phillips	8/1/04	1218 Carter	14 yrs.
2.	[illegible]	8/1/04	"	18 yrs
3.	Joyce Richards	8-2-04	1673 Stephens, Jay.	30 yr
4.	Richard & Richards	8-2-04	1673 Stephens	30 yrs
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NAME	DATE	ADDRESS
1. Lorraine Miller	7-25-04	1157 N. Maxwell - Fay 72703
2. Gary Miller	7-25-04	1157 W. MAXWELL Fay. 72703
3. Sarah Sefton	7/26/04	1631 N. GARLAND FAY 72703
4. [illegible]	7/26/04	1633 N. Garland Fay 72703
5. Zac Pirtle	7/26/04	1134 N. Maxwell Dr. 72703
6. Jon Pirtle	7/26/04	1134 N. Maxwell Dr. 72703
7. Wanda Wilson	7-26-04	1246 So. Maxwell 72703
8. Lucille Wilson	7-26-04	1246 So Maxwell 72703
9. Wanda K. Dixon	7/26/04	1146 N. Maxwell Dr. 72703
10. Deborah M. Vanderly	7-26-04	1170 N Maxwell
11. Kada M. Vanderly	7-26-04	1170 N. Maxwell
12. Nathan Lyons	7/26/04	1206 N. maxwell 72703
13. Terri Phelan	7/26/04	1171 N. MAXWELL 72703
14. Virginia L. Bass	7-27-04	1242 N. Maxwell 72703
15. Jim Shoney	7-27-04	1255 N Maxwell 72703
16. Pauline Baker	7/27/04	1306 N. Maxwell 72703
17. Kevin Brown	7/27/04	1617 N. Maxwell Dr. 72703
18. [illegible]	7/27/04	1617 N. Maxwell Drive 72703

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	NAME	DATE	ADDRESS	
1.	James Fisher	7-25-04	1379 Hendrix	(own)
2.	Lynn Fisher	7-25-04	1379 Hendrix	(own)
3.	Wendy Baker	7/26/04	1363 W. Hendrix	(rent)
4.	[illegible]	7/26/04	1363 W. Hendrix	(rent)
5.	[illegible]	7/26/04	1380 W. Hendrix	(own)
6.	Willie Sizemore		1283 Hendrix	(own)
7.	Geneva Sizemore		1283 Hendrix	(own)
8.	[illegible] (D. WARGO)		1228 HENDRIX ST	(rent)
9.	Megan Ellis		1417 Addington Ave	
10.	Beulah McBroom		1332 Hendrix	(own)
11.				
12.				
13.				
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17.				
18.				

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NAME	DATE	ADDRESS
1. Jake Poney	7/27/04	1631 N Maxwell Dr
2. Rita Paulsen	7/27/04	1609 N. Maxwell Dr.
3. Dick Norley	7/27/04	1245 S Maxwell Dr.
4. Janet McKay	7/31/04	1207 N. Maxwell
5. Robert P. McKay	7/31/04	841 Hazel St
6. Pat McClure	073104	1218 N. Maxwell Dr.
7. Dave Miller	073104	1218 N Maxwell Dr
8. Jim Scarbrough	7/31/04	1227 N. Maxwell DR.
9. D. R. Cross	7/31/04	1207 S. Maxwell
10. [illegible]	7/31/04	1227 S. MAXWELL Dr.
11. [illegible]	7/31/2004	1243 S. Maxwell Dr.
12. [illegible]	7/31/2004	1242 S Maxwell Dr
13. Mei K. Ziegler	7/31/2004	1147 N. Maxwell Dr.
14. Mrs. Frances McCarty		1535 N. Garland
15. Frank McCarty		1535 N. Garland
16. Vida Hines		1135 South Maxwell
17. Deborah Gorchow		1136 S. Maxwell 7/31/04
18. Betty Mahoney		1205 S Maxwell 7/31/04

PETITION AGINST REZONING ON HENDRIX STREET

We, the undersigned, oppose the rezoning of the Addington/Hendrix property from RSF-4 residential single family, to RT-12, residential two and three family. We ask that the council consider zoning mistakes made by the city on this street in the past and reject any further spot rezoning.

NAME	DATE	ADDRESS
1. Jake Perry	7/27/04	1631 N Maxwell Dr
2. Rita Pavlicsan	7/27/04	1609 N. Maxwell Dr.
3. Dick Norby	7/27/04	1245 S Maxwell Dr.
4. Janet McKay	7/31/04	1207 N. Maxwell
5. Robert F. McKay	7/31/04	841 Hazel St
6. Pat McClure	073104	1218 N. Maxwell Dr.
7. David Miller	073104	1218 N. Maxwell Dr
8. Jim Scarborough	7/31/04	1227 N. Maxwell Dr.
9. R. Cross	7/31/04	1207 S. Maxwell
10. Megan Martin	7/31/04	1227 S. Maxwell Dr.
11.	7/31/2004	1243 S. Maxwell Dr.
12. Gala Moss	7/31/2004	1242 S Maxwell Dr
13. Mei K. Ziegler	7/31/2004	1147 N. Maxwell Dr.
14. Mrs. Frances McCarty		1535 N. Garland
15. Frank McCarty		1535 N. Garland
16. Vida Hines		1135 South Maxwell
17. Deborah Gorchow		1136 S. Maxwell 7/31/04
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NAME	DATE	ADDRESS
1. Lorraine Miller	7-25-04	1157 N. Maxwell - Fay 72703
2. Gaggy Miller	7-25-04	1157 W. Maxwell Fay. 72703
3. Sarah Sefton	7/26/04	1631 N Garland FAY 72703
4. [illegible]	7/26/04	1633 N. Garland Fay 72703
5. Zac Pride	7/26/04	1134 N. Maxwell Dr. 72703
6. Jean Pride	7/26/04	1134 N. Maxwell Dr. 72703
7. Wanda Wilson	7-26-04	1246 So. Maxwell 72703
8. Lucille Wilson	7-26-04	1246 So Maxwell 72703
9. Wanda K. Dixon	7/26/04	1146 N. Maxwell Dr. 72703
10. Roberta M. Vanderlip	7-26-04	1170 N Maxwell
11. Kada M. Vanderlip	7-26-04	1170 N. Maxwell
12. Nathan Lyman	7/26/04	1206 N. maxwell 72703
13. Terri Phelan	7/26/04	1171 N. Maxwell 72703
14. Virginia L. Bass	7-27-04	1242 N. Maxwell 72703
15. Jim Shoney	7-27-04	1255 N Maxwell 72703
16. Pauline Baker	7/27/04	1306 N. maxwell 72703
17. Kevin Bass	7/27/04	1617 N. Maxwell Dr. 72703
18. [illegible]	7/27/04	1617 N. Maxwell Drive 72703

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	NAME	DATE	ADDRESS	
1.	James Fiske	7-25-04	1379 Hendrix	(own)
2.	Lynn Fiske	7-25-04	1379 Hendrix	(own)
3.	Wendy Baker	7/26/04	1363 W. Hendrix	(rent)
4.	[illegible]	7/26/04	1363 W. Hendrix	(rent)
5.	[illegible]	7/26/04	1380 W. Hendrix	(own)
6.	Willis Sizemore	1283 Hendrix		(own)
7.	Kenneth Sizemore	1283 Hendrix		(own)
8.	[illegible] (D. VARGO)	1278 HENDRIX ST		(rent)
9.	Megan Eli	1417 Addington Ave		
10.	Beulah McBroom	1332 Hendrix		(own)
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NAME	DATE	ADDRESS	How long lived at address
1. Emma Lee Thomas	7/19/04	1686 Stephens	34 yrs -
2. Frances S. Talley		1634 Stephens	34 yrs.
3. Stan Miller		1620 Stephens	24 years
4. Alpha Novelle Miller		1620 Stephens	
5. Kathy E. Miller		1620 Stephens	
6. Vicenza Drain		1619 Stephens Faye. AR 72703	26 yrs
7. Stephanie M. Drain		1619 Stephens Fayetteville AR 72703	26 yr
8. Betty L. Stewart		1633 Stephens Ave Fayetteville, Ar. 72703	40 yr
9. Mary D. Stewart		1633 Stephens Fayetteville, Ark 72703	40 yr
10. Sheri Albafeel		1722 N. Stephens Ave. Fayetteville, AR 72703	
11. Shel Albafeel		1722 N Stephens Ave Fayetteville AR 72703	
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NAME	DATE	ADDRESS	# years lived in your house
1. Kay Phillips	8/1/04	1218 Carter	14 yrs
2. Stephen C Pulley	8/1/04	"	18 yrs
3. Joyce Richards	8-2-04	1673 Stephens, Jay.	30 yr
4. Richard & Richards	8-2-04	1673 Stephens	30 yrs
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NAME	DATE	ADDRESS
1. Jake Perry	7/27/04	1631 N Maxwell Dr
2. Rita Paulsen	7/27/04	1609 N. Maxwell Dr.
3. Dick Norby	7/27/04	1245 S Maxwell Dr.
4. Janet McKay	7/31/04	1207 N. Maxwell
5. Robert P. McKay	7/31/04	841 Hazel St
6. Sara McClure	073104	1218 N. Maxwell Dr.
7. Dave Miller	073104	128 N. Maxwell Dr
8. Jim Scarborough	7/31/04	1227 N. Maxwell Dr.
9. R. Ross	7/31/04	1207 S. Maxwell
10. [illegible]	7/31/04	1227 S. Maxwell Dr.
11. [illegible]	7/31/2004	1243 S. Maxwell Dr.
12. [illegible]	7/31/2004	1242 S Maxwell Dr
13. Mei K. Ziegler	7/31/2004	1147 N. Maxwell Dr.
14. Mrs. Frances McCarty		1535 N. Garland
15. Frank McCarty		1535 N. Garland
16. Vida Hines		1135 South Maxwell
17. Deborah Gordon		1131 S. Maxwell 7/31/04
18. Betty Mahony		1205 S. Maxwell 7/31/04

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	NAME	DATE	ADDRESS
1.	Lorraine Miller	7-25-04	1157 N. Maxwell - Fay 72703
2.	Gary Miller	7-25-04	1157 W. Maxwell Fay. 72703
3.	Sarah Sefton	7/26/04	1631 N Garland FAY 72703
4.	[illegible]	7/26/04	1633 N. Garland Fay 72703
5.	Zac Pride	7/26/04	1134 N. Maxwell Dr. 72703
6.	[illegible]	7/26/04	1134 N. Maxwell Dr. 72703
7.	Wanda Wilson	7-26-04	1246 So. Maxwell 72703
8.	Lucille Wilson	7-26-04	1246 So Maxwell 72703
9.	Wanda K. Dixon	7/26/04	1146 N. Maxwell Dr. 72703
10.	Charles M. Vanderly	7-26-04	1170 N Maxwell
11.	Rada M. Vanderly	7-26-04	1170 N. Maxwell
12.	Nathan Byrum	7/26/04	1206 N. maxwell 72703
13.	Terri Phelan	7/26/04	1171 N. MAXWELL 72703
14.	Virginia L Bass	7-27-04	1242 N. Maxwell 72703
15.	Jim Strong	7-27-04	1255 N Maxwell 72703
16.	Pauline Baker	7/27/04	1306 N. maxwell 72703
17.	Kevin Byrum	7/27/04	1617 N. Maxwell Dr. 72703
18.	[illegible]	7/27/04	1617 N. Maxwell Drive 72703

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	NAME	DATE	ADDRESS	
1.	James Fisher	7-25-04	1379 Hendrix	(own)
2.	Lynn Fisher	7-25-04	1379 Hendrix	(own)
3.	Wendy Baker	7/26/04	1363 W. Hendrix	(rent)
4.	[illegible]	7/26/04	1363 W. Hendrix	(rent)
5.	[illegible]	7/26/04	1380 W. Hendrix	(own)
6.	Willis Sizemore	1283 Hendrix		(own)
7.	Kenneth Sizemore	1283 Hendrix		(own)
8.	[illegible] (D. WARGO)	1278 HENDRIX ST		(rent)
9.	Meyun Eli	1417 Addington Ave		
10.	Beulah McBroom	1332 Hendrix		(own)
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NAME	DATE	ADDRESS	How long lived at address
1. Emma Sue Hamm	7/19/04	1686 Stephens	34 yrs –
2. Frances L. Talley		1634 Stephens	34 yrs.
3. Stan Miller		1620 Stephens	24 years
4. Alpha Novelle Miller		1620 Stephens	
5. Kathy E. Miller		1620 Stephens	
6. Dianna Drain		1619 Stephens Faye. AR 72703	26 yrs
7. Stephanie M. Drain		1619 Stephens Fayetteville Ar 72703	26 yrs
8. Betty R. Stewart		1633 Stephens Ave Fayetteville, Ar. 72703	40 yrs
9. Mary D Stewart		1633 Stephens Fayetteville, Ark 72703	40 yrs
10. Sheri Albright		1722 N. Stephens Ave. Fayetteville, AR 72703	
11. Shari Albright		1722 N Stephens Ave Fayetteville AR 72703	
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NAME	DATE	ADDRESS	# years lived in your house
1. Kay Phillips	8/1/04	1218 Carter	14 yrs
2. [illegible]	8/1/04	"	18 yrs
3. Joyce Richards	8-2-04	1673 Stephens, Jay.	30 yr
4. [illegible]	8-2-04	1673 Stephens	30 yrs
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NAME	DATE	ADDRESS
1. Jake Poney	7/27/04	1631 N Maxwell Dr
2. Rita Gaulgan	7/27/04	1609 N. Maxwell Dr.
3. Dick Norby	7/27/04	1245 S Maxwell Dr.
4. Janet McKay	7/31/04	1207 N. Maxwell
5. Robert P. McKay	7/31/04	841 Hazel St
6. Pia McClure	073104	1218 N. Maxwell Dr.
7. David Miller	073104	1218 N. Maxwell Dr
8. Jim Scarbrough	7/31/04	1227 n. Maxwell DR.
9. R. Cross	7/31/04	1207 S. Maxwell
10. [illegible]	7/31/04	1227 S. MAXWELL Dr.
11. [illegible]	7/31/2004	1243 S. Maxwell Dr.
12. [illegible]	7/31/2004	1242 S Maxwell Dr
13. Mei K. Ziegler	7/31/2004	1147 N. Maxwell Dr.
14. Mrs. Frances McCarty		1535 N. Goodlad
15. Frank McCarty		1535 N. Goodlad
16. Vida Hines		1135 South Maxwell
17. Deborah Gorchow		1136 S. Maxwell 7/31/04
18. Kelly Mahoney		1205 S Maxwell 7/31/04

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NAME	DATE	ADDRESS
1. Lorraine Miller	7-25-04	1157 N. Maxwell - Fay 72703
2. Gary Miller	7-25-04	1157 W. Maxwell Fay. 72703
3. Sarah Setzer	7/26/04	1631 N Garland Fay 72703
4. [illegible]	7/26/04	1633 N. Garland Fay 72703
5. Jay Pride	7/26/04	1134 N. Maxwell Dr. 72703
6. Jean Pride	7/26/04	1134 N. Maxwell Dr. 72703
7. Wanda Wilson	7-26-04	1246 So. Maxwell 72703
8. Lucille Wilson	7-26-04	1246 So Maxwell 72703
9. Wanda K. Dixon	7/26/04	1146 N. Maxwell Dr. 72703
10. Roberta M. Vanderley	7-26-04	1170 N Maxwell
11. Koda M. Vanderley	7-26-04	1170 N. Maxwell
12. Nathan Bynum	7/26/04	1206 N. maxwell 72703
13. Terri Phelan	7/26/04	1171 N. MAXWELL 72703
14. Virginia L Bass	7-27-04	1242 N. Maxwell 72703
15. Jim Shoney	7-27-04	1255 N Maxwell 72703
16. Pauline Baker	7/27/04	1306 N. maxwell 72703
17. Kevin Bryan	7/27/04	1617 N. Maxwell Dr. 72703
18. [illegible]	7/27/04	1617 N. Maxwell Drive 72703

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	NAME	DATE	ADDRESS	
1.	James Fisher	7-25-04	1379 Hendrix	(own)
2.	Lynn Fisher	7-25-04	1379 Hendrix	(own)
3.	Wendy Baker	7/26/04	1363 W. Hendrix	(rent)
4.	[illegible]	7/26/04	1363 W. Hendrix	(rent)
5.	[illegible]	7/26/04	1380 W. Hendrix	(own)
6.	Willis Sizemore		1283 Hendrix	(own)
7.	Kenneth Sizemore		1283 Hendrix	(own)
8.	[illegible] (D. VARGO)		1278 HENDRIX ST	(rent)
9.	Megan Eli		1417 Addington Ave	
10.	Beulah McBroom		1332 Hendrix	(own)
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NAME	DATE	ADDRESS	
1. Emmett Hanna	7/19/04	1686 Stephens	How long lived at address 34 yrs -
2. Frances S. Talley		1634 Stephens	34 yrs.
3. Stan Miller		1620 Stephens	24 years
4. Alpha Novelle Miller		1620 Stephens	
5. Kathy E. Miller		1620 Stephens	
6. Dianna Drain		1619 Stephens Faye. AR 72703	26 yrs
7. Stephanie M. Drain		1619 Stephens Fayetteville Ar 72703	26 yr
8. Betty R. Stewart		1633 Stephens Ave Fayetteville, Ar. 72703	40 yrs
9. Max D Stewart		1633 Stephens Fayetteville, Ark 72703	40 yrs
10. Sheri Albfeel		1722 N. Stephens Ave. Fayetteville, AR 72703	
11. Shari Albfeel		1722 N Stephens Ave Fayetteville AR 72703	
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NAME	DATE	ADDRESS	# years lived in your home
1. Kay Phillips	8/1/04	1218 Carter	14 yrs
2. [illegible]	8/1/04	"	18 yrs
3. Joyce Richards	8-2-04	1673 Stephens Pkwy.	30 yr
4. Richard & Richards	8-2-04	1673 Stephens	[illegible]
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1. Jake Perry	7/27/04	1631 N. Maxwell Dr.
2. Rita Paulsen	7/27/04	1609 N. Maxwell Dr.
3. Dunk Norley	7/27/04	1245 S Maxwell Dr.
4. Janet McKay	7/31/04	1207 N. Maxwell
5. Robert P. McKay	7/31/04	841 Hazel St
6. Pat McClure	073104	1218 N. Maxwell Dr.
7. David Miller	073104	1218 N. Maxwell Dr
8. Jim Scarbrough	7/31/04	1227 N. Maxwell Dr.
9. D. R. Cross	7/31/04	1207 S. Maxwell
10. [illegible]	7/31/04	1227 S. Maxwell Dr.
11. [illegible]	7/31/2004	1243 S. Maxwell Dr.
12. [illegible]	7/31/2004	1242 S Maxwell Dr
13. Mei K. Ziegler	7/31/2004	1147 N. Maxwell Dr.
14. Mrs. Frances McCarty		1535 N. Garland
15. Frank McCarty		1535 N. Garland
16. Vida Hines		1135 South Maxwell
17. Deborah Gorelnik		1136 S. Maxwell 7/31/04
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5. Zac Pride	7/26/04	1134 N. Maxwell Dr. 72703
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8. Lucille Wilson	7-26-04	1246 So Maxwell 72703
9. Wanda K. Dixon	7/26/04	1146 N. Maxwell Dr. 72703
10. Charles M Vanderley	7-26-04	1170 N Maxwell
11. Kada M. Vanderley	7-26-04	1170 N. Maxwell
12. Nathan Lyman	7/26/04	1206 N. maxwell 72703
13. Terri Phelan	7/26/04	1171 N. MAXWELL 72703
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2.	Lynn Fisher	7-25-04	1379 Hendrix	(own)
3.	Wendy Baker	7/26/04	1363 W. Hendrix	(rent)
4.	[illegible]	7/26/04	1363 W. Hendrix	(rent)
5.	[illegible]	7/26/04	1380 W. Hendrix	(own)
6.	Wilkie Sizemore		1283 Hendrix	(own)
7.	Geneva H. Sizemore		1283 Hendrix	(own)
8.	[illegible] (D. WARGO)		1278 HENDRIX ST	(rent)
9.	Meyun Eli		1417 Addington Ave	
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3. Stan Miller		1620 Stephens	24 years
4. Alpha Novelle Miller		1620 Stephens	
5. Kathy E. Miller		1620 Stephens	
6. Dianna Drain		1619 Stephens Faye. AR 72703	26 yrs
7. Stephanie M. Drain		1619 Stephens Fayetteville Ar 72703	26 yr
8. Betty R. Stewart		1633 Stephens Ave Fayetteville, Ar. 72703	40 yr
9. May D Stewart		1633 Stephens Fayetteville, Ark 72703	40 yr
10. Sheri Albfeeler		1722 N. Stephens Ave. Fayetteville, AR 72703	
11. Shel Albfeeler		1722 N Stephens Ave Fayetteville AR 72703	
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	NAME	DATE	ADDRESS	# years lived in your home
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3.	Joyce Richards	8-2-04	1673 Stephens, Fay.	30 yr
4.	Roland & Richards	8-2-04	1673 Stephens	30 yrs
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	NAME	DATE	ADDRESS
1.	Jake Poney	7/27/04	1631 N Maxwell Dr
2.	Rita Sanderson	7/27/04	1609 N. Maxwell Dr.
3.	Dick Norley	7/27/04	1245 S Maxwell Dr.
4.	Janet Ulrich	7/31/04	1207 N. Maxwell
5.	Robert P. McKay	7/31/04	841 Hazel St
6.	Sara McClure	073104	1218 N. Maxwell Dr.
7.	David Miller	073104	1218 N. Maxwell Dr
8.	Jim Scarbrough	7/31/04	1227 n. Maxwell DR.
9.	R. R. Ross	7/31/04	1207 S. Maxwell
10.	[illegible]	7/31/04	1227 S. MAXwell Dr.
11.	[illegible]	7/31/2004	1243 S. Maxwell Dr.
12.	[illegible]	7/31/2004	1242 S Maxwell Dr
13.	Mei K. Ziegler	7/31/2004	1147 N. Maxwell Dr.
14.	Mrs. Frances McCarty		1535 N. Garland
15.	Frank McCarty		1535 N. Garland
16.	Vida Hines		1135 South Maxwell
17.	Deborah Goodwin		1131 S. Maxwell 7/31/04
18.	Betty Mahoney		1205 S Maxwell 7/31/04

PETITION AGINST REZONING ON HENDRIX STREET

We, the undersigned, oppose the rezoning of the Addington/Hendrix property from RSF-4 residential single family, to RT-12, residential two and three family. We ask that the council consider zoning mistakes made by the city on this street in the past and reject any further spot rezoning.

NAME	DATE	ADDRESS
1. Lorraine Miller	7-25-04	1157 N. Maxwell - Fay 72703
2. Gary Miller	7-25-04	1157 W. MAXWELL Fay. 72703
3. Sarah Setzer	7/26/04	1631 N GARLAND FAY 72703
4. [illegible]	7/26/04	1633 N. Garland Fay 72703
5. Lacy Pride	7/26/04	1134 N. Maxwell Dr. 72703
6. Jere Pride	7/26/04	1134 N. Maxwell Dr. 72703
7. Wanda Wilson	7-26-04	1246 So. Maxwell 72703
8. Lucille Wilson	7-26-04	1246 So Maxwell 72703
9. Wanda K. Dixon	7/26/04	1146 N. Maxwell Dr. 72703
10. Roberta M. Vanderlip	7-26-04	1170 N Maxwell
11. Kada M. Vanderlip	7-26-04	1170 N. Maxwell
12. Nathan Byrum	7/26/04	1206 N. maxwell 72703
13. Terri Phelan	7/26/04	1171 N. MAXWELL 72703
14. Virginia L Bass	7-27-04	1247 N. Maxwell 72703
15. Jim Shoney	7-27-04	1255 N Maxwell 72703
16. Pauline Parker	7/27/04	1306 N. maxwell 72703
17. Kevin Byrum	7/27/04	1617 N. Maxwell Dr. 72703
18. [illegible]	7/27/04	1617 N. Maxwell Drive 72703

PETITION AGINST REZONING ON HENDRIX STREET

We, the undersigned, oppose the rezoning of the Addington/Hendrix property from RSF-4 residential single family, to RT-12, residential two and three family. We ask that the council consider zoning mistakes made by the city on this street in the past and reject any further spot rezoning.

	NAME	DATE	ADDRESS	
1.	James Fisher	7-25-04	1379 Hendrix	(own)
2.	Wynn Fisher	7-25-04	1379 Hendrix	(own)
3.	Wendy Baker	7/26/04	1363 W. Hendrix	(rent)
4.	[illegible]	7/26/04	1363 W. Hendrix	(rent)
5.	[illegible]	7/26/04	1380 W. Hendrix	(own)
6.	Willis Sizemore		1283 Hendrix	(own)
7.	Geneva H. Sizemore		1283 Hendrix	(own)
8.	D.M. Wa[illegible] (D. WARGO)		1278 HENDRIX ST	(rent)
9.	Megan Ellis		1417 Addington Ave	
10.	Beulah McBroom		1332 Hendrix	(own)
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				

PETITION AGINST REZONING ON HENDRIX STREET

We, the undersigned, oppose the rezoning of the Addington/Hendrix property from RSF-4 residential single family, to RT-12, residential two and three family. We ask that the council consider zoning mistakes made by the city on this street in the past and reject any further spot rezoning.

NAME	DATE	ADDRESS	How long lived at residence
1. Emma Sue Tilman	7/19/04	1686 Stephens	34 yrs -
2. Frances S. Talley		1634 Stephens	34 yrs.
3. Stan Miller		1620 Stephens	24 years
4. Alpha Novelle Miller		1620 Stephens	
5. Kathy E. Miller		1620 Stephens	
6. Dianna Drain		1619 Stephens Faye. AR 72703	26 yrs
7. Stephanie M. Drain		1619 Stephens Fayetteville Ar 72703	26 yrs
8. Betty R. Stewart		1633 Stephens Ave Fayetteville, Ar 72703	40 yrs
9. Mary B. Stewart		1633 Stephens Fayetteville, Ark 72703	40 yrs
10. Sheri Allfeel		1722 N. Stephens Ave. Fayetteville, AR 72703	
11. Shel Alfeel		1722 N Stephens Ave Fayetteville AR 72703	
12.			
13.			
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16.			
17.			
18.			

PETITION AGINST REZONING ON HENDRIX STREET

We, the undersigned, oppose the rezoning of the Addington/Hendrix property from RSF-4 residential single family, to RT-12, residential two and three family. We ask that the council consider zoning mistakes made by the city on this street in the past and reject any further spot rezoning.

NAME	DATE	ADDRESS	# years lived in your home
1. Kay Phillips	8/1/04	1218 Carter	14 yrs.
2. [illegible]	8/1/04	"	18 yrs
3. Joyce Richards	8-2-04	1673 Stephens, Fay.	30 yr
4. Richard & Richards	8-2-04	1673 Stephens	30 yrs
5.			
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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 13, 2004

Subject: Annexation for Jones (ANX 04-1071)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Jones. This action will incorporate a 5.66 acre tract of land contiguous with the city limits into the City of Fayetteville.

BACKGROUND

The subject property contains approximately 5.66 acres of vacant property located south of Huntsville Road and west of Roberts Road. Stonebridge Meadows Subdivision Phase I is adjacent to the property to the west where the property is adjoins city limits.

The applicant intends to develop a single family residential subdivision within the City of Fayetteville. Connectivity would be provided to this property from Stonebridge Meadows Phase I. The applicant requests annexation into the City of Fayetteville. This annexation request was tabled by the Planning Commission on June 14, 2004 at the request of the applicant. The applicant previous requested annexation of a larger tract that if annexed would create an island of unincorporated property within the City of Fayetteville. The applicant has since revised the legal descriptions and received an amended order of annexation so as not to create an island.

DISCUSSION

On July 12, 2004, the Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

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.

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. One.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 04-1071

A PART OF THE SW ¼ OF THE NW ¼ OF SECTION 19, T-16-N, R-29-W OF THE 5TH PRINCIPAL MERIDIAN, DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 19, AND CONTINUING THENCE ALONG A COMMON LINE BETWEEN RANGE 29 WEST AND RANGE 30 WEST N02-46-52 E 1320.00 FEET TO THE SOUTHWEST CORNER OF THE NW ¼ OF THE SW ¼ OF SAID SECTION 19, AND CONTINUING THENCE N02-46-52E 515.60 FEET (DEED CALL 508.70 FEET) AND S87-13-08 E 265.56 FEET (DEED CALL 284.61 FEET) TO THE INTERSECTION OF THE CENTERLINE (DEED CALL TO CENTERLINE OF SAID ROAD, IN LINE WITH FENCE TO NORTH) OF COUNTY ROAD NO. 170 AND A NORTH/SOUTH FENCE; SAID POINT BEING NEAR THE SOUTHEAST CORNER OF STONE BRIDGE MEADOWS SUBDIVISION, AND CONTINUING THENCE ALONG EAST BOUNDARY OF SAID SUBDIVISION N02-46-01 E 884.49 FEET (DEED CALL 884.84 FEET) TO THE POINT OF BEGINNING; SAID POINT BEING A FOUND IRON PIPE AND AN IRON RE BAR ON THE EAST BOUNDARY OF SAID SUBDIVISION; THENCE N 02-46-01 E 679.44 FEET ALONG SAID EAST BOUNDARY OF SUBDIVISION TO AN EXISTING DEED CALLED FENCE THENCE ALONG SAID DEED CALLED FENCE S87-15-25 E 281.00 FEET; THENCE S02-46-01 W 398.03 FEET; THENCE S87-20-26E 198.67 FEET TO AN EXISTING FENCE CORNER; THENCE 02-28-59W 281.00 FEET TO AN EXISTING FENCE ON THE SOUTHERN PROPERTY BOUNDARY; THENCE CONTINUING ALONG SAID FENCE N87-20-26 W 481.09 FEET TO THE POINT OF BEGINNING, CONTAINING 5.66 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of July 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
THRU:	Dawn Warrick, AICP, Zoning & Development Administrator
DATE:	July 7, 2004

ANX 04-1071: Annexation (JONES, 569): Submitted by MEL MILHOLLAND for property located at 1341 ROBERTS ROAD AND EAST OF STONEBRIDGE ADDITION. The property is in the Planning Area and contains approximately 5.66 acres. The request is to annex the subject property into the City of Fayetteville.
Property Owner: VERA JONES 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**	
	Ø Approved	**O Denied**
Date: July 12, 2004	Clark/Shackelford² 8-0-0	
CITY COUNCIL ACTION:	**Required** **YES**	
	O Approved	**O Denied**
Date: August 03, 2004		

BACKGROUND:

This annexation request was tabled by the Planning Commission on June 14, 2004 at the request of the applicant. The applicant previous requested annexation of 7.47 acre tract that if annexed would create an island of unincorporated property within the City of Fayetteville. The applicant has since revised the legal descriptions and received an amended order of annexation so as not to create an island.

Property description: The subject property contains approximately 5.66 acres of vacant property located south of Huntsville Road and west of Roberts Road. Stonebridge Meadows Subdivision Phase I is located adjacent to the property to the west. The property is adjacent to city limits to the west.

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 5.66 acres to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning request, RZN 04-1072, 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. Should the annexation request be approved, 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	Planning Area
South	Single family residential	Planning Area
East	Single family residential	RSF-4, Residential Single Family, 4 units/acre Planning Area
West	Single family residential	RSF-4, Residential Single Family, 4 units/acre

INFRASTRUCTURE:

Streets: Street improvements will have to be extended through the site for any future development. Roberts Road will also need to be further improved the length of the project frontage.

Surrounding Master Street Plan Streets:
North: Huntsville Rd. (principal arterial)
South: Goff Farm Rd. (collector)
East: Roberts Rd. (collector)
West: Eastpoint Dr. (local; undeveloped street connection to Stonebridge Meadows Subd. Phase I)

Water: The property has access to an 8" water main on the west side of this property that was stubbed out from the adjacent subdivision. There is also a 6" water main on the east side along Roberts Road. An extension of the water main will be required to provide water supply and fire protection within any development on this property. The main will have to loop between the existing 8" and 6" water mains.

Sewer: The site currently has access to an 8" sewer main on the west side of this property that was stubbed out from the adjacent subdivision. Sewer will need to be extended within the development.

Fire: The subject property is located 3.18 miles from Fire Station #5. Normal driving time is 8-9 minutes. The property is located 2.32 miles from the future Fire Station #3. Normal driving time is 5-6 minutes.

Police: It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services.

If an outlet onto Roberts Road is planned, improvements to Roberts Road should be considered. If no outlet is planned, then this should not 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; however it will create the extension of a peninsula east of Stonebridge Meadows Phase I. The City limits extend further east and south of the subject property in this vicinity.**

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 west boundary.**

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 currently a vacant field. However, future development plans may include the extension of the subdivision to the west. The applicant's representative attempted to contact adjacent owners to see if they wished to join in this annexation and submitted a letter of each owner's response (see attached).**

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 8 to 9 minutes for fire protection from Fire Station #5 and 5 to 6 minutes from the future Fire Station #3. The property has access to an 8" water main to the west. The line was stubbed out from the adjacent subdivision. There is also a 6" water main on the east side along Roberts Road. An extension of the water main will be required to provide water supply and fire protection within any development on this property. The main will have to loop between the existing 8" and 6" water mains.**

The site currently has access to an 8" sewer main on the west side of this property that was stubbed out from the adjacent subdivision. Sewer will need to be extended within the 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: **Wetlands, floodplain, and slope have not been identified on this property. Staff has received comment from a former property owner with regard to concerns of on-site drainage. This site's conditions will be best addressed through application of the City's stormwater, grading, and drainage regulations.**

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.**

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 of this property will create acceptable boundary for the City of Fayetteville, avoiding the creation of any island or peninsula.**

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 July 12, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8202

ENGINEERING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Matt Casey, Staff Engineer
DATE: June 08, 2004

ANX 04-1071: Annexation (JONES, 569): Submitted by MEL MILHOLLAND for property located at 1341 ROBERTS ROAD AND EAST OF STONEBRIDGE ADDITION. The property is in the Planning Area and contains approximately 5.66 acres. The request is to annex the subject property into the City of Fayetteville.
Property Owner: VERA JONES Planner: SUZANNE MORGAN

RZN 04-1072: Rezoning (JONES, 569): Submitted by MEL MILHOLLAND for property located at 1341 ROBERTS ROAD. The property is in the Planning Area and contains approximately 5.66 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: VERA JONES 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 has access to an 8" water main on the west side of this property that was stubbed out from the adjacent subdivision. There is also a 6" water main on the east side along Roberts Road. An extension of the water main will be required to provide water supply and fire protection within any development on this property. The main will have to loop between the existing 8" and 6" water mains.

The site currently has access to an 8" sewer main on the west side of this property that was stubbed out from the adjacent subdivision. Sewer will need to be extended within the development.

Street improvements will have to be extended through the site for the development. Roberts Road will also need to be improved the length of the project frontage.

Name Matt Casey Department Engineering

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

RECEIVED
JUN 0 9 2004
PLANNING DIV.

POLICE DEPARTMENT

June 8, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 04-1071 (Jones, pp 569)** and Rezoning **RZN 04-1072 (Jones, pp 569)** submitted by Millholland Company for property located at 1341 Roberts Road and East of Stonebridge Addition 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.

If an outlet onto Roberts Road is planned, improvements to Roberts Road should be considered. If no outlet is planned, then this should not create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

ETTEVILLE POLICE DEPARTMENT
BOX 1988
ETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out	Projected Fire/Other Calls for Service at Maximum Build Out	Projected EMS Calls for Service at Maximum Build Out
RZN 04-1072	Jones	ANX 04-1071	7.47	FS 5	3.18 miles	8-9 minutes	8-10 minutes	3/year	1/year	2/year
				Future FS 3	2.32 miles	5-6 minutes	5-7 minutes	3/year	1/year	2/year
RZN 04-1074	Ames Trust	ANX 04-1073	1.97	FS 5	3.17 miles	7-8 minutes	7-8 minutes	0.68/year	0.27/year	0.41/year
				Future FS 3	2.34 miles	4-5 minutes	4-5 minutes	0.68/year	0.27/year	0.41/year
PZD 04-1075	Cambridge Crossing		13.47	FS 4	1.39 miles	4-5 minutes	4-5 minutes	13/year	5/year	8/year

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF THE PETITION OF CERTAIN PROPERTY TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

NO. CC 2004

FILED
'04 MAR 31 AM 8 25
KAREN CONLEY PRITCHARD
CIR. & PROBATE CLERK
WASHINGTON CO. ARK.

PETITION TO ANNEX TERRITORY TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

Comes now the petitioner, Vera Jones, and for her Petition to annex certain property into the City of Fayetteville, Washington, County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. States as follows:

1. That petitioner, Vera Jones, owns the real property described on the Plat Map, Exhibit "A", attached hereto and made a part hereof, and said property is situated in Washington County, Arkansas, and is contiguous with the City of Fayetteville, Arkansas, and is within the City of Fayetteville, School District.

2. That the petitioner desires that her property become part of the City of Fayetteville, Arkansas, and petitions the County Judge for annexation of the property into the City of Fayetteville.

3. That a true and correct presentation of the property and how it is contiguous to the City of Fayetteville, Arkansas is shown on the Plat Map, Exhibit "A", attached hereto.

4. That the petitioner herein desires that the property become part of the City of Fayetteville, Washington County, Arkansas, and petitioner states that she will do any and all legal acts necessary to accomplish the objective set forth herein.

THEREFORE, petitioner respectfully prays that this Court set a hearing, and after notice of such hearing, that the County Judge sign an Order annexing the above described real property into the City of Fayetteville, Washington County, Arkansas, and to order such other relief as is appropriate under applicable law.

Respectfully submitted this 20 day of March, 2004.

Betty L. Galloway
Notary Public – Notary Seal
State Of Arkansas
Washington County
My Commission Expires June 1, 2013

Vera Jones

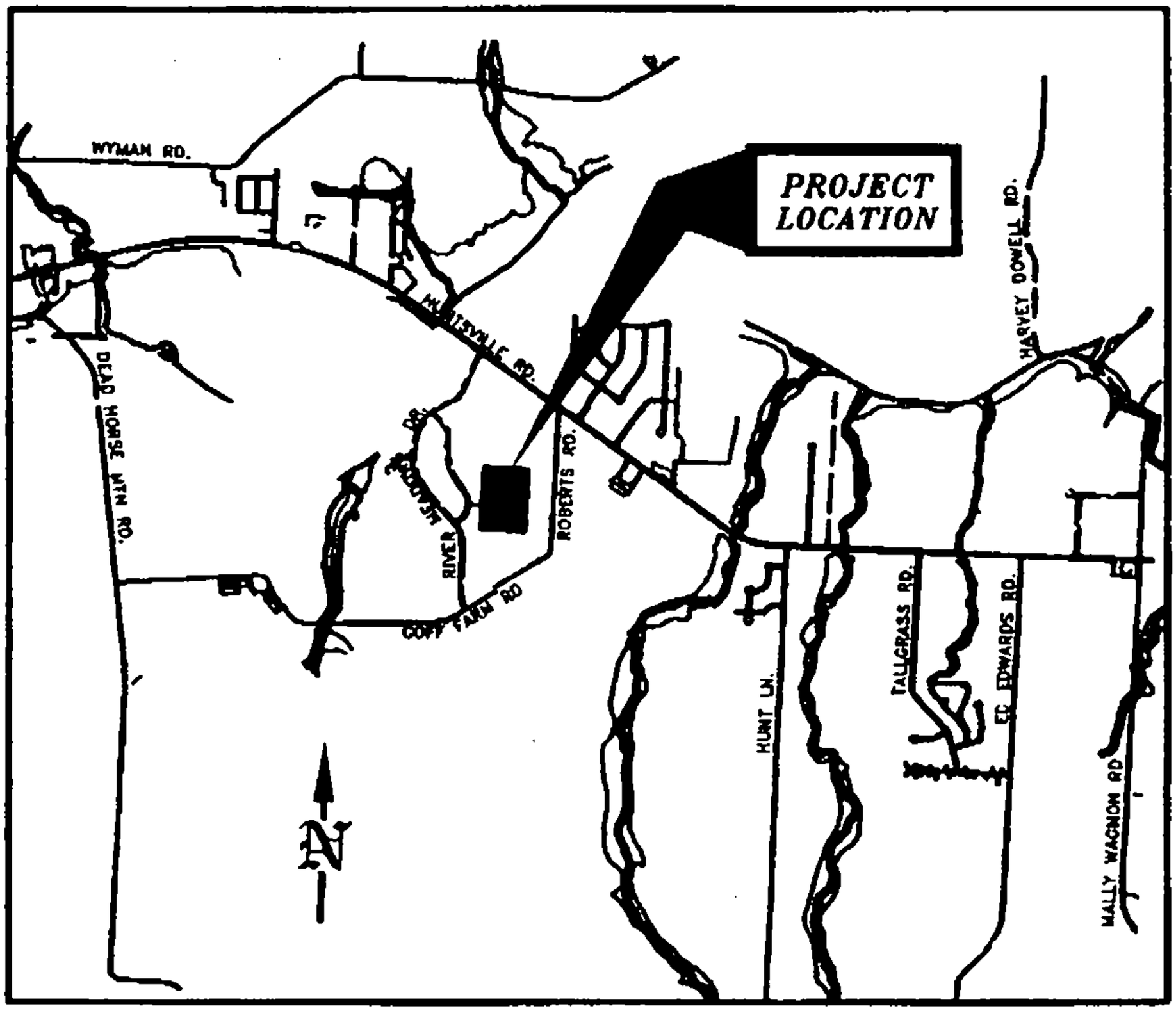
SUBSCRIBED AND SWORN TO before me, a Notary Public,

on this the 20th day of March, 2004.

My Commission Expires:

6-1-2013

EXHIBIT "A"



JONES VICINITY MAP E-695

N.T.S.

A part of the SW1/4 of the NW1/4 of Section 19, T-16-N, R-29-W of the 5th Principal Meridian, described as commencing at the Southwest Corner of said Section 19, and continuing thence along a common line between Range 29 West and Range 30 West N 02-46-52 E 1320.00 feet to the Southwest Corner of the NW1/4 of the SW1/4 of said Section 19, and continuing thence N 02-46-52 E 515.60 feet (Deed Call 508.70 feet) and S 87-13-08 E 265.56 feet (Deed Call 284.61 feet) to the intersection of the centerline (Deed call to centerline of said Road, in line with fence to North) of County Road No. 170 and a North/South fence; said point being near the Southeast Corner of Stone Bridge Meadows Subdivision, and continuing thence along East Boundary of said Subdivision N 02-46-01 E 884.49 feet (Deed Call 884.84 feet) to the point of beginning; said point being a found iron pipe and an iron re-bar on the East Boundary of said Subdivision;

Thence N 02-46-01 E 679.44 feet along said East Boundary of Subdivision to an existing Deed Called fence;

Thence along said Deed Called fence N 87-15-25 E 477.72 feet to a Deed Called fence;

Thence along said Deed Called fence S 02-28-59 W 678.75 feet to an existing fence corner;

Thence along existing fence N 87-20-26 W 205.21 feet to an existing fence corner;

Thence continuing along said fence N 87-20-26 W 275.88 feet to the point of beginning, containing 7.474 acres, more or less, Washington County, Arkansas.

IN THE COUNTY COURT OF WASHINGTON COUNTY

FILED

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE CITY OF FAYETTEVILLE, ARKANSAS

'04 JUN 24 AM 11 21

KAREN COMBS PRITCHARD
PROBATE CLERK
WASHINGTON CO. ARK.

NO. CC 2004-15

AMENDMENT TO THE ORDER OF ANNEXATION

WHEREAS, the Petition in this cause was filed on the 31st day of March, 2004 at which time this Court fixed the 6th day of May, 2004, at 10:00 a.m., as the date and time of hearing for said cause, and that a full thirty (30) days notice of hearing was given as required by law and the proof of publication of said notice is now on file with the Clerk of this Court and the Court has jurisdiction of this cause;

WHEREAS, the County Judge signed the original Order of Annexation with respect to this cause on the 6th day of May, 2004; and

WHEREAS, after receiving a copy of the original Order of Annexation, the City of Fayetteville, Arkansas Planning Staff required the Petitioner to amend the legal description of the real property so as to not create an island before it will recommend approval of the annexation.

NOW THEREFORE:

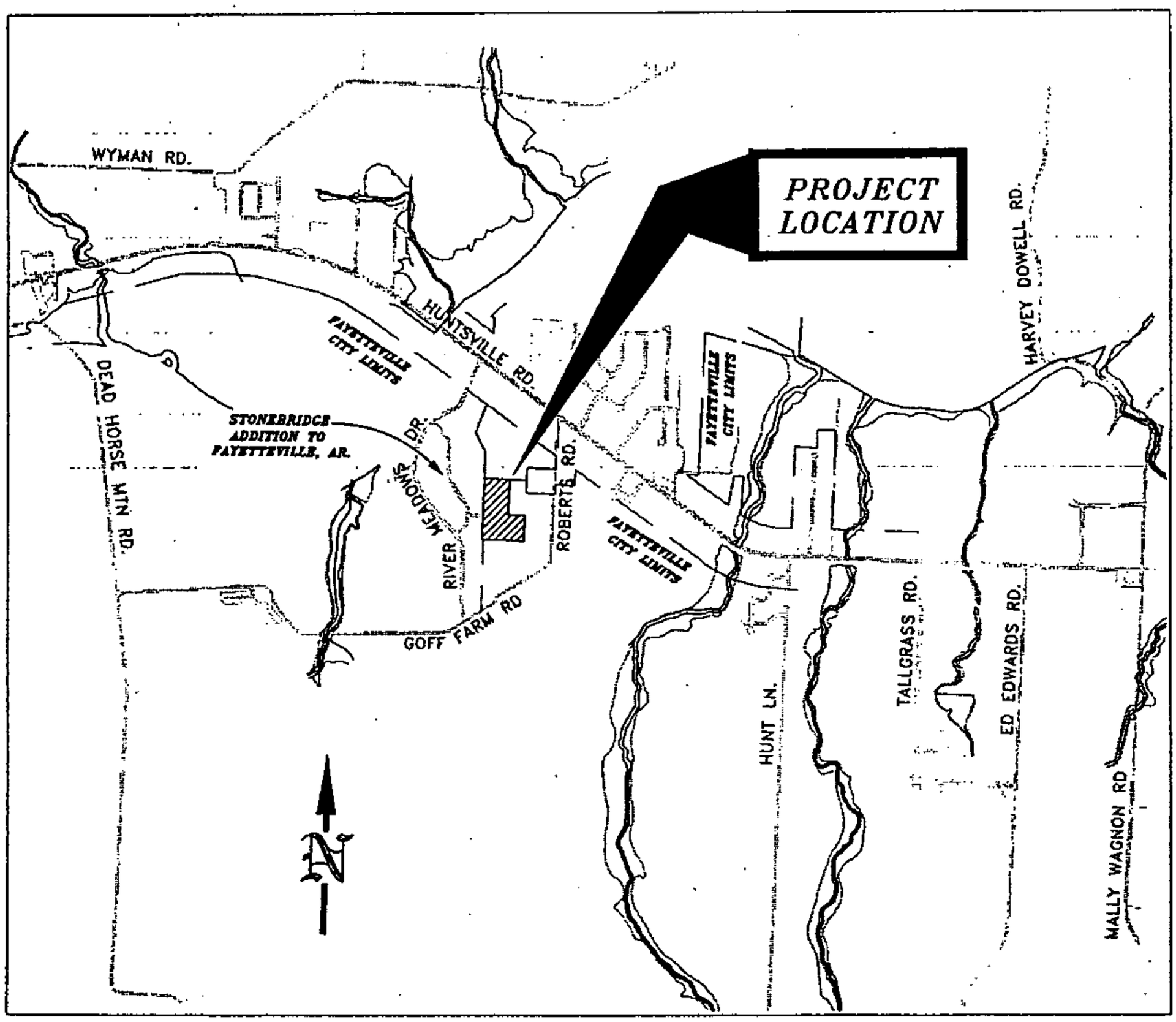
The original Order of Annexation is amended to replace the real property map and description set forth in the original Order of Annexation with the amended real property map and description set forth in Attachment A to this Amendment to the Order of Annexation.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that this Amendment to the original Order of Annexation is approved and shall be made a part of the Order of Annexation as of the date set forth below.

IT IS SO ORDERED this 24th day of June, 2004.

The Honorable Jerry Hunton
Washington County Judge

EXHIBIT "A"



JONES VICINITY MAP E-695

N.T.S.

A part of the SW1/4 of the NW1/4 of Section 19, T-16-N, R-29-W of the 5th Principal Meridian, described as commencing at the Southwest Corner of said Section 19, and continuing thence along a common line between Range 29 West and Range 30 West N 02-46-52 E 1320.00 feet to the Southwest Corner of the NW1/4 of the SW1/4 of said Section 19, and continuing thence N 02-46-52 E 515.60 feet (Deed Call 508.70 feet) and S 87-13-08 E 265.56 feet (Deed Call 284.61 feet) to the intersection of the centerline (Deed call to centerline of said Road, in line with fence to North) of County Road No. 170 and a North/South fence; said point being near the Southeast Corner of Stone Bridge Meadows Subdivision, and continuing thence along East Boundary of said Subdivision N 02-46-01 E 884.49 feet (Deed Call 884.84 feet) to the point of beginning; said point being a found iron pipe and an iron re-bar on the East Boundary of said Subdivision;

Thence N 02-46-01 E 679.44 feet along said East Boundary of Subdivision to an existing Deed Called fence;
Thence along said Deed Called fence S 87-15-25 E 281.00 feet ;
Thence S 02-46-01 W 398.03 feet ;
Thence S 87-20-26 E 198.67 feet to an existing fence ;
Thence S 02-28-59 W 281.00 feet to an existing fence on the southern property boundary;
Thence continuing along said fence N 87-20-26 W 481.09 feet to the point of beginning, containing 5.66 acres, more or less, Washington County, Arkansas.

Dear Fayetteville Planning Commission,

My name is Vera Jones, and I live on 1341 Roberts Rd. My property is presently under contract for development. It is my understanding that the city of Fayetteville has an ordinance stating that they choose not to annex any property that will leave an island of county property surrounded by city property. My neighbors north of me will be left in an island when my property is annexed according to my understanding of this ordinance. If any one of these property owners chooses not to be annexed into the city of Fayetteville, my property cannot be annexed.

This will render me unable to sell my property, and therefore leave me completely helpless. I am a widow who lives alone, and I have no children who can take care of me. I suffer from diabetes and as a result am physically handicapped from the loss of a leg. My land is the only sufficient financial resource to help provide myself with adequate care. If I cannot close the sale of this property, I do not know what I will do. I understand the predicament that this ordinance causes for you in making your decision on the annexation of my property alone. But please try to understand the hopelessness of my position that your ordinance has caused me. I beg you, please, make your decision based upon what you feel is morally as well as legally just, and when you make your decision, remember that the outcome will have a critical impact on the rest of my life.

I feel as though my entire life has been reduced to nothing worthwhile when I am taken prisoner and placed at the mercy of someone else who will make the decision that will seal the destiny of my last days on this earth. I worked faithfully and paid my taxes and purchased this land as an investment to secure my financial state of affairs, and now an ordinance has the sway to take everything away that I worked hard and honestly for over so many years. The rest of my life depends on your decision; your vote is critical to my wellbeing. Thank you for taking the time to hear my side of the story, and I pray that your heart leads you to the right decision.

Sincerely,

Vera Jones

Vera Jones

Property owners that are located in the island created by the annexation of Vera Jones's property on 1341 Roberts Rd. and their responses to annexation.

1. Mrs. Doris Roberts- I contacted her on June 7th 2004. In her response, she stated that she did not think that they would be interested because their homes were already in the city of Fayetteville, but she would let her son make the decision. I asked for his telephone number to contact him, but she said that he had an unlisted phone number and that he did not want her to give it out. I then asked her to have him call me if he was interested in being annexed; I left her my home, office, and cell number and have not received a response.

2. Eldon Roberts- He is the aforementioned son of Mrs. Roberts and is a landowner in the island as well.

3. Mrs. Hunt- I contacted her on June 7th 2004. I explained the annexation to her and she responded that she was already in the city. I then told her that her land was still in the county and would need to be annexed for development. She said that she was going to leave her property to her heirs, and had no interest in annexation.

4. Mrs. Layne- I contacted her June 7th 2004 as well. I explained the problem that the island created for Mrs. Jones, and her response was similar to Mrs. Hunt's; her home was already in the city and she was going to leave her property to her heirs.

Johnny Sizemore
CENTURY 21 Galloway

RECEIVED
JUN 14 2004
PLANNING DIV.

FILE

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

REGISTRATIONS:
PE: AR, MO
PLS: AR

June 14, 2004

Project No. E-695

FAYETTEVILLE
125 West Mountain Street
Fayetteville, Arkansas 72701

ATTN: Dawn Warrick, Planning Division
RE: Jones Annexation and Rezoning ANX 04-1071 and RZN 04-1072
Ames Trust Annexation and Rezoning ANX 04-1073 and RZN 04-1074

Dear Dawn:

As discussed with you this afternoon, the property Owner of the Jones Tract, Vera Jones; and representative for the Ames Family Trust Tract, with MCO's Client, Clint McDonald, are asking that the above referenced partition requests be TABLED to provide time to conduct additional research in property boundary re-alignments. Modification of the presented configuration may be possible that will alleviate the issue of creating an island of unincorporated property within City Limits.

The proposed modification of property lines presents other concerns that need to be addressed and issues resolved before presenting for consideration to the Planning Commission. Tabling of these requests will provide us the time needed to properly resolve new issues with the County concerning the proposed boundary adjustment and with the City's Engineering Division concerning drainage detention.

It is the intention to present the Planning Commission with conditions that are supported by Staff.

Your cooperation and willingness to assist in this matter are appreciated.

Sincerely,
Milholland Company

For:
Thomas M. Jefcoat, RLA
Projects Manager

cc: Clint McDonald, Vera Jones

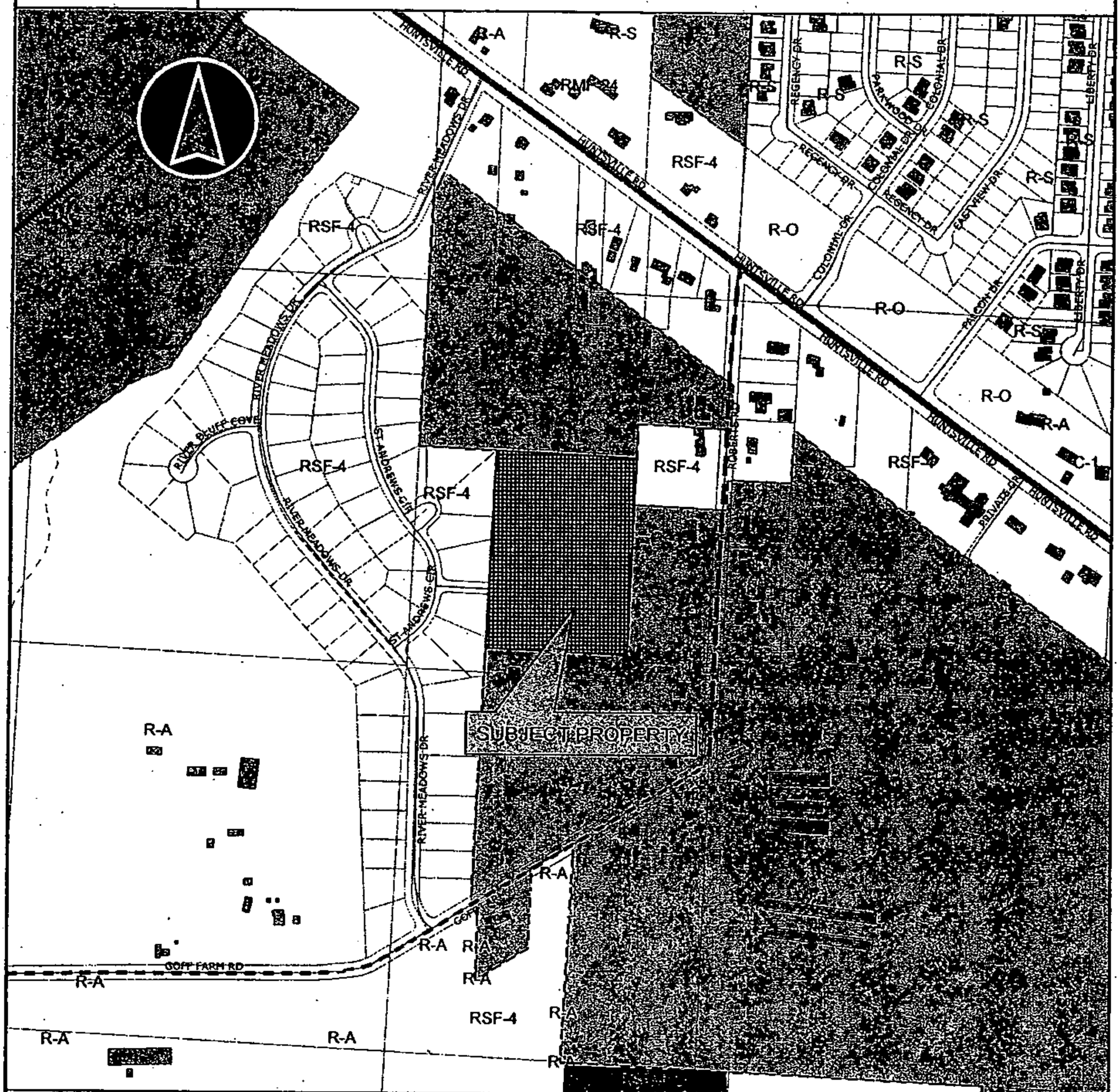
205 West Center Street; Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MCOengr@swbell.net

PREVIOUS ANNEXATION REQUEST

ANX04-1071

Close Up View

VERA JONES



Overview

Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- ANX04-1071

0 175 350 700 1,050 1,400 Feet

Ostner: Welcome to the June 14, 2004 meeting of the Fayetteville Planning Commission. Can we have the roll call please?

Roll Call: Upon the completion of roll call there were seven Commissioners present with Commissioner Trumbo being absent and Commissioner Myres arriving at approximately 5:35 p.m.

Ostner: Before we get started items eight through eleven have been tabled by the applicant. Those are ANX 04-1071 for Jones, RZN 04-1072 for Jones, ANX 04-1073 for Ames Trust and RZN 04-1074 for Ames Trust.

Williams: Certainly the Planning Commission honors the petitioners when they request that their items be tabled. If people are here to speak to it, you might allow them to go ahead and speak so they wouldn't have to come back later before they are officially tabled. Tabling really will require a vote of the Planning Commission.

Approval of the Minutes

VAC 04-1105: Vacation (LUTZ, 716): Submitted by THOMAS C. LUTZ for property located at 1645 W SUNRISE MTN ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.30 acres. The request is to vacate a portion of a 10' gas and water easement on the subject property.

Ostner: Just to reiterate, if anyone would like to speak to these tabled items we will have a time available when they come up on the agenda. The first item is the Consent Agenda. The item is VAC 04-1105. Does anyone wish to speak to this item or shall we have a motion to approve the consent agenda?

Shackelford: I will make a motion we approve the consent agenda. That includes minutes.

Clark: Second.

Ostner: Renee?

Roll Call: Upon the completion of roll call the motion to approve the consent agenda was approved by a vote of 8-0-0.

* **ANX 04-1071: Annexation (JONES, 569)**: Submitted by MEL MILHOLLAND for property located at 1341 ROBERTS ROAD AND EAST OF STONEBRIDGE MEADOWS SUBDIVISION PHASE I. The property is in the Planning Area and contains approximately 7.47 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 04-1072: Rezoning (JONES, 569): Submitted by MEL MILHOLLAND for property located at 1341 ROBERTS ROAD. The property is in the Planning Area and contains approximately 7.47 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

ANX 04-1073: Annexation (AMES TRUST, 569): Submitted by MEL MILHOLLAND for property located at W SIDE OF ROBERTS RD, S OF HWY 16E. The property is in the Planning Area and contains approximately 1.97 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 04-1074: Rezoning (AMES TRUST, 569): Submitted by MEL MILHOLLAND for property located at W SIDE OF ROBERTS RD, S OF HWY 16E. The property is in the Planning Area and contains approximately 1.97 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next items on our agenda have been tabled by the applicant. However, they are on our agenda. If people from the public are here to speak on these issues we will get to that. The next item is ANX 04-1071 for Jones. We have no staff report but if anyone from the public would like to speak.

Davison: Hi, again, Sharon Davison. This is a really important issue to me. Thank you and to our city and we all know that because we do have our taskforce in tact on Annexation/Rezoning. It is a tricky subject, we know about that. I do believe that it is appropriate at times. I don't agree with Mayor Coody that it is appropriate all the time as he said. The issue for me is not annexation, I have an issue with rezoning. The last time I had asked a question for staff to address, even though to me it seemed self explanatory that these are separate issues, meaning we address annexation, that can be approved if it is approved you go to rezoning. I am not quite sure why we seem to feel if we annex that we are immediately obligated to accommodate developers to rezone. That is what I'm asking you here tonight. First I would like to ask that question Mr. Chairman as to we do not have to automatically grant rezonings when we give an annexation, correct?

Ostner: That is correct. However, this is where you simply speak your peace and we try not to dialogue.

Davison: I understand that but I had asked that question last time and I didn't get a clear answer. That is the only reason why I was asking it. I was not supposed to speak to staff so that was the way I presented it was I didn't get that clear answer even though to me it seems that way. That's what I'm asking here is that you all consider under the current situation, again, we see how much is coming through even when at one time we had a moratorium, we had a sewer issue, etc. That gets back to sewer. Our plant is not even planned to be online and as far as I know it is not ahead of schedule. Usually on a sewer plant if we are lucky it will come in on schedule. On schedule would be Fall, 2006. I do not think that it is at all unreasonable and you have been here long enough to see how many are coming at you for annexation right up with zoning, rezoning generally to the maximum of four units per acre. I think what I'm asking you to do is to consider our infrastructure needs from streets to sewers to everything and if you feel it is appropriate to annex, annex. I think it is fair if it is a choice and request by a citizen for annexation to maybe as you do sort of discuss your feelings to say annexation is good but we will postpone most rezonings until our sewer is online. That is not unreasonable. We are really about to hit max load point. What has been approved in the last six months, much less the past year, we are not seeing that impact yet. We are only seeing impact from the small scale things that have come up the past couple of years. It is so prudent and it is so reasonable I just can't get it why when we have this issue with roads, with infrastructure, we have a taskforce, we are trying to understand and get a handle on it. Why can't we wait? I would appreciate it if you as a board would come up with maybe, especially these, again, look at the total units requested. That you grant whatever annexations as each comes to you, you feel appropriate but could you not maybe discuss with yourselves, if not tonight, the reasonableness of not granting these rezonings and allowing this development until we do see closer to Fall, 2006. That is 2 ½ years away at the earliest that we will get our additional sewer capacity. This is a big deal and I don't see why it is unreasonable to say we will wait on major rezonings until our sewer is online but if you want to be annexed now and know that it is coming and make your plans while we make our plans to catch up, that would be appropriate. Thank you and goodnight.

Ostner: Are there any other comments from the public on this issue? I am going to close it to the public and bring it back to the Commission.

Warrick: In response to that and to elaborate a little bit on annexation. Staff is guided by our General Plan, which is a policy that was adopted by our City Council and approved by our Planning Commission. Chapter 11 of that General Plan is annexation. Chapter 11.6 are the guiding policies with regard to annexation. One of those under administration states "designate zoning districts for the property during the annexation

process." As questions arise as to why we are looking at rezonings at the same time that we are looking at annexations, it is because we are directed to do so through this policy. This is the same policy that our annexation strategy taskforce is looking at and will be making some recommendations with regard to. Right now this is our directive and that is why we recommend that the applicant requests their rezoning for a district that they feel is appropriate that we will evaluate and make a recommendation on with regard to appropriateness at the time that annexation is requested.

Ostner: Thank you. I am sorry that our speaker left. I think that's what she wanted to hear. We need to go ahead and individually table these items to stay legal. They have been voluntarily tabled by the applicant but it would be best to move in that manner.

MOTION:

Anthes: I move to table ANX 04-1071 at the request of the applicant.

Shackelford: Second.

Ostner: Is there further discussion? Please call the roll.

Roll Call: Upon the completion of roll call the motion to table ANX 04-1071 was approved by a vote of 8-0-0.

Ostner: The next item is RZN 04-1072

MOTION:

Anthes: I move to table item RZN 04-1072 at the request of the applicant.

Shackelford: I will second.

Ostner: Is there further discussion? I agree with Ms. Davison that there is a big difference between annexation and rezoning. I've often wondered this. Why can't we annex open area? It seems counterintuitive to only annex areas we want to develop. If the city is going to master plan or plan in advance, it seems an important tool would be to have space that is not zoned for development but is on the maps to be a certain way. That is sort of like the downtown master plan sort of goes in that direction. To only annex areas that applicants want to develop immediately is difficult for us. It makes things very difficult. This is a rezoning and that is my comment. I wish we had more tools to work with on the annexation and rezoning issues.

Warrick: You have directed your statement to the issue of the reason we have an annexation strategy taskforce. Those are some of the debates that I'm sure they are having in their meetings. We do have a master plan that encompasses all of our planning area. That is a tool that we can use when we are looking at these annexations that we currently are experiencing that seem piecemeal. There is a plan that oversees everything.

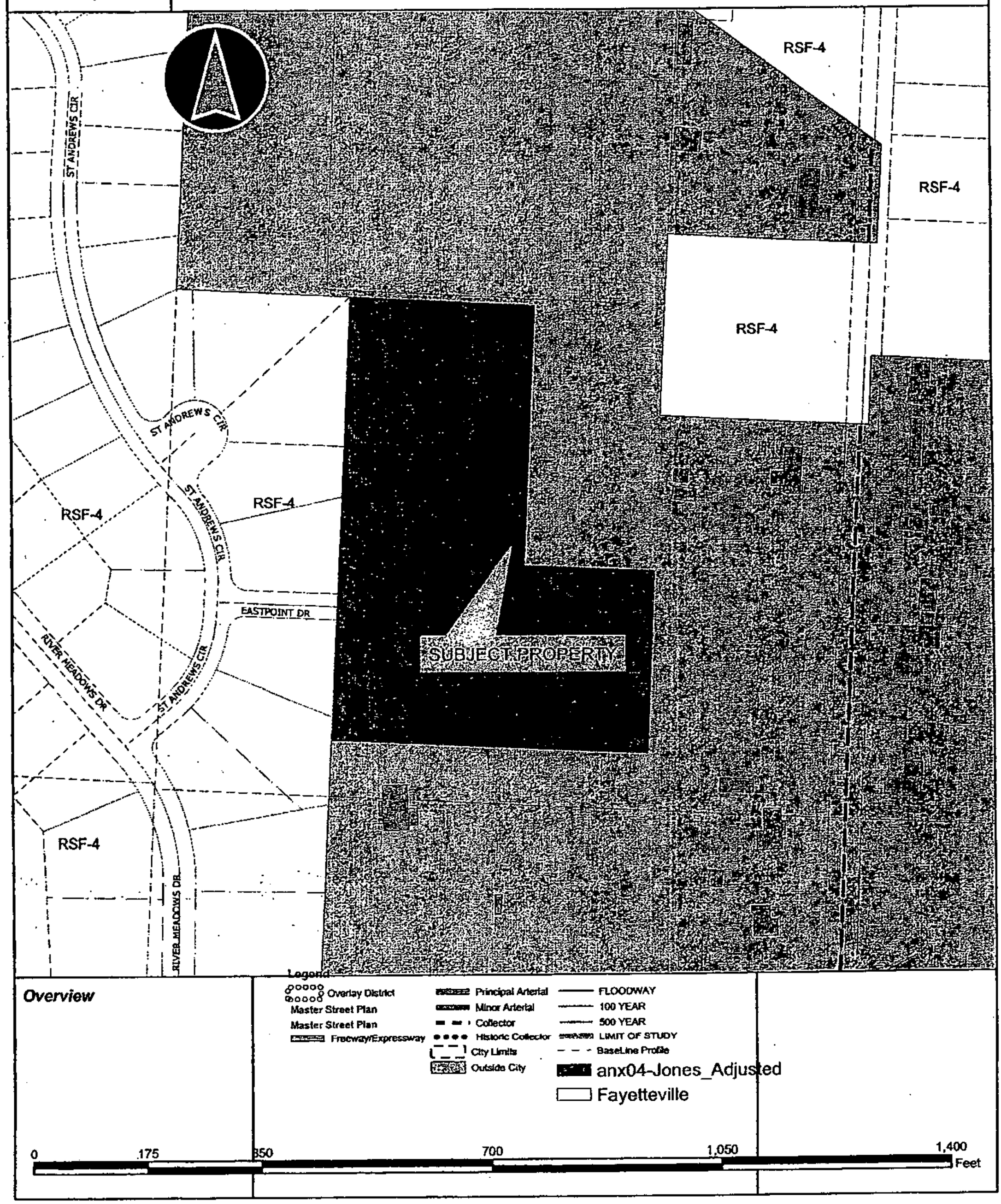
Ostner: It just seems though that they only come to us when the market or the applicant brings them a piece here and a piece there. Things change over time and we lose sight quickly of our overall goal. I'm encouraging the taskforce to come up with more tools. Is there any further discussion?

Roll Call: Upon the completion of roll call the motion to table RZN 04-1072 was approved by a vote of 8-0-0.

ANX04-1071

Close Up View

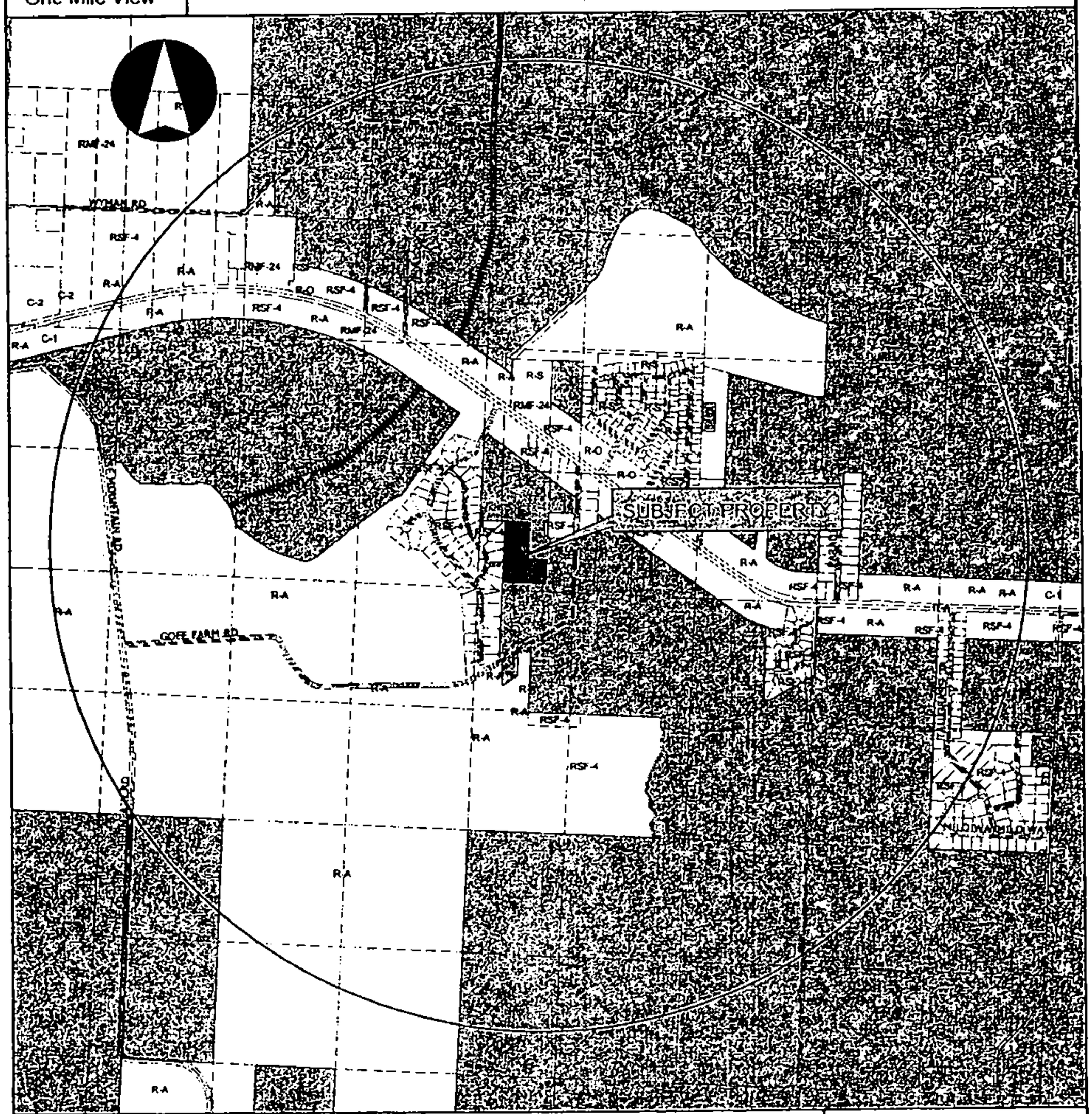
JONES



ANX04-1071

One Mile View

JONES



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-1071: Annexation (Jones, pp 569) was submitted by Mel Milholland for property located at 1341 Roberts Road, east of Stonebridge Addition containing approximately 5.66 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn J. Warrick 7/14/04
Division Head Date

7/19/04
City Attorney Date

Department Director Date

7-20-04
Finance & Internal Services Dir. Date

7-21-04
Chief Administrative Officer Date

2/21/04
Mayor Date

Received in Mayor's Office 7/19/04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7/16/04

left on 1st reading 8/3/04

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: July 13, 2004

Subject: Rezoning request for Jones (RZN 04-1072)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 5.66 acres of property from R-A, Residential Agricultural to RSF-4, Residential Single Family – 4 units per acre.

BACKGROUND

The subject property contains approximately 5.66 acres located south of Huntsville Road and west of Roberts Road. The property is currently a vacant field. The surrounding properties within the Planning Area consist of large single family tracts. The subject property is adjacent to city limits along its western boundary where it abuts Stonebridge Meadows Subdivision Phase I. Surrounding properties within the City are zoned RSF-4 and developed as residential subdivisions. The Future Land Use Plan identifies this property as Residential. The applicant proposes to rezone the 5.66 acre tract in anticipation of development of the property as an extension of the adjacent residential subdivision. Staff has received public comments from a former owner and adjoining neighbor of this property with regard to on-site drainage. This site's conditions will be best addressed through application of the City's stormwater, grading, and drainage regulations.

DISCUSSION

This item, as well as the accompanying annexation request, was tabled by the Planning Commission at the request of the applicant on June 14, 2004. On July 12, 2004, the Planning Commission voted 8-0-0 to forward this rezoning request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO. _____

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.

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

<u>Section 1:</u> 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.

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By:_____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

DRAFT

EXHIBIT "A"
RZN 04-1072

A PART OF THE SW ¼ OF THE NW ¼ OF SECTION 19, T-16-N, R-29-W OF THE 5TH PRINCIPAL MERIDIAN, DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 19, AND CONTINUING THENCE ALONG A COMMON LINE BETWEEN RANGE 29 WEST AND RANGE 30 WEST N02-46-52 E 1320.00 FEET TO THE SOUTHWEST CORNER OF THE NW ¼ OF THE SW ¼ OF SAID SECTION 19, AND CONTINUING THENCE N02-46-52E 515.60 FEET (DEED CALL 508.70 FEET) AND S87-13-08 E 265.56 FEET (DEED CALL 284.61 FEET) TO THE INTERSECTION OF THE CENTERLINE (DEED CALL TO CENTERLINE OF SAID ROAD, IN LINE WITH FENCE TO NORTH) OF COUNTY ROAD NO. 170 AND A NORTH/SOUTH FENCE; SAID POINT BEING NEAR THE SOUTHEAST CORNER OF STONE BRIDGE MEADOWS SUBDIVISION, AND CONTINUING THENCE ALONG EAST BOUNDARY OF SAID SUBDIVISION N02-46-01 E 884.49 FEET (DEED CALL 884.84 FEET) TO THE POINT OF BEGINNING; SAID POINT BEING A FOUND IRON PIPE AND AN IRON RE BAR ON THE EAST BOUNDARY OF SAID SUBDIVISION; THENCE N 02-46-01 E 679.44 FEET ALONG SAID EAST BOUNDARY OF SUBDIVISION TO AN EXISTING DEED CALLED FENCE THENCE ALONG SAID DEED CALLED FENCE S87-15-25 E 281.00 FEET; THENCE S02-46-01 W 398.03 FEET; THENCE S87-20-26E 198.67 FEET TO AN EXISTING FENCE CORNER; THENCE 02-28-59W 281.00 FEET TO AN EXISTING FENCE ON THE SOUTHERN PROPERTY BOUNDARY; THENCE CONTINUING ALONG SAID FENCE N87-20-26 W 481.09 FEET TO THE POINT OF BEGINNING, CONTAINING 5.66 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of July 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
THRU:	Dawn Warrick, AICP, Zoning & Development Administrator
DATE:	July 7, 2004

RZN 04-1072: Rezoning (JONES, 569): Submitted by MEL MILHOLLAND for property located at 1341 ROBERTS ROAD. The property is in the Planning Area and contains approximately 5.66 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: VERA JONES Planner: SUZANNE MORGAN

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

PLANNING COMMISSION ACTION:	**Required** **YES**	
	Ø Approved	**O Denied**
Date: July 12, 2004	Clark/Myres 2 - 8-0-0	
CITY COUNCIL ACTION:	**Required** **YES**	
	O Approved	**O Denied**
Date: August 03, 2004		

BACKGROUND: Please reference the associated ANX 04-1071 staff report for additional background information.

This rezoning request was tabled by the Planning Commission on June 14, 2004 at the request of the applicant.

Property description: The subject property contains approximately 5.66 acres located south of Huntsville Road and west of Roberts Road. The property is currently a vacant field. The surrounding properties within the Planning Area consist of large single family tracts. The property is adjacent to the city limits to the west where it abuts Stonebridge Meadows Subdivision Phase I.

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 5.66 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 04-1071, is an accompanying item to this rezoning request.

Public Comment: Staff has received comments from a nearby property owner concerning potential drainage problems on the two tracts (Ames and Jones) proposed to be combined. It was stated that this property has severe drainage problems and floods due to the topography of the site. Staff will further review on-site drainage with regard to any development proposal.

Recommendation: Should the annexation request be approved, 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	Planning Area
South	Single family residential	Planning Area
East	Single family residential	RSF-4, Residential Single Family, 4 units/acre Planning Area
West	Single family residential	RSF-4, Residential Single Family, 4 units/acre

INFRASTRUCTURE:

Streets: Street improvements will have to be extended through the site for any future development. Roberts Road will also need to be improved the length of the project frontage.

Surrounding Master Street Plan Streets:
North: Huntsville Rd. (principal arterial)
South: Goff Farm Rd. (collector)
East: Roberts Rd. (collector)
West: Eastpoint Dr. (local; undeveloped street connection to Stonebridge Meadows Subd. Phase I)

Water: The property has access to an 8" water main on the west side of this property that was stubbed out from the adjacent subdivision. There is also a 6" water main on the east side along Roberts Road. An extension of the water main will be required

to provide water supply and fire protection within any development on this property. The main will have to loop between the existing 8" and 6" water mains.

Sewer: The site currently has access to an 8" sewer main on the west side of this property that was stubbed out from the adjacent subdivision. Sewer will need to be extended within the development.

Fire: The subject property is located 3.18 miles from Fire Station #5. Normal driving time is 8-9 minutes. The property is located 2.32 miles from the future Fire Station #3. Normal driving time is 5-6 minutes.

Police: It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services.

If an outlet onto Roberts Road is planned, improvements to Roberts Road should be considered. If no outlet is planned, then this should not create and appreciable increase in traffic danger and congestion in the area.

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 and density to the surrounding subdivisions to the west, north, and south of the subject property. A majority of the lots within Stonebridge Meadows Phase I are developed to the west of the property and the development of Stonebridge Meadows Subdivision Phase II has been approved to the south of the property. These subdivisions are zoned RSF-4 and developed at 2.05 and 2.6 units per acre respectively. Property to the north, south and east are within the Planning Area and consist of single family residences on large lots as well as vacant land. Development of this property at 4 units per acre will be consistent with the development of City property in this area.**

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. Construction of street infrastructure required by the Master Street Plan shall be considered at the time of development, as well as street improvements through the site.

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 approved 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. If an outlet onto Roberts Road is planned, improvements to Roberts Road should be considered. If no outlet is planned, then this should not create and appreciable increase in traffic danger and congestion in the area. Access and connectivity 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 approximately 5.66 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 2 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 22 dwelling units would be permitted. This increases the possible number of residential units substantially, yet is consistent with land use and zoning within the City of Fayetteville and developing areas to the west and south.**

Engineering - **The property has access to an 8" water main on the west side of this property that was stubbed out from the adjacent subdivision. There is also a 6" water main on the east side along Roberts Road. An extension of the water main will be required to provide water supply and fire protection within any development on this property. The main will have to loop between the existing 8" and 6" water mains.**

The site currently has access to an 8" sewer main on the west side of this property that was stubbed out from the adjacent subdivision. Sewer will need to be extended within the development.

Street improvements will have to be extended through the site for the development. Roberts Road will also need to be improved the length of the project frontage.

Fire - **The subject property is located 3.18 miles from Fire Station #5. Normal driving time is 8-9 minutes. The property is located 2.32 miles from the future Fire Station #3. Normal driving time is 5-6 minutes.**

Police - **It is the opinion of the Fayetteville Police Department that this annexation <u>will</u> <u>not</u> 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.

RECEIVED
MAY 06 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

To: City of Fayetteville Planning
From: Milholland Engineers
Subject: Rezoning Application

Application Item #5::

5.a. Current ownership information and any proposed or pending property sales:
RESPONSE: Existing Owner, Vera Jones, 1341 Roberts Road, Fayetteville, Arkansas 72701 - has an Offer and Acceptance pending with Client McDonald, a local developer.

5.b. Reason (need) for requesting the zoning change:
RESPONSE: Existing zoning of A-1 (after annexed) will not provide the demand for residential single family lots with public utilities being requested by local house building contractors.

5.c. Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage:
RESPONSE: *Existing Land Use*: New single family city residential subdivision adjoining the west boundary with all public utilities, and rural single family homes adjoining the east and south boundaries, with a small pasture adjacent the north boundary; said pasture is bound on the north by a few city single family homes along Highway 16 East.
Traffic: New single family residential development will add through connection by extended an existing dead end new (Point West) street from the west to the east and connect to an existing 20 foot wide paved county road. This connection will allow three traffic connections to Highway 16 East.
Appearance: New home construction will continue to add an improving appearance to the community that was begun with the new golf coarse and new residential subdivision adjoining this site to the west.

5.d. Availability of water and sewer (state size of lines).
RESPONSE: 8 inch water and 8 inch sanitary sewer mains, and utility easements, are constructed up to the west boundary of this site being planned for a residential development, which consist of two tracts of land, known as the "Jones and Ames" tracts. A 6 inch water main is adjacent to the east boundary of the proposed development.

Application Item # 6: Written statements addressing the following:

6.a. The degree to which the proposed zoning is consistent with the land use planning objectives, principles, and policies and with land use and zoning plans:
RESPONSE: The proposed single family zoning is in concurrence with the city's long range planning objectives in its 2020 plan. It complies with the city's policies of organized expansion of city facilities and infrastructure, and with the principle of zoning and developing vacant tracts of land in continuity with the Official Land Use Plan and at the same time, continue to add to the type of growth within the existing neighborhood. This proposed zoning is consistent with the city's long range land use and zoning plans.

Application Item # 6: Written statements addressing the following: (cont'd)

6.b. Whether the proposed zoning is justified and/or needed at the time of the request:
RESPONSE: The demand for single family homes in this area of the City of Fayetteville is in high demand..

6.c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion:
RESPONSE: Certainly, new homes bring more vehicles, but the City of Fayetteville requires the developer to construct new streets through it's development and connectivity into the existing street system.

6.d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on the public services including schools, water, and sewer facilities:
RESPONSE: New water and sewer mains will be extended to facilitate the new residents. The site is located on east Arkansas 16 Highway, and will discharge its sewerage into a collection system that flows into the existing treatment plant. The nearest school is Happy Hollow Elementary.

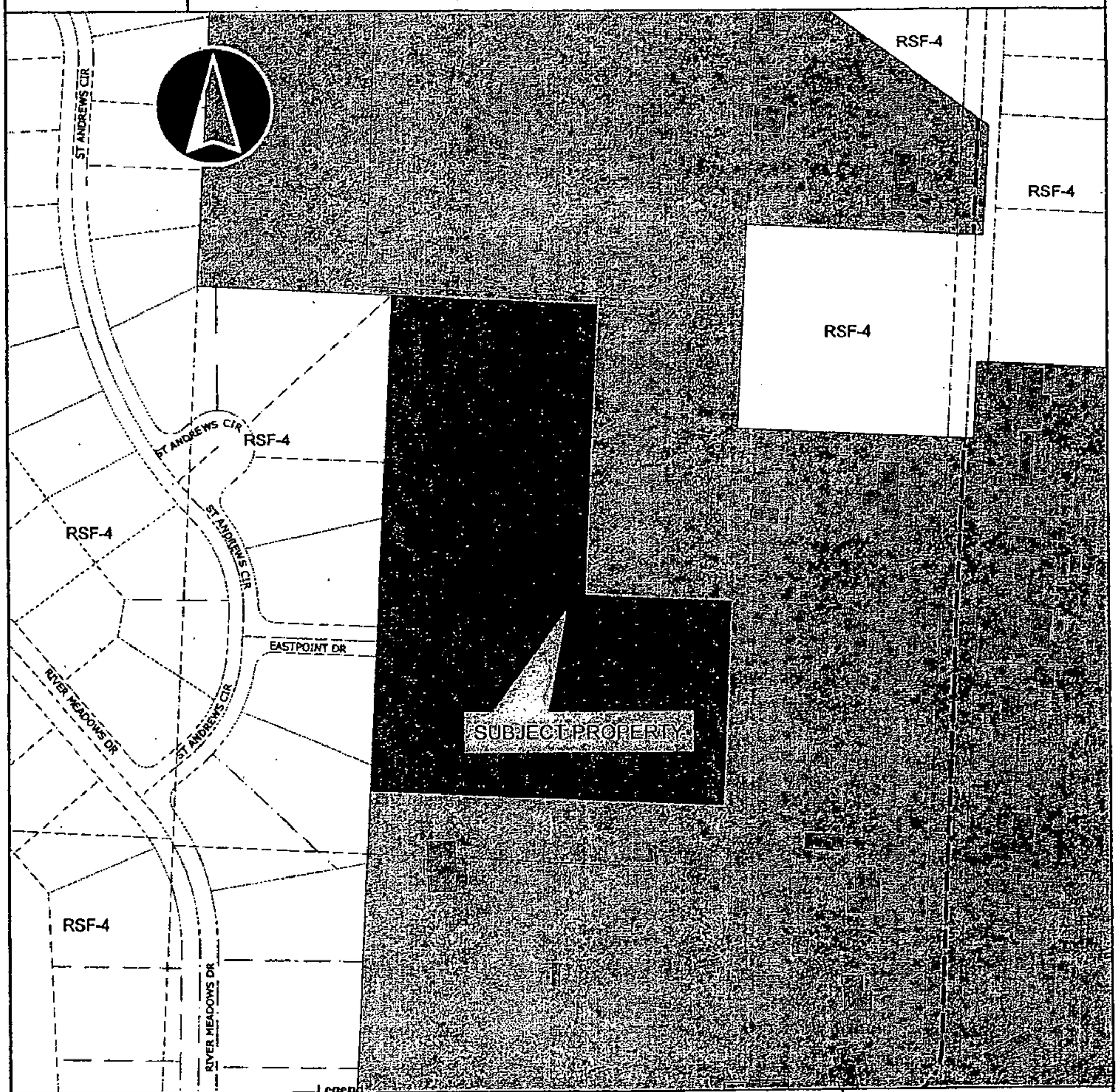
6.e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification:
RESPONSE: The land is presently rural, and will be A-1 if annexed into the city. The site is too small to farm productively. The highest and best use of site is single family homes.

RECEIVED
MAY 06 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

RZN 04-1072

Close Up View

JONES



Overview

Legend

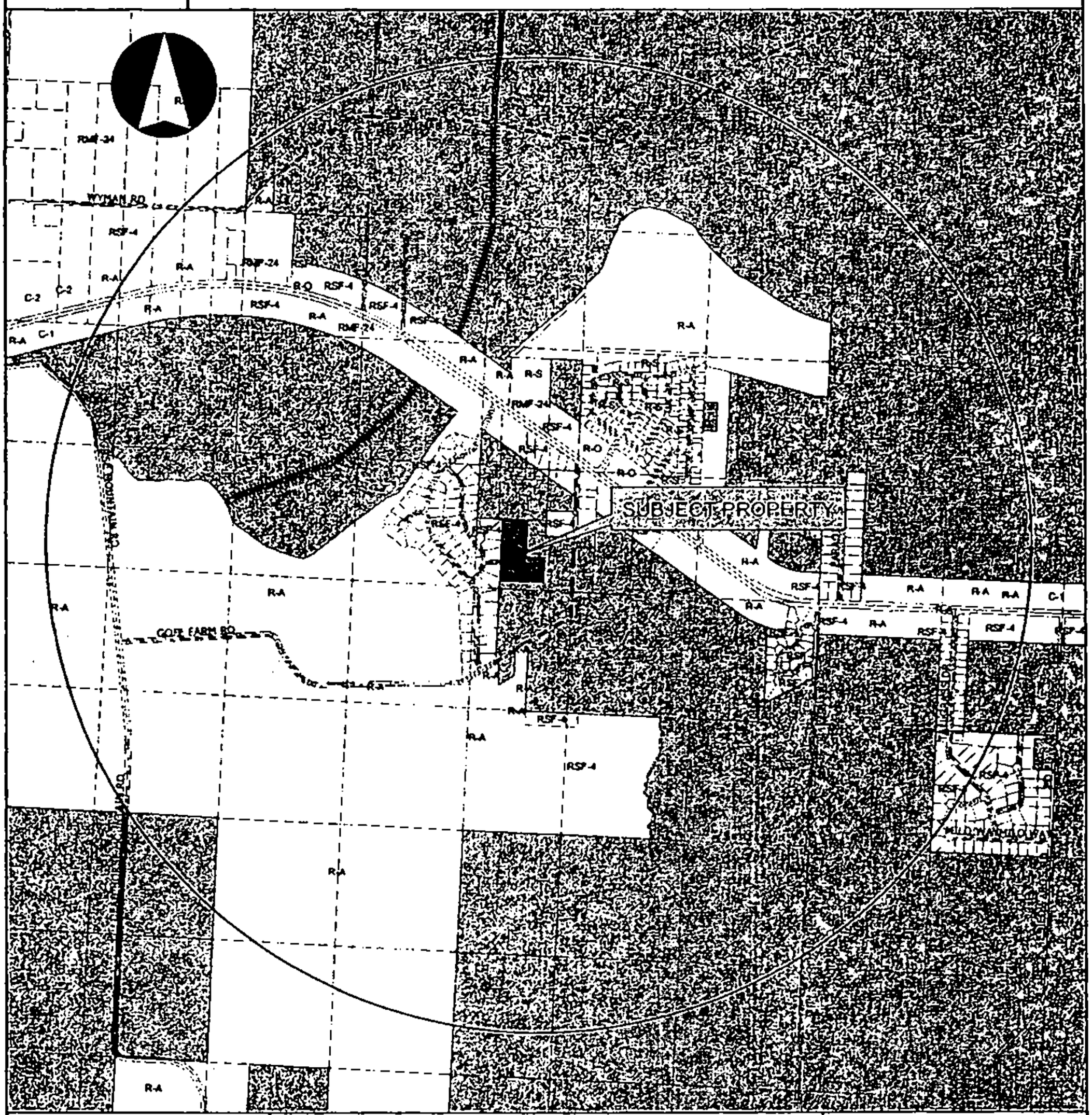
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Baseline Profile
- anx04-Jones_Adjusted
- Fayetteville

0 175 350 700 1,050 1,400 Feet

RZN 04-1072

One Mile View

JONES



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1072: Rezoning (Jones, pp 569) was submitted by Mel Milholland for property located at 1341 Roberts Road. The newly annexed property is zoned R-A, Residential Agricultural and contains approximately 5.66 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick — Division Head — 7/14/04 Date

City Attorney — 7/19/04 Date

Department Director — Date

Finance & Internal Services Dir. — 7-20-04 Date

Chief Administrative Officer — 7-21-04 Date

Mayor — 7/22/04 Date

Received in Mayor's Office 7/19/04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

Left on 1st reading 8/3/04

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: July 13, 2004

Subject: Annexation for Ames Trust (ANX 04-1073)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Ames Trust. This action will incorporate a 1.97 acre tract of land contiguous with the city limits into the City of Fayetteville.

BACKGROUND

The subject property contains approximately 1.97 acres of vacant property located south of Huntsville Road and west of Roberts Road. The proposed annexation 04-1071 of approximately 5.66 acres adjoins this property to the west. Should the annexation of the aforementioned property not be annexed into the City, the subject property of 1.97 acres will not adjoin any portion of the existing city boundary and would therefore not be eligible for annexation by petition according to Arkansas State statute.

The applicant intends to develop a single family residential subdivision in conjunction with the property to the west. Development of this property will allow for development in accordance with City regulations and connectivity to Roberts Road. The applicant requests annexation into the City of Fayetteville.

DISCUSSION

This annexation request was tabled by the Planning Commission on June 14, 2004 at the request of the applicant. On July 12, 2004, the Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

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.

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. One.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

EXHIBIT "A"
RZN AMES

A PART OF THE SW ¼ OF THE NW ¼ OF SECTION 19, T-16-N, R-29-W OF THE 5TH PRINCIPAL MERIDIAN, DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID SW ¼ OF THE NW ¼ OF SAID SECTION 19, AND CONTINUING THENCE N86-45-04 W 7.86 FEET TO A NAIL AND BOTTLE CAP AT THE INTERSECTION OF THE SOUTH BOUNDARY OF SAID 40 ACRE TRACT AND THE COUNTY ROAD NO. 170 CENTERLINE, SAID POINT BEING N02-46-52 E, 2,640.00 FEET AND S 86-45-04 E 1052.02 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 19, AND CONTINUING THENCE ALONG THE CENTERLINEOF SAID COUNTY ROAD N02-33-40 E 60.97 FEET (DEED CALL 60.30 FEET) TO THE POINT OF BEGINNING; SAID POINT BEING IN THE CENTERLINE OF SAID COUNTY ROAD NO. 170; THENCE N86-50-21 W 305.18 FEET TO A FENCE CORNER; THENCE ALONG A DEED CALLED FENCE N02-28-59 E 281.93 FEET TO A FENCE CORNER; THENCE ALONG A FENCE S86-54-30 E 305.56 FEET TO THE CENTERLINE OF SAID COUNTY ROAD NO. 170; THENCE ALONG SAID ROAD CENTERLINE S02-33-40 W 282.29 FEET TO THE POINT OF BEGINNING, CONTAINING 1.978 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of July 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
THRU:	Dawn Warrick, AICP, Zoning & Development Administrator
DATE:	July 7, 2004

ANX 04-1073: Annexation (AMES TRUST, 569): Submitted by MEL MILHOLLAND for property located at W SIDE OF ROBERTS RD, S OF HWY 16E. The property is in the Planning Area and contains approximately 1.97 acres. The request is to annex the subject property into the City of Fayetteville.
Property Owner: AMES FAMILY TRUST Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends approval of the requested annexation subject to the approval of ANX 04-1071 (Jones) based on the findings included as part of this report. This property will not be eligible for annexation should ANX 04-1071 (Jones) be denied by the City Council.

PLANNING COMMISSION ACTION:	**Required** **YES**	
	⊗ **Approved**	○ **Denied**
Date: July 12, 2004	Clark/Myres² 8-0-0	
CITY COUNCIL ACTION:	**Required** **YES**	
	○ **Approved**	○ **Denied**
Date: August 03, 2004		

BACKGROUND:

This annexation request was tabled at the Planning Commission meeting of June 14, 2004 at the request of the applicant.

Property description: The subject property contains approximately 1.97 acres of vacant property located south of Huntsville Road and west of Roberts Road. The proposed annexation 04-1071 of approximately 5.66 acres abuts this property to the west. Should the annexation of the aforementioned property not be annexed into the City, the subject property of 1.97 acres will not adjoin any portion of the existing city boundary and would therefore not be eligible for annexation by petition according to Arkansas State statute.

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 proposes to rezone the 1.97 acres to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning request, RZN 04-1074, 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 upon condition that the City Council approve ANX 04-1071 (Jones). The annexation of the subject property into the

City of Fayetteville will create allow for connectivity between Stonebridge Meadows Subdivision Phase I and Roberts Road. 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	Planning Area
South	Single family residential	Planning Area
East	Single family residential	Planning Area
West	Vacant [proposed ANX 04-1071 (Jones)]	Planning Area [proposed RZN 04-1072 (Jones) from R-A to RSF-4]

INFRASTRUCTURE:

Streets: Street improvements will have to be extended through the site for any future development. Roberts Road will also need to be improved the length of the project frontage. The need for off-site improvements will be further evaluated at the time of development proposal.

Surrounding Master Street Plan Streets:
North: Huntsville Rd. (principal arterial)
South: Goff Farm Rd. (collector)
East: Roberts Rd. (collector)
West: Eastpoint Dr. (local; undeveloped street connection to Stonebridge Meadows Phase I Subdivision)

Water: The property has access to an 8" water main on the west side of this property that was stubbed out from the adjacent subdivision. There is also a 6" water main on the east side along Roberts Road. An extension of the water main will be required to provide water supply and fire protection within any development on this property. The main will have to loop between the existing 8" and 6" water mains.

Sewer: The site currently has access to an 8" sewer main on the west side of this property that was stubbed out from the adjacent subdivision. Sewer will need to be extended within the development.

Fire: The subject property is located 3.17 miles from Fire Station #5. Normal driving time is 7-8 minutes. The property is located 2.34 miles from the future Fire Station #3. Normal driving time is 4-5 minutes.

Police: It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services. If an outlet onto Roberts Road is planned, improvements to Roberts Road should be considered. If no outlet is planned, then this should not 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 create an extension of the city boundary to Roberts Rd. Provided ANX 04-1071 is approved, the incorporation of this property will not result in the creation of an island, nor will it create a peninsula of substantial area.**

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

Finding: **If the property to the west is annexed, the proposed annexation area will be adjacent to the City Limits along its west property boundary. If ANX 04-1071 is denied, this property would not be eligible for annexation, because it would not adjoin the city limits.**

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 currently a vacant field. However, future development plans may include the extension of the 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 7 to 8 minutes for fire protection from Fire Station #5 and 4-5 minutes from the future Fire Station #3. The property has access to an 8" water main to the west. The line was stubbed out from the adjacent subdivision. There is also a 6" water main on the east side along Roberts Road. An extension of the water main will be required to provide water supply and fire protection within any development on this property. The main will have to loop between the existing 8" and 6" water mains.**
An 8" sewer main to the west of this property has been stubbed out from the

An 8" sewer main to the west of this property has been stubbed out from the adjacent subdivision. Sewer will need to be extended within the 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: **Wetlands, floodplain, and slope has not been identified on this property. Staff has received comment from a former property owner with regard to concerns of on-site drainage.**

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.**

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 of this property, in conjunction with ANX 04-1071 (Jones), will create an acceptable boundary within the city limits.**

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 July 12, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8202

ENGINEERING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Matt Casey, Staff Engineer
DATE:	June 08, 2004

ANX 04-1073: Annexation (AMES TRUST, 569): Submitted by MEL MILHOLLAND for property located at W SIDE OF ROBERTS RD, S OF HWY 16E. The property is in the Planning Area and contains approximately 1.97 acres. The request is to annex the subject property into the City of Fayetteville.
Property Owner: AMES FAMILY TRUST Planner: SUZANNE MORGAN

RZN 04-1074: Rezoning (AMES TRUST, 569): Submitted by MEL MILHOLLAND for property located at W SIDE OF ROBERTS RD, S OF HWY 16E. The property is in the Planning Area and contains approximately 1.97 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: AMES FAMILY TRUST 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 has access to an 8" water main on the west side of this property that was stubbed out from the adjacent subdivision. There is also a 6" water main on the east side along Roberts Road. An extension of the water main will be required to provide water supply and fire protection within any development on this property. The main will have to loop between the existing 8" and 6" water mains.

The site currently has access to an 8" sewer main on the west side of this property that was stubbed out from the adjacent subdivision. Sewer will need to be extended within the development.

Street improvements will have to be extended through the site for the development. Roberts Road will also need to be improved the length of the project frontage.

Name Matt Casey Department Engineering

FAYETTEVILLE

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JUN 0 9 2004
PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

June 8, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 04-1073 (Ames Trust, pp 569)** and Rezoning **RZN 04-1074 (Ames Trust, pp 569)** submitted by Millholland Company for property located on the west side of Roberts Road, S or Hwy 16E 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.

If an outlet onto Roberts Road is planned, improvements to Roberts Road should be considered. If no outlet is planned, then this should not create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

ETTEVILLE POLICE DEPARTMENT
BOX 1988
ETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out	Projected Fire/Other Calls for Service at Maximum Build Out	Projected EMS Calls for Service at Maximum Build Out
RZN 04-1072	Jones	ANX 04-1071	7.47	FS 5	3.18 miles	8-9 minutes	8-10 minutes	3/year	1/year	2/year
				Future FS 3	2.32 miles	5-6 minutes	5-7 minutes	3/year	1/year	2/year
RZN 04-1074	Ames Trust	ANX 04-1073	1.97	FS 5	3.17 miles	7-8 minutes	7-8 minutes	0.68/year	0.27/year	0.41/year
				Future FS 3	2.34 miles	4-5 minutes	4-5 minutes	0.68/year	0.27/year	0.41/year
PZD 04-1075	Cambridge Crossing		13.47	FS 4	1.39 miles	4-5 minutes	4-5 minutes	13/year	5/year	8/year

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF THE PETITION OF CERTAIN PROPERTY TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

NO. CC2004-44

FILED
'04 MAR 31 AM 8 54
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

PETITION TO ANNEX TERRITORY TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

Comes now the petitioner, Paul Ames as Trustee of the AMES FAMILY TRUST and for his Petition to annex certain property into the City of Fayetteville, Washington, County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. States as follows:

1. That petitioner, Paul Ames as the trustee of the AMES FAMILY TRUST, owns the real property described on the Plat Map, Exhibit "A", attached hereto and made a part hereof, and said property is situated in Washington County, Arkansas, and is contiguous with the City of Fayetteville, Arkansas, and is within the City of Fayetteville, School District.

2. That the petitioner desires that his property become part of the City of Fayetteville, Arkansas, and petitions the County Judge for annexation of the property into the City of Fayetteville.

3. That a true and correct presentation of the property and how it is contiguous to the City of Fayetteville, Arkansas is shown on the Plat Map, Exhibit "A", attached hereto.

4. That the petitioner herein desires that the property become part of the City of Fayetteville, Washington County, Arkansas, and petitioner states that he will do any and all legal acts necessary to accomplish the objective set forth herein.

THEREFORE, petitioner respectfully prays that this Court set a hearing, and after notice of such hearing, that the County Judge sign an Order annexing the above described real property into the City of Fayetteville, Washington County, Arkansas, and to order such other relief as is appropriate under applicable law.

Respectfully submitted this 24 day of March, 2004.

AMES FAMILY TRUST

Bryan Paul Ames
Paul Ames, Trustee

SUBSCRIBED AND SWORN TO before me, a Notary Public,

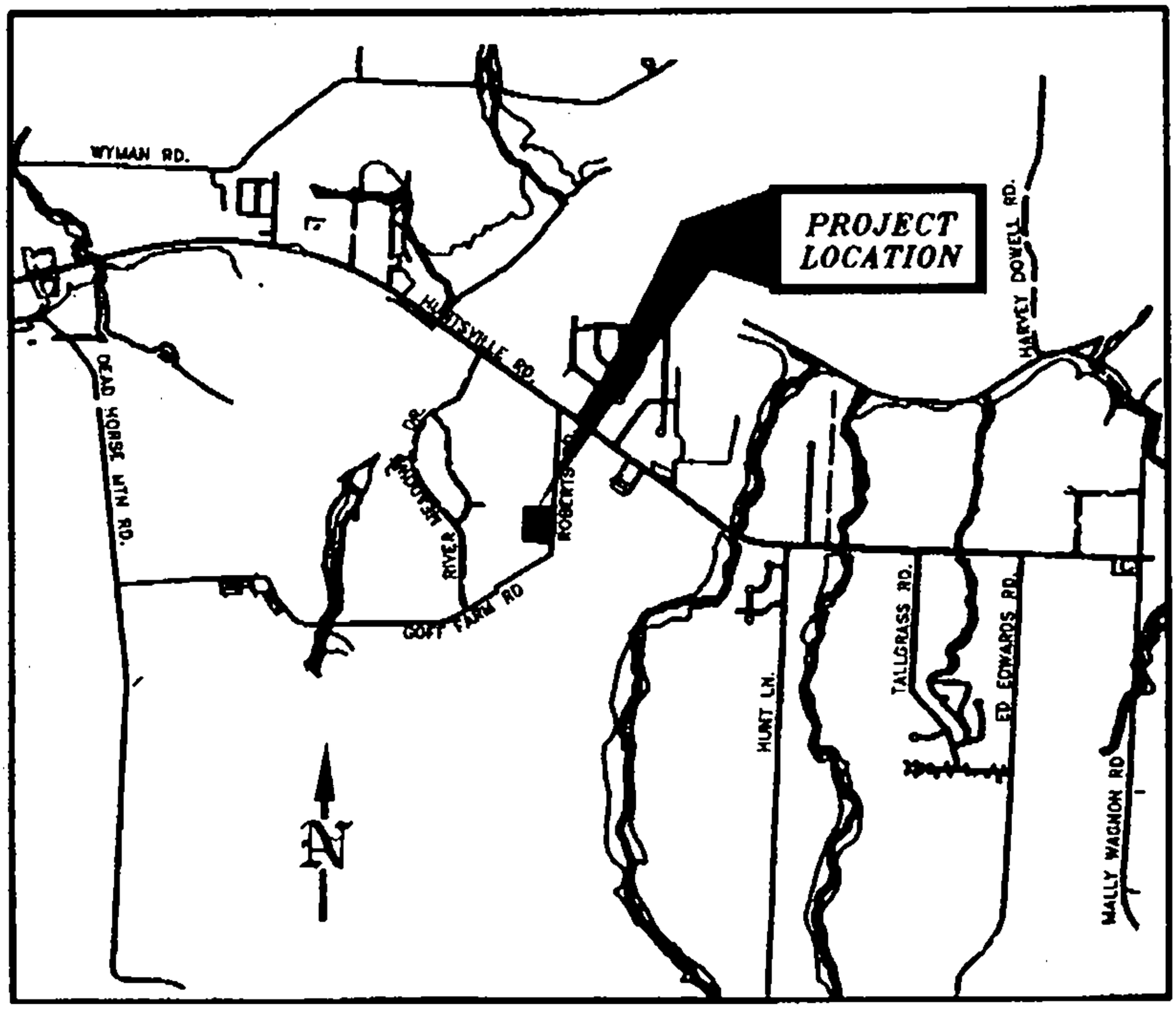
on this the 24 day of March, 2004.

My Commission Expires: Sept 1, 2004

Brenda Struble

BRENDA STRUBLE
COMM. EXP.
NOTARY
PUBLIC
SEPT. 1, 2004
SALINE COUNTY, AR

EXHIBIT "A"



AMES

VICINITY MAP
N.T.S.

E-695

A part of the SW1/4 of the NW1/4 of Section 19, T-16-N, R-29-W of the 5th Principal Meridian, described as commencing at the Southeast Corner of said SW1/4 of the NW1/4 of said Section 19, and continuing thence N 86-45-04 W 7.86 feet to a nail and bottle cap at the intersection of the South Boundary of said 40-acre tract and the County Road No. 170 Centerline, said point being N 02-46-52 E, 2,640.00 feet and S 86-45-04 E 1052.02 feet from the Southwest Corner of said Section 19, AND continuing thence along the centerline of said County Road N 02-33-40 E 60.97 feet (Deed Call 60.30 feet) to the point of beginning; said point being in the Centerline of said County Road No. 170;

Thence N 86-50-21 W 305.18 feet to a fence corner;

Thence along a Deed Called fence N 02-28-59 E 281.93 feet to a fence corner;

Thence along a fence S 86-54-30 E 305.56 feet to the centerline of said County Road No. 170;

Thence along said Road Centerline S 02-33-40 W 282.29 feet to the point of beginning, containing 1.978 acres, more or less, Washington County, Arkansas.

IN THE COUNTY COURT OF WASHINGTON COUNTY

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

NO. CC 2004-14

ORDER OF ANNEXATION

Now on this 6th day of May, 2004, this cause comes on to be heard, the Petitioner, Paul Ames as Trustee of the AMES FAMILY TRUST who is represented by the Engineer of Record, Melvin Milholland, after announcing the hearing of the cause and there being no protests or objections, whereupon, the matter is submitted to the Court upon the Petition filed herein, and the oral and documentary evidence having been adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on the 31st day of March, 2004 at which time this Court fixed the 6th day of May, 2004, at 10 a.m., as the date and time of hearing for said cause, and that a full thirty (30) days notice of hearing was given as required by law and the proof of publication of said notice 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

Doc ID: 007230530003 Type: REL
Recorded: 05/06/2004 at 10:27:59 AM
Fee Amt: $14.00 Page 1 of 3
Washington County, AR
Bette Stamps Circuit Clerk
File 2004-00017358

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 on "Exhibit "A" attached hereto.

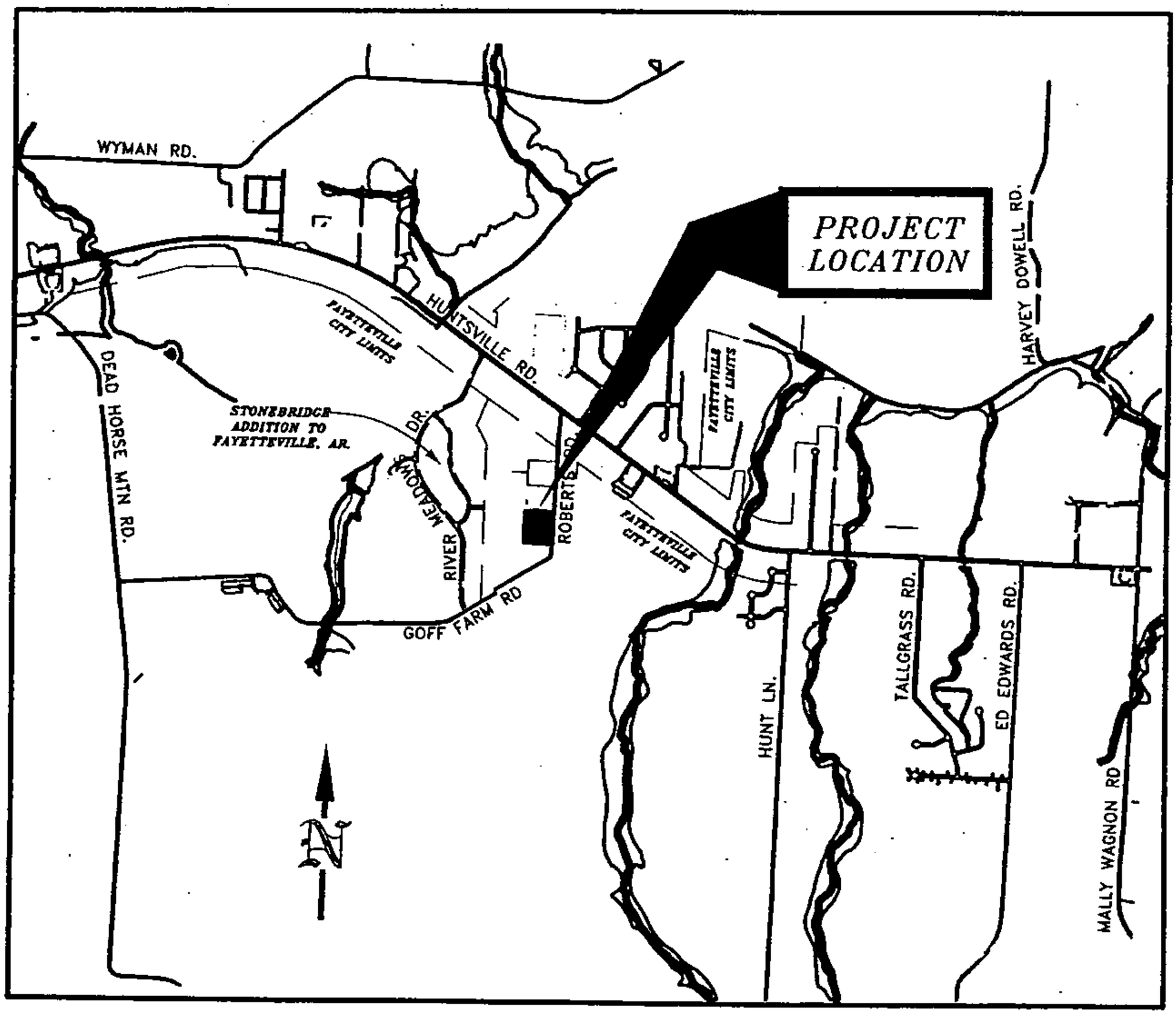
4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is adapted for urban purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

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 Acct. 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 1953, as codified in *Ark. Code Ann.* 14-40-601, et seq., and this Order shall be duly recorded by the Clerk of Washington County.

IT IS SO ORDERED this 6th day of May, 2004.

The Honorable Jerry Hunton
Washington County Judge

EXHIBIT "A"



AMES VICINITY MAP E-695
N.T.S.

A part of the SW1/4 of the NW1/4 of Section 19, T-16-N, R-29-W of the 5th Principal Meridian, described as commencing at the Southeast Corner of said SW1/4 of the NW1/4 of said Section 19, and continuing thence N 86-45-04 W 7.86 feet to a nail and bottle cap at the intersection of the South Boundary of said 40-acre tract and the County Road No. 170 Centerline, said point being N 02-46-52 E, 2,640.00 feet and S 86-45-04 E 1052.02 feet from the Southwest Corner of said Section 19, AND continuing thence along the centerline of said County Road N 02-33-40 E 60.97 feet (Deed Call 60.30 feet) to the point of beginning; said point being in the Centerline of said County Road No. 170;

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Thence along a Deed Called fence N 02-28-59 E 281.93 feet to a fence corner;

Thence along a fence S 86-54-30 E 305.56 feet to the centerline of said County Road No. 170;

Thence along said Road Centerline S 02-33-40 W 282.29 feet to the point of beginning, containing 1.978 acres, more or less, Washington County, Arkansas.

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JUN 14 2004
PLANNING DIV.

FILE

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

REGISTRATIONS:
PE: AR, MO
PLS: AR

June 14, 2004

Project No. E-695

FAYETTEVILLE
125 West Mountain Street
Fayetteville, Arkansas 72701

ATTN: Dawn Warrick, Planning Division
RE: Jones Annexation and Rezoning ANX 04-1071 and RZN 04-1072
Ames Trust Annexation and Rezoning ANX 04-1073 and RZN 04-1074

Dear Dawn:

As discussed with you this afternoon, the property Owner of the Jones Tract, Vera Jones; and representative for the Ames Family Trust Tract, with MCO's Client, Clint McDonald, are asking that the above referenced partition requests be TABLED to provide time to conduct additional research in property boundary re-alignments. Modification of the presented configuration may be possible that will alleviate the issue of creating an island of unincorporated property within City Limits.

The proposed modification of property lines presents other concerns that need to be addressed and issues resolved before presenting for consideration to the Planning Commission. Tabling of these requests will provide us the time needed to properly resolve new issues with the County concerning the proposed boundary adjustment and with the City's Engineering Division concerning drainage detention.

It is the intention to present the Planning Commission with conditions that are supported by Staff.

Your cooperation and willingness to assist in this matter are appreciated.

Sincerely,
Milholland Company

For:
Thomas M. Jefcoat, RLA
Projects Manager

cc: Clint McDonald, Vera Jones

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

Ostner: Welcome to the June 14, 2004 meeting of the Fayetteville Planning Commission. Can we have the roll call please?

Roll Call: Upon the completion of roll call there were seven Commissioners present with Commissioner Trumbo being absent and Commissioner Myres arriving at approximately 5:35 p.m.

Ostner: Before we get started items eight through eleven have been tabled by the applicant. Those are ANX 04-1071 for Jones, RZN 04-1072 for Jones, ANX 04-1073 for Ames Trust and RZN 04-1074 for Ames Trust.

Williams: Certainly the Planning Commission honors the petitioners when they request that their items be tabled. If people are here to speak to it, you might allow them to go ahead and speak so they wouldn't have to come back later before they are officially tabled. Tabling really will require a vote of the Planning Commission.

Approval of the Minutes

VAC 04-1105: Vacation (LUTZ, 716): Submitted by THOMAS C. LUTZ for property located at 1645 W SUNRISE MTN ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.30 acres. The request is to vacate a portion of a 10' gas and water easement on the subject property.

Ostner: Just to reiterate, if anyone would like to speak to these tabled items we will have a time available when they come up on the agenda. The first item is the Consent Agenda. The item is VAC 04-1105. Does anyone wish to speak to this item or shall we have a motion to approve the consent agenda?

Shackelford: I will make a motion we approve the consent agenda. That includes minutes.

Clark: Second.

Ostner: Renee?

Roll Call: Upon the completion of roll call the motion to approve the consent agenda was approved by a vote of 8-0-0.

* **ANX 04-1071: Annexation (JONES, 569)**: Submitted by MEL MILHOLLAND for property located at 1341 ROBERTS ROAD AND EAST OF STONEBRIDGE MEADOWS SUBDIVISION PHASE I. The property is in the Planning Area and contains approximately 7.47 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 04-1072: Rezoning (JONES, 569): Submitted by MEL MILHOLLAND for property located at 1341 ROBERTS ROAD. The property is in the Planning Area and contains approximately 7.47 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

ANX 04-1073: Annexation (AMES TRUST, 569): Submitted by MEL MILHOLLAND for property located at W SIDE OF ROBERTS RD, S OF HWY 16E. The property is in the Planning Area and contains approximately 1.97 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 04-1074: Rezoning (AMES TRUST, 569): Submitted by MEL MILHOLLAND for property located at W SIDE OF ROBERTS RD, S OF HWY 16E. The property is in the Planning Area and contains approximately 1.97 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next items on our agenda have been tabled by the applicant. However, they are on our agenda. If people from the public are here to speak on these issues we will get to that. The next item is ANX 04-1071 for Jones. We have no staff report but if anyone from the public would like to speak.

Davison: Hi, again, Sharon Davison. This is a really important issue to me. Thank you and to our city and we all know that because we do have our taskforce in tact on Annexation/Rezoning. It is a tricky subject, we know about that. I do believe that it is appropriate at times. I don't agree with Mayor Coody that it is appropriate all the time as he said. The issue for me is not annexation, I have an issue with rezoning. The last time I had asked a question for staff to address, even though to me it seemed self explanatory that these are separate issues, meaning we address annexation, that can be approved if it is approved you go to rezoning. I am not quite sure why we seem to feel if we annex that we are immediately obligated to accommodate developers to rezone. That is what I'm asking you here tonight. First I would like to ask that question Mr. Chairman as to we do not have to automatically grant rezonings when we give an annexation, correct?

Ostner: That is correct. However, this is where you simply speak your peace and we try not to dialogue.

Davison: I understand that but I had asked that question last time and I didn't get a clear answer. That is the only reason why I was asking it. I was not supposed to speak to staff so that was the way I presented it was.I didn't get that clear answer even though to me it seems that way. That's what I'm asking here is that you all consider under the current situation, again, we see how much is coming through even when at one time we had a moratorium, we had a sewer issue, etc. That gets back to sewer. Our plant is not even planned to be online and as far as I know it is not ahead of schedule. Usually on a sewer plant if we are lucky it will come in on schedule. On schedule would be Fall, 2006. I do not think that it is at all unreasonable and you have been here long enough to see how many are coming at you for annexation right up with zoning, rezoning generally to the maximum of four units per acre. I think what I'm asking you to do is to consider our infrastructure needs from streets to sewers to everything and if you feel it is appropriate to annex, annex. I think it is fair if it is a choice and request by a citizen for annexation to maybe as you do sort of discuss your feelings to say annexation is good but we will postpone most rezonings until our sewer is online. That is not unreasonable. We are really about to hit max load point. What has been approved in the last six months, much less the past year, we are not seeing that impact yet. We are only seeing impact from the small scale things that have come up the past couple of years. It is so prudent and it is so reasonable I just can't get it why when we have this issue with roads, with infrastructure, we have a taskforce, we are trying to understand and get a handle on it. Why can't we wait? I would appreciate it if you as a board would come up with maybe, especially these, again, look at the total units requested. That you grant whatever annexations as each comes to you, you feel appropriate but could you not maybe discuss with yourselves, if not tonight, the reasonableness of not granting these rezonings and allowing this development until we do see closer to Fall, 2006. That is 2 ½ years away at the earliest that we will get our additional sewer capacity. This is a big deal and I don't see why it is unreasonable to say we will wait on major rezonings until our sewer is online but if you want to be annexed now and know that it is coming and make your plans while we make our plans to catch up, that would be appropriate. Thank you and goodnight.

Ostner: Are there any other comments from the public on this issue? I am going to close it to the public and bring it back to the Commission.

Warrick: In response to that and to elaborate a little bit on annexation. Staff is guided by our General Plan, which is a policy that was adopted by our City Council and approved by our Planning Commission. Chapter 11 of that General Plan is annexation. Chapter 11.6 are the guiding policies with regard to annexation. One of those under administration states "designate zoning districts for the property during the annexation

process." As questions arise as to why we are looking at rezonings at the same time that we are looking at annexations, it is because we are directed to do so through this policy. This is the same policy that our annexation strategy taskforce is looking at and will be making some recommendations with regard to. Right now this is our directive and that is why we recommend that the applicant requests their rezoning for a district that they feel is appropriate that we will evaluate and make a recommendation on with regard to appropriateness at the time that annexation is requested.

Ostner: Thank you. I am sorry that our speaker left. I think that's what she wanted to hear. We need to go ahead and individually table these items to stay legal. They have been voluntarily tabled by the applicant but it would be best to move in that manner.

MOTION:

Anthes: I move to table ANX 04-1071 at the request of the applicant.

Shackelford: Second.

Ostner: Is there further discussion? Please call the roll.

Roll Call: Upon the completion of roll call the motion to table ANX 04-1071 was approved by a vote of 8-0-0.

Ostner: The next item is RZN 04-1072

MOTION:

Anthes: I move to table item RZN 04-1072 at the request of the applicant.

Shackelford: I will second.

Ostner: Is there further discussion? I agree with Ms. Davison that there is a big difference between annexation and rezoning. I've often wondered this. Why can't we annex open area? It seems counterintuitive to only annex areas we want to develop. If the city is going to master plan or plan in advance, it seems an important tool would be to have space that is not zoned for development but is on the maps to be a certain way. That is sort of like the downtown master plan sort of goes in that direction. To only annex areas that applicants want to develop immediately is difficult for us. It makes things very difficult. This is a rezoning and that is my comment. I wish we had more tools to work with on the annexation and rezoning issues.

Warrick: You have directed your statement to the issue of the reason we have an annexation strategy taskforce. Those are some of the debates that I'm sure they are having in their meetings. We do have a master plan that encompasses all of our planning area. That is a tool that we can use when we are looking at these annexations that we currently are experiencing that seem piecemeal. There is a plan that oversees everything.

Ostner: It just seems though that they only come to us when the market or the applicant brings them a piece here and a piece there. Things change over time and we lose sight quickly of our overall goal. I'm encouraging the taskforce to come up with more tools. Is there any further discussion?

Roll Call: Upon the completion of roll call the motion to table RZN 04-1072 was approved by a vote of 8-0-0.

Ostner: The next item is ANX 04-1073.

MOTION:

Shackelford: I will make a motion that we table ANX 04-1073 at the applicant's request.

Anthes: I will second.

Ostner: I have a motion and a second. Is there further discussion?

Roll Call: Upon the completion of roll call the motion to table ANX 04-1073 was approved by a vote of 8-0-0.

Ostner: The last item is RZN 04-1074 for Ames Trust.

MOTION:

Shackelford: Based on the applicant's request I will make a motion that we table RZN 04-1074.

Anthes: I will second.

Ostner: Is there further discussion?

Roll Call: Upon the completion of roll call the motion to table RZN 04-1074 was approved by a vote of 8-0-0.

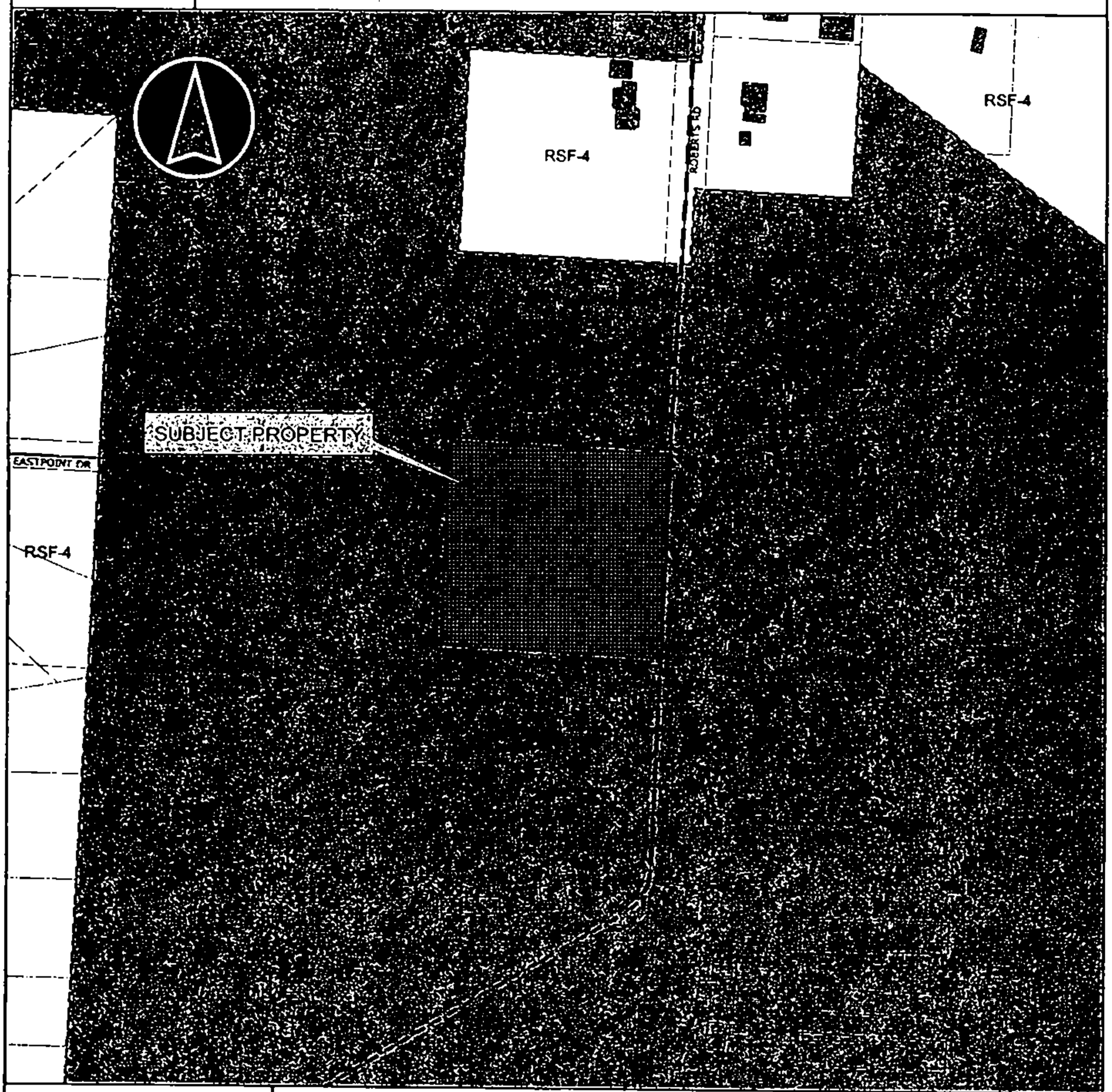
Announcements

Meeting Adjourned:

ANX04-1073

Close Up View

AMES TRUST



Overview

Legend

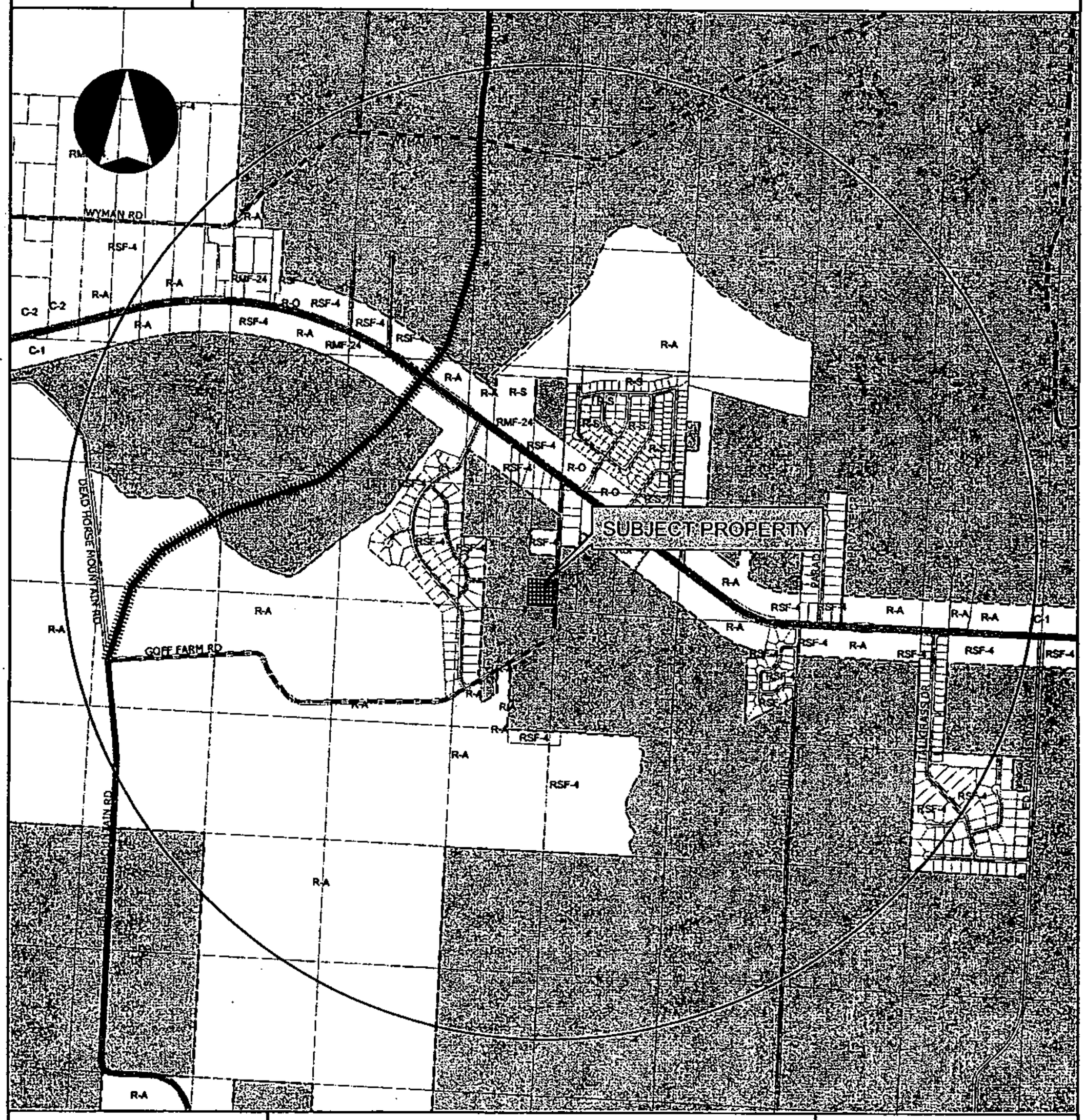
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- ANX04-1073

0 75 150 300 450 600 Feet

ANX04-1073

One Mile View

AMES TRUST



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-1073: Annexation (Ames Trust, pp569) was submitted by Mel Milholland for property located on the west side of Roberts Road south of Huntsville Road containing approximately 1.97 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn I Warrick — 7/14/04
Division Head — Date

7/19/04
City Attorney — Date

Received in Mayor's Office 7/19/04 Date p.H.

Department Director — Date

7-20-04
Finance & Internal Services Dir. — Date

7-21-04
Chief Administrative Officer — Date

7/21/04
Mayor — Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 7/16/04

Left on 1st reading 8/3/04

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: July 13, 2004

Subject: Rezoning request for Ames Trust (RZN 04-1074)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 1.97 acres of property from R-A, Residential Agricultural to RSF-4, Residential Single Family – 4 units per acre.

BACKGROUND

The subject property contains approximately 1.97 acres located south of Huntsville Road and west of Roberts Road. The property is a vacant field surrounded by single family residential dwellings. The proposed annexation 04-1071 of approximately 5.66 acres adjoins this property to the west. Should the annexation of the aforementioned property not be annexed into the City, the subject property of 1.97 acres will not adjoin any portion of the existing city boundary and would therefore create an island of City property. Surrounding properties within the City are zoned RSF-4 and developed as residential. The Future Land Use Plan identifies this property as Residential. The applicant proposes to rezone the 1.97 acre tract in anticipation of development of the property as a residential subdivision.

DISCUSSION

This item, as well as the accompanying annexation request, was tabled by the Planning Commission at the request of the applicant on June 14, 2004. On July 12, 2004, the Planning Commission voted 8-0-0 to forward this rezoning request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO. _____

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.

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

<u>Section 1:</u> 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.

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By:_____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

DRAFT

EXHIBIT "A"
RZN 04-1074

A PART OF THE SW ¼ OF THE NW ¼ OF SECTION 19, T-16-N, R-29-W OF THE 5TH PRINCIPAL MERIDIAN, DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID SW ¼ OF THE NW ¼ OF SAID SECTION 19, AND CONTINUING THENCE N86-45-04 W 7.86 FEET TO A NAIL AND BOTTLE CAP AT THE INTERSECTION OF THE SOUTH BOUNDARY OF SAID 40 ACRE TRACT AND THE COUNTY ROAD NO. 170 CENTERLINE, SAID POINT BEING N02-46-52 E, 2,640.00 FEET AND S 86-45-04 E 1052.02 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 19, AND CONTINUING THENCE ALONG THE CENTERLINEOF SAID COUNTY ROAD N02-33-40 E 60.97 FEET (DEED CALL 60.30 FEET) TO THE POINT OF BEGINNING; SAID POINT BEING IN THE CENTERLINE OF SAID COUNTY ROAD NO. 170; THENCE N86-50-21 W 305.18 FEET TO A FENCE CORNER; THENCE ALONG A DEED CALLED FENCE N02-28-59 E 281.93 FEET TO A FENCE CORNER;THENCE ALONG A FENCE S86-54-30 E 305.56 FEET TO THE CENTERLINE OF SAID COUNTY ROAD NO. 170; THENCE ALONG SAID ROAD CENTERLINE S02-33-40 W 282.29 FEET TO THE POINT OF BEGINNING, CONTAINING 1.978 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of July 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
THRU:	Dawn Warrick, AICP, Zoning & Development Administrator
DATE:	July 7, 2004

RZN 04-1074: Rezoning (AMES TRUST, 569): Submitted by MEL MILHOLLAND for property located at W SIDE OF ROBERTS RD, S OF HWY 16E. The property is in the Planning Area and contains approximately 1.97 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: AMES FAMILY TRUST Planner: SUZANNE MORGAN

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

PLANNING COMMISSION ACTION:	**Required**	**YES**
	⊗ **Approved**	○ **Denied**
Date: July 12, 2004	Shackelford/Clark² 8-0-0	
CITY COUNCIL ACTION:	**Required**	**YES**
	○ **Approved**	○ **Denied**
Date: August 03, 2004		

BACKGROUND: Please reference the associated ANX 04-1073 (Ames Trust) staff report for additional background information.

This rezoning request was tabled at the Planning Commission meeting of June 14, 2004 at the request of the applicant.

Property description: The subject property contains approximately 1.97 acres located south of Huntsville Road and west of Roberts Road. The property is a vacant field surrounded by single family residential dwellings on large lots. The proposed annexation 04-1071 of approximately 5.66 acres abuts this property to the west. Should the annexation of the aforementioned property not be annexed into the City, the subject property of 1.97 acres will not adjoin any portion of the existing city boundary and would therefore create an island of City property.

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 1.97 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 04-1073, is an accompanying item to this rezoning request.

Public Comment: Staff has received comments from a nearby property owner concerning potential drainage problems on the two tracts (Ames and Jones) proposed to be combined. It was stated that this property has severe drainage problems and floods due to the topography of the site. Staff will further review on-site drainage with regard to any development proposal.

Recommendation: Should the annexation request be approved, 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	Planning Area
South	Single family residential	Planning Area
East	Single family residential	Planning Area
West	Vacant [proposed ANX 04-1071 (Jones)]	Planning Area [proposed RZN 04-1072 (Jones) from R-A to RSF-4]

INFRASTRUCTURE:

Streets: Street improvements will have to be extended through the site for any future development. Roberts Road will also need to be further improved the length of the project frontage. The need for off-site improvements will be evaluated at the time of development proposal

Surrounding Master Street Plan Streets:
North: Huntsville Rd. (principal arterial)
South: Goff Farm Rd. (collector)
East: Roberts Rd. (collector)
West: Eastpoint Dr. (local; undeveloped street connection to Stonebridge Meadows Subdivision Phase I)

Water: The property has access to an 8" water main on the west side of this property that was stubbed out from the adjacent subdivision. There is also a 6" water main on the east side along Roberts Road. An extension of the water main will be required to provide water supply and fire protection within any development on this property. The main will have to loop between the existing 8" and 6" water mains.

Sewer: The site currently has access to an 8" sewer main on the west side of this property that was stubbed out from the adjacent subdivision. Sewer will need to be extended within the development.

Fire: The subject property is located 3.17 miles from Fire Station #5. Normal driving time is 7-8 minutes. The property is located 2.34 miles from the future Fire Station #3. Normal driving time is 4-5 minutes.

Police: It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services.

If an outlet onto Roberts Road is planned, improvements to Roberts Road should be considered. If no outlet is planned, then this should not create and appreciable increase in traffic danger and congestion in the area.

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 and density to the surrounding subdivisions to the west, north, and south of the subject property. A majority of the lots within Stonebridge Meadows Subdivision Phase I are developed to the west of the property, and the development of Stonebridge Meadows Subdivision Phase II has been approved to the south of the property. These subdivisions are zoned RSF-4 and developed at 2.05 and 2.6 units per acre respectively. Property to the north, south and east are within the Planning Area and consist of single family residences on large lots as well as vacant land. Development of this property at 4 units per acre will be consistent with the development of City property in this area.**

Rezoning the property to RSF-4 will increase the density with development of this vacant property, allowing for more intense residential use of the

property and allow for development compatible to surrounding residential subdivisions. Construction of street infrastructure required by the Master Street Plan shall be considered at the time of development, as well as street improvements through the site.

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 approved 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. If an outlet onto Roberts Road is planned, improvements to Roberts Road should be considered. If no outlet is planned, then this should not create and appreciable increase in traffic danger and congestion in the area. Access and connectivity 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 approximately 1.97 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 1 dwelling unit (1 per 2 acres). With the proposed RSF-4 designation, 7 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 west and south.**

Engineering - **The property has access to an 8" water main on the west side of this property that was stubbed out from the adjacent subdivision. There is also a 6" water main on the east side along Roberts Road. An extension of the water main will be required to provide water supply and fire protection within any development on this property. The main will have to loop between the existing 8" and 6" water mains.**

The site currently has access to an 8" sewer main on the west side of this property that was stubbed out from the adjacent subdivision. Sewer will need to be extended within the development.

Street improvements will have to be extended through the site for the development. Roberts Road will also need to be improved the length of the project frontage.

Fire - **The subject property is located 3.17 miles from Fire Station #5. Normal driving time is 7-8 minutes. The property is located 2.34 miles from the future Fire Station #3. Normal driving time is 4-5 minutes.**

Police - **It is the opinion of the Fayetteville Police Department that this annexation <u>will</u> <u>not</u> substantially alter the population density and thereby undesirably increase the load on police services. If connectivity is provided through this property to Roberts Road, improvements to this road should be considered.**

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: Nonresidential:	 2 acres 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.

To: City of Fayetteville Planning
From: Milholland Engineers
Subject: Rezoning Application

Application Item #5::

5.a. Current ownership information and any proposed or pending property sales:
RESPONSE: Existing Owner, Vera Jones, 1341 Roberts Road, Fayetteville, Arkansas 72701 - has an Offer and Acceptance pending with Client McDonald, a local developer.

5.b. Reason (need) for requesting the zoning change:
RESPONSE: Existing zoning of A-1 (after annexed) will not provide the demand for residential single family lots with public utilities being requested by local house building contractors.

5.c. Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage:
RESPONSE: *Existing Land Use*: New single family city residential subdivision adjoining the west boundary with all public utilities, and rural single family homes adjoining the east and south boundaries, with a small pasture adjacent the north boundary; said pasture is bound on the north by a few city single family homes along Highway 16 East.
Traffic: New single family residential development will add through connection by extended an existing dead end new (Point West) street from the west to the east and connect to an existing 20 foot wide paved county road. This connection will allow three traffic connections to Highway 16 East.
Appearance: New home construction will continue to add an improving appearance to the community that was begun with the new golf coarse and new residential subdivision adjoining this site to the west.

5.d. Availability of water and sewer (state size of lines).
RESPONSE: 8 inch water and 8 inch sanitary sewer mains, and utility easements, are constructed up to the west boundary of this site being planned for a residential development, which consist of two tracts of land, known as the "Jones and Ames" tracts. A 6 inch water main is adjacent to the east boundary of the proposed development.

Application Item # 6: Written statements addressing the following:

6.a. The degree to which the proposed zoning is consistent with the land use planning objectives, principles, and policies and with land use and zoning plans:
RESPONSE: The proposed single family zoning is in concurrence with the city's long range planning objectives in its 2020 plan. It complies with the city's policies of organized expansion of city facilities and infrastructure, and with the principle of zoning and developing vacant tracts of land in continuity with the Official Land Use Plan and at the same time, continue to add to the type of growth within the existing neighborhood. This proposed zoning is consistent with the city's long range land use and zoning plans.

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PLANNING DIVISION

Application Item # 6: Written statements addressing the following: (cont'd)

6.b. Whether the proposed zoning is justified and/or needed at the time of the request:
RESPONSE: The demand for single family homes in this area of the City of Fayetteville is in high demand..

6.c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion:
RESPONSE: Certainly, new homes bring more vehicles, but the City of Fayetteville requires the developer to construct new streets through it's development and connectivity into the existing street system.

6.d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on the public services including schools, water, and sewer facilities:
RESPONSE: New water and sewer mains will be extended to facilitate the new residents. The site is located on east Arkansas 16 Highway, and will discharge its sewerage into a collection system that flows into the existing treatment plant. The nearest school is Happy Hollow Elementary.

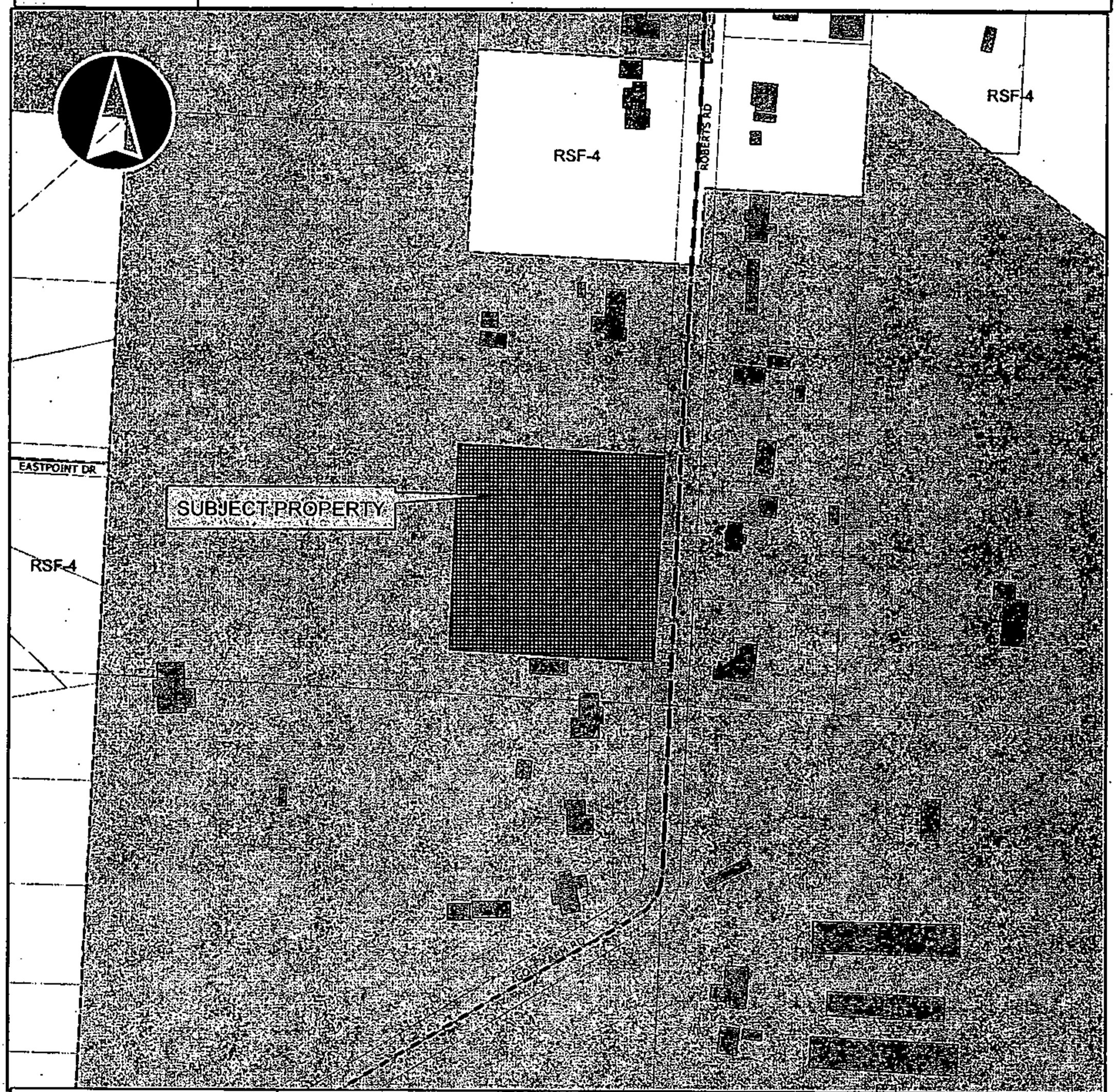
6.e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification:
RESPONSE: The land is presently rural, and will be A-1 if annexed into the city. The site is too small to farm productively. The highest and best use of site is single family homes.

RECEIVED
MAY 0 6 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

RZN04-1074

Close Up View

AMES TRUST



Overview

Legend

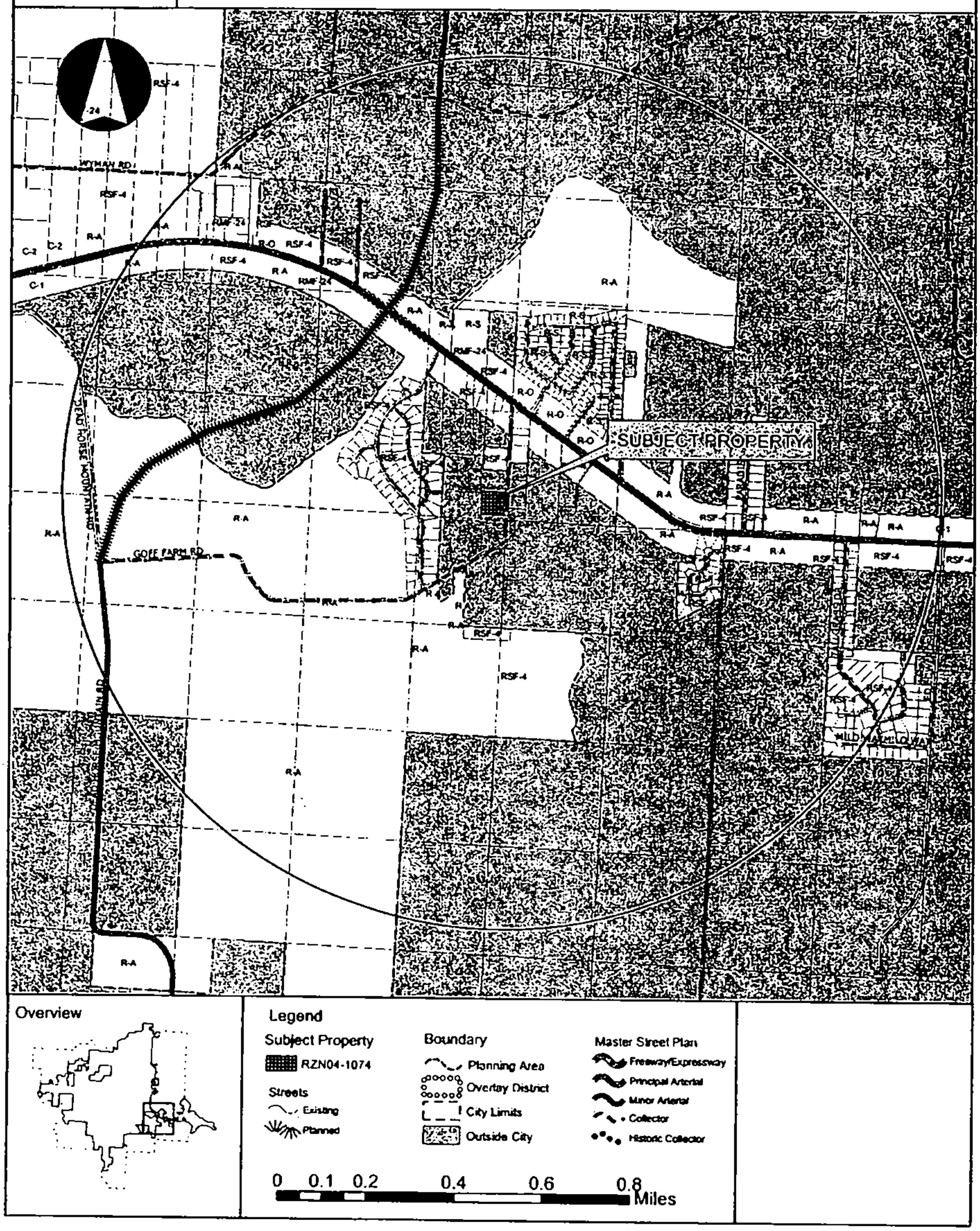
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- City Limits
- Outside City
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- RZN04-1074

0 75 150 300 450 600 Feet

RZN04-1074

One Mile View

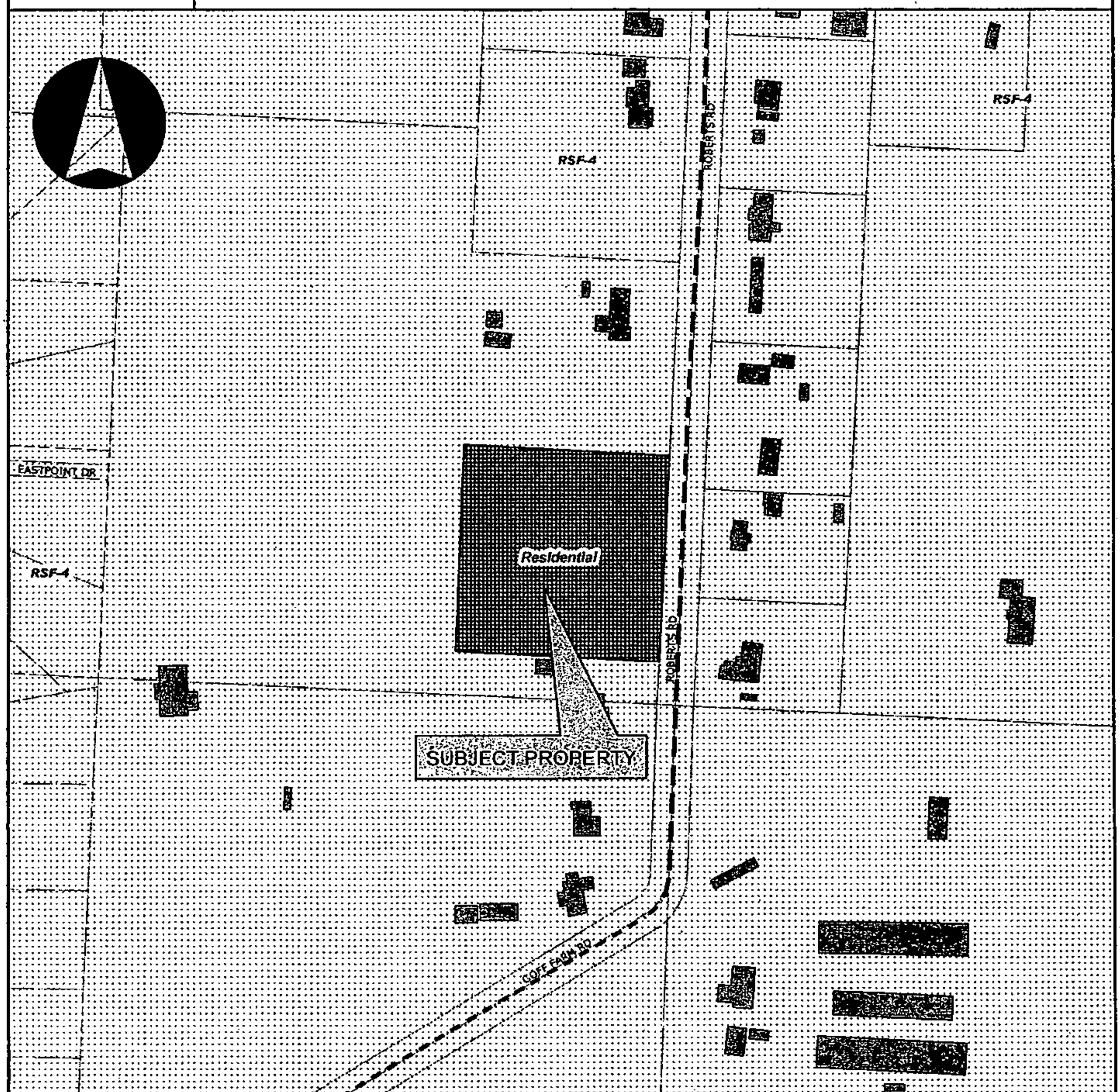
AMES TRUST



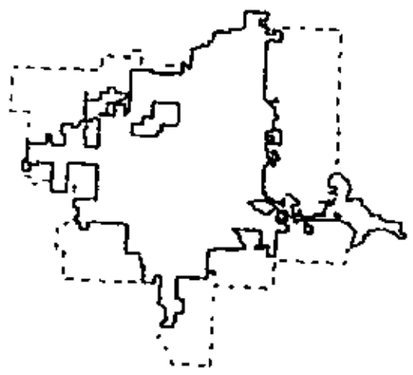
RZN04-1074

Future Land Use

AMES TRUST



Overview



Legend

Subject Property

RZN04-1074

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 75 150 300 450 600 Feet

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1074: Rezoning (Ames Trust, pp 569) was submitted by Mel Milholland for property located on the west side of Roberts Road, south of Huntsville Road containing approximately 1.97 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 — 7/14/04
Division Head — Date

7/19/04
City Attorney — Date

Department Director — Date

7-20-04
Finance & Internal Services Dir. — Date

7-21-04
Chief Administrative Officer — Date

7/21/04
Mayor — Date

Received in Mayor's Office 7/19/04 Date P.H.

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 7/16/04

Left on 1st reading 8/3/04

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: July 15, 2004

Subject: Easement Vacation for Lot 5 Pine Valley (VAC 04-1119)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating portions of utility easements along the east side of Lot 5A and the west side of Lot 5B, as described and depicted herein.

BACKGROUND

A lot split to allow a common wall between the proposed two-family dwelling unit was approved and recorded for the subject property in December, 2003. The recorded plat indicated 15-foot building setbacks and utility easements along the side property lines, exceeding the requirements of the RMF-24 zoning district (8 feet minimum). Upon application for a building permit, the structure proposed fit within the 8-foot building setbacks as required by zoning ordinances, however encroached upon the recorded utility easements on both sides.

Request: The applicant requests to vacate seven feet of the existing 15-foot utility easements on the west side of Lot 5B and the east side of Lot 5A as described and depicted in the attached documents, in order to establish more typical easements and building setbacks and construct a proposed two-family unit on the property.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. No objections were submitted.

The Planning Commission voted 7-0-0 on its consent agenda to forward this item to the City Council with a recommendation for approval of the vacation request at the regular meeting of July 12, 2004.

BUDGET IMPACT

None.

ORDINANCE NO. _____

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.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described platted utility easement is not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easement:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By_____
Dan Coody, Mayor

ATTEST:

By_____
Sondra Smith, City Clerk

EXHIBIT "A"
VAC 04-1119

A PART OF LOT 5A IN THE RE-PLAT OF LOT 5, PINE VALLEY ADDITION, PHASE V, TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER PLAT OF SAID SUBDIVISION IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTIUCLARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 5, THENCE S89°56'35"W 7.00', THENCE N00°08'50"E 27.00 ' FOR THE POINT OF BEGINNING AND RUNNING THENCE S89°56'35"W 8.00', THENCE N00°08'50"E 277.12', THENCE N89°52'16"E 8.00', THENCE S00°08'50"W 277.12' TO THE POINT OF BEGINNING. CONTAINING 0.05 ACRES, MORE OR LESS.

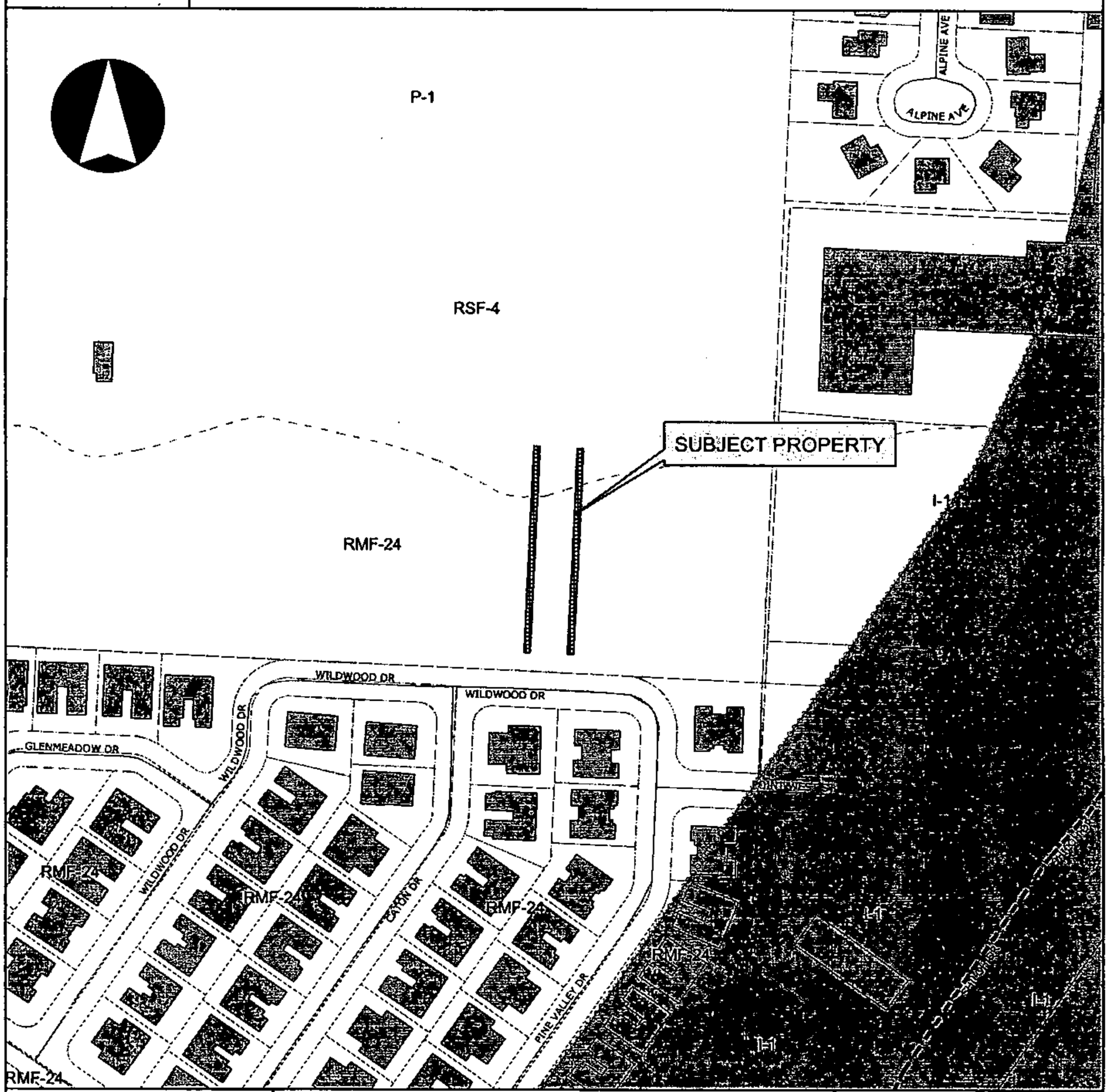
AND

A PART OF LOT 5 IN THE RE-PLAT OF LOT 5, PINE VALLEY ADDITION PHASE V, TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER PLAT OF SAID SUBDIVISION IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WITH: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 5, THENCE N89°56'35"E 7.00', THENCE N00°08'50"E 27.00' FOR THE POINT OF BEGINNING AND RUNNING THENCE N00°08'50"E 277.06', THENCE N89°52'16"E 8.00', THENCE S00°08'50"W 277.06', THENCE S89°56'35"W 8.00' TO THE POINT OF BEGINNING. CONTAINING 0.05 ACRES, MORE OR LESS.

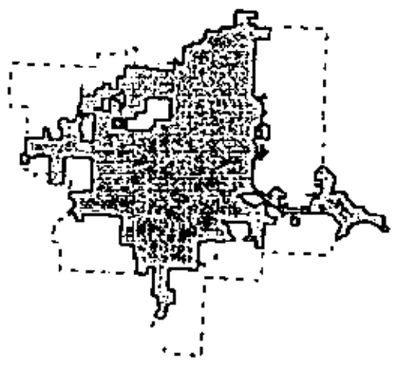
VAC04-1119

Close Up View

PETRINO LOT 5 PINE VALLEY



Overview



Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- VAC04-1119
- Fayetteville
- Outside City

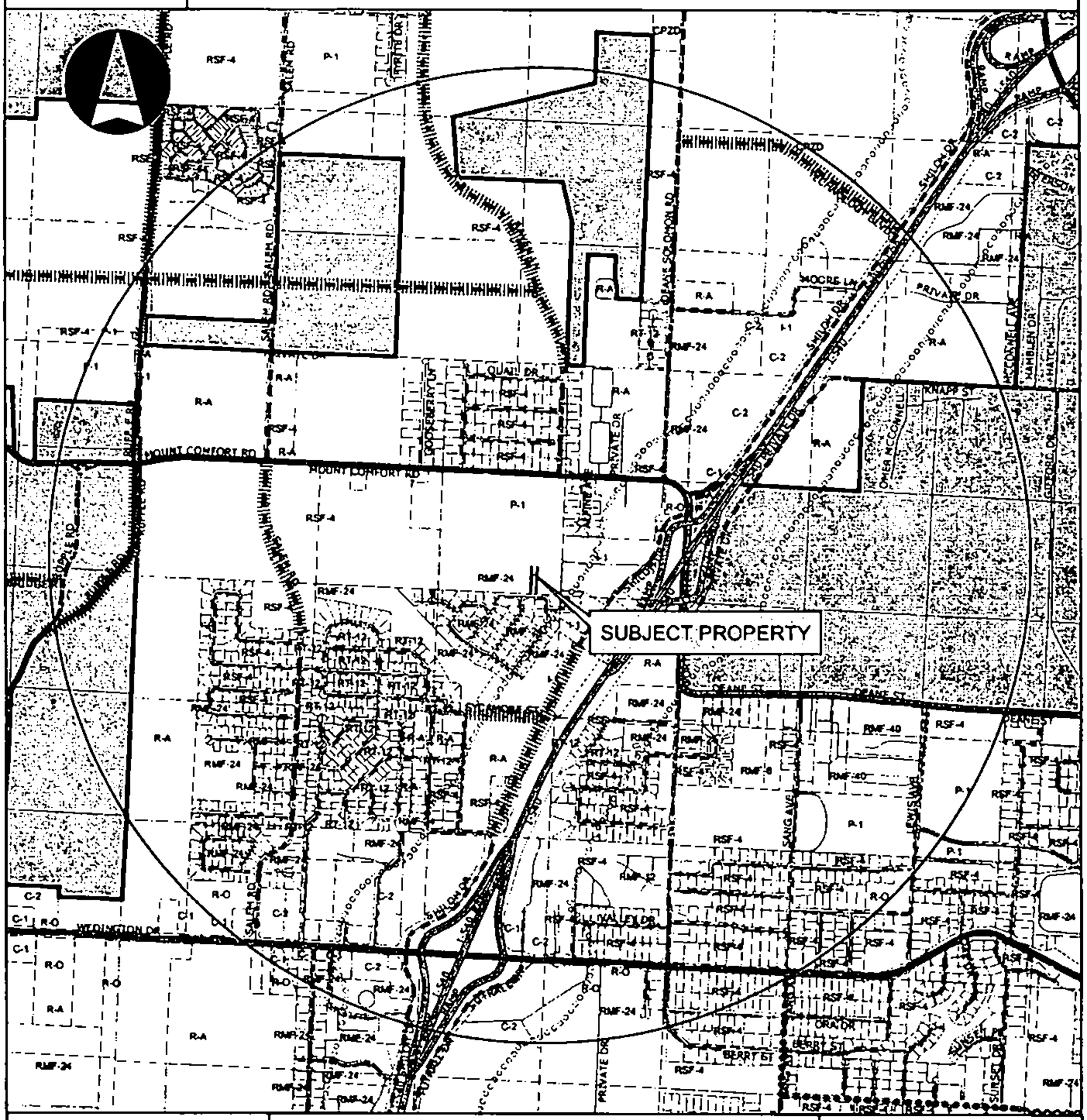
0 75 150 300 450 600 Feet

Exhibit "B"

VAC04-1119

One Mile View

PETRINO LOT 5 PINE VALLEY



Overview

Legend

Subject Property

VAC04-1119

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

Exhibit "B"

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of July 12, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO:	**Fayetteville Planning Commission Members**
THRU:	**Dawn Warrick, AICP, Zoning & Development Administrator**
FROM:	**Jeremy Pate, Associate Planner**
	Matt Casey P.E. Staff Engineer
DATE:	**July 8, 2004**

VAC 04-1119: Vacation (Lot 5 Pine Valley, pp 363) was submitted by Blew Land Surveying for property located at Lot 5 of Pine Valley Addition, Phase 5. The request is to vacate a portion of the existing easements located along the east and west sides of the property. Planner: Jeremy Pate

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

Background: The Fayetteville Subdivision Committee, a subcommittee of the Planning Commission, approved a lot split for the subject property on December 23, 2003, dividing the parent tract, Lot 5, into two lots of 0.31 acres apiece. The requested split was to allow a common wall between the two-family dwelling unit, while still enabling the developer to sell the units individually. The lot split was approved with (3) conditions, one of which limited the development on the lots to one (1) two-family dwellings in total. In the recording of the plat, a 15-foot building setback and utility easement were labeled on the plat, where this zoning district, RMF-24, requires only 8 feet per side. Though the building setback may be modified to conform to zoning district regulations, the public easement is recorded at the county, and requires formal vacation in order to encroach into said area.

Request: The applicant requests to vacate seven feet of the existing 15-foot utility easements on the west side of Lot 5B and the east side of Lot 5A as described and depicted in the attached documents.

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

UTILITIES	RESPONSE
Ozarks Electric	No Objections
Cox Communications	No Objections
AEP/SWEPCO	No Objections
Arkansas Western Gas	No Objections

SW Bell	No Objections
CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	No Objections
Transportation	No Objections
Solid Waste	No Objections
Engineering	No Objections

Recommendation: Staff recommends approval of the proposed easement vacation **04-1119**.

PLANNING COMMISSION ACTION: __yes__ **Required**

__✓__ **Approved** _____ **Denied**

Date: __July 12, 2004__

7-0 (consent agenda)

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

_____

By

_____

Title

_____

Date

CITY COUNCIL ACTION: __yes__ **Required**

_____ **Approved** _____ **Denied**

Date: _____

BLEW LAND SURVEYING, INC.
524 W. SYCAMORE, SUITE 4 * FAYETTEVILLE, AR 72703
PHONE: 479-443-4506 * FAX: 479-582-1883

BOUNDARY * TOPO * RTK GPS * CONSTRUCTION

May 11, 2004.

To Whom It May Concern:

The purpose of vacating the utility easements on lots 5A and 5B of Pine Valley Addition, Phase 5, to the City of Fayetteville, Arkansas is to allow the owner of hereon stated property to complete the construction of a duplex. The size and shape of the proposed duplex is similar to the existing duplexes in Pine Valley Addition. The side utility easements of lot 5 were increased to 15 ft. wide at the time of the lot split approval. The pre-existing utility easement was 8 ft. We are requesting that the additional 7 ft. on each side be vacated. If you have any questions, please feel free to call.

Thank you,

Kim Markham

Kim Markham
Blew Land Surveying, Inc.
(479) 443-4506

PETITION TO VACATE AN EASEMENT, LOCATED IN LOT 5, PINE VALLEY, PHASE V, TO THE CITY OF FAYETTEVILLE, ARKANSAS.

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

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in lot 5, Pine Valley, phase 5, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

A PART OF LOT 5A IN THE RE-PLAT OF LOT 5, PINE VALLEY ADDITION, PHASE V, TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER PLAT OF SAID SUBDIVISION IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 5, THENCE S89°56'35"W 7.00', THENCE N00°08'50"E 27.00' FOR THE POINT OF BEGINNING AND RUNNING THENCE S89°56'35"W 8.00', THENCE N00°08'50"E 277.12', THENCE N89°52'16"E 8.00', THENCE S00°08'50"W 277.12' TO THE POINT OF BEGINNING. CONTAINING 0.05 ACRES, MORE OR LESS.

AND

A PART OF LOT 5 IN THE RE-PLAT OF LOT 5, PINE VALLEY ADDITION, PHASE V, TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER PLAT OF SAID SUBDIVISION IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 5, THENCE N89°56'35"E 7.00', THENCE N00°08'50"E 27.00' FOR THE POINT OF BEGINNING AND RUNNING THENCE N00°08'50"E 277.06', THENCE N89°52'16"E 8.00', THENCE S00°08'50"W 277.06', THENCE S89°56'35"W 8.00' TO THE POINT OF BEGINNING. CONTAINING 0.05 ACRES, MORE OR LESS.

That the abutting real estate affected by said abandonment of the easement in lots 4 and 6, Pine Valley, phase 5, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

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

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said easement.

Dated this _____ day of _____, 20___.

_____
Printed name

_____
Signature

_____
Printed name

_____
Signature

SAMPLE PETITION*

PETITION TO VACATE A(N) (*alley, easement, right-of-way*) LOCATED IN (*lot, block, subdivision*), CITY OF FAYETTEVILLE, ARKANSAS

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

We, the undersigned, being all the owners of the real estate abutting the (*alley, easement, right-of-way*) hereinafter sought to be abandoned and vacated, lying in (*lot, block, subdivision*), City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a(n) (*alley, easement, right-of-way*) which is described as follows:

(Legal Description of area to be vacated)

That the abutting real estate affected by said abandonment of the alley are (*lot, block, subdivision of each adjoinging lot to the area requested to be vacated*) City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described (*alley, easement, right-of-way*).

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

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this ___ day of _____, 20_____.

SANDRA W PETRINO
printed name

Sandra W. Petrino
signature

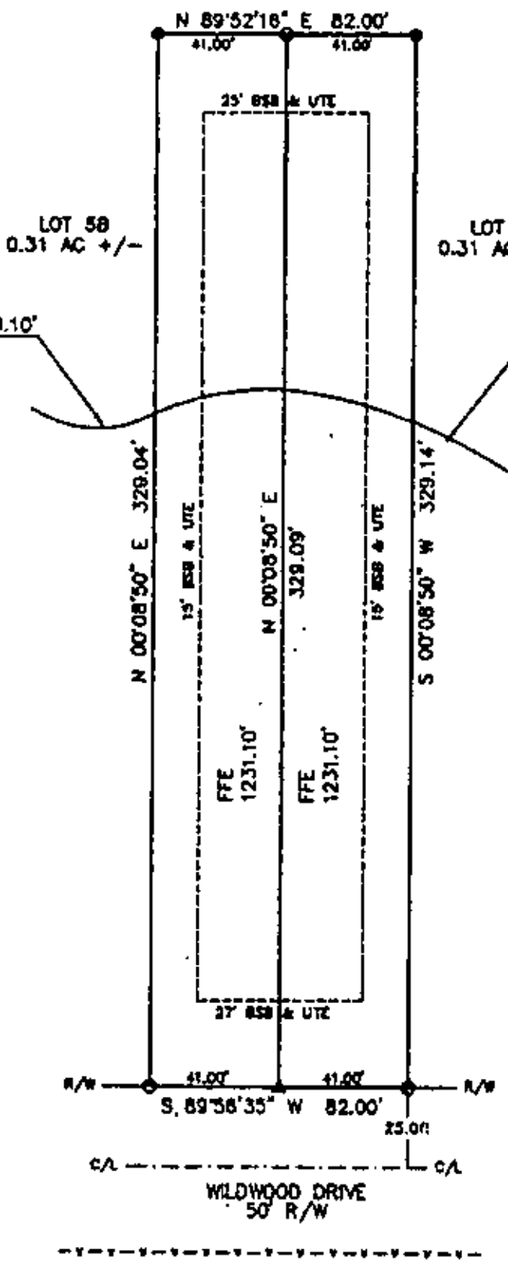
_____
printed name

_____
signature

*** Note: This is a sample - each applicant is responsible for submitting a petition which accurately reflects their specific request.**

Doc ID: 008868340001 Type: REL
Recorded: 01/12/2004 at 10:58:03 AM
Fee Amt: $8.00 Page 1 of 1
Washington County, AR
Bette Stamps Circuit Clerk
File 2004-00001137

001-13626-000
MACRICH, LLC
PO BOX 32
SPRINGDALE, AR 72765
RMF-24



765-22525-000
ERWIN, JAMES E
2974 GLEN MEADOW DRIVE
FAYETTEVILLE, AR. 72704
RMF-24

765-22523-000
CATO, JETT C & SUSAN G
2488 GOLDEN OAKS
FAYETTEVILLE, AR. 72703
RMF-24

765-18789-000
HINCLIFFE, SIGRID N.
1978 CATON DR.
FAYETTEVILLE, AR. 72704
RMF-24

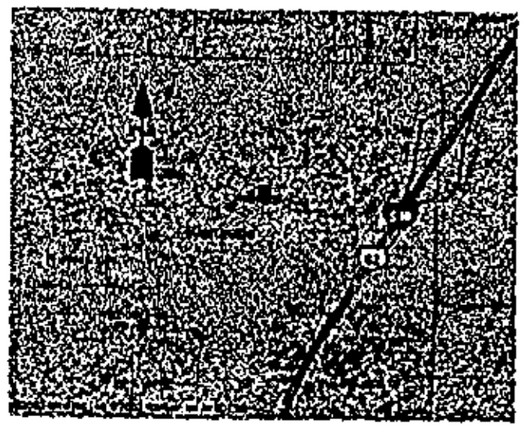
765-18435-000
JOHNSON, RONALD &
BARBARA
1000 PROSPECT BLVD
PASADENA, CA. 91103
RMF-24

LEGEND

These standard symbols will be found in the drawing.

- ● FOUND IRON PIN
- ○ SET IRON PIN
- ■ FOUND STONE
- ▲ RAILROAD SPIKE
- —v—v—v— WATER LINE

VICINITY MAP



VICINITY MAP NOT TO SCALE

SURVEYED FOR: SANDRA W. PETRINO
1914 E. MISSION
FAYETTEVILLE, AR. 72703
765-22524-000
RMF-24

PARENT LEGAL DESCRIPTION:
LOT 5, PINE VALLEY ADDITION, PHASE V, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 23, AT PAGE 24, PLAT RECORDS OF WASHINGTON COUNTY, ARKANSAS.

PROPOSED LOT 5A:
THE EAST HALF OF LOT 5, PINE VALLEY ADDITION, PHASE V, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 23, AT PAGE 24, PLAT RECORDS OF WASHINGTON COUNTY, ARKANSAS.

PROPOSED LOT 5B:
THE WEST HALF OF LOT 5, PINE VALLEY ADDITION, PHASE V, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 23, AT PAGE 24, PLAT RECORDS OF WASHINGTON COUNTY, ARKANSAS.

CERTIFICATE OF OWNERSHIP & DEDICATION:
WE, THE UNDERSIGNED OWNERS, REPRESENTING ONE HUNDRED PERCENT (100%) OWNERSHIP OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DEDICATE FOR PUBLIC OWNERSHIP, ALL STREETS AND ALLEYS AS SHOWN ON THIS PLAT FOR PUBLIC BENEFIT AS PRESCRIBED BY LAW. THE OWNERS ALSO DEDICATE TO THE CITY OF FAYETTEVILLE AND TO THE PUBLIC UTILITY COMPANIES (INCLUDING ANY CABLE TELEVISION COMPANY HOLDING A FRANCHISE GRANTED BY THE CITY OF FAYETTEVILLE) THE EASEMENTS AS SHOWN ON THIS PLAT FOR THE PURPOSE OF INSTALLATION OF NEW FACILITIES AND THE REPAIR OF EXISTING FACILITIES. ALSO ESTABLISHED HEREBY IS THE RIGHT OF INGRESS AND EGRESS TO SAID EASEMENTS, THE RIGHT TO PROHIBIT THE ERECTION OF BUILDINGS, STRUCTURES, OR FENCES WITHIN SAID EASEMENTS, AND THE RIGHT TO REMOVE OR TRIM TREES WITHIN SAID EASEMENTS.

1-6-04 — Sandra W. Petrino
DATE — OWNER

DATE — OWNER

CERTIFICATION:
I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 2ND DAY OF DECEMBER, 2003.

REGISTERED PROFESSIONAL LAND SURVEYOR — STATE OF ARKANSAS — BLEW

FLOOD CERTIFICATION:
A PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "AE" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS.
(FIRM PANEL #01543C0083 D. DATED JULY 21, 1999)

ZONING: RMF-24, RESIDENTIAL MULTI-FAMILY
24 UNITS PER ACRE
TOTAL ACREAGE: 0.62 ACRES +/-
LOT 5A: 0.31 ACRES +/-
LOT 5B: 0.31 ACRES +/-
BASE FLOOD ELEVATION: 1229.10'
FINISHED FLOOR GRADE: 1231.10'
CITY PLAT PAGE: 383

APPROVED FOR RECORDATION
FAYETTEVILLE PLANNING
ADMINISTRATION
By: _____ Date 01-01-04

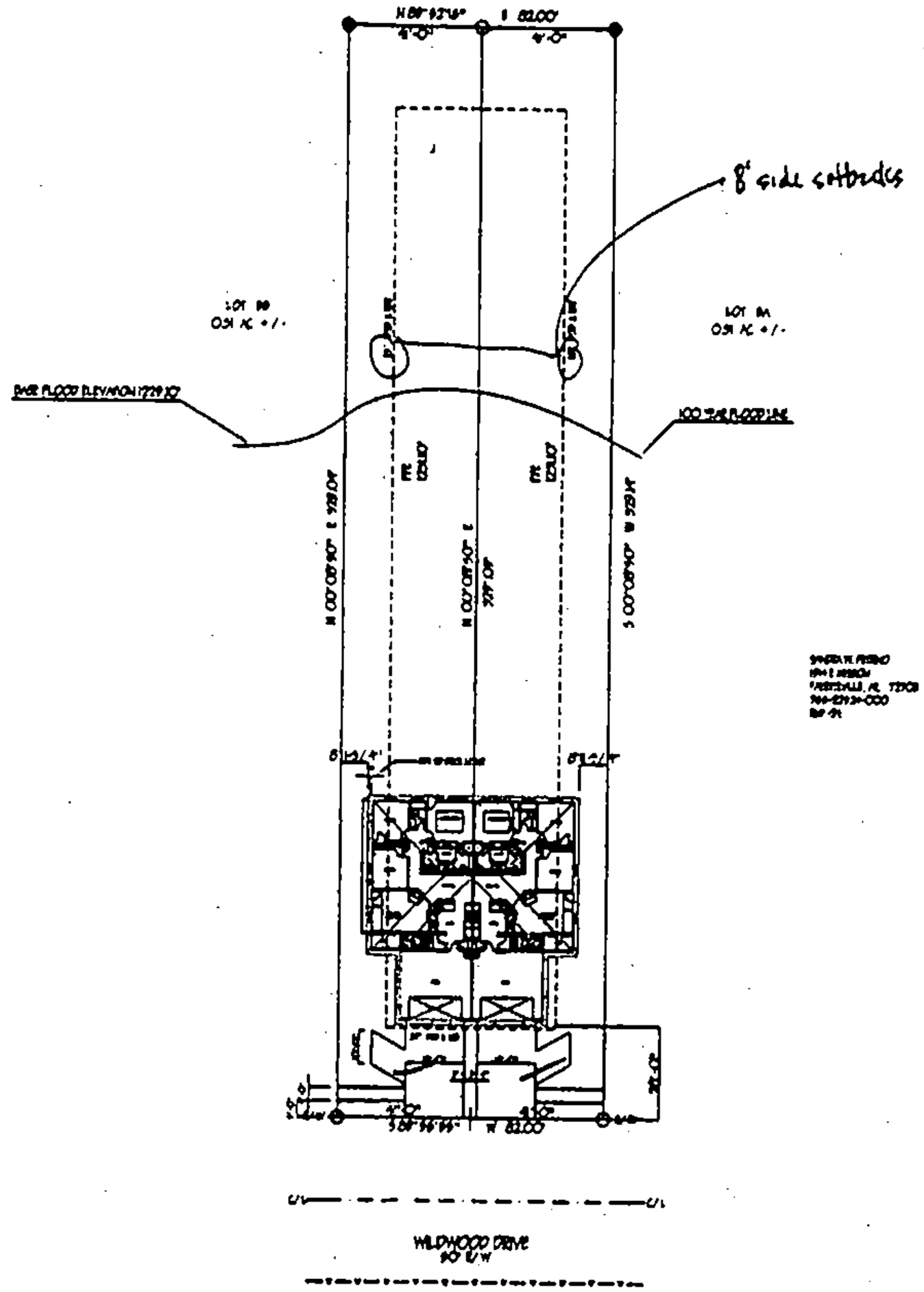
0' 40' 80' 120'

REPLAT OF LOT 5
PINE VALLY ADDITION
PHASE 5

BLEW LAND SURVEYING		
DRAWN BDB	DATE 12/03/03	524 W. SYCAMORE FAYETTEVILLE, AR.
APPROVED PWB	DATE	PH: 1-479-443-4506 FAX: 1-479-582-1883
SCALE 1" = 40'	SHEET 1 OF 1	PROJECT NO. 03-601B

VAC04-1119 (Petrino)
Page 2 of 16

B.13



1" = 60'

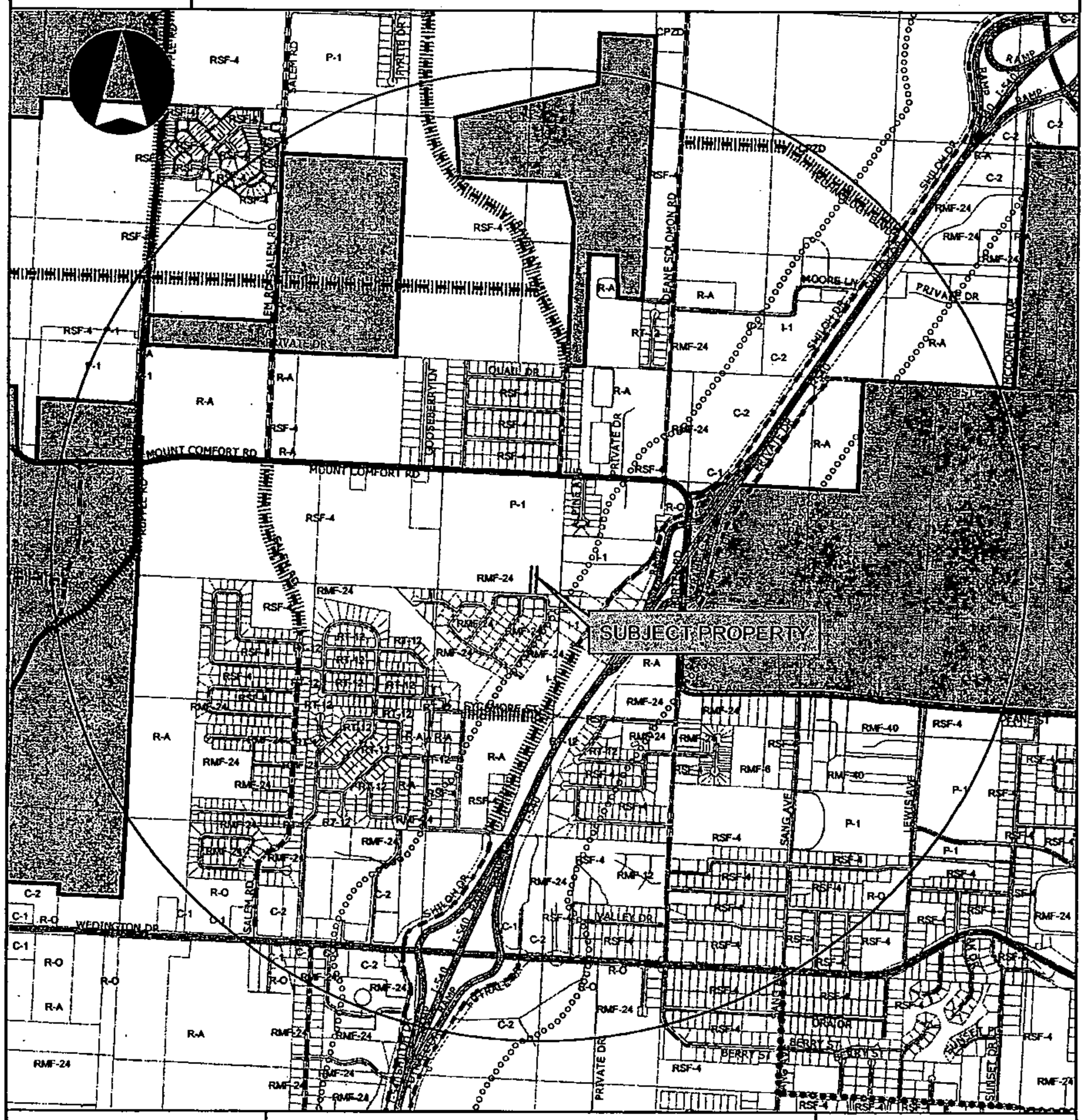
LATCO

Project:	
Location:	
Drawn By:	Date:
Revised By:	Date:
SCALE: 1/20" = 1'-0"	Page 6 of 16

VAC04-1119

One Mile View

PETRINO LOT 5 PINE VALLEY



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-1119: Vacation (Petrino, pp 363) was submitted by Blew Land Surveying for property located at Lot 5 of the Pine Valley Addition, Phase V. The request is to vacate a portion of the existing easement located along the east side of Lot 5A and the west side of Lot 5B.

STAFF RECOMMENDATION: Approval.

Division Head — Date 7/19/04

City Attorney — Date 7/19/04

Department Director — Date

Finance & Internal Services Dir. — Date 7-20-04

Chief Administrative Officer — Date 7-21-04

Mayor — Date 7/21/04

Received in Mayor's Office 7/19/04 Date P.H.

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7/16/04

Left on 1st reading 8/3/04

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

DRAFT

NON

STAFF REVIEW FORM - FINANCIAL OBLIGATION

XXX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: July ~~6~~ 20, 2004

FROM:

Name	Division	Department
Gary Dumas		Operations 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 [signature] 6/25/04 Date

Purchasing Manager ____ Date

STAFF RECOMMENDATION:

Division Head ____ Date

Department Director [signature] 6-17-04 Date

Finance & Internal Services Dir. [signature] 6-26-04 Date

Chief Administrative Officer [signature] 6-28-04 Date

Mayor ____ Date

Received in Mayor's Office 6-25-04 [signature] Date

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

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

6/18/04

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.

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

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 27, 2004

Subject: Right-of-way Vacation for Sang/Hollywood Shake's Property (VAC 04-1134)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of right-of-way and establishing a utility easement along the north side of the former Shake's property, as described and depicted herein.

BACKGROUND

In 2003, the City of Fayetteville purchased the subject property in order to construct the intersection improvements to Hollywood/Sang/6th Street. Sang Ave. was realigned to the east of its previous location to line up with Hollywood on the south side of 6th street. With the new alignment of Sang Avenue, Old Farmington Road was reconfigured to intersect with Sang north of the previous intersection. This realignment of Old Farmington Road left a portion of right-of-way on the north side of this property that was not needed for City purposes.

Request: The applicant requests to vacate the right-of-way as described and depicted in the attached documents, in order to include the property in the overall Shake's property for resell. The right-of-way is no longer needed for maintenance of the roadway in its new alignment.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. No objections were submitted. Conditions are included to dedicate the property as a general utility easement.

The Planning Commission voted 7-0-0 on its consent agenda to forward this item to the City Council with a recommendation for approval of the vacation request at the regular meeting of July 26, 2004.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-1134 TO VACATE A PORTION OF RIGHT OF WAY ON THE NORTH SIDE OF PROPERTY LOCATED AT 1050 WEST SIXTH STREET AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public right of way portions thereof which are not required for corporate right of way purposes, and

WHEREAS, the City Council has determined that the following described platted right of way is no longer required for corporate right of way purposes.

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

Section 1: That the City of Fayetteville, Arkansas hereby vacates the following described right of way:

See Exhibit "A" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED and **APPROVED** this 17th day of August, 2004.

APPROVED: DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
VAC 04-1134

ALL THAT CERTAIN TRACT OR PARCEL OF LAND BEING A PART OF THE SE ¼ OF THE SW ¼ OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SW CORNER OF THE SE ¼ OF THE SW ¼ OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS. SAID POINT BEING THE NW CORNER OF BLOCK 2 OF WESTWOOD ADDITION TO THE CITY OF FAYETTEVILE, ARKANSAS.

THENCE-NORTH 02°56'11"EAST 6.16' TO THE SOUTH RIGHT OF WAY LINE OF OLD FARMINGTON ROAD;

THENCE-WITH SAID RIGHT OF WAY THROUGH THE FOLLOWING CALLS:

THENCE-THROUGH A CURVE TO THE LEFT WITH A RADIUS OF 225.00', A CENTRAL ANGLE OF 25°27'53", ARC LENGTH OF 54.53', A CORD BEARING OF NORTH 66°59'31" EAST FOR A DISTANCE OF 54.40';

THENCE-THROUGH A CURVE TO THE RIGHT WITH A RADIUS OF 20.00', A CENTRAL ANGLE OF 286°28'44", ARC LENGTH OF 30.28', A CORD BEARING OF SOUTH 76°34'38"EAST FOR A DISTANCE OF 27.47';

THENCE-SOUTH 33°12'12"EAST 17.23';

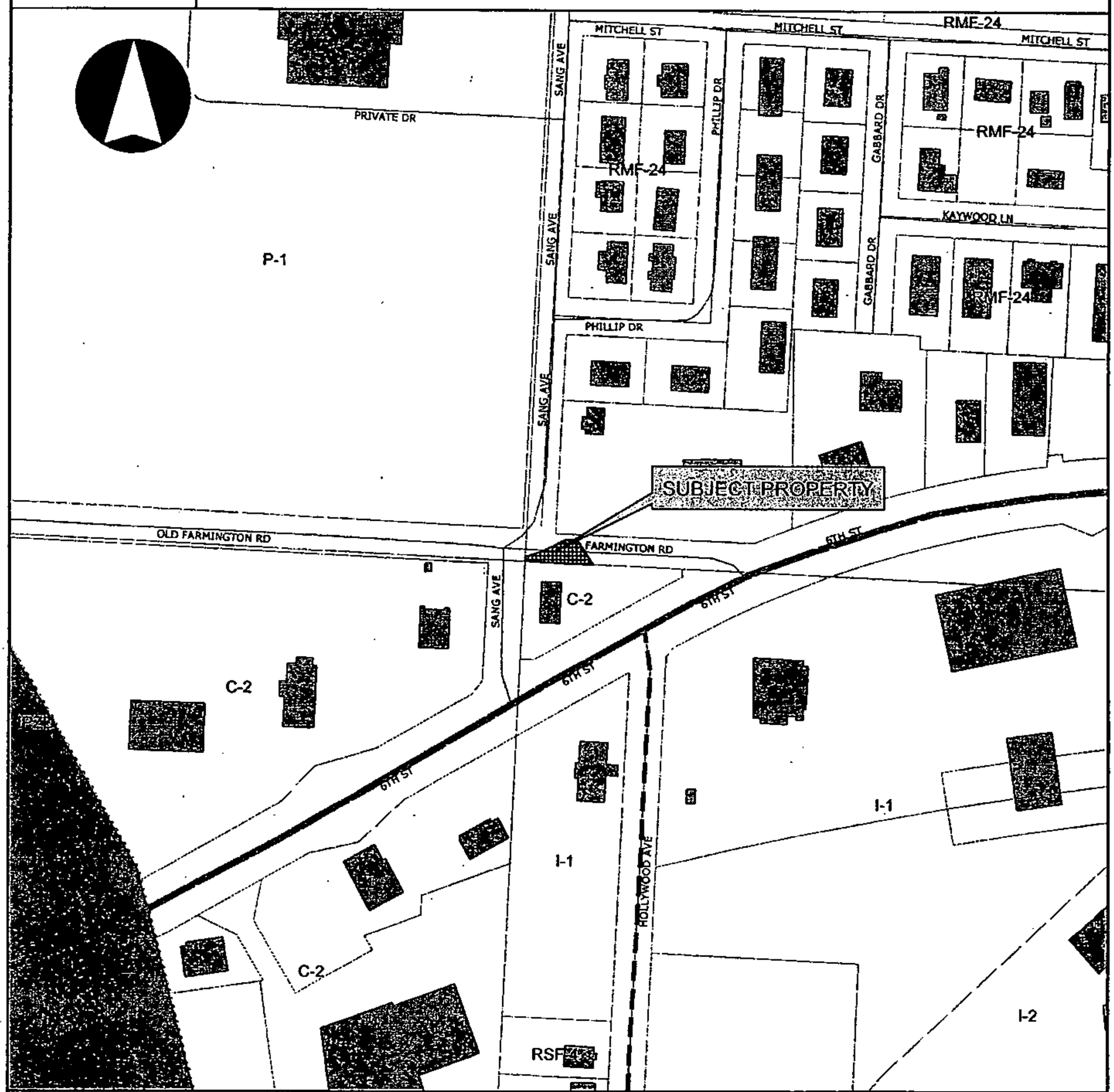
THENCE-THROUGH A CURVE TO THE RIGHT WITH A RADIUS OF 262.00', A CENTRAL ANGLE OF 21°52'07", ARC LENGTH OF 13.13', A CORD BEARING OF SOUTH 31°46'02"EAST FOR A DISTANCE OF 13.13' TO THE SOUTH BOUNDARY LINE OF THE ABOVE MENTIONED SE ¼ OF THE SW ¼;

THENCE-NORTH 87°12'42"WEST 93.54' WITH SAID SOUTH BOUNDARY LINE TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED PROPERTY CONTAINS 0.043 ACRES OF LAND MORE OR LESS.

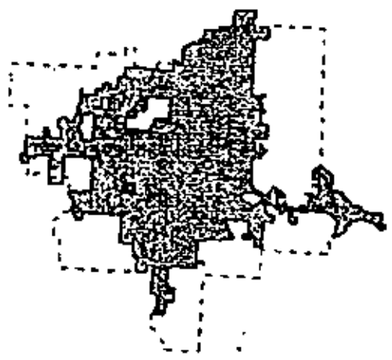
VAC04-1134

Close Up View

SANG/HOLLYWOOD SHAKES BUILDING



Overview



Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- VAC04-1134
- Fayetteville
- Outside City

0 75 150 300 450 600 Feet

Exhibit "B"

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of July 26, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO:	**Fayetteville Planning Commission Members**
FROM:	**Jeremy Pate, Senior Planner**
	Matt Casey P.E. Staff Engineer
THRU:	**Dawn Warrick, AICP, Zoning & Development Administrator**
DATE:	**June 30, 2004**

VAC 04-1134: Vacation (Sang/Hollywood Shake's, pp 559) was submitted by the City of Fayetteville for property located at 1050 W. 6th Street. The property is located at the intersection of Sang and 6th Street and is the location of the old Shake's building. The request is to vacate a portion of the existing right of way located along the north side of the property. Planner: Jeremy Pate

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

Background: In 2003, the City of Fayetteville purchased this property in order to construct the intersection improvements to Hollywood/Sang/6th Street. Sang Ave. was realigned to the east of its previous location to line up with Hollywood on the south side of 6th street. With the new alignment of Sang Avenue, Old Farmington Road was reconfigured to intersect with Sang north of the previous intersection. This realignment of Old Farmington Road left a portion of right-of-way on the north side of this property that was not needed for City purposes. This portion of right-of-way is now being requested to be vacated prior to the sale of the property.

Request: The applicant requests to vacate a portion of the existing right of way as described and depicted in the attached documents.

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

UTILITIES	RESPONSE
Ozarks Electric	No Objections
Cox Communications	No Objections
AEP/SWEPCO	No Objections
Arkansas Western Gas	No Objections
SW Bell	No Objections

CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	No Objections
Transportation	No Objections
Solid Waste	No Objections
Engineering	No Objections

Recommendation: Staff recommends approval of the proposed ROW vacation **04-1134** with the following condition:

Conditions of Approval:

1. The subject right-of-way vacated shall be dedicated as a utility easement.

PLANNING COMMISSION ACTION: __yes__ **Required**
__✓__ **Approved** _____ **Denied**

Date: July 26, 2004

TO CITY COUNCIL
(CONSENT)

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

CITY COUNCIL ACTION: __yes__ **Required**
_____ **Approved** _____ **Denied**

Date: August 17, 2004

FAYETTEVILLE

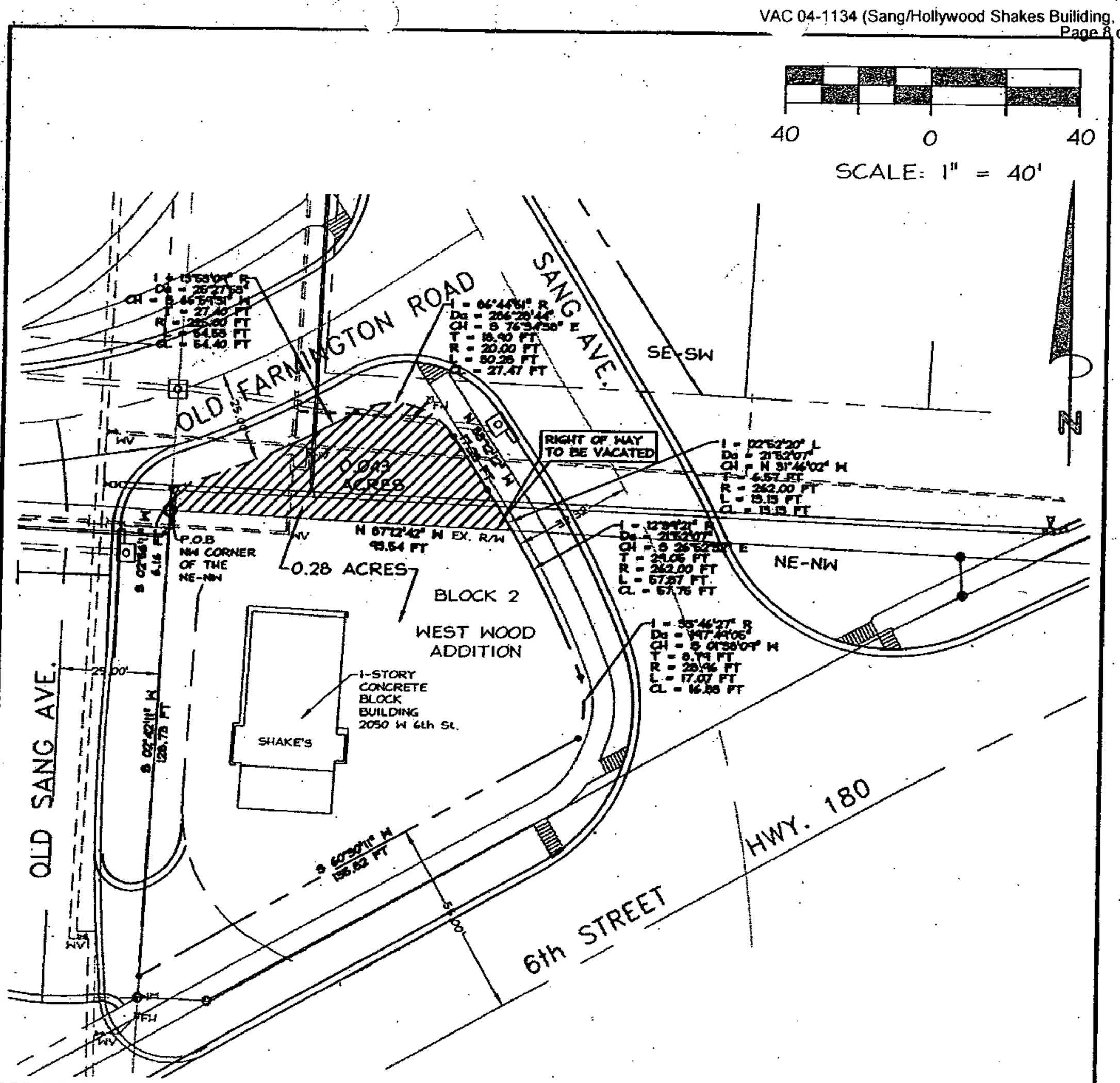
THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8206

ENGINEERING DESIGN SERVICES DIVISION CORRESPONDENCE

TO:	Dawn Warrick, Development & Zoning Administrator
FROM:	Ron Petrie, Engineering Design Services Manager
DATE:	June 2, 2004
SUBJECT:	Sang/Hollywood Shakes Building Vacation of Right-of-Way

Please find attached a drawing of the Shakes property that was purchased by the City in conjunction with the Sang/Hollywood Intersection Improvements. A portion of the Old Farmington Road right-of-way is no longer required for the maintenance of this road due to the relocation of the street in that area. It is in the best interest of the City to vacate this portion of the right-of-way and combine that area with the old Shakes property for resell. A condition of the right-of-way vacation should be the dedication of a utility easement to replace the right-of-way area. A legal description is shown on the drawing for the area requested to be vacated.

Please let me know if our Division can provide any assistance in order to have this item placed on the Planning Commission Agenda.



LEGAL DESCRIPTION FOR VACATION OF RIGHT-OF-WAY

All that certain tract or parcel of land being a part of the SE ¼ of the SW1/4 of Section 17, Township 16 North, Range 30 West, Washington County, Arkansas and being more particularly described by metes and bounds as follows:

Beginning at the SW Corner of the SE ¼ of the SW ¼ of Section 17, Township 16 North, Range 30 West, Washington County, Arkansas. Said point being the NW Corner of Block 2 of Westwood Addition to the City of Fayetteville, Arkansas.
THENCE - North 02° 56' 11" East 6.16' to the south right-of-way line of Old Farmington Road;
THENCE - with said right-of-way through the following calls:
THENCE -through a curve to the left with a radius of 225.00', a central angle of 25° 27' 53", arc length of 54.53', a cord bearing of North 66° 59' 31" East for a distance of 54.40';
THENCE - through a curve to the right with a radius of 20.00', a central angle of 286° 28' 44", arc length of 30.28', a cord bearing of South 76° 34' 38" East for a distance of 27.47';
THENCE - South 33° 12' 12" East 17.23';
THENCE - through a curve to the right with a radius of 262.00', a central angle of 21° 52' 07", arc length of 13.13', a cord bearing of South 31° 46' 02" East for a distance of 13.13' to the south boundary line of the above mentioned SE ¼ of the SW ¼;
THENCE - North 87° 12' 42" West 93.54' with said south boundary line to the POINT OF BEGINNING. The above described property contains 0.043 acres of land more or less.

PETITION TO VACATE

PETITION TO VACATE A RIGHT-OF-WAY LOCATED IN PART OF BLOCK 2, OF THE WESTWOOD ADDITION, CITY OF FAYETTEVILLE.

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

We, the undersigned, being all the owners of the real estate abutting the right-of-way hereinafter sought to be abandoned and vacated, lying in block 2 of the Westwood Addition, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a right-of-way which is described as follows:

SEE ATTACHED

That the abutting real estate affected by said abandonment of the right-of-way are 765-12164-000, 765-14860-000, 765-14592-000 and 765-07549-000 City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described right-of-way.

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

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said right-of-way.

Dated this 28th day of June, 2004.

City of Fayetteville/Dan Coody, Mayor
Printed name

Dan Coody
Signature

VAC04-1134

SANG/HOLLYWOOD SHAKES BUILDING

One Mile View

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: August 17, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-1134: Vacation (Sang/Hollywood Shakes Building, 520): Submitted by the City of Fayetteville for property located at 2050 W 6th Street. The property is zoned C-2, Thoroughfare Commercial and contains approximately 0.04 acres. The request is to vacate a portion of the right-of-way on the subject property.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick — Division Head — 7/30/04 Date

Received in Mayor's Office 8/2/04 Date

City Attorney — 8-2-04 Date (as modified)

Department Director — Date

Finance & Internal Services Dir. — Date

Hugh Earnest — Chief Administrative Officer — 8-3-04 Date

Dan Coody — Mayor — 8/3/04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7-30-04

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: July 27, 2004

Subject: Right-of-way Vacation for U of A Parking Garage (VAC 04-1136)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating portions of right-of-way for William Street, Buchanan Avenue and two (2) 15-foot wide alleys, as described and depicted herein.

BACKGROUND

The University of Arkansas is in the process of constructing a new multi-level parking facility in the southern portion of campus. A new street, Harmon Avenue, is planned for construction, as well, to service adjoining streets in the area. The street will connect California Blvd/Center Street to Dickson Street and incorporate the southern portion of "existing" Harmon Avenue as well as the northern portion of "existing" Buchanan Avenue. The University also proposes construction of two or more new buildings over the existing alignment of Buchanan Avenue in the near future.

Request: The applicant requests to vacate approximately 637 LF of William Street between Duncan Avenue and Buchanan Avenue, 823 LF of Buchanan Avenue between Fairview Street and Dickson Street, and two 15 ft. wide alleys within the old platted Shreve's Addition, of 305 LF and 358 LF respectively.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. No objections were submitted. Conditions are included in the attached staff report for the dedication of additional utility easements, responsibilty for existing utilities, and public rights of ingress/egress to the newly constructed street.

The Planning Commission voted 5-0-2, Commissioners Ostner and Anthes abstaining, to forward this item to the City Council with a recommendation for approval at the regular meeting of July 26, 2004.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-1136 TO VACATE AND ABANDON A PORTION OF RIGHT OF WAY FOR WILLIAM STREET, BUCHANAN AVENUE AND TWO FIFTEEN FOOT ALLEYS LOCATEDBETWEEN WILLIAM STREET AND DICKSON STREET AS DESCRIBED ON THE ATTACHED MAP AND LEGAL DESCRIPTION; ALSO, ACCEPTING THE DEDICATION OF EASEMENTS FOR SOUTHWESTERN BELL, THE CITY OF FAYETTEVILLE, AND THE PUBLIC IN GENERAL, DESCRIBED IN THE ATTACHED EASEMENT DOCUMENTS LABELED AS EXHIBITS HERETO

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described streets and alleys are not required for corporate purposes.

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

Section 1: That the City of Fayetteville, Arkansas hereby vacates and abandons all of its rights together with the rights of the public generally, in and to the following described streets and alleys:

See Exhibit "A" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That the City of Fayetteville hereby accepts the dedication of the easements described in the easement documents attached hereto and labeled Exhibits "C" through "F".

PASSED and **APPROVED** this 17th day of August, 2004.

APPROVED: DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

SIX HUNDRED THIRTY SEVEN FEET OF WILLIAM STREET BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL OF WILLIAMS STREET LYING EAST OF BUCHANAN AVENUE AND WEST OF DUNCAN AVENUE, SUBJECT TO ITS RESERVATION AS A UTILITY EASEMENT.

ALSO:

EIGHT HUNDRED TWENTY THREE FEET OF BUCHANAN AVENUE MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL OF BUCHANAN AVENUE LYING SOUTH OF DICKSON STREET AND NORTH OF FAIRVIEW STREET.

ALSO:

ALL OF A 15' ALLEY LYING EAST OF LOT 1 AND LOT 12 OF SHREVE'S ADDITION TO THE CITY OF FAYETTEVILLE, AS RECORDED IN THE RECORDS OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS, SUBJECT TO ITS RESERVATION AS A UTILITY EASEMENT TO ARKANSAS WESTERN GAS CORPORATION.

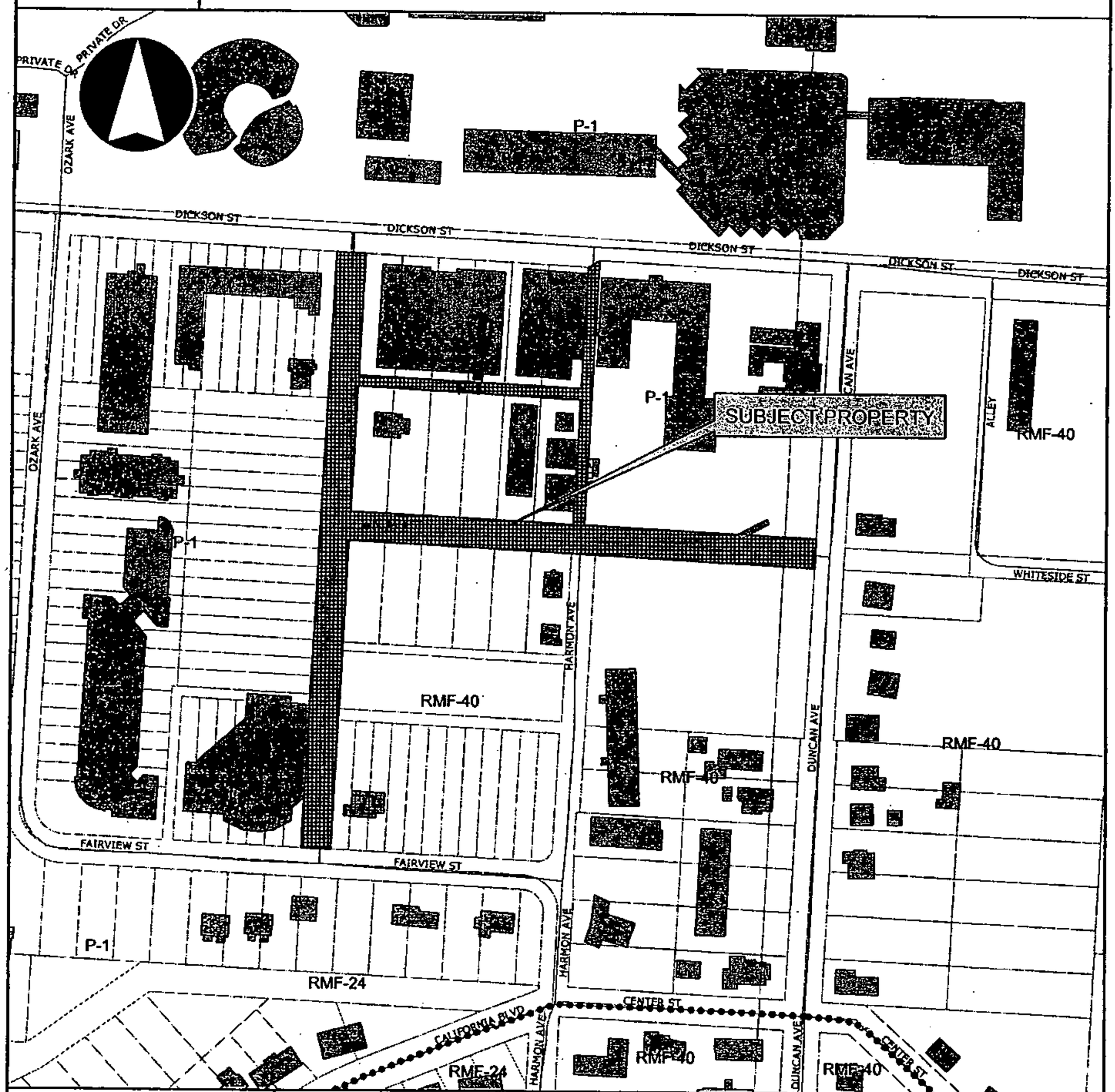
ALSO:

ALL OF A 15' ALLEY LYING SOUTH OF LOTS 1, 2, 3, 4, 5&6 OF SHREVE'S ADDITION TO THE CITY OF FAYETTEVILE, AS RECORDED IN THE RECORDS OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS, SUBJECT TO THE RESERVATION OF THE AREA OF ALLEY WAY SOUTH OF LOTS 1 & 2 AS A UTILITY EASEMENT TO ARKANSAS WESTERN GAS CORPORATION.

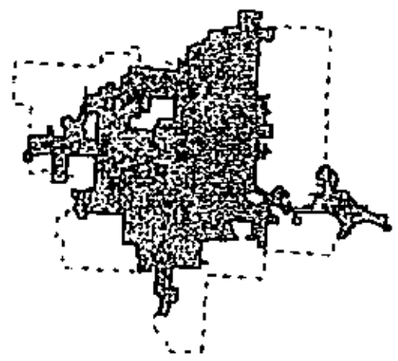
VAC04-1136

Close Up View

U OF A PARKING GARAGE



Overview



Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- VAC04-1136
- Fayetteville
- Outside City

0 75 150 300 450 600 Feet

Exhibit "B"

University of Arkansas, Fayetteville
SBC Easement
Dickson to Fairview Streets

SOUTHWESTERN BELL COMPANY UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT the **Board of Trustees of the University of Arkansas,** hereinafter styled GRANTOR, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby, SELL and CONVEY unto the **Southwestern Bell Company**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, an easement to construct, lay, remove, relay, inspect, enlarge and/or operate a utility line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION:

A part of Shreve's Addition and Block 3 of J.H. McIlroy's University Subdivision to the City of Fayetteville as described in Deed Records 335-332, 2003-53825, 761-44, 1200-484, 688-163, 728-114, 728-440 and 729-124 of the Records of the Circuit Clerk, Washington County, Arkansas.

EASEMENT DESCRIPTION:

An easement 20 feet of equal and uniform width. The centerline of said easement beginning at a point on the South Right-of-Way line of Dickson Street and 3.7 feet Westerly of the Northwest corner of Lot 6 of said Shreve's Addition, thence South 2°50' West along an existing overhead electrical utility line a distance of 823 feet, more or less, to a point on the North Right of Way line of Fairview Street, said point being 7.6 feet Westerly of the Southwest corner of Lot 1 in Block 3 of said J.H. McIlroys University Subdivision. This easement contains 0.38 acres, more or loss. Said easement shall remain in effect until such time as an alternative routing for Grantee's utility line is determined and executed, together with removal of existing overhead electrical utility line, thereby ensuring continued service to Grantee's existing customers located along Fairview Street and Buchanan Avenue who are serviced via said utility line, whereupon this utility easement shall become null and void.

together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons; one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

It is expressly understood that the above easement shall exclude any permanent structure located within said easement area at the time of the execution of this document.

The Grantor agrees not to erect any buildings or structures in said easement other than fences and said fences shall not exceed six (6) feet in height.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the 11th day of June, 2004.

Board of Trustees of the University of Arkansas

Approved by Resolution adopted by the Board of Trustees of the University of Arkansas on the 4th day of June, 2004.

By:

Gary George, Chairman

Attest:

Jane Rogers, Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF PULASKI)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Gary George and Jane Rogers, to me well known, who stated that they are the Chairman and Secretary of the Board of Trustees of the University of Arkansas, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said institution, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 11th day of June, 2004.

Notary Public

MY COMMISSION EXPIRES:

3-19-2008

"OFFICIAL SEAL"
GWEN WARD
Notary Public, State of Arkansas
County of Pulaski
My Commission Exp. 03/19/2008

University of Arkansas, Fayetteville
General Utility Easement
Dickson to Fairview Streets

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT the **Board of Trustees of the University of Arkansas**, hereinafter styled GRANTOR, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, all public utility companies, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a utility line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION:

A part of the Shreve's Addition and Block 3 of J.H. McIlroy's University Subdivision to the City of Fayetteville, Arkansas, as described in Deed Records 335-332, 2003-53825, 761-44, 1200-484, 688-163, 1007-630, 709-223 and 708-404 of the Records of the Circuit Clerk, Washington County, Arkansas.

PERMANENT EASEMENT DESCRIPTION:

A permanent general utility Easement 40 feet in equal and uniform width, the centerline of said easement beginning at a point on the South right of way line of Dickson Street as of the date hereof, and 18.07 feet Westerly of the Northwest corner of Lot 6 of said Shreve's Addition; thence South 02° 47' 13" West - 174.66 feet to the start of a curve; thence Southwesterly along a curve concave to the Northeast a distance of 175.07 feet, said curve having a radius of 350.00 feet and the chord bears South 110 32' 35" East - 173.25 feet; thence South 250 52' 23" East - 115.82 feet to the start of a curve; thence Southeasterly along a curve concave to the Northeast a distance of 148.30 feet, said curve having a radius of 700.00 feet and the chord of said curve bears South 310 56' 32" East - 148.02 feet; thence South 38° 00' 40" East - 168.47 feet to the start of a curve; thence Southeasterly along a curve concave to the Southwest a distance of 69.70 feet, said centerline there terminating at a point 31.53 feet Westerly of the Northwest corner of Lot 10 of block 3 in I. W. Duncan's Addition to the City of Fayetteville, said easement containing 0.78 acres, more or less. The sidelines of said easement are to be prolonged or shortened to terminate at the South right of way line of Dickson Street and the North line of Lot 10 of I.W. Duncan's Addition if extended in a Westerly direction.

together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops Or fences from the construction, maintenance and operation as determined by three disinterested persons; one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

It is expressly understood that the above easement shall exclude any permanent structure located within said easement area at the time of the execution of this document.

The Grantor agrees not to erect any buildings or structures in said permanent easement other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the 11th day of June, 2004.

Board of Trustees of the University of Arkansas

Approved by Resolution adopted by the Board of Trustees of the University of Arkansas on the 4th day of June, 2004.

By:

Gary George

Gary George, Chairman

Attest:

Jane Rogers

Jane Rogers, Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF PULASKI)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Gary George and Jane Rogers, to me well known, who stated that they are the Chairman and Secretary of the Board of Trustees of the University of Arkansas, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said institution, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 11th day of June, 2004.

Gwen Ward
Notary Public

MY COMMISSION EXPIRES:

3-19-2008

"OFFICIAL SEAL"
GWEN WARD
Notary Public, State of Arkansas
County of Pulaski
My Commission Exp. 03/19/2008

Exhibit "D" page 2 of 2

University of Arkansas, Fayetteville
Utility Easement
Dickson to Fairview Streets

WATER LINE EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT the **Board of Trustees of the University of Arkansas,** hereinafter styled GRANTOR, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, an easement to construct, lay, remove, relay, inspect, enlarge and/or operate a utility line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION:

A part of the Shreve's Addition and Block 3 of J.H. McIlroy's University Subdivision to the City of Fayetteville, Arkansas, as described in Deed Records 335-332, 2003-53825, 761-44, 1200-484, 688-163, 1007-630, 709-223 and 708-404 of the Records of the Circuit Clerk, Washington County, Arkansas.

EASEMENT DESCRIPTION:

A water line easement 20 feet of equal and uniform width. The centerline of said easement being the centerline of an existing six (6) inch waterline as constructed within the existing Right of Way of Buchanan Avenue between Fairview Street and Dickson Street. This easement shall begin at the North Right of Way line of Fairview Street and extend North 823 feet, more or less, to the South Right of Way line of Backus Street. This easement contains 16,460 sq. ft. (0.38 acres), more or less. Said easement shall remain in effect until such time as Grantee's utility line is rerouted and placed in service whereupon said waterline shall be taken out of service and abandoned and this utility easement shall become null and void. Such action will ensure continued service to Grantee's existing customers located along Buchanan Avenue who are serviced via said utility line.

together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops Or fences from the construction, maintenance and operation as determined by three disinterested persons; one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

It is expressly understood that the above easement shall exclude any permanent structure located within said easement area at the time of the execution of this document.

The Grantor agrees not to erect any buildings or structures in said easement other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the 11th day of June, 2004.

Board of Trustees of the University of Arkansas

Approved by Resolution adopted by the Board of Trustees of the University of Arkansas on the 4th day of June, 2004.

By:

Gary George, Chairman

Attest:

Jane Rogers, Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF PULASKI)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Gary George and Jane Rogers, to me well known, who stated that they are the Chairman and Secretary of the Board of Trustees of the University of Arkansas, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said institution, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 11th day of June, 2004.

Gwen Ward
Notary Public

"OFFICIAL SEAL"
GWEN WARD
Notary Public, State of Arkansas
County of Pulaski
My Commission Exp. 03/19/2008

MY COMMISSION EXPIRES:
3-19-2008

Exhibit "E" page 2 of 2

University of Arkansas, Fayetteville
Utility Easement
Dickson to Fairview Streets

WATER LINE EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT the **Board of Trustees of the University of Arkansas,** hereinafter styled GRANTOR, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation,** hereinafter called GRANTEE, and unto Grantee's successors and assigns, an easement to construct, lay, remove, relay, inspect, enlarge and/or operate a utility line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION:

A part of the Shreve's Addition and Block 3 of J.H. McIlroy's University Subdivision to the City of Fayetteville, Arkansas, as described in Deed Records 335-332, 2003-53825, 761-44, 1200-484, 688-163, 1007-630, 709-223 and 708-404 of the Records of the Circuit Clerk, Washington County, Arkansas.

EASEMENT DESCRIPTION:

A water line easement 20 feet of equal and uniform width. The centerline of said easement being the centerline of an existing two (2) inch waterline as constructed within the existing Right of Way of Buchanan Avenue between Fairview Street and Dickson Street. This easement shall begin at the North Right of Way line of Fairview Street and extend North 280 feet, more or less, to the end of said existing two (2) inch water line. This easement contains 5,600 sq. ft. (0.13 acres), more or less. Said easement shall remain in effect until such time as Grantee's utility line is taken out of service and abandoned whereupon this utility easement shall become null and void, thereby ensuring continued service to Grantee's existing customers located along Buchanan Avenue who are serviced via said utility line.

together with the rights, easements, and privileges in or to said lands, which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops Or fences from the construction, maintenance and operation as determined by three disinterested persons; one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

It is expressly understood that the above easement shall exclude any permanent structure located within said easement area at the time of the execution of this document.

The Grantor agrees not to erect any buildings or structures in said easement other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

Exhibit "F" page 1 of 2

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the 11th day of June, 2004.

Board of Trustees of the University of Arkansas

Approved by Resolution adopted by the Board of Trustees of the University of Arkansas on the 4th day of June, 2004.

By:

Gary George, Chairman

Attest:

Jane Rogers, Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF PULASKI)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Gary George and Jane Rogers, to me well known, who stated that they are the Chairman and Secretary of the Board of Trustees of the University of Arkansas, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said institution, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 11th day of June, 2004.

Gwen Ward
Notary Public

MY COMMISSION EXPIRES:
3-19-2008

"OFFICIAL SEAL"
GWEN WARD
Notary Public, State of Arkansas
County of Pulaski
My Commission Exp. 03/19/2008

Exhibit "F" page 2 of 2

VAC 04-1136: Vacation (U OF A PARKING GARAGE, 483): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at S OF DICKSON STREET, ON HARMON AVE, BUCHANAN AVENUE AND WILLIAM STREET. The property is zoned P-1, INSTITUTIONAL and RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE, and contains approximately 1.57 acres. The request is to vacate portions of 2 streets, 2 alleys and a utility easement.

Ostner: The next item on our agenda under new business is VAC 04-1136 for the U of A Parking Garage.

Anthes: As I am involved in planning at the University of Arkansas I will recuse from this item.

Ostner: I too am going to recuse from this. I will hand it over to Commissioner Allen.

Allen: This is VAC 04-1136 for the University of Arkansas Parking Garage. Jeremy, can we have your report please?

Pate: Our first item is a request for vacation of two rights of way and two allies. Buchanan Avenue and Harmon Avenue, as well as the two allies I just mentioned. The University of Arkansas is in the process of constructing a new street, Harmon Avenue, along with the parking garage that is currently under construction to service adjoining streets in the area as well as a multi-level parking facility on the southern portion of the campus. The street will connect California Blvd., which is also Center Street, to Dickson Street and will incorporate the southern portion of the existing Harmon Avenue as well as the northern portion of the existing Buchanan Avenue. The University proposes construction of two or more new buildings over this existing alignment of Buchanan Avenue in the near future. I believe the applicants have brought a proposed site plan for their future development. The request tonight is to vacate approximately 637 linear feet of Williams Street. 823 linear feet of Buchanan Avenue and two 15' wide allies within the old Shreve's Addition. We have received utility responses. There are no objections. There are several conditions of approval. Staff is recommending approval of the proposed right of way and alley vacations with those six conditions of approval. I will read over those for you. Item one, all water and sewer lines must be properly replaced, capped, abandoned, etc. prior to approval of this vacation. This includes a 2" water line running north from Fairview on Buchanan. 2) All sewer mains upstream from the manhole in the Williams/Duncan intersection shall become ownership of the University of Arkansas. 3) All new water and (City owned) sewer lines shall have at least a 20' wide easement centered on the pipe. 4) Retain the existing easement south of lots 1 and 2 for the existing gas line. 5) Dedication of the requested easements for AEP/Swepco and Southwestern Bell Telephone. 6) The

40-foot general utility easement as indicated on the enclosed exhibit to be dedicated to the City of Fayetteville shall include rights of ingress/egress for public vehicular and pedestrian traffic.

Allen: Thank you Jeremy. Do we have signed conditions of approval?

Pate: We do not at this time.

Allen: Thank you. Is the applicant present? Please come forward and give us your presentation.

Beaumont: Good evening. I'm Kevin Beaumont with McClelland Consulting Engineers. We were hired on behalf of the University to request this issue to you. You have copies of the Vacation Plat and the Utility Easement Plat Exhibit "A". I have large copies if that will help you.

Allen: If you have something new for us you can step forward and give your presentation.

Beaumont: I don't have any additional information to what you already have but I can outline to you.

Allen: No, we have that. Thank you.

Beaumont: The question as far as do we have signed documents, as far as utilities are concerned they have signed off on everything approving to vacate subject to some easements being put into place by the University. We have four of those five easements in here today for Fayetteville Water and Sewer and for SBC and we have the general 40' utility easement down Harmon Avenue that has also been signed on behalf of the University. The only one that is missing is the one for SWEPCO. That is in the process of being forwarded here today.

Beagle: I'm Bob Beagle from the University, I'm just here in case you have any questions.

Allen: Thank you Bob. Is there anyone from the public who would like to speak to this issue? Seeing no one, I will bring it back to the Planning Commission for discussion.

Graves: I take it from the response by the petitioner that you have read the conditions of approval and that you don't have any objections or problems or issues with any of them?

Beaumont: No, there is no problem at all with satisfying all of those.

MOTION:

Graves: I would move to approve VAC 04-1136 for the U of A Parking Garage.

Clark: Second.

Allen: We have a motion by Commissioner Graves and a second by Commissioner Clark. Would you call the roll please Renee?

Roll Call: Upon the completion of roll call the motion to recommend approval of VAC 04-1136 to the City Council was approved by a vote of 5-0-2 with Commissioners Anthes and Ostner recusing.

Thomas: The motion carries.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of July 26, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Senior Planner
Matt Casey P.E. Staff Engineer
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: June 30, 2004

VAC 04-1136: Vacation (U OF A PARKING GARAGE, 483): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at S OF DICKSON STREET, ON HARMON AVE, BUCHANAN AVENUE AND WILLIAM STREET. The property is zoned P-1, INSTITUTIONAL and RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE, and contains approximately 1.57 acres. The request is to vacate portions of 2 streets, 2 alleys and a utility easement.

Property Owner: UNIVERSITY OF ARKANSAS Planner: JEREMY PATE

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

Background: The University of Arkansas is in the process of constructing a new street, Harmon Avenue, to service adjoining streets in the area as well as a new multi-level parking facility in the southern portion of campus. The street will connect California Blvd/Center Street to Dickson Street and will incorporate the southern portion of "existing" Harmon Avenue as well as the northern portion of "existing" Buchanan Avenue. The University proposes construction of two or more new buildings over the existing alignment of Buchanan Avenue in the near future.

Request: The applicant requests to vacate approximately 637 LF of William Street between Duncan Avenue and Buchanan Avenue, 823 LF of Buchanan Avenue between Fairview Street and Dickson Street, and two 15 ft. wide alleys within the old platted Shreve's Addition, of 305 LF and 358 LF respectively.

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

UTILITIES	RESPONSE
Ozarks Electric	No Objections
Cox Communications	No Objections
AEP/SWEPCO	See Conditions of Approval

Arkansas Western Gas	See Conditions of Approval
SW Bell	No Objections
CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	See Conditions of Approval
Transportation	No Objections
Solid Waste	No Objections
Engineering	See Conditions of Approval

Recommendation: Staff recommends approval of the proposed ROW and alley vacations **04-1136** with the following conditions:

Conditions of Approval:

1. All water and sewer lines must be properly replaced, capped, abandoned, etc., prior to approval of the vacations. This includes the 2" water line running north from Fairview on Buchanan.
2. All sewer mains upstream from the manhole in the Williams/Duncan intersection shall become ownership of the University of Arkansas.
3. All new water and (City owned) sewer lines shall have at least a 20' wide easement centered on the pipe.
4. Retain the existing easement south of lots 1 and 2 for the existing gas line.
5. Dedication of the requested easements for AEP/Swepco and Southwestern Bell Telephone.
6. The 40-foot general utility easement as indicated on the enclosed exhibit to be dedicated to the City of Fayetteville shall include rights of ingress/egress for public vehicular and pedestrian traffic.

PLANNING COMMISSION ACTION: yes **Required**
√ **Approved** _____ **Denied**

Date: July 26, 2004

F TO CITY COUNCIL

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

CITY COUNCIL ACTION: __yes__ Required
_____ Approved _____ Denied

Date: August 17, 2004

STREET AND ALLEY VACATION REQUEST

2-15' Alleys, 637' William Street, 823' Buchanan Avenue
FAYETTEVILLE, ARKANSAS

The University of Arkansas is in the process of constructing a new street, Harmon Avenue to service adjoining streets in the area as well as a new multi-level parking facility in the southern portion of the campus. The street will connect California Blvd/ Center Street to Dickson Street and will incorporate the southern portion of "existing" Harmon Avenue as well as the northern portion of "existing" Buchanan Avenue. It will also connect to the west end of William Street that currently intersects with Buchanan Avenue. The University proposes construction of two or more new buildings over the existing alignment of Buchanan Avenue in the near future.

To enable construction of the parking deck, approval has already been granted for vacating a 356 LF portion of Harmon Avenue immediately south of William Street, and also two unused alleys within the old platted Shreve's Addition and Block 3 of McIlroy's Subdivision.

The University is requesting street vacations as follows:

1. William Street (637 LF), between Duncan Avenue and Buchanan Avenue.
2. Buchanan Avenue (823 LF), between Fairview Street and Dickson Street.

The University is also requesting vacation of two (2) 15 ft wide alleys within the old platted Shreve's Addition, of 305 LF and 358 LF respectively.

The University intends to complete construction of Harmon Avenue by April 2005. It will extend from Fairview Street to Dickson Street and, the northern most section (300 LF approx) will be on the same alignment as the existing Buchanan Avenue. The southern section (500 LF approx) of Buchanan Avenue is to be vacated to make way for future development.

The University currently owns all of the property on both sides of Buchanan Avenue and William Street that it is proposed be vacated.

There are not any property owners adjoining the proposed street vacation areas that need to be notified regarding the vacation of these portions of street or alleys.

The existing utilities within William Street will remain undisturbed. The existing water and sanitary sewer utilities within Buchanan Avenue will be abandoned, all overhead utilities will be rerouted. A new 12" water line will be constructed along Harmon Avenue to improve water distribution in the area. A new 8" sanitary sewer will be constructed along a section of Harmon Avenue to service future University buildings in the area.

Based on the above the University is requesting street and alley vacations as shown on the attached Vacation Plat.

PETITION

PETITION TO VACATE TWO STREETS AND TWO ALLEYS; A STREET LOCATED EAST OF BUCHANAN AVENUE AND WEST OF DUNCAN AVENUE, A STREET LOCATED SOUTH OF DICKSON STREET AND NORTH OF FAIRVIEW STREET, AND TWO ALLEYS LOCATED IN SHREVE'S ADDITION, CITY OF FAYETTEVILLE, ARKANSAS

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

We, the undersigned, being all the owners of the real estate abutting the street and alleys hereinafter sought to be abandoned and vacated, lying east of Buchanan Avenue and west of Duncan Avenue, lying south of Dickson Street and north of Fairview Street and two alleys adjacent to Lots 1 through 12, Shreves Addition, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate two streets and two alleys which are described as follows:

SIX HUNDRED THIRTY SEVEN FEET OF WILLIAMS STREET BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL OF WILLIAMS STREET LYING EAST OF BUCHANAN AVENUE AND WEST OF DUNCAN AVENUE, SUBJECT TO ITS RESERVATION AS A UTILITY EASEMENT.

ALSO:
EIGHT HUNDRED TWENTY THREE FEET OF BUCHANAN AVENUE MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL OF BUCHANAN AVENUE LYING SOUTH OF DICKSON STREET AND NORTH OF FAIRVIEW STREET.

ALSO:
ALL OF A 15' ALLEY LYING EAST OF LOT 1 AND LOT 12 OF SHREVE'S ADDITION TO THE CITY OF FAYETTEVILLE, AS RECORDED IN THE RECORDS OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS, SUBJECT TO ITS RESERVATION AS A UTILITY EASEMENT TO ARKANSAS WESTERN GAS CORPORATION.

ALSO:
ALL OF A 15' ALLEY LYING SOUTH OF LOTS 1,2,3,4.5&6 OF SHREVE'S ADDITION TO THE CITY OF FAYETTEVILLE, AS RECORDED IN THE RECORDS OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS, SUBJECT TO THE RESERVATION OF THE AREA OF ALLEY WAY SOUTH OF LOTS 1 & 2 AS A UTILITY EASEMENT TO ARKANSAS WESTERN GAS CORPORATION.
(See attached drawing).

That the abutting real estate affected by said abandonment of the streets and alleys are numerous lots within Block 1 and Block 3, McIlroy's Subdivision, Lots 1 through 19, Shreve's Addition and Fayetteville Outlots north and south of William Street (per attached Vacation Plat), City of Fayetteville, used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described streets and alleys.

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

The petitioners further pray that the above-described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said easement.

Date this 14 day of June, 2004.

James Ezell
Printed name

Signature

Printed name

Signature

STREET, ALLEY & UTILITY EASEMENT VACATION PLAT

CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

REQUESTED BY:
UNIVERSITY
OF
ARKANSAS

DESCRIPTION OF STREETS, ALLEYS & UTILITY EASEMENTS TO BE VACATED

SIX HUNDRED THIRTY SEVEN FEET OF WILLIAMS STREET BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL OF WILLIAMS STREET LYING EAST OF BUCHANAN AVENUE AND WEST OF DUNCAN AVENUE, SUBJECT TO ITS RESERVATION AS A UTILITY EASEMENT.

ALSO:
EIGHT HUNDRED TWENTY THREE FEET OF BUCHANAN AVENUE MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL OF BUCHANAN AVENUE LYING SOUTH OF DICKSON STREET AND NORTH OF FAIRVIEW STREET.

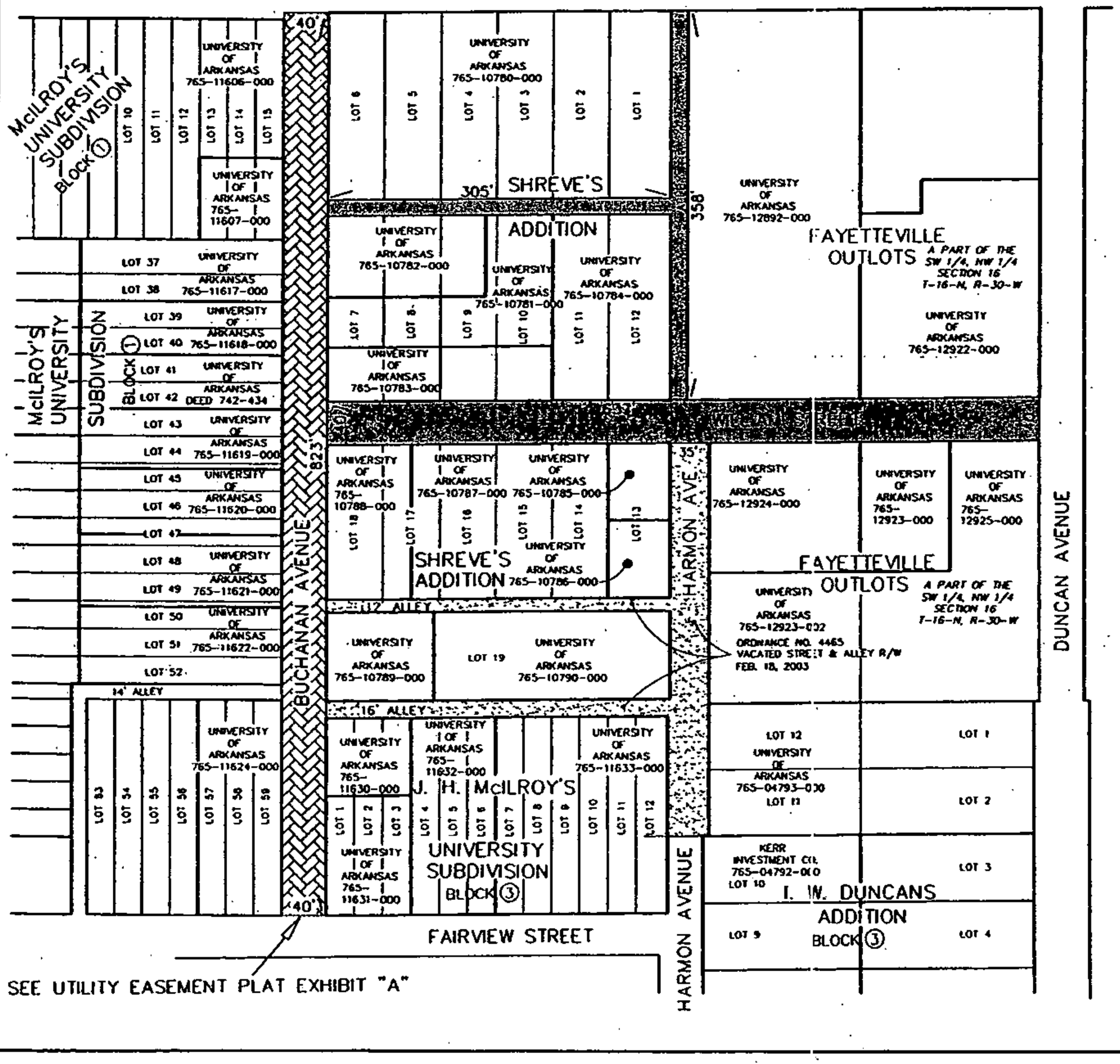
ALSO:
ALL OF A 15' ALLEY LYING EAST OF LOT 1 AND LOT 12 OF SHREVE'S ADDITION TO THE CITY OF FAYETTEVILLE, AS RECORDED IN THE RECORDS OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS, SUBJECT TO ITS RESERVATION AS A UTILITY EASEMENT TO ARKANSAS WESTERN GAS CORPORATION.

ALSO:
ALL OF A 15' ALLEY LYING SOUTH OF LOTS 1,2,3,4,5&6 OF SHREVE'S ADDITION TO THE CITY OF FAYETTEVILLE, AS RECORDED IN THE RECORDS OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS, SUBJECT TO THE RESERVATION OF THE AREA OF ALLEY WAY SOUTH OF LOTS 1 & 2 AS A UTILITY EASEMENT TO ARKANSAS WESTERN GAS CORPORATION.

LEGEND

1" = 140'

- STREET AND ALLEY TO BE VACATED
- STREET AND ALLEY PREVIOUSLY VACATED
- STREET AND UTILITY EASEMENT TO BE VACATED



UTILITY EASEMENT PLAT - EXHIBIT "A"

GENERAL UTILITY EASEMENT DESCRIPTION

A part of Shreve's Addition and Block 3 of J.H. McIlroy's University Subdivision to the City of Fayetteville as described in Deed Records 335-332, 2003-53825, 761-44, 1200-484, 688-163, 1007-630, 709-223, and 708-404 of the Records of the Circuit Clerk, Washington County, Arkansas.

A permanent easement 40 feet of equal and uniform width. The centerline of said easement beginning at a point on the South right-of-way line of Dickson Street and 18 .07 feet Westerly of the Northwest corner of Lot 6 of said Shreve's Addition, thence South 2°47'13" West - 174.66 feet to the start of a curve; thence Southeasterly along a curve concave to the Northeast a distance of 175.07 feet, said curve having a radius of 350.00 feet and the chord of said curve bears South 11°32'35" East - 173.25 feet; thence South 25°52'23" East - 115.82 feet to the start of a curve; thence Southeasterly along a curve concave to the Northeast a distance of 148.30 feet, said curve having a radius of 700.00 feet and the chord of said curve bears South 31°56'32" East - 148.02 feet; thence South 38°00'40" East - 168.47 feet to the start of the curve; thence Southeasterly along a curve concave to the Southwest a distance of 69.70 feet, said curve having a radius of 164.00 feet and the chord of said curve bears South 25°50'11" East - 69.17 feet, said centerline their terminating at a point 31.53 feet Westerly of the Northwest corner of Lot 10 of Block 3 in I. W. Duncan's Addition to the City of Fayetteville. This permanent easement contains 0.78 acres, more or less.

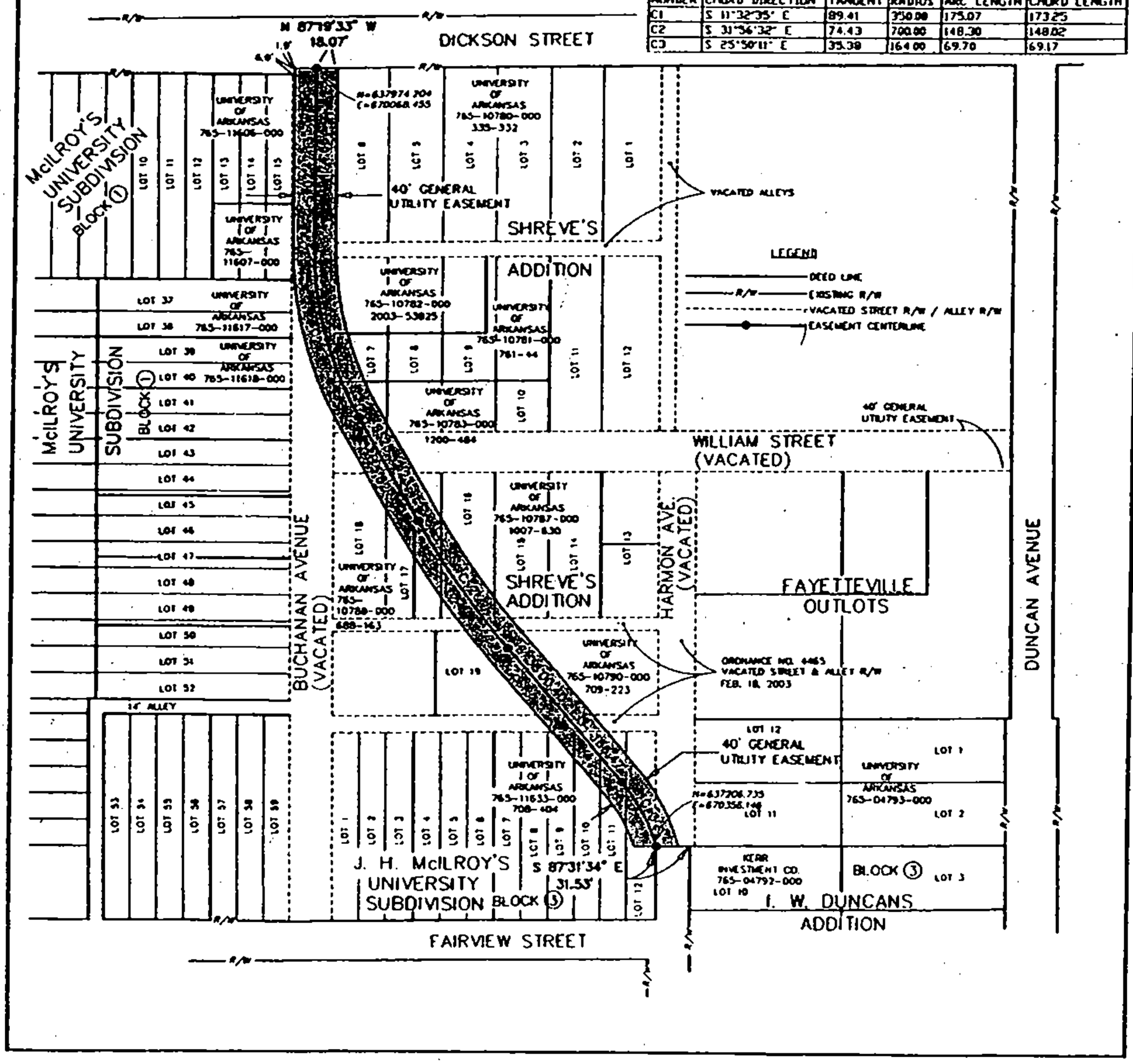
The sidelines of said easement are to be prolonged or shortened to terminate at the South right-of-way line of Dickson Street and the North line of said Lot 10 if extended in a Westerly direction.

1" = 140'

BASIS OF BEARINGS: CITY OF FAYETTEVILLE GPS COORDINATE SYSTEM

CURVE TABLE

NUMBER	CHORD DIRECTION	TANGENT	RADIUS	ARC LENGTH	CHORD LENGTH
C1	S 11°32'35" E	89.41	350.00	175.07	173.25
C2	S 31°56'32" E	74.43	700.00	148.30	148.02
C3	S 25°50'11" E	35.39	164.00	69.70	69.17



Street, Alley and Utility Easement Vacation; General Comments/ Clarification ref Application

Owing to the complexity of several proposed projects by the University of Arkansas and their associated construction phasing within the area of Buchanan Avenue, Harmon Avenue and William Street there will be a need to provide localized easements to some of the public utility companies until such time as:

- the utility is relocated.
- the utility is abandoned.

Those public utility companies affected are:

- City of Fayetteville's Water Department; requiring 2 (two) easement documents to provide access to a 2" and 6" water line.
- SWEPCO; requiring a single easement.
- SBC; requiring a single easement.

A General Utility Easement document together with an associated Plat "Exhibit A" is also included for information purposes for the proposed Harmon Avenue, this will be utilized by any of the utilities as required.

It is anticipated that relocation or abandonment will have been undertaken for each of the affected utilities within the next 12 to 18 months.

Subject to approval of the vacation process, there is a need to provide access for maintenance of these utilities during the interim period. Accordingly easement documentation is included for all those entities affected.

The easements have yet to be signed off by the University Board of Trustees, however resolutions for each are included. As soon as the easements have been approved signed copies will be provided as part of this application.

UofA
UNIVERSITY OF ARKANSAS SYSTEM

Office of the President

May 26, 2004

TO MEMBERS OF THE BUILDINGS
AND GROUNDS COMMITTEE:
Dr. Carl L. Johnson, Chair
Mr. James E. Lindsey
Mrs. Jane Rogers
Mr. John E. Anthony
Mr. Gary C. George, Ex-Officio

Dear Committee Members:

Chancellor John A. White at the University of Arkansas, Fayetteville, requests approval to grant a right of way easement to Southwestern Electric Power Company.

A resolution is attached for your consideration. I recommend its approval.

Sincerely,

B. Alan Sugg
President

Attachment

2404 North University Avenue / Little Rock, Arkansas 72207-3608 / 501-686-2505 / Fax 501-686-2506

University of Arkansas, Fayetteville / University of Arkansas at Little Rock / University of Arkansas at Pine Bluff
University of Arkansas for Medical Sciences / University of Arkansas at Monticello / Division of Agriculture / Criminal Justice Institute
Arkansas Archeological Survey / Phillips Community College of the University of Arkansas / University of Arkansas Community College at Hope
University of Arkansas Community College at Batesville / Cossatot Community College of the University of Arkansas
University of Arkansas Community College at Morrilton / University of Arkansas at Fort Smith
Arkansas School for Mathematics, Sciences, and the Arts

The University of Arkansas is an equal opportunity/affirmative action institution.

RESOLUTION

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS THAT the Chairman and the Secretary shall be, and hereby are, authorized to execute and deliver to Southwestern Electric Power Company a right of way easement over, across and through a part of the following described property in Washington County, Arkansas:

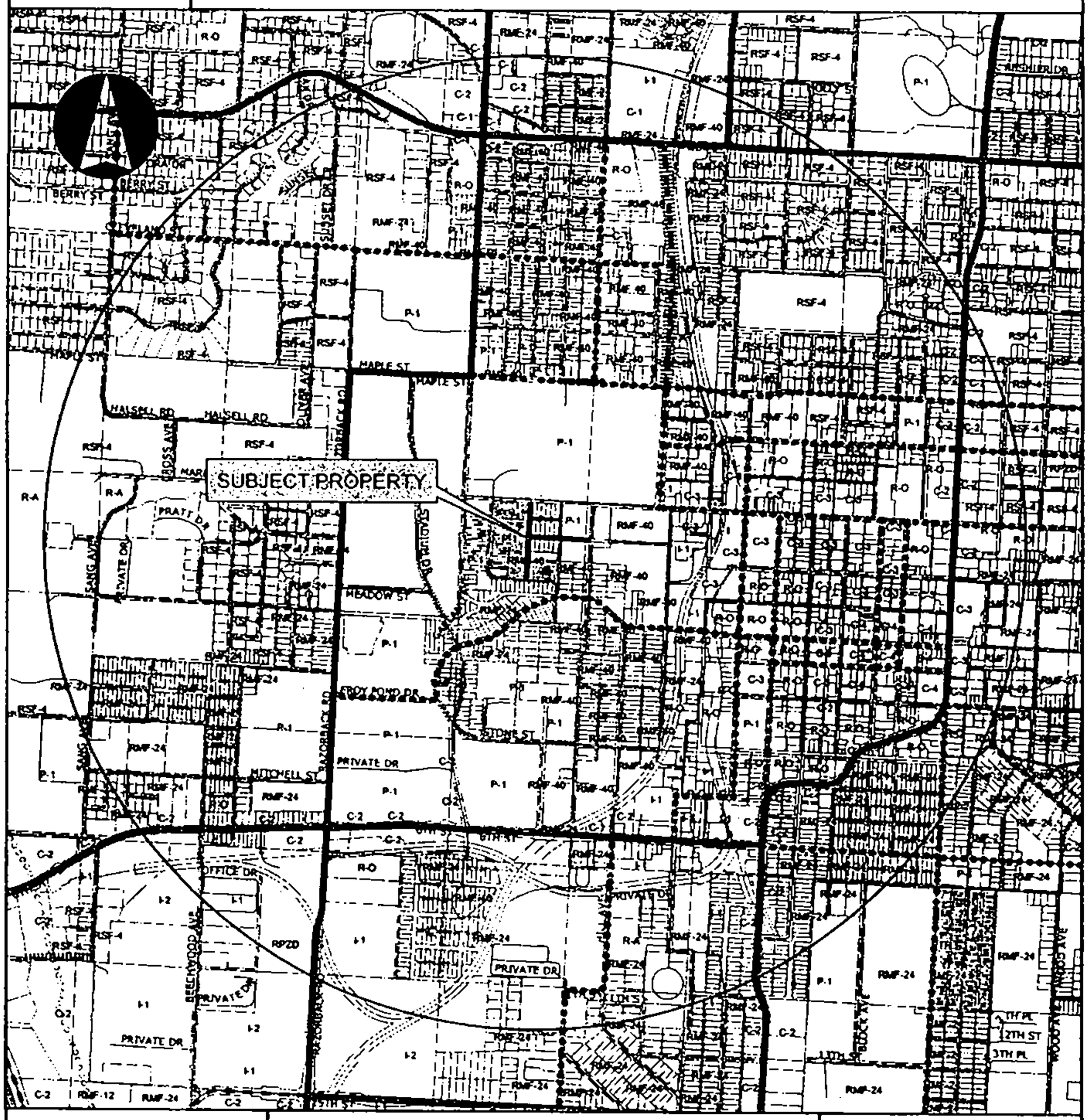
> An easement 20 feet of equal and uniform width, the centerline of said easement beginning at a point on the South right-of-way line of Dickson Street and 3.7 feet Westerly of the Northwest corner of Lot 6 of said Shreve's Addition; thence S2°50'W along an existing overhead electrical utility line a distance of 823 feet, more or less, to a point on the North right-of-way line of Fairview Street, said point being 7.6 feet Westerly of the Southwest corner of Lot 1 in Block 3 of said J.H. McIlroy's University Subdivision.

BE IT FURTHER RESOLVED THAT the right-of-way and easement shall be in a form and content approved by the General Counsel.

VAC04-1136

One Mile View

U OF A PARKING GARAGE



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: August 17, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-1136: Vacation (U of A Parking Garage, 483): Submitted by McClelland Consulting Engineers for property located south of Dickson Street on Harmon Avenue, Buchanan Avenue and William Street. The property is zoned P-1, Institutional and RMF-24, Residential Multi-Family, 24 units per acre, and contains approximately 1.57 acres. The request is to vacate portions of two streets, two alleys and a utility easement.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick — Division Head — 7/30/04 Date

Received in Mayor's Office 8/2/04 Date P.H.

City Attorney — 8/2/04 (as modified) Date

Department Director — Date

Finance & Internal Services Dir. — Date

Chief Administrative Officer — 8-3-04 Date

Mayor — 8/3/04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 7-30-04

City Council Meeting of August 17, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director
Gary Coover, City Engineer

From: Jill Goddard, Land Agent

Date: July 30, 2004

Subject: Approval to solicit sealed bids for the remainder of Parcel No. 765-12164-000 (formerly known as Shake's Frozen Custard, 2050 W. 6th Street). Said sealed bids to be at a minimum price set by the City Council as based upon review of the two independent appraisals (attached).

RECOMMENDATION

Staff recommends approval of soliciting sealed bids for the remainder of Parcel No. 765-12164-000.

BACKGROUND

Parcel No. 765-12164-000 was acquired in its entirety as part of the relocation of Sang Avenue. Through purchase of the whole, the City avoided a settlement by court action with potentially high severence damages. The contractor also did not have to take special precautions during construction to keep access to the business available at all times.

Intent to Sell was approved by City Council at their June 15, 2004 council meeting. Two independent appraisals of the property have been obtained (copies attached). A survey of the property has been completed, including the street vacation on the north side (approved at Planning Commission meeting of July 12, 2004).

DISCUSSION

Now that new Sang Avenue/Sixth Street/ Hollywood Street intersection is completed, the City can consider the sale of the remainder of Parcel No. 765-12164-000, including the building, as it serves no municipal purpose. As per Ordinance No. 4358, "upon an affirmative vote of the City Council, the City shall solicit sealed bids, at a minimum price set by the City Council, from all interested parties. Bids must equal or exceed the minimum price set by the City Council and the appraised value of the property."

Upon City Council approval, property will be advertised for sale and the sealed bid opening scheduled. Results be be presented to City Council in the near future.

RESOLUTION NO. _____

A RESOLUTION TO GRANT APPROVAL TO SOLICIT SEALED BIDS FROM THE PUBLIC TO PURCHASE THE PORTION OF CITY PROPERTY (FORMERLY SHAKE'S FROZEN CUSTARD) NOT USED FOR THE INTERSECTION IMPROVEMENT ON SIXTH STREET

WHEREAS, the City Council of the City of Fayetteville, Arkansas has already passed a resolution to offer this property for sale as required by Fayetteville Code §34.27 (A); and

WHEREAS, two simultaneous and independent appraisals of the real property have been obtained and provided to the City Council pursuant to Fayetteville Code §34.27 (C); and

WHEREAS, public notification including at least four newspaper publications, certified mail to all adjacent property owners and signs, prominently displayed at all approaches to the property, have been accomplished pursuant to Fayetteville Code §34.27 (D); and

WHEREAS, Fayetteville Code §34.27 (E) provides "Upon an affirmative vote of the City Council, the city shall solicit sealed bids, at a minimum price set by the City Council from all interested parties. Bids must equal or exceed the minimum price set by the City Council and the appraised value of the property."

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 directs the staff to solicit sealed bids at a minimum price of $178,000.00 for the city owned property at 2050 W. 6th Street.

PASSED and **APPROVED** this the 17th day of August, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

**THE
REAL ESTATE
CONSULTANTS**

118 N. East Ave.
P.O. Box 726
Fayetteville, AR 72702

• REALTORS • APPRAISERS • CONSULTANTS •

Phone (479) 442-0762

July 30, 2004

Ms. Jill Goddard
The City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Appraisal Services - Former Shake's Frozen Custard Building
2050 W. 6th St.
Fayetteville, AR 72701

Dear Ms. Goddard:

In compliance with your request, and for the purpose of estimating the current *Market Value* of the above captioned property, I hereby certify that I have personally inspected the property and made a survey of matters pertinent to the estimation of its value. The intended use of this appraisal is for *sale evaluation purposes of the client.*

I further certify that I have no interest, present or contemplated, in the property under appraisement, & that the fee was not contingent upon the value estimate reported, nor based upon a percentage of the appraised value.

The following narrative appraisal report contains the data gathered in the investigation, and shows the method of appraisal in detail. The report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation. This is considered a *Complete Summary Appraisal Report.*

Based upon the inspection of the subject property and the investigation and analysis carried out in this report, it is the considered opinion of the appraiser that the *Market Value* of the property as of *July 21, 2004* and subject to the assumptions and limiting conditions set forth within the body of this report, is as follows:

ONE HUNDRED SEVENTY EIGHT THOUSAND DOLLARS
($178,000)

Respectfully Submitted,

Mark E. Risk, GAA
State Certified General Appraiser
#CG0202

Leslie Manning
State Certified General Appraiser
#CG2445

July 27th, 2004

City of Fayetteville
113 W. Mountain
Fayetteville, Ar. 72701

RE: Summary Narrative Appraisal Report regarding the **Market Value** of the land and commercial building located at 2050 W. 6th St., Fayetteville, Washington County, Arkansas.

To Whom It May Concern:

Pursuant to your request, I have conducted an investigation and appraised a tract of land with commercial improvements located at **2050 W. 6th St., Fayetteville, Arkansas.**

The property Legal Description is:

Being +/-0.28 Acres, MOL, and being Part of Block 2, Westwood Addition, Fayetteville, Washington County, Arkansas.

The purpose of this analysis and valuation report is to estimate the Market Value of the property as of July 22nd , 2004.

As per our agreement, the data and analysis is presented in a Summary Format and the Report does not deviate from the USPAP, as permitted upon agreement between client and appraiser. At our client's request, the results of our investigation and analyses, which comprise a **Complete Appraisal**, are being presented via a **Summary Appraisal Report Format**. Therefore, the appraiser does not invoke the Departure Rule as allowed under Appraisal Standards Nos. 1 and 2, Rule 2-2, adopted by the Appraisal Standards Board on March 22, 1994, effective July 1, 1994, and revised January 1, 2000. A full file memorandum is maintained in my office.

We certify that, to the best of our knowledge and belief,

(1) The statements of fact contained in this report, upon which the analysis, opinions and conclusions expressed herein are based, are true and correct.

(2) The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and is our personal, unbiased professional analyses, opinions and conclusions.

(3) I have no present or prospective interest in the property that is the subject of this analysis and I have no personal interest or bias with respect to the property or parties involved with this assignment.

(4) My compensation is not contingent upon an action or event resulting from the analyses, opinions or conclusions in, or use of, this report, or upon developing or reporting of a predetermined value or direction of value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the use of the appraisal.

(5) This assignment was not based upon a requested minimum value, a specific valuation, or the approval of a loan.

(6) My analyses, opinions and conclusions were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP), as promulgated by the Appraisal Standards Board of the Appraisal Foundation, and the Code of Professional Ethics and Standards of the National Association of Master Appraisers.

I hereby certify that I have inspected the property described, and it is felt that all data gathered by my investigation is from sources believed reliable and true.

According to Standards Rule 2-2(c), a Limited Restricted/Summary Appraisal Report should have these minimum requirements:

- Describe the extent of the process, collecting, confirming and reporting data.

- State all assumptions and limiting conditions that affect the analyses, opinions and conclusions.

- State the appraisal procedures followed, state the value conclusion and reference the existence of specific file information in support of the conclusion.

- State the appraiser's opinion of highest and best use of the real estate, when such an opinion is necessary and appropriate.

- State the exclusion of any of the usual valuation approaches.

- Contain a prominent use restriction that limits reliance on the report to the client and warns that the report cannot be understood properly without additional information in the workfile of the appraiser, and clearly identify and explain permitted departures from the specific guidelines of Standard 1.

- Include a signed certification in accordance with Standards Rule 2-3.

The function of this appraisal is to assist the client in determining a fair and equitable Market Value of the subject property. The value estimate is based on the real property only. No furniture, equipment or personal property is included in the value estimate.

The value is based on the definition of Market Value as set forth by the FIRREA Act of 1989, effective August 24, 1990. Please refer to the definition in Exhibit "A" following this letter.

In the accompanying report, you will find the results of my investigation containing the facts, analysis and conclusions pertaining to the subject property and the final estimate of value.

As a result of investigation, studies and analyses of sales, offers of sales, cost data, and all factors in the marketplace which affect value, it is the opinion and judgment of the appraiser that the property described herein has a Market Value in Fee Simple Interest as of July 22nd, 2004 of:

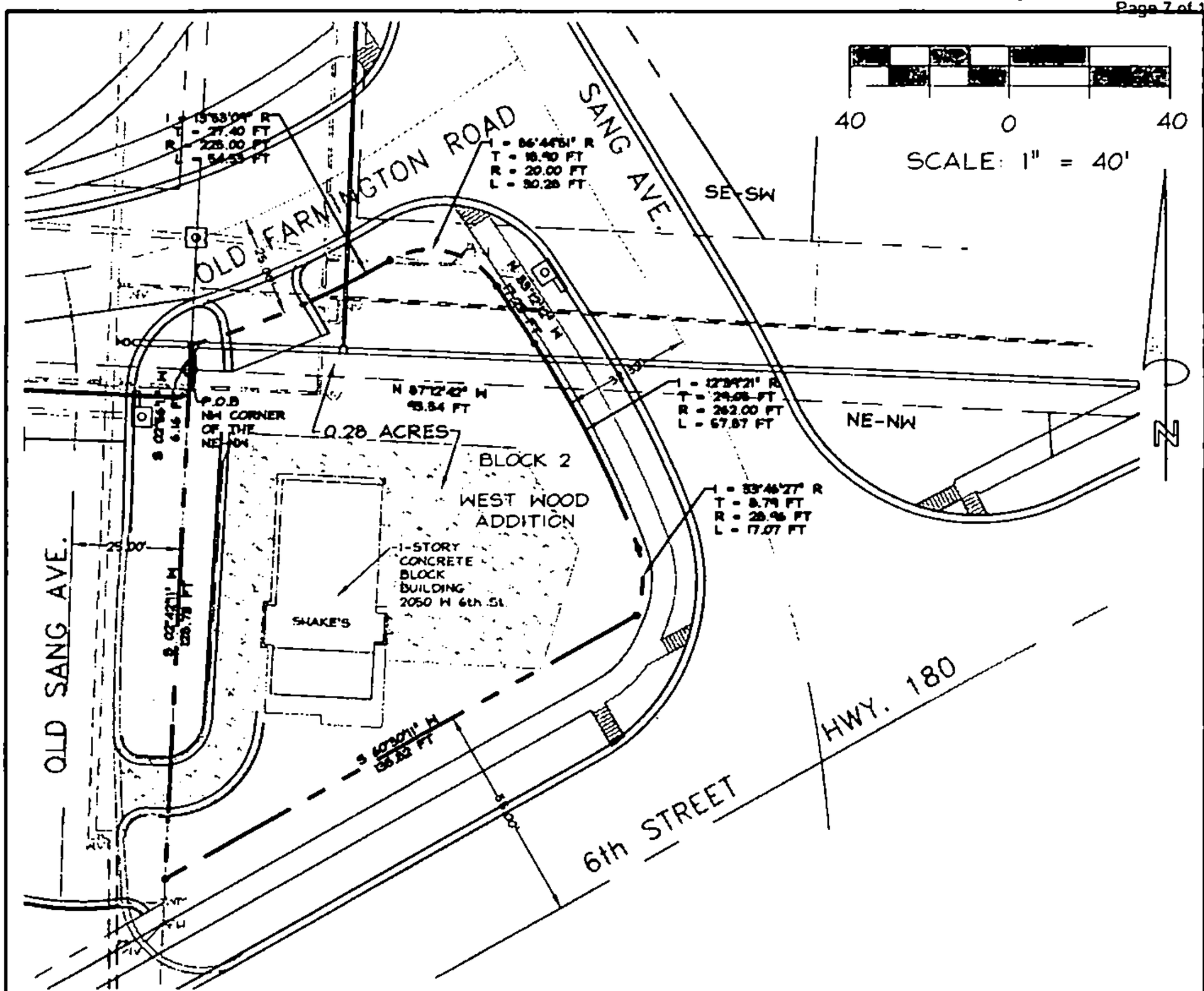
ONE HUNDRED SEVENTY TWO THOUSAND DOLLARS
$172,000

Intended Purposes/User: This Appraisal Report is intended to be used for estimating prospective market value for the owner and this appraisal is intended to be used **only** by the client/addressee only for such purposes. The client is **The City of Fayetteville, Ar**. Any other use or reliance of this report by an unauthorized third party is prohibited unless otherwise specified.

Respectfully submitted,

Don L. Cramer, M.S.
Parish Appraisals Inc.
State Certified General Appraiser
License #: CG2171

ARKANSAS APPRAISER LICENSING & CERTIFICATION BOARD
STATE CERTIFIED GENERAL
CG2171
DON L. CRAMER



LEGAL DESCRIPTION

All that certain tract or parcel of land being a part of the SE ¼ of the SW1/4, and part of the NE ¼ of the NW 1/4of Section 17, Township 16 North, Range 30 West, Washington County, Arkansas. And being more particularly described by metes and bounds as follows:

Beginning at the SW Corner of the SE ¼ of the SW ¼ of Section 17, Township 16 North, Range 30 West, Washington County, Arkansas. Said point being the NW Corner of Block 2 of Westwood Addition to the City of Fayetteville, Arkansas.
THENCE - North 02° 56' 11" East 6.16' to the south right-of-way line of Old Farmington Road;
THENCE - with said right-of-way through the following calls:
THENCE -through a curve to the left with a radius of 225.00', a central angle of 25° 27' 53", arc length of 54.53', a chord bearing of North 66° 59' 31" East for a distance of 54.40';
THENCE - through a curve to the right with a radius of 20.00', a central angle of 286° 28' 44", arc length of 30.28', a chord bearing of South 76° 34' 38" East for a distance of 27.47';
THENCE - South 33° 12' 12" East 17.23';
THENCE - through a curve to the right with a radius of 262.00', a central angle of 21° 52' 07", arc length of 57.87', a chord bearing of South 26° 52' 32" East for a distance of 57.75';
THENCE - through a curve to the right with a radius of 28.96', a central angle of 33° 46' 27", arc length of 17.07', a chord bearing of South 01° 38' 09" East for a distance of 16.83' to the north right-of-way of State Highway No. 62;
THENCE - South 60° 30' 11" West 135.82' with said right-of-way to a set 5/8" I.Pin;
THENCE - North 02° 42' 11" West 134.89' to the POINT OF BEGINNING. The above described property having been surveyed by Bart L.Petray contains 0.28 acres of land more or less.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council Meeting of: August 17, 2004

FROM:

Jill Goddard	Engineering	Community Planning & Eng. Services
Name	Division	Department

ACTION REQUIRED: Resolution granting approval to solicit sealed bids for the remainder of Parcel No. 765-12164-000 (formerly known as Shake's Frozen Custard, 2050 W. 6th Street). Said sealed bids to be at a minimum price set by the City Council as based upon review of the two independent appraisals (attached).

SUMMARY EXPLANATION:

Property was acquired in its entirety as part of the relocation of Sang Avenue. Now that the new Sang Avenue/Sixth Street/Hollywood Avenue intersection is completed, the remainder of Parcel No. 765-12164-000 (including the building) can be sold as it serves no municipal purpose.

Intent to Sell was approved by City Council at the June 15, 2004 council meeting. Two independent appraisals of the property have been obtained (copies attached). Survey of the property has been completed, including the street vacation on the north side (approved at Planning Commission meeting of July 12, 2004).

City Council to review the two independent appraisals and to set minimum price to be accepted. Property will then be advertised for sale with sealed bid opening scheduled. Results to be presented to City Council.

STAFF RECOMMENDATION:

Division Head — Date: 7-29-04

City Attorney — Date: 8/14-/04

Department Director — Date: 8-1-04

Finance & Internal Services Dir. — Date

Chief Administrative Officer — Date: 7-29.04

Mayor — Date: 7/29/04

Received in Mayor's Office — Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

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

ENTERED 7-27-04

Nancy Has

STAFF REVIEW FORM

X AGENDA REQUEST
X CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council Meeting of: August 17, 2003

FROM:

Louise Schaper	Fayetteville Public Library	General Government
Name	Division	Department

ACTION REQUIRED: Approve a contract adjustment in the amount of $73,300 with Crossland Construction Company Inc. for Change Order #19 which covers improvements to the intersection of Mountain and School streets and laying the pavers in the crosswalk at Archibald Yell.

COST TO CITY:

$ 73,300.00		
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5809.00		
Account Number	Funds Used to Date	Program / Project Category Name
04015-1		
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:

Louis R. Schaper 8/30/04
Division Head Date

Department Director Date

Finance & Internal Services Dir. Date

Chief Administrative Officer Date

Mayor Date

Cross Reference

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

Previous Ord/Res#:

Orig. Contract Date

Orig. Contract Number

8/30/04
TCM

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Louise Schaper, Executive Director, Fayetteville Public Library

Date: July 30, 2004

Subject: Amendment #16 to the contract with Meyer, Scherer & Rockcastle LTD for professional services in the amount of $9515.00 for improvements to the intersection of Mountain and School streets.

RECOMMENDATION

Staff recommends approval of amendment #16 to the contract with Meyer, Scherer & Rockcastle LTD in the amount of $9515.00 for professional services for the design of the intersection improvements at Mountain and School streets.

BACKGROUND

Improvements are currently underway in the reconstruction of the School Ave. and Archibald Yell intersection to the south of the library site. On July 13, 2004 the City Council approved additional improvements to School Ave. and the intersection of Mountain and School to enhance the approach to the new library driving north on School Ave. from Archibald Yell.

DISCUSSION

The intersection of Mountain St. and School Ave. has been a safety concern since construction on the new library began. A need has been identified for traffic calming and four-way stop signs. In addition, there is a desire to enhance the esthetics and provide design continuity with Dickson St. in pavers at the crosswalks of the intersection. Garver Engineering – the civil engineering firm of record on the library project hired through MS&R – needs to redesign the intersection to allow these improvements.

BUDGET IMPACT

This is within the budget established by City Council for these improvements.

# # #

RESOLUTION NO. _____

A RESOLUTION APPROVING CONTRACT AMENDMENT 16 TO THE CONTRACT WITH MEYER, SCHERER & ROCKCASTLE LTD. IN THE AMOUNT OF $9,515.00 FOR ITEMS ASSOCIATED WITH OFF-SITE IMPROVEMENTS AT THE INTERSECTION OF MOUNTAIN STREET AND SCHOOL AVENUE.

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 contract amendment 16 to the contract with Meyer, Scherer & Rockcastle Ltd. in the amount of $9,515.00 for items associated with off-site improvements at the intersection of Mountain Street and School Avenue. A copy of which, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 17th day of August 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

AIA® Document G606™ – 2000

Amendment to the Professional Services Agreement

Amendment Number: 016

TO: Dan Coody
(Owner's Representative)

In accordance with the Agreement dated: September 01, 1999

BETWEEN the Owner:
City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, AR 72701

and the Architect:
Meyer, Scherer & Rockcastle, Ltd.
710 South Second Street
7th Floor
Minneapolis, MN 55025

for the Project:
(Name and address)
Fayetteville Public Library
Fayetteville, Arkansas

Authorization is requested:
(X) to proceed with Additional Services or a Change in Services.
( ) to incur Additional Reimbursable Expenses.

As Follows:
The design of the Mountain Street and School Avenue intersection to match the look of the Dickson Street Enhancement Project. Work shall include additional surveys for crosswalk locations and curb indentations, design enhancements, specifications and quantities for the proposed improvements, drawings and related construction documents, coordination with City Engineers as required for approval, and part-time construction observation in accordance with the terms of the current contract.

The following adjustments shall be made to compensation and time.
(Insert provisions in accordance with the Agreement, or as otherwise agreed by the parties.)

Compensation:
A lump sum of nine thousand five hundred fifteen dollars and zero cents ($9,515.00)

Time:
Estimated time to complete this work is two (2) weeks

SUBMITTED BY:	AGREED TO:
(Signature)	*(Signature)*
Jeffrey Scherer, FAIA	Mayor Dan Coody
(Printed name and title)	*(Printed name and title)*
(Date)	*(Date)*

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User Notes:

(2200860602)

STAFF REVIEW FORM

X AGENDA REQUEST
X CONTRACT REVIEW
_____ GRANT REVIEW

For the Fayetteville City Council Meeting of: August 17, 2004

FROM:

Louise Schaper	Fayetteville Public Library	General Government
Name	Division	Department

ACTION REQUIRED: Approve Amendment 16 to the contract with Meyer, Scherer & Rockcastle LTD for engineering services associated with off-site improvements to the intersection of Mountain and School. Total cost is $9,515.

COST TO CITY:

$ 9,515.00	378,000	School & Archibald Yell
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5314.00	10,613	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
04015.1	367,387	Sales Tax Capital
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item _____ Budget Adjustment Attached

Budget Manager — Date: 8-2-04

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fortkiy — Accounting Manager — Date: 8/2/04
Nancy Smith — Internal Auditor — Date: 8/2/04
D. P. White — City Attorney — Date: 8/3/04
P Ulice — Purchasing Manager — Date: 8/4/04

STAFF RECOMMENDATION:

Division Head — Date: 8/3/04

Department Director — Date: _____

Finance & Internal Services Dir. — Date: 8-4-04

Chief Administrative Officer — Date: 8-4-04

Mayor — Date: _____

Cross Reference

New Item: Yes No

Previous Ord/Res#: _____

Orig. Contract Date _____

Orig. Contract Number _____

ENTERED 8-30-04 TLH

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Louise Schaper, Executive Director, Fayetteville Public Library

Date: July 30, 2004

Subject: Contract adjustment in the amount of $73,300 with Crossland Construction Company Inc. for Change Order #19 which covers improvements to the intersection of Mountain and School streets and laying the pavers in the crosswalk at Archibald Yell. CO #19

RECOMMENDATION

We recommend approval of a contract adjustment in the amount of $73,300 with Crossland Construction Company Inc. for Change Order #19 which covers improvements to the intersection of Mountain and School streets and laying the pavers in the crosswalk at Archibald Yell

BACKGROUND

Improvements are currently underway in the reconstruction of the School Ave. and Archibald Yell intersection to the south of the library site. On July 13, 2004 the City Council approved additional improvements to School Ave. and the intersection of Mountain and School to enhance the approach to the new library driving north on School Ave. from Archibald Yell. Specific improvements include (1) construction of pedestrian crosswalk at the four corners of Mountain and School including required ADA accessibility; (2) modifications to sidewalks, curb and gutter; and (3) street narrowing for traffic calming.

DISCUSSION

The intersection of Mountain St. and School Ave. has been a safety concern since construction on the new library began. A need has been identified for traffic calming and four-way stop signs. In addition, there is a desire to enhance the esthetics and provide design continuity with Dickson St. in pavers at the crosswalks of the intersection.

BUDGET IMPACT

This is within the budget established by Council for these improvements.

STAFF REVIEW FORM

X AGENDA REQUEST
X CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: August 17, 2003

FROM:

Louise Schaper	Fayetteville Public Library	General Government
Name	Division	Department

ACTION REQUIRED: Approve a contract adjustment in the amount of $73,300 with Crossland Construction Company Inc. for Change Order ~~#19~~ which covers improvements to the intersection of Mountain and School streets and laying the pavers in the crosswalk at Archibald Yell.

#19

COST TO CITY:

$ 73,300.00	378,000	School & Archibald Yell
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5809.00	10,613	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
04015-1	367,387	Sales Tax Capital
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date 8-2-04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date 8/2/04
Internal Auditor — Date 8/2/04
~~City Attorney — Date 8/4/04~~ ~~See Comments~~
Purchasing Manager — Date 8/4/04

STAFF RECOMMENDATION:

Division Head — Date 8/30/04
Department Director — Date
Finance & Internal Services Dir. — Date 8-4-04
Chief Administrative Officer — Date 8-04-04
Mayor — Date 8/5/04

Cross Reference

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

Previous Ord/Res#:

Orig. Contract Date

Orig. Contract Number 843

APPROVED 7/30/04
TCM

Staff Review Form - Page 2

Description Budget adjustment and increase to the library transfer Meeting Date August 3, 2004

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

We will draft the resolution, when the c/o is provided

Purchasing Manager

No C/O to review

Internal Auditor

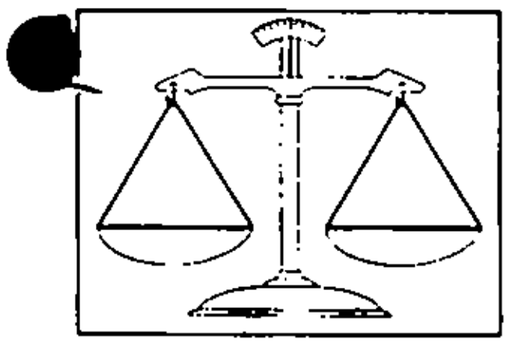
Finance & Internal Services Director

Chief Administrative Officer

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **August 18, 2004**

RE: **Passed Resolutions and Ordinances from City Council meeting of August 17, 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. **Asphalt Striping, LLC**: Resolution awarding bid #04-55 to Asphalt Striping, LLC in amount of $27,860.00 for application of approximately 425,000 feet of yellow and white reflectorized paint pavement markings;

2. **Lamar Anderson Parking Space Agreement:** Resolution authorizing Mayor and City Clerk to execute lease agreement w/Lamar Anderson of 15 S. Block Ave., Suite 203, for one parking space in Fayetteville Municipal Parking Lot 1, located at 160 W. Mountain Street, and bounded by Church Avenue, Mountain Street, and Center Street;

3. **Radisson Hotel Parking Lease:** Resolution authorizing Mayor and City Clerk to execute lease amendment w/Radisson Hotel to extend existing parking lease for period of one year;

4. **Meyer, Scherer & Rockcastle Contract:** Resolution approving contract amendment 16 to contract w/Meyer, Scherer & Rockcastle Ltd. in amount of $9,515.00 for items associated w/off-site improvements at intersection of Mountain Street and School Avenue;

5. **Crossland Construction Library Change Order No. 19:** Resolution approving Changer Order #19 to contract w/Crossland Construction Company, Inc. in amount not to exceed $140,000.00 for improvements to Rock Street and intersection of School Avenue and Mountain Street; installation of pavers in crosswalk at Archibald Yell Boulevard and approving budget adjustment in amount of $60,000.00;

6. **ANX 04-4.00:** Ordinance confirming annexation to City of Fayetteville of certain property owned by Robert and Minnie Beth Tipton located east of Double Springs Road adjoining southeast corner of Legacy Pointe Subdivision containing approximately 29.31 acres;

7. **RZN 04-10.00:** 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 Legacy Pointe Subdivision containing approximately 29.31 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per acre;

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

9. **RZN 04-12.00:** 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;

10. **ANX 04-1090:** Ordinance confirming annexation to City of Fayetteville certain property owned by Hays Family Development, LLP for property located west of 54th Avenue adjoining extension of West Persimmon Street containing approximately 37.30 acres;

11. **RZN 04-1091:** Ordinance rezoning 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 extension of Persimmon Street containing approximately 49.40 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per acre;

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

13. **RZN 04-1103:** 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 .051 acres from RSF-4, Residential Single Family, four units per acre to RT-12, Residential Two and Three Family;

14. **ANX 04-1071:** Ordinance annexing that property described in annexation petition ANX 04-1071 annexing to City of Fayetteville certain property owned by Vera Jones located south of Huntsville Road, east of Stonebridge Addition and west of Roberts Road containing approximately 5.66 acres;

15. **RZN 04-1072:** 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 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;

16. **ANX 04-1073:** Ordinance annexing that property described in annexation petition 04-1073 annexing to City of Fayetteville certain property owned by the Ames Family Trust located south of Huntsville Road and west of Roberts Road containing approximately 1.97 acres;

17. **RZN 04-1074:** 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 west side of Robert Road sough of Huntsville Road containing approximately 1.97 acres from R-A Residential Agricultural to RSF-4, Residential Single Family, four units per acre;

18. **VAC 04-1119:** 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;

19. **Cost Recovery for Street Cleaning Activities:** Ordinance amending Chapter 98: Streets and Sidewalks, of Code of Fayetteville, to provide for recovery of costs of removing dirt and debris spilt or tracked upon the streets;

20. **VAC 04-1134:** Ordinance approving VAC 04-1134 to vacate a portion of right of way on north side of property located at 1050 W. Sixth Street as depicted on attached map and legal description;

21. **Shake's Building Sale Solicitation of Bids:** Resolution granting approval to solicit sealed bids from public to purchase the portion of City Property formerly Shake's Frozen Custard) not used for the intersection improvement on Sixth Street.

Tentative Agenda
City Council Meeting
August 17, 2004

A meeting of the Fayetteville City Council will be held on August 17, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Agenda Session - Presentation of 2003 Audit

Informational: Regional/Community Park

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the August 3, 2004 meeting minutes

B. OLD BUSINESS:

1. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

2. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

3. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting***

4. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.

5. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

LLP New end.

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

LLP New end.

7. **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 Special City Council meeting. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

8. **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 Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

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

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

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

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

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

C. NEW BUSINESS:

1. **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.

2. **VAC 04-1134 (Sang/Hollywood Shakes Building, 520):** An ordinance approving VAC 04-1134 to vacate and abandon a portion of right of way on the north side of property located at 1050 West Sixth Street as depicted on the attached map and legal description.

3. **VAC 04-1136 (U of A Parking Garage, 483):** An ordinance approving VAC 04-1136 to vacate and abandon a portion of right of way for William Street, Buchanan Avenue and two fifteen foot alleys located between William Street and Dickson Street as described on the attached map and legal description. Also, accepting the dedication of easements for Southwestern Bell, the City of Fayetteville, and the public in general, described in the attached easement documents labeled as exhibits hereto.

Take out space (Need Resolution), A resolution granting

4. **Sealed Bid Approval (Sang/Hollywood):** Approval to solicit sealed bids for the remainder of Parcel No. 765-12164-000 (formerly known as Shake's Frozen Custard, 2050 W. 6th Street). Said sealed bids to be at minimum price set by the City Council as based upon review of the two independent appraisals (attached).

Consent

5. **Asphalt Striping, LLC:** A resolution awarding Bid #04-55 to Asphalt Striping, LLC in the amount of $27,860.00 for application of approximately 425,000 feet of yellow and white reflectorized paint pavement markings.

Consent (6) **Lamar Anderson Parking Space Agreement:** A resolution authorizing the Mayor and the City Clerk to execute a lease agreement with Mr. Lamar Anderson of 15 South Block Avenue, Suite 203, for one (1) parking space in Fayetteville Municipal Parking Lot 1, located at 160 West Mountain Street, and bounded by Church Avenue, Mountain Street, and Center Street.

Consent (7) **Radisson Hotel Parking Lease:** A resolution authorizing the Mayor and the City Clerk to execute a lease amendment with the Radisson Hotel to extend the existing parking lease for a period of one (1) year.

Kit — **8. Crossland Construction Contract:**

Kit — **9. Meyer, Sherer & Rockcastle Contract:**

~~**10. Staff Addition: Urban Forester:**~~

~~**11. Downtown Master Plan Adoption: (Not on Staff Review)**~~

D. INFORMATIONAL:

Council Tour: August 16, 2004