

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



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 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
February 7, 2006**

A meeting of the Fayetteville City Council will be held on February 7, 2006 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 January 3 and January 17, 2006 City Council meeting minutes.**

APPROVED.

- 2. Elm Springs Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Elm Springs, Arkansas to provide animal sheltering services to the City of Elm Springs for 2006.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 15-06.

- 3. Goshen Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Goshen, Arkansas to provide animal sheltering services to the City of Goshen for 2006.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 16-06.

- 4. Wittenberg, Delony & Davidson, Inc. – Fire Station #5 Design:** A resolution approving a contract in the amount of \$70,000.00 with Wittenberg, Delony & Davidson for design and oversight of the replacement for current Fire Station #5.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 17-06.

5. **Fire Station Construction Bond:** A resolution of intent regarding the reimbursement of certain costs and expenses incurred in connection with the acquisition, construction and equipping of fire station improvements within the city.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 18-06.

6. **Walker Park Sign - Right of Way Variance:** A resolution approving a variance from the Master Street Plan setback requirements to allow for the construction of an entrance sign at Walker Park.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 19-06.

7. **Arkoma Playgrounds & Supply:** A resolution accepting a proposal in the amount of \$79,699.00 from Arkoma Playgrounds & Supply for the installation of new playground equipment at the Yvonne Richardson Community Center.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 20-06.

8. **Advertising & Promotion Commission:** A resolution to approve an agreement with the Fayetteville Advertising and Promotion Commission to collect and account for the 1% A&P Commission Hotel, Motel, and Restaurant Tax.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 21-06.

9. **Code Compliance Site Clean-up:** A resolution awarding Bid #06-CC01 to Robert Evans in the amount of \$25,000.00 to provide site clean-up services for the City Code Compliance efforts.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 22-06.

10. **Van Scoyoc and Associates Contract:** A resolution approving a memorandum of agreement with Van Scoyoc Associates in the amount of \$84,000.00 to provide lobbying services to the City of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 23-06.

11. **Dead Horse Mountain Bridge:** A resolution expressing the willingness of the City of Fayetteville to utilize Federal-aid monies for the replacement of structure No.17332 over the West Fork of the White River on Dead Horse Mountain Road.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 24-06.

12. **Traffic Signal Morningside Drive:** A resolution authorizing City staff to design and construct a traffic signal at the intersection of 15th Street and Morningside Drive.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 25-06.

- 11. RZN 06-1854 (Nock/Broyles):** An ordinance rezoning that property described in rezoning petition RZN-06-1854 for approximately 39.11 acres located north of Weir Road and east of Salem Road and Howard Nickell Road from R-A, Residential Agricultural to RSF-2, Residential Single Family, 2 units per acre.

THIS ITEM WAS LEFT ON THE FIRST READING OF THE ORDINANCE.

- 12. Fayetteville Government Channel Policy:** A resolution approving revisions to the Fayetteville Government Channel Use and Programming Policy.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 27-06.

- 13. BMW Investments, LLC:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with BMW Investments, LLC in an amount not to exceed \$535,934.80 for the widening of Ruppel Road adjacent to the Clabber Creek Subdivision, Phases 3, 4 and 5.

THIS ITEM WAS LEFT ON THE SECOND READING OF THE ORDINANCE.

- 14. Goodwin & Goodwin, Inc:** A resolution approving a construction contract with Goodwin & Goodwin, Inc. in the amount of \$722,890.50 for water and sewer relocation for highway improvements to Razorback Road; approving a project contingency in the amount of \$72,000.00; and approving a budget adjustment in the amount of \$314,231.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 28-06.

- 15. Crossland Heavy Contractors Contract – Wedington Drive Water and Sewer Relocation Project:** A resolution approving a construction contract with Crossland Heavy Contractors, Inc. in the amount of \$1,591,426.20 for water and sewer relocation for highway improvements to Wedington Drive; approving a project contingency in the amount of \$160,000.00, and approving a budget adjustment in the amount of \$252,837.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 29-06.

D. INFORMATIONAL:

City Council Tour: February 6, 2006 - 4:30 PM

Meeting adjourned at 11:55 p.m.

Subject:	Roll					11:55 pm
Motion To:						
Motion By:						
Seconded:						
	Ferrell	✓				
	Lucas	✓				
	Jordan	✓				
	Reynolds	✓				
	Thiel	✓				
	Cook	✓				
	Marr	✓				
	Rhoads	✓				
	Mayor Coody	absent				

8-0

Subject:	Consent				
Motion To:		Approve			
Motion By:		Marr			
Seconded:		Lucas			
Res. 15-06 to 25-06	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody				

8-0

Subject:	John D. Lindsey, LLC Condemnation				
Motion To:		Table Indef			
Motion By:		Ferrell			
Seconded:		Lucas			
B.1. Unfinished Tabled Indef.	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody				

8-0

Subject:	R-PZD 05-1776 Wedington Circle				
Motion To:		Pass			
Motion By:					
Seconded:					
B.2. Unfinished Passed 4826	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody				

8-0

Subject:	Bio Based Realty				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Reynolds		
Seconded:		Thiel	Lucas		
C.1. New Business <u>Passed</u> 4827	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject:	Duncan Associates - Road Impact Fee Study				
Motion To:		Send to Street Committee			
Motion By:		Lucas			
Seconded:		Ferrell			
C.2. New Business Refer to the Street Committee	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody				

Subject:	ADM 05-1841, 05-1842, 05-1879 Hillside Overlay District				
Motion To:					
Motion By:					
Seconded:					
C.3, New Business Left on the First Reading	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Mayor Coody				

Subject:	ANX 06-1867 (Wales)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Reynolds		
Seconded:		Reynolds	Ferrell		
C.4, New Business Passed 4828	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				

8-0

8-0

7-1

Subject:	R-P20 05-1619 Westbrook Village.				
Motion To:					
Motion By:					
Seconded:					
C. 5. New Business Left on the first Reading	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Mayor Coody				

Subject:	RZN 06-1852 Scholars Inn				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Lucas	Lucas		
Seconded:		Marr	Marr		
C. 6. New Business passed 4829	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject:	RZN 06-1868 Chambers				
Motion To:		2nd reading			
Motion By:		Cook			
Seconded:		Marr			
C. 7. New Business Left on the Second Reading	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody				

8-0

Subject:	Smith Two-Way Tower Appeal				
Motion To:	2 Resolutions Approve the Res. Appeal Grant appeal deny conditional use.				
Motion By:		Marr			
Seconded:		Cook			
C. 8. New Business Passed Grant appeal 26-06 deny Conditional Use	Ferrell	N			
	Lucas	y			
	Jordan	y			
	Reynolds	y			
	Thiel	y			
	Cook	y			
	Marr	y			
	Rhoads	y			
	Mayor Coody				

7-1

Subject:	R - PZD 05-1735 Paddock Road Appeal				
Motion To:		Amend Condition of Approval #5			
Motion By:		Thiel			
Seconded:		Reynolds			
C. 9. New Business	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody				

8-0

Subject:	R - PZD 05-1735 Paddock Road Appeal				
Motion To:		2nd read	Approve Waivers	3rd read	Pass
Motion By:		Thiel	Thiel	Reynolds	
Seconded:		Reynolds	Reynolds Marr	Thiel	
C. 9. New Business 4830	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Reynolds	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Marr	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Mayor Coody				

8-0

8-0

8-0

8-0

Subject:	ANX - 06-1853 Nock/Broyles				
Motion To:					
Motion By:					
Seconded:					
C.10. New Business Left on the first Reading	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Mayor Coody				

Subject:	RZN - 06-1854 Nock/Broyles				
Motion To:					
Motion By:					
Seconded:					
C.11. New Business Left on the first reading	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Mayor Coody				

Subject:	Jayetteville Government Channel Policy				
Motion To:		Amend to resolution Adopt new policy		Pass	
Motion By:		Anna Cook		Reynolds	
Seconded:		Cook Marr		Marr	
C.12. New Business passed 27-06	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
	Rhoads	✓		✓	
	Mayor Coody				

8-0

8-0

Subject:	BMW Investments, LLC.				
Motion To:		2nd read			
Motion By:		Marr			
Seconded:		Lucas			
C.13 New Business Left on Second Reading	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody				

8-0

Subject:	Goodwin & Goodwin, Inc.				
Motion To:		Pass			
Motion By:		Cook			
Seconded:		Reynolds			
C. 14. New Business Passed 28-06	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody				

Sid bringing 218105
in contracts
for both
next week
10 ea - C14 & C15.

8-0

Subject:	Crossland Heavy Contractors.				
Motion To:		Pass			
Motion By:		Cook			
Seconded:		Reynolds			
C. 15 New Business Passed 29-06	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Mayor Coody				

8-0

Agenda Session
1/31/06

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
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Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
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**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
February 7, 2006**

A meeting of the Fayetteville City Council will be held on February 7, 2006 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 presentation by James Estes of Wilson Estes Police Architects of Mission, Kansas will be given on the recently completed Facilities Needs Assessment – Agenda Session Only

A. CONSENT:

1. **Approval of the January 3 and January 17, 2006 City Council meeting minutes.**
2. **Elm Springs Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Elm Springs, Arkansas to provide animal sheltering services to the City of Elm Springs for 2006.
3. **Goshen Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Goshen, Arkansas to provide animal sheltering services to the City of Goshen for 2006.
4. **Wittenberg, Delony & Davidson, Inc. – Fire Station #5 Design:** A resolution approving a contract in the amount of \$70,000.00 with Wittenberg, Delony & Davidson for design and oversight of the replacement for current Fire Station #5.
5. **Fire Station Construction Bond:** A resolution of intent regarding the reimbursement of certain costs and expenses incurred in connection with the acquisition, construction and equipping of fire station improvements within the city.

- ✓ 16. **Walker Park Sign - Right of Way Variance:** A resolution approving a variance from the Master Street Plan setback requirements to allow for the construction of an entrance sign at Walker Park.
- ✓ 17. **Arkoma Playgrounds & Supply:** A resolution accepting a proposal in the amount of \$79,699.00 from Arkoma Playgrounds & Supply for the installation of new playground equipment at the Yvonne Richardson Community Center.
- ✓ 18. **Advertising & Promotion Commission:** A resolution to approve an agreement with the Fayetteville Advertising and Promotion Commission to collect and account for the 1% A&P Commission Hotel, Motel, and Restaurant Tax.
- ✓ 19. **Code Compliance Site Clean-up:** A resolution awarding Bid #06-CC01 to Robert Evans in the amount of \$25,000.00 to provide site clean-up services for the City Code Compliance efforts.
- ✓ 20. **Van Scoyoc and Associates Contract:** A resolution approving a memorandum of agreement with Van Scoyoc Associates in the amount of \$84,000.00 to provide lobbying services to the City of Fayetteville.
- ✓ 21. **Dead Horse Mountain Bridge:** A resolution expressing the willingness of the City of Fayetteville to utilize Federal-aid monies for the replacement of structure No.17332 over the West Fork of the White River on Dead Horse Mountain Road.
- ✓ 22. **Traffic Signal Morningside Drive:** A resolution authorizing City staff to design and construct a traffic signal at the intersection of 15th Street and Morningside Drive.

B. UNFINISHED BUSINESS:

- ✓ 1. **John D. Lindsey, LLC. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC. *This resolution was tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting. This resolution was tabled at the January 3, 2006 City Council meeting to the January 17, 2006 City Council meeting. This resolution was tabled at the January 17, 2006 City Council meeting to the February 7, 2006 City Council meeting.*
- ✓ 2. **R-PZD 05-1776 Wedington Circle:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan. *This ordinance was left on the Second Reading at the January 3, 2006 City Council meeting. This ordinance was left on the Third Reading at the January 17, 2006 City Council meeting. This ordinance was tabled at the January 17, 2006 City Council meeting to the February 7, 2006 City Council meeting.*

C. NEW BUSINESS:

1. **BioBased Realty:** An ordinance waiving the requirements of formal competitive bidding and approving a contract for demolition services with BioBased Realty, LLC, BioBased Technologies, LLC, and BioBased Systems, LLC, in exchange for a \$17,000.00 credit toward the purchase of the Water and Sewer Operations Center on Cato Springs Road.

2. **Duncan Associates – Road Impact Fees Study:** A resolution to approve and adopt the road impact fees study of October 24, 2005 by Duncan Associates.

3. **AMD 05-1841, 05-1842, 05-1879 Hillside Overlay District:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville to amend various sections of the code in order to implement hillside preservation and protection, establish a Hillside Overlay District Zoning Boundary and Map, and adopt the Hillside Overlay District Best Management Practices Manual.

4. **ANX 06-1867 (Wales):** An ordinance annexing that property described in annexation petition ANX 06-1867, CC2005-38, for property located at 2055 North Fox Hunter Road, containing 1.4 acres.

5. **R-PZD 05-1619 (Westbrook Village):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1619, Westbrook Village, located at tracts 1 and 2 of the original Salem Village P.U.D., containing approximately 1.42 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

6. **RZN 06-1852 (Scholars Inn):** An ordinance rezoning that property described in rezoning petition RZN 06-1852 for approximately 1.74 acres located at 1125, 1137, 1153, 1189 north West End Avenue from RSF -4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre.

7. **RZN 06-1868 (Chambers):** An ordinance rezoning that property described in rezoning petition RZN 06-1868 for approximately .20 acres located at 347 North Willow Avenue from RSF-4 Residential Single-Family, 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre.

8. **Smith 2 Way Tower Appeal:** An appeal regarding the conditional permit submitted by Michael Smith and Gary Cochran for Smith 2 Way Radio for property located at 520 N College Avenue.

9. **R-PZD 05-1735 Paddock Road Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1735, Paddock Road, located southwest of the intersection of Paddock Road and Happy Hollow Road; containing approximately 9.77 acres; amending the official zoning map of the City of Fayetteville, and adopting the associated Master Development Plan.

10. **ANX 06-1853 (Nock/Broyles):** An ordinance annexing that property described in annexation petition ANX 06-1853, for property located north of Weir Road and east of Salem Road and Howard Nickell Road, containing approximately 39.11 acres.

11. **RZN 06-1854 (Nock/Broyles):** An ordinance rezoning that property described in rezoning petition RZN-06-1854 for approximately 39.11 acres located north of Weir

Road and east of Salem Road and Howard Nickell Road from R-A, Residential Agricultural to RSF-2, Residential Single Family, 2 units per acre.

- ✓ **12. Fayetteville Government Channel Policy:** A resolution approving revisions to the Fayetteville Government Channel Use and Programming Policy.
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- ✓ **14. Goodwin & Goodwin, Inc:** A resolution approving a construction contract with Goodwin & Goodwin, Inc. in the amount of \$722,890.50 for water and sewer relocation for highway improvements to Razorback Road; and approving a project contingency in the amount of \$72,000.00.
- ✓ **15. Crossland Heavy Contractors Contract – Wedington Drive Water and Sewer Relocations Project:** A complete information packet will be submitted at Agenda Session.

D. INFORMATIONAL:

Re-scheduled to the next agenda session
A presentation by Rick Wilcox of NW Medical Transfer will be given on patient transfers – Agenda Session Only.

Pulled
A presentation by Hugh Earnest will be given on the continuation of the County wide ambulance services - Agenda Session Only.

No
City Council Tour: February 6, 2006 - 4:30 PM

Presentation at the request of Hugh Earnest.

Pre-Agenda Meeting
1-25-06

Aldermen

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Ward 1 Position 2 - Brenda Thiel
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Ward 2 Position 2 - Don Marr
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✓ 4. Wittenberg, Delony & Davidson, Inc. – Fire Station #5 Design: A resolution approving a contract in the amount of \$70,000.00 with Wittenberg, Delony & Davidson for design and oversight of the replacement for current Fire Station #5.

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✓ Add. A & P Commission Agreement

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~~C. PUBLIC HEARING:~~

- Consent 1. **Code Compliance Site Clean-up:** A resolution awarding Bid #06-CC01 to Robert Evans in the amount of \$25,000.00 to provide site clean-up services for the City Code Compliance efforts.

D. NEW BUSINESS:

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2. **AMD 05-1841, 05-1842, 05-1879 Hillside Overlay District:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville to amend various sections of the code in order to implement hillside preservation and protection, establish a Hillside Overlay District Zoning Boundary and Map, and adopt the Hillside Overlay District Best Management Practices Manual.

3. **ANX 06-1853 (Nock/Broyles):** An ordinance annexing that property described in annexation petition ANX 06-1853, for property located north of Weir Road and east of Salem Road and Howard Nickell Road, containing approximately 39.11 acres.

4. **RZN 06-1854 (Nock/Broyles):** An ordinance rezoning that property described in rezoning petition RZN-06-1854 for approximately 39.11 acres located north of Weir Road and east of Salem Road and Howard Nickell Road from R-A, Residential Agricultural to RSF-2, Residential Single Family, 2 units per acre.

5. **ANX 06-1867 (Wales):** An ordinance annexing that property described in annexation petition ANX 06-1867, CC2005-38, for property located at 2055 North Fox Hunter Road, containing 1.4 acres.

6. **R-PZD 05-1619 (Westbrook Village):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1619, Westbrook Village, located at tracts 1 and 2 of the original Salem Village P.U.D., containing approximately 1.42 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

7. **RZN 06-1852 (Scholars Inn):** An ordinance rezoning that property described in rezoning petition RZN 06-1852 for approximately 1.74 acres located at 1125, 1137, 1153, 1189 north West End Avenue from RSF -4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre.

8. **RZN 06-1868 (Chambers):** An ordinance rezoning that property described in rezoning petition RZN 06-1868 for approximately .20 acres located at 347 North Willow Avenue from RSF-4 Residential Single-Family, 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre.

9. **Smith 2 Way Tower Appeal:** Need resolution from Kit or Jeremy Pate. — No resolution needed.

10. **R-PZD 05-1735 Paddock Road Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1735, Paddock Road, located southwest of the intersection of Paddock Road and Happy Hollow Road; containing approximately 9.77 acres; amending the official zoning map of the City of Fayetteville, and adopting the associated Master Development Plan.

11. **Van Scoyoc and Associates Contract:** A resolution approving a memorandum of agreement with Van Scoyoc Associates in the amount of \$84,000.00 to provide lobbying services to the City of Fayetteville.

12. **Fayetteville Government Channel Policy:** A resolution approving revisions to the Fayetteville Government Channel Use and Programming Policy.

Consent
13. **Dead Horse Mountain Bridge:** A resolution expressing the willingness of the City of Fayetteville to utilize Federal-aid monies for the replacement of structure No.17332 over the West Fork of the White River on Dead Horse Mountain Road.

14. **BMW Investments, LLC:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with BMW Investments, LLC in an amount not to exceed \$535,934.80 for the widening of Ruppel Road adjacent to the Clabber Creek Subdivision, Phases 3, 4 and 5.

Consent
15. **Traffic Signal Morningside Drive:** A resolution authorizing City staff to design and construct a traffic signal at the intersection of 15th Street and Morningside Drive.

Consent #5
16. **Fire Station Construction Bond:** A resolution of intent regarding the reimbursement of certain costs and expenses incurred in connection with the acquisition, construction and equipping of fire station improvements within the city.

E. INFORMATIONAL:

A presentation by Rick Wilcox of NW Medical Transfer will be given on patient transfers – Agenda Session Only.

City Council Tour: February 6, 2006 - 4:30 PM

Razorback Road

*Wedington Drive
Relocation*

Water & Sewer

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody, Mayor**

THRU: **Sondra Smith, City Clerk**

FROM: **Kit Williams, City Attorney**

A handwritten signature in dark ink, appearing to read 'Kit Williams', written over a horizontal line.

DATE: **February 8, 2006**

RE: **Passed Ordinances and Resolutions from City Council meeting
of February 7, 2006**

1. **Elm Springs Animal Sheltering Services:** Resolution approving interlocal agreement between Fayetteville and Elm Springs to provide animal sheltering services to Elm Springs for 2006;
2. **Goshen Animal Sheltering Services:** Resolution approving interlocal agreement between Fayetteville and Goshen to provide animal sheltering services to Goshen for 2006;
3. **Wittenberg, Delony & Davidson, Inc. – Fire Station #5 Design:** Resolution approving contract in amount of \$70,000.00 w/Wittenberg, Delony & Davidson, Inc. for design and oversight of replacement for current Fire Station #5;
4. **Fire Station Construction Bond:** Resolution of intent regarding reimbursement of certain costs and expenses incurred in connection w/acquisition, construction and equipping of fire station improvements within the City;
5. **Walker Park Sign – Right of Way Variance:** Resolution approving variance from Master Street Plan setback requirements to allow for construction of an entrance sign at Walker Park;

6. **Arkoma Playgrounds & Supply:** Resolution accepting proposal in amount of \$79,699.00 from Arkoma Playgrounds & Supply for installation of new playground equipment at Yvonne Richardson Community Center;
7. **A & P Commission:** Resolution approving agreement w/Fayetteville A & P Commission to collect and account for the 1% A & P Commission HMR tax;
8. **Code Compliance Site Clean-up:** Resolution awarding Bid #06-CC01 to Robert Evans in amount of \$25,000.00 to provide site clean-up services for City Code Compliance efforts;
9. **Van Scoyoc & Assoc. Contract:** Resolution approving memorandum of agreement w/ Van Scoyoc Assoc. in amount of \$84,000.00 to provide lobbying services to City of Fayetteville;
10. **Dead Horse Mountain Bridge:** Resolution expressing willingness of City of Fayetteville to utilize Federal-aid monies for replacement of structure No. 17332 over the West Fork of the White River on Dead Horse Mountain Road;
11. **Traffic Signal Morningside Drive:** Resolution authorizing City staff to design and construct a traffic signal at intersection of 15th Street and Morningside Drive;
12. **R-PZD 05-1776:** Ordinance establishing Residential Planned Zoning District, Wedington Circle, located north of Wedington Drive (Hwy. 112 Spur) and west of Garland Avenue, containing approximately 6.13 acres; amending official zoning map of City of Fayetteville; and adopting associated Master Development Plan;
13. **BioBased Realty:** Ordinance waiving requirements of formal competitive bidding and approving contract for demolition services w/BioBased Realty, LLC, BioBased Technologies, LLC, and BioBased Systems, LLC, in exchange for a \$17,000.00 credit toward purchase of Water & Sewer Operations Center on Cato Springs Road;
14. **ANX 06-1867:** Ordinance annexing property described in ANX 06-1867, for property located at 2055 N. Fox Hunter Road, containing 1.4 acres;
15. **RZN 06-1852:** Ordinance rezoning property described in RZN 06-1852 for approximately 1.74 acres located at 1125, 1137, 1153, 1189 North West End Avenue from RSF-4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre;

16. Smith Two-Way Tower Appeal: Resolution granting appeal of Planning Commission's passage of Condition Use Permit 06-1875, a request for a wireless communications tower at 520 N. College Ave. to replace existing non-conforming towers;

17. R-PZD 05-1735 Paddock Road Appeal: Ordinance establishing Residential Planned Zoning District titled R-PZD 05-1735, Paddock Road, located southwest of intersection of Paddock Road and Happy Hollow Road; containing approximately 9.77 acres; amending official zoning map of City of Fayetteville and adopting associated Master Development Plan;

18. Fayetteville Government Channel Policy: Resolution approving revisions to Fayetteville Government Channel Use and Programming Policy;

19. Goodwin & Goodwin, Inc: Resolution approving construction contract w/Goodwin & Goodwin, Inc. in amount of \$722,890.50 for water & sewer relocation for highway improvements to Razorback Road; approving project contingency in amount of \$72,000.00; and approving a budget adjustment in amount of \$314,231.00;

20. Crossland Heavy Contractors Contract – Wedington Drive Water & Sewer Relocation Project: Resolution approving construction contract w/Crossland Heavy Contractors, Inc. in amount of \$1,591,426.20 for water and sewer relocation for highway improvements to Wedington Drive; approving project contingency in amount of \$160,000.00 and approving budget adjustment in amount of \$252,837.00.

Hillside Ordinance
2/7/06

Tracy K. Hoskins
Paradigm Development
3155 N. College, Suite 201
Fayetteville, AR 72703
(479) 571-1387

RE: Proposed Hillside Ordinance and Best Management Practices Manual

Dear City Council Members,

My comments about the new "Hillside Ordinance" are the same today as they were at the very first meeting; "what we are crafting is not a hillside ordinance; this is a "View-shed Ordinance". As a lifelong resident of Fayetteville, the President of an environmentally sensitive development company, and an owner of many acres of property located within the proposed Hillside Overlay Zone, I am opposed to the currently proposed draft of the new Hillside Ordinance. I view the ordinance as a "down-zoning" in disguise.

Though not impossible to develop the hillsides as proposed, the criteria suggested limits my ability to develop my properties to their fullest potential and puts me on an unfair playing field with those who own similarly zoned properties in flatter areas. The new ordinance also adds undue expense (hardship) in having to comply with some of the regulations. Extra expenses could include rock or concrete stem/retaining walls, premium priced parking, elevators, unusual and costly drainage/detention, and extra costs associated with compliance of the Americans with Disabilities Act. The notion that "developers can comply with any ordinance if they throw enough money at it" is not acceptable. We experience elevated cost issues with current ordinances.

I am specifically opposed to any ordinance that dictates or limits the way I design my houses or other structures. To impose regulations in regard to "which way my roof should drain", or "what colors I am to use" is not acceptable. Individual architectural preferences should be left solely in the hands of the property owner. We should never try to dictate our individual or collective "taste" by ordinance. If the "public" feels some sense of entitlement in regards to view-shed, my property is for sale and the "public" should buy it. I admit that I am not pleased with some folks taste in architecture, however, it's their property; theirs to do with what they will, as long as it causes no harm to the public at large... Personal taste is not something that can be, nor should be, dictated by ordinance.

To specifically address some items in the "Best Management Practices Manual";

- ◆ Page 2, item 4. Again, this is part of a "View-shed Ordinance" and has nothing to do with protecting hillsides.
- ◆ Page 2, item 6. Common ground is far from being achieved.
- ◆ Page 3, "View-shed protection". As stated, this proves the obvious intent of the ordinance.
- ◆ Page 3 "Do not stifle creativity or require a homogenous product". This ordinance does just that. It regulates height, direction of roof drainage, and suggests particular architectural elements.
- ◆ Pages 5 and 6 drawings. While this is all fine and well in theory, it potentially will not work in the real world, and the costs could be financially economically unfeasible.
- ◆ Page 7. Any Hillside ordinance should be restricted to the definition of the term "hillside". Any property that is not of 15% grade or greater should not be included in the "overlay". Grades under 15% around town are not subject to the new ordinance. To include these more gradual slopes, regardless of whether or not they are located "at the foot of", "or "on top of" the hillsides (greater than 15%), puts the property owner at a disadvantage with other property owners and is effectively "down-zoning" the property.

- ◆ Page 10. Foundations are to be designed by an engineer. Architects should be allowed to design these foundations as well.
- ◆ Pages 12 and 13. As stated on page 12, we currently have codes to govern "flatter ground" which are adequate. This ordinance should be limited to 15% or greater.
- ◆ Page 14, item 1. In some cases, a 20' street should be adequate and should be allowed in extreme terrain situations. Item 2. If we are trying to limit clearing, why are we requiring a five foot sidewalk when a three or four foot sidewalk is adequate? Exactly what is the green space requirement between the sidewalk and the back of curb?
- ◆ Page 18. Why does the ordinance require the installation of a five foot sidewalk? This paragraph states that it is "required by the Americans with Disabilities Act". As we have been unable to find this regulation, I ask that staff sight this regulation for me. Again, a five foot sidewalk only creates the need for more clearing which is in conflict of the spirit of the ordinance.
- ◆ Page 19. "Encourage tree preservation areas on the rear of the lots so that they will screen the home-site from the valley view-shed". Is this more of that "perceived ownership"? In many cases, this would be impractical, if not impossible. It should not be left up to Staff to determine the feasibility of this guideline on a case by case basis. Sometimes people create architectural structures because they want them to be seen, and it is their First Amendment right to do so.
- ◆ Page 21. It states that a Developer who uses the PZD process should use the HBMP to "guide their development". Does this mean the new ordinance is merely a suggestion? Would a hillside development be approved if a Developer declines to implement the HBMP? I don't think so. Is this ordinance mandatory or is it not? This page once again refers to views "from the valley below".
- ◆ Pages 24 thru 27, pictures. Notice every picture is of a home that has been built for many years. Do we have knowledge of whether or not most all the trees were removed during construction, and time has replaced those trees?
- ◆ Page 28, picture. Notice in this picture that this house was obviously constructed on a very small lot, the extensive low level landscaping, and that the trees around the house are not mature trees. It is evident any mature existing trees were obviously removed during the construction, if there were any in the first place.
- ◆ Page 30. Architectural elements such as roof direction or colors should not be mandated by ordinance.
- ◆ Page 34. If the structure is measured from the lowest elevation of historical grade to the highest point of the structure, why would it matter which side of the road you are on, whether you can build three stories or four stories? The limitation of building height in relation to setbacks and preserved areas are directly in conflict with one another. Building height should not be regulated.
- ◆ Page 37. The ADEQ and the city Engineering department already have strict rules and regulations in regards to alteration of land and storm water runoff. To include more regulation in the new hillside ordinance is just plain anti-productive.

While I agree with the Hillside Ordinance in theory, I disagree with the crafted language. The ordinance should be limited to regulations on engineering, set-backs, street cross-sections, responsible tree mitigation (as current ordinances dictate), re-vegetation, modified sidewalk requirements, modified storm drainage, the individual lot owners' limitations, and responsible construction practices.

A proactive step to preserving the hillsides and tree canopy is to minimize grading as much as possible. The City and the utility companies should abandon the idea of wide streets with wide rights-of-way; allowing for narrower street cross-sections will considerably reduce the public's view of hillside developments. The proposed ordinance appropriately addresses this concept.

The ordinance should not include any language that limits the architectural control of the property owner. Short of "hack-n-slash" clearing of lots, it should not include any language that limits the structure owner's view of the city or the city's view of the structure. Esthetically challenged,

architecturally tasteless buildings protruding through the trees have never really been a problem in Fayetteville. As people drive from Alma to Fayetteville, they are viewing a landscape of mountainous terrain covered with trees and pastures; a beautiful drive. When they top the hill north of Greenland they are greeted by a postcard perfect picture of an awesome city of tree covered hills, with structures protruding through those trees such as Old Main, the Old Courthouse, Reynolds Stadium, and even the Federal building. The drive from Alma to Fayetteville is indeed beautiful, but the view from the top of that final hill at the south gate to the city is awesome. The visible buildings are what make the difference.

The opposite of "*bad* development" is "*good* development"; not "*no* development". To me, as written, the proposed Hillside Ordinance and the HBMP suggests the City of Fayetteville would like to discourage the development of its hillsides, hilltops, and foothills, which describes a grand portion of any remaining development property within the city limits. Many would consider this ordinance another message that developing in Fayetteville isn't easy, or is it economical.

Sincerely,

Tracy K Hoskins

A handwritten signature in black ink, appearing to be 'Tracy K Hoskins', written over the printed name.

~~Please insert into~~

Please insert/replace these pages in
the staff report for D-220-05-1735,
Dadduck Road. These reflect the
conditions of approval as amended by
the City Council last night. Jude has
the ordinance.

Thanks,

Jermy

02-08-06



PC Meeting of January 09, 2006

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, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~January 5, 2006~~ ~~Updated January 16, 2006~~ **UPDATED FEB 08, 2006**

R-PZD 05-1735: Planned Zoning District (PADDOCK ROAD S/D, 526): Submitted by N. ARTHUR SCOTT for property located at SW CORNER PADDOCK LANE AND HAPPY HOLLOW ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 9.77 acres. The request is for 58 dwelling lots, of which 33 are detached and 25 are attached townhomes.

Property Owner: HOMETOWN DEVELOPMENT

Property Owner: NORMA OSBURN

Planner: SUZANNE MORGAN

Findings:

Property Description: This site is located on the southeast edge of Mount Sequoyah, along the west side of Happy Hollow Road and south of Paddock Lane. The site is heavily wooded and steep.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Mount Sequoyah Preserve	RSF-4
South	Scattered single family dwellings	RSF-4
East	Timber Trails (Cliffside) – <i>R-PZD at 4.25 units/acre</i>	R-PZD
West	Largely undeveloped residential property	RSF-4

Proposal: The applicant requests a rezoning and Master Development Plan and Preliminary Plat approval for a mixed-use project on the property. The proposal includes a maximum of 58 dwelling units within the proposed subdivision. The development will consist of 33 single family detached dwelling units on both large lots, comparable to the RSF-4 zoning district, and narrow lots to allow urban densities. A total 25 lots will allow for townhome development.

The overall density is 5.91 units per acre. This development would create a unique R-PZD combining single-family detached and multiple family townhomes, and would be in the immediate vicinity of the Happy Hollow Elementary School and Mount Sequoyah Preserve. The applicant has attempted to modify the street alignment to reduce the number of streets that follow the slope of the land to reduce the incline and visibility of the streets.

The applicant has attempted to transition between the detached and attached units, attempting to place the more dense development near the adjacent Collector Street, parkland and in areas with less tree canopy. The Planned Zoning District contains a total nine Planning Areas. Each Planning Area has its own specific density (maximum number of dwellings units allowed), depending upon the desired effect. For reasons of zoning, each Planning Area also has to have established bulk and area criteria, setbacks, height, etc. The information is provided both in a booklet form, which describes the intent of each Planning Area along with a drawing of the overall Planning Area boundaries, and by way of the larger plat, which gives more engineered information. The applicant requests approval of both the zoning, given the proposed Master Development Plan, statement of commitments, and development standards, but also approval of the preliminary plat which would allow the immediate review of construction plans.

Process: The purpose of the subject request is for a rezoning and development approval. Approval of the Residential Planned Zoning District would effectively rezone the property based on the engineered plans and information provided.

Bulk and area criteria: While usually provided within the staff report, zoning criteria for each Planning Area has been provided in duplicate by the applicant. The project booklet provided gives the zoning criteria in detail, as do the Master Development Plans. Please reference this provided material for more information.

Water & Sewer: Water lines and sewer lines are currently being made available in the vicinity with the development of Timber Trails R-PZD directly to the east. Public water and sewer lines will be extended to serve the proposed development and will be designed and constructed in accordance with city specifications to serve the development.

Adjacent Master Street Plan Streets:

- East: Happy Hollow Road (Collector Street), to be improved by the City of Fayetteville & Crossover Road (Principal Arterial)
- South: Huntsville Road (Principal Arterial)

Traffic: Access to the site is provided from Crossover Road and Happy Hollow Road to the east and Huntsville Road to the south. There are at this time no roads constructed which would give access to the property to the west, over Mount Sequoyah. The intersection of Happy Hollow and Huntsville Road is planned to be realigned and signalized by the City of Fayetteville in the near future. A traffic study was not recommended for the proposed development.

Interior to the project, public and private streets and alleys are proposed. The applicant has proposed several cross sections for the streets within the development which would require waivers of the current street standards. Staff requested that all proposed street sections and be enlarged from a 23' wide street to 24'; this has been done on the plat, though the street stub-out to the south is shown as a 23' wide street. This will need to be modified with construction plans. A 24' wide street would not only be in compliance with the width of a Residential Street, but making the street stub-outs this width will make it possible for future developments to extend these streets without requesting waivers or constructing odd transitions in width. The applicant proposes both alleys and private access easements for rear access and entry to many of the

townhome lots. Pedestrian circulation has also been addressed with sidewalks on either one or both sides of the proposed streets.

Street Improvements: Staff recommends the following improvements:

- ◆ Improve Happy Hollow Road to include a 14' wide street section from centerline with curb, gutter, storm drains and a 6-foot sidewalk at the Master Street Plan right-of-way.
- ◆ Dedication of right-of-way in conformance with the Master Street Plan for all interior streets and Happy Hollow Road.
- ◆ The construction of 15 parking spaces and a landscape island north of Paddock Road to serve as parking for the Mount Sequoyah Park.

Tree Preservation: The property is primarily wooded and located on a hillside. There are several existing easements on the property, including a 100' electric easement, which impedes development of the property. The applicant has attempted to work around the natural features, trees and drainage, as well as the easements on the property by clustering development to the north and east. Four large areas have been designated as tree preservation/common area and additional area has been shown to be preserved and protected by covenants to be filed with the Final Plat. The tree preservation lots will be owned and maintained by the Property Owner's Association. A Tree Preservation Plan has been submitted for this development. The applicant proposes to exceed the expected minimum percent canopy requirements, which is 25% in property zoned PZD, by preserving no less than 30% of the existing canopy through the development of the infrastructure and disturbance within proposed utility easements. More detailed comments from the Urban Forester are included in the attached staff report.

Parks: The Parks and Recreation Board recommends money in lieu of park land dedication. Additionally, the applicant has agreed to provide parking for the park land north of the subject property. More detailed comments from the Parks Planner are included in the attached staff report.

Public Comment: Staff has received several inquiries from adjacent property owners. Any written comments from adjacent property owners will be submitted to the Planning Commission.

Additional Information: The applicant submitted the proposed Planned Zoning District application to the Planning Division on September 15, 2005. It was reviewed at the Technical Plat meeting of October 19, 2005, after which staff has held several meetings with the applicant and his representative(s) to further discuss the waivers requested, street alignment and tree preservation. The item was reviewed by the Subdivision Committee on December 29, 2005 and forwarded to the Planning Commission.

Recommendation: Staff recommends approval of the Residential Planned Zoning District for Paddock Road Subdivision (R-PZD 05-1735) with the following conditions:

Conditions of Approval:

1. Planning Commission determination a waiver request from the minimum street grade requirements of 10% and 15% for a maximum of 300' in hilly terrain to allow the following:
 - i. Paddock Road – 12.3% from Sta 0+50 to Sta 5+30
 - ii. Acacia Drive – 12.4% from Sta 0+50 to Sta 3+00 and 14.7% from Sta 3+00 to Sta 5+10

After significant review and coordination between the developer and City Engineering, staff recommends approval of the requested waivers of typical street standards.

CITY COUNCIL DETERMINED IN FAVOR (02-07-06)

2. Planning Commission determination a waiver request from minimum street grade of 4% for 100' from an intersection to allow the following:
 - i. Happy Hollow Road and Acacia Drive – 5.4%
 - ii. Acacia Drive and Street 1C – 10.26%
 - iii. Street 1C and Street 3 – 12.97%

After significant review and coordination between the developer and City Engineering, staff recommends approval of the requested waivers of typical street standards.

CITY COUNCIL DETERMINED IN FAVOR (02-07-06)

3. A waiver request of minimum residential street radius of 150'. The applicant requests the following minimum radii:
 - i. Paddock Road and Street 1B – 50'
 - ii. Street 1A and Street 2 – 75'
 - iii. Street 1A and Street 3 – 75'

After significant review and coordination between the developer and City Engineering, staff recommends approval of the requested waivers of typical street standards.

CITY COUNCIL DETERMINED IN FAVOR (02-07-06)

4. A waiver request from minimum street standards for the width of Paddock Road and Acacia Drive. *Staff recommends that the applicant modify the southern stub-out from 23' street width to a minimum 24' street width. Additionally, the street width on either side of the proposed landscape islands located within the principal east-west street shall be a minimum 20', which may require the increase of right-of-way or reduction of the width of the landscape islands.*
5. Planning Commission determination of appropriate street alignment. *Staff recommends that the stub-out to the west be realigned either to the north or south so that it does not terminate adjacent to two property owners. This will potentially create problems should either property owner desire to develop and require the dedication of the other's property for right-of-way.*

CITY COUNCIL AMENDED (02-07-06). THE WEST STREET STUB-OUT SHALL BE RELOCATED TO THE NORTH TO ALLOW COMPLETE STREET

**CONSTRUCTION TO THE ADJACENT (NORTH) PROPERTY OWNER'S
EASTERN PROPERTY LINE.**

6. Planning Commission determination of a waiver of parking regulations described in Ch. 172.04A which prohibits backing vehicles into public right-of-way to allowing perpendicular (90°) parking north of Paddock Road for the Mount Sequoyah Preserve park land. *Staff recommends approval of the requested waiver finding that the proposed parking on Paddock Road will not create a dangerous traffic situation. Access to those lots on Paddock Road will be provided by an access easement leaving the street relatively clear of residential vehicular movements and Paddock Road will not be a through street.*

CITY COUNCIL DETERMINED IN FAVOR (02-07-06)

7. Planning Commission determination of street improvements, to include the following:
 - a. Installation of a 14' wide street from centerline of Happy Hollow Road, including 14' pavement, curb, gutter, storm drains, and a 6' sidewalk.
 - b. The construction of 15 parking spaces and a landscape island north of Paddock Road to serve as parking for the Mount Sequoyah Park.

CITY COUNCIL DETERMINED IN FAVOR (02-07-06)

8. Dedication of right-of-way in conformance with the Master Street Plan and/or approved waivers for street standards for all interior streets and 35' right-of-way from centerline of Happy Hollow Road.
9. Structures located on lots adjacent to Happy Hollow Road shall be constructed to face Happy Hollow Road.
10. Any landscape island shall be exclusive of the right-of-way, owned, and maintained by the Property Owner's Association.
11. Zoning and development criteria shall be enforced as approved by the City Council as currently referenced in the attached zoning criteria.
12. Future development shall comply with at least the minimum design standards for development in the Unified Development Code with exceptions listed herein, including but not limited to landscaping, parking, access, street design, stormwater detention, etc. Buildings proposed shall be reviewed to ensure appropriate architectural compatibility, compliance with commercial design standards, and/or conformance with the architectural standards and concepts provided with the subject submittal.
13. Parks fees in the amount of \$32,190 for 58 single-family units shall be paid prior to issuance of the final plat.
14. Conditions included in the Tree Preservation Report prepared for this Planning Commission meeting are hereby included in the official conditions of approval for the Paddock Road Subdivision.

15. The ordinance does not allow for Tree Preservation Easements on residential lots used for single family use. Restrictions within the Tree Preservation Easements identified on the plat shall be established in the covenants and regulated by the Property Owners Association.
16. All signage within each Phase of the Master Development Plan shall be permitted in accordance with the current sign regulations at the time of development. The development comply with the RSF-4 zoning district requirements which would allow a moderate amount of signage, such as a subdivision sign, if so desired.
17. Compliance with federal, state and local regulations regarding the development of any wetlands is required.
18. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.
19. The applicant shall install signs at each street stub-out to indicate the future extension of said street prior to the application of signatures on the final plat.
20. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks.
21. Buildings shall be constructed generally as depicted in the building elevations in the booklet with the materials specified.

Standard Conditions of Approval:

22. The applicant shall be granted one (1) year from the date of Planning Commission approval to receive all permits necessary for development of the Phase with a one (1) year extension available.
23. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
24. Prior to building permit, a cost estimate for all required public improvements are required to be submitted to Planning Staff for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
25. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential multi-family development. This shall be reflected in the booklets and on the plats.

26. 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).
27. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
28. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
29. Prior to the issuance of a building permit the following is required:
- Grading and drainage permits
 - An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - Separate easement plat for this project that shall include the tree preservation area.
 - Project Disk with all final revisions
 - Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action: Required YES
 ☐ Approved ☒ Denied ☐ Tabled

Meeting Date: January 09, 2006

Motion: Lack

Second: Myres

Vote: 4-3-0 with Commissioners Ostner, Allen, and Clark voting no.

Comments: The Motion was to approve finding in favor of conditions 1, 2, 3, 4, 6, and 7. Also finding on Condition 5 that the western stub-out should be moved north such that the southern right-of-way line was adjacent to the southern property line of the northern property. The vote failed for lack of five affirmative votes. Main concerns were with regard to the affects of the proposed density on this hillside.

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

Signature

Date

CITY COUNCIL ACTION:

Required YES

City Council Action:

☒ Approved ☐ Denied ☐ Tabled

Vote:

8-0-0

Meeting Date:

February 07, 2006

Comments:

APPROVED AS AMENDED BY THE CITY COUNCIL

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this rezoning/master development plan item.

By _____

Date _____

RESOLUTION NO. _____

**A RESOLUTION OF INTENT REGARDING THE REIMBURSEMENT
OF CERTAIN COSTS AND EXPENSES INCURRED IN CONNECTION
WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF
FIRE STATION IMPROVEMENTS WITHIN THE CITY**

WHEREAS, the City of Fayetteville, Arkansas (the "City") desires to obtain financing for the acquisition, construction and equipping of certain fire station facilities (the "Project"); and

WHEREAS, the total costs of the Project, including expenses associated with the financing thereof, are presently estimated to be approximately \$3,431,000.00; and

WHEREAS, the City does not currently have adequate funds on hand to pay the estimated costs of the Project and related expenses; and

WHEREAS, the City presently intends to obtain the necessary funds to accomplish the Project and to pay related expenses through the issuance of tax-exempt indebtedness in principal amount not to exceed \$3,000,000; and

WHEREAS, the purpose of this Resolution is for the City to declare its "official intent" to reimburse itself for certain preliminary costs (incurred by or on behalf of the City and related to the Project) pursuant to Section 1.150-2 of the Regulations of the U.S. Department of Treasury promulgated pursuant to the provisions of the Internal Revenue Code of 1986, as amended;

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

Section 1: That the adoption of this Resolution is intended as the City's "official intent" to reimburse itself from the proceeds of tax-exempt indebtedness for preliminary costs of the Project and related expenses advanced by the City.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Smith Two Way Appeal

January 6, 2005

The Fayetteville Subdivision Committee has been asked to review a proposed CONDITIONAL USE PERMIT described as follows:

CUP 06-1875: (SMITH 2-WAY, 446): Submitted by MICHAEL SMITH/GARY COCHRAN SMITH 2-WAY RADIO for property located at 520 N COLLEGE AVENUE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.51 acres. The request is for a cell tower at the rear of the subject property.

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

1. Printed Name

Residence Address

Renée & Terry Hunt

432 N. Washington Ave

Signature

Renée G. Hunt
Renée Hunt

City

Zip

Fayetteville

72701

2. Printed Name

Residence Address

Margaret Salassi

312 E Maple

Signature

Margaret Salassi
Margaret Salassi

City

Zip

Fcy

72701

3. Printed Name

Residence Address

Pam Horowitz

188 E Davidson

Signature

Pam Horowitz
Pam Horowitz

City

Zip

Fayetteville 72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

4. Printed Name

Residence Address

GARY PHOIBES OWENS

501 N WASHINGTON AVE

Signature

City

Zip

Gary Phibes Owens

Fayetteville AR 72701

5. Printed Name

Residence Address

Claudette C. Lunsford

513 N. Washington Ave

Signature

City

Zip

Claudette Lunsford

Fayetteville AR 72701

6. Printed Name

Residence Address

Mike Owings

419 N. Washington Ave, Fayetteville, AR, 72701

Signature

City

Zip

Mike Owings

Fayetteville, AR 72701

7. Printed Name

Residence Address

Melissa Owings

419 N Washington Ave Fayetteville, AR 72701

Signature

City

Zip

Melissa Owings

8. Printed Name

Residence Address

Donna Musarra

422 N. Washington Ave.

Signature

City

Zip

Donna Musarra

Fayetteville, AR 72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

9. Printed Name

Residence Address

Elizabeth I Duell

415 N Washington

Signature

City

Zip

Elizabeth I Duell

Fayetteville

72704

10. Printed Name

Residence Address

DAVID DUELL

415 WASHINGTON

Signature

City

Zip

David Duell

FAYETTEVILLE

01

11. Printed Name

Residence Address

SHARON DANIEL / TOM DANIEL

416 N WASHINGTON

Signature

City

Zip

Sharon Daniel / Tom Daniel

FAY

01

12. Printed Name

Residence Address

DAVID MERVIS

422 N. WASHINGTON NW

Signature

City

Zip

David Mervis

FAY

01

13. Printed Name

Residence Address

DONALD REIS

Signature

City

Zip

Donald Reis

FAY

72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

14. Printed Name

Residence Address

Kathryn Reis

530 N Washington Ave

Signature

City

Zip

Kathryn Reis

Fayetteville AR 72701

15. Printed Name

Residence Address

Anne C. Thomas

525 N. Washington

Signature

City

Zip

Anne C. Thomas

Fay 72701

16. Printed Name

Residence Address

PATRICK SCOTT LUNSFORD

~~513~~ 513 N WASHINGTON

Signature

City

Zip

[Signature]

Fayetteville AR 72701

17. Printed Name

Residence Address

Elise Lunsford

513 N. Washington Ave

Signature

City

Zip

Elise Lunsford

Fayetteville AR 72701

18. Printed Name

Residence Address

Anna Bunner

513 N. Washington Ave

Signature

City

Zip

Anna Bunner

Fayetteville, Ar 72703

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

19. Printed Name

Residence Address

Melinda Jenkins

503 N. Washington

Signature

City

Zip

Melinda J. Jenkins

Fayetteville

72701

20. Printed Name

Residence Address

Wayne Jenkins

503 N. Washington

Signature

City

Zip

Wayne Jenkins

Fayetteville

72701

21. Printed Name

Residence Address

Michael P. Hoffman

409 N. Washington Ave

Signature

City

Zip

Michael P. Hoffman

Fayetteville

AR 72701

22. Printed Name

Residence Address

Joan I. Havens

400 N. Washington

Signature

City

Zip

Joan I. Havens

Fayetteville, AR 72701

23. Printed Name

Residence Address

Robert T. Patrone

322 N WASHINGTON

Signature

City

Zip

Robert T. Patrone

FAY

72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

24. Printed Name Diane Carroll Residence Address 329 N. Washington
Signature Diane Carroll City Fayetteville Zip 72701

25. Printed Name HERBERT A. LEWIS Residence Address 327 N. WASHINGTON
Signature Herbert A. Lewis City Fayetteville Zip AR 72701

26. Printed Name Joan Smith Residence Address 326 N. Washington Ave
Signature Joan Smith City Fayetteville Zip 72701

27. Printed Name Richard M. Smith Residence Address 326 N. Washington Ave
Signature Richard M. Smith City Fayetteville Zip AR 72701

28. Printed Name Bryan Benfield Residence Address 717 E. Sutton
Signature B. Benfield City Fayetteville Zip AR 72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

29. Printed Name

Residence Address

Kelly Byrd

219 Sutton St.

Signature

City

Zip

Kelly Byrd

Fayetteville

72701

30. Printed Name

Residence Address

Mary Gosnell

220 Sutton

Signature

City

Zip

Mary Gosnell

Fayetteville

72701

31. Printed Name

Residence Address

VIRGINIA PERKINS

218 E. SUTTON ST.

Signature

City

Zip

Virginia Perkins

Fayetteville, AR

72701

32. Printed Name

Residence Address

Katherine Kim

338 Washington Ave Fayetteville

Signature

City

Zip

[Signature]

[Signature]

AR 72701

33. Printed Name

Residence Address

John Mathias

348 N. Washington Ar

Fayetteville, Ar.

72701

Signature

City

Zip

John Mathias

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

34. Printed Name

Residence Address

THOMAS H. LEWIS 504 N. WILLOW AVE

Signature

City

Zip

Thomas H. Lewis Fayetteville AR 72701

35. Printed Name

Residence Address

MIKE D. Lamberth 210 E Davidson St.

Signature

City

Zip

Mike D. Lamberth Fayetteville, AR 72701

36. Printed Name

Residence Address

Melissa Banks 608 N. Willow

Signature

City

Zip

Melissa Banks Fayetteville, AR 72701

37. Printed Name

Residence Address

Betsy Ball 613 N. Willow

Signature

City

Zip

Betsy Ball Fayetteville AR

38. Printed Name

Residence Address

Jan Ragland 617 N Willow

Signature

City

Zip

Jan Ragland Fayetteville AR 72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

39. Printed Name

Residence Address

Sherman Storchio

125 Conner St
FAYETTEVILLE AR 72701
City Zip

Signature

Storchio

40. Printed Name

Residence Address

Rick Kinig

125 Conner St

Signature

Rick Kinig

City

Zip

FAY

72701

41. Printed Name

Residence Address

William Schreckhise

511 N. Willow Ave

Signature

William Schreckhise

City

Zip

FAY

72701

42. Printed Name

Residence Address

John C. Lusth

503 N. Willow

Signature

John C. Lusth

City

Zip

FAY

72701

43. Printed Name

Residence Address

Kay Pritchett

323 N. Willow

Signature

Kay Pritchett

City

Zip

FAY

72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

44. Printed Name

Residence Address

Charles Alison

317 E. Sutton

Signature

City

Zip

Charles Alison

Fayetteville 72701

45. Printed Name

Residence Address

DAVID PRYOR

603 WILLOW

Signature

City

Zip

David Pryor

FAY 72701

46. Printed Name

Residence Address

BARBARA PRYOR

603 N. Willow

Signature

City

Zip

Barbara Pryor

FAYETTEVILLE 72701

Claudette Hunnicutt

520 N. Washington

47. Printed Name

Residence Address

72701

Signature

City

Zip

Claudette Hunnicutt

FAYETTEVILLE 72701

48. Printed Name

Residence Address

DON HUNNICUTT

520 N. WASHINGTON AVE

Signature

City

Zip

Don Hunnicutt

FAYETTEVILLE, AR 72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

49. Printed Name

Residence Address

HARRIETT BANARD

526 N. WILLOW

Signature

City

Zip

Harriett Banard

Fayetteville

72701

50. Printed Name

Residence Address

JAY B. JABLONSKI

534 N WILLOW

Signature

City

Zip

JAY B JABLONSKI

FAYETTEVILLE

72701

51. Printed Name

Residence Address

Gwen O'Kearrille

514 N Willow

Signature

City

Zip

Gwen O'Kearrille

Fayetteville AR

72701

52. Printed Name

Residence Address

Francis Philip

516 N. Willow Ave

Signature

City

Zip

Francis Philip

Fayetteville AR

53. Printed Name Catherine Totten

Residence Address

618 N. Willow Ave

Signature

City

Zip

Catherine Totten

Fayetteville Ar

72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

54. Printed Name

Residence Address

Shea Weidner

308-A N. Willow

Signature

City

Zip



Fayetteville 72701

55. Printed Name

Residence Address

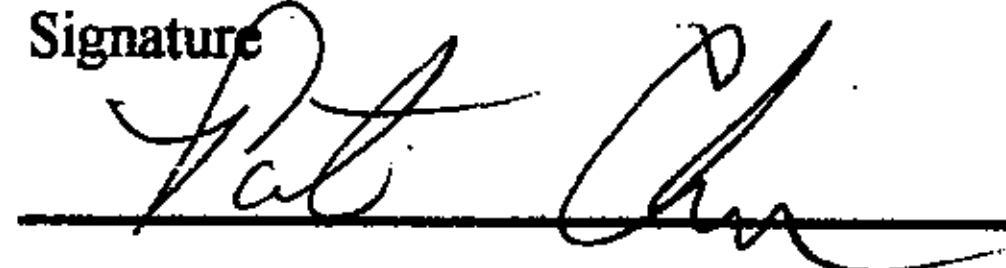
Patrick Chase

731 N. Willow

Signature

City

Zip



F 72701

56. Printed Name

Residence Address

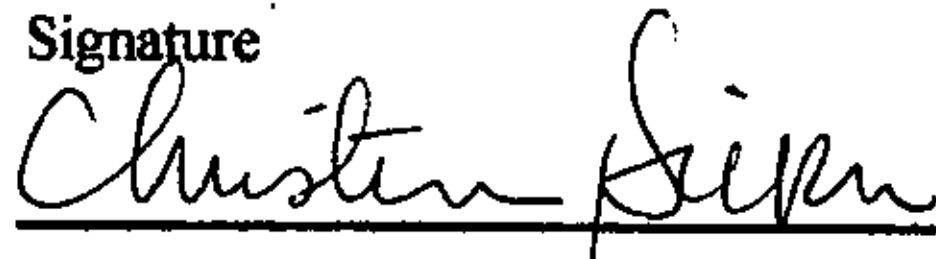
Christine Hilker

311 E. Prospect

Signature

City

Zip



Fayetteville 72701

57. Printed Name

Residence Address

RON HILKER

311 E. PROSPECT

Signature

City

Zip



FAYETTEVILLE 72701

58. Printed Name

Residence Address

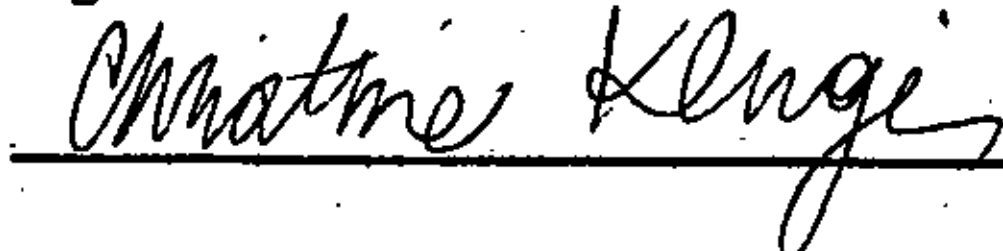
Christine Klinger

515 Rebecca St.

Signature

City

Zip



Fayetteville, AR 72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

59. Printed Name

Residence Address

Thomas E. CLARK

682 N. Willow

Signature

City

Zip

THOMAS E. CLARK

Fay

72701

60. Printed Name

Residence Address

TIM KLINGER

515 Rebecca

Signature

City

Zip

Tim Klinger

FAY

72701

61. Printed Name

Residence Address

John Hughes

621 N. Willow

Signature

City

Zip

J. Hughes

Fay

72701

62. Printed Name

Residence Address

Dianne C. Boyd

Fay.
206 E. Davidson 72701

Signature

City

Zip

Dianne C. Boyd

Fayetteville AR 72701

63. Printed Name

Residence Address

Tim H. Boyd

206 E Davidson

Signature

City

Zip

T. H. Boyd

Fayetteville AR 72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

64. Printed Name

Residence Address

Marjorie S. Ferrall

308 E. Spring St.

Signature

City

Zip

Marjorie S. Ferrall

Fay

72701

65. Printed Name

Residence Address

John Patrick Regan

308 E. Spring St

Signature

City

Zip

John Patrick Regan

Fayetteville

72701

66. Printed Name

Residence Address

Daniel Allen Dodson

Signature

City

Zip

Daniel Allen Dodson

Fayetteville

72701

67. Printed Name

Residence Address

Dennis G. Dodson

659 Mission Blvd

Signature

City

Zip

Dennis G. Dodson

Fayetteville AR 72701

68. Printed Name

Residence Address

Jack Butt

526 E. Lafayette

Signature

City

Zip

Jack Butt

Fayetteville

AR 72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

69. Printed Name

Residence Address

Woody Bassett

1555 Sunset Place

Signature

City

Zip

Woody Bassett

Fayetteville, AR. 72701

70. Printed Name

Residence Address

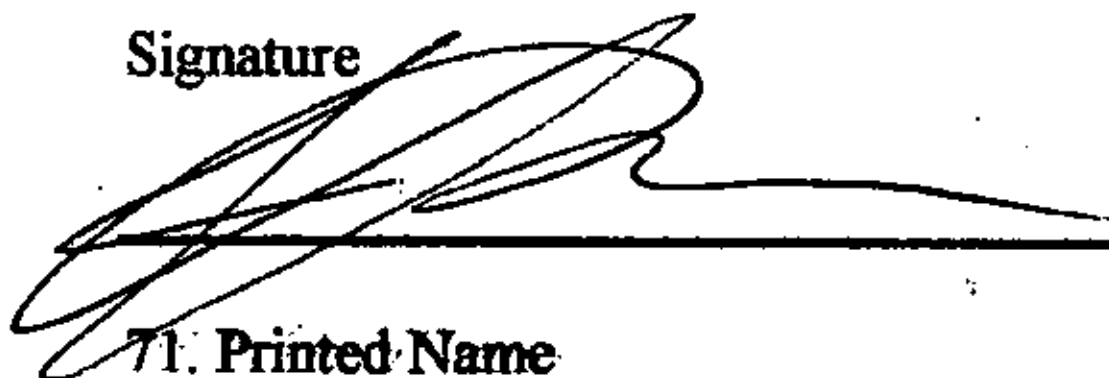
Jennifer Summers

823 Morningside Dr

Signature

City

Zip



Fayetteville Ar 72701

Owners
Baba
Brandon

71. Printed Name

Residence Address

Stanley J. Lancaster

823 Morningside Dr

Signature

City

Zip

Stanley J. Lancaster

Fayetteville 72701

72. Printed Name

Residence Address

Frances M. Singer

1771 E. 1st Avenue

Signature

City

Zip

Frances M. Singer

FAY. Ar. 72701

73. Printed Name

Residence Address

Emily Kaitz

5 East Davidson

Signature

City

Zip

Emily Kaitz

Fayetteville AR 72701

We, the undersigned, object to the Conditional Use Permit CUP 06-1875 being granted to Michael Smith/Gary Cochran Smith Smith 2-Way for the erection of a cell tower at 520 N. College Avenue.

74. Printed Name

Residence Address

D. Malcolm McNair, JR.

339 N. Washington Ave.

Signature

City

Zip

D. Malcolm McNair

FAY

72701

75. Printed Name

Residence Address

Martha C. McNair

339 N. Washington

Signature

City

Zip

Martha C. McNair

Fayetteville

72701

76. Printed Name

Residence Address

repeat Diane Carroll

329 N. Washington

Signature

City

Zip

Diane Carroll

Fayetteville

72701

77. Printed Name

Residence Address

Jennifer Murry

347 N. Washington

72701

Signature

City

Zip

Jennifer Murry

78. Printed Name

Residence Address

MARGARET GABRIEL

357 N WASHINGTON

Signature

City

Zip

Margaret M. Gabriel

FAYETTEVILLE AR

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 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council
Meeting Minutes
January 3, 2006**

A meeting of the Fayetteville City Council was held on January 3, 2006 at 6:00 PM 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, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

A Letter of Commendation to the City of Fayetteville and its citizens for their commitment to protect and preserve the water resources of NW Arkansas and NE Oklahoma was given by Mr. Ed Fite of the Oklahoma Scenic Rivers Commission.

Mayor Coody: Tonight we have Ed Fite with us from the Oklahoma Scenic Rivers Commission. We are very pleased to have you here.

Ed Fite: I've also brought with me this evening our Board Chairman Rick Stubblefield who was elected to the board and is the chairman. Mayor Coody I don't know where to begin. I said for a long long time that I probably was the most despised individual in Fayetteville in the 1980's through the conflict the community had with the State of Oklahoma over the wastewater issue and the Illinois River. Tonight I'm here with the chairman to commend the City of Fayetteville, yourself, the Alderman, your staff, and particularly the citizens for the job you've been doing in recent years. It's hard to stand before this group and not be embarrassed about years in the past, but as we have worked together since 1996. The City of Fayetteville has been nothing but a full partner, fully open, available to discuss our concerns and alternatives that have been suggested, and we cannot say thank you enough. I'd like to yield the floor to the chairman if I may he has a letter he'd like to read into the record and then present it to you.

Mayor Coody: Thank you very much Mr. Stubblefield it's good to have you here tonight. Welcome to Fayetteville and welcome to the City Council meeting.

Rick Stubblefield: Thank you Mr. Mayor. Mr. Mayor and esteemed members of the Council I'd like to read to you the letter the 12 members of the Oklahoma Scenic Rivers Commission approved to be sent to you. Mayor Coody on behalf of the entire Oklahoma Scenic Rivers Commission we want to thank you and the City of Fayetteville for your commitment to improving water quality in the Oklahoma scenic rivers. The Oklahoma Scenic Rivers Commission sincerely appreciates your support for our goal of restoring Oklahoma's treasured scenic rivers. Please know that we sincerely appreciate the financial investment that Fayetteville will undertake in its effort to employ advanced phosphorus control at its new wastewater treatment facility just as it has over the past decade in controlling phosphorus from its existing facility. Particularly in a time of conflict between our states it is encouraging to have good neighbors like the City of Fayetteville as we endeavor to achieve our mutual goal of protecting and restoring the irreplaceable water resources of Northeast Oklahoma and Northwest Arkansas. Again OSRC commends the City of Fayetteville for its commitment and financial resources and we look forward to your continued involvement as significant stakeholders in our effort to restore Scenic Rivers. Through mutual cooperation we anticipate continued progress and improving water quality in our scenic rivers over the coming years. Thank you Mr. Mayor.

Mayor Coody: Thank you Rick. I'd like to say to you and Ed thank you for your help too. Arkansas and Oklahoma had been at odds for decades. I think we have even been to the US Supreme Court and not as friendly partners so times really have changed. It was just as much a credit to you and your organization to work with Fayetteville because honestly we were in a precarious position we needed your help and you were there to help us. We appreciate Oklahoma very much. We want to build on this good partnership because we want to maintain a good friendship. We've gotten to know a bunch of good people in Oklahoma that we consider to be friends and we couldn't be more pleased with your efforts in keeping the nation's rivers pristine right along with us as best we can. Thank you both and please give your commission our deep gratitude and appreciation. I would like to send a letter back to them in response to this. Thank you both very much for coming all the way over here from Oklahoma to deliver this to us tonight.

CONSENT:

Approval of the November 15 and December 6, 2005 City Council meeting minutes.

The November 15, 2005 minutes were removed from the agenda.

The December 6, 2005 minutes were approved.

Arkansas Aviation Technology Center: A resolution granting the City of Fayetteville's consent to the assignment of a Hanger Lease from the Northwest Arkansas Aviation Technologies Center to North West Arkansas Community College.

Resolution No. 01-06 as Recorded in the Office of the City Clerk.

Community Access Television, Inc: A resolution approving a contract in the amount of \$93,000.00 with Community Access Television, Inc., to operate the Public Access Television Channel throughout 2006.

Resolution No.02-06 as Recorded in the Office of the City Clerk.

Downing Sales and Service Bid Award #05-82: A resolution awarding bid #05-82 to Downing Sales and Service for the purchase of two (2) Side Load Solid Waste Collection Trucks in the amount of \$397,908.00.

Resolution No. 03-06 as Recorded in the Office of the City Clerk.

Equipment Resource Management – Asphalt Roller Equipment: A resolution approving the purchase of one (1) Large Double Drum Vibratory Asphalt Roller from Equipment Resource Management in the amount of \$128,490.00 for the use by the Transportation Division; and approving a budget adjustment.

Resolution No. 04-06 as Recorded in the Office of the City Clerk.

Barloworld Freightliner of Springdale Tri-Axle Dump Truck Purchase: A resolution awarding Bid #05-80 to Barloworld Freightliner of Springdale for the purchase of one (1) Tri-Axle Dump Truck in the amount of \$95,941.00 for the use by the Transportation Division.

Resolution No. 05-06 as Recorded in the Office of the City Clerk.

Barloworld Freightliner of Springdale Tandem Axle Dump Truck Purchase: A resolution awarding Bid # 05-73 to Barloworld Freightliner of Springdale for the purchase of One (1) Tandem Axle Dump Truck in the amount of \$90,233.00 for use by the Water and Sewer Division.

Resolution No. 06-06 as Recorded in the Office of the City Clerk.

Downing Sales and Service Bid # 05-81: A resolution awarding Bid # 05-81 to Downing Sales and Service for the purchase of two (2) Front Load Solid Waste Collection Trucks in the amount of \$368,888.00.

Resolution No.07-06 as Recorded in the Office of the City Clerk.

Interlocal Agreement with Washington County for Jail Services: A resolution adopting an amendment to the Interlocal Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas for jail services.

Resolution No.08-06 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda with the November 15, 2005 City Council meeting minutes removed. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

ADM 05-1657 (Mt. Sequoyah South Rezoning): An ordinance rezoning that property described in Rezoning Petition RZN 05-1657 as shown in Exhibit "A" generally located north of Huntsville Road, east of Willow Avenue, south of Rock Street and west of Lyton Avenue from RMF-24 Residential Multi-Family 24 units per acre to RSF-8 Residential Single Family 8 units per acre. *This ordinance was left on the First Reading at the December 6, 2005 City Council meeting. This ordinance was Tabled at the December 6, 2005 City Council meeting to the January 3, 2006 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Tim Conklin Planning Development: Staff sent a letter out to each of the property owners on December 27, 2005. We have had several phone calls today with regard to the latest request I have placed in front of you, the current map showing the RSF-4 and RSF-8. With regard to that in the letter that we sent out we stated there would be an opportunity for public comment this evening and also that this would be left on a second reading until the January 17, 2006 meeting due to the holidays. Staff would be more comfortable if you leave it on a second reading this evening and that way if people are getting back from going out of town they'll have an opportunity to contact us. I just wanted to inform you of where we are at. Thank you.

Mayor Coody: Are there any questions for staff. Yes Madam.

Alderman Thiel: We don't need to make an amendment yet on this we are waiting until we make sure everyone is okay with this?

Tim Conklin: I would hold off. We've had several calls today and we made some changes just in the last couple of hours which is the latest map that you have. There could be additional changes with in the next 2 weeks.

Alderman Thiel: Are any of the changes on this just between the RSF-4 and RSF-8?

Tim Conklin: There was one property owner that requested to be left as RMF-24 adjacent to the larger piece on Rock Street, and so that was the change that was made this evening.

Alderman Ferrell: At the next meeting Tim, will you give us a total of how many people have contacted you concerning this and their change.

Tim Conklin: Certainly.

Alderman Ferrell: Thank you.

Tim Conklin: We did send out letters with certified mail and returned receipt.

Mayor Coody: Yes madam.

Alderman Thiel: You do realize this was a petition drive?

Alderman Ferrell: Yes.

Alderman Thiel: Everyone that signed wanted to be on this.

Alderman Ferrell: I read that there were some people that changed there minds.

Alderman Thiel: They changed there minds because they wanted RSF-4, but we didn't consider taking in any that didn't sign.

Tim Conklin: Certainly, I can get you a number of people that contacted us.

Mayor Coody: Any other questions for the staff on this right now. Anyone from the public want to address us on this issue?

Fran Free: My name is Fran Free and I live at 44 South Mashburn Avenue. This is my neighborhood, and this is our petition drive that we started eleven months ago. So I'm really thankful that you all are considering this tonight it's been quite a process. I just wanted to thank you all for this.

Mayor Coody: Alright thank you very much. Anyone else want to address us on this? Alright we're going to leave this on the second reading. Is there any other comment?

This ordinance was left on the second reading.

Reserve LLC - Cost-Share Agreement: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Reserve, LLC in an amount not to exceed \$798,963.44 for the widening of Ruppel Road and Persimmon Street adjacent to the Mountain Ranch Development; and approving a budget adjustment in the amount of \$577,453.00. *This ordinance was left on the First Reading at the December 20, 2005 City Council meeting.*

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Rhoads seconded the motion. Upon roll call the motion failed 4-4. Alderman Marr, Rhoads, Ferrell and Cook voting yes. Alderman Lucas, Jordan, Reynolds and Thiel voting no.

Alderman Jordan moved to table the ordinance to the January 17, 2006 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion to table passed unanimously.

This ordinance was tabled to the January 17, 2006 City Council meeting.

Mayor Coody: Is there anyone here that would like to comment on this particular item?

Sharon Davison: Good evening everyone I am Sharon Davison and I did want to calmly address you about this tonight, and I'd like to start out with thanking you all for the job you do. It is difficult sometimes to work out win win for every one. Sometimes there are unhappy losers. I understand it's hard to make decisions. Sometimes you're torn between what you see, what people ask you to do, and what staff recommends for you to do. I would like for you to carefully

reconsider any staff recommendation of paying a penny for this particular road. This is a very huge issue it's a huge issue for us and what we will allow a person and or their representative to come up here and say they will do, and then later on it's a whole new deal. I do not agree with staff that we should sweep this under the rug. We knew part of your whole hesitation. The road was a big deal, I think it persuaded folks who were going to be more cautious and who were going to wait until this sewer was a little more close at hand, not to mention the traffic and all. I believe you all as well as other people heard this same offer repeated that is what concerns me. It was not a one time, it was not a slip up of the tongue, it was an offer made here and an offer made at a Ward 4 meeting, where good ole folks believed what they heard. Because they did have a respectable member of a legal community telling them as the representative paid for by the developer. I personally had nothing against Bob Estes he was always very very polite to me when he sat on our Planning Commission. I will close with it is not right to let a developer come in here and demand a road when he offered to pay for a road not a cost share. Please folks hold the developer and their lawyer representatives accountable, do not pay \$800,000.00 for their road.

Mayor Coody: Thank you very much. Is there anyone else that would like to address on this issue tonight?

Fred Turpentine, Fayetteville Public Schools Physical Plant Director: We're building a K-7 school that's processing quit nicely. We hope to move in in August and that's only about 8 months away. We are very much hopeful that the City Council will approve this cost share so we can move along and see kids in there in the fall. Thank you.

Mayor Coody: Anybody else like to address us on this? I'm going to close the public comment. Mr. Terminella is out of the country right now on vacation and we have discussions on a way that I hope we can bring the warring parties together to make this work. It's best for every body if we can put together a win win situation to where we don't have the expense. I think we are working to bring something to the Council that the Council will like.

C-PZD 05-1704 First Baptist Church: An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1704 First Baptist Church, located at 20 East Dickson Street, 325 and 321 North College Avenue, and 350 and 354 North Highland Avenue, containing approximately 4.08 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the December 20, 2005 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate: One of the questions at the last City Council meeting was how many parking spaces are existing on the property, that total is 184. Most of the parking lot there is non-conforming in that there's not the green space required with a standard parking lot so you don't have landscape islands and things of that nature that are shown on the site plans. So with the reduction of some of those spaces for landscaping as well as the addition of the offices and space that they are proposing that would result in 167 spaces that are noted in the site plans. So there would be a net decrease of approximately 15 to 17 spaces.

Mayor Coody: Are there any questions for staff on this?

Alderman Marr: How many structures are being removed for parking?

Jeremy Pate: I don't believe there are any structures being removed.

Thad Kelly with Cromwell: We're not really removing any structures. There is a small sales office that will be removed. We're adding on to the existing side of the Goff McNair building and adding on to the existing church. We are building back out into some of the parking area.

Alderman Marr: Thank you I just wanted that for the record.

Mayor Coody: Any other questions or comments for the petitioner?

Randy Murphy with Cromwell: A house will also be removed to accommodate the new parking area that at the present time is not a parking area.

Jeremy Pate: It is to the far west of the site.

Alderman Marr: Is that the one next to Nationwide?

Randy Murphy: Yes.

Mayor Coody: Are there any other questions for the petitioners? Anyone from the public want to comment on this?

Alderman Marr: I think this is a great project, very attractive, keeps our churches downtown, and allows them to continue to expand. I haven't heard anything negative from any of members from Ward 2 about this project.

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

Ordinance No.4812 as Recorded in the Office of the City Clerk.

Randy Murphy: There is item 10 from the Planning Commission in their recommendation for approval that describes the condition, the proposed 110 foot right of way for College Avenue and the Master Street Plan. The church is very concerned that with that remaining on the plan it leaves the church open in the future for further discussion about this matter.

Mayor Coody: I believe that the Master Street Plan is up for discussion very soon with the Street Committee and I don't think that the 110 foot right of way requirement will stand. I think it's going to be moderated to something you will be able to live with much more easily.

Randy Murphy: The church is very concerned that this is a public issue and will be a part of the public record.

Mayor Coody: This is an ongoing conversation and it's about to come to a close very soon and I think you'll be pleased with the out come.

Alderman Thiel: In my packet it reduces it from a 55 foot right-of-way to the requested 30 foot right-of-way.

Jeremy Pate: A separate resolution is required to do that for a lesser dedication or a Master Street Plan Amendment. We typically take those to Planning Commission and the Street Committee and the City Council with a review of development project.

Alderman Thiel: Okay. Thank you.

Mayor Coody: How far will the 60 foot right-of-way come from their existing front door on College Avenue?

Jeremy Pate: I believe the 60 foot right-of-way is what is current at that location right now.

Mayor Coody: So the existing sidewalk is in the right-of-way?

Jeremy Pate: Part of it is.

Mayor Coody: Okay. So that would be about the whole thing then. I'm sure the church will work with us if we needed to clear that up and make any kind of modifications just on the sidewalk there.

R-PZD 05-1734 Paradise Point: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1734, Paradise Point, located west of Crossover, south of Joyce Boulevard, containing approximately 1.55 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the December 20, 2005 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Mayor Coody: Staff do you have any comments on this?

Jeremy Pate: One of the issues discussed at the last meeting is to try to have these be more consistent, please let me know if they're not. There should be elevations in the packet.

Alderman Thiel: Thank you Jeremy.

Jeremy Pate: Yes ma'am.

Mayor Coody: Any questions or comments for staff on this? Anyone from the public have any comments or questions on this item before us tonight? I'm going to close this to public comment.

Alderman Cook: I'm still a little confused about the secondary access on the back side. There is just going to be one access on 265. How useful will this access be?

Jeremy Pate: This will be a full accessible cross access, much like a restaurant or any other commercial development we require to have a cross access point so you do not have to get on a main street to get there, you can have cross access between those points. We did recommend that as a condition of approval of the project that an access be gained to the north so that access onto 265 would not be the sole means of access for this development. This will help with the property to the north it will allow them cross access as well. So it will be full open access. It will be much like an extension of a driveway.

Mayor Coody: Any other questions or comments from the council?

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

Ordinance No.4813 as Recorded in the Office of the City Clerk.

2006 Bond Purchase Agreement - Wastewater Treatment Facility: An ordinance authorizing the issuance and sale of not to exceed \$20,000,000 of a Sales and Use Tax Capital Improvement Bond, Series 2006, by the City of Fayetteville, Arkansas for the purpose of financing a portion of the costs of acquiring, constructing and equipping pipelines in connection with a new Wastewater Treatment Facility and related sewerage improvements; providing for the payment of the principal of and interest on the Series 2006 Bond; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the Series 2006 Bond; authorizing the execution and delivery of a Continuing Disclosure Agreement ; and prescribing other matters relating thereto. *This ordinance was Tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting.*

City Attorney Kit Williams read the ordinance.

Gordon Wilbourn: Let me say just a few words in my defense on this. Unlike your other bonds there's no trust indenture on these deals so these are the terms that would normally be in an indenture. This is a form that's prescribed by the Arkansas Natural Resources Commission and everything you need to govern a bond is in the ordinance. That is the reason for its length and I do apologize for that.

Mayor Coody: Thanks Gordon. Do we have any questions for Mr. Wilbourn?

Alderman Ferrell: I'm just trying to understand this. I think we have collected more sales tax in the past on redeeming some of these bonds but it says any excess sales tax goes to pay these off. Does the city report that to the bonding fund? How does that work?

Gordon Wilbourn: All the collections are going to the bond trustee on your other bonds and the agreement with the other deal and now with the Arkansas Natural Resources Commission is you will use those first to pay your 2005 B bonds, which are the longer bonds. Then these bonds and then in theory the 2005 A, but they're the short end. That won't every happen they'll be gone by the time you get to them. But in concept that's what you would do.

Alderman Ferrell: So the trustee just does it?

Gordon Wilbourn: Right. The trustee does that and sends out the notices of redemption.

Alderman Ferrell: Thank you.

Mayor Coody: Any other questions for Mr. Wilbourn? Thank you very much thank you for coming tonight. Anyone in the audience have any questions or comments about this? I will close it to public comment. Any questions from the council?

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance No.4814 as Recorded in the Office of the City Clerk.

John D. Lindsey, LLC. Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC. *This resolution was Tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting.*

Mayor Coody: I would like to ask the Council to table this. I have asked the engineers to look at this again because it looks to me as if there may be a way to accomplish the land owner's goal of routing the line away from the parking lot and accomplishing our goals at the same time.

Ray Green: I appreciate the additional consideration of it. We only want to find the best solution.

Mayor Coody: Mr. Head said you all would be willing to grant us the right-of-way.

Ray Green: We'll be very cooperative.

Mayor Coody: Anything else?

Alderman Marr: Any idea how long it will take before you come back with something?

Mayor Coody: Mr. White is here and David Jurgens. Do either of you have a comment on how long it might take before we can have some reasonable assessment of what the possibilities are?

David Jurgens: I would expect an assessment of different alternatives and prices probably within 2 weeks. I'm not sure how long it will take to get an answer back regarding the Corp permit. If we could run the straight line it would require working in the flood way itself. I hope to have that answer by the end of the week. We should have a response within 2 weeks.

Mayor Coody: Because it's in the edge of the flood way it might not be very easy to get Corp approval, but if we can we might be able to make this work.

David Jurgens: Yes sir.

Alderman Thiel: At our tour that was one of our concerns that this could take up to 4 months to get Corp approval.

David Jurgens: Yes ma'am and I haven't been able to get with the Corp and have not had the opportunity to have our environmental consultant come up and look at it and see exactly what modifications it's going to take to the Corp permit. Before we know what modifications are required, because well be working in the flood way, I can't give the estimate on how long it will take but I think he'll be able to make it up within the next couple of weeks.

Alderman Thiel: So in two weeks we'll have an estimate of how long this is going to prolong.

David Jurgens: We will know what kind of delay going back to the Corp might require.

Alderman Thiel: Okay.

Kit Williams: Would we know at that point and time that it would be approved?

David Jurgens: We would not have approval within two weeks. What we would have is an estimate of how long it would take to obtain that approval from the Corp.

Kit Williams: Would we have some indication that would be approved eventually?

David Jurgens: I wouldn't want to commit to that.

Mayor Coody: Once we get some engineering estimates and some drawings done where we have something to actually show the Corp, then we'll see what we're talking about because this may be a way that we can solve everyone's problem. Anything else?

Alderman Marr: I'm all for working with people but it concerns me on a project that's had time issues to not pursue things that have the possibility of delaying it. I just want to make it clear that I'm not excited about a long delay.

Alderman Thiel: I agree with what Don said.

Mayor Coody: We all have the same concerns. I think that this conversation has been going on a long time before the petitioner raised questions about it. Had the questions been raised earlier from what I understand we could have had this conversation quite a while back.

Alderman Lucas: All the others we said negotiations could be continued after we voted on it. Can that be the case with this one? I'm not an engineer, I'm going to go along with whatever is suggested as the appropriate way. I don't see why we should delay.

Mayor Coody: We could if you want to go ahead and approve this condemnation we'd be condemning something that we might not need.

Kit Williams: I'd prefer to give it a couple weeks and have a follow up report from David Jurgens before we pass the resolution. That doesn't end all negotiations but I think as a gesture of good faith it would be good to postpone this a couple weeks.

David Jurgens: This sewer line between North Street and Gregg Avenue lift station is the one on the west side that has the shortest construction time. This is the one that has the longest lead time, all of the others sewer lines have already advertised for bid. So in the time line that I'll bring forward in two weeks, with the Corp estimate for how long it takes to get modifications to the permit, I will identify if it is expected to create any delays in the overall project. So that will be part of the package to let you know if we think it will cause any delay to the entire project.

Alderman Reynolds: Could you make sure we get a letter in the mailbox from the Corp telling us when they can do it?

David Jurgens: I can't promise that. We've had a very difficult time getting letters from the Corp and we have not had the ability to force them to produce letters. So I couldn't commit to that because it's beyond my ability to directly promise.

Mayor Coody: The first step is to find out what the possibilities are.

David Jurgens: The first step is to identify the plan, have our environmental consultant put together the Corp permit request, have him look at, walk it and then find out what we would need as a modification to the permit and get his feel for it.

Mayor Coody: Alright anything else?

Alderman Ferrell moved to table the ordinance to the January 17, 2006 City Council meeting. Alderman Reynolds seconded the motion. Upon roll call the motion to table passed 7-1. Alderman Marr, Rhoads, Ferrell, Lucas, Jordan, Reynolds and Thiel voting yes. Alderman Cook voting no.

This ordinance was tabled to the January 17, 2006 City Council meeting.

NEW BUSINESS:

R-PZD 05-1776 Wedington Circle: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: Jeremy gave a brief description of the project. Staff is recommending approval of this ordinance, there were several findings. The Planning Commission voted 8-0 in favor of staff's findings.

Alderman Thiel: Seven percent of this is going to be commercial? What is going to be commercial?

Jeremy Pate: It's typically the bottom story or bottom floor.

Alderman Thiel: This will be along Wedington?

Jeremy Pate: When the highway department expanded Wedington they took a lot of right-of-way in this area, that right-of-way cannot be vacated, it is something that the highway department uses to tow their slope, so that will not be utilized. So there's really not a lot of retail frontage for this project. It's my understanding a lot of that will be along this primary street that goes from James to Wedington along that area. I think the plan is to have more of a mixed use sort of an integrated within the over all development. There will be underground parking as well.

Alderman Thiel: I assume that the access road is a private drive?

Jeremy Pate: It is.

Alderman Thiel: So they won't have access to that?

Jeremy Pate: What they've shown there is the potential for a cross access. That would have to be worked out in detail and permission given by that property owner. Hopefully that can be worked out because again that would provide another means of access ingress and egress. The slope has a lot to do with it as well because that's a pretty steep slope coming in off of Wedington to the north.

Alderman Thiel: Okay. Thank you.

Mayor Coody: Any other questions of comments. Yes sir.

Alderman Jordan: My concern is coming out on Wedington there's no way that you are going to be able to turn left on that road. I can tell you from experience it's just not going to happen. That means that your traffic is going to turn right, and if they are going to the campus they are going to go to Hall or Sunset and go that way. I already have a petition from the neighborhoods on Hall Street, that does not have anything to do with this project, but they were already concerned about traffic congestions, no sidewalk and the street being too narrow along that school. This is not going to help the situation any if people start cutting through Hall Street to go to the university. I think this is a good looking project but that has got to be addressed. It has to be addressed for the neighbors in that area. I've had some calls and e-mails from people from the Hendricks neighborhood association with concerns about it coming through their neighborhood as well. I think this is something that needs to be addressed before I can support this.

Jeremy Pate: One of the ideas behind supporting the higher density than we have in a zoning district currently is that it is located so near to infrastructure improvements already. It's close to the university and very easy to walk to. There is a transit stop directly to the east by the grocery store and a lot of people utilize the store parking and the parking lot across the street for a park and ride area. I think it does set itself up for more pedestrian traffic if it is student oriented. Obviously some students will still drive and park in neighborhoods or park in the parking garage at the university. We felt that was a positive thing in response to your question. I agree left hand turns will probably be difficult and we may see with further evaluation it may only need to be a right in right out. It depends on what the traffic loads are and how that's going to be handled. James Street would then take more of the brunt of the traffic. There are four homes currently on James Street otherwise it serves as a primary ingress and egress for a very large multi-family

residential development as well as another apartment building and access from grocery stores. So it's already seen some traffic although the numbers are relatively low. I don't believe you'd have a hard time turning left, right or even walking down James Street currently because there are so many ways in and out. So this will add impact to the infrastructure in the area, we feel however that with the location of it, it will be a positive impact and that it will promote more pedestrian and bicyclist activity.

Alderman Marr: I love these kinds of infill projects and I think the design is very attractive. My concerns are not about the development it's the ingress and egress and to make sure we can handle it in this particular area. My concern is the traffic from Mount Comfort. Was there any dialogue about closing that diagonal section there to take that piece out of this intersection and designing a more traditional T type intersection? I find it very hard to believe that 400 units would not create any additional traffic issues.

Jeremy Pate: We had the same concern when we had the response of not a lot of impact. James Street is not an arterial street and if you look and you can't turn left on Wedington that's going to take some traffic that's going to be detrimentally impacted and therefore it will need to be improved. That goes in line with the comments about the intersection of Mount Comfort and Garland and that acute angle there that it creates. We will be recommending street improvements at the time of development, and that would potentially include intersection improvements as determined to be appropriate. What we did have dialogue about specifically was the intersection of Mount Comfort and Garland on the west side of Garland, we did not venture east of Garland Avenue. I think in some of our long term plans staff has indicated to the City Council that there will probably be a major intersection realignment in this area and there is the potential for closing that street.

Alderman Marr voiced his concerns about the current traffic in this area.

Alderman Lucas: I like this project. Are they tied to these things? For instance I like the round about in the middle.

Jeremy Pate: That will likely be incorporated in detail.

Alderman Lucas: This is not binding then?

Jeremy Pate: It is. It is a binding booklet. However it is a master plan so every detail might not be exactly as it is presented.

Alderman Lucas: I am also concerned about traffic. This will throw more traffic into the neighborhood. I don't have a solution. If we were going to improve Garland then why can't we do something with that intersection at the same time?

Jeremy Pate: That's certainly within our long term plans. As far as a long term goal that would help with the cut through traffic. I think it's a problem with any project, this will create additional traffic. It's certainly something we will look at in detail.

Mayor Coody: Jeremy isn't Garland Avenue in the Street Bond issue?

Jeremy Pate: Yes.

Mayor Coody: Any other questions or comments?

Alderman Reynolds: Who ever pulls out of these apartments will be looking at three different driveways. The other thing is how wide are those streets going to be Jeremy?

Jeremy Pate: The interior ones? They are likely any where from a standard street 24' to 28' wide.

Alderman Reynolds: I noticed we have 296 multi family units, 428 bedrooms, and 392 parking places but of that 58 parking spaces are on the street. How are you going to put a car on either side of the street and get a fire apparatus through there?

Jeremy Pate: Typically the 28' section and that would be without parallel parking. If it had parallel parking on the street it would be widened to accommodate at least 8' on either side for the parallel parking to allow for a through access point.

Alderman Reynolds: The other thing I'd like to bring to your attention is the Fire Department letter. There was two items on there that the engineers need to look at and make sure they take care of in this project.

Jeremy Pate: Assuming this gets approved we would have to discuss how the entrance off of Wedington is accommodated and the round about. We will also discuss this with the Fire Department to make sure their apparatus can access through that.

Alderman Reynolds: But this doesn't come back to us?

Jeremy Pate: It goes to the Planning Commission for development approval.

Mayor Coody: Anymore questions for staff on this? I'm going to open up to public comment on this. Is there anyone that would like to comment on this development prospect?

Steve Mansfield, Mansfield's House: I appreciate you taking the time to consider this project. We are here before you for a concept plan as discussed we would have to go back to the Planning Commission for approval and to work out the details. What I 'd like to do is give you a little bit of the history of how it came about, some of the goals and why it's designed the way that it is. I like to talk a little bit about the planning of it and then let Rob Sharp come back and give you some of the details on the architectural side. Mr. Mansfield gave a brief description of the project.

Rob Sharp, Architect gave a presentation on the project. He stated the road capacity is there and they can probably make things better. He stated the developers have committed to a very high level of construction.

Alderman Ferrell: One of our objectives is to work with the university and the university has an objective to grow their campus and this campus is going to grow. I think this lends itself to people walking. I think this is a further cooperative partnership with the university in trying to provide housing.

Alderman Marr: There is nothing in the city administration or planning department's opinion at this point that could be done outside of the upcoming bond issue that would address all of the points of access as we look at this development.

Tim Conklin, Planning: BWR did look at this intersection as one of the five intersections for realignment and they had plans to realign.

Joyce Richards a resident voiced her concern about the traffic.

Bill Muller a resident stated he is impressed with the project. He feels this is an excellent project for the City of Fayetteville. He is also concerned about the traffic. He voiced his concern about the traffic study that was completed. He requested the Council to approve this but to exercise their power to reduce the impact on the neighborhoods.

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.

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading.

Alderman Jordan asked that the staff try to resolve some of the problems with traffic in the neighborhoods.

R-PZD 05-1796 Park West: An ordinance establishing a Master Development Plan Residential Planned Zoning District titled R-PZD 05-1796, Park West, located at Highway 112 east of Deane Solomon Road, containing approximately 139.45 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. Planning Commission recommended this project with a vote of 8-0 in favor of the project. He stated traffic signalization is crucial to this project as the phases are completed. He stated that staff included two conditions with regards to the timing on this project. One is that each phase has two years from Planning Commission approval of development to get their permits, as each one of these projects goes through the development review process they are subject to whatever development ordinances that are in place at that time. The second condition is after five years this project is not going in the way that they City sees fit with our Master Plan then the Planning Commission can return it to the City Council for a review.

Alderman Jordan: In the northeast section there will be a buffer?

Jeremy Pate: It is a buffer of residential uses. There are no commercial uses adjacent to those properties to the northeast. There is a small area of commercial along Highway 112 to the east that would have to be buffered according to our ordinances.

Alderman Jordan: What is the situation with the wetlands?

Tracy Hoskins, Paradigm Development gave a presentation on the project. He stated this is a ten to fifteen year project.

Jim Ramsey, Architect gave a brief description of the project.

Alderman Jordan asked where the road is that will be built by the developer. The road that you are going to build and pay for.

Tracy Hoskins: Actually we are building a whole bunch of them and paying for a whole bunch of them. We will go on record saying that we are going to pay for them, most of them. On the City's Master Street Plan we have an east west corridor which is a collector street we are actually proposing to build this street larger than what is required by ordinance. Our intention is for this to be a three lane street and in some areas it will have an island in the middle of it. At the intersections it will have a turn lane. There will be two lanes in and two lanes out with a median in between. We are also intending to reroute Deane Solomon Road and abandon the intersection at Highway 112 where it is presently very dangerous. Deane Solomon Road we are intending on constructing it as a 28 foot wide street.

Alderman Jordan: That is a 28 foot road.

Tracy Hoskins: Yes.

Alderman Jordan: That you are going to build and pay for.

Tracy Hoskins: Correct. The traffic study is now recommending that this potentially be a 36 foot road. We are going to ask the City to cost share the other 12 feet with us because we are giving up all the right of way for this road. We are paying to close this section of the road and we are doing improvements along Highway 112.

Alderman Jordan: But it is going to be 28 feet?

Tracy Hoskins: It is going to be 28 feet and we will pay the entire cost of the 28 feet.

Alderman Jordan: one thing that I would like to have as you bring these phases on, if we approve this, how many will be in each phase and when they are going to come on.

Tracy Hoskins: It is in the information that we gave you.

Alderman Marr: The pieces in the information that are listed as phasing are not necessarily connected and so it looks like the main road through this doesn't come on until the very end.

Tracy Hoskins: Actually they are connected.

Mr. Hoskins explained the project.

Phyllis Johnson representing Dale and Marti Benedict: They are the property owners to the north of this property. They request that you leave this on the first reading tonight.

Rob Sharp commended the developer for the project. He stated he thinks this property will have an impact for Fayetteville and a regional impact. I think a lot of the success of this project will be due to the current staff and administration.

Alderman Lucas: We can't require a buffer of any kind can we?

Jeremy Pate: When there is a non-residential property adjacent to a residential property there is always a requirement for a buffer.

This ordinance was left on the first reading.

R-PZD 05-1816 Skate Place Condominiums: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1816, Skate Place Condominiums, located south of Ash Street on both sides of Chestnut Street, containing approximately 3.38 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: The petitioner would like to meet with the neighbors before this is heard.

This ordinance was left on the first reading.

R-PZD 05-1817 The Commons at Walnut Crossing: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1817, The Commons at Walnut Crossing, located north of Highway 62 West, lots 137 & 138 of the approved Walnut Crossing R-PZD, containing approximately 6.45 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. Staff recommended approval the Planning Commission voted 7-0 for approval.

Alderman Jordan: I don't have a problem with this. I think it is a pretty good looking development.

Alderman Lucas: I haven't either. What do you anticipate the price range to be?

Kim Hesse, Rousch Coleman Homes: We are looking at a square footage of 1,300 to 1,600 and a starting price range of about \$125,000 to \$160,000.

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.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance No. 4815 as Recorded in the Office of the City Clerk.

RZN 05-1833 Bellafont: An ordinance rezoning that property described in rezoning petition RZN 05-1833 for approximately 25.29 acres located north of Joyce Boulevard, west of Venture Road, and south of Bellafont Gardens from R-O Residential Office and C-2, Thoroughfare Commercial to C-3, Central Commercial.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the property. Planning Commission voted 8-0 to recommend approval. Staff worked with the applicant on a Bill of Assurance that addresses density, height and green space requirements.

Alderman Thiel: Was there a reason they did not want to do a conceptual PZD?

Jeremy Pate: They could have but everything they have proposed thus far seems to fit within the zoning district. If it can fit in a zoning district that is what we are going to recommend rather than going through a PZD.

Alderman Reynolds: Will this have any impact on the small neighborhood to the east?

Jeremy Pate: We have been discussing that. Right now the requirement is to construct an east west connector street. That is something we are working out how best to facilitate that without creating cut through traffic in that neighborhood.

Alderman Rhoads: Neither Mr. Ferrell nor I have heard a single complaint from anybody or any neighbors.

Alderman Marr: I am supportive of the zoning because I think it is consistent with the Master Land Use Plan. I do think we need to give some guidance to the Planning Commission on traffic management. My concern is the traffic.

Tom Hennelly, H2 Engineering: We have a traffic study underway. We are proposing signalization on two points on Joyce as well as widening turn lanes.

Alderman Rhoads: Have you talked to the neighbors?

Tom Hennelly: We have not. As we discuss ways to connect or not connect we will tackle that at that point when we submit the large scale.

Alderman Ferrell: I think this is going to be a tremendous infusion of capital spending along there and from what I have seen some beautiful places in an appropriate place.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Rhoads seconded the motion. Upon roll call the motion failed 4-4. Alderman Rhoads, Ferrell, Lucas and Jordan voting yes. Alderman Marr, Reynolds, Thiel and Cook voting no. Motion Failed.

This ordinance was left on the second reading.

RZN 05-1834 Vantage Square: An ordinance rezoning that property described in rezoning petition RZN-05-1834 for approximately 13.47 acres located at lots 6C and 7A in Vantage Square from R-PZD 04-1075 (Cambridge Crossing) and R-O, Residential Office to C-1, Neighborhood Commercial, and C-2 Thoroughfare Commercial.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. Planning Commission recommended 8-0 for approval of this project. Staff finds that the application is in keeping with our Future Land Use Plan and recommends approval.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell 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.

City Attorney Kit Williams read the ordinance.

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

Ordinance No.4816 as Recorded in the Office of the City Clerk.

Garney Construction, Inc: A resolution awarding a construction contract to Garney Construction, Inc. in the amount of \$4,582,536.60 for construction of the force mains from Hamestring Lift Station to the West Side WWTP (WL-5); and approving a 4% contingency of \$183,000.00.

Alderman Cook: We did discuss this at the Sewer Committee.

Alderman Marr: It passed unanimously.

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

Resolution No.09-06 as Recorded in the Office of the City Clerk.

Amend Chapter 151 & 164: An ordinance amending the Unified Development Code Chapter: 151 definitions and Chapter: 164 Supplementary Zoning Regulations to clarify and designate the intent of the accessory structures and uses ordinance.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the amendment.

Alderman Ferrell moved to amend the ordinance to replace the language of *less than 50% of to 50% or less than* and from *50% or greater* to *greater than 50%*. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Alderman Reynolds: Will that stop some of the problems that we have had?

Jeremy Pate: Yes sir.

Alderman Cook: 50% of what?

Jeremy Pate: It is 50% of the overall area. Gross floor area is what we utilize in most of our ordinance.

Alderman Marr: If you have a home and you have a detached garage which is an accessory structure and you want to build a second accessory structure, is each one 50% or less or is the total 50%?

Jeremy Pate: The total.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan 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.

City Attorney Kit Williams read the ordinance.

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

Ordinance No.4817 as Recorded in the Office of the City Clerk.

Meeting Adjourned at 9:35 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

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 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council
Meeting Minutes
January 17, 2006**

A meeting of the Fayetteville City Council was held on January 17, 2006 at 6:00 PM 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, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

2005 State of the City Address – Mayor Coody

A copy of the State of the City Address is attached.

Housing Authority Confirmation of Appointment – Betty Turner

Alderman Marr moved to approve the appointment of Betty Turner to the Housing Authority Board. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

CONSENT:

Approval of the November 15, 2005, December 20, 2005 City Council meeting minutes and the December 27, 2005 Special City Council meeting minutes.

Approved

West Fork Animal Sheltering Services: A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of West Fork, Arkansas to provide animal sheltering services to the City of West Fork for 2006.

Resolution 10-06 as Recorded in the Office of the City Clerk.

Farmington Animal Sheltering Services: A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to provide animal sheltering services to the City of Farmington for 2006.

Resolution 11-06 as Recorded in the Office of the City Clerk.

Washington County Animal Sheltering Services: A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2006.

Resolution 12-06 as Recorded in the Office of the City Clerk.

Greenland Animal Sheltering Services: A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Greenland, Arkansas to provide animal sheltering services to the City of Greenland for 2006.

Resolution 13-06 as Recorded in the Office of the City Clerk.

ADM 06-1899 Gypsum Road Realignment: A resolution ADM 06-1899 amending the Master Street Plan, realigning the Planned Collector Streets Gypsum Road and Raven Lane that currently traverse through Crystal Springs Subdivision Phase I to north of the current alignment within the approved Rockhaven Subdivision as indicated in the attached maps.

Resolution 14-06 as Recorded in the Office of the City Clerk.

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

UNFINISHED BUSINESS:

ADM 05-1657 (Mt. Sequoyah South Rezoning): An ordinance rezoning that property described in Rezoning Petition RZN 05-1657 as shown in Exhibit "A" generally located north of Huntsville Road, east of Willow Avenue, south of Rock Street and west of Lyton Avenue from RMF-24 Residential Multi-Family 24 units per acre to RSF-8 Residential Single Family 8 units per acre. *This ordinance was left on the First Reading at the December 6, 2005 City Council meeting. This ordinance was Tabled at the December 6, 2005 City Council meeting to the January 3, 2006 City Council meeting. This ordinance was left on the Second Reading at the January 3, 2006 City Council meeting.*

Kit Williams: Since there are two different rezonings one to RSF-8 and one to RSF-4 you might want to do an amendment to the ordinance prior to the third and final reading. I have prepared an amended ordinance.

Tim Conklin stated there was another change to the map after meeting with Fran Free and the neighborhood association.

Kit Williams: I would propose the following amendment at the end of the title *Single Family 8 units per acre or RSF-4 Residential Single Family 4 units per acre* as part of the title. Then in Section 1 change that exhibit to Exhibit A-1 indicating the ones that would be RSF-8. Then I would ask that the following language be included after the here of *and from RMF-24 Residential Multi Family 24 units per acre to RSF-4, Residential Single Family 4 units per acre as shown in exhibit A-2 attached here to and made a part here of*. I propose that the orange sections be exhibit A-1 and the golden sections be exhibit A-2. I can work with Planning and create the two exhibits.

Mayor Coody: So there are 2 amendments?

Kit Williams: No the amendment is to the title and to the section.

Alderman Rhoads moved to amend the Title and Section # 1 of the ordinance as suggested by City Attorney Kit Williams. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

Alderman Thiel stated she really appreciates the neighborhood and Fran Free for their effort in this rezoning.

Alderman Ferrell 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.

City Attorney Kit Williams read the ordinance.

Mayor Coody: Any questions or comments from the Council?

Alderman Ferrell: Tim, everyone that wanted out is out and everyone that wanted in is in?

Tim Conklin: That is Correct, and there is one more change. The map that is dated January 17, 2006 is the exhibit that needs to be used. I'll let Fran Free speak. This map is what people are voluntarily requesting.

Mayor Coody: Hello Fran how are you?

Fran Free: Hello. I just want to thank you all again this evening. Ms. Free gave a description of the area and the efforts of the neighbors regarding this rezoning. She stated you can tell by the map that they received a great response and she think it's evident that the neighborhood would like to keep it single family.

Mayor Coody: Thanks. Anyone else have a comment on this item?

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

Ordinance 4818 as Recorded in the Office of the City Clerk.

Reserve LLC - Cost-Share Agreement: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Reserve, LLC in an amount not to exceed \$798,963.44 for the widening of Ruppel Road and Persimmon Street adjacent to the Mountain Ranch Development; and approving a budget adjustment in the amount of \$577,453.00. *This ordinance was left on the First Reading at the December 20, 2005 City Council meeting. This ordinance was left on the First Reading at the January 3, 2006 City Council meeting. This ordinance was Tabled at the January 3, 2006 meeting to the January 17, 2006 meeting.*

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

City Attorney Kit Williams read the ordinance.

Mayor Coody: Is the petitioner here to address us tonight?

Tom Terminella, Developer: Good Evening. I think most of you know me. I'm here to take any comments on this. I have one item that I'd like to hand out to each one of you. If you're in my shoes and you're a developer and the misunderstanding, and the assumptions made by all. If you're a developer in my shoes and this is the rule of the city and the ordinance that's on the book, one would assume that this would be afforded to the City as well as to the developer. In the December meeting I publicly apologized and took 90% of the blame for the misunderstanding, I certainly will not take the balance of the blame. This is Fayetteville's code and ordinances, when we said we would construct the improvement we assumed as with all cities we would be afforded to us what the rule was and the tools within our tool chest. I'll make one additional comment, Mr. Jordan's brought it up in the past, if we don't take a proactive approach on how to administrate our current ordinances I don't know how the City and developers are suppose to work in tandem to achieve our ultimate game plan, ultimate goal street section. So here again, third time, I'll publicly say it, I'll take the blame for the misunderstanding in not jumping up here. When you're a developer in my shoes and you're afforded under ordinance an understanding of what's based on rational nexus what's to be paid for by all that was my assumption. We don't get far with assumptions. The only other item that I'll say we did stand here and say that we would construct the improvement, we stand ready willing and able to do it. I'm not simply wanting to work in or wanting to financially share the entire burden of it. The only other point that I make is it says 166.07 item #3 you can read it. There are seven other developers and a school district that have submitted and built subdivisions to my knowledge that never got assessed a single dime for this off site improvement. I just want to be treated fairly and equitably. I've stated I'd provide all the right-of-way, I'll provide the lion's share of the civil, I'll pay more than 50% of the improvement but I certainly don't want to burden the cost of the entire improvement. That's all I have to say. I'm certainly willing to take any questions if there's any and move on down the road.

Mayor Coody: Any questions for Mr. Terminella?

Alderman Ferrell: You were saying that you would consider going more than 50%?

Tom Terminella: Mr. Ferrell the deal that's offered up right now that our Street Committee has approved, our Planning Commission and our City staff has recommended. This outline of this proposal is for me to provide the 7 acres of right-of-way which I purchased which I'm willing to give to the City in favor of the City for these corridors to achieve their Master Street Plan. I'm

willing to pay some \$200 of a \$250,000.000 civil cost to design it and I'm willing to pay just shy reflected on your numbers, I'll pull them out so I don't misspeak. The Ruppel Road section is estimated at \$896,486.50 with me giving 70% of the entire right-of-way for that to happen. The cost to the City is \$307,876.00, the cost of the School District and myself is \$568,610.00 that's Ruppel. Persimmon as designed is \$1,028,954.50, I'm willing to provide the 4 acres of right-of-way, the lion's share of the civil and \$512,000.00 of that in order to achieve it. Based on my numbers and how I compute it I'm paying 70% of the entire cost of that improvement.

Alderman Ferrell: That was my question when you say you're paying the lion's share of the civil engineering.

Tom Terminella: Yes sir. Under this proposal the City has limited their responsibility I believe 20 on one estimate and 25 on the other road. That's 9% of the improvement and the improvement is some \$2.2 million. I feel like it's a terrible misunderstanding, assumptions were made; point in case was I had 4 or 5 different points of access and utility to start developing on the farm and I was asked to start in this corner. The fact of the matter is, the way they have it designed, I'm to give all the right-of-way for the intersection, all the right-of-way for the first quarter mile, the majority of it for the school and the entire right-of-way running east and west for Persimmon. Nobody gave me those 7 1/2 acres, I paid for them, mortgaged them and now I am giving them away. So I don't want to be repetitive again in standing up here and apologizing, it's a terrible misunderstanding. I'm certainly willing and able to pay the lion's share to get this stuff done but I do not want to shoulder the entire burden financially.

Alderman Ferrell: Thank you.

Tom Terminella: That's my feelings. Thank you.

Mayor Coody: Do we have any questions for Mr. Terminella? Anyone else?

Alderman Jordan: I'll have a few later.

Mayor Coody: Anyone else? Anyone from the public have any comments they want to make on this item on the agenda. I'm going to close public comment.

Alderman Jordan: Mr. Terminella in looking at the notes from August 3, 2004 there's a lot of talk about the road and your representative Mr. Estes did stand up and he basically said at the time of development Ruppel Road and Persimmon will be constructed by the developer and will be finalized before any building permits are requested. Also on page 12 of 22 of the same minutes it basically says, that Mr. Estes says your applicants own the property from the bypass to Ruppel and it is bordered on the north by Persimmon. Persimmon will be improved and will be finalized to the City before there is a request for a building permit. I basically said I could work with that. We got into a discussion of the size of the road and Alderman Marr asked staff what width it would be, Mr. Estes basically said it would be built according to the Master Street Plan. Alderman Marr basically said the width of Master Street Plan collector standard is what. Mr. Conklin said 36' curb to back of curb. So it was my understanding at the time we talked about that, what Mr. Estes represented that night, was that you would build that road from the intersection of Persimmon to Shiloh.

Tom Terminella: I agree 100% with you. Bob stood up here on three different occasions and said that we would construct the road. I'm not here tonight asking for a building permit Lioneld.

Others here and at my office have been asking me to provide the real estate that I paid for and provided for others to achieve their large scale development plan. If you watch the film which you did, if it was so unusual and so out of the ordinary and there was an ordinance on the books, why didn't somebody ask Mr. Estes or Mr. Terminella does this mean that you're going to pay for all the civil, provide all the right-of-way and pay for the entire improvement? I'm not here asking for a building permit. Others have asked of me to provide them with means to achieve their large scale development which I'm willing to do at my expense. But I'm not going to voluntarily or Bob's not going to voluntarily stand up here and commit me to build millions of dollars of improvements when I don't have to, when they're not afforded under ordinance. It says right here, Planning Commission shall determine whether the proposed subdivision creates a need for off site improvements the portion of the cost of any needed off site improvements which the subdivider shall be required to bare. Okay it says that, we already have the tools afforded to us under the City and the development community in order to deal with these issues. There's no need for impact fees. There was a need for somebody to access the seven other developers that came before me including the School District on what impact they were going to have on Persimmon. It wasn't my reasonability to provide all the right-of-way when the ordinance calls for one lane. It wasn't my obligation to build half of it when I was obligated to build one lane under ordinance. And I'm sorry that I chose that evening one meeting out of a hundred not to represent and speak on my behalf and since that night I think you realize I've been here on my behalf. This is in my back yard, it's on my farm and I didn't need to start in the northwest corner of the farm to facilitate the City and the School District and others. I didn't have to start there. My property joins Dinsmore, Old Farmington, Shiloh, Betty Joe, and Persimmon. Why would I voluntary sign up for the lick log and pay several million dollars more than I had to under ordinance. I'm sorry that everybody assumed and didn't ask and didn't quantify. That's not all my fault. If somebody would have said Mr. Terminella does this mean you are going to pay for all of this, you would have seen my rear end shoot out of the seat and jump up here and start speaking to the issue. Mr. Estes never said pay for Lioneld, he said construct.

I just finished a \$7 million improvement in the city which the Mayor spoke about in Rogers which the State and the City provided right-of-way and came up with rational nexus under 166.07 # 2 in this ordinance and did it there but I can't do it in my own back yard. I just did a \$3 million one mile five lane section of corridor for Grand Valley in Springdale, their CIP adjusted their budget and spent \$1.6 million over the next two years to achieve that. They didn't assume that when I said I would construct that corridor section that I was going to pay for it all, they assumed that they were going to let me operate under the normal understanding of what their ordinance was. I am sorry it wasn't quantified. I can't answer your question on why everyone else didn't get assessed their prorational share in order to build this improvement that they are going to have impact on. My 117 units in my first phase certainly don't warrant me building a \$2 million road to assure the school and seven other developers have access to the interstate. That is not fair and equitable, that's not treating everybody equal across the board. I am sorry for the misunderstanding. We are talking about \$2.2 million of road and I am talking about doing the lion's share of it, if that is unacceptable to this Council, I understand, but that doesn't change what I have to deal with in Phase 2 and Phase 3, I potentially have another mile of this road. I would like to know the game rules of engagement and how we are going to interpret and administrate our ordinances, because these are the rules I am going to operate off of and assume. My prorational share based on the rational nexus theory of my impact. When I have others sit up here and speak on my behalf and they don't articulate and they don't call for the question, I see where I am at today. When I have people from this City asking me to stay away from his meeting, send a letter because I am a lightning rod, I am not running from my issues, they are not

going to go away. I want to regain what integrity I have to regain to develop my mountain or I will sell it. I am willing to do more than my fair share. I don't know anybody in their right mind that's in business that would do anything beyond what is required of them under the rules of the City. That's not good sound business thinking. I understand what Bob said because I walked out on these steps on Mountain Street and said you just said that we were going to construct that road, he said I never said we would pay for it. I said well that's picking pepper out of fly food.

Alderman Jordan: So you are saying Mr. Estes said he never said anything about paying for it?

Tom Terminella: I asked him what his intent was. He said construct the road to the Master Street Plan knowing what was afforded to us under ordinance. I am not going to speak for Mr. Estes, I am going to speak for Mr. Terminella tonight and it doesn't change the issue or the misunderstanding and I am not going to go back and resalivate and look at that tape again. The facts are the facts. The facts are I am willing to provide all of the right-of-way, I am willing to provide somewhere around \$1 million for the improvement, I am willing to provide the Lion's share of the civil and I am willing for the School District and the City and my development to achieve the ultimate street section and the ultimate game plan which falls within your ward. Okay, I don't get it, the City is getting 30 cent dollar roads built and I am a liar and a promise breaker in my own hometown. I am done talking about it, if it's not the wishes of the Council we will step down. We have five other points of access into the farm, there is no reason I would have financially made a commitment to pay \$2 million to get 80 acres of 500 acres annexed and for nobody to ask the question that is not responsible. I will take the lion's share of it but for nobody to ask and say who is going to pay for all of this. Excuse my nature. Ruppel started as a 60 – 65 foot street section, its 110 feet today, we redesigned the road three times at the request of Planning, Council and the direction of this body. I didn't sign up to build a five lane road and give all the right-of-way a half mile through my farm. That road has been redesigned three times in a year and we've done it and paid for and incurred the expense. There has been one traffic study done on that intersection that I am providing all the dirt to build. I paid for it; nobody has reimbursed me for that. I paid for 100% of what I thought was reasonable. That's to get the process moving, to get it on the table and to achieve the Master Street Plan that you've championed. But, to tell me Mr. Sloan and Mr. Nock and Mr. Walker and Mr. Hayes and Mr. Coleman and the School District don't have a rational nexus theory of cost share on almost a mile of \$2 million road, come on, that is not fair and equitable, that is not treating me the same as you have treated the other seven to eight people beyond us. So I am at a lost.

Alderman Lucas: Were you assessed any on the other end of Persimmon or on the Ruppel Road that goes to Wedington? Were you assessed anything on that?

Tom Terminella: In order for my traffic which is currently 117 units to get to Wedington or Shiloh, the impact that my units are having, the kids that live in 117 houses across from the school are going to ride their skate boards or walk. What about the 2,000 a day trips the school has created? No I have not been assessed.

Alderman Lucas: Thank you.

Tom Terminella: I haven't been assessed a dime.

Alderman Lucas: The right-of-way you say you are providing or they have asked you to provide, are you going to need a cost share on that or a payment on that?

Tom Terminella: Ms. Lucas it is illustrated in the exhibit that has been passed by the Street Department and the Planning Commission and recommended by staff. The cost associated with building both of those corridor sections are represented in the numbers that you have in front of you. There is no delineation, no line item for right-of-way. I am giving that in addition to what I am spending.

Alderman Lucas: Okay. But you are giving that? We are not going to have to cost share on that?

Tom Terminella: It would be illustrated in the exhibit that you have in front of you.

Alderman Lucas: I am just asking yes or no.

Tom Terminella: If I was asking for it, it would be in the exhibit, I am not asking for the City to pay half of what I am donating for right-of-way. I may after this night.

Kit Williams: Let me clear this up. There are two cost shares here. One cost share is the Ruppel Road cost share and I don't think there is any disagreement whatsoever between the City Council and you and the school about that cost share. The second cost share is the Persimmon Road cost share and I think that is where the disagreement is. If you look at the minutes of the night when this land was annexed and rezoned they were only talking about Persimmon not Ruppel Road at that point in time.

Alderman Lucas: Can this be split then and amended to address Persimmon and then address Ruppel?

Alderman Marr: Or explain why it is bundled together.

Ron Petrie: We have the numbers broken out but keep in mind this is an agreement and the developer would have to agree to a new agreement.

Alderman Lucas: Was anything signed on the agreement?

Ron Petrie: I am not sure if we distributed signed agreements, I know we have some signed agreements in our office that we will give to the City Clerk after it is approved. That's just how we typically do it. We would have to re-write these agreements and they would have to be acceptable to Mr. Terminella.

Alderman Lucas: Can we vote on the cost shares independently?

Ron Petrie: You are voting on an agreement, if you change that agreement you need to have his approval.

Alderman Jordan: Have we already acquired the right-of-way from Mr. Terminella on the roads?

Ron Petrie: I don't know the answer to that. I know for all the roads no.

Tom Terminella: You normally don't get conveyed right-of-way until final plat, until the property has been accepted into the City. I have stated to the School District and to the

superintendent that I would provide him two lanes to get into the school, if this didn't go as I had somewhat anticipated or planned. But that doesn't solve the problem. They need the acreage to build the intersection off of my farm; they need the lion's share of the first quarter mile of right-of-way for the Ruppel Road off of my farm. I have not provided and will not provide any right-of-way until the issue is collectively discussed and agreed upon and we have a quorum. I am not going to give \$450,000 of right-of way away.

Alderman Jordan: Mr. Terminella, I am just asking a question so I can get some clarification.

Tom Terminella: Lioneld this got passed in June at the Street Committee, it was talked about in Planning the month after and I have been passively put off for the last five months. You were going to stew about it over the holidays, December 20th and here it is the middle of January of 2006. This was brought up, the misunderstanding, August of 2004, sir; I've had all of it that I want.

Alderman Jordan: Me too. Me too.

Tom Terminella: I will do something different.

Alderman Lucas: I am terribly disappointed in how this has played out. Since I have been on the Council I have seen developers, representatives of developers, lawyers representing developers come before us and we have always been able to discuss these things. Many times they would say we are going to do this or we are going to do that and I guess what this is going to do is change the way we do business. Kit suggested the last time that from now on we should have everything in writing before we vote on something. It makes me unhappy about that. The developers or their representatives would come before us and say I will build that road or I will cost share with the City. The developer's representative said they would construct the road, he didn't say they would cost share with the City. With other developers we have accepted what they have said to be true and this is different. That's what makes me terribly disappointed with this.

If we approve this cost share on Persimmon we are setting a precedence. Maybe that's what we need to do, I don't know.

Tom Terminella: All I want is to operate by a set of rules. Put yourself in my shoes for just minute.

Alderman Lucas: I understand that there are a set of rules but there are also people that come forward and say in order for me to get something passed I will do this or I will do that and they do it.

Tom Terminella: I understand what you are saying with all due respect.

Mayor Coody: All nine of us understood what was being stated that night. There are a couple of factors here that disturb me more so than just hearing one thing and finding out later well we heard something different or all this debate about you said and we approved it based on your promises and now the promises have changed therefore do we need to go forward with the approval that was done. There will always be that debate and I am glad that this is a unique occurrence. This is the first time any of us have ever had something like this to happen and I certainly am planning on this being the last.

From what I understand the cost share that we are talking about this whole thing about constructing and paying for is an additional eight feet on the north side of Persimmon.

Gary Dumas: Yes, that is what the cost share includes.

Mayor Coody: That is the eight feet that we are talking about that everyone assumed that Mr. Terminella was going to build, that status has changed and now we are being asked to pay for that is that right?

Gary Dumas: The cost share agreement is for that eight feet, I am not sure if the Council assumed eight feet or a 33 foot section.

Mayor Coody: This whole disagreement basically centers upon \$147,000 worth of work for the eight feet.

Gary Dumas: Yes.

Alderman Jordan: That's not what was said that night. In the notes it says a 36 foot road back to curb and back to curb.

Gary Dumas: The cost share is for a 22 foot cross section east of the Boys and Girls Club property, not 26 but only 22.

Alderman Jordan: In the minutes it states according to the Master Street Plan a Collector is 36 feet from back to curb to back to curb is that correct?

Tim Conklin: That's what is in the minutes and that is what I stated.

Alderman Jordan: Mr. Estes also said that would be from the intersection of Persimmon to Ruppel to Shiloh Road that is exactly what I remember.

Mayor Coody: The other complicating factor is yes, we all understood Mr. Terminella's attorney, Bob Estes and referring back to Mr. Terminella agreed that they would construct the road in its entirety. Yes they promised to do this. They were offering to do something that is above and beyond what our ordinances require. Do we want to hold them to the promise that we all understood or do we want to just take it on the chin and say we are going to do what we require, follow the ordinance, just get the job done and do the cost share. I hope this never or anything even like this happens again.

A discussion followed on the cost share. After the discussion the Council decided to change the cost share amount.

Ron Petrie: The City's portion for both roads together would be \$661,316.91.

Mayor Coody: Essentially it is the \$137,000 and the right-of-way that is on the table is that right? He dedicates the right-of-way and \$137,000 or builds the road. The \$137,000 and the eight feet are interchangeable.

Mr. Terminella to make this thing work to where we both come out ahead would you be willing to dedicate the right-of-way on the south side from the Boys and Girls Club all the way to the interstate and pay an additional \$137,000 to go toward the 22 foot or build the eight foot lane at your expense which is essentially the same thing.

Tom Terminella: I will entertain it but the fact of the matter does not change. How am I to address the Planning staff, Planning Commission and this Council on these future issues? You want me to pay another \$137,000 and we are going to turn our back to assessing all the other developers their portion under ordinance for these off site improvements. I understand your intent.

Mayor Coody: if we get this one issue ironed out if we are not accessing other folks as we should be we will get that straightened out. That will be resolved. The impression I get from this Council is if you agree to the dedication of the right-of-way that is necessary and the eight feet of pavement or the \$137,000 I would bet the City Council would approve your development.

Tom Terminella: I will provide the right-of-way, if I have to self finance the other \$137,000 until the Planning body determines others prorational cost for off site improvements to where I can get reimbursed for it I will do that. I don't see where I should shoulder the burden of 70% of the entire section. I understand what was said.

Mayor Coody: So the answer then is no.

Tom Terminella: The answer is I will provide the right-of-way; I want to be reimbursed for the \$137,000 out of other developers beyond this improvement.

Mayor Coody: Are we not assessing as we should other developers in the area and if so would we be assessing developers to pay for this \$137,000 in the future?

Ron Petrie: Staff does not assess anyone; Planning Commission does that, each individual subdivision we have looked at individually. The school is paying half of a standard road for Ruppel. Each one of these is unique and it is hard to compare apples to apples. I personally don't accept the fact that we have not assessed appropriately because I don't know that that is true. Staff recommended cutting it down to 22 foot because there are adjacent properties that have recently been purchased and we know we will see some development on those properties and will require them to build part of it.

Alderman Thiel: Have there been other developers that have paid more than their share and they went ahead and paid more because they wanted to do the project.

Ron Petrie: Yes. Ron described another project that has paid more than their share.

Alderman Reynolds: Is there enough property left that Mr. Terminella will be able to recoup \$137,000?

Kit Williams: I don't think that we have anything set up that would allow a recoup of cost for this unless a road improvement district was created. If nothing had been said by his attorney with him in the room when the property was being annexed then the ordinance would control and the ordinance would not have required him for this development to build that road all the way out to Shiloh. Unfortunately for Mr. Terminella statements were made at that meeting and

therefore there is a different understanding by the City Council. One might also wonder if they were only going to do what we required them to do by ordinance, why would they have offered to do anything else; it would have been a hollow offer. Most developers have to follow the ordinances. I think it is reasonable for you all to assume that something more than this ordinance was being offered that night.

Alderman Marr: I don't think that nine people would get an impression that was consistent if it didn't happen. No one will convince me that I didn't hear that we would have a road constructed. I think it was done because we were talking about a rezoning in an area of west Fayetteville where we have lots of new density and infrastructure needs. I think there are people that may not have voted for that rezoning if in fact we didn't have some assurance that we would have ingress and egress on the property long term and specifically east, west, north, south as we talked about Persimmon and Ruppel so that we don't end up with what we have in the center of town. I also think we are dealing with a developer who is smart. He talked about developing in 19 communities from Missouri to Arkansas. I think it was obvious with the questions that we asked that we were under the impression that we were getting a road not constructed, but a road constructed and paid for. As I listened to Mr. Terminella's comment about why didn't anybody ask are you going to pay for it I would say why didn't the developer say if you all have the understanding that this road is going to be paid for why didn't they say we want to make it clear that is not the case.

I probably wouldn't have voted for that rezoning that night. But it probably would have passed and if that was the case we would be sitting here with the cost share that was by ordinance not by offer and if we were here with a cost share by ordinance then we would have to decide if we would turn it down and pay for right-of-way or whether we are going to have Persimmon and Ruppel and get connectivity.

I think we are sitting here standing on a principle that we don't want developers to make promises to us and turn around and renege on it because that's how we feel. We are scared if we do it this time that the next developer that walks up to the podium and make a promise we will be stuck in the same position because we let this one get by with it. That's why our process unfortunately has to change. We have to have things in writing we have to have assurances because obviously doing business the old way isn't going to work anymore. The bottom line is we can deny this cost share, he said if I come back later you are not going to get my right-of-way because he doesn't have to offer it and then we will be paying for half of a road and trying to figure out who owns what. I want our process to change because I think we were taught a lesson unfortunately, it's a hard lesson to learn.

The message from me to the development community is don't make me promises that you are not going to keep, don't use language that you know that we are interpreting one way and you don't make it clear. You have just as much of a responsibility to make that happen. This just makes me passionate for impact fees.

Alderman Marr moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion 7-1. Alderman Rhoads, Ferrell, Lucas, Jordan, Reynolds, Thiel and Marr voting yes. Alderman Cook voting no.

City Attorney Kit Williams read the ordinance.

Alderman Thiel moved to amend the ordinance to remove the budget adjustment language. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

Alderman Cook: I would like to table this so we will know what we are agreeing to with Mr. Terminella.

Kit Williams: I haven't seen the actual cost share agreement.

Tom Terminella: I can state what I am willing to do. Kit you have the only agreement that you put in front of me three weeks ago. That was an agreement on the off site additional right-of-way for the second quarter mile of Ruppel Road that is not in the scope of this work. I agreed to it then, I agree to it today and I will agree to it tomorrow. That is to be understood when I conveyed it.

Kit Williams: I understand that. What we don't have is the cost share agreement in writing between you and the City.

Tom Terminella: The Planning staff provided me a cost share agreement which I believe I signed and forwarded back to the Planning Department pertaining to this improvement. If it is not on record or nobody has it this evening, I believe Mr. Petrie provided it some several months ago.

Kit Williams: We just need to get it and get it to the City Council so they can look at what they are being asked to approve.

Alderman Cook moved to table the ordinance until the February 7, 2006 City Council meeting. Alderman Jordan seconded the motion.

A discussion followed on the ordinance and tabling the ordinance.

Alderman Cook withdrew his motion to table. Alderman Jordan withdrew his second.

Alderman Rhoads moved to amend the ordinance to reduce the cost share from \$798,963.44 to \$661,316.91 in the title and in Section 1 as well as in any contract that we have. Alderman Jordan seconded the motion.

Alderman Jordan: From the end of the Boys and Girls Club there will be a 22 foot road and then we cost share our part back to the intersection is that correct?

Mayor Coody: Yes.

Ron Petrie: Mr. Terminella has to agree to that or it is irrelevant.

Mayor Coody: Tom do you have anything you would like to add to the conversation before we vote on this?

Tom Terminella: I better hold short on responding anymore. I have some choice words but I don't think this is the forum to conduct it. I would like to respond to some comments that were made but it is not constructive. I just simply want the City to operate by their ordinances. We would not be here today if the Planning Commission and this Council administrated the current

ordinances that we have on the book. We would not be here tonight because it is unreasonable for me to stand here and shoulder the burden. I don't care what was said or what misunderstanding there was. I am ready for the administrative staff of this City to treat everybody equal and administrate our ordinances because the City would not be paying a single nickel for this offsite if everybody was assessed their share.

Upon roll call the motion passed 6-2. Alderman Rhoads, Ferrell, Lucas, Jordan, Reynolds and Thiel voting yes. Alderman Cook and Marr voting no.

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

Ordinance 4819 as Recorded in the Office of the City Clerk.

John D. Lindsey, LLC. Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC. ***This resolution was tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting. This resolution was Tabled at the January 3, 2006 meeting to the January 17, 2006 meeting.***

David Jurgens, Water and Wastewater Director: The environmental consultants and I walked this line last week. He has sent a letter to the Corp of Engineers. The crux of the letter says that the actual work area of the sewer line would extend along the edge of the originally high water mark or approximately 25 feet. The manhole to construct at the location site would be below slightly below the high water mark; therefore this work is within the normal definitions of the water ways of the United States. The request that we are making to the Corp in the letter is because the specific activity was not identified in the original 404 notification of the Little Rock District, is the City authorized to proceed with the proposed activity under the existing 404 permit. It is 25 linier feet and a manhole within that we believe that the Corp will probably approve this activity to be done under the current permit. We have offered to show them the site and meet with them on site.

I would ask for this to be tabled with we ask for a Corp ruling on if this will be included in the permit. We are requesting if they want to meet with us on site to do so within two weeks. This segment of the sewer line was originally predicted to advertise in February and open bids in March. This is the shortest section of sewer by length and also by construction period. Deferring this project another two to four weeks is not going to delay the net WSIP project on the west side of town.

Alderman Rhoads moved to table the resolution until the February 7, 2006 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled to the February 7, 2006 City Council meeting.

R-PZD 05-1776 Wedington Circle: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 acres; amending the official

zoning map of the City of Fayetteville; and adopting the associated Master Development Plan. *This ordinance was left on the Second Reading at the January 3, 2006 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan: This went to the Street Committee last Thursday and we had quite a discussion over this issue. There is going to be a meeting between the developers and the neighborhood next week.

Joyce Richards a resident of Stephens Avenue said she went before the Street Committee and told them her concerns. She stated they would like to look at traffic calming and doing something with that general area in front of Harps. We have set up a neighborhood meeting for next week.

Alderman Jordan moved to table the ordinance until the February 7, 2006 City Council meeting. **Alderman Lucas** seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled to the February 7, 2006 City Council meeting.

R-PZD 05-1796 Park West: An ordinance establishing a Master Development Plan Residential Planned Zoning District titled R-PZD 05-1796, Park West, located at Highway 112 east of Deane Solomon Road, containing approximately 139.45 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the January 3, 2006 meeting.*

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: Since agenda session additional materials have been given to the Council, one was the traffic study and a phasing diagram that the applicant provided at the request of the Council.

Alderman Jordan: One of the phases will be around Highway 112 and the other one around Deane Solomon Road is that correct?

Jeremy Pate: Yes sir.

Alderman Jordan: The main question is the road that runs east and west, Park West Boulevard, how do we address that? Do you have any concerns with this going in and causing any sort of traffic problems in the area without having the need for Park West Boulevard?

Jeremy Pate: Conceptually no. It is very difficult for the staff to make specific recommendations on traffic improvements.

Alderman Jordan: It may come to a point to where we have to build that road but you don't see that as a problem right now?

Jeremy Pate: No sir. I don't think the street should be constructed with the first phase at all. The applicant has indicated that construction of that collector street is part of this plan. While the phasing plan certainly helps staff, the Planning Commission and helps the Council understand what the plan is over the overall project sometimes the market doesn't always follow your phased plans. Someone may come in and purchase a different piece of property that requires additional infrastructure than the applicant even committed to in these phasing diagrams that is something we always have to keep in mind too. As these projects come before the Planning Commission and through our development review cycle we will be making the recommendations on what improvements we feel meet the rough portionally test.

Alderman Lucas: I just want to make that clear that if development does progress in different areas they can require that road to be put through before phase three.

Jeremy Pate: Yes. There has to be infrastructure that is based on the needs of that development.

Alderman Lucas: Deane Solomon Road comes out on Mount Comfort at that terrible intersection and I can't see increasing the traffic in that area.

Alderman Jordan: Also I have received an email from a citizen that is concerned about the buffer.

Jeremy Pate: The planning area that is adjacent to that property at the southwest corner is of residential nature. There is one small area along Highway 112 that is commercial and commercial uses are required by ordinance to be screened from residential uses. They have indicated buffers and the residential uses adjacent to that property I think for that very reason.

Alderman Jordan: The wetlands, what is the situation with those right now?

Jeremy Pate: As far as I know they are still there and they will remain so until some other plan is approved otherwise.

Alderman Cook: What is the trigger point as far as that road being connected through?

Jeremy Pate: We will be looking at the impact on the infrastructure and evaluate what improvement is necessary and the timing for that improvement.

Alderman Cook: I don't have anything major against this project but for me the infrastructure and how it is built out is the key issue to me. That's all I need to be satisfied on initially.

Alderman Ferrell: I like this development a lot. Is the intent to build in different sequences?

Tracy Hoskins: Yes. The master street that comes across the entire property from Deane Solomon Road to Highway 112 will be building segments as it is warranted. The traffic study that we had completed relates to this development and it gives us a notion of when the infrastructure should happen.

Alderman Ferrell: Once this is complete is it possible that due to some of the retail that would cut down on some of the traffic getting out on some of the main streets?

Tracy Hoskins: Absolutely. It is designed to be a more walkable community.

Alderman Thiel: Did we discuss the improvements that would be made on Highway 112?

Tracy Hoskins: It is discussed in the packet that we gave you. There are improvements to Highway 112 including a stop light at Park West Boulevard and Highway 112. In Phase I we intend on abandoning the old Deane Solomon Road and actually correcting that problem in the very first phase.

Alderman Lucas: That is a great idea.

Tracy Hoskins: It is our intention to build a 28 foot street there with the City cost sharing an additional 12 foot lane.

Alderman Lucas: That's great.

Alderman Thiel: There will be some improvements made on Highway 112?

Tracy Hoskins: The traffic study does address those. Phase IB which is the commercial along Highway 112, yes Highway 112 gets turn lanes and a traffic signal.

Jeremy Pate: Condition number 13 itemizes those conditions. It includes widening of Deane Solomon Road and Highway 112 and signalization. Most of those recommendations are in accordance with the traffic study.

Tracy Hoskins: We are adding a considerable amount of infrastructure at our own expense.

Phyllis Johnson, attorney representing Dale and Marti Benedict handed out a brief statement from the Benedict's to the Council.

Alderman Thiel: Did you understand the concerns about the adverse affects on her wetlands based on this project.

Tom, engineer for Paradigm: I am not aware of her concerns but I can address the issue. Approximately a year and a half ago we did a very extensive wetlands delineation, brought the Corp to the site, we walked the entire site, they agreed with the determination, they understand our development. They gave us a concurrence that runs in three consecutive years. At the end of the three years they would re-concur the findings of that determination. The Benedict's are up land from the wetlands that are identified in that study. It would be very unusual that up land conditions would be affected by a down stream development. There are some springs that come from the Benedict's that perpetuate the existing wetland conditions. They were determined jurisdictional by the Corp. There were a lot of wetland conditions that were questionable by the Corp. We came up with 3.7 acres that were ranging from very low wetlands to some very high quality wetlands on the south side of the project that is preserved. The east west canal that was dug for drainage of that property and the north south unnamed tributary that the spring flows from the Benedict's, all of that is preserved and protected, no development is occurring on that.

Any development that would affect the low quality wetlands would be mitigated for, those would be mitigated in terms of enhancements of existing wetlands or improvements to the extension of detention facilities in order to accomplish several environmental things. The development is not restricting any of the existing flows.

Alderman Jordan: So in your expert opinion we are not going to have problems with their wetlands?

Tom: With whose wetlands?

Alderman Jordan: The Benedict's

Tom: I don't know that they have wetlands. I have not done a study of their property so I don't know if they have wetlands. It is my opinion that what wetlands they have are very limited to the existing surface water that you see that is in their pond and their springhouse.

Alderman Lucas: I heard you say there will be no stopping the nature flow of the water.

Tom: That is correct.

Alderman Jordan: Property values in the area will increase once this is in.

Tracy Hoskins: That's what we are hoping.

Alderman Lucas 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.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4820 as Recorded in the Office of the City Clerk.

R-PZD 05-1816 Skate Place Condominiums: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1816, Skate Place Condominiums, located south of Ash Street on both sides of Chestnut Street, containing approximately 3.38 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the January 3, 2006 meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. Staff is recommending approval; they would recommend an amendment to the condition of approval number 1. Condition Number 1 would read *staff recommends the following street improvements to be paid for and constructed by the developer.* Items A and B would remain as stated. There would be an additional Item C

that a four foot sidewalk from the subject property shall be constructed by the developer along Chestnut Street to Sycamore Street. This would allow for a pedestrian connection from this property to Sycamore to the south, there is a bus stop in this area. The developer has agreed to that condition as well.

Jeremy passed out a map to the Council.

Alderman Jordan moved to amend the conditions of approval. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Alderman Thiel: At the Planning Commission meeting there were a lot of mixed feelings about putting residential in an industrial area and the complaints that might come from the residential area as a result of being adjacent to an industrial area. I would have been more comfortable with this being rental units rather than condominiums. I like the project and I like some of the amenities that are being provided. I don't feel like there is enough area adjacent to the existing I-1 area that is being used that way to be a real issue. I probably will support this.

Alderman Ferrell: I like this project too but there is a concern about the people that will be moving into there later. Is there any way for the people moving in there to have a documented realization that there is an I zoning close to them.

Jeremy Pate: Probably the best indicator is what you go through to get there.

Alderman Reynolds: If these people buy into these condos and the industrial people make excessive noise the police will have to go out and take a reading. The industrial folks were there first.

Jeremy Pate: I think you have that situation already. We have that situation in many places in town.

A discussion followed on the possible noise issues that might occur with putting this residential development close to an industrial area.

Hugh Earnest: Over time this area may change. We feel confident there will not be any significant number of complaints regarding noise in that area based on the conversations with the industrial people.

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

City Attorney Kit Williams read the ordinance.

Alderman Cook: That is probably my biggest concern the fact that this is industrial in this area. As we creep into the neighborhoods there is definitely going to be a clash. The positive of this is the connection and trail corridor.

Alderman Reynolds: I would like to make sure the businesses get some type of relief from these people that are buying theses condos. Until such time that changes from industrial or commercial to another mod because I would hate to see them written up for a code violation.

Hugh Earnest: We will do what ever we legitimately can to make sure we do inform people of the existing uses in that area as we move through the sale process.

Alderman Marr: I think the discussions with the tenants in the area of this development have been positive in nature. I think the benefits of getting a Skull Creek dedication and access that this property gives to Sycamore Street gives an interest without coming through the development I-1.

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

Ordinance 4821 as Recorded in the Office of the City Clerk.

RZN 05-1833 Bellafont: An ordinance rezoning that property described in rezoning petition RZN 05-1833 for approximately 25.29 acres located north of Joyce Boulevard, west of Venture Road, and south of Bellafont Gardens from R-O Residential Office and C-2, Thoroughfare Commercial to C-3, Central Commercial. *This ordinance was left on the Second Reading at the January 3, 2006 meeting.*

Alderman Ferrell 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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: The applicant did conduct a neighborhood meeting to talk about connectivity. Staff will continue our efforts to ensure whatever connectivity if any occurs with the neighborhood to the northeast does not create a cut through but does provide connectivity. There is a Bill of Assurance attached to this zoning request. A copy of the Bill of Assurance is in your packet.

Tom Hennelly, H2 Engineering: We put out flyers throughout the neighborhood inviting them to a meeting which we had last night. The neighbors that showed up to the meeting was more concerned about the extension of Stearns to Vantage than they were about the rezoning itself. In this part of town traffic is the biggest issue. We have initiated a traffic study and we understand the need to improve the traffic conditions along Joyce Street as well as Vantage.

Alderman Ferrell: I would like to thank the Barber Group and Tom for hosting that meeting last night. They were concerned about the Stearns Street coming through.

Alderman Cook: That is the main thing that concerns me is the level of traffic that will create over time. I am concerned about the traffic flow in the area.

Tom Hennelly: Having this project done at one time by one developer really lends itself to elevating that problem or making it easier, rather than piece milling it together as various developers come through. The traffic problems because of the nature of the development would adversely affect the success of it. So we have as much interest in resolving these issues as anybody does to ensure the success of the project.

Alderman Cook: Is there any assessment to this development for the bridge?

Jeremy Pate: Yes.

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

Ordinance 4822 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

RZN 06-1887 Cato Springs Road: An ordinance rezoning that property described in rezoning petition RZN 06-1887 for approximately .31 acres located at 1068 Cato Springs Road from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-Family, 24 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. The applicant is fine with whatever residential district that would help him to reconstruct the one unit. The RT-12 or the RMF-12 would work on this property. Staff is recommending approval and the planning Commission did recommend approval of this ordinance.

Alderman Thiel: I support doing this.

Alderman Thiel moved to amend the ordinance zoning to RT-12. **Alderman Marr** seconded the motion. Upon roll call the motion passed unanimously.

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel 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.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4823 as Recorded in the Office of the City Clerk.

Dychem International: An ordinance to waive competitive bidding and award an extension of a contract with Dychem International through the end of 2006.

City Attorney Kit Williams read the ordinance.

Alderman Reynolds: I suggest we pass this ordinance for this system for the rest of the year until we find a system that will work.

Alderman Ferrell: Do you think it is possible to find one during this next year?

Gary Dumas: There is hope. Hopefully we will be able to find one at the right price that will clean all of the vehicles.

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan 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.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4824 as Recorded in the Office of the City Clerk.

Fayetteville Downtown Partners: An ordinance waiving the requirements of formal competitive bidding and approving a contract for services with Fayetteville Downtown Partners in the amount of \$90,000.00 to assist in the implementation of the Downtown Master Plan.

City Attorney Kit Williams read the ordinance.

Tim Conklin: This is the second part of a three year funding request for Downtown Partners. Their scope of work includes establishing a Downtown Improvement District, look at strengthening the infrastructure in our downtown, looking at a Cultural and Arts District within downtown Fayetteville, supporting downtown business, engaging downtown neighborhoods and marketing the downtown experience. Last year request's was \$150,000 this year's request is \$90,000, in year three it goes down to \$40,000.

Alderman Lucas: The Improvement District, will that be administered by Downtown Partners and then will we fund it through them?

Tim Conklin: The Improvement District would have to be created by the City Council that is my understanding. How Downtown Partners will interact with the Improvement District is something that would have to be worked out and established as that process continues.

Doug Walsh, Project Manager for Fayetteville Downtown Partners gave a general overview of how the Improvement District is formed and how it would function.

Alderman Ferrell: Do you all have a feeling for what percentage of the potential members in this Business Improvement District will join or what number you will have to have to make it float.

Doug Walsh: In order to get the Improvement District to pass we have to get petitions signed by at least two thirds of the assessed value.

Alderman Ferrell: If they sign the petition does that mean they are going to join?

Doug Walsh: Yes, that is their vote that they will be a part of it by signing the petition.

Alderman Ferrell: How many property owners are there in the proposed district?

Doug Walsh: Around 270 to 279.

Alderman Marr: This Downtown Partners organization provides many more resources to not only the Downtown Partners neighborhoods businesses but to this Council and those of us as Alderman representing areas. I think it is a great resource; it is non-basis third party, hopefully coming without a specific agenda bringing lots of agendas together.

Alderman Marr moved to suspend the rules and go to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads and Reynolds Recused.

City Attorney Kit Williams read the ordinance.

Alderman Marr moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads and Reynolds Recused.

City Attorney Kit Williams read the ordinance.

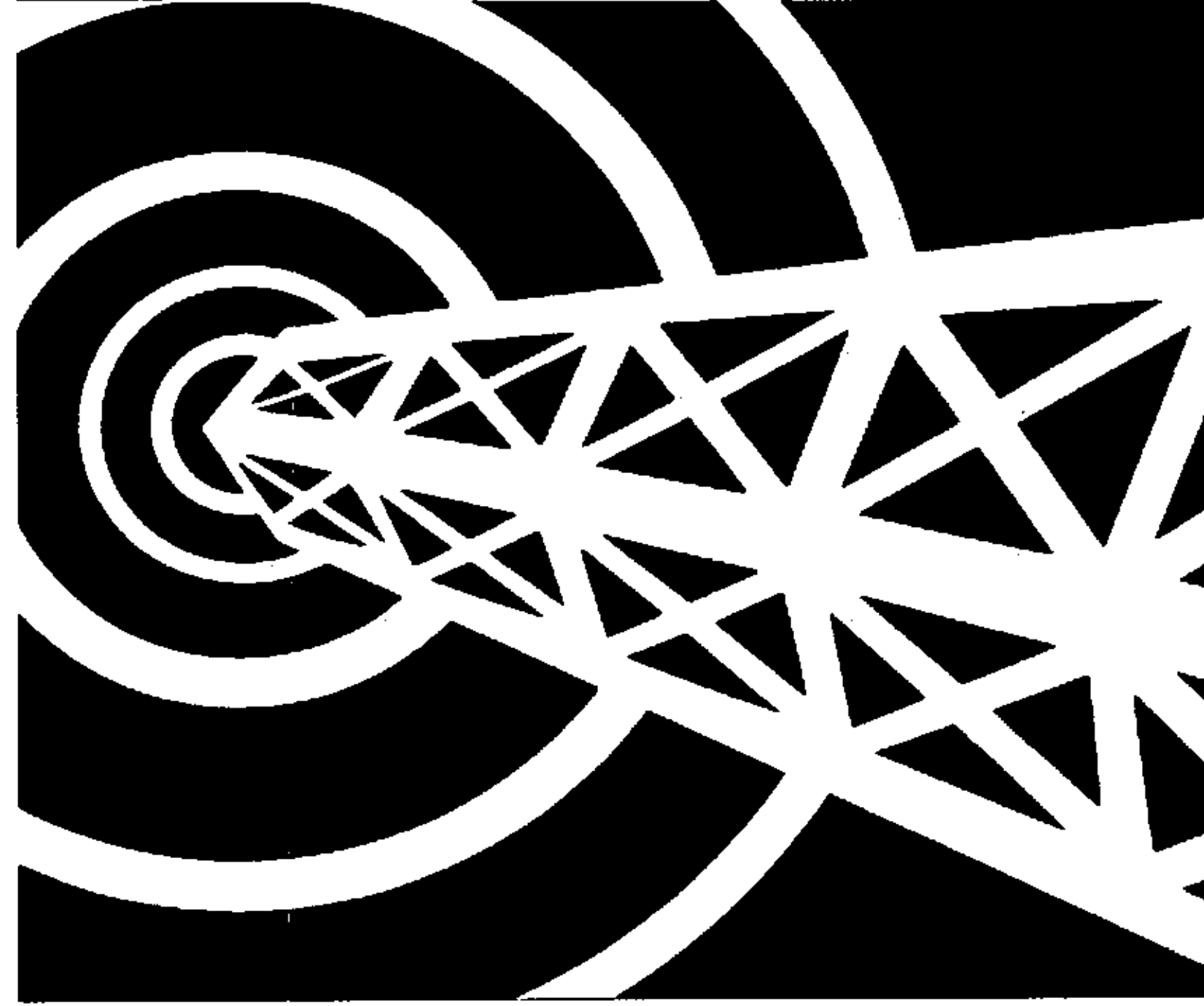
Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Rhoads and Reynolds Recused.

Ordinance 4825 as Recorded in the Office of the City Clerk.

Meeting Adjourned at 9:35 PM

Dan Coody, Mayor

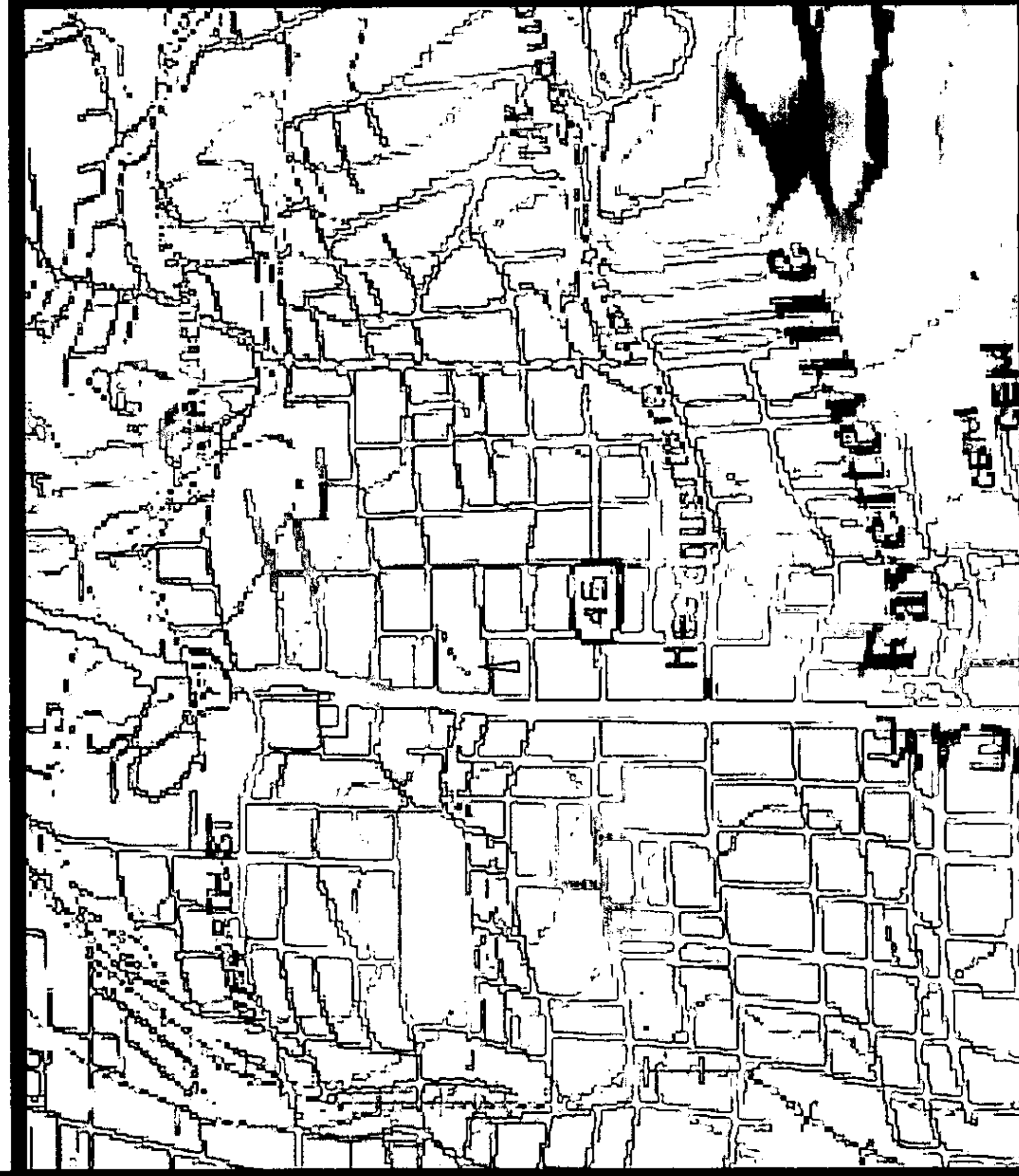
Sondra Smith, City Clerk



SMITH
Two-Way
RADIO

Smith Two Way Radio

**Proposal for NEW Wireless Communications
Facility @ 520 N College**





FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

Wireless Communication Facilities (new build) Submittal Materials Checklist

In addition to a complete Conditional Use application, the following information is required by §163.29 to be submitted for all proposed new towers within the City of Fayetteville. This list is intended to supplement, but not replace the actual ordinance (#4178) information. All required materials must be submitted at the time of application. Please contact the Planning Division if you have questions or need additional information.

- ☐ Provide a map of the geographic area that your project will serve, both in the immediate future and over the next two years.
- ☐ Provide a map that shows other existing or planned facilities that will be used by the cellular service provider who is making this application.
- ☐ Provide a map that shows, up to a distance of one-half mile from your project, any single family residential developments, that are either existing, zoned, or shown in the General Plan, and any major collectors or arterial streets.
- ☐ Provide a map that shows any cellular antenna poles or towers, within a mile radius of your project, that are existing, or are currently under construction.
- ☐ Provide a scaled site plan containing information showing the property boundaries, current setbacks, fall zone, proposed tower, existing land use, surrounding land uses and zoning, access roads(s) location and surface material, existing and proposed structures and topography. The plan shall indicate proposed landscaping, fencing, parking areas, location of any signage and specifications on proposed lighting of the facility.
- ☐ Describe your efforts to co-locate your facility on one of the poles or towers that currently exists, or is under construction. Provide engineering information or letters from the owners of the existing poles describing why co-location is not a possibility.
- ☐ Describe your efforts to locate your facility on an existing vertical element, such as a building or a pole that is currently used for another purpose and is comparable to the height of your proposed facility. Include a map of the sites.
- ☐ For poles or towers more than 50 feet in height: describe how you will accommodate other antenna arrays that could be co-located on your facility. Describe how this accommodation will impact both your pole or tower, and your ground mounted facilities. Provide documentation of your provider's willingness to accommodate other providers who may be able to co-locate on your facility.
- ☐ Provide a map that shows other potential stand-alone locations for your facility that have been explored. Describe why the proposed location is superior, from a community perspective, to other potential locations. Factors to consider in the community perspective should include: visual aspects, setbacks and proximity to

March 23, 2004

Smith Two Way Radio

Check List for a NEW Wireless Communications Facility (p.2)



single family residences.

- ☐ Describe the process for arriving at the color for your pole or tower.
- ☐ Describe the options that were explored for camouflaging this facility including but not limited to: use of compatible building materials and colors, screening, landscaping, and placement within trees.
- ☐ Describe your efforts to minimize the equipment that will be installed on the top of your pole or tower to support the antennas. Provide engineering information related to your efforts.
- ☐ Describe all equipment that will be ancillary to the panel antennas, such as whip and microwave antennas. Describe the function of the ancillary equipment and the need to locate it on this facility.
- ☐ Describe any noise generated by equipment in connection with the tower that can be heard beyond the site.
- ☐ Describe all lighting to be provided on the tower and around the tower.
- ☐ Describe all signs to be provided around the tower.
- ☐ Describe all security fencing and anti-fencing devices to be used.
- ☐ Describe all vegetative screening to be used.
- ☐ Provide photographs of the proposed tower superimposed on four separate locations 90 degrees apart and 300 degrees from the center of the tower. The four locations shall be approved by the City Planner.
- ☐ Provide balloon or crane test results to illustrate the height of the tower with photographs from the same four locations as the superimposed photos. The balloon or crane tests are to be advertised in a newspaper of general circulation in the City at least 14 days, but not more than 21 days prior to the test.
- ☐ Provide a sight line representation to be drawn from four points 90 degrees apart and 100' from the proposed tower. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings.
- ☐ Provide a certification letter stating the tower meets or exceeds design criteria and all local, state, and federal requirements regarding the construction, maintenance, and operation of the tower.

CITY OF FAYETTEVILLE, ARKANSAS

CONDITIONAL USE

FOR STAFF USE ONLY

Date Application Submitted:

FEE: \$100.00

Date Accepted or Complete:

S-T-R:

Case / Appeal Number:

PP#:

Public Hearing Date:

Zone:

Please fill out this form completely, supplying all necessary information and documentation to support your request.
Your application will not be placed on the Planning Commission agenda until this information is furnished.

Application:

Indicate one contact person for this request: XXX Applicant Representative

Applicant (person making request):

Representative (engineer, surveyor, realtor, etc.):

Name: Michael B. SmithName:

Address: 520 N. College
Fayetteville, AR 72701

Address: E-mail: msmith@smithradio.comE-mail:

Phone -
(479) 443-2222

Phone -

Fax -
(479) 443-5677

Fax -

Site Address / Location: corner of 520 N. College

Current Zoning District: C-2

Assessor's Parcel Number(s) for subject property: 765-04599-000

TYPE OF CONDITIONAL USE BEING REQUESTED (check one)

- ☐ Duplex in RSP-4 zoning district *
- ☐ Tavern lot
- ☐ Dance hall *
- ☐ Bed & breakfast *
- ☐ Home occupation *
- ☒ Wireless Communication facility *
- ☐ Odor-emitting or explosive handling facility *
- ☐ Change of non-conforming use
- ☐ Manufactured Home/Home Park
- ☐ Detached Second Dwelling Unit



- • Additional parking
- • Other _____

FINANCIAL INTERESTS

The following entities and / or people have financial interest in this project:

Michael B. Smith

APPLICANT / REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval. I understand that the City might not approve what I am applying for, or might set conditions on approval.

Name (printed): Michael B. Smith

Date: 01-12-2005

Signature: *Michael B. Smith*

PROPERTY OWNER(S) / AUTHORIZED AGENT: I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing. (If signed by the authorized agent, a letter from each property owner must be provided indicating that the agent is authorized to act on his/her behalf.)

Owners (attach additional info if necessary):

Name (printed): Michael B. Smith

Address - 520 N. College
Fayetteville, AR 72701

Signature: _____

Phone -
(479) 443-2222

Date: 1-12-05

Name (printed): Michael Smith

Address - _____

Signature: *Michael Smith*

Phone -
()

Date: 12-1-05

Checklist:

Include the following items with this application:

- • 1. Payment in full of applicable fees for processing the application (\$100.00). Make checks payable to the City of Fayetteville.
- • 2. Legal description of property (may be found on deed or current survey of property). A survey may be required if the deed cannot be plotted accurately.
- • 3. Complete written description of this request (what is proposed by the applicant) to include:
 - Building size in square feet; existing and proposed
 - Number of off-street parking spaces to be provided / number required
 - When request applies to a business -





Hours of operation
Number of employees
Anticipated number of patrons, clients, children, customers etc. (average per day / peak hour)
Outdoor lighting

- • 4. Two sets of typed, mailing labels listing the name and address of each adjacent property owner. May be found at the county assessor's office.
 - • There are specific notification requirements for several conditional use requests. The applicant is responsible for understanding these requirements and providing proof of notification when necessary for this application. Please contact Planning staff for further details.
- • 5. A copy of the plat on record in the county assessor's office. The owner's name and the parcel number for every adjacent property shall be shown on this plat (map).
- • 6. Site plan drawn to scale, based on the deed or survey, showing all proposed structures dimensioned from the overhang to the property line, required setbacks.
- • 7. Preliminary floor plans drawn to scale showing:
 - a. Location of walls, doors, windows
 - b. Identification of activity areas

***Notice:**

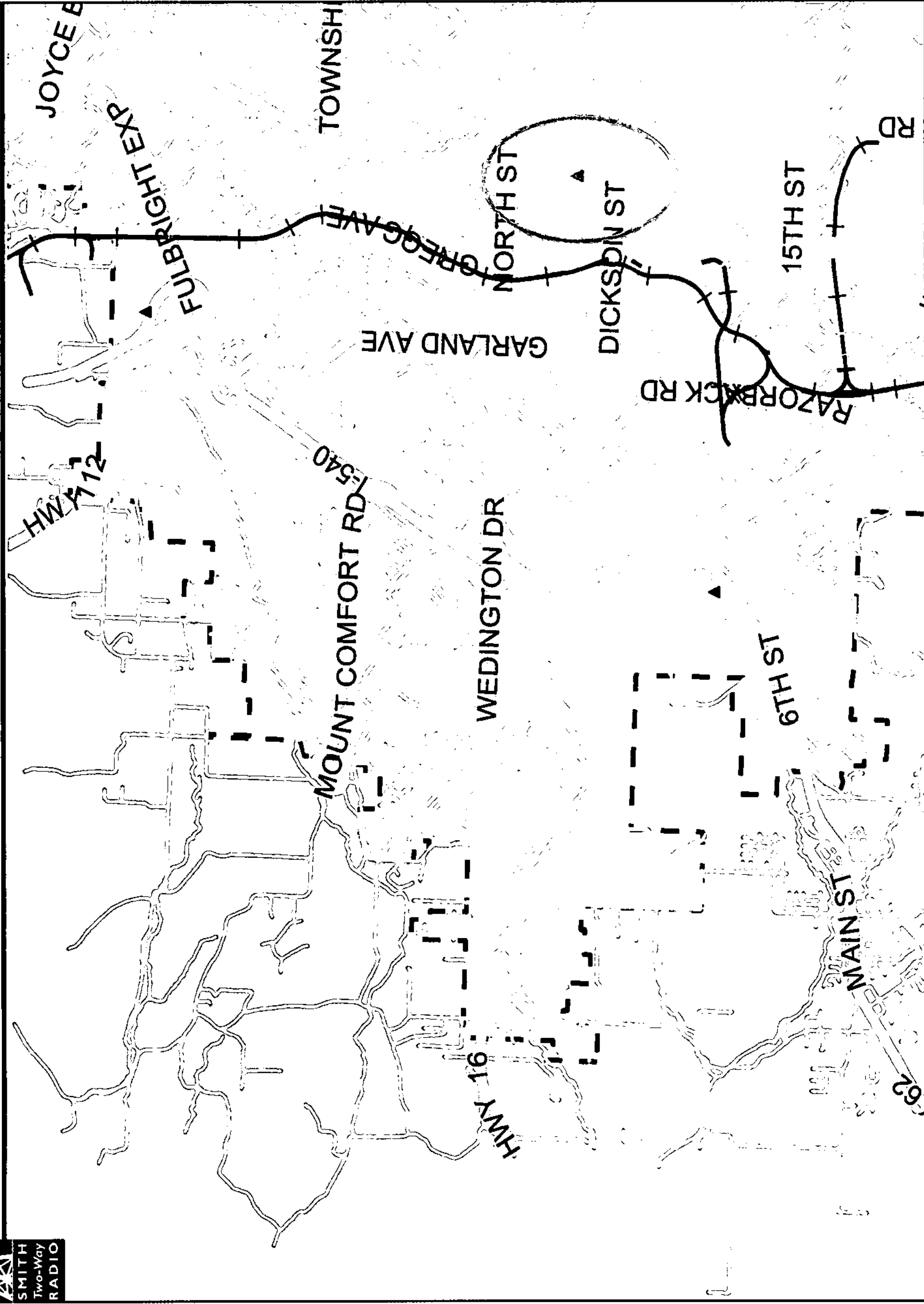
Requests for several different types of conditional use permits require that the applicant provide additional information and/or notification. It is recommended that all applicants schedule a meeting with a Planner prior to completing a conditional use application. Additional ordinance information for each specific application may be obtained from the Planning Division.



Smith Two Way Radio

P.7

Geographic Area the Project Will Serve

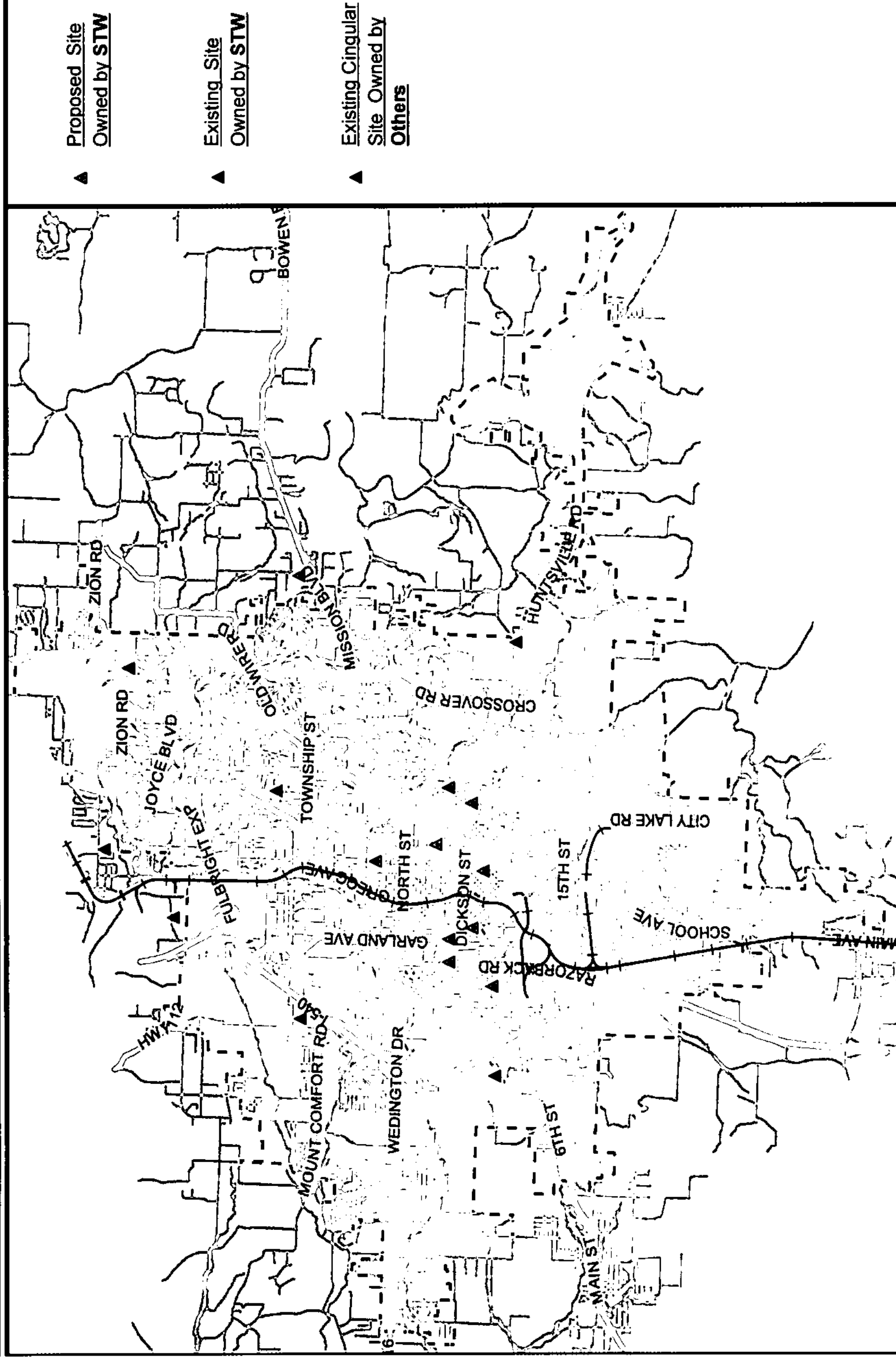




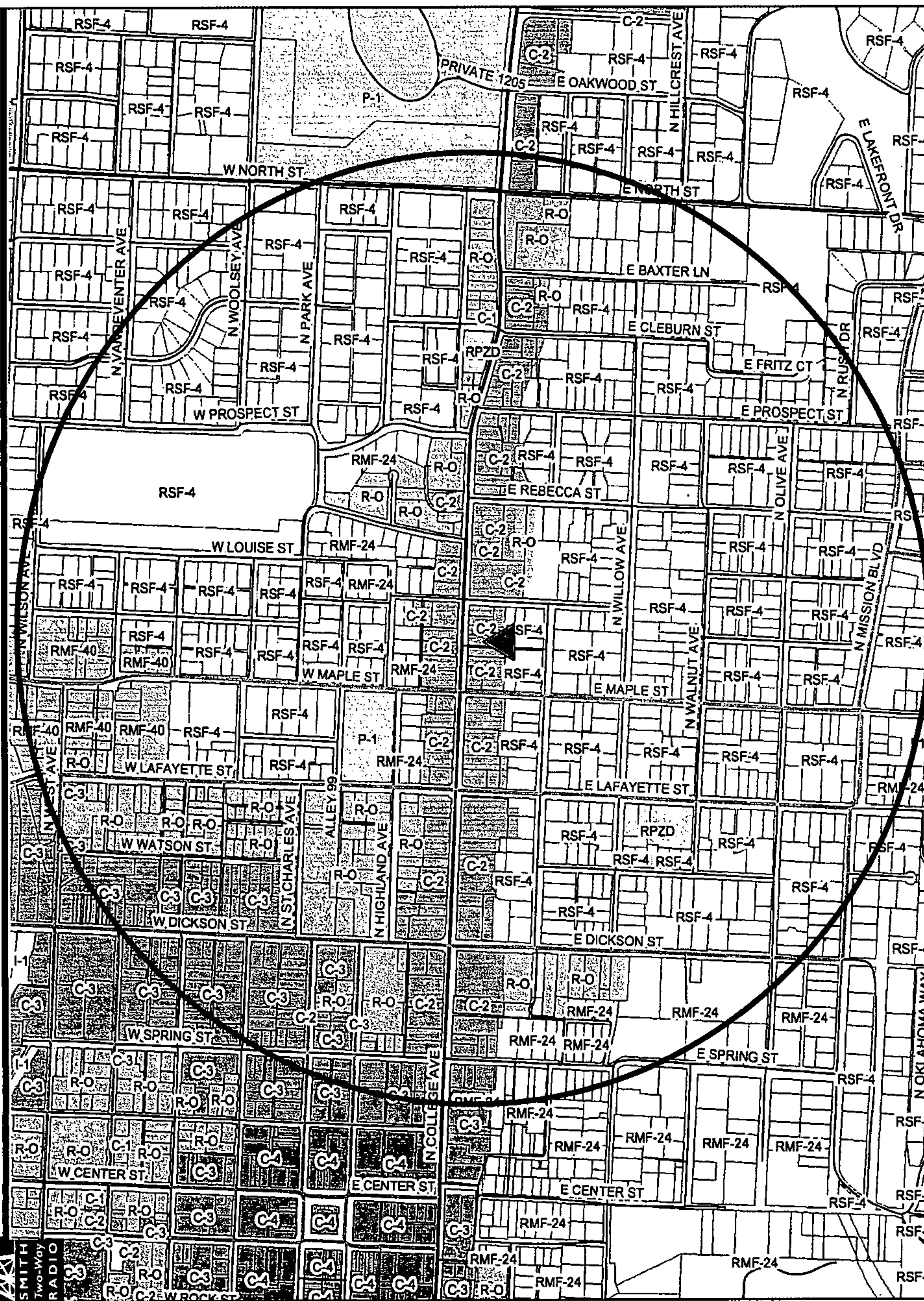
SMITH
Two-Way
RADIO

Smith Two Way Radio P.8

Existing and Planned Facilities



Smith Two Way Radio P.9 Single Family Residences 1/2 Mile Radius

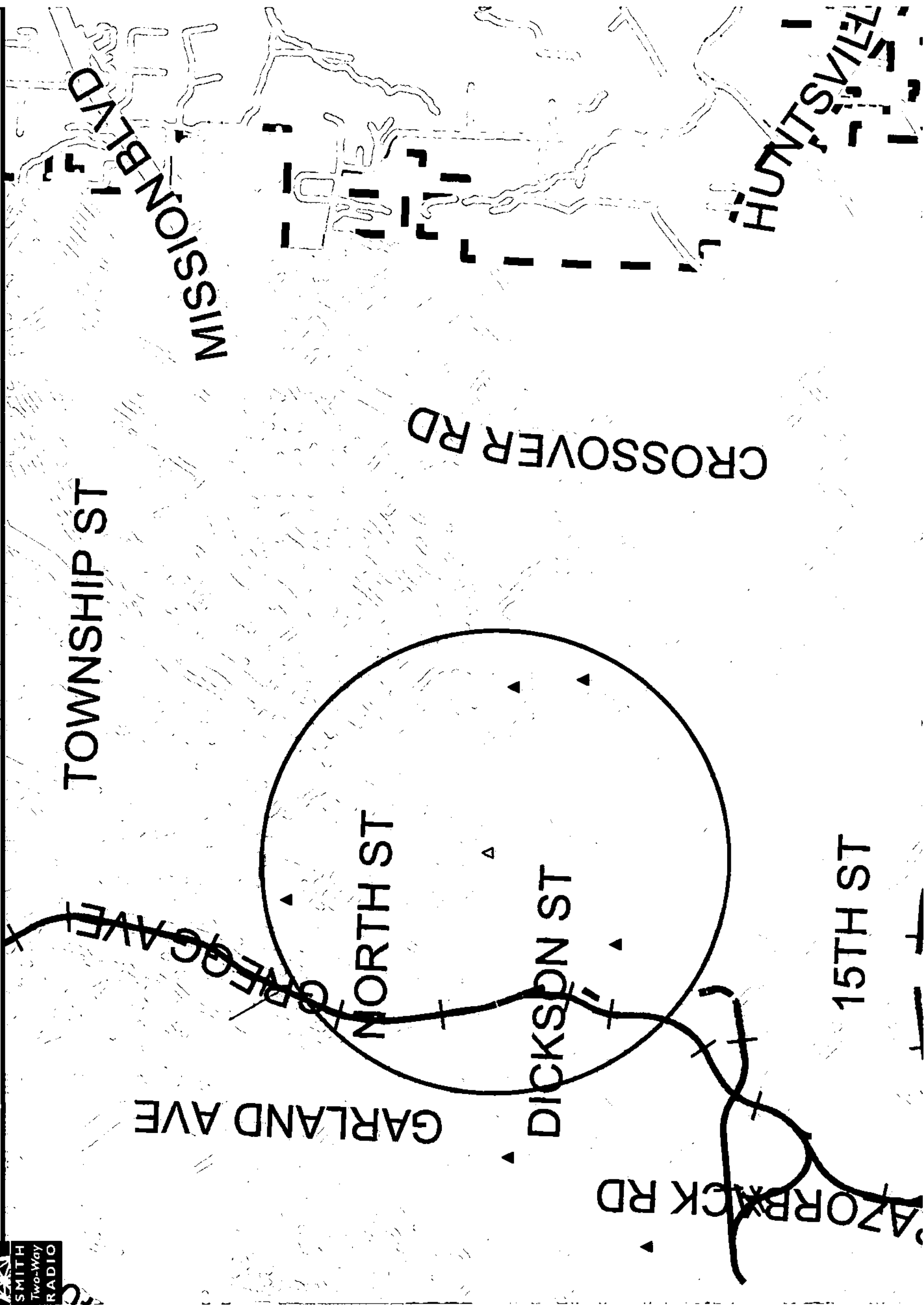


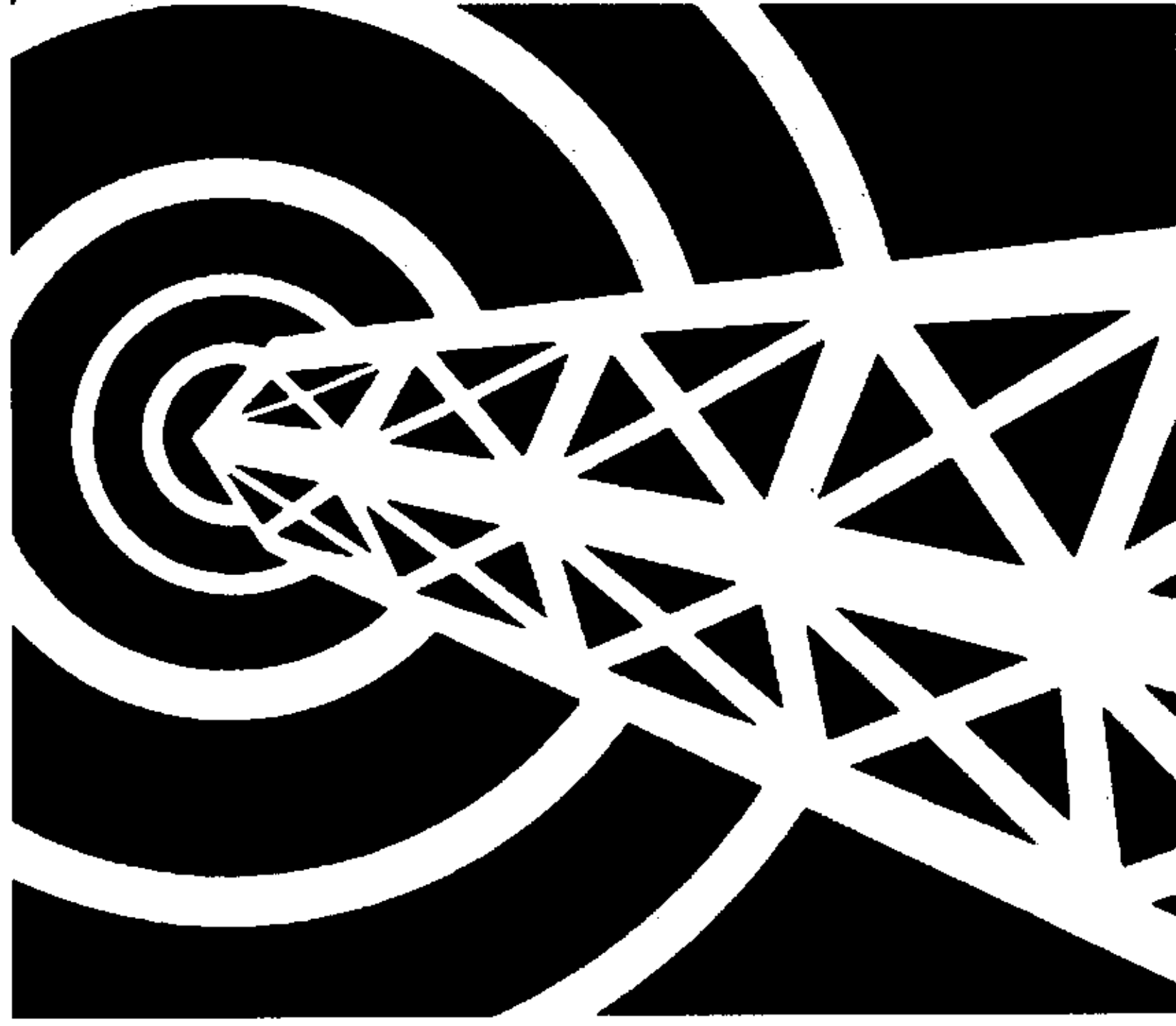


P.10

Smith Two Way Radio

Existing Towers Within 1 Mile





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Sight Plan & Current Zoning Info.

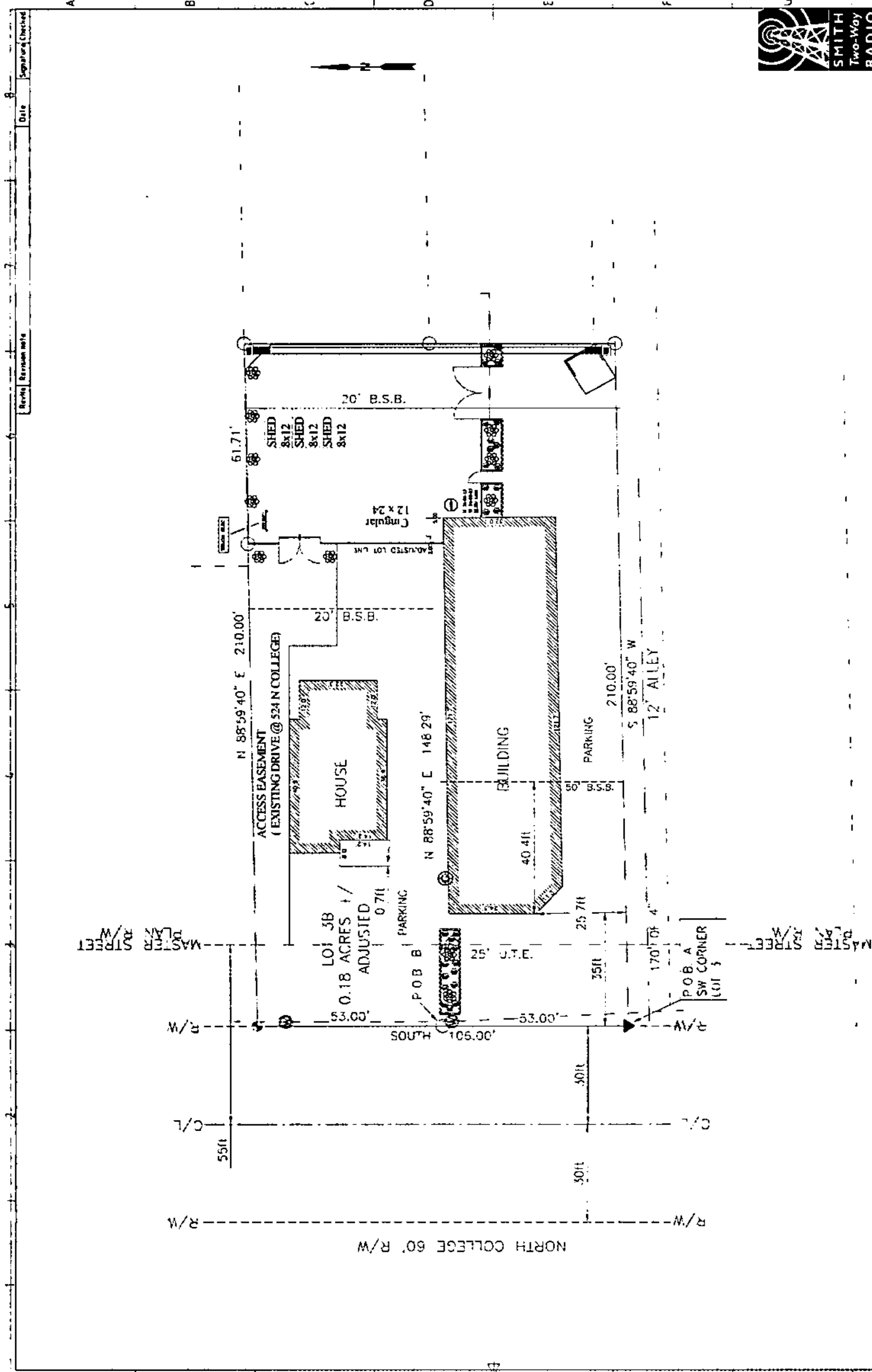


Smith Two Way Radio P.12

Survey of Site and Parent Parcel



SMITH TWO-WAY RADIO SITE 520 N College



TOWER		N 36-04-15	
LAT/LON		W 94-09-25	
ELEV		RTV 1408	
Tower		Quantity	
Assigned by		Title/Name, designation, material, dimension etc	
MBS		MBS	
Date		Date	
11-20-15		11-20-15	
File name		File name	
STW		STW	
Article No / Reference		Article No / Reference	
17-2111		17-2111	
Scale		Scale	
1"=200'		1"=200'	
Tower		Tower	
STW TOWER		STW TOWER	
MBS		MBS	





1-

*Smith Two Way
520 N. College
Fay 72701*

FILED FOR RECORD

'01 DEC 27 PM 12 24

WARRANTY DEED

Single Person

WASHINGTON CO AR
B. STAMPS

KNOW ALL MEN BY THESE PRESENTS:

That I, Judith Carol Smith, an unmarried woman in her own right, a single person, hereinafter called "Grantor", for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations to me in hand paid by Michael B. Smith, hereinafter called "Grantee", do hereby grant, bargain and sell unto the said Grantee and Grantor's heirs and assigns, the following described land situate in Washington County, Fayetteville, Arkansas, to-wit:

Part of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section Ten (10), Township (16) North, Range Thirty (30) West of the Fifth Principal Meridian, more particularly described as beginning Thirty (30) feet East of a point Two Hundred and Fifty-two (252) feet North of the Southwest corner of said Forty (40) acre tract, thence East Two Hundred and Ten (210) feet, thence North Fifty-seven (57) feet, thence West Two Hundred and Ten (210) feet, thence South Fifty-seven (57) feet to the place of beginning, commonly called 520 N. College Avenue.

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

IN TESTIMONY WHEREOF, the name of the Grantor is hereunto affixed by the Grantor this 6 day September, 2001.

Judith Carol Smith
Judith Carol Smith, an unmarried
woman in her own right

[SEAL]

This instrument was prepared by Wommack and Associates, P.A. 160 E. Poplar, P.O. Box 4128, Fayetteville, AR 72701, tel. (501) 521-4890.

2001169963

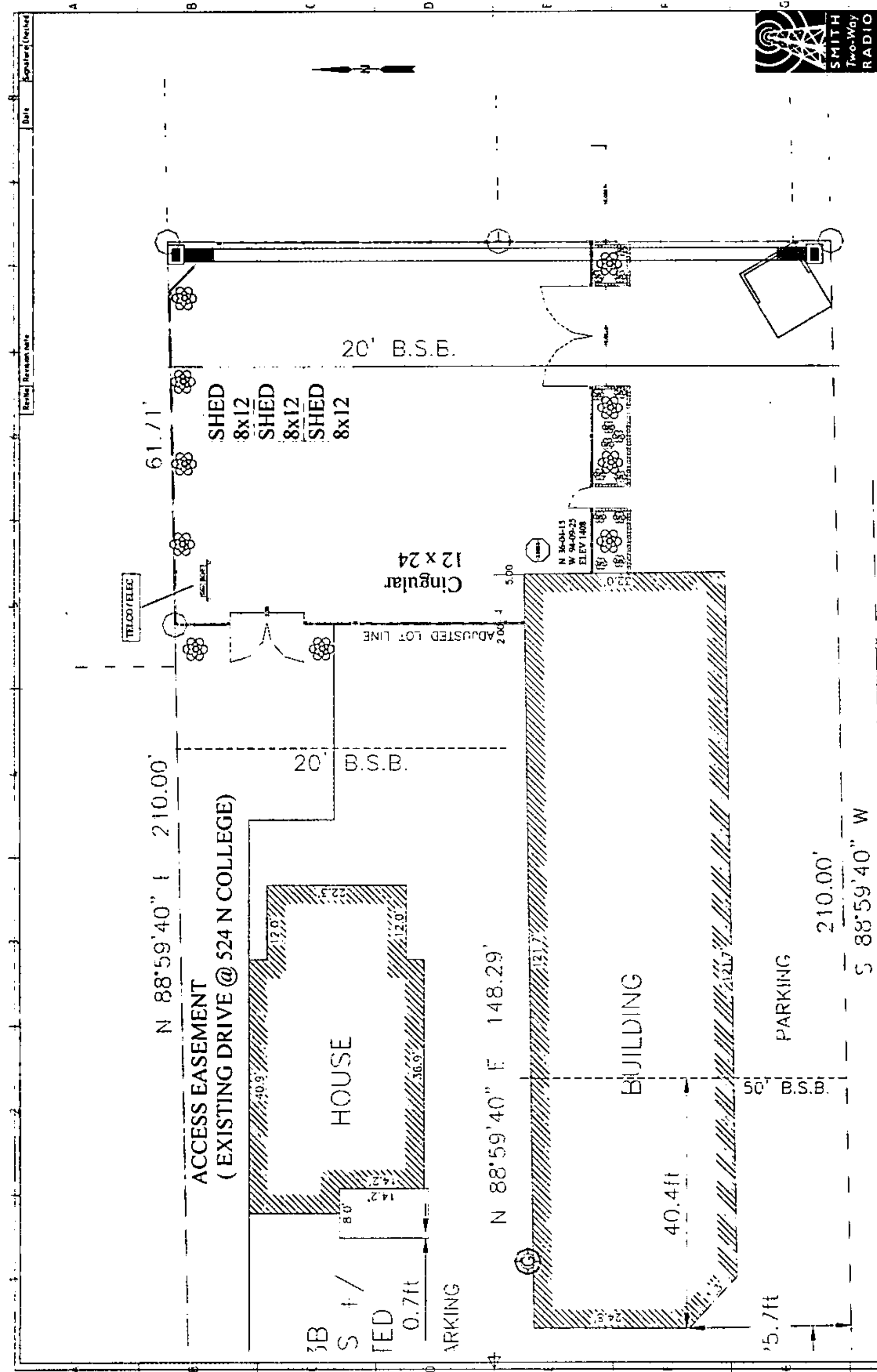


Smith Two Way Radio P.14

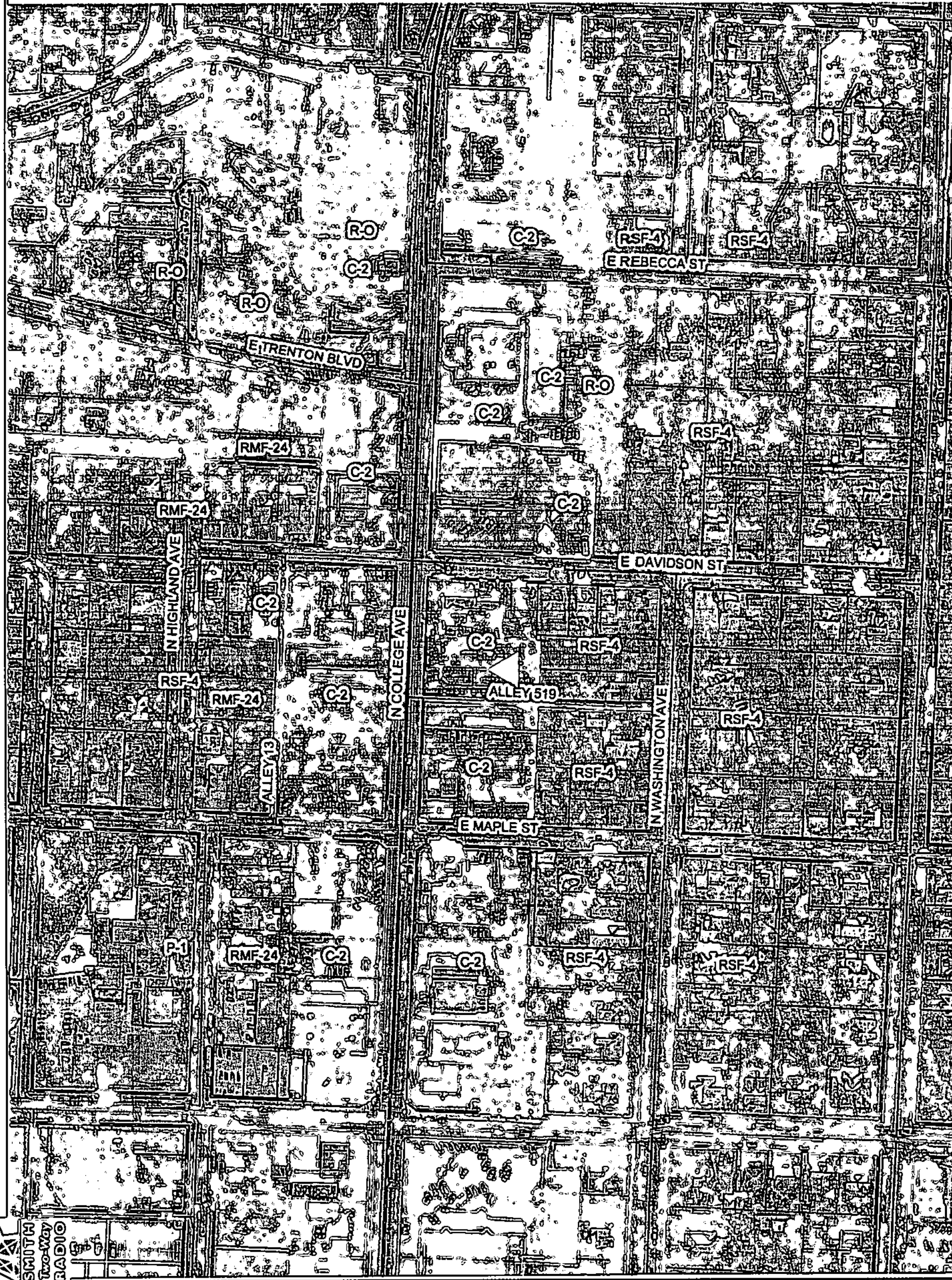
SITE PLAN 520 N College

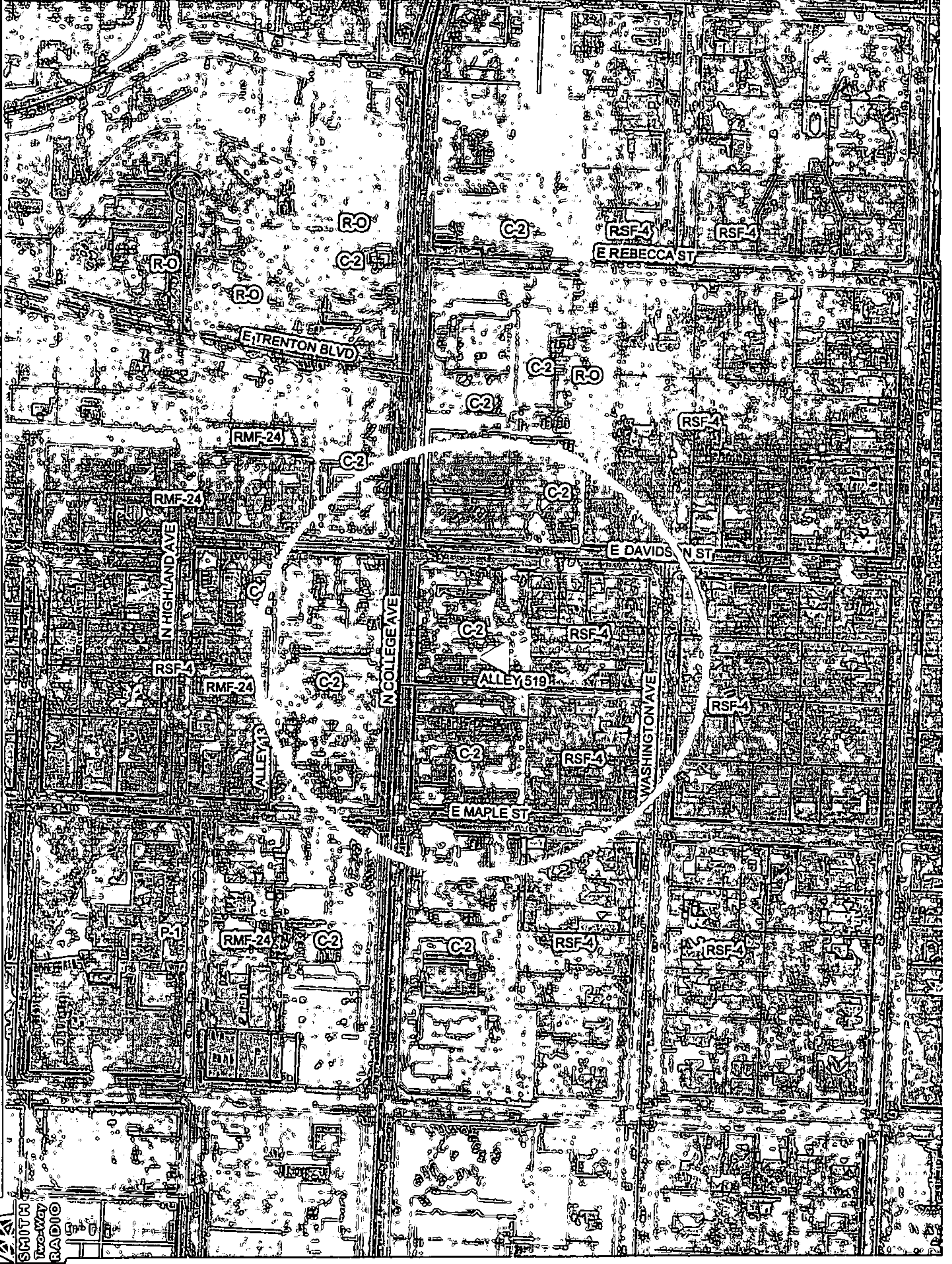
SMITH TWO-WAY RADIO SITE

SMITH
Two-Way
RADIO



Item	Quantity	Item Name, designation, material, dimension etc.	Approved by - date	Checked by - date	Article No / Reference	Scale
TOWER	N 36-04-15					
LAT / LONG	W 94-09-25					
ELEV	ELV 1408					
Designed by	MB	Checked by	MB	Approved by - date	11/10/11	1-12/11
Drawn by	MB	Checked by	MB	Approved by - date	11/10/11	1-12/11
Sheet	1	Of	1			







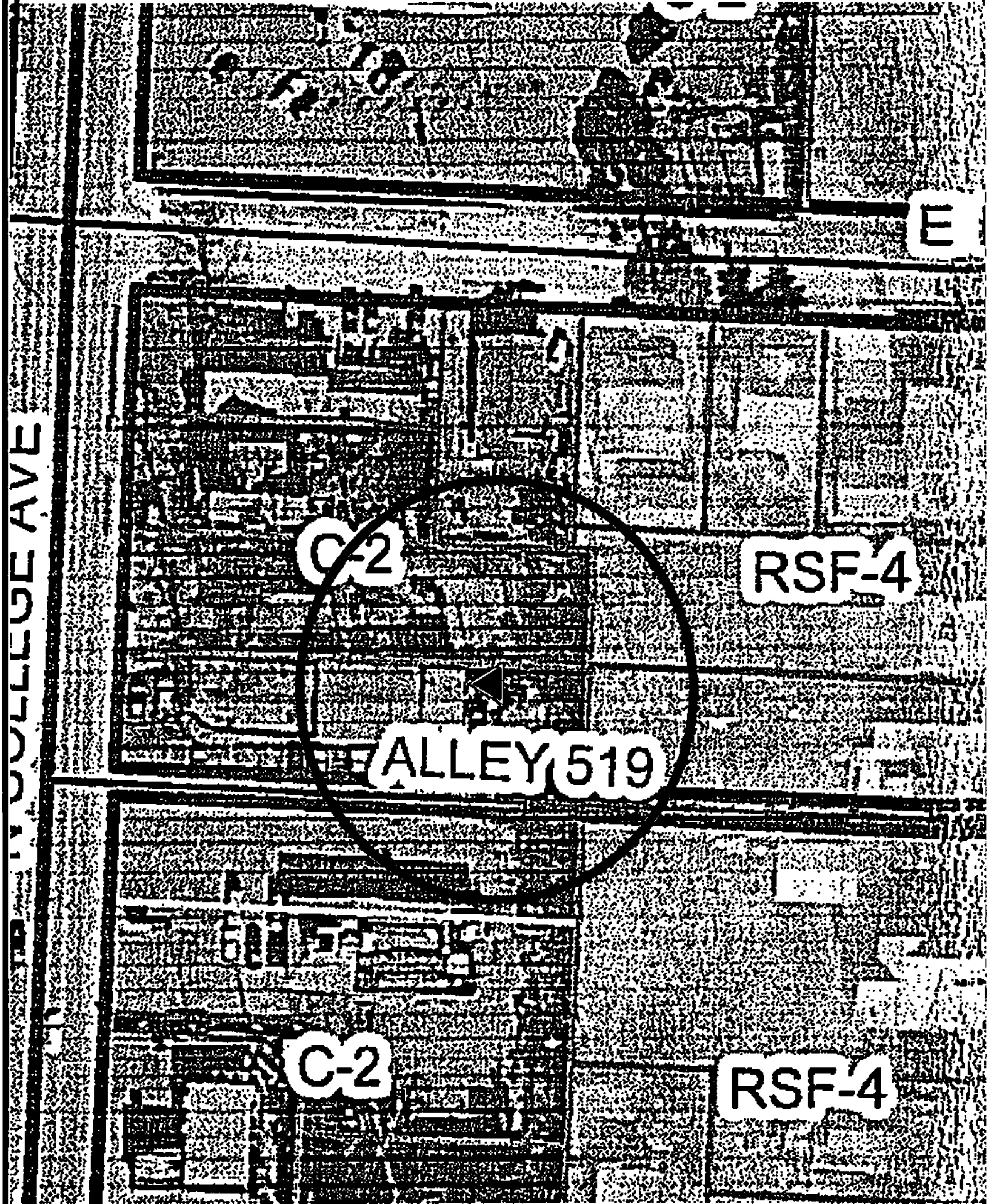
SMITH
Two-Way
RADIO

P.17

Smith Two Way Radio

100ft Radius

COLLEGE AVE





P.18

Smith Two Way Radio

Typical Signage

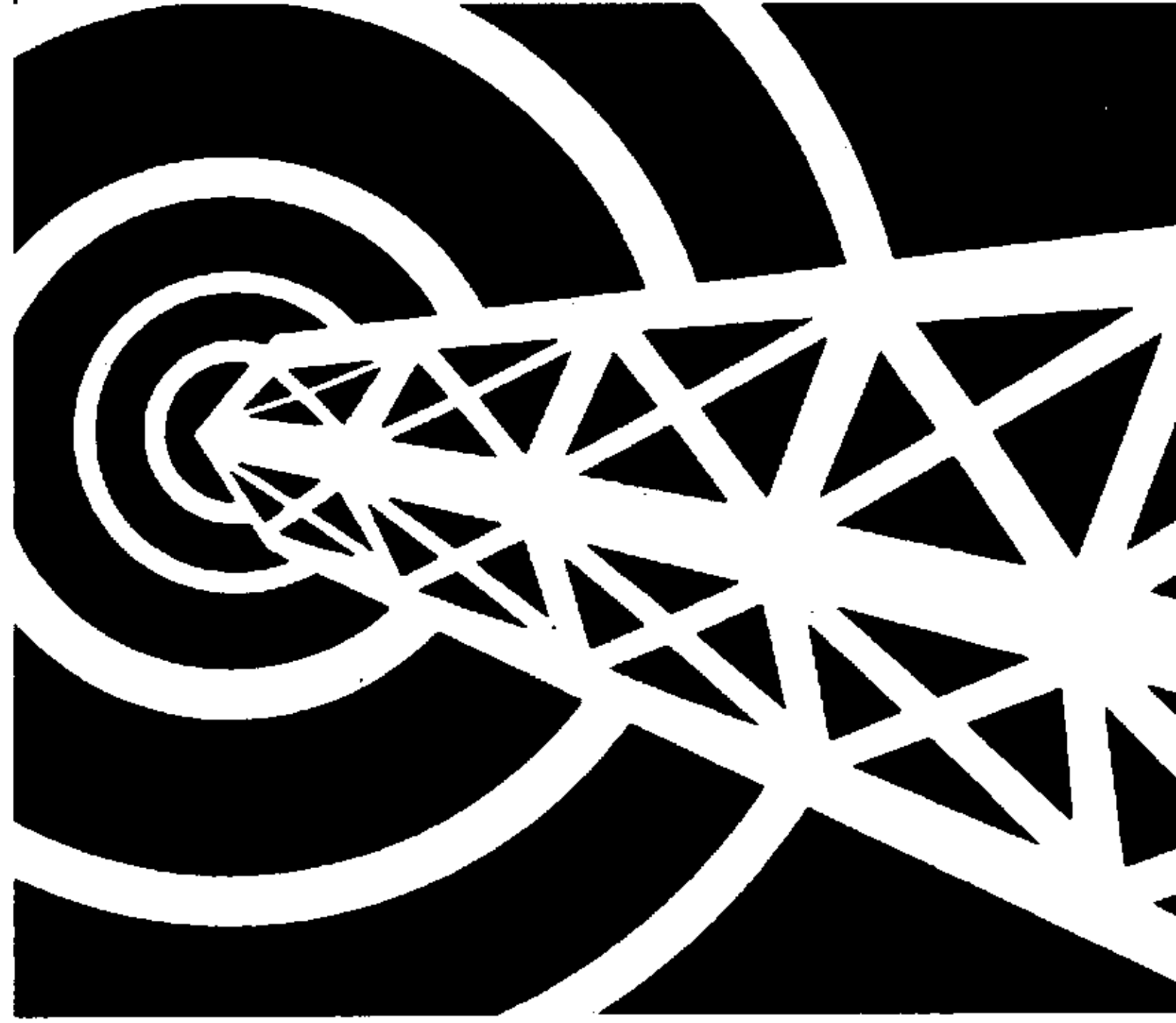
Dark blue lettering on white 24" x 36" blanks - .025 aluminum

gate



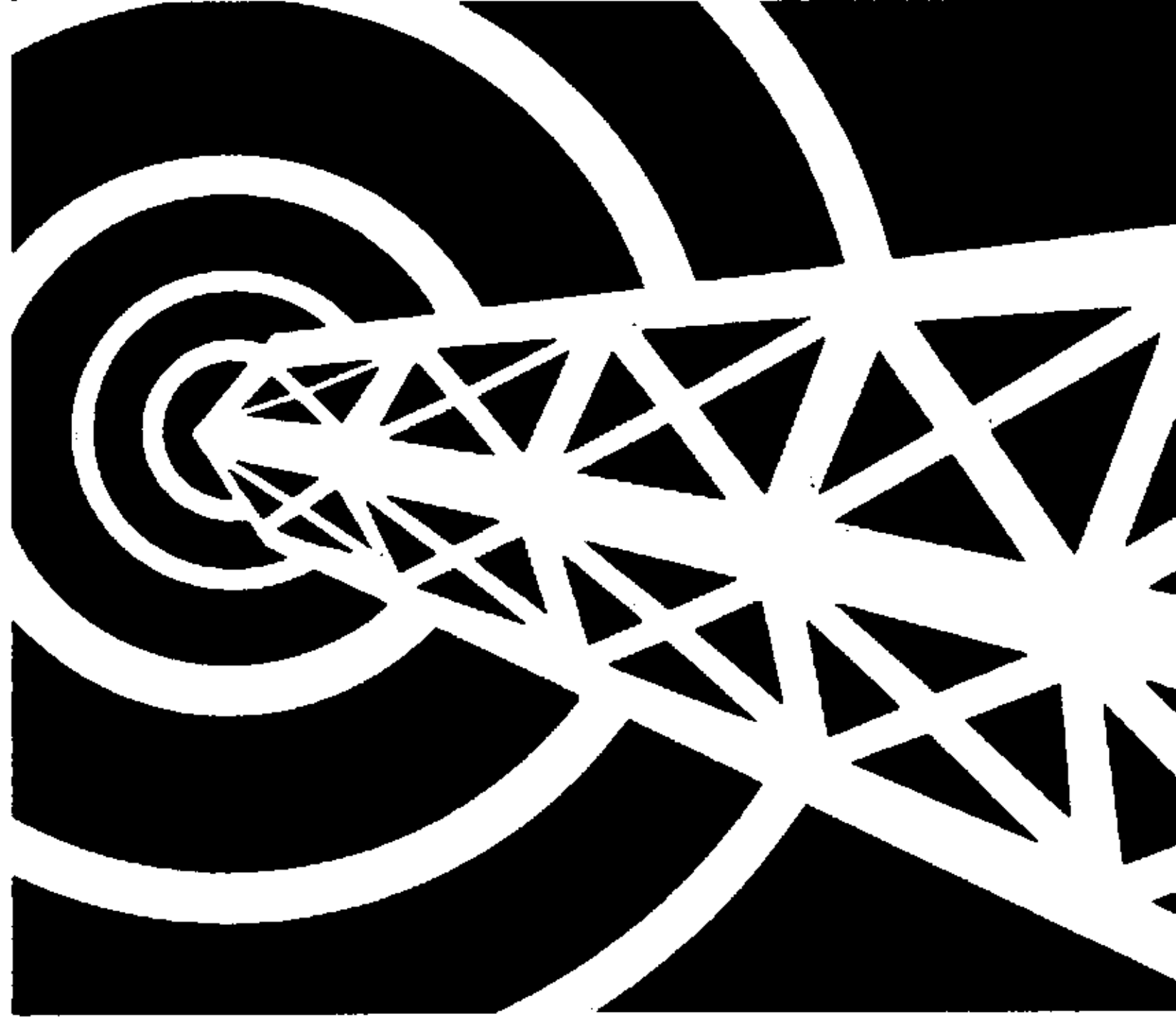
Dark blue lettering on white 6" x 12" blanks - .025 aluminum

FCC REG#
1237302



SMITH
Two-Way
RADIO

**CO-LOCATION
INFORMATION**



SMITH Two-Way RADIO

P.20

A few weeks ago Smith Two-way Radio presented to the City Planning Staff an idea to remove Two existing shorter towers and replace them with a single tower. The existing towers are:

1. A 65 ft guyed tower with a 20ft antenna extending above the tower to 82 ft.
2. A utility type monopole and extension bracket that supports antennas up 62 feet above the ground.

The replacement tower would be a 100ft Monopole. Due to the growth of the area tree line we can no longer maintain a line of sight signal path to Mt. Sequoya. At this level, space would still be available to Co-Locate 2 Cellular Carriers in addition to its primary job of supporting antennas used in the maintenance and monitoring of radio systems across North West Arkansas.

Smith Two-Way Radio has a long standing relationship with the City of Fayetteville Washington County and with all the Wireless Carriers that serve this region. Smith Radio provides and maintains services and equipment for the Emergency and Non-Emergency sections for multiple organizations Local, State, and Federal as well as hundreds of private business in Northwest Arkansas. Smith Two-Way also provides paging for the following Hospitals: WRMC, Northwest Medical Center Washington County, Northwest Medical Center Benton County, Regency Hospital, Saint Mary's, and Willow Creek Women's Hospital. This tower is a needed improvement to regain a radio link to one of the main regional communications hubs.

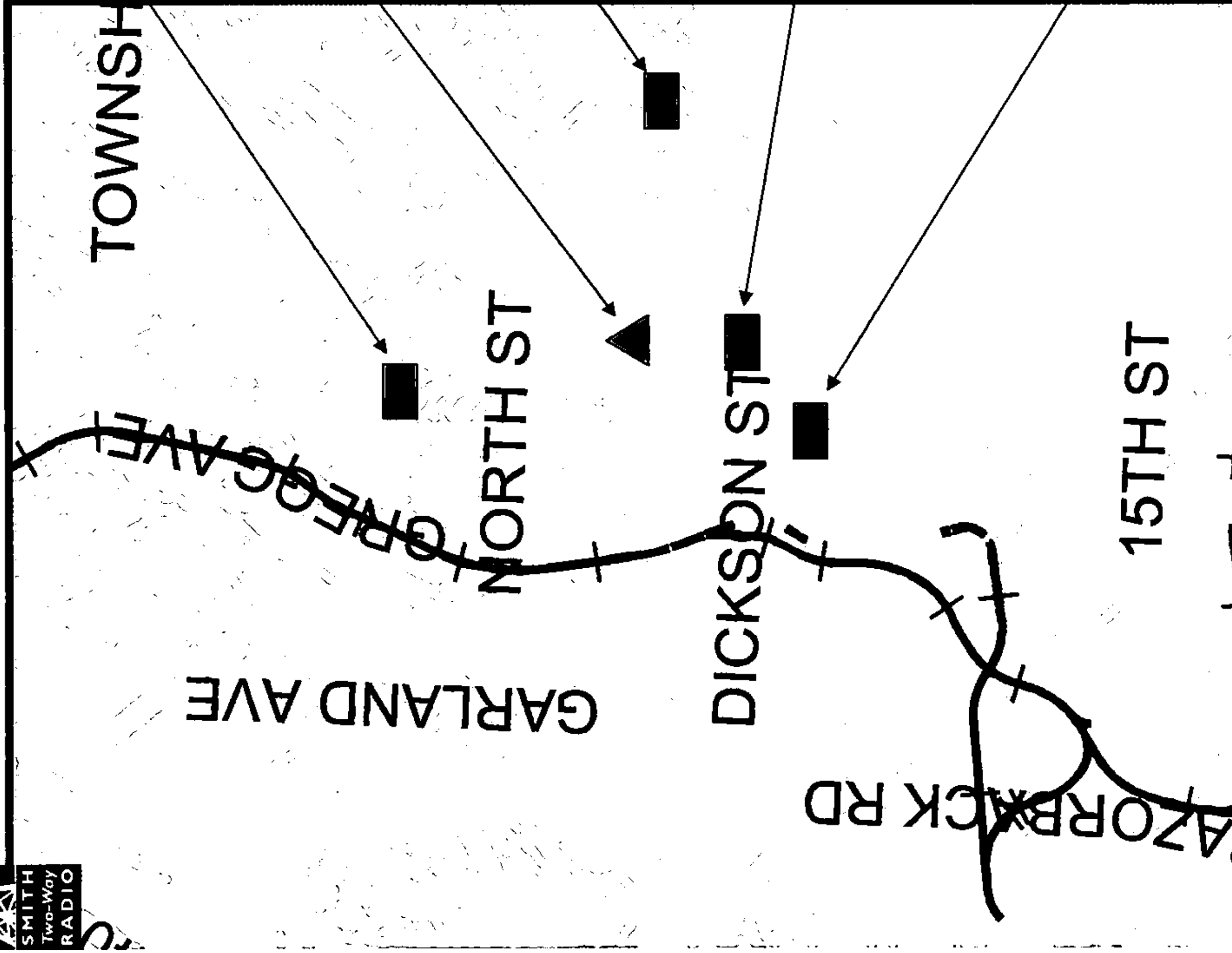
We place a premium value on these relationships. Over the past 75 years we have earned the trust of our customers with "Good Stewardship"

This location, as depicted in the attached maps, has no other communications towers with the closest facility being located in the on Mt. Sequoya the second closest at the VA Water Tower. The existing tower are not able to cover the area. The carriers are already located on all of the existing Facilities. The carriers are suffering service affecting capacity issues due to RF frequency Use, and coverage and tower to tower hand-off issues due to the distance between existing towers.

These are the reasons we can not co-locate on an existing tower.



Other Stand-Alone Locations



VA Water Tower / Old WRMC

Currently on water tower

Smith Two-Way / 520 N College

Proposed central location with existing tower and room and facilities for

Co-Location

AWG Tower (Ruth St.) Mt Sequoya

Currently on tower

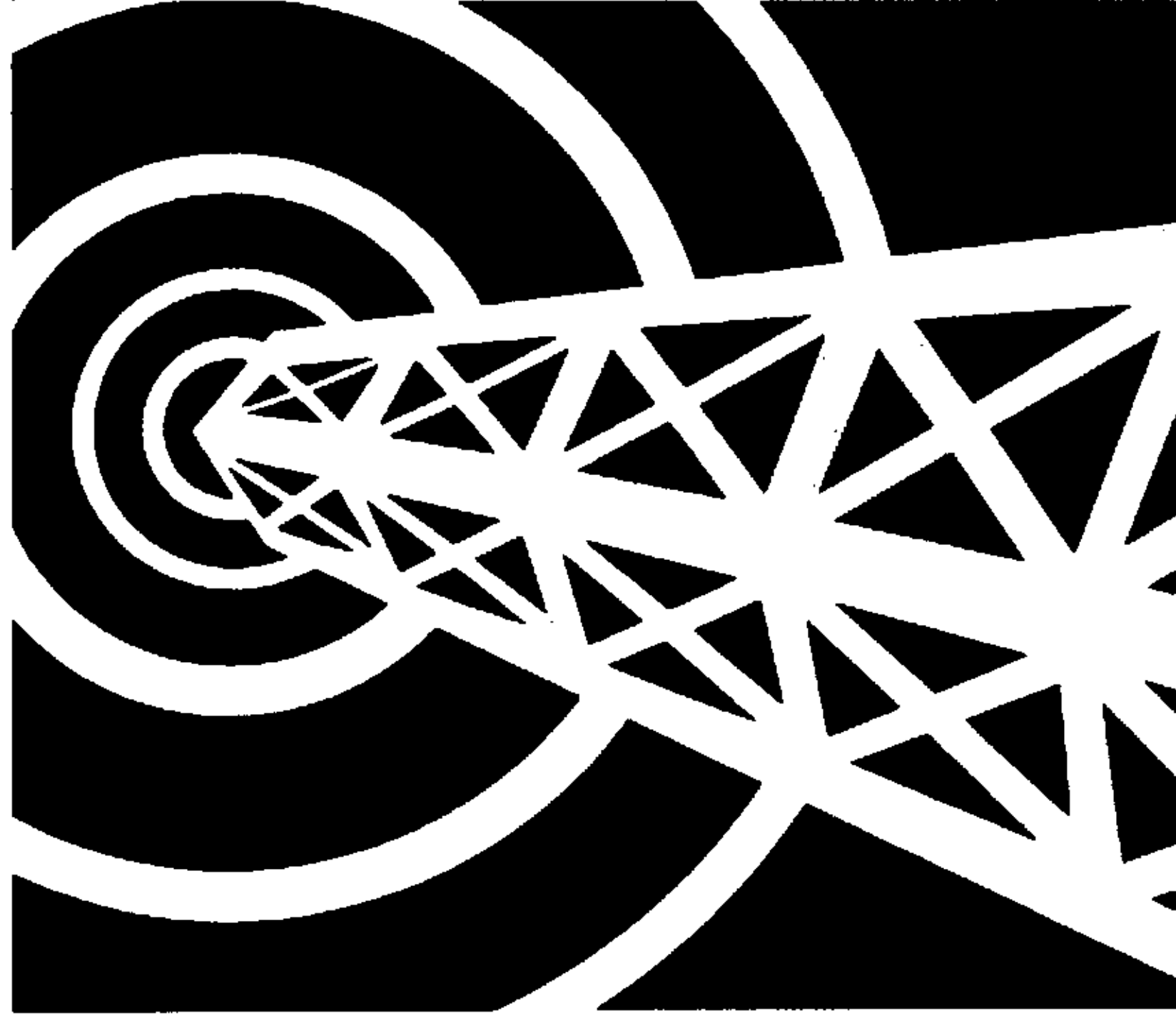
Washington County Court House

This location is aprox. 1/8 mile from a current site at the Radisson Hotel

Radisson Hotel / Hyland Terrace

Currently on Both Buildings

Downtown

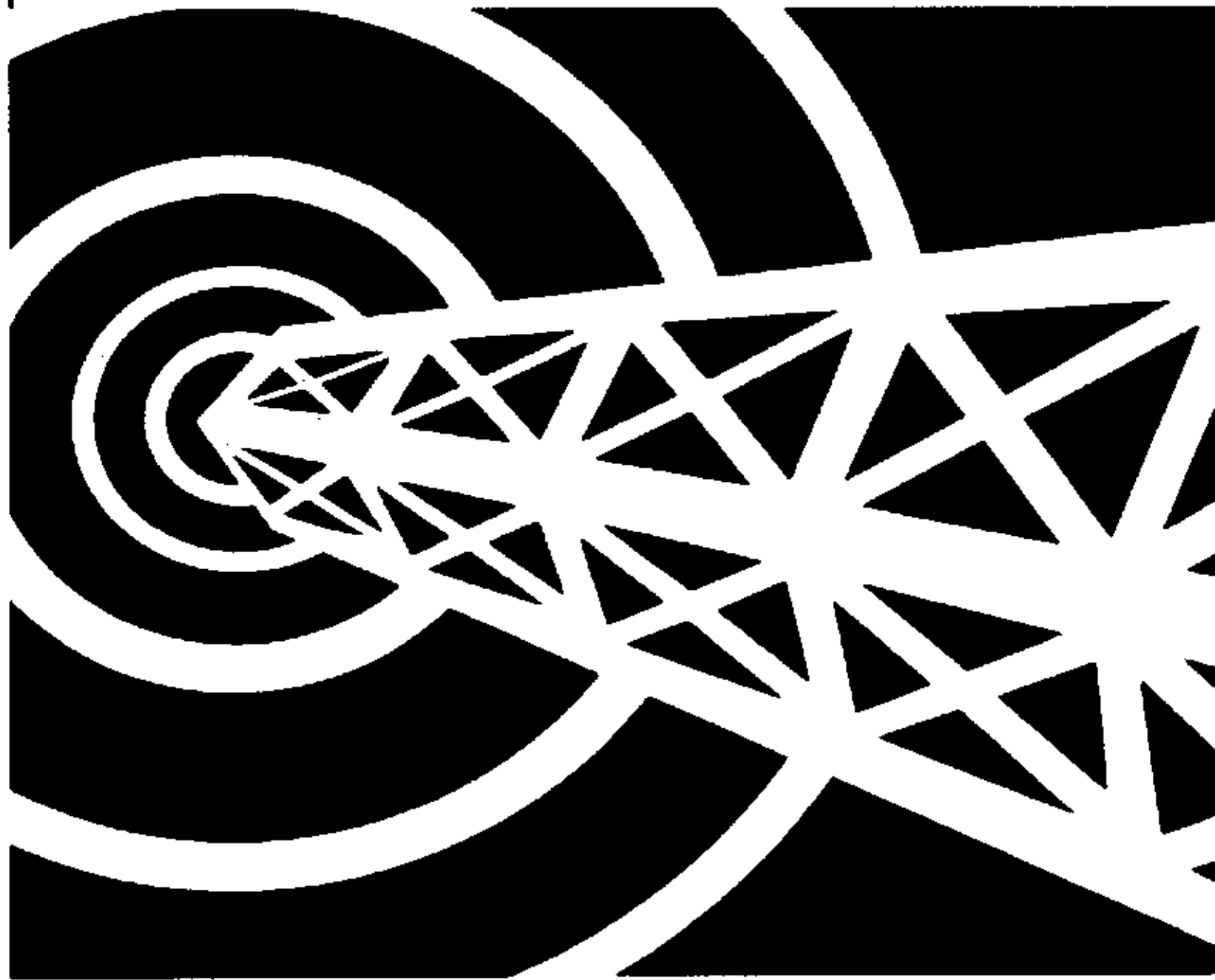


SMITH Two-Way RADIO

This tower and the equipment that will be placed on the property will have a positive effect in the local community not only the visual aspect. As shown in the accompanying documents the site will adhere to all city regulations and setback regulation. This location will also benefit by having an existing screen of large trees on all sides. The sight lines from the street side will be blocked from view by the building. By replacing the existing chain-link & Barbwire fence with 10ft wood privacy type fence and landscaping it would block view of all the Cellular Equipment and Storage Buildings and Equipment. Due to the difference in elevations and the new fencing, the new equipment would not be visible from and surrounding area. The only evidence of the site would be the tower extending over the local tree tops by only 20-30 feet

With the installation of a new tower, 2 existing cluttered and less than desirable looking towers will be extensive upgrades of the fencing and security and landscaping systems will greatly enhance the overall look of the property, and will provide a more pleasing view both at the base and at the top sections. Smith Two-Way will develop that land into a MULTI-CARRIER communications tower site in a geographically superior spot. By Smith facilities we can allow co-location of several wireless carriers (Cingular, Sprint, Verizon, ect.). While removing 1 outdated tower all together and leaving a room for future growth This provides a new revenue stream to Smith Two-Way Radio; a family owned and operated Fayetteville business since 1929, while improving the overall appearance.

These are our feelings on why this site would be superior location for a communications tower to serve the City of Fayetteville



SMITH Two-Way RADIO



Smith Two-Way Radio, Inc.

"In Radio Since 1929"

520 N. College Ave.
Fayetteville, AR 72701
Ph: 479-443-2222
Fax: 479-443-5677

800 S. 45th Street
Rogers, AR 72758
Ph: 479-636-6747
Fax: 479-631-8910

As required by § 163.29, Smith Two Way Radio is providing the following information in response to the **Wireless Communication Facilities (new build) Submittal Materials Checklist**.

The proposed new build, located on Dean Solomon 520 n College will include any ancillary equipment as shown in the tower drawings. Panel uhf an vhf antennas will be some antennas installed on this tower, once approval for construction has been secured.

Noise generating equipment that can be heard beyond the approved site is limited to commercial HVAC equipment. Commercial HVAC equipment, essential for continuous operation of the vital electronic equipment, maintains the ambient temperature range required by the electronic equipment manufacturers. Maintaining an acceptable ambient temperature range provides for longer equipment life while minimizing system failures and operational downtime.

No additional lighting will be provided as a part of the Dean Solomon tower construction. No security lights are required or warranted. The Federal Aviation Administration, FAA, has determined that no top or side lights will be required for aircraft safety. The **Determination of No Hazard to Air Navigation**, The no hazard condition results, in part, from the geographical location of the planned site as well as the physical height of the proposed tower. Operating frequencies, transmitted power, and temporary construction equipment were also taken into consideration by the FAA prior to issuing the **Determination of No Hazard to Air Navigation**.

Security of the tower and its associated building, as well as public safety will be accomplished utilizing a perimeter fence. The fence will completely enclose the lot and measure 10 vertical feet up from the ground. The type of fencing proposed is a privacy type fence constructed mainly of wood. Some metal hardware will be required for fence construction.



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Two-Way
RADIO

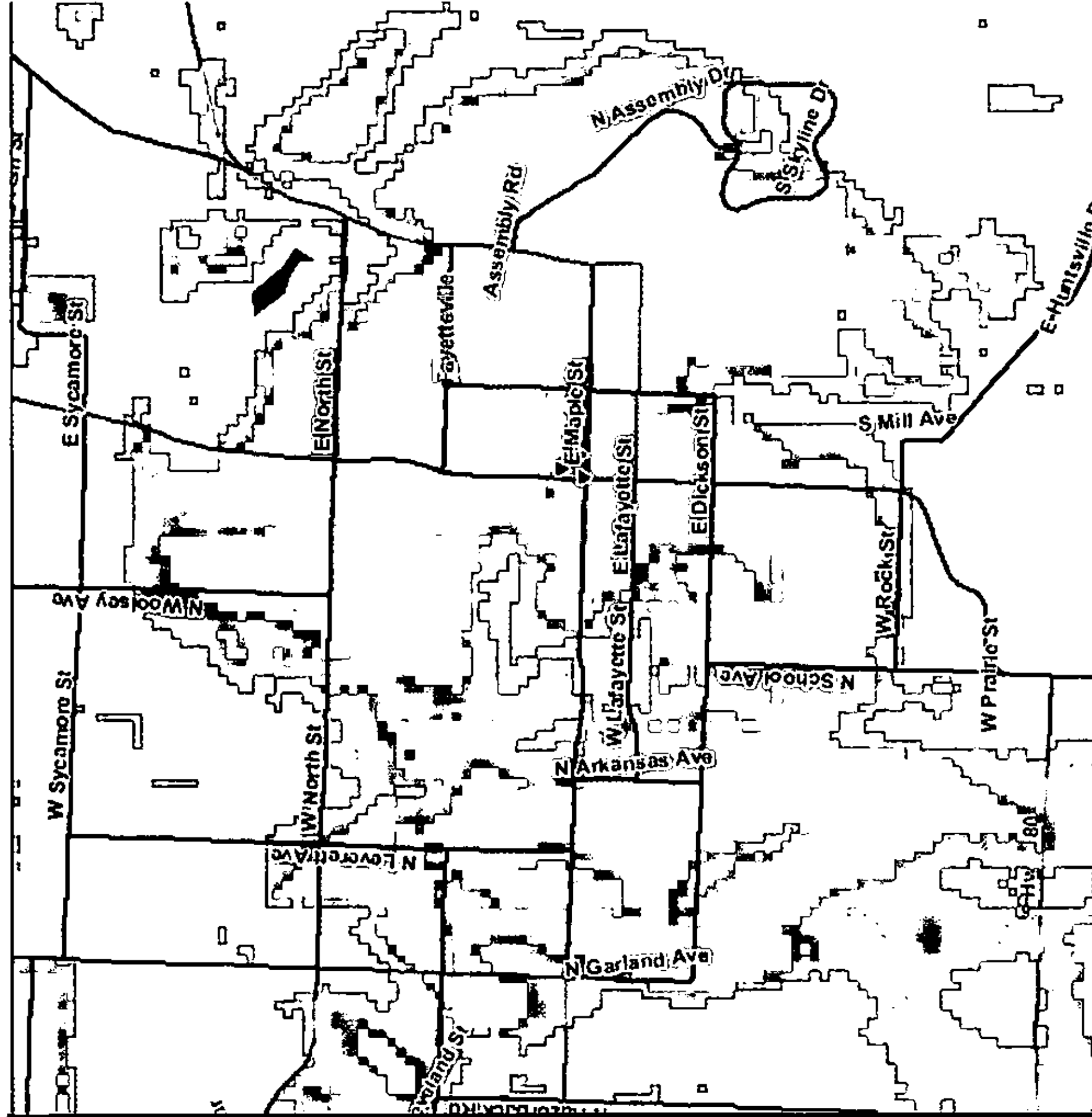
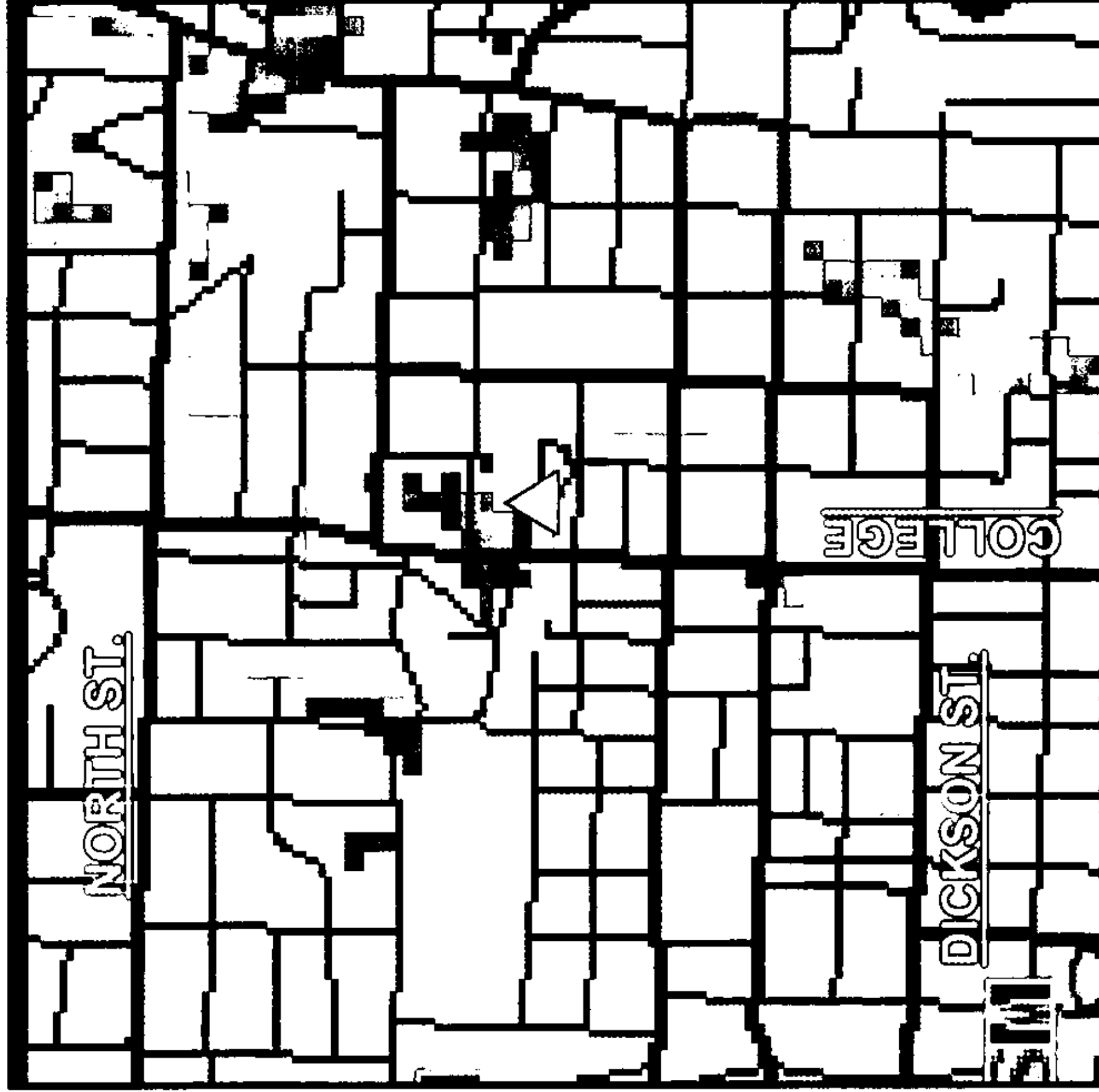
Smith Two Way Radio

P.24

General Coverage Area

CURRENT COVERAGE

COVERAGE WITH NEW TOWER

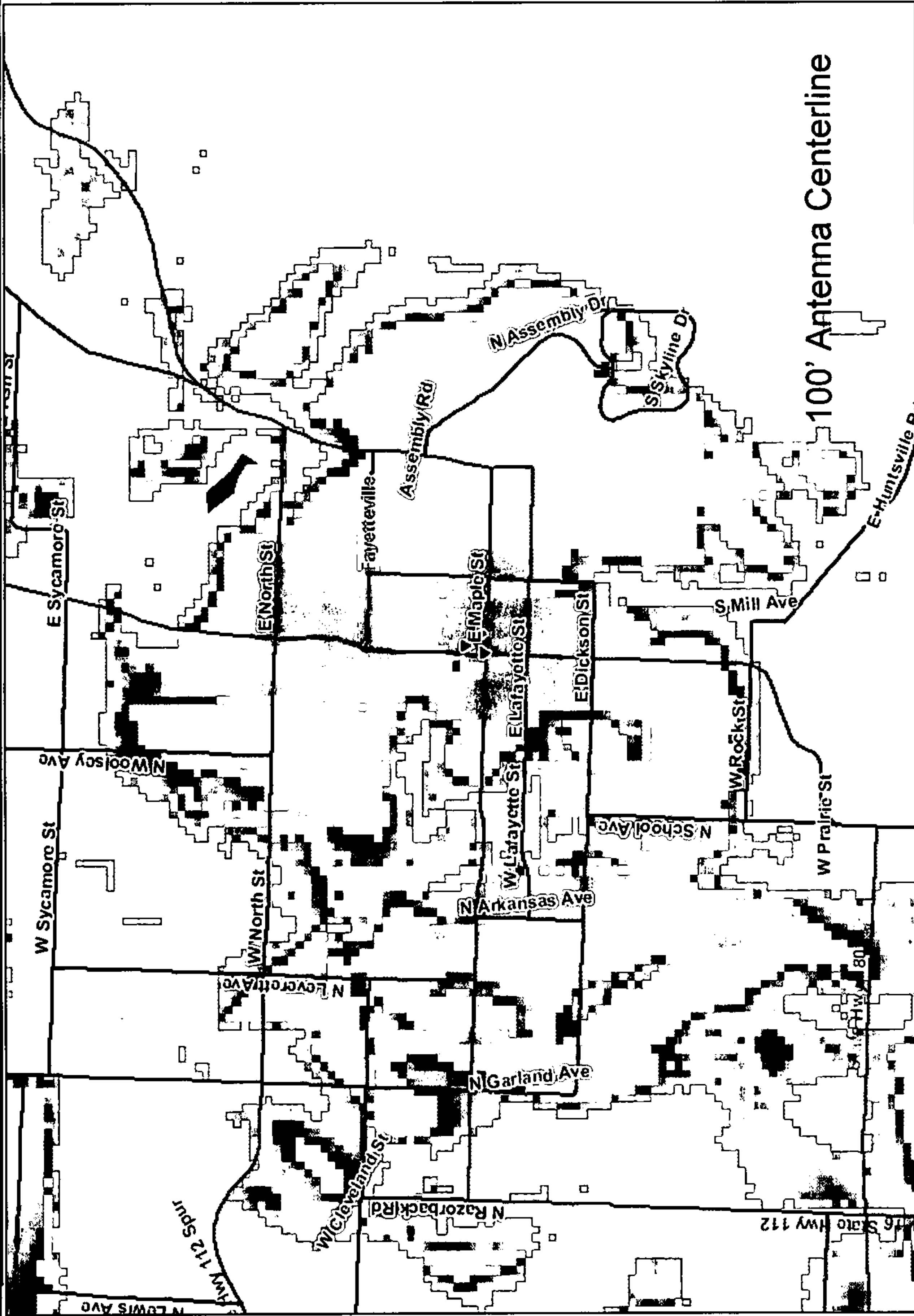




Smith Two Way Radio

P.25

General Coverage Area



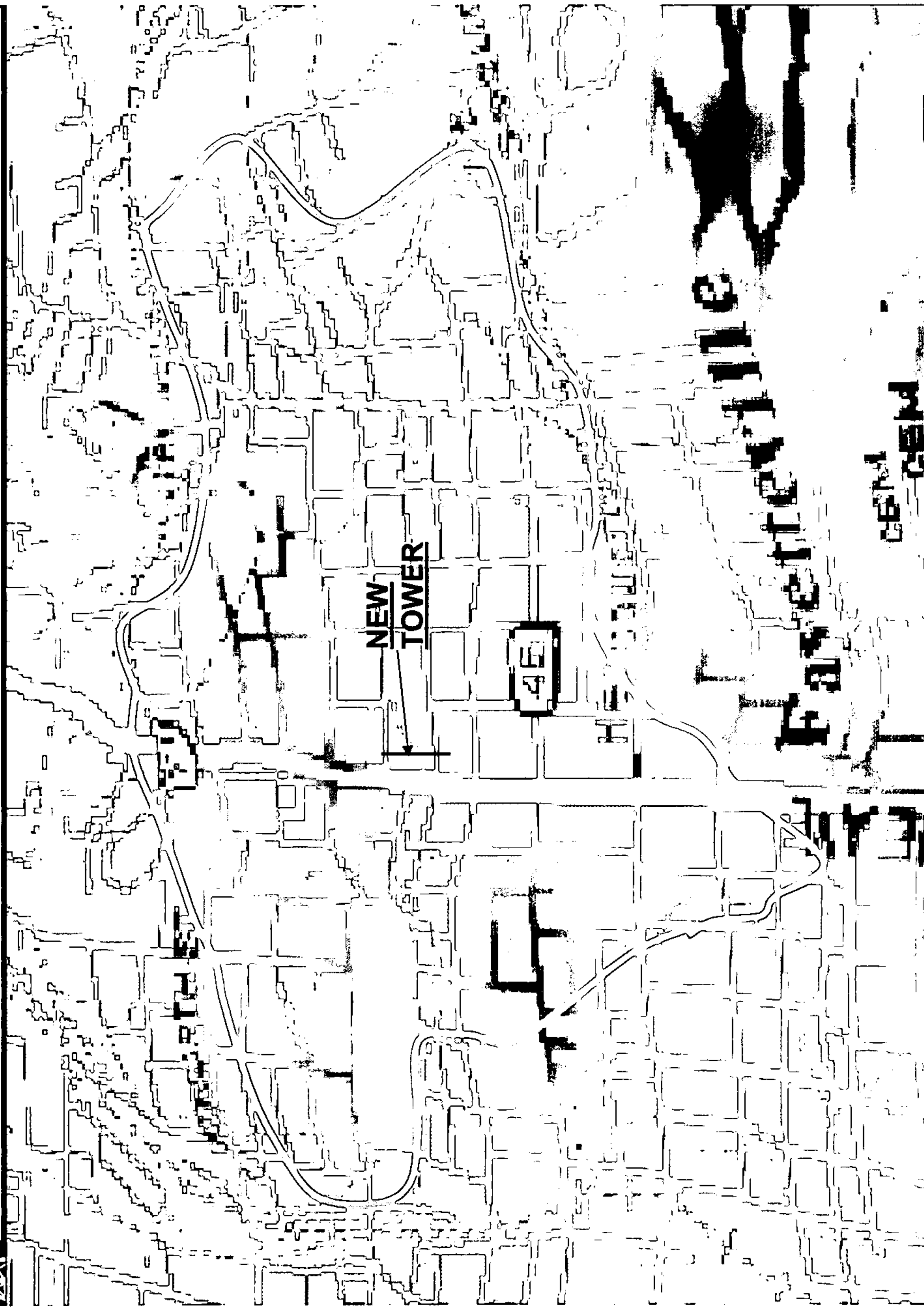
100' Antenna Centerline



Smith Two Way Radio

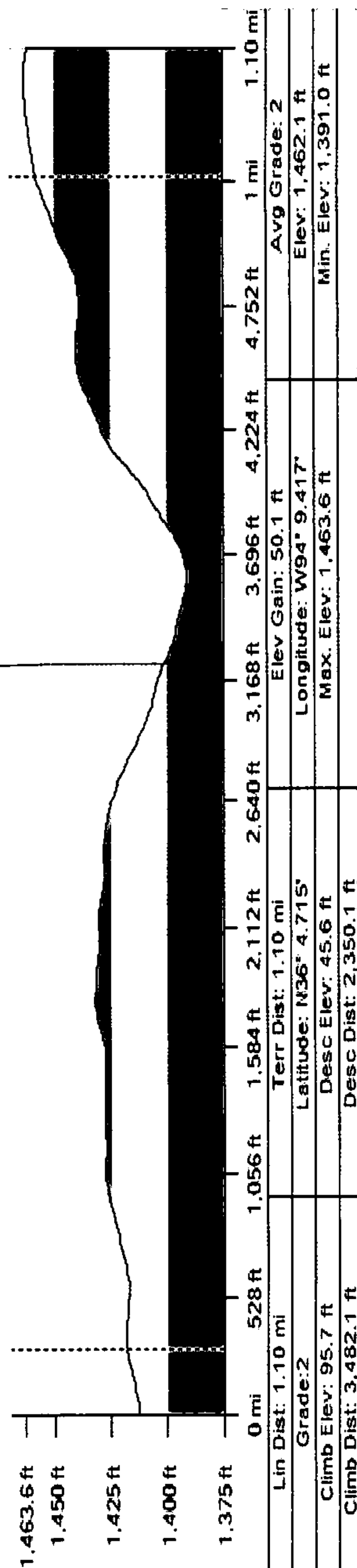
P.26

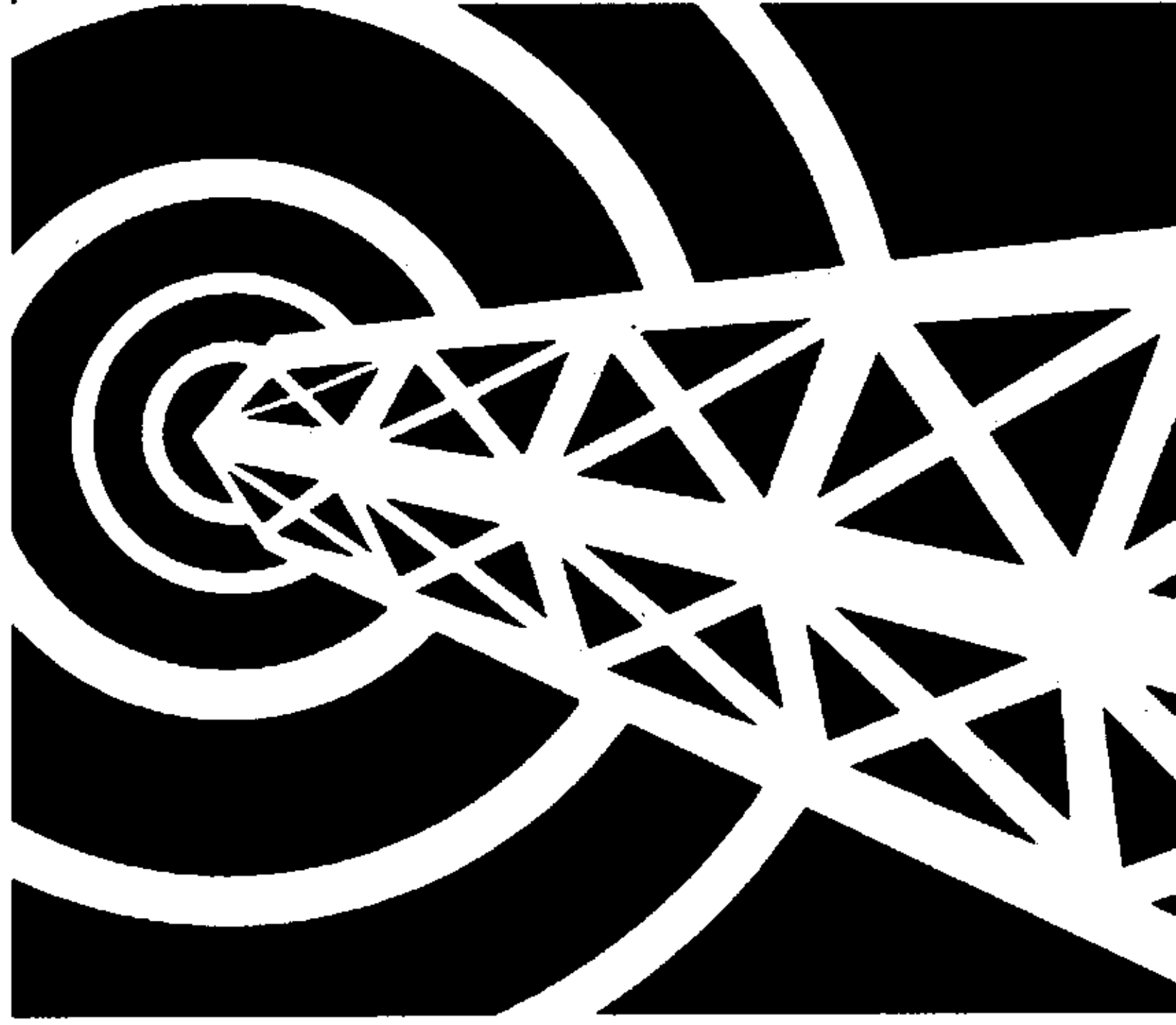
3-D MAP General Coverage Area





Terrain Profile





SMITH

Two-Way

RADIO

Efforts to Reduce Visual Impact Of the tower



Smith Two Way Radio

Low Visibility Antenna Mount

Proposed Slim line T-type-Mount

Typical Cellular Antenna Mounting Platform

10' Face T-Arm Assembly (5'-0" Standoff)

For use on a Monopole



Smith Two-Way Radio will Paint the Tower at City direction a three color Pine Green to Light Sky Blue that will blend naturally into the Skyline.

Multiple options were considered for camouflaging.

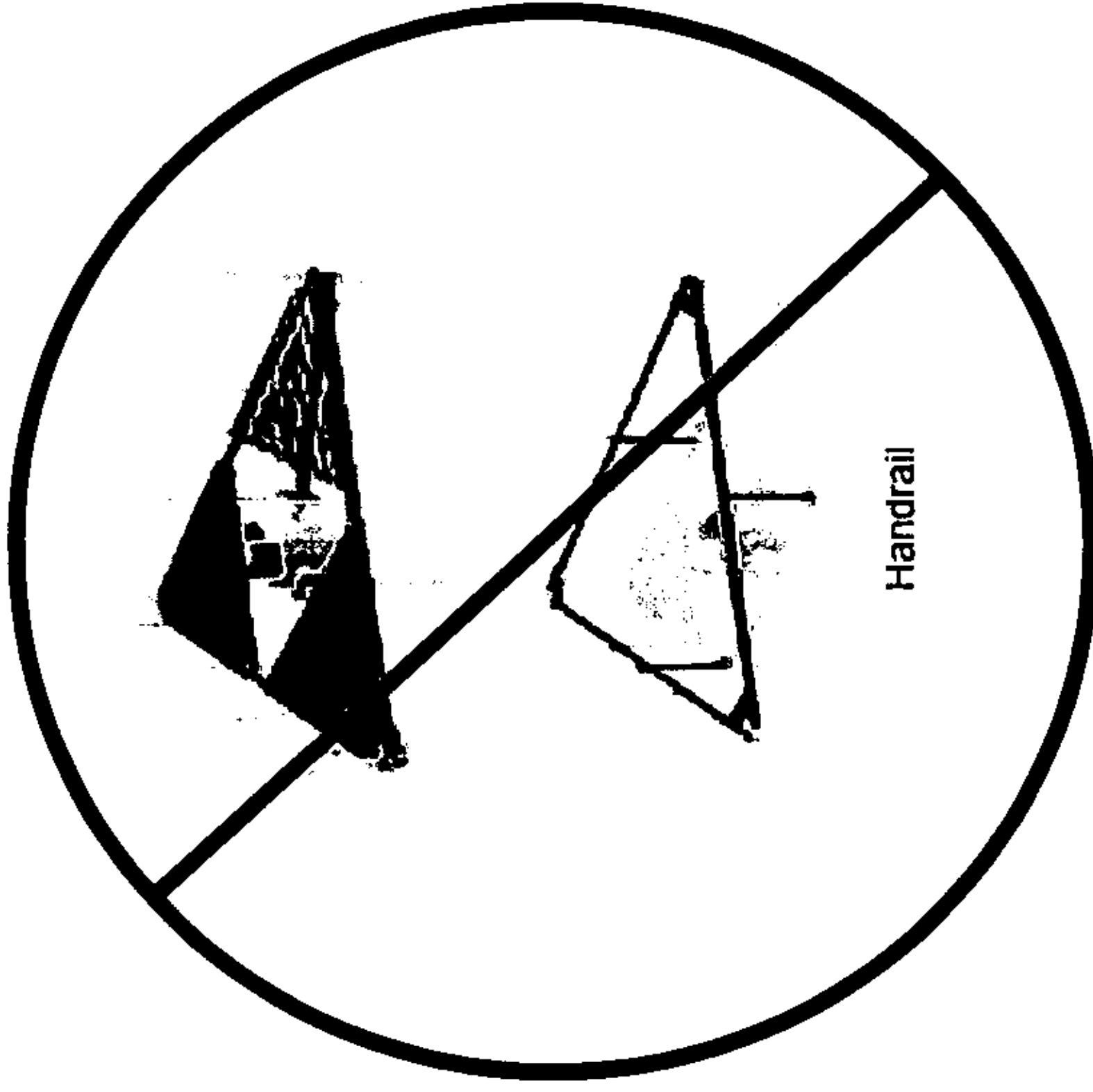
Location, tower type, existing vegetation and buildings, existing land uses and minimizing the visual impact. A 150' monopole is considered an approved tower type for the City of Fayetteville per section B, (2) of ordinance 163.14 Wireless Communications Facilities.

Stealth technology was considered but would cause a greater visual impact to the area and/or not provide the capacity objectives for Alltel, Cingular Wireless and Alamosa PCS.

16' Face Low-Profile Platform Kit

For use with Tapered and Non-Tapered Monopoles

Fits 12" to 36" Diameter - 37 3/4" to 113" Circumference Monopoles



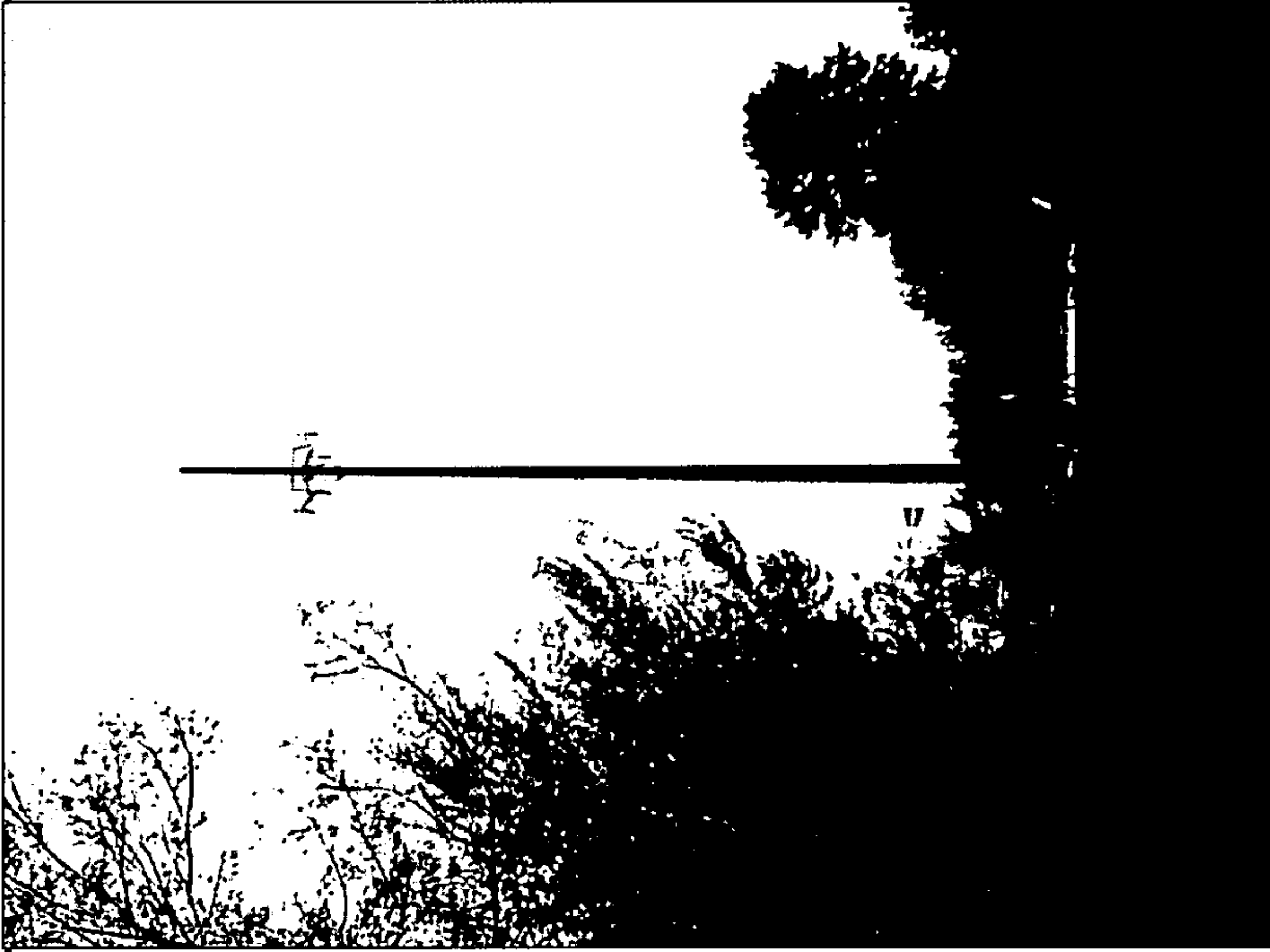


Smith Two Way Radio

Low Visibility Antenna Mount

Single Carrier Slim line T-type Mount

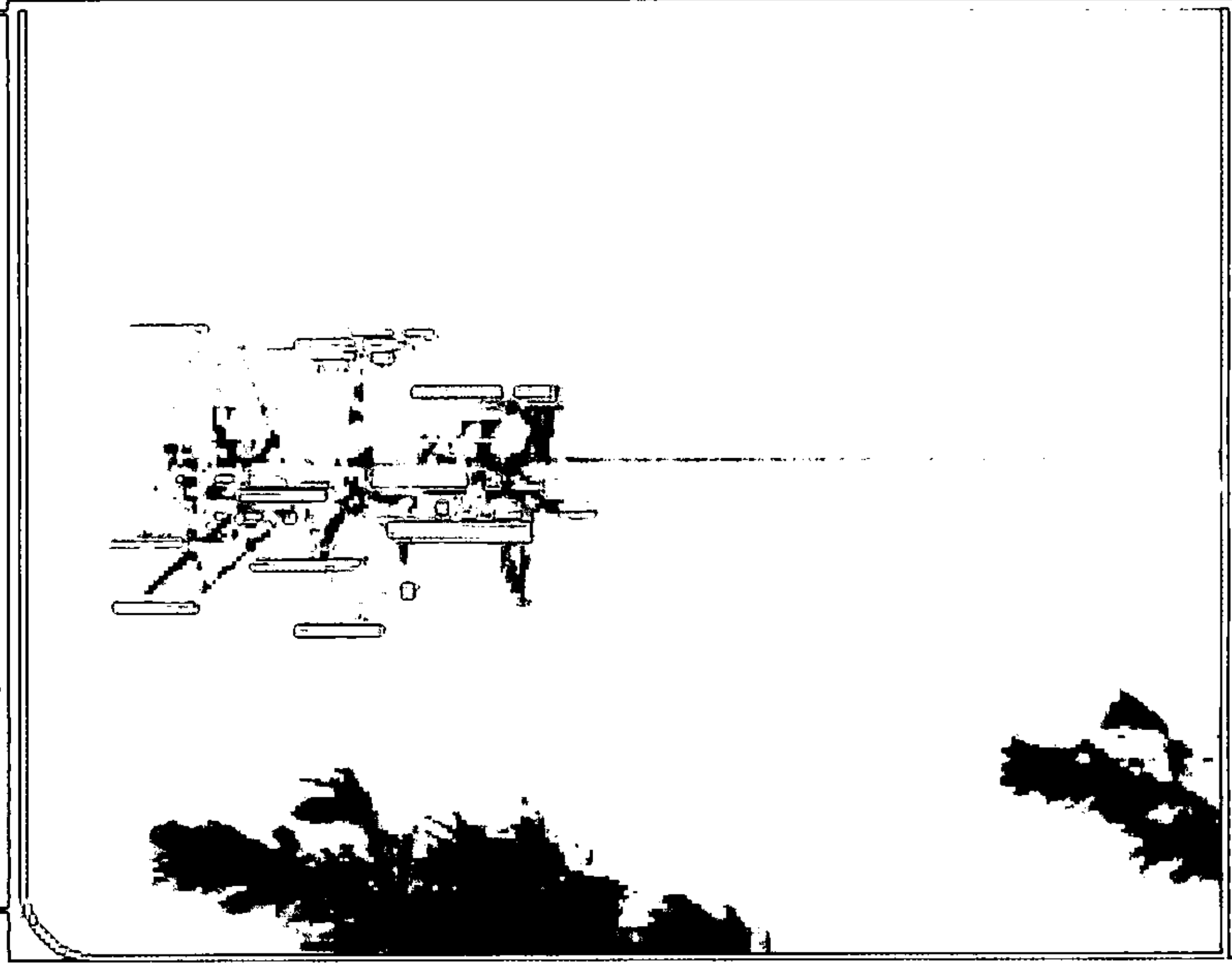
Typical MONOPOLE Antenna Mounting



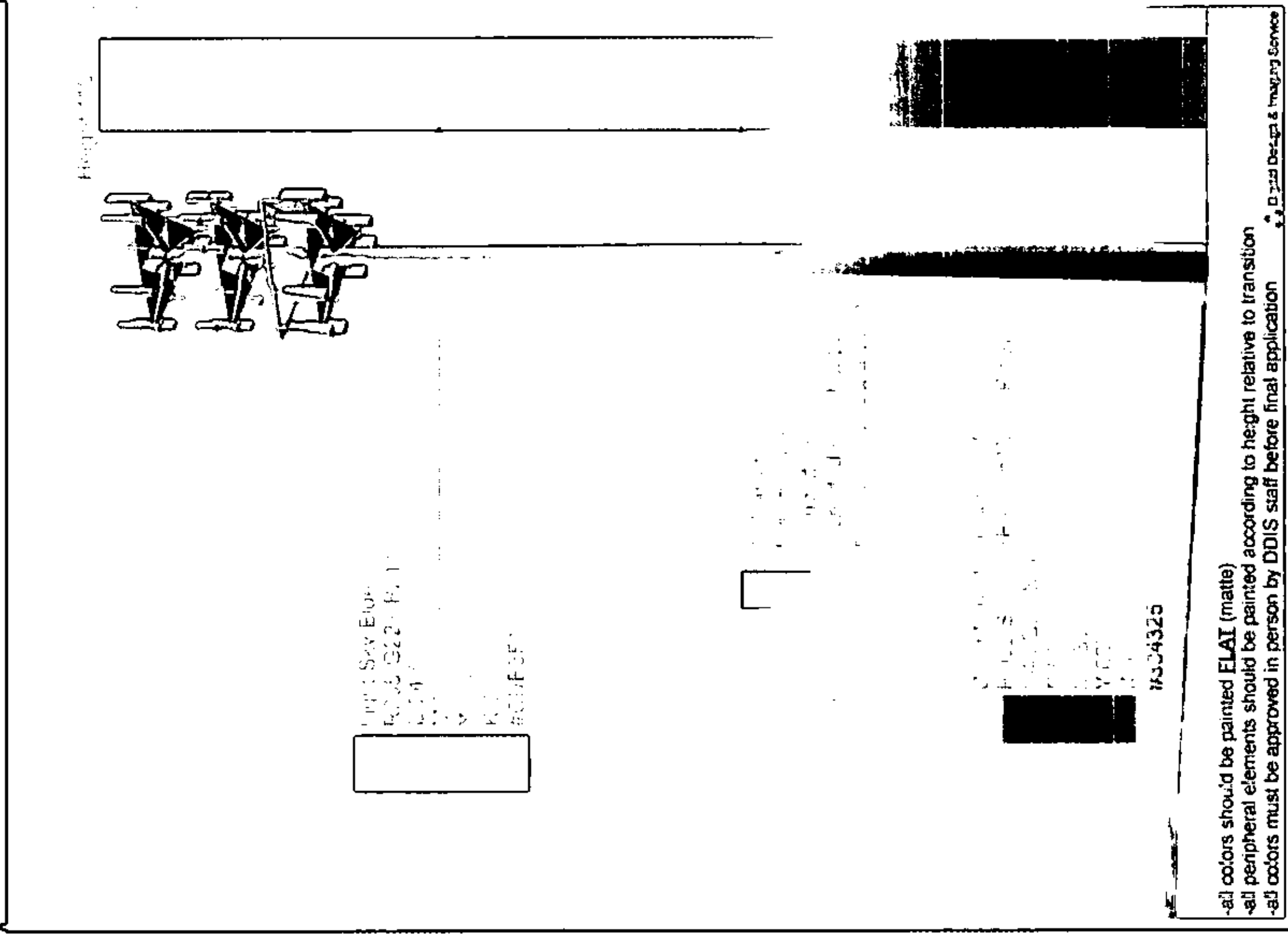


Low Visibility Antenna Mount

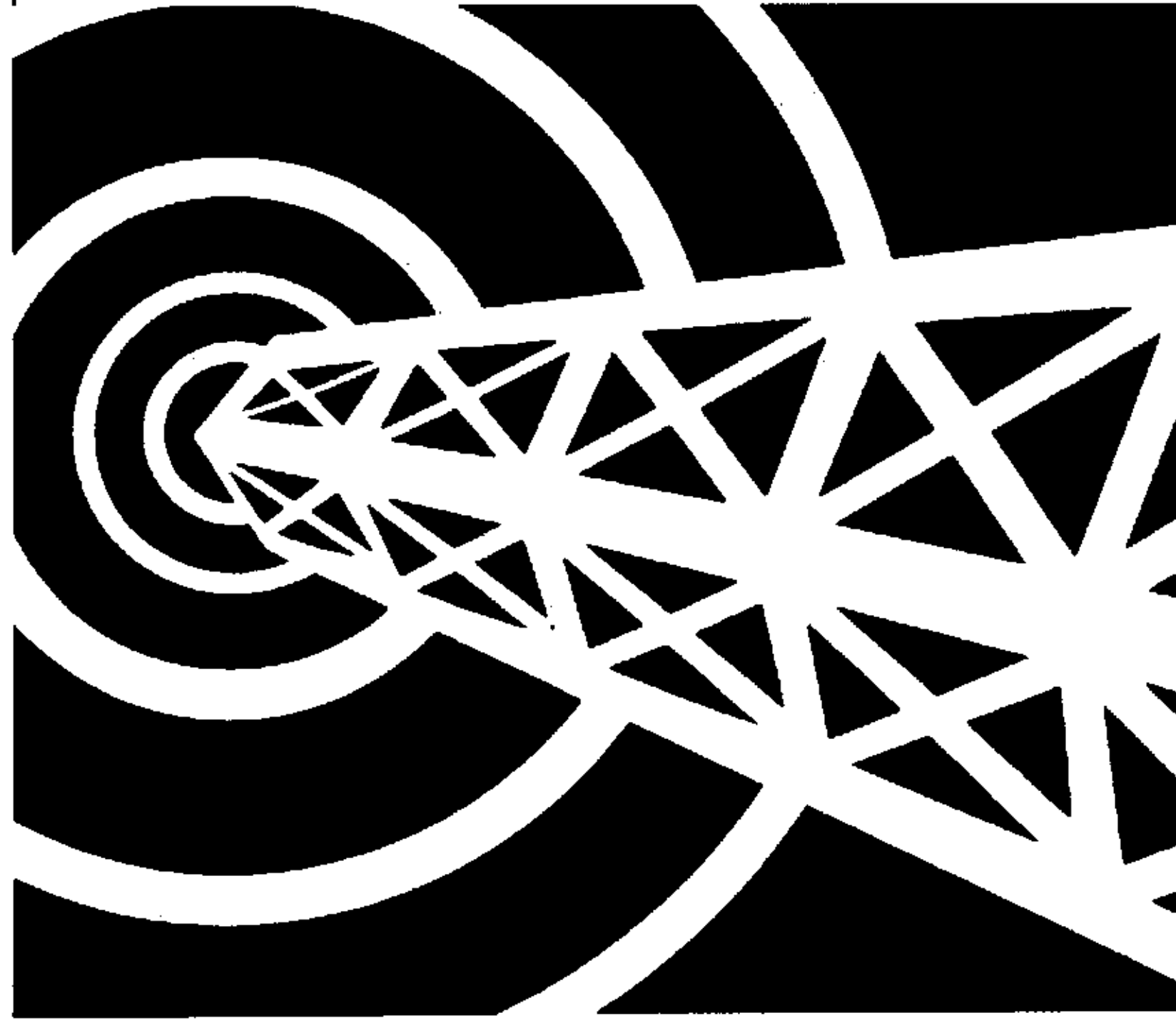
Plain Gray Galvanized



Transitioning Paint Scheme Trees to Sky



- all colors should be painted **FLAI** (matte)
- all peripheral elements should be painted according to height relative to transition
- all colors must be approved in person by DDIS staff before final application



SMITH

Two-Way

RADIO

Photo-Sims

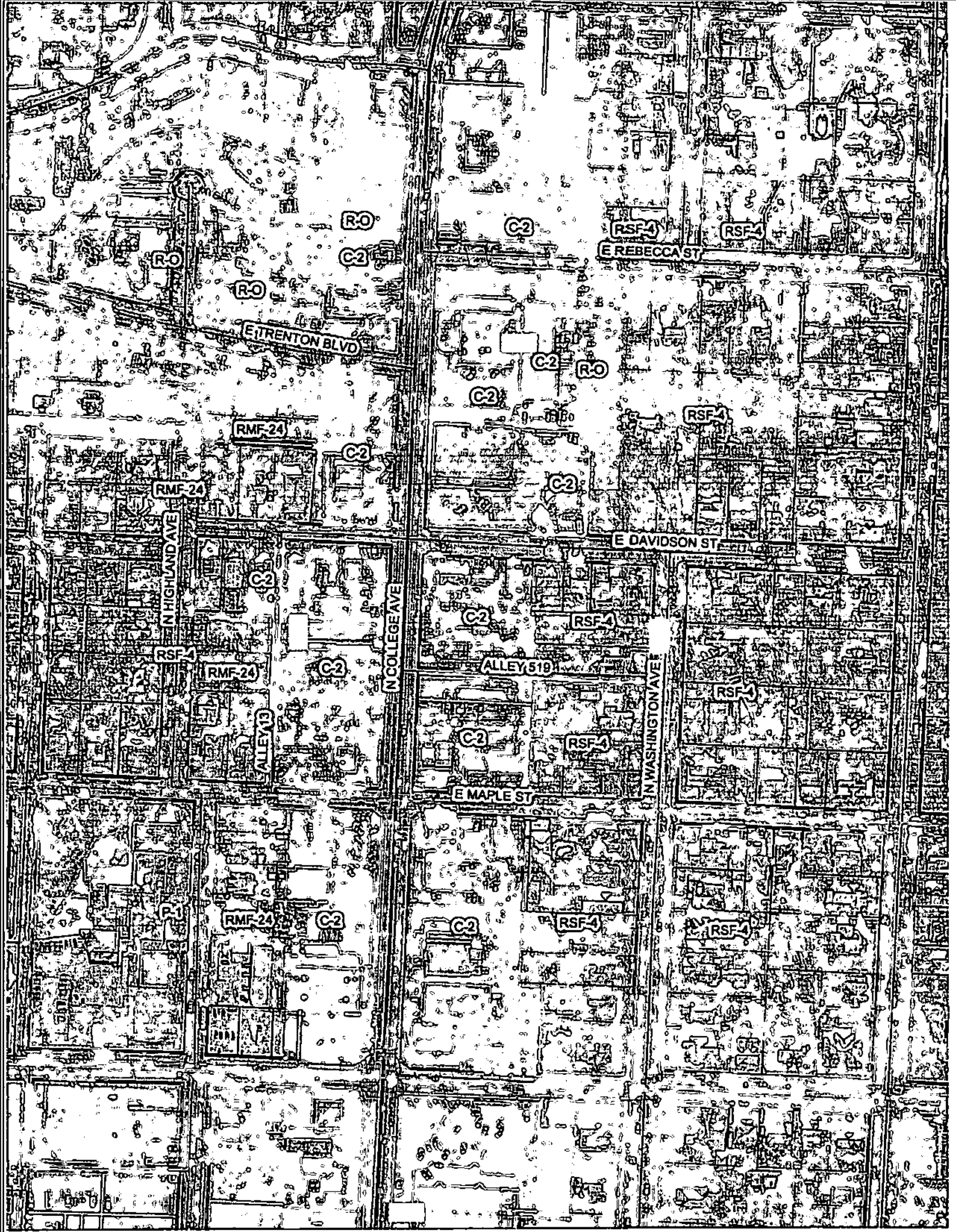


Smith Two Way Radio

Overview of Photo & Drawing Location Points

P.33

Photo-Sim point





520 N College Tower

South Looking North

(1200 ft away)



30.11.2005



520 N College Tower

North Looking South

(450 ft away)

Existing 62ft Tower

100 ft

30-11-2005



520 N College Tower

WEST looking EAST

(300 ft away)

100 ft

Existing 62ft Tower

30.11.2005

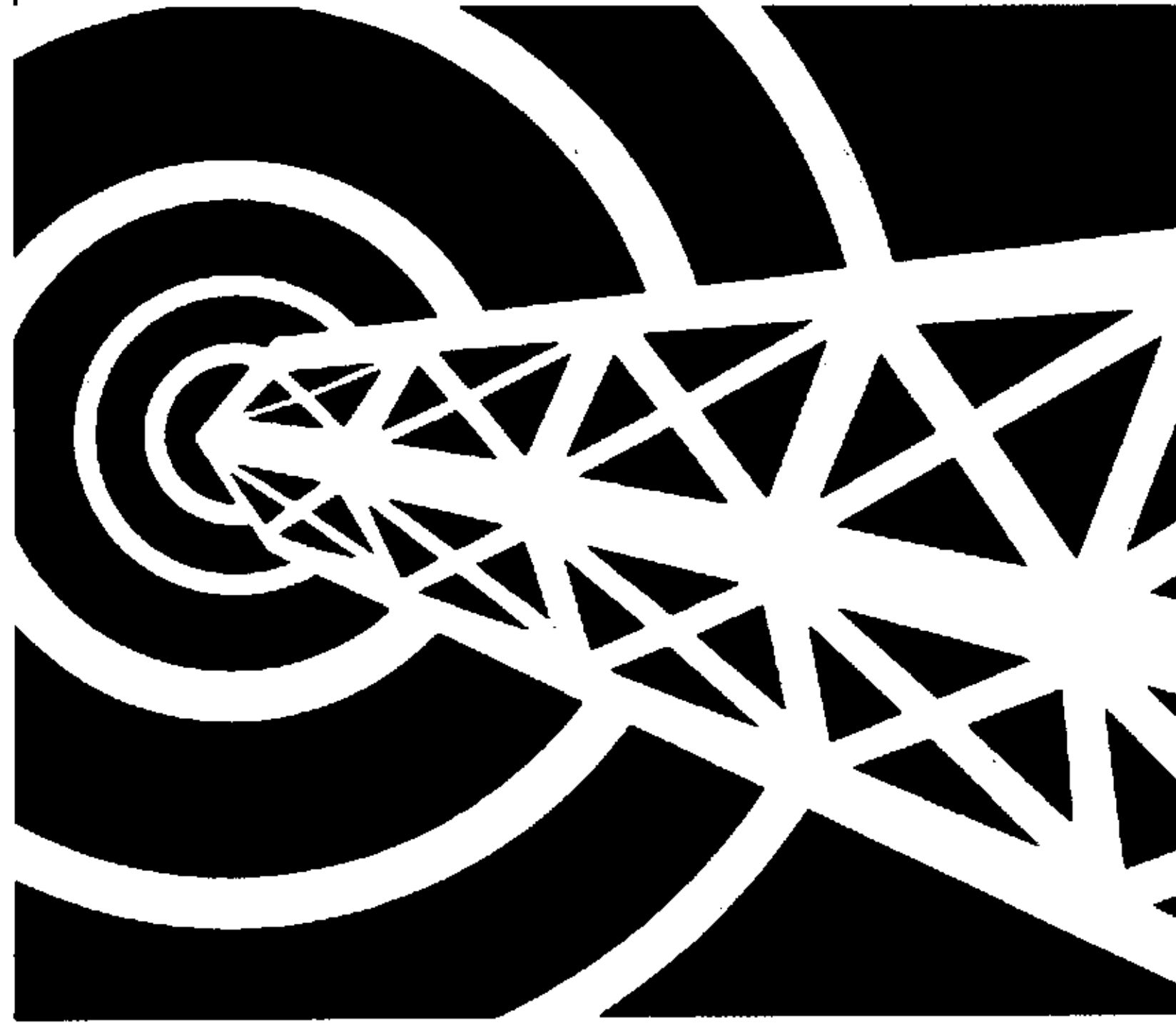


520 N College Tower

East Looking West

(200 ft away)





SMITH

Two-Way

RADIO

Additional

Photos



520 N College Tower

From North & College

(1,000ft away)

100 ft tower

30.11.2005



520 N College Tower

From MT Nord

(500ft away)

100ft Tower

62ft Tower

30.11.2005



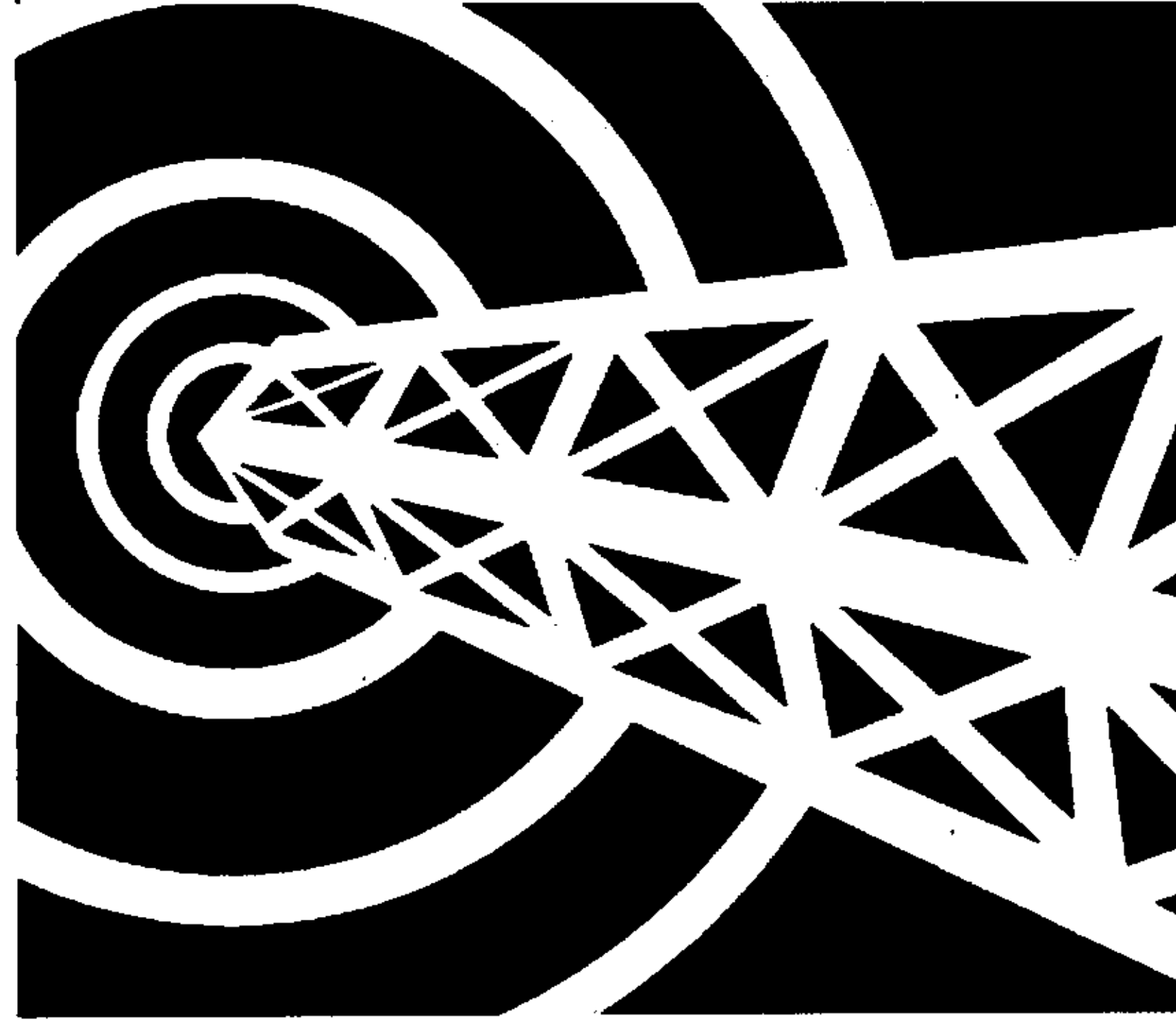
520 N College Tower

From MT Sequoyah

(5000ft away)



30.11.2005



Tower Information

SMITH
Two-Way
RADIO

SMITH
Two-Way
RADIO





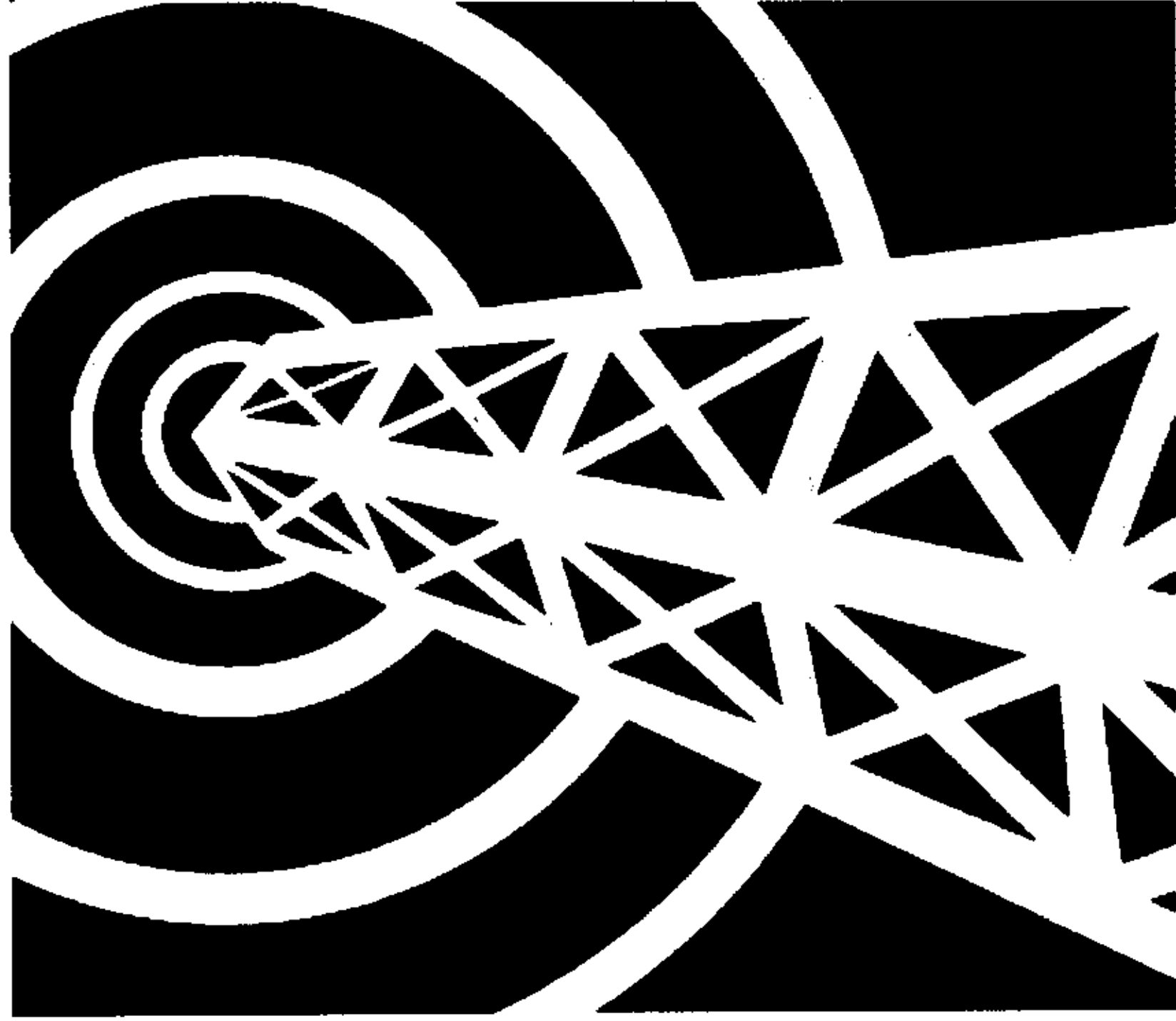
Guyed and Self-Supporting Towers Monopoles
HF Antenna Systems and Turnkey Installations

Dave,

The monopole that will be located at 520 N College. will be designed for a basic wind speed of 70 mph with 1/2" radial ice in accordance with the ANSI/EIA/TIA-222-F-1996.

ANSI/EIA/TIA-22-F-1996 is what the industries standard specks are in accordance with regulations.

Rich McLaughlin
Southern Sales Manager
Sabre Communications Corporation TM
800-369-6690 Ext. 199
712-279-0814 Fax
712-898-9867 Mobile
rmclaughlin@sabrecom.com



SMITH
Two-Way
RADIO

Property & Parcel
Information

&

Notification

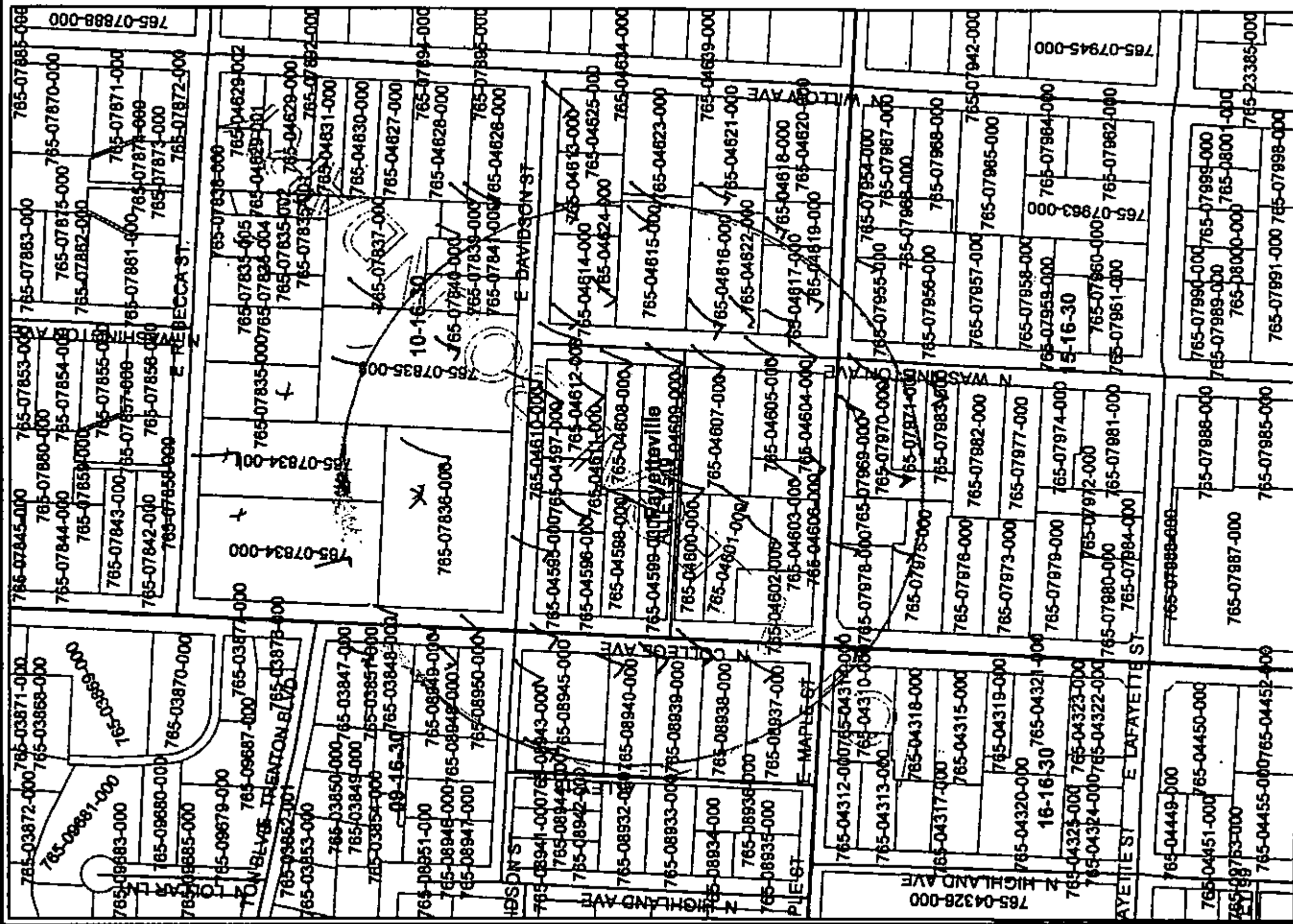
List



Smith Two Way Radio

500 ft Parcel Notification Map (PAGE 1)

Parcel: 765-07878-000 S-T-R: 15-16-30 Type: CR Assessed Value: 41,000 Location Address: 434 N COLLEGE AVE FAYETTEVILLE Owner Name: MID-AMERICA MANAGEMENT ASSOCIATES, LLC Mailing Address: P O BOX 12 FAYETTEVILLE AR 72702-0012	Parcel: 765-08945-000 S-T-R: 09-16-30 Type: CI Assessed Value: 36,473 Location Address: 529 N COLLEGE AVE FAYETTEVILLE Owner Name: HAYS, J B Mailing Address: 2831 SHERWOOD LANE FAYETTEVILLE AR 72703	Parcel: 765-08944-000 S-T-R: 09-16-30 Type: RI Assessed Value: 14,414 Location Address: 15 DAVIDSON FAYETTEVILLE Owner Name: BEACON FLATS, LLC Mailing Address: 329 W. POPLAR FAYETTEVILLE AR 72701	Parcel: 765-08946-000 S-T-R: 09-16-30 Type: CI Assessed Value: 22,650 Location Address: 521 N COLLEGE AVE FAYETTEVILLE Owner Name: WARREN, KEITH C. & GRACE M. TRUST OF THE WARREN FAMILY TRUST Mailing Address: 521 N COLLEGE FAYETTEVILLE AR 72701	Parcel: 765-08939-000 S-T-R: 09-16-30 Type: CV Assessed Value: 7,020 Location Address: FAYETTEVILLE Owner Name: CANTWELL, JOHN S. Mailing Address: N VUELTA HERRADURA SANTA FE NM 87506	Parcel: 765-08938-000 S-T-R: 09-16-30 Type: CI Assessed Value: 35,256 Location Address: 509 N COLLEGE AVE FAYETTEVILLE Owner Name: CANTWELL, JOHN S. Mailing Address: N VUELTA HERRADURA SANTA FE NM 87506	Parcel: 765-08937-000 S-T-R: 09-16-30 Type: CI Assessed Value: 28,270 Location Address: 503 N COLLEGE AVE FAYETTEVILLE Owner Name: RLB PROPERTIES, LLC Mailing Address: 770 NORTH SHORE PLACE NORTH LITTLE ROCK AR 72116	Parcel: 765-08935-000 S-T-R: 09-16-30 Type: CV Assessed Value: 158 Location Address: FAYETTEVILLE Owner Name: OPTIMISTS, LLC Mailing Address: 387 POPLAR FAYETTEVILLE AR 72701	Parcel: 765-08948-000 S-T-R: 09-16-30 Type: CI Assessed Value: 9,172 Location Address: FAYETTEVILLE Owner Name: NAVONA INVESTMENTS, INC Mailing Address: P O BOX 3484 FAYETTEVILLE AR 72702-3484	Parcel: 765-08949-000 S-T-R: 09-16-30 Type: CM Assessed Value: 10,016 Location Address: FAYETTEVILLE Owner Name: COLORADO PROPERTIES, LLC ATTN: DAWN FULENWIDER WOOD Mailing Address: 2116 E. 4TH AVE DENVER CO 80206	Parcel: 765-08948-000 S-T-R: 09-16-30 Type: CI Assessed Value: 27,215 Location Address: 10 DAVIDSON FAYETTEVILLE Owner Name: OPTIMISTS, LLC Mailing Address: 337 POPLAR FAYETTEVILLE AR 72701	Parcel: 765-08950-000 S-T-R: 09-16-30 Type: CI Assessed Value: 23,109 Location Address: 611 N COLLEGE AVE FAYETTEVILLE Owner Name: COLORADO PROPERTIES, LLC ATTN: DAWN FULENWIDER WOOD Mailing Address: 2116 E. 4TH AVE DENVER CO 80206	Parcel: 765-08943-000 S-T-R: 09-16-30 Type: RI Assessed Value: 9,900 Location Address: 11 DAVIDSON FAYETTEVILLE Owner Name: WATSON, CHARLES N Mailing Address: 2103 CHRISTINE SPRINGDALE AR 72764	Parcel: 765-04310-000 S-T-R: 16-16-30 Type: CI Assessed Value: 19,650 Location Address: 433 N COLLEGE AVE FAYETTEVILLE Owner Name: WILLIAMS, JAMES A., JR. & MARY K Mailing Address: PO BOX 419 FAYETTEVILLE AR 72702
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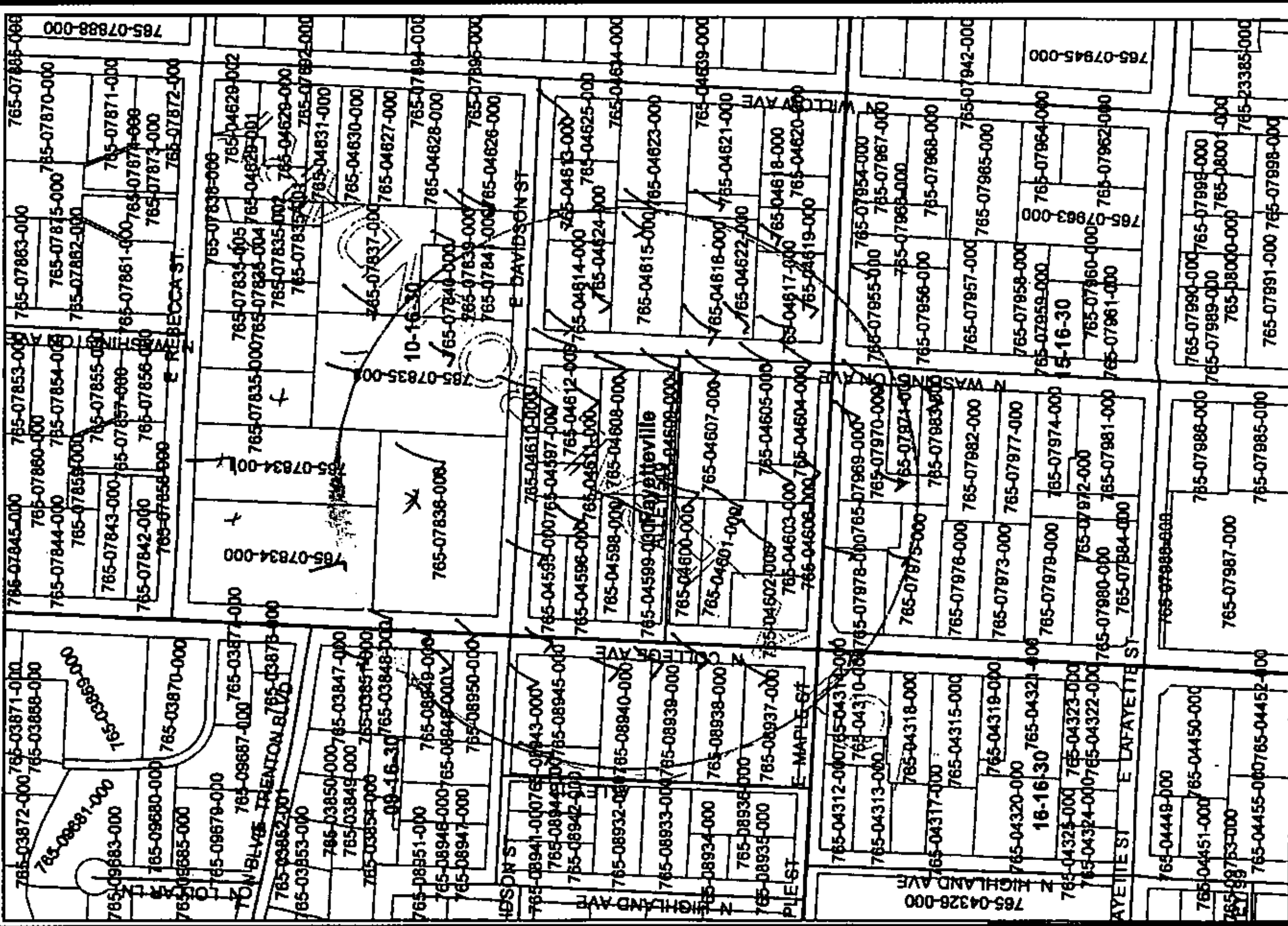
Parcel: 765-04618-000 S-T-R: 10-16-30 Type: RI Assessed Value: 31,932 Location Address: 604 N WASHINGTON FAYETTEVILLE Owner Name: HUNNICUTT, CLAUDETTE S. Mailing Address: 620 N WASHINGTON FAYETTEVILLE AR 72701	Parcel: 765-07878-000 S-T-R: 15-16-30 Type: CI Assessed Value: 60,373 Location Address: 440 N COLLEGE AVE FAYETTEVILLE Owner Name: 440 HOLDINGS, LLC Mailing Address: 500 HICKORY STREET TEXARKANA AR 71854	Parcel: 765-07871-000 S-T-R: 15-16-30 Type: RI Assessed Value: 18,474 Location Address: 429 N WASHINGTON FAYETTEVILLE Owner Name: PETRUS, GIOVANNI; GIBERTONI, VALERIA Mailing Address: 429 N WASHINGTON FAYETTEVILLE AR 72701	Parcel: 765-07855-000 S-T-R: 15-16-30 Type: RI Assessed Value: 28,173 Location Address: 432 N WASHINGTON FAYETTEVILLE Owner Name: HUNT, TERRY G. & MARY RENEE CO TTEE Mailing Address: 432 N WASHINGTON FAYETTEVILLE AR 72701	Parcel: 765-07883-000 S-T-R: 15-16-30 Type: RI Assessed Value: 28,468 Location Address: 427 N WASHINGTON FAYETTEVILLE Owner Name: BLINCH, LUCILLE CIO DONALD BUNCH Mailing Address: 427 N WASHINGTON FAYETTEVILLE AR 72701	Parcel: 765-04617-000 S-T-R: 10-16-30 Type: RI Assessed Value: 32,713 Location Address: 218 MAPLE ST FAYETTEVILLE Owner Name: ROSE, YOUNG AND ASSOCIATES, LLC Mailing Address: 218 MAPLE ST FAYETTEVILLE AR 72701	Parcel: 765-04619-000 S-T-R: 10-16-30 Type: RI Assessed Value: 19,001 Location Address: 224 E MAPLE ST FAYETTEVILLE Owner Name: KIRBY, DALE P. Mailing Address: 224 E MAPLE FAYETTEVILLE AR 72701	Parcel: 765-04618-000 S-T-R: 10-16-30 Type: RI Assessed Value: 14,860 Location Address: 220 E MAPLE ST FAYETTEVILLE Owner Name: WALKER, WILLADEEN (SURVIVOR) Mailing Address: 220 E MAPLE FAYETTEVILLE AR 72701	Parcel: 765-04622-000 S-T-R: 10-16-30 Type: RV Assessed Value: 630 Location Address: FAYETTEVILLE Owner Name: SCHRECKHISE, WILLIAM D. & PARRY, JANINE A. Mailing Address: 511 WILLOW AVE FAYETTEVILLE AR 72701	Parcel: 765-04621-000 S-T-R: 10-16-30 Type: RI Assessed Value: 34,883 Location Address: 511 N WILLOW FAYETTEVILLE Owner Name: SCHRECKHISE, WILLIAM D. & PARRY, JANINE A. Mailing Address: 511 WILLOW AVE FAYETTEVILLE AR 72701	Parcel: 765-04615-000 S-T-R: 10-16-30 Type: RI Assessed Value: 51,832 Location Address: 520 N WASHINGTON FAYETTEVILLE Owner Name: HUNNICUTT, CLAUDETTE S. Mailing Address: 520 N WASHINGTON FAYETTEVILLE AR 72701	Parcel: 765-04618-000 S-T-R: 10-16-30 Type: RI Assessed Value: 31,932 Location Address: 604 N WASHINGTON FAYETTEVILLE Owner Name: HUNNICUTT, CLAUDETTE S. Mailing Address: 620 N WASHINGTON FAYETTEVILLE AR 72701	Parcel: 765-04623-000 S-T-R: 10-16-30 Type: RI Assessed Value: 29,932 Location Address: 523 N WILLOW FAYETTEVILLE Owner Name: PRITCHETT, KAY & HUGGARD, CHRISTOPHER J Mailing Address: 523 N WILLOW FAYETTEVILLE AR 72701	Parcel: 765-04624-000 S-T-R: 10-16-30 Type: RI Assessed Value: 23,877 Location Address: 231 DAVIDSON FAYETTEVILLE Owner Name: WEBB, THOMAS H. & CYNTHIA F. Mailing Address: 231 DAVIDSON FAYETTEVILLE AR 72701	Parcel: 765-04614-000 S-T-R: 10-16-30 Type: RI Assessed Value: 37,221 Location Address: 630 N WASHINGTON FAYETTEVILLE Owner Name: REIS, DONALD J. & KATHRYN V. Mailing Address: 630 N WASHINGTON FAYETTEVILLE AR 72701	Parcel: 765-04613-000 S-T-R: 10-16-30 Type: RI Assessed Value: 13,579 Location Address: 215 DAVIDSON FAYETTEVILLE Owner Name: CHANEY, STEPHANIE A. Mailing Address: 215 E DAVIDSON FAYETTEVILLE AR 72701
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Smith Two Way Radio

500 ft Parcel Notification Map (PAGE 1)

Parcel: 765-07840-000 S-T-R: 10-16-30 Type: RI Assessed Value: 19,500 Location Address: 202 DAVIDSON FAYETTEVILLE Owner Name: A D MCALLISTER SR TRUST Mailing Address: 204 E DAVIDSON FAYETTEVILLE AR 72701	Parcel: 765-07839-000 S-T-R: 10-16-30 Type: RI Assessed Value: 22,328 Location Address: 204 DAVIDSON FAYETTEVILLE Owner Name: MCALLISTER, A. D. JR. & VIRGINIA P TRUSTEES Mailing Address: 1923 E JOYCE BLVD #135-137 FAYETTEVILLE AR 72703	Parcel: 765-07841-000 S-T-R: 10-16-30 Type: RI Assessed Value: 16,065 Location Address: 204 DAVIDSON FAYETTEVILLE Owner Name: BOYD, JIM H. & DIANNE C. Mailing Address: 206 DAVIDSON FAYETTEVILLE AR 72701	Parcel: 765-07837-000 S-T-R: 10-16-30 Type: RI Assessed Value: 21,709 Location Address: 188 E DAVIDSON FAYETTEVILLE Owner Name: HOROWITZ, ANDREW WARREN & PAUL A Mailing Address: 188 E DAVIDSON FAYETTEVILLE AR 72701	Parcel: 765-07835-000 S-T-R: 10-16-30 Type: RI Assessed Value: 30,088 Location Address: 128 E DAVIDSON FAYETTEVILLE Owner Name: DAVIS, BONNIE GAIL DAVIS, MICHAEL ALLYN Mailing Address: 128 E DAVIDSON FAYETTEVILLE AR 72701	Parcel: 765-07834-001 S-T-R: 10-16-30 Type: CI Assessed Value: 51,484 Location Address: REBECCA ST FAYETTEVILLE Owner Name: DWIGLIONE, DONALD C. JR. & LOLA JEAN ITTES DWIGLIONE REV LIVING Mailing Address: 11279 DWIGLIONE ROAD FAYETTEVILLE AR 72701	Parcel: 765-07834-000 S-T-R: 10-16-30 Type: CI Assessed Value: 106,592 Location Address: 620 N COLLEGE AVE FAYETTEVILLE Owner Name: BOZEMAN CREEK WAREHOUSES, LLC Mailing Address: PO BOX 2332 SOUTH PORTLAND ME 04116	Parcel: 765-07838-000 S-T-R: 10-16-30 Type: CI Assessed Value: 121,537 Location Address: 612 N COLLEGE AVE FAYETTEVILLE Owner Name: GOFF, DEWITT C Mailing Address: PO BOX 1468 FAYETTEVILLE AR 72702	Parcel: 765-04810-000 S-T-R: 10-16-30 Type: RI Assessed Value: 10,270 Location Address: 117 E DAVIDSON FAYETTEVILLE Owner Name: HICKSON, CAROLYN I Mailing Address: 117 E DAVIDSON FAYETTEVILLE AR 72701	Parcel: 765-04897-000 S-T-R: 10-16-30 Type: CI Assessed Value: 14,320 Location Address: 630 N COLLEGE AVE FAYETTEVILLE Owner Name: FEASIBILITY STUDIES, INC. Mailing Address: 630 N COLLEGE FAYETTEVILLE AR 72701	Parcel: 765-04812-000 S-T-R: 10-16-30 Type: RI Assessed Value: 24,895 Location Address: 175 E DAVIDSON ST FAYETTEVILLE Owner Name: GORGER, FRANCES M. HOLCOMB Mailing Address: 175 E DAVIDSON ST FAYETTEVILLE AR 72701-3413	Parcel: 765-04803-000 S-T-R: 10-16-30 Type: RI Assessed Value: 15,790 Location Address: 525 N WASHINGTON FAYETTEVILLE Owner Name: THOMAS, ANNE Mailing Address: 525 N WASHINGTON FAYETTEVILLE AR 72701	Parcel: 765-04895-000 S-T-R: 10-16-30 Type: CI Assessed Value: 30,100 Location Address: 530 N COLLEGE AVE FAYETTEVILLE Owner Name: FEASIBILITY STUDIES, INC. Mailing Address: 530 N COLLEGE FAYETTEVILLE AR 72701
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Parcel: 765-04898-000 S-T-R: 10-16-30 Type: CI Assessed Value: 48,800 Location Address: 520 N COLLEGE AVE FAYETTEVILLE Owner Name: SMITH, MICHAEL B. & DARCY Mailing Address: 520 N COLLEGE FAYETTEVILLE AR 72701	Parcel: 765-04898-000 S-T-R: 10-16-30 Type: RI Assessed Value: 22,804 Location Address: 523 WASHINGTON FAYETTEVILLE Owner Name: SHEA, TERESA A(SMITH) Mailing Address: 523 WASHINGTON AVE FAYETTEVILLE AR 72701	Parcel: 765-04898-000 S-T-R: 10-16-30 Type: CV Assessed Value: 8,820 Location Address: FAYETTEVILLE Owner Name: CHAN, PATRICK & OUTHONE Mailing Address: 514 NORTH COLLEGE AVE. FAYETTEVILLE AR 72701	Parcel: 765-04897-000 S-T-R: 10-16-30 Type: RI Assessed Value: 41,268 Location Address: 513 WASHINGTON FAYETTEVILLE Owner Name: LUNSFORD, PATRICK S. & CLAUDETTE Mailing Address: 513 WASHINGTON FAYETTEVILLE AR 72701	Parcel: 765-04891-000 S-T-R: 10-16-30 Type: CI Assessed Value: 44,880 Location Address: 514 N COLLEGE AVE FAYETTEVILLE Owner Name: FULLER, JANICE P. ET AL Mailing Address: % MIKE TAYLOR 1638 STEELE RD SPRINGDALE AR 72762-8255	Parcel: 765-04898-000 S-T-R: 10-16-30 Type: RI Assessed Value: 30,050 Location Address: 505 WASHINGTON FAYETTEVILLE Owner Name: DEMUTH, SHANNON Mailing Address: 505 WASHINGTON FAYETTEVILLE AR 72701	Parcel: 765-04892-000 S-T-R: 10-16-30 Type: CI Assessed Value: 17,342 Location Address: 508 N COLLEGE AVE FAYETTEVILLE Owner Name: LANINGHAM, CALVIN JR & DEBORAH Mailing Address: 1619 W MAPLE FAYETTEVILLE AR 72701	Parcel: 765-04892-000 S-T-R: 10-16-30 Type: RI Assessed Value: 33,634 Location Address: 112 MAPLE ST FAYETTEVILLE Owner Name: MID-AMERICA MANAGEMENT ASSOCIATES, LLC Mailing Address: P O BOX 12 FAYETTEVILLE AR 72702-0012	Parcel: 765-04898-000 S-T-R: 10-16-30 Type: RI Assessed Value: 23,171 Location Address: 116 E MAPLE ST FAYETTEVILLE Owner Name: MEADOWS, WILLIAM N JR Mailing Address: 116 E MAPLE FAYETTEVILLE AR 72701	Parcel: 765-07870-000 S-T-R: 10-16-30 Type: RI Assessed Value: 37,358 Location Address: 439 N WASHINGTON AVE FAYETTEVILLE Owner Name: McDONALD, WARREN J. Mailing Address: 428 WASHINGTON AVE FAYETTEVILLE AR 72701	Parcel: 765-07869-000 S-T-R: 10-16-30 Type: RI Assessed Value: 19,820 Location Address: 111 E MAPLE ST FAYETTEVILLE Owner Name: 440 HOLDINGS, LLC Mailing Address: 500 HICKORY STREET TEXARKANA AR 71854	Parcel: 765-07870-000 S-T-R: 10-16-30 Type: RI Assessed Value: 37,358 Location Address: 439 N WASHINGTON AVE FAYETTEVILLE Owner Name: McDONALD, WARREN J. Mailing Address: 428 WASHINGTON AVE FAYETTEVILLE AR 72701	Parcel: 765-04898-000 S-T-R: 10-16-30 Type: CR Assessed Value: 29,767 Location Address: 528 N COLLEGE AVE FAYETTEVILLE Owner Name: MENDENHALL, JULIE Mailing Address: 528 N COLLEGE AVE FAYETTEVILLE AR 72701	Parcel: 765-04811-000 S-T-R: 10-16-30 Type: CI Assessed Value: 17,316 Location Address: 113 & 115 DAVIDSON FAYETTEVILLE Owner Name: DAVIDSON STREET PROPERTY, LLC Mailing Address: 113 E DAVIDSON FAYETTEVILLE AR 72701	Parcel: 765-04898-000 S-T-R: 10-16-30 Type: CI Assessed Value: 23,220 Location Address: 524 N COLLEGE AVE FAYETTEVILLE Owner Name: SMITH TWO WAY RADIO SERVICE Mailing Address: 520 N COLLEGE AVENUE FAYETTEVILLE AR 72701
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RE: Proposed 100' Monopole Tower
Located in the rear of Smith Two-Way Radio
520 N College

Smith Two-Way Radio is proposing to remove two (2) 65ft existing towers and replace them with a single 100' monopole tower to be located behind the Smith Two-Way Radio building. In addition to the tower the existing chain-link & barbwire security fence will be replaced by wood privacy type fence. While upgrading landscaping we will be planting aprox. 12-15 new trees and shrubs. This construction will be consistent with other wireless communication facilities recently approved by Fayetteville City Planning Commission

The Conditional Use Proposal and Application will be going before the Fayetteville Planning Commission on Nov 14, 2005, at 5:30 PM in room 219 of the Fayetteville City hall, 113 W. Mountain St. Fayetteville,

The proposed Wireless Communication Facility is necessary to correct the inadequate wireless coverage and capacity issues in the area from Dickson Street to North Street along the 71B corridor and Wilson Park Area

If you have any questions regarding the proposed Communication Facility, you may contact the City of Fayetteville Planning Department after DEC 1, 2005, by calling (479)575-8267. Or Smith Two-Way Radio at (479) 443-2222

Our goal is to provide quality wireless service throughout Fayetteville and we look forward to your support for this proposal.

If you choose to respond to this notification, please fill out the attached sheet and return it to Smith Two-Way Radio, in the enclosed stamped self-addressed envelope.

Sincerely,

Dave Reynolds
Smith Two-Way Radio



Smith Two Way Radio

Example of Notification Letter Response Sheet

BEACON FLATS

329 W POPLAR

FAYETTEVILLE, AR 72701

I am in receipt of the notification for the proposed Wireless Communication Facility to be

Located at 520 N College in Fayetteville, AR

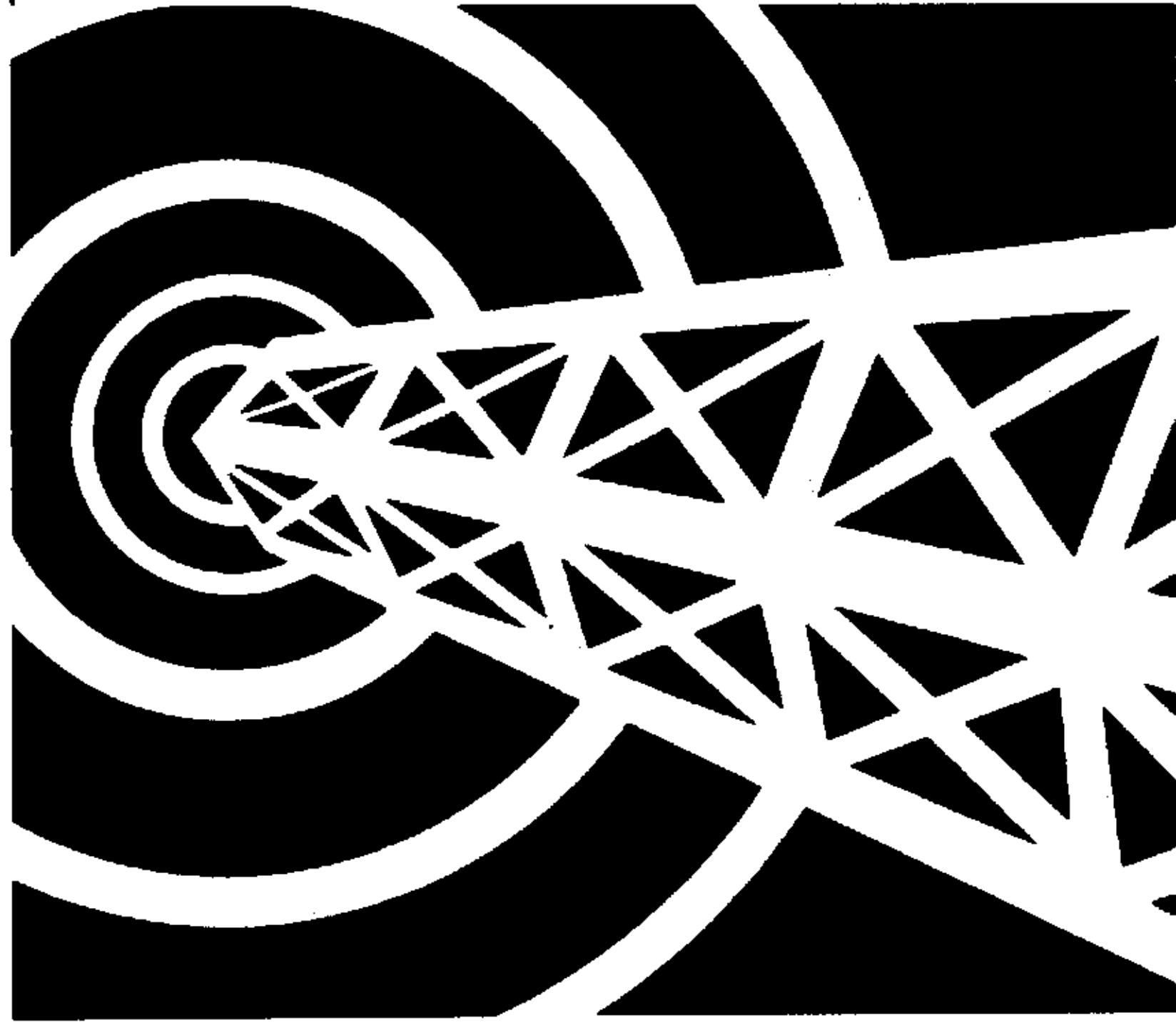
☐ I approve the Wireless Communication proposal

☐ I object to the Wireless Communication proposal

Comments:

Name:

Date:

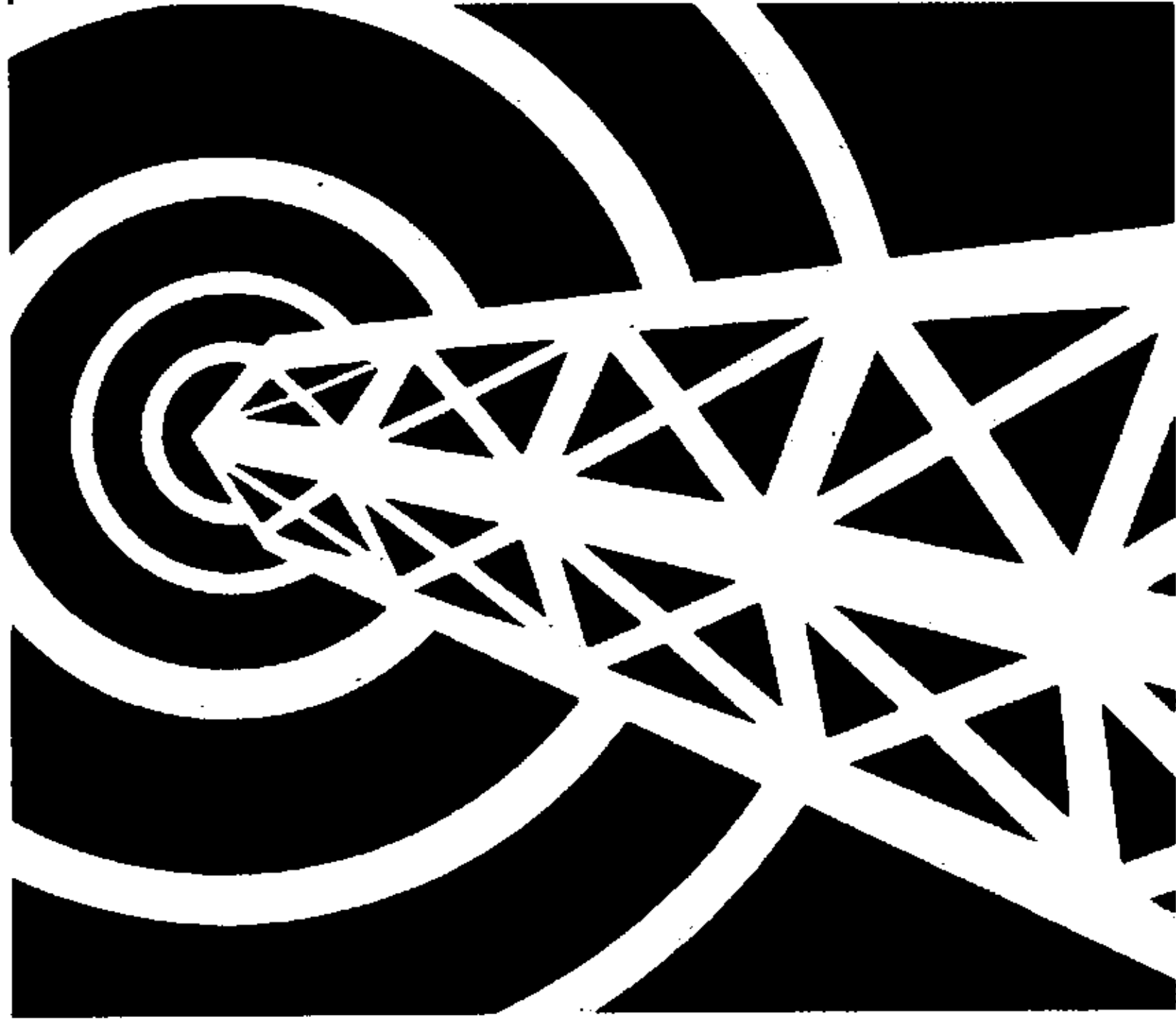


SMITH
Two-Way
RADIO

Property Owners

Responses to

Notification Letters



SMITH
Two-Way
RADIO

NOTICES SENT OUT : 43
(All Property Owners) 500ft Radius)

NOTICES RETURNED: 15
(All Property Owners) 500ft Radius)

NOTICES RETURNED IN APPROVAL: 12

NOTICES RETURNED TO OBJECT: 3

80% of the **RESPONDING** area Property Owners said They would approve a 100ft tower in within 500ft Of THEIR Home or Business

WILLIAM & MARY JAMES
PO BOX 419
FAYETTEVILLE, AR 72702

I am in receipt of the notification for the proposed Wireless Communication Facility to be
Located at 520 N College in Fayetteville, AR

☒ I approve the Wireless Communication proposal
☐ I object to the Wireless Communication proposal

Comments:

Name:

James W. Williams

Date:

12/11/2005

**DONALD, LOLA, JEAN
TTEES DINGLEDING REV
11279 DINGLEDINE ROAD
FAYETTEVILLE, AR 72701**

I am in receipt of the notification for the proposed Wireless Communication Facility to be
Located at 520 N College in Fayetteville, AR

☒ I approve the Wireless Communication proposal
☐ I object to the Wireless Communication proposal

Comments:

Name:

Lola Dingle

Date:

12-1-05

NOV 30 2005

DAVIDSON STREET PROPERTY,
LLC

113 E DAVIDSON

FAYETTEVILLE, AR 72701

I am in receipt of the notification for the proposed Wireless Communication Facility to be
Located at 520 N College in Fayetteville, AR

☒ I approve the Wireless Communication proposal
☐ I object to the Wireless Communication proposal

Comments:

Name: VIRGINIA Y. MIDDLETON

Date: 12-01-2005

NORTH
WARREN MC DONALD
425 WASHINGTON AVENUE
FAYETTEVILLE, AR 72701

I am in receipt of the notification for the proposed Wireless Communication Facility to be
Located at 520 N College in Fayetteville, AR

☒ I approve the Wireless Communication proposal
☐ I object to the Wireless Communication proposal

Comments: THANKS FOR BEING A GOOD NEIGHBOR.

Name:

WARREN J. McDONALD



Date:

12-1-05

**KAY PRICHETT & CHRIS
HUGGARD**

523 N WILLOW

Fayetteville, AR 72701

I am in receipt of the notification for the proposed Wireless Communication Facility to be
Located at 520 N College in Fayetteville, AR

☒ I approve the Wireless Communication proposal
☐ I object to the Wireless Communication proposal

Comments:

Name: Chris Huggard + Kay Prichett

Date: 12/11/05

WARREN & GRACE KEITH
521 N COLLEGE
Fayetteville, AR 72701

I am in receipt of the notification for the proposed Wireless Communication Facility to be
Located at 520 N College in Fayetteville, AR

☒ I approve the Wireless Communication proposal
☐ I object to the Wireless Communication proposal

Comments:

Name: *Grace M. Warren*

Date: *12-13-05*

TERESA SHEA
523 WASHINGTON
FAYETTEVILLE, AR 72701

I am in receipt of the notification for the proposed Wireless Communication Facility to be
Located at 520 N College in Fayetteville, AR

☒ I approve the Wireless Communication proposal
☐ I object to the Wireless Communication proposal

Comments: I have no problem with you building a larger
tower, but since you will be doing all this
fence work I would appreciate you fixing my
fence. As you promised to do over two years ago.

Name:

Date:

Teresa Shea
1-1-06

**WILLIAM SCHRECKHISE &
JANINE PARRY**
521 WILLIOW AVE
FAYETTEVILLE, AR 72701

I am in receipt of the notification for the proposed Wireless Communication Facility to be
Located at 520 N College in Fayetteville, AR

- ☒ I approve the Wireless Communication proposal
☐ I object to the Wireless Communication proposal

Comments:

*Seems like an upgrade overall. Thank you & good
luck with the project.*

Name:

Janine Parry

Date:

1/2/06

*for doing it &
posting for input*

AD MCALLISTER SR TRUST
204 E DAVIDSON
FAYETTEVILLE, AR 72701

I am in receipt of the notification for the proposed Wireless Communication Facility to be
Located at 520 N College in Fayetteville, AR

☐ I approve the Wireless Communication proposal
☒ I object to the Wireless Communication proposal

Comments:

Name: J. D. McAllister III

Date: 12/5/05

December 2, 2005

City of Fayetteville Planning Commission
113 West Mountain
Fayetteville, AR 72701

Attention: Chairman and Members

Re: Smith Two-Way Radio
Proposed 100' monopole tower

One is always hesitant to speak up on public issues for various reasons; including fear of creating enemies. However, please consider the following.

I live about 1 1/2 blocks east-northeast of the Smith Two-Way Radio business and have for 30 years. As you know, the Smith operation lies just west of the Washington-Willow Historic District; which currently is one of the wonderful, unique areas of Fayetteville. Why would the citizens of Fayetteville wish to diminish the charm of the area with a 21st Century 100' tower?

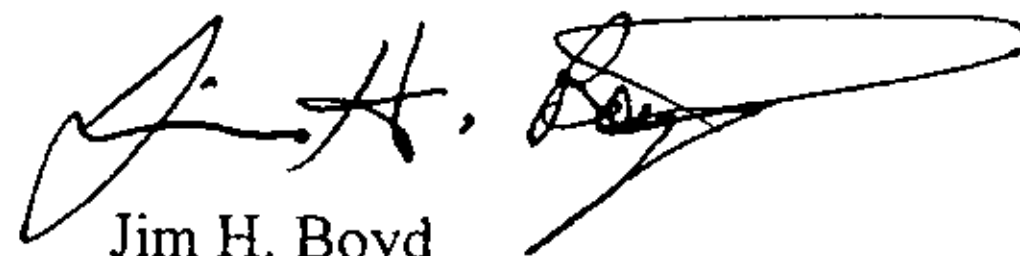
If the proposed tower is approved, will it be lit in such a way as to add to the light pollution we already have in the area? If so, I am absolutely opposed to the new tower. It should be in an industrial area or some place that is more suited to 100' of light pollution.

Further, I think the City needs to investigate the effect the current Smith Operation has on its neighbors and what effect the new proposed tower will have. Although I am on Cox Cable, at my house, sometimes some kind of interference makes my TV reception blurry. If I have my radio on in my car, I get good reception in my driveway and Eastward down Davidson Street; however, when I get about two car lengths from Highway 71 B (College Avenue) some sort of interference attacks the signal so that I can barely hear the radio. So, if I must wait at the stop sign, I have to turn my radio down to stand the static. After leaving the stop sign, the signal gets better so that about 2 blocks away from Smith's, the radio is normal.

This is really a quality of life issue. We in the Washington-Willow Historic District have a wonderful place to live; please be very cautious when considering anything that might diminish our quality of life. I hope the people at Smith Two-Way Radio will not consider my objections as a personal attack on them.

It would be greatly appreciated if the Planning Commission would take the above into consideration before voting on the issue.

Respectfully submitted,



Jim H. Boyd
206 E. Davidson
Fayetteville, AR 72701

cc: Smith Two-Way Radio

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
February 7, 2006**

A meeting of the Fayetteville City Council will be held on February 7, 2006 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 January 3 and January 17, 2006 City Council meeting minutes.**
- 2. Elm Springs Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Elm Springs, Arkansas to provide animal sheltering services to the City of Elm Springs for 2006.
- 3. Goshen Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Goshen, Arkansas to provide animal sheltering services to the City of Goshen for 2006.
- 4. Wittenberg, Delony & Davidson, Inc. – Fire Station #5 Design:** A resolution approving a contract in the amount of \$70,000.00 with Wittenberg, Delony & Davidson for design and oversight of the replacement for current Fire Station #5.
- 5. Fire Station Construction Bond:** A resolution of intent regarding the reimbursement of certain costs and expenses incurred in connection with the acquisition, construction and equipping of fire station improvements within the city.
- 6. Walker Park Sign - Right of Way Variance:** A resolution approving a variance from the Master Street Plan setback requirements to allow for the construction of an entrance sign at Walker Park.

7. **Arkoma Playgrounds & Supply:** A resolution accepting a proposal in the amount of \$79,699.00 from Arkoma Playgrounds & Supply for the installation of new playground equipment at the Yvonne Richardson Community Center.
8. **Advertising & Promotion Commission:** A resolution to approve an agreement with the Fayetteville Advertising and Promotion Commission to collect and account for the 1% A&P Commission Hotel, Motel, and Restaurant Tax.
9. **Code Compliance Site Clean-up:** A resolution awarding Bid #06-CC01 to Robert Evans in the amount of \$25,000.00 to provide site clean-up services for the City Code Compliance efforts.
10. **Van Scoyoc and Associates Contract:** A resolution approving a memorandum of agreement with Van Scoyoc Associates in the amount of \$84,000.00 to provide lobbying services to the City of Fayetteville.
11. **Dead Horse Mountain Bridge:** A resolution expressing the willingness of the City of Fayetteville to utilize Federal-aid monies for the replacement of structure No.17332 over the West Fork of the White River on Dead Horse Mountain Road.
12. **Traffic Signal Morningside Drive:** A resolution authorizing City staff to design and construct a traffic signal at the intersection of 15th Street and Morningside Drive.

B. UNFINISHED BUSINESS:

1. **John D. Lindsey, LLC. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC. *This resolution was tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting. This resolution was tabled at the January 3, 2006 City Council meeting to the January 17, 2006 City Council meeting. This resolution was tabled at the January 17, 2006 City Council meeting to the February 7, 2006 City Council meeting.*
2. **R-PZD 05-1776 Wedington Circle:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan. *This ordinance was left on the Second Reading at the January 3, 2006 City Council meeting. This ordinance was left on the Third Reading at the January 17, 2006 City Council meeting. This ordinance was tabled at the January 17, 2006 City Council meeting to the February 7, 2006 City Council meeting.*

C. NEW BUSINESS:

1. **BioBased Realty:** An ordinance waiving the requirements of formal competitive bidding and approving a contract for demolition services with BioBased Realty, LLC, BioBased Technologies, LLC, and BioBased Systems, LLC, in exchange for a \$17,000.00 credit toward the purchase of the Water and Sewer Operations Center on Cato Springs Road.

2. **Duncan Associates – Road Impact Fees Study:** A resolution to approve and adopt the road impact fees study of October 24, 2005 by Duncan Associates.
3. **ADM 05-1841, 05-1842, 05-1879 Hillside Overlay District:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville to amend various sections of the code in order to implement hillside preservation and protection, establish a Hillside Overlay District Zoning Boundary and Map, and adopt the Hillside Overlay District Best Management Practices Manual.
4. **ANX 06-1867 (Wales):** An ordinance annexing that property described in annexation petition ANX 06-1867, CC2005-38, for property located at 2055 North Fox Hunter Road, containing 1.4 acres.
5. **R-PZD 05-1619 (Westbrook Village):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1619, Westbrook Village, located at tracts 1 and 2 of the original Salem Village P.U.D., containing approximately 1.42 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
6. **RZN 06-1852 (Scholars Inn):** An ordinance rezoning that property described in rezoning petition RZN 06-1852 for approximately 1.74 acres located at 1125, 1137, 1153, 1189 north West End Avenue from RSF -4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre.
7. **RZN 06-1868 (Chambers):** An ordinance rezoning that property described in rezoning petition RZN 06-1868 for approximately .20 acres located at 347 North Willow Avenue from RSF-4 Residential Single-Family , 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre.
8. **Smith 2 Way Tower Appeal:** An appeal regarding the conditional permit submitted by Michael Smith and Gary Cochran for Smith 2 Way Radio for property located at 520 N College Avenue.
9. **R-PZD 05-1735 Paddock Road Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1735, Paddock Road, located southwest of the intersection of Paddock Road and Happy Hollow Road; containing approximately 9.77 acres; amending the official zoning map of the City of Fayetteville, and adopting the associated Master Development Plan.
10. **ANX 06-1853 (Nock/Broyles):** An ordinance annexing that property described in annexation petition ANX 06-1853, for property located north of Weir Road and east of Salem Road and Howard Nickell Road, containing approximately 39.11 acres.
11. **RZN 06-1854 (Nock/Broyles):** An ordinance rezoning that property described in rezoning petition RZN-06-1854 for approximately 39.11 acres located north of Weir Road and east of Salem Road and Howard Nickell Road from R-A, Residential Agricultural to RSF-2, Residential Single Family, 2 units per acre.
12. **Fayetteville Government Channel Policy:** A resolution approving revisions to the Fayetteville Government Channel Use and Programming Policy.

13. BMW Investments, LLC: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with BMW Investments, LLC in an amount not to exceed \$535,934.80 for the widening of Ruppel Road adjacent to the Clabber Creek Subdivision, Phases 3, 4 and 5.

14. Goodwin & Goodwin, Inc: A resolution approving a construction contract with Goodwin & Goodwin, Inc. in the amount of \$722,890.50 for water and sewer relocation for highway improvements to Razorback Road; approving a project contingency in the amount of \$72,000.00; and approving a budget adjustment in the amount of \$314,231.00.

15. Crossland Heavy Contractors Contract – Wedington Drive Water and Sewer Relocation Project: A resolution approving a construction contract with Crossland Heavy Contractors, Inc. in the amount of \$1,591,426.20 for water and sewer relocation for highway improvements to Wedington Drive; approving a project contingency in the amount of \$160,000.00, and approving a budget adjustment in the amount of \$252,837.00.

D. INFORMATIONAL:

City Council Tour: February 6, 2006 - 4:30 PM

FY 2007 Federal Requests Summary

Fayetteville Expressway Economic Development Corridor

Request: \$8.87 M
Bill: Transportation Reauthorization
Agency/Acct: National Corridor and Planning and Border Infrastructure Programs

Summary: The City of Fayetteville requests \$16.8 million for further improvement of the Fayetteville Expressway Economic Development Corridor that includes the redesign of the College Avenue Corridor, U.S. Business 71 in four distinct segments: (1) Sixth Street to North; (2) North to Sycamore; (3) Sycamore to Rolling Hills; and (4) Rolling Hills to Zion.

Illinois River & Scull Creek

Request: \$1 M
Bill: Interior Appropriations
Agency/Acct: USGS and Biological Research

Summary: The City of Fayetteville is requesting \$1 million for the remediation of Scull Creek to halt further degradation of this tributary that empties into the Illinois River.

Fayetteville Regional Wastewater System Improvements

Request: \$4 M
Bill: Independent Agencies Appropriations
Agency/Acct: EPA-State and Tribal Assistance Grants (STAG)

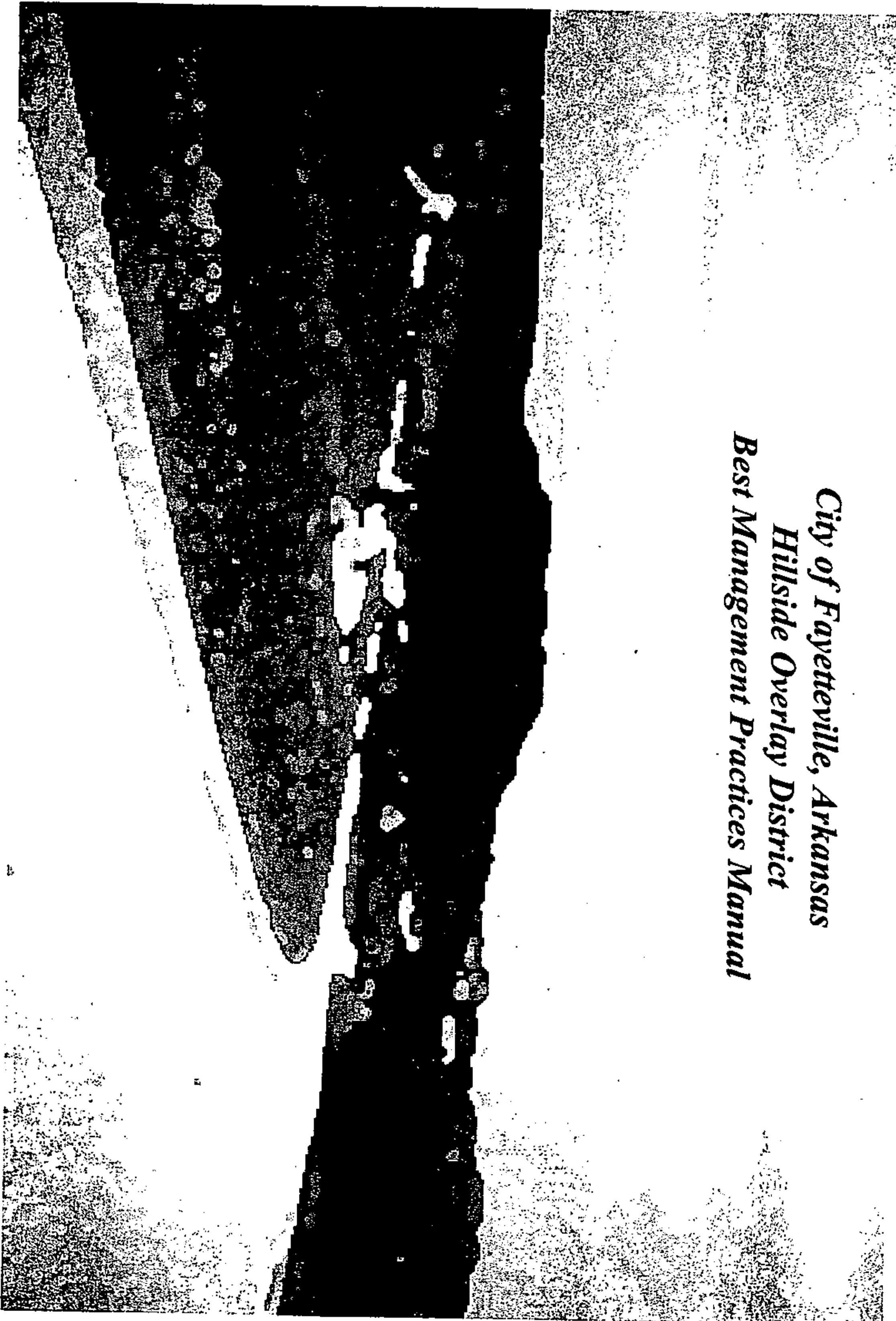
Summary: The City of Fayetteville requests \$4 million to continue the existing initiative of rehabilitation of the regional wastewater collection system.

Law Enforcement Simulcast Radio System

Request: \$2.2 M
Bill: Commerce, Justice, State & Judiciary
Agency/Acct: Department of Justice – Community Oriented Policing Services

Summary: The request is for the purchase, installation and implementation of an Astro 25 LE simulcast system – offering a broad range of communication features, capabilities and benefits for public safety agencies with wireless communication needs. The system would improve radio coverage and allow police officers and firefighters to have integrated communication in emergency situations.

*City of Fayetteville, Arkansas
Hillside Overlay District
Best Management Practices Manual*



Agenda Session 9/3/06



Hillside Overlay District Best Management Practices Manual

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I. Background and Introduction

The Fayetteville City Council adopted Resolution Number 130-02 in August of 2002, requesting that the Planning Commission conduct a rezoning study and zoning map amendment for those areas shown as R-2 (Medium Density Residential, RMF-24) that have 15% or greater slope.

A Hillside Task Force was developed and comprised of Planning Commission Members. The Hillside Task Force examined studies conducted by staff on the existing development patterns of Mt. Sequoyah, adopted hillside ordinances from other cities, and recommendations proposed by Planning Staff. Unable to reach consensus on a hillside development ordinance and boundary map, the Hillside Task Force was disbanded in the fall of 2004.

In 2005, a new Hillside Task Force was developed comprised of members of the City Council and the Planning Commission. A series of meetings occurred that provided the Task Force with a background of past ordinance proposals and ongoing public input. Ultimately, a recommendation and ordinance was developed by Planning Staff and the Task Force.

Due to on-going discussions and concerns expressed by both the development community and the public as a whole, Staff proposed that a consultant familiar with steep slope development be hired to assist City Staff in developing a hillside development ordinance.

In March of 2005, the Fayetteville City Council authorized a contract with Design Workshop of Asheville, North Carolina to assist the City in the drafting of a Hillside Development Ordinance and *Best Practices Manual*.

This *Best Management Practices Manual* is designed to illustrate best

development practices that are deemed as appropriate for development on our steeply sloped and heavily forested hillsides. This manual, in conjunction with the City Ordinances that have been amended such as: Chapter 161 - Zoning, Chapter 167 - Tree Preservation, Chapter 169 - Physical Alteration of Land, Chapter 170 - Stormwater, Drainage, and Erosion, and Chapter 172 - Parking, will be the implementing and regulating documents guiding all development that falls within the Hillside Development Overlay District.

II. Concerns Expressed During Public Input Sessions

City Staff and Design Workshop held two public input working sessions in June and July of 2005.

During the first work session in June we conducted a meeting with the members of the Hillside Task Force, interested developers, and an open public input meeting. These work sessions focused on gathering input and feedback regarding existing conditions and the future of Fayetteville's hillsides. The following topics were discussed in order to:

1. Identify issues and concerns based on the current and future development of Fayetteville's hillsides.
2. Confirm the existing environmental, development, zoning and regulatory conditions.
3. Discuss best practices of development seen in the City or region.
4. Discuss the visual preference for hillside areas in and around Fayetteville.
5. Gain feedback regarding current development trends and best current

practices.

6. Find common ground between all parties.

7. Discuss the proposed Unified Development Code revisions.

During the second work session in July of 2005 we again conducted meetings with the Hillside Task Force, interested developers, and a general public input meeting. These work sessions focused on:

1. Confirming the project approach.
2. Reviewing the information gathered in the first work sessions.
3. Developing a process for establishing recommendations.
4. Reviewing the existing codes regarding development.
5. Drafting Best Practices guidelines to be used in the manual.
6. Reviewing recommended changes to the development code.

Summary of Concerns with Development on Hillsides as Expressed by the Public.

Density:

- Infill of inconsistent housing types / increased density in established neighborhoods

- Do not use downzoning as a tool for preserving trees

Storm water / Infrastructure:

- Drainage ditch design, adequate capacity, and proper location

- Need additional storm water regulations along with better enforcement

- Inadequate or outdated infrastructure in older neighborhoods

- Utility companies to allow for design flexibility

Tree Preservation:

- Preserve the natural character of the hillsides

- Protect ridge tops and significant plant communities
- Limit the amount of disturbance to preserve trees and help manage storm water erosion
- Viewshed protection
- Protect virgin and biodiverse plant communities

Views of the Hillsides:

- Preserve the visual quality of the most frequently seen hillsides
- Long range views draw people to naturally want to reside on hillsides

Development / Planning Practices:

- When development happens, do it correctly. Do not sacrifice quality – good development sells
- Do not stifle creativity or require a homogenous product

- Create the opportunity for development flexibility and diversity of product type

Ordinance / Implementation:

- Ordinances should be implemented on a lot by lot basis
- New or revised ordinances should be clear and not over burdening

- Hilltops should be included in the hillside ordinance study

- Hilltops may need separate design criteria to be effective

- Ordinance and regulatory restrictions and processes should be placed on individual lot developments of less than one acre

Geologic Study / Conditions

- Geotechnical reports should be prepared for each lot located in the Hillside Overlay District.

- Engineered foundations should be a requirement in the Hillside Overlay District.

Tree Function

- Trees should be recognized for their function in stormwater filtration and absorption and not just for their aesthetic qualities.

III. Existing Conditions

Regulatory Codes:

What parts of the current codes are consistent with hillside preservation?

- Physical Alteration of Land (Grading)
- Stormwater Management, Drainage, and Erosion Control
- Tree Preservation and Protection

Where do the existing codes fall short?

- Current zoning code is designed for flat land development
- Height limitations, setbacks, lot size and lot layout design
- Grading ordinance does not address innovative ways to retain grade with home design

What are the loop holes in the current regulatory codes?

- New development less than one acre in size is generally exempt from many development requirements
- Tree preservation is not required on single lot development
- Tree preservation is required of the developer at the time of platting; however, lot owners and builders may remove preserved tree canopy from their individual lots

Code Revision Process:

The process outlined below illustrates the steps taken by the City, the Hillside Task Force and Design Workshop to specifically revise the current codes.

1. Review the existing conditions and define the Hillside Overlay District Map.
2. Test and review the current development codes to determine the loopholes in the current codes:
 - Zoning
 - Grading
 - Tree Preservation
 - Erosion and Sediment Control
 - Parking
3. Amend the current Unified Development Ordinance Codes to be more conducive to hillside development.
4. Create a Hillside Overlay District Best Management Practices Manual.

● **Zoning:**

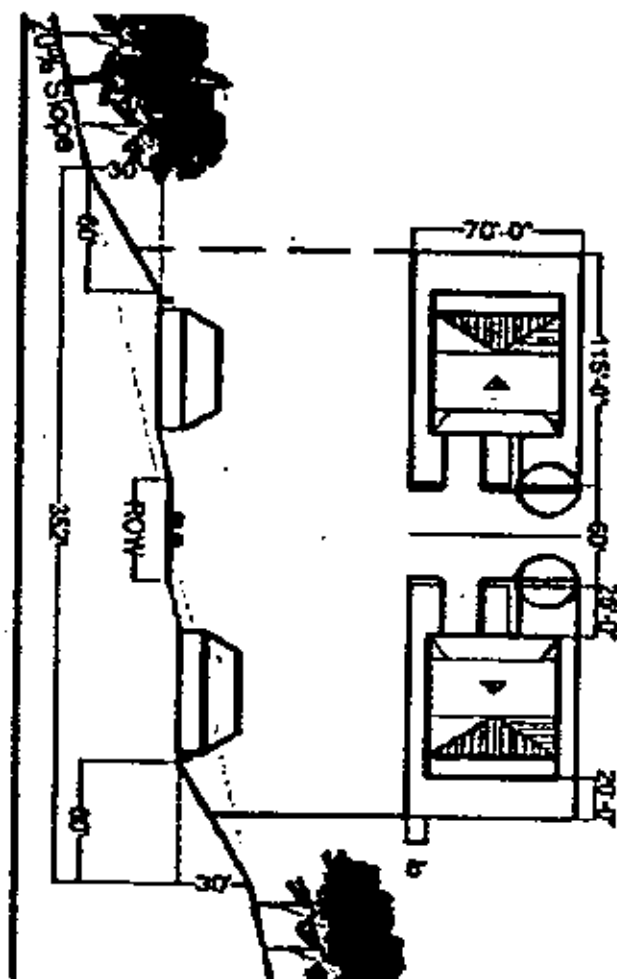
To examine existing zoning codes, Design Workshop created plans and sections illustrating minimum allowable lot size, maximum allowable building footprint, and front, side, and rear setbacks. The analysis revealed that existing lot conditions do not promote sound development practices with respect to preserving tree canopy, preventing erosion, and protecting views both to and from the hillsides. The existing setbacks contribute to excessive land disturbance. Grading for roads and right-of-way coupled with large front building setbacks creates additional potential for land disturbance.

The following illustrations summarize each of the major zoning classifications found on Fayetteville's hillsides. These studies depict the pattern of development per the current zoning regulations, in plan view and cross-section, illustrating the potential impact when applying the current development codes to lands on an average 20% slope. Also summarized is a diagram

illustrating the maximum allowable density on one acre of land.

Existing RSF-4 Single Family

RSF 4 SINGLE FAMILY

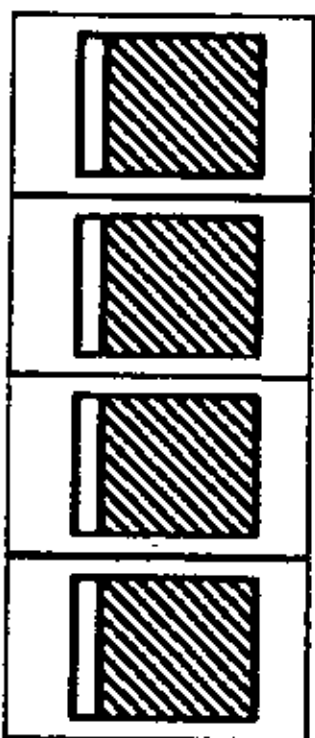


EACH LOT = 8,050 SQ FT (70 WIDTH X 115 LENGTH)
 SETBACKS:
 FRONT 25
 BACK 20
 SIDE 8

BUILDING FOOTPRINT (ACCORDING TO SETBACKS)
 = 3,780 SQ FT (64 WIDTH X 70 LENGTH).

ZONING ONLY ALLOWS FOR 40% COVERAGE
 (8,050 X .4) = MAX 3,220 SQ FT FOOTPRINT
 (60 WIDTH X 54 LENGTH).

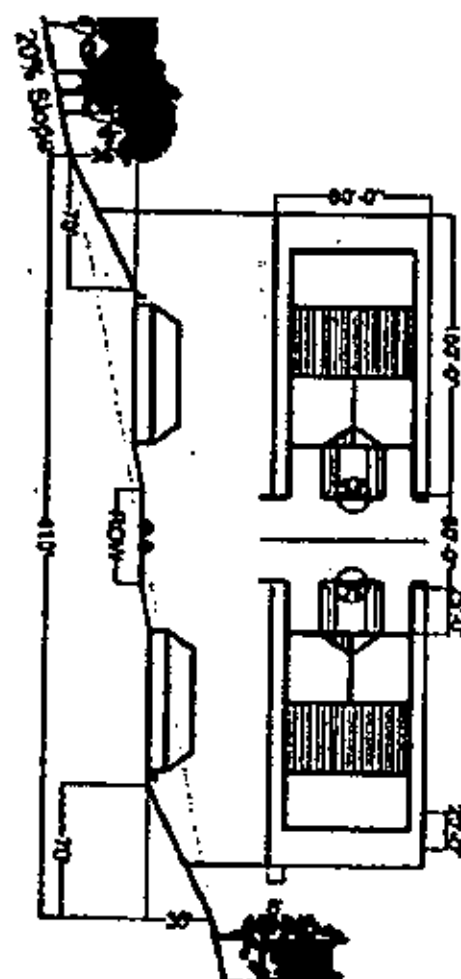
THIS DIFFERENCE CREATES A 560 SQ FT
 POTENTIAL DEVELOPMENT ZONE WHICH IS FRONT
 BACK/FLEXIBLE.



1 Acre

Existing RSF-4 Two Family

RSF4 TWO FAMILY

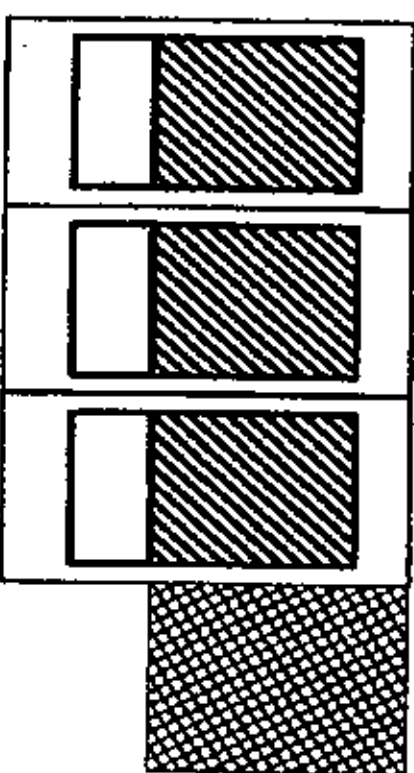


EACH LOT = 12,000 SQ FT (80 WIDTH X 150 LENGTH)
 SETBACKS:
 FRONT 25
 BACK 20
 SIDE 8

BUILDING FOOTPRINT (ACCORDING TO SETBACKS)
 = 6,720 SQ FT (64 WIDTH X 105 LENGTH).

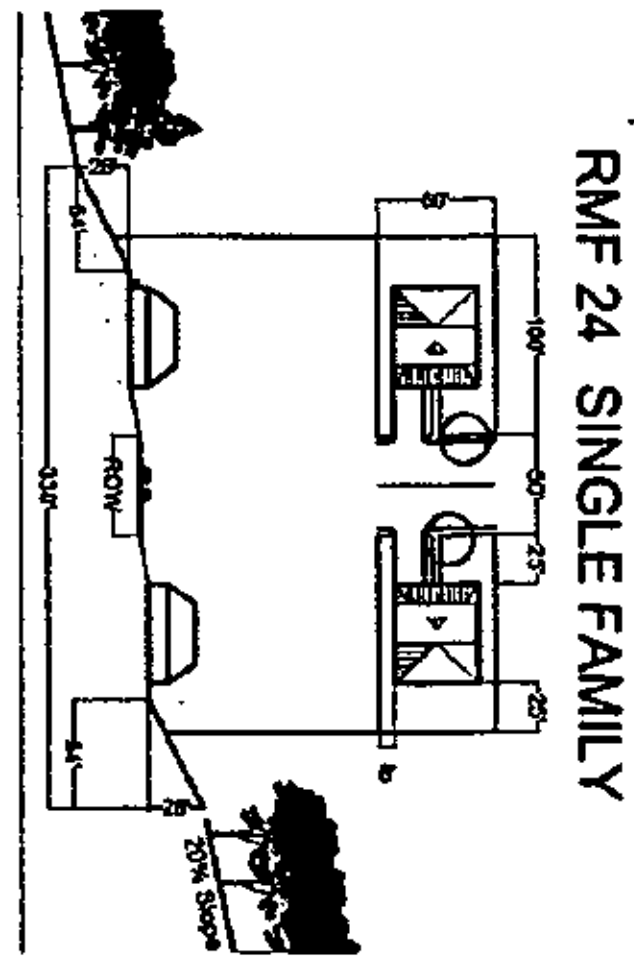
ZONING ONLY ALLOWS FOR A 40% COVERAGE
 (12,000 X .4) = MAX 4,800 SQ FT FOOTPRINT
 (64 WIDTH X 75 LENGTH).

THIS DIFFERENCE CREATES A 1,920 SQ FT POTENTIAL
 DEVELOPMENT ZONE WHICH IS FRONT BACK/FLEXIBLE.

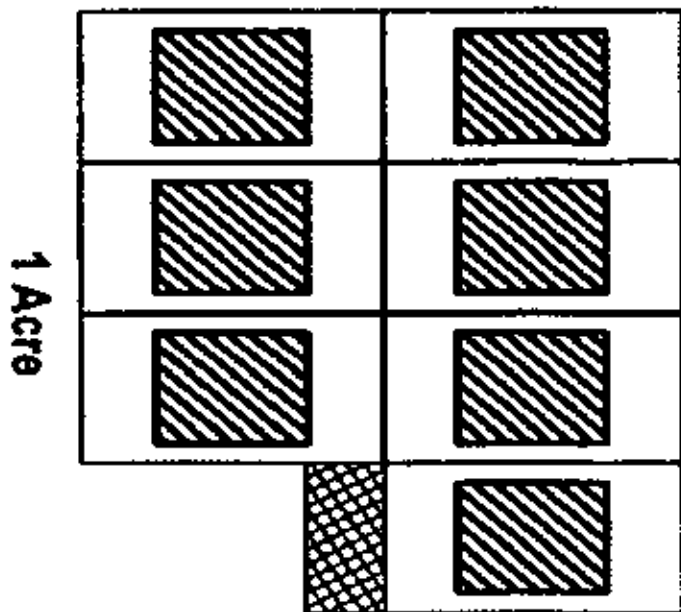


1 Acre

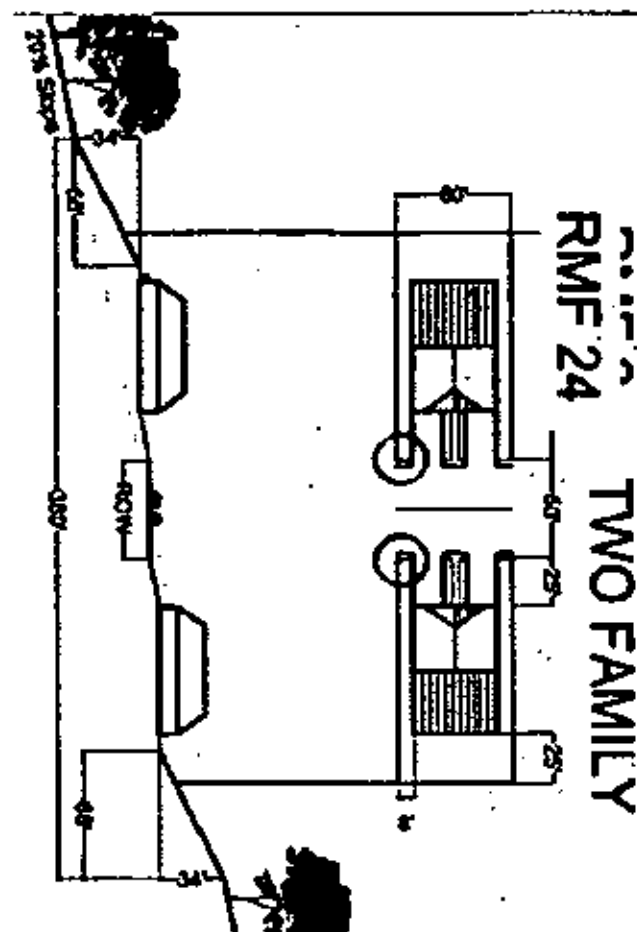
Existing RMF-24 Single Family



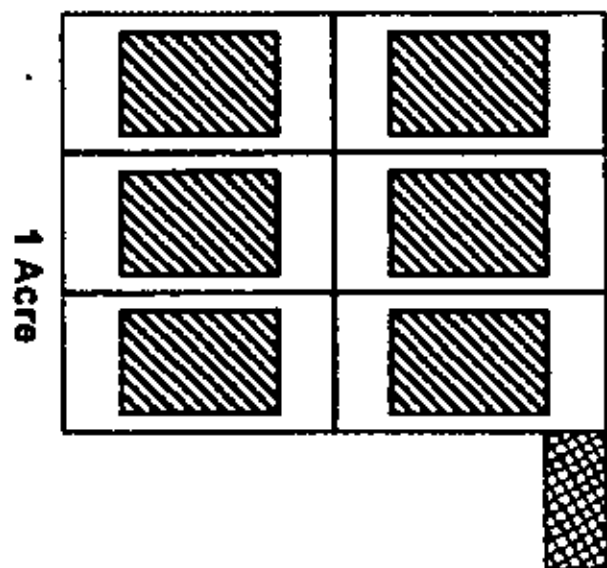
MIN EACH LOT = 6,000 SQ FT (60 WIDTH X 100 LENGTH)
 SETBACKS:
 FRONT 25
 BACK 25
 SIDE 8
 HOUSE SIZE = 2,200 SQ FT HOUSE SIZE
 SETBACKS INCREASE WHEN HEIGHT EXCEEDS 20 FT



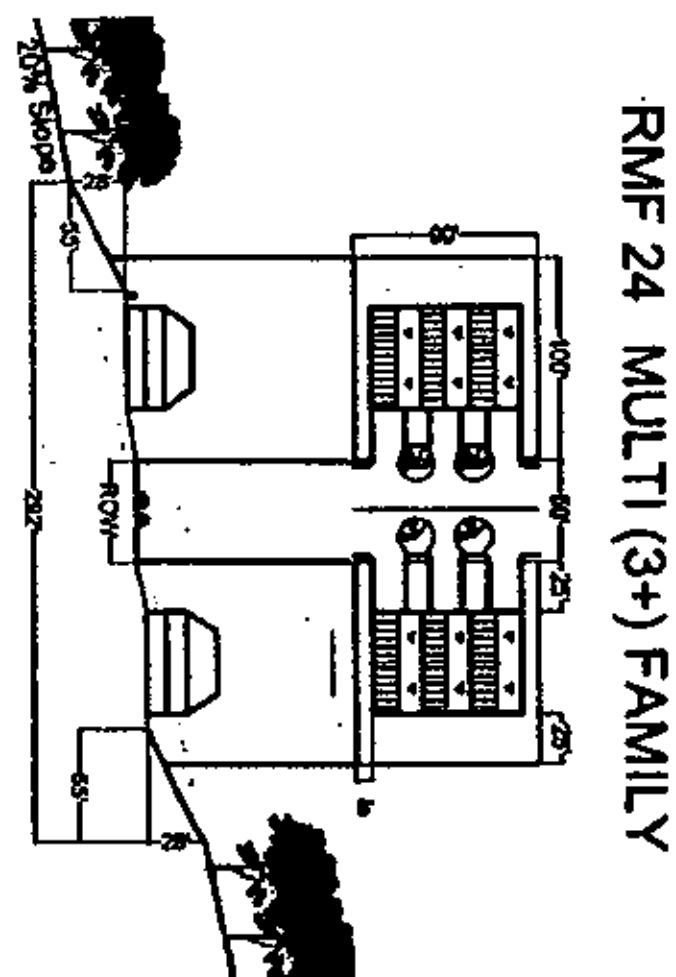
Existing RMF-24 Two Family



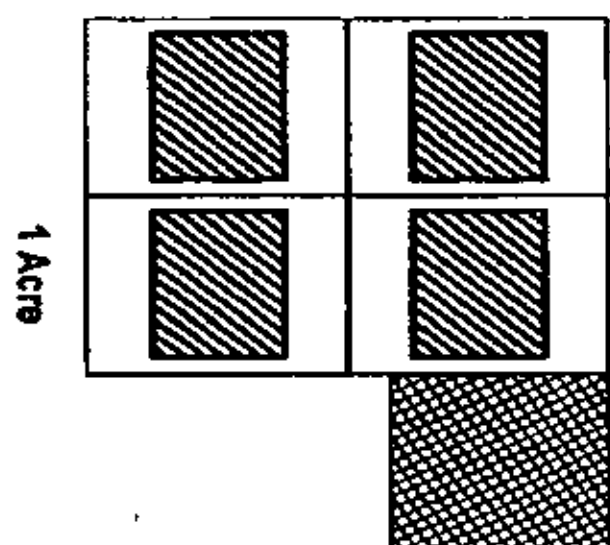
MIN EACH LOT = 7,000 SQ FT (60 WIDTH X 116 LENGTH)
 SETBACKS:
 FRONT 25
 BACK 25
 SIDE 8
 HOUSE SIZE = 2,934 SQ FT HOUSE SIZE
 SETBACKS INCREASE WHEN HEIGHT EXCEEDS 20 FT



Existing RMF - 24 3+ Family



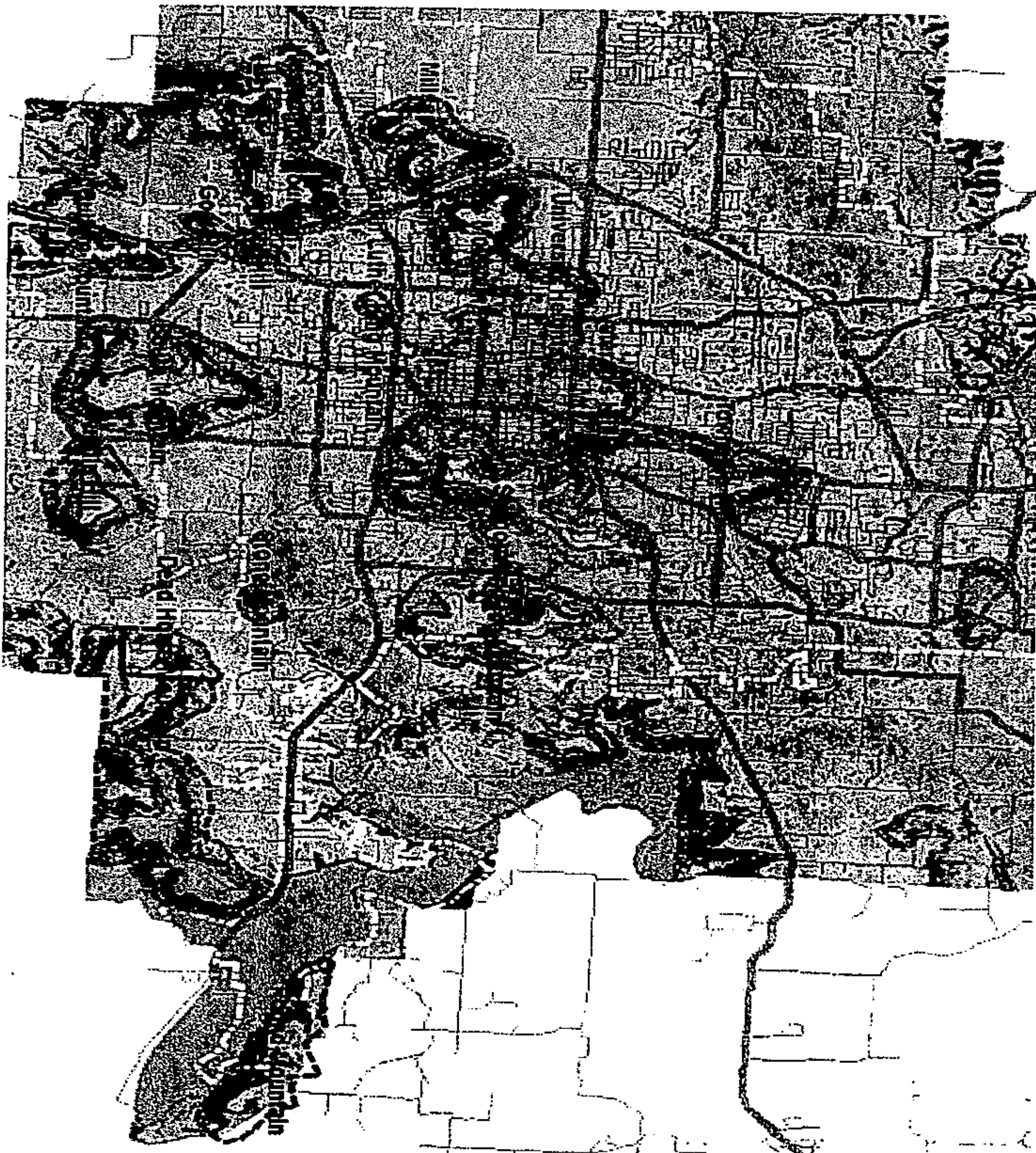
MIN EACH LOT = 9,000 SQ FT (90 WIDTH X 100 LENGTH)
 SETBACKS:
 FRONT 25
 BACK 25
 SIDE 8
 HOUSE SIZE = 3,700 SQ FT HOUSE SIZE
 SETBACKS INCREASE WHEN HEIGHT EXCEEDS 20 FT



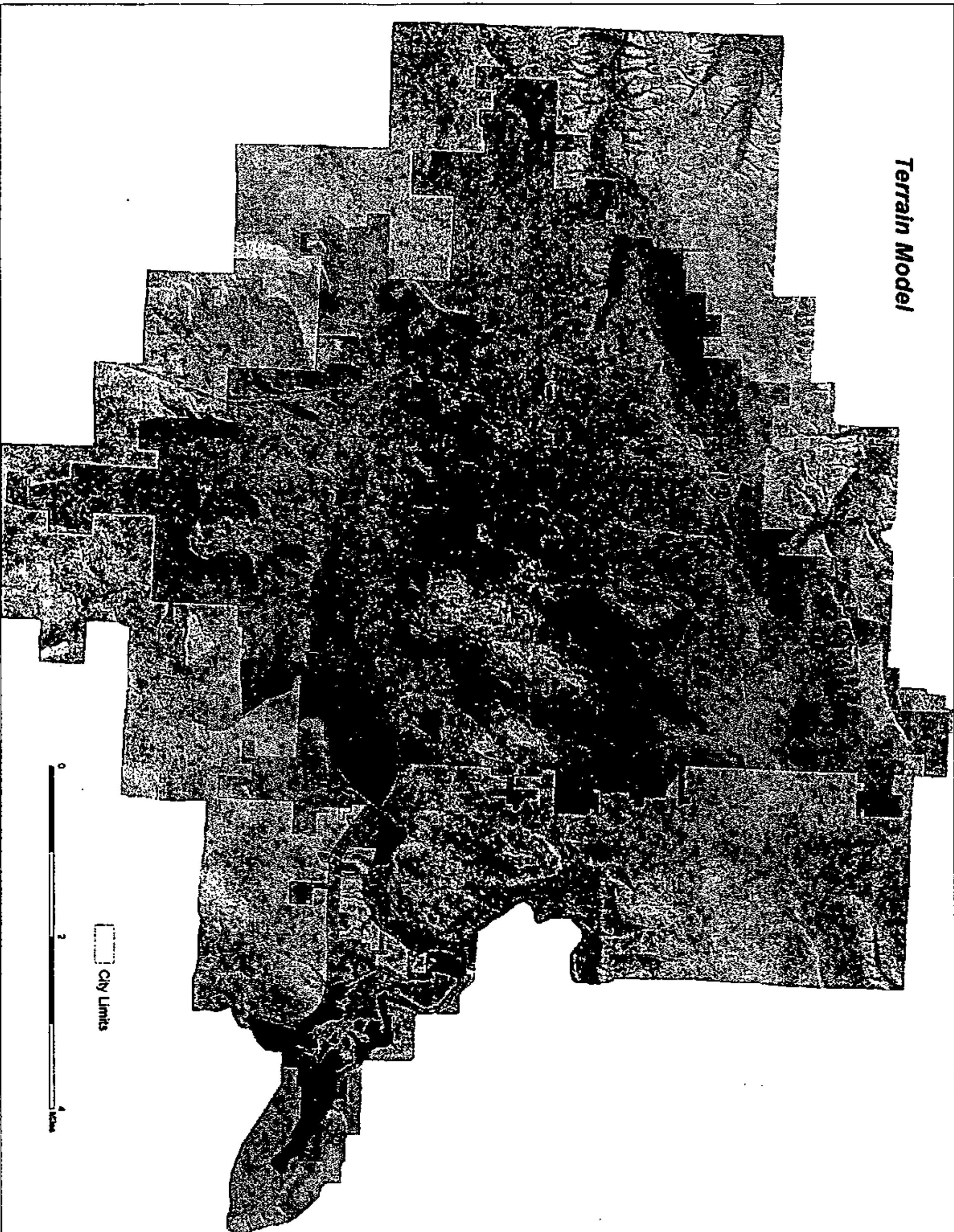
- **Existing Slopes:**

Understanding the topography of the City allows us to clearly delineate where the hillsides exist and which hillsides are most sensitive to development. The perception is that the hillsides are a constant and consistent slope when viewed from afar. On the contrary, hillsides have diverse landforms; some areas are flatter and some are steeper. There are also flat hilltops as opposed to peaks or ridges in many cases. It is important to analyze the hillside topography in order to understand and illustrate the diversity of hillsides so that the City, the public, and developers know which areas require more scrutiny and which hillsides allow more development freedom.

The map following indicates the areas of the hillsides where the slopes greater than 15% occur. Areas that are yellow indicate slopes that are moderately sensitive with slopes between 10-15%. Areas that are green are less than 10% slope.



Terrain Model Illustrating the Hillside Areas in Fayetteville. {City of Fayetteville 2005}



• **Geologic Hazards:**

Based on a 2001 report by King published in the Journal of Arkansas Academy of Science, much of the Fayetteville area is located on shale strata containing swelling clays. These clays weather rapidly and form expansive soils. These soils swell and shrink depending on the variation of moisture content within the clay. The nature of these soils with their swelling and shrinking can cause heaving, cracking, water seepage and rotting of wood building components. They also cause subsidence in paving areas, excessive runoff after rain events, down-slope creep and the slumping of steep slopes. Although there are many solutions to these problems, they can be very costly to install and remediate after construction. Often the cost of remediation for foundation problems post-construction can exceed 10-25% of the assessed value of the home. The detrimental effects of construction on hazardous soils can be mitigated by property owners' access to a

detailed geotechnical report conducted on the building lot. A geotechnical report will give lot owners and builders an understanding of the soil conditions as they relate to the specific property. Mitigation of soil inadequacies can then be explored, which may entail a need for engineered foundations, slip foundations, or other methods or construction techniques that will ensure that structures are built in an appropriate manner.

Expansive Soil hazards in the Fayetteville Quadrangle:

1. Lower Fayetteville Shale:

Located mostly on the flatter or slightly sloped hillsides, this soil covers an expansive (45.5%) area of the Fayetteville Quadrangle. The weathered clay horizon of this unit ranges from 0 m to 10 m thick and rests on top of the un-weathered shale. Adverse effects associated with construction on the lower Fayetteville shale are differential subsidence of pavements resulting in extreme cracking and

unevenness, cracking of foundations and retaining walls, cracking of concrete floors, cracking of concrete driveways, separation of concrete floor seams, rotting of wooden floors and other wooden components of houses, various breaks in masonry above the foundation, runoff from heavy rain fall, seeps emerging from paved areas, seeps emerging in houses between concrete floor seams, and corrosion of buried pipes. With the expansion and contraction of the lower Fayetteville Shale clays, even areas with very gentle slopes display evidence of creep. (King, 2001).

2. Upper Fayetteville Shale:

Located primarily on moderately steep slopes. The upper Fayetteville Shale has a much smaller aerial extent (4.7%) than the lower Fayetteville Shale. This soil is susceptible to creep and slumping. The area of contact between the Upper Fayetteville Shale and the Wedington Member is also the location of frequent springs and seeps.

3. *Woolsey Dye*: Located on moderate slopes. Hazards are cracking, creep, and slumping. This soil weathers into a soft gummy clay. The area of contact between the Woolsey Dye and the Brentwood Member is the location of frequent springs and seeps.

4. *Trace Creek Member*: This soil is a black, organic rich shale at the base of the Atoka Formation. The Trace Creek Member has an outcrop extent of 1% in the Fayetteville Quadrangle.

The only inhabited area on the Trace Creek Member in the City of Fayetteville is a residential neighborhood on Mount Sequoyah. On exposure, the Trace Creek Member weathers quickly into expandable clay subject to slumping. (King, 2001).

Conclusions:

Paleozoic shale strata are exposed over more than 50% of the Fayetteville Quadrangle. These shale units are known to weather to expansive soils, creating numerous problems for construction. Damage to structures associated with expansion and contraction of weathered clays within these units costs hundreds of thousands of dollars annually to and unsuspecting public. Many of these costs (particularly those related to repair of damaged home or business foundations) are not protected by homeowners' or businesses' insurance.

Detailed mapping of these clay-rich strata provides an aid to identifying and mitigating these potential hazards. Knowledge of the areal distribution of hazardous stratigraphy in the Fayetteville Quadrangle may reduce the overall costs of mitigation through incorporation of appropriate engineering solutions during

construction yielding improved building design, better building quality, and lowered building repair costs. Thus, geologic mapping of the Fayetteville Quadrangle is relevant and valuable to city planners and developers. (King, 2001).

Individual lot owners in the Hillside Overlay District are required to have a footing and foundation plan designed by an Arkansas registered engineer. An engineered solution utilizing proper methods and techniques for mitigating hazardous soils is the property owners' best insurance against future foundation failure.

A detailed soils map is available at the City of Fayetteville Planning Office located at 125 W. Mountain St.

- **Tree Canopy:**

Currently, the undeveloped hillsides in Fayetteville are predominantly covered with trees, and are visually perceived to be predominantly tree covered. This tree cover is highly visible because the hillsides rise three to four hundred feet above the surrounding area and are very visible from many areas within the city. Any tree cover that is removed for development is usually visible and typically brings attention to the project and the development process. Tree cover removal may disrupt the natural ecosystems, change the hydrologic characteristics of the hillsides, and potentially increase the impacts of erosion and soil instability.

The following map illustrates the distribution of existing tree canopy, indicated in green.



Tree Canopy Cover for the City of Fayetteville, AR. (City of Fayetteville 2003)

IV. Best Practices

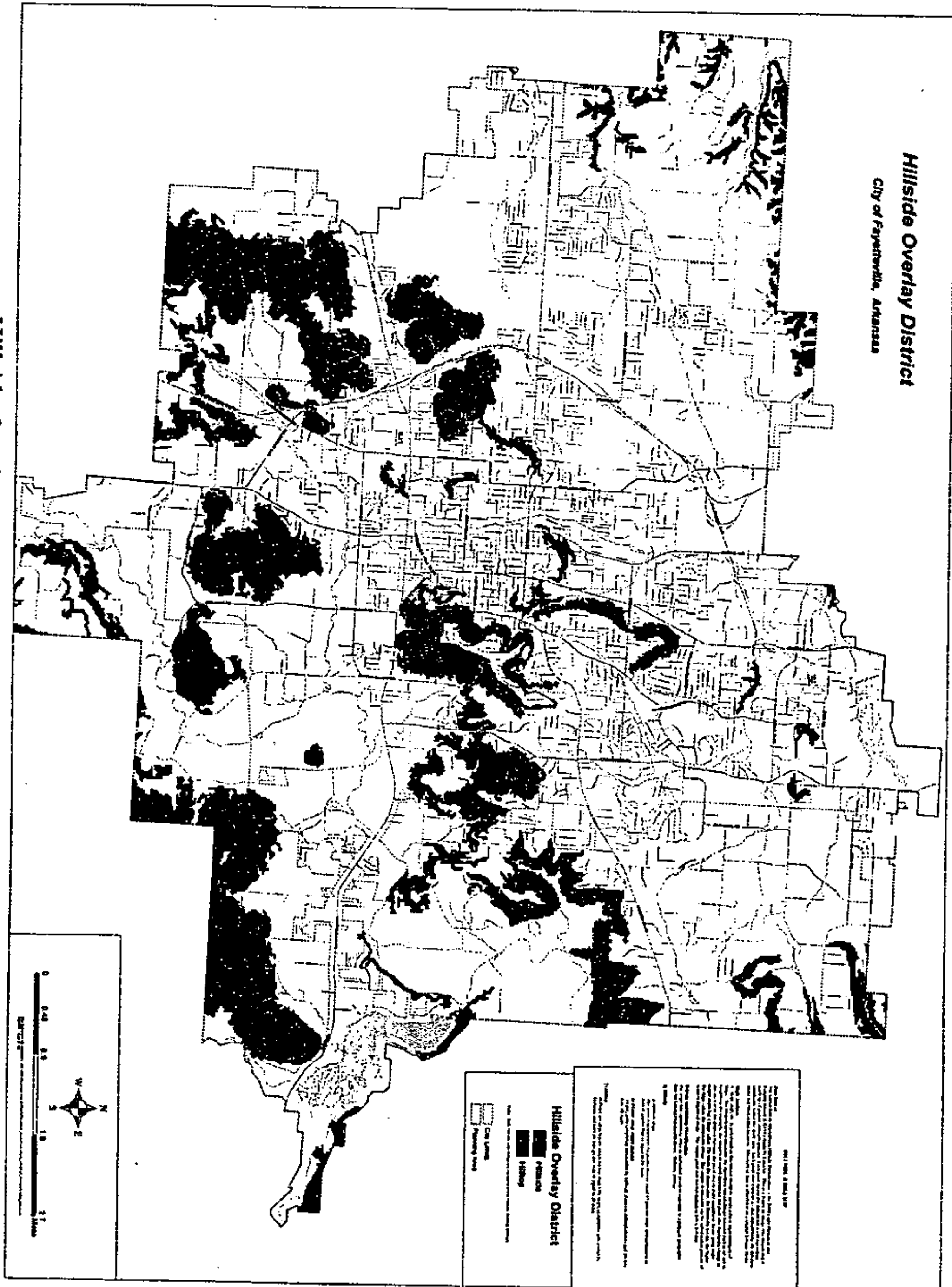
A. Subdivision Development

- **Hillside Overlay District:**

The Hillside Overlay District has been delineated by analyzing multiple layers of information. Through this analysis, the Hillside Overlay District area has been defined based on analysis of steep slopes, areas of high visibility, location of existing tree canopy, and geologic conditions. The review and testing of the current City codes confirm that many of the current codes are not compatible with creating a responsible development pattern on the hillsides. Since the current codes were created to guide development on flatter ground, the identified Hillside Overlay District provides a more appropriate set of criteria that better responds to the patterns and practices of hillside development.

A Hillside Overlay District map was generated using the City's Geographic Information System (GIS). This map was created using a mathematical model developed by the Information Technology Department.

A detailed map of the Hillside Overlay Districts is available at the City of Fayetteville Planning Department, 125 W. Mountain St., Fayetteville, AR. 72701. 479-575-8267. The following map is for representative purposes only and should not be used as a guide for specific properties located within the City.



Hillside Overlay District Map {City of Fayetteville. 2005}

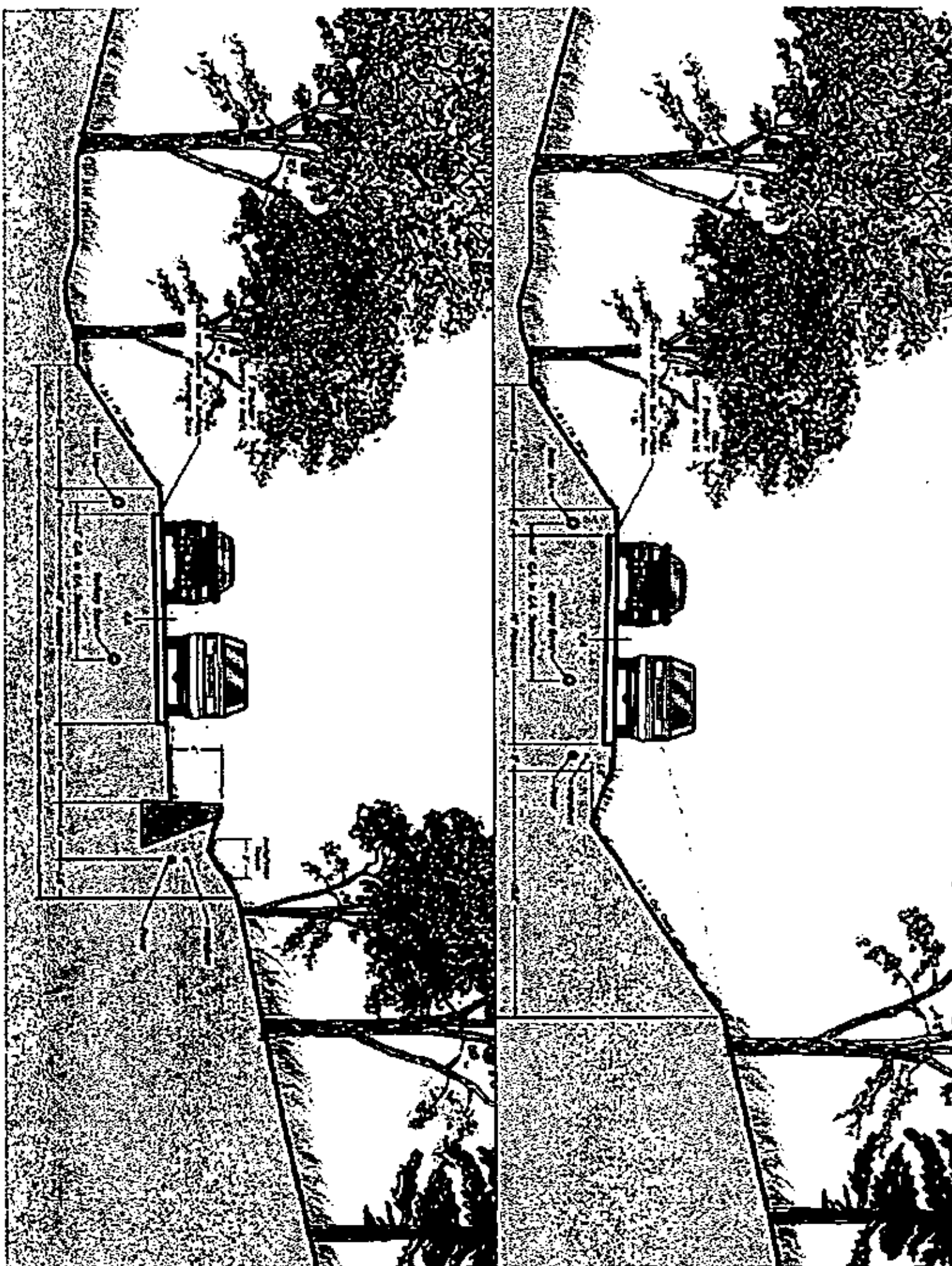
• **Right of Way Design and Road Grading:**

The primary goal for the design of street right-of-way within the Hillside Overlay District is to minimize its width in order to minimize the amount of grading disturbance and tree removal while still accommodating utility locations, vehicular and pedestrian movements, and / or parking.

Streets located within the Hillside Overlay District shall have the right-of-way determined as back of curb to back of curb, or back of sidewalk to back of curb. These right-of-ways shall be comprised of the following components:

1. All streets shall be either 22 or 24 feet back of curb to back of curb.
2. Minimum sidewalk width of 5 feet.
3. Sidewalks located only on one side in steeper more constrained areas.

4. Storm drainage with on street storm drains in areas with sidewalks.
5. Drainage swales in areas, on uphill side, where sidewalks do not exist.
6. Building setbacks measured from back of curb / back of sidewalk (ROW).
7. Water, sewer, and storm-water utilities located within the ROW and they are encouraged to be located under the roadway.



These two diagrams illustrate the amount of disturbance in the right-of-way which can be minimized with a retaining wall or plinth located on the upslope side of the street.

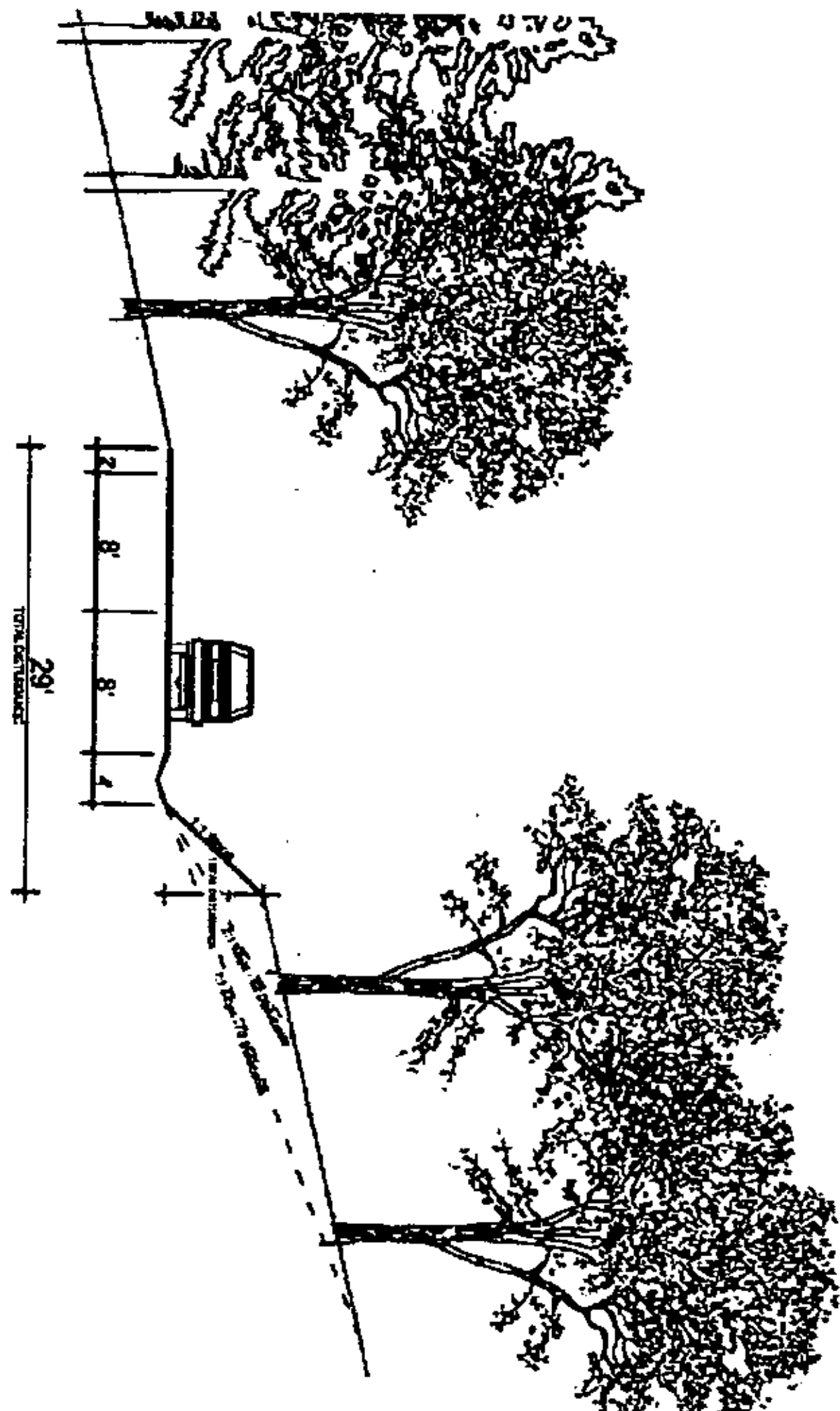


Illustration of a 1:1 tieback slope greatly reducing the amount of disturbance.

Roadway Grading:

Steeper tie-back slopes and roads created in all cut, rather than a cut-fill balance, promote better screening by preserving the trees on the downhill side and utilizing less compaction of fill material.

• Location of Utilities:

It is the intent to accommodate utilities in a manner that is sensitive to the environmental constraints in the hillside overlay district. Utilities shall be installed within a 15 foot utility easement measured from back of curb or back of sidewalk (right-of-way). Water and Sewer service should be located under the street. No utilities or easements shall be allowed on the rear of lots.

• Community Pattern:

The revised Unified Development Code contains guidelines that encourage the following specific design parameters that help create a development pattern that responds better to hillside development.

- Encourage streets to be parallel to the slope.
- Lot depth shall be oriented to the slope and not the street.

- Homes should be designed so that the structure retains or takes up slope.
- Discourage "pad grading" and minimize site grading.
- Reduced front building setbacks encourage structures to locate near the street.
- Visual screening through the use of tree preservation.

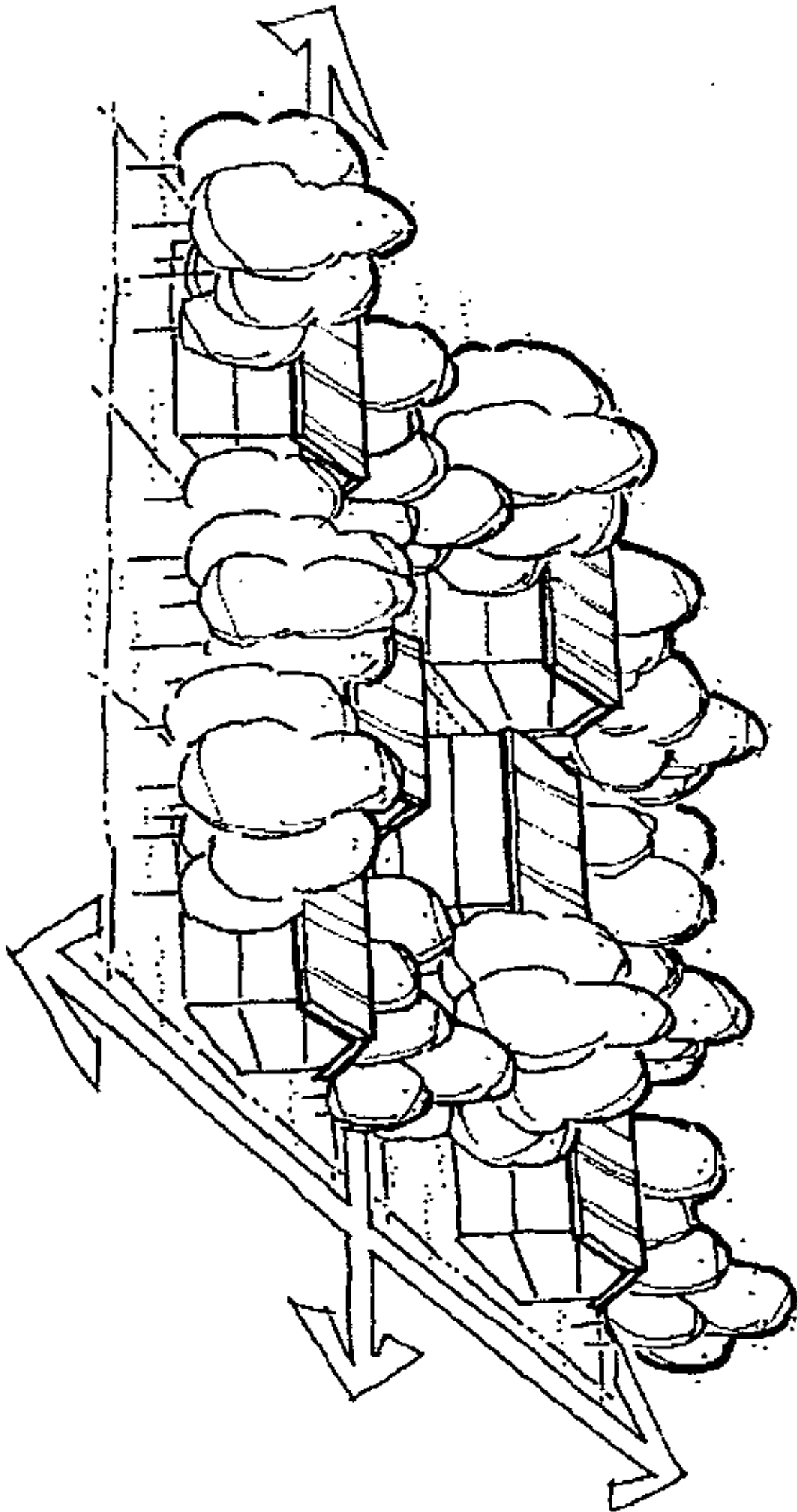


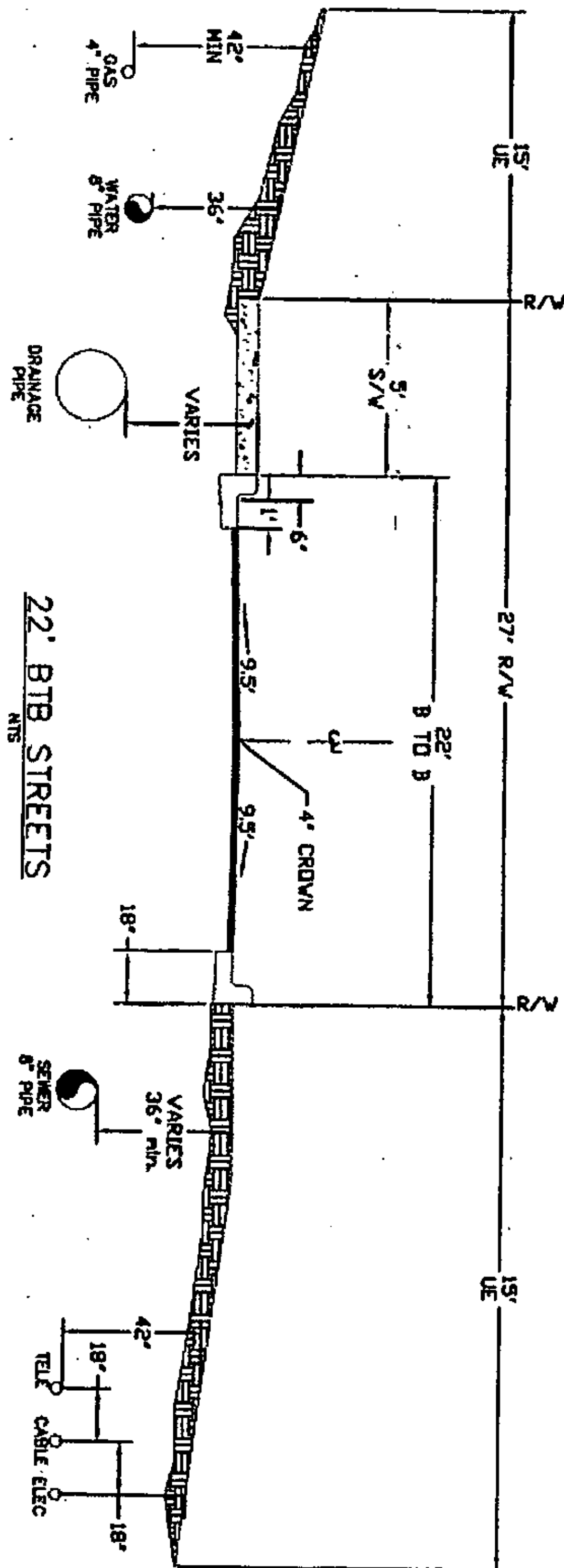
Diagram Illustrating Community Pattern {City of Fayetteville 2005}

• Hillside Street Cross – Sections:

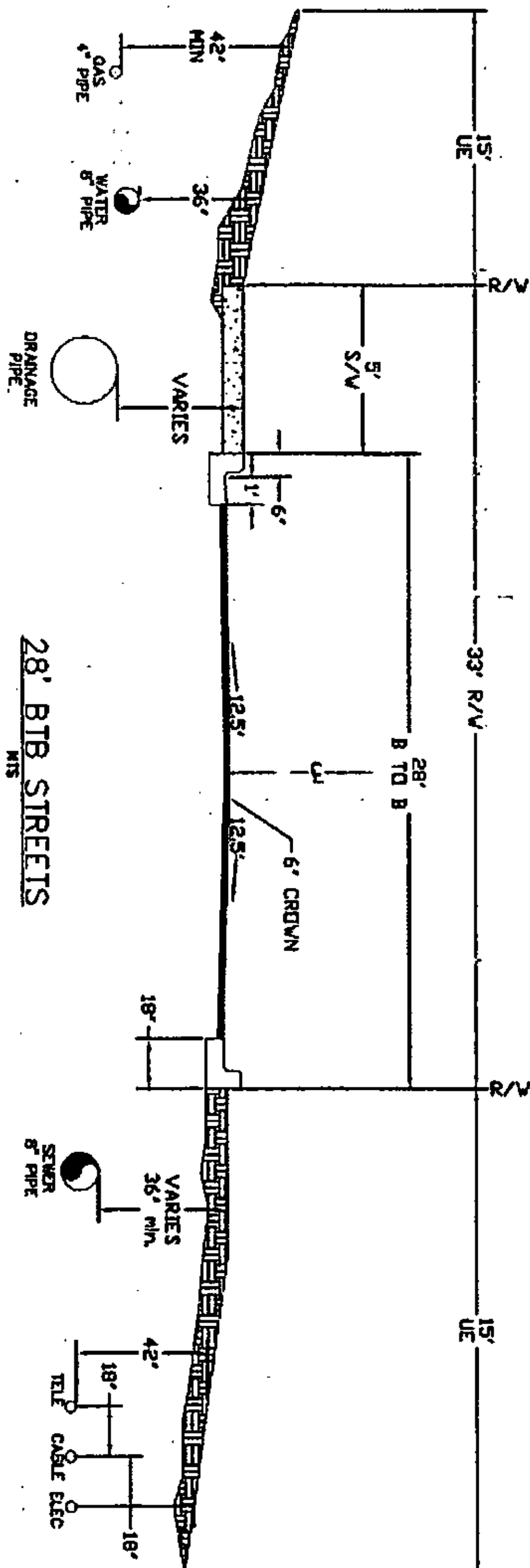
The City has adopted two street cross-sections for use within the Hillside Overlay District. These cross-sections are the result of numerous meetings between Planning and Engineering Staff, Developers, and Utility Companies. These cross sections have been developed in an effort to minimize hillside disturbance while meeting the requirements for utility separation and convenience for future utility service and repair.

A variety of appropriate street cross sections should be allowed within the Hillside Overlay District with approval of the Planning Commission. Developers and engineers are encouraged to design street cross sections that shall minimize land disturbance while providing adequate vehicular access.

Local streets in the Hillside Overlay District (HOD) may use the following street cross-section. Designed to carry limited traffic through the neighborhood, these local streets have 9.5 foot travel lanes with an overall back of curb to back of curb dimension of 22 feet. The addition of a 5 foot sidewalk adjacent to the street produces an overall right-of-way dimension of 27 feet. The narrow overall right-of-way dimension reduces the grading necessary to locate a street in the right-of-way. Utilities are located within a 15 foot utility easement located on both sides of the street. Utilities located on the upslope side of the street are water, gas, and storm-drainage. Down-slope utilities are sewer, telephone, cable, and electricity. By locating the utilities underground and at the street, developers avoid the removal of tree canopy for utility easements located on the rear of the lots. Utilities are encouraged to locate as close to the right-of-way as possible to minimize disturbance within the utility easements.



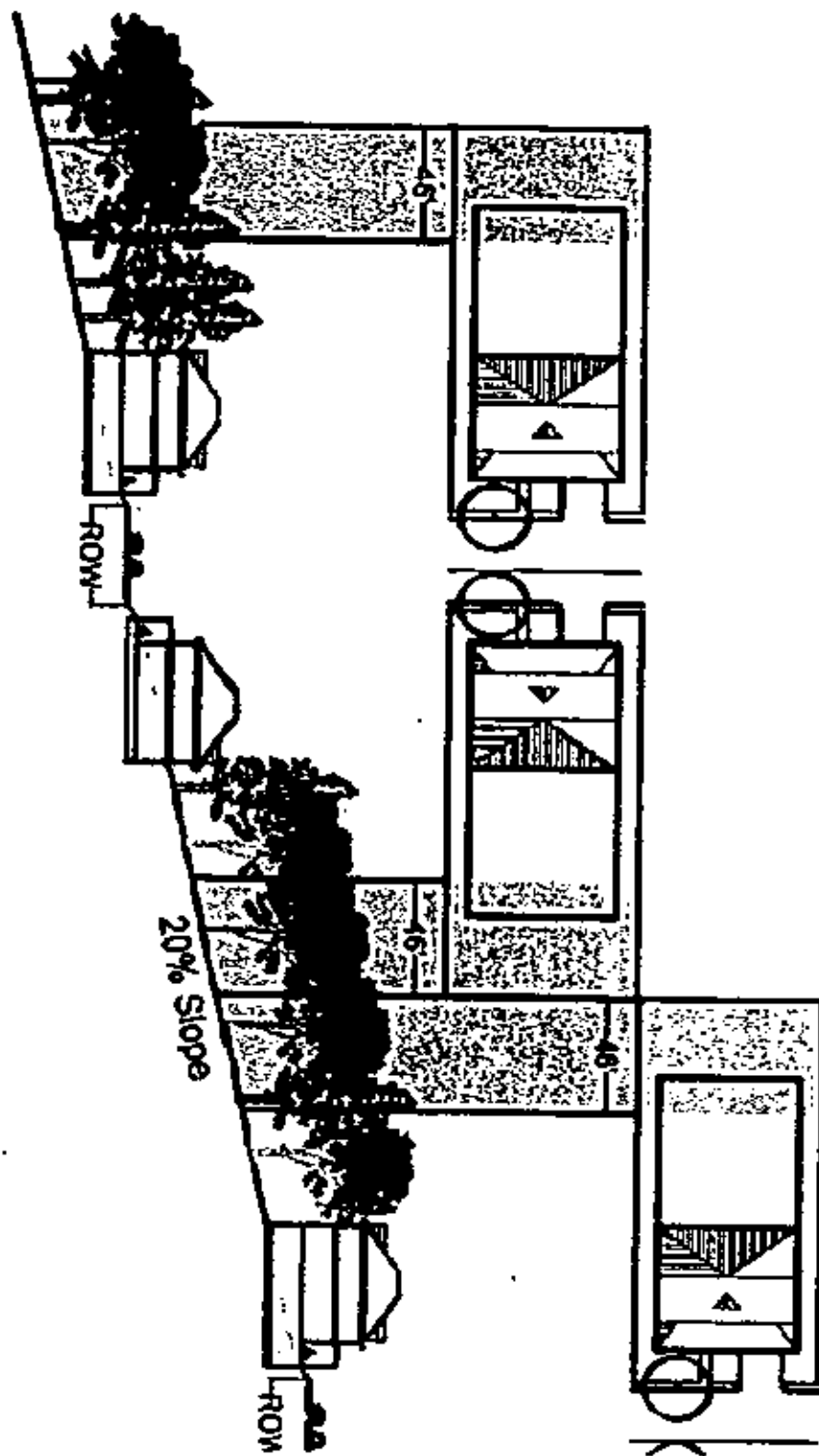
Collector streets in the Hillside Overlay District (HOD) may use the following street cross-section. Designed to collect traffic from the neighborhood and disperse it to minor arterials, collector streets in the HOD have 12.5 foot travel lanes with an overall back of curb to back of curb dimension of 28 feet. The addition of a 5 foot sidewalk adjacent to the street, required by the Americans with Disabilities Act, produces an overall right-of-way dimension of 33 feet. The narrow overall right-of-way dimension reduces the grading necessary to locate a street in the right-of-way. Utilities are located within a 15 foot utility easement located on both sides of the street. Utilities located on the upslope side of the street are water, gas, and storm-drainage. Down-slope utilities are sewer, telephone, cable, and electricity. By locating the utilities underground and at the street, developers avoid the removal of tree canopy for utility easements located on the rear of the lots. Utilities are encouraged to locate as close to the right-of-way as possible to minimize disturbance within the utility easements.



• **Tree Preservation – Subdivision Development:**

It is the intent of the revised guidelines to preserve tree canopy on hillsides and ridgelines. The purpose of the tree preservation guidelines is for new development to accomplish the following:

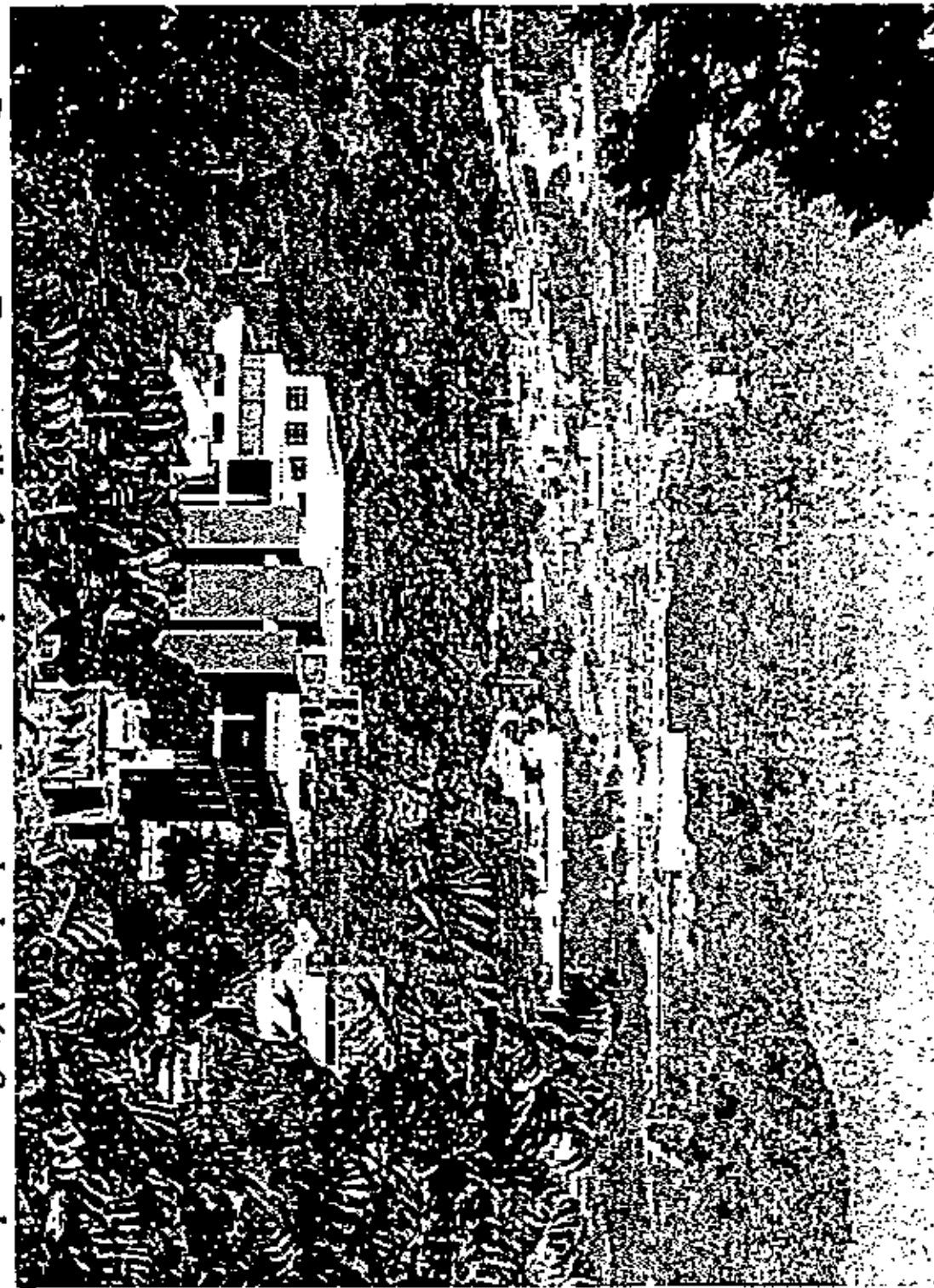
- Encourage tree preservation areas on the rear of lots so that they will screen the home-site from the valley viewshed.



- Locate tree preservation in areas on ridgelines to preserve ridge profiles and screen hilltop development.



- Distribute tree preservation and undisturbed area throughout the entire community not just in undevelopable or unseen areas.
- Allow selective thinning to enhance view potential.

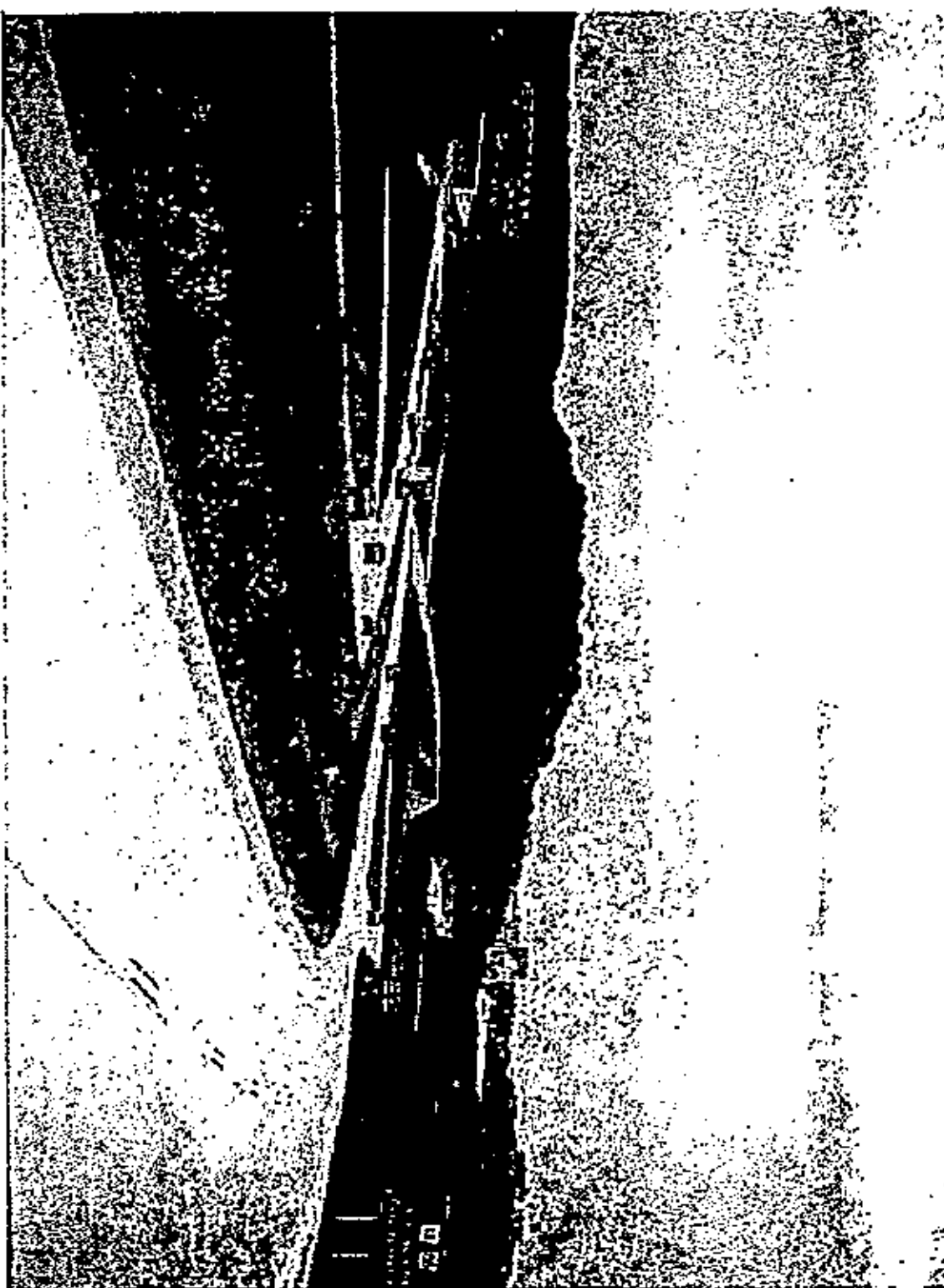


Downtown Fayetteville from the scenic overlook on Mt. Sequoyah.

Summary of Tree Preservation Recommendations for Subdivision Development:

All new construction and development in the Hillside Overlay District, including single and two family residences, shall comply with the Tree Preservation Ordinance which requires site analysis plan, analysis report, and tree preservation plan with the preliminary plat or site plan. Single and two family residential structures shall submit a tree preservation and site plan at the time of obtaining a building permit. There shall be no land disturbance, grading, or tree removal until a tree preservation plan has been submitted and approved, and the tree protection measures at the site are inspected and approved.

- Only the existing tree canopy area within the Hillside Overlay District is subject to the Tree Preservation Ordinance.
- During subdivision platting (lot development) the developer must leave a minimum of 60% of the subdivision area undisturbed. A total of 40% of the subdivision area may be disturbed for road construction and utility placement.
- An official City map clearly delineates the Hillside Overlay District.

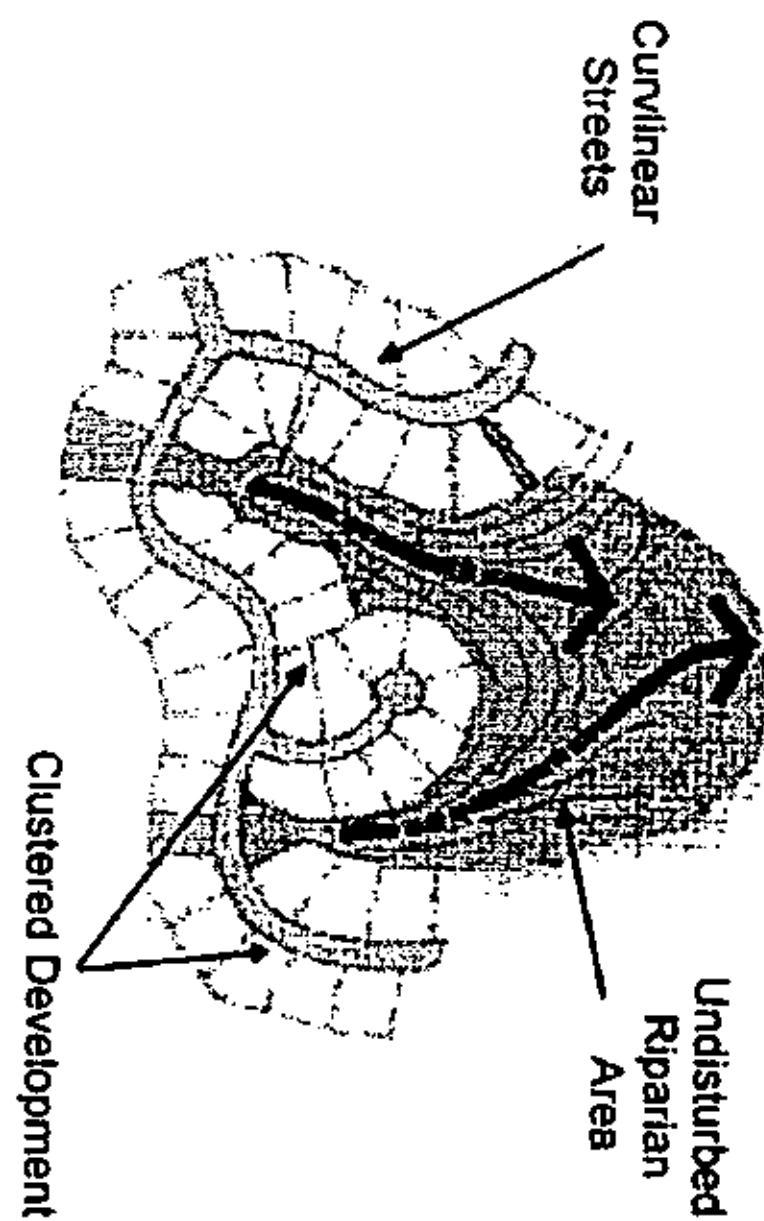


Roost Mtn. viewed from I-540 looking north.

- **Cluster Development:**

Cluster development is an option that allows flexibility in lot size with development located in areas with the least amount of slope. A developer in the Hillside Overlay District may request through the PZD process a cluster development project. Cluster development patterns shall be utilized to:

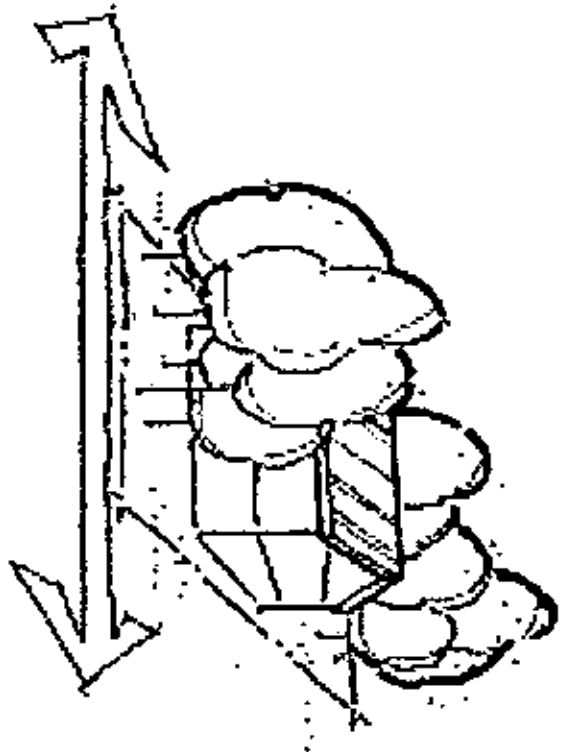
- Developers who request development rights vested through the Planned Zoning District ordinance are encouraged to use the Hillside Best Management Practices Manual in order to guide their development.
- Encourage development to occur in areas and on lands with less slope.
- Encourage more open space and tree preservation.
- Facilitate the transfer of the tree preservation requirements for single lots to a larger contiguous open space adjacent to the development.
- Minimize the view of development from the valley below with the preservation of tree cover within the public open spaces.



- **Lot Frontage and Orientation:**

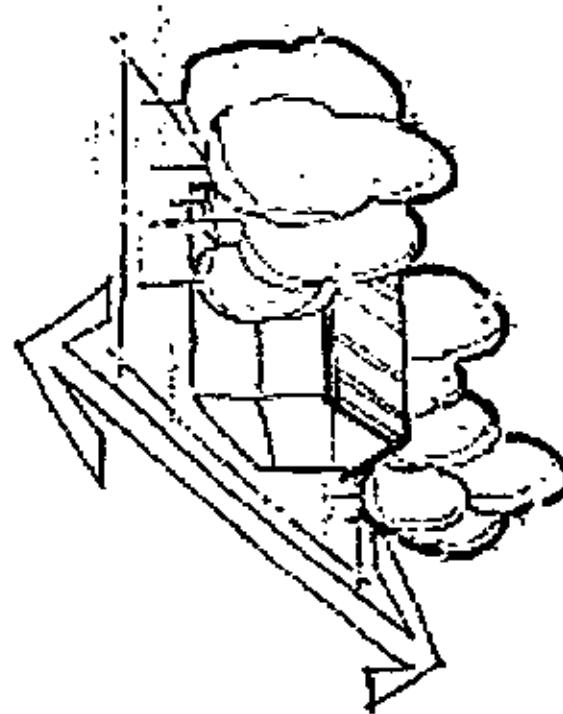
In order to accommodate hillside development and still retain the existing zoning and density, the zoning code will be amended in regards to lot width requirements. The study of the existing zoning code concluded the following:

- Allow width and depth to respond better to existing grade to enhance tree preservation and create less site disturbance by slightly reducing the lot width requirement and increasing the lot depth.



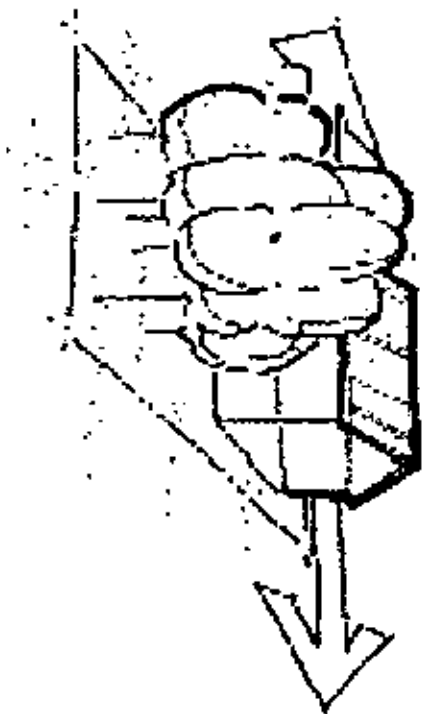
Narrowed Frontage Increased Depth

- Allow deeper side of lots to run perpendicular to grade regardless of street orientation.



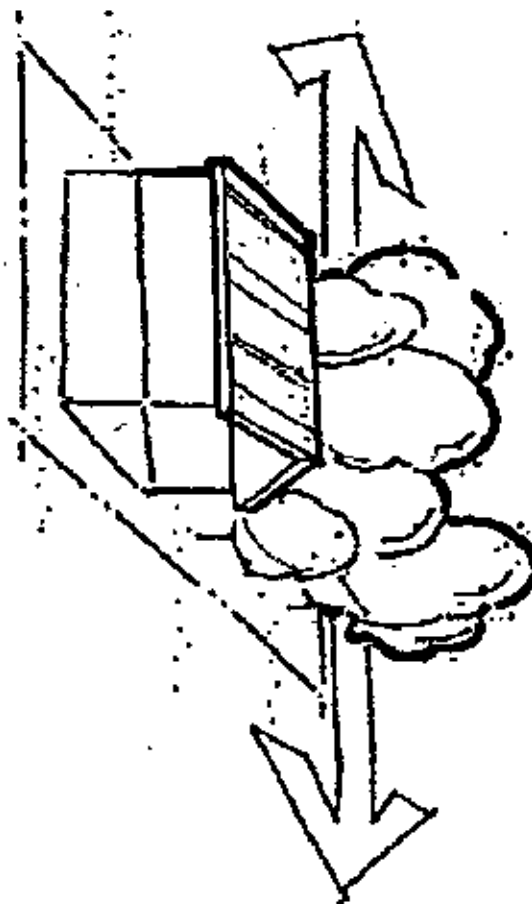
Lot Orientation with the Grade

- Encourage developers and builders to retain the tree canopy on the downhill side of the lot.



Tree Canopy Preservation on the Downhill Side

- With approval, allow flexibility in lot width and tree preservation to facilitate creative hillside development.



Flexibility in Lot Design with Approval

B. Lot Development

- **Site Planning:**

Due to the unique constraints of constructing homes on hillsides, a great deal of site planning should be conducted prior to construction. Ultimately, it is the goal of this overlay district to minimize the amount of disturbance on hillsides; property owners should be encouraged to choose appropriate architecture and home plans that will complement and work in

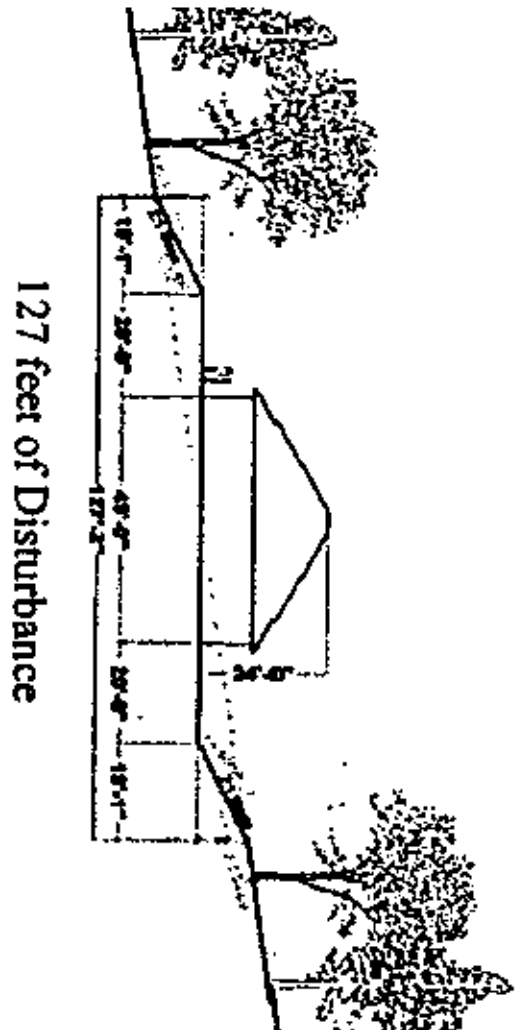
conjunction with the slope. Home plans purchased in a pattern book are typically designed without regard to slope and therefore their use should be minimized and discouraged. In general, this *Hillside Best Management Practices Manual* encourages the following recommendations with regard to home site planning:

- Encourage streets to be located parallel to the slope.
- Lot depth should be oriented perpendicular to the slope and not the street.
- Homes should be designed so that they take up the grade with the foundation (walk-out basements and stem-walls)
- Pad grading should be discouraged by implementing height limitations measured from the historic grade.
- Front Setbacks will be reduced to allow structures to locate closer to the street.

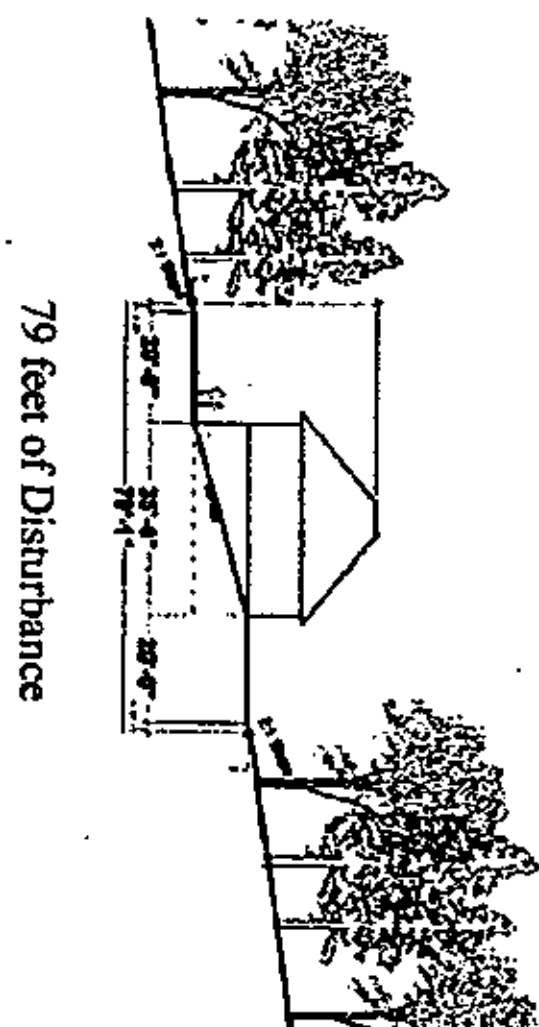
- Visual screening should be encouraged with the use of tree preservation on the rear of the lot.

● Home Placement and Building Setbacks:

It is encouraged when grading a home site that the structure of the home be used to retain grade by having multiple stories or a "walk-out" lower floor. The following example illustrates the 127 feet of disturbance necessary to locate a 2,400 sq. ft. single story home on a graded pad.



By simply taking up the grade with an excavated foundation and walk-out first floor the amount of disturbance is reduced to 79 feet in the following illustration.



Down-slope Home Placement:

Fayetteville has numerous examples of residential hillside development that uses appropriate construction methods to take up grade or minimize the impact of residences on the down-slope side of the street.



Home placed on piers or stilts in order to minimize disturbance associated with pad development.



Home with a walk-out basement set into the slope.

Fayetteville also has many examples of downslope homes placed close to the street in order to minimize the amount of grading needed for home placement.



Homes placed close to the ROW on the downhill slope.



Home set-back minimally, with on street parking.

There is a rich complexity of architectural styles evident in the existing Mt. Sequoyah neighborhoods.



Modern home with glass front and a pedestrian bridge access to the street.



This home is slipped into the grade with a side driveway below street elevation.

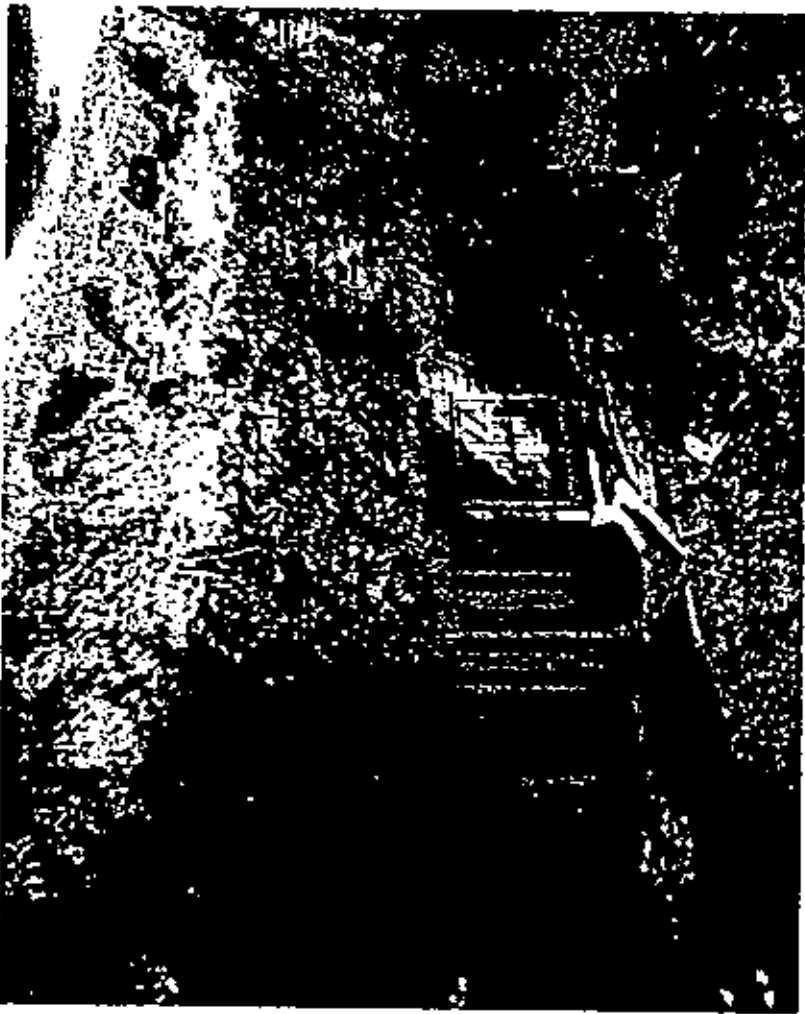
The preservation of tree canopy is evident in the existing Mt. Sequoyah neighborhoods.



This home is accessed by the bridge at street level. Tree canopy preservation is abundant.

Upslope Home Placement:

Fayetteville has numerous examples of upslope hillside development that uses appropriate construction methods to take up grade or minimize the impact of residences on the slope. Homes located on the upslope side of the street can take up grade by excavating the foundation into the hillside, or by setting the home on a plinth. The following are Fayetteville examples of appropriate upslope home site design and placement.



This home is sited on a plinth. The rock retaining wall here in front takes up about 6 feet of grade at the street.



The tie-back slope shown here is attractively landscaped at the sidewalk.

Existing hillside development in Fayetteville addresses residence parking in many sensitive ways. Both, upslope and down-slope homes often locate the garage in the basement or the lowest level of the home. Detached garages and on-street parking are also commonly used as a functional means to accommodate vehicles.



The side accessed basement garage takes up grade and hides the car storage downstairs.

Both of these photos illustrate the functionality of placing the garage in the basement or foundation of the home.



This home has a side accessed garage barely visible from the street.

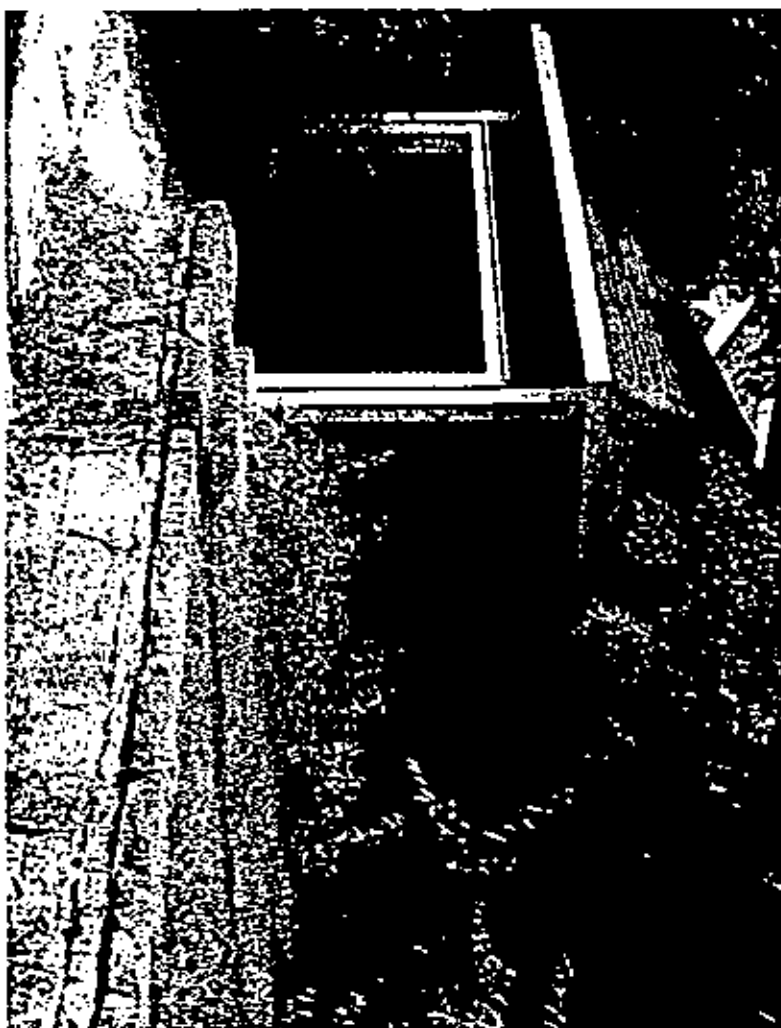


Parking on-street and staggered.



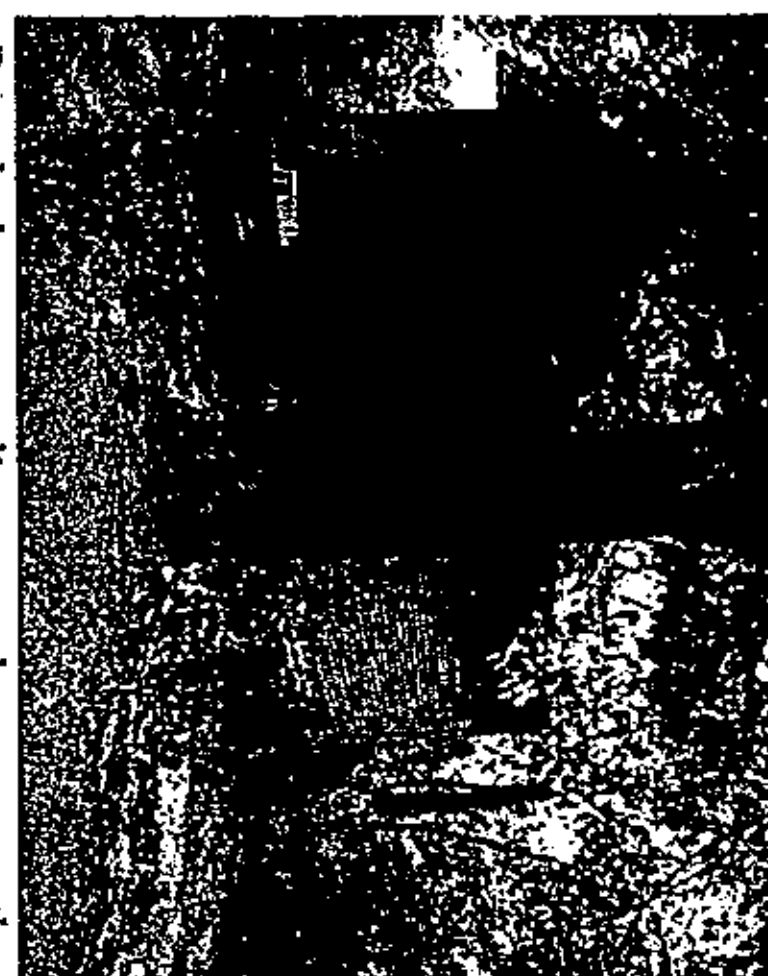
Parking adjacent to the street.

Detached garages are commonly used in the historic areas of the city. Utilizing a detached garage allows the home owner to place it in a location that minimizes site disturbance. Located adjacent to the street they can be "cut" into the hillside. The following photos illustrate the flexibility in the placement and design of detached garages.



Garage cut into the slope at the street grade.

The functionality of a detached garage lends itself to creating interesting outdoor spaces. Hardscape elements, such as paths, steps, and natural stone retaining walls, along with plant materials, can link the outbuildings to the main structure.



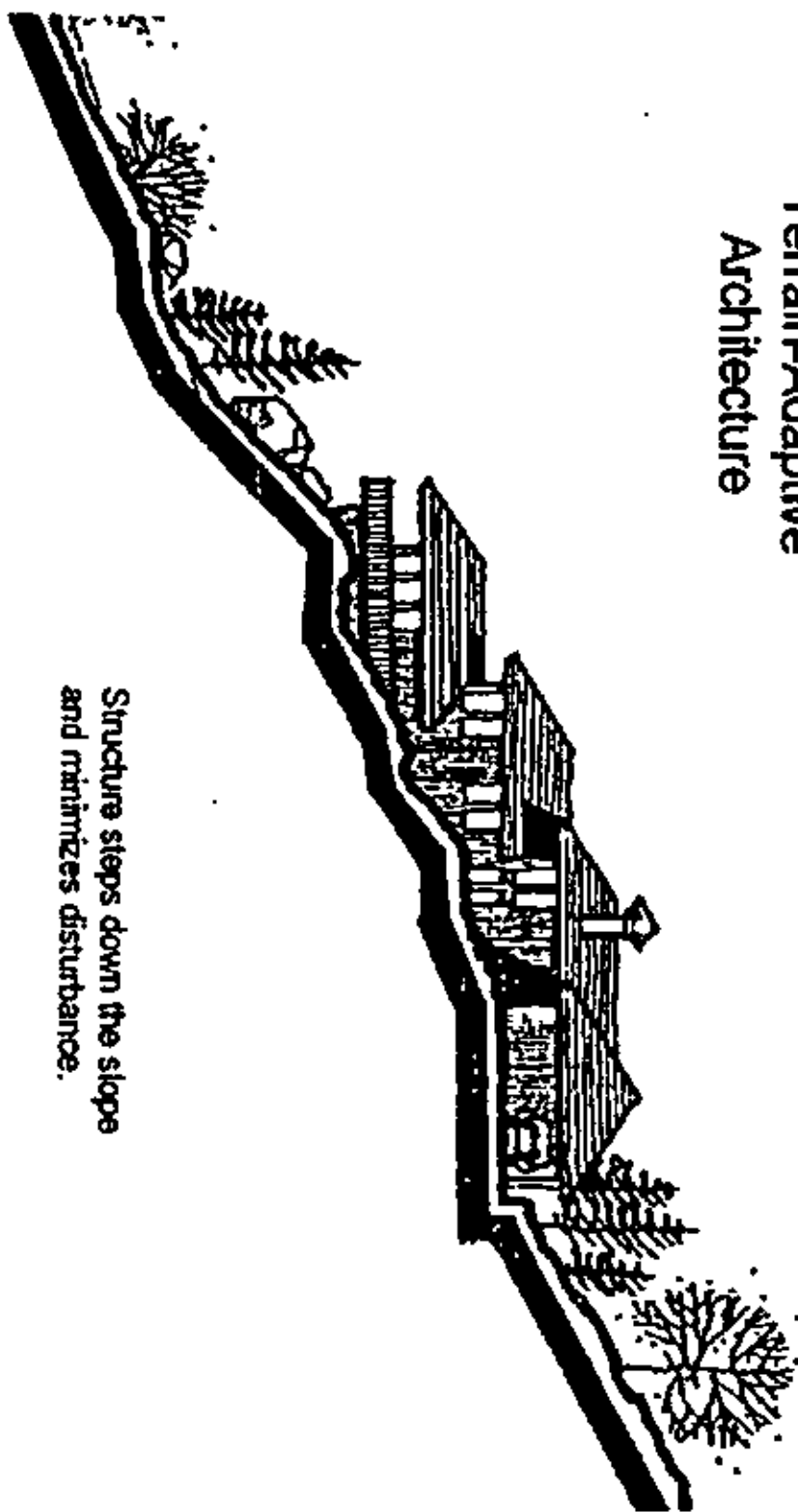
Detached garage adjacent to the street on the down-slope side.



This detached garage has a functional second story space.

Terrain – Adaptive Architecture: By building with the slope the tree canopy is preserved and site disturbance is minimized. The following diagram illustrates this point, and the picture to the right demonstrates an example here in Fayetteville.

**Terrain-Adaptive
 Architecture**



Structure steps down the slope
 and minimizes disturbance.

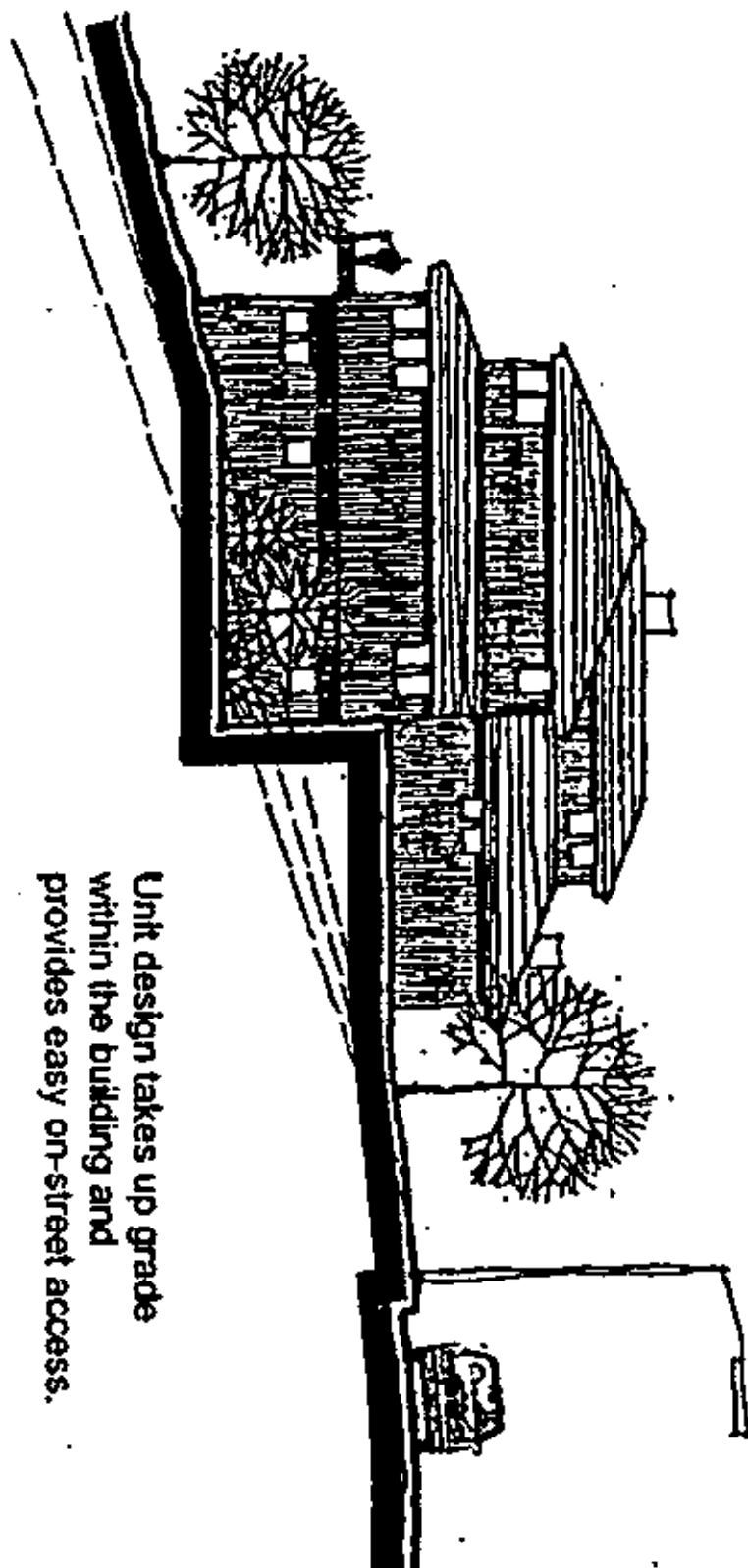
Brades and Lutzler, *Developing Durable Sites: Solutions
 for Developers and Builders*, 1991



*This home steps down the slope and utilizes a detached carport that
 minimizes disturbance.*

Home placement on the down-slope side of the street can be achieved with minimal site disturbance by taking up the grade with the structure. Reduced front building setbacks also reduce disturbance by permitting the home to be placed close to the street.

Cross Section of a
Downhill Home



Unit design takes up grade
within the building and
provides easy on-street access.

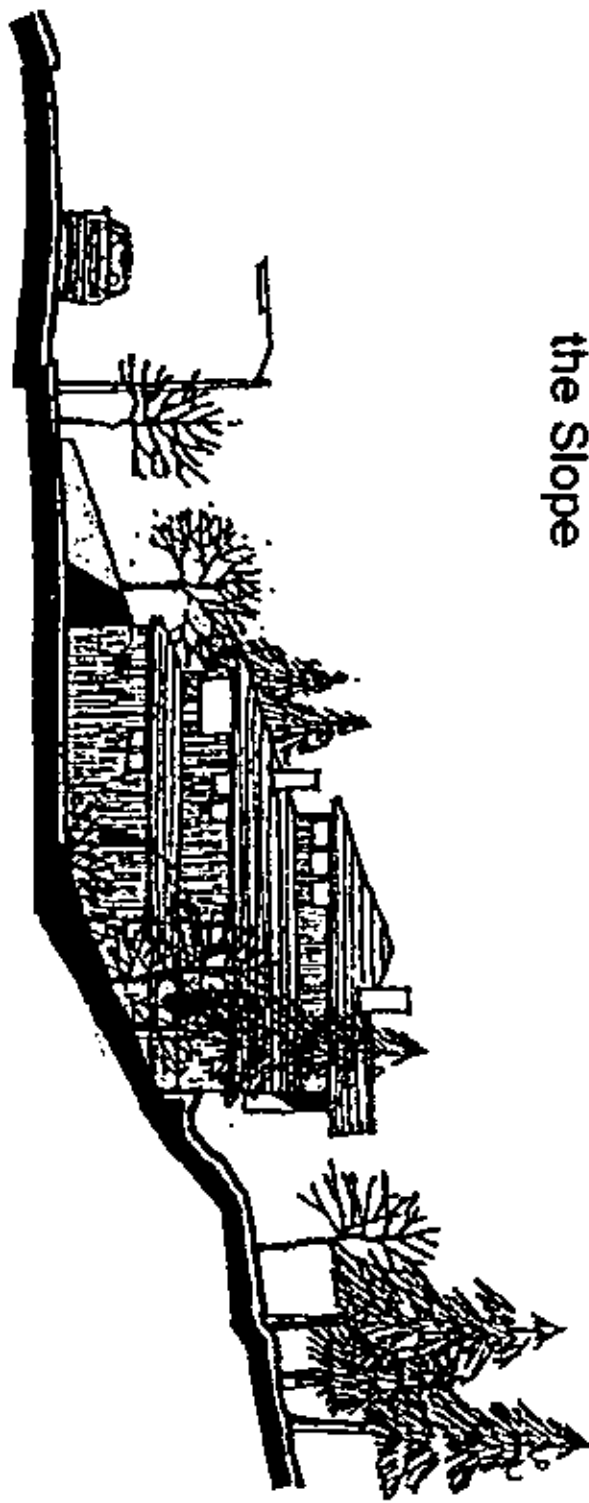
*Brandes and Lutzler, Developing Difficult Sites:
Solutions for Developers and Builders, 1991*



An up-slope example of a home that takes up grade in the foundation of the structure.

Home placement on the upslope side of the street can achieve minimal disturbance by excavating the lowest floor of the dwelling into the slope. The reduction in the front building setback allows the home to be sited close to the street with the tree canopy preserved upslope.

Cross Section of an
Uphill Home Cut into
the Slope

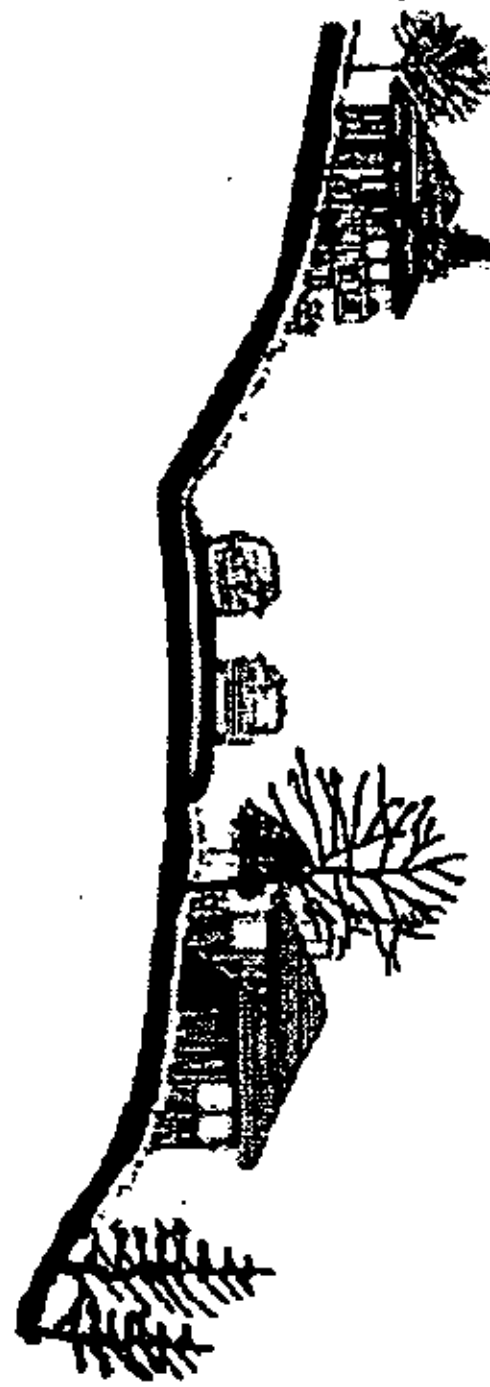


*Brandes and Lutzier. Developing Difficult Sites:
Solutions for Developers and Builders. 1991*

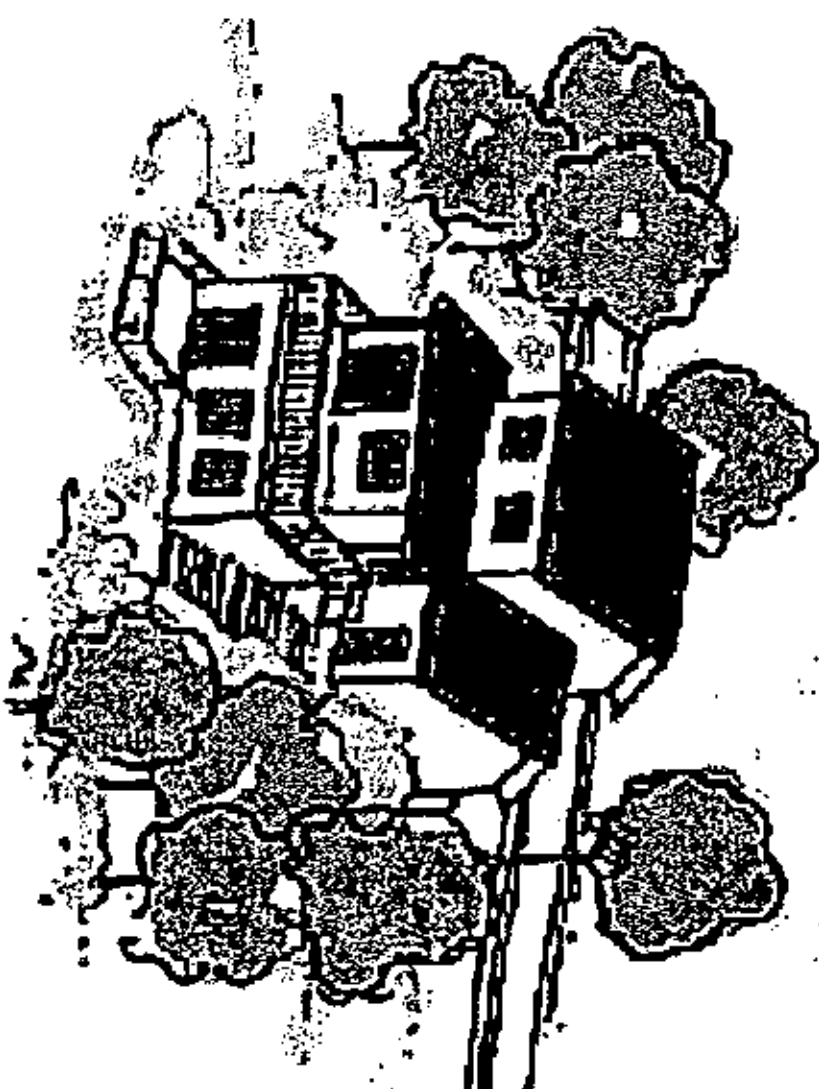
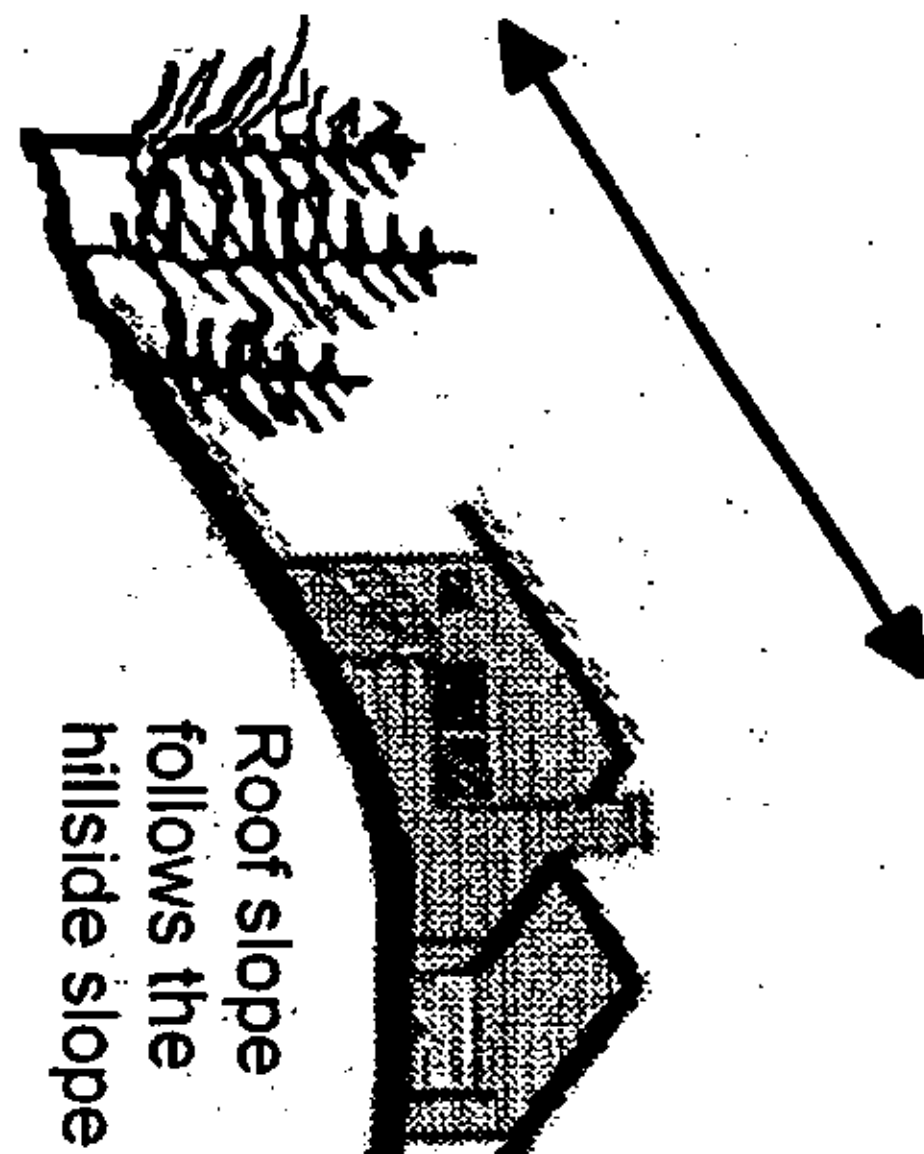


*This home takes up the grade in the foundation by cutting into the slope.
Note the side loaded garages located under the second story of this home.*

With terrain adaptive architecture located on both the upslope and down slope sides of the street a uniform street pattern can then develop as shown in the example below.

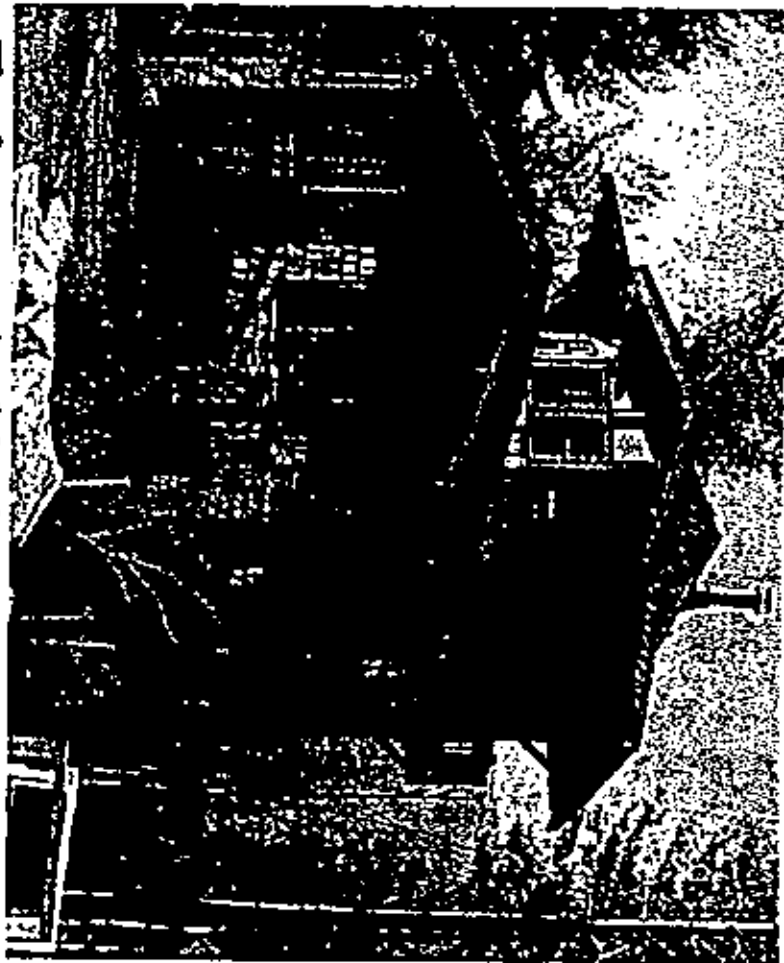


Home site placement should also take into consideration the orientation of the slope of the roof of the home. Generally, the slope of the roof should go with the direction of the hillside slope. This minimizes the visibility of the structure from below, and with natural colored roofing materials it can help the structure actually blend into the hillside.



• Building Setbacks:

An integral element of the Hillside Overlay District regulations is the reduction in the front building setback dimension. Land located within the Hillside Overlay District shall have a minimum front building setback of 15 feet which will also be used as a utility easement. The reduced front setback will allow, and hopefully encourage, builders and lot owners to locate structures close to the street. Side setbacks will be reduced to 5 feet. Ultimately, this will reduce the amount of disturbance on a lot.



The front porch of this home is setback 8 feet from the back of the curb.



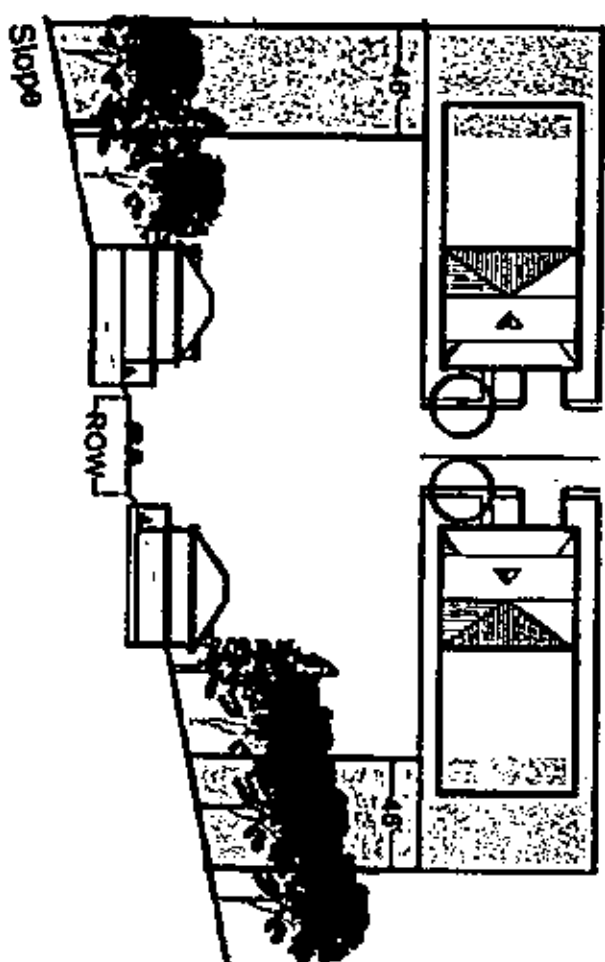
This home is setback approximately 15 feet from the back of curb.

• Tree Preservation:

All land located within the Hillside Overlay District is required to meet the provisions of the Tree Preservation Ordinance regardless of lot size. At the time of development, a tree preservation plan must be submitted and meet the approval of the Landscape Administrator. Lots in the Hillside Overlay District shall be required to preserve a minimum of 30% of the existing tree canopy. The preservation

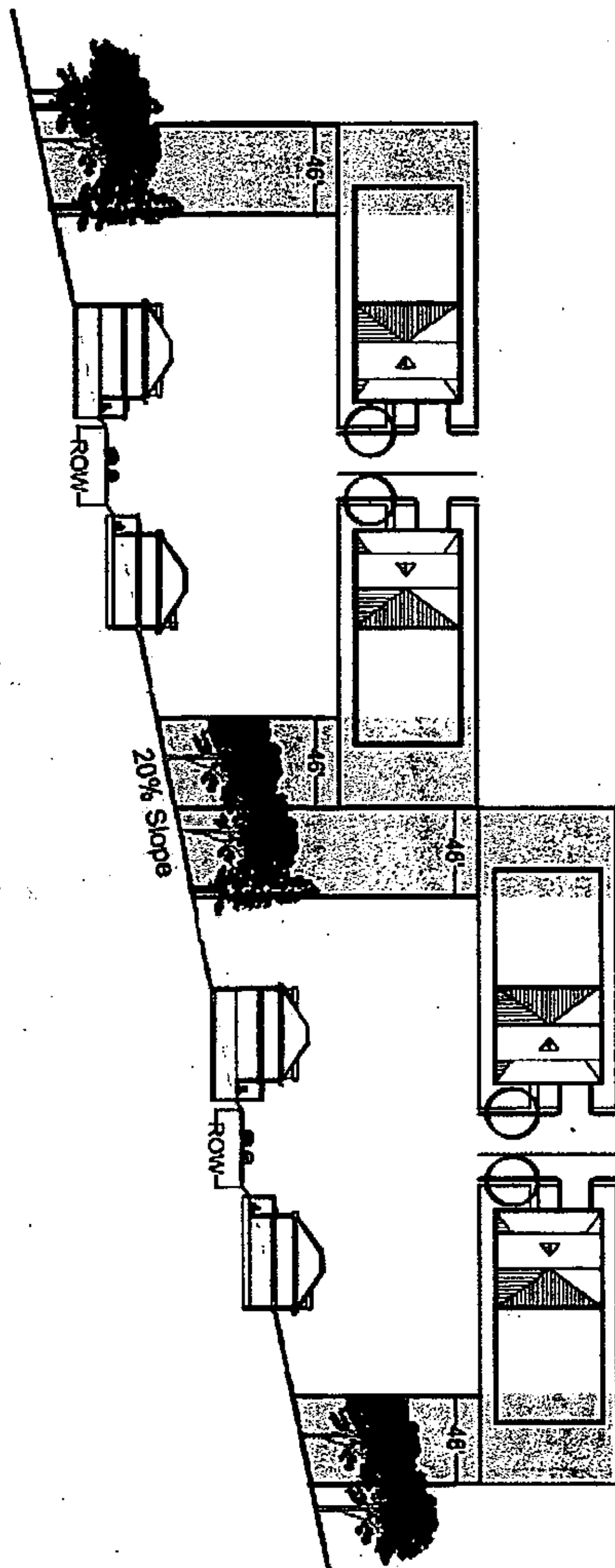
of trees at the rear of lots is optimal, and should be encouraged on the lot, because it will screen the development from the valley below. The reduction in the lot width requirement allows the developer to plat lots with increased depth. These longer and skinnier lots, along with street located utilities, enable lot owners and builders to preserve tree canopy in the rear of the lot.

For example, a 10,000 sq. ft. lot can have a street width of 60 feet and a depth of 166 feet. If the lot consisted of 100% tree canopy, the lot owner could meet the 30% tree canopy preservation by leaving the 46' at the rear of the lot undisturbed.

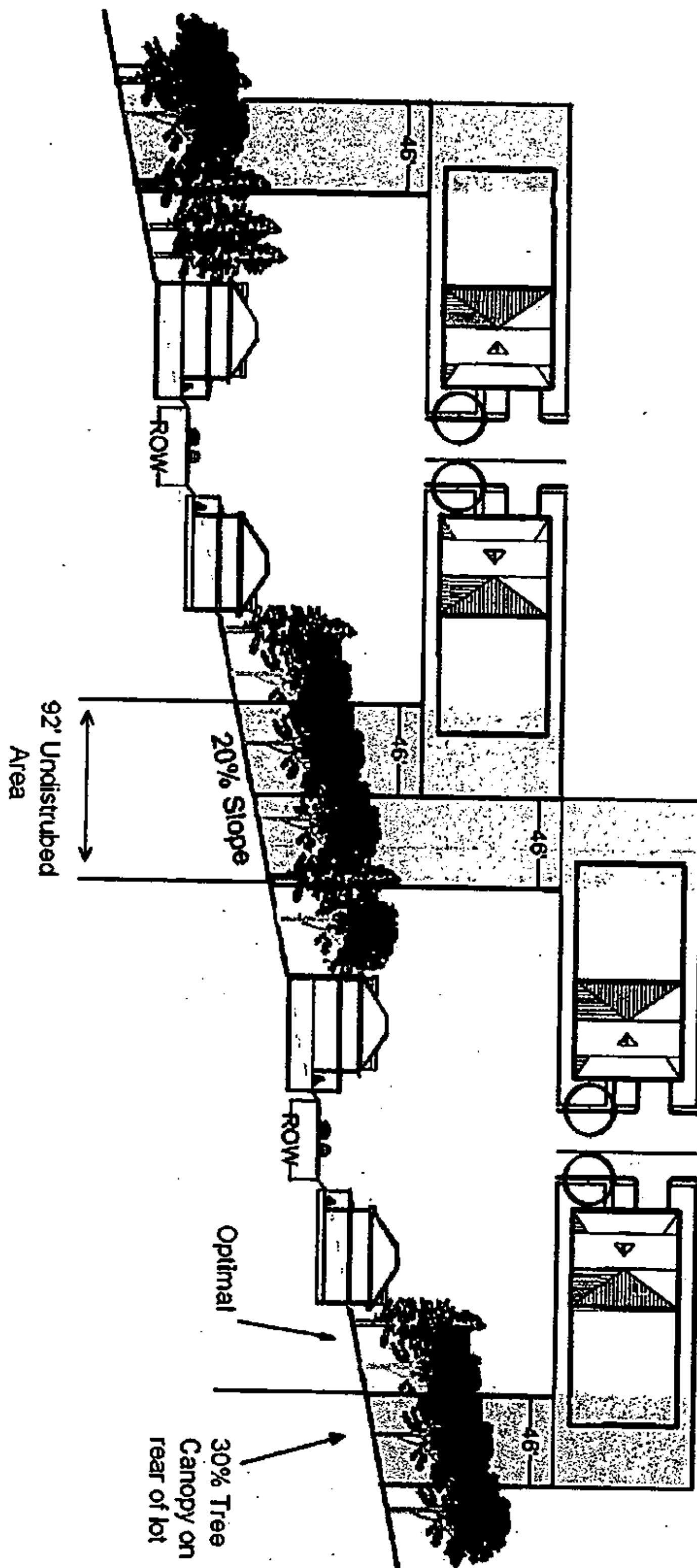


The Tree Preservation Area is shown above highlighted in green (46').

With the streets located parallel to the slope the tree canopy that is preserved will screen the homes as viewed from below. The buildable area of the lot is not affected due to the reduction in the front building setback line. Ultimately, the overall development pattern should look something like this:



When tree preservation is accomplished in the building zone, lot owners and builders can preserve a substantially larger portion of the overall tree canopy on the hillside as illustrated below. The area highlighted in green (46') is the minimum required tree canopy preservation (30% of the lot), and the slightly faded trees are additional canopy that is preserved due to careful site design. The final build-out in the following example illustrates a minimum of 92 feet of undisturbed tree canopy located on the rear of these lots.

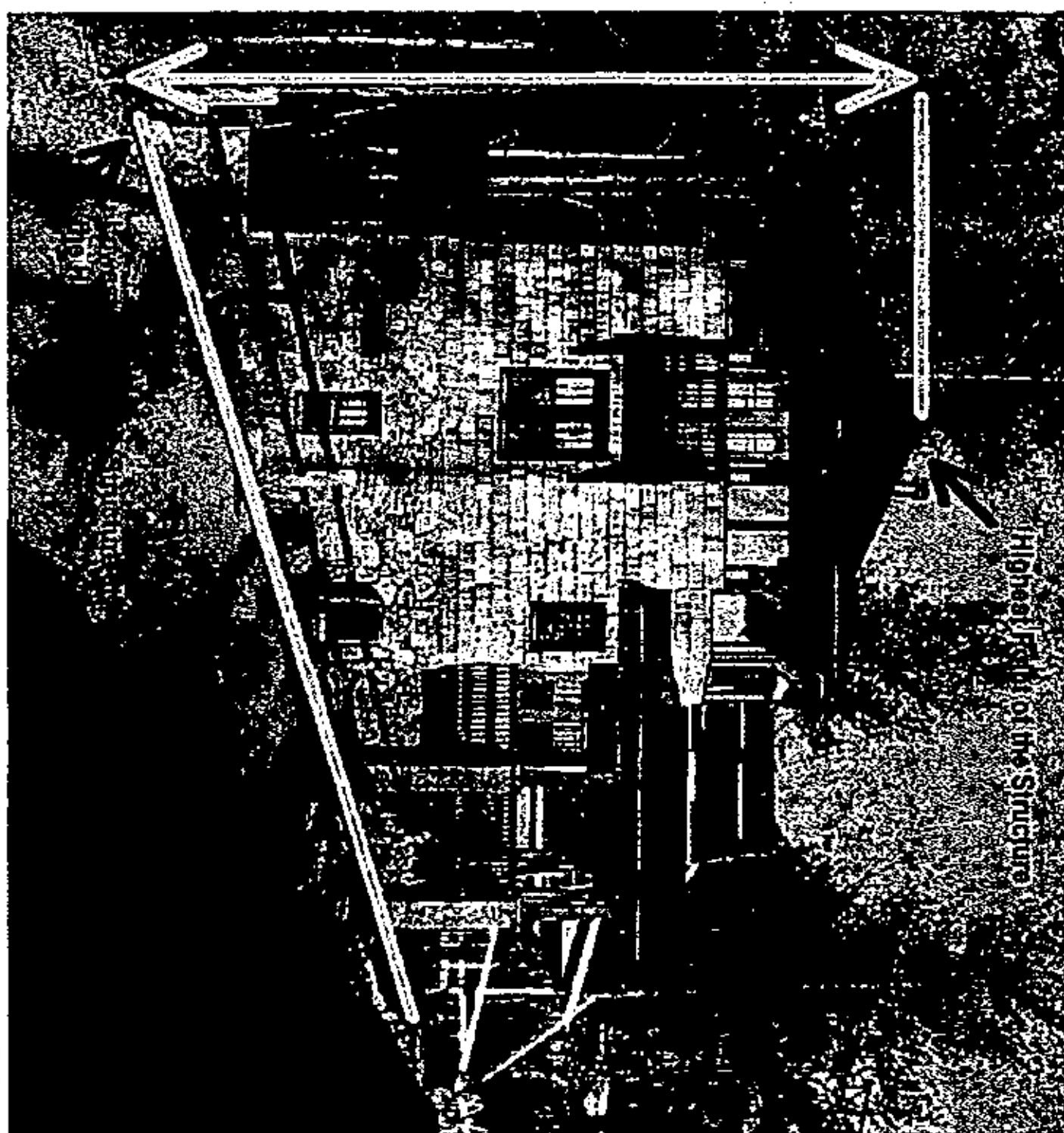


● **Measuring Building Height:**

Measuring building height on hillside has always been left to interpretation. As a best practice to discourage pad development, buildings shall be measured from the lowest point of the structure, prior to development, at the historic grade to the highest point of the structure. Building height shall follow the following guidelines:

- A maximum building height of 60 feet is allowed for single-family and two-family structures.
- A maximum building height of 60 feet for 3+ story multi-family development.
- Homes set into the grade can achieve 4 stories on the down-slope side of the street and 3 stories on the upslope side due to the lot not being padded.
- If padded, then the height of the building is reduced and measured from the historic (pre-development) grade with a maximum of two stories.

The following illustration shows how building heights will be measured in the Hillside Overlay District.



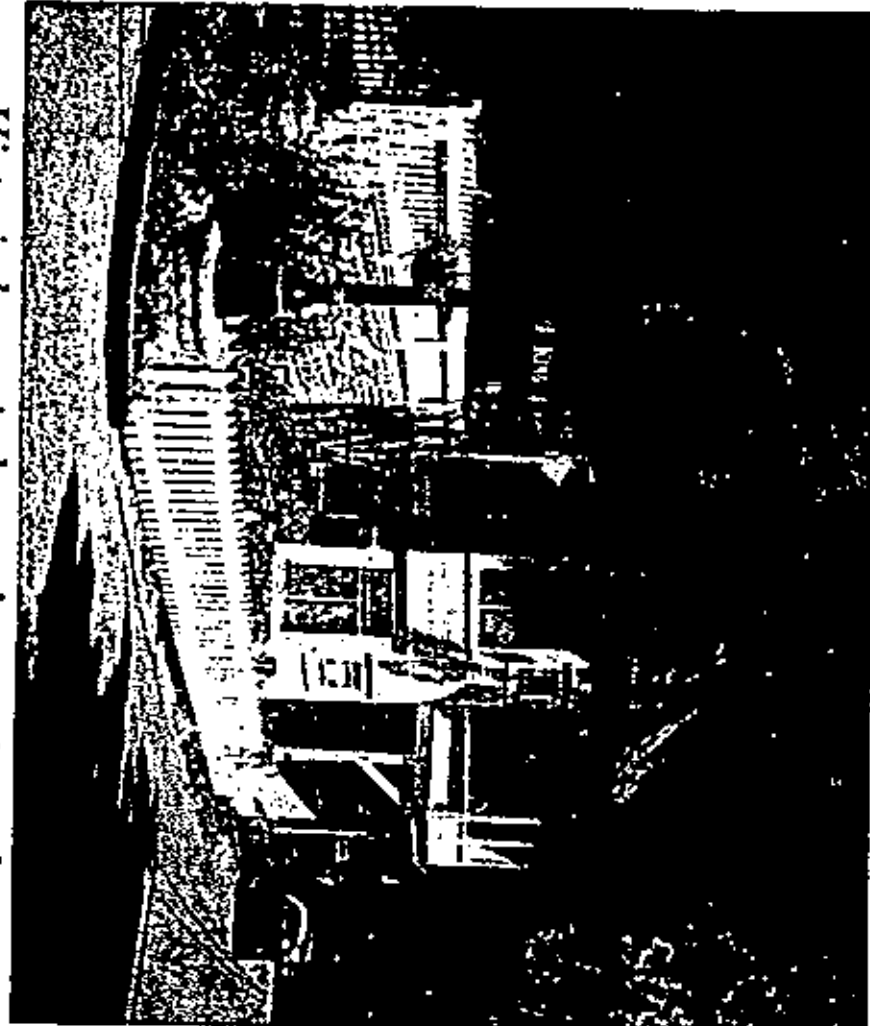
Building height shall be measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure. If the structure is located on a graded pad then the height of the building is measured from the historic grade.

- **Parking:**

Parking for residents living in hillside developments creates challenges that are not encountered with flat land development. Steeply sloped lots can make traditional front-end loaded garages impractical. Historically, developed areas of Fayetteville utilized practical methods for the parking of vehicles.

- **On-Street Parking:**

In many residential areas of the City, on-street parking is used as the primary parking for residents. Homes that are built on traditionally sized lots (50' wide) have little room to run a driveway to one side of the dwelling. Parking for down-slope homes is usually on or adjacent to the street. Parking areas parallel and adjacent to the street are used effectively on narrow streets to remove the parked vehicle from the traffic lane.



Historic home in located at a triangular intersection in Eureka Springs. Note the on-street parking.



Parking adjacent to the curb on the down-slope side of the street.

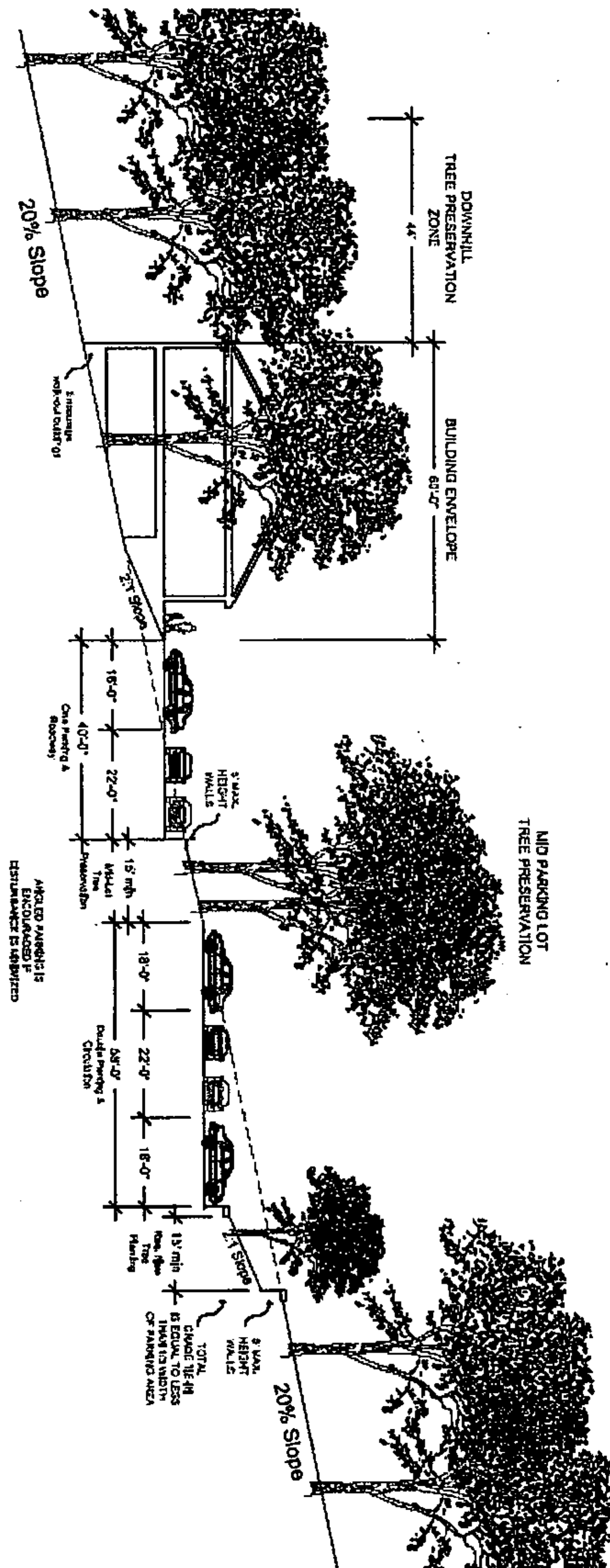
- **Off-Street Parking:**

Off-street parking can be accommodated with an 18 foot setback from the street or sidewalk for head-in parking. Tucked-under garages are an efficient parking solution for both up-slope and down-slope homes. Finally, detached garages allow for interesting lot and landscape layouts.

- **Multi-Family Residential Parking:**

Parking for multi-family residential units are encouraged to be located in the lowest floor of the structure in order to reduce tree canopy removal for surface parking areas. Surface parking should be encouraged to step down the hillside with 60' wide parking areas running parallel to the slope, grade transition areas, and undisturbed tree canopy preservation areas located in between parking pads.

The cross section provided on the next page should be used as a guide for developers of Multi-family Residential and Commercial properties.



Cross section illustrating multi-family and commercial parking lot, street, and structure layout to minimize disturbance and tree canopy removal.

• Physical Alteration of Land – Grading Ordinance:

▪ Grading Recommendations:

Single-family and two-family lots within the Hillside Overlay District will be required to obtain a grading permit. All new development, regardless of size shall comply with the grading ordinance. If a parcel of land is bisected by the Hillside Overlay District boundary line, only those areas that fall within the Hillside Overlay District will be required to comply.

Site plan approval is required for any development located within the Hillside Overlay District prior to any development activity.

Builders are allowed to file jointly on contiguous parcels or subdivisions as long as erosion control and protective measures are in place until project completion.

A minimum of 25% of the slope tie-backs for roads and residential lots

shall be re-vegetated pursuant to the landscape manual.

• Erosion Control Methods and Green Storm-water Alternatives:

▪ Reducing storm-water runoff during construction:

A substantial amount of storm-water erosion occurs during the construction phase. At a minimum all new development projects in the Hillside Overlay District shall follow the following guidelines:

1. Minimize exposure to denuded soil from rain water and snow melt by establishing vegetation as soon as possible.
2. Sediment collection devices such as basins, inlet filters, and perimeter silt fences shall be used to minimize soil erosion.

3. The retention of vegetative buffers adjacent to environmentally sensitive areas or stream corridors is encouraged.

4. Equipment and hazardous materials shall be stored correctly to prevent contamination from leakages.



*Silt fence at a construction site in
Fayetteville.*

▪ Reducing Storm-Water Runoff after Construction:

Site planning considerations prior to development can greatly reduce the amount of storm-water problems post-

development. The following guidelines encourage storm-water best practices:

1. Reduce impervious surfaces that prevent rain water from soaking into the ground.
2. Retain the natural landscape in order to soak up, store, and evaporate storm water.
3. Detain and infiltrate storm water to allow it to soak into the ground or release more slowly into the storm water systems.
4. Remove the pollutants before they have a chance to enter the storm water system.

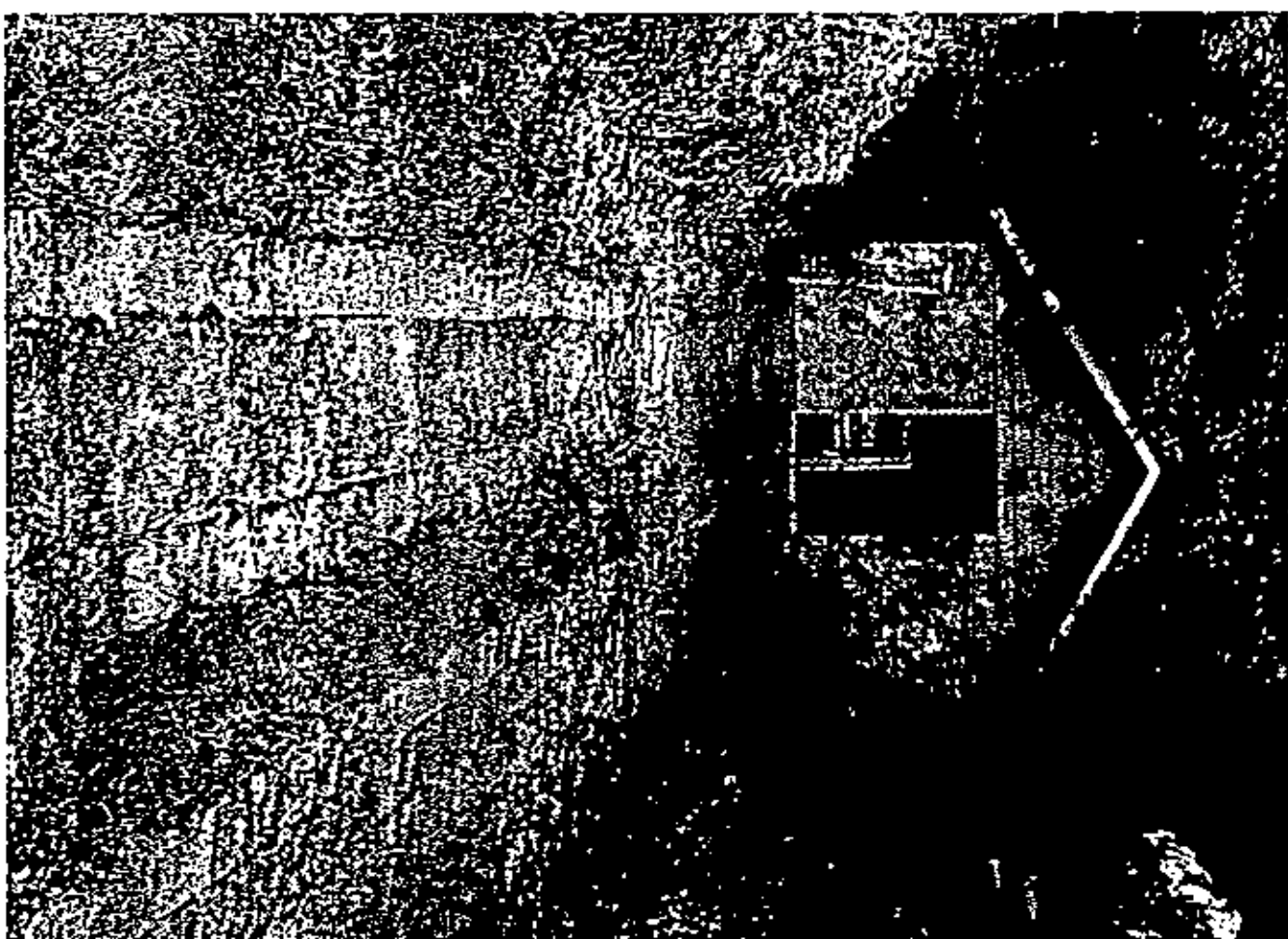


Storm water detention basin in Fayetteville.

■ Green Storm Water Alternatives:

Green storm water alternatives are designed to utilize best management practices that avoid:

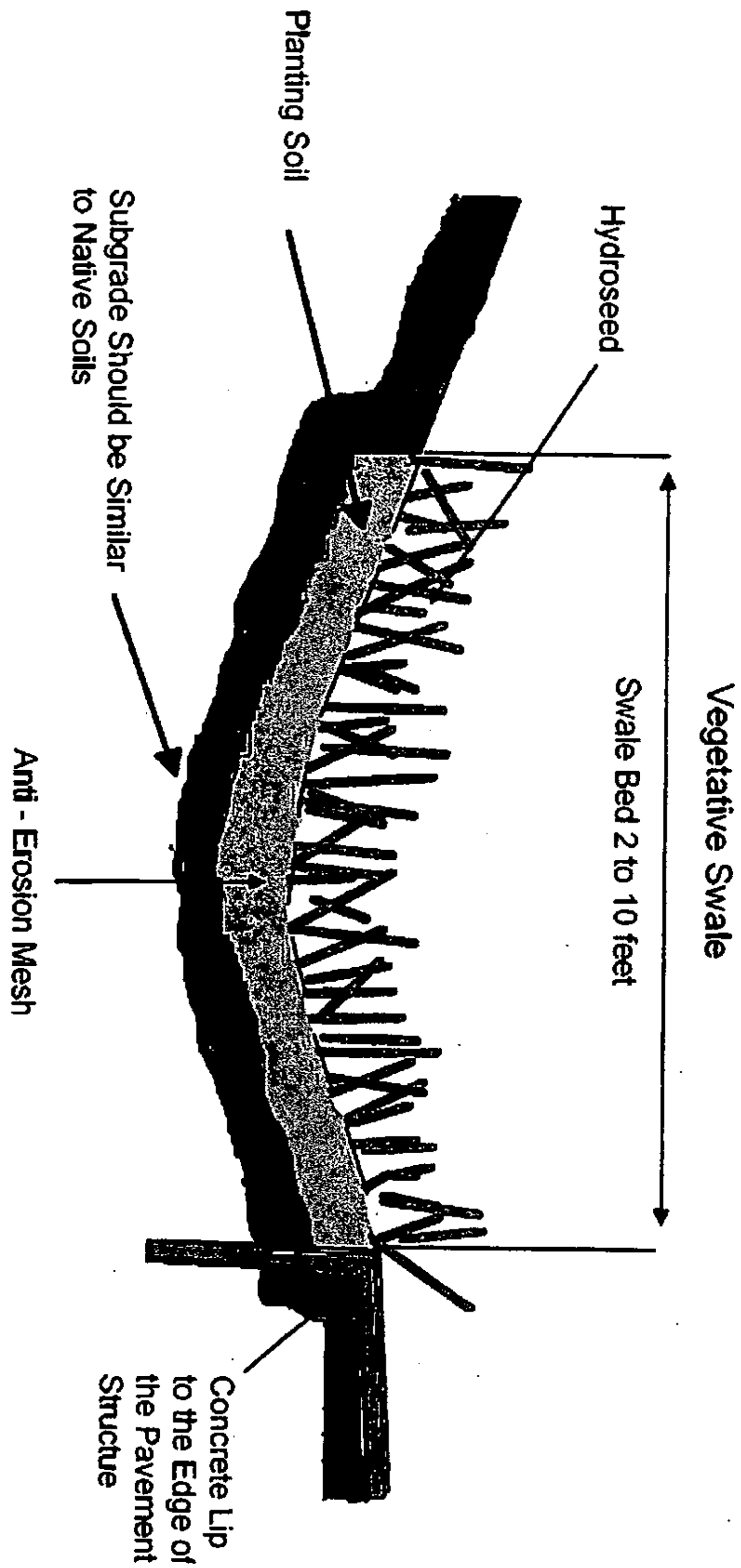
1. Increasing runoff volume and speed which may lead to flooding and erosion.
2. Decreasing the ability of water to recharge into the ground.
3. Increasing storm water runoff temperatures through the overuse of impervious surfaces.
4. Increasing the amounts of pollutants from motor oil, fertilizers and pesticides, and sediments entering natural water systems.



This split driveway with a grass median reduces the amount of impervious pavement surface.

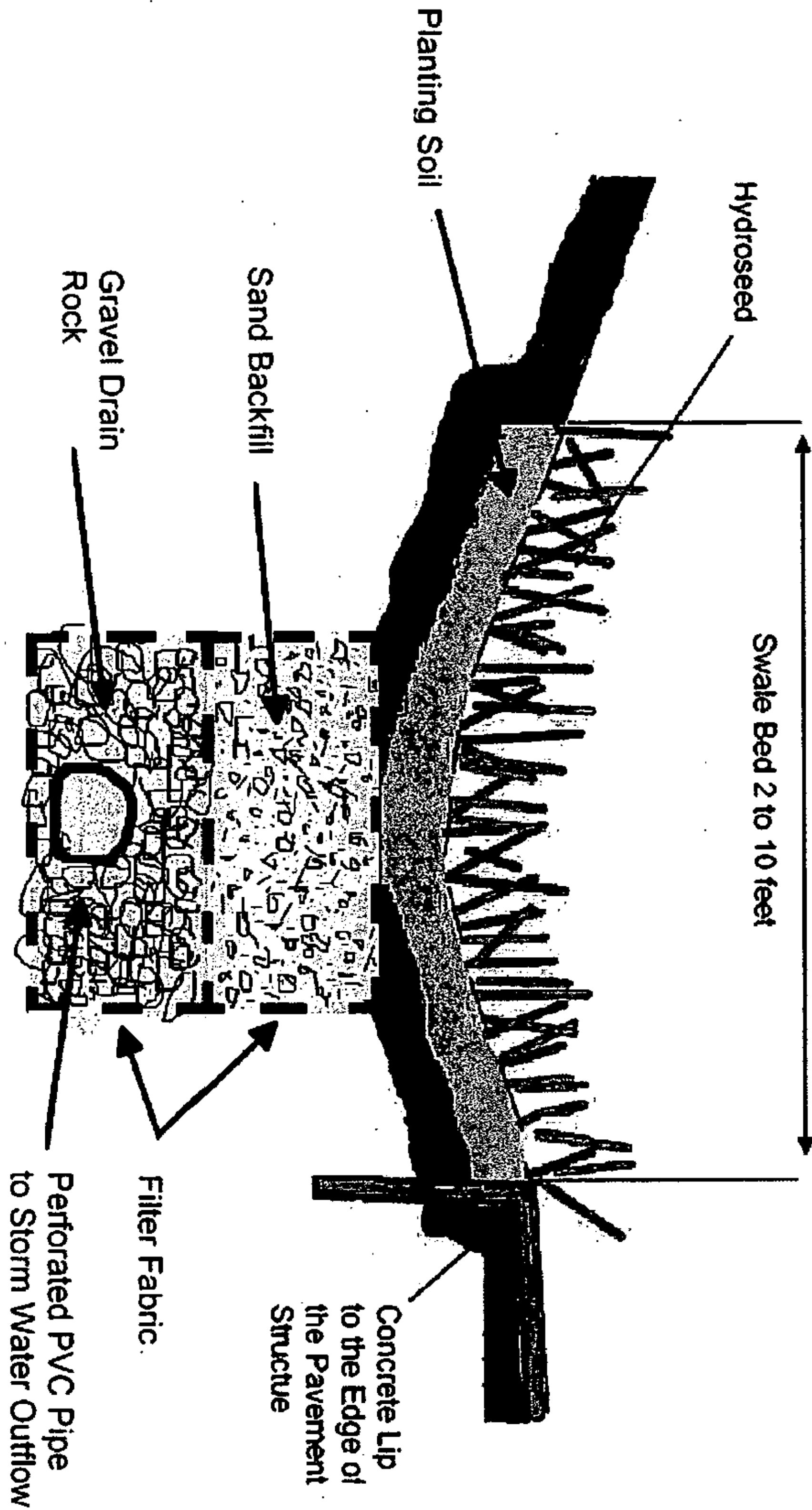
The following site design options provide alternatives to conventional storm water practices. Best management practices that detain, retain, and filter runoff before it enters the natural water system are the following:

1. Direct rooftop runoff to bio-retention areas, vegetative swales, soakage trenches, dry wells, and French drains for dispersal.



Vegetative swale with eventual ground infiltration of storm water.

Vegetative Swale with Filtration and Outflow



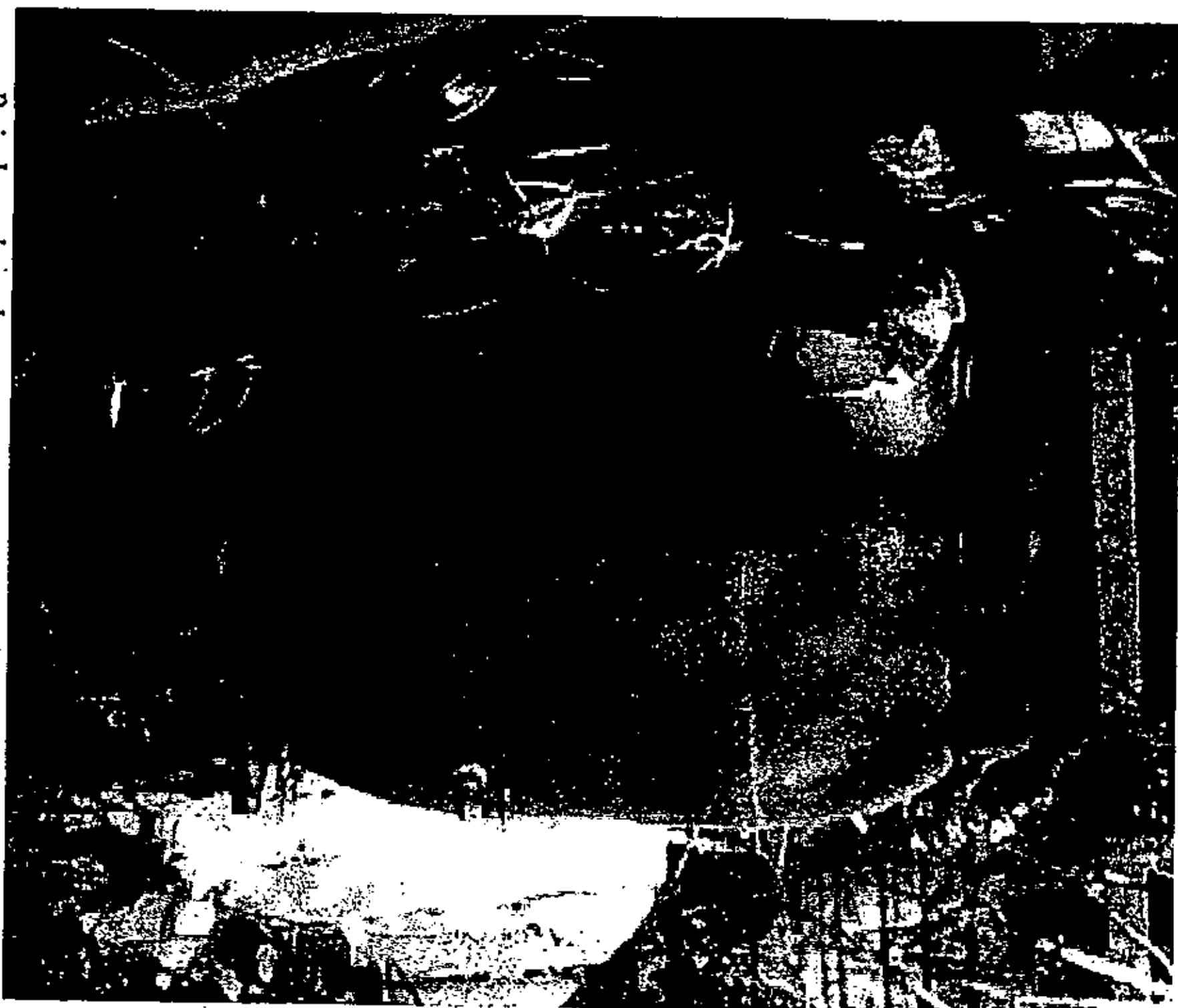
Vegetative swale with a sand filtration layer to capture pollutants from storm water before being drained off-site.



Bio-swale located in Seattle Washington.

Bio-swales are an effective storm water best management tool for areas in the Hillside Overlay District with minimal slope, usually near the toe of the slope or in riparian areas. The use of plant material is highly effective in reducing the amount of pollutants eventually entering the stream and river systems. Careful site considerations include: slope, soil mitigation, and appropriate vegetative materials.

2. Encourage the use of rain barrels or cisterns for the collection of storm water for later irrigation purposes.



Rain barrel used to capture storm water for irrigation purposes.

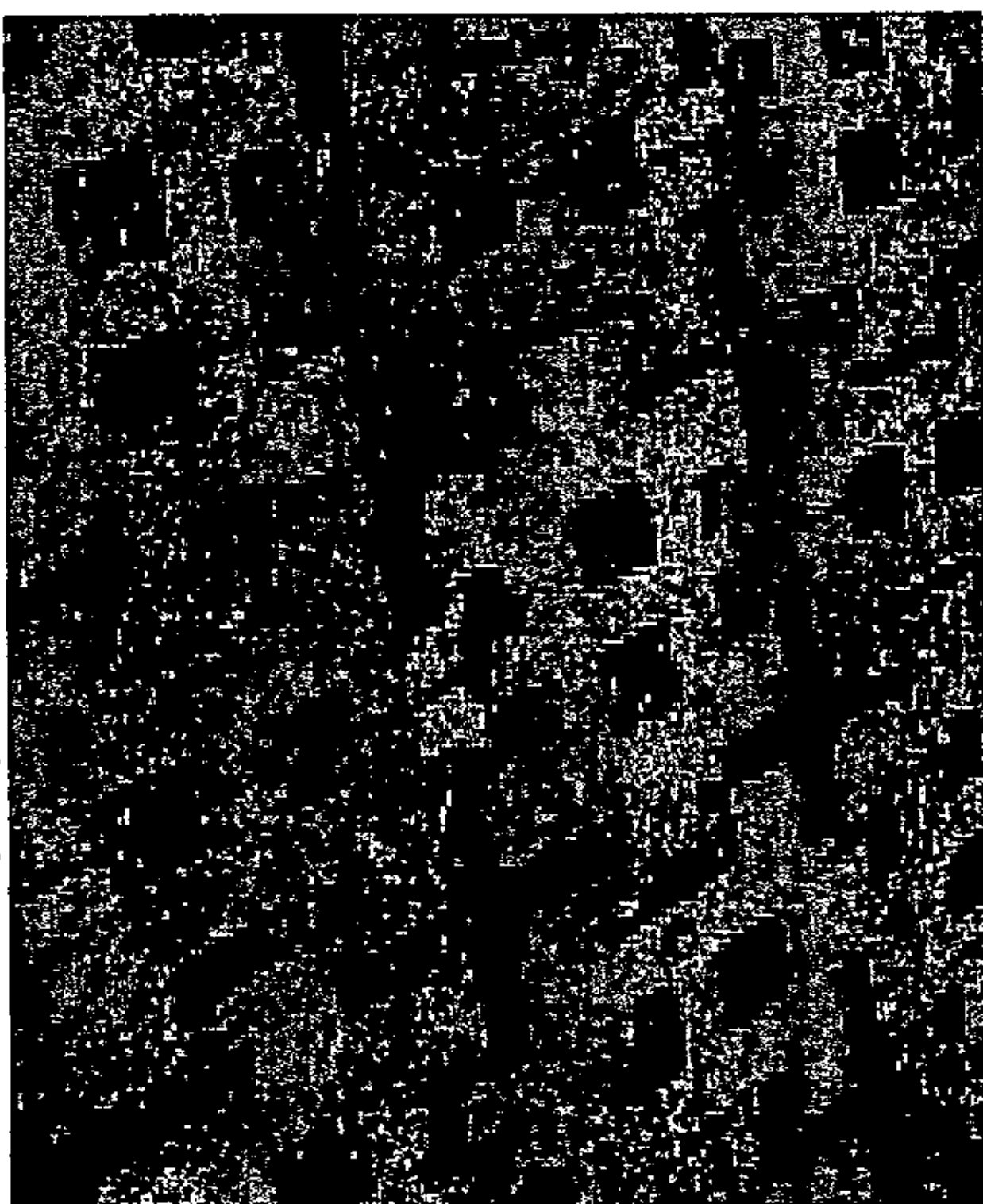
3. Utilize subsurface infiltration practices such as sand filters and vegetated infiltration basins to retain and filter storm water runoff.

4. Provide storm water treatment in parking lots by using bio-retention areas and filter strips or bio-swales.
5. Encourage the use of pervious pavers for driveways and patios.



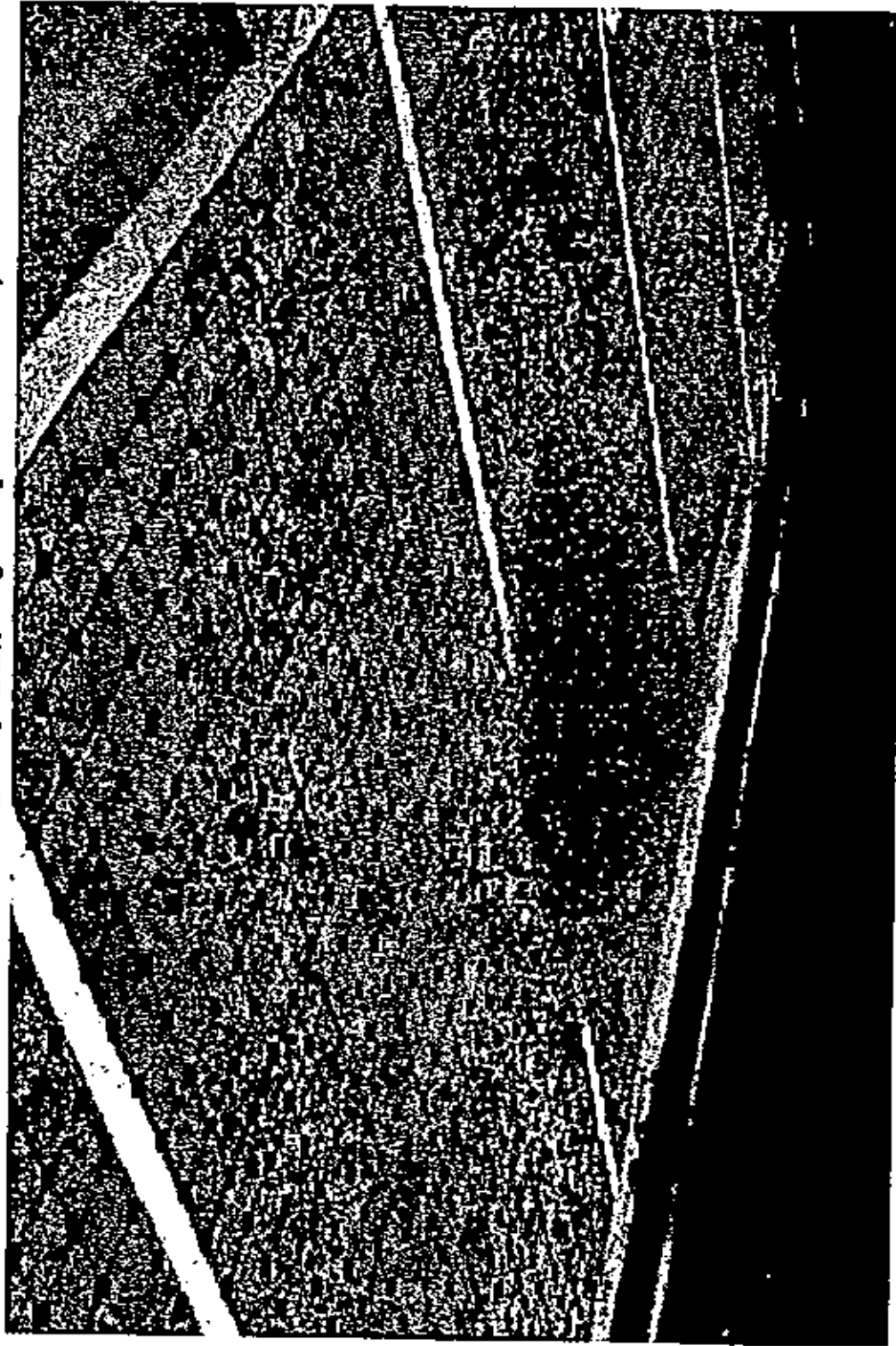
An example of pervious pavers used in a sidewalk application.

Pervious pavers are especially effective in moderate vehicular traffic areas such as driveways and parking areas. Their use is highly recommended for home site design. They can be used to attractively construct patios, sidewalks, and driveways.



Interlocking pervious pavers with sand joints..

If surface parking for multi-family residential development are proposed in the Hillside Overlay District, it is strongly recommended that a Hybrid Parking Lot design is utilized in order to maximize storm water filtration. A Hybrid Parking Lot is constructed with hard surface, concrete or asphalt travel lanes, and pervious parking stalls. Used in conjunction with a bio-swale to collect run-off, they are highly effective in filtering and absorbing storm water.



An example of a "Hybrid Parking Lot".

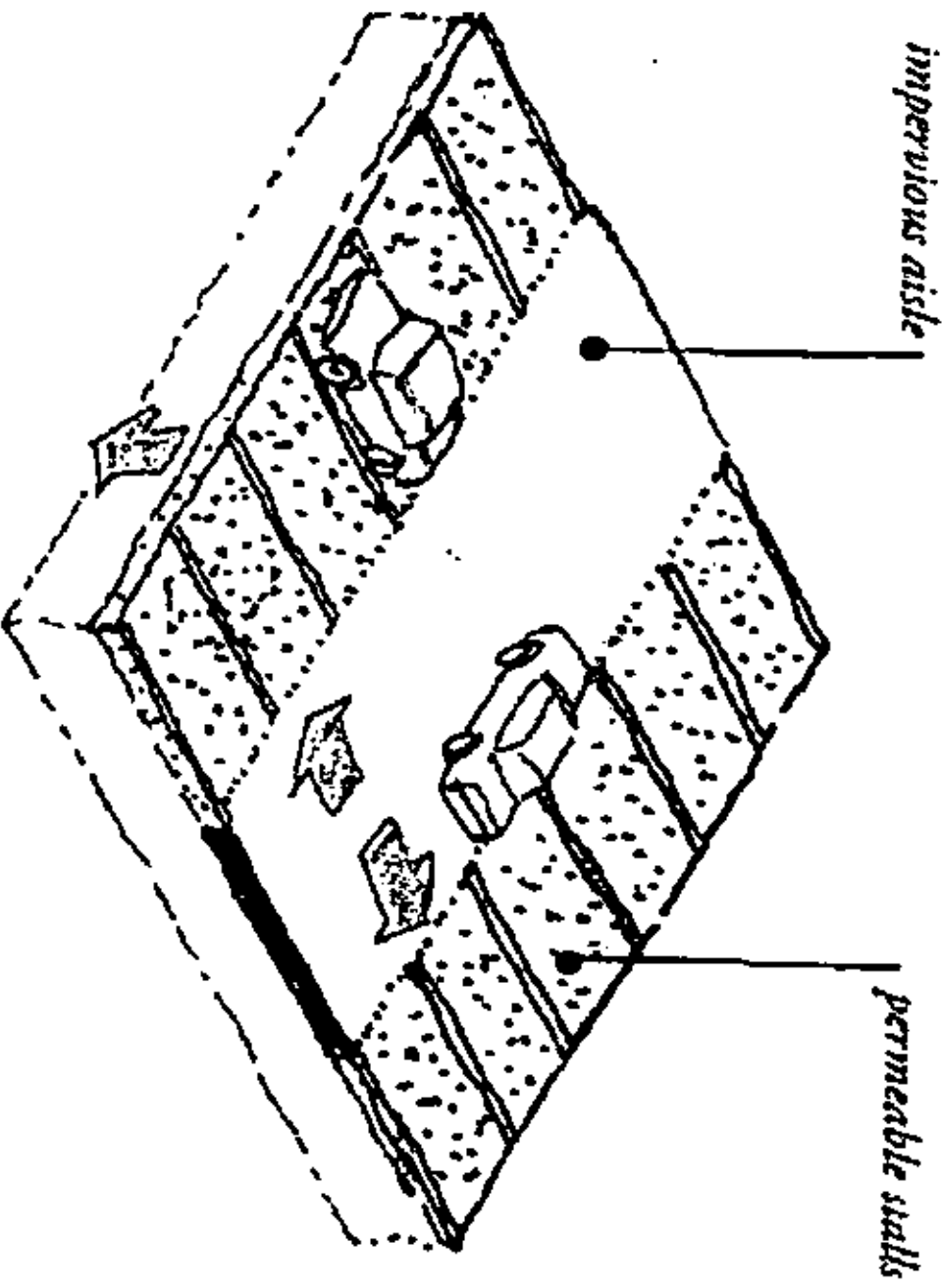


Diagram of a "Hybrid Parking Lot".

5. Bibliography of Sources and Resources

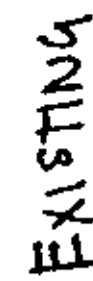
This *Hillside Best Management Practices Manual* was compiled with materials gathered from various sources and individuals. The following sources contributed to this manual:

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Asheville, North Carolina. 828-225-6901

American Planning Association, Robert Olshansky,
"Planning for Hillside Development". PAS Report Number
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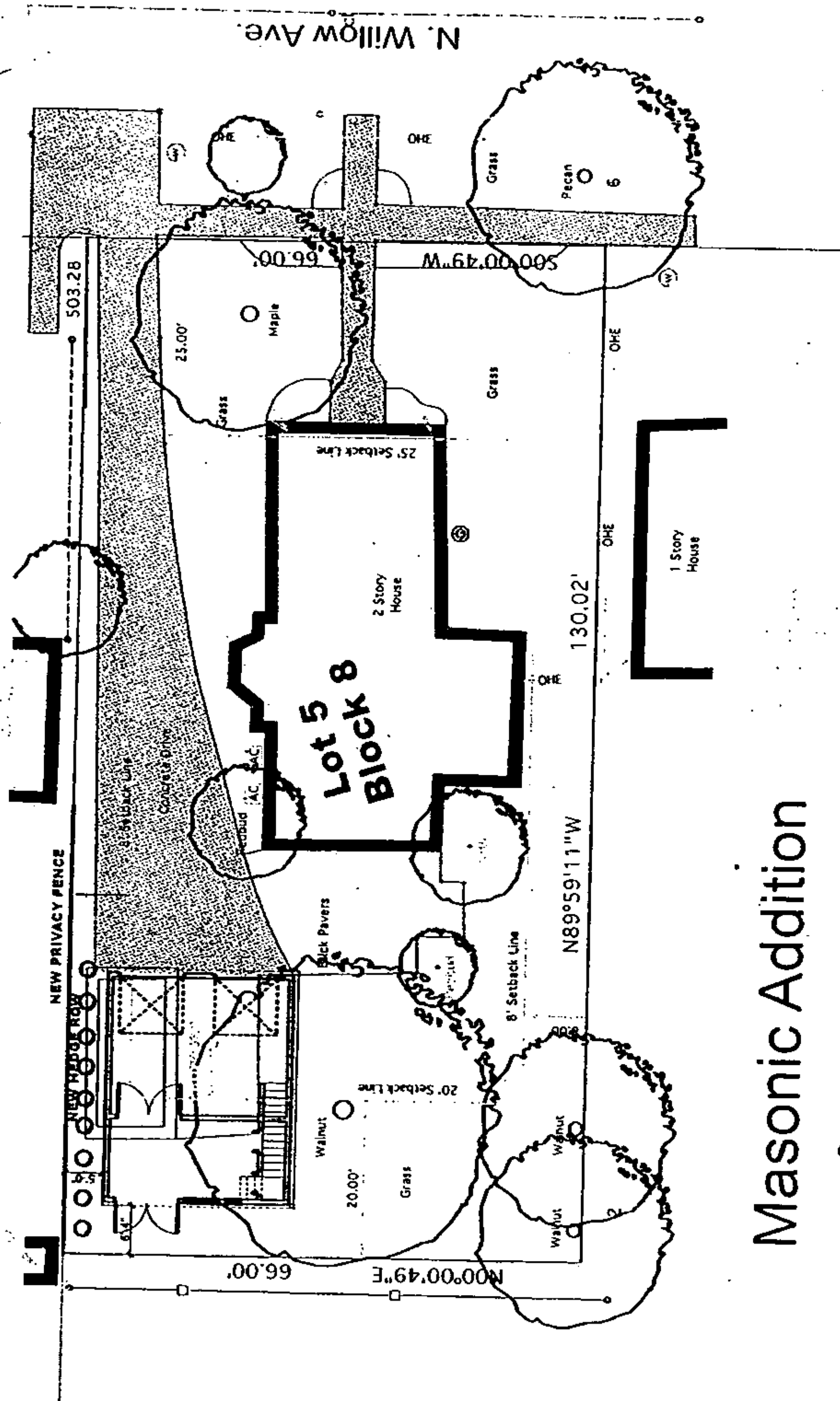
King and Boss, "Geologic Hazards Associated with Shale
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Washington County, Arkansas". Journal of the Arkansas
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H2 Engineering. Street Cross-Sections. Fayetteville,
Arkansas



A0.0

*Site plan with proposed detached garage and associated second dwelling unit



Masonic Addition

Proposed

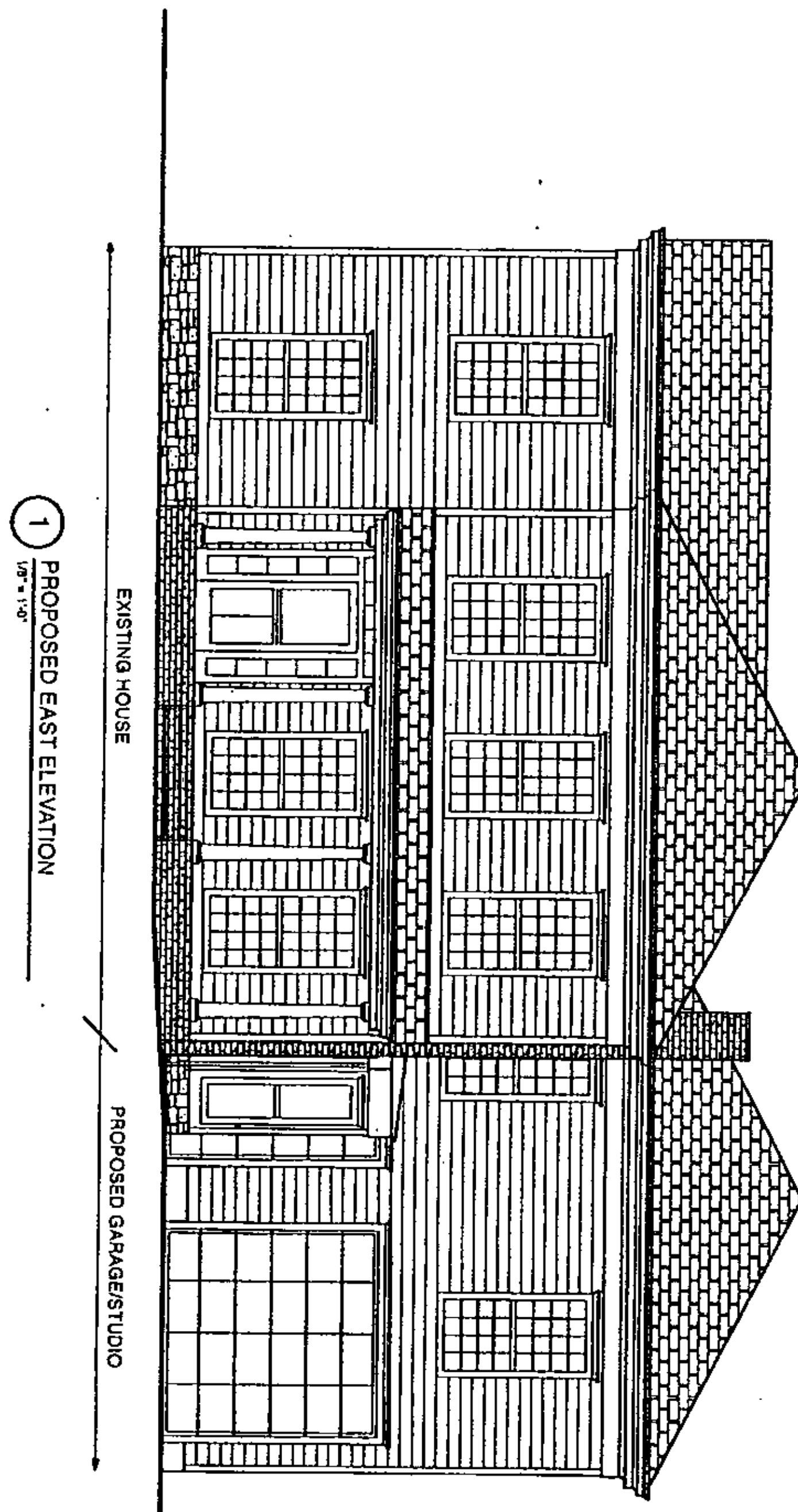
Julie Chambers\Users\Julie\Basktop\Chambers\ba 1/17/06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas



PROPOSED SITE PLAN
SCALE: 1"=20'
01.16.06

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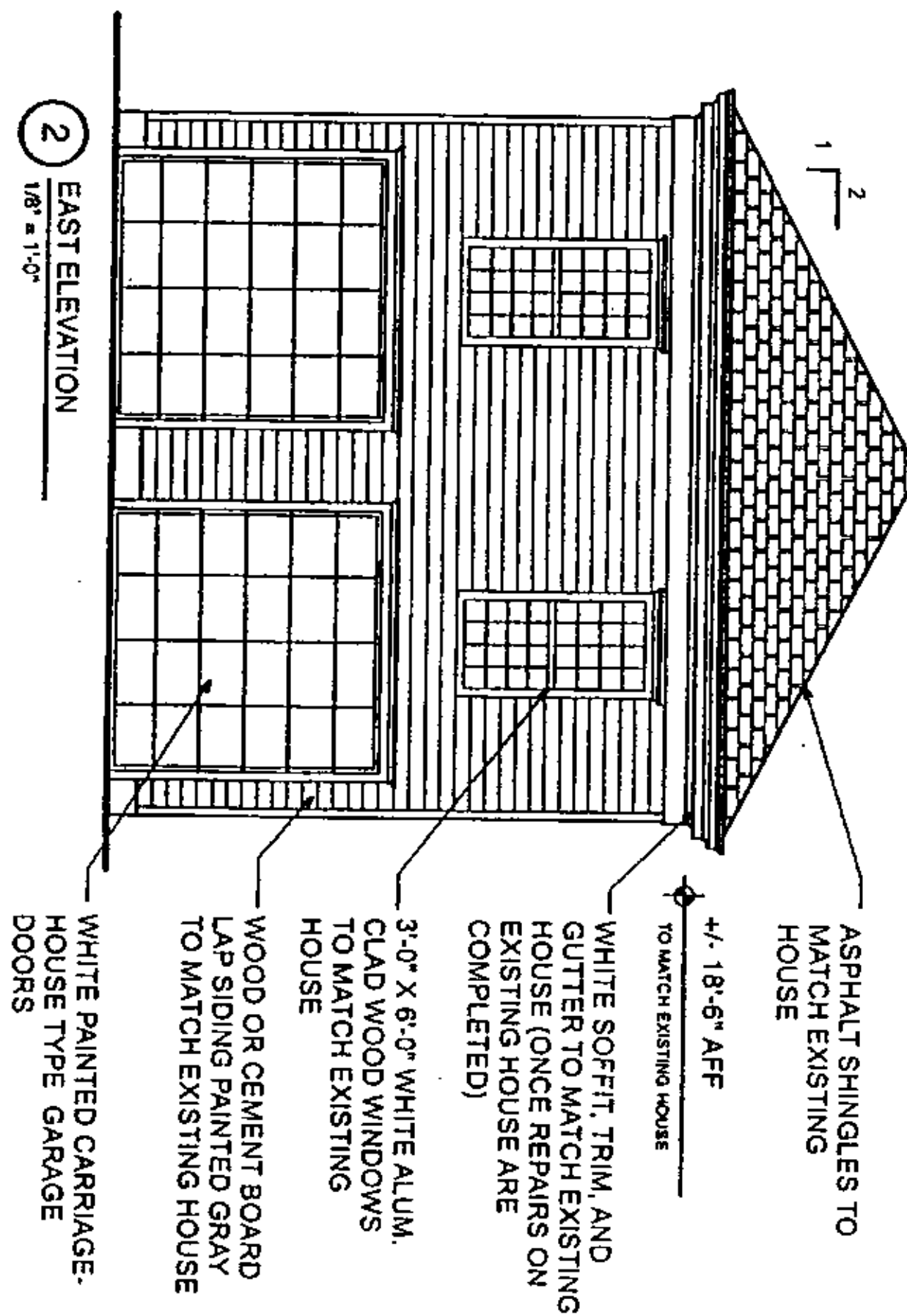
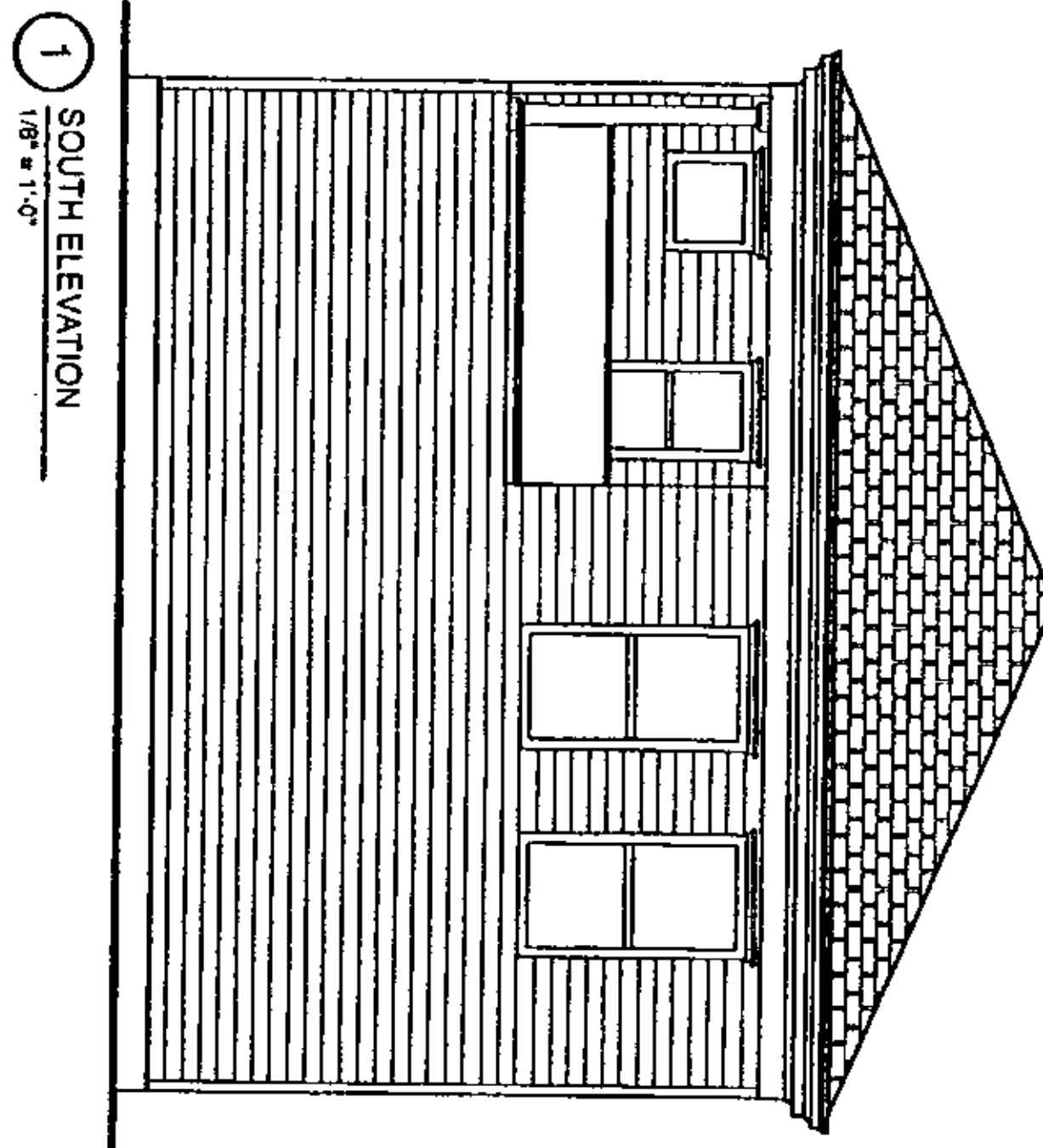


Julie Chambers:Users\Julie\Desktop:Conditional use:Chambers.Jbk 1/18/06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

PROPOSED
ELEVATIONS
01.16.06

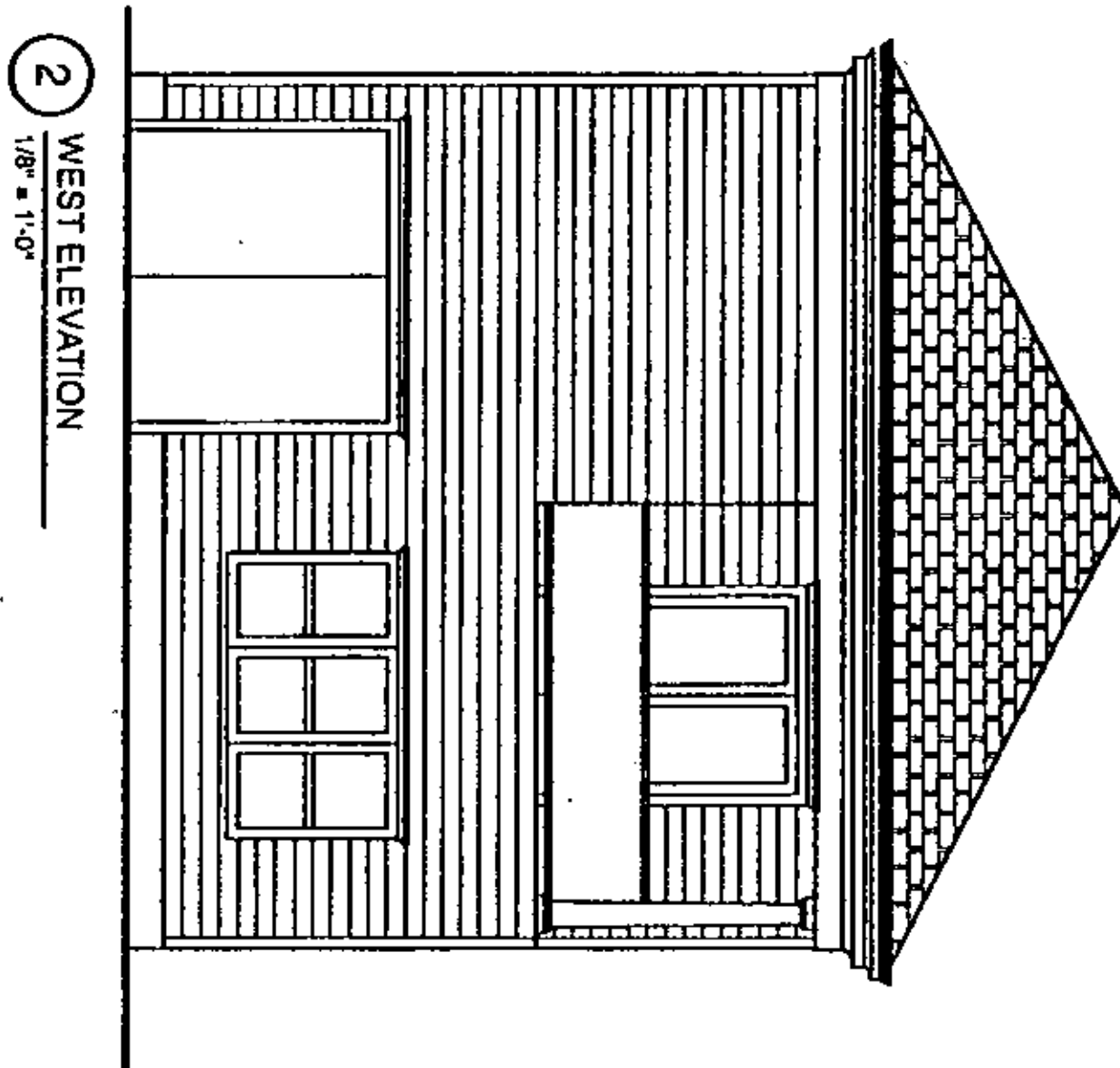
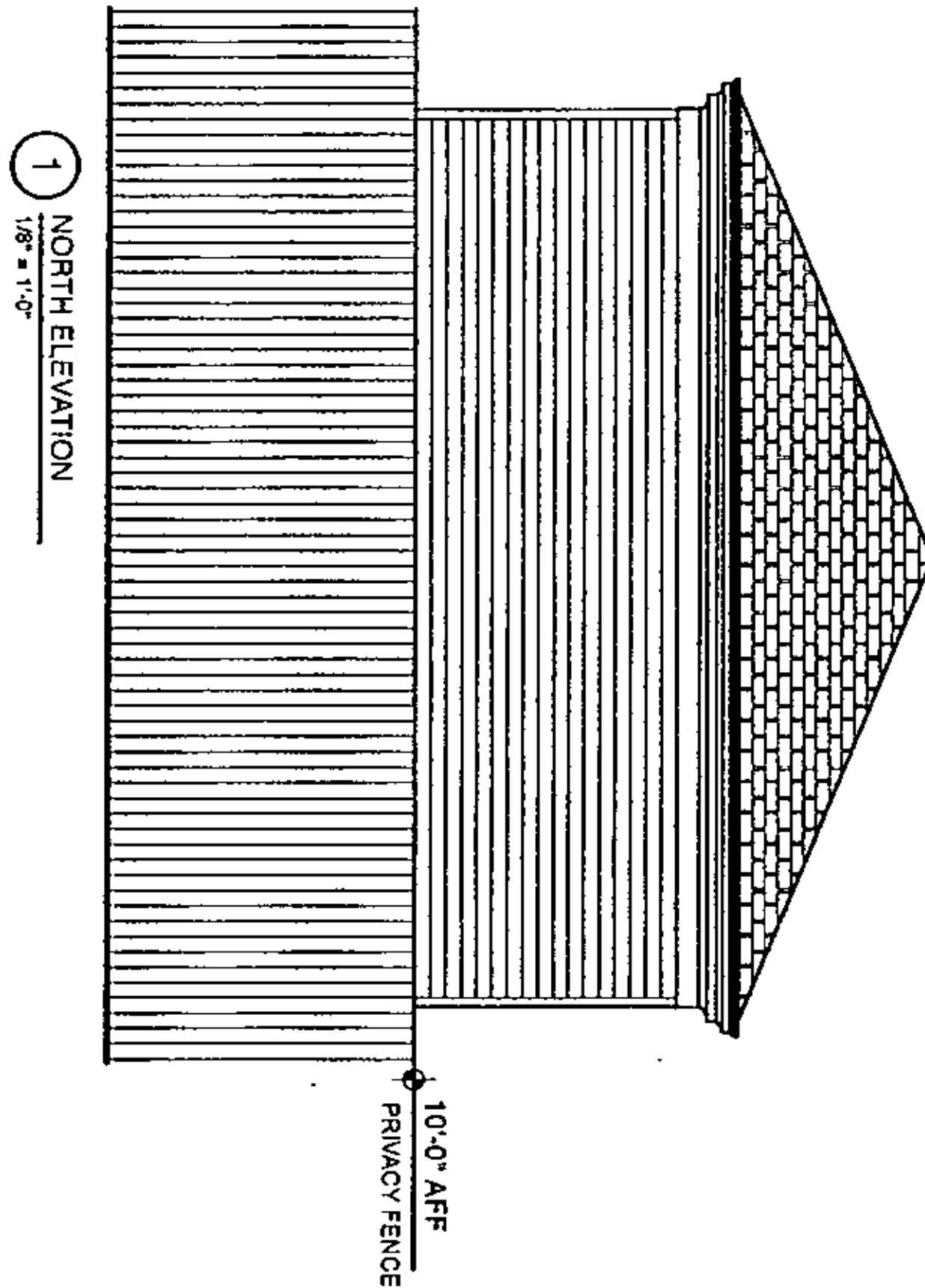
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Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

PROPOSED
ELEVATIONS
01.16.06

A1.0

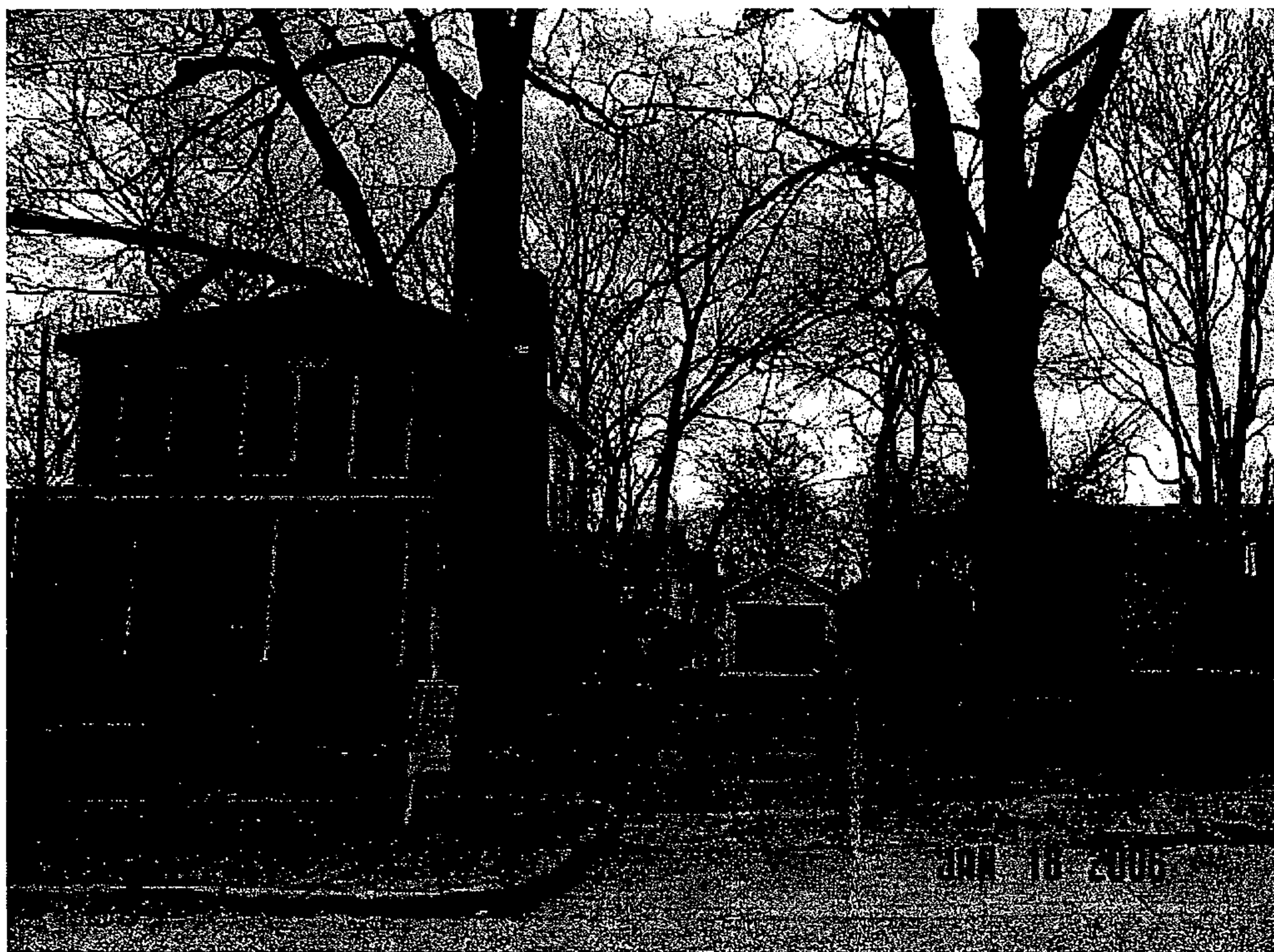


Julie Chambers\Users\Julie\Desktop\Chambers\lbk 1/17/06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

PROPOSED
ELEVATIONS
01.16.06

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RESOLUTION NO. _____

A RESOLUTION GRANTING AN APPEAL OF THE PLANNING COMMISSION'S PASSAGE OF CONDITIONAL USE PERMIT 06-1875, A REQUEST FOR A WIRELESS COMMUNICATIONS TOWER AT 520 N. COLLEGE AVE. TO REPLACE TO EXISTING NON-CONFORMING TOWERS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby grants the appeal of the Planning Commission's passage of Conditional Use Permit 06-1875, (a request for a wireless communications tower at 520 N. College Ave. to replace two existing non-conforming towers), and denies the requested Conditional Use based upon the following factual findings:

- a. [Specific findings of fact will be inserted after the hearing.]
- b. (etc.)

PASSED and APPROVED this 7th day of February, 2006.

APPROVED

By:

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION DENYING AN OF THE PLANNING COMMISSION'S PASSAGE OF CONDITIONAL USE PERMIT 06-1875, A REQUEST FOR A WIRELESS COMMUNICATIONS TOWER AT 520 N. COLLEGE AVE. TO REPLACE TO EXISTING NON-CONFORMING TOWERS.

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 denies an appeal of the Planning Commission's passage of Conditional Use Permit 06-1875, (a request for a wireless communications tower at 520 N. College Ave. to replace two existing non-conforming towers), affirming and adopting all of the Planning Commission's conditions.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED

By:

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

PLANNING COMMISSION MEETING
MINUTES FOR
ANX 06-1853
RZN 06-1854

ANX 06-1853: (NOCK/BROYLES SALEM ROAD, 205/206): Submitted by CRITICAL PATH CONSTRUCTION MANAGEMENT for property located at N & E OF WEIR RD. AND HOWARD NICKELL ROAD. The property is in the Planning Area and contains approximately 39.11 acres. The request is to annex the subject property into the City of Fayetteville.

Morgan: The subject property contains several parcels totaling approximately 39 acres. The request is for annexation and rezoning to RSF-4. It has been submitted by Nock Broyles Land Development LLC. The property is located within the Planning Area and is currently undeveloped, except for a few single family residences. One of the tracts, if you look on your maps on page 18-20, you can see that this approximately 40 acres consists of two larger rectangular 20-acre tracts. The one to the southeast is adjacent to city property at the very southeast corner, and the second rectangular tract is adjacent to the first on the very northwest corner. It is legally adjacent to the City; therefore the applicant did request de-annexation from the County and has submitted an application to be reviewed by the City for annexation. With review of our annexation guiding policies, Staff finds the annexation of this property will create what is in essence two undesirable peninsulas of City property within the Planning Area. Most often any annexation will be some sort of peninsula. This in essence creates two large 20 acre tracts that are surrounded by the Planning Area on all sides. To develop these properties would require the extension of City services outside of our City limits and the Planning Area, as well as significant improvements to infrastructure, the streets surrounding this area. We find that annexation of this property would create an undesirable boundary and feel that if perhaps adjacent properties to the south were approached, and all requested annexation, that incorporation of this area in general is important and should be approached in a comprehensive plan. To go over other Staff comments: the Fire Department comments that response time is approximately 8.75 minutes to this property; the Police find that annexation of this property would not create a substantial alteration in the population density. I would like to review the rezoning request. The applicant has requested rezoning to RSF-4. Staff finds that although this zoning district is comparable to the adjacent properties in the City that are developing, since these areas are surrounded by the Planning Areas on all sides, it would be in essence very incompatible with the surrounding very rural development in the area; therefore, Staff is recommending denial of both the annexation and rezoning at this time.

Ostner: Thank you Ms. Morgan. Is the applicant present? If you would introduce yourself and give us your presentation.

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Broyles: My name is Hank Broyles. I am one of the owners of this property. I know that the City does not want to create peninsulas or islands when it annexes, and that is a good guideline to follow when possible. In this case, we think that this property is an omelet. If you want an omelet, you have to break a few eggs, or in this case break a guideline. Half of this property is on Ruppel Road on the east side; the other half is on the west of Ruppel Road. We are approximately three blocks from Holcomb Elementary School. It is six blocks from Holt Middle School and three blocks west of the new property that the City Public Schools has purchased. This is very prime property. It is ready for development and it is going to be developed immediately. It can be County property with a drip system or it can be a City property with a sewer system. If it annexed into the City, the impact fees would be \$216,000. The Parks and Mitigation would be another \$67,000 and the City would have control over what is going to be planned and built on Ruppel Road. This street is projected to a major thoroughfare for the City and it would be, in my opinion, best that what's built and developed on this would be under the control of the Planning Commission and not the County. In closing, John Nock and I have met with several different groups within the City, including the Mayor, Gary Dumas, and members of the City Council. We have gotten support indicated from everybody that this property should be in the City. I know that the Planning Department is reflecting the City policies that you have right now, but sometimes you have to go around those guidelines. That is what your decision is, if you decide that is what the City wants to do. We ask that you approve this property for annexation and rezoning. Are there any questions?

Ostner: We will get back to you. At this point I will call for public comment for these two items. We are discussing the annexation and rezoning at the same time. If you could please introduce yourself.

Mayes: I am Andrew Mayes. I just want to clarify that this in fact is indeed the property that I think it is. I received a notice as an adjacent property owner and there is a sign posted at the lot next to me, but the directions do not appear clear, at least the way I read them. It says it is north and east of Weir Road and Howard Nickell Road. How does that position, can someone illustrate that for me? (Illustrated). I guess even though I received notice and there is a sign posted, there are two developments by the same company within blocks of each other. So I'll come back and see you when it comes up.

Ostner: Thank you. Would anyone else like to speak to these issues? Seeing none, I am going to close the public comment section. We are talking about the annexation and rezoning of Nock/Broyles Salem Road. I am bringing it back to the Commission for discussion.

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Myres: I need to ask for some clarification from Staff. I, too, was out in my car in West Fayetteville over the weekend looking for some of these places and the closest came to identifying these particular properties was driving north on Salem and south on Salem and north again on Salem and turned left on to that diagonal Weir Road section. The sign for this is to the south of that section of Weir Road.

Pate: That is what this citizen was just commenting as well. I believe there is another application in process for that area as well.

Myres: Okay, but it had the same number: it was 06-1853.

Pate: Correct. You can arrive at this property in about six ways. From Howard Nickell Road coming from the north, from Salem Road from the north. There is also a gravel road, or maybe paved now, Salem from the intersection of Salem and West Salem. You can also enter it from the south from Salem near Crystal Springs and Rockhaven Subdivision where the school is, as well as that diagonal area where Weir Road traverses through the property as well. So there are a number of ways to get to this property.

Myres: So, the sign was apparently off of this particular section

Pate: The same applicant does own property and there are projects in process on that property as well. I made a note to check that out as far as the number.

Allen: I have a question for the applicant, please. I wanted to know if there were efforts made to talk with the adjoining property owners to bring all of this in in one parcel, if those other owners were interested in being a part of the City?

Broyles: We had gone through trying to ascertain who was and was not interested and it was somewhere around half of the people were interested in it and the other half were not. Visiting with the City, I spoke with Tim Conklin and that whole area is included in a package that is going to be presented to the City for annexation. I think that is about 20,000 acres. I don't know how long it is going take to get a package that size approved, but between our property and the City, there are a few other properties. We own some that are being annexed now that brings it up closer, but there would still be three houses between the new City line and this property. On the west side of Ruppel Road there is probably almost a mile before you get to it, because sinks way in all along to Clabber Creek Village Phase II. There is another gentlemen who owns about 60 acres immediately north of that property which comes up to Weir Road and then you have John David Lindsey's property and then this one, the Western portion of our property that sits on the west side of Ruppel Road. We

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have gone through and talked to a lot of people that would like to get into the City, but they would like Fire and Police. But there are one or two that wouldn't give me more than thirty or forty seconds. They figured we were out to try and buy their property for some reason and didn't want to talk about City annexation.

Nock: If I could add one thing to this. When we started this process back last summer, we started meetings with the City, at that point in time, if you will recall, there was a fairly loud discussion going on about the improvements to infrastructure and to streets and one of the main topics of conversation was the Ruppel Road extension that would go all the way to the north. At that point in time, we assumed that conversation would stay on track and the sewer plant wouldn't become the main focus of what's on the agenda and had that happened, we probably wouldn't be here. You probably would have been asking us would we allow the property to be annexed, because this is going to bordered along that main road that is going to be put in, assuming it actually does get put in. We are probably six months premature from where ultimately the City will want all of that along Ruppel Road. So our piece of land will sit inside of where that major improvement will be made, assuming that it will get approved from the voters.

Graves: I have a question from the applicant and you may just answered it for me. It is for Mr. Broyles. It was my recollection that you came through recently with property just south of the eastern most tract of this application.

Broyles: Correct.

Graves: We are realigning Weir Road and making it straighter. I take it from what your comments were a minute ago, I couldn't remember who all owned those tracts. I take it that you don't own all of that property there that is shown in the County on our map.

Broyles: Correct. Benton Development brought in and got annexed on the south side of Weir Road and then we bought that from them. We bought the 2.8 acres right next to it to fill that hole in where Gypsum is being extended. So we are on the south side. But on the north side there are four residences between Salem Road and West Salem Road. On the north side of Weir there are four houses and we spoke to three; one was willing, one didn't know, and the one on the very corner said she was not interested in annexation.

Clark: I can't believe I am going to be in the position of saying this, because I've always been one on the Commission who didn't want to create peninsulas, but in this instance, I'm going to borrow from some of the rhetoric of my

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fellow commissioners and say a guideline is just a guideline. It's just a suggestion. So, this time, and only because this weekend as I was wandering around that area, there are some beautiful homes going up in that western side that are all in the County. You are absolutely correct – this is going to develop and it is already developing. Because of that, I am going to support annexation of these two parcels, simply because if it is in the City, we can dictate how it develops. That does not mean I am going to support the rezoning request, however. I will support it coming in that I think that we have to be careful as it develops for a variety of reasons, some Mr. Nock just mentioned, that the west side wastewater treatment plant. Infrastructure in general on the west side of town, on all sides of town, is an issue right now. I'm not prepared to vote for this type of high density, until we have some of these problems resolved. And we will resolve them. And it will develop, and if it is in the City, we'll develop along our guidelines and ordinances. So, I will make the motion that we approve annexation 06-1853. I recommend approval.

Ostner: Thank you. I have a motion to forward with the positive on the annexation proposal.

Myres: Second.

Ostner: Is there further discussion?

Allen: Fireman hat again. I continue to hope that we will be able to have the Fire Chief come to visit with us about these discrepancies - 8.7 minutes and it is gone. I just wanted to throw out that I hope we can have a little more clarity on that.

Ostner: I believe I am going to go ahead and vote with the Staff recommendation. There are really good arguments that this should be annexed to the City. I would hope that the annexation project that Mr. Broyles referred to would be fast tracked. There are lots of areas of town that are developing at County standards with septic that I would like in the City; however, the piece meal approach is very problematic. This property, I'm not even sure the City of Fayetteville emergency responders would be able to access it from their own...I guess there is a piece of land, I'm not sure how big it is, but when first responders have to cross jurisdictions, things get really funny. People can call for fires, and the responders say, you are not in our area, because we have to drive through a different area to get there. Those things can be sorted out, but with a larger annexation request, that would not be a problem. That is fairly minor, I believe that those things can be worked out, but there are more and more problems like that. I would like to see this as part of the City; however, I am going to vote against it.

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Allen: I'd like to see this as part of the City, too. I wonder if maybe it is about six months premature and so I'd like to hear a little more thought from the motioner and the seconder as to their reasons why. I think it is appropriate to bring it in now.

Clark: Sure. I don't think there is anything stopping this development company from walking up and starting this development under County standards. You can almost see the elementary school out there from the corner of this property – it is that close to City limits and a growing area in the City. I have strong reservations about some of the County developments with the septic systems they use. It is such a beautiful area out there, I would rather it be under the City. I'm not an alarmist when it comes to annexation; I'm an alarmist when it comes to rezoning of that annexation. He can sit for six more months and not develop until we have some of these problems worked out. I don't think we have the infrastructure right now to support a massive 40-acre development in the west part of town with questions that are looming over wastewater treatment, over infrastructure, etc. It doesn't mean it can't sit there. You are not going to have any calls to the emergency services because it's just "raw" land. You're not going to have any pressure on the infrastructure if it just sits there without developing. But there is nothing that precludes these gentlemen from walking out of here tomorrow and starting construction under County standards and we will have no control of that whatsoever. I truly did wander around out there a good chunk of Sunday afternoon, seeing large, beautiful homes out there. I think that trend is just going to continue. Might as well bring it in and as far as I am concerned, let it sit there until we can zone it properly and have the infrastructure to support it.

Myres: That was my thinking as well. I hate to be a copy cat.

Trumbo: Question for Staff. I remember at one agenda meeting a few months ago, there was talk of a temporary solution possibly a lift station being built out west until the new wastewater treatment plant was ready. Is that still ongoing?

Pate: It is and I believe that the Water and Sewer Committee was updated or going to updated this week from the RJN Report. I am not sure exactly what the status of that is. The Water and Sewer Committee then would forward its recommendation to the full City Council about what temporary fix, if any, there was. On all large scale developments and preliminary plats within these two basins, the Owl Creek Basin and the Hamestring Creek Basin, there are conditions of approval being placed on those projects, essentially stating that you have to comply with whatever the City Council deems appropriate for a temporary fix if necessary. If it is not necessary, obviously that would never be assessed. That is the approach we have currently. It's an approach that the City has taken

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before when there were capacity concerns before we had updated studies to understand exactly what our capacity limits were.

Trumbo: So that is still part of the plan – a possible temporary lift station.

Pate: Yes.

Trumbo: Are we at capacity now?

Pate: No, sir.

Trumbo: Are we close?

Pate: That is a relative term. Are we closer than five years ago? Yes. But we do have capacity. The Health Department is still approving plans, it is my understanding, and we have to have the data there to back it up.

Trumbo: Well, I have a different opinion. I am not in favor of annexing and not rezoning just for the fact that the property owner has rights as well, I believe. And to annex them so he can wait on us and his property just sits there. If he's ready to develop and it's legal within the County guidelines to do so, I believe he has the right to do that and I will not vote for an annexation if we are not going to rezone it, unless the applicant wants to do that. I will like to ask Mr. Broyles or Mr. Nock if you are not going to get the rezoning, do you want the property annexed?

Nock: Ultimately whatever is approved on the PZD on this total development, you are going to see it anyway. Whether it is a PZD or just a zoning, we would rather have the zoning in place and know what we are going to do, but from experience you know anything that we are involved in, whether from the beginning or from the end, it is to do something that is a superior product, that has something that we are all going to be proud of, both the citizens and the developers. So whether we have a major say in that or a minor say, the idea would be that you would see it – the first step is annexation. We can't do the zoning unless we have the annexation. Would we rather have them both? Absolutely. Would we start in this step, and I can appreciate the comments made so far, and that would probably put us on the path to do that.

Broyles: As far as rezoning, it would all come back through Planning Commission in the form of a PZD, so you'd be able to quantify what comes out. The rezoning to single family residential 4, we have never been able to develop a piece a property with more than three on it. By the time you put the City standards on it, that's just what it comes out. The maximum would probably be in there 3 or 2.8 per acre which is conducive to the south side of it which has been as high as 5 or 6 density down south of

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that. We have already met with the City and offered to donate two acres to the Fire Department if they would put a fire station in on the property up there, too, which might help alleviate some of that zone. We said we would donate it to them. We are concerned about that as well. We figured by the time we got it approved and got the lots and put some stuff in out there, it will be over a year from now.

Allen: I appreciate that.

Nock: I hope that answers your question, but if we need to go in a step by step process, we understand. We believe more that likely six months from now, this will be annexed any way, but we don't want to wait that six months. We can be doing our engineering, we can do our planning, work with our partners, and all the people involved in the process of how it is ultimately going to come about, but we have to start here to know that it is going to be judged by the guidelines of the City and not the County. Not that we have anything against the County, but there are adjoining developments for those that went out there. There is one that is directly to the north that is a septic, not a step system, but truly a septic neighborhood. And again, I'm not saying that is bad or good, it is just that it is one thing right next door. Then we have just literally to the south of us, the next neighborhood down, is City systems. The choice is really what we can do, what we should; and we are asking what we should do, not what we can do.

Trumbo: I would agree with Commissioner Clark and a lot of things she said. I'd like to see this developed to City standards for the same reasons that she would and it sounds like the developers are okay with not getting the rezoning if that's the decision of the Commission. I will be voting for the annexation.

Broyles: We have to have zoning; (inaudible)

Ostner: I think we are fully understanding that if the annexation passes and the rezoning request fails, the applicant is fully prepared to stick with the RA zoning that is attached to an annexation and request a PZD in the future.

Clark: At that point when you come through with a PZD as I'm understanding it, we can get some of these substantive answers. The RA zoning will not impede this development at all. I'm looking forward to seeing something come through because it's a beautiful piece of property.

Lack: One of the main things that I see in the peninsula is City services. I see to the southeast of this property a small tract that was just recently approved – a preliminary plat – so I would assume that water and sewer is available at that location. I would like to ask engineering, is that where you would

see City services hit this property so basically, if this were annexed and went forward for development, City services could be brought across that corner where it does meet City property and continue across it and not have to cross County property?

O'Neal: Well, if this map is correct, City sewer is just to the south within the Crystal Springs Subdivision. They would have to require easements and I don't know if it would be possible to cross into their property to serve it without crossing the County, not without having a detailed plan. Water is adjacent to the site; I believe there is a water line that runs down Salem Road and there may be some smaller lines that crisscross down these County roads as well; however, if I remember right, the one in Salem Road may be an 8", but as memory serves, it is a 6". And everywhere else it is either a 4" or a 2" which is not adequate for fire protection. There will have to be substantial upgrades not only to sewer, but to water to service this development.

Lack: But within City property, likely?

O'Neal: I guess sewer is the big question. Since we have water in the County that we serve many residences outside the City limits, it is really not that big of an issue, but City sewer outside the City limits has only been approved in one condition.

Lack: I don't think we have ever seen or that I have ever seen a submittal that more directly was in violation of the one recommendation or one guideline, than this property that attaches just at the one corner, but on the other hand, there are other guidelines that this property fulfills in an equal manner. I think the proximity to the schools that are built in the neighborhood and the completion of this section of Ruppel Road and the connections between Salem Road and Ruppel Road that the City will benefit from this development, can bring me around to an acceptance of this annexation. I will support that.

Graves: I tend to think that this particular proposal violates almost every guideline that we have on annexations. I have come to the same conclusion as Mr. Lack that because I do think that it from a long-range standpoint which is one of our guidelines (that we are supposed to look at long-range planning), this area is developing, it's primarily developing at RSF-4 and even higher as the applicant indicated earlier. We approved something at a slightly higher density than that just a few minutes ago just to the south of this piece of property. So we can't look at these in a vacuum and I'm the one who has used that rhetoric as my fellow Commissioner Clark commented a minute ago, that they are just guidelines and I think that when you look at the unique situation and where this particular piece of property is located and what is going on right around it and what's going

Planning Commission
January 9, 2006
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to continue to go on in that area, it should come into the City. It may be a little early, as the Chair has indicated it probably is, but we don't always have perfect timing on these things. I was also with the same inclination as Commissioner Trumbo that if we are just going to annex it and leave it agricultural, I wasn't really sure that that is an appropriate zoning given what's going on around this piece of property. With the comments made by the applicant and what they intend to do sometime in the future and bring it back as a PZD, I don't have as much of a problem with that. I will vote in favor of the annexation and probably will vote in favor of the rezoning request. I don't have as much of a problem approving one and disapproving the other given the discussion that has occurred.

Ostner: Thank you, Mr. Graves.

Pate: I just want to clarify a couple of things about the street standards. Everyone please keep in mind that Fayetteville, that even though this is within the County and could be developed in the County tomorrow, Fayetteville City street standards are in effect including drainage, right-of-way dedication, sidewalks, street lights, and everything associated with the City development standards, so there would not be any additional higher quality development for the street standards, per se, due to our current development ordinances. Please keep that in mind when you are thinking about annexations in general and this one in particular.

Ostner: Also on that note, if this were being brought forward tonight as a preliminary plat in the County, we would give cursory review to the septic, as we did with Cherry Hill, if they chose a step system. There is a motion and a second. Is there further discussion. Will you call the roll please. This is on the annexation request.

Roll Call: Upon the completion of roll call, the motion to approve ANX 06-1853 was approved by a vote 6-1-0 with Commissioner Ostner voting no.

Ostner: Our tandem item is the rezoning request of the same piece of property, **RZN 06-1853**. We have heard a staff report and we have heard from the applicant. Would the applicant like to share anything.

Nock: I just wanted to say one more time that we would do this PZD. We certainly have more than the two of us involved in this, in fact, my role is a fairly minor role in this. We somewhat run some risks here. I am an investment banker by profession and I always look at risk and sometimes you see it after you sit down. The challenges are that if we go with just an RA, you recognizing that we are now annexing to the City, you may not

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Page 27

have just one of our hands behind our back, but two.... That we could do nothing for some period of time, assuming a PZD could not get done. I'm a big believer in the PZD process. I can't think of a project, we in fact had R-2 zoned, RMF-24 zoned acreage that we came back and brought as PZD because we believe that it is the best option, not always the easiest option, for development. So, with that in mind, even though we assume that we will be using the PZD process, we certainly are not going to say that we wouldn't appreciate your affirmative vote for the zoning. This will certainly go to the Council level and we will state the same thing then. We certainly are not saying that we don't care about the zoning, but that is my only concern is the risk factor and it is also a risk for the rest of the community, because you could be in a situation where it just sits there and languishes. With the horizon line that I see today, I still request that if your vote was when you came tonight to vote for that, both the annexation and the rezoning, we would appreciate that. Upon the other hand, if you feel inclined to do otherwise because of some of the things we mentioned here, they certainly understand as well.

Ostner: At this point I will reopen the public comment for this zoning request for the same piece of property, RZN 06-1854.

Hunnicutt: I'm Clyde Hunnicutt. I believe I am an adjoining property owner of this plot. I live on the corner of Howard Nickell and West Salem, 3225 West Salem. I have not been contacted by any of these folks and are we part of this annexation or is this backing up to my property?

Ostner: I'm not sure where your property is, but I don't believe you are included in this annexation, if fact, I am certain that this property is completely owned by these gentlemen and their associates.

Hunnicutt: We got the notice that says that it is north and east of the intersection of Weir Road and Howard Nickell. I'm assuming they are talking about Howard Nickell that went through the new subdivision and comes around and joins what used to be County Rd. 894. County 894 makes a circle around there.

Ostner: Is there a map that you could show him?

Hunnicutt: So it is not the property directly south of me, it is the property directly west of me.

Broyles: Right across the street from you.

Ostner: Is there any further public comment on this item?

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Page 28

- Mayes: Andy Mayes again. I'm back...I've got myself oriented now. This property is indeed in my neighborhood, it is not the property that had the sign for this hearing, thus the confusion. But I would like to point out that the properties to the north and west of this area, there is kind of a transition line there, where we are going from a higher density RSF-4 into the rural County development where most of these lots are two, three or four acres. I'd like for you to consider that as you think about this particular rezoning; or give us a little more time to consider how this will be rezoned if at all. So some of these other neighbors, who I have spoken to, would be able to give input. It is kind of a short time frame from when we saw the initial sign and the confusion with locations. We really haven't had time to get together and formulate a position.
- Ostner: Thank you Mr. Mayes. On that note, this is the first stop. The City Council is actually making the final decision. We are merely offering a recommendation, so I would encourage you to go to that meeting where the actual decision will be made, beyond this decision. Is there further public comment? I am closing the public comment section and bringing it back to the Commission for discussion.
- Pate: I would like to mention that Staff would not recommend retaining this as residential agricultural land. It does not do a whole lot for land use decisions when you zone property and just leave it agricultural typically, especially these larger tracts. We would recommend at least some sort of residential single family zoning designation. If you are not comfortable with 4 units per acre, there are several to choose from: RSF .5, RSF 1, RSF 2, and then RSF 4 of course which is the applicant's request. Each of those reference the density – units per acre allowed on that particular piece of property and each one would allow a single family development.
- Ostner: That is residential single family ½ unit per acre, 1 unit per acre, and 2 units per acre, are the three choices that are less dense than the RSF 4?
- Pate: Correct.
- Clark: I would be perfectly happy with any of those other designations below RSF 4. I think it is a transitional area. RSF 2 I would find totally fine. I think RSF 4 is way too dense for where we are located and the other houses that surround it at a distance, because they are all on a lot of property. But I won't support 4.
- Allen: I would agree. I had written down the RSF 2 as Jeremy was speaking. It seemed an appropriate transition. A lot of those houses appear to be on an acre or more.
- Clark: I will make a motion that we approve rezoning RZN 06-1854 at RSF 2.

Planning Commission
January 9, 2006
Page 29

- Myres: Second
- Ostner: Is there any discussion? I will be voting against this item. This is closer to appropriate if the property is to be annexed by the Council, I believe this RSF 2 might be closer to appropriate; however, I do think there is a better way for this property to come into the City. I think it should come in with more property around it to avoid a piece meal approach to City services, not just emergency, but sewer. Sewer potentially could cross County land, maybe condemnation. There are strange things that could happen, if we ask someone to allow a sewer across their land, and then not in the City. Any further discussion?
- Trumbo: Question for Staff. If this is rezoned to RSF 2, the applicant would have the opportunity to come back to us with a PZD at a later time?
- Pate: Yes, that is correct.
- Graves: I will support the motion as well. As I stated earlier, agricultural is not appropriate for this area. RSF 2 seems appropriate in light of what's being brought in right now. It is right in the middle, it's bordered on the south and on the north, these two tracts of property, by things that are fairly sparsely densely populated out there.
- Ostner: Would you call the roll, please.
- Roll Call:** Upon the completion of roll call, the motion to approve RZN 06-1854 was approved by a vote 6-1-0 with Commissioner Ostner voting no.

Revised 1/31/06

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

February 7, 2006
City Council Meeting Date

Sid Norbash, Staff Engineer
Submitted By

Engineering
Division

Operations
Department

Action Required:

Approval of a Resolution awarding the Construction Contract for Razorback Rd. Water & Sewer Relocation Project to Goodwin & Goodwin, Inc., in the amount of \$722,890.50. Also approving a Project Contingency in the amount of \$72,000 (10%), and the related Budget Adjustment.

\$794,890.00	\$1,727,271	Razorback Road Water and Sewer Relocation Project
Cost of this request	Category/Project Budget	Program Category / Project Name
5400-5600-5808-00	\$142,547	Water System Improvements
Account Number	Funds Used to Date	Program / Project Category Name
05014-2	\$1,584,724	Water & Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☒


Department Director

1-31-06
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

1/31/06


Finance and Internal Service Director

1/31/06
Date

Received in City Clerk's Office

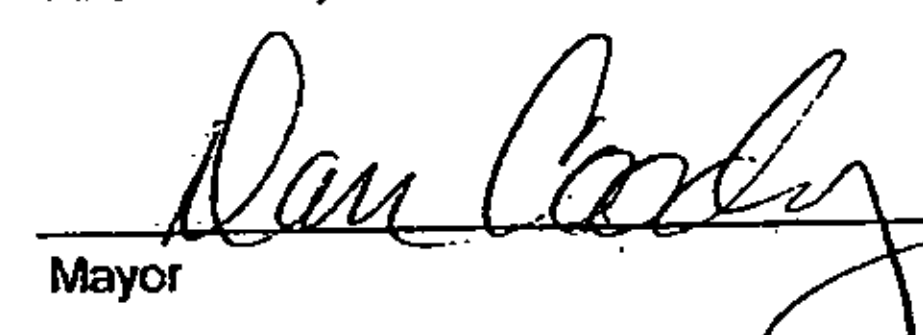
ENTERED

1-31-06

Received in Mayor's Office

ENTERED

1/31/06


Mayor

1/31/06
Date

Comments:



City Council Meeting Date: February 7, 2006

The City of Fayetteville, Arkansas

City Council Agenda Memo

To: CITY COUNCIL

Thru: Mayor Dan Coody
Gary Dumas, Director of Operations
David Jurgens, Water & Wastewater Director
Ron Petrie, City Engineer *RP*

From: Sid Norbash, Staff Engineer *SN*

Date: January 27, 2006

Subject: Razorback Rd. Water & Sewer Relocation Project
Award of Construction Contract

Recommendation:

Approval of a Resolution authorizing the award of the construction contract to Goodwin & Goodwin, Inc., in the amount of \$722,890.50, for Razorback Rd. Water & Sewer Relocation Project. Also approval of a Project Contingency in the amount of \$72,000 (10%), and the related Budget Adjustment in the amount of \$314,231.

Background:

The Arkansas Highway & Transportation Department (A.H.T.D.) has a current construction project (Job 040399) for widening of Hwy 112 (Razorback RD.) from 15th Street to 6th Street. In order to clear the way for the widening project by A.H.T.D., portions of the existing water and sewer facilities serving this area will have to be relocated.

Per prior approval by the City Council, McClelland Consulting Engineers, Inc. completed the design for the construction of this project in December of 2005.

Discussion:

This project was advertised in December 2005, and official bids were received on January 18, 2006.

Five bidders submitted bids and the results are as follows:

Garney Construction Company	\$867,900.00
C-2 Projects, LLC	\$796,756.00
T-G Excavating, Inc.	\$755,555.00
S & J Construction Company	\$743,785.07
Goodwin & Goodwin, Inc.	\$722,890.50 (Low Bidder)
McClelland Engineers' Estimate	\$783,685.00

The project is partially reimbursable by A.H.T.D. and a previous agreement between the City of Fayetteville and A.H.T.D. has been approved by the Council. In this agreement, based on estimated quantities and preliminary data gathered by McClelland Consulting Engineers, the percentage of reimbursement was set at 87.48%.

When the design was finalized and bids were received, new reimbursement factors were calculated by McClelland based on the final design. The new percentage of reimbursement is 45.64%. For additional information please refer to the attached memo from McClelland Engineers. The primary reason for the decrease in the reimbursement rate is that the relocation of a 24" sewer main was included in the original calculations. This was nearly 100% reimbursable by A.H.T.D. After meeting with A.H.T.D. representatives it was determined that this sewer main did not need to be moved, thus reducing A.H.T.D.'s reimbursement to the City of Fayetteville.

Additional funding is needed because of the above mentioned reduced rate of reimbursement, and also because Project Contingency was not included in the original estimates.

Budget Impact:

Budget Division has prepared the following details on budget impact:

Razorback Road Utility W/S Relocations: (05014)
AHTD Job: 040399

AHTD Letter: July 26, 2005 (Budget Adjustment Prepared on This Information)

Cost Area	Budget	% AHTD Reimbursement	AHTD Reimbursement	City Contribution
Construction	1,280,037	87.48%	1,119,776	160,261
Engineering	72,684	52.65%	38,268	34,416
Engineering (Prelim)	22,800	0.00%	-	22,800
Easement	350,750	66.11%	231,881	118,869
Health Fees	500	87.48%	437	63
Advertising Costs	500	87.48%	437	63
	<u>1,727,271</u>	<u>80.52%</u>	<u>1,390,800</u>	<u>336,471</u>

AHTD Letter: January 20, 2006

Cost Area	Estimated	% AHTD Reimbursement	AHTD Reimbursement	City Contribution
Construction (Equivalent)	492,765	45.64%	224,898	267,867
Construction (Upgrade)	230,126	0.00%	-	230,126
Sub Total Construction	<u>722,891</u>	<u>31.11%</u>	<u>224,898</u>	<u>497,993</u>
Project Contingency	72,000	45.64%	32,861	39,139
Engineering	139,758	45.64%	63,786	75,972
Engineering Contra	15,000	45.64%	6,846	8,154
Easement	53,350	45.64%	24,349	29,001
Health Fees	500	45.64%	228	272
Advertising Costs	315	45.64%	144	171
	<u>1,003,814</u>	<u>35.18%</u>	<u>353,112</u>	<u>650,702</u>
Project Budget	1,727,271		1,390,800	336,471
Budget Needed/(Reduced)	(723,457)		(1,037,688)	314,231

SN/sn

Attachments: Construction Contract
Vicinity Map
Bid Tabulation Sheets & McClelland's Memo
Budget Adjustment

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONSTRUCTION CONTRACT WITH GOODWIN & GOODWIN, INC. IN THE AMOUNT OF \$722,890.50 FOR WATER AND SEWER RELOCATION FOR HIGHWAY IMPROVEMENTS TO RAZORBACK ROAD; APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$72,000.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$314,231.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a contract with Goodwin & Goodwin, Inc. in the amount of \$722,890.50 for water and sewer relocation for highway improvements to Razorback Road. 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 project contingency in the amount of \$72,000.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$314,231.00.

PASSED and APPROVED this 7th day of February, 2006.

ATTEST:

By:

SONDRA SMITH, City Clerk

APPROVED:

By:

DAN GOODY, Mayor

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

C. 14
Goodwin & Goodwin, Inc.
Page 6 of 16

Budget Year 2006	Department: Water & Wastewater Division: Water & Sewer Maintenance Program: Capital Water Mains	Date Requested 2/7/2006	Adjustment Number
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Project or Item Added/Increased:
\$1,037,688 being reduced in the State Highway Utility Relocations revenue account.

Project or Item Deleted/Reduced:
\$723,457 being reduced from the Razorback Road Utility W/S Relocations capital project.

To recognize \$314,231 from the Water & Sewer Fund Use of Fund Balance.

Justification of this Increase:
The cost sharing % contribution amount from the AHTD has decreased from 87.48% to 45.64%. In addition the construction cost has decreased.

Justification of this Decrease:
The project budget can be reduced due to the construction cost being decreased.

There is sufficient fund balance remaining in the Water & Sewer fund to comply with City Policy.

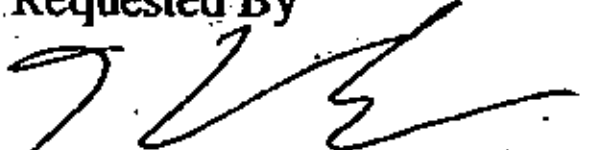
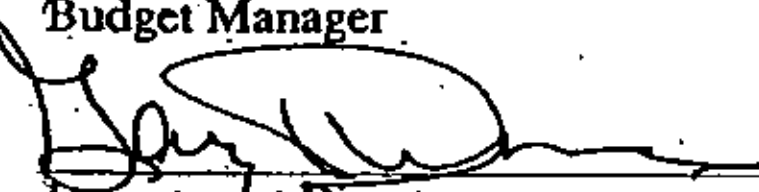
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
St Hwy-utility relocation	5400	0940	4303	00	1,037,688	05014	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Sewer improvements	5400	5700	5815	00	723,457	05014	1
Use of fund balance	5400	0940	4999	99	314,231		

Approval Signatures

	1-30-06
Requested By	Date
	2-31-06
Budget Manager	Date
	1-31-06
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

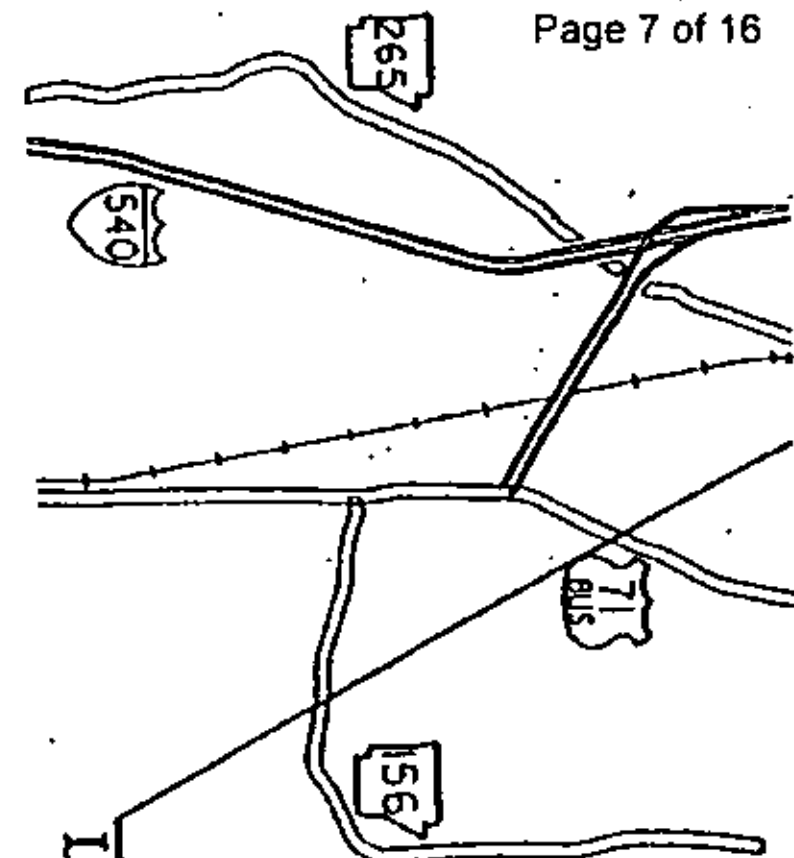
Date of Approval _____

Posted to General Ledger _____

Posted to Project Accounting _____

Entered in Category Log _____

Initial	Date
Initial	Date
Initial	Date
Initial	Date



VICINITY MAP

PROJECT
LOCATION

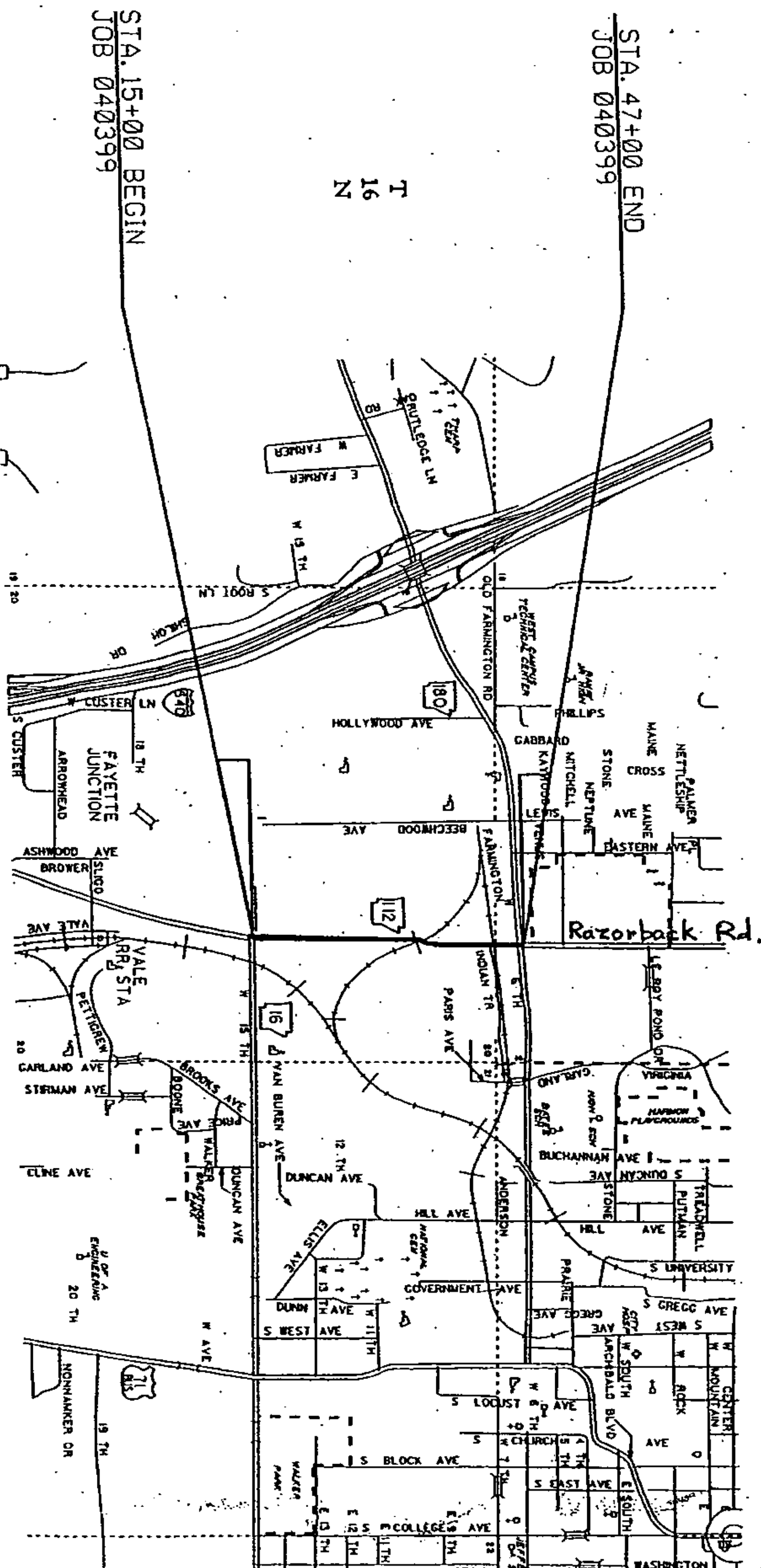
NOT TO SCALE

R 30 W

ROUTE 112 SECTION 0

F.A.P. STP-9142(16)

JOB 040399



T 16 N

MID-POINT OF JOB
LAT. N 36°03'03"
LONG. W 94°10'50"

GROSS LENGTH OF PROJECT 3200.00 FEET OR 0.606 MILES
NET LENGTH OF ROADWAY 3200.00 FEET OR 0.606 MILES
NET LENGTH OF BRIDGES 0.00 FEET OR 0.000 MILES

BID TABULATION
RAZORBACK ROAD (ARKANSAS HIGHWAY 112)
WATER AND SEWER MAIN REPLACEMENT
CITY OF FAYETTEVILLE
MCE PROJECT NO. F042168
BID DATE JANUARY 18, 2006

Item #	Description	Qty.	Units	Goodwin & Goodwin, Inc.	Extended	Unit Cost	Extended	8&J Construction Co.	Extended	Unit Cost	Extended	T-Q Excavating, Inc.	Extended	Unit Cost	Extended	C-2 Projects, LLC	Extended	Unit Cost	Extended	Garmey Construction	Extended
1	Act 291, 1993 Trench and Excavation Safety System	1	LS	40,000.00	40,000.00	60,000.00	60,000.00	60,000.00	60,000.00	3,000.00	3,000.00	3,000.00	3,000.00	24,785.00	24,785.00	24,785.00	24,785.00	3,000.00	3,000.00	3,000.00	3,000.00
2	12-inch PVC, C-900, Class 200 Water Main	3,265	LF	65.00	179,026.00	67.82	220,754.10	77.00	250,635.00	77.00	250,635.00	77.00	250,635.00	70.50	230,850.00	70.50	230,850.00	125.00	406,875.00	125.00	406,875.00
3	10-inch PVC, C-900, Class 200 Water Main	12	LF	65.00	680.00	63.90	767.62	65.00	1,140.00	65.00	1,140.00	65.00	1,140.00	70.50	846.00	70.50	846.00	125.00	1,440.00	125.00	1,440.00
4	8-inch PVC, C-900, Class 200 Water Main	660	LF	35.00	19,600.00	55.80	31,304.00	60.00	29,000.00	60.00	29,000.00	60.00	29,000.00	55.00	30,800.00	55.00	30,800.00	115.00	64,400.00	115.00	64,400.00
5	6-inch Ductile Iron, Class 350, Fire Hydrant Stub	34	LF	35.00	1,190.00	63.21	1,809.14	65.00	2,250.00	65.00	2,250.00	65.00	2,250.00	49.00	1,655.00	49.00	1,655.00	40.00	1,360.00	40.00	1,360.00
6	4-inch Ductile Iron, Class 350, for 2" and 1 1/2" Water Meter Connections	40	LF	30.00	1,200.00	63.61	2,144.40	65.00	3,400.00	65.00	3,400.00	65.00	3,400.00	43.50	1,740.00	43.50	1,740.00	38.00	1,520.00	38.00	1,520.00
7	2-inch Polyethylene Service Tubing	20	LF	15.00	300.00	27.77	555.40	45.00	900.00	45.00	900.00	45.00	900.00	23.50	470.00	23.50	470.00	35.00	700.00	35.00	700.00
8	1-inch Polyethylene Service Tubing	130	LF	15.00	1,950.00	20.62	2,680.60	35.00	4,550.00	35.00	4,550.00	35.00	4,550.00	16.00	1,950.00	16.00	1,950.00	25.00	3,250.00	25.00	3,250.00
9	12" Class 250B Butterfly Valve w/Box	8	EA	3,800.00	22,800.00	3,703.22	22,219.32	4,000.00	24,000.00	4,000.00	24,000.00	4,000.00	24,000.00	5,075.00	30,450.00	5,075.00	30,450.00	3,000.00	18,000.00	3,000.00	18,000.00
10	8" Gate Valve w/Box	5	EA	1,800.00	8,000.00	1,441.74	7,208.70	1,300.00	4,000.00	1,300.00	4,000.00	1,300.00	4,000.00	1,675.00	7,875.00	1,675.00	7,875.00	650.00	4,250.00	650.00	4,250.00
11	6" Gate Valve w/Box	4	EA	1,000.00	4,000.00	1,076.79	4,307.04	800.00	4,000.00	800.00	4,000.00	800.00	4,000.00	1,005.00	3,655.00	1,005.00	3,655.00	550.00	2,800.00	550.00	2,800.00
12	4" Gate Valve w/Box	3	EA	600.00	2,400.00	888.84	2,666.52	800.00	4,000.00	800.00	4,000.00	800.00	4,000.00	1,185.00	3,555.00	1,185.00	3,555.00	550.00	1,650.00	550.00	1,650.00
13	6" Post Indicator Gate Valve	1	EA	1,400.00	1,400.00	1,105.67	1,105.67	1,300.00	1,300.00	1,300.00	1,300.00	1,300.00	1,300.00	2,190.00	2,190.00	2,190.00	2,190.00	1,200.00	1,200.00	1,200.00	1,200.00
14	Three Way Fire Hydrant	4	EA	2,500.00	10,000.00	2,286.12	9,084.48	3,000.00	12,000.00	3,000.00	12,000.00	3,000.00	12,000.00	3,290.00	13,160.00	3,290.00	13,160.00	2,250.00	9,000.00	2,250.00	9,000.00
15	Salvage Existing Fire Hydrant	4	EA	500.00	2,000.00	500.00	2,000.00	600.00	2,000.00	600.00	2,000.00	600.00	2,000.00	765.00	3,060.00	765.00	3,060.00	350.00	1,400.00	350.00	1,400.00
16	Single Meter Setting, Complete, Including Pressure Reducer and Plumber Connection to Existing Building Services	3	EA	1,000.00	3,000.00	1,299.93	3,899.79	1,400.00	4,200.00	1,400.00	4,200.00	1,400.00	4,200.00	865.00	2,595.00	865.00	2,595.00	1,200.00	3,600.00	1,200.00	3,600.00
17	1-inch Meter Setting, Complete, Including Pressure Reducer and Plumber Connection to Existing Building Services	2	EA	1,000.00	2,000.00	1,416.61	2,833.22	2,000.00	4,000.00	2,000.00	4,000.00	2,000.00	4,000.00	1,076.00	2,150.00	1,076.00	2,150.00	1,000.00	2,000.00	1,000.00	2,000.00
18	Pressure Reducer and Plumber Connection to Existing Building Service (Baum Stadium)	1	EA	3,500.00	3,500.00	3,083.24	3,083.24	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00	2,450.00	2,450.00	2,450.00	2,450.00	2,500.00	2,500.00	2,500.00	2,500.00
19	1-1/2-inch Meter Setting, Complete, Including Plumber Connection to Existing Building Service (Car Wash)	1	EA	3,500.00	3,500.00	2,589.58	2,589.58	3,500.00	3,500.00	3,500.00	3,500.00	3,500.00	3,500.00	1,785.00	1,785.00	1,785.00	1,785.00	2,100.00	2,100.00	2,100.00	2,100.00
20	2-inch Meter Setting, Complete, For Irrigation System	2	EA	2,500.00	5,000.00	2,470.84	4,941.68	3,400.00	6,800.00	3,400.00	6,800.00	3,400.00	6,800.00	2,190.00	4,380.00	2,190.00	4,380.00	2,000.00	4,000.00	2,000.00	4,000.00
21	12" Saddle, 1" Corporation Stop and Tap	4	EA	200.00	800.00	404.46	1,617.84	220.00	880.00	220.00	880.00	220.00	880.00	165.00	740.00	165.00	740.00	350.00	1,400.00	350.00	1,400.00
22	8" Saddle, 2" Corporation Stop and Tap	1	EA	300.00	300.00	518.73	518.73	350.00	350.00	350.00	350.00	350.00	350.00	280.00	280.00	280.00	280.00	400.00	400.00	400.00	400.00
23	8" Saddle, 1" Corporation Stop and Tap	1	EA	150.00	150.00	393.83	393.83	210.00	210.00	210.00	210.00	210.00	210.00	170.00	170.00	170.00	170.00	300.00	300.00	300.00	300.00
24	12x12" Tapping Tee, 12" Tapping Valve w/Box	2	EA	5,000.00	10,000.00	5,539.89	11,079.78	6,500.00	13,000.00	6,500.00	13,000.00	6,500.00	13,000.00	4,805.00	9,610.00	4,805.00	9,610.00	3,000.00	6,000.00	3,000.00	6,000.00
25	10x10" Tapping Tee, 10" Tapping Valve w/Box	1	EA	4,700.00	4,700.00	5,548.52	5,548.52	6,500.00	6,500.00	6,500.00	6,500.00	6,500.00	6,500.00	4,725.00	4,725.00	4,725.00	4,725.00	2,200.00	2,200.00	2,200.00	2,200.00
26	8x8" Tapping Tee, 8" Tapping Valve w/Box	1	EA	3,800.00	3,800.00	4,061.26	4,061.26	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00	4,000.00	3,665.00	3,665.00	3,665.00	3,665.00	2,000.00	2,000.00	2,000.00	2,000.00
27	6x6" Tapping Tee, 6" Tapping Valve w/Box	1	EA	2,800.00	2,800.00	3,715.61	3,715.61	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,225.00	3,225.00	3,225.00	3,225.00	1,800.00	1,800.00	1,800.00	1,800.00
28	4" Connection	1	EA	2,000.00	2,000.00	2,000.00	2,000.00	800.00	800.00	800.00	800.00	800.00	800.00	500.00	500.00	500.00	500.00	2,000.00	2,000.00	2,000.00	2,000.00
29	3" Connection	1	EA	2,000.00	2,000.00	1,500.00	1,500.00	800.00	800.00	800.00	800.00	800.00	800.00	350.00	350.00	350.00	350.00	1,500.00	1,500.00	1,500.00	1,500.00
30	24-inch Bored Steel Casing For Railroad Crossing (7/16" Wall Thickness)	78	LF	375.00	29,250.00	277.75	21,684.00	290.00	22,640.00	290.00	22,640.00	290.00	22,640.00	450.00	34,200.00	450.00	34,200.00	275.00	20,900.00	275.00	20,900.00
31	24-inch Direct Bury Steel Casing for Railroad Right-of-Way (7/16" Wall Thickness)	36	LF	250.00	9,000.00	130.17	4,686.12	260.00	9,360.00	260.00	9,360.00	260.00	9,360.00	225.00	8,100.00	225.00	8,100.00	100.00	3,600.00	100.00	3,600.00
32	24-inch Bored Steel Casing	251	LF	375.00	94,125.00	280.56	65,400.56	265.00	71,535.00	265.00	71,535.00	265.00	71,535.00	440.00	110,440.00	440.00	110,440.00	250.00	62,750.00	250.00	62,750.00
33	24-inch Direct Bury Steel Casing	14	LF	250.00	3,500.00	126.18	1,766.52	300.00	4,200.00	300.00	4,200.00	300.00	4,200.00	240.00	3,360.00	240.00	3,360.00	85.00	1,330.00	85.00	1,330.00
34	16-inch Bored Steel Casing	203	LF	225.00	45,675.00	232.31	47,158.93	185.00	37,655.00	185.00	37,655.00	185.00	37,655.00	368.00	74,704.00	368.00	74,704.00	270.00	54,810.00	270.00	54,810.00
35	16-inch Direct Bury Steel Casing	174	LF	125.00	21,750.00	93.08	16,192.44	125.00	21,750.00	125.00	21,750.00	125.00	21,750.00	135.00	23,480.00	135.00	23,480.00	80.00	13,920.00	80.00	13,920.00
36	Protective Fencing for Trees	3	EA	400.00	1,200.00	600.00	1,800.00	1,500.00	4,500.00	1,500.00	4,500.00	1,500.00	4,500.00	250.00	750.00	250.00	750.00	400.00	1,200.00	400.00	1,200.00
37	Cut and Cap Existing 12" Main	1	EA	2,000.00	2,000.00	1,494.48	1,494.48	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	480.00	480.00	480.00	480.00	800.00	800.00	800.00	800.00
38	Cut and Cap Existing 18" Main	1	EA	2,000.00	2,000.00	1,494.48	1,494.48	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	480.00	480.00	480.00	480.00	800.00	800.00	800.00	800.00

BID TABULATION
RAZORBACK ROAD (ARKANSAS HIGHWAY 112)
WATER AND SEWER MAIN REPLACEMENT
CITY OF FAYETTEVILLE
MCE PROJECT NO. P042166
BID DATE JANUARY 18, 2008

Item #	Description	Qty.	Units	Goodwin & Goodwin, Inc.	SAJ Construction Co.	T-G Excavating, Inc.	C-2 Projects, LLC	Garnay Construction	
				Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended
39	Cut and Cap Existing 8" Main	2	EA	1,500.00	3,000.00	1,080.29	2,120.58	1,000.00	2,000.00
40	Cut and Cap Existing 6" Main	1	EA	1,200.00	1,200.00	1,024.98	1,024.98	900.00	900.00
41	Abandon Existing Valve	18	EA	500.00	9,000.00	200.00	3,600.00	600.00	10,800.00
42	Epoxy Coated Ductile Iron Fittings	3,460	LB	4.75	16,387.50	8.05	20,872.50	7.50	25,950.00
43	8-inch PVC Sewer Main, SDR-26	141	LF	28.00	3,948.00	67.86	9,588.26	80.00	11,280.00
44	4-inch PVC Sewer Service SDR-26, Including Trenching and Backfilling	75	LF	18.00	1,350.00	33.58	2,517.00	50.00	3,750.00
45	Sewer Main Trenching and Backfilling, 0-14 Feet Deep	20	LF	18.00	360.00	40.00	800.00	10.00	200.00
46	4 Foot Diameter Standard Manhole, 0 Feet to 6 Feet Deep	1	EA	3,000.00	3,000.00	2,000.00	2,000.00	2,500.00	2,500.00
47	Extra Manhole Depth, Over 6 Feet Deep	8	VF	400.00	2,400.00	185.00	1,110.00	250.00	1,500.00
48	8-inch Drop Structure at Sewer Main Connection to Existing Manhole	1	EA	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00
49	4-inch Manhole Tap for Services	1	EA	800.00	800.00	750.00	750.00	800.00	800.00
50	Sewer Service Cleanout	1	EA	200.00	200.00	429.86	429.86	300.00	300.00
51	Asphalt Surface Restoration	400	SY	65.00	26,000.00	60.00	24,000.00	80.00	32,000.00
52	Asphalt Highway Restoration	35	SY	65.00	2,275.00	70.00	2,450.00	100.00	3,500.00
53	Concrete Surface Restoration	620	SY	65.00	33,800.00	70.00	36,400.00	70.00	36,400.00
54	Concrete Sidewalk Restoration	80	SY	45.00	2,700.00	70.00	4,200.00	50.00	3,000.00
55	Curb and Gutter Restoration	160	LF	30.00	4,800.00	35.00	5,260.00	20.00	3,000.00
56	Granular Fill	1,330	TON	24.00	31,920.00	15.50	20,615.00	18.00	25,270.00
57	Trench Stabilization Material	80	TON	15.00	1,200.00	13.50	1,240.00	30.00	2,400.00
58	Flowable Fill	25	CY	85.00	2,125.00	115.00	2,875.00	150.00	3,750.00
59	Erosion Control	1	LS	6,000.00	6,000.00	5,500.00	5,500.00	4,000.00	4,000.00
60	Replace Three 12-inch Valves, the 12"x12" Tee and Install Three Solid Sleeves at the Northwest Corner of 6th Street and Razorback Rd., Complete Except for Granular Fill and Surface Restoration (STA. 48+18.40(L))	1	LS	23,000.00	23,000.00	27,782.16	27,782.16	14,985.00	14,985.00
Total Base Bid					722,680.00		743,783.07		755,565.00
									6,250.00
									6,250.00
									17,500.00
									17,500.00
									867,900.00



RECEIVED

JAN 23 2006

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

January 20, 2006

Mr. Sid Norbash
Staff Engineer
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Re: Highway 112 (Razorback Road)
AHTD Job No. 040399
Updated Reimbursement Estimate

Dear Mr. Norbash:

Table No. 1 attached to my letter dated October 25, 2005 to Ms. Patty Bray estimated that the Highway Department should reimburse the City of Fayetteville at the rate of 41.27% of "replacement-in-kind" water and sewer work for the referenced project. This Table No. 1 used estimated unit prices.

If the actual bid prices for the low bidder on the Equivalent System Bid Schedule are inserted into Table No. 1, the resulting attached Update to Table No. 1 is obtained. This table indicates that the actual bid prices result in a reimbursement percentage for replacement-in kind work of 45.64%.

The low bidder (Goodwin & Goodwin, Inc.) had an Equivalent System Bid total of \$492,764.50, as listed on page 4 of the Bid Tabulation. Applying the 45.64% to this bid total results in an estimated AHTD construction cost reimbursement of \$224,897.72 for this project.

Since the City is building an upgraded system instead of an equivalent system, the actual base bid price for the proposed work is \$722,890.50, as listed on page 2 of the Bid Tabulation. Consequently, the City's estimated project construction cost is $\$722,890.50 - \$224,897.72 = \$497,992.78$. This is somewhat less than the \$569,278 estimated as the City's cost in my letter of October 25, 2005 to Ms. Bray.

The actual reimbursement will depend on actual construction quantities, so this set of calculations will have to be made again when construction is complete and actual final quantities are known.

Please advise if there are questions on this matter. If this information appears in order, it should be submitted to Ms. Bray, along with the Bid Tabulation and my letter recommending award of the contract.

Very truly yours,
McClelland Consulting Engineers, Inc.


Robert W. White, P.E.
Vice-President

Encl: Update to Table No. 1

FY042166 Correspondence

UPDATE TO TABLE NO. 1
CITY OF FAYETTEVILLE
ESTIMATED REIMBURSEMENT BASIS
BASED ON EQUIVALENT SYSTEM BID PRICES
EXISTING SYSTEM

C. 14
Goodwin & Goodwin, Inc.
Page 11 of 16

QUANTITIES REQUIRING REPLACEMENT
RAZORBACK ROAD (HWY 112) AHTD JOB NO. 040399
January 20, 2006

Item	Bid Price	Units	Quantity on Old R/W	Estimated Value on Old R/W	Quantity on Easements	Estimated Value on Easements
10-Inch Water Main	\$55	Ft		\$0	145	\$7,975
8-Inch Water Main	\$35	Ft	1660	\$58,100	1616	\$56,560
6-Inch Water Main	\$35	Ft	57	\$1,995	20	\$700
3-Inch Water Main	\$20	Ft		\$0	206	\$4,120
2-Inch Service Line	\$15	Ft	25	\$375	245	\$3,675
1-Inch Service Line	\$15	Ft	79	\$1,185	76	\$1,140
10-Inch Valves	\$2,200	Ea		\$0	1	\$2,200
8-Inch Valves	\$1,600	Ea	4	\$6,400	4	\$6,400
6-Inch Valves	\$1,000	Ea	1	\$1,000	2	\$2,000
3-Inch Valves	\$700	Ea		\$0	1	\$700
2-Inch Valves	\$600	Ea	1	\$600		\$0
6-Inch Post Indicator Valve	\$1,400	Ea		\$0	1	\$1,400
Relocate Fire Hydrants	\$1,500	Ea	1	\$1,500	3	\$4,500
5/8-Inch Meter Settings	\$1,000	Ea		\$0	3	\$3,000
1-Inch Meter Settings	\$1,000	Ea	1	\$1,000	1	\$1,000
1 1/2-Inch Meter Settings	\$3,500	Ea		\$0	2	\$7,000
2-Inch Meter Settings	\$2,500	Ea		\$0	2	\$5,000
8"x1" Service Taps	\$150	Ea	2	\$300		\$0
8"x2" Service Taps	\$300	Ea	4	\$1,200	3	\$900
Ductile Iron Fittings	\$4.75	Lb	960	\$4,560	530	\$2,518
4-Inch Sewer Service	\$18	Ft	81	\$1,458	121	\$2,178
Sewer Service Cleanouts	\$200	Ea	1	\$200	1	\$200
Sewer Service Taps	\$800	Ea		\$0	1	\$800
Asphalt Surface Restoration	\$65	Sy	75	\$4,875	200	\$13,000
Concrete Surface Restoration	\$65	Sy	40	\$2,600	0	\$0
Curb & Gutter Restoration	\$30	Ft	40	\$1,200	80	\$2,400
Granular Fill	\$24	Tn	300	\$7,200	100	\$2,400
Trench Safety System	\$40,000	Ea	50%	\$20,000	50%	\$20,000
Erosion Control	\$6,000	Ea	60%	\$3,600	40%	\$2,400
20-Inch Steel Casing	\$300	Ft	50	\$15,000		\$0
16-Inch Steel Casing	\$225	Ft	260	\$58,500	80	\$18,000
10-Inch Steel Casing	\$150	Ft	75	\$11,250		\$0
2-Inch Steel Casing	\$15	Ft	65	\$975		\$0
Totals				\$205,073		\$172,166
Total Value of Quantities Being Replaced: \$205,073+\$172,166=\$377,239						
Reimbursement Percentage for Applicable Work: \$172,166÷\$377,239=45.64%						

DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the 7th day of February 2006, by and between Goodwin & Goodwin, Inc. herein called the Contractor, and the City of Fayetteville, Arkansas, Owner:

WITNESSETH:

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

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled Razorback Road Water and Sewer Main Replacement, dated September, 2005.

Advertisement for Bids
Instructions to Bidders
Bid and acceptance thereof
Performance Bond
Payment Bond

Maintenance Bond
General Conditions
Supplemental Conditions
Specifications
Drawings (See Sheet Index below)

SHEET INDEX

SHEET NO.	SHEET DESCRIPTION
1	Cover
2	Index, Legend & Location Map
3-5	Razorback Road Water Plan / Profile
6	Railroad Crossing No.1, Highway Crossing No. 3
7	Highway Crossing Cross Sections
8-9	Details

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

Seven Hundred Twenty-Two Thousand Eight Hundred Ninety & 50/100 Dollars (\$722,890.50)

3. The Work will be completed and ready for final payment in accordance with the General Conditions within 120 calendar days after the date when the Contract Time commences to run, as provided in the Notice to Proceed.

4. **Liquidated Damages:** The City of Fayetteville and Contractor recognize that time is of the essence of this Agreement and the City of Fayetteville will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City of Fayetteville **Five Hundred Dollars (\$500.00)** for each day that expires after the time specified in Paragraph 3 for completion and readiness for final payment.
5. That within 30 days of receipt of an approved payment request, the City of Fayetteville shall make partial payments to the Contractor on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Contractor, LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville.
6. That upon submission by the Contractor of evidence satisfactory to the City of Fayetteville that all payrolls, material bills, and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by the Contractor of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville.
7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at his expense, within 5 days after the receipt of notice from the City of Fayetteville, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville.
8. No additional work or extras shall be done unless the same shall be duly authorized by appropriate action by the City of Fayetteville in writing.
9. **Freedom of Information Act.** City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Arkansas Freedom of Information Act request is presented to the City of Fayetteville, (Contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. Seq.). Only Legally authorized photocopying cost pursuant to the FOIA may be assessed for this compliance.

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

SBAL:

WITNESSES:

Der Herr.

Goodwin & Goodwin Inc
CONTRACTOR

By

CONTRACTOR
Bryan H. Gaud

President
Title

ATTEST:

City Clerk

CITY OF FAYETTEVILLE, ARKANSAS
OWNER

By

Mayor

City Of Fayetteville (Not a Purchase Order)										Requisition No.:	Date:
Vendor #: 293 Vendor Name: GOODWIN & GOODWIN										P.O. Number:	Expected Delivery Date:
Address: 3503 FREE FERRY RD.										Mall: Yes: No:	Quoted Attached Yes: No:
City: FT. SMITH State: AR										Zip Code: 72903	Fob Point:
Requester: SID NORBASH										Ship to code:	Requester's Employee #:
										76	205
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #		
1	RAZORBACK RD. WATER & SEWER RELOCATION	1			\$722,890.50	5400-5600-5808.00					
2	PROJECT				\$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:										Subtotal:	\$722,890.50
										Tax:	
										Total:	\$722,890.50
Approvals:										Purchasing Manager: _____	
Mayor: _____										Department Director: _____	
Finance & Internal Services Director: _____										IT Manager: _____	
Dispatch Manager: _____										Other: _____	

Revised 1/31/06

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

C. 15
Crossland Heavy Contractors Contract
Page 1 of 18

February 7, 2006
City Council Meeting Date

Sid Norbash, Staff Engineer 
Submitted By

Engineering
Division

Operations
Department

Action Required:

A resolution approving the award of the construction contract in the amount of \$1,591,426.20 to the low bidder Crossland Heavy Contractors, Inc. for Wedington Drive (Arkansas Hwy 16) Water & Sewer Relocation Project. Also approval of a Project Contingency in the amount of \$160,000 (10%), and the related Budget Adjustment.

\$1,751,426.00
Cost of this request
5400-5600-5808-00
Account Number
05015-2
Project Number

\$1,808,694
Category/Project Budget
\$227,188
Funds Used to Date
\$1,581,506
Remaining Balance

Wedington Drive Water & Sewer Relocations Project
Program Category / Project Name
Water System Improvements
Program / Project Category Name
Water & Sewer
Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☒


Department Director

1-31-06
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

1/31/06


Finance and Internal Service Director

1-31-06
Date

Received in City Clerk's Office

ENTERED

1-31-06

Received in Mayor's Office

ENTERED

1/31/06


Mayor

1/31/06
Date

Comments:



City Council Meeting Date: February 7, 2006

The City of Fayetteville, Arkansas

City Council Agenda Memo

To: CITY COUNCIL

Thru: Mayor Dan Coody
Gary Dumas, Director of Operations
Ron Petrie, City Engineer *RP*

From: Sid Norbash, Staff Engineer *SN*

Date: January 27, 2006

Subject: Wedington Dr. (Hwy 16 West) – Water & Sewer Relocation Project
Award of Construction Contract

Recommendation:

A Resolution approving the award of the construction contract in the amount of \$1,591,426.20 to the low bidder Crossland Heavy Contractors, Inc. for Wedington Dr. Water & Sewer Relocation Project.

Also approval of a Project Contingency in the amount of \$160,000 (10%), and the related Budget Adjustment in the amount of \$252,837.

Background:

Wedington Drive is scheduled for improvements and widening by Arkansas Highway & Transportation Department, from Ruppel Rd. to Double Springs (please refer to the attached vicinity map).

In order to clear the way for the widening project by A.H.T.D., the existing water and sewer facilities serving this area will have to be relocated. In addition to the necessary relocation, the Staff has requested some over-sizing of the water mains, and fire protection improvements for this area.

Discussion:

On January 23, 2006 official bids were received for the construction of this project and the results are as follows:

Goodwin & Goodwin, Inc	\$1,970,170.00
Kraus Construction Co., LLC	\$1,733,270.00

S & J Construction Co., Inc.	\$1,670,018.45
C-2 Projects, LLC	\$1,599,573.25
Crossland Heavy Contractors, Inc.	\$1,591,426.20 (Low Bidder)

This project is partially reimbursable by A.H.T.D., and a previous agreement between the City of Fayetteville and A.H.T.D. has been approved by the Council. In this agreement, based on estimated quantities and preliminary data gathered by McClelland Consulting Engineers, the percentage of reimbursement was set at 41.26% for the construction phase.

Budget Impact:

After the final design and receiving bids new reimbursement factors have been calculated by McClelland and the new rate is 40.12%. For additional detail please refer to the attached McClelland memo.

Additional funding is needed for two main reasons: (1) Project Contingency was not included in the original estimates, (2) Reduction of the reimbursement factor from A.H.T.D.

Budget Division has prepared the following details on budget impact:

Wedington Utility W/S Relocations: (05015)
AHTD Job: 040423

AHTD Letter: January 24, 2006

Cost Area	Estimated	% AHTD Reimbursement	AHTD Reimbursement	City Contribution
Construction	\$ 1,591,426	40.12%	\$ 638,480	\$ 952,946
Project Contingency	160,000	40.12%	64,192	95,808
Engineering	144,105	40.12%	57,815	86,290
Engineering Contra	15,000	40.12%	6,018	8,982
Easement	150,000	46.76%	70,140	79,860
Health Fees	500	40.12%	201	299
Advertising Costs	500	40.12%	201	299
Estimated Cost	\$ 2,061,531	40.60%	\$ 837,047	\$ 1,224,484
Project Budget	\$ 1,808,694		\$ 732,155	\$ 1,076,539
Budget Needed	\$ 252,837		\$ 104,892	\$ 147,945

SN/sn

Attachments: Construction Contract

Vicinity Map

Bid Tabulation Sheets and McClelland's Memo

Budget Adjustment

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONSTRUCTION CONTRACT WITH CROSSLAND HEAVY CONTRACTORS, INC. IN THE AMOUNT OF \$1,591,426.20 FOR WATER AND SEWER RELOCATION FOR HIGHWAY IMPROVEMENTS TO WEDINGTON DRIVE; APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$160,000.00, AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$252,837.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a contract with Crossland Heavy Contractors, Inc. in the amount of \$1,591,426.20 for water and sewer relocation for highway improvements to Wedington Drive. 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 project contingency in the amount of \$160,000.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$252,837.00.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED

By

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

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

C. 15
Crossland Heavy Contractors Contract
Page 5 of 18

Budget Year 2006	Department: Water & Wastewater Division: Water & Sewer Maintenance Program: Capital Water Mains	Date Requested 2/7/2006	Adjustment Number
-------------------------	---	--------------------------------	-------------------

Project or Item Added/Increased: \$252,837 is requested in the Wedington Utility W/S Relocations capital project.	Project or Item Deleted/Reduced: \$147,945 from the Water & Sewer Use of Fund Balance. \$104,892 from the State of Arkansas AHTD.
---	--

Justification of this Increase: The additional funding is needed due to the awarding of a construction contract with Crossland Heavy Contractors (\$1,591,426.20), Project Contingency (\$160,000), and Engineering Contra (\$15,000).	Justification of this Decrease: Sufficient cash and investments exist to fund this project.
--	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Water line improvements	5400	5600	5808	00	252,837	05015	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
St Hwy-utility relocation	5400	0940	4303	00	104,892	05015	1
Use of fund balance	5400	0940	4999	99	147,945		

Approval Signatures

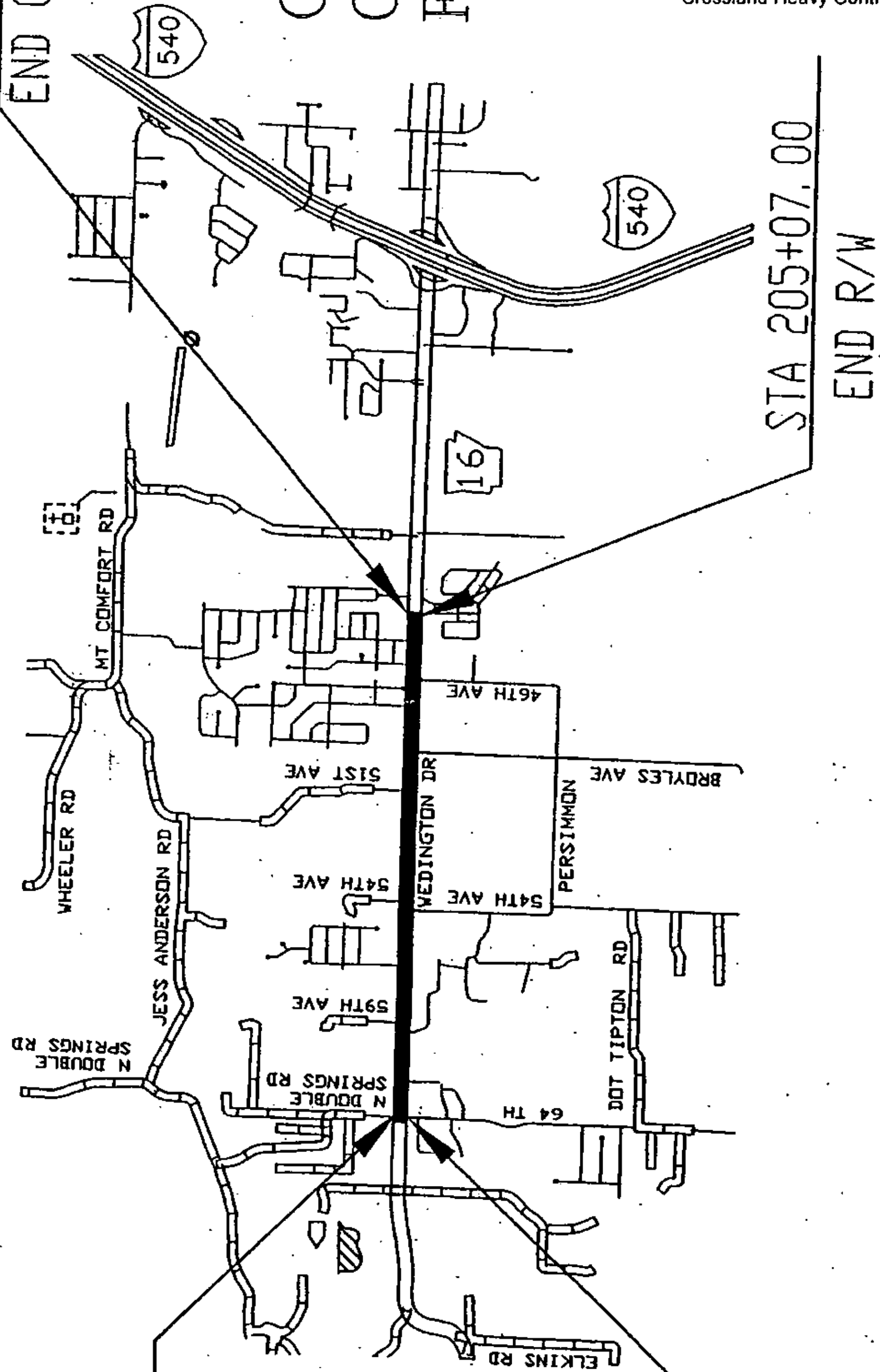
	1-30-06
Requested By	Date
	1-30-06
Budget Manager	Date
	1-31-06
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type:	A	B	C	<u>D</u>	E
Date of Approval					
	Initial				Date
Posted to General Ledger					
	Initial				Date
Posted to Project Accounting					
	Initial				Date
Entered in Category Log					
	Initial				Date

CI OF FA

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LAYOUT NOT TO SCALE

112+73.57

BEGIN R/W

A. 112+90.00

BEGIN JOB

STA 205+07.00

END R/W

WATER AND SEWER MAIN REPLACEMENT
MCE Project NO. FY042163
Bid Date: January 23, 2009

Item #	Description	Qty.	Unit	Grainland Heavy Contractors, Inc.	C-2 Projects, LLC	S & J Construction Co., Inc.	Kruze Construction Co., LLC	Goodwin & Goodwin, Inc.	
				Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended
1	Act 281, 1993 Trench and Excavation Safety System	1	LS	3,737.00	3,737.00	24,785.00	24,785.00	26,000.00	26,000.00
2	18-inch PVC, C-905, DR-18 Water Main	9,246	LF	78.70	729,188.20	72.64	671,829.44	73.00	674,938.00
3	12-inch PVC, C-900, Class 200 Water Main	530	LF	65.00	29,150.00	50.00	26,500.00	62.00	32,860.00
4	8-inch PVC, C-900, Class 200 Water Main	1,130	LF	38.00	42,940.00	40.00	45,200.00	35.00	39,550.00
5	6-inch PVC, C-900, Class 200 Water Main	80	LF	42.00	3,360.00	45.00	3,600.00	27.00	2,160.00
6	6-inch Ductile Iron, Class 350 Fire Hydrant Shubs	40	LF	51.00	2,040.00	48.00	1,920.00	30.00	1,200.00
7	2-inch PVC, SDR 13.6, Class 315	5,350	LF	16.50	88,275.00	13.00	69,550.00	15.00	80,250.00
8	2-inch Polyethylene Service Tubing	30	LF	30.00	900.00	15.00	450.00	16.00	480.00
9	1-inch Polyethylene Service Tubing	500	LF	15.00	7,500.00	12.44	6,220.00	15.00	7,500.00
10	16" Class 250 B Butterfly Valve w/Box	9	EA	5,867.00	52,803.00	5,800.00	52,200.00	5,600.00	50,400.00
11	12" Class 250 B Butterfly Valve w/Box	7	EA	3,220.00	22,540.00	3,500.00	24,500.00	3,200.00	22,400.00
12	8" Gate Valve w/Box	8	EA	928.00	7,408.00	1,200.00	9,600.00	1,200.00	9,600.00
13	6" Gate Valve w/Box	11	EA	528.00	5,808.00	650.00	7,150.00	500.00	5,500.00
14	2" Gate Valve w/Box	9	EA	417.00	3,753.00	480.00	4,320.00	720.00	6,480.00
15	Three Way Fire Hydrant	10	EA	2,690.00	26,900.00	2,276.00	22,760.00	2,600.00	26,000.00
16	Relocate Existing Fire Hydrant	1	EA	1,892.00	1,892.00	450.00	450.00	1,600.00	1,600.00
17	Salvage Existing Fire Hydrant	1	EA	1,693.00	1,693.00	250.00	250.00	800.00	800.00
18	Service Line Connection to Existing Meter Sellar	5	EA	459.00	2,295.00	278.00	1,378.00	500.00	2,500.00
	Single Meter Setting, Complete, Including Pressure Reducer and Plumber Connection to Existing Building Service					540.70	2,703.50	400.00	2,000.00
19	Service								
	1-Meter Setting, Complete, Including Pressure Reducer, and Plumber Connection to Existing Building Service	34	EA	431.00	14,654.00	874.79	29,742.86	800.00	27,200.00
20	Dual Meter Setting, Complete, Including Pressure Reducers and Plumber Connections to Existing Building	2	EA	632.00	1,084.00	923.79	1,847.58	1,300.00	2,600.00
21	Install New Frost Proof Yard Hydrant at Meter Setting	6	EA	660.00	3,960.00	1,080.78	6,484.69	1,300.00	7,800.00
22	Install New Meter Box on Existing Meter Setting	1	EA	240.00	240.00	678.92	678.92	410.00	410.00
23	Install New Meter Box Lid on Existing Meter Setting	2	EA	135.00	270.00	246.43	492.86	320.00	640.00
24	Install New Meter Yoke on Existing Meter Setting	2	EA	62.00	124.00	119.88	239.76	300.00	600.00
25	18" Saddle, 1" Corporation Stop and Tap	18	EA	312.00	5,616.00	135.41	2,437.38	310.00	5,580.00
26	18" Saddle, 2" Corporation Stop and Tap	1	EA	560.00	560.00	645.00	645.00	310.00	310.00
27	18" Saddle, 1" Corporation Stop and Tap	1	EA	235.00	235.00	945.58	945.58	390.00	390.00
28	2" Saddle, 1" Corporation Stop and Tap	2	EA	161.00	322.00	520.21	520.21	150.00	300.00
29	2" Saddle, 1" Corporation Tee, 12" Tapping Valve w/ Box	28	EA	142.00	4,118.00	133.63	3,876.27	120.00	3,360.00
30	12" x 12" Tapping Tee, 12" Tapping Valve w/ Box	1	EA	9,044.00	9,044.00	5,978.82	5,978.82	5,100.00	5,100.00
31									

WEDDINGTON DRIVE (ARKANSAS HWY 16)
WATER AND SEWER MAIN REPLACEMENT
NCE Project NO. FY042166
Bid Date: January 23, 2006

Item #	Description	Qty.	Units	Groeland Heavy Contractors, Inc.		C-2 Projects, LLC		S & J Construction Co., Inc.		Kraus Construction Co., LLC		Geodwin & Geodwin, Inc.	
				Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended
32	6" x 8" Tapping Tee, 8" Tapping Valve w/Box	6	EA	4,419.00	35,344.00	2,500.00	20,000.00	3,435.18	27,431.44	4,400.00	38,200.00	3,900.00	30,400.00
33	6" x 6" Tapping Tee, 6" Tapping Valve w/Box	4	EA	3,505.00	14,024.00	2,000.00	8,000.00	2,801.47	10,405.88	4,000.00	16,000.00	3,000.00	12,000.00
34	4" x 4" Tapping Tee, 4" Tapping Valve w/Box	1	EA	2,884.00	2,884.00	1,800.00	1,800.00	2,040.93	2,040.93	3,900.00	3,900.00	2,800.00	2,800.00
35	2" Blowoff Assembly	1	EA	1,351.00	1,351.00	1,450.00	1,450.00	1,281.52	1,281.52	2,400.00	2,400.00	800.00	800.00
36	18" x 18" Connection	1	EA	380.00	380.00	3,500.00	3,500.00	3,229.51	3,229.51	7,000.00	7,000.00	6,000.00	6,000.00
37	8" x 2" Saddle, 2" Corp Stop and Tap for 2" Main Connection	6	EA	398.00	2,378.00	350.00	2,100.00	597.97	3,587.82	700.00	4,200.00	400.00	2,400.00
38	30-inch Bored Steel Casing	30	LF	1,176.00	35,280.00	420.00	12,600.00	390.00	11,700.00	360.00	10,500.00	450.00	13,500.00
39	30-Inch Direct Bury Steel Casing	92	LF	152.00	13,884.00	180.00	14,720.00	208.75	19,205.00	180.00	16,560.00	225.00	20,700.00
40	24-Inch Bored Steel Casing	74	LF	346.00	25,752.00	350.00	25,900.00	305.00	22,570.00	280.00	20,720.00	375.00	27,750.00
41	24-Inch Direct Bury Steel Casing	40	LF	125.00	5,000.00	180.00	7,200.00	130.00	5,200.00	160.00	6,000.00	240.00	10,930.00
42	18-Inch Bored Steel Casing	280	LF	269.00	80,320.00	290.00	84,100.00	190.00	55,100.00	240.00	69,600.00	225.00	65,250.00
43	18-Inch Direct Bury Steel Casing	138	LF	82.00	11,316.00	100.00	13,600.00	100.00	13,800.00	130.00	17,940.00	125.00	17,250.00
44	8-Inch Direct Bury Steel Casing	40	LF	55.00	2,200.00	60.00	2,400.00	40.00	1,600.00	120.00	4,800.00	45.00	1,800.00
45	Short Bore Under Trees, for 18" Main, No Casing	100	LF	261.00	26,100.00	215.00	21,500.00	240.00	24,000.00	110.00	11,000.00	175.00	17,500.00
46	Short Bore Under Trees, for 8" to 12" Main, No Casing	30	LF	181.00	5,430.00	185.00	4,850.00	187.50	5,025.00	170.00	5,100.00	100.00	3,000.00
47	Casing	80	LF	39.00	3,120.00	60.00	4,800.00	55.00	4,400.00	90.00	7,200.00	30.00	2,400.00
48	Protective Fencing for Trees	8	EA	190.00	1,520.00	250.00	2,000.00	324.13	2,593.04	500.00	4,000.00	400.00	3,200.00
49	Cut and Cap Existing 12" Main	1	EA	483.00	483.00	810.00	810.00	1,586.29	1,586.29	1,100.00	1,100.00	2,000.00	2,000.00
50	Cut and Cap Existing 8" Main	11	EA	201.00	2,211.00	885.00	7,635.00	1,533.40	15,867.40	1,000.00	11,000.00	1,500.00	15,600.00
51	Cut and Cap Existing 6" Main	4	EA	234.00	936.00	840.00	2,850.00	1,280.49	5,041.96	1,000.00	4,000.00	1,200.00	4,800.00
52	Cut and Cap Existing 4" Main	1	EA	200.00	200.00	826.00	826.00	787.37	787.37	1,000.00	1,000.00	1,000.00	1,000.00
53	Cut and Cap Existing 2" Main	1	EA	214.00	214.00	250.00	250.00	470.58	470.58	1,000.00	1,000.00	800.00	800.00
54	Abandon Existing Valve	16	EA	202.00	3,232.00	400.00	6,400.00	264.72	4,235.52	150.00	2,400.00	300.00	4,800.00
55	Epoxy Grouted Ductile Iron Fittings	14,465	LB	5.00	88,790.00	5.25	75,941.25	5.42	78,400.30	7.00	101,255.00	5.00	72,325.00
56	Concrete Collar Thrust Anchor on Existing 18" Water Main	1	EA	395.00	395.00	2,500.00	2,500.00	2,450.00	2,450.00	2,300.00	2,300.00	1,500.00	1,500.00
57	8-Inch PVC Sewer Main, SDR-26	837	LF	12.00	10,044.00	55.00	48,035.00	89.99	49,014.72	93.00	52,731.00	35.00	28,295.00
58	8-Inch PVC Sewer Main, SDR-28	15	LF	18.00	270.00	30.00	450.00	58.36	845.40	60.00	900.00	30.00	450.00
59	4-Inch PVC Sewer Service, SDR-26, Including Trenching and Backfilling	70	LF	38.00	2,660.00	20.00	1,400.00	26.85	1,979.50	40.00	2,800.00	10.00	1,260.00
60	Sewer Main Trenching and Backfilling, 0-8 Feet Deep	247	LF	17.00	4,198.00	10.00	2,470.00	21.75	5,372.25	10.00	2,470.00	10.00	2,470.00
61	Sewer Main Trenching and Backfilling, 8-9 Feet Deep	325	LF	19.00	6,175.00	12.00	3,900.00	36.25	11,781.25	12.00	3,900.00	15.00	4,875.00
62	Sewer Main Trenching and Backfilling, 8-10 Feet Deep	74	LF	21.00	1,554.00	25.00	1,850.00	60.75	3,785.00	14.00	1,038.00	20.00	1,400.00

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MCLELLAND ENGINEERS

PAGE 04

TECHNITION UNIVE (ARKANSAS HWY 16)
WATER AND SEWER MAIN REPLACEMENT
MCE Project NO. FY042165
Bid Date: January 23, 2006

Item #	Description	Qty.	Units	Crossland Heavy Contractors, Inc.		C&D Projects, LLC		S & J Construction Co., Inc.		Kaiser Construction Co., LLC		Goodwin & Goodwin, Inc.	
				Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended	Unit Cost	Extended
63	Sewer Main Trenching and Backfilling, 10-12 Feet Deep	20	LF	23.00	460.00	72.50	1,450.00	18.00	360.00	25.00	500.00		
64	4' Diameter Standard Manhole, 0-6 Feet Deep	12	EA	3,994.00	47,928.00	2,080.00	24,960.00	4,500.00	54,000.00	3,000.00	36,000.00		
65	4' Foot Diameter Drop Manhole, 0 Feet to 6 Feet Deep	1	EA	3,994.00	3,994.00	3,233.00	3,233.00	7,000.00	7,000.00	3,600.00	3,600.00		
66	Extra Manhole Depth, Over 6 Feet Deep	13	VF	326.00	4,238.00	172.50	2,242.50	350.00	4,550.00	300.00	3,900.00		
67	Remove Existing Manhole	6	EA	711.00	4,266.00	725.00	4,350.00	1,000.00	6,000.00	800.00	4,800.00		
68	Service Wye on 8-Inch PVC	4	EA	438.00	1,752.00	115.46	461.84	170.00	680.00	150.00	600.00		
69	4-Inch Manhole Tap for Service	2	EA	725.00	1,450.00	642.68	1,285.36	100.00	200.00	1,000.00	2,000.00		
70	TV Inspection of Existing Sewer to be Abandoned and/or Replaced	840	LF	3.50	2,940.00								
71	Sewer Service Cleanout	2	EA	550.00	1,100.00	14.50	29.00	5.00	10.00	8.00	16.00		
72	20" Direct Bury Steel Casing	77	LF	97.00	7,469.00	394.11	30,336.87	230.00	17,710.00	200.00	15,400.00		
73	18" Bored Steel Casing	132	LF	228.00	30,096.00	211.00	27,852.00	230.00	30,340.00	250.00	33,000.00		
74	18" Direct Bury Steel Casing	54	LF	88.00	4,752.00	360.00	19,440.00	310.00	16,740.00	375.00	20,250.00		
75	Asphalt Surface Restoration	400	SY	52.00	20,800.00	172.55	73,020.00	210.00	84,000.00	225.00	90,000.00		
76	Asphalt Highway Restoration	10	SY	82.00	820.00	60.00	600.00	90.00	900.00	85.00	850.00		
77	Concrete Surface Restoration	300	SY	76.00	22,800.00	70.00	21,000.00	160.00	16,800.00	125.00	12,500.00		
78	Concrete Sidewalk Restoration	20	SY	69.00	1,380.00	60.00	1,200.00	65.00	1,300.00	70.00	1,400.00		
79	Curb and Gutter Restoration	40	LF	42.00	1,680.00	35.00	1,400.00	23.00	920.00	30.00	1,200.00		
80	Granular Fill	1,000	TON	12.00	12,000.00	17.50	17,500.00	24.00	24,000.00	24.00	24,000.00		
81	Trench Stabilization Material	30	TON	27.00	810.00	17.50	525.00	24.00	720.00	15.00	450.00		
82	Flowable Fill	25	CY	92.00	2,300.00	110.00	2,750.00	130.00	3,250.00	85.00	2,125.00		
83	Erosion Control	1	LS	8,000.00	8,000.00	9,500.00	9,500.00	22,000.00	22,000.00	8,000.00	8,000.00		
TOTAL BASE BID (Items 1 through 83)													
Total Base Bid Wadlington Drive Water and Sewer					1,491,426.20		1,599,873.25		1,670,618.45		1,733,270.00		1,970,170.00

RECEIVED

JAN 25 2006

ENGINEERING DIV.

MCE McCLELLAND
CONSULTING
ENGINEERS, INC.
DESIGNED TO SERVE

C. 15
Crossland Heavy Contractors Contract
Page 10 of 18

P.O. Box 1229

Fayetteville, Arkansas 72702-1229

479-443-2377

FAX 479-443-9241

January 24, 2006

Mr. Sid Norbash
Staff Engineer
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Re: Highway 16 (Wedington Drive)
AHTD Job No. 040423
Updated Reimbursement Estimate

Dear Mr. Norbash:

Table No. 1 attached to my letter dated April 27, 2005 addressed to you estimated that the Highway Department should reimburse your City 87.45% of applicable relocation work on the Wedington Drive project. This table was modified by Table No. 8 to include casings on and off the old highway right-of-way. Inclusion of the reimbursement ineligible casings on the old right-of-way dropped this percentage to 65.40% of the value of a "replacement-in-kind" system, as listed at the bottom of Table No.8.

We have updated Table No. 1 and Table No. 8 using the Equivalent System bid prices for the low bidder (S & J Construction) on this bid schedule. The resulting Updated Table No. 1 has a reimbursement percentage of 87.24%. This number drops to 69.20% as listed at the bottom of Updated Table No. 8 when casing costs are considered.

Basically, the Updated Table No. 8 indicates that your City's reimbursement value for an equivalent system should be \$638,546.35. Since you are actually building an upgraded system with an 18-inch water main, the Base Bid for the proposed work totals \$1,591,426.20, as listed on page 3 of the Bid Tabulation. If the Highway Department reimburses \$638,546.35, the actual reimbursement for the upgraded system will be 40.12% of the upgraded system cost. The resulting construction cost for the City would be approximately \$952,879.85.

Our letter of April 27, 2005 indicates that the City's estimated construction cost would be \$1,076,154, so the actual bid prices appear to reduce the City's costs. The actual reimbursement will depend on actual construction quantities, so this set of calculations will have to be made again when construction is complete and actual final quantities are known.

Please advise if there are questions on this matter. If this information appears in order, it should be submitted to Mr. Bray, along with the Bid Tabulation and my letter recommending award of the contract.

Very truly yours,
McClelland Consulting Engineers, Inc.



Robert W. White, P.E.
Vice-President

Encl: Updated Table No. 1 and No. 8

UPDATE TO TABLE NO. 1
CITY OF FAYETTEVILLE
ESTIMATED REIMBURSEMENT BASIS
EXISTING SYSTEM
QUANTITIES REQUIREING REPLACEMENT
WEDINGTON DRIVE (HWY 16) AHTD JOB NO. 040423
BASED ON S & J CONSTRUCTION CO.
EQUIVALENT SYSTEM BID PRICES
January 24, 2006

C. 15
Crossland Heavy Contractors Contract
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Item:	Bid Price	Quantity on Old R/W:	Estimated Value on Old R/W:	Quantity on Easements:	Estimated Value on Easements:
12-inch Water Main	\$49.49/ft	75 ft	\$3,711.75	66 ft	\$3,266.34
8-inch Water Main	\$35.27/ft	285 ft	\$10,051.95	7029 ft	\$247,912.83
6-inch Water Main	\$29.84/ft	353 ft	\$10,533.52	278 ft	\$8,295.52
4-inch Water Main	\$25.56/ft	65 ft	\$1,661.40	260 ft	\$6,645.60
2-inch Service Line	\$16.57/ft	75 ft	\$1,242.75	46 ft	\$762.22
1-inch Service Line	\$12.44/ft	1229 ft	\$15,288.76	1158 ft	\$14,405.52
12-inch Valves	\$3157.42/ea	-	\$0.00	1 ea	\$3,157.42
8-inch Valves	\$1390.54/ea	-	\$0.00	6 ea	\$8,343.24
6-inch Valves	\$1065.73/ea	2 ea	\$2,131.46	4 ea	\$4,262.92
4-inch Valves	\$939.95/ea	1 ea	\$939.95	-	\$0.00
2-inch Valves	\$814.17/ea	-	\$0.00	1 ea	\$814.17
Relocate Fire Hydrant	\$1038.20/ea	-	\$0.00	1 ea	\$1,038.20
5/8" Meter Settings	\$874.79/ea	5 ea	\$4,373.95	29 ea	\$25,368.91
Dual 5/8" Meter Settings	\$1080.75/ea	2 ea	\$2,161.50	3 ea	\$3,242.25
1" Meter Settings	\$923.79/ea	-	\$0.00	2 ea	\$1,847.58
8" x 1" Service Tap	\$204.14/ea	1 ea	\$204.14	44 ea	\$8,982.16
8" x 2" Service Tap	\$592.71/ea	-	\$0.00	2 ea	\$1,185.42
6" x 1" Service Tap	\$294.51/ea	1 ea	\$294.51	-	\$0.00
Ductile Iron Fittings	\$5.42/lb	152lb	\$823.84	708lb	\$3,837.36
8-inch Sewer Main	\$58.56/ft	70 ft	\$4,099.20	438 ft	\$25,649.28
6-inch Sewer Main	\$56.36/ft	75 ft	\$4,227.00	220 ft	\$12,399.20
Sewer Service Taps	\$115.46/ea	-	\$0.00	5 ea	\$577.30
Sewer Manhole, 0'-6' Deep	\$2080.00/ea	-	\$0.00	2 ea	\$4,160.00
Sewer Manhole, 6'-8' Deep	\$2425.00/ea	-	\$0.00	4 ea	\$9,700.00
Asphalt Surface Restoration	\$50.00/sy	-	\$0.00	210 sy	\$10,500.00
Concrete Surface Restoration	\$50.00/sy	-	\$0.00	82 sy	\$4,100.00
Curb and Gutter Restoration	\$35.00/ft	-	\$0.00	16 ft	\$560.00
Granular Fill	\$17.50/Tn	40 Tn	\$700.00	485 Tn	\$8,487.50
Trench Safety System	\$25000./ea	10.00%	\$2,500.00	90.00%	\$22,500.00
Erosion Control	\$9500.00/ea	10.00%	\$950.00	90.00%	\$8,550.00
Totals:			\$65,895.68		\$450,550.94

Total Value of Quantities Being Replaced: $\\$65,895.68 + \\$450,550.94 = \\$516,446.62$ Reimbursement Percentage for Applicable Relocation Work: $\\$450,550.94 \div \\$516,446.62 = 87.24\%$
--

UPDATE TO TABLE NO. 8
CITY OF FAYETTEVILLE
REPLACEMENT IN-KIND COST ESTIMATE
WEDINGTON DRIVE (HWY 62) AHTD JOB NO. 040423
USING S & J CONSTRUCTION CO.
EQUIVALENT SYSTEM BID PRICES
January 24, 2006

C. 15
Crossland Heavy Contractors Contract
Page 12 of 18

Item:	Estimated Quantity	Bid Price	Estimated Total Cost	Percent Reimbursable	Estimated Reimbursable Amount
12-inch Water Main	152 ft	\$49.49	\$7,522.48	87.24%	\$6,562.61
8-inch Water Main	7518 ft	\$35.27	\$265,159.86	87.24%	\$231,325.46
6-inch Water Main	671 ft	\$29.84	\$20,022.64	87.24%	\$17,467.75
4-inch Water Main	87 ft	\$25.56	\$2,223.72	87.24%	\$1,939.97
2-inch Service Line	130 ft	\$16.57	\$2,154.10	87.24%	\$1,879.24
1-inch Service Line	2243 ft	\$12.44	\$27,902.92	87.24%	\$24,342.51
8-inch Valves	7 ea	\$1,390.54	\$9,733.78	87.24%	\$8,491.75
6-inch Valves	6 ea	\$1,065.73	\$6,394.38	87.24%	\$5,578.46
12"x12" Tapping Tee and Valve	1 ea	\$5,978.82	\$5,978.82	87.24%	\$5,215.92
8"x8" Tapping Tee and Valve	11 ea	\$3,435.18	\$37,786.98	87.24%	\$32,965.36
6"x6" Tapping Tee and Valve	4 ea	\$2,963.97	\$11,855.88	87.24%	\$10,343.07
4"x4" Tapping Tee and Valve	1 ea	\$2,475.93	\$2,475.93	87.24%	\$2,160.00
Relocate 3-Way Fire Hydrant	1 ea	\$1,038.20	\$1,038.20	87.24%	\$905.73
New 3-Way Fire Hydrant	3 ea	\$2,247.61	\$6,742.83	87.24%	\$5,882.44
24-inch Bored Casing on Old Hwy R/W	75 ft	\$305.00	\$22,875.00	0.00%	\$0.00
24-inch Direct Bury Casing Off Old Hwy R/W	30 ft	\$130.00	\$3,900.00	87.24%	\$3,402.36
16-inch Bored Casing On Old Hwy R/W	364 ft	\$190.00	\$69,160.00	0.00%	\$0.00
16-inch Direct Bury Casing Off Old Hwy R/W	283 ft	\$100.00	\$28,300.00	87.24%	\$24,688.92
4-inch Bored Casing On Old Hwy R/W	75 ft	\$85.00	\$6,375.00	0.00%	\$0.00
4-inch Direct Bury Casing Off Old Hwy R/W	25 ft	\$35.00	\$875.00	87.24%	\$763.35
2-inch Bored Casing On Old Hwy R/W	1089 ft	\$41.00	\$44,649.00	0.00%	\$0.00
2-inch Direct Bury Casing Off Old Hwy R/W	599 ft	\$19.00	\$11,381.00	87.24%	\$9,928.78
5/8" Meter Settings	37 ea	\$874.79	\$32,367.23	87.24%	\$28,237.17
Dual 5/8" Meter Settings	5 ea	\$1,080.75	\$5,403.75	87.24%	\$4,714.23
1" Meter Settings	2 ea	\$923.79	\$1,847.58	87.24%	\$1,611.83
Reconnect Existing Meter Setting	7 ea	\$468.20	\$3,277.40	87.24%	\$2,859.20
8"x1" Service Tap	45 ea	\$204.14	\$9,186.30	87.24%	\$8,014.13
8"x2" Service Tap	2 ea	\$592.71	\$1,185.42	87.24%	\$1,034.16
6"x1" Service Tap	1 ea	\$294.51	\$294.51	87.24%	\$256.93
Ductile Iron Fittings	3400 lb	\$5.42	\$18,428.00	87.24%	\$16,076.59
8-inch Sewer Main	837 ft	\$58.56	\$49,014.72	87.24%	\$42,760.44
6-inch Sewer Main	15 ft	\$56.36	\$845.40	87.24%	\$737.53
4-Inch PVC Sewer Service, SDR-26, Including Trenching and Backfilling	70 ft	\$26.85	\$1,879.50	87.24%	\$1,639.68
Sewer Main Trenching and Backfilling, 0-6 Feet Deep	247 ft	\$21.75	\$5,372.25	87.24%	\$4,686.75
Sewer Main Trenching and Backfilling, 6-8 Feet Deep	325 ft	\$36.25	\$11,781.25	87.24%	\$10,277.96

UPDATE TO TABLE NO. 8 (CONT.)

Sewer Main Trenching and Backfilling, 8-10 Feet Deep	74 ft	\$46.25	\$3,422.50	87.24%	\$2,985.79
Sewer Main Trenching and Backfilling, 10-12 Feet Deep	20 ft	\$72.50	\$1,450.00	87.24%	\$1,264.98
4' Diameter Standard Manhole, 0-6 Feet Deep	12 ea	\$2,080.00	\$24,960.00	87.24%	\$21,775.10
4' Diameter Drop Manhole, 0-6 Feet Deep	1 ea	\$3,225.00	\$3,225.00	87.24%	\$2,813.49
Extra Manhole Depth, Over 6 Feet Deep	13 vf	\$172.50	\$2,242.50	87.24%	\$1,956.36
Remove Existing Manhole	6 ea	\$725.00	\$4,350.00	87.24%	\$3,794.94
Service Wye on 8-Inch PVC	4 ea	\$115.46	\$461.84	87.24%	\$402.91
4-Inch Manhole Tap for Service	2 ea	\$642.88	\$1,285.76	87.24%	\$1,121.70
TV Inspection on Existing Sewer to be Abandoned and/or Replaced	840 ft	\$14.50	\$12,180.00	87.24%	\$10,625.83
Sewer Service Cleanout	2 ea	\$394.11	\$788.22	87.24%	\$687.64
20" Direct Bury Steel Casing Off Old Hwy R/W	77 ft	\$181.00	\$13,937.00	87.24%	\$12,158.64
18" Bored Steel Casing On Old Hwy R/W	132 ft	\$305.00	\$40,260.00	0.00%	\$0.00
18" Direct Bury Steel Casing Off Old Hwy R/W	54 ft	\$173.75	\$9,382.50	87.24%	\$8,185.29
Asphalt Surface Restoration	215 sy	\$50.00	\$10,750.00	87.24%	\$9,378.30
Concrete Surface Restoration	195 sy	\$50.00	\$9,750.00	87.24%	\$8,505.90
Concrete Sidewalk Restoration	15 sy	\$50.00	\$750.00	87.24%	\$654.30
Curb and Gutter Restoration	16 ft	\$35.00	\$560.00	87.24%	\$488.54
Granular Fill	550 ton	\$17.50	\$9,625.00	87.24%	\$8,396.85
Trench Stabilization Material	15 ton	\$17.50	\$262.50	87.24%	\$229.01
Flowable Fill	15 cy	\$110.00	\$1,650.00	87.24%	\$1,439.46
Protective Fencing for Trees	4 ea	\$400.00	\$1,600.00	87.24%	\$1,395.84
Erosion Control	1 ls	\$9,500.00	\$9,500.00	87.24%	\$8,287.80
Trench Safety System	1 ea	\$25,000.00	\$25,000.00	87.24%	\$21,810.00
Totals:			\$922,783.65		\$638,546.35

Reimbursement Percentage for Replacement In-Kind = $\$638,546.35 \div \$922,783.65 = 69.20\%$. This is lower than the percentage calculated in Updated Table No. 1 because the value of casing pipe on the old highway right-of-way is not included as eligible for reimbursement, since this value was not included in Table No. 1 to calculate the reimbursement percentage.

DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the 7th day of February, 2006, by and between Crossland Heavy Contractors, Inc., Columbus, KS herein called the Contractor, and the City of Fayetteville, Arkansas, Owner:

WITNESSETH:

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

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled Wedington Drive Water and Sewer Main Replacement, dated August, 2005.

Advertisement for Bids
Instructions to Bidders
Bid and acceptance thereof
Performance Bond
Payment Bond

Maintenance Bond
General Conditions
Supplemental Conditions
Specifications
Drawings (See Sheet Index below)

SHEET INDEX

SHEET NO.	SHEET DESCRIPTION
1	Cover
2	Index, Legend & Location Map
3-9	Wedington Drive Water Plan / Profile
10	Highway Crossing Cross Sections
11	Sewer Lines 1 and 3
12	Sewer Lines 2 and 4
13-14	Details

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

One Million Five Hundred Ninety One Thousand, Four Hundred Twenty Six & 20 /100 Dollars
(\$1,591,426.20)

3. The Work will be completed and ready for final payment in accordance with the General Conditions within 180 calendar days after the date when the Contract Time commences to run, as provided in the Notice to Proceed.

4. **Liquidated Damages:** The City of Fayetteville and Contractor recognize that time is of the essence of this Agreement and the City of Fayetteville will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City of Fayetteville Five Hundred Dollars (\$500.00) for each day that expires after the time specified in Paragraph 3 for completion and readiness for final payment.
5. That within 30 days of receipt of an approved payment request, the City of Fayetteville shall make partial payments to the Contractor on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Contractor, LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville.
6. That upon submission by the Contractor of evidence satisfactory to the City of Fayetteville that all payrolls, material bills, and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by the Contractor of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville.
7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at his expense, within 5 days after the receipt of notice from the City of Fayetteville, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville.
8. No additional work or extras shall be done unless the same shall be duly authorized by appropriate action by the City of Fayetteville in writing.
9. **Freedom of Information Act.** City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Arkansas Freedom of Information Act request is presented to the City of Fayetteville, (Contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. Seq.). Only Legally authorized photocopying cost pursuant to the FOIA may be assessed for this compliance.

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

SEAL:

WITNESSES:

Crossland Heavy Contractors, Inc.
CONTRACTOR

By 
PROJECT MANAGER
~~President~~
Title

ATTEST:

City Clerk

CITY OF FAYETTEVILLE, ARKANSAS
OWNER

By _____
Mayor

City Of Fayetteville

(Not a Purchase Order)

Vendor #:

13383

Vendor Name:

CROSSLAND HEAVY CONTRACTORS

Address:

833 S. EAST AVE. PO BOX 350

Fob Point:

Requisition No.:

Date:

P.O. Number:

Expected Delivery Date:

City:

COLUMBUS

State:

KC

Zip Code:

66725

Ship to code:

76

Division Head Approval:

for *Dir. Muck*

Requester:

SID NORBASH

Requester's Employee #:

76

Extension:

205

Item Description

WEDINGTON WATER &
SEWER RELOCATION

Quantity

1

Unit of Issue

Unit Cost

Extended Cost

\$1,591,426.20

Account Numbers

5400-5600-5808.00

Project/Subproject #

Inventory #

Fixed Asset #

PROJECT

Special Instructions:

Subtotal:

\$1,591,426.20

Tax:

Total:

\$1,591,426.20

Approvals:

Mayor:

Department Director:

Finance & Internal Services Director:

Budget Manager:

Dispatch Manager:

Utilities Manager:

Other:

Purchasing Manager:

IT Manager:

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
February 7, 2006**

A meeting of the Fayetteville City Council will be held on February 7, 2006 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 presentation by James Estes of Wilson Estes Police Architects of Mission, Kansas will be given on the recently completed Facilities Needs Assessment – Agenda Session Only

A. CONSENT:

- 1. Approval of the January 3 and January 17, 2006 City Council meeting minutes.**
- 2. Elm Springs Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Elm Springs, Arkansas to provide animal sheltering services to the City of Elm Springs for 2006.
- 3. Goshen Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Goshen, Arkansas to provide animal sheltering services to the City of Goshen for 2006.
- 4. Wittenberg, Delony & Davidson, Inc. – Fire Station #5 Design:** A resolution approving a contract in the amount of \$70,000.00 with Wittenberg, Delony & Davidson for design and oversight of the replacement for current Fire Station #5.
- 5. Fire Station Construction Bond:** A resolution of intent regarding the reimbursement of certain costs and expenses incurred in connection with the acquisition, construction and equipping of fire station improvements within the city.

6. **Walker Park Sign - Right of Way Variance:** A resolution approving a variance from the Master Street Plan setback requirements to allow for the construction of an entrance sign at Walker Park.
7. **Arkoma Playgrounds & Supply:** A resolution accepting a proposal in the amount of \$79,699.00 from Arkoma Playgrounds & Supply for the installation of new playground equipment at the Yvonne Richardson Community Center.
8. **Advertising & Promotion Commission:** A resolution to approve an agreement with the Fayetteville Advertising and Promotion Commission to collect and account for the 1% A&P Commission Hotel, Motel, and Restaurant Tax.
9. **Code Compliance Site Clean-up:** A resolution awarding Bid #06-CC01 to Robert Evans in the amount of \$25,000.00 to provide site clean-up services for the City Code Compliance efforts.
10. **Van Scoyoc and Associates Contract:** A resolution approving a memorandum of agreement with Van Scoyoc Associates in the amount of \$84,000.00 to provide lobbying services to the City of Fayetteville.
11. **Dead Horse Mountain Bridge:** A resolution expressing the willingness of the City of Fayetteville to utilize Federal-aid monies for the replacement of structure No.17332 over the West Fork of the White River on Dead Horse Mountain Road.
12. **Traffic Signal Morningside Drive:** A resolution authorizing City staff to design and construct a traffic signal at the intersection of 15th Street and Morningside Drive.

B. UNFINISHED BUSINESS:

1. **John D. Lindsey, LLC. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC. *This resolution was tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting. This resolution was tabled at the January 3, 2006 City Council meeting to the January 17, 2006 City Council meeting. This resolution was tabled at the January 17, 2006 City Council meeting to the February 7, 2006 City Council meeting.*
2. **R-PZD 05-1776 Wedington Circle:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan. *This ordinance was left on the Second Reading at the January 3, 2006 City Council meeting. This ordinance was left on the Third Reading at the January 17, 2006 City Council meeting. This ordinance was tabled at the January 17, 2006 City Council meeting to the February 7, 2006 City Council meeting.*

C. NEW BUSINESS:

1. **BioBased Realty:** An ordinance waiving the requirements of formal competitive bidding and approving a contract for demolition services with BioBased Realty, LLC, BioBased Technologies, LLC, and BioBased Systems, LLC, in exchange for a \$17,000.00 credit toward the purchase of the Water and Sewer Operations Center on Cato Springs Road.
2. **Duncan Associates – Road Impact Fees Study:** A resolution to approve and adopt the road impact fees study of October 24, 2005 by Duncan Associates.
3. **AMD 05-1841, 05-1842, 05-1879 Hillside Overlay District:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville to amend various sections of the code in order to implement hillside preservation and protection, establish a Hillside Overlay District Zoning Boundary and Map, and adopt the Hillside Overlay District Best Management Practices Manual.
4. **ANX 06-1867 (Wales):** An ordinance annexing that property described in annexation petition ANX 06-1867, CC2005-38, for property located at 2055 North Fox Hunter Road, containing 1.4 acres.
5. **R-PZD 05-1619 (Westbrook Village):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1619, Westbrook Village, located at tracts 1 and 2 of the original Salem Village P.U.D., containing approximately 1.42 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
6. **RZN 06-1852 (Scholars Inn):** An ordinance rezoning that property described in rezoning petition RZN 06-1852 for approximately 1.74 acres located at 1125, 1137, 1153, 1189 north West End Avenue from RSF -4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre.
7. **RZN 06-1868 (Chambers):** An ordinance rezoning that property described in rezoning petition RZN 06-1868 for approximately .20 acres located at 347 North Willow Avenue from RSF-4 Residential Single-Family , 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre.
8. **Smith 2 Way Tower Appeal:** An appeal regarding the conditional permit submitted by Michael Smith and Gary Cochran for Smith 2 Way Radio for property located at 520 N College Avenue.
9. **R-PZD 05-1735 Paddock Road Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1735, Paddock Road, located southwest of the intersection of Paddock Road and Happy Hollow Road; containing approximately 9.77 acres; amending the official zoning map of the City of Fayetteville, and adopting the associated Master Development Plan.
10. **ANX 06-1853 (Nock/Broyles):** An ordinance annexing that property described in annexation petition ANX 06-1853, for property located north of Weir Road and east of Salem Road and Howard Nickell Road, containing approximately 39.11 acres.
11. **RZN 06-1854 (Nock/Broyles):** An ordinance rezoning that property described in rezoning petition RZN-06-1854 for approximately 39.11 acres located north of Weir

Road and east of Salem Road and Howard Nickell Road from R-A, Residential Agricultural to RSF-2, Residential Single Family, 2 units per acre.

12. **Fayetteville Government Channel Policy:** A resolution approving revisions to the Fayetteville Government Channel Use and Programming Policy.
13. **BMW Investments, LLC:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with BMW Investments, LLC in an amount not to exceed \$535,934.80 for the widening of Ruppel Road adjacent to the Clabber Creek Subdivision, Phases 3, 4 and 5.
14. **Goodwin & Goodwin, Inc:** A resolution approving a construction contract with Goodwin & Goodwin, Inc. in the amount of \$722,890.50 for water and sewer relocation for highway improvements to Razorback Road; and approving a project contingency in the amount of \$72,000.00.
15. **Crossland Heavy Contractors Contract – Wedington Drive Water and Sewer Relocations Project:** A complete information packet will be submitted at Agenda Session.

D. INFORMATIONAL:

A presentation by Rick Wilcox of NW Medical Transfer will be given on patient transfers – Agenda Session Only.

A presentation by Hugh Earnest will be given on the continuation of the County wide ambulance services - Agenda Session Only.

City Council Tour: February 6, 2006 - 4:30 PM

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

A. 2
Elm Springs Animal Sheltering Services
Page 1 of 6

2/7/2006

City Council Meeting Date

Jill Hatfield

Submitted By

Animal Services

Division

Police

Department

Action Required:

Approval of Interlocal Agreement with the City of Elm Springs to provide animal sheltering services to the City of Elm Springs for 2006.

N/A

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

1010 0001 4390 00

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

\$

-

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Received in City Clerk's Office

ENTERED
1-13-06
ABT

Received in Mayor's Office

ENTERED
1/13/06
JH

Mayor

Date

Comments:

RESOLUTION NO. _____

A RESOLUTION APPROVING AN INTER-LOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE CITY OF ELM SPRINGS, ARKANSAS TO PROVIDE ANIMAL SHELTERING SERVICES TO THE CITY OF ELM SPRINGS FOR 2006.

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 Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Elm Springs, Arkansas to provide animal sheltering services to the City of Elm Springs for 2006. 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 the Inter-Local Agreement with the City of Elm Springs, Arkansas.

PASSED and APPROVED this 7th day of February 2006.

APPROVED:

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE,
ARKANSAS AND CITY OF ELM SPRINGS, ARKANSAS**

THIS AGREEMENT is entered into this 19 day of December,
2005, by and between the CITY OF FAYETTEVILLE, and the CITY OF ELM
SPRINGS, ARKANSAS, concerning the provision of animal sheltering services;

WHEREAS, A.C.A. § 25-20-108, Interlocal Cooperation Act, authorizes
public entities to enter into agreements to provide governmental services to the
mutual benefit of each entity; and

WHEREAS, effective animal control is of mutual interest to the City of
Fayetteville and City of Elm Springs; and

WHEREAS, the City of Fayetteville possesses the necessary facilities to
provide animal sheltering services to City of Elm Springs.

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

Article I

The City of Fayetteville agrees to provide sheltering services for animals
delivered to its shelter, located at 1640 Armstrong Avenue, in the City of
Fayetteville, by Elm Springs citizens and designated animal control officers.

Article II

The City of Elm Springs agrees to comply with the Fayetteville Animal
Shelter's Operating Policy during the term of this Agreement, and understands that
the City of Fayetteville may terminate this agreement for noncompliance.

Article III

The City of Elm Springs agrees to pay an annual sheltering services fee of
Seven Hundred fifty dollars (\$750) to the City of Fayetteville in the form of twelve
(12) monthly payments of Sixty two dollars and Fifty cents (\$62.50). Payment shall
be due on or before the first day of each month. The annual sheltering services fee
shall be based upon the total number of animals delivered to the shelter by Elm
Springs citizens and designated animal control officers during the previous year.

Article IV

This agreement shall remain in effect until midnight December 31, 2006.

Article V

The City of Fayetteville agrees to provide assistance to the City of Elm Springs in the form of minor medical treatment while a shelter veterinarian is on staff, the drafting of animal control ordinances, educational programming, professional consultation regarding animal control matters, and in all other areas necessary and proper to effectuate the highest level of cooperation between the two cities.

Article VI

Both Cities acknowledge the existence of a county wide animals sheltering agreement between the City of Fayetteville and Washington County, but which currently excludes the corporate boundaries of any incorporated cities. The Cities agree that this Agreement shall automatically terminate in the event that the City of Elm Springs enters into an animal sheltering services agreement with Washington County, Arkansas. In any event, either City shall have the right to terminate this Agreement upon Thirty (30) days written notice to the other.

Article VII

Neither City may assign any of its rights or delegate any of its obligations under this Agreement, without the express written consent of the other.

Article VIII

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

Article IX

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.

Article X

The City of Elm Springs shall hold harmless the City of Fayetteville from any and all claims or liabilities arising from the performance of this Agreement,

provided that nothing in this Agreement shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville or the City of Elm Springs under the Constitution and Statutes of the State of Arkansas.

Article XI

It is agreed that the failure of any party to invoke any of the available remedies under this Agreement or under law in the event of one or more breaches or defaults by any party under the Agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

Article XII

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 parties, after an affirmative vote of a majority of each city's governing body.

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

CITY OF FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

ATTEST:

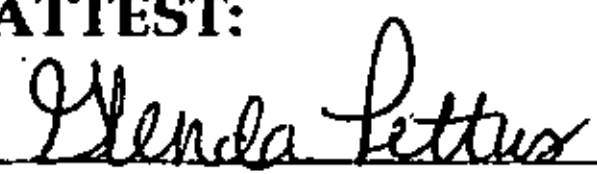
SONDRA SMITH, City Clerk

**CITY OF ELM SPRINGS,
ARKANSAS**



JANE WATERS, Mayor

ATTEST:



GLENDA PETTUS, City Clerk

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

A. 3
Goshen Animal Sheltering Services
Page 1 of 6

2/7/2006

City Council Meeting Date

Jill Hatfield

Submitted By

Animal Services

Division

Police

Department

Action Required:

Approval of Interlocal Agreement with the City of Goshen to provide animal sheltering services to the City of Goshen for 2006.

N/A

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

1010 0001 4390 00

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

\$

-

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office



Received in Mayor's Office



Comments:

RESOLUTION NO. _____

A RESOLUTION APPROVING AN INTER-LOCAL AGREEMENT
BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE
CITY OF GOSHEN, ARKANSAS TO PROVIDE ANIMAL
SHELTERING SERVICES TO THE CITY OF GOSHEN FOR 2006.

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 Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Goshen, Arkansas to provide animal sheltering services to the City of Goshen for 2006. 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 the Inter-Local Agreement with the City of Goshen, Arkansas.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED

By _____
DAN COODY, Mayor

ATTEST:

By _____
SONDRA SMITH, City Clerk

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE,
ARKANSAS AND CITY OF GOSHEN, ARKANSAS**

THIS AGREEMENT is entered into this 13th day of December, 2005, by and between the **CITY OF FAYETTEVILLE**, and the **CITY OF GOSHEN, ARKANSAS**, concerning the provision of animal sheltering services;

WHEREAS, A.C.A. § 25-20-108, Interlocal Cooperation Act, authorizes public entities to enter into agreements to provide governmental services to the mutual benefit of each entity; and

WHEREAS, effective animal control is of mutual interest to the City of Fayetteville and City of Goshen; and

WHEREAS, the City of Fayetteville possesses the necessary facilities to provide animal sheltering services to City of Goshen.

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

Article I

The City of Fayetteville agrees to provide sheltering services for animals delivered to its shelter, located at 1640 Armstrong Avenue, in the City of Fayetteville, by Goshen citizens and designated animal control officers.

Article II

The City of Goshen agrees to comply with the Fayetteville Animal Shelter's Operating Policy during the term of this Agreement, and understands that the City of Fayetteville may terminate this agreement for noncompliance.

Article III

The City of Goshen agrees to pay an annual sheltering services fee of Five hundred twenty five dollars (\$525) to the City of Fayetteville in the form of twelve (12) monthly payments of Forty three dollars and Seventy-Five cents (\$43.75). Payment shall be due on or before the first day of each month. The annual sheltering services fee shall be based upon the total number of animals delivered to the shelter by Goshen citizens and designated animal control officers during the previous year.

Article IV

This agreement shall remain in effect until midnight December 31, 2006.

Article V

The City of Fayetteville agrees to provide assistance to the City of Goshen in the form of minor medical treatment while a shelter veterinarian is on staff, the drafting of animal control ordinances, educational programming, professional consultation regarding animal control matters, and in all other areas necessary and proper to effectuate the highest level of cooperation between the two cities.

Article VI

Both Cities acknowledge the existence of a county wide animals sheltering agreement between the City of Fayetteville and Washington County, but which currently excludes the corporate boundaries of any incorporated cities. The Cities agree that this Agreement shall automatically terminate in the event that the City of Goshen enters into an animal sheltering services agreement with Washington County, Arkansas. In any event, either City shall have the right to terminate this Agreement upon Thirty (30) days written notice to the other.

Article VII

Neither City may assign any of its rights or delegate any of its obligations under this Agreement, without the express written consent of the other.

Article VIII

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

Article IX

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.

Article X

The City of Goshen shall hold harmless the City of Fayetteville from any and all claims or liabilities arising from the performance of this Agreement, provided

that nothing in this Agreement shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville or the City of Goshen under the Constitution and Statutes of the State of Arkansas.

Article XI

It is agreed that the failure of any party to invoke any of the available remedies under this Agreement or under law in the event of one or more breaches or defaults by any party under the Agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

Article XII

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 parties, after an affirmative vote of a majority of each city's governing body.

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

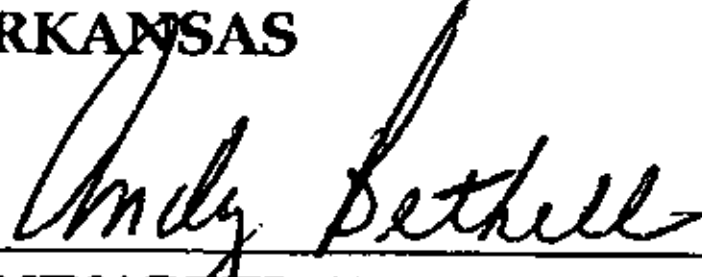
CITY OF FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

ATTEST:

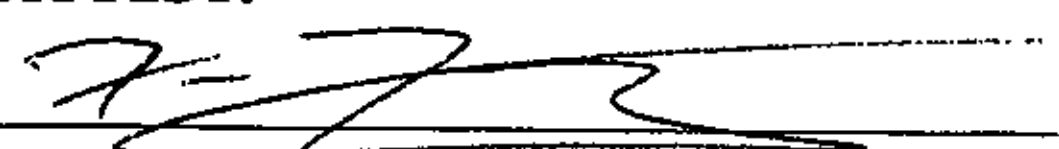
SONDRA SMITH, City Clerk

**CITY OF GOSHEN,
ARKANSAS**



ANDY BETHEL, Mayor

ATTEST:



FARA FERGUSON, City Clerk

RESOLUTION NO. 2005- 2

RESOLUTION APPROVING INTERLOCAL AGREEMENT
BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS
AND THE CITY OF GOSHEN, ARKANSAS

WHEREAS, the Cities of Fayetteville and Goshen, Arkansas have previously entered into an interlocal agreement regarding the provision of animal sheltering services; and

WHEREAS, Ark. Code Ann. § 25-20-108, Interlocal Cooperation Act, authorizes public entities to enter into agreements to provide governmental services to the mutual benefit of each entity; and

WHEREAS, effective animal control is of mutual interest to the City of Fayetteville and the City of Goshen; and

WHEREAS, the City of Fayetteville possesses the necessary facilities to provide animal sheltering services to the City of Goshen.

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF GOSHEN, ARKANSAS that the interlocal agreement attached hereto is approved and that the Mayor and City Recorder are authorized and directed to execute said interlocal agreement for animal sheltering services

PASSED AND APPROVED THIS 13 day of December, 2005.

CITY OF GOSHEN



Andy Bethell, Mayor

Attest:



Fara Ferguson, City Recorder

City of Fayetteville
Staff Review Form

A. 4
Wittenberg, Delony & Davidson, Inc
Page 1 of 30

7-Feb-06
City Council Meeting Date

Coy Hurd

Submitted By

Building Services

Division

Financial and Internal Services

Department

Action Required:

The action required is for the Fayetteville City Council to review and approve the attached contract. This contract (between the City of Fayetteville and Wittenberg, Delony & Davidson, Inc.) is for the design and oversight of the replacement for current Fire Station #5. This contract is for the sum of \$70,000 (basic services, \$55,000; Large Scale Development \$10,000; and reimbursable expenses, \$5,000).

\$70,000
Cost of this request
4470 9470 5804 00
Account Number
'05007
Project Number

\$1,846,716
Category/Project Budget
\$0
Funds Used to Date
\$ 1,846,716.00
Remaining Balance

Fire Station #5 Relocation
Program Category / Project Name
Fire Improvements
Program / Project Category Name
Sales Tax Improvement
Fund Name

Budgeted Item

XX

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office

ENTERED
1-19-06

Received in Mayor's Office

ENTERED
1/23/06

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

A. 4
Wittenberg, Delony & Davidson, Inc
Page 2 of 30

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Mayor Dan Coody and the Fayetteville City Council

THROUGH: Stephen Davis, Financial and Internal Services Director

FROM: Coy Hurd, Project Manager 

DATE: January 20, 2006

SUBJECT: Approval of a \$70,000 contract (with Wittenberg, Delony & Davidson, Inc.) for the design and oversight of the replacement for current Fire Station Five

Recommendation:

Staff recommends that the City Council approve and authorize the Mayor to sign the approved contract documents.

Background:

Relocation of current fire Station Five has been identified as a necessary action for the continued adequate protection of lives and property of Fayetteville citizens. The location of this facility has been designated as the intersection of Crossover and Old Wire Road. To facilitate this project, Staff recommends that Wittenberg, Delony & Davidson be hired to design a five-thousand square foot fire station (including site work, architectural, mechanical, electrical, structural and associated systems). The firm would then oversee the work in-progress. This work will be based on the re-use of a previous prototype design.

This project was included in the 2005 budget and has been re-authorized by City Council for the 2006 budget. An Amendment 78 Bond Issue was proposed to provide the funds for the construction cost of this project in the 2005 Budget. It is anticipated that this financing mechanism will be used for this project in 2006.

Amendment 78 financing is limited to 5-year duration and debt service for the bonds is to be paid from existing revenues available for General Fund and Street Fund. The debt

service for this issue is budgeted in the Sales Tax Capital Improvement Fund and utilizes a portion of the city sales tax. The cost of this fire station is proposed to be grouped with the cost for Fire Station 3 for a combined Amendment 78 Bond Issue. Staff is also submitting a Resolution-of-Intent-to-Reimburse as a separate agenda item so the City can recoup cost incurred prior to issuing the bonds for these two fire stations.

It is not likely that Fire Impact fees can be used for any portion of this project because this project does not add fire capacity – it relocates existing capability. Fire Impact fees can be used for Fire Station 3 because that fire station adds capacity.

Discussion:

City Staff (Fire Department and Building Services) has negotiated with Wittenberg, Delony & Davidson, Inc (WDD) representatives regarding fees for this work. The resulting fee schedule is reflected in the attached contract and summarized below:

Basic services.....	\$55,000
Taking the design through Large Scale Development Review.....	10,000
Reimbursable expenses	<u>5,000</u>
Total fee.....	\$70,000

Staff deems this proposal to be fair and equitable.

Budgetary Impact

This project is funded in the Sales Tax Capital Improvements Fund, account number 4470 9470 5804 00 and project number 05007.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT IN THE AMOUNT OF \$70,000.00 WITH WITTENBERG, DELONY & DAVIDSON FOR DESIGN AND OVERSIGHT OF THE REPLACEMENT FOR CURRENT FIRE STATION #5.

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

Section 1. That the City Council of the City of Fayetteville hereby approves a contract in the amount of \$70,000.00 with Wittenberg, Delony & Davidson for design and oversight of the replacement for current Fire Station #5. A copy of the contract, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

AIA® Document B151™ – 1997

Abbreviated Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the _____ day of _____ in the year _____
(In words, indicate day, month and year)

BETWEEN the Architect's client identified as the City:
(Name, address and other information)

City of Fayetteville
113 West Mountain
Fayetteville, Arkansas

and the Architect:
(Name, address and other information)

Wittenberg, Delony & Davidson, Inc
2434 East Joyce Blvd., Suite 10
Fayetteville, AR 72703
Telephone Number: (479) 442-6681
Fax Number: (479) 251-0231

For the following Project:
(Include detailed description of Project)

City of Fayetteville - Fire Station No 5
Crossover & Old Wire Roads
Fayetteville, AR 72701

Replacement for current Fire Station No. 5. A 5,000 square foot fire station including site work, architectural, mechanical, electrical, structural and associated systems. The design will include compliance with local governing authorities having jurisdiction over the work. The work will be based on the re-use of the previous "proto-type" design with minimal changes.

The City of Fayetteville and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences.

Consultation with an attorney is encouraged with respect to its completion or modification.

ARTICLE 1 ARCHITECT'S RESPONSIBILITIES

§ 1.1 The services performed by the Architect, Architect's employees and Architect's consultants shall be as enumerated in Articles 2, 3 and 12.

§ 1.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Architect shall submit for the /City of Fayetteville's approval a schedule for the performance of the Architect's services which may be adjusted as the Project proceeds. This schedule shall include allowances for periods of time required for the City of Fayetteville review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the City shall not, except for reasonable cause, be exceeded by the Architect or the City.

§ 1.3 The Architect shall designate a representative authorized to act on behalf of the Architect with respect to the Project.

§ 1.4 The services covered by this Agreement are subject to the time limitations contained in Section 11.5.1.

ARTICLE 2 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 2.1 DEFINITION

The Architect's Basic Services consist of those described in Sections 2.2 through 2.6 and any other services identified in Article 12 as part of Basic Services, and include normal structural, mechanical and electrical engineering services.

§ 2.2 SCHEMATIC DESIGN PHASE

§ 2.2.1 The Architect shall review the program furnished by the City to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the City.

§ 2.2.2 The Architect shall provide a preliminary evaluation of the City of Fayetteville program, schedule and construction budget requirements, each in terms of the other, subject to the limitations set forth in Section 5.2.1.

§ 2.2.3 The Architect shall review with the City alternative approaches to design and construction of the Project.

§ 2.2.4 Based on the mutually agreed-upon program, schedule and construction budget requirements, the Architect shall prepare, for approval by the City, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components.

§ 2.2.5 The Architect shall submit to the City a preliminary estimate of Construction Cost based on current area, volume or similar conceptual estimating techniques.

§ 2.3 DESIGN DEVELOPMENT PHASE

§ 2.3.1 Based on the approved Schematic Design Documents and any adjustments authorized by the City in the program, schedule or construction budget, the Architect shall prepare, for approval by the City, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

§ 2.3.2 The Architect shall advise the City of any adjustments to the preliminary estimate of Construction Cost.

§ 2.4 CONSTRUCTION DOCUMENTS PHASE

§ 2.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the City, the Architect shall prepare, for approval by the City, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

§ 2.4.2 The Architect shall assist the City in the preparation of the necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the City and Contractor.

§ 2.4.3 The Architect shall advise the City of any adjustments to previous preliminary estimates of Construction Cost indicated by changes in requirements or general market conditions.

§ 2.4.4 The Architect shall assist the City in connection with the City of Fayetteville responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 2.5 BIDDING OR NEGOTIATION PHASE

The Architect, following the City of Fayetteville approval of the Construction Documents and of the latest preliminary estimate of Construction Cost, shall assist the City in obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction.

§ 2.6 CONSTRUCTION PHASE—ADMINISTRATION OF THE CONSTRUCTION CONTRACT

§ 2.6.1 The Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the initial Contract for Construction and terminates at the earlier of the issuance to the City of the final Certificate for Payment or 60 days after the date of Substantial Completion of the Work.

§ 2.6.2 The Architect shall provide administration of the Contract for Construction as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement, unless otherwise provided in this Agreement. Modifications made to the General Conditions, when adopted as part of the Contract Documents, shall be enforceable under this Agreement only to the extent that they are consistent with this Agreement or approved in writing by the Architect.

§ 2.6.3 Duties, responsibilities and limitations of authority of the Architect under this Section 2.6 shall not be restricted, modified or extended without written agreement of the City and Architect with consent of the Contractor, which consent will not be unreasonably withheld.

§ 2.6.4 The Architect shall be a representative of and shall advise and consult with the City during the administration of the Contract for Construction. The Architect shall have authority to act on behalf of the City only to the extent provided in this Agreement unless otherwise modified by written amendment.

§ 2.6.5 The Architect, as a representative of the City, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the City and the Architect in Article 12, (1) to become generally familiar with and to keep the City informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the City against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 2.6.6 The Architect shall report to the City known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 2.6.7 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

§ 2.6.8 Except as otherwise provided in this Agreement or when direct communications have been specially authorized, the City shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

§ 2.6.9 CERTIFICATES FOR PAYMENT

§ 2.6.9.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts.

§ 2.6.9.2 The Architect's certification for payment shall constitute a representation to the City, based on the Architect's evaluation of the Work as provided in Section 2.6.5 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 2.6.9.3 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the City to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 2.6.10 The Architect shall have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 2.6.11 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the City, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 2.6.12 If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Architect shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 2.6.13 The Architect shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by the Architect as provided in Sections 3.1.1 and 3.3.3, for the City of Fayetteville approval and execution in accordance with the Contract Documents, and may authorize minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents.

§ 2.6.14 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, shall receive from the Contractor and forward to the City, for the City of Fayetteville review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 2.6.15 The Architect shall interpret and decide matters concerning performance of the City and Contractor under, and requirements of, the Contract Documents on written request of either the City or Contractor. The Architect's

response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 2.6.16 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both City and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions so rendered in good faith.

§ 2.6.17 The Architect shall render initial decisions on claims, disputes or other matters in question between the City and Contractor as provided in the Contract Documents. However, the Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 2.6.18 The Architect's decisions on claims, disputes or other matters in question between the City and Contractor, except for those relating to aesthetic effect as provided in Section 2.6.17, shall be subject to mediation and arbitration as provided in this Agreement and in the Contract Documents.

ARTICLE 3 ADDITIONAL SERVICES

§ 3.1 GENERAL

§ 3.1.1 The services described in this Article 3 are not included in Basic Services unless so identified in Article 12, and they shall be paid for by the City of Fayetteville as provided in this Agreement, in addition to the compensation for Basic Services. The services described under Sections 3.2 and 3.4 shall only be provided if authorized or confirmed in writing by the City. If services described under Contingent Additional Services in Section 3.3 are required due to circumstances beyond the Architect's control, the Architect shall notify the City prior to commencing such services. If the City deems that such services described under Section 3.3 are not required, the City shall give prompt written notice to the Architect. If the City indicates in writing that all or part of such Contingent Additional Services are not required, the Architect shall have no obligation to provide those services.

§ 3.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

§ 3.2.1 If more extensive representation at the site than is described in Section 2.6.5 is required, the Architect shall provide one or more Project Representatives to assist in carrying out such additional on-site responsibilities.

§ 3.2.2 Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefor as agreed by the City and Architect. The duties, responsibilities and limitations of authority of Project Representatives shall be as described in the edition of AIA Document B352 current as of the date of this Agreement, unless otherwise agreed.

§ 3.2.3 Through the presence at the site of such Project Representatives, the Architect shall endeavor to provide further protection for the City against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the Architect as described elsewhere in this Agreement.

§ 3.3 CONTINGENT ADDITIONAL SERVICES

§ 3.3.1 Making revisions in drawings, specifications or other documents when such revisions are:

- 1 inconsistent with approvals or instructions previously given by the City, including revisions made necessary by adjustments in the City of Fayetteville's program or Project budget;
- 2 required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents; or
- 3 due to changes required as a result of the City of Fayetteville's failure to render decisions in a timely manner.

§ 3.3.2 Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, the City of Fayetteville's schedule, or the method of bidding or negotiating and contracting for construction, except for services required under Section 5.2.5.

§ 3.3.3 Preparing Drawings, Specifications and other documentation and supporting data, evaluating Contractor's proposals, and providing other services in connection with Change Orders and Construction Change Directives.

§ 3.3.4 Providing services in connection with evaluating substitutions proposed by the Contractor and making subsequent revisions to Drawings, Specifications and other documentation resulting therefrom.

§ 3.3.5 Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work.

§ 3.3.6 Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the City or Contractor under the Contract for Construction.

§ 3.3.7 Providing services in evaluating an extensive number of claims submitted by the Contractor or others in connection with the Work.

§ 3.3.8 Providing services in connection with a public hearing, a dispute resolution proceeding or a legal proceeding.

§ 3.3.9 Preparing documents for alternate, separate or sequential bids or providing services in connection with bidding, negotiation or construction prior to the completion of the Construction Documents Phase.

§ 3.4 OPTIONAL ADDITIONAL SERVICES

§ 3.4.1 Providing analyses of the City of Fayetteville's needs and programming the requirements of the Project.

§ 3.4.2 Providing financial feasibility or other special studies.

§ 3.4.3 Providing planning surveys, site evaluations or comparative studies of prospective sites.

§ 3.4.4 Providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

(Paragraph deleted)

§ 3.4.6 Providing services to investigate existing conditions or facilities or to make measured drawings thereof.

§ 3.4.7 Providing services to verify the accuracy of drawings or other information furnished by the City.

§ 3.4.8 Providing coordination of construction performed by separate contractors or by the City of Fayetteville's own forces and coordination of services required in connection with construction performed and equipment supplied by the City.

§ 3.4.9 Providing services in connection with the work of a construction manager or separate consultants retained by the City.

§ 3.4.10 Providing detailed estimates of Construction Cost.

§ 3.4.11 Providing detailed quantity surveys or inventories of material, equipment and labor.

§ 3.4.12 Providing analyses of owning and operating costs.

§ 3.4.13 Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.

§ 3.4.14 Providing services for planning tenant or rental spaces.

§ 3.4.15 Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

§ 3.4.16 Preparing a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.

§ 3.4.17 Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

§ 3.4.18 Providing services after issuance to the City of the final Certificate for Payment, or in the absence of a final Certificate for Payment, more than 60 days after the date of Substantial Completion of the Work.

§ 3.4.19 Providing services of consultants for other than architectural, structural, mechanical and electrical engineering portions of the Project provided as a part of Basic Services.

§ 3.4.20 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

ARTICLE 4 CITY OF FAYETTEVILLE RESPONSIBILITIES

§ 4.1 The City shall provide full information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the City of Fayetteville's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. The City shall furnish to the Architect, within 15 days after receipt of a written request, information necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 4.2 The City shall establish and periodically update an overall budget for the Project, including the Construction Cost, the City of Fayetteville's other costs and reasonable contingencies related to all of these costs.

§ 4.3 The City shall designate a representative authorized to act on the City of Fayetteville's behalf with respect to the Project. The City or such designated representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 4.4 The City shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.5 The City shall furnish the services of geotechnical engineers when such services are requested by the Architect. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations.

§ 4.6 The City shall furnish the services of consultants other than those designated in Section 4.5 when such services are requested by the Architect and are reasonably required by the scope of the Project.

§ 4.7 The City shall furnish structural, mechanical, and chemical tests; tests for air and water pollution; tests for hazardous materials; and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents.

§ 4.8 The City shall furnish all legal, accounting and insurance services that may be necessary at any time for the Project to meet the City of Fayetteville's needs and interests. Such services shall include auditing services the City may require to verify the Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the City.

§ 4.9 The services, information, surveys and reports required by Sections 4.4 through 4.8 shall be furnished at the City of Fayetteville's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

§ 4.10 The City shall provide prompt written notice to the Architect if the City becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's Instruments of Service.

ARTICLE 5 CONSTRUCTION COST

§ 5.1 DEFINITION

§ 5.1.1 The Construction Cost shall be the total cost or, to the extent the Project is not completed, the estimated cost to the City of Fayetteville of all elements of the Project designed or specified by the Architect.

§ 5.1.2 The Construction Cost shall include the cost at current market rates of labor and materials furnished by the City and equipment designed, specified, selected or specially provided for by the Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work.

§ 5.1.3 Construction Cost does not include the compensation of the Architect and the Architect's consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the City as provided in Article 4.

§ 5.2 RESPONSIBILITY FOR CONSTRUCTION COST

§ 5.2.1 Evaluations of the City of Fayetteville's Project budget, the preliminary estimate of Construction Cost and detailed estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the City has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the City of Fayetteville's Project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by the Architect.

§ 5.2.2 No fixed limit of Construction Cost shall be established as a condition of this Agreement by the furnishing, proposal or establishment of a Project budget, unless such fixed limit has been agreed upon in writing and signed by the parties hereto. If such a fixed limit has been established, the Architect shall be permitted to include contingencies for design, bidding and price escalation, to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the Construction Cost to the fixed limit. Fixed limits, if any, shall be increased in the amount of an increase in the Contract Sum occurring after execution of the Contract for Construction.

§ 5.2.3 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the City, any Project budget or fixed limit of Construction Cost shall be adjusted to reflect changes in the general level of prices in the construction industry.

§ 5.2.4 If a fixed limit of Construction Cost (adjusted as provided in Section 5.2.3) is exceeded by the lowest bona fide bid or negotiated proposal, the City shall:

1. give written approval of an increase in such fixed limit;
2. authorize rebidding or renegotiating of the Project within a reasonable time;
3. terminate in accordance with Section 8.5; or
4. cooperate in revising the Project scope and quality as required to reduce the Construction Cost.

§ 5.2.5 If the City chooses to proceed under Section 5.2.4.4, the Architect, without additional compensation, shall modify the documents for which the Architect is responsible under this Agreement as necessary to comply with the fixed limit, if established as a condition of this Agreement. The modification of such documents without cost to the City shall be the limit of the Architect's responsibility under this Section 5.2.5. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

ARTICLE 6 USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

§ 6.1 Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use solely with respect to this Project. The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights.

§ 6.2 Upon execution of this Agreement, the Architect grants to the City of Fayetteville a nonexclusive license to reproduce the Architect's Instruments of Service solely for purposes of constructing, using and maintaining the Project, provided that the City shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. Any termination of this Agreement prior to completion of the Project shall terminate this license. Upon such termination, the City shall refrain from making further reproductions of Instruments of Service and shall return to the Architect within seven days of termination all originals and reproductions in the City of Fayetteville's possession or control. If and upon the date the Architect is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the City to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project.

§ 6.3 Except for the licenses granted in Section 6.2, no other license or right shall be deemed granted or implied under this Agreement. The City shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. However, the City shall be permitted to authorize the Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work by license granted in Section 6.2. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants. The City shall not use the Instruments of Service for future additions or alterations to this Project or for other projects, unless the City obtains the prior written agreement of the Architect and the Architect's consultants. Any unauthorized use of the Instruments of Service shall be at the City of Fayetteville's sole risk and without liability to the Architect and the Architect's consultants.

§ 6.4 Prior to the Architect providing to the City any Instruments of Service in electronic form or the City providing to the Architect any electronic data for incorporation into the Instruments of Service, the City and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations or licenses not otherwise provided in this Agreement.

ARTICLE 7 DISPUTE RESOLUTION

(Paragraphs deleted)

§ 7.3 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Architect and City waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 8.

ARTICLE 8 TERMINATION OR SUSPENSION

§ 8.1 If the City fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, prior to suspension of services, the Architect shall give seven days' written notice to the City. In the event of a suspension of services, the Architect shall have no liability to the City for delay or damage caused the City because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 8.2 If the Project is suspended by the City for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 8.3 If the Project is suspended or the Architect's services are suspended for more than 90 consecutive days, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 8.4 This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 8.5 This Agreement may be terminated by the City upon not less than seven days' written notice to the Architect for the City of Fayetteville's convenience and without cause.

§ 8.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 8.7.

§ 8.7 Termination Expenses are in addition to compensation for the services of the Agreement and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

ARTICLE 9 MISCELLANEOUS PROVISIONS

§ 9.1 This Agreement shall be governed by the law of Arkansas and the jurisdiction for any legal action shall be Washington County, Arkansas.

§ 9.2 Terms in this Agreement shall have the same meaning as those in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

§ 9.3 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion. In no event shall such statutes of limitations commence to run any later than the date when the Architect's services are substantially completed. Or as determined by Arkansas law.

§ 9.4 To the extent damages are covered by property insurance during construction, the City of Fayetteville and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. The City or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 9.5 The City and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the City nor the Architect shall assign this Agreement without the written consent of the other, except that the City may assign this Agreement to an institutional lender providing financing for the Project. In such event, the lender shall assume the City of Fayetteville's rights and obligations under this Agreement. The Architect shall execute all consents reasonably required to facilitate such assignment.

§ 9.6 This Agreement represents the entire and integrated agreement between the City and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both City and Architect.

§ 9.7 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or Architect.

§ 9.8 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at the Project site.

§ 9.9 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the City of Fayetteville's confidential or proprietary information if the City has previously advised the Architect in writing of the specific information considered by the City to be confidential or proprietary. The City shall provide professional credit for the Architect in the City of Fayetteville's promotional materials for the Project.

§ 9.10 If the City requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of this Agreement.

ARTICLE 10 PAYMENTS TO THE ARCHITECT

§ 10.1 DIRECT PERSONNEL EXPENSE

Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

§ 10.2 REIMBURSABLE EXPENSES

§ 10.2.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and Architect's employees and consultants directly related to the Project, as identified in the following Clauses:

- .1 transportation in connection with the Project, authorized out-of-town travel and subsistence, and electronic communications;
- .2 fees paid for securing approval of authorities having jurisdiction over the Project;
- .3 reproductions, plots, standard form documents, postage, handling and delivery of Instruments of Service;
- .4 expense of overtime work requiring higher than regular rates if authorized in advance by the City of Fayetteville;
- .5 renderings, models and mock-ups requested by the City;
- .6 expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the City in excess of that normally carried by the Architect and the Architect's consultants;
- .7 reimbursable expenses as designated in Article 12;
- .8 other similar direct Project-related expenditures.

§ 10.3 PAYMENTS ON ACCOUNT OF BASIC SERVICES

§ 10.3.1 An initial payment as set forth in Section 11.1 is the minimum payment under this Agreement.

§ 10.3.2 Subsequent payments for Basic Services shall be made monthly and, where applicable, shall be in proportion to services performed within each phase of service, on the basis set forth in Section 11.2.2.

§ 10.3.3 If and to the extent that the time initially established in Section 11.5.1 of this Agreement is exceeded or extended through no fault of the Architect, compensation for any services rendered during the additional period of time shall be computed in the manner set forth in Section 11.3.2.

§ 10.3.4 When compensation is based on a percentage of Construction Cost and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.2.2, based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent preliminary estimate of Construction Cost or detailed estimate of Construction Cost for such portions of the Project.

§ 10.4 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES

Payments on account of the Architect's Additional Services and for Reimbursable Expenses shall be made monthly upon presentation of the Architect's statement of services rendered or expenses incurred.

§ 10.5 PAYMENTS WITHHELD

No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect has been adjudged to be liable.

§ 10.6 ARCHITECT'S ACCOUNTING RECORDS

Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be available to the City or the City of Fayetteville authorized representative at mutually convenient times.

ARTICLE 11 BASIS OF COMPENSATION

The City of Fayetteville shall compensate the Architect as follows:

§ 11.1

§ 11.2 BASIC COMPENSATION

§ 11.2.1 For Basic Services, as described in Article 2, and any other services included in Article 12 as part of Basic Services, Basic Compensation shall be computed as follows:

(Insert basis of compensation, including stipulated sums, multiples or percentages, and identify phases to which particular methods of compensation apply, if necessary.)

Compensation for Basic Services will be a fee of \$ 55,000.00 and a lump sum fee of \$10,000.00 for LSD services, using a City of Fayetteville construction budget of \$ 1,100,000.00. Changes and modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees. See Article 12 for other additional services and conditions.

§ 11.2.2 Where compensation is based on a stipulated sum or percentage of Construction Cost, progress payments for Basic Services in each phase shall total the following percentages of the total Basic Compensation payable:

(Insert additional phases as appropriate.)

Schematic Design Phase:	Fifteen	percent (	15	%)
Design Development Phase:	Twenty	percent (	20	%)
Construction Documents Phase:	Forty	percent (	40	%)
Bidding or Negotiation Phase:	Five	percent (	05	%)
Construction Phase:	Twenty	percent (	20	%)

(Paragraph deleted)

Total Basic Compensation	one hundred	percent (	100.00	%)
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§ 11.3 COMPENSATION FOR ADDITIONAL SERVICES

§ 11.3.1 For Project Representation Beyond Basic Services, as described in Section 3.2, compensation shall be computed as follows:

Hourly at three (3.0) times the direct personnel expense of the Architect's principals and/or employees as defined in Article 10.1.

§ 11.3.2 For Additional Services of the Architect, as described in Articles 3 and 12, other than (1) Additional Project Representation, as described in Section 3.2, and (2) services included in Article 12 as part of Basic Services, but excluding services of consultants, compensation shall be computed as follows:

(Insert basis of compensation, including rates and multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply, if necessary.)

For additional services requested in addition to those services already listed in Article 12: Hourly at three (3.0) times the direct personnel expense of the Architect's principals and/or employees as defined in Article 10.1.

§ 11.3.3 For Additional Services of Consultants, including additional structural, mechanical and electrical engineering services and those provided under Section 3.4.19 or identified in Article 12 as part of Additional Services, a multiple of one point two (1.2) times the amounts billed to the Architect for such services. *(Identify specific types of consultants in Article 12, if required.)*

§ 11.4 REIMBURSABLE EXPENSES

For Reimbursable Expenses, as described in Section 10.2, and any other items included in Article 12 as Reimbursable Expenses, a multiple of one point two (1.2) times the expenses incurred by the Architect, the Architect's employees and consultants directly related to the Project.

§ 11.5 ADDITIONAL PROVISIONS

§ 11.5.1 If the Basic Services covered by this Agreement have not been completed within fourteen (14) months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Sections 10.3.3 and 11.3.2.

§ 11.5.2 Payments are due and payable fifteen (15) days from the date of the Architect's invoice.

The City of Fayetteville will endeavor to pay within 30 days of the date of the Architect's invoice, without guarantee of such timing.

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

§ 11.5.3 The rates and multiples set forth for Additional Services shall be adjusted in accordance with the normal salary review practices of the Architect.

ARTICLE 12: OTHER CONDITIONS OR SERVICES

(Insert descriptions of other services, identify Additional Services included within Basic Compensation and modifications to the payment and compensation terms included in this Agreement.)

12.1.1 Additional Services:

* LSD Planning: Not to exceed \$10,000.00
Lump sum fee for normal LSD process and does not include citizen group meetings or other activities outside the normal LSD planning procedures. Citizen group meeting participation will be hourly per Article 11.3.2.

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

12.1 Basic Services do not include infrastructure improvements off site and do not include the design or completion of improvements for public utilities, public utility extensions and/or utility work normally associated with construction of the building. Basic Services do not include environmental clean-up activities.

12.2 Reimbursable expenses are defined in Article 10.2. For the purposes of this agreement, the City of Fayetteville will establish a reimbursable budget of FIVE THOUSAND AND NO/100 DOLLARS

(\$5,000.00). If additional expenses are requested by the City, the City will raise the reimbursable budget to cover such expenses needed for proper completion of the project. For a listing of reimbursable items, see Attachment "A".

12.3 FOI Clause: City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the (contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act. Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

12.4 List of proposed consultants. With approval of the City of Fayetteville, the following consultants will be used on the project:

MEP Engineers
Structural Engineers
Civil Engineers
Geotechnical

Green Anderson Engineers, Inc.
Engineering Consultants, Inc.
McClelland Consulting Engineers
McClelland Consulting Engineers

The Architect can change the use of consultants. The City of Fayetteville has the right to approve or disapprove any change in consultants.

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

CITY OF FAYETTEVILLE

(Signature)

Dan Coody, Mayor

(Printed name and title)

WITTENBERG DELONY & DAVIDSON

(Signature)

Richard Alderman, Principal

(Printed name and title)

Additions and Deletions Report for AIA® Document B151™ – 1997

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:39:38 on 01/13/2006.

PAGE 1

~~BETWEEN~~ the Architect's client identified as the ~~Owner~~City:

City of Fayetteville

113 West Mountain

Fayetteville, Arkansas

Wittenberg, Delony & Davidson, Inc

2434 East Joyce Blvd., Suite 10

Fayetteville, AR 72703

Telephone Number: (479) 442-6681

Fax Number: (479) 251-0231

City of Fayetteville - Fire Station No 5

Crossover & Old Wire Roads

Fayetteville, AR 72701

Replacement for current Fire Station No. 5. A 5,000 square foot fire station including site work, architectural, mechanical, electrical, structural and associated systems. The design will include compliance with local governing authorities having jurisdiction over the work. The work will be based on the re-use of the previous "proto-type" design with minimal changes.

The ~~Owner~~City of Fayetteville and Architect agree as follows.

PAGE 2

§ 1.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Architect shall submit for the ~~Owner's~~City of Fayetteville's approval a schedule for the performance of the Architect's services which may be adjusted as the Project proceeds. This schedule shall include allowances for periods of time required for the ~~Owner's~~City of Fayetteville review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the ~~Owner~~City shall not, except for reasonable cause, be exceeded by the Architect or ~~Owner~~the City.

§ 2.2.1 The Architect shall review the program furnished by the ~~Owner~~City to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the ~~Owner~~City.

...
§ 2.2.2 The Architect shall provide a preliminary evaluation of the Owner's City of Fayetteville program, schedule and construction budget requirements, each in terms of the other, subject to the limitations set forth in Section 5.2.1.

...
§ 2.2.3 The Architect shall review with the Owner-City alternative approaches to design and construction of the Project.

...
§ 2.2.4 Based on the mutually agreed-upon program, schedule and construction budget requirements, the Architect shall prepare, for approval by the Owner-City, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components.

...
§ 2.2.5 The Architect shall submit to the Owner-City a preliminary estimate of Construction Cost based on current area, volume or similar conceptual estimating techniques.

...
§ 2.3.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner-City in the program, schedule or construction budget, the Architect shall prepare, for approval by the Owner-City, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

...
§ 2.3.2 The Architect shall advise the Owner-City of any adjustments to the preliminary estimate of Construction Cost.

...
§ 2.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner-City, the Architect shall prepare, for approval by the Owner-City, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

...
§ 2.4.2 The Architect shall assist the Owner-City in the preparation of the necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner-City and Contractor.

...
§ 2.4.3 The Architect shall advise the Owner-City of any adjustments to previous preliminary estimates of Construction Cost indicated by changes in requirements or general market conditions.

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...
§ 2.4.4 The Architect shall assist the Owner-City in connection with the Owner's City of Fayetteville responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

...
The Architect, following the Owner's City of Fayetteville approval of the Construction Documents and of the latest preliminary estimate of Construction Cost, shall assist the Owner-City in obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction.

...
§ 2.6.1 The Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the initial Contract for Construction and terminates at the earlier of the issuance to the Owner-City of the final Certificate for Payment or 60 days after the date of Substantial Completion of the Work.

...
§ 2.6.3 Duties, responsibilities and limitations of authority of the Architect under this Section 2.6 shall not be restricted, modified or extended without written agreement of the Owner-City and Architect with consent of the Contractor, which consent will not be unreasonably withheld.

...
§ 2.6.4 The Architect shall be a representative of and shall advise and consult with the Owner-City during the administration of the Contract for Construction. The Architect shall have authority to act on behalf of the Owner-City only to the extent provided in this Agreement unless otherwise modified by written amendment.

...
§ 2.6.5 The Architect, as a representative of the Owner-City, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the Owner-City and the Architect in Article 12, (1) to become

generally familiar with and to keep the Owner-City informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner-City against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

...
§ 2.6.6 The Architect shall report to the Owner-City known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

...
§ 2.6.8 Except as otherwise provided in this Agreement or when direct communications have been specially authorized, the Owner-City shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

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§ 2.6.9.2 The Architect's certification for payment shall constitute a representation to the Owner-City, based on the Architect's evaluation of the Work as provided in Section 2.6.5 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

...
§ 2.6.9.3 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner-City to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

...
§ 2.6.11 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner-City, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

...
§ 2.6.13 The Architect shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by the Architect as provided in Sections 3.1.1 and 3.3.3, for the Owner's-City of Fayetteville approval and execution in accordance with the Contract Documents, and may authorize minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents.

§ 2.6.15 The Architect shall interpret and decide matters concerning performance of the ~~Owner-City~~ and Contractor under, and requirements of, the Contract Documents on written request of either the ~~Owner-City~~ or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 2.6.16 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both Owner-City and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions so rendered in good faith.

§ 2.6.18 The Architect's decisions on claims, disputes or other matters in question between the Owner-City and Contractor, except for those relating to aesthetic effect as provided in Section 2.6.17, shall be subject to mediation and arbitration as provided in this Agreement and in the Contract Documents.

§ 3.2.2 Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefor as agreed by the ~~Owner~~ City and Architect. The duties, responsibilities and limitations of authority of Project Representatives shall be as described in the edition of AIA Document B352 current as of the date of this Agreement, unless otherwise agreed.

§ 3.2.3 Through the presence at the site of such Project Representatives, the Architect shall endeavor to provide further protection for the ~~Owner~~City against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the Architect as described elsewhere in this Agreement.

- .1** inconsistent with approvals or instructions previously given by the ~~Owner, City~~, including revisions made necessary by adjustments in the ~~Owner's City of Fayetteville's~~ program or Project budget;
- .3** due to changes required as a result of the ~~Owner's City of Fayetteville's~~ failure to render decisions in a timely manner.

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§ 3.3.6 Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the Owner-City or Contractor under the Contract for Construction.

...
§ 3.3.8 Providing services in connection with a public hearing, a dispute resolution proceeding or a legal proceeding ~~except where the Architect is party thereto.~~proceeding.

...
§ 3.4.1 Providing analyses of the Owner's City of Fayetteville's needs and programming the requirements of the Project.

...
~~§ 3.4.5 Providing services relative to future facilities, systems and equipment.~~

...
§ 3.4.7 Providing services to verify the accuracy of drawings or other information furnished by the Owner-City.

...
§ 3.4.8 Providing coordination of construction performed by separate contractors or by the Owner's City of Fayetteville's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner-City.

...
§ 3.4.9 Providing services in connection with the work of a construction manager or separate consultants retained by the Owner-City.

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§ 3.4.18 Providing services after issuance to the Owner-City of the final Certificate for Payment, or in the absence of a final Certificate for Payment, more than 60 days after the date of Substantial Completion of the Work.

ARTICLE 4 - OWNER'S RESPONSIBILITIES

ARTICLE 4 CITY OF FAYETTEVILLE RESPONSIBILITIES

...
§ 4.1 The Owner-City shall provide full information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's City of Fayetteville's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. The Owner-City shall furnish to the Architect, within 15 days after receipt of a written request, information necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

...
§ 4.2 The Owner-City shall establish and periodically update an overall budget for the Project, including the Construction Cost, the Owner's City of Fayetteville's other costs and reasonable contingencies related to all of these costs.

...
§ 4.3 The Owner-City shall designate a representative authorized to act on the Owner's City of Fayetteville's behalf with respect to the Project. The Owner-City or such designated representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

...
§ 4.4 The Owner-City shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way; restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

...
§ 4.5 The Owner-City shall furnish the services of geotechnical engineers when such services are requested by the Architect. Such services may include but are not limited to test borings, test pits, determinations of soil bearing

values, percolation tests, evaluations of hazardous materials, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations.

§ 4.6 The Owner-City shall furnish the services of consultants other than those designated in Section 4.5 when such services are requested by the Architect and are reasonably required by the scope of the Project.

§ 4.7 The Owner-City shall furnish structural, mechanical, and chemical tests; tests for air and water pollution; tests for hazardous materials; and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents.

§ 4.8 The Owner-City shall furnish all legal, accounting and insurance services that may be necessary at any time for the Project to meet the Owner's-City of Fayetteville's needs and interests. Such services shall include auditing services the Owner-City may require to verify the Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the Owner-City.

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§ 4.9 The services, information, surveys and reports required by Sections 4.4 through 4.8 shall be furnished at the Owner's-City of Fayetteville's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

§ 4.10 The Owner-City shall provide prompt written notice to the Architect if the Owner-City becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.1.1 The Construction Cost shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner-City of Fayetteville of all elements of the Project designed or specified by the Architect.

§ 5.1.2 The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner-City and equipment designed, specified, selected or specially provided for by the Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work.

§ 5.1.3 Construction Cost does not include the compensation of the Architect and the Architect's consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the Owner-City as provided in Article 4.

§ 5.2.1 Evaluations of the Owner's-City of Fayetteville's Project budget, the preliminary estimate of Construction Cost and detailed estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner-City has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's-City of Fayetteville's Project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by the Architect.

§ 5.2.3 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner-City, any Project budget or fixed limit of Construction Cost shall be adjusted to reflect changes in the general level of prices in the construction industry.

§ 5.2.4 If a fixed limit of Construction Cost (adjusted as provided in Section 5.2.3) is exceeded by the lowest bona fide bid or negotiated proposal, the Owner-City shall:

§ 5.2.5 If the Owner-City chooses to proceed under Section 5.2.4.4, the Architect, without additional compensation, shall modify the documents for which the Architect is responsible under this Agreement as necessary to comply with the fixed limit, if established as a condition of this Agreement. The modification of such documents without cost to

the Owner-City shall be the limit of the Architect's responsibility under this Section 5.2.5. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

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§ 6.2 Upon execution of this Agreement, the Architect grants to the Owner-City of Fayetteville a nonexclusive license to reproduce the Architect's Instruments of Service solely for purposes of constructing, using and maintaining the Project, provided that the Owner-City shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. Any termination of this Agreement prior to completion of the Project shall terminate this license. Upon such termination, the Owner-City shall refrain from making further reproductions of Instruments of Service and shall return to the Architect within seven days of termination all originals and reproductions in the Owner's-City of Fayetteville's possession or control. If and upon the date the Architect is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the Owner-City to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project.

§ 6.3 Except for the licenses granted in Section 6.2, no other license or right shall be deemed granted or implied under this Agreement. The Owner-City shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. However, the Owner-City shall be permitted to authorize the Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work by license granted in Section 6.2. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants. The Owner-City shall not use the Instruments of Service for future additions or alterations to this Project or for other projects, unless the Owner-City obtains the prior written agreement of the Architect and the Architect's consultants. Any unauthorized use of the Instruments of Service shall be at the Owner's-City of Fayetteville's sole risk and without liability to the Architect and the Architect's consultants.

§ 6.4 Prior to the Architect providing to the Owner-City any Instruments of Service in electronic form or the Owner-City providing to the Architect any electronic data for incorporation into the Instruments of Service, the Owner-City and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations or licenses not otherwise provided in this Agreement.

§ 7.1 MEDIATION

§ 7.1.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.

§ 7.1.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 7.1.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 7.2 ARBITRATION

~~§ 7.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with Section 7.1.~~

~~§ 7.2.2 Claims, disputes and other matters in question between the parties that are not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association.~~

~~§ 7.2.3 A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.~~

~~§ 7.2.4 No arbitration arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the Owner, Architect, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 7.2.5 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

...
The Architect and Owner City waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 8.

...
~~§ 8.1 If the Owner City fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, prior to suspension of services, the Architect shall give seven days' written notice to the Owner City. In the event of a suspension of services, the Architect shall have no liability to the Owner City for delay or damage caused the Owner City because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.~~

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~~§ 8.2 If the Project is suspended by the Owner City for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.~~

...
~~§ 8.5 This Agreement may be terminated by the Owner City upon not less than seven days' written notice to the Architect for the Owner's City of Fayetteville's convenience and without cause.~~

...
~~§ 9.1 This Agreement shall be governed by the law of Arkansas and the principal place of business of the Architect, unless otherwise provided in Article 12, jurisdiction for any legal action shall be Washington County, Arkansas~~

...
~~§ 9.3 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion or the date of issuance of~~

the final Certificate for Payment for acts or failures to act occurring after Substantial Completion. In no event shall such statutes of limitations commence to run any later than the date when the Architect's services are substantially completed. Or as determined by Arkansas law.

§ 9.4 To the extent damages are covered by property insurance during construction, the Owner-City of Fayetteville and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. The Owner-City or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 9.5 The Owner-City and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner-City nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner-City may assign this Agreement to an institutional lender providing financing for the Project. In such event, the lender shall assume the Owner's-City of Fayetteville's rights and obligations under this Agreement. The Architect shall execute all consents reasonably required to facilitate such assignment.

§ 9.6 This Agreement represents the entire and integrated agreement between the Owner-City and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner-City and Architect.

§ 9.7 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner-City or Architect.

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§ 9.9 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's-City of Fayetteville's confidential or proprietary information if the Owner-City has previously advised the Architect in writing of the specific information considered by the Owner-City to be confidential or proprietary. The Owner-City shall provide professional credit for the Architect in the Owner's-City of Fayetteville's promotional materials for the Project.

§ 9.10 If the Owner-City requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of this Agreement.

- .4 expense of overtime work requiring higher than regular rates if authorized in advance by the Owner-City of Fayetteville;
- .5 renderings, models and mock-ups requested by the Owner-City;
- .6 expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner-City in excess of that normally carried by the Architect and the Architect's consultants;

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Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be available to the Owner-City or the Owner's-City of Fayetteville authorized representative at mutually convenient times.

The Owner-City of Fayetteville shall compensate the Architect as follows:

...
§ 11.1 An Initial Payment of ~~(\$)~~ shall be made upon execution of this Agreement and credited to the Owner's account at final payment.

...
Compensation for Basic Services will be a fee of \$ 55,000.00 and a lump sum fee of \$10,000.00 for LSD services, using a City of Fayetteville construction budget of \$ 1,100,000.00. Changes and modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees. See Article 12 for other additional services and conditions.

Schematic Design Phase:	percent-(	%)
<u>Schematic Design Phase:</u>	<u>Fifteen</u>	<u>percent (15 %)</u>
Design Development Phase:	percent-(	%)
<u>Design Development Phase:</u>	<u>Twenty</u>	<u>percent (20 %)</u>
Construction Documents Phase:	percent-(	%)
<u>Construction Documents Phase:</u>	<u>Forty</u>	<u>percent (40 %)</u>
Bidding or Negotiation Phase:	percent-(	%)
<u>Bidding or Negotiation Phase:</u>	<u>Five</u>	<u>percent (05 %)</u>
Construction Phase:	percent-(	%)
<u>Construction Phase:</u>	<u>Twenty</u>	<u>percent (20 %)</u>
	percent-(	%)

...
Hourly at three (3.0) times the direct personnel expense of the Architect's principals and/or employees as defined in Article 10.1.

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...
For additional services requested in addition to those services already listed in Article 12: Hourly at three (3.0) times the direct personnel expense of the Architect's principals and/or employees as defined in Article 10.1.

...
§ 11.3.3 For Additional Services of Consultants, including additional structural, mechanical and electrical engineering services and those provided under Section 3.4.19 or identified in Article 12 as part of Additional Services, a multiple of one point two (1.2) times the amounts billed to the Architect for such services.

...
For Reimbursable Expenses, as described in Section 10.2, and any other items included in Article 12 as Reimbursable Expenses, a multiple of one point two (1.2) times the expenses incurred by the Architect, the Architect's employees and consultants directly related to the Project.

...
§ 11.5.1 If the Basic Services covered by this Agreement have not been completed within fourteen (14) months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Sections 10.3.3 and 11.3.2.

...
§ 11.5.2 Payments are due and payable fifteen (15) days from the date of the Architect's invoice. Amounts unpaid ~~()~~ days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...
(Insert rate) The City of Fayetteville will endeavor to pay within 30 days of the date of the Architect's invoice, without guarantee of interest agreed upon, such timing.

...
(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's Owner's and Architect's principal places of business, the location of the

Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

12.1.1 Additional Services:

* LSD Planning: Not to exceed \$10,000.00

Lump sum fee for normal LSD process and does not include citizen group meetings or other activities outside the normal LSD planning procedures. Citizen group meeting participation will be hourly per Article 11.3.2.

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

12.1 Basic Services do not include infrastructure improvements off site and do not include the design or completion of improvements for public utilities, public utility extensions and/or utility work normally associated with construction of the building. Basic Services do not include environmental clean-up activities.

12.2 Reimbursable expenses are defined in Article 10.2. For the purposes of this agreement, the City of Fayetteville will establish a reimbursable budget of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00). If additional expenses are requested by the City, the City will raise the reimbursable budget to cover such expenses needed for proper completion of the project. For a listing of reimbursable items, see Attachment "A".

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12.3 FOI Clause: City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the (contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act. Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

12.4 List of proposed consultants. With approval of the City of Fayetteville, the following consultants will be used on the project:

<u>MEP Engineers</u>	<u>Green Anderson Engineers, Inc.</u>
<u>Structural Engineers</u>	<u>Engineering Consultants, Inc.</u>
<u>Civil Engineers</u>	<u>McClelland Consulting Engineers</u>
<u>Geotechnical</u>	<u>McClelland Consulting Engineers</u>

The Architect can change the use of consultants. The City of Fayetteville has the right to approve or disapprove any change in consultants.

OWNER
CITY OF FAYETTEVILLE

Dan Coody, Mayor

ARCHITECT
WITTENBERG DELONY & DAVIDSON

Richard Alderman, Principal

Certification of Document's Authenticity
AIA® Document D401™ – 2003

I, Richard Alderman, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:39:38 on 01/13/2006 under Order No. 1000187539_5 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B151™ – 1997 - Abbreviated Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

Walter R. Baum
(Signed)

Principal
(Title)

1.19.2006
(Dated)

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Feb-06
City Council Meeting Date

Stephen Davis FIS Director Finance & Internal Services
Submitted By Division Department

Action Required:

Approval of a resolution of intent to reimburse for City expenses incurred in advance of a Fire Station Construction Bond issue.

This resolution provides the mechanism for the City to be reimbursed for expenses associated with developing replacement and new fire stations from bond proceeds.

\$0.00		
Cost of this request	Category/Project Budget	Program Category / Project Name
Account Number	Funds Used to Date	Program / Project Category Name
Project Number	\$ -	Sales Tax Capital Imp. Fund
	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Stephen Davis 1/19/06
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

D. J. Whit 1/24/06
City Attorney Date

Original Contract Number: _____

Stephen Davis 1/19/06
Finance & Internal Services Date

Received in Mayor's Office
ENTERED
1-19-06

ENTERED
1/24/06

Mayor Date

Received in City Clerk's Office

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor

FROM: Stephen Davis, Finance & Internal Services Director 

DATE: January 19, 2006

SUBJECT: **Amendment 78 Fire Station (s) Bond Program: Approval of Resolution of Intent to Reimburse**

Recommendation

Staff recommends approval of the resolution of intent to reimburse.

Background

The Citizens of Arkansas approved, at the General Election in 2000, Amendment 78 to the Arkansas Constitution. Amendment 78 provides, in part, authorization for cities to enter into short-term bond issues and capital lease agreements that are supported by the general revenues of the city. City Councils are authorized to execute these debt instruments without a public vote. The Arkansas Constitution limits the debt to no more than five (5) years and to no more than five (5%) per cent of the assessed value of taxable property within the city. The City of Fayetteville approved a Debt Management Policy on November 5, 2002 (Resolution 173-02) that established the policy and underlying analysis that must be completed prior to initiating any debt agreements.

On November 7, 2002 the City of Fayetteville advertised and solicited requests for qualifications (RFQ) for Bond Counsel Services and solicited requests for proposals (RFP) for Underwriter Services and Leasing Services. The City of Fayetteville Debt Committee (established by Resolution 173-02) received the responses to the request for qualifications and request for proposals in January, 2003. The Debt Committee selected Gordon Wilbourn of Kutak Rock as Bond Counsel, Dennis Hunt of Stephens, Inc and Crews and Associates as Bond Underwriter(s) and Bank of America (BOA) Leasing for leasing services. Agreements with each of these service providers will be developed and submitted to City Council for consideration and approval.

Discussion

The City has identified the need for an additional fire station and relocation of another fire station to improve response times to calls-for-service.

Approval of the Resolution of Intent to Reimburse will enable the City to pay for services rendered in developing these fire station projects and when Amendment 78 bonds are issued, submit invoices to the bond trustee for reimbursement. The Amendment 78 bond issue will be funded from a portion of the existing city sales tax used for capital.

RESOLUTION NO. _____

**A RESOLUTION OF INTENT REGARDING THE REIMBURSEMENT
OF CERTAIN COSTS AND EXPENSES INCURRED IN CONNECTION
WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF
FIRE STATION IMPROVEMENTS WITHIN THE CITY**

WHEREAS, the City of Fayetteville, Arkansas (the "City") desires to obtain financing for the acquisition, construction and equipping of certain fire station facilities (the "Project"); and

WHEREAS, the total costs of the Project, including expenses associated with the financing thereof, are presently estimated to be approximately \$ _____; and

WHEREAS, the City does not currently have adequate funds on hand to pay the estimated costs of the Project and related expenses; and

WHEREAS, the City presently intends to obtain the necessary funds to accomplish the Project and to pay related expenses through the issuance of tax-exempt indebtedness in principal amount not to exceed \$3,000,000; and

WHEREAS, the purpose of this Resolution is for the City to declare its "official intent" to reimburse itself for certain preliminary costs (incurred by or on behalf of the City and related to the Project) pursuant to Section 1.150-2 of the Regulations of the U.S. Department of Treasury promulgated pursuant to the provisions of the Internal Revenue Code of 1986, as amended;

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

Section 1: That the adoption of this Resolution is intended as the City's "official intent" to reimburse itself from the proceeds of tax-exempt indebtedness for preliminary costs of the Project and related expenses advanced by the City.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Feb-06
City Council Meeting Date

Jeremy Pate *JP*
Submitted By
Planning Division
Operations Department

Action Required:

Approval of a variance from the Master Street Plan right of way requirement (Ch. 166.18) for Fifteenth Street to allow for Walker Park entry signage.

N/A	\$134,062	Park Beautifications
Cost of this request	Category/Project Budget	Program Category / Project Name
N/A	\$ 69,781.66	Park Improvements
Account Number	Funds Used to Date	Program / Project Category Name
2003.1	\$ 64,280.34	Parks Development
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

[Signature]
Department Director
1-19-06
Date

Previous Ordinance or Resolution # 205-05

Original Contract Date: 18-Oct-05

[Signature]
City Attorney
1/25/06
Date

Original Contract Number:

[Signature]
Finance and Internal Service Director
1-23-06
Date

Received in City Clerk's Office
ENTERED
1-19-06

Mayor
Date

Received in Mayor's Office
ENTERED
1/23/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: January 17, 2006

Subject: Variance request (ADM 05-1907) from the Master Street Plan setbacks

RECOMMENDATION

Planning staff and the Planning Commission recommend approval of the proposed variance from Master Street Plan setbacks at Walker Park, to allow the proposed entry sign to be constructed within the Master Street Plan right-of-way for 15th Street.

BACKGROUND

In an effort to create a landmark for south Fayetteville and Walker Park, Parks and Recreation has designed an entrance sign that anchors the edge of the park as well as to inform citizens and visitors of the recreational opportunities within. When completed, the entry feature will include a native stone wall with park signage and a planting area. The feature will spotlight a trailhead, and will compliment the newly resurfaced tennis and basketball courts. The project was bid, resulting in Resolution 205-105 from the October 18th City Council. This resolution approved a contract with Midland Construction for \$64,026 with a 10% project contingency of \$6,402.60 for a total project cost of \$70,428.60 to construct the new entry feature at the corner of Fifteenth Street and South College Avenue.

Construction began in November, to include a rock wall with raised lettering, landscaped berm and irrigation. In an effort to accommodate the wall and berm between the existing trail south of the basketball court and sidewalk along Fifteenth Street, the wall was planned outside of the existing right-of-way, south of the existing trail and basketball courts. However, the Master Street Plan dictates a 55 feet from centerline right-of-way in this location, as indicated on the attached drawing. Fifteenth Street is currently a four-lane street along Walker Park. The Planning Division does not anticipate the addition of lanes to this street in this location and a turning lane onto South College Avenue is also not anticipated. On December 21st, 2005, construction on the entry sign was halted until the Master Street Plan issued is resolved. The request is for a variance from §161.18 Master Street Plan Setbacks to allow the entry signage in its intended location.

DISCUSSION

This item was heard at the regular Planning Commission meeting of January 09, 2006, at which the seven members voted to forward this item to the City Council with a recommendation of approval.

BUDGET IMPACT None.

RESOLUTION NO. _____

A RESOLUTION APPROVING A VARIANCE FROM THE MASTER STREET PLAN SETBACK REQUIREMENTS TO ALLOW FOR THE CONSTRUCTION OF AN ENTRANCE SIGN AT WALKER PARK.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves a variance from § 161.18, Master Street Plan setback requirements, of the Unified Development Code, to allow for the construction of an entrance sign at Walker Park.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED:

By: _____

DAN GOODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk



PC Meeting of January 09, 2006

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, Director of Current Planning
DATE: January 03, 2006

ADM 06-1907: Administrative Item (Walker Park Sign): Submitted by Parks Department staff requesting a variance of §166.18 Master Street Plan Setbacks in order to construct the Walker Park entry signage.

Planner: Jeremy Pate

RECOMMENDATION: Staff recommends approval of the requested variance from the Master Street Plan right-of-way requirements.

PLANNING COMMISSION ACTION:	Required ☒ YES	☐ Denied
Date: <u>January 09, 2006</u>	☒ Approved	
CITY COUNCIL ACTION:	Required ☒ YES	☐ Denied
Date: <u>February 07, 2006</u>	☒ Approved	

Property Description: The subject property Walker Park, a public park located at the northwest corner of South College Avenue and Fifteenth Street. The sign proposal is located at this corner, but within the Master Street Plan right-of-way for Fifteenth Street, which is a Principal Arterial requiring 55 feet from centerline right-of-way setbacks.

Proposal: In an effort to create a landmark for south Fayetteville and Walker Park, Parks and Recreation has designed an entrance sign that anchors the edge of the park as well as to inform citizens and visitors of the recreational opportunities within. When completed, the entry feature will include a native stone wall with park signage and a planting area. The feature will spotlight a trailhead, and will compliment the newly resurfaced tennis and basketball courts. The project was bid, resulting in Resolution 205-105 from the October 18th City Council. This resolution approved a contract with Midland Construction for \$64,026 with a 10% project contingency of \$6,402.60 for a total project cost of \$70,428.60 to construct the new entry feature at the corner of Fifteenth Street and South College Avenue.

Construction began in November, to include a rock wall with raised lettering, landscaped

berm and irrigation. In an effort to accommodate the wall and berm between the existing trail south of the basketball court and sidewalk along Fifteenth Street, the wall was planned outside of the existing right-of-way, south of the existing trail and basketball courts. However, the Master Street Plan dictates a 55 feet from centerline right-of-way in this location, as indicated on the attached drawing. Fifteenth Street is currently a four-lane street along Walker Park. The Planning Division does not anticipate the addition of lanes to this street in this location and a turning lane onto South College Avenue is also not anticipated. On December 21st, 2005, construction on the entry sign was halted until the Master Street Plan issued is resolved.

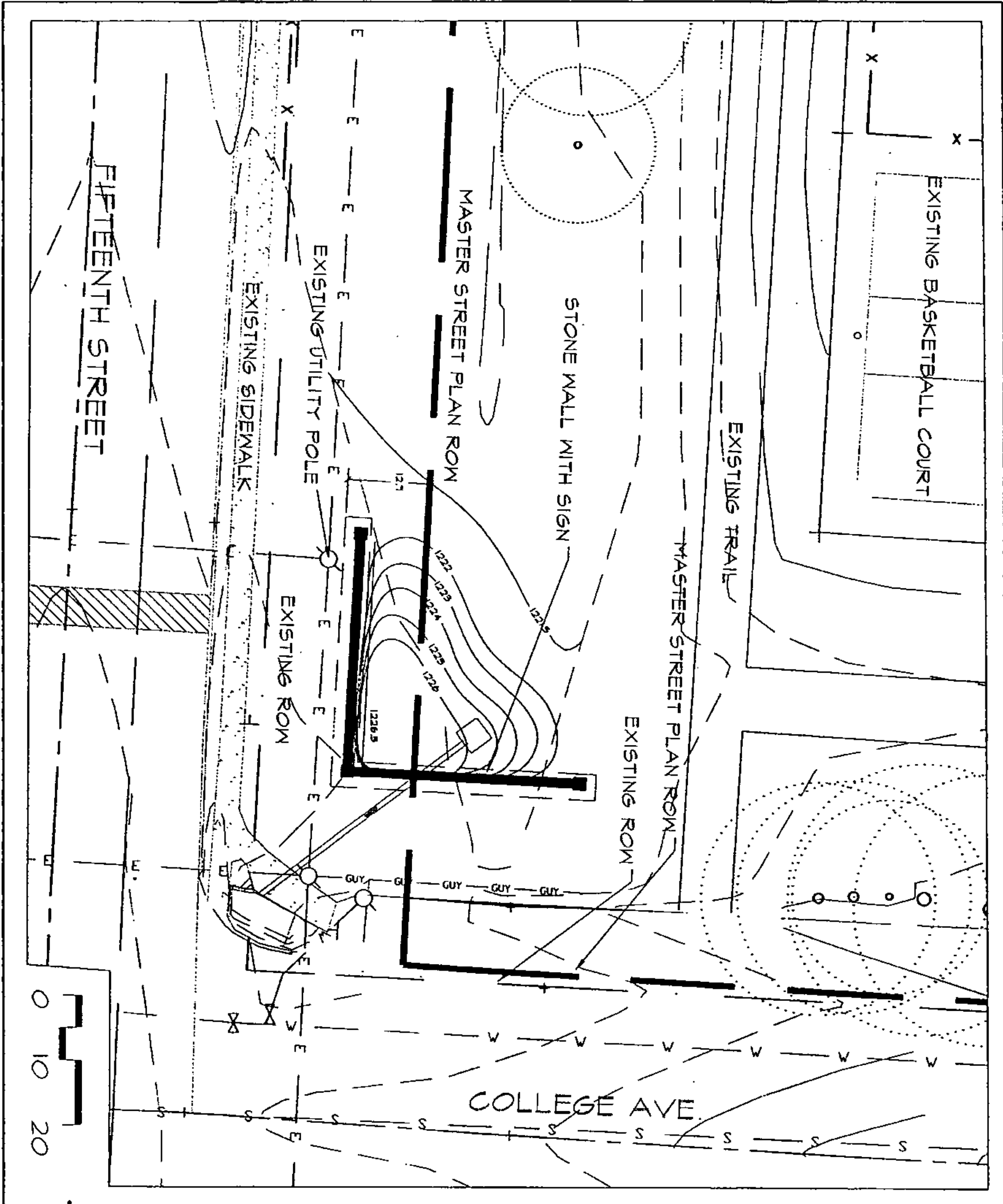
Request: The request is for a variance from §166.18 Master Street Plan Setbacks, which states:

166.18 Master Street Plan Setbacks

The city shall require the applicant/developer to establish a right-of-way setback line based on the right-of-way requirements for streets and highways designated by the Master Street Plan. Such setback line shall be considered the property line for such purpose of satisfying the requirements of the UDO. All building setbacks, required landscaping, parking lots, display areas, storage areas and other improvements and uses shall be located outside of such established setback area. The required width of setbacks, landscaped areas, buffers, and all other setback requirements shall be dimensioned from the established right-of-way setback line. The establishment of any new structure or other improvements within the right-of-way setback is prohibited.

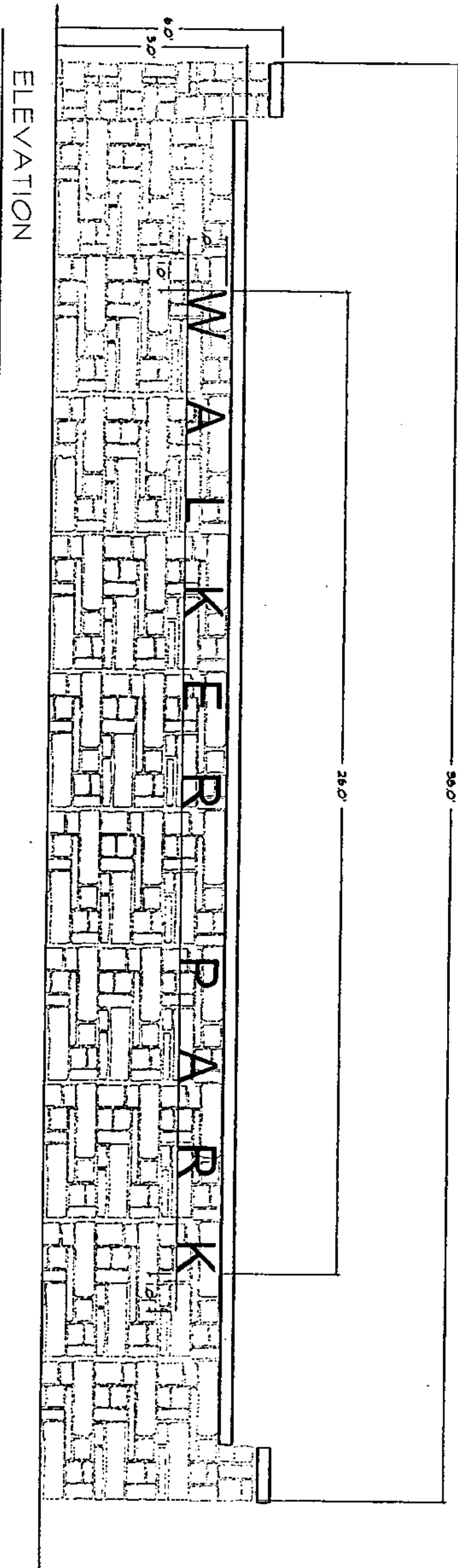
The Parks Department requests the ability to construct an entry sign approximately 13 feet within the Fifteenth Street Master Street Plan right-of-way as indicated in the attached site plans. This sign is planned to improve this intersection and major entry to the public park, and is not located within the existing right-of-way for Fifteenth Street, which is a four-lane street in this area. The City Council must also approve this request, as the proposal is for a structure within the Master Street Plan right-of-way.

Recommendation: Staff recommends approval of the variance request, finding the application proposal is not injurious or otherwise detrimental to the public or surrounding neighborhoods. The proposal will be a compatible and positive improvement to the area, identifying the Walker Park area from Fifteenth Street for citizens and visitors. The four-lane street section in this area transitions to a two-lane section east of the S. College Avenue intersection, and there are no anticipated improvements to widen this street to a five-lane section along the park. The parkland will not likely be developed for uses other than those already in place, therefore traffic generation into the park will not necessitate widening of Fifteenth in the foreseeable future.

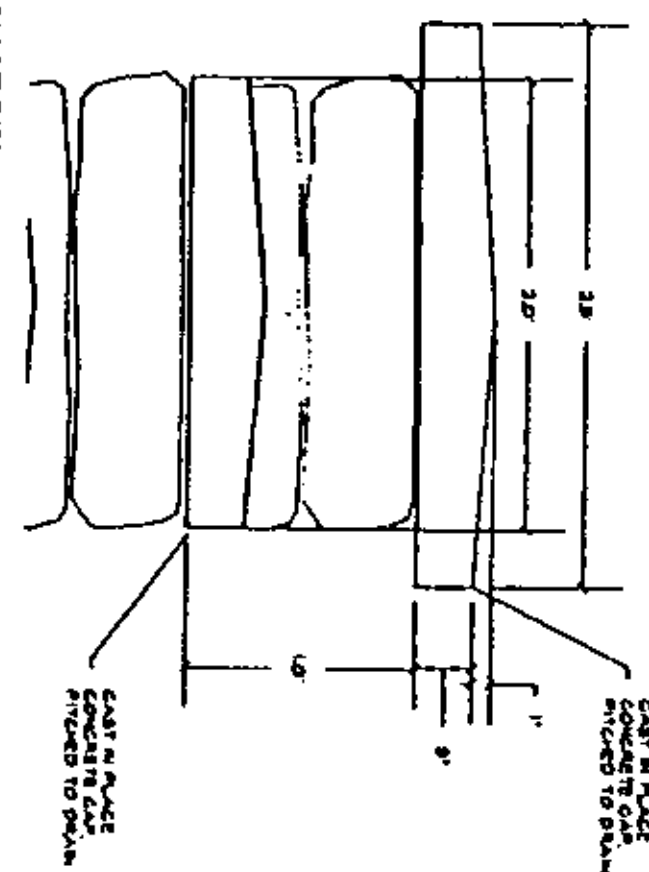


Walker Park Entry Feature



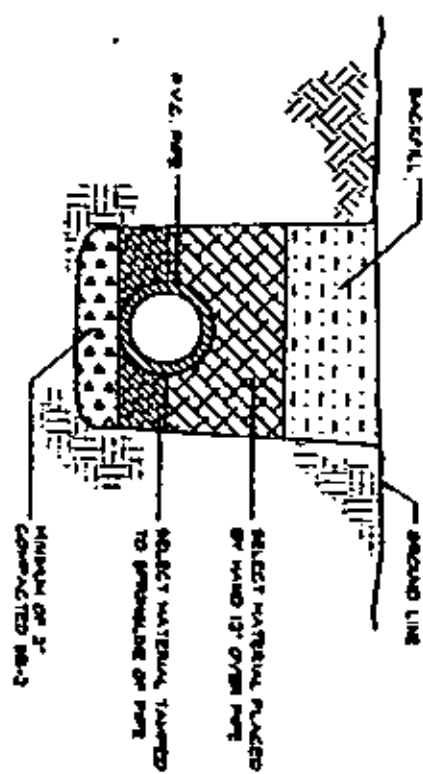


SCALE = 1/4" = 1'



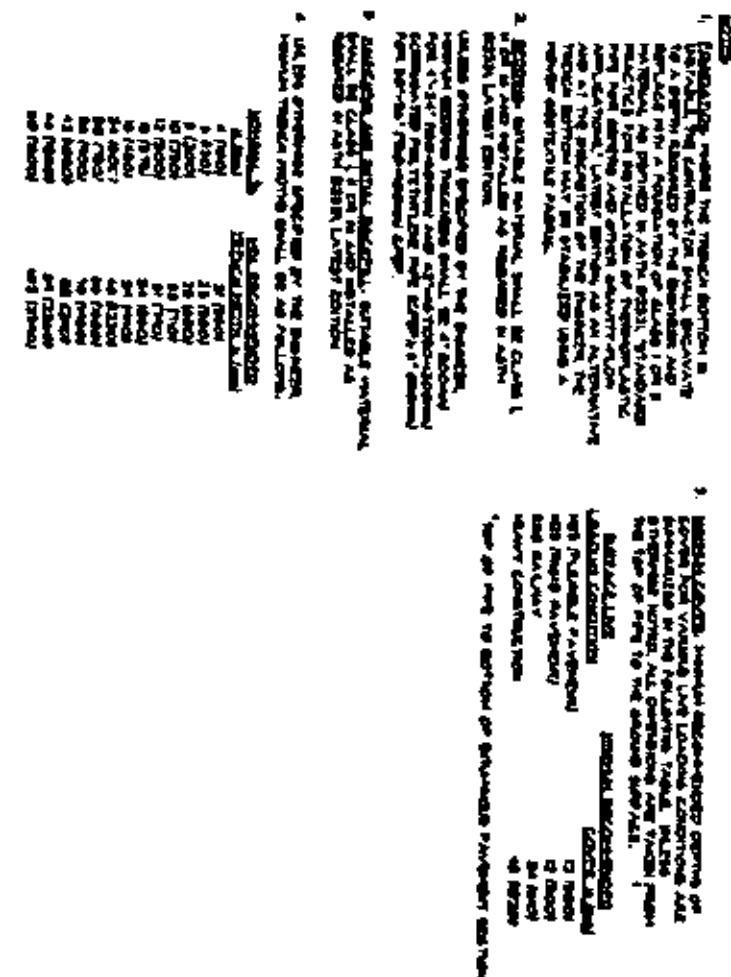
CONCRETE CAP

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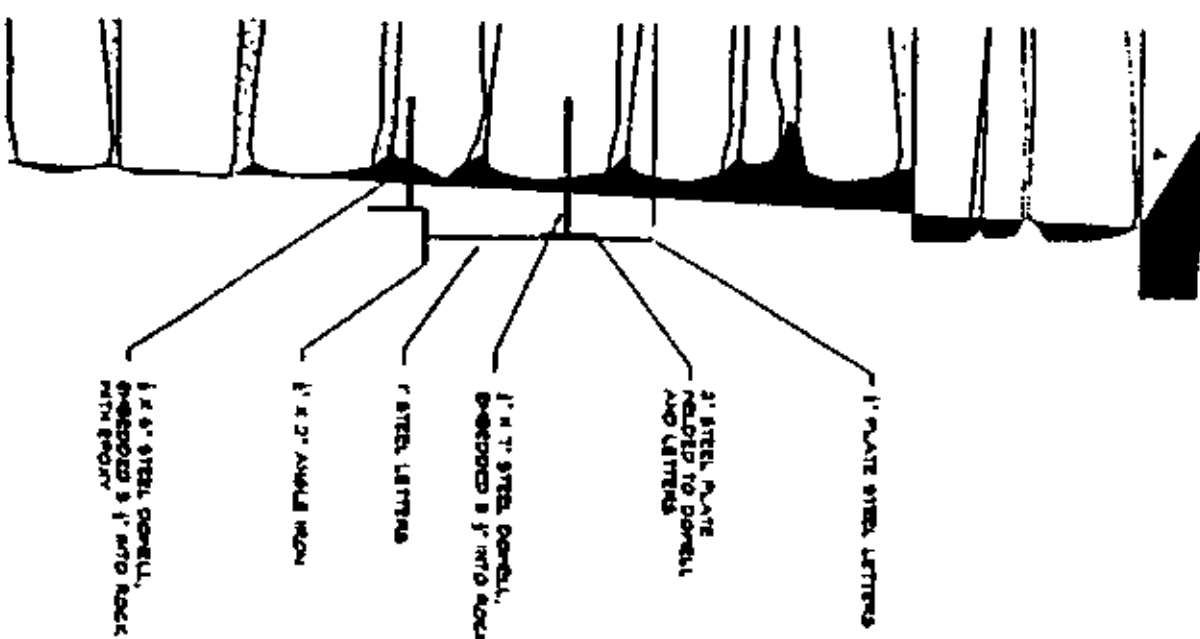
no scale

3. Health benefits are not available for employees on furlough.
4. Employees on furlough are not eligible for benefits upon reassignment. (During the furlough period, the furlough employee is not eligible for benefits provided by the employer, but the employee is not eligible for benefits provided by the employer.)
5. The furlough law is not a law, but a law.

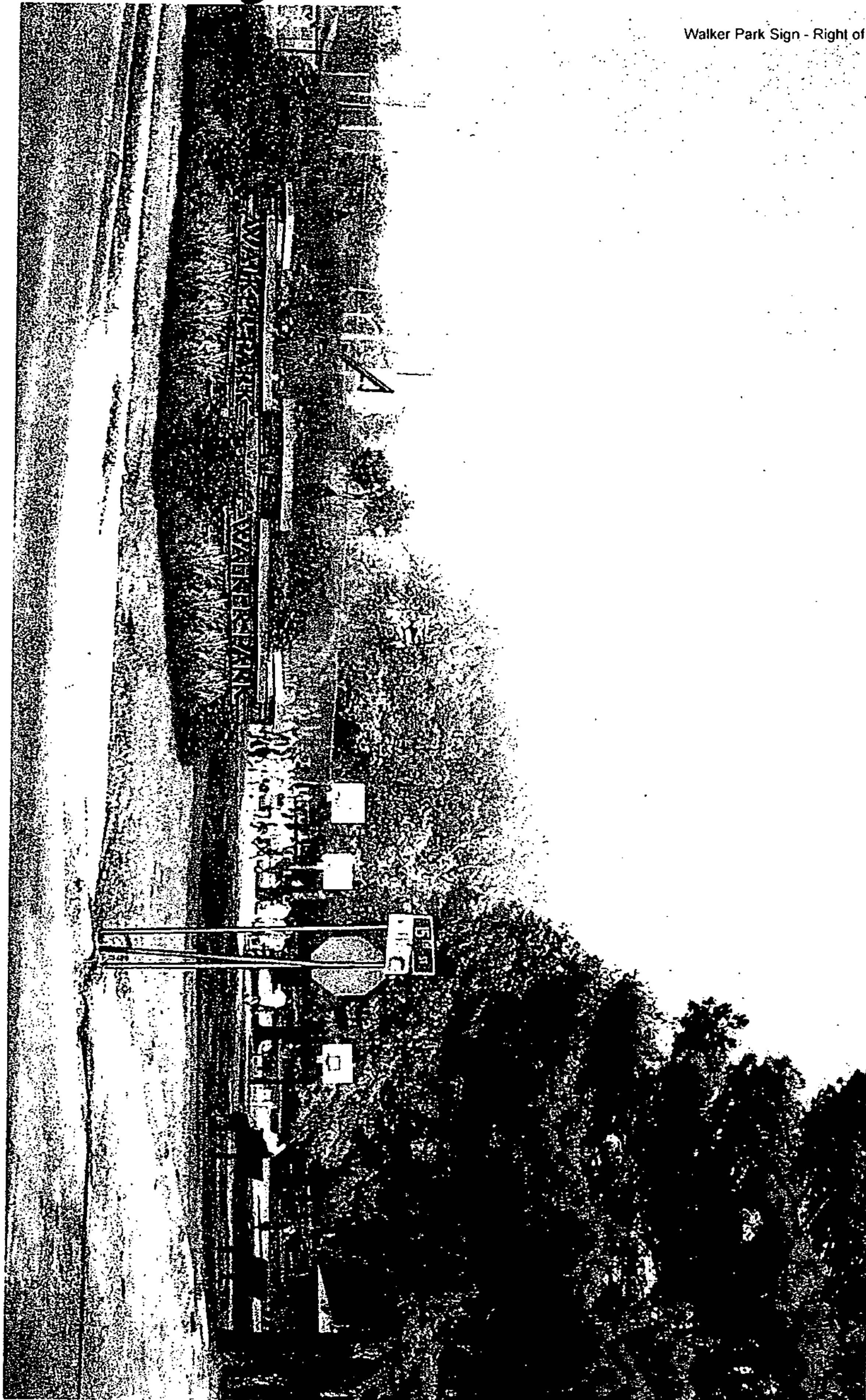


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●1828 ●



70 10010



COLLEGE AVE

ELLA ST

132
15TH ST

15TH ST

RMF-24

R-A

PRIVATE 55

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 7
Arkoma Playgrounds & Supply
Page 1 of 12

7-Feb-06

City Council Meeting Date

Yolanda Fields

Submitted By

CRCC

Division

Operations

Department

Action Required:

Approval of RFP 05-32 with Arkoma Playgrounds & Supply not to exceed \$79,699.00 for the installation of the Yvonne Richardson Community Center Playground.

\$79,699.00

Cost of this request

2180 4990 5390 ~~48~~ 24

Account Number

RFP 05-32

Project Number

\$ 80,000.00

Category/Project Budget

\$240.00

Funds Used to Date

\$ 79,760.00

Remaining Balance

YRCC

Program Category / Project Name

YRCC
Playground

Program / Project Category Name

2180 4990 5390 24

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Department Director

Date

1-19-06

City Attorney

Date

1/24/06

Finance and Internal Service Director

Date

1-24-06

Mayor

Date

Received in City Clerk's Office

ENTERED

1-19-06

Received in Mayor's Office

ENTERED

1/24/06

Approval of RFP 05-32

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations
From: Yolanda Fields, CRCC Director *YF*
Date: January 12, 2006
Subject: Approval of RFP 05-32 for Arkoma Playgrounds & Supply for installation of playground at Yvonne Richardson Center.

RECOMMENDATION

Staff recommends approval of RFP 05-32 to install playground at Yvonne Richardson Community Center(YRCC).

BACKGROUND

The YRCC playground equipment had become unsafe for use under the regulations governing public playground areas. Community Development Block Grant (CDBG) funding was utilized to remove the equipment. The new playground equipment would provide one of the most current play environments for the children in the SE Fayetteville.

DISCUSSION

This project would meet one of the City's Guiding Principals of revitalizing SE Fayetteville. The playground equipment will provide safe and health activities for the children in community. CDBG funding would be used to fund this most needed project.

BUDGET IMPACT

CDBG funding for project is \$80,000.00.

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A PROPOSAL IN THE AMOUNT OF \$79,699.00 FROM ARKOMA PLAYGROUNDS & SUPPLY FOR THE INSTALLATION OF NEW PLAYGROUND EQUIPMENT AT THE YVONNE RICHARDSON COMMUNITY CENTER.

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 a proposal in the amount of \$79,699.00 from Arkoma Playgrounds & Supply for the installation of new playground equipment at the Yvonne Richardson Community Center. A copy of the proposal, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 7th day of February 2006.

APPROVED:

By _____
DAN GOODY, Mayor

ATTEST:

By _____
SONDRA SMITH, City Clerk

Jan-11-06 03:10 Arkoma Playgrounds & Supp 4794439202



#1

DATE: 15-Dec-05

SHIP TO:
Yvonne Richardson Community Center
240 East Rock Street
Fayetteville, AR 72701

BILL TO:
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Ms. Andrea Foren 479-575-8220
Contact Name Phone Number

F.O.B. - DELAND, MINNESOTA
FREIGHT:

PREPAID ☒ COLLECT ☐

Net 15
TERMS (Subject to Credit Approval)

2 - 3 Weeks
SHIPPING TIME

This proposal is valid for 30 days from the above date.

We are pleased to submit this proposal to supply the following items:

QTY.	ITEM NO.	PRODUCT DESCRIPTION	UNIT PRICE	EXTENDED AMOUNT
		RFP #05-32 - YVCC PLAYGROUND PROJECT		
		OPTION #1		
1	4075-1-4-1	Custom PlayBooster Play Structure by Landscape Structures for 5-12 Year Olds	\$ 18,164.00	\$ 18,164.00
1	150976A	Independent 6-Panel Cascade Climber	2,835.00	2,835.00
1	4075-1-2-2	Custom PlayShaper Play Structure by Landscape Structures for 2-5 Year Olds	11,031.00	11,031.00
2160	Concrete	Sq.Ft. Reinforced Concrete Pad, 4" Thickness	3.50	7,560.00
2160	PIP	Sq.Ft. Poured-in-Place Rubber Safety Surfacing, 50% Color - 50% Black Blend, Varying Thickness based on Fall Height	7.00	15,120.00
1	Site	Site Work (grading, leveling of two play pods, connecting sidewalk between pods removal/disposal of existing concrete piers, seed and straw at site, if required)	5,500.00	5,500.00
1	Install	Professional Installation of Playground by Certified Installer	8,830.00	8,830.00
1	Install	Factory Installation of Poured-in-Place Rubber Surfacing	6,530.00	6,530.00
		LESS COURTESY DISCOUNT	(2,075.00)	(2,075.00)
		Customer is responsible for unloading and storing equipment Customer is responsible for locating and marking all utilities A standard rock clause of \$25.00 per hole and rental of a jackhammer will apply, if needed.		

Signature below accepting this proposal will constitute a purchase order.

Customer Signature _____ Date _____
Customer Name (Print or Type) _____
ARKOMA PLAYGROUNDS & SUPPLY Becky Thompson
Proposed by Arkoma Representative
1/11/06
Representative Signature _____ Date _____

Material Cost	\$ 73,495.00
Installation	See Above
Freight	3,300.00
Sales Tax	2,904.00
TOTAL	\$ 78,699.00

NOTE: All purchase orders, checks, etc. to be made out to Arkoma Playgrounds & Supply, LLC
** If payment is not made by due date of invoice, Arkoma Playgrounds will assess a 1-1/2% monthly interest charge



DATE: 20-Dec-05

F.O.B. - DELANO, MINNESOTA
FREIGHT:

PREPAID
☒

COLLECT
☐

SHIP TO:
Yvonne Richardson Community Center
240 East Rock Street
Fayetteville, AR 72701

Net 15
TERMS (Subject to Credit Approval)

2 - 3 Weeks
SHIPPING TIME

BILL TO:
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

This proposal is valid for 30 days from the above date.

Ms. Andrea Foren 479-575-8220
Contact Name Phone Number

We are pleased to submit this proposal to supply the following items:

QTY.	ITEM NO.	PRODUCT DESCRIPTION	UNIT PRICE	EXTENDED AMOUNT
		RFP #05-32 - YRCC PLAYGROUND PROJECT		
		OPTION #1		
1	4075-1-2-1	Custom PlayBooster Play Structure by Landscape Structures for 5-12 Year Olds	\$ 21,369.00	\$ 21,369.00
1	4075-1-2-2	Custom PlayShaper Play Structure by Landscape Structures for 2-5 Year Olds	11,031.00	11,031.00
2150	Concrete	Sq.Ft. Reinforced Concrete Pad, 4" Thickness	3.50	7,525.00
2150	PIP	Sq.Ft. Poured-in-Place Rubber Safety Surfacing, 50% Color - 50% Black Blend, Varying Thickness Based on Critical Fall Height	7.00	15,050.00
1	Site	Site Work (grading, leveling of two play pods, connecting sidewalk between pods, removal/disposal of existing concrete piers, seed and straw at site, if required)	5,500.00	5,500.00
1	Install	Installation of Playground Equipment by Factory Certified Installer	8,830.00	8,830.00
1	Install	Installation of Poured-in-Place Rubber Surfacing by Factory Certified Installer	6,500.00	6,500.00
		LESS COURTESY DISCOUNT	(2,100.00)	(2,100.00)
		Customer is responsible for locating and marking all utilities not identified by Arkansas One Call. A standard rock clause of \$25.00 per hole and rental of a jackhammer will apply, if needed.		

Signature below accepting this proposal will constitute a purchase order.

Customer Signature Date

Customer Name (Print or Type)

ARKOMA PLAYGROUNDS & SUPPLY Becky Thompson

Proposed by Arkoma Representative

Representative Signature

Date

Material Cost \$ 73,705.00

Installation See Above

Freight 3,300.00

Sales Tax 2,994.00

TOTAL \$ 79,999.00

NOTE: All purchase orders, checks, etc. to be made out to: Arkoma Playgrounds & Supply, LLC
** If payment is not made by due date of invoice, Arkoma Playgrounds will assess a 1-1/2% monthly interest charge.

93 Colt Square Suite 5 Fayetteville, AR 72703 PH: 479-443-0066 Fax: 479-443-9202

ARKOMA
PLAYGROUNDS & SUPPLY

LANDSCAPE
STRUCTURES

DATE: 15-Dec-05

F.O.B. - DELANO, MINNESOTA

PREPAID

COLLECT

FREIGHT:

☒

☐

SHIP TO:

Yvonne Richardson Community Center
240 East Rock Street
Fayetteville, AR 72701

Net 15

TERMS (Subject to Credit Approval)

2 - 3 Weeks

SHIPPING TIME

BILL TO:

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

This proposal is valid for 30 days from the above date.

Ms. Andrea Foren

479-575-8220

Contact Name

Phone Number

We are pleased to submit this proposal to supply the following items:

QTY.	ITEM NO.	PRODUCT DESCRIPTION	UNIT PRICE	EXTENDED AMOUNT
		RFP #05-32 - YRCC PLAYGROUND PROJECT		
		OPTION #2		
1	4075-2-1	PlaySense Model #402 Play Structure by Landscape Structures for 5-12 Year Olds (see attached for component listing)	\$ 12,020.00	\$ 12,020.00
1	4075-2-1	PlaySense Model #33 Play Structure by Landscape Structures for 2-5 Year Olds (see attached for component listing)	7,885.00	7,885.00
1	150976A	6-Panel Independent Cascade Climber	2,835.00	2,835.00
3	152179A	Independent Saddle Spinners	635.00	1,905.00
2455	Concrete	Sq.Ft. Reinforced Concrete Pad, 4" Thickness (incl. four 5' wide connecting sidewalks between play areas)	3.50	8,592.50
2455	PIP	Sq.Ft. Poured-in-Place Rubber Safety Surfacing, 50% Color - 50% Black Blend, Varying Thickness Based on Critical Fall Height	6.00	14,730.00
1	Site	Site Work (grading, removal and disposal of excess dirt and existing concrete piers, re-seeding outside of play area if required, etc.)	6,000.00	6,000.00
1	Install	Professional Installation of Playground by Certified Installer	8,500.00	8,500.00
1	Install	Factory Installation of Poured-in-Place Rubber Surfacing	7,500.00	7,500.00
Customer is responsible for locating and marking all utilities not identified by Arkansas One Call. A standard rock clause of \$25.00 per hole and rental of a jackhammer will apply, if needed.				

Signature below accepting this proposal will constitute a purchase order.

Customer Signature

Date

Customer Name (Print or Type)

ARKOMA PLAYGROUNDS & SUPPLY

Becky Thompson

Proposed by Arkoma Representative

Representative Signature

Date

Material Cost \$ 69,967.50

Installation See Above

Freight 3,300.00

Sales Tax 2,635.50

TOTAL \$ 75,903.00

NOTE: All purchase orders, checks, etc. to be made out to: Arkoma Playgrounds & Supply, LLC

** If payment is not made by due date of invoice, Arkoma Playgrounds will assess a 1-1/2% monthly interest charge.

93 Colt Square Suite 5 Fayetteville, AR 72703 PH: 479-443-0066 Fax: 479-443-9202

**RFP 05-32, YRCC Playground on Rock Street
Proposal Form**

The Proposer 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.

Total price for this project shall not exceed \$80,000.00 which includes bonds and insurance required, labor cost, equipment, ground preparation, playground installation, play surface product and installation, post construction clean up, shipping and applicable sales tax. In addition, the "Price per Proposal Specifications", is to include FOB to Fayetteville, AR and sales tax as regulated by the Arkansas Department of Finance Administration. Failure to meet this requirement could result in your proposal being rejected. **PROPOSAL #1**

PRICE PER PROPOSAL SPECIFICATIONS: \$ * 79,890.40

*Not to exceed \$80,000 for complete project (includes tax).

CONTRACTORS NAME

RJR ENTERPRISES, INC.

CONTRACTORS LICENSE #

0093500406

CONTACT PERSON

RON BROWN

TITLE

PRESIDENT

ADDRESS

804 N 42ND STREET

ROGERS, AR 72756

TELEPHONE

479-621-3939 FAX 479-631-6579

EMAIL ADDRESS

RJBROWN@COX.NET

AUTHORIZED SIGNATURE:

Ronald Brown

All inclusive proposals must be submitted no later than November 29th, 2005 at 2:00 p.m., to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope marked "RFP 05-32, YRCC Playground on Rock Street" Each bidder will be required to meet or exceed the specifications attached. Any deviation must be noted with specifications attached to bid. Questions related to the proposal process should be directed to Andrea Foren, City of Fayetteville Purchasing Division, (479) 575-8220, or by e-mail aforen@ci.fayetteville.ar.us.

A non-mandatory pre-proposal conference to answer questions concerning this proposal will be held on Friday, November 18, 2005 at 10:00 AM. The pre-proposal conference location will be at the actual job site, located at 240 East Rock Street, Fayetteville, AR 72701.

Please contact Lance Fisher at 479-444-3461 if you need directions.

**RFP 05-32, YRCC Playground on Rock Street
Proposal Form**

The Proposer 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.

Total price for this project shall not exceed \$80,000.00 which includes bonds and insurance required, labor cost, equipment, ground preparation, playground installation, play surface product and installation, post construction clean up, shipping and applicable sales tax. In addition, the "Price per Proposal Specifications", is to include FOB to Fayetteville, AR and sales tax as regulated by the Arkansas Department of Finance Administration. Failure to meet this requirement could result in your proposal being rejected. *REPROCAL #2*

PRICE PER PROPOSAL SPECIFICATIONS: \$ * 79,665.47

*Not to exceed \$80,000 for complete project (includes tax).

CONTRACTORS NAME

RSR ENTERPRISES, INC.

CONTRACTORS LICENSE #

0093500406

CONTACT PERSON

RON BROWN

TITLE

PRES.

ADDRESS

804 N 42ND STREET

ROGERS, AR 72756

TELEPHONE

479-621-3939 FAX 479-631-6574

EMAIL ADDRESS

RSRBROWN@COX.NET

AUTHORIZED SIGNATURE:

Ronald C Brown

All inclusive proposals must be submitted no later than November 29th, 2005 at 2:00 p.m., to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope marked "RFP 05-32, YRCC Playground on Rock Street" Each bidder will be required to meet or exceed the specifications attached. Any deviation must be noted with specifications attached to bid. Questions related to the proposal process should be directed to Andrea Foren, City of Fayetteville Purchasing Division, (479) 575-8220, or by e-mail aforen@ci.fayetteville.ar.us.

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Please contact Lance Fisher at 479-444-3461 if you need directions.

**RFP 05-32, YRCC Playground on Rock Street
Proposal Form**

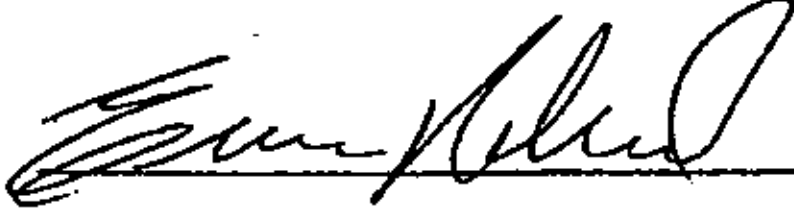
A.7
Arkoma Playgrounds & Supply
Page 9 of 12

The Proposer 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.

Total price for this project shall not exceed \$80,000.00 which includes bonds and insurance required, labor cost, equipment, ground preparation, playground installation, play surface product and installation, post construction clean up, shipping and applicable sales tax. In addition, the "Price per Proposal Specifications", is to include FOB to Fayetteville, AR and sales tax as regulated by the Arkansas Department of Finance Administration. Failure to meet this requirement could result in your proposal being rejected.

PRICE PER PROPOSAL SPECIFICATIONS: \$ * 80,000.00

*Not to exceed \$80,000 for complete project (includes tax).

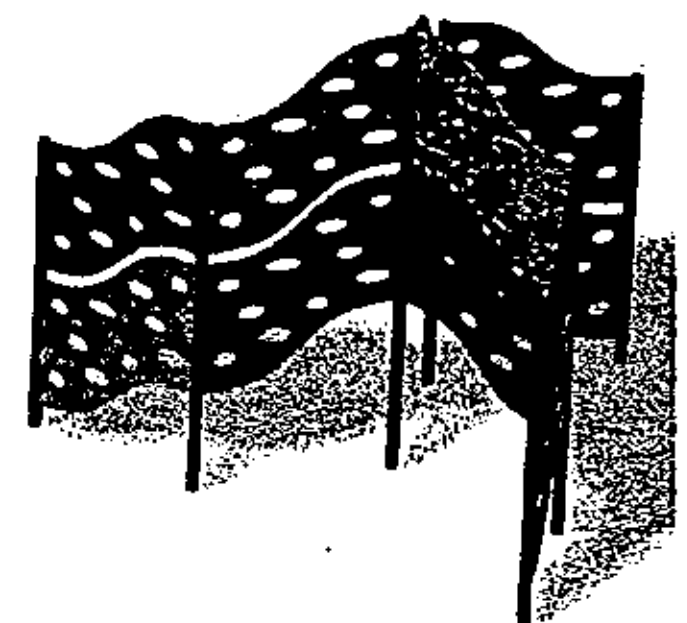
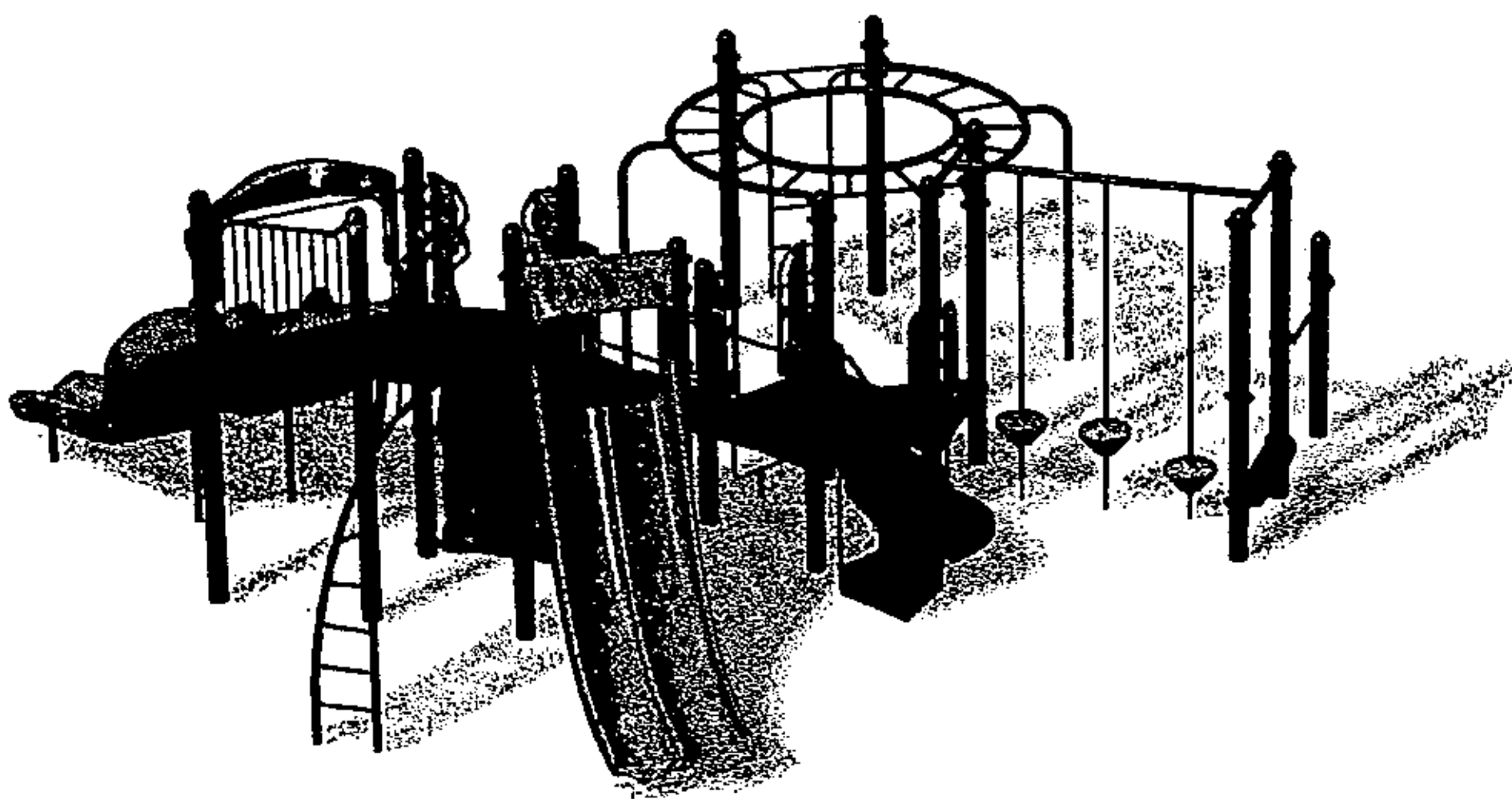
CONTRACTORS NAME NOLAND CONSTRUCTION, INC.
CONTRACTORS LICENSE # 0080980406
CONTACT PERSON JUSTIN NOLAND
TITLE PROJECT COORDINATOR/ESTIMATOR
ADDRESS 308 N. MORRILL ST.
MORRILTON, AR 72110
TELEPHONE 501-354-0428 FAX 501-977-0822
EMAIL ADDRESS JNOLAND84@AOL.COM
AUTHORIZED SIGNATURE: 

All inclusive proposals must be submitted no later than November 29th, 2005 at 2:00 p.m., to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope marked "RFP 05-32, YRCC Playground on Rock Street" Each bidder will be required to meet or exceed the specifications attached. Any deviation must be noted with specifications attached to bid. Questions related to the proposal process should be directed to Andrea Foren, City of Fayetteville Purchasing Division, (479) 575-8220, or by e-mail aforen@ci.fayetteville.ar.us.

A non-mandatory pre-proposal conference to answer questions concerning this proposal will be held on Friday, November 18, 2005 at 10:00 AM. The pre-proposal conference location will be at the actual job site, located at 240 East Rock Street, Fayetteville, AR 72701.

Please contact Lance Fisher at 479-444-3461 if you need directions.





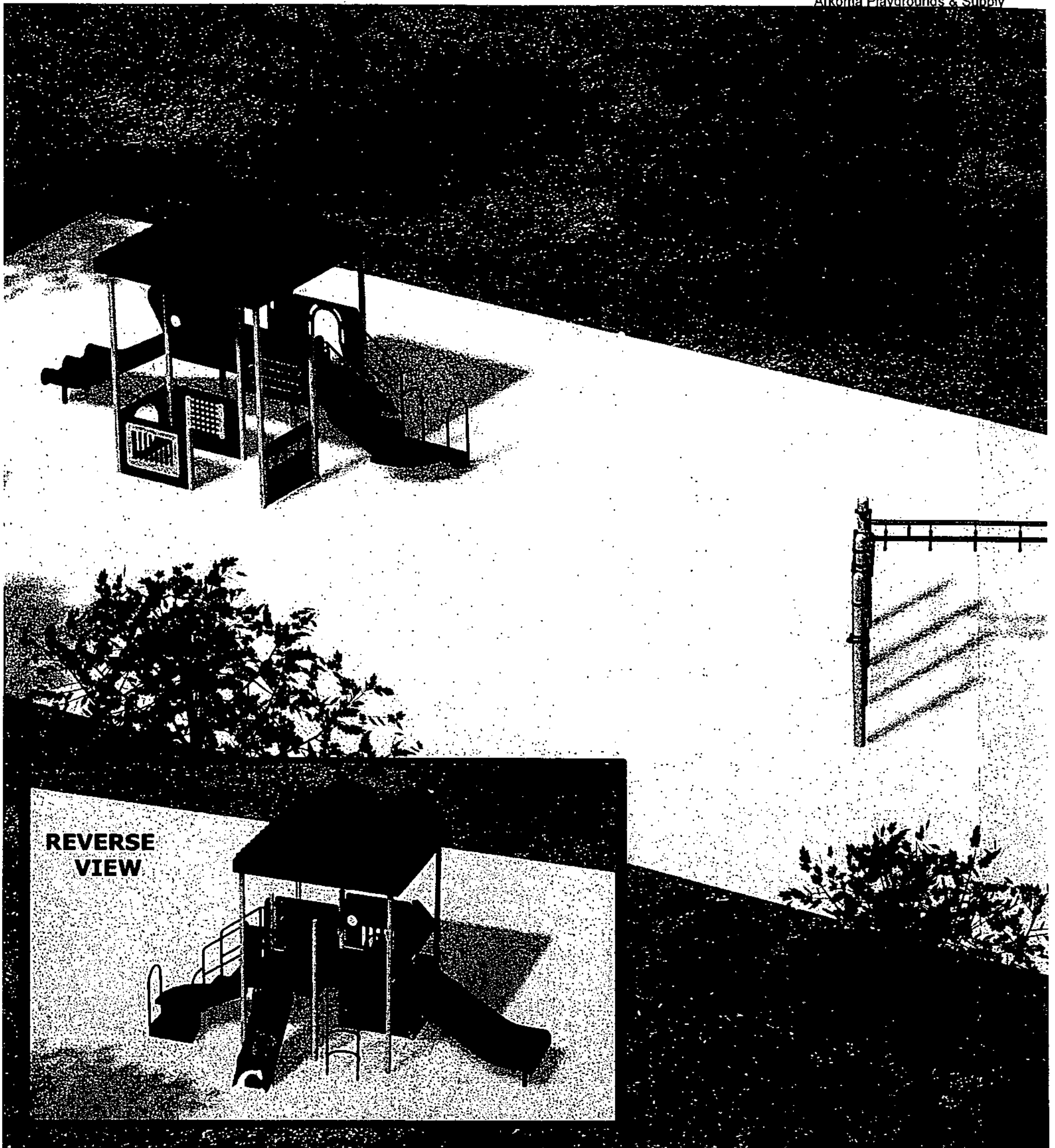
**LANDSCAPE
STRUCTURES**



**YVONNE RICHARDSON COMMUNITY CENTER
FAYETTEVILLE, AR**

1/11/2006
TARA M.
1264075-1-4

**ARKOMA
PLAYGROUNDS & SUPPLY**



**LANDSCAPE
STRUCTURES**



**YVONNE RICHARDS
FAYETTEVILL**

CITY ATTORNEY AGENDA REQUEST

A. 8
Advertising & Promotion Commission
Page 1 of 8

FOR: COUNCIL MEETING OF February 7, 2006

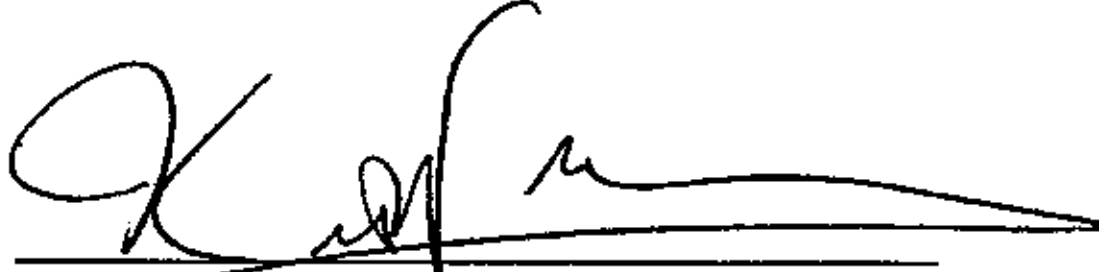
FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve An Agreement With The Fayetteville Advertising And Promotion Commission To Collect And Account For The 1% A&P Commission Hotel, Motel, And Restaurant Tax

APPROVED FOR AGENDA:



City Attorney

1-24-06

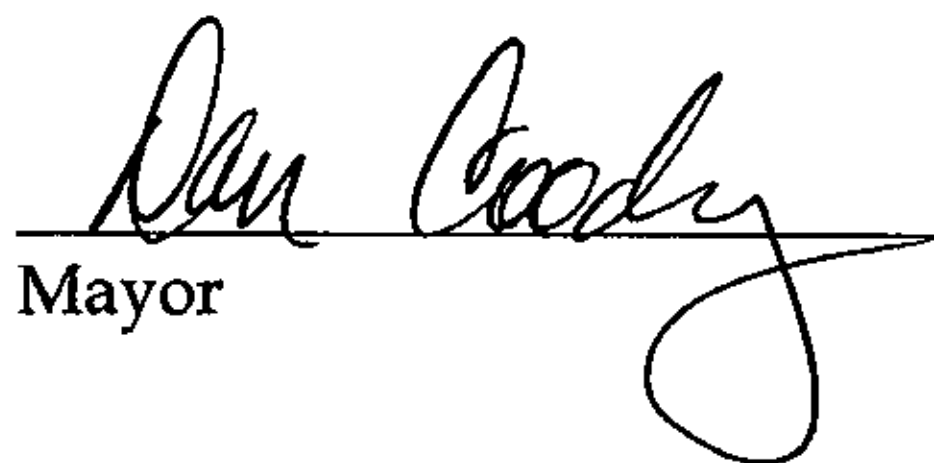
Date



Steve Davis,
Finance & Internal Services Director

1-24-06

Date



Mayor

1/25/06

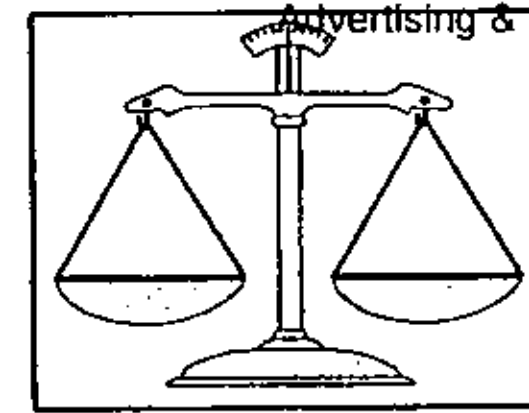
Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

A. 8

Page 2 of 8

TO: **Dan Coody, Mayor**
City Council
Steve Davis, Finance & Internal Services Director

FROM: **Kit Williams, City Attorney**

A handwritten signature in dark ink, appearing to be "Kit Williams", written over a horizontal line.

DATE: **January 24, 2006**

RE: **Agreement with A&P Commission to collect its 1% HMR tax**

It has come to my attention that the existing Agreement with the A&P Commission needs to be renewed and the collection procedures reviewed and shortened. Accordingly, I have drafted a new Agreement largely mirroring the one passed in 2002, but changing the Collection Procedures to dramatically shorten the time a restaurant owner may go without paying the HMR taxes collected from customers to the City.

I hope that new procedures (which still will normally include warning letters from both the Accounting Division and City Prosecutor) will mean prosecutions of non-paying owners will begin within 60 days rather than the 120 days or longer periods in the past. With a shorter period, repayment of past due HMR taxes will be more feasible since the delinquent HMR tax total will not have grown so large.

City of Fayetteville
A & P Commission Agreement
Appendix A

PRIOR
PROCEDURE

HMR Collection Procedures

At the end of each month, after balancing collections with General Ledger accounts:

Analyze listing of payments received for the year to determine which establishments are delinquent.

Send letters to all establishments that are two months or more delinquent in their HMR remittances. A second notice is sent at three months.

Prepare a list of all establishments that are four months or more delinquent. Indicate on the list if the delinquent establishment also has an alcoholic beverage permit. If an establishment has a private club or an on premises consumption permit, also indicate if they are delinquent in their supplement beverage tax payments. A notice is sent advising establishment of the date delinquent taxes must be paid to avoid formal collection efforts. Discuss the list with the Accounting Coordinator to determine the next step to be taken to collect the delinquent taxes.

For establishments that do not have an alcoholic beverage permit, the Prosecuting Attorney may be contacted about filing charges.

For establishments that have an alcoholic beverage permit, either the Prosecuting Attorney or the Alcoholic Beverage Control may be contacted to request their assistance.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AN AGREEMENT WITH
THE FAYETTEVILLE ADVERTISING AND PROMOTION
COMMISSION TO COLLECT AND ACCOUNT FOR THE 1%
A&P COMMISSION HOTEL, MOTEL, AND RESTAURANT
TAX

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 Agreement with the Fayetteville Advertising and Promotion Commission to
collect and account for the Advertising and Promotion Commission's 1% Hotel, Motel
and Restaurant Tax (attached as Exhibit 1).

PASSED and APPROVED this 7th day of February, 2006.

APPROVED:

By: **DRAFT**

DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

AGREEMENT

This Agreement, made and entered into this _____ day of _____, 2006, by and between the City of Fayetteville, Arkansas, a municipal corporation, and the Fayetteville Advertising and Promotion (A&P) Commission.

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

1. This agreement shall remain in full force and effect for an initial term of two years from the above date. Upon completion of the initial term, this agreement will automatically be renewed for an additional two year term unless either party notifies the other party in writing prior to the expiration of the initial term that no renewal is desired.

2. The A&P Commission agrees to pay 2% of the A&P portion of the Hotel, Motel, Restaurant (HMR) taxes collected by the City in consideration of the following duties and obligations to be performed by the City:

- a. Provide reporting forms and handle all communications with the tax remitters concerning the HMR tax;
- b. Receive tax reports and remittances from the tax remitters;
- c. Check tax reports for accuracy and timely reporting;
- d. Invoice tax remitters for underpaid taxes and/or penalties and interest if applicable;
- e. Perform collection efforts in accordance with established procedures as described in Exhibit "A";
- f. Disburse funds to Bond Trustees for debt service on outstanding bonds supported by the A&P Commission's portion of the HMR taxes;
- g. Provide a monthly accounting of all revenues collected for the previous month and remit the collections less the bond payments and collection fees to the A&P Commission by the 15th of the month;

h. Invest funds not needed for immediate expenditures as part of the City's pooled investments and allocate interest on the basis of percentage of ownership in the pool.

3. The City of Fayetteville and the Fayetteville Advertising and Promotion Commission agree to work collaboratively to develop necessary rules and regulations to implement Sections 35.26 and 35.27 of the Code of Fayetteville.

4. Neither party may assign any of its rights or obligations under this agreement, without the express written consent of the other.

5. 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.

6. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of any other breaches by either party.

7. This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this agreement shall be valid unless made in writing and signed by the duly authorized agents of the City and the A&P Commission.

IN WITNESS WHEREOF, the City of Fayetteville and the Advertising and Promotion Commission have executed this Agreement on or as of the date first written above.

**FAYETTEVILLE
ADVERTISING & PROMOTION
COMMISSION**

**CITY OF
FAYETTEVILLE,
ARKANSAS**

By: _____
PAT GAZZOLA, Chairman

By: _____
DAN COODY, Mayor

Attest:

Attest:

By: _____

By: _____
Sondra Smith, City Clerk

Exhibit "A"

HMR COLLECTION PROCEDURES

ACCOUNTING DIVISION

At the end of each month, after balancing collections with General Ledger accounts:

1. Analyze listing of payments received for the year to determine which establishments are delinquent.

2. Prepare a list of all establishments that are delinquent. If an establishment has had to be prosecuted within the last two years, immediately refer to the City Prosecutor. Indicate on the list if the delinquent establishment also has an alcoholic beverage permit. If an establishment has a private club or an on premises consumption permit, also indicate if they are delinquent in their supplement beverage tax payments.

3. Send notices to all establishments that are delinquent in their HMR remittances. This notice shall advise each establishment of the date (21 days after notice mailed) delinquent taxes must be paid to avoid referring the case to the City Prosecutor.

4. If delinquent taxes are not paid by the stated date, refer the case to the City Prosecutor's Office.

CITY PROSECUTOR'S OFFICE

5. Upon receipt of the delinquent HMR file, the City Prosecutor may send a letter/notice that charges will be filed unless delinquent taxes are paid within thirty (or fewer) days. Prosecutions should commence within sixty or fewer days from the initial delinquency discovered by the Accounting Department.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Feb-06
City Council Meeting Date

Yolanda Fields
Submitted By

Comm Res & Code Com
Division

Operations
Department

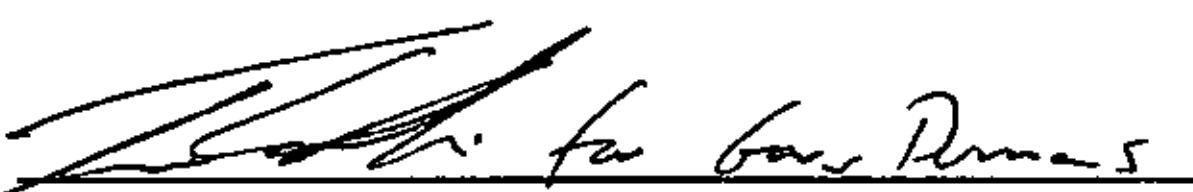
Action Required:

Public Hearing and Resolution to approve Bid # 06-CC01, Code Compliance Site Clean-up

\$25,000.00 Cost of this request	\$ 25,000.00 Category/Project Budget	 Program Category / Project Name
1010-6420-5315.00 Account Number	\$ - Funds Used to Date	Contract Services Program / Project Category Name
 Project Number	\$ 25,000.00 Remaining Balance	General Fund Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐


Department Director

1-19-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

1/24/06
Date


Mayor

Received in City Clerk's Office
ENTERED
1-19-06

Received in Mayor's Office
ENTERED
1/24/06

See Attached Memo

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations
From: Yolanda Fields, CRCC Director *YF*
Date: January 17, 2006
Subject: Approving Bid # 06-CC01 Code Compliance Site Clean-up

RECOMMENDATION

Staff recommends a resolution approving Bid # 06-CC01, Code Compliance Site Clean-up.

BACKGROUND

This bid is to award the Code Compliance Program a contractor to clean-up various sights within the Fayetteville City Limits.

DISCUSSION

The Invitation to Bid was conducted in accordance to the policies and procedures set forth by the Purchasing Division. The Code Compliance Program will use the Code Compliance Site Clean-up contractor to correct violations of city ordinances in accordance to the City of Fayetteville's Protocols and Procedures for Ordinance Enforcement.

BUDGET IMPACT

The Code Compliance Program budget for Contract Services is \$25,000.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #06-CC01 TO ROBERT EVANS
IN THE AMOUNT OF \$25,000.00 TO PROVIDE SITE CLEAN-UP
SERVICES FOR CITY CODE COMPLIANCE EFFORTS.

**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 #06-CC01 and approves a contract to Robert Evans in the amount of
\$25,000.00 to provide site clean-up services for City Code Compliance efforts.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED:

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

Community Resources and Code Compliance Receipt of Bids

Bid # 06-CC01

Bid Due By: January 13, 2006 @ 4:00PM

Contractor #1 Robert Evans
P.O. Box 165
WEST FARK, AR 72774
(479) 839-2501

Price per hour rate:

1 22.00
2 20.00
3 28.00
4 16.00
5 16.00

Contractor #2 Palmer & Sons, Inc.
P.O. Box 283
West Fork, 72774
479 761-3407

Price per hour rate:

1 20.00
2 25.00
3 35.00
4 20.00
5 20.00

Contractor #3 _____

Price per hour rate:

1 _____
2 _____
3 _____
4 _____
5 _____

Certified By: Judy Lambert

Date: 6-13-2006

Witness: J. Ball

Date: 6/13/06

CRCC BID PROPOSAL FORM

DATE ISSUED: 2006

PROJECT ADDRESS: Various sights within the Fayetteville City limits.

DATE AND TIME OF OPENING: Friday, January 13, 2006, 4:00 P.M.

Contractor may bid all numbered items or just specific items. Contractor must provide documentation that material was hauled to a legal landfill, when payment request is submitted. Contractor must be able to start job 3 working days from date of notification (under normal working conditions).

1. Picking up and hauling of junk and debris such as: appliances, tires, brush, yard waste, trash etc., price per hour rate:

\$ 22.⁰⁰

2. Mow and run weed-eater for grass/weeds up to 3 ft tall, price per hour rate:

\$ \$20.⁰⁰

3. Brush hog for grass/weeds over 3 ft tall, price per hour rate:

\$ 28.⁰⁰

4. Securing structures by using approved building materials.

\$ 16.⁰⁰

5. Hourly rate if additional person or persons are needed:

\$ 16.⁰⁰ per person.

****Disposal fees and materials purchased for securing structures will be reimbursed at cost and vendor must provide receipt with invoice in order for proper payment to be received.**

Upon signing this Bid, the bidder certifies that they have read and agree to the requirements set forth in this bid proposal regarding the articles being bid on, and agree to furnish these articles at the price stated. This price shall include labor, materials, profit, overhead, and insurance.

These prices shall remain good and firm for the calendar year 2006.

If a truck(s) will be used to haul the materials specified to be cleaned up, indicate truck size:

1 ton Chev-

1/2 to Dodge

If a trailer will be used to haul the materials specified to be cleaned up, indicate trailer size:

6X12 with Tall Sides

5X10

Contractor Information Section

(All fields in this section must be completed; if section is incomplete bid may be eliminated from consideration.)

Date: 1-13-06

Complete Business Address:

Name of Firm: Robert Evans

Phone: 479-839-2501 Cell Phone: 479-601-0025

Street Address or P.O. Box # P.O. Box 165

City/State/Zip Code West Fork, Ar, 72774

Printed Name: Robert Evans

Signature: Robert Evans Title: Owner

Federal Tax ID# _____ or SS# 431-98-7419

This form must be returned to the Community Resources and Code Compliance Division in a sealed envelope marked with the project contractors name on or before the Bid Closing Date and Time.

F-1

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

City of Fayetteville -- Employee Relationships

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, or purchase agreement with City of Fayetteville.

SOCIAL SECURITY NUMBER

FEDERAL ID NUMBER

SUBCONTRACTOR:

SUBCONTRACTOR NAME:

TAXPAYER ID#: 431-98-7419 0 R

☐ Yes ☒ No

TAXPAYER ID NAME: Robert Evans

IS THIS FOR:
☐ Goods? ☐ Services? ☒ Both?

YOUR LAST NAME: Evans FIRST NAME: Robert MI: D

ADDRESS: 20. Box 165 West Fork

CITY: West Fork STATE: AR ZIP CODE: 72774 COUNTRY: United States
AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY CITY AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

For Individuals:

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former employee of the City of Fayetteville, Fayetteville City Council Member, etc:

Position Held	Mark		Name of Position of Job Held (name of board member, council person, data entry, secretary, etc.)	For How Long?		What is the person(s) name and how are they related to you? (i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)	
	Current	Former		From MM/YY	To MM/YY	Person's Name(s)	Relation
City of Fayetteville Employee							
City of Fayetteville Council Member							

None of the above applies ☒

For Businesses:

Indicate below if any of the following persons, current or former, hold any position of control in the City of Fayetteville: City Employee, City Council Member or the spouse, brother, sister, parent, or child of a City Employee or Council Member, Or other. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark		Name of Position of Job Held (Council member, name of employee title: data entry, secretary, etc.)	For How Long?		What is the person(s) name and how are they related to you? (i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)	
	Current	Former		From MM/YY	To MM/YY	Person's Name(s)	Position of Control
City of Fayetteville Employee							
City of Fayetteville Council Member							

None of the above applies ☒

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM City of Fayetteville – Employee Relationships

Failure to make any disclosure required, or any violation of any rule, regulation, or policy, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the City of Fayetteville.

As an additional condition of obtaining or renewing a contract with City of Fayetteville I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract.
2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required, or any violation of any rule, regulation, or policy, shall be material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature <u>Robert Evans</u>	Title <u>Owner</u>	Date <u>1-13-06</u>
Entity Contact Person <u>Robert Evans</u>	Title <u>Owner</u>	Phone No. <u>479-601-0025</u>

Forms Available from Purchasing Office at (479) 575-8220

*Note: Please list additional disclosures on separate sheet of paper if more space is needed.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

2/7/2006
City Council Meeting Date

Susan Thomas
Submitted By

Public Information
Division

General Government
Department

Action Required:

A resolution authorizing a contract with Van Scoyoc and Associates.

\$84,000
Cost of this request

\$ 85,000.00
Category / Project Budget

Miscellaneous
Program Category / Project Name

1010-6600-5314-00
Account Number

\$ -
Funds Used to Date

Professional Services
Program / Project Category Name

Project Number

\$ 85,000.00
Remaining Balance

General fund
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

[Signature]
Department Director 1/20/06
Date

Previous Ordinance or Resolution #

Original Contract Date:

[Signature]
City Attorney 1/23/06
Date

Original Contract Number:

[Signature]
Finance and Internal Service Director 1/23/06
Date

Received in City Clerk's Office
ENTERED 1/20/06
chp

Mayor
Date

Received in Mayor's Office
ENTERED 1/23/06
Ple

Comments:

01-20-2006 P05:18

RESOLUTION NO. _____

A RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT WITH VAN SCOYOC ASSOCIATES IN THE AMOUNT OF \$84,000.00 TO PROVIDE LOBBYING SERVICES TO THE CITY OF FAYETTEVILLE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a Memorandum of Agreement with Van Scoyoc Associates in the amount of \$84,000.00 to provide lobbying services to the City of Fayetteville. A copy of the Memorandum of Agreement, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED

DAN GOODY, Mayor

ATTEST:

By

SONDRA SMITH, City Clerk

CITY COUNCIL AGENDA MEMO

To: Mayor & City Council
From: Susan Thomas, Public Information & Policy Advisor
Date: January 20, 2006
Subject: Van Scoyoc and Associates Contract Renewal

Recommendation

A resolution authorizing a contract with Van Scoyoc and Associates.

Background

The City of Fayetteville entered into a one year renewable contract with Van Scoyoc and Associates in February 2004. The firm is a Washington D.C. based consulting firm that assists clients with securing federal funding including line-item earmarks and agency-based grants.

Each year, the City develops a list of priority projects that qualify for federal support. In 2005, Van Scoyoc helped the City develop seven proposals for FY 2006 funding totaling \$22.15 million. Of those seven requests, the City secured \$13.8 million which represents approximately \$162,000 received for every \$1,000 invested. The details of these awards are outlined in the attached document, Federal Funding 2006.

Current Status

This year we have developed a list of four projects for FY 2007 funding totaling \$16.07 million (attached as FY 2007 Federal Requests Summary). Van Scoyoc will begin actively lobbying for these proposals in January 2006. They are also providing written progress reports, e-mail briefings on relevant budget and/or congressional committee activities, and a monthly conference call to provide funding status reports and to help us generate ideas for increasing our chances for securing federal dollars including earmarks and agency grants.

Currently, the firm is also under contract with the University of Arkansas.

Budget Impact

The firm works on an annual retainer basis. Contracts are for one year, with a 90 day opt-out clause for both parties. The agreed upon contract price for 2006 and 2007 is \$84,000 per year. The City may incur additional reimbursable expenses not to exceed \$10,000 for the two-year contract term.

MEMORANDUM OF AGREEMENT

Agreement. The City of Fayetteville hereby retains Van Scoyoc Associates, Inc. (VSA) as consultants and advisors with regard to various legislative and administrative matters.

Statement of Work. VSA will assist the City of Fayetteville and its personnel in the following areas:

- Developing a program and strategy towards obtaining federal appropriations and grants for Fayetteville's future economic viability.
- Analyzing and informing the City of contemplated legislative and regulatory changes that may positively or negatively affect programs of interest to the City.
- Educating Members of Congress and their staffs about Fayetteville concerns or opportunities with respect to legislation or regulations.
- Building grassroots support of the projects to demonstrate local interest by finding individuals and groups with goals similar to those of the City.
- Working with the relevant committees to secure enactment of the legislative agenda or otherwise advance the interests of the City.
- Assisting in working with federal agencies and the federal administration to identify, create and secure new federal grant and funding opportunities.

Lobby Disclosure Act. It is understood that VSA will be required to register on behalf of the City of Fayetteville under the terms of the Lobbying and Disclosure Act of 1995 (P.L. 104-65) and any subsequent laws or regulations.

Term. In consideration of the performance of these services, the City of Fayetteville shall pay to VSA the sum of \$7,000 per month for the period of February 1, 2006 through January 31, 2008, for a total of \$168,000 in retainer expenses subject to appropriation by the Fayetteville City Council.

The City of Fayetteville further agrees to pay all reasonable costs and expenses incurred by VSA in furtherance of its efforts on behalf of the City, including, but not limited to, copies, facsimiles, couriers, telephone, local transportation and meals directly attributable to those efforts. VSA agrees that these expenses, exclusive of out-of-town travel costs taken solely at the City's direction, shall not exceed \$10,000 during the contract term.

Notice. The City of Fayetteville shall have the right to terminate this contract after giving VSA 30 days advance written notice. Should the City exercise this option, it agrees to pay VSA all outstanding retainer and expense costs owed through the termination date.

VAN SCOYOC ASSOCIATES

By: 
H. Stewart Van Scoyoc
President

Date: 1/3/06

CITY OF FAYETTEVILLE

By: _____
Dan Coody
Mayor

Date: _____

Federal Funding 2006

\$9.0 million

Fayetteville Expressway Economic Development Corridor

Request: \$16.8 M

Bill: Transportation Reauthorization

Agency/Acct: National Corridor and Planning and Border Infrastructure Programs

Summary: The City of Fayetteville requests \$16.8 million for further improvement of the Fayetteville Expressway Economic Development Corridor that includes the Fulbright Expressway and the redevelopment and redesign of the College Avenue Corridor, U.S. Business 71. The funding received for this multi-phased proposal will address the first priority which is I-540 (a north terminus) from mile post 68 to the end of Fulbright Expressway. (1.59 miles)

\$3.2 million

University of Arkansas Technology Corridor Enhancement Project

Request: \$4.95 M

Bill: Transportation Reauthorization Bill

Agency/Acct: Federal-Aid Highway High priority Projects

Summary: In an effort to address safety needs and the adverse impact of congestion in an area of heavy pedestrian traffic and to enhance access between the University Main Campus and the Arkansas Research and Technology Park, the University of Arkansas, with the support of the City of Fayetteville and the Arkansas Highway Transportation Department, requests \$4.95 million for the Technology Corridor Enhancement Project in the Transportation Reauthorization Bill.

\$1.1 million

Arkansas Research & Technology Park

Request: \$1.1 M

Bill: Commerce, Justice, State Appropriations

Agency/Acct: SBA – Salaries & Expenses

Summary: Catalyzing and sustaining a culture of innovation will require a robust research and development infrastructure that can provide technology-intensive companies

access to leading edge research investigators and facilities. To meet this challenge, the University of Arkansas, in cooperation with the City of Fayetteville, the state and region requests \$1.1 million within the Small Business Administration to support the creation of the Arkansas Research & Technology Park.

\$500,000

Fayetteville Regional Wastewater System Improvements

Request: \$4 M

Bill: Independent Agencies Appropriations

Agency/Acct: EPA-State and Tribal Assistance Grants (STAG)

Summary: The City of Fayetteville requests \$4 million to continue the existing initiative of rehabilitation of the regional wastewater collection system.

FY 2007 Federal Requests

Fayetteville Expressway Economic Development Corridor

Request: \$8.87 M
Bill: Transportation Reauthorization
Agency/Acct: National Corridor and Planning and Border Infrastructure Programs

Summary: The City of Fayetteville requests \$16.8 million for further improvement of the Fayetteville Expressway Economic Development Corridor that includes the redesign of the College Avenue Corridor, U.S. Business 71 in four distinct segments: (1) Sixth Street to North; (2) North to Sycamore; (3) Sycamore to Rolling Hills; and (4) Rolling Hills to Zion.

Illinois River & Scull Creek

Request: \$1 M
Bill: Interior Appropriations
Agency/Acct: USGS and Biological Research

Summary: The City of Fayetteville is requesting \$1 million for the remediation of Scull Creek to halt further degradation of this tributary that empties into the Illinois River.

Fayetteville Regional Wastewater System Improvements

Request: \$4 M
Bill: Independent Agencies Appropriations
Agency/Acct: EPA-State and Tribal Assistance Grants (STAG)

Summary: The City of Fayetteville requests \$4 million to continue the existing initiative of rehabilitation of the regional wastewater collection system.

Community Law Enforcement Fiber Optic Network

Request: \$2.2 M
Bill: Commerce, Justice, State & Judiciary
Agency/Acct: Department of Justice – Community Oriented Policing Services

Summary: The request is for the purchase, installation and implementation of an Astro 25 LE simulcast system – offering a broad range of communication features, capabilities and benefits for public safety agencies with wireless communication needs. The system would improve radio coverage and allow police officers and firefighters to have integrated communication in emergency situations.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Feb-06
City Council Meeting Date

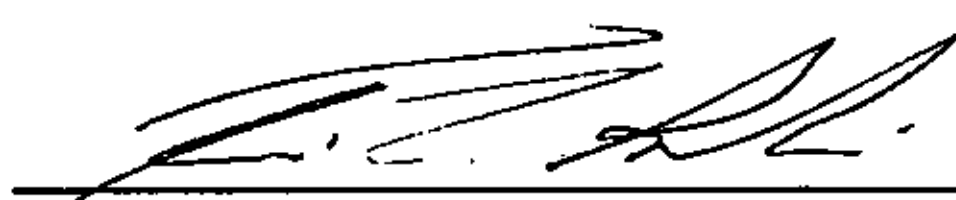
Matt Casey Engineering Operations
Submitted By Division Department

Action Required:

Resolution expressing the willingness of the City of Fayetteville to utilize federal aid monies for the design and replacement of the Dead Horse Mountain Bridge

Cost of this request \$ 0.00 4470.9470.5817.00 03005 Project Number	Category/Project Budget \$ 543,000.00 Funds Used to Date \$ 543,000.00 Remaining Balance	AHTD Bridge Cost Sharing Program Category / Project Name Bridge & Drainage Improvements Program / Project Category Name Sales Tax Capital Improvements Fund Name
--	---	--

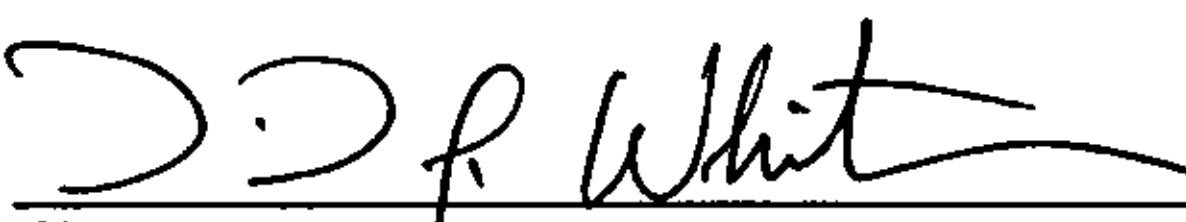
Budgeted Item ☒ Budget Adjustment Attached ☐


Department Director 1-19-06
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____


City Attorney 1/23/06
Date

Received in City Clerk's Office
ENTERED
1-19-06
LB


Finance and Internal Service Director 1/23/06
Date

Received in Mayor's Office
ENTERED
1/23/06
LB

Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RP*

Date: January 17, 2006

Subject: Resolution expressing the willingness of the City of Fayetteville to utilize federal aid monies for the design and replacement of the Dead Horse Mountain Bridge

RECOMMENDATION

Staff recommends approval of a resolution expressing the willingness of the City of Fayetteville to utilize federal aid monies for the design and replacement of the Dead Horse Mountain Bridge. This project is eligible for the Federal-aid Highway Bridge Replacement and Rehabilitation Program. The funding would be split eighty percent (80%) Federal and twenty percent (20%) City, with a one million dollar cap on the Federal funds.

BACKGROUND

On August 6, 2002, the City of Fayetteville City Council passed a resolution to approve an agreement with the Arkansas State Highway and Transportation Department for the design and replacement of the Garland Ave. Bridge. The AHTD proceeded with the design and presented the City with a preliminary set of construction plans and an estimated cost for the bridge replacement.

The City of Fayetteville Street Committee, on August 25, 2005 agreed to discontinue the Garland Ave. project and instead use the bridge replacement fund for the replacement of the Dead Horse Mountain Rd. Bridge.

In December of 2005, the Arkansas State Highway and Transportation Department approved the City's request to change from the Garland Avenue bridge project to the Dead Horse Mountain Road bridge. The City provided a deposit of \$35,000 for the Garland Ave. project design. The AHTD incurred \$22,982.78 in charges to date. The remainder of the deposit will be returned to the City of Fayetteville. An additional

\$35,000 will be needed as a deposit for the Dead Horse Mountain Bridge project prior to the start of the design.

BUDGET IMPACT

There is currently \$543,000 in the City fund titled State Bridge Cost Sharing Program. Additional fund will be budgeted for 2007 for the CIP program.

RESOLUTION NO. _____

A RESOLUTION EXPRESSING THE WILLINGNESS OF CITY OF FAYETTEVILLE TO UTILIZE FEDERAL-AID MONIES FOR THE REPLACEMENT OF STRUCTURE No. 17332 OVER THE WEST FORK OF THE WHITE RIVER ON DEAD HORSE MOUNTAIN ROAD.

WHEREAS, the City of Fayetteville understands Federal-aid Bridge Replacement and Rehabilitation Program funds are available for certain city projects at the following federal participating ratios:

	<u>Work Phase</u>	<u>Federal Share</u>	<u>City Match</u>
1. Bridge & Approach Construction on City Streets	Preliminary engineering	80%	20%
	Right-of-Way & Utilities	80%	20%
	Construction & Engineering	80%	20%
2. City projects programmed but not let to contract	All Phases	-0-	100%

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

Section 1. That the City will participate in accordance with its designated responsibilities in this project.

Section 2. That the Mayor, or their designee, is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this city project.

Section 3. That the City pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

ARKANSAS STATE HIGHWAY
AND
RECEIVED TRANSPORTATION DEPARTMENT

JAN 04 2005

ENGINEERING DIV

Don Powers
Director
Phone (501) 569-2000 Fax (501) 569-2400



December 28, 2005

P.O. Box 2261
Little Rock, Arkansas 72203-2261
WWW.ARKANSASHIGHWAYS.COM

RECEIVED

JAN 01 2006

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

The Honorable Dan Coody
Mayor of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Re: Job 040405
F.A.P. BRN-9142(13)
Town Branch Str. & Apprs.
(S. Garland Ave.) (Fayetteville) (S)
Washington County

Dear Mayor Coody:

Reference is made to your recent letter proposing to replace the subject Federal-aid Bridge Replacement and Rehabilitation Program project with a project for the bridge on Dead Horse Mountain Road. The bridge is eligible for replacement, and your request is approved subject to the following.

Your City Council must adopt a resolution for the Dead Horse Mountain Road bridge project (sample enclosed). Upon receipt of a signed and sealed copy of the resolution, the Department will develop a new Agreement of Understanding and request a deposit for this project.

Additionally, the City provided a deposit of \$35,000.00 for the Town Branch project and the Department has incurred \$22,982.78 in charges to date. After the Department has conducted a final accounting of the project, this project will be cancelled and the unused funds will be returned to the City. As discussed in your letter, the Town Branch bridge may be reprogrammed for replacement at a future date.

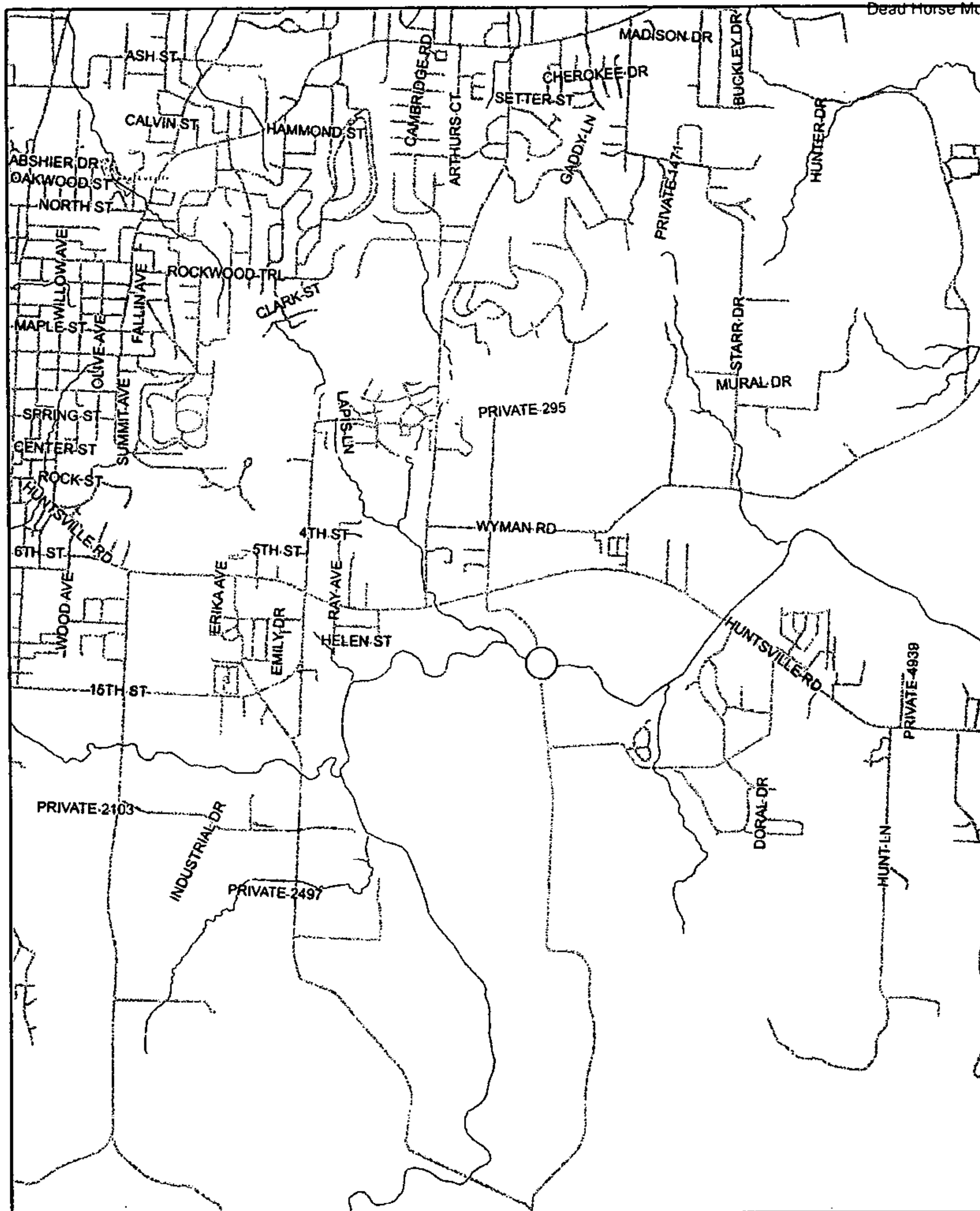
If you have any questions or need additional information, please contact our Programs and Contracts Division at (501) 569-2261.

Yours truly,

Robert L. Walters
Chief Engineer

Enclosure

c: Assistant to the Director
Programs and Contracts
Planning and Research
District 4 Engineer
Fiscal Services
Job 040405 "C" File



Dead Horse Mountain Rd. Bridge





Dead Horse Mountain Rd. Bridge



FEDERAL-AID PROJECT RESOLUTION

A. 11
Dead Horse Mountain Bridge
Page 8 of 8

RESOLUTION NO. _____

**A RESOLUTION EXPRESSING THE WILLINGNESS OF
THE CITY OF FAYETTEVILLE
TO UTILIZE FEDERAL-AID MONIES
FOR THE FOLLOWING CITY PROJECT:**

**Replacement of Structure No. 17332 over West Fork of the White River on
Dead Horse Mountain Road**

WHEREAS, the City of Fayetteville understands Federal-aid Bridge Replacement and Rehabilitation Program funds are available for certain city projects at the following federal participating ratios:

	<u>Work Phase</u>	<u>Federal Share</u>	<u>City Match</u>
1. Bridge & Approach Construction on City Streets	Preliminary Engineering	80%	20%
	Right-of-Way & Utilities	80%	20%
	Construction & Engineering	80%	20%
2. City projects programmed but not let to contract	All Phases	-0-	100%

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

SECTION I: The City will participate in accordance with its designated responsibilities in this project.

SECTION II: The Mayor, or their designee, is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this city project.

SECTION III: The City pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

THIS RESOLUTION adopted this _____ day of _____, 2006.

Mayor

ATTEST: _____

(SEAL)

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Feb-06
City Council Meeting Date

Matt Casey Engineering Operations
Submitted By Division Department

Action Required:

Approval of a resolution authorizing the design and construction of a traffic signal at the intersection of 15th Street and Morningside Drive by City staff.

\$ NTE 220,530	\$ 220,530.41	Morningside Dr. & 15th St.
Cost of this request	Category/Project Budget	Signalization
4470.9470.5301.00	\$ 0.00	Program Category / Project Name
	Funds Used to Date	Street Improvements
05010	\$ 220,530.41	Program / Project Category Name
Project Number	Remaining Balance	Sales Tax Capital Improvements
		Fund Name

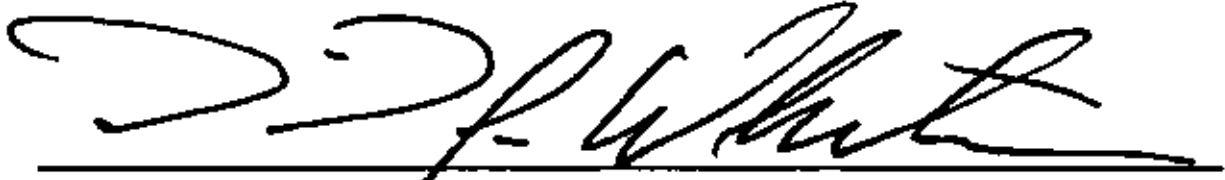
Budgeted Item ☒ Budget Adjustment Attached ☐

 1-19-06
Department Director Date

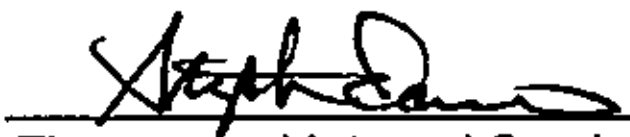
Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

 1/23/06
City Attorney Date

Received in City Clerk's Office
ENTERED 1-19-06

 1/23/06
Finance and Internal Service Director Date

Received in Mayor's Office
ENTERED 1/24/06

Mayor Date

Comments:

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING CITY STAFF TO DESIGN AND
CONSTRUCT A TRAFFIC CONTROL SIGNAL AT THE
INTERSECTION OF 15TH STREET AND MORNINGSIDE DRIVE.

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

Section 1. That the City Council hereby authorizes a City Staff to design
and construct a traffic control signal at the intersection of 15TH Street and
Morningside Drive.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED

By: _____

DAN GOODY, Mayor

By: _____

SONDRA SMITH, City Clerk

DRAFT

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RS*

Date: January 18, 2006

Subject: Resolution authorizing the design and construction of a traffic signal at the intersection of 15th Street and Morningside Drive by City staff.

RECOMMENDATION

Staff recommends approval of a resolution authorizing the design and construction of a traffic signal at the intersection of 15th Street and Morningside Drive by City staff.

BACKGROUND

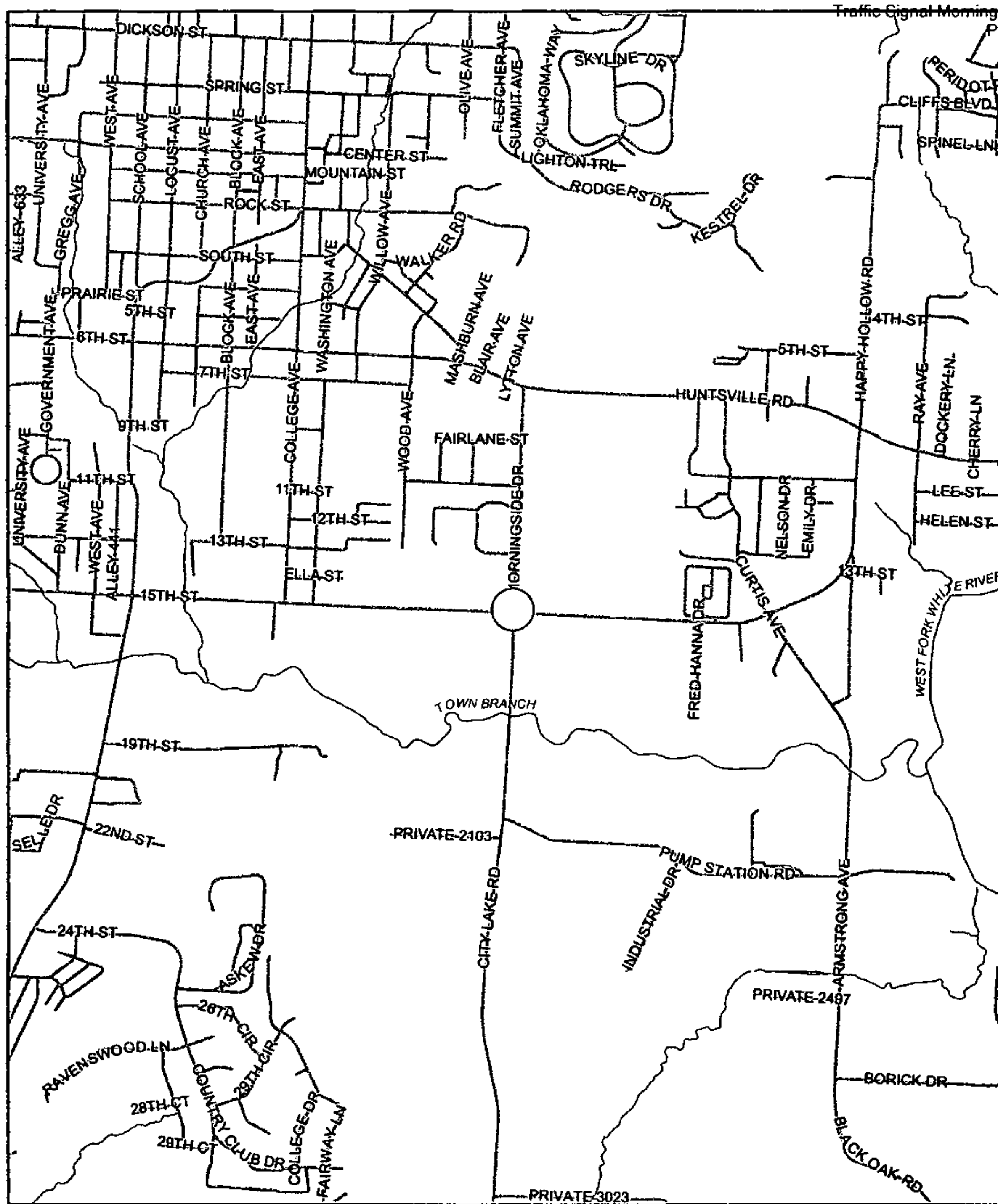
On September 20, 2005 the City of Fayetteville Engineering Division requested that the Arkansas State Highway and Transportation Department perform a traffic signal study at the intersection of Highway 16 (15th Street) and Morningside Drive.

On December 28, 2005, the AHTD reported that the study indicated that a traffic signal is warranted. This signalization project is eligible for 90% state and federal funding for construction and engineering costs. However, to utilize these funds, the project will have to wait until the AHTD has the money available in the future.

This signalization project was presented at the January 12, 2006 meeting of the City of Fayetteville Street Committee. The committee agreed to forward the project to the full council with a recommendation to design and construct the signal at this time. This project will be designed in-house by the Engineering Division and constructed in-house by the Transportation Division.

BUDGET IMPACT

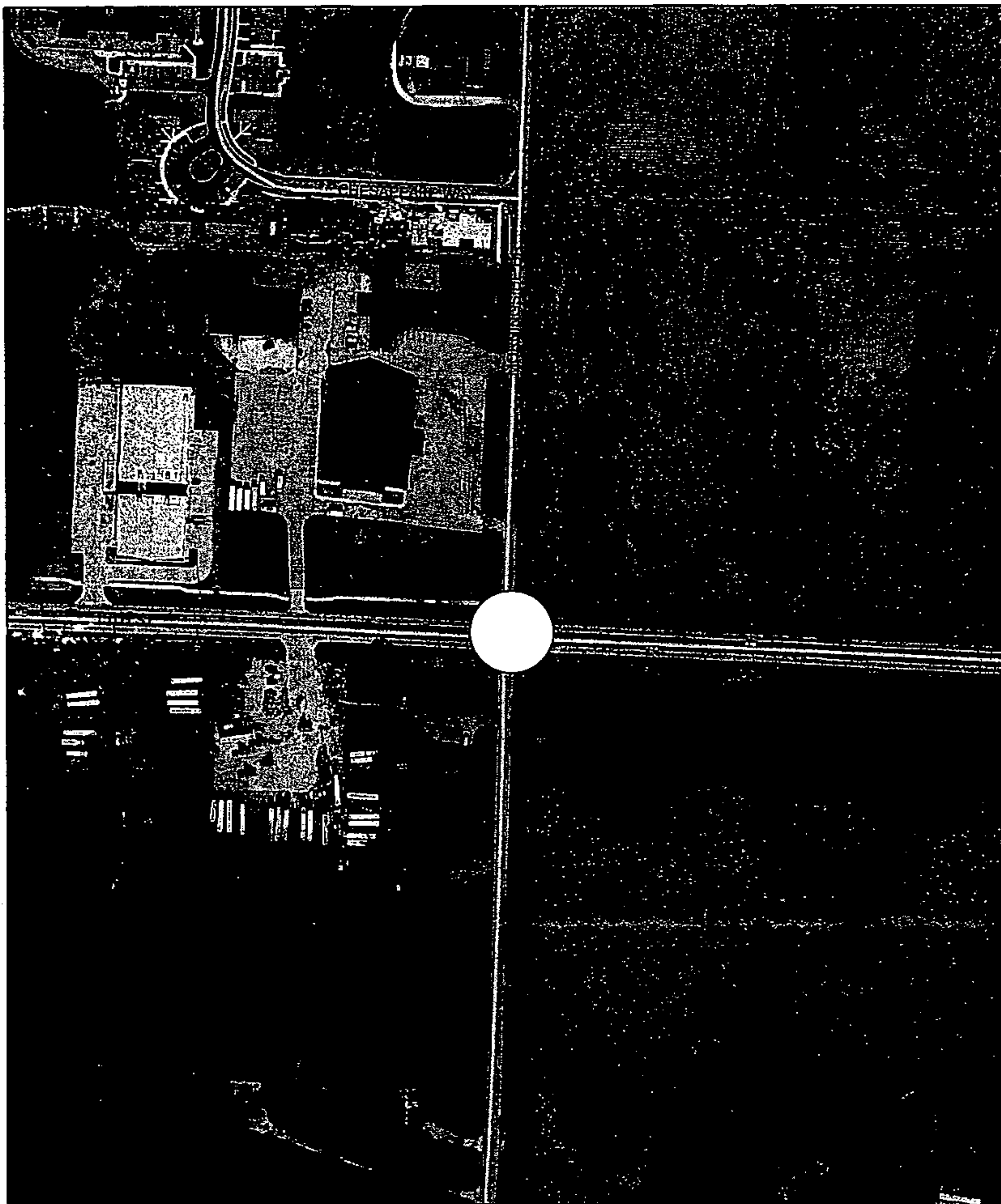
There is currently \$220,530.41 in the City fund titled Morningside Drive & 15th Street Signalization (Project #05010).



Morningside Dr. & 15th St. Signalization

N





Morningside Dr. & 15th St. Signalization

N



ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

Dan Flowers
Director
Telephone (501) 569-2000

P.O. Box 2261
Little Rock, Arkansas 72203-2261
Telefax (501) 569-2400

December 28, 2005

Mr. Ron Petrie
City Engineer - Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701

Dear Mr. Petrie:

Reference is made to Mr. Paul Libertini's letter of September 20, 2005 requesting a traffic signal study at the intersection of Highway 16 (15th Street) at Morningside Drive. Our study is complete and included a 24-hour traffic count, an on-site investigation and a review of the accident history. The results of our study indicate that a traffic signal is warranted as outlined in the Manual on Uniform Traffic Control Devices.

A signalization project for the City is eligible for 90% state and federal funding for construction and engineering costs. The City will be responsible for 10% of the construction and engineering costs, and for 100% of the cost of any additional right-of-way or utility adjustments required. The City will also be responsible for providing electrical power and signal maintenance once the project is complete.

Enclosed are two copies of a sample Resolution for the City Council to pass. After the Resolution is passed and signed by the Mayor, please return one resolution to my office and we will program a project.

Please note, there is an approximately two to three year backlog of traffic signal projects waiting for funding. If the City desires to expedite this signal installation, we can issue a permit to the City to install this traffic signal using 100% city funds.

Yours truly,

Robert L. Walters
Chief Engineer

Enclosures

c: Mayor Dan Coody
Director
Assistant to the Director
Assistant Chief Engineer - Operations
Assistant Chief Engineer - Design
Programs and Contracts
Roadway Design
District 4 Engineer

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

20-Dec-05
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC (AKA: Chestnut Apartments), and located at Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-000, located within Block 4, Parker's Plat of Valley View Acres.
Location 2 on attached list and map.

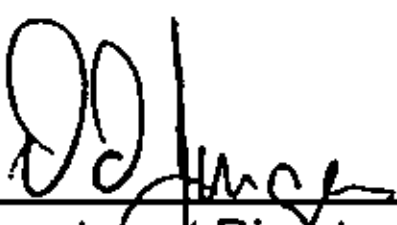
\$9,500.00
Cost of this request
4480-9480-5805.00
Account Number
02133.0305
Project Number

\$ 113,011,587.00
Category/Project Budget
\$ 85,742,915.94
Funds Used to Date
\$ 27,268,671.06
Remaining Balance

Wastewater System Imp Project
Program Category / Project Name
Water and Wastewater
Program / Project Category Name
Water/Sewer
Fund Name

Budgeted Item ☒

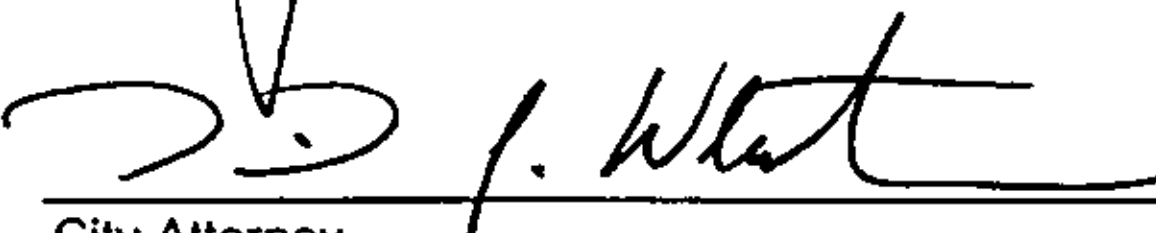
Budget Adjustment Attached ☐


Department Director
2 Dec 05
Date

Previous Ordinance or Resolution # _____

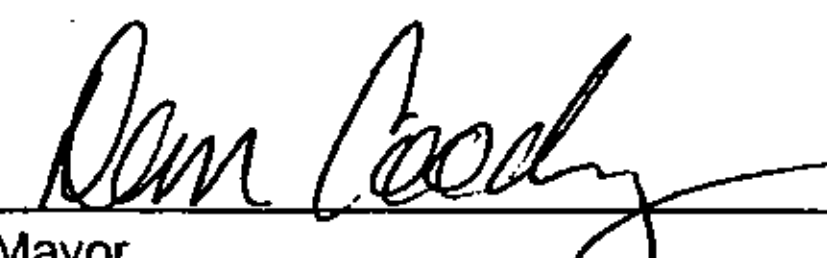
Original Contract Date: _____

Original Contract Number: _____


City Attorney
12/5/05
Date


Finance and Internal Service Director
12/5/05
Date

Received in City Clerk's Office



Mayor
12/16/05
Date

Received in Mayor's Office


Comments:

Tabled to 2/7/06 CC mtg 1/17/06
Tabled to 1/17/06 CC mtg 1/3/06
Tabled to 1/3/06 CC mtg 12/20/05

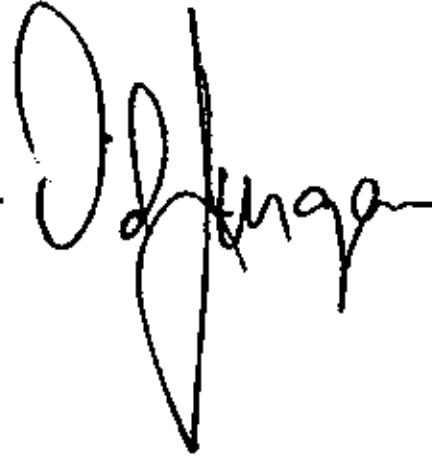
City Council Meeting of December 20, 2005

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water & Wastewater Director



Date: December 1, 2005

Subject: Approval of nine resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of nine related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. Ninety-one tracts were required; 79 have been acquired. The owners of the remaining 12 tracts have all been contacted via mail, telephone, and in person. We have verbal agreement on two, which are not on the proposed condemnation list. The owners of the remaining 10 tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on December 1, 2005 and are included in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the previous twelve months. Given that we are only obtaining an easement, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, and every other utility. It also significantly exceeds that which the City has paid in the past for water/sewer easements. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Others are waiting for their own appraisal information in order to make a counter offer.

Counter offers have included negotiated agreements pertaining to land restoration, sequencing and timing of work, etc. At this point, there can be no deviations on the selected route.

BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are already approved within the 2005 WSIP budget.

Attachments: List of Potential Condemnation
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY JOHN D. LINDSEY, LLC.

WHEREAS, the City of Fayetteville and John D. Lindsey, LLC have been
unable to agree on a fair price for the property owned by John D. Lindsey, LLC
that is needed for permanent utility and temporary construction easements
across Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-000-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this
property promptly to begin work on the sewer lines that will carry wastewater
flows to the new Westside Wastewater Treatment Plant.

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 authorizes the City Attorney to file suit to seek court ordered possession
of property located on Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-
000-000, and owned by John D. Lindsey, LLC, that is needed for permanent
utility and temporary construction easements, and to pay into the Registry of the
Circuit Court the sum of \$9,500.00 as just compensation therefor.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED

By

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

WSIP West Line Easement Condemnation List

B. 1
John D. Lindsey, LLC Condemnation
Page 4 of 20

Map Reference	Description
1.	WL1 – Tract 7 Owner: James E. Lindsey & Nita V. Lindsey, husband and wife; Giles A. Sexton & Elsie D. Sexton, husband and wife; and J. W. Reynolds Lumber Company, a Partnership; all as tenants in common (AKA: Paradise Valley Golf Course) Permanent and Temporary Easements across: Parcel Nos. 765-15690-000 and 765-15688-000, Located within SE-25-17-30. Offer Amount: \$24,115 (PUE: \$21,900 for 31,715 sq. ft.; TCE: \$2,215 for 32,013 sq. ft.)
2.	WL2 – Tract 10 Owner: John D. Lindsey, LLC (AKA: Chestnut Apartments) Permanent and Temporary Easements across: Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-000 Located within Block 4, Parker's Plat of Valley View Acres Offer Amount: \$9,500 (PUE: \$8,750 for 0.35 acre; TCE: \$750 for 0.30 acre)
3.	WL4 – Tract 1 Owner: MSB Properties LLC (1/3 interest) and Nanchar, Inc. (2/3 interest) Permanent Easement (only) across: Parcel No. 765-15773-010, located within E/2-27-17-30. Offer Amount: \$35,600 (PUE only: 0.89 acre)
4.	WL4 – Tract 4 Owner: Commonwealth-Ghosen Theatre Corporation Permanent and Temporary Easements across: Parcel Nos. 765-15813-000 and 765-15815-000, Located within SE-SE-28-17-30 Offer Amount: \$24,400 (PUE: \$22,800 for 0.76 acre; TCE: \$1,600 for 0.52 acre)
5.	WL4 – Tract 6 Owner: Lori S. Taylor (AKA: Razorback Park Golf Course) Permanent and Temporary Easements across: Parcel Nos. 765-16658-011 and 765-24095-000 Located within S/2-NE-32-17-30. Offer Amount: \$24,600 (PUE: \$22,400 for 1.12 acres; TCE: \$2,200 for 1.10 acres)
6.	WL4 – Tract 7 Owner: Crystal Springs Limited Partnership Permanent and Temporary Easements across: Parcel Nos. 765-16658-010 and 765-16658-030 Located within N/2-32-17-30 Offer Amount: \$6,900 (PUE: \$6,400 for 0.64 acre; TCE: \$500 for 0.47 acre)
7.	WL4 – Tracts 9 & 10 Owner: SCB Investments LLC Permanent Easements across: Tract 9: Parcel No. 765-21137-000, Tract 1, Salem Village PUD Tract 10: Parcel No. 765-21138-000, Tract 2, Salem Village PUD Offer Amount – Tract 9: \$6,600 (PUE only: 2,200 sq. ft.) Offer Amount – Tract 10: \$7,500 (PUE only: 2,501 sq. ft.)

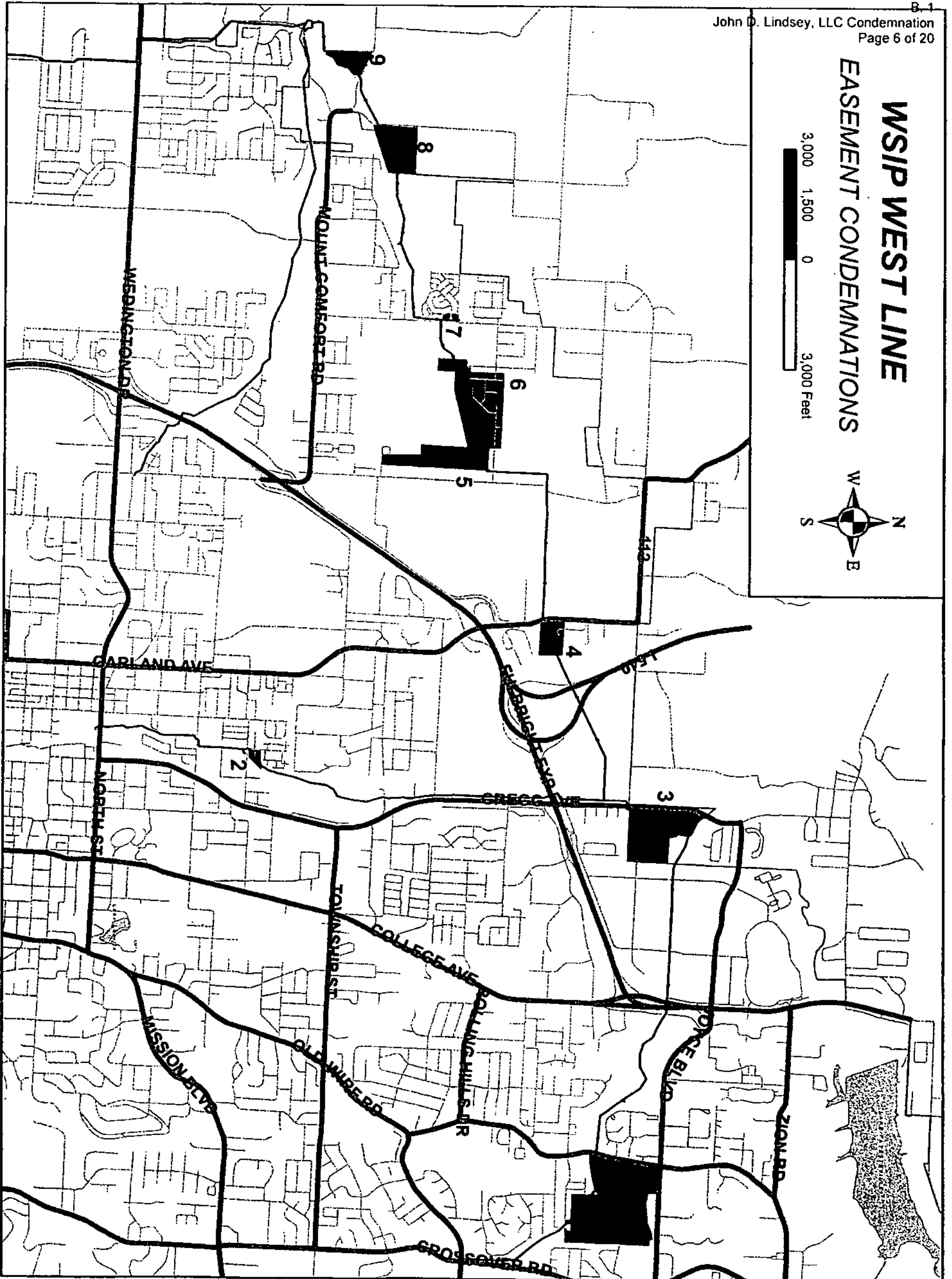
WSIP West Line Easement Condemnation List

B. 1
John D. Lindsey, LLC Condemnation
Page 5 of 20

Map Reference	Description
8.	WL4 – Tract 15 Owner: Barbara J. Heyliger, Trustee of the Barbara J. Heyliger Trust U/T/D March 8, 1994 Permanent and Temporary Easements across: Parcel No. 001-16808-000, located within SE-SW-31-17-30 Offer Amount: \$11,300 (PUE: \$10,700 for 1.07 acres; TCE: \$600 for 0.58 acre)
9.	WL4 – Tract 17 Owner: Dan Nelson as Trustee of the Dan Nelson Revocable Trust Agreement dated May 8, 1998 Permanent and Temporary Easements across: Parcel Nos. 001-11405-000 and 001-11407-002 Located within the Frl. NW-1-16-31 and Frl. NE-2-16-31 Offer Amount: \$13,800 (PUE: \$12,900 for 0.86 acre; TCE: \$900 for 0.58 acre)

WSIP WEST LINE EASEMENT CONDEMNATIONS

3,000 1,500 0 3,000 Feet



B.6. John D. Lindsey, LLC.
Condemnation

City Council Meeting of January 3, 2006

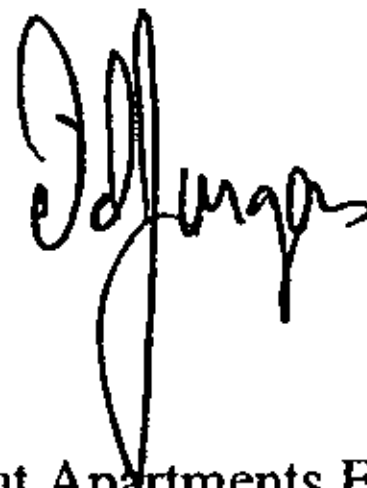
CITY COUNCIL AGENDA MEMO

Agenda Session 12/27/05

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water & Wastewater Director



Date: December 27, 2005

Subject: Background Information Regarding Chestnut Apartments Easement

Attached is the backup information regarding the easement acquisition at the Chestnut Apartments.

Physical Characteristics. Staff walked the location with Robert White, McClelland Consulting Engineers, on 27 December 2005. The 21 inch sewer line being installed is approximately 10 feet deep to the bottom of the pipe; the top of the pipe is roughly two feet below the current bottom of the creek. The creek bank has a gradual slope that begins approximately five feet from the corner of the building that tapers to the creek bottom. There are significant utility challenges in and parallel to Poplar Street. Also, the alignment is somewhat controlled by the fact that the line must be installed without disrupting the sewer flow in any other existing pipes. The new sewer cannot come on line until after the West Side WWTP is placed in service.

Construction Alternatives.

1. Install the pipe as designed. This results in a longer length of pipe and more manholes, but is the only viable alternative.
2. Install the pipe between the structure and the creek. This alternative is not viable due to the proximity between the structure and the creek. This was the desired alternative, but installing the pipe in this location will significantly degrade the creek bank, remove all existing vegetation on the bank, and will cause undue erosion over time. This erosion will ultimately compromise the pipe and possibly the structure. This alternative would require the fewest number of manholes and the lowest length of pipe, resulting in a lower construction cost.
3. Install the pipe on the other side of the creek. This alternative is not viable due to the requirement to cross the creek on two occasions. This would significantly increase the construction cost, require an amendment to the Corps of Engineers permit, involve a great deal more damage to both the creek and the banks at the location of both crossings.
4. Bore past the building. This alternative is not viable as the bore pits would cause significantly greater damage to the creek banks, and water would still follow the ditch line, ultimately resulting in failure of the bank.

Recommendation. Acquire the easement as written. Install the pipe as designed.

Attachments: Case History Time Line
Plan Sheet Drawing
April 29, 2005 Letter to Owner
October 26, 2005 Letter to Owner
Stamped Appraisal Report
Easement Documents with Drawing
Fax of December 19, 2005 from City Attorney's Office with Engineer Explanation

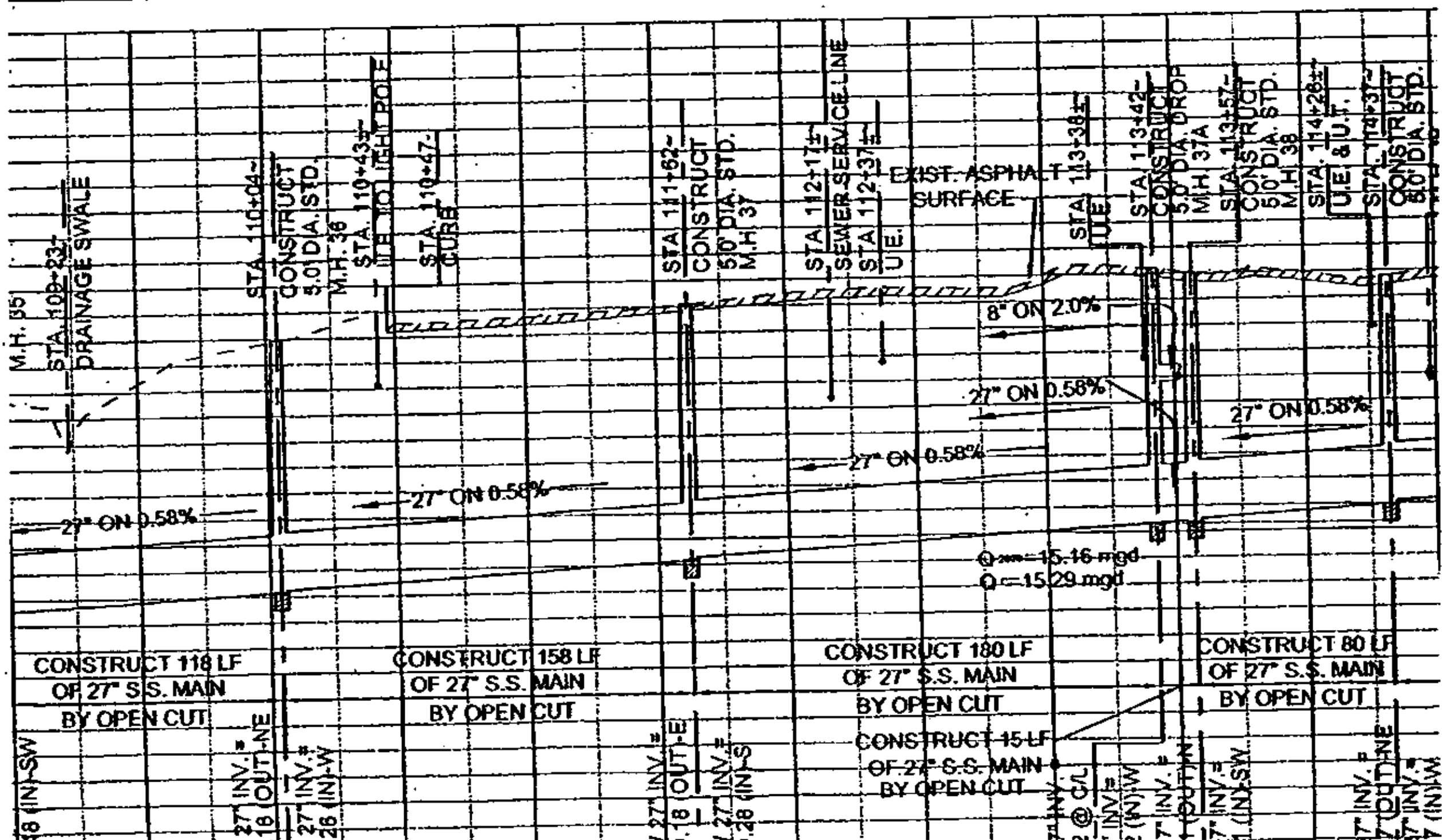
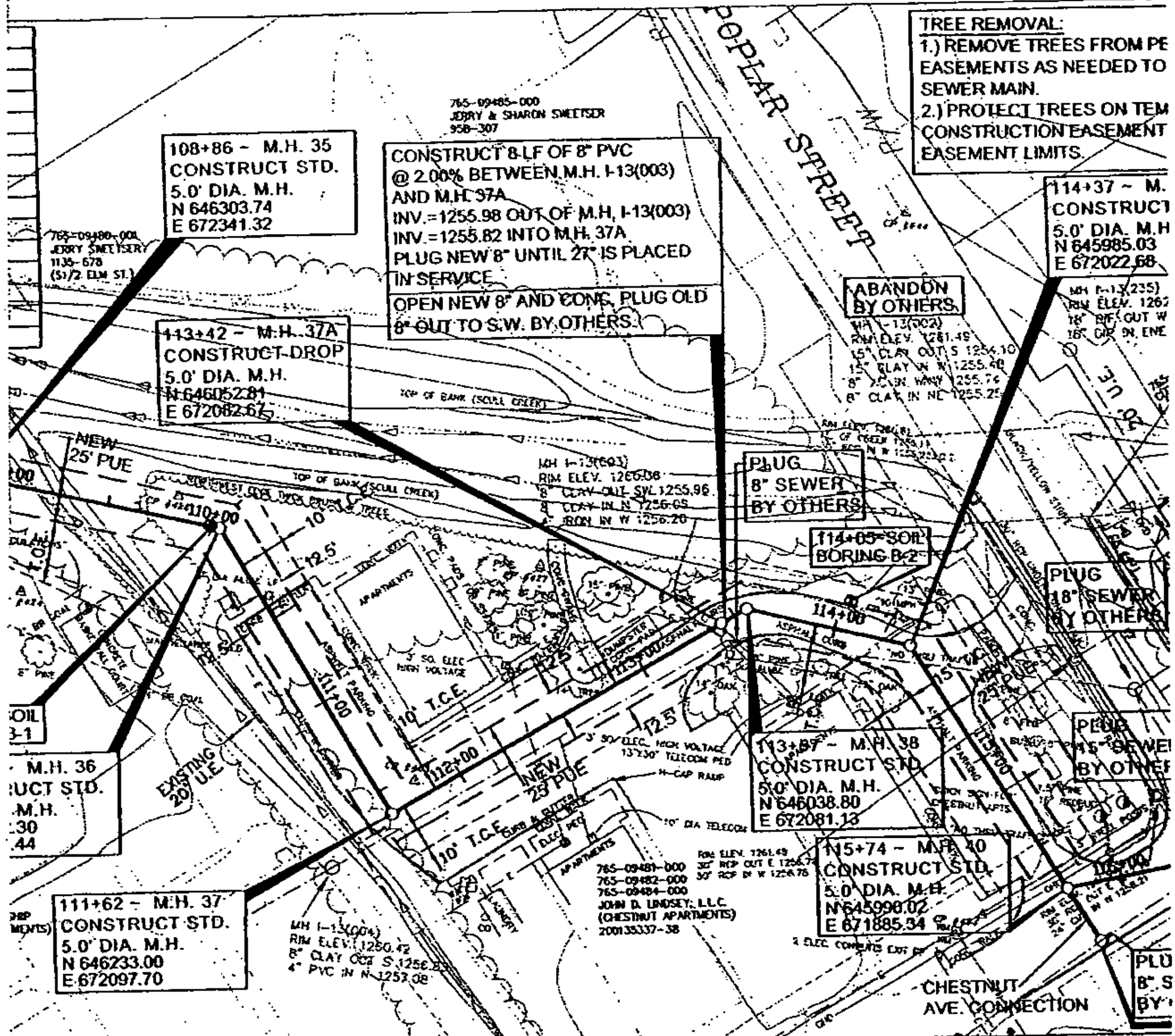
Tabled to the 1/17/06 CC mtg 1/3/06

John D. Lindsey, LLC (Chestnut Apartments)
WL2 - Tract 10
CASE HISTORY

March 30, 2005	Date of appraisal by Mark Risk, the Real Estate Consultants. Land value of \$50,000/acre less 50% discount for floodplain. (Appraisal prepared for Tract 9, also Chestnut Apartments, different ownership. Land value applied to Tract 10.)
April 29, 2005	Offer packet mailed containing letter, easement document, and drawings. Total offer was \$9,500.00 for 0.35 acre perm. esmt. (\$8,750) and 0.30 acre temp. esmt. (\$750). Full fee simple for perm. esmt. and 10% rental for temp. esmt., as based on appraisal amount.
May 9, 2005	Gene Frost, contract negotiator for the City, talked to Kirk Elsass, contact for the LLC. Mr. Elsass didn't think there would be a problem and said he would mail in the easement.
July 8, 2005	Gene Frost called Mr. Elsass to check on easement. Mr. Elsass has concerns about stormwater flow into sanitary sewer which has caused sewer back-up problems in the past. Wants a letter signed by the Mayor stating those problems will be fixed.
Aug-Oct., 2005	Discussed above claims numerous times with David Jurgens. Mr. Jurgens has questions regarding the private lift station on this property which is not fully addressed in the construction plans. Needs info from RJN, McClelland, and OMI before a reply is made to Mr. Elsass. Lift station removal, sewer overflow circumstances reviewed by field personnel, Engineers, and OMI to determine whether or not it would be appropriate for the City to touch the private lift station and to review the design to ensure the new line would eliminate the need for the lift station yet would not conflict with the operation in the interim between installation and activation of the sewer.
Oct. 26, 2005	Side Letter mailed to Mr. Elsass. The new line is expected to correct past back-up problems. Once all new lines are active, the private lift station will be unnecessary.
Nov. 16, 2005	Mr. Elsass called. Wants more money as he disputes it being discounted for floodplain. He stated he would fax counter offer that day. He was informed that the item would be referred to the City Attorney on December 1 if we did not have resolution by December 1.
Nov. 30, 2005	No counter offer received. Info sent to City Attorney's office.
Dec. 1, 2005	Call from Ray Green 12/1/05, 11:15 a.m.
Dec. 1, 2005	David Jurgens left a message with Ray Green's secretary (he was in a meeting) at 11:20 a.m..
Dec. 5, 2005	Call from Ray Green 11:01 a.m.
Dec. 6, 2005	David Jurgens left a message with Ray Green's secretary (he was in a meeting) 4:39 p.m.
Dec. 7, 2005	Call from Ray Green, 3:20 p.m. In his message he stated they had received our correspondence, he feels compensation "significantly too low," feels that taking

this to the agenda is a harsh way to handle it, said they would be at the council meeting and would cite all circumstances including their difficulty in having anyone to have to communicate with about the problem, claimed we've never marked the location, said they didn't know exactly where the easement was located and needed to as soon as possible, implied that we had not met previous requests to locate easement.

- Dec. 7, 2005 Call from David Jurgens to Ray Green, 12/7/05, approximately 3:40 p.m., explained we've marked numerous other sites on request, cited full fee simple, cited history of correspondence, unpleasant call, he was quite rude, I stated we would mark as soon as we could get the surveyors on site.
- Dec 12, 2005 Call from Robert White, McClelland, to Ray Green, 9:30 a.m., to say that the easements across this property have been staked.
- Dec. 19, 2005 Fax from David Whitaker to Ray Green with answers to alignment questions at Chestnut Apartments.
- Dec. 20, 2005 City Council Meeting and Public Hearing.
- Dec 21, 2005 Mark Risk, the appraiser, stated he had never been contacted by anyone from Chestnut Apartments regarding his appraisal.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

April 29, 2005

John D. Lindsey, LLC
Attn: Kirk Elsass
3900 Front Street
Fayetteville, AR 72703

RE: Project No. 02133
Wastewater Improvements Project
WL2 - Tract 10
Offer Letter

Dear Mr. Elsass:

The City of Fayetteville is under contract to construct a new wastewater treatment plant on the west side of town as well as new gravity sewer lines, pump stations, and force mains associated with this new plant. A twenty-five-foot-wide permanent easement and a temporary construction easement across part of your property are necessary for this project. The temporary construction and grading easement shall terminate when the project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

The City of Fayetteville hereby offers \$8,750.00 for the rights associated with the permanent easement (0.35 acres) and \$750.00 for the rental of the property within the temporary construction and grading easement (0.30 acres), for a total offer amount of \$9,500.00. The permanent easement amount is based on a fee simple value of \$50,000 per acre as determined within the certified appraisal report as prepared by Mark Risk, of the Real Estate Consultants, dated March 30, 2005. However, the fee simple value is discounted 50% due to the easement areas being completely within the FEMA identified flood plain. The temporary easement (rental) amount is figured at 10% of the fee simple value ($\$50,000/\text{acre} \times 50\% \times 10\% = \$2,500/\text{acre}$).

Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated areas required for the proposed easements. The temporary construction easement area will exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

Should you elect to accept this offer, the *Water/Sewer Easement* contained herein should be executed by all parties with current ownership interest in the particular property. The document should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the documents if you will advise our office accordingly. Upon receipt of the document, a check will be requested and you will be paid the amount indicated in this offer letter.

A copy of the *Water/Sewer Easement* is included for your records. We can provide a copy of the recorded easement upon your request and at the appropriate time. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Jill Goddard at (479) 444-3407, Holly Jones at (479) 444-3414, or I can be reached at (479) 575-8330.

Sincerely,



Bob Davis, P.E., CHMM
Water and Wastewater Director

BD/jsg
Enclosures

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

October 26, 2005

John D. Lindsey, LLC
Attn: Kirk Elsass
3900 Front Street
Fayetteville, AR 72703

RE: Project No. 02133
Wastewater Improvements Project
WL2 - Tract 10
Side Letter

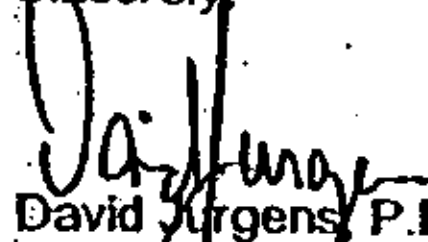
Dear Mr. Elsass:

The City of Fayetteville has reviewed the concerns voiced in your conversations with Gene Frost, contract negotiator for this project. As to the proposed sewer line going through the parking lot at Chestnut II Apartments:

- The proposed new sewer line is expected to correct the sewer back-up problems and leaks which have occurred at this property in the past. If problems continue to occur, please contact me as soon as possible.
- When all the new sewer lines on the west side of town are on line (estimated to be mid 2008), your gravity line will be tied to the new line. Once the new lines are operational, the private lift station at the north end of your property will no longer be necessary.

This letter will become a part of the contract by addendum and will be honored by the contractor working on this project. If you have any questions regarding this project, please don't hesitate to contact either of the Land Agents, Holly Jones at 479-444-3414, or Jill Goddard at 479-444-3407, or I can be reached at 479-575-8330.

Sincerely,



David Jurgens, P.E.
Water and Wastewater Director

DJ/jsg

APPRAISAL REPORT
City of Fayetteville
Complete Summary Appraisal Report
As of the 30th Day of March 2005

PROJECT Wastewater Treatment Plant
LINE # West Line 2
TRACT # 9
COUNTY Washington
PARCEL # 765-09479-000
LOCATION 2084 Chestnut, Fayetteville
FEE OWNER Chestnut, Phase II, LP
ADDRESS 2084 Chestnut, Fayetteville, AR 72703
ESTATE APPRAISED Fee Simple
AREA OF WHOLE 13.826± Acres
AREA OF RESIDUAL 13.354± Acres

TOTAL AREA OF PERMANENT EASEMENT: 20,578± SF or .47± Acre
(Drawing attached)

TEMPORARY CONSTRUCTION EASEMENT (T.C.E.): 24,417± SF or .56± Acre
(Drawing attached)

ESTIMATED FAIR MARKET VALUE OF THE PROPERTY:

	Before	After
Land	\$ 692,000	\$ 680,250
Improvements	\$3,818,500*	\$3,818,500*
Total	\$ 4,510,500	\$4,498,750

FMV PERMANENT EASEMENT ACQUISITION \$11,750 As of 30th day of March 2005

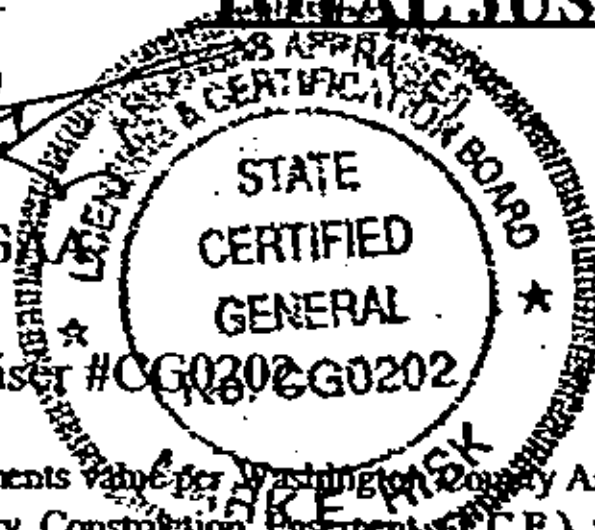
ALLOCATION OF FAIR MARKET VALUE OF TAKINGS:

Permanent Easement-	.47 Acre	@	\$50,000/Acre	x .50	= \$ 11,750****
T.C.E.s	.56 Acre	@	\$50,000/Acre	x .50 x .10	= \$ 1,400**
Landscaping:	Not Applicable				= \$ 0***
Total All Takings-					= \$13,150
Damages or Benefits:	None				\$ 0

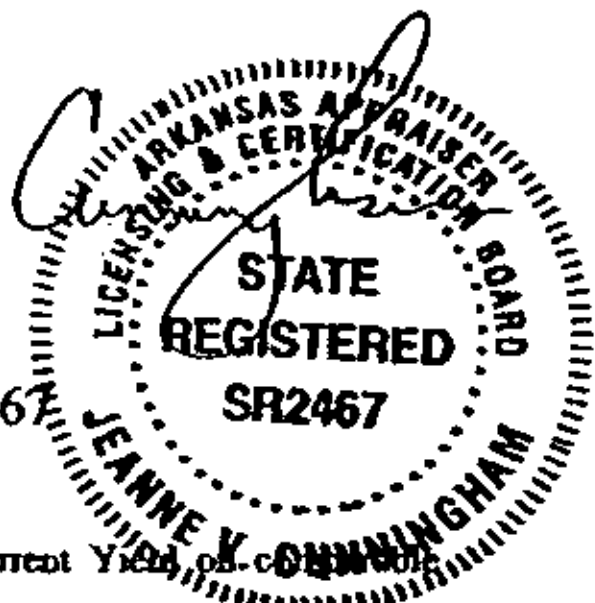
Total Compensation \$13,150

TOTAL JUST COMPENSATION-SAY \$13,150

Mark E. Risk G
State Certified
General Appraiser #CG0202



Jeanne V. Cunningham
State Registered
Residential Appraiser #SR2467



- * Improvements value per Washington County Assessor's office.
- ** Temporary Construction Easement (T.C.E.) value is based upon the fee simple land value multiplied by the Current Yield on commercial investments for a one-year period plus a premium for inconvenience.
- *** Assumes no removal or damage to existing landscaping/fencing. Any site improvements in the acquisition area will be moved or replaced.
- **** The taking area in the permanent easement and the T.C.E. are discounted .50 due to being completely within the FEMA Identified Flood Plain.

Parcel No. 765-09481-000
Parcel No. 765-09482-000
Parcel No. 765-09484-000
WL2 - Tract 10

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT John D. Lindsey, LLC, a limited liability company, hereinafter called 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, does hereby GRANT, SELL and CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement and a temporary construction and grading easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe 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: (Deed Ref. 2001-035337)

Part of Lots Six (6) and Seven (7) of Block Four (4) of Parker's Plat of Valley View Acres in Section Four (4), Township Sixteen (16) North, Range Thirty (30) West, as shown upon the recorded plat thereof on file in the office of the Circuit Clerk and Ex-officio Recorder of Washington County, Arkansas, and being more particularly described as follows, to-wit: From the platted Southwest corner of said Lot 6 (which is the platted intersection of Poplar Street and Chestnut Avenue) proceed East 25 feet and North 25 feet to the point of beginning; thence North 175 feet, thence East 185 feet, thence South 49.90 feet, thence 46.52 feet along a curve to the right having a radius of 50 feet and a chord bearing and distance of South 26 degrees 39 minutes 09 seconds West 44.86 feet, thence South 53 degrees 18 minutes 17 seconds West 40.17 feet, thence 46.52 feet along a curve to the left having a radius of 50 feet and chord bearing and distance of South 26 degrees 39 minutes 09 seconds West 44.86 feet, thence South 20.34 feet, thence South 89 degrees 43 minutes West 112.54 feet to the point of beginning, containing 0.62 acres, more or less.

Part of Lots 2, 3, 4, 6, and 7 of Block 4 of Parker's Plat of Valley View Acres in Section 4, Township 16 North, Range 30 West, as shown upon the recorded plat thereof in the office of the Circuit Clerk and Ex-officio Recorder of Washington County, Arkansas, and being more particularly described as follows, to-wit: From the platted Southwest corner of said Lot 6 (which is the platted intersection of Poplar Street and Chestnut Avenue), proceed East 25 feet, thence North 25 feet, thence North 89 degrees 43 minutes East 112.54 feet to the point of beginning, thence North 20.34 feet, thence 46.52 feet along a curve to the right having a radius of 50 feet and a chord bearing and distance of North 26 degrees 39 minutes 09 seconds East 44.86 feet, thence North of 50 feet and a chord bearing and distance of North 26 degrees 39 minutes 09 seconds East 44.86 feet, thence North 203.85 feet, thence North 83 degrees 30 minutes East 330.80 feet, thence South 41 degrees 51 minutes West 491.08 feet, thence South 89 degrees 43 minutes West 76.48 feet to the point of beginning, containing, 1.39 acres, more or less.

Part of Lots 4, 5, 6, and 7 of Block 4 of Parker's Plat of Valley View Acres in Section 4, Township 16 North, Range 30 West, as shown upon the recorded plat thereof on file in the office of the Circuit Clerk and Ex-officio Recorder of Washington County, Arkansas, and being more particularly described as follows, to-wit: from the platted Southwest corner of said Lot 6 (which is the platted intersection of Poplar Street and Chestnut Avenue), proceed East 25 feet and North 200 feet to the point of beginning; thence North 140 feet; thence North 85 degrees 41 minutes 16 seconds East 185.53 feet; thence South 153.95 feet; thence West 185 feet to the point of beginning, containing 0.62 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

A permanent easement of variable width located in a part of Block Four (4) of Parker's Plat of Valley View Acres, to the City of Fayetteville, Washington County, Arkansas, being more particularly described as follows: From the Southwest corner of Lot 6 of said Block Four (4), thence South 87° 06' 21" East 40.00 feet, thence North 02° 53' 39" East 67.05 feet to the Point of Beginning, said point being on the East line of an existing 15 foot utility easement; thence along said East line North 02° 53' 39" East 25.00 feet; thence South 87° 55' 05" East 105.52 feet; thence North 47° 23' 23" East 69.42 feet; thence North 04° 52' 33" East 195.28 feet to a point on the South line of an existing 15 foot utility easement; thence along said South line North 88° 34' 55" East 8.60 feet; thence along the East line of said 15 foot utility easement North 02° 53' 39" East 6.26 feet; thence South 86° 07' 02" East 156.58 feet; thence North 46° 31' 02" East 45.44 feet to a point on the North line of the above referenced property; thence along said North line North 86° 23' 39" East 38.99 feet; thence South 46° 31' 02" West 86.33 feet; thence North 86° 07' 02" West 151.30 feet; thence South 04° 52' 33" West 187.49 feet; thence South 47° 23' 23" West 89.42 feet; thence North 87° 55' 05" West 116.15 feet to the Point of Beginning, containing 15,173 square feet (0.35 acre), more or less.

WATER/SEWER EASEMENT
John D. Lindsey, LLC
Page 2 of 3

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A temporary construction and grading easement of variable width is located along a portion of all the sides of the above described Permanent Water/Sewer Easement. This temporary construction easement is shown in detail on Exhibit "A" and contains 13,003 square feet (0.30 acre), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

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.

The temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

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.

The Grantor agrees not to erect any buildings or structures in said permanent easement other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the _____ day of _____, 2005.

JOHN D. LINDSEY, LLC

By: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

[SEAL]

WATER/SEWER EASEMENT
John D. Lindsey, LLC
Page 3 of 3

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

ss.

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 persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of John D. Lindsey, LLC, a limited liability company, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2005.

MY COMMISSION EXPIRES:

Notary Public

PUE 10.1 - 15,173 SQ. FT. (0.35 AC.)
TCE 10A - 13,003 SQ. FT. (0.30 AC.)

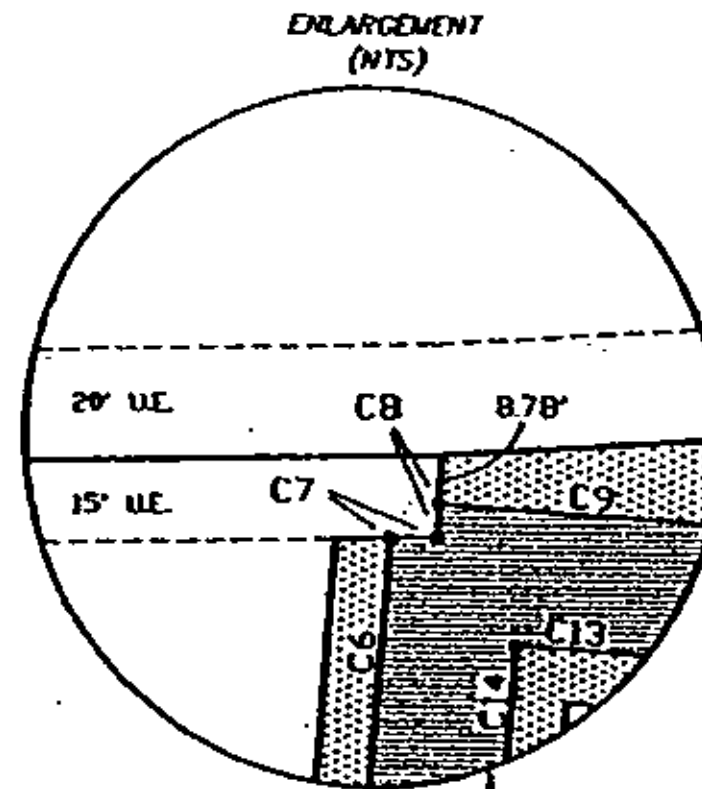
UTILITY EASEMENT PLAT
WL2 TRACT MAP NO. 10
EXHIBIT "A"



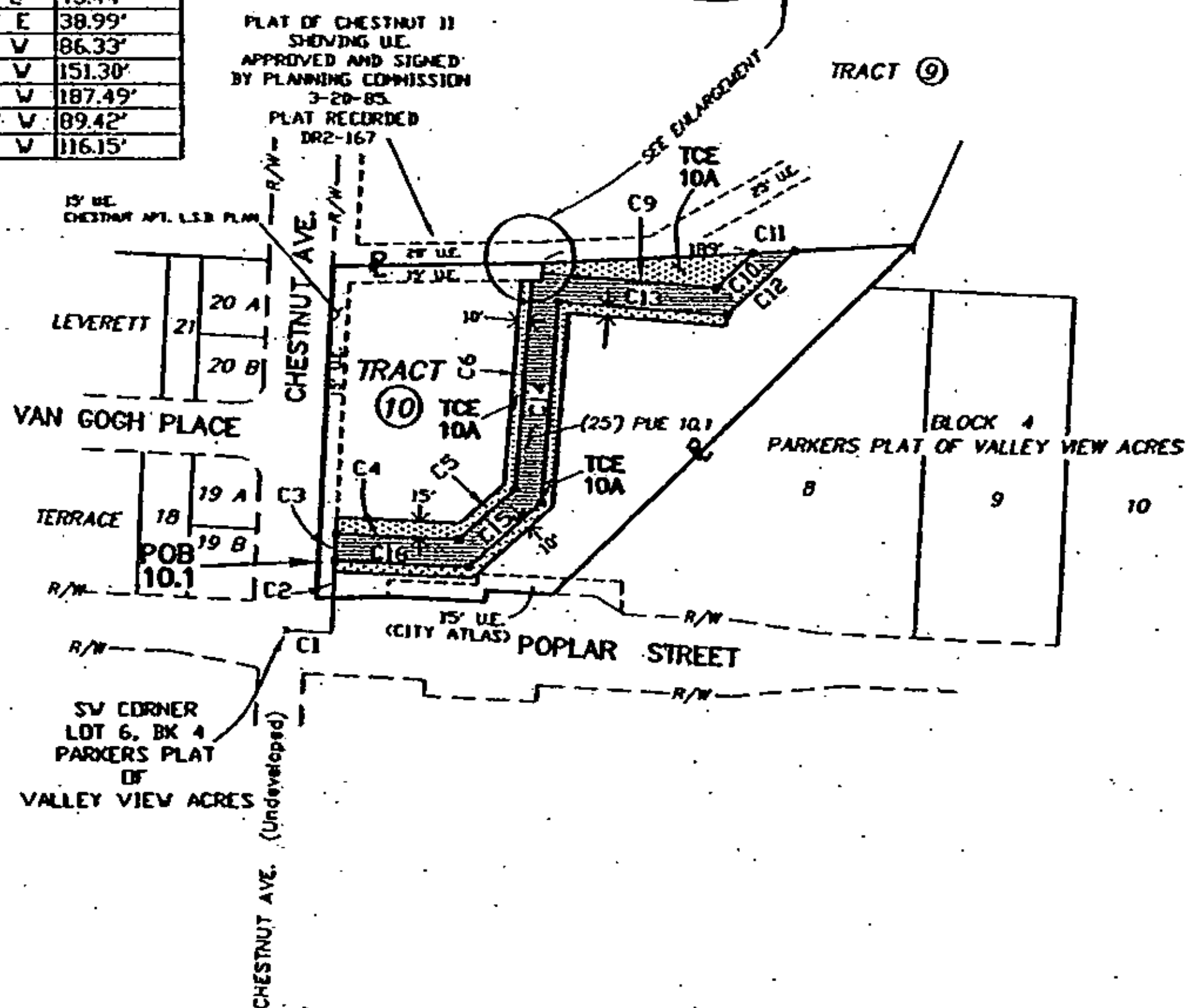
SCALE: 1" = 200'

LINE TABLE

NUMBER	DIRECTION	DISTANCE
C1	S 87°06'21" E	40.00'
C2	N 02°53'39" E	67.05'
C3	N 02°53'39" E	25.00'
C4	S 87°55'05" E	105.52'
C5	N 47°23'23" E	69.42'
C6	N 04°52'33" E	195.28'
C7	N 88°34'55" E	8.60'
C8	N 02°53'39" E	6.26'
C9	S 86°07'02" E	156.58'
C10	N 46°31'02" E	45.44'
C11	N 86°23'39" E	38.99'
C12	S 46°31'02" V	86.33'
C13	N 86°07'02" V	151.30'
C14	S 04°52'33" V	187.49'
C15	S 47°23'23" V	89.42'
C16	N 87°55'05" V	116.15'



Basis of Bearings:
Based on the City of
Fayetteville GPS
Coordinate System



LEGEND

- — Corners of Permanent Utility Easement
- 765-09481&2&4-000 — Tax Parcel Number
- 2001-35337&8 — Deed Record
- Permanent Utility Easement
- Temporary Construction Easement
- Existing Utility Easement Line
- Existing Property Line
- UE — Utility Easement
- TCE — Temporary Construction Easement

City of
Fayetteville

Water & Sewer Department

Property Owner : JOHN D. LINDSEY, LLC.

Drawn by : McClelland Consulting Engineers

Date: June 2004

Project No. 02133-0305

Scale : 1" = 200'

WL2 - Tract No. 10

Project Name :
Westside Sewer Interceptors

No.	Revisions	Date

CITY OF FAYETTEVILLE

OFFICE OF CITY ATTORNEY

113 WEST MOUNTAIN, #302

FAYETTEVILLE, AR 72701

PHONE: (479) 575-8313

FAX: (479) 575-8315

FAX COVER SHEET

FAX NUMBER TRANSMITTED TO: 479.973.0007

To: Rayburn Green, Attorney at Law - Kutak Rock

From: David J. Whitaker, Assistant City Attorney



Client/Matter: Chestnut Apartments Sewer Line Routing

Date: 12/19/2005 2:05:33 PM

Documents Enclosed	Number of Pages*
E-mail from RJN Group, Inc.	1

Comments:

*Not counting cover sheet. If you do not receive ALL pages,
please telephone us immediately at (479) 575-8313

David,

Answers to the questions on Chestnut Apartments sewer line.

Relating to the third question, the entire 400' will not be open at one time, so the parking spaces that are unavailable will be a moving blockage rather than all at once. We are installing, and frequently install, lines in front of businesses, homes, and apartments throughout this project. The contractors will notify residents and managers in advance, and will enable access to all buildings.

>>> tharris <tharris@rjn.com> 12/19/05 10:01AM >>>

Here are the answers to the questions that have been raised regarding the WL-2 project.

1. Why the "dogleg" at the Chestnut portion of the line?
2. Why not continue to follow Scull Creek, instead?
3. Will the job as currently proposed "cut off" ingress and egress to certain apartments during the work? If so, how long?

1 & 2. The dogleg is there because there was not room between the edge of the creek bank and the apartment building to the north to enable construction of the size and type of sewer proposed for that location. Robert's initial intention and effort was to follow along the northern side of Scull Creek all the way. He even had that route surveyed. But following review of the survey and site visit(s), Robert concluded that it is not practical to think that the Contractor could construct the proposed line in the limited space available via that route.

3. The work is not expected to "cut off" ingress/egress to the apartments themselves. Of course, the parking spaces in the vicinity of the work being performed at any particular time will be blocked. I would expect it to be a matter of "inconvenience" rather than being "cut off". Furthermore, the contractor will be expected to backfill (with Class 7 base) the trench as he moves forward with construction and, certainly, he will backfill the trench at the end of each day before leaving the site. Therefore, each affected parking space should only be blocked for a day, or two; and the entire parking lot should be affected for, hopefully, 7 to 10 days. The work involves laying approx. 400 LF of sewer; so, assuming decent weather, etc., the inconvenience should be short-lived.

Thanks,
Tom

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

3-Jan-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 05-1776: (Wedington Circle, 404): Submitted by Rob Sharp Architect, Inc. in behalf of Greg House and Steve Mansfield for property located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue. The property is zoned RMF-24, Residential Multi-family-24 units per acre and C-2, Thoroughfare Commercial, and contains approximately 6.13 acres. The request is to approve a Master Development Plan - Residential Planned Zoning District for a mixed use development to include multi-family dwellings, offices, and retail uses.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 12-16-05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 12-16-05
City Attorney Date

Original Contract Number: n/a

[Signature] 12-16-05
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 12/16/05

[Signature] 12/16/05
Mayor Date

Received in Mayor's Office
ENTERED 12/16/05

Comments:
Tabled to 2/7/06 CC mtg. 1/17/06
Left on the second reading 1/3/06

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: December 15, 2005

Subject: Master Development Plan - Residential Planned Zoning District for Wedington Circle (R-PZD 05-1776)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Master Development Plan - Residential Planned Zoning District (R-PZD) for Wedington Circle, based on the Master Development Plan, development standards, and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 6.13 acres. It does not grant development approval.

BACKGROUND

The property consists of approximately 6.13 acres. The applicant requests a rezoning and Master Development Plan approval for the subject property. There is dense tree canopy and 10% slopes located on the undeveloped site. The property is currently zoned RMF-24 and C-2. It is located north of Wedington Drive, just west of Garland Avenue and has some frontage on James Street.

The mixed-use project will include development of 7 phases, the first being the installation of required infrastructure and dedication of right-of-way which would require a preliminary and final plat. The remaining 6 phases will be the development of structures for residential and retail/office use. The proposal consists of 93% residential use and 7% commercial use. Each development phase (2-7) will be reviewed and approved by the Planning Commission as a large scale development, depending upon how they are submitted.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on December 12, 2005. A Planned Zoning District requires City Council approval as it includes zoning and land use approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

The applicant has submitted a traffic study which does not recommend any improvements, however staff is aware of infrastructure that may be detrimentally impacted with this additional development. At the time of development, streets that the

City Council Meeting of January 03, 2006

Agenda Item Number

development will access may need to be improved to provide a safe and adequate means of access, as determined by the Planning Commission. At minimum, a full street section width will be required on James Street to the intersection of Mount Comfort Road and potential improvements, including sidewalk, to Wedington Drive. Contribution to long-term or installation of short-term improvements to the intersection of Mount Comfort and Garland (Highway 112) has also been discussed, and will be evaluated at the time of development.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1776, WEDINGTON CIRCLE, LOCATED NORTH OF WEDINGTON DRIVE (HWY 112 SPUR) AND WEST OF GARLAND AVENUE, CONTAINING APPROXIMATELY 6.13 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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 RMF-24, Residential Multi-family, 24 units per acre, and C-2, Thoroughfare Commercial, to R-PZD 05-1776 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

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

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

PASSED AND APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 05-1776

SURVEY DESCRIPTION ENTIRE TRACT

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION EIGHT (8), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE N02°56'35"E ALONG THE WEST LINE OF SAID 40 ACRE TRACT 566.29 FEET; THENCE LEAVING THE WEST LINE OF SAID 40 ACRE TRACT S87°11'29"E 159.72 FEET TO A SET ½" IRON REBAR FOR THE TRUE POINT OF BEGINNING; THENCE S87°11'29"E 75.00 FEET TO A SET ½" IRON REBAR IN THE CENTER OF AN EXISTING DRAINAGE DITCH; THENCE LEAVING THE CENTERLINE OF SAID DITCH S87°11'29"E 376.68 FEET TO A SET ½" IRON REBAR; THENCE N02°56'35"E 161.54 FEET TO A SET ½" IRON REBAR; THENCE S86°36'35"E 104.60 FEET TO AN EXISTING IRON; THENCE S03°35'34"W 160.02 FEET TO AN EXISTING IRON; THENCE S86°36'12"E 177.56 FEET TO A SET ½" IRON REBAR, SAID POINT BEING N86°36'12"W 2.48 FEET FROM AN EXISTING CONCRETE AT THE SOUTHWEST CORNER OF LOT TEN (10) OF MCCORMICK ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE RECORDS OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS; THENCE S02°37'04"W 376.94 FEET TO A SET ½" IRON REBAR; THENCE S87°16'02"E 96.96 FEET TO A SET ½" IRON REBAR; THENCE S00°50'04"W 146.31 FEET TO A SET ½" IRON REBAR ON THE NORTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY 16 (WEDINGTON DRIVE); THENCE ALONG SAID RIGHT-OF-WAY LINE, THE FOLLOWING BEARINGS AND DISTANCES:

N89°45'20"W	66.60 FEET TO A SET ½" IRON REBAR;
N74°29'27"W	194.26 FEET TO A SET ½" IRON REBAR;
N44°49'05"W	202.42 FEET TO A SET ½" IRON REBAR;
N56°07'42"W	403.52 FEET TO A SET ½" IRON REBAR;
S87°55'48"W	84.68 FEET TO A SET ½" IRON REBAR;

THENCE LEAVING SAID RIGHT-OF-WAY LINE, N02°56'35"E 147.22 FEET TO THE POINT OF BEGINNING, CONTAINING 6.13 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.



PC Meeting of December 12, 2005

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, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: December 7, 2005 *Updated December 15, 2005*

R-PZD 05-1776: Residential Planned Zoning District (Wedington Circle): Submitted by Rob Sharp Architect, Inc. in behalf of Greg House and Steve Mansfield for property located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue. The property is zoned RMF-24, Residential Multi-family – 24 units per acre, and C-2, Thoroughfare Commercial, and contains approximately 6.13 acres. The request is to approve a Master Development Plan – Residential Planned Zoning District for a mixed use development to include multi-family dwellings, offices, retail and associated parking.

Property Owner: Mansfield House, LLC

Planner: Suzanne Morgan

Findings:

Property Description: The property consists of approximately 6.13 acres; conflicting information has been provided regarding the size of the property and the applicant is in the process of obtaining an accurate surveyed legal description of the entire subject property. The applicant requests a rezoning and Master Development Plan approval for the subject property. There is dense tree canopy (89%) and 10% slopes located on the undeveloped site. The property is zoned RMF-24 and C-2 which allows for high density and high intensity uses. It is located north of Wedington Drive, just west of Garland Avenue and has some frontage on James Street.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Apartment Complex and single family homes	RMF-24
South	Single family homes (across Highway 62)	RSF-4
East	Harps, Arvest Bank	C-2 and C-1
West	Single family homes; apartment buildings	RSF-4; RMF-24

Proposal: The applicant requests a rezoning and Master Development Plan approval for a mixed-use project on the property. The project will include development of 7 phases, the first being the installation of required infrastructure and dedication of right-of-way. The remaining 6 phases will be the development of structures for residential and retail/office use. The proposal consists of is 93% residential use and 7% commercial use. Each development phase (2-7) shall

be reviewed and approved by the Planning Commission as a large scale development, and may require Preliminary/Final plat approval as well if the applicant wishes to subdivide the property.

Process: The purpose of the subject request is to allow a mixture of uses within the entire project and create an urban environment for those who desire to live close to the University of Arkansas and within one mile of the central downtown area. The density proposed is 48 units per acre, with a maximum 296 units and 428 bedrooms. In order to do so, the Planned Zoning District process was recommended. City Council approval of the proposed Master Development Plan would effectively rezone the property based on the plans and information provided. However, it does not give development approval. The applicant is required to return through the preliminary plat, final plat and large scale development process, in this case, in order for the Planning Commission to confirm that the development plans presented are compliant with the zoning and Master Development Plans approved by the City Council.

The following bulk and area regulations are proposed by the applicant, and are included in detail within the attached submittal:

ZONING CRITERIA: R-PZD 05-1776 (Wedington Circle)
Planning Area 1, 6.13 acres

(A) *Proposed Uses.*

Permitted Uses

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 18	Gasoline service stations and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 28	Center for collection recyclable materials
Unit 34	Liquor Stores
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities

* Conditional use approval by the Planning Commission required.

(B) *Density/Intensity*

Density (dwelling units)	Intensity (square feet nonresidential)
49* Units/Acre: Maximum 296 dwelling units	Maximum 16,576 SF
<i>Anticipated development (not required by zoning):</i> 428 bedrooms 16 Efficiencies 156 1-bedroom 116 2-bedroom 8 3-bedroom	<i>Anticipated development (not required by zoning):</i> Professional Office: 10,000 SF Retail: 6,576 SF

*Staff has modified the density from 48.3 units per acre to 49 units per acre, with the understanding that the maximum number of dwelling units allowable is 296.

(C) *Bulk and area regulations.*

Lot width minimum	Lot area minimum	Land area per dwelling unit
None	None	No Bedroom – 800 SF One Bedroom – 800 SF Two Bedroom – 1,000 SF Three Bedroom or more – 1,200 SF

(D) *Setback requirements.*

Front	Side	Rear
0 feet	0 feet	5 feet

(E) *Height.* Maximum height for all structures is six stories.

(F) *Building area.* Maximum 100% building area.

(G) *Signage.* Signage shall comply with the C-2 zoning requirements of the Fayetteville Sign Ordinance. Buildings containing only residential dwellings will adhere to the RMF-24 zoning district requirements of the Fayetteville Sign Ordinance.

(H) *Tree Preservation.* The applicant proposes to potentially preserve approximately 18.4% of the existing canopy on the property, though detailed site work has not been done. The percent canopy required to be preserved in a PZD is 25%. The applicant proposes mitigation of the 6.6% canopy with on-site tree plantings. Additionally, the applicant proposes planting an additional 14,170 square feet of tree canopy within the AHTD right-of-way to provide a buffer between this development and properties to the south, and to provide additional canopy to the property. Due to the difficult nature of this site to develop, staff is generally supportive of this proposal, and will evaluate the development plans to retain as much canopy as possible.

Water & Sewer: Water is currently available, and will be extended on-site with adequate fire protection (hydrants) and water line size to be provided as required by code. The Fire Department shall review the proposal to ensure adequate access to and within the site and sprinkling with each structure. Evaluations of the water system, sewer system, streets, and drainage will need to be made as the scope of the project becomes better defined. More specifically, the water distribution system may need to be upgraded to handle the increased demand for domestic and fire supply, the sanitary sewer system needs to be evaluated to show any deficiencies, streets and pedestrian access will need to be improved and follow City standards. Drainage improvements may include detention and/or improvements to the existing system.

Adjacent Master Street Plan Streets: Wedington Drive (Principal Arterial) and Garland Avenue to the east (Principal Arterial)

Traffic: Access is proposed to be provided from Wedington Drive, a Principal Arterial, and James Street, a local street. Wedington Circle is constructed to its widest extent and the condition of James Street may need to be improved. At the time of development, streets that the development will access may need to be reconstructed to provide a safe and adequate means of access, as determined by the Planning Commission. At minimum, a full street section width will be required on James Street to the intersection of Mount Comfort Road and potential improvements, including sidewalk, to Wedington Drive. Contribution to long-term or installation of short-term improvements to the intersection of Mount Comfort and Garland (Highway 112) has also been discussed, and will be evaluated at the time of development. Any curb cut or improvements on Wedington Drive shall require AHTD approval. Access for ladder trucks within this property and especially around the round-about for the Fire Department is a stated concern.

Interior to the project, public and private drives are proposed. Access to future structures will need to meet with Fire Department approval in order to provide adequate fire protection and emergency access in time of need. The slope, width and construction of interior drives to access future structures shall be evaluated at the time of development to ensure proper and safe access is achieved. Based on further evaluations by Planning and Engineering, interior streets may or may not be public.

Street Improvements: Staff recommends that street improvements be evaluated at the time of development for Wedington Drive along the project frontage and on James Street, as well as surrounding intersections. At this time the applicant has submitted a traffic study which does not recommend any improvements, however staff is aware of infrastructure that may be detrimentally impacted with this additional development.

Tree Preservation: Most of the site (88.66%) contains existing tree canopy. The majority of the property is intended to be utilized for development and to do so on slopes of 10% will create a great deal of disturbance. The applicant is preserving the tree canopy in one location on the property. The applicant proposes to preserve approximately 18.4% of the existing canopy on the property, utilizing retaining walls to minimize grading. The applicant proposes mitigation of the

addition required 6.6% canopy with on-site tree plantings. Additionally, the applicant proposes planting an additional 14,170 square feet of tree canopy within the AHTD right-of-way to provide a buffer between this development and properties to the south. The Urban Forester's evaluation of the proposed tree preservation plan has been included in the staff report, and is cautiously supportive, due to the fact that this is a concept plan only, and further evaluation will need to be made at the time of development.

If developed under the current zoning regulations, 15% tree canopy in a C-2 zoning district and 20% canopy within an RMF-24 zoning district is required to be preserved.

Parks:

- On August 1, 2005 The Parks and Recreation Advisory Board recommended accepting money in lieu of land to satisfy the Park Land Dedication requirements for Wedington Circle for 12 single family units and 284 multi-family units.
- Fees are assessed in the amount of \$118,272.
- Asbell School Park is within a half mile service area of this development. Given its proximity to Asbell as well as Lewis Soccer Complex and the playground at Leverett Elementary School, this development will have adequate access to recreation. Additionally, the developer is proposing a pool, workout room, and soft surface walking trail and playground within the tree preservation area.
- Parks fees are due before signing the final plat or before issuance of building permits allowing development to occur.

Public Comment: The applicants have presented their ideas to two Ward 4 neighborhood meetings. Staff has not received any public comments regarding this project, though the applicant indicates response has been, for the most part, favorable.

Recommendation: Staff recommends forwarding the Master Development Plan – Residential-Planned Zoning District for Wedington Circle (R-PZD 05-1776) to the City Council with a recommendation of approval with the following conditions:

Conditions of Approval:

1. *After the Planning Commission meeting on December 12, 2005, staff reevaluated the recommended Lot Area Minimum for this property and modified the recommendation from "8,000 square feet" to "None" finding that to establish a lot area minimum in a dense, urban-type development was unnecessary.*
2. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
3. Approval of this Master Development Plan – Planned Zoning District shall not be construed as development approval. Pursuant to city ordinance, all development of the

property shall be approved by the Planning Commission through the large scale development and/or subdivision review process. Each Planning Area shall be evaluated based on the zoning and development criteria established with the Master Development Plan. Circulation, landscaping, tree preservation, design standards, connectivity, infrastructure improvements and other city policies and ordinances remain applicable with the development review process. The conceptual designs proposed are to be used as a template from which detailed plans are produced; however, it is expected that certain items will change, in accordance with the Planned Zoning District ordinance.

4. Each Phase submitted for preliminary plat or large scale development review shall meet current development criteria at the time of submittal. The applicant shall be granted one (1) year from the date of Planning Commission approval to receive all permits necessary for development of the Phase with a one (1) year extension available.
5. If within five (5) years of the City Council adoption of the Master Development Plan, the approved zoning criteria are not in accordance with the goals, policies and guidelines of the City of Fayetteville, the Planning Commission will determine whether the Master Development Plan shall be submitted to the City Council for reconsideration.
6. The applicant currently proposes Tree Preservation less than required within a Planned Zoning District, though all detailed plans have not been proposed. The requirement is 25% tree canopy preservation. The applicant proposes approximately 18.4% tree canopy preservation. Staff recognizes that with the development of construction plans, grading and drainage plans, and utility easement requests the total percent canopy preserved may vary slightly from the 18.4% proposed. A Tree Preservation plan will be evaluated at the time of development submittal. The applicant shall install mitigation trees on site, and the applicant has proposed installation of an additional 14,170 square feet tree canopy with the AHTD right-of-way south of the subject property.
7. All signage within each Phase of the Master Development Plan shall be permitted in accordance with the current sign regulations at the time of development. Signage shall comply with the C-2 zoning requirements of the Fayetteville Sign Ordinance. Buildings containing only residential dwellings will adhere to the RMF-24 zoning district requirements of the Fayetteville Sign Ordinance.
8. All public and private streets/drives shall conform to city standards. Improvements to existing streets shall be determined by the Planning Commission at the time of development. Public and Private streets shall not be gated, unless permitted by express approval from the City Council by resolution. With this ordinance, the Planning Commission is given the determination of whether interior streets are to be public, private or a combination, to be determined at the time of development with a more thorough evaluation.
9. The applicant commissioned a traffic study for this project. Staff will be making the recommendations for street improvements at the time of development. Dedication of right-of-way to meet Master Street Plan requirements, appropriate drainage, lighting,

Findings associated with R-PZD 05-1776

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in substantial compliance with the Master Development Plan Planned Zoning District criteria established by the City Council.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed. Staff finds that the project booklet, Master Development Plan and Tree Preservation Plan comply with all applicable statutory provisions. However, some minor information on the plat and in the booklet are in need of further clarification of commitments and the standard items such as a zoning comparison chart, legal description, graphic scale, land use table, etc. must be added to the plan for it to comply. Conditions regarding these edits have been included.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Evaluations for water system, sewer system, streets, and drainage will need to be made as the scope of the project becomes clearer. More specifically, the water distribution system may need to be upgraded to handle the increased demand for domestic and fire supply, the sanitary sewer system needs to be evaluated to show any deficiencies, streets and pedestrian access will need to be improved and follow City standards. Drainage improvements may include detention and/or improvements to the existing system. Fire and emergency response time is adequate and estimated at three (3) minutes or less, though improvements to existing street infrastructure may be necessary at the time of development, and is indicated in the conditions of approval.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, attempts to create a more dense living environment. It is located in an area with proximity to the University of Arkansas for future residents who attend the University to walk and it is near pick-up areas for the transit system. Although multi-modal opportunities are present, it is anticipated that traffic will increase a certain degree for the proposed uses, and street

improvements accessing the property will need to be evaluated and determined at the time of development. All but the western portion of the site is proposed for development, with a swath of property to the west proposed to be reserved for tree preservation.

The existing zoning of the vacant property is RMF-24 and C-2 and is one of the last remaining properties undeveloped in this area. Surrounding properties are commercial to the west, with the Harps food store adjacent to the subject property, multi-family to the north, and single family residential to the west and south. The applicant requests development of the subject property just under 49 units per acre in addition to 16,576 square feet of non-residential development. Staff is in supportive of a rezoning to create a mixed use development of this property as it will serve as a transition between existing commercial, multi-family, and single family residential uses. It is important, though, to establish a development that will be sensitive to the existing infrastructure, surrounding developments, topography, and tree canopy.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is a steep hillside with 10% grade and 88.66% tree canopy. The applicant tentatively proposes preservation of 18.4% tree canopy. An exhibit was presented for this proposal. The Urban Forester's initial investigation of this proposal found that to preserve one concentrated area may be the only way of allowing preservation and development on a site with 10% or more grade due to the fill required. Specific recommendations from the Urban Forester have been included within the staff report.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The proposed development will allow for twice the density that the current zoning would allow. The police and fire departments have reviewed this request and their evaluations are included in and attached to this report. The applicant also submitted a traffic report for the proposed development. The findings and recommendations of this report are attached. In summary, the report finds that the transportation system is sufficiently built-out at this time to accommodate the project traffic in peak hours with little or no effect on traffic and intersection operation. In the future, the increase of trips generated from this development will drop the LOS levels of three intersections. Though the infrastructure is built out, and one of the adjacent streets is a State Highway, at the time of development, the existing streets will be evaluated by City staff and requirements made by the Planning Commission as to the extent of improvements necessary for development approval.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Architectural standards for the proposed structures have been submitted in detail under Appendix A of the project booklet. Architectural standards will be evaluated at the time of development to ensure all buildings proposed adhere to the context of the neighborhood surroundings.

(8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(J) *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. At this time, the Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments offered by the applicant and those recommended by staff, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. Staff finds that the proposal herein incorporates an acceptable level of compatibility with surrounding residential and commercial uses. Two access points are proposed to the site. Parking is proposed both on the street and underground, thereby avoiding large areas of asphalt but still utilizing the property for structures. To preserve less than the required amount of tree canopy for such an intense use of the property is not in compliance with the purposes and intent of the Planned Zoning District, but the applicant has offered a commitment to replant the tree canopy lost and plant an additional 14,170 sq. ft. (or 65 trees) within the AHTD right-of-way to replace canopy on or near the site. The proposed development is, however, in an appropriate location for the residential, retail, and office uses proposed.

- (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 at this time; with the development of the site being primarily residential, it is not required to screen from adjacent commercial or residential uses. The applicant has proposed screening from this development to the east and has proposed compliance with the landscaping requirements of the Unified Development Code.

(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: Ingress and egress interior to the project shall be evaluated and required to be constructed with the preliminary plat or large scale development that will allow for the construction of City streets and dedication of right-of-way. Lots may be created with the filing of a final plat and each tract shall be reviewed separately for development through a large scale development or preliminary/final plat where townhomes are proposed. New and existing public streets directly affected by the traffic generated from this project shall be improved to an acceptable standard, as determined by the Planning Commission, and interior private drives shall be constructed to provide for safe and adequate access to all structures for emergency vehicles.

- (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 the proposed uses shall apply. The parking ratio for retail use used for parking calculations in the project booklet is incorrect and needs to be modified, though the parking requirements are still being met. All parking areas shall conform to City of Fayetteville standard specifications, unless approved otherwise.

- (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 provides open space around the boundary of the development and for Tree Preservation areas. Staff recommends a significant natural tree and vegetative buffer to be retained on the property to act as a buffer from adjacent properties.

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

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of development.

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

FINDING: Street lights will be evaluated at the time of development.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be 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 and private streets/drives shall conform to city standards. Improvements to existing streets shall be determined by the Planning Commission at the time of development. Public and Private streets shall not be gated, unless permitted by express approval from the City Council by resolution. The Planning Commission shall determine, in an evaluation of the various waivers necessary to construct a street from Wedington to James, whether a public or private street is in the best interest of the City, at the time of development. This shall occur as part of the PZD process, even though the number of residential units served is obviously greater than the 40 allowed by ordinance.

- (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: The applicant shall be required to comply with this condition of approval as the proposed development contains residential and nonresidential development.

- (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: Most of the site (88.66%) contains existing tree canopy. It is atypical to receive a tree preservation plan with a project of this nature; however, the applicant found that it would not be feasible to develop the property and commit at this time to preserve 25% of the tree canopy. The applicant proposes to preserve approximately 18.4% of the existing canopy on the property. The applicant proposes mitigation of the required 6.6% tree canopy (approximately 81 trees) with on-site tree plantings. Additionally, the applicant proposes planting an additional 14,170 square feet of tree canopy (approximately 65 trees) within the AHTD right-of-way to provide a buffer between this development and properties to the south. The Urban Forester's evaluation of the proposed tree preservation plan has been included in the staff report.

- (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: The proposed architectural standards for the proposed structures are very detailed and encompass many guidelines recommended by the Downtown Master Plan. The Planning Commission shall ensure that these guidelines are being met for each structure, commercial and residential, within the development.

- (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 is primarily residential in nature, with 93% of the total building area of the project devoted to such use. The 7% commercial/office portion of the development is a small portion and intended for use by the residents of the development and located on Wedington Drive to attract a wider population. The flexibility requested for this development is to allow commercial uses where not currently permitted by the zoning regulations and double the density currently allowed. The uses proposed are compatible with the multi-family use to the north and commercial uses to the east. Providing a permanent buffer for tree preservation between this project and the single family residences to the west will be beneficial as screening. The proposal will not impact future developments in this area, but it will impact the existing developments, primarily in terms of the traffic generated. Less than the minimum required natural features (tree canopy) are proposed to be preserved and with the topography of the property, a great amount of fill will be required to develop the site.

(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 05-1776, with one Unique Planning Area. The project is proposed to be developed in seven Phases. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

- a. *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:

- i. 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.
- ii. 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.
- iii. 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.
- iv. To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- v. To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed use is a mixture of uses containing residential and commercial/office uses. A general commercial rezone is not appropriate in this area, but the incorporation of some commercial/office uses within a residential development is appropriate based on the location of the site. The increase in density from 24 units to approximately 49 units per acre is compatible with the surrounding multi-family, single, family, and commercial development. The project would encourage the efficient use of public transportation by placing higher density in proximity to potential use of those services. This project is sited near already-improved infrastructure; thereby minimize excessive demands on unimproved streets. Finally, this PZD provides a variety and flexibility in land development by providing high density residential near essential services (public transit, grocery, university, and indirect interstate access).

(2) *Uses.*

Permitted

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations

Unit 25	Professional offices
Unit 26	Multi-family dwellings

Conditional

Unit 2	City-wide uses by conditional use permit
Unit 18	Gasoline service stations and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 28	Center for collection recyclable materials
Unit 34	Liquor Stores
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities

FINDING: See Zoning Criteria Chart above for the uses permitted by right and by conditional use as proposed by the applicant.

- (2) All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (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.
- (4) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from RMF-24, Residential Multi-family – 24 units per acre, and C-2, Thoroughfare Commercial, to R-PZD 05-1776, with the adoption of the associated Master Development Plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Residential Area and Community Commercial in the far southeast corner of the property. Rezoning this property to R-PZD 05-1776, with the associated Master Development Plan, is consistent with the land use plan for this area. The proposed plan, commitment and other conditions placed upon the project result in a compatible development 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 is to a great degree consistent with many of the principles and policies in place as it provides a live/work environment for the residences of Fayetteville. The property will provide a large residential center in walking distance to the University of Fayetteville and in close proximity to downtown Fayetteville, as well as other essential public services.

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 anything other than single family or multi-family at 24 units per acre on the property.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will cause an increase in peak traffic. Though street improvements are anticipated, much of the off-site infrastructure to be utilized by this development is improved. The proximity of this development to the school, university, a grocery store, public transit, indirect access to I-540, and the downtown entertainment district will allow many of the residences to choose alternative means of transportation.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density in this developed area and thereby undesirably increase the load on police services or create an appreciable increase in 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: Population density will be increasing two-fold. Staff finds that an increased density in this location is appropriate and will be a beneficial in-fill development.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

**FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS**

**113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469**

TO: Suzanne Morgan, Planner
FROM: Alison Jumper, Park Planner
DATE: October 17, 2005
SUBJECT: Parks & Recreation Tech. Plat Review Comments

Meeting Date: October 19, 2005
Item: PZD 05-1776 (Wedington Circle), 404
Park District: NW
Zoned: RMF-24
Billing Name & Address: Mansfield House

	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	<u>12</u> @ \$555 per unit = \$6660
Multi Family	_____ @ .017 acre per unit = _____ acres	<u>284</u> @ \$393 per unit = \$111,612
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- On August 1, 2005 The Parks and Recreation Advisory Board recommended accepting money in lieu of land to satisfy the Park Land Dedication requirements for Wedington Circle for 12 single family units and 284 multi-family units.
- Fees are assessed in the amount of \$118,272.
- Asbell School Park is within a half mile service area of this development. Given its proximity to Asbell as well as Lewis Soccer Complex and the playground at Leverett Elementary School, this development will have adequate access to recreation. Additionally, the developer is proposing a pool, workout room, and soft surface walking trail and playground within the tree preservation area.
- Parks fees are due before signing the final plat.



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: City of Fayetteville City Council
From: Sarah K. Patterson, Urban Forester
Date: December 6, 2005

ITEM #: PZD 05-1776: Planned Zoning District (Wedington Circle)

TREE PRESERVATION PLAN

1. This project does not meet the minimum canopy requirements for Chapter 167 Tree Preservation and Protection in the Unified Development Code. Projects using the PZD zoning are required the most restrictive percent of preserved canopy. Currently this number is 25%. Although the developer is proposing only 18.4% preservation, all mitigation will be planted on site (approximately 81 trees) and additional plantings (approximately 65 trees) will take place along the Wedington Drive right of way and in the area between development and Harps Grocery Store.
2. Staff recommends approval of the proposed Tree Preservation Plan with the conditions that every possible attempt will be made to fit all mitigation trees on-site, to include additional vegetative buffers for sound and sight along Wedington Drive, and that retaining walls and preventative measures will be taken to preserve as many trees on the site affected by grade changes.
3. A full Tree Preservation Plan will be required for this project at the time of Large Scale Development. This plan should include all requirements as specified in Chapter 167 of the Unified Development Code. A separate Landscape/Mitigation Plan will also be required at this time. Please note that the recommended spacing

for most tree species is approximately 30 feet. It is important this distance is factored in at time of planting to plan for the future growth of the canopies.



THE CITY OF FAYETTEVILLE, ARKANSAS

113 West Mountain St.

Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE

501-575-8206

To: Wedington Circle

Thru: Jeremy Pate, Development Coordinator
Suzanne Morgan, Development Coordinator

From: Brent K. O'Neal, P.E. Staff Engineer

Date: October 21, 2005

Re: Master Design Plan for Wedington Circle

Development: PZD Wedington Circle

Evaluations for water system, sewer system, streets, and drainage will need to be made as the scope of the project becomes clearer. More specifically: the water distribution system may need to be upgraded to handle the increased demand for domestic and fire supply, the sanitary sewer system needs to be evaluated to show any deficiencies, streets and pedestrian access will need to be improved and follow City standards, drainage improvements may include detention and/or improvements to the existing system.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: October 18, 2005
To: Suzanne Morgan
From: Dale Riggins
Subject: PZD Development's

Suzanne,

After talking with Chief Johnson and Fire Marshall Kyle Curry, we all agree that the type of development that is being proposed on Wedington Drive, Wedington Circle, will have no adverse affects on our ability to manage a fire or emergency incident within this type of complex.

We do have a couple of concerns regarding this and future developments of this type:

- ✓ The planners should work closely with the Fire Marshall on the type of sprinkler systems installed in this type construction to make sure it will withstand the pressure needed to adequately supply a hand-line to the top floor. And all fire department connections need to be facing the road for easy access.
- ✓ The circle in the middle of the complex needs to be addressed in regards to the turning radius of our largest piece of apparatus. This may require the engineers to get the wheel base measurements of our apparatus and making sure there will be adequate room to maneuver the apparatus.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

October 18, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **Wedington Circle PZD** would substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,


Captain William Brown
Fayetteville Police Department

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8267**PLANNING DIVISION CORRESPONDENCE**

TO: GIS
FROM: Jan Gambill, Senior Planning Clerk
DATE:
SUBJECT: Legal check for planning project

Project Name: MDP-R-PZD05-1776 ^{Wedington Circle} Return by: _____
Parcel: _____

Plat Page#: _____
Section: _____
Township: _____
Range: _____

Current Zoning: _____
Proposed Zoning: _____

Submittal: 1st 2nd 3rd

Closure error / comments:

Need written legal for overall area

Need 2 state plane coordinates

Missing legal description for parcel # 765-13756-000

Shape file created ~~by~~ from CAD file

Has the applicant been contacted with requested revisions:

YES

NO

Checked by: TJ

Date shape file was created:

11/17/2005

Engineer's Note:

Survey data and descriptions were provided by Alan Reid and Assoc. (118 S. College, Fayetteville, AR) for Mansfield Properties, [Project # 04176BNDRY], Date 5/24/04

SURVEY DESCRIPTION PARCEL # 765-13771-000

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION EIGHT (8), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE N02°5'35"E ALONG THE WEST LINE OF SAID 40 ACRE TRACT 566.29 FEET; THENCE LEAVING THE WEST LINE OF SAID 40 ACRE TRACT S87°11'29"E 159.72 FEET TO A SET ½" IRON REBAR FOR THE TRUE POINT OF BEGINNING; THENCE S87°11'29"E 75.00 FEET TO A SET ½" IRON REBAR IN THE CENTER OF AN EXISTING DRAINAGE DITCH; THENCE ALONG THE CENTERLINE OF SAID DRAINAGE DITCH; THE FOLLOWING BEARINGS AND DISTANCES:

S08°43'02"E	5.56 FEET;	S04°05'20"E	20.01 FEET;
S00°12'31"W	31.43 FEET;	S03°35'06"W	26.68 FEET;

S20°04'24"E	35.75 FEET;	S50°01'45"E	15.18 FEET;
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S03°22'11"E 29.58 FEET TO A SET ½" IRON REBAR ON THE NORTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY 16 (WEDINGTON DRIVE); THENCE N56°07'42"W ALONG SAID RIGHT-OF-WAY 28.87 FEET TO A SET ½" IRON REBAR; THENCE S87°55'48"W ALONG SAID RIGHT-OF-WAY 84.68 FEET TO A SET ½" IRON REBAR; THENCE LEAVING SAID RIGHT-OF-WAY, N02°56'35"E 147.22 FEET TO THE POINT OF BEGINNING, CONTAINING 0.28 ACRES (12, 368.6 SQUARE FEET), MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

SURVEY DESCRIPTION PARCEL # 765-13776-000

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION EIGHT (8), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT; SAID POINT BEING AN EXISTING ALUMINUM ARKANSAS STATE SURVEY MONUMENT; THENCE N02°37'04"E ALONG THE EAST LINE OF SAID 40 ACRE TRACT 190.00 FEET; THENCE LEAVING THE EAST LINE OF SAID 40 ACRE TRACT N87°16'02"W 341.25 FEET, THENCE S00°50'04"W 3.17 FEET TO A SET ½" IRON REBAR FOR THE TRUE POINT OF BEGINNING; THENCE S00°50'04"W 146.31 FEET TO A SET ½" IRON REBAR ON THE NORTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY 16 (WEDINGTON DRIVE); THENCE N89°45'20"W ALONG SAID RIGHT-OF-WAY 66.60 FEET TO A SET ½" IRON REBAR; THENCE N74°29'27"W ALONG SAID RIGHT-OF-WAY 35.87 FEET TO A SET ½" IRON REBAR; THENCE LEAVING SAID RIGHT-OF-WAY, N02°37'04"E 141.19 FEET TO A SET ½" IRON REBAR; THENCE S87°16'02"E 96.96 FEET TO THE POINT OF BEGINNING, CONTAINING 0.33 ACRES (14570.1 SQUARE FEET) MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

SURVEY DESCRIPTION PARCEL # 765-13775-000

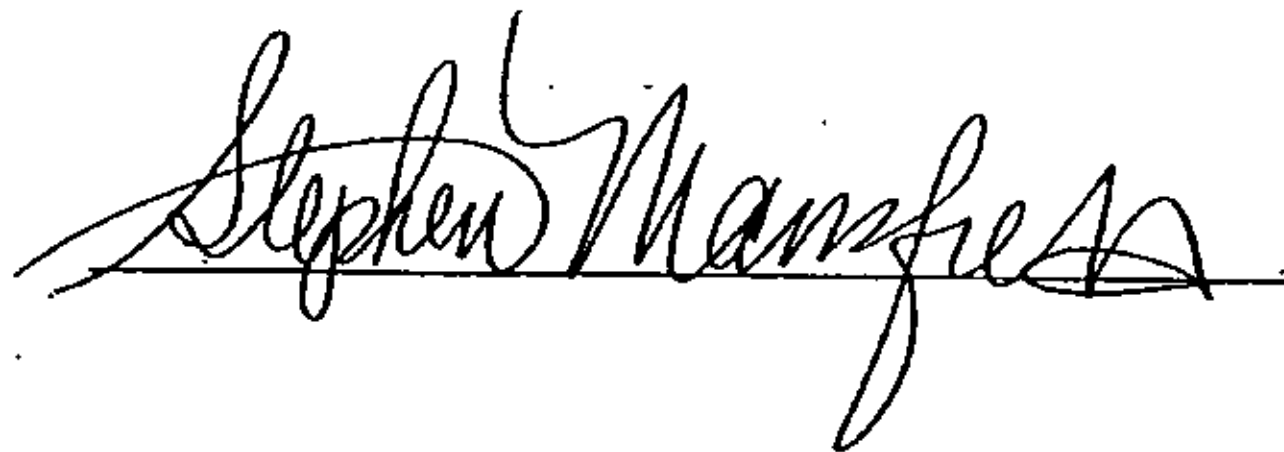
A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION EIGHT (8), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEING AT A SET ½" IRON REBAR WHICH IS N86°36'12"W 2.48 FEET FROM THE SOUTHWEST (SW) CORNER OF LOT TEN (10) OF MCCORMICK ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE RECORDS OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS; THENCE S02°37'04"W 518.13 FEET TO A SET ½" IRON REBAR ON THE NORTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY 16 (WEDINGTON DRIVE); THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING BEARINGS AND DISTANCES:

N74°29'27"W	158.39 FEET; TO A SET ½" IRON REBAR
N44°49'05"W	202.42 FEET; TO A SET ½" IRON REBAR
N56°07'42"W	374.65 FEET; TO A SET ½" IRON REBAR

BEING IN THE CENTER OF AN EXISTING DRAINAGE DITCH; THENCE LEAVING SAID RIGHT-OF-WAY ALONG THE CENTER LINE OF SAID DITCH THE FOLLOWING BEARINGS AND DISTANCES:

N03°22'11"W	29.58 FEET;	N50°01'45"W	15.18 FEET;
N20°04'24"W	35.75 FEET;	N03°35'06"E	26.68 FEET;
N00°12'31"E	31.43 FEET;	N04°05'20"W	20.01 FEET;

N08°43'02"W 5.56 FEET TO A SET ½" IRON REBAR; THENCE LEAVING THE CENTER LINE OF SAID DITCH S87°11'29"E 376.68 FEET TO A SET ½" IRON REBAR; THENCE S87°27'30"E 102.79 FEET TO AN EXISTING IRON; THENCE S86°36'12"E 177.56 FEET TO THE POINT OF BEGINNING, CONTAINING 6.13 ACRES (267,065.2 SQUARE FEET), MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

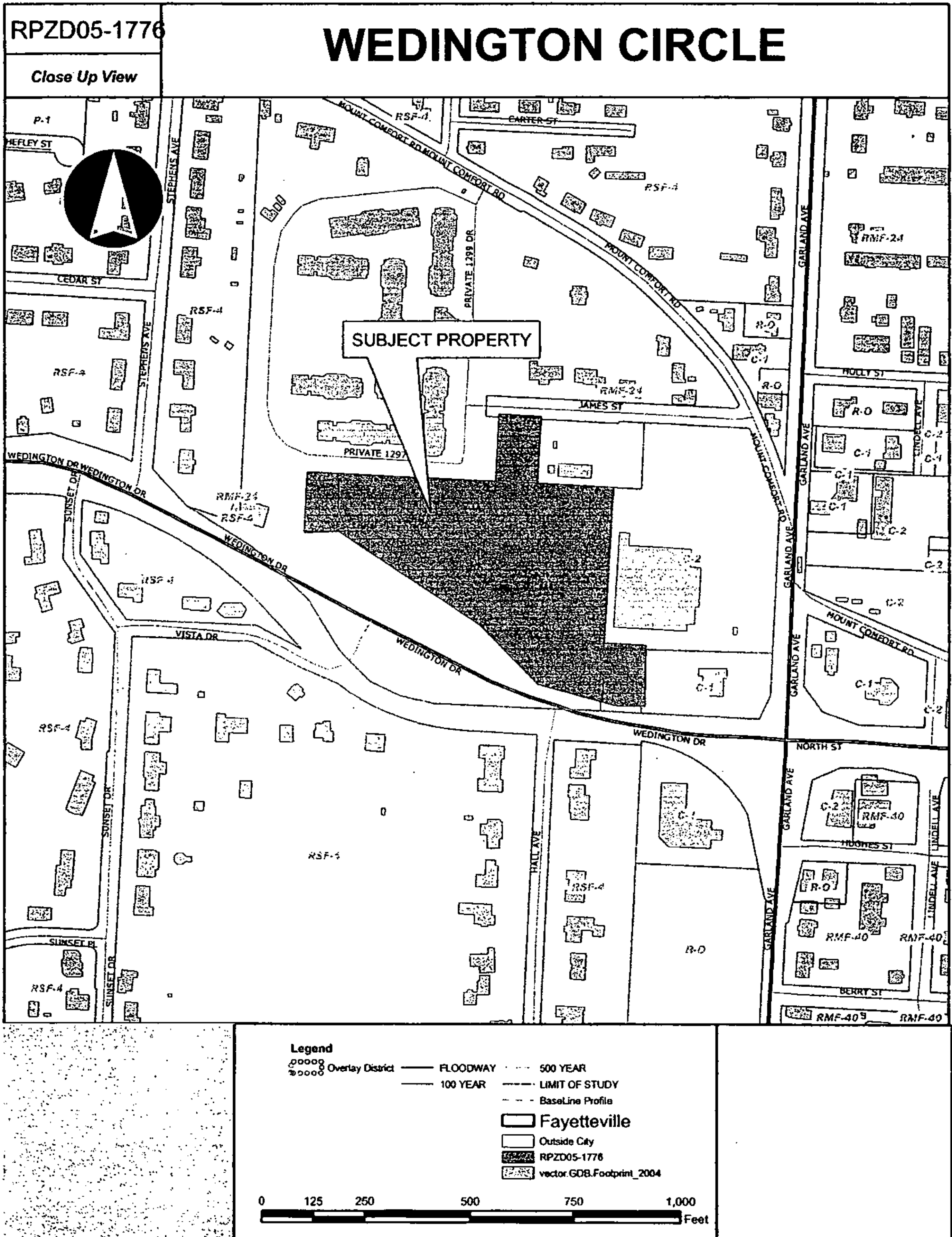


Transportation Report for Wedington Circle, Fayetteville, Arkansas

Findings and Recommendations

Wedington Circle is located on one of the few remaining vacant parcels in the northwest sector of Fayetteville. The transportation system appears to be sufficiently built-out at this time to accommodate the project traffic in the peak hours with little or no effect on traffic and intersection operation.

For the future, using 2007 as the target date, the baseline traffic growth indicates while arterial LOS will drop slightly along Wedington, modifications to the traffic signal system may actually improve traffic flow slightly. The addition of the project trips does not present a problem using the spreadsheet analysis. The *Synchro* analysis indicates that additional project trips will take the intersection of North and Leverett from LOS B to LOS C, the intersection of North and Gregg from LOS C to LOS D, and the arterial LOS northbound Garland and eastbound North Street from D to E. However, the primary intersection at Wedington and Garland, as well as the passage south along Garland to the University of Arkansas, appears to have sufficient capacity to accommodate Wedington Circle trips now and in the immediate future.

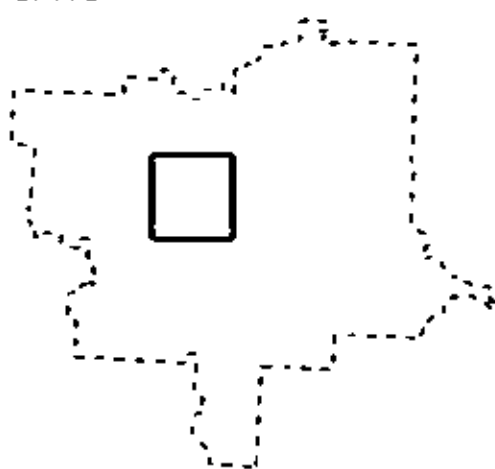


One Mile View



SUBJECT PROPERTY

Miles



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor

FROM: Ray Boudreaux, Aviation & Economic Development

DATE: January 19, 2006

SUBJECT: Supplementary Agreement with Bio-Based Industries

Recommendation

Staff recommends approval of the supplemental agreement.

Discussion

City Council previously approved an agreement with Bio-Based to sell the former Water & Sewer Operations Center to Bio-Based Industries. Bio-Based has requested the City leave the existing buildings so they (Bio-Based) can perform the remediation/removal as part of their development. Bio-Based further requests the City reduce the purchase price by \$17,000. This amount represents the cost of the demolition contract the City had entered into to remove the structures.

Additional information concerning this request can be found in Bio-Based letter incorporated into this packet.

If you have any questions please contact Ray Boudreaux.

Thank you.

MEMORANDUM

TO: Ray Boudreaux, Economic Development Director
FROM: Coy Hurd, Project Manager
DATE: January 6, 2006
SUBJECT: Tom Muccio memo of January 5

I am in receipt of a letter from Tom Muccio regarding the old Water and Sewer Operations campus. I have attached it for your review. Because you are the lead on this negotiation, I wanted to let you know my opinion on this proposal.

I am certainly in favor of this proposal. I do hope that you will be able to convince all parties that this is a good idea and that we can move forward in this regard. Please let me know how I can help you in your efforts to bring closure to this matter.

Hardcopy sent via city mail system, January 6.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT FOR DEMOLITION SERVICES WITH BIOBASED REALTY, LLC, BIOBASED TECHNOLOGIES, LLC, AND BIOBASED SYSTEMS, LLC, IN EXCHANGE FOR A \$17,000.00 CREDIT TOWARD THE PURCHASE OF THE WATER AND SEWER OPERATIONS CENTER ON CATO SPRINGS ROAD

WHEREAS, the Real Estate Sales Contract approved by the City Council November 1, 2005, requires the removal of structures currently located on the Cato Springs property; and,

WHEREAS, BioBased Realty, LLC, BioBased Technologies, LLC and BioBased Systems, LLC desire to achieve the first LEEDS Platinum Building Rating in Arkansas; and,

WHEREAS, BioBased Realty, LLC, BioBased Technologies, LLC and BioBased Systems, LLC has offered to, and is uniquely qualified to provide demolition services to include on-site recycling of building debris in order to achieve a LEEDS Platinum Building Rating for its new facilities at the site.

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 finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding and hereby approves a contract for demolition services with BioBased Realty, LLC, BioBased Technologies, LLC and BioBased Systems, LLC in exchange for a \$17,000.00 credit toward the purchase of the Water and Sewer Operations Center on Cato Springs Road. A copy of the contract for demolition services is attached hereto marked Exhibit "A" and made a part hereof.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

CONTRACT FOR SERVICES

This Contract, is entered into on this _____ day of February, 2006, between the City of Fayetteville, and BioBased Realty, LLC, BioBased Technologies, LLC and BioBased Systems, LLC (hereinafter BioBased). This contract shall be in full force and effect on the date first written above.

In consideration of the mutual covenants contained herein, and other good and valuable consideration, the City of Fayetteville and BioBased agree as follows:

1. **Statement of work:** BioBased agrees and understands that it shall provide the following services to the City of Fayetteville:
 - a. to demolish as much as necessary for BioBased's development, the two (2) buildings on the Cato Springs property; and
 - b. to recycle certain building materials in order to achieve LEEDS Certification; and
 - c. if necessary, remove and properly dispose of any remaining debris.
2. It is expressly agreed and understood by the parties that in exchange for the performance of the above services by BioBased, the total amount of credit to be applied toward the purchase price of the former Water and Sewer Operations Center property shall not exceed \$17,000.00.
3. The parties agree and understand that this Agreement is supplemental to the Real Estate Sales Contract approved by the City Council on November 1, 2005, and that it does not alter, amend or abridge any of the rights, obligations, or duties of the parties not expressly addressed herein.
4. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of either party's right to seek appropriate remedies for any other breaches by either party.

5. This contract constitutes the entire understanding of the parties as to the provision of demolition services at the Cato Springs property, and no modification or variation of the terms of this contract shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville and BioBased.

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

CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

**BIOBASED REALTY, LLC
BIOBASED TECHNOLOGIES, LLC
BIOBASED SYSTEMS, LLC**

By: _____
TOM MUCCIO, CEO

Agent or Witness:

By: _____



Tom Muccio, CEO

Dr. Coy Hurd
Director, Building Services
City of Fayetteville
113 West Mountain St.
Fayetteville, Arkansas 72701

January 5, 2006

Dear Dr. Hurd,

Thank you for the information concerning the demolition of the two buildings on the Cato Springs property. BioBased Realty is offering to do the demolition work in exchange for a reduction in the sales price of the property by the amount the City of Fayetteville plans to pay for the work.

This action would allow us to move faster and, more importantly, maximize our ability to qualify for the higher LEED status in our pursuit of having the first Platinum rated building in Arkansas. BioBased Realty respectfully requests that the City not demolish those buildings, but rather pay us the \$17K that has been allocated to knock them down and dispose of them. We will then take responsibility for the ultimate tear down and disposal of the buildings if desired.

We understand that there is a minimum amount of asbestos in these buildings and will take appropriate caution in any work that is done in the buildings. The City will remain responsible for the clean up that is required of the balance of the site as specified in the approved contract.

Please let me know if this meets your needs and/or if there is anything else that we are required to do to get your approval.

Thanks in advance,


Tom Muccio



www.fayetteville.com

January 5, 2006

Ray Boudreaux
Director, Aviation & Economic Development
Fayetteville Municipal Airport
4500 S. School Ave., Suite F
Fayetteville, AR 72701

Dear Mr. Boudreaux:

Please find attached a letter from Tom Muccio of BioBased Systems requesting modification to the agreement with the City of Fayetteville for the purchase of the former water/wastewater operations center at the corner of Cato Springs Road and Razorback Road. Please take the necessary action to formalize an agreement between the City of Fayetteville and BioBased Systems which will allow the purchase price of the property to be reduced by \$17,000 in exchange for the demolition and removal of the two concrete buildings on the property.

According to Mr. Coy Hurd, Director of Building Services, the cost of the demolition was established by soliciting bids for the work. Only one bid was received for \$17,000. BioBased has stated in the attached letter that they will assume responsibility for the demolition of the buildings and request that the purchase price of the land be reduced by \$17,000 at closing.

This course of action will allow BioBased to do the demolition by grinding, and recycling the material of the south building and using it on the property. This will also be done on the north building except that the concrete pillars will be saved and used as a part of the structural members of their new laboratory. This in fact will cost more than simply leveling the building. This recycling effort by BioBased Systems will count toward points needed to qualify for a LEEDS building. BioBased's goal is to have the first Platinum LEEDS building in Arkansas. This will bring great credit, recognition, and positive publicity for all.

Thanks for your help with this project. With all of us working together we may very well have a Polyurethane Center of Excellence and a "cluster" of high tech, environmental friendly businesses that create high paying jobs, increase our tax base, and stimulate our local economy.

Sincerely,

Steven K. Rust
President

Fayetteville Economic Development Council

1 W. Mountain, Suite 301, PO Box 4156, Fayetteville, AR 72702 • 479.442.8885 • FAX 479.442.4580

ORDINANCE NO. 4787

AN ORDINANCE WAIVING THE REQUIREMENTS OF §34.27, CODE OF FAYETTEVILLE AND APPROVING A REAL ESTATE SALES CONTRACT WITH BIOBASED TECHNOLOGIES IN THE AMOUNT OF \$940,000.00 FOR THE PURCHASE OF THE WATER & SEWER OPERATIONS CENTER ON CATO SPRINGS ROAD; DESIGNATING THE PROCEEDS FOR ECONOMIC DEVELOPMENT PURPOSES; AND APPROVING A BUDGET ADJUSTMENT IMPLEMENTING THE DESIGNATION.

NOV 07 2005

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 waives the requirements of § 34.27, Code of Fayetteville, and approves a Real Estate Sales Contract with BioBased Technologies in the amount of \$940,000.00 for the purchase of the Water & Sewer Operations Center on Cato Springs Road. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

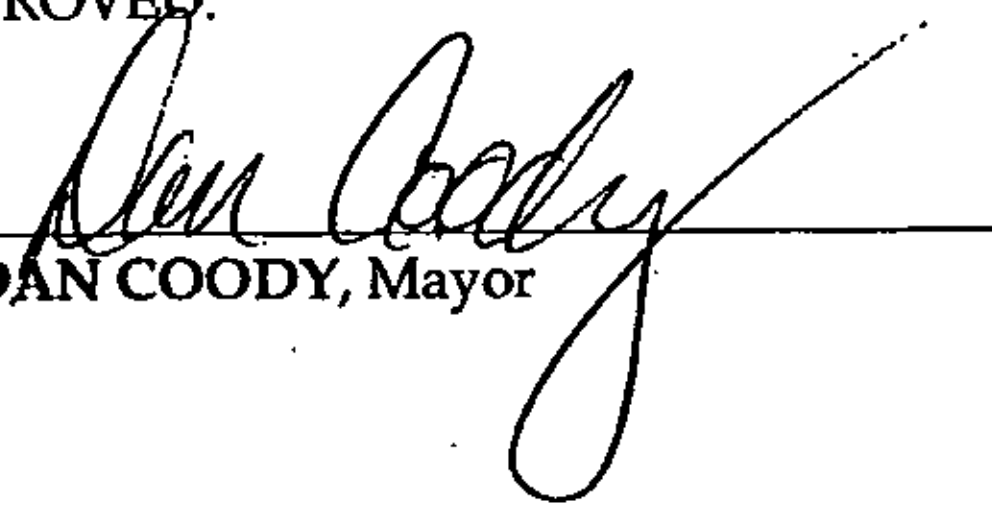
Section 2. That the City Council of the City of Fayetteville, Arkansas hereby designates the proceeds of this sale for Economic Development purposes.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment implementing said designation of proceeds.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute said contract with BioBased Technologies.

PASSED and APPROVED this 1st day of November, 2005.

APPROVED:

By: 

DAN COODY, Mayor

ATTEST:

By: 

SONDRA SMITH, City Clerk

REAL ESTATE SALES CONTRACT

1. The City of Fayetteville, Arkansas offers to sell and BioBased Realty, LLC offers to buy, subject to obtaining acceptable financing and other terms and conditions set forth in this contract, approximately 19.5 acres including all of Parcel 765-03017-000 and Parcel 756-15399-010 except for a one acre parcel where the Children's House is currently located and a right of way easement where the Children's House driveway is not located. This property is more particularly described in Exhibit "A" attached hereto and made a part hereof.

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

2. **Purchase Price:** Subject to the following conditions, BioBased Realty, LLC shall pay for the property at closing, the total cash payment of Nine Hundred Forty Thousand Dollars (\$940,000.00).
3. Conveyance will be made BioBased Realty 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.
4. The 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 City of Fayetteville. The City of Fayetteville shall pay the cost of the title insurance.
5. The City of Fayetteville agrees to allow BioBased Realty, if BioBased Realty so desires, at BioBased Realty's expense, to survey the property. The City of Fayetteville 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. The City of Fayetteville shall provide at its expense a survey of the one acre tract for Children House and right of way easement as depicted on Exhibit "B".
6. 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.
7. The closing date shall be within one hundred twenty (120) after approval of this offer by the City Council, which can be extended by agreement of the Mayor for an additional sixty (60) days. If such date of closing falls on a weekend or holiday, it will be held the following working day.
8. Possession of the property shall be delivered to BioBased Realty on the date of closing.
9. The City of Fayetteville hereby grants permission for BioBased Realty or their designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
10. 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.

11. The City of Fayetteville shall disclose to BioBased Realty any and all environmental hazards of which the City of Fayetteville has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, the City of Fayetteville shall bare the costs of any and all testing for the existence of environmental hazards, including Phase I environmental study and a Phase II study if necessary. Should the existence of environmental hazards be discovered, the City of Fayetteville shall either cure such at its expense or BioBased Realty may terminate this contract.
12. The City of Fayetteville will remove at its expense the existing buildings (not including Children's House) and debris in coordination with BioBased Realty prior to or immediately after closing.
13. Prior to closing, BioBased Realty in conjunction with BioBased Technologies/BioBased Systems will provide the City of Fayetteville with a Master Plan layout of the property acceptable to the City Council. BioBased Realty or BioBased Technologies/BioBased Systems shall take all reasonable action to ensure that any minor possible odor or pollution emissions do not affect surrounding areas. BioBased agrees to build in scrubbers to protect air quality where reasonably appropriate. Each building's general design (including construction materials) shall be presented to the City Council for its approval prior to the building's construction. Normal city developmental requirements such as Large Scale Development standards, etc. shall still be required.
14. If any portion of the land conveyed by this contract is sold by BioBased Realty within the first five years of the date of closing, an independent appraisal of the land's value (not to include the value of any building thereon) shall be performed. BioBased Realty shall pay 75% of the increase in appraised value of the land (with prorated sales cost deducted) to the City of Fayetteville. BioBased Realty shall pay the City of Fayetteville 40% of the increase in appraised value of the land (with prorated sales costs deducted) for any sales after 5 years until 10 years from the closing date.
15. BioBased Realty is granted an option to purchase the remaining acre where Children's House is located eight years after the closing date. BioBased Realty may exercise this option to purchase at any time during the year following the eight year period after the closing date. BioBased Realty and the City agree the price shall be determined at that time as follows:
 - (a) The property including improvements thereon shall be appraised by an independent appraiser.
 - (b) BioBased Realty shall receive an offset from the appraisal value using the following formula: For every full \$100,000.00 in annual payroll paid to BioBased Technologies/Systems and related companies' employees working in Fayetteville over the Two Million Dollar annual payroll estimated for 2008, BioBased Realty shall receive a reduction of \$25,000.00 from the appraised value of this remaining acre.
 - (c) Reductions allowed in paragraph (b) shall not reduce the final price for this acre parcel below \$60,000.00.

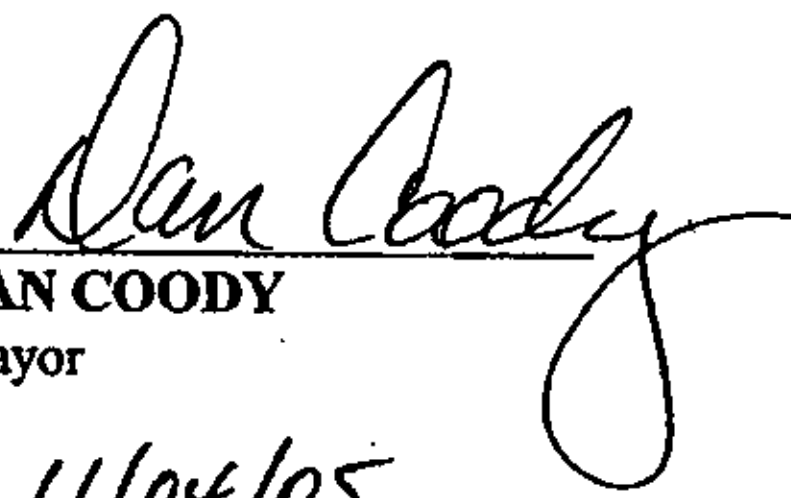
(d) The City of Fayetteville may sell to BioBased Realty this acre at any mutually agreeable time prior to the expiration of the eight year period upon terms agreeable to both parties.

16. This agreement shall be governed by the laws of the State of Arkansas.

17. This agreement, when executed by both BioBased Realty and the 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.

CITY OF FAYETTEVILLE
A Municipal Corporation

By:


DAN COODY
Mayor

Date: 11/04/05

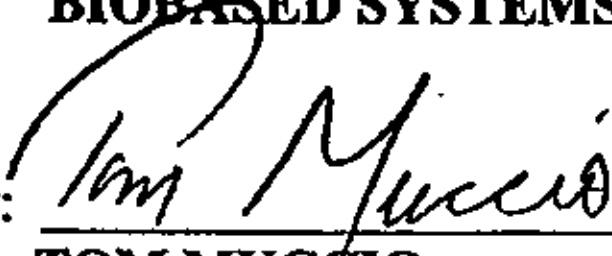
Attest:


Sondra Smith, City Clerk

Date: 11/04/05

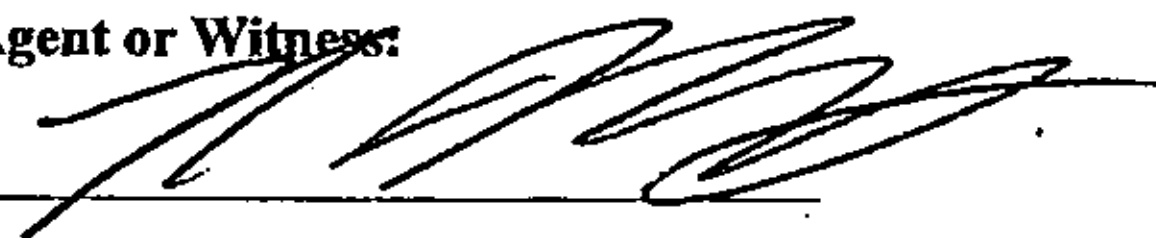
BIOBASED REALTY, LLC
BIOBASED TECHNOLOGIES, LLC
BIOBASED SYSTEMS, LLC

By:


TOM MUCCIO
CEO

Date: 10-21-05

Agent or Witness:

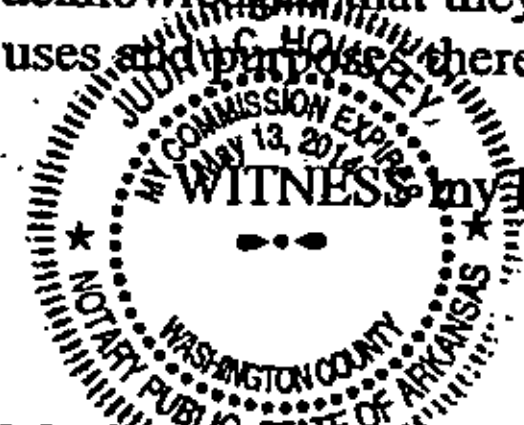


Date: 10-21-05

ACKNOWLEDGMENT

STATE OF ARKANSAS
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 Tom Muccio, and Tom Stuckland, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **CEO and Agent or Witness** of BioBased Realty, BioBased Technologies and BioBased Systems and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of 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 21st day of October, 2005.

Paul C. Housley
Notary Public

My Commission Expires:

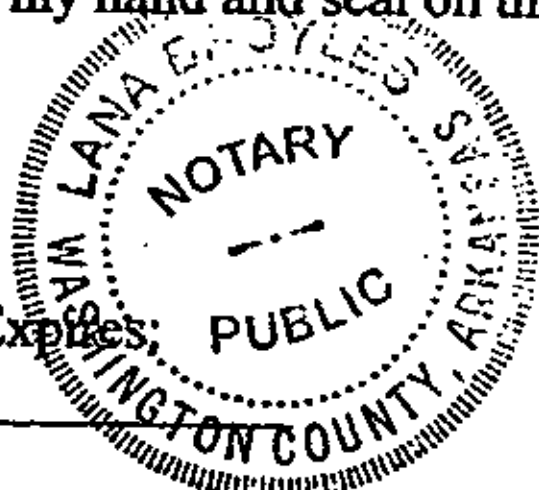
May 13, 2014.

ACKNOWLEDGMENT

STATE OF ARKANSAS
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 4th day of ^{Nov}~~October~~, 2005.



Lana Broyles
Notary Public

My Commission Expires:

4-1-08

EXHIBIT "A"
PROPERTY DESCRIPTION

Two parcels of land located in Washington County, Arkansas more particularly described as follows, to-wit:

Parcel No. 765-15399-010:

A part of the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of Section Twenty-Nine (29), Township Sixteen (16) North, Range Thirty (30) West, more particularly described as follows, to-wit: Beginning at a point which is 44.3 feet South and 305.6 feet West of the Northeast corner of said 40 acre tract, and running thence South 702.9 feet; thence West 701.2 feet to the East line of the Cato Springs Road, thence North 16° 14' East along the East line of said road 229.4 feet; thence North 14° 36' East along the east line of said road 499.1 feet; thence East 511.2 feet to the point of beginning, containing 9.75 acres, more or less.

Parcel No. 765-03017-000:

A part of the North half (N 1/2) of the Northeast Quarter (NE 1/4) of Section Twenty-Nine (29), Township Sixteen (16) North, Range Thirty (30) West, described as follows, to-wit: Beginning at a point which is 44.3 feet South and 305.6 feet West of the Northeast corner of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of said Section 29; thence running South 1276.5 feet, thence North 89 degrees 43 minutes, East 538 feet to the St. Louis and San Francisco Railroad right-of-way; thence North 10 degrees 38 minutes West with the West line of said right-of-way 897.2 feet; thence South 78 degrees 2 minutes West 150.5 feet; thence North 10 degrees 1 minute West 434.1 feet to the South line of the Cato Springs Road; thence West 150 feet to the point of beginning, containing 10.8 acres, more or less.

Both parcels are subject to existing easements, rights-of-way along Cato Springs Road and Razorback Road as well as the railroad, and other possible encroachments. This property description is approximate and may be refined and finalized by survey.

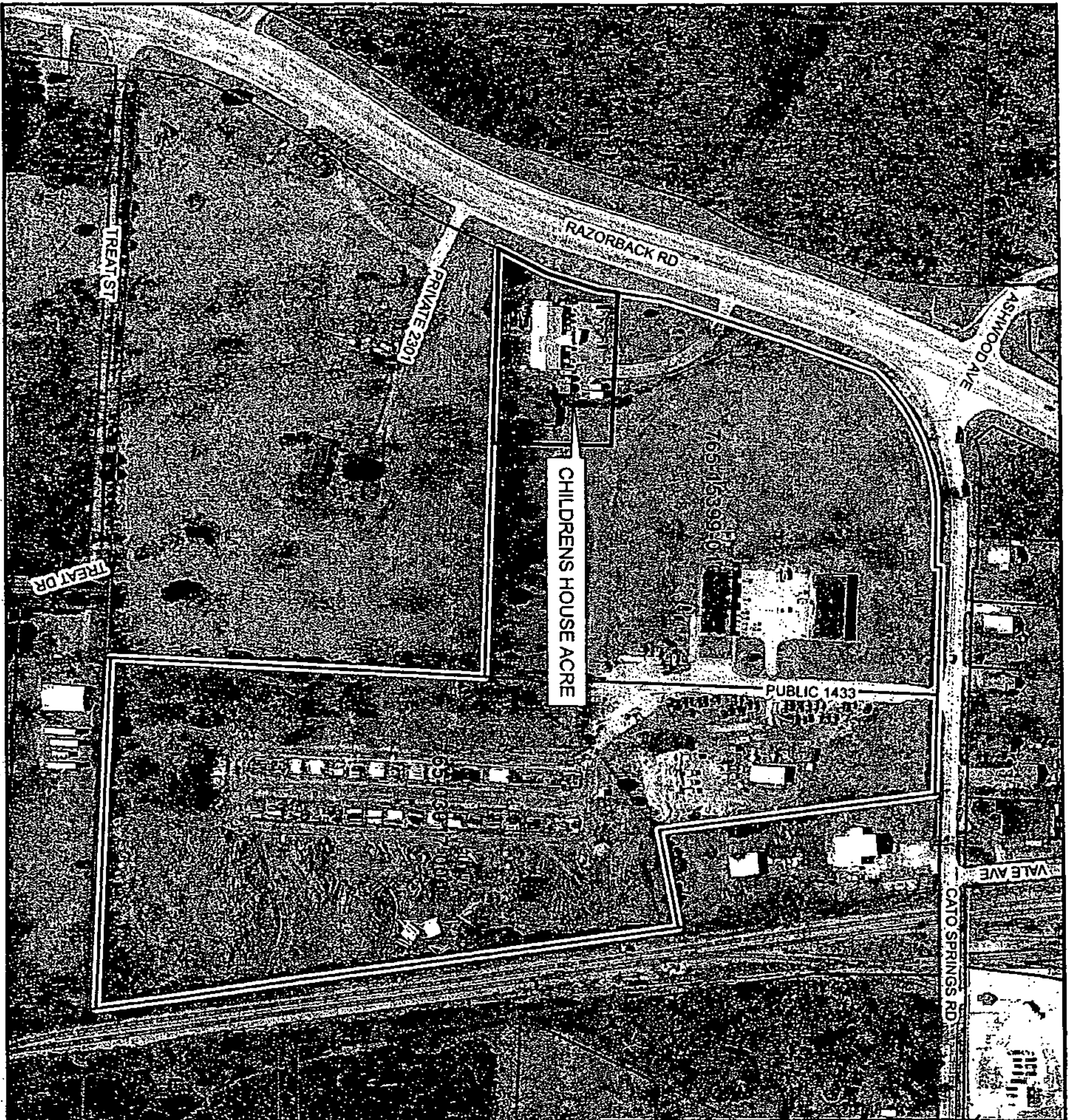
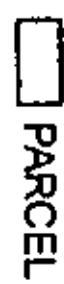


EXHIBIT "B"



Legend

CITY OWNED PROPERTY
765-03017-000: 10.80 ACRES
765-15399-010: 11.97 ACRES



PARCEL



CHILDRENS HOUSE



City Council Meeting of: October 18, 2005
Agenda Item Number:

CITY COUNCIL AGENDA MEMO

TO: Mayor

THRU: Staff/Contract Review Committee

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

DATE: September 29, 2005

SUBJECT: Approve Offer and Acceptance Contract for the purchase of the land occupied by the Water and Sewer Department at the intersection of Razorback Road and Cato Springs Rd.

RECOMMENDATION: Approve contract for the sale of Parcel 765-03017-000 and Parcel 756-15399-010 excepting that one (1) acre portion of the property occupied by the Children's House for \$940,000.00 with option to purchase the remaining one (1) acre occupied by the Children's House at a later date and establishing performance measures and a buy back provision.

BACKGROUND: Fayetteville Economic Development Council has brought forward an economic development proposal from Tom Maccio, CEO of BioBased Systems and BioBased Technologies. BioBased operates a biotechnology concern that is making major market progress in Soybean adaptation for green products where fossile fuels are replaced by Soy Polyol as the basic building block. His application to purchase this property includes development of their national headquarters and major research and development facilities. This property was selected due to its close proximity to the University of Arkansas Research and Technology Park and the need for rail access. See attached draft Press Release for more information.

DISCUSSION: The parcel will be vacated by the City of Fayetteville water and sewer operations center this fall. The project is a compatible use for the parcel. The company will create 30 jobs and support a payroll of \$2,000,000.00 annually by the year 2008. Among the employees will be three to five scientists working in research and development roles through the University of Arkansas.

BUDGET IMPACT: The proceeds will go into the General Fund designated for Economic Development purposes.

Attachments: Staff Review form
Offer and Acceptance
Letter from Tom Muccio
Draft Press Release

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



Tom Muccio, CEO

Steve Rust
1 West Mountain, Suite 301
PO Box 4156
Fayetteville, AR 72702

September 30, 2005

Steve,

This letter is to lay out BioBased Realty's offer to buy land from the City of Fayetteville for development of a Headquarters Campus for BioBased Technologies, BioBased Systems, and other related companies.

We have done the offer in "plain English" to make it easier to agree and, once agreed or amended, we can have the lawyers rework it in contractual form.

It is our intent to close on the property as soon as practical and then to start construction on Building 1 as soon thereafter as possible. We will engage an architectural firm as soon as we have agreement to the sale.

Our offer is as follows:

1. We will purchase all of Parcel 765-03017-000 and Parcel 756-15399-010, with the exception of a one acre parcel where the Children's Home currently sits, for \$940,000 assuming acceptable financing. The boundary for this excepted one acre site is highlighted on the attached map.

For the one acre that is excluded from the parcels in the above paragraph, BioBased Realty has the right of first refusal to purchase the land at the appraised value at the time, less credits for payroll creation above the base agreement over the 2009-2013 period as outlined below in point 7.

2. The City of Fayetteville will do a Phase I and, if required, Phase II environmental study prior to closing and correct deficiencies starting with Parcel 756-03017-000 which is where we will locate Building 1.

It is our plan to use the least desirable portion of the land for Building 1 and continue to develop the property from the east to the west to enable our ultimate corporate headquarters to be fronting on Razorback Road.

Starting on the east side enables more financial stability and resources to insure our corporate headquarters makes a very attractive statement to visitors exiting I-540 on their way to the University of Arkansas.

3. The City of Fayetteville will remove buildings and debris.
 - a. Debris will be removed as soon as possible
 - b. Building removal will be coordinated with BioBased Technologies/BioBased Systems
4. Prior to closing, BioBased Technologies/BioBased Systems will provide the City of Fayetteville with a Master Plan layout of the property with each individual building being agreed to by the City of Fayetteville prior to construction.
5. If the BioBased Technologies/BioBased Systems property is sold within the first 15 years, an appraisal will be done on the land only, as if the buildings do not exist, and will pay the City of Fayetteville the increase in appraised value on the land only, less improvements and selling costs with the following schedule:

▪ 0 to 5 years	75%
▪ 5 to 10 years	40%
▪ Over 10 years	0%
6. It would be BioBased Technologies'/BioBased Systems' intention to begin construction of at least Building 1 of the campus in 2006 with expected occupancy in 2008. This would be followed as soon as practical by Building 2 which would be located where the existing Water Works buildings are located.

We will have three to five scientists working out of the University of Arkansas' Bio Mass lab from early 2006 and our commitment to payroll would be:

2008	30 jobs	\$2,000K payroll annualized
------	---------	-----------------------------
7. For every \$100K annual in payroll that is added from 2009-2013 above the \$2,000K annualized commitment for 2008, there will be a \$25K reduction in price of the final acre of land where the Children's Home currently sits; i.e. if the land appraises at \$400K for the acre at that time and BioBased Technologies/BioBased Systems create \$1,000K in additional annual payroll beyond the \$2,000K base payroll of 2008, the final price of that acre to BioBased Technologies/BioBased Systems would be \$150K.

We would like to move quickly to get agreement to this offer given the need to make office and lab decisions to support our businesses.

Please advise how we should proceed.



Tom Muccio
CEO BioBased Technologies and BioBased Systems

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Feb-06
City Council Meeting Date

Tim Conklin
Submitted By

Planning and Development Mgmt.
Division

Operations
Department

Action Required:

Adoption of the Road Impact Fee Study, dated October 24, 2005, as prepared by Duncan Associates.

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

Budgeted Item ☐

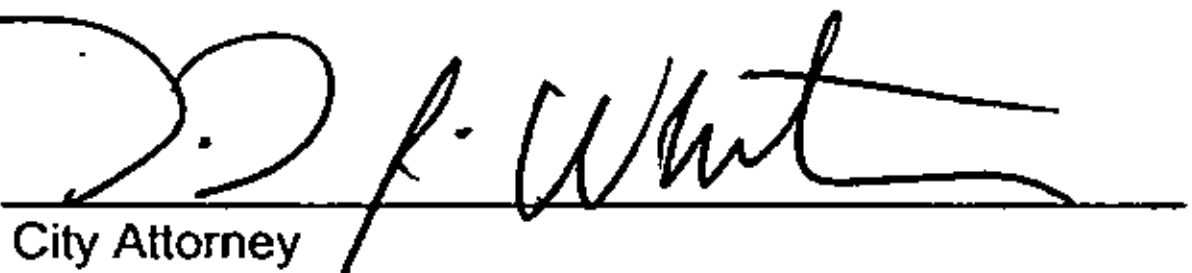
Budget Adjustment Attached ☐


Department Director 1-20-06
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____


City Attorney 1/23/06
Date


Finance and Internal Service Director 1-23-06
Date

Received in City Clerk's Office
ENTERED 1/20/06
Step

Received in Mayor's Office
ENTERED 1/23/06
P.H.

Mayor _____ Date _____

Comments:

01-20-2006 P05:09



THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Tim Conklin, Planning and Development Management Director
DATE: October 25, 2005
SUBJECT: Adoption of the Road Impact Fee Study, Dated October 24, 2005, as
prepared by Duncan Associates

RECOMMENDATION

Staff recommends adoption of the road impact fee study, dated October 24, 2005, as prepared by Duncan Associates.

BACKGROUND

Duncan Associates has recently completed the update to the road impact fee study based on the estimated street bond program costs (please see attached). The road projects which expand capacity and are included in the proposed bond program are utilized to calculate the fees. The fees are calculated with and without right-of-way costs and change the fee by 9%.

Table 1
ROAD IMPACT FEE SUMMARY

Land Use	Unit	Without ROW	With ROW
Single-Family Detached	Dwelling	\$3,443	\$3,799
Multi-Family	Dwelling	\$2,386	\$2,634
Mobile Home	Dwelling	\$1,797	\$1,983
Retail	1,000 sq. ft.	\$4,063	\$4,484
Office	1,000 sq. ft.	\$2,728	\$3,011
Industrial	1,000 sq. ft.	\$2,376	\$2,622
Potential Annual Revenue		\$4,148,618	\$4,578,798

Source: Maximum road fees from Table 20; potential revenues from Table 21.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE AND ADOPT THE ROAD
IMPACT FEE STUDY OF OCTOBER 24, 2005 BY DUNCAN
ASSOCIATES**

WHEREAS, Duncan Associates were hired by the City of Fayetteville to prepare a Road Impact Fee Study and completed its work with the submission of the October 24, 2005 Fayetteville Road Impact Fee Study; and

WHEREAS, the City Council has thoroughly read and carefully considered the entire Road Impact Fee Study including: the legal framework, impact fee methodology; the roadway needs caused by anticipated new development, travel demand factors, and potential road impact fees for all new development.

**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 approves and adopts the Road Impact Fee Study for Fayetteville, Arkansas by Duncan Associates dated October of 2005 and specifically agrees with and adopts all the methodology within this document including all the assumptions of cost of roadway improvements, proportional share of such improvements allotted to new development by type and size of such new development, and all tables showing travel and roadway needs, existing deficiencies, cost per service unit, and maximum permitted road impact fees.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines to use the methodology and fees for road impact based upon costs and needs without right of way acquisition costs for preparation of any road impact fee ordinance.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXECUTIVE SUMMARY

This study calculates maximum impact fees that could be adopted by the City of Fayetteville to help fund growth-related infrastructure improvements for major roads. The road impact fees have been calculated with and without the inclusion of right-of-way (ROW) costs. If road impact fees are adopted, the City would need to give developers credit against their impact fees for the cost of any required land dedication or capacity improvement that adds through lanes to any adjacent or internal arterial or collector roadway. However, if ROW costs are excluded from the road impact fee, credit would need to be given only for improvement costs.

This report relies heavily on the road impact fee analysis contained in the June 2004 *Impact Fee Study: Road, Fire and Police* that we previously prepared for the City. The major change was to substitute the proposed bond program projects for the historical projects used as the basis for the road impact fees.

The calculated maximum fees for selected land uses and potential annual impact fee revenues are summarized in Table 1. The maximum road impact fees and potential revenues would be 9 percent lower if ROW costs are excluded. It should be kept in mind that the City will need to give credit against the road impact fees for the value of some developer dedications or improvements, and consequently, actual road impact fee revenues received in cash will likely be less than indicated in the table below.

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Table 17:	AVERAGE TRIP LENGTH	22
Table 18:	AVERAGE TRIP LENGTH BY TRIP PURPOSE	22
Table 19:	TRAVEL DEMAND SCHEDULE	23
Table 20:	ROAD NET COST SCHEDULE	24
Table 21:	POTENTIAL ROAD IMPACT FEE REVENUE	25
Table 22:	MAJOR ROADWAY INVENTORY	26
Figure 1:	PLANNING AREA	7
Figure 2:	IMPACT FEE FORMULA	11
Figure 3:	EXISTING MAJOR ROADWAY SYSTEM	12

ROAD IMPACT FEE STUDY

FAYETTEVILLE, ARKANSAS



prepared by

duncan | associates

October 2005

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Potential Annual Revenue		\$4,148,618	\$4,578,798

Source: Maximum road fees from Table 20; potential revenues from Table 21.

LEGAL FRAMEWORK

Municipalities in Arkansas are authorized by state law to enact impact fee ordinances, provided that they follow the requirements of Arkansas Statutes § 14-56-102, Development Impact Fees. This section provides a brief summary of those requirements most relevant to the City of Fayetteville. The entire statute is reproduced in Appendix B.

Impact fees are a one-time fee that can only be assessed on new development. Water and wastewater impact fees can be assessed at the time of purchase of the water meter, but all other types of impact fees must be assessed at the time of issuance of the certificate of occupancy. The amount of impact fees paid for a newly-constructed building must be separately itemized on the closing statement at the time the property is sold. The City can allow the fee to be paid in installments.

Impact fees must be spent for capital improvements that provide benefit to the fee-paying development. This can include existing improvements that have excess capacity that was built to accommodate future growth. Section 14-56-102(c)(1) provides that the fees can only be used for:

... the planning, design and construction of new public facilities or of capital improvements to existing public facilities that expand its capacity or for the recoupment of prior capital improvements to public facilities that created capacity that is available to serve new development.

Impact fees can be pledged to repay bonds that have been issued to fund growth-related capital improvements. However, they cannot be used to pay for:

the operation or maintenance of any public facility, or for the construction or improvement of public facilities, that does not create additional capacity. (Section 14-56-102(c)(3))

In Arkansas, impact fees can only be adopted to fund certain types of public facilities. Section 14-56-102(b) limits the use of impact fees to "providing necessary public facilities," and Section 14-56-102(a)(7) defines "public facilities" to include only the following:

- (A) Water supply, treatment, and distribution, for either domestic water or for suppression of fires;*
- (B) Wastewater treatment and sanitary sewerage;*
- (C) Stormwater drainage;*
- (D) Roads, streets, sidewalks, highways and public transportation;*
- (E) Library;*
- (F) Parks, open space, and recreation areas;*
- (G) Police or public safety;*
- (H) Fire protection; and*
- (I) Ambulance or emergency medical transportation and response.*

To assess impact fees, a city must first adopt an ordinance. The ordinance must be preceded by the development of a capital plan and level of service standards for the types of facilities for which the impact fees are to be imposed. The capital plan must include:

... a description of new public facilities or of new capital improvements to existing public facilities or of previous capital improvements to public facilities that continue to provide capacity available for new

development that includes cost estimates, and capacity available to serve new development ... (Section 14-56-102(1)(1))

As noted, prior to adopting a road impact fee ordinance, the City must adopt a capital plan and a level of service standard for roads, pursuant to Section 14-56-102(e)(2). The capital plan, which describes the projects that would be eligible for funding with the City's road impact fees, is shown Table 11. The level of service on which the fees calculated in this report are based is a one-to-one system-wide ratio of vehicle-miles of capacity to vehicle-miles of travel (see the discussion in the sections on "Road Impact Fee Methodology" and "Existing Deficiencies," as well as the formula in Figure 2).

Pursuant to Section 14-56-102(e)(3), the impact fee ordinance must contain the following:

- (A) A statement of the new public facilities and capital improvements to existing public facilities that are to be financed by impact fees and the level of service standards included in the capital plan for the public facilities that are to be financed with impact fees;*
- (B) The actual formula or formulas for assessing the impact fee, which shall be consistent with the level of service standards;*
- (C) The procedure by which impact fees are to be assessed and collected; and*
- (D) The procedure for refund of excess impact fees, in accordance with subsection (h) of this section.*

Impact fees collected must be deposited into a separate interest-bearing account and spent only for the type of improvements for which they were collected. Interest earned on these accounts shall be spent for the same purposes as the impact fees themselves. Any funds not spent within seven years must be refunded to the fee-payer.

BACKGROUND

An impact fee is a form of "exaction," through which a developer or builder is required to contribute to the costs of public improvements required to serve the development. Generally, impact fees are designed to pay for the new development's proportionate share of the cost of off-site improvements, and credit against the fees is given if the developer is required to contribute to the system of facilities for which the fees are charged through on-site dedication, construction or monetary payment. Typically the fee is levied on some easily measurable unit of activity, such as the construction of one dwelling unit or 1,000 square feet of commercial or industrial space. In Arkansas, impact fees are generally collected at the time of certificate of occupancy or water meter purchase.

The City finances most capital improvements on a pay-as-you-go basis. This is done utilizing revenues from the one-percent City sales tax renewed in 2002 (of which, by City Council resolution, 50 percent is used to fund capital projects), the one-percent Hotel, Motel, Restaurant sales tax adopted in 1996 to fund park improvements, and operating revenues from the City's enterprise funds, including water, wastewater and solid waste.

The City's last five-year capital improvements program (CIP), excluding non-recurring funding such as one-time bond proceeds, included over \$66.6 million in capital funding for the five-year period. Over half of the pay-as-you-go funding is from the one-percent sales tax, as shown in Table 2.

Table 2
CAPITAL FUNDING BY SOURCE, 2004-2008

Revenue Source	Amount	Percent
Sales Tax	\$36,854,000	55.4%
Water & Sewer Fund	\$12,983,000	19.5%
Airport Fund	\$6,755,000	10.1%
Shop Fund	\$6,625,000	10.0%
Parks Development Fund	\$2,391,000	3.6%
Solid Waste Fund	\$854,000	1.3%
Off-Street Parking Fund	\$113,000	0.2%
Total	\$66,575,000	100.0%

Source: City of Fayetteville, Capital Improvements Program, 2004-2008, December 2003 (excludes bond proceeds).

The City's sales tax capital funding is spent on a wide variety of improvements. Foremost among these are streets and traffic signals, other transportation improvements and parks, as shown in Table 3.

Table 3
SALES TAX CAPITAL FUNDING, 2004-2008

Project Type	Amount	Percent
Streets and Signals	\$12,682,000	34.4%
Other Transportation	\$7,706,000	20.9%
Parks	\$4,565,000	12.4%
Bridge & Drainage	\$3,444,000	9.3%
Other	\$3,122,000	8.5%
Fire	\$2,455,000	6.7%
Police	\$1,290,000	3.5%
Library	\$1,590,000	4.3%
Total	\$36,854,000	100.0%

Source: City of Fayetteville, *Five Year Capital Improvements Program, 2004-2008*, December 2003.

The City has about \$62 million in outstanding debt, as shown in Table 4. However, none of that debt is related to road facilities. The new 2005 Sales and Use Tax bond issue will consist of \$26.235 million in refunding bonds and \$65 million in new debt for a total of \$91.235 million.

Table 4
OUTSTANDING DEBT

Bond Issue	Original Issue	Original Amount	Outstanding*
Sales Tax, Series 1997 (Walton Arts Center)	1997	\$2,610,000	\$290,000
Water & Sewer, Series 1999 (Water Main/Tanks)	1999	\$8,365,000	\$5,840,000
Water & Sewer, Series 2002A and 2002B	2002	\$9,270,000	\$7,700,000
Sales Tax, Series 2002 (Wastewater Treatment/Sewerage)	2002	\$25,000,000	\$7,290,000
Hotel & Restaurant, Series 2003 (Town Center)	2003	\$6,335,000	\$6,215,000
Sales Tax, Series 2004	2004	\$35,000,000	\$35,000,000
Total		\$86,580,000	\$62,335,000

* as of December 31, 2004

Source: City of Fayetteville, *Annual Budget and Work Program, 2005*.

Impact fees are most appropriate for communities that are experiencing rapid growth. The Fayetteville-Springdale-Rogers Metropolitan Statistical Area (MSA), comprised of Washington and Benton Counties, was the sixth fastest growing MSA in the country in the 1990s.¹ Washington County, of which Fayetteville is the county seat, has been growing at a compound annual growth rate of 3.4 percent since 1990, and one-third of the population added since then has been in Fayetteville. The city itself has been growing at 3.2 percent annually, over twice as fast as the state as a whole. Fayetteville's population is estimated to be 64,190 as of July 1, 2004. It is not surprising that this pace of growth has created problems in terms of the City's ability to finance the capital improvements needed to accommodate new development.

¹U.S. Census Bureau, *Statistical Abstract of the United States: 2000*, Table No. 34, p. 33.

Table 5
POPULATION GROWTH, 1990-2000

	1990	2000	Increase	Annual Rate
Fayetteville	42,249	58,047	15,798	3.23%
Springdale *	29,941	43,787	13,846	3.87%
Other Municipalities*	10,503	17,540	7,037	5.26%
Unincorporated	30,716	38,341	7,625	2.24%
Washington County	113,409	157,715	44,306	3.35%
State of Arkansas	2,350,624	2,673,400	322,776	1.30%

* only the Washington County portion of Springdale and Elm Springs
Source: U.S. Census Bureau; Northwest Regional Planning Commission

The City has been issuing permits for an average of almost 400 single-family homes annually since 2000, as shown in Table 6. The number of multi-family permits issued annually has increased from about 470 per year in the late 1990s to almost 700 per year in the last five years.

Table 6
RESIDENTIAL BUILDING PERMITS, 1996-2004

Year	Single-Family	Multi-Family	Total
1996	445	154	599
1997	265	281	546
1998	272	40	312
1999	357	515	872
2000	279	272	551
2001	258	440	698
2002	239	792	1,031
2003	611	1,258	1,869
2004	583	711	1,294
Avg., 1996-99	335	469	804
Avg., 2000-04	394	695	1,089

Source: City of Fayetteville, Inspection Department.

Based on building permits issued since the 2000 Census, it is estimated that Fayetteville has about 31,000 dwelling units as of April 2005, as shown in Table 7.

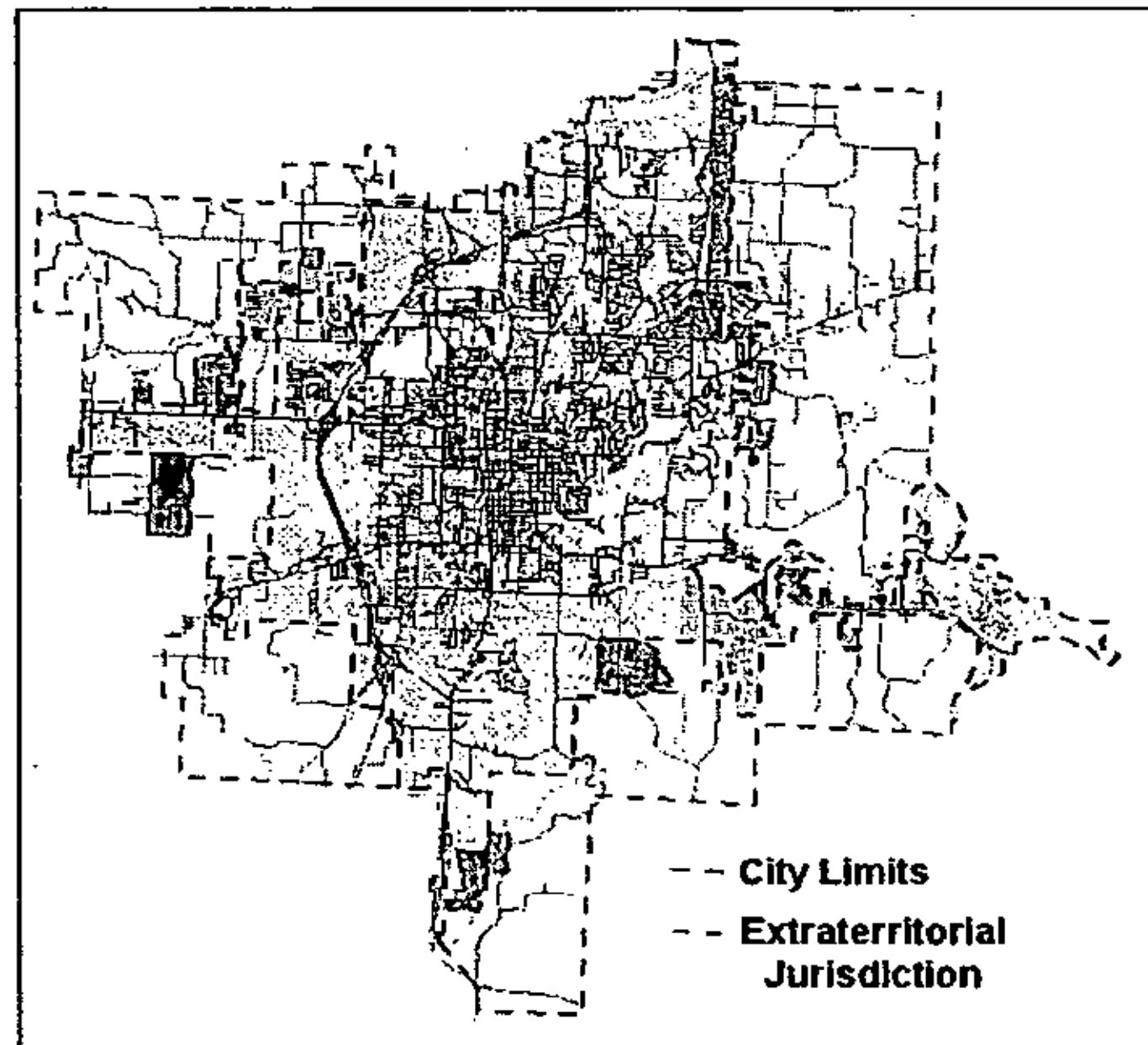
Table 7
EXISTING HOUSING UNITS BY TYPE

Housing Type	2000 Census	5 yrs. of Permits	Estimated Apr. 2005
Single-Family	12,663	1,970	14,633
Multi-Family	11,808	3,473	15,281
Mobile Home/Other	855	n/a	855
Total	25,326	5,443	30,769

Source: 2000 U.S. Census for Fayetteville, AR, SF-3 (1 in 6 sample data)
permits from January 2000 through December 2004 from Table 6

In addition to development within its incorporated limits, the City is also affected by, and has some control over, development in unincorporated areas within its extraterritorial jurisdiction. Within this area, which extends up to five miles from the corporate limits or half the distance to any adjoining municipality, the City exercises joint subdivision authority with Washington County. The area covered by the City's extraterritorial jurisdiction is larger than the area within its corporate limits. The combined corporate and extraterritorial jurisdictions are referred to as the City's planning area, which covers approximately 92 square miles.

Figure 1
PLANNING AREA



DEVELOPER EXACTIONS AND CREDITS

The City does not impose a road impact fee on new development, but there are a number of developer exactions for roads in the City's Unified Development Code. A "large scale development," defined as any development larger than one acre, must dedicate sufficient right-of-way (ROW) to bring any abutting or intersecting major road to the standards of the master street plan. A lesser dedication may be recommended by the Planning Commission and approved by the City Council in cases of undue hardship or practical difficulties. Developers of large-scale developments may also be required to make off-site street and other improvements, "where the need for such improvements is created in whole or in part by the proposed large scale development."² When commercial, industrial or multi-family development is proposed adjacent to any street not constructed to current city standards, the developer is required to dedicate sufficient ROW and install paving, curb and gutter, and sidewalks necessary to bring the street into conformity with current standards. The regulation provides that the City Council may reduce the dedication requirement, and the cost of required improvements shall be in proportion to the needs created by the development.³ Finally, off-site road improvements may be required where a proposed subdivision has access to paved streets only by way of substandard or unimproved streets. In such cases, the subdivider is required to contribute a proportionate share of the cost of the off-site improvements. The proportionate share is based on the acreage of the subdivision as a share of the acreage of all property benefitting from the improvement, or by an alternative method determined by the planning commission.⁴

In general, these requirements mean that development abutting an unimproved or substandard street must dedicate the required ROW and construct the adjacent half of the street improvement. The developer does have the option to do a traffic study to attempt to demonstrate that the required improvement exceeds the impact of the development. Even lot splits can trigger the requirements to improve abutting roadways.

The proposed road impact fees differ from the Fayetteville's existing water and wastewater fees, and from the proposed fire and police fees, in that a significant portion of the fees may need to be used to compensate developers who have frontage on major roadways and are required to construct or improve them. If the road impact fees calculated in this report are adopted, the City would need to give credit against the fees to developers for the value of required improvements to arterial and collector roadways. No credit would need to be given for the value of ROW dedications if ROW costs are not included in the impact fee calculations.

There are a variety of ways that credit provisions can be structured, and these issues should be addressed in the impact fee ordinance. One thing that needs to be defined in the ordinance is what constitutes a capacity-expanding improvement eligible for funding with road impact fees. The definition should exclude bringing an existing substandard two-lane arterial or collector road up to current standards. Developers are often required to make such improvements to adjacent roads, and the ordinance should make clear that this is not the type of improvement that is eligible for impact fee funding or impact fee

² Section 166.05: Large scale development.

³ Section 171.03: Street improvements.

⁴ Section 166.07: Required off-site improvements.

credit. For example, the ordinance could define eligible improvements as capacity-expanding improvements to the major roadway system, including building new roads, widening existing roads by adding additional lanes, and intersection improvements that add signalization or turn lanes.

In the event that the City Council chooses to adopt road impact fees at a level that excludes the cost of ROW, the ordinance will need to address whether the impact fee revenues can be expended to acquire ROW. The consultant recommends that if developers are not going to be given credit for the value of ROW they are required to dedicate, the ordinance should prohibit the expenditure of impact fee funds for ROW acquisition. Such a prohibition may not be legally required, but it would serve as an important clarification that ROW is not any part of the road impact fee program.

Another issued to be addressed in the ordinance is whether a developer will be reimbursed directly from impact fee funds collected from all developments, or whether the impact fees paid within the developer's project will be reduced. Our recommendation is that credit be provided as a direct reimbursement to the developer that dedicated the ROW or made the improvement. One approach would be to set aside a maximum percentage of annual impact fee revenues to be used for such reimbursements. If the outstanding reimbursements owed in any given year exceed the amount available from impact fee revenues, each developer would receive a proportionate share of their outstanding reimbursement, and be eligible for more reimbursement in subsequent years. This approach would make collecting impact fees much easier, since the fees would be collected in full on all building permits, without the permit clerk having to check to see if a fee reduction due to credits is required.

The impact fee ordinance will also need to deal with other credit issues, such as the following.

- If credits are provided in the form of fee reductions, what happens when the amount of the credit exceeds the impact fees that would be due from the development project?
- To what extent should credits be given for past contributions for development projects that have not yet been completed?

SERVICE UNITS

Service units create the link between supply (roadway capacity) and demand (traffic generated by new development). An appropriate service unit basis for road impact fees is vehicle-miles of travel (VMT). Vehicle-miles is a combination of the number of vehicles traveling during a given time period and the distance (in miles) that these vehicles travel. The unit of capacity that is consumed by the demand unit represented by a VMT is a vehicle-mile of capacity (VMC). VMC is calculated as the capacity of a roadway segment multiplied by the length of the segment in miles.

The two time periods most often used in traffic analysis are the 24-hour day (average daily trips or ADT) and the single hour of the day with the highest traffic volume (peak hour trips or PHT). Available traffic counts for area roadways are for average daily trips. Consequently, average daily VMT will be used as the service unit for Fayetteville's road impact fees.

IMPACT FEE METHODOLOGY

The major alternative methodologies for calculating road impact fees are the "improvements-driven" and "consumption-based" approaches. These are briefly described below.

The "improvements-driven" approach essentially divides the cost of growth-related improvements required over a fixed planning horizon (or to build-out) by the number new service units (e.g., vehicle trips) projected to be generated by growth over the same planning horizon in order to determine a cost per service unit. The improvements-driven approach depends on accurate planning and forecasting. For example, the fees will be accurate only if the forecasted increase in traffic actually necessitates all of the improvements identified in the transportation master plan. If many of the planned improvements will provide excess capacity that will be available to serve additional development beyond the planning horizon on which the fees are based, the fees may be too high.

The "consumption-based" approach does not depend on knowing in advance what improvements will be made or what type or density of development will occur. The consumption-based model simply charges a new development the cost of replacing the capacity that it consumes on the major roadway system. That is, for every service unit of traffic (e.g., mile of vehicle travel) generated by the development, the road impact fee charges the net cost to construct an additional service unit of capacity. The consumption-based system can be based on a transportation plan, but the total cost of the plan does not affect the amount of the fee, which is based on the unit cost of creating new capacity.

A strength of the consumption-based system is that it is very legally defensible because it generally under-estimates the full cost of growth. Since travel is never evenly distributed throughout a roadway system, actual roadway systems require more than one unit of capacity for every unit of demand in order for the system to function at an acceptable level of service. Suppose, for example, that the City completes a major arterial widening project. The completed arterial is likely to have a significant amount of excess capacity for some period of time. If the entire system has just enough capacity to accommodate all of the vehicle-miles of travel, then the excess capacity on this segment must be balanced by another segment being over-capacity. Clearly, roadway systems in the real world need more total aggregate capacity than the total aggregate demand, because the traffic does not always precisely match the available capacity. Consequently, the standard consumption-based model generally underestimates the full cost of growth. The consumption-based system is a conservative, legally sound and relatively simple approach to the calculation of road impact fees. This is the recommended approach for Fayetteville. The recommended formula for the road impact fees is shown in Figure 2.

Figure 2
IMPACT FEE FORMULA

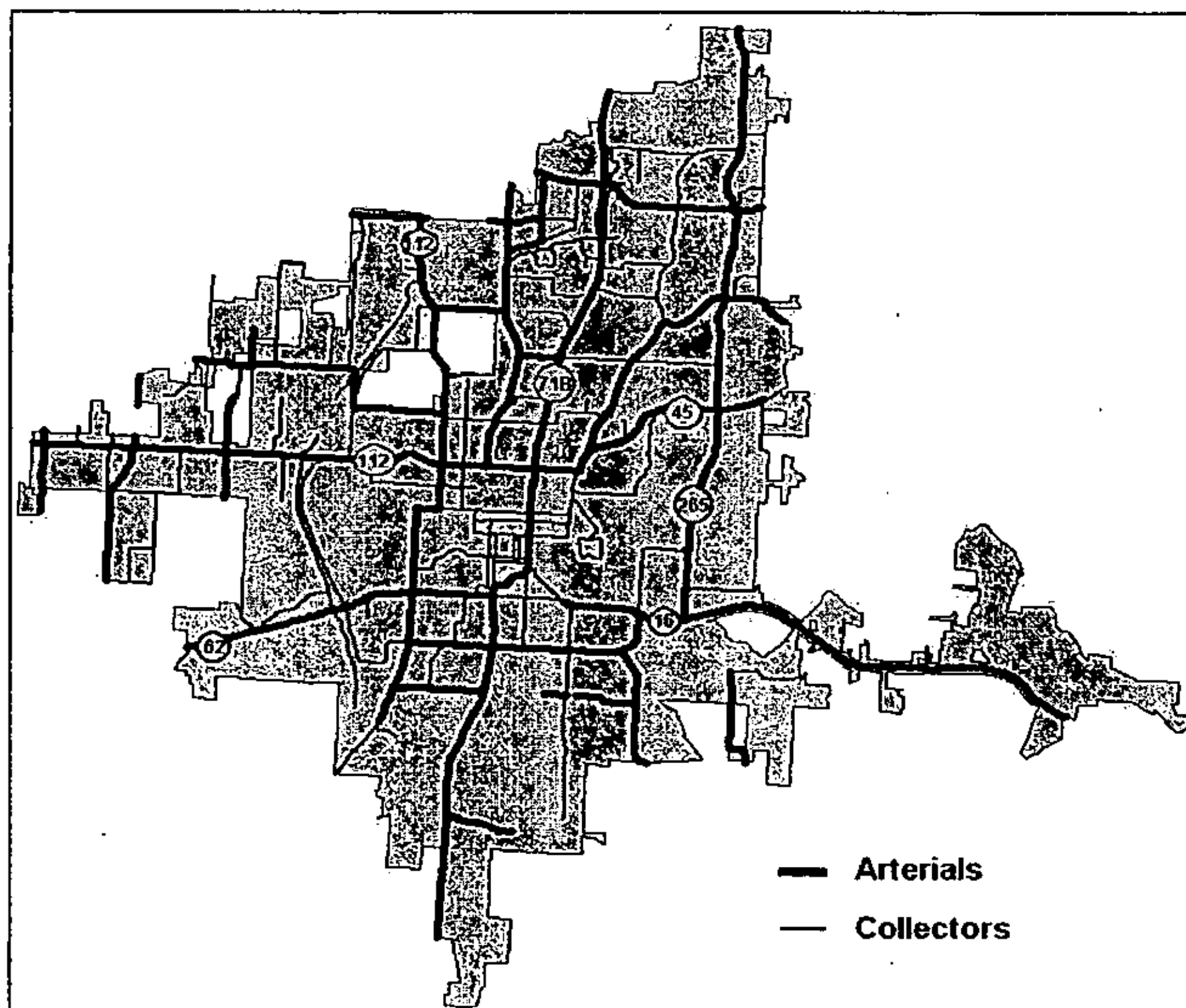
MAXIMUM FEE	=	VT x NET COST/VT
<u>Where:</u>		
VT	=	TRIPS x % NEW x LENGTH ÷ 2
NET COST/VT	=	COST/VT - CREDIT/VT
<u>Where:</u>		
TRIPS	=	Trip ends during a weekday
% NEW	=	% of trips that are primary, as opposed to passby or diverted-link trips
LENGTH	=	Average length of a trip on the major roadway system
÷ 2	=	Avoids double-counting trips for origin and destination
COST/VT	=	Average cost per lane-mile divided by average daily capacity per lane
CREDIT/VT	=	Revenue credit per daily VT

MAJOR ROADWAY SYSTEM

A road impact fee system should include a clear definition of the major roadway system that is to be funded with the impact fees. The major roadway system to be funded with the proposed impact fees is comprised of arterials and collectors within the City's incorporated area, including most state roads but excluding freeways and expressways. These roadways are identified on the City's *Master Street Plan*, which is an official map that is used in conjunction with the Circulation Element of the 2020 *General Plan*. It classifies streets into a number of functional types, including freeway/expressways, principal arterials, minor arterials, collectors and local streets. The *Master Street Plan* shows the location of new roads and allows the City to preserve corridors for roadways expected to need widening or extension.

An inventory of the existing major roadway system was compiled in order to identify existing capacity deficiencies and to determine the average length of a trip on the major roadway system (see Appendix A). The roadway segment descriptions include the street name, roadway termini, number of lanes and roadway length and width. Average daily traffic volumes were estimated for most segments from state highway department counts. The existing major roadway system within Fayetteville's incorporated limits is illustrated in Figure 3.

Figure 3
EXISTING MAJOR ROADWAY SYSTEM



EXISTING DEFICIENCIES

In most rapidly growing communities, some roadways will be experiencing an unacceptable level of congestion at any given point in time. One of the principles of impact fees is that new development should not be charged, through impact fees, for a higher level-of-service than is provided to existing development. Another common way of expressing this concept, although it is somewhat less precise and subject to misinterpretation, is that impact fees should not be used to pay for remedying existing deficiencies. In the context of road impact fees, this has sometimes been interpreted to mean that impact fees should not be spent on roadways that are already over-capacity. A variant of this approach is that impact fees should only be used to fund a percentage of the project that can be attributed to providing additional capacity beyond what is needed to remedy any existing deficiency. There are a number of practical problems with these approaches. First, impact fees are restricted from being spent on roadways that are most in need of improvement, while the fact that fee-funded improvements to other roadways may also relieve the deficient segments is ignored. Second, these approaches complicate impact fee administration by requiring that the portion of the cost of each improvement that is attributable to remedying deficiencies be funded from a different source than impact fees.

The most significant objection to these approaches, however, is that they are not consistent with the conservative nature of the consumption-based road impact fee methodology. The consumption-based system does not promise that all road segments will function at a given level of service (e.g., LOS C or LOS D). All the consumption-based model does is assume that for every unit of capacity that is consumed, another will be constructed to replace it. Implicitly, the level of service used in a consumption-based impact fee is a one-to-one ratio of capacity to demand in the major roadway system as a whole. As long as the current system provides at least this capacity/demand ratio, the impact fees are not charging for a higher level of service.

To determine the capacity/demand ratio, the first step is to estimate total VMT on the major roadway system. This figure will also be used in the average trip length and revenue credit calculations. Recent daily traffic counts are available for road segments accounting for almost three-fourths of all lane-miles in the major roadway system. Adding estimated traffic from road segments for which counts were not available, on the assumption that such segments would carry about three-quarters the volume of segments with counts, yields a estimate of about 1.1 million daily vehicle-miles of travel on Fayetteville's major roadway system.

Table 8
TOTAL DAILY VEHICLE-MILES OF TRAVEL

Functional Classification	Counted VMT	Lane-Miles w/Counts	Average ADT/Lane	Total Lane-Miles	Est. Ttl. VMT
Principal Arterials	687,943	162.32	4,238	168.48	707,523
Minor Arterials	137,277	36.30	3,782	44.09	159,373
Collectors	83,653	42.20	1,982	101.96	172,486
Historic Collectors	70,292	25.69	2,736	32.15	83,548
Total	979,166	266.51		346.68	1,122,931

Source: Table 22; counted VMT is product of miles and ADT for segments with traffic counts; lane-miles with counts is product of miles and existing number of lanes for segments with counts; total lane-miles includes segments without counts; total VMT assumes segments without traffic counts carry 3/4 as many vehicles as the average of segments of the same classification with counts.

The next step is to estimate total vehicle-miles of capacity in the major roadway system. The City's recently-completed transportation plan uses a general planning-level capacity estimate of 8,000 vehicles per lane per day at LOS D. Using that capacity figure, total system capacity is about 2.8 million daily vehicle-miles, as shown in Table 9. This is considerably more than the total VMT in the system. Clearly, the one-to-one ratio of capacity to demand on which the impact fees are based is not resulting in new development being charged for a higher level of service than is being enjoyed by existing development.

**Table 9
TOTAL DAILY VEHICLE-MILES OF CAPACITY**

Functional Classification	Total Lane-Miles	Average Capacity/Lane	Total VMC
Principal Arterials	168.48	8,000	1,347,840
Minor Arterials	44.09	8,000	352,720
Collectors	101.96	8,000	815,680
Historic Collectors	32.15	8,000	257,200
Total	342.63	8,000	2,773,440

Source: Total lane-miles from Table 22; capacity per lane at LOS D from BWR, *Traffic and Transportation Study prepared for the City of Fayetteville, Arkansas*, October 2003; total vehicle-miles of capacity (VMC) is lane-miles times capacity per lane.

While there are a few individual road segments that appear to be over-capacity, the extent of existing segment-specific capacity deficiencies is relatively small compared to the total amount of daily travel. The bottom line, however, is that a segment-by-segment analysis of capacity deficiencies is not necessary or appropriate in the context of a consumption-based road impact fee. The system-wide ratio of capacity to demand is the appropriate level of service measure, and it is clear that the fees are based on a one-to-one ratio that is considerably lower than the existing ratio. As shown in Table 10, Fayetteville's major road system currently has significantly more capacity than existing demand. Consequently, there are no existing deficiencies on a system-wide basis.

**Table 10
SYSTEMWIDE RATIO OF CAPACITY TO DEMAND**

Daily Vehicle-Miles of Capacity (VMC)	2,773,440
Daily Vehicle-Miles of Travel (VMT)	1,122,931
Systemwide Capacity/Demand Ratio	2.47

Source: VMT from Table 8; VMC from Table 9.

COST PER SERVICE UNIT

Right-of-way is the most variable component of road improvement costs, as well as the most common type of developer exaction for roads. If ROW costs are excluded from the impact fee calculations, the fees will be lower, and the City will not have to give credit against the fees for ROW that is dedicated by developers. In order to give the City the option to include or exclude ROW costs, the road impact fees will be calculated both ways in this report.

The average cost to create an additional vehicle-mile of capacity can be derived by dividing the cost of a representative set of improvements by the additional capacity created by the improvements. Most of the planned capacity-expanding improvements are widening projects, and widening projects generally entail the reconstruction of the existing lanes. While this cost could be covered by impact fees under the argument that the reconstruction of the existing lanes is incidental to the primary purpose of adding capacity, the costs of lane reconstruction are excluded from the cost estimates in the following calculations. The cost of planned capacity-expanding road improvements to be undertaken by the City pursuant to the proposed road bond program, including construction, engineering and ROW costs, totals \$71,270,000, as summarized in Table 11.

Table 11
PLANNED ROAD IMPROVEMENT COSTS

Street	Miles	Lanes		New Ln-Mi	Construction Cost	Total Cost
		Ex	Fut			
Crossover (Mission to City Limits)	0.81	2	5	2.43	\$5,089,665	\$5,089,665
Fifteenth Street (Happy Hollow to S. College)*	1.61	3	4	1.61	\$3,469,000	\$3,909,000
Garland (North to Melmar)	0.70	2	5	2.10	\$3,745,797	\$5,295,797
Garland (Drake to Truckers)	0.53	2	5	1.59	\$1,512,546	\$1,612,546
Garland (I-540 to Howard Nickell)	0.57	2	5	1.71	\$1,909,135	\$2,109,135
Howard Nickell/Van Asche (Rupple to Garland)	2.18	2	4	4.36	\$6,339,068	\$7,289,068
Huntsville (Happy Hollow to Stonebridge)	0.66	2	4	1.32	\$1,838,709	\$1,888,709
Huntsville (Stonebridge to Falcon)	1.40	2	4	2.80	\$5,577,594	\$5,677,594
Mall Avenue (Joyce to Mud Creek)	0.28	2	3	0.28	\$575,119	\$775,119
Mount Comfort (Rupple to Alpine)	1.14	2	4	2.28	\$2,636,269	\$3,626,269
North College/Fulbright Flyover	0.40	0	1	0.40	\$6,352,000	\$6,352,000
Rupple Road (6th to Persimmon)	1.70	0	4	6.80	\$6,574,500	\$7,094,500
Rupple Road (Persimmon to Wedington)	0.53	2	4	1.06	\$726,546	\$726,546
Rupple Road (Wedington to Mt. Comfort)	0.97	2	4	1.94	\$5,545,519	\$6,795,519
Rupple Road (Mt. Comfort to Howard Nickell)	1.59	3	4	1.59	\$4,190,958	\$4,470,958
Shiloh Drive (Cato Springs to Summerhouse)	0.66	0	3	1.98	\$1,517,000	\$1,732,000
Shiloh Drive (Mt. Comfort to Wedington)	0.52	0	3	1.56	\$2,878,000	\$2,978,000
Van Asche (Gregg to Garland)	1.63	2	5	4.89	\$3,033,227	\$3,843,227
Total	17.88			40.70	\$63,510,652	\$71,265,652

* existing lanes not reconstructed

Source: Proposed bond program information provided by City of Fayetteville, July 15, 2005; costs exclude cost to reconstruct existing lanes, estimated to cost \$255,145 per lane-mile by City Engineer, July 28, 2005 memorandum.

Dividing the average cost per lane-mile by the average capacity of a lane yields the average cost per vehicle-mile of capacity, as shown in Table 12.

Table 12
ROAD COST PER SERVICE UNIT

	Without ROW	Including ROW
Total Cost	\$63,510,652	\$71,265,652
Total Lane-Miles	40.70	40.70
Average Cost per Lane-Mile	\$1,560,458	\$1,750,999
Daily Vehicle Capacity per Lane	8,000	8,000
Cost per Vehicle-Mile	\$195.06	\$218.87

Source: Total cost and lane-miles from Table 11; daily capacity per lane from Table 9.

REVENUE CREDITS

In the calculation of impact fees, credit must be given for dedicated or intergovernmental revenues that will be generated by new development and used to pay for the same kind of facilities funded through the impact fees. In the case of road impact fees, revenue credits will be calculated for state and federal funding for City arterial and collector road improvements. No credit needs to be calculated for outstanding debt payments for road bonds, since the City has no outstanding debt for past road projects. Finally, a credit needs to be provided for sales tax revenues that will be used for capacity-expanding road improvements.

A review of the 2025 *Regional Transportation Plan* indicates that all of the planned direct federal and state funding for the improvement of roads in Fayetteville is for state roads. Total federal and state funding for Fayetteville amounts to \$2.6 million annually over the next 25 years, as shown in Table 13.

Table 13
FEDERAL/STATE HIGHWAY FUNDING, 2001-2025

Roadway Segment	Funding
Hwy 112, Maple St to Hwy 112 S	\$1,500,000
AR 45, North St to City Limit	\$7,000,000
AR 16, Happy Hollow to W.F. Bridge	\$3,150,000
AR 180, Gregg to US 71B	\$2,500,000
AR 265, AR 45 to N City Limits	\$11,000,000
AR 180, Township to US 71	\$2,800,000
AR 112, North St to I-540	\$6,250,000
AR 112, 15th to Maple	\$2,800,000
AR 112, Razorback to Garland	\$2,500,000
AR 16, Meadowland to W City Limit	\$5,500,000
US 71 Flyover, College to US 71W	\$4,000,000
AR 16 Bypass, Washington to Happy Hollow	\$4,000,000
AR 16E, W.F. Bridge to E City Limit	\$11,750,000
Total, 2001-2025	\$64,750,000
Average Annual Funding	\$2,590,000

Source: Northwest Arkansas Regional Planning Commission, 2025 *Regional Transportation Plan for Metropolitan Northwest Arkansas*, February 2001.

An equally significant source of funding for City thoroughfares is the one-cent sales tax. As noted in the Background section, the sales tax is the primary source of funds for the City capital improvements program, and 34 percent of sales tax-funded capital improvements in the five-year CIP are for street and traffic signal improvements. The City plans on spending about \$2.5 million annually in sales tax funds on capacity-expanding road improvements over the five-year CIP period. Excluding expenditures for ROW acquisition, annual expenditures for construction are anticipated to be about \$1.8 million, as shown in Table 14.

Table 14
CITY SALES TAX FUNDING, 2004-2008

Street	Segment	Construction	Total
Gregg Ave	Township to Fulbright	\$0	\$360,000
Mission & Maple	Intersection and Signalization	\$150,000	\$150,000
Shiloh, Gregg & Fulbright	Turn Lanes	\$400,000	\$400,000
Gregg Ave & Poplar St	Intersection and Signalization	\$175,000	\$175,000
School & Archibald	Intersection	\$100,000	\$100,000
Huntsville/Happy Hollow	Intersection	\$650,000	\$650,000
Millsap Rd & North College	Intersection	\$100,000	\$100,000
West Avenue & Maple St	Signalization	\$100,000	\$100,000
Township*	Gregg to North College	\$1,560,000	\$2,080,000
Mount Comfort Rd	Widening & Turn Lanes	\$900,000	\$900,000
ROW/Intersec Cost Shares	Mission to Township	\$515,000	\$515,000
Mount Comfort Rd.	at Shiloh Dr	\$0	\$1,500,000
Highway 265 ROW	Mission to City Limits	\$0	\$1,511,000
Morningside Dr & 15 th St	Signalization	\$221,000	\$221,000
Zion/College to Fritg Rd	Intersection	\$200,000	\$200,000
Van Asche Blvd	Steele Blvd to Gregg Ave	\$950,000	\$950,000
Gregg Ave & North St	Turn Lanes	\$650,000	\$650,000
Old Wire & Old Missouri	Intersection	\$324,000	\$324,000
Mission & Old Wire	Intersection	\$300,000	\$300,000
College/Roll Hills/Appleby	Intersection	\$800,000	\$800,000
Traffic Signals	Various Intersections	\$696,000	\$696,000
Total Funding, 2004-2008		\$8,791,000	\$12,682,000
Annual Funding		\$1,758,000	\$2,536,000

* ROW assumed to be 25% of total

Source: City of Fayetteville, 2004-2008 Capital Improvements Program, May 2004.

Over the 25-year period that is typical of the useful life of road improvements, new development will generate sales tax revenues and highway user fees that will be returned to the City in the form of State and Federal funding for capacity expanding road improvements that is equivalent to about \$57 per VMT generated by the new development. Excluding funding for ROW, the revenue credit per VMT is about \$48, as shown in Table 15.

Table 15
ROAD REVENUE CREDIT PER SERVICE UNIT

	Without ROW	With ROW
Annual Federal/State Funding for Capacity Road Improvements	\$2,590,000	\$2,590,000
Annual Sale Tax Funding for Capacity City Road Improvements	\$1,758,000	\$2,536,000
Total Annual Funding for Capacity City Road Improvements	\$4,348,000	\$5,126,000
Existing Vehicle-Miles of Travel (VMT) on Major Roadway System	1,122,931	1,122,931
Annual Funding per VMT	\$3.87	\$4.56
Net Present Value Factor (25 Years at 4.96% discount rate)	12.50	12.50
Revenue Credit per VMT	\$48.38	\$57.00

Source: Annual Federal/State funding from Table 13; annual sales tax funding from Table 14; existing VMT from Table 8; discount rate for present value factor is average interest rate on 20-year AAA municipal bonds as of May 31, 2004 according to bloomberg.com, fmsbonds.com, and bondsonline.com.

In addition to its current road funding, the City intends to seek voter approval for a Transportation Bond Program of about \$145 million funded by a dedicated one percent sales and use tax. The proposed sales and use tax is split into two parts: one-fourth percent that would be levied immediately and three-fourths percent that would be directed to the Transportation Bond Program once the Wastewater System Improvements Bonds are fully paid. The City also intends to use road impact fee revenues primarily to help retire the Transportation Bonds. The sales and use tax would expire when the bonds are paid off.

Of the total cost of the proposed bond program, only \$71 million is eligible for impact fee funding (\$64 million if ROW costs are excluded), as shown earlier in Table 11. Revenue from road impact fees, if adopted at the maximum levels calculated in this report, over the 20-year life of the bonds could pay for the principal associated with these eligible projects. Based on the annual number of permits issued in recent years, the proposed road impact fees could generate \$83 million to \$92 million over 20 years, as shown in Table 21. Of course, actual revenues may be somewhat lower than these estimates, because the City will need to give credit against the fees whenever it requires new development to add capacity to the major road system by adding lanes to adjacent arterial or collector roads.

As shown above, road impact fee revenues should be adequate to retire that portion of the debt service attributable to the principal associated with growth-related, impact fee-eligible projects. The sales tax revenues could be used for paying the interest costs for the growth-related projects and for principal and interest payments on the non-growth-related projects. Under this reasonable scenario, there is no need for a credit for the sales tax payments that would be generated by new development, because these payments would be going for interest costs, which are not included in the impact fee calculations, or for non-growth-related improvements, which are not eligible for impact fees. Clearly, new development would not be paying twice for growth-related improvements. In the event that the Council decides not to charge the maximum road impact fees, it is likely that some sales tax funding would be needed to fund some of the growth-related improvement cost. Even under these circumstances, however, a credit would not be warranted, because the impact fees are not covering the full impacts of new development, and the governing body is simply allowing new development to pay for some of its attributable costs through the sales tax instead of impact fees.

Subtracting the revenue credit from the cost per service unit yields the net cost per service unit. Depending on whether ROW costs are included in the fees, the net cost per service unit ranges from \$147 to \$162 per daily vehicle-mile of travel.

Table 16
ROAD NET COST PER SERVICE UNIT

	Without ROW	With ROW
Average Cost per VMT	\$195.06	\$218.87
Revenue Credit per VMT	\$48.38	\$57.00
Net Cost per VMT	\$146.68	\$161.87

Source: Average cost per VMT from Table 12; revenue credit per VMT from Table 15.

TRAVEL DEMAND FACTORS

The travel demand generated by specific land use types is a product of three factors: 1) trip generation, 2) percent primary trips and 3) trip length. The first two factors are well documented in the professional literature, and the average trip generation characteristics identified in studies of communities around the nation should be reasonably representative of trip generation characteristics in Fayetteville. In contrast, trip lengths are much more likely to vary between communities, depending on the geographic size and shape of the community and its major roadway system.

Trip generation rates were based on information published in the most recent edition of the Institute of Transportation Engineers' (ITE) *Trip Generation* manual. Rates were established for specific land use types within the broader categories of residential, commercial, office/institutional and industrial land uses. Trip generation rates represent trip ends, or driveway crossings from the site of a land use. Thus, a one-way trip from home to work counts as one trip end for the residence and one trip end for the work place. To avoid over-counting, all trip rates have been divided by two. This places the burden of travel equally between the origin and destination of the trip and eliminates double-charging for any particular trip.

Trip rates also need to be adjusted by a "primary trip factor" to exclude pass-by and diverted trips. This adjustment is intended to reduce the possibility of over-counting by only including primary trips generated by the development. Pass-by trips are those trips that are already on a particular route for a different purpose and simply stop at a particular development on that route. For example, a stop at a convenience store on the way home from the office is a pass-by trip for the convenience store. A pass-by trip does not create an additional burden on the street system and therefore should not be counted in the assessment of impact fees. A diverted trip is similar to a pass-by trip, but a diversion is made from the regular route to make an interim stop. The reduction for pass-by and diverted trips was drawn from the ITE manual and other published information.

The average trip length is the most difficult travel demand factor to determine. In the context of a road impact fee based on a consumption-based methodology, we are interested in determining the average length of a trip on the major roadway system within Fayetteville. This can be approximated by dividing the total daily travel demand (VMT) on the major roadway system by the total number of average daily trips generated by existing development in the city.

Existing land uses in each of six general categories are multiplied by average daily trip generation rates and summed to determine a reasonable estimate of total city-wide trips. Dividing the total vehicle-miles of travel (VMT) on the major roadway system determined from the inventory (see Table 22) by the estimated trips generated by existing land uses in Fayetteville yields a reasonable estimate of the average distance traveled on the City's major roadway system per daily trip, as shown in Table 17.

**Table 17
AVERAGE TRIP LENGTH**

Land Use	Units of Development	2005 Units	Trip Rates	Daily Trips
Single-Family	Dwelling	14,633	4.79	70,092
Multi-Family	Dwelling	15,281	3.32	50,733
Mobile Home	Dwelling	855	2.50	2,138
Commercial	1,000 sq. ft.	7,647	9.98	76,317
Civic	1,000 sq. ft.	4,246	6.15	26,113
Industrial	1,000 sq. ft.	6,571	3.48	22,867
Total Daily Trips				248,260
Total Daily VMT on Major Roadway System				1,122,931
Average Trip Length, Miles				4.50

Source: 2005 dwelling units from Table 7; nonresidential square feet from Washington County Assessor, 2004 plus new square footage permitted in 2004 from Fayetteville Planning Department, October 7, 2005; trip rates are one-half of average daily trip ends on a weekday reported in Institute of Transportation Engineers (ITE), *Trip Generation*, Seventh Edition, 2003 for ITE land use codes 210 (Single-Family Detached), 220 (Apartment), 240 (Mobile Home Park), 820 (Shopping Center), 710 (General Office Building), and 130 (Industrial Park); existing VMT from Table 8.

The ratio of the average local trip length on Fayetteville's major roadway system to the national average trip length identified in the U.S. Department of Transportation's 2001 *National Household Travel Survey* is computed in Table 18. Fayetteville's average trip length on the major roadway system is lower than the national average because the major roadway system excludes travel on freeways/expressways, arterials and collectors outside the city limits, and local streets. Using this ratio, reasonable trip lengths were derived for specific trip purposes, including home-to-work trips, shopping, school/church and other personal trips. In addition, a residential trip length was determined, using a weighting of 40 percent work trips and 60 percent average trips.

**Table 18
AVERAGE TRIP LENGTH BY TRIP PURPOSE**

Trip Purpose	National Data	Local Data	Ratio	Est. Local Trip Lengths
To or from work	12.07	na	0.46	5.6
Residential	na	na	na	4.9
Doctor/Dentist	9.78	na	0.46	4.5
Average	9.71	4.50	0.46	4.5
School/Church	7.42	na	0.46	3.4
Family/Personal	7.35	na	0.46	3.4
Shopping	6.56	na	0.46	3.0

Source: Average trip lengths in miles; national data from US. Department of Transportation, *National Household Travel Survey*, 2001; local data from Table 17; ratio is average local divided by average national trip length; estimated local trip lengths are products of national data by ratio, estimated local residential trip length is weighted 40% local work trip length and 60% average trip length.

Average daily travel demand must be estimated for a broad variety of land uses in order to develop the fee schedule. The result of combining trip generation rates, new trip factors and average trip lengths is a travel demand schedule that establishes the vehicle-miles of travel (VMT) during the average weekday generated by various land use types per unit of development. The recommended travel demand schedule is presented in Table 19.

Table 19
TRAVEL DEMAND SCHEDULE

Land Use Type	ITE Code	Unit	Trip Ends	1-Way Trips	% New Trips	Length (miles)	Daily VMT
Single-Family Detached	210	Dwelling	9.57	4.79	100%	4.9	23.47
Multi-Family	220	Dwelling	6.72	3.32	100%	4.9	16.27
Mobile Home/RV Park	240	Pad	4.99	2.50	100%	4.9	12.25
Hotel/Motel	310/320	Room	6.90	3.45	80%	4.9	13.52
Retail/Commercial	820	1000 sq. ft.	42.94	21.47	43%	3.0	27.70
Office/Institutional	710	1000 sq. ft.	11.01	5.51	75%	4.5	18.60
Nursing Home	620	1000 sq. ft.	6.10	3.05	75%	4.5	10.29
Church	560	1000 sq. ft.	9.11	4.56	75%	3.4	11.63
Industrial	130	1000 sq. ft.	6.96	3.48	95%	4.9	16.20
Warehouse	150	1000 sq. ft.	4.96	2.48	95%	4.9	11.54
Mini-Warehouse	151	1000 sq. ft.	2.50	1.25	95%	3.4	4.04

Source: "Trip Ends" is average daily trips (ADT) during weekday from Institute of Transportation Engineers (ITE), *Trip Generation*, 7th ed., 2003; "1-Way Trips" = 1/2 Trip Ends; "ITE Code" is land use code from ITE manual used for land use category (where more than one code shown, rates were averaged); new trip percentage for retail/commercial from ITE, *Trip Generation Handbook*, October 2003; percentages for other land uses taken from Kimley-Horn and Associates, Inc., *Lee County Impact Fee Transportation Data*, 1990; average trip lengths from Table 18; average trip length reduced by 50% for convenience stores and fast food restaurants; average trip length used for office uses and residential trip length used for industrial/warehousing uses.

POTENTIAL FEES

Based on the impact fee formula and the inputs calculated in this report, the maximum road impact fees per unit of development for various land uses, with and without ROW costs, are shown in Table 20. Impact fees could be adopted at less than 100 percent of the levels shown in the net cost schedules, provided that the reduction is applied uniformly across all land use categories in order to retain the proportionality of the fees. The impact fee ordinance will contain a provision allowing the option of independent fee determination studies for those applicants who can demonstrate that their development will have less impact on the need for road facilities than indicated by the fee schedule.

**Table 20
ROAD NET COST SCHEDULE**

Land Use Type	Unit	Daily VMT	Net Cost/VMT		Net Cost per Unit	
			w/ROW	no ROW	w/ROW	no ROW
Single-Family Detached	Dwelling	23.47	\$161.87	\$146.68	\$3,799	\$3,443
Multi-Family	Dwelling	16.27	\$161.87	\$146.68	\$2,634	\$2,386
Mobile Home/RV Park	Pad	12.25	\$161.87	\$146.68	\$1,983	\$1,797
Hotel/Motel	Room	13.52	\$161.87	\$146.68	\$2,188	\$1,983
Retail/Commercial	1000 sq. ft.	27.70	\$161.87	\$146.68	\$4,484	\$4,063
Office/Institutional	1000 sq. ft.	18.60	\$161.87	\$146.68	\$3,011	\$2,728
Nursing Home	1000 sq. ft.	10.29	\$161.87	\$146.68	\$1,666	\$1,509
Church	1000 sq. ft.	11.63	\$161.87	\$146.68	\$1,883	\$1,706
Industrial	1000 sq. ft.	16.20	\$161.87	\$146.68	\$2,622	\$2,376
Warehouse	1000 sq. ft.	11.54	\$161.87	\$146.68	\$1,868	\$1,693
Mini-Warehouse	1000 sq. ft.	4.04	\$161.87	\$146.68	\$654	\$593

Source: Daily VMT per unit from Table 19; net cost per VMT from Table 12.

Based on the annual number of permits issued in recent years, annual road impact fee revenue could amount to \$4.1 million to \$4.6 million, as shown in Table 21. Over 20 years, the impact fees could generate \$83 million to \$92 million. These estimates include in-kind contributions from developers, for which they would get impact fee credit, so that cash revenues received by the City would likely be lower.

Table 21
POTENTIAL ROAD IMPACT FEE REVENUE

	Single-Family (dwelling)	Multi-Family (dwelling)	Retail/ Commercial (1000 sf)	Office/ Other (1000 sf)	Total
Potential Fee without ROW Costs	\$3,443	\$2,386	\$4,063	\$2,728	
Potential Fee with ROW Costs	\$3,799	\$2,634	\$4,484	\$3,011	
Average New Units, 2000-04	394	695	130	222	
Annual Revenue without ROW Costs	\$1,356,542	\$1,658,270	\$528,190	\$605,616	\$4,148,618
Annual Revenue with ROW Costs	\$1,496,806	\$1,830,630	\$582,920	\$668,442	\$4,578,798
20-Year Revenue without ROW Costs	\$27,130,840	\$33,165,400	\$10,563,800	\$12,112,320	\$82,972,360
20-Year Revenue with ROW Costs	\$29,936,120	\$36,612,600	\$11,658,400	\$13,368,840	\$91,575,960

Source: Potential fees from Table 20; average annual new residential units are averages for 2000-2004 from Table 6; average annual new nonresidential units are amounts permitted in 2004 from Fayetteville Planning Department, October 7, 2005.

APPENDIX A: MAJOR ROADWAY INVENTORY

Table 22
MAJOR ROADWAY INVENTORY

Road	From	To	Lns	Mi.	Lane-Miles		ADT	VMT
					Ttl.	w/cts.		
Archibald Yell Blvd	College Ave	School Ave	4	0.45	1.80	1.80	13,000	5,850
6th St	School Ave	City Limits	5	3.45	17.25	17.25	25,330	87,389
15th St	Happy Hollow Rd	College Ave	2	1.27	2.54	2.54	12,000	15,240
15th St	College Ave	Razorback Rd	4	1.26	5.04	5.04	10,350	13,041
Co. Rd. 649	City Limits	Persimmon St	2	1.00	2.00	0.00	n/a	0
College Ave	Archibald Yell Blvd	North St	4	1.13	4.52	4.52	25,000	28,250
College Ave	North St	Millsap Rd	5	2.72	13.60	13.60	29,000	78,880
College Ave	Millsap Rd	560' S of Joyce Blvd	4	0.97	3.88	3.88	35,000	33,950
College Ave	560' S of Joyce Blvd	980' N of Joyce Blvd	6	0.26	1.56	1.56	35,000	9,100
College Ave	980' N of Joyce Blvd	1973' S of City Limits	4	0.51	2.04	2.04	35,000	17,850
College Ave	1973' S of City Limits	City Limits	6	0.37	2.22	2.22	35,000	12,950
Crossover Rd	Old Missouri Rd	Mission Blvd	3	4.12	12.36	12.36	16,000	65,920
Crossover Rd	Mission Blvd	Huntsville Rd	5	2.39	11.95	11.95	14,250	34,058
Garland Ave	I-540	Wedington Dr	2	2.03	4.06	4.06	11,000	22,330
Garland Ave	Wedington Dr	Maple St	4	0.25	1.00	1.00	14,000	3,500
Happy Hollow Rd	Huntsville Rd	15th St	4	0.28	1.12	1.12	8,900	2,492
Highway 112	1,286' E of Cris Hollow	399' w/o D. Solomon	2	0.74	1.48	1.48	4,300	3,182
Highway 112	I-540	Van Asche Dr	2	0.81	1.62	1.62	5,300	4,293
Huntsville Rd	City Limits	Happy Hollow Rd	2	5.10	10.20	10.20	9,800	49,980
Joyce Blvd	City Limits	College Ave	5	0.76	3.80	3.80	18,000	13,680
Joyce Blvd	College Ave	Frontage Rd	6	0.09	0.54	0.54	18,000	1,620
Joyce Blvd	Frontage Rd	228' S of Front St	5	0.11	0.55	0.55	19,000	2,090
Joyce Blvd	228' S of Front St	Crossover Rd	4	1.37	5.48	5.48	8,900	12,193
Maple St	Garland Ave	Razorback Rd	2	0.25	0.50	0.50	15,000	3,750
Mission Blvd	North St	City Limits	2	2.37	4.74	4.74	9,780	23,179
North St	Garland Ave	Gregg Ave	4	0.50	2.00	2.00	16,000	8,000
North St	Gregg Ave	Mission Blvd	2	1.01	2.02	2.02	12,310	12,433
Old Missouri Rd	City Limits	Crossover Rd	3	0.22	0.66	0.66	14,000	3,080
Razorback Rd	Maple St	15th St	2	1.50	3.00	3.00	11,250	16,875
Razorback Rd	15th St	Ramp	5	0.84	4.20	4.20	6,100	5,124
Razorback Rd	Ramp	Highway 71	3	0.09	0.27	0.27	6,100	549
School Ave	Archibald Yell Blvd	3,477' S of Willoughby	5	3.33	16.65	16.65	10,700	35,631
School Ave	3,477' S of Willoughby	City Limits	4	0.65	2.60	2.60	7,800	5,070
Steele Blvd	Van Asche Dr	Joyce Blvd	4	0.50	2.00	0.00	n/a	0
Sunshine Rd	1510' S Jess Anderson	Adams Rd	2	0.33	0.66	0.00	n/a	0
Van Asche Dr	Highway 112	244' E of I-540	2	0.24	0.48	0.48	1,100	264
Van Asche Dr	1,073' W of Gregg Ave	Gregg Ave	2	0.20	0.40	0.40	1,100	220
Van Asche Dr	523' W of Steele Blvd	Steele Blvd	4	0.10	0.40	0.40	1,100	110
Wedington Dr	City Limits	709' W of 46th Ave	2	1.76	3.52	3.52	7,800	13,728

Road	From	To	Lns	Mi.	Lane-Miles		ADT	VMT
					Ttl.	w/cts.		
Wedington Dr	709' W of 46th Ave	Shiloh Dr	5	1.19	5.95	5.95	14,793	17,604
Wedington Dr	Shiloh Dr	Garland Ave	4	1.58	6.32	6.32	15,500	24,490
Willoughby Rd	3981' E of School Ave	School Ave	2	0.75	1.50	0.00	n/a	0
Subtotal, Principal Arterials					168.48	162.32		687,943
Black Oak Rd	Armstrong Rd	City Limits	2	1.79	3.58	3.58	5,000	8,950
Armstrong Rd	15th St	Black Oak Rd	2	1.08	2.16	2.16	5,000	5,400
Cato Springs Rd	School Ave	Razorback Rd	2	0.99	1.98	1.98	1,700	1,683
Dead Horse Mtn Rd	Goff Farm Rd	City Limits	2	1.14	2.28	2.28	800	912
Deane St	Garland Ave	Porter Rd	2	1.00	2.00	2.00	6,100	6,100
Double Springs Rd	City Limits	299' N of Dot Tipton Rd	2	0.90	1.80	0.00	n/a	0
Drake St	Gregg Ave	Garland Ave	2	0.78	1.56	1.56	5,200	4,056
Gregg Ave	City Limits	1103' S of City Limits	4	0.21	0.84	0.84	6,000	1,260
Gregg Ave	1103' S of City Limits	Township St	2	1.72	3.44	3.44	16,000	27,520
Gregg Ave	Township St	North St	4	1.30	5.20	5.20	19,000	24,700
Huntsville Rd	Mashburn Ave	Happy Hollow Rd	2	0.73	1.46	1.46	10,000	7,300
Mount Comfort Rd	City Limits	I-540	2	1.81	3.62	3.62	8,200	14,842
Old Wire Rd	Mission Blvd	Skillern Rd	2	2.64	5.28	5.28	8,400	22,176
Porter Rd	Deane St	Shiloh Dr	2	0.36	0.72	0.72	6,800	2,448
Pump Station Rd	567' E of City Lake Rd	Armstrong Rd	2	0.67	1.34	0.00	n/a	0
Rupple Rd	174' N of Double Tree	Mount Comfort Rd	2	0.42	0.84	0.00	n/a	0
Rupple Rd	Rupple Rd	Persimmon St	2	1.14	2.28	0.00	n/a	0
Shiloh Dr	Steele Blvd	Gregg Ave	2	0.39	0.78	0.00	n/a	0
Skillern Rd	Old Wire Rd	City Limits	2	0.65	1.30	1.30	7,830	5,090
Steele Blvd	Shiloh Dr	Van Asche Dr	3	0.25	0.75	0.00	n/a	0
Township St	Gregg Ave	College Ave	2	0.44	0.88	0.88	11,000	4,840
Subtotal, Minor Arterials					44.09	36.30		137,277
Betty Jo Dr	Persimmon St	Wedington Dr	2	0.51	1.02	0.00	n/a	0
Beechwood Ave	15th St	18th St	2	0.25	0.50	0.00	n/a	0
Austin Dr	Ash St	Poplar St	2	0.15	0.30	0.00	n/a	0
Ash St	Walnut Ave	Samantha	2	0.58	1.16	0.00	n/a	0
Appleby Rd	Gregg Ave	Plainview Ave Ext.	2	1.03	2.06	0.00	n/a	0
15th St	Beechwood Ave	Razorback Rd	2	0.22	0.44	0.00	n/a	0
18th St	Futrell Dr	Beechwood Ave	2	0.26	0.52	0.00	n/a	0
54th Ave	Persimmon St	Wedington Dr	2	0.65	1.30	0.00	n/a	0
59th Ave	Wedington Dr	1071' N of Wedington Dr	2	0.20	0.40	0.00	n/a	0
Brooks Ave	15th St	Boone St	2	0.21	0.42	0.00	n/a	0
Broyles Ave	City Limits	Persimmon	2	1.25	2.50	0.00	n/a	0
Cato Springs Rd	Highway 71	I-540	3	0.18	0.54	0.00	n/a	0
Cato Springs Rd	I-540	City Limits	2	0.58	1.16	0.00	n/a	0
Charlee Ave	Mission Blvd	Charlee Ave Ext.	2	0.23	0.46	0.00	n/a	0
City Lake Rd	Pump Station Rd	Willoughby Rd	2	1.39	2.78	2.78	1,600	2,224
Cliffs Blvd	Crossover Blvd	218' W of Crossover	4	0.04	0.16	0.00	n/a	0

Road	From	To	Lns	Mi.	Lane-Miles		ADT	VMT
					Ttl.	w/cts.		
Cliffs Blvd	218' W of Crossover	Happy Hollow Rd	4	0.48	1.92	0.00	n/a	0
Deane Solomon Rd	Mount Comfort Rd	Highway 112	2	1.76	3.52	3.52	1,100	1,936
Dinsmore Trl	6th St	City Limits	2	0.40	0.80	0.00	n/a	0
Drake St	McConnell	Garland Ave	2	0.15	0.30	0.00	n/a	0
Drake St	1,278' W of Gregg Ave	Highway 71	4	0.62	2.48	0.00	n/a	0
Ernie Jacks Blvd	Garland Ave	314' W of Garrett Dr	2	0.13	0.26	0.00	n/a	0
Front St	Millsap Rd	Joyce Blvd	2	0.62	1.24	0.00	n/a	0
Frontage Rd	Joyce Blvd	Zion Rd	2	0.49	0.98	0.98	8,000	3,920
Futrell Dr	Wedington Dr	Freeway Ramp	2	1.74	3.48	3.48	4,000	6,960
Futrell Dr	Freeway Ramp	455' S of 6th St	3	0.21	0.63	0.63	3,200	672
Futrell Dr	455' S of 6th St	18th St	2	0.54	1.08	1.08	3,200	1,728
Futrell Dr	Gregg Ave	Millsap Rd	2	0.60	1.20	0.00	n/a	0
Garland Ave	Cato Springs Rd	Brooks Ave	2	0.33	0.66	0.00	n/a	0
Garrett Dr	Ernie Jacks Blvd	1,353' E of Leverett Ave	2	0.36	0.72	0.00	n/a	0
Goff Farm Rd	Dead Horse Mtn Rd	City Limits	2	0.80	1.60	0.00	n/a	0
Gypsum Dr	Salem Rd	Raven Ln	2	0.28	0.56	0.00	n/a	0
Happy Hollow Rd	Cliffs Blvd	886' S of Cliffs Blvd	4	0.17	0.68	0.00	n/a	0
Happy Hollow Rd	886' S of Cliffs Blvd	Huntsville Rd	2	0.55	1.10	1.10	480	264
Harold St	College Ave	Stubblefield Rd	2	0.25	0.50	0.00	n/a	0
Hollywood Ave	6th St	1210' S of 6th St	2	0.23	0.46	0.00	n/a	0
Joyce St	Joyce Blvd	City Limits	2	0.45	0.90	0.00	n/a	0
Leverett Ave	North St	Garrett Dr	2	0.96	1.92	1.92	6,800	6,528
Longview St	Plainview Ave	College Ave	2	0.15	0.30	0.00	n/a	0
Mall Ave	Joyce Blvd	1,211' S of Joyce Blvd	2	0.23	0.46	0.00	n/a	0
Mall Ave	1,211' S of Joyce Blvd	Shiloh Dr	3	0.29	0.87	0.00	n/a	0
Mally Wagon Rd	City Limits	Huntsville Rd	2	0.25	0.50	0.00	n/a	0
McConnell Ave	Knapp Dr	Drake St	2	0.52	1.04	0.00	n/a	0
Miller St	Yates Ave	Gregg Ave	2	0.11	0.22	0.00	n/a	0
Millsap Rd	Futrell Dr	504' E of Plainview Ave	3	0.36	1.08	0.00	n/a	0
Millsap Rd	504' E of Plainview Ave	Vantage Dr	2	0.32	0.64	0.00	n/a	0
Monte Painter Dr	Northhills Blvd	Wimberly Dr	2	0.16	0.32	0.00	n/a	0
Morningside Dr	Huntsville Rd	Pump Station Rd	2	0.96	1.92	0.00	n/a	0
New Bridge Rd	155' E of High Ave	Settleman Ln	2	0.51	1.02	0.00	n/a	0
Northhills Blvd	Monte Painter Dr	Futrell Dr	4	0.21	0.84	0.00	n/a	0
Old Farmington Rd	6th St	Shiloh Dr	2	0.88	1.76	0.00	n/a	0
Old Missouri Rd	Old Wire Rd	Zion Rd	3	2.01	6.03	6.03	6,600	13,266
Old Wire Rd	City Limits	1,570' N of Skillern Rd	2	0.46	0.92	0.92	1,700	782
Persimmon St	46th St	54th Ave	2	0.75	1.50	0.00	n/a	0
Plainview Ave	367' S of Kenray St	Millsap Rd	2	0.34	0.68	0.00	n/a	0
Poplar St	Yates Ave	College Ave	2	0.37	0.74	0.00	n/a	0
Porter Rd	Wedington Dr	Deane St	2	0.58	1.16	1.16	2,200	1,276
Raven Ln	Mount Comfort Rd	145' N of Quail Dr	2	0.22	0.44	0.00	n/a	0
Roberts Rd	Huntsville Rd	City Limits	2	0.16	0.32	0.00	n/a	0
Rolling Hills Dr	College Ave	Old Missouri Rd	2	0.71	1.42	1.42	11,000	7,810

Road	From	To	Lns	Mi.	Lane-Miles		ADT	VMT
					Ttl.	w/cts.		
Ripple Rd	600' S of New Bridge	Old Mt Comfort	2	0.44	0.88	0.00	n/a	0
Salem Rd West	Deane Solomon Rd	City Limits	2	0.15	0.30	0.00	n/a	0
Salem Rd North	City Limits	Mount Comfort Rd	2	1.16	2.32	0.00	n/a	0
Salem Rd North	1,984' S of Mt Comfort	Wedington Dr	2	0.67	1.34	0.00	n/a	0
Samantha Ave	116' S of Ash St	Ash St	2	0.02	0.04	0.00	n/a	0
Shepherd Ln	Frontage Rd	195' E of Frontage Rd	2	0.04	0.08	0.00	n/a	0
Shiloh Dr	Joyce Blvd	1,157' S of Joyce Blvd	2	0.22	0.44	0.00	n/a	0
Shiloh Dr	Mall Ave	Steele Blvd	3	0.39	1.17	0.00	n/a	0
Shiloh Dr	Highway 112	1,925' S of Mt Comfort	2	1.73	3.46	0.00	n/a	0
Shiloh Dr	1,678' N of Wedington	433' N of 6th St	2	2.02	4.04	4.04	620	1,252
Shiloh Dr	433' N of 6th St	6th St	4	0.08	0.32	0.32	3,700	296
Shiloh Dr	6th St	345' S of 6th St	3	0.07	0.21	0.00	n/a	0
Shiloh Dr	345' S of 6th St	2,010' N of Cato Springs	2	1.09	2.18	0.00	n/a	0
Shiloh Dr	326' S of Cato Springs	End of Shiloh Dr	2	0.23	0.46	0.00	n/a	0
Starr Dr	Mission Blvd	City Limits	2	0.64	1.28	1.28	n/a	0
Stearns St	Joyce Blvd	120' E of Remington Dr	2	0.11	0.22	0.22	n/a	0
Stubblefield Rd	Harold St	Old Missouri Rd	2	0.56	1.12	1.12	n/a	0
Sunbridge Dr	Villa Blvd	College Ave	2	0.08	0.16	0.00	n/a	0
Sycamore St	Garland Ave	Leverett Ave	2	0.25	0.50	0.50	5,100	1,275
Sycamore St	Leverett Ave	Gregg Ave	4	0.32	1.28	1.28	8,200	2,624
Sycamore St	Gregg Ave	Walnut Ave	2	0.68	1.36	1.36	5,150	3,502
Township St	College Ave	Crossover Rd	2	1.75	3.50	3.50	8,400	14,700
Trucker's Dr	Gypsum Dr	Crystal Spgs subdiv	2	0.17	0.34	0.00	n/a	0
Van Asche Dr	Steele Blvd	Mall Ave	3	0.37	1.11	0.00	n/a	0
Vantage Dr	Stearns St	Zion Rd	2	0.37	0.74	0.00	n/a	0
Vantage Dr	Joyce Blvd	169' N of Joyce Rd	2	0.03	0.06	0.00	n/a	0
Walnut Ave	Sycamore St	Ash St	2	0.13	0.26	0.00	n/a	0
Willoughby Rd	City Lake Rd	135' S of City Lake	2	0.03	0.06	0.00	n/a	0
Wimberly Dr	Monte Painter Dr	Futrell Dr	2	0.23	0.46	0.00	n/a	0
Wyman Rd	City Limits	Crossover Rd	2	0.84	1.68	0.00	n/a	0
Yates Ave	Poplar St	Miller St	2	0.07	0.14	0.00	n/a	0
Zion Rd	City Limits	College Ave	2	1.78	3.56	3.56	7,100	12,638
Subtotal, Collectors					101.96	42.20		83,653
Block Ave	Dickson St	Center St	2	0.25	0.50	0.00	n/a	0
Block Ave	Center St	Mountain St	1	0.05	0.05	0.00	n/a	0
Assembly Rd	Skyline Dr	Mission Blvd	2	0.60	1.20	1.20	400	240
6th St	School Ave	Huntsville Rd	2	0.72	1.44	1.44	8,100	5,832
11th St	Duncan Ave	Hill Ave	2	0.08	0.16	0.16	1,200	96
Arkansas Ave	Dickson St	Maple St	2	0.25	0.50	0.50	8,900	2,225
California Blvd	Center St	Leroy Pond Rd	2	0.36	0.72	0.00	n/a	0
Center St	California Blvd	Block Ave	2	0.67	1.34	1.34	5,000	3,350
Center St	Block Ave	East Ave	1	0.05	0.05	0.05	5,000	250
Center St	East Ave	College Ave	2	0.10	0.20	0.20	5,000	500

Road	From	To	Lns	Mi.	Lane-Miles		ADT	VMT
					Ttl.	w/cts.		
Cleveland St	Sang Ave	Arkansas Ave	2	1.15	2.30	2.30	3,300	3,795
College Ave	Rock St	15th St	2	0.87	1.74	1.74	2,300	2,001
Dickson St	Fletcher Ave	College Ave	2	0.42	0.84	0.84	5,000	2,100
Dickson St	College Ave	Arkansas Ave	2	0.60	1.20	1.20	11,000	6,600
Duncan Ave	15th St	11th St	2	0.25	0.50	0.50	1,200	300
East Ave	Mountain St	Dickson St	1	0.30	0.30	0.30	7,000	2,100
Fletcher Ave	Dickson St	Lafayette St	2	0.15	0.30	0.00	n/a	0
Government Ave	Prairie St	6th St	2	0.09	0.18	0.18	560	50
Greenview Dr	Mission Blvd	Viewpoint Dr	2	0.13	0.26	0.00	n/a	0
Hill Ave	6th St	11th St	2	0.31	0.62	0.62	200	62
Huntsville Rd	Mill Ave	Mashburn Ave	2	0.39	0.78	0.00	n/a	0
Lafayette St	Mission Blvd	Arkansas Ave	2	1.04	2.08	2.08	7,800	8,112
Leroy Pond Dr	California Blvd	Razorback Rd	2	0.21	0.42	0.00	n/a	0
Leverett Ave	Maple St	North St	2	0.50	1.00	1.00	7,800	3,900
Maple St	Mission Blvd	Garland Ave	2	1.43	2.86	2.86	13,000	18,590
Mashburn	Huntsville Rd	6th St	2	0.03	0.06	0.00	n/a	0
Mill Ave	Rock St	Huntsville Rd	2	0.08	0.16	0.00	n/a	0
Mission Blvd	Lafayette St	North St	2	0.60	1.20	1.20	12,000	7,200
Mountain St	School Ave	Block Ave	2	0.21	0.42	0.00	n/a	0
Mountain St	Block Ave	East Ave	1	0.05	0.05	0.00	n/a	0
Mountain St	East Ave	College Ave	2	0.10	0.20	0.00	n/a	0
Pembroke Rd	Rockwood Trail	Ridgeway Dr	2	0.27	0.54	0.54	450	122
Prairie St	West Ave	Government Ave	2	0.12	0.24	0.00	n/a	0
Ridgeway Dr	Pembroke Rd	Viewpoint Dr	2	0.16	0.32	0.00	n/a	0
Rock St	College Ave	Mill Ave	2	0.10	0.20	0.20	4,400	440
Rockwood Trail	Mission Blvd	Pembroke Rd	2	0.69	1.38	1.38	400	276
Sang Ave	Cleveland St	Wedington Dr	2	0.25	0.50	0.00	n/a	0
School Ave	Dickson St	Archibald Yell Blvd	2	0.58	1.16	1.16	3,000	1,740
Skyline Dr	Assembly Rd	Assembly Rd	2	0.88	1.76	1.76	190	167
Viewpoint Dr	Ridgeway Dr	Viewpoint Dr	2	0.47	0.94	0.94	520	244
West Ave	Prairie St	Lafayette St	2	0.74	1.48	0.00	n/a	0
Subtotal, Historic Collectors					32.15	25.69		70,292
Total					346.68	266.51		979,166

Source: Segment descriptions, number of lanes and segment length in miles from City of Fayetteville Public Works Department, verified June 21, 2004; total lane-miles is product of lanes times miles; lane-miles with counts is lane-miles for segments with traffic counts; ADT is annual average daily traffic estimates from Arkansas State Highway and Transportation Department, "2002 Traffic Volumes Map of Fayetteville-Springdale, Washington and Benton Counties" or, where 2002 counts not available, 1992 estimated volumes from DeShazo, Starek & Tang, Inc., *Prioritization of Roadway Improvements in Fayetteville, Arkansas*, August 1992; VMT is product of miles times ADT.

APPENDIX B: ARKANSAS IMPACT FEE ENABLING ACT

ARKANSAS CODE, TITLE 14, CHAPTER 56, SUBCHAPTER 1

14-56-102. Development impact fees.

(a) As used in this section:

- (1) "Capital plan" means a description of new public facilities or of new capital improvements to existing public facilities or of previous capital improvements to public facilities that continue to provide capacity available for new development that includes cost estimates, and capacity available to serve new development;
- (2) "Development" means any residential, multi-family, commercial, or industrial improvement to lands within the municipality or within the municipal service agency's area of service;
- (3) "Development impact fee" means:
 - (A) A fee or charge imposed by the municipality or by a municipal service agency upon or against a development in order to generate revenue for funding or for recouping expenditures of the municipality or municipal service agency that are reasonably attributable to the use and occupancy of the development; and
 - (B) Shall not include any ad valorem real property taxes, any special assessments for an improvement district, any utility hookup fees or access fees, or any fees for filing development plats or plans, for building permits or for construction permits assessed by a municipality or a municipal service that are approximately equal to the cost of the plat, plan, or permit review process to the municipality or the municipal service agency;
- (4) "Municipality" means a city of the first class, city of the second class, or an incorporated town;
- (5) "Municipal service agency" means:
 - (A) Any department, commission, utility or agency of a municipality, including any municipally-owned or controlled corporation;
 - (B) Any municipal improvement district, consolidated public or municipal utility system improvement district, or municipally-owned nonprofit corporation that owns or operates any utility service;
 - (C) Any municipal water department, waterworks or joint waterworks, or a consolidated waterworks system operating under the Consolidated Waterworks Authorization Act;
 - (D) Any municipal wastewater utility or department;

(E) Any municipal public facilities board; or

(F) Any of these municipal entities operating with another similar entity under a interlocal agreement in accordance with §§ 25-20-101 through 25-20-108 or §§ 25-20-201 through 25-20-207;

(6) "Ordinance" means an municipal impact fee ordinance of municipality or an authorizing rate resolution by a board of commissioners of a consolidated waterworks system authorized to set rates for its customers under the Consolidated Waterworks Authorization Act;

(7) "Public facilities" means publicly-owned facilities that are one (1) or more of the following systems, or a portion of those systems:

(A) Water supply, treatment, and distribution, for either domestic water or for suppression of fires;

(B) Wastewater treatment and sanitary sewerage;

(C) Stormwater drainage;

(D) Roads, streets, sidewalks, highways and public transportation;

(E) Library;

(F) Parks, open space, and recreation areas;

(G) Police or public safety;

(H) Fire protection; and

(I) Ambulance or emergency medical transportation and response.

(b) A municipality or a municipal service agency may assess, by ordinance, a development impact fee to offset costs to the municipality or to a municipal service agency that are reasonably attributable to providing necessary public facilities to new development.

(c) (1) A municipality or municipal service agency may assess, collect, and expend development impact fees only for the planning, design and construction of new public facilities or of capital improvements to existing public facilities that expand its capacity or for the recoupment of prior capital improvements to public facilities that created capacity that is available to serve new development.

(2) The development impact fee may be pledged to the payment of bonds issued by the municipality or municipal service agency to finance capital improvements or public facilities for which the development impact fee may be imposed.

- (3) No development impact fee shall be assessed for, or expended upon, the operation or maintenance of any public facility, or for the construction or improvement of public facilities, that does not create additional capacity.
- (d) (1) A municipality or a municipal service agency may assess and collect impact fees only from new development and only against a particular new development in reasonable proportion to the demand for additional capacity in public facilities that are reasonably attributable to the use and occupancy of that new development.
- (2) The owner, resident, or tenant of a property that was assessed an impact fee and paid it in full shall have the right to make reasonable use of all public facilities that were financed by the impact fee.
- (e) (1) A municipality or municipal service agency may assess, collect, and expend impact fees only under a development impact fee ordinance adopted and amended under this section.
- (2) A development impact fee ordinance shall be adopted or amended by the governing body of a municipality or municipal service agency only after the municipality or a municipal service agency has adopted a capital plan and level of service standards for all of the public facilities that are to be so financed.
- (3) The development impact fee ordinance shall contain:
- (A) A statement of the new public facilities and capital improvements to existing public facilities that are to be financed by impact fees and the level of service standards included in the capital plan for the public facilities that are to be financed with impact fees;
 - (B) The actual formula or formulas for assessing the impact fee, which shall be consistent with the level of service standards;
 - (C) The procedure by which impact fees are to be assessed and collected; and
 - (D) The procedure for refund of excess impact fees, in accordance with subsection (h) of this section.
- (f) (1) The municipality or municipal service agency shall collect the development impact fee at the time and manner and from the party as prescribed in the ordinance and shall collect the fee separate and apart from any other charges to the development.
- (2) (A) A development impact fee shall be collected at either the closing on the property by the owner or the issuance of a certificate of occupancy by the municipality."
- (B) However, a municipal water or wastewater department, waterworks, or joint waterworks, or a consolidated waterworks system operating under the Consolidated Waterworks Authorization Act may collect a development impact fee in connection with and as a condition to the installation of the water meter serving the property.

- (3) At closing, the development impact fee that has been paid or will be paid for the property shall be separately enumerated on the closing statement.
- (4) The ordinance may include that the development impact fee may be paid in installments at a reasonable interest rate for a fixed number of years or that the municipality or municipal service agency may negotiate agreements with the owner of the property as to the time and method of paying the impact fee.
- (g) (1) The funds collected under a development impact fee ordinance shall be deposited into a special interest-bearing account.
- (2) The interest earned on the moneys in the separate account shall be credited to the special fund and the funds deposited into the special account and the interest earned shall be expended only in accordance with this section.
- (3) No other revenues or funds shall be deposited into the special account.
- (h) (1) The municipality or municipal service agency shall refund the portion of collected development impact fees, including the accrued interest, that has not been expended seven (7) years from the date the fees were paid.
- (2) (A) A refund shall be paid to the present owner of the of the property that was the subject of new development and against which the fee was assessed and collected.
- (B) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the present owners of the property not later than thirty (30) days after the date which the refund becomes due.
- (C) The sending by regular mail of the notices to all present owners of record shall be sufficient to satisfy the requirement of notice.
- (3) (A) The refund shall be made on a pro rata basis, and shall be paid in full not later than ninety (90) days after the date certain upon which the refund becomes due.
- (B) If the municipality or municipal service agency does not pay a refund in full within the period set in this subsection to any person entitled to a refund, that person shall have a cause of action against the municipality for the refund or the unpaid portion in the circuit court for the county in which the property is located.
- (i) (1) (A) On and after the effective date of this section, a municipality or municipal service agency shall levy and collect a development impact fee only if levied and collected under ordinances enacted in compliance with this section.
- (B) Beginning January 1, 2004, a municipality or municipal service agency shall collect development impact fees under ordinances enacted before the effective date of this section or under ordinances amended after the effective date of this section only if collected in compliance with subsections (f), (g), and (h) of this section.

(2) However, except for the compliance with the collection requirements under subsections (f), (g), and (h) of this section, this section does not invalidate any development impact fee or a similar fee adopted by a municipality or municipal service agency before the effective date of this section, nor does this section apply to funds collected under any development impact fee or similar fee adopted before the effective date of this section.

(3) In addition, a municipality with a park land or green space ordinance that has been in existence for ten (10) years on the effective date of this section, and any amendments to the ordinance, which allows the option to pay a fee or to dedicate green space or park land in lieu of a fee may continue to be administered under the existing ordinance.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Feb-06

City Council Meeting Date

Leif Olson
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 05-1841, 05-1842, 05-1879 (Hillside Overlay District): Submitted by Planning Staff. The Hillside Overlay District is regulated by an official Hillside Overlay District Map, a Hillside Overlay District Best Management Practices Manual, and amendments to the City's Unified Development Code.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

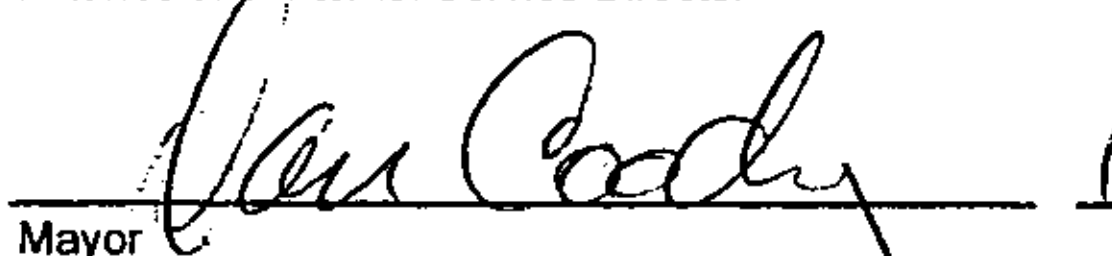
1-20-06

Received in City  Office


Finance and Internal Service Director

Date

Received in Mayor's Office 


Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Planning and Development Services
Gary Dumas, Director of Operations

From: Leif Olson, Long Range Planner

Date: January 18, 2006

Subject: ADM 05-1841, 05-1842, and 05-1879. Hillside Overlay District Map, Best Management Practices Manual, and Unified Development Code Amendments.

RECOMMENDATION

Planning Staff, the Planning Commission, and the City Council Ordinance Review Committee recommend approval of the proposed Hillside Overlay District Map, Best Management Practices Manual, and Unified Development Code Amendments.

BACKGROUND

The Fayetteville City Council adopted Resolution Number 130-02 in August of 2002, requesting that the Planning Commission conduct a rezoning study and zoning map amendment for those areas shown as R-2 (Medium Density Residential, RMF-24) that have 15% or greater slope.

A Hillside Task Force was developed and comprised of Planning Commission Members. The Hillside Task Force examined studies conducted by staff on the existing development patterns of Mt. Sequoyah, adopted hillside ordinances from other cities, and recommendations proposed by Planning Staff. With Planning Commissioner terms expiring and unable to reach consensus on a hillside development ordinance and boundary map, the first Hillside Task Force was disbanded in the fall of 2004.

In 2005, a new Hillside Task Force was developed comprised of members of the City Council and the Planning Commission. A series of meetings occurred that provided the Task Force with a background of past ordinance proposals and ongoing public input. Ultimately, a recommendation and ordinance was developed by Planning Staff and the Hillside Task Force.

Due to on-going discussions and concerns expressed by both the development community and the public as a whole, Staff proposed that a consultant familiar with steep slope development be hired to assist City Staff in developing a hillside development ordinance.

In March of 2005, the Fayetteville City Council authorized a contract with Design Workshop of Asheville, North Carolina to assist the City in the drafting of a Hillside Development Ordinance and Best Management Practices Manual.

The Hillside Overlay District Best Management Practices Manual is designed to illustrate best development practices that are deemed appropriate for development on our steeply sloped and heavily forested hillsides. This manual, in conjunction with the Unified Development Code Ordinance amendments to: Chapter 151 – Definitions, Chapter 161- Zoning, Chapter 167 – Tree Preservation, Chapter 169 – Physical Alteration of Land, Chapter 170 – Stormwater, Drainage, and Erosion, and Chapter 172 - Parking, and Chapter 173 – Building Regulations will be the implementing and regulating documents guiding all development that falls within the Hillside Overlay District.

DISCUSSION

This item was heard at the regular Planning Commission meeting of December 12, 2005, at which the eight members voted to forward this item to the City Council with a recommendation of approval.

BUDGET IMPACT None.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE TO AMEND VARIOUS SECTIONS OF THE CODE IN ORDER TO IMPLEMENT HILLSIDE PRESERVATION AND PROTECTION, ESTABLISH A HILLSIDE OVERLAY DISTRICT ZONING BOUNDARY AND MAP, AND ADOPT AND HILLSIDE OVERLAY DISTRICT BEST MANAGEMENT PRACTICES MANUAL.

WHEREAS, the City of Fayetteville values its unique hillsides; and,

WHEREAS, the City of Fayetteville is committed to having appropriate and desirable development occur on the hillsides; and,

WHEREAS, developments that are compatible and harmonious with the hillsides, do not have a negative effect upon the City; and,

WHEREAS, the hillside best management practices manual will provide a guide for the development on the City's hillsides;

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

Section 1. That Chapter 156: Variances is amended by inserting Hillside Overlay District regulations in section §156.02 a copy of which is marked Exhibit "A" is attached hereto and made a part hereof.

Section 2 That Chapter 161: Zoning Districts is amended by inserting Hillside Overlay District regulations in sections; §161.07 RSF-4, §161.13 RMF - 24, and §161.15 R-O, a copy of which marked Exhibit "B" is attached hereto and made a part hereof.

Section 3. That Chapter 167: Tree Preservation and Protection is amended to include Hillside Overlay District regulations in section §167.04, a copy of which marked Exhibit "C" is attached hereto and made a part hereof.

Section 4. That Chapter 169: Physical Alteration of Land is amended to include Hillside Overlay District regulations in sections §169.02, §169.03, §169.04, §169.06, §169.07, §169.08, a copy of which marked Exhibit "D" is attached hereto and made a part hereof.

Section 5. That Chapter 170: Stormwater Management, Drainage and Erosion Control is amended to include Hillside Overlay District regulations in sections §170.01, §170.36, §170.05, §170.10, a copy of which marked Exhibit "E" is attached hereto and made a part hereof.

Section 6. That Chapter 172: Parking and Loading is amended to include Hillside Overlay District regulations in section §172.04, a copy of which marked Exhibit "F" is attached hereto and made a part hereof.

Section 7. That Chapter 173: Building Regulations is amended to include Hillside Overlay District regulations in section §173.02, a copy of which is marked Exhibit "G" is attached hereto and made a part hereof.

Section 8. That Chapter 151: Definitions are amended by adding the following definitions:

Cistern. (Stormwater) Roof water management devices that provide retention storage volume in above or underground storage tanks. They are typically used for water supply. Cisterns are generally larger than rain barrels, with some underground cisterns having the capacity of 10,000 gallons. On-lot storage with later reuse of stormwater also provides an opportunity for water conservation and the possibility of reducing water utility costs.

Engineered Foundation. (Building Safety) Foundations of structures constructed on property located in the Hillside Overlay District requires that the foundation be designed by a Arkansas registered professional engineer.

Green Roof. (Stormwater) Elevated roof surfaces that are entirely covered with a thin soil and vegetation layer.

Height. (Hillside Overlay District) Building height shall be measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure. If the structure is located on a graded pad then the height of the building is measured from the historic grade.

Hillside Development Manual. (Zoning) The best management practices document that supplements the Hillside Overlay District and illustrates desirable hillside development practices.

Hillside Overlay District. (Zoning) Lands located within the City that generally have slopes in excess of 15 %. The Hillside Overlay District is shown on the City's official zoning map. The development regulations in the Hillside Overlay District supercede the underlying zoning district.

Hilltop. (Hillside Overlay District) Land located above the Hilltop line which contains less than 15% slope and is completely surrounded by hillside < 15% slope.

Historic grade. (Zoning) The natural grade of the land prior to any development.

Parking Pad. (Hillside Overlay District) Parking areas for multi-family residential, residential office, and commercial use in the Hillside Overlay District.

Permeable Pavers. (Stormwater) A solid surface that allows natural drainage and migration of water into the earth by permitting water to drain through the surface itself or through spaces between the pavers.

Plinth. (Hillside Overlay District) A foundation or base, usually on the upslope side of the hillside, on which a house is located. Most often a plinth is constructed by erecting a retaining wall at the street with backfill creating a level building pad for the home.

Rain Barrels. (Stormwater) A stormwater containment vessel that captures runoff generated by impervious surfaces such as roofs. Rain barrels usually include a hole at the top to allow water to flow in, a sealed lid, an overflow pipe or hose, and a spigot to dispense water. By holding and reusing rainwater, rain barrels reduce stormwater runoff from sites and conserve potable water.

Rain Garden. (Stormwater) an attractive landscaping feature planted with perennial native plants. It is a bowl-shaped garden, designed to absorb stormwater run-off from impervious surfaces such as roofs and parking lots.

PASSED and APPROVED this 17th day of January, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

To be inserted in Chapter 156: Variances:

156.02 Zoning Regulations

Certain variances of the zoning regulations may be applied for as follows:

(A) *General regulations.* A variance shall not be granted unless and until an application demonstrates:

- (1) *Special conditions.* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or building in the same district.
- (2) *Deprivation of rights.* That literal interpretation of the provisions of the zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning regulations.
- (3) *Resulting actions.* That the special conditions and circumstances do not result from the actions of the applicant.
- (4) *No special privileges.* That granting the variance requested will not confer on the applicant any special privilege that is denied by Zoning, Chapters 160 through 165, to other lands, structures, or building in the same district.
- (5) *Nonconforming uses.* No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(B) *Consideration by the Planning Commission.* Applications for variances of zoning and development shall be considered by the Planning Commission.

(5) *Hillside Overlay District.*

- (a) *Special conditions.* The purpose of this section is to authorize in specific cases such variances from the regulations of the Hillside Overlay District as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the Design Overlay District regulations would result in unnecessary hardship.
- (b) *Variance requested.* A variance from the terms of the Hillside Overlay District regulations shall not be granted by the Planning Commission unless and until the applicant provides from what section a variance is requested. This shall be submitted along with the large scale development plan.
- (c) *Findings.* The Planning Commission shall make the following findings:
 - (i) *Requirements met.* That the requirements of §156.02.(A) have been met by the applicant for a variance.
 - (ii) *Minimum variance.* That the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make

possible the reasonable use of the land, building, or structure.

- (iii) *Harmony with general purpose.* That the granting of the variance will be in harmony with the general purpose and intent of the Hillside Overlay District, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- (d) *Conditions and safeguards.* In granting any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this section.

EXHIBIT "B"

To be inserted in Chapter 161: Zoning Regulations:

§161.07 District RSF-4, Residential Single Family – 4 units/acre.

(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.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District 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. Single Family Dwellings

FRONT	SIDE	REAR
25 ft.	8 ft.	20 ft.
HOD Front	HOD Side	HOD Rear
15 ft.	5 ft.	15 ft.

~~(G) Height-None~~

(G) Height. Structures are limited to a building height of 60' as measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure. If the structure is located on a graded pad then the height of the building is measured from the historic grade.

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

(E) Setback requirements.

Front	Side	Rear
25 ft.	8 ft.	25 ft.
HOD Single	HOD Single	HOD Single

Family Front	Family Side	Family Rear
15 ft.	8 ft.	15 ft.
HOD Two Family Front	HOD Two Family Side	HOD Two Family Rear
15 ft.	8 ft.	15 ft.
HOD Multi Family Front	HOD Multi Family Side	HOD Multi Family Rear
15 ft.	8 ft.	15 ft.

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

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

(F) *Height regulations.* The maximum building height is 60 ft. as measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure, allowing 3 stories on the uphill side and 4 stories on the downhill side of the building. If the building is placed on a graded pad, then the height of the building is reduced, allowing a maximum of 3 stories as measured from the historic grade, pre-development

§161.15 District R-O, Residential Office

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Front, in the Hillside Overlay District	15 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Side, in the Hillside Overlay District	8 ft
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.
Rear, in the Hillside Overlay District	15 ft.

(F) *Height regulations.* There shall be no maximum height limits in R-O Districts, provided, however, that any building that exceeds the height of 20 feet shall be set back with any boundary line of any RSF or RMF District an additional distance of one foot for each foot of height in excess of 20 feet. In the Hillside Overlay District the maximum building height is 60 ft. as measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure allowing 3 stories on the uphill side and 4 stories on the downhill side of the building. If the building is placed on a graded pad then the height of the building is reduced allowing a maximum of 3 stories as measured from the historic grade, pre-development.

EXHIBIT "C"

To be inserted in Chapter 167: Tree Preservation and Protection:

§167.04 Tree Preservation And Protection During Development

(A) *Applicability.* The provisions of this section shall apply to proposed subdivisions, and large scale developments required by other chapters of the Unified Development Code to go through the city's permitting process. Persons seeking to build one single-family dwelling unit, or duplex, are specifically exempt from the provisions of this section except when the land is located within the Hillside Overlay District; then all the provisions of this ordinance shall apply.

(1) *Hillside Overlay District.* Undeveloped land located within the Hillside Overlay District shall submit a site analysis plan, analysis report, and tree preservation plan with the preliminary plat or site plan. Single and two family residential development shall submit a tree preservation and site plan at the time of obtaining a building permit. There shall be no land disturbance, grading, or tree removal until a tree preservation plan has been submitted and approved, and the tree protection measures at the site inspected and approved.

(C) *Canopy area.* In all new Subdivisions, Large Scale Developments, lands located within the Hillside Overlay District, Industrial and Commercial Developments, and all other improvements listed above, trees shall be preserved as outlined in Table 1 under Percent Minimum Canopy, unless the Applicant has been approved for On-Site Mitigation or Off-Site Alternatives as set forth in subsections I. & J. below. The square foot percentage of canopy area required for preservation in new development is based on the total area of the property for which the Applicant is seeking approval, less the right-of-way and park land dedications. An Applicant shall not be required to plant trees in order to reach the Percent Minimum Canopy requirement on land where less than the minimum exists prior to development, unless trees have been removed.

Table 1 Minimum Canopy Requirements

ZONING DESIGNATIONS	PERCENT MINIMUM CANOPY
Hillside Overlay District – All Zoning Designations	30%
RA, Residential Agriculture	25%
RSF-.5, Single-family Residential – One Half Unit per Acre	25%
RSF-1, Single-family Residential – One Unit per Acre	25%
RSF-2, Single-family Residential – Two Units per Acre	20%
RSF-4, Single-family Residential – Four Units per Acre	25%
RSF-7, Single-family Residential – Seven Units per Acre	20%
R-O, Residential –Office	20%
RT-12, Two and Three-family Residential	20%
RMF-6, Multi-family Residential – Six Units per Acre	20%
RMF-12, Multi-family Residential – Twelve Units per Acre	20%

RMF-18, Multi-family Residential – Eighteen Units per Acre	20%
RMF-24, Multi-family Residential – Twenty-Four Units per Acre	20%
RMF-40, Multi-family Residential – Forty Units per Acre	20%
C-1, Neighborhood Commercial	20%
C-2, Thoroughfare Commercial	15%
C-3, Central Business Commercial	15%
C-4, Downtown	10%
I-1, Heavy Commercial and Light Industrial	15%
I-2, General Industrial	15%
P-1, Institutional	25%
PZD, Planned Zoning Districts	Most restrictive shall apply

(F) *Tree Preservation Requirements for Proposed Residential and Non-Residential Subdivisions.*

(3) Hillside Overlay District. Individual parcels or lots located within the Hillside Overlay District boundary shall submit a tree preservation plan indicating the location of the structure and the preservation of the minimum tree canopy requirement.

(a). Developers shall have the option of doing cluster development, such as a PZD, which would encourage more open space and tree preservation areas. In this pattern of development, the tree preservation zone on each lot can be transferred to a larger open space instead of being required on the individual lots. Pending approval, the proposed pattern of development shall be required to minimize the view of the new development from the valley below with the preservation of tree cover. The open space set aside during cluster development shall be placed in a permanent easement or land trust with all future development rights removed from the property.

(b) Property owners of parcels or lots located in the Hillside Overlay District shall have the ability to do selective thinning, without the use of off-road equipment, of up to 15% of the tree preservation zone as long as it does not disrupt the overhead tree canopy. No removal of significant trees, as defined by the Landscape Manual, is allowed.

(I) *Request for on-site mitigation*

(c) Tree removal due to the grading work done to create tie backs for roads in the Hillside Overlay District shall be mitigated by reforesting a minimum of 25% of the tie backs pursuant to the landscape manual.

(d) Planting trees in non-canopy areas in order to reach the minimum percent canopy requirements for the site is not allowed in the Hillside Overlay District.

(L) *Continuing preservation and protection under approved tree preservation plans.*

(1) In order to ensure that an applicant's heirs, successors, assigns, or any subsequent purchasers of the subject property are put on notice as to the existence and extent of an approved tree preservation plan, tree preservation areas shall be clearly depicted on the easement plats for large scale developments and the final plats for nonresidential subdivisions. This shall be accompanied by a narrative statement describing the nature of the protection afforded, and bearing the signature of the landscape administrator. Lots in residential subdivisions are expressly exempt from these requirements unless they are located in the Hillside Overlay District. If it is impractical to include the actual depiction of the canopy to be preserved on the easement plat, or final plat itself,

EXHIBIT "D"

To be inserted in Chapter 169: Physical Alteration of Land:

§169.02 General Requirements

- (D) *Restoration.* Land shall be revegetated and restored as close as practically possible to its original conditions ~~so far as to minimize runoff and erosion. are concerned.~~ Previously forested areas shall follow the City's Landscape Manual for mitigation of forested areas.

§169.03 Permits Required/Exceptions

- (A) *Permit required.* No grading, filling, excavation, or land alteration of any kind shall take place without first obtaining:

- (4) A grading permit is required by the City for any development occurring within the Hillside Overlay District boundaries. If a parcel of land is divided by the Hillside Overlay District boundary, then only that portion of land lying within the boundary is subject to the requirements of this chapter.

- (B) *Exceptions where no grading permit is required.* Grading permits are not required for the following:

- (4) *Single-family/duplex.* Construction of one single-family residence, or duplex ~~except where the average slope across the lot is 15% or greater or where any portion of the planned grading activities is contained within the 100-year floodplain,~~ not located within the 100 year flood plain, the Hillside Overlay District, or on a slope 15 % or greater.

- (C) *Grading permit application and approval.* No grading permit shall be issued until the grading plan, endorsed by a registered architect, landscape architect, or engineer, is approved by the City Engineer. ~~A separate permit shall be required for each site; it may cover both excavations and fills.~~ Grading permits may be issued jointly for parcels of land that are contiguous, so long as erosion control measures are in place until project completion. Any application for a required grading permit under this chapter shall be submitted concurrently with the application and calculations for a drainage permit if such a drainage permit is required by §170.03., coordination with Chapter 167. Tree Preservation and Protection is required.

§169.04 Minimal Erosion Control Requirements

~~If exempt under §169.02,~~ If exempt under 169.03, a grading permit is not required. However, exempt as well as non-exempt activities shall be subject to the following minimal erosion and sedimentation control measures.

- (A) *Natural vegetation.* The potential for soil loss shall be minimized by retaining natural vegetation wherever possible. Development in the Hillside Overlay District shall comply with the recommendations of the Hillside Best Management Practices Manual with regard to the retention of natural vegetation on Hillsides.
- (B) *Stabilization.* All graded and otherwise disturbed areas shall be stabilized ~~within 15 days immediately~~ after the grading or disturbance has been completed. Stabilization methods such as baled straw, filter fabric, ditch checks, diversion ditches, brush barriers, sediment basins, matting, mulches, grasses and groundcover shall be used.
- (D) *Excavation material.* Excavation material shall not be deposited in or so near streams and other

stormwater drainage systems that it may be washed downstream by high water or runoff. All excavation material shall be stabilized immediately with erosion control measures.

§169.06 Land Alteration Requirements

(C) *Cut or fill slopes.*

(1) *Finish grade.* Cut or fill slopes shall have a finish grade no steeper than 33% (3.00 horizontal to 1 vertical), when approved by the City Engineer. Land located within the Hillside Overlay District may have cut or fill slopes with a finish grade no steeper than 50% (2.00 horizontal to 1 vertical) with approval of the City Engineer.

(4) *Setback requirements.* The following setback requirements shall be reviewed by the City Engineer for purposes of assessing safety, stability, and drainage problems: (See illustrations). Setbacks from property lines may be filled or cut if a grading plan is submitted jointly by the owners of both properties.

~~(e) *Public rights of way.* Cuts adjacent to public rights of way shall be setback a minimum of 25 feet, excluding driveways or access roads.~~

(F) *Erosion and sedimentation control.*

~~(e) *15% to 20% grade:* The slope shall be covered with landscape fabric and planted with groundcover as set forth in (b) above.~~

~~(d) *More than 20% grade:* Any finish grade over 20% shall be stabilized with retaining walls, cribbing, terraces, landscape fabric, vegetation, or riprap. If riprap is used the slope's stability and erodibility must be equivalent to or better than its predevelopment state.~~

(e) *Hillside Overlay District.* Revegetation of lands within the Hillside Overlay District shall be planted immediately after the physical alteration of the land with complete and uniform ground cover. Sod, erosion fabric, herbaceous groundcover (in wooded areas), and/or a hydroseed with warm season grasses is required. Re-vegetation requirements shall be met prior to the issuance of a certificate of occupancy. Cut and Fill tie-back slopes shall be re-vegetated with appropriate tree species to achieve a minimum of 25% tree canopy at maturity.

(G) *Undisturbed land requirements.* In the development of residential subdivisions and large scale developments, allowable grading of slopes shall be in accordance with this table.

Average Grade	Minimum Undisturbed Area	
	Subdivision	Large Scale
10 to 15 percent	40%	30%
15 to 20 percent	60%	30%
> 20 percent	60%	30%

§169.07 Grading Plan Specifications

(A) *Grading plan.* The applicant shall prepare a grading plan as follows:

- (2) *Existing grades.* Existing grades shall be shown with dashed line contours and proposed grades with solid line contours. **Grading plans shall be required to show both the proposed grade and the undisturbed area.** Contour intervals shall be a maximum of two feet. Spot elevations shall be indicated.

§169.08 Grading Plan Submittal

- (B) *Final grading plan.* No subdivision may be finalized, nor large scale development plat approved before a final grading plan has been submitted to the City Engineer and approved. **The final grading plan and the final plat of land located within the Hillside Overlay District shall have the following plat note stating: "Property and lot owners of lands located within the Hillside Overlay District are strongly encouraged to have a geotechnical analysis of their property prior to any development in order to identify potential geological hazards and determine appropriate techniques to mitigate against hazards such as the swelling and shrinking of soils, slumping, hillside creep, and seeps."**

EXHIBIT "E"

To be inserted in Chapter 170 Stormwater Management, Drainage and Erosion Control:

§170.01 Intent

- (A) *Intent.* It is the intent of this chapter to protect, maintain, and enhance the health, safety, and general welfare of the citizens of the City of Fayetteville by:
- (5) Requiring that erosion control measures are implemented and function on a lot-by-lot basis.
- (6) Encouraging the use of storm water best management practices to reduce runoff. These measures would include permeable pavers, green roofs, rain gardens, cisterns and rain barrels for irrigation use.

§170.03 Permits Required

- (D) *Exceptions where no drainage permit is required.* Drainage permits are not required for the following:
 - (1) *Single-family/duplex.* One single-family residence or duplex not located within the 100 year flood plain, the Hillside Overlay District, or on a slope 15 % or greater.

§170.05 Permit Application

A storm water management, drainage, and erosion control permit application shall be submitted to the City Engineer using appropriate forms as provided by the city. **An applicant may apply jointly for contiguous parcels or subdivisions as long as the erosion control measures are in place until project completion.** A permit application shall contain sufficient information and plans to allow the City Engineer to determine whether the project complies with the requirements of this chapter. The specific items to be submitted for a permit application shall be in the form and follow the procedures as described in the *Drainage Criteria Manual*, Section 1, Drainage Report Checklist. Submittal information and plans shall include, but not be limited to the following:

§170.10 Environmentally Sensitive Mitigation Methods for Storm water Management

- (A) Environmentally conscious measures to reduce the amount of storm water generated by development shall be encouraged, especially in the Hillside Overlay District. Methods may include but, are not limited to, rain gardens, permeable pavement, green roofs, cisterns for the collection and redistribution of storm water for irrigating purposes, etc.

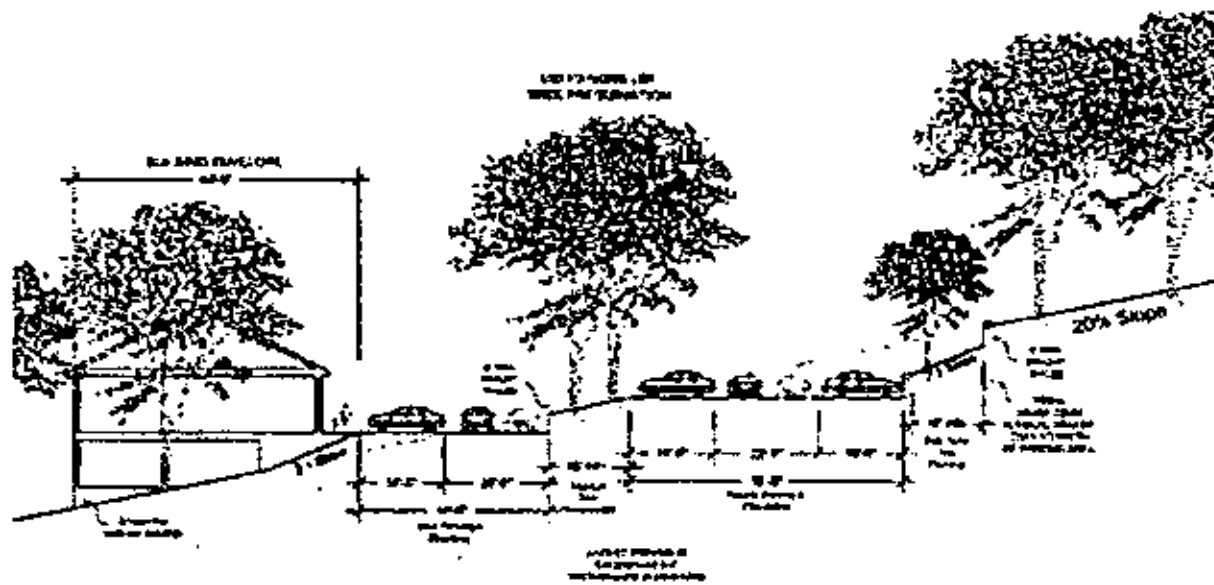
EXHIBIT "F"

To be inserted in Chapter 172: Parking and Loading:

§172.04 Parking Lot Design Standards

(E). Hillside Overlay District.

(1) Separation of Parking Pads in Multi-Family, Office, and Commercial Development. Parking pads shall be separated by a minimum undisturbed area of 15 feet between parking pads. Streets and access drives are permitted to cross this undisturbed area.



(2) Cut and Fill Slopes. Parking pads should be encouraged to utilize cut slopes with retaining walls to minimize disturbance.

(3) Maximum number of spaces per parking lot for multi-family and office use. Parking pads shall have a maximum of 30 spaces per pad.

(4) Parking lot location with multi-family and office structures. When the building is located adjacent to the street the parking shall be located in the rear. When the multi-family structure is located off of the street, a minimum of 35' of undisturbed area shall separate the building from the street.

(5) Developers of multi-family, office, and commercial uses in the Hillside Overlay District are encouraged to refer to the Hillside Best Management Practices Manual for guidance and direction in the design of their project.

EXHIBIT "G"

To be inserted in section 173: Building Regulations:

§173.02 Fire Prevention Code/Building Code

(B) *Amendments, additions, and deletions to the Building Code.* The Building Code shall be amended as follows:

(2) Footings and Foundations.

Building, structures, and parts thereof shall be designed and constructed in accordance with strength design, load and resistance factor design, allowable stress design, empirical design, or conventional construction methods, as permitted by the applicable material chapters of the Arkansas Fire Prevention Code and this section.

(b) Design requirements for structures constructed within the Hillside Overlay District.

(i) Footing and foundation plans shall be designed and sealed by an Arkansas registered professional engineer.

Exception: Un-occupied, single story, non-masonry buildings less than 120 SF.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Feb-06
City Council Meeting Date

Jeremy Pate^W
Submitted By

Planning
Division

Operations
Department

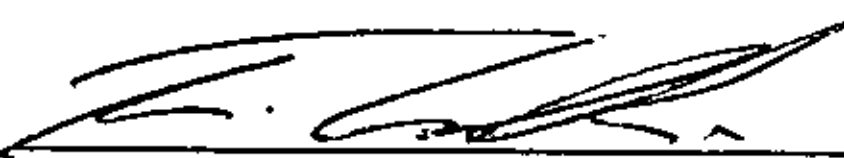
Action Required:

ANX 06-1867 (Wales, 373): Submitted by Jason and Amy Wales for property located at 2055 N. Fox Hunter Rd. The property is in the Planning Area and contains approximately 1.4 acres. The request is to annex the subject property into the City of Fayetteville.

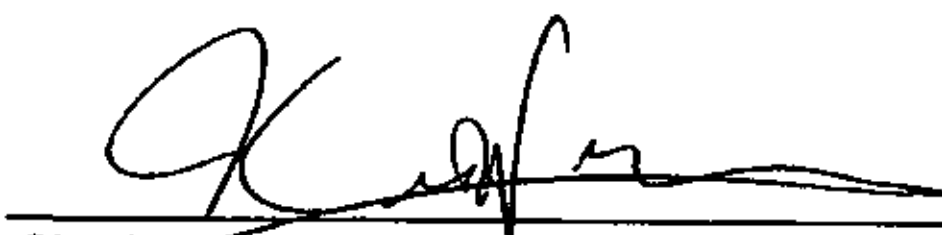
\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director 1-19-06
Date

Previous Ordinance or Resolution # n/a


City Attorney 1-20-06
Date

Original Contract Date: n/a


Finance and Internal Service Director 1-23-06
Date

Original Contract Number: n/a


Mayor 1/27/06
Date

Received in City Clerk's Office
ENTERED
1-19-06

Received in Mayor's Office
ENTERED
1/23/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: January 10, 2006

Subject: Annexation for Wales (ANX 06-1867)

RECOMMENDATION

The Planning staff recommends approval of the subject annexation request submitted by Jason and Amy Wales for approximately 1.4 acres of property located south of HWY 45. This action will incorporate the 1.4-acre tract of land contiguous with the city limits into the City of Fayetteville.

BACKGROUND

The subject property contains 1.4 acres and is located at 2055 N. Fox Hunter Rd., south of HWY 45. The property is adjacent to Barrington Park Subdivision to the west and Ridgemonte Estates to the east.

Annexation of the property will create a uniform city boundary, since the property is currently adjacent on three sides to incorporated properties and bounded on the east side by public right-of-way. It will therefore, create a more desirable city boundary and ensure that development of the property is compliant with City regulations within an appropriate zoning district.

DISCUSSION

This item was heard at the regular Planning Commission on January 09, 2006. The Planning Commission voted 7-0-0 to recommend approval of this annexation request to the City Council.

BUDGET IMPACT None.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED
IN ANNEXATION PETITION ANX 06-1867, CC2005-38, FOR
PROPERTY LOCATED AT 2055 NORTH FOX HUNTER ROAD,
CONTAINING 1.4 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: That the official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4: That the above-described property is hereby assigned to Ward No. One.

PASSED and APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
ANX 06-1867

PART OF THE NE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ OF SECTION 1, T-16-N, R-30-W, DESCRIBED AS FOLLOWS: BEGINNING 210 FEET SOUTH AND 58.2 FEET WEST OF THE NE CORNER OF SAID 40 ACRE TRACT (SAID POINT OF BEGINNING BEING THE CENTERLINE OF COUNTY ROAD NO. 75) AND RUNNING THENCE WEST 261 FEET; THENCE SOUTH 283.4 FEET; THENCE EAST 206 FEET TO THE CENTERLINE OF COUNTY ROAD NO. 75 THENCE NORTHERLY WITH THE CENTERLINE OF SAID ROAD TO THE PLACE OF BEGINNING, CONTAINING 1.43 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

DRAFT



PC Meeting of January 9, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Associate Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: December 22, 2005

ANX 06-1867: (WALES, 571): Submitted by JASON AND AMY WALES for property located at 2055 N FOX HUNTER RD. The property is in the Planning Area and contains approximately 1.42 acres. The request is to annex the subject property into the City of Fayetteville.

Property Owner: JASON AND AMY WALES

Planner: JESSE FULCHER

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report:

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
	☒ Forwarded	☐ Denied
Date: <u>January 9, 2006</u>	Motion:	<u>Graves</u>
	Second:	<u>Allen</u>
	Vote:	<u>7-0-0</u>
CITY COUNCIL ACTION:	Required	<u>YES</u>
	☐ Approved	☐ Denied
Date: <u>February 7, 2006 (1st reading if recommended)</u>		

BACKGROUND:

Property description: The subject property contains 1.42-acres and is located at 2055 N. Fox Hunter Rd., south of HWY 45. The property is adjacent to Barrington Park Subdivision to the west and Ridgemonte Estates to the east.

Proposal: The applicant proposes annexation of 1.42 acres into the City of Fayetteville.

Recommendation: Staff recommends approval of the proposed annexation based on the findings herein.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single Family Home	RSF-4, Res. Single Family – 4 units/acre
South	Single Family Home	RSF-4, Res. Single Family – 4 units/acre
East	Single Family Home	Planning Area
West	Single Family Home	RSF-4, Res. Single Family – 4 units/acre

INFRASTRUCTURE:

Streets: The property has frontage on Fox Hunter Rd. and Buckley Dr.

Nearby Master Street Plan Streets:

North: Fox Hunter Rd. (Collector)

East: Fox Hunter Rd. (Collector),

West: N. Buckley Drive (Residential)

Water: Public water is adjacent to the site. There is a 6" waterline that runs along the west and east sides of the property.

Sewer: Sanitary sewer is adjacent to the site. There is an 8" sewer line that runs along the west and north sides of the property.

Fire: The subject property is located approximately 2.1 miles from the Fire Station #5 with a projected response time of 5.5 minutes. When the new Station 5 is put in service at Crossover Rd. and Old Wire Rd., the response time will increase to 6 minutes. The Fire Department does not figure calls for service on properties that are only being considered for annexation. There should be no adverse effects on call volume or response time to this annexation.

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 or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 identifies the portion of this property within the Planning Area as **Residential**.

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES BOUNDARIES

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property will not create an island or a peninsula. Rather, annexation of the property would create a uniform city boundary, since the property is currently adjacent on three sides to incorporated properties and bounded on the east side by public right-of-way.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the north, south, west and bounded by right-of-way to the east.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area is located adjacent to Barrington Park Subdivision on three sides. Annexation of the subject property will fill in a gap in the City Limits and create a more desirable boundary.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels. The north, south and west property lines are adjacent to the incorporated property and the east property line is bounded by right-of-way.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of 5.5 minutes for fire protection from Fire Station #5. Response times are anticipated to be increase to 6 minutes when Fire Station #5 is moved to the corner of Crossover Rd. and Old Wire Rd.

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: The property has a dense tree canopy which can be protected to a degree if further development occurs on the property.

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase

the load on police services or create and appreciable increase in traffic danger and congestion in the area.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police currently serve the Barrington Park. Service shall be provided to this area with the same level of response and service as other developments in this area.

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 the surrounding areas. The subject property is being served by city water.

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: No development is currently proposed.

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. There are no requests to rezone this property at this time. Currently, there are no land use regulations on the property. Annexation and a Residential Agriculture zoning will allow for those uses permitted within the R-A district.

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 property.

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has not been proposed.

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: While the annexation request is for a small tract of land, the annexation of the property will create a more desirable city boundary.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 1.42 acres.

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.

FILED

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KAREN COMBES PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.
Case No. CC-2005- 38

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

JASON WALES and AMY WALES

PETITIONERS

PETITION FOR ANNEXATION

Comes now the Petitioners, Jason Wales and Amy Wales, and for their Petition they
allege and state that:

1. Petitioners are the record owners of a certain tract of real property contiguous to and
adjoining the City of Fayetteville, Washington County, Arkansas. Said property is located at
2055 N. Fox Hunter Road, Fayetteville, Arkansas 72701 and is described as follows:

Part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 1, T-16-N, R-30-W, described
as follows: Beginning 210 feet South and 73.2 feet West of the NE corner
of said 40 acre tract and running thence West 246 feet; thence South 283.4
feet; thence East 191 feet to the West line of the Public Road thence
Northerly with the West side of said Road to the place of beginning,
containing 1.42 acres, more or less, Washington County, Arkansas.

The above described tract being more accurately described and shown
on the plat of Barrington Parke Phase I identified as a tract of land
owned by John and Myrtle Samples which lies between Lots 2, 3 & 4
as shown on plat of record in plat book 13, at page 7, plat records of
Washington County, Arkansas.

2. The property is located in Washington County, Arkansas, and this Court has
jurisdiction to hear this Petition pursuant to Ark. Code Ann. § 14-40-601.

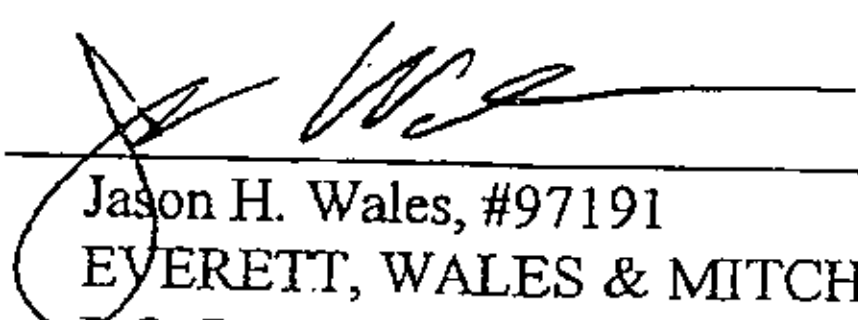
3. The Petitioners desire to annex the property described in paragraph 1 into the City of
Fayetteville, Washington County, Arkansas.

4. A true and correct copy of a map of the property showing that it is adjacent to the City limits of the City of Fayetteville is attached hereto as Exhibit A.

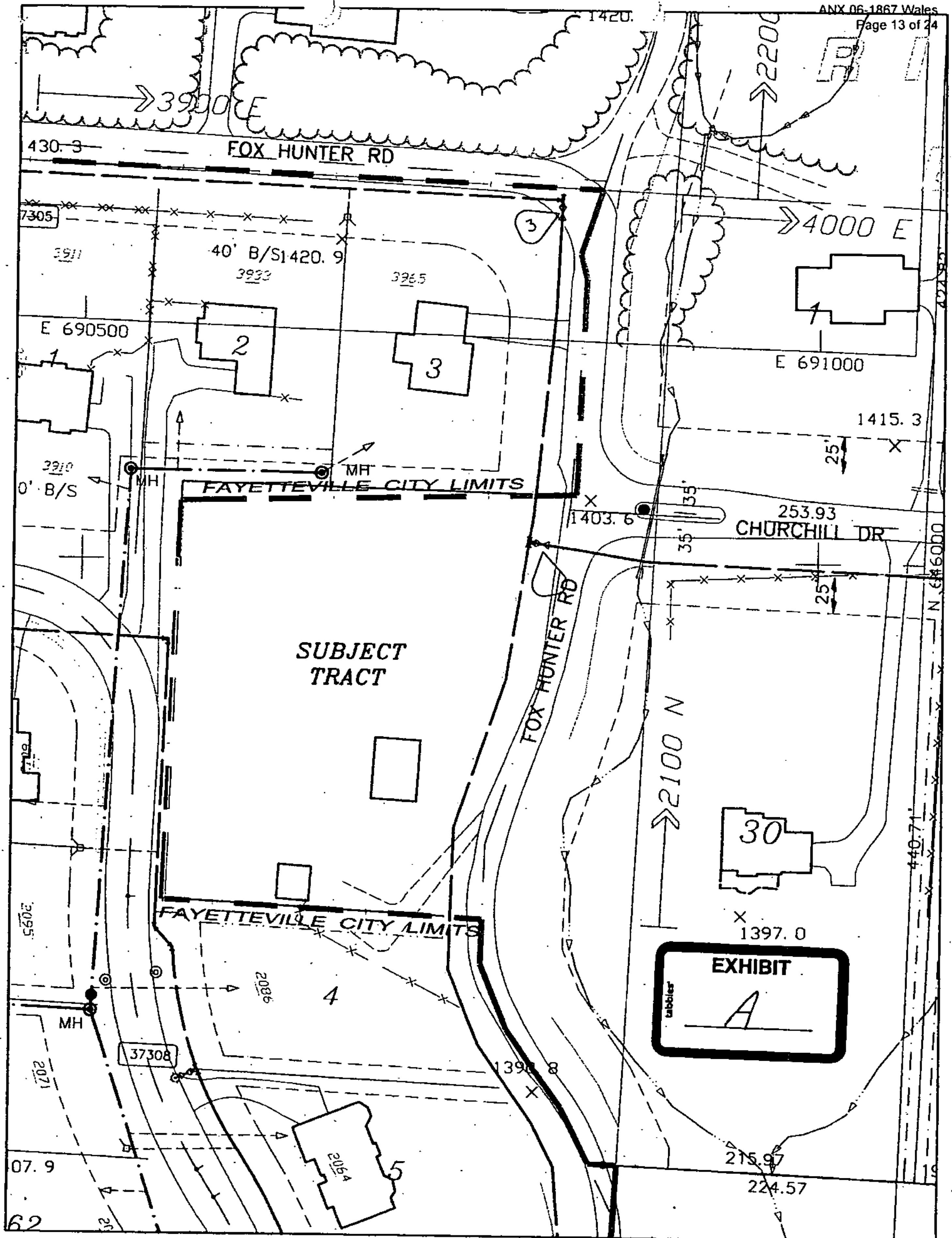
5. Petitioners state that Jason H. Wales is authorized to act for and on behalf of the Petitioners in all matters connected with this Petition and any subsequent hearings or annexation proceedings connected therewith.

WHEREFORE, Petitioners pray that this Court set a date for hearing this Petition not less than 30 days after the date of filing and that at such hearing this Court enter its order granting the Petition and annexing the property described in paragraph 1 into the City of Fayetteville, Washington County, Arkansas.

JASON WALES and AMY WALES,
Petitioners

By: 

Jason H. Wales, #97191
EVERETT, WALES & MITCHELL
P.O. Box 8370
Fayetteville, AR 72703
(479) 443-0292



IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

Case No. CC-2005-38

JASON WALES and AMY WALES

PETITIONERS

ORDER OF ANNEXATION

Now on this 7TH day of November, 2005, this cause comes on to be heard, the Petitioners announcing ready for a hearing of the cause and there being no protests or objections filed, whereupon, the matter is submitted to the Court upon the petition filed herein, and the oral and documentary evidence adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on September 22, 2005, at which time this court fixed November 7, 2005 at 10:00 o'clock a.m., as the date of hearing for said cause, and that a full thirty (30) days notice of hearing was given as required by state law and the proof of publication of said notice is now on file with the Clerk of this Court and the court has jurisdiction of this cause.
2. The court is satisfied that the allegations of the petition are sustained by the proof; that the limits of the territory to be annexed have been properly filed; that a majority of the property owners having a freehold interest in the property hereinafter described joined in the petition and constitute of the real owners of the area affected.
3. The land proposed to be annexed to the City of Fayetteville, Washington County, Arkansas, in this cause is described as follows:

Part of the NE ¼ of the SE ¼ of Section 1, T-16-N, R-30-W, described as follows: Beginning 210 feet South and 58.2 feet West of the NE corner of said 40 acre tract (said point of beginning being the centerline of County

FILED
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AREN COMBES PROCHAD
CO. & PROBATE CLERK
WASHINGTON COUNTY ARK.

Road No. 75) and running thence West 261 feet; thence South 283.4 feet; thence East 206 feet to the centerline of County Road No. 75 thence Northerly with the centerline of said Road to the place of beginning, containing 1.43 acres, more or less, Washington County, Arkansas.

The above described tract being more accurately described and shown on the plat of Barrington Parke Phase I identified as a tract of land owned by John and Myrtle Samples which lies between Lots 2, 3 & 4 as shown on plat of record in plat book 13, at page 7, plat records of Washington County, Arkansas.

4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is peculiarly adapted for urban purposes and this territory should be annexed to and made part of the City of Fayetteville, Arkansas.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real property situated in Washington County, Arkansas, is hereby annexed to and made a part of the City of Fayetteville, Arkansas, in accordance with Ark. Code Ann. § 14-40-601 et seq. and this Order shall be duly recorded by the Clerk of Washington County.

IT IS SO ORDERED.


JERRY HUNTON,
County Judge

WALES (ANX 06-1867)

Public water is adjacent to the site. There is a 6" waterline that runs along the west and east sides of the property.

Sanitary sewer is adjacent to the site. There is an 8" sewer line that runs along the west and north sides of the property.

The site currently has frontage on Buckley Drive and Fox Hunter Road.

CHAMBERS (RZN 06-1868)

Public water is adjacent to the site. There is a 6" waterline that runs along Willow Street. An evaluation will need to be made at the time of plan submittal of any improvements to the water system that may be required.

Sanitary sewer is adjacent to the site. There is a 6" sewer line that runs along Willow Street. An evaluation will be made by staff at the time of preliminary plat or large scale development. A study of the downstream system shall be conducted by the developer.

The site will have access to Willow Street. Further evaluation will be conducted by staff at the time of construction plan submittal for any required improvements.

Runoff from most of the site flows overland to the south. Standard improvements and requirements for drainage will be required for the development.

NOCK/BROYLES (ANX 06-1853, RZN 06-1854)

Public water is near to the site. Substantial improvements to the water system will be required which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Sanitary sewer is not near to the site. Substantial improvements to the sewer system will be required which includes off-site improvements. This development will be within the sewer assessment area. An evaluation will be made by staff at the time of preliminary plat or large scale development. A study of the downstream system shall be conducted by the developer.

The site has access to Weir, Howard Nickel, and Salem Road. Improvements will be required to surrounding streets which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Runoff from most of the site flows overland to the south. Standard improvements and requirements for drainage will be required for the development.

PADDOCK ROAD PZD (PZD 05-1735)

There is currently a 2" waterline running along Happy Hollow Road. An 8" public water main has been approved to extend near to the site with the Timber Trails Subdivision. Substantial improvements to the water system may be required which includes other off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Sanitary sewer is not currently adjacent to the site. A public main has been approved to extend near to the site with the Timber Trails Subdivision. Improvements to the sewer system may be required which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

January 3, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 06-1867 (Wales, 373) submitted by Jason and Amy Wales for property located at 2055 Fox Hunter 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 will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown", is written over a horizontal line.

Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
From: Captain Dale Riggins
Date: January 4, 2006
Re: January 3, 2006 Re-zoning Review – Fire Department Comments

ANX06-1867 (Wales, 373)

This 1.42 acres is covered by Engine 5 at 833 N Crossover.

It is 2.1 miles from the station with an expected response time of 5.5 minutes. When the new station 5 is put in service at Crossover and Old Wire the response time will increase to 6 minutes

We do not figured projected calls for service on annexations.

There should be no adverse effects on our call volume or response time to this annexation.

RZN06-1868 (Chambers, 485)

This .20 acre is covered by Engine 1 and Ladder 1 at 303 W Center.

It is 0.8 miles from the station with an expected response time of 4 minutes. With such a small parcel the anticipated calls for service was figured at 0.

There should be no adverse effects on our call volume or response time to this development.

RZN06-1852 (Scholar's Inn Apartments, 402)

These 2.25 acres are covered by Engine 7 at 835 N. Ruppel Rd.

It is 1.4 miles from the station with an expected response time of 3.75 minutes. The Fire Department anticipates 12 (7 EMS - 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

Measured Hydrant Flow in this area is 710 gallons/minute.

There should be no adverse effects on our call volume or response time to this development.

ANX06-1853 (Nock/Broyles Salem Rd, 205/206)

RZN06-1854 (Nock/Broyles Salem Rd, 205/206)

These 19.99 acres are covered by Engine 7 at 835 N Ruppel.

It is 3.4 miles from the station with an anticipated response time of 8.75 minutes. This long response time is due to Ruppel Road being narrow and curvy. Engine 2, on N Garland, has approximately the same response time. This response time is above our goal of having the first unit on the scene within 6 minutes, 90% of the time, and our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. It has been proposed (Fayetteville Fire Department: Deployment Study 2003) to build a fire station (Station 9) to cover this northwest part of the city.

The Fire Department anticipates 18 (11 EMS - 7 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. The service impact of this type development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

Measured hydrant flow in this area is 805 gallons/minute.

There should be no adverse effects on our call volume to this development.

PZD05-1735 (Paddock Road, S/D, 526)

These 10 acres are covered by Engine 5 at 833 N Crossover Rd.

It is 1.3 miles from the station with an anticipated response time of 3.25 minutes. After Station 3 is located at Happy Hollow and E Huntsville, the distance from the station will be reduced to .6 miles with an anticipated response time of 2 minutes. The Fire Department anticipates 13 (8 EMS - 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

There should be no adverse effects on our call volume or response time to this development.

R-PZD-1619 (Westbrook Village, 284)

This 1.42 acre is covered by Engine 7 at 835 N Ruppel Rd.

It is 2.2 miles from the station with an anticipated response time of 6 minutes. The Fire Department anticipates 2 (1 EMS - 1 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measure hydrant flows in this area is 1500 gallons/minute.

There should be no adverse effects on our call volume or response time to this development.

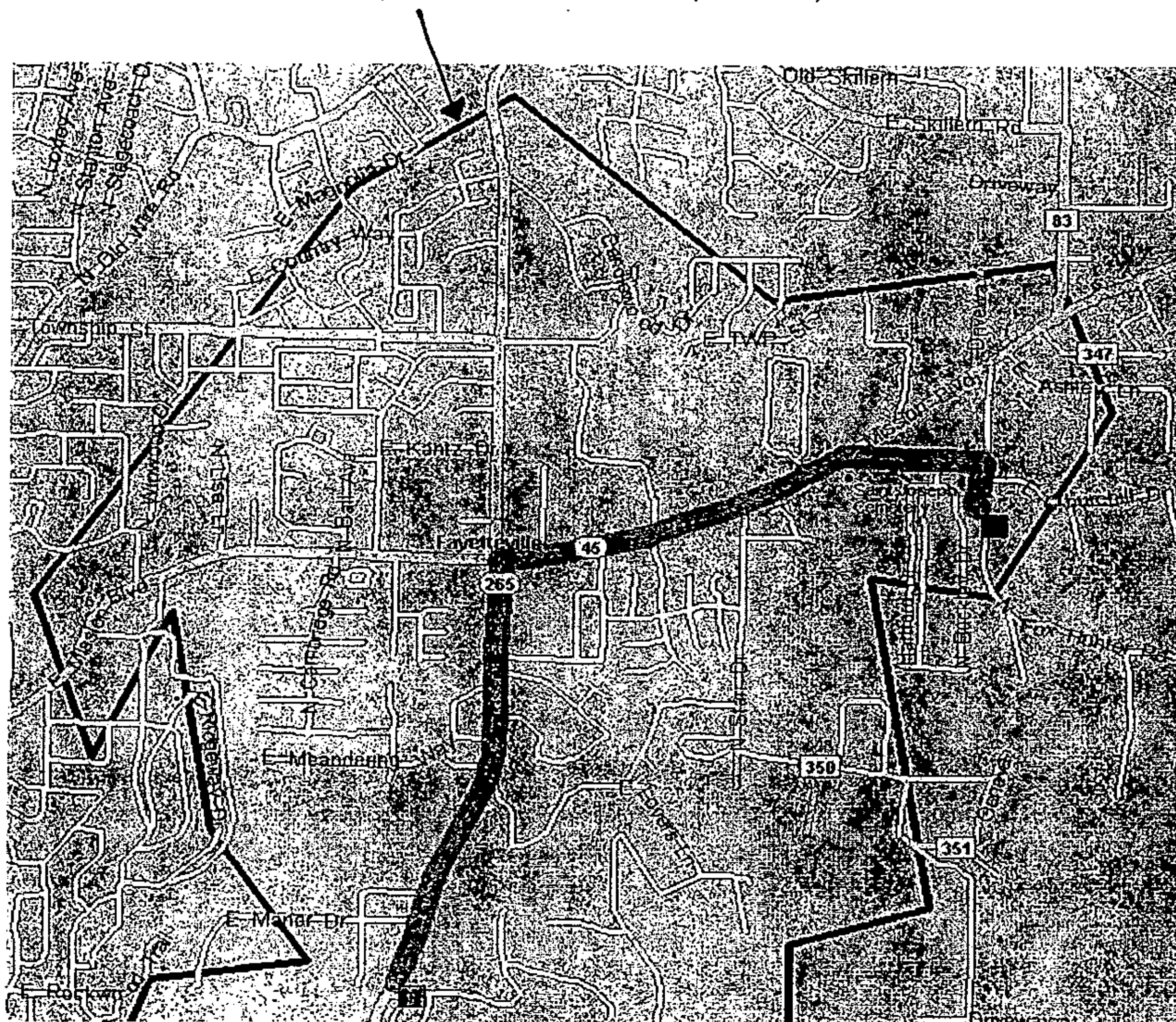
If you have any questions or need additional information don't hesitate to call me at x365

Dale Riggins

Fayetteville Fire Department

Wales
ANX06-1867

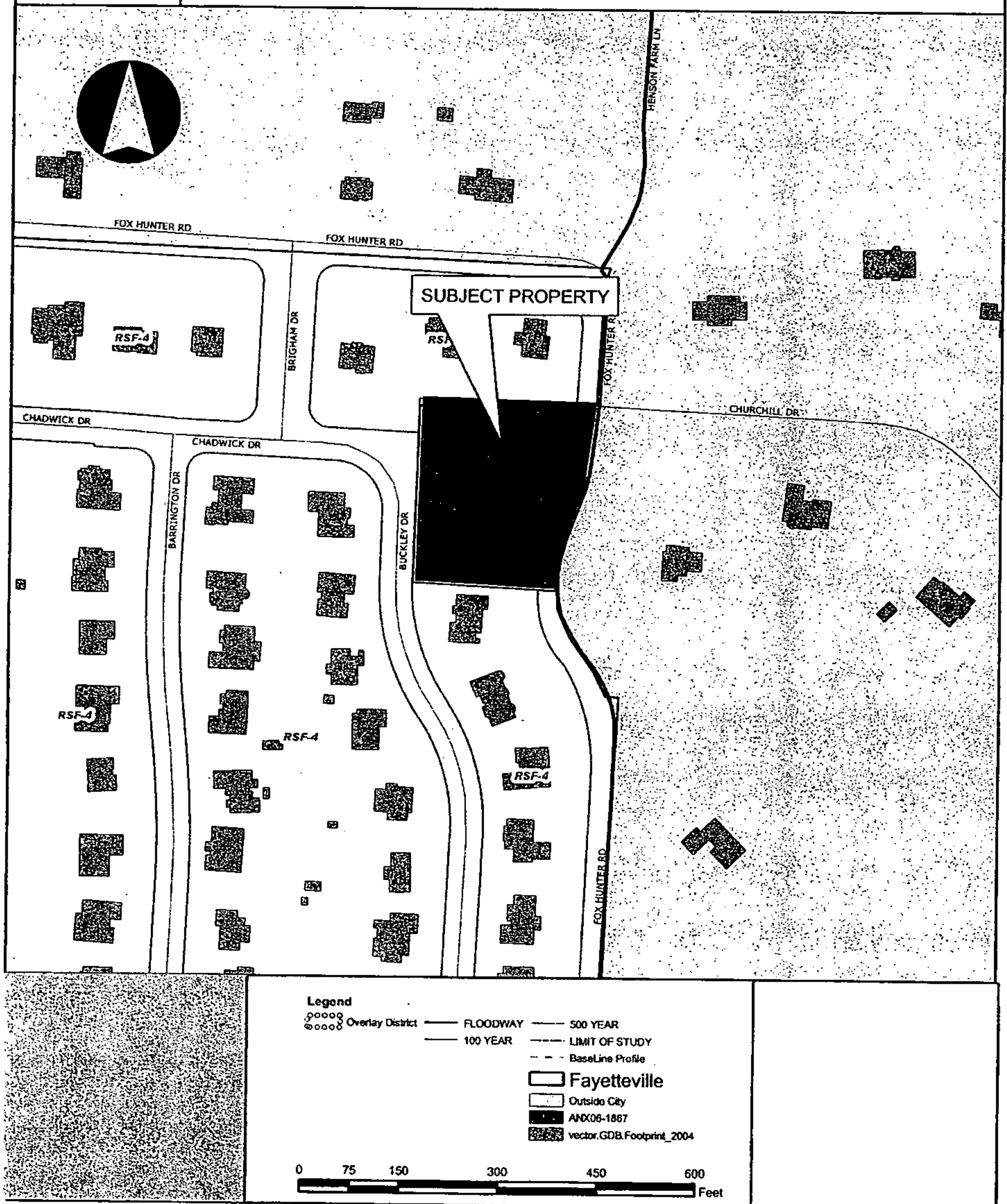
2.1 Miles
5 Minute Response Time
(Blue line indicates 6 mile response area)



ANX06-1867

Close Up View

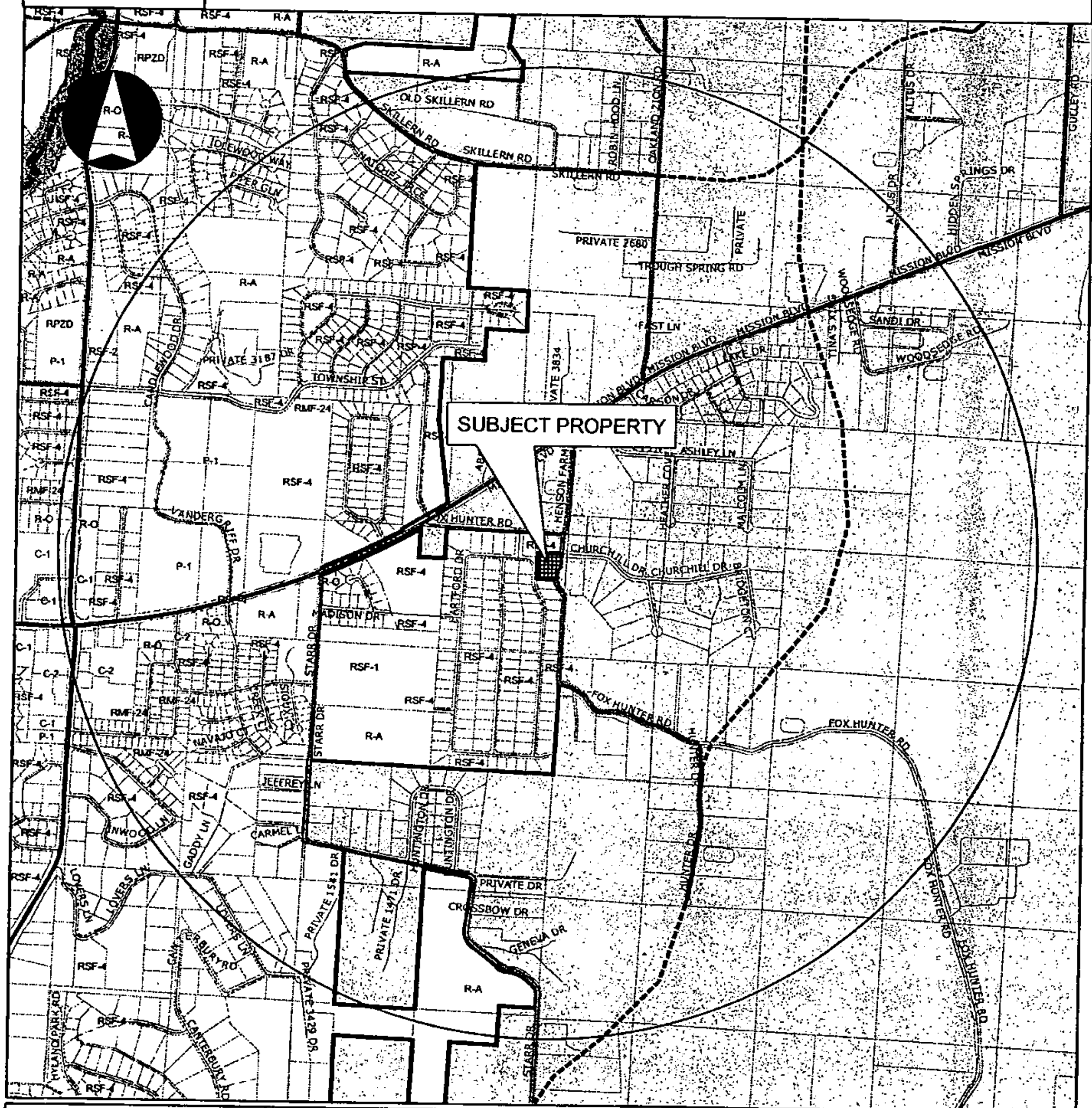
WALES



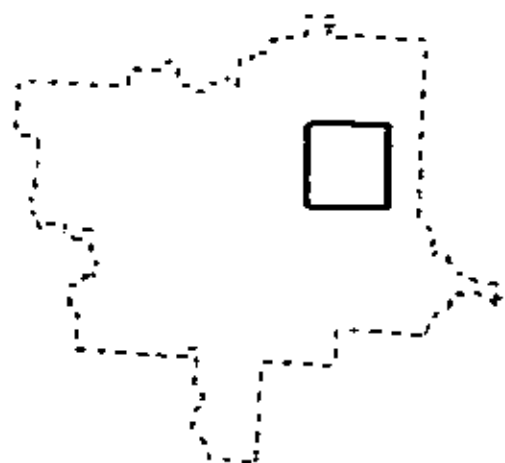
ANX06-1867

One Mile View

WALES



Overview

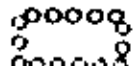
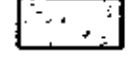


Legend

Subject Property



Boundary

 Planning Area☐ Outside City

Legend

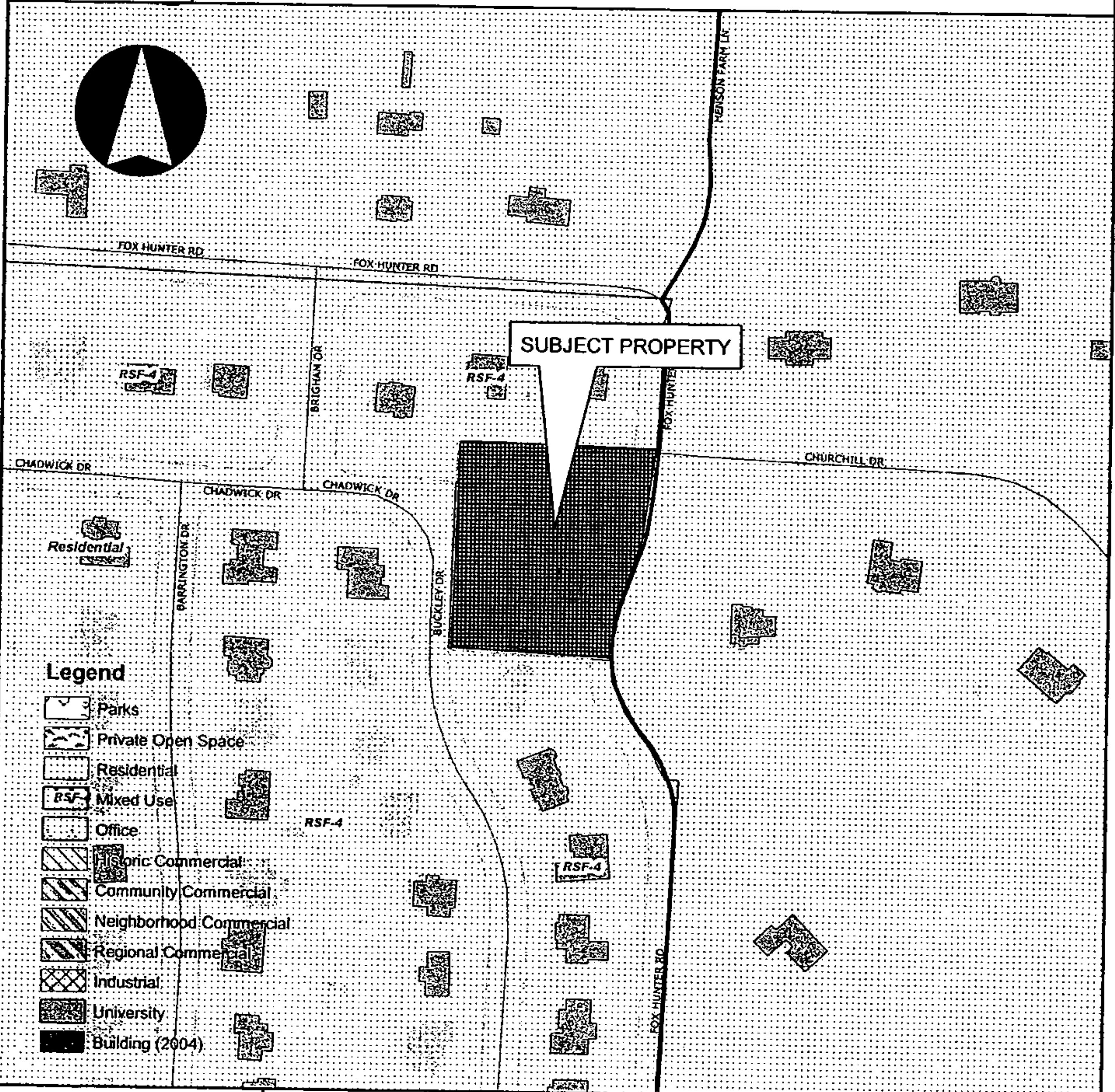
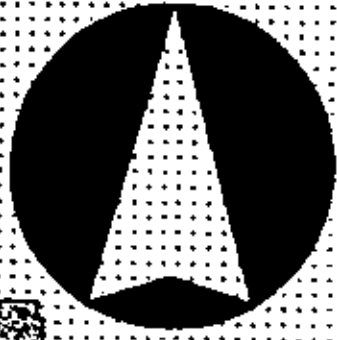
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Miles

ANX06-1867

Future Land Use

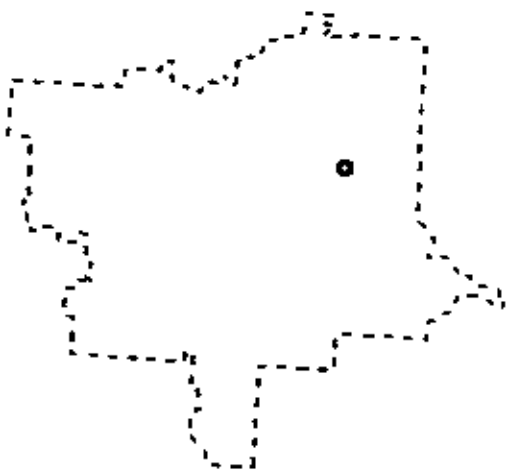
WALES



Legend

- Parks
- Private Open Space
- Residential
- RSF-4 Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University
- Building (2004)

Overview



Legend

- Subject Property
- ANX06-1867
- Boundary
- Planning Area
- Streets
- Existing
- Planned
- Overlay District
- Outside City

Legend



**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

7-Feb-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 05-1619: (Westbrook Village, 284): Submitted by Nock Investments for property located at Lots 1 & 2 of the original Salem Village P.U.D. The property is zoned RSF-4, Residential Single Family, 4 Units per Acre and contains approximately 1.42 acres. The request is to approve a Residential Planned Zoning District with 7 single-family residential dwelling units.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 1-19-06
Department Director Date

Previous Ordinance or Resolution # n/a

[Signature] 1-20-06
City Attorney Date

Original Contract Date: n/a

Original Contract Number: n/a

[Signature] 1-23-06
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED
1-19-06

[Signature] 1/27/06
Mayor Date

Received in Mayor's Office
ENTERED
1/23/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: January 13, 2006

Subject: Residential Planned Zoning District for Westbrook Village (R-PZD 05-1619)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Westbrook Village, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 1.42 acres located at Lots 1 & 2 of the Salem Village P.U.D. The proposal consists of a residential development consisting of 7 single-family residential dwelling units.

BACKGROUND

Lots 1 and 2 were created as part of the original Salem Village P.U.D. for future development. Most of the Salem Village development has been constructed, however the two larger tracts located at the entrance into Salem Village are currently vacant and have retained the original RSF-4 zoning. Since the P.U.D. process is no longer an option for developing the remaining lots, the developer has requested a Residential Planned Zoning District to allow for similar lot sizes and configurations as those already developed in Salem Village.

DISCUSSION

The Planning Commission voted 7-0-0 in favor of this request on January 9, 2005. A Planned Zoning District requires City Council approval as it includes zoning and land use approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1619, WESTBROOK VILLAGE, LOCATED AT TRACTS 1 AND 2 OF THE ORIGINAL SALEM VILLAGE P.U.D., CONTAINING APPROXIMATELY 1.42 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN:

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

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

From RSF-4, Residential Single-Family, 4 units per acre, to R-PZD 05-1619 as shown in Exhibit "A" attached hereto and made a part hereof:

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

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

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

PASSED AND APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 05-1619

SURVEY DESCRIPTION TRACT ONE:

ALL OF TRACT ONE AS SHOWN ON THE FINAL PLAT OF SALEM VILLAGE P.U.D., RECORDED IN PLAT BOOK 15 AT PAGE 70, BEING PART OF THE NW1/4 OF THE SW1/4 OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, ALSO BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND IRON PIN AT THE NORTHWEST CORNER OF SAID TRACT ONE; THENCE S87°28'49"E 198.16 FEET; THENCE S02°34'27"W 117.00 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LONG CHORD THAT BEARS S47°34'27"W, 35.36 FEET, AN ARC DISTANCE OF 39.27 FEET TO A FOUND IRON PIN; THENCE N87°25'33"W 46.20 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 48.00 FEET, A LONG CHORD THAT BEARS S66°03'25"W, 42.86 FEET, AN ARC DISTANCE OF 44.43 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A LONG CHORD THAT BEARS S66°01'47"W, 13.38 FEET, AN ARC DISTANCE OF 13.87 FEET TO A FOUND IRON PIN; THENCE N87°28'49"W 51.48 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LONG CHORD THAT BEARS N42°28'49"W, 35.36 FEET, AN ARC DISTANCE OF 39.27 FEET TO A FOUND IRON PIN; THENCE N02°31'11"E 142.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.70 ACRES, MORE OR LESS, BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

SURVEY DESCRIPTION TRACT TWO:

ALL OF TRACT TWO AS SHOWN ON THE FINAL PLAT OF SALEM VILLAGE P.U.D., RECORDED IN PLAT BOOK 15 AT PAGE 70, BEING PART OF THE NW1/4 OF THE SW1/4 OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, ALSO BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 2; THENCE N87°28'49"W 152.99 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A LONG CHORD THAT BEARS N42°27'11"W, 21.22 FEET, AN ARC DISTANCE OF 23.58 FEET TO A FOUND IRON PIN; THENCE N02°34'27"E 6.23 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 51.00 FEET, A LONG CHORD THAT BEARS N08°56'20"W, 20.36 FEET, AN ARC DISTANCE OF 20.50 FEET TO A FOUND IRON PIN; THENCE N20°27'08"W 109.75 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF

25.00 FEET, A LONG CHORD THAT BEARS N36°02'02"E, 41.69 FEET, AN ARC DISTANCE OF 49.29 FEET TO A FOUND IRON PIN; THENCE S87°28'49"E 70.64 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A LONG CHORD THAT BEARS S61°04'04"E, 13.34 FEET, AN ARC DISTANCE OF 13.83 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 48.00 FEET, A LONG CHORD THAT BEARS S61°02'26"E, 42.66 FEET, AN ARC DISTANCE OF 44.21 FEET; THENCE S87°25'33"E 46.19 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LONG CHORD THAT BEARS S42°25'33"E, 35.36 FEET, AN ARC DISTANCE OF 39.27; THENCE S02°34'27"W 127.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.72 ACRES, MORE OR LESS, BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

DRAFT



PC Meeting of January 9, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: January 4, 2006

R-PZD 05-1619: Planned Zoning District (WESTBROOK VILLAGE, 284): Submitted by NOCK INVESTMENTS for property located at TRACTS 1 & 2 ORIGINAL SALEM VILLAGE P.U.D. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.42 acres. The request is to approve a Residential Planned Zoning District on the subject property with 7 single family lots proposed.

Property Owner: HANK BROYLES Planner: JESSE FULCHER

Findings:

Proposal: The applicant requests a rezoning and preliminary plat approval for a residential subdivision within a unique R-PZD zoning district. This project was submitted under the original PZD ordinance and therefore is not in the PZD Master Development Plan format. The proposed use of the site is for a residential development consisting of 7 single-family residential dwelling units.

Existing Development: Lots 1 and 2 were created as part of the original Salem Village P.U.D. for future development. Most of the Salem Village development has been constructed, however the two larger tracts located at the entrance into Salem Village are currently vacant and have retained the original RSF-4 zoning. Since the P.U.D. process is no longer an option for developing the remaining lots, the developer has requested a Residential Planned Zoning District to allow for similar lot sizes and configurations as those already developed in Salem Village.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Undeveloped	RSF-4, Res. Single Family - 4 units/acre
South	Salem Village PUD	RSF-4, Res. Single Family - 4 units/acre
East	Gary Hampton Softball Complex	RSF-4, Res. Single Family - 4 units/acre
West	Salem Village PUD	RSF-4, Res. Single Family - 4 units/acre

The following bulk and area regulations are proposed by the applicant:
R-PZD 05-1619 Westbrook Village

(A) Proposed Uses.

Lots 1-7	Unit 1	City-wide uses by right
	Unit 8	Single-family dwelling

(B) Conditional Uses

Lots 1-7	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.

	For entire Subdivision
Units per acre	7 units/1.39 acres = 5.03 units/acre

(D) Bulk and area regulations.

	Single-family dwellings (all residential lots)
Lot minimum width	40'
Lot area minimum	4,500 square feet
Land area per dwelling unit	4,500. Only one dwelling unit per lot permitted.

(E) Setback requirements.

Lot #	North Side	East Side	South Side	West Side
1A	10'	0'	15'	10'
2A	10'	0'	15'	0'
3A	10'	0'	15'	0'
4A	10'	40'	15'	0'
5A	15'	40'	0'	15'
6A	0'	40'	0'	15'
7A	0'	40'	15'	15'

(F) Height. Dwelling – 35'

(G) Building area. 4,500 square feet maximum per lot

Total proposed dwelling units on the 1.39-acre site (less 0.03 acres right-of-way) is 7; therefore the proposed density for the R-PZD is **5.03 DU/acre**. The project site is currently zoned RSF-4, allowing for single dwelling units. This development will resemble the original Salem Village P.U.D.

Water & Sewer: Water and sewer are not adjacent to all lots within the site. Improvements to the water and sewer system are required to serve the proposed lots.

Access: All public rights-of-way were constructed with Salem Village. As with the original development, each lot will access from an alley located at the rear of the lots.

Street Improvements Proposed: No street improvements are required, since all improvements, including sidewalks, were installed with the original development. However, with the adoption of the Master Street Plan and the designation of Salem Road as a Collector Street, an additional 5' of right-of-way will be dedicated.

Adjacent Master Street Plan Streets: Salem Rd. (Collector), Clabber Creek Blvd. (Local)

Tree Preservation:

Existing canopy:	0 %
Preserved canopy:	0 %
Required canopy:	0 %
Mitigation:	None-A Tree Preservation Plan Waiver Form was submitted and approved by the Urban Forester.

Parks: Salem Village P.U.D. dedicated land to meet the Park Land Dedication requirement at the time of approval. This dedication did not account for the development of seven single family lots on tracts one and two. Fees in lieu will be assessed for seven single family lots. Parks fees are due in the amount of \$3,885.00 before signing the final plat.

Recommendation: Staff recommends **R-PZD 05-1619** be forwarded to the City Council with a recommendation for approval, with the following conditions:

Conditions of Approval:

1. Planning Commission determination of the required recommendation to the City Council regarding the rezoning of the subject property to the unique district R-PZD 05-1619 with all conditions of approval as determined by the Planning Commission. THE SUBDIVISION COMMITTEE RECOMMENDED IN FAVOR OF THE SUBMITTED PZD.
2. An ordinance creating this R-PZD shall be approved by City Council.
3. All setbacks, protective easements, density, designated uses and other zoning criteria are binding with the approval of the R-PZD. Submitted covenants are likewise binding to the project.
4. Dedication of an additional 5' of right-of-way for a total of 35' for Salem Rd. along the property's frontage to conform with Master Street Plan requirements, shall occur at the time of Final Plat.
5. Parks fees in the amount of \$3,885 for 7 single family dwellings are due prior to Final Plat.
6. Individual lot access shall be prohibited from Salem Rd.
7. All infrastructure improvements shall be installed, inspected and accepted prior to final plat approval.

Standard Conditions of Approval:

8. 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)
9. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
10. Sidewalk construction shall be in accordance with current standards to include six foot sidewalks along Happy Hollow Rd, at the right-of-way line.
11. Street lights shall be installed every 300 feet along all public streets or provide guarantee prior to final plat.
12. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
13. Preliminary Plat shall be valid for one calendar year.

Planning Commission Action:

☒ Approval

☐ Denied

☐ Tabled

Meeting Date: January 9, 2005

7-0-0

Comments:

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

 Signature

 Date

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-PZD 04-06.00 with single-family residential dwelling units is consistent with the land use plan and compatible with surrounding land uses and density in the area.

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.

(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.

(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.

(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

- (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.

Findings associated with R-PZD 05-1619

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. The proposed density is consistent with the existing Salem Village development and maintains the compatible transition from a slightly higher density to the single family homes to the north. To provide the same type of development, including density, lot size and setbacks, the developer has requested a Planned Zoning District.

- (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.

- (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: All existing infrastructure, including streets, have been installed with the development of Salem Village. The proposed PZD will allow the two existing vacant lots within the development to be developed in a similar and appropriate fashion as the previously developed lots.

- (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 units are 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 requirements.

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

FINDING: Sidewalks are existing.

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

FINDING: If street lights are not located within 300' of this development, they shall be constructed by the developer.

- (8) *Water.* As required by §166.03.

FINDING: Water is not adjacent to all lots within the site. Improvements to the water system are required to serve all of the proposed lots.

(9) *Sewer.* As required by §166.03.

FINDING: Sewer is not adjacent to all lots within the site. Improvements to the sewer system are required to serve all of the proposed lots.

(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:

***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 have been 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: A Tree Preservation Plan Waiver Form was submitted and approved by the Urban Forester.

- (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 attached single family housing types, lot arrangements, lot dimensions and building setbacks which are comparable to the original Salem Village PUD. 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 05-1619. 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 will allow for single-family residential development which is comparable and compatible to the existing subdivision. 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 unique style and type of development.

FINDING: The proposed single-family units are permitted uses within a Residential Planned Zoning District. All other ancillary uses (tree preservation/open areas, 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 RSF-4, Residential Single Family – 4 units per acre, to R-PZD 05-1619, 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 04-1154, 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 RSF-4 property to the proposed R-PZD development with single family residential use at a density of 5.03 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 unique 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 70 average two-way vehicle trips per day from this development would be created; a Collector Street, the primary means of access to the site currently, can accommodate 6,000 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: Based on findings from public service providers, as outlined below, an undesirable increase in load on public services would not be created.

Fire - Fire station #7, approximately 2.2 miles away, serves this site. Fire response time to the site is approximately 6 minutes, with an anticipated 2 calls for service at maximum build-out, based on the Service Delivery Impact included as a part of the staff report.

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. 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. Improvements to the water system and sewer system are required to serve all of the proposed lots.

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



PC Meeting of January 9, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: January 4, 2006

ITEM #: R-PZD 05-1619: Planned Zoning District (Westbrook Village)

Background:

- **The Tree Preservation Plan was approved with the original plat for Salem Village. Lots 1A-7A have no existing trees on-site outside of utility easements and/or rights of ways.**

Findings:

- **The 54 trees planted along the rights of ways and utility easements range in size from 2"-8" diameter breast height. None of the trees should be damaged or removed during this process. A Tree Preservation Waiver has been submitted and approved by the Urban Forester.**

**FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS**

**113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469**

TO: Jesse Fulcher, Associate Planner
FROM: Alison Jumper, Park Planner
DATE: November 14, 2005
SUBJECT: Parks & Recreation Tech. Plat Review Comments

Meeting Date: November 16, 2005
Item: R-PZD 05-1619 Westbrook Village, 284
Park District: NW
Zoned: R-PZD
Billing Name & Address: Brandon Barber, SCB Investments

	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	7 @ \$555 per unit = \$3,885
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:

- Salem Village P.U.D. dedicated land to meet the Park Land Dedication requirements at the time of approval. This dedication did not account for development of seven single family lots on tracts one and two. Fees in lieu will be assessed for seven single family lots.
- Parks fees are due in the amount of \$3,885 before signing the final plat.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

January 3, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation PZD 05-1619 (Westbrook Village, 284) submitted by Nock Investments for property located at tracts 1 & 2 Original Salem Village P.U.D. 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 an appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown", is written over a horizontal line.

Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
From: Captain Dale Riggins
Date: January 4, 2006
Re: January 3, 2006 Re-zoning Review – Fire Department Comments

ANX06-1867 (Wales, 373)

This 1.42 acres is covered by Engine 5 at 833 N Crossover.
It is 2.1 miles from the station with an expected response time of 5.5 minutes. When the new station 5 is put in service at Crossover and Old Wire the response time will increase to 6 minutes
We do not figured projected calls for service on annexations.
There should be no adverse effects on our call volume or response time to this annexation.

RZN06-1868 (Chambers, 485)

This .20 acre is covered by Engine 1 and Ladder 1 at 303 W Center.
It is 0.8 miles from the station with an expected response time of 4 minutes. With such a small parcel the anticipated calls for service was figured at 0.
There should be no adverse effects on our call volume or response time to this development.

RZN06-1852 (Scholar's Inn Apartments, 402)

These 2.25 acres are covered by Engine 7 at 835 N. Ruppel Rd.
It is 1.4 miles from the station with an expected response time of 3.75 minutes. The Fire Department anticipates 12 (7 EMS - 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.
The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.
Measured Hydrant Flow in this area is 710 gallons/minute.
There should be no adverse effects on our call volume or response time to this development.

ANX06-1853 (Nock/Broyles Salem Rd, 205/206)

RZN06-1854 (Nock/Broyles Salem Rd, 205/206)

These 19.99 acres are covered by Engine 7 at 835 N Ruppel.

It is 3.4 miles from the station with an anticipated response time of 8.75 minutes. This long response time is due to Ruppel Road being narrow and curvy. Engine 2, on N Garland, has approximately the same response time. This response time is above our goal of having the first unit on the scene within 6 minutes, 90% of the time, and our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. It has been proposed (Fayetteville Fire Department: Deployment Study 2003) to build a fire station (Station 9) to cover this northwest part of the city.

The Fire Department anticipates 18 (11 EMS - 7 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. The service impact of this type development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

Measured hydrant flow in this area is 805 gallons/minute.

There should be no adverse effects on our call volume to this development.

PZD05-1735 (Paddock Road, S/D, 526)

These 10 acres are covered by Engine 5 at 833 N Crossover Rd.

It is 1.3 miles from the station with an anticipated response time of 3.25 minutes. After Station 3 is located at Happy Hollow and E Huntsville, the distance from the station will be reduced to .6 miles with an anticipated response time of 2 minutes. The Fire Department anticipates 13 (8 EMS - 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

There should be no adverse effects on our call volume or response time to this development.

R-PZD-1619 (Westbrook Village, 284)

This 1.42 acre is covered by Engine 7 at 835 N Ruppel Rd.

It is 2.2 miles from the station with an anticipated response time of 6 minutes. The Fire Department anticipates 2 (1 EMS - 1 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measure hydrant flows in this area is 1500 gallons/minute.

There should be no adverse effects on our call volume or response time to this development.

If you have any questions or need additional information don't hesitate to call me at x365

Dale Riggins

Fayetteville Fire Department

development. A study of the downstream system shall be conducted by the developer.

The site has access to Happy Hollow Road. Other improvements that may be required shall be evaluated by staff as development occurs.

Runoff from most of the site flows overland to the east. Standard improvements and requirements for drainage will be required for the development.

WESTBROOK VILLAGE PZD (PZD 05-1735)

Water is not adjacent to all lots within the site. Improvements to the water system are required to serve all of the proposed lots.

Sewer is not adjacent to all lots within the site. Improvements to the sewer system are required to serve all of the proposed lots.

The site has access to Clabber Creek Boulevard and Westminster Drive.



NOCK INVESTMENTS, LLC

"Improvement & Progression Have One Eternal Round"

June 29, 2005

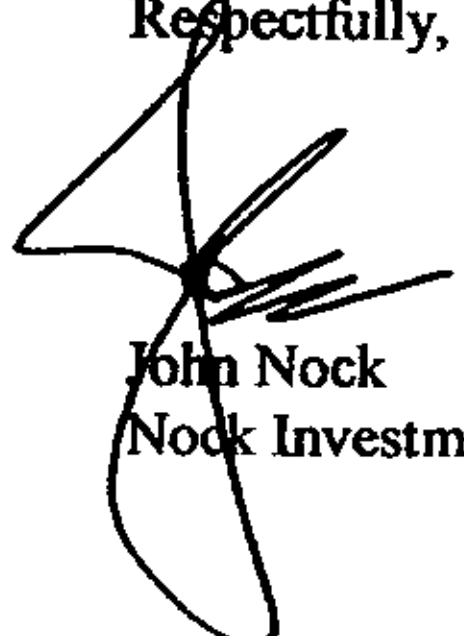
Planning Staff
125 W. Mountain Street
Fayetteville, AR 72701
479.575.8267

Planning Staff:

As the acting representative of SCB Investments for the purpose of obtaining staff approval, Nock Investments, LLC seeks the approval of dividing two parcels within the Westbrook Village Subdivision (former Salem Village Subdivision) as recommended under a PZD strategy. Parcel 765-21137-000 and 765-21138-000 were originally platted for retail/office property. It was assumed at that time that a commercial application to these lots may arise. The project itself floundered thereafter for several years until it was revitalized in 2003. Now with the lots sold out and nearly all lots (exception of 3) built upon, it is apparent that a commercial application is not the highest and best use for the parcels listed above. The intent is to divide these parcels into single family lots in harmony with the existing neighborhood, with rear access alleys and utilities. Submittal for lot splits occurred on March 14, 2005 (see attached letter) but was rejected by staff because complications arising from the original PUD formation. Unfortunately the PUD ordinance no longer exists and a simple lot split will not cover the requirements to facilitate the necessary changes. Since that time several meetings have occurred whereby staff has recommended following a simple PZD approval strategy. Please accept this letter as our request to simplify the process as much as possible to facilitate the endeavor.

The design of the modified lots will be in harmony with the design and size of the existing lots. Houses to be built on the lots will be oriented in accordance with existing neighborhood conditions including rear access alleys and utilities (see design in attached plans).

Respectfully,



John Nock
Nock Investments, LLC

BETTER HOMES OF ARKANSAS CONSTRUCTION, LLC

Westbrook Village

On Salem Road across from Holcomb Elementary

PLANTATION Floorplan—2644 Westminster Dr.



Open House: Saturday May 7 (10am-2pm)

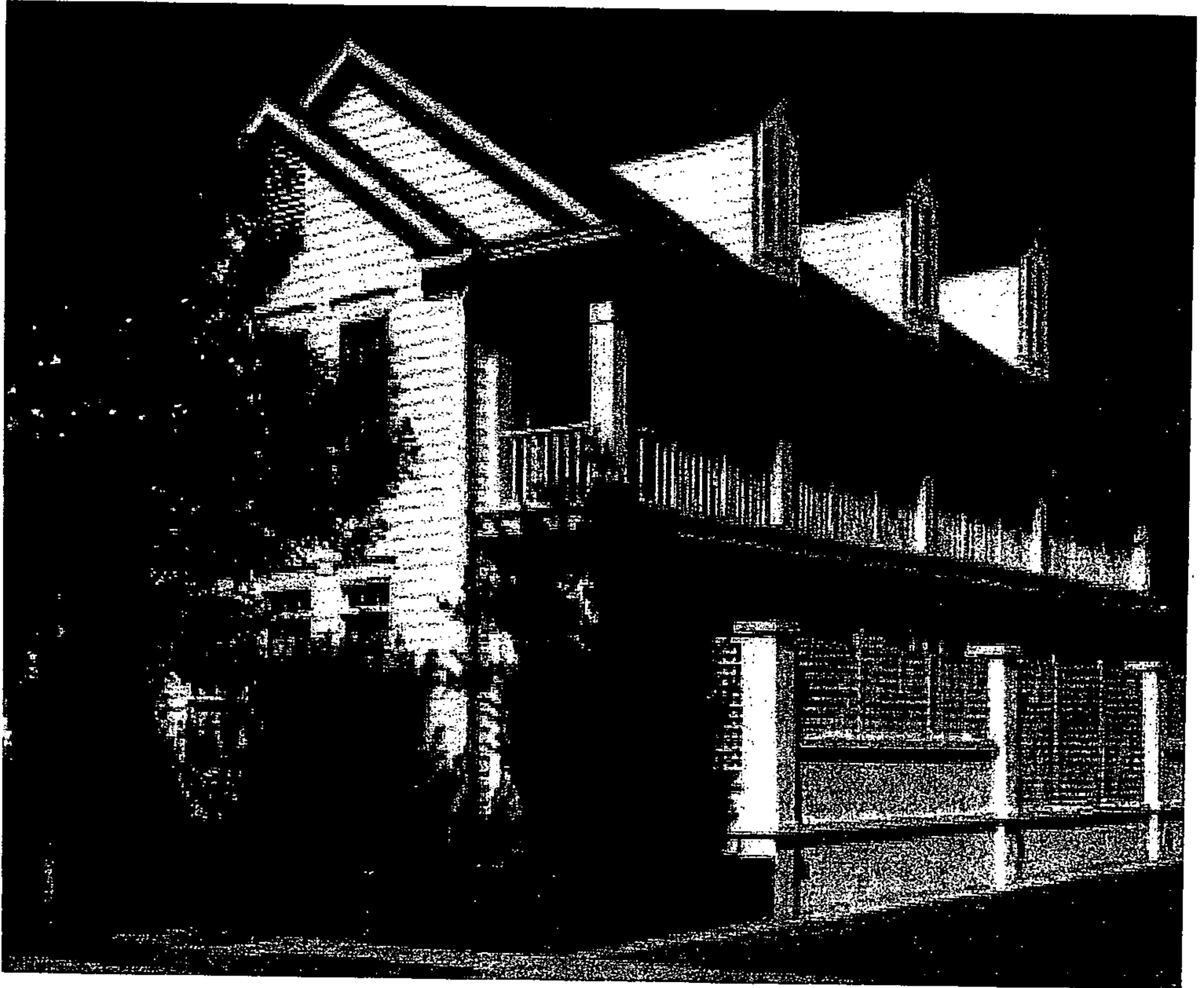
You could move into a Personalized New Home this Summer!

Plantation Floorplan Features: 3 Bedrooms & 3.5 Baths, w/ upstairs Family Room or Office, Maintenance-Free Steel Exterior w/ Gutters, 10' foot ceilings downstairs & 9' up, Rear 2-car garage, Maple Cabinets, Stainless Steel Appliances incl. Refrigerator, Crown Molding, Ceramic Tile floors in all wet areas. Upgrades incl. Granite Tile Countertops, Hardwood Floors, etc. are available.

Westbrook Village Features: Walking distance to Holcomb Elementary, Community Swimming Pool opening this Summer, Property Owners' Association, Protected Wetlands adjacent to Property, Mature Red Maple Trees line all streets, scattered Green Space Islands throughout, All other Homes on this Street are Completed and Sold.

Call **527-3996** to Schedule a Guided Walkthrough.


BHA Construction,
LLC



BETTER HOMES OF ARKANSAS CONSTRUCTION, LLC

Westbrook Village

On Salem Road across from Holcomb Elementary

CHICAGO Floorplan—2713 Whit Lane



Open House: Saturday May 14 (10am-2pm)

You could move into a Personalized New Home this Summer!

Chicago Floorplan Features: 3 Bedrooms & 3.5 Baths, w/ upstairs Family Room or Office, Maintenance-Free Steel Exterior w/ Gutters, 10' foot ceilings downstairs & 9' up, Rear 2-car garage, Dual HVAC & Thermostats, Maple Cabinets, Stainless Steel Appliances incl. Refrigerator, Crown Molding, Ceramic Tile floors in all wet areas. Upgrades incl. Granite Tile Countertops, Hardwood Floors, etc. are available.

Westbrook Village Features: Walking distance to Holcomb Elementary, Community Swimming Pool opening this Summer, Property Owners' Association, Protected Wetlands adjacent to Property, Mature Red Maple Trees line all streets, scattered Green Space Islands throughout, All other Homes on this Street are Completed and Sold.

Call **527-3996** to Schedule a Guided Walkthrough.


**BHA Construction,
LLC**

Quality Homes
Affordable Prices

1.5% Seller Fee

Price \$110,000

BETTER HOMES OF ARKANSAS
CONSTRUCTION, LLC

3616 Clanton Street Blvd
Fayetteville, AR 72704

Phone: 501-527-3996

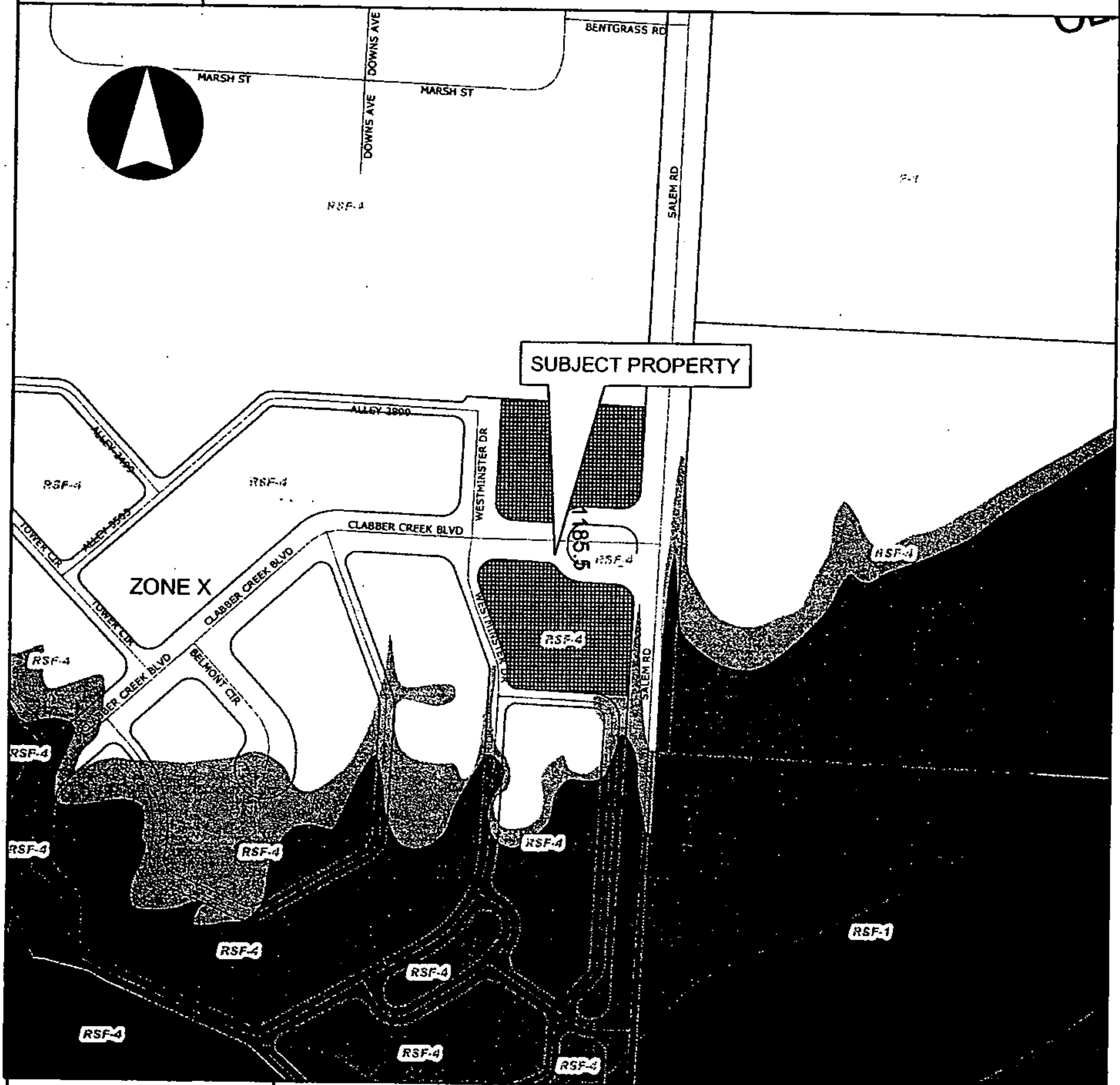
Fax: 501-527-3672

Email: bha@bha.com

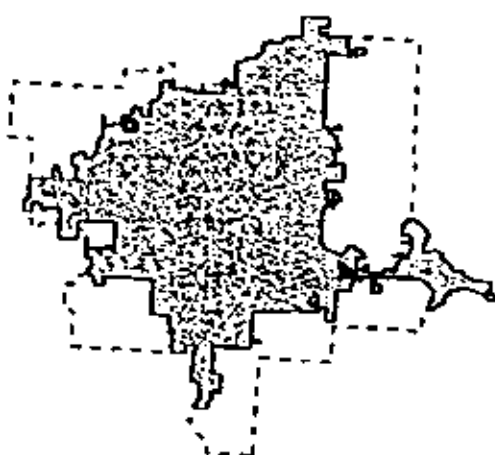
PZD05-1619

Close Up View

WESTBROOK VILLAGE



Overview



Legend

PZD05-1619

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

Fayetteville

Outside City



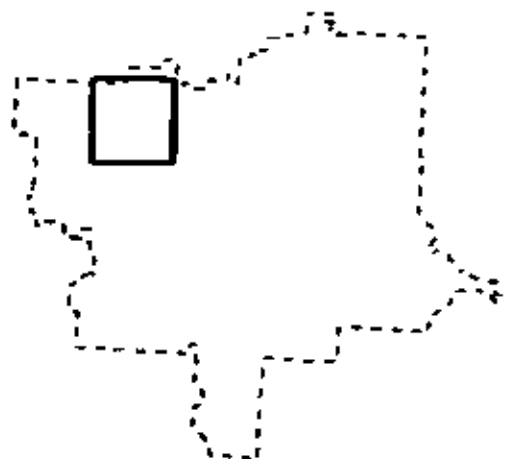
PZD05-1619

One Mile View

WESTBROOK VILLAGE



Overview



Legend

Subject Property

PZD05-1619

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.125 0.25

0.5

0.75

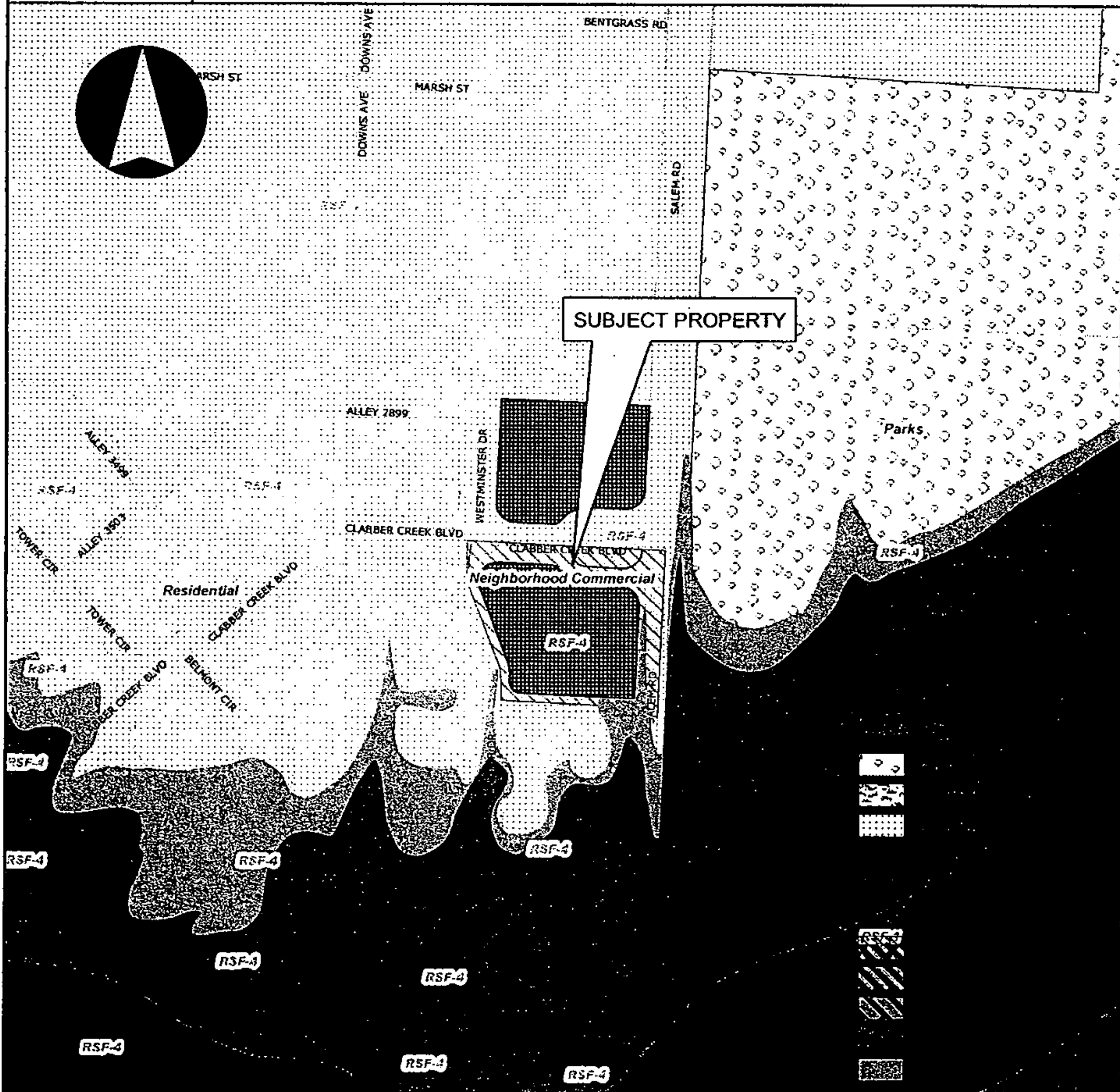
1

Miles

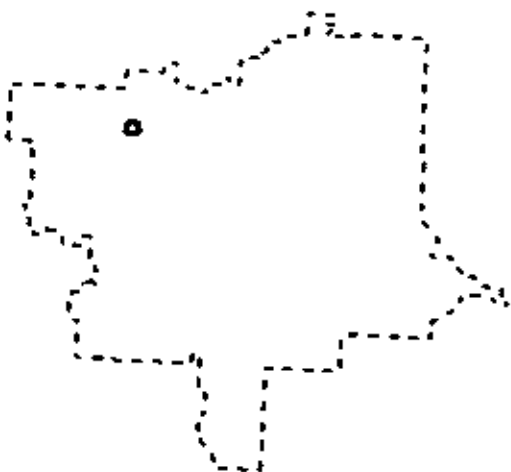
PZD05-1619

Future Land Use

WESTBROOK VILLAGE



Overview



Legend

Subject Property

PZD05-1619

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

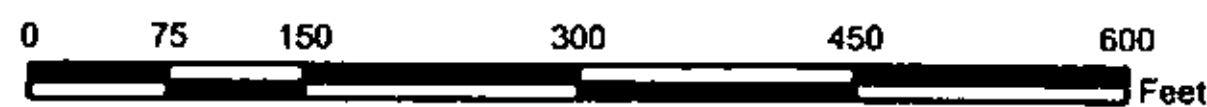
Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Feb-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-1852 (Scholars Inn Apts., 402): Submitted by Richard A. and Debra R. Flynt for property located at 1125, 1137, 1153, 1189 North West End Avenue. The property is zoned RSF-4, Residential Single Family, 4 units per acre, and contains approximately 1.74 acres. The request is to rezone the subject property to RMF-24, Residential Multi-Family, 24 units per acre, to bring an existing non-conforming use into compliance.

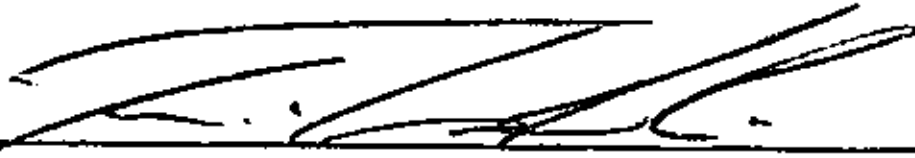
\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

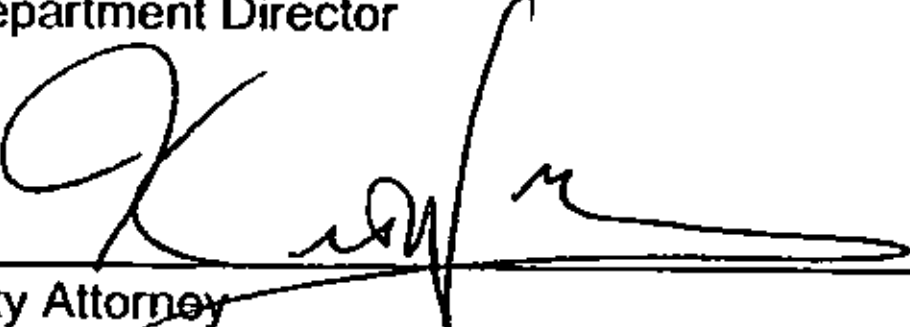
Budget Adjustment Attached

☐


Department Director
1-19-06
Date

Previous Ordinance or Resolution # n/a

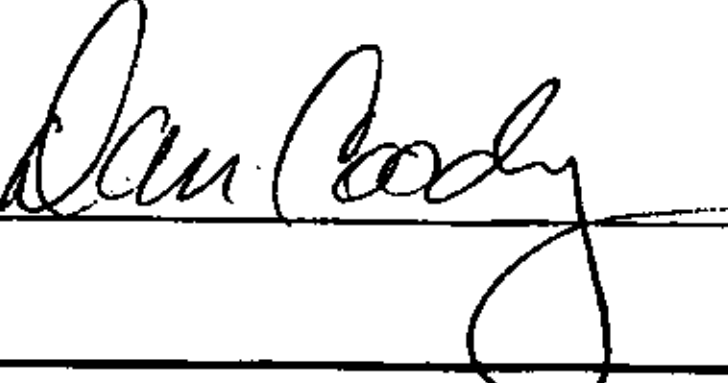
Original Contract Date: n/a


City Attorney
1-20-06
Date

Original Contract Number: n/a


Finance and Internal Service Director
1-23-06
Date

Received in City Clerk's Office
ENTERED
1-19-06


Mayor
1/27/06
Date

Received in Mayor's Office
ENTERED
1/23/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: January 17, 2006

Subject: Rezoning for Scholar's Inn Apartments (RZN 06-1852)

RECOMMENDATION

Planning Staff recommends approval of the proposed rezoning from RSF-4 to RMF-24 on approximately 1.74 acres located north of Wedington Drive, west of West End Road.

BACKGROUND

The subject property contains approximately 1.74 acres of developed property located north of Wedington Drive, east of I-540. The property is currently developed for 51 apartment units, including one office/manager's dwelling.

The applicant's intent is to rezone the property to decrease the nonconformity of the existing development (currently 29.31 units per acre). In the future, the applicant may desire to utilize the existing manager's office/dwelling for professional office purposes, which would require a conditional use permit in the RMF-24 zoning district.

DISCUSSION

This item was heard at the regular Planning Commission on January 09, 2006. The Planning Commission voted 6-0-0 to recommend approval of a rezoning to RMF-24 to the City Council.

The proposed multi-family zoning is consistent with the future land use map and existing zoning and density to the west and north of the subject property. Though the property is adjacent to a single-family residential development to the east, a rezoning of the property would not constitute an encroachment into this single-family residential neighborhood. The rezoning is compatible with multi-family zoning to the west and north. Currently, the development is non-compliant with the required density and building setbacks. Although the current development will be noncompliant with the RMF-24 zoning district, it will allow for the potential redevelopment of the property in a like manner should the structures be destroyed or need significant repair. Additionally, maintaining an area of multi-family zoning adjacent to a Principal Arterial street in close proximity to means of public transportation, a grocery store, and other commercial services is consistent with the General Plan 2020.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 06-1852 FOR APPROXIMATELY
1.74 ACRES LOCATED AT 1125, 1137, 1153, 1189 NORTH WEST
END AVENUE FROM RSF-4, RESIDENTIAL SINGLE FAMILY, 4
UNITS PER ACRE TO RMF-24, RESIDENTIAL MULTI-FAMILY, 24
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-4, Residential Single Family, 4 units per acre to RMF-24,
Residential Multi-Family, 24 units per acre, as shown on 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 _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-1852

A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 16 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS 1029.00" WEST AND 62.55' NORTH FROM THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N76°56'27"W ALONG THE NORTH RIGHT-OF-WAY OF WEDINGTON DRIVE 92.29', THENCE N89°44'02"W ALONG SAID RIGHT-OF-WAY 33.79' TO THE CENTERLINE OF A CREEK, THENCE ALONG SAID CREEK CENTERLINE N00°36'11"W 70.93', N01°31'24"W 124.97', N17°57'03"W 87.21', N00°20'43"E 55.04', N01°05'58"W 91.44', N03°20'10"W 101.23', THENCE LEAVING SAID CREEK CENTERLINE N89°57'55"E 161.95' TO THE WEST RIGHT-OF-WAY LINE OF WEST END DRIVE, THENCE ALONG SAID RIGHT-OF-WAY SOUTH 547.45' TO THE POINT OF BEGINNING. CONTAINING 1.74 ACRES, MORE OR LESS. SUBJECT TO THAT PORTION IN UTILITY, RESTRICTIONS, AND RIGHT-OF-WAYS OF RECORD.

DRAFT



PC Meeting of January 9, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: January 4, 2006 *Updated January 16, 2006*

RZN 06-1852: (SCHOLAR'S INN APTS., 402): Submitted by RICHARD A. & DEBRA R. FLYNT for property located at 1125,1137,1153,1189 N. WEST END AVENUE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.74 acres. The request is to rezone the subject property from RSF-4 to RMF-24, to bring an existing non-conforming use into compliance.
Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends approval of the requested rezoning from RSF-4 to RMF-24 based on the findings included as part of this report.

PLANNING COMMISSION ACTION:		
Required	<u>YES</u>	☐ Denied
☒ Approved		
Date: <u>January 9, 2006</u>	Motion to Approve by Clark	
	Second: Lack	
	Vote: 6-0-0 (Commissioner Myres did not recuse from this item but was not present for the vote.)	
CITY COUNCIL ACTION:		
Required	<u>YES</u>	☐ Denied
☐ Approved		
Date: <u>February 7, 2006 (1st reading if recommended)</u>		

Comments: _____

BACKGROUND:

Property description: The subject property contains approximately 1.74 acres of developed property located north of Wedington Drive, east of I-540. The property is currently developed for 51 apartment units, including 1 office/manager's dwelling.

Proposal: The applicant's intent is to rezone the property to decrease the nonconformity of the existing development (currently 29.31 units per acre). The applicant may, in the future, desire to utilize the existing manager's office/dwelling for professional office purposes, which would require a conditional use permit in the RMF-24 zoning district.

Request: The applicant is requesting the property be rezoned from RSF-4, Residential Single Family, 4 dwelling units per acre, to RMF-24, Residential Multi-Family – 24 units per acre.

Recommendation: Staff recommends approval of the rezoning request based on the findings included in the staff report.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant and Mobile Home Park	RMF-12 (Vacant) and RSF-4
South	Vacant	C-2
East	Multi-family residential	RMF-24
West	Single-family and two-family dwellings	RSF-4

INFRASTRUCTURE:

Streets: Surrounding Master Street Plan Streets:
South: Wedington Dr. (Principal Arterial)
West: I-540 & Shiloh Drive (Collector)

Water: Water is existing to the development.

Sewer: Sewer is existing to the development.

Fire:

- ♦ These 1.74 acres are covered by Engine 7 at 835 N. Ruppel Rd.
- ♦ It is 1.4 miles from the station with an expected response time of 3.75 minutes. The Fire Department anticipates approximately 9 (5 EMS - 4 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.
- ♦ The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.
- ♦ Measured Hydrant Flow in this area is 710 gallons/minute. Static 148; Residual 146; Pitot 100; Measured flow 1630.
- ♦ There should be no adverse effects on our call volume or response time to this development.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services.

LAND USE PLAN: General Plan 2020 designates the site as Residential. Rezoning this property to RMF-24 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 multi-family zoning is consistent with the future land use map and existing zoning and density to the west and north of the subject property. Though the property is adjacent to a single-family residential development to the east, staff finds that the property requested to be rezoned would not constitute an encroachment into this single family residential neighborhood. In fact, the rezoning is compatible with the multi-family zoning to the west and north and consistent with the existing development of property. An apartment complex with 51 dwelling units including an office/manager's residence currently occupies the 1.74 acres at a density of more than 29 units per acre. Currently, the development is non-compliant with the required density and building setbacks. Although the current development will be noncompliant with the RMF-24 zoning district, it will allow for the potential redevelopment of the property in a like manner should the structures be destroyed or need significant repair. Additionally, maintaining an area of multi-family zoning adjacent to a Principal Arterial street in close proximity to means of public transportation, a grocery store, and other commercial services is consistent with the General Plan 2020.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Rezoning the property to RMF-24 will increase the density permitted by right on the property but would not result in further development. The proposed zoning is justified and needed to allow the owner of the existing property the ability to maintain and repair the existing multi-family development that is compatible with the surrounding multi-family developments to the west and north.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Rezoning the property to RMF-24 would not increase the number of occupants and traffic generated from this property as it is currently utilized for 51 residential apartments. The police department has determined the proposed density will not substantially alter the population density to create an undesirable affect on services.

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: If the existing structures were to ever be destroyed and the property remained RSF-4, the maximum allowable number of dwelling units on the property is 6. The current density of this property is approximately 29.3 units per acre. Therefore, the proposed zoning would alter future population density such that it would allow for six times the units and population than is currently allowed, but if one or all of the existing structures were demolished, the property would redevelop at a lesser density than currently exists. Due to the current development of this property, a rezoning from RSF-4 to RMF-24 would not alter the existing population which would in turn increase the load on public services.

Public service providers have responded and their evaluations have been included within 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

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
From: Captain Dale Riggins
Date: January 5, 2006
Re: January 3, 2006 Re-zoning Review – Fire Department Comments

RZN06-1852 (Scholar's Inn Apartments, 402)

These 2.25 acres are covered by Engine 7 at 835 N. Ruppel Rd.

It is 1.4 miles from the station with an expected response time of 3.75 minutes. The Fire Department anticipates 9 (5 EMS - 4 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

Measured Hydrant Flow in this area is 1630 gallons/minute.

There should be no adverse effects on our call volume or response time to this

If you have any questions or need additional information don't hesitate to call me at x365

Dale Riggins

Fayetteville Fire Department



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

January 3, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation RZN 06-1852 (Scholar's Inn Apts., 402) submitted by Richard A. & Debra R. Flynt for property located at 1125, 1137, 1153 and 1189 N. West End Ave. 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.

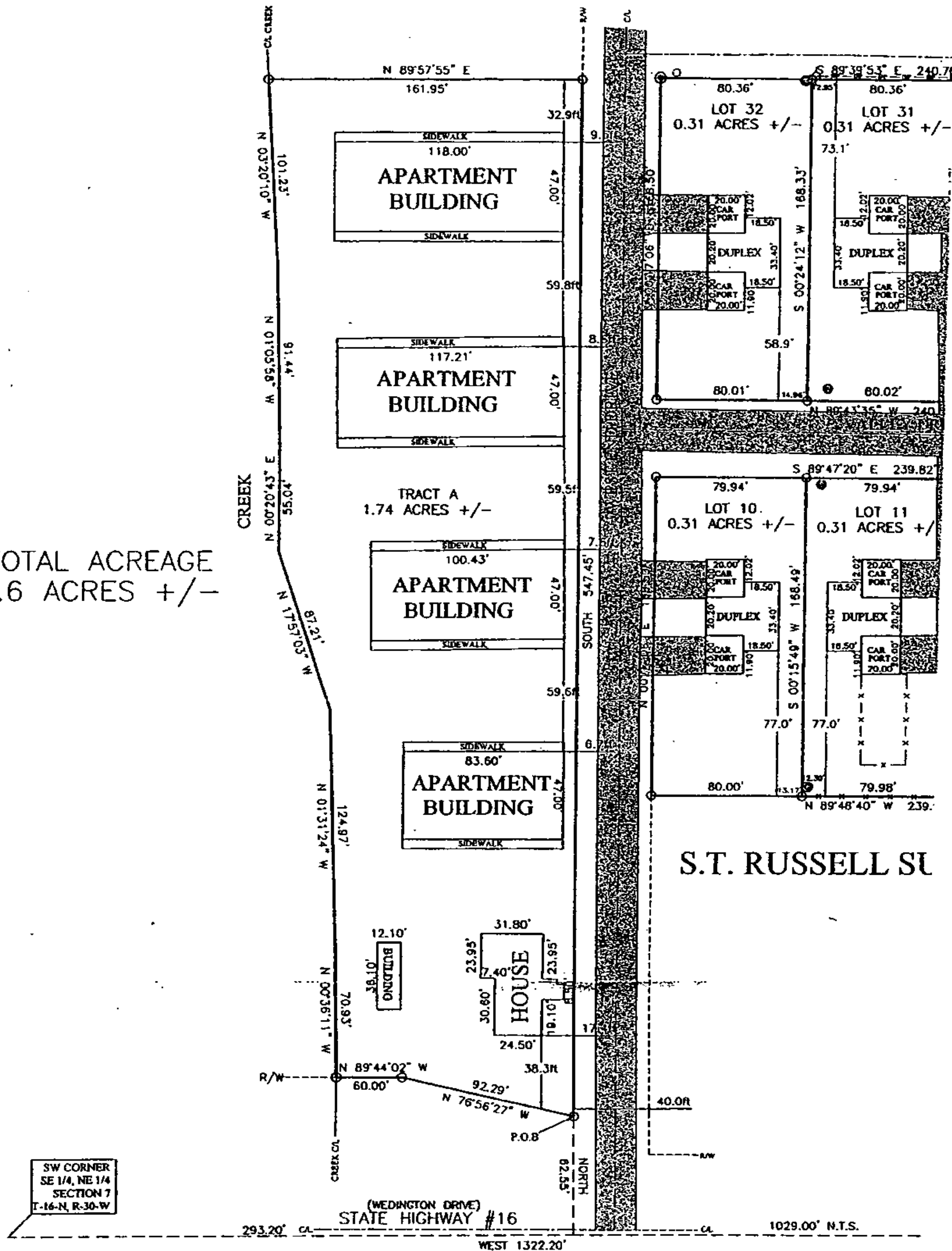
It is the opinion of the Fayetteville Police Department that this Rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Brown", is written over a horizontal line.

Captain William Brown
Fayetteville Police Department

TOTAL ACREAGE
3.6 ACRES +/-



SURVEY DESCRIPTION:
LOTS 10, 11, 12, 30, 31, AND 32, IN S.T. RUSSELL SUBDIVISION TO THE CITY OF FAYETTEVILLE, BEING A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 16 NORTH, RANGE 30 WEST, AS PER PLAT OF SAID SUBDIVISION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

1. Check Enclosed

✓ 2. A part of the Southeast Quarter (SE/4) of the Northeast Quarter (NE/4) of Section Seven (7), Township Sixteen (16) North, Range Thirty (30) West, described as follows. To-wit: Beginning at a point which is 62 rods and 6 feet west of the Southeast corner of said 40 acres tract, and running, thence North 610 feet; thence west 181 feet to the middle of the Mt. Comfort Branch; thence up said branch with the center thereof in a southeasterly direction to the south line of said 40 acre tract; thence cast 135 feet to the beginning point, containing 2.25 acres, more or less.

✓ 3. Two sets of typed mailing labels enclosed.

✓ 4. A copy of the plat with the owner's name and the parcel number for every adjacent property is shown on the plat that has been included.

✓ 5. A copy of the plat that is labeled with the legal description of the property has been included.

6.

- A. The land is currently owned by Richard A. and Debra R. Flynt 290 Reed Valley Road, Fayetteville, AR 72704 and is currently under contract to Scholars Inn, LLC, which is owned by Tracy Stephens, Mark Henry, and Clinton Bennett 3800 West River Bend, Fayetteville, AR 72704.
- B. To bring the nonconforming zoning up to the current usage of the existing property. The property is currently zoned RSF 4. The property was built in 1967 and has been used since that time for multifamily living, with a current density of 22.66 residential units per acre with one structure being used as a management office for this and other residential units.
- C. The property will continue to relate to the surrounding properties in terms of land use, traffic, appearance and signage in the same manner in which it has the past 38 years.
- D. The City Engineering Division has indicated that the property is serviced by a Eight (8) Inch sewer line and a Two and One Quarter (2 ¼) inch water line.

7.

- A. The proposed zoning is consistent with land use and zoning plans in that it is bordered to the immediate South by property that is zoned C-2 and RO. The property to the immediate West is zoned RMF-24. The property to the immediate North is zoned RMF-12. The property to the immediate East is zoned RSF-4, however that property is not owner occupied.
- B. The proposed rezoning of the property is needed to bring the nonconforming zoning into compliance with the current land use.

FROM
★
APPLICANT

- C. The proposed zoning change should not affect traffic or congestion in any way.
- D. The proposed zoning should have no impact on population density or public service.
- E. It would be impractical to use the land under current zoning classification because the current zoning would require replacement of the current structures to be less dense therefore displacing many families. Also, the owners of the property would have little incentive to improve the property.



Blew, Bates & Associates, Inc.

Engineering & Surveying

3561 No. College / Fayetteville, AR 72703
PH: 479-443-4506 * FAX: 479-582-1883

SURVEY DESCRIPTION:

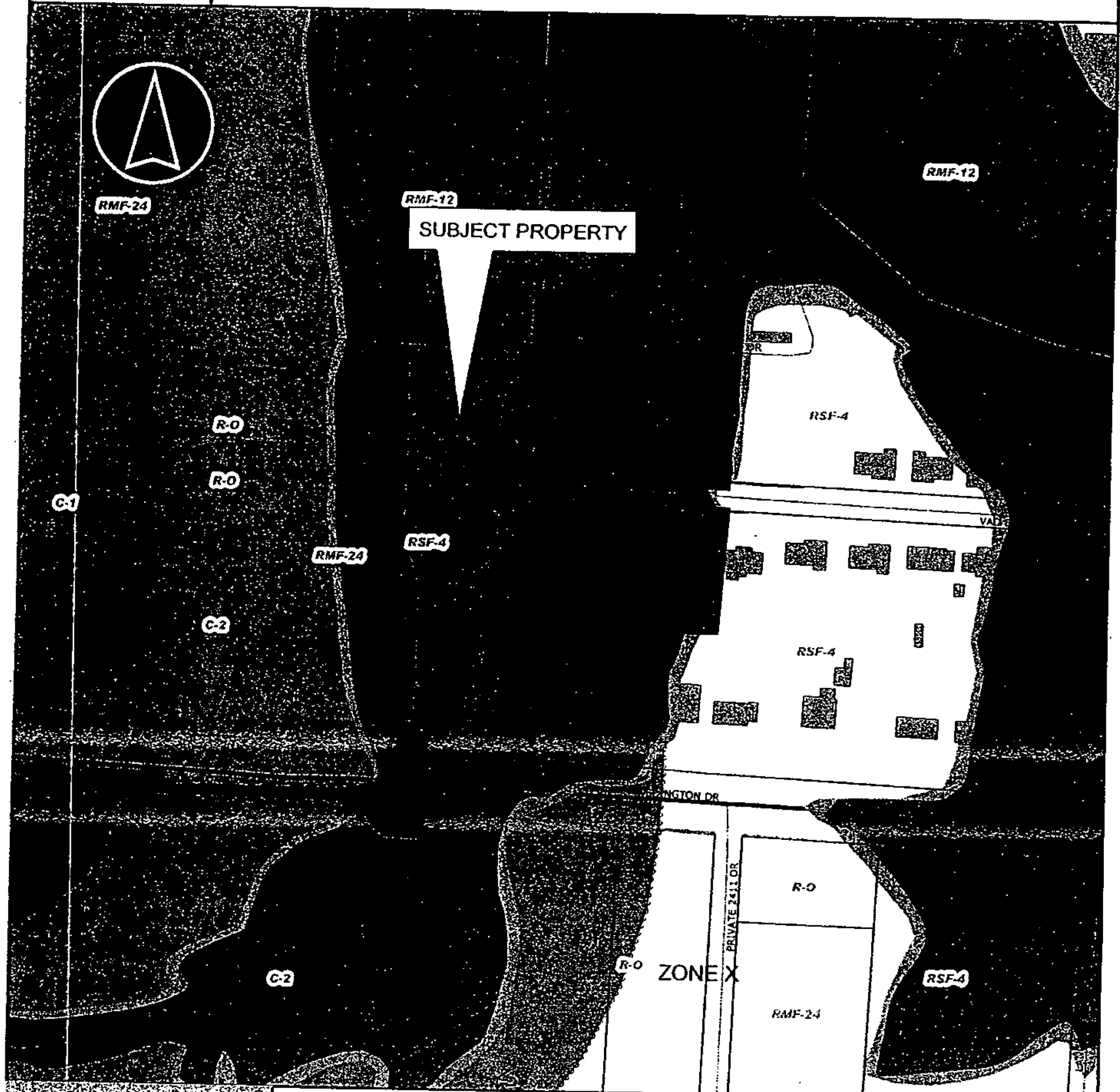
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Jacy L Stephens

RZN06-1852

Close Up View

SCHOLAR'S INN APTS.



Legend

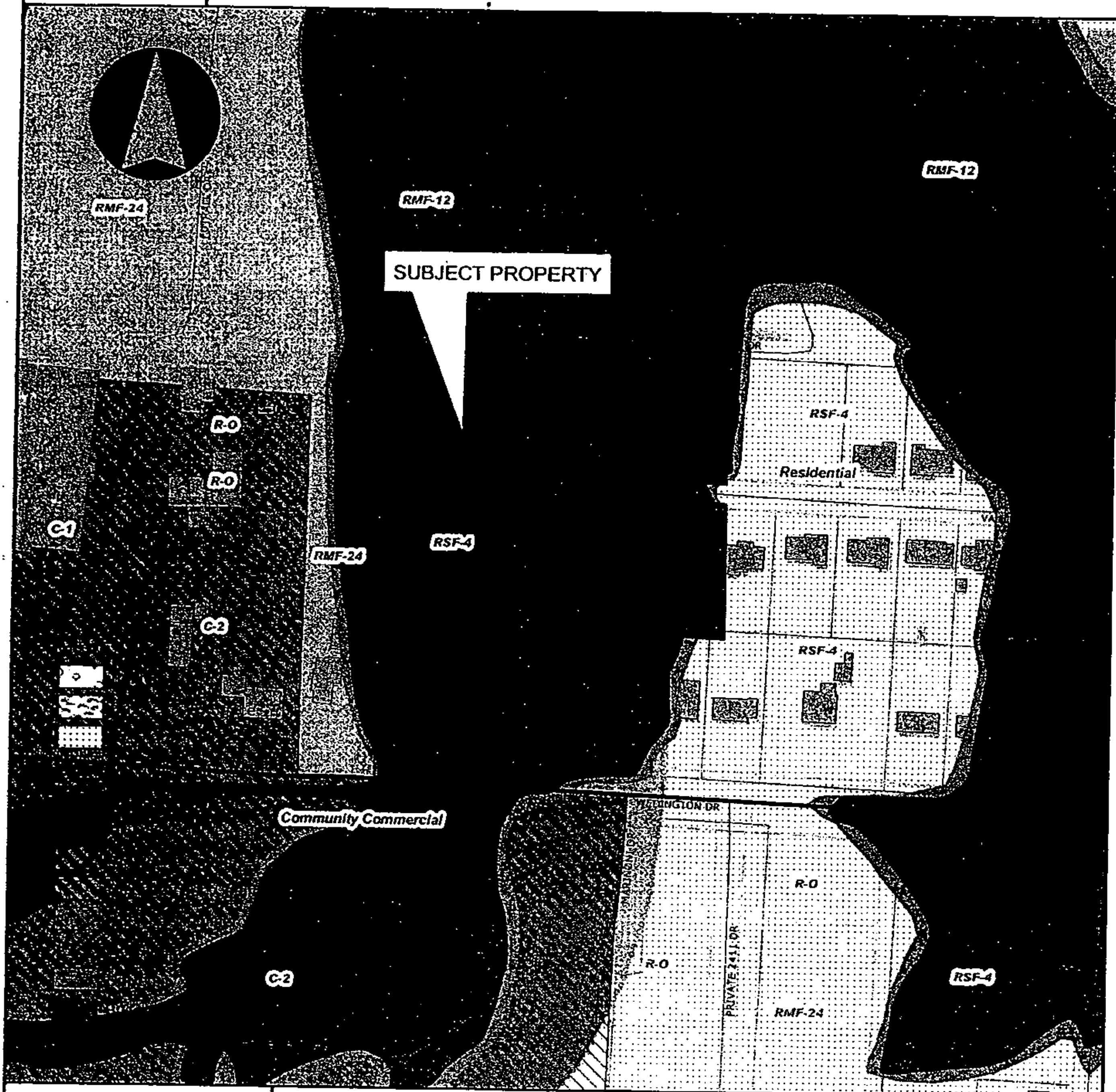
- 90000 Overlay District
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RZN06-1852
- vector.GDB.Footprint_2004

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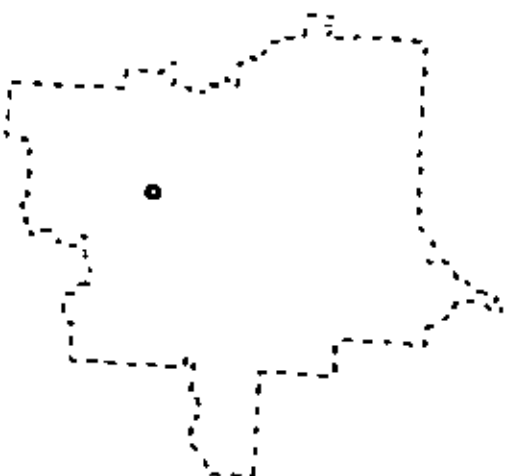
RZN06-1852

Future Land Use

SCHOLAR'S INN APTS.



Overview



Legend

Subject Property

RZN06-1852

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend



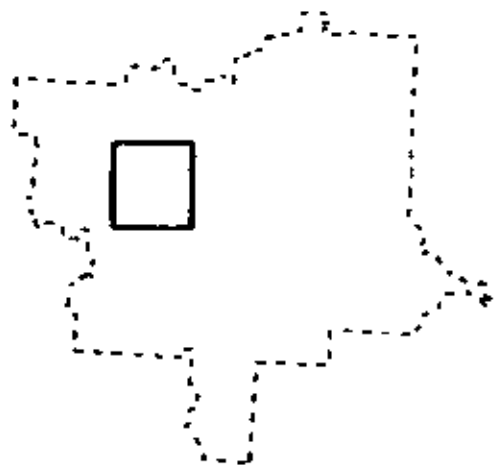
RZN06-1852

One Mile View

SCHOLAR'S INN APTS.



Overview



Legend

Subject Property

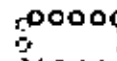


RZN06-1852

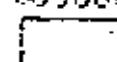
Boundary



- Planning Area



Overlay District



Outside City

0 0.125 0.25

0.5

Legend

0.75

1

Miles

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Feb-06
City Council Meeting Date

Jeremy Pate¹⁸
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-1868 (Chambers, 485): Submitted by Julie and Matthew Chambers for property located at 347 N. Willow Ave. The property is zoned RSF-4, Residential Single-family, 4 Units per Acre and contains approximately 0.20 acres. The request is to rezone the subject property to RSF-8, Residential Single-family, 8 units per acre, in order to bring the property into compliance without utilizing the variance procedure.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

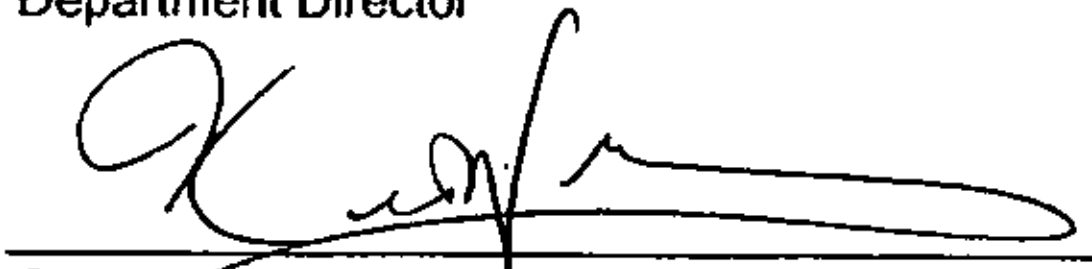
Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director 1-19-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney 1-20-06
Date

Original Contract Number: n/a


Finance and Internal Service Director 1-23-06
Date

Received in City Clerk's Office
ENTERED
1-19-06

Mayor _____ Date

Received in Mayor's Office
ENTERED
1/23/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ^Y

Date: January 10, 2006

Subject: Rezoning for Chambers (RZN 06-1868)

RECOMMENDATION

Planning staff recommends approval of the proposed rezoning from RSF-4, Residential Single-family 4 units per acre to RSF-8, Residential Single-family, 8 units per acre, on approximately 0.20 acres located on Willow Avenue.

BACKGROUND

The subject property is located at 347 N. Willow Ave., south of Lafayette St. Surrounding properties are zoned RSF-4, Residential Single Family and RPZD, Residential Planned Zoning District (Lafayette Lofts). An existing nonconforming home and accessory structure were constructed in the 1910's. The applicant has requested the rezoning to bring the property into compliance without utilizing the variance procedure. The City Council adopted the RSF-8 zoning district to allow for existing platted lots that are non-conforming in regards to lot width, lot area, building setbacks, etc. to become conforming, specifically for the historic residential platted areas of the City. This application fits this purpose appropriately (see attached zoning criteria charts).

DISCUSSION

This item was heard at the regular Planning Commission meeting of January 09, 2006, at which the seven members voted to forward this item to the City Council with a recommendation of approval.

BUDGET IMPACT None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 06-1868 FOR APPROXIMATELY
.20 ACRES LOCATED AT 347 NORTH WILLOW AVENUE FROM
RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE TO
RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 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-4, Residential Single-Family, 4 units per acre to RSF-8,
Residential Single-Family, 8 units per acre, as shown on 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 _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-1868

A PART OF LOT 5, BLOCK 8 OF THE MASONIC ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS AS SET FORTH IN THE WARRANTY DEED 2003-00060207 OF WASHINGTON COUNTY RECORDS, FAYETTEVILLE, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND PIPE SET FOR THE SOUTHWEST CORNER OF LOT 5, BLOCK 8, MASONIC ADDITION;

THENCE NORTH 00°00'49" EAST FOR DISTANCE OF 66.00 FEET TO A POINT;

THENCE SOUTH 89°59'11" EAST FOR DISTANCE OF 130.02 FEET TO A POINT;

THENCE SOUTH 00°00'49" WEST FOR DISTANCE OF 66.00 FEET TO A POINT;

THENCE NORTH 89°59'11" WEST FOR DISTANCE OF 130.02 FEET TO A POINT;

BEGINNING AND CONTAINING 8,581 SQUARE FEET OR .20 ACRES, MORE OR LESS. SUBJECT TO ANY AND ALL EXISTING EASEMENTS, COVENANTS, RESTRICTIONS OR RIGHTS-OF-WAY, WHETHER OF RECORD OR PRESCRIPTION.

DRAFT



PC Meeting of January 9, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: December 22, 2005

RZN 06-1868: Rezoning (Chambers, 485): Submitted by JULIE AND MATTHEW CHAMEBRS for property located at 347 N WILLOW AVENUE. The property is zoned RSF-4, RESIDENTIAL-SINGLE FAMILY – 4 UNITS/ACRE and contains approximately 0.20 acres. The request is to rezone the subject property to RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE.

Property Owner: JULIE AND MATTHEW CHAMBERS

Planner: JESSE FULCHER

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings included as part of this report.

Comments: _____

PLANNING COMMISSION ACTION:	
Required	<u>YES</u>
☒ Forwarded	☐ Denied
Motion:	<u>Clark</u>
Second:	<u>Meyers</u>
Vote:	<u>7-0-0</u>
CITY COUNCIL ACTION:	
Required	<u>YES</u>
☐ Approved	☐ Denied
Date: <u>February 7, 2006 (1st reading if recommended)</u>	

BACKGROUND:

Property description: The subject property is located 347 N. Willow Ave., south of Lafayette St.

Surrounding properties are zoned RSF-4, Residential Single Family and RPZD, Residential Planned Zoning District (Lafayette Lofts). The 0.20-acre tract contains an existing nonconforming home and accessory structure that were constructed in the 1910's.

Proposal: The applicant has requested the rezoning to bring the property into compliance without utilizing the variance procedure. The RSF-8 zoning district was adopted by the City Council to allow for existing platted lots that are non-conforming in regards to lot width, lot area, building setbacks, etc. to become conforming, specifically for the historic residential platted areas of the City. This application fits this purpose appropriately (see attached zoning criteria charts).

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single Family Home	RSF-4, Residential Single Family
South	Single Family Home	RSF-4, Residential Single Family
East	Condominiums	RPZD, Residential Planned Zoning District (Lafayette Lofts)
West	Single family homes	RSF-4, Residential Single Family

INFRASTRUCTURE:

- Streets:** The property has frontage along Willow Ave. Further evaluation will be conducted by staff at the time of construction plan submittal for any required improvements.
- Water:** Public water is adjacent to the site. There is a 6" waterline that runs along Willow St. An evaluation will need to be made at the time of plan submittal of any improvements to the water system that may be required.
- Sewer:** Sanitary sewer is adjacent to the site. There is a 6" sewer line that runs along Willow St. An evaluation will need to be made at the time of plan submittal of any improvements to the sewer system that may be required.
- Fire:** The subject property is served by Engine 1 and Ladder 1 at 303 W. Center. It is 0.8 miles from the station with an expected response time of 4 minutes. With such a small parcel the anticipated calls for services was figured at 0. There should be not adverse effects on the call volume or response time to this development.
- Police:** It is the opinion of the Fayetteville Police Department that this rezoning request will have a negligible impact on both the population density and the traffic congestion for that area.

LAND USE PLAN: The Future Land Use Plan designates this site for Residential. Rezoning this property to RSF-8 is consistent with the land use plan and consistent with historic platted residential areas of the City.

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. The RSF-8 zoning district was created as an alternative solution to variances for existing nonconforming lots within historic areas 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 justified and needed in order to bring an existing nonconforming lot and structure into compliance, rather than applying for multiple variances.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The rezoning would not allow for any additional dwelling units on the subject property, therefore the rezoning would not create or increase traffic danger and congestion.

Police – It is the opinion of the Fayetteville Police Department that this rezoning request will have a negligible impact on both the population density and the traffic congestion for that 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 not alter the population density in the area. Public service providers have responded accordingly:

Police – It is the opinion of the Fayetteville Police Department that this rezoning request will have a negligible impact on both the population density and the traffic congestion for that area.

Fire – The subject property is located 0.8 miles from the Fire Station #1 on Center

St. Fire response time is approximately 4 minutes. There should be no adverse affects on the call volume or response time.

***Engineering* - The property is currently served by a 6" water line on the west side of N. Willow Ave.**

The site is currently served by an 6" sewer main on N. Willow Ave.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.07 District Rsf-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.26 District RSF-8, Residential Single-Family – 8 Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(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 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	By Right	Conditional Use
Single-family dwelling units per acre	8 or less	--
Two-family dwelling units per acre	--	8

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building height maximum	45 ft.
-------------------------	--------

- (G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

WALES (ANX 06-1867)

Public water is adjacent to the site. There is a 6" waterline that runs along the west and east sides of the property.

Sanitary sewer is adjacent to the site. There is an 8" sewer line that runs along the west and north sides of the property.

The site currently has frontage on Buckley Drive and Fox Hunter Road.

CHAMBERS (RZN 06-1868)

Public water is adjacent to the site. There is a 6" waterline that runs along Willow Street. An evaluation will need to be made at the time of plan submittal of any improvements to the water system that may be required.

Sanitary sewer is adjacent to the site. There is a 6" sewer line that runs along Willow Street. An evaluation will be made by staff at the time of preliminary plat or large scale development. A study of the downstream system shall be conducted by the developer.

The site will have access to Willow Street. Further evaluation will be conducted by staff at the time of construction plan submittal for any required improvements.

Runoff from most of the site flows overland to the south. Standard improvements and requirements for drainage will be required for the development.

NOCK/BROYLES (ANX 06-1853, RZN 06-1854)

Public water is near to the site. Substantial improvements to the water system will be required which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Sanitary sewer is not near to the site. Substantial improvements to the sewer system will be required which includes off-site improvements. This development will be within the sewer assessment area. An evaluation will be made by staff at the time of preliminary plat or large scale development. A study of the downstream system shall be conducted by the developer.

The site has access to Weir, Howard Nickel, and Salem Road. Improvements will be required to surrounding streets which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Runoff from most of the site flows overland to the south. Standard improvements and requirements for drainage will be required for the development.

PADDOCK ROAD PZD (PZD 05-1735)

There is currently a 2" waterline running along Happy Hollow Road. An 8" public water main has been approved to extend near to the site with the Timber Trails Subdivision. Substantial improvements to the water system may be required which includes other off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Sanitary sewer is not currently adjacent to the site. A public main has been approved to extend near to the site with the Timber Trails Subdivision. Improvements to the sewer system may be required which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

January 3, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation RZN 06-1868 (Chambers, 485) submitted by Julie & Matthew Chambers for property located at 347 N. Willow Avenue 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 Rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "WLB", is written over a horizontal line.

Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
From: Captain Dale Riggins
Date: January 4, 2006
Re: January 3, 2006 Re-zoning Review – Fire Department Comments

~~ANX06-1867 (Wales, 373)~~

~~This 1.42 acres is covered by Engine 5 at 833 N Crossover.~~

~~It is 2.1 miles from the station with an expected response time of 5.5 minutes. When the new station 5 is put in service at Crossover and Old Wire the response time will increase to 6 minutes~~

~~We do not figured projected calls for service on annexations.~~

~~There should be no adverse effects on our call volume or response time to this annexation.~~

~~RZN06-1868 (Chambers, 485)~~

~~This .20 acre is covered by Engine 1 and Ladder 1 at 303 W Center.~~

~~It is 0.8 miles from the station with an expected response time of 4 minutes. With such a small parcel the anticipated calls for service was figured at 0.~~

~~There should be no adverse effects on our call volume or response time to this development.~~

~~RZN06-1852 (Scholar's Inn Apartments, 402)~~

~~These 2.25 acres are covered by Engine 7 at 835 N. Ruppel Rd.~~

~~It is 1.4 miles from the station with an expected response time of 3.75 minutes. The Fire Department anticipates 12 (7 EMS - 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.~~

~~The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.~~

~~Measured Hydrant Flow in this area is 710 gallons/minute.~~

~~There should be no adverse effects on our call volume or response time to this development.~~

ANX06-1853 (Nock/Broyles Salem Rd, 205/206)

RZN06-1854 (Nock/Broyles Salem Rd, 205/206)

These 19.99 acres are covered by Engine 7 at 835 N Ruppel.

It is 3.4 miles from the station with an anticipated response time of 8.75 minutes. This long response time is due to Ruppel Road being narrow and curvy. Engine 2, on N Garland, has approximately the same response time. This response time is above our goal of having the first unit on the scene within 6 minutes, 90% of the time, and our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. It has been proposed (Fayetteville Fire Department: Deployment Study 2003) to build a fire station (Station 9) to cover this northwest part of the city.

The Fire Department anticipates 18 (11 EMS – 7 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. The service impact of this type development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

Measured hydrant flow in this area is 805 gallons/minute.

There should be no adverse effects on our call volume to this development.

PZD05-1735 (Paddock Road, S/D, 526)

These 10 acres are covered by Engine 5 at 833 N Crossover Rd.

It is 1.3 miles from the station with an anticipated response time of 3.25 minutes. After Station 3 is located at Happy Hollow and E Huntsville, the distance from the station will be reduced to .6 miles with an anticipated response time of 2 minutes. The Fire Department anticipates 13 (8 EMS – 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

There should be no adverse effects on our call volume or response time to this development.

R-PZD-1619 (Westbrook Village, 284)

This 1.42 acre is covered by Engine 7 at 835 N Ruppel Rd.

It is 2.2 miles from the station with an anticipated response time of 6 minutes. The Fire Department anticipates 2 (1 EMS – 1 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measure hydrant flows in this area is 1500 gallons/minute.

There should be no adverse effects on our call volume or response time to this development.

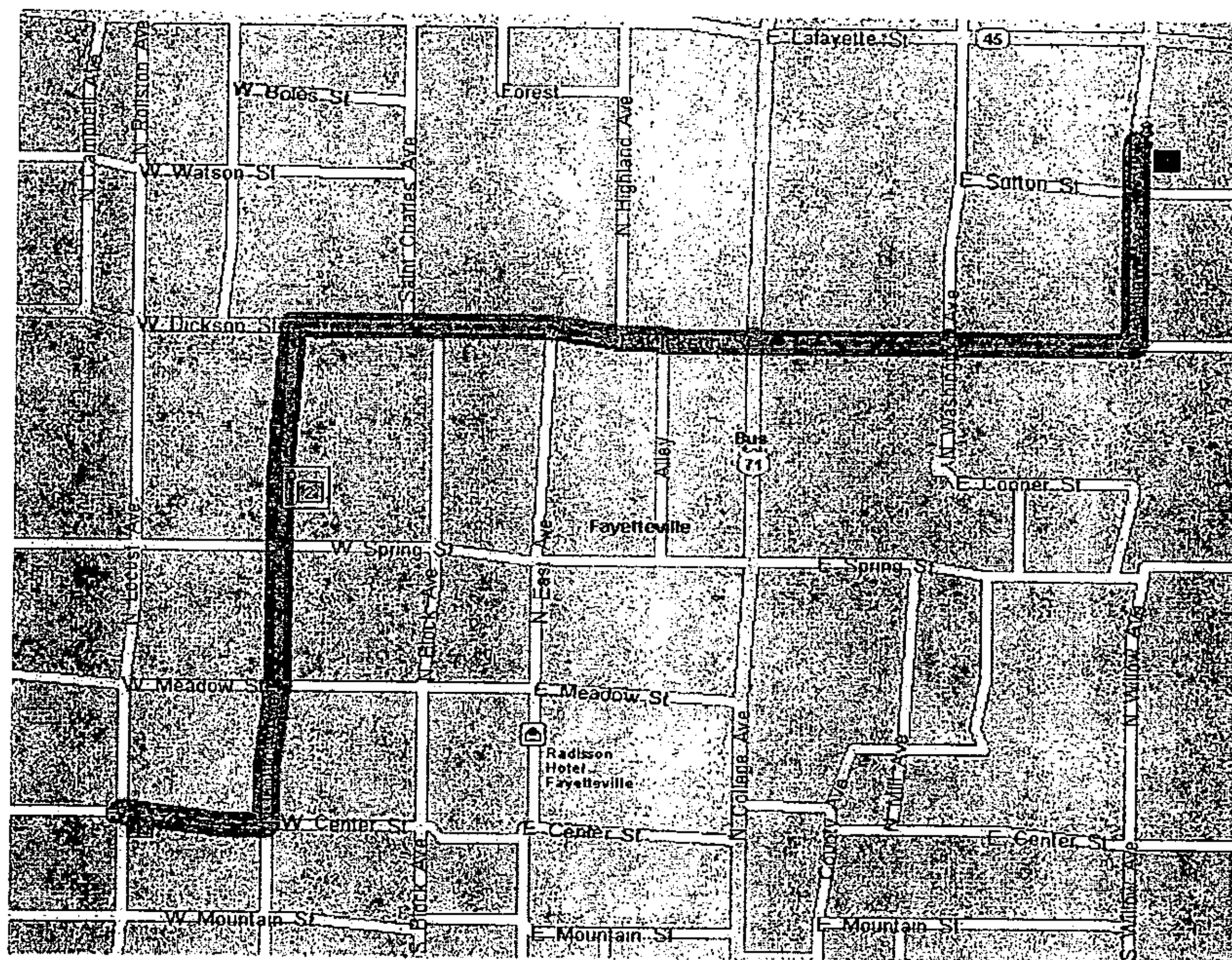
If you have any questions or need additional information don't hesitate to call me at x365

Dale Riggins

Fayetteville Fire Department

Chambers RZN06-1868

1.8 Miles from Station 1
4 Minute Response Time



Planning Commission
City of Fayetteville, Arkansas

Dear Commissioners et al;

Enclosed are materials required for a rezoning application to our property, as requested by city planners in response to our request described herein. Below we will detail requirements number 6 and 7, as described in the rezoning application materials.

#6.

- a. Matthew and Julie Chambers own the property in question with financing through Countrywide home loans. There are no plans to sell, lease, or otherwise transfer any portion of ownership or rights of this property.
- b. We are requesting this rezone at the request of the City of Fayetteville Planning department as a means to adjust currently zoned setback allotments to those more applicable to other historical properties in Fayetteville and to allow for the reconstruction of the dilapidated garage structure on the property, currently in disrepair.
- c. The property will change little with regard to the surrounding area and neighboring properties. The current garage structure, in such condition when we purchased the property, is in disrepair and is an eyesore to the neighborhood and safety hazard to this family and our neighbors. The new, intended garage would occupy the same space as the current structure and protrude further south and west so as to accommodate two modern automobiles and storage space. The second floor of this proposed structure is intended to become a detached living space for our relatives who currently reside with us in the property's main house many days each week.

This new living structure will be a small, one bedroom apartment capable of subsistence from the property's current utilities systems. We have contracted a licensed and bonded construction contractor to ensure this condition. Furthermore, the addition of one covered parking space on the property will actually alleviate the curb parking dilemma that has developed on Willow Avenue over the past year.

Since taking ownership of this property, we have strived at great expense and personal toil to return this historic home from virtual condemnation to that befitting its beautiful surroundings. This accompanying structure is designed by an AIA licensed architect and will be built to seamlessly accentuate the historical motif and unique design set forth in the property's main home, build by James Volney "Vol" Walker for his sister in approximately 1870. Restoration of the main home has been painstaking, and we intend this accompanying structure to be much more of a compliment to this historic home than the current 'shed', which is a shame to the neighborhood.

There will be no effect upon street or pedestrian traffic, or will there be any signage involved with this rezoning request.

- d. The property is served by a 6" water line and a 6" sewage return.

#7.

- a. The proposed zoning of R-8 is consistent with the City's plan for historic properties. Ours appears to be a perfect consideration for this new zoning request, as the original building and accompanying structures cross existing zone easements on west, north, and east sides. This new zoning will allow for the more dense population common to the older, historic areas of Fayetteville.
- b. This zoning is needed, as the garage structure to be rebuilt is in a state of failure. The roof on the south side of this existing garage is peeling back at the eaves at every rainfall. Ancient termite damage and neglect have corroded the walls so that they cannot even deter a soft wind. The building is structurally unsound and should be replaced. A new garage structure should logically exist in the same place, as the property's driveway extends along the north side of property from Willow Ave. to this point. There is no other safe place for a garage on the property.
- c. This zoning request will have no increased effect on traffic. In fact, it will create the removal of one parked car from Willow Avenue.
- d. The new zoning of this property will not affect population density. The intending building will replace an existing structure. If conditional use is granted, the occupant of the efficiency apartment will be Dr. Carl Chambers for three nights per week, a Veterans Administration physician who currently sleeps in the home's second bedroom. This room will soon become our newborn's room as soon as we are able to move her grandfather to a more suitable location.
- e. The current zoning does not allow for the construction of a garage in its existing location on-site. Because of the small lot size, proximity to neighboring homes, footprint of the property's main home, and location of the property's driveway; there is no other reasonable location for a garage structure. Without a new zoning classification, we are not able to replace the current dangerous and unusable garage.

Sincerely,

Matthew Chambers & Julie Chambers

RZN06-1868

Close Up View

CHAMBERS



Legend

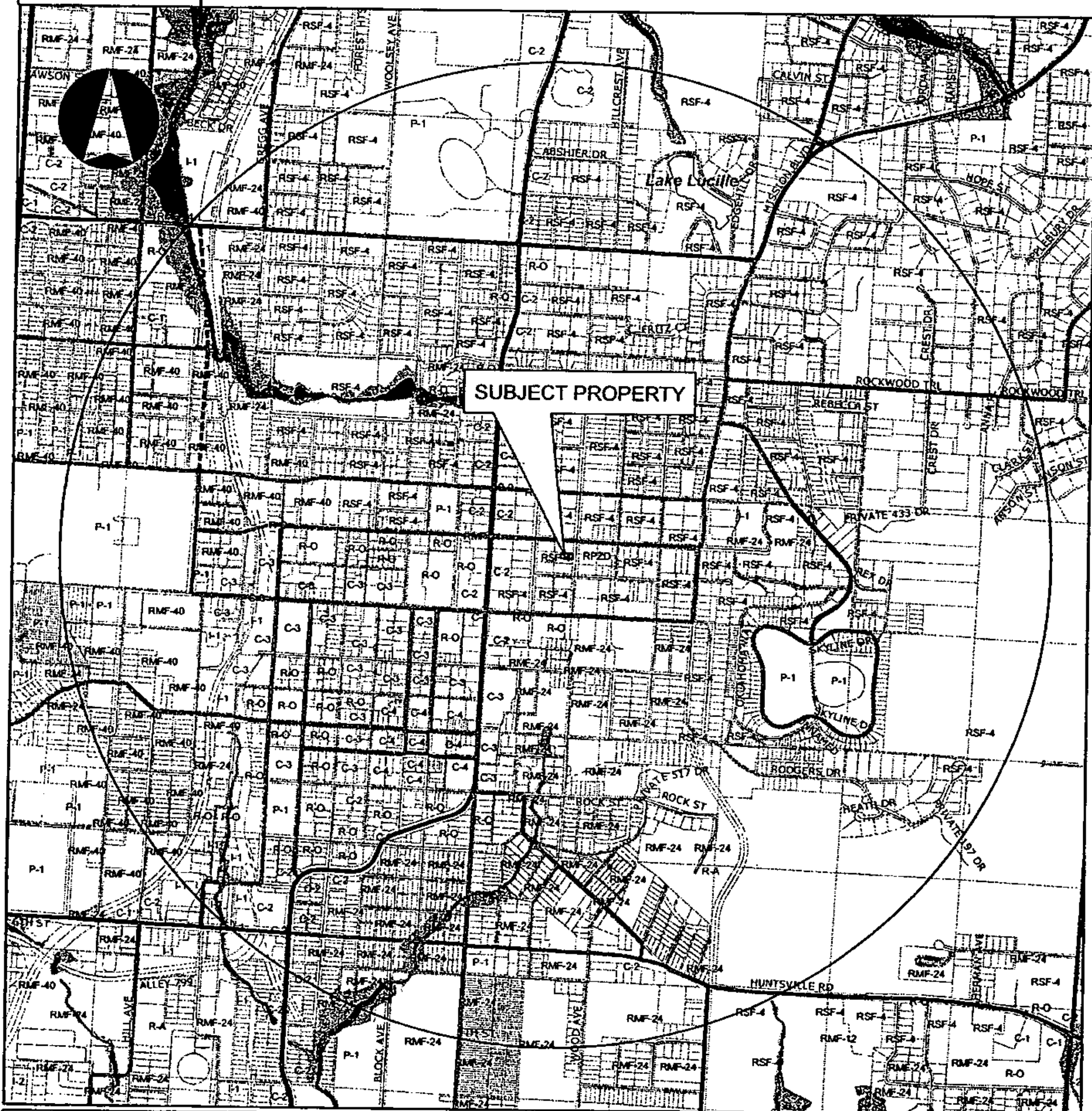
- ooooo Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - Baseline Profile
- Fayetteville
- Outside City
- RZN06-1868
- vector.GDB, Footprint_2004

0 75 150 300 450 600 Feet

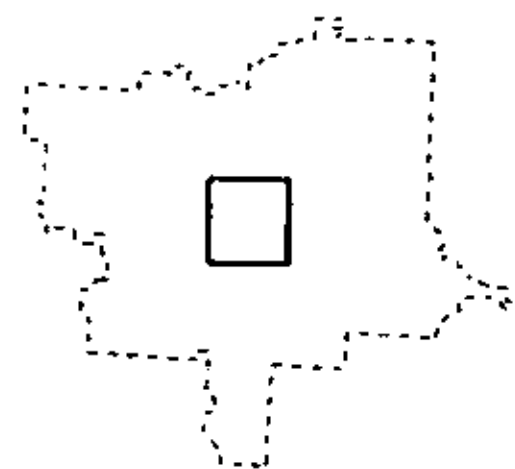
RZN06-1868

One Mile View

CHAMBERS



Overview



Legend

Subject Property

RZN06-1868

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25

0.5

0.75

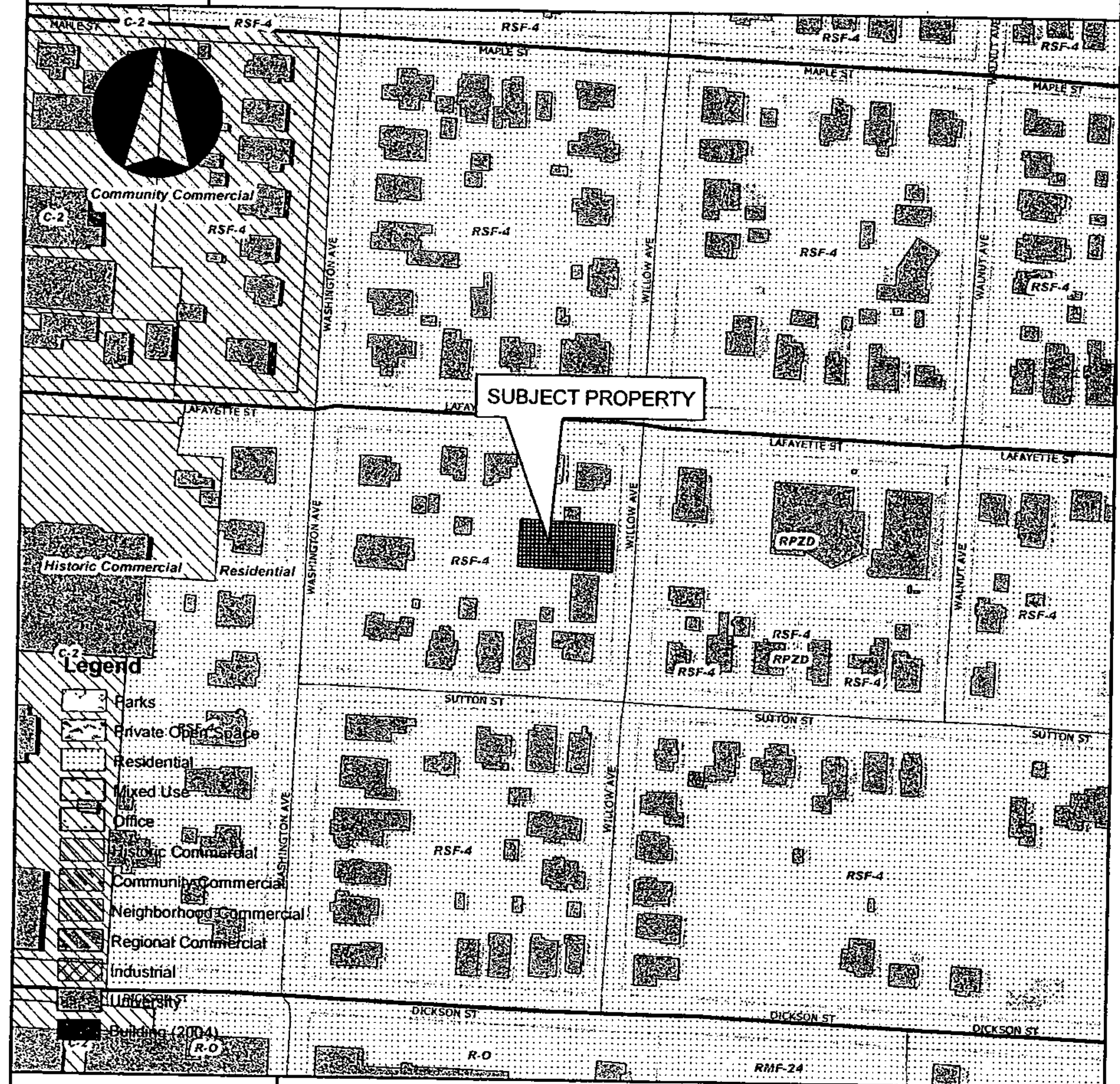
1

Miles

RZN06-1868

Future Land Use

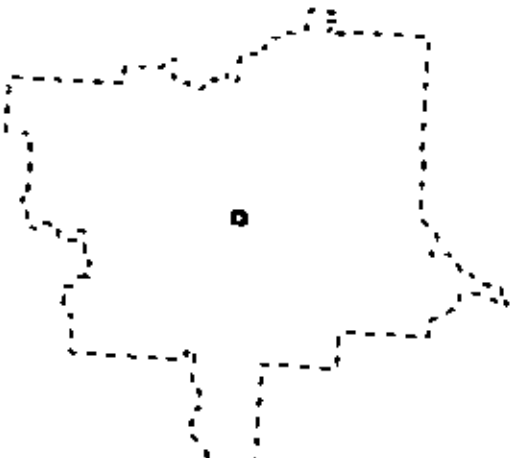
CHAMBERS



Legend

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University
- Building (2004)
- R-O

Overview



Legend

- Subject Property**
 - RZN06-1868
- Streets**
 - Existing
 - Planned
- Boundary**
 - Planning Area
 - Overlay District
 - Outside City

Legend



ALDERMAN APPEAL REQUEST FORM

RECEIVED

JAN 17 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

COUNCIL MEETING OF: February 7, 2006

RECEIVED

JAN 17 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

FROM: Alderman Don Marr

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

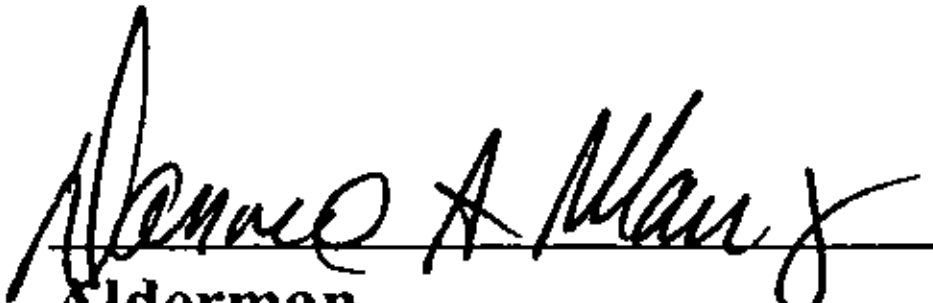
JAN 17 2006

RECEIVED

APPEAL TITLE AND SUBJECT:

Appeal the passage of the CUP 06-1875 (Cell Tower/Smith 2 Way.

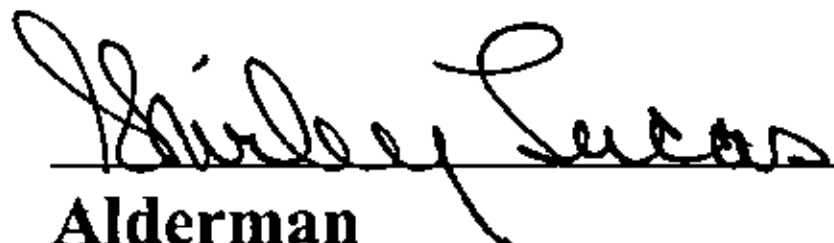
Conditional Use Permit submitted by Michael Smith and Gary Cochran for Smith 2-Way Radio for property located at 520 N College Avenue. The request is for a cell tower at the rear of the subject property to replace two existing non-conforming cell towers.


Alderman

 1/17/06
Date


Alderman

1/17/06
Date


Alderman

1/17/06
Date

Alderman

Date

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: January 18, 2006

Subject: Conditional Use Permit for Smith Two-Way Radio - 520 North College (CUP 06-1875)

RECOMMENDATION

Planning Staff recommends approval of a conditional use permit to allow a wireless communications tower, submitted by Smith Two-Way Radio at 520 North College Avenue. This action would remove two existing shorter wireless communications towers and replace them with a single tower.

BACKGROUND

The subject property contains approximately 0.51 acres of developed property that contains two existing wireless communications towers: (1) a 65' guyed tower with a 20' antenna extending above the tower; and (2) a wooden utility type monopole and extension bracket that supports antennas up to 62 feet above the ground. A photo of these existing towers is attached in the staff report provided to the Planning Commission. The applicant requests conditional use approval to replace these towers with a 100' monopole tower that meets current ordinance requirements. The site is currently zoned C-2, Thoroughfare Commercial, which allows new wireless communications towers as a conditional use.

DISCUSSION

The Planning Commission voted 5-2-0 in favor of this request on January 9, 2006, with Commissioners Allen and Ostner voting no. Recommended conditions were approved by the Planning Commission, with the exception of a condition to limit the tower to a maximum of 90' in height, and are reflected in the attached staff report.

There was a large amount of public comment at the meeting stating objection to the project with concerns mainly centered on community character and visual impacts.

BUDGET IMPACT

None.



PC Meeting of January 9, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~January 4, 2006~~ January 18, 2006

CUP 06-1875: (Cell Tower/Smith 2 Way, 446): Submitted by Michael Smith/Gary Cochran Smith 2-Way Radio for property located at 520 College Avenue. The property is zoned C-2 THOROUGHFARE COMMERCIAL and contains approximately 0.51 acres. The request is to approve a wireless communications tower at the rear of the subject property.

Property Owner: Michael Smith

Planner: ANDREW GARNER

RECOMMENDED MOTION: Staff recommends approval of the requested wireless communications tower with the following conditions:

1. The applicant shall comply with all applicable federal regulations.
2. Equipment used in conjunction with the tower shall not generate noise which can be heard beyond the site per Unified Development Code (UDC) Chapter 163.14 (A)(1).
3. Lighting on the tower shall only be installed if mandated by the Federal Aviation Administration (FAA). Security lighting or motion-activated lighting may be used around the base of the tower provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or right-of-way.
4. The tower shall be no taller than ~~100'~~ 90' (including all antennas, arrays, or other appurtenances).

MODIFIED BY PLANNING COMMISSION 01/09/06

5. The pole shall be painted utilizing the transitional paint scheme as shown in the application, or a color as determined by the Planning Commission which blends in with the background.
6. The utility equipment at the base of the tower shall be surrounded by a wooden security fence of sufficient height to prevent the view of the premises from vehicular and pedestrian traffic on adjacent streets. The existing barbed wire and chain link fencing shall be removed in conjunction with this request.

7. Landscaping shall be added to the site (and shown on plans) which provides a "buffer of dense tree growth and under story vegetation in all directions to create an effective year round visual buffer" as required by UDC Chapter 163.14 (B)(11). Species and location of the required plantings shall be subject to the approval of the Landscape Administrator.
8. The minimum distance from the base of the tower to any residential dwelling unit shall be the lower height or required setback, whichever is greater, unless all persons owning said residence or the land on which said residences are located consent in writing to the construction of the tower, pursuant to UDC Section 163.14(B)(3).
9. The applicant shall provide a sight line representation for review and approval of Planning Staff pursuant to UDC Section 163.14(B)(8). These representations shall be provided from four points 90 degrees apart and 100 feet from the proposed tower. These profiles shall show all intervening trees and buildings
10. Any connection to existing utilities to provide power to this site shall be located underground.
11. The booklet shall be revised to delete all reference to the Dean Soloman tower.
12. Only ownership and cautionary signage located on the screening fence shall be permitted as provided by Chapter 163.14 (A)(3).

PLANNING COMMISSION ACTION: Required YES
☒ Approved ☐ Denied

Motion: Graves

Second: Clark

Vote: 5-2-0 (Allen, Ostner voting 'no')

Date: January 9, 2006

Comments: _____

BACKGROUND:

The applicant is proposing to remove two existing shorter wireless communications towers and replace them with a single tower. The existing towers are: (1) a 65' guyed tower with a 20' antenna extending above the tower to 82'; and (2) a wooden utility type monopole and extension bracket that supports antennas up to 62 feet above the ground. A photo of these existing towers

is attached to this report. The applicant proposes to replace these towers with a 100' monopole tower, that meets current ordinance requirements.

The proposed site is located at 520 College Street in north-central Fayetteville.

Following ordinance requirements, notification (certified mail) was provided to all property owners within a 500' radius of the center of the proposed tower. The type and height of the proposed tower is in accordance with Chapter 163.14(B) (1 & 2).

Smith Two-Way Radio states in their application that the carriers are suffering service-affecting capacity issues due to RF frequency use, and coverage and tower to tower hand-off issues due to the distance and barriers between existing towers. Due to the growth of the tree line in the area the applicant stated that they cannot maintain a line of sight signal path to the closest tower which is located on Mount Sequoyah. The second closest tower is on the VA Water Tower/Old Washington Regional Medical Center. The applicant stated that the existing towers on the site are not able to cover the area.

The applicant states that the proposed taller tower is needed to improve call handling capacity, cellular coverage and tower-to-tower hand off. Additionally, the proposed tower will allow for the co-location of several wireless carriers. The applicant considered the existing vegetation, buildings and surrounding land use to minimize the visual impact of the tower. Additionally, the applicants will use Slim Line T-Mount antennas and the transitional paint scheme that was approved at the Zion Road/Crossover Road site.

It is staff's opinion that wireless coverage can be provided at this location that will not detract from the scenic quality and character of the area. Staff finds that the proposal would improve the aesthetic appearance of the area by removing two existing outdated towers, upgrading the existing chain link and barb wire fence with a 10' wood privacy type fence and landscaping that would block view of the new cellular equipment and storage buildings at the base of the pole. The proposed location is outside of the boundaries of the Design Overlay District.

Surrounding Land Use and Zoning:

Direction	Land Use	Zoning
North	Commercial	C-2, Thoroughfare Commercial
South	Commercial	C-2, Thoroughfare Commercial
East	Single-family dwellings	RSF-4, Residential Single-Family Four Units/Acre
West	Commercial	C-2, Thoroughfare Commercial

Public Comment: One written letter has been received from a property owner in the vicinity discussing the adverse effects of living next to the existing wireless communication towers on the site, and potential adverse effects of installing a new tower that should be considered by the Planning Commission such as: community character, light pollution, and poor television and radio reception caused by the tower. Additional public comment received by the applicant is provided in the supplemental booklet provided, and generally indicated support for the project.

GENERAL PLAN DESIGNATION: Community Commercial

Section 163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Wireless Communications Facility on property zoned C-2.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under § 163.17 (see attached) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect

the public interest.

Finding: Granting the requested conditional use for a 100' monopole tower with camouflaging will not adversely affect the public interest. By using camouflaging, existing vegetation and new landscaping, a balance can be achieved that will maintain the scenic quality of the city as well as allow cellular companies to provide an important service to the community and emergency services. Removing the outdated towers and replacing them with a newer, more effective tower will help provide more effective and comprehensive wireless service for the public in the area. In addition the proposal would visually improve the site by removing two outdated cluttered towers, replacing the existing chain link and barb wire fence with a 10' privacy fence, and installing a landscape buffer around the site.

- (c.) The Planning Commission shall certify:
 - (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: The applicant has complied with specific rules governing this individual conditional use request.

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

- (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: An existing curb cut will be used to access this site.

- (b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: No parking or loading areas are required for this use.

- (c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: No refuse areas are required for this use.

- (d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities shall be located underground or screened from the public view with the exception of the proposed monopole and the equipment mounted on that apparatus.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: If approved, screening shall be provided as required by Chapter 163.14, see ordinance section included as part of this report.

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Only ownership and cautionary signage located on the screening fence shall be permitted.

- (g.) Required setbacks and other open space; and

Finding: The location of the proposed monopole is in compliance with required setbacks for the C-2 zoning district, and as depicted in the booklet provided is residential dwellings are not within the fall zone of the tower.

- (h.) General compatibility with adjacent properties and other property in the district.

Finding: Compatibility with adjacent properties is difficult to achieve when erecting any type of tower structure. However, by utilizing existing vegetation, adding additional vegetation, camouflaging the tower, and locating the structure away from rights-of-way will lessen the visual impact of the proposed tower. With implementation of this project, views of the site would change from two cluttered towers and antenna structures with a maximum height of 82', chain link and barbed wire fence, to views of a new 100' monopole tower with a slim T-type mount antenna, 10' privacy fence and landscaping. Staff finds that the proposed project would be more compatible with the surrounding land uses than the existing use of the site with two un-screened towers.

CHAPTER 163: USE CONDITIONS

163.14 Wireless Communications Facilities.

(A) The following general requirements shall apply to all new wireless communications facilities.

(1) **Noise Requirements.** Equipment used in connection with a tower or antenna array shall not generate noise that can be heard beyond the site. This prohibition does not apply to air condition units no noisier than ordinary residential units or generator used in emergency situations where regular power supply for a facility is temporarily interrupted; provided that any permanently installed generator shall be equipped with a functional residential muffler.

Finding: Equipment used in connection with the tower shall not generate noise which can be heard beyond the site per Chapter 163.14.

(2) **Compliance with Federal Regulations.** Applicant shall comply with all applicable federal regulations. Proof of compliance shall be provided upon request of the City Planner.

Finding: Applicant shall comply with all applicable federal regulations. Proof of compliance shall be provided upon request of the Zoning and Development Administrator.

(3) **Lighting and Signage.**

(a) Wireless communications facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Security lighting or motion-activated lighting may be used around the base of a tower and within the wireless communications facility, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or right-of-way.

(b) Signs shall be limited to those needed to identify the property and tower and warn of any danger. No signs, symbols, identifying emblems, flags, or banners shall be allowed on towers.

Finding: Lighting on the tower shall only be installed if mandated by the FAA. Security lighting or motions-activated lighting may be used around the base of the tower, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or rights-of-way. All outdoor lighting shall meet lighting ordinance requirements.

(B) **New Towers.** New wireless communications towers shall meet the following requirements:

(1) **Type of Towers Allowed.** New towers shall be limited to monopole type structures or alternative tower structures.

Finding: The applicant is proposing a monopole structure.

- (2) **Tower or antenna height limitations.** Towers or alternative tower structures are permitted to a maximum height of 150 feet.

Finding: The proposed monopole is 100' tall.

- (3) **Fall Zone.** The minimum distance from the base of any tower to any residential dwelling unit shall be the tower height or required setback, whichever is greater, unless all persons owning said residences or the land on which said residences are located consent in a sign writing to the construction of said tower. This setback is considered a "fall zone." In the event that an existing structure is proposed as a mount for a wireless communication facility, a fall zone shall not be required.

Finding: The 100' fall zone is depicted in the materials provided by the applicant, showing that there are no residential dwellings within 100' feet of the proposed tower in compliance with this requirement.

- (4) **Camouflaging or Stealth Technology for New Towers.** If the applicant demonstrates that it is not feasible to locate on an existing structure, towers shall be designated to be camouflaged to the greatest extent possible, including but not limited to: use of a compatible building materials and colors, screening, landscaping and placement within trees.

Finding: The proposed location of the tower is located in such a way as to utilize existing buildings and foliage as screening. Additionally, the applicants will use Slim line T-type-mount antennas, plant additional trees and shrubs and will paint the tower to match existing foliage and the skyline.

- (5) **Color of Towers.** To the extent that any antenna extend above the height of the vegetation immediately surrounding it, they shall be a neutral color, painted or unpainted, unless the FAA requires otherwise.

Finding: The applicants will use a transitional paint scheme to match existing vegetation and the skyline.

- (6) **Information Required to Process New Tower Requests.**
(a) Provide a map of the geographic area that your project will serve.

(b) Provide a map that show other existing or planned facilities that will be used by the wireless communication service provider who is making the application.

Finding: Item (a) and item (b) are reflected within the report, as provided by the applicant and distributed with this agenda to the Commissioners.

- (c) Provide a map that shows other potential stand-alone locations for your facility that have been explored.

Finding: Item (c) is reflected within the report, as provided by the applicant and distributed with this agenda to the Commissioners.

- (d). Provide a scaled site plan containing information showing the property boundaries, proposed tower, existing land use, surrounding land uses and zoning, access road(s) location and surface material, existing and proposed structures and topography. The plan shall indicate proposed landscaping, fencing, parking areas, location of any signage and specification on proposed lighting of the facility.

Finding Item (d) is reflected within the report, as provided by the applicant and distributed with this agenda to the Commissioners.

- (d) Describe why the proposed location is superior, from a community perspective, to other potential locations. Factors to consider in the community perspective should include: visual aspects, setbacks and proximity to single family residences

Finding: Based on information provided by the applicant, the proposed location is evidently superior to other locations because of the inadequate wireless communication coverage in this area. As depicted in the attached maps, the closest tower is located on Mount Sequoyah, and effective signal to and from the existing lower towers is now being blocked by the tree line. The carriers have call handling capacity issues due to the amount of users and coverage issues due to the distance between the existing facilities. The proposed location is set in the rear of the property, approximately 170' from College Avenue, and behind two existing commercial structures. The closest residential structures are adjacent to the eastern property line of the site, outside of the 100' fall zone. Staff finds that the proposed new low profile tower with a 10' privacy fence and landscaping would be more compatible with surrounding residential uses than the existing two towers and chain link and barb wire fences surrounding the site.

(f) Describe your efforts to co-locate your facility on one of the poles or towers that currently exists, or is under construction. The applicant should demonstrate a good faith effort to co-locate with other carriers. The Planning Commission may deny a permit to an applicant that has not demonstrated a good faith effort to provide for co-location. Such good faith effort includes:

(1) A survey of all existing structures that may be feasible sites for co-locating wireless communications facilities;

(2) Contact with all the other wireless communications licensed carriers

operating in the City and Washington County; and

(3) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

(4) Letter from tower owner stating why co-location is not feasible.

Finding: The applicant did not provide much information regarding alternative locations for the tower as the project would replace two existing towers with one tower. The applicant did describe the current poor wireless coverage in the area, providing rationale that the newer, taller tower would provide better coverage for the vicinity than the existing towers. See attached materials.

(g) Describe how you will accommodate other antenna arrays that could co-locate on your facility. Describe how this accommodation will impact both your pole or tower, and your ground mounted facilities. Provide documentation of your provider's willingness to accommodate other providers who may be able to co-locate on your facility.

Finding: This facility will allow co-location for several wireless carriers as stated within the applicant's request.

(7) Required (after condition) and Balloon Test or Crane Test Photographs. The proposed tower shall be photographed from four locations taken 90 degrees apart and 300' from the center of the tower. The proposed tower shall be superimposed on the photographs. A balloon or crane test shall be performed to illustrate the height of the tower and photographed from the same four locations. The time period, not to exceed one week, within which the test will be performed, shall be advertised in a newspaper of general circulation in the City at least 14 days, but not more than 21 days prior to the test. The four locations shall be approved by the City Planner.

Finding: The applicant has provided visual simulations of the proposed tower from appropriate locations.

(8) Sight Line Representation. A sight line representation shall be drawn from four points 90 degrees apart and 100 feet from the proposed tower. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings.

Finding: The applicant has provided a one mile east-west terrain profile showing the 100' tower. However a sight line representation shall be drawn from four points 90 degrees apart and 100 feet from the proposed tower. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The

profiles shall show all intervening trees and buildings. Staff finds that with the terrain profile and visual simulations provided, the conclusion can be made that the project would not cause an adverse visual impact compared with the existing condition, but would rather improve the appearance of the site. However, the sight line representations are required to be submitted and approved by staff pursuant to ordinance, prior to building permit.

(9) Structural Integrity and Inspection of Towers.

- (a) The applicant shall provide a certification letter that states the tower meets or exceeds design criteria and all local, state, and federal requirements regarding the construction, maintenance, and operation of the tower.
- (b) If a tower fails to comply with the requirements and criteria above and constitutes a danger to person or property, then upon written notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance within thirty (30) days, the City may terminate that owner's conditional use permit and/or cause the removal of such tower (at the owner's expense).
- (c) By making an application hereunder, the applicant agrees to regularly maintain and keep in a reasonably safe and workmanlike manner all towers, antenna arrays, fences and outbuildings owned by the applicant which are located in the City. The applicant further agrees to conduct inspections of all such facilities not less frequently than every 12 months. The applicant agrees that said inspections shall be conducted by one or more designated persons holding a combination of education and experience so that they are reasonably capable of identifying functional problems with the facilities.

Finding: The applicant has provided a letter from Sabre Communications Corporation that states the tower meets design criteria.

(10) Security Fencing and Anti-climbing Device. Through the use of security fencing, towers and equipment shall be enclosed by wood board fencing not less than six (6) feet in height. The tower shall also be equipped with an appropriate anti-climbing device. The facility shall place signs indicating "No Trespassing", "High Voltage" or other pertinent information on the outside of the fence, unless it is decided that the goals of this ordinance would be better served by waiving this provision in a particular instance. Barbed wire fencing or razor wire shall be prohibited.

Finding: The applicant would construct a wood privacy fence around the base of the tower and would provide an anti-climbing device on the tower. All barbed wire on the site shall be removed, and chain link fencing in this area shall be removed

(11) Vegetative Screening Requirements. Wireless communications facilities shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or combination of both.

Finding: Vegetative screening, consisting of evergreen trees and shrubs, shall be provided by the applicant, with species and location to be approved by the Landscape Administrator. If possible, some trees may be planted along the street, as well.

(12) Setback from Property Lines. Wireless communications facilities shall meet current setbacks as required by zoning.

Finding: The proposed facility and accessory structure shall comply with C-2 setback requirements.

City of Fayetteville Unified Development Code
Section 163.14 Wireless Communications Facilities

(A) The following general requirements shall apply to all new wireless communications facilities.

- (1) *Noise requirements.* Equipment used in connection with a tower or antenna array shall not generate noise that can be heard beyond the site. This prohibition does not apply to air conditioning units no noisier than ordinary residential units or generator used in emergency situations where regular power supply for a facility is temporarily interrupted; provided that any permanently installed generator shall be equipped with a functional residential muffler.
- (2) *Compliance with federal regulations.* Applicant shall comply with all applicable federal regulations. Proof of compliance shall be provided upon request of the Zoning and Development Administrator.
- (3) *Lighting and signage.*
 - (a) Wireless communications facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Security lighting or motion-activated lighting may be used around the base of a tower and within the wireless communication facility, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or rights-of-way.
 - (b) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. No signs, symbols, identifying emblems, flags, or banners shall be allowed on towers.

(B) *New towers.* New wireless communications towers shall meet the following requirements:

- (1) *Type of towers allowed.* New towers shall be limited to monopole type structures or alternative tower structures.
- (2) *Tower or antenna height limitations.* Towers or alternative tower structures are permitted to a maximum height of 150 feet.
- (3) *Fall zone.* The minimum distance from the base of any tower to any residential dwelling unit shall be the lower height or required setback, whichever is greater, unless all persons owning said residence or the land on which said residences are located consent in a sign writing to the construction of said tower. This setback is considered a "fall zone." In the event that an existing structure is proposed as a mount for a wireless communication facility, a fall zone shall not be required.
- (4) *Camouflaging or stealth technology for new towers.* If the applicant demonstrates that it is not feasible to locate on an existing structure, towers shall be designed to be camouflaged to the greatest extent possible including, but not limited to, use of compatible building materials and colors, screening, landscaping, and placement within trees.
- (5) *Color of towers.* To the extent that any antenna extending above the height of the vegetation immediately surrounding it, they shall be a neutral color, painted or unpainted, unless the FAA requires otherwise.
- (6) *Information required to process new tower requests.*
 - (a) Provide a map of the geographic area that your project will serve;
 - (b) Provide a map that shows other existing or planned facilities that will be used by the wireless communication service provider who is making the application;
 - (c) Provide a map that shows other potential stand alone locations for your facility that have been explored;
 - (d) Provide a scaled site plan containing information showing the property boundaries, proposed tower, existing land use, surrounding land uses and zoning, access road(s) location and surface material, existing and proposed structures and topography. The plan shall indicate proposed landscaping, fencing, parking areas, location of any signage and specifications on proposed lighting of the facility;
 - (e) Describe why the proposed location is superior, from a community perspective, to other potential

locations. Factors to consider in the community perspective should include: visual aspects, setbacks, and proximity of single-family residences;

- (f) Describe your efforts to co-locate your facility on one of the poles or towers that currently exists, or is under construction. The applicant should demonstrate a good faith effort to co-locate with other carriers. The Planning Commission may deny a permit to an applicant that has not demonstrated a good faith effort to provide for co-location. Such good faith effort includes:
 - (i) A survey of all existing structures that may be feasible sites for co-locating wireless communications facilities;
 - (ii) Contact with all other wireless communications facilities;
 - (iii) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location; and
 - (iv) Letter from tower owner stating why co-location is not feasible.
 - (g) Describe how you will accommodate other antenna arrays that could co-locate on your facility. Describe how this accommodation will impact both your pole or tower, and your ground mounted facilities. Provide documentation of your provider's willingness to accommodate other providers who may be able to co-locate on your facility.
- (7) *Required (after condition) balloon test and crane test photographs.* The proposed tower shall be photographed from four locations taken 90° apart and 300 feet from the center of the tower. The proposed tower shall be superimposed on the photographs. A balloon or crane test shall be performed to illustrate the height of the tower and photographed from the same four locations. The time period, not to exceed one week, within which the test will be performed, shall be advertised in a newspaper of general circulation in the city at least 14 days, but not more than 21 days prior to the test. The four locations shall be approved by the Zoning and Development Administrator.
- (8) *Sight line representation.* A sight line representation shall be drawn from four points 90° apart and 100 feet from the proposed tower. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings.
- (9) *Structural integrity and inspections of towers.*
- (a) The applicant shall provide a certification letter that states the tower meets or exceeds design criteria and all local, state, and federal requirements regarding the construction, maintenance, and operation of the tower.
 - (b) If a tower fails to comply with the requirements and criteria above and constitutes a danger to persons or property, then upon written notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such requirements and criteria. If the owner fails to bring such tower into compliance within 30 days, the city may terminate the owner's conditional use permit and/or cause the removal of such tower (at the owner's expense).
 - (c) By making application hereunder, the applicant agrees to regularly maintain and keep in a reasonably safe and workmanlike manner all towers, antenna arrays, fences and outbuildings owned by applicant which are located in the city. The applicant further agrees to conduct inspections of all such facilities not less frequently than every 12 months. The applicant agrees that said inspections shall be conducted by one or more designated persons holding a combination of education and experience so that they are reasonably capable of identifying functional problems with the facilities.
- (10) *Security fencing and anti-climbing device.* Through the use of security fencing, towers and equipment shall be enclosed by wood board fencing not less than six feet in height. The tower shall also be equipped with an appropriate anti-climbing device. The facility shall place signs indicating "No Trespassing," "High Voltage," or other pertinent information on the outside of the fence, unless it is decided that the goals of this ordinance would be better served by waiving this provisions in a particular instance. Barbed wire fencing or razor wire shall be prohibited.
- (11) *Vegetative screening requirements.* Wireless communications facilities shall be surrounded by buffers of

dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both.

- (12) *Setbacks from property lines.* Wireless communication facilities shall meet current setbacks as required by zoning.

(C) *Co-location.* Applicants for co-location shall meet the following requirements:

- (1) *Administrative approval for antenna co-locations and locations on other structures.* The Zoning and Development Administrator, following an administrative review without requiring the issuance of a conditional use permit, may approve the following antenna installation:
 - (a) *Locating on existing structures.* Installation of an antenna on an existing structure other than a tower (such as a building, sign, light pole, electric transmission tower and similarly scaled public utilities/facilities, water tower, or other free-standing nonresidential structure), provided that the addition of the antenna does not add more than 20 feet of height to the original structure;
 - (b) *Locating on existing towers.* Installation of an antenna on an existing tower of any height, and the placement of additional buildings or other supporting equipment used in connection with such additional antenna, so long as the proposed additions would add no more than 20 feet of height to the original height of the tower. The addition or modification, to the extent possible, should be designated to minimize visibility; and
 - (c) For the purpose of co-location, the applicant must submit information from a licensed professional engineer certifying the capacity of the tower for additional providers and a letter of intent from the applicant indicating their intent to share space.

(D) *Other requirements.*

- (1) *Wireless communications facilities placed on top of buildings.* When a wireless communications facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.
- (2) *Wireless communications facilities placed on sides of buildings.* Antennas which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

(E) *Exemptions.*

- (1) *Personal use.* Towers for personal use which, including the height of all antenna arrays, do not extend more than 80 feet from the ground and shall meet the current setbacks as required by zoning.
- (2) *Temporary structures.* Temporary structures designed to be used for not more than 14 days in connection with a special event or for any reasonable period of time in and immediately following an emergency, including without limitation those towers which are identified as "C.O.W.s" or "Cellular on Wheels."
- (3) *Existing towers.* All existing towers may be replaced with the same type and height of tower structure as currently exists. All replacement towers shall comply with §163.14(A) and (B) regarding color of towers, structural integrity and inspections of towers, security fencing and anti-climbing device, and vegetative screening requirements. All existing guyed towers shall also be subject to the following conditions:
 - (a) A demolition permit shall be issued prior to a building permit being issued for the replacement tower;
 - (b) The demolition permit shall expire within 90 days and shall require the existing tower to be demolished within 90 days from issuance of the building permit for the replacement tower;
 - (c) The new tower shall be constructed as close as technically feasible to the existing tower;
 - (d) Additional antennas may be installed on an existing tower of any height, and additional buildings or

other supporting equipment used in connection with such additional antennas may be placed at the tower site so long as the proposed additions would add no more than 20 feet height to the original height of the existing tower. The addition or modification, to the extent possible, should be designed to minimize visibility;

- (e) The replacement structure may be increased in width to a maximum of 36 inches. Existing guyed towers over 36 inches shall not be increased in width with a replacement tower.
- (4) *Emergency and utility towers and antennas.* Towers and antennas under 35 feet in height used for 9-1-1 services and utility monitoring (gas, water, sewer, traffic lights, etc.).
- (F) *Municipal profits from towers.* The City of Fayetteville should actively market its own property and existing structures as suitable co-location sites. As noted above, the review process is shortened and simplified when co-location on city property is submitted by applicant. An annual lease amount should be charged according to the fair market value of the location. In cases where the company no longer needs the tower, the city may require it to be removed. Applicants can provide co-location space for city-owned antenna.
- (G) *Abandoned antennas and towers.* At such time that a licensed carrier abandons or discontinues operation of a wireless communication facility, such carrier will notify the city of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that licensed carrier fails to give such notice, the wireless communications facility shall be considered abandoned upon such discontinuation of operations. Upon abandonment or discontinuation of use, the carrier shall physically remove the wireless communications facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
 - (1) Removal of antenna, equipment shelters and security barriers from the subject property;
 - (2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations;
 - (3) Restoring the location of the wireless communications facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- (H) *Notification of change of ownership/operator.* Upon assignment or transfer of a conditional use permit, or any of the rights thereunder to a new wireless telecommunications operator, the owner or operator shall provide written notice within 30 days to the Zoning and Development Administrator.
(Ord. No. 4178, §4, 8-31-99; Ord. No. 4285, 1-2-01)

Fayetteville Unified Development Code
Section 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 25	Professional offices
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.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4727, 7-19-05)

December 2, 2005

City of Fayetteville Planning Commission
113 West Mountain
Fayetteville, AR 72701

Attention: Chairman and Members

Re: Smith Two-Way Radio
Proposed 100' monopole tower

One is always hesitant to speak up on public issues for various reasons; including fear of creating enemies. However, please consider the following.

I live about 1 1/2 blocks east-northeast of the Smith Two-Way Radio business and have for 30 years. As you know, the Smith operation lies just west of the Washington-Willow Historic District; which currently is one of the wonderful, unique areas of Fayetteville. Why would the citizens of Fayetteville wish to diminish the charm of the area with a 21st Century 100' tower?

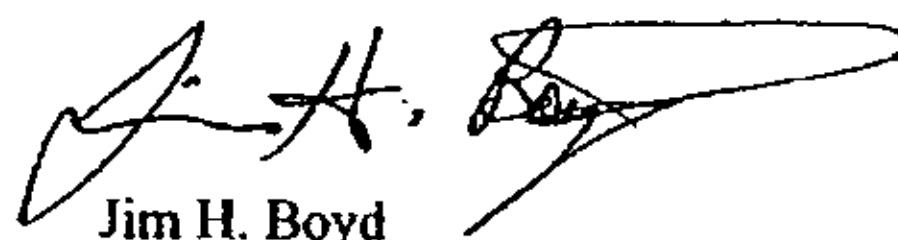
If the proposed tower is approved, will it be lit in such a way as to add to the light pollution we already have in the area? If so, I am absolutely opposed to the new tower. It should be in an industrial area or some place that is more suited to 100' of light pollution.

Further, I think the City needs to investigate the effect the current Smith Operation has on its neighbors and what effect the new proposed tower will have. Although I am on Cox Cable, at my house, sometimes some kind of interference makes my TV reception blurry. If I have my radio on in my car, I get good reception in my driveway and Eastward down Davidson Street; however, when I get about two car lengths from Highway 71 B (College Avenue) some sort of interference attacks the signal so that I can barely hear the radio. So, if I must wait at the stop sign, I have to turn my radio down to stand the static. After leaving the stop sign, the signal gets better so that about 2 blocks away from Smith's, the radio is normal.

This is really a quality of life issue. We in the Washington-Willow Historic District have a wonderful place to live; please be very cautious when considering anything that might diminish our quality of life. I hope the people at Smith Two-Way Radio will not consider my objections as a personal attack on them.

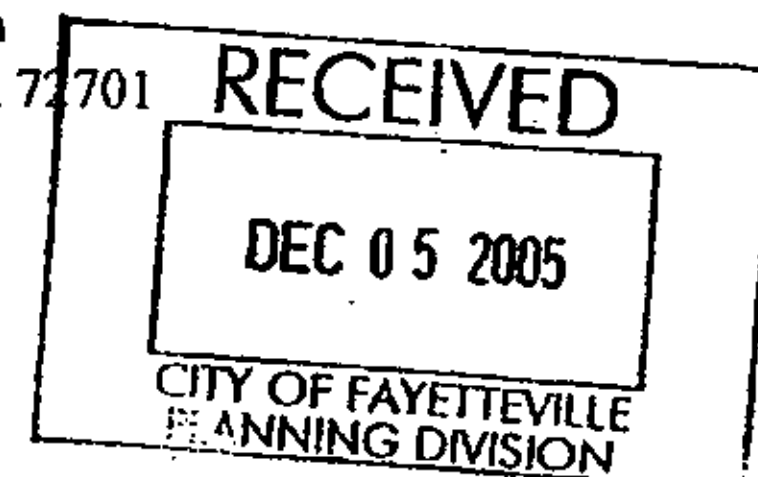
It would be greatly appreciated if the Planning Commission would take the above into consideration before voting on the issue.

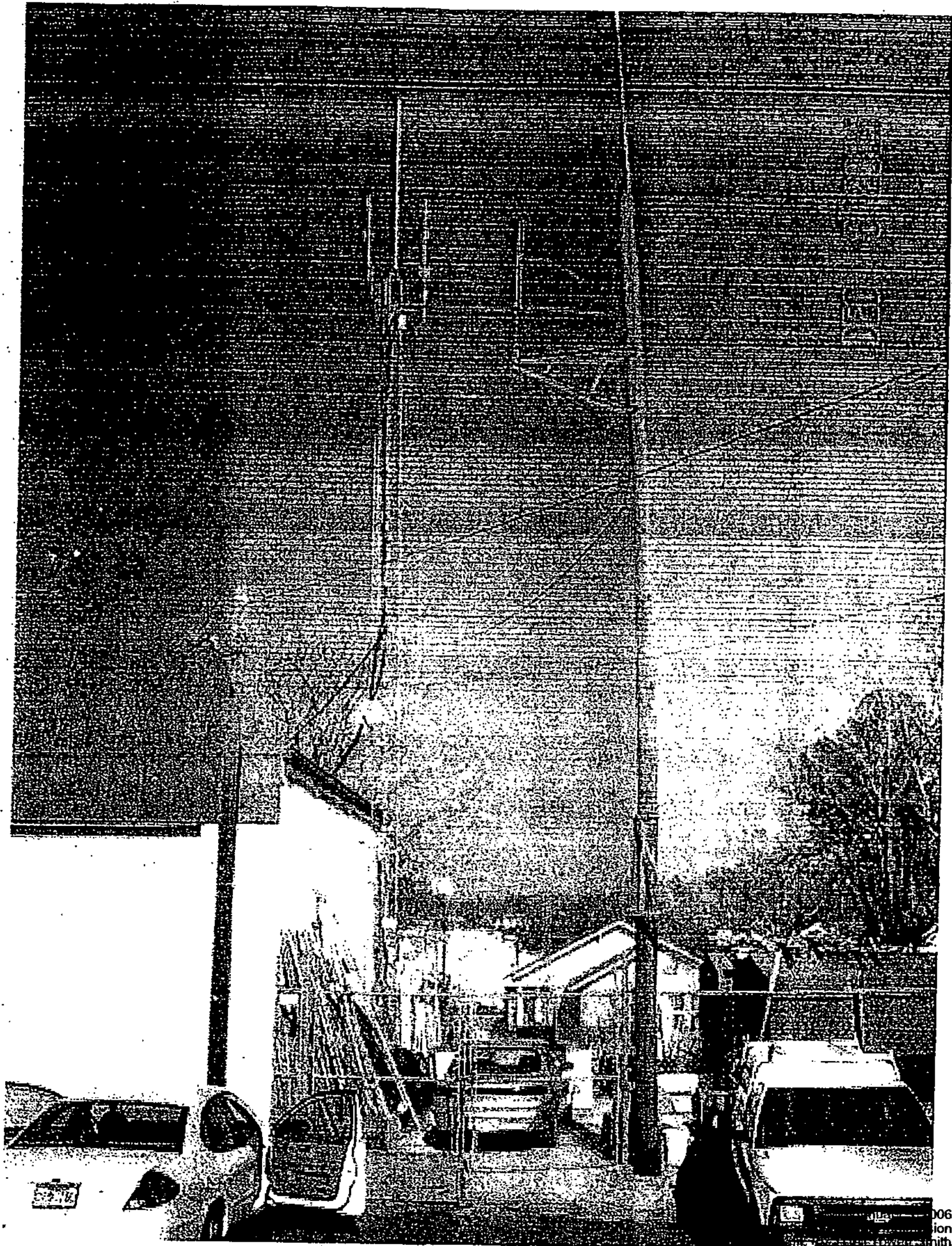
Respectfully submitted,



Jim H. Boyd
206 E. Davidson
Fayetteville, AR 72701

cc: Smith Two-Way Radio





EXISTING TOWERS

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CUP 06-1875: (CELL TOWER/SMITH 2-WAY, 446): Submitted by MICHAEL SMITH/GARY COCHRAN SMITH 2-WAY RADIO for property located at 520 COLLEGE AVENUE. The property is zoned C-2 THOROUGHFARE COMMERCIAL and contains approximately 0.51 acres. The request is to approve a cell tower at the rear of the subject property.

Garner: This property is located at 520 College Avenue, the site has approximately one half acre. The applicant is proposing to remove two existing shorter wireless communication towers and replace them with a single taller tower. The existing towers are one, a 65' guyed tower with a 20' antenna extending above the tower, and two, a wooden utility type monopole and extension bracket that supports antennas up to 62 feet above the ground. We have received several public comments the last several days. There was a petition signed by several of the neighbors in opposition to this. I received a call from one property owner in particular that wasn't allowed to be here, wanted me to state her name in opposition. Her name is Claudette Honeycutt. We received a couple of other phone calls as well in opposition to the project. The applicant has included a lot of their written comments in your packets and we have the signed petition if you want to see that. We also have a letter from the representative from the Washington-Willow Historic District as well. It was passed out before this meeting. Smith 2-Way radio states there are capacity issues that need to be resolved with the existing towers in that the coverage in tower-to-tower hand-off issues due to the distance and barriers between the existing towers creating a deficiency in the wireless communication service. They also stated that due to the growth of the tree line in the area, the applicant cannot maintain a line of sight signal path to the closest tower which is located on Mount Sequoyah. To improve the call handling capacity cellular coverage and tower-to-tower handoff, they propose to remove these two existing towers and replace them with one tower that is a maximum of 100 feet in height. The applicant is proposing to landscape the site and remove the existing barbwire and chain link fence and replace it with a 10 foot wood type privacy fencing around the site. They are proposing to use a slim line T-mount antenna and transitional paint scheme to camouflage the pole similar to what was approved on a previous project. Staff's opinion finds that wireless coverage can be provided at this location that will not detract from the scenic quality and character of the area. We find that the proposal would actually improve the visual quality of the area by removing the existing outdated towers and replacing it with one tower that would be 20 feet taller than what is currently there, but would be a slimmer, lower profile type tower and would be camouflaged. We feel that with the addition of a wood privacy fence around the site and removing the barbwire and chain link fence and landscaping the site would be compatible and do find approval for this conditional use request. I wanted to call your attention to a couple of the

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conditions: 1) the applicant is required to comply with all Federal regulations, 6) utility equipment at the base of the proposed tower would be required to be surrounded by a wood security fence of sufficient height to screen any utility equipment. The existing barbwire and chain link fence would be removed; 7) landscaping shall be added to the site – we would have to see a site plan prior to development; the other conditions are relatively similar to ones we have seen on other wireless communication towers. We would be happy to answer any questions you might have.

Ostner: Thank you, Mr. Garner. Is the applicant present. If you would introduce yourself and give us your presentation.

Reynolds: My name is Dave Reynolds and I am representing Smith 2-Way Radio. I live here in Fayetteville on 1519 Center Street. With this application on this, and public comment by folks....some of the comments we have heard back are from people that were afraid that they weren't notified in proper manner. I wanted to go through this with Staff while we are here. All the proper notifications were sent, certified letters to all the appropriate houses. We spent hours today checking and double checking addresses and mailing receipts and postage, and dates to make sure all of that was done. That is done. So everyone that was supposed to be notified was notified. Then past that, we worked with the West Lafayette Historic District, with the Washington Willow Historic District, and anyone else we could think of in the community. Until Thursday, we had received two comments from the notification process that some folks were a little bit upset with this. One from Jim Boyd and one from Ann Thomas. Other than that, we had sent out 43 notices, we received 15 back, which in our experience with this, quite a number of receipts back. Eighty percent of the property owners that responded were in favor of this. Twelve in favor, three against. I wanted to point that out, we worked with everyone we could find, talk to, call or knock on the door. Comments that are coming up now, I would appreciate the time to address them or go through this. There are a couple of other things with this that I want to bring up with this application. This application is brought forward by Smith 2-Way Radio. The towers that are in the rear of our facility have been there for 35 years. We've been in that building since 1952, started Smith Radio in 1929 right down the street on the square. We've been in Fayetteville a long time. We don't build something ugly; we don't want to mess up historic areas. I wanted to point that out. With these towers we use, we use them for monitoring and maintenance on area systems, such as Arkansas State Police, City of Fayetteville, Ozark Electric, Washington County – the list goes on. We have over 500 customers. We monitor and listen to these areas from these towers. This is our workshop. The towers being 35 years old – when we put them up there, the trees weren't quite that tall. With this, we have to maintain a line of sight connection for

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some of our maintenance work, for data signals now. We need a line of sight connection to Mount Sequoyah. We don't make it any more. We have to bounce it off the top of the Radisson and do some other things, some fancy work to get there and it is not as reliable as we'd like. That's one thing with this. In doing this, taking down the two existing towers, we can take out a lot of the outdated equipment, modernize it, reduce it, move ourselves up and still have room to provide co-location for a cellular carrier or two. It's a financial bonus for us if that happens, but it's not the only reason. It's not going to be just a cell tower; it is a facility for our use at our business. I just wanted to make that clear. In the information I've seen, it says it is a cell tower. It can and probably will be used for that purpose, but there are also other purposes for it in with that. You've had the packages there and as you can tell, this tower is only 100 feet tall. The two towers there top out at about 65' and 82' at the antenna height; so we're taking those down and putting up one that would be 20 feet higher. Our proposal is to build a new tower; we've worked with Staff to see if we can do this under an administrative process to take down the two, and put up one; under administrative review, replacing an existing tower. We can do that, but what we've got here is we want to make it a little better than that. To make these changes that we want to do, it has to come before this Commission and through the process as a new application. So we want to do it a little better than what we could do. We want to do the landscaping, the fencing, the screening, remove a lot of the stored material that is an eyesore. I'm sure the people that live behind, they don't like to look out their back window and see this. We are going to move that, screen that so you can't see it, and what we are going to replace it with the tower won't be any different or worse than what they see now. The trees in that area (I've got some slides) top out at between 65 and 75 feet. So we are only 30 feet above the tree line with a 100 feet of tower. Right now we are below the tree line with our towers. With the existing tree line, homes and the angles this will be seen from, it won't make it any worse. We have talked to many people in the neighborhood and they didn't even know the towers were there to start with. You have had a chance to look at the coverage book and the pamphlet that we submitted. I've got examples in slides that will probably answer most of your questions when they come up.

Ostner: If you could hold off on the slides until we have questions. That sounds good. At this point, I will open it up to public comment. Please state your name and share your comments with us.

Wilson: My name is Carrie Wilson. I do Section 106 compliance for cell tower review for the Paw Paw Tribe of Oklahoma. One of the things we look at under cell tower review, section 106, the National Historic Preservation Act. So any time for the Paw Paw Tribe that cell towers come in, they always ask the Tribe if they have anything of religious or cultural

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significance; they require an archeological survey, and quite a lot of stuff. This doesn't necessarily pertain to here because this is already been impacted. But also, the construction of a cell tower is a Federal undertaking because it has to through FCC licensing. So as a Federal undertaking, it has certain Federal requirements it has to fulfill. One of those requirements is, does this impact historical properties? It will get signed off by the State Historic Preservation Office. There are citizens within the Washington Historic District that are concerned about the impact. And it is a visual impact, too. It's not just the physical impact, but the visual integrity, the visual impact of the site, and one of the things that can be done (not necessarily in this case), but gives you an alternative that it doesn't have to be a guyed wire pole or a monopole. They can be disguised as church steeples, flag poles or a number of things that can be incorporated into cell towers. So you don't have to look at a cell tower with this big thing on it. I would get as many as 25 requests in a week, certified mail, so there are tons and tons of them going up. I think sometimes, it is good to see cell tower construction going outside the box and trying to disguise them in different ways so it doesn't impact the community as much. This will have to be signed off by the State Historic Preservation Office and it does have to take into account that aspect before it can be constructed.

Hunnicuttt: I'm Claudette Hunnicutt; I live at 520 N. Washington Ave. My house faces so that I would see his towers from my front windows and my front door. It is on the back of some properties, but the whole front of my house would be facing this. Landscaping would be fine, but that is around the ground. How tall is the fence? A ten foot fence? We're talking about 100 foot tower, are we not. I don't think he is going to build a 100 foot fence to conceal that tower. It will have an impact on the Historic District and it will have an impact on the property values around it. It is my understanding that the City wants to beautify College Avenue. Do we want a cell tower right there? A 100 foot tall on College Avenue. And while I'm on the subject, there is an alleyway that goes between the Lunsford property and goes into Smith Radio. That is the only alley that is still in operation from College Avenue into the Historic District. My property had an alley that extended-- we closed it fifteen to twenty years ago. There is no reason that that alley should be there, because it was constructed to collect trash and garbage. City trucks do not use that. Smith Radio is using it as a back entrance to their store. Now, to me that in itself is impacting on the Historic District and I think that alleyway should be closed, but that is not before the Commission right now. I do think that this tower will be an eyesore, I don't think it should be constructed there. I was informed that it was coming up; I did receive a letter from you all. I went out of town, so I didn't mail my response back. But I did call this morning and I'm here tonight. This is just not an enhancement to the Historic District, and when we start chipping away at

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our Historic District like this, we are going to destroy it. And that is one of the assets of the Fayetteville community, our historic districts. And ordinances have been passed so that we can build garages so we could get our cars off the street, not to build apartments, but to build garages to make Washington Avenue a prettier street. We do not need a 100 foot cell tower right at the borderline with the Historic District. He said he received a lot letters in reply. I would like to know how many of those were homeowners in the area and how many were business owners. Business owners would sign off on it; it is not going to affect them one way or another. I would like to know how many of those letters would like to have 100 foot cell tower sitting in their back yard.

Lunsford: Claudette Lunsford. Our property is not directly behind where this tower would be, it is just slightly caddy corner. We did not receive the certified letter; I understand today there was notification. I don't know why our mailman did not give it to us. But for whatever reason, we did not receive notice that this was happening until about a week ago when we got the letter from the Planning Department. I went around and started speaking with quite a few of my neighbors and we were not the only people that didn't know this was going on until just in the last few days. I don't know if in the Christmas season, people get busy and don't pay attention, I don't know what all the reasons might be. But there has been some rather late notification from everyone that lives in the neighborhood. I did want to make sure that there were thirty plus households that signed a petition that objected to having this placed in the Historic District. I think that the fact that our area is so close to a commercial zone, we feel a lot of pressure from all the traffic and noise from College, the cut through traffic. Having something that's this close to our neighborhood seems like it is more commercialism encroaching upon a fairly unique area that doesn't belong there. I don't think that seeing the cell tower from my back yard would be something I would look forward to, and also agreeing with Claudette Hunnicutt that being able to look at it while you are driving up and down College Avenue isn't something people would expect in that area of town. I think it is inappropriate for that neighborhood. I think there are other places that could possibly be looked at if we need cell coverage in that area of town. Maybe some other avenues need to be checked out to see if there is an alternative before you just put a cell tower in the middle of the Historic District. That's all I need to say. I would like you to think about preserving the nature of our neighborhood and its uniqueness and try to keep that in mind.

Laller: I am Nan Laller and this doesn't really affect me directly so this is genuine public comment. I am curious as to whether you have ever requiring cell towers to be disguised, like Carrie Wilson said. They can be disguised. My husband and I went West last fall and we saw a number of them disguised as trees. The first one we saw was a great tall pine tree coming

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out of the California desert; that is weird. So you kind of notice that something is wrong here, what is this? So as we got closer, we could see the little crown on top and realized it was a cell tower. So we started looking for them. And as a matter of fact, when they are among other trees, it is a pretty good disguise. So I assume California or at least some counties in California are requiring them to be disguised. Fayetteville is supposed to be at the forefront of everything, so I'm wondering if you have ever considered asking for them to be disguised? Thank you.

Ostner: And yes, Ma'am, we have. That is part of our ordinance. We will go into that in a little bit.

S. Lunsford: I'm Scott Lunsford and I live at 513 N. Washington. I know that the "Not In My Backyard Argument" is not a really strong argument for this kind of service, but I do question that it is not just my backyard, but we are looking at a ten-story structure in the 500 block of Washington Willow Historic District. I'm just wondering if that location is really the most serviceable location for what they are trying to achieve as far as cellular coverage. I think that the issue is really the Wilson Park Basin. I am thinking that this tower should be closer to Wilson Park Basin. I'm not an expert in cell technology. I know a little about it and I'm a little bit concerned about being shown some slides later and not being able to come back and comment on those. Will we open to respond to any further presentation by the applicant?

Ostner: Probably not. We will go ahead and hear the public comment now and the slide show will simply illustrate what we already have in our packets.

S. Lunsford: Of course these are items that we have not seen, and not being able to comment on them or to take them and study them, kind of puts us at a pretty serious disadvantage.

Allen: I just wanted to mention to you, Mr. Lunsford that we have had this debate recently because the applicant usually has the final, middle and first word. There would be circumstances that we would allow if the Commission as a group would permit it, we will sometimes allow public to speak again.

S. Lunsford: Thank you. If cell service is the main drive here or is that part of the enhancement or part of the package that they'd like you to believe is necessary or certainly a fruitful result of this conditional use. I have to say I have not personally experienced any Cingular cell problems in my area and I understand that there are probably more cell phones than cell towers, but I'm still not sold that that tower has to be at that location to enhance that service. I'm quite certain that the monopole tower does not contribute to the character of the Historic District. Please, please don't approve this conditional use.

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Reese: I'm Karen Reese and I'm president of the Washington Willow Historic District. I must say that Dave Reynolds did contact the neighborhood association early on in this process. He contacted us in November. He asked to meet with citizens. I feel like I must disclose this in spite of what has happened in the last few days. He did contact me by phone, he did send an e-mail and he did ask to meet. I posted on the Washington Willow Neighborhood Association List Serve and asked everyone who was interested in this project to join me. He had already sent out the letter and at that time I think he had fifteen responses that said they were favorable and he had one at the time that said that he was opposed. I posted it on List Serve, no one showed up, I went by myself and met with Dave, we toured the property, looked at everything and he told me their plan. I came back and reported my findings on the List Serve to the Neighborhood Association, and said I invite your comments on this. I showed up today, no one showed up with me, but I invite your comments. Nothing happened. I heard nothing except for one respondent that said I think they are handling this in a responsible way. That's all I heard from the neighborhood List Serve. I got back from vacation on Wednesday and on Thursday I had a call from Dave who said would you please write a letter saying what the Neighborhood Association feels about this and I said I would over the weekend. Then I just got a call from some of the neighbors on Friday who said they had not been notified, so even if it is just a friendly thing to do to notify the neighbors, Mr. Reynolds told me that he had notified the neighbors in a 500 foot radius by certified letter. I guess that some of the neighbors did not receive that which made me not to be able to sign on to send him a letter that said that the neighborhood felt this was okay. I had to write him a letter that said that some people who are really worried about this project now. So I'm just trying to give you the background of what has been going on in the Neighborhood Association. I went over and looked at it and did not find what they were doing didn't seem that awful to me, but it's not directly in my back yard. The people who are here tonight, it is in their back yard.

Ostner: Is there any further public comment? Seeing none, I will close the public comment section and bring it back to the Commission for discussion.

Myres: It seems as though if the commenting public had some of the visual images that we have in our packet, that they might be a little bit better informed about exactly what this looks like from where.... Would it be appropriate to share my packet with them, or not.

Ostner: It would. I believe the applicant has a presentation, if we want to go ahead and do that. I believe it reflects exactly what is in our packets. You want to go ahead.

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Reynolds: I have some additional photos that we took today from some of the locations that are in the petition. Just so I can show you those specific locations and those houses.

Presentation: This is a checklist that we worked from, many times that is given by the Planning Commission, including flood maps, drawings, contacts, notifications we have to send out to neighborhood people. This is a standard form. This is the geographical area that this would serve, not only in the Smith 2-Way, but if it was used for cellular coverage. It shows some of the area from top of hill of North Street, across from the old WRMC, up to about Dickson Street by the Courthouse; in that basin and a little bit toward Wilson Park. These are the existing and planned facilities that around there right now. The center one there with orange is the location questioned. There are two locations on top of Mount Sequoyah, one at the AWG Tower, one at the Methodist grounds and Water Tower. Also, at the Water Tower at the VA Hospital. There are also cellular facilities at all those particular Cingular locations there, as well as anyone else that can possibly fit on those: Alltel, Verizon, Sprint. The surrounding area is definitely full. This is one of the diagrams requested showing the single family residences within ½ mile radius. As you will notice, we are located in the C-2. There are lots of single family residences 4 per acre located behind us. This is the existing towers that are within that mile -- the two at Mount Sequoyah, the one at the VA, the fourth one is the top of the Highland Towers, I believe, and there are a couple at the University Stadium and a couple more at the University. The site plan that we submitted -- you are all familiar with the fence and the way it runs there behind our building now. We purchased the facility next door to us. We are going to move everything down into that back open lot that's down there behind the engineering company now and fence it up, scoot it back and landscape it on all four sides. We have worked with the City on the landscaping plan and some of the things they want to see there to meet the ordinances. We are working on the drainage -- we are going to fix that up, close it up, put it in pipe and get rid of it. A copy of the warranty deed. This is a close-up of the location. We would set our sheds back down further into the tree line and plant some more trees and shrubs and all kinds of stuff there. This is the area of land use. We are in C-2, a commercial thoroughfare is where we are located. There is a 100 foot radius of the tower, so if for some reason, it did happen to fall over, which they are engineered not to do, there won't be anything there left to hit. It does not touch or intrude on any residences. Signage. These are some of the opportunities for other cellular companies. Right now we doing Cingular Wireless, but there are several other carriers in this market. Our goal is to get them all on our tower, so we try to build them in a place that everyone needs them, not just where we can build them. This looks like a good location. This outlines that we will take down the two towers, removing the chain link fence and so on with that. We will only be protruding above the existing trees twenty to thirty feet. There is no

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lighting. The A/Cs will be commercial A/Cs, no loud noises or smells. This is part of the coverage map. Red is better: red, pink, yellow, green. This map was furnished by Cingular Wireless and this is what it would be when we get it in there. It will still fill up the sides of Mount Sequoyah, through that Basin, start into the Wilson Park area, and help out in the hilltop on North Street. That's just in the coverage area. A lot of the other issues that we have talked about before are capacity issues. If you look around Fayetteville, and this will please you guys, we've got about all the hilltop sites we need. They're there. We've come before you several times now. We are always asking for the low land. That's because that's where we need it. What happens is that this tower, built several years ago, with any wireless companies came as true cellular. The technology has improved and has gotten better. The population of Fayetteville has exploded, we'd all agree. And it is also the population of cell phones of among the people of Fayetteville has grown. It takes the site that used to be on top of the VA Water Tower and Mount Sequoyah and Highland Terrace, you would have X number of phones calls and you would never exceed X. But now in the last five years, we have doubled the number of cell phones in Fayetteville so it's X plus 500 at any given time. So then you get all circuits are busy. I'm sure everybody who has a cell phone that has ever tried to make a cell call during the football game, even if you aren't at the football game, gets all circuits busy. There is not enough capacity to accommodate all the calls.

Clark: I hate to interrupt this fascinating presentation, but I would really like to focus on what the views of the towers themselves are and not go through the packet one page at a time. I'm most interested in what the visual representations of the cell towers are. And to let the neighbors know what they literally would be looking at.

Ostner: Are the other Commissioners in agreement – Yes.

Reynolds: This is a typical monopole type of structure, that is NOT what we are going to do. What we are going to do is on the other side, except short and small. More compact than even that. You won't see this. That's part of the conditions. We have one at Zion and 265 that we built that was recently approved. I'm showing the difference between the painted and unpainted. The tower that we are proposing will be painted in this scheme, with the green transitioning to the blue.

Ostner: But it will have the T on it like the others.

Reynolds: It will have a small T on it. Here's what we are looking for. These are photo simulations we did that are required by the City for this. This is standing next to IGA on College Street. You see the little cross – that's what the tower will look like from that location. This is not a large tower

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and it is only this wide at the top. This is from the opposite direction, standing behind Curry's next to University Auto. This is what it will look like coming from the other direction.. The structure right here seen above the tower is a crane that we rented for the day. We raised the ball up to 100 feet and hang it over to where we need to be, the exact location of the tower. That's how these site lines are represented. The scale is forced.

Myres: Can I ask you what the structure immediately to the left of that is?

Reynolds: That is a small antenna that is stuck up here on the side of University Auto. It is 15 feet from the photograph point. The tall one that looks like it is a mirror to the other one is actually is right in the foreground -kind of a forced perspective. If you look here, you can see the existing tower that I have marked and if you look in the center, there is another small tower. It's kind of fuzzy in this picture. Those will be the towers that will be removed. Here it is from the little motel right across the street from us on College. This is in their parking lot. This is what it would look like from that direction. Twin Arch Motel. You can see the existing tower is located in the tree line. This is it from right in front of your house, ma'am. That is how tall would be in actuality. That is the view you would see through a tree - it is behind the trees. This is the 100 foot line at College and North St., the top of the old WRMC lot. It is there, but you can't really see it, it is a distance away. This is it from the top of Washington School coming on Maple St. - on the corner. Here it is from Mount Sequoyah. You would be looking down on it into the City, if you could see it at all. This is some structural information.

Ostner: I think that is plenty.

Allen: I'd like to first broach the tree idea that we have discussed one other time. We also talked about a clock and other objects. I wanted the neighbors to hear about that.

Reynolds: On several other occasions we have talked about camouflaging as a tree and things like that. Technically, would this work as a tree? Yes. This would work as a tree. We would rather not build it that way; the reason is, it would be the tallest 100 foot tree in the neighborhood; it will triple the cost. We have to do something to get our line of sight back. We can build within administrative review on top of what we have to eighty feet and that will get our line of sight back. But, to do what we want to do and use this and the revenue it generates as a cell tower, to pay for these improvements and pay for itself, to add another \$120,000 on top of the project, which would more that double the cost of the project, it never pays back as an economic model. I'm not saying we wouldn't do it, but if we did it, but as the applicant, we would ask for a taller tree!! If you look around Fayetteville and the ones we have built, I'll be the first to admit I

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poopooed the transitional paint scheme, but it works. I would have done anything to keep those poles gray. The transitional paint seems to work. You can look at the one on 265 and Zion. The commissioners have seen it and it works. Just for your information and for the public, tomorrow morning the last tower that we have talked about at Deane Solomon Rd.- we will be standing it up, if any of you are interested. And it will also be the same transitional paint scheme. The flag pole with the antennas that we want for our personal use and for monitoring, some of those are 18-20 long, some VHF and low band antennas that will go lower on the tower. They won't work. The tree situation, we could make that work.

Allen: The questions about alternative sites. When NIMBY comes up, I think that this is a slightly different situation because if we are going to have historical areas in our City, they are all of our back yards. I feel like this impacts the entire community, because this is something that we are focusing on and are talking about in our Downtown Master Plan and areas that we have in our City that are appealing. I wondered if you could discuss alternative sites.

Reynolds: Alternative sites for this tower? We have looked around. Of course we own the land, so we wouldn't have to buy another piece of land on College, since we have already bought one. As far as the RF coverage-wise, it could move 500 feet, a quarter mile maybe and not be affected. If we move it that small of a distance, in any direction, it still is in the back yard. We are willing to put it in our back yard and take down some of the mess that is there and fix it. If we move it somewhere else, that doesn't help Smith 2-Way's problem with the line of sight issue. There would be no secondary benefits for the City or for us.

Allen: I don't know if the other commissioners would consider it appropriate, to open it up again to neighbors. I'd like a little bit clearer feeling as to why they, if the area is to be cleared and landscaped and fenced, why that additional footage is that large of a concern.

Ostner: Let's go ahead. I'm going to put stipulations. We are not going to repeat the same issues, we are not going to repeat the same comments. If you have something new to say, we would be glad to hear it.

Allen: The question was for that much additional footage to be added, considering that they are going to clear up the area, and landscape and fence, why would that particular amount be objectionable.

S. Lunsford: I guess there are three things here: 1) cleaning up the mess that is there; I don't think that should be tied to adding a ten-story antenna in our back yard. I think a good neighbor would clean that up anyway. I don't think the cleanup is necessary to get the tower; 2) the additional twenty feet—

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looking at the extreme distance that those photographs were taken, and I can promise you that at 1,500 – 2,000 feet away from an object that this thick at the top, it is going to disappear in this image. Did we see anything ten feet, twenty feet away, next to the tower? No, we didn't. All those images were from a great distance, so the closest we got was 250 feet, and at street level, and not at the second story level which many of these houses have, and 3) I keep hearing that it is only twenty more feet. If you look at these towers that are existing now, yes there is a twenty foot piece of antenna on top of a 65 foot tower, so it's a little bit misleading to say that they are only adding twenty feet – they are almost doubling the height. I think all you have to think of is ten stories. Think of what ten stories looks like twenty feet away. That is the scale we are talking about.

Ostner: The overall maximum height will be a 100 feet, which is 18 feet taller than what is there now. It is not doubling.

S. Lunsford: What I'm saying is that composition of what is there now – the last twenty feet of that 80 feet is this big around, not this big around. So it's a structural difference – it is a visual difference. I know it is easy to look at those photographs and say that this doesn't look bad, but you are thousands of feet away from it.

Ostner: Do other commissioners feel we should have more public comment.

Myres: Maybe people who haven't spoken before?

Hunnicutt: One of the differences is the towers now are below tree level, so even in winter with the leaves off, there are concealed somewhat. Now they are going above the tree level. So anywhere on Washington Street you are going to see this thing sticking up. On his tapes, I was concerned about the service area he is talking about. It's just from Mount Sequoyah to Wilson Park. That's not a whole big area to disrupt the Historic District to service that one little area. He said revenue-wise, it wasn't worth it for revenues. Revenue is their bottom line, they don't care how they impact the District.

Ostner: That is sufficient; we are going to go ahead and close the public comment section for good and we are going to discuss it among ourselves.

Myres: Can I ask for a point of clarification? Probably from the applicant. Back in the beginning of your presentation, that the primary service that you provide to the City, the State, the Highway Patrol, for signal bridging.

Reynolds: We monitor and maintain and administer all the communications for the State, City, and local County fire departments. We use that in the repair of

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their systems, so that we can stay at our location and monitor the signals at those locations.

Myres: So the primary purpose of improving the service at this location is to make it possible for the police and the fire and the highway patrol to communicate with each other in a way that allows for consistent quality of transmission?

Reynolds: I don't want to say that. It is a little bit overstated. What is used for in those systems, they operate independently of ours. What we use it for is if they call and something breaks, we have people on staff right there with all the equipment to monitor and diagnose that. So we tune into their frequency with those antennas and see what is wrong.

Myres: So it is a repair service.

Reynolds: It is a repair service at that point. That's how it helps to maintain those systems, but it is not an "integral" part of their system. I don't want to mislead you on that. But it is very, very important to us. And it is important to them when it breaks.

Ostner: I have a question for Staff. There is building permit, a red sign up, just north of here on College that used to be some sort of entertainment venue. How tall is that building going to be? Do you know off chance?

Pate: It is at least two stories and I'm not sure if they are going to increase the height of that structure at all. They are retaining the two stories there.

Ostner: I was just recalling at the agenda session we were talking about building height and the new County Courthouse has a sort of hiding story that is hard to see. I know our ordinance requests them to look into other locations. I was just thinking outside the box.

Graves: I might have a little more heartburn about this if there weren't already two towers there. I understand Staff's recommendation for that reason. If we were bringing a tower to the Historic District for the first time and there wasn't already a tower there, I probably would not support that or it would have to be a lot different set of circumstances and conditions than what we see here. There are already two towers there. I haven't see the two towers, but it sounds like they aren't very visually appealing towers and maybe a larger around tower is at least a part of them than what this monopole being proposed would be. So from the standpoint of the visual aspect of it, it sounds like discounting how high we might vote to let them go, whether we go 100 feet or something different than that, just looking at the tower itself and the paint scheme or what we decide would potentially be less impactful on the Historic District than what is there

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now. Also, looking what is in the public interest, even if it is only a five minute breakdown in emergency services, this tower would help bridge or repair, that is more important in the big scheme of things than intrusion visually into the Historic District. I think that most people would agree with that. Also, it is in the public interest. This is not just a cell tower, it is the public interest to try to modernize equipment and to make sure our communications facilities in the City are in good repair and highest quality that we can have. And the co-location of not just more than one cell phone company but also these other services that this tower can provide, is also an important aspect on this one single tower. There is not church sitting on this piece of property and obviously anybody would prefer not to go out and buy another piece of property just to try to cover the area that is involved and whether it is small or large, it is subjective. If there is poor cell phone coverage for some or all customers, and poor coverage for other purposes, it affects the people in that hole and it may be a pretty important to them, even if it isn't important to anyone else. So from that standpoint, I think it is clearly in the public interest to have some type of improvement to what's there now, if they are having to do all kinds of crazy bouncing of signals to try to get things to work properly. Looking at the height and what it ought to look like, I think that is the bigger issue and bigger debate. To me it's not whether it ought to be there, I would prefer to see them tear down the old towers and put in the newer high quality, high tech, slim model of a tower. This tower that they are proposing at 100 feet is 18 feet higher than the height that extended by the taller of the two towers. I would be open to something less than that. Can I understand from previous submissions by this applicant that in order to co-locate two or three companies on there, there has to be enough height to give space to the different cell phone companies on that tower? So I understand that it can't be a great deal less than 100 feet, but 90 or 95 feet may be better than 100 feet to these neighbors. It might be something that you could do what you needed to do and get your sight line back and still have room to cash flow things and pay for it, than 100 feet. Then we are only talking about 8 feet higher than what is there or 20-30 feet higher if you don't count the antenna. I would probably be more interested in seeing something along the lines of 90-95 feet and would throw that out to the other commissioners to see what they think about that. The other thing is that we have never really explored what the cost would be making it look like a tree or is that is something the other commissioners are interested in. We talked about it at one time about six months ago on one of the proposals (Zion Road) and in that case, the tree line was only 30-40 feet so it was going to look ludicrous to have 100 foot clock, flag pole or tree out there. It wasn't going to fit in or match - it was going to look crazy. Here it sounds like the tree line is quite a bit higher and making it a tree might be something that works a little bit better here because it is not as out of place. I would throw out those two things - maybe something less than 100 feet and still allows the applicant to do what they need to do

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and possibly discussing a different design, although the paint has worked pretty well. I think anyone that has seen that, it does blend in pretty well. But on the issue of whether this ought to be there and whether the conditional use ought to be there, it is already there in one form and I would support allowing them to tear down these two towers and put in another tower.

Trumbo: A couple of questions for the applicant. Will there be a light on top of this tower?

Reynolds: No lights, no wires, no sounds. One of the towers that exists there, the taller one, is a guyed tower now. It would be a smaller version of the Zion tower.

Trumbo: When I see these on the agenda, it is probably the worst thing to have to deal with up here, because nobody wants them, but we all need them. No one wants them in their back yard. I certainly understand the neighbors' concerns and feel for them. When we did the Zion pole, I had reservations about it and especially about the paint. But after it went up and taking a look at it, it worked. It is a tower, but it doesn't draw your eye, in my opinion. Some of the photos I saw, especially I believe in front of Ms. Hunnicutt's house had trees in front of it, so it looks like most of the pole would be blocked. I don't think it would be offensive as the neighbors believe it would be at this time. I would probably in favor of allowing the tower in the conditional use. What's there is a mess and needs to be cleaned up and I agree that a good neighbor needed to do that a while ago. I want to hear from other commissioners. But I don't have as much angst about it as I used to.

Ostner: If I could ask our City Attorney to give any comments about our stipulations. How far can we go. We have been advised in the past that these conditional uses are little bit different because there is a Federal body that is asking cities to provide infrastructure.

Whitaker: Exactly, there are actually quite extensive sections of the Telecommunications Reform Act of 1996 that deal with local regulation cell towers. Now, our ordinance which is section 163.14 in which all your decisions are based on and the criteria that the Staff sets forth in their report, was composed with the provisions of the 1996 Act in mind. So what is in there, if you comply with the ordinance, you are complying with the 1996 Telecommunications Act. Written in here are things that you would not consider in another conditional use.

Ostner: Thank you. That helps. I have a question for Staff. On page 13 of 22 of our packet, the section 163.14 B2, it says towers or alternative tower

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structures are permitted to a maximum of 150 feet. Am I understanding that if the applicant wished, he could simply, he could be proposing a 150 foot tower tonight?

Pate: Yes, he could propose that. It would not have to be approved.

Ostner: On page 6 of 22, our conditional use guidelines basically require us to scrutinize the general compatibility with adjacent properties and other properties in the district. Staff has answered that well, but it is a judgment call. I am agreeing with Mr. Graves and Mr. Trumbo, that this does not present a huge threat, but I am still not in favor of it in this location. I don't think it is compatible. I think there is another place nearby that this cell service could be found. I think the impact is too much here. I understand that there is another tower here and there is only a net gain of 18 feet. As with our Downtown Master Plan discussions, sometimes you make rules or you could make rules to phase out the old, and not simply allow it to continue. I think the fact that it already exists there doesn't necessarily mean that we need to allow it to continue if an improvement or an increase in height or conditional use request is passed to us. I'm separating those two things in my mind, and just looking at it as a conditional use. I'm not sure I can see it.

Graves: I have a question for Staff. There has been an allusion made a couple of times that some administrative process that they could have gone through and still increased the height of this tower, that they could have torn down these two existing towers and put up a new tower without even coming before us. I was curious what that is all about.

Pate: That is an alternative in the ordinance and it has already been submitted to the Office as sort of a back up in case this doesn't go forward. The applicant always has a right to increase the height of a tower by a maximum of twenty feet from the original tower structure, but a determination would be made on the original tower structure and administratively the height of that tower could be extended by no more than twenty feet with an additional antenna. It would not allow for a replacement or a new tower, or even a monopole tower that would comply with City ordinances at the same height but only twenty feet taller. It specifically references the same tower, it even speaks about the width, if it is a guyed tower, you can't go more than 36" more than what it was, so there are allowances written into our code that do allow for the existence of existing towers that are nonconforming and expansion of those administratively without a conditional use process.

Graves: So they could have the old wide, less attractive version of the tower and add to it so it is an 85 foot tower with an antenna on that.

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- Pate: Twenty feet taller than the existing tower structure, whatever that may be.
- Ostner: It is 82 feet right now on page 6 of 22. So that would be 102 feet that he could do without conditional use.
- Graves: I think the 82 included the antenna. I think it was 65 feet, but whatever it is, they could add twenty feet to that and then have an antenna on top of that, so it would get to about 100 feet tall.
- Trumbo: To your point that it could be relocated, you are right, but we'd be having the same discussion as soon as they picked out another place along 71 or wherever. Those neighbors are going to be in here as well. Their back yard.
- Ostner: I'm still not so certain that there aren't serious camouflaging opportunities – on top of a building that is so wide that you can not simply see until you go to another town and look down. I'm just not sold that this monopole in this location is the only way for them to go.
- Graves: I have one follow up question that you made me think of. Would they be required to put any type of camouflage on it if they went through this administrative process?
- Pate: I don't believe so. I think it states that you just have to..."the addition or modification to the extent possible should be designed to minimize visibility." It does not fall under the section of specifically being required to camouflage or utilize monopole technology.
- Graves: To me this is back to the Commission, we are confronted with a choice where we can turn down this application and they simply go through the administrative process and have an 85 foot tower that is not camouflaged at all and that is built in the old manner and then with an antenna extending about 100 feet, or we can try to work with this application in such a way that we get something that everyone is as comfortable as possible through this process.
- Allen: Back to the "not in my back yard argument" as I stated previously, I think there are some places in Fayetteville that we have deemed unique and special, places like the Square, Old Main, the Washington Willow Neighborhood, Mt. Nord, the Post Office, all over town. And those are all in our back yards, not just these particular people. I think that does make a difference. It concerns me that there be that kind of an eye sore in an area that we as a City either through time or choice have created something that we consider to be unique.

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Lack: Question for the applicant for clarification. I had understood from your presentation that the services with regard to maintenance for the police, dispatching that you supply, that these would have to be at your location and would not be as flexible as the cell tower.

Reynolds: No, we can't move or relocate any of that for any reason.

Lack: So with that understanding, my understanding is that we are going to look at an upgrade of this tower one way or another and then if we looked at a different location, we would looking for a location for your cell tower in a remote or otherwise chose location and the upgrade and extension of the radio signal towers.

Reynolds: Yes, our location for our purposes, we have to upgrade that tower. That's basically the inquiries into the administrative review process, Plan B if you will. As far as the other part, if it is not approved there, I'm sure it will be back at some other time somewhere else.

Lack: With that, I see this as an opportunity to co-locate those functions, clean up and make better a condition that exists now and bring about a more attractive tower than what is there currently, in agreement with Staff's findings. I would support that.

Clark: Exactly how much taller than the existing structure are we talking about?

Pate: The application states that it is a 65 foot guyed tower with a 20 foot antenna, extending above that tower to 82 feet. (that would be an 18 foot extension) taller than what is existing. Then there is an existing wooden utility type monopole (page 19.)

Clark: I'm struggling with the difference that 18 feet makes. I drove by the facility today and it is one of my favorite alleys that is left in Fayetteville and it is ugly. The whole facility around those towers is terrible, especially as it reflects on what I consider to be a beautiful and unique neighborhood. So I am truly torn over taking that eyesore out of the picture for a better, safer facility, a better looking facility. And shame of you for not cleaning it up on your own any way. I'm assuming that you can't see the tower now because I've lived here my whole life and I didn't notice the darn thing until I was looking for it. If the trees continue to grow, if the Neighborhood Association continues to fight those tree pruning measures and they stay healthy, eventually they will grow to camouflage this 18 feet as well. So I'm struggling between the difference: tearing existing structures that have been there forever and a day, landowners right by use. This is their property. And going back with 18 more feet. Right now I am at the point of cleaning up the mess and making it a better and more functional space. They have to improve it

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anyway. And do they go up, do they do an administrative tactic that doesn't require some of this stuff? That is entirely possible if this does not pass tonight. I am inclined to support this conditional use simply to clean it up and make utilitarian use of the property.

Allen: I do think a neighborhood might be more supportive of what you are doing if the place had been cleaned up to begin with. It might make them look more favorably upon your proposal. Shame on you again.

Graves: I am going to move for approval of conditional use CUP 06-1875 with stated conditions of approval but amending condition four to 90 feet.

Trumbo: Question for the applicant. If we amend this to 90 feet, is it going to accomplish what we need to accomplish here for you all?

Reynolds: At 90 feet, that would technically work for us for the Smith 2-Way portion of it. It would limit or decrease the ability to co-locate cellular on that tower. At 100 feet, we might be able to fit two on there. At 90 feet, it would be one, at best, ever.

Clark: Second.

Ostner: So we have a motion for approval changing condition number four to read the tower shall be no taller than 90 feet including all antennas, arrays, or other appurtenances. A second from Commissioner Clark. Is there any further discussion.

Allen: So now to the math.

Graves: It would be a 25 taller tower but 8 feet taller if you count the antenna.

Allen: So this would clean up the area and would add 8 feet of tower.

Graves: It would add 25 feet of tower, but only 8 feet gross height.

Trumbo: I would be in favor of the 100 foot tower based on the needs of the applicant, however, with the 90 foot alternative, if that's the best we can get, I will go ahead support that. But I would also support the 100 foot tower.

Reynolds: We can build this to 90 feet. What we would like to do then or offer a compromise if we can, in that we can build the tower now at 90 feet and if the need arises later, that we could put a flange plate on the top of the tower and extend it at a later time, and extend it another 20 feet if we had to. Right now we have one carrier that wants to go on.

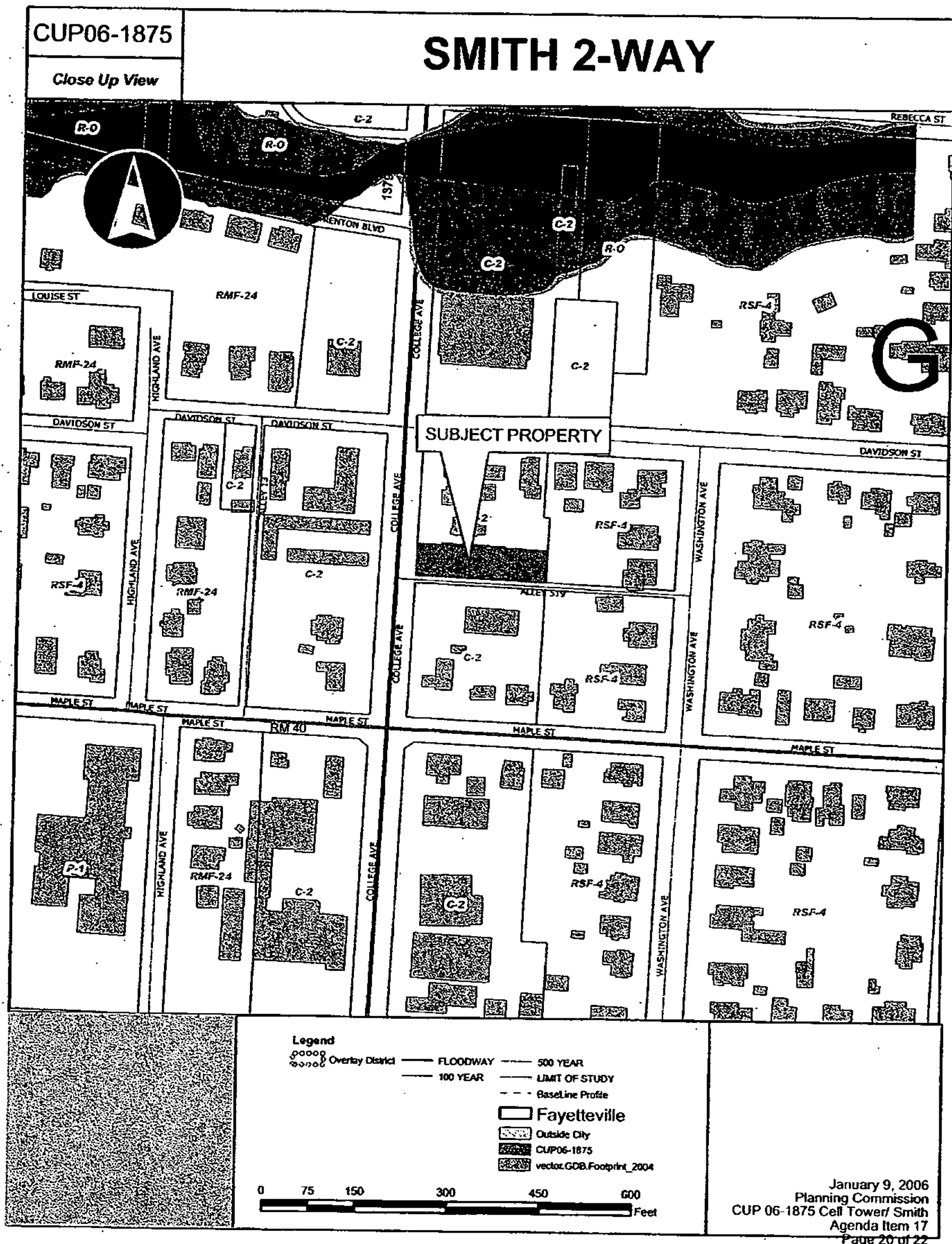
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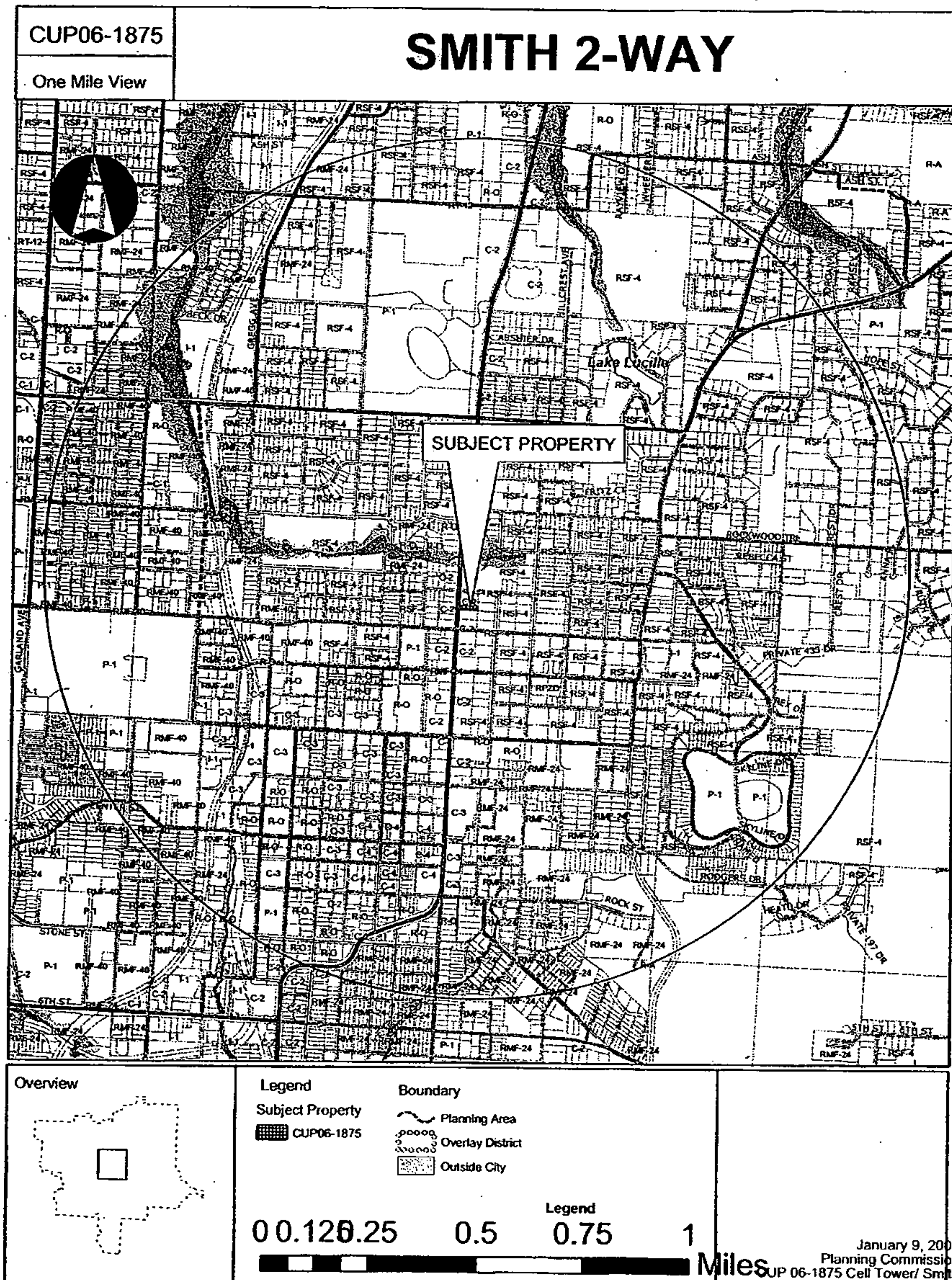
Graves: Would this expandable joint add any height to the tower.

Reynolds: One inch.

Ostner: You would still have to come back here.

Roll Call: Upon the completion of the roll call, CUP 06-1875 carries by a vote of 5-2-0 (Allen and Ostner voting no)





Hometown Development
1747 N. College Avenue
Fayetteville, AR 72703

January 17, 2006

Mrs. Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

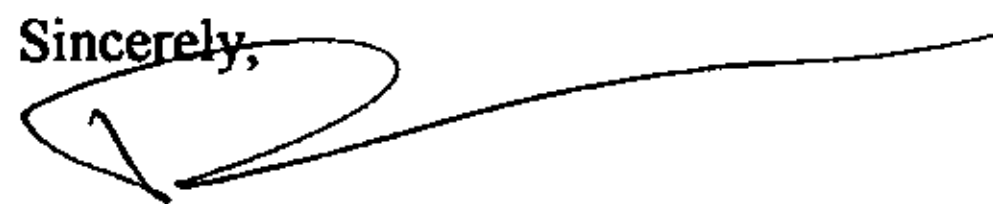
Dear Mrs. Smith

On January 9th, The Fayetteville Planning commission considered Paddock Lane, a project submitted by my Company, Hometown Development. After considerable discussion, the project received a favorable vote of 4-3. However, as you know, the rules of the commission require 5 affirmative votes for approval by the commission.

I am formally submitting, with this letter, a request for appeal to the Fayetteville City Council for this excellent project. It is my understanding that the appeal can be placed on the next council meeting on February 7th, 2006

Thank you for your assistance in this matter. If you have any questions or concerns on this request or any other matter, please do not hesitate to contact my representative in this matter, Mr. Hugh Earnest. He can be reached at 841-8549.

Sincerely,



Robert Schmitt
President
Hometown Development

RECEIVED

JAN 18 2006

**CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE**

From: Lisa Branson
To: Smith, Sondra
Date: 1/11/06 11:48AM
Subject: Appeal

Hugh stopped by to say that he will send a letter of appeal regarding Paddock Lane he understands he has 10 days to do that, and he didn't realize that it had to pass with 5 votes.

Lisa

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: January 17, 2006

Subject: Residential Planned Zoning District for Paddock Road Subdivision
(R-PZD 05-1735)

RECOMMENDATION

The Planning Commission voted to deny the subject request for an ordinance creating a Residential Planned Zoning District (R-PZD) for Paddock Road Subdivision. This action would establish a unique zoning district for a residential subdivision on a 9.77-acre tract located west of Happy Hollow Road, south of Mount Sequoyah Preserve.

BACKGROUND

The applicant requests a rezoning and Master Development Plan and Preliminary Plat approval for a mixed-density project on the property. The proposal includes a maximum of 58 dwelling units within the proposed subdivision. The development will consist of 33 single-family detached dwelling units on large lots (comparable to the RSF-4 zoning district) and narrow lots to allow urban densities. A total of 25 lots will allow for townhome (attached single family) development.

The overall density proposed is 5.91 units per acre. This development would create a unique R-PZD combining single-family detached and single-family townhomes in the immediate vicinity of the Happy Hollow Elementary School and Mount Sequoyah Preserve. The applicant has attempted to modify the street alignment to reduce the number of streets that traverse the slope of the land to reduce the incline and visibility of the streets and submitted several waiver requests which have been recommended by staff.

DISCUSSION

The Planning Commission voted 4-3-0 in favor of this request on January 09, 2006, with Commissioners Ostner, Allen and Clark voting no. Commissioners Anthes and Vaught were absent. Due to the lack of five affirmative votes, the motion to approve the R-PZD failed. Those who voted against the motion discussed their concerns regarding the proposal, most of which revolved around the compatibility of the proposed density on a hillside. The applicant has submitted an appeal of the Planning Commission decision to the City Clerk within the 10-day appeal period. (See applicant's appeal of Planning Commission decision.) A PZD requires City Council approval as it includes zoning

approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

The applicant has attempted to transition between the detached and attached units, clustering the more dense development near the adjacent Collector Street, parkland and in areas with less tree canopy. The Planned Zoning District contains a total nine Planning Areas. Each Planning Area has its own specific density (maximum number of dwellings units allowed), depending upon the desired effect. For reasons of zoning, each Planning Area also has to have established bulk and area criteria, setbacks, height, etc. The information is provided both in a booklet form, which describes the intent of each Planning Area along with a drawing of the overall Planning Area boundaries, and by way of the larger plat, which gives more engineered information. The applicant requests approval of both the zoning, given the proposed Master Development Plan, statement of commitments, and development standards, and the approval of the preliminary plat which would allow the immediate review of construction plans.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1735, PADDOCK ROAD, LOCATED SOUTHWEST OF THE INTERSECTION OF PADDOCK ROAD AND HAPPY HOLLOW ROAD; CONTAINING APPROXIMATELY 9.77 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE, AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN:

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

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

From RSF-4, Residential Single-Family, 4 units per acre, to R-PZD 05-1735 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

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

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

PASSED AND APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 05-1735

PART OF THE NW1/4 OF THE SW1/4 OF SECTION 14, TOWNSHIP 16 NORTH,
RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY,
ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND IRON PIN AT THE NORTHEAST CORNER OF
SAID NW1/4 OF THE SW1/4; THENCE ALONG THE EAST LINE OF SAID NW1/4
OF THE SW1/4 S02°46'39"W 20.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE
OF PADDOCK ROAD; THENCE ALONG SAID SOUTH LINE N87°07'09"W 15.00
FEET TO THE INTERSECTION OF SAID SOUTH RIGHT-OF-WAY LINE OF
PADDOCK ROAD AND THE WEST RIGHT-OF-WAY LINE OF HAPPY HOLLOW
ROAD AND THE POINT OF BEGINNING; THENCE ALONG SAID WEST RIGHT-
OF-WAY LINE S02°46'39"W 368.72 FEET; THENCE DEPARTING SAID WEST
RIGHT-OF-WAY LINE S87°06'49"E 15.00 FEET TO A FOUND IRON PIN ON THE
EAST LINE OF SAID NW1/4 OF THE SW1/4; THENCE ALONG SAID EAST LINE
S02°46'39"W 303.19 FEET TO A FOUND IRON PIN; THENCE DEPARTING SAID
EAST LINE N87°06'50"W 627.69 FEET TO A FOUND IRON PIN; THENCE
N02°46'07"E 239.05 FEET TO A FOUND IRON PIN; THENCE N02°44'01"E 452.81
FEET TO A POINT ON THE NORTH LINE OF SAID NW1/4 OF THE SW1/4;
THENCE ALONG SAID NORTH LINE S87°07'09"E 460.10 FEET TO A FOUND
IRON PIN; THENCE DEPARTING SAID NORTH LINE S02°49'16"W 20.00 FEET TO
A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SAID PADDOCK ROAD;
THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE S87°07'09"E 152.99 FEET
TO THE POINT OF BEGINNING, CONTAINING 9.77 ACRES, MORE OR LESS,
SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD
OR FACT.

STAFF REPORT



PC Meeting of January 09, 2006

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, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: January 5, 2006 *Updated January 16, 2006*

R-PZD 05-1735: Planned Zoning District (PADDOCK ROAD S/D, 526): Submitted by N. ARTHUR SCOTT for property located at SW CORNER PADDOCK LANE AND HAPPY HOLLOW ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 9.77 acres. The request is for 58 dwelling lots, of which 33 are detached and 25 are attached townhomes.

Property Owner: HOMETOWN DEVELOPMENT

Property Owner: NORMA OSBURN

Planner: SUZANNE MORGAN

Findings:

Property Description: This site is located on the southeast edge of Mount Sequoyah, along the west side of Happy Hollow Road and south of Paddock Lane. The site is heavily wooded and steep.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Mount Sequoyah Preserve	RSF-4
South	Scattered single family dwellings	RSF-4
East	Timber Trails (Cliffside) – <i>R-PZD at 4.25 units/acre</i>	R-PZD
West	Largely undeveloped residential property	RSF-4

Proposal: The applicant requests a rezoning and Master Development Plan and Preliminary Plat approval for a mixed-use project on the property. The proposal includes a maximum of 58 dwelling units within the proposed subdivision. The development will consist of 33 single family detached dwelling units on both large lots, comparable to the RSF-4 zoning district, and narrow lots to allow urban densities. A total 25 lots will allow for townhome development.

The overall density is 5.91 units per acre. This development would create a unique R-PZD combining single-family detached and multiple family townhomes, and would be in the immediate vicinity of the Happy Hollow Elementary School and Mount Sequoyah Preserve. The applicant has attempted to modify the street alignment to reduce the number of streets that follow the slope of the land to reduce the incline and visibility of the streets.

The applicant has attempted to transition between the detached and attached units, attempting to place the more dense development near the adjacent Collector Street, parkland and in areas with less tree canopy. The Planned Zoning District contains a total nine Planning Areas. Each Planning Area has its own specific density (maximum number of dwellings units allowed), depending upon the desired effect. For reasons of zoning, each Planning Area also has to have established bulk and area criteria, setbacks, height, etc. The information is provided both in a booklet form, which describes the intent of each Planning Area along with a drawing of the overall Planning Area boundaries, and by way of the larger plat, which gives more engineered information. The applicant requests approval of both the zoning, given the proposed Master Development Plan, statement of commitments, and development standards, but also approval of the preliminary plat which would allow the immediate review of construction plans.

Process: The purpose of the subject request is for a rezoning and development approval. Approval of the Residential Planned Zoning District would effectively rezone the property based on the engineered plans and information provided.

Bulk and area criteria: While usually provided within the staff report, zoning criteria for each Planning Area has been provided in duplicate by the applicant. The project booklet provided gives the zoning criteria in detail, as do the Master Development Plans. Please reference this provided material for more information.

Water & Sewer: Water lines and sewer lines are currently being made available in the vicinity with the development of Timber Trails R-PZD directly to the east. Public water and sewer lines will be extended to serve the proposed development and will be designed and constructed in accordance with city specifications to serve the development.

Adjacent Master Street Plan Streets:

East: Happy Hollow Road (Collector Street), to be improved by the City of Fayetteville
& Crossover Road (Principal Arterial)
South: Huntsville Road (Principal Arterial)

Traffic: Access to the site is provided from Crossover Road and Happy Hollow Road to the east and Huntsville Road to the south. There are at this time no roads constructed which would give access to the property to the west, over Mount Sequoyah. The intersection of Happy Hollow and Huntsville Road is planned to be realigned and signalized by the City of Fayetteville in the near future. A traffic study was not recommended for the proposed development.

Interior to the project, public and private streets and alleys are proposed. The applicant has proposed several cross sections for the streets within the development which would require waivers of the current street standards. Staff requested that all proposed street sections and be enlarged from a 23' wide street to 24'; this has been done on the plat, though the street stub-out to the south is shown as a 23' wide street. This will need to be modified with construction plans. A 24' wide street would not only be in compliance with the width of a Residential Street, but making the street stub-outs this width will make it possible for future developments to extend these streets without requesting waivers or constructing odd transitions in width. The applicant proposes both alleys and private access easements for rear access and entry to many of the

townhome lots. Pedestrian circulation has also been addressed with sidewalks on either one or both sides of the proposed streets.

Street Improvements: Staff recommends the following improvements:

- Improve Happy Hollow Road to include a 14' wide street section from centerline with curb, gutter, storm drains and a 6-foot sidewalk at the Master Street Plan right-of-way.
- Dedication of right-of-way in conformance with the Master Street Plan for all interior streets and Happy Hollow Road.
- The construction of 15 parking spaces and a landscape island north of Paddock Road to serve as parking for the Mount Sequoyah Park.

Tree Preservation: The property is primarily wooded and located on a hillside. There are several existing easements on the property, including a 100' electric easement, which impedes development of the property. The applicant has attempted to work around the natural features, trees and drainage, as well as the easements on the property by clustering development to the north and east. Four large areas have been designated as tree preservation/common area and additional area has been shown to be preserved and protected by covenants to be filed with the Final Plat. The tree preservation lots will be owned and maintained by the Property Owner's Association. A Tree Preservation Plan has been submitted for this development. The applicant proposes to exceed the expected minimum percent canopy requirements, which is 25% in property zoned PZD, by preserving no less than 30% of the existing canopy through the development of the infrastructure and disturbance within proposed utility easements. More detailed comments from the Urban Forester are included in the attached staff report.

Parks: The Parks and Recreation Board recommends money in lieu of park land dedication. Additionally, the applicant has agreed to provide parking for the park land north of the subject property. More detailed comments from the Parks Planner are included in the attached staff report.

Public Comment: Staff has received several inquiries from adjacent property owners. Any written comments from adjacent property owners will be submitted to the Planning Commission.

Additional Information: The applicant submitted the proposed Planned Zoning District application to the Planning Division on September 15, 2005. It was reviewed at the Technical Plat meeting of October 19, 2005, after which staff has held several meetings with the applicant and his representative(s) to further discuss the waivers requested, street alignment and tree preservation. The item was reviewed by the Subdivision Committee on December 29, 2005 and forwarded to the Planning Commission.

Recommendation: Staff recommends approval of the Residential Planned Zoning District for Paddock Road Subdivision (R-PZD 05-1735) with the following conditions:

Conditions of Approval:

1. Planning Commission determination a waiver request from the minimum street grade requirements of 10% and 15% for a maximum of 300' in hilly terrain to allow the following:
 - i. Paddock Road – 12.3% from Sta 0+50 to Sta 5+30
 - ii. Acacia Drive – 12.4% from Sta 0+50 to Sta 3+00 and 14.7% from Sta 3+00 to Sta 5+10

After significant review and coordination between the developer and City Engineering, staff recommends approval of the requested waivers of typical street standards.

2. Planning Commission determination a waiver request from minimum street grade of 4% for 100' from an intersection to allow the following:
 - i. Happy Hollow Road and Acacia Drive – 5.4%
 - ii. Acacia Drive and Street 1C – 10.26%
 - iii. Street 1C and Street 3 – 12.97%

After significant review and coordination between the developer and City Engineering, staff recommends approval of the requested waivers of typical street standards.

3. A waiver request of minimum residential street radius of 150'. The applicant requests the following minimum radii:
 - i. Paddock Road and Street 1B – 50'
 - ii. Street 1A and Street 2 – 75'
 - iii. Street 1A and Street 3 – 75'

After significant review and coordination between the developer and City Engineering, staff recommends approval of the requested waivers of typical street standards.

4. A waiver request from minimum street standards for the width of Paddock Road and Acacia Drive. *Staff recommends that the applicant modify the southern stub-out from 23' street width to a minimum 24' street width. Additionally, the street width on either side of the proposed landscape islands located within the principal east-west street shall be a minimum 20', which may require the increase of right-of-way or reduction of the width of the landscape islands.*

5. Planning Commission determination of appropriate street alignment. *Staff recommends that the stub-out to the west be realigned either to the north or south so that it does not terminate adjacent to two property owners. This will potentially create problems should either property owner desire to develop and require the dedication of the other's property for right-of-way.*

6. Planning Commission determination of a waiver of parking regulations described in Ch. 172.04A which prohibits backing vehicles into public right-of-way to allowing perpendicular (90°) parking north of Paddock Road for the Mount Sequoyah Preserve park land. *Staff recommends approval of the requested waiver finding that the proposed parking on Paddock Road will not create a dangerous traffic situation. Access to those lots on Paddock Road will be provided by an access easement leaving the street relatively clear of residential vehicular movements and Paddock Road will not be a through street.*

7. Planning Commission determination of street improvements, to include the following:
 - a. Installation of a 14' wide street from centerline of Happy Hollow Road, including 14' pavement, curb, gutter, storm drains, and a 6' sidewalk.
 - b. The construction of 15 parking spaces and a landscape island north of Paddock Road to serve as parking for the Mount Sequoyah Park.
8. Dedication of right-of-way in conformance with the Master Street Plan and/or approved waivers for street standards for all interior streets and 35' right-of-way from centerline of Happy Hollow Road.
9. Structures located on lots adjacent to Happy Hollow Road shall be constructed to face Happy Hollow Road.
10. Any landscape island shall be exclusive of the right-of-way, owned, and maintained by the Property Owner's Association.
11. Zoning and development criteria shall be enforced as approved by the City Council as currently referenced in the attached zoning criteria.
12. Future development shall comply with at least the minimum design standards for development in the Unified Development Code with exceptions listed herein, including but not limited to landscaping, parking, access, street design, stormwater detention, etc. Buildings proposed shall be reviewed to ensure appropriate architectural compatibility, compliance with commercial design standards, and/or conformance with the architectural standards and concepts provided with the subject submittal.
13. Parks fees in the amount of \$32,190 for 58 single-family units shall be paid prior to issuance of the final plat.
14. Conditions included in the Tree Preservation Report prepared for this Planning Commission meeting are hereby included in the official conditions of approval for the Paddock Road Subdivision.
15. The ordinance does not allow for Tree Preservation Easements on residential lots used for single family use. Restrictions within the Tree Preservation Easements identified on the plat shall be established in the covenants and regulated by the Property Owners Association.
16. All signage within each Phase of the Master Development Plan shall be permitted in accordance with the current sign regulations at the time of development. The development comply with the RSF-4 zoning district requirements which would allow a moderate amount of signage, such as a subdivision sign, if so desired.
17. Compliance with federal, state and local regulations regarding the development of any wetlands is required.

18. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.
19. The applicant shall install signs at each street stub-out to indicate the future extension of said street prior to the application of signatures on the final plat.
20. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks.
21. Buildings shall be constructed generally as depicted in the building elevations in the booklet with the materials specified.

Standard Conditions of Approval:

22. The applicant shall be granted one (1) year from the date of Planning Commission approval to receive all permits necessary for development of the Phase with a one (1) year extension available.
23. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
24. Prior to building permit, a cost estimate for all required public improvements are required to be submitted to Planning Staff for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
25. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential multi-family development. This shall be reflected in the booklets and on the plats.
26. 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).
27. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
28. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

29. Prior to the issuance of a building permit the following is required:

- a. Grading and drainage permits
- b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
- b. Separate easement plat for this project that shall include the tree preservation area.
- c. Project Disk with all final revisions
- d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action: Required YES
☐ Approved ☒ Denied ☐ Tabled

Meeting Date: January 09, 2006

Motion: Lack

Second: Myres

Vote: 4-3-0 with Commissioners Ostner, Allen, and Clark voting no.

Comments: The Motion was to approve finding in favor of conditions 1, 2, 3, 4, 6, and 7. Also finding on Condition 5 that the western stub-out should be moved north such that the southern right-of-way line was adjacent to the southern property line of the northern property. The vote failed for lack of five affirmative votes. Main concerns were with regard to the affects of the proposed density on this hillside.

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

Signature

Date

CITY COUNCIL ACTION: Required YES

City Council Action: ☐ Approved ☐ Denied ☐ Tabled

Motion: _____

Second: _____

Vote: _____

Meeting Date: February 07, 2006

Comments: _____

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this rezoning/master development plan item.

By

Date

Findings associated with R-PZD 05-1735

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in substantial compliance with the Master Development Plan Planned Zoning District criteria established by the City Council.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed. Staff finds that the project booklet, Master Development Plan and Tree Preservation Plan comply with all applicable statutory provisions. Conditions regarding any minor edits have been included in the staff report.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer with the development of the proposed subdivision. Fire and emergency response time is adequate and estimated at three (3.25) minutes or less.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, attempts to create a more dense living environment. It is located in close proximity to an elementary school and the Mount Sequoyah Preserve. The location of the property offers many amenities to the residence of such a community. The property is compatible with the surrounding multi-family and single-family neighborhoods to the north and south, respectively. Additionally, it is an extension of the R-PZD Timber Trails (under construction) located just east of this property, which incorporates a mixture of single family detached and two-family attached townhomes.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is a steep hillside with substantial tree canopy. The applicant proposes preservation of no less than 30% tree canopy located in separate lots and within single-family lots. A Tree Preservation Plan is presented for this proposal. Specific conditions from the Urban Forester have been included within the staff report.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The proposed development is located on a Collector Street (Happy Hollow) and proposes street connectivity within the development and to adjacent properties. Staff finds that the improvements proposed by this developer will improve traffic movements within the area. Additionally, the property is just north of a Principal Arterial (Huntsville Rd), which will provide adequate vehicular movement.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Architectural standards for the proposed structures have been submitted in detail. Architectural standards will be evaluated with the submission of each building permit to ensure all buildings proposed adhere to the context of the neighborhood surroundings.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(J) 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 is being retained as greenspace and concentrated Tree Preservation areas. The proposed density, while slightly higher than current underlying density, creates a compatible transition from higher density to the northwest to the single family homes to the south. This transition is also achieved

with the proposed mixed housing types within the development; attached multi-family townhomes to the north and single-family homes on lots to the south. In addition, parking spaces are proposed to be provided to serve the parkland to the north. The proposed subdivision tree preservation and overall public amenities required of the developer, along with the variety of housing types 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.

- (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 streets within 50 feet and 40 feet rights-of-way, with no dead-ends. A north-south Collector Street is indicated adjacent to the west property line, within a minimum of 35 feet of right-of-way from centerline. A street connection is proposed off-site to connect the existing Ray Avenue with the proposed

development. Additionally, a street stub-out is proposed to the east. Currently, connectivity provided allows for future residents to travel west to Crossover Rd. and south to Huntsville Rd. Sidewalks are required on all sides of public streets within the development. Due to their narrow width of the proposed two-family lots, 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.

FINDING: Internal streets are comprised of public streets and alleys. Most streets are 28 feet and 33 feet rights-of-way, with the primary east-west street being a larger right-of-way with islands. Appropriate connectivity is proposed, though staff recommends that the western connection be realigned so that it fully adjoins one property owner. Many lots will be accessed from the rear of one-way public alleys with 20 feet right-of-way. This will be a unique feature among all surrounding developments and within the subdivision itself, emphasizing an older pattern of development typically seen in more traditional neighborhood developments. This feature helps create a streetscape with garages in the rear of the lot, and encourages pedestrian use along the tree-lined streets. Most services will access rear alleys, and have reviewed the plans accordingly.

- (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 units (2 spaces per unit/dwelling) is enforced. Although some of the dwellings within this development may be attached, they are utilized for a single family on a distinct lot and are required to comply with the single family dwelling parking lot requirements.

- (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 does not provide onsite public parkland and is contributing money in lieu of land for 58 single family units.

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

FINDING: Four-foot sidewalks are to be constructed on a minimum one side of all interior streets; six-foot sidewalks are required on the side of the Collector Street adjacent to the subject property.

- (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 on all streets.

(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: The applicant request several waivers of street standards for this development (see conditions of approval).

- (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: Staff recommends approval of the Tree Preservation Plan, with a minimum 30% tree canopy preserved.

- (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: The applicant has proposed design standards for residential structures.

- (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, while also providing a development that is compatible with surrounding residential and undeveloped area. The development will offer attached and detached single family housing types, with alley access to most lots, and restrictive subdivision covenants requiring all units to meet development standards including exterior and interior architectural requirements. These development standards will result in the creation of a unique neighborhood in this area. Staff finds that 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.

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 05-1735. 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 residential development in the form of single-family detached and multi-family attached, while preserving many of the significant trees in pockets within the site. This tree preservation area will help ensure that the development will be compatible with the residential community character in the vicinity and adjacent park areas. 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 unique style and type of development. Public improvements provided with the development will ensure future street connectivity in the area.

(2) Permitted uses vary between each Planning Area. The proposed uses within all Planning Areas are as follows:

- 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*
- * Lots 34-46 and 50-58 only

FINDING: The proposed Use Units are permitted uses within a Residential Planned Zoning District.

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

FINDING: The proposed PZD proposed is entirely residential in use.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from RSF-4, to R-PZD 05-1735, 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 05-1735, 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 RSF-4 property to the proposed R-PZD development with single and multi-family residential use at a density of 5.91 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 unique 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: Public comment has been received from adjacent property owners discussing the proposed street layout. The Police Department has reviewed this proposed rezoning and finds it will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

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 development would create, on average, 128 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.

Engineering: There is currently a 2" waterline running along Happy Hollow Road. An 8" public water main has been approved to extend near to the site with the Timber Trails Subdivision.

Sanitary sewer is not currently adjacent to the site. A public main has been approved to extend near to the site with the Timber Trails Subdivision. Improvements to the sewer system may be required which includes off-site improvements.

The site has access to Happy Hollow Road.

Runoff from most of the site flows overland to the east. Standard improvements and requirements for drainage will be required for the development.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

Fire: The subject property is located approximately 1.3 miles from the Fire Station No. 5. Response time to the property is 3.25 minutes. This response time will be reduced to 2 minutes when Station 3 is operational.

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

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-PZD 05-1735 with multi-family/townhouse dwelling units is consistent with the land use plan and compatible with surrounding land uses and density in the area.

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.

(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.

(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.

(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

(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.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 9
R-PZD 05-1735
Paddock Road Appeal
Page 31 of 56

POLICE DEPARTMENT

January 3, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation PZD 05-1735 (Paddock Road S/D, 526) submitted by Project Design Consultants for property located at SW corner of Paddock Lane and Happy Hollow Rd. would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this 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,

A handwritten signature in black ink, appearing to read "W. H. Brown", is written over the word "Sincerely,".

Captain William Brown
Fayetteville Police Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
From: Captain Dale Riggins
Date: January 5, 2006
Re: January 3, 2006 Re-zoning Review – Fire Department Comments

PZD05-1735 (Paddock Road, S/D, 526)

These 10 acres are covered by Engine 5 at 833 N Crossover Rd.

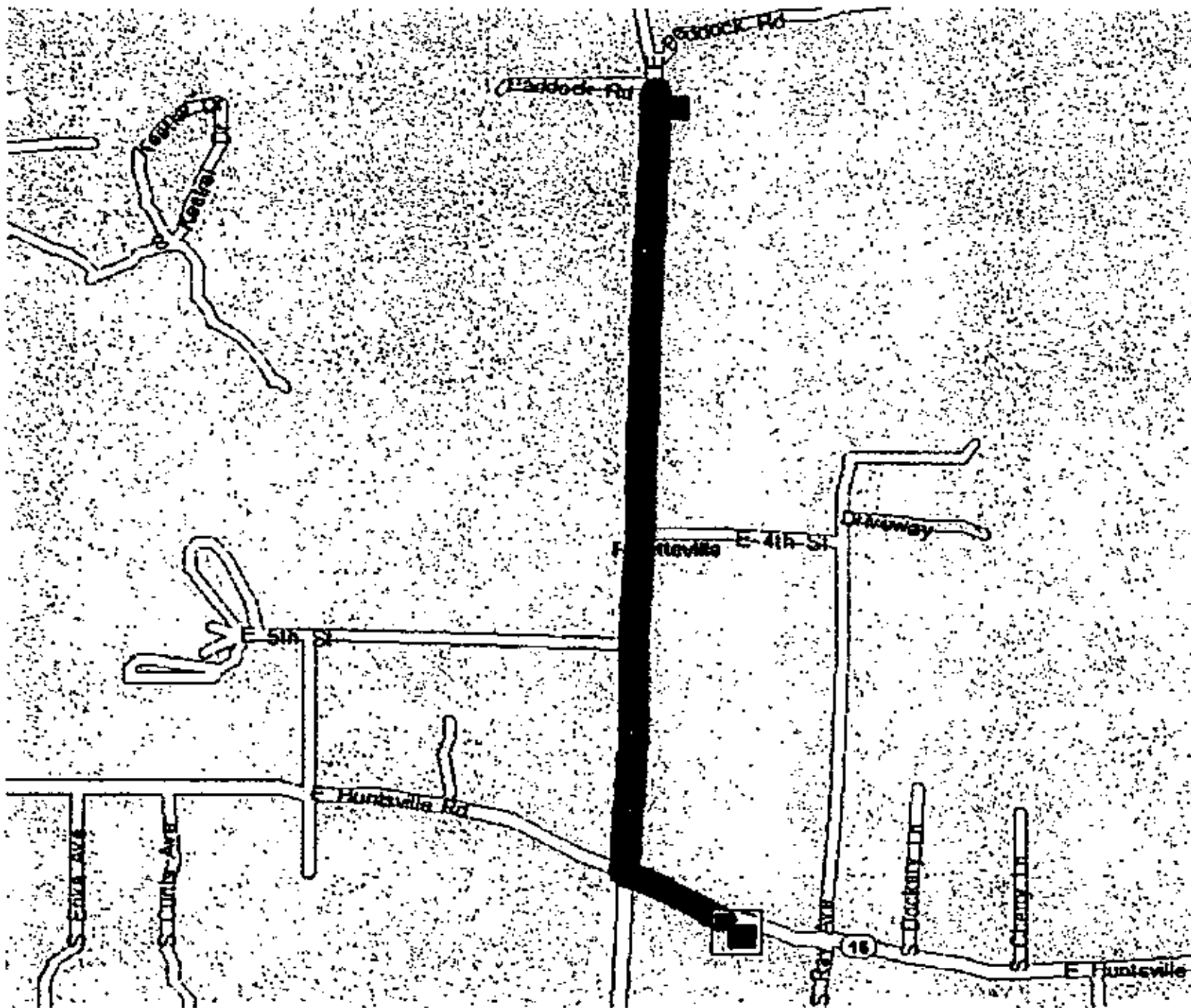
It is 1.3 miles from the station with an anticipated response time of 3.25 minutes. After Station 3 is located at Happy Hollow and E Huntsville, the distance from the station will be reduced to .6 miles with an anticipated response time of 2 minutes. The Fire Department anticipates 13 (8 EMS – 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. Measured Hydrant Flow in this area is 1325 gallons/minute.

There should be no adverse effects on our call volume or response time to this development.

If you have any questions or need additional information don't hesitate to call me at x365

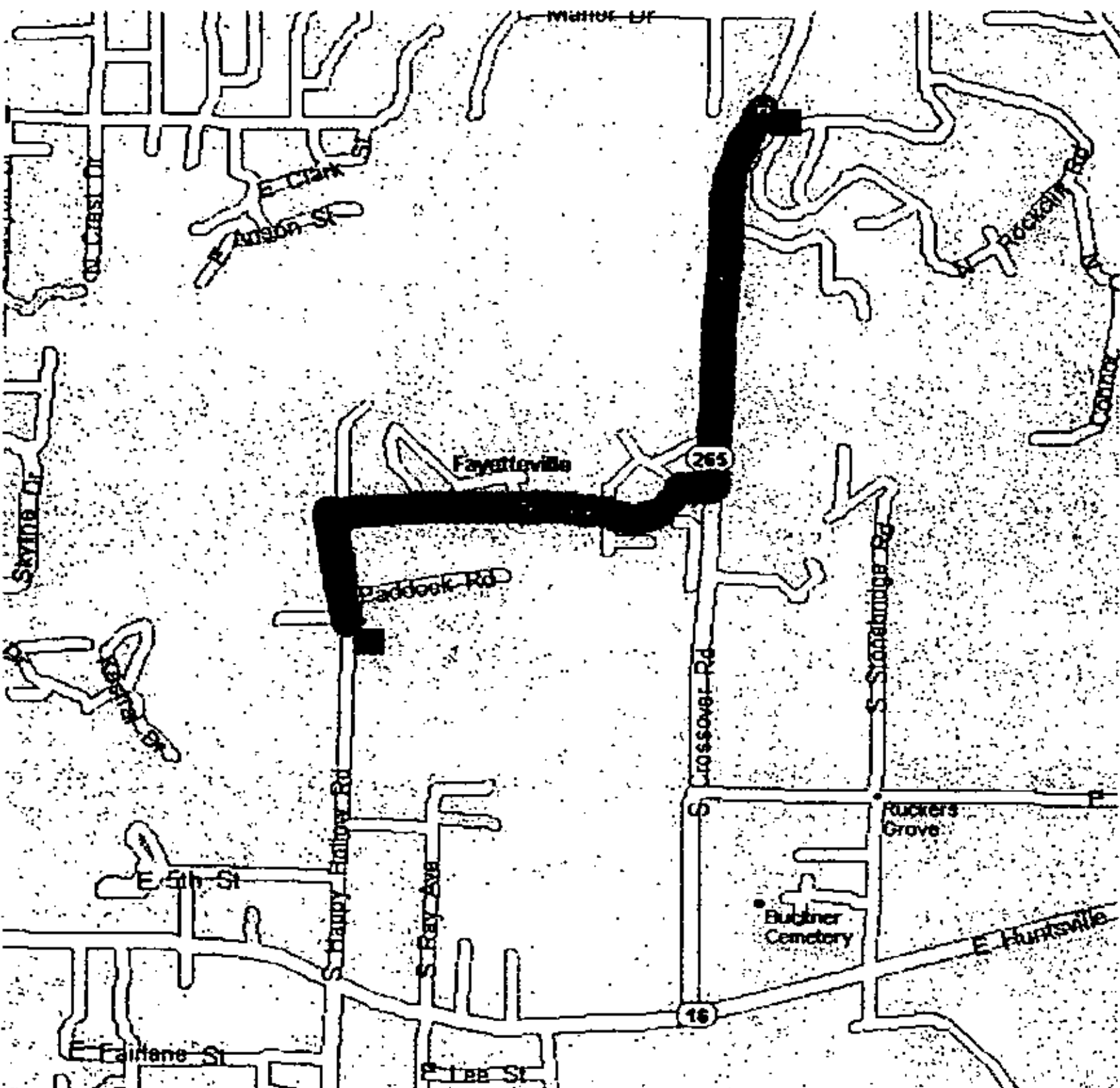
Dale Riggins

Fayetteville Fire Department



Station 3 to
Paddock
Road
.6 miles

2 Minute
Response
Time



Station 5 to
Paddock
Road

1.3 Miles

3 Minute Response Time



PC Meeting of January 9, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: January 4, 2006

ITEM #: R-PZD 05-1735: Planned Zoning District (Paddock Road)

Requirements Submitted:

T	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	9.4
square feet	409,464
Existing Tree Canopy	
acres	7
square feet	304,920
percent of site area	74%
Existing Tree Canopy Preserved	
acres	3.23
square feet	140,937.5
percent of total site area	34.42%
Percent Minimum Canopy Required	25%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- **This site is found along the sloping sides of Mount Sequoyah. The area is thickly wooded with about 72% canopy covered. The hillside is**

a typical oak hickory mix ranging in fair to poor condition with 6 trees meeting the significant status. All but one of these 6 will be preserved.

Whether the design incorporates the required Tree Preservation Priorities.

- **The design of the plan does incorporate the required priorities. A covenant will be established among the residents to further preserve and protect trees found within the lots.**

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Environmental degradation will occur as a result of the loss of canopy.**

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.

- **Adjacent properties should be minimally impacted by the loss of canopy.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **N/A**

Whether the size or shape of the lot reduces the flexibility of the design.

- **The topography of the lot and existing utility easements made design a challenge for this project.**

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 trees on this site ranged from poor to fair.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **Removal of trees on this site was inevitable. The engineers are utilizing the clearings through the utility easements and the existing private drive to limit the impact. Several large preservation areas are planned that would be owned and maintained by the POA.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **In most cases the utility easements will be kept to the fronts of all properties. This design minimizes disturbance to trees. Because of the existing easements, the location of additional utilities had to be moved to other areas.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **Not all the roads are designed to flow with the existing topography. This site has an existing power easement running directly up hill with a private drive. The engineers/developers utilized these areas for roads to minimize the disturbance in the other areas. By designing the roads in this manor, the lot lines were quickly determined leaving little flexibility for the utilities.**

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 not be required for this site. A covenant will be set up among the home owners association to preserve additional trees found on each lot.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **This project is coming through planning process as a Planned Zoning District.**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- **N/A**

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the Tree Preservation Plan with the following conditions of approval:**
 1. **With submittal of a Final Plat staff would like to review a convenience directly pertaining to the preservation of tree canopy found on individual lots.**

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469

TO: Suzanne Morgan, Associate Planner

FROM: Alison Jumper, Park Planner

DATE: December 28, 2005

SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: December 29, 2005
Item: PZD 05-1735 Paddock Road S/D
Park District: SE
Zoned: RPZD
Billing Name & Address: Hometown Development, LLC

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	60 @ \$555 per unit = \$33,300
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:

- The Parks and Recreation Advisory Board recommended accepting money in lieu of land for 62 Single Family Units on September 12, 2005.
- Mount Sequoyah Woods is located across the street from development and will serve the recreational needs of this development.
- Parks and Recreation staff has been working with the developer to establish a parking area for Mount Sequoyah Woods. Exact location and size of the parking area along with agreements for parking and grading will need to be in place prior to final plat.
- Fees are due prior to signing of the final plat.

PROJECT DESIGN CONSULTANTS, INC.

December 20, 2005

Mr. Jeremy Pate
City of Fayetteville
Planning Department
125 West Mountain
Fayetteville, AR 72701

**RE: Request for Waivers of Minimum Street Standards
Paddock Road R-PZD # 05-1735**

Dear Jeremy:

This letter serves as a request for waivers of the following minimum street standards due to the hilly and wooded terrain and in an effort to reduce the impact to the existing hillside by reducing grading and tree removal.

1. Waiver of the minimum street grades of 10% and 15% for a maximum of 300 feet in hilly terrain.
 - Paddock Road, 12.3% from Sta 0+50 to Sta 5+30.
 - Acacia Drive, 12.4% from Sta 0+50 to Sta 3+00 and 14.7% from Sta 3+00 to Sta 5+10.
2. Waiver of the street intersection minimum grades requiring 4% for 100 feet and allowing grades of 5.4% at the Happy Hollow Street and Acacia Drive intersection, 10.26% at Acacia Drive and Street 1C, and 12.97% at Street 3 and Street 1C.
3. Waiver of the minimum street and right of way widths to allow the following street sections:
 - 27' wide right of way, 23' wide street, and a 4' wide sidewalk on one side for Paddock Road, Streets 1A, 1B, 2, and 3.
 - 33' wide right of way, 23' wide street, and a 4' wide sidewalk on each side for Acacia Drive except for the area with the landscape islands.
4. Waiver of the minimum residential street radius of 150 feet. Request a minimum 50 feet radius on Paddock Road at the intersection of 1B and 75 feet radius for Street 1A where it intersects Streets 2 and 3.
5. Waiver of regulation 172.04A prohibiting backing vehicles into public right of way and allowing perpendicular parking on the north side of Paddock Road for the park land to the north.

Sincerely,


Bruce Kemmet, P.E.
Senior Project Manager

130 N. MAIN • CAVE SPRINGS, AR 72718
PHONE: 479-248-1161 • FAX: 479-248-1462

PROJECT DESIGN CONSULTANTS, INC.

September 14, 2005

City of Fayetteville
Planning Department
125 West Mountain
Fayetteville, AR 72701
Attn: Mr. Jeremy Pate

RE: PADDOCK
1455 Happy Hollow Road
Fayetteville, AR 72701

Dear Mr. Pate:

The subject property mentioned above is being developed by Hometown Development, the property is zoned RSF-4. The properties immediately to the north, south, east and west are also zoned RSF-4. We are proposing 40 Townhouses and 22 Single Family Lots.

There is a 2 1/4 inches water main along Happy Hollow Road and Paddock Road, and there is no sanitary sewer line. The size of the pipe supplying the surrounding area with water is not adequate to handle the demand of this project, and needs to be increased in size to a minimum of 8 inches.

The closest sewer is located at the Happy Hollow Road and Fourth street intersection. It is approximately 1210 feet away from our site property line and the size of the pipe is 8 inches. Electric is provided by overhead wires.

All of the existing buildings will demolished prior to construction of the subdivision.

Please find attached Patti Erwin, Certified Arborist's report for 7 acres. We have coordinated with Ms. Sarah Patterson, Landscape Administrator regarding the additional 3.5 acres of Tree Identification. This will be completed in the near future.

If you have any further questions, please contact me at 479-248-1161.

Sincerely,



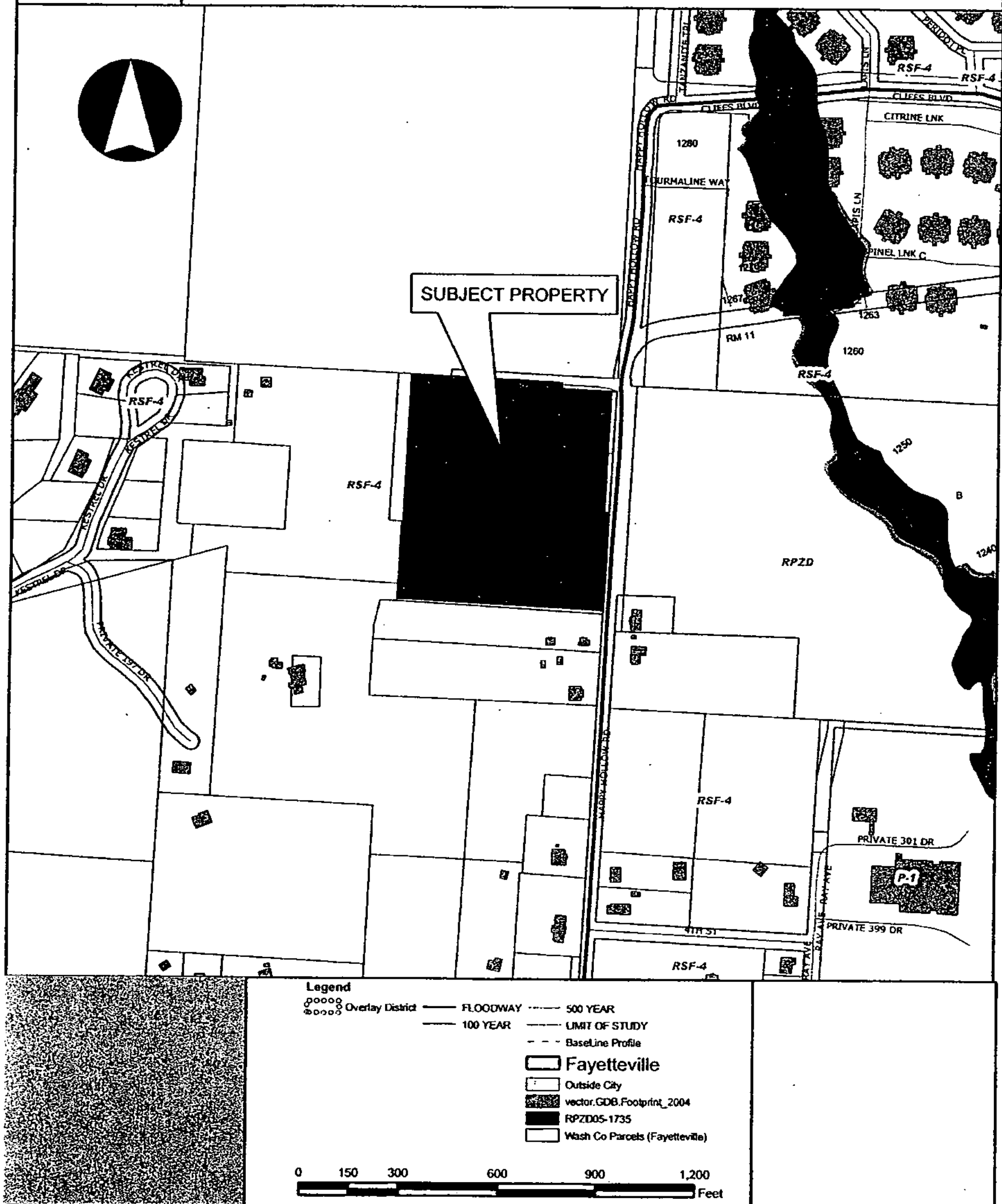
Amy C. Scott, ASLA
Vice President

130 N. MAIN • CAVE SPRINGS, AR 72718
PHONE: 479-248-1161 • FAX: 479-248-1462

RPZD05-1735

Close Up View

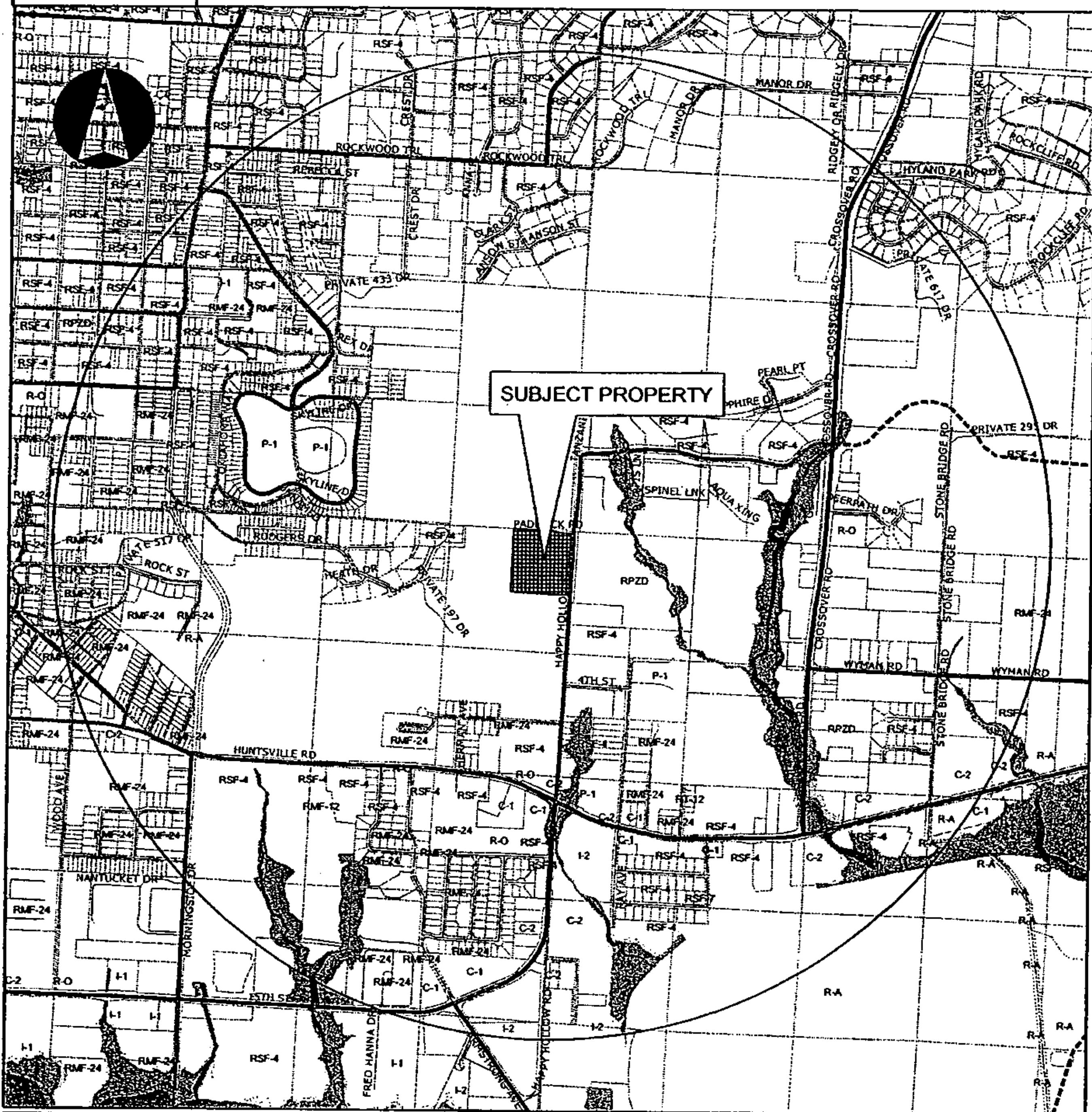
PADDOCK ROAD S/D



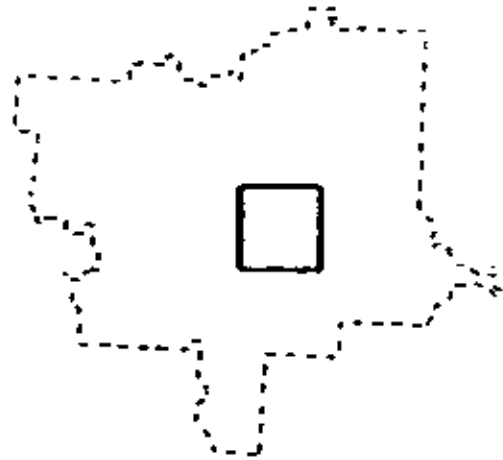
RPZD05-1735

One Mile View

PADDOCK ROAD S/D



Overview



Legend

Subject Property
RPZD05-1735

Boundary

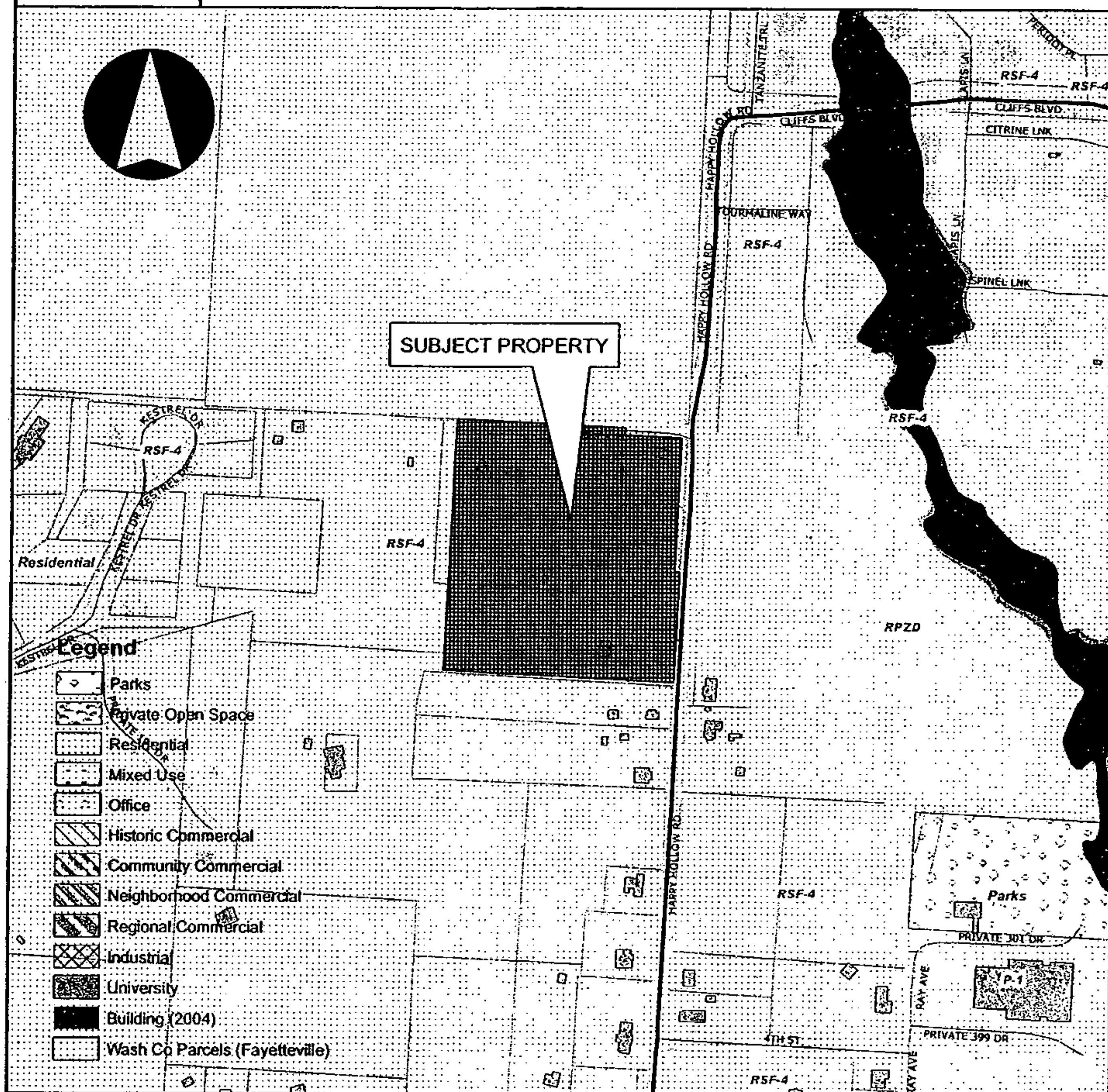
Planning Area
Overlay District
Outside City

0.0 0.125 0.25 0.5 0.75 1
Miles

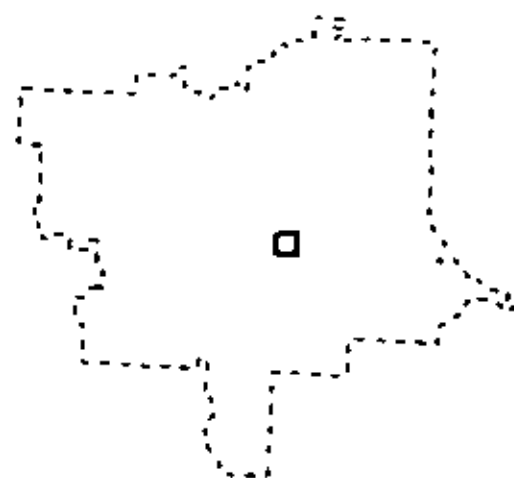
RPZD05-1735

Future Land Use

PADDOCK ROAD S/D



Overview



Legend

Subject Property

RPZD05-1735

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend



PLANNING COMMISSION MINUTES

R-PZD 05-1735: Planned Zoning District (PADDOCK ROAD S/D, 526): Submitted by N. ARTHUR SCOTT for property located at SW CORNER PADDOCK LANE AND HAPPY HOLLOW ROAD. The property is zoned RSF-4, SINGLE FAMILY – 4 UNITS/ACRE and contains approximately 9.77 acres. The request is for 58 dwelling lots of which 33 are detached and 25 are attached townhomes.

Morgan: This property is located just west of Happy Hollow Road and south of Paddock Road. The property is currently zoned RSF-4 and is undeveloped with the exception of one single family dwelling at the very northeast corner of the property. The applicant requests an approval for a residential planned zoning district. This is a detailed PZD. They have submitted drawings for a preliminary plat approval so with the approval of the PZD, and City Council approval of the PZD, the applicant can submit construction plans and begin construction of this subdivision. This subdivision includes 58 units, 58 lots, 33 of which will have detached single family dwellings and 25 lots will be for attached townhomes. The density overall will be 5.91 units per acre. The existing density allows for four units per acre. Staff finds that the proposed density is appropriate. The property is near a collector street and just north of a principle arterial, Huntsville Road. It is adjacent to a park to the north, and an elementary school. There is a multi-family development just to the northeast of this property and to the east of the property is a development called Timber Trails which is currently under construction. It is a PZD which combines both single family detached and two family attached townhomes. We find that it does provide a good transition between these areas and would allow for density which can utilize the services located in that area. As for the bulk and area criteria, it is located both on the plat and in the booklet. It is different and unique compared to standard RSF-4 zoning districts, to allow for greater areas of true preservation and unique character in this area. As for water and sewer utilities, they will be extended to the property. Right-of-way, streets and traffic have been evaluated. This is near a collector and arterial. The applicant will be doing improvements on the adjacent collector street. No traffic study was requested for this development. It is just under six units per acre and Staff did not find that there was significant impact on this collector or the surrounding streets to necessitate a traffic study. Waivers have been requested for many of the street requirements. Those are listed in conditions of approval and can be found on 1 through 4. The applicant is developing this property on a slope and constructing several streets which the grades higher or greater in slope than required by ordinance. Staff has worked with the applicant considerably in regard to this and finds that these are necessary in order to reduce the amount of impact on these slopes. Street right-of-way and alleys will be utilized. Several of the homes and especially the attached townhomes will be utilizing access easements and alleyways. They will be accessing from the rear of these alleys. There are six lots in the northwest corner that will actually be accessing on an access easement,

which will have no frontage on a right-of-way. Homes on Happy Hollow will access from the interior street and will face Happy Hollow Road to give a street presence and that has been given as a condition of approval in your Staff report. With regard to condition #4, the applicant is proposing a main street within that subdivision that runs east-west, islands within street right-of-way and Staff had made a comment and condition of approval #4 that 20 feet of street width needed to be maintained on either side of those islands. Staff has discussed with the applicant and finds there should be at least one side of the street that needs to maintain that 20 feet. The applicant has stated that they will work with the Fire Department to maintain necessary access to the property. Condition #5 addresses determination of appropriate street alignment. Staff recommends that the stub-out to the west be realigned either to the north or south, such that it does not terminate adjacent to two properties owned by two separate land owners. This creates difficulty when one or the other of the property owners wishes to develop in order for them continue that street and they would negotiate with the adjacent property owner to get access and right-of-way from that property. The improvements that the applicant will be making are adjacent to Happy Hollow to match the improvements across the street at Timber Trails S/D to include 14 feet from center line, curb, gutter line and standard improvements and sidewalk. Something unique that this property owner will be doing is providing spaces for the parks property to the north. They will be providing 15 parking spaces with a landscape island to the north of that property. That will greatly improve the usability of the park property to the north. There is, however, a waiver that would need to be granted to allow that parking to be constructed in that manner. There is a requirement that no vehicles back out onto a public street, which they would have to do in this parking lot configuration. Therefore, there is a request for a waiver for that requirement in condition #6. As for tree preservation, the applicant is proposing to maintain a minimum of thirty percent tree canopy on the property. They will do so by dedication of specific lots or planning areas (planning area 8) as well as preserving easements by covenant to preserve canopy within the property. This can be found within the center of the property as well as on the southern and western property lines. Parks Review Board has reviewed this application and the applicant will be given money in lieu of dedication. They will also be constructing those 15 parking spaces. There are a total of 30 conditions of approval. I would like to mention that condition #22 addresses additional modifications to the booklet. There were several modifications/items that did not correspond between the site plan and the project booklet, that weren't sufficiently addressed between Subdivision Committee and Planning Commission and Staff with work with the applicant this week to make those necessary modifications for City Council. We are recommending approval.

Ostner: Is the applicant present? If you would introduce yourself and make your presentation.

Earnest: Hugh Earnest representing the developer. I want to commend the Staff for an excellent presentation. We spent an awful lot of time on working on this. It is no secret that this is a difficult site. Without the use of the PZD, and there was a conscious decision on our part, we would have been unable to develop the site to this level. We used as you may note, nine separate planning areas, to ensure an excellent housing mix, as Suzanne very carefully pointed out and very correctly pointed out. We are using different types of ingress and egress to minimize the pressure on the streets. We are the ones that suggested to the Parks staff that we would provide parking to service Mount Sequoyah Park. We will obviously work very carefully with the Park staff and someone here from the Planning Staff. We will work very carefully to ensure that we accommodate the existing kiosk that is in that corner. That's about all we have to say. Obviously we have no problems with any of the conditions and we will meet of all those as required. There needs to be some discussion obviously about the #5, the access on the west side of the property.

Ostner: Public Comment; please step forward and give us your name.

Lawler: I'm Nan Lawler. I really hate this way of public comment because when you start discussing things, there have been many times when I have been sitting back there and dying because I couldn't answer your discussion because public comment period was over. I will try to foresee everything that might come up. Our property adjoins this property on the west, almost all of it is adjoining our property except for a small amount which adjoins some property owned by Dan Coody. We were not enthusiastic about it because think it is too dense, however, the one bright spot for us was that road being stubbed out on our property line. We now have no public access to our property. That was fine when we were in the middle of the woods, but development is closing in and thus far our neighbors have been wonderful. But it's not as quiet as it used to be and I figure that sooner or later, our living situation is not going to be as pleasant as we would like it to be. Without public road access we are very much limited as to what we can do with our property, and although we have never tried to sell it, we have never put it on the market, I have a hunch it would be harder to sell without public road access. So we saw that public road access as at least a bright spot in this development. And then we went to the Subdivision Committee meeting last week and low and behold, the public road access had been moved. And after all this talk about preservation of trees, it had been moved from the power line easement, where you would not have had to cut down any trees, all the way as far south as it could go (there is a ravine there) into a very heavily wooded

area and it got all but a couple of feet off of our property. And we couldn't help but feel that maybe there was some pressure put on somebody to move that road.

Ostner: Ma'am, if you are dissatisfied with the layout, we can talk about that. We aren't going to have insinuations. That is a rule, not an accident, to straddle property lines and it is dead even – the street is stubbing out dead center to the property line. Half of it goes your way, half of it goes the property owner to the south. We do that all over town to be fair. We don't give stub outs to one property owner and the other gets turned down. So that's what is going on there.

Lawler: Isn't this kind of an idiotic way of doing it though? It really doesn't make sense. At the meeting, it was not half and half. It was as far onto the Mayor's side of the property line as far as it can go without getting into the ravine. The reason given for this was the appearance of following the easement up and fear that people would start suggesting, why not just take this over the mountain, and we all know we don't want to open that can of worms. However, there are several arguments to that: one is that this has been suggested for at least twenty years that I know of, before there was any road there. People are suggesting following that electric easement over the mountain. If the first place, it doesn't go over the mountain, it goes a little bit west of our house and then goes south. In the second place, since it was first suggested, some twenty years ago, there have been not one, but two developments of big, expensive houses between that easement and any kind over the mountain. It wasn't feasible to begin with because of the terrain. It is even less feasible now so I don't think this is a legitimate reason not to put that road up that easement and stub it out right there. I would like to mention that the parking spaces for the Mt. Sequoyah Park are very nice, but you do realize that by any stretch of the imagination that they will be sufficient. We drove by the trailhead for East Mudd Trail last Saturday and I counted fourteen cars there. There is official parking for about eight or nine. There were up the road and into the adjoining property. The fifteen spaces are obviously not going to do it.

Covey: My name is Richard Covey. I am part owner of that property on the west of the development. I would like to request that the property access be moved to the north so that we have complete access to the road going out, the stub out.

Brown: I'm Steve Brown. I live out on Fifth Street. I know development is going to happen; it looks really nice on the preliminary plat, parking spaces are good for the Sequoyah Trail. My only concern is that they are going to do improvements on the one across the street behind the Cliffs, there are going to improve on this side of the road, but what about the part on the other side of Fifth Street, from Fifth Street up to where these are going to

start. It is really skinny, there are no sidewalks, there are kids walking back and forth to school, and they go about 45-50 MPH down through there now. I've complained, but it doesn't do any good to complain. I know that they say the traffic density is not going to be worse, but it is going to be a lot more with the other one and this one.

Ostner: We are talking about Happy Hollow south of this development?

Staff: Yes.

Brown: That is my only concern. It is going to get really hairy. There is barely enough room for cars to pass on that street. You cannot walk down through there. It's nice to have trail over at the Cliffs, but you can't get from my street to the Cliffs safely.

Ostner: It's perfectly appropriate for you to speak by the way. Is there any further public comment? I am going to close the public comment section and bring it back to the Commission.

Pate: I'd like to respond to a couple of the comments at least and to refer you to the page #20, the next to the last map that you have in your booklet. I think the applicant did a good job of showing the land use table and how the single family vs. multi family vs. dedicated park, tree preservation and green space area works. The land use table keynotes a total of 58 dwelling units, 67% single family and 21% multi-family, 10% dedicated park, tree preservation and green space that does not include a lot of the area that included within interior lots, that is green space which I believe is between 30-34%. Initially Staff had concerns with the development proposal and we have worked through a whole bunch of those over the past couple of months. Not necessarily density, it is around 6 units per acre, right next to a school, next to a collector and adjacent to a collector street which leads to a principal arterial, which will be improved in the very near future. That wasn't a concern as much as the topography on the site and how we could look at an atypical development with higher tree preservation standards and I think this has gone a long way to accomplish that. A lot of the concerns also with hillside developments are the streets that directly go up the hillsides. There have been several efforts including for instance, there is a large power line easement that goes into this property and that's their primary entrance. It's the second entrance down. It lines up with the Cliffside to the east. There is a large power line easement so they are utilizing that for some of their street section. You notice that they have discontinued that area and included a green space so it starts to break up the street. The same thing has happened on the street to the south. They have put in a community green space, tree preservation area, to actually screen the view of the street for the most part from Happy Hollow Road, so the street doesn't just become a straight stretch going directly up the

hillside. It is also curved. The first submittal was a very tight, rigid grid, and on this hillside, just did not work as well as it could have. In response to the stub out, Staff would gladly recommend, I don't think the applicant has a problem moving the stub out to the north. If you look on that same page, the topography is more conducive to a street connection if you move it further north. While it has been practice to try to straddle those lines, it can also be difficult when a property owner next door tries to develop because half the street is on one side and half is not, so you can't connect with that until some unknown time in the future. We had to address those issues with subdivisions in the very recent past. So in keeping with that flipping that lot and moving that street to the north would be appropriate with our revisions to City Council. Staff would not have a problem recommending that particular connection in response to concerns of the neighbors and how that street lays out with the topography.

Ostner: When you say north do you mean basically shifting it 25 feet. – keeping it generally where it is but shifting a little bit.

Pate: Either that or shifting up a whole lot depth. I think we could work that out between now and City Council as long as the determination is made by the Planning Commission.

Clark: Jeremy, on that same page, to the north of this access we are talking about, are those single family lots?

Pate: Those three lots; yes, I believe so.

Clark: And where this stub out is now located on this map straddling the line, doesn't the tree density lessen as you go north?

Pate: That area is pretty much covered. I'm not sure that it really drastically alters that situation.

Ostner: If I could ask for a Subdivision report from the Committee members that were there?

Lack: The main points of discussion were the access to the west and the medians in the power line easement and what those did both for and against proper street construction and visibility. The access point to the west was a suggestion of Subdivision Committee Commissioner Anthes who thought it might be an equitable solution in that both property owners would have access to their property without regard to future development. They would both have public street access to the edge of their property. With the medians, the former version that we saw had a much more severe curvature to the northern section of the road which engineering felt and the members of the Subdivision concurred seemed to be a less than desirable

condition. The medians do provide the service of breaking up the road and keeping down the visibility of the road that goes straight over the hill, that you see across town, where the road can jog, that does maintain some hiding for that. We were in favor of moving that access point and not continuing that directly up the side of the hill to the property line. The presentation at Subdivision Committee, the plan that we started with did have the access points slightly more to the south, fully on the property line of the southern most adjoining neighbor. The use units seemed appropriate. There was some concern with Section 4, the single family at the northwest corner. There was some discussion about those in that they are accessed by easement and those are individual structures which do not have direct street frontage. They front onto a park setting so you walk the sidewalk to the house along the park. They are accessed with an easement to the rear.

Trumbo: Question for Staff. Currently where the stub out is to the west, you are saying, if we leave it like that straddling the two property lines, that neither property owner will be able to develop to that stub out without the approval of the other one?

Pate: That is correct. It is much like the situation when you have a point of a cul de sac that touches a property, that is literally the only point that touches the property and that sliver is under control of two different property owners which becomes extremely problematic.

Trumbo: And originally, if I understand Mr. Lack, originally we were further north with this stub out.

Pate: Originally, yes, in one of the submittals.

Lack: I had understood that an original presentation was that it was to the north and connected through at the power line easement. The plan that we started with at Subdivision Committee that we saw presented there had the access fully onto the land owner to the south.

Pate: I might mention that it might be of benefit and again we could work out the details with the applicant, to slightly move that street to the north and not an entire lot width, just in an effort to allow for there to be a potential adjacency of right-of-way should the street continue further west at some point, there would be an adjacent right-of-way to which the property owner to the south could connect. That is another option as well. I think there are a number of alternatives here, the point being that the connection to the west is advisable and the Staff would recommend it. We would rather see it on one property or another.

Ostner: How big is that right-of-way section, that stub out? It is fifty, sixty?

- Pate: I believe it is smaller, maybe a thirty-two foot right-of-way with a twenty-four foot wide street.
- Ostner: If we move it sixteen feet to the north, it will be completely on this person's property. Does that sound amenable?
- McDonald: Mike McDonald of Hometown Development. If the developer is going to move the stub out to one side, we'd like to make sure we don't lose lot #19 – we'd like to continue to work with City Staff.
- Clark: I don't know what we can do about this, it is a question for Staff. Happy Hollow accessing – the comments made by the young lady; how wide is Happy Hollow at it's most narrow and what recourse to we have? I don't think that the assumption that the last two RPZDs we approved in this area would give her a path. Happy Hollow is at the end of the road. Now more development is coming in and of course they have to make improvements around their immediate vicinity, but that certainly belies the entrance to these nice subdivision, but it does not help getting the kids to school, and having access and having parents fighting their way like salmon going up stream to get them there. What recourse, if any, do we have in terms of making improvements further off site.
- Pate: If the Planning Commission feels there is roughly proportional impact to that infrastructure based upon the 58 units proposed, we can look at the potential for, I couldn't say a substantial impact just because of the number of lots, the shape/width of this property is relatively square. The frontage is pretty long in width. That is what we look for, especially when looking at offsite improvements when you a property that doesn't have a lot of frontage. There is obviously more of an impact on the infrastructure than what that development has.
- Clark: Maybe just generating a discussion among the City Council members might be sufficient. It seems to that the developer services well to have an adequate access into something they are trying to make look as amenable and pretty as possible. A tandem benefit would be the patrons of that school and their families, because that is pretty dangerous. I have picked kids up from there before and it is narrow and there are no sidewalks in most places.
- Pate: Just so the Commission knows, there is a exit and entrance to the north, which is a ready access to Highway 265 through Happy Hollow and Cliffs Blvd. Additionally, the subdivision under the construction to the east, Cliffside, they are providing another street connection to the school, sidewalks close to that school, if not connecting.

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- Clark: That's my point, all around in the new stuff is great, but that's a real slight to the existing stuff. I don't know that we have the power to do anything about it, but it seems that it is terrible inequitable. Maybe it is something the Council can talk about.
- Pate: We would be happy to at least evaluate it so the Council has more information if they wish to discuss that as well.
- Clark: I'm not suggesting that the developer improve everything, so please Mr. Earnest, don't flinch on me there.
- Lack: I would like to look at page 26 of 36 and say that I am elated that we are looking at a rezone that is within fire response times. It seems to be a rarity and it seems to be indicative of the more infill type of development that we are looking at here, which I appreciate. I would like to make a motion that we forward with an affirmative R-PZD 05-1735 with it's thirty conditions of approval with a consideration on #5, the alignment of streets, that the southern most border of the right-of-way be located at the adjoining property line, or with other modifications deemed necessary by Staff to make the proposal work.
- Myres: Second
- Clark: But you want it all on one property owner's area.
- Ostner: The southern line of the right-of-way and the southern edge of the property is to be contiguous.
- Lack: That is correct.
- Graves: A point of order for the motioner and seconder. There were determinations to be made on items #1, 2, 3, 4, and 6, as well that weren't addressed by the motion. I would invite the motioner to address those as well.
- Lack: Yes, I didn't want to read each one of them.
- Graves: If they are in line with Staff's recommendations.
- Lack: I do agree with Staff on findings and facts, specifically with items #1, 2, 3, 4, 6, and 7, which call for Planning Commission determination.
- Ostner: We have a motion to forward, changing the western stub out by Commissioner Lack and a second by Commission Myres. I have a little bit more problem with this. This is a welcome infill development. However, in my short tenure on some of the subcommittees going around,

land use on steep areas concerns me. I just think it is too dense for the site. The number one way to keep this kind of land in a state that makes people happy is less density. This is only 5.91 density units per acre overall, but I just can't see that. I think the development is going to be too intense. I would love to see a layout with a third less units. Bring it down to about three, three and a half, or four, I would love it. You have a great layout, I like the flow. There are great measures that you have taken with the curvature. I think it is too dense for the piece of property. Commissioner Allen is suggesting that I make that an amendment to lessen the density. I think that is pretty severe change. I think I would feel more secure not forwarding it, until there was a different density. But density is something that we all struggle with and talk about and it is a judgment call. This is a great place to develop, we need to develop here, it is infill, but just because it is infill, I don't think we need to sacrifice our other principles. I am leaning that way. Other principles being good civic design and responsibility towards the rest of the town that this impacts. I am not in favor of the density and I will probably vote against this.

Clark: I have a question for Staff. The other RPZD across the street, what is its density?

Pate: I think it is between 6-7 units per acre, if I remember correctly, Single family and two family.

Clark: And what is the average slope on this piece of property.

Pate: About 12%.

Clark: Really? That's pretty steep. I know this to be a pretty wooded area, a pretty area and I had made some comments to myself when I looked at the waiver requests for the streets, a lot of waivers. And if the density could be diminished, reduced some, maybe not a full third, I would probably be more in favor of this. I am particularly concerned about the density to the north with the townhomes. So much multi family has me concerned as well. I'd like to hear comments from my fellow commissioners before I make my final decision. Moving the access to the west, I am absolutely in favor of if this passes, it has to go that way.

Trumbo: I have a question for Staff. On the Hillside Task Force, we talk about clustered development and I haven't seen these on this site. Are we clustering with this project? Is it a smart layout with the land?

Pate: Staff feels so. If you look at the drawings, you will see that a lot of the homes are planned to work their way up the hill, utilizing slope as opposed to a mass grade to create one level surface and large retaining walls. Of course any development on this property will require stem walls but the

plan and the drawings they presented indicated that they are ready and willing to work up the slope. The utilization of the multi family and more attached dwelling units primarily along the street to allow for interior tree preservation is something that I think is a good effort. Specifically the multi family is primarily utilized along Happy Hollow. On the collector street directly adjacent to a collector street, we often times discourage lots having direct access onto a collector street. They have provided another means of access, a rear street or alley system, which would allow for no curb cuts directly onto Happy Hollow which is another step in the right direction. Again, as you mentioned, it is zoned four units per acre. You could have four, this is 5.9, and so it is two units an acre more. I will reference the land use table there. Within each planning area, it shows how many lots and acreages located within that, so they have looked at specific areas on the property to establish – some are higher, some are lowered with very large setbacks in planning area nine, for instance. I believe they have clustered their units.

Ostner: As I recall and I respect that Mr. Pate, but as I recall clustering on our task force, on hillsides, I recall other towns basically getting more dense in the easy areas and nothing in the difficult areas. This is being developed tip to stern; there is a pretty big PA8 community green space which is a ravine and a very pretty area. For hillside clustering, this doesn't really fall into the way I understand those clusters.

Clark: And where this is going to be developed RSF-4, there will be only 39 units on this development, so I think the density – I am concerned about it.

Lack: As you know I am definitely a proponent of larger lots on hillsides. That is one thing we should talk about more and more with the Hillside Ordinance when it goes into effect. The thing that I see about the density in this project that makes me comfortable with it is that we do have the clustering. We do have the higher density areas and we do have protected green space in protective areas, in site line protective areas and in drainage and engineering protective areas. That is the key to me to see the additional density in a good central location where I would hope to see density. We are even within at 12% less than hillside, less than what we regulated. But the common green spaces that are provided with the clustering, makes the density more palatable to me as opposed to the four units per acre that the developer could provide on this lot by right, that could be single family without the additional green space, with the wider streets, and everything that would go into the traditional single family four units per acre lots could destroy a lot more of this hillside than what the developer has provided with this proposed plan. That is to just give clarification on my feeling and as I am a strong proponent of larger lots on hillside, that is where I get more comfortable with this development.

Ostner: I would like to politely disagree. I think the larger lots would be a perfect fit here and I think when the marketing strategy changed from this strategy to a single family large lot strategy, I think we would see another good design. I don't think with that marketing strategy they would hit the minimums. I think with that marketing strategy you would see more preservation than usual. You might not get any more than you have now, but I think it would be significant and look very different. But it would require a complete shift. They are marketing this right now but I'm talking about what you are referring to is a shift in their business plan. That is not for me to say. The way the land lies, I believe it would be more fair and proper to the City as a land use issue for this density to not be developed. On restating the obvious, the 5.91 density units they have proposed per acre, two thirds of that comes just about comes to four, which is what there is by right. By looking at it and throwing out a third, I think four units per acre would be better. We just can go ahead and vote. We have a motion to forward this with a positive. Will you call the roll please.

Roll Call: Upon the completion of the roll call, R-PZD 05-1735 failed by a vote of 4-3-0.

Pate: Mr. Attorney: Would there need to be a motion to deny currently the motion to forward with recommendation for this particular project has failed. Is it still before the Planning Commission?

Whitaker: The motion simply fails. I'm not certain what the question is?

Pate: Is the project still before the Planning Commission?

Ostner: In my experience, no. Five are required to forward it and four were achieved, so the motion fails. The vote was 4-3 to forward.

Whitaker: Forward with a recommendation to approve was the motion, right? That failed. You could certainly forward with a recommendation to deny, if someone wanted to make that motion. But as it stands now, it has simply failed. You couldn't get the five votes that your bylaws require and the law requires for zoning changes.

Graves: Can we just move to forward it?

Ostner: I think we just did and I think that is what failed.

Graves: I think we forwarded it with a recommendation of approval and that is what failed. Can we forward it to the City Council with it in the record that we didn't recommend it?

Planning Commission
January 9, 2006
Page 83

Ostner: I believe the vote would be the same. It's almost automatic, their appeal to the City Council will keep them on the docket.

Whitaker: It will go in a different fashion. Had it gone forward with the recommendation for approval vs. an appeal of your adverse decision.

Ostner: So, that is that agenda item.

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

7-Feb-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 06-1853 (Nock/Broyles, 206/205): Submitted by Nock Broyles Land Development, LLC for property located north of Weir Road and east of Salem Road and Howard Nickell Road. The property is in the Planning Area and contains approximately 39.11 acres. The request is to annex the subject property into the City of Fayetteville.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director
1-19-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney
1-20-06
Date

Received in City Clerk's Office
1-19-06
[Stamp]

[Signature]
Finance and Internal Service Director
1-23-06
Date

Received in Mayor's Office
1/23/06
[Stamp]

[Signature]
Mayor
1/27/06
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning^{JK}

Date: January 18, 2006

Subject: Annexation for Nock/Broyles (ANX 06-1853)

RECOMMENDATION

The Planning Commission recommends approval of the subject annexation request submitted by Nock Broyles Land Development, LLC for approximately 39.11 acres of property located east and west of Salem Road. This action will incorporate the 39.11-acres of land within the City of Fayetteville. Planning Staff originally recommended denial of the requested annexation, finding that the proposal did not meet several of the annexation guiding policies established by the City Council.

BACKGROUND

The property is located within the Planning Area and currently undeveloped. One of the tracts of land is adjacent to the city limits at the southeast corner of the property with the second tract adjoining the first at its northwest corner. Surrounding properties include Raven Subdivision and Benton Development Subdivision (currently under construction) and Crystal Springs Subdivision to the southeast.

The applicant requests annexation of the property into the City of Fayetteville. The applicant intends to develop the property for residential use within the City of Fayetteville and has requested a rezoning to RSF-4.

DISCUSSION

This item was heard at the regular Planning Commission on January 9, 2006. The Planning Commission voted 6-1-0 to recommend approval of this annexation request to the City Council, with Commissioner Ostner voting no.

The Planning Commission discussed the overall trend of growth in the city and County. Although this property may not be contiguous to the city limits, it has the potential for development whether or not it is incorporated within the city. A majority of the Planning Commission voted to annex the property and recommended a zoning district of RSF-2.

Planning Staff had recommended denial of the incorporation of this property into the City of Fayetteville finding that annexation of the property will create what are in essence two

undesirable peninsulas of city property within the Planning Area and does not meet the objective of the City's Annexation Policy. Staff recommended that the applicant further investigate the possibility of incorporating surrounding land if adjacent owners to the south would also seek annexation of their properties. Staff does find that incorporation of this area in general is important; however, it should involve a comprehensive planning approach that does not create potential issues with infrastructure improvements and public service response.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED
IN ANNEXATION PETITION ANX 06-1853, FOR PROPERTY
LOCATED NORTH OF WEIR ROAD AND EAST OF SALEM ROAD
AND HOWARD NICKELL ROAD, CONTAINING APPROXIMATELY
39.11 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: That the official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4: That the above-described property is hereby assigned to Ward No. Four.

PASSED and APPROVED this 7th day of January, 2006.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
ANX 06-1853

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION THIRTY (30), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING STONE MONUMENT; THENCE S00°16'33"E 653.55 FEET ALONG THE WEST LINE OF SAID 40 ACRE TRACT TO AN EXISTING IRON; THENCE N89°50'16"E 972.02 FEET TO A SET 1/2" IRON REBAR FOR THE TRUE POINT OF BEGINNING; THENCE NORTH 579.93 FEET TO A SET 1/2" IRON REBAR; THENCE EAST 302.17 FEET TO AN EXISTING IRON REBAR ON THE WEST RIGHT-OF-WAY LINE OF WEST SALEM ROAD, SAID POINT BEING ON A 149.95 FEET RADIUS CURVE CONCAVE TO THE SOUTHEAST; THENCE SOUTHWESTERLY ALONG SAID CURVE AND RIGHT-OF-WAY LINE 24.78 FEET, THE CHORD FOR WHICH BEING S04°38'04"W 24.75 FEET, TO AN EXISTING IRON REBAR AT THE POINT OF TANGENCY OF SAID CURVE; THENCE S00°05'59"E ALONG SAID RIGHT-OF-WAY LINE 554.40 FEET TO AN EXISTING IRON; THENCE LEAVING SAID RIGHT-OF-WAY LINE, WEST S89°50'16"W 301.14 FEET TO THE POINT OF BEGINNING, CONTAINING 4.00 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 4.00 ACRE TRACT BEING SUBJECT TO A TWENTY (20) FOOT WIDE UTILITY EASEMENT IN FAVOR OF ARKANSAS WESTERN GAS CO. ALONG THE EAST BOUNDARY AND ANY OTHER EASEMENTS AND/OR RIGHTS-OF-WAY WHETHER OR NOT OF RECORD.

A PART OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION THIRTY (30), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING STONE MONUMENT; THENCE N89°54'26"E 1311.28 FEET ALONG THE NORTH LINE OF SAID 40 ACRE TRACT TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF WEST SALEM ROAD, SAID POINT BEING ON A 149.95 FEET RADIUS CURVE CONCAVE TO THE SOUTHEAST AND FROM WHICH AN EXISTING REFERENCE IRON BEARS S89°54'26"W 40.06 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE AND RIGHT-OF-WAY LINE 81.50 FEET, THE CHORD FOR WHICH BEING S24°56'21"W 80.50 FEET, TO AN EXISTING IRON REBAR; THENCE LEAVING SAID CURVE AND RIGHT-OF-WAY LINE, WEST 302.17 FEET TO A SET 1/2" IRON REBAR; THENCE SOUTH 579.93 FEET TO A SET 1/2" IRON REBAR; THENCE S89°50'16"W 972.02 FEET TO AN EXISTING IRON ON THE WEST LINE OF SAID 40 ACRE TRACT; THENCE N00°16'33"W 653.55 FEET TO THE POINT OF BEGINNING, CONTAINING 15.12 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 15.12 ACRE TRACT BEING SUBJECT TO A THIRTY (30) FOOT WIDE

ACCESS EASEMENT ALONG THE ENTIRE NORTH BOUNDARY, A TWENTY (20) FOOT WIDE UTILITY EASEMENT IN FAVOR OF ARKANSAS WESTERN GAS CO. ALONG THE NORTH AND EAST BOUNDARY, AND ANY OTHER EASEMENTS AND/OR RIGHTS-OF-WAY WHETHER OR NOT OF RECORD.

THE SOUTH HALF (S1/2) OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTH WEST QUARTER (SW1/4) OF SECTION TWENTY-NINE (29), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, CONTAINING 19.99 ACRES, MORE OR LESS WASHINGTON COUNTY, ARKANSAS, ALSO BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID 20 ACRE TRACT, SAID POINT BEING IN SALEM ROAD AND FROM WHICH A 1/2" IRON REBAR REFERENCE IRON SET ON THE WEST RIGHT-OF-WAY OF SAID ROAD BEARS N89°49'03"W 47.89 FEET; THENCE N89°49'03"W 1317.88 FEET TO THE SOUTH WEST CORNER OF SAID 20 ACRE TRACT, SAID POINT BEING IN COUNTY ROAD #894 AND FROM WHICH A 1/2" IRON REBAR REFERENCE IRON SET ON THE EAST RIGHT-OF-WAY OF SAID COUNTY ROAD BEARS S89°49'03"E 31.88 FEET; THENCE N00°17'49"E 659.59 FEET TO THE NORTHWEST CORNER 20 ACRE TRACT AND FROM WHICH AN EXISTING REFERENCE IRON ON THE EAST RIGHT-OF-WAY OF SAID COUNTY ROAD BEARS S89°53'03"E 27.91 FEET; THENCE S89°53'03"E 1320.09 FEET TO THE NORTHEAST CORNER OF SAID 20 ACRE TRACT, SAID POINT BEING IN SALEM ROAD AND FROM WHICH A 1/2" IRON REBAR REFERENCE IRON SET ON THE WEST RIGHT-OF-WAY OF SAID ROAD BEARS N89°53'03"W 50.49 FEET; THENCE S00°29'33"W 661.13 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED 19.99 ACRE TRACT BEING SUBJECT TO THE RIGHT-OF-WAY OF SALEM ROAD ALONG THE ENTIRE EAST BOUNDARY AND COUNTY ROAD #894 ALONG THE ENTIRE WEST BOUNDARY.

SUBJECT TO THE FOLLOWING:

DEDICATED RIGHT-OF-WAY DESCRIPTION

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION THIRTY (30), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID 40 ACRE TRACT; THENCE S00°10'47"E 1315.16 FEET TO THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT; THEN S89°50'20"W 45.44 FEET ALONG THE SOUTH LINE OF SAID 40 ACRE TRACT TO THE WEST RIGHT-OF-WAY LINE OF WEST SALEM ROAD; THEN N00°05'59"W 1217.60 FEET ALONG SAID RIGHT-OF-WAY LINE TO AN EXISTING IRON REBAR AT THE BEGINNING OF A TANGENT 149.95 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST; THEN NORTHEASTERLY ALONG SAID CURVE AND RIGHT-OF-WAY 106.28 FEET, THE CHORD FOR WHICH BEING N20°12'18"E 104.07 FEET, TO A POINT ON THE NORTH LINE OF SAID 40 ACRE TRACT; THEN N89°54'26"E 7.52 FEET TO THE POINT OF BEGINNING.



PC Meeting of January 06, 2006

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, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: December 27, 2005 *Updated January 16, 2006*

ANX 06-1853: (NOCK/BROYLES SALEM RD., 205/206): Submitted by CRITICAL PATH CONSTRUCTION MANAGEMENT for property located at N & E OF WEIR RD AND HOWARD NICKELL RD. The property is in the Planning Area and contains approximately 39.11 acres. The request is to annex the subject property into the City of Fayetteville.

Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends denial of the requested annexation finding that it would create an undesirable peninsula of City property and an unusual city boundary.

PLANNING COMMISSION ACTION:		Required <u>YES</u>
		☒ Approved ☐ Denied
Date: <u>January 06, 2005</u>	Motion to Approve: <u>Clark</u>	
	Second: <u>Myres</u>	
	Vote: <u>6-1-0 with Commissioner Oster voting no.</u>	
CITY COUNCIL ACTION:		Required <u>YES</u>
		☐ Approved ☐ Denied
Date: <u>February 07, 2006 (1st reading if recommended)</u>		

BACKGROUND:

Property Description: The subject property contains two parcels consisting of a total 39.11 acres. The request has been submitted by Nock Broyles Land Development, LLC. The property is located within the Planning Area and currently undeveloped. One of the tracts of land is adjacent to the city limits at the southeast corner of the property with the second tract adjoining the first at its northwest corner. Surrounding properties include Raven Subdivision and Benton Development Subdivision (currently under construction) and Crystal Springs Subdivision to the southeast.

Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Rural residential / agricultural	Planning Area
South	Rural residential / agricultural	Planning Area
East	Rural residential / agricultural	Planning Area
West	Rural residential / agricultural	Planning Area

Proposal: The applicant proposes annexation of 39.11 acres into the City of Fayetteville.

Public Comment: Staff has received no written public comment concerning the requested annexation.

INFRASTRUCTURE:

Streets: The site has access to Weir, Howard Nickel, and Salem Road. Improvements will be required to surrounding streets which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Nearby Master Street Plan Streets

Direction	Street Name	Master Street Plan Classification
South	Weir Rd.	Collector Street
East/West	Salem Rd.	Principal Arterial
East	Salem Rd.	Collector Street

Water: Public water is near to the site. Substantial improvements to the water system will be required which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Sewer: Sanitary sewer is not near to the site. Substantial improvements to the sewer system will be required which includes off-site improvements. This development will be within the sewer assessment area. An evaluation will be made by staff at the time of preliminary plat or large scale development. A study of the downstream system shall be conducted by the developer.

Drainage: Runoff from most of the site flows overland to the south. Standard improvements and requirements for drainage will be required for the development.

Fire:

- These 39.11 acres are covered by Engine 7 at 835 N Ruppel.
- It is 3.4 miles from the station with an anticipated response time of 8.75 minutes. This long response time is due to Ruppel Road being narrow and curvy. Engine 2, on N Garland, has approximately the same response time. This response time is above our goal of having the first unit on the scene within 6 minutes, 90% of the time, and our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. It has been proposed (Fayetteville Fire

Department: Deployment Study 2003) to build a fire station (Station 9) to cover this northwest part of the city.

- ♦ The Fire Department anticipates 35 (21 EMS – 14 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. The service impact of this type development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.
- ♦ Measured hydrant flow in this area is 805 gallons/minute.
- There should be no adverse effects on our call volume to this development.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services.

LAND USE PLAN: General Plan 2020 identifies the portion of this property within the Planning Area as **Residential**.

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES BOUNDARIES

- 11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property will create what is in essence two undesirable peninsulas of city property within the Planning Area. Staff finds that the incorporation of property which would result in the creation of peninsulas does not meet the objective of the City's Annexation Policy and suggests the applicant further evaluate the situation to determine if adjacent owners to the south would also seek annexation of their properties. Staff has previously met with the petitioners and informed them of this recommendation and city policy regarding the discouragement of annexations which would create peninsulas. Staff does find that incorporation of this area in general is important; however, it should involve a comprehensive planning approach.

- 11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: One of the approximately 20 acre tracts is adjacent to the city limits only at the southeastern corner of the property. The second 20 acre tract of property adjoins the first at the formers' southeastern-most corner. The proposed annexation is not consistent with the intent of this guiding policy, for it creates pockets of city property fully surrounded by a separate jurisdiction, Washington County.

- 11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area does not consist of defined subdivisions or neighborhoods. It is currently rural agricultural. However, future development plans may include the development of subdivisions which are not contiguous to any property similarly developed.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels, not natural corridors.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of 8.75 minutes for fire protection from Fire Station #2 and #7. Water would need to be provided to the development; current hydrant flow measures 805 gallons/minute. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

Sanitary sewer and public water are not near to the site. Substantial improvements to the sewer and water system will be required which includes off-site improvements. This development will be within the sewer assessment area.

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: The property consists of cleared pasture land with some scattered single family residences and accessory structures. No information has been presented to designate the subject property environmentally sensitive. Incorporation of this property would allow for the requirement of parks, open space and tree preservation.

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: Water and sewer lines are not accessible without extending public facilities through adjacent properties within the Planning Area. The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Fire service may also be provided to the site. In order to provide safe and efficient emergency response streets within the Planning Area will need to be substantially improved.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police service will be required to be provided to this area with the same level of response and service as other properties in this area, if annexed in the City of Fayetteville. This area currently lies nearby areas already being served by the city; however, to extend services to the subject property, city vehicles will be required to transit through the County.

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, sewer, fire and police protection are currently provided to developed areas to the southeast of the subject property.

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: Annexation and future development of this property will result in an increased demand on the existing infrastructure systems. Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should development occur on the subject property. Annexation of the subject property would require the extension of utilities within the Planning Area as the property is not adjacent to the city limits except at one point.

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The property owners request annexation and rezoning of this property to RSF-4, Residential single family - 4 units/acre.

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 property.

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has not been proposed at this time. At the time the applicant desires to develop the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.

11.6.r Residents should be fully informed of annexation activities.

Finding: ~~increased~~ 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: Although the amount of property requested to be annexed is large, it would create an unacceptable boundary and create potential complications for emergency services and extension of city infrastructure. Obtaining support from adjacent property owners to the south in order to provide annexation of a larger parcel of land that would extend south to the current city limits would better conform to the annexation policy adopted by the City Council. Annexation of property that would create an oddly configured peninsula of city property that is not consistent with the Annexation Policy.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 39.98 acres.

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.

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
From: Captain Dale Riggins
Date: January 5, 2006
Re: January 3, 2006 Re-zoning Review - Fire Department Comments

ANX06-1853 (Nock/Broyles Salem Rd, 205/206)

RZN06-1854 (Nock/Broyles Salem Rd, 205/206)

These 39.11 acres are covered by Engine 7 at 835 N Ruppel.

It is 3.4 miles from the station with an anticipated response time of 8.75 minutes. This long response time is due to Ruppel Road being narrow and curvy. Engine 2, on N Garland, has approximately the same response time. This response time is above our goal of having the first unit on the scene within 6 minutes, 90% of the time, and our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. It has been proposed (Fayetteville Fire Department: Deployment Study 2003) to build a fire station (Station 9) to cover this northwest part of the city.

The Fire Department anticipates 35 (21 EMS - 14 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. The service impact of this type development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

Measured hydrant flow in this area is 805 gallons/minute.

There should be no adverse effects on our call volume to this development.

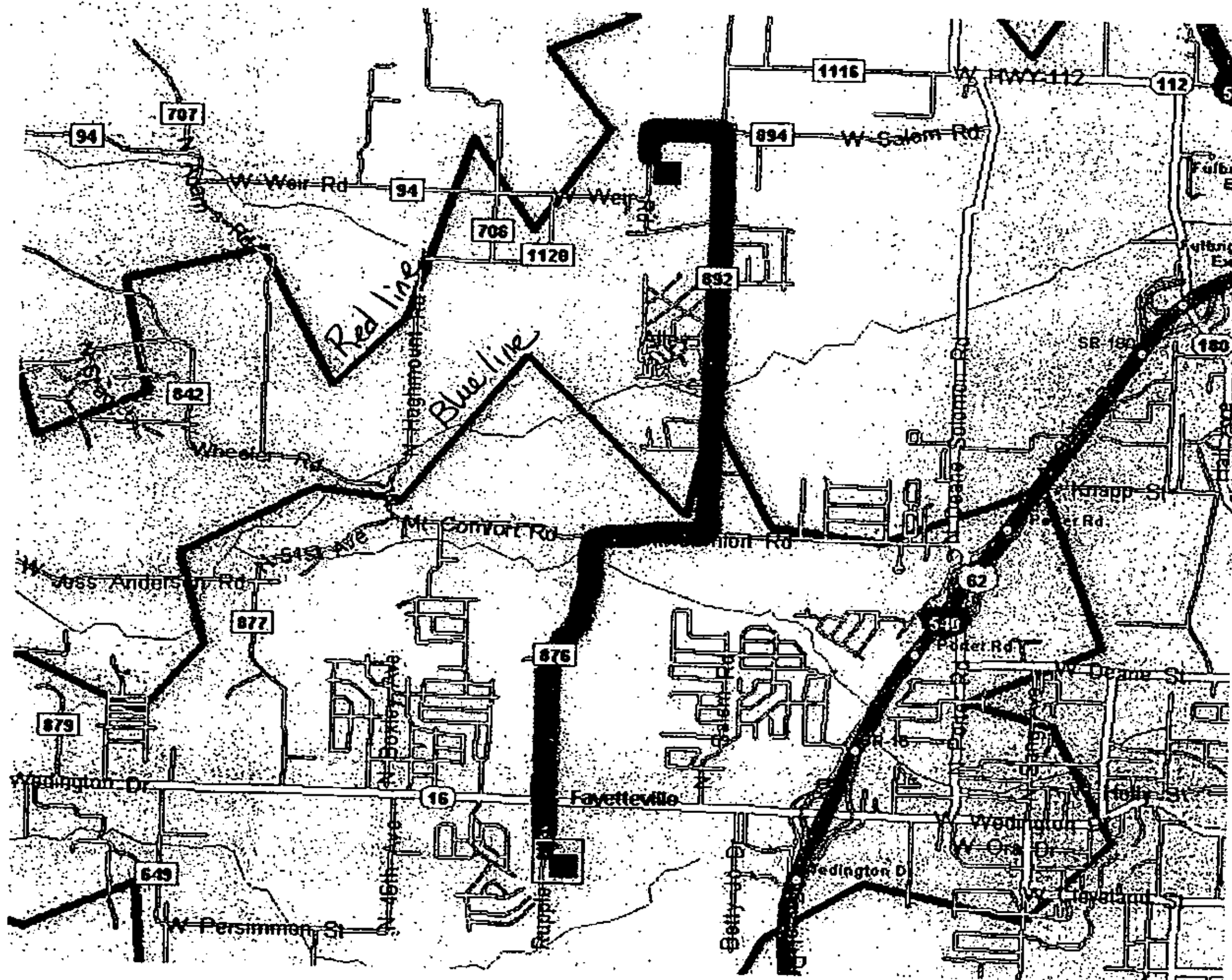
If you have any questions or need additional information don't hesitate to call me at x365

Dale Riggins

Fayetteville Fire Department

Nock/Broyles Salem Road
ANX06-1853
RZN06-1854

3.4 Miles from Station 7
9 Minute Response Time
(Blue line indicates 6 minute response time zone)
(Red Line indicates 10 minute response time zone)





FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

January 3, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation and Rezoning ANX & RZN 06-1853 (Nock/Broyles Salem Rd., 205/206) submitted by Critical Path Construction Management for property located at N & E of Weir Rd and Howard Nickell Road would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Brown", is written over the typed name.

Captain William Brown
Fayetteville Police Department

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS
IN THE MATTER OF THE PETITION OF CERTAIN
REAL PROPERTY FOR ANNEXATION TO THE
CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

NO. CC 2005-40

PETITION TO ANNEX TERRITORY TO
THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

The Petitioner, Nock-Broyles Land Development, LLC, an Arkansas limited liability company, hereby submits its Petition to annex certain real property into the City of Fayetteville, Washington, County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. as follows:

1. That Petitioner owns the real property described on the Plat Map, Exhibit "A", attached hereto and made a part hereof (the "Real Property"), and said Real Property is situated in Washington County, Arkansas, and is contiguous with the City of Fayetteville, Arkansas, and is within the City of Fayetteville, School District.
2. The Petitioner names James Atwood, Attorney at Law, P.A. as the person authorized to act on its behalf with respect to this Petition.
3. The Petitioner desires that the Real Property become part of the City of Fayetteville, Arkansas, and petitions the County Judge for annexation of the Real Property into the City of Fayetteville.
4. A true and correct presentation of the Real Property and how it is contiguous to the City of Fayetteville, Arkansas is shown on the Plat Map, Exhibit "A", attached hereto.
5. The Petitioner herein desires that the Real Property become part of the City of Fayetteville, Washington County, Arkansas, and Petitioner states that it will do any and all legal acts necessary to accomplish the objective set forth herein.

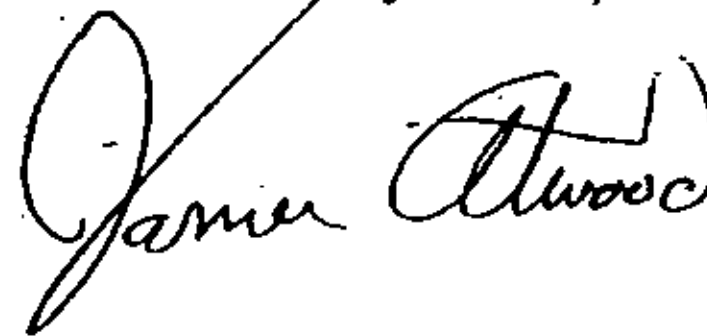
THEREFORE, Petitioner respectfully prays that this Court set a hearing, and after notice of such hearing, that the County Judge sign an Order annexing the above described Real Property into the City of Fayetteville, Washington County, Arkansas, and to order such other relief as is appropriate under applicable law.

Respectfully executed this 27 day of September, 2005.


Hank Broyles, Managing Member of
Broyles Commercial Funding, LLC, which
is the Member of Nock-Broyles Land
Development, LLC authorized to execute
this petition

SUBSCRIBED AND SWORN TO before me, a Notary Public, on this the 27 day of September, 2005.

My Commission Expires:



OFFICIAL SEAL
JAMES ATWOOD
NOTARY PUBLIC-ARKANSAS
WASHINGTON COUNTY
MY COMMISSION EXPIRES: 08-31-15

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS
IN THE MATTER OF THE PETITION OF CERTAIN
PROPERTY TO THE CITY OF FAYETTEVILLE,
WASHINGTON COUNTY, ARKANSAS

NO. CC 2005-40

FILED
2005 OCT 14 PM 2
KAREN COMBS PRITC
CO. & PROBATE CLE
WASHINGTON CO. AR

SECOND AMENDMENT TO THE PETITION TO ANNEX TERRITORY TO
THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

The Petitioner, Nock-Broyles Land Development, LLC, an Arkansas limited liability company, hereby amends its petition to annex certain property into the City of Fayetteville, Washington, County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. as follows:

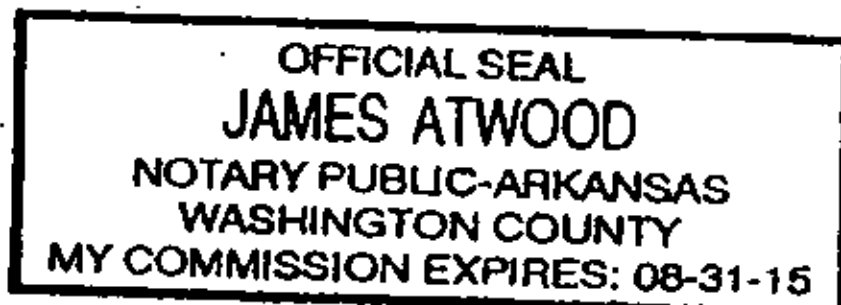
1. That Petitioner on the 29th day of September, 2005 filed a petition to annex certain lands into the City of Fayetteville, Arkansas, under A.C.A. Section 14-40-601, et. Seq., and Petitioner filed an amendment to the Petition amending the legal description of the lands on October 13, 2005 (the "First Amendment").
2. That Petitioner hereby amends its original petition to annex and the First Amendment and in so doing amends the legal description of the lands to be annexed so that the legal description shall be in the form as provided in Exhibit A to this amendment.
3. Other than as to the amended legal description set forth in Exhibit A, the Petitioner hereby incorporates and reaffirms all aspects of its original petition and the First Amendment.

Respectfully executed this 14 day of October, 2005.


Hank Broyles, Managing Member of
Broyles Commercial Funding, LLC, which
is the Member of Nock-Broyles Land
Development, LLC authorized to execute
this petition

SUBSCRIBED AND SWORN TO before me, a Notary Public, on this the 14 day of
October, 2005.

My Commission Expires:



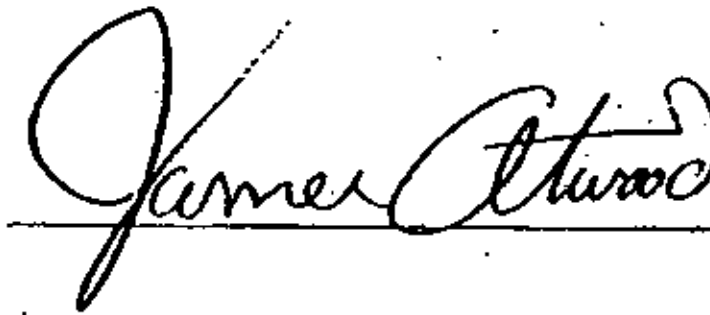


Exhibit A

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THE SOUTH HALF (S1/2) OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION TWENTY-NINE (29), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, CONTAINING 19.99 ACRES, MORE OR LESS WASHINGTON COUNTY, ARKANSAS, ALSO BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID 20 ACRE TRACT, SAID POINT BEING IN SALEM ROAD AND FROM WHICH A 1/2" IRON REBAR REFERENCE IRON SET ON THE WEST RIGHT-OF-WAY OF SAID ROAD BEARS N89°49'03"W 47.89 FEET; THENCE N89°49'03"W 1317.83 FEET TO THE SOUTH WEST CORNER OF SAID 20 ACRE TRACT, SAID POINT BEING IN COUNTY ROAD #894 AND FROM WHICH A 1/2" IRON REBAR REFERENCE IRON SET ON THE EAST RIGHT-OF-WAY OF SAID COUNTY ROAD BEARS S89°49'03"E 31.88 FEET; THENCE N00°17'49"E 659.59 FEET TO THE NORTHWEST CORNER 20 ACRE TRACT AND FROM WHICH AN EXISTING REFERENCE IRON ON THE EAST RIGHT-OF-WAY OF SAID COUNTY ROAD BEARS S89°53'03"E 27.91 FEET; THENCE S89°53'03"E 1320.09 FEET TO THE NORTHEAST CORNER OF SAID 20 ACRE TRACT, SAID POINT BEING IN SALEM ROAD AND FROM WHICH A 1/2" IRON REBAR REFERENCE IRON SET ON THE WEST RIGHT-OF-WAY OF SAID ROAD BEARS N89°53'03"W 50.49 FEET; THENCE S00°29'33"W 661.13 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED 19.99 ACRE TRACT BEING SUBJECT TO THE RIGHT-OF-WAY OF SALEM ROAD ALONG THE ENTIRE EAST BOUNDARY AND COUNTY ROAD #894 ALONG THE ENTIRE WEST BOUNDARY.

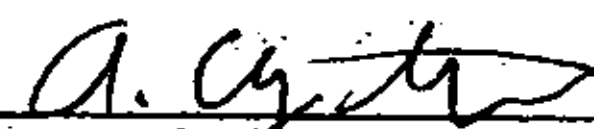
Subject to the following:

DEDICATED RIGHT-OF-WAY DESCRIPTION

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1st Submittal as:
RZN 06-1854
Parcels close
12/19/2005
TS

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature

IN THE MATTER OF THE PETITION OF CERTAIN
PROPERTY TO THE CITY OF FAYETTEVILLE
WASHINGTON COUNTY, ARKANSAS

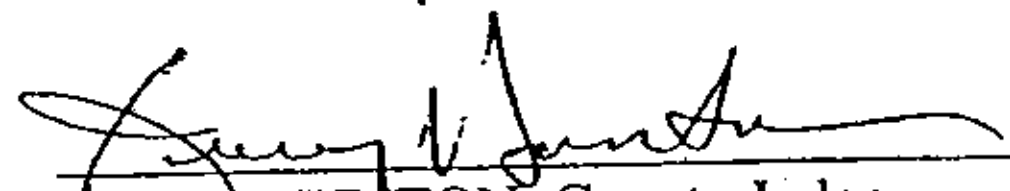
NO. CC 2005-40

ORDER SETTING HEARING DATE

On this 29th day of September, 2005, upon Petition to annex certain property into the City of Fayetteville, Washington County, Arkansas, pursuant to A.C.A. Section 14-40-601, The Court finds as follows:

1. That Jerry Hunton, Washington County Judge, has consented and approved the Petition, and pursuant to A.C.A. Section 14-40-601, the Court hereby sets a hearing date on the Petition for the 3rd day of November, 2005, at 10:00 A.m. at the Washington County Courthouse. And Petitioner is directed to cause a notice of hearing to be published in a newspaper of general circulation in Washington County, Arkansas as is required by law.

IT IS SO ORDERED


JERRY HUNTON, County Judge

IN THE COUNTY COURT OF WASHINGTON COUNTY

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

NO. CC2005-40

ORDER OF ANNEXATION

Now on this 2nd day of November, 2005, this cause comes on to be heard, the Petitioner, Nock-Broyles Land Development, LLC, an Arkansas limited liability company, who is represented by James E Atwood, Attorney at Law, P.A., after announcing the hearing of the cause and there being no protests or objections, whereupon, the matter is submitted to the Court upon the Petition filed herein, and the oral and documentary evidence having been adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on the 29th day of September, 2005 at which time this Court fixed the 2nd day of November, 2005, at 10:00a.m., as the date and time of hearing for said cause, and that a full notice of this hearing was given as required by law and the proof of publication of said notice is now on file with the County Clerk of this Court and the Court has jurisdiction of this cause.
2. The Court is satisfied that the allegations of the Petition are sustained by the proof, that the limits of the territory to be annexed have been properly filed; that the property owners have freehold interests in the property hereinafter described in the Petition and constitute the real owners of the area affected.
3. The land proposed to be annexed to the City of Fayetteville, Washington County,

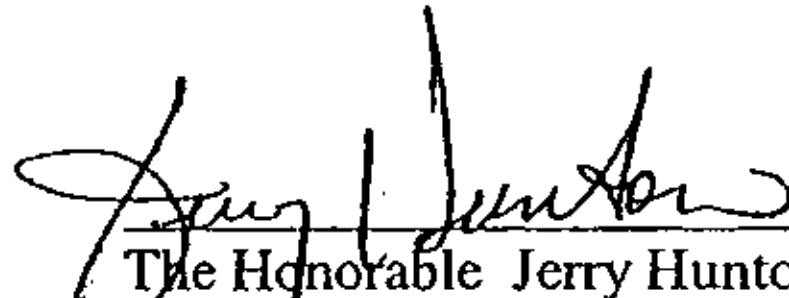
FILED
2005 NOV 3 AM 9 15
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

Arkansas, in this cause is described on "Exhibit A" attached hereto.

4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is adapted for urban purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made a part of the City of Fayetteville, Arkansas, in accordance with Acct. No. 1 of the Acts of the Legislature of 1875 of the State of Arkansas, and all Acts amendatory thereto, particularly including Act 142 of the Acts of Arkansas for the year 1953, as codified in *Ark. Code Ann.* § 14-40-601, et seq., and this Order shall be duly recorded by the County Clerk of Washington County.

IT IS SO ORDERED this 2nd day of November, 2005.


The Honorable Jerry Hunton
Washington County Judge



NOT TO SCALE



21 W. MOUNTAIN,
STE 121
Fayetteville, AR
72701

WASHINGTON COUNTY, ARKANSAS
SEPT. 28, 2005

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION THIRTY (30), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING STONE MONUMENT; THENCE S00°16'33"E 653.55 FEET ALONG THE WEST LINE OF SAID 40 ACRE TRACT TO AN EXISTING IRON; THENCE N89°50'16"E 972.02 FEET TO A SET 1/2" IRON REBAR FOR THE TRUE POINT OF BEGINNING; THENCE NORTH 579.93 FEET TO A SET 1/2" IRON REBAR; THENCE EAST 302.17 FEET TO AN EXISTING IRON REBAR ON THE WEST RIGHT-OF-WAY LINE OF WEST SALEM ROAD, SAID POINT BEING ON A 149.95 FEET RADIUS CURVE CONCAVE TO THE SOUTHEAST; THENCE SOUTHWESTERLY ALONG SAID CURVE AND RIGHT-OF-WAY LINE 24.78 FEET, THE CHORD FOR WHICH BEING S04°38'04"W 24.75 FEET, TO AN EXISTING IRON REBAR AT THE POINT OF TANGENCY OF SAID CURVE; THENCE S00°05'59"E ALONG SAID RIGHT-OF-WAY LINE 554.40 FEET TO AN EXISTING IRON; THENCE LEAVING SAID RIGHT-OF-WAY LINE, WEST S89°50'16"W 301.14 FEET TO THE POINT OF BEGINNING, CONTAINING 4.00 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 4.00 ACRE TRACT BEING SUBJECT TO A TWENTY (20) FOOT WIDE UTILITY EASEMENT IN FAVOR OF ARKANSAS WESTERN GAS CO. ALONG THE EAST BOUNDARY AND ANY OTHER EASEMENTS AND/OR RIGHTS-OF-WAY WHETHER OR NOT OF RECORD.

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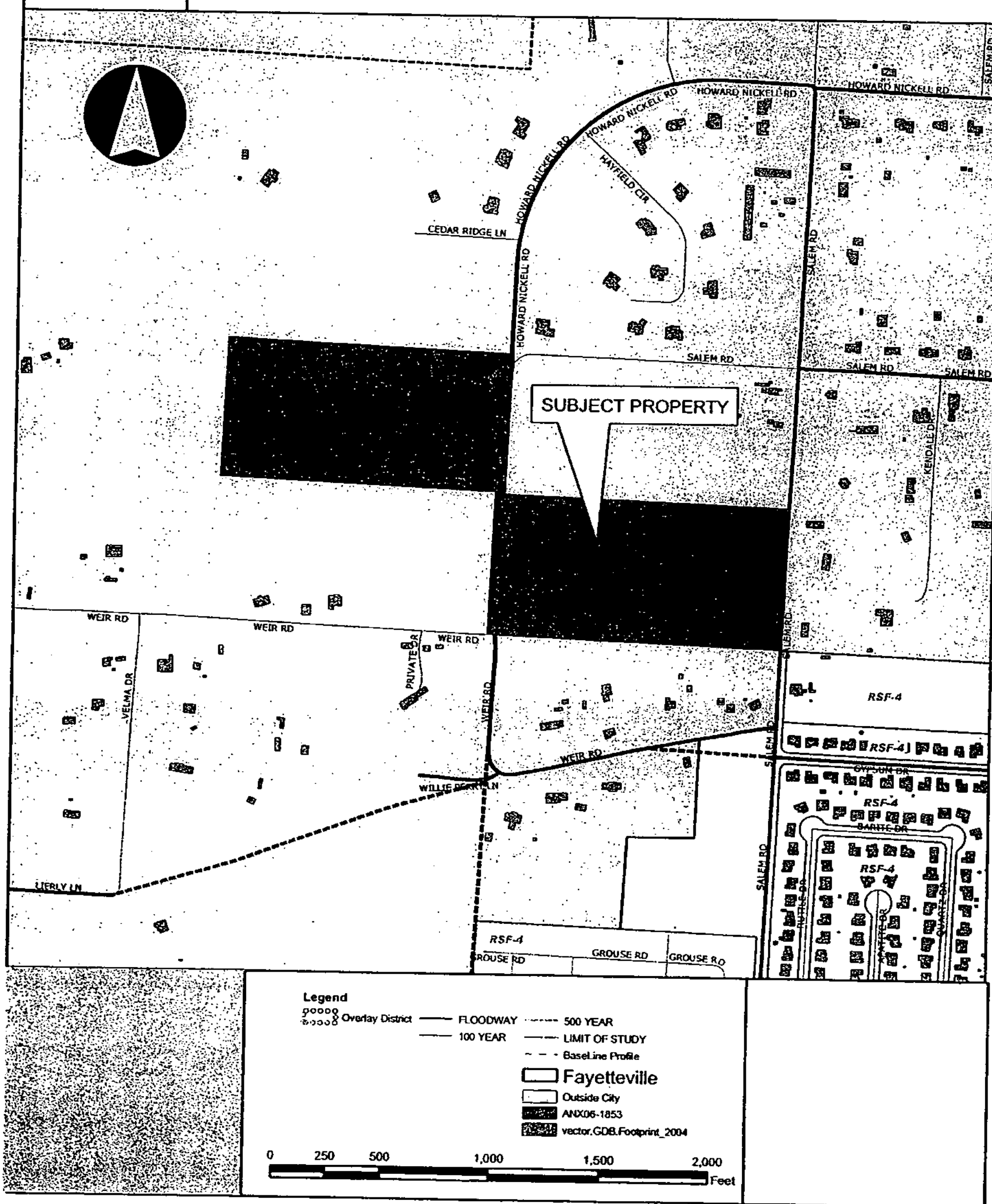
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ANX06-1853

Close Up View

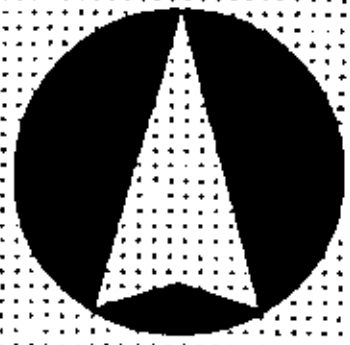
NOCK/BROYLES



ANX06-1853

Future Land Use

NOCK/BROYLES SALEM RD.



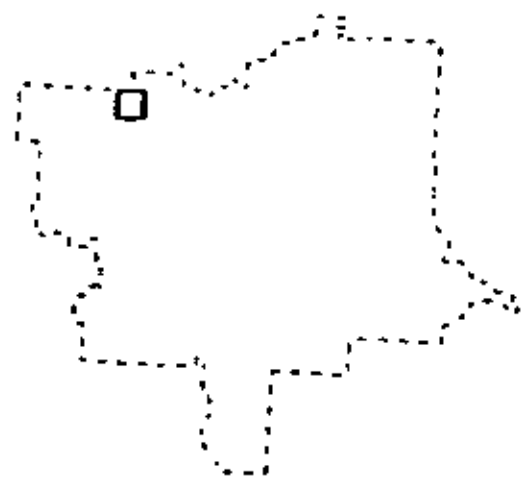
SUBJECT PROPERTY

Residential

Legend

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University
- Building (2004)

Overview



Legend

- Subject Property
- ANX06-1853
- Boundary
- Planning Area
- Streets
- Existing
- Planned
- Overlay District
- Outside City

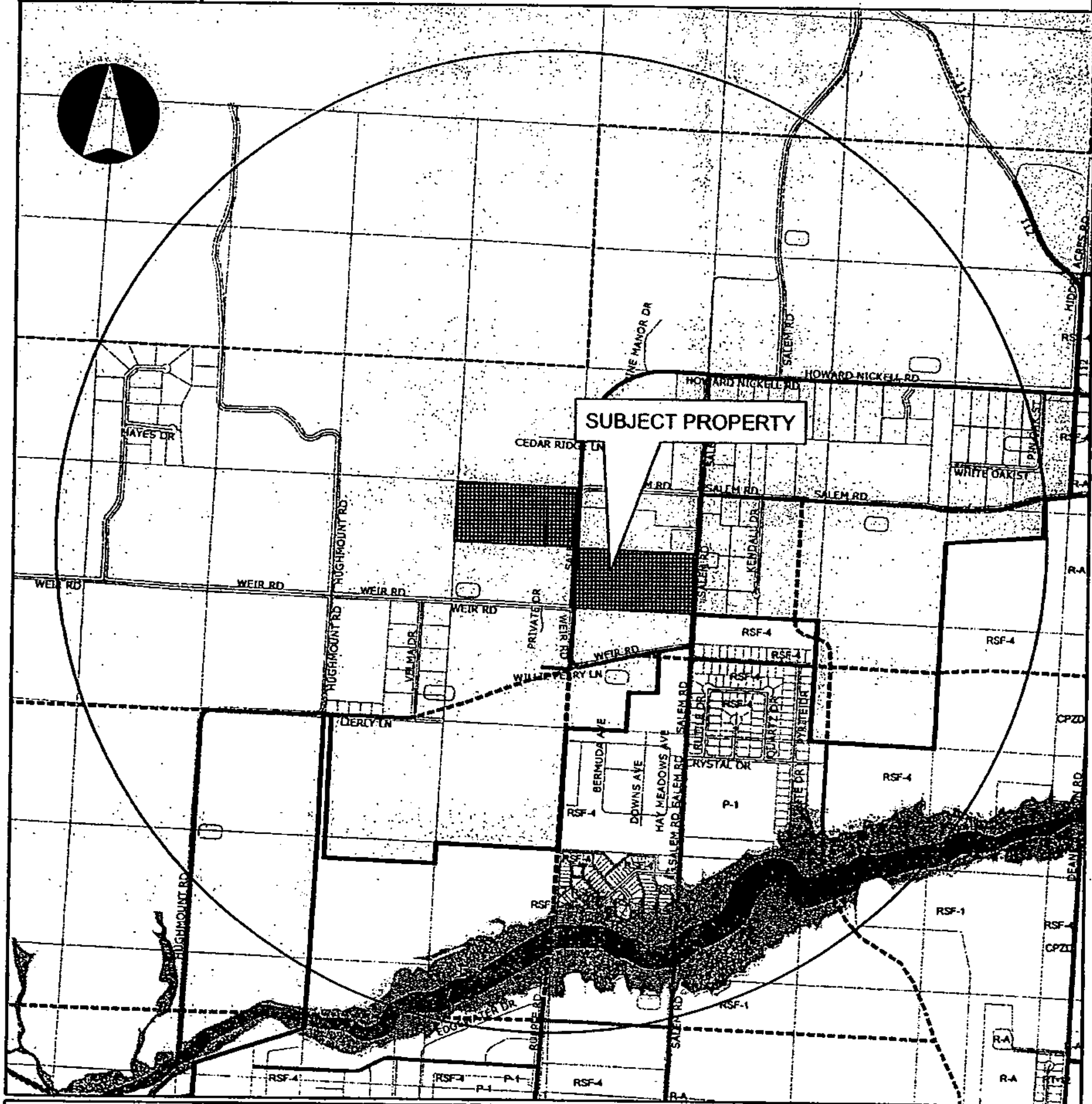
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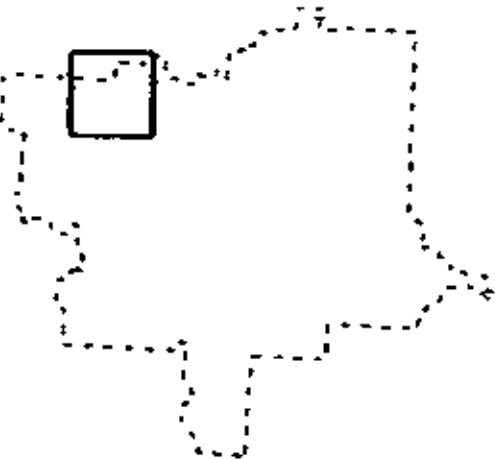
ANX06-1853

One Mile View

NOCK/BROYLES SALEM RD.



Overview



Legend

Subject Property

ANX06-1853

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25

0.5

0.75

1

Miles

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning^X

Date: January 17, 2006

Subject: Rezoning for Nock/Broyles (RZN 06-1854)

RECOMMENDATION

The Planning Commission recommends approval of rezoning the subject property from R-A to RSF-2 on approximately 39.11 acres located east and west of Salem Road. This action would allow the development of 19 single-family dwellings on the subject property. Planning Staff and the Planning Commission originally recommended denial of the requested rezoning to RSF-4.

BACKGROUND

The property is located within the Planning Area and currently undeveloped. One of the tracts of land is adjacent to the city limits at the southeast corner of the property with the second tract adjoining the first at its northwest corner. Surrounding properties include Raven Subdivision and Benton Development Subdivision (currently under construction) and Crystal Springs Subdivision to the southeast.

The applicant originally requested the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family – 4 units per acre, in order to develop the property in a manner consistent with surrounding subdivisions located within the City of Fayetteville.

DISCUSSION

This item was heard at the regular Planning Commission on January 09, 2006. The Planning Commission voted 6-1-0 to recommend approval of a rezoning to RSF-2 instead of RSF-4 to the City Council, with Commissioner Ostner voting no.

The proposed rezoning to RSF-2 will allow the subject property to develop in a manner consistent with the nearby property located within the city limits. To allow the development of residential units at a density of four units per acre would be inconsistent with the character of the surrounding property on all sides which is, for the most part, rural residential and utilized for agricultural purposes. The applicant indicated a Planned Zoning District would be brought forward with development of the land. Staff would

note that the Planning Commission has recommended that a density as high as 4 units per acre in this are, at this time, is incompatible and would not be supported.

Planning Staff found that with a comprehensive annexation in place, staff would be more willing to review a rezoning request at a density more commonly found within the city limits.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 06-1854 FOR APPROXIMATELY
39.11 ACRES LOCATED NORTH OF WEIR ROAD AND EAST OF
SALEM ROAD AND HOWARD NICKELL ROAD FROM R-A,
RESIDENTIAL AGRICULTURAL TO RSF-2, RESIDENTIAL SINGLE
FAMILY, 2 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-2, Residential Single Family,
2 units per acre, as shown on 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 _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-1854

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION THIRTY (30), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING STONE MONUMENT; THENCE S00°16'33"E 653.55 FEET ALONG THE WEST LINE OF SAID 40 ACRE TRACT TO AN EXISTING IRON; THENCE N89°50'16"E 972.02 FEET TO A SET 1/2" IRON REBAR FOR THE TRUE POINT OF BEGINNING; THENCE NORTH 579.93 FEET TO A SET 1/2" IRON REBAR; THENCE EAST 302.17 FEET TO AN EXISTING IRON REBAR ON THE WEST RIGHT-OF-WAY LINE OF WEST SALEM ROAD, SAID POINT BEING ON A 149.95 FEET RADIUS CURVE CONCAVE TO THE SOUTHEAST; THENCE SOUTHWESTERLY ALONG SAID CURVE AND RIGHT-OF-WAY LINE 24.78 FEET, THE CHORD FOR WHICH BEING S04°38'04"W 24.75 FEET, TO AN EXISTING IRON REBAR AT THE POINT OF TANGENCY OF SAID CURVE; THENCE S00°05'59"E ALONG SAID RIGHT-OF-WAY LINE 554.40 FEET TO AN EXISTING IRON; THENCE LEAVING SAID RIGHT-OF-WAY LINE, WEST S89°50'16"W 301.14 FEET TO THE POINT OF BEGINNING, CONTAINING 4.00 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 4.00 ACRE TRACT BEING SUBJECT TO A TWENTY (20) FOOT WIDE UTILITY EASEMENT IN FAVOR OF ARKANSAS WESTERN GAS CO. ALONG THE EAST BOUNDARY AND ANY OTHER EASEMENTS AND/OR RIGHTS-OF-WAY WHETHER OR NOT OF RECORD.

A PART OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION THIRTY (30), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING STONE MONUMENT; THENCE N89°54'26"E 1311.28 FEET ALONG THE NORTH LINE OF SAID 40 ACRE TRACT TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF WEST SALEM ROAD, SAID POINT BEING ON A 149.95 FEET RADIUS CURVE CONCAVE TO THE SOUTHEAST AND FROM WHICH AN EXISTING REFERENCE IRON BEARS S89°54'26"W 40.06 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE AND RIGHT-OF-WAY LINE 81.50 FEET, THE CHORD FOR WHICH BEING S24°56'21"W 80.50 FEET, TO AN EXISTING IRON REBAR; THENCE LEAVING SAID CURVE AND RIGHT-OF-WAY LINE, WEST 302.17 FEET TO A SET 1/2" IRON REBAR; THENCE SOUTH 579.93 FEET TO A SET 1/2" IRON REBAR; THENCE S89°50'16"W 972.02 FEET TO AN EXISTING IRON ON THE WEST LINE OF SAID 40 ACRE TRACT;

THENCE N00°16'33"W 653.55 FEET TO THE POINT OF BEGINNING, CONTAINING 15.12 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 15.12 ACRE TRACT BEING SUBJECT TO A THIRTY (30) FOOT WIDE ACCESS EASEMENT ALONG THE ENTIRE NORTH BOUNDARY, A TWENTY (20) FOOT WIDE UTILITY EASEMENT IN FAVOR OF ARKANSAS WESTERN GAS CO. ALONG THE NORTH AND EAST BOUNDARY, AND ANY OTHER EASEMENTS AND/OR RIGHTS-OF-WAY WHETHER OR NOT OF RECORD.

THE SOUTH HALF (S1/2) OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTH WEST QUARTER (SW1/4) OF SECTION TWENTY-NINE (29), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, CONTAINING 19.99 ACRES, MORE OR LESS WASHINGTON COUNTY, ARKANSAS, ALSO BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID 20 ACRE TRACT, SAID POINT BEING IN SALEM ROAD AND FROM WHICH A 1/2" IRON REBAR REFERENCE IRON SET ON THE WEST RIGHT-OF-WAY OF SAID ROAD BEARS N89°49'03"W 47.89 FEET; THENCE N89°49'03"W 1317.83 FEET TO THE SOUTH WEST CORNER OF SAID 20 ACRE TRACT, SAID POINT BEING IN COUNTY ROAD #894 AND FROM WHICH A 1/2" IRON REBAR REFERENCE IRON SET ON THE EAST RIGHT-OF-WAY OF SAID COUNTY ROAD BEARS S89°49'03"E 31.88 FEET; THENCE N00°17'49"E 659.59 FEET TO THE NORTHWEST CORNER 20 ACRE TRACT AND FROM WHICH AN EXISTING REFERENCE IRON ON THE EAST RIGHT-OF-WAY OF SAID COUNTY ROAD BEARS S89°53'03"E 27.91 FEET; THENCE S89°53'03"E 1320.09 FEET TO THE NORTHEAST CORNER OF SAID 20 ACRE TRACT, SAID POINT BEING IN SALEM ROAD AND FROM WHICH A 1/2" IRON REBAR REFERENCE IRON SET ON THE WEST RIGHT-OF-WAY OF SAID ROAD BEARS N89°53'03"W 50.49 FEET; THENCE S00°29'33"W 661.13 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED 19.99 ACRE TRACT BEING SUBJECT TO THE RIGHT-OF-WAY OF SALEM ROAD ALONG THE ENTIRE EAST BOUNDARY AND COUNTY ROAD #894 ALONG THE ENTIRE WEST BOUNDARY.

SUBJECT TO THE FOLLOWING:

DEDICATED RIGHT-OF-WAY DESCRIPTION

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION THIRTY (30), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID 40 ACRE TRACT; THENCE S00°10'47"E 1315.16 FEET TO THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT; THEN S89°50'20"W 45.44 FEET ALONG THE SOUTH LINE OF SAID 40 ACRE TRACT TO THE WEST RIGHT-OF-WAY LINE OF WEST SALEM ROAD; THEN N00°05'59"W 1217.60 FEET ALONG SAID RIGHT-OF-WAY LINE TO AN EXISTING IRON REBAR AT THE BEGINNING OF A TANGENT 149.95 FOOT RADIUS CURVE CONCAVE TO

THE SOUTHEAST; THEN NORTHEASTERLY ALONG SAID CURVE AND
RIGHT-OF-WAY 106.28 FEET, THE CHORD FOR WHICH BEING N20°12'18"E
104.07 FEET, TO A POINT ON THE NORTH LINE OF SAID 40 ACRE TRACT;
THEN N89°54'26"E 7.52 FEET TO THE POINT OF BEGINNING.

DRAFT



PC Meeting of January 9, 2006

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, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: January 4, 2006 *Updated January 16, 2006*

RZN 06-1854: (NOCK/BROYLES SALEM RD., 205/206): Submitted by CRITICAL PATH CONSTRUCTION MANAGEMENT for property located at N & E OF WEIR AND HOWARD NICKELL RD. The property is zoned R-A, Residential Agricultural, and contains approximately 39.11 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.
Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends denial of the requested rezoning based on the findings included as part of this report.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		✓ Approved	⊙ Denied
Date: <u>January 9, 2006</u>	<i>Motion to Approve with a zoning classification of RSF-2 by Clark</i>		
	<i>Second: Myres</i>		
	<i>Vote: 6-1-0 with Commissioner Ostner voting no.</i>		
CITY COUNCIL ACTION:		Required	<u>YES</u>
		⊙ Approved	⊙ Denied
Date: <u>February 7, 2006</u> (1 st reading if recommended)			

Comments: _____

BACKGROUND:

Property Description: The subject property contains two parcels consisting of a total 39.11 acres. The request has been submitted by Nock Broyles Land Development, LLC. The property is located within the Planning Area and currently undeveloped. One of the tracts of land is adjacent to the city

limits at the southeast corner of the property with the second tract adjoining the first at its northwest corner. Surrounding properties include Raven Subdivision and Benton Development Subdivision (currently under construction) and Crystal Springs Subdivision to the southeast.

Proposal: The applicant proposes to rezone 39.11 acres from R-A, Residential Agricultural, to RSF-4, Residential Single Family – 4 units per acre, should ANX 06-1853 be approved.

Public Comment: Staff has received no written public comment concerning the requested rezoning.

Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Rural residential / agricultural	Planning Area
South	Rural residential / agricultural	Planning Area
East	Rural residential / agricultural	Planning Area
West	Rural residential / agricultural	Planning Area

INFRASTRUCTURE:

Streets: The site has access to Weir, Howard Nickel, and Salem Road. Improvements will be required to surrounding streets which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Nearby Master Street Plan Streets

Direction	Street Name	Master Street Plan Classification
South	Weir Rd.	Collector Street
East/West	Salem Rd.	Principal Arterial
East	Salem Rd.	Collector Street

Water: Public water is near to the site. Substantial improvements to the water system will be required which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Sewer: Sanitary sewer is not near to the site. Substantial improvements to the sewer system will be required which includes off-site improvements. This development will be within the sewer assessment area. An evaluation will be made by staff at the time of preliminary plat or large scale development. A study of the downstream system shall be conducted by the developer.

Drainage: Runoff from most of the site flows overland to the south. Standard improvements and requirements for drainage will be required for the development.

Fire:

- ◆ These 39.11 acres are covered by Engine 7 at 835 N Ruppel.
- ◆ It is 3.4 miles from the station with an anticipated response time of 8.75

minutes. This long response time is due to Ruppel Road being narrow and curvy. Engine 2, on N Garland, has approximately the same response time. This response time is above our goal of having the first unit on the scene within 6 minutes, 90% of the time, and our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. It has been proposed (Fayetteville Fire Department: Deployment Study 2003) to build a fire station (Station 9) to cover this northwest part of the city.

- ◆ The Fire Department anticipates 35 (21 EMS – 14 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. The service impact of this type development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.
- ◆ Measured hydrant flow in this area is 805 gallons/minute.
- ◆ There should be no adverse effects on our call volume to this development.

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. Rezoning this property to RSF-4 is consistent with the use intended for the subject property; however, it is incompatible with the density and character of the surrounding property.

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 will allow the subject property to develop in a manner consistent with the nearby property located within the city limits. However, to allow the development of residential units at a density of four units per acre is inconsistent with the character of the surrounding property which is, for the most part, rural residential and utilized for agricultural purposes. The inconsistencies between the proposed zoning and existing uses of surrounding properties is more evident and significant in that each 20-acre tract of property is entirely surrounded by properties within the Planning Area, which is developed at densities much less than four units per acre. With a comprehensive annexation in place, staff would be more willing to review a rezoning request at a density founding within the city limits.

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 neither justified nor needed at this time in this location. There are several properties within the city south and east of the subject property which are developing at four units per acre and greater, with the proposed Clabber Creek Phases 3-5 and Oakbrooke Phase 1 under construction and several other subdivisions, such as Benton Development approved. Therefore, staff finds that the rezoning of this property to RSF-4 is neither justified or needed at this time.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The rezoning would create an increase in traffic in the vicinity of the property and on surrounding Collector and Principal Arterial streets. Currently the property generates traffic from only a few single family residential dwellings. To rezone the property as requested would result in approximately 1,560 vehicle trips per day. Significant street improvements coordinated between the city and county would need to occur for development at a density of 4 units per acre.

Police – It is the opinion of the Fayetteville Police Department that this rezoning request will have a negligible impact on both the population density and the traffic congestion for that 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 significantly alter the population density in the area. The development of four units per acre on approximately 39.11 acres would result in a total 345 residents in this currently rural and large-lot single-family dwelling environment. Public service providers have responded and their evaluations have been included within 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
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(D) Bulk and area regulations.

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) Setback requirements.

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) Permitted uses.

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) Bulk and area regulations.

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) Setback requirements.

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
From: Captain Dale Riggins
Date: January 5, 2006
Re: January 3, 2006 Re-zoning Review – Fire Department Comments

ANX06-1853 (Nock/Broyles Salem Rd, 205/206)

RZN06-1854 (Nock/Broyles Salem Rd, 205/206)

These 39.11 acres are covered by Engine 7 at 835 N Ruppel.

It is 3.4 miles from the station with an anticipated response time of 8.75 minutes. This long response time is due to Ruppel Road being narrow and curvy. Engine 2, on N Garland, has approximately the same response time. This response time is above our goal of having the first unit on the scene within 6 minutes, 90% of the time, and our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. It has been proposed (Fayetteville Fire Department: Deployment Study 2003) to build a fire station (Station 9) to cover this northwest part of the city.

The Fire Department anticipates 35 (21 EMS – 14 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. The service impact of this type development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

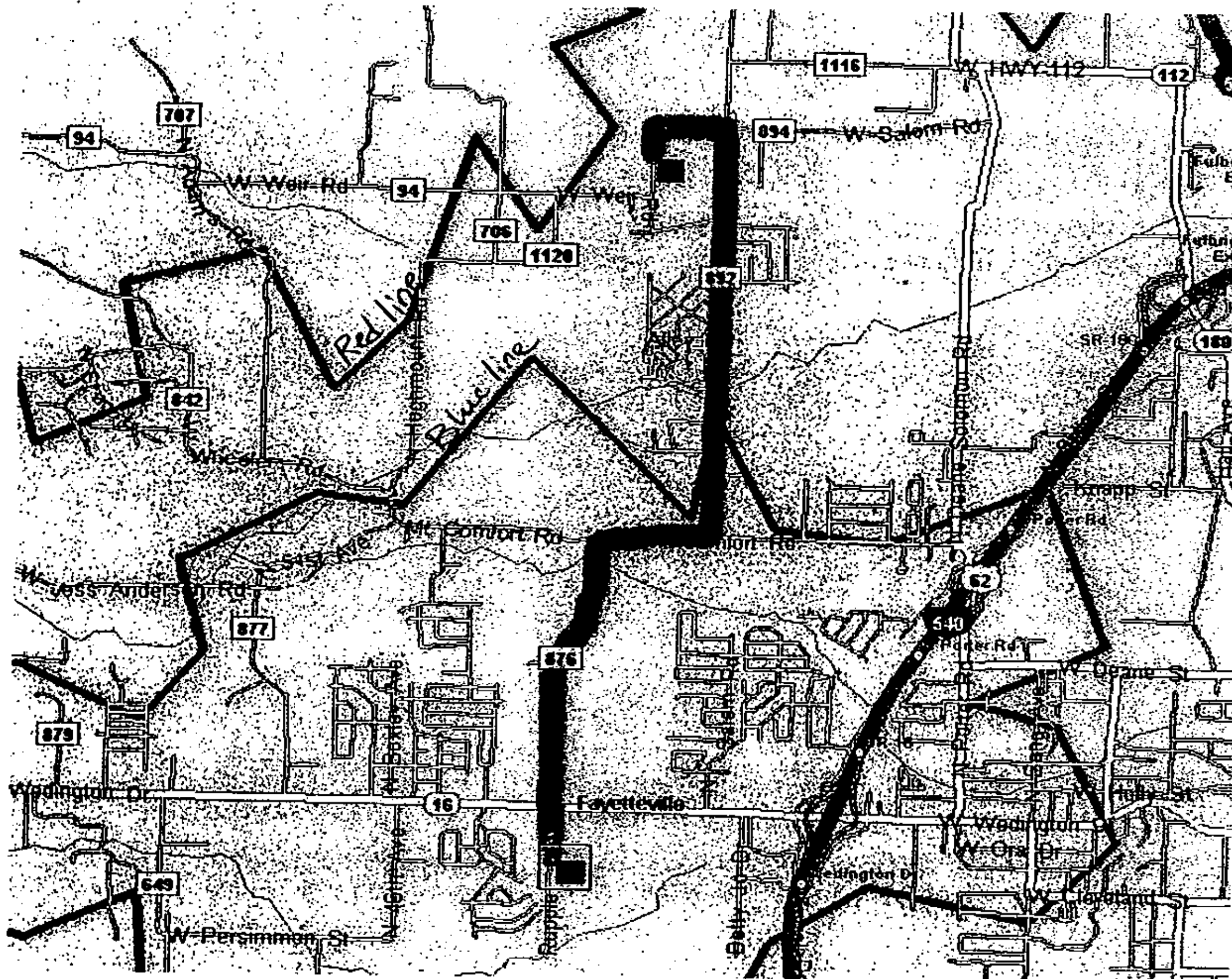
Measured hydrant flow in this area is 805 gallons/minute.

There should be no adverse effects on our call volume to this development.

If you have any questions or need additional information don't hesitate to call me at x365

Dale Riggins

Fayetteville Fire Department





FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

January 3, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation and Rezoning ANX & RZN 06-1853 (Nock/Broyles Salem Rd., 205/206) submitted by Critical Path Construction Management for property located at N & E of Weir Rd and Howard Nickell Road would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "WLB", is written over a horizontal line.

Captain William Brown
Fayetteville Police Department



21 W. Mountain, Ste 121 • Fayetteville, AR 72701 • Office: 479 527.0055 • Fax: 479 527.2798

November 16, 2005

Planning Division
125 W. Mountain St.
Fayetteville, AR 72701

The subject properties, which are owned by Nock Broyles Land Development, LLC, is adjoining the city limits by a property corner. The owner would like to be annexed and zoned RSF-4. The properties lie just north of Holcomb Elementary School and several subdivisions. There is a 4" water line along Salem Dr and an 8" sewer line along Crystal Dr, so utilities are available.

The surrounding properties that are in the city limits are currently zoned RSF-4. We feel like the subject properties would be a great addition to Fayetteville. It would potentially provide neighborhoods for Holcomb Elementary. It will also adjoin the planned Ruppel Road alignment, as shown in the Master Street Plan, along the western property boundary.

We hope that the City of Fayetteville will consider this property a great asset. If the City has any questions or concerns, please don't hesitate to let us know.

Sincerely,

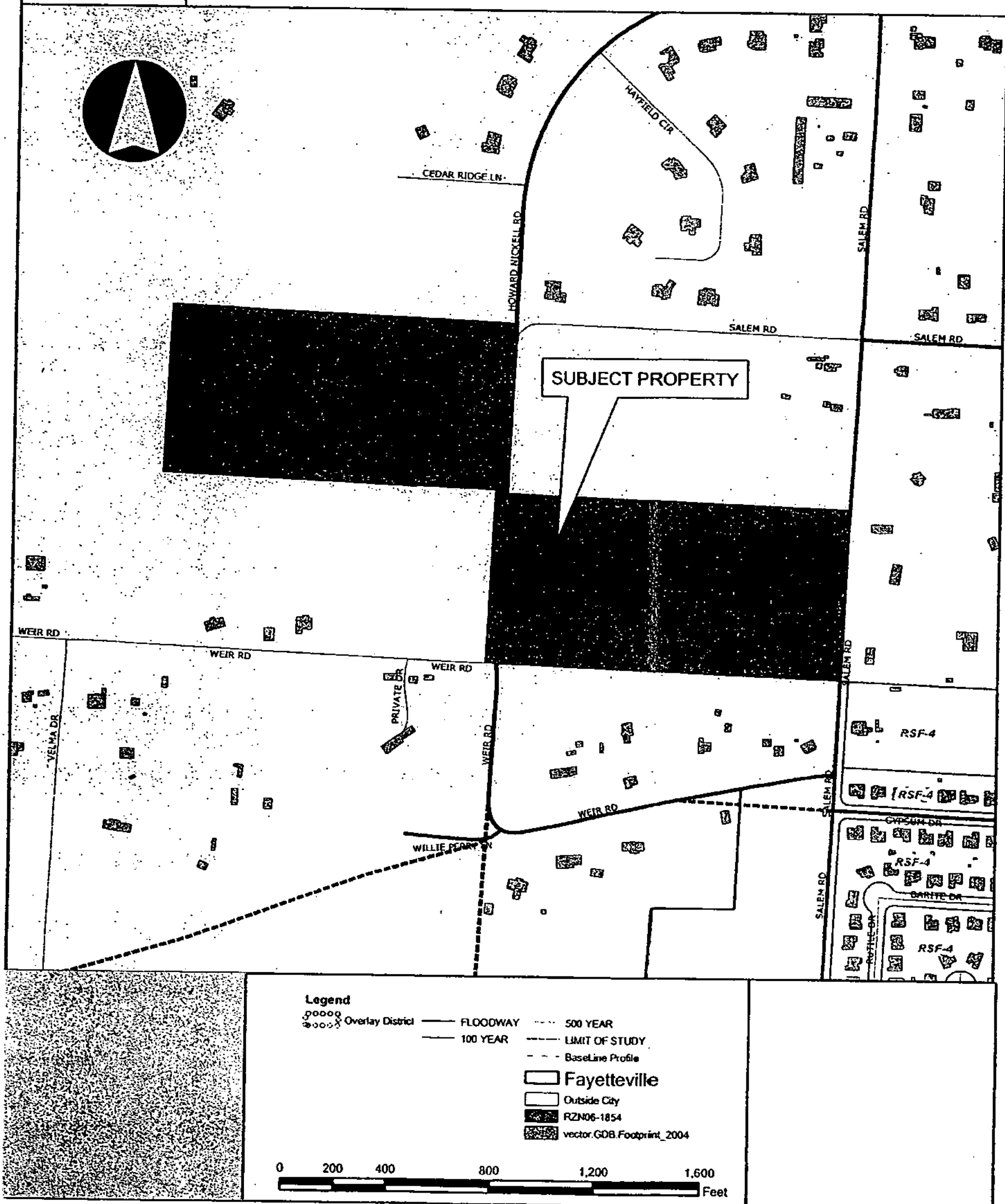
A handwritten signature in cursive script that reads "Clay Grote".

Clay Grote, P.E.
Principal Engineer.

RZN06-1854

Close Up View

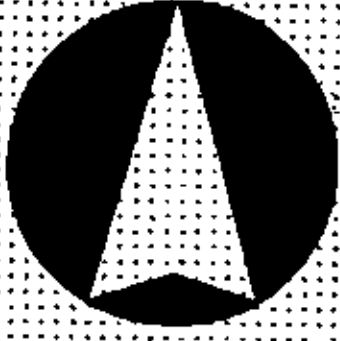
NOCK/BROYLES SALEM RD



RZN06-1854

Future Land Use

NOCK/BROYLES SALEM RD.



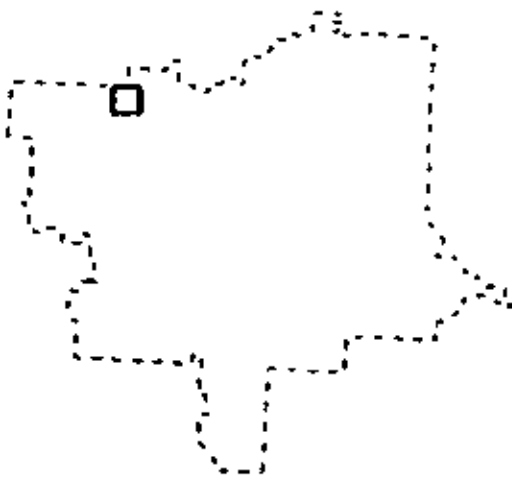
SUBJECT PROPERTY

Residential

Legend

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University
- Building (2014)

Overview



Legend

- Subject Property
- RZN06-1854
- Streets
- Existing
- Planned
- Boundary
- Planning Area
- Overlay District
- Outside City

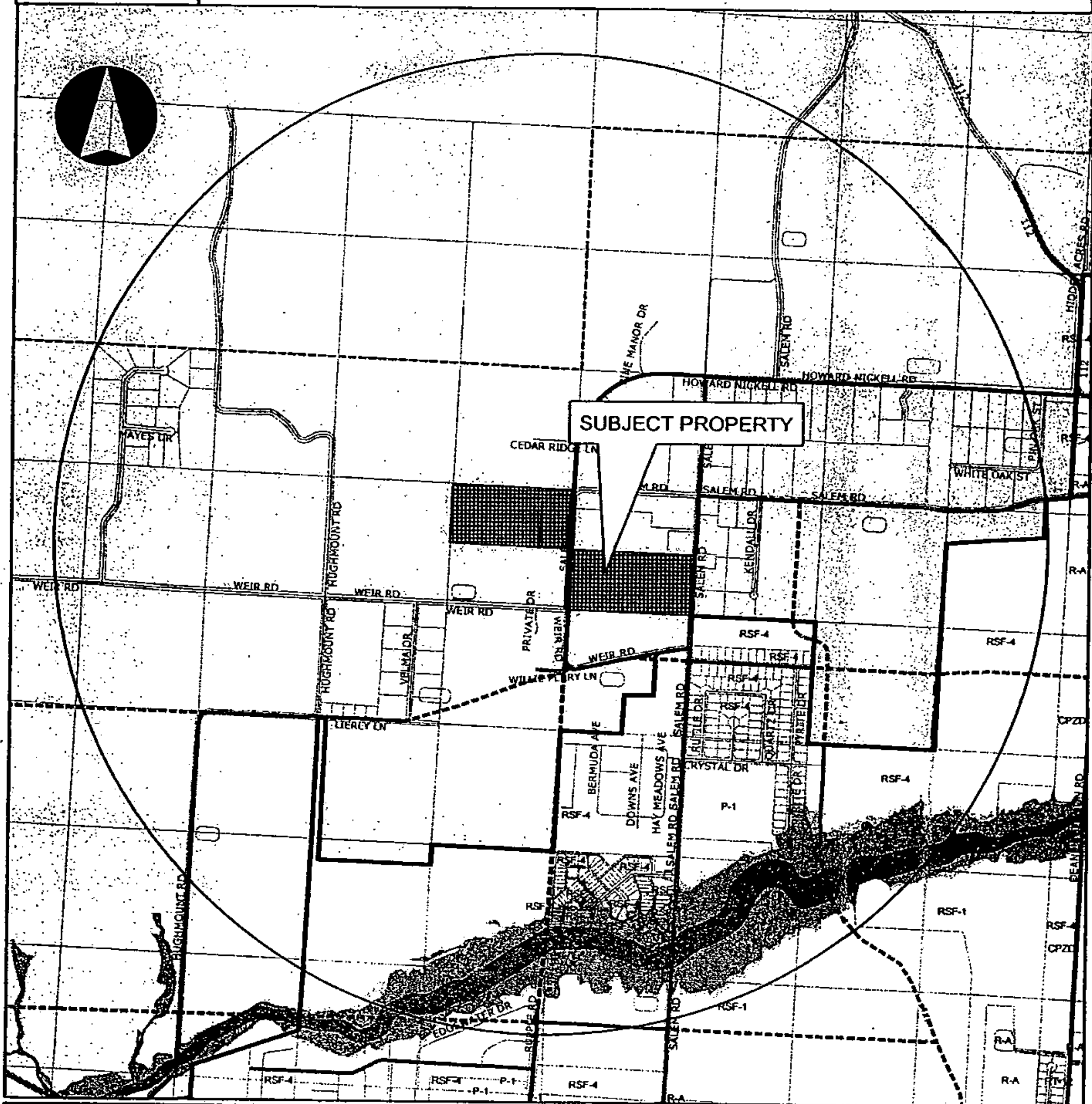
Legend



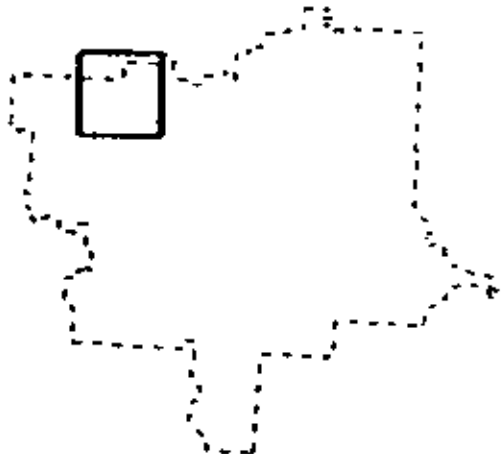
RZN06-1854

One Mile View

NOCK/BROYLES SALEM RD.



Overview

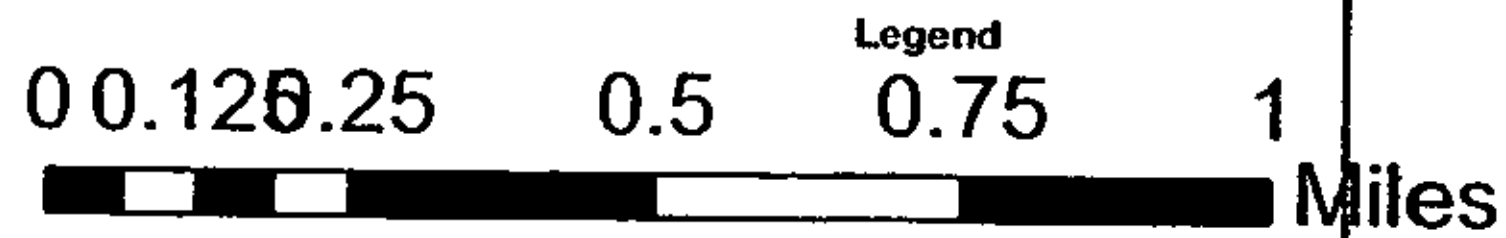


Legend

Subject Property
RZN06-1854

Boundary

Planning Area
Overlay District
Outside City



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

2/7/2006
City Council Meeting Date

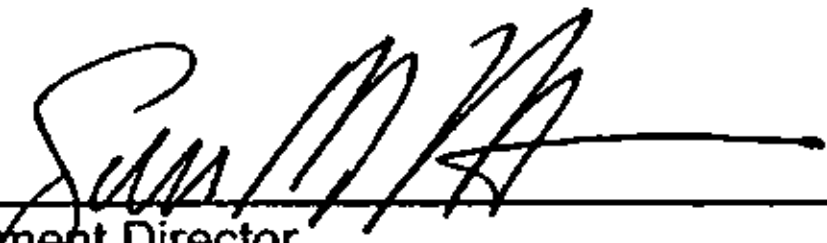
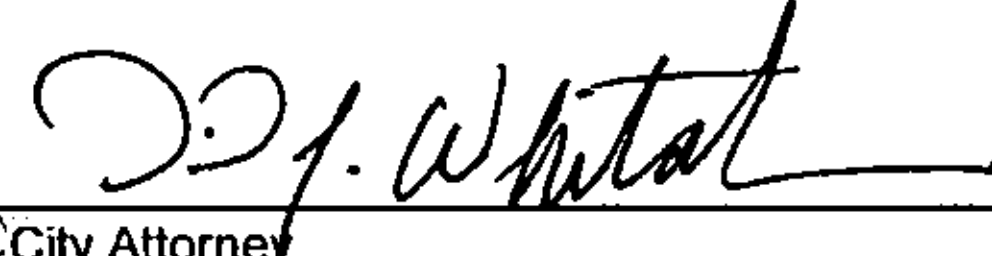
Susan Thomas Public Information General Government
Submitted By Division Department

Action Required:

A resolution approving the Fayetteville Government Channel Policy

<u>\$0</u> Cost of this request	<u>\$ -</u> Category / Project Budget	<u> </u> Program Category / Project Name
<u> </u> Account Number	<u>\$ -</u> Funds Used to Date	<u> </u> Program / Project Category Name
<u> </u> Project Number	<u>\$ -</u> Remaining Balance	<u> </u> Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

<u></u> Department Director	<u>1/20/06</u> Date	Previous Ordinance or Resolution # <u> </u>
<u></u> City Attorney	<u>1/23/06</u> Date	Original Contract Date: <u> </u>
<u></u> Finance and Internal Service Director	<u>1/23/06</u> Date	Original Contract Number: <u> </u>
<u> </u> Mayor	<u> </u> Date	Received in City Clerk's Office ENTERED 1/20/06
		Received in Mayor's Office ENTERED 1/23/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor & City Council

From: Susan Thomas, Public Information & Policy Advisor



Date: January 20, 2006

Subject: Fayetteville Government Channel Policy

Recommendation

A resolution approving Fayetteville Government Channel Policy

Background

Upon receipt of a written, formal complaint from Jim Bemis regarding Government Channel no longer televising Fayetteville School Board Meetings, the Telecom Board realized that the Fayetteville Government Channel policy document was outdated, burdened with procedural matters, and confusing and/or contradictory in many instances. The Telecom Board initiated a subcommittee to rewrite the policy. When Mr. Bemis' complaint reached the City Council, the issue of the revised Government Channel Policy was discussed, and Council indicated to City Staff that Council would like to have the opportunity to review and/or approve the policy document.

Current Status

The policy subcommittee submitted the revised policy document to the Telecom Board, and the Board approved the policy for recommendation to Council on Jan 19, 2006. A memo from David Bruce, Telecom Board member and Chair of the Government Channel Policy Subcommittee, the revised policy document, and the original policy document are all attached for your information.

A few items to note:

- The new policy does not provide for an appeal process to the City Council, but instead has an appeal process that ends at the Telecom Board.
- The former "Three Citizen Rule" has been eliminated, and the new policy allows any registered voter residing in the city limits of Fayetteville to request a meeting.

Budget Impact

N/A

RESOLUTION NO. _____

A RESOLUTION APPROVING REVISIONS TO THE
FAYETTEVILLE GOVERNMENT CHANNEL USE AND
PROGRAMMING POLICY.

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 revisions to the Fayetteville Government Channel Use and
Programming Policy. A copy of the Policy, marked Exhibit "A" is attached
hereto and made a part hereof.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED

By DAN GOODY, Mayor

ATTEST:

By

SONDRA SMITH, City Clerk

DRAFT

TO: City Council of Fayetteville

FROM: David Bruce, Telecom Board, Chair of Subcommittee to Revise the Government Channel Policy

RE: Government Channel Policy Revision

DATE: January 20, 2006

The subcommittee to revise the Government Channel Policy was formed by the Telecom Board in July 2005 in response to a citizen complaint regarding the Cable Administrator's interpretation of the current policy. The board considered the citizen complaint and determined that the current Government Channel Policy was vague and confusing on some points. It was the charter of this subcommittee to revise the Government Channel Policy and clarify the intent of the policy on several issues. The subcommittee consisted of myself, Marvin Hilton in his capacity as Cable Administrator, Susan Thomas, concerned citizen Jim Beamis, and other members of the telecom board who would attend subcommittee meetings from time to time.

Initial subcommittee meetings focused around what we wanted from our policy. The subcommittee decided early on that we would like to see a trimmer policy with less procedural content. Much of the confusion about the current policy stemmed from the policy containing specific detailed procedures regarding cable casting of School Board meetings. The current Government Channel Policy could not easily accommodate the changes that occurred when the School Board decided to cable cast their meetings on the Education Channel instead of the Government Channel. The subcommittee decided that it would be better to have a more general policy around which more dynamic procedures could be created. The subcommittee then revised the current policy with those goals in mind.

The subcommittee unanimously approved a final draft of the new Government Channel Policy in November 2005. The new draft was presented first at the December 2005 Telecom Board meeting at which time the board did not have enough time to adequately consider the policy at due to the upcoming renewal of the CAT contract. A discussion of the draft policy was added to the January 2006 Telecom Board agenda. The Telecom Board unanimously approved of the new policy draft on January 19, 2006.

Since much of the procedural details have been left out of the new policy draft, the Telecom Board has asked the Cable Administrator, pending Council approval of the new policy, to use the new policy as guidelines for creating the procedures necessary for day-to-day Government Channel operation.

Sincerely,

David Bruce

**POLICY ON THE USE AND PROGRAMMING OF
THE GOVERNMENT ACCESS CHANNEL
FAYETTEVILLE, ARKANSAS**

INTRODUCTION

The City of Fayetteville Government Access Channel, in accordance with resolution 94-91, is intended to give Fayetteville citizens information about City government services, programs, and activities and their relationships within the community and help create an open and participatory local government. The channel is administered by the City's Cable Administrator under guidelines established by and interpreted by the Telecommunications Board.

I. TELECOMMUNICATIONS BOARD

The Fayetteville Telecommunications Board was created under Ordinance 4504, Chapter 33, which authorizes the board "to facilitate the creation of policies regarding cable cast material selection, time guidelines for cablecast material, viewer and facility user complaint/feedback practices, and other such policies regarding the use and administration," of the Government Channel. The purpose of this policy is to establish (a) the criteria for which Governmental entities and related organizations are eligible to have programming on the channel and (b) allow the Government Channel staff to operate without determining the programming content.

POLICIES

II. PRIORITY OF COVERAGE/CABLE CASTING AND ELIGIBILITY FOR USE

A. FIRST LEVEL OF PRIORITY

1. CITY OF FAYETTEVILLE GOVERNMENTAL MEETINGS

First level priority will be given to televising City of Fayetteville Governmental meetings. City of Fayetteville Governmental meetings are defined as meetings of the governing bodies created by the City of Fayetteville, which meet FOIA criteria, including all committees, subcommittees, boards, commissions, task forces, and other such bodies dealing with City of Fayetteville business.

B. SECOND LEVEL OF PRIORITY

1. CITY OF FAYETTEVILLE GOVERNMENTAL INFORMATIONAL PROGRAMS

Second level priority for use of the Government Channel will be given to nonpartisan informational programs about City services, activities and events.

C. THIRD LEVEL OF PRIORITY

1. MEETINGS OF OTHER GOVERNMENTAL ENTITIES THAT MEET FOIA CRITERIA

Third level priority for use of the Government Channel will be given for any meeting that meets FOIA criteria and deals with government business that directly impacts the Citizens of Fayetteville. Such meetings include, but are not limited to, those of Washington County, regional, state and federal agencies, Boston Mountain Solid Waste District, and Fayetteville Public Schools.

2. INFORMATIONAL PROGRAMS OF OTHER GOVERNMENT AGENCIES

Third level priority for use of the Government Channel will also be given for non-partisan informational programs about government services or activities that may be provided by other governmental entities, such as, but not limited to, Washington County, regional, state, federal agencies and Tri-county Solid Waste.

3. PROGRAMS OF CITY OF FAYETTEVILLE CONTRACTORS AND GRANTEES

Third level priority will also be given to outside agencies or groups with whom the City of Fayetteville contracts, grants money or has an agreement to provide city services or activities. In such cases, the program shall be non-partisan in nature.

4. LIMITED PUBLIC FORUMS

Third level priority will also be given to two types of limited public forums: candidate forums and issue forums. Declared candidates for any public office, and persons advocating any cause, viewpoint, or proposed policy of a particular nature, will be eligible to appear only in a limited public forum venue.

All candidates or sides of an issue are given an equal opportunity to appear in public forums. If it becomes apparent that only one side of a forum is willing to participate, the Cable Administrator may make a decision to conduct the forum with only one side participating.

The City, through the Cable Administration Division, may conduct one candidate forum for each contested office before each election.

No candidate forums will be held before the last filing deadline

D. BULLETIN BOARD MESSAGES

Last priority will go to the "Government Channel Bulletin Board." The bulletin board will provide printed information about both City and community events and services when other programs are not being cablecast. It may also be used to inform residents of other "free" community events and activities.

III. COVERAGE REQUESTS

A. City of Fayetteville meetings will be covered at the request of a City of Fayetteville government elected official, a City of Fayetteville department head, a City of Fayetteville division head, or a committee chair. Other governmental agency meetings may be covered at the request of representatives of that agency.

B. Registered voters who live within the city limits of Fayetteville may request that the Government Channel cover any meeting held by the City of Fayetteville or other governmental agencies provided that the meeting affects the citizens of Fayetteville and meets FOIA criteria.

C. All requested meetings will be televised provided the resources are available and there exists no conflict with a request to cover a meeting with higher priority as outlined by this document. The Cable Administrator has discretion over issues of resources and priority.

IV. EDITING AND OTHER CONTENT POLICIES

A. Except when (1) the intent is to use brief excerpts as part of a larger program or (2) when technical difficulties interfere, the public portions of any City Council meeting or other public meetings receiving coverage on the channel, including limited public forums, will be cablecast in their entirety, without editing or subjective comment. All other programming is subject to editing by the Cable Administration as long as such editing does not alter the factual content or overall intent of the material being cablecast.

B. No promotion, endorsement or advertising for any private business, commercial service or product, or any profit-making activity, will be allowed on

the Government Access Channel. However, brief audio and video credit may be given at the end of a program where special materials or assistance has been donated by a commercial or charitable enterprise.

C. Programming of forums produced by outside agencies of declared candidates for any public office and persons advocating any cause, viewpoint or proposed policy of a particular nature will not be eligible for cable casting on the Government Access Channel.

D. When questions arise as to the admissibility of material or language in this regard, the Cable Administrator will make a decision on whether it is to be cablecast.

V. APPEALS OF COVERAGE OR PROCEDURAL ISSUES

A. Any appeals to the decisions made by the cable administrator regarding coverage, priority, or procedure should be submitted to the Telecom Board.

**POLICY ON THE USE AND PROGRAMMING OF
THE GOVERNMENT ACCESS CHANNEL
FAYETTEVILLE, ARKANSAS
(approved by Telecommunications Board July 29, 2004)**

The City of Fayetteville Government Access Channel, in accordance with resolution 94-91, is intended to give Fayetteville citizens information about City government services, programs, and activities and their relationships within the community and help create an open and participatory local government. The channel is administered by the City's Cable Administrator under guidelines established by and interpreted by the Telecommunications Board and City Council. The Cable Administrator schedules and manages the facilities and staff of the Government Access Channel for videotaping or other cable-based coverage of appropriate programs, events, and spots under the provisions outlined in this policy.

I. TELECOMMUNICATIONS BOARD

The Fayetteville Telecommunications Board was created under Ordinance 4505, Chapter 33, to advise the Council on telecommunications issues and to coordinate and oversee telecommunications franchise systems and use of the public rights of way designated for public, educational and governmental use in the City of Fayetteville." The seven-member Telecommunications Board also serves directly in an appeal process that considers and interprets issues regarding exceptions, variations, or modifications to this Policy Statement. Appeals to decisions made under this policy will follow the process outlined in this policy.

II. ELIGIBILITY FOR USE

A-1. CITY MEETINGS WITH STANDING AGREEMENTS TO TELEWISE

First priority for use of the channel will be given to requests, made in accordance with this policy, by the mayor, the City Council, individual council members, City Departments, or City Divisions. The Cable Administration Division, through its operation of the Government Access Channel, has a standing agreement to cablecast certain official city government meetings. The Cable Administration Division shall maintain a record of such meetings. If the party originally making the request and establishing the standing agreement is no longer in a position to make requests, an appeal to remove a meeting from this standing agreement may be made to the Telecommunications Board.

A-2. ADDITIONAL CITY MEETINGS

Other meetings concerning city business will be cablecast if they meet Freedom of Information (FOI) criteria and are requested by any one of the following: the mayor, the City Council, one individual council member, a department or division head, any elected city official or any three Fayetteville citizens, who are registered

voters, living within the city limits of Fayetteville, may make such requests. In addition the chair of any city council appointed committee may request to have the committee, of which they are the chair, televised.

In addition, any three citizens, who are registered voters, living within the City limits of Fayetteville, may request any meeting, that meets FOIA requirements and dealing with government business that directly impacts the Citizens of Fayetteville. Such requests will be subject to the resources available at the time, including the ability and practicality of traveling outside of Washington County.

B. FAYETTEVILLE PUBLIC SCHOOLS

Second priority for use of the Government Access Channel will be given to meetings and official functions of the Fayetteville Public Schools Board of Education. Such programs and meetings shall be requested by the School Board or School Administration

C. CITY INFORMATIONAL PROGRAMS

Third priority for use of the Government Channel will be given to non partisan informational programs about City services or activities. Such informational programs shall be requested by any elected City Official, Department or Division Head on subjects within their purview.

D. OTHER GOVERNMENTAL ENTITIES

Fourth priority for use is given to other government entities, such as Washington County, State and Federal Agencies and Tri-county Solid Waste, presenting programs about government services or activities that are non-partisan in nature and that affect the City of Fayetteville. These governmental units must submit requests for producing and cablecasting programs or meetings directly to the Cable Administrator or through one of the other City officials or agencies noted above.

E. Fifth priority will be given to requests by citizens, outside agencies, or groups with whom the City of Fayetteville contracts or to whom it grants money to provide city services or activities. In such cases, the program should be non-partisan in nature or a limited public forum (see criteria for limited public forum below).

F. Sixth priority will be given to two types of limited public forums: candidate forums and issue forums. Declared candidates for any public office, and persons advocating any cause, viewpoint, or proposed policy of a particular nature, will be eligible to appear only in a limited public forum venue.

A limited public forum has the following criteria:

- It is devoted to public expression and the free exchange of ideas and is conducted in a public place.
- All candidates or sides of an issue are given an equal opportunity to appear.
- Reasonable time, place, manner, and format restrictions will be applied without reference to content.
- The Cable Administrator may contact a non-partisan organization to organize the forum.
- The forum will be moderated or sponsored by a non-partisan person or organization that will ensure equity. All candidates and organizations participating in the forum will have the right of approval of the moderator from a list prepared by the Cable Administration Division. During the forum, the debate will be timed and the moderator will solicit and select audience input, and decide points of order.
- If it becomes apparent that only one side of a forum is willing to participate, the Cable Administrator may make a decision to conduct the forum with only one side participating. In such a case, all of the rules as stated here for conducting a forum shall remain and be applied.

Candidate forums:

- For purposes of this policy, a person is considered to be a candidate from the time of announcing publicly for any public office until the election has been held.
- This restriction that candidates can appear only in a limited public forum does not apply to persons who receive incidental air time as part of public meetings being cablecast on the channel, nor to officials acting as part of their regular duties when such activities do not involve partisan politics.
- Ongoing series or programs featuring any elected City official may not be broadcast within 30 days of a contested primary or general election involving seats on the council or the mayor.
- The City, through the Cable Administration Division, may conduct one candidate forum for each contested office before each election. As resources permit, forums may be conducted for school board and any government office representing the Fayetteville area, including City, County, State and Federal offices. These are the only candidate forums that will appear on the Government Access Channel.
- Candidate forums for any contested office must be requested in writing by at least one of the declared candidates for that office.
- No candidate forums will be held before the last filing deadline.

Issue forums:

In addition to the limited public forum criteria:

- Issue forums must be requested by at least two elected city officials or any five Fayetteville citizens, who are registered voters, living within the city limits of Fayetteville.
- The issue must be related to government ordinances, policies, or activities, thereby serving a compelling government interest.
- Issue forums may be sponsored by non-partisan or partisan entities, but they must satisfy all criteria listed above for limited public forums, with particular attention to all sides of the issue being given equal opportunity to appear and to the moderator being mutually agreeable to all entities involved in the forum.
- Requests for issue forums must be made to the Cable Administration Division at least two weeks in advance. The Cable Administrator will verify that all criteria have been met and that resources are available to record the event (on a first come, first served and fifth-priority basis). If resources are not available, the forum will not be taped by the Government Channel staff for cable casting on the Government Access Channel.
- All decisions by the Cable Administrator will be communicated in writing to the requesting parties. Appeals to the Administrator's decisions will follow the appeal process outlined in this policy.

III. SCHEDULING

A. The Cable Administration Division will be responsible for scheduling appropriate programs and spots on the Government Access Channel and for publicizing the schedule.

Programs will be scheduled for cablecasting according to the following order of priority.

B. Announcements or programs concerning emergencies affecting residents' health or safety.

C. Regularly scheduled, recurring programs including informational series and cablecasts of regular public meetings.

D. One-time, special, or non-regular informational programs or cablecasts of meetings or other activities by government units.

E. Public service announcements.

F. Programs produced by persons, agencies, or groups outside of Fayetteville City government with whom the City contracts or to whom it grants money. These

programs must be submitted and approved for use on the Government Access Channel (See procedures for submission and approval of programming below).

G. Limited public forums for both candidates and issues.

H. Replays: Standard replays of meetings shall be one in the morning hours and one in the afternoon or evening hours, in addition to any live telecasting. Any City elected official, Department or Division head may request additional replays of City archived meetings and programs to be replayed. Programs and meetings originally requested by agencies, other than the City, may also be requested for such replays by the originating agency. Any three citizens may request any archived meeting or program to be replayed. Informational programs may be replayed from time to time, at the discretion of the Government Channel staff, to create continuous programming and more effectively disseminate information.

I. The "Government Channel Bulletin Board" service giving printed information about both City and community events and services when other programs are not being cablecast.

J. The "Government Channel Bulletin Board" is primarily intended to inform residents of government activities, meetings, and events. The Bulletin Board may also be used to inform residents of other "free" community events and activities sponsored by Fayetteville-based nonprofit, service, or charitable organizations. Bulletin Board announcements / messages will be aired at the discretion of the Cable Administration Division and will be subject to the following guidelines:

Announcements / messages must be submitted in writing to the Cable Administration Division at least two days prior to their first airing.

1. Due to the limited space on the Bulletin Board, announcement / messages should be limited to space available on the Message Board Request Form.
2. Community announcements / messages may not run more than 2 weeks. If they are to run more than 2 weeks, announcements / messages should be resubmitted or special arrangements made with the Cable Administration staff.
3. Cable Administration staff reserves the right to edit for reasons of style and length all announcements / messages submitted for airing on the Government Channel Bulletin Board.

IV. CONTENT AND PRODUCTION OF GOVERNMENT CHANNEL PROGRAMS

- A. Because the staff of the Fayetteville Cable Administration Division is small, City Departments and Divisions requesting the production of a program must be willing to assist in the production of the program if asked to do so. This may include furnishing necessary information, gathering together persons and props to be used in the program, making on-air presentations, videotaping or editing the program, or paying for services provided.
- B. Except when (1) the intent is to use brief excerpts as part of a larger program or (2) when technical difficulties interfere, the public portions of any City Council meeting or other public meetings receiving coverage on the channel, including limited public forums, will be cablecast in their entirety, without editing or subjective comment. All other programming is subject to editing by the Cable Administration as long as such editing does not alter the factual content or overall intent of the material being cablecast.
- C. No promotion, endorsement or advertising for any private business, commercial service or product, or any profit-making activity, will be allowed on the Government Access Channel. However, brief audio and video credit may be given at the end of a program where special materials or assistance has been donated by a commercial or charitable enterprise.
- D. When questions arise as to the admissibility of material or language in this regard, the Cable Administrator will make a decision on whether it is to be cablecast. Appeals of these decisions may be made to the Telecommunications Board and City Council through the process outlined in this policy.

V. USE OF EQUIPMENT, FACILITIES, AND STAFF

- A. City of Fayetteville employees wishing to use the video equipment and studio facilities shall make arrangements through the Cable Administrator. Loaning of equipment for personal or outside use shall not be authorized under these policies. Other citizens, groups, and organizations may apply to the Community Access Television provider for use of the equipment, facilities, and staff.

VI. SUBMISSION AND APPROVAL FOR CABLECAST OF PROGRAMMING PRODUCED BY OUTSIDE AGENCIES

- A. Before a program or other spot is scheduled for cablecasting, it must meet minimum technical and broadcast aesthetic standards. These standards will be determined by the Cable Administration Division. Where a tape, slide show or film has been furnished by an entity other than city government, it must be viewed by the Cable Administration Division before it is scheduled or cablecast to ensure that it meets those standards. Programming of forums produced by outside agencies of declared candidates for any public office and

persons advocating any cause, viewpoint or proposed policy of a particular nature will not be eligible for cable casting on the Government Access Channel.

- B. All outside agencies, groups, or citizens desiring to cablecast programming other than forums on the Government Access Channel shall complete and submit a Cablecast Request Form from the Cable Administration Division no later than one week prior to the requested air date.
- C. This information should include the name and contact information of the person or group responsible for the production under consideration.
- D. The producer(s) will ensure the Cable Administration Division of the program's eligibility under the criteria and requirements listed above.
- E. The producer(s) will ensure that the program has obtained all necessary copyright clearances and permissions where legally required.
- F. The Cable Administration Division shall review the program, decide whether to grant or deny the request, and notify the producer(s) in writing within five business days of receiving a request.

VII. APPEAL PROCESS FOR TAPING AND CABLECASTING

- A. The path for interpretation, decision making, and appeals under this policy includes first the Cable Administrator, followed by the Telecommunications Board, and finally the City Council.
- B. Any appeals to decisions by the Cable Administrator must be submitted in writing to the Fayetteville Telecommunications Board.
- C. The Telecommunications Board will consider appeals in a timely manner.
- D. If a programming request is not approved for cablecast on the Government Access Channel, the requesting party can request the program be videotaped pending the outcome of an appeal to the Telecommunications Board. All efforts will be made to videotape such programs based on available staff, equipment, or other production resources. The program will not be cablecast until the appeal process has been concluded with a reversal of the Cable Administrator's decision.
- E. Producer(s) or other entities wishing to appeal decisions of the Telecommunications Board should forward their appeal to the Fayetteville City Council. The City Council will make the final decision based on its interpretation of this policy.

VIII. CHANNEL OPERATING HOURS

- A. It is the goal of the City of Fayetteville to program the government access channel fully. Reaching this goal will be a multi-step process so that, over time, Fayetteville's government channel will be programmed 24 hours a day.

IX. PUBLIC MEETING RECORDING PROCEDURES

- A. Council desk audio coverage is gavel-to-gavel only. Ambient microphone will not be used to transmit general room noise before and after the actual meeting.
- B. Video of room as it fills up or empties is acceptable, but Council microphones are closed. Only wide shots of the room are acceptable before and after a meeting to minimize the possibility of visually editorializing.
- C. The person speaking will be on camera.
- D. Individual reaction shots (shots of those not actually speaking or being addressed) are not allowed.
- E. A brief wide shot of the room is acceptable to break up a long, spoken delivery or as a transition between agenda items and shots.
- F. If a person is being directly addressed, a brief shot can be taken of that person in anticipation of that person's response.

X. TAPE RETENTION

- A. Videotapes that have been made of public meetings, informational programs, limited public forums, and other spots will be kept intact for three weeks after their final cablecast and are then subject to erasure unless other arrangements have been made in advance. Any tapes of public meetings are unofficial and will not serve as an official record of the meetings.

XI. CITIZEN ACCESS

- A. Citizens may view any of the programs or meetings archived by the City at the PEG Television Facility.
- B. Citizens may purchase, at cost, any programs or meetings archived by the City.

XII. WEB CASTING

A. When sufficient resources are available, the Telecommunications Board shall specify that certain meetings and programs are web cast.

XIII. PERFORMANCE REPORTING

A. The Cable Administration Division shall present quarterly reports to the Telecommunications Board demonstrating to what extent these goals and policies are being met.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Feb-06

City Council Meeting Date

Matt Casey

Submitted By

Engineering

Division

Operations

Department

Action Required:

Approval of a cost share and bid waiver in the amount of \$535,934.80 with BMW Investments, LLC for the widening of Ruppel Road to a 4-lane boulevard section.

\$535,934.80

Cost of this request

4470.9470.5809.00

02116

Project Number

\$ 2,221,510.94

Category/Project Budget

\$ 661,316.91

Funds Used to Date

\$ 1,560,194.03

Remaining Balance

Street ROW / Intersection /
Cost Sharing

Program Category / Project Name

Street Improvements

Program / Project Category Name

Sales Tax Capital Improvements

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution #

Department Director

Date

Original Contract Date:

Original Contract Number:

City Attorney

Finance and Internal Service Director

Date

Received in City Clerk's Office

ENTERED

1-19-06

Received in Mayor's Office

ENTERED

1/23/06

Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RSP*

Date: January 17, 2006

Subject: Proposed Street Cost Share in the amount of \$535,934.80 with BMW Investments, LLC for the widening of Ruppel Road adjacent to the Clabber Creek Subdivision Phases 3, 4 and 5.

RECOMMENDATION

Staff recommends approval of a bid waiver and a cost share with BMW Investments, LLC for the widening of approximately 1635 LF of Ruppel Road to a four lane boulevard.

BACKGROUND

On September 27, 2004, the Planning Commission approved the preliminary plat for Clabber Creek Phases 3, 4 and 5. The originally approved plans for the subdivision allowed for a three-lane roadway section along Ruppel Road adjacent to the development and extending south across Clabber Creek to connect with the existing Ruppel Road. The City of Fayetteville has been working on a street bond issue that would include the construction of Ruppel Road as a minor arterial street. On March 10, 2005, the City of Fayetteville Street Committee recommended approval to cost-share with the developers to widen Ruppel Road from the 36' in width to a minor arterial section in width. On October 6, 2005 the City of Fayetteville Street Committee agreed on the street cross section and alignment to be used for Ruppel Road. On January 12, 2006, the City of Fayetteville Street Committee was presented with actual bid costs for the construction of Ruppel Road. The committee recommended approval of the cost share with the developer.

DISCUSSION

Construction bids have been provided to the City for these improvements by H2 Engineering, Inc., the engineer of record, as follows:

RUPPEL RD. COST SHARE

Developer's Share	\$1,492,337.07
City's Share	\$ 535,934.80
Total	\$2,028,271.87

BUDGET IMPACT

Project #02116 (Street ROW / Intersection / Cost Sharing) will be charged the \$535,934.77 necessary for this cost share. With the approved 2006 CIP, \$2,000,000 was budgeted for the street cost sharing program.

The final costs to the City will be based upon actual costs as documented by the BMW Investments, LLC subject to review by the City and may, or may not exceed the submitted estimate. However, the City's share will not exceed the estimate without additional authorization.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE AGREEMENT WITH BMW INVESTMENTS, LLC IN AN AMOUNT NOT TO EXCEED \$535,934.80 FOR THE WIDENING OF RUPPLE ROAD ADJACENT TO THE CLABBER CREEK SUBDIVISION, PHASES 3, 4 AND 5.

WHEREAS, the City Council Street Committee voted to forward to the City Council the recommendation for a cost share agreement to widen approximately 1,635 linear feet of Ruppel Road to a four-lane boulevard;

WHEREAS, entering into a cost-share agreement with BMW Investments, LLC and utilizing their engineer and contractor will avoid the added cost and unnecessary duplication of effort which would arise from the formal competitive bidding process.

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 finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding to approve a cost share agreement with BMW Investments, LLC in an amount not to exceed \$535,934.80 for the widening of approximately 1,635 linear feet of Ruppel Road to a four-lane boulevard adjacent to the Clabber Creek Subdivision, Phases 3, 4 and 5.

PASSED AND APPROVED this 7th day of February, 2006.

APPROVED:

By: DAN CODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk



SUMMARY OF RUPPLE ROAD ESTIMATED CONSTRUCTION COSTS

Rupple Road Extension Street Construction & Creek Crossing		
Minor Arterial w/ 186 ft Bridge	\$	2,028,271.87
Collector w/ 186 ft Bridge	\$	1,492,337.07
Variance	\$	535,934.80
DEVELOPER OBLIGATION	\$	1,492,337.07
CITY OBLIGATION	\$	535,934.80

Rupple Road Extension Street Construction Only		
Minor Arterial - Street Only	\$	1,182,252.72
Collector - Street Only	\$	883,818.95
CITY OBLIGATION - STREET CONSTRUCTION:	\$	298,433.77
Rupple Road Extension Bridge Only		
Minor Arterial - Bridge Only	\$	846,019.15
Collector - Bridge Only	\$	608,518.12
CITY OBLIGATION - BRIDGE CONSTRUCTION:	\$	237,501.02



ENGINEERING, INC.

RUPPLE ROAD - MINOR ARTERIAL

Construction Cost Estimate

STREET CONSTRUCTION - MINOR ARTERIAL (BOULEVARD SECTION)				
DESCRIPTION	UNIT	QUANTITY	COST / Unit	TOTAL COST
Engineering Design / REVISIONS / Surveying	LS	1	\$ 49,675.00	\$ 49,675.00
Construction Management (5% Street Const)	LS	1	\$ 49,969.29	\$ 49,969.29
Mobilization	LS	1	\$ 27,500.00	\$ 27,500.00
Clear / Grub (90 ft ROW)	Ac	3.41	\$ 7,500.00	\$ 25,568.18
Cut	CY	8442	\$ 6.00	\$ 50,652.00
Fill Material (In-Place Qty)	TY	15453	\$ 13.50	\$ 208,615.50
Grading	LF	1468	\$ 5.50	\$ 8,074.00
Final Shaping	LF	1468	\$ 7.00	\$ 10,276.00
Pavement Section 6"3"2"	SY	8093	\$ 26.83	\$ 217,135.19
Curb Cut / Prep	LF	3808	\$ 3.00	\$ 11,424.00
Backfill Curbs	LF	3808	\$ 4.00	\$ 15,232.00
Curb & Gutter	LF	3808	\$ 8.50	\$ 32,368.00
Storm sewer crossing - 24" RCP	LF	62	\$ 75.00	\$ 4,650.00
Storm Sewer Installation	LF	3141	\$ 91.68	\$ 287,966.88
Articulated Block Wall @ Alley	LF	240	\$ 47.50	\$ 11,400.00
Handrail	LF	240	\$ 25.00	\$ 6,000.00
Silt Fence	LF	1000	\$ 4.00	\$ 4,000.00
Tree Fencing	LF	2000	\$ 7.00	\$ 14,000.00
6-ft Sidewalk	LF	2793	\$ 18.00	\$ 50,274.00
10-ft Asphalt Path	LF	0		
Truncated Domes	SF	200	\$ 50.00	\$ 10,000.00
Handicap Crossings	EA	17	\$ 250.00	\$ 4,250.00
Contingency (5%)	LS	1	\$ 48,594.29	\$ 48,594.29
Testing	LS	1	\$ 10,000.00	\$ 10,000.00
Bonds, Permits, Insurance	LS	1	\$ 24,628.39	\$ 24,628.39
TOTAL - STREET CONSTRUCTION (MINOR ARTERIAL)				\$ 1,182,252.72

BRIDGE CONSTRUCTION - 186 FT X 59.5 FT				
DESCRIPTION	UNIT	QUANTITY	COST / Unit	TOTAL COST
COE - Sec 404 Nationwide Permit	LS	1	\$ 18,925.00	\$ 18,925.00
Hydrologic Analysis	LS	1	\$ 13,062.50	\$ 13,062.50
Bridge Design	LS	1	\$ 22,857.50	\$ 22,857.50
Bridge Modifications - Pedestrian Trail	LS	1	\$ 2,085.00	\$ 2,085.00
Post-Development LOMR	LS	1	\$ 23,000.00	\$ 23,000.00
General Site Work / Misc	LS	1	\$ 50,000.00	\$ 50,000.00
Grading	LS	1	\$ 44,000.00	\$ 44,000.00
Erosion Control	LS	1	\$ 20,000.00	\$ 20,000.00
Mitigation	LS	1	\$ 52,000.00	\$ 52,000.00
Precast Bridge Sections (31'x3.5' Panels)	EA	102	\$ 2,233.56	\$ 227,823.00
Installation of Bridge Panels	EA	102	\$ 500.00	\$ 51,000.00
Bents	EA	5	\$ 32,500.00	\$ 162,500.00
Abutments	EA	2	\$ 50,000.00	\$ 100,000.00
Staking / Inspection / Testing	LS	1	\$ 23,400.00	\$ 23,400.00
Contingency (5%)	LS	1	\$ 35,366.15	\$ 35,366.15
TOTAL - BRIDGE CONSTRUCTION (MINOR ARTERIAL)				\$ 846,019.15

PROJECT TOTAL (MINOR ARTERIAL) =	\$ 2,028,271.87
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RUPPLE ROAD - COLLECTOR
Construction Cost Estimate

STREET CONSTRUCTION - COLLECTOR (36' B-B)				
DESCRIPTION	UNIT	QUANTITY	COST / Unit	TOTAL COST
Engineering Design / Surveying - Ruppel	LS	1	\$ 19,700.00	\$ 19,700.00
Construction Management (5% Street Const)	LS	1	\$ 38,102.12	\$ 38,102.12
Mobilization	LS	1	\$ 25,000.00	\$ 25,000.00
Clear / Grub (90 ft ROW)	Ac	3.03	\$ 7,500.00	\$ 22,727.27
Cut	CY	5556	\$ 6.00	\$ 33,336.00
Fill Material (In-Place Qty)	CY	8248	\$ 13.50	\$ 111,348.00
Grading	LF	1468	\$ 3.00	\$ 4,404.00
Final Shaping	LF	1468	\$ 4.00	\$ 5,872.00
Pavement Section 6"3/2"	SY	5205	\$ 26.83	\$ 139,650.15
Curb Cut / Prep	LF	2928	\$ 3.00	\$ 8,784.00
Backfill Curbs	LF	2928	\$ 4.00	\$ 11,712.00
Curb & Gutter	LF	2928	\$ 8.50	\$ 24,888.00
Storm sewer crossing - 24" RCP	LF	36	\$ 75.00	\$ 2,700.00
Storm Sewer Installation	LF	3141	\$ 91.68	\$ 287,966.88
Articulated Block Wall @ Alley	LF	0	\$ -	\$ -
Handrail	LF	0	\$ -	\$ -
Silt Fence	LF	1000	\$ 4.00	\$ 4,000.00
Tree Fencing	LF	2000	\$ 7.00	\$ 14,000.00
5-ft Sidewalk	LF	2228	\$ 18.00	\$ 40,104.00
10-ft Asphalt Path	LF	565	\$ 20.00	\$ 11,300.00
Truncated Domes	SF	200	\$ 50.00	\$ 10,000.00
Handicap Crossings	EA	17	\$ 250.00	\$ 4,250.00
Contingency (5%)	LS	1	\$ 40,279.72	\$ 40,279.72
Testing	LS	1	\$ 5,000.00	\$ 5,000.00
Bonds, Permits, Insurance	LS	1	\$ 18,694.81	\$ 18,694.81
TOTAL - STREET CONSTRUCTION (COLLECTOR)				\$ 883,818.95

BRIDGE CONSTRUCTION - 186 FT X 38.5 FT				
DESCRIPTION	UNIT	QUANTITY	COST / Unit	TOTAL COST
COE - Sec 404 Nationwide Permit	LS	1	\$ 15,395.00	\$ 15,395.00
Hydrologic Analysis	LS	1	\$ 11,250.00	\$ 11,250.00
Bridge Design	LS	1	\$ 14,975.00	\$ 14,975.00
Bridge Modifications - Pedestrian Trail	LS	1	\$ -	\$ -
Post-Development LOMR	LS	1	\$ 23,000.00	\$ 23,000.00
General Site Work / Misc	LS	1	\$ 40,000.00	\$ 40,000.00
Grading	LS	1	\$ 40,000.00	\$ 40,000.00
Erosion Control	LS	1	\$ 20,000.00	\$ 20,000.00
Mitigation	LS	1	\$ 40,000.00	\$ 40,000.00
Precast Bridge Sections (31'x3.5' Panels)	EA	66	\$ 2,233.56	\$ 147,414.88
Installation of Bridge Panels	EA	66	\$ 500.00	\$ 33,000.00
Bents	EA	5	\$ 22,750.00	\$ 113,750.00
Abutments	EA	2	\$ 35,000.00	\$ 70,000.00
Staking / Inspection / Testing	LS	1	\$ 14,525.00	\$ 14,525.00
Contingency (5%)	LS	1	\$ 25,208.24	\$ 25,208.24
TOTAL - BRIDGE CONSTRUCTION (COLLECTOR)				\$ 608,518.12

PROJECT TOTAL (MINOR ARTERIAL) =	\$ 1,492,337.07
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CONTRACTUAL AGREEMENT

This Agreement, made and entered into this _____, by and between the City of Fayetteville, Arkansas and BMW Investments, LLC, Witnesseth:

WHEREAS, BMW Investments, LLC is constructing a 256 lot residential subdivision on the west side of Ruppel Road north of Clabber Creek.; and

WHEREAS, The developer will be constructing street and bridge improvements along Ruppel Road to serve the development; and

WHEREAS, it will benefit the City of Fayetteville to upgrade these portions of roadway to accommodate future traffic needs. These upgrades will include a boulevard section along Ruppel Road and four travel lanes across the proposed bridge; and

NOW, THEREFORE, the City of Fayetteville and BMW Investments, LLC agree as follows:

1. Upon the City Council and/or the Mayor approving the Street Cost-Share, the City of Fayetteville agrees to:
 - A. Pay for 100% of the actual documented construction costs for the upsizing of Ruppel Road.
 - B. Pay a maximum-not-to-exceed cost of \$535,934.80 for the aforementioned street and bridge construction as was provided by H2 Engineering, Inc. and made a part of this agreement.
 - C. Reconsider the costs if the future and actual construction prices exceed the maximum-not-to-exceed amount that was furnished by H2 Engineering, Inc. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.
 - D. Make all efforts to provide payment to BMW Investments, LLC within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.
2. BMW Investments, LLC agrees to:
 - A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable street installation.
 - B. Provide a copy of the invoice(s) from the Contractor and a completed lien

waiver executed by the Contractor upon acceptance of the street installation.

- C. Not proceed with the proposed construction unless/until the proposed contractual agreement is approved by the City Council and/or the Mayor.
3. It is further understood that the contract for construction is between BMW Investments, LLC and their Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$535,934.80 for the street upgrade.

**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

BMW Investments, LLC

By: _____
DAN COODY, Mayor

By: _____

REQUEST FOR VENDOR FILE MAINTENANCE

C. 13
BMW Investments, LLC
Page 10 of 12

(CHECK ALL AVAILABLE RESOURCES, VENDOR LIST, ACCESS
SYSTEM PRIOR TO SUBMISSION OF THIS REQUEST)

DATE OF REQUEST: 1/18/05 REQUESTED BY: Matt Casey, 2119
DEPT./DIVISION: Operations/Engineering EFFECTIVE DATE: ASAP
TELEPHONE EXTENSION: 429

NEW VENDOR: ☒ VENDOR CHANGE: ☐ VENDOR RE-ENTRY: ☐
VENDOR #: _____ VENDOR #: _____

VENDOR NAME: BMW Investments, LLC

STREET OR P.O. BOX: P.O. Box 6485

CITY: Springdale STATE: AR ZIP CODE: 72766

ATT: Bleaux Barnes PHONE: 750-9100

E-Mail _____ Fax # _____

REMITTANCE ADDRESS IF DIFFERENT FROM ABOVE:

NAME: _____

ADDRESS: _____

CITY, ST, ZIP: _____

TYPE OF ORGANIZATION

FEDERAL ID 0863073
OR
SOCIAL _____

CORPORATION	(100):	☒
PARTNERSHIP	(200):	☐
INDIVIDUAL	(300):	☐
EMPLOYEE	(400):	☐
PENSION	(500):	☐
NON-PROFIT	(600):	☐

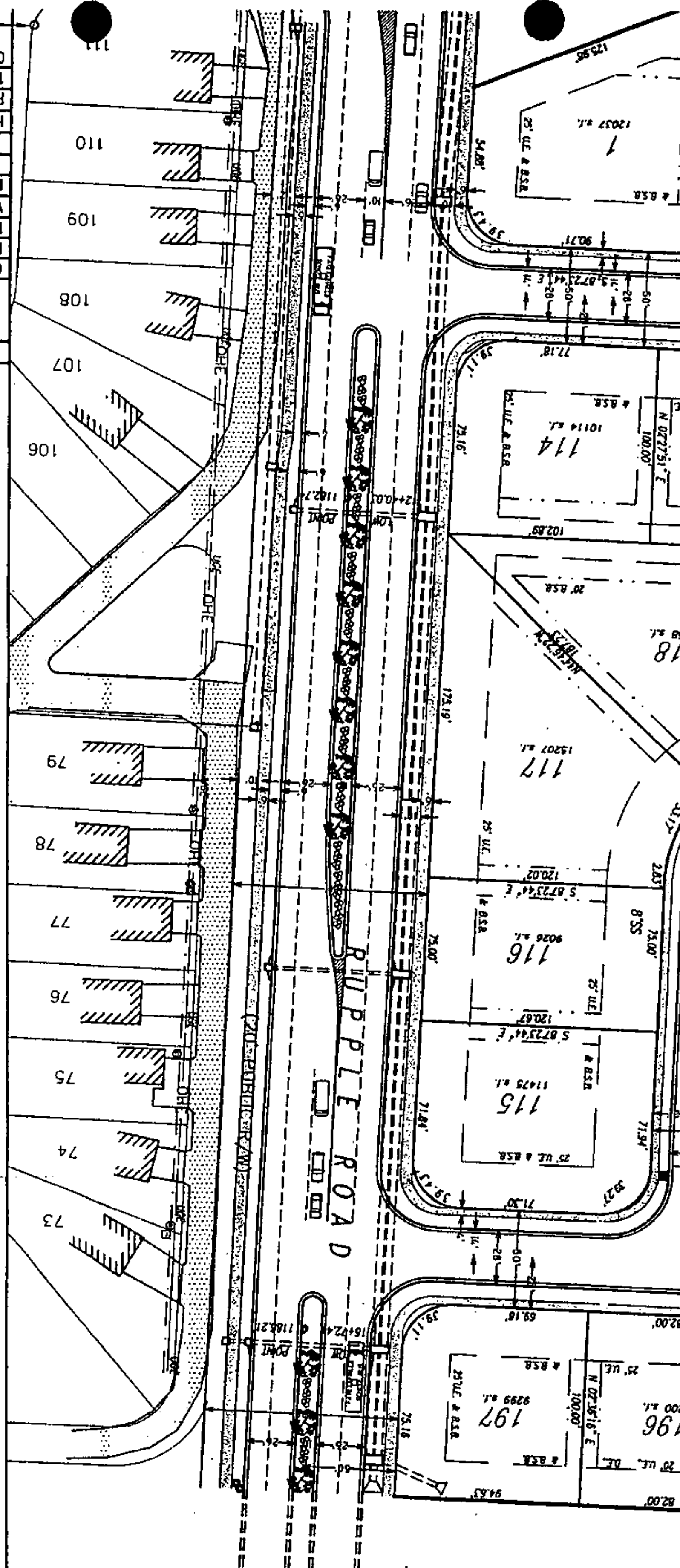
PURCHASING OFFICE USE ONLY

NEW VENDOR: _____	ENTERED BY: _____
VENDOR CHANGES: _____	DATE: _____
VENDOR RE-ENTRY: _____	G. L. FILE: _____
W-9 FORM MAILED: _____	INVENTORY FILE: _____

City Of Fayetteville
(Not a Purchase Order)

City Of Fayetteville (Not a Purchase Order)										Requisition No.:	Date: 1/18/2006
										P.O Number:	Expected Delivery Date:
Vendor #	Vendor Name	Fob Point:		Zip Code: 72766	Ship to code: 90	Mail Yes: No:		Quotes Attached Yes: No:			
Address:		P.O. Box 6485		State: AR		Division Head Approval: <i>[Signature]</i>					
City: Springdale	Requester: Matt Casey	Requester's Employee # 2119		Account Numbers		Extension: 429		Fixed Asset #			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Project/Subproject #	Inventory #				
1	Ripple Road				\$535,934.80	02116					
2	Cost Share widening from 3-lane to 4-lane blvd.				\$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:											
					Subtotal:	\$535,934.80					
					Tax:						
					Total:	\$535,934.80					

Approvals:	Purchasing Manager: _____
Mayor: _____	Department Director: _____
Finance & Internal Services Director: _____	Budget Manager: _____
Dispatch Manager: _____	Utilities Manager: _____
	IT Manager: _____
	Other: _____



RUPPLE BOULEVARD CONCEPT PLAT

PAGE	of	PAGES
1	1	1
Checked by: KGH		
Drawn by: PMM		
Horizontal Scale: 1"=60'		
Vertical Scale: 1"=10'		
Date: 24JUN05		
H2 Project Number: 05-003		
Revisions:		
15SEP05 MODIFY TRANSITIONS & STACKING		
06OCT05 REMOVE OLD EAST PL. UPDATE		
TEXT, UPDATE STORM SEWER LOCATIONS		

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

C. 14
Goodwin & Goodwin, Inc.
Page 1 of 10

February 7, 2006
City Council Meeting Date

Sid Norbash, Staff Engineer
Submitted By

Engineering
Division

Operations
Department

Action Required:

Approval of a Resolution awarding the Construction Contract for Razorback Rd. Water & Sewer Relocations Project to Goodwin & Goodwin, Inc., in the amount of \$722,890.50. Also approving a Project Contingency in the amount of \$72,000 (10%).

\$794,890.50
Cost of this request
5400-5600-5808-00
Account Number
05014-2
Project Number

\$1,584,723
Category/Project Budget
\$0
Funds Used to Date
\$1,584,723
Remaining Balance

Razorback Road Water and Sewer Relocation Project
Program Category / Project Name
Water System Improvements
Program / Project Category Name
Water & Sewer
Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐


Department Director

1-19-06
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

1/23/06
Date


Finance and Internal Service Director

1/24/06
Date

Received in City Clerk's Office

ENTERED
1-19-06

Received in Mayor's Office

ENTERED
1/24/06

Mayor

Date

Comments:



City Council Meeting Date: February 7, 2006

The City of Fayetteville, Arkansas

City Council Agenda Memo

To: CITY COUNCIL

Thru: Mayor Dan Coody
Gary Dumas, Director of Operations
David Jurgens, Water & Wastewater Director
Ron Petrie, City Engineer *RSP*

From: Sid Norbash, Staff Engineer *SN*

Date: January 18, 2006

Subject: Razorback Rd. Water & Sewer Relocations Project
Award of Construction Contract

Recommendation:

Approval of a Resolution authorizing the award of the construction contract to Goodwin & Goodwin, Inc., in the amount of \$722,890.50, for Razorback Rd. Water & Sewer Relocations Project. Also approval of a Project Contingency in the amount of \$72,000 (10%).

Background:

The Arkansas State Highway & Transportation Department (A.H.T.D.) has a current construction project (Job 040399) for widening of Hwy 112 (Razorback RD.) from 15th Street to 6th Street. In order to clear the way for the widening project by A.H.T.D., portions of the existing water and sewer facilities serving this area will have to be relocated to avoid construction conflicts with the highway facilities.

Per prior approval of the City Council, McClelland Consulting Engineers, Inc. completed the design for the construction of this project in December of 2005.

Discussion:

This project was advertised in December of 2005, and official bids were received on January 18, 2006.

Five bidders submitted bids and the results are as follows:

Garney Construction Company	\$867,900.00
C-2 Projects, LLC	\$796,756.00
T-G Excavating, Inc.	\$755,555.00
S & J Construction Company	\$743,785.07
Goodwin & Goodwin, Inc.	\$722,890.50 (Low Bidder)
McClelland Engineers' Estimate	\$783,685.00

Budget Impact:

2006 Budget	\$1,584,723
Obligated or expensed to date	\$ -0-
Remaining Funds	\$ 1,584,723
Funds needed at this time	<u>\$ 794,890</u>
Balance after the cost of this request	\$ 789,833

This project is 41.27% reimbursable by A.H.T.D.

SN/sn

Attachments: Construction Contract
Vicinity Map
Bid Tabulation Sheets

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONSTRUCTION CONTRACT WITH GOODWIN & GOODWIN, INC. IN THE AMOUNT OF \$722,890.50 FOR WATER AND SEWER RELOCATION FOR HIGHWAY IMPROVEMENTS TO RAZORBACK ROAD; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$72,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a contract with Goodwin & Goodwin, Inc. in the amount of \$722,890.50 for water and sewer relocation for highway improvements to Razorback Road. 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 project contingency in the amount of \$72,000.00.

PASSED and APPROVED this 7th day of February, 2006.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

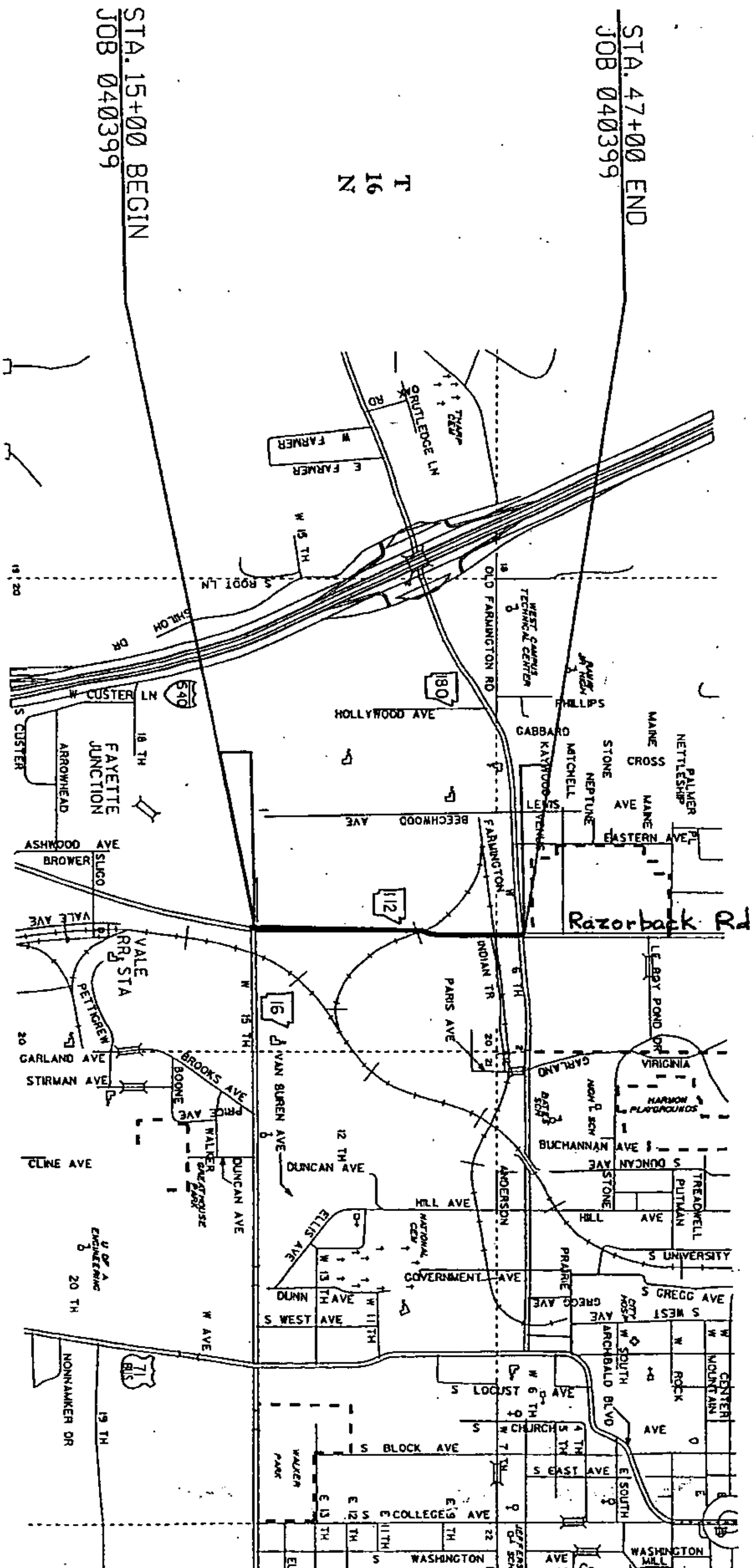
By:

SONDRA SMITH, City Clerk

F.A.P. STP-9142(16)

NOT TO SCALE

R 30 W



GROSS NET NET	LENGTH OF LENGTH OF	PROJECT ROADWAY BRIDGES PROJECT	3200.00 3200.00 0.00 3200.00	FEET OR FEET OR FEET	OR 0.606 OR 0.000 OR 0.606	MILES MILES MILES MILES
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BID TABULATION
RAZORBACK ROAD (ARKANSAS HIGHWAY 112)
WATER AND SEWER MAIN REPLACEMENT
CITY OF FAYETTEVILLE
MCE PROJECT NO. F7042166
BID DATE JANUARY 18, 2008

Item #	Description	Qty.	Units	Goodwin & Goodwin, Inc.	S&J Construction Co.	T-G Excavating, Inc.	C-2 Projects, LLC	Gartney Construction
1	Act 291, 1993 Trench and Excavation Safety System	1	LS	40,000.00	50,000.00	3,000.00	24,785.00	3,000.00
2	12-Inch PVC, C-900, Class 200 Water Main	3,255	LF	55.00	67.82	77.00	227,650.00	406,875.00
3	10-Inch PVC, C-800, Class 200 Water Main	12	LF	55.00	63.98	77.00	846.00	1,440.00
4	8-Inch PVC, C-800, Class 200 Water Main	560	LF	35.00	55.80	50.00	30,800.00	115.00
5	6-Inch Ductile Iron, Class 350, Fire Hydrant Stub	34	LF	35.00	53.21	85.00	1,898.00	64,400.00
6	4-Inch Ductile Iron, Class 350, for 2" and 1 1/2" Water Meter Connections	40	LF	30.00	53.61	85.00	1,740.00	38.00
7	2-Inch Polyethylene Service Tubing	20	LF	15.00	27.77	45.00	470.00	35.00
8	1-Inch Polyethylene Service Tubing	130	LF	15.00	20.62	35.00	1,950.00	25.00
9	12" Class 2508 Butterfly Valve w/Box	6	EA	3,800.00	22,800.00	4,000.00	30,460.00	3,000.00
10	8" Gate Valve w/Box	5	EA	1,800.00	8,000.00	1,300.00	7,875.00	850.00
11	6" Gate Valve w/Box	4	EA	1,000.00	4,000.00	1,000.00	4,020.00	650.00
12	4" Gate Valve w/Box	3	EA	800.00	2,400.00	800.00	3,555.00	1,850.00
13	8" Post Indicator Gate Valve	1	EA	1,400.00	1,400.00	1,300.00	2,190.00	1,200.00
14	Three Way Fire Hydrant	4	EA	2,500.00	9,064.48	3,000.00	13,180.00	2,280.00
15	Salvage Existing Fire Hydrant	4	EA	500.00	2,000.00	500.00	3,060.00	350.00
16	Single Meter Setting, Complete, Including Pressure Reducer and Plumber Connection to Existing Building Services	3	EA	1,000.00	1,289.93	1,400.00	2,595.00	1,200.00
17	1-Inch Meter Setting Complete, Including Pressure Reducer and Plumber Connection to Existing Building Services	2	EA	1,000.00	1,415.61	2,000.00	2,150.00	1,000.00
18	1 1/2-Inch Meter Setting, Complete, Including 1 1/2-Inch Pressure Reducer and Plumber Connection to Existing Building Service (Baum Stadium)	1	EA	3,500.00	3,083.24	4,000.00	2,450.00	2,500.00
19	1 1/2-Inch Meter Setting, Complete, Including Plumber Connection to Existing Building Service (Car Wash)	1	EA	3,500.00	2,589.58	3,500.00	1,785.00	2,100.00
20	2-Inch Meter Setting, Complete, For Irrigation System	2	EA	2,500.00	2,470.64	3,400.00	4,380.00	2,000.00
21	12" Saddle, 1" Corporation Stop and Tap	4	EA	200.00	404.46	220.00	740.00	350.00
22	8" Saddle, 2" Corporation Stop and Tap	1	EA	300.00	519.73	350.00	290.00	400.00
23	8" Saddle, 1" Corporation Stop and Tap	1	EA	150.00	383.83	210.00	170.00	300.00
24	12"x12" Tapping Tee, 12" Tapping Valve w/Box	2	EA	5,000.00	5,539.89	6,500.00	9,812.00	3,000.00
25	10"x10" Tapping Tee, 10" Tapping Valve w/Box	1	EA	4,700.00	5,548.52	5,500.00	4,725.00	2,200.00
26	8"x8" Tapping Tee, 8" Tapping Valve w/Box	1	EA	3,800.00	4,081.28	4,000.00	3,685.00	2,000.00
27	6"x6" Tapping Tee, 6" Tapping Valve w/Box	1	EA	2,800.00	3,715.61	3,000.00	3,225.00	1,800.00
28	4" Connection	1	EA	2,000.00	2,000.00	800.00	500.00	2,000.00
29	3" Connection	1	EA	2,000.00	1,500.00	800.00	350.00	1,500.00
30	24-Inch Bored Steel Casing For Railroad Crossing (7'16" Wall Thickness)	76	LF	375.00	277.75	290.00	34,200.00	275.00
31	24-Inch Direct Bury Steel Casing for Railroad Right-of-Way (7'16" Wall Thickness)	36	LF	250.00	130.17	250.00	8,100.00	100.00
32	24-Inch Bored Steel Casing	251	LF	375.00	260.56	255.00	110,440.00	82,750.00
33	16-Inch Bored Steel Casing	14	LF	250.00	128.18	300.00	3,380.00	95.00
34	16-Inch Direct Bury Steel Casing	203	LF	225.00	232.31	185.00	74,704.00	270.00
35	Protective Fencing for Trees	174	EA	125.00	83.06	125.00	23,490.00	80.00
36	Cut and Cap Existing 12" Main	3	EA	400.00	500.00	100.00	750.00	400.00
37	Cut and Cap Existing 10" Main	1	EA	2,000.00	1,494.48	1,000.00	480.00	800.00
38	Cut and Cap Existing 10" Main	1	EA	1,700.00	1,455.13	1,000.00	370.00	750.00

BID TABULATION
RAZORBACK ROAD (ARKANSAS HIGHWAY 112)
WATER AND SEWER MAIN REPLACEMENT
CITY OF FAYETTEVILLE
MCE PROJECT NO. PY042166
BID DATE JANUARY 18, 2008

Item #	Description	Qty.	Units	Goodwin & Goodwin, Inc.	Extended	Unit Cost	S&J Construction Co.	Extended	T-G Excavating, Inc.	Extended	C-2 Projects, LLC	Extended	Garney Construction	Extended
39	Cut and Cap Existing 6" Main	2	EA	1,500.00	3,000.00	1,080.29	2,120.58	1,000.00	2,000.00	260.00	520.00	725.00	1,450.00	
40	Cut and Cap Existing 6" Main	1	EA	1,200.00	1,200.00	1,024.96	1,024.96	800.00	800.00	250.00	250.00	700.00	700.00	
41	Abandon Existing Valve	18	EA	500.00	9,000.00	200.00	3,600.00	600.00	10,800.00	250.00	4,500.00	100.00	1,800.00	
42	Epoxy Coated Ductile Iron Fittings	3,450	LB	4.75	16,387.50	6.05	20,872.50	7.50	25,875.00	9.50	32,775.00	5.00	17,250.00	
43	8-inch PVC Sewer Main, SDR-26	141	LF	28.00	3,948.00	67.86	9,568.26	80.00	11,280.00	60.00	8,480.00	45.00	6,345.00	
44	4-inch PVC Sewer Service SDR-26, Including Trenching and Backfilling	75	LF	18.00	1,350.00	33.58	2,517.00	50.00	3,750.00	21.00	1,575.00	40.00	3,000.00	
45	Sewer Main Trenching and Backfilling, 0-14 Feet Deep	20	LF	18.00	360.00	40.00	800.00	10.00	200.00	60.00	1,200.00	30.00	600.00	
46	4 Foot Diameter Standard Manhole, 0 Feet to 6 Feet Deep	1	EA	3,000.00	3,000.00	2,000.00	2,000.00	2,500.00	2,500.00	4,250.00	4,250.00	2,000.00	2,000.00	
47	Extra Manhole Depth, Over 6 Feet Deep	8	VF	400.00	2,400.00	185.00	1,110.00	250.00	1,500.00	176.00	1,056.00	250.00	1,500.00	
48	8-inch Drop Structure at Sewer Main Connection to Existing Manhole	1	EA	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	2,500.00	2,500.00	1,500.00	1,500.00	
49	4-inch Manhole Tap for Services	1	EA	800.00	800.00	750.00	750.00	800.00	800.00	2,150.00	2,150.00	500.00	500.00	
50	Sewer Service Cleanout	1	EA	200.00	200.00	429.86	429.86	300.00	300.00	625.00	625.00	200.00	200.00	
51	Asphalt Surface Restoration	400	SY	65.00	26,000.00	60.00	24,000.00	80.00	32,000.00	60.00	24,000.00	50.00	20,000.00	
52	Asphalt Highway Restoration	35	SY	85.00	2,975.00	70.00	2,450.00	100.00	3,500.00	80.00	2,800.00	60.00	2,100.00	
53	Concrete Surface Restoration	620	SY	65.00	33,800.00	70.00	36,400.00	70.00	36,400.00	45.00	23,400.00	80.00	41,600.00	
54	Concrete Sidewalk Restoration	60	SY	45.00	2,700.00	70.00	4,200.00	50.00	3,000.00	20.00	1,200.00	55.00	3,300.00	
55	Curb and Gutter Restoration	150	LF	30.00	4,500.00	35.00	5,250.00	20.00	3,000.00	20.00	3,000.00	25.00	3,750.00	
56	Granular Fill	1,330	TON	24.00	31,920.00	15.50	20,615.00	19.00	25,270.00	15.00	19,950.00	15.00	19,950.00	
57	Trench Stabilization Material	80	TON	15.00	1,200.00	15.50	1,240.00	30.00	2,400.00	17.00	1,360.00	20.00	1,800.00	
58	Flowable Fill	25	CY	85.00	2,125.00	115.00	2,875.00	150.00	3,750.00	100.00	2,500.00	150.00	3,750.00	
59	Erosion Control	1	LS	8,000.00	6,000.00	5,500.00	5,500.00	4,000.00	4,000.00	5,500.00	5,500.00	5,000.00	5,000.00	
60	Replace Three 12-inch Valves, the 12"x12" Tee and Install Three Solid Sleeves at the Northwest Corner of 6th Street and Razorback Rd., Complete Except for Granular Fill and Surface Restoration (STA 46+18.40 to 46+18.40)	1	LS	23,000.00	23,000.00	27,782.16	27,782.16	14,895.00	14,895.00	6,250.00	6,250.00	17,500.00	17,500.00	
Total Base Bid					722,890.50		743,785.07		755,555.00		796,749.00		887,800.00	

DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the 7th day of February 2006, by and between Goodwin & Goodwin, Inc. herein called the Contractor, and the City of Fayetteville, Arkansas, Owner:

WITNESSETH:

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

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled Razorback Road Water and Sewer Main Replacement, dated September, 2005.

Advertisement for Bids
Instructions to Bidders
Bid and acceptance thereof
Performance Bond
Payment Bond

Maintenance Bond
General Conditions
Supplemental Conditions
Specifications
Drawings (See Sheet Index below)

SHEET INDEX

SHEET NO.	SHEET DESCRIPTION
1	Cover
2	Index, Legend & Location Map
3-5	Razorback Road Water Plan / Profile
6	Railroad Crossing No.1, Highway Crossing No. 3
7	Highway Crossing Cross Sections
8-9	Details

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

Seven Hundred Twenty-Two Thousand Eight Hundred Ninety & 50 /100 Dollars (\$722,890.50)

3. The Work will be completed and ready for final payment in accordance with the General Conditions within 120 calendar days after the date when the Contract Time commences to run, as provided in the Notice to Proceed.

4. **Liquidated Damages:** The City of Fayetteville and Contractor recognize that time is of the essence of this Agreement and the City of Fayetteville will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City of Fayetteville **Five Hundred Dollars (\$500.00)** for each day that expires after the time specified in Paragraph 3 for completion and readiness for final payment.
5. That within 30 days of receipt of an approved payment request, the City of Fayetteville shall make partial payments to the Contractor on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Contractor, LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville.
6. That upon submission by the Contractor of evidence satisfactory to the City of Fayetteville that all payrolls, material bills, and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by the Contractor of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville.
7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at his expense, within 5 days after the receipt of notice from the City of Fayetteville, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville.
8. No additional work or extras shall be done unless the same shall be duly authorized by appropriate action by the City of Fayetteville in writing.
9. **Freedom of Information Act.** City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Arkansas Freedom of Information Act request is presented to the City of Fayetteville, (Contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. Seq.). Only Legally authorized photocopying cost pursuant to the FOIA may be assessed for this compliance.

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

SEAL:

WITNESSES:

Don Hinch

Goodwin & Goodwin Inc
CONTRACTOR

By Bryan D. Hinch
President
Title

ATTEST:

City Clerk

CITY OF FAYETTEVILLE, ARKANSAS
OWNER

By _____
Mayor

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

Last C. 15
Crossland Heavy
Contractors Contract
Page 1 of 2

February 7, 2006
City Council Meeting Date

Sid Norbash, Staff Engineer
Submitted By

Engineering
Division

Operations
Department

Action Required:

A resolution approving the award of the construction contract for **Wedington Drive (Arkansas Hwy 16) Water & Sewer Relocations Project** to **Crossland Heavy Contractors, Inc.** in the amount of **\$1,591,426.20**. Also approval of a Project Contingency in the amount of \$160,000 (10%), and the related Budget Adjustment. **A complete information packet will be submitted at the Agenda Session 1-31-06.**

\$1,751,426.20
Cost of this request
5400-5600-5808-00
Account Number
05015-2
Project Number

Category/Project Budget
Funds Used to Date
Remaining Balance

Wedington Drive Water & Sewer Relocations Project
Program Category / Project Name
Water System Improvements
Program / Project Category Name
Water & Sewer
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐


Department Director

1-26-06
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

City Attorney


Finance and Internal Service Director

1-25-06
Date

Received in City Clerk's Office

Received in Mayor's Office

Mayor

Date

Comments:

B. UNFINISHED BUSINESS:

1. **John D. Lindsey, LLC. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC. *This resolution was tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting. This resolution was tabled at the January 3, 2006 City Council meeting to the January 17, 2006 City Council meeting. This resolution was tabled at the January 17, 2006 City Council meeting to the February 7, 2006 City Council meeting.*

THIS ITEM WAS TABLED INDEFINITELY.

2. **R-PZD 05-1776 Wedington Circle:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan. *This ordinance was left on the Second Reading at the January 3, 2006 City Council meeting. This ordinance was left on the Third Reading at the January 17, 2006 City Council meeting. This ordinance was tabled at the January 17, 2006 City Council meeting to the February 7, 2006 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4826.

C. NEW BUSINESS:

1. **BioBased Realty:** An ordinance waiving the requirements of formal competitive bidding and approving a contract for demolition services with BioBased Realty, LLC, BioBased Technologies, LLC, and BioBased Systems, LLC, in exchange for a \$17,000.00 credit toward the purchase of the Water and Sewer Operations Center on Cato Springs Road.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4827.

2. **Duncan Associates – Road Impact Fees Study:** A resolution to approve and adopt the road impact fees study of October 24, 2005 by Duncan Associates.

THIS ITEM WAS REFERRED TO THE STREET COMMITTEE.

3. **ADM 05-1841, 05-1842, 05-1879 Hillside Overlay District:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville to amend various sections of the code in order to implement hillside preservation and protection, establish a Hillside Overlay District Zoning Boundary and Map, and adopt the Hillside Overlay District Best Management Practices Manual.

THIS ITEM WAS LEFT ON THE FIRST READING OF THE ORDINANCE.

4. **ANX 06-1867 (Wales):** An ordinance annexing that property described in annexation petition ANX 06-1867, CC2005-38, for property located at 2055 North Fox Hunter Road, containing 1.4 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4828.

5. **R-PZD 05-1619 (Westbrook Village):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1619, Westbrook Village, located at tracts 1 and 2 of the original Salem Village P.U.D., containing approximately 1.42 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

THIS ITEM WAS LEFT ON THE FIRST READING OF THE ORDINANCE.

6. **RZN 06-1852 (Scholars Inn):** An ordinance rezoning that property described in rezoning petition RZN 06-1852 for approximately 1.74 acres located at 1125, 1137, 1153, 1189 north West End Avenue from RSF -4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4829.

7. **RZN 06-1868 (Chambers):** An ordinance rezoning that property described in rezoning petition RZN 06-1868 for approximately .20 acres located at 347 North Willow Avenue from RSF-4 Residential Single-Family , 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre.

THIS ITEM WAS LEFT ON THE SECOND READING OF THE ORDINANCE.

8. **Smith 2 Way Tower Appeal:** An appeal regarding the conditional permit submitted by Michael Smith and Gary Cochran for Smith 2 Way Radio for property located at 520 N College Avenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 26-06.

9. **R-PZD 05-1735 Paddock Road Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1735, Paddock Road, located southwest of the intersection of Paddock Road and Happy Hollow Road; containing approximately 9.77 acres; amending the official zoning map of the City of Fayetteville, and adopting the associated Master Development Plan.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4830.

10. **ANX 06-1853 (Nock/Broyles):** An ordinance annexing that property described in annexation petition ANX 06-1853, for property located north of Weir Road and east of Salem Road and Howard Nickell Road, containing approximately 39.11 acres.

THIS ITEM WAS LEFT ON THE FIRST READING OF THE ORDINANCE.