Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Conrad Odom
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Final Agenda
City of Fayetteville Arkansas
City Council Meeting
November 16, 2004

A meeting of the Fayetteville City Council will be held on November 16, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Nominating Committee Report: Appointment of Maudie Schmitt to the A & P Commission.

A. CONSENT:

1. **Approval of the Minutes:** Approval of the November 1, 2004 City Council meeting minutes.

   APPROVED.

2. **South School Avenue Street Lighting:** A resolution approving the purchase of twenty (20) ornamental street lights from Upchurch Electric in the amount of $47,940.00 for the South School Avenue Street Lighting Project.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 176-04.

113 West Mountain 72701 (479) 521-7700 (479) 575-8257 (Fax)
accessfayetteville.org

3. **Commercial Coverings, Inc. Bid #04-02 Award:** A resolution awarding Bid #04-02, floor improvement project to Commercial Coverings, Inc. in an amount not to exceed $31,823.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 177-04.

4. **Water and Sewer Fund Transfer of Funds:** A resolution to approve a budget adjustment to transfer $45,000.00 from the Water and Sewer Fund Balance to the Wastewater Treatment Plant utility costs.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 178-04.

5. **Tencarva Machinery Company Bid Award:** A resolution to accept the low bid of $24,271.00 from Tencarva Machinery Company for two new dry-pit submersible wastewater pumps at Lift Station #14 and approval of a budget adjustment.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 179-04.

6. **Hugg and Hall Construction and Industrial Equipment Generator Purchase:** A resolution approving the purchase of one (1) skid-mounted portable electric generator from Hugg and Hall Construction and Industrial Equipment in the amount of $20,467.00 to provide back-up power for wastewater lift stations.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 180-04.

7. **Vehicles and Equipment Account Transfer of Funds:** A resolution approving a budget adjustment transferring $57,000.00 from the Vehicles and Equipment Account, of which $17,080.00 is to be transferred to the Motor Pool Account and $39,920.00, is to be transferred to the Replacement Charges Account.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 181-04.

8. **Reindl Properties, Inc. Property Exchange**: A resolution approving an agreement between the City of Fayetteville and Reindl Properties, Inc. to exchange real property to accommodate the construction of a portion of the Center-Prairie Multi-Use Trail.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 182-04.

B. UNFINISHED BUSINESS

1. **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. ***This ordinance was left on the first reading at the August 17, 2004 City Council meeting and tabled to the November 16, 2004 City Council meeting.***

THIS ITEM WAS TABLED UNTIL FEBRUARY 15, 2005 MEETING.

2. **Tyson Foods, Inc. Offer and Acceptance:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Tyson Foods, Inc. for the purchase of property located at 1851 East Huntsville Road in the amount of $1,100,000.00; and approving a budget adjustment in the amount of $4,000.00 to cover appraisal and closing costs. ***This resolution was tabled at the October 5' 2004 City Council meeting to the November 16, 2004 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 183-04.

3. **RZN 04-1189 (Jackson/Humphries):** An ordinance rezoning that property described in rezoning petition RZN 04-1189 as submitted by Nick Wilson for property located at the northwest corner of South School Avenue and Sunrise Mountain Road containing approximately 7.54 acres from R-A Residential Agricultural and C-2, Thoroughfare Commercial to I-1 Heavy Commercial, Light Industrial. ***This ordinance was left on the first reading at the October 19, 2004 City Council meeting and left on the second reading at the November 1, 2004 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE. 4638.

4. **R-PZD 04-1181 (Walnut Crossing):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1181, Walnut Crossing located north of Highway 62, east of Layne Street containing 43.30 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This ordinance was left on the first reading at the October 19, 2004 City Council meeting and the second reading at the November 1, 2004 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE. 4639.

5. **ADM 04-1258 (Wilson Street/Walnut Crossing):** A resolution amending the Master Street Plan to relocate Wilson Street, a proposed Collector Street, approximately 600 feet north as apart of R-PZD 1181, Walnut Crossing, as described in the staff report attached hereto and made a part hereof. ***This resolution was tabled at the October 19, 2004 City Council meeting to the November 1, 2004 City Council meeting and tabled at the November 1, 2004 City Council meeting to the November 16, 2004 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 184-04.

6. **RZN 04-1223 (Hoskins):** An ordinance rezoning that property described in rezoning petition RZN 04-1223 as submitted by Tracy Hoskins for property located at 1719 North Rupple Road containing approximately 11.73 acres from RSF-1, Residential Single Family, one unit per acre to RSF-4, Residential Single Family, four units per acre. ***This ordinance was left on the first reading at the November 1, 2004 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4640.

C. NEW BUSINESS:

1. **Wilson Springs Property Proceeds Transfers:** A resolution approving the transfer of $2,050.000.00 from the General Fund Undesignated Fund Balance to the General Fund Designated Fund Balance and $2,337,115.00 from General Fund Undesignated Fund Balance to the Sales Tax Capital Improvements Fund Designated Fund Balance related to the sale of the Wilson Springs property.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 185-04.

2. **Cox Communications Franchise Agreement:** A resolution granting a Non-exclusive Franchise to TCA Cable Partners D/B/A Cox Communications for the construction, maintenance and operation of a cable system within the City of Fayetteville Arkansas, and environs thereof, and to use and occupy the streets and other public places of the City of Fayetteville, Arkansas, for such cable system.

   THIS ITEM WAS TABLED INDEFINITELY.

3. **ANX 04-1252 (A) (Nooncaster/Kelly):** An ordinance annexing part of that property described in annexation petition ANX 04-1252 annexing to the City of Fayetteville, Arkansas, certain property owned by John and Leslie Nooncaster and Frank and Ann Kelly located south of Albright Road containing approximately 9.81 acres.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4641.

4. **ANX 04-1252 (B) (Nooncaster):** An ordinance calling for the simultaneous detachment of about 4.66 acres owned by John and Leslie Nooncaster from the City of Springdale, Arkansas and the annexation of those lands into the City of Fayetteville, Arkansas.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4642.

5. **RZN 04-1253 (Nooncaster):** An ordinance rezoning that property described in rezoning petition RZN 04-1253 for property located south of Albright Road containing approximately 11.76 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4643.

6. **RZN 04-1243 (Medley):** An ordinance rezoning that property described in rezoning petition RZN 04-1243 as submitted by Ronald Dean Medley for property located at 3507 W. 6th Street containing approximately 1.03 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial.

   THIS ITEM WAS LEFT ON THE FIRST READING.

7. **VAC 04-1228 Habitat for Humanity:** An ordinance approving VAC 04-1228 submitted by Habitat for Humanity for property east of Washington Avenue and north of 13th Street as described on the attached map and legal description.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4644.

8. **2005 Proposed Annual Budget and Work Program Adoption:** A resolution adopting the proposed 2005 Annual Budget and Work Program.

   THIS ITEM WAS TABLED UNTIL DECEMBER 7, 2004 MEETING.

D. INFORMATIONAL:

Council Tour: No City Council Tour

MEETING ADJOURNED AT 8:50 P.M.

City Council Meeting November 16, 2004

8:50 pm.

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

Subject:	Nominating Comittee Report				
Motion To:		approve			
Motion By:		Marr			
Seconded:		Cook			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	absent during vote			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Mayor Coody				

City Council Meeting November 16, 2004

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

Approved
Res.
179-04
to
182-04

Subject:	VAC 04-1136 U of A				
Motion To:		Table	until	2/15/05	
Motion By:		Jordan			
Seconded:		Marr			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Mayor Coody				

B. #1.
Unfinished
Left on the
First Reading
Tabled
until
2/15/05

City Council Meeting **November 16, 2004**

B.2.
Unfinished
Amend
Resolution
passed
183-04

Subject:	Tyson Food, Inc.				
Motion To:		Amend	resolution	to	read:
Motion By:		Reynolds		↓	
Seconded:		Thiel		O & A Contract &	
	Lucas	✓		Donation Contract.	
	Jordan	✓			
	Reynolds	✓		(Get with Kit on	
	Thiel	✓		Amendment.)	
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Mayor Coody				

B.2.
Unfinished
passed
7-1
183-04

Subject:	Tyson Food, Inc.				
Motion To:		Pass resolution			
Motion By:		Lucas			
Seconded:		Thiel			Geary Lawry
	Lucas	✓			Conrad Odom
	Jordan	✓			Robert Reynolds
	Reynolds	✓			
	Thiel	✓			
	Cook	N			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Mayor Coody				

City Council Meeting November 16, 2004

B.3.
Unfinished
passed
7-1
4638

Subject:	RZN-04-1189 (Jackson/Humphries)				
Motion To:		Third Read	Pass		
Motion By:		Theil			
Seconded:		Reynolds			
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	N		
	Rhoads	✓	✓		
	Odom	✓	✓		
	Mayor Coody				

B.4
Unfinished
passed
8-0
4639

Subject:	R-PZD 04-1181 (Walnut Crossing)				
Motion To:		3rd read	Pass		
Motion By:		Lucas			
Seconded:		Jordan			
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Odom	✓	✓		
	Mayor Coody				

City Council Meeting November 16, 2004

B.5.
Unfinished
passed
184-04

Subject:	ADM 04-1258 (Wilson Street/ Walnut Crossing)				
Motion To:		Approve resolution			
Motion By:					
Seconded:					
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Mayor Coody				

B.6.
Unfinished
Business
passed
4640

Subject:	RZN-04-1223 (Hoskins)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Lucas	Jordan		
Seconded:		Jordan	Lucas		
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Mayor Coody				

City Council Meeting November 16, 2004

C. 1.
New Business

passed
185-04

Subject:		Wilson Springs Property Proceeds			
Motion To:		Pass			Transfer.
Motion By:		Marr			
Seconded:		Reynolds			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Mayor Coody				

C. 2.
New Business

Motion to table passed

Subject:		Cox Communications Franchise Agreement			
Motion To:		Table Indefinitely			
Motion By:		Thiel			
Seconded:		Reynolds			Jim Benis
	Lucas	✓			Geary Lawry
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Mayor Coody				

Tabled Indefinitely

City Council Meeting November 16, 2004

C.3.
New Business
6-2
passed
4641

Subject:	ANX 04-1252 (A) (Nooncaster/Kelly)			
Motion To:	2nd read	3rd read	Pass	
Motion By:	Thiel	Rhoads		
Seconded:	Reynolds	Odom		
Lucas	✓	✓	✓	
Jordan	✓	✓	✓	
Reynolds ✓	✓	✓	✓	
Thiel ✓	✓	✓	✓	
Cook	✓	✓	N	
Marr	✓	✓	N	
Rhoads	✓	✓	✓	
Odom	✓	✓	✓	
Mayor Coody				

C.4.
New Business
6-2
passed
4642

Subject:	ANX 04-1252 (B) Nooncaster/Kelly			
Motion To:	2nd read	3rd read	Pass	
Motion By:	Rhoads	Odom		
Seconded:	Odom	Rhoads		
Lucas	✓	✓	✓	
Jordan	✓	✓	✓	
Reynolds	✓	✓	✓	
Thiel	✓	✓	✓	
Cook	✓	✓	N	
Marr	✓	✓	N	
Rhoads	✓	✓	✓	
Odom	✓	✓	✓	
Mayor Coody				

City Council Meeting **November 16, 2004**

Subject:	RZN 04-1253 (Mooncaster)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Rhoads	Odom		
Seconded:		Odom	Rhoads		
	Lucas	✓	✓	✓	
	Jordan	✓	✓	N	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	✓	
	Rhoads ✓	✓	✓	✓	
	Odom ✓	✓	✓	✓	
	Mayor Coody				

#5 New Business

6-2 Passed

4643

Subject:	RZN 04-1243 (Medley)				
Motion To:					
Motion By:					Dean Medley
Seconded:					
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Odom				
	Mayor Coody				

#6 New Business

Left on the First Reading

City Council Meeting November 16, 2004

Subject:	UAC. 04-1228 Habitat for Humanity				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Marr	Reynolds		
Seconded:		Odom	Marr		
	Lucas	✓	✓	N	Patsy Brewer
	Jordan	✓	✓	N	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	N	
	Cook	✓	✓	N	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Odom	✓	✓	✓	
	Mayor Coody			Yes	

#7
New Business
4-4
Mayor Coody
Voted yes
to Break the
tie

Passed
4644

Subject:	2005 Proposed Annual Budget				
Motion To:		table			
Motion By:		Marr			Sharon Hoover
Seconded:		Jordan			Jeff Erf
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Odom	✓			
	Mayor Coody				

#8
New Business
Tabled
Until
Dec. 7,
2004.

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
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Final Agenda
City of Fayetteville Arkansas
City Council Meeting
November 16, 2004

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Call to Order
Roll Call
Pledge of Allegiance

Nominating Committee Report: Appointment of Maudie Schmitt to the A & P Commission.

A. CONSENT:

1. **Approval of the Minutes:** Approval of the November 1, 2004 City Council meeting minutes.

2. **South School Avenue Street Lighting:** A resolution approving the purchase of twenty (20) ornamental street lights from Upchurch Electric in the amount of $47,940.00 for the South School Avenue Street Lighting Project.

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B. UNFINISHED BUSINESS

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D. INFORMATIONAL:

Council Tour: No City Council Tour

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

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Ward 3 Position 2 - Conrad Odom
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

City Council
Meeting Minutes
November 1, 2004

A meeting of the Fayetteville City Council was held on November 1, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

Pledge of Allegiance

Presentation of Fire Department Service Awards:

Chief Bosch and Mayor Coody presented 20 year service awards to the following firemen: Gene Evans, Danny Farrar, and Dale White.

CONSENT:

Approval of the Minutes: Approval of the October 19, 2004 City Council meeting minutes.

Professional Engineering Services Agreement with RJN Group Amendment: A resolution approving Contract Amendment #1 to the June 15, 2004 agreement for professional engineering services with RJN Group, Inc. in the amount of $175,000.00 to initiate the Farmington Sanitary Sewer Rehabilitation Improvements as set forth in the settlement agreement.

Resolution 169-04 as Recorded in the Office of the City Clerk.

FAA Contract Tower Cost Share Program: A resolution accepting the Federal Aviation Administration (FAA) Benefit/Cost Calculation of .91 for the FAA Contract Tower Cost Share Program; and approving a two-year Cost Sharing Agreement beginning March 1, 2005 with the FAA.

Resolution 170-04 as Recorded in the Office of the City Clerk.

Arkansas Aeronautics Department Grant Amendment T-Hangar "H": A resolution authorizing the Fayetteville Municipal Airport staff to accept an increase in the grant amount of $50,000.00 (for a total of $150,000.00) from the Arkansas Department of Aeronautics for the construction of a new T-Hangar; and approving a budget adjustment recognizing the increased grant revenue.

Resolution 171-04 as Recorded in the Office of the City Clerk.

Vehicle & Maintenance Fueling: A resolution approving a Budget Adjustment in the amount of $195,100.00 to various vehicle and machine maintenance fueling accounts, due to unanticipated fuel cost increases.

Resolution 172-04 as Recorded in the Office of the City Clerk.

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

UNFINISHED BUSINESS

Arkansas Blue Cross & USAble Insurance Benefit Plan Renewal: A resolution exercising the first of five one-year options to renew employee group policies with USAble Life to provide life, accidental death and dismemberment, and long term disability insurance coverage, and with Blue Cross/Blue Shield for the group medical plan. ***This resolution was tabled at the October 19, 2004 City Council Meeting to the November 1, 2004 City Council Meeting.***

Alderman Jordan: If the individual and the City split the additional cost and keep the insurance as it is what will the cost be?

Michele Bechhold, Human Resources Director: That would be a cost to the City of $260,511.

Alderman Jordan: Where did we get the figure of $90,000 then?

Steve Davis, Finance and Internal Services: The figure of $90,000 is the difference between the City keeping the existing policy and picking up all the increase over the $202,000.

Alderman Jordan: It is going to $202,000 anyway. The difference between what would be and what could be is $90,000 is that right?

Steve Davis: The ultimate of what it could be, yes.

Alderman Jordan: So if we did that and we split the cost 50/50 between the employee and the City what would it basically be per month for individual coverage and per month for family coverage?

Steve Davis: The employee individual would go from $8.26 per month to $9.16 per month if we split the cost. The employee family would go from $54.52 to $60.46 if we split the cost. A 10% to 11% increase.

Alderman Marr: At the last Council meeting there was some discussion about getting more feedback from the employee group and you were going to go back and solicit to make sure we had covered all the groups. Can you share with us what results came from that.

Michele Bechhold: The department directors started an initiative to communicate through the division heads with the employees. In this morning's department director's staff meeting I believe there was a general feeling that in the additional feedback that was received there was a desire to share the increase as in Option A. This option would have a cost to the City of $260,000.

Alderman Marr moved to approve *Option A: maintaining the current stop loss that the insurance program currently has and sharing the expense of the insurance increase between the city and the city employees.* Alderman Jordan seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 173-04 as Recorded in the Office of the City Clerk.

RZN 04-1164 (Clevenger Duplexes): An ordinance rezoning that property described in rezoning petition RZN 04-1164 as submitted by Melissa Curiel for property located south of Wedington Drive and east of 54th Avenue, containing approximately 4.93 acres from R-A, Residential Agricultural to RMF-6, Residential Multi Family, six units per acre subject and accepting a Bill of Assurance limiting the number and type of structures to duplex and single family use. ***This ordinance was left on the first reading at the October 19, 2004 City Council Meeting.***

Alderman Jordan: Did we get that Bill of Assurance?

Dawn Warrick, Planning: I just handed it out.

Alderman Jordan: Thank you.

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

Mr. Williams read the ordinance.

Alderman Lucas: This will be limited to a density of 20 residential dwelling units for this property.

Dawn Warrick: The updated Bill of Assurance that was distributed this evening that has been signed and notarized by the property owners, Item Number 1 in that Bill of Assurance states the *use of the petitioners property described in Exhibit A attached hereto shall be limited to a density of 20 residential dwelling units.* Item 2 is the same as what was in the previous Bill of Assurance limiting the type of dwellings to single family and duplexes only.

Alderman Lucas: Thank you.

Alderman Jordan: I would also like to thank you for the work that you have done with the property owners in obtaining this Bill of Assurance.

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

Mr. Williams read the ordinance.

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

Ordinance 4630 as Recorded in the Office of the City Clerk.

RZN 04-1189 (Jackson/Humphries): An ordinance rezoning that property described in rezoning petition RZN 04-1189 as submitted by Nick Wilson for property located at the northwest corner of South School Avenue and Sunrise Mountain Road containing approximately 7.91 acres from R-A Residential Agricultural and C-2, Thoroughfare Commercial to I-1 Heavy Commercial, Light Industrial. ***This ordinance was left on the first reading at the October 19, 2004 City Council Meeting.***

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

Mr. Williams read the ordinance.

Alderman Thiel: I see they have a planned entry off of South School, I guess that is to give two different entrances and exits from this property?

Dawn Warrick: On Friday afternoon the applicants engineer provided this information to staff along with a revised legal description what this consists of and what was stated in the transmittal that came with it. They have attached some images that is what has been provided to you. They do state this is conceptual only and subject to change, they recognize that there is no city site plan approval associated with this submission. This is an idea as to how the site might be developed in accordance to the plans that they have and the program they are trying to establish for their business on the site. It does state that the owners are willing to leave the western end of the property undisturbed and that they recognize that the drive on the north side of the building is subject to AHTD approval. It is also subject to City Planning Commission approval and or staff depending on how the project comes through our review process. They have also reviewed the layout of the property, the existing C-2 portion of the property, they are proposing to reduce that in size. What they are proposing is to reduce the corner commercially zoned property to approximately 200 by 220 feet. That is right at .37 acres in size. There request based on this information is to modify their rezoning application and instead of rezoning 7.91 acres to an industrial designation to rezone 7.54 acres. That is the information that we have.

Alderman Reynolds: What kind of upgrades did you say we are going to get to Sunrise Mountain Road?

Dawn Warrick: We have not looked at a development proposal, it will depend on how much and what kind of traffic will be impacting that drive. A standard improvement would be half of a city street, 14 feet from center line of pavement, curb, gutter and storm drain all along the frontage of their property where ever it adjoins the street.

Alderman Reynolds: Will they have to put in additional screening for these storage buildings?

Dawn Warrick: Yes sir there is a specific screening requirement for mini storage.

Alderman Reynolds: How much land is in the back where it says this area is to remain undisturbed?

Steve Clark with Clark Consulting: I don't have an exact answer it looks like based on generic sizes and order of scale we are probably looking at somewhere between 2 ½ to 3 acres.

Alderman Reynolds: Do we have that in writing?

Steve Clark: The only commitment you have is what we have on this drawing. The owners have conveyed to me that they are prepared to commit to you verbally; we don't have a Bill of Assurance or anything that is going to tie it down.

Alderman Reynolds: I would like to have it in writing, I know it says that but I would rather have a Bill of Assurance that this will not change.

Kit Williams, City Attorney: We are not really allowed to ask for a Bill of Assurance. A Bill of Assurance has to be offered voluntarily by a developer.

Steve Clark: Based on the developability of that, I think we have very little choice and I think the owners are prepared to make that commitment to you tonight so it will be on the record.

John Humphries of Humphries and Jackson: We would be happy to put that in writing.

Alderman Reynolds: Thank you.

Alderman Thiel: Why was there a change increasing the industrial and reducing the commercial?

Steve Clark: We are not increasing the industrial from the original request. The original request was for the entire property to be rezoned to industrial. We started looking at potential tenants and potential users, at the time they originally asked for the industrial zone that would be required to be I-1 to have the storage buildings. Staff's interpretation, based on their conversations on the printing business, they got the impression that it was going to be more of an industrial use than it turns out to be. Their printing business is where they get digital files from their clients by email and then they print them out on bigger zerox machines and big plotters. So it really was not an industrial us.

Alderman Thiel: C-2 zoning is larger than what you are asking for now, you are reducing the C-2, so basically you are asking for more I-1 than you were initially.

Steve Clark: No madam, because originally we were asking for the entire property. What has happened is if you will look at the site plan, if you will look at the back parking lot for that front building, there is a line between it, that is approximately where the line would be for the designation between the I-1 and the C-2. The storage has to be in I-1 it's not allowed in C-2 zone so that is why we are shifting that C-2 zone towards the street a little bit.

Alderman Thiel: That's what concerns me.

Alderman Marr: At Agenda Session I asked if we knew how much industrial zoning in this area of the City or Ward was currently available or available in our industrial park, do we have that information.

Dawn Warrick: I don't have an exact number for you. I do know that the largest amount of industrially zoned property in this vicinity is Drake Field which is across the street and a little bit south of this property. There is about 795 acres within that complex and surrounding it. There are a couple of smaller pieces of industrial property north of Drake Field that are vacant. I can do a little bit more research for you if you would like more specific numbers.

Alderman Thiel: I would appreciate that information.

Kit Williams: It looks to me like we are going to have to amend this ordinance if you want to do what they have asked. Let me make sure I understand you are not wishing now to rezone any of the property C-2?

Steve Clark: No. There is a strip of C-2 that will be rezoned to I-1 and part of the C-2 will remain as C-2.

Kit Williams: So the only change would be from 7.91 acres to 7.54 acres, that is the only modification.

Steve Clark: Correct, the acreage and the legal description of it.

Alderman Reynolds moved to amend the ordinance to change the number of acres from 7.91 acres to 7.54 acres. Alderman Thiel seconded the motion.

Steve Clark: The question arose on what street improvements would be required and I think that obviously if the street needs to be improved we would certainly be prepared to do that. Normally you would require that we would widen our half of the road. I would suggest we may be better off if there is available right of way to improve both sides of the road for a limited section, perhaps from our driveway to the road would be better suited. If we start widening it to the east there is a pretty dense row of cedar and evergreen trees that grows along the edge of the road that would serve as an outstanding screen if we left that vegetation in place. That would be our preference to use that as a screen also for our development.

Mayor Coody: Is there a way to achieve the road widening and leave the screen in place? Have you looked at that Dawn?

Dawn Warrick: We can look at options. That is certainly something depending upon the development; different scenarios could play out and be appropriate. It really has to do with the impact of the project and what the most appropriate and effective improvements would be.

Steve Clark: That is something we will work out when we bring our site plan through.

Upon roll call the motion passed unanimously.

This Ordinance was left on the Second Reading.

<u>R-PZD 04-1181 (Walnut Crossing):</u> An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1181, Walnut Crossing located north of Highway 62, east of Layne Street containing 43.30 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This ordinance was left on the first reading at the October 19, 2004 City Council Meeting.***

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

Mr. Williams read the ordinance.

Alderman Marr: Has this gone before the Farmington City Council?

Dawn Warrick: This is scheduled to go before the Farmington City Council on November 8th. The applicant understands that we will need to leave this on a reading until it is heard by Farmington.

This Ordinance was left on the Second Reading.

ADM 04-1258 (Wilson Street/Walnut Crossing): A resolution amending the Master Street Plan to relocate Wilson Street, a proposed Collector Street, approximately 600 feet north as apart of R-PZD 1181, Walnut Crossing, as described in the staff report attached hereto and made a part hereof. ***This resolution was tabled at the October 19, 2004 City Council Meeting to the November 1, 2004 City Council Meeting.***

Alderman Marr moved to table the resolution until the November 16, 2004 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion to table passed unanimously.

This resolution was tabled until the November 16, 2004 City Council meeting.

NEW BUSINESS:

University of Arkansas Campus Transportation Study: A resolution approving cost- sharing with the University of Arkansas in an amount not to exceed $30,000.00 to participate in the Campus Transportation Study.

Alderman Thiel: I did have a call about spending additional money on a transportation study. I told my constituent that this study would encompass a lot more than just transportation. One of the issues I remember being discussed is they would do a study of where students are located throughout the City.

Tim Conklin, Engineering and Planning: That is correct they've talked about where students live within the city and how they are commuting to the campus. This cost share request is looking at the portion of the study that is looking at the potential idea of partnering with the University to site additional parking decks near the university and downtown Fayetteville. It will also look at the feasibility of where those decks are located, how they impact the neighborhoods, how circulation is impacted, and how some type of structure could be developed to enter into some type of partnership to look at potential decks. This is just one small portion of the overall study; the actual study is around $500,000. This is $30,000 to partner with the University of Arkansas to look at the issue of students coming to campus, where they park and the potential for decks.

Alderman Jordan moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 174-04 as Recorded in the Office of the City Clerk.

ANX 04-1212 (Harper/Bowen): An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property located at 5512 George Anderson Road containing approximately 2.68 acres.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Odom: What was the Planning Commission's vote?

Dawn Warrick: The Planning Commission voted unanimously 7-0 to recommend approval of this. We did not have any public comment at the Planning Commission meeting.

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

Mr. Williams read the ordinance.

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

Ordinance 4631 as Recorded in the Office of the City Clerk.

RZN 04-1213 (Harper/Bowen): An ordinance rezoning that property described in Rezoning Petition RZN 04-1213 as submitted by Mickey Harrington for property located at 5512 George Anderson Road containing approximately 2.68 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Mr. Williams read the ordinance.

Alderman Odom: What was the Planning Commission's vote on this?

Dawn Warrick: Unanimous vote to approve and no public comment.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4632 as Recorded in the Office of the City Clerk

RZN 04-1219 (Hancock/Wilson): An ordinance rezoning that property described in Rezoning Petition RZN 04-1219 as submitted by Project Design Consultants for property located at 2389 Salem Road containing approximately 14.94 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Mr. Williams read the ordinance.

Alderman Lucas: Are there going to be stub out streets?

Dawn Warrick: This piece of property is currently split zoned. A portion of the property is zoned R-A and a portion of the property was part of an unincorporated island that was recently annexed and designated RSF-1. This piece of property spans between Rupple Road and Salem Road. The property immediately north of it is currently under development with a single family subdivision. There will be connectivity between Rupple and Salem Road as well as to adjoining developments. We will see connectivity between this area. These 15 acres will certainly be able to carry traffic between those two major north/south streets. We will also look for connectivity north and south into property that is being developed and property that is going to develop in the future.

Kit Williams: I would request an amendment as suggested by the city planner both in the title and in the body to read *and RSF-1 residential single family one unit per acre* inserted after residential agricultural.

Alderman Odom moved to amend the ordinance to read *and RSF-1 residential single family one unit per acre.* Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

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

Mr. Williams read the ordinance.

Alderman Jordan: I haven't received any calls on this development.

Alderman Lucas: I haven't either.

Alderman Marr: We just annexed this not too long ago when we annexed the islands we annexed it as RSF-1, refresh my memory why we did RSF-1 while other annexations that we bring into the city are RSF-4. What was the reason we did RSF-1 to begin with?

Dawn Warrick: My understanding is that when the Council chose RSF-1 as the designation for a large portion of this property that was being annexed as unincorporated island, the desire was that they be designated at a lower density so that when and if development was proposed that would require a higher density the City Council would have the opportunity to review those requests individually.

Alderman Jordan: In my research of this development there was not anything that looked too terribly bad in this area, it looked like fire protection was fine and there is connectivity between one that is already being developed.

Alderman Marr: The lesson learned is we have the opportunity to not have two actions on an item when we think RSF-4 is appropriate in the future. Because we have had this come before the Council twice now.

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

Mr. Williams read the ordinance.

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

Ordinance 4633 as Recorded in the Office of the City Clerk

<u>RZN 04-1221 (Scott):</u> An ordinance rezoning that property described in Rezoning Petition RZN 04-1221 as submitted by Ed and Patricia Scott for property located at 3196 Skillern Road containing approximately 2.01 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Mr. Williams read the ordinance.

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent during the vote.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Rhoads: Dawn is this the only way for the Scott's to achieve their objective?

Dawn Warrick: Their other option would have been to pursue a variance in their setback requirements. We felt that would have been a bit of a reach because under state law, they would have been required to provide evidence of a hardship that was inherited in the property. That there was some unique circumstance on this particular piece of property, topiary, drainage or something that would have made it necessary for them to have a variance to provide this. They probably could have pursued that and achieved what they want to do. We gave them both options and let them choose which route they wanted to take. We felt that with either option they would be able to get a result that would be favorable for them to be able to make this addition. The rezoning will provide them consistent zoning with the property that is immediately to the west and also property that is to the south in the Brookbury area. We felt it was consistent that is why we gave them the option of choosing.

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

Ordinance 4634 as Recorded in the Office of the City Clerk

RZN 04-1223 (Hoskins): An ordinance rezoning that property described in Rezoning Petition RZN 04-1223 as submitted by Tracy Hoskins for property located at 1719 North Rupple Road containing approximately 11.73 acres from RSF-1, Residential Single Family, one unit per acre to RSF-4, Residential Single Family, four units per acre.

Mr. Williams read the ordinance.

Alderman Jordan: At the Ward 4 meeting last week some of the people wanted to see a presentation of the development, how you are going to develop it and how it will work with Rupple Road.

Mayor Coody: Did the Planning Commission approve this?

Dawn Warrick: Planning Commission recommended unanimously to forward this with a recommendation for approval.

Alderman Odom: Was there any public comment?

Dawn Warrick: There was not.

Tracy Hoskins, Developer: I was one of those that sent in a letter when the unincorporated land was being annexed saying why don't we do this as RSF-4 now instead of having to come back through. That's why I am here to get this property rezoned so that I can do a preliminary plat and then bring something back through. We've not really worked on anything as far as the layout of any subdivision. When we presented this I asked Ms. Warrick could we do them both at the same time and we were specifically told, no we could not, that we had to rezone and then come back through for preliminary plat, that we could not do them both at the same time. We haven't done anything as far as the layout of the subdivision, we are working with adjacent developers on projects they are doing to kind of put everything together. We don't really have anything right now. This piece of property is right in the middle of RSF-4 property. RSF-4 is all around it, Bridgeport to the west and to the north and a development to the south.

Alderman Jordan: I don't think the people are asking for anything specific, they just wanted to ask a few questions about how everything is going to go together there. That is all I am asking for is two weeks.

Tracy Hoskins: I don't know that we will have anything in two weeks. I don't know what we can give you in two weeks. I can bring you a piece of paper with a street drawn through it; I don't know what to give you.

Alderman Jordan: I think they just want to ask a few questions.

Mayor Coody: Do you think it would suffice if Tracy were to come to the Ward 4 meeting and visit with them?

Alderman Jordan: That is what I just said.

Mayor Coody: Without specifics as far as the engineering?

Alderman Jordan: That's what I am saying, if you will just show up and tell them what you want to do.

Tracy Hoskins: I can do that.

Alderman Thiel: Staff did not suggest a PZD on this?

Dawn Warrick: That is always an option.

Alderman Thiel: So you could have done both, we could have seen it all.

Tracy Hoskins: I could have done a PZD if that were the zoning I was requesting.

Alderman Thiel: That would be the zoning and the plan at the same time. You said that you couldn't do that and I was just suggesting that you could have.

Tracy Hoskins: When we started out on this project I asked the staff how we should come through as far as the zoning, we are not ready to do the subdivision yet. In a PZD we would have to design the subdivision and ask for the zoning all at one time. We are not ready to do the subdivision yet, it may be 3 months in the future it may be 8 months in the future. We don't have immediate plans for exactly how the streets are going to lay out, the lot sizes, setbacks, restrictive covenants, etc.

Mayor Coody: So you are just looking for the rezoning so you can have the security that the land would be able to do what you need it to do.

Tracy Hoskins: Absolutely. So it is just like every piece of property that is adjacent to it.

Mayor Coody: Dawn this is surrounded by like property is that right?

Dawn Warrick: To the north, south and west.

Alderman Jordan: Again you do not have to have any plans Mr. Hoskins; they just want to ask you a few questions. It will save us all a lot of trouble in the long run.

Tracy Hoskins: That is fine, I will be happy to do that.

Alderman Jordan: You met with us before. We will meet November 8th at 7:00 in Room 111.

Tracy Hoskins: I will be there.

This Ordinance was left on the First Reading.

RZN 04-1225 (Conner): An ordinance rezoning that property described in Rezoning Petition RZN 04-1225 as submitted by Robert Jeff Conner for property located at 3398 E. Huntsville Road containing approximately 0.78 acres from RSF-4, Residential Single Family, four units per acre to R-O, Residential Office.

Mr. Williams read the ordinance.

Mayor Coody: Did this also get recommendation from the Planning Commission and no public comment.

Dawn Warrick: Yes sir.

Alderman Reynolds: We haven't had any phone calls on it. Anytime you can go from RSF-4 to R-O I am all for it.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4635 as Recorded in the Office of the City Clerk

VAC 04-1226 (Habitat for Humanity): An ordinance approving VAC 04-1226 submitted by Habitat for Humanity for property located at 222, 224 and 226 East 13th Street as described on the attached map and legal description.

Mr. Williams read the ordinance.

Alderman Reynolds: I have had no calls.

Alderman Thiel: I have had no calls but there were some concerns expressed at the Planning Commission meeting about this. I noticed that one commissioner voted against this. I share the same concern that commissioner had. Once we vacate this property it is out of our hands as far as controlling it, if there does need to be a drainage easement or drainage work. However, you did assure me that most of the drainage according to our engineering staff is east of this property. However, the people that expressed their concerns at the Planning Commission meeting and the letters that are in our packet indicate this is still used as drainage for their properties. I still wonder why they need this property, are they going to build on it. That would be my question why this is needed to be part of this property.

Patsy Brewer, Habitat for Humanity: This property has never been maintained. There are trees that have grown up all along that area that shows that nothing has ever been cut in years. The family would maintain it over to the property line and keep it cleaned out. It would become part of their yard instead of just an area that no one has taken care of or maintained. We always are looking to the future trying to make sure the families are not left with problems. We just felt the best issue for this would be to include that extra footage in their property that they would take ownership of, maintain it and take care of it. As far as the drainage, that is coming from the north along the property line, we are aware of it we will work with engineering to grade all around our three lots to take it over and out onto Willow and make sure it goes on down to the south as it should.

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

Mr. Williams read the ordinance.

Alderman Lucas: We are vacating an alley but we are maintaining an easement? I see on these utility approval forms that we must maintain a full width easement for possible future water and sewer.

Mayor Coody: The alley right now is publically owned?

Dawn Warrick: That is correct. If it reverts to easement only it would be owned by the property owners, however the area must remain available for whatever easements utility and or drainage as necessary. That is a relatively standard comment from the water and sewer utility as well as other general utilities, they maintain their right to that area, however the City would not maintain the ownership of it.

Kit Williams: I would like to see an amendment to the ordinance to specifically say that we retain the utility easement rights at the end of Section 1.

Alderman Thiel moved to amend the ordinance to read that the City retains the utility easement rights for this property. Alderman Reynolds seconded the motion. Upon roll call the amendment passed unanimously.

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

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Reynolds, Thiel, Rhoads, Odom, Lucas and Jordan voting yes. Alderman Cook and Marr voting no.

Ordinance 4636 as Recorded in the Office of the City Clerk

VAC 04-1227 (Habitat for Humanity): An ordinance approving VAC 04-1227 submitted by Habitat for Humanity for property located at 221, 223, and 225 East 13th Street as described on the attached map and legal description.

Mr. Williams read the ordinance.

Mayor Coody: Do you also want to see this amended as well?

Kit Williams: Yes, I read it as it should be amended.

Alderman Odom moved to amend the ordinance. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

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

Mr. Williams read the ordinance.

Alderman Cook: I still don't understand why we are doing this. It seems to me we are just doing it so they can clear the land and have more yard.

Mayor Coody: That's exactly why it's happening.

Alderman Cook: What's wrong with having a piece of nature in the middle of town? That's why I voted against the first one. If they just want to cut it down why are we going through this process?

Alderman Odom: I think the answer to that question is what Patsy addressed to us and that's ownership. That's part of the whole Habitat process is ownership of the home and ownership of the property. Just because you are giving them ownership I guess that doesn't necessarily mean they are going to go out and cut it down. It does give them ownership of that piece of property.

If this was a situation where we were giving up something, an alleyway that we were actually going to use and was important to the City of Fayetteville I think I would have a problem with it. Since we don't need it and aren't going to use it, I think we need to promote the home ownership of it. Let someone else maintain it rather than the City have the burden of maintaining it.

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

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Reynolds, Thiel, Rhoads, Odom, Lucas and Jordan voting yes. Alderman Cook and Marr voting no.

Ordinance 4637 as Recorded in the Office of the City Clerk

Public Hearing:

Cost Lien for Raze and Removal at 1905 S. Brower Avenue: A resolution certifying to the Tax Collector of Washington County the costs of the razing and removal of a dilapidated and unsafe structure upon the property owned by Jonathan M. and Jennifer L. Rich located at 1905 S. Brower Avenue in the City of Fayetteville, Arkansas.

Kit Williams: I should note for the record this is a Public Hearing that we are conducting. The City Council needs to determine the proper amount of money to certify to the Washington County Tax Collector to collect for the work that was done on this property.

Mayor Coody: Do I need to call for a Public Hearing?

Kit Williams: You can call for it if you want.

Hugh Earnest, Chief Administrative Officer: We would like to present a slide show showing the property.

Tim Conklin: Back in December of last year the City Council passed a resolution ordering the raise and removal of this structure on Brower Avenue. Jonathan Rich on December 12th signed a certified letter informing him that the City Council did pass an order for raise and removal. On March 11th the City completed that raise and removal process. The cost of that to the City was $5,651.71. Mr. Rich has been invoiced and the invoice is past due 90 days. The purpose of this evening is to have this public hearing and certify this so we can place a lien on the property.

Alderman Jordan: I have had several calls on that piece of property even though we have taken the building down. It seems it is beginning to grow back up again and seems to be coming somewhat hazardous. Is there anything we can do about that?

Tim Conklin: I talked to code compliance about that today and they are aware that the grass is 18 inches and taller so we will follow up on that also.

Alderman Jordan moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 175-04 as Recorded in the Office of the City Clerk

Meeting Adjourned at 7:10 PM.

Sondra Smith, City Clerk

Dan Coody, Mayor

FAYETTEVILLE TOWN CENTER
PO Box 4157, 15 W. Mountain Street, Fayetteville, AR 72702-4157
(479) 582-9014 • (479) 582-4935 - fax

Fax

To: Sondra Smith From: Marilyn

Company: No. Pages (including cover):

Fax: 718-7695 Date:

Phone: CC:

Re:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

Attached is agenda item —
Maudie Schmitt – A & P Commission

or appointm to City Boards, Commissions, and Comm es

ame MAUDIE SCHMITT / Soc. Sec. # 435-78-9971

If married, please give spouse's first name

905 Eden Circle

sident Street Address

Length of residency in Fayetteville 4 yrs

Fayetteville AR 72701

y State Zip Code

How did you find out about opening(s)? Newspaper

(SAME)

iling Address Zip Code

ephone Number: Home: 409-6230

Business: 443-2777

References:

Name Ray Niblock, P.A.

Address 1201 Woolsey Ave Fayetteville

Phone 444-9692

Name HARRY BLAIR

Address 3562 Natchez Trace, Fay.

Phone 587-8192

cupation/Employer Name

Owner of Cafe Rue Orleans

oice of Committee

A & P

ice Use Only Terminate Appointed

n Expires Replaced

What are your qualifications for serving on this committee, including education and expertise in the subject matter?

Retired Special Education Teacher (25 yr/Louisiana)

Owner - Operator - Chef @ Cafe Rue Orleans

Excellent Public Relations, people skills, effective communication.

Why would you like to be considered for appointment to this committee?

Want to be involved in government and issues that affect my business.

Opportunity to give service back to community.

Would like to be part of Fayetteville's future..

e fill out application COMPLETELY and return to: Marilyn Heifner.
PO Box 4157
Fayetteville, AR 72702-4157

have any questions call ~~575-8323~~ 587-9944

A. 8. Consent
Reindl Properties
11-18-04

AGREEMENT

This Agreement executed this ______ day of __________________2004, between the City of Fayetteville, Arkansas, a municipal corporation, and Reindl Properties, Inc., witnesseth:

IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

1. **Reindl Properties, Inc.** shall:

   a. donate the property more particularly described in Exhibit A, attached hereto and made a part hereof, (approximately 5,203 sq. ft.) to the City of Fayetteville for construction of a multi-use trail;

   b. at its expense, have all power poles, overhead electrical lines, transformers and ground mounted equipment removed from Area A (as depicted on the map marked Exhibit B, attached hereto and made a part hereof);

   c. at its expense, remove all damaged paving from Area B (as depicted on the map marked Exhibit B), and install parking, cross walks and drive lanes to City of Fayetteville standards within 18 months of the execution of this agreement;

   d. install and maintain approximately 4,423 sq ft. of landscaping in Area B;

   e. remove the one story metal building on the western portion of the property within 18 months of the execution of this agreement.

2. **The City of Fayetteville** shall:

   a. transfer title to the property more particularly described in Exhibit A (approximately 21,402 sq. ft.) to Reindl Properties. Inc.;

   b. construct a multi-use trail, built to City standards, within 18 months of the execution of this agreement.

3. **Non-assignability**. Neither party may assign any of its rights or obligations under this Agreement, without the express written consent of the other. Nor shall this Agreement be construed to bestow any rights or benefits upon anyone other than Reindl Properties. Inc., and the City of Fayetteville.

4. **Exclusivity**. The parties agree and understand that this Agreement is exclusive of any and all other Agreements, and that it in no way alters, amends or abridges any rights, obligations or duties of the parties contained in such Agreements.

5. **Non-waiver**. It is agreed that the failure of any party to invoke any of the available remedies under this Agreement or under law or equity 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 subsequent breach or default.

6. **Governing Law.** This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

7. **Severability.** Each paragraph of this 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 shall remain in full force and effect.

8. **Modification.** This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this Agreement shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville, and Reindl Properties. Inc.

9. **Warrant of Authority.** Each of the undersigned warrants that he or she has the full right, power and authority to execute this contract on behalf of the party indicated for the purposes herein contained.

IN WITNESS WHEREOF, the City of Fayetteville and Reindl Properties. Inc. have executed this Agreement on or as of the date first written above.

CITY OF FAYETTEVILLE, ARKANSAS

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

REINDL PROPERTIES. INC.

By: President
Name & Title

AGREEMENT

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   c. at its expense, remove all damaged paving from Area B (as depicted on the map marked Exhibit B), and install parking, cross walks and drive lanes to City of Fayetteville standards within 18 months of the execution of this agreement;

   d. install and maintain approximately 4,423 sq ft. of landscaping in Area B;

   e. remove the one story metal building on the western portion of the property within 18 months of the execution of this agreement.

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   b. construct a multi-use trail, built to City standards, within 18 months of the execution of this agreement.

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IN WITNESS WHEREOF, the City of Fayetteville and Reindl Properties. Inc. have executed this Agreement on or as of the date first written above.

CITY OF FAYETTEVILLE, ARKANSAS

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

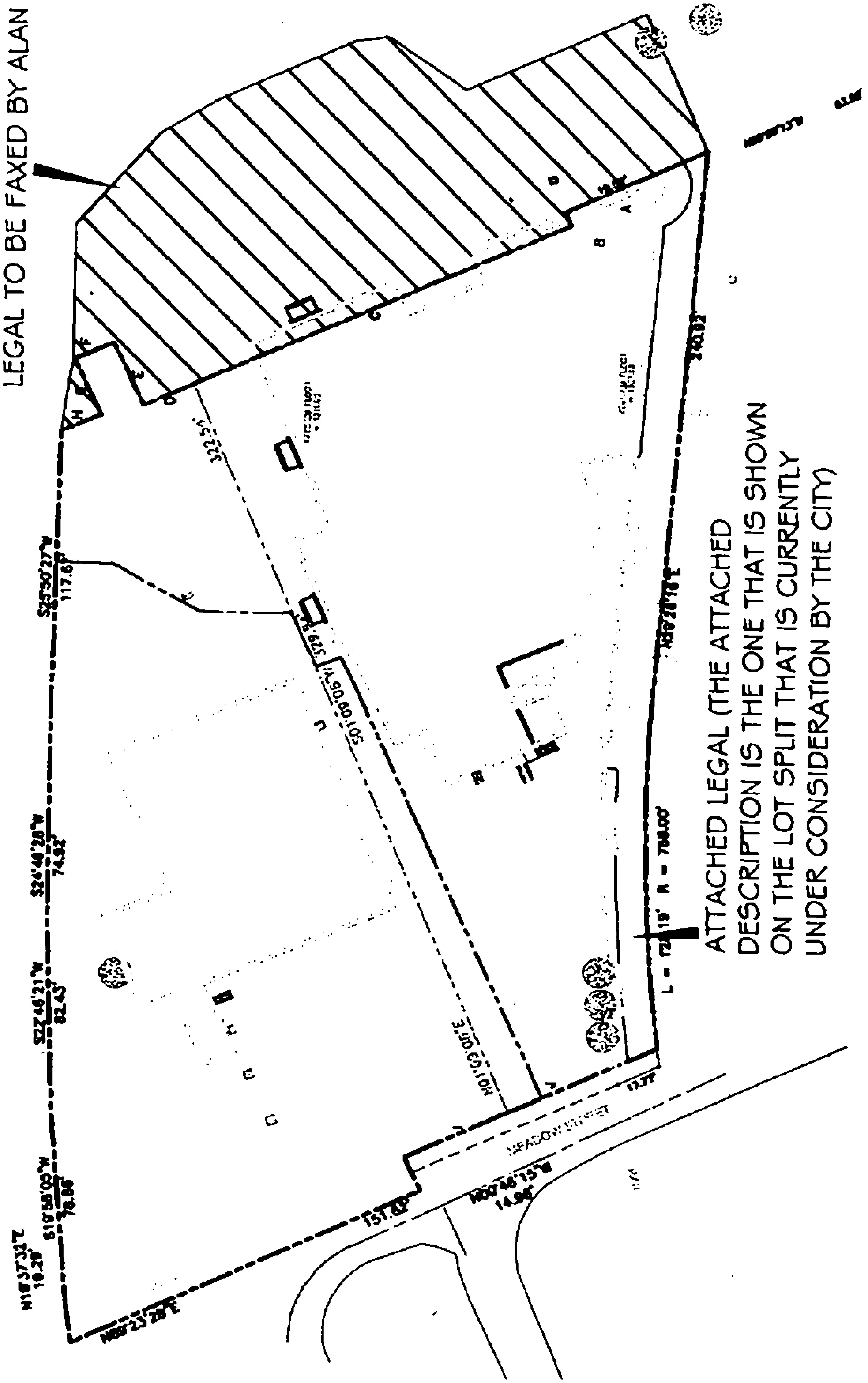
SONDRA SMITH, City Clerk

REINDL PROPERTIES. INC.

By: ______________________

Name & Title

LEGAL TO BE FAXED BY ALAN REID



ATTACHED LEGAL (THE ATTACHED DESCRIPTION IS THE ONE THAT IS SHOWN ON THE LOT SPLIT THAT IS CURRENTLY UNDER CONSIDERATION BY THE CITY)

SURVEY DESCRIPTION: PROPOSED SPLIT

COR.
CK 8

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION SIXTEEN (16), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, WASHINGTON COUNTY, ARKANSAS, AND A PART OF BLOCK EIGHT (8) IN THE ORIGINAL TOWN (NOW CITY) OF FAYETTEVILLE, ARKANSAS, AS DESIGNATED UPON THE ORIGINAL PLAT OF SAID TOWN ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND ALSO A PART OF SAID BLOCK EIGHT (8) LYING 8.5 FEET WIDE ON EACH SIDE OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY'S (FORMERLY O. & C.C.) MAIN TRACK, ALTOGETHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK EIGHT (8); THENCE N89°59'13"W ALONG THE NORTH LINE OF SAID BLOCK EIGHT (8) 83.92 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING 8.5 FEET EAST AND PERPENDICULAR TO THE CENTERLINE OF THE OLD O. & C.C. MAIN TRACK OF THE ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY; THENCE S29°26'16"W FEET PARALLEL WITH THE CENTERLINE OF SAID RAILROAD TRACK 240.92 FEET TO A SET ½" IRON REBAR ON A 758 FOOT RADIUS CURVE WHICH IS CONCAVE TO THE EAST; THENCE SOUTHWESTERLY, PARALLEL WITH THE CENTERLINE OF SAID RAILROAD TRACK AND ALONG SAID CURVE 128.19 FEET TO A SET ½" IRON REBAR ON THE NORTH RIGHT-OF-WAY OF MEADOW STREET, THE CHORD FOR WHICH BEING S22°22'23"W 128.04 FEET; THENCE S89°49'06"W ALONG THE NORTH RIGHT-OF-WAY OF MEADOW STREET 12.59 FEET TO A POINT WHICH IS 3.5 FEET WEST OF AND CONCENTRIC WITH THE CENTERLINE OF SAID RAILROAD TRACK, SAID POINT BEING ON A 770 FOOT RADIUS CURVE WHICH IS CONCAVE TO THE EAST; THENCE LEAVING THE NORTH RIGHT-OF-WAY OF MEADOW STREET NORTHEASTERLY, PARALLEL WITH THE CENTERLINE OF SAID RAILROAD TRACK AND ALONG SAID CURVE 120.01 FEET, THE CHORD FOR WHICH BEING N21°42'30"E 119.89 FEET TO A SET ½" IRON REBAR; THENCE N63°49'35"W 5.00 FEET TO A CHISELED 'X' WHICH IS 8.5 FEET WEST OF AND CONCENTRIC WITH THE CENTERLINE OF SAID RAILROAD TRACK, SAID POINT BEING ON A 775 FOOT RADIUS CURVE WHICH IS CONCAVE TO THE EAST; THENCE NORTHEASTERLY, PARALLEL WITH THE CENTERLINE OF SAID RAILROAD TRACK AND ALONG SAID CURVE 14.13 FEET TO A CHISELED 'X', THE CHORD FOR WHICH BEING N26°41'45"E 14.13 FEET; THENCE N29°26'16"E ALONG A LINE WHICH IS PARALLEL WITH THE CENTERLINE OF SAID RAILROAD TRACK 114.75 FEET TO A SET ½" IRON REBAR; THENCE S60°49'59"E 2.02 FEET TO A SET ½" IRON REBAR; THENCE N29°46'16"E 95.27 FEET TO A SET ½" IRON REBAR, SAID POINT BEING ON A 16.5 FOOT RADIUS CURVE WHICH IS CONCAVE TO THE WEST; THENCE ALONG SAID CURVE 30.92 FEET, THE CHORD FOR WHICH BEING N39°54'04"E 26.59 FEET TO THE POINT OF BEGINNING, CONTAINING 0.12 ACRES (5203.0 SQUARE FEET), MORE OR LESS.

DESCRIPTION FOR AREA FOR TRAIL
"FROM REINDL PROPERTIES TO CITY"

SURVEY DESCRIPTION

A PART OF BLOCK NUMBERED EIGHT (8), A PART OF BLOCK NUMBERED SEVEN (7), A PART OF THE RIGHT-OF-WAY OF SPRING STREET, THE VACATED PORTION OF SPRING STREET AS PER CITY ORDINANCE #1513, RECORDED IN DEED BOOK 689 AT PAGE 242, AND A PART OF THE VACATED PORTION OF GREGG AVENUE AS PER CITY ORDINANCE #1070, RECORDED IN DEED BOOK 465 AT PAGE 275, ALL IN THE ORIGINAL TOWN (NOW CITY) OF FAYETTEVILLE, ARKANSAS, AS DESIGNATED UPON THE ORIGINAL PLAT OF SAID TOWN ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND ALTOGETHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK EIGHT (8); THENCE N89°59'13"W 83.92 FEET ALONG THE NORTH LINE OF SAID BLOCK EIGHT (8) TO AN EXISTING IRON REBAR FOR THE TRUE POINT OF BEGINNING; THENCE N89°59'13"W 62.10 FEET TO AN EXISTING CHISELED "X" IN A CONCRETE SIDEWALK; THENCE S00°46'15"E 6.03 FEET TO A POINT WHICH LANDS INSIDE AN EXISTING BUILDING; THENCE N89°58'40"W 184.51 FEET TO AN EXISTING IRON REBAR; THENCE N00°46'15"W 28.00 FEET TO AN EXISTING IRON REBAR; THENCE N89°59'13"W 17.00 FEET TO AN EXISTING IRON REBAR; THENCE S00°46'15"E 24.88 FEET TO AN EXISTING IRON REBAR; THENCE N89°59'13"W 17.00 FEET TO AN EXISTING IRON REBAR ON THE EAST RIGHT-OF-WAY LINE OF THE ARKANSAS & MISSOURI RAILROAD; THENCE LEAVING SAID RIGHT-OF-WAY LINE N32°25'02"E 29.94 FEET; THENCE N25°05'28"E 55.25 FEET; THENCE N65°53'54"E 49.99 FET; THENCE N82°43'49"E 25.43 FEET; THENCE N89°55'57"E 60.65 FEET; THENCE S73°31'53"E 13.42 FEET; THENCE S30°51'32"E 37.15 FET; THENCE S89°57'40"E 77.68 FEET; THENCE S00°00'47"W 60.45 FEET TO THE POINT OF BEGINNING, CONTAINING 0.49 ACRES (21,402.4 SQUARE FEET), MORE OR LESS.

B.2. Unfinished Business
Tyson Foods O&A
11-16-04

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (the "Agreement"), made and entered into this _____ day of September, 2004 by and between Tyson Foods, Inc., a Delaware corporation (hereinafter called "Seller"), and The City of Fayetteville, an Arkansas Municipal corporation (hereinafter referred to as "Buyer"). This Agreement shall become effective on the date of the full execution by both parties hereto ("Effective Date").

WITNESSETH:

WHEREAS, Seller is the owner of certain real property located in Washington County, Arkansas; and

WHEREAS, subject to the terms and conditions set forth herein, Buyer desires to purchase said property from Seller and Seller desires to sell said property to Buyer;

NOW, THEREFORE, in consideration of the premises recited, of the covenants, agreements and provisions of this Agreement, and of other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties hereby agree as follows:

1. **Agreement to Sell and Buy**. Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to purchase from Seller, for the consideration and upon the terms and conditions hereinafter set forth, the lands situated in Washington County, Arkansas, more particularly described on Exhibit "A" attached hereto, together with all improvements thereon, and all rights, privileges and appurtenances pertaining thereto, but subject to any matter disclosed herein, all recorded or restrictions, easements, and other matters of record. All property sold pursuant to this Agreement is hereinafter referred to as the "Property."

2. **Price and Terms of Payment**. As the purchase price for the Property, Buyer agrees to pay and Seller agrees to accept, a total purchase price of ONE MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS ($1,100,000.00) (the "Purchase Price") as adjusted pursuant to the terms of this Agreement. Within ten (10) days after Buyer's receipt of a fully-executed copy of this Agreement, Buyer shall tender to Seller (or Seller's representative), the

sum of ELEVEN THOUSAND AND NO/100 DOLLARS ($11,000.00) (the "Earnest Money" or "Deposit") as earnest money in connection with the above-described transaction.

3. **Closing**.

(a) Time and Place. Subject to the terms and conditions set forth in this Agreement, closing and settlement for the sale and purchase of the Property shall take place at a time and place as is mutually agreed to by Seller and Buyer; provided, however that if any of the conditions to Closing set forth in this Agreement have not been satisfied or waived by the party entitled to the benefit of such condition, the Closing will take place on the third business day after such condition has been satisfied or waived, **but in no event shall the closing occur later than January 31, 2005**. The time at which such closing and settlement occurs shall hereinafter be referred to as the "Closing" and the date on which the Closing occurs shall hereinafter be referred to as the "Closing Date."

(b) Payment of the Purchase Price. The Purchase Price shall be paid by the Buyer to the Seller at the Closing, and Buyer shall deliver to Seller cash in the form of a cashier's check or wire transfer in an amount equal to the Purchase Price, less the Earnest Money and adjusted by any prorations or other amounts described herein.

4. **Conditions Precedent to Closing**. Buyer represents and Seller hereby acknowledges that Buyer intends to use the Property for municipal purposes ("Intended Use"). Therefore, the purchase contemplated by this Agreement is subject to the following conditions precedent:

(a) If the Survey provided for in Section 10 discloses any condition which renders the Property unusable for the Intended Use (as determined in Buyer's reasonable discretion), then Buyer may rescind this Agreement and the Deposit will be refunded to Buyer, provided, however, that Buyer has exercised such rescission right by giving Seller written notice with evidence of such condition no later than December 15, 2004.

(b) If the results of the analyses, inspections, test borings, or studies pursuant to this Agreement, disclose that the physical condition of the Property, including the existence of hazardous wastes and toxic substances, will prevent Buyer from reasonably developing the Property for the Buyer's intended use, then Buyer or Seller may rescind this Agreement, whereupon the Deposit will be refunded to Buyer; provided however, that Buyer or Seller has notified the other party in writing, with evidence of such unacceptable condition, within fifteen (15) days after the Buyer or Seller receives the results of such analyses, inspections, borings, or engineering studies, but not later than December 15, 2004.

(c) Buyer, being able to obtain the approval of the purchase of the Property contemplated by this Agreement by the City Council of Fayetteville. Buyer covenants to use its best efforts, and act in a good faith and diligent manner to obtain such approval from the Fayetteville City Council. If Buyer is unable to obtain such a commitment, then Buyer may rescind this Agreement, whereupon the Deposit will be refunded to Buyer; provided however, that Buyer has notified Seller in writing, but not later than December 15, 2004.

(d) Buyer and Seller reaching a mutual agreement as to naming a defined space of the Property. Buyer and Seller covenant to act in good faith to reach such an agreement. If such agreement cannot be reached, then Seller may rescind this Agreement, whereupon the Deposit will be refunded to Buyer.

5. **<u>Representations and Warranties of Seller</u>**. Seller hereby represents and warrants to Buyer, now and at Closing, as follows:

(a) <u>Authority; Enforceability</u>. No authorizations or approvals, whether of governmental bodies, creditors, or otherwise, are necessary to enable Seller to enter into and perform the transactions contemplated herein with respect to the purchase of the Property. This Agreement has been duly and validly executed and delivered by Seller, is a valid and legally-binding agreement of Seller, and, assuming due acceptance and execution thereof by Buyer, is enforceable against Seller in accordance with its terms, except as limited by bankruptcy and insolvency laws and by other laws affecting the rights of creditors generally; and

(b) <u>Title to Property</u>. Seller has good and marketable title to, and is in possession of, the Property free and clear of all security interests, including any conditional sale or other title retention agreements, mortgages, pledges, assessments, or defects in title that would render the title to the Property uninsurable or unmarketable, except for current ad valorem taxes, matters of public record and minor encroachments or matters not material to the use or occupation thereof. Seller has not granted any options to purchase or otherwise acquire all or any part of the Property. Neither the whole nor any portion of the Property has been condemned, requisitioned or otherwise taken by any public authority, and no notice of any such condemnation, requisition or taking has been received by Seller. To the knowledge of Seller, no such condemnation, requisition or taking is threatened or contemplated.

(c) Disclaimer. **SELLER MAKES NO REPRESENTATION OR WARRANTY (EXCEPT AS TO THE WARRANTY OF TITLE CONTAINED IN THE DEED) CONCERNING THE VALUE OF THE PROPERTY, THE CONDITION OF ANY IMPROVEMENTS LOCATED UPON THE PROPERTY, THE ENVIRONMENTAL CONDITION OF THE PROPERTY, THE PRESENCE OR ABSENCE OF ANY HYDROCARBONS, ASBESTOS, ENVIRONMENTAL, HAZARDOUS MATERIAL OR TOXIC CONTAMINATION OF THE PROPERTY, THE SUITABILITY OF THE PROPERTY FOR A PARTICULAR PURPOSE, THE GEOLOGICAL CONDITION OF THE PROPERTY, THE MERCHANTABILITY OF THE PROPERTY, OR ITS FITNESS FOR A PARTICULAR PURPOSE. THIS SECTION SHALL SURVIVE THE CLOSING OR EARLIER TERMINATION OF THE AGREEMENT.** The term "Hazardous Materials" means any substance (a) the presence of which requires reporting, investigations, or remediation under any current federal, state, or local statute, regulation or ordinance or (b) which are currently defined as hazardous substances, toxic substances, regulated substances, pollutants, or contaminants under any current federal, state, or local statute, regulation, or ordinance, including hydrocarbons and asbestos.

6. **Representations and Warranties of Buyer**. Buyer hereby represents and warrants to Seller, now and at Closing, as follows:

(a) Authority; Enforceability. This Agreement is expressly made subject to the approval of the Fayetteville City Council and is not valid or binding until the City Council has voted to approve the same. No other authorizations or approvals, creditors, or otherwise, are necessary to enable Buyer to enter into and perform the transactions contemplated herein with respect to the purchase of the Property. This Agreement has been duly and validly executed and delivered by Buyer, is a valid and legally-binding agreement of Buyer, and, assuming a vote approving the same by the City Council and assuming due acceptance and execution thereof by Seller, is enforceable against Buyer in accordance with its terms, except as limited by bankruptcy and insolvency laws and by other laws affecting the rights of creditors generally; and

(b) Advice of Attorney. Buyer understands and acknowledges that the purchase of the Property and the other transactions contemplated hereby are typical of transactions in which the advice of an attorney is typically sought. Buyer has either sought and obtained the advice of an attorney in this regard or waived the right to seek such advice.

(c) **EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, BUYER ACKNOWLEDGES THAT IT HAS INSPECTED THE PROPERTY AND WILL TAKE THE SAME AT CLOSING IN AN "AS IS, WHERE IS, WITH ALL FAULTS" CONDITION. BUYER HEREBY WAIVES AND RELEASES ANY CAUSES OF ACTION OR CLAIMS THAT IT MIGHT HAVE AGAINST SELLER RELATES TO THE CONDITION OF THE PROPERTY OTHER THAN FOR BREACHES OF THIS AGREEMENT. THIS SECTION SHALL SURVIVE THE CLOSING.**

7. **Covenants of the Parties**. Each party to this Agreement shall use its reasonable efforts to cause conditions to their obligations herein set forth to be satisfied prior to the date of Closing. Each of the parties hereto agrees to execute and deliver any and all further agreements, documents or instruments reasonably necessary to effectuate this Agreement and the transactions referred to herein or contemplated hereby or reasonably requested by the other party to perfect or evidence their rights hereunder. Assuming the timely satisfaction, or the waiver, of the conditions precedent to Closing set forth herein, all parties shall use their reasonable efforts to effect and complete the transactions contemplated by this Agreement as promptly as practicable. Each party shall promptly notify the other party of any information delivered to or obtained by such party which would prevent the consummation of the transactions contemplated by this Agreement, or would indicate a breach by the other party (or parties) of the representations, warranties and covenants of either party to this Agreement.

8. **Title Insurance and other Closing Costs**. Seller shall obtain at the Seller's expense either a certificate of title to, or a policy insuring fee simple title to the Real Property in favor of Buyer, from a Title Company/Escrow Agent of Seller's choice ("Escrow Agent"). Buyer shall have five (5) days following receipt of said title insurance commitment in which to notify Seller in writing of any exceptions to which Buyer objects, other than those set forth in Section 5(b) of this Agreement. Seller may elect, in Seller's sole discretion, to cure those exceptions which can be cured by the payment of money, and Seller shall have fifteen (15) days in which to

cure any remaining exceptions. In the event Seller elects not to cure all such exceptions within such fifteen (15) day period, Buyer may by notice in writing given to Seller within ten (10) days after such election not to cure, either waive its objections to the exceptions which Seller has elected not to cure, whereupon the parties shall proceed with the Closing in accordance herewith, or terminate this Agreement, and Seller will refund Buyer the Earnest Money. Buyer and Seller hereby agree that all closing costs not expressly addressed herein shall be paid by the party typically responsible for such costs pursuant to local custom of the county where the Property is situated.

9. **Deed**. Prior to Closing, Seller shall deliver to Escrow Agent a special warranty deed ("Deed") conveying insurable title to the Property, subject to permitted exceptions and incorporating the covenants, conditions, and restrictions set forth in Section 17 of this Agreement ("Deed Restrictions"). Upon receipt of the Purchase Price at Closing, Escrow Agent shall record the Deed and other recordable documents as may be delivered in connection with the Closing. It is further understood and agreed that the Deed Restrictions shall be inserted by the Buyer under this Agreement in every deed or ground lease to be delivered by it conveying lots, plots, or other portions of the Property or any interest therein and that such insertions of such Deed Restrictions in such deed or ground lease shall be deemed a part of the consideration of this Agreement. This section shall survive closing

10. **Survey**. Buyer, at Buyer's sole responsibility and expense, shall obtain a current survey of the Property made and prepared by a registered/licensed surveyor ("Survey") no later than thirty (30) days after full execution of this agreement. Within five (5) days after receipt, Buyer shall furnish a copy of the Survey to both Seller and the Title Company. The legal descriptions provided by the Survey shall be the descriptions used in the deed conveying the Property to and in the title insurance policy.

11. **Right of Entry**. At any reasonable time prior to the closing, and at Buyer's sole cost and responsibility, Buyer or its authorized agents shall have the right to enter upon the Property for any lawful purpose, including, without limitation, conducting the Survey as contemplated by this Agreement and any site analyses, test borings, and engineering studies following advance notice to Seller of Buyer's need for access, including the scope and location of any invasive testing. If requested by Seller, the Buyer will reasonably cooperate with Seller's

environmental group in conducting its environmental studies on the Property. Buyer agrees to defend, indemnify and hold harmless Seller from any damages or liability to persons or property that might arise therefrom, and Buyer agrees to repair at its sole cost and responsibility, or pay Seller the cost of, any damages caused to the Property by such entry. This Section shall survive the Closing or earlier termination of this Agreement.

12. **Indemnity**. Buyer indemnifies and holds harmless Seller for any claims, damages, liabilities, losses, costs and expenses (including reasonable attorney's fees and expenses) incurred or paid in settlement as a result of or relating to any environmental soil or groundwater contamination or Hazardous Materials on or below the Property. This language shall survive the Closing.

13. **Taxes and Assessments**. Seller shall, prior to Closing, have paid all property taxes and assessments levied or extended in the future on the Property for 2003 and prior years; such taxes and assessments for 2004 and any year thereafter, shall be prorated between the parties as of the Closing Date.

14. **Real Property Transfer Tax**. Any real property or other transfer tax imposed by the State of Arkansas in connection with the transactions contemplated hereby shall be paid by the party required to pay such tax or taxes by the laws of the State of Arkansas, or otherwise pursuant to local custom.

15. **Broker's Commission**. Each of the parties hereto represents and warrants to the other that there are no real estate broker's commissions due or payable on account of this Agreement or as a result of the sale of the Property to Buyer pursuant hereto. Each party agrees to defend, indemnify and hold the other hereunder harmless from and against any claim for any such commissions, fees or other form of compensation by any such third party claiming through the indemnifying party, including, without limitation, any and all claims, causes of action, damages, cost and expenses (including reasonable attorney's fees and court costs), associated therewith.

16. **Termination**.

(a) This Agreement may be terminated at any time prior to the Closing:

(i) by mutual consent of Seller and Buyer; or

(ii) by Buyer pursuant to Section 8 hereof; or

(iii) due to a material default by either party of the Agreement which goes uncured for ten (10) days after notice.

(b) In the event of termination of this Agreement by Seller or Buyer as provided above, this Agreement will forthwith become void, provided, however, if terminated pursuant to 16(a)(i) or a Buyer default under 16(a)(iii), Buyer shall reimburse Seller for all costs, including but not limited too, title fees, survey costs and legal fees, incurred in connection with this Agreement. If terminated pursuant to 16(a)(ii) or a Seller default under 16(a)(iii), the Earnest money will be refunded to Buyer.

17. **Deed Restrictions**. With respect to Deed Restrictions to be placed on the Property, Seller and Buyer hereby agree to the following:

(a) Buyer covenants that the Property shall not be used for or in support of the following: (i) the manufacturing of food products.

(b) All such covenants, conditions, and restrictions shall remain in effect for a period of Twenty (20) years. The aforesaid covenants, conditions, and restrictions shall run with and bind the Property, and shall bind Buyer, or its successors or assigns, and shall inure to the benefit of and be enforceable by Seller, or an affiliated company, or its successors and assigns, by any appropriate proceedings at law or in equity to prevent such violations of such covenants, conditions, and restrictions and/or to recover damages for such violations.

18. **Miscellaneous**.

(a) Governing Law. This Agreement shall be governed by, and construed under, the laws of the State of Arkansas, all rights and remedies being governed by said laws.

(b) Assignment. This Agreement shall apply to, and shall be binding in all respects upon, and shall inure to the benefit of, the respective successors, assigns and legal representatives of the parties hereto; provided, however, that this Agreement may not be assigned, in whole or in part, by any party without first obtaining the written consent of the other party.

(c) Waiver. No waiver of any term, provision or condition of this Agreement in any one or more instances, shall be deemed to be or be construed as a further or continuing waiver of any such term, provision or condition or as a waiver of any other term, provision or condition of this Agreement. The rights or remedies set forth herein are in addition to any rights or remedies which may be granted by law or equity.

(d) Entire Agreement and Modification. This Agreement is intended by the parties hereto as a final expression of their agreement with respect to the subject matter hereof and is intended as a complete and exclusive statement of the terms and conditions of this Agreement. This Agreement may not be modified, rescinded or terminated orally, and no modification, rescission, termination or attempted waiver of any of the terms, provisions or conditions hereof (including this subsection) shall be valid unless in writing and signed by the party against whom the same is sought to be enforced.

(e) Section Headings. The headings of sections contained in this Agreement are provided for convenience only. They form no part of this Agreement and shall not affect its construction or interpretation. All references to sections or subsections refer to the corresponding sections and subsections of this Agreement. All words used herein shall be construed to be of such gender or number as the circumstances require. This "Agreement" shall mean this Agreement as a whole and as the same may, from time to time hereafter, be amended, supplemented or modified. The words "herein," "hereby," "hereof," "hereinabove" and "hereinbelow," and words of similar import, refer to this Agreement as a whole and not to any particular section, subsection, paragraph, clause or other subdivision hereof, unless otherwise specifically noted.

(f) Time of Essence. With respect to all time periods and duties set forth in this Agreement, time is of the essence.

(remainder of page left intentionally blank)

<u>Counterparts</u>. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Agreement and all of which, when taken together, shall be deemed to be but one and the same Agreement.

IN WITNESS WHEREOF, Seller and Buyer have caused this Agreement to be duly executed as of the date first above written.

WITNESS:

BUYER:
CITY OF FAYETTEVILLE, ARKANSAS,
a Municipal Corporation

Sondra Smith, City Clerk

Dan Coody, Mayor

SELLER:
TYSON FOODS, INC.,
a Delaware corporation

By:____________________

Title:____________________

ATTEST:

____

Title:____________________

EXHIBIT "A"

PROPERTY DESCRIPTIONS

NOTE: (An updated legal description will be inserted here upon completion of the Survey as specified in section 10 of this Agreement)

It is the intent of this Agreement to convey title only to the building commonly known as the old Mexican Original Processing Plant located at the southeast corner of Highway 16 and Happy Hollow Road Fayetteville, AR, and the land directly beneath it, but not adjacent to it, which is situated within a portion of the following described parcel:

Parcel No. 765-15227-000 (Deed Book 1093 at Page 657)

Part of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) of Section 23, Township 16 North of Range 30 West of Fifth (5th) Principal Meridian, Washington County, Arkansas, more particularly described as follows, to-wit: Beginning at a point on the east right of way of Highway 16 by-pass which is 10.00 feet East and N 00° 25' 00" E 290.90 feet from the SW corner of said NE¼ of NW¼ of Section 23, T 16 N, R 30 W; thence along said right of way N 00° 25' 00" E 40.00 feet, thence leaving said right of way East 90.00 feet, thence N 00° 25' 00" E 160.00 feet, thence West 90.00 feet to the East right of way of Highway 16 by-pass; thence along said right of way N 00° 25' 00" E 538.00 feet, thence N 69° 36' 00" E 114.00 feet to the intersection of the southerly right of way of Highway 16, thence along said right of way S 67° 54' 59" E 87.83 feet, thence S 70° 00' 00" E 233.00 feet, thence S 75° 31' 47" E 244.96 feet to the intersection of the West right of way of Ray Avenue, thence along said right of way S 01° 42' 54" W 294.69 feet, thence S 01° 00' 10" E 320.27 feet, thence leaving said right of way West 150.00 feet, thence South 179.20 feet to an existing fence line, thence along said fence line West 257.20 feet, thence leaving said fence line N 00° 25' 00" E 200.00 feet, thence West 240.00 feet to the Point of Beginning, Containing 11.16 acres, more or less, subject to right of way and easements of record.

(Also known as 1851 E. Huntsville Road, Fayetteville, Arkansas, and includes land, all buildings, and appurtenances.) NOTE: The above description does not include Parcels Numbered 765-15204-000 and 765-15205-000, together amounting to 0.33+ acres, which are intended to be part of this transaction.

B. 2. Unfinished Busine
Tyson Foods O & A
11-16-04

REAL ESTATE DONATION AGREEMENT

THIS REAL ESTATE DONATION AGREEMENT (the "Agreement"), made and entered into this _____ day of September, 2004 by and between Tyson Foods, Inc., a Delaware corporation (hereinafter called "Donor"), and The City of Fayetteville, an Arkansas Municipal corporation (hereinafter referred to as "Donee"). This Agreement shall become effective on the date of the full execution by both parties hereto ("Effective Date").

WITNESSETH:

WHEREAS, Donor is the owner of certain real property located in Washington County, Arkansas; and

WHEREAS, subject to the terms and conditions set forth herein, Donee desires to accept said property from Donor and Donor desires to convey said property to Donee;

NOW, THEREFORE, in consideration of the premises recited, of the covenants, agreements and provisions of this Agreement, the parties hereby agree as follows:

1. **Agreement to Convey**. Donor hereby agrees to convey to Donee, and Donee hereby agrees to accept the donation from Donor, upon the terms and conditions hereinafter set forth, the lands situated in Washington County, Arkansas, more particularly described on Exhibit "A" attached hereto, together with all improvements thereon, and all rights, privileges and appurtenances pertaining thereto, but subject to any matter disclosed herein, all recorded or restrictions, easements, and other matters of record. All property conveyed pursuant to this Agreement is hereinafter referred to as the "Property."

2. **Closing**.

(a) Time and Place. Subject to the terms and conditions set forth in this Agreement, closing for the donation of the Property shall take place at a time and place as is mutually agreed to by Donor and Donee; provided, however that if any of the conditions to Closing set forth in this Agreement have not been satisfied or waived by the party entitled to the benefit of such condition, the Closing will take place on the third business day after such condition has been satisfied or waived, **but in no event shall the closing occur later than January 31, 2005**. The time at which such closing occurs shall hereinafter be referred to as the "Closing" and the date on which the Closing occurs shall hereinafter be referred to as the "Closing Date."

3. **Conditions Precedent to Closing**. Donee represents and Donor hereby acknowledges that Donee intends to use the Property for municipal purposes ("Intended Use"). Therefore, the donation contemplated by this Agreement is subject to the following conditions precedent:

(a) If the Survey provided for in Section 9 of this Agreement discloses any condition which renders the Property unusable for the Intended Use (as determined in Donee's reasonable discretion), then Donee may rescind this Agreement, provided, however, that Donee has exercised such rescission right by giving Donor written notice with evidence of such condition no later than December 15, 2004.

(b) If the results of the analyses, inspections, test borings, or studies pursuant to this Agreement, disclose that the physical condition of the Property, including the existence of hazardous wastes and toxic substances, will prevent Donee from reasonably developing the Property for the Donee's intended use, then Donee or Donor may rescind this Agreement; provided however, that the Donee or Donor has notified the other party in writing with evidence of such unacceptable condition within fifteen (15) days after the Donee or Donor receives the results of such analyses, inspections, borings, or engineering studies, but not later than December 15, 2004.

(c) Donee, being able to obtain the approval of the donation of the Property contemplated by this Agreement by the City Council of Fayetteville. Donee covenants to use its best efforts, and act in a good faith and diligent manner to obtain such approval from the Fayetteville City Council. If Donee is unable to obtain such a commitment, then Donee may rescind this Agreement; provided however, that Donee has notified Donor in writing, but not later than December 15, 2004.

(d) Donee completing its purchase of that certain building adjacent to the Property (commonly know as the old Mexican Original Processing Plant located at the southeast corner of Highway 16 and Happy Hollow Road Fayetteville, AR). If such purchase is not completed by the Donee on or before January 31, 2005, or the purchase is otherwise terminated, then Donor may rescind this Agreement with there being no further obligations to Donee.

4. **Representations and Warranties of Donor**. Donor hereby represents and warrants to Donee, now and at Closing, as follows:

(a) Authority; Enforceability. No authorizations or approvals, whether of governmental bodies, creditors, or otherwise, are necessary to enable Donor to enter into and perform the conveyance contemplated herein with respect to the donation of the Property. This Agreement has been duly and validly executed and delivered by Donor, is a valid and legally-binding agreement of Donor, and, assuming due acceptance and execution thereof by Donee, is enforceable against Donor in accordance with its terms; and

(b) Title to Property. Donor has good and marketable title to, and is in possession of, the Property free and clear of all security interests, including any conditional sale or other title retention agreements, mortgages, pledges, assessments, or defects in title that would render the title to the Property uninsurable or unmarketable, except for current ad valorem taxes, matters of public record and minor encroachments or matters not material to the use or occupation thereof. Neither the whole nor any portion of the Property has been condemned, requisitioned or otherwise taken by any public authority, and no notice of any such condemnation, requisition or taking has been received by Donor. To the knowledge of Donor, no such condemnation, requisition or taking is threatened or contemplated.

(c) Disclaimer. **DONOR MAKES NO REPRESENTATION OR WARRANTY (EXCEPT AS TO THE WARRANTY OF TITLE CONTAINED IN THE DEED) CONCERNING THE VALUE OF THE PROPERTY, THE CONDITION OF ANY IMPROVEMENTS LOCATED UPON THE PROPERTY, THE ENVIRONMENTAL CONDITION OF THE PROPERTY, THE PRESENCE OR ABSENCE OF ANY HYDROCARBONS, ASBESTOS, ENVIRONMENTAL, HAZARDOUS MATERIAL OR TOXIC CONTAMINATION OF THE PROPERTY, THE SUITABILITY OF THE PROPERTY FOR A PARTICULAR PURPOSE, THE GEOLOGICAL CONDITION OF THE PROPERTY, THE MERCHANTABILITY OF THE PROPERTY, OR ITS FITNESS FOR A PARTICULAR PURPOSE. THIS SECTION SHALL SURVIVE THE CLOSING OR EARLIER TERMINATION OF THE AGREEMENT.** The term "Hazardous Materials" means any substance (a) the presence of which requires reporting, investigations, or remediation under any current federal, state, or local statute, regulation or ordinance or (b) which are currently defined as hazardous substances, toxic substances, regulated substances, pollutants, or contaminants under any current federal, state, or local statute, regulation, or ordinance, including hydrocarbons and asbestos.

5. **Representations and Warranties of Donee**. Donee hereby represents and warrants to Donor, now and at Closing, as follows:

(a) Authority; Enforceability. This Agreement is expressly made subject to the approval of the Fayetteville City Council and is not valid or binding until the City Council has voted to approve the same. No other authorizations or approvals, creditors, or otherwise, are necessary to enable Donee to enter into and perform the transactions contemplated herein with respect to the conveyance of the Property. This Agreement has been duly and validly executed and delivered by Donee, is a valid and legally-binding agreement of Donee, and, assuming a vote approving the same by the City Council and assuming due acceptance and execution thereof by Donor, is enforceable against Donee in accordance with its terms; and

(b) Advice of Attorney. Donee understands and acknowledges that the donation of the Property and the other transactions contemplated hereby are typical of transactions in which the advice of an attorney is typically sought. Donee has either sought and obtained the advice of an attorney in this regard or waived the right to seek such advice.

(c) **EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, DONEE ACKNOWLEDGES THAT IT HAS INSPECTED THE PROPERTY AND WILL TAKE THE SAME AT CLOSING IN AN "AS IS, WHERE IS, WITH ALL FAULTS" CONDITION. DONEE HEREBY WAIVES AND RELEASES ANY CAUSES OF ACTION OR CLAIMS THAT IT MIGHT HAVE AGAINST DONOR RELATES TO THE CONDITION OF THE PROPERTY OTHER THAN FOR BREACHES OF THIS AGREEMENT. THIS SECTION SHALL SURVIVE THE CLOSING.**

6. **Covenants of the Parties**. Each party to this Agreement shall use its reasonable efforts to cause conditions to their obligations herein set forth to be satisfied prior to the date of Closing. Each of the parties hereto agrees to execute and deliver any and all further agreements, documents or instruments reasonably necessary to effectuate this Agreement and the transactions referred to herein or contemplated hereby or reasonably requested by the other party to perfect or evidence their rights hereunder. Assuming the timely satisfaction, or the waiver, of the conditions precedent to Closing set forth herein, all parties shall use their reasonable efforts to effect and

complete the transactions contemplated by this Agreement as promptly as practicable. Each party shall promptly notify the other party of any information delivered to or obtained by such party which would prevent the consummation of the transactions contemplated by this Agreement, or would indicate a breach by the other party (or parties) of the representations, warranties and covenants of either party to this Agreement.

7. **Title Insurance and other Closing Costs**. Donor shall obtain at the Donor's expense either a certificate of title to, or a policy insuring fee simple title to the Real Property in favor of Donee, from a Title Company/Escrow Agent of Donor's choice ("Escrow Agent"). Donee shall have five (5) days following receipt of said title insurance commitment in which to notify Donor in writing of any exceptions to which Donee objects, other than those set forth in Section 4(b) of this Agreement. Donor may elect, in Donor's sole discretion, to cure those exceptions which can be cured by the payment of money, and Donor shall have fifteen (15) days in which to cure any remaining exceptions. In the event Donor elects not to cure all such exceptions within such fifteen (15) day period, Donee may by notice in writing given to Donor within ten (10) days after such election not to cure, either waive its objections to the exceptions which Donor has elected not to cure, whereupon the parties shall proceed with the Closing in accordance herewith, or terminate this Agreement, and Donor will refund Donee the Earnest Money. Donee and Donor hereby agree that all closing costs not expressly addressed herein shall be paid by the party typically responsible for such costs pursuant to local custom of the county where the Property is situated.

8. **Deed**. Prior to Closing, Donor shall deliver to Escrow Agent either a quit claim deed, or a special warranty deed ("Deed") conveying insurable title to the Property, subject to permitted exceptions and incorporating the covenants, conditions, and restrictions set forth in Section 16 of this Agreement ("Deed Restrictions"). At Closing, Escrow Agent shall record the Deed and other recordable documents as may be delivered in connection with the Closing. It is further understood and agreed that the Deed Restrictions shall be inserted by the Donee under this Agreement in every deed or ground lease to be delivered by it conveying lots, plots, or other portions of the Property or any interest therein and that such insertions of such Deed Restrictions in such deed or ground lease shall be deemed a covenant of this Agreement. This section shall survive closing

9. **Survey**. Donee, at Donee's sole responsibility and expense, shall obtain a current survey of the Property made and prepared by a registered/licensed surveyor ("Survey") no later than thirty (30) days after full execution of this agreement. Within five (5) days after receipt, Donee shall furnish a copy of the Survey to both Donor and the Title Company. The legal descriptions provided by the Survey shall be the descriptions used in the deed conveying the Property to and in the title insurance policy.

10. **Right of Entry**. At any reasonable time prior to the closing, and at Donee's sole cost and responsibility, Donee or its authorized agents shall have the right to enter upon the Property for any lawful purpose, including, without limitation, conducting the Survey as contemplated by this Agreement and any site analyses, test borings, and engineering studies following advance notice to Donor of Donee's need for access, including the scope and location of any invasive testing. If requested by Donor, the Donee will reasonably cooperate with Donor's environmental group in conducting its environmental studies on the Property. Donee agrees to defend, indemnify and hold harmless Donor from any damages or liability to persons or property that might arise therefrom, and Donee agrees to repair at its sole cost and responsibility, or pay Donor the cost of, any damages caused to the Property by such entry. This Section shall survive the Closing or earlier termination of this Agreement.

11. **Indemnity**. Donee indemnifies and holds harmless Donor for any claims, damages, liabilities, losses, costs and expenses (including reasonable attorney's fees and expenses) incurred or paid in settlement as a result of or relating to any environmental soil or groundwater contamination or Hazardous Materials on or below the Property. This language shall survive the Closing.

12. **Taxes and Assessments**. Donor shall, prior to Closing, have paid all property taxes and assessments levied or extended in the future on the Property for 2003 and prior years; such taxes and assessments for 2004 and any year thereafter, shall be prorated between the parties as of the Closing Date.

13. **Real Property Transfer Tax**. Any real property or other transfer tax imposed by the State of Arkansas in connection with the transactions contemplated hereby shall be paid by the party required to pay such tax or taxes by the laws of the State of Arkansas, or otherwise pursuant to local custom.

14. **Broker's Commission**. Each of the parties hereto represents and warrants to the other that there are no real estate broker's commissions due or payable on account of this Agreement or as a result of the sale of the Property to Donee pursuant hereto. Each party agrees to defend, indemnify and hold the other hereunder harmless from and against any claim for any such commissions, fees or other form of compensation by any such third party claiming through the indemnifying party, including, without limitation, any and all claims, causes of action, damages, cost and expenses (including reasonable attorney's fees and court costs), associated therewith.

15. **Termination**.

(a) This Agreement may be terminated at any time prior to the Closing:

- (i) by mutual consent of Donor and Donee; or
- (ii) by Donee pursuant to Section 7 hereof; or
- (iii) due to a material default by either party of the Agreement which goes uncured for ten (10) days after notice.

(b) In the event of termination of this Agreement by Donor or Donee as provided above, this Agreement will forthwith become void.

16. **Deed Restrictions**. With respect to Deed Restrictions to be placed on the Property, Donor and Donee hereby agree to the following:

(a) Donee covenants that the Property shall not be used for or in support of the following: (i) the manufacturing of food products.

(b) All such covenants, conditions, and restrictions shall remain in effect for a period of Twenty (20) years. The aforesaid covenants, conditions, and restrictions shall run with and bind the Property, and shall bind Donee, or its successors or assigns, and shall inure to the benefit of and be enforceable by Donor, or an affiliated company, or its successors and assigns, by any appropriate proceedings at law or in equity to prevent such violations of such covenants, conditions, and restrictions and/or to recover damages for such violations.

17. **Miscellaneous**.

(a) Governing Law. This Agreement shall be governed by, and construed under, the laws of the State of Arkansas, all rights and remedies being governed by said laws.

(b) Assignment. This Agreement shall apply to, and shall be binding in all respects upon, and shall inure to the benefit of, the respective successors, assigns and legal representatives of the parties hereto; provided, however, that this Agreement may not be assigned, in whole or in part, by any party without first obtaining the written consent of the other party.

(c) Waiver. No waiver of any term, provision or condition of this Agreement in any one or more instances, shall be deemed to be or be construed as a further or continuing waiver of any such term, provision or condition or as a waiver of any other term, provision or condition of this Agreement. The rights or remedies set forth herein are in addition to any rights or remedies which may be granted by law or equity.

(d) Entire Agreement and Modification. This Agreement is intended by the parties hereto as a final expression of their agreement with respect to the subject matter hereof and is intended as a complete and exclusive statement of the terms and conditions of this Agreement. This Agreement may not be modified, rescinded or terminated orally, and no modification, rescission, termination or attempted waiver of any of the terms, provisions or conditions hereof (including this subsection) shall be valid unless in writing and signed by the party against whom the same is sought to be enforced.

(e) Section Headings. The headings of sections contained in this Agreement are provided for convenience only. They form no part of this Agreement and shall not affect its construction or interpretation. All references to sections or subsections refer to the corresponding sections and subsections of this Agreement. All words used herein shall be construed to be of such gender or number as the circumstances require. This "Agreement" shall mean this Agreement as a whole and as the same may, from time to time hereafter, be amended, supplemented or modified. The words "herein," "hereby," "hereof," "hereinabove" and "hereinbelow," and words of similar import, refer to this Agreement as a whole and not to any particular section, subsection, paragraph, clause or other subdivision hereof, unless otherwise specifically noted.

(f) Time of Essence. With respect to all time periods and duties set forth in this Agreement, time is of the essence.

(Remainder of page left intentionally blank)

Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Agreement and all of which, when taken together, shall be deemed to be but one and the same Agreement.

IN WITNESS WHEREOF, Donor and Donee have caused this Agreement to be duly executed as of the date first above written.

WITNESS:

DONEE:
CITY OF FAYETTEVILLE, ARKANSAS,
a Municipal Corporation

____
Sondra Smith, City Clerk

____
Dan Coody, Mayor

DONOR:
TYSON FOODS, INC.,
a Delaware corporation

By:____________________________

Title:____________________________

ATTEST:

____

Title: ____________________________

EXHIBIT "A"

PROPERTY DESCRIPTIONS

NOTE: (An updated legal description will be inserted here upon completion of the Survey as specified in section 9 of this Agreement)

It is the intent of this Agreement to convey title only Donor's land surrounding the building commonly known as the old Mexican Original Processing Plant located at the southeast corner of Highway 16 and Happy Hollow Road Fayetteville, AR.

Parcel No. 765-15227-000 (Deed Book 1093 at Page 857)

Part of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) of Section 23, Township 16 North of Range 30 West of Fifth (5th) Principal Meridian, Washington County, Arkansas, more particularly described as follows, to-wit: Beginning at a point on the east right of way of Highway 16 by-pass which is 10.00 feet East and N 00° 25' 00" E 200.00 feet from the SW corner of said NE¼ of NW¼ of Section 23, T-16-N, R-30-W; thence along said right of way N 00° 25' 00" E 40.00 feet, thence leaving said right of way East 90.00 feet, thence N 00" 25' 00" E 160.00 feet, thence West 90.00 feet to the East right of way of Highway 16 by-pass, thence along said right of way N 00° 25' 00" E 538.00 feet, thence N 69° 30' 00" E 114.00 feet to the intersection of the southerly right of way of Highway 16, thence along said right of way S 67° 54' 59" E 87.83 feet, thence S 70° 00' 00" E 233.00 feet, thence S 75° 31' 47" E 244.56 feet to the intersection of the West right of way of Ray Avenue, thence along said right of way S 01° 42' 54" W 294.69 feet, thence S 01° 00' 10" E 330.27 feet, thence leaving said right of way West 150.00 feet, thence South 179.30 feet to an existing fence line, thence along said fence line West 257.70 feet, thence leaving said fence line N 00° 25' 00" E 200.00 feet, thence West 240.00 feet to the Point of Beginning. Containing 11.16 acres, more or less, subject to right of way and easements of record.

(Also known as 1851 E. Huntsville Road, Fayetteville, Arkansas, and includes land, all buildings, and accoutrements.) NOTE: The above description does not include Parcels Numbered 765-15204-000 and 765-15205-000, together amounting to 0.33± acres, which are intended to be part of this transaction.

Less and except:
the building and land beneath the building commonly known as the old Mexican Original Processing Plant located at the southeast corner of Highway 16 and Happy Hollow Road Fayetteville, AR.

C.1. New Business
Wilson Springs Proceeds
Transfer
11-18-04

RESOLUTION NO. _____

A RESOLUTION APPROVING THE TRANSFER OF $4,387,115.00 FROM GENERAL FUND UNDESIGNATED FUND BALANCE TO GENERAL FUND DESIGNATED FUND BALANCE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the transfer of $4,387,115.00 from General Fund Undesignated Fund Balance to General Fund Designated Fund Balance.

PASSED and **APPROVED** this 16th day of November 2004.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Conrad Odom
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
November 16, 2004

A meeting of the Fayetteville City Council will be held on November 16, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

A. CONSENT:

1. **Approval of the Minutes:** Approval of the November 1, 2004 City Council meeting minutes.

2. **South School Avenue Street Lighting:** A resolution approving the purchase of twenty (20) ornamental street lights from Upchurch Electric in the amount of $47,940.00 for the South School Avenue Street Lighting Project.

3. **Commercial Coverings, Inc. Bid #04-02 Award:** A resolution awarding Bid #04-02, floor improvement project to Commercial Coverings, Inc. in an amount not to exceed $31,823.00.

4. **Water and Sewer Fund Transfer of Funds:** A resolution to approve a budget adjustment to transfer $45,000.00 from the Water and Sewer Fund Balance to the Wastewater Treatment Plant utility costs.

5. **Tencarva Machinery Company Bid Award:** A resolution to accept the low bid of $24,271.00 from Tencarva Machinery Company for two new dry-pit submersible wastewater pumps at Lift Station #14 and approval of a budget adjustment.

6. **Hugg and Hall Construction and Industrial Equipment Generator Purchase:** A resolution approving the purchase of one (1) skid-mounted portable electric generator from Hugg and Hall Construction and Industrial Equipment in the amount of $20,467.00 to provide back-up power for wastewater lift stations.

7. **Vehicles and Equipment Account Transfer of Funds:** A resolution approving a budget adjustment transferring $57,000.00 from the Vehicles and Equipment Account, of which $17,080.00 is to be transferred to the Motor Pool Account and $39,920.00, is to be transferred to the Replacement Charges Account.

B. UNFINISHED BUSINESS

1. **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. ***This ordinance was left on the first reading at the August 17, 2004 City Council meeting and tabled to the November 16, 2004 City Council meeting.***

2. **Tyson Foods, Inc. Offer and Acceptance:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Tyson Foods, Inc. for the purchase of property located at 1851 East Huntsville Road in the amount of $1,100,000.00; and approving a budget adjustment in the amount of $4,000.00 to cover appraisal and closing costs. ***This resolution was tabled at the October 5' 2004 City Council meeting to the November 16, 2004 City Council meeting.***

3. **RZN 04-1189 (Jackson/Humphries):** An ordinance rezoning that property described in rezoning petition RZN 04-1189 as submitted by Nick Wilson for property located at the northwest corner of South School Avenue and Sunrise Mountain Road containing approximately 7.54 acres from R-A Residential Agricultural and C-2, Thoroughfare Commercial to I-1 Heavy Commercial, Light Industrial. ***This ordinance was left on the first reading at the October 19, 2004 City Council meeting and left on the second reading at the November 1, 2004 City Council meeting.***

4. **R-PZD 04-1181 (Walnut Crossing):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1181, Walnut Crossing located north of Highway 62, east of Layne Street containing 43.30 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This ordinance was left on the first reading at the October 19, 2004 City Council meeting and the second reading at the November 1, 2004 City Council meeting.***

5. **ADM 04-1258 (Wilson Street/Walnut Crossing):** A resolution amending the Master Street Plan to relocate Wilson Street, a proposed Collector Street, approximately 600 feet north as apart of R-PZD 1181, Walnut Crossing, as described in the staff report attached hereto and made a part hereof. ***This resolution was tabled at the October 19, 2004 City Council meeting to the November 1, 2004 City Council meeting and tabled at the November 1, 2004 City Council meeting to the November 16, 2004 City Council meeting.***

6. **RZN 04-1223 (Hoskins):** An ordinance rezoning that property described in rezoning petition RZN 04-1223 as submitted by Tracy Hoskins for property located at 1719 North Rupple Road containing approximately 11.73 acres from RSF-1, Residential Single Family, one unit per acre to RSF-4, Residential Single Family, four units per acre. ***This ordinance was left on the first reading at the November 1, 2004 City Council meeting.***

C. **NEW BUSINESS:**

1. **Wilson Springs Property Proceeds Transfers:** A resolution approving the transfer of $2,050.000.00 from the General Fund Undesignated Fund Balance to the General Fund Designated Fund Balance and $2,337,115.00 from General Fund Undesignated Fund Balance to the Sales Tax Capital Improvements Fund Designated Fund Balance related to the sale of the Wilson Springs property.

2. **Cox Communications Franchise Agreement:** A resolution granting a Non-exclusive Franchise to TCA Cable Partners D/B/A Cox Communications for the construction, maintenance and operation of a cable system within the City of Fayetteville Arkansas, and environs thereof, and to use and occupy the streets and other public places of the City of Fayetteville, Arkansas, for such cable system.

3. **Shake's Property Offer:** A resolution to accept an Offer from Stephen L. Davis to purchase the remainder of the former Shake's property and building for $178,555.00.

4. **ANX 04-1252 (A) (Nooncaster/Kelly):** An ordinance annexing part of that property described in annexation petition ANX 04-1252 annexing to the City of Fayetteville, Arkansas, certain property owned by John and Leslie Nooncaster and Frank and Ann Kelly located south of Albright Road containing approximately 9.81 acres.

5. **ANX 04-1252 (B) (Nooncaster):** An ordinance calling for the simultaneous detachment of about 4.66 acres owned by John and Leslie Nooncaster from the City of Springdale, Arkansas and the annexation of those lands into the City of Fayetteville, Arkansas.

6. **RZN 04-1253 (Nooncaster):** An ordinance rezoning that property described in rezoning petition RZN 04-1253 for property located south of Albright Road containing approximately 11.76 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

7. **RZN 04-1243 (Medley):** An ordinance rezoning that property described in rezoning petition RZN 04-1243 as submitted by Ronald Dean Medley for property located at 3507 W. 6th Street containing approximately 1.03 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial.

8. **VAC 04-1228 Habitat for Humanity:** An ordinance approving VAC 04-1228 submitted by Habitat for Humanity for property east of Washington Avenue and north of 13th Street as described on the attached map and legal description.

9. **Reindl Properties, Inc. Property Exchange**: A resolution approving an agreement between the City of Fayetteville and Reindl Properties, Inc. to exchange real property to accommodate the construction of a portion of the Center-Prairie Multi-Use Trail.

10. **2005 Proposed Annual Budget and Work Program Adoption:** A resolution adopting the proposed 2005 Annual Budget and Work Program.

D. INFORMATIONAL:

Council Tour: November 15, 2004 – 4:30 pm

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: September 30, 2004

Subj: Resolution approving Bid#04-65 for the purchase of 20 100W LUMEC Ornamental Street Lights

Recommendation

Staff recommends approval of a resolution awarding Bid#04-65 for the purchase of 20 100W LUMEC Ornamental street light fixtures in the amount of $47,940 (Tax Included) to apparent low bidder Upchurch Electrical Supply Company of Fayetteville.

Background

The Transportation Division is responsible for managing the City of Fayetteville overhead street lighting ordinance and policies. The intent is to provide adequate street lighting for night time pedestrian and vehicle safety. The City requires street lights at intersections, at the end of streets and every 300'. The City Council has approved a project to upgrade S. School Avenue and designate it as the southern entrance to the new Blair Fayetteville Public Library and Dickson Street.

Discussion

This project will provide overhead street lighting on S. School from Archibald Yell Blvd. to Mountain St. at the entrance to the new Blair Fayetteville Public Library. The street lighting will mirror the street lights used on the Dickson Street Improvement project. Since a majority of the properties on S. School Ave. are residences, the street light fixtures will be 100W rather than the 175W fixtures used on Dickson Street. The street lights will be installed approximately 140' apart up each side of the street with a 70' offset. This pattern will provide a nice look and optimum light coverage on the sidewalk and street for safety. All conduit required for the lighting project has been installed by King Electric. Since these street lights will be metered by AEP SWEPCO and owned by the City, the City of Fayetteville will pay only for actual energy costs. The monthly cost will be less than the $9.50 we pay for new subdivision street lights which include AEP SWEPCO long term overhead and maintenance costs.

Guiding Principle #5 and #10

Award of Bid#04-65 is an effort by Transportation to accomplish "Guiding Principles #5 & #10":

- By providing an attractive southern entrance to the new Blair Fayetteville Public Library and to our downtown area
- By providing adequate overhead street lighting to create a safe night time environment for visitors and residences visiting the new Blair Fayetteville Public Library and our downtown area

RESOLUTION NO. ______

A RESOLUTION APPROVING THE PURCHASE OF TWENTY (20) ORNAMENTAL STREET LIGHTS FROM UPCHURCH ELECTRIC IN THE AMOUNT OF $47,940.00 FOR THE SOUTH SCHOOL AVENUE STREET LIGHTING PROJECT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one twenty (20) ornamental street lights from Upchurch Electric in the amount of $47,940.00 for the South School Avenue street lighting project.

PASSED and **APPROVED** this 19th day of October 2004.

APPROVED:

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk

INVITATION TO BID

BID # 04-65	DATE ISSUED: 8/19/2004	DATE AND TIME OF OPENING: 9/7/2004 at 2:00 PM
BUYER: City of Fayetteville, AR		DATE REQUIRED: 30 DAYS ARO
F. O. B. Fayetteville, AR	BUYER'S PHONE # (479) 575-8289	GUARANTEED DELIVERY DATE:

ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL
1	**100W LUMEC ORNAMENTAL STREET LIGHT TO MATCH DICKSON ST PROJECT** **SPEC#** **CAND1-100MH-PC-C-SE3-240-CN1-1A-SM6F-14-BAS18(2)-GFI-3/4X20-10 1/2-DEC-GN8TX-LMS20441A** **(Bid to include fixture & Banner arms)**	20	2,257.00	45,140.00
	RESTRICTIONS OR EXCEPTIONS TO THE BID MUST BE NOTED:		**TAX:**	-
			GRAND TOTAL:	45,140.00

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: Upchurch Electrical Supply Co	PHONE: 521-2823	FED ID# 71-0330690	
	BUSINESS ADDRESS: P.O. Box 8340	CITY AND STATE: Fayetteville Ar		ZIP: 72703
	AUTHORIZED SIGNATURE:	TITLE: Sales		DATE: 9-20-04

INVITATION TO BID

BID #	DATE ISSUED:	DATE AND TIME OF OPENING:
04-65	8/19/2004	9/7/2004 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) 575-8289	As per Mfg - 10-14 weeks A.R.O.

ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL
1	**100W LUMEC ORNAMENTAL STREET LIGHT TO MATCH DICKSON ST PROJECT** **SPEC#** **CAND1-100MH-PC-C-SE3-240-CN1-1A-SM6F-14-BAS18(2)-GFI-3/4X20-10 1/2-DEC-GN8TX-LMS20441A** **(Bid to include fixture & Banner arms)**	20	2300.00	46000.00
			TAX:	
	RESTRICTIONS OR EXCEPTIONS TO THE BID MUST BE NOTED:		**GRAND TOTAL:**	

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: Consolidated Electrical Distributors	PHONE: 501 372 3446	FED ID#
	BUSINESS ADDRESS: 901 E 6th ~~Little Rock~~	CITY AND STATE: Little Rock Ar	ZIP: 72202
	AUTHORIZED SIGNATURE:	TITLE: Sales / Quotations	DATE: 09/13/04

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council Meeting of: **October 19, 2004**

FROM:

Perry Franklin	**Transportation**	**Operations**
Name	Division	Department

ACTION REQUIRED: A resolution awarding a bid to Upchurch Electric in the amount of $47,940.00 (Tax Included) for the purchase of twenty (20) ornamental street lights for the South School Avenue Street Lighting Project.

COST TO CITY:

$47,940 (Tax Included)	**$ 378,000.00**	**School & Archibald Yell - Inters**
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5809.00	**$ 269,198.00**	**Street improvements**
Account Number	Funds Used to Date	Program / Project Category Name
04015	**$ 108,802.00**	**Sales Tax Capital**
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ___ Budget Adjustment Attached

Budget Manager — Date 9/30/04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date 9/30/04

Internal Auditor — Date 10/1/04

City Attorney — Date 10/1/04

P Vice
Purchasing Manager — Date 10/6/04

STAFF RECOMMENDATION:

Terry L. Gulley
Division Head — Date 9-30-04

Received in Mayor's Office — Date 10/7/04 P.H

Department Director — Date 10-7-04

Cross Reference:

Finance & Internal Services Dir. — Date 10-26-04

Previous Ord/Res#: ___

Hugh Earnest
Chief Administrative Officer — Date 10-27-04

Orig. Contract Date: ___

Orig. Contract Number: ___

Dan Coody
Mayor — Date 10/27/04

New Item: Yes No

Description **School Avenue Street Lights** Meeting Date **October 19, 2004**

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

No contract to review.

Vendor is supplying the material only so no contract is needed.

Grants Coordinator

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and the Fayetteville City Council

FROM: Larry Rennie, Building Services Supervisor LR

THRU: Coy Hurd, Building Services Director

DATE: 10/27/04

SUBJECT: City Administration Building re-carpet project

Recommendation: Staff recommends approval of Bid 04-02 to Commercial Coverings Incorporated.

Background: City Hall was last carpeted in 1994 – 95. The carpet it worn to a point where cleaning and repairs are impossible due to backing separations and fiber wear.

Discussion: In January 2004 bids were taken on re - carpeting the City Administration Building. Commercial Coverings Inc. was the low bidder. Bigelow Basic 28 oz unitary backed carpet #812 saddle was chosen as the replacement product. This project was intended to replace worn carpet and unsafe sub floor conditions. The original bids were taken in January 2004 and thus far the City has expended approximately $19,000.00 addressing the most unsafe conditions within the City Administration Building. All of the 2nd floor and the majority of the 3rd floor remains to be done. This project entails removal of existing carpet, replacement of sub flooring as needed and installation of new carpet.

Budget Impact: The cost of this request is not to exceed $31,823.00. This capital improvements project is funded thru the sales tax capital fund.

RESOLUTION NO. ______

A RESOLUTION AWARDING BID #04-02, FLOOR IMPROVEMENT PROJECT, TO COMMERCIAL COVERINGS, INC. IN AN AMOUNT NOT TO EXCEED $31,823.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby awards Bid #04-02, Floor Improvement Project, to Commercial Coverings, Inc. in an amount not to exceed $31,823.00.

PASSED and **APPROVED** this 16th day of November 2004.

APPROVED:

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk

Commercial Coverings Inc

Bid Specifications
Bid 04-02
Floor Improvement Project
City Hall

ITEM:	DESCRIPTION:	QUANTITY:	PRICE PER YARD	TOTAL COST
1.	Mohawk / Aladdin Task Force 28 with unitary backing (Or Approved Equivalent), Color to be chosen by City of Fayetteville. Price of carpet only.	Approximately 2500 Yards over 18-24 month period *See note on mfr price increases	Carpet: $6.50 Freight: $.30 Total: $6.80	$17,000.00 Plus applicable Fayetteville sales tax
2.	Mohawk / Aladdin Task Force 28 with unitary backing (Or Approved Equivalent), Color to be chosen by City of Fayetteville. Installed price without moving furniture	Approximately 2500 Yards over 18-24 month period	Carpet: $6.50 Freight: $.30 Take-up: $1.50 Install: $3.25 Total: $11.55	$28,875.00 Plus applicable Fayetteville sales tax
3.	Mohawk / Aladdin Task Force 28 with unitary backing (Or Approved Equivalent), Color to be chosen by City of Fayetteville. Price of carpet with carpet provider moving furniture and installing carpet.	Approximately 2500 Yards over 18-24 month period	Carpet: $6.50 Freight: $.30 Take-up: $1.50 Install: $3.25 Furn: $1.50 Total: $13.05	$32,625.00 Plus applicable Fayetteville sales tax
4.	Four Inch Tall by 1/8" thick Black or Brown Cove Base. Price Installed and Price Uninstalled.	As Needed	Price Per Foot Base: $.45 No Frt Take-up: $.10 Install: $.30	Total: $.85 Plus applicable Fayetteville sales tax

9.75

13.05
+ .85
13.9

Pursuant to Ark. Code Annotated 22-9-203, the City of Fayetteville encourages all qualified small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, the City of Fayetteville encourages all general contractors to subcontract portions of their contract to qualified small, minority, and women business enterprises.

* Note: Manufacturer price increases will be passed through to buyer with documented evidence.

License No. 0080160404 **ACTIVATED**

State of Arkansas

Contractors Licensing Board

COMMERCIAL COVERINGS, INC.
2660 W WALNUT ST
ROGERS, AR 72756

This is to Certify That COMMERCIAL COVERINGS, INC.

is duly licensed under the provisions of Act 150 of the 1965 Acts as amended and is entitled to practice Contracting in the State of Arkansas within the following classification:

SPECIALTY
- Blinds, Curtains, Draperies
- Floors, Floor Covering
- Wall Covering

with the following suggested bid limit $25,000
from April 11, 2003 **until** April 30, 2004
activated April 19, 2003
when this Certificate expires.

Witness our hands of the Board, dated at Little Rock, Arkansas:

CHAIRMAN

SECRETARY

April 19, 2003

[redacted] 04-02

[redacted] tteville
proposal
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COMMERCIAL COVERINGS, INC

Commercial & Industrial

Contract Floorcoverings & Installation

DATE: Jan 19, 2004
TO: **Purchasing Department**
COMPANY: City of Fayatteville
REFERENCE: Quote Attached, Floor Improvement Project for City Hall, Bid 04-02

MESSAGE:

Attached, please find our quote for the above referenced project using the City of Fayetteville proposal forms. We submitted for certificates of insurance and bonds stipulated in the proposal first thing Monday morning; original documents shouldn't take more than 3 days by mail. In the interim, our insurance and bonding agent has faxed us copies of those mailed which we have included; all information can be verified with our agent at the address and/or phone number listed below;

Priscilla Herrin
Hardin and Wilson
1501 North Pierce, Suite 102, Little Rock, AR 72207
501.664.0204 Fax: 501.664.8774

Regards, David L. Jones

Dave Jones
Commercial Coverings, Inc.

Contract Division of Abbey N/W Arkansas - 2660 W Walnut, Rogers, AR 72756
Phone: 479.631.2500 - Fax: 479.631.2233

QUOTE SUBMITTAL

Date:	January 19, 2004	
Project Name:	**Floor Improvement Project for City Hall, Bid 04-02**	Bid Date: Jan 20, 2004
From:	Dave Jones	
Bidder:	**Commercial Coverings Inc. (CCI)** License Number: 0080160404 2660 W. Walnut, Rogers, AR 72756, Phone: 479.631.2500 - Fax: 479.631.2233	

Pursuant to and in compliance with project drawings and specifications in our possession, Commercial Coverings Inc propose and agree to furnish and install finish coverings and accessories as stipulated herein for the sum of:

BASE BID: See City Proposal Form Attached (2-pages)
Includes freight

Known addenda; please advise if additional addenda has been issued:
None

Scope of work quoted:
Quoted with three options and a separate bid for wall base (see attached)
Note: Wood flooring or trim, wall or window coverings, unfinished, sealed, poured or troweled in place concrete finishes, sub-floor repair or replacement or finishes not specifically covered under the above listed sections excluded from bid.

Bid Notes/Misc:
CCI assumes that surfaces to be covered are as indicated in the project drawings and specifications, and that base surfaces will be free from major defects, damage or debris by previous trades so as to facilitate reasonable and timely installation. As the responsible installing contractor, all work will commence after CCI determines sub-floors are acceptable for application of specified finishes. Prices quoted are warranted for a minimum of 30 days; manufacturer increases will be passed through to buyer with mill verification.

If awarded a subcontract based on this quotation, we agree to furnish certificates of compliance, insurance and/or bonds as required by the general contractor or owner as stipulated in the general contract. Because of our stable history, past performance and affiliation with the nationwide Abbey Flooring powerhouse, we enjoy some of the most competitive bond rates in the nation (see examples below).

VALUE OF CONTRACT	BOND RATE
$500 thousand or less	$9.40 per thousand (.0094)
Up to $2 million	$7.20 per thousand (.0072)
Over $2 million	$6.00 per thousand (.006)

Rate and coverage information can be verified with Hardin & Wilson Inc. 1501 North Pierce, Suite 102, Little Rock, AR 72207.

David R. Jones

Dave Jones
Agent for Commercial Coverings Inc.

PROPOSAL FORM

The Bidder understands the City of Fayetteville reserves the right to reject any or all bids and to waive formalities deemed to be in the City's best interest.

Bidder agrees that this bid shall be good and may not be withdrawn for a period of thirty (30) calendar days after the schedule closing time for receiving bids.

CONTRACTORS NAME Commercial Coverings Inc.

CONTRACTORS LICENSE # 0080160404 (Arkansas)

CONTACT PERSON Dave Jones

TITLE Manager

ADDRESS 2660 W. Walnut
Rogers, AR 72756

TELEPHONE 479.631.2500 FAX 479.631.2233

EMAIL ADDRESS commercialcoverings@yahoo.com

SIGNATURE: David Jones

All inclusive bids must be submitted no later than January 20, 2004 at 11:00 a.m., to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope marked *"Floor Improvement Project for City Hall"* "Bid 04-02." **Each bidder will be required to meet or exceed the specifications attached. Any deviation must be noted with specifications attached to bid.** Questions should be directed to Ben Bell, City of Fayetteville Purchasing Division, (479) 575-8220.

Western Surety Company

POWER OF ATTORNEY - CERTIFIED COPY

Bond No. 000038661BD

Know All Men By These Presents, that WESTERN SURETY COMPANY, a corporation duly organized and existing under the laws of the State of South Dakota, and having its principal office in Sioux Falls, South Dakota (the "Company"), does by these presents make, constitute and appoint Robert E. Blackburn

its true and lawful attorney(s)-in-fact, with full power and authority hereby conferred, to execute, acknowledge and deliver for and on its behalf as Surety, bonds for:

Principal: Commercial Coverings, Inc.

Obligee: City of Fayetteville, 113 W. Mountain, Fayetteville, AR. 72701

5 % of the amount of this bid

and to bind the Company thereby as fully and to the same extent as if such bonds were signed by the Executive Vice President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said attorney(s)-in-fact may do within the above stated limitations. Said appointment is made under and by authority of the following bylaw of Western Surety Company which remains in full force and effect.

"Section 7. All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

All authority hereby conferred shall expire and terminate, without notice, unless used before midnight of April 16, 2004, but until such time shall be irrevocable and in full force and effect.

In Witness Whereof, Western Surety Company has caused these presents to be signed by its Executive Vice President, Stephen T. Pate, and its corporate seal to be affixed this 19th day of January, 2004.

WESTERN SURETY COMPANY

Stephen T. Pate

Stephen T. Pate, Executive Vice President

STATE OF SOUTH DAKOTA } ss
COUNTY OF MINNEHAHA

On this 19th day of January, in the year 2004, before me, a notary public, personally appeared Stephen T. Pate, who being to me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of WESTERN SURETY COMPANY and acknowledged said instrument to be the voluntary act and deed of said corporation.

D. KRELL
NOTARY PUBLIC
SOUTH DAKOTA

D Krell

Notary Public - South Dakota

My Commission Expires November 30, 2006

I the undersigned officer of Western Surety Company, a stock corporation of the State of South Dakota, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable, and furthermore, that Section 7 of the bylaws of the Company as set forth in the Power of Attorney is now in force.

In testimony whereof, I have hereunto set my hand and seal of Western Surety Company this 19th day of January, 2004.

WESTERN SURETY COMPANY

Stephen T. Pate

Stephen T. Pate, Executive Vice President

Form F5180-4-2001

Western Surety Company

BID BOND

Bond No. 000038661BD

KNOW ALL PERSONS BY THESE PRESENTS, that we, Commercial Coverings, Inc.

as Principal, hereinafter called the Principal, and Western Surety Company

, as Surety, hereinafter called the Surety, are held and firmly bound unto

City of Fayetteville, 113 W. Mountain, Fayetteville, AR. 72701
Name, Address, City, State, Zip, Phone Number

, as Obligee, hereinafter called the Obligee, in the sum of

5 % of the amount of this bid for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns firmly by these presents.

WHEREAS, the Principal has submitted a bid for floor improvement to the City Administration Bldg., at the City of Fayetteville

NOW, THEREFORE, If the contract be timely awarded to the Principal and the Principal shall within such time as specified in the bid, enter into a contract in writing or, in the event of the failure of the Principal to enter into such contract; if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, neither Principal nor Surety shall be bound hereunder less Obligee prior to execution of the final contract shall furnish evidence of financing in a manner and form acceptable to Principal and Surety that financing has been firmly committed to cover the entire cost of the project.

SIGNED, sealed and dated this 19th day of January, 2004.

Commercial Coverings, Inc.
Principal

By

Title

Western Surety Company

By Robert E. Blackburn, Attorney-in-Fact

Form F9190

ACORD. CERTIFICATE OF LIABILITY INSURANCE

Coverings, Inc Bid # 04-02 Award 3
Page [illegible] of 26

DATE (MM/DD/YY) 01/19/04

PRODUCER

HARDIN & WILSON INC
1501 N PIERCE
LITTLE ROCK AR 72207-5299

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

COMPANIES AFFORDING COVERAGE

COMPANY A	LAFAYETTE INSURANCE COMPANY
COMPANY B	LIBERTY MUTUAL INS CO
COMPANY C	
COMPANY D	

INSURED

ABBEY CARPET & INTERIORS
AND COMMERCIAL COVERINGS INC
2660 W WALNUT
ROGERS, AR 72756

COVERAGES

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

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☐ OCCUR ☐ OWNER'S & CONTRACTOR'S PROT ☐ ☐	60305476	12/12/03	12/12/04	GENERAL AGGREGATE	$1,000,000
					PRODUCTS - COMP/OP AGG	$1,000,000
					PERSONAL & ADV INJURY	$ 500,000
					EACH OCCURRENCE	$ 500,000
					FIRE DAMAGE (Any one fire)	$ 100,000
					MED EXP (Any one person)	$ 5,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS ☐ ☐				COMBINED SINGLE LIMIT	$
					BODILY INJURY (Per person)	$
					BODILY INJURY (Per accident)	$
					PROPERTY DAMAGE	$
	GARAGE LIABILITY ☐ ANY AUTO ☐ ☐				AUTO ONLY - EA ACCIDENT	$
					OTHER THAN AUTO ONLY:	
					EACH ACCIDENT	$
					AGGREGATE	$
	EXCESS LIABILITY ☐ UMBRELLA FORM ☐ OTHER THAN UMBRELLA FORM				EACH OCCURRENCE	$
					AGGREGATE	$
						$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE: ☐ INCL ☐ EXCL	35S337573023	12/21/03	12/13/04	☒ WC STATUTORY LIMITS ☐ OTHER	
					EL EACH ACCIDENT	$100,000
					EL DISEASE-POLICY LIMIT	$500,000
					EL DISEASE-EA EMPLOYEE	$100,000
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF FAYETTEVILLE
113 W MOUNTAIN
FAYETTEVILLE AR 72701

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
PRISCILLA A HERRIN PH A

ACORD 25-S (1/95) © ACORD CORPORATION 1988

DIN & WILSON, INC.

:SIMILE TRANSMITTAL COVER SHEET

2004

er sheet)

-575-8223 RECIPIENT LARRY RENNIE

JAME:

501-664-2125 SENDER: PRISCILLA HERRIN

. 501-664-0204

t receive all of the pages being transmitted, please
.der at number above.

IAL COVERINGS

RFORMANCE BOND............ORIGINAL MAILED TO INSURED

RECEIVED
APR 08 2004

BOND #58606474

CNA SURETY

Performance Bond

KNOW ALL PERSONS BY THESE PRESENTS, That we COMMERCIAL COVERINGS INC

of ROGERS, ARKANSAS , hereinafter referred to as the Principal, and

WESTERN SURETY COMPANY

as Surety, are held and firmly bound unto CITY OF FAYETTEVILLE

of FAYETTEVILLE, ARKANSAS , hereinafter referred to as the Obligee, in the sum of

TWENTY THOUSAND DOLLARS AND 00/00----------------------------

Dollars (20,000.00), for the payment of which we bind ourselves, our legal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has entered into a contract with Obligee, dated the 8th day of APRIL 2004 ,

for FLOOR IMPROVEMENT TO THE CITY ADMINISTRATION

NOW, THEREFORE, if the Principal shall faithfully perform such contract or shall indemnify and save harmless the Obligee from all cost and damage by reason of Principal's failure so to do, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

ANY PROCEEDING, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

NO RIGHT OF ACTION shall accrue on this Bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrators or successors of the Obligee.

SIGNED, SEALED AND DATED this 8th day of APRIL , 2004 .

COMMERCIAL COVERINGS, INC.
(Principal)
(Seal)

By:

WESTERN SURETY COMPANY
(Surety)
(Seal)

By: Attorney-in-fact

CNA SURETY

BOND #58606474

Payment Bond

KNOW ALL PERSONS BY THESE PRESENTS, That we COMMERCIAL COVERINGS, INC.

of ROGERS, ARKANSAS, hereinafter referred to as the Principal, and WESTERN SURETY COMPANY

as Surety, are held and firmly bound unto CITY OF FAYETTEVILLE

of FAYETTEVILLE, ARKANSAS, hereinafter referred to as the Obligee, in the sum of TWENTY THOUSAND DOLLARS AND 00/00----------------

Dollars (20,000), for the payment of which we bind ourselves, our legal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has entered into a contract with Obligee, dated 8th day of APRIL 2004,

for FLOOR IMPROVEMENT TO THE CITY ADMINISTRATION

copy of which contract is by reference made a part hereof.

NOW, THEREFORE, if Principal shall, in accordance with applicable Statutes, promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said contract, and any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to Surety being waived, then this obligation to be void; otherwise to remain in full force and effect.

No suit or action shall be commenced hereunder

(a) After the expiration of one (1) year following the date on which Principal ceased work on said contract it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

(b) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder.

SIGNED, SEALED AND DATED this 8th day of APRIL 2004

COMMERCIAL COVERINGS, INC.
(Principal)

By: (Seal)

WESTERN SURETY COMPANY
(Surety)

By: (Seal)
Attorney-in-fact

SUR-105579-B

Continental Flooring

Bid Specifications
Bid 04-02
Floor Improvement Project
City Hall

ITEM:	DESCRIPTION:	QUANTITY:	PRICE PER YARD	TOTAL COST
1.	Mohawk / Aladdin Task Force 28 with unitary backing (Or Approved Equivalent), Color to be chosen by City of Fayetteville. Price of carpet only.	Approximately 2500 Yards over 18-24 month period	7.78 per sy Minimum order amount of 180 sy full roll	19,450.00 or 1,400.40 per full roll
2.	Mohawk / Aladdin Task Force 28 with unitary backing (Or Approved Equivalent), Color to be chosen by City of Fayetteville. Installed price without moving furniture	Approximately 2500 Yards over 18-24 month period	No Bid	No Bid
3.	Mohawk / Aladdin Task Force 28 with unitary backing (Or Approved Equivalent), Color to be chosen by City of Fayetteville. Price of carpet with carpet provider moving furniture and installing carpet.	Approximately 2500 Yards over 18-24 month period	No Bid	No Bid
4.	Four Inch Tall by 1/8" thick Black or Brown Cove Base. Price Installed and Price Uninstalled.	As Needed	Price Per Foot .43 LF Material Only sold in full ctns only- 120 lf per ctn	51.60 per ctn

Pursuant to Ark. Code Annotated 22-9-203, the City of Fayetteville encourages all qualified small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, the City of Fayetteville encourages all general contractors to subcontract portions of their contract to qualified small, minority, and women business enterprises.

CONTINENTAL FLOORING COMPANY
9319 N 94th WAY, SUITE 1000
SCOTTSDALE, AZ 85258
1-800-825-1221

Continental Flooring

City of Fayetteville, Arkansas
Floor Improvement Project
City Hall
113 W. Mountain
Fayetteville, AR 72701

Bid 04-02

General Information and Specifications:

THIS INVITATION TO BID IS BASED ON THE NEED FOR APPROXIMATLY 2500 YARDS OF CARPET WITH INSTALLITATION, AS WELL AS A BID FOR MATERIALS ONLY, LISTED IN SPECIFICATIONS ATTACHED. HOWEVER, THE CITY RESERVES THE RIGHT TO ACCEPT OR REJECT ANY OR ALL BIDS, WAIVE FORMALITIES IN THE BIDDING, AND MAKE A BID AWARD DEEMED TO BE IN THE BEST INTEREST OF THE CITY.

DATE REQUIRED AS A COMPLETE UNIT: Delivered as needed over an 18-24 month period.

Contractors should visit the site to verify site size, shape, condition and accessibility before submitting their bid. For a tour of the site contact Coy Hurd. (479) 575-8361.

Proposals must conform to the following specifications and include appropriate evidence for each:

1. Bidder shall have a state of Arkansas Contractors License.
2. Bidder shall have workers' compensation as required by Arkansas State statutes.
3. Bidder shall have general liability insurance as required at a minimum of $500,000.00. A bid bond of 5% and a 100% performance/payment bond are also required.

The successful bidder will be responsible for providing the following:

1. Provide all labor, equipment, materials and supplies needed to complete the job as specified.
2. Remove and cleanup of all debris and construction materials after installation.
3. Project will not be accepted until the City approves the work after construction. When surfacing is laid, it is the contractor's responsibility to supervise area. Before approval, if the surfacing is damaged, it is the contractor's responsibility to correct.

CONTINENTAL FLOORING COMPANY
9319 N 94th WAY, SUITE 1000
SCOTTSDALE, AZ 85258
1-800-825-1221

PROPOSAL FORM

The Bidder understands the City of Fayetteville reserves the right to reject any or all bids and to waive formalities deemed to be in the City's best interest.

Bidder agrees that this bid shall be good and may not be withdrawn for a period of thirty (30) calendar days after the schedule closing time for receiving bids.

CONTRACTORS NAME Continental Flooring Company

CONTRACTORS LICENSE # 0067261004

CONTACT PERSON Brad Weaver

TITLE Strategic Account Manager

ADDRESS 9319 N. 94th Way, Ste. 1000
Scottsdale, AZ 85258

TELEPHONE (800) 825-1221 x 217 FAX (480) 945-2603

EMAIL ADDRESS Bradw@cfc4u.com

SIGNATURE:
Christopher L. Coleman, President

All inclusive bids must be submitted no later than January 20, 2004 at 11:00 a.m., to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope marked *"Floor Improvement Project for City Hall"* "Bid 04-02." **Each bidder will be required to meet or exceed the specifications attached. Any deviation must be noted with specifications attached to bid.** Questions should be directed to Ben Bell, City of Fayetteville Purchasing Division, (479) 575-8220.

CONTINENTAL FLOORING COMPANY
9319 N 94th WAY, SUITE 1000
SCOTTSDALE, AZ 85258
1-800-825-1221

Miller Commercial - Flooring

Bid Specifications
Bid 04-02
Floor Improvement Project
City Hall

ITEM:	DESCRIPTION:	QUANTITY:	PRICE PER YARD	TOTAL COST
1.	Mohawk / Aladdin Task Force 28 with unitary backing (Or Approved Equivalent), Color to be chosen by City of Fayetteville. Price of carpet only.	Approximately 2500 Yards over 18-24 month period	$7.14 Sales Tax .60 $7.74	17,850.00 996.06 Tax $18,846.06 Total
2.	Mohawk / Aladdin Task Force 28 with unitary backing (Or Approved Equivalent), Color to be chosen by City of Fayetteville. Installed price without moving furniture	Approximately 2500 Yards over 18-24 month period Remove old carpet	$11.14 Installed .93 Tax 12.07 sq-yd. $2.00 sq-yd.	27,850.00 1,508.56 Tax $29,358.56 Total
3.	Mohawk / Aladdin Task Force 28 with unitary backing (Or Approved Equivalent), Color to be chosen by City of Fayetteville. Price of carpet with carpet provider moving furniture and installing carpet.	Approximately 2500 Yards over 18-24 month period	13.80 Installed 1.16 Tax 14.96	34,500.00 1,849.38 Tax $36,349.38 Total
4.	Four Inch Tall by 1/8" thick Black or Brown Cove Base. Price Installed and Price Uninstalled.	As Needed Material Only Installed price	Price Per Foot $.49 Tax .04 $1.14 Tax .09	

Pursuant to Ark. Code Annotated 22-9-203, the City of Fayetteville encourages all qualified small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, the City of Fayetteville encourages all general contractors to subcontract portions of their contract to qualified small, minority, and women business enterprises.

Hiller Commercial Flooring

City of Fayetteville, Arkansas
Floor Improvement Project
City Hall
113 W. Mountain
Fayetteville, AR 72701

Bid 04-02

General Information and Specifications:

THIS INVITATION TO BID IS BASED ON THE NEED FOR APPROXIMATLY 2500 YARDS OF CARPET WITH INSTALLITATION, AS WELL AS A BID FOR MATERIALS ONLY, LISTED IN SPECIFICATIONS ATTACHED. HOWEVER, THE CITY RESERVES THE RIGHT TO ACCEPT OR REJECT ANY OR ALL BIDS, WAIVE FORMALITIES IN THE BIDDING, AND MAKE A BID AWARD DEEMED TO BE IN THE BEST INTEREST OF THE CITY.

DATE REQUIRED AS A COMPLETE UNIT: Delivered as needed over an 18-24 month period.

Contractors should visit the site to verify site size, shape, condition and accessibility before submitting their bid. For a tour of the site contact Coy Hurd. (479) 575-8361.

Proposals must conform to the following specifications and include appropriate evidence for each:

1. Bidder shall have a state of Arkansas Contractors License.
2. Bidder shall have workers' compensation as required by Arkansas State statutes.
3. Bidder shall have general liability insurance as required at a minimum of $500,000.00. A bid bond of 5% and a 100% performance/payment bond are also required.

The successful bidder will be responsible for providing the following:

1. Provide all labor, equipment, materials and supplies needed to complete the job as specified.
2. Remove and cleanup of all debris and construction materials after installation.
3. Project will not be accepted until the City approves the work after construction. When surfacing is laid, it is the contractor's responsibility to supervise area. Before approval, if the surfacing is damaged, it is the contractor's responsibility to correct.

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 01/20/2004

PRODUCER (479)751-9272 FAX (479)751-6820
Boone-Ritter Insurance Service
109 N. Spring St
P.O. Box 867
Springdale, AR 72764

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

INSURED Miller Commercial Flooring, Inc.
388 North 40th Street
Springdale, AR 72762

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Southern Guaranty Ins. Co.	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

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

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY	00CPP67789	08/21/2003	08/21/2004	EACH OCCURRENCE	$ 1,000,000
		☒ COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurence)	$ 100,000
		☐ CLAIMS MADE ☒ OCCUR				MED EXP (Any one person)	$ 5,000
		☐				PERSONAL & ADV INJURY	$ 1,000,000
		☐				GENERAL AGGREGATE	$ 2,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COMP/OP AGG	$ 2,000,000
		☐ POLICY ☐ PRO-JECT ☐ LOC					
A		AUTOMOBILE LIABILITY	00BAP67789	08/21/2003	08/21/2004	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
		☒ ANY AUTO					
		☐ ALL OWNED AUTOS				BODILY INJURY (Per person)	$
		☐ SCHEDULED AUTOS					
		☒ HIRED AUTOS				BODILY INJURY (Per accident)	$
		☒ NON-OWNED AUTOS					
		☐				PROPERTY DAMAGE (Per accident)	$
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
		☐ ANY AUTO				OTHER THAN AUTO ONLY: EA ACC	$
		☐				AGG	$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	$
		☐ OCCUR ☐ CLAIMS MADE				AGGREGATE	$
							$
		☐ DEDUCTIBLE					$
		☐ RETENTION $					$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	00WCA67789	08/21/2003	08/21/2004	☐ WC STATU-TORY LIMITS ☒ OTH-ER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	$ 1,000,000
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
						E.L. DISEASE - POLICY LIMIT	$ 1,000,000
		OTHER					

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

CERTIFICATE HOLDER

CITY OF FAYETTEVILLE
113 W. MOUNTAIN
FAYETTEVILLE, AR 72701

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2001/08)

License No. 0132040404

State of Arkansas

Contractors Licensing Board

MILLER COMMERCIAL FLOORING, INC.
388 N 40TH ST
SPRINGDALE, AR 72762

This is to Certify That MILLER COMMERCIAL FLOORING, INC.

is duly licensed under the provisions of Act 150 of the 1965 Acts as amended and is entitled to practice Contracting in the State of Arkansas within the following classification:

SPECIALTY
Ceramic Tile
Floors, Floor Covering

with the following suggested bid limit $25,000

from June 27, 2003 **until** April 30, 2004

when this Certificate expires.

Witness our hands of the Board, dated at Little Rock, Arkansas:

CHAIRMAN

SECRETARY

June 27, 2003

Employers Mutual Casualty Company

Home Office • Des Moines, Iowa

BID BOND

Bond No. Bid Bond

(NOT VALID IF BID AMOUNT EXCEEDS $ 48,000)

KNOW ALL MEN BY THESE PRESENTS: That we, Miller Commercial Flooring, Inc., as Principal, and the EMPLOYERS MUTUAL CASUALTY COMPANY, a corporation organized and existing under the laws of the State of Iowa and authorized to do business in the State of Arkansas, as Surety, are held and firmly bound unto the City of Fayetteville, AR, as obligee, in the sum of Two Thousand Four Hundred and no/100 ($2,400.00) DOLLARS, lawful money of the United States of America, to the payment of which sum of money well and truly to be made, the said Principal and Surety bind themselves, their and each of their heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Obligee shall make any award to the Principal for:

Floor Improvement Project
City Hall - Fayetteville, AR

according to the terms of the proposal or bid made by the Principal therefor, and the Principal shall duly make and enter into a contract with the Obligee in accordance with the terms of such proposal or bid and award and shall give bond for the faithful performance thereof, with the EMPLOYERS MUTUAL CASUALTY COMPANY as Surety or with other Surety or Sureties approved by the Obligee; or if the Principal shall, in case of failure so to do, pay to the Obligee the damages which the Obligee may suffer by reason of such failure not exceeding the penalty of this bond, then this obligation shall be null and void; otherwise it shall be and remain in full force and effect.

Signed, Sealed and Dated this 20th day of January ~~19~~ 2003.

Miller Commercial Flooring, Inc.
Principal

By: Dwayne Miller

Witness

Employers Mutual Casualty Company
Surety

By:
Attorney-in-Fact

Witness

EMC Insurance Companies
P.O. Box 712 • Des Moines, IA 50303-0712

No. 523035

CERTIFICATE OF AUTHORITY INDIVIDUAL ATTORNEY-IN-FACT

KNOW ALL MEN BY THESE PRESENTS, that:

1. Employers Mutual Casualty Company, an Iowa Corporation
2. EMCASCO Insurance Company, an Iowa Corporation
3. Union Insurance Company of Providence, an Iowa Corporation
4. Illinois EMCASCO Insurance Company, an Iowa Corporation
5. Dakota Fire Insurance Company, a North Dakota Corporation
6. EMC Property & Casualty Company, an Iowa Corporation
7. The Hamilton Mutual Insurance Company, an Ohio Corporation

hereinafter referred to severally as "Company" and collectively as "Companies", each does, by these presents, make, constitute and appoint:
LARRY CLINKSCALES, BRYAN CLINKSCALES, INDIVIDUALLY, SPRINGDALE, ARKANSAS

its true and lawful attorney-in-fact, with full power and authority conferred to sign, seal, and execute its lawful bonds, undertakings, and other obligatory instruments of a similar nature as follows:
IN AN AMOUNT NOT EXCEEDING FIVE HUNDRED THOUSAND DOLLARS ($500,000.00)

and to bind each Company thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of each such Company, and all of the acts of said attorney pursuant to the authority hereby given are hereby ratified and confirmed.

The authority hereby granted shall expire April 1, 2004 unless sooner revoked.

AUTHORITY FOR POWER OF ATTORNEY

This Power-of-Attorney is made and executed pursuant to and by the authority of the following resolution of the Boards of Directors of each of the Companies at a regularly scheduled meeting of each company duly called and held in 1999:

RESOLVED: The President and Chief Executive Officer, any Vice President, the Treasurer and the Secretary of Employers Mutual Casualty Company shall have power and authority to (1) appoint attorneys-in-fact and authorize them to execute on behalf of each Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (2) to remove any such attorney-in-fact at any time and revoke the power and authority given to him or her. Attorneys-in-fact shall have power and authority, subject to the terms and limitations of the power-of-attorney issued to them, to execute and deliver on behalf of the Company, and to attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and any such instrument executed by any such attorney-in-fact shall be fully and in all respects binding upon the Company. Certification as to the validity of any power-of-attorney authorized herein made by an officer of Employers Mutual Casualty Company shall be fully and in all respects binding upon this Company. The facsimile or mechanically reproduced signature of such officer, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power-of-attorney of the Company, shall be valid and binding upon the Company with the same force and affect as though manually affixed.

IN WITNESS WHEREOF, the Companies have caused these presents to be signed for each by their officers as shown, and the Corporate seals to be hereto affixed this 20th day of June 2001

Seals

1863
1953

Bruce G. Kelley, Chairman of Companies 2, 3, 4, 5 & 6; President of Company 1; Vice Chairman and CEO of Company 7

Jeffrey S. Birdsley, Assistant Secretary

On this 20th day of June AD 2001 before me a Notary Public in and for the State of Iowa, personally appeared Bruce G. Kelley and Jeffrey S. Birdsley, who, being by me duly sworn, did say that they are, and are known to me to be the Chairman, President, Vice Chairman and CEO, and/or Assistant Secretary, respectively, of each of The Companies above; that the seals affixed to this instrument are the seals of said corporations; that said instrument was signed and sealed on behalf of each of the Companies by authority of their respective Boards of Directors; and that the said Bruce G. Kelley and Jeffrey S. Birdsley, as such officers, acknowledge the execution of said instrument to be the voluntary act and deed of each of the Companies.
My Commission Expires September 30, 2003.

RUTA KRUMINS
Commission Number 176255
My Comm. Exp. Sept. 30, 2003

Notary Public in and for the State of Iowa

CERTIFICATE

I, David L. Hixenbaugh, Vice President of the Companies, do hereby certify that the foregoing resolution of the Boards of Directors by each of the Companies, and this Power of Attorney issued pursuant thereto on June 20, 2001 on behalf of Larry Clinkscales, Bryan Clinkscales are true and correct and are still in full force and effect.

In Testimony Whereof, I have subscribed my name and affixed the facsimile seal of each Company this 20th day of January, 2004.

Vice-President

Form 7832 (9/02) "For verification of the authenticity of the Power of Attorney you may call (515) 280-2689."

PROPOSAL FORM

The Bidder understands the City of Fayetteville reserves the right to reject any or all bids and to waive formalities deemed to be in the City's best interest.

Bidder agrees that this bid shall be good and may not be withdrawn for a period of thirty (30) calendar days after the schedule closing time for receiving bids.

CONTRACTORS NAME Miller Commercial Flooring, Inc.

CONTRACTORS LICENSE # 0132040404

CONTACT PERSON Dwayne Miller

TITLE President

ADDRESS 388 North 40th Street
Springdale, AR 72762

TELEPHONE (479)756-8877 FAX 756-0706

EMAIL ADDRESS dmiller@millercommercialflooring.com

SIGNATURE: Dwayne Miller

All inclusive bids must be submitted no later than January 20, 2004 at 11:00 a.m., to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope marked *"Floor Improvement Project for City Hall"* "Bid 04-02." **Each bidder will be required to meet or exceed the specifications attached. Any deviation must be noted with specifications attached to bid.** Questions should be directed to Ben Bell, City of Fayetteville Purchasing Division, (479) 575-8220.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council Meeting of: 11-16-2004

FROM:

Larry Rennie	FISD	Building Services
Name	Division	Department

ACTION REQUIRED: This resolution is to award bid 04-02, floor improvement project in city hall to Commercial Coverings Inc, not to exceed $31,823 which includes a 10% contingency.

COST TO CITY:

$31,823.00	$91,671	City Admin. Building Renovation
Cost of this request	Category/Project Budget	Program Category / Project Name
4470-9470-5400:00	$59,846.14	other capital improvements
Account Number	Funds Used to Date	Program / Project Category Name
01037-5	$ 31,824.86	Sales Tax Capital Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ___ Budget Adjustment Attached

Budget Manager ___ Date ___

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager	Date	Internal Auditor	Date
X	10/28/04		
City Attorney	Date	Purchasing Manager	Date

STAFF RECOMMENDATION:

	10.27.04	**Received in Mayor's Office**	10/27/04 P.H.
Division Head	Date		Date
X	10-27-04	Cross Reference:	
Department Director	Date		
		Previous Ord/Res#:	
~~Finance & Internal Services Dir.~~	Date	Orig. Contract Date:	
X Hugh Earnest	10-29-04	Orig. Contract Number:	
Chief Administrative Officer	Date		
X Dan Coody	10/29/04	New Item:	**Yes** **No**
Mayor	Date		

ENTERED 10/27/04

Fayetteville

City Council Meeting of December 7, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest
Chief Administrative Officer

From: Greg Boettcher
Water/Wastewater Director

Date: October 29, 2004

Subject: Resolution authorizing Budget Adjustment to cover increased cost of potable water for the Noland Wastewater Treatment Plant. Water and Sewer Fund Balance will be used to cover the increased utility costs for this program.

RECOMMENDATION

Fayetteville City Administration recommends approval of a Budget Adjustment to transfer $45,000.00 from Water and Sewer Fund Balance to the Wastewater Treatment Plant Utility Costs Account.

BACKGROUND

In the middle of 2003, Fayetteville ceased land application of wastewater sludge, installing a belt filer press to dewater the sludge for landfilling. This new processing equipment requires a steady flow of water to clean the porous belts, the increased consumption being for only a portion of the year and did not impact the forecasts developed in August of 2003 for the 2004 budget. Furthermore, information regarding Fayetteville's water rate increase was not available for factoring into the 2004 budget predictions. These financial shortfalls were compounded by a large leak in the Noland Plant's yard piping system which did not surface, resulting in substantial increases in water consuption before the problem was known. After extensive investigations and exploratory excavations one area of the yard piping was deemed responsible for the losses and has been isolated to contain the losses. As a result of these various factors, the expense predictions for the wastewater utility costs were underestimated and necessitate a Budget Adjustment to transfer funds to cover costs for the remainder of 2004.

DISCUSSION

The 2004 budget preparation did not have sufficient data to recognize the changes in water consumption, did not have information on the water rate change and could not have anticipated the large yard piping leak in 2004. These factors have combined to create a shortfall that requires the Budget Adjustment. The 2005 budget for the Wastewater Treatment Plant Program, Utility Costs Account has captured these changes and will provide sufficient funding for such expenses.

BUDGET IMPACT

The Budget Adjustment will use Water and Sewer Fund Balance to provide necessary resources for the Noland Wastewater Plant's potable water costs in 2004.

RESOLUTION NO. ______

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT TO TRANSFER $45,000.00 FROM THE WATER AND SEWER FUND BALANCE TO THE WASTEWATER TREATMENT PLANT UTILITY COSTS

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby Approves a Budget Adjustment (attached as Exhibit A) to transfer $45,000.00 from the Water and Sewer Fund Balance to the Wastewater Treatment Plant Utility Costs.

PASSED and **APPROVED** this 16th day of November, 2004.

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year		Date Requested	Adjustment Number
2004	Department: Water & Wastewater Division: Wastewater Treatment Program: Wastewater Treatment Plant	11/16/2004	

Project or Item Requested:

$45,000 is requested in the utility account.

Project or Item Deleted:

$45,000 will be from the Use of Fund Balance.

Justification of this Increase:

Actual costs exceed predicted values due to changes in various factors that could not be defined at the time of 2004 budget development.

Justification of this Decrease:

Sufficient funding remains to comply with City policies.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Utilities	5400	5100	5310	00	45,000		

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	5400	0940	4999	99	45,000		

Approval Signatures

Requested By ____________ Date ________

Budget Manager ____________ Date ________

Department Director ____________ Date 10-29-04

Finance & Internal Services Director ____________ Date ________

Mayor ____________ Date ________

Budget Office Use Only

Type: A B C D E

Date of Approval ________ Initial ________ Date

Posted to General Ledger ________ Initial ________ Date

Posted to Project Accounting ________ Initial ________ Date

Entered in Category Log ________ Initial ________ Date

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: DECEMBER 7 ~~November 16~~, 2004

FROM:

Greg Boettcher	Water & Wastewater	Water and Wastewater
Name	Division	Department

ACTION REQUIRED: Fayetteville City Administration recommends approval of a Budget Adjustment to transfer $45,000.00 from Water and Sewer Fund Balance to the Wastewater Treatment Plant Utility Costs Account.

COST TO CITY:

$45,000.00	$ -	Plant Utility Costs (5400.5300.5310)
Cost of this request	Category/Project Budget	Program Category / Project Name
5400.0940.4999.99	$ -	Use of Fund Reserves
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	Water and Sewer
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ______ Budgeted Item X Budget Adjustment Attached

Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager Date Internal Auditor Date

11-1-04
City Attorney Date Purchasing Manager Date

STAFF RECOMMENDATION:

Division Head Date

Greg Boettcher 10-29-04
Department Director Date

Finance & Internal Services Dir. Date

Hugh Earnest 11-1-04
Chief Administrative Officer Date

Dan Coody 11/2/04
Mayor Date

Received in Mayor's Office 11/1/04 PA
Date

Cross Reference:

Previous Ord/Res#: ______

Orig. Contract Date: ______

Orig. Contract Number: ______

New Item: Yes No

ENTERED 11-1-04 TIM

Fayetteville

City Council Meeting of November 16, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest
Chief Administrative Officer

From: Greg Boettcher Greg Boettcher
Water/Wastewater Director

Date: October 29, 2004

Subject: Resolution authorizing purchase of replacement wastewater pumping equipment from Tencarva Machinery Company for Lift Station 14 at the Fayetteville Industrial Park and approves a Budget Adjustment transferring capital funds between accounts. The funds for this purchase will be secured from the Upgrade /Replace Lift Stations Account.

RECOMMENDATION

Fayetteville City Administration recommends approval of a resolution authorizing the purchase of two new pumps from Tencarva Machinery Company for $24,371.00. This purchase relates to the furnishing and installing of two new dry-pit submersible wastewater pumps at Lift Station Number 14 in the Fayettevile Industrial Park. Also included is a Budget Adjustment to transfer residual fiscal year 2004 capital fund balances into the proper accounts enabling priority improvments to be completed.

BACKGROUND

Lift Station Number 14's pumping units have been in service for a large number of years, have been rebuilt several times, have an outdated equipment design and have reached the end of their service lives. With the planned addition of backup electric power under the wastewater improvement project, the installation of the new pumps proposed herein will render this facility adequate for the forseeable future.

DISCUSSION

This work was advertised with sealed bids being opened on October 28, 2004, the four bids being ranked in descending order as follows:

Schupe and Associates	$31,454.00
Jack Tyler Engineering	$29,186.31
Pumps and Power Company	$28,015.00
Tencarva Machinery Company	**$24,371.00**

Review of the bid finds the prices to be competitive and the expenditure justified, the equipment proposed by Tencarva Machinery Company meeting specifications (attached) . The funding for this activity will be secured from the 2004 wastewater treatment program capital account for Upgrade/Replace Lift Stations.

BUDGET IMPACT

The approval of the resolution will have no adverse budget impact; the wastewater treatment plant capital budget for 2004 enables completion of the proposed improvements.

RESOLUTION NO. ______

A RESOLUTION TO ACCEPT THE LOW BID OF $24,271.00 FROM TENCARVA MACHINERY COMPANY FOR TWO NEW DRY-PIT SUBMERSIBLE WASTEWATER PUMPS AT LIFT STATION #14 AND APPROVAL OF A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby accepts the low bid of $24,271.00 from TENCARVA Machinery Company for two new dry-pit submersible wastewater pumps at lift station #14 and approval of a budget adjustment attached as Exhibit A.

PASSED and **APPROVED** this 16th day of November, 2004.

APPROVED:

DRAFT

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year 2004	Department: Water & Wastewater Division: Wastewater Treatment Program: Wastewater Treatment Plant Capital	Date Requested Nov 16, 2004	Adjustment Number

Project or Item Requested: $28,040 is requested in the Plant Pumps and Equipment - WWTP capital project. $17,547 is requested in the Upgrade/Replace Lift Stations - WWTP capital project.	**Project or Item Deleted:** $28,040 is proposed from the WWTP Building Improvements capital project. $2,683 is proposed from the Computer System Upgrades - WWTP capital project. $14,864 is proposed from the Testing Equipment - WWTP capital project.
Justification of this Increase: Funds are being moved between projects to meet higher priority needs in the system.	**Justification of this Decrease:** There are no immediate uses for these funds in the above projects. Higher priority needs must be met first.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Plant equipment maint	5400	5800	5414	00	28,040	02069	1
Plant equipment maint	5400	5800	5414	00	17,547	02068	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Building & grounds maint	5400	5800	5400	00	28,040	02032	1
Minor equipment	5400	5800	5210	00	2,683	02071	1
Minor equipment	5400	5800	5210	00	14,864	02070	1

Approval Signatures

Requested By ______ Date ______

Budget Manager ______ Date ______

Department Director ______ Date 10-29-04

Finance & Internal Services Director ______ Date ______

Mayor ______ Date ______

Budget Office Use Only

Type: A B C D E

Date of Approval ______ Initial ______ Date

Posted to General Ledger ______ Initial ______ Date

Posted to Project Accounting ______ Initial ______ Date

Entered in Category Log ______ Initial ______ Date

BID: [✓ FORMAL] ☐ INFORMAL ☐ VERBAL QUOTATION ☐

BID BOND REQUIRED YES ☐ NO ☐

PERFORMANCE BOND REQUIRED YES ☐ NO ☐

CITY OF FAYETTEVILLE, AR
113 W. MOUNTAIN STREET
FAYETTEVILLE, ARKANSAS 72701

TABULATION OF BIDS

PROJECT

DESCRIPTION Submersible Pumps F.O.B. DATE OPENED 10/28/04 [illegible] 00AM

BID NO. 04-84 PROJECT NO.

		ITEM	ITEM	ITEM	ITEM	ITEM	EXTENSION
BIDDER: Jack Tyler	UNIT/QUANT COST	29,186.31					
ADDRESS: Eng	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER: Pumps &	UNIT/QUANT COST	28,015.00					
ADDRESS: Power Co	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER: Schupe &	UNIT/QUANT COST	31,454.00					
ADDRESS: Assoc	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER: Ten-Carva	UNIT/QUANT COST	24,371.00					
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						

BID AWARD SUMMARY:

ITEM ______ TO ______ P.O. # ______
ITEM ______ TO ______ P.O. # ______
ITEM ______ TO ______ P.O. # ______
ITEM ______ TO ______ P.O. # ______

DATE ______ CERTIFIED BY

REMARKS:

PURCHASING OFFICER

A. 5
Tencarva Machinery Company Bid Award
Page 4 of 14

CITY OF FAYETTEVILLE

113 W. Mountain St.
Fayetteville, AR 72701
Bid # 04-84

INVITATION TO BID

DATE ISSUED: October 12, 2004

DATE & TIME OF OPENING: October 27, 2004 2:30 P.M.

BUYER: Peggy Vice, Purchasing Manager, Room 306 - (479) 575-8289

F.O.B. Fayetteville, AR

SPECIFICATION for DRY PIT SUBMERSIBLE PUMPS

I-1. INTRODUCTION

This specification concerns the replacement of two existing vertically coupled centrifugal pumps with submersible units in a dry-pit application.

I-2. DEFINITIONS

Wherever used in this specification, the following terms shall be understood to have the following definitions:

"Owner" shall mean the City of Fayetteville, Arkansas, or its authorized agent.

"Supplier" shall mean the individual, partnership, or corporation, whose bid to supply the items an work specified herein has been accepted by the Owner. "Supplier" shall also encompass any employee, partner, consultant, or subcontractor, to the winning bidder.

"Work" shall mean the furnishing of all necessary equipment, ancillary items, and services required herein.

I-3. PRE-APPROVED MANUFACTURERS

Only pumps manufactured by Flygt, Yeomans, or KSB shall be considered compliant with this specification. No other equipment manufacturer shall be considered.

I-4. PRE-BID CONFERENCE

A pre-bid conference is scheduled for 25 October 2004 please call Stan Williams for the exact time. The purpose of this conference is to afford all prospective bidders the opportunity to pose any questions concerning this specification, the operating conditions (physical and hydraulic) to be experienced by the pumps, or any other aspect of this project. This conference shall also include a site visit of the lift station during which time prospective bidders shall be allowed to inspect, measure, photograph, note, or otherwise document and determine the extent of the services and ancillary items necessary to facilitate successful installation of the pumps.

Attendance at the pre-bid conference is required of all prospective bidders, either the pump manufacturer of its authorized representative. Failure to attend the conference will disqualify an otherwise compliant bid.

I-5. LOCATION or WORK and SERVICES

All work and services required under this specification shall occur at and be specifically designed for the sewage lift station owned by the City of Fayetteville, Arkansas, generally known as Lift Station #14 or as the Industrial Park Lift Station. The physical address of the station is:

1820 S Armstrong Road
Fayetteville, Arkansas.

I-6. OWNERSHIP and DELIVERY of SUPPLIED MATERIALS

Materials and equipment supplied under this specification shall remain the property of the Supplier until delivery to the Owner. All such material and equipment will only be accepted as a single delivery to the following address between the hours of 9:00AM and 3:30PM local time:

Paul R. Noland WWTF
1400 N. Foxhunter Road
Fayetteville, AR 72701.

Partial deliveries will not be accepted.

I-7. TERMS and CONDITIONS

The Owner's standard purchasing terms and conditions shall apply to the Work specified herein.

I-8. SCOPE of WORK and SERVICES

This specification concerns the supply of two (2) submersible pumps capable of warranted operation in a dry-pit application. It also includes the supplying of all ancillary piping, spool pieces, gaskets, flange bolts, stands, and brackets to effect installation to the existing suction and discharge manifolds. Factory authorized startup assistance is also required under this specification. Physical and electrical installation of the pump and all ancillary appurtenances will be the responsibility of the Owner. All submitted bids shall include the following submittal information:

A certification of the warranty and statement of extended warranty if the manufacturer's standard warranty is of less duration than that required herein,

A detailed list of items to be supplied under the bid,

A detailed set of installation instructions including a contact name and telephone number for technical support during the installation,

Drawings indicating the intended location of installation of all ancillary items, A suggested acceptance test plan,

A factory certified performance curve for each pump,

and, a statement attesting to the intent to supply startup assistance.

I-9. DEMOLITION and CONSTRUCTION DEBRIS

Removal and proper disposal of all non-hazardous debris and discarded items shall be the responsibility of the Owner. Should the Supplier's equipment be delivered with any hazardous material which is discarded during or following installation, removal and proper disposal of the hazardous material will be the responsibility of the Supplier. Such materials include petroleum distillates in quantities exceeding one (1) gallon, organic solvents in any quantity, heavy metals including lead, mercury, cadmium, or zinc. Declaration of a material as hazardous shall remain the sole discretion of the Owner.

E-1. PUMP SPECIFICATION

The pumps required herein shall be Flygt CT3201.638 or equivalent. The specific hydraulic operating point required is 1500 gpm at 41' TDH. The pumps shall exhibit the following general characteristics:

Delivered operating voltage:	230V, 3 phase
Rotation speed:	1760 rpm
Maximum electrical input power:	25 kW
Length of supplied electrical cords:	15 feet
Impeller type:	2 vane, non clog
Discharge port diameter:	4" minimum
Warranty:	2 year, non prorated, parts and labor to repair.

E-2. ANCILLARY ITEMS

Spool pieces, adapters, flanges, and all other required ancillary items shall be of the same type and grade as those to be replaced. Where items are required and do not replace existing like function items, only those approved by the American Water Works Association shall be allowed.

In reference to the physical connection to the existing discharge manifold, only increasing diameter pipe components and valves will be allowed. If connection of the discharge flange of the pump to any existing discharge piping component would result in a reduction of pipe diameter that item shall be supplied for replacement under this specification.

Supplied bolts and like fasteners shall be ASTM grade 8.

The Supplier will be responsible for rectifying any alignment or connection issues with his supplied ancillary items. It is the intent of this specification that the Supplier provide whatever value added design services necessary for the Owner to easily install and connect the pumps to the existing suction and discharge manifolds.

E-3. STARTUP ASSISTANCE

The supplier shall allow a period on two calendar weeks for installation of the pumps. The calendar month will begin on the next business day following delivery. The Owner will notify the Supplier of its required startup date and keep the Supplier apprised of installation progress. It shall be the responsibility of the Supplier to accommodate the Owner's startup date within the installation period.

E-4. ACCEPTANCE

At a minimum, a verification that the supplied pumps are operating a point on the supplied pump curves. Electrical input shall be measured and compared against the empirically determined operating point to verify proper mechanical operation of the pump and motor system.

The Bidder understands the Owner reserves the right to reject any or all bids and to waive formalities deemed to be in the City's best interest.

Bidder agrees that this bid shall be good and may not be withdrawn for a period of sixty (60) calendar days after the scheduled closing time for receiving bids.

COMPANY NAME TENCARVA MACHINERY

CONTACT PERSON STEVE FRANKENBERGER

TITLE SALES ENGINEER

ADDRESS 1106 SHAVER ST.
SPRINGDALE, AR, 72762

TELEPHONE (479)872-8642 FAX(479) 929-9453

E-Mail SFRANKENBERGER@TENCARVA.COM

SIGNATURE: Steve Frankenberger

All inclusive bids must be submitted no later than Oct. 27th, 2004 at or before 2:30 PM, to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope marked "Bid 04-83 *Submersible Pumps*". Each bidder will be required to meet or exceed the specifications. Any deviation must be noted with specifications attached to bid. Questions should be directed to Stanley Williams OMI Construction Coordinator 1400 N. Fox Hunter Rd, Fayetteville, AR 72701. Phone: (479)443-3292, Fax (479)443-5613, Cell (479) 530-2074

TENCARVA
MACHINERY COMPANY
SERVING INDUSTRY SINCE 1978

Telephone
(479) 872-8642
Fax (479) 927-9453

Mailing Address
P.O. Box 6324
Springdale, AR 72766-0324

Shipping Address
1106 Shaver St.
Springdale, AR 72762

October 27, 2004

Purchasing Department
City of Fayetteville
Fayetteville, AR 72701

Subject: Submersible Pumps BID #04-83

Dear Purchasing Department:

We thank you for your interest in TENCARVA Machinery and the opportunity to submit this bid. For the application for City of Fayetteville, Armstrong Street Station we offer the following:

Two (2) Yeomans/Chicago Pump Company Model 2235 CP6154 Non-Clog Wet/Dry Pit Pumps Featuring:

- 8" inlet and 6" outlet
- Passes a 4" solid
- Cast Iron Casing and Impeller, Suction Cover, and suction elbow
- Fabricated Steel Pump Support, 25 HP Submersible Cast Iron Motor, 1180 rpm, 1.15 Service Factor, Thermal Protection (Winding Thermostats), 230/3phase/
- Jacketed cooling system utilizing isolated heat transfer fluid
- Permanently Lubricated Bearings designed for minimum 50,000 hours B-10 Life
- Moisture Detection sensors
- Class F insulation
- Tandem Mechanical Seals SC vs. SC lower/Hardened Stainless vs. Carbon Graphite Upper)
- 25 feet of Power cable
- Freight charges to first destination
- All necessary spool pieces, reducers and offsets, flanges, gaskets, bolts and nuts necessary to mate to your existing piping are included

Total Price for two pumps and accessories: $24,371

TENCARVA
MACHINERY COMPANY

(Submersible Pumps BID #04-83 page 2.)

Note 1: Items not included in this Bid: Control Panel, Installation, wiring and taxes.

Note 2: Pump warrantee requires an approved seal fail alarm circuit and over temperature shutdown for each pump.

FOB Aurora, IL freight included, Delivery 10 weeks

Option: Duplex Control Panel: Pump control/liquid level control provided within a NEMA 1 enclosure. Controls will include the following standard features: thermal-magnetic motor branch circuit breakers, across the line magnetic motor starters with overload protection on all phases, panel corrosion inhibitor, Tilt Float Switches, high water alarm circuit, lead pump/lag pump alternator, Seal fail alarm pump #1 and #2, elapsed time indicators, pump run lights, alarm silence switch, motor overload resetters, pump sequence selector switch, dry contacts wired to terminal blocks for high water alarm, and high pump temperature shutdown pump #1 and #2.

Total price for Control Panel option: $9,062

FOB Fayetteville, AR, Allow 4 weeks for Delivery

We appreciate your allowing us to bid this item and look forward to working with you in the future.

Sincerely,

Steve Frankenberger

Steve Frankenberger, P.E.
Tencarva Machinery

Tencarva Machinery

PUMP DATA SHEET

Chicago Pump, Aurora, IL

Selection list: Armstrong b .ufs

Search Criteria:
Flow: 1500 US gpm
Head: 41 ft
Tolerance: --- % of head

Fluid: Water
Temperature: 60 °F
SG: 1
Viscosity: 1.105 cP
Vapor pressure: 0.2563 psi a
Atm pressure: 14.7 psi a

NPSHa: — ft

Advanced Criteria:
Preferred Operating Area: ---
Secondary Operating Point: ---
Max temperature: --- °F
Max suction pressure: --- psi g
Max sphere size: --- in
Max power: --- bhp
Max suction specific speed: --- (Nss)
Min trim: --- % of max diameter
Min head rise: --- % to shutoff

Curve Corrections: none

Catalog: 2235 Subm Dry Pit Solids Handling 60Hz vers 1

Pump: CP6154
Type: 2235
Synch speed: 1200 rpm
Speed: 1160 rpm
Dia: 12.125 in
Curve no.: 40385

Specific Speeds
Ns: --- Nss: ---

Dimensions:
Suction: 8 in Discharge: 6 in

Pump Limits:
Temperature: 104 °F
Pressure: 115 psi g
Sphere size: 4 in
Power: --- bhp

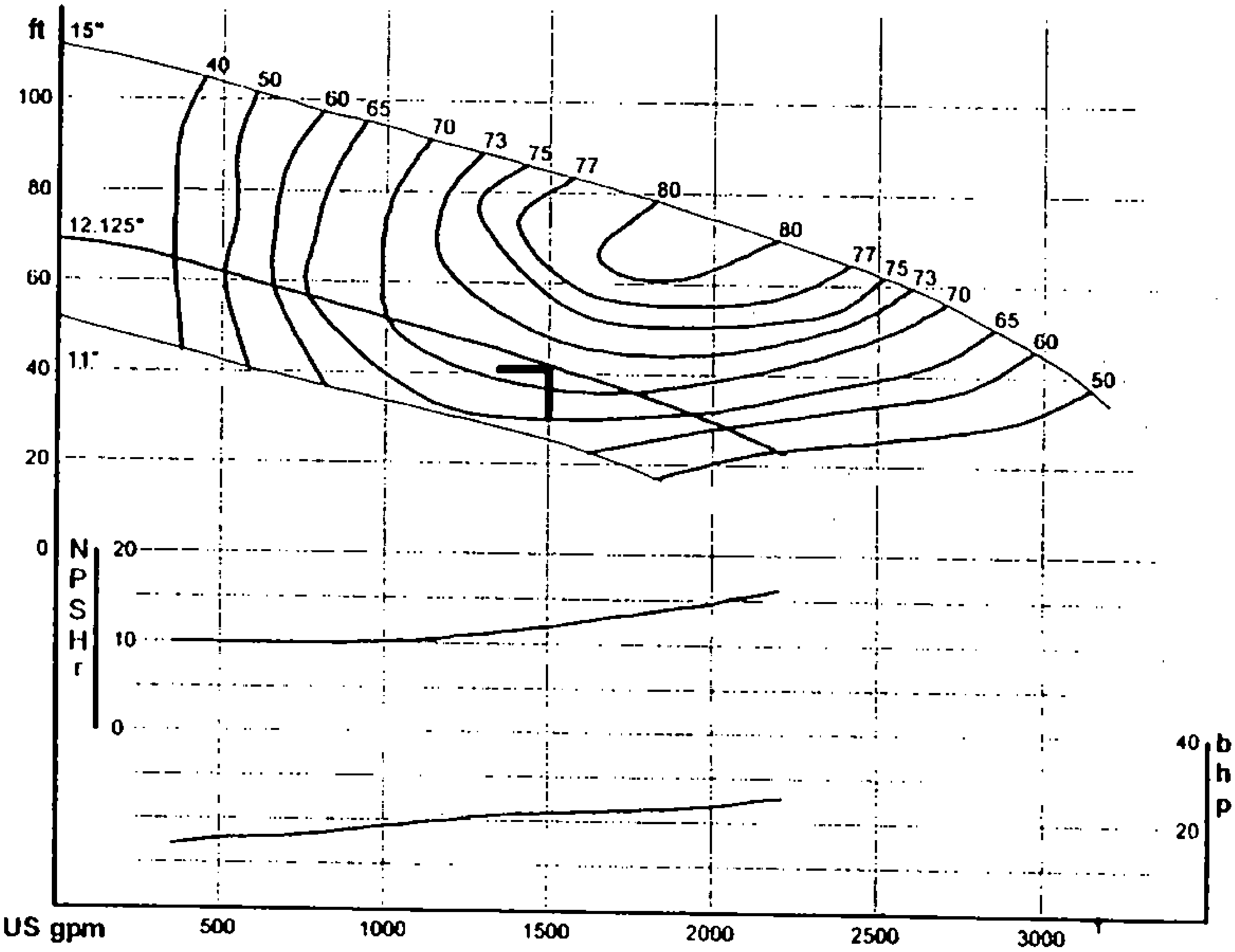
Motor: 25 hp
Speed: 1200
Frame: 320
Standard: YCC
Enclosure: TENV
Sizing criteria: sized by user

Checked By Stan Frankenberg

--- Data Point ---
Flow: 1500 US gpm
Head: 41.9 ft
Eff: 71%
Power: 22.1 bhp
NPSHr: 12.1 ft

-- Design Curve --
Shutoff Head: 69.2 ft
Shutoff dP: 29.9 psi
Min Flow: --- US gpm
BEP: 71% eff
@ 1395 US gpm

-- Max Curve --
Max Pwr: 60 bhp
@ 3198 US gpm



Pump note: FOR TEMP. ABOVE 104 DEG. F (40 DEG C) REFER TO FACTORY FOR ASSISTANCE.

PumpfinderPlus vers 7.1

Tencarva Machinery
City of Fayetteville
Armstron Lift Station

PUMP DATA SHEET

Chicago Pump, Aurora, IL

Selection list: ---

Catalog: 2235 Subm Dry Pit Solids Handling 60Hz vers 1

Pump: CP6154

formance Evaluation:

Flow US gpm	Speed rpm	Head ft	Pump %eff	Powe bhp	NPSHr ft	Moto %eff	Moto kW	Hrs/y	Cost /kWh
1800	1160	34.9	69	23	13.7				
1500	1160	41.9	71	22.1	12.1				
1200	1160	48.1	71	20.3	10.9				
900	1160	54.1	68	18	10.1				
600	1160	60	56	16.1	10				

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:

Date: 11/3/2004

P.O Number:

Expected Delivery Date:

Vendor #: 2264

Vendor Name: Toncarva Machinery Company

Mail Yes:__ No:__

Address: PO BOX 6324

Fob Point:

Taxable Yes:__ No:__

Quotes Attached Yes:__ No:__

City: Springdale

State: AR

Zip Code: 72766-0324

Ship to code: 95

Divison Head Approval:

Requester: David Loenneke

Requester's Employee #: OMI

Extension: 443-3292

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Model 2235 CP6154 Non-clog wet/dry pit pump	2	Each		$24,371.00	5400.5800.5414.00	02068.1		
2					$0.00				
3					$0.00				
4					$0.00				
5					$0.00				
6					$0.00				
7					$0.00				
8					$0.00				
9					$0.00				
10					$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

Please use RMT2 address

Subtotal:	$24,371.00
Tax:	$1,543.51
Total:	$25,914.51

Approvals:

Mayor: ____________

Department Director: ____________

Purchasing Manager: ____________

Finance & Internal Services Director: ____________

Budget Manager: ____________

IT Manager: ____________

Dispatch Manager: ____________

Utilities Manager: ____________

Other: ____________

Revised 6/1/03

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council Meeting of: November 16, 2004

FROM:

Greg Boettcher	Water & Wastewater	Wastewater Treatment Plant
Name	Division	Department

ACTION REQUIRED: Resolution authorizing purchase of replacement wastewater pumping equipment from Tencarva Machinery Company for Lift Station 14 at the Fayetteville Industrial Park and approves a Budget Adjustment transferring capital funds between accounts. The funds for this purchase will be secured from the Upgrade /Replace Lift Stations Account.

COST TO CITY:

$24,371.00	$ 205,374.00	Upgrade/Replace Lift Stations
Cost of this request	Category/Project Budget	Program Category / Project Name
5400-5800-5414-00	$ 112,033.02	Wastewater Treatment Improvements
Account Number	Funds Used to Date	Program / Project Category Name
	$ 93,340.98	Water & Sewer
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ___ Budgeted Item X Budget Adjustment Attached

Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager Date Internal Auditor Date

City Attorney 10-29-04 Date Purchasing Manager Date

STAFF RECOMMENDATION:

Division Head Date

Greg Boettcher 10-29-04
Department Director Date

Finance & Internal Services Dir. Date

Hugh Earnest 10-29-04
Chief Administrative Officer Date

Dan Coody 11/2/04
Mayor Date

Received in Mayor's Office Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

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

ENTERED 10/29/04

Fayetteville

City Council Meeting of November 16, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest
Chief Administrative Officer

From: Greg Boettcher
Water/Wastewater Director

Date: October 29, 2004

Subject: Resolution authorizing purchase of a skid-mounted portable emergency electric generator from Hugg & Hall for the Fayetteville Wastewater System.

RECOMMENDATION

Fayetteville City Administration recommends approval of a resolution authorizing the purchase of one skid-mounted portable electric generator from Hugg & Hall Construction and Industrial Equipment for $20,467.00. This purchase relates to the furnishing of a new skid-mounted electric generation unit to povide backup electric power for wastewater lift stations.

BACKGROUND

Fayetteville's wastewater system contains 35 pumping stations, with only the larger stations having backup emergency power onsite. During electric outages the remainder of the city's lift stations experience surcharging, backups and overflows as there is not an alternative source of electric power at these smaller facilities. As Fayetteville continues to improve the reliability and adequacy of wastewater system operations, the lack of emergency operating provisions at the small to medium lift stations must be considered a serious deficiency. The purchase, installation and maintenance of a large number of standby electric generators is also a concen, as these units have high initial costs with ongoing maintenance costs. The purchase of the portable generator will improve our ability to limit or mitigate these undesirable occurrences by installing the portable unit in a 1-ton truck (used unit from Fleet Services) and dispatching this self-contained unit to lift station(s) during power outages, using the portable unit to power the station(s) on a temporary or intermittent basis. This acquisition was included in the 2004 budget and did not proceed until the 1-ton truck was available for use.

DISCUSSION

This work was advertised with sealed bids being opened on October 27, 2004, the three bids being ranked in descending order as follows:

Evans Enterprises	$29,374.41
RP Power LLC	$22,640.00
Hugg and Hall	**$20,467.00**

Review of the bid finds the prices to be competitive and the expenditure justified, the equipment proposed by Hugg and Hall to meet the attached specificaitons . The funding for this activity will be secured from the 2004 capital account for Upgrade/Replace Lift Stations.

BUDGET IMPACT

The approval of the resolution will have no adverse budget impact; the wastewater treatment plant capital budget for 2004 enables completion of the proposed improvements.

RESOLUTION NO. ______

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) SKID-MOUNTED PORTABLE ELECTRIC GENERATOR FROM HUGG & HALL CONSTRUCTION AND INDUSTRIAL EQUIPMENT IN THE AMOUNT OF $20,467.00 TO PROVIDE BACK-UP POWER FOR WASTEWATER LIFT STATIONS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one (1) skid-mounted portable electric generator from Hugg & Hall Construction and Industrial Equipment in the amount of $20,467.00 to provide back-up power for wastewater lift stations.

PASSED and **APPROVED** this 16th day of November 2004.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

BID: [✓ FORMAL]
INFORMAL
VERBAL QUOTATION ☐

BID BOND [illegible]QUIRED YES ☐ NO ☐
PERFORMA[illegible] BOND REQUIRED YES ☐ NO ☐

CITY OF FAYETTEVILLE, AR
113 W. MOUNTAIN STREET
FAYETTEVILLE, ARKANSAS 72701

TABULATION OF BIDS

ROJECT ______
ESCRIPTION Portable Diesel Generator
F.O.B. ______
DATE OPENED 10/27/04 2:15 PM
BID NO. 04-83 PROJECT NO. ______

		ITEM	ITEM	ITEM	ITEM	ITEM	EXTENSION
BIDDER: RP Power LLC	UNIT/QUANT COST	22,640.00					
ADDRESS:	EXT. COST						
BIDDER: Evans	UNIT/QUANT COST	29,374.41					
ADDRESS: Enterprises	EXT. COST						
BIDDER: Hugg &	UNIT/QUANT COST	20,467.00					
ADDRESS: Hall	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						

BID AWARD SUMMARY:

ITEM ______ TO ______ P.O. # ______
ITEM ______ TO ______ P.O. # ______
ITEM ______ TO ______ P.O. # ______
ITEM ______ TO ______ P.O. # ______

DATE ______ CERTIFIED BY

REMARKS:

______
PURCHASING OFFICER

HUGG&HALL
Construction and Industrial Equipment

10/26/2004
JOHN IMPSON
SALES
REF. 04-1026

CITY OF FAYETTEVILLE
FAYETTEVILLE, AR
ATTN: PEGGY VICE

HUGG & HALL EQUIPMENT IS PLEASED TO OFFER THE FOLLOWING FOR YOUR CONSIDERATION.

REFERENCE: BID # 04-83 / PORTABLE DIESEL GENERATOR

ONE (1) NEW BALDOR MOBILE POWER GENERATOR
MODEL: TS80S
JOHN DEERE , TO4045T, 4 CYLINDER, 100 HP, DIESEL ENGINE
BRUSHLESS GENERATOR FOR LONG LIFE, LOW MAINTENANCE
3 POSITION RECONNECTION SWITCH FOR EASY VOLTAGE SELECTION
BALDOR CONTROL SYSTEM; ALL OPERATOR CONTROLS BEHIND ONE LOCKABLE DOOR
AUTOMATIC SAFETY SHUTDOWNS WITH INDICATOR LIGHTS
ILLUMINATED INSTRUMENTATION PANEL
HEAVY GAUGE STEEL SOUND ATTENUATED ENCLOSURE WITH MUFFLER
DURABLE POWDER COAT FINISH
LOCKABLE DOOR PANELS
** GENERAL VOLTAGES ~ EXCEED BID SPECIFICATIONS
** ROTATION SPEED @ 1800 RPM
** ENGINE ~ LIQUID COOLED
** GENERATED ELECTRICAL POWER ~ 60 Kw
** 80 GALLON FUEL CAPACITY
** 30 HOURS RUN TIME @ 50% LOAD
** 3,053 DRY SHIPPING WEIGHT
** 84" L x 38" W x 61" H
** WARRANTY: ONE (1) YEAR / 3000 HRS ~ LABOR ; THREE (3) YEARS / 3000 HRS ~ PARTS

PRICE: $ 20,467.00 DELIVERED, PLUS APPLICABLE SALES TAX
DELIVERY LEADTIME: 4 – 6 WEEKS

****

EXCEPTIONS TO BID SPECIFICATIONS:

1) WARRANTY IS NOT 2 YEARS, NON PRO-RATED, PARTS & LABOR TO REPAIR
COMPLETE WARRANTY CERTIFICATION INCLUDED ON PAGE 27 OF OPERATOR'S MANUAL

****

INSTALLATION PROCEDURES INCLUDED IN OPERATOR'S MANUAL. TECHNICAL SUPPORT CONTACT NAME & PH. NUMBER : WADE BLACK, BALDOR, 479-754-9108

****

START-UP ASSISTANCE: HUGG & HALL EQUIPMENT WILL PROVIDE START-UP ASSISTANCE AS REQUIRED & OUTLINED IN BID SPECIFICATION.

RESPECTFULLY,

JOHN IMPSON
HUGG & HALL EQUIPMENT

CITY OF FAYETTEVILLE

113 W. Mountain St.
Fayetteville, AR 72701
Bid # 04-83

INVITATION TO BID

DATE ISSUED: October 12, 2004

DATE & TIME OF OPENING: October 27, 2004 2:15 P.M.

BUYER: Peggy Vice, Purchasing Manager, Room 306 - (479) 575-8289

F.O.B. Fayetteville, AR

SPECIFICATION FOR PORTABLE DIESEL GENERATOR

I-1. INTRODUCTION

This specification concerns the supply of a industrial, skid mounted, standby rated diesel generator set.

I-2. DEFINITIONS

Wherever used in this specification, the following terms shall be understood to have the following definitions:

"Owner" shall mean the City of Fayetteville, Arkansas, or its authorized agent.

"Supplier" shall mean the individual, partnership, or corporation, whose bid to supply the items and work specified herein has been accepted by the Owner. "Supplier" shall also encompass any employee, partner, consultant, or subcontractor, to the winning bidder.

"Work" shall mean the furnishing of all necessary equipment, ancillary items, and services required herein.

I-3. OWNERSHIP AND DELIVERY OF SUPPLIED MATERIALS

Materials and equipment supplied under this specification shall remain the property of the Supplier until delivery to the Owner. All such material and equipment will only be accepted as a single delivery to the following address between the hours of 9:00AM and 3:30PM local time:

Paul R. Noland WWTF
1400 N. Foxhunter Road
Fayetteville, AR 72701.

Partial deliveries will not be accepted.

I-4. TERMS and CONDITIONS

The Owner's standard purchasing terms and conditions shall apply to the Work specified herein.

I-5. SCOPE of WORK and SERVICES

This specification concerns the supply of one (1) diesel generator. The unit is to be suitable for mounting on a trailer of flat-bed truck. Factory authorized startup assistance is also required under this specification. Physical and electrical installation of the generator set and all ancillary appurtenances will be the responsibility of the Owner. All submitted bids shall include the following submittal information:

A certification of the warranty and statement of extended warranty if the manufacturer's standard warranty is of less duration than that required herein,

A detailed list of items to be supplied under the bid,

A detailed set of installation instructions including a contact name and telephone number for technical support,

and a statement attesting to the intent to supply startup assistance.

I-6. DEMOLITION and CONSTRUCTION DEBRIS

Removal and proper disposal of all non-hazardous debris and discarded items shall be the responsibility of the Owner. Should the Supplier's equipment be delivered with any hazardous material which is discarded during or following installation, removal and proper disposal of the hazardous material will be the responsibility of the Supplier. Such materials include petroleum distillates in quantities exceeding one (1) gallon, organic solvents in any quantity, and heavy metals including lead, mercury, cadmium, or zinc. Declaration of a material as hazardous shall remain the sole discretion of the Owner.

E-1. GENERATOR SPECIFICATION

The generator required herein shall be a Baldor TS80S or equivalent. The generator shall exhibit the following general characteristics:

Generated voltages:	240V and 480V 3 phase 120V/240V single phase
Rotation speed:	1800 rpm
Engine cooling:	liquid
Generated electrical power:	60 kW
Minimum integral fuel capacity:	60 gallons
Maximum integral fuel capacity:	100 gallons
Minimum runtime on integral fuel tank:	14 hours @ 50% load
Maximum dry weight:	3200 lbs
Maximum length:	90 inches
Maximum width:	45 inches
Maximum height:	65 inches
Warranty:	2 year, non prorated, parts and labor to repair.

The delivered voltage services shall be selectable with a single control panel switch. The generator set shall be completely enclosed.

E-2. STARTUP ASSISTANCE

The supplier shall provide startup assistance necessary to guarantee the generator's correct installation. The Owner will notify the Supplier of its required startup date and keep the Supplier apprised of installation progress. It shall be the responsibility of the Supplier to accommodate the Owner's startup date within three working days.

The Bidder understands the Owner reserves the right to reject any or all bids and to waive formalities deemed to be in the City's best interest.

Bidder agrees that this bid shall be good and may not be withdrawn for a period of sixty (60) calendar days after the scheduled closing time for receiving bids.

COMPANY NAME Hugg + Hall Equipment

CONTACT PERSON John Impson

TITLE Territory Mgr.

ADDRESS 4078 W. Sunset Ave
Springdale, AR 72762

TELEPHONE 479-751-6610 FAX 479-750-1095

E-Mail johni@hugghall.com

SIGNATURE: John Impson

All inclusive bids must be submitted no later than Oct. 27th, 2004 at or before 2:15 PM, to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope marked *"Generator Set"* "Bid 04-83." Each bidder will be required to meet or exceed the specifications. Any deviation must be noted with specifications attached to bid. Questions should be directed to Stanley Williams OMI Construction Coordinator 1400 N. Fox Hunter Rd, Fayetteville, AR 72701. Phone: (479)443-3292, Fax (479)443-5613, Cell (479) 530-2074

BALDOR
GENERATORS

TS80T

Mobil Power
1800 RPM Diesel

Standby Power Ratings		
60HZ	kVA 81	kW 65
Continuous Power Ratings		
60HZ	kVA 75	kW 60

Made in USA
Generator available
with or without trailer

Baldor Mobile Power Generator Features

- Brushless generator for long life, low maintenance
- 3 position reconnection switch for easy voltage selection
- Voltage regulation 1/2%
- Baldor control system: All operator controls are located behind one lockable panel door
- Automatic safety shutdowns with indicator lights: low oil pressure, high water temp., engine overcrank, engine overspeed
- Industrial grade John Deere engine
- Illuminated instrumentation panel
- 50 or 60 Hertz Frequency
- Circuit Breaker - Main
- Circuit Breakers - Outlets
- Single point removable lifting eye
- 6 bolts to remove generator from trailer
- Generator available with trailer (TS80T) or without trailer (TS80S)
- Automatic start feature (with optional transfer switch)
- Lighted license plate bracket
- Premium grade DOT approved highway trailer featuring: torsion bar suspension (no more broken leaf springs), diamond plate aluminum fenders, leveling jack, running lights, surge brakes
- Heavy gauge steel sound attenuated enclosure with muffler
- Durable powder coat paint finish
- Lockable door panels
- Long run internal fuel tanks
- Warranty:
  - limited 3 year warranty
  - 1 year or 3000 hours parts and labor
  - 3 year or 3000 hours parts

Options

- Electronic governor
- Electric brakes
- Block heater
- Battery charger
- Ball hitch (Pintle hitch standard)
- Automatic transfer switches
- Generator without trailer

Generator Specifications

Standby Output 150° Rise kVA/kW:

Single phase voltage @ 240V	45/45
3 phase voltage @ 208V	72/58
3 phase voltage @ 240V	72/58
3 phase voltage @ 480V	81/65

Continuous Output 125° Rise kVA/kW:

Single phase voltage @ 240V	43/43
3 phase voltage @ 208V	69/55
3 phase voltage @ 240V	69/55
3 phase voltage @ 480V	75/60

Amperage (Continuous) kVA/kW:

Single phase amperage @ 240V/120V	179.2/358.3
3 phase amperage @ 208V	190.8
3 phase amperage @ 240V	165.4
3 phase amperage @ 480V	90.2
Voltage-3 phase adjustable	208/220/240/416/440/460/480
Voltage-Single phase adjustable	120/127/139/240/254/277
3 phase power factor	0.8
Voltage regulation	1/2%
Frequency	50 or 60 Hertz
Total harmonic distortion	<5%
Insulation	Class F

Engine Specifications

Manufacturer	John Deere
Model	TO4045T
Cylinders	4
Induction system	Turbocharged
Displacement, L (cu. in.)	4.5L (276)
HP @ rated speed	100.0
RPM	1800
Bore and stroke	4.19" x 5.0"
Lubrication capacity (with filter)	14 Qts
Battery recommendation min. (cold cranking amps)	900

- Battery rack and cable supplied (battery not included)
- Spin-on oil filter
- Thermostat controlled cooling system
- 12V engine alternator
- 12V starter motor

Receptacle Specifications

120 Volt 15 Amp GFCI	6
120/240 Volt CS6369 Twistlock	3
Two wire remote start capability	Yes

Fuel System Specifications

Fuel consumption (GPH):

1/2 load	2.7
Full load	4.9
Fuel	Diesel

Approximate run time (Hours):

1/2 load	30
Full load	16
Fuel Capacity (Gal.)	80

Weights and Dimensions

Weight without fuel	3848
Weight without fuel and without trailer	3053
Dimensions with trailer (L x W x H)	139" x 60" x 81"
Dimensions without trailer (L x W x H)	84" x 38" x 61"

Sound Level

Sound level dB(A) 7 meters, full load	67

Engine, Generator Instrumentation

Voltmeter, ammeter, frequency meter, phase selector switch, oil pressure gauge, water temperature gauge, battery voltmeter, start/stop/auto switch, voltage adjusting rheostat, elapsed time meter, individual fault shutdown lights, panel lights with switch, receptacle panel

Ratings: - **Standby Ratings:** Standby ratings are applicable for supplying emergency power for the duration of a utility power outage. Primary power to the installation is utility supplied. No overload capability for standby rating. Standby ratings in accordance with ISO 3046, BS5514, DIN 6271. **Continuous Power Rating:** Continuous power is the maximum power available for continuous duty. A 10% overload capacity is available for 1 hour out of 12 hours of operation. For additional information, please consult factory. Manufacturer reserves the right to implement specifications or design changes without notice. **WARNING:** Do not connect generator to any building's electrical system unless a disconnect switch has been installed.

Distributed by:

BALDOR
GENERATORS
3815 Oregon Street • Oshkosh, WI 54902
1-800-872-7697 • (920) 236-4200 • Fax (920) 236-4219

World Headquarters
Baldor Electric Company • P.O. Box 2400 • Fort Smith, AR 72902-2400 U.S.A.
Phone (479) 646-4711 • Fax (479) 648-5792 • International Fax (479) 648-5895
www.baldor.com

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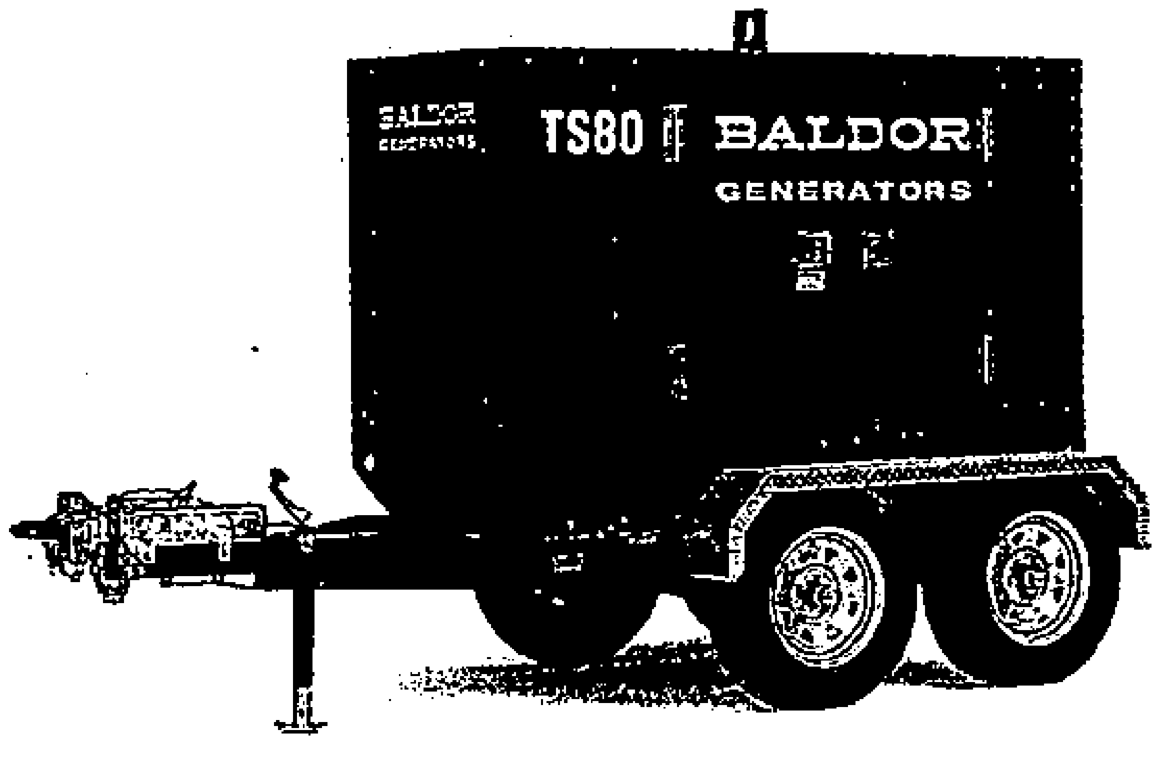


TS80T

Industrial Towable Generators

Applications

Industrial towable generators are designed and engineered for optimum performance and superior reliability. From the ultra quiet sound attenuated enclosures (64-71 dba) to the state-of-the-art electronics and controls, these units are engineered to meet the most rugged conditions. Place the unit at the job site, connect the load and start it up. These full-featured units are specially suited for all industrial, commercial and rental applications. Units can also be used with an automatic transfer switch for standby applications.

Features

- Available with or without the trailer.
- Available from 25KVA/20kW-175KVA/140 kW.
- Manual or Automatic Start – Automatic remote start is standard on all units. When connected to an automatic transfer switch, the unit becomes an emergency standby system.
- Voltage Selections – Three-position switch: 120/240 V, 1 and 3 phase Delta Connection; 120/208V, 3 ph Low Wye Connection and 277/480V, 3 ph Hi Wye Connection.
- Large Integral Fuel Tank – Stays with the unit eliminating messy interconnections between unit and trailer.
- Fuel Water Separators – Protects the engine from water and other contaminants.
- Lifting Eye – Single point removable lifting eye is standard.
- Cold Weather Starting Aids – Provides ease of starting in cold weather.
- Safety Features – Water temperature shutdown, low oil shutdown, overspeed shutdown, overcrank lockout.
- Full Featured Control Panel – Operator controls, metering, voltage reconnection switch, voltage regulator and receptacles are located behind one lockable control panel door.
- Extra Large Access Doors – Doors are lockable and have heavy-duty hinges and handles.
- World-class components backed by a world-wide network of parts and service.
- Battery included.

Industrial Standby (with or without trailer)

Catalog Number	KVA/kW @ 240V 1 Phase	KVA/kW @ 208/240 3 Phase	KVA/kW @ 480V 3 Phase	VAC 1 Phase	VAC 3 Phase	Engine	Fuel Capacity	List Price	Mult. Sym.	Approx. Shipping Weight
TS25S	18/18	25/20	25/20	120/240	208/240/480	Isuzu	50 Gal.	$19485	TG	1790
TS25T	18/18	25/20	25/20	120/240	208/240/480	Isuzu	50 Gal.	20795	TG	2265
TS45S	27/27	46/37	48/38	120/240	208/240/480	Isuzu	80 Gal.	26697	TG	2829
TS45T	27/27	46/37	48/38	120/240	208/240/480	Isuzu	80 Gal.	29691	TG	3540
TS80S	45/45	72/58	81/65	120/240	208/240/480	John Deere	80 Gal.	32177	TG	3053
TS80T	45/45	72/58	81/65	120/240	208/240/480	John Deere	80 Gal.	35241	TG	3848
TS130S	70/70	131/105	134/107	120/240	208/240/480	John Deere	160 Gal.	51371	TG	4610
TS130T	70/70	131/105	134/107	120/240	208/240/480	John Deere	160 Gal.	55119	TG	5600
TS175S	80/80	169/135	175/140	120/240	208/240/480	John Deere	160 Gal.	58645	TG	5205
TS175T	80/80	169/135	175/140	120/240	208/240/480	John Deere	160 Gal.	62389	TG	6200

NOTE: "S" suffix – denotes skid mount, no trailer; "T" suffix – denotes with trailer.

Baldor Towable Generators

Model	**TS25T / TS25S**	**TS45T / TS45S**	**TS80T / TS80S**	**TS130T / TS130S**	**TS175T / TS175S**
List Price	20795 / 19485	29691 / 26697	35241 / 32177	55119 / 51371	62389 / 58845
Engine	Isuzu	Isuzu	John Deere	John Deere	John Deere
Standby Output - 150°C Rise (KVA/kW)					
3 ph @ 480 Volt	25/20	48/38	81/65	134/107	175/140
3 ph @ 208/240 Volt	25/20	46/37	72/58	131/105	169/135
1 ph @ 240 Volt	18/18	27/27	45/45	70/70	80/80
Continuous Output - 125°C Rise (KVA/kW)					
3 ph @ 480 Volt	23/18	44/35	75/60	121/97	169/135
3 ph @ 208/240 Volt	23/18	44/35	69/55	119/95	156/125
1 ph @ 240 Volt	18/18	25/25	43/43	66/68	75/75
Voltage Selections					
Voltage - 3 ph Adjustable	208/220/240	208/220/240	208/220/240	208/220/240	208/220/240
	416/440/460/480	416/440/460/480	416/440/460/480	416/440/460/480	416/440/460/480
Voltage - 1 ph Adjustable	120/127/139	120/127/139	120/127/139	120/127/139	120/127/139
	240/254/277	240/254/277	240/254/277	240/254/277	240/254/277
3-Phase Power Factor	0.8	0.8	0.8	0.8	0.8
Voltage Regulation	1/2%	1/2%	1/2%	1/2%	1/2%
Frequency	50 or 60 Hz.	50 or 60 Hz.	50 or 60 Hz.	50 or 60 Hz.	50 or 60 Hz.
Total Harmonic Distortion	<5%	<5%	<5%	<5%	<5%
Insulation Material	Class F	Class F	Class F	Class F	Class F
Amperage (Continuous):					
3 ph 480 Volt	27.1	52.6	90.2	145.8	203.0
3 ph 208 Volt	62.5	121.4	190.8	329.6	433.7
3 ph 240 Volt	54.1	105.3	165.4	285.7	375.9
Single phase amperage @ 240V/120V	75.0/150.0	104.2/208.3	179.2/358.3	275/550	312.5/625.0
Engine Specifications					
Model	4LE	4BG1	T04045T	T06068	HG6081T
Cylinders	4	4	4	6	6
Induction System	Nat Aspirated	Nat Aspirated	Turbocharged	Turbocharged	Turbocharged
Displacement, Liter/Cu. In.	2.2L/133	4.3L/264.2	4.5/276	6.8L/414	8.1L/496
Hp @ Rated Speed	34.5	64	100	166	211
RPM	1800	1800	1800	1800	1800
Bore and Stroke	3.34"x3.78"	4.13"x4.92"	4.19"x5.0"	4.19"x5.0"	4.56"x5.06"
Oil capacity (with filter)	8.6 quarts	13.7 quarts	14 quarts	18 quarts	33 quarts
Cooling	Liquid	Liquid	Liquid	Liquid	Liquid
Battery recommendation (min cold cranking amps)	750	900	900	(2) 750	(2) 750
Battery, Rack and Cable Supplied					
Receptacle Specifications					
120 Volt 20 Amp GFCI	4	6	6	6	6
120/240 Volt 50 Amp CS6369 Twistlock	2	3	3	3	3
Two Wire Remote Start Capability	inc	Inc	Inc	inc	inc
Fuel System Specifications (Diesel)					
Fuel Consumption GPH – 1/2 load/(full load)	1.3/(2.0)	2.0/(3.4)	2.7/(4.9)	4.2/(8.1)	5.6/(10.5)
Approximate Run Time (Hours) 1/2 load/(full load)	38/(25)	40/(24)	30/(16)	38/(20)	29/(15)
Fuel Capacity (Ga.)	50	80	80	160	160
Sound Level dB(A) @ 7 meters, full load	64	67	67	71	71
Dimensions (LxWxH) w/trailer	131"x62"x70"	147"x60"x81"	147"x60"x81"	180"x66"x94"	180"x66"x94"
Dimensions (LxWxH) without/trailer	74"x38"x52"	84"x38"x61"	84"x38"x61"	108"x42"x74"	108"x42"x74"
Weight without Fuel	2265	3540	3848	5600	6200
Weight without Fuel and without Trailer	1790	2829	3053	4610	5205

NOTES: Engine, Generator Instrumentation (ALL) -- Voltmeter, ammeter, frequency meter, phase selector switch, oil pressure gauge, water temp gauge, battery voltmeter, start/stop/auto switch, voltage adjusting rheostat, hour meter, individual fault shutdown lights, panel lights with switch, receptacle panel.

Standby Rating: applicable for supplying emergency power for the duration of a utility power outage. Primary power to the installation is utility supplied. No overload capability for standby rating. Standby ratings in accordance with ISO 3046, BS5514, DIN 6271.

Continuous Power Rating: is the maximum power available for continuous duty. A 10% overload capacity is available for 1 hour out of 12 hours of operation. Manufacturer reserves the right to implement specifications or design changes without notice.

WARNING: Do not connect generator to any building's electrical system unless a disconnect switch has been installed.

BALDOR
GENERATORS

City Of Fayetteville

(Not a Purchase Order)

Requisition No. OMI 04-28

Date: 10/28/2004

P.O Number

Expected Delivery Date: 12/17/2004

Vendor #

Vendor Name: Hugg & Hall

Mail Yes:__ No:_X___

Address: 4078 W Sunset Ave

Fob Point: Fayettville,AR

Taxable Yes:_X_ No:____

Quotes Attached Yes:___X__ No:_____

City: Springdale

State: AR

Zip Code 72762

Ship to code: 95

Divison Head Approval:

Requester: David Loenneke

Requester's Employee # OMI

Extension: 443-3292

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
	Baldor TS80S Electric Generator	1	ea	20,647.00	$20,647.00	5400.5801.5414.00	02068		
6									
7									
8									
9									
10									
	Shipping/Handling		Lot						

Special Instructions:

Per bid # 04-83

Subtotal:	$20,647.00
Tax:	$1,320.07
Total:	$21,967.07

Approvals:

Mayor: ____________________

Department Director:

Purchasing Manager: ____________________

Finance & Internal Services Director: ____________________

Budget Manager: ____________________

IT Manager: ____________________

Dispatch Manager: ____________________

Utilities Manager: ____________________

Other: ____________________

HUGG & HALL
Construction and Industrial Equipment

10/26/2004
JOHN IMPSON
SALES
REF. 04-1026

CITY OF FAYETTEVILLE
FAYETTEVILLE, AR
ATTN: PEGGY VICE

HUGG & HALL EQUIPMENT IS PLEASED TO OFFER THE FOLLOWING FOR YOUR CONSIDERATION.

REFERENCE: BID # 04-83 / PORTABLE DIESEL GENERATOR

ONE (1) NEW BALDOR MOBILE POWER GENERATOR
MODEL: TS80S
JOHN DEERE, TO4045T, 4 CYLINDER, 100 HP, DIESEL ENGINE
BRUSHLESS GENERATOR FOR LONG LIFE, LOW MAINTENANCE
3 POSITION RECONNECTION SWITCH FOR EASY VOLTAGE SELECTION
BALDOR CONTROL SYSTEM; ALL OPERATOR CONTROLS BEHIND ONE LOCKABLE DOOR
AUTOMATIC SAFETY SHUTDOWNS WITH INDICATOR LIGHTS
ILLUMINATED INSTRUMENTATION PANEL
HEAVY GAUGE STEEL SOUND ATTENUATED ENCLOSURE WITH MUFFLER
DURABLE POWDER COAT FINISH
LOCKABLE DOOR PANELS
** GENERAL VOLTAGES ~ EXCEED BID SPECIFICATIONS
** ROTATION SPEED @ 1800 RPM
** ENGINE ~ LIQUID COOLED
** GENERATED ELECTRICAL POWER ~ 60 Kw
** 80 GALLON FUEL CAPACITY
** 30 HOURS RUN TIME @ 50% LOAD
** 3,053 DRY SHIPPING WEIGHT
** 84" L x 38" W x 61" H
** WARRANTY: ONE (1) YEAR / 3000 HRS ~ LABOR ; THREE (3) YEARS / 3000 HRS ~ PARTS

PRICE: $ 20,467.00 DELIVERED, PLUS APPLICABLE SALES TAX
DELIVERY LEADTIME: 4 – 6 WEEKS

****

EXCEPTIONS TO BID SPECIFICATIONS:

1) WARRANTY IS NOT 2 YEARS, NON PRO-RATED, PARTS & LABOR TO REPAIR
COMPLETE WARRANTY CERTIFICATION INCLUDED ON PAGE 27 OF OPERATOR'S MANUAL

****

INSTALLATION PROCEDURES INCLUDED IN OPERATOR'S MANUAL. TECHNICAL SUPPORT CONTACT NAME & PH. NUMBER : WADE BLACK, BALDOR, 479-754-9108

****

START-UP ASSISTANCE: HUGG & HALL EQUIPMENT WILL PROVIDE START-UP ASSISTANCE AS REQUIRED & OUTLINED IN BID SPECIFICATION.

RESPECTFULLY,

JOHN IMPSON
HUGG & HALL EQUIPMENT

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: November 16, 2004

FROM:

Greg Boettcher	Water & Wastewater	Wastewater Treatment Plant
Name	Division	Department

ACTION REQUIRED: Fayetteville City Administration recommends approval of a resolution authorizing the purchase of one skid-mounted portable electric generator from Hugg & Hall Construction and Industrial Equipment for $20,467.00. This purchase relates to the furnishing of a new skid-mounted electric generation unit to povide backup electric power for wastewater lift stations.

COST TO CITY:

$20,467.00	$ 205,374.00	Upgrade/Replace Lift Stations
Cost of this request	Category/Project Budget	Program Category / Project Name
5400-5800-5414-00	$ 112,033.02	Wastewater Treatment Improvements
Account Number	Funds Used to Date	Program / Project Category Name
	$ 93,340.98	Water & Sewer
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ____ Budgeted Item X Budget Adjustment Attached

Budget Manager ____ Date ____

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager	Date	Internal Auditor	Date
D. P. Whit	10/29/04		
City Attorney	Date	Purchasing Manager	Date

STAFF RECOMMENDATION:

Division Head	Date
Greg Boettcher	10-29-04
Department Director	Date
Finance & Internal Services Dir.	Date
Hugh Earnest	10-31-04
Chief Administrative Officer	Date
Dan Coody	10/29/04
Mayor	Date

Received in Mayor's Office ____ Date

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

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

Staff Review Form - Page 2

10-29-04 P03:44 IN

ENTERED 10-29-04
AW

City Council Agenda Item

To: Mayor and City Council

From: Gary Dumas

Date: October 29th, 2004

Subject: A Resolution Approving Budget Adjustments For Solid Waste Motor Pool

---

Recommendation: Approve resolution to allow Solid Waste and Recycling to utilize funds in the Compost Row Turner CIP to cover expenses in fleet motor pool, replacement and overhead charges.

Background: A new Compost Row Turner was recently purchased to replace older inadequate equipment. This was a specific Capital Improvement Project which was initially budgeted but not purchased in 2003. The new equipment is more complex and expensive than the original composting equipment and as a result has a greater Motor Pool related expense. Since the new equipment was initially budgeted for purchase in 2003, but then not authorized, the Motor Pool and related expenses were not included in the 2004 budget. When the City Council initially authorized the equipment to be purchased earlier this year, that authorization should have included a transfer from the CIP account to an operational account for the additional Motor Pool related expenses which would be incurred for the remainder of the year. These charges will be included in the operating budget for 2005. The following expense will be incurred for 2004: Motor pool -- $16,175; Replacement charges-- $39,920; and Shop Overhead -- $489.

Discussion: This action will authorize the use of funds for appropriate Motor Pool and related charges for this equipment. This authorization should have been a part of the initial authorization to purchase the equipment.

Budget Impact: No financial impact.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT TRANSFERRING $57,000.00 FROM THE VEHICLES AND EQUIPMENT ACCOUNT, OF WHICH $17,080.00 IS TO BE TRANSFERRED TO THE MOTOR POOL ACCOUNT, AND $39,920.00 IS TO BE TRANSFERRED TO THE REPLACEMENT CHARGES ACCOUNT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment transferring $57,000.00 from the Vehicles and Equipment Account, of which $17,080.00 is to be transferred to the Motor Pool Account, and $39,920.00 is to be transferred to the Replacement Charges Account.

PASSED and **APPROVED** this 16th day of November, 2004.

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year 2004	Department: Operations Division: Solid Waste & Recycling Program: Composting	Date Requested 10/26/2004	Adjustment Number

Project or Item Requested:

$17,080 is requested in Motor Pool and $39,920 in Replacement Charges.

Project or Item Deleted:

None.

Justification of this Increase:

Authorization should have been a part of initial Council purchase authorization

Justification of this Decrease:

The equipment has been received and paid for. 2004 motor pool related expenses should have been a part of this initial Council authorization of 2003 CIP project

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Motor pool charges	5500	5070	5331	00	17,080		
Replacement charges	5500	5070	5331	01	39,920		

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	5500	5070	5802	00	57,000	04021	1

Approval Signatures

Requested By ____ Date ____

Budget Manager ____ Date 10/26/04

Department Director ____ Date 10-26-04

Finance & Internal Services Director ____ Date ____

Mayor Dan Coody Date 10/29/04

Budget Office Use Only

Type: A B C [✓ D] E

Date of Approval ____ Initial ____ Date

Posted to General Ledger ____ Initial ____ Date

Posted to Project Accounting ____ Initial ____ Date

Entered in Category Log ____ Initial ____ Date

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 16th, 2004

FROM:

Brian Pugh	Solid Waste and Recycling	Operations
Name	Division	Department

ACTION REQUIRED: A Resolution Approving Budget Adjustments For Solid Waste Motor Pool

SUMMARY EXPLANATION:

Request to provide authorization to utilize Compost Row Turner CIP funds for assocated motor pool related expenses

STAFF RECOMMENDATION:

Division Head ______ Date ______

City Attorney ______ Date 10/27/04

Department Director ______ Date 10-26-04

Finance & Internal Services Dir. ______ Date ______

Chief Administrative Officer ______ Date 10-28-04

Mayor ______ Date 10/29/04

Received in Mayor's Office 10/27/04 Date

Cross Reference:

Previous Ord/Res#: ______

Orig. Contract Date: ______

Orig. Contract Number: ______

New Item: Yes No

ENTERED 10/26/04

City Council Meeting of August 17, 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 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.

Tabled to Nov. 16, 2004 Mtg
8/17/04

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:

<u>Section 1</u>: 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.

<u>Section 2</u>: 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.

<u>Section 3</u>: 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.

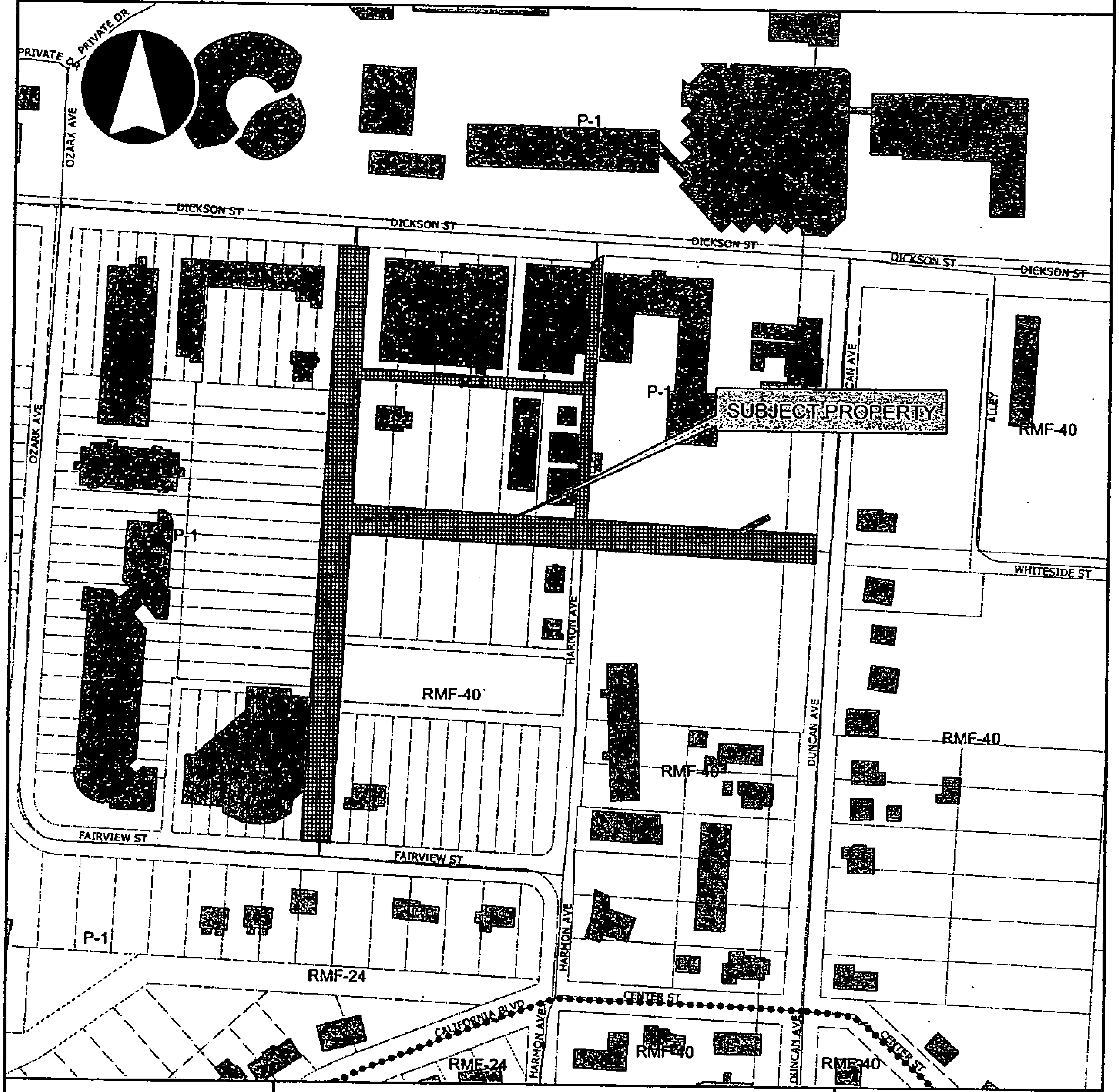
ALSO:

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.

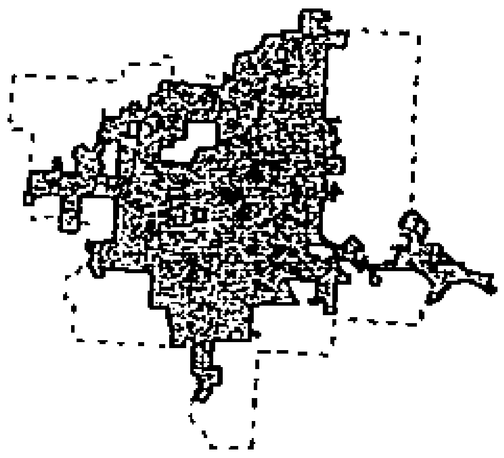
VAC04-1136

Close Up View

U OF A PARKING GARAGE



Overview



Legend

ooooo 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 less. 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.

Exhibit "C" 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

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 "C" page 2 of 2

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.

Exhibit "D" page 1 of 2

University of Arkansas, Fayetteville
General Utility Easement
Dickson to Fairview Streets
Page 2 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

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

GWEN WARD
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.

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

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

GWEN WARD
My Commission Exp. 03/19/2008

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

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 "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.

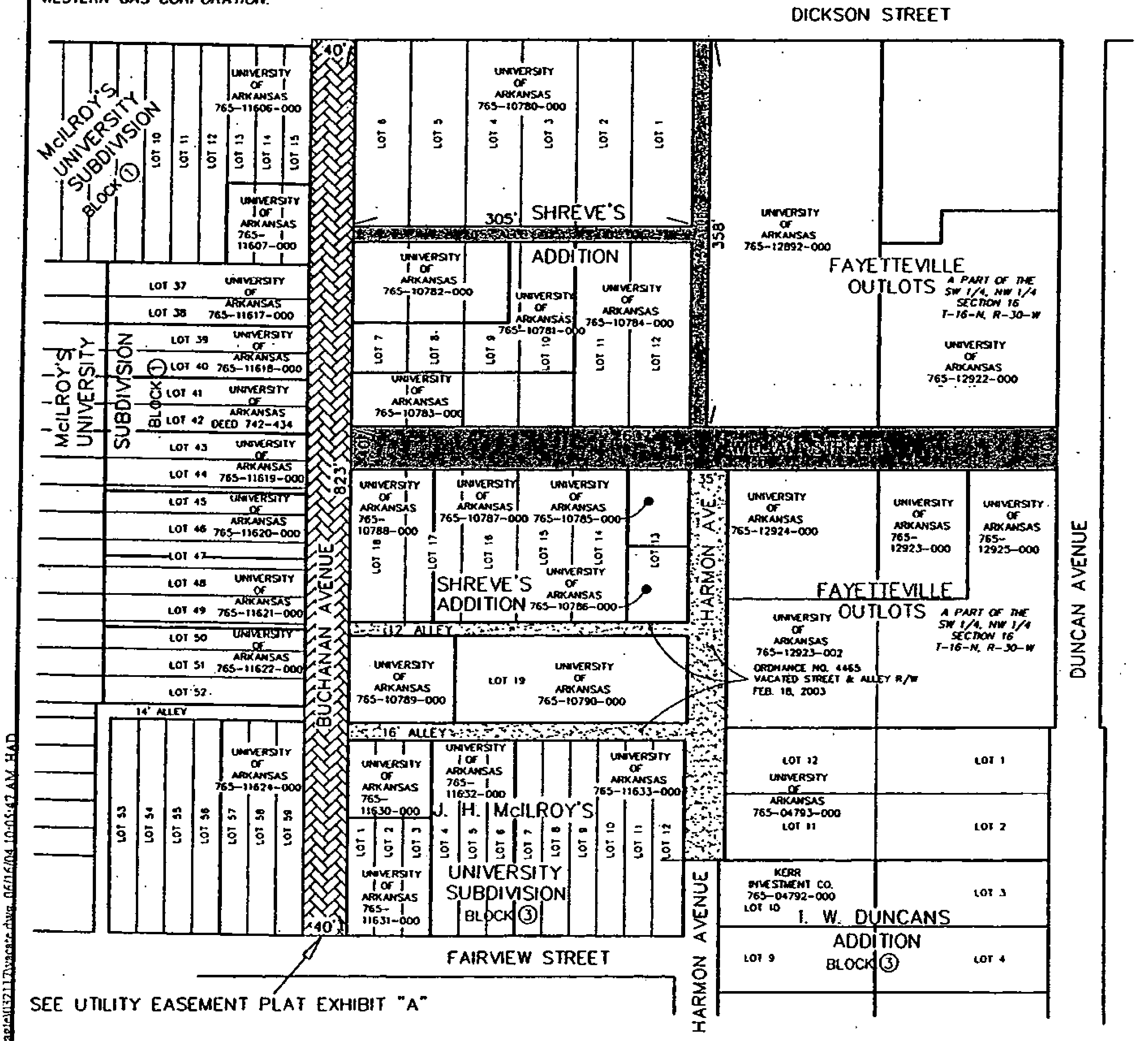
ALSO:
EIGHT HUNDRED TWENTY THREE FEET OF BUCHANAN AVENUE MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL OF BUCHANAN AVENUE LYING SOUTH OF DICKSON STREET AND NORTH OF FAIRVIEW STREET.

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'

1" = 140'

BASIS OF BEARINGS:
CITY OF FAYETTEVILLE
GPS COORDINATE
SYSTEM

GENERAL UTILITY EASEMENT DESCRIPTION

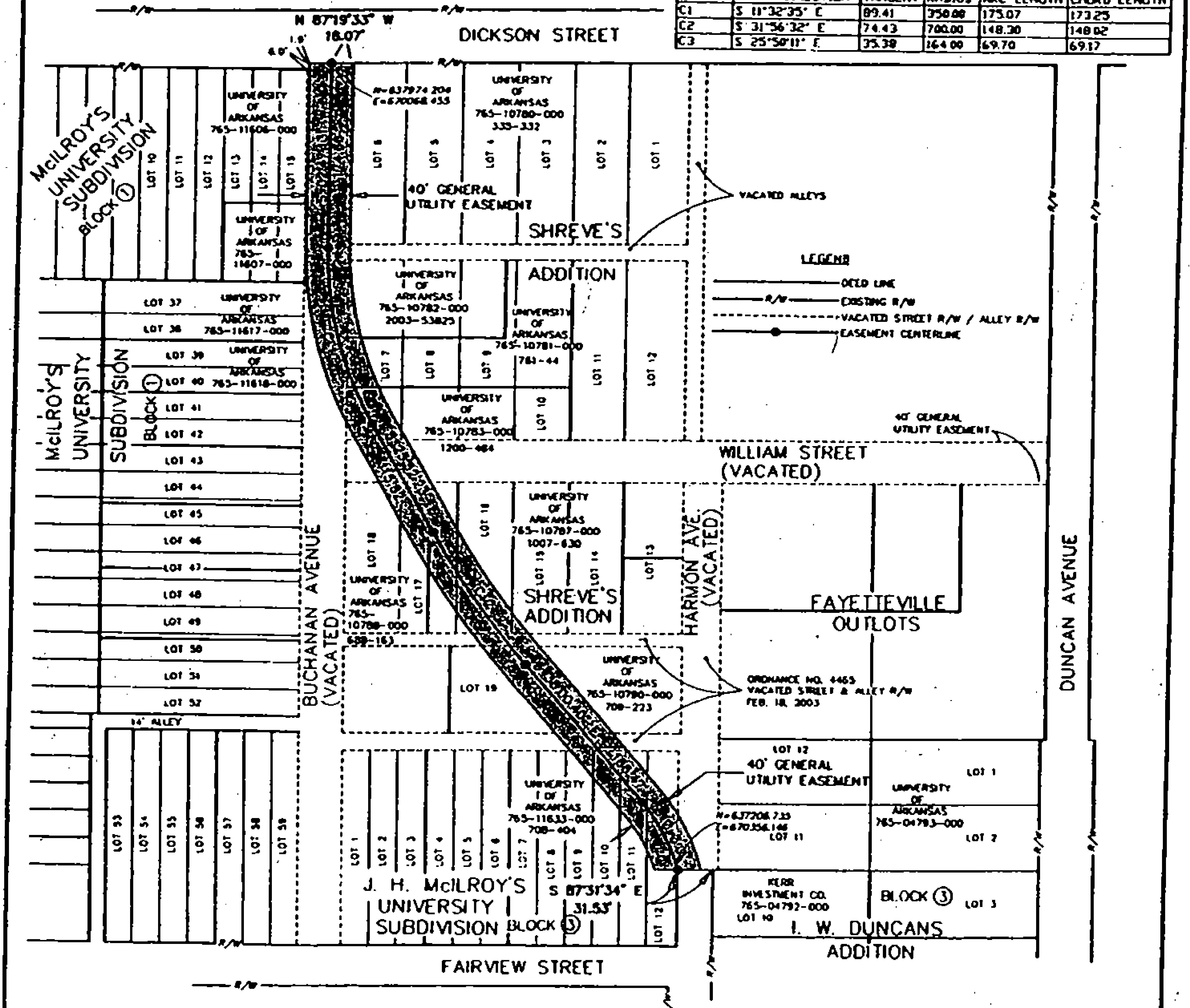
A part of Shreve's Addition and Block 3 of J.H. McIlroy's University Subdivision to the City of Fayetteville as described in Deed Records 335-332, 2003-53825, 761-44, 1200-484, 688-163, 1007-630, 709-223, and 708-404 of the Records of the Circuit Clerk, Washington County, Arkansas.

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.

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	35.38	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

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

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:

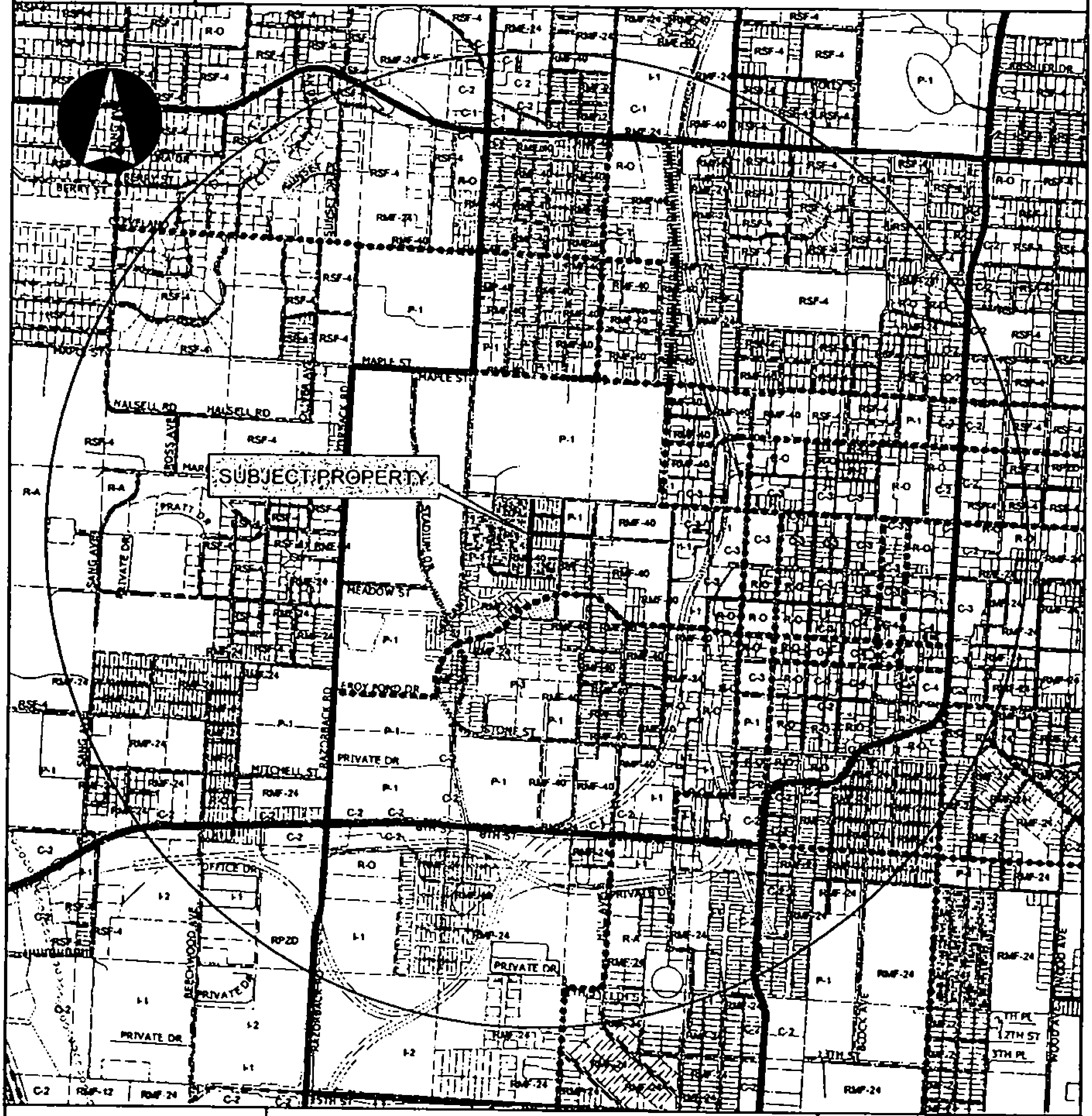
> An easement 20 feet of equal and uniform width, the centerline of said easement beginning at a point on the South right-of-way line of Dickson Street and 3.7 feet Westerly of the Northwest corner of Lot 6 of said Shreve's Addition; thence S2°50'W along an existing overhead electrical utility line a 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.

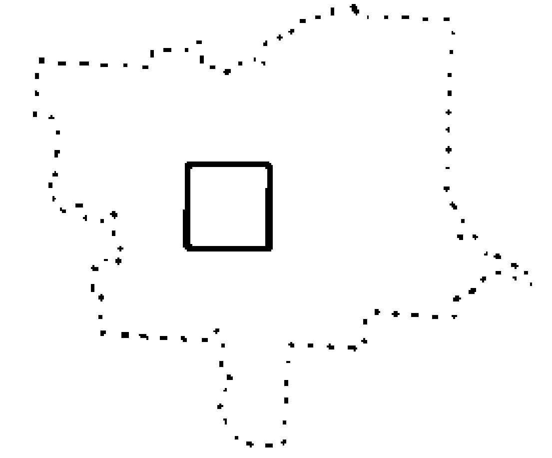
VAC04-1136

One Mile View

U OF A PARKING GARAGE



Overview



Legend

Subject Property

▦ VAC04-1136

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

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 7/30/04
Division Head Date

Received in Mayor's Office 8/2/04
Date P.H.

8/2/04 (as modified)
City Attorney Date

Department Director Date

Finance & Internal Services Dir. Date

Hugh Earnest 8-3-04
Chief Administrative Officer Date

Dan Coody 8/3/04
Mayor Date

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

New Item: Yes No

ENTERED 7-30-04

New Business #3

8/17/04 VAC 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 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:

Stanley E Reed
By: Stanley E. Reed
Title: Vice Chairman

Jane Rogers
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.

Tiffany L Smith
NOTARY PUBLIC

My Commission Expires: 9/12/2013

Tiffany L. Smith
County Of Pulaski
Notary Public - Arkansas
My Commission Exp. 09/12/2013

Tabled until November 16, 2004

8/17/04 Cx 3 U of A Parking Garage
UAC 04-1136
8/17/04

MARTIN
ALEXIOU
BRYSON

TRANSPORTATION PLANNING
TRAFFIC ENGINEERING

2414 WYCLIFF ROAD
SUITE 101
RALEIGH, NORTH CAROLINA, 27607
PHONE: 919-881-1243
FAX: 919-881-8081

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

G. Al

George Alexiou, PE, Principal

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:

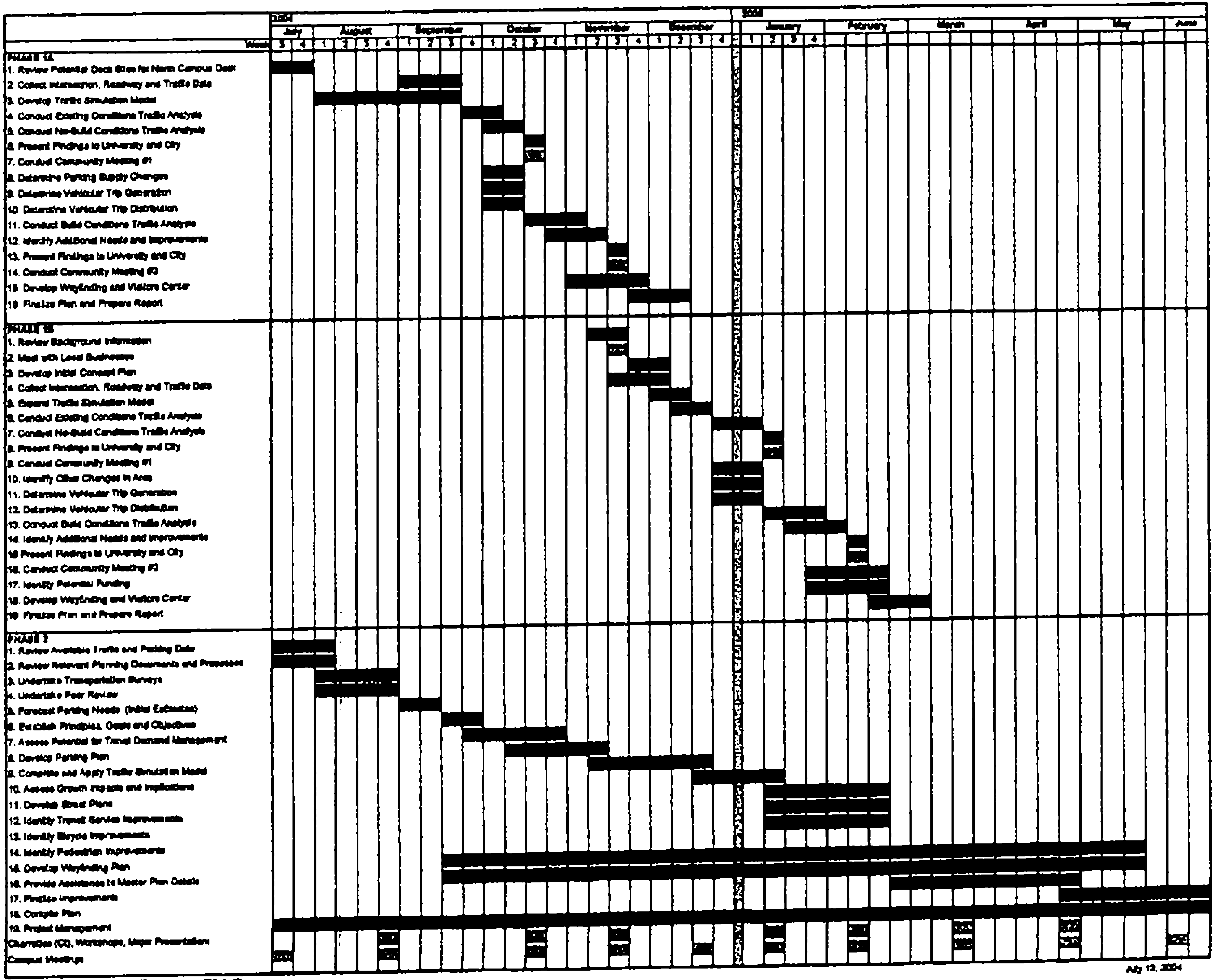
- The timeline assumes a certain process and schedule for the Campus Master Plan update. This timeline is very flexible, and any necessary adjustments can be made to ensure the two studies are complementary.

- 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

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*** vs 441
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*** vs [illegible]

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	Sn. 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	80	0	60	12	292
Campus Meetings	80	32	60	0	24	12	208
Subtotal	672	564	472	260	306	64	3316

Transportation Plan	2,338
Wayfinding Plan	978

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

City Council Meeting – October 5, 2004

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor
Hugh Earnest, Chief Administrative Officer

FROM: Stephen Davis, Finance & Internal Services Director

DATE: September 10, 2004

Subject: **1851 East Huntsville Road (Justice Center, Public Safety Complex and Fire Station 3)**

Summary

Staff requests City Council approval of an offer and acceptance document with Tyson Company for property located at 1851 East Huntsville Road. The property is to be used for a Justice Center consisting of facilities for District Court and City Prosecutor; a Public Safety Complex consisting of new facilities (renovations to the existing building) for the Police Department including Central Dispatch, Fire Administration, Fire Training, Fire Prevention and Fire Station 3.

Next Steps

After the purchase of the facility is completed several actions will be initiated:

1. Improvements to the intersection of Happy Hollow and Huntsville Road will proceed to the bidding process.
2. A professional selection committee will be assembled to review the statement of qualifications for architectural services from architectural firms with experience in justice centers and public safety complexes.
3. The funding program for the construction activities planned for 2005 (exterior renovations for the entire building and construction of Fire Station 3).

Budget Impact

The purchase of the building is funded with the exception of closing cost and the appraisal cost of $4,000. Closing cost is expected to be less than $10,000. The first phase of the renovation expenditures will be incorporated in 2005 budget funded with proceeds from an Amendment 78 Bond Issue utilizing a portion of the county sales tax for debt service.

J:\Facilities\Justice Center\Agenda Memo Approval of Offer and Acceptance for 1851 East Huntsville_Oct 5 Council meeting.doc

Tabled to 11/16/04 CC mtg
on 10/5/04

RESOLUTION NO. ______

A RESOLUTION APPROVING AN OFFER AND ACCEPTANCE CONTRACT BETWEEN THE CITY OF FAYETTEVILLE AND TYSON FOODS, INC. FOR THE PURCHASE OF PROPERTY LOCATED AT 1851 EAST HUNTSVILLE ROAD IN THE AMOUNT OF $1,100,000.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $4,000.00 TO COVER APPRAISAL AND CLOSING COSTS.

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 an Offer and Acceptance contract between the City of Fayetteville and Tyson Foods, Inc. for the purchase of property located at 1851 East Huntsville Road in the amount of $1,100,000.00. A copy of the contract marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of $4,000.00 to cover appraisal and closing costs.

PASSED AND APPROVED this 5th day of October 2004.

APPROVED:

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year		Date Requested	Adjustment Number
2004	Department: General Government Division: Miscellaneous Program: Miscellaneous	10/5/2004	

Project or Item Requested:	Project or Item Deleted:
$4,000 is requested in the land acquisition account.	None. Use of fund balance is proposed.

Justification of this Increase:	Justification of this Decrease:
Funds will be used for the purchase of the Tyson Complex for use as a joint public safety command center.	There is sufficient funding remaining to comply with City policies.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Land acquisition	4470	9470	5805	00	4,000	04008	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	4470	0947	4999	99	4,000		

Approval Signatures

Requested By	Date
Budget Manager	9-13-07 Date
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C [✓ D] E

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

OFFER AND ACCEPTANCE CONTRACT

1. The **City of Fayetteville, Arkansas,** a municipal corporation, offers to buy, subject to the terms and conditions set forth herein, the following described property:

   Parcel No. 765-15227-000 (Deed Book 1093 at Page 857)

   Part of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) of Section 23, Township 16 North of Range 30 West of Fifth (5th) Principal Meridian, Washington County, Arkansas, more particularly described as follows, to-wit: Beginning at a point on the east right of way of Highway 16 by-pass which is 10.00 feet East and N 00° 25' 00" E 200.00 feet from the SW corner of said NE¼ of NW¼ of Section 23, T-16-N, R-30-W; thence along said right of way N 00° 25' 00" E 40.00 feet, thence leaving said right of way East 90.00 feet, thence N 00° 25' 00" E 160.00 feet, thence West 90.00 feet to the East right of way of Highway 16 by-pass, thence along said right of way N 00° 25' 00" E 538.00 feet, thence N 69° 30' 00" E 114.00 feet to the intersection of the southerly right of way of Highway 16, thence along said right of way S 67° 54' 59" E 87.83 feet, thence S 70° 00' 00" E 233.00 feet, thence S 75° 31' 47" E 244.56 feet to the intersection of the West right of way of Ray Avenue, thence along said right of way S 01° 42' 54" W 294.69 feet, thence S 01° 00' 10" E 330.27 feet, thence leaving said right of way West 150.00 feet, thence South 179.30 feet to an existing fence line, thence along said fence line West 257.70 feet, thence leaving said fence line N 00° 25' 00" E 200.00 feet, thence West 240.00 feet to the Point of Beginning, Containing 11.16 acres, more or less, subject to right of way and easements of record.

   (Also known as 1851 E. Huntsville Road, Fayetteville, Arkansas, and includes land, all buildings, and accoutrements.) NOTE: The above description does not include Parcels Numbered 765-15240-000 and 765-15205-000, together amounting to 0.33± acres, which are intended to be part of this transaction.

2. **Purchase Price:** Subject to the following conditions, the City of Fayetteville shall pay for the property at closing, the total and cash payment of **$1,100,000.00**.

3. **Contingent Earnest Money Deposit:** The City of Fayetteville herewith tenders a check for **$11,000.00 to Tyson Foods, Inc.** (seller), as earnest money, which shall apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the City of Fayetteville by Tyson Foods, Inc. If title requirements are not fulfilled or Tyson Foods, Inc. fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the City of Fayetteville. If the City of Fayetteville fails to fulfill their obligations under this contract or, after all conditions have been met, the City of Fayetteville fails to close this transaction, the earnest money may, at the option of Tyson Foods, Inc., become liquidated damages to Tyson Foods, Inc.

4. Conveyance will be made to the City of Fayetteville by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by Tyson Foods, Inc.

5. Tyson Foods Inc. shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. Tyson Foods, Inc. shall pay for the cost of the title insurance.

6. Tyson Foods, Inc. agrees to allow the City of Fayetteville, if the City of Fayetteville so desires, at City of Fayetteville's expense, to survey the property. Tyson Foods, Inc. agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.

7. Taxes and special assessments due on or before closing shall be paid by Tyson Foods, Inc. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.

8. The closing date shall be within ninety (90) days after approval of this offer by the City Council, or January 31, 2005, whichever occurs first. If such date of closing falls on a weekend or holiday, it will be held the following working day.

9. Possession of the property shall be delivered to the City of Fayetteville on the date of closing.

OFFER AND ACCEPTANCE CONTRACT

1. The **City of Fayetteville, Arkansas**, a municipal corporation, offers to buy, subject to the terms and conditions set forth herein, the following described property:

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   (Also known as 1851 E. Huntsville Road, Fayetteville, Arkansas, and includes land, all buildings, and accoutrements.) NOTE: The above description does not include Parcels Numbered 765-15204-000 and 765-15205-000, together amounting to 0.33± acres, which are intended to be part of this transaction.

2. **Purchase Price**: Subject to the following conditions, the City of Fayetteville shall pay for the property at closing, the total and cash payment of **$1,100,000.00**.

3. **Contingent Earnest Money Deposit**: The City of Fayetteville herewith tenders a check for **$11,000.00** to **Tyson Foods, Inc.** (seller), as earnest money, which shall apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the City of Fayetteville by Tyson Foods, Inc. If title requirements are not fulfilled or Tyson Foods, Inc. fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the City of Fayetteville. If the City of Fayetteville fails to fulfill their obligations under this contract or, after all conditions have been met, the City of Fayetteville fails to close this transaction, the earnest money may, at the option of Tyson Foods, Inc., become liquidated damages to Tyson Foods, Inc.

4. Conveyance will be made to the City of Fayetteville by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by Tyson Foods, Inc.

5. Tyson Foods Inc. shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. Tyson Foods, Inc. shall pay for the cost of the title insurance.

6. Tyson Foods, Inc. agrees to allow the City of Fayetteville, if the City of Fayetteville so desires, at City of Fayetteville's expense, to survey the property. Tyson Foods, Inc. agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.

7. Taxes and special assessments due on or before closing shall be paid by Tyson Foods, Inc. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.

8. The closing date shall be within ninety (90) days after approval of this offer by the City Council, or January 31, 2005, whichever occurs first. If such date of closing falls on a weekend or holiday, it will be held the following working day.

9. Possession of the property shall be delivered to the City of Fayetteville on the date of closing.

10. Tyson Foods, Inc. hereby grants permission for the City of Fayetteville or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.

11. All fixtures, improvements and attached equipment are included in the purchase price.

12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by Tyson Foods, Inc.

13. Tyson Foods, Inc. shall rectify and remedy any conditions arising from the presence of asbestos and/or underground fuel storage tanks. Tyson Foods, Inc. shall pay all costs of any testing for existence of and all costs for removal of said asbestos and underground fuel storage tanks. Determination of the conditions must be complete prior to closing.

14. Tyson Foods, Inc. shall disclose to the City of Fayetteville any and all environmental hazards of which Tyson Foods, Inc. has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, the City of Fayetteville and Tyson Foods, Inc. shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Tyson Foods, Inc. shall cure such, at their expense; or, in the alternative, at the City of Fayetteville's discretion, the City of Fayetteville may cure such environmental hazard, and Tyson Foods, Inc. shall indemnify the City of Fayetteville for all costs associated with said cure.

15. The City of Fayetteville will name a mutually defined space after Tyson Foods, Inc.

16. This agreement shall be governed by the laws of the State of Arkansas.

17. This agreement, when executed by both the City of Fayetteville and Tyson Foods, Inc. shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.

18. This contract expires, if not accepted by Tyson Foods, Inc. on or before the 1st day of October, 2004.

19. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within sixty (60) days of acceptance by Tyson Foods, Inc.

20. **NOTICE:** **THE CITY OF FAYETTEVILLE ASSERTS AND TYSON FOODS, INC. HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO CITY OF FAYETTEVILLE OF THE $11,000.00 EARNEST MONEY DEPOSIT.**

TYSON FOODS, INC.

______________________________ Date: ______________

____
[Please print or type Name and Title]

______________________________ Date: ______________

____
[Please print or type Name and Title]

Agent or Witness:

______________________________ Date: ______________

CITY OF FAYETTEVILLE, ARKANSAS,
A MUNICIPAL CORPORATION

Dan Coody
Dan Coody, Mayor Date: 9/10/04

Sondra Smith
Sondra Smith, City Clerk Date: 9/10/04

ACKNOWLEDGMENT

STATE OF ARKANSAS
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared ______________________ and ______________________, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are ____________________ and ____________________, respectively, of **Tyson Foods, Inc.** and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said Tyson Foods, Inc., and further stated and acknowledged that he/she/they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this ______ day of _________________, 2004.

____
Notary Public

MY COMMISSION EXPIRES:

____

ACKNOWLEDGMENT

STATE OF ARKANSAS
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody** and **Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor** and **City Clerk** of the **City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

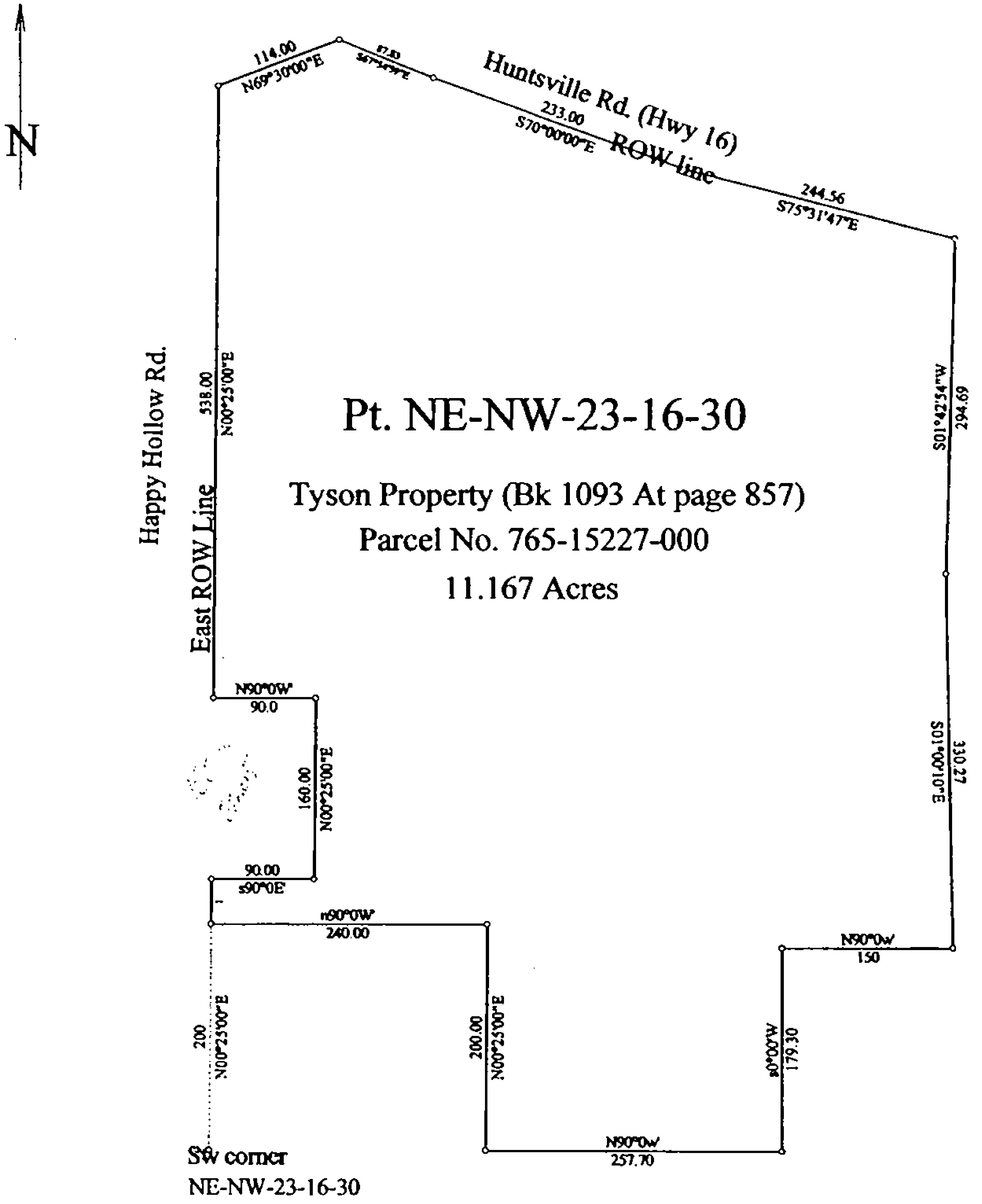
WITNESS my hand and seal on this 10th day of September, 2004.

Cheryl Whillock
Notary Public

MY COMMISSION EXPIRES:

6-22-2014

CHERYL WHILLOCK
My Commission Expires 6-22-2014



Title: Tyson Foods Property: Huntsville Rd. and Happy Hollow Rd.	Date: 07-06-2004
Scale: 1 inch = 130 feet	File:

RESOLUTION NO. 111-04

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

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

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

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

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

APPROVED:

By: Dan Coody

DAN COODY, Mayor

ATTEST:

By: Sondra Smith

SONDRA SMITH, City Clerk

STAFF REVIEW FORM

XX AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council Meeting of: **October 5, 2004**

FROM:

Stephen Davis	Finance & Internal Services Div.	Finance & Internal Services
Name	Division	Department

ACTION REQUIRED: City Council approval of an Offer and Acceptance with Tyson Company in the amount of $1,100,000 and naming of a mutually agreed upon portion of the facility in recognition of Tyson Company for 1851 East Huntsville Road consisting of 11.16 ± and 126,000 square foot building and accoutrements (parcel numbers 765-15227-000, 765-15204-000 and 765-15205-000).

COST TO CITY:

# $1,089,000.00	$ 1,100,000.00	Joint Public Safety Command Center
Cost of this request $11,000 earnest money already paid.		Program Category / Project Name
4470-9470-5805-00	$ 15,000.00	
Account Number	Funds Used to Date	Program / Project Category Name
04008-1	$ 1,085,000.00	Sales Tax Capital Imp. Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: XX Budgeted Item X Budget Adjustment Attached

	9-13-04
Budget Manager	Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing	9/13/04	Nancy Smith	9/13/04
Accounting Manager	Date	Internal Auditor	Date
D.P. White	9/13/04	P Vice	9/13/04
City Attorney	Date	Purchasing Manager	Date

STAFF RECOMMENDATION: Approval of resolution.

9/14/04
PA.

Division Head	Date
Department Director	Date
Steph Davis	9-10-04
Finance & Internal Services Dir.	Date
Hugh Earnest	9-14-04
Chief Administrative Officer	Date
Dan Coody	9/15/04
Mayor	Date

Cross Reference

New Item: Yes No

Previous Ord/Res#: 111-04

Orig. Contract Date ______

Orig. Contract Number ______

ENTERED
9/10/05

J:\Facilities\Justice Center\Staff_Review Justice Center_Public Safety Complex Purchase

C. 2.
Tyson Foods, Inc
Offer & Acceptance

REPORT ON FACILITY AT 1851 EAST HUNTSVILLE ROAD

CITY OF FAYETTEVILLE

Finance and Internal Services Department

June 17, 2004

Tabled to 11/16/04 CC mtg
on 10/5/04

The City of Fayetteville has the opportunity to consider the purchase of over 126,000 square feet of existing space on 11.8 acres of land on Huntsville Road. This report will discuss several salient issues regarding this consideration. The report examines possible uses for the space, a comparison of the cost of retrofitting existing space for use of an additional fire station (verses building a new structure), a comprehensive review of the costs associated with renovation and maintaining this facility, and potential phasing options regarding the space.

CITY USE OF THE FACILITY

Perhaps the most compelling case for the potential use of the space concerns the construction of a Justice Center. This need has been identified by City Staff, and there seems to be a consensus of agreement for the concept of the consolidation of the Public Safety Divisions.

The needs of the Police Department and the Dispatch Operation have been projected into the year 2020 as approximately 48,000 square feet of space. In addition, the Police Department has identified a need for a training area and a storage facility for evidence. Training areas for Police and Fire Fighters may be consolidated. The requirement for training space would then be 10,000 square feet, and evidence storage would be another 10,000 square feet. The Fire Department Administration and the Fire Marshals will need about 4,500 square feet.

The District Court's need for space has been projected to be about 5,000 square feet (for the year 2020). The City Prosecutor will require around 2,500. To these needs should be added common spaces that would be required in a Justice Center to facilitate the communication activities of the public service divisions of the City Government.

It is projected that a Justice Center could require 80,000 square feet of floor space (or more) to adequately address the needs of such an operation. Other possibilities are considered that are adjunct to the public safety divisions, such as an indoor firing range.

Fire Station Construction Needs

The City's Fire Department has identified the pressing need for the construction of a fire station in the immediate area of the considered site. If this site is purchased by the City, a new fire station could well be constructed there. In addition to an advantageous site for a fire station, a savings could well be realized, were the facility to be located in the Tyson Complex.

Stand-alone versus renovated space comparison can commence with an examination of the costs associated with Fire Station Seven, currently being constructed on the west side of Fayetteville. One significant cost is the land purchase. Fire Station Seven is being built on a two acre site. Comparable land on Huntsville Road recently sold for $115,000 per acre. If space in the existing complex, can be utilized for this project (the replacement of Fire Station Three), a savings of $230,000 can be realized immediately.

Fire Station Seven Project was bid in the early part of 2004. The cost of the construction contract with VHE Construction Company is $1,300,900 for the 7,730 square foot building. The square foot cost of the construction contact is $168 per foot. Several more items must be added to the cost of the contract and the land cost if the true picture of the expenditure is to be placed in context. These costs include equipment costs, contingency fund, design fees, and "other costs" ($15,000 for communications systems and $10,000 for telephone and data). The furnishings can be expected to cost about $25,000. The fire fighting equipment can cost $1,320,000. Annual operating costs for a fire station are about $650,000 per year. With all of these issues considered, total costs (including land acquisitions, professional fees, construction costs and the cost of bringing data fiber to the facility, equipment purchase, and first year operating costs) are approximately $4,000,000. The prospect of using space in an existing facility could save about $70 per square foot ($541,100) plus the cost of land ($230,000) for an initial cost avoidance of about $771,000, or 19.2 percent.

The costs of renovation and upkeep of the Tyson Complex

The cost of the renovation of the Tyson Complex would involve several cost centers. Initially there would be costs associated with the demolition of several of the structures which are adjacent to the main building. These include an assortment of steel tanks, silo type structures and the like. This initial cost is estimated in the neighborhood of $75,000. Work would be needed for the hardscape of the complex, including items such as curb and gutter and other improvements for the parking spaces. This is estimated to be about $85,000. The exterior of the building would be in need of a rework on the exterior walls into an attractive facade, probably on the north and west faces. This cost is estimated to be about $90,000.

On the interior of the building would be the District Court's operation of 5,000 square feet. The cost of this space would be relatively expensive, considering the security, technology and finishes needed for an adequate courtroom. This space could probably be accomplished for $140 per square foot considering the shell space would be existing. The cost would then be $700,000. The remaining area of the initial 80,000 square feet to be occupied should cost about $75 per foot (or $5,850,000). That would leave 46,000 square feet of unoccupied space in the complex for future use. This remaining space could be renovated at $75 per foot (in 2004 dollars): $3,450,000.

Several other costs would be borne by such a renovation effort. A design fee would be negotiated with an architectural firm. In this type project, the contingency fee would need to approach ten percent of construction costs. Other costs would be incurred such as advertising and reimbursable expenses ($25,000 to $50,000), and moving costs (up to $100,000). These costs would then total about $12,600,000.

Several costs would be incurred each year for the upkeep of the renovated facility. The utilities are estimated at about $175,000 (2004 dollars) annually. The janitorial staff for the upkeep of the facility could be accomplished initially (assuming 80,000 square feet of occupied space) with two full-time employees. Salary and fringe costs would be around $32,000. Equipment and supplies cost would be $14,850. One maintenance worker would be needed (salary and fringe = $45,000, tools and materials = $15,600). An additional cost would be the building's insurance, which would be $15,100. The total upkeep cost each year would run about $300,000 in 2004 dollars (refer to the Table).

Table

Annual on-going operations (in 2004 dollars)
Assuming a build-out of 80,000 square feet

Fire fighters	$650,000

Maintenance Worker	$45,000
Janitorial	32,000
Utilities	175,000
Supplies and Materials	30,450
Insurance	15,100
Miscellaneous	2,450
	$300,000

Phasing

The construction, move-in, and annual costs could all be managed by a phasing plan. One likely scenario would be for Fire Station Three to be constructed initially, training and evidence facilities second, then the Prosecutor and Police areas. Finally, the District Court would be moved. This being the case, the full impact of costs of renovation and up-keep would not be sustained at once, but would rather be realized more slowly, perhaps over a period of four to five years.

From the date of purchase, the design and construction of Fire Station Three would take about ten months. Design work for the remaining phases could be ongoing. If that be the case, the training and evidence facilities could well be completed in another nine months. The Prosecutor and Police Facilities would take longer to complete, about one year. The court would also take approximately one year. If different Contractors were used to complete these areas, it would not be advisable to have more that one company on site at any given time. Perhaps one Contractor could do the entire package, or at least more than one segment. This would be a design issue. The goal of utilizing the 80,000 square feet could be reached over a multi-year period. When the useful purposes for the remaining floor space were identified, this construction could take an additional year to finish.

The phasing of the costs would then be:

Year One (2005)

Building Purchase	$1,500,000
Demolition	75,000
Hardscape improvements	85,000
Exterior Renovation	90,000
Common Facilities	1,690,000
Fire Station Three	842,000
Architectural Fee	253,000
Contingency	421,450
Total	$4,956,450

Year Two (2006)

Fire Administration and Fire Marshals	$338,000
Fire and Police Training	750,000
Police Evidence	750,000
Architect Fees	259,000
Contingency	183,800
Total	$2,280,800

Year Three (2007)

Police and Central Dispatch	$3,600,000
Architectural fee	360,000
Contingency	360,000
Total	$ 4,320,000

Year Four (2008)

District Court	700,000
City Prosecutor	187,500
Architectural fee	88,000
Contingency	88,750
Total	$1,064,250

Grand total (over four years): $12,621,500

Alternatives to the Tyson Complex

Alternatives to locating the Justice Center and Fire Station Three at 1851 Huntsville Road include establishing a building site for the Justice Center in close proximity to the City Administration Building and finding an additional site for the Fire Station in the southeast area of the city. In the case of the Justice Center, demolition of existing buildings to make way for the project would be one alternative.

When the county completes its new jail project, it is within the realm of possibility that municipal jail needs will be shifted to that facility. Because the City's Police Department Building would not be very adaptable for another use, it might indeed be a likely candidate to be razed and the resulting site reused for another (multi-storied) facility. Costs associated with a project of this nature can be projected. Razing the existing structure and building a three-story building of 80,000 square feet could cost in excess of $11,000,000 (2004 dollars).

A complication of this approach is the fact that the Police, Prosecutor, and District Court operations would have to be relocated during demolition and construction, a period of 18 months to two years. "Swing space" would have to be identified and adapted into space suitable for these specialized uses. The idea of leasing such swing space would be an expensive proposition; in the neighborhood of $640,000 per year.

Other sites have been recommended for consideration for the location of a Justice Center. These locations include a site on the University's Experimental Farm on Hwy 112 adjacent to I 540. Another possible site is the present home of the City's Water and Sewer Operations Facility on Cato Springs Road. The Water and Sewer Division will relocate early in 2005 when its new Operations Center is completed in the Industrial Park.

City of Fayetteville, Arkansas
Construction and Operating Cost Comparison
Fire Station Three & Five and Public Safety Complex
Summary

06/24/04

Capital Investment - Mexican Original Location Impact	2004-2008 Capital Improvement Program	Predicted Cost Impact Using the Mexican Original Site	Cost Increase or (Avoidance)
Joint Public Safety Complex	$ 16,000,000	$ 10,443,000	$ (5,557,000)
Fire Station Three with Equipment	$ 1,870,000	$ 2,162,000	$ 292,000
Fire Station Five	$ 1,400,000	$ 1,850,000	$ 450,000
Total Predicted Cost and/or Additional Cost or (Cost Avoidance)	$ 19,270,000	$ 14,455,000	$ (4,815,000)
Other Cost Avoidance Potential:			
Huntsville @ Happy Hollow Intersection Improvement Right-of-Way Purchase			included in above
Total Cost (Avoidance) over 2004 Predicted Cost			$ (4,815,000)

Operating Cost Increase - Fire Station Three, Fire Station Five and Public Safety Complex - Phase-In Proposal - Mexican Original Impact	**Year**	**Fire Station Three**	**Fire Station Five**	**Public Safety Complex**	**Predicted Change**
Firefighters and Operating Expenses	2006	$ 683,000	$ 0	$	$ 683,000
Insurance	2006			15,100	15,100
Utilities	2006			50,000	50,000
Janitorial	2006			16,000	16,000
Maintenance Worker	2006			45,000	45,000
Supplies and Materials	2006			30,450	30,450
Total Predicted Impact for 2006		$ 683,000	$ 0	$ 156,550	$ 839,550
Firefighters and Operating Expenses	2007	$ 717,000	$ 0	$	$ 717,000
Insurance	2007			15,100	15,100
Utilities	2007			75,000	75,000
Janitorial	2007			17,000	17,000
Maintenance Worker	2007			47,000	47,000
Supplies and Materials	2007			30,450	30,450
Total Predicted Impact for 2007		$ 717,000	$ 0	$ 184,550	$ 901,550
Firefighters and Operating Expenses	2008	$ 753,000	$ 0	$	$ 753,000
Insurance	2008			15,100	15,100
Utilities	2008			150,000	150,000
Janitorial	2008			18,000	18,000
Maintenance Worker	2008			49,000	49,000
Supplies and Materials	2008			15,500	15,500
Total Predicted Impact for 2008		$ 753,000	$ 0	$ 247,600	$ 1,000,600
Firefighters and Operating Expenses	2009	$ 791,000	$ 0	$	$ 791,000
Insurance	2009			15,100	15,100
Utilities	2009			175,000	175,000
Janitorial	2009			19,000	19,000
Maintenance Worker	2009			51,000	51,000
Supplies and Materials	2009			15,500	15,500
Total Predicted Impact for 2009		$ 791,000	$ 0	$ 275,600	$ 1,066,600

City of Fayetteville, Arkansas
Construction and Operating Cost Comparison
Fire Station Three & Five and Public Safety Complex
Public Safety Complex Alternative Locations

Summary

Green Field Development Capital Investment - Alternative Location(s) Impact	2004-2008 Capital Improvement Program	Predicted Average Cost Impact for All Locations Except Mexican Original Site	Cost Increase or (Avoidance)
Joint Public Safety Complex	$ 16,000,000	$ 17,136,000	$ 1,136,000
Fire Station Three with Equipment	$ 1,870,000	$ 3,170,000	$ 1,300,000
Fire Station Five	$ 1,400,000	$ 1,850,000	$ 450,000
Total Predicted Cost and/or Additional Cost or (Cost Avoidance)	$ 19,270,000	$ 22,156,000	$ 2,886,000
Other Cost Increase Potential:			
Huntsville @ Happy Hollow Intersection Improvement Right-of-Way Purchase			100,000
Total Cost Increase(Avoidance) over 2004 Predicted Cost			$ 2,986,000

Operating Cost Increase - Fire Station Three, Fire Station Five and Public Safety Complex - Phase- Year In Proposal - Alternative Location Impact		**Fire Station Three**	**Fire Station Five**	**Public Safety Complex**	**Predicted Change**
Firefighters and Operating Expenses	2006	$ 683,000	$ 0	$	$ 683,000
Insurance	2006			15,100	15,100
Utilities	2006			75,000	75,000
Janitorial	2006			16,000	16,000
Maintenance Worker	2006			45,000	45,000
Supplies and Materials	2006			30,450	30,450
Total Predicted Impact for 2006		$ 683,000	$ 0	$ 181,550	$ 864,550
Firefighters and Operating Expenses	2007	$ 717,000	$ 0	$	$ 717,000
Insurance	2007			15,100	15,100
Utilities	2007			150,000	150,000
Janitorial	2007			17,000	17,000
Maintenance Worker	2007			47,000	47,000
Supplies and Materials	2007			30,450	30,450
Total Predicted Impact for 2007		$ 717,000	$ 0	$ 259,550	$ 976,550
Firefighters and Operating Expenses	2008	$ 753,000	$ 0	$	$ 753,000
Insurance	2008			15,100	15,100
Utilities	2008			175,000	175,000
Janitorial	2008			18,000	18,000
Maintenance Worker	2008			49,000	49,000
Supplies and Materials	2008			15,500	15,500
Total Predicted Impact for 2008		$ 753,000	$ 0	$ 272,600	$ 1,025,600
Firefighters and Operating Expenses	2009	$ 791,000	$ 0	$	$ 791,000
Insurance	2009			15,100	15,100
Utilities	2009			175,000	175,000
Janitorial	2009			19,000	19,000
Maintenance Worker	2009			51,000	51,000
Supplies and Materials	2009			15,500	15,500
Total Predicted Impact for 2009		$ 791,000	$ 0	$ 275,600	$ 1,066,600

City of Fayetteville, Arkansas
Construction and Operating Cost Comparison
Fire Station Three & Five and Public Safety Complex
Public Safety Complex Alternative Locations

Location	Mexican Original Location Cost Increase (Avoidance) Impact	Alternative Location Cost Increase (Avoidance) Impact	Difference Between Mexican Original and Alternative Locations - Increased or (Avoided) Cost
Joint Public Safety Complex	(5,557,000)	1,136,000	(6,693,000)
Fire Station Three with Equipment	292,000	1,300,000	(1,008,000)
Fire Station Five	450,000	450,000	0
Total Predicted Increased Cost (Cost Avoidance)	(4,815,000)	2,886,000	(7,701,000)
Other Cost Avoidance Potential:			
Huntsville @ Happy Hollow Intersection Improvement Right-of-Way Purchase	included in above	100,000	(100,000)
Total Cost (Avoidance) over 2004 Predicted Cost	(4,815,000)	2,986,000	(7,801,000)

	A	B	C	D	E	F	G	H	I	J
1	City of Fayetteville, Arkansas									
2	Construction and Operating Cost Comparison									
3	Public Safety Complex									
5	06/21/04									
6	**Work-In-Progress - Subject to Change**									
7										
8	Proposed Location (s) - Public Safety Complex		Rock Street		Cato Springs		HWY 112 @ I-540		Mexican Original	
9										
10	**Building**									
11	Demolition of Existing Facilites	$	500,000	$	0	$	0	$	75,000	
12	Costruction/Renovation of New/Additional Facilites - Public Safety Complex		13,440,000		13,440,000		13,440,000		6,325,000	
13	Exterior Treatment - Mexican Original		0		0		0		175,000	
14	Architectural Fees		1,115,000		1,115,000		1,115,000		650,000	
15	Contingency		1,115,000		1,075,000		1,075,000		764,000	
16	Temporary Operating Space		650,000		0		0		0	
17										
18	Building Cost (Predicted based on 2004 Values)		16,820,000		15,630,000		15,630,000		7,989,000	
19										
20	**Land Purchase**									
21	Public Safety Complex		0		0		500,000		1,500,000	
22										
23	Land Cost (Predicted based on 2004 Values)		0		0		500,000		1,500,000	
24										
25	**Other Capital Expenses**									
26	Fiber Optic Connection To City Admin Building (Predicted based on 2004 Values)		0		207,000		248,000		217,000	
27	Fiber Optic Connection To County Jail (Predicted based on 2004 Values)		199,000		74,000		199,000		137,000	
28	Furnishings & Equipment (Budget Amount only)		500,000		500,000		500,000		500,000	
29	Moving Cost and Other Costs		200,000		100,000		100,000		100,000	
30										
31	Total Other Capital Expenses		899,000		881,000		1,047,000		954,000	
32										
33	Predicted Cost Based on 2004 Values	$	17,719,000	$	16,511,000	$	17,177,000	$	10,443,000	
34										
35	**Mexican Original Cost Avoidance over Average cost of Other Locations**							$	**(6,693,000)**	
36										
37	**Fire Station Three**									
38	Construction/Renovation (2004 Cost)		1,620,000		1,620,000		1,620,000		842,000	
39	Fire Apparatus		1,320,000		1,320,000		1,320,000		1,320,000	
40	Land		230,000		230,000		230,000		0	
41										
42	Total	$	3,170,000	$	3,170,000	$	3,170,000	$	2,162,000	
43										
44	**Mexican Original Cost Avoidance over Average cost of Other Locations**							$	**(1,008,000)**	
45										
46	**Fire Station Five (Relocation)**									
47	Construction/Renovation (2004 Cost)		1,620,000		1,620,000		1,620,000		1,620,000	
48	Land		230,000		230,000		230,000		230,000	
49										
50	Total	$	1,850,000	$	1,850,000	$	1,850,000	$	1,850,000	
51										
52	**Mexican Original Cost Avoidance over Average cost of Other Locations**							$	**0**	
53										
54	**Total Cost Avoidance over Average Cost of Other Locations Utilizing Mexican Original**							$	**(7,701,000)**	
55										
56										
57	Predicted cost included in the 2004-2008 Capital Improvement Program									
58			Funded		Unfunded		Total			
59	Joint Public Safety Complex	$	212,000	$	15,788,000	$	16,000,000			
60	Fire Station Three (Eight)		0		1,500,000		1,500,000			
61	Fire Station Three (Eight) - Fire Apparatus		0		370,000		370,000			
62	Fire Station Five		0		1,400,000		1,400,000			
63										
64	Total	$	212,000	$	19,058,000	$	19,270,000			
65										
66	Cost Re-cap by Facility/ Optional Locations		Rock Street		Cato Springs		HWY 112 @ I-540		Mexican Original	
68	Joint Public Safety Complex	$	17,719,000	$	16,511,000	$	17,177,000	$	10,443,000	
69	Fire Station Three (including equipment)		3,170,000		3,170,000		3,170,000		2,162,000	
70	Fire Station Five		1,850,000		1,850,000		1,850,000		1,850,000	
71										
72	Total Potential Investment in Public Safety	$	22,739,000	$	21,531,000	$	22,197,000	$	14,455,000	
73										

City of Fayetteville, Arkansas
Construction and Operating Cost Comparison

Calculation Bases			**Remodel Cost/Sq Ft**		**New Cost/ Sq ft**
Court space	5,000	sf	140	700,000	168.00
Prosecutor Space	2,500	sf	75	187,500	
Police/Central Disp	48,000	sf	75	3,600,000	
Fire Admin	4,500	sf	75	337,500	
Fire & Police Traini	10,000	sf	75	750,000	
Police Evidence	10,000	sf	75	750,000	
Total	80,000	sf		6,325,000	
Hardscape Improvements			85,000		
Exterior Renovations			90,000	175,000	
Fire Station Three	7,730	sf	98	Mexican Original	
Fire Station Three	7,730	sf	170	New	
Fire Station Five	7,730	sf	170	New	
Fiber optic cost/LF	$15				
To City Administration					
Cato	13,802	LF			
HWY 112 @ I540	16,522	LF			
Mexican Original	14,485	LF			
From County Jail to Police/Court					
Rock	13,293	LF			
Cato	4,937	LF			
HWY 112 @ I540	13,293	LF			
Mexican Original	9,125	LF			

City Council Meeting of October 19, 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: September 30, 2004

Subject: Rezoning request for Jackson/Humphries (RZN 04-1189)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 7.91 acres of property from R-A, Residential Agricultural and C-2, Thoroughfare Commercial to I-1, Heavy Commercial and Light Industrial.

BACKGROUND

The subject property is located north of Sunrise Mountain Road, west of School Avenue. A majority of the vacant 7.91 acre tract is zoned R-A, Residential Agricultural, and approximately 1.41 acres of the southeast corner of the property is zoned C-2. This and surrounding properties adjacent to School Avenue, the Arkansas Missouri Railroad and Drake Field are designated Industrial on the General Plan 2020. Several of the properties within this area are currently zoned I-1 in accordance with the General Plan.

The applicant requested the property be rezoned to I-1, Heavy Commercial and Light Industrial. The applicant, S& J Properties, a division of JJS Digital Communications, intends to develop a structure to house a digital printing business as well as construct multiple self-service storage units.

DISCUSSION

On September 27, 2004, the Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval to rezone the subject property I-1.

BUDGET IMPACT

None.

Left on the 2nd reading 11/1/04
Left on the 1st reading 10/19/04

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1189 AS SUBMITTED BY NICK WILSON FOR PROPERTY LOCATED AT THE NORTHWEST CORNER OF SOUTH SCHOOL AVENUE AND SUNRISE MOUNTAIN ROAD CONTAINING APPROXIMATELY 7.54 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL AND C-2, THOROUGHFARE COMMERCIAL TO I-1, HEAVY COMMERCIAL, LIGHT INDUSTRIAL

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 and C-2, Thoroughfare Commercial to I-1, Heavy Commercial, Light Industrial 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 1st day of November, 2004.

APPROVED: DRAFT

By: ____________________
DAN COODY, Mayor

ATTEST:

By: ________________________
SONDRA SMITH, City Clerk

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PC Meeting of September 27, 2004

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: September 21, 2004

RZN 04-1189: Rezoning (JACKSON/HUMPHRIES, 717): Submitted by NICK WILSON for property located at NW CORNER OF S SCHOOL AVE AND SUNRISE MOUNTAIN ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 7.91 acres. The request is to rezone the subject property from R-A, Residential Agricultural, and C-2, Thoroughfare Commercial, to I-1, Heavy Commercial, Light Industrial.

Submitted on behalf of: STAN JACKSON Submitted on behalf of: JOHN HUMPHRIES
Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends rezoning of subject property to I-1, Heavy Commercial and Light Industrial based on findings found herein:

PLANNING COMMISSION ACTION: **Required** **YES**
☒ **Approved** ○ **Denied**
Date: September 27, 2004
Shackelford/Graves^2 8-0-0

CITY COUNCIL ACTION: **Required** **YES**
○ **Approved** ○ **Denied**
Date: October 19, 2004

BACKGROUND:

Property description: The subject property is located north of Sunrise Mountain Road, west of School Avenue. The vacant 7.91 acre tract is zoned C-2, Thoroughfare Commercial, and R-A, Residential Agricultural. Approximately 1.41 acres of the southeast corner of the property is zoned C-2, with the remaining property to the north and west zoned R-A.

Request: The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to I-1, Heavy Commercial and Light Industrial. The applicant, S& J Properties, a division of JJS Digital Communications, intends to develop a structure to house a digital printing business as well as construct multiple self-service storage units.

Recommendation: Staff recommends approval of a rezoning to I-1, Heavy Commercial and Light Industrial based on the findings included herein.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family residence Standard Register Company	RSF-4, Res. Single-family, 4 units/acre R-A, Residential Agricultural I-1, Heavy Commercial & Light Industrial
South	Dennis Home Furnishings	R-A, Residential Agricultural C-2, Thoroughfare Commercial
East	Vacant	RSF-4, Res. Single-family, 4 units/acre
West	Vacant fields	R-A, Residential Agricultural

INFRASTRUCTURE:

Streets: Currently the site has access to Sunrise Mountain Road. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements will include pavement, curb and gutter, storm drainage and sidewalks.

Surrounding Master Street Plan Streets:
North: Shiloh Drive (Collector)
South: Sunrise Mountain Road (Local)
East: School Avenue (Principal Arterial)
West: Railroad

Water: The property has access to an 8" water main along Sunrise Mountain Road along the south side of this property. This main should be sufficient to provide service to most developments that could occur on the site. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

Sewer: The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. The nearest sewer main is an 8" main on the east side of School Avenue.

Fire: The subject property is located 3.0 miles from Fire Station #1. Response time to the subject property currently and at maximum build-out is approximately 6 minutes.

Police: This area is mainly comprised of a mixture of residential and commercial properties. The line of sight looking south from Sunrise Mountain Rd. is approximately 200 feet and approximately one half mile looking north. This property sets on the lower side of the road and requires added time to merge onto 71 Business. There is a turn lane on this four-lane highway, which aid traffic in entering and exiting the highway. The speed limit is 40 mph. It should be considered that large trucks might find it challenging entering and leaving the roadway in a timely manner. This is the greatest safety consideration we see at this time. We do not anticipate this rezoning request will create a substantial burden on police services nor will it cause a delay in response for police services.

LAND USE PLAN: General Plan 2020 designates the site as **Industrial.**

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 Future Land Use map designates the subject property as Industrial. This plan identifies several large areas within the City for industrial use to minimize and concentrate noise, visual, air and water pollution often associated with uses permitted in industrial zones. Those properties identified for industrial use are located within the Fayetteville Industrial Park and adjacent to major rail lines and Drake Field. The subject property is located west of School Avenue, a principal arterial, and east of a railroad line. Surrounding properties to the north and south are zoned and used in compliance with the Future Land Use map. Rezoning the subject property I-1 is consistent with the land use planning objectives, surrounding uses, and will minimize the impact of industrial uses by concentrating them in one area.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The subject property is located adjacent to School Avenue, a Principal Arterial, and is identified as Industrial on the Future Land Use map. That the property is identified for more intensive commercial and industrial use, surrounding properties are zoned and used for like uses, and the close proximity to both a rail line and a principal arterial road justify the need for rezoning the property I-1.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **Light industries, some of which have the characteristics of offices, generate more traffic during peak hours. Adjacent Master Street Plan streets and**

improvements made to Sunshine Mountain Road adjacent to the property at the time of development will facilitate safe traffic movements.

The police department has reviewed this request and found that the line of sight looking south from Sunrise Mountain Rd. is approximately 200 feet and approximately one half mile looking north. This property sets on the lower side of the road and requires added time to merge onto 71 Business. There is a turn lane on this four-lane highway, which aid traffic in entering and exiting the highway. The speed limit is 40 mph. It should be considered that large trucks might find it challenging entering and leaving the roadway in a timely manner. This is the greatest safety consideration we see at this time.

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 approximately 7.91 acre tract is currently vacant and zoned C-2 and R-A. The proposed zoning to I-1 will not alter the population density resulting in an undesirable increase on the load of public services.**

The following is a review of available services:

Engineering – **The property has access to an 8" water main along Sunrise Mountain Road along the south side of this property. This main should be sufficient to provide service to most developments that could occur on the site. An extension of the water main will be required to provide water supply and fire protection within any development on this property.**

The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. The nearest sewer main is an 8" main on the east side of School Avenue.

Currently the site has access to Sunrise Mountain Road. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements will include pavement, curb and gutter, storm drainage and sidewalks.

Fire - **The subject property is located 3.0 miles from Fire Station #1. Response time to the subject property currently and at maximum build-out is approximately 6 minutes.**

Police - **The police department does not anticipate this rezoning request will create a substantial burden on police services nor will it cause a delay in response for 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.

161.17 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

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

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

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

161.20 District I-1, Heavy Commercial And Light Industrial

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 6	Agriculture
Unit 12	Offices, studios and related facilities
Unit 13	Eating places
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Professional offices
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks

(2) *Conditional uses.*

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

(C) *Density.* None.

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

(E) *Setback regulations.*

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

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

(G) *Building area.* None.

Fayetteville Fire Department Service Delivery Impact: Zoning Review Sept. 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
RZN 04-1188	Housley			FS 4	1.10 miles	4 min.	4 min.	N/A	N/A	N/A
RZN 04-1189	**Jackson**			**FS 1**	**3.00 miles**	**6 min.**	**6 min.**	**N/A**	**N/A**	**N/A**
R-PZD 04-1181	Walnut Crossing			FS 6	2.60 miles	4-5 min.	4-6 min.	37	15	22

(6a)- This property rezoning request is for 7.8 acres at the nw corner of S. School and Sunrise Mountain Rd. Parcel #765-15510 presently owned by Martha McBride and Camella Morrow Smith.

The property is under contract to be purchased by S & J Properties (Stan Jackson & John Humphries) a division of JJS Digital Communications.

(6b)- We are requesting this change to allow us to construct a building to house our digital printing business as well as construct multiple self service storage units.

(6c)- We believe our development will fit very well with the surrounding properties. There is a significant amount of industry and commercial development on three sides of the property. Our development will produce very little increase in traffic as our printing business is not a retail "walk-in " business. The storage business would increase traffic slightly due to tenants entering and exiting their units.

(6d)- An 8" water line runs along Sunrise Mt. Rd. on the south side directly across the road. A 6" sewer line lies along School Ave. on the east side of the street. Lines would have to be bored under both Sunrise Mt. and School to obtain access.

(7a)- Our request to rezone this parcel I-1 is consistent with the existing developments in the immediate area and with the 2020 Master Plan.

(7b)- We believe this zoning request is justified to allow the type of development we intend to establish and would place the property within the guidelines set forth in the 2020 Masterplan.

(7c)- The development we intend to establish on this property would not create an excessive increase in traffic. At our present location we may have an average of five clients per week entering our office. This is due to the fact that we deal with corporate clients and do not desire, or have, walk in business.

The self service storage business would create a minimal amount of traffic due to customers coming in to rent units, although the existing infrastructure would easily handle this increase.

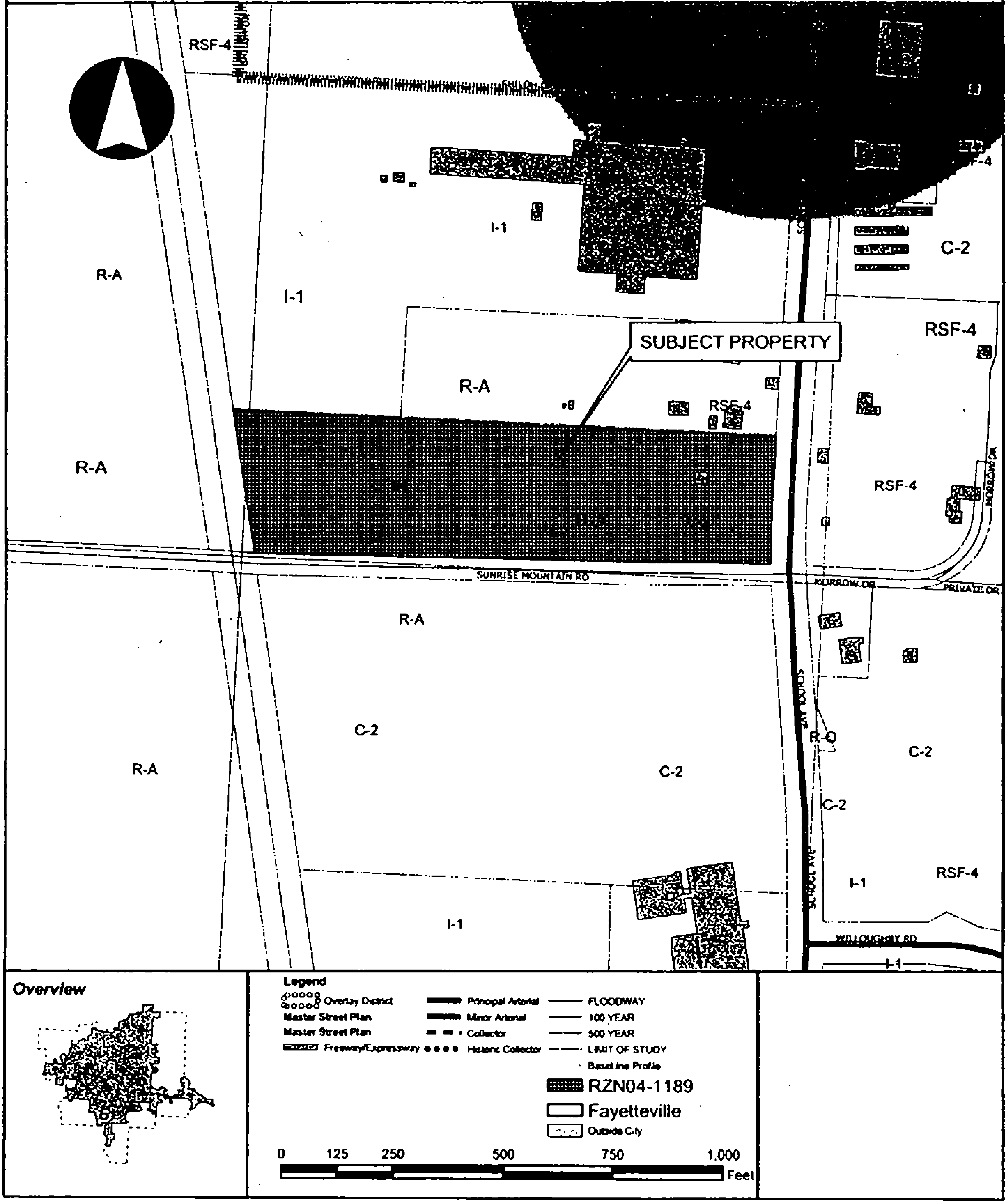
(7d)- The two businesses combined will only require a maximum of five employees, so no extensive additional load would be added to public services.

(7e)- Only a small portion of the property is presently zoned C-2 with the remainder zoned R-A. The present zoning would not accommodate the development we intend to establish, nor does it fall within the 2020 Masterplan.

RZN04-1189

Close Up View

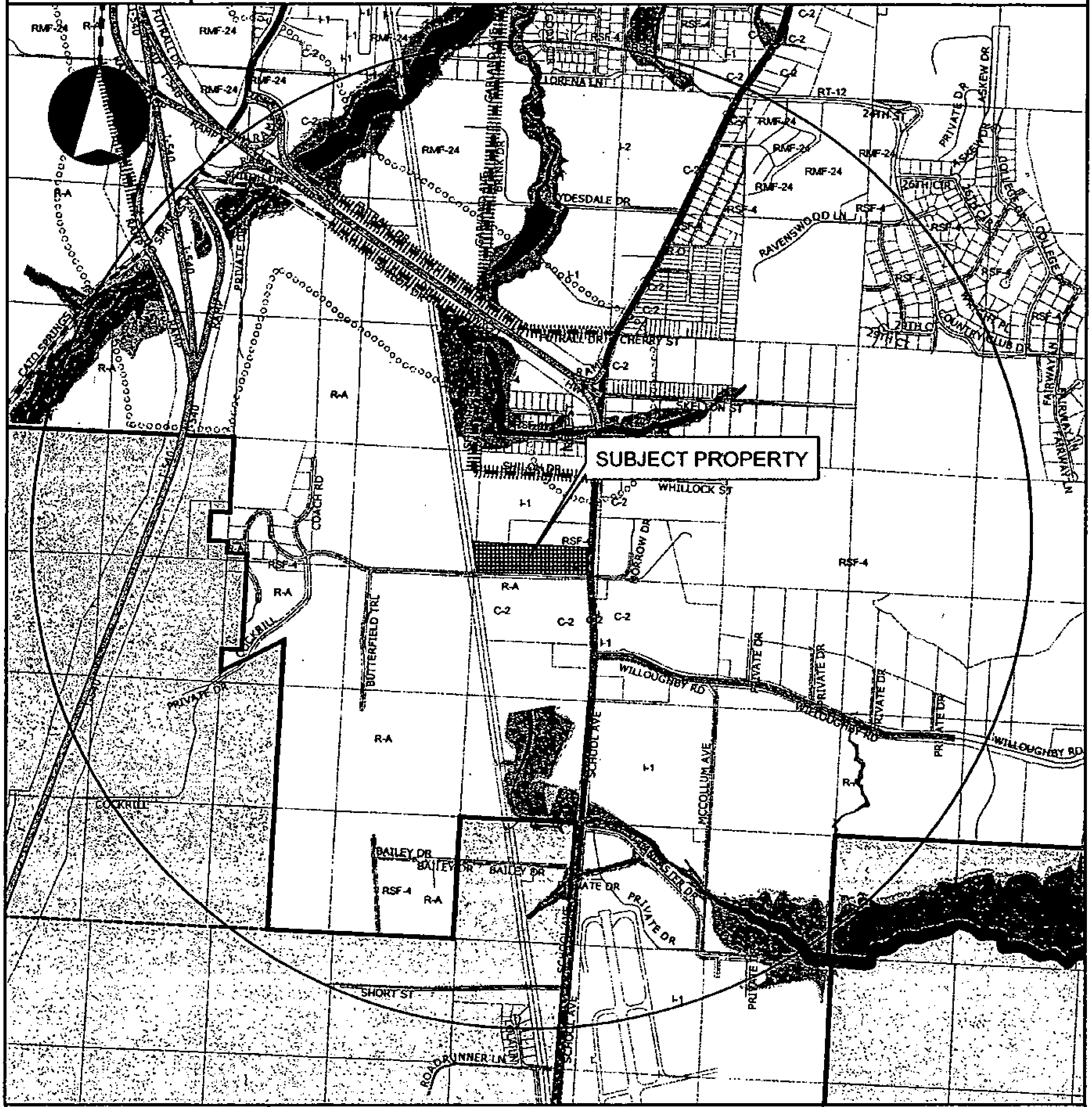
JACKSON/HUMPHRIES



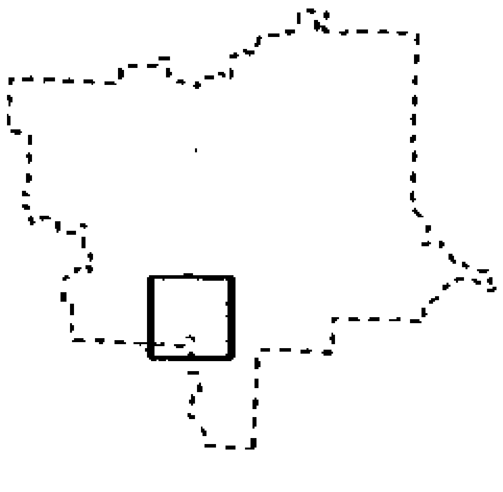
RZN04-1189

One Mile View

JACKSON/HUMPHRIES



Overview



Legend

Subject Property

▦ RZN04-1189

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

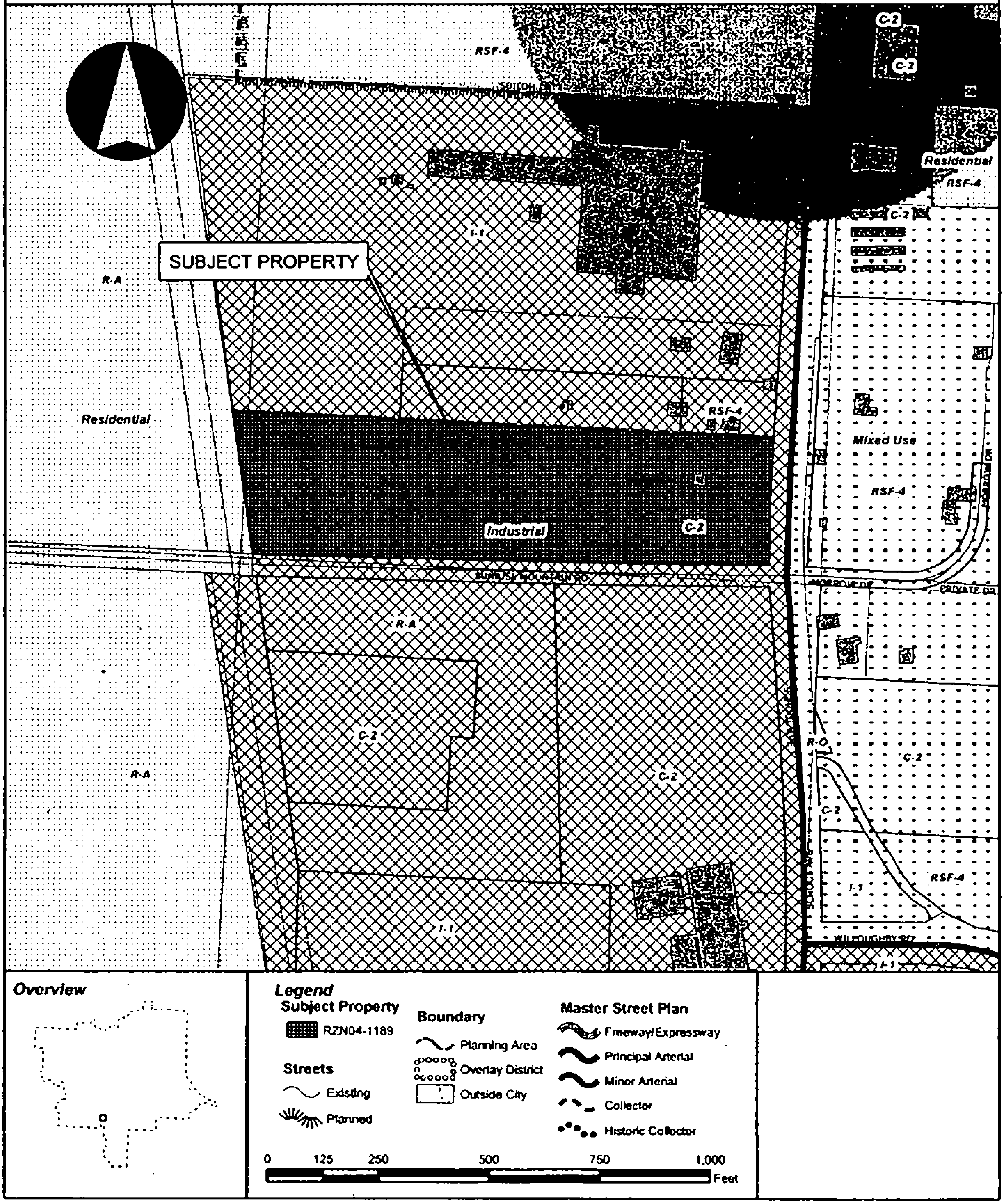
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN04-1189

Future Land Use

JACKSON/HUMPHRIES



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: October 19, 2004

FROM:

Dawn T. Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

RZN 04-1189: Rezoning (Jackson/Humphries, pp 717) was submitted by Nick Wilson for property located at the northwest corner of School Avenue and Sunrise Mountain Road. The property is zoned R-A, Residential Agricultural and C-2, Thoroughfare Commercial and contains approximately 7.91 acres. The request is to rezone the subject property to I-1, Heavy Commercial, Light Industrial.

STAFF RECOMMENDATION: Approval

Dawn T. Warrick Division Head	10/1/04 Date	Received in Mayor's Office	10/4/04 Date
City Attorney	10/1/04 Date		
Department Director	10-5-04 Date	Cross Reference:	
Finance & Internal Services Dir.	10-5-04 Date	Previous Ord/Res#:	
Hugh Earnest Chief Administrative Officer	10-5-04 Date	Orig. Contract Date:	
Dan Coody Mayor	10/5/04 Date	Orig. Contract Number:	
		New Item:	Yes No

ENTERED
cbe
10/7/04

City Council Meeting of October 19, 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: September 28, 2004

Subject: Residential Planned Zoning District for Walnut Crossing (R-PZD 04-1181) .

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating the Residential Planned Zoning District (R-PZD) for Walnut Crossing. This action will establish a unique zoning district for a residential subdivision on a 43.30 (52.98 total developed) acre tract located in west Fayetteville, north of Hwy 62. The proposal entails a residential subdivision with 136 single family dwelling units and 6.47 acres cluster homes, along with a 5.02 acre park.

BACKGROUND

Property Description: The property consists of a total of 52.98 acres located in west Fayetteville and east Farmington, north of Hwy 62 (6th Street). Of the 52.98 acres in review for the associated Planned Zoning District, only 43.30 acres is within the City of Fayetteville, the remainder of which lies within the City of Farmington. Two legal descriptions, therefore, accompany the proposal: one for the rezoning, from R-A, Residential Agricultural to the unique R-PZD zoning district (43.30 acres); and a second for the Preliminary Plat being processed simultaneously, subdividing property in both jurisdictions (52.98 acres). The City of Farmington has been notified and is in the process of reviewing development plans separately from the City of Fayetteville.

The property is agricultural in nature, with floodplain associated with Farmington Branch creek and several groupings of trees.

Proposal: The applicant requests a rezoning and preliminary plat approval for a residential subdivision within a unique R-PZD zoning district. The proposed use of the site is for a single family and cluster home development consisting of 136 single family lots and 59 cluster homes (units). A 5.02-acre public park is proposed, as well as a large tree preservation area along the floodplain of the creek.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on Monday, September 27, 2004. Approval of a planned zoning district requires City Council approval as it includes zoning (land use) as well as development approval (preliminary plat). Recommended

Left on the 2nd reading 11/1/04
Left on the 1st reading 10/19/04

conditions were approved by the Planning Commission, which are reflected in the attached staff report.

The intent of the Walnut Crossing development is to provide attainable housing for citizens of Fayetteville, while providing a unique and quality development. Several different types of homes are offered, in the 1100-1600 SF range, within the affordable housing range for median income families of Northwest Arkansas. Smaller lots are proposed, to help with reducing cost, and a larger, community park that acts as the neighborhood's "back yard" is centrally located.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 04-1181, WALNUT CROSSING LOCATED NORTH OF HWY. 62, EAST OF LAYNE STREET CONTAINING 43.30 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION.

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 R-PZD 04-1181 as shown in Exhibit "A" attached hereto and made a part hereof.

<u>Section 2.</u> That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on September 27, 2004.

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

<u>Section 4.</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

By: _________________________
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 04-1181

A part of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) and a part of the Northeast Quarter (NE1/4)of the Southwest Quarter (SW 1/4), all in section 24, Township 16 North, Range 31 West, Washington County, Arkansas and being more particularly described as follows:

BEGINNING at the Southeast corner of said Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4); thence along the East line of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4), South 0°02'50" East - 299.40 feet; thence South 68°42'22" West - 446.64 feet; thence South 56°56'13" West - 43.00 feet; thence South 79°44'13" West - 39.40 feet; thence North 0°16'43" West - 492.58 feet to a point on the South line of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4); thence along said South line, North 89°56'29" West - 821.53 feet to the Southwest corner of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4); thence along the West line of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4), North 0°25'44" West - 1315.86 feet to the Northwest corner of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4); thence along the North line of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4), South 89°46'28" East - 825.00 feet to an iron pipe; thence South 0°16'43" East - 60.00 feet; thence South 89°46'28" East - 479.02 feet to a point on the East line of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4); thence along said East line, South 0°55'25" East - 1252.20 feet to the POINT OF BEGINNING, containing 43.30 acres, more or less.

Fayetteville
ARKANSAS

PC Meeting of September 27, 2004

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Senior Planner
Matt Casey, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: September 21, 2004

R-PZD 04-1181: Planned Zoning District (WALNUT CROSSING SUBDIVISION): Submitted by ENGINEERING SERVICES, INC for property located at THE NORTH SIDE OF HWY 62W, EAST OF LAYNE STREET. The property contains approximately 52.98 acres in total. A total of 43.30 is zoned R-A, RESIDENTIAL-AGRICULTURAL; the remaining 9.68 acres lies within the City of Farmington. The request is to approve a Residential Planned Zoning District with 136 single family lots and 6.47 acres of "cluster homes" on the subject property.
Property Owner: RAUSCH-COLEMAN HOMES, LLC Planner: JEREMY PATE

Findings:

Property Description: The property consists of a total of 52.98 acres located in west Fayetteville and east Farmington, north of Hwy 62 (6th Street). A property line adjustment and lot split have been filed to create the subject 52.98-acre tract. Of the 52.98 acres in review for development, only 43.30 acres is within the City of Fayetteville, the remainder of which lies within the City of Farmington. Two legal descriptions, therefore, accompany the proposal: one for the rezoning, from R-A, Residential Agricultural to the unique R-PZD zoning district (43.30 acres); and a second for the Preliminary Plat being processed simultaneously, subdividing property in both jurisdictions (52.98 acres). The City of Farmington has been notified and is in the process of reviewing development plans separately from the City of Fayetteville.

The tract consists primarily of agricultural land, with several significant trees and areas of high priority canopy falling along property boundaries old fence lines, within the proposed parkland or along the Farmington Branch creek.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Vacant, agricultural	R-A, Residential Agricultural
South	Stapleton S/D, creek/floodplain	Washington County, Farmington
East	Vacant, agricultural	R-A, Residential Agricultural
West	Vacant, agricultural	Washington County

Proposal: The applicant requests a rezoning and preliminary plat approval for a residential subdivision within a unique R-PZD zoning district. The proposed use of the site is for a single family and cluster home development consisting of 136 single family lots and 59 cluster homes (two-family dwelling units). A 5.02-acre public park is proposed, as well as a large tree preservation area along the floodplain of the creek.

Proposed Land Uses:

- Use Unit 1: City-wide Uses by Right
- Use Unit 8: Single Family Dwellings
- Use Unit 9: Two-family Dwellings
- Use Unit 10: Three-Family Dwellings
- Use Unit 26: Multi-Family Dwellings

Proposed Uses: R-PZD, Residential Planned Zoning District

	Proposed Land Use
Lots 1-136	Single Family Residential (Maximum 136 units) Use Unit 8
Lots 137-138	"Cluster Homes" (Maximum 59 total units) Use Unit 9, 10, 26
Lot 139	City Park, 5.02 Acres
Lots 140-141	Tree Preservation Areas
Lots 142-145	Open Space Tree Preservation, Detention, Farmington Branch creek, potential trail system No residential structures permitted

Total proposed dwelling units on the 43.30-acre site requested for rezoning is 195, therefore the proposed density for the R-PZD is **4.50 DU/acre.** *(On the real property, including the acreage within the City of Farmington, acreage equals 52.98 acres, thus real density is 3.68 DU/acre).* The developer proposes a mixture of lot sizes and types. Some of the lots are arranged such that they face onto the public street; others are accessed from rear alleys. Typical lot sizes and proposed setbacks are much smaller than those allowed in standard zoning districts, thus the need for processing a Planned Zoning District. Two of the large lots are proposed for "cluster homes," in two-family units, consisting of a total of 59 cluster homes (units). Both of these lots will require large scale development approval, as final designs have not been formulated. However, the conceptual plans indicated are intended to provide an idea of the development to occur there in the future.

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

Access/Connectivity: The sole existing access is from Hwy 62 to the south, through the City of Farmington jurisdiction. The applicant has been in contact with the City of Farmington, and will present the project to both the Planning Commission and City Council there prior to final approvals from the City of Fayetteville. The Master Street Plan currently indicates an east-west Collector Street in the area of the proposed development. The proposed development intends to meet this Plan, only moving the connection to a more feasible location, approximately 600 feet to the north, out of the Farmington Branch area. The proposed Collector Street is aligned to connect to Alberta Street to the west and eventually connect to the future Rupple Road to the east. Another stub-out is proposed to the north. All interior streets are loop streets within 50 feet of right-of-way, with no dead-ends. The two northern blocks of single family lots are served by private alley-drives. All lots served by alleys are prohibited from having street-front facing garages, and access must be from the provided rear alleys. All alleys are private, to be maintained by the POA. The alleys are 12 feet in width, one-way, within a minimum 20-foot access easement.

Adjacent Master Street Plan Streets: Wilson Drive, Collector

Street Improvements: No off-site street improvements are recommended for this development. The developer will be required to build the access street from Hwy 62, including the creek crossing, to City of Fayetteville standards, as well as all other interior streets. Right-of-way for the future Collector Street will be dedicated.

Tree Preservation:	Existing:	9.95%
	Preserved:	7.58%
	Required:	9.95%
	Mitigation:	On-site mitigation required: (182) 2" caliper trees ** see attached report*

Parks: The Parks and Recreation board recommends a parkland dedication for the subject development. A total of 5.02 acres is being offered by the developer, which exceeds that required for this project. No banking of excess land, however, is requested. The covenants address fencing/interface with the public park. A four-foot fence split-rail type is to be maintained for those lots 10-33 bordering the public park. No chain link or metal poles are to be allowed.

A draft of protective covenants, as well as the applicant's response to the Planned Zoning District requirements and description of the project have been submitted and are included in the staff report.

Recommendation: Staff recommends approval of **R-PZD 04-1181** with the following conditions:

Conditions of Approval:

1. Permitted uses in this R-PZD shall be restricted to Use Unit 1: City-wide Uses by Right, Use Unit 8: Single Family Dwellings, Use Unit 9: Two-Family Dwellings, Use Unit 10: Three-Family Dwellings and Use Unit 26: Multi-family Dwellings, in those locations noted.

2. Planning Commission determination of a Master Street Plan amendment to relocate Wilson Drive, an east-west Collector Street, approximately 600 feet to the north, as presented with the subject development proposal, in order to facilitate a better connection. *Staff is in support of this request, as it meets the intent and purpose of the*

Master Street Plan in this location, eventually connecting east to Rupple Road. PLANNING COMMISSION DETERMINED IN FAVOR OF THE MASTER STREET PLAN AMENDMENT.

3. Planning Commission determination of parkland dedication. *The Parks and Recreation Board recommends parkland be dedicated for this project. A deed for the 5.02 acres shall be received prior to Final Plat.* PLANNING COMMISSION DETERMINED IN FAVOR OF THE RECOMMENDED PARKLAND.

4. Planning Commission determination of residential lot access management. *Due to the smaller lot width (50'-55') on those single family lots not accessed from rear alleys, staff finds a coordinated plan sensitive to pedestrian and vehicular safety, general attractiveness and convenience must be presented by the applicant for access to each lot to ensure a dangerous traffic situation is not created. Based on discussion with the applicant and Subdivision Committee, staff recommends a combination of shared driveways and reduced driveway widths for these lots in particular, in order to keep a logical proportion in relation to the lot width. For those lots not utilizing shared driveways, the maximum driveway width shall be 12 feet, constructed per city codes. For shared driveways, a maximum 24-foot driveway may be constructed, with location to be coordinated with city staff. Shared driveways may straddle property lines.* PLANNING COMMISSION DETERMINED IN FAVOR OF STAFF'S RECOMMENDATION FOR A COMBINATION SHARED/REDUCED WIDTH DRIVEWAY PLAN.

5. Planning Commission determination of the required recommendation to the City Council regarding the rezoning of the subject property to the unique district R-PZD 04-1181 with all conditions of approval as determined by the Planning Commission. PLANNING COMMISSION DETERMINED IN FAVOR OF THE REZONING REQUEST.

6. An ordinance creating this R-PZD shall be approved by City Council.

7. All setbacks, protective easements, density, and designated uses are binding with the approval of the R-PZD. Submitted covenants are likewise binding to the project.

8. Future development of Lots 137 and 138, the cluster homes, shall require processing a large scale development, subject to all applicable development ordinances. Building setbacks and density for these lots are reflected on the submitted plans.

9. Residential structures shall not be placed upon Lots 142-145.

10. A detailed street tree planting plan with a minimum of 182 street trees to meet mitigation requirements for the removal of 39,458 SF of tree canopy shall be submitted before final plat as part of the Planned Zoning District requirements.

11. All tree preservation easements shown on the plans shall be filed by way of Final Plat, to ensure continued preservation. Language identifying said easements shall be clearly included in the covenants, and potential homeowners made aware of the protected areas.

12. The developer shall coordinate with Solid Waste to determine the best means of access to

alley-loaded lots.

13. A pedestrian access shall be constructed from Street 2 to the park, to be coordinated with the Landscape Administrator to ensure continued protection of preserved trees.

14. Prior to Fayetteville City Council approval, all approvals necessary shall be obtained from the City of Farmington Planning Commission and City Council to proceed with the project.

Standard Conditions of Approval:

15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

16. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements, including public streets, water and sewer lines, storm drains, sidewalks and detention facilities shall comply with the City's current requirements.

17. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

18. Street lights shall be installed every 300 feet along all public streets prior to final plat.

19. Preliminary Plat shall be valid for one calendar year.

PLANNING COMMISSION ACTION: __yes__ **Required**

__✓__ **Approved** ______ **Denied**

Date: __September 27, 2004__

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

____
By

____
Title

____
Date

Findings associated with R-PZD 04-1181

Sec. 166.06. Planned Zoning Districts (PZD).

(B) *Development standards, conditions and review guidelines*

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

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. Emphasis on tree preservation has been placed with the development proposal, and appropriate routing of utilities, streets, and protective easements has been achieved. Natural site amenities, including a large stand of trees within the proposed public park and the adjacent Farmington Branch creek, which is being retained as greenspace and concentrated Tree Preservation area, have been maximized, with protection of the watercourse from erosion and siltation a requirement of the development. The proposed density, while higher than immediately surrounding land uses, is a compatible density which also allows for more attainable housing, a primary goal of the applicant. A large public park provides a "back yard" for the community, which is designed with the concept of small lots with residents which utilize shared open spaces. Landscaping, tree preservation and overall public amenities required of the developer, along with the variety of housing types and design of lot layout furthers the health, safety, amenity and welfare of the community as a whole.

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

FINDING: Screening is not required as a part of this development. A conceptual street tree planting plan has been presented, locating required mitigation trees. A detailed street

tree planting plan is required prior to final plat approval.

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

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Internal streets are comprised of public loop streets within 50 feet of right-of-way, with no dead-ends. An east-west Collector Street is indicated through the property, within a minimum of 70 feet of right-of-way, eventually connecting users to the west to Alberta Street in Farmington and the yet to be constructed Rupple Road to the east. An additional street stub-out is proposed to the north. The only provided access for the development at the present time is the street from Hwy 62; however, with future development, traffic dispersement will be possible with the presented street stub-outs. A turning lane is provided at the intersection of Street 1 and Hwy 62. Sidewalks are required on all sides of public streets within the development. A majority of the single family lots will be limited to access from rear alleys. For those lots without alley access, due to their narrow width, staff recommends a combination of shared 24-foot driveways and separate 12-foot wide driveways to facilitate a safe, attractive and functional internal street. Pedestrian traffic will thereby be protected from an impractical continuous curb cut, and the overall proportion of lot width to driveway width/paved surface will be more in keeping with typical residential ratios.

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

respective use areas.

FINDING: Standard parking ratios for single family and two-family units is enforced.

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

FINDING: The development exceeds all open space and park land requirements.

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

FINDING: Four-foot sidewalks are to be constructed on both sides of all interior streets; six-foot sidewalks are required on both sides of the Collector Street.

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

FINDING: All street lights installed shall be pursuant to the above-referenced code section, with a maximum of 300 feet spacing.

(8) *Water.* As required by §166.03.

FINDING: Public water is being provided to the project site, pursuant to city code.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer is being provided to the project site, pursuant to city code.

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

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

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

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

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii)All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

(viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

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

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

(ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.

(x) There shall be no minimum building setback requirement from a private street.

(xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public streets for the proposed development are indicated to be constructed according to the adopted standards of the City.

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

FINDING: N/A

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

FINDING: The applicant proposes to preserve several distinct groupings of significant trees, including three areas along the western property boundary, a large area along the Farmington Branch Creek and two groupings that allow for access to the public park (lots 140 and 141). Additionally, the developer has proposed a public park in a location that retains several high priority, large trees (1.43 acres of canopy) though it must be noted that these are not counted toward the preserved total. A large percentage of trees will also be located with protective easements outside of the City of Fayetteville limits, which are also not counted within the preservation calculations.

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

FINDING: N/A

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

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

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

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

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

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

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

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

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and

effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

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

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

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

(a) The homeowner's association must be legally established before building permits are granted.
(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

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

(1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) Compatibility. Providing for compatibility with the surrounding land uses.

(3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) No negative impact. Does not have a negative effect upon the future development of the area;

(6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposal best fits the flexibility and variety goals of the intent of the Planned Zoning District, offering an array of housing types, lot arrangements (front loading, alley access, shared drive, park-fronting, cluster homes) and amenities for the

community to enjoy. Open space is proposed with the 5.02-acre park, allowing for residents to utilize the common open space as virtual yards, in lieu of private, individual yards on each lot serving the individual homeowner. Many of the natural features of the site have been incorporated into the design, including the placement of the park, connections to a potential trail system along Farmington Branch Creek from the park, preservation of large boundary/fence row trees and large areas of riparian ecosystem. The proposal is consistent with many of the guiding policies of the General Plan 2020 including:

Residential Areas:

9.8.a Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.

9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

Environmental Resources:

9.16.a Identify areas of environmental concern and protect and preserve environmental resources.

9.16.b Define and protect areas of significant floodplains, hillsides, trees and other environmental resources through cluster development provisions, density controls, protective easements and other new and existing development standards and regulations.

Community Character:

9.19.g Encourage new residential development to incorporate varying lot sizes, home prices and types of dwelling units.

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

FINDING: The subject described real property is proposed to be rezoned to R-PZD 04-1181. The development standards and plan approved shall be adopted with the rezoning.

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

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

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

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

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

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

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

FINDING: The proposed Residential Planned Zoning District allows single-family and clustered two, three and multi-family residential uses in a clustered pattern, allowing for more usable common open space and greater preservation of natural amenities. A general rezoning would not allow the type of development the applicant is pursuing, based on the bulk and area requirements of typical zoning districts, therefore a Planned Zoning District is more appropriate for the proposed development. The proposed subdivision allows for a density and land use that is compatible with adjacent properties, yet also allows for a flexible site plan and layout. A harmonious relationship with surrounding developments is achieved, while allowing for a very different style and type of development. Public improvements provided with the development will ensure future street connectivity in the area.

(2) Permitted uses.

Unit 1 City-wide uses by right
~~Unit 2 City-wide uses by conditional use permit~~
~~Unit 3 Public protection and utility facilities~~
~~Unit 4 Cultural and recreational facilities~~
~~Unit 5 Government facilities~~
Unit 8 Single-family dwellings
Unit 9 Two-family dwellings
Unit 10 Three-family dwellings
~~Unit 12 Offices, studios and related services~~
~~Unit 13 Eating places~~
~~Unit 15 Neighborhood shopping~~

~~Unit 19 Commercial recreation, small sites~~
~~Unit 24 Home occupations~~
~~Unit 25 Professional offices~~
Unit 26 Multi-family dwellings

FINDING: The proposed uses are permitted uses within a Residential Planned Zoning District. All other ancillary uses (parks, trails, etc.) are allowed by right.

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

FINDING: The proposed PZD proposed is entirely residential in use.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from R-A, Residential Agricultural, to R-PZD 04-1181, with the adoption of the associated preliminary plat.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Residential Area. Rezoning this property to R-PZD 04-1181, with associated Preliminary Plat, is consistent with the land use plan and compatible with surrounding land uses in the general vicinity.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed rezoning of the existing R-A property to the proposed PZD development with clustered single and two-family residential use at a density of 4.50 units per acre is consistent with the General Plan 2020 that identifies this area for residential use. The proposed land use is unique to the area with regard to site layout and organization, meeting many of the objectives and principles of the land use plan that promotes traditional urban forms of development.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is needed in order to develop a subdivision in the manner proposed with the R-PZD site plan.

3. A determination as to whether the proposed zoning would create or appreciably increase

traffic danger and congestion.

Finding: **The proposed zoning will not create or appreciably increase traffic danger or congestion surrounding streets. Approximately 1,950 average two-way vehicle trips per day from this development would be created; a Principal Arterial, the primary means of access to the site currently, can accommodate 20,600 vehicles per day at full build-out.**

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 development proposed would create, on average, 429 future residents in this area, thereby altering the population density in the immediate vicinity. Based on findings from public service providers, as outlined below, an undesirable increase in load on public services would not be created.**

Fire - **Water supply with fire hydrants is needed to serve development on this site. Fire station #6, approximately 2.6 miles away, will serve this site once it is constructed. Fire response time to the site is approximately 4-5 minutes, with an anticipated 37 calls for service at maximum build-out, based on the Service Delivery Impact report included.**

Police - **Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing surrounding development. No additional equipment or personnel is needed to provide service to this area. It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.**

Engineering – **The proposed subdivision has been reviewed for access to public utilities, including water and sewer, and will not undesirably increase the load on public services.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PC Meeting of September 27, 2004

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Jeremy Pate, Landscape Administrator

Date: September 21, 2004

ITEM #: R-PZD 04-1181 (Walnut Crossing S/D)

Requirements Submitted:

✓	Initial Review with the Landscape Administrator
✓	Site Analysis Map Submitted
✓	Site Analysis Written Report Submitted
✓	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	43.30
square feet	1,886,165
Existing Tree Canopy	
acres	3.81
square feet	165,963
percent of site area	9.95%
Existing Tree Canopy Preserved	
acres	2.90
square feet	126,505
percent of total site area	7.58%
Percent Minimum Canopy Required	**9.95%**

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species. The site contains numerous significant trees, and several groups of trees that are highly desirable for preserving, based on all of the above factors. The dominant high-priority species on-site is the

Hackberry, with lesser numbers of American Elm, White Ash, several species of oak and hickory.

Whether the design incorporates the required Tree Preservation Priorities.
The design of the subdivision does incorporate the required Tree Preservation Priorities. Several significant trees have been specifically targeted for preservation, as well as contiguous groupings. The park area contains such a grouping, as does the corridor preserved from the park south to the creek, allowing for a continuous tree canopy. Additionally, easements are to be placed along the western property boundary, in order to protect a stand of rather large Hackberry trees, including a 55" diameter tree.

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.
Removing those trees shown as preserved could potentially degrade any habitat movement along corridor from the creek north. Significant environmental degradation should not occur as a result of the removal of those trees shown by installation of infrastructure.

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.
Impact on adjacent properties would be evident only along the west boundary. Reduction in tree cover along the creek could have potential detrimental environmental impact along the riparian corridor.

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.
No alternative construction methods are proposed.

Whether the size or shape of the lot reduces the flexibility of the design.
The size and shape of the lot does little to reduce the flexibility of the design. Natural drainage patterns and the existing creek riparian corridor do have an effect on the design development.

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.
The general health of all groups of trees on this site is good.

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.
Most trees shown to be preserved are sited in good relationship to the proposed streets and utilities, to ensure prolonged preservation. The developer has worked with utility companies to site easements sensitive to tree preservation, and has created lot lines that preserved the integrity of the natural canopy corridor. Users of the lots should have ample space in which to build and preserve existing trees, should they choose to do so. The developer has further ensured the long-term protection of certain trees by placing them within protective easements, and including these easements within the covenants, so that future homeowners are aware of their significance.

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing,

or maintaining essential public utilities.
Some trees will need to be removed for the purposes of installing necessary utilities. Where possible, utilities have been routed in a manner so as to avoid unnecessary tree removal. The applicant has worked with utility companies and staff to site utilities along property lines that will necessitate minimal removal of tree canopy.

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.
The streets and utilities have been aligned to minimize removal and damage of tree canopy.

Construction requirements for On-Site and Off-Site Alternatives.
N/A

The effects of proposed On-Site Mitigation or Off-Site Alternatives.
On-site mitigation will provide a coordinated street tree planting, eventually adding canopy to this residential development.

The effect other chapters of the UDC, and departmental regulations have on the development design.
N/A

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:
Federal and state permits may have to be obtained for work within the floodplain; the only area this potentially could involve Tree Preservation is near the proposed creek crossing, which in the City of Farmington.

The impact a substantial modification or rejection of the application would have on the Applicant:
Staff is recommending approval of the submitted Tree Preservation Plan.

Recommendation: Staff recommends approval of the submitted Tree Preservation Plan, with the following conditions:

1. On site mitigation is recommended for the removal of 39,458 square feet of tree canopy. No less than (182) 2-inch caliper trees shall be planted with this project to meet mitigation requirements.

2. A street tree planting plan shall be submitted before final plat as part of requirements toward meeting both mitigation and landscaping goals.

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469

TO: Jeremy Pate, Associate Planner

FROM: Alison Jumper, Park Planner

DATE: September 14, 2004

SUBJECT: Parks & Recreation Subdivision Committee Comments

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Meeting Date: September 17, 2004
Item: R-PZD 04-1181 Walnut Crossing Subdivision
Park District: SW
Zoned: R-PZD
Billing Name & Address: Rausch Coleman Homes,LLC

	Land Dedication Requirement	*Money in Lieu*
Single Family	_____@ .024 acre per unit = _____ acres	_____@ $555 per unit = $_____
Multi Family	_____@ .017 acre per unit = _____ acres	_____@ $393 per unit = $_____
Mobile Home	_____@ .024 acre per unit = _____ acres	_____@ $555 per unit = $_____
Lot Split		_____@ $555 per unit = $_____

COMMENTS:

- PRAB voted to accept a land dedication of 4.34 acres for 181 single family lots on July 12, 2004. The developer has provided park land in the amount of 5.02, an excess donation of .68 acres. No banking of the additional land has been requested by the developer.

ZONING REVIEW

Fayetteville Police Department

R-PZD 04-1181: Planned Zoning District (Walnut Crossing Subdivision): Located on the north side of Highway 62 W, east of Layne St. The property is zoned R-A, Residential-Agricultural. Rausch-Coleman Homes, LLC requests the property be approved for a residential planned zoning district with 137 single-family lots.

Recommendations: This property is bordered by Highway 62 West and is surrounded by residential and commercial properties. This site adjoins Farmington city limits. The only apparent access to this proposed subdivision will be from Highway 62 West. If this request were to be approved , we do not anticipate a delay in response for police services. This property will be located on our furthest border on Highway 62 West. We do anticipate more calls for service but not so much so that it will overburden our ability to provide services. The biggest concern we have is adding more traffic to an already congested arterial traffic way. The speed limit is 50 mph in both directions on Highway 62 West. There is a turn lane on highway 62 West that will aid motorists wishing to go east however, motorists may find it challenging exiting this subdivision due to the speed and heavy traffic flow.

Fayetteville Fire Department Service Delivery Impact: Zoning Review Sept. 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
RZN 04-1188	Housley			FS 4	1.10 miles	4 min.	4 min.	N/A	N/A	N/A
RZN 04-1189	Jackson			FS 1	3.00 miles	6 min.	6 min.	N/A	N/A	N/A
R-PZD 04-1181	Walnut Crossing			FS 6	2.60 miles	4-5 min.	4-6 min.	37	15	22

EXHIBIT A - REZONING
WALNUT CROSSING PZD 04-1181

LEGAL DESCRIPTION:

A part of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) and a part of the Northeast Quarter (NE1/4)of the Southwest Quarter (SW 1/4), all in section 24, Township 16 North, Range 31 West, Washington County, Arkansas and being more particularly described as follows:

BEGINNING at the Southeast corner of said Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4); thence along the East line of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4), South 0°02'50" East - 299.40 feet; thence South 68°42'22" West - 446.64 feet; thence South 56°56'13" West - 43.00 feet; thence South 79°44'13" West - 39.40 feet; thence North 0°16'43" West - 492.58 feet to a point on the South line of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4); thence along said South line, North 89°56'29" West - 821.53 feet to the Southwest corner of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4); thence along the West line of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4), North 0°25'44" West - 1315.86 feet to the Northwest corner of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4); thence along the North line of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4), South 89°46'28" East - 825.00 feet to an iron pipe; thence South 0°16'43" East - 60.00 feet; thence South 89°46'28" East - 479.02 feet to a point on the East line of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4); thence along said East line, South 0°55'25" East - 1252.20 feet to the POINT OF BEGINNING, containing 43.30 acres, more or less.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

Applicant's Signature

Submitted as ~~R~~ RPZD04-1181
OK

RECEIVED
SEP 21 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

DEVELOPMENT
WALNUT CROSSING PZD

LEGAL DESCRIPTION:

A part of the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) and a part of the Northeast Quarter (NE1/4)of the Southwest Quarter (SW 1/4), all in section 24, Township 16 North, Range 31 West, Washington County, Arkansas and being more particularly described as follows:

BEGINNING at the Southeast corner of said Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4); thence along the East line of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4), South 0°02'50" East - 299.40 feet; thence South 68°42'22" West - 446.64 feet; thence South 56°56'13" West - 43.00 feet; thence South 79°44'13" West - 39.40 feet; thence South 0°21'59" East - 3.19 feet to the Northeast corner of Stapleton Subdivision; thence along the North line of said subdivision, South 65°47'00" West - 131.56 feet; thence along the North line of said subdivision, South 80°36'00" West - 190.41 feet; thence leaving said North line and running North 25.0 feet, more or less, to the centerline of the North Fork of the Farmington Branch; thence Northwesterly along said centerline the following: West 20.0 feet, N46°43'26"W 112.52 feet, N80°00'W 30.0 feet, N40°00'W 50.0 feet, N75°00'W 35.0 feet, S82°00'W 20.00 feet, S61°00'W 55.0 feet, S45°00W 45.0 feet, S77°50'28"W 160.9 feet, S62°25'57"W 15.12 feet, S62°25'58"W 49.80 feet to a point on the West line of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4); thence along said West line, North 0°25'44" West - 552.19 feet to the Northwest corner of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4); thence along the West line of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4), North 0°25'44" West - 1315.86 feet to the Northwest corner of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4); thence along the North line of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4), South 89°46'28" East - 825.00 feet to an iron pipe; thence South 0°16'43" East - 60.00 feet; thence South 89°46'28" East - 479.02 feet to a point on the East line of said Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4); thence along said East line, South 0°55'25" East - 1252.20 feet to the POINT OF BEGINNING, containing 52.98 acres, more or less.

rausch
coleman

September 30, 2004

Fayetteville Planning Department
Jeremy Pate, Planner
113 W. Mountain
Fayetteville, AR 72701

RE: R-PZD 04-1181 Walnut Crossing

Dear Mr. Pate:

I appreciate the support we received from the Staff and the Planning Commission on Monday, September 27th concerning the Walnut Crossing Residential Planned Zoning District. As was presented, Walnut Crossing is intended to provide affordable housing for the work force sector of our community. This will be a neighborhood of quality built homes accompanied by amenities that are typically afforded by only the higher priced developments.

During the Planning Commission discussions, the definition of affordable housing was requested. Housing is considered affordable if a household pays no more than 30% of their income on rent or mortgage payments. Affordable housing varies based on the income level you are trying to provide for. Walnut Crossing is intended to provide affordable housing for the median income household. Families that fall within the median income level include that of America's work force; our teachers, police and fire personnel, retail and restaurant employees, factory workers and service personnel to name a few.

The average median income in Washington County is approximately $35,000.00 per household. For an income level of $35,000, an affordable mortgage payment would equal up to $875.00 per month. As we presented to the Planning Commission, our homes will range in cost from $99,000 to $135,000. Using an amortization table, I calculate that with 6.6% interest, a family borrowing $99,000.00 would make payments of $632.27 a month on a 30 year mortgage which falls within that 30%. Based on information gathered by the National Low Income Housing Coalition, the average rent for a two bedroom apartment in Northwest Arkansas is $547.00 and for a three bedroom apartment the rent averages $738.00. Based on those figures, we plan to provide home ownership for a lesser monthly payment than offered in the average apartment complex.

We hope this helps to clarify the definition of affordable housing and Rausch Coleman's intentions to provide affordable work force housing within the Walnut Crossing development.

Respectfully

Kim J. Hesse, RLA
Director of Land Development
Rausch Coleman Homes, LLC.

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

August 18, 2004

City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

RE: Walnut Crossing Subdivision
Fayetteville, Arkansas

Dear City Staff:

Enclosed please find copies of the Walnut Crossing Subdivision. This development is a residential mixed use development consisting of 137 lots and approximately 6.47 acres of cluster homes. The project is owned by Rausch Coleman Development. The property will relate well with the future land use of the area, which will be residential. Water and sewer are available to the site as shown on the development plan. This proposal fits the intent of the PZD in that it is a clustered residential development.

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

Sincerely,

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

RECEIVED
AUG 19 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

ESI
Consulting Engineers and Surveyors
Jerry W. Martin, P.E. President
E. Walt LeFevre, P.E. Senior Vice President
Philip C. Humbard, P.E., P.L.S. Vice President
Brian J. Moore, P.E. Secretary / Treasurer

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

RECEIVED
SEP 0 8 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

September 7, 2004

Planning and Development
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

RE: Walnut Crossing Subdivision (PZD 04-1181)
Master Street Plan Revision
Fayetteville, Arkansas

To Whom It May Concern:

The City of Fayetteville Master Street Plan calls for an East-West Collector street in the area of the proposed Walnut Crossing Subdivision. The Walnut Crossing Subdivision PZD submitted includes a street (Street 3) which satisfies Fayetteville's minimum requirements for a collector and also satisfies the intent of the Master Street Plan.

The proposed street has a right-of-way of 80 feet, while only seventy feet of right-of-way is required by the city, and it is east-west in direction. The proposed street is approximately 600' further north than the Master Street Plan calls for, but is in the general area required. The street runs across the entire width of the proposed PZD, and is aligned in such a way as to connect to the existing Alberta Street if extended to the West. There are no impediments to the east of the proposed street, using the alignment proposed in the PZD, that would prevent its eventual extension to Rupple Road, which the Master Street Plan calls to be extended to Highway 62.

I believe the street layout proposed to the city meets the requirements of future traffic in the area and the intent of the Master Street Plan. If you have any questions regarding this development, please do not hesitate to contact me.

Sincerely,

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

CITY OF FARMINGTON

354 West Main Street
P.O. Box 150
Farmington, Arkansas 72730

(479) 267-3865
(479) 267-3411
(479) 267-5511(fax)

September 7, 2004

Fayetteville Planning Division
Ms. Dawn Warrick, Zoning and Development Administrator
113 W. Mountain
Fayetteville, AR 72701

RECEIVED
SEP 08 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

RE: Walnut Crossing

Ms. Warrick,

It is my understanding that the Rausch Coleman Development Group is in the process of developing a parcel of land located within both Fayetteville's and Farmington's city limits. It is also my understanding that Phase I of this development will begin inside Fayetteville's jurisdiction.

Rausch Coleman Development Group and Heather Dumas, Farmington Business Manager, has discussed the intention to construct Holland Drive from Highway 62 north to access the Walnut Crossing Subdivision. We understand that Holland Road will initially be constructed to access Walnut Crossing which is primarily within the limits of Fayetteville. It is also our understanding that this road will access the future Walnut Valley subdivision within the Farmington limits and eventually connect to existing Farmington streets in adjacent residential developments to the west. We are aware that the street is to be built to Fayetteville street standards and accepted as a public right of way by the Farmington City Council to be maintained by the City of Farmington.

The Rausch Coleman Development Group also discussed the construction of a detention pond for the purpose of maintaining flood control for the Walnut Crossing development within a portion of the development that falls within Farmington. It is understood that this detention facility will be owned and maintained by the Walnut Crossing Property Owners Association which will be created as the subdivision is completed.

The Farmington City Council will be reviewing Rausch Coleman Development Group proposal at our September 13, 2004 meeting.

Respectfully

John Harris

John Harris
Mayor

From: Dawn Warrick
To: Pate, Jeremy
Date: 9/8/04 2:44PM
Subject: Fwd: Walnut Crossing

>>> "Heather Dumas" <HeatherDumas@cityoffarmington-ar.gov> 09/08/04 02:39PM >>>
Dawn,

Earlier today Kim Hesse submitted a letter to you from our Mayor, John Harris. The letter stated that our city council would be considering the item on their September 13 agenda. I have since spoken with our city attorney. It is his opinion that the matter should go before our Planning Commission first.

Please note that the item will be presented to our Planning Commission on September 20, 2004.

If you need anything else, please do not hesitate to call, 267-3865.

Thank you

Heather Dumas

City Business Manager

WALNUT CROSSING SUBDIVISION, AN ADDITION TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

RESTRICTIVE COVENANTS AND BILL OF ASSURANCE

These Restrictive Covenants and Bill of Assurance ("**Covenants**") for Walnut Crossing Subdivision, an Addition to the City of Fayetteville and the City of Farmington, Washington County, Arkansas are made by the property owner and developer, Rausch Coleman Homes, LLC who is hereinafter referred to in these Covenants as the Developer.

The Developer hereby imposes the following limitations, restrictions, and uses on Lots 1 through 67 of the Addition, as defined below ("**The Residence**"), Lots 68 through 136 of the Addition ("**The Villa**"), and Lots 137 and Lot 138 which is a 5.4 acre tract of real property set aside for 59 town homes or "cluster" type dwellings ("**The Commons**"). The Residence, The Villa, The Commons, and the Common Areas (as defined below) make up Walnut Crossing Subdivision, an Addition to the City of Fayetteville, Arkansas (the "**Addition**"), as per the platted subdivision filed of record in Washington County, Arkansas on the _____ day of _______________, 2004 in Plat Book _____ at Page _____ (the "**Plat**"). The legal description for the said Addition is more particularly described on Exhibit "A" attached hereto and the Plat is set out on Exhibit "B" attached hereto. These Covenants shall run with the land for the period of time hereinafter set out and shall be binding upon all purchasers of lots or The Commons in the Addition. These Covenants are for the benefit of and are limitations upon all future owners in the Addition and have been designated as such in order to provide for the orderly development of the Addition and for the purpose of making the Addition desirable, uniform, and suitable for the uses herein specified.

These Covenants shall be binding upon all parties and all persons claiming under them through December 31, 2034, at which time they shall be automatically extended for an additional ten (10) years, unless by vote of at least two-thirds of the then owners of the lots in the Addition (the term "lots" being defined herein), it is agreed that these Covenants should be changed, amended, or terminated in whole or in part.

It shall be lawful for the Developer, Walnut Crossing Property Owners Association, an Arkansas non-profit corporation (hereinafter referred to as the "**Association**"), the City of Fayetteville, Arkansas (the "**City**"), or any other person or persons owning a lot in the Addition to initiate proceedings at law or in equity against parties or persons violating or attempting to violate any of these Covenants and to recover damages for such violations. The Association and/or any owner of lots situated in the Addition, either individually or collectively may also exercise any rights reserved hereunder to the Developer. The invalidation of any one or more of these Covenants by a court order shall not invalidate any of the other provisions which shall remain in full force and effect.

ARTICLE I

Concepts and Definitions

The following words, when used in these Covenants or any amendments or supplements thereto (unless the context shall otherwise clearly indicate or prohibit), shall have the respective concepts and meanings set forth below.

"Addition" shall mean and refer to the property described in Exhibit "A" and as reflected on the plat set out on Exhibit "B" and any additions or amendments thereto.

"Association" shall mean and refer to the entity which will have the power, duty, and responsibility for maintaining, administering, and enforcing, these Covenants and collecting and disbursing the assessments and charges hereinafter prescribed. The Association shall be chartered and shall function as a non-profit corporation under the name of "Walnut Crossing Property Owners Association", for the purposes set forth herein.

"Architectural Control Committee" or **"Committee"** shall mean and refer to the 3 individuals or business entities selected by the Developer until such time as 120 lots (as defined herein) have been sold and at least 100 dwellings have been constructed and are occupied within the Addition at which time the Committee shall resign and 3 members shall be elected by the Association at a specially called meeting held for that purpose. Each member of the Committee shall be generally familiar with residential and community development design matters and knowledgeable about the Developer's concern for a high level of taste and design standards within the Addition. Other matters pertaining to the governments and administration of the Committee is set forth in these Covenants.

"The Residence" shall mean Lots 1 through 67 as shown on the Plat.

"The Villa" shall mean Lots 68 through 136 as shown on the Plat.

"Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association elected in accordance with the provisions of the articles of incorporation and by-laws of the Association.

"Common Properties" shall include Lots 140-145 as shown on the Plat as well as any and all areas of land together with all improvements located therein within the Addition which are known, described or designated as private roadway easements within The Commons, trails and walkways along the roadways as noted on the Plat, the Conservation Land Use Area, trails and hiking paths as designed on the Plat, and any other real property intended for or devoted to the common use and enjoyment of the members of the

Association. The Association shall hold such title to the Common Properties as shall be consistent with the objectives envisioned herein and subject to the easement rights herein of the members to use and enjoy the Common Properties. The Developer reserves the right to effect minor redesigns or reconfigurations of the Common Properties and execute any open space declarations applicable to the Common Properties.

"The Commons" shall mean and refer to Lots 137 and 138 on the Plat seta aside for the construction of townhomes or "cluster" residential units.

"City" shall mean the City of Fayetteville, Washington County, Arkansas or the City of Farmington, Washington County, Arkansas, all as the context may require.

"Common Properties" shall mean and refer to any and all areas of land together with all improvements located therein within the Addition which are known, described, or designated as common areas, community trails, and easements along intended for or devoted to the common use and enjoyment of the members of the Association or which are set aside for the protection of trees (unless located on a platted lot within The Residence or The Villa) or for environmental or wildlife protection and as designated on the Plat. If appropriate, the Association shall hold such title to the Common Properties as shall be consistent with the objectives envisioned herein and subject to the easement rights herein of the members to use and enjoy the Common Properties. The Developer reserves the right to effect minor redesigns or reconfigurations of the Common Properties and execute any open space declarations applicable to the Common Properties.

"Conservation Land Use Area" shall refer to that portion of the Addition set aside for wildlife and eco-system maintenance and which shall be preserved in its natural state and may not be cleared, cut or trimmed without the consent of the City. The Conservation Land Use Area shall be utilized as a detention area for storm water run-off.

"Developer" shall mean and refer to Rausch Coleman Homes, LLC, an Arkansas limited liability company, and its successor(s) and assign(s).

"Lot" or **"lot"** shall mean and refer to any plot or tract of land which is designated as a lot on the plat which is attached hereto and labeled Exhibit "B". The term "lot" as used in these Covenants shall be deemed to refer to any real property or space reflected on the plat and within which a dwelling unit may be legally constructed.

"Member" or **"member"** shall mean and refer to each owner of a lot.

"Owner" or **"owner"** shall mean and refer to each and every person or business entity who or which is a record owner or subsequently becomes a record owner of a fee or undivided fee interest in any lot in the Addition. If more than one person or entity owns an interest in a lot, then the voting right and membership shall be divided among the parties as they see fit.

ARTICLE II

Membership and Voting Rights in the Association

Section 1. Membership. Every owner of a lot shall automatically be, and must remain, a member of the Association in good standing.

Section 2. Voting Rights. The Association shall have 1 class of membership for purposes of voting. There shall be a total of one hundred ninety-five (195) votes. The owner of each lot (regardless of how many persons or entities own an interest in the lot) shall be entitled to one (1) vote and the owner of each cluster home (regardless of how many persons or entities own an interest in the cluster home shall be entitled to one (1) vote).

Section 3. Quorum, Notice and Voting Requirements. The quorum, notice, and voting requirements of and pertaining to the Association are set forth within the articles of incorporation and by-laws of the Association, as the same may be amended from time to time. Subject to the provisions of Section 2 above and any other provision to the contrary set out in these Covenants, any action by or on behalf of the Association may be taken with the assent given in writing and signed by members who collectively hold or control a majority of the outstanding votes of the Association.

ARTICLE III

Property Rights in the Common Properties

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article, every member and each individual within a member's family shall have a non-exclusive right and easement of use, recreation, and enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title of each respective lot, PROVIDED, HOWEVER, such easement shall not give such person (excluding the Developer and the Association), the right to make alterations, additions or improvements to the Common Properties. Notwithstanding the foregoing, the Tree Easement noted on the Plat for lots in The Common is not considered to be Common Areas, and the tress located thereonshall be maintained in their current state by the lot owners burdened by this easement and no trees (unless diseased or dead) shall be removed from those lots.

Section 2. Title to the Common Properties. If appropriate and as permitted by the City, the Association shall hold such title to the Common Properties for an indefinite period of time, subject to the easements set forth in Section I of this Article as is necessary to accomplish the purposes and effects of these Covenants. The Association shall have the right to design, redesign, reconfigure, alter, improve, landscape, and maintain the Common Properties.

Section 3. Extent of Members' Easements. The rights and easements created hereby shall be subject to the following provisions:

(A) The Board shall prescribe reasonable regulations and policies governing, and to charge fees and/or deposits related to, the use, operation, and maintenance of the Common Properties and all lots.

(B) The Board, on behalf of the Association, may enter into and execute contracts with any party for the purpose of providing maintenance or such other materials or services consistent with the purposes of the Association and/or these Covenants.

(C) The Board shall suspend the voting rights of any member and suspend the right of any member to use or enjoy any of the Common Properties for any period during which any assessment (including without limitation "fines") against a lot resided upon by such member remains unpaid, and otherwise for any period deemed reasonable by the Board for any infraction of the then existing rules and regulations.

(D) The Board, on behalf of the Association, may dedicate or transfer all or any part of the Common Properties to any municipal corporation, county government, political subdivision, public agency, governmental authority, or utility for such purposes and upon such conditions as may be agreed to by the Board.

ARTICLE IV

Covenants for Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Developer, for each lot owned by it within the Addition, hereby covenants and agrees, and each owner of any lot, by acceptance of a deed therefor, whether from the Developer or some subsequent grantor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree (and such covenant and agreement shall be deemed to constitute a portion of the purchase money and consideration for acquisition of the lot), to pay to the Association the following matters:

(A) Regular assessments or charges for maintenance, taxes and insurance on the Common Properties shall be paid by all of the Owners within the Addition on an equal basis. In Addition, Owners of lots within The Commons shall pay additional special assessments and The Commons as may be needed to maintain the common driveways and roadways within The Commons. Owners of Lots within The Villas shall pay special assessments regular maintenance associated with the upkeep of the alleyways within The Villas.

(B) Special group assessments (which may be applied to owners of only one area of the Addition such as The Commons or The Villa) may also be levied for capital improvements or unusual or emergency matters, such assessments to be fixed, established, and collected by the Board from time to time as hereinafter provided.

(C) Special individual assessments levied against individual lot owners to reimburse the Association for extra costs for maintenance and repairs caused by the willful or negligent acts of the individual owner, his or her family, guests or invitees, and not caused by ordinary wear and tear.

(D) Assessments and fines levied against individual lot owners for violation of rules and regulations pertaining to the Association and/or the Common Properties.

The regular, special group, and special individual assessments, together with such late charges, interest and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each lot against which each such assessment is made and shall also be the continuing personal obligation of the then existing owner of such lot at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Board on behalf of the Association shall be used exclusively for the purposes of: (i) enhancing the natural environment, appearance, and beauty of the Addition; (ii) promoting the health, recreation, safety, and general welfare of the residents of the Addition; and (iii) repairing, maintaining, and renovating those portions of the Addition set aside on private roadways, sidewalks, or easements.

Section 3. Basis and Amount of Regular Maintenance Assessments.

(A) The Board shall determine the regular base assessments for each of the lots at least annually. Each lot (except with regard to special individual assessments) shall be assessed the same amount and in an equal uniform manner; provided, however, owners of lots within The Commons – Tract A and The Commons – Tract B may be assessed additional amounts for work or repairs attributable exclusively to the The Commons Areas but only so long as such assessments against lot owners in The Commons - Tract A and The Commons -Tract B are uniform and equal.

(B) The Board shall give notice to all members at least 30 days in advance of the date all regular or special assessments are due. The Board may prescribe from time to time that the regular base assessments are to be collected on an annual, semi-annual, quarterly, or monthly basis, and accordingly, the Board shall prescribe the appropriate due dates. All regular base assessments shall be collected in advance. The due date or dates (if it is to be paid in installments) of any other assessments or special assessment under Sections 3 and 4 hereof, shall be fixed in a resolution by the Board authorizing such assessment.

Section 4. Special Group Assessments. In addition to the regular assessments authorized by Section 3 hereof, the Board may levy in any fiscal year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement in the Addition.

Section 5. Rate of Assessments. Except as noted herein, regular and special group assessments shall be fixed at a uniform rate for all lots owned by members, unless otherwise approved by the Board for work or expenses attributable to the The Commons Areas. Should a special assessment be determined necessary by the Board, the rate of assessment shall be equal for all lots. The failure to pay the assessment by the owner of a lot within the required time period shall constitute a lien only against the lot assessed.

Section 6. Effect of Non-Payment of Assessment; the Personal Obligation of the Owner; the Lien; and Remedies of Association.

(A) If any assessment or fine or any part thereof is not paid on the date(s) when due, then the unpaid amount of such assessment shall be considered delinquent and shall, together with any late charge and interest thereon at the maximum rate allowed under applicable law and costs of collection thereof, thereupon become a continuing debt secured by a self-executing lien on the lot of the non-paying owner which shall bind such lot in the hands of the owner and owner's heirs, executors, administrators, devisees, personal representatives, successors, and assigns. The Board shall have the right to reject partial payments of an unpaid assessment and demand the full payment thereof. The personal obligation of the then-existing owner to pay such assessment, however, shall remain the owner's personal obligation and shall not pass to owner's successors in title unless expressly assumed by them. However, the lien for unpaid assessments shall be unaffected by any sale or assignment of a lot and shall continue in full force and effect. No owner may waive or otherwise escape liability for any assessment provided herein by non-use of the Common Properties or abandonment of the lot.

(B) The Board may also give written notification to the holder(s) of a mortgage on lot of a non-paying owner of such owner's default in paying any assessment when such default has not been cured within 30 days of the original date due, provided that the Board has, theretofore, been furnished in writing with the correct name and address of the holder(s) of such mortgage and a request to receive such notification.

(C) The Board may, at its election, retain the services of an attorney to review, monitor and/or collect unpaid assessments and delinquent accounts, and there shall also be added to the amount of any unpaid assessment or to any delinquent account any and all attorneys' fees and other costs of collection incurred by the Association.

Section 7. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate and inferior to the lien of any bona fide first mortgage or deed of trust now or hereafter placed upon the lots subject to assessment.

ARTICLE V

General Powers and Duties of the Board of Directors of the Association

Section 1. Powers and Duties. The affairs of the Association shall be conducted by its Board of Directors (sometimes referred to as the "**Board**").

(A) The Board, for the benefit of the Association, the Addition, and the owners, may provide and may pay for, out of the assessment fund(s) provided for in Article IV above, any or all of the following:

(1) Care, preservation and maintenance of the Common Properties and the furnishing and upkeep of any desired personal property and fixtures for use in or on the Common Properties;

(2) Private trash and garbage collection service, if any, which pertain to the Common Properties only;

(3) Taxes, insurance and utilities (including, without limitation, electricity, gas, water and sewer charges), if any, which pertain to the Common Properties only;

(4) The services of any person or firm (including the Developer and any affiliates of the Developer) to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by a manager hired by the Board;

(5) Legal and accounting services; and

(6) Any other materials, supplies, equipment, labor, services, maintenance, repairs, structural alterations, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of these Covenants or which in its opinion shall be necessary or proper for the operation or protection of the Association and the Addition or for the enforcement of these Covenants.

(B) The Board shall have the following additional rights, powers and duties:

(1) To execute all declarations of ownership for tax assessment purposes with regard to any of the Common Properties owned by the Association;

(2) To enter into contracts, maintain one or more bank accounts and, generally, to have all the powers necessary or incidental to the operation and management of the Association; and

(3) To make reasonable rules and regulations for the operation of the Common Properties and to amend them from time to time.

Section 2. Maintenance Contracts. The Board shall have full power and authority to contract with any owner (including, without limitation, the Developer) for performance, on behalf of the Association, of services which the Association is otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable, and in the best interests of the Association.

Section 3. Liability Limitations. No member or the directors and officers of the Association shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association or otherwise. The Developer or the Association, its directors, officers, agents, or employees, shall not be liable for any incidental or consequential damages for failure to inspect any premises, improvements, or portion thereof or for failure to repair or maintain the same.

Section 4. Reserve Funds. The Board may establish reserve funds which may be maintained and accounted for separately from other funds maintained for annual operating expenses.

ARTICLE VI

Use and Division of Lots

No lot may be divided or split. The Addition (and each lot situated therein) shall be constructed, developed, occupied and used as follows:

Section 1. Residential Lots. All lots within the Addition shall be used, known and described as residential lots. Only one (1) single family residential dwelling consisting of not less than 1,100 square feet of heated and cooled finished space shall be constructed on each Lot within the Addition. In addition, the customary and usual necessary structures may be constructed on each lot as may be permitted by the City. No building or structure intended for or adopted to business purposes shall be erected, placed, permitted or maintained on any lot. This covenant shall be construed as prohibiting the engaging in or practice of any commerce, industry, business, trade, or profession within the Addition, and/or within any lot. The restrictions on use herein contained shall be cumulative of, and in addition to, such restrictions on usage as may from time to time be applicable under and pursuant to the statutes, rules, regulations, and ordinances of the City or any other governmental authority or political subdivision having jurisdiction over the Addition.

Section 2. Residential Purposes. By acquisition of any lot within the Addition, each owner (excluding bona fide home- builders) covenants with and represents to the Developer and to the Association that the lot is being specifically acquired for the specific and singular purpose of constructing and using a single-family residential dwelling thereon or as a residence for such owner and/or owner's immediate family members.

Section 3. Minimum Square Footage. Each single-family residence constructed on a lot shall contain at least the minimum square footage heated and cooled finished space as set forth in Section 1 above. The decision by the Committee regarding the computation of the amount of square footage a residence contains shall be final.

Section 4. The Villa Lots. The alleyways within The Villa must remain clear at all times. Alleyways may not be utilized for parking or storage purposes and shall be subject to such other rules and regulations as may be promulgated by the Board from time to time.

ARTICLE VII

Easements

Section 1. In General. Other than primary service in the Addition and within platted easements, there shall be no above- ground service for utilities except those lines or poles that shall be approved, in writing by the City of Fayetteville. The owner of each lot shall be responsible for the protection of underground facilities located on his or her lot and shall prevent any alteration of grade or construction activity which may interfere with said utility lines.

Section 2. Utility Easements. Underground service cables to all residences which may be located in the Addition shall run from the nearest service pedestal to the point of use and upon the installation of such service cable to a particular residence, the supplier of service shall thereafter be deemed to have an effective right of way easement covering a 5 foot strip extending 2.5 feet on each side of the service cable from the service transformer to the service entrance to the residence. This easement shall also be available to all of the suppliers of public utilities and quasi-public utilities.

Section 3. Gas Lines. For gas meters and gas lines to the structures in the Addition, all yard lines will be plastic pipe of the size and material approved by the public utility servicing the Addition and an approved tracer wire will be installed in the trench with the plastic pipe and attached to the meter eyes in accordance with the public utility specifications. No yard line will be installed under concrete or asphalt except in a casing approved by the public utility. All gas meters shall be installed within 5 feet of the corner of the residence it services and may not be located in any portion of the front of the residence.

Section 4. Tree Easements. A tree easement[INSERT LANGUAGE FROM CITY OF FAYETTEVILLE TREE ORDINANCE HERE].

Section 5. Approval of Easements. No portion of any lot shall be used for a driveway or passageway or easement of any type to service or benefit property or owners of property adjoining the Walnut Crossing unless such usage is approved by two-thirds (2/3) of the voting members of the Association and the Developer; provided, however, some driveways, as reflected on the plat may be shared or used in common by two lots.

ARTICLE VIII

Architectural Control Committee - Approval of Plans, Control of Development Activities

Section 1. Submission of Plans. In order to maintain a beautiful and pleasing setting in a the Addition, two (2) sets of all building and site improvement plans and specifications must be submitted to the Committee for its approval prior to the commencement of construction. The Committee shall act to enforce the requirements of these Covenants in a reasonable manner. The Committee has the authority to maintain the architectural conformity of the Addition and, in consideration thereof, shall determine that the proposed construction shall not detract from the development and shall enhance the purpose of the development to provide a beautiful and pleasing setting in the Addition. The Committee shall consider such matters as the proposed square footage, location, materials, exterior style and landscaping. No concrete block foundation may be exposed. The Committee will adopt rules or by-laws explaining the mechanics of its operation and providing for a twenty-one (21) day maximum time within which plans must be reviewed and approved or disapproved after submission and, if not approved or disapproved in that period, that the same shall be considered as automatically approved.

Section 2. Diversion of Drainage. All plans or schemes for the diversion of drainage, or construction or reconfiguration of a pond or lagoon, shall be approved by the Committee; provided, however, no reconfiguration of the Conservation Land Use Area shall be allowed.

Section 3. Garage and Detached Structures. All residences constructed in the Addition shall have a private garage to accommodate a minimum of 2 automobiles. No carports are allowed within the Addition. Any detached structure to be built on a lot, such as a covered entertainment area, guest house, pool house, barn, or other structure, shall conform to the basic styling of the dwelling and the plans for any such structures must be submitted to the Committee for approval prior to construction. As set forth in Article VI, Section 4, there shall be no parking on any alleyway within The Villa.

Section 4. Temporary Structures. No trailer, mobile home, tent, construction shack, or other out building shall be erected on any lot in the Addition except for temporary use by construction contractors for a reasonable period of time and only in such location and for such time as may be designated by the Committee. Boats, recreational vehicles, and vehicles used for recreational purposes, shall be stored to the rear of the main residential structure on each lot. Any type of vehicle that has been inoperative for a period of more than three (3) days shall be stored in the garage or at the rear of the main residential structure so as to be obscured from public view and the view of adjacent lots. The Committee shall have authority to establish setback lines consistent with those reflected on the plat.

Section 5. Fences/Requirement Regarding Public Park. Plans for all fencing, whether on lot lines or surrounding patios, pools, barns or other areas of the lot must be submitted to, and approved by, the Committee prior to the construction thereof. In the approval of the fencing, the Committee shall give consideration to the location, height, material conformity with neighboring areas, and the obstruction of views. No barbed wire, razor wire, or chain link fence will be allowed nor may any fence incorporate or use metal poles in its construction. Notwithstanding the foregoing, a four (4) foot fence shall be maintained along Lots 10-33, Block 1, bordering the 5.0 acre public park.

ARTICLE IX

No Offensive Trade or Activity

No obnoxious or offensive trade or activity including the discharge of firearms or fireworks shall be permitted on any lot, nor shall any activity be undertaken on any lot that shall become an annoyance or nuisance to the neighborhood. Home occupations in which customers or suppliers travel to or from a residence in the Addition are prohibited. The development of minerals of any kind or nature, is prohibited within the Addition.

ARTICLE X

Animals

Section 1. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot in the Addition for commercial purposes. No animals, livestock, or poultry may be raised, bred, or kept on any lot for any other purpose without the approval of the Board, which approval, when granted, must be renewed in writing by the Board, within 3 years from the date of first approval. If the Board fails to approve the renewal, then the owner must remove the animals, livestock, or poultry within 30 days of the expiration of the approval.

Section 2. Notwithstanding the provisions set forth in Section 1 above, dogs, cats, or other common household pets may be kept or raised on a lot, provided they are not kept, bred, or maintained for commercial purposes, and they are not obnoxious or offensive. In the pen, cage, kennel, shelter, run, track, or other building, structure, or devise directly or indirectly related to animals (including dogs, cats, household pets, or otherwise) which can be seen, heard, or smelled by any other lot owner must be approved by the Committee. Violations of this provision may be brought before the Board, and, after considering the same, the Board may order the violation to cease or be remedied in some fashion. The failure to heed the Association's directive shall result in a lien being filed against the property and the Board being able to take such other legal and/or equitable action as it deems necessary and proper.

ARTICLE XI

Motorized Recreation Vehicles

Motorized recreational vehicles including, but not limited to, motorbikes, motorcycles, scooters, mopeds, trail bikes and any other similar mechanical device emitting noise, smoke or other environmental pollutants shall not be operated within the Addition except for the sole and exclusive purpose of ingress and egress to and from lots. The roadways within the Addition shall not be used by such vehicles for recreational purposes. The purpose of this restriction is to reduce noise and other pollution so as to permit maximum enjoyment of the surroundings in the Addition. This restriction shall not apply to equipment normally used for lawn or garden maintenance so long as said equipment is operated in the ordinary and usual manner intended.

ARTICLE XII

Signs

Unless approved in writing by the Committee, signs shall be prohibited on all lots except that 1 sign, not exceeding 6 square feet in size, advertising a particular lot for sale shall be permitted.

ARTICLE XIII

Additional Design and Construction Criteria

Section 1. Storage of Construction Materials. Construction materials may only be stored on a lot for thirty (30) days prior to the commencement of construction. Thereafter, construction is to be completed within a reasonable period of time.

Section 2. Garbage; Dumping. Dumping is prohibited in the Addition. All trash, garbage or other waste shall be kept in sanitary containers that shall be located at the rear of each residential unit, but shall be kept out of the alley area. All lots (and adjoining alleys) shall be maintained in a neat and orderly condition at all times.

Section 3. Accessory Buildings. Accessory buildings may only be constructed if the plans are submitted to and approved by the Committee.

Section 4. Antenna, Aerial and Other Devices. All antenna or other types of aerial transmitting or receiving devices (including without limitation, radio or television transmitting or receiving antenna) shall be approved by the Committee. The approval of antenna may be denied if, in the sole discretion of the Committee, the antenna or other receiving device would impede the view or otherwise distract from the overall image of the Addition.

Section 5. Appearance of Lot. All owners shall be required to keep their lot in a clean and sanitary condition whether or not they have constructed a residence on the Lot. All open areas on lots shall be kept mowed to a height of not more than twelve (12) inches. The Board shall promulgate rules and regulations regarding the maintenance of lots and adequate enforcement mechanisms in the event a lot is not properly maintained.

Section 6. Mailboxes. All mailboxes shall be located within 10 feet of the driveway servicing the lot and must be of brick construction or shall be grouped for The Villa and The Commons at a location designated by the Developer.

ARTICLE XIV

Miscellaneous Provisions

Section 1. Enforcement. Enforcement of these Covenants may be by any proceeding at law or in equity against any person or persons violating or attempting to violate them, whether the relief sought is an injunction or recovery of damages, or both, or enforcement of any lien created by these Covenants; but failure by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorney's fees from the non-prevailing party.

Section 2. Validity. Violation of or failure to comply with these Covenants and restrictions shall not affect the validity of any mortgage, bona fide lien or other similar security instrument which may be then existing on any lot. Invalidation of any one or more of these covenants and restrictions, or any portions thereof, by a judgment, decree, or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of these Covenants conflict with any ordinance or regulation promulgated by a governmental authority, then the governmental provisions shall control.

Section 3. Headings. The headings contained in these Covenants are for reference purposes only and shall not in any way affect the meaning or interpretation of the provisions set out herein. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa, unless the context requires otherwise.

Section 4. Notices to Member/Owner. Any notice required to be given to any member or owner shall be deemed to have been properly delivered when deposited in the United States Mail, postage prepaid, addressed to the last known address of the person who appears as the member or owner on the records of the Association at the time of such mailing.

Section 5. Disputes. Matters of dispute or disagreement between owners with respect to interpretation or application of the provisions of these Covenants, the rules of the Committee, the Association's by-laws, or the rules and regulations of the Board shall be determined by the Board of Directors of the Association. These determinations (absent arbitrary and capricious conduct or gross negligence) shall be final and binding upon all owners.

IN WITNESS WHEREOF, Rausch Coleman Homes, LLC, being the Developer herein, has caused this instrument to be executed by its Operating Manager, as of this _____ day of ____________, 2004.

"DEVELOPER"

RAUSCH COLEMAN HOMES, LLC

By: ____________________________
Operating Manager

<u>ACKNOWLEDGMENT</u>

STATE OF ARKANSAS)
) §§
COUNTY OF SEBASTIAN)

On this the ______ day of ________________, 2004, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting within and for said County and State, appeared in person the within-named ______________________ and ______________________ to me personally well known, who stated he was the Operating Manager of Rausch Coleman Homes, LLC, an Arkansas limited liability company and he was duly authorized in this capacity to execute the foregoing instrument for and in the name and behalf of the said company, and further stated and acknowledged that he 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 official seal on this _____ day of _______________, 2004.

____
Notary Public

My Commission Expires:

____

EXHIBIT "A"

Legal Description

(An attachment to and an integral portion
of the Declaration of Covenants,
Conditions and Restrictions for
WALNUT CROSSING
development being more
particularly described as follows:

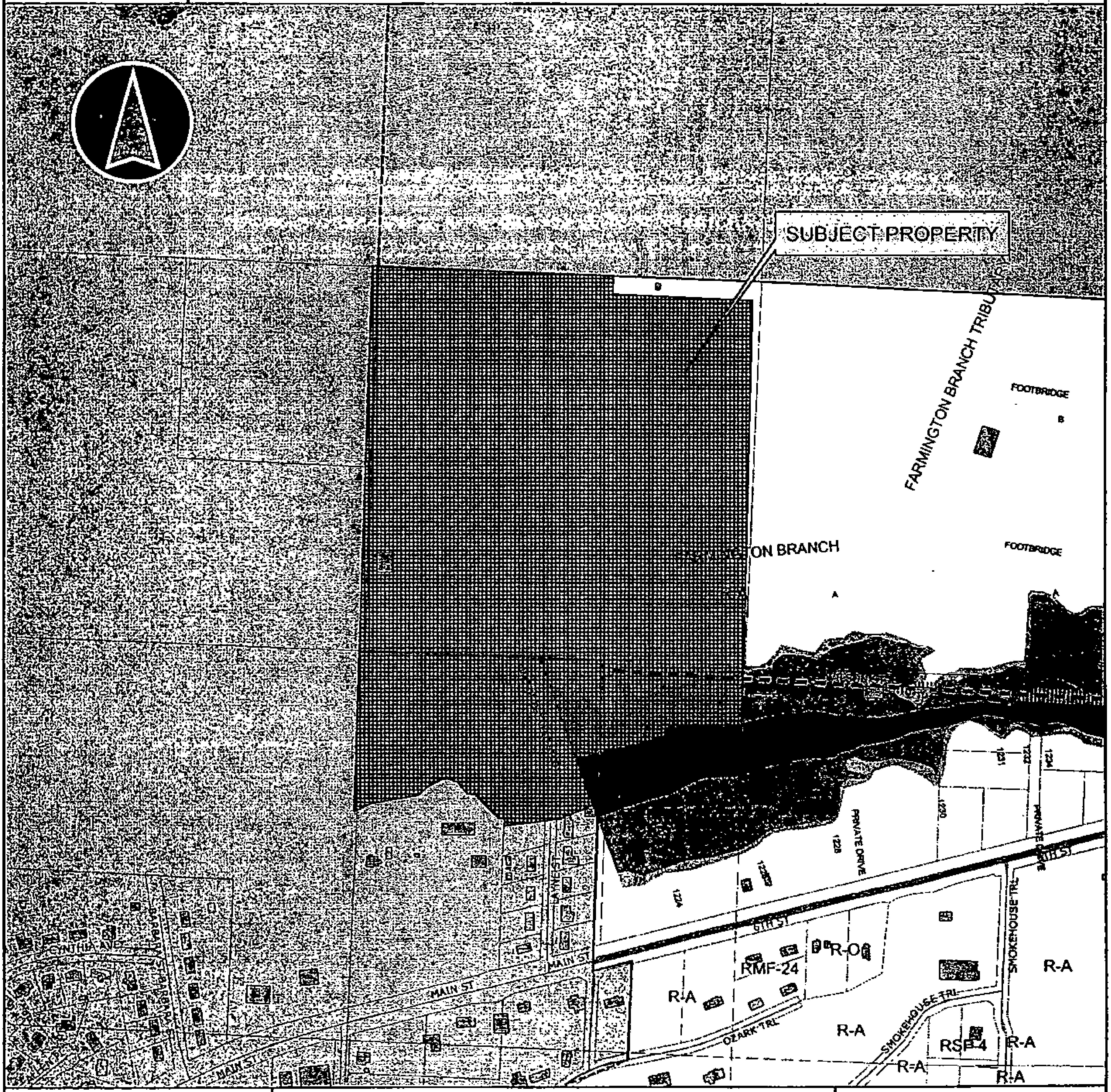
EXHIBIT "B"

Plat

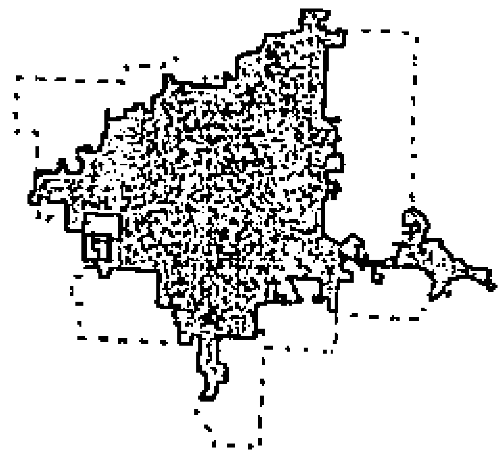
RPZD04-1181

Close Up View

WALNUT CROSSING SUBDIVISION



Overview



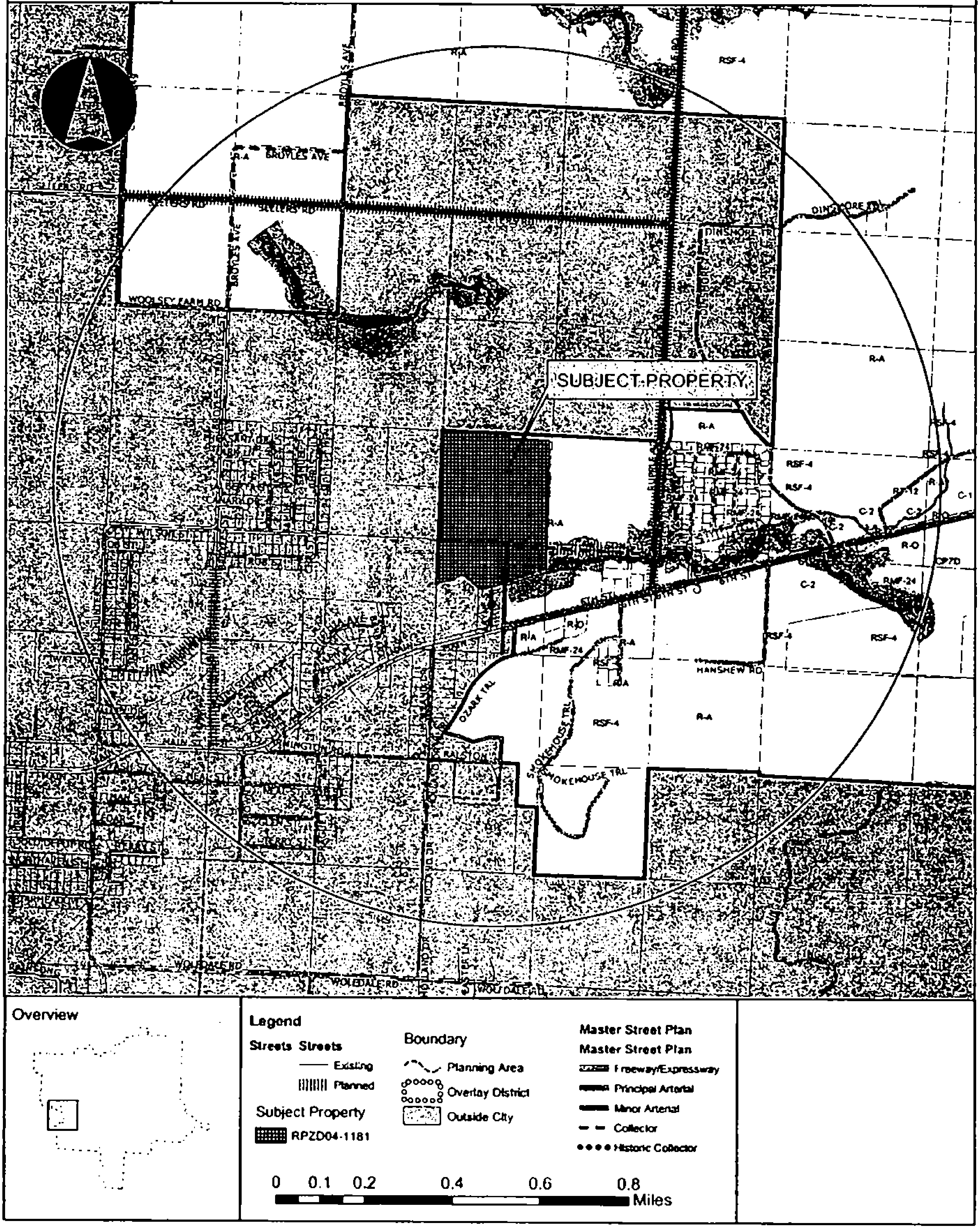
Legend

- 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
- ▨ RPZD04-1181
- ☐ Fayetteville
- ▨ Outside City

R-PZD04-1181

One Mile View

WALNUT CROSSING SUBDIVISION



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: October 19, 2004

FROM:

Dawn T. Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

An ordinance rezoning approximately 43.30 acres located north of Hwy. 62, east of the Farmington City Limits from R-A, Residential Agricultural to R-PZD 04-1181 and adopting the associated development plan for Walnut Crossing as submitted by Kim Hesse on behalf of Rausch Coleman Homes.

STAFF RECOMMENDATION: Approval

Dawn T Warrick 10/1/04
Division Head Date

10/1/04
City Attorney Date

10-5-04
Department Director Date

10-5-04
Finance & Internal Services Dir. Date

Hugh Earnest 10-5-04
Chief Administrative Officer Date

Dan Coody 10/5/04
Mayor Date

Received in Mayor's Office ______ Date

Cross Reference:

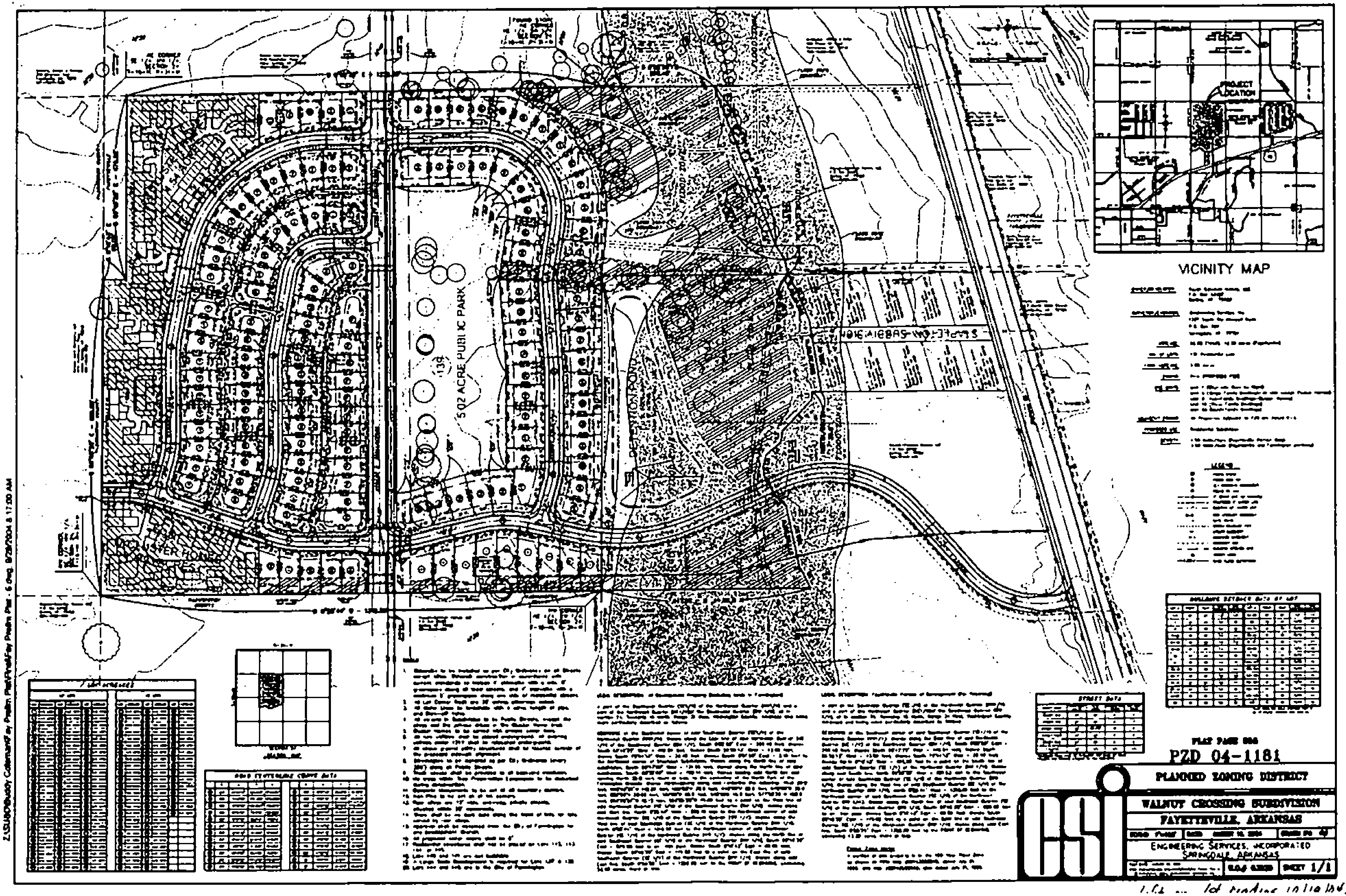
Previous Ord/Res#: ______

Orig. Contract Date: ______

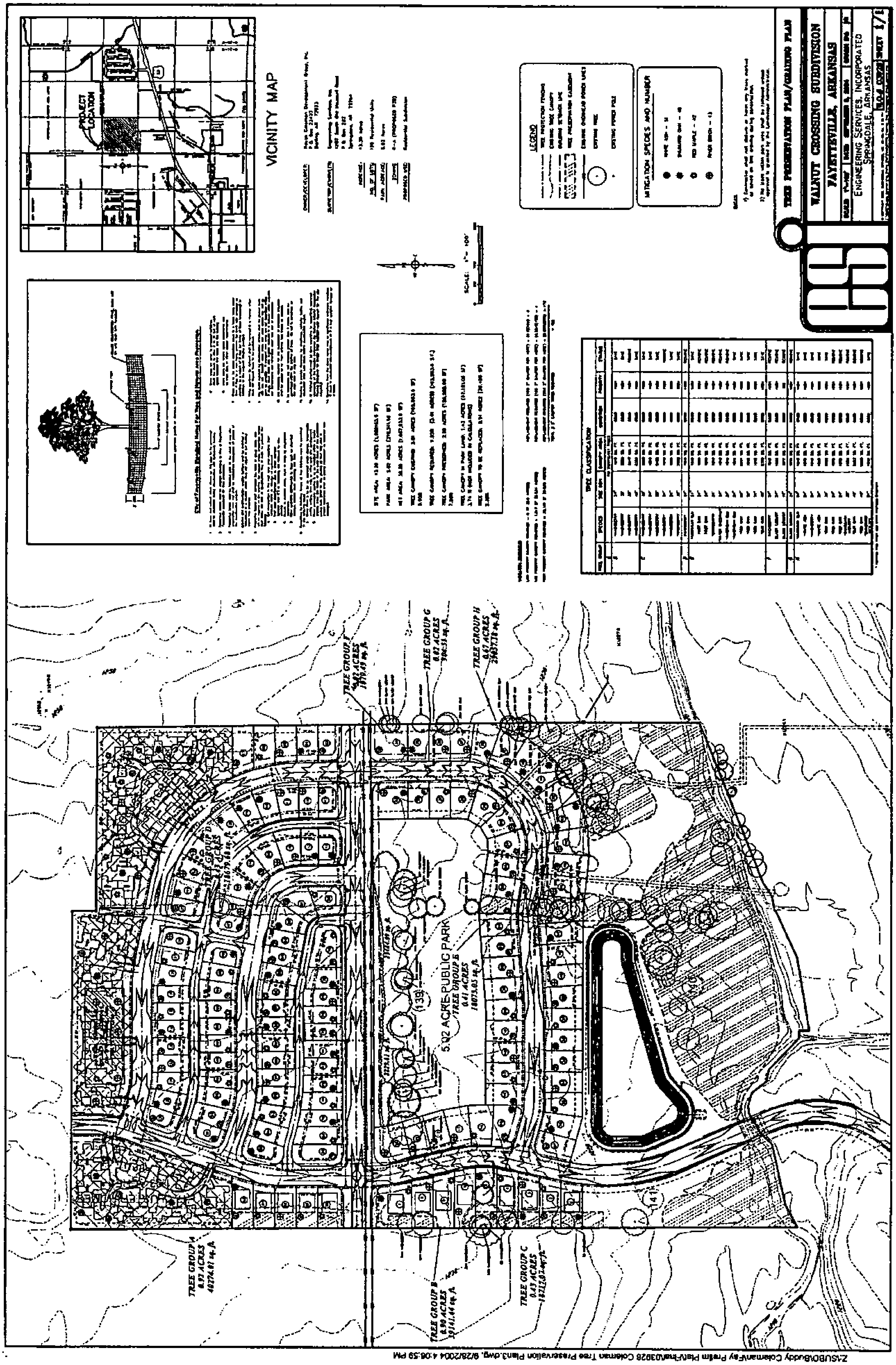
Orig. Contract Number: ______

New Item: Yes No

ENTERED
Clap
10/7/04



1.L. ... lot reading initialed


TREE PRESERVATION PLAN/GRADING PLAN
WALNUT CROSSING SUBDIVISION
FAYETTEVILLE, ARKANSAS
ENGINEERING SERVICES, INCORPORATED
SPRINGDALE, ARKANSAS
ESI
VICINITY MAP
PROJECT LOCATION
LEGEND
MITIGATION SPECIES AND NUMBER
TREE CLASSIFICATION
SCALE: 1" = 100'
5.02 ACRE PUBLIC PARK
TREE GROUP A
TREE GROUP B
TREE GROUP C
TREE GROUP D
TREE GROUP E
TREE GROUP F
TREE GROUP G
TREE GROUP H
Z:\SUBDIV\Buddy Coleman\Fay Prelim Plat\Final\03828 Coleman Tree Preservation Plan3.dwg, 9/28/2004 4:06:59 PM

City Council Meeting of October 19, 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: September 28, 2004

Subject: Master Street Plan amendent for Wilson St. – Walnut Xing (ADM 04-1258)

RECOMMENDATION

Planning Staff recommends approval of a resolution amending the Master Street Plan to relocate Wilson Street, an un-constructed Collector Street, approximately 600 feet to the north as part of the Residential Planned Zoning District for Walnut Crossing, as described and depicted herein.

BACKGROUND

Property Description: The property consists of a total of 52.98 acres located in west Fayetteville and east Farmington, north of Hwy 62 (6th Street). Of the 52.98 acres in review for the associated Planned Zoning District, only 43.30 acres is within the City of Fayetteville, the remainder of which lies within the City of Farmington. Two legal descriptions, therefore, accompanies the proposal: one for the rezoning, from R-A, Residential Agricultural to the unique R-PZD zoning district (43.30 acres); and a second for the Preliminary Plat being processed simultaneously, subdividing property in both jurisdictions (52.98 acres). The City of Farmington has been notified and is in the process of reviewing development plans separately from the City of Fayetteville.

The property is agricultural in nature, with floodplain associated with Farmington Branch creek and several groupings of trees.

Proposal: As part of the development proposal, the applicant plans to dedicate right-of-way for an east-west Collector and construct a street to accomplish the goals of the Master Street Plan. The intended location, however, is approximately 600 feet to the north of planned Wilson Street.

Request: The request is to relocate the planned Collector Street (Wilson St) that traverses the southern boundary of the property approximately 600 feet to the north, as depicted in the Planned Zoning District subdivision plans. The proposed street is aligned in such a way to connect to existing Alberta Street in Farmington to the west and to the planned Rupple Road extension to the east, with future development. This would allow for a

Tabled to 11/16/04 mtg 11/1/04
Tabled to 11/2/04 mtg 10/19/04
Exhibit "A" page 1

north-south arterial connection (Rupple Road), and distance the road from following Farmington Branch creek too closely.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of the associated Planned Zoning District for Walnut Crossing which included consideration of this Master Street Plan amendment as a condition of that approval on Monday, September 27, 2004.

BUDGET IMPACT

None.

Exhibit "A" page 2

RESOLUTION NO. __________

A RESOLUTION AMENDING THE MASTER STREET PLAN TO RELOCATE WILSON STREET, A PROPOSED COLLECTOR STREET, APPROXIMATELY 600 FEET NORTH AS PART OF R-PZD 04-1181, WALNUT CROSSING, AS DESCRIBED IN THE STAFF REPORT ATTACHED HERETO AND MADE A PART HEREOF.

WHEREAS, the relocation of Wilson Street approximately 600' north will allow for this collector to be situated along a large utility easement in an area that is undesirable for residential lot locations; and

WHEREAS, the relocation of this collector street will distance the road from following too closely to the Farmington Branch creek and associated floodway and floodplain areas.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the herein mentioned change as described in the staff report attached hereto and made a part hereof, labeled Exhibit "A".

PASSED and **APPROVED** this ______ day of October, 2004.

APPROVED:

By: ______________________________
DAN COODY, MAYOR

ATTEST:

By: ____________________________
SONDRA SMITH, CITY CLERK

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

RECEIVED
SEP 0 8 2004
CITY OF FAYETTEVILLE
PLANNING DIVISION

September 7, 2004

Planning and Development
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

RE: Walnut Crossing Subdivision (PZD 04-1181)
Master Street Plan Revision
Fayetteville, Arkansas

To Whom It May Concern:

The City of Fayetteville Master Street Plan calls for an East-West Collector street in the area of the proposed Walnut Crossing Subdivision. The Walnut Crossing Subdivision PZD submitted includes a street (Street 3) which satisfies Fayetteville's minimum requirements for a collector and also satisfies the intent of the Master Street Plan.

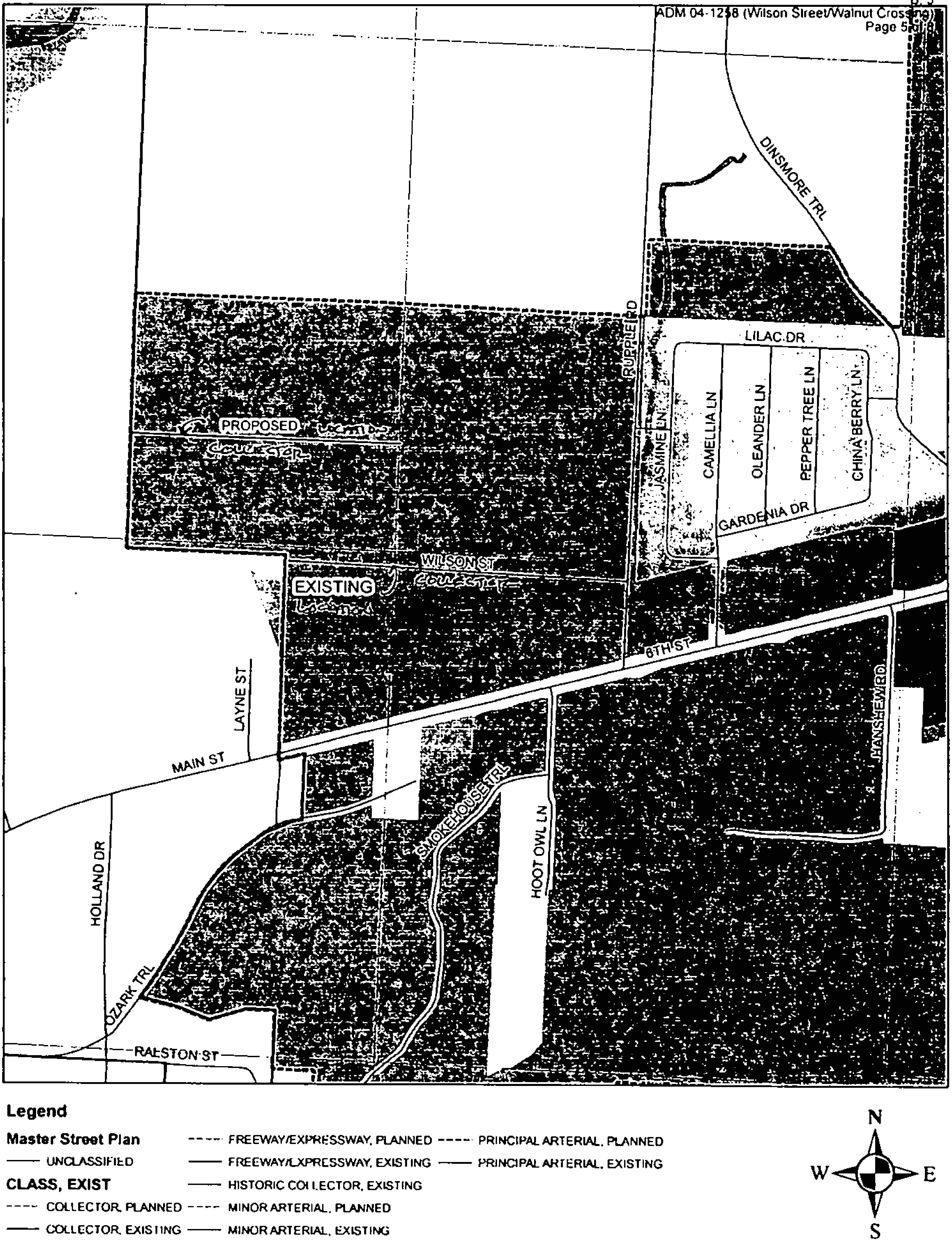
The proposed street has a right-of-way of 80 feet, while only seventy feet of right-of-way is required by the city, and it is east-west in direction. The proposed street is approximately 600' further north than the Master Street Plan calls for, but is in the general area required. The street runs across the entire width of the proposed PZD, and is aligned in such a way as to connect to the existing Alberta Street if extended to the West. There are no impediments to the east of the proposed street, using the alignment proposed in the PZD, that would prevent its eventual extension to Rupple Road, which the Master Street Plan calls to be extended to Highway 62.

I believe the street layout proposed to the city meets the requirements of future traffic in the area and the intent of the Master Street Plan. If you have any questions regarding this development, please do not hesitate to contact me.

Sincerely,

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

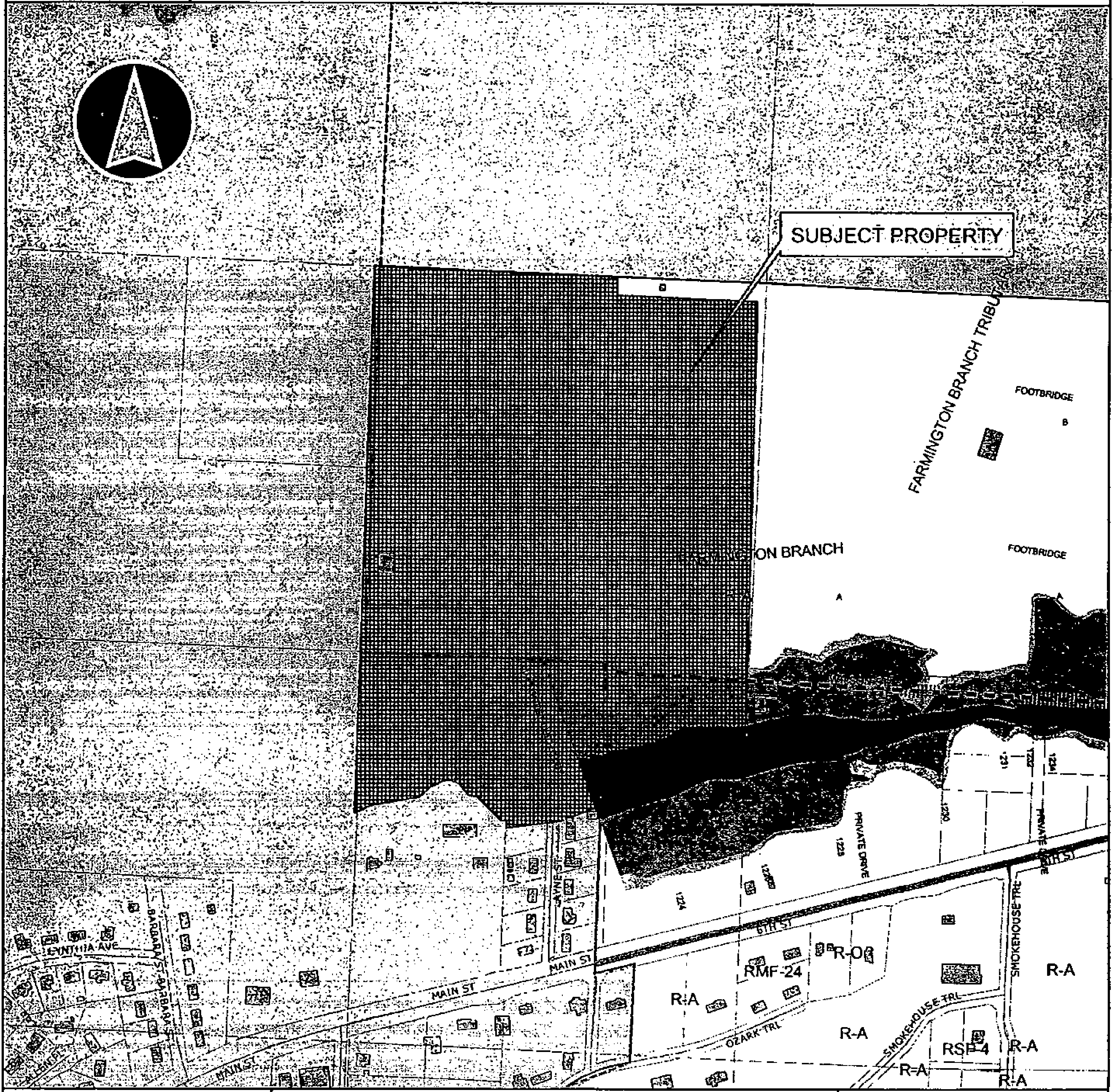
ESI
Consulting Engineers and Surveyors
Jerry W. Martin, P.E. President
E. Walt LeFevre, P.E. Senior Vice President
Philip C. Humbard, P.E., P.L.S. Vice President
Brian J. Moore, P.E. Secretary / Treasurer


DINSMORE TRL
LILAC DR
RUPPLE RD
JASMINE LN
CAMELLIA LN
OLEANDER LN
PEPPER TREE LN
CHINA BERRY LN
GARDENIA DR
PROPOSED
Collector
WILSON ST
EXISTING
Collector
Local
6TH ST
LAYNE ST
MAIN ST
JANSHEW RD
SMOKEHOUSE TRL
HOOT OWL LN
HOLLAND DR
OZARK TRL
RALSTON ST
Legend
Master Street Plan
UNCLASSIFIED
CLASS, EXIST
COLLECTOR, PLANNED
COLLECTOR, EXISTING
FREEWAY/EXPRESSWAY, PLANNED
FREEWAY/EXPRESSWAY, EXISTING
HISTORIC COLLECTOR, EXISTING
MINOR ARTERIAL, PLANNED
MINOR ARTERIAL, EXISTING
PRINCIPAL ARTERIAL, PLANNED
PRINCIPAL ARTERIAL, EXISTING
N
W
E
S

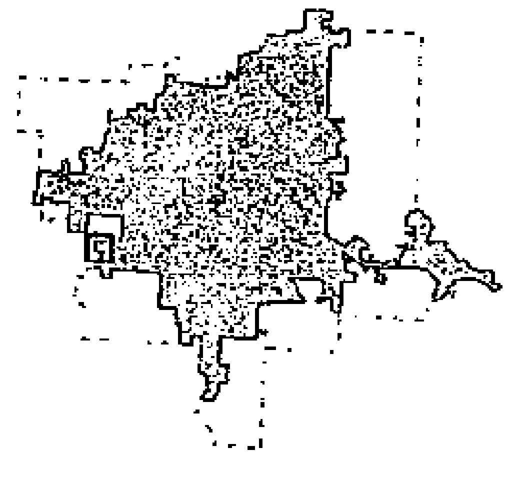
RPZD04-1181

Close Up View

WALNUT CROSSING SUBDIVISION



Overview



Legend

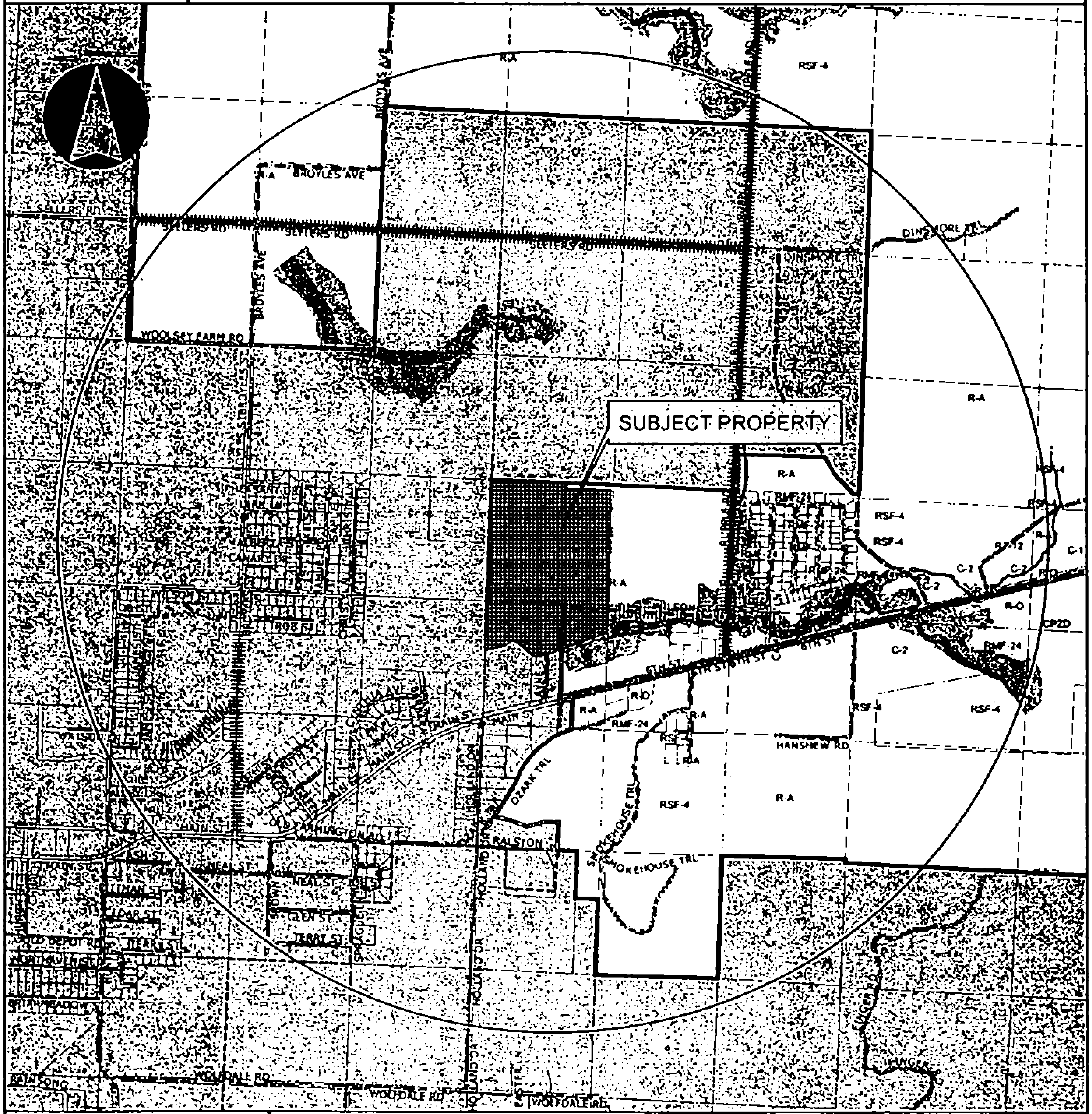
- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- ▦ RPZD04-1181
- ☐ Fayetteville
- ▨ Outside City

0 212.5 425 850 1,275 1,700 Feet

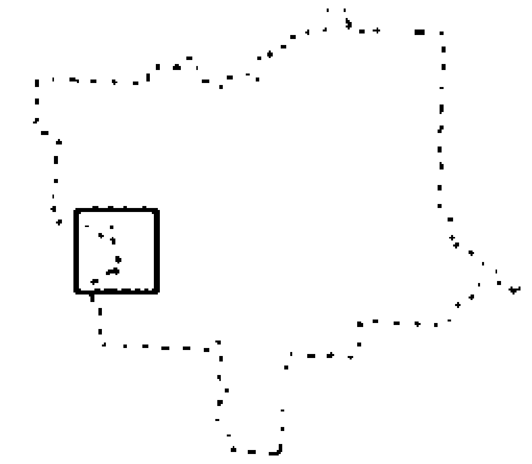
R-PZD04-1181

One Mile View

WALNUT CROSSING SUBDIVISION



Overview



Legend

Streets
- Existing
- Planned

Subject Property
- ▦ RPZD04-1181

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

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: October 19, 2004

FROM:

Dawn T. Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Resolution Approval.

SUMMARY EXPLANATION:

A resolution to amend the Master Street Plan to relocate a proposed collector street (Wilson Street) approximately 600 feet north.

STAFF RECOMMENDATION: Approval

Dawn T. Warrick 10/1/04
Division Head Date

10/1/04
City Attorney Date

10-5-04
Department Director Date

10/5/04
Finance & Internal Services Dir. Date

Hugh Earnest 10-5-04
Chief Administrative Officer Date

Dan Coody 10/5/04
Mayor Date

Received in Mayor's Office 10/4/04
Date

Cross Reference:

Previous Ord/Res#: ____________

Orig. Contract Date: ____________

Orig. Contract Number: ____________

New Item: Yes No

ENTERED
clp
10/4/04

City Council Meeting of November 02, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director T. C.

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

Date: October 15, 2004

Subject: Rezoning request for Hoskins (RZN 04-1223)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 11.73 acres of property from RSF-1, Residential Single Family, 1 unit per acre to RSF-4, Residential Single Family, 4 units per acre.

BACKGROUND

Property description: The subject property consists of approximately 11.73 acres that was recently annexed as part of the City Council's decision to annex all unincorporated areas surrounded by city limits (islands). The subject property was part of a 254-acre unincorporated area along Rupple Road, north and south of Mt. Comfort Road. At the time of annexation, this area was zoned primarily to RSF-1, Residential Single Family, 1 DU/Acre, the ordinance citing that the highest and best use of the lands in question were not for agricultural or horticultural purposes. A portion of the island was zoned to R-A, Residential Agricultural, primarily that which is still utilized for cattle grazing and other agricultural purposes. The property is located east and south of Bridgeport S/D, north and west of existing large residential lots. Surrounding properties are zoned RSF-4 and RSF-1 and are developed, or being developed, as single residential homes. Bridgeport S/D Phase VII is currently under construction to the north of the subject property, and is constructing a street stub-out to access this property from the north.

Proposal: The applicant proposes a rezoning of the subject property to facilitate the future development of a single family subdivision at a higher density than that allowed within the RSF-1 zoning district.

Request: The request is to rezone the subject property from RSF-1, Residential Single Family, 1 DU/Acre to RSF-4, Residential Single Family, 4 units per acre.

DISCUSSION

This item was heard at the regular Planning Commission on October 11, 2004. Due to delayed notification, the Planning Commission voted 7-0-0 to table the request to the next regular meeting on October 25, 2004. In order to prevent the applicant from being delayed in the review process, staff forwarded this item to be heard by the City Council

ENTERED
10-15-04 ql.

Left on the 1st reading 11/1/04

on November 02, 2004 with Council materials to be supplemented to include final actions by the Planning Commission.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1223 AS SUBMITTED BY TRACY HOSKINS FOR PROPERTY LOCATED AT 1719 NORTH RUPPLE ROAD CONTAINING APPROXIMATELY 11.73 ACRES FROM RSF-1, RESIDENTIAL SINGLE FAMILY, ONE UNIT PER ACRE 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 RSF-1, Residential Single Family, One Unit Per Acre to RSF-4, Residential Single-Family, 4 Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. **That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.**

PASSED AND APPROVED this _______ day of __________, 2004.

APPROVED:

By:______________________
DAN COODY, Mayor

ATTEST:

By: ___________________________
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 04-1223

A PART OF THE SW ¼ OF THE SE ¼ OF SECTION 1, T-16-N, R-31-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SW CORNER OF SAID 40 ACRE TRACT; THENCE N00°35'50"W, 1074.45 FEET; THENCE EAST 430.20 FEET; THENCE SOUTH 1074.42 FEET; THENCE WEST 419.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 10.473 ACRES MORE OR LESS.

ALSO:

A PART OF THE S ½ OF THE SE ¼ OF SECTION 1, T-16-N, R-31-W, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF THE SW ¼ OF THE SE ¼ OF SECTION 1, T-16-N, R-31-W; THENCE WEST 901.00 FEET; THENCE NORTH 60.00 FEET; THENCE EAST 925.85 FEET; THENCE S22°30'00"W, 64.94 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.258 ACRES, MORE OR LESS. SUBJECT TO A PERPETUAL RIGHT OF WAY FOR INGRESS AND EGRESS AND UTILITIES.

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PC Meeting of October 11, 2004

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jeremy Pate, Senior Planner Matt Casey, Staff Engineer
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	October 06, 2004

RZN 04-1223: Rezoning (TRACY HOSKINS, 361): Submitted by TRACY K. HOSKINS for property located at 1719 N RUPPLE RD. The property is zoned RSF-1, SINGLE FAMILY - 1 UNIT/ACRE and contains approximately 11.73 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Property Owner: TRACY K. HOSKINS Planner: JEREMY PATE

RECOMMENDATION:

Staff recommends approval of the requested rezoning, based on the findings included as part of this report.

PLANNING COMMISSION ACTION: Required YES
○ Approved ○ Denied
Date: October 11, 2004

CITY COUNCIL ACTION: Required YES
○ Approved ○ Denied
Date: November 02, 2004 (1st reading if recommended)

Comments: ______________________

BACKGROUND:

Property description: The subject property is currently a large agricultural field with several residential and accessory structures located upon it. The 11.73 acres was recently annexed as part of the City Council's decision to annex all unincorporated areas surrounded by city limits (islands). The subject property was part of a 254-acre unincorporated area along Rupple Road, north and south of Mt. Comfort Road. At the time of annexation, this area was zoned primarily to RSF-1, Residential Single Family, 1 DU/Acre, the ordinance citing that the highest and best use of the lands in question were not for agricultural or horticultural purposes. A portion of the island was zoned to R-A, Residential Agricultural, primarily that which is still utilized for cattle grazing and other agricultural purposes. The property is located east and south of Bridgeport S/D, north and west of existing large residential lots. Surrounding properties are zoned RSF-4 and RSF-1 and are developed, or being developed, as single residential homes. Bridgeport S/D Phase VII is currently under construction to the north of the subject property, is constructing a street stub-out to access the property from the north.

Proposal: The applicant proposes a rezoning of the subject property to facilitate the future development of a single family subdivision at a higher density than that allowed within the RSF-1 zoning district.

Request: The request is to rezone the subject property from RSF-1, Residential Single Family, 1 DU/Acre to RSF-4, Residential Single Family, 4 units per acre.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Bridgeport S/D, Phase VII (under construction)	RSF-4, Res. Single Family, 4 DU/acre R-A, Residential Agricultural
South	Agricultural/vacant land, SF homes	RSF-4, Res. Single Family, 4 DU/acre
East	Agricultural/vacant land, SF homes	RSF-1, Res. Single Family, 1 DU/acre
West	Bridgeport S/D (SF homes)	RSF-4, Res. Single Family, 4 DU/acre

INFRASTRUCTURE:

Streets: Currently the site has access to Newbridge Road (with construction of Bridgeport S/D) and Rupple Road. At the time of development, Rupple Road will need to be brought up to current standards along the property frontage. These improvements will include pavement, curb and gutter, storm drainage and sidewalks.

Water: The property has access to an 8" water main in the Bridgeport Phase 7 along the north side of this property. This main should be sufficient to provide service to most developments that could occur on the site. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

Sewer: The site currently has access to an 8" sewer line along the north side of this property. A sewer main extension will need to be constructed to provide service to any development on this site. A capacity analysis may need to be conducted to verify line capacity before the extension will be allowed.

Fire: The subject property is located 0.8 miles from Fire Station #7 on Rupple Road. Fire response time is approximately 3 minutes. Projected service calls for the subject property, at maximum build-out of 46 dwelling units, is 9 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 RMF-4 is consistent with the land use plan and is compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed rezoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans. Surrounding properties are residential and agricultural in nature, and development of new subdivisions is occurring directly to the north, with street stub-outs for connectivity planned. Bordering the property to the west are the backs of lots that within the same zoning district as that requested, creating a compatible and harmonious land use.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning is justified and needed in order to allow for a similar density and lot configuration as those single family residential neighborhoods developed to the south, west and north.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The site currently has access to Rupple Road, and a street connection to this arterial will likely be required for development of the subject property to allow for adequate access. Additionally, the property to the north is being developed (Bridgeport Phase VII) and provides a stub-out to the south, allowing for the only other access point for this property. Connectivity in the**

form of street stub-outs will be expected in all cardinal directions, where deemed necessary and practical to ensure a safe and adequate means of access, allowing for traffic to disperse in a maximum number of ways.

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. With the proposed density, maximum of 46 dwellings units would be permitted, with a projected total of 101 future residents in the area. Additionally, future development on the site will require street improvements and shall conform to zoning and development standards of the Unified Development Code. Public service providers have responded accordingly:

Police – Individually, this rezoning will not substantially alter the population density thereby undesirably increasing the load on police services. Cumulatively, development in this area of the City continues to have an increased demand on police services and traffic congestion.

Fire – Response time to the subject property (actual drive time) is approximately 3 minutes (approx. 0.8 miles) from station #7 on Rupple Road. Projected service calls for the subject property, at maximum build-out, is 9 calls per year.

Engineering - Currently the site has access to Newbridge Road (with construction of Bridgeport S/D) and Rupple Road. At the time of development, Rupple Road will need to be brought up to current standards along the property frontage. These improvements will include pavement, curb and gutter, storm drainage and sidewalks.

The property has access to an 8" water main in the Bridgeport Phase 7 along the north side of this property. This main should be sufficient to provide service to most developments that could occur on the site. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

The site currently has access to an 8" sewer line along the north side of this property. A sewer main extension will need to be constructed to provide service to any development on this site. A capacity analysis may need to be conducted to verify line capacity before the extension will be allowed.

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

161.05 District Rsf-1, Residential Single-Family – One Unit Per Acre

(A) *Purpose.* A district having single-family detached residences on lots with a minimum size of one unit per acre. The district is designed to permit and encourage the development of very 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 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	1

(D) *Bulk and area regulations.*

Lot width minimum	150 ft.
Lot area minimum	43,560 sq. ft. (1 acre)
Land area per dwelling unit	43,560 sq. ft. (1 acre)

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height regulations.*

Maximum building height	35 ft.

(G) *Building area.* None.

(Code 1965, §160.44; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98)

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.

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 04-1212	HARPER	YES	2.68	FS 4	4.0 miles	9-11 mins.	9-11 mins.			
RZN 04-1213	HARPER							2	1	1
RZN 04-1219	HANCOCK			FS 7	1.7 miles	4-5 mins.	4-5 mins.	14	6	8
RZN 04-1221	SCOTT			FS 5	2.6 miles	6 mins.	6 mins.	2	1	1
→ RZN 04-1223	HOSKINS			FS 7	0.8 miles	3 mins.	3 mins.	9	3	6
RZN 04-1225	CONNER			FS 5	2.1 miles	5 mins.	5 mins.	N/A		
RZN 04-1225	CONNER			Proposed FS 3	1.2 miles	2-3 mins.	2-3 mins	N/A		

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

RECEIVED
OCT 0 5 2004
PLANNING DIV

October 4, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed Rezoning **RZN 04-1223 (Tracy Hoskins, 361)** submitted by Tracy K. and Lori C. Hoskins for Property located at 1719 Ruple Road would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Individually, each of these annexations and rezonings do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

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: 479-587-3555 FAX: 479-587-3522

REQUEST FOR REZONING
COUNTY PARCEL NUMBER 001-11401-002
SUBMITTED BY TRACY K HOSKINS

CURRENT OWNERSHIP

THE PROPERTY IS CURRENTLY OWNED BY FAMILY JEWELS, LLC. TRACY HOSKINS IS THE APPLICANT AND THE MANAGING MEMBER OF FAMILY JEWELS, LLC

REASON FOR REQUESTING ZONING CHANGE

THIS PROPERTY WAS RECENTLY ANNEXED INTO THE CITY OF FAYETTEVILLE AND ASSIGNED A ZONING DESIGNATION OF RSF-1. I WISH TO HAVE THE PROPERTY REZONED TO RSF-4 SO THAT I CAN PROCEED WITH THE SUBMITTAL OF A SMALL INFILL NEIGHBORHOOD.

SURROUNDING PROPERTIES, LAND USE, TRAFFIC, ETC...

THIS PROPERTY IS CURRENTLY BORDER BY THE FOLLOWING:

NORTH - FUTURE PHASE OF BRIDGEPORT SUBDIVISION ZONED RSF-4
WEST - BRIDGEPORT SUBDIVISION ZONED RSF-4
EAST - OTHER PROPERTY RECENTLY ANNEXED AS RSF-1
SOUTH - OTHER PROPERTY RECENTLY ANNEXED AS RSF-1

THE CITY'S FUTURE LAND USE DESIGNATES THIS PROPERTY TO BE ZONED RSF-4 IN KEEPING WITH THE SURROUNDING NEIGHBORHOODS.

THE PROPERTY WILL HAVE A FUTURE CONNECTION TO THE NORTH BY THE EXTENSION OF NEW BRIDGE ROAD FROM BRIDGEPORT AND CONNECTION WILL BE PROVIDED TO THE SOUTH FOR THE ADJACENT DEVELOPER, MARK FOSTER. RUPPLE ROAD IS LOCATED TO THE EAST OF THE PROPERTY AND MT COMFORT ROAD IS LOCATED TO THE NORTH

AT THIS TIME, THE EXACT APPEARANCE OF THE SUBDIVISION AND SIGNAGE IS NOT DETERMINED.

ACCESSIBILITY TO WATER AND SEWER

A 6 INCH WATER LINE IS LOCATED JUST NORTH OF THE PROPERTY AND WILL BE EASILY ACCESSED WITH THE EXTENSION OF NEW BRIDGE ROAD TO THE EAST. AN 8 INCH SEWER LINE WILL ALSO BECOME ACCESSIBLE WITH THE EXTENSION OF NEW BRIDGE ROAD TO THE EAST. THE DEVELOPERS OF BRIDGEPORT HAVE BEEN REQUIRED TO EXTEND A STREET CONNECTION ALONG WITH WATER AND SEWER TO MY NORTH PROPERTY LINE.

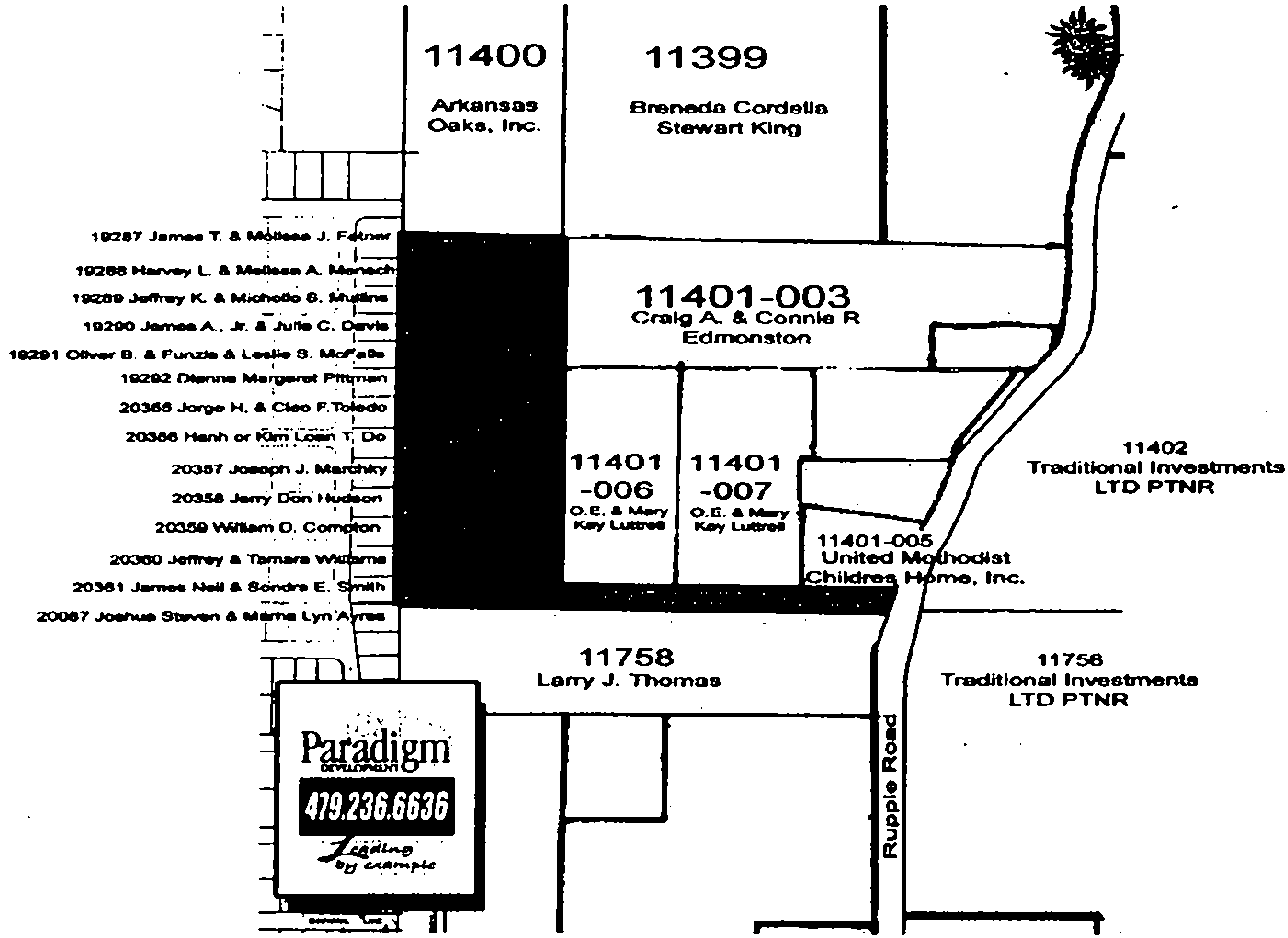
THE PROPOSED ZONING IS CONSISTENT WITH THE LAND USE PLANNING OBJECTIVES, PRINCIPLES AND POLICIES AND WITH LAND USE AND ZONING PLANS.

THE PROPOSED ZONING IS JUSTIFIED, AS THIS IS AN INFILL PROJECT AND SURROUNDED BY THE SAME TYPES OF DEVELOPMENT.

SHOULD THIS PROPERTY BE DEVELOPED TO IT'S FULL RSF-4 ZONING, WHICH IS HIGHLY UNLIKELY, 41 ADDITIONAL SINGLE FAMILY LOTS WILL NOT APPRECIABLY INCREASE TRAFFIC DANGER OR CONGESTION.

A CITYWIDE SEWER STUDY HAS RECENTLY DETERMINED THAT THE CITY SEWER SYSTEM HAS AMPLE CAPACITY TO SERVE THIS DEVELOPMENT. AND THAT HOLCOMB AND HOLT SCHOOLS ARE NOT TO CAPACITY.

THIS PROPERTY IS IN AN AREA OF NEIGHBORHOODS OF SMALLER LOTS AND SMALLER HOUSES. IT IS IMPRACTICAL FOR THIS PROPERTY TO BE DEVELOPED AS RSF-1 WHICH TYPICALLY HAS ONE HOUSE PER ACRE; THESE HOUSES BEING LARGER AND TRADITIONALLY MORE EXPENSIVE. RSF-4 IS THE BEST USE FOR THE LAND, IN KEEPING WITH SURROUNDING PROPERTIES AND THE CITY'S FUTURE LAND USE.


11400
Arkansas Oaks, Inc.
11399
Brenada Cordella Stewart King
11401-003
Craig A. & Connie R Edmonston
11401 -006
O.E. & Mary Kay Luttrell
11401 -007
O.E. & Mary Kay Luttrell
11401-005
United Methodist Childres Home, Inc.
11402
Traditional Investments LTD PTNR
11758
Larry J. Thomas
11758
Traditional Investments LTD PTNR
Ruppie Road
19287 James T. & Melissa J. Fetner
19288 Harvey L. & Melissa A. Menach
19289 Jeffrey K. & Michelle S. Mullins
19290 James A., Jr. & Julie C. Davis
19291 Oliver B. & Funzie & Leslie S. McFalls
19292 Dienne Margaret Pittman
20365 Jorge H. & Cleo F.Toledo
20366 Hanh or Kim Loan T. Do
20357 Joseph J. Marchky
20358 Jerry Don Hudson
20359 William O. Compton
20360 Jeffrey & Tamara Williams
20361 James Neil & Sondra E. Smith
20087 Joshua Steven & Marha Lyn Ayres
Paradigm
479.236.6636
Leading by example

~~Sep~~ 30 2004 1:48PM METRO (479)443-3383

09/30/2004 15:02 479-575-8202 ENGINEERING C.O.F. PA

ge 3 of 3)

File No.: 22008

EXHIBIT A

A part of the SW¼ of the SE¼ of Section 1, T-16-N, R-31-W, Washington County, Arkansas, being more particularly described as follows: Beginning at the SW corner of said 40 acre tract; thence N 00°35'50" W, 1074.45 feet; thence East 430.20 feet; thence South 1074.42 feet; thence West 419.00 feet to the point of beginning and containing 10.473 acres more or less.

Also;

A part of the S½ of the SE¼ of Section 1, T-16-N, R-31-W, Washington County, Arkansas, more particularly described as follows: Beginning at the SE corner of the SW¼ of the SE¼ of said Section 1, T-16-N, R-31-W; thence West 901.00 feet; thence North 60.00 feet; thence East 925.85 feet; thence S 22°30'00" W, 64.94 feet to the point of beginning and containing 1.238 acres, more or less. Subject to a perpetual right-of-way for ingress and egress and utilities.

2nd Submission
RZN04-1223
9/30/2004

EXHIBIT "A"
PROPERTY TO BE REZON
AS SUBMITTED BY THE APPL

Applicant's Signature

ORDINANCE NO. 4588

AN ORDINANCE TO ANNEX INTO THE CITY OF FAYETTEVILLE, ARKANSAS SEVERAL PARCELS COMPLETELY SURROUNDED BY THE INCORPORATED LIMITS OF FAYETTEVILLE

WHEREAS, the annexation policy of the City of Fayetteville adopted by the City Council is to annex those parcels of land which have become completely surrounded by the incorporated limits of Fayetteville; and

WHEREAS, after annexation into the City of Fayetteville, the inhabitants of those lands will be afforded the same services of police and fire protection and solid waste collection as current citizens of Fayetteville enjoy; and

WHEREAS, all of the lands identified in Exhibit A (map) and Exhibit B (legal descriptions) comply with at least one of the five requirements for annexation stated in A.C.A. §14-40-302; and

WHEREAS, at the time of the adoption of this ordinance, the highest and best use of these lands is NOT for agricultural or horticultural purposes.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby annexes into the City of Fayetteville, Arkansas the lands identified in Exhibit A (map) and Exhibit B (legal description).

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby assigns the zoning of these lands to be RSF-1, Residential Single Family, one unit per acre except for parcels identified as numbers 001-11380-001 and 001-11399-000 which are assigned the zoning of RA, Residential Agricultural.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby assigns the parcels identified as numbers 001-10695-000; 001-10677-002, 001-11176-000, 001-11176-002, 001-11177-000; 001-10757-001, (also: 765-13158-001), 001-10763-000, 001-10764-000, 765-13156-000, and 001-10800-000 to Ward 1.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby assigns the parcels identified as numbers 001-16815-000, 001-16828-000, 765-16658-020, 765-16658-000; 001-16823-000 (also: 765-13599-000), 001-16823-001, 001-16823-002(also: 765-13599-001), 001-16825-001, 001-16826-000, 001-16826-001; 001-11381-000, 001-11380-002, 001-11380-010, 001-11380-001, 001-11399-000, 001-11380-021, 001-11380-011, (also: 765-13649-010), 001-11380-020, 001-11396-000, 001-11396-010, 001-11394-000, (also: 765-13649-000), 001-11398-000, (also: 765-13648-000), 001-11395-000, 001-11397-000, 001-11401-000, 001-11401-001, 001-11401-002, 001-11401-003, 001-11401-004, 001-11401-005, 001-11401-006, 001-11401-007, 001-11402-000, 001-11756-000, 001-11766-000, 001-11757-000, 001-11758-000, 001-11762-000, 001-11760-001, 001-11765-000, 001-11765-001, 001-11763-000, 001-11764-000,001-11830-000; 765-16177-001, 765-21425-000 to Ward 4.

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

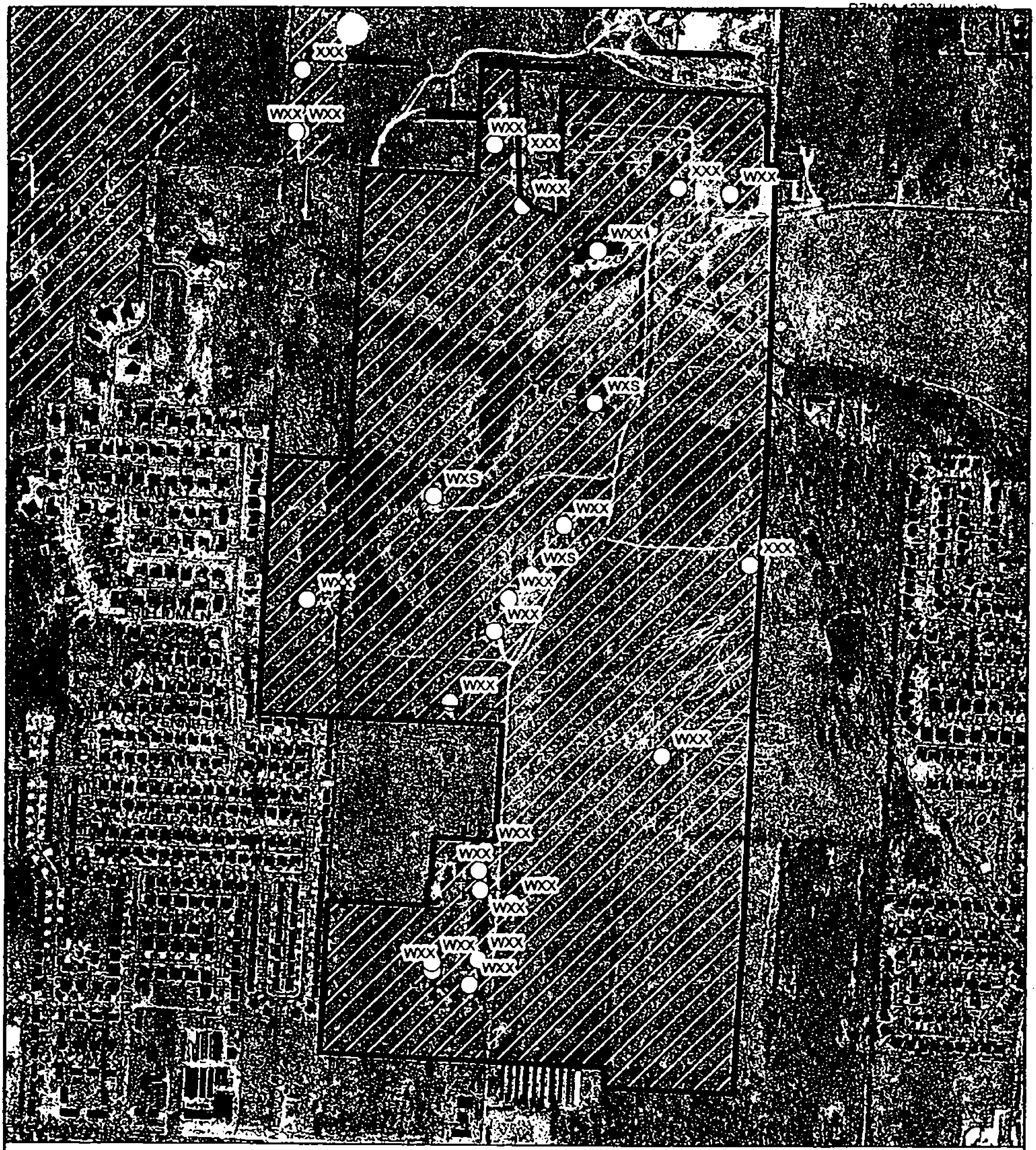
APPROVED:

By: Dan Coody
DAN COODY, Mayor

CITY CLERK/TREASURER
CITY OF
FAYETTEVILLE
ARKANSAS
WASHINGTON COUNTY

ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk



Group 3, Description 8

0 295 590 1,180 1,770 2,360 Feet

Date of Imagery: Feb. 14, 2000

▨ Outside City of Fayetteville

☐ Area to be Annexed

○ City Service

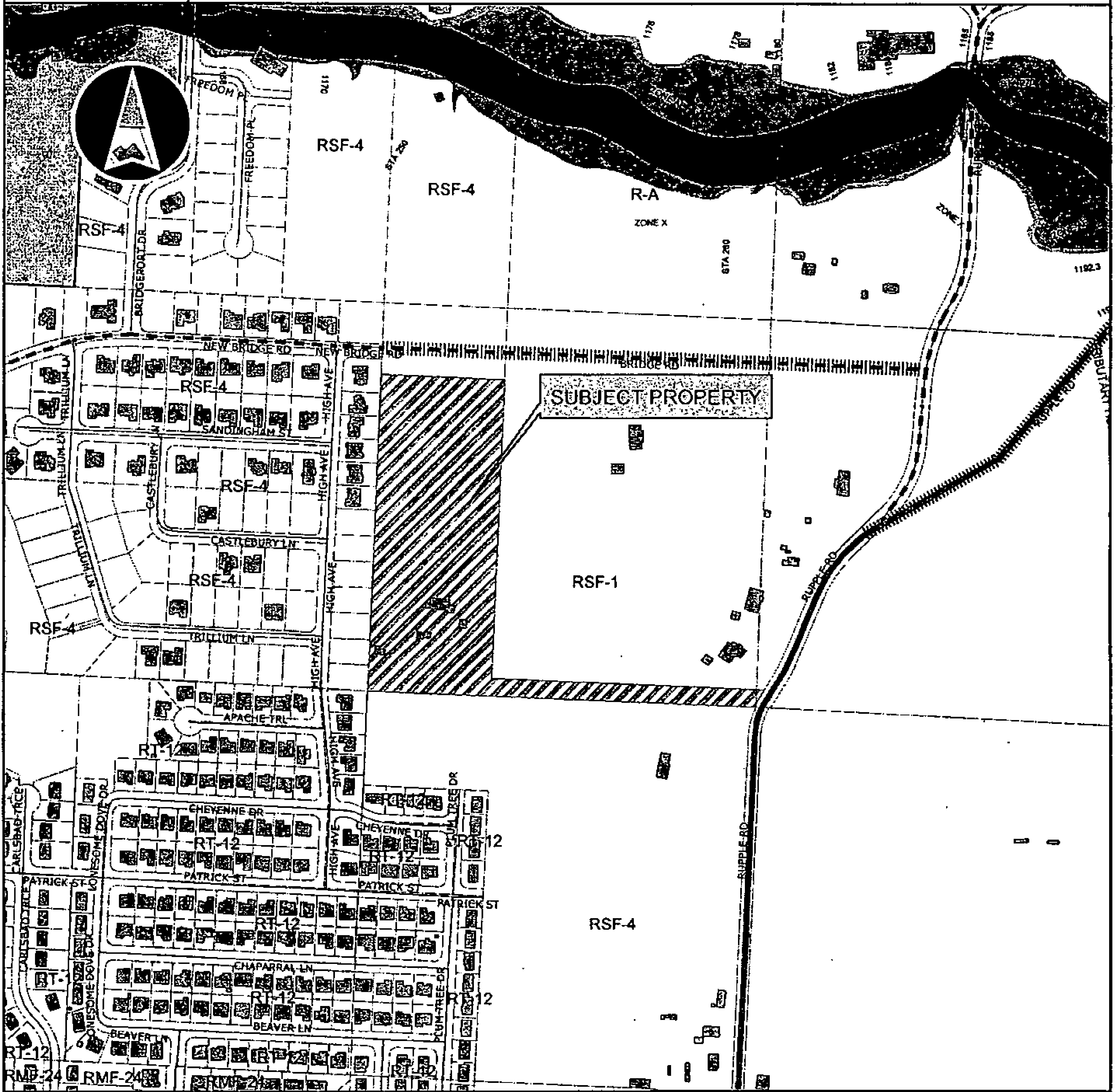
WSS = Water, Sewer, Solid Waste (respectively)
X = NO SERVICE

Exhibit "A" for 4588

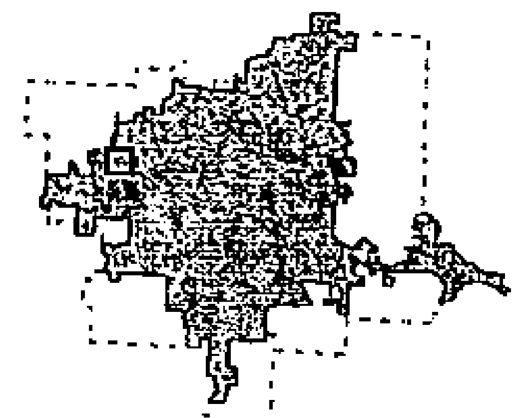
RZN04-1223

Close Up View

TRACY HOSKINS



Overview



Legend

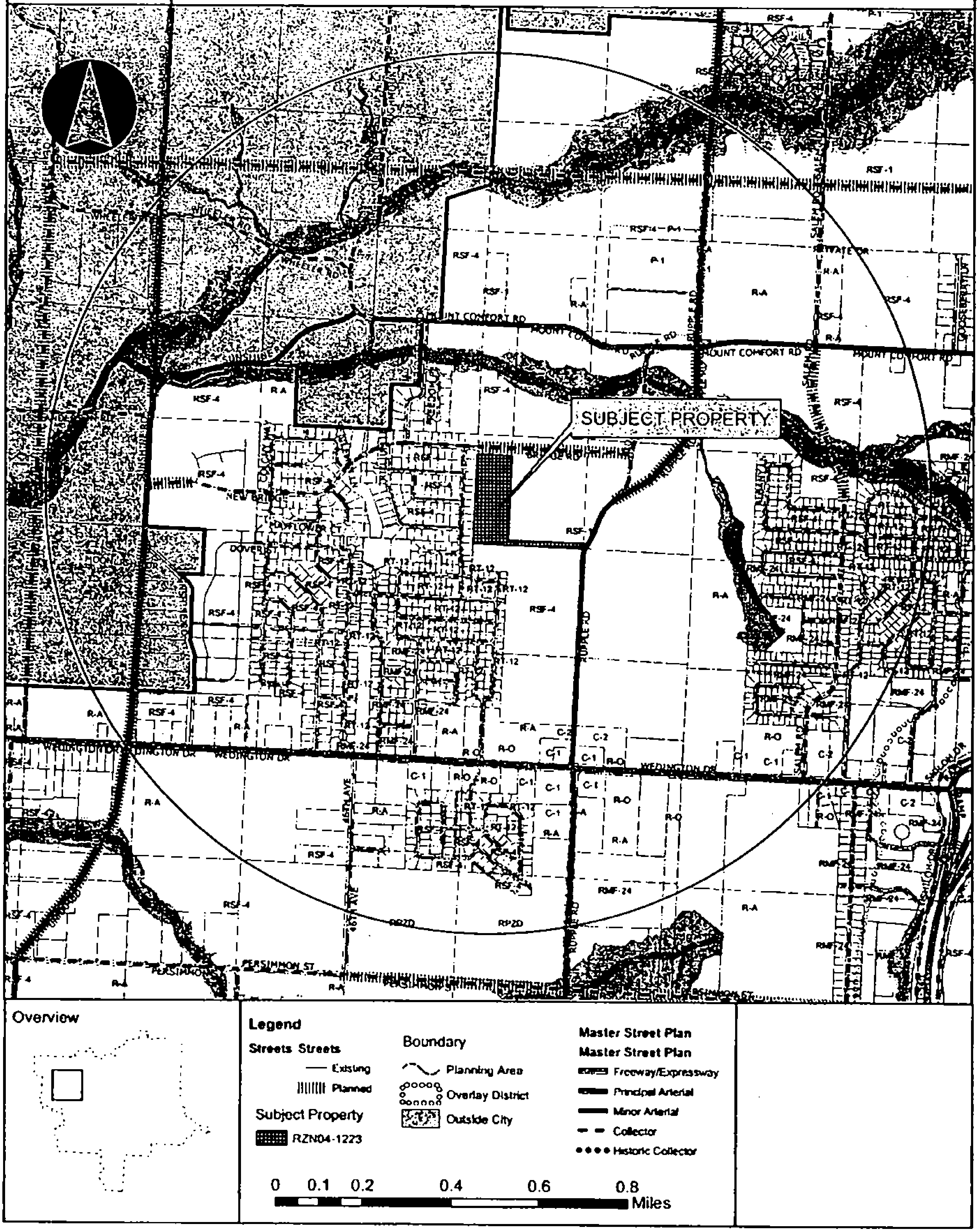
○○○ Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
▨ RZN04-1223
☐ Fayetteville
▒ Outside City

0 175 350 700 1,050 1,400 Feet

RZN04-1223

One Mile View

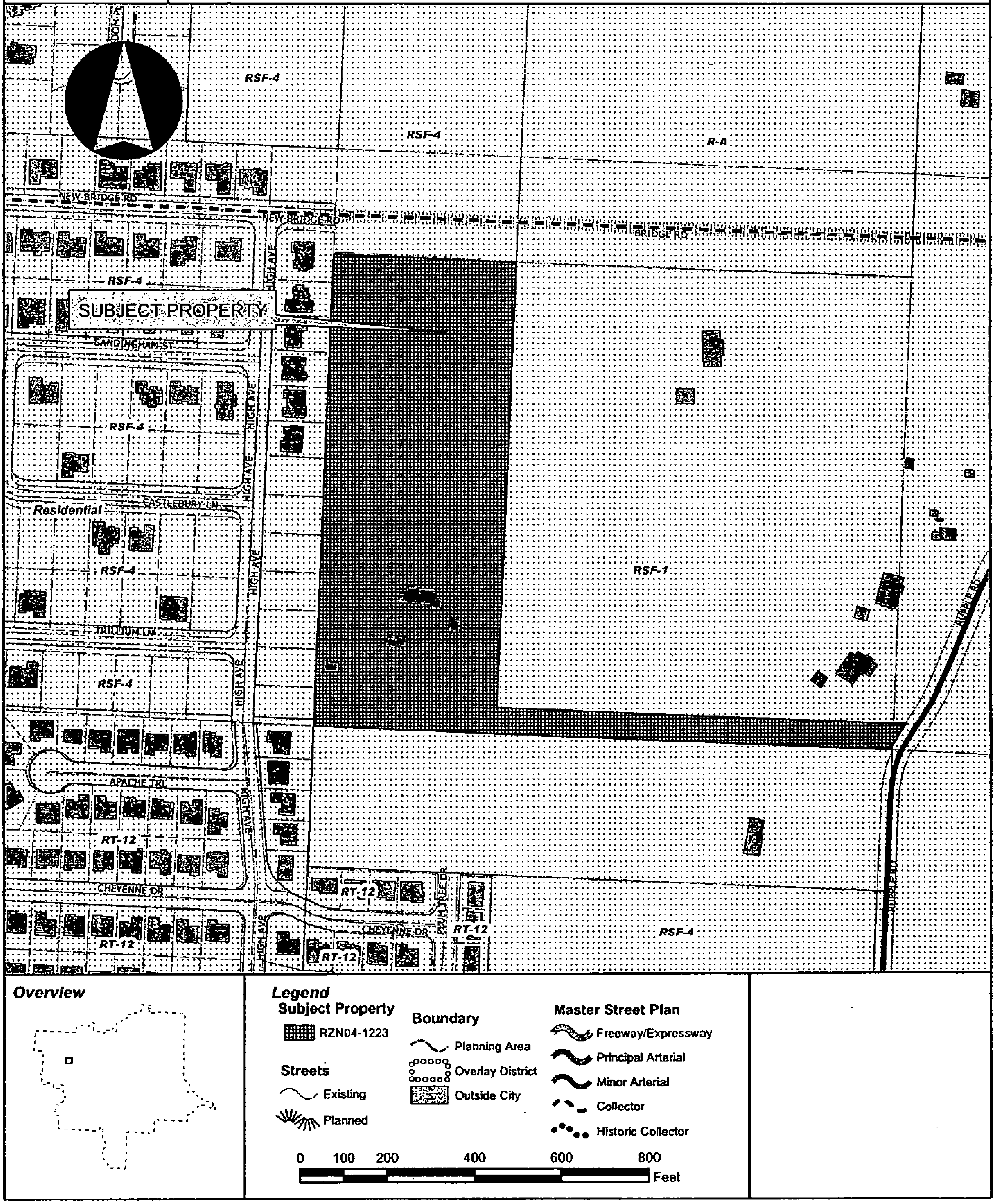
TRACY HOSKINS



RZN04-1223

Future Land Use

TRACY HOSKINS



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 2, 200

FROM:

Name	Division	Department
Dawn T. Warrick	Planning	CP&E

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1223 was submitted by Tracy Hoskins for property located at 1719 N. Rupple Road containing approximately 11.73 acres, more or less. The request is to rezone the subject property from RSF-1, Residential Single Family, one unit per acre; to RSF-4, Residential Single Family, four units per acre.

STAFF RECOMMENDATION: Approval.

Division Head — Date

City Attorney — Date 10-20-04

Department Director — Date 10-15-04

Steve Davis
Finance & Internal Services Dir. — Date 10-20-04

Hugh Earnest
Chief Administrative Officer — Date 10-19-04

Dan Coody
Mayor — Date 10/22/04

Received in Mayor's Office — Date 10-15-04 JM

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

11/16/04

Fayetteville
ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Fayetteville City Council

THROUGH: Hugh Earnest, Chief Administrative Officer

FROM: Stephen Davis, Finance & Internal Services Director

DATE: September 28, 2004

SUBJECT: **Sale of Wilson Springs Proceeds to General Fund and Sales Tax Fund Designated Fund Balance**

Recommendation:

Staff recommends that City Council approve a resolution transferring $4,387,115 from General Fund Undesignated Fund Balance and placing $2,050,000 to General Fund Designated Fund Balance and $2,337,115 to Sales Tax Capital Improvements Fund Designated Fund Balance.

Background:

On May 6, 2003, City Council approved resolution 68-03 which sold to Legacy Project LLC 289 acres of land in the I-540 Business Park (Wilson Springs) site for the amount of $5,187,115.

The Mayor, on June 30, distributed a memo listing several preferences for uses of the Wilson Springs proceeds. Staff has attached a copy of the June 30 memo to this request. Subsequent to June 30, City Council has approved two resolutions that utilize funds from Wilson Springs proceeds:

- Funded a request from the Botanical Garden Society of the Ozarks in the amount of $750,000 to complete a pavilion and construct infrastructure on the BGSO site at Lake Fayetteville.
- Approved the purchase of approximately 2.44 acres of land located between West and Gregg Avenues from the Fay Jones Trust with $50,000 for use as part of the City's trail system.

Currently there is $4,387,115 remaining from the proceeds of the sale of Wilson Springs in the City's General Fund. City Council and the Mayor have expressed their desire that these funds be used for one-time expenditures or for economic development expenses that benefit the City. Approval of this request will formalize the previously stated intentions.

Discussion:

This agenda item is coming to City Council at this time in preparation for the 2004 Audit and year-end close-out procedures. City staff is requesting that the remaining $4,387,115 from the proceeds of the sale of Wilson Springs be transferred from General Fund Undesignated Fund Balance to General Fund Designated Fund Balance - $2,050,000 and to Sales Tax Capital Improvements Fund Designated Fund Balance - $2,337,115.

By transferring the funds out of the City's main operating fund, the proceeds can be more appropriately recorded in compliance with City Council and the Mayor's intent and would only be utilized with specific City Council approval.

This action will provide for more accountability for operational revenue and expenditures in General Fund and better enable Citizens and City Council to determine the impact of operational revenues and expenditures on the General Fund Unreserved Fund Balance amount. As Staff prepares multi-year forecasts fewer adjustments will have to be made to reflect operational activity and will aid in year-to-year comparisons.

Staff is recommending that the funds be classified as designated unreserved fund balance. Designations represent management's intended use of resources and should reflect actual plans approved by the government's policy makers and senior management. Expressed another way, designations reflect a government's self-imposed limitations on the use of otherwise available current financial resources. There are several benefits of transferring the funds:

- **General Fund Reserve Overstatement:** General Fund reserves, as currently stated, indicate that ***all*** of the reserves could be used to provide operational funding. This potential use of the Wilson Springs proceeds for operational needs has not been the stated intention or desire of the Mayor or City Council. By transferring the funds from undesignated reserves to designated reserves, the amount of reserves for General Fund Staff depicts will be the reserves that can be used to fund on-going operations.

- **General Fund Revenue/Expenditure Tracking:** By keeping and expensing the $4,387,115 in the City's General Fund, inaccurate revenue and expense operational trends are shown. For every major item that is expensed in General Fund, an appropriation from General Fund reserves will need to be approved by City Council. Transferring the majority of Wilson springs proceeds to the Sales Tax Capital fund will eliminate the necessity to adjust General Fund expenditures to reflect operational items only and will aid in presenting a more transparent view of operations funding within General Fund.

- **Protecting the Wilson Springs Proceeds:** By transferring the funds out of undesignated unreserved reserves into designated unreserved fund balance in General Fund and Sales Tax Capital Fund all expenditures of these designated funds require additional City Council approval before any expenditure of these moneys can be made.

Budget Impact:

There is no net budget impact of transferring the $4,387,115 from General Fund Unreserved Fund Balance and transfer $2,050,000 to General Fund Designated Fund Balance and $2,337,115 to Sales Tax Capital Improvements Fund Designated Fund Balance. The entire $4,387,115 will be available for future City Council appropriation approval. It is envisioned that all interest earnings from designating these funds will remain for any expenditure in the funds and will not be added to either designated reserve amount.

Conclusion:

When approved, the $2,337,115 would be transferred into the City's Sales Tax Capital Improvements Fund designated fund balance and the $2,050,000 would be set-aside General Fund as a designated reserve with $1,800,000 designated for economic development purposes and $250,000 for a City-wide Master Plan Update. These funds would not be available for appropriation unless approved by City Council.

If you have any questions concerning this agenda request please contact either Hugh Earnest or Stephen Davis at 575-8330.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

Memo to Council

June 30, 2004

From: Mayor Dan Coody

I apologize to each of you for not having the list of potential projects for funding to you in the manner you were expecting. This had been worked out with the staff to give to you before the meeting but, obviously, the paperwork was not given to you as it was supposed to be.

After visiting with the Council to get an idea of your wishes concerning how this money could be best utilize, this proposal tries to reflect the visions of both the Council and this administration. This proposal will not satisfy everyone 100%. The wishes for this money ranged from leaving all of it in the bank to spending all of it on one program. This plan represents a middle ground that would give benefit to several projects that are important to this community. While $5.3 million (purchase price after closing costs plus accrued interest) may sound like a lot of money, it is surprising how quickly it can be absorbed in needed municipal projects.

What I have tried to do was focus on projects that are needed in Fayetteville but lack adequate funding. For example, Alderman Jordan wished that some money would go to a new fire station but we are budgeting to fund a fire station in our C.I.P. and we are in the planning stages now for two new stations on the east side as we construct a new station on the west side. Since we have a funding stream in place for this program, I thought it prudent to fund programs where funding was inadequate or non-existent. The only program for potential funding where revenue is regularly programmed is for street improvements ($21 million for streets and overlay program in our 5 year C.I.P) because this issue received the highest priority in our citizen's survey. Additional revenue would accelerate our work plan for street improvements.

The other earmarks would be for quality-of-life efforts that will also return revenue to the taxpayers over time based on increased regional and State tourism, provide amenities that would help local.companies recruit their best and brightest employees to Fayetteville, and enhance our position in the New Economy as the undisputed cultural center for Northwest Arkansas.

Alderwoman Thiel's suggestion for an amount for the Audubon Society is problematic in that the Society has advanced no proposal and does not own any land yet. The memo from our City Attorney's office also raises a concern. However it is ultimately up to the Council as to how these issues are addressed.

My recommendations are:

$1.8 Million returned to the General Fund for Economic Development to replenish the fund that originally purchased the land.

$2 Million for street improvements.

$750,000 for the Botanical Garden of the Ozarks that is housed on City property at Lake Fayetteville.

$500,000 for acquisition and clean up of creek corridor and construction for Scull Creek Multi-Use Trail in the heart of Fayetteville to connect our northern and southern trails.

$250,000 for the City-wide, 2025 Master Plan due for updating next year with the caveat that we incorporate a more comprehensive, detailed land-use plan for the larger community than we have to date.

RESOLUTION NO. ______

A RESOLUTION APPROVING THE TRANSFER OF $2,050,000.00 FROM GENERAL FUND UNDESIGNATED FUND BALANCE TO GENERAL FUND DESIGNATED FUND BALANCE AND $2,337,115.00 FROM GENERAL FUND UNDESIGNATED FUND BALANCE TO THE SALES TAX CAPITAL IMPROVEMENTS FUND DESIGNATED FUND BALANCE RELATED TO THE SALE OF THE WILSON SPRINGS PROPERTY.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the transfer of $2,050,000.00 from General Fund Undesignated Fund Balance to General Fund Designated Fund Balance and $2,337,115.00 from General Fund Undesignated Fund Balance to the Sales Tax Capital Improvements Fund Designated Fund Balance related to the sale of the Wilson Springs property.

PASSED and **APPROVED** this 19th day of October 2004.

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council Meeting of: ~~October 19, 2004~~ 11/16/04

FROM:

Stephen Davis	FISD	Finance & Internal Services
Name	Division	Department

ACTION REQUIRED: Staff recommends that City Council pass a resolution transferring $2,050,000 from General Fund Undesignated Fund Balance over to General Fund Designated Fund Balance and $2,337,115 from General Fund Undesignated Fund Balance over to Sales Tax Capital Improvements Fund Designated Fund Balance related to the Sale of Wilson Springs property.

COST TO CITY:

No Cost	$ -	
Cost of this request	Category/Project Budget	Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: N/A Budgeted Item ___ Budget Adjustment Attached

Budget Manager 9/28/04 Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing Accounting Manager 9/28/04 Date
Nancy Smith Internal Auditor 9/28/04 Date
City Attorney 9/29/04 Date
Purchasing Manager 9/30/04 Date

STAFF RECOMMENDATION: Staff recommends approving the resolution to transfer the funds.

Division Head ___ Date
Department Director ___ Date
Finance & Internal Services Dir. 9-29-04 Date
Hugh Earnest Chief Administrative Officer 10-1-04 Date
Dan Coody Mayor 10/4/04 Date

Received in Mayor's Office 10-1-04 Date

Cross Reference:

Previous Ord/Res#: ___
Orig. Contract Date: ___
Orig. Contract Number: ___
New Item: **Yes** **No**

ENTERED
9-28-04

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

Date: October 27, 2004

To: The Mayor and Council

From: Hugh Earnest

Subject: Cox Franchise

Recommendation

I am recommending that the Franchise attached to this memo be approved as recommended by the Telecommunication board with one exception as explained in the Discussion section.

Background

City staff, the Telecommunication Board and others have been involved at various times over the past several years in crafting an acceptable franchise between the city and Cox. As the council knows, these discussions began in the late 1990's and have continued for some time with numerous drafts and revisions that were originally based on a 72 page document that was compiled by Bryan Grogan, an attorney based in Minnesota. Several months ago, in an effort to move this long standing debate to closure, I secured a copy of the recently enacted franchisee agreement between the City of Fort Smith and Cox. We have used this document as the basis for conversations between Cox, city staff and the Telecommunication Board.

It should also be noted that the city council has worked to address the much larger issue relative to the future of telecommunications through the creation of a City Technology and Telecommunications Infrastructure Planning Task Force. This group is working diligently through a series of recommendations that will address what our future can look like in this important area that is so crucial to the growth of a knowledge based economy.

Current situation

The Telecommunication Board, at their meeting on September 30 passed, after considerable discussion, the Franchise as amended by a vote of 3-2. The principal amendment to staff recommendation was the reduction in the length of the franchise from seven years to a recommendation of no less than three but no greater than five years. The one exception that staff has from the Board recommendation covers the addition of three return lines from several locations that allow PEG to "live" broadcast from a particular location.

Discussion

The one recommendation from the Telecom board that merits further discussion is the addition of return lines from three discrete locations in the service area. That issue is a request as part of the franchise for three additional return lines to allow live broadcasting from the Town Center, the new Fayetteville Library and a new studio on the Fayetteville High School Campus (the Bates Center). The Telecommunication Board also recommended that language requiring the company to maintain in place return lines in six existing locations be added to the franchise. (1) PEG Center, (2) UA Continuing Education Center, (3) Fayetteville Public High School Building (East Campus), (4) Walton Arts Center, (5) City Administration Building, (6) Washington County Courts Building. Those locations have been added to the Franchise language.

The company position on the issue of additional return lines is as follows. The company will install at cost all three return lines at an approximate cost of $13-$15,000 if the council will extend the length of the franchise to seven years. In the event that the council accepts the recommendation of the Telecom board for a five year term, the company will install these lines at cost for the city at the request of the city. Representatives from Cox will be in attendance at the meeting to answer any questions that the council may have.

RESOLUTION NO.__________

A RESOLUTION GRANTING A NON-EXCLUSIVE FRANCHISE TO TCA CABLE PARTNERS D/B/A COX COMMUNICATIONS FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A CABLE SYSTEM WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS, AND ENVIRONS THEREOF, AND TO USE AND OCCUPY THE STREETS AND OTHER PUBLIC PLACES OF THE CITY OF FAYETTEVILLE, ARKANSAS, FOR SUCH CABLE SYSTEM.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby grants a non-exclusive franchise to TCA Cable Partners d/b/a Cox Communications for the construction, maintenance and operation of a cable system within the City of Fayetteville, Arkansas, and to use and occupy the streets and other public places of the City of Fayetteville, Arkansas, for such cable system.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves the formal Franchise Agreement with TCA Cable Partners d/b/a Cox Communications, a copy of which, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this _____ day of November 2004.

APPROVED:

DRAFT

By: ____________________________
DAN COODY, Mayor

ATTEST:

By: ____________________________
SONDRA SMITH, City Clerk

Franchise Agreement

This Franchise Agreement (this "Franchise") is between the City of Fayetteville, Arkansas, and TCA Cable Partners, d/b/a Cox Communications, hereinafter referred to as "TCA Cable Partners."

The City of Fayetteville, having determined that the financial, legal, and technical ability of TCA Cable Partners is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with TCA Cable Partners for the construction and operation of a Cable System on the terms set forth herein.

SECTION 1

Definition of Terms

1.1 Terms. For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

a. "Basic Cable" is the lowest priced tier of service that includes the retransmission of local broadcast television signals.

b. "Cable Act" collectively means the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992, as amended by the Telecommunications Act of 1996.

c. “Cable Services” shall mean (a) the one-way transmission to Subscribers of (i) video programming, or (ii) other programming service, and (b) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

d. "Cable System" shall mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves Subscribers without using any Public Way;(c) a facility of a common carrier which is subject, in whole or in part, to the provisions of title II of the Cable Act, except that such facility shall be considered a Cable System (other than for purposes of Section 621(c)) to the extent such facility is used in transmission of video programming directly to Subscribers unless the extent of such use is solely to provide interactive on-demand services; (d) an open video system that complies with Section 653 of title VI of the Cable Act; or (e) any facilities of any electric utility used solely for operating its electric utility system.

e. "FCC" means the Federal Communications Commission, or successor governmental entity thereto.

f. "Franchise" shall mean the initial authorization, or renewal thereof, issued by the City of Fayetteville, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the Cable System.

g. "City of Fayetteville" means the City of Fayetteville, Arkansas, or the lawful successor, transferee, or assignee thereof.

h. "Gross Revenues" mean any revenues received by TCA Cable Partners from the operation of the Cable System to provide Cable Services in the Service Area, provided, however, that Gross

Revenues shall not include: (i) any fees or taxes which are imposed directly or indirectly on any Subscriber thereof by any governmental unit or agency and which are collected by TCA Cable Partners on behalf of such governmental unit or agency; (ii) any tax, fee, or assessment of any kind imposed by the City of Fayetteville or other governmental entity on a cable operator, or Subscriber, or both, solely because of their status as such; (iii) any tax, fee or assessment of general applicability which is unduly discriminatory against cable operators or Subscribers (including any such tax, fee, or assessment imposed, both on utilities and cable operators and their services); (iv) any other special tax, assessment, or fee such as a business, occupation, and entertainment tax; (v) any fee for the recovery of costs incurred to collect late payments for Cable Services; and (vi) net un-recovered bad debt.

i. "Person" means an individual, partnership, association, joint stock company, trust, corporation, limited liability company or governmental entity.

j. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City of Fayetteville in the Service Area which shall entitle the City of Fayetteville and TCA Cable Partners to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the City of Fayetteville within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the City of Fayetteville and TCA Cable Partners to the use thereof for the purposes of installing and operating TCA Cable Partners' Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, power supplies, network reliability units and other property as may be ordinarily necessary or pertinent to the Cable System.

k. "Service Area" means the present municipal boundaries of the City of Fayetteville, and shall include any additions thereto by annexation or other legal means.

l. "Subscriber" means a Person who lawfully receives services of the Cable System with TCA Cable Partners' express permission.

m. "TCA Cable Partners" means TCA Cable Partners, d/b/a Cox Communications, or the lawful successor, transferee, or assignee thereof.

SECTION 2
Grant of Franchise

2.1 **Grant**. The City of Fayetteville hereby grants to TCA Cable Partners a nonexclusive Franchise which authorizes TCA Cable Partners to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, power supplies, network reliability units and other related property or equipment as may be necessary or appurtenant to the Cable System. Both Parties recognize that this Franchise Agreement is subject to controlling federal law and regulations and the City of Fayetteville and TCA Cable Partners reserve all rights allowed to local franchise authorities and TCA Cable Partners, under federal law or regulation enacted or determined subsequent to the effective date of this agreement.

2.2 **Other Ordinances**. TCA Cable Partners agrees to comply with the terms of any lawfully adopted generally applicable local ordinances, to the extent that the provisions of the ordinance are enacted pursuant to the police powers of the City of Fayetteville.

2.3 **Term**.

a. Initial Term. The Franchise granted hereunder shall be for an initial term of five (5) years commencing on the effective date of the Franchise as set forth below, unless otherwise lawfully terminated during the initial term or any extended term.

b. Extended Term(s). TCA Cable Partners shall deliver written notice of its application for an additional term to the City of Fayetteville at least thirty (30) months, but not more than thirty-six (36) months, prior to the expiration of term. No later than ninety (90) days prior to the expiration of the initial term, the City of Fayetteville shall notify TCA Cable Partners of it's desire to either extend the term or negotiate a new agreement, subject to the renewal provisions of the Cable Act codified as 47 U.S.C. Section 546, as such legislation may be subsequently amended.

2.4 **Compliance**. Upon (30) days advance written request by either party, TCA Cable Partners and the City of Fayetteville shall meet to discuss the compliance of the parties with the terms and conditions of this agreement. Customer comments may be allowed as part of this meeting. The meetings shall occur no more than twice in any one calendar year. Nothing herein shall prevent the parties from meeting at any mutually agreeable time for the purpose of discussing any aspect of this agreement. Such informal meeting may occur upon request of either party whether or not in writing.

SECTION 3
Standards of Service

3.1 **Conditions of Street Occupancy**. All transmission and distribution structures, poles, other lines, and equipment installed or erected by TCA Cable Partners pursuant to the terms hereof shall be located so as to cause the minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

3.2 **Restoration of Public Ways**. If during the course of TCA Cable Partners' construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by TCA Cable Partners, it shall, at its expense, replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance. In the specific case of street cuts, such repairs will meet the standards as formulated by the City of Fayetteville for all such repairs.

3.3 **Relocation at Request of the City of Fayetteville**. Upon its receipt of reasonable advance notice, which except for emergency situations, shall not to be less than five (5) business days, TCA Cable Partners shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of TCA Cable Partners when lawfully required by the City of Fayetteville by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the City of Fayetteville; but, TCA Cable Partners shall in all cases have the right of abandonment of its property.

3.4 **Relocation at Request of Third Party**. TCA Cable Partners shall, on the request of any Person holding a building moving permit issued by the City of Fayetteville, temporarily raise or lower its wires to permit the moving of such building, provided: (a) the expense of such temporary raising or lowering of wires is paid by said Person, including, if required by TCA Cable Partners, making such payment in advance; and (b) TCA Cable Partners is given not less than seven (7) business days advance written notice to arrange for such temporary wire changes.

3.5 **Trimming of Trees and Shrubbery**. Within Public Ways, TCA Cable Partners shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area so as to prevent branches from coming in contact with the TCA Cable Partners' wires, cables, or other equipment. TCA Cable Partners shall comply with city standards as is applicable to all other entities performing a service within all rights-of-ways within control of the cities police powers.

3.6 **Safety Requirements**. Construction, installation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations and the National Electric Safety Code. The Cable System shall not endanger or interfere with the safety of Persons or property in the Service Area.

3.7 **Aerial and Underground Construction**.

a. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, TCA Cable Partners likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving TCA Cable Partners' cable and other equipment without technical degradation of the Cable System's signal quality. In those areas of the Service Area where the transmission or distribution facilities of the respective public utilities providing telephone communications, and electric services are both aerial and underground, TCA Cable Partners shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing contained in this Section shall require TCA Cable Partners to construct, operate, and maintain underground any ground-mounted appurtenances such as Subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, network reliability units, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this Section, in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this Franchise, TCA Cable Partners shall only be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.

b. If an ordinance is passed creating a local improvement district which involves placing underground certain utilities including that of TCA Cable Partners which are then located overhead, TCA Cable Partners shall participate in such underground project and shall remove poles, cables and wires from the surface of the streets within such district and shall place them underground in conformity with the requirements of the City of Fayetteville. If any other utility or franchisee receives reimbursement from the City of Fayetteville for work performed in accordance to this section, those same reimbursement guidelines shall also apply to TCA Cable Partners.

3.8 **Extensions of Service**.

a. The Cable System, as constructed as of the date of the passage and final adoption of this Franchise, substantially complies with the material provisions hereof.

b. TCA Cable Partners is hereby authorized to extend the existing system within the Franchise area to the extent that such is or may become economically feasible. TCA Cable Partners acknowledges the City from time to time may add additional land to the city limits by annexation to which TCA Cable Partners is obligated to serve under this Franchise, said obligation shall occur whenever TCA

Cable Partners shall receive requests for service from at least fifteen (15) subscribers within 2,250 cable feet of its aerial and/or underground trunk cable and said connection shall be solely for the usual connection and service fees for all subscribers, provided that such extension is technically feasible. The 2,250 feet shall be measured in extension length of TCA Cable Partners' cable required for service located within the public way or easement and shall not include length of necessary service drop to the subscriber's home. No person in TCA Cable Partners' service area shall be arbitrarily refused service; but in recognition of the capital costs involved in unusual circumstances, including, without limitation, when the distance from distribution cable to connection of service to subscribers is more than 125 feet or when a subscriber density exists less than the density specified above, service shall be made available on the basis of costs of materials, labor, and easements, plus 15%, in order to prevent inequitable burdens on potential cable subscribers in more densely populated areas.

3.9 **Service to Public Buildings**. TCA Cable Partners shall, upon request, provide without charge, one standard installation and one outlet of Basic Cable to those City of Fayetteville administrative buildings, fire station(s), police station(s), that are passed by its Cable System. The outlets of Basic Cable shall not be used to distribute or sell services in or throughout such buildings, nor shall such outlets be located in areas open to the public. The City of Fayetteville shall take reasonable precautions to prevent any use of TCA Cable Partners' Cable System, provided in the above identified public buildings, in any manner that results in the inappropriate use thereof or any loss or damage to the Cable System. The City of Fayetteville shall hold TCA Cable Partners harmless from any and all liability or claims arising out of the authorized or unauthorized use of outlets provided in the above identified public buildings, including but not limited to, those arising from copyright liability. TCA Cable Partners shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said buildings or premises exceeds, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of 125 cable feet. If additional outlets of Basic Cable are provided to such buildings, the building owner shall pay the usual installation and service fees associated therewith, including, but not limited to, labor and materials.

3.10 **FCC Rules and Regulations**. TCA Cable Partners shall comply with all applicable rules and regulation of the FCC, including, without limitation, any applicable rules and regulations governing emergency alert systems, technical standards and customer service standards.

3.11 Periodic Testing and Compliance with FCC Standards.

a. TCA Cable Partners shall construct and operate the Cable System to comply with the FCC technical standards as contained in 47 U.S.C. §76, Subpart K of the Commission's rules and regulations, as updated and amended from time to time.

b. TCA Cable Partners shall perform all tests necessary to determine compliance with the FCC technical standards. Tests shall include, at minimum, proof-of-performance tests required by FCC Rule Section 76.601 (47 U.S.C. § 76.601) as updated and amended from time to time.

c. Written records of test results shall be maintained at TCA Cable Partners' local office and made available for inspection by the City or other designated agent of the City, upon request of the City.

3.12 **Customer Service Standards.** TCA Cable Partners shall be subject to the following customer service standards consistent with 47 U.S.C. §76.309:

a. TCA Cable Partners will maintain a local, toll-free, or collect telephone access line, which will be available to its Subscribers 24 hours a day, seven days a week.

(1) Trained TCA Cable Partners representatives will be available to respond to customer telephone inquiries during Normal Business Hours.

(2) After Normal Business Hours, the access line may be answered by a service or automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained TCA Cable Partners representative on the next business day.

b. Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time under Normal Operating Conditions as measured on a quarterly basis.

c. Under Normal Operating Conditions, the customer will receive a busy signal less than three (3) percent of the time.

d. Installations, Outages, and Service Calls. Under Normal Operating Conditions, each of the following three (3) standards will be met no less than 95 percent of the time as measured on a quarterly basis.

(1) Standard installations will be performed within seven business days after an order has been placed. "Standard" Installations are those that are within 125 feet of the existing distribution system.

(2) Excluding conditions beyond the control of TCA Cable Partners, TCA Cable Partners will begin working on Service Interruptions promptly and in no event later than 24 hours after the interruption becomes known. TCA Cable Partners must begin actions to correct other service problems the next business day after notification of the service problem.

(3) The "appointment window" alternatives for Installations, Service Calls and other Installation activities will either be at a specific time or, at maximum, a two-hour time block during Normal Business Hours. TCA Cable Partners may schedule Service Calls and other Installation activities outside of Normal Business Hours for the express convenience of the customer.

e. Customer Complaints. TCA Cable Partners shall maintain a record of all customer service complaints received from the Franchise Authority as well as the subsequent resolution of each. The City of Fayetteville shall send the "City of Fayetteville TV Cable Complaint Form" (Exhibit A), to TCA Cable Partners immediately upon receiving such complaint, or no later than three (3) business days of receiving the complaint. Upon receipt of such complaint by TCA Cable Partners, the Franchisee must respond to the customer complaint within three (3) business days after receiving the complaint form. TCA Cable Partners shall provide the complaint resolution to the city immediately, or no later than five (5) business days from the date of resolution

f. Franchise reporting. On an annual basis, TCA Cable Partners shall provide a report to the City of Fayetteville for each of the items addressed in this section 3.12. The report shall be provided no later than 30 days after the end of each calendar year.

g. Communications between TCA Cable Partners and Subscribers.

(1) Notification to Subscribers. TCA Cable Partners shall provide written information on each of the following areas at the time of Installation of service, and at least annually to all Subscribers, and at any time upon request:

a. Products and services offered.

b. Prices and options for programming services and conditions of subscription to programming and other services.

(2) Customers will be notified of any changes in rates, programming services or Channel positions as soon as possible. Notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Cable Operator.

(3) Nothing in this agreement shall prohibit TCA Cable Partners from establishing an e-mail address for customer inquiries. TCA Cable Partners shall maintain a web site, which allows a means for customers to comment on services.

3.13 **PEG Access Channels.** TCA Cable Partners agrees to make available to the City, at no charge to the City, three (3) channels for access programming, as follows: Government Access, Educational Access, and Public Access. The City shall regulate the use of said channels. TCA Cable Partners shall continue to maintain and activate the equipment necessary to transport one (1) six megahertz channel of audio and video signals from the following locations to TCA Cable Partners' headend and provide the headend equipment necessary to process the audio and video signals and place them on the appropriate PEG Access Channel:

- University of Arkansas Continuing Education Center
- Kimpel Hall of the University of Arkansas
- Fayetteville Public School's Adams Center
- Fayetteville PEG Television Center
- Washington County Courts Building
- Fayetteville City Administration Building
- Walton Arts Center

3.14 **Local Office**. During the term of this Franchise, TCA Cable Partners shall maintain a local office within Fayetteville, Arkansas, which shall remain open during normal business hours.

SECTION 4
Regulation by the City of Fayetteville

4.1 Franchise Fee.

a. TCA Cable Partners shall pay to the City of Fayetteville a franchise fee equal to five percent (5%) of Gross Revenues (as defined in Section 1.1 of this Franchise) received by TCA Cable Partners from the operation of the Cable System to provide Cable Services. All payments of franchise fees shall be made on a quarterly basis, not later than 45 days after the last day of each March, June, September and December. Each payment shall be accompanied by a brief report from a representative of TCA Cable Partners showing the basis for the computation, and a certification that the calculation of the payment is in accordance with the terms of the Franchise Agreement and is believed to be accurate.

b. The period of limitation for recovery of any franchise fee payable hereunder shall be five (5) years, or, the time from the most recent audit of franchise fee payments conducted by the City, whichever is less from the date on which payment by TCA Cable Partners is due. Unless the City of

Fayetteville initiates a lawsuit for recovery of such franchise fees in a court of competent jurisdiction, within five (5) years from and after such payment due date, such recovery shall be barred and the City of Fayetteville shall be estopped from asserting any claims whatsoever against TCA Cable Partners relating to any such alleged deficiencies.

4.2 **Rates and Charges**.

a. The City of Fayetteville may regulate rates for the provision of Basic Cable and equipment as expressly permitted by applicable law.

b. TCA Cable Partners may charge a fee for the recovery of costs incurred to collect late payments for Cable Services if the following conditions have been met:

(1) The Subscriber's bill sets forth when the fee will be assessed;

(2) The fee is not assessed any earlier than the tenth (10th) day after the due date as reflected on the Subscriber's bill; and

(3) The bill sets forth the amount of the fee.

Any fee imposed by TCA Cable Partners that does not exceed $5.00 in 2004 dollars (as adjusted annually for inflation based on the Consumer Price Index) shall be presumed reasonable to cover the costs associated with the delinquent payment. The assessment of a fee pursuant to this Section shall not be construed as a limitation on TCA Cable Partners' right to charge any other lawful fees or charges.

4.3 **Renewal of Franchise**.

Renewal of this franchise agreement shall be governed by the Cable Act or other applicable law.

4.4 **Conditions of Sale**.

a. If a renewal or extension of TCA Cable Partners' Franchise is denied or the Franchise is lawfully terminated, and the City of Fayetteville either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

b. TCA Cable Partners and the City of Fayetteville agree that in the case of a final determination of a lawful revocation of the Franchise, at TCA Cable Partners' request, which shall be made in its sole discretion, TCA Cable Partners shall be given a reasonable opportunity, which shall be at least 12 months, to effectuate a transfer of its Cable System to a qualified third party. The City of Fayetteville further agrees that during such a period of time, it shall authorize TCA Cable Partners to continue to operate pursuant to the terms of its prior Franchise. If, at the end of that time, TCA Cable Partners is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the City of Fayetteville, TCA Cable Partners and the City of Fayetteville may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that the TCA Cable Partners' continued operation of its Cable System during such period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the City of Fayetteville or TCA Cable Partners.

4.5 **Transfer of Franchise**. TCA Cable Partners' right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with TCA Cable Partners, without the prior consent of the City of Fayetteville, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of TCA Cable Partners in the Franchise or Cable System in order to secure indebtedness. Within 30 days of receiving the request for transfer, the City of Fayetteville shall, in accordance with FCC rules and regulations, notify TCA Cable Partners in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee. If the City of Fayetteville has not taken action on TCA Cable Partners' request for transfer within 120 days after receiving such request, consent by the City of Fayetteville shall be deemed given.

SECTION 5
Compliance and Monitoring

5.1 **Books and Records**. TCA Cable Partners agrees that the City of Fayetteville upon reasonable notice to TCA Cable Partners may review such of its books and records at TCA Cable Partners' local business office, during normal business hours and on a non disruptive basis, as is reasonably necessary to ensure compliance with the terms hereof. Such notice shall specifically reference the Section of the Franchise, which is under review, so that TCA Cable Partners may organize the necessary books and records for access by the City of Fayetteville. TCA Cable Partners shall not be required to maintain any books and records for Franchise compliance purposes longer than five (5) years. Notwithstanding anything to the contrary set forth herein, if TCA Cable Partners deems any books and records sought for review by the City of Fayetteville to be proprietary or confidential in nature, TCA Cable Partners shall so designate and mark the subject books and records prior to review by the representatives of the City of Fayetteville. With reference to books and records marked and designated as confidential or proprietary, the representatives of the City of Fayetteville shall conduct their review without making copies. Any information accumulated in the review of books and records so designated will be disclosed only to City of Fayetteville employees, representatives and agents who have a need to know in order to enforce the provisions hereof. TCA Cable Partners shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

5.2 **Performance Evaluation Sessions.** Following the third anniversary of this Agreement, TCA Cable Partners and City of Fayetteville shall jointly meet, if requested by either party, to discuss revisiting certain provisions of the Franchise Agreement and discuss potential changes to the Franchise Agreement due to changes in technology, law or regulation, and the changing cable-related needs and interests of the community. Based on the outcome of such meeting(s) and discussion(s), the parties may amend this Agreement to incorporate changes, which have been mutually agreed upon by the City of Fayetteville and TCA Cable Partners. The City of Fayetteville and TCA Cable Partners may, at their discretion, jointly agree to meet at more frequent intervals than those indicated above if so warranted. Either party shall have the ability to request a meeting with the understanding that such a meeting will be limited to the discussion of a particular issue or issues as identified in the meeting request.

SECTION 6
Insurance and Indemnification

6.1 **Insurance Requirements**. TCA Cable Partners shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Commercial General Liability Insurance in the amount of $1,000,000.00 combined single limit for bodily injury, and property damage.

The City of Fayetteville shall be designated as an additional insured. Such insurance shall be noncancellable except upon 30 days prior written notice to the City of Fayetteville. Upon request, TCA Cable Partners shall provide a certificate of insurance showing evidence of the coverage required by this Section.

6.2 Indemnification.

a. TCA Cable Partners agrees to indemnify, save and hold harmless, and defend the City of Fayetteville, its officers, boards and employees, from and against (i) any liability for damages that arise out of TCA Cable Partners' construction, operation, or maintenance of its Cable System and (ii) any liability or claims resulting from property damage or bodily injury (including accidental death) that arise out of TCA Cable Partners' construction, operation, or maintenance of its Cable System, including, but not limited to, reasonable attorneys' fees and costs, provided that the City of Fayetteville shall give TCA Cable Partners written notice of its obligation to indemnify the City of Fayetteville within 10 days of receipt of a claim or action pursuant to this Section. Failure to provide said notice which does not create jeopardy for TCA Cable Partners shall not be a basis for avoiding this indemnification. TCA Cable Partners shall have the right to participate in or assume control of the defense of any such claim or action, including without limitation the right to select counsel. If the City of Fayetteville determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the City of Fayetteville.

b. The City of Fayetteville agrees to indemnify, save and hold harmless, and defend TCA Cable Partners, its officers, boards and employees, from and against any liability for damages and any liability or claims that arise out of any of the following: (i) the use of the Cable System or the EAS equipment by the City, its employees, authorized representatives, or designees, and (ii) the transmission or content of programming carried on the Government Access Channel. Additionally, the City shall indemnify, save and hold harmless TCA Cable Partners against damage, loss or inappropriate use of the Emergency Alert System equipment and shall agree to use due care and to take reasonable precautions against such damage, loss or in appropriate use of the Emergency Alert System equipment or other Cable System equipment which may be used during a declared emergency.

SECTION 7
Enforcement and Termination of Franchise

7.1 **Enforcement.** Subject to applicable federal and state law, in the event the City of Fayetteville, after following the procedures of this Section, determines that TCA Cable Partners is in default of any provision of the Franchise, the City of Fayetteville may:

a. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages;
b. Commence an action at law for monetary damages or seek other equitable relief; or,

c. In the case of a substantial default of a material provision of the Franchise, declare the Franchise to be revoked in accordance with Section 7.5.

7.2 **Notice of Violation.** In the event that the City of Fayetteville believes that TCA Cable Partners has not complied with the terms of the Franchise, the City of Fayetteville shall notify TCA Cable Partners in writing of the nature of the alleged noncompliance with sufficient specificity to allow TCA Cable Partners to proceed under the Section.

7.3 **TCA Cable Partners' Right to Cure or Respond.** TCA Cable Partners shall have 30 days from receipt of the notice described in Section 7.2: (a) to respond to the City of Fayetteville, contesting the assertion of noncompliance, or (b) to cure such default, or (c) in the event that, by the nature of default, such default cannot be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the City of Fayetteville of the steps being taken and the projected date that they will be completed.

7.4 **Public Hearing.** In the event that TCA Cable Partners fails to respond to the notice required pursuant to the procedures set forth in Section 7.2, or in the event that the alleged default is not remedied within thirty (30) days from receipt of the notice,, or in the event the City of Fayetteville does not consider TCA Cable Partners' response submitted pursuant to Section 7.3(c) to be reasonable to address the alleged non-compliance, the City of Fayetteville shall schedule a public hearing to investigate the default. Such public hearing shall be conducted by the Mayor or his or her designee of the City of Fayetteville at a date, time and place noticed to TCA Cable Partners at least five (5) business days in advance. TCA Cable Partners shall be provided a full and fair opportunity to be heard at the public hearing. The record of the public hearing and all findings of the Mayor or his or her designee shall be placed in writing and shall be submitted to the governing body of the City of Fayetteville for acceptance, rejection or amendment.

7.5 **Revocation**.

a. Should the City of Fayetteville seek to revoke the Franchise based on the record prepared at the public hearing and the findings of the Mayor or his or her designee, the City of Fayetteville shall give written notice to TCA Cable Partners of its intention to consider revocation of the Franchise. The notice shall specify one or more instances of substantial default of a material provision of the Franchise that the City of Fayetteville gave notice of to TCA Cable Partners and that TCA Cable Partners did not respond, did not cure or did not provide a reasonable response. The notice shall give to TCA Cable Partners a period of ten (10) working days in which to submit additional evidence (together with additional evidence submitted by the City of Fayetteville) to the Mayor or his or her designee, which additional evidence shall be considered a part of the record of the public hearing conducted pursuant to Section 7.4. Thereafter, the amended record of the public hearing and the amended findings of the Mayor or his or her designee shall be submitted to the City of Fayetteville at a public meeting held at least fifteen (15) days subsequent to the notice issued pursuant to this sub-section A.

b. At the designated meeting, the City Council of the City of Fayetteville shall give TCA Cable Partners a full and fair opportunity to state its position on the matter. Thereafter, the City of Fayetteville shall make its decision regarding the findings of the Mayor or his or her designee at the public hearing, determine which enforcement action, if any, the City of Fayetteville shall pursue and, if the Franchise is revoked, state the date as to which the revocation shall be effective. TCA Cable Partners may appeal any revocation decision made by the City of Fayetteville to any court having jurisdiction.

c. The City of Fayetteville may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City of Fayetteville's rights under the Franchise in lieu of revocation of the Franchise.

7.6 **Technical Violations**. The parties hereby agree that it is not the City of Fayetteville's intention to subject TCA Cable Partners to penalties, fines, forfeitures or revocation of the Franchise for so-called "technical" breach(es) or violation(s) of the Franchise or local cable ordinance, which shall include the following:

a. in instances or for matters where a violation or a breach by TCA Cable Partners of the Franchise or local cable ordinance was good faith error that resulted in no or minimal negative impact on the customers within the Service Area; or

b. where there existed circumstances reasonably beyond the control of TCA Cable Partners and which precipitated a violation by TCA Cable Partners of the Franchise or local cable ordinance, or which were deemed to have prevented TCA Cable Partners from complying with a term or condition of the Franchise or local cable ordinance.

SECTION 8 - Miscellaneous Provisions

8.1 Actions of Parties. In any action by the City of Fayetteville or TCA Cable Partners that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

8.2 Force Majeure. TCA Cable Partners shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, governmental, administrative or judicial order or regulation or other event that is reasonably beyond TCA Cable Partners' ability to anticipate and control. This provision also covers reasonable work delays caused by waiting for utility providers to service or monitor their own utility poles on which TCA Cable Partners' cable and/or equipment is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

8.3 Equal Protection. In the event the City of Fayetteville enters into a Franchise, permit, license, authorization, or other agreement of any kind with any other Person or entity other than TCA Cable Partners to enter into the City of Fayetteville's Public Ways for the purpose of constructing or operating a Cable System or providing Cable Service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, and the obligations imposed on TCA Cable Partners thereunder shall be no less burdensome nor more favorable than the obligations imposed upon TCA Cable Partners hereunder, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

8.4 Notice. Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the City of Fayetteville or TCA Cable Partners shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid.

The notices or responses to the City of Fayetteville shall be addressed as follows:

City of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701
Attention: Mayor

The notices or responses to TCA Cable Partners shall be addressed as follows:

TCA Cable Partners
d/b/a Cox Communications
4900 South Zero Street
Fort Smith, Arkansas 72903
Attention: Director of Government Affairs

with a copy to:
Cox Communications, Inc.
1400 Lake Hearn Drive
Atlanta, Georgia 30319
Attention: Legal Department

The City of Fayetteville and TCA Cable Partners may designate such other address or addresses from time to time by giving notice to the other in accordance with the provisions hereof.

8.5 Interpretation and Enforcement. Any dispute involving this Franchise Agreement shall be adjudicated where federal jurisdiction is established.

8.6 **Descriptive Headings**. The captions to Sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

8.7 **Severability**. If any Section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise, or any renewal or renewals thereof.

8.8 **Reimbursement of Expenses**. In addition to the five percent (5%) franchise fee provided herein, TCA Cable Partners shall reimburse the City of Fayetteville for any and all reasonable and necessary expenses expended and documented by the City of Fayetteville for engineers, experts, or attorneys employed by the City of Fayetteville in connection with the granting of this Franchise, or in connection with any renewal, renegotiation, amendment, or other modification of this Franchise initiated by TCA Cable Partners; such amount not to exceed $40,000.00 during the term of this Agreement.

8.9 **Effective Date**. The effective date of this Franchise is _____________, 200__, pursuant to the provisions of applicable law. This Franchise shall expire on _____________, 200__, unless extended by the mutual agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have entered into this Franchise Agreement on ___________________, 200__.

CITY OF FAYETTEVILLE, ARKANSAS,
a municipal corporation

By: ________________________________
DAN COODY, Mayor

ATTEST:

____
SONDRA SMITH, City Clerk

TCA CABLE PARTNERS,
a Delaware general partnership

By: **TCA Holdings, L.P.,**
a general partner

By: **TCA Interests, LLC,**
its general partner

By: ________________________________

Name: ________________________________

Title: ________________________________

Attest:

____
Secretary

STAFF REVIEW FORM - FINANCIAL OBLIGATION

x AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council Meeting of: October 19, 2004

FROM:

Hugh Earnest		Chief Administrative Officer
Name	Division	Department

The city of Fayetteville Telecommunication Board has recommended the adoption of an ordinance approving a non-exlcusive Franchise with Cox Communiciation. This recommendaton culminates a lenghty discussion between the parties over terms and conditions. The recommendation on length of the franchise and certain requests for return lines is not supported by staff.

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

BUDGET REVIEW: ___ Budgeted Item ___ Budget Adjustment Attached

Budget Manager
Date

[✓ CONTRACT]/GRANT/LEASE REVIEW:

Accounting Manager	Date	Internal Auditor	Date
D. J. White	10/13/04		
City Attorney	Date	Purchasing Manager	Date

STAFF RECOMMENDATION:

Division Head	Date
Department Director	Date
	10-14-04
Finance & Internal Services Dir.	Date
Hugh Earnest	10-6-04
Chief Administrative Officer	Date
Mayor	Date

Received in Mayor's Office 10/13/04
Date

Cross Reference:

Previous Ord/Res#:
Orig. Contract Date:
Orig. Contract Number:
New Item: **Yes** **No**

[illegible]
10-6-04
aw

City Council Meeting of November 16, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Tim Conklin, Community Planning and Engineering Services Director

Date: October 26, 2004

Subject: Approval of an offer and acceptance contract in the amount of $178,555 with Stephen L. Davis to purchase the former Shake's Building located at 2050 W. Sixth Street.

RECOMMENDATION

Staff recommends approval of a resolution accepting the offer and acceptance contract in the amount of $178,555 with Stephen L. Davis to purchase the former Shake's Building located at 2050 W. Sixth Street.

BACKGROUND

Parcel No. 765-12164-000 (Shake's Frozen Custard) was acquired in its entirety as part of the realignment and signalization of the Hollywood/Sang/6th Street Intersection. Last June, the City Council passed Resolution No. 95-40 authorizing City staff to begin the process to sell this parcel and building. Last August, the City Council passed Resolution No. 126-04 setting the minimum bid price at $178,000 based on the higher appraised value from the two required appraisals.

The sale of the property was advertised in the commercial real estate and legal sections of the Northwest Arkansas Times, "For Sale" signs were posted, notice was placed on the city's web site, and notice was sent out by e-mail approximately 30 days prior to the bid deadline of October 11, 2004.

The City received one offer and acceptance bid for this property by Stephen L. Davis.

BUDGET IMPACT

Sale of the property will result in an additional $178,555 in revenue to the Street Fund.

RESOLUTION NO. ______

A RESOLUTION TO ACCEPT AN OFFER FROM STEPHEN L. DAVIS TO PURCHASE THE REMAINDER OF THE FORMER SHAKE'S PROPERTY AND BUILDING FOR $178,555.00

WHEREAS, Mr. Stephen L. Davis properly submitted a sealed bid in excess of the minimum amount authorized by the City Council for the sale of city property at 2050 West Sixth Street ($178,000.00); and

WHEREAS, this bid of $178,555.00 was the only bid tendered for this 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 accepts the bid of Stephen L. Davis in the amount of $178,555.00 for the land and former Shake's building located at 2050 West Sixth Street, Fayetteville, AR.

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby sells this property at 2050 West Sixth Street to Stephen L. Davis for $178,555.00 and authorizes Mayor Coody to execute a deed and any other necessary papers to effect a transfer of ownership of this property to Stephen L. Davis.

PASSED and **APPROVED** this 16th day of November, 2004.

APPROVED:

DRAFT

By: ____________________
DAN COODY, Mayor

ATTEST:

By: ____________________
SONDRA SMITH, City Clerk

BID PROPOSAL

Proposed By: Stephen L. Davis (contact person)
756 N. Washington Ave.
Fayetteville, AR 72701

Email: davishealth@aol.com
Fax: 443-9500
Phone: 443-5850
Cell: 283-7530

Property: Former Shake's Building, 2050 W. Sixth Street, Fayetteville, AR

Description of Proposed Use:
- Retail store with food service
- Limited inside and patio seating
- One drive-through lane

Offer Price: $178,555.00

Terms: As City Requires

Authorized Signature Stephen L. Davis
Stephen L. Davis

Attachment: Engineer's drawing of property and possible parking arrangement showing entrance to parking and drive-through at north side from Old Farmingron Road.

OFFER AND ACCEPTANCE CONTRACT

1. Stephen L. Davis offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"
FOR PROPERTY DESCRIPTION

2. **Purchase Price:** Subject to the following conditions, Stephen L. Davis ~~178,555.~~ shall pay for the property at closing, the total and cash payment of $ 178,555.00.

3. **Contingent Earnest Money Deposit:** Stephen L. Davis ~~1,000.00~~ herewith tenders a check for $ 1,000 to the City of Fayetteville, as earnest money, which shall apply on the purchase price. This sale is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to ____________ by the City of Fayetteville. If title requirements are not fulfilled or the City of Fayetteville fail(s) to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the seller. If the buyer fails to fulfill their obligations under this contract or, after all conditions have been met, the buyer fails to close this transaction, the earnest money may, at the option of City of Fayetteville, become liquidated damages to the City of Fayetteville.

4. Conveyance will be made to the buyer by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the City of Fayetteville.

5. City of Fayetteville shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the buyer. The buyer and City of Fayetteville shall share equally in the cost of the title insurance.

6. City of Fayetteville agree(s) to allow the Buyer, if the buyer so desires, at the buyers expense, to survey the property. The City of Fayetteville agree(s) to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the Buyer.

7. Taxes and special assessments due on or before closing shall be paid by the City of Fayetteville. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.

8. The closing date shall be within ________ (___) days after approval of this offer by the City Council. If such date of closing falls on a weekend or holiday, it will be held the following working day.

9. Possession of the property shall be delivered to the buyer on the date of closing.

10. City of Fayetteville hereby grant(s) permission for the buyer or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.

11. All fixtures, improvements and attached equipment are included in the purchase price.

12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the City of Fayetteville.

13. City of Fayetteville shall disclose to the buyer any and all environmental hazards of which the City of Fayetteville has/have actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, the buyer and the City of Fayetteville shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, the City of Fayetteville shall cure such, at their expense; or, in the alternative, at the buyers discretion, the buyer may cure such environmental hazard, and the City of Fayetteville shall indemnify the buyer for all costs associated with said cure.

14. This agreement shall be governed by the laws of the State of Arkansas.

15. This agreement, when executed by both the buyer and City of Fayetteville shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.

16. This contract expires, if not accepted by the City of Fayetteville on or before the __________ day of __________, 2004.

17. The buyer shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within __________ (____) days of acceptance by the City of Fayetteville.

18. **NOTICE:** **THE BUYER ASSERTS AND CITY OF FAYETTEVILLE HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS SALE OFFER BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO THE BUYER OF THE $__________ EARNEST MONEY DEPOSIT.**

______________________________ Date: 10-11-04

______________________________ Date: __________

AGENT OR WITNESS:

______________________________ Date: __________

City of Fayetteville, Arkansas,
A municipal corporation

______________________________ Date: __________
Dan Coody, Mayor

______________________________ Date: __________
Sondra Smith, City Clerk

EXHIBIT "A"
PROPERTY DESCRIPTION

REFER TO APPRASIAL PERFORMED FOR THE CITY OF FAYETTEVILLE

SIGNED FOR IDENTIFICATION:

_______________________________ Date:_______________

_______________________________ Date:_______________

_______________________________ Date:_______________
Dan Coody, Mayor

_______________________________ Date:_______________
Sondra Smith, City Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _______, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are ____ of __________ and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said ____, and further stated and acknowledged that he/she/they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this ______ day of _________________, 2003.

____
Notary Public

MY COMMISSION EXPIRES:

____

ACKNOWLEDGMENT

STATE OF ARKANSAS
) ss.
COUNTY OF WASHINGTON)

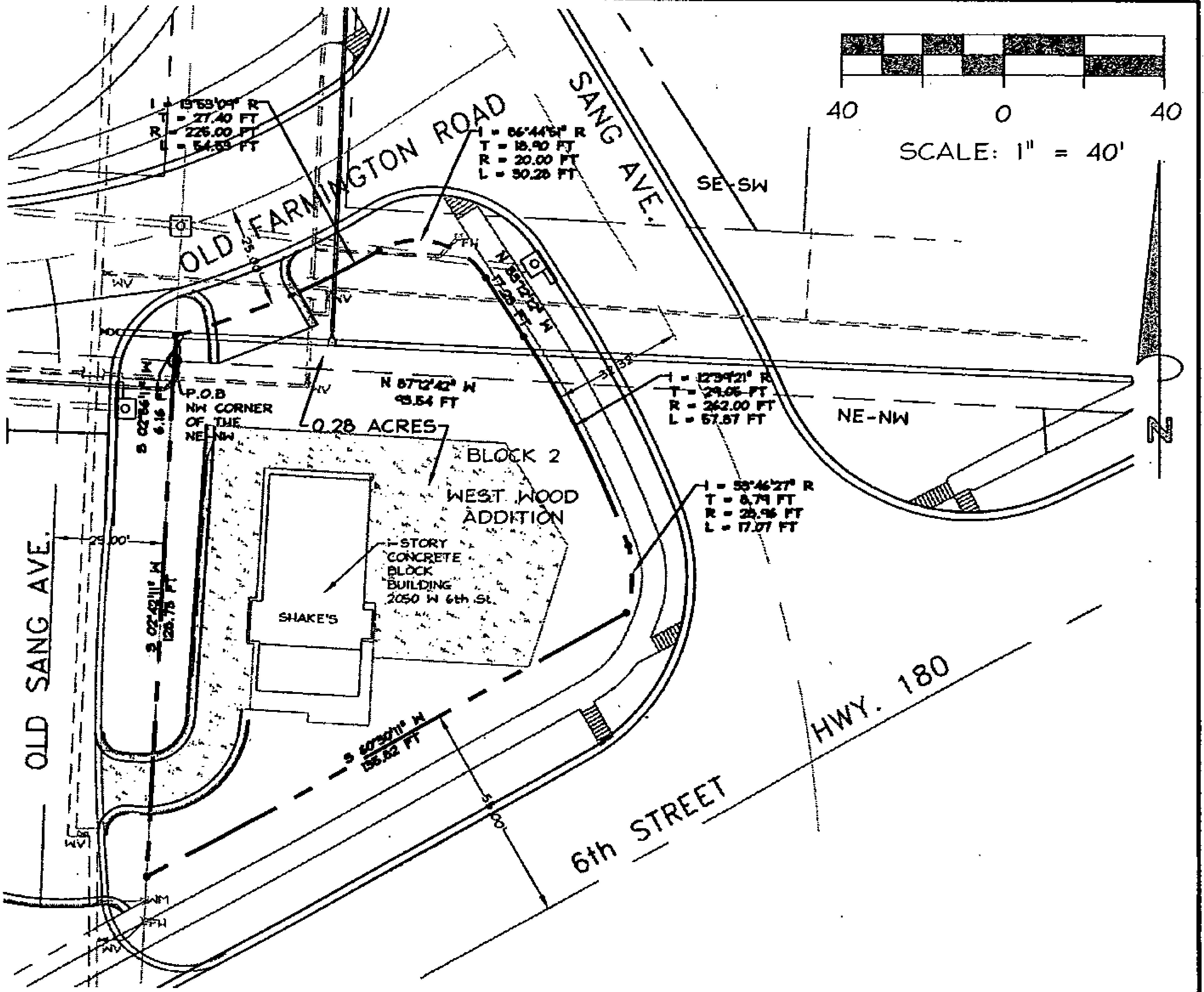
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody** and **Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor** and **City Clerk** of the **City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _______ day of ________________, 2003.

____
Notary Public

MY COMMISSION EXPIRES:

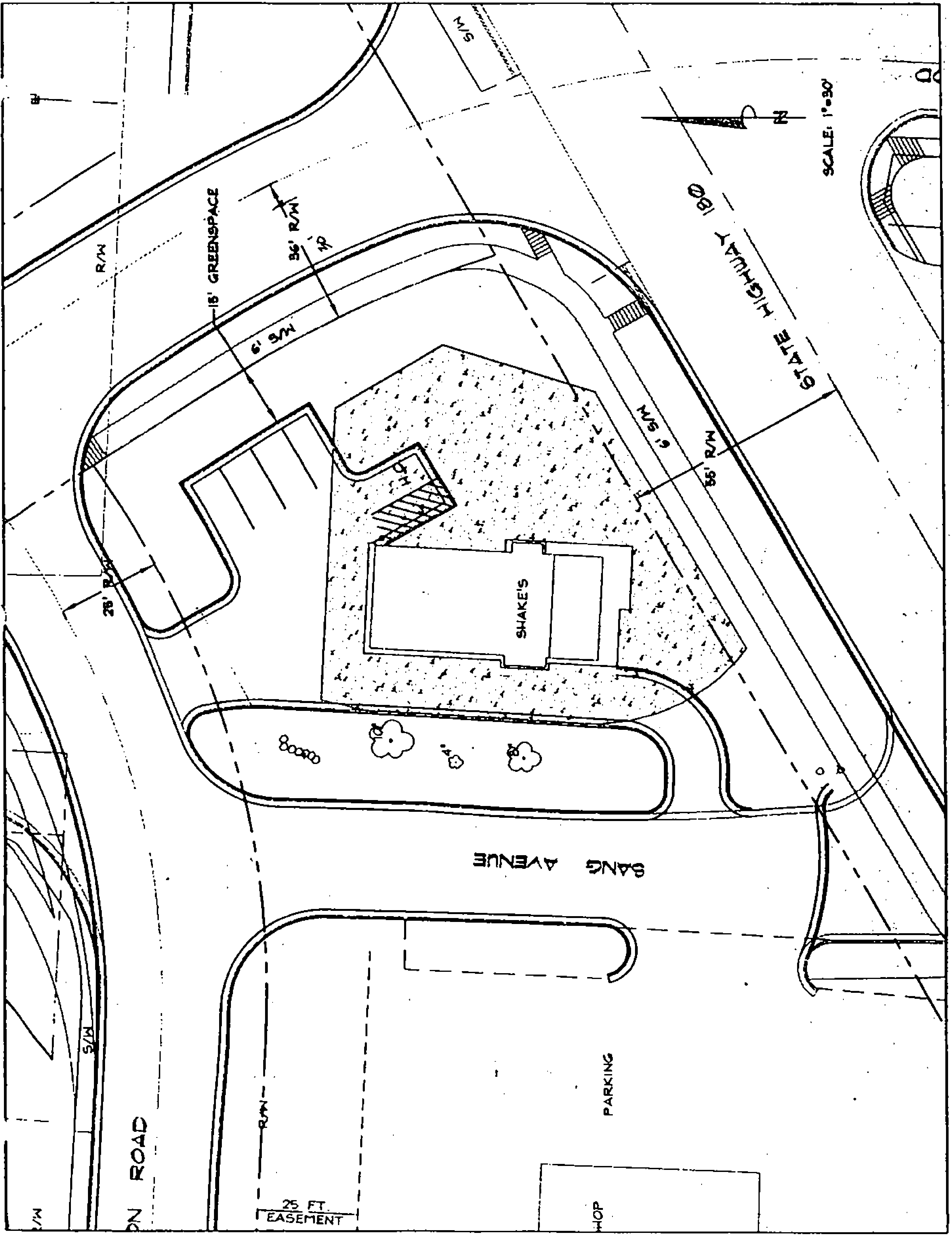
____



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 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 57.87', a cord 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 cord 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.


STATE HIGHWAY 80
SCALE: 1"=30'
N
SANG AVENUE
ROAD
SHAKE'S
PARKING
15' GREENSPACE
36' R/W
55' R/W
28' R/W
6' S/W
S/W
R/W
H.C.
25 FT. EASEMENT
HOP

RESOLUTION NO. 126-04

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
DAN COODY, Mayor

ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk

RESOLUTION NO. 95-04 **MICROFILMED**

A RESOLUTION OF INTENT TO SELL MUNICIPALLY OWNED PROPERTY AT THE CORNER OF SANG AVENUE AND SIXTH STREET (A PORTION OF THE FORMER SHAKE'S FROZEN CUSTARD LOT AND BUILDING)

WHEREAS, Ordinance No. 4358 requires municipally owned real estate to be offered for sale only after an express authorization, by resolution, of the City Council, and numerous other requirements.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that the remainder of Parcel No. 765-12164-000 (Shake's Frozen Custard former lot and building at the corner of Sang Avenue and Sixth Street) no longer serves a municipal service, should not be rezoned and should be sold pursuant to Ordinance No. 4358.

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

APPROVED:

By: Dan Coody
DAN COODY, Mayor

ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 16, 2004

FROM:

Tim Conklin, AICP	Comm. Planning & Engineering	CP&E
Name	Division	Department

ACTION REQUIRED: Resolution Approval.

SUMMARY EXPLANATION:

Approval of a resolution accepting an offer and acceptance contract in the amount of $178,555 with Stephen L. Davis to purchase the former Shake's Building located at 2050 W. Sixth Street.

STAFF RECOMMENDATION: Approval.

Division Head — Date

Received in Mayor's Office — Date

City Attorney — Date 10-30-04

Department Director — Date 10-26-04

Cross Reference:

Previous Ord/Res#:

Finance & Internal Services Dir. — Date

Orig. Contract Date:

Hugh Earnest
Chief Administrative Officer — Date 10-31-04

Orig. Contract Number:

Dan Coody
Mayor — Date 11/04/04

New Item: Yes No

ENTERED 10/16/04

City Council Meeting of November 16, 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: October 26, 2004

Subject: Annexation for Nooncaster/Kelly (ANX 04-1252 A) – 9.81 acres

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RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Nooncaster/Kelly. This action will incorporate a 9.81-acre tract of land contiguous with the city limits into the City of Fayetteville.

BACKGROUND

The subject property is part of a larger request containing five tracts of property equaling 14.53 acres. The vacant property is located south of Albright Road and west of George Anderson Road. Property to the south has recently been approved for the development of Pembridge Subdivision and is owned by the Nooncasters. The southern three tracts of property total 9.81 acres and are located within the City of Fayetteville Planning Area. The northern two tracts of 0.46 and 4.2 acres are located within Springdale city limits. This 4.66 acres is the subject of a companion request which needs to be handled with a separate ordinance due to the detachment / annexation process required.

The applicants requested annexation of 9.81 acres into the City of Fayetteville. A rezoning request has been submitted for the property owned by the Nooncasters. Without a rezoning request for the remaining property owned by Mr. and Mrs. Kelly, the property will be zoned R-A upon approval of the requested annexation.

Staff recommended approval of the proposed annexation. The subject property is adjacent to the City limits and developed as an extension of surrounding subdivisions.

DISCUSSION

On October 25, 2004, the Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval with an accompanying rezoning request.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ANNEXING PART OF THAT PROPERTY DESCRIBED IN ANNEXATION PETITION ANX 04-1252 ANNEXING TO THE CITY OF FAYETTEVILLE, ARKANSAS, CERTAIN PROPERTY OWNED BY JOHN AND LESLIE NOONCASTER AND FRANK AND ANN KELLY LOCATED SOUTH OF ALBRIGHT ROAD CONTAINING APPROXIMATELY 9.81 ACRES.

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

Section 1. That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

Section 2. The official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3. That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4. That the above-described property is hereby assigned to Ward No. Three.

PASSED AND APPROVED this _____ day of ____________, 2004.

APPROVED:

DRAFT

By:____________________________
Dan Coody, Mayor

ATTEST:

By:____________________________
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 04-1252

A PART OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY NINE (29) WEST, BEING MORE PARTIUCLARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE S02°24'04"W ALONG THE WEST LINE OF SAID 40 ACRE TRACT 330.00 FEET TO A POINT ON THE SOUTH CITY LIMITS OF SPRINGDALE, ARKANSAS. THENCE S87°24'15"E 364.40 FEET ALONG SAID CITY LIMITS LINE, SAID LINE BEING 330.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID 40 ACRE TRACT TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID CITY LIMITS LINE S87°24'15"E 947.85 FEET TO A POINT IN AN EXISTING FENCE LINE; THENCE S02°33'59"W 328.27 FEET TO A FENCE CORNER POST; THENCE N87°13'24"W ALONG SAID FENCE 259.66 FEET TO A FENCE CORNER POST; THENCE N87°03'11"W ALONG SAID FENCE 407.55 FEET TO A FENCE CORNER POST ; THENCE N87°21'58"W ALONG SAID FENCE 279.71 FEET; THENCE LEAVING SAID FENCE N02°24'04"E 324.77 FEET TO THE POINT OF BEGINNING, CONTAINING 7.10 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

A PART OF THE NORTH HALF (N ½) OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY NINE (29) WEST, BEING MORE PARTIUCLARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID 20 ACRE TRACT; THENCE S02°24'04"W ALONG THE WEST LINE OF SAID 20 ACRE TRACT 330.00 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTH CITY LIMITS OF SPRIGDALE, ARKANSAS; THENCE S87°24'15"E 364.40 FEET ALONG SAID CITY LIMITS LINE, SAID LINE BEING 330.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID 20 ACRE TRACT; THENCE LEAVING SAID CITY LIMITS LINE S02°24'04"W 324.77 FEET TO A POINT IN AN EXISITNG FENCE LINE; THENCE N87°31'28"W ALONG SAID FENCE LINE 10.27 FEET TO AN EXISTING IRON; THENCE N87°09'31"W ALONG SAID FENCE LINE 354.14 FEET TO AN EXISTING IRON ON THE WEST LINE OF SAID FORTY ACRE TRACT; THENCE LEAVING SAID FENCE LINE N02°24'04"E 323.28 FEET TO THE POINT OF BEGINNING, CONTAINING 2.71 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PC Meeting of October 25, 2004

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: October 20, 2004

ANX 04-1252: Annexation (NOONCASTER/KELLY, 61): Submitted by RAYMOND SMITH for property located at S OF ALBRIGHT ROAD. The property is in the Planning Area and City of Springdale and contains approximately 14.53 acres. The request is to annex the subject property into the City of Fayetteville.
Property Owner: JOHN & LESLIE NOONCASTER
Property Owner: FRANK & ANN KELLY 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: October 25, 2004

CITY COUNCIL ACTION: Required YES
○ Approved ○ Denied
Date: November 16, 2004 (1st reading if recommended)

BACKGROUND:

Property description: The subject property contains five tracts of property equaling 14.53 acres. The vacant property is located south of Albright Road, north of the approved Pembridge Subdivision preliminary plat, not yet under construction. The southern three tracts of property total 9.97 acres and are located within the City of Fayetteville Planning Area. The northern two tracts of 0.46 and 4.2 acres are located within Springdale city limits.

Proposal: The applicants propose annexation of 14.53 acres into the City of Fayetteville. This request also includes the simultaneous detachment and annexation of 4.66 acres owned by the Mr. and Mrs. Nooncaster from the City of Springdale into the City of Fayetteville. The applicant will submit this request to Springdale after consideration by Fayetteville City Council. A rezoning request has been submitted for the 11.76 acres of property owned by Mr. and Mrs. Nooncaster. Without a rezoning request for the remaining 2.77 acres, owned by Mr. and Mrs. Kelly, the property will be zoned R-A upon approval of the requested annexation.

Recommendation: Staff recommends approval of the proposed annexation. The subject property is adjacent to the City limits and developed as an extension of surrounding subdivisions.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single-family on large lots	City of Springdale
South	Pembridge SD (approved PPL)	RSF-4, Res. Single Family - 4 units per acre
East	Copper Creek SD (under construction	RSF-4, Res. Single Family - 4 units per acre
West	Vacant field	R-A, Residential Agricultural

INFRASTRUCTURE:

Streets: The site fronts to Albright Road. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements will include, right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

Surrounding Master Street Plan Streets:
North: Albright Rd. (no classification)
South: Zion Rd (collector)
East: George Anderson Rd. (collector) and Howard Anderson Rd.
West: Copper Creek Dr. (local)

Water: The property will have access to an 8" water main through development to the south. This main should be sufficient to provide service to most developments that could occur on the site. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

Sewer: The site will have access to sanitary sewer through development to the south. An off-site sewer main extension may be required to serve this development. The nearest sewer main is an 8" main to the south in the proposed Pembridge Subdivision. The capacity of the lift station serving this area shall be confirmed prior to approval.

Fire: The subject property is located 4.2 miles from the Fire Station #4. Normal driving time is estimated at 11-13 minutes with an approximate response time of 11-13 minutes at maximum development.

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.

Individually, each of these annexations and rezonings do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

LAND USE PLAN: General Plan 2020 identifies the portion of this property within the Planning Area as **Residential.**

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES
<u>BOUNDARIES</u>

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: **The requested annexation will not create an island or peninsula, but create an appropriate boundary that will extend north of the City of Fayetteville adjacent to the City of Springdale.**

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: **The proposed annexation area is adjacent to the City Limits to the east, west and south.**

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 currently under construction.**

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 11-13 minutes for fire protection from the Fire Station #4. An extension of the water main from the**

south will be required to provide water supply and fire protection within any development on this property. The site will have access to sanitary sewer through development to the south. An off-site sewer main extension may be required to serve this development. Verification that this area is within the Fayetteville water service territory shall be determined at such time development occurs on the subject property. The City Council would pass a resolution at the time of development in order for this property to be incorporated into the City of Fayetteville's water territory.

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: N/A

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: **The police department reports that 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.**

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: **Fire and police service shall be provided to this area with the same level of responds and service as other developments in this area. Sewer improvements to the area are being provided for with the development of approved preliminary plats.**

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: **These factors were taken into consideration in the responses and recommendations included in this report.**

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: **Water, fire and police protection are currently provided in this area.**

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.**

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: **The proposed annexation is not part of a phased annexation initiated by the City.**

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: **Annexation of this property will incorporate property currently within Springdale jurisdiction into the City of Fayetteville.**

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: **N/A**

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: **Annexations are automatically zoned R-A, Residential Agricultural. Mr. and Mrs. Nooncaster own 11.76 acres of the total 14.53 acres requested for annexation and request to rezone this property RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with the Residential classification of the adjacent area on the City's adopted Future Land Use Plan. The 2.77 acres owned by Mr. and Mrs. Kelly will be automatically zoned R-A with no accompanying rezoning request. Staff finds that this zoning designation is compatible with the property to the west, also zoned R-A, and will allow for development compatible to the single family properties to the north.**

11.6.p An annexation study should be completed on all annexation proposals.

Finding: **Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this request.**

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: **Development of this property has not been proposed. At the time the applicant desires to development the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.**

11.6.r Residents should be fully informed of annexation activities.

Finding: **Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.**

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: **This annexation includes five tracts of land totaling 14.53 acres owned by the Nooncasters and Kellys and represented by Mr. Raymond Smith. The combined requests create a reasonable boundary avoiding the creation of unusual boundary lines.**

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: **N/A**

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
11.6.d Boundaries for annexed areas should follow natural corridors.
11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

11.6.g Public services must be able to be provided efficiently in newly annexed areas.
11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

11.6.j Areas currently served by utilities and other public services should be annexed.
11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

11.6.m Promote long-range planning with adjacent jurisdictions.
11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

11.6.o Designate zoning districts for the property during the annexation process.
11.6.p An annexation study should be completed on all annexation proposals.
11.6.q Development proposals require a separate review from the annexation proposals.
11.6.r Residents should be fully informed of annexation activities.
11.6.w Encourage larger annexations to create acceptable boundaries.
11.6.t Conduct a fiscal impact assessments on large annexations.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

October 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 04-1252(Nooncaster, pp 61)** and Rezoning **RZN 04-1253(Nooncaster, pp 61)** submitted by Raymond Smith, Attorney for property located south of Albright Road, North of the Fayetteville Planning Area 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.

Individually, each of these annexations and rezonings do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

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: 479-587-3555 FAX: 479-587-3522

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 04-1243	Medley			FS 6	1.4 miles	2-3 min.	2-3 min.	N/A	N/A	N/A
ANX 04-1252	**Nooncaster**	**Yes**	**14.53**	**FS 4**	**4.2 miles**	**11-13 min.**	**11-13 min.**			
RZN 04-1253	Nooncaster			FS 4	4.2 miles	11-13 min.	11-13 min.	10	4	6

ANX 04-1252: Annexation (NOONCASTER/KELLY, 61): Submitted by RAYMOND SMITH for property located at S OF ALBRIGHT ROAD. The property is in the Planning Area and City of Springdale and contains approximately 14.53 acres. The request is to annex the subject into the City of Fayetteville.

Ostner: Thank you. Our next item is ANX 04-1252 for Nooncaster and Kelly.

Warrick: This request is to annex the subject property which contains approximately 14.53 acres. This action would basically comprise of not only an annexation but also a detachment of 4.66 acres from Springdale. This is similar to an action that we took not long ago for property located immediately east of the subject property, which was also a simultaneously annexed and detached piece of property. This is a grouping of five different tracts of land with two property owners, so neighbors did get together and decide to bring this request forward collectively. Portions of the property, as I mentioned, are located within the Fayetteville Planning area and about five acres is located within the City of Springdale. The applicant's representative will be going through the process of obtaining a formal resolution from the Springdale City Council approving their detachment from that community. The site does front Albright Road, it's at the far northeastern portion of the City of Fayetteville. It is north of property also owned by the Nooncasters, which was recently approved as a Preliminary Plat for a development called Pembridge. The property will have access to both water and sewer through that development to the south once it is constructed. The property is approximately four acres from Fire Station number 4, resulting in a response time of 11-13 minutes. That's pretty consistent with the times for these single family subdivisions near the far northeast corner of the City. Police Department states that the requested rezoning would not substantially alter population density, or create appreciable increase in traffic or congestion. They do note, however, that while individually each of these annexations and rezonings will not substantially alter the population and density, the sum total presented over the years has had an impact on the demand for Police services and has caused increases in traffic congestion. So their analysis is expanded to kind of give an overview of what through the years has impacted their service provisions. This property is designated on the general plan as residential. We believe that the annexation of this property will create an appropriate boundary and extend the City of Fayetteville limits north to Albright Road, which is consistent, as I mentioned, with the action that we've taken recently. The property is adjacent to the City limits on the east, west, and south. For those reasons, we believe that this annexation is appropriate. I will note that you received this evening a faxed letter from adjoining property owners who were not able to attend. They do not object to the annexation, however they feel that the companion request for rezoning of a portion of this property to the RSF-4 zoning district is too dense and they believe that one home per acre as opposed to four is more appropriate with the surrounding developments. Just with that, I'll kind of caveat that into the request, the companion request, for rezoning, that is to rezone 11.76 acres of the property and for it to be zoned RSF-4, Residential single family four units per acre for the purpose of a future single family subdivision, an extension of the Pembridge developments to the north of this property which is north of the already approved Preliminary Plat. Staff does believe that this is consistent with the surrounding developments and surrounding zoning. We believe that the zoning of this property to RSF-4 will allow for a more uniform consistent development pattern. Surrounding properties are basically all single family zoned single family on large lots within the City limits of Springdale, and the single family zoning district. As I mentioned, the Pembridge subdivision an approved Preliminary Plat zoned RSF-4 to the south. To the east, a portion of Copper Creek subdivision under construction, zoned RSF-4, I think that's actually to the west, and then on the other side of the property, a vacant field zoned R-A, Residential Agricultural. With the findings that I've stated and the information in your reports, staff is in favor of both the annexation and the requested rezoning.

Ostner: Thank you. Is the applicant present? If you could introduce yourself and give us your presentation.

Smith: Yes, my name is Raymond Smith, and I have with me here Mr. John Nooncaster who I submitted this application for on his behalf and also the Kellys. As Dawn Warrick explained there, this property is to the north of a property that's currently being developed by Mr. Nooncaster and it includes 4.66 acres that actually has been in the City of Springdale, and we have already had a resolution passed by the City of Springdale that if Fayetteville will annex this into Fayetteville that they will have a hearing and approve it. And so that's where we stand right now. If the City of Fayetteville approves the ordinance on this then we will go back to Springdale and obtain their approval also on this. Are there any other questions I can answer on this?

Ostner: We'll get back with you. Thank you. At this point, I'll open it up to the public. Would anyone like to speak about this ANX 04-1252.

Nooncaster: My name is John Nooncaster. My wife and I and along with the Kelly's own this property and if you have any questions I'll be glad to answer them for you.

Ostner: Thank you. I want to make sure anyone from the public that wants to speak about this has a chance. Seeing none, I'll close it to the public and bring it back to the Commission on the subject of annexation.

MOTION:

Shackelford: We saw one a lot like this earlier this evening. It's not quite a peninsula, it's not quite an island, but it is contiguous with City limits. Currently, I think it makes sense to recommend annexation to City Council so I'm going to make a motion we recommend ANX 04-1252.

Clark: I'll second.

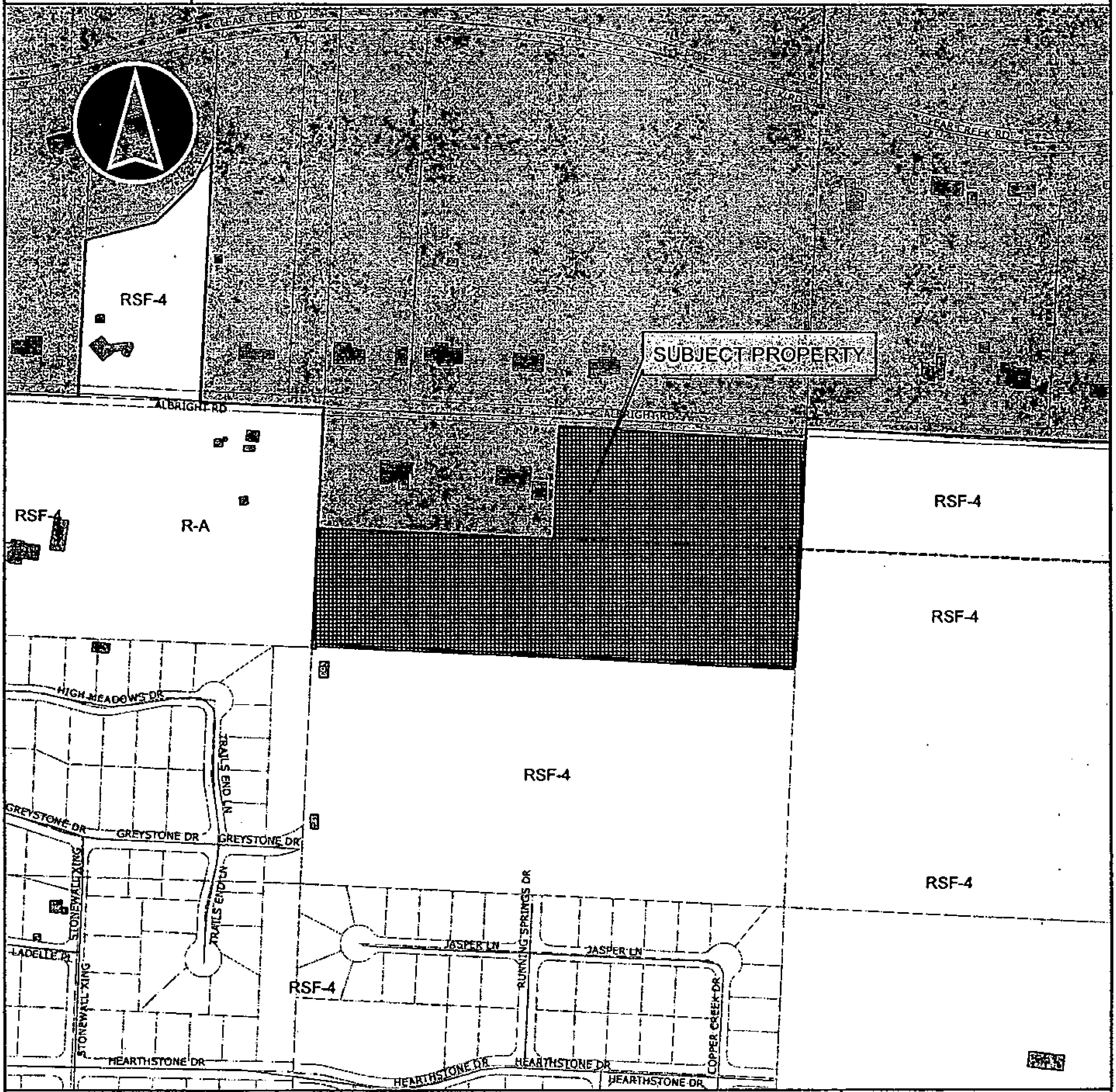
Ostner: Thank you, I have a motion by Mr. Shackelford, a second by Commissioner Clark. Is there further discussion? Could you call the roll?

Roll Call: Upon the completion of roll call, the motion to approve ANX 04-1252 was approve by a vote of 8-0-0.

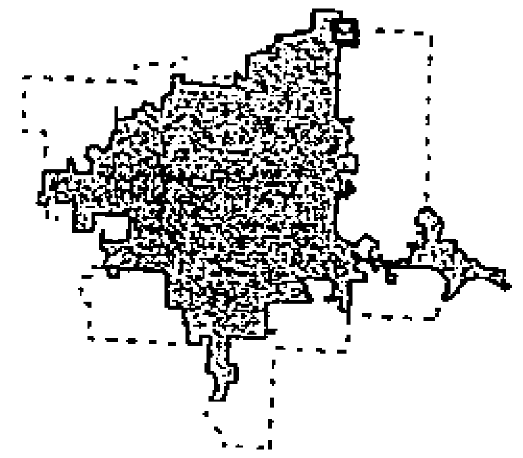
ANX04-1252

Close Up View

NOONCASTER/KELLY



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

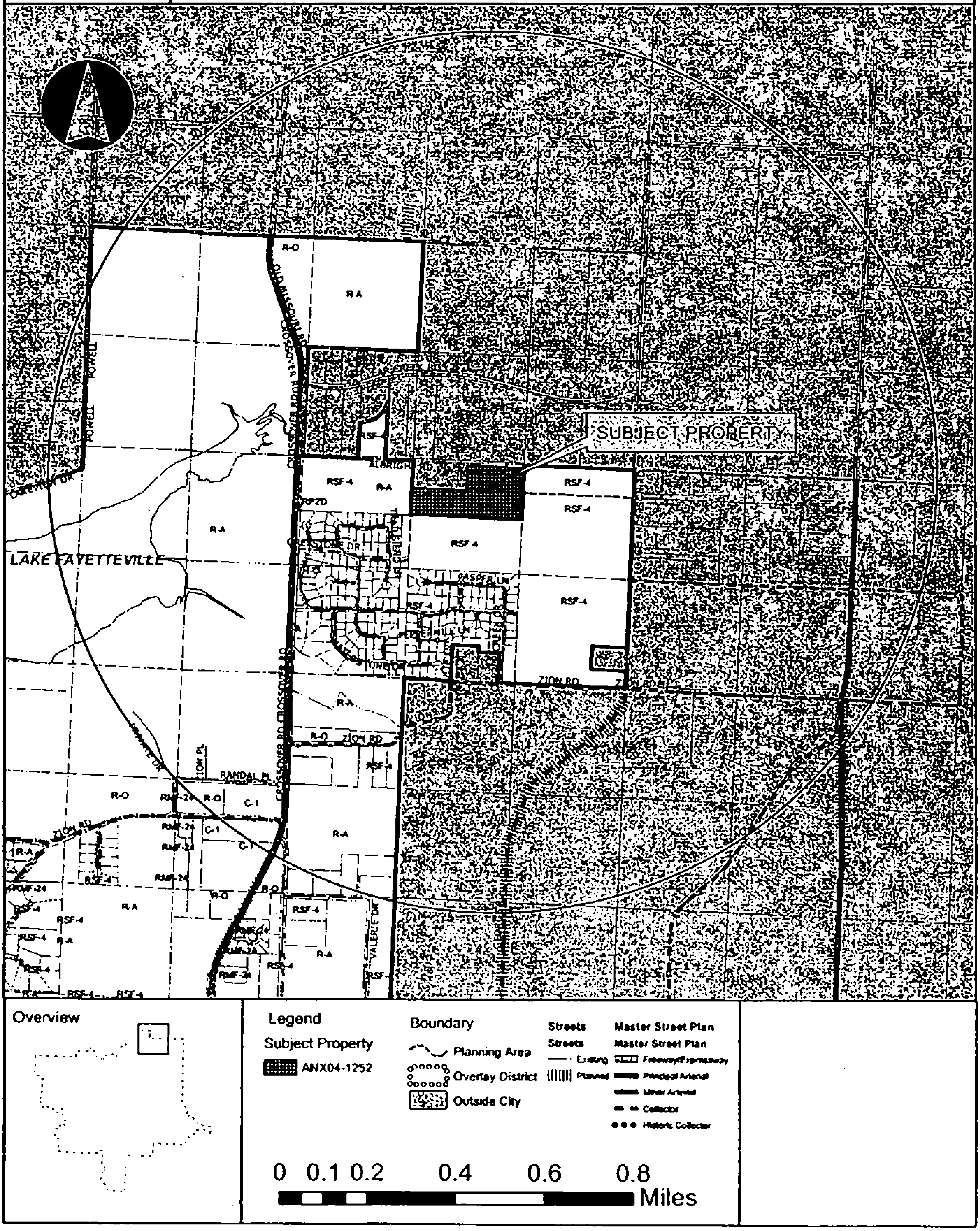
▦ ANX04-1252
☐ Fayetteville
▨ Outside City

0 150 300 600 900 1,200 Feet

ANX04-1252

One Mile View

NOONCASTER/KELLY



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 16, 2004

FROM:

Dawn T. Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-1252A (Nooncaster/Kelly, 61): Submitted by Raymond Smith for property located south of Albright Road. The property is located within the Planning Area and contains approximately 9.81 acres. The request is to annex the subject property into the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn T Warrick 10/29/04
Division Head Date

10/30/04
City Attorney Date

10-26-04
Department Director Date

Finance & Internal Services Dir. Date

Hugh Earnest 10-31-04
Chief Administrative Officer Date

Dan Coody 11/2/04
Mayor Date

Received in Mayor's Office ________
Date

Cross Reference:

Previous Ord/Res#: ________

Orig. Contract Date: ________

Orig. Contract Number: ________

New Item: Yes No

ENTERED
10/29/04

City Council Meeting of November 16, 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: October 26, 2004

Subject: Annexation for Nooncaster/Kelly (ANX 04-1252 **B**) – 4.66 acres

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RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Nooncaster/Kelly. This action will incorporate a 4.66-acre tract of land contiguous with the city limits into the City of Fayetteville.

BACKGROUND

The subject property is part of a larger request containing five tracts of property equaling 14.53 acres. The vacant property is located south of Albright Road and west of George Anderson Road. Property to the south has recently been approved for the development of Pembridge Subdivision and is owned by the Nooncasters. A companion annexation request addresses the southern three tracts of property which total 9.81 acres and are located within the City of Fayetteville Planning Area. The subject property consists of the northern two tracts containing 0.46 and 4.2 acres which are located within Springdale city limits.

The applicants requested the simultaneous detachment and annexation of 4.66 acres owned by the Mr. and Mrs. Nooncaster from the City of Springdale into the City of Fayetteville. The applicant will submit this request to Springdale after consideration by Fayetteville City Council. A rezoning request has been submitted for the property owned by the Nooncasters. Without a rezoning request for the remaining property, owned by Mr. and Mrs. Kelly, the property will be zoned R-A upon approval of the requested annexation.

Staff recommended approval of the proposed annexation. The subject property is adjacent to the City limits and developed as an extension of surrounding subdivisions.

DISCUSSION

On October 25, 2004, the Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval with an accompanying rezoning request.

BUDGET IMPACT

None.

ORDINANCE NO. ______

AN ORDINANCE CALLING FOR THE SIMULTANEOUS DETACHMENT OF ABOUT 4.66 ACRES OWNED BY JOHN AND LESLIE NOONCASTER FROM THE CITY OF SPRINGDALE, ARKANSAS AND THE ANNEXATION OF THOSE LANDS INTO THE CITY OF FAYETTEVILLE, ARKANSAS

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

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

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

WHEREAS, the City Council of Springdale, Arkansas approved Resolution No. 85-04 on September 14, 2004, declaring that the City has no objection to the detachment of the subject property from the City of Springdale; and

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

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

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby declares its desire to annex approximately 4.66 acres of land owned by

John and Leslie Nooncaster as described in Exhibit "A" if said land is detached from the City of Springdale.

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

PASSED and **APPROVED** this _____ day of November, 2004.

APPROVED:

DRAFT

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

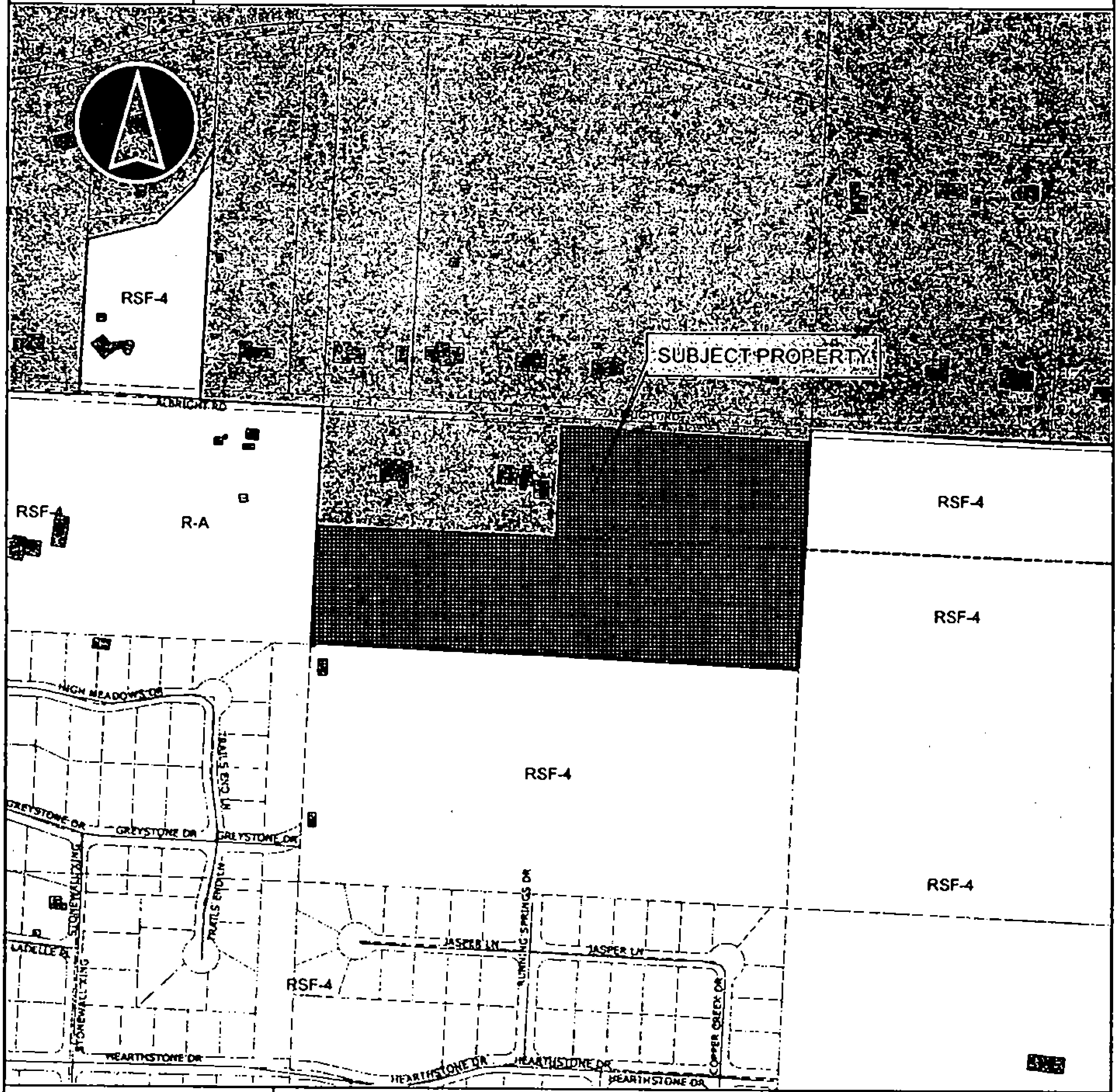
EXHIBIT "A"
ANX 04-1252

A PART OF THE NORTH HALF (N ½) OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID 20 ACRE TRACT; THENCE S87°24'15"E ALONG THE NORTH LINE OF SAID 20 ACRE TRACT 364.40 FEET; THENCE S02°24'17"W TO A POINT ON THE SOUTH RIGHT OF WAY OF ALBRIGHT ROAD; THENCE S87°44'24"E ALONG SAID SOUTH RIGHT OF WAY 281.52 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID RIGHT OF WAY S87°44'33"E 64.32 FEET; THENCE S86°42'53"E ALONG SAID RIGHT OF WAY 602.95 FEET TO A POINT IN AN EXISTING FENCE LINE; THENCE S02°33'59"W ALONG SAID FENCE LINE 300 FEET; THENCE LEAVING SAID FENCE LINE N87°24'15"W 667.37 FEET; THENCE N02°35'40"E 306.88 FEET TO THE POINT OF BEGINNING, CONTAINING 4.66 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

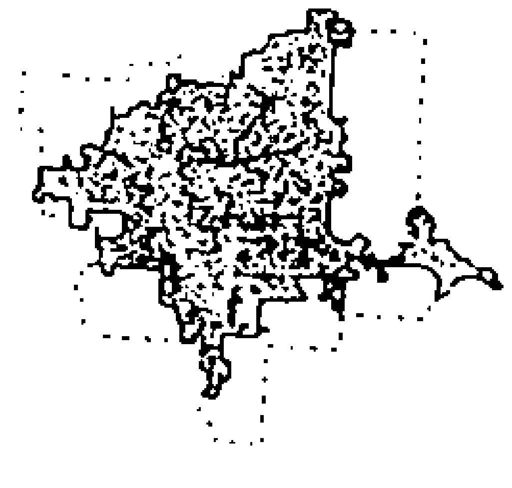
ANX04-1252

Close Up View

NOONCASTER/KELLY



Overview



Legend

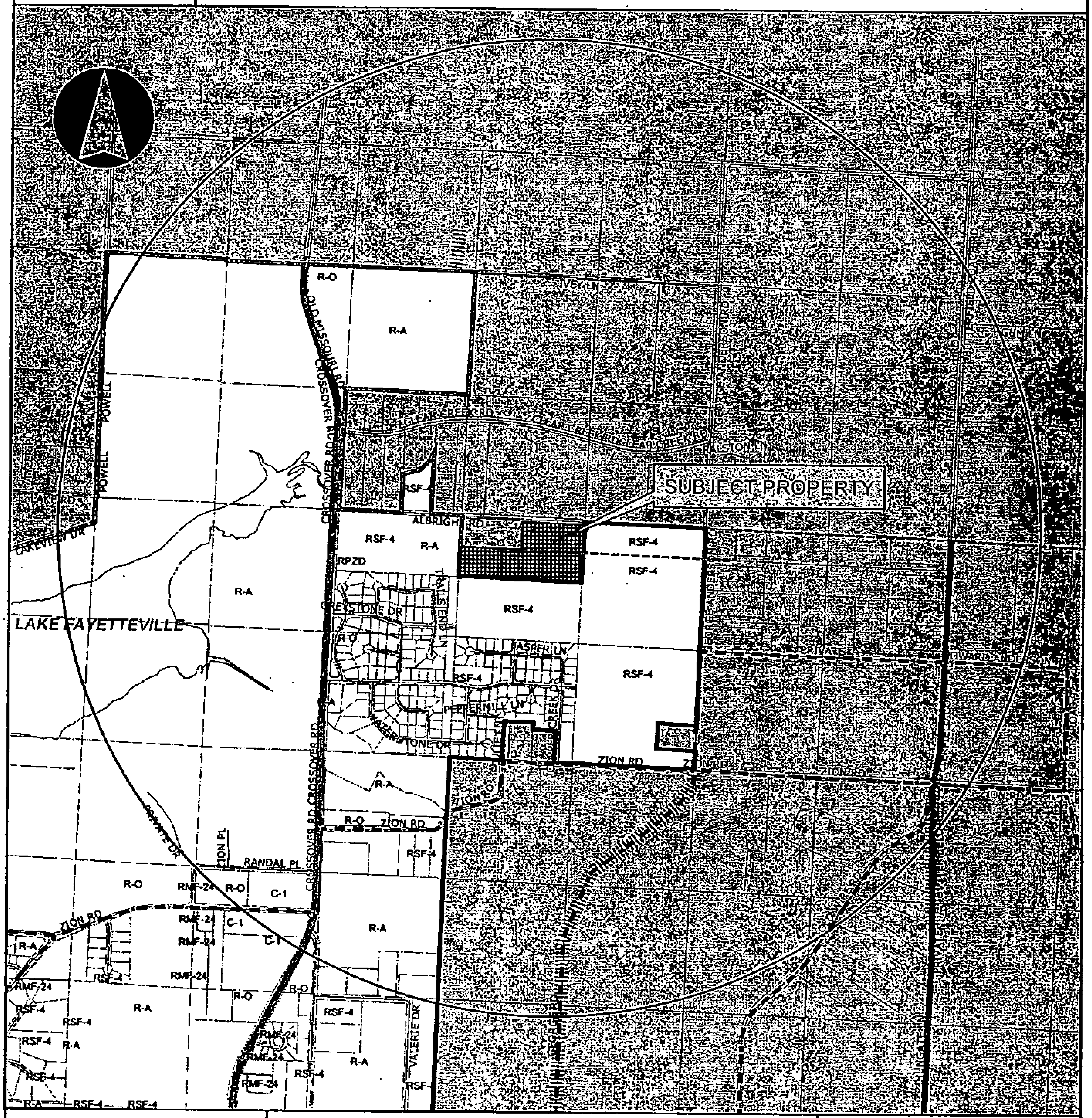
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
▨ ANX04-1252
☐ Fayetteville
▨ Outside City

0 150 300 600 900 1,200 Feet

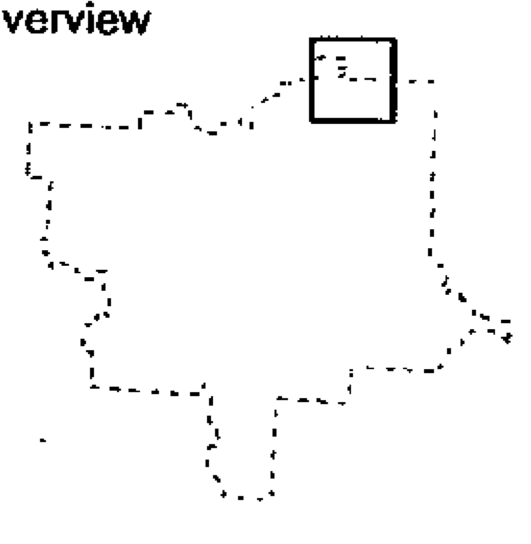
ANX04-1252

One Mile View

NOONCASTER/KELLY



Overview



Legend

Subject Property

▦ ANX04-1252

Boundary

Planning Area

Overlay District

Outside City

Streets

Streets

Existing

Planned

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 16, 2004

FROM:

Dawn T. Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 04-1252B (Nooncaster/Kelly, 61): Submitted by Raymond Smith for property located south of Albright Road. The property is located within the City of Springdale and contains approximately 4.66 acres. The request is to annex the subject property into the City of Fayetteville subject to the simultaneous detachment from the City of Springdale.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick 10/29/04
Division Head Date

10/30/04
City Attorney Date

10-26-04
Department Director Date

Finance & Internal Services Dir. Date

Hugh Earnest 10-31-04
Chief Administrative Officer Date

Dan Coody 11/02/04
Mayor Date

Received in Mayor's Office ______
Date

Cross Reference:

Previous Ord/Res#: ______

Orig. Contract Date: ______

Orig. Contract Number: ______

New Item: Yes No

ENTERED
10/29/04
TLM

City Council Meeting of November 16, 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: October 26, 2004

Subject: Rezoning for Nooncaster (RZN 04-1253)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 11.76 acres of property from R-A, Residential Agricultural, to RSF-4, Residential Single Family – 4 units per acre.

BACKGROUND

The subject property contains 11.76-acres of land within the Planning Area and Springdale city limits. The vacant property is currently located south of Albright Road, north of the approved Pembridge Subdivision, not yet under construction.

The applicant requested the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 Dwelling Units per Acre, should the preceding Annexation (ANX 04-1252) request be approved. The applicant intends to develop a single family residential subdivision.

Staff recommended 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.

DISCUSSION

On October 25, 2004, Staff received a letter from the Ottavianos, an adjacent property owner who was not able to attend the Planning Commission meeting. The Ottavianos expressed their objection with the proposed density and concern it would not be compatible with the developed properties on Albright Road. A public hearing was held on October 25, 2004 at which the Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval of the requested rezoning.

BUDGET IMPACT

None.

ORDINANCE NO. ______

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1253 FOR PROPERTY LOCATED SOUTH OF ALBRIGHT ROAD CONTAINING APPROXIMATELY 11.76 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

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

From R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. **That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.**

PASSED AND APPROVED this ______ day of __________, 2004.

APPROVED:

By:_____________________
DAN COODY, Mayor

ATTEST:

By: ___________________________
Sondra Smith, City Clerk

EXHIBIT "A"

RZN 04-1253

A PART OF THE NORTH HALF (N ½) OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID 20 ACRE TRACT; THENCE S87°24'15"E ALONG THE NORTH LINE OF SAID 20 ACRE TRACT 364.40 FEET; THENCE S02°24'17"W TO A POINT ON THE SOUTH RIGHT OF WAY OF ALBRIGHT ROAD; THENCE S87°44'24"E ALONG SAID SOUTH RIGHT OF WAY 281.52 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID RIGHT OF WAY S87°44'33"E 64.32 FEET; THENCE S86°42'53"E ALONG SAID RIGHT OF WAY 602.95 FEET TO A POINT IN AN EXISTING FENCE LINE; THENCE S02°33'59"W ALONG SAID FENCE LINE 300 FEET; THENCE LEAVING SAID FENCE LINE N87°24'15"W 667.37 FEET; THENCE N02°35'40"E 306.88 FEET TO THE POINT OF BEGINNING, CONTAINING 4.66 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

And

A PART OF THE SOUTHWEST QUARTER (S.W ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY NINE (29) WEST, BEING MORE PARTIUCLARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE S02°24'04"W ALONG THE WEST LINE OF SAID 40 ACRE TRACT 330.00 FEET TO A POINT ON THE SOUTH CITY LIMITS OF SPRINGDALE, ARKANSAS. THENCE S87°24'15"E 364.40 FEET ALONG SAID CITY LIMITS LINE, SAID LINE BEING 330.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID 40 ACRE TRACT TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID CITY LIMITS LINE S87°24'15"E 947.85 FEET TO A POINT IN AN EXISTING FENCE LINE; THENCE S02°33'59"W 328.27 FEET TO A FENCE CORNER POST; THENCE N87°13'24"W ALONG SAID FENCE 259.66 FEET TO A FENCE CORNER POST; THENCE N87°03'11"W ALONG SAID FENCE 407.55 FEET TO A FENCE CORNER POST ; THENCE N87°21'58"W ALONG SAID FENCE 279.71 FEET; THENCE LEAVING SAID FENCE N02°24'04"E 324.77 FEET TO THE POINT OF BEGINNING, CONTAINING 7.10 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

Fayetteville
ARKANSAS

PC Meeting of October 25, 2004

THE CITY OF FAYETTEVILLE, ARKANSAS

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: October 20, 2004

RZN 04-1253: Rezoning (NOONCASTER, 61): Submitted by RAYMOND SMITH for property located at S OF ALBRIGHT ROAD. The property is zoned R-A, Residential Agricultural and contains approximately 11.76 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.
Property Owner: JOHN & LESLIE NOONCASTER Planner: SUZANNE MORGAN

RECOMMENDATION:
Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>
○ Approved ○ Denied
Date: <u>October 25, 2004</u>

CITY COUNCIL ACTION: Required <u>YES</u>
○ Approved ○ Denied
Date: <u>November 16, 2004 (1st reading if recommended)</u>

BACKGROUND:

Property description: The subject property contains 11.76-acres of land within the Planning Area and Springdale city limits. The vacant property is currently located south of Albright Road, north of the approved Pembridge Subdivision, not yet under construction.

Request: The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 Dwelling Units per Acre, should the preceding Annexation request be approved. The applicant intends to develop a single family residential subdivision.

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 11.76 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 04-1252, 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 on large lots	City of Springdale
South	Pembridge SD (approved PPL)	RSF-4, Res. Single Family - 4 units per acre
East	Copper Creek SD (under construction	RSF-4, Res. Single Family - 4 units per acre
West	Vacant field	R-A, Residential Agricultural

INFRASTRUCTURE:

Streets: The site fronts to Albright Road. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements will include, right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

Surrounding Master Street Plan Streets:
North: Albright Rd. (no classification)
South: Zion Rd (collector)
East: George Anderson Rd. (collector) and Howard Anderson Rd.
West: Copper Creek Dr. (local)

Water: The property will have access to an 8" water main through development to the south. This main should be sufficient to provide service to most developments that could occur on the site. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

Sewer: The site will have access to sanitary sewer through development to the south. An off-site sewer main extension may be required to serve this development. The nearest sewer main is an 8" main to the south in the proposed Pembridge Subdivision. The capacity of the lift station serving this area shall be confirmed prior to approval.

Fire: The subject property is located 4.2 miles from the Fire Station #4. Normal driving time is estimated at 11-13 minutes with an approximate response time of 11-13 minutes at maximum development.

Police: It is the opinion of the Fayetteville Police Department that this annexation and rezoning **<u>will</u>** **<u>not</u>** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Individually, each of these annexations and rezonings do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

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 single family residential is compatible with adjacent and nearby single family residential land use. The General Plan designates this area for residential use, which is compatible with the proposed RSF-4 zoning. Access and provision of adequate services are currently being extended with the development of adjacent properties.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. The rezoning is needed for the development of a single family subdivision as proposed by the applicant. A subdivision with the density allowed in the R-A district could not be developed in like manner with those to the south and east. An RSF-4 zoning district is appropriate in this area, and would provide compatibility with adjoining developments that are zoned RSF-4 and currently being developed with residential subdivisions.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The subject property has frontage on Albright Road. At the time of development, this street will need to be brought up to current standards along the property frontage. 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 11.76-acre property under an R-A, Residential Agricultural designation would allow for a maximum 5 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 47 dwelling units would be permitted, with a projected total of 104 future residents in this area. Although the proposed zoning increases the possible number of residential units and population, it is consistent with land use and zoning in the immediate vicinity.**

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

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.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

October 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 04-1252(Nooncaster, pp 61)** and Rezoning **RZN 04-1253(Nooncaster, pp 61)** submitted by Raymond Smith, Attorney for property located south of Albright Road, North of the Fayetteville Planning Area 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.

Individually, each of these annexations and rezonings do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

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: 479-587-3555 FAX: 479-587-3522

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 04-1243	Medley			FS 6	1.4 miles	2-3 min.	2-3 min.	N/A	N/A	N/A
ANX 04-1252	Nooncaster	Yes	14.53	FS 4	4.2 miles	11-13 min.	11-13 min.			
RZN 04-1253	**Nooncaster**			**FS 4**	**4.2 miles**	**11-13 min.**	**11-13 min.**	**10**	**4**	**6**

CURRENT OWNERSHIP INFORMATION AND ANY PROPOSED OR PENDING PROPERTY SALES

Assessor's Parcel Number 001-15172-002, 001-15172-003, 765-30659-002, and 765-30659-003, p/o of the SW¼, SE¼, of Section Eighteen (18), T17N, R29W consisting of 7.10 and 4.66 acres, more or less. There are no proposed or pending property sales for this property.

REASON FOR REQUESTED ZONING CHANGE

Parcel Number 001-15172-002,001-15172-003, are currently zoned A-1 and 765-30659-002 and 765-30659-003 will be annexed into the City of Fayetteville and zoned as R-A, It is proposed to re-zone the 7.10 and 4.66 acres to RSF-4 for development into part of 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

Existing 8" water line rune East along Greystone Drive to West line of proposed Pembridge Sub-Divison (see preliminary plat) which is just South of the 7.10 acres, where it is plugged. Existing 8" water line runs North along Running Springs Drive to the South line of proposed Pembridge Sub-Division which is just South of the 7.10 acres, where it is plugged.

Existing 8" sewer line runs North along Running Springs Road to a manhole on the South line of proposed Pembridge Sub-Division, which is just South of the 7.10 acres.

DEGREE TO WHICH THE PROPOSED ZONING IS CONSISTENT WITH LAND USE PLANNING OBJECTIVES, PRINCIPLES AND LAND USE AND ZONING PLANS

The proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

WHETHER THE PROPOSED ZONING IS JUSTIFIED AND/OR NEEDED AT THE TIME THE REZONING IS PROPOSED

The proposed rezoning is justified at this time in that it is in keeping with the policies and adopted plans of the City of Fayetteville. Zoning this property as RSF-4 is consistent with surrounding subdivision.

WHETHER THE PROPOSED ZONING WOULD CREATE OR APPRECIABLY INCREASE TRAFFIC DANGER AND CONGESTION

The proposed zoning will not create or appreciably increase traffic danger and congestion.

WHETHER THE PROPOSED ZONING WOULD ALTER THE POPULATION DENSITY AND THEREBY UNDESIRABLY INCREASE THE LOAD ON PUBLIC SERVICES INCLUDING SCHOOLS, WATER, AND SEWER FACILITIES

This increase is not expected to undesirably increase the load on public services including schools, water and sewer facilities. Improvements planned to the Fayetteville overall wastewater treatment system and the coming on-line of the new wastewater treatment facility on the western side of Fayetteville should adequately provide services to the sub-division.

WOULD IT BE IMPRACTICAL TO USE THE LAND FOR ANY OF THE USES PERMITTED UNDER ITS EXISTING ZONING CLASSIFICATION

This property is presently in the county but within the Fayetteville Growth Area. It would be impractical to maintain the A-1 or R-A zoning since it would be inconsistent with the surrounding areas already zoned as residential subdivisions,

RZN 04-1253: Rezoning (NOONCASTER, 61): Submitted by RAYMOND SMITH for property located at S OF ALBRIGHT ROAD. The property is zoned R-A, Residential Agricultural, and contains approximately 11.76 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The tandem item is a RZN 04-1253, we've already had the staff report. Would the applicant like to share any information?

Smith: I believe the information that Dawn Warrick has given you in that this surrounding area there is zoned RSF-4 and it would be completely consistent with those adjoining areas there that are already being developed and we feel that this is very appropriate.

Ostner: Thank you. At this point I'll open it up to the public. Would anyone like to speak about this rezoning? Seeing none, I'll close it to the public and bring it back to the Commission for motions.

Myers: My only concern about the density that's proposed for this property is the impact on Albright Road, but I did read in the information that we were given that those street improvements would take place once a Preliminary Plat was proposed.

Warrick: Right. We will have to look at all of the surround roads, and this particular piece of property, unique to the other developments that we've seen around here accesses or has the potential to access Albright Road. While Albright Road is within the city limits of Springdale for the most part, the Planning Commission does have the ability to consider off-site improvements based on the impact of a development within the City of Fayetteville. We will be taking that into consideration and making recommendations to you with regard to improvements on Albright Road based on traffic that will be able to access Albright Road should this property develop, because that will then provide an outlet for not only the Pembridge development, but also Stonewood and Copper Creek and all the various phases of those developments, so while right now those drivers can skirt around the developments if they want to drive on George Anderson, which is a gravel road and then come across on Albright, that's an opportunity, this would be a more improved street connection, and it will very likely be more utilized. Certainly a consideration.

MOTION:

Clark: It seems to me that this RSF-4 is consistent with what lies around this piece of property, and I would point out to the neighbors who are concerned by what the e-mail indicates that RSF-4's the maximum density that will be allowed, doesn't necessarily mean the builder's will develop with four houses per acre. But regardless, input is still available to any surrounding land owner as this goes through the development process. So there's still avenues to express discontent, if needed. I think the improvement to Albright Road would be an asset to the area, so I'm going to move that we approve RZN 04-1253.

Ostner: Thank you; I have a motion for approval.

Shackelford: I'll second. I would like to say for the record that I agree with what Commissioner Myers said. We, as a Planning Commission over the last two or three years have heard a lot of development to the south and west of this property. One thing we consistently hear is the need for additional ingress and egress and I know a lot of folks in this area have looked forward to having an access point to Albright Road. So I think connectivity's going to be something that we look for when this property develops as well as these off-site improvements to make Albright Road as a safe intersection. But I do think that the zoning is in line, I just want to make those comments for the record.

Ostner: Thank you; I have a motion by Commissioner Clark, a second by Commissioner Shackelford. Is there further discussion? Could you call the roll?

Roll Call: Upon completion of roll call, the motion to approve RZN 04-1253 was approved by a vote of 8-0-0.

Ostner: Thank you. Are there any announcements?

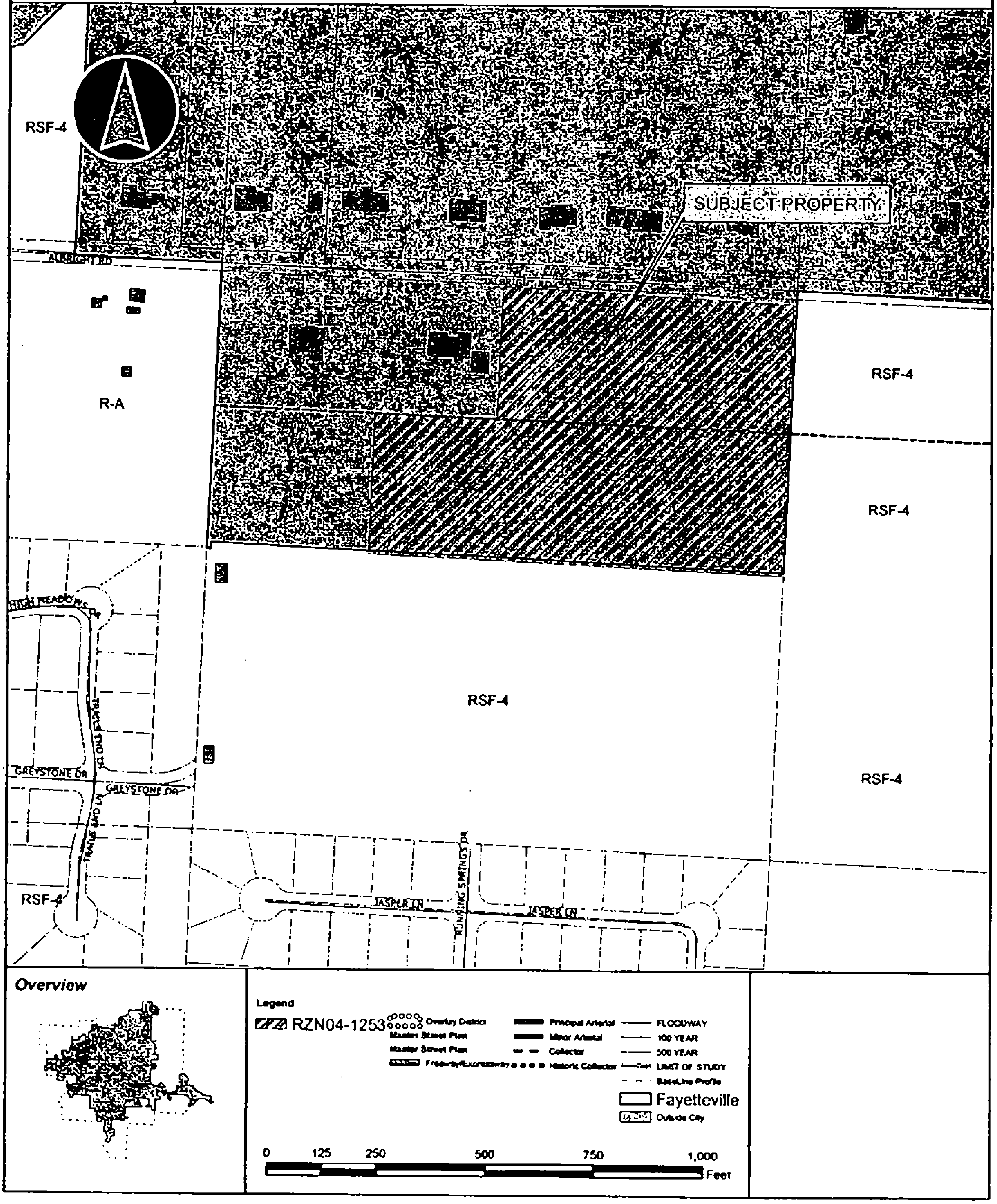
Announcements

Adjourned: 6:50 p.m.

RZN04-1253

Close Up View

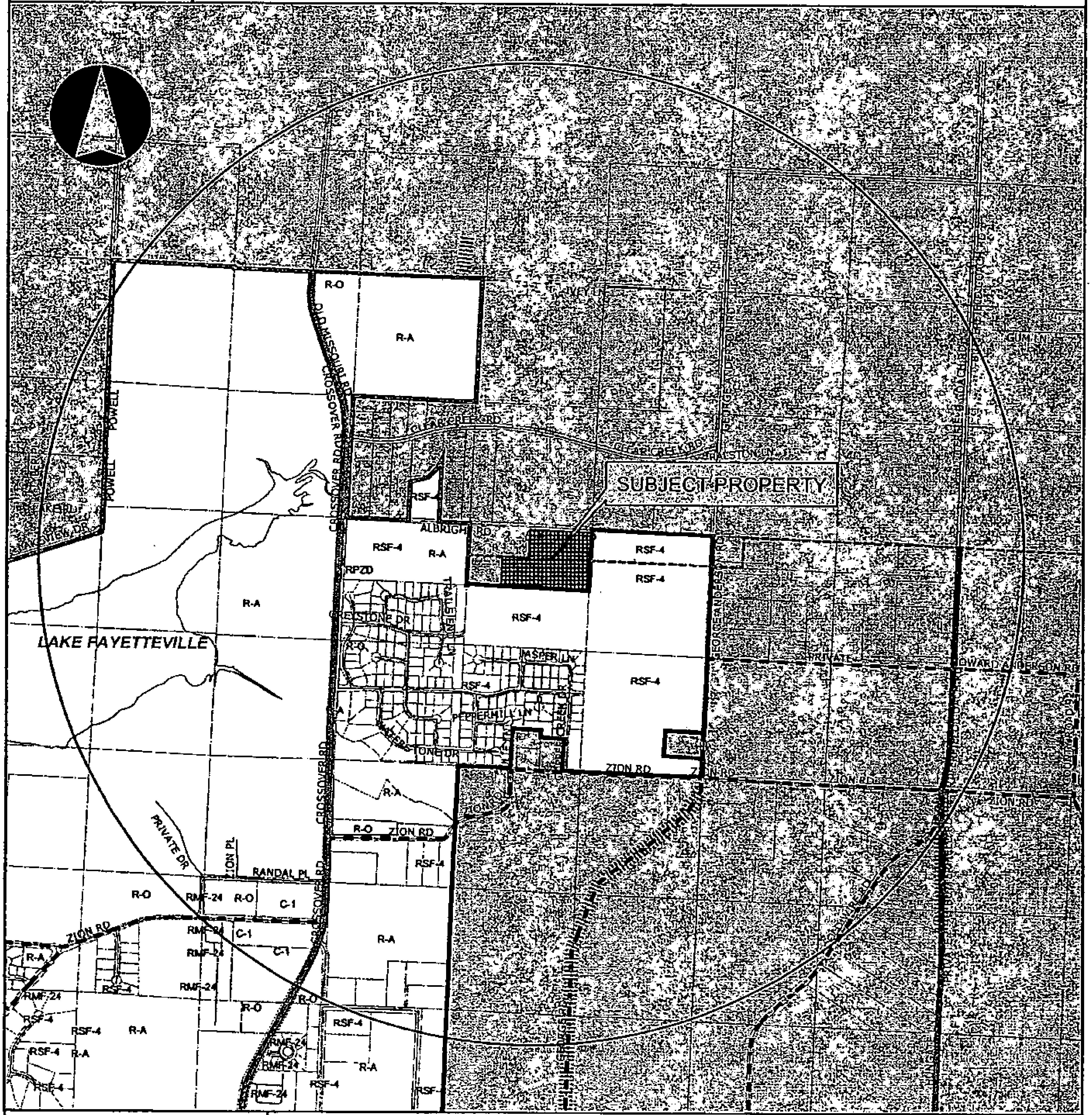
NOONCASTER/KELLY



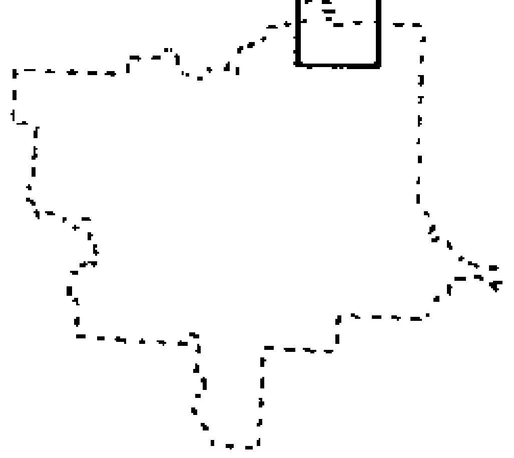
RZN04-1253

One Mile View

NOONCASTER/KELLY



Overview



Legend

Subject Property

▦ RZN04-1253

Boundary

Planning Area

Overlay District

Outside City

Streets

Existing

Planned

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

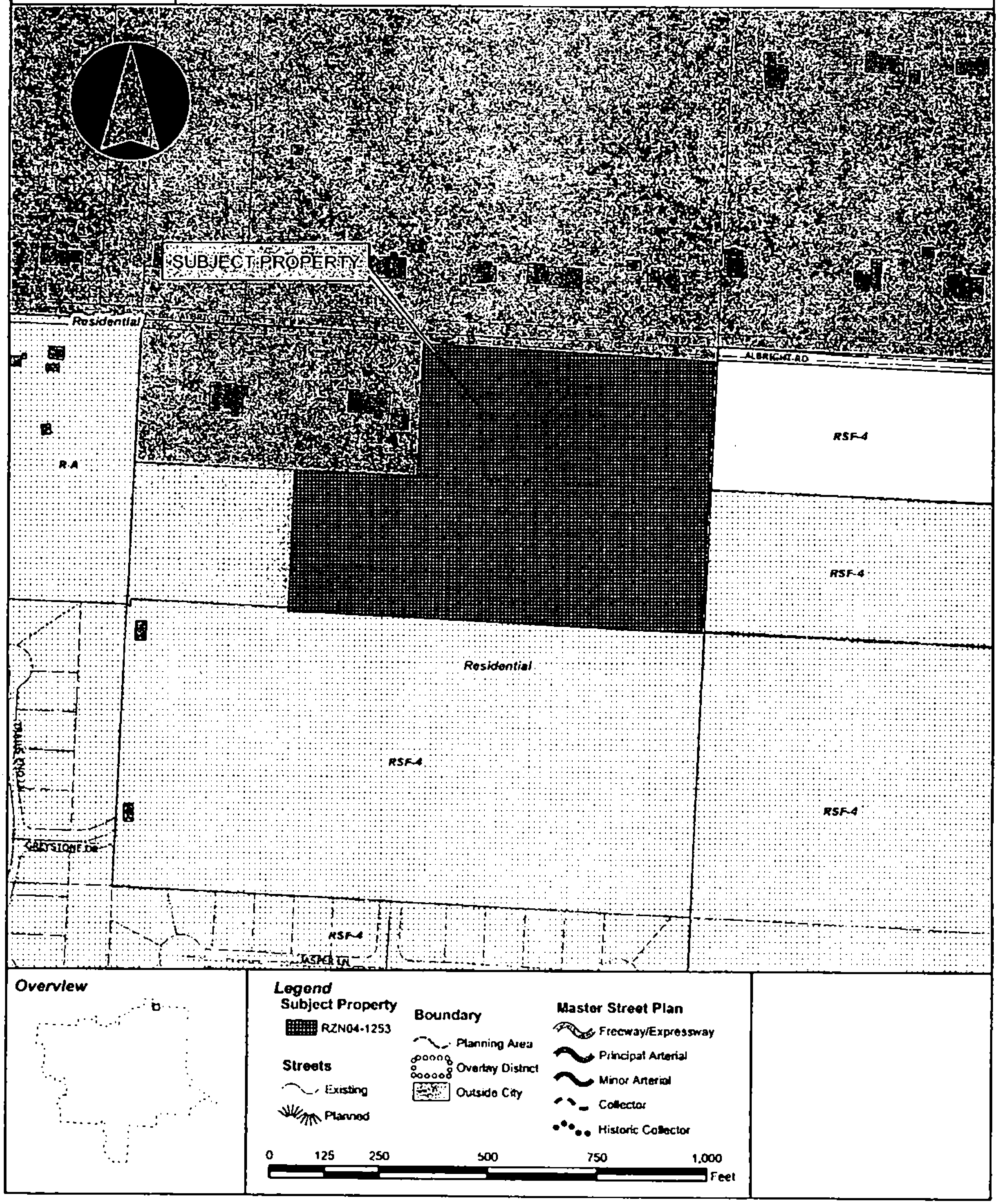
0 0.1 0.2 0.4 0.6 0.8

Miles

RZN04-1253

Future Land Use

NOONCASTER/KELLY



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 16, 2004

FROM:

Name	Division	Department
Dawn T. Warrick	Planning	CP&E

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1253 (Nooncaster, 61): Property located south of Albright Road. The newly annexed property will be zoned R-A, Residential Agricultural and contains approximately 11.76 acres. The request is to rezone the subject property from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick 10/27/04
Division Head Date

10-30-04
City Attorney Date

Hugh Earnest for Tim Conklin 10-28-04
Department Director Date

Finance & Internal Services Dir. Date

Hugh Earnest 10-29-04
Chief Administrative Officer Date

Dan Coody 11/2/04
Mayor Date

Received in Mayor's Office Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED
10/29/04
TM

City Council Meeting of November 16, 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: October 26, 2004

Subject: Rezoning for Medley (RZN 04-1243)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 1.03 acres of property from R-A, Residential Agricultural, to C-1, Neighborhood Commercial.

BACKGROUND

The subject property contains a 1-acre tract with a single family home located upon it. Most of the property consists of a vacant field, located behind the existing home. The entirety of the property is located within the 100-year floodplain, approximately 0.13 miles west of the Lowe's C-PZD on 6th Street (Hwy 62). The property is bordered to the west by both vacant and occupied commercial buildings and an automobile salvage yard (an existing nonconforming use in a C-2 district). A portion of this property remains zoned R-A; the majority is C-2 property, and has been zoned as such since before 1970. Property to the south is occupied by a Church (an existing nonconforming use in an R-A district). To the east is vacant property (a strip of R-A and C-2). Several large tracts of land to the west were zoned from R-A to C-2, RMF-24, R-O and RSF-4 in 1987 (see attached), a portion of which was subsequently rezoned in recent years to C-PZD for the Lowe's development. To the north the subject property is bound by Hwy 62 and a Tire & Auto shop, along with other commercial developments, all of which have existed as C-2 pre-1970.

The applicant's request was to rezone the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial. The applicant proposes a rezoning of the subject property to facilitate the future sale and potential development of the property at an appreciated value, based on recommendations from the applicant's Realtor.

DISCUSSION

Staff recommended denial of the proposed rezoning to C-2, finding that the proposed rezoning is not consistent with future land use planning objectives, principles, and policies for Mixed Use Areas.

On October 25, 2004, the Planning Commission voted 7-1-0 to forward this item to the City Council with a recommendation for rezoning the property C-1, Neighborhood Commercial, with Commissioner Ostner voting no.

BUDGET IMPACT

None.

ORDINANCE NO. ______

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-1243 AS SUBMITTED BY RONALD DEAN MEDLEY FOR PROPERTY LOCATED AT 3507 W. 6TH STREET CONTAINING APPROXIMATELY 1.03 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO C-1, NEIGHBORHOOD COMMERCIAL.

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

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

From R-A, Residential Agricultural to C-1, Neighborhood Commercial as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. **That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.**

PASSED AND APPROVED this ______ day of __________, 2004.

APPROVED:

By:____________________
DAN COODY, Mayor

ATTEST:

By: ____________________
Sondra Smith, City Clerk

EXHIBIT "A"

RZN 04-1243

A PART OF THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHWEST QUARTER (NW ¼) AND A PART OF THE NORTHWEST QUARTER (NW ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION NINETEEN (19) IN TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT AN IRON PIPE 15.174 CHAINS SOUTH AND 11.116 CHAINS EAST OF THE NORTHWEST CORNER OF THE FRACTIONAL SOUTHWEST QUARTER (FRL. SW ¼) OF THE FRACTIONAL NORTHWEST QUARTER (FRL. NW ¼) OF SECTION 19, AND RUNNING THENCE SOUTH 175.3 FEET; THENCE EAST 138 FEET TO A POINT ON THE SOUTH LINE OF THE RIGHT OF WAY OF U.S. HIGHWAY #62 FOR A PLACE OF BEGINNING OF LAND CONVEYED; THENCE SOUTH 21°30' EAST 377 FEET TO WHERE LEHMAN'S SOUTH LINE INTERSECTS EAST BANK OF CREEK; THENCE NORTH 60° EAST WITH LEHMAN'S SOUTH LINE 158 FEET TO LEHMAN'S SOUTHEAST CORNER; THENCE NORTH 29° WITH LEHMAN'S EAST LINE 347 FEET TO THE SOUTH LINE OF RIGHT OF WAY OF HIGHWAY #62; THENCE WITH RIGHT OF WAY SOUTHWEST 115 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPT A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

STARTING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19; THENCE SOUTH 02°01' WEST ALONG THE WEST LINE OF SECTION 19 A DISTANCE OF 111.0 FEET TO A POINT ON THE EXISTING SOUTHERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 62; THENCE NORTH 75°47' EAST ALONG SAID EXISTING RIGHT OF WAY LINE A DISTANCE OF 907.9 FEET TO A POINT FOR THE POINT OF BEGINNING; THENCE CONTINUE NORTH 75°47' EAST ALONG SAID EXISTING RIGHT OF WAY LINE A DISTANCE OF 115.0 FEET TO A POINT; THENCE SOUTH 25°26' EAST A DISTANCE OF 15.83 FEET TO A POINT ON THE PROPOSED SOUTHERLY RIGHT OF WAY LINE OF SAID U.S. HIGHWAY; THENCE SOUTH 54°30' WEST ALONG SAID PROPOSED RIGHT OF WAY LINE A DISTANCE OF 4.29 FEET TO A POINT; THENCE SOUTH 75°47' WEST ALONG SAID PROPOSED RIGHT OF WAY LINE A DISTANCE OF 112.7 FEET TO A POINT; THENCE NORTH 18°35' WEST A DISTANCE OF 15.0 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.04 ACRE, MORE OR LESS.

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PC Meeting of October 25, 2004

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Senior Planner
Matt Casey, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: October 18, 2004

RZN 04-1243: Rezoning (MEDLEY, 557/596): Submitted by RONALD DEAN MEDLEY for property located at 3507 W 06TH STREET.. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.03 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial. 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**

Date: October 25, 2004 **○ Approved** **○ Denied**

CITY COUNCIL ACTION: **Required** **YES**

○ Approved **○ Denied**

Date: November 16, 2004 (1st reading if recommended)

Comments: ______________________________

BACKGROUND:

Property description: The subject property contains a 1-acre tract with a single family home located upon it. Most of the property consists of a vacant field, located behind the existing home. The entirety of the property is located within the 100-year floodplain, approximately 0.13 miles west of the Lowe's C-PZD on 6th Street (Hwy 62). The property is bordered to the west by both vacant and occupied commercial buildings and an automobile salvage yard (an existing nonconforming use in a C-2 district). A portion of this property remains zoned R-A; the majority is C-2 property, and has been zoned as such since before 1970. Property to the south is occupied by a Church (an existing nonconforming use in an R-A district). To the east is vacant property (a strip of R-A and C-2). Several large tracts of land to the west were zoned from R-A to C-2, RMF-24, R-O and RSF-4 in 1987 (see attached), a portion of which was subsequently rezoned in recent years to C-PZD for the Lowe's development. To the north the subject property is bound by Hwy 62 and a Tire & Auto shop, along with other commercial developments, all of which have existed as C-2 pre-1970.

Proposal: The applicant proposes a rezoning of the subject property to facilitate the future sale and potential development of the property at an appreciated value, based on recommendations from the applicant's Realtor (see applicant letter).

Request: The request is to rezone the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	H&R Tire & Auto, commercial	C-2, Thoroughfare Commercial
South	Church of God International	R-A, Residential Agricultural
East	Vacant	R-A, C-2
West	Vacant commercial bldgs, Auto Salvage yard	R-A, C-2

INFRASTRUCTURE:

Streets: Currently the site has access to 6th Street. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements will include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

Water: The site currently does have access to public water. The nearest water main is a 12" main to the north along Highway 62 (6th Street). Water service will need to be extended within the property at the time of development.

Sewer: The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. The nearest sewer main is a 6" main to the west along Highway 62 (6th Street). A capacity analysis of the 6" sewer downstream of the site shall be conducted prior to development.

Fire: The subject property is located 1.4 miles from Fire Station #6. Fire response time is approximately 2-3 minutes.

Police: It is the opinion of the Fayetteville Police Department that this rezoning <u>will</u> <u>not</u> substantially alter the population density and thereby undesirably increase the load on police services.

LAND USE PLAN: The Future Land Use Plan designates this site for Mixed Use. Rezoning this property to C-2 is not consistent with the land use plan.

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 future land use planning objectives, principles, and policies for Mixed Use Areas. The Future Land Use plan identifies this area to "allow mixing of uses and integration of design through the planning process." Additionally, Ch. 9.14 states: "in the past, strip development in the areas along heavily traveled (generally state) highways has been the common pattern. If Fayetteville is to retain its identity as a unique place, strip development should be discouraged…." The existing zoning and land use decisions for nearby properties were made under at least three different General Plans, and reflect a wide variety of General Plan policy in the City. Several surrounding properties have for the most part existed in situ for over 30 years, and consist of many nonconforming uses that were established prior to the adoption of more current zoning regulations in 1970. Property to the east is the most recently zoned in the immediate vicinity (1987), under a different General Plan. And yet another policy decision to rezone the Lowe's site to C-PZD (2002) further to the east combined land use and development plans together. Staff finds continuing a C-2, Thoroughfare Commercial zoning district along the frontage of Hwy 62 in this location does not comport to the Future Land Use plan guiding policies and strategies for implementation established today. A more comprehensive request, planning for intended uses, as opposed to speculative zoning, is more appropriate for this area of the city.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning is not justified or needed. The applicant's stated intent is to rezone the property based on a Realtor's recommendation for**

appreciation of land value and immediate resale following. No development plans are proposed. The property is located entirely within the 100-year floodplain as regulated by FEMA; future development of any kind, regardless of timing, will have certain restrictions imposed upon it both by the city and FEMA based on its location in the floodplain.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The size of the subject property will limit a great increase in traffic danger and congestion, due to the size of development generated by 1.03 acres. However, traffic volumes in this area are high, and increasing. Planning of any future development on this site must address safe access and cross access concerns. Hwy 62, a Principal Arterial, exists directly to the north. At the time of development, improvement to this street will be required.**

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, based on the C-2 zoning requested. Public service providers have responded accordingly:**

Police – It is the opinion of the Fayetteville Police department that this rezoning request 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 2-3 minutes (approx. 1.4 miles) from station #6

Engineering - Currently the site has access to 6th Street. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements will include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

The site currently does have access to public water. The nearest water main is a 12" main to the north along Highway 62 (6th Street). Water service will need to be extended within the property at the time of development.

The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. The nearest sewer main is a 6" main to the west along Highway 62 (6th Street). A capacity analysis of the 6" sewer downstream of the site shall be conducted prior to 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: **Staff is recommending denial of the subject request, and finds there are no peculiar or extenuating circumstances which justify the rezoning.**

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

161.17 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

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

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

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

161.03 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.*

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Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

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Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

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Lot area per dwelling unit	2 acres

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35 ft.	20 ft.	35 ft.

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(G) *Building area.* None

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(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

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Unit 1	City-wide uses by right
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(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
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Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

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

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
POLICE DEPARTMENT

RECEIVED
OCT 19 2004
PLANNING DIV.

October 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 04-01243 Medley, 557/596** for property located at 3507 W. 6th Street would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lt William K Br

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: 479-587-3555 FAX: 479-587-3522

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 04-1243	Medley			FS 6	1.4 miles	2-3 min.	2-3 min.	N/A	N/A	N/A
ANX 04-1252	Nooncaster	Yes	14.53	FS 4	4.2 miles	11-13 min.	11-13 min.			
RZN 04-1253	Nooncaster			FS 4	4.2 miles	11-13 min.	11-13 min.	10	4	6

City of Fayetteville, Arkansas - Rezoning

September 16, 2004

I, Ronald Dean Medley, own the property at 3507 W. 6th street, Fayetteville, Arkansas, 72704. I intend to sell the property to help pay the expenses incurred by my mother, Vera Medley, who is residing in an Assisted Care Facility in Springdale, Arkansas. Also to care for the needs of me and my brother, Gary Medley. This property was deeded to me by my father just a year prior to his passing in death. His instructions were for me to use this inheritance to provide for the needs of the immediate family members.

The reasons for rezoning is to benefit as fully as possible by the sale of the property at 3507 W. 6th street. I was advised by a real estate agent to rezone this property as commercial. All adjoining property has already been rezoned commercial. It would seem appropriate to follow suit and thereby be allowed to gain the full potential that this property would allow.

It relates to surrounding property by joining with them in being zoned as commercial. In this way - there will be no danger in this one acre of land being used as a residence in which the owner could have difficulty entering or leaving said property. It poses no threat to the already existing traffic regulations and flow that has been allowed to have occurred by the rezoning of the adjoining property on all sides.

Please see attachment as to the availability of water and sewer lines.

Thank you for your consideration.

Ronald Dean Medley

City of Fayetteville, Arkansas
Rezoning

September 16, 2004

In regards to the property at 3507 W. 6th Street: We are filing for C-2 Commercial. All the adjoining property on all sides of this acre have already been zoned for Commercial. It stands to reason to have this rezoned in like manner in order for the property to be appreciated for its full value. This is in accord with a recommendation from Gary Boyle, Realtor.

This property is to be sold, effective immediately after the determination for rezoning. How the "then" owner decides to use this property will have to be in accordance with the laws and regulations of the City of Fayetteville and said owner will have to approach the City Counsel with his future plans. This is not for me to know in advance. I am merely requesting the rezoning to aid in the sale of property that has been surrounded by land that the planning division has already allowed to be rezoned as Commercial. Therefore...in not wanting to be discriminated against...I feel safe in requesting for said property to be zoned the same as all adjacent property.

The increase in traffic and congestion has already been altered by the rezoning of property all around the acre located at 3507 W. 6th Street. No one can deny that a five lane highway that services a Wal-Mart and a newly built Lowes is capable to handling any additional traffic imposed by the rezoning of this one acre. I doubt that any commercial use of land that is merely one acre in size will alter any public services such as schools, water or sewer facilities.

Under the existing classification of this property (Residential-Agricultural) it is impractical to suggest either a family or a farm is to be instituted sandwiched between commercial property and on a five lane highway used for the main use of restaurants, car lots, motels, banks, bars and clubs, Wal-Mart, Lowes, tire shop and garage, carpet store, etc. It would be dangerous for this property to remain zoned for a family to use as a residence as the existing traffic would be a danger to small children and it is not practical for farming as moving farm equipment would cause a traffic hazard. For the safety of citizens and to prevent congestion from farm machinery - it is in the best interests of the City to grant the property at 3507 W. 6th Street to be rezoned as Commercial.

Respectfully,

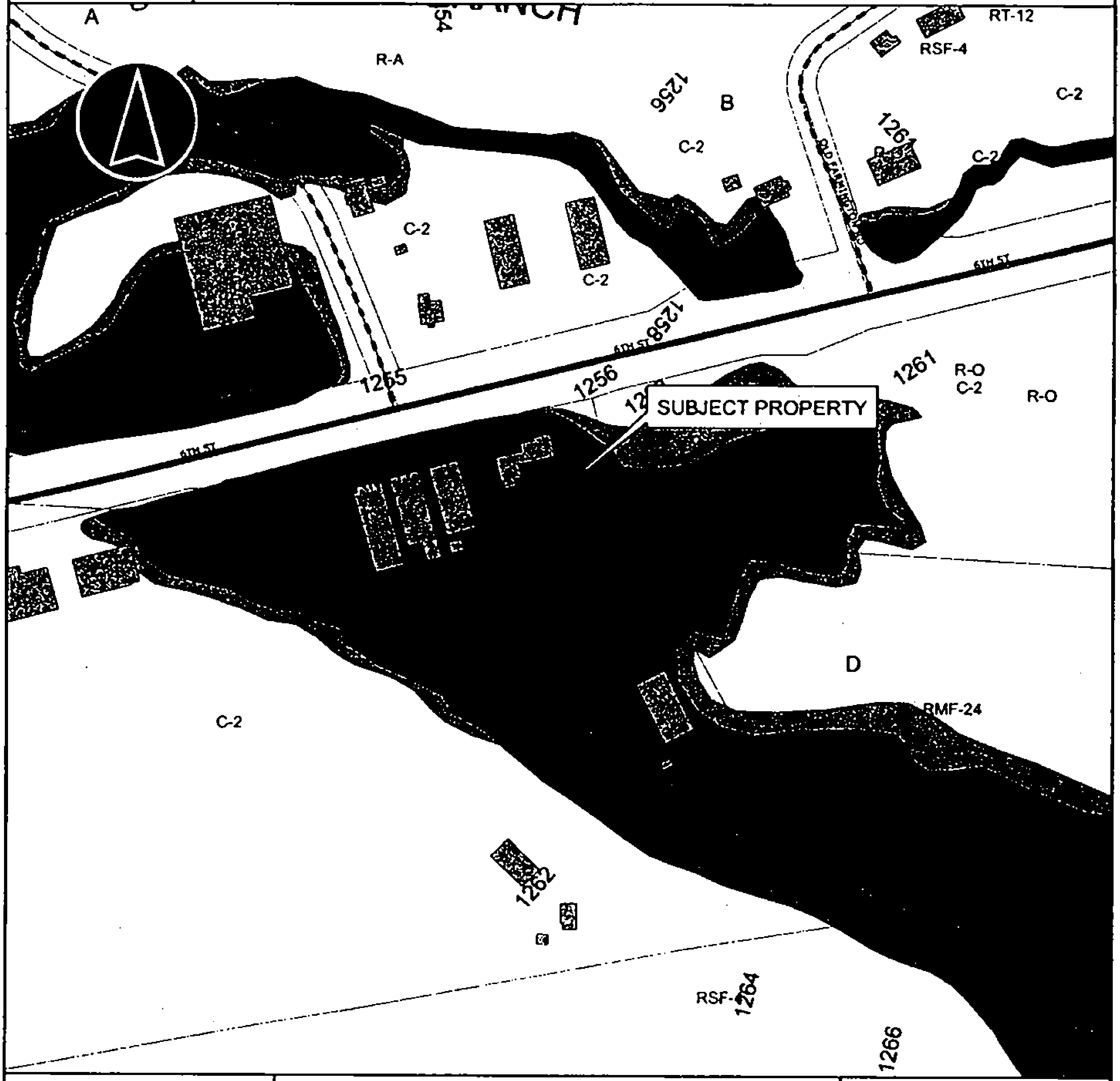
Ronald Dean Medley


3534
C-2
3511
3507
R-O
C-2
3527
RMF-24
3499
R-A
C-2
RSF-4

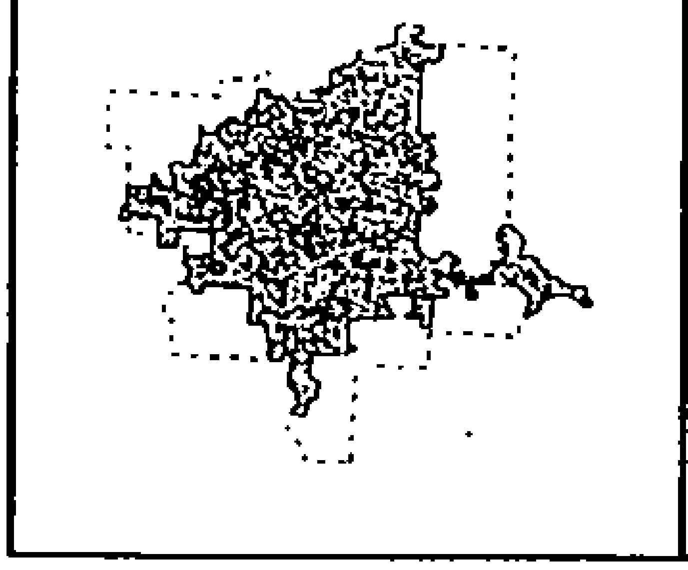
RZN04-1243

Close Up View

MEDLEY



Overview



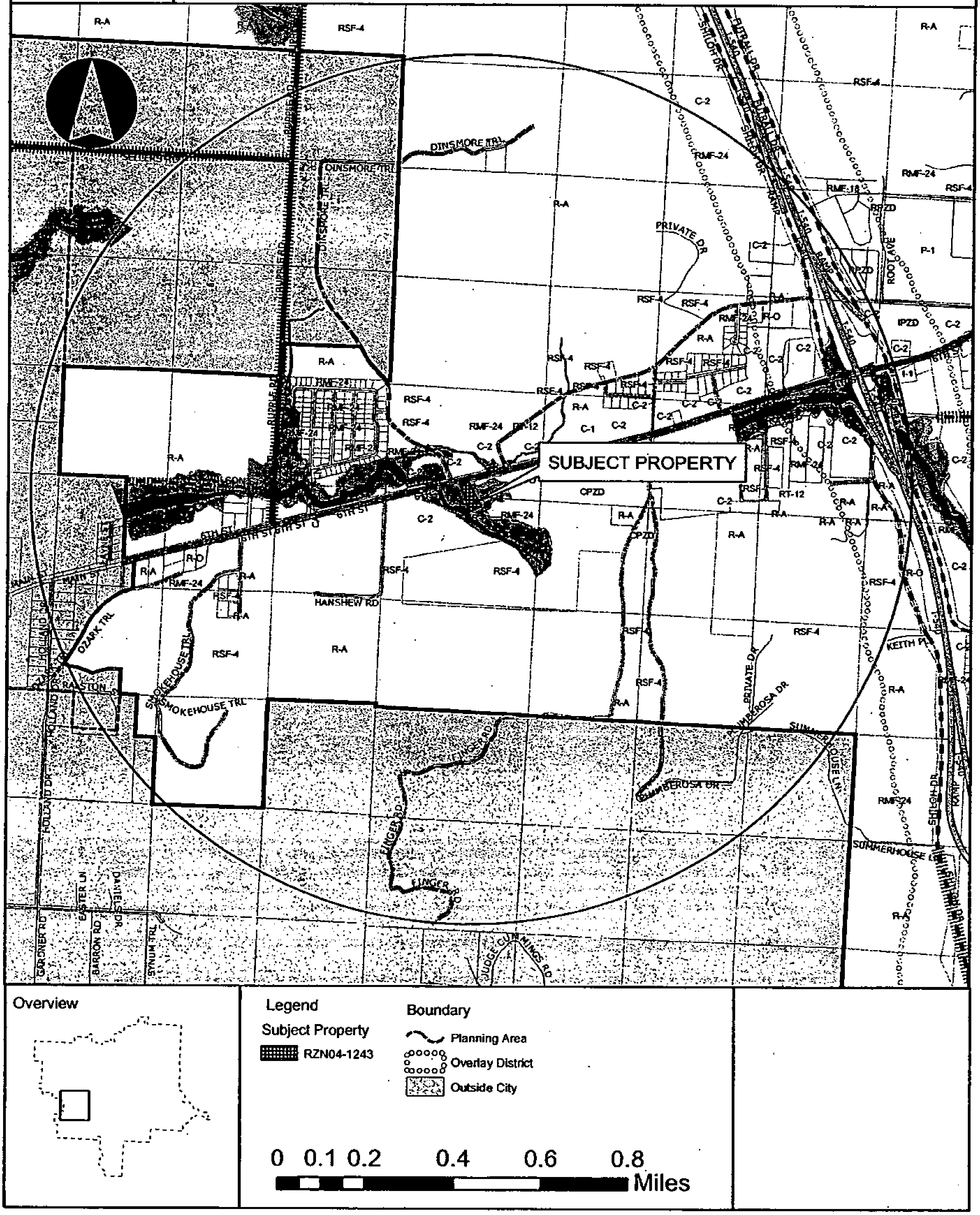
Legend
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
▨ RZN04-1243
☐ Fayetteville
▨ Outside City

0 75 150 300 450 600
Feet

RZN04-1243

One Mile View

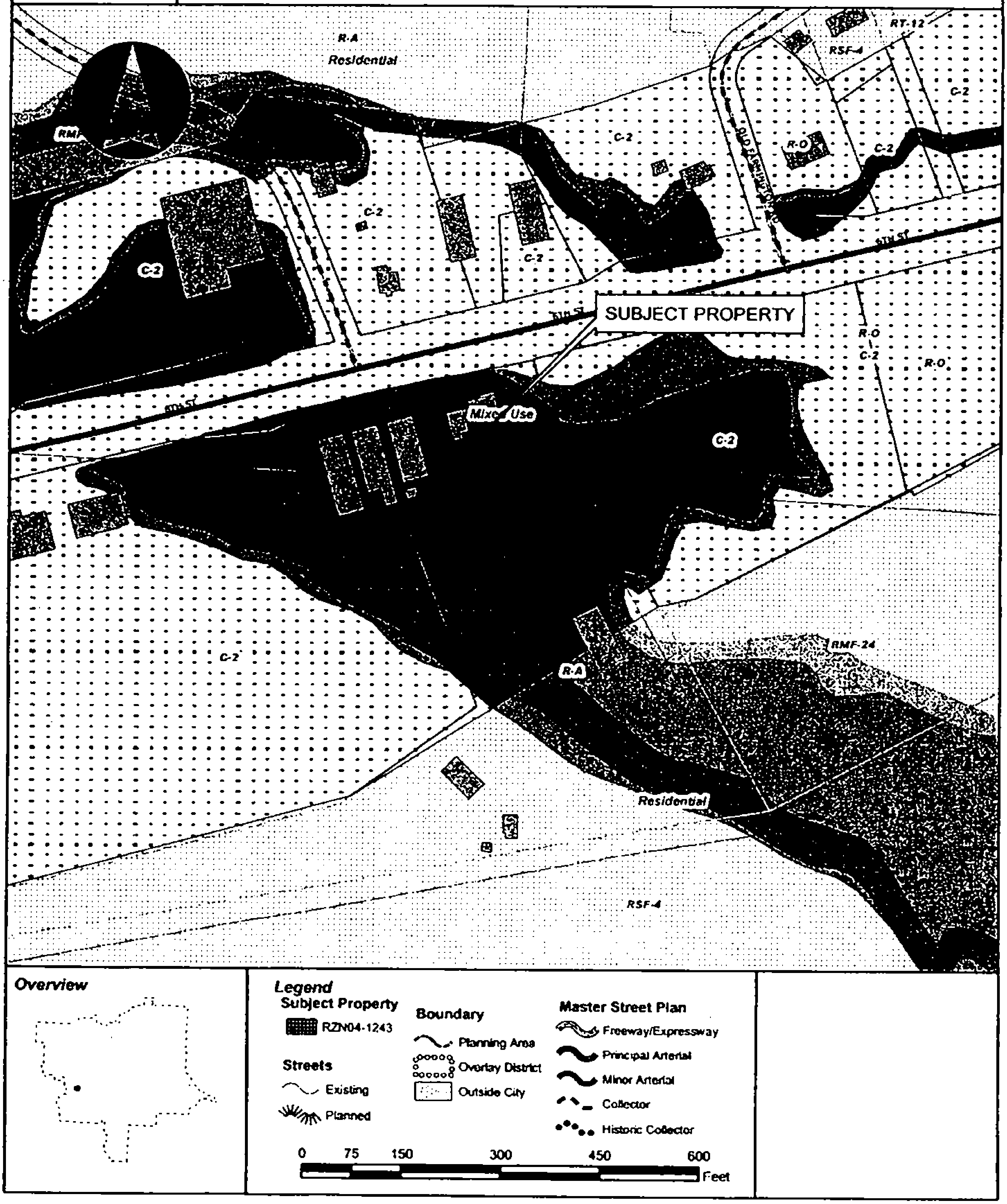
MEDLEY



RZN04-1243

Future Land Use

MEDLEY



RZN 04-1243: Rezoning (MEDLEY, 557/596): Submitted by RONALD DEAN MEDLEY for property located at 3507 W 6TH STREET. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.03 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial.

Ostner: Our next item is a rezoning, RZN 04-1243, rezoning for Medley.

Warrick: The subject property is located at 3507 W. 6th Street. It contains approximately 1.03 acres. The property is currently zoned R-A, Residential Agricultural. The development on the site currently is a single family home. Most of the property behind the home consists of a vacant field. The entirety of the property is located within the 100 year flood plain. This site is just west of, it's not adjacent to, but it's slightly west of the property that contains Lowe's, and that was zoned C-PZD for the Lowe's Development and the associated outbuildings and other lots that were a part of that Preliminary Plat project. The property is bordered to the west by vacant as well as occupied commercial structures as well as an automobile salvage yard. That is an existing non-conforming use within the C-2 district. A portion of the property is zoned R-A, that's the adjacent property, with the majority being C-2. Many of the surrounding properties contain existing nonconformities. Through the years we tried to do a little bit of history to understand how the various zonings have been applied to properties surrounding this. We believe that many of the developments or many of the structures preexisted our 1970 zoning ordinances. There was a large rezoning request. Several different districts requested for property located adjacent to this in 1987; however, that property really hasn't developed under the zoning districts that were applied at that point in time. The applicant does propose to rezone the subject property to C-2 Thoroughfare Commercial in order to facilitate future sale and potential development of the property. The site currently has access to 6th street. It does have access to public water, however, it does not have access to sanitary sewer, that would have to be extended to provide for any future development on the site. Fire response time is between two and three minutes, and the report from the Police Department states that the requested rezoning would not substantially alter population density, therefore would not undesirably increase the load on public services. The land use plan, or future land use plan, does designate this site as mixed use. Staff feels that rezoning the property to a C-2 designation would not be consistent with the City's adopted future land use plan. I think that the finding that staff feels is the most relevant with regard to our recommendation is the first finding, which you're required to make, and that is a determination of the degree to which the proposed zoning is consistent with land use planning objectives, principals, and policies and with land use and zoning plans. And within that finding, staff believes that the future land use plan identifies this area as mixed use to allow the mixing of uses and integration of design through the planning process. Additionally, that same chapter, 9.14 states, "In the past, strip development in the areas along heavily traveled, generally state highways, has been the common pattern. If Fayetteville is to retain its identity as a unique place, strip development should be discouraged." For that reason and for the reason of compatibility and being able to ensure that we have the best understanding of how this property would develop, staff is not in favor of the requested rezoning to C-2 Thoroughfare Commercial.

Ostner: Thank you. Is the applicant present? If you could introduce yourself and give us your presentation.

Medley: Ladies and gentlemen, my name is Dean Medley. And I'd like to explain why I'd like to rezone this property. My mother is in an assisted care living facility. It costs $350.00 above her medical expenses to take care of her. Now you're interested in why the Planning Commission says I can't rezone this property. I need to get as much out of this property as I can to take care of her care. That's one of the biggest reasons that I'm rezoning this property. Now I don't know if that fits in with the Planning Commission's plans or anything else, but I understand that there are limitations and you worry about the use of this property. Well when I sell this property, I talked to a realtor, and he said that I can stipulate what kind of a person buys that. That the Planning Commission will only accept this and the Planning Commission will only accept that. I'd like to know from the Planning Commission, if they're going to turn this down, I want to know what they will accept in there.

Ostner: Thank you Mr. Medley. At this point, I'll open it up to the public for any comments concerning this RZN 04-1243. Seeing none, I'll close it to the public and bring it back to the Commission.

Trumbo: Question for Dawn, what would you be in favor of rezoning this to?

Warrick: I thought you'd ask that question. Obviously we think that the C-2 zoning is too intense a designation and it is a zoning district that would basically encourage the type of strip development that the Council and the City, the citizens have identified as undesirable. We do have an R-O zoning district, which is Residential Office, it is specifically a mixed use district, which would allow for professional offices as well as single family or duplex developments. That would very likely be a more appropriate designation. In a perfect world, we'd love to look at this piece of property with the adjacent properties and have some sort of comprehensive understanding of what collectively we could do on that grouping of properties. That's not what we're looking at and I know that Mr. Medley doesn't have the ability to bring forward his property as well as his neighbors and everything along the lines for us to review. I think the Residential Office district, if we were going to make a recommendation for the City Council, would be an appropriate starting point. They certainly are going to be the ones making the policy decision to determine if it fits with their vision of this part of the City. C-2 would be as I mentioned, a very intense district, and it's not something that is easy to deal with when you're looking at a property that's wholly within the 100-year flood plain. A development of professional offices or residences would likely be easier to regulate in an R-O district with the situation of flood plain on the site. I guess what I'm saying in a very long winded way is R-O would probably be an appropriate district.

Trumbo: Thank you.

Medley: You know the R-O might be acceptable with me. I'm not trying to create problems for the City at all. No problems at all. If they'll just hear me out. If we're talking about an R-O, I'd like to have a variance where if someone like, would the Planning Commission be opposed to something like McDonald's or would they opposed to something like Wendy's or maybe, I have a friend that's got a restaurant, would you be opposed to something like that? If they're talking R-O, could you have R-O with a variance? Thank you.

Warrick: The Residential Office district would allow for a sit down restaurant, not a drive-through, only by Conditional Use approval by the Planning Commission. The R-O district does not allow for Use Unit 18, which is restaurants that allow for drive-through, so many of the fast food chains that were mentioned would not be something that we could approve even under a conditional use condition, however, if it was a more eat-in restaurant without the drive through facility, that's something that the Planning Commission could consider, but it would have to come to you as a Conditional Use and you'd have to be able to consider, I believe one of the primary things that you're going to have to be looking at, or that we will be collectively looking at in the future, is access. The access to this site will be very important and what we're trying to regulate is 6th Street not becoming College Avenue, which is what everyone points to and says, we're not really willing to do that again because we feel that there are too many problems inherent in that type of development. So access management is probably one of the key points that we'll have to look at for any type of development on the property, but as far as land use, you can't grant a variance on zoning, but you can look at Conditional Uses that are specified as the types of specific uses that you can request under any particular zoning district. An R-O would allow for an eating place that does not have a drive-through.

Ostner: Thank you.

Vaught: Question for staff. Just because I don't have it in front of me. A C-1, what's the difference between an R-O and a C-1? .

Warrick: C-1 allows much more shopping, retail type activities, it would also allow for drive-through restaurants I believe.

Vaught: What I'm debating is it's an acre site, so no matter what, it's going to be fairly limited on what goes on there. You know, I do think that C-2 for such a small site might be a little intense, but I'm debating between the difference of C-1 and R-O. As far as being appropriate, granted, I mean, it's an acre in the middle of a C-2 island.

Warrick: I would just want to add that the C-1 zoning district is designated neighborhood commercial. It is primarily to provide convenience goods, personal service type items, and as I mentioned it does allow for neighborhood shopping, which is most of your retail type establishments. Gas stations and drive-through restaurants are also included in that grouping.

Shackelford: I'm kind of going down the same road as Commissioner Vaught. I've said many times tonight, I'm in agreement with City staff and their findings, I'm not so sure that I wholeheartedly agree with these tonight. As you drive out to this property, it's very much, in my opinion, a commercial field on the site. You look at some of the adjoining properties, it's almost an industrial field with the salvage yard and some other properties that are very close in proximity to this property. You look at the map on 10.17, there's C-2 directly across the street from this property to the north, there's C-2, back to the east, you know I'm not so sure that this corridor isn't a significantly different corridor than it was when the land use plan was put together with the improvements of the Lowe's and the other things out there and the traffic counts that we're seeing. I understand the design and the desire for mixed use, I'm just thinking that this property's going to struggle developing as a mixed use piece of property. And on top of that, you throw into the mix that it's entirety is within the 100 year flood plain, which I think is going to further limit the desire, or even the ability, to develop this as an R-O zoning, with a residential house, duplex, or some sort of nice professional office. I don't know that those types of uses, from many different stand points are going to flow very well in a flood plain area. This is one that I've struggled with, I've looked at, and I understand where the staff is coming from on the specific findings of fact, although I understand that they're following the land use plan that was put in place, my common sense is that this is a commercial piece of property. And it makes sense to consider it with that zoning, so that's my comments at this point.

Ostner: Thank you.

Vaught: I have one further question for staff. C-1 to C-2, what does it now allow, C-1 versus the C-2?

Warrick: The C-2 district, beyond the uses permitted in C-1, opens up commercial recreation land use, adult live entertainments, liquor stores, trades and services. Trades and services is a pretty wide open land use or use unit, and it basically includes, automobile sales and service, truck sales, used car lots, boats and accessories, and a wide variety of service type uses. So those are the uses that in addition to those permitted in C-1 would expand the ability for development in C-2.

Ostner: I'd just like to throw in my opinion here. When we were on tour, I quizzed you pretty thoroughly about this because I didn't quite understand your standpoint either. Because I would agree with Commissioner Shackelford, there is a commercial field. It's apparent that there aren't going to be homes built on this spot. But what Ms. Warrick explained to me, is it's almost an issue of scale. And as she referred to, this gentleman does not have the ability to get with all of his neighbors and get a 20 acre PZD together, just to get his project rezoned. But with a larger development, there would be, instead of 12 curb cuts, 1. And that makes a big difference between creating a College Avenue or creating something more organized. Still commercial, it's still all developed, with a commercial field, but it happens in a different pattern. I'm inclined to vote with staff, that this zoning, with this scale, with this barely 1.03 acres, is not, does not go with our plans to try to stop strip development. So, that's what I have to say.

Vaught: My two cents, my gut is I understand that, and I wholeheartedly believe it, but we're dealing with an acre in the middle of all this C-2. More than likely, if we wanted to really control the development in this area, it being a C-2 and being able to combine some of the areas around it for a possibly a larger development would make more sense to me than having a little island that's forced to develop by itself. Ideally, if this would come back as a PZD or something where we could see an overall plan for the area but we don't have that luxury in this case. So we're looking at a one acre tract in the middle of a large ocean of commercials. Granted, some of it's undeveloped, and we would love to see it come through as a whole. So I'm more inclined to make it a zoning that could be combined with some areas around it, and be incorporated, because more than likely, this one acre will be, need to be, due to its terrain and location, so that's where I'm torn. I don't know if I feel R-O is necessarily the proper zoning for this single piece of property. I just don't know if I believe R-O for this tiny one acre tract is going to accomplish our desires for the overall area, but I also understand you've got to start somewhere. It's one of those that it's difficult, but I'm more inclined to rezone it for some sort of commercial use than leave it as an R-O, or to make it an R-O.

Ostner: Those are good points, I would want to continue that dialogue because I agree. I'm not relishing the fact that he's somewhat suffering at the expense of the overall plan. But once this one acre is rezoned, with that zoning goes development rights. And the buyer does not have to coordinate with anyone. And that's where small parcels are given their development rights just like College Avenue. So that I completely understand.

Vaught: And that's why I'm leaning towards C-1 to further limit some of those service and trade type of developments I think that come along with those development rights. Even though it is surrounded by C-2, and it's next door to several service trades.

Ostner: I guess I'm really talking more curb cuts than anything else.

Vaught: No matter what we zone it, this one piece of property would get a curb cut.

Ostner: Not necessarily, not at all.

Vaught: Not unless it's combined with others. If this is rezoned anything, then they come through for development and they have to have access.

Ostner: Unless they're coordinating with a large development.

Vaught: Unless they're coordinating, but an R-O coordinating with a C-2 is what would be an interesting coordination.

Clark: Maybe this is inappropriate, but tonight we are just deciding whether a C-2 is appropriate for this piece of land, correct? It seems, and I'm concerned by the same thing that both of you have discussed. I think that C-2 is way too intense, I'm going to agree with staff on that. There are options. R-O might not work, C-1 seems like a very workable thing. Regardless, I think that that can be worked out between Mr. Medley and the staff. So I'm just going to blaze ahead and move that we reject RZN 04-1243 as a C-2. It can come back.

Warrick: Before you vote, I'd just like to add that it is within your purview, the Planning Commission can approve, modify or disapprove a rezoning that is before you. So you do have the ability to consider either R-O or C-1 or whatever other district you feel might be appropriate for this particular site as a recommendation to the City Council. It's my opinion that it would be appropriate for you to do that so that Mr. Medley doesn't have to start this process again in order to get a recommendation.

Clark: Okay, that's a new rule; I didn't know we could do that.

Warrick: You do have that ability.

Ostner: We do it all the time. Commissioner Shackelford's good at it. Would you like to amend your motion?

Clark: C-1 okay with you. Why not, we'll take a time out.

Medley: First of all, I'd like to thank all of you. You're considerate, and I'm willing to work with you all. If we could amend it to C-1, that's fine, like I say, I'm willing to work with you.

MOTION:

Clark: C-1's okay, then I will amend my motion, to move we approve RZN 04-1243 as a C-1 zoning.

Myres: I'll second.

Ostner: I have a motion for approval for a C-1 zoning on Item 04-1243. Motion was from Commissioner Clark, a second from Commissioner Myres. I'm going to vote against this. I believe C-1 is too intense for this piece of property. Is there further discussion? Call the roll please.

Roll Call: Upon completion of roll call the motion to recommend approval of RZN 04-1243 to the City Council with a recommendation for C-1 zoning was approved by a vote of 7-1-0 with Commissioner Ostner voting no.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 16, 2004

FROM:

Dawn T. Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-1243: Rezoning (Medley, pp 557/596): Submitted by Ronald Dean Medley for property located at 3507 W 6th Street. The property is zoned R-A, Residential Agricultural and contains approximately 1.03 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick 10/29/04
Division Head Date

10/30/04
City Attorney Date

10-26-04
Department Director Date

Finance & Internal Services Dir. Date

Hugh Earnest 10-31-04
Chief Administrative Officer Date

Dan Coody 11/2/04
Mayor Date

Received in Mayor's Office
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 10/29/04

City Council Meeting of November 2, 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 DTW

Date: October 14, 2004

Subject: Easement Vacation for Habitat For Humanity (VAC 04-1228)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of South Willow Avenue.

BACKGROUND

The subject property is located east of Washington Avenue and north of 13th Street. This portion of South Willow Ave. was platted with the Berl Dodd Addition many years ago. This portion of South Willow Avenue was never constructed and does not currently function as an access. Habitat for Humanity currently owns the lots adjacent to this alley and is constructing single family homes.

DISCUSSION

The applicant has submitted the required notification forms to the adjacent property owners. Utility company representatives are in support of the vacation as long as the subject property remains in a utility easement.

The Planning Commission voted 7-0 in favor of this request on Monday, October 11, 2004.

BUDGET IMPACT

None.

ORDINANCE NO. _________

AN ORDINANCE APPROVING VAC 04-1228 SUBMITTED BY HABITAT FOR HUMANITY FOR PROPERTY EAST OF WASHINGTON AVENUE AND North ~~EAST~~ OF 13TH STREET AS DESCRIBED 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 right of way is not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons all of its rights together with the rights of the public generally, in and to the following described 20 foot portion of right of way, retaining the same as a utility easement:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _______ day of _____________, 2004.

DRAFT

APPROVED:

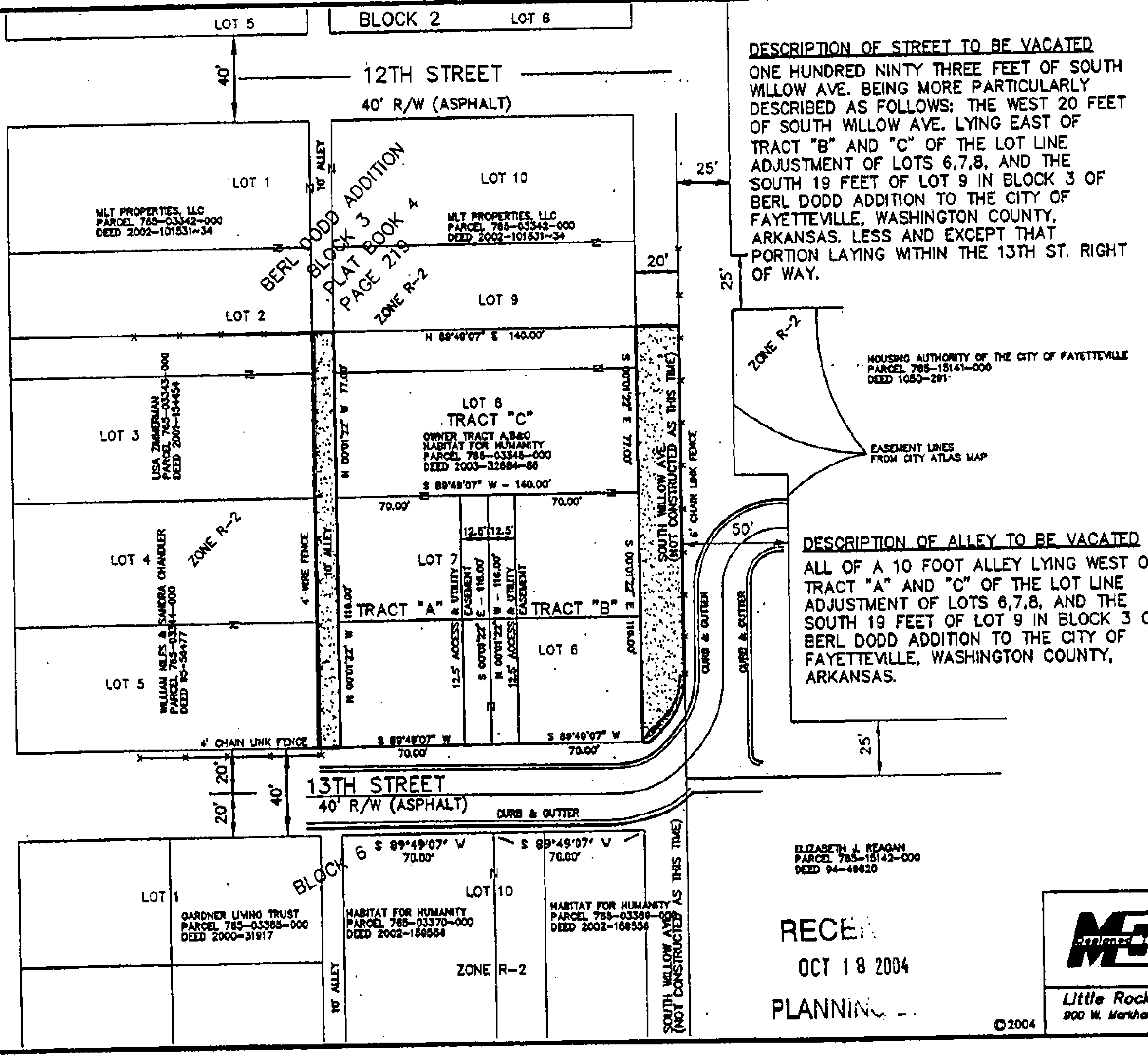
By_______________________________
Dan Coody, Mayor

ATTEST:

By___________________________
Sondra Smith, City Clerk

EXHIBIT "A"

ONE HUNDRED NINTY THREE FEET OF SOUTH WILLOW AVE. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE WEST 20 FEET OF SOUTH WILLOW AVE. LYING EAST OF TRACT "B" AND "C" OF THE LOT LINE ADJUSTMENT OF LOTS 6, 7, 8 AND THE SOUTH 19 FEET OF LOT 9 IN BLOCK 3 OF BERL DODD ADDITION TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS. LESS AND EXCEPT THAT PORTION LAYING WITHIN THE 13TH STREET RIGHT OF WAY.

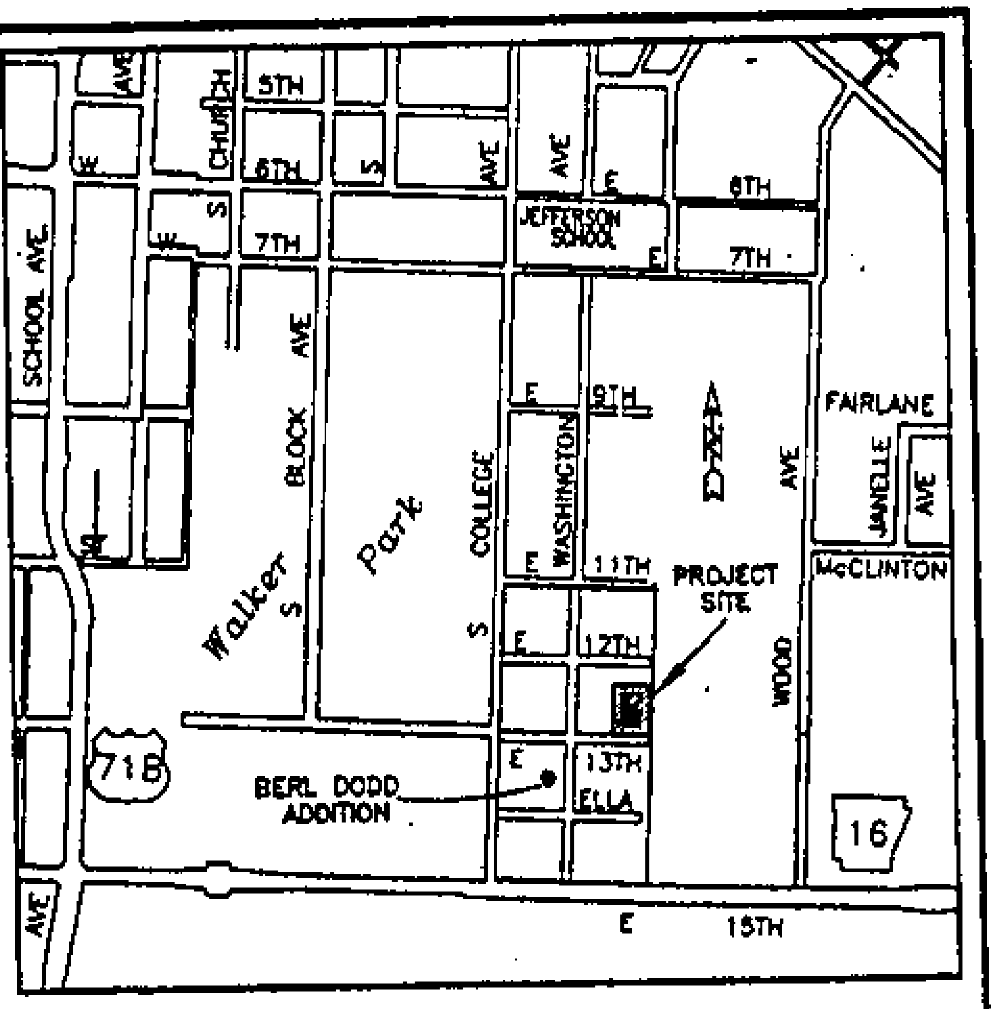


DESCRIPTION OF STREET TO BE VACATED

ONE HUNDRED NINTY THREE FEET OF SOUTH WILLOW AVE. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE WEST 20 FEET OF SOUTH WILLOW AVE. LYING EAST OF TRACT "B" AND "C" OF THE LOT LINE ADJUSTMENT OF LOTS 6,7,8, AND THE SOUTH 19 FEET OF LOT 9 IN BLOCK 3 OF BERL DODD ADDITION TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS. LESS AND EXCEPT THAT PORTION LAYING WITHIN THE 13TH ST. RIGHT OF WAY.

DESCRIPTION OF ALLEY TO BE VACATED

ALL OF A 10 FOOT ALLEY LYING WEST OF TRACT "A" AND "C" OF THE LOT LINE ADJUSTMENT OF LOTS 6,7,8, AND THE SOUTH 19 FEET OF LOT 9 IN BLOCK 3 OF BERL DODD ADDITION TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.



VICINITY MAP
NOT TO SCALE

LEGEND

- ▨ - STREET AND ALLEY TO BE VACATED
- ——— - PROPERTY LINE
- —x—x— - FENCE

©2004

McClelland Consulting Engineers Incorporated
Designed to Serve

Little Rock
900 W. Markham

Fayetteville
1810 N. College

STREET AND ALLEY EASEMENT
VACATION PLAT
CITY OF FAYETTEVILLE
WASHINGTON COUNTY, ARKANSAS

APPROVED DLH	DRAWN BY DLH	DATE AUG. 2004	SHEET NO. 1
SCALE 1" = 50'	JOB. NO. FY032712	FIELD BOOK SDR	

Exhibit "B"

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of October 11, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8264

PLANNING DIVISION CORRESPONDENCE

TO: **Fayetteville Planning Commission Members**
FROM: **Leif Olson, Associate Planner**
Matt Casey P.E. Staff Engineer
THRU: **Dawn Warrick, AICP, Zoning & Development Administrator**
DATE: **October 6, 2004**

VAC 04-1228: Vacation (Habitat for Humanity, pp 563) was submitted by Habitat for Humanity for lots 6, 7, 8, and a portion of lot 9 of Block 3 of the Berl Dodd Addition located east of Washington Ave. and north of 13th St.. The property is zoned RMF-24. The request is to vacate the west 20 feet of South Willow Avenue.

Findings: See the attached maps and legal descriptions for the exact locations of the requested right-of-way vacation.

Background: This portion of South Willow Avenue was platted with the Berl Dodd Addition many years ago. The street was never constructed and does not currently function as an access. Habitat for Humanity currently owns the lots adjacent to this platted street right-of-way.

Request: The applicant requests to vacate this 20 foot portion of existing platted street.

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

Utility Comments: The City of Fayetteville Water and Sewer Department and Cox Communications request that a 20 foot general utility easement be retained in this location in order to service all current and future utilities.

Recommendation: Staff recommends approval of the proposed alley vacation **04-1227,** subject to the following condition of approval:

1. The legal description for the vacation of South Willow Ave. shall be amended to remove the built portion of 13th St. prior to this item being placed on the City Council agenda.

2. The described right-of-way vacation shall be retained in a general utility easement.

PLANNING COMMISSION ACTION: **_yes_Required**

_____Approved **______Denied**

Date:
October 11, 2004

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: ____________

Habitat for Humanity of Fayetteville, AR.

July 8, 2004

Reason for Request for Vacation:

The Berl Dodd Addition was plated years ago with Willow Street. The plated street between South 12th Street and 13th Street has never been paved or maintained as a street.

We purchased adjoining land on the west side of this plated street. To the north are duplexes and to the east is Morgan Manor housing. Morgan Manor has a chain link fence at their property line.

We are building single family dwellings on two lots on the property to the west.

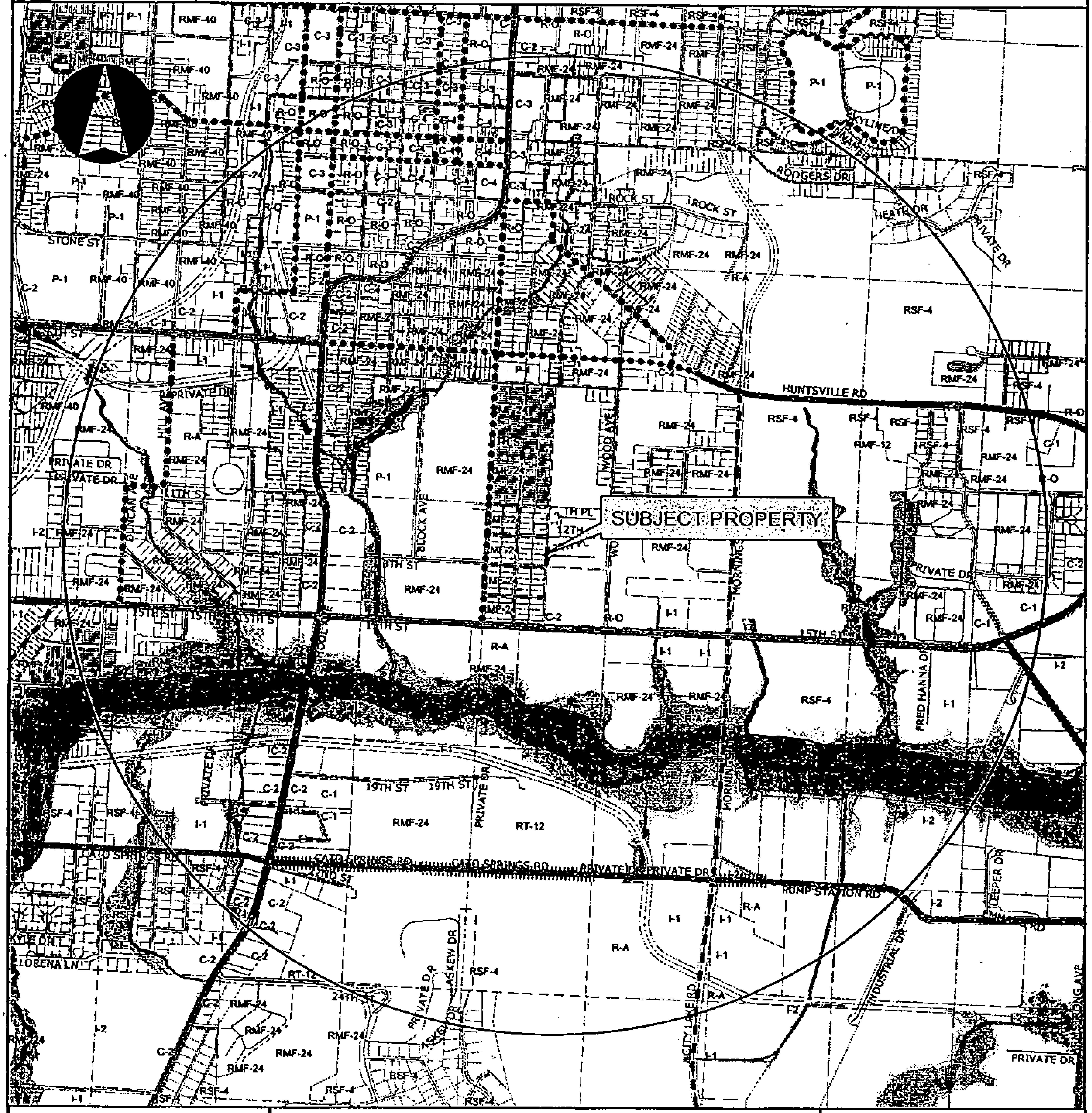
Since this block will most likely never be paved, we are requesting a vacation with the twenty (20) feet provided for Willow Street to be split between Habitat for Humanity and the City of Fayetteville on the east.

Our families would maintain the property to the cyclone fencing..

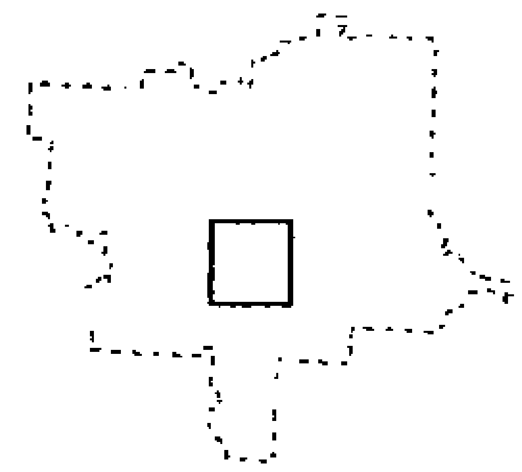
VAC04-1228

One Mile View

HABITAT FOR HUMANITY



Overview



Legend

Subject Property

▦ VAC04-1228

Boundary

Planning Area

Overlay District

Outside City

Streets / Master Street Plan

Streets / Master Street Plan

Existing — Freeway/Expressway

Planned — Principal Arterial

Minor Arterial

Collector

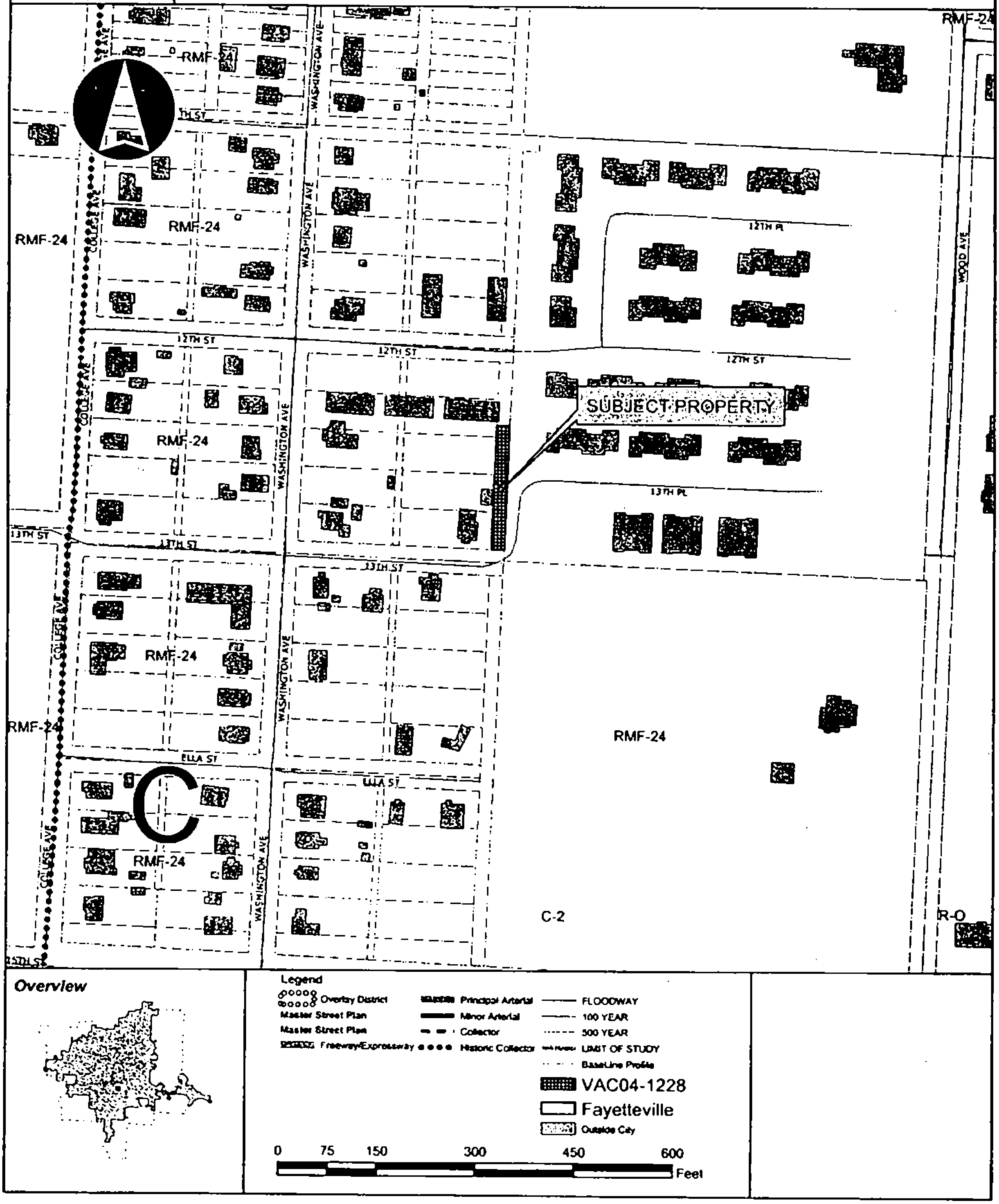
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

VAC04-1228

Close Up View

HABITAT FOR HUMANITY



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 16, 2004

FROM:

Dawn T. Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-1228 was submitted by Habitat For Humanity for property located east of Washington Avenue and north of 13th Street. The request is to vacate a portion of South Willow Avenue retaining the same as a utility easement.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick 10/29/04
Division Head Date

Received in Mayor's Office ______ Date

(minor correction needed in title of ordinance. Kw

10/30/04
City Attorney Date

10-26-04
Department Director Date

Cross Reference:

Previous Ord/Res#: ______

Finance & Internal Services Dir. Date

Orig. Contract Date: ______

Hugh Earnest 10-31-04
Chief Administrative Officer Date

Orig. Contract Number: ______

Dan Coody 11/2/04
Mayor Date

New Item: Yes No

ENTERED 10/29/04

FAYETTEVILLE
PARKS & RECREATION

MEMORANDUM

Date: 10/18/04

To: Mayor Dan Coody and City Council Members

Thru Gary Dumas, Director of Operations
Connie Edmonston, Parks and Recreation Director C.E.

From: Steve Hatfield, Park Landscape Architect, Trails & Greenways Coordinator Steve

Reference: Center Prairie Trail Expansion

Subject: Trail Corridor Extension

Recommendation:
City administration and Parks and Recreation Staff recommend entering into an agreement with Brian Reindl to secure the trail corridor across his property. This corridor will provide a vital connection to Dickson Street, Fayetteville's entertainment district, and the University of Arkansas. The agreement recommends the acquisition be accomplished through an exchange of properties that is of benefit to the public. The ordinance used by the city in disposing of property is not applicable under this agreement, given that no sale of land is occurring.

Background:
The Center Prairie Trail is a multi-use trail project that is located near downtown Fayetteville. One segment is under construction and travels from Prairie Street to Center Street. Another segment is complete from Sixth Street to Prairie Street. This project has been discussed for years and the property from Prairie Street to Center Street was purchased in 2001. The identified alignment includes a connection all the way from Dickson Street to the North and to Sixth Street on the South. This project will include seating areas and lighting compatible and complimentary to the fixtures that were installed on Dickson Street.

In order to make the connection to Dickson Street, land for two more segments must be secured. One segment runs from the North side of Center Street to Meadow Street. The second and final segment runs from Meadow Street to the Walton Art Center Parking lot. The two property owners potentially affected by the ideal trail alignment are working with the City to ensure the best possible trail. The trail corridors, both existing and proposed, are shown on the attached map. Funding for the completion of this project will come from funds designated for Trial Development.

Current Status:
Construction of the Prairie to Center section is approximately 75% complete. The property from Center Street to Meadow Street is currently going through the planning process for a mixed use development. The development includes a public trail, located ideally to tie into the segment currently under construction. The final segment to the North can be secured with the approval of the attached proposal from the property owner, Brian Reindl. The property recommended is shown on Attachment A. In order to secure this crucially important parcel, City Staff and Mr. Reindl have carefully worked through an agreement that we believe is of benefit to both parties.

The terms and conditions in the proposed agreement between the parties are as follows:

Reindl Properties

- Donate all properties in area A (approximately 5,202 sq. ft.) to the City of Fayetteville for construction of a multi-use trail.
- Reindl Properties will have all power poles, overhead electrical lines, transformers and ground mounted equipment removed from Area A at their expense.
- Reindl Properties will remove all damaged paving from Area B and install parking, cross walks and drivelanes to City of Fayetteville standards within 18 months at their expense.
- Reindl Properties will install and maintain approximately 4,423 sq ft. of landscaping in Area B
- Reindl Properties will remove the one story metal building on the west portion of the property within 18 months.

The City of Fayetteville

- The City will transfer title to all property in Area B (approximately 21,938 sq.ft.) to Reindl Properties
- The City will construct a multi-use trail, built to City standards, within 18 months.

City staff has also visited with representatives from the Walton Art Center and has received assurances that they see no problem with the proposed trail corridor that is adjacent to the Naudine Baum Center.

Budget Impact

As stated in the memo, we have sufficient funds in our capital budget for construction of this trail.

Attachments:

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE AND REINDL PROPERTIES, INC. TO EXCHANGE REAL PROPERTY TO ACCOMMODATE THE CONSTRUCTION OF A PORTION OF THE CENTER-PRAIRIE MULTI-USE TRAIL.

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 an Agreement between the City of Fayetteville and Reindl Properties, Inc. to exchange real property to accommodate the construction of a portion of the Center-Prairie Multi-Use Trail. A copy of the Agreement marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute said Agreement with Reindl Properties, Inc.

PASSED AND APPROVED this 16th day of November 2004.

APPROVED:

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk

AGREEMENT

This Agreement executed this ______ day of __________________2004, between the City of Fayetteville, Arkansas, a municipal corporation, and Reindl Properties, Inc., witnesseth:

IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

1. **Reindl Properties, Inc.** shall:

    a. donate the property more particularly described in Exhibit A, attached hereto and made a part hereof, (approximately 5,202 sq. ft.) to the City of Fayetteville for construction of a multi-use trail;

    b. at its expense, have all power poles, overhead electrical lines, transformers and ground mounted equipment removed from Area A (as depicted on the map marked Exhibit B, attached hereto and made a part hereof);

    c. at its expense, remove all damaged paving from Area B (as depicted on the map marked Exhibit B), and install parking, cross walks and drive lanes to City of Fayetteville standards within 18 months of the execution of this agreement;

    d. install and maintain approximately 4,423 sq ft. of landscaping in Area B;

    e. remove the one story metal building on the western portion of the property within 18 months of the execution of this agreement.

2. **The City of Fayetteville** shall:

    a. transfer title to the property more particularly described in Exhibit A (approximately 21,938 sq. ft.) to Reindl Properties. Inc.;

    b. construct a multi-use trail, built to City standards, within 18 months of the execution of this agreement.

3. **Non-assignability.** Neither party may assign any of its rights or obligations under this Agreement, without the express written consent of the other. Nor shall this Agreement be construed to bestow any rights or benefits upon anyone other than Reindl Properties. Inc., and the City of Fayetteville.

4. **Exclusivity.** The parties agree and understand that this Agreement is exclusive of any and all other Agreements, and that it in no way alters, amends or abridges any rights, obligations or duties of the parties contained in such Agreements.

5. **Non-waiver.** It is agreed that the failure of any party to invoke any of the available remedies under this Agreement or under law or equity 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 subsequent breach or default.

6. **Governing Law.** This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.
7. **Severability.** Each paragraph of this 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 shall remain in full force and effect.
8. **Modification.** This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this Agreement shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville, and Reindl Properties. Inc.
9. **Warrant of Authority.** Each of the undersigned warrants that he or she has the full right, power and authority to execute this contract on behalf of the party indicated for the purposes herein contained.

IN WITNESS WHEREOF, the City of Fayetteville and Reindl Properties. Inc. have executed this Agreement on or as of the date first written above.

CITY OF FAYETTEVILLE, ARKANSAS

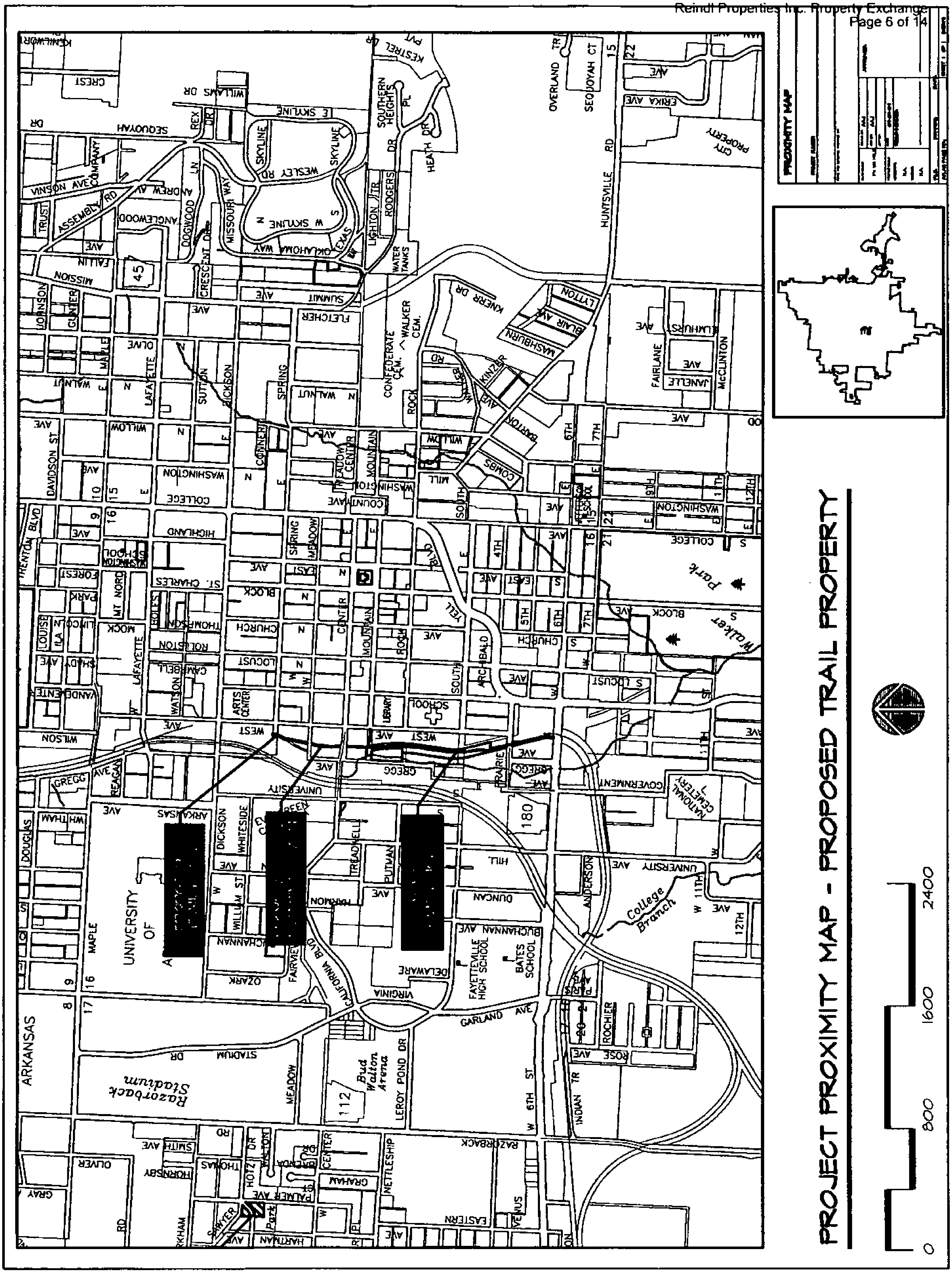
By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

REINDL PROPERTIES. INC.

By: ______________________
Name & Title

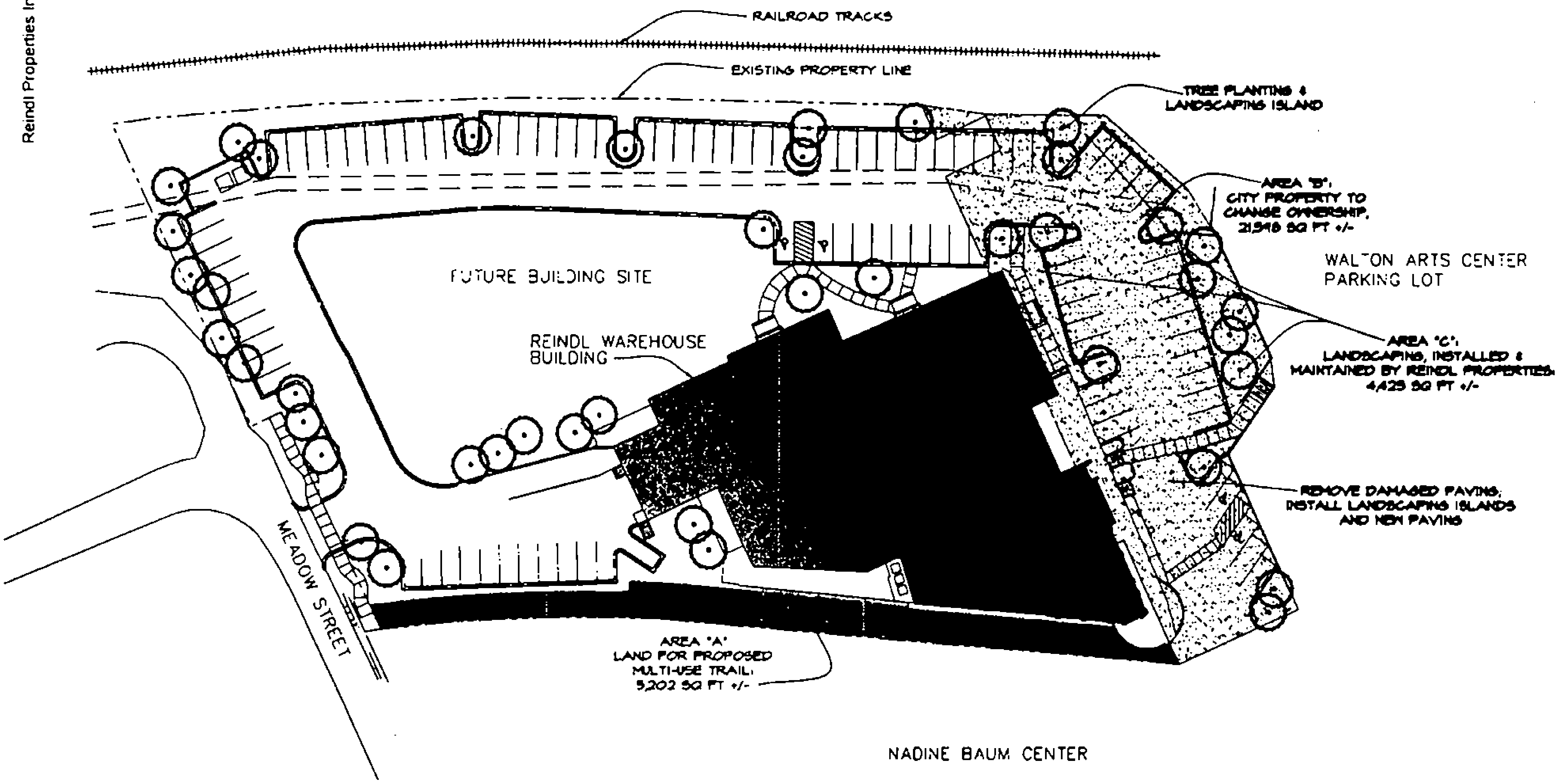


PROJECT PROXIMITY MAP - PROPOSED TRAIL PROPERTY

[redacted]

[redacted]

[redacted]



SITE DIAGRAM, PARKING AND MULTI-USE TRAIL LAND

October 6, 2004

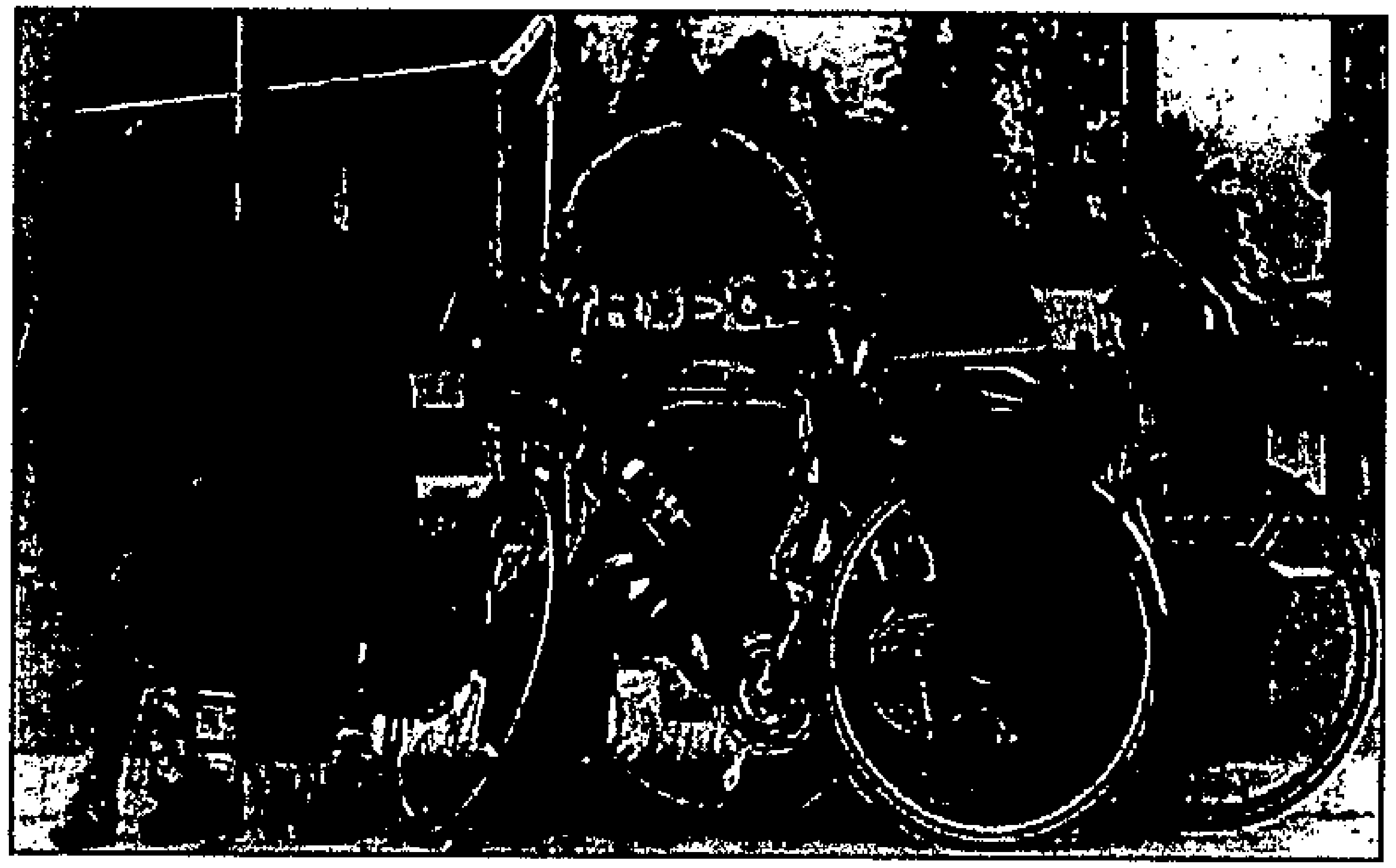
Mr. Steve Hatfield
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: PROPOSED LAND SWAP
REINDL WAREHOUSE PROJECT

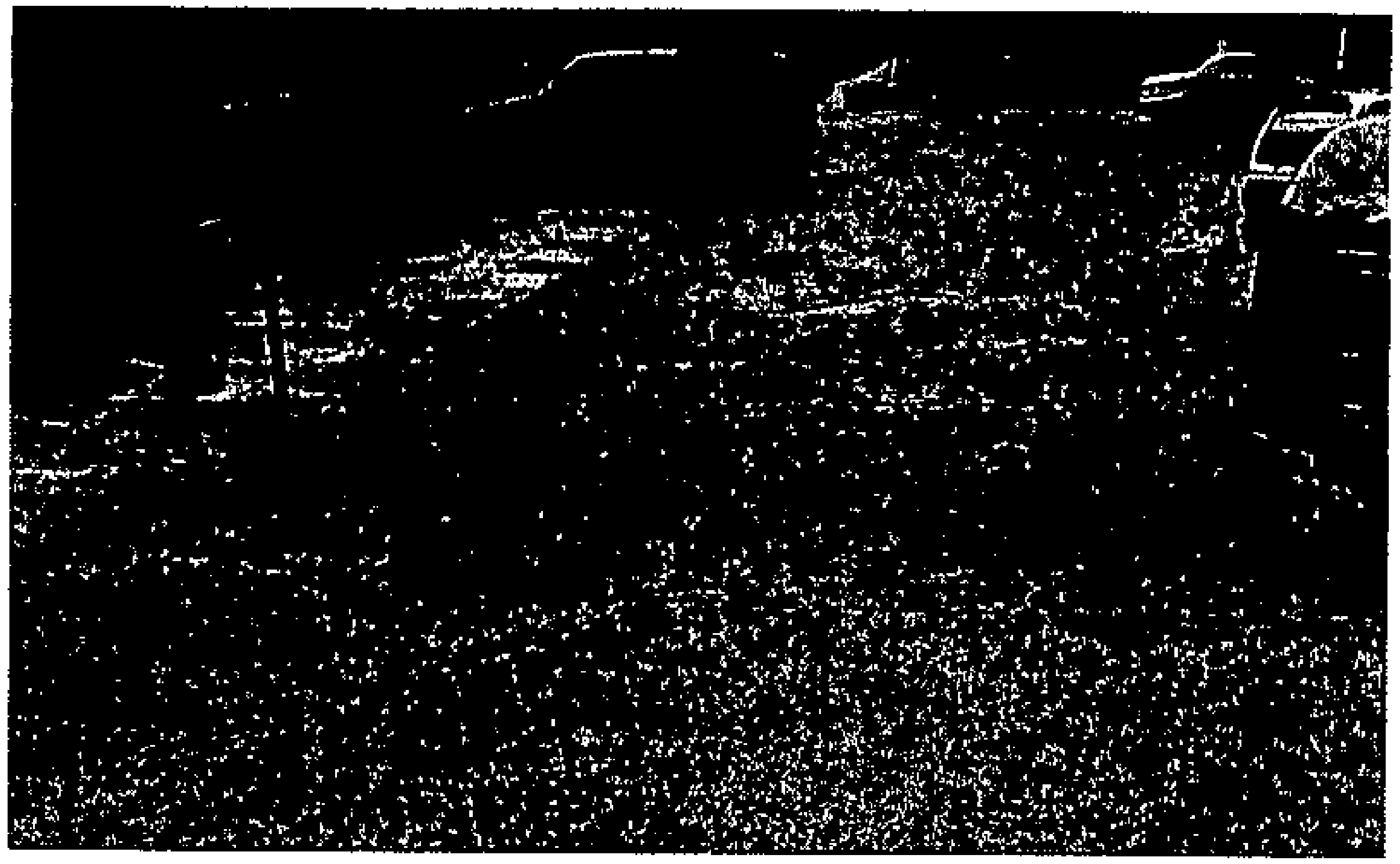
Dear Mr. Hatfield,

You and Hugh Ernest of the City of Fayetteville have contacted Brian Reindl about trying to acquire land for the construction of a multi-use trail that would connect the Center Prairie Trail to West Avenue. I have been providing architectural services for Brian Reindl, the owner of the property for the last three years while he has been renovating his building. Brian has asked me to write this letter to you describing a possible scenario that would allow the city to get the land that it wants for a trail.

After multiple meetings with city staff and the building owner, the best arrangement we could come up with was a land swap. In a nutshell, the city would trade a parcel of land that it owns immediately to the north of my client's building in exchange for the trail land.



West Avenue can become a Bicycle Trail Head



Existing Cracked and Neglected Pavement

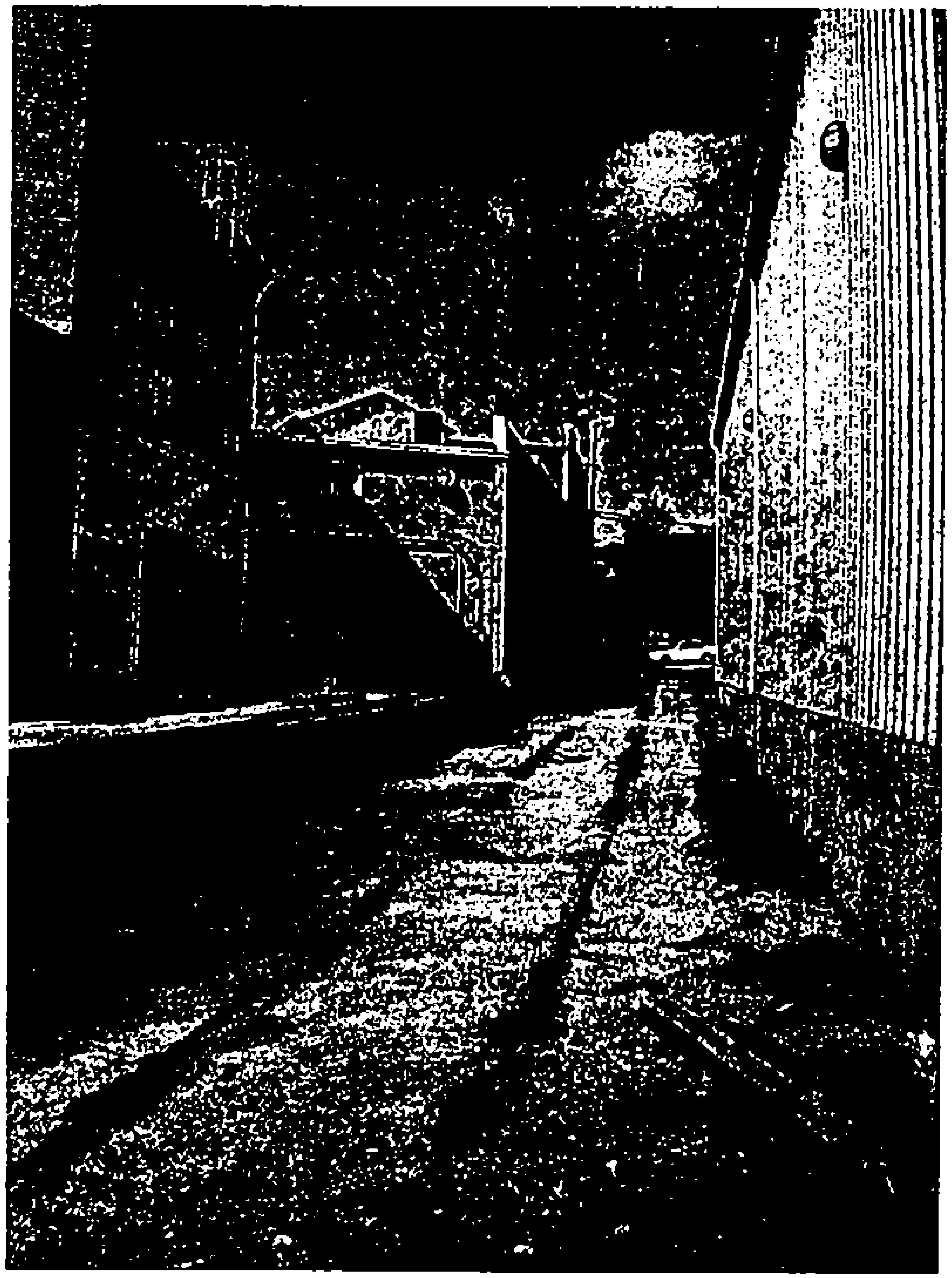
Alternative Transportation

A significant factor in this discussion is Fayetteville's emerging and sustained interest in establishing a city wide alternative transportation system. A critical part of this trail network is the abandoned railroad right of way that is owned by Reindl Properties and borders the Reindl Warehouse.

History

The *Reindl Warehouse Building*, located at 509 West Spring Street, was originally a processing plant for the Campbell Soup Company and then served for years as storage, artist studios, and light manufacturing under the name the "Gregory Warehouse Building." The land to the north of the building was historically a part of the property. The previous owner of the building, the Sugg Family, sold the land to the city so that the property could be used for parking for the Walton Arts Center. As a critical part of that transaction, an area large enough for a 55' truck to maneuver (an area 95' deep across the entire front of the loading dock) was granted to the Suggs and their successors. Also, access to the property from the Spring Street right of way was assured. I have included this original agreement, dated January 2, 1990, following page 6.

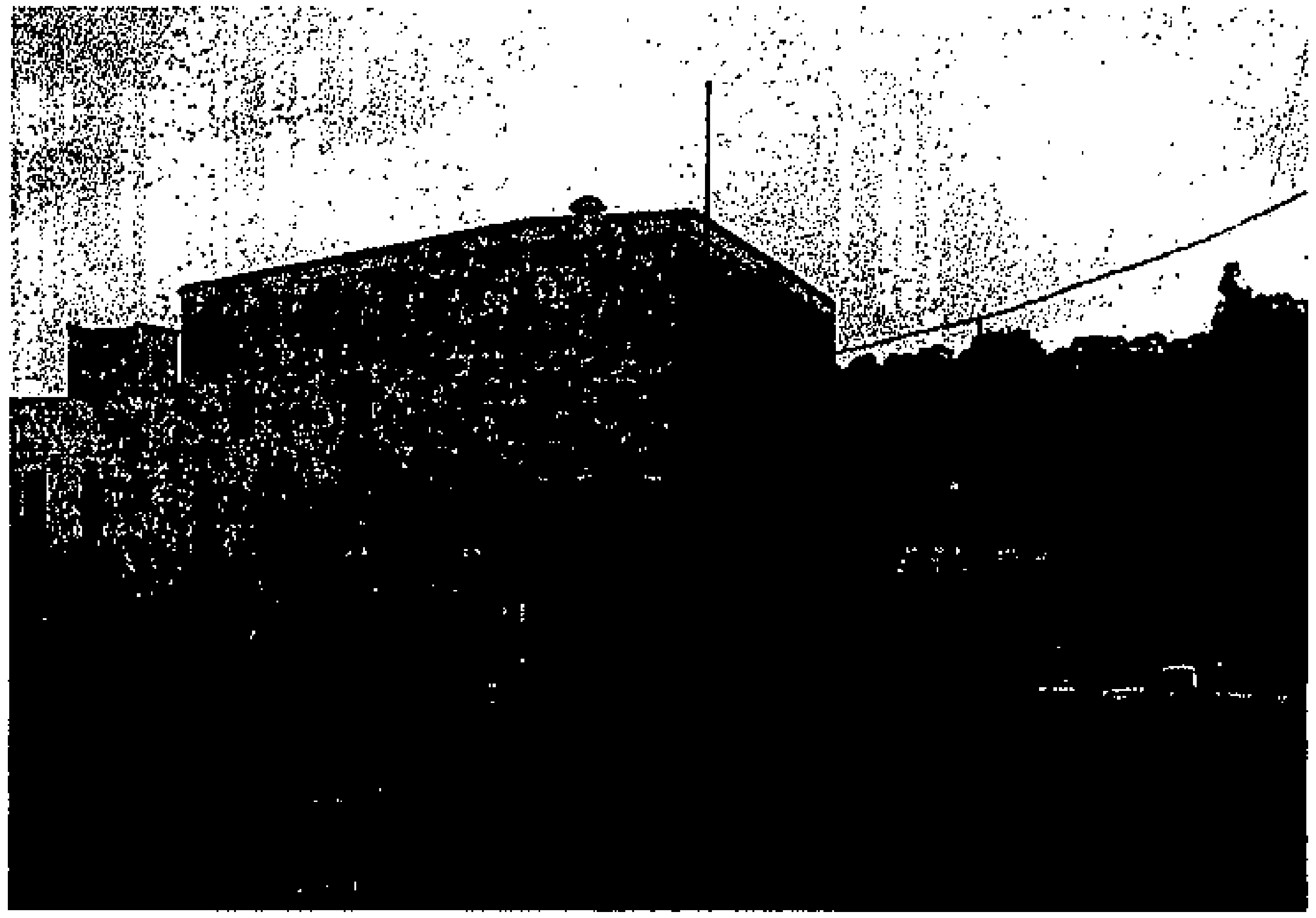
Since purchasing the property, the City of Fayetteville has allowed this area to the north of the building to deteriorate. The concrete paving is broken and uneven, litter is not picked up (except by the building owner) and no landscaping has been installed or maintained.


Trail Land Looking North

Encourage Quality Redevelopment in the Downtown Area

Before Brian Reindl purchased the property, this building suffered from neglect, multiple building code violations, and hard use. It was even formally identified by EDAW's September 26, 1987 *Dickson Street Planning Study* as an eyesore that needed to be screened from view. After extensive work and considerable expense on Brian's part, the building has been brought back to life and is now an asset to its surroundings. The recent Dover Kohl & Partners *Downtown Master Plan* identified this building as an exemplary urban in-fill development. Obviously, Brian Reindl would like to see the parking and access area to the north of his building brought up to current design and landscaping standards to complement the renovations that he has made.

There has been much talk recently about Fayetteville's desire to reduce blight in the city, particularly the downtown area. As I mentioned, Brian Reindl has established an excellent track record by restoring and renovating the former Campbell Soup plant. He would now like to extend quality redevelopment to the west by taking down a decrepit one story metal building and erecting a new three story structure that would be compatible with recent downtown development. In order to make this blight removal and development possible, Brian would like to be able to rebuild, landscape, and properly maintain and manage the parking area to the north of the Reindl Warehouse.



Reindl Warehouse, Prior to Renovations

Reindl Warehouse, today

Summary

In summary, I feel that we are looking at a situation where both the City of Fayetteville and Brian Reindl can meet their immediate and long term goals. As I see it, both the City of Fayetteville and Reindl Properties could benefit from a land swap (or property line adjustment):

Reindl Properties would do the following:

- Donate all property in Area A (approximately 5,202 square feet) to the City of Fayetteville for construction of a multi-use trail. As you know, the value of land dedication for a trail is best described in terms of its *length* (370 linear feet) and its *usefulness* (in this case a critical link between the cultural entertainment district and the existing Center Prairie trail.)
- At its expense, Reindl Properties will have all power poles, overhead electrical lines, transformers, and ground mounted equipment removed from Area A.
- At its expense, Reindl Properties will remove all damaged paving from Area B and install parking, cross walks, and drivelanes to City of Fayetteville standards within 18 months. Additionally, Reindl Properties will install and maintain approximately 4,423 square feet of landscaping.

(continued on next page)

Decrepit Building to be Removed within 18 months

(continued from previous page)

- Reindl Properties will remove the decrepit one story metal building on the west portion of the lot within 18 months.

The City of Fayetteville would do the following:

- Grant all property in Area B (approximately 21,398 square feet) to Reindl Properties.

- City of Fayetteville will install a multi-use trail, built to City of Fayetteville standards within 18 months in Area A.

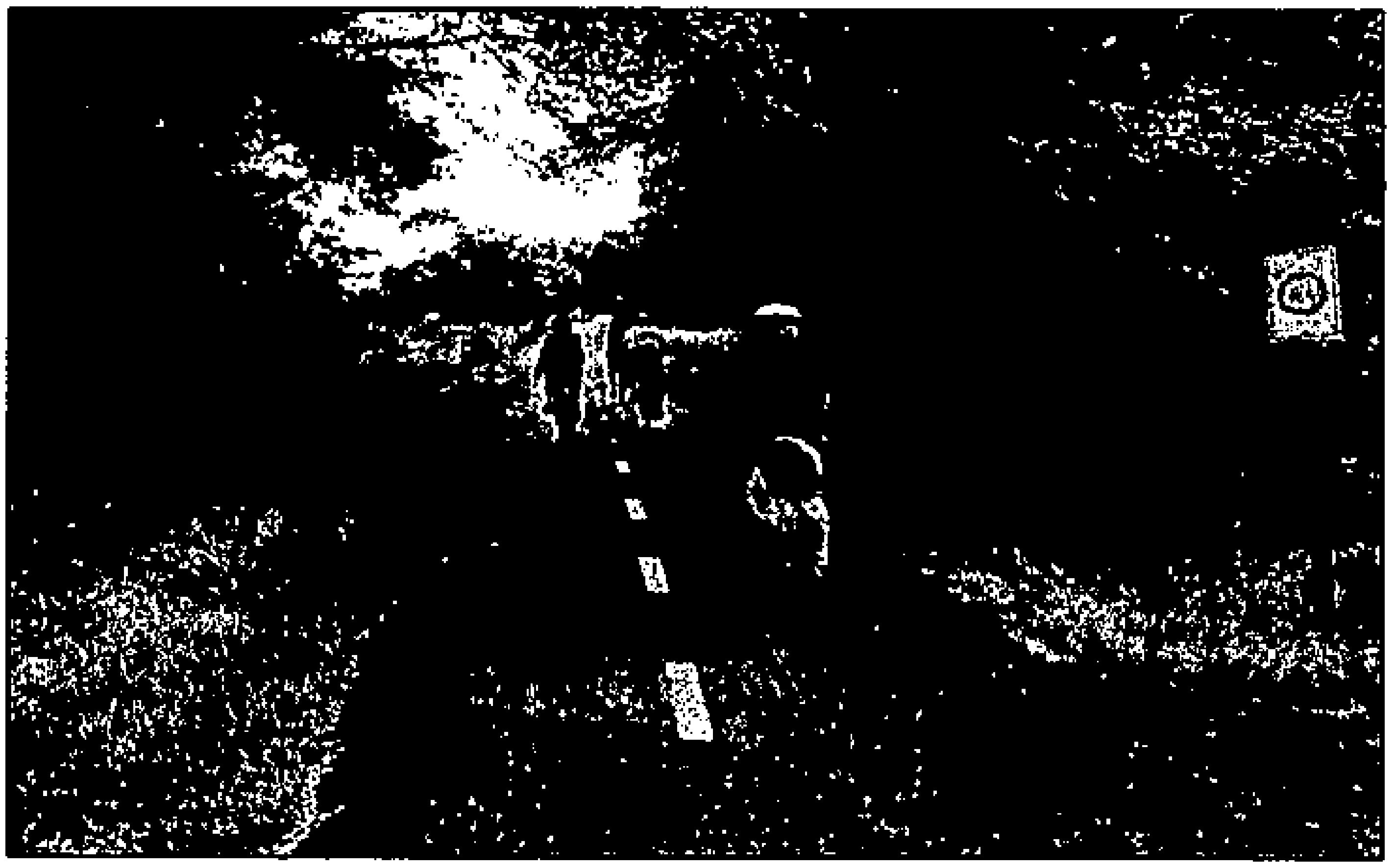
Please review these items and refer to the attached Master Site Plan that identifies all of the areas discussed above. I would be happy to meet you at the site at any time to discuss specific areas. Let me know if there is anything else that I can do to facilitate this public/private partnership to improve our downtown.

Sincerely,

R Sharp

Robert Sharp, Architect

Left Over No Man's Land



Multi Use Trail Along Former Rail Road Right of Way

FILED FOR RECORD
90 MAR 6 PM 3 52
WASHINGTON CO AR
A. KOLLMEYER

RESOLUTION NO. 5-90

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN ENCROACHMENT AGREEMENT WITH THE GREGORY WAREHOUSE BUILDING OWNERS.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the Mayor and City Clerk are hereby authorized and directed to execute a Encroachment Agreement with the Gregory Warehouse building owners for use of land purchased lying under the building. A copy of the agreement authorized for execution hereby is attached hereto marked Exhibit "A" and made a part hereof.

PASSED AND APPROVED this 2nd day of January, 1990.

APPROVED:

By: William V. Martin
Mayor

ATTEST:

By: Sherry L. Thomas
City Clerk

STAFF REVIEW FORM - FINANCIAL OBLIGATION

x AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: November ~~2~~ 16th, 2004

FROM:

Steve Hatfield	Parks & Recreation	Operations
Name	Division	Department

ACTION REQUIRED: Approval of land swap for vital trail corridor and connection to Dickson Street

COST TO CITY:

$0.00	$ 277,863.00	Trail Development
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5806	$ 866.56	Park Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02016	$ 276,996.44	Sales Tax Capitol
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 11/1/04 Purchasing Manager ______ Date ______

STAFF RECOMMENDATION:

Division Head ______ Date ______

Received in Mayor's Office 10.15.04 aw Date

Department Director ______ Date 11-01-04

Cross Reference:

Finance & Internal Services Dir. ______ Date ______

Previous Ord/Res#: ______

Orig. Contract Date: ______

Hugh Earnest
Chief Administrative Officer ______ Date 10-15-04

Orig. Contract Number: ______

New Item: Yes No

Dan Coody
Mayor ______ Date 10/18/04

ENTERED
10-15-04
aw

Fayetteville
ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THRU: Hugh Earnest, Chief Administrative Officer
Stephen Davis, Finance & Internal Services Director

FROM: Kevin Springer, Budget Manager

DATE: October 27, 2004

SUBJECT: **Proposed 2005 Annual Budget & Work Program**

Recommendation:
Consider the Proposed 2005 Annual Budget & Work Program for adoption by the December 21, 2004 City Council meeting.

Discussion:
The Proposed 2005 Annual Budget & Work Program document was distributed to City Council on Tuesday, November 2 for consideration.

A brief overview of the Proposed 2005 Annual Budget & Work Program document is scheduled for **Tuesday, November 9** following the City Council agenda session that starts at 4:30 PM in room 326. Staff is proposing the dates below as the minimum amount of hearings for the Proposed 2005 Budget.

Date	Budget Meeting
Tuesday, November 9 2004	2005 Proposed Budget Presentation
Tuesday, November 16 2004	City Council Meeting
Tuesday, November 30 2004	Budget Working Session (agenda session)
Tuesday, December 7 2004	City Council Meeting
Tuesday, December 14 2004	Budget Working Session (agenda session)
Tuesday, December 21 2004	City Council Meeting

If you have any questions concerning the Proposed 2005 Annual Budget & Work Program, please feel free to contact either Stephen Davis at 575-8330 or myself at 575-8226. Thank you for your attention to this matter.

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE PROPOSED 2005 ANNUAL BUDGET AND WORK PROGRAM.

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 adopts the Proposed 2005 Annual Budget & Work Program, attached as Exhibit "A".

PASSED and **APPROVED** this 21st day of December, 2004.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

2005

Fayetteville
ARKANSAS

City of Fayetteville, Arkansas

Proposed Annual Budget & Work Program

STAFF REVIEW FORM - Financial Obligation

✓ AGENDA REQUEST
CONTRA~~CT REVIEW~~
GRANT REVIEW

For the Fayetteville City Council Meeting of: November 16, 2004

FROM:

Kevin Springer	Budget & Research	Finance & Internal Services
Name	Division	Department

Approve a resolution adopting the Proposed 2005 Annual Budget & Work Program.

COST TO CITY:

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

BUDGET REVIEW: Budgeted Item Budget Adjustment Attached

Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager	Date	Internal Auditor	Date
City Attorney	10/27/04	Purchasing Manager	Date

STAFF RECOMMENDATION: Staff recommends approval of the Proposed 2005 Annual Budget.

Division Head	10-27-04
Department Director	Date
Finance & Internal Services Dir.	10-27-04
Hugh Earnest Chief Administrative Officer	10-28-04
Dan Coody Mayor	10/28/04

Cross Reference

Rec'd in Mayor's Office 10/27/04

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

Previous Ord/Res#:

Orig. Contract Date

Orig. Contract Number

ENTERED 10/27/04

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **November 17, 2004**

RE: **Passed Resolutions and Ordinances from City Council meeting of November 16, 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. **South School Avenue Street Lighting:** Resolution approving purchase of 20 ornamental street lights from Upchurch Electric in amount of $47,940.00 for S. School Avenue street lighting project;

2. **Commercial Coverings, Inc. Bid Award:** Resolution awarding bid #04-02, Floor Improvement Project, to Commercial Coverings, Inc. in an amount not to exceed $31,823.00;

3. **Water & Sewer Fund Transfer of Funds:** Resolution approving budget adjustment to transfer $45,000.00 from Water & Sewer Fund balance to Wastewater Treatment Plant utility costs;

4. **Tencarva Machinery Company Bid Award:** Resolution accepting low bid of $24,271.00 from Tencarva Machinery Co. for two new, dry-pit submersible wastewater pumps at Lift Station #14 and approval of a budget adjustment;

5. **Hugg & Hall Generator Purchase:** Resolution approving purchase of one skid-mounted portable electric generator form Hugg & Hall Construction & Industrial Equipment in amount of $20,467.00 to provide back-up power for wastewater lift stations;

6. **Vehicles & Equipment Transfer of Funds:** Resolution approving budget adjustment transferring $57,000.00 from Vehicles & Equipment account, of which $17,080.00 is to be transferred to Motor Pool Account, and $39,920.00 is to be transferred to the Replacement Charges account;

7. **Reindl Properties, Inc. Property Exchange:** Resolution approving agreement between City of Fayetteville and Reindl Properties, Inc. to exchange real property to accommodate construction of a portion of Center-Prairie Multi-Use Trail;

8. **Tyson Foods, Inc. Offer & Acceptance:** Resolution approving Offer & Acceptance Contract between the City of Fayetteville and Tyson Foods, Inc. for purchase of property located at 1851 E. Huntsville Road in amount of $1,100,000.00 and a donation contract; and approving budget adjustment in amount of $4,000.00 to cover appraisal and closing costs;

9. **RZN 04-1189:** Ordinance rezoning property described in rezoning petition RZN 04-1189 as submitted by Nick Wilson for property located at northwest corner of S. School Ave. and Sunrise Mountain Rd., containing approximately 7.54 acres from R-A, Residential Agricultural and C-2, Thoroughfare Commercial to I-1, Heavy Commercial, Light Industrial;

10. **R-PZD 04-1181:** Ordinance establishing Residential Planned Zoning District titled R-PZD 04-1181, Walnut Crossing located north of Hwy. 62, east of Layne Street, containing 43.30 acres, more or less; amending official zoning map of City of Fayetteville and adopting Associated Residential Development Plan as approved by Planning Commission;

11. **ADM 04-1258:** Resolution amending Master Street Plan to relocate Wilson Street, a proposed collector street, approximately 600 feet north as part of R-PZD 04-1181, Walnut Crossing, as described in staff report attached hereto and made a part hereof;

12. **RZN 04-1223:** Ordinance rezoning property described in rezoning petition RZN 04-1223 as submitted by Tracy Hoskins for property located at 1719 N. Rupple Road containing approximately 11.73 acres from RSF-1, Residential Single Family, one unit per acre to RSF-4, Residential Single Family, four units per acre;

13. **Wilson Springs Property Proceeds Transfers:** Resolution approving transfer of $4,387,115.00 from General Fund Undesignated Fund balance to General Fund Designated Fund balance;

14. **ANX 04-1252 (A):** Ordinance annexing part of that property described in ANX 04-1252 annexing to City of Fayetteville certain property owned by John & Leslie Nooncaster and Frank & Ann Kelly located south of Albright Road containing approximately 9.81 acres;

15. **ANX 04-1252 (B):** Ordinance calling for simultaneous detachment of about 4.66 acres owned by John & Leslie Nooncaster from City of Springdale and the annexation of those lands into City of Fayetteville;

16. **RZN 04-1253:** Ordinance rezoning that property described in RZN 04-1253 for property located south of Albright Road containing approximately 11.76 acres from R-A, Residential Agricultural to FSF-4, Residential Single Family, four units per acre;

17. **VAC 04-1228:** Ordinance approving VAC 04-1228 submitted by Habitat for Humanity for property east of Washington Avenue and east of 13th Street as described on attached map and legal description.

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Conrad Odom
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
November 16, 2004

A meeting of the Fayetteville City Council will be held on November 16, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

A. CONSENT:

1. **Approval of the Minutes:** Approval of the November 1, 2004 City Council meeting minutes.

2. **South School Avenue Street Lighting:** A resolution approving the purchase of twenty (20) ornamental street lights from Upchurch Electric in the amount of $47,940.00 for the South School Avenue Street Lighting Project.

3. **Commercial Coverings, Inc. Bid #04-02 Award:** A resolution awarding Bid #04-02, floor improvement project to Commercial Coverings, Inc. in an amount not to exceed $31,823.00.

4. **Water and Sewer Fund Transfer of Funds:** A resolution to approve a budget adjustment to transfer $45,000.00 from the Water and Sewer Fund Balance to the Wastewater Treatment Plant utility costs.

5. **Tencarva Machinery Company Bid Award:** A resolution to accept the low bid of $24,271.00 from Tencarva Machinery Company for two new dry-pit submersible wastewater pumps at Lift Station #14 and approval of a budget adjustment.

6. **Hugg and Hall Construction and Industrial Equipment Generator Purchase:** A resolution approving the purchase of one (1) skid-mounted portable electric generator from Hugg and Hall Construction and Industrial Equipment in the amount of $20,467.00 to provide back-up power for wastewater lift stations.

7. **Vehicles and Equipment Account Transfer of Funds:** A resolution approving a budget adjustment transferring $57,000.00 from the Vehicles and Equipment Account, of which $17,080.00 is to be transferred to the Motor Pool Account and $39,920.00, is to be transferred to the Replacement Charges Account.

B. UNFINISHED BUSINESS

1. **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. ***This ordinance was left on the first reading at the August 17, 2004 City Council meeting and tabled to the November 16, 2004 City Council meeting.***

Table at Council meeting

2. **Tyson Foods, Inc. Offer and Acceptance:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Tyson Foods, Inc. for the purchase of property located at 1851 East Huntsville Road in the amount of $1,100,000.00; and approving a budget adjustment in the amount of $4,000.00 to cover appraisal and closing costs. ***This resolution was tabled at the October 5' 2004 City Council meeting to the November 16, 2004 City Council meeting.***

3. **RZN 04-1189 (Jackson/Humphries):** An ordinance rezoning that property described in rezoning petition RZN 04-1189 as submitted by Nick Wilson for property located at the northwest corner of South School Avenue and Sunrise Mountain Road containing approximately 7.54 acres from R-A Residential Agricultural and C-2, Thoroughfare Commercial to I-1 Heavy Commercial, Light Industrial. ***This ordinance was left on the first reading at the October 19, 2004 City Council meeting and left on the second reading at the November 1, 2004 City Council meeting.***

4. **R-PZD 04-1181 (Walnut Crossing):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1181, Walnut Crossing located north of Highway 62, east of Layne Street containing 43.30 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This ordinance was left on the first reading at the October 19, 2004 City Council meeting and the second reading at the November 1, 2004 City Council meeting.***

5. **ADM 04-1258 (Wilson Street/Walnut Crossing):** A resolution amending the Master Street Plan to relocate Wilson Street, a proposed Collector Street, approximately 600 feet north as apart of R-PZD 1181, Walnut Crossing, as described in the staff report attached hereto and made a part hereof. ***This resolution was tabled at the October 19, 2004 City Council meeting to the November 1, 2004 City Council meeting and tabled at the November 1, 2004 City Council meeting to the November 16, 2004 City Council meeting.***

6. **RZN 04-1223 (Hoskins):** An ordinance rezoning that property described in rezoning petition RZN 04-1223 as submitted by Tracy Hoskins for property located at 1719 North Rupple Road containing approximately 11.73 acres from RSF-1, Residential Single Family, one unit per acre to RSF-4, Residential Single Family, four units per acre. ***This ordinance was left on the first reading at the November 1, 2004 City Council meeting.***

C. NEW BUSINESS:

New Resolution

1. **Wilson Springs Property Proceeds Transfers:** A resolution approving the transfer of $2,050.000.00 from the General Fund Undesignated Fund Balance to the General Fund Designated Fund Balance and $2,337,115.00 from General Fund Undesignated Fund Balance to the Sales Tax Capital Improvements Fund Designated Fund Balance related to the sale of the Wilson Springs property.

2. **Cox Communications Franchise Agreement:** A resolution granting a Non-exclusive Franchise to TCA Cable Partners D/B/A Cox Communications for the construction, maintenance and operation of a cable system within the City of Fayetteville Arkansas, and environs thereof, and to use and occupy the streets and other public places of the City of Fayetteville, Arkansas, for such cable system.

First meeting in Dec.

3. **Shake's Property Offer:** A resolution to accept an Offer from Stephen L. Davis to purchase the remainder of the former Shake's property and building for $178,555.00.

4. **ANX 04-1252 (A) (Nooncaster/Kelly):** An ordinance annexing part of that property described in annexation petition ANX 04-1252 annexing to the City of Fayetteville, Arkansas, certain property owned by John and Leslie Nooncaster and Frank and Ann Kelly located south of Albright Road containing approximately 9.81 acres.

5. **ANX 04-1252 (B) (Nooncaster):** An ordinance calling for the simultaneous detachment of about 4.66 acres owned by John and Leslie Nooncaster from the City of Springdale, Arkansas and the annexation of those lands into the City of Fayetteville, Arkansas.

6. **RZN 04-1253 (Nooncaster):** An ordinance rezoning that property described in rezoning petition RZN 04-1253 for property located south of Albright Road containing approximately 11.76 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

7. **RZN 04-1243 (Medley):** An ordinance rezoning that property described in rezoning petition RZN 04-1243 as submitted by Ronald Dean Medley for property located at 3507 W. 6th Street containing approximately 1.03 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial.

8. **VAC 04-1228 Habitat for Humanity:** An ordinance approving VAC 04-1228 submitted by Habitat for Humanity for property east of Washington Avenue and north of 13th Street as described on the attached map and legal description.

Consent

9. **Reindl Properties, Inc. Property Exchange**: A resolution approving an agreement between the City of Fayetteville and Reindl Properties, Inc. to exchange real property to accommodate the construction of a portion of the Center-Prairie Multi-Use Trail.

10. **2005 Proposed Annual Budget and Work Program Adoption:** A resolution adopting the proposed 2005 Annual Budget and Work Program.

D. INFORMATIONAL:

Council Tour: November 15, 2004 – 4:30 pm

Budget: % of employees this year

(*) Tuesday - Nov. 16th 4:30 Budget meeting.
Room 326 - Budget Workshop.

NORTHWEST ARKANSAS EDITION
Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Diane Williams, do solemnly swear that I am Legal Clerk of the Arkansas Democrat-Gazette/Northwest Arkansas Times newspaper, printed and published in Lowell, Arkansas, and that from my own personal knowledge and reference to the files of said publication, that advertisement of:

Final Agenda was inserted in the regular editions on Nov. 15, 2004.

PO# 04-3089

** Publication Charge: $ 319.92

Subscribed and sworn to before me this

15th day of November, 2004.

Catherine Sall
Notary Public

My Commission Expires

Catherine Sall
Notary Public, State of Arkansas
Washington County
My Commission Expires 02/27/05

** Please do not pay from Affidavit.
An invoice will be sent.

FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
[illegible]ITY COUNCIL MEETING
NOVEMBER 16, 2004

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on November 16, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Nominating Committee Report: Appointment of Maudie Schmitt to the A & P Commission.

A. CONSENT:

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D. INFORMATIONAL:

Council Tour: No City Council Tour