

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 21, 2006**

A meeting of the Fayetteville City Council will be held on February 21, 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 Kathy Deck with the Center for Business & Economic Research will be given on the Financial Impact of Bikes, Blues and BBQ.

A. CONSENT:

- 1. Approval of the February 7, 2006 City Council meeting minutes.**

APPROVED.

- 2. Morning Mist Drive Realignment:** A resolution amending the Master Street Plan to realign Morning Mist Drive, a collector street to the south modifying the terminus of the street to create an intersection with Mount Comfort Road in alignment with Bridgeport Drive.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 30-06.

- 3. Huntsville Road Right-of-Way:** A resolution designating by Warranty Deed a portion of city-owned property adjacent to Happy Hollow Road and Huntsville Road as right-of-way for the intersection improvement project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 31-06.

4. **ADM 06-1916 Persimmon MSP Amendment:** A resolution to amend the Master Street Plan by realigning Persimmon Street between Broyles Road and Legacy Point Subdivision south of the current alignment as described and depicted in the attached map.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 32-06.

5. **TCA Cable Partners:** A resolution authorizing the City Attorney to file suit against TCA Cable Partners providing services as Cox Communications seeking payment of reimbursable expenses due and owing under Section XXIII of the Cable Franchise Agreement.

THIS ITEM WAS TABLED INDEFINITELY.

B. UNFINISHED BUSINESS:

1. **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 ordinance was left on the Second Reading at the February 7, 2006 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4831.

2. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*

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

3. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4832.

4. **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 ordinance was left on the Second Reading at the February 7, 2006 City Council Meeting.*

THIS ITEM WAS TABLED TO THE MARCH 7, 2006 MEETING.

5. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4833.

6. **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 ordinance was left on the First Reading of the February 7, 2006 City Council Meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4834.

C. NEW BUSINESS:

1. **CUP 06-1892 Temple Shalom:** An appeal of the Planning Commission's decision regarding the approval of a Conditional Use Permit for the Temple Shalom synagogue on Rockwood Trail.

THIS ITEM WAS TABLED TO THE APRIL 18, 2006 MEETING.

2. **Continuing Education Center:** Review the University's request to exercise their purchase of the Continuing Education Center.

THIS ITEM WAS TABLED TO THE MARCH 7, 2006 MEETING.

3. **Sloan Properties, Inc. Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with Sloan Properties, Inc. in an amount not to exceed \$21,503.40 for the upsizing of approximately 992' of 8" water main to 12" water main.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4835.

4. **ANX 06-1895 Broyles:** An ordinance annexing that property described in Annexation Petition ANX 06-1895, CC2005-48, for property located south of Weir Road and west of Salem Road, containing approximately 3.06 acres.

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

5. **RZN 06-1896 Broyles:** An ordinance rezoning that property described in Rezoning Petition RZN 06-1896 for approximately 3.06 acres located south of Weir Road and west of Salem Road from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

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

6. **VAC 06-1897 Pettus:** An ordinance approving VAC 06-1897 submitted by H2 Engineering, Inc. for property located south of Dickson, between Block and Church; vacating a portion of an alley on the subject property.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4836.

7. **Amend Chapter 163:** An ordinance to amend Chapter 163: Use Conditions of the Unified Development Code by adding Section 163.15 Revocation or Change of Conditional Use.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4837.

8. **R-PZD 05-1636 Wellspring:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1636, Wellspring, located at Ruppel Road and Wedington Drive, containing approximately 152.2 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

D. INFORMATIONAL:

City Council Tour: February 18, 2006 – 10:00 AM

City Holiday: February 20, 2006

Meeting adjourned at 9:25 p.m.

Meeting Adjourned
at 9:25 pm.

Subject:	Roll				
Motion To:					
Motion By:					
Seconded:					
Rhoads Absent	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	Absent	arrive approx 6:30		
	Ferrell	✓			
	Mayor Coody	✓			

Subject:	Consent 30-06 to 32-06				
Motion To:		Remove #5 TCA Cable from Consent		Approve Consent #5 removed	
Motion By:		Table Indef. Jordan			
Seconded:		Cook			
#5 was tabled Indefinitely	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
All other items passed	Marr	✓		✓	
	Rhoads	Absent		Absent	
	Ferrell	✓		✓	
Minutes were approved	Mayor Coody				

7-0

7-0

Subject:	BMW Investments, LLC.				
Motion To:		3rd read	Pass		
Motion By:		Jordan			
Seconded:		Reynolds			
B.1. Unfinished passed 4831	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	Absent	✓		
	Ferrell	✓	✓		
	Mayor Coody				
		7-0	8-0		

Subject:	ADM 05-1841, 05-1842, 05-1879 Hillside Overlay District				
Motion To:		2nd reading			
Motion By:		Marr			
Seconded:		Reynolds			
B.2. Unfinished On This Ordinance was left on the Second Reading	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				
		8-0			

City Council Meeting February 21, 2006

Subject:	R - PZD - 05-1619 Westbrook Village				
Motion To:		2nd read	Amend to add Condition of approval	3rd read	Pass
Motion By:		Marr	Lucas	Marr	
Seconded:		Jordan	Marr	Jordan	
B.3. Unfinished Passed 4832	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Reynolds	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Marr	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Mayor Coody				
		8-0	8-0	8-0	8-0

Subject:	RZN - 06 - 1868 Chambers				
Motion To:		Table to March 7, 2006			
Motion By:		Marr			Joseph Regan
Seconded:		Jordan			
B.4. Unfinished Tabled until March 7, 2006	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

City Council Meeting February 21, 2006

Subject:	ANX-06-1853 Nock/Brayes				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Reynolds		
B.5. Unfinished Passed 4833	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	Absent during the vote	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	N	
	Rhoads	absent during the vote	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				
		6-0	8-0	7-1	

Subject:	RZN-06-1854 Nock/Brayes				
Motion To:		2nd read	(RSF4) Amend to	3rd read	Pass
Motion By:		Jordan	Jordan	Jordan	
Seconded:		Lucas	Lucas	Lucas	
B.6. Unfinished Business Passed 4834	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Reynolds	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	✓	N	✓	N
	Marr	✓	N	✓	N
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Mayor Coody				
		8-0	6-2	8-0	6-2

Subject:	CUP-06-1892 Temple Shalom				
Motion To:		Table until	4/18/06		
Motion By:		Reynolds			
Seconded:		Ferrell			
C.1, New Business Tabled to 4/18/06	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

Subject:	Continuing Education Center				
Motion To:		Table to	March 7, 2006		
Motion By:		Ferrell	Marr		
Seconded:		Jordan			
C.2, New Business Tabled to March 7, 2006	Lucas	✓			
	Jordan	Recuse			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

7-0

City Council Meeting February 21, 2006

Subject:	Sloan Proper				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
C.3. New Business <u>passed</u> 4835	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	ANX-06-1895 Brayles				
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
C.4. New Business Left on the Second Reading	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				
		8-0			

Subject:	RZN 06-1896 Broyles				
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
C.5. New Business Left on the Second Reading	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

Subject:	VAC 06-1897 Pettus				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Marr	Marr		
Seconded:		Thiel	Ferrell		
C.6. New Business Passed 4836	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	Absent during vote	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				

7-0

8-0

8-0

City Council Meeting February 21, 2006

Subject:	Amend Chapter 163				
Motion To:		2 nd read	3 rd read	Pass	
Motion By:		Lucas	Jordan		
Seconded:		Ferrell	Ferrell		
C.7. New Business passed 4837	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	R-P2D-05-1636 Wellspring				
Motion To:		Second Reading			
Motion By:		Lucas			
Seconded:		Jordan			
C.8. New Business This ordinance was left on the Second Reading	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				
		8-0			

Aldermen

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Final Agenda City of Fayetteville Arkansas City Council Meeting February 21, 2006

A meeting of the Fayetteville City Council will be held on February 21, 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 Kathy Deck with the Center for Business & Economic Research will be given on the Financial Impact of Bikes, Blues and BBQ.

A. CONSENT:

- 1. Approval of the February 7, 2006 City Council meeting minutes.**
- 2. Morning Mist Drive Realignment:** A resolution amending the Master Street Plan to realign Morning Mist Drive, a collector street to the south modifying the terminus of the street to create an intersection with Mount Comfort Road in alignment with Bridgeport Drive.
- 3. Huntsville Road Right-of-Way:** A resolution designating by Warranty Deed a portion of city-owned property adjacent to Happy Hollow Road and Huntsville Road as right-of-way for the intersection improvement project.
- 4. ADM 06-1916 Persimmon MSP Amendment:** A resolution to amend the Master Street Plan by realigning Persimmon Street between Broyles Road and Legacy Point Subdivision south of the current alignment as described and depicted in the attached map.

5. **TCA Cable Partners:** A resolution authorizing the City Attorney to file suit against TCA Cable Partners providing services as Cox Communications seeking payment of reimbursable expenses due and owing under Section XXIII of the Cable Franchise Agreement.

B. UNFINISHED BUSINESS:

1. **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 ordinance was left on the Second Reading at the February 7, 2006 City Council meeting.*
2. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*
3. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*
4. **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 ordinance was left on the Second Reading at the February 7, 2006 City Council Meeting.*
5. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*
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C. NEW BUSINESS:

1. **CUP 06-1892 Temple Shalom:** An appeal of the Planning Commission's decision regarding the approval of a Conditional Use Permit for the Temple Shalom synagogue on Rockwood Trail.

2. **Continuing Education Center:** Review the University's request to exercise their purchase of the Continuing Education Center.
3. **Sloan Properties, Inc. Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with Sloan Properties, Inc. in an amount not to exceed \$21,503.40 for the upsizing of approximately 992' of 8" water main to 12" water main.
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D. INFORMATIONAL:

City Council Tour: February 18, 2006 – 10:00 AM

City Holiday: February 20, 2006

Agenda Session
2/14/06

~~Board~~ Equipment
Committee Meeting - Thursday - Swifty

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



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**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
February 21, 2006**

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**Call to Order
Roll Call
Pledge of Allegiance**

A presentation will be given that addresses options to meeting identified space needs for City services downtown - Agenda Session Only.

A presentation by Kathy Desk with the Center for Business & Economic Research will be given on the Financial Impact of Bikes, Blues and BBQ.

A. CONSENT:

1. Approval of the February 7, 2006 City Council meeting minutes.

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Consent

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Move to #

(1)
New Business

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Move to #

(2)
New Business

9. **Continuing Education Center:** Review the University's request to exercise their purchase of the Continuing Education Center.

D. INFORMATIONAL:

A Countywide Ambulance Report given by Hugh Earnest – Agenda Session Only.

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

City Council Tour: ~~February 20, 2006 4:30 PM~~ Saturday 10:00 AM.

City Holiday: February 20, 2006

Pre-Agenda Meeting
2/8/06

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



**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
February 21, 2006**

A meeting of the Fayetteville City Council will be held on February 21, 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 Coy Hurd, Building Services and Project Manager will be given on the options for the 101 West Mountain Street Building. – Agenda Session Only.

~~A discussion on the Continuing Education Center – Agenda Session Only~~

A presentation by Kathy Desk with the Center for Business & Economic Research will be given on the Financial Impact of Bikes, Blues and BBQ.

A. CONSENT:

1. Approval of the February 7, 2006 City Council meeting minutes.
- 2.

B. UNFINISHED BUSINESS:

1. **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 ordinance was left on the Second Reading at the February 7, 2006 City Council meeting.*

2. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*
3. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*
4. **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 ordinance was left on the Second Reading at the February 7, 2006 City Council Meeting.*
5. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*

Nock Broyles Rezoning

C. NEW BUSINESS:

- ① **1. Sloan Properties, Inc. Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with Sloan Properties, Inc. in an amount not to exceed \$21,503.40 for the upsizing of approximately 992' of 8" water main to 12" water main.
- ② **2. Morning Mist Drive Realignment:** A resolution amending the Master Street Plan to realign Morning Mist Drive, a collector street to the south modifying the terminus of the street to create an intersection with Mount Comfort Road in alignment with Bridgeport Drive.
- ③ **3. ~~Eyson Foods, Inc.~~ Huntsville Road - Right of Way:** A resolution designating by Warranty Deed a portion of city-owned property adjacent to Happy Hollow Road and Huntsville Road as right-of-way for the intersection improvement project.
- ④ **4. ADM 06-1916 (Persimmon MSP Amendment):** A resolution to amend the Master Street Plan by realigning Persimmon Street between Broyles Road and Legacy Point Subdivision south of the current alignment as described and depicted in the attached map.
- ⑤ **5. ANX 06-1895 (Broyles):** An ordinance annexing that property described in Annexation Petition ANX 06-1895, CC2005-48, for property located south of Weir Road and west of Salem Road, containing approximately 3.06 acres.

④ 6. **RZN 06-1896 (Broyles):** An ordinance rezoning that property described in Rezoning Petition RZN 06-1896 for approximately 3.06 acres located south of Weir Road and west of Salem Road from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

7. **VAC 06-1897 (Pettus):** An ordinance approving VAC 06-1897 submitted by H2 Engineering, Inc. for property located south of Dickson, between Block and Church; vacating a portion of an alley on the subject property.

8. **Chapter 163 Amend:** An ordinance to amend chapter 163: Use Conditions of the Unified Development Code by adding section 163:15 revocation or change of conditional use.

9. **TCA Cable Partners:** A resolution authorizing the City Attorney to file suit against TCA Cable Partners providing services as Cox Communications seeking payment of reimbursable expenses due and owing under section XXIII of the Cable Franchise Agreement.

Resolution from Kit will hand out at Agenda Session
10. **CUP 06-1892 Temple Shalom:** An appeal of the Planning Commission's decision regarding the approval of a Conditional Use Permit for the Temple Shalom synagogue on Rockwood Trail. ~~"[REDACTED]"~~

11. **R-PZD 05-1636 Wellspring:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1636, Wellspring, located at Ruppel Road and Wedington Drive, containing approximately 152.2 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

12. **Library Millage Special Election:** A resolution to call a Special Election on April 11, 2006 for the voters to decide whether or not to increase the millage for the Fayetteville Public Library from 1.0 mill to 3.3 mills.

13. ~~ORCA~~ Continuing Education Center

D. INFORMATIONAL:

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

A Countywide Ambulance Report by Hugh Earnest — Agenda Session Only.

City Council Tour: February 20, 2006 - 4:30 PM

University's request to exercise their purchase of the CEC

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**

DATE: **February 22, 2006**

RE: **Passed Ordinances and Resolutions from City Council meeting
of February 21, 2006**

1. **Morning Mist Drive Realignment:** Resolution amending Master Street Plan to realign Morning Mist Dr., a collector street to the south modifying terminus of the street to create an intersection w/Mount Comfort Road in alignment w/Bridgeport Dr.

2. **Huntsville Road Right-of-Way:** Resolution designating by Warranty Deed a portion of city-owned property adjacent to Happy Hollow Road and Huntsville Road as right-of-way for the intersection improvement project;

3. **ADM 06-1916:** Resolution amending Master Street Plan by realigning Persimmon Street between Broyles Road and Legacy Point Subdivision south of current alignment as described and depicted in attached map;

4. **BMW Investments, LLC:** Ordinance waiving requirements of formal competitive bidding and approving cost-share agreement w/BMW# Investments, LLC in amount not to exceed \$535,934.80 for widening of Ruppel Road adjacent to Clabber Creek Subdivision, Phases 3, 4 and 5;

5. **R-PZD 05-1619:** Ordinance establishing 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 official zoning map of Fayetteville and adopting Associated Master Development Plan;
6. **ANX 06-1853:** Ordinance annexing property described in ANX 06-1853 for property located north of Weir Road and east of Salem Road and Howard Nickell Road, containing approximately 39.11 acres;
7. **RZN 06-1854:** Ordinance rezoning that property described in 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-4, Residential Single Family, 4 units per acre;
8. **Sloan Properties, Inc. Cost Share:** Ordinance waiving requirements of formal competitive bidding and approving cost share w/Sloan Properties, Inc. in amount not to exceed \$21,503.40 for upsizing of approximately 992' of 8" water main to 12' water main;
9. **VAC 06-1897:** Ordinance approving VAC 06-1897 submitted by H2 Engineering, Inc. for property located south of Dickson, between Block and Church; vacating a portion of an alley on subject property;
10. **Amend Chapter 163:** Ordinance amending Chapter 163: Use Conditions of Unified Development Code by adding §163.15 Revocation or Change of Conditional Use.

NORTHWEST ARKANSAS EDITION

Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Erin Emis, do solemnly swear that I am the Legal Clerk of the Arkansas Democrat-Gazette/Northwest Arkansas Times newspaper, printed and published in Lowell, Arkansas, and that from my own personal knowledge and reference to the files of said publication, that advertisement of:

Sina O Aguda was inserted in the regular editions on February 20, 2006.

PO# _____

** Publication Charge: \$ 245.28

Subscribed and sworn to before me this

20 day of February, 2006.

Sharlene D. Williams
Notary Public

Sharlene D. Williams

Notary Public

My Commission Expires: _____

State of Arkansas
My Commission Expires
October 18, 2014

** Please do not pay from Affidavit.
An invoice will be sent.

**FINAL AGENDA
CITY OF FAYETTEVILLE, ARKANSAS
CITY COUNCIL MEETING
FEBRUARY 21, 2006**

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on February 21, 2006 at 8:00 p.m. in Room 212 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

A presentation by Kathy Deak with the Center for Business & Economic Research will be given on the Financial Impact of Bikes, Buses and B&O.

A. CONSENT

1. Approval of the February 7, 2006 City Council meeting minutes.

2. Morning Mist Drive Realignments: A resolution amending the Master Street Plan to realign Morning Mist Drive, a collector street to the south modifying the terminus of the street to create an intersection with Mount Comfort Road in alignment with Bridgeport Drive.

3. Huntville Road Right-of-Way: A resolution designating by Warranty Deed a portion of city-owned property adjacent to Happy Hollow Road and Huntville Road as right-of-way for the intersection improvement project.

4. ~~CC-1910~~ ~~Paradise~~ ~~ESP Amendment~~: A resolution to amend the Master Street Plan by redesigning Parsonson Street between Broyles Road and Legacy Point Subdivision south of the current alignment as described and depicted in the attached map.

5. TCA Cable Partners: A resolution authorizing the City Attorney to file suit against TCA Cable Partners providing services as Cox Communications seeking payment of reimbursable expenses due and owing under Section XXII of the Cable Franchise Agreement.

B. UNFINISHED BUSINESS

1. 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 \$535,934.00 for the widening of Ruppel Road adjacent to the Clabber Creek Subdivision, Phases 3, 4 and 5. This ordinance was left on the Second Reading at the February 7, 2006 City Council meeting.

2. ADM 06-1841, 06-1842, 06-1878 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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.

3. R-PZD 06-1819 Westbrook Village: An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1819, 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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.

4. RZN 06-1868 Chesham: An ordinance rezoning that property described in rezoning petition RZN 06-1868 for approximately 20 acres located at 347 North Willow Avenue from RSP-4 Residential Single-Family, 4 units per acre to RSF-2, Residential Single-Family, 8 units per acre. This ordinance was left on the Second Reading at the February 7, 2006 City Council Meeting.

5. ANX 06-1853 Weir/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 Nickel Road, containing approximately 39.11 acres. This ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.

6. RZN 06-1854 Weir/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 Nickel Road from R-A, Residential Agricultural, to RSF-2, Residential Single-Family, 2 units per acre. This ordinance was left on the First Reading of the February 7, 2006 City Council Meeting.

C. NEW BUSINESS

1. CUP 06-1882 Temple Shalom: An appeal of the Planning Commission's decision regarding the approval of a Conditional Use Permit for the Temple Shalom synagogue on Rockwood Trail.

2. Continuing Education Center: Review the University's request to exercise their purchase of the Continuing Education Center.

3. Sloan Properties, Inc. Cost-Shares: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with Sloan Properties, Inc. in an amount not to exceed \$21,503.40 for the upgrading of approximately 992' of 8" water main to 12" water main.

4. ANX 06-1885 England: An ordinance annexing that property described in Annexation Petition ANX 06-1885, CC2005-48, for property located south of Weir Road and west of Salem Road, containing approximately 3.06 acres.

5. RZN 06-1886 Broyles: An ordinance rezoning that property described in Rezoning Petition RZN 06-1886 for approximately 3.06 acres located south of Weir Road and west of Salem Road from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 units per acre.

6. VAC 06-1887 Petras: An ordinance approving VAC 06-1887 submitted by M2 Engineering, Inc. for property located south of Jackson, between Block and Church; vacating a portion of an alley on the subject property.

7. Amend Chapter 163: An ordinance to amend Chapter 163, Use Conditions of the Unified Development Code by adding Section 163.15 Revocation or Change of Conditional Use.

8. R-PZD 06-1836 Weir/Broyles: An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1836, Weir/Broyles, located at Ruppel Road and Wedington Drive, containing approximately 152.2 acres, more or less; amending the Official Zoning Map of the City of Fayetteville, and adopting the Associated Master Development Plan.

D. INFORMATIONAL

City Council Tour: February 18, 2006 - 10:00 AM

City Holiday: February 20, 2006

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 21, 2006**

A meeting of the Fayetteville City Council will be held on February 21, 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 Kathy Deck with the Center for Business & Economic Research will be given on the Financial Impact of Bikes, Blues and BBQ.

A. CONSENT:

- 1. Approval of the February 7, 2006 City Council meeting minutes.**
- 2. Morning Mist Drive Realignment:** A resolution amending the Master Street Plan to realign Morning Mist Drive, a collector street to the south modifying the terminus of the street to create an intersection with Mount Comfort Road in alignment with Bridgeport Drive.
- 3. Huntsville Road Right-of-Way:** A resolution designating by Warranty Deed a portion of city-owned property adjacent to Happy Hollow Road and Huntsville Road as right-of-way for the intersection improvement project.
- 4. ADM 06-1916 Persimmon MSP Amendment:** A resolution to amend the Master Street Plan by realigning Persimmon Street between Broyles Road and Legacy Point Subdivision south of the current alignment as described and depicted in the attached map.

5. **TCA Cable Partners:** A resolution authorizing the City Attorney to file suit against TCA Cable Partners providing services as Cox Communications seeking payment of reimbursable expenses due and owing under Section XXIII of the Cable Franchise Agreement.

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1. **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 ordinance was left on the Second Reading at the February 7, 2006 City Council meeting.*
2. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*
3. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*
4. **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 ordinance was left on the Second Reading at the February 7, 2006 City Council Meeting.*
5. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*
6. **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 ordinance was left on the First Reading of the February 7, 2006 City Council Meeting.*

C. NEW BUSINESS:

1. **CUP 06-1892 Temple Shalom:** An appeal of the Planning Commission's decision regarding the approval of a Conditional Use Permit for the Temple Shalom synagogue on Rockwood Trail.

2. **Continuing Education Center:** Review the University's request to exercise their purchase of the Continuing Education Center.
3. **Sloan Properties, Inc. Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with Sloan Properties, Inc. in an amount not to exceed \$21,503.40 for the upsizing of approximately 992' of 8" water main to 12" water main.
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6. **VAC 06-1897 Pettus:** An ordinance approving VAC 06-1897 submitted by H2 Engineering, Inc. for property located south of Dickson, between Block and Church; vacating a portion of an alley on the subject property.
7. **Amend Chapter 163:** An ordinance to amend Chapter 163: Use Conditions of the Unified Development Code by adding Section 163.15 Revocation or Change of Conditional Use.
8. **R-PZD 05-1636 Wellspring:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1636, Wellspring, located at Ruppel Road and Wedington Drive, containing approximately 152.2 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

D. INFORMATIONAL:

City Council Tour: February 18, 2006 – 10:00 AM

City Holiday: February 20, 2006

From: Amber Wood
To: Ferrell, Robert
Date: 2/6/06 10:35AM
Subject: Presentation

Alderman Ferrell,

Per your request, the presentation has been added to the February 21, 2006 Agenda to be given at the Council Meeting only.

The presentation will be titled as listed below:

A presentation by Kathy Desk with the Center for Business & Economic Research will be given on the Financial Impact of Bikes, Blues and BBQ.

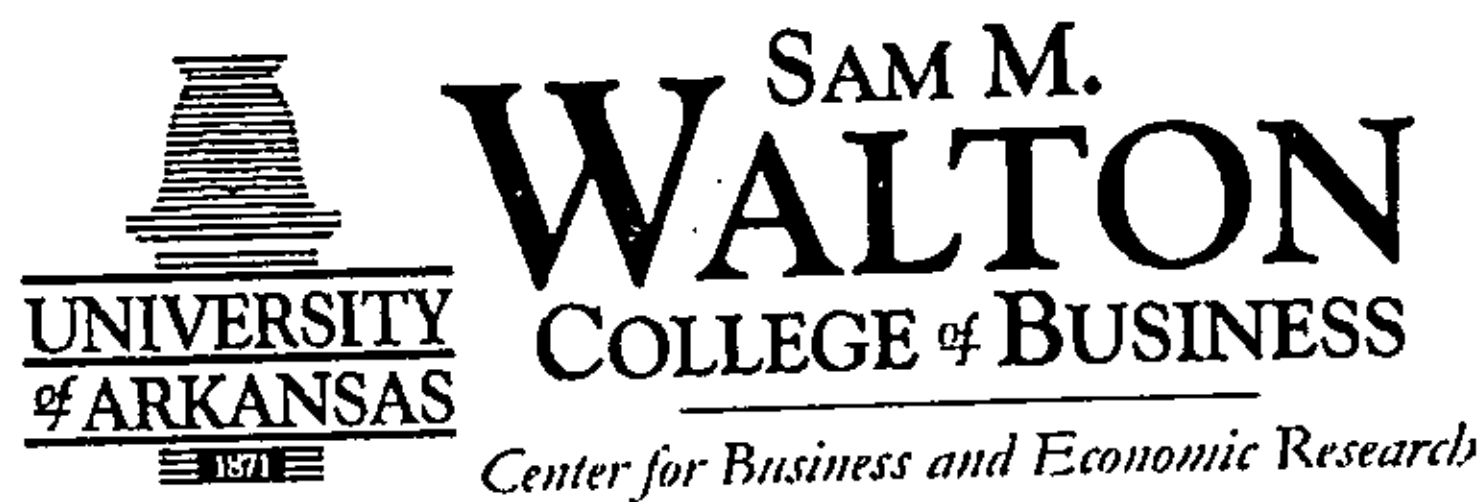
If you need anything else just let me know. Have a nice day!

Thanks,

Amber Wood
City of Fayetteville
City Clerk Division
575-8323
awood@ci.fayetteville.ar.us

2-21-06 City Council Meeting

**Assessing the Economic Impact of the 6th Annual
Bikes, Blues, and BBQ Festival on the City of
Fayetteville**



Center for Business and Economic Research
Reynolds Center Building 217
Sam M. Walton College of Business
1 University of Arkansas
Fayetteville, Arkansas 72701-1201
(479) 575-4151

January 2006

Executive Summary

This report presents the results of the surveys used to develop estimates of the economic impact of the Bikes, Blues and BBQ (BBBBQ) festival on the city of Fayetteville in 2005. In order to fully estimate the economic impact of the festival, its influence was assessed on three different constituent groups: Fayetteville residents, local businesses, and BBBBQ visitors.

The visitor survey was developed by the Center for Business and Economic Research and was administered September 28-October 1, 2005 by University of Arkansas students who were hired and trained by the Center for Business and Economic Research. The resident and local business surveys were conducted during two weeks following the BBBBQ festival. The former was managed by phone using random digital dialing by the Public Policy Research Lab at Louisiana State University. The responses to the latter were submitted in response to an online survey, hosted by the Center for Business and Economic Research. All analysis of the survey results was performed by researchers at the Center for Business and Economic Research at the University of Arkansas.

There were 421 completed Fayetteville resident surveys. Also, a total of 116 business surveys were submitted and among them were 112 surveys with usable responses. The visitor survey instrument was administered to 861 individuals during the entire period of the festival. Among them were 237 questionnaires completed by Fayetteville residents, 104 questionnaires completed by visitors who came to Fayetteville for reasons other than BBBBQ, 2 incomplete, and 4 unusable questionnaires. This left 514 questionnaires which were from out-of-town visitors who were in Fayetteville specifically to attend the BBBBQ festival.

Overall, the surveyed Fayetteville residents have a positive attitude toward the BBBBQ event and think that the festival has a positive impact on the local community. In general, the behavior of the residents and their expenditures during the festival weekend were not reported as being affected by the BBBBQ festival. Moreover, most of the surveyed local businesses either have not been affected by the BBBBQ at all or the effect has been positive. The surveyed Fayetteville residents and local businesses offered some ideas in order to make BBBBQ better for the Fayetteville community and local businesses. The suggestions from resident and business surveys were quite similar and included: relocating the events further out of town/spreading the events throughout the city, improving parking and traffic situation, finding a bigger venue for the festival/expanding the festival, and promoting local businesses.

According to the results of the resident and local businesses surveys, the total economic impact of the BBBBQ festival on the city of Fayetteville may be represented by the estimated impact of the visitors. Total attendance at the BBBBQ festival ranged from 200,000 to 300,000 individuals. Assuming that the ratio of BBBBQ visitors was the same as the survey sample proportion of 63.6 percent, the total estimated expenditures due to BBBBQ ranged from \$34.7 million to \$52.1 million. There is also obvious evidence of increases in taxes received by the city from hotels, motels, and restaurants during the period of the festival.

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1. Introduction

The Bikes, Blues, and BBQ Board of Directors approached the Center for Business and Economic Research (CBER) about conducting and analyzing surveys in order to estimate the total economic impact of the Bikes, Blues, and BBQ (BBBBQ) festival. This year the BBBBQ festival was held from September 28 to October 1, 2005.

In order to fully estimate the economic impact of the festival, this project includes surveys of residents and local businesses in addition to visitor surveys. Visitor surveys were also conducted during the festival in 2004 by the CBER as a project for the staff at the City of Fayetteville, but the analysis was deemed incomplete without information from the other important constituent groups in Fayetteville.

CBER researchers completed development of visitor survey instruments to meet the needs outlined in the statement of work in 2004. The final visitor questionnaire for this project was customized by CBER staff based on the last year's experience and the best survey practices for this 2005 project. In addition, the resident and local business survey instruments were developed in 2005. The survey instruments used for this study are appended to the report. The drafts of the surveys are given in Appendices A-C.

This report provides analysis of the resident, business, and visitor survey results and is structured in the following manner. Section 2 discusses the resident survey instrument and methodology used to conduct it as well as the survey summary statistics. Section 3 presents survey instrument, methodology, and summary statistics for the business survey. Section 4 analyses the BBBBQ visitor survey and estimates their economic impact. Section 5 examines the impact of the festival on taxes received by the city of Fayetteville and Section 6 summarizes the overall economic impact of the BBBBQ festival and concludes the report.

2. Resident Surveys

Resident Survey Instrument and Methodology

The surveys of Fayetteville residents were conducted by phone during the month following the BBBBQ festival. The survey was conducted using random digital dialing by the Public Policy Research Lab at Louisiana State University. A total of 421 surveys of Fayetteville residents were completed. The number of usable responses for each question varied from 390 to 421.

The survey has a sampling error of plus or minus 5 percent at a 95 percent level of confidence. This means that if the survey were replicated twenty times, only once will the answers differ by more than 5 percent over the answers in this report.

Bikes, Blues, and BBQ Resident Survey Summary Statistics

The resident survey results are reported below. For each question in the survey, the number and proportion of respondents who answered the question in each possible response category are reported. In addition, 95-percent confidence intervals for the proportion of responses falling in each category are reported as well.

First, the survey respondents were asked how they like the Bikes, Blues and Barbeque festival. Most of the Fayetteville residents (55.2 percent) like the festival, 38.2 percent of residents are neutral toward it, and 6.6 percent do not like the BBBBQ event (Table 1).

Table 1: Resident Survey Results, Feelings toward the BBBBQ Festival

Response Category	Number of Responses	% of Responses	95% Confidence Lower Bound	95% Confidence Upper Bound
Strongly Like It	126	31.6%	27.1%	36.2%
Rather Like It	94	23.6%	19.4%	27.8%
Neutral Toward It	152	38.2%	33.4%	43.0%
Rather Dislike It	17	4.3%	2.3%	6.3%
Strongly Dislike It	9	2.3%	0.8%	3.7%
Total	398	100.0%		

Next, the residents were asked whether they attended the BBBBQ festival this year or not. About two thirds of the respondents did not attend BBBBQ, whereas one third of them participated in some part of the festival this year (Table 2).

Table 2: Resident Survey Results, Attendance of the BBBBQ Festival

Response Category	Number of Responses	% of Responses	95% Confidence Lower Bound	95% Confidence Upper Bound
Yes	138	32.8%	28.3%	37.3%
No	283	67.2%	62.7%	71.7%
Total	421	100.0%		

After that the residents were queried regarding the effect that BBBBQ festival had on their behavior. The festival had no effect on the behavior of most of the people (Table 3). About 15.6 percent of residents went out more, 9.4 percent went out less, and 2.7 percent had visitors coming for BBBBQ. There were 9 people out of 405 that left Fayetteville because of the BBBBQ festival.

Table 3: Resident Survey Results, the Impact of BBBBQ on the Residents' Behavior

Response Category	Number of Responses	% of Responses	95% Confidence Lower Bound	95% Confidence Upper Bound
It Did Not	269	66.4%	61.8%	71.0%
Went out More	63	15.6%	12.0%	19.1%
Went out Less	38	9.4%	6.5%	12.2%
Had Visitors Coming for the BBBBQ Festival	11	2.7%	1.1%	4.3%
Left Town	9	2.2%	0.8%	3.7%
Other	15	3.7%	1.9%	5.5%
Total	405	100.0%		

The resident survey continued with the question that asked how BBBBQ affected total expenditures of the residents during the festival weekend. The majority of surveyed Fayetteville residents spent the same amount of money they would have spent even if there were no BBBBQ festival (Table 4).

Table 4: Resident Survey Results, the Impact of BBBBQ on the Residents' Expenditures

Response Category	Number of Responses	% of Responses	95% Confidence Lower Bound	95% Confidence Upper Bound
Higher than Average	67	17.0%	13.3%	20.7%
About Average	291	73.9%	69.5%	78.2%
Lower than Average	36	9.1%	6.3%	12.0%
Total	394	100.0%		

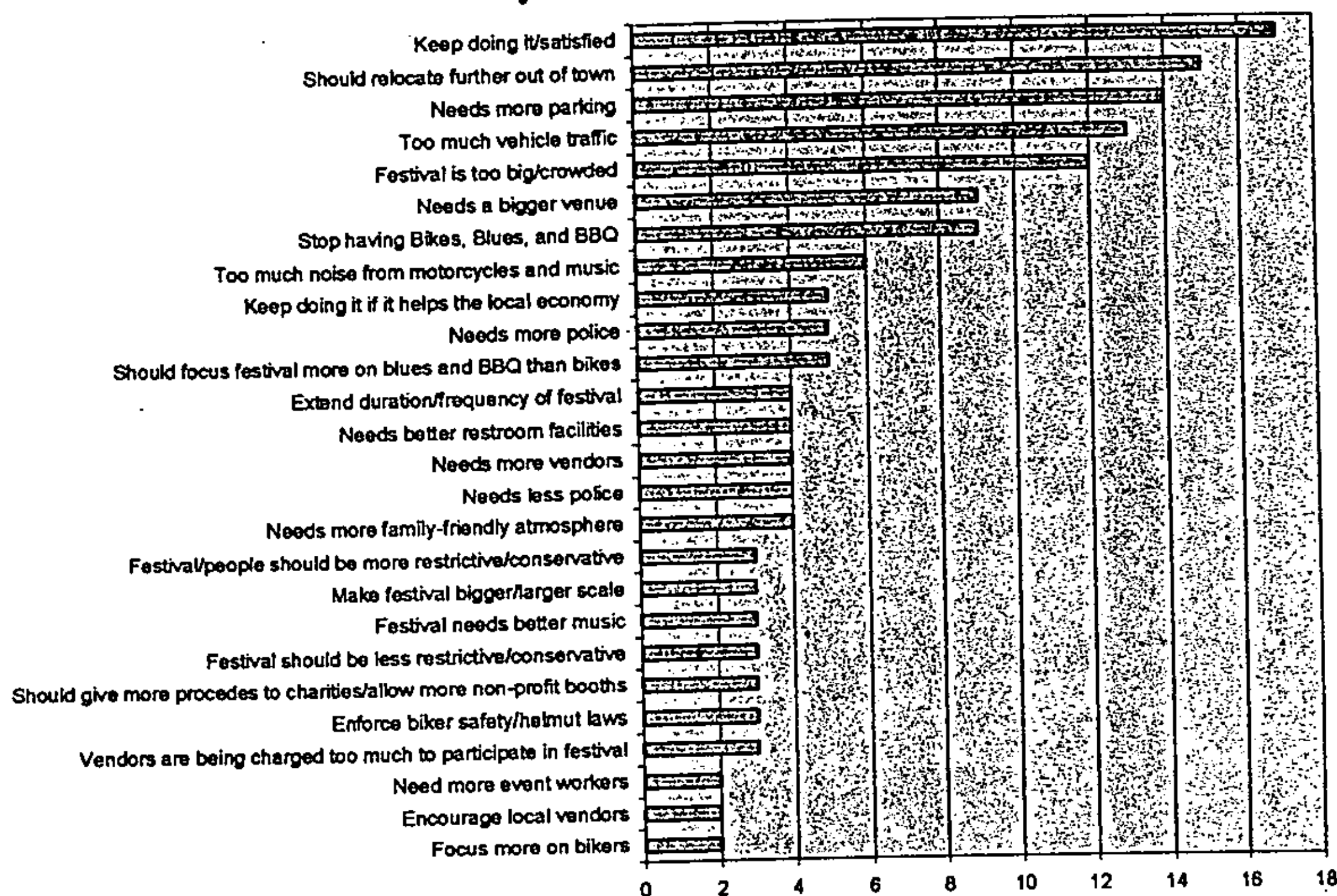
The next question asked residents how they think the BBBBQ festival impacts the Fayetteville community. A large majority of the respondents (81.3 percent) believe that the festival has a positive effect for the local community (Table 5). About 11 percent of surveyed residents think that BBBBQ has no effect at all and 7.7 percent that the effect is negative.

Table 5: Resident Survey Results, the Impact of BBBBQ on the Fayetteville Community

Response Category	Number of Responses	% of Responses	95% Confidence Lower Bound	95% Confidence Upper Bound
Strongly Positive Effect for the Fayetteville Community	139	35.6%	30.9%	40.4%
Positive Effect for the Fayetteville Community	178	45.7%	40.7%	50.6%
No Effect	43	11.0%	7.9%	14.1%
Negative Effect for the Fayetteville Community	20	5.1%	2.9%	7.3%
Strongly Negative Effect for the Fayetteville Community	10	2.6%	1.0%	4.1%
Total	390	100.0%		

Lastly, the residents were asked to tell what would make the BBBBQ festival better for them or for the Fayetteville community. The responses to this question are given in Figure 1. The suggestions to make the festival better included relocating the events further out of town, improving parking and traffic situation, and finding a bigger venue for the festival. There were several respondents who reported that Fayetteville should stop having the BBBBQ. On the other hand, many respondents were satisfied with the way the festival is organized and recommended to continue having it the way it is.

Figure 1: Suggestions to Make the BBBBQ Festival Better for the Residents and the Fayetteville Community



Overall, the surveyed Fayetteville residents have a positive attitude toward BBBBQ and think that the festival has a positive impact on the local community. In general, the behavior of the residents and their expenditures during the festival weekend were not affected by the BBBBQ festival. In order to make BBBBQ better for the Fayetteville community, the residents offered relocation of the events further out of town, improving the parking and traffic situation, and finding a bigger venue for the festival as suggestions.

3. Business Surveys

Business Survey Instrument and Methodology

Members of the Northwest Arkansas Chambers of Commerce were asked to fill an online survey a week after the BBBBQ festival took place. They were requested to submit only one survey per company to eliminate duplication. A total of 116 business surveys were submitted. Among them were surveys submitted by the same company twice (3 surveys), one blank, and 112 surveys with usable responses.

The business survey has a sampling error of plus or minus 5 percent at a 95 percent level of confidence. This means that if the survey were replicated twenty times, only once will the answers differ by more than 5 percent over the answers in this report.

Bikes, Blues, and BBQ Business Survey Summary Statistics

In this subsection, the business survey results are reported. For each question in the survey, the number and proportion of respondents who answered the question in each possible response category are reported. Additionally, 95-percent confidence intervals for the proportion of responses falling in each category are reported. This means that if the survey were replicated twenty times, only once will the answers differ by more than 5 percent over the answers in this report.

The survey respondents were first asked in what city their business is located. These answers were confirmed later by responses to another question, when the zip codes of the companies were reported. The city with the greatest frequency of businesses responding to the survey was Fayetteville, followed closely by Bentonville and Springdale (Table 6).

Table 6: Business Survey Results, Location of Companies

Location of Business	Number of Responses	% of Responses	95 % Confidence Lower Bound	95% Confidence Upper Bound
Fayetteville	34	30.3%	21.8%	38.9%
Bentonville	31	27.7%	19.4%	36.0%
Springdale	16	14.3%	7.8%	20.8%
Siloam Springs	12	10.7%	5.0%	16.4%
Rogers	10	8.9%	3.6%	14.2%
Gentry	2	1.8%	0.0%	4.2%
Bella Vista	1	0.9%	0.0%	2.6%
Cave Springs	1	0.9%	0.0%	2.6%
Centerton	1	0.9%	0.0%	2.6%
Elkins	1	0.9%	0.0%	2.6%
Eureka Springs	1	0.9%	0.0%	2.6%
Farmington	1	0.9%	0.0%	2.6%
Pea Ridge	1	0.9%	0.0%	2.6%
Total	112	100.0%		

The next question requested the respondents indicate what type of business the respondents are in. About one fourth of the surveyed companies were in lodging or food services. Table 7 presents the breakdown of all types of businesses.

Table 7: Business Survey Results, Types of Businesses

Response Category	Number of Responses	% of Responses	95% Confidence Lower Bound	95% Confidence Upper Bound
Hotels and Motels	17	15.5%	8.7%	22.2%
Food Services and Drinking Places (Restaurants, Bars, Coffee Shops, etc)	10	9.1%	3.7%	14.5%
Real Estate	6	5.5%	1.2%	9.7%
General Merchandise Stores	5	4.5%	0.7%	8.4%
Insurance Agencies	5	4.5%	0.7%	8.4%
Wholesale Trade	5	4.5%	0.7%	8.4%
Other Support Services	5	4.5%	0.0%	8.4%
Miscellaneous Store Retailers	4	3.6%	0.1%	7.1%
Food and Beverage stores	3	2.7%	0.0%	5.8%
Non-Profit Organizations	3	2.7%	0.0%	5.8%
Construction Services	3	2.7%	0.0%	5.8%
Monetary authorities and depository credit intermediaries	3	2.7%	0.0%	5.8%
Accounting Services	2	1.8%	0.0%	4.3%
Manufacturing	2	1.8%	0.0%	4.3%
Marketing Services	2	1.8%	0.0%	4.3%
Couriers and messengers	2	1.8%	0.0%	4.3%
Educational Services	2	1.8%	0.0%	4.3%
Information Services	2	1.8%	0.0%	4.3%
Automotive Repair and Maintenance	1	0.9%	0.0%	2.7%
Personal Care Services	1	0.9%	0.0%	2.7%
Other Amusement and Recreation Services	1	0.9%	0.0%	2.7%
Air Transportation	1	0.9%	0.0%	2.7%
Architectural Services	1	0.9%	0.0%	2.7%
Local Government Enterprises	1	0.9%	0.0%	2.7%
Dental Offices	1	0.9%	0.0%	2.7%
Medical Equipment Companies	1	0.9%	0.0%	2.7%
Embroidery Services	1	0.9%	0.0%	2.7%
Florist's	1	0.9%	0.0%	2.7%
Health Care Services	1	0.9%	0.0%	2.7%
Home Furnishings Stores	1	0.9%	0.0%	2.7%
Hospitals	1	0.9%	0.0%	2.7%
Travel Arrangement and Reservation Services	1	0.9%	0.0%	2.7%
Legal Services	1	0.9%	0.0%	2.7%
Live Music Services	1	0.9%	0.0%	2.7%
Performing Arts Companies	1	0.9%	0.0%	2.7%

Response Category	Number of Responses	% of Responses	95% Confidence Lower Bound	95% Confidence Upper Bound
Publishers	1	0.9%	0.0%	2.7%
RV Park	1	0.9%	0.0%	2.7%
Clothing Stores	1	0.9%	0.0%	2.7%
Consulting Services	1	0.9%	0.0%	2.7%
Telecommunications	1	0.9%	0.0%	2.7%
Veterinary Services	1	0.9%	0.0%	2.7%
Others	6	5.5%	1.2%	9.7%
Total	110	100.0%		

After that the respondents were asked what effect the BBBBQ festival had on their businesses. The most popular response was "no effect at all." About 35.8 percent of the companies reported that the festival had very strong or overall positive effect and 7.2 percent reported having very strong or overall negative effect (Table 8).

Table 8: Business Survey Results, BBBBQ effect

Response Category	Number of Responses	% of Responses	95% Confidence Lower Bound	95% Confidence Upper Bound
Very Strong Positive Effect	19	17.0%	10.0%	23.9%
Overall Positive Effect	21	18.8%	11.5%	26.0%
No Effect at All	64	57.1%	48.0%	66.3%
Overall Negative Effect	3	2.7%	0.0%	5.7%
Very Strong Negative Effect	5	4.5%	0.6%	8.3%
Total	112	100.0%		

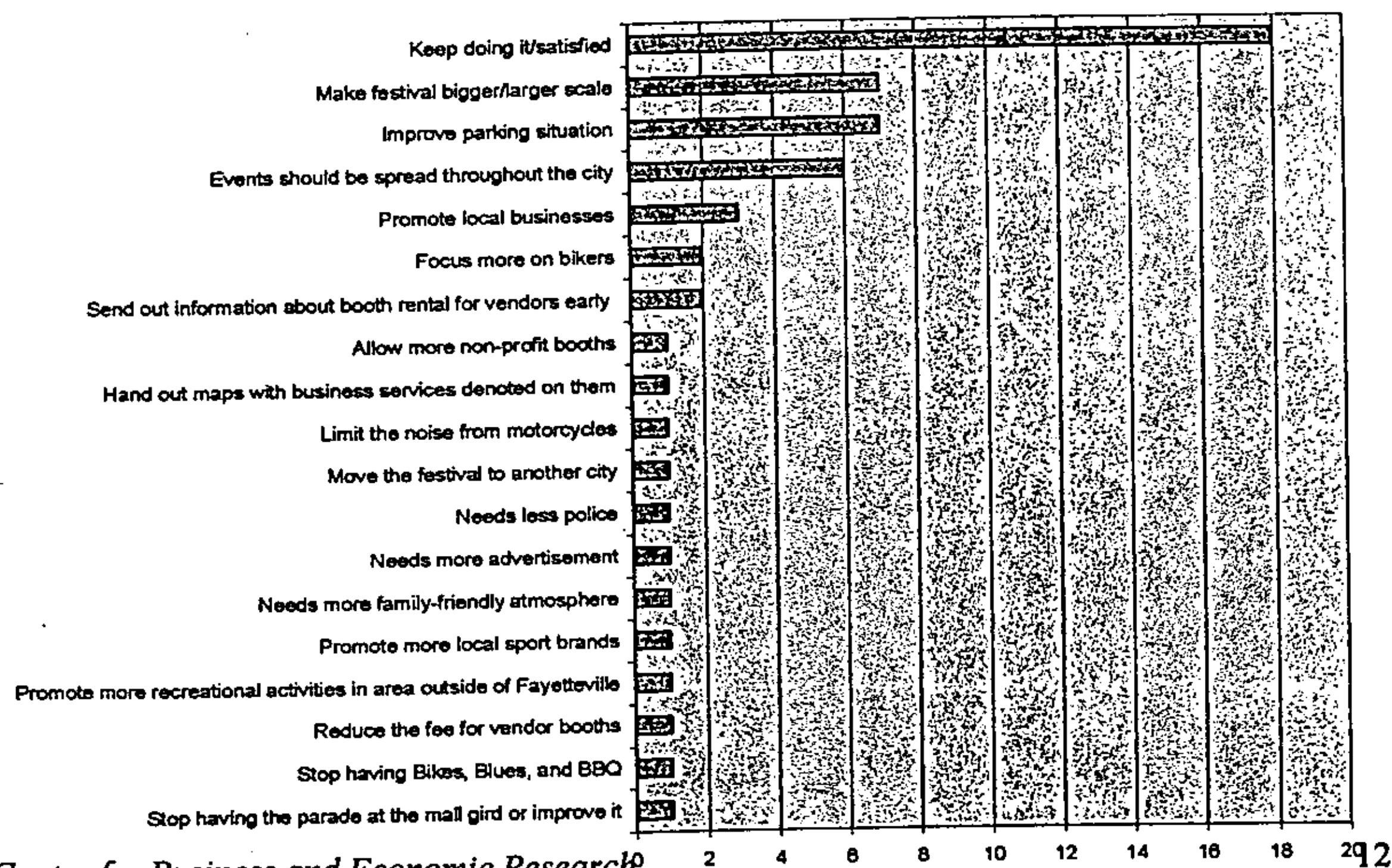
Next, the respondents were queried regarding the effect that BBBBQ had on their usage of employees' hours during the festival weekend. Most of the surveyed companies used typical weekend employee hours (Table 9). About 23 percent of firms used extra hours and only 3 percent reduced employees' hours for the BBBBQ weekend. Six companies were shut down for the festival weekend. Two of these companies commented that BBBBQ did not impact their businesses and that their employees enjoyed the festival. One other company said it is not open on weekends at all. Thus, only 3 percent of the firms were shut down because of the festival. Among the companies that shut down only one company, a clothing store located in Fayetteville, reported that it had to shut down because of the parking problems on Dickson Street during the BBBBQ festival.

Table 9: Business Survey Results, Usage of Employees' Hours

Response Category	Number of Responses	% of Responses	95% Confidence Lower Bound	95% Confidence Upper Bound
Use Extra Employee Hours for the BBBBQ Weekend	23	23.0%	14.8%	31.2%
Use Typical Weekend Employee Hours	68	68.0%	58.9%	77.1%
Reduce the Typical Employee Hours for the BBBBQ Weekend	3	3.0%	0.0%	6.3%
Shut Down for the BBBBQ Weekend	6	6.0%	1.3%	10.7%
Total	100	100.0%		

The last question asked respondents what would make the BBBBQ festival a more positive experience for their business. There were 80 business leaders that shared their thoughts regarding this topic. Among those who made some suggestions, most respondents were satisfied with the current BBBBQ festival. The suggestions to improve the festival included expansion of the festival, improving the parking situation, spreading the events throughout the city and region, and promoting local businesses (see Figure 2). All the responses, sorted by their subjects, are given in Appendix D.

Figure 2: Suggestions to Make the BBBBQ Festival a More Positive Experience for the Local Businesses



Generally, most of the surveyed local businesses either have not been affected by BBBBQ at all or the net effect of the festival has been positive.

4. Visitor Surveys

Visitor Survey Instrument and Methodology

University of Arkansas students, members of the Student in Free Enterprise (SIFE) organization, administered visitor survey to individuals on Dickson Street throughout the duration of the festival.

The students conducted the survey on the evenings of September 28 – September 30 and during the day on October 1, 2005. Interviews were conducted from 7:00 p.m. to 9:00 p.m. for the evening sessions and throughout the day on Saturday. The students were located along Dickson Street and in the surrounding areas where there were concentrations of festival attendees. A total of 861 surveys were completed. Of these, 857 were usable responses. A total of 237 surveys were filled out by respondents with Fayetteville zip codes and 514 by the BBBBQ visitors who came to Fayetteville specifically to attend the festival.

The survey has a sampling error of plus or minus 5 percent at a 95 percent level of confidence. This means that if the survey were replicated twenty times, only once will the answers differ by more than 5 percent over the answers in this report.

Bikes, Blues, and BBQ Visitor Survey Summary Statistics

The visitor survey results are reported in this subsection. For each question in the survey, the number and proportion of respondents who answered the question in each possible response category are reported. Moreover, 95-percent confidence intervals for the proportion of responses falling in each category are reported as well.

The survey respondents were first asked for their hometown and zip code. A total of 70.8 percent of the respondents came from Arkansas, while 27.7 percent of the respondents had Fayetteville zip codes (Table 10). These results are quite similar to the last year survey results (77.4 and 28.7 percent respectively). The other states with the largest proportions of respondents all border Arkansas, which is again equivalent to the last year results. Overall, there was at least one respondent from each of 23 states and two foreign countries.

Table 10: Visitor Survey Results, Respondent Residence

Respondent Home	Number of Responses	% of Responses	95 % Confidence Lower Bound	95% Confidence Upper Bound
Fayetteville	237	27.7%	24.7%	30.6%
Arkansas (excluding Fayetteville)	369	43.1%	39.7%	46.4%
Oklahoma	71	8.3%	6.4%	10.1%
Missouri	63	7.4%	5.6%	9.1%
Kansas	29	3.4%	2.2%	4.6%
Texas	29	3.4%	2.2%	4.6%
Louisiana	10	1.2%	0.4%	1.9%
Illinois	8	0.9%	0.3%	1.6%
Iowa	5	0.6%	0.1%	1.1%
Wisconsin	5	0.6%	0.1%	1.1%
California	4	0.5%	0.0%	0.9%
Florida	4	0.5%	0.0%	0.9%
Georgia	4	0.5%	0.0%	0.9%
Alabama	3	0.4%	0.0%	0.7%
Ohio	3	0.4%	0.0%	0.7%
Tennessee	3	0.4%	0.0%	0.7%
Alaska	1	0.1%	0.0%	0.3%
Colorado	1	0.1%	0.0%	0.3%
Indiana	1	0.1%	0.0%	0.3%
Kentucky	1	0.1%	0.0%	0.3%
Michigan	1	0.1%	0.0%	0.3%
Minnesota	1	0.1%	0.0%	0.3%
North Carolina	1	0.1%	0.0%	0.3%
Washington	1	0.1%	0.0%	0.3%
Bolivia	1	0.1%	0.0%	0.3%
Germany	1	0.1%	0.0%	0.3%
Total	857	100.0%		

Next, the respondents were asked to indicate whether the BBBBQ festival brought them to Fayetteville or not. Most of the people responded positively, among them 514 respondents were not Fayetteville residents. Table 11 presents the breakdown of reasons that led respondents to be in Fayetteville during the survey period.

Table 11: Visitor Survey Results, BBBBQ Attendees, Totals

Response Category	Number of Responses	% of Responses	95% Confidence Lower Bound	95% Confidence Upper Bound
BBBBQ Visitor	514	60.0%	56.7%	63.3%
Fayetteville Resident	237	27.7%	24.7%	30.6%
Other	104	12.1%	9.9%	14.3%
Not Reported	2	0.2%	0.0%	0.6%
Total	857	100.0%		

The percentage of BBBBQ festival visitors among the respondents was higher on Friday and Saturday than on Wednesday and Thursday. Unsurprisingly, the percentage of Fayetteville residents was higher during the weekdays than during Friday evening and Saturday (Table 12). Generally, it should be noted that the percentages presented above are the average percentages of attendees for all the days the festival was held. In order to take into account different numbers of BBBBQ visitors attending the festival on different days, the weighted averages were estimated. As a result, 63.6 percent of the attendees were estimated to be BBBBQ visitors.

Table 12: Visitor Survey Results, BBBBQ Attendees Wednesday through Saturday

Response Category	Number of Responses, Wednesday	% of Responses, Wednesday	Number of Responses, Thursday	% of Responses, Thursday	Number of Responses, Friday & Saturday	% of Responses, Friday & Saturday
BBBBQ Visitor	125	41.1%	51	57.3%	338	72.8%
Fayetteville Resident	129	42.4%	27	30.3%	81	17.5%
Other	48	15.8%	11	12.4%	45	9.7%
Not Reported	2	0.7%	0	0.0%	0	0.0%
Total	304	100.0%	89	100.0%	464	100.0%

The next table presents information about the residences of the BBBBQ visitors who came to Fayetteville specifically to attend the festival (Table 13). Among the respondents 35 percent were from Benton and Washington counties (excluding Fayetteville). About 23 percent of BBBBQ visitors came from other counties in Arkansas and about 42 percent of them came from other states.

Table 13: Visitor Survey Results, Residence of Non-Fayetteville BBBBQ Visitors

Respondent Home	Number of Responses	% of Responses	95% Confidence Lower Bound	95% Confidence Upper Bound
Washington County (excluding Fayetteville)	93	18.1%	14.8%	21.4%
Benton County	87	16.9%	13.7%	20.2%
the Rest of Arkansas (excluding Benton and Washington counties)	117	22.8%	19.1%	26.4%
Other States	217	42.2%	37.9%	46.5%
Total Non-Fayetteville BBBBQ Visitors	514	100.0%		

After finding out whether people came specifically for the festival or not, visitors were asked about the number of days they were planning to stay in Fayetteville for the BBBBQ festival. On average, people who came to Fayetteville specifically to attend BBBBQ were staying in the city for about 3 days.

The next question queried respondents regarding their lodging while in Fayetteville attending BBBBQ. In Table 14, only responses from those who indicated that they were in Fayetteville specifically to attend BBBBQ are included. The responses from Fayetteville residents and those with other primary reasons for being in Fayetteville are excluded. The two most popular lodging responses were the same as last year: hotels and motels and also living within driving distance of Fayetteville (the latter reason was specified by most of the people who responded positively to the "other" category).

Table 14: Visitor Survey Results, Lodging in Fayetteville

Response Category	Number of Responses	% of Responses	95% Confidence Lower Bound	95% Confidence Upper Bound
Hotel or Motel	169	50.2%	44.8%	55.5%
RV Park	17	5.0%	2.7%	7.4%
Friends or Relatives	61	18.1%	14.0%	22.2%
Other	90	26.7%	22.0%	31.4%
Total	337	100.0%		

The respondents were also asked to indicate the number of times their party would purchase breakfast, lunch, and dinner during their Fayetteville stay for BBBBQ. Results are reported for the out-of-town BBBBQ attendees only. Visitors planned to buy more dinners than lunches or breakfasts while attending BBBBQ, which is similar to the last year results (Table 15).

Table 15: Visitor Survey Results, Dining in Fayetteville

Response Category	Number of Responses	Average Number of Meals	95% Confidence Lower Bound	95% Confidence Upper Bound
Breakfasts	489	1.5	1.3	1.7
Lunches	489	2.2	2.0	2.4
Dinners	489	2.7	2.5	2.9

The next question asked whether respondents planned to purchase specific types of goods or services during their stay in Fayetteville for the BBBBQ festival. Respondents were most likely to plan on purchasing gasoline, going to a bar or nightclub, and shopping in retail stores (Table 16).

Table 16: Visitor Survey Results, Expenditure Categories

Expenditure Category	Yes	% of Respondents	95% Confidence Lower Bound	95% Confidence Upper Bound
Purchase gasoline	408	81.0%	77.5%	84.4%
Go to a bar/nightclub	376	75.5%	71.7%	79.3%
Shop in retail stores	308	62.7%	58.4%	67.1%
Purchase groceries	131	27.6%	23.6%	31.7%
Get haircut or other service	36	7.6%	5.2%	10.0%
See a movie	31	6.5%	4.3%	8.8%
See a U of A athletic event	24	5.1%	3.2%	7.0%
Purchase aviation fuel	15	3.2%	1.6%	4.8%
Rent a vehicle	8	1.7%	0.5%	2.9%

At the end of the survey, the BBBBQ festival visitors were asked to estimate the total amount they expected to spend in Fayetteville on this trip, excluding event registration fees, and also to indicate for how many people these expenditures were made. Overall, 505 non-Fayetteville respondents, in town specifically for BBBBQ, provided usable responses. There were 1,166 total people in their parties, and each of them spent approximately \$273 during the festival (Table 17). This amount is smaller than last year (\$297), which is likely due to the fact that last year respondents did not indicate the number of people in their party.

Table 17: Visitor Survey Results, Average Expenditures

Number of Respondents	Number of People in Their Parties	Average Expected Expenditures per Person	95% Confidence Lower Bound	95% Confidence Upper Bound
505	1,166	\$273	\$197	\$348

Economic Impact of Visitors on the Bikes, Blues, and BBQ Festival

The total economic impact of the BBBBQ festival depends on the number of festival attendees. Since no definitive estimate is available, three alternative scenarios are presented: 200,000 attendees, 250,000 attendees, and 300,000 attendees. These numbers were chosen based on the unofficial estimates according to Fayetteville police department and BBBBQ festival management.

Also, it is not reasonable to attribute economic activity from Fayetteville residents to BBBBQ. As residents of the city, it is assumed that they substitute attending BBBBQ for whatever alternative activity would have been the second best option. There were also respondents who indicated that they were from out of town, but the BBBBQ festival was not the reason for their trip to Fayetteville. These people should not be included in the economic impact calculation either, as the BBBBQ festival was not the driver of their economic activity.

Since people who came to Fayetteville specifically to attend BBBBQ were staying in the city for about 3 days, it is reasonable to assume that most of BBBBQ visitors came to Fayetteville on Thursday evening or Friday in order to stay for the weekend. Indeed, the number of BBBBQ visitors changed during the duration of the festival, picking up on Friday and Saturday. Thus, to be more accurate regarding the percentage of people who came to Fayetteville specifically for the festival, the average of visitor attendance was estimated, giving different weights to the visitor attendance on different days (weights were given depending on the total number of visitors attending the festival on the particular day). As a result, 63.6 percent of the attendees were estimated to be BBBBQ visitors. This number is close to the 64.5 percent estimated last year. Also, the visitor survey results are more reliable this year than in 2004 because the sample size is more than a half again as large (558 surveys completed in 2004 with 857 surveys of 2005). All other festival attendees or 36.4 percent were reported to be either Fayetteville residents or people who were from out of town for reasons other than attending the BBBBQ festival.

Table 18 presents the economic impacts of the three alternative attendance figures, adjusted for in-town attendees and attendees with other primary reasons for being in Fayetteville.

Table 18: Estimated Impact of the 2005 Bikes, Blues, and BBQ Festival

	Scenario 1	Scenario 2	Scenario 3
Attendance Estimate	200,000	250,000	300,000
Number of Attendees Specifically for BBBBQ	127,200	159,000	190,800
Total Economic Impact Estimate	\$34,725,600	\$43,407,000	\$52,088,400
95% Confidence Lower Bound	\$25,058,400	\$31,323,000	\$37,587,600
95% Confidence Upper Bound	\$44,265,600	\$55,332,000	\$66,398,400

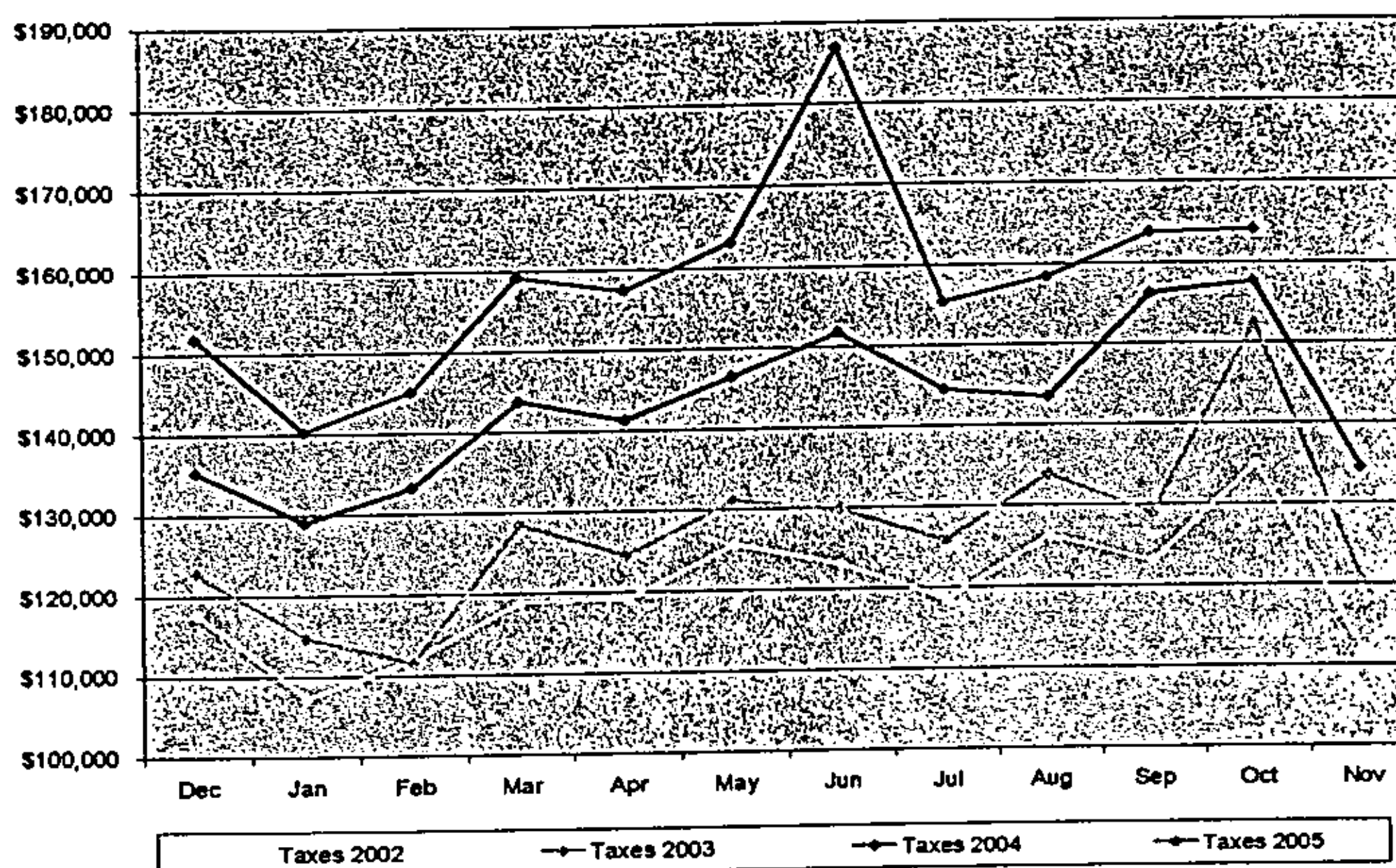
The numbers presented above are estimates of the economic activity attributable to out-of-town attendees at the BBBBQ festival. Overall, in a 200,000 attendee scenario, the economic impact of the festival's visitors is estimated to be between 25.1 and 44.3 million dollars. The economic impact of the festival's 250,000 attendants is estimated to be between 31.3 and 55.3 million dollars. Finally, in a scenario with 300,000 attendees, the BBBBQ visitors had an estimated economic impact between 37.6 and 66.4 million dollars.

5. Impact of the Bikes, Blues, and BBQ Festival on the Hotel/Motel and Restaurant Taxes Received in Fayetteville

In order to see the impact of the BBBBQ festival on the taxes received by the City of Fayetteville, this section takes a look at the hotel/motel and restaurant (HMR) taxes received during the period of 2002-2005. Time series of taxes for this period are shown in Figure 3.

There is obvious evidence of an increase in taxes received by the city from hotels, motels, and restaurants during the BBBBQ festival in each year. The picture becomes clearer if we keep in mind that the BBBBQ festival was held in October of 2002 and 2003 and during the period of the end of September and the beginning of October in 2004 and 2005. (Specifically, BBBBQ was held on September 29, 30 - October 1, 2 of 2004 and September 28-30 - October 1 of 2005.) Thus, there is a peak in the taxes received in October of 2002 and 2003, whereas the September numbers of these two years were actually decreasing compared with the previous month. Consequently, the amount of taxes received in September of 2004 and 2005 picked up compared with the previous month, whereas October taxes increased as well, but not to the same degree as September taxes.

Figure 3: Hotel/Motel and Restaurant Taxes, City of Fayetteville, 2002-2005¹



Even considering the cyclical nature of business operations and homecoming football games, the HMR taxes received during the period of the BBBBQ festival were still higher than any other month during the calendar year (except for 2005 year, when taxes received in June were higher). Taxes received in year 2005 were increasing at a slower rate than they did in the previous years during the BBBBQ festival. With the number of attendees increasing every year, it seems that the visitor preferences changed. One of the explanations may be that instead of going to local restaurants, visitors preferred buying food from out-of-town vendors, and also that they stayed in Fayetteville hotels/motels for fewer days than during the previous BBBBQ festivals.

6. Economic Impact of the Bikes, Blues, and BBQ Festival on the City of Fayetteville

The primary concern regarding the 2004 report was that the true economic impact of the BBBBQ festival on the city was less than the estimated effect of its visitors, and that the latter may not represent the total economic impact on the city of Fayetteville. Anecdotal evidence suggested that some businesses closed during the BBBBQ festival, some citizens left town to avoid the crowds, and other citizens curtailed their own economic activity to avoid increased traffic during the event. This report addressed the concerns by surveying local businesses and Fayetteville residents in addition to the festival's visitors.

¹ Hotel/motel and restaurant taxes in the specific year include the numbers for the December of the previous year, i.e. the 2002 taxes include the taxes received in December of 2001; the 2003 taxes include taxes received in December of 2002 etc.

The conducted surveys of residents and companies show that in general the economic behavior of the former and business profits of the latter either have not been affected by BBBBQ at all or the effect has been positive. There were indeed some businesses that closed during the BBBBQ festival and some citizens did left town to avoid the crowds or curtailed their own economic activity (3 percent, 2.2 percent, and 9.1 percent of the respondents respectively). However, the percentage of these respondents were significantly lower that the percentage of businesses that used extra employee hours for the BBBBQ weekend, the residents that went out more than usually during BBBBQ or spent more because of the festival (23 percent, 15.6 percent, and 17 percent respectively) .

Therefore, according to the results of the resident and local businesses surveys, the total economic impact of the BBBBQ festival on the city of Fayetteville may well be represented by the estimated impact of the visitors. Total attendance at the BBBBQ festival ranged from 200,000 to 300,000 individuals. Assuming that the ratio of BBBBQ visitors was the same as the survey sample proportion of 63.6 percent, the total estimated expenditures due to BBBBQ ranged from \$34.7 million to \$52.1 million. There is an obvious evidence of increases in taxes received by the city from hotels, motels, and restaurants during the period of the festival.

Additionally, it should be noted that although the most of the surveyed Fayetteville residents and local businesses have a positive attitude toward the BBBBQ festival, they offered some suggestions in order to make BBBBQ better for the Fayetteville community and the local businesses. The suggestions from resident and business surveys were quite similar and included: relocating the events further out of town/spreading the events throughout the city, improving parking and traffic situation, finding a bigger venue for the festival/expanding the festival, and promoting local businesses.

Appendix A: Resident Survey

1. How do you like the Bikes, Blues and Barbeque festival?

- ☐ A. Strongly like it
- ☐ B. Rather like it
- ☐ C. Neutral toward it
- ☐ D. Rather dislike it
- ☐ E. Strongly dislike it

2. Did you attend the BBBBQ festival this year? ☐ Yes ☐ No

3. How did the festival affect your behavior?

- ☐ A. It did not
- ☐ B. Went out more
- ☐ C. Went out less
- ☐ D. Had visitors coming for the BBBBQ festival
- ☐ E. Left town
- ☐ F. Other (Please specify) _____

4. Whether or not you attended the BBBBQ festival, were your total expenditures during the festival weekend:

- ☐ A. Higher than average
- ☐ B. About average
- ☐ C. Lower than average

5. How do you feel the Bikes, Blues and Barbeque festival impacts the Fayetteville community?

- ☐ A. Strongly positive effect for the Fayetteville community
- ☐ B. Positive effect for the Fayetteville community
- ☐ C. No effect
- ☐ D. Negative effect for the Fayetteville community
- ☐ E. Strongly negative effect for the Fayetteville community

6. Please tell us what would make the BBBBQ festival better for you or for the Fayetteville community?

Thank You!

Appendix B: Business Survey

1. In what cities is your business located?

- ☐ Fayetteville
- ☐ Springdale
- ☐ Rogers/Lowell
- ☐ Bentonville
- ☐ Siloam Springs
- ☐ Other

2. Please indicate the type of business you are in:

- ☐ Hotels and Motels
- ☐ Food Services and Drinking Places (Restaurants, Bars, Coffee Shops, etc)
- ☐ Food and Beverage stores
- ☐ General Merchandise Stores
- ☐ Gasoline Stations
- ☐ Automotive Repair and Maintenance
- ☐ Automotive Rental
- ☐ Personal Care Services
- ☐ Dry-Cleaning and Laundry Services
- ☐ Museums, Historical Sites, Zoos, and Parks
- ☐ Video Tape and Disc Rental
- ☐ Other (Please specify) _____

3. What is the zip code of your company? _____

4. How would you describe the effect that the BBBBQ festival had on your business?

- ☐ Very strong positive effect
- ☐ Overall positive effect
- ☐ No effect at all
- ☐ Overall negative effect
- ☐ Very strong negative effect

5. Did your company:

- ☐ Use extra employees' hours for the BBBBQ weekend
- ☐ Use typical weekend employees' hours
- ☐ Reduce the typical employees' hours for the BBBBQ weekend
- ☐ Shut down for the BBBBQ weekend

6. Please tell us what would make the BBBBQ festival a more positive experience for your business?

Thank You!

Appendix C: Visitor Survey

1. What is your hometown and home zip code? _____
2. Did Bikes, Blues, and BBQ bring you to Fayetteville? _____
3. How many days will you be in Fayetteville for BBBBQ? _____
4. If you are staying overnight in Fayetteville, please indicate the number of nights for each applicable type of accommodation.
Hotel/Motel _____
RV Park _____
Friends/Relatives _____
Other _____ please specify: _____
5. Approximately how many times will your party purchase meals at Fayetteville eateries?
Breakfast _____ (# of times)
Lunch _____ (# of times)
Dinner _____ (# of times)
6. Please indicate whether you plan to do the following during your stay in Fayetteville:

Purchase gasoline	☐ Yes	☐ No
Shop in retail stores	☐ Yes	☐ No
Purchase groceries	☐ Yes	☐ No
Rent a vehicle	☐ Yes	☐ No
Purchase aviation fuel	☐ Yes	☐ No
See a movie	☐ Yes	☐ No
Go to a bar/nightclub	☐ Yes	☐ No
Get haircut or other service	☐ Yes	☐ No
See a U of A athletic event	☐ Yes	☐ No
7. Excluding event registration fees, approximately what is the total amount you expect to spend in Fayetteville on this trip? _____
8. For how many people did you make these expenditures? That is, *if you are including expenditures made for family or friends*, how many total persons are in your party?
If your total expenditures are entirely personal, please answer "1." _____

Thank You. Please Enjoy Your Stay.

Appendix D: Business Survey Results

Responses to the Question "What Would Make the BBBBQ Festival a More Positive Experience for your Business?"

Advertisement

"More press for the Arts Center regarding the events."

Bikers

"To have the city act like they want the bikers not put up signs to ride their bikes quiet or keep raising the prices to vendors. I think they spent a lot of money that we need in NW Arkansas."

"Since a lot of the bikers were staying in Bentonville, have a "satellite" center for them in the other cities."

"Limit bike noise - "revving through towns" - even Rogers, Bentonville, and surrounding areas. Not sure if this is possible!"

Booths

"Reduce the fee for vendor booths."

"Send out information early about booth rental for vendors."

"Opening up booth opportunities better..."

Expansion of the festival

"Increase in business."

"Bikes Blues & BBQ has grown in the last 2 years we have enjoyed the growth, I hope it continues to grow. Charities also profit."

"More entertainment for BBBQ festival. Responses from some BBBBQ guest were somewhat disappointing and were contemplating whether to participate next year. Their comments were mostly to have more entertainment events, more things to do. Perhaps a BBBQ related."

"Entertainment!"

"Have more of them!!!!!!"

"... We feel that larger concert names in Fayetteville and at the Amp will help..."

"Keep it just the way it is... Maybe bring in a larger headliner as early as Thursday night or early Friday morning to get more overnights on Thursday night. Start/ create another event on a slow weekend."

Family-oriented event

"Make it a nicer, family oriented event. As it stands now, most of it is just a beer drinking drunk fest with loud and obnoxious behavior."

Local businesses

"More promotion/inclusion of local businesses beyond the barbeque restaurants."

"Try to keep the vendors at the festival as local as possible. That way the income and taxes stay local."

"It seemed like the number of food vendors doubled from last year. The money reaped by all of these vendors is spent in their HOMETOWNS. This was our third BBBQ, and our worst. We are located to the South of the music stage, so we are totally blocked out..."

Parking

"...Making parking more accessible for employees of the downtown area or booth workers, make shuttles available from outlying areas into downtown Fayetteville."

"Move BBBBQ to Fairgrounds. Open the street. More car parking. Would still benefit from influx of people without ostracizing those who don't own motorcycles."

"The impact the business took by closing off the municipal lot on the back side of Hog Haus and Common Grounds on Monday was detrimental. Our above average sales on Friday eve and Saturday made it a normal week after no sales on Monday-Friday..."

"Better parking on Dickson street. None of our customers could even get to our store!"

"Not shutting down all the parking lots on Monday prior to the rally..."

"The only thing would be to minimize the down time with parking and set up. It had a negative effect when the vendors were setting up 2 very slow days because of no parking and no BBQ activities. Other than that, extend it a few more days."

"The parade makes it impossible for customers to get to our business. If there was no parade, it wouldn't impact my business at all."

Spreading the event throughout the city

"Move it to Drake field, where there is more room. Have beer gardens there. People will still go to Dickson. NEED MORE ROOM!!"

"Spread the event throughout the city... say from the mall to the airport. It will aide in not only total revenue to the city but will make more people want to come back. I heard many comments from patrons on Dickson Street complain about it..."

"More events thought out Fayetteville."

"Festivities need to be planned all over Fayetteville and not have the majority on Dickson Street."

"The location needs to be moved to another area because of the number of people attending Dickson Street is too crowded."

"Parade on 265."

Other

"Hand out maps with business services denoted on them."

"The parade at the mall gird locked out our customers who wanted to come shopping. About one hour of confusion."

"I believe that this kind of event cold be good chance for any sport competition giving better possibility to promote our brands."

"Promoting Recreational Activities in area outside of Fayetteville. Many people lodge outside Fayetteville, so promote outdoor activities in Benton Co. also."

"Parking/ Traffic extra police presence off of Dickson i.e. College Ave..."

"We are a non-profit and would love to be considered as a recipient. Several of us went to observe the goings-on."

"Another way this could benefit me would be using my store for some of the mail outs, coping service, banners prior to the rally."

"Move the festival to Gentry, AR."

Negative

"Reminds me of the stories of New Orleans? There were bikers, want to be bikers, biker watchers. Just a big beer bust, we don't need that, especially in a college town, do you really think??"

No suggestions, positive attitude toward the festival

"I am sure that there were more sales during that time of our products in the Wal-Mart Stores, so I would say that this would be a very positive experience for our business, I am very positive the BBQ didn't hurt us in any way. We are not located in Fayetteville."

"I think the cities have done an excellent job."

"It would be difficult for the festival to impact our business directly, since we are a supplier to Wal-Mart, but it was very enjoyable and plan to attend again next year."

"This does not impact our business, but our employees loved it."

"It is great for the community. Our business does off-site catering, so very few people want to get married or hold another type of event in Fayetteville during that weekend."

"This type of event can help my business by attracting more people to move to this area."

"I had some calls for people looking for property that were visiting."

"I enjoyed the festival, but had no effect on my company."

"Nothing, but it is good for NWA."

"Bikes Blues & BBQ was a positive experience for our hotel; we are booking rooms for next year now."

"If the bikers needed to ship or mail items back to their homes that they could not carry on there bikes..." (From Packaging & Shipping company.)

"The BBQ Board did an excellent job, as one single hotel that was 100% full all weekend, I'm not sure how one could improve on that!! Thanks BBQ."

"It is a very positive experience for our business. Just wish we had more rooms to accommodate more people. We think everything is being handled very well."

"We are a vendor in NWA and from a business prospective this event does not have a direct effect on our business; as for the area I am positive it has a big economic effect."

"Being on Dickson St. (Bordinos) and being an upscale restaurant it really didn't affect our volume. We enjoyed the change for a few days and our regular customers (for the most part) had fun..."

"We are fine dinning in Bentonville. We did have some couples in that were staying at the Courtyard on Thurs. and we had a few in during the weekend in the bar. We need to advertise our business better to try and get some of that business."

"Solicit me next year - Pinnacle Hills Mortgage Co."

"I LOVE BB&BBQ!!!!!! Everything about it. We often have out of town guests (from as far away as Nebraska, Iowa and South Dakota) making the trip here for BB&BBQ."

No suggestions

"Does not and will not affect dental."

"BBBBBQ had no effect."

"Our business is not involved."

"It does not affect my business."

"No changes requested."

"No one from our business attended this year."

"Nothing."

"It has no effect on our business."

"BBBBQ festival had no effect on my business, nor would it in the future. My business provides live music for weddings, etc."

"Not sure why I received this. The company I work for is not impacted directly or indirectly by the BBBBQ event."

"No effect."

"We are not open on the weekend."

"The event has little, if any effect on business."

"Not having it!"

"Does not affect our business."

"Has no impact on our business at all."

"None."

"Does not affect our business."

"I am a very small business. The festival did not affect me."

"Would not greatly affect our business and its operation."

"There isn't anything you could do to affect our business. We don't do much local business - it's all mail order and phone from other parts of the US and abroad."

"No suggestions for improvement."

"We did nothing extraordinary, except plug up our ears..."

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
February 7, 2006**

A meeting of the Fayetteville City Council was held on February 7, 2006 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Jordan called the meeting to order.

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

ABSENT: Mayor Coody

Pledge of Allegiance

Alderman Cook announced the Board and Committee openings and encouraged citizens to apply.

CONSENT:

Approval of the January 3 and January 17, 2006 City Council meeting minutes.

Approved

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.

Resolution 15-06 as Recorded in the Office of the City Clerk.

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.

Resolution 16-06 as Recorded in the Office of the City Clerk.

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.

Resolution 17-06 as Recorded in the Office of the City Clerk.

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.

Resolution 18-06 as Recorded in the Office of the City Clerk.

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.

Resolution 19-06 as Recorded in the Office of the City Clerk.

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.

Resolution 20-06 as Recorded in the Office of the City Clerk.

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.

Resolution 21-06 as Recorded in the Office of the City Clerk.

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.

Resolution 22-06 as Recorded in the Office of the City Clerk.

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.

Resolution 23-06 as Recorded in the Office of the City Clerk.

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.

Resolution 24-06 as Recorded in the Office of the City Clerk.

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.

Resolution 25-06 as Recorded in the Office of the City Clerk.

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

UNFINISHED BUSINESS:

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.*

David Jurgens, Water and Wastewater Director: I recommend we go with the alternate alignment between the building and the creek and that the City Attorney work that out with the owner's attorney. Several of you have addressed wanting to get the statement from the owner concerning damages and move forward with the owner concerning the alternate alignment. Then we will work with the Corps on the issue. After discussions with our consultants we will pursue a nationwide permit or an amendment to our existing permit through the 404 program so that we can get that accomplished in the amount of time we require to not hold up the project.

Alderman Ferrell moved to table the resolution indefinitely. Alderman Lucas seconded the motion.

Alderman Thiel: We do have an affidavit from them?

City Attorney Kit Williams: We do not. We will get that though and if we do not get it we can bring it off the table.

Alderman Thiel: This will not slow down the treatment plant construction?

David Jurgens: I believe we can do this without slowing down the completion of the project.

Upon roll call the motion passed unanimously.

This resolution was tabled indefinitely.

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.

Alderman Lucas: I think this is a good development. They have met with the neighbors as well as the staff. I want to stress that James Street, Mount Comfort and Garland intersection must be corrected to a tee intersection in order that traffic will not have to go through the Hendricks neighborhood to turn left on Garland. That is something that we need to work on. As far as the speed humps and the narrowing of Stephens, is that going to be done?

Gary Dumas, Director of Operations: The cost is amount \$3,000 per devise. I think there are neighborhood traffic issues in this area already so I would assume we would be installing these.

Alderman Jordan: I think that is what we discussed at the Street Committee.

Alderman Cook: I struggle with this development. It is a logical place to put a development but to add a driveway onto Wedington at the crest of the hill makes me nervous. I think this will put more traffic into the neighborhood. We have discussed some traffic calming and that is a good thing but there are still going to be issues with some of the current streets. I am afraid we are going to put the development in there and then we are going to create worse problems. As far as the development I don't have a problem with it. I will probably support this but I struggle with the consequences of it.

Alderman Marr: I think this is an excellent example of infill, it is the kind of development that we want to see. It is in a University connection area, it has two bus stops nearby. I think we have had enough discussion at the Street Committee that hopefully we have sent a very strong message to the administration that we want to see a resolution to Mount Comfort, Garland and James intersection at this location.

Alderman Reynolds: The City Council experienced that intersection yesterday and it was not good. I think this is a very dangerous intersection.

Gary Dumas: We will have a recommendation to you at the next Street Committee meeting on how to close that intersection until the bond program comes through.

Alderman Reynolds: It will be done before this development is finished?

Gary Dumas: If the Street Committee concurs with the staff recommendation, yes.

A discussion followed on intersections in the area.

Alderman Jordan: I too have a problem with the intersection coming out on Wedington and the intersection at James and Mount Comfort. The intersection is in the Bond issue for that area and also the traffic calming helped me. I wanted to make sure that all the bases were covered and I think they have been. I think it is a good development and good infill.

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

Ordinance 4826 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

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.

City Attorney Kit Williams read the ordinance.

Ray Boudreaux, Aviation & Economic Development Director: Essentially what they are doing is asking for permission to go ahead and demolish the buildings for a credit in order to use the LEEDS credit for their LEEDS Platinum qualifications.

Alderman Ferrell 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 Reynolds 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.

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

Ordinance 4827 as Recorded in the Office of the City Clerk.

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

Tim Conklin, Planning & Development Management Director: In 2004 Duncan & Associates prepared a road impact fee study. This past spring Duncan & Associates was contracted to update the road impact fee study based on the new cost estimates for the proposed street bond program. They completed this in October, 2005, what is on your agenda is the adoption of a study it is not an adoption of an ordinance that would impact a road impact fee. It is based on a consumption methodology or approach. Basically the consumption methodology holds the amount of vehicle miles traveled in Fayetteville and the amount of arterial and collector roadways we have in the City. It is a ratio of one to one so as new development occurs it looks at the cost of replacing that capacity. It generally under estimates the true cost. There is also an improvement based methodology where you have a defined improvement and the cost is calculated and the capacity is calculated and the impact fees based on that. This is more of a conservative approach and generally under estimates the true cost. It is basically looking at the cost of the planned improvements for the capacity needed to serve new development in Fayetteville. Part of this methodology excluded the reconstruction of the existing two lanes in the arterial systems because those are already providing capacity within the arterial roadway network.

Alderman Thiel: We currently cost share with developers on improvements that is in front of their project, they build the streets within their project and that will continue.

Tim Conklin: That is correct.

Alderman Thiel: All this will serve is we will no longer do cost shares with them, instead they will just pay this impact fee, is that correct?

Tim Conklin: One of the recommendations that is within the study is if the road that is adjacent to their project is an arterial type road but is substandard and is needed to serve their development they would be responsible for that. If we have a developer that builds an arterial roadway system, all four lanes, then the developer would need to be given credit for his cost of that roadway system, impact fee funds would go back to the developer.

Alderman Thiel: I am trying to understand if this is an improvement over what we are doing now.

Tim Conklin: If we went forward with a street bond program the ability for us to recover money to help pay for the new capacity that is being created for new development, this is the methodology that has been developed to achieve that.

Alderman Lucas: I think this is something for the Street Committee to review and come back with a recommendation.

Alderman Lucas moved to refer this resolution to the Street Committee. Alderman Ferrell seconded the motion.

Alderman Ferrell: Are there any other cities in Arkansas that have a road impact fee using this rational?

Tim Conklin: The City of Conway hired Duncan and Associates and they do have a road impact fee based on the same methodology.

Charlie Sloan, developer: I don't understand why there would be a credit or not a credit against giving up right of way. At what point if I am doing a major or minor arterial am I getting a credit back and what would I be expected to build? Are the people that are buying my lots being double taxed, I have to add that cost to the lot. It is not very clear to me.

Alderman Jordan: I think some of those questions will be addressed at the Street Committee level.

Tim Conklin: I think it is going to come down to whether or not the street is needed to serve that development at that time.

Charlie Sloan: There are some developments that have only 50 feet of collector street to contribute to and then there are others of us that build a collector street, both sides of it. I have been told this is to make that fair. That is what I want to know, are we going to get to that point?

John Nock, developer: I think the streets are a main concern and a main priority for the citizens of Fayetteville. We do different developments in town and when I look at the various fees I wonder if it is going to take Fayetteville off the list of being able to do attainable housing. Fayetteville needs to do more to allow attainable housing and if we do additional fees, if we do enough, we pass those fees on to the end user and the price of the homes goes continually up. Fayetteville has worked very hard to overcome the image of being un-business friendly and I think whatever we can do to have an open discussion to make sure that reputation stays in place I think is real important. I am all for helping the streets but I think we really need to look at if this is the best way to do it. Are we just putting the tax in a fee in one spot rather than across the board.

Alderman Cook: If we don't have the infrastructure in place I don't care what price range the house is in you are not going to be able to sell it. That is what we are trying to do is build the infrastructure with growth and this is one of those methods to help finance that.

Alderman Marr: It is interesting to me that we have the discussion that this will stop attainable housing when we don't have the fees today and we still don't see attainable housing. I hear the argument but it doesn't make since to me.

Alderman Thiel: It is my understanding with the legislation that enables impact fees in Arkansas that the developers will not pay this up front now as they do the water and sewer fees. This fee, since it was enacted after the State legislation, will be passed on directly to the person that buys the home.

Kit Williams: That was some of the goal of the legislation that it would try to move the cost from the developer to the home buyer.

Alderman Ferrell: I think some of these fees need to be adjusted, I think some of them are counter productive especially when you look at the commercial and retail that can stop a business from opening. I think we do need to talk about it.

Upon roll call the motion passed unanimously.

This resolution was referred to the Street Committee.

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.

City Attorney Kit Williams read the ordinance.

Tim Conklin gave a brief summary of the meetings regarding this ordinance. He also gave a PowerPoint presentation. Tim stated there was a lot of discussion throughout the process with regard to whether houses and structures should have a professional engineered foundation and GO Tech report. It was the recommendation of the Ordinance Review Committee that this amendment be brought forward along with these amendments to the ordinance that structures

within the zone be required to have an engineered foundation. The biggest benefit that hiring Design Workshop brought to this process was looking at roadway design.

Alderman Ferrell: I noticed some of the mandates that are in here are going to require permits. Is this going to be done with existing City staff?

Tim Conklin: That is something we are looking at. It is going to depend on the development activity within the area. It would impact some of our staff.

Alderman Ferrell: Is staff's expectation that they will not need any additional staff?

Tim Conklin: At this time that is correct.

Alderman Ferrell: Do you have any concerns about any parts of this ordinance. The mandating of the GO engineering of foundations and the treating of residential and commercial differently as far as canopy preservation.

Kit Williams: I do think we treat commercial and residential differently in many different areas in our zoning code already. I think that is probably okay under the law. Regarding the GO technical engineering the biggest problem I have with this is the inclusion of the hill tops within the regulations. There is some question what the justification is if there is a flat portion on the hill top that we are going to make that house be GO technically engineered for its foundation.

A discussion followed on the ordinance.

Harriet Jansma a resident stated this was a model process and they had reached a consensus. She stated this is a workable way to solve this very important problem for Fayetteville. She stated they had had a great process in developing this ordinance.

Alderman Lucas: Who determined the height of 60 feet?

Tim Conklin: I believe it was the Ordinance Review Committee, but I will have to check on that.

Alderman Marr: There was a lot of debate between 48 feet or 60 feet. We struggled a lot with reducing the footprint which would allow heights.

Alderman Ferrell: There is no height restriction on commercial if they are in the overlay district?

Alderman Thiel: 75 feet which is what it is now.

Tim Conklin: We have not amended the C-2 zoning height restriction.

Alderman Marr: So the current height that is allowed in the C-2 is the same height allowed in the overlay.

Alderman Ferrell: I know there was a tremendous amount of work that went into this but I would like to see it left on the first reading.

Pete Heinzelmann stated he is very pleased that Fayetteville is taking on this task. He voiced his concern about the height issue. He stated that 60 feet in his opinion is too high for residential housing. He stated he would like the Council to reconsider the height issue, he stated he felt 45 feet was plenty.

Fran Alexander commended the Ordinance Review Committee for including the geological hazard issue in the code. She stated she would be more comfortable if the ordinance had something in it that said according to the geological conditions or something to indicate that it is the geology which the engineering should be based on not just simply some stamped out foundation specs.

John Nock, a developer stated he has attended several of the meetings on the Hillside Overlay District and he appreciates all the time that has gone into it. He stated his concern is that we do a broad brush stroke for the whole overlay without understanding what might happen on an individual track. I have been assured throughout the process that if we utilize the PZD process, just like any other special notion that would go into any other development, could be utilized on this issue as well. I still understand that assurance is there that we can use a PZD to not just look at the engineering and the aesthetics but also every aspect that goes into that whole process and that requires a lot of time and investment up front from the developer that is going to use it and not everyone is going to want to use that process. I just want to make sure that is still being talked about. That the PZD will be the alternative and we will still be looking at best practices but we are not engineering the whole development at one time.

Kit Williams: I don't think that could be correct when you look at the changes made to the tree preservation ordinance, the grading plan required for single family homes, the PZD ordinance is not going to change the grading plans for homes or change what is required for tree preservation of single family homes so I don't think the PZD is going to trump every thing.

Tim Conklin: It is the intent to allow PZD's as we have allowed PZD's to provide flexibility with our other development regulations. I think the intent is to achieve greater intent of preservation of the hillside through the PZD.

Kit Williams: Are you saying that homes on a hillside if they are in a PZD would not necessarily have to do a grading plan but if they were not in a PZD they would?

Tim Conklin: No, we are not talking about a grading plan; I think we are talking about undisturbed areas and tree preservation and clustering units. If we need to clarify that we can go ahead and determine which section of the ordinance we need to clarify that in.

Alderman Thiel: Yes the PZD will be allowed and I think we need to be careful about that. I was looking at the idea of zoning, that's what a PZD is, the zoning variance. My concept of the Best Practices Manual was that there was guidance in there about how to do a subdivision or a plat. Which is what you are talking about, that would allow for clustering and some of the concepts you are talking about, that would not have necessarily the setbacks that we have provided here, any time we look at a large scale development as opposed to an individual lot.

Tim Conklin: We tell the development community if you are bringing a PZD to us please do not ask for less tree preservation and less compliance with certain ordinances. We allow that flexibility to achieve greater compliance and above compliance and that is the intent.

John Nock: So if I understand correctly the PZD process will not alleviate any of the issues that are in this proposed ordinance. In fact any PZD will be additionally encumbered by whatever this ordinance may be is that correct?

Kit Williams: That's what I am hearing.

Tim Conklin: The idea with the PZD is to gain greater flexibility with our code if you have certain circumstances.

John Nock: What I am hearing is the PZD is not going to change the status once this is adopted, if so then these are the practices. I would hope this would stay on this reading so we can resolve this, because if a PZD is not going to be able to be used as an alternative to this that is a major difference from what we as developers were told.

Alderman Thiel: I thought we had seen a conceptual plan on Southpass and I thought it was largely done based on this?

John Nock: It is a conceptual plan which is still being defined but I am not sure that Design Workshop has taken every aspect and conformed it to this ordinance.

Alderman Marr: With our current PZD ordinance a developer has to meet the minimum qualifications of the ordinance. You thought the PZD being used in the Hillside Overlay would not make you meet those requirements.

John Nock: Setbacks are certainly dealt with under a PZD differently than a large scale development. Under this we have another requirement that is coming into play that is affecting your setbacks. It is another layer that a PZD normally would not have to deal with.

Tim Conklin: It was always the intent with the scope of services with Design Workshop for them to assist the City in developing a Best Practices Manual and assist the City in modifying our Unified Development ordinances to implement those Best Practices. Not all of those Best Practices are being implemented. It shouldn't be a surprise because that was always the intent to implement it with ordinances and we went back and forth with Design Workshop to try to implement that. If we need to clarify our PZD ordinance section with regard to hillside we certainly can do that and bring those amendments forward. When someone walks into the Planning office it is our intent to achieve greater compliance with our ordinances.

John Nock: That is definitely something we need to look at is setbacks and the other things that this may affect. This process is much more than engineering foundations, we are talking about aesthetics, long term ownership and things of that nature. If we are not careful we are missing the overall picture of this.

Tracy Hoskins, developer stated it was obvious in the first meeting that this was much more than a hillside ordinance. He presented a letter to the Council regarding the items he agreed with

regarding the ordinance and the items he did not agree with in the ordinance. He stated that most of them feel that the ordinance should be limited to 15% slopes.

Alderman Thiel: We are not increasing the lot size requirement in fact we are actually reducing it in this ordinance. We are reducing the setbacks required; we are doing that to allow flexibility.

Bill Goliff, 907 East Arlington stated he thinks it is important to have a strong hillside ordinance. He stated he felt the hillside ordinance should be extended to the flat land.

Bob McKinney, a resident voiced his concern about hillside areas that are currently having problems.

Alderman Cook: For me this ordinance from the very beginning when we started the discussion on hillsides was never about aesthetics or view shed or any of that. To me it was about maintaining the integrity of the hillsides, storm water management, the people that live down hill and about houses sliding off the hill. For me it was more about trying to protect the home owners and the home buyers in their investment and the people that live down stream from them.

Alderman Thiel: You said exactly what I feel very strongly about. This issue about the view shed is not the main issue.

Alderman Reynolds: I do support this but I think we are a little bit from having it where we need it to be.

Alderman Ferrell: There is some section of the people that think there is a perceived ownership of a vista on a mountain side.

Alderman Marr: This ordinance started almost three years ago with this Council passing a resolution to down zone all RMF-24 zoning on a hillside. That is what we sent to the Planning Commission, which would have been nothing but single family development on our hillsides. The Planning Commission took that recommendation and decided that we should encourage and not limit the development and so we looked at how to make that happen. This entire thing has been about how to have development on our hillsides, protect those around it, reduce setbacks, and allow clustering and Best Management Practices. I don't know how it could be any more developer friendly and not keep exactly what we have today. The reason that we are doing this is because we want to prepare for where it is going to go. The land that is going to be developed in our city is the remaining land that is undeveloped which when you look at the maps is our hillsides.

Alderman Lucas: I agree with what has been said and I agree that this is a good ordinance. I think the citizens want us to be responsible in guiding development and I think that is what this is.

This ordinance was left on the First Reading.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the annexation. He stated the Planning Commission recommended this annexation 7-0. Staff is also recommending approval.

Alderman Thiel 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 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.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. **Alderman Ferrell, Lucas, Jordan, Reynolds, Thiel, Marr and Rhoads** voting yes. **Alderman Cook** voting no.

Ordinance 4828 as Recorded in the Office of the City Clerk.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the residential planned zoning district. Planning Commission recommended 7-0 in favor of this ordinance and staff is also recommending approval.

Rod Scott a resident stated there is a small piece of property that is owned by the property owners association that may be needed for an alleyway and the neighborhood association is not interested in giving that up and not getting anything in return. I would like to see a little more discussion on this.

Les Broyles a partner in the project stated he believed the property Mr. Scott is concerned about is in an easement. These lots are all equal to or larger than the minimum lot size that exists in Westbrook Village. This is currently zoned residential office. This reduction to residential zoning is similar to what's out there and would be the highest and best use of the property.

Alderman Lucas: Is there a problem with ownership with that property?

Jeremy Pate: Not that I am aware of. I think it was all plated as right of way to serve these lots originally with the original development.

This ordinance was left on the First Reading.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. He stated there is an issue with the current land use in its existing zoning. Staff and the Planning Commission did recommend this for approval.

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

City Attorney Kit Williams read the ordinance.

Alderman Lucas 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.

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

Ordinance 4829 as Recorded in the Office of the City Clerk.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. The Planning Commission voted 7-0 to recommend this property to the City Council. This would bring the property in compliance as far as zoning criteria goes. Staff is recommending approval.

Alderman Cook: How would this rezoning affect the current use of the property?

Jeremy Pate: Nothing more than they are doing now. The uses in RSF-8 are the exact same uses as in RSF-4 which is the current zoning. A lot of the discussion about this item has been the conditional use. That is something that is allowed in either zoning district.

Alderman Thiel: I am in favor of this.

Alderman Marr: When we look at the Washington Willow neighborhood, what density is that built out to be?

Jeremy Pate: It is probably closer to 6 to 7 units per acre.

Karen Reece, president of the Washington Willow Neighborhood Association stated her and many of her neighbors oppose this rezoning because the property owners wish to build a structure within the setbacks. She stated they oppose this rezoning.

Jeremy Pate: Staff actually recommended denial of the original request, the garage is currently built on the property line and we requested at least a five foot setback. The applicant went back through with the rezoning with the five foot setback.

Claudette Hunnicutt a resident stated no one objects to this family building a garage, what we object to is the studio apartment on top of the garage. She is concerned about this becoming a rental property.

Matt & Julie Chambers, owners stated the current garage structure is in decay and is falling down. Matt stated the structure they have planned will not move any further toward anyone's property than the current one. In the variance we have agreed to a provision that the property will always have a home owner living on that property. This will not be a rent house.

Alderman Ferrell: You will have an apartment and a house if this is granted.

Julie Chambers: A conditional use has already been granted and with that part of conditional use was a deed restriction that we will have to change our deed to state that the owner of the property will have to live in one of the two structures at all times.

Alderman Ferrell: Is there any intent to rent.

Julie Chambers: At this time there is not intent to rent but if something happens to us it could be rented.

Alderman Ferrell: If a citizen wanted to give a Bill of Assurance could they?

Kit Williams: I think the conditional use that was already granted by the Planning Commission has taken care of the issue of whether or not they would be allowed to have an auxiliary structure with another resident in it. This is really a rezoning issue which has to do with the setbacks as opposed to whether there is going to be another structure there or not. The conditional use was granted by the Planning Commission.

Jeremy Pate: The property would have a deed restriction on it. The property owner of record has to live in at least one of the structures.

Alderman Ferrell: I would have a lot less heart burn in supporting this if I knew that there wasn't that possibility.

Alderman Marr: I want to be clear on this that item is not an item of discussion.

Jeremy Pate: That is correct.

Alderman Marr: The item we are talking about tonight is if we would grant the rezoning of RSF-8.

Jeremy Pate: If you feel based on the findings presented by staff that rezoning this property from RSF-4 to RSF-8 is appropriate in this neighborhood.

Julie Chambers: Our existing home and property is in violation of the current zoning in four different accounts, our lot width is too narrow, we set over the front setback, over the north setback and over the west setback. That's why it is easier to just rezone this property.

Alderman Lucas: The issue is RSF-4 as opposed to RSF-8 and the setback on the back part of the property where this is going to be built.

Jeremy Pate: RSF-4 currently has a 20 foot rear setback and an 8 foot side setback. The RSF-8 zoning that they are requesting has a five foot rear setback and a five foot side setback. As Ms. Chambers noted the existing structure already encroaches on that it actually has a zero foot setback and on the north side it is right on the property line.

Julie Chambers: We will adhere to the five foot setback if this is granted.

Steve Frankenberger: I have a problem with deed restrictions because enforcement of them is up to the neighbors. Everyone's property values will benefit if we have more conformity in the uses and move it back to more single family housing if we can.

Don Hunnicutt: This house is not out of compliance it has been grandfathered in with all the setbacks. The reason it is nonconforming is because they want to put a garage apartment within five feet of the back property line.

Alderman Cook moved to suspend the rules and go to the second reading. Alderman Marr 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

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.

Kit Williams: This is an appeal that was brought forward by three Aldermen.

Jeremy Pate: The Planning Commission recommended 5-2 in favor of a request to remove two existing towers behind Smith 2 Way Radio and replace them with a tower of maximum height of 90 feet. The original proposal was for 100 feet. Planning Commission recommended that be

reduced by 10 feet. The proposal is to remove the two nonconforming towers and the chain link fence.

Dave Reynolds representing Smith 2 Way Radio passed out information to the Council. He presented a PowerPoint presentation to the Council regarding the removal of the existing towers and described the single 90 foot tower that would replace the two existing towers. He stated they have been granted the conditional use and will improve the area where the tower will be installed. He stated the tower is currently used by the University, State, County and City systems. He stated this new tower would give them a line of sight and by extending the tower to 90 feet they will be able to do that. He also stated it will allow them to upgrade some of their antennas. He said this will also provide a collocation facility for a cell tower, it is not a cell tower, it is something we use in our business every day to work on public safety type of equipment. He said it needs to be at their location because they need it at their location.

Mr. Reynolds spoke about current towers within the City and how some of them have exceeded their capacity. He explained the reasons a tower needs to be at the Smith 2 Way Radio location. He also discussed the screening that would be used around the tower.

Alderman Marr: Do you currently have cellular service at the existing tower?

Dave Reynolds: At the existing tower on College we do not have a cellular carrier there now.

Alderman Marr: An option available to you today is to, through the administrative process; extend the existing tower to get your line of sight to the Mount Sequoyah tower, why did you choose a new tower versus using that process?

Dave Reynolds: We talked with staff about this, through the administrative process we have to replace it with a like kind tower so we would have to rebuild a guide tower on College. We didn't want to do this. To make the process right, to put up a tower that is consistent with current camouflaging and a lesser impact than a guide tower, then it has to come through as a new tower.

Alderman Marr: Did you consider any other technology, some other structure other than a pole?

Dave Reynolds: This would meet current stealth requirements. A flag pole will not support what we need to do at Smith 2 Way.

Alderman Marr: You said the Planning Commission spoke about camouflaged options like a tree on this project.

Dave Reynolds: Yes.

Jeremy Pate: That discussion is in the minutes. The Planning Commission as a whole decided not to go that route.

Alderman Lucas: Are you going to have one single carrier on there?

Dave Reynolds: At the 90 foot level no, it would hold one.

A discussion followed on the location of the tower and if it could be located in another area.

Steve Frankenberger a citizen voiced his concern about the proposed tower and what it will actually look like. He stated he is concerned with the number of proposed cell phone towers.

Rena Hunt a citizen stated her concern about the tower being in the historic district. She stated she went door to door and gathered 77 signatures opposing the erection of the tower. She stated this would butt up to a residential neighborhood. She wondered if this could be placed on City property. She stated she is concerned about this affecting property owners in the area if they need to build on their property in the future.

Scott Lunsford a resident passed out information to the Council. He gave the Council a copy of the type of tower that is being proposed. He pointed out sections of the code regarding the fall zone and that this could be an impact to the adjoining properties. He also pointed out a section of the code regarding camouflaging and stealth technology for new towers. He stated he believes the camouflaging that has been approved does not meet the criteria. He also pointed out a section of the code regarding collocation on a pole or tower that currently exists. He stated there are three different kinds of technologies that are being talked about. He stated Smith 2 Way has a wonderful list of services they provide to the community with their two way radio technology. He also believes they can continue to update and modernize that two way radio technology without jumping to this class of industrial structure. They are asking for a clear line of sight to the Mount Sequoyah tower for data transfer. He stated he is in favor of giving them the additional height on the existing tower type that they have to achieve the line of sight required to get to Mount Sequoyah this technology does not need to jump up to an industrial classification tower to accomplish that. The third item is the cellular technology and they can collocate for this purpose. He stated the newer taller tower would provide better cellular coverage for the vicinity than the existing towers. He said the existing towers do not provide cellular coverage now.

He spoke of collocations in the area and the extent of usage on these collocations. He addressed Smith 2 Way's plans. He stated if they will collocate and upgrade their existing two way radio and data transmission equipment that they have and use the type of tower that is there along with the beautification of the site, this will have the lowest impact on the neighborhood. He stated the City of Fayetteville should market its own property and existing structures as suitable collocation sites. He spoke of ways to hide towers and ways to have them blend in with the area.

Claudette Hunnicutt voiced her concern about this proposed tower. She stated she feels this will diminish the value of her property. She spoke of towers and their locations in Fayetteville. She stated most of them do not impact a residential neighborhood but this one will impact a residential neighborhood.

Nan Lawler a resident stated she has seen cell towers camouflaged as trees. She would like the City to think about disguising towers in the future.

Tim Clinger a resident stated he thinks we have a choice on how we want our City and that corridor to look. He asked the Council to have Dover Kohl give them some guidance about what kind of visual corridor we would like to see in this area.

A citizen asked how high this tower can be if they collocate it.

Jeremy Pate: The maximum height level of any cell tower or telecommunications tower in the City is 150 feet. The Planning Commission approved a maximum height for this one of 90 feet if there is an additional height that is requested it would have to come back through as a conditional. He could extend the existing tower to 20 feet above the existing tower.

Justin Ikeman representing Smith 2 Way Radio stated they are trying to present to the Council that the need for the cell tower is two fold, one being the coverage issue and two being the split with the VA tower. There are very few locations in this specific area where we could put a cell tower. There is an over capacity at the VA tower. There are some references in your information about gaining space on top of the court house which is going to be done I believe at the end of 2006. However in order to cover the area we are intending to cover we have to have a station in that area that will be able to hit those weak areas and be in proximity to the VA tower so it can split and relieve some of its stress. That information is what has been provided to us from the RF Engineers and that is what we are basing our opinion on that we need to have additional cell coverage in this location.

Dave Reynolds: As far as from an engineering standpoint in the tower industry, there is not such a thing as a fall zone. This fall zone is a document we have to produce for Planning. It is very rare that there is a storm strong enough to blow over a tower but when they fall they do not fall like a tree they are designed to crumble on themselves. These towers are engineered well above federal standards and well above any building standard. It would take extreme weather to cause them to collapse.

The camouflage issues do not fit. With this we are within the City statute for camouflage. It doesn't matter how you disguise it someone is not going to like it. We have looked at those issues seriously by us, staff and the Planning Commission. It was decided that was not the way to go.

Between Lafayette Street and Dickson Street up to the top of the hill on North Street along College there are no other towers to collocate on. The City ordinance states it should have the most positive or best visual impact on the community. I believe we have established there is a need. The question is where should it be. We can take down the existing towers and collocate on top of one tower, accomplish all three goals and only increase the height by eight feet or we can increase the height by eight feet and let Smith 2 Way increase their things and then we can go behind Curry's video and build a cell tower. Where we are looking at is the superior location. Where else would you put it?

As far as replacing it with a guide tower or the type tower that is there now according to the City staff and your ordinances that is not an option.

Jeremy Pate: With an administrative review you would have to replace it with an existing tower of like type or expand that no more than 20 feet in height.

Dave Reynolds: As a new tower it has to be a monoline or alternate type tower, so that is not within the ordinance to replace it with a taller guide tower. We wanted to stay within the ordinance as much as possible that's why we are here.

Kit Williams: The aesthetics can certainly be considered. The law with the limitations on the City's power there are only really two. The regulation that we are enforcing shall not unreasonably discriminate among providers of functionally equivalent services, in other words we can not discriminate in favor of one cell company over another. The second one says shall not prohibit or have the effect of prohibiting the provision of personal wireless services, so we can not say no cell towers in Fayetteville. We have not done that. I don't think it means that we are required to give cell tower companies everything they want.

He read what one case said. He stated our ordinance does require the applicant to attempt to find a collocation. He also said we normally try to require cell antennas to be with our water towers, this is not perfect for everyone. It is up to you all to decide what you want to do but as long as you are not discriminating and not prohibiting the service and basing it on substantial evidence I think it is within your realm to decide this.

Alderman Marr: In our code it says they should provide a map that shows other potential stand alone locations for your facility that have been explored. I have heard today about collocating towers and what existing towers there are but what other sites were studied as stand alone locations for this.

Jeremy Pate: It is on page 21 of your original packet.

Dave Reynolds: In the desired area that they need to be in to provide this coverage there are no other towers there are no places to collocate.

A discussion followed on the map and the area of no cell coverage.

Alderman Ferrell: The North Street tower is that something you looked at. Would that be in your line of sight?

Dave Reynolds: From that location that would not help us.

Jeremy Pate: To cover this specific problem I think it is more capacity than coverage in my opinion in what has been presented to us. There is coverage it may not be 100% or the best possible but there is coverage. Based on the information that we have been provided adding more antennas to the existing Washington Regional or the VA is not necessarily an option. It is always a challenge to find a place to locate these. Off the top of my head I can't think of another place for this.

Alderman Ferrell: What did you say about a tower behind Curry's video?

Dave Reynolds: If this was strictly a cell tower it could go behind Curry's video or somewhere else over there my point was we have to have a tower there anyway, why not have a dual purpose tower.

Alderman Marr: What I have heard tonight from the residents is going up with an antenna on the existing tower to get the data and radio service is a better option because it is a less solid structure, the aesthetics and visual compatibility is more appealing to the historic neighborhood and the residents there than what is proposed. I think we have adequate coverage. I am also supporting this appeal because I believe if we were going to put something here in our downtown

master area it should be a more camouflaged structure. I also saw tonight for the first time the number of locations that are planned for the City. I think when we talk about capacity issues if those towers are coming through for processing I think that will do as much for capacity as what we are dealing with today. I think by allowing them to use the antenna that is less intrusive it will allow them to continue their business and be aesthetically appealing and compatible and fitting for this neighborhood.

Alderman Ferrell: I don't think we can discriminate against any neighborhood. There is going to have to be a tower and it will have to go somewhere and so it is going to move to a different neighborhood. I don't think we can show a difference to any neighborhood.

Alderman Marr moved to grant the appeal and deny the conditional use. Alderman Cook seconded the motion. Upon roll call the motion passed 7-1. Alderman Lucas, Jordan, Reynolds, Thiel, Cook, Marr and Rhoads voting yes. Alderman Ferrell voting no.

The Appeal was granted. The Conditional Use was denied.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. He stated staff is recommending approval of the project. The Planning Commission voted 4-3 in favor however it takes 5 votes to carry a PZD to the City Council; therefore the applicant has appealed this decision. He stated there were several conditions of approval. He stated one of the conditions of approval needs to be amended by the City Council to specifically state *the street stub out to the west shall be revised to move directly north of the adjacent property line to the west*. The intent of that is to allow for the street to be constructed and stubbed out to entirely one side of the property.

Alderman Thiel moved to amend Condition of Approval #5, that the stub out to the west be realigned to the north. Alderman Reynolds seconded the motion.

Richard Covey stated his property is to the west of this property and he is in favor of moving the alignment to the north so it will be completely on his property and not divided up between two pieces of property.

Upon roll call the motion passed unanimously.

Alderman Thiel stated this PZD is very nice, the density is appropriate with what was approved to the east of this project. They have also tried to preserve as many trees as possible.

Jeremy Pate: The density to the east Timber Trails is around 4.5 units per acre, the other PZD in this area Benton Ridge was a little under 5 units per acre.

Alderman Thiel: I did hear from someone that was concerned about the traffic on Happy Hollow. That is a situation that with all of this development that we are creating, we are going to at some point have to address.

Alderman Thiel 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 Thiel moved to approve all the waivers listed in the Planning Commission meeting and conditions as recommended by staff. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

Alderman Marr thanked the staff for the work they have done on this. He stated he thinks there are some great conditions of approval that make this a really good development.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4830 as Recorded in the Office of the City Clerk.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the annexation. He stated staff recommended denial of this request because it did not meet the criteria set forth in the guiding policies. We did recommend that additional property owners to the south be contacted for a more comprehensive annexation and zoning request. The applicant did choose to bring this forward without those properties.

Alderman Lucas: Where would the sewer come from for this area?

Jeremy Pate: The sewer would likely come from around the Crystal Springs subdivision. It would have to travel outside of the City to get to this property. This property touches the City at only one specific point.

Hank Broyles one of the owners stated they think this property deserves consideration for the following reasons. One half of the property is on the east side of Ruppel Road and goes through and fronts on Salem Road. The other is on the west side of Ruppel Road, it is approximately three blocks north of Holcomb Elementary School and six blocks north of Holt Middle School

and three blocks west of the new property that Fayetteville School has recently purchased. He stated impact fees would be as much as \$290,000 and mitigation of parks would be \$75,000 and the City Council would be in control with what is developed on Ruppel Road. Ruppel Road is projected to be a major thoroughfare for the City and a major investment of its streets capital fund. Attainable housing is what is needed in proximity to these schools and residential single family 4 zoning will allow us to build these houses while single family residential 2 zoning will not allow us to do this due to the lot cost.

Alderman Lucas: This has not been brought to the Ward 4 meeting.

Alderman Jordan: I would be hesitant about approving anything until it is shown at the Ward 4 meeting. I would propose we show it at the Ward 4 meeting this month.

Alderman Lucas: It is close to Holcomb Elementary and this is one of the things we need to look at when we look at the annexation issue.

Alderman Ferrell: I looked at it today and the lay of the land is desirable for development. It seems to me that it is inevitable that is going to be a part of the City of Fayetteville.

Alderman Marr: Did you all talk to any of the other property owners so you could bring in sections so this would not be as disjointed as it is?

Hank Broyles: It was about 50/50 some wanted to go in and some did not.

Alderman Marr: The only thing that gives me heart burn is the cost of putting sewer across non city land to get to what might be city land.

Alderman Cook: This completely flies in the face of our annexation policy we have. This is barely even touching Fayetteville. It does not follow the policy we have now.

Alderman Lucas: I saw in the Planning Commission minutes that you offered to give the City two acres for a future fire station. Does that still apply?

Hank Broyles: Early on in trying to work with the City and attempting to get utilities we stated we would help the City out if they would let us run utilities up to our property in anticipation that this property would be annexed in the future. We offered to provide the two acres at that time.

Alderman Lucas: Is that still on the table?

Hank Broyles: Not right now no.

This ordinance was left on the First Reading.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. He stated originally they wanted a zoning of RSF-4 and they felt it was not compatible with the area. The Planning Commission did recommend 6-1 the approval of RSF-2 to the City Council.

Alderman Marr: What zoning did the staff recommend?

Jeremy Pate: We recommended RSF-4 as well.

Alderman Reynolds: How much money or land was there involved for park land?

Hank Broyles: Around \$75,000 for parks.

Alderman Reynolds: Is that a couple of acres?

Hank Broyles: Exactly.

Alderman Reynolds: So if we have plenty of parks in that area then two acres could go for a fire station.

Alderman Jordan: We don't have plenty of parks.

Hank Broyles: If we are not going to get zoned RSF-4, Single Family Residential 4, we do not want to annex. There is too much money involved in the price per acre for us to develop RSF-2. That would not be successful for us in this location.

Alderman Ferrell: What was the rationale for RSF-2 as opposed to RSF-4?

Jeremy Pate: The Planning Commission came up with the RSF-2 and essentially when we look at a rezoning request there are five different criteria we look at.

John Nock: We are looking at 4 units per acre. That is what we think is appropriate for that area.

Jeremy Pate: The Planning Commission has recommended that a density as high as 4 units per acre at this time is incompatible and would not be supported by the Planning Commission.

This ordinance was left on the First Reading.

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

Susan Thomas: Handed out the new policy with the new paragraph that allows a citizen to come to an Alderman to appeal a Telecom Board decision. The Alderman would then file that appeal on behalf of the citizen in writing at the Clerk's office. That is the only change from the previous policy that you had.

Kit Williams: That is basically the same procedure that is used for appealing a Planning Commission appeal except for conditional uses which require three Aldermen.

Alderman Marr: One of the things we talked about at the Council was whether changes in policy and procedure should come to the Council. I am one of those that feels like it should. When you talk about the Government Channel and what could be appealed or not be appealed I think it is something that the elected officials should have some say in. Once we approve this how do we ensure that someone later comes along and says we want to take out the appeal that there would be some mechanism of that coming back to whoever the elected body is at that time.

Susan Thomas: I don't think there is a mechanism in place to ensure that. If you want to establish a precedent, which I think you are by acting on this tonight, that you want to approve or view any changes to the policies.

Alderman Marr: It just makes me nervous at least while I am here if someone is going to change it I would want to have some say in that.

Kit Williams: You would have to go back and change the actual ordinance that establishes the Telecom Board.

Alderman Marr: That's fine I will do that.

Kit Williams: However I doubt that the Telecom Board is going to try to take your appeal process out and if they did I am sure we would hear about it.

Alderman Thiel: I think we should leave this alone with the exception of this one change.

Susan Thomas: Generally speaking we tried to remove procedural items out of the policy.

Alderman Marr: Will there still be procedural guidelines that someone is using?

Susan Thomas: The Telecom Board has asked the Government Channel to outline the appeal process and make it very clear and straight forward. We intend to put that on the web page.

Alderman Cook moved to accept the amended version of Exhibit A. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

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

Resolution 27-06 as Recorded in the Office of the City Clerk.

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.

City Attorney Kit Williams read the ordinance.

Alderman Jordan: Mr. Scott called this afternoon and because the hour would be so late for his neighborhood he would request that we hold this to the first or second reading.

Alderman Marr 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.

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.

Ron Petrie, City Engineer: At the last Water and Sewer Committee meeting they voted to forward this for approval.

Alderman Cook moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 28-06 as Recorded in the Office of the City Clerk.

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.

Ron Petrie: This is for the Highway Department's widening out to Double Springs. We are replacing the 8" line with an 18" line along this stretch. This was also approved by the Water and Sewer Committee.

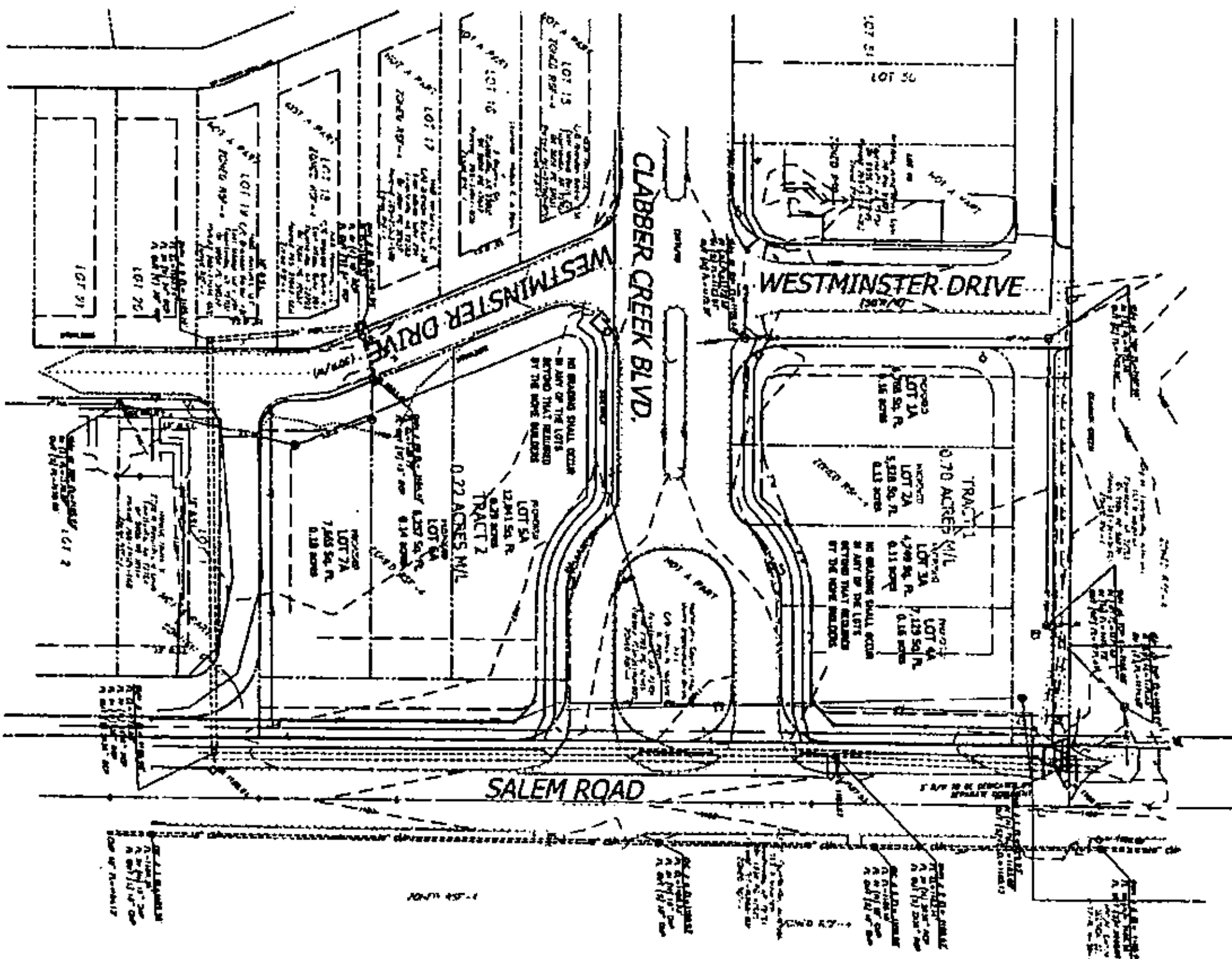
Alderman Cook moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 29-06 as Recorded in the Office of the City Clerk.

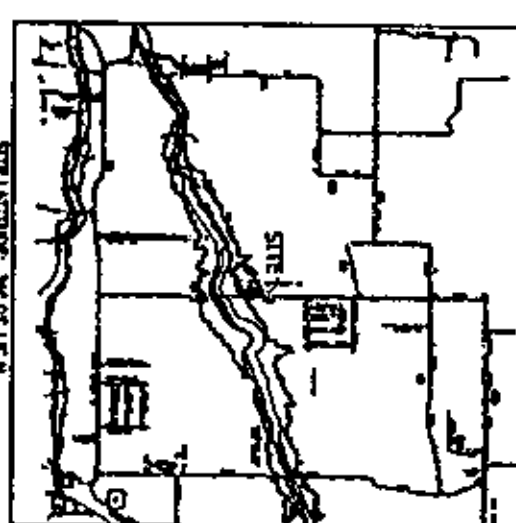
Meeting Adjourned at 11:55 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer



GENERAL GRADING NOTES:

[illegible]**VICINITY MAP: x111**

LEGEND

[illegible]

SEAL: _____ DATE: _____

REGISTERED
PROFESSIONAL
ENGINEER
JULY 1984
DALLAS, TEXAS

CERTIFICATE OF REGISTRATION
NO. 10000
EXPIRATION DATE 7-1-84

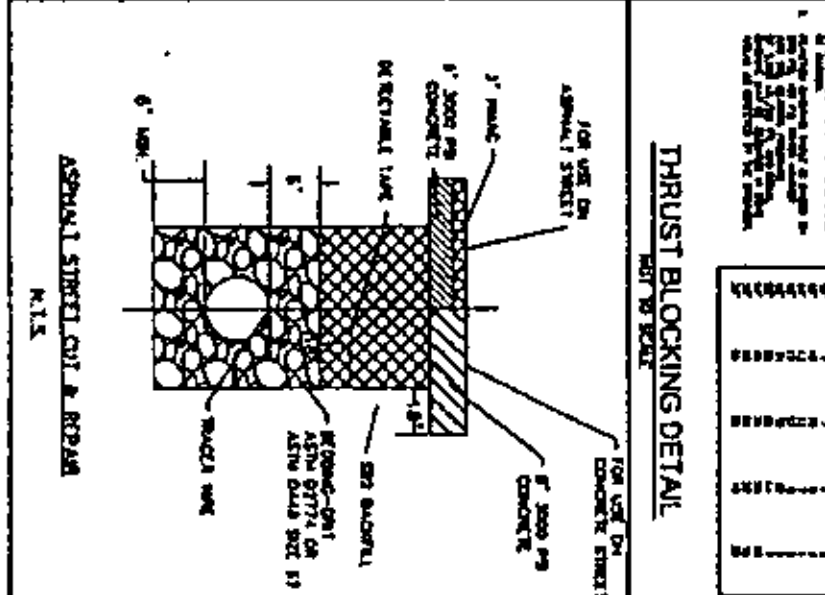
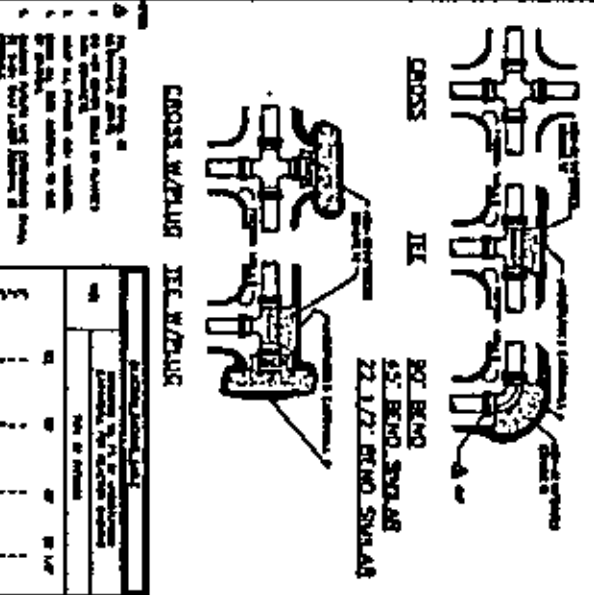
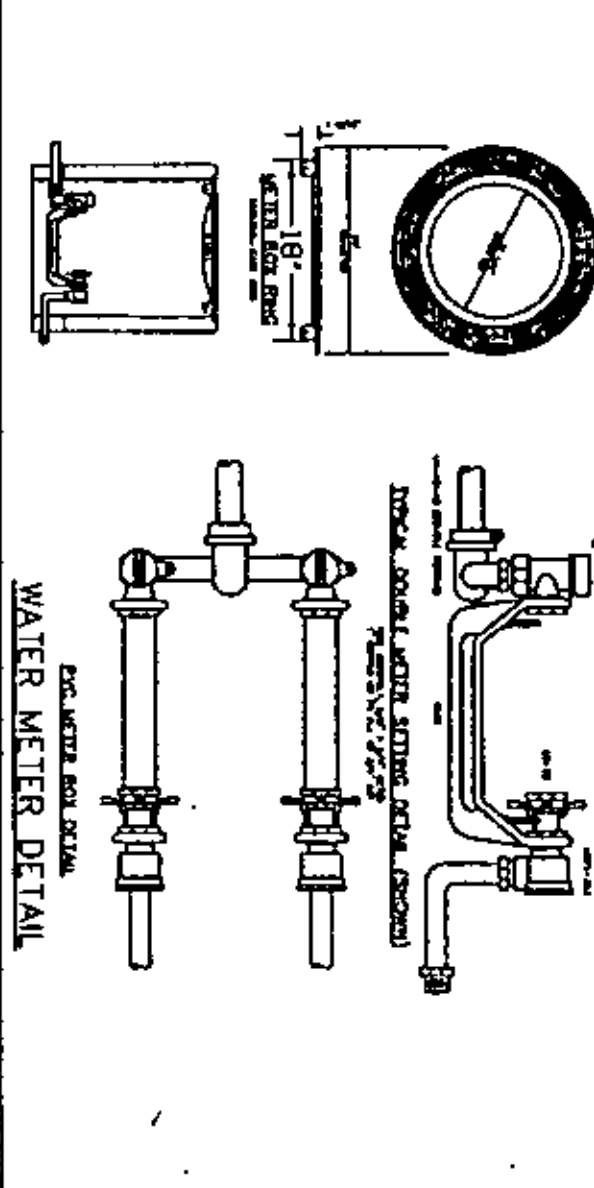
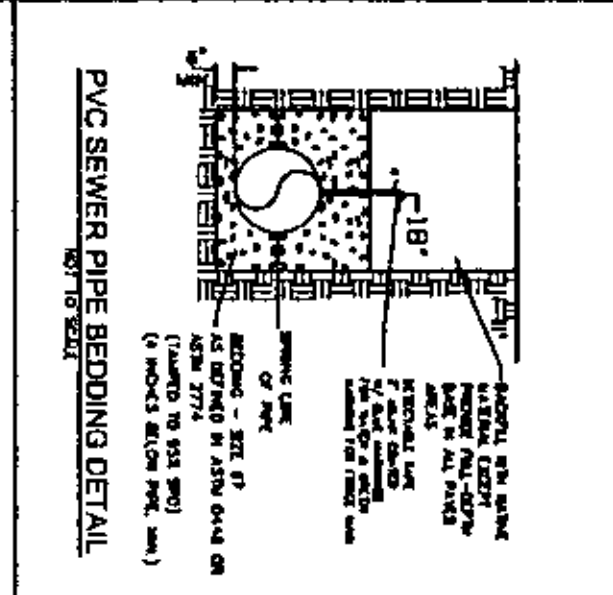
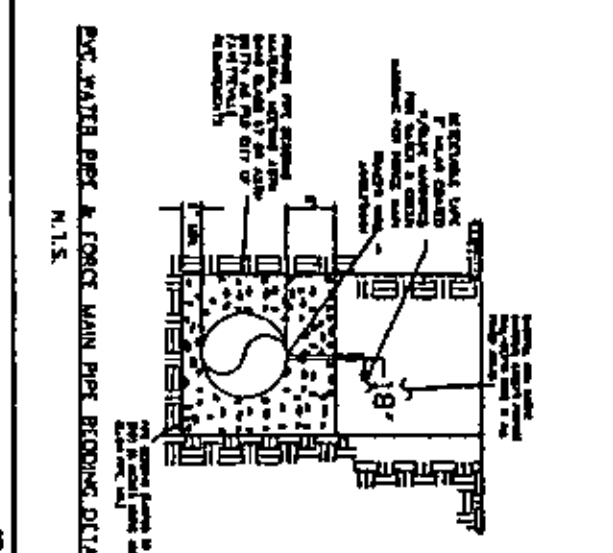
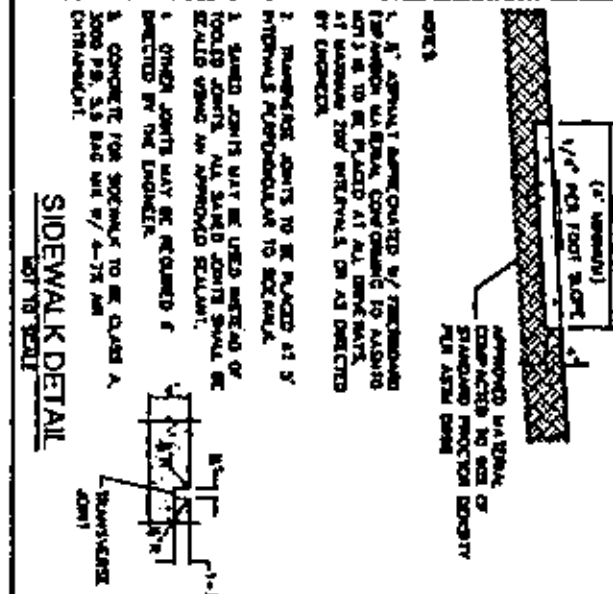
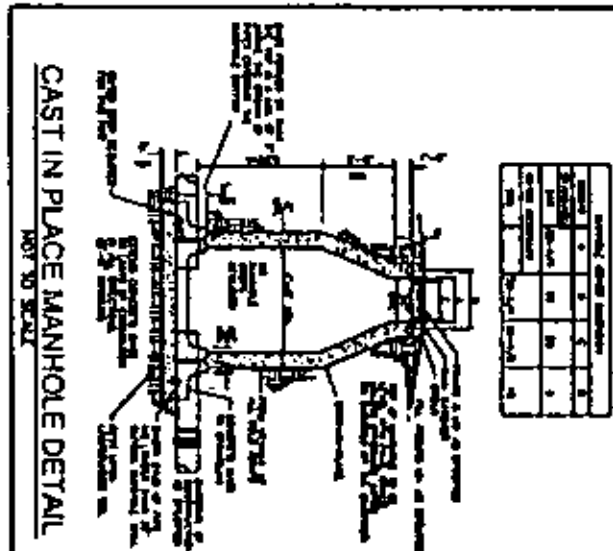
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above seal holder acknowledges
the Cancellation of this disclaimer
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Jorge L. Duquesne Jr., P.E.

DATE: _____

PROJECT: WESTBROOK VILLAGE
R-PZD
LOTS 1A-7A
FAYETTEVILLE, AR
SHEET TITLE:

Sheet no. C4.0



PROJECT: WESTBROOK VILLAGE
R-PZD
LOTS 1A-7A
FAVETTEVILLE, AR

DATE: 11/20/05

PROJECT NO.: 479,248.151

DESIGNER: J. L. DODD

CHECKED BY: J. L. DODD

DATE: 11/20/05

PROJECT NO.: 479,248.151

DESIGNER: J. L. DODD

CHECKED BY: J. L. DODD

DATE: 11/20/05

PROJECT DESIGN CONSULTANTS, INC.

130 N. MAIN ST.
CAVE SPRINGS, AR 72718
PH: 479.248.151
FX: 479.248.142

DATE: 11/20/05

PROJECT NO.: 479,248.151

DESIGNER: J. L. DODD

CHECKED BY: J. L. DODD

DATE: 11/20/05

MEMORANDUM

To: Fayetteville City Council

From: North Sequoyah Neighborhood Association
Victoria Sowder, spokesperson (479.236.0940)

Subject: CUP 06-1892 (planned conversion of Butterfly House property on Rockwood Trail by Temple Shalom)

Date: February 10, 2006

The North Sequoyah Neighborhood Association urges the Fayetteville City Council to reject the recent Planning Commission approval of Conditional Use Permit 06-1892 for use of the Butterfly House by Temple Shalom of Northwest Arkansas as their synagogue.

This memo represents the position of the North Sequoyah Neighborhood Association. It is based on opinion statements compiled by members of the Association, of the almost 100 households in the near vicinity of the Butterfly House that were represented in the compilation, and calls to your attention the fact that *approximately 90% of those households opposed the conditional use represented in CUP 06-1892*. No individual or family names are associated with specific points in this memo because it represents the collective position of the Association as an entity.

I. A primary point of opposition criticized the *ad hoc* retrofit of a single-family residence and the resulting retrofit of the neighborhood, enforced by an *after-the-fact mixed-use planning philosophy that the most of our neighbors feel is inappropriate in this particular geographic setting*.

While recognizing that places of worship and other cultural opportunities addressed by the CUP process are certainly an integral part of community life, the North Sequoyah Neighborhood Association respectfully notes that other places of worship currently in the midst of Fayetteville neighborhoods *generally grew up along with the neighborhood rather than going in after a residential neighborhood had enjoyed many decades as a quiet, thriving, single-family area*.

II. Along with obvious traffic safety fears, many of our neighbors strenuously object to the intrusion of a parking lot into the middle of a longstanding single-family residential community. Although the Planning Commission's conditions prohibited the use of parking lot lights on poles in this case, many of the nearest neighbors point out that vehicles lights in the parking lot would present visual intrusion into neighboring homes and that the planned vegetation, including five trees, would take many years to reach a size adequate to provide effective screening of the parking areas.

Most of our neighbors simply believe that a 90' x 62' parking lot should not suddenly be imposed in the middle of *any* established and thriving residential area *anywhere*.

III. Further, it is the opinion of the Neighborhood Association as a whole that—even though Planning Commission conditions for the CUP included grass pavers for the parking lot and specifically limited the number of vehicles to be parked on the property—there will surely be

occasions when more than the maximum allowed number of vehicles will unexpectedly arrive and will need places to park.

In such cases it is doubtful that officers of the congregation would turn people away due to parking lot limitations, with the result that such overflow vehicles would be unsafely parked on Rockwood Trail, on Sequoyah Drive, on Crest Drive, and in private driveways of nearby homes.

Further, members of the Neighborhood Association, who deal frequently with vehicles illegally parked on streets, voiced very specific and serious concerns about accountability, reporting, and enforcement of the Planning Commission's various requirements, particularly concerning parking, if the use is allowed.

IV. Objections voiced focused on traffic safety on the already-taxed Rockwood Trail, which has many hidden driveways, several blind hills, no shoulders, no gutters, and no sidewalks, as well as a hazardous jog in the street at the blind hill immediately adjacent to the Butterfly House.

One adjacent property owner reported that he was asked by a congregation representative if he (the neighbor) would allow the removal of vegetation on his property to improve Butterfly House sightlines.

We call your attention to the fact that a recent traffic count revealed an average of 1150 vehicles per day on Rockwood Trail for the days studied, and *approximately 400 of those vehicles illegally traveled at speeds of greater than 39 mph at the site on the blind hill where Temple Shalom proposes to locate synagogue egress and ingress.*

The average speed of vehicles during the three-day traffic count (February 3, 4, 5) was 39 mph, which is well in excess of the posted 25 mph used by Planning Commission staff in their recommendation that the CUP be approved. The Neighborhood Association also respectfully points out that this traffic count was conducted at the neighborhood's request, after the Planning Commission had already approved the CUP without the benefit of a traffic count.

VI. Another point made by some of our Neighborhood Association members is that, although the congregation stated that their group is small and slow-growing and that only Fayetteville residents would attend services at the Butterfly House, many neighbors are certain that greater-than-anticipated growth would occur simply because of the attractive nature of the Butterfly House itself. While the Association sincerely wishes good health and vitality to Temple Shalom, and appreciates the diversity that this congregation provides to our community, many neighbors fear that such growth would create problems and resentment as the congregation expanded and became unable to effectively deal with the CUP restrictions on the property in which the Temple is investing more than \$1 million.

VII. It is emphasized, too, that Don Connor, co-president of the Root School Neighborhood Association, stated that the Association that he represents also opposes the Conditional Use Permit.

In closing, *the North Sequoyah Neighborhood Association respectfully requests that the Fayetteville City Council recognize the validity of the opposing and expressed concerns of the overwhelming majority of the neighborhood and repeal Conditional Use Permit 06-1892.*

From: Alison Jumper <alisonjumper@yahoo.com>
To: <bthiel@cox.net>, <ward2_pos1@ci.fayetteville.ar.us>, <rrhoads@hallestill.com>, <donmarr@swbell.net>, <ward3_pos2@ci.fayetteville.ar.us>, <ward4_pos1@ci.fayetteville.ar.us>, <lljordan7@hotmail.com>
Date: Tue, Feb 14, 2006 5:18 PM
Subject: Temple Shalom Conditional Use

I live at 733 N. Crest Dr., the southeast corner of Rockwood Trail and N. Crest Dr, which is diagonally across Rockwood to the east from the Butterfly house.

I have attended neighborhood meetings as well as the Planning Commission meeting at which this conditional use was approved.

I am writing in opposition of the conditonal use permit for 1100 Rockwood Trail for Temple Shalom. I strongly believe this is the wrong location for this use. Of most concern to me is safety. That particular location for a parking lot aand increased traffic is very dangerous. Traffic coming down the hill is generally traveling very fast. One has to stay on the brakes down entire hill to remain at the speed limit. The parking exit is currently sited at a particulary awkward location, where sight distance is not good and speeds are very fast. Traffic turning into the parking would be turning left against traffic speeding down hill.

In addition, I am concerned about the addition of a parking lot, even if it is grass pave. I am familiar with the product and believe it is a good alternative to asphalt, but the concern lies with a parking lot being added to a purely single family neighborhood.

Statements were made at neighborhood meetings that alterations to the home and land would be insignificant and easily "undone" so that if someone wanted to revert it back to a single family residence, they could do so easily. I do not agree that a parking lot could be reverted back, especially as it is proposed (being below street level) very easily and would actually deter it from ever being single family again.

Please consider this correspondence in opposition when hearing the appeal from the neighbors of the conditional use at 1100 Rockwood Trail.

Alison Jumper

Brings words and photos together (easily) with
PhotoMail - it's free and works with Yahoo! Mail.

CC: <city_clerk@ci.fayetteville.ar.us>, <mayor@ci.fayetteville.ar.us>

From: <sspencer98@cox.net>
To: <city_clerk@ci.fayetteville.ar.us>
Date: Sat, Feb 11, 2006 1:13 PM
Subject: Butterfly house CUP 06-1892

Dear City Council member,

I live six houses down from the "Butterfly house." There is no question that the majority of the neighbors oppose converting this private home into a temple.

There is no question that the temple could find a host of other locations that would not require a conditional use permit and would be less expensive, allow growth and flexibility.

I can sympathize with the home owner trying to sell his home, but I don't think that the city or the neighborhood has an obligation to help him make a sale.

This house is unique in Fayetteville because of Fay Jones. I believe the conditional use permit came about because the homeowner is asking too much for this house. This home needs someone to buy it and landscape, build a driveway, remove the storage shed and dogrun, upgrade the interior of the house, etc. If market forces prevail this will occur and then the house will be worth much more than a million, be an asset to the community, preserve a Fay Jones home, and leave the neighborhood intact.

Please do not approve CUP 06-1892.

Steve, Karen, Abby and Cole Spencer
562 N. Sequoyah Drive

From: Mike Saitta <msaitta1@cox.net>
To: <city_clerk@ci.fayetteville.ar.us>
Date: Wed, Feb 15, 2006 12:53 PM
Subject: Rockwood Trail Conditional Use Permit

Please distribute to each of the aldermen considering the "Butterfly House" issue on the City Council agenda next week.

Rather than be repetitive, I would like to bring to the attention of the city council members a note I sent to the Planning Commission last month. I suppose the issue of how our city planning department ever decided this would be an appropriate project remains unresolved.

I am writing to voice my opposition to the proposed conditional use permit at 1100 Rockwood Trail. I live less than 1/4 mile from the property in question and have done so for almost ten years.

This project, as described, is unnecessary, unsafe and unwanted by the neighbors; in addition, the assumptions about future growth are not credible. Unnecessary because there are hundreds, maybe thousands, of properties in the two-county area suitable for such an activity that are not located in a residential neighborhood and would not require any variance at all. Have each of these properties been examined and found lacking? Granting of a variance from the existing zoning requires exceptional circumstances and a demonstration that no other suitable solution exists. This proposal meets neither of these criteria.

Unsafe because the proposed location is an already dangerous stretch of Rockwood, where traffic routinely travels at 2-3 times the posted speed limits despite several blind curves and vertical drops. This block also becomes essentially a one lane road during the spring and summer with the overgrowth of brush along the side of the street. This particular house is perhaps the worst possible choice in all of Fayetteville purely from the safety standpoint. Additional traffic, particularly with people unfamiliar with the area, coupled with frequent cars turning in and out of the property, will create dangerous conditions for everyone. Four-way stop signs at the intersections surrounding the property, along with sidewalks connecting Sequoyah and Crest might help to alleviate this to some degree. If the commission chooses to approve this CUP, it should be contingent on these improvements being completed at the Temple's expense prior to occupancy.

Unwanted by the neighbors because of the traffic, noise, light pollution and horrible precedent outlined by other opponents. Please also remember that hundreds of families have purchased or improved homes on Mount Sequoyah secure that the zoning laws would protect them from this type of intrusion into their neighborhood. Who is going to reimburse them for the loss of property value that will accompany this permit? What is to stop the next enterprise from purchasing a lot in a 100% residential neighborhood and moving in? The president of the Temple has been quoted as saying they won't come if there is significant neighborhood opposition. Let's help them live up to this promise.

Even if we somehow can ignore all of these concerns and justify a variance for the current temple size, the property and the neighborhood have no margin to accommodate any additional growth by the temple, either in mission or population. I would predict that before long, we will be back before the commission on the slippery slope of additional parking, additional lighting, additional buildings, all of which will seem like small incremental changes, but collectively serving to erode the neighborhood we live in.

I encourage you to put a stop to this now.

Thank you,

Michael Saitta

CC: <mayor@ci.fayetteville.ar.us>

From: James Culberson <culbersons@sbcglobal.net>
To: victoria sowder <vsowder@beta-rubicon.com>, Michael Beckers
<michaelb@airwaysfreight.com>, Pam Delaney <pdelane@uark.edu>
Date: Sun, Feb 12, 2006 4:23 PM
Subject: Saving Mt. Sequoyah

Dear parties concerned,

Sure enough, the newspaper got in on putting us down. Now they have made a Holy War out of our simply not wanting a church and a parking lot in the middle of our neighborhood. The issue has never been what kind of church proposes to inhabit the Butterfly home on Rockwood Trail, but that the almost anonymous consensus of our neighborhood on Mt. Sequoyah is: We don't want any church or commercial business at that location!

I have tried to analyze why the planning commission and the Gazette are acting like we are 'uppity'. Is it because of where we live? Is it because we love where we live? It's like we're being punished for being content with our neighborhood and the way it is today. For the first time in 37 years, I feel afraid for the future of our beautiful town.

President Bush recently said, "We love our freedom, and will fight to keep it." I'm in strong agreement with that attitude. We should not be persecuted for exercising our rights as citizens, to protect and preserve what is ours.

I resent that Joe Ratner of Bentonville, the Barber Group of Texas, and Lowell Grishom of (not our neighborhood) Fayetteville are trying to show us what is right for us. We already know what is right.

All the churches we hear about in neighborhoods are on the outer perimeters and are on main streets, not in the middle of a narrow, hilly road with limited visibility. We are being asked to compromise the safety of our neighbors and children for the sake of a cultural entity's added pleasure.

If there was ever a time that City Planning and City Council need to exercise good common sense, it is now. We'll wake up someday to wonder what happened to our wonderful neighborhoods, mountains, and trees. Fifty years ago, someone cut the maple trees down on highway 71 to widen the road. Too bad they didn't have the common sense to replant them so our children and grandchildren, etc., could have enjoyed a beautiful College Ave. Preservation is progressive. A new idea doesn't mean that it is a good idea. Please give this serious thought because it could be your neighborhood next.

Sincerely,

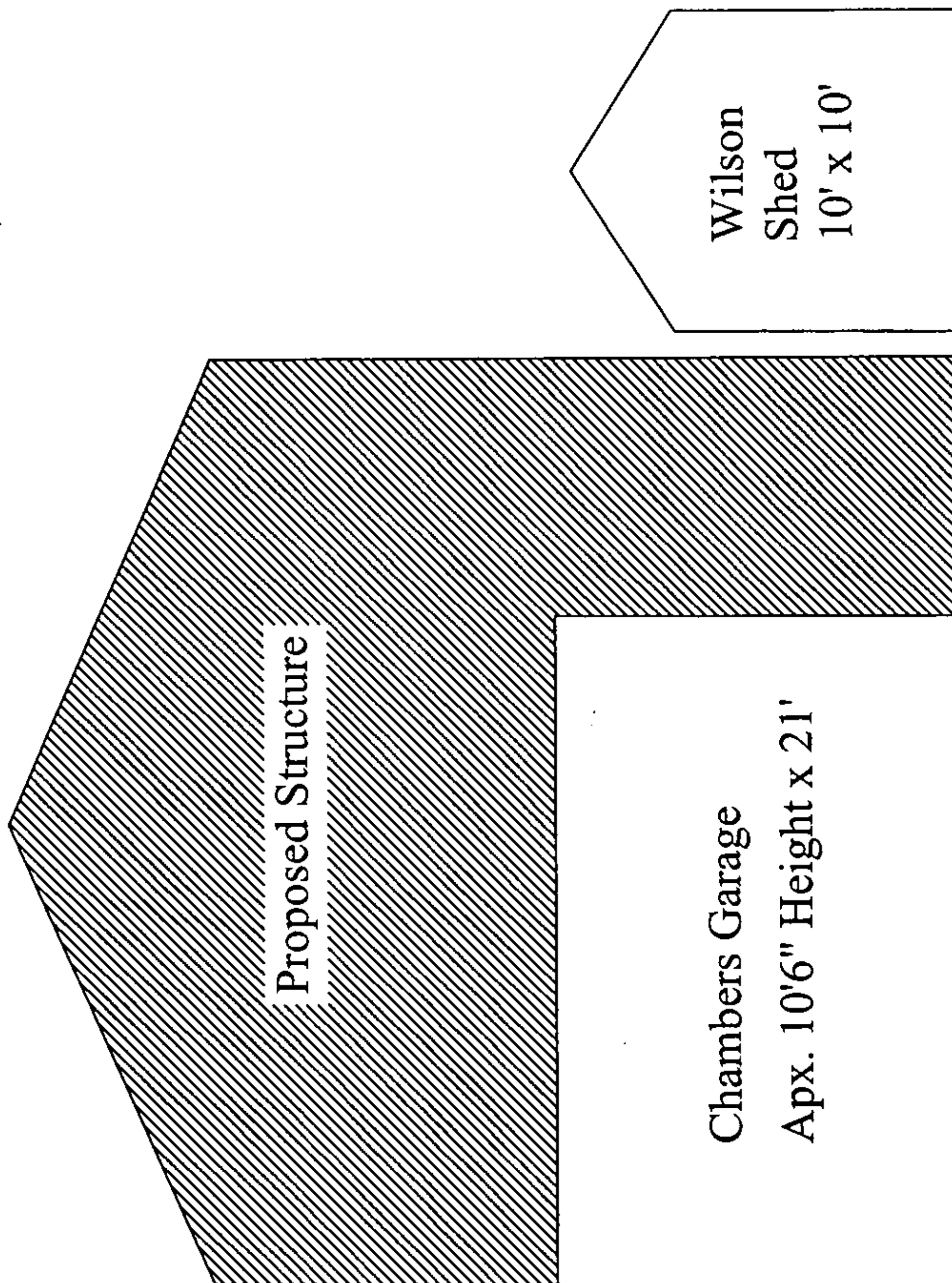
Emmie Stiles Anderson

2/21/06

2N 06-1868
Chambers

Handouts
from
CC mtg
2/21/06

Apex. 25' Height



Looking South from Wilson Property

2/21/06

City Council Meeting

B.3.
Westbrook Village

City Council Meeting of February 21, 2006
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: February 14, 2006

Subject: Residential Planned Zoning District for Westbrook Village (R-PZD 05-1619)

BACKGROUND

At the meeting of the City Council on February 7, 2006, members of the Salem Village PUD Property Owners Association declared that the proposed alleys accessing Lots 1A, 2A, 3A, and 4A on the north side of Clabber Creek Blvd. and Lots 5A, 6A, and 7A to the south of Clabber Creek Blvd., illegally crossed property maintained and owned by the Salem Village Property Owners Association. Research into the Salem Village Final plat revealed that the alley access from Westminster Dr. to Lots 1A, 2A, 3A and 4A entered from the public right-of-way and therefore did not encroach onto private property. However, the proposed alley access to Lots 5A, 6A and 7A did in fact cross private property. Therefore, the applicants for Westbrook Village have redesigned the alley access, so as to not cross private property. As shown on the revised site plans, the proposed alley access will intersect the existing common access alley and then curve around the private property within an access easement, allowing access to the proposed lots.

Staff recommends the City Council amend the submitted Planned Zoning District for Westbrook Village to incorporate the above stated revisions and with the following condition:

1. The proposed alleys shall extend a sufficient length to provide access to all proposed lots within a dedicated access easement. However, there shall be no direct vehicular access to Salem Rd. or Clabber Creek Blvd. from an alley or lot.

Feb. 21, 06

To whom it may concern;

We really oppose the building of this tall structure in the back yard of Mr. & Mrs. Chomper. This would block some of my view and feel the structure would fill their yard from line to line, making it more like an apartment complex rather than a home in the historical district. Am opposed to the rezoning of RSF4 to RSF8

Carlos & Millie Gracian
221 E. Lafayette
Fayetteville

2/21/06 City Council Meeting Chambers
RZN -1868

Tue, Feb 21, 2006 5:47 PM

From: David Johnson <djohnson@sellingnwa.com>
Reply-To: <djohnson@sellingnwa.com>
To: <ward2_pos2@ci.fayettevillear.us>
Cc: <ward2_pos1@ci.fayettevillear.us>
Date: Tuesday, February 21, 2006 4:39 PM
Subject: Lot line adjustment Chambers

Dear Kyle and Don,

I am writing to voice my opposition to the lot line adjustment and conditional use request by the Chambers on Willow St. The proposed structure is very out of character for the neighborhood and would be damaging to surrounding property values. I cannot find any positives in this proposal and would hope you both vote against it.

Thank you for your consideration.

David Johnson

Executive Broker

RE/MAX associates Realtors

4285 N. Shiloh Dr. #205

Fayetteville, AR 72703

Office - 479-684-5750

Cell - 479-644-9099

Fax - 479-684-5755

www.DavidJohnsonSold.com

"TLC given to all your referrals!"

From: Coy Hurd
To: Wood, Amber
Date: 12/30/05 2:22PM
Subject: presentations

Hello Amber and thanks for your advice and help. I want to place two items on the list for two agenda setting sessions. These are informational only and will be very short (ten minutes or so in duration). I would appreciate it if you could schedule them close to the first thing at these meetings. They should be scheduled for the agenda setting meetings only, not on the regular City Council Meetings.

The first is a presentation of the recently completed Facilities Needs Assessment by James Estes of Wilson Estes Police Architects of Mission, Kansas. This should be scheduled for the January 31st meeting.

The second is a presentation of a report, Options for the 101 West Mountain Street Building, presented by myself. This should be scheduled for the February 14th meeting.

Thanks again!

Coy

From: Sondra Smith
To: Wood, Amber
Date: 1/31/06 7:20PM
Subject: Rick Wilcox

The presentation by Rick Wilcox of NW Medical Transfer was postponed until the next agenda session. It will be added to the February 21, 2006 City Council Agenda under Informational for Agenda Session only. This is at the request of Alderman Robert Ferrell. Have a great day!

Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
(479) 718-7695 (Fax)
ssmith@ci.fayetteville.ar.us

From: Susan Thomas
To: Smith, Sondra
Date: 2/7/06 9:30AM
Subject: CEC

the CEC should be on the next agenda Feb 21 as discussion item for agenda session only. thanks.

Susan B. Thomas
Public Information and Policy Advisor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
479-575-8330

From: Coy Hurd
To: Wood, Amber
Date: 12/30/05 2:22PM
Subject: presentations

Hello Amber and thanks for your advice and help. I want to place two items on the list for two agenda setting sessions. These are informational only and will be very short (ten minutes or so in duration). I would appreciate it if you could schedule them close to the first thing at these meetings. They should be scheduled for the agenda setting meetings only, not on the regular City Council Meetings.

The first is a presentation of the recently completed Facilities Needs Assessment by James Estes of Wilson Estes Police Architects of Mission, Kansas. This should be scheduled for the January 31st meeting.

The second is a presentation of a report, Options for the 101 West Mountain Street Building, presented by myself. This should be scheduled for the February 14th meeting.

Thanks again!

Coy

From: Susan Thomas
To: Smith, Sondra
Date: 2/8/06 2:33PM
Subject: Re: hoskins

ok to ad per mayor.

>>> Sondra Smith 02/08/06 2:28 PM >>>

What about Hugh Earnest being on the Agenda. Did you get that approved?

Sondra Smith
City Clerk
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(479) 575-8323
(479) 718-7695 (Fax)
ssmith@ci.fayetteville.ar.us

>>> Susan Thomas 02/08/06 2:27 PM >>>
thanks

>>> Sondra Smith 02/08/06 2:15 PM >>>
Will do.

Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
(479) 718-7695 (Fax)
ssmith@ci.fayetteville.ar.us

>>> Susan Thomas 02/08/06 1:10 PM >>>

did you get a copy of the letter Tracy Hoskin's passed out last night? If so, can you put a copy in the NWARD Times mailbox? thanks.

Susan

Susan B. Thomas
Public Information and Policy Advisor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
479-575-8330

From: Amber Wood
To: Ferrell, Robert
Date: 1/5/06 11:26AM
Subject: Agenda Session Presentation

Mr. Ferrell,

Listed below is the how the title will be shown on the Tentative Agenda:

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

Please let me know if anything needs to be changed. Have a nice day!

Amber Wood
City of Fayetteville
City Clerk Division
575-8323
awood@ci.fayetteville.ar.us

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 21, 2006**

A meeting of the Fayetteville City Council will be held on February 21, 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 will be given that addresses options to meeting identified space needs for City services downtown - Agenda Session Only.

A presentation by Kathy Desk with the Center for Business & Economic Research will be given on the Financial Impact of Bikes, Blues and BBQ.

A. CONSENT:

- 1. Approval of the February 7, 2006 City Council meeting minutes.**
- 2. Morning Mist Drive Realignment:** A resolution amending the Master Street Plan to realign Morning Mist Drive, a collector street to the south modifying the terminus of the street to create an intersection with Mount Comfort Road in alignment with Bridgeport Drive.
- 3. Huntsville Road Right-of-Way:** A resolution designating by Warranty Deed a portion of city-owned property adjacent to Happy Hollow Road and Huntsville Road as right-of-way for the intersection improvement project.
- 4. ADM 06-1916 Persimmon MSP Amendment:** A resolution to amend the Master Street Plan by realigning Persimmon Street between Broyles Road and Legacy Point Subdivision south of the current alignment as described and depicted in the attached map.

B. UNFINISHED BUSINESS:

1. **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 ordinance was left on the Second Reading at the February 7, 2006 City Council meeting.*
2. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*
3. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*
4. **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 ordinance was left on the Second Reading at the February 7, 2006 City Council Meeting.*
5. **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 ordinance was left on the First Reading at the February 7, 2006 City Council Meeting.*
6. **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 ordinance was left on the First Reading of the February 7, 2006 City Council Meeting.*

C. NEW BUSINESS:

1. **Sloan Properties, Inc. Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with Sloan Properties, Inc. in an amount not to exceed \$21,503.40 for the upsizing of approximately 992' of 8" water main to 12" water main.
2. **ANX 06-1895 Broyles:** An ordinance annexing that property described in Annexation Petition ANX 06-1895, CC2005-48, for property located south of Weir Road and west of Salem Road, containing approximately 3.06 acres.

3. **RZN 06-1896 Broyles:** An ordinance rezoning that property described in Rezoning Petition RZN 06-1896 for approximately 3.06 acres located south of Weir Road and west of Salem Road from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.
4. **VAC 06-1897 Pettus:** An ordinance approving VAC 06-1897 submitted by H2 Engineering, Inc. for property located south of Dickson, between Block and Church; vacating a portion of an alley on the subject property.
5. **Amend Chapter 163:** An ordinance to amend Chapter 163: Use Conditions of the Unified Development Code by adding Section 163.15 Revocation or Change of Conditional Use.
6. **TCA Cable Partners:** A resolution authorizing the City Attorney to file suit against TCA Cable Partners providing services as Cox Communications seeking payment of reimbursable expenses due and owing under Section XXIII of the Cable Franchise Agreement.
7. **CUP 06-1892 Temple Shalom:** An appeal of the Planning Commission's decision regarding the approval of a Conditional Use Permit for the Temple Shalom synagogue on Rockwood Trail.
8. **R-PZD 05-1636 Wellspring:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1636, Wellspring, located at Ruppel Road and Wedington Drive, containing approximately 152.2 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
9. **Continuing Education Center:** Review the University's request to exercise their purchase of the Continuing Education Center.

D. INFORMATIONAL:

A Countywide Ambulance Report given by Hugh Earnest – Agenda Session Only.

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

City Council Tour: February 20, 2006 - 4:30 PM

City Holiday: February 20, 2006

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

A.2
Morning Mist Drive Realignment
Page 1 of 24

21-Feb-06

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

Approval of a resolution associated with St. James Park Preliminary Plat (PPL 05-1749) amending the Master Street Plan to realign Morning Mist Road, a Collector Street.

\$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

☐

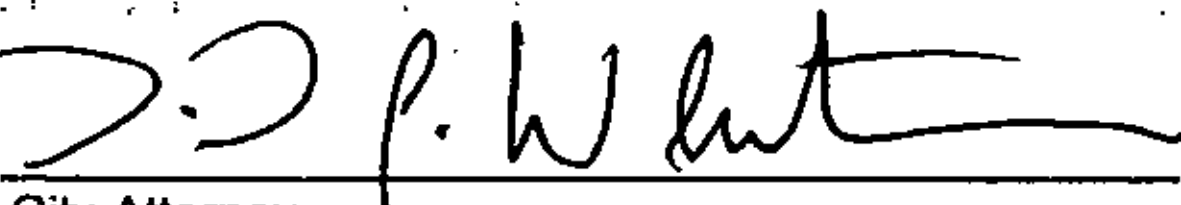

Department Director

2/2/06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

2/3/06
Date


Finance and Internal Service Director

2/3/06
Date

Received in City Clerk's Office




Mayor

2/6/06
Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Tim Conklin, Planning and Development Management Director

From: Jeremy Pate, Director of Current Planning *X*

Date: January 31, 2006

Subject: Approval of a resolution to amend the Master Street Plan realigning Morning Mist Drive Collector Street to the south modifying the terminus of the street to create an intersection with Mount Comfort Road (PPL 05-1749) in alignment with Bridgeport Drive.

RECOMMENDATION

The Fayetteville Street Committee, Planning Commission, and staff recommend approval of a resolution amending the Master Street Plan to modify the location of Morning Mist Drive, classified a Collector street, realigning the east-west street to turn south where it is currently constructed through Clabber Creek Subdivision Ph. I and II and Wildflower Meadows Subdivision. In association with the development of St. James Park Subdivision, Morning Mist Drive is to be constructed within St. James Park to be directed south such that it will intersect with Mt. Comfort Road across from Bridgeport Drive and remove the collector street between Hughmount Road and Wheeler Road.

BACKGROUND

The subject property is the site of the St. James Park Subdivision, an approved preliminary plat subject to conditions requiring Master Street Plan Amendments. As properties have developed between Hughmount Rd. and Ruppel Road, the Collector Street named Morning Mist Drive has been constructed south of its original position; a result of the location of Clabber Creek to the north. Morning Mist Drive currently stubs-out to the west at the northeast corner of the subject property. Initially, the applicant submitted a subdivision layout with a stub-out to a single family lot to the west. Staff recommended modifying the alignment of the Collector street to the south where it will intersect Mount Comfort Road across from Bridgeport Drive. Staff recommended this street configuration as opposed to a western connection for the following reasons:

- ♦ The proximity of the street intersection with Hughmount Road and the bridge across Clabber Creek
- ♦ Visibility and limited sight distance
- ♦ The re-alignment with the revised intersection of Hughmount Rd and Wheeler Rd as required with Cherry Hills Subdivision
- ♦ Mount Comfort Road is designated a Minor Arterial and is more likely to be improved to carry a greater volume of traffic than the adjacent Collector streets
- ♦ Allowing this Collector to align with the east-west Wheeler Road would increase

the likelihood of traffic cutting through the neighborhoods already established, instead of utilizing the arterial street for through movements into the city.

- ♦ There is potential to create a controlled intersection with signage or signalization at Mount Comfort and Bridgeport, as Bridgeport carries a high volume of traffic currently.

DISCUSSION

The Planning Commission voted 7-0-0 to approve PPL 05-1749 on January 09, 2006. This item was heard at the Street Committee meeting of January 24, 2006, at which the four members voted to forward this item to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION AMENDING THE MASTER STREET PLAN TO REALIGN MORNING MIST DRIVE, A COLLECTOR STREET TO THE SOUTH MODIFYING THE TERMINUS OF THE STREET TO CREATE AN INTERSECTION WITH MOUNT COMFORT ROAD IN ALIGNMENT WITH BRIDGEPORT DRIVE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby amends the Master Street Plan to realign Morning Mist Drive, a collector street to the south modifying the terminus of the street to create an intersection with Mount Comfort Road in alignment with Bridgeport Drive. A map depicting this amendment, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 21st day of February, 2006.

APPROVED:

By: _____

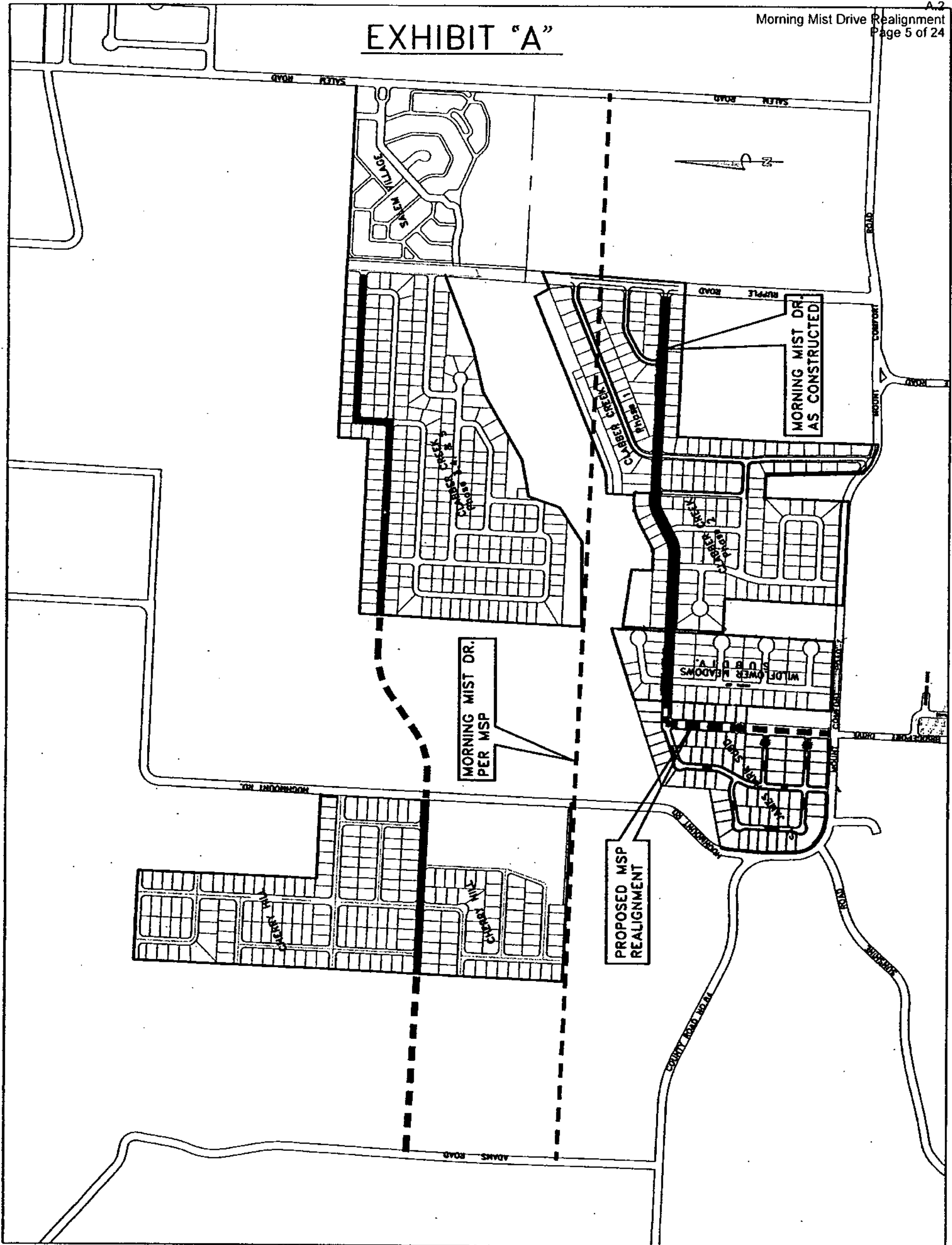
DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

EXHIBIT "A"





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 3, 2006 *Updated January 16, 2006*

PPL 05-1749: Preliminary Plat (ST. JAMES PARK S/D, 321): Submitted by STEVE CLARK for property located at NE OF MT COMFORT AND HUGHMOUNT ROADS. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 24.35 acres. The request is to approve the preliminary plat of a residential subdivision with 73 single family lots proposed.

Planner: SUZANNE MORGAN

Findings:

Property description: The applicant requests preliminary plat approval for a residential subdivision with 73 single family lots proposed, along with one lot to be dedicated for detention. The site is located north and east of Mount Comfort Road. The property was recently annexed into the city and zoned RSF-4, creating a 3-acre island of property within the County to the east. The applicant agreed to process the annexation for the island, and the initial approvals were granted. However, the landowner has since stopped the process of annexation. Much of the surrounding property within the city has been platted into single family subdivisions at less than 4 units per acre. Property to the north and within the Planning Area is also being subdivided into lots at urban densities (e.g. Cherry Hills Subdivision and Lierly Lane Subdivision).

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Agricultural, Single Family homes	Planning Area
South	Agricultural and Bridgeport Subdivisions	Planning Area, RSF-4
East	Large 3-acre single family lot and residential subdivisions (Wildflower Meadows)	Planning Area and RSF-4
West	Agricultural, Single Family homes	Planning Area

Water and Sewer: Water and sewer lines will be extended to serve the proposed development. Sanitary sewer assessment for a potential, temporary sewer capacity solution is required prior to building permit, with the amount to be determined by the City Council.

Adjacent Master Street Plan Streets:

Mount Comfort Road (Minor Arterial & Collector)
Hughmount Road (Collector)
Morning Mist/Hyde Park (Collector)*

**Staff recommends a Master Street Plan amendment to redirect Morning Mist Drive to the south.*

Connectivity: Connectivity is proposed to be provided to the east and south. No connectivity is proposed to the north or west. As properties have developed between Hughmount Rd. and Ruppel Road, the Collector Street named Morning Mist Drive has been constructed south of its original position. This was the result of the location of Clabber Creek to the north. Morning Mist Drive currently stubs-out to the west at the northeast corner of the subject property. Initially, the applicant submitted a subdivision layout with a stub-out to a single family lot to the west. Staff recommended modifying the alignment of the Collector street to the south where it will intersect Mount Comfort Road across from Bridgeport Road. Staff recommended this street configuration as opposed to a western connection for the following reasons:

- ♦ The proximity of the street intersection with Hughmount Road and the bridge across Clabber Creek
- ♦ Visibility and limited sight distance
- ♦ The re-alignment with the revised intersection of Hughmount Rd and Wheeler Rd as required with Cherry Hills Subdivision
- ♦ Mount Comfort Road is designated a Minor Arterial and is more likely to be improved to carry a greater volume of traffic than the adjacent Collector streets
- ♦ Allowing this Collector to align with the east-west Wheeler Road would increase the likelihood of traffic cutting through the neighborhoods already established, instead of utilizing the arterial street for through movements into the city.
- ♦ There is potential to create a controlled intersection with signage or signalization at Mount Comfort and Bridgeport, as Bridgeport carries a high volume of traffic currently.

Right-of-way being dedicated: 45' and 35' for Mt. Comfort Rd. (this street is designated both a Collector and Minor Arterial Street adjacent to the subject property), 35' from the centerline of Hughmount Road, and 40', 50', and 70' for interior streets. The streets within the property range from Residential designation to Collector streets.

Street Improvements: As the development of 73 single family lots will greatly impact the surrounding Collector and Minor Arterial streets, staff recommends the following improvements:

- a. *The applicant shall coordinate with the developer of Cherry Hills Subdivision to improve the intersection of Wheeler Road and Hughmount Road. The developer of Cherry Hills currently has construction plan approval for the realignment of this intersection. The developer of St. James Park will be responsible for the improvements (curb, gutter, storm drainage, sidewalks, street lights) on the east side of the realigned street, creating a 14' from centerline improvement on Hughmount Rd.*
- b. *Improve Mount Comfort Road and Hughmount Road adjacent to the subject property to include 18' street from centerline, curb, gutter, storm drains and a 6-foot sidewalk.*

Prior to the application of signatures on the final plat, staff shall inspect the site to ensure that all required improvements have been installed.

Parkland Dedication: Park land fees will be assessed in the amount of \$40,515 for the development of 73 single family lots.

Tree Preservation: Existing: 1.81%
Preserved: 1.76%
Required: 1.81%
Mitigation: Required

Recommendation: Staff recommends approval of PPL 05-1749 with the following conditions:

Conditions of Approval:

1. Planning Commission recommendation of a Master Street Plan amendment to realign Morning Mist Drive, a Collector Street shown on this plat as Hyde Park, subject to City Council approval. The Master Street Plan currently indicates the Collector Street intersecting Hughmount Road north of the subject property. *Staff recommends modifying the street such that it intersects with Mount Comfort Road as shown on the proposed plat. Staff finds that strict compliance with the Master Street Plan would place the intersection of the Collector Street with Mount Comfort Rd or Hughmount Rd. in an undesirable and potentially dangerous location. Placing this connection or any street connection near a bridge and the intersection of Hughmount Road and Wheeler Road with low visibility and sight distance would create a dangerous traffic situation and would result in increased cut-through traffic, rather than connectivity as desired.*

The Subdivision Committee recommended in favor of the proposed Master Street Plan Amendment.

2. Planning Commission determination of street improvements. *Staff recommends the following improvements:*
 - c. *The applicant shall coordinate with the developer of Cherry Hills Subdivision to improve the intersection of Wheeler Road and Hughmount Road. The developer of Cherry Hills currently has construction plan approval for the realignment of this intersection. The developer of St. James Park will be responsible for the improvements (curb, gutter, storm drainage, sidewalks, street lights) on the east side of the realigned street, creating a 14' from centerline improvement on Hughmount Rd.*
 - a. *Improve Mount Comfort Road and Hughmount Road adjacent to the subject property to include 18' street from centerline, curb, gutter, storm drains and a 6-foot sidewalk.*

The Subdivision Committee recommended in favor of the proposed street improvements.

3. Planning Commission determination of connectivity. *Staff does not recommend a connection to the west or north. Staff finds that the proximity of the street intersection with Hughmount Road and the bridge across Clabber Creek and low sight distance is not*

conducive to a street connection to the west. Staff recommends a primary street connection south to Mount Comfort Road, designated a Minor Arterial, as this street is more likely to be improved to carry a greater volume of traffic, and there is potential to create a controlled intersection with signage or signalization at Mount Comfort and Bridgeport.

The Subdivision Committee recommended evaluating a street connection to the west. Within the staff report are two options presented for street connections to the west. Staff is not in favor of either of these connections.

4. The subject property is located within the Clabber Creek Bridge Assessment Area. The developer shall be proportionately assessed for the future construction of a bridge on Ruppel Road based on the projected impact of the development upon this infrastructure, to be \$8,260.00 based on 73 single family lots. The amount to be paid shall be determined by the City Engineering Division. Payment shall be prior to recordation of the final plat.
5. Sanitary sewer assessment for a potential, temporary sewer capacity solution is required prior to final plat, with the amount to be determined by the City Council.
6. The applicant shall submit fees for parkland in the amount of \$40,515 for 73 single family lots, due prior to recordation of the final plat.
7. The conditions of approval in the attached Tree Preservation report shall be entered as conditions of the preliminary plat for St. James Park. Two (2) trees are required to be planted to meet mitigation requirements.
8. Dedication of a minimum of 35' and 45' from the centerline of Mount Comfort Road and Hughmount Road, as well as dedication of right-of-way on streets interior to the property in accordance with Master Street Plan requirements shall occur with the final plat.
9. The applicant shall provide a cost estimate for the extension of all streets that will be constructed as temporary cul-de-sacs or other turn-around as approved by the Fire Department and Planning Division. An assessment in the amount approved shall be paid by the developer prior to Final Plat for the unconstructed portion of the street stub-outs, to include street pavement, curb, gutter, storm drain, and sidewalk. Exact estimates and assessments will be determined at the time of final plat.
10. A temporary access easement shall be shown on each temporary cul-de-sac (or turn-around) and filed with the Final Plat. The temporary cul-de-sacs (or turn-around) shall be automatically abandoned at the time of the respective street extension.
11. A sign shall be installed at each street stub-out to indicate future extension of the right-of-way and street prior to recordation of the final plat. (Coordinate with the Transportation Division for sign specifications prior to ordering the sign.)

12. Sidewalk adjacent to Lot 74 and adjacent to Mount Comfort and Hughmount Road shall be constructed (not guaranteed) prior to application of signatures on the final plat. All other internal sidewalks shall be installed or guaranteed in accordance with Ch. 158.01 prior to final plat approval. Sidewalk location and any transition from a 6' sidewalk to 4' sidewalk shall be approved by the Sidewalk Coordinator at the time of construction.
13. Street lights shall be installed or guaranteed with a maximum separation of 300 feet along all streets (including Mount Comfort Rd and Hughmount Road) and at any intersection and cul-de-sac prior to final plat.
14. Subdivision area signage shall be permitted in accordance with applicable city codes. The location, height and placement of any landscaped entry feature shall be reviewed by City staff for compliance with ordinance regulations and maintained by the POA.
15. The installation of a fence shall be coordinated with all appropriate utility companies and staff to insure property placement. No fence shall be located within right-of-way.
16. Maintenance of the detention pond, Lot 74, shall be the responsibility of the POA.
17. The plat shall be modified to include the following:
 - a. On any property line which has a utility easement greater in width than the required building setback, the utility easement takes precedence and becomes the building setback. The plat shall be revised to comply with this requirement (see all corner lots);
 - b. The construction plans and final plat shall reflect the street improvements at the intersection of Hughmount Road and Wheeler Road as approved by the City Engineering Division.
 - c. Street lights shall be shown at the intersection of Mount Comfort Road and Surrey, indicate street light location on Mount Comfort and Hughmount Road.

Standard Conditions of Approval:

18. 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).
19. 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.
20. All overhead electric lines under 12Kv shall be relocated underground. All proposed utilities shall be located underground.
21. All street names and addresses shall be approved by the 911 Coordinator.

Additional conditions:

- a. _____
- b. _____
- c. _____

Planning Commission Action: ☒ Approved ☐ Denied ☐ Tabled

Meeting Date: January 09, 2006 *Motion by Lack to approve with all conditions as stated in staff report. Second by Myres. Vote: 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.

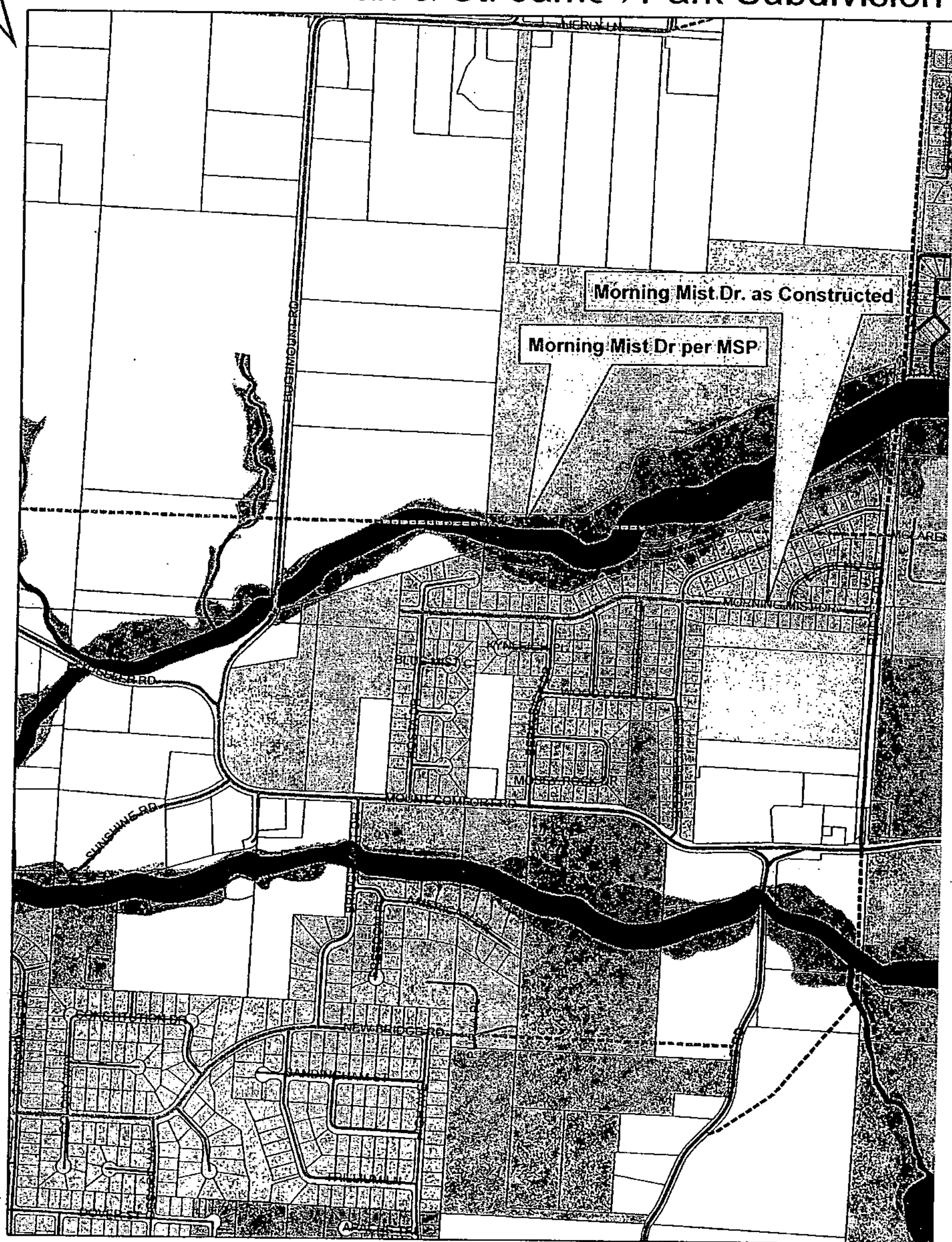
Signature

Date



Master Street Plan & St. James Park Subdivision

A.2
Morning Mist Drive Realignment
10/10/14





Current Proposal - 01/03/06

Morning Mist Dr.
(Local Street)

Morning Mist Dr.
(Collector Street)

Realignment of
Collector Street
to turn south instead
of continuing west.

Hyde Park
(Collector Street)

Future continuation
of Hyde Park
(Collector Street)

Mt. Comfort Road
(Minor Arterial Street)

Clark
Consulting

SCALE: 1:200

DATE REVISED:

CHECKED BY:

DRAWN BY:

DATE: 12/21/05

JSC

CJW

St. James Park Subdivision

Master Street Plan Amendment

1

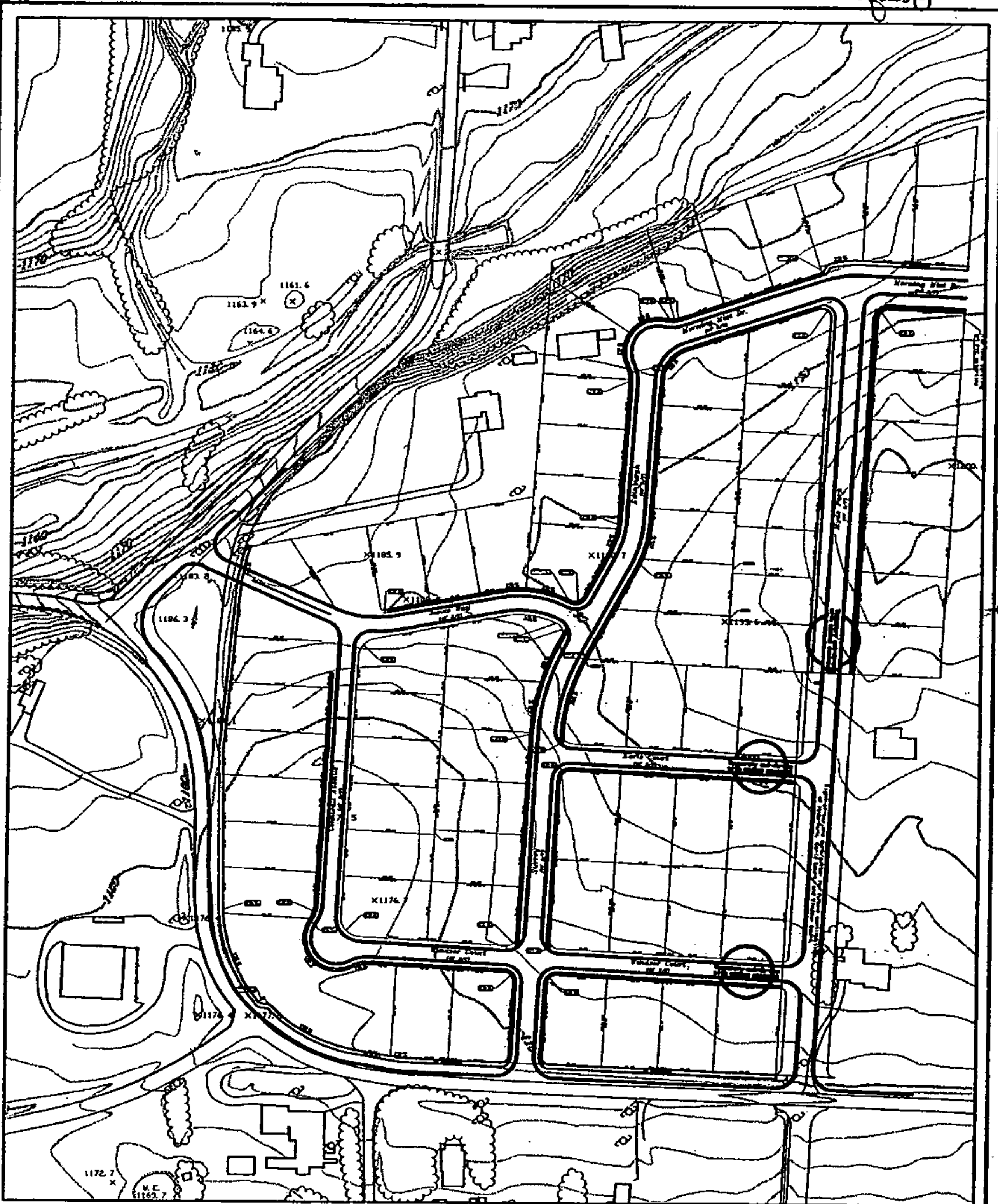
1

CIVIL / ENVIRONMENTAL ENGINEERING

5 Business Drive, Suite 202 Fayetteville, AR 72703 (479)444-8171

Potential Western Street Connection (per Subdivision Committee request)

A.2
Morning Mist Drive Realignment
Page 14 of 24



Clark
Consulting

CIVIL / ENVIRONMENTAL ENGINEERING

3715 Business Drive, Suite 202 Fayetteville, AR 72703 (479)444-8171

SCALE: 1:200

DATE REVISED: 1/3/06

CHECKED BY: JSC

DRAWN BY: SAM

DATE: 12/21/05

1/3/06

JSC

SAM

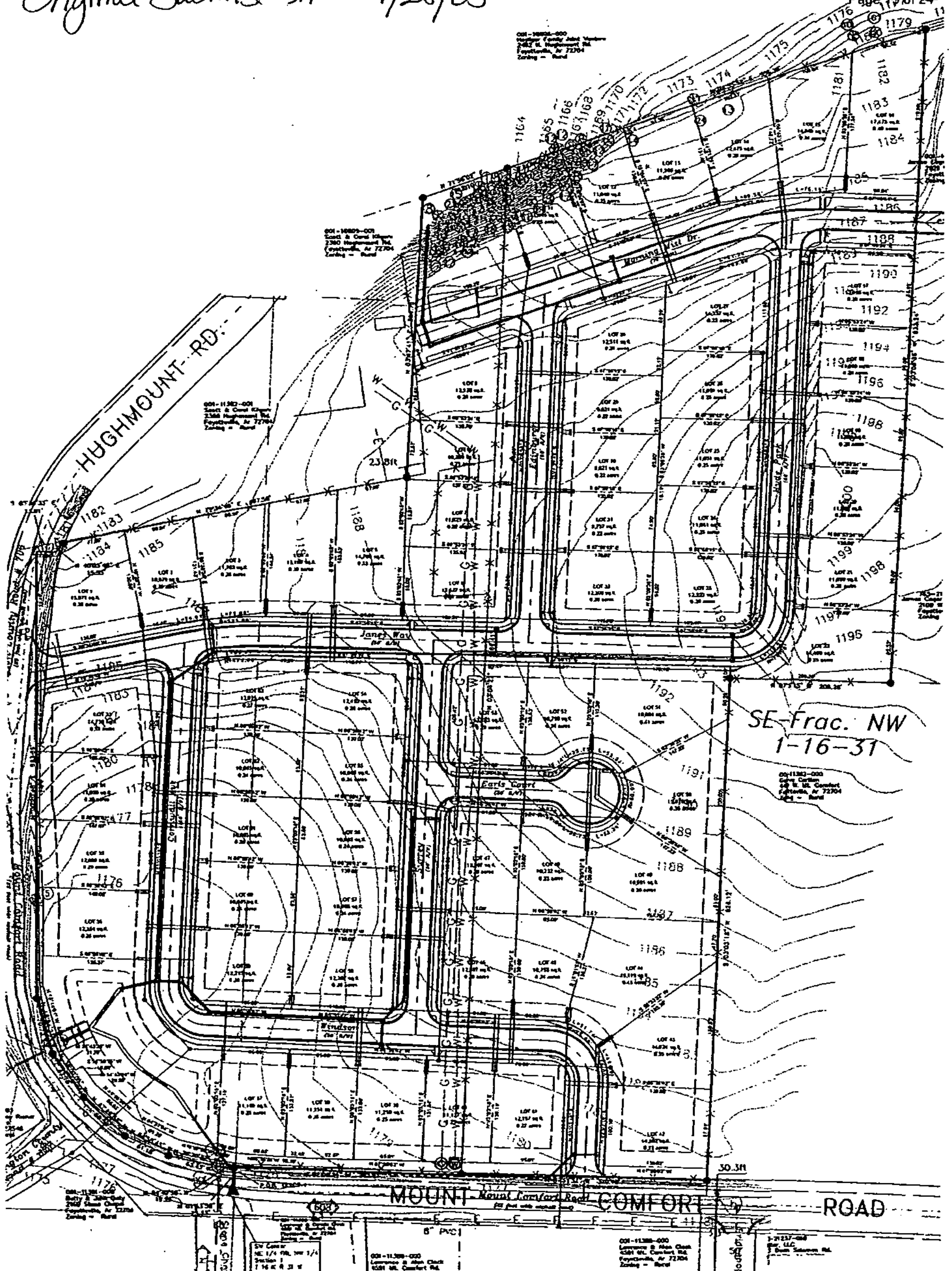
St. James Park Subdivision

Intersection Layout

1

1

* Site Distance : Slightly > 125' to Mt. Comfort Rd Intersection.





Original Signature On File

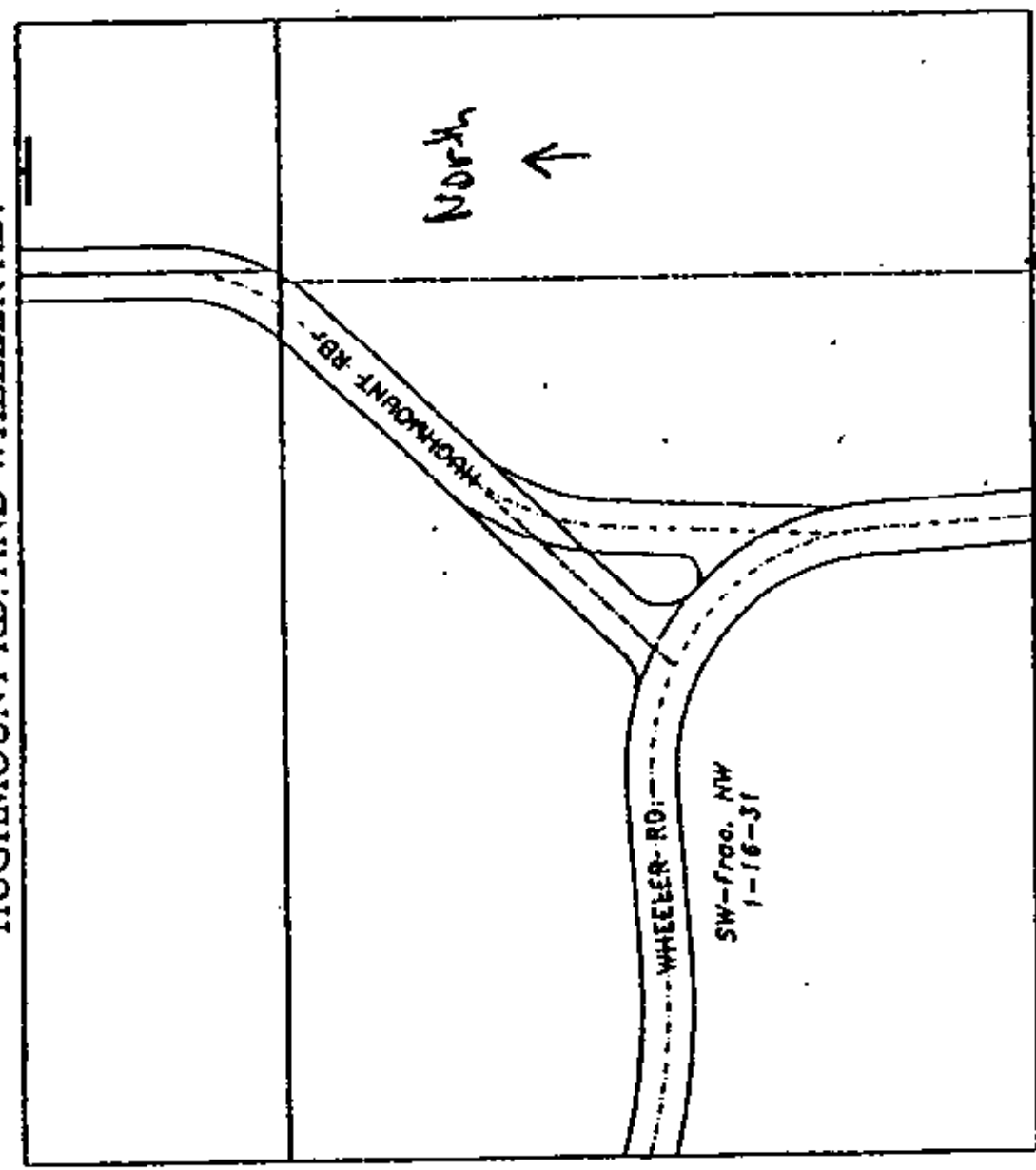
MCE
McClendon
Consulting
Engineers
Incorporated
Fayetteville
1800 E. Highway
Little Rock
Fayetteville
1800 E. Highway

CHERRY HILLS
SUBD. IN
WASHINGTON COUNTY, AR

CONSTRUCTION
DRAWINGS
GRADING
DRAINAGE

CERT. 17625-002 OF 1ST & 2ND CLASS. LET. 17625-002

CONCEPTUAL IMPROVEMENT TO INTERSECTION AT
HUGHMOUNT RD. AND WHEELER RD.



Approved Construction
Plans for realignment
of Wheeler Rd. &
Hughmount Rd.

NE CORNER
W1/2, SW1/4, NW1/4
SECTION 31
T-17-N, R-30-W

001-16796-002

JULIE A. SILLS & KARI J. LARSON
2999 HUGHMOUNT RD.
FAYETTEVILLE, AR 72704

001-16797-000
DAVID N. & PATRICIA B. PARETTE
P.O. BOX 3837
FAYETTEVILLE, AR 72702

001-16798-000
BOB & DANA CABLE
2839 N. HUGHMOUNT RD.
FAYETTEVILLE, AR 72704

001-16795-000
ERNIE J. & DEBRA L. MCWHIA
4787 WEIR RD.
FAYETTEVILLE, AR 72704

N87°24'26"W - 659.72'

N2°22'02"E - 658.76'

S2°25'58"W - 1304.31'

ORNER
SW1/4, NW1/4
ON 31
T-17-N, R-30-W

001-17610-001

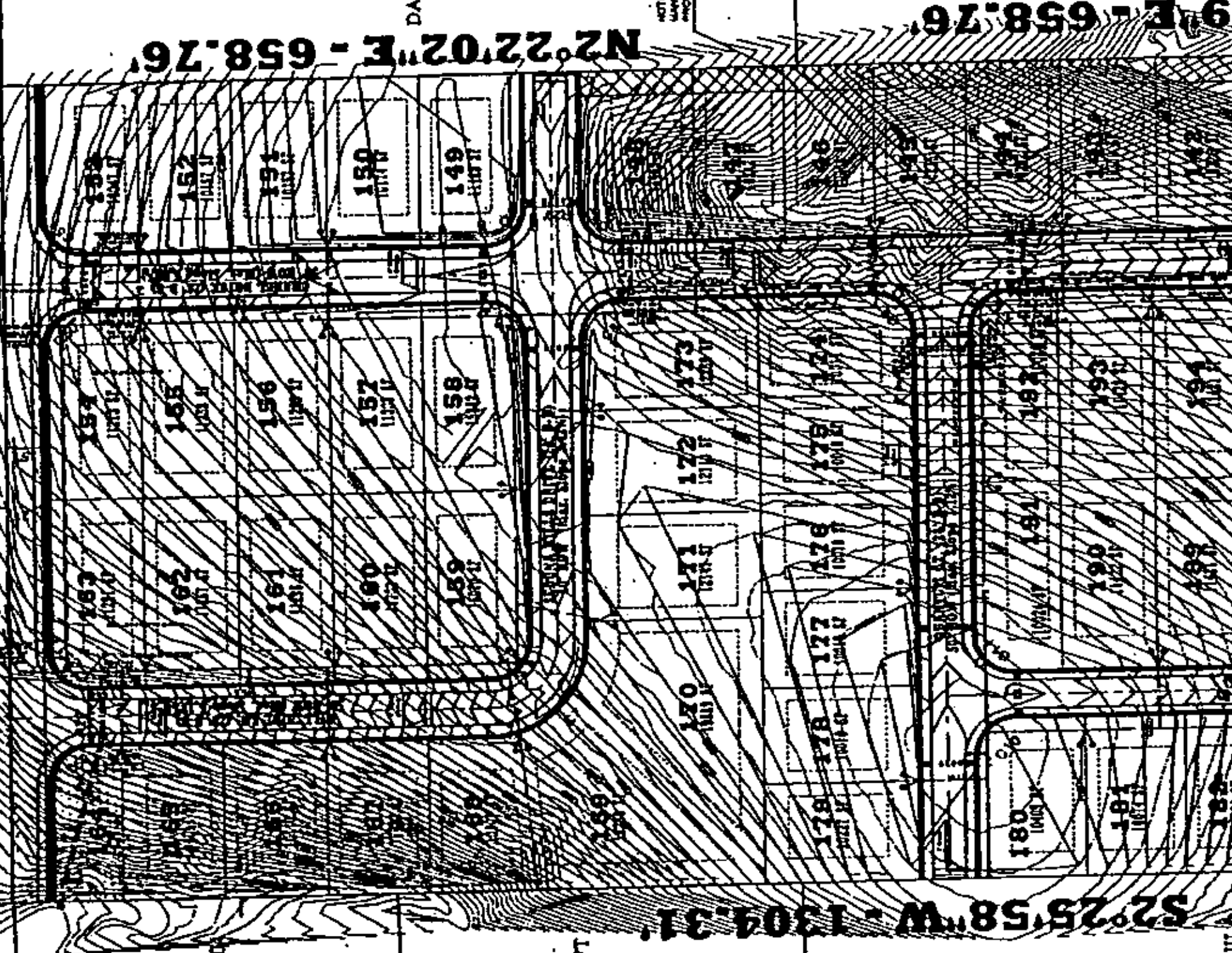
AND CARLA MAKORSKI
4983W. WEIR RD.
FAYETTEVILLE, AR 72704

001-17625-002
DAVID M. VAUGHN
2938 N. ADAMS RD.
FAYETTEVILLE, AR 72704

001-17626-000
CHARLES A. & MARY
LOUISE ARNOLD
EMARY ARNOLD SWIFT
4173 TRENTON
TULSA, OK 74105

001-17628-000

NOTE: ALL SEWER MAINS AND
MANHOLES IN THIS AREA ARE TO
BE REMOVED AND REPLACED WITH
NEW 12" DIA. 15' DEEP ACCESS.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.

Fayetteville, AR 72701

Telephone: 479-575-8264

ENGINEERING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Brent K. O'Neal, P.E., Staff Engineer
DATE: January 5, 2006
SUBJECT: St. James Subdivision (PPL 05-1749)
Off-Site Assessments

The following is the Engineering Division's recommendation to the Planning Commission for off-site assessments:

1. BRIDGE OVER CLABBER CREEK:

The Engineering Division recommends that this subdivision be assessed for a percentage of the construction costs to construct a bridge over Clabber Creek. The following is a rational nexus calculation for this offsite improvement:

Approximate Ruppel Road Bridge dimensions:

Length – 250 L.F.; Width – 56'; Surface Area of Decking – 14,000 s.f.

Projected Traffic from development – (73 Lots * 9.57 vpd/lot) - 699 vpd

Assume 50% of vehicle trips will use Ruppel – 350 vpd

Assume 50 % of vehicle trips using Ruppel go north – 175 vpd

Minor Arterial traffic capacity = 14,800 vpd

% Traffic from development = 1.18%

Clabber Creek Bridge Costs:

14,000 s.f.(\$50.00/s.f.) = \$700,000.00

St. James Subdivision Percentage of Costs:

0.0118(\$420,000.00) = \$8,260.00

Therefore, the Engineering Division recommends that the Hancock Estates Subdivision be assessed \$8,260.00 for the future Ruppel Road Bridge across Clabber Creek.



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 #: PPL 05-1749: Preliminary Plat (St. James Park)

Requirements Submitted:

	Initial Review with the Landscape Administrator
✓	Site Analysis Map Submitted
T	Site Analysis Written Report Submitted
✓	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	23.83
square feet	1,038,150
Existing Tree Canopy	
acres	0.44
square feet	19,250
percent of site area	1.81%
Existing Tree Canopy Preserved	
acres	0.43
square feet	18,750
percent of total site area	1.76%
Percent Minimum Canopy Required	1.81%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- This site has a low existing tree canopy. All trees are located on the sloping property line nearing the 100 year flood plain.

Whether the design incorporates the required Tree Preservation Priorities.

- **The design of the plan does incorporate the required priorities. Only 500 square feet of canopy will be removed.**

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Environmental degradation should not occur as a result of the loss of one tree 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 will not be greatly 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 size and shape of the lot does not greatly inhibit the flexibility of design.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of all groups of trees on this site are good.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **The trees marked for preservation are found along the back of several lots. This is a prime location for preservation.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **The one tree marked for removal is found within a required drainage easement. This tree will have to be removed during the installation process.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **N/A**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will be required in the amount of 2 (2) inch caliper trees.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- N/A

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- 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:**

- 1. Mitigation will be required to bring the canopy percentage back up to bring 1.81%. The developer requested and has been approved on-site mitigation. This is equivalent to 2 (2) inch caliper trees with a corresponding \$500 3-year maintenance bond. The trees will need to be planted and the bond deposited before signature of Final Plat.**

**FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS**

**113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3472**

TO: Suzanne Morgan, Associate Planner
FROM: Matt Mihalevich, Park Planner
DATE: December 28, 2005
SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: December 29, 2005
Item: PPL 05-1749 (St. James Park S/D,321)
Park District: NE
Zoned: RSF-4
Billing Name & Address: Dixie Development

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	63 @ \$555 per unit = <u>\$34,965</u>
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:

- On September 12, 2005 PRAB recommended accepting money in lieu of land for 63 single family units due to its proximity to Clabber Creek Park Land. Additionally, when Clabber Creek trail is constructed, this development will also be connected to Gary Hampton Softball Complex and on east to town.
- Fees are due in the amount of \$34,965.
- Fees are due prior to signing final plat.



CIVIL / ENVIRONMENTAL ENGINEERING

J. STEVE CLARK, P.E.

December 20, 2005

Mr. Jeremy Pate,
Director of Current Planning
City of Fayetteville
113 W. Mountain Street.
Fayetteville, Arkansas 72712

Re: Request to revise Master Street Plan
St James Park Subdivision, Fayetteville, Arkansas

Dear Mr. Pate,

We would like to request that the Master Street Plan (MSP) be revised to allow the collector street be constructed as shown on the Preliminary Plat for the referenced subdivision. The collector street that was shown on the current MSP has been shifted to the south as the subdivisions to our east were approved and developed. The net result of this shifting has created a problem with trying to align the collector at the intersection of Hughmont Road and Mt. Comfort Road.

We propose that the Collector enter the subdivision as constructed in the Wild Flower Subdivision and then turn to the south and align with Bridgeport Drive. This will allow traffic to connect to Mt. Comfort Road without adding additional traffic to the Hughmont Road intersection.

Thank you for your attention to this matter.

Respectfully Submitted,
Clark Consulting

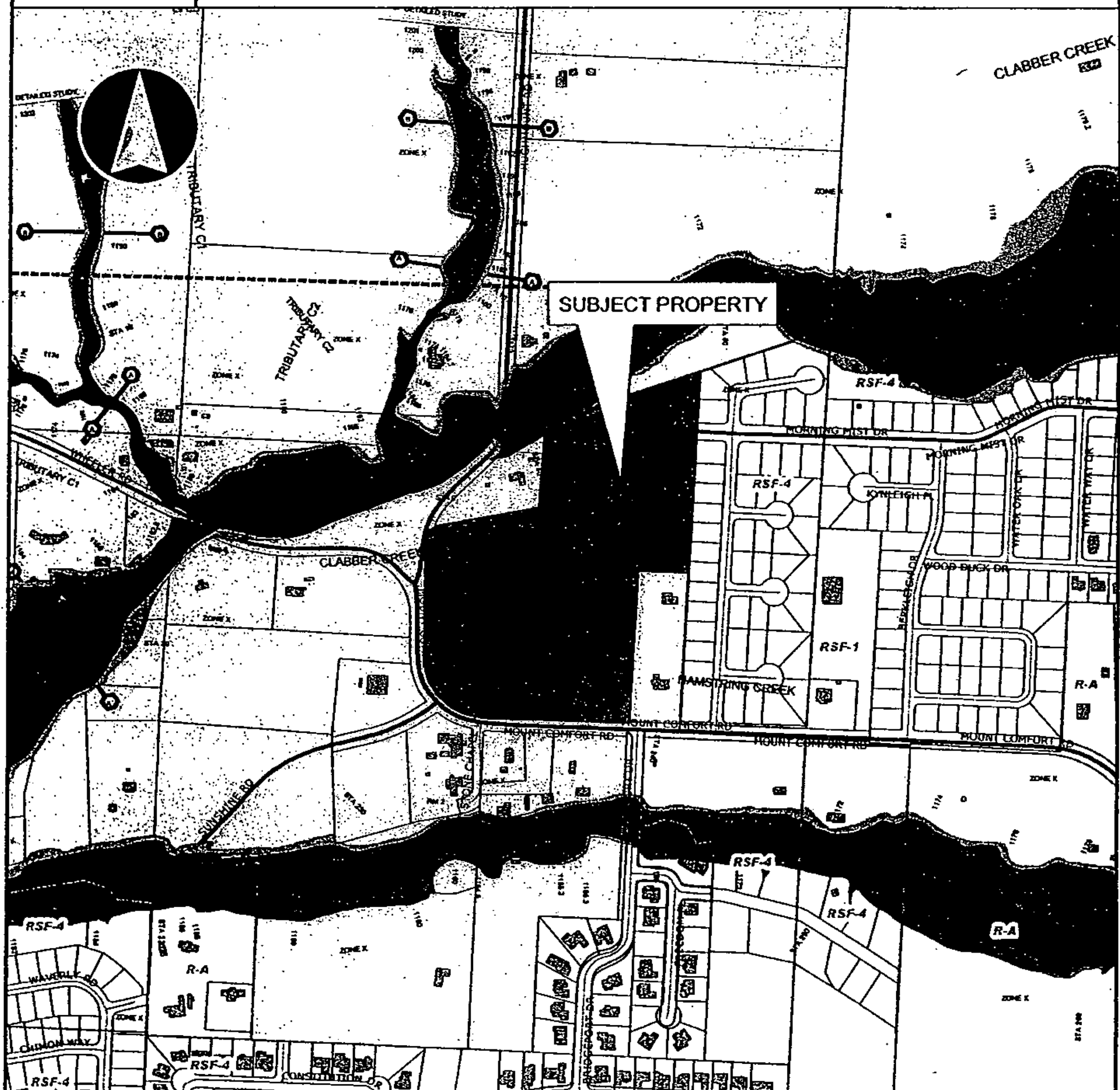
A handwritten signature in dark ink, appearing to read 'J. Steve Clark'.

J. Steve Clark, P.E.

PPL06-1749

Close Up View

ST. JAMES PARK S/D



Legend

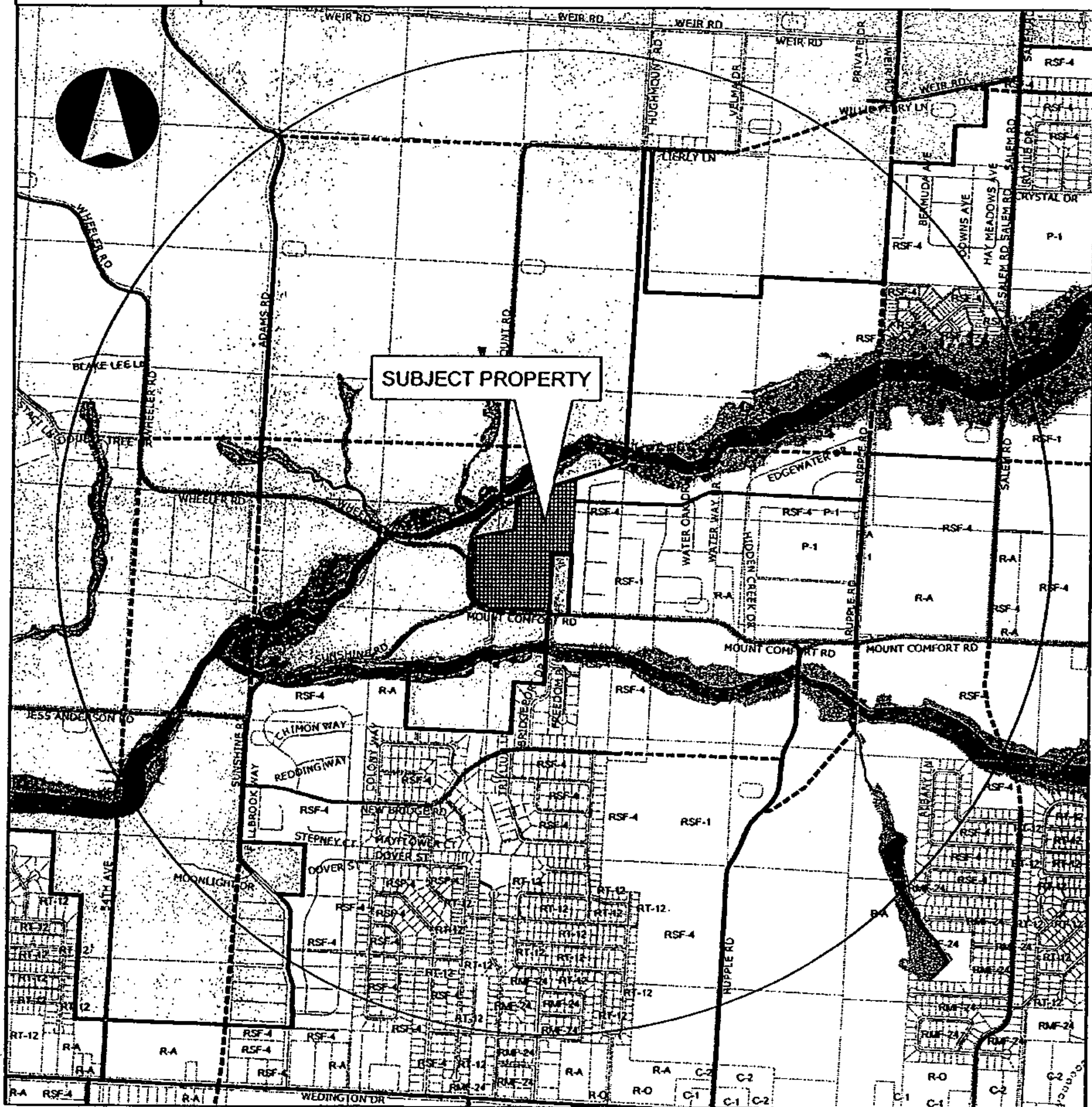
- 00000 Overlay District
- 00000 FLOODWAY
- 00000 100 YEAR
- 00000 500 YEAR
- 00000 LIMIT OF STUDY
- 00000 BaseLine Profile
- 00000 Fayetteville
- 00000 Outside City
- 00000 vector.GDB.Footprint_2004
- 00000 PPL06-1749
- 00000 Wash Co Parcels (Fayetteville)

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

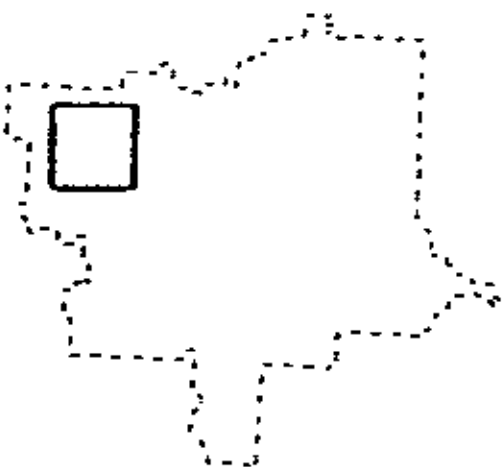
PPL06-1749

One Mile View

ST. JAMES PARK S/D



Overview



Legend

Subject Property

PPL06-1749

Boundary

- Planning Area
- Overlay District
- Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

February 21, 2006
City Council Meeting Date

Paul Libertini Engineering Operations
Submitted By Division Department

Action Required:

A resolution designating a portion of the property purchased from Tyson Foods, Inc. (Mexican Original) as right-of-way for the intersection improvement project, Happy Hollow Rd & Huntsville Rd.

\$ -	\$ -	Huntsville & Happy Hollow Intersection
Cost of this request	Category / Project Budget	Program Category / Project Name
4470.9470.5809.00	\$ -	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
04011	\$ -	Capital Improvement Const
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

 2-2-06
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

 2/3/06
City Attorney Date

 2/3/06
Finance and Internal Service Director Date

Received in City Clerk's Office


 2/6/06
Mayor Date

Received in Mayor's Office


Comments:



Date: February 2, 2006

To: Fayetteville City Council

Thru: Dan Coody, Mayor
Gary Dumas, Director of Operations
Ron Petrie, City Engineer *RP*

From: Paul Libertini, Staff Engineer

Subject: Happy Hollow Rd & Huntsville Rd (Hwy 16) Intersection

*Please forward
a copy of this
agenda item to
Marsha Fashinos.
Thp AD*

RECOMMENDATION:

Staff recommends approval of a resolution designating a portion of the property purchased from Tyson Foods, Inc. (Mexican Original) as right-of-way for the intersection improvement project, Happy Hollow Rd & Huntsville Rd.

BACKGROUND

This intersection improvement project is part of the 2004-2008 Capital Improvements Program. The construction contract has been awarded to Sweetser Construction, Inc. and a Notice To Proceed was issued on January 16, 2006.

DISCUSSION / STATUS

When this project was initiated, it was understood that additional right-of-way would needed to be acquired from the Tyson Mexican Original Plant location. Since the City pursued and purchased the entire parcel, the additional right-of-way was not an issue. The City has certified to AHTD that the property affected by this project is in public ownership. AHTD is now requiring that the portion of City property to be used by this project be designated as right-of-way by warranty deed.

BUDGET IMPACT:

No impact. However, it should be noted that the property to be designated as right-of-way (1.16 acres or 50,469 sq. ft.) could likely have a value of \$5± per square foot or \$250,000±.

PDL/pdl

Attachments: Warranty Deed and Parcel Sketch

RESOLUTION NO. _____

A RESOLUTION DESIGNATING BY WARRANTY DEED A PORTION OF CITY-OWNED PROPERTY ADJACENT TO HAPPY HOLLOW ROAD AND HUNTSVILLE ROAD AS RIGHT-OF-WAY FOR THE INTERSECTION IMPROVEMENT PROJECT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby designates by Warranty Deed a portion of city-owned property adjacent to Happy Hollow Road and Huntsville Road as right-of-way for the intersection improvement project. A copy of the Warranty Deed, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this 21st day of February, 2006.

APPROVED

By

DAN GOODY, Mayor

ATTEST

By

SONDRA SMITH, City Clerk

WARRANTY DEED

BE IT KNOWN BY THESE PRESENTS:

THAT the City of Fayetteville, Arkansas, a municipal corporation, 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, do hereby grant, bargain, sell and convey unto the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, the following described land situated in the County of Washington, State of Arkansas, to-wit:

A part of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) of Section 23, Township 16 North, Range 30 West, being more particularly described as follows: Beginning at a set iron pin also being the Southwest corner of property described in Deed Ref. 2005-11305; thence with the West property line (also being the existing East right-of-way of Happy Hollow Road) North 03° 15' 28" East 738.00 feet to a found iron pin; thence North 72° 20' 24" East 114.00 feet to a set iron pin; thence with the North property line (also being the existing South right-of-way of Huntsville Road) the following calls: South 65° 04' 34" East 87.83 feet to a set iron pin, South 67° 09' 35" East 233.00 feet to a set iron pin, South 72° 41' 22" East 244.56 feet to a found iron pin; thence with the East property line (also being the West right-of-way Ray Avenue) South 04° 33' 19" West 23.01 feet to a set iron pin; thence leaving said East property line North 74° 25' 24" West 139.96 feet to a set iron pin; thence with a curve to the right having a radius of 1355.00 feet for an arc length of 212.82 feet (chord bearing and distance of North 69° 55' 26" West 212.60 feet) to a set iron pin; thence North 65° 25' 28" West 14.95 feet to a set iron pin; thence with a curve to the left having a radius of 195.00 feet for an arc length of 379.17 feet (chord bearing and distance of South 58° 52' 12" West 322.20 feet) to a set iron pin; thence South 03° 09' 53" West 500.45 feet to a set iron pin; thence North 87° 09' 35" West 25.11 feet, to the Point of Beginning, containing 1.16 acres, more or less.

The bearings used in this description are based on City of Fayetteville GPS Monuments and may vary from bearings used previously to describe subject property.

TO HAVE AND TO HOLD the said lands and appurtenances hereunto belonging unto the said Grantee and Grantee's successors and assigns, forever. And the said Grantors, hereby covenant that they are lawfully seized of said lands and premises; that the same is unencumbered, and that the Grantors will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS the execution hereof on this _____ day of _____, 2006.

CITY OF FAYETTEVILLE, ARKANSAS
A Municipal Corporation

BY:

Dan Coody, Mayor

ATTEST:

Sondra Smith, City Clerk

[SEAL]

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

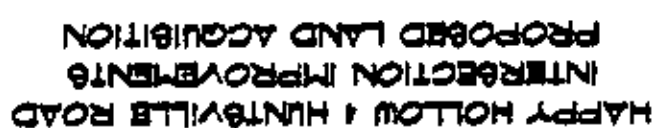
}
} ss.

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 **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**, respectively, 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 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 _____, 2006.

MY COMMISSION EXPIRES:

Notary Public



ENGINEERING DIVISION

113 W. MOUNTAIN STREET

February 3, 1906

01

43700000

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

21-Feb-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 06-1916 (Persimmon MSP Amendment) Approval of a resolution to amend the Master Street Plan for the alignment of Persimmon Street between Broyles Road and Legacy Point Subdivision.

\$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 2-2-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney 2-3-06
Date

Original Contract Number: n/a


Finance and Internal Service Director 2-3-06
Date

Received in City Clerk's Office
ENTERED 2/2/06


Mayor 2/6/06
Date

Received in Mayor's Office
ENTERED 2/3/06

Comments:

City Council Meeting of February 21, 2006
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy Pate, Director of Current Planning

Date: February 01, 2006

Subject: Approval of a resolution to amend the Master Street Plan realigning Persimmon Street between Broyles Road and Legacy Point Subdivision (ADM 06-1916)

RECOMMENDATION

The Fayetteville Street Committee and staff recommend approval of a resolution amending the Master Street Plan to realign Persimmon Street (a Collector) south of its current configuration. The Planning Commission voted unanimously to deny the original proposal as presented, and the applicant has presented an alternative alignment to address some of the raised concerns. This realignment maintains the integrity and purpose of the Master Street Plan, allowing for the needed east-west and north-south future connections in this area.

BACKGROUND

The applicant proposes to amend the Master Street Plan for Persimmon Street between Legacy Pointe S/D Phase IV and Broyles Avenue in West Fayetteville. The primary change lies within property currently owned by the City of Fayetteville, who has contracted to sell to the applicant. Originally a part of the Wastewater Treatment Plant site, approximately 35 acres of property was advertised to sell through the City Council. The contract for purchase includes a contingency that states a Master Street Plan amendment must be approved by the City Council in order for the sale to be finalized. The reason this is requested is due to the current direct alignment of streets in the area that connect major arterials and concerns voiced by neighbors and the applicant about creating cut-through, high-speed traffic if Persimmon is continued in a long, straight stretch (2.8 miles) from the Interstate to Double Springs Road.

Currently Persimmon Street west of Broyles Avenue continues in a direct line to 54th Street. It is a gravel road that serves a few large, single family lots to the north. Should the 35 acres to the south be developed, it is likely that a portion of this street would be improved. The applicant proposes to relocate the Collector Street south of the intersection of Broyles and Persimmon (see attached maps), dedicating the entire right-of-way within the property, to allow for a full street section to be constructed at the time of development. This option continues to provide the important east-west connection while creating a more indirect route, thereby discouraging high-speed traffic in this predominantly residential area. The proposal also realigns Persimmon Street west of 54th

City Council Meeting of February 21, 2006
Agenda Item Number

on property recently purchased by the applicant and intended for development of Legacy Pointe Phase V. This would alleviate an intersection issue of Persimmon, 54th and the future Sunshine Road, which is a Principal Arterial. The existing Persimmon Street would remain in place, for the most part, though some improvements to provide continued access while discouraging cut through traffic will likely occur at the time of development.

DISCUSSION

This item was heard at the Street Committee meeting of January 12, 2006, at which the four members voted to forward this item to the City Council with a recommendation of approval. The Planning Commission on January 23 voted unanimously against the proposal, finding that it did not alleviate any problems in the area and created difficult turning movements. In response to these comments, the applicant has presented a new alternative, in which the intersection alignment is maintained, thereby not creating the difficult turning movements, but moving the rest of the street to the south. Staff is supportive of this new configuration.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION TO AMEND THE MASTER STREET PLAN BY REALIGNING PERSIMMON STREET BETWEEN BROYLES ROAD AND LEGACY POINT SUBDIVISION SOUTH OF THE CURRENT ALIGNMENT AS DESCRIBED AND DEPICTED IN THE ATTACHED MAP

WHEREAS, Collector Streets are intended to provide traffic circulation within residential areas, collecting traffic to channel it into the arterial system, and should be indirect connections between arterials to discourage use by traffic outside the neighborhood; and

WHEREAS, the existing alignment of Persimmon Street continues a long, uninterrupted, direct street connection between arterials that encourages high speed and cut-through traffic from outside the neighborhood; and

WHEREAS, the City Council finds that a realignment of Persimmon Street to the south as indicated in the attached map maintains the integrity of the east-west Collector connection while better protecting existing and future neighborhoods by creating a more indirectly aligned Collector Street.

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 amends the Master Street Plan as indicated in Exhibit "A" attached hereto and made a part hereof.

PASSED and APPROVED this 21st day of February, 2006.

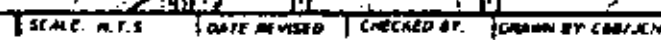
APPROVED:

By: **DRAFT**

DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk





PC Meeting of January 23, 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: Jeremy Pate, Director of Current Planning
DATE: January 18, 2006

DENIED 9-0-0

ADM 06-1916: (Persimmon St. MSP Amendment) Submitted by Jorgensen Associates requesting a Master Street Amendment for Persimmon Street in the manner indicated.

Planner: JEREMY PATE

PROPOSAL

The applicant proposes to amend the Master Street Plan for Persimmon Street between Legacy Pointe S/D Phase IV and Broyles Avenue in West Fayetteville, as recommended by the Fayetteville Street Committee. The primary change lies within property currently owned by the City of Fayetteville, who has contracted to sell. Originally a part of the Wastewater Treatment Plant site, approximately 35 acres of property was advertised to sell through the City Council. The contract for purchase includes a contingency that states a Master Street Plan amendment must be approved by the City Council in order for the sale to be finalized. The reason this is requested is due to the current alignment of streets in the area and concerns voiced by neighbors about creating cut-through, high-speed traffic if Persimmon is continued in a long, straight stretch from the Interstate to Double Springs Road.

Persimmon Street is a Collector Street on the Master Street Plan. It is intended to connect from Double Springs Road (in West Fayetteville) to Shiloh Drive, next to I-540. Rapid growth in this area has transformed fence lines and disconnected gravel roads in the county to paved, curbed and guttered 28-foot wide streets with turning lanes and future traffic signals in a matter of a couple of years. It is anticipated that Persimmon Street will become an important east-west connector once all segments are constructed; presently all segments but the one under consideration now have been constructed to city standards or approved to be constructed in conjunction with development plans.

Currently Persimmon Street west of Broyles Avenue continues in a straight line to 54th Street. It is a gravel road that serves a few large, single family lots to the north. Should the 35 acres to the south be developed, it is likely that a portion of this street would be improved. The applicant proposes to relocate the Collector Street south of the intersection of Broyles and Persimmon (see attached maps), dedicating the entire right-of-way within the property, to allow for a full street section to be constructed at the time of development. This option continues to provide the important east-west connection while creating a discontinuous Collector, thereby discouraging high-speed traffic in this predominantly residential area. The proposal also realigns Persimmon Street west of 54th on property recently purchased by the applicant and intended for development of Legacy Pointe Phase V. This

would alleviate an intersection issue of Persimmon, 54th and the future Sunshine Road, which is a Principal Arterial. The existing Persimmon Street would remain in place, for the most part, though some improvements to provide continued access while discouraging cut through traffic will likely occur at the time of development.

Request: The request is to realign the planned Persimmon Street Collector to south of its current location, as indicated in the attached maps.

Background: The Master Street Plan in its entirety was adopted in 1996, after several public meetings to discuss future collector and arterial connections. The current location of Persimmon Street as a Collector does not easily lend itself to a full expansion due to the existing homes on the north side, and movement of the street to the south would help facilitate a more appropriate connection that discourages high speed traffic on long, straight streets without short block lengths. The Master Street Plan is intended as a guideline, adopted by ordinance, in order to give the city routes of primary connections. It is also relied heavily upon by developers when planning individual developments, for it serves as a key component to tying different developments together with a vehicular and pedestrian street network. In this case several developers, landowners and neighborhood members have come together to work out a solution that hopefully serves the community as a whole.

DISCUSSION

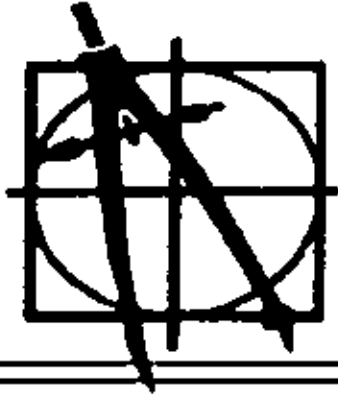
This item was heard at the Street Committee meeting of January 12, 2006, at which the four members voted to forward this item to the City Council with a recommendation of approval.

RECOMMENDATION

The Fayetteville Street Committee recommends approval of a resolution amending the Master Street Plan to realign Persimmon Street between its currently placement in Legacy Point IV and Broyles Avenue, a movement southward, as indicated in the attached maps. This realignment maintains the integrity and purpose of the Master Street Plan, allowing for the needed east-west and north-south future connections in this area, and providing a more realistic plan for development than where it is currently located. The City Council must also review and approve this alignment, and will take both staff's and the Planning Commission's comments as part of their review.

Please see the attached map for further reference:

- 1) Persimmon Street Master Street Plan Amendment as proposed by the applicant (11x17)



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

A.4
ADM 06-1916 Persimmon MSP Amendment
Page 8 of 12

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

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

January 17, 2006

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Attn: Planning Department
Re: Persimmon Street MSP Amendment

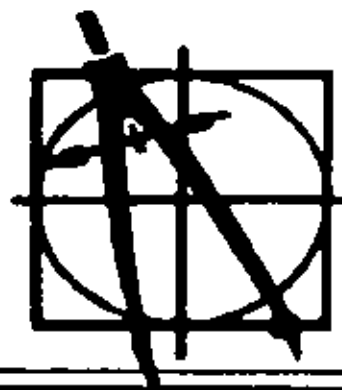
Please place the following MSP Amendment on the January 23, 2006 Planning Commission agenda. This change to the alignment of Persimmon Street has already been heard by the Street Committee of the City Council and has been forwarded with a positive recommendation to the full Council.

Please call concerning any questions you may have.

Thank you.

Sincerely;


Christopher B. Brackett, P.E.



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

A.4
ADM 06-1916 Persimmon MSP Amendment
Page 9 of 12

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

DAVID L. JORGENSEN, P.E., P.L.S.

CHRISTOPHER B. BRACKETT, P.E.

February 1, 2006

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

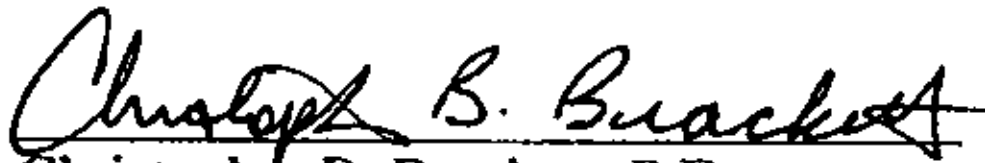
Attn: Planning Department
Re: Persimmon Street MSP Amendment

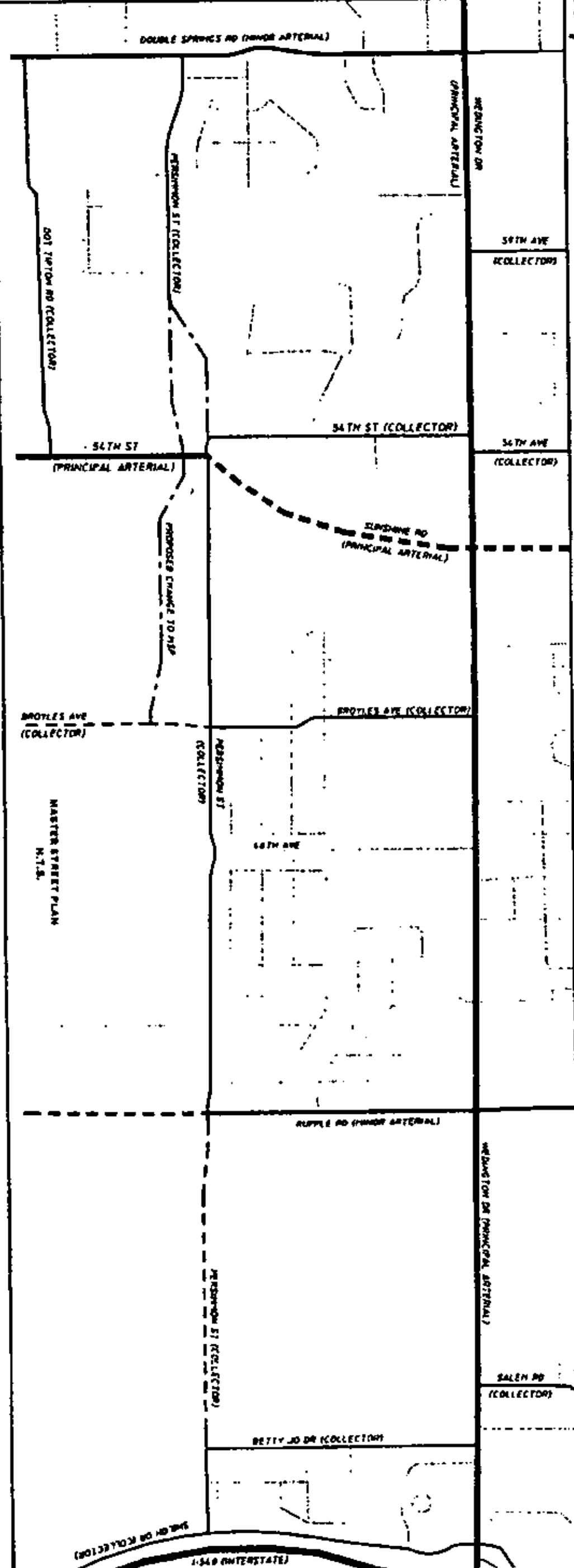
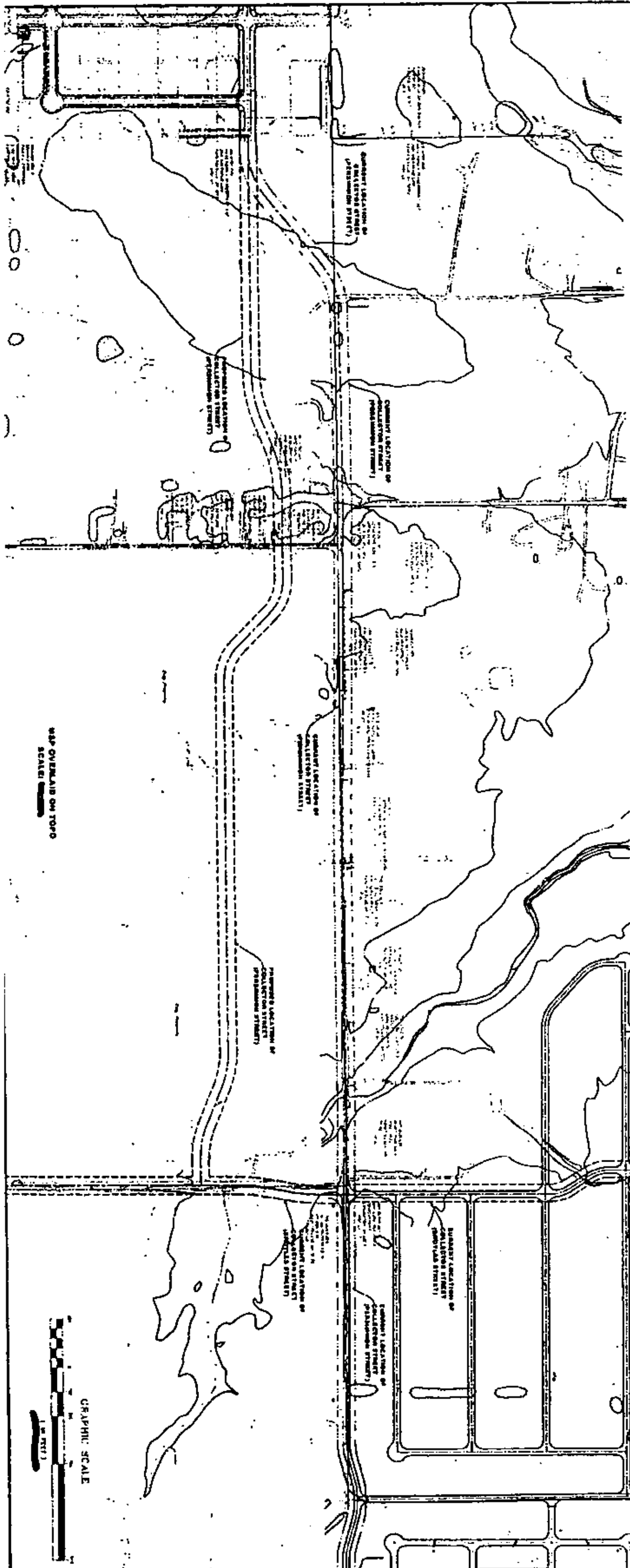
Please find fifteen copies of the revised Persimmon Street MSP Amendment and fifteen copies of the original submittal of this plan that was presented to the Street Committee and the Planning Commission. This plan has been revised to show the Persimmon/Broyles Intersection aligned. This change was made after the reservations expressed by the Street Committee about the offset intersection even with their approval and also the concerns by the Planning Commission. Other options were explored to cross the existing creek and a more feasible option was found so the plan was revised. The length of Persimmon Street without the offset will still likely pose a problem but hopefully the added bends in the road shown by this plan will help to calm the traffic somewhat.

Please call concerning any questions you may have.

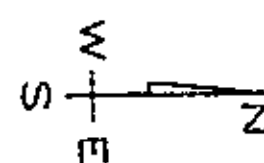
Thank you.

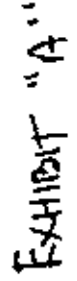
Sincerely;


Christopher B. Brackett, P.E.



ORIGINAL
SUBMITTAL





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 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	\$ 2,221,510.94	Street ROW / Intersection /
Cost of this request	Category/Project Budget	Cost Sharing
4470.9470.5809.00	\$ 661,316.91	Program Category / Project Name
	Funds Used to Date	Street Improvements
02116	\$ 1,560,194.03	Program / Project Category Name
Project Number	Remaining Balance	Sales Tax Capital Improvements
		Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

[Signature] 1-19-06
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

[Signature] 1/24/2006
City Attorney Date

Original Contract Number: _____

[Signature] 1/24/06
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED
1-19-06

Mayor Date

Received in Mayor's Office
ENTERED
1/23/06

Comments:

Left on the second reading 2/7/06

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: 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:

RUPPLE RD. COST SHARE

Developer's Share	\$1,492,337.07
City's Share	<u>\$ 535,934.80</u>
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 COODY, 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 (80 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	\$ 91.88	\$ 287,968.88
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 - Rupple	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
6-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 afore mentioned 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

B. 1
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)

Vendor #		New		Vendor Name		BMW Investments, LLC		Requisition No.:		Date:		1/18/2006	
Address:		P.O. Box 6485		Fob Point:				P.O. Number:		Expected Delivery Date:			
City:		Springdale		State:		AR		Mail Yes:		No:			
Requester:		Matt Casey		Zip Code:		72766		Taxable Yes:		No:			
Requester's Employee #		2119		Ship to code:		90		Quoted Attached Yes:		No:			
Requester's Employee #		2119		Requester's Employee #		2119		Division Head Approval:		No:			
Requester's Employee #		2119		Requester's Employee #		2119		Extension:		429			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #				
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:

Mayor:

Department Director:

Purchasing Manager:

Finance & Internal Services Director:

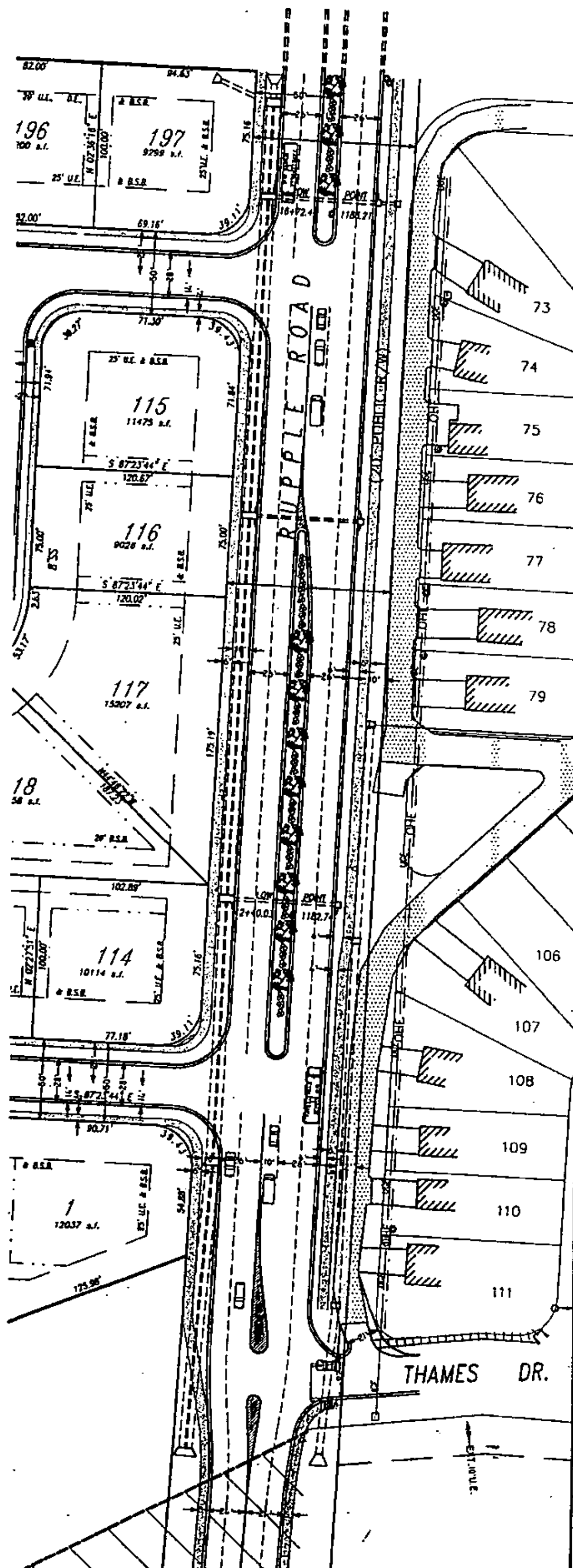
Budget Manager:

IT Manager:

Dispatch Manager:

Utilities Manager:

Other:



RUPPLE BOULEVARD CONCEPT PLAT

PAGE	of	PAGES
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

H2
ENGINEERING, INC.
 2758 MILLENNIUM DRIVE
 Suite 1
 FAYETTEVILLE, ARKANSAS
 PHONE: (479) 582-H2E1
 FAX: (479) 582-9254

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

1-23-06
Date

Received in Mayor's Office



Mayor

1/27/06
Date

Comments:

Left on the first reading 2/7/06

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 Distict 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.

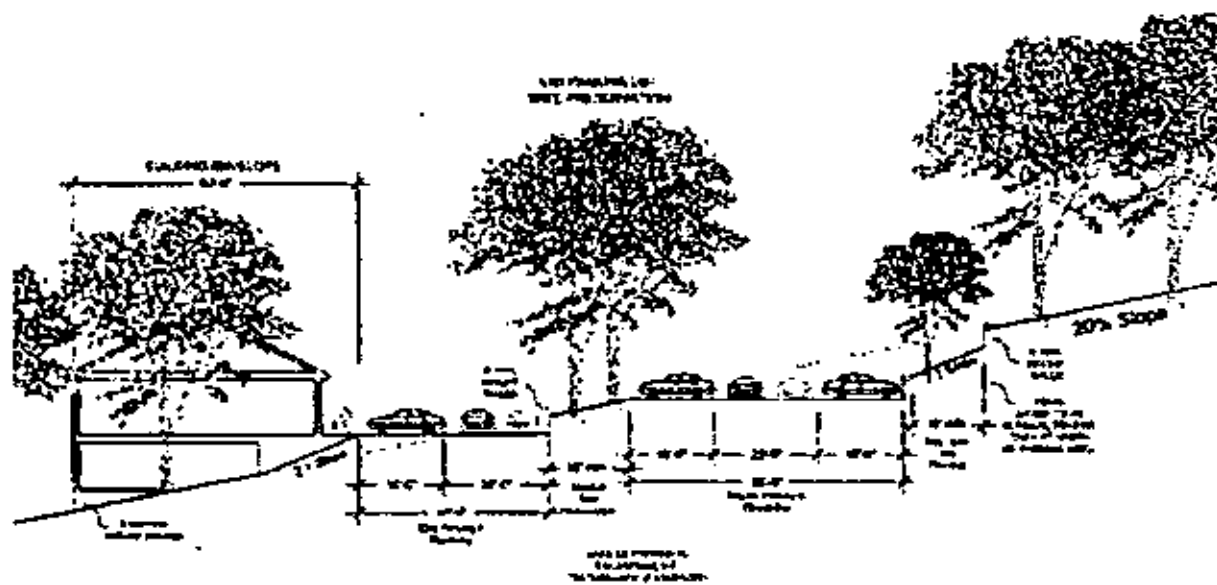
EXHIBIT "F"

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.

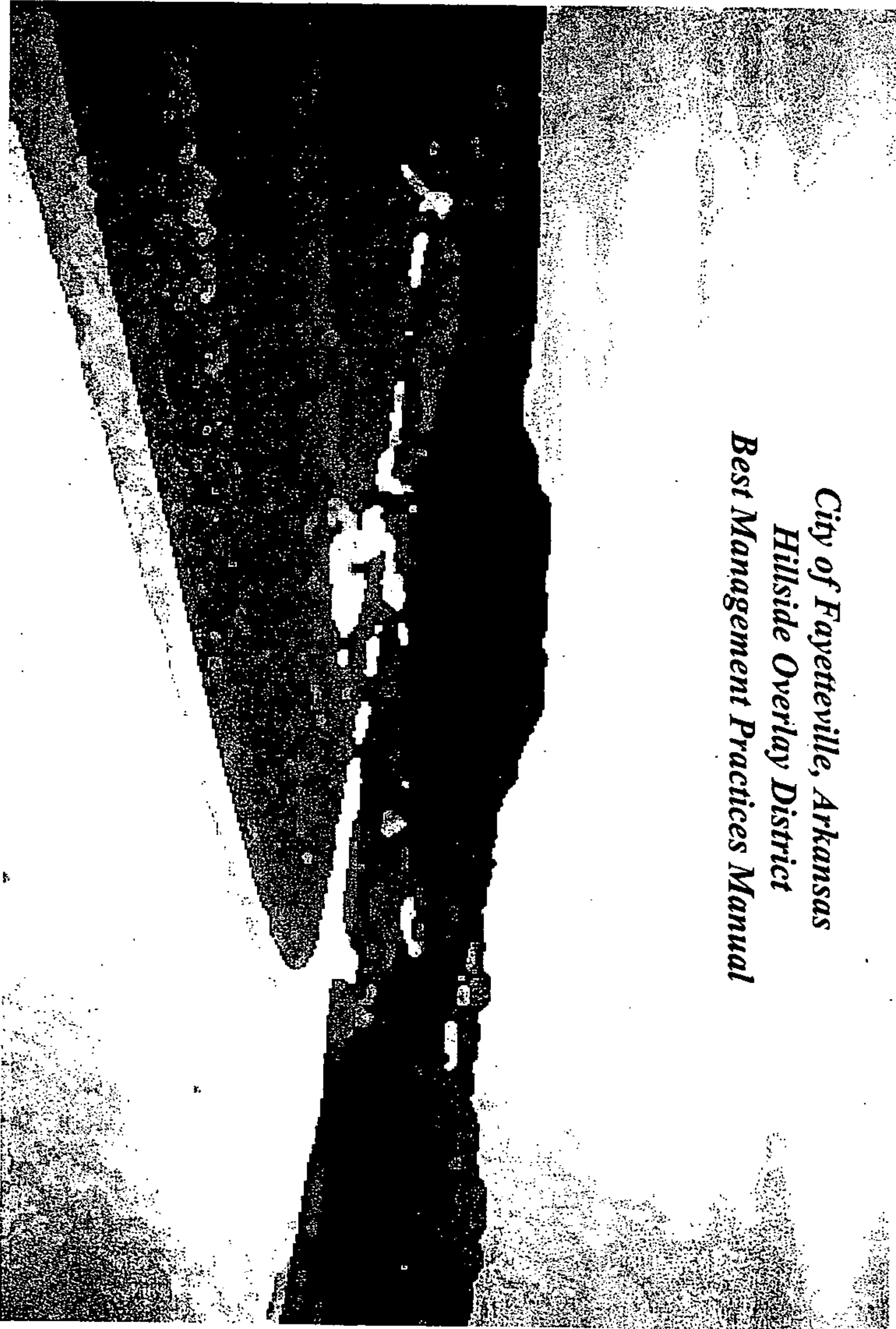
Building, structures, and parts thereof shall be designed and constructed in accordance with strength design, load and resistance factor design, allowable stress design, empirical design, or conventional construction methods, as permitted by the applicable material chapters of the Arkansas Fire Prevention 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, 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:**

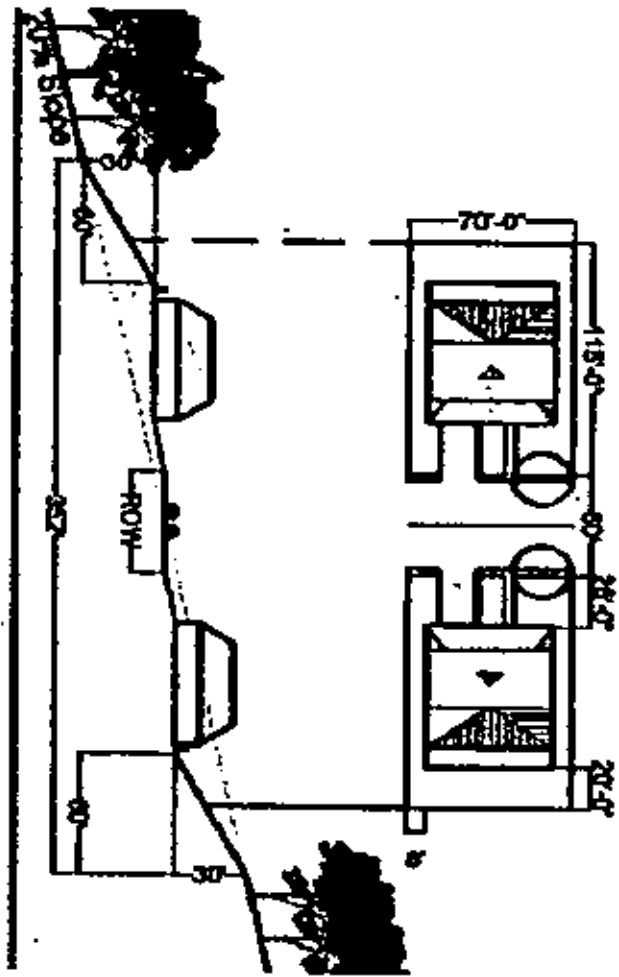
To examine existing zoning codes, Design Workshop created plans and sections illustrating minimum allowable lot size, maximum allowable building footprint, and front, side, and rear setbacks. The analysis revealed that existing lot conditions do not promote sound development practices with respect to 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



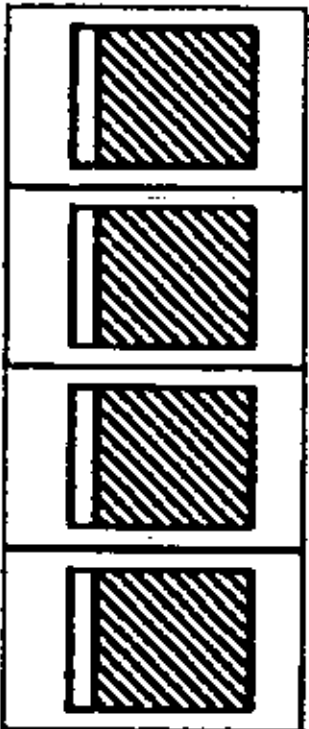
EACH LOT = 8,050 SQ FT (70 WIDTH X 115 LENGTH)
 SETBACKS:

FRONT 25
 BACK 20
 SIDE 8

BUILDING FOOTPRINT (ACCORDING TO SETBACKS)
 = 3,760 SQ FT (64 WIDTH X 70 LENGTH).

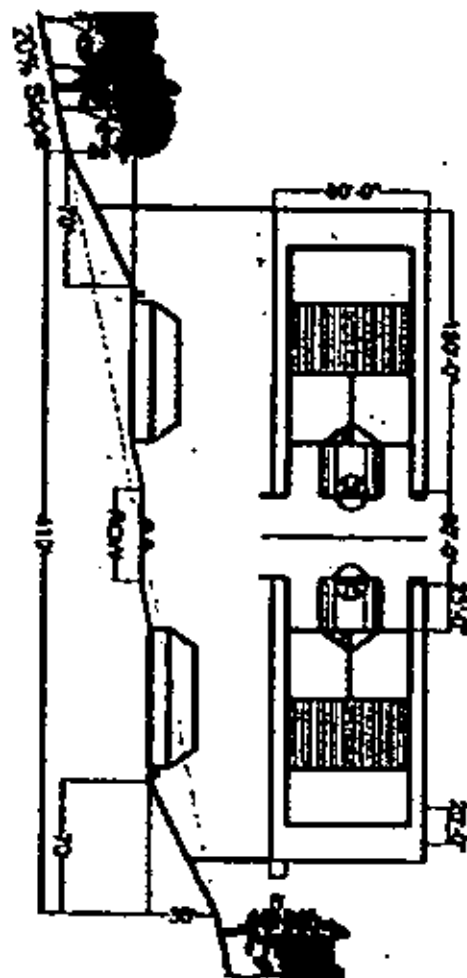
ZONING ONLY ALLOWS FOR 40% COVERAGE
 (8,050 X .4) = MAX 3,220 SQ FT FOOTPRINT
 (60 WIDTH X 84 LENGTH).

THIS DIFFERENCE CREATES A 560 SQ FT
 POTENTIAL DEVELOPMENT ZONE WHICH IS FRONT
 BACK/FLEXIBLE.



Existing RSF-4 Two Family

RSF4 TWO FAMILY



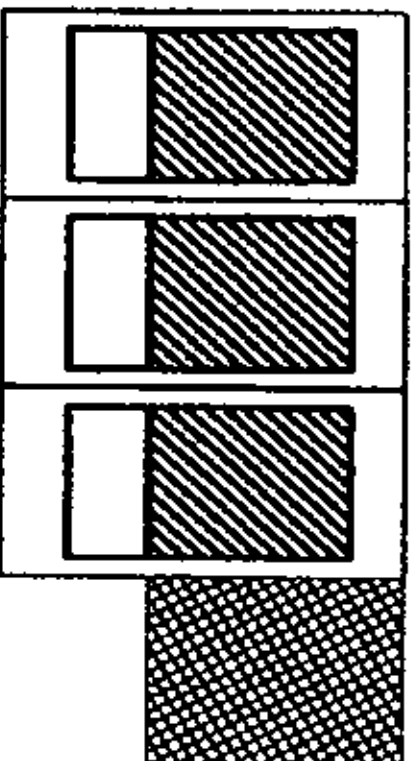
EACH LOT = 12,000 SQ FT (80 WIDTH X 150 LENGTH)
 SETBACKS:

FRONT 25
 BACK 20
 SIDE 8

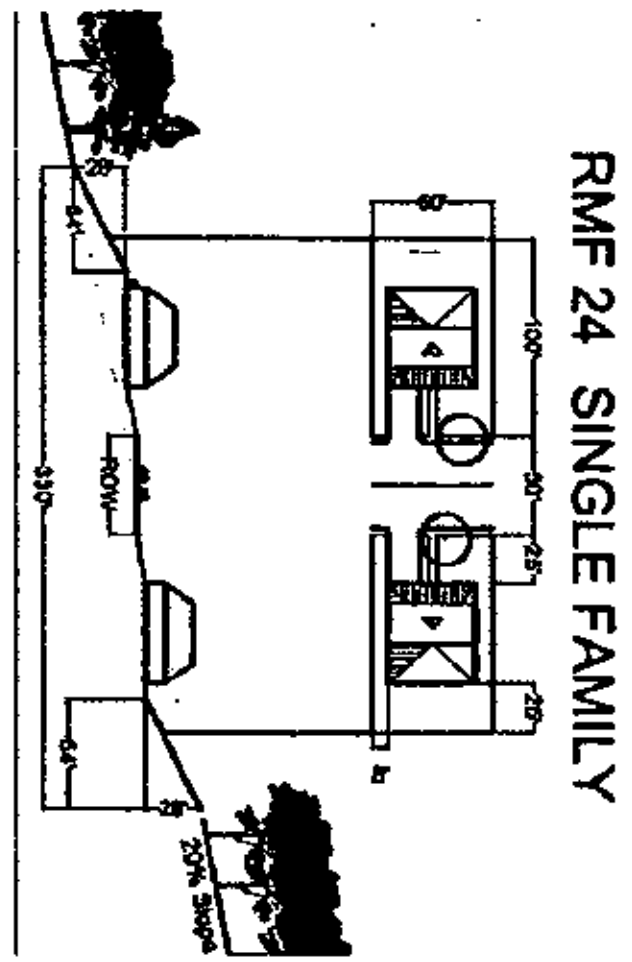
BUILDING FOOTPRINT (ACCORDING TO SETBACKS)
 = 6,720 SQ FT (84 WIDTH X 105 LENGTH).

ZONING ONLY ALLOWS FOR A 40% COVERAGE
 (12,000 X .4) = MAX 4,800 SQ FT FOOTPRINT
 (64 WIDTH X 76 LENGTH).

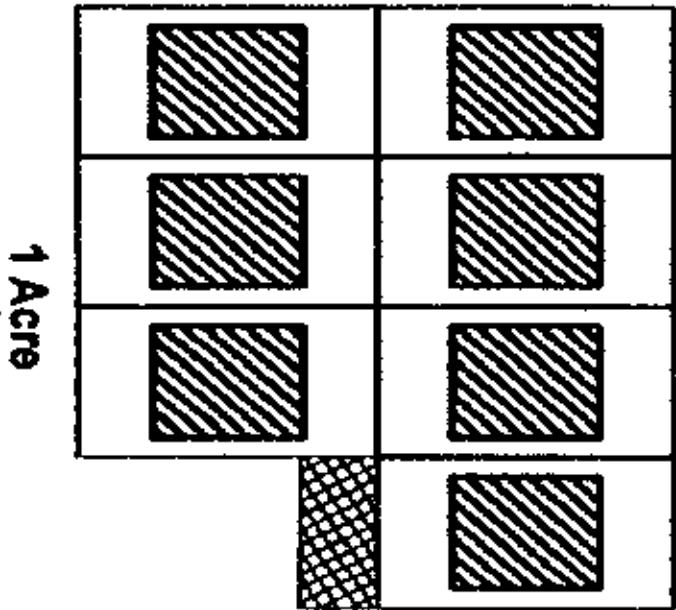
THIS DIFFERENCE CREATES A 1,920 SQ FT POTENTIAL
 DEVELOPMENT ZONE WHICH IS FRONT BACK/FLEXIBLE.



Existing RMF-24 Single Family

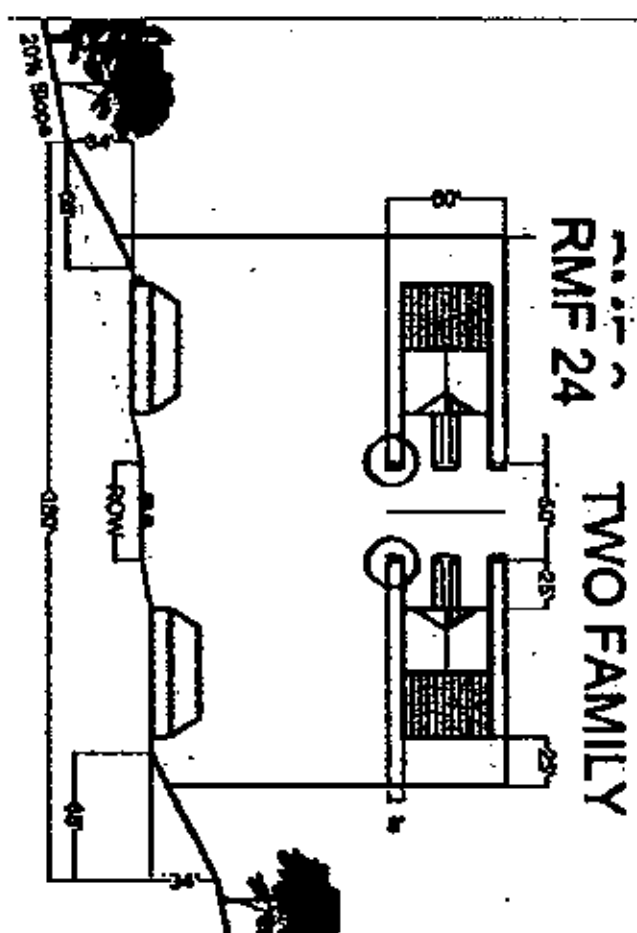


MIN EACH LOT = 6,000 SQ FT (60 WIDTH X 100 LENGTH)
 SETBACKS:
 FRONT 25
 BACK 25
 SIDE 5
 HOUSE SIZE = 2,200 SQ FT HOUSE SIZE
 SETBACKS INCREASE WHEN HEIGHT EXCEEDS 20 FT

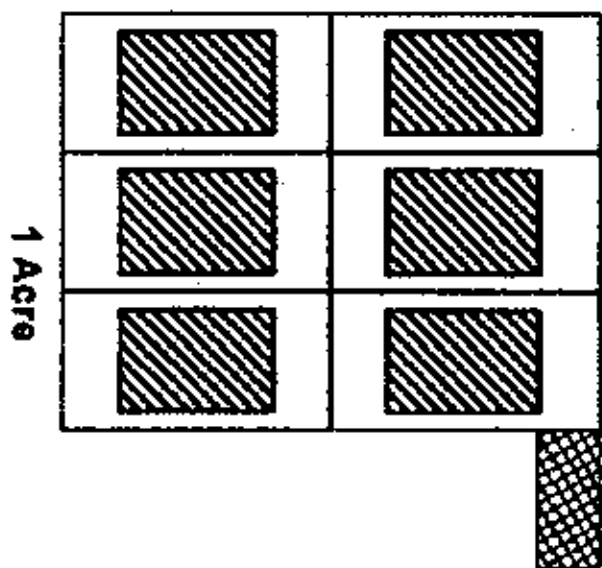


1 Acre

Existing RMF-24 Two Family

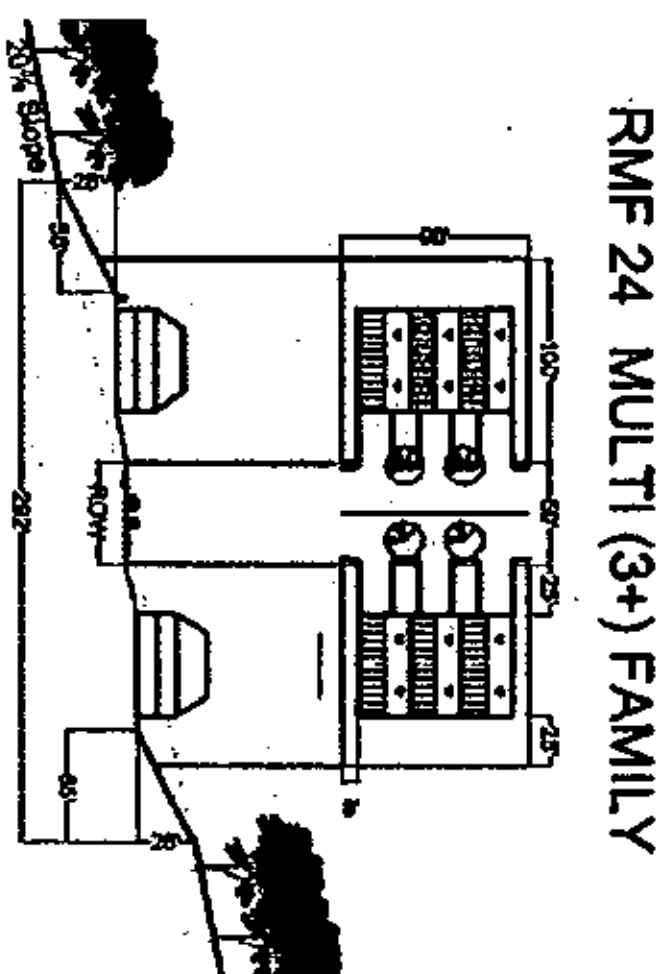


MIN EACH LOT = 7,000 SQ FT (60 WIDTH X 116 LENGTH)
 SETBACKS:
 FRONT 25
 BACK 25
 SIDE 5
 HOUSE SIZE = 2,934 SQ FT HOUSE SIZE
 SETBACKS INCREASE WHEN HEIGHT EXCEEDS 20 FT

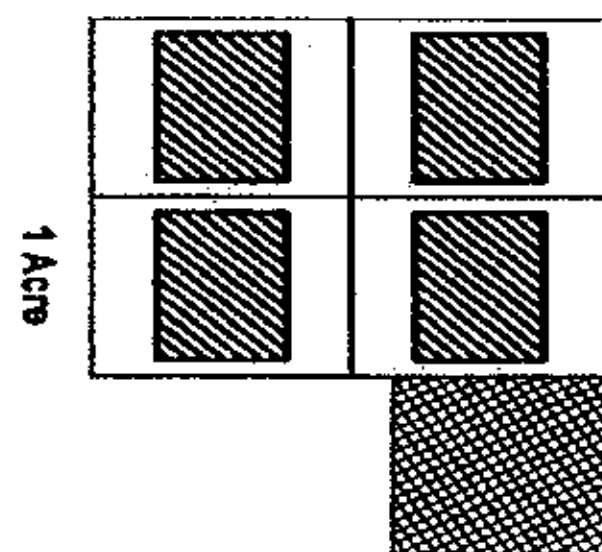


1 Acre

Existing RMF - 24 3+ Family



MIN EACH LOT = 9,000 SQ FT (60 WIDTH X 100 LENGTH)
 SETBACKS:
 FRONT 25
 BACK 25
 SIDE 5
 HOUSE SIZE = 3,700 SQ FT HOUSE SIZE
 SETBACKS INCREASE WHEN HEIGHT EXCEEDS 20 FT

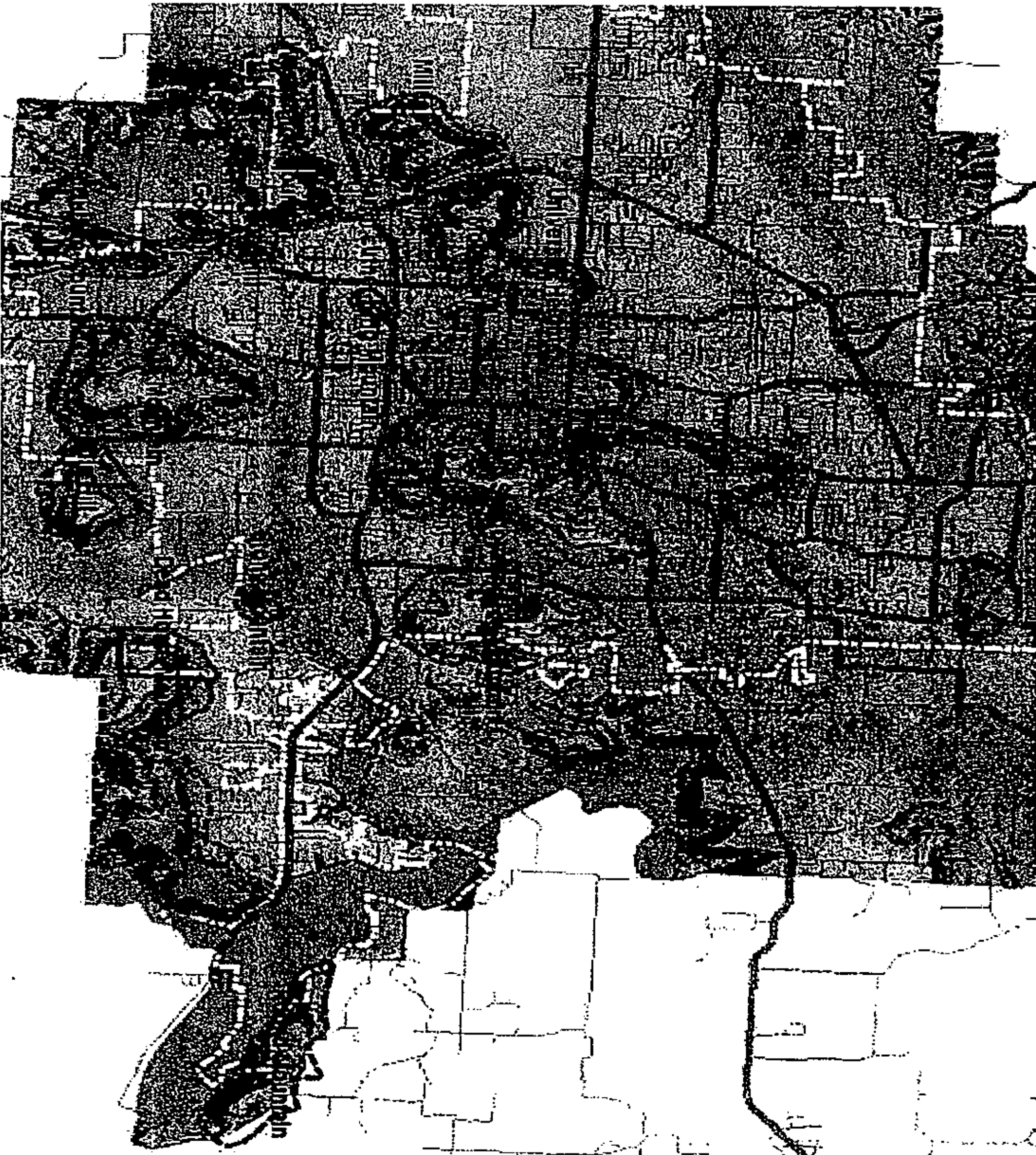


1 Acre

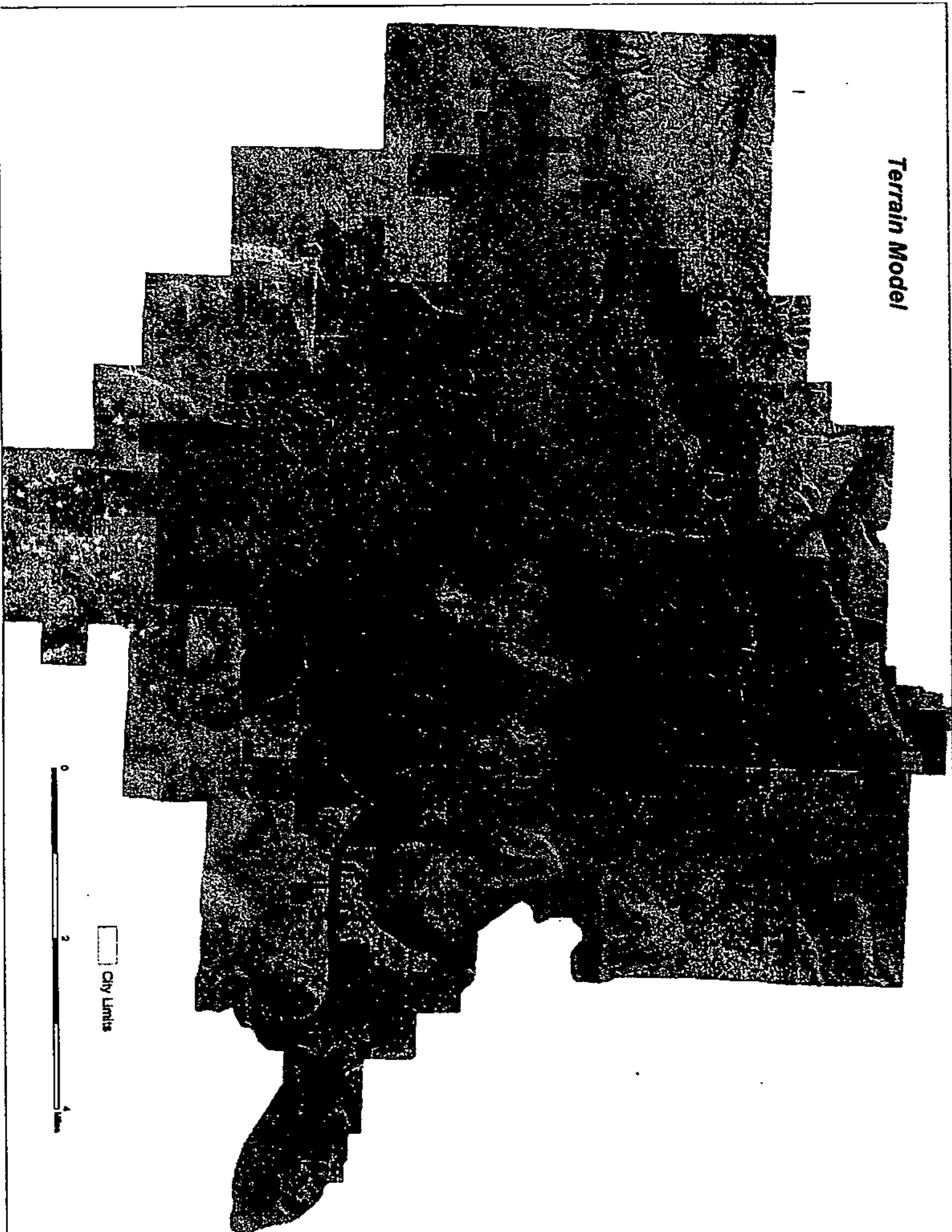
- **Existing Slopes:**

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

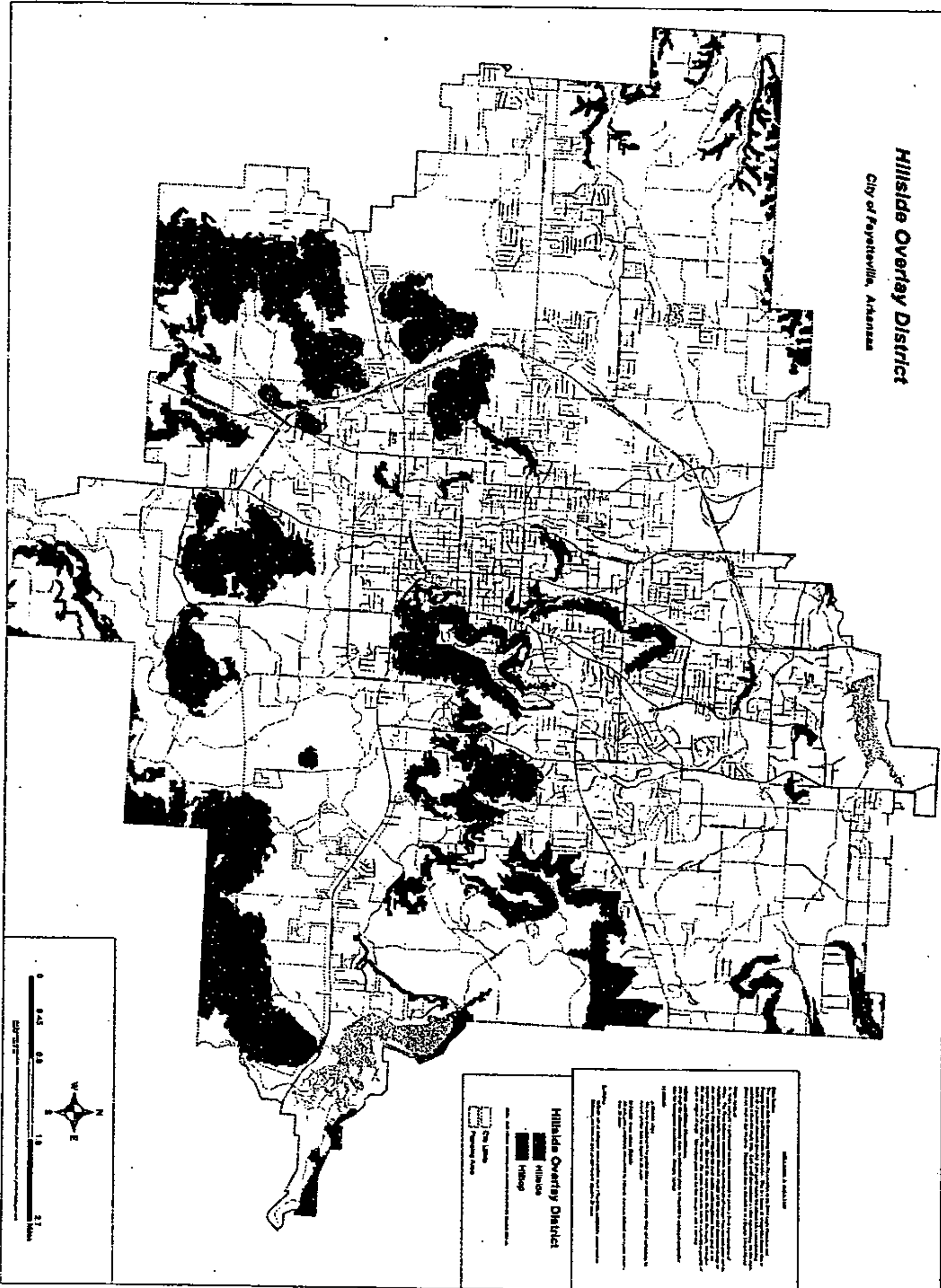
A. Subdivision Development

- **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}

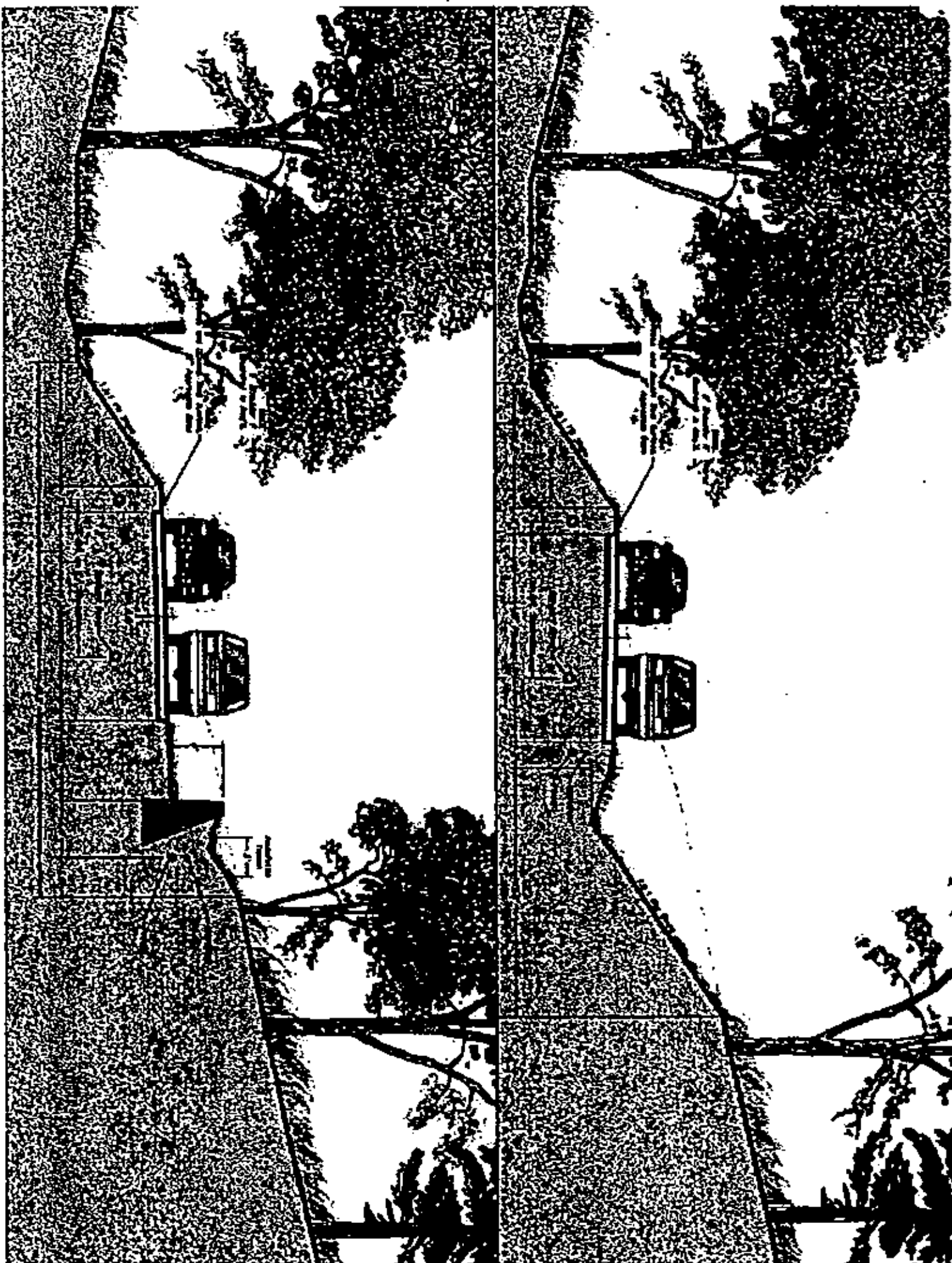
- **Right of Way Design and Road Grading:**

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.

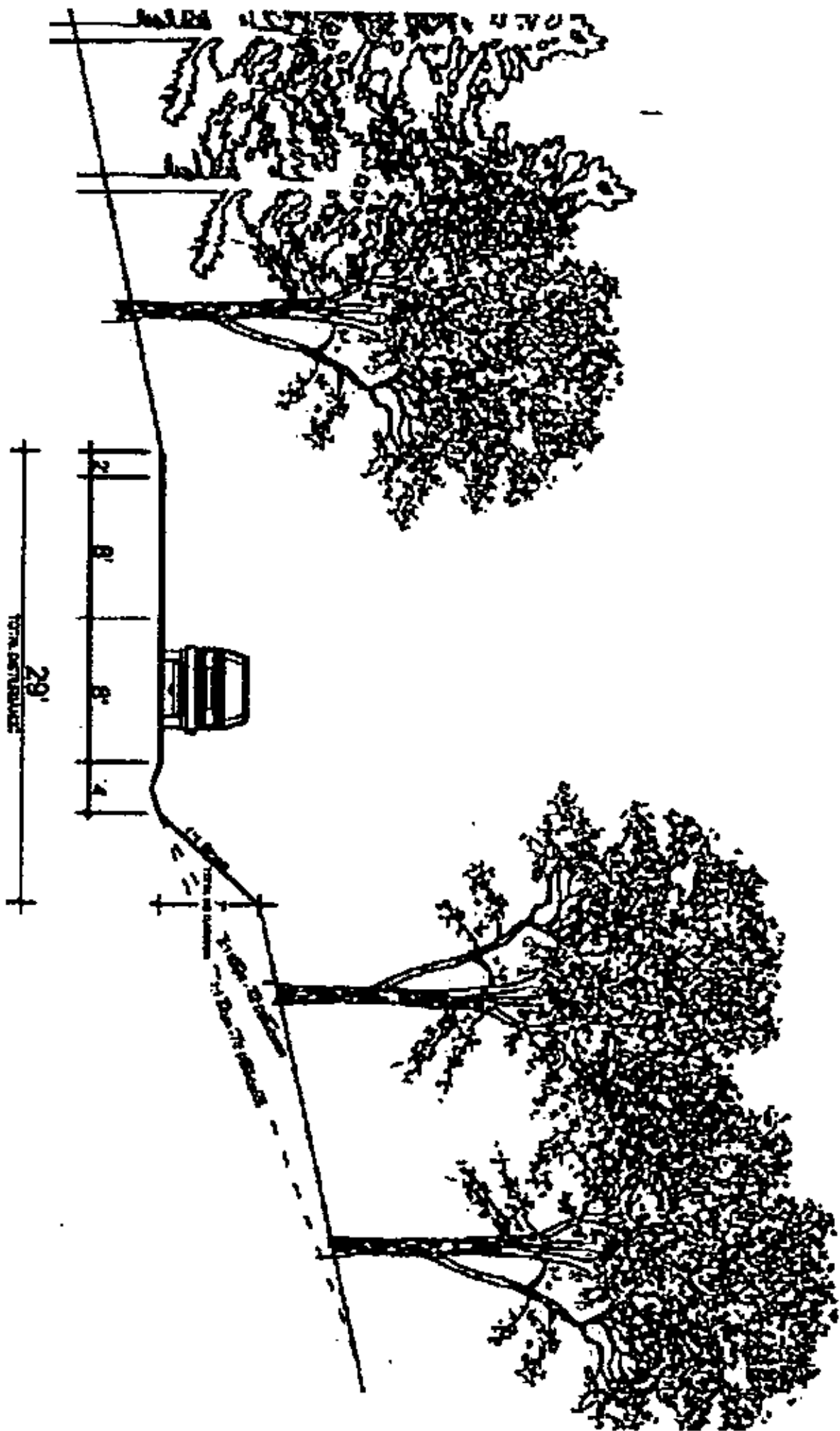
Streets located within the Hillside Overlay District shall have the right-of-way determined as back of curb to back of curb, or back of sidewalk to back of curb. These right-of-ways shall be comprised of the following components:

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.



20% SLOPE

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.

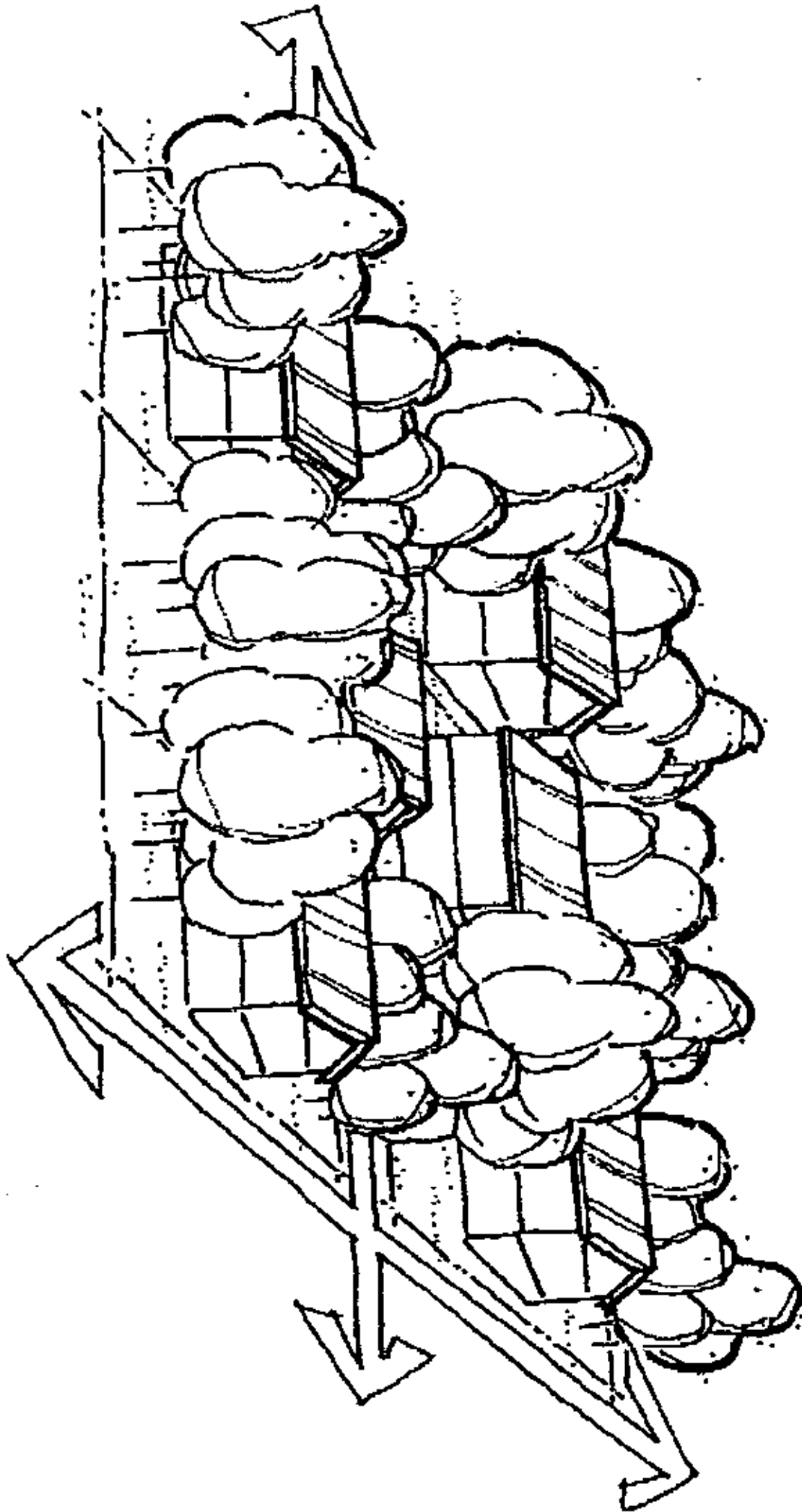


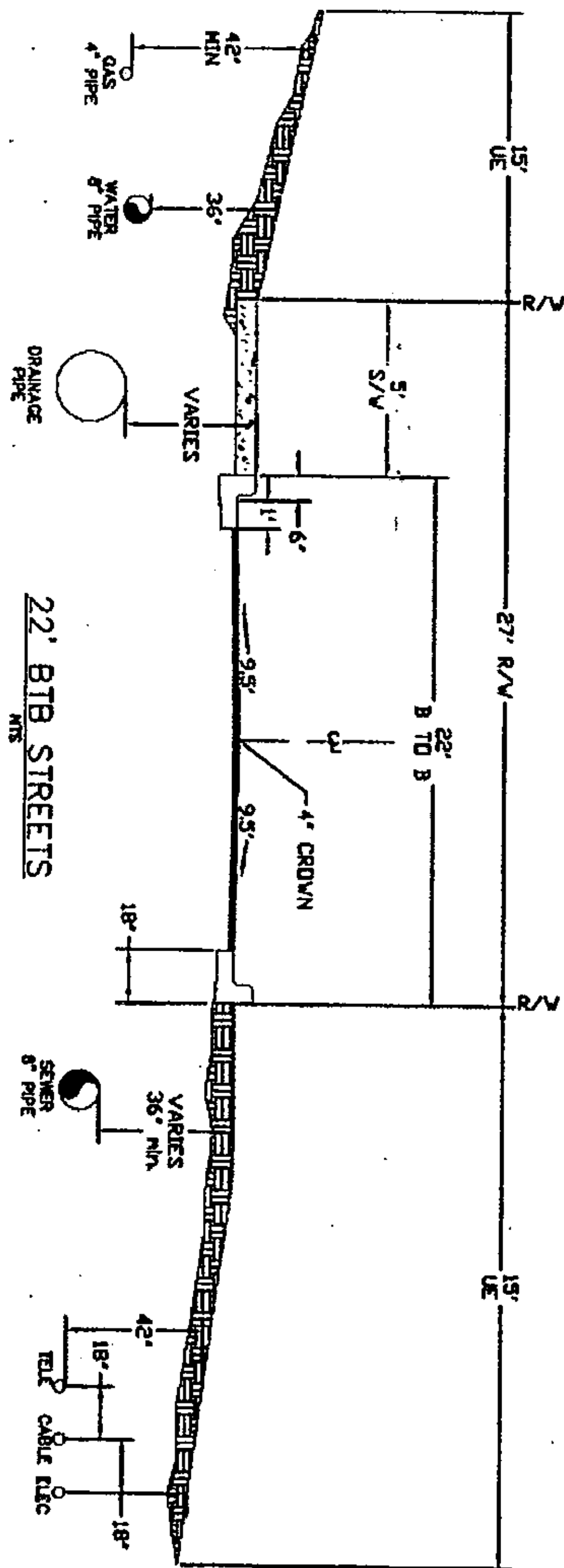
Diagram Illustrating Community Pattern (City of Fayetteville 2005)

• Hillside Street Cross – Sections:

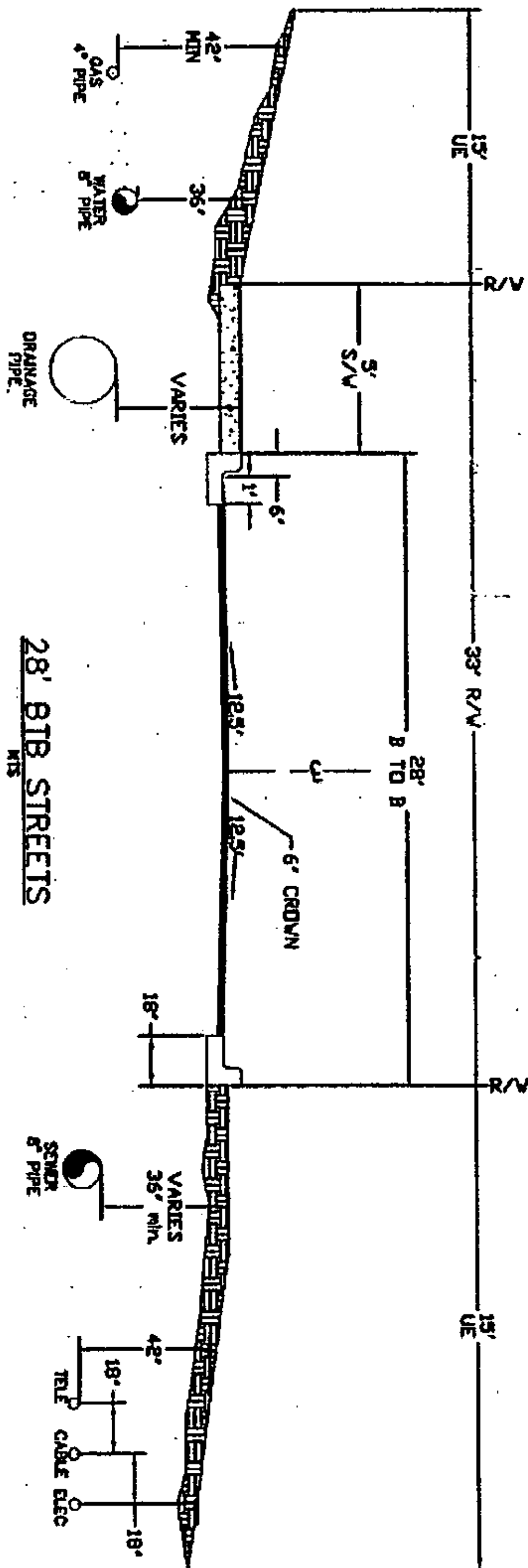
The City has adopted two street cross-sections for use within the Hillside Overlay District. These cross-sections are the result of numerous meetings between Planning and Engineering Staff, Developers, and Utility Companies. These cross sections have been developed in an effort to minimize hillside disturbance 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.



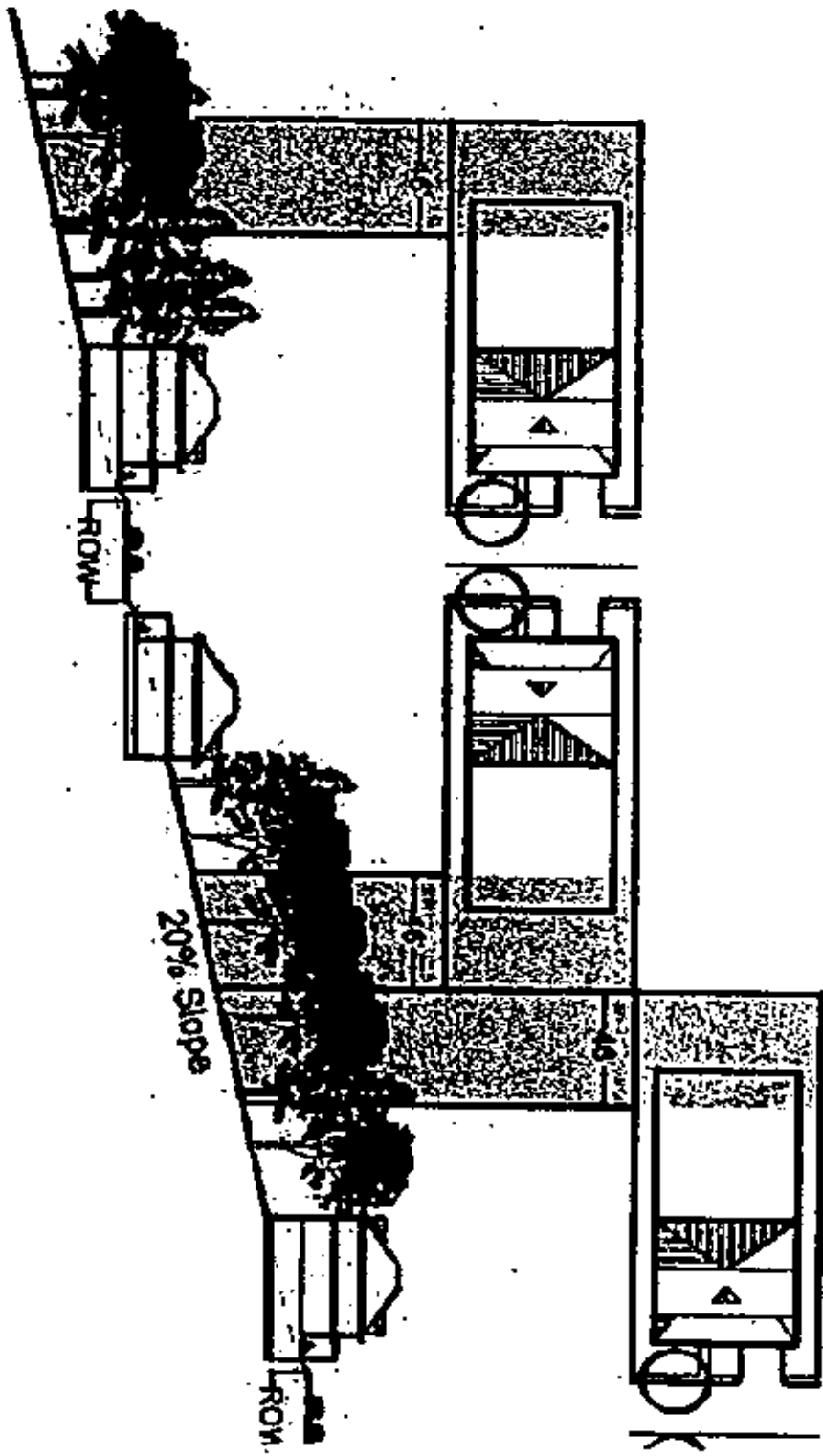
Collector streets in the Hillside Overlay District (HOD) may use the following street cross-section. Designed to collect traffic from the neighborhood and disperse it to minor arterials, collector streets in the HOD have 12.5 foot travel lanes with an overall back of curb to back of curb dimension of 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.



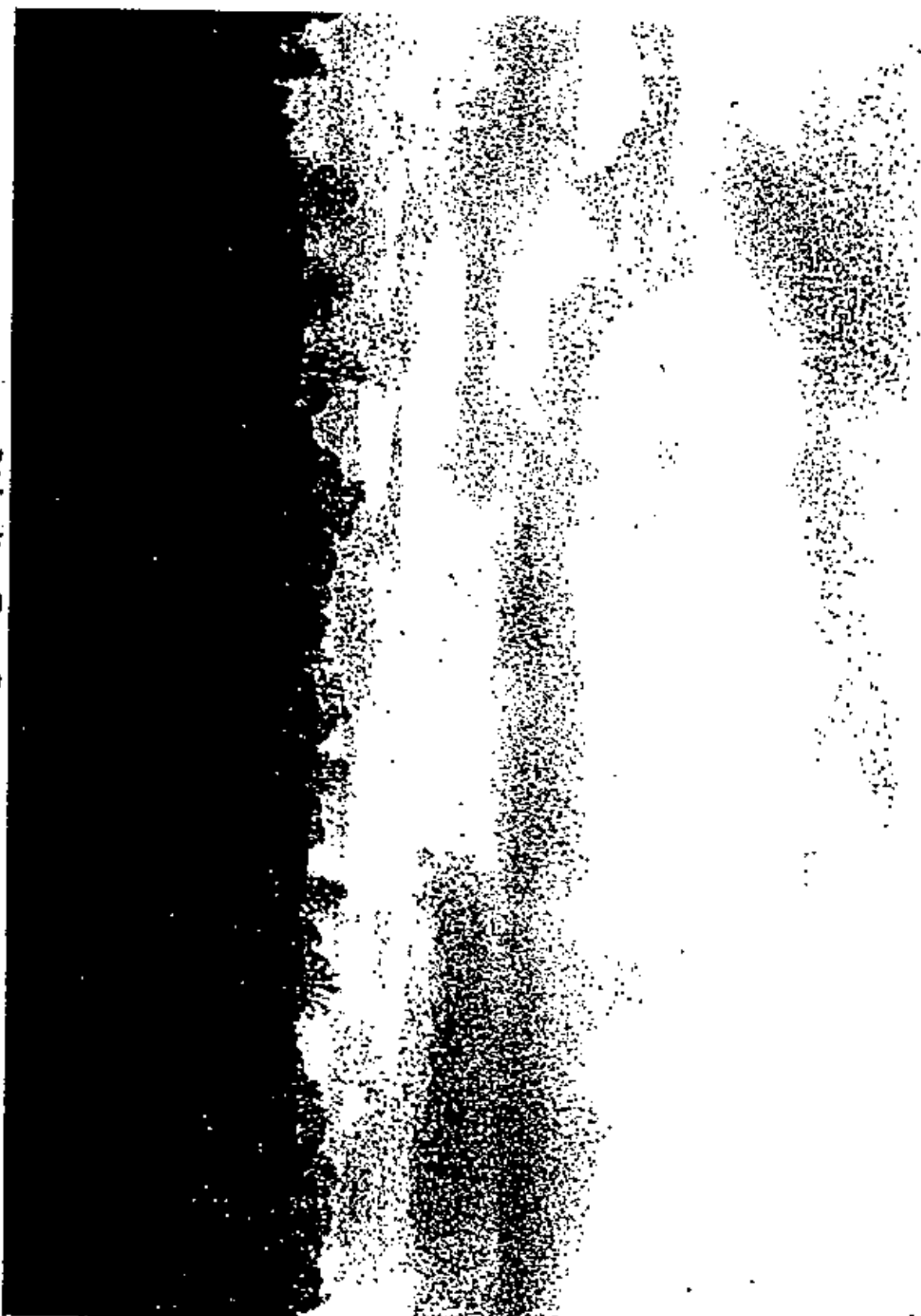
• **Tree Preservation – Subdivision Development:**

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.

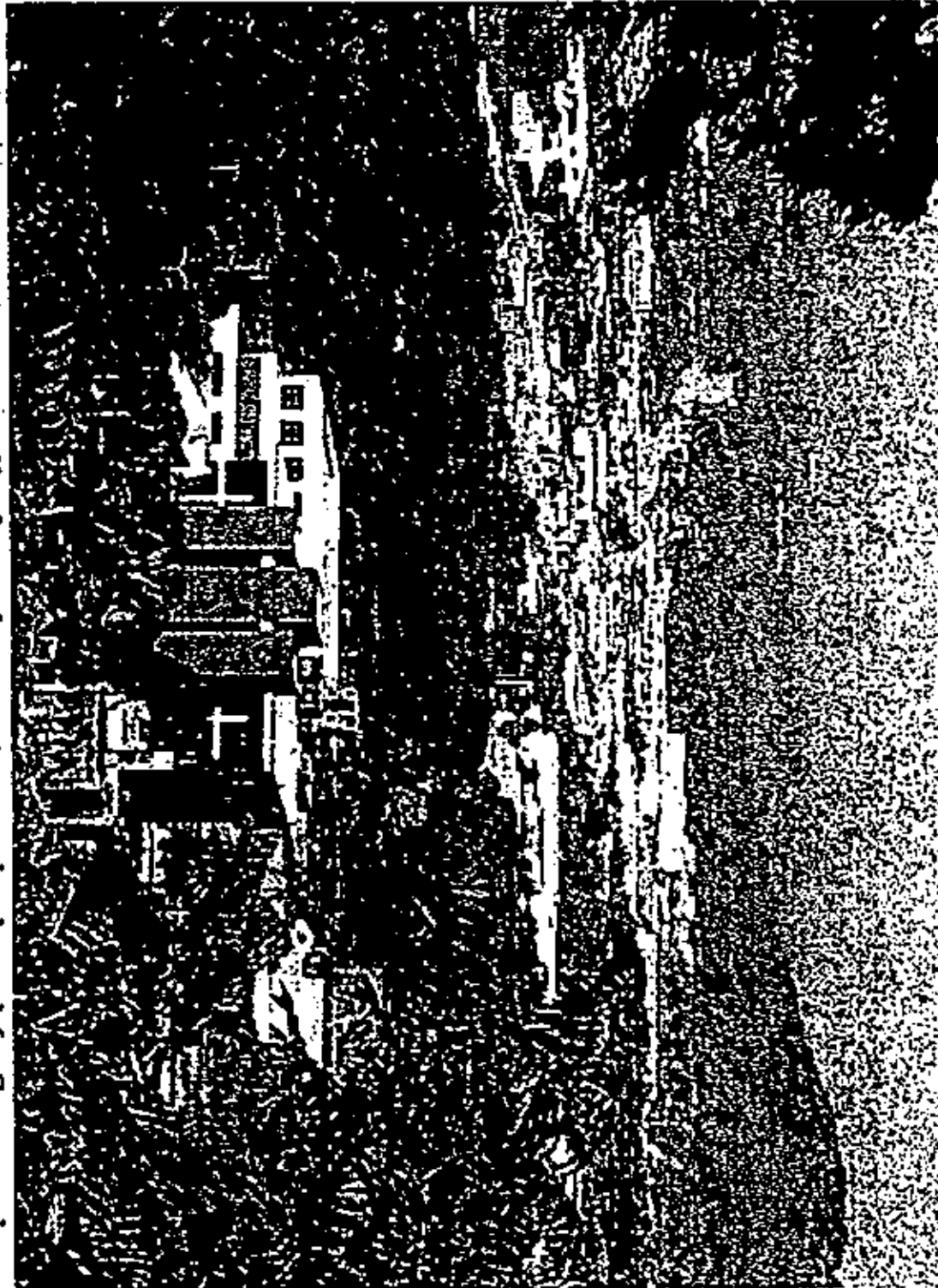


- Locate tree preservation in areas on ridgelines to preserve ridge profiles and screen hilltop development.



Ridgeline Tree Canopy

- 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.

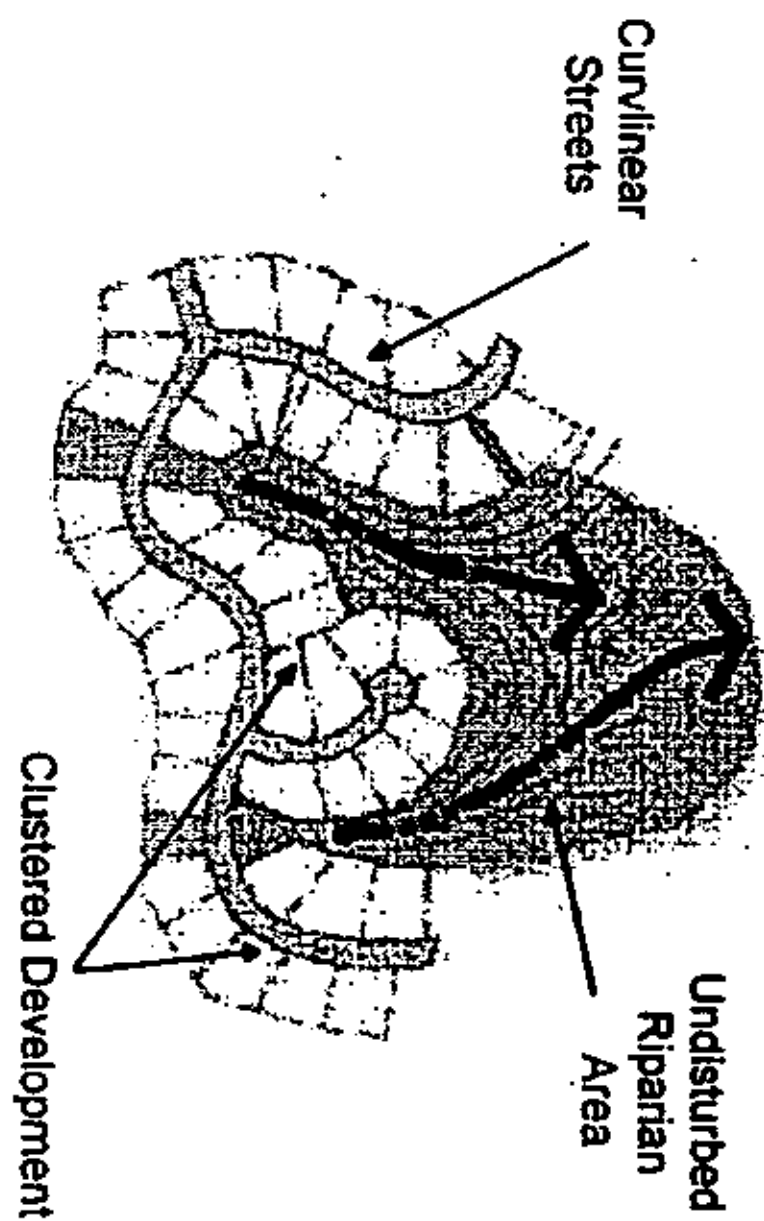


Root Mtn. viewed from I - 540 looking north.

- **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:

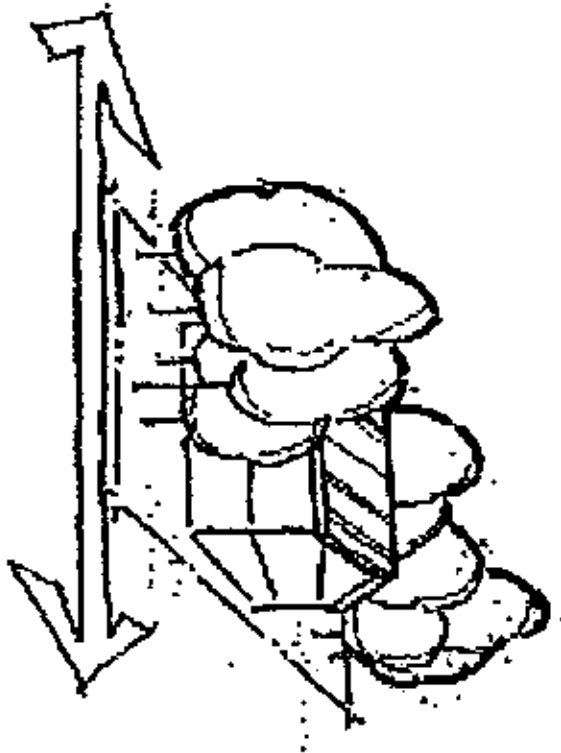
- Developers who request development rights vested through the Planned Zoning District ordinance are encouraged to use the Hillside Best Management Practices Manual in order to guide their development.
- Encourage development to occur in areas and on lands with less slope.
- Encourage more open space 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:**

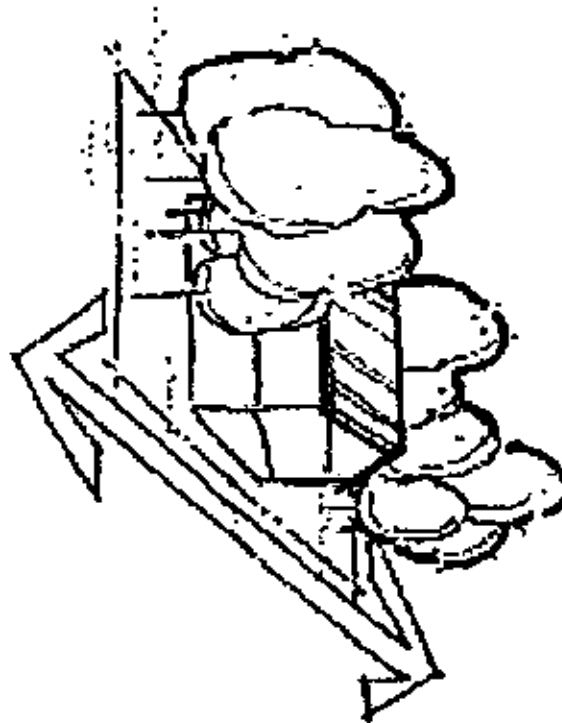
In order to accommodate hillside development and still retain the existing zoning and density, the zoning code will be amended in regards to lot width requirements. The study of the existing zoning code concluded the following:

- 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.



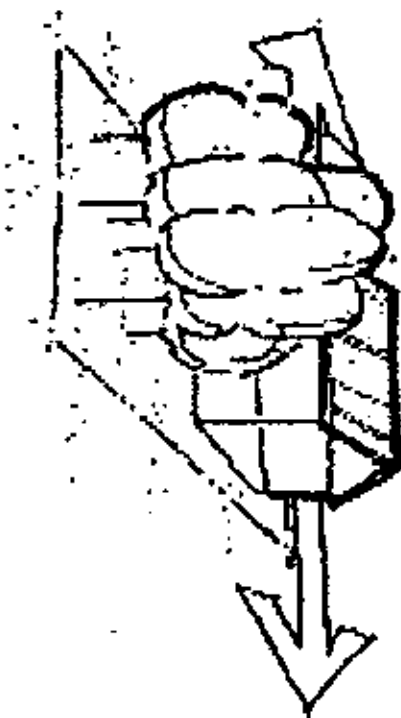
Narrowed Frontage Increased Depth

- Allow deeper side of lots to run perpendicular to grade regardless of street orientation.



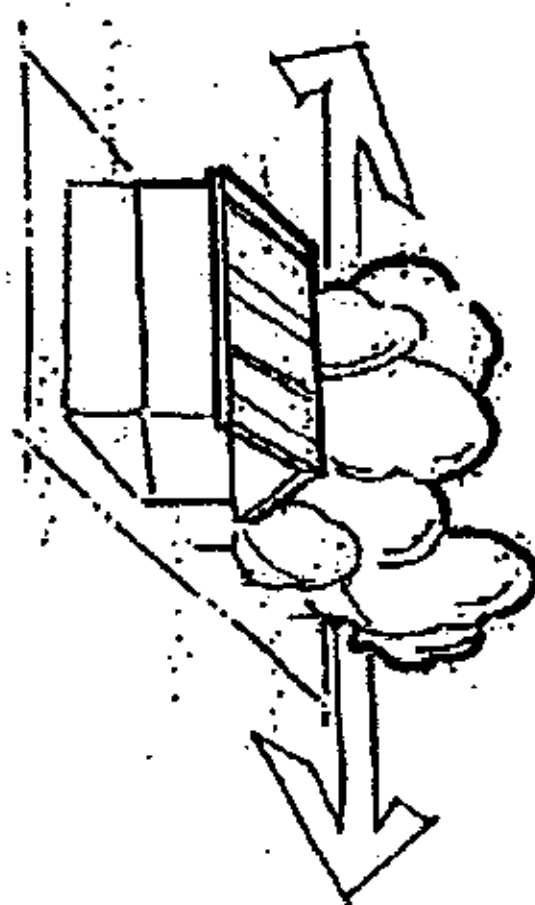
Lot Orientation with the Grade

- 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

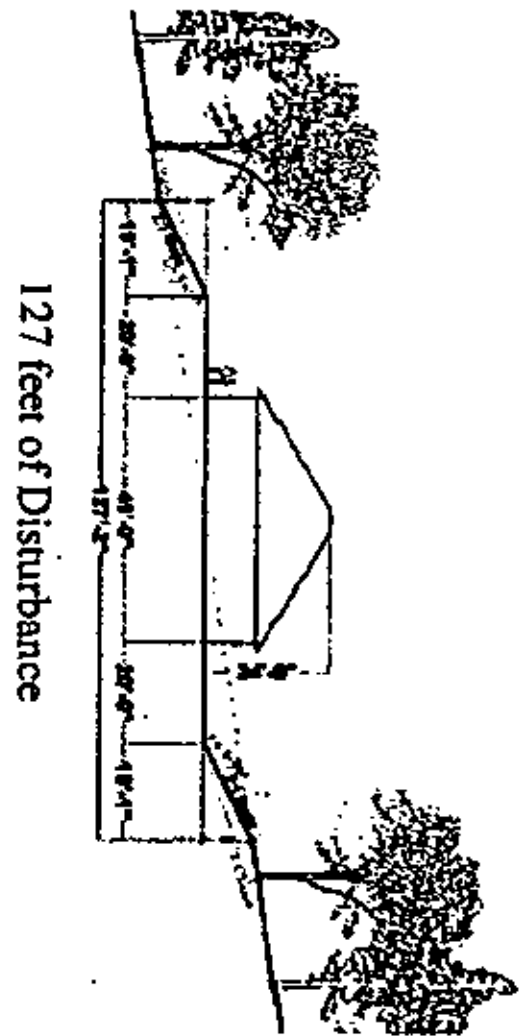
conjunction with the slope. Home plans purchased in a pattern book are typically designed without regard to slope and therefore their use should be minimized and discouraged. In general, this *Hillside Best Management Practices Manual* encourages the following recommendations with regard to home site 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.

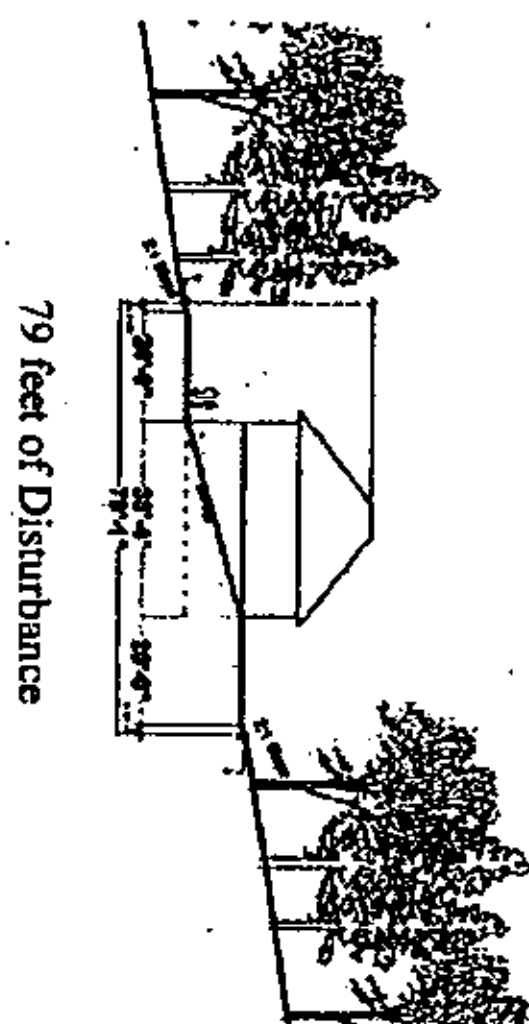
- Visual screening should be encouraged with the use of tree preservation on the rear of the lot.

• 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.



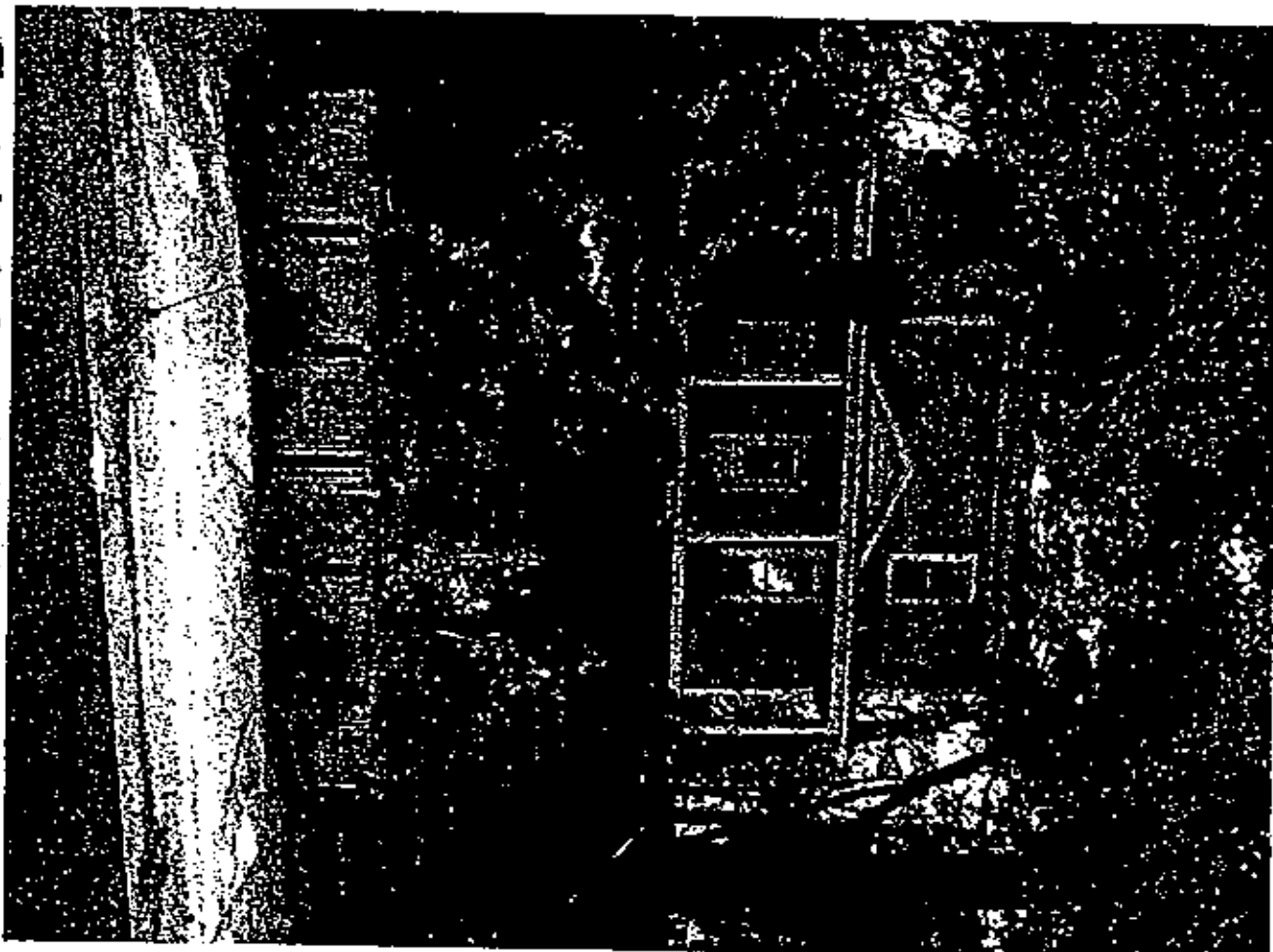
This home is accessed by the bridge at street level. Tree canopy preservation is abundant.

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.



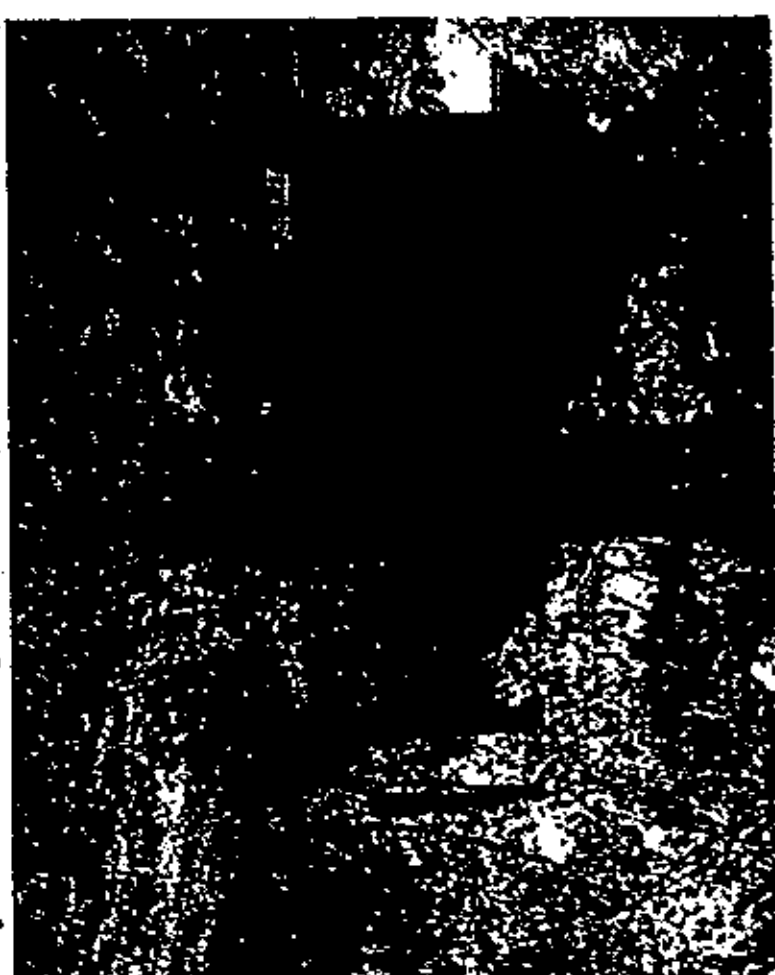
Parking adjacent to the street.

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.



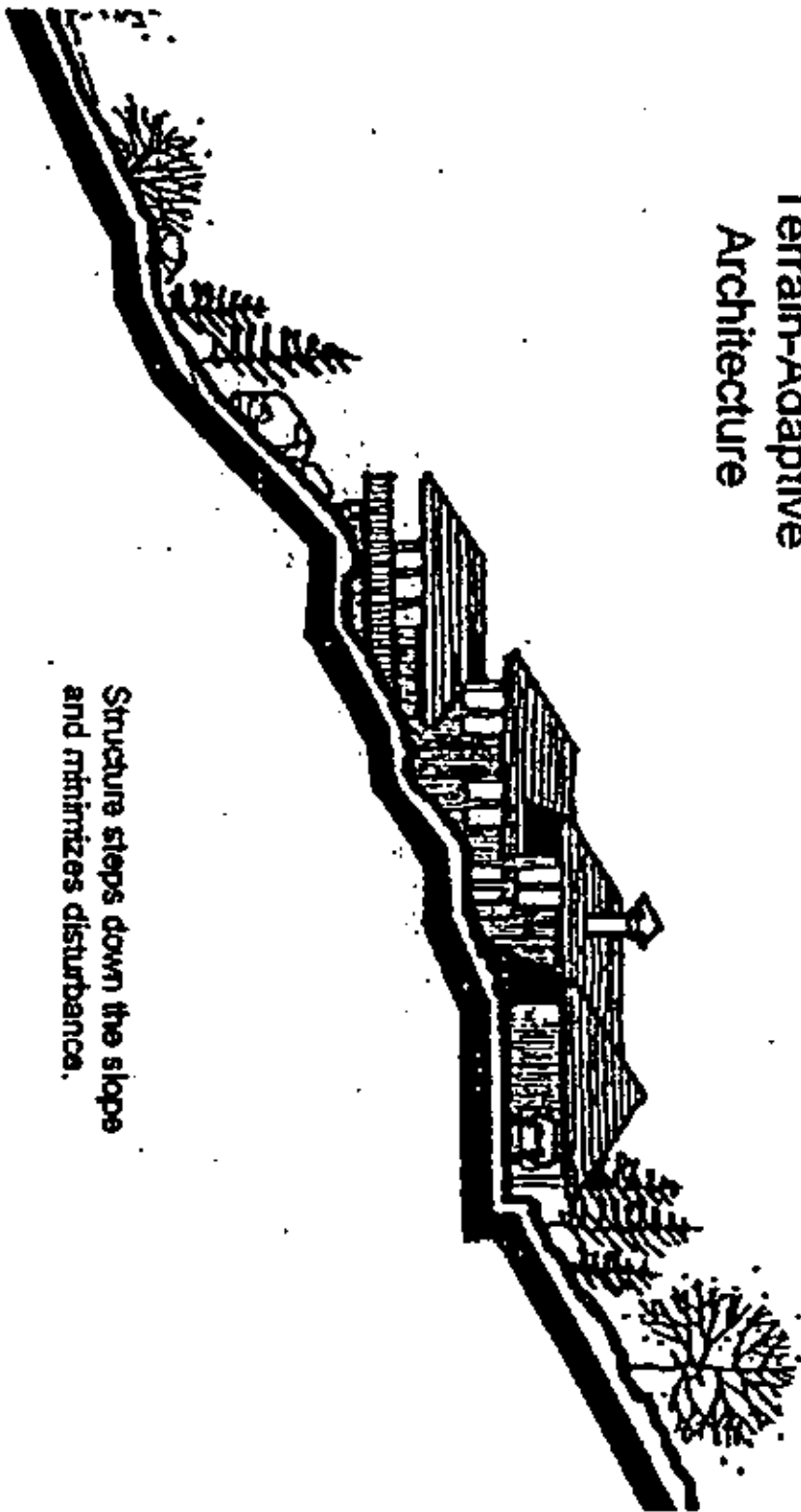
Detached garage adjacent to the street on the down-slope side.



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**

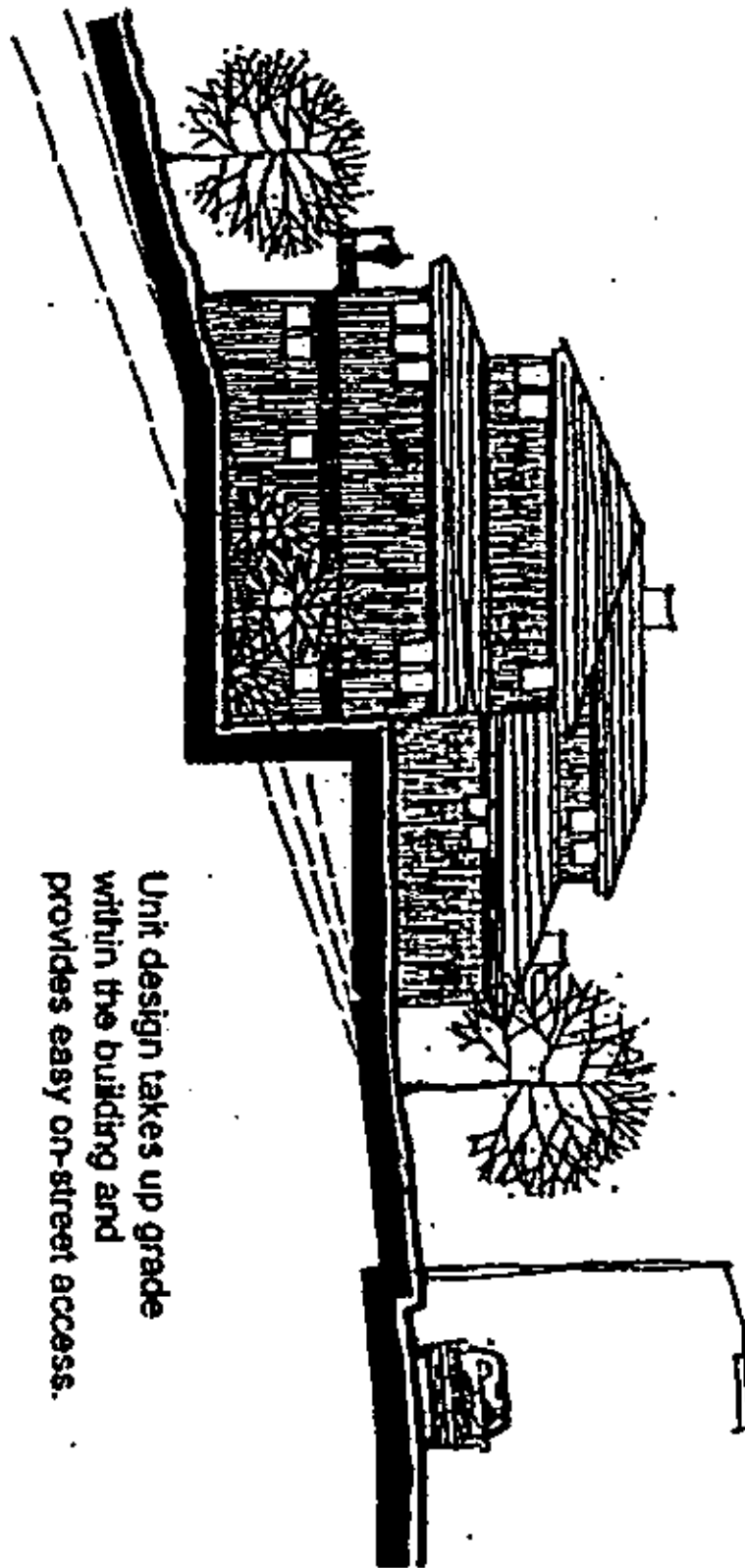


Brundage and Lutz, Developing Difficult Sites: Solutions for Developers and Builders, 1991



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.

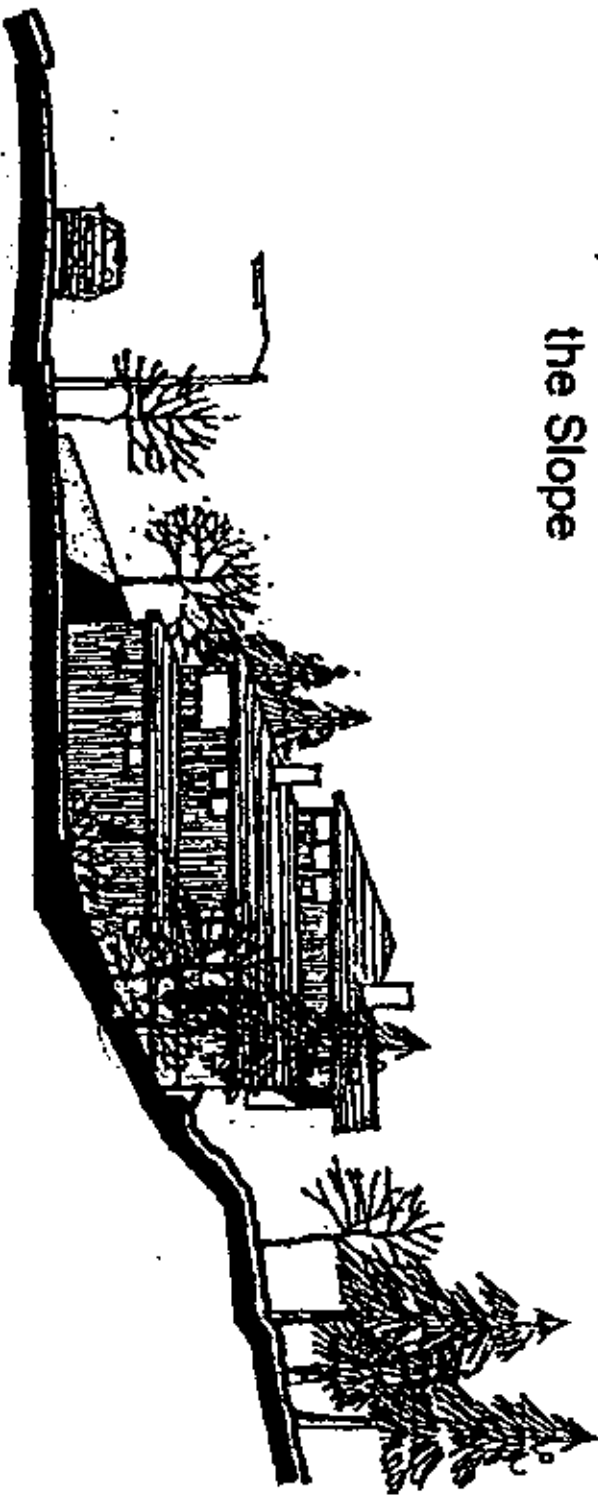
*Brandes and Luzier, Developing Difficult Sites:
 Solutions for Developers and Builders, 1991*



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

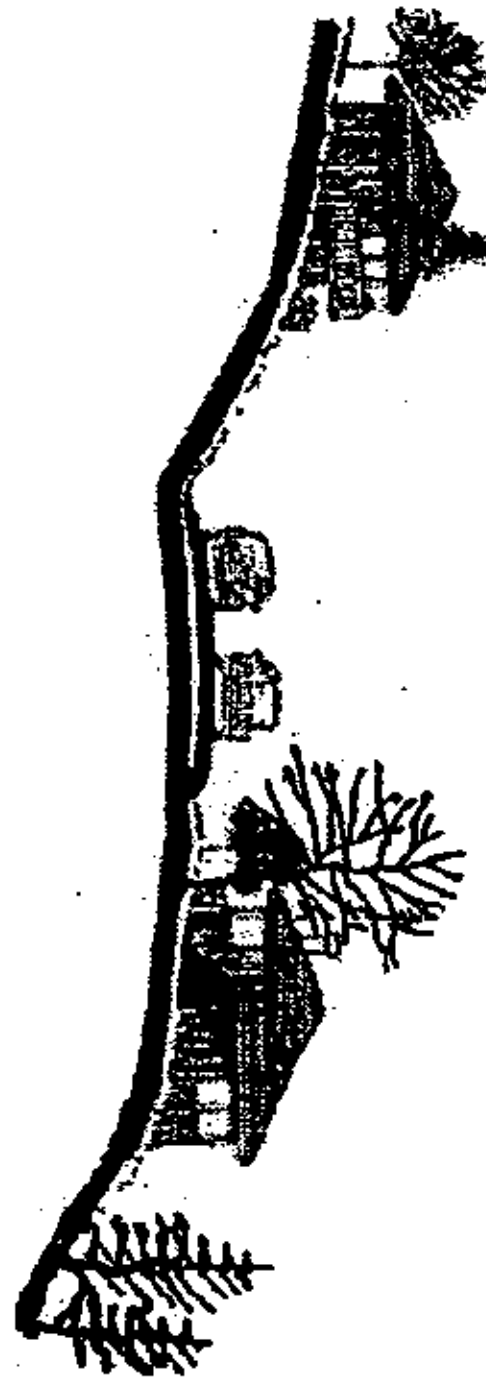


*Brandes and Luzier, Developing Difficult Sites:
Solutions for Developers and Builders, 1991*

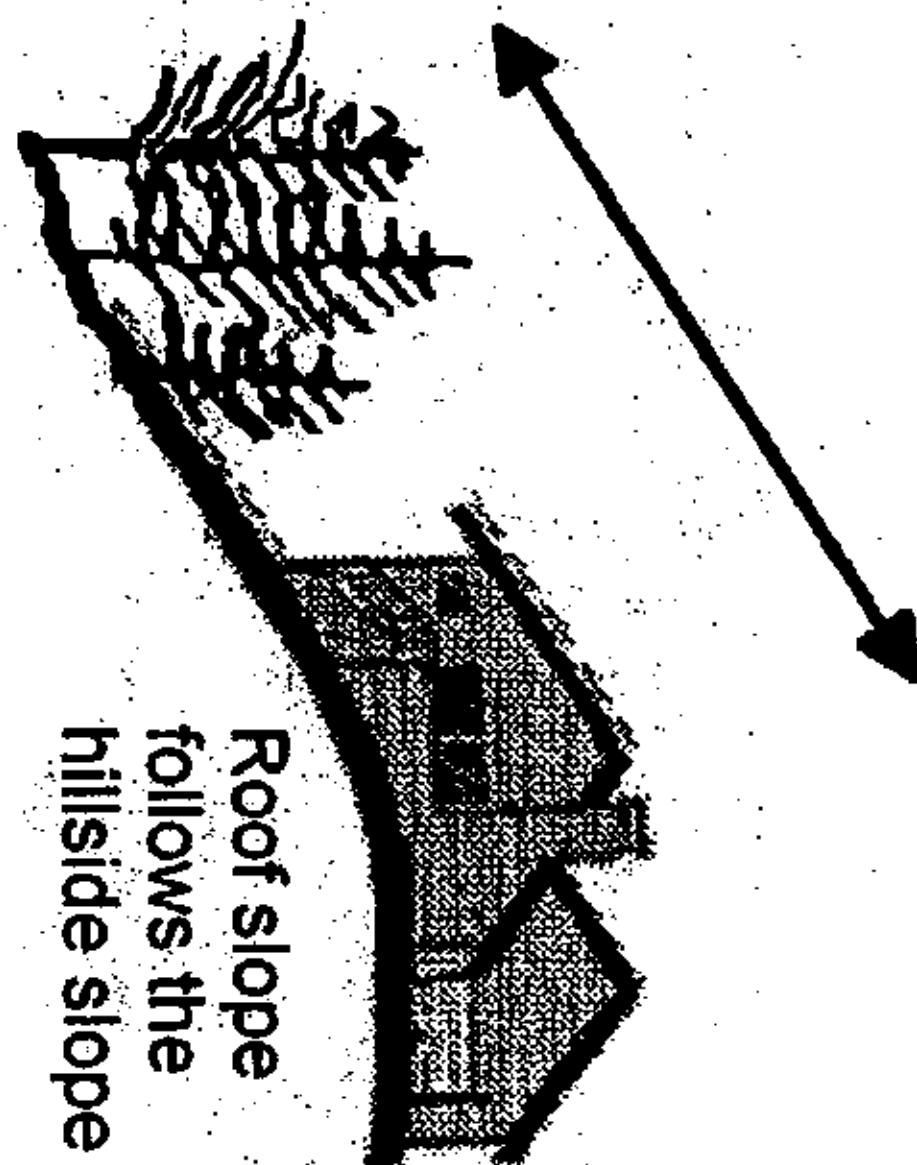


*This home takes up the grade in the foundation by cutting into the slope.
Note the side loaded garages located under the second story of this home.*

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.

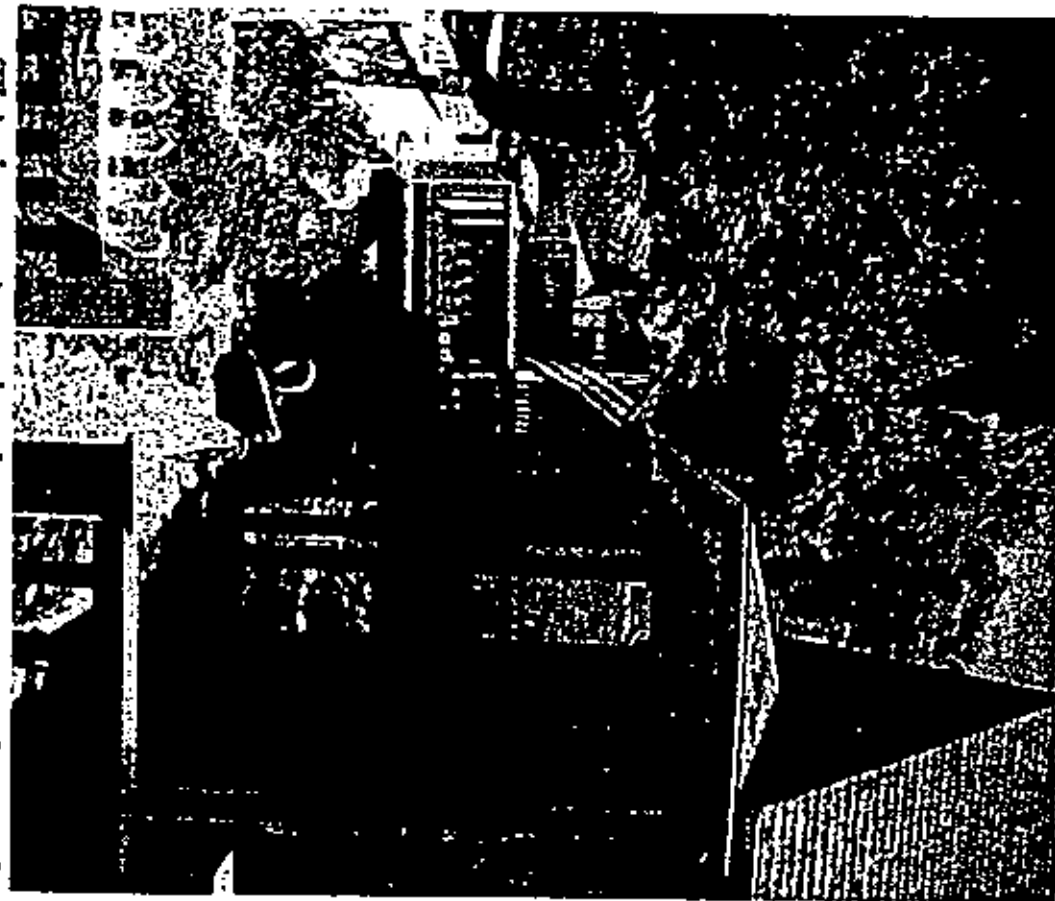


• Building Setbacks:

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.



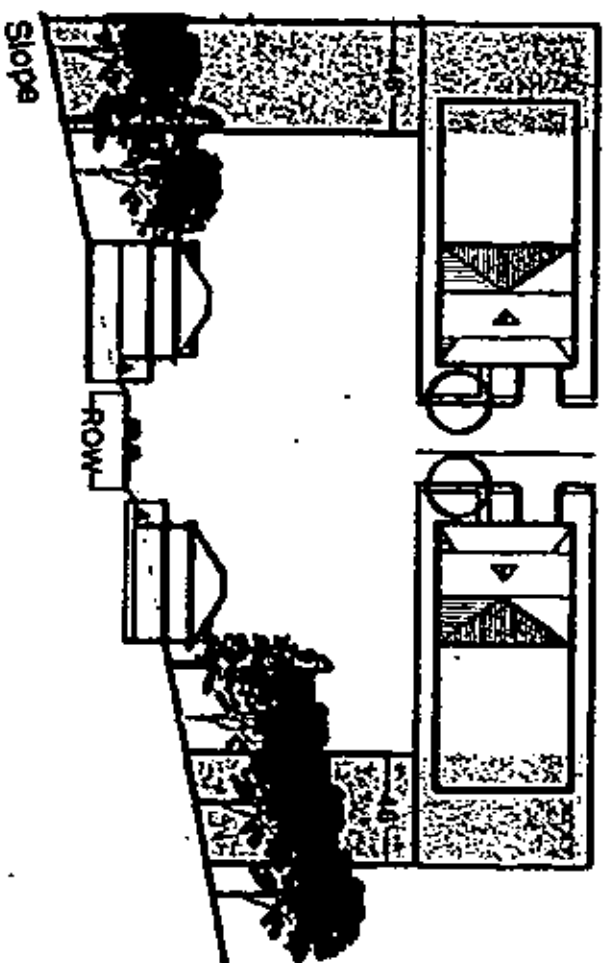
This home is setback approximately 15 feet from the back of curb.

• 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

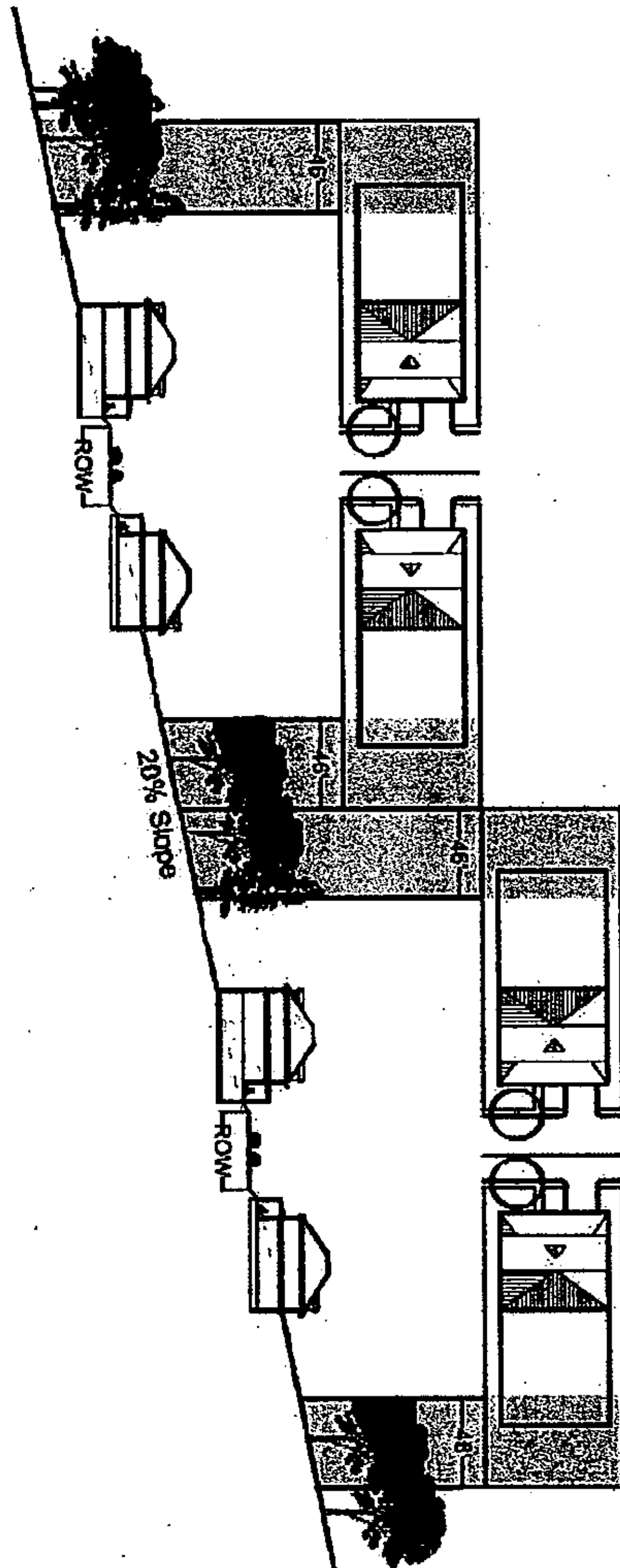
of trees at the rear of lots is optimal, and should be encouraged on the lot, because it will screen the development from the valley below. The reduction in the lot width requirement allows the developer to plat lots with increased depth. These longer and skinnier lots, along with street located utilities, 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.

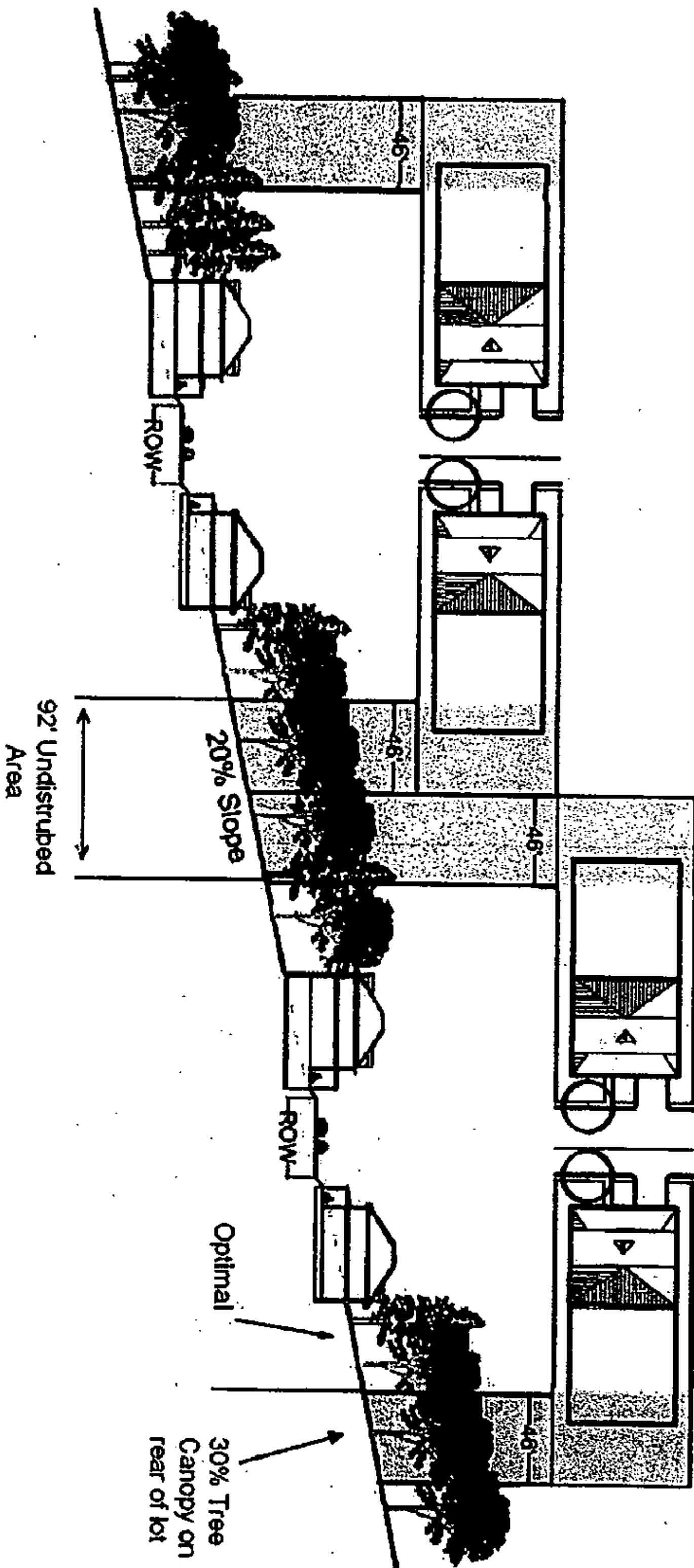


The Tree Preservation Area is shown above highlighted in green (46').

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.

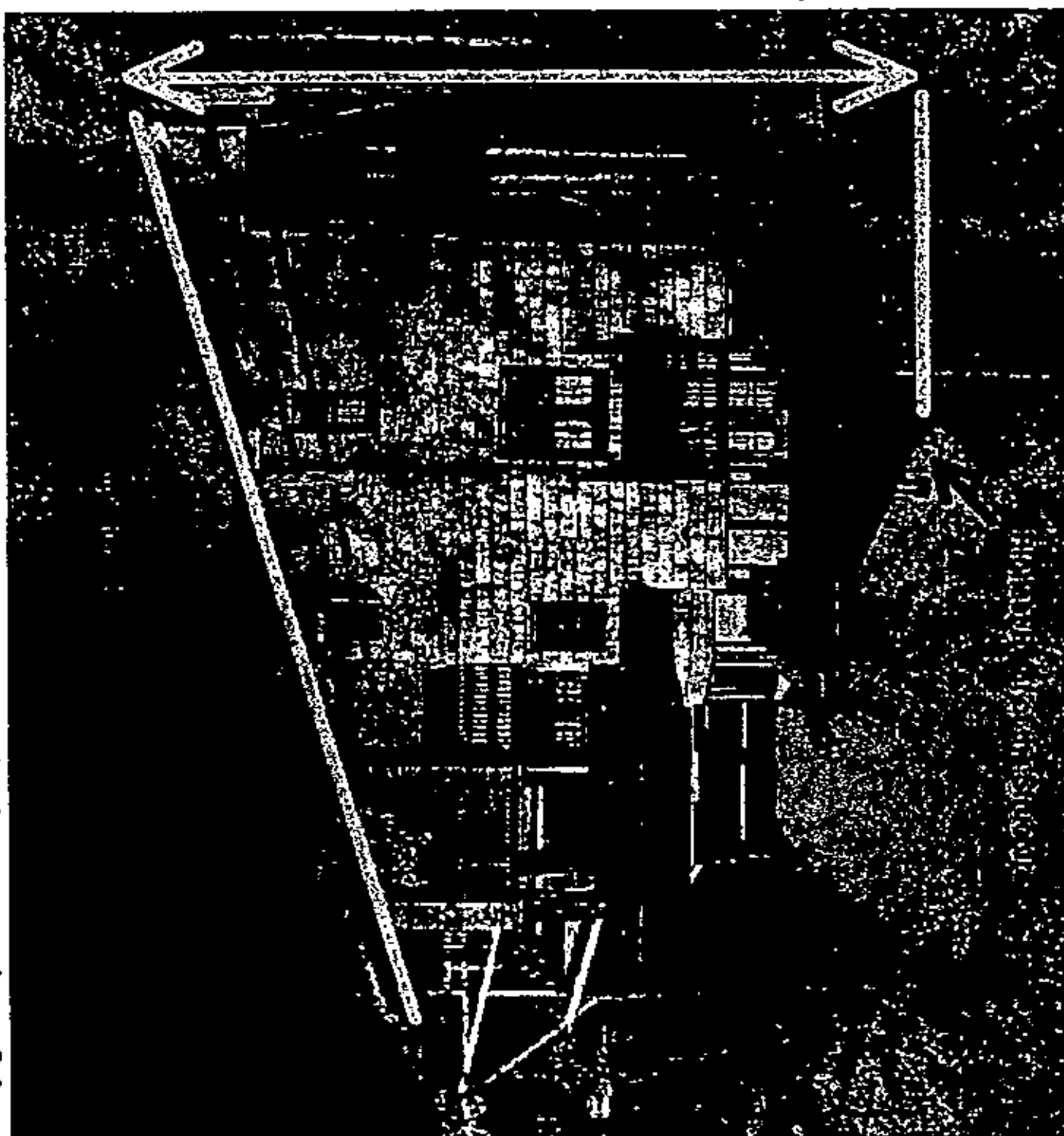


- **Measuring Building Height:**

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.



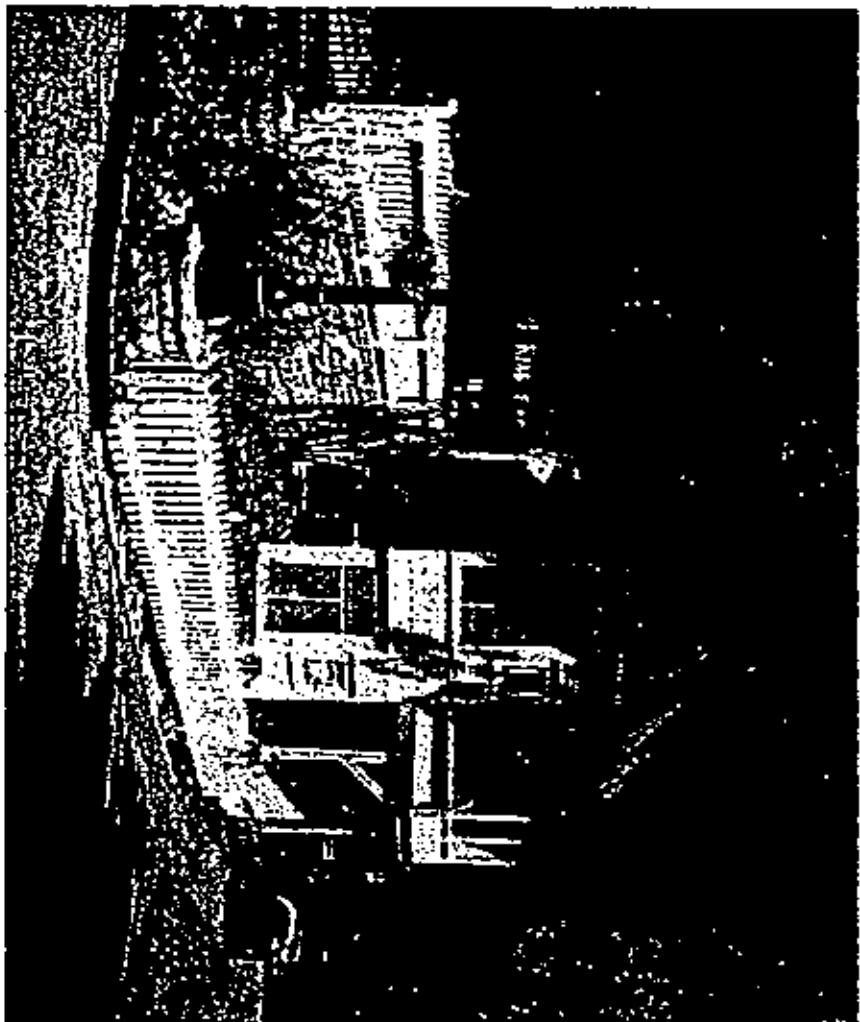
Building height shall be measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure. If the structure is located on a graded pad then the height of the building is measured from the historic grade.

- **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.

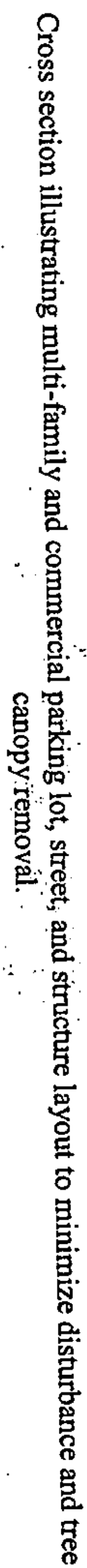
- **Off-Street Parking:**

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.



• **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:**

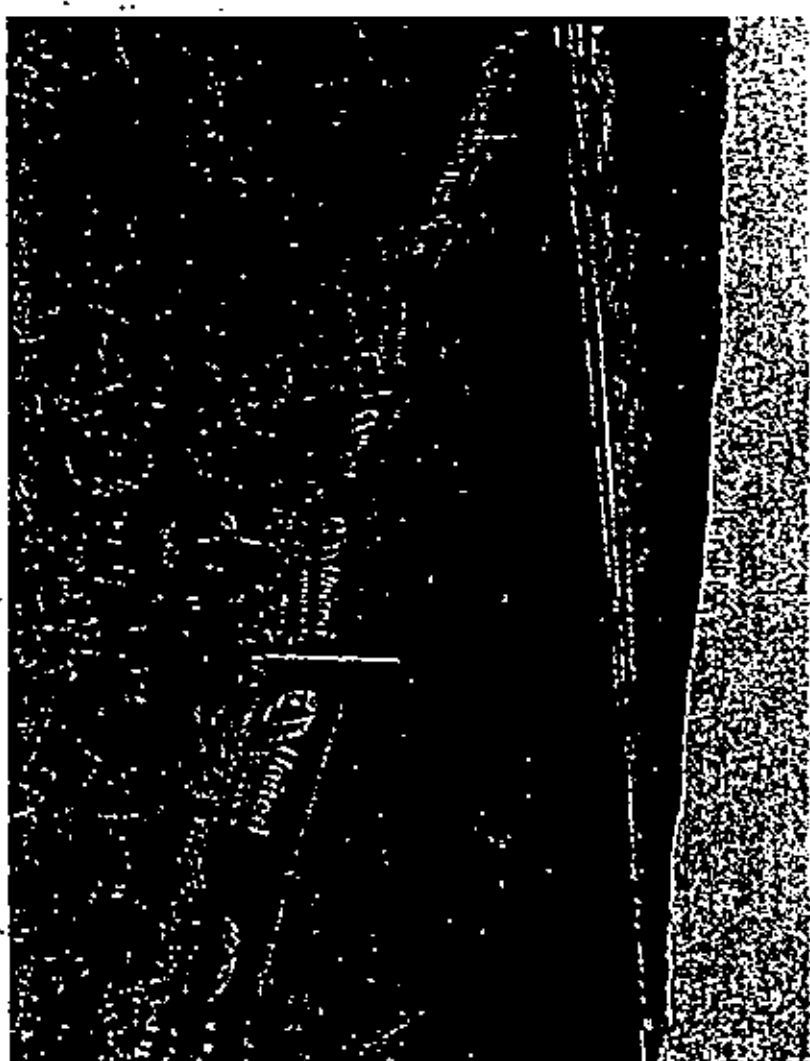
■ **Reducing storm-water runoff
during construction:**

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.



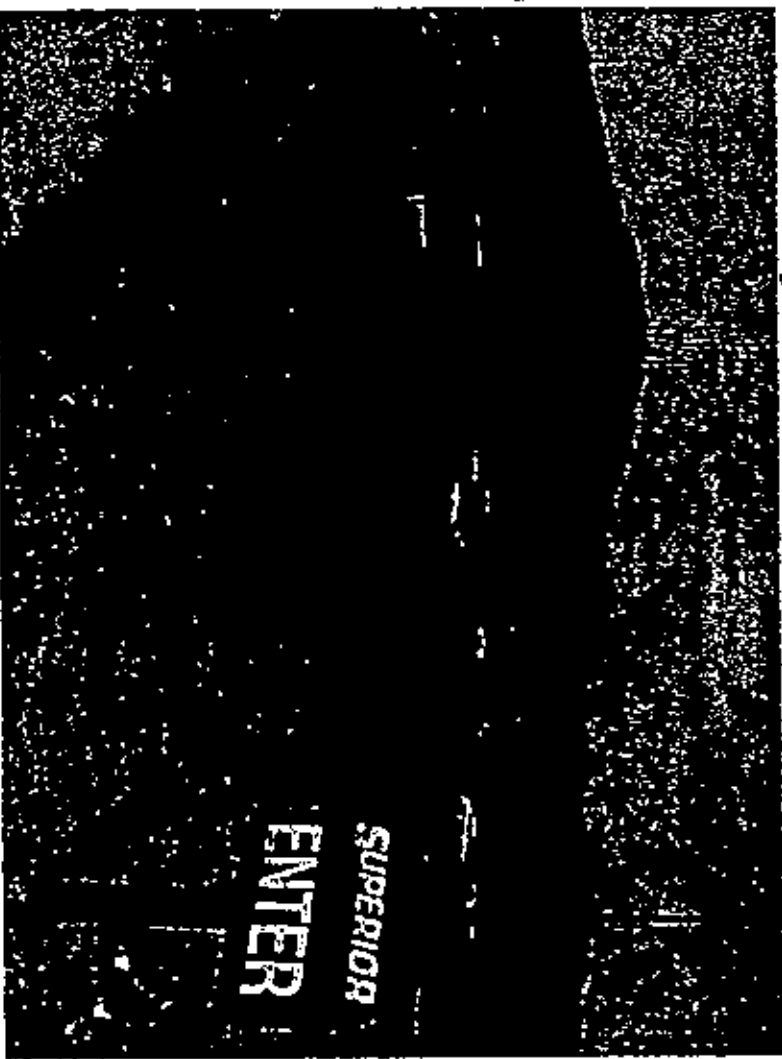
*Silt fence at a construction site in
Fayetteville.*

■ **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.

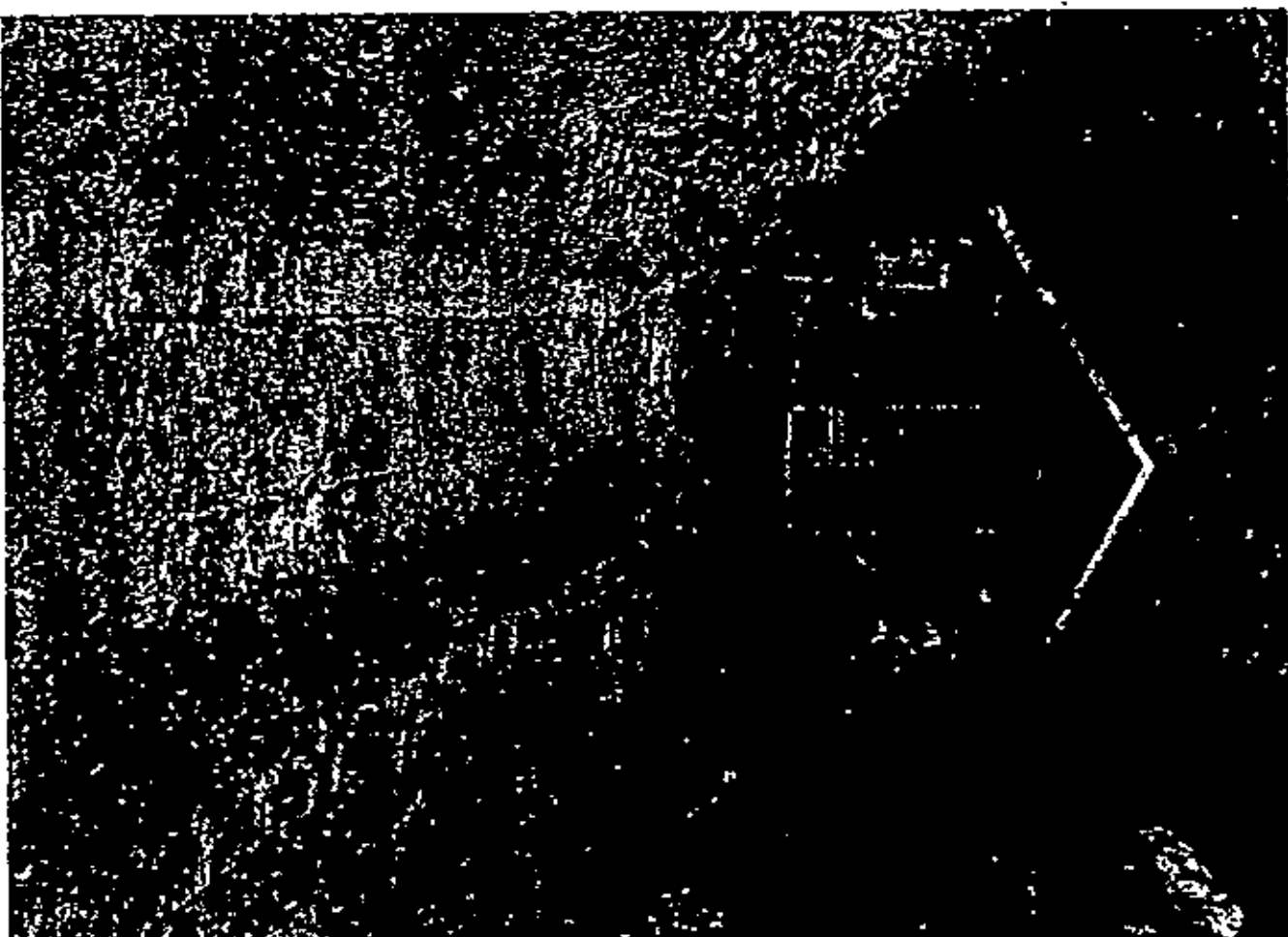


Storm water detention basin in Fayetteville.

■ Green Storm Water Alternatives:

Green storm water alternatives are designed to utilize best management practices that avoid:

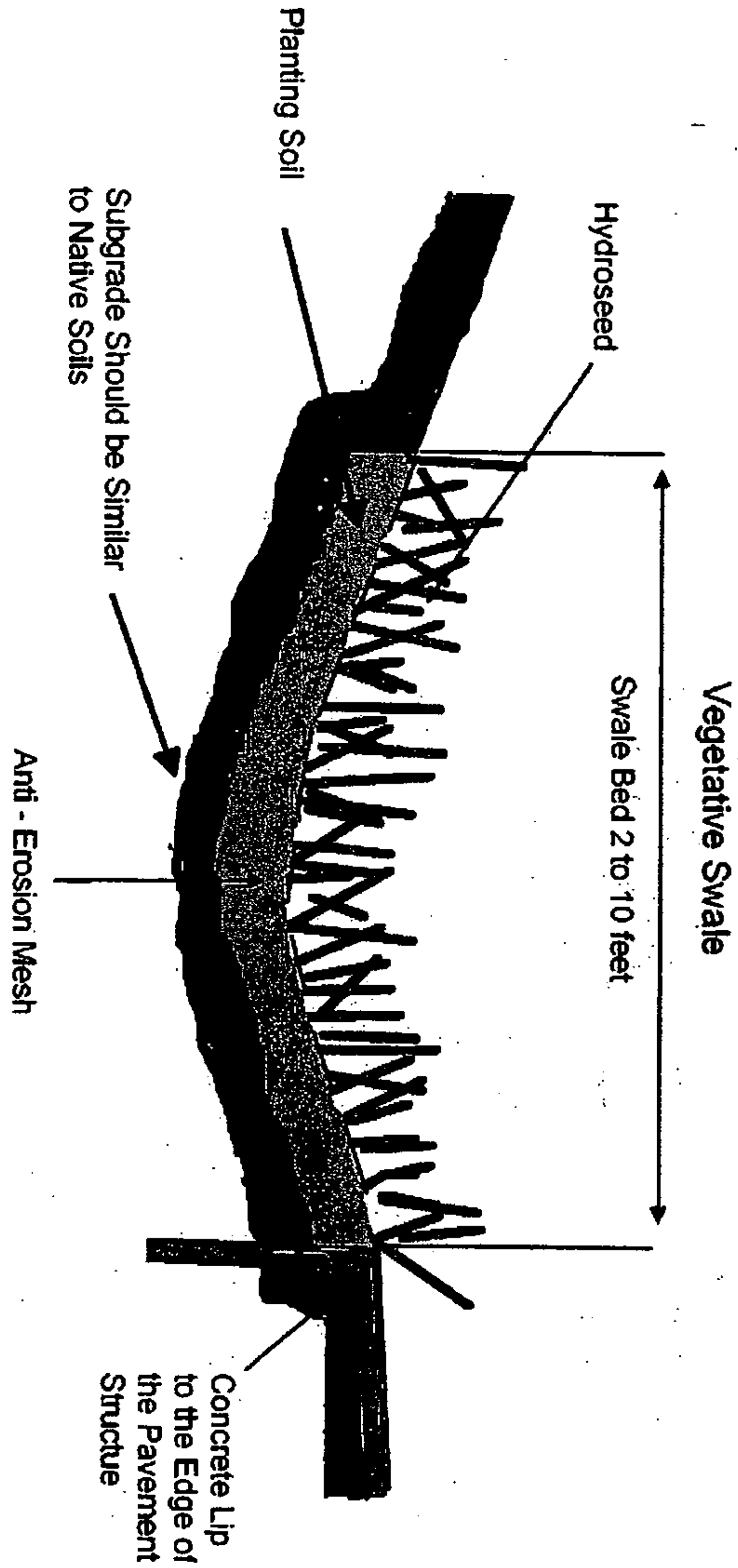
1. Increasing runoff volume and speed which may lead to flooding and erosion.
2. Decreasing the ability of water to recharge into the ground.
3. Increasing storm water runoff temperatures through the overuse of impervious surfaces.
4. Increasing the amounts of pollutants from motor oil, fertilizers and pesticides, and sediments entering natural water systems.



This split driveway with a grass median reduces the amount of impervious pavement surface.

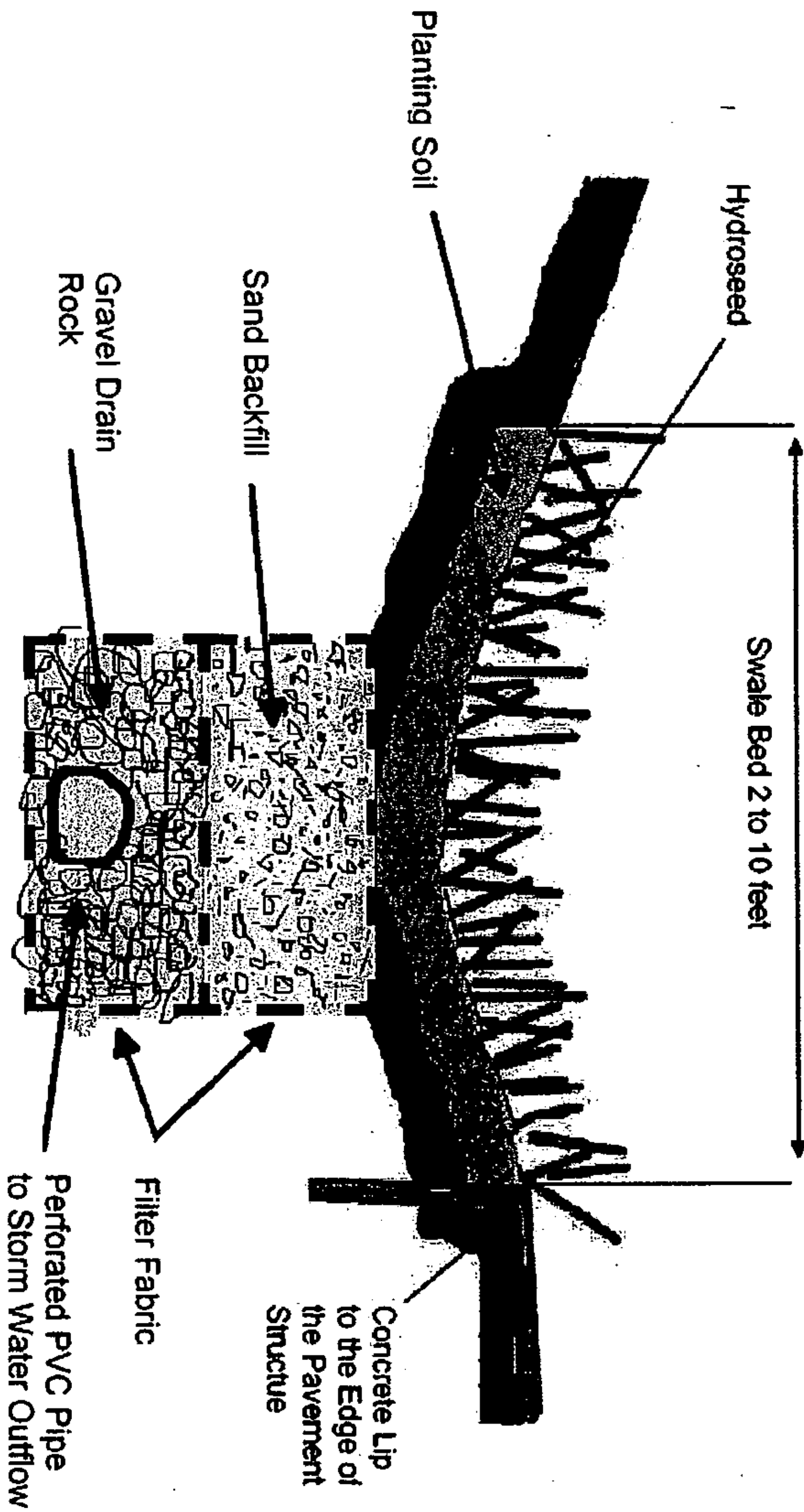
The following site design options provide alternatives to conventional storm water practices. Best management practices that detain, retain, and filter runoff before it enters the natural water system are the following:

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 designed 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.

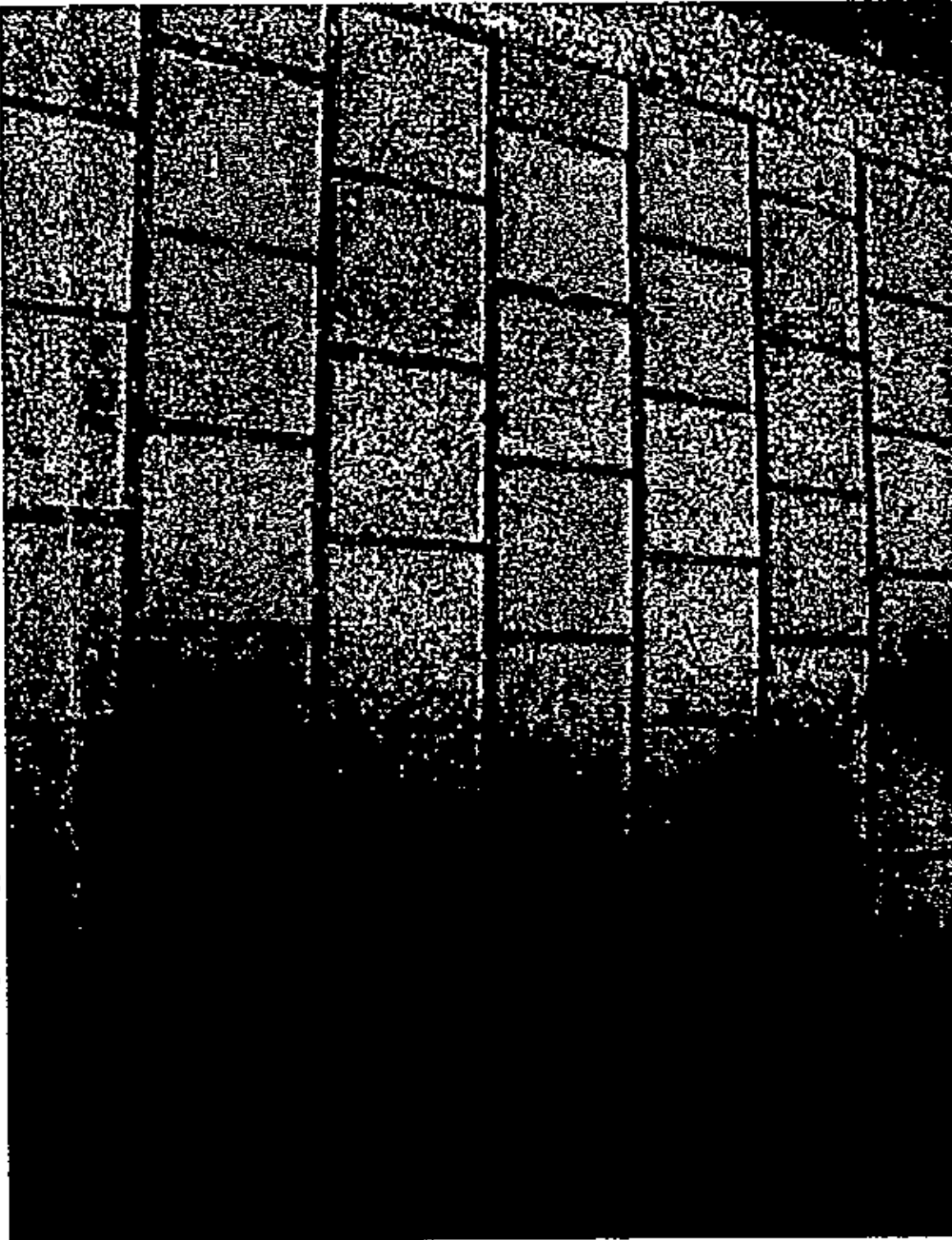
2. Encourage the use of rain barrels or cisterns for the collection of storm water for later irrigation purposes.



Rain barrel used to capture storm water for irrigation purposes.

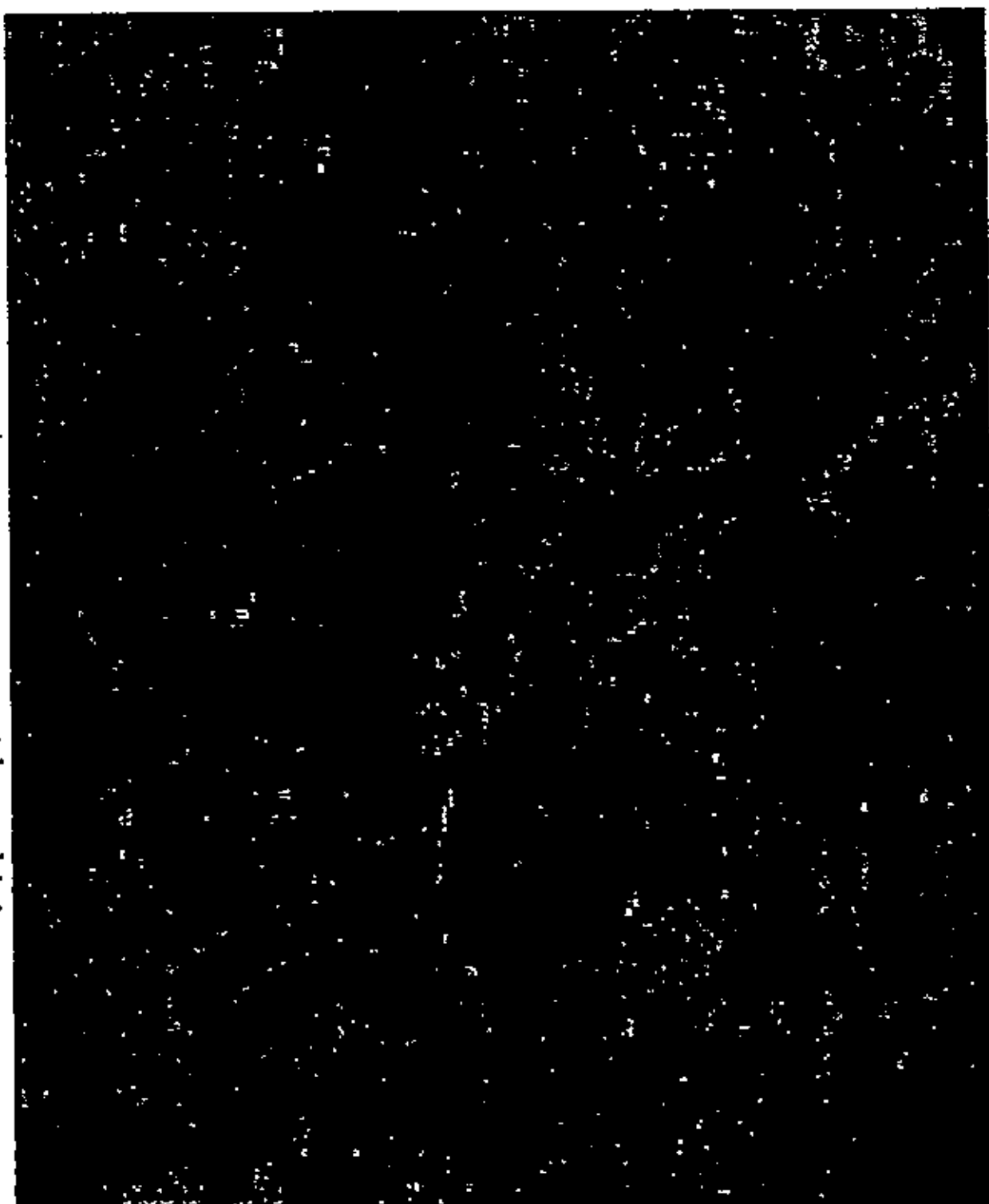
3. Utilize subsurface infiltration practices such as sand filters and vegetated infiltration basins to retain and filter storm water runoff.

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.



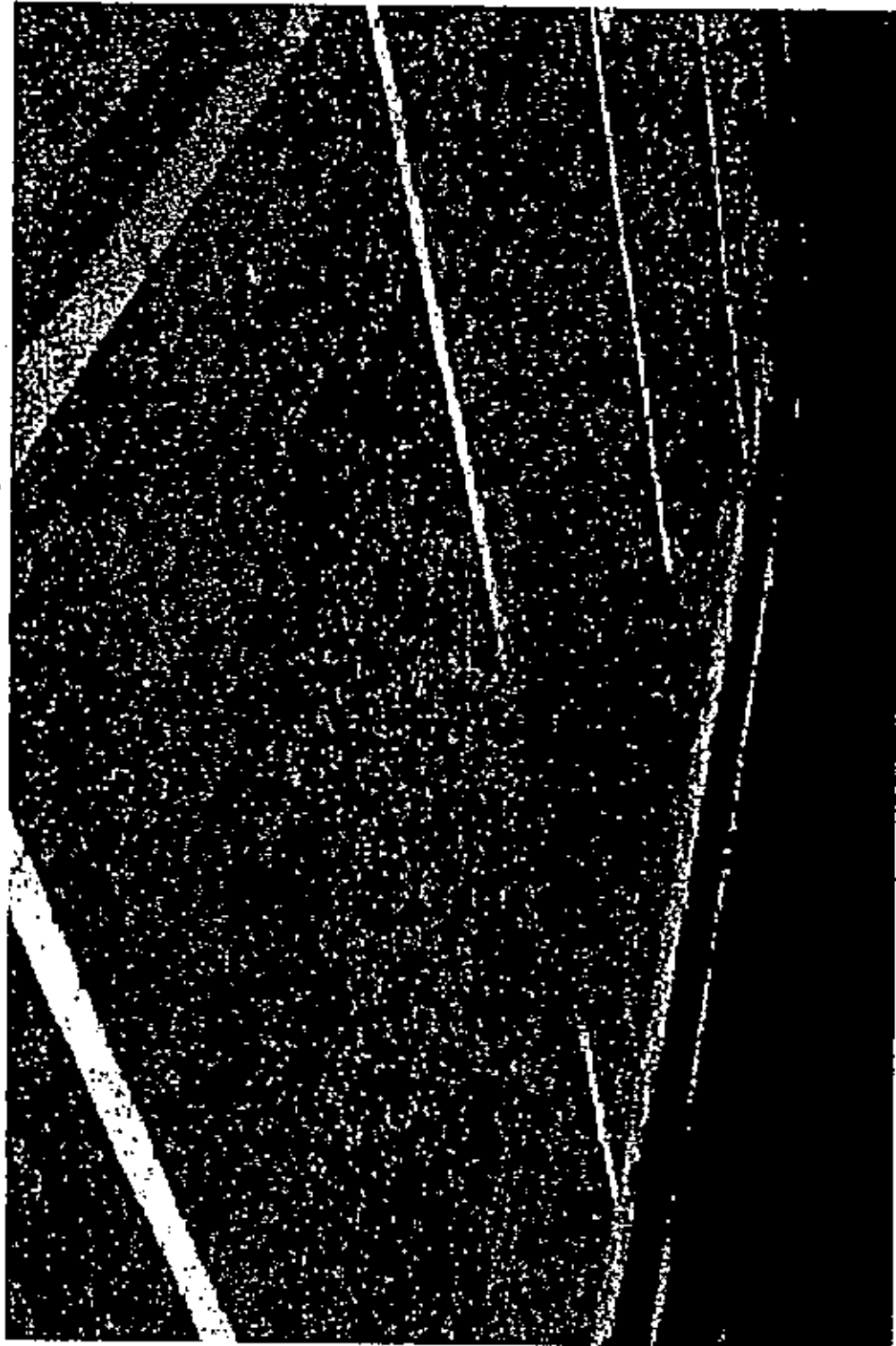
An example of pervious pavers used in a sidewalk application.

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".

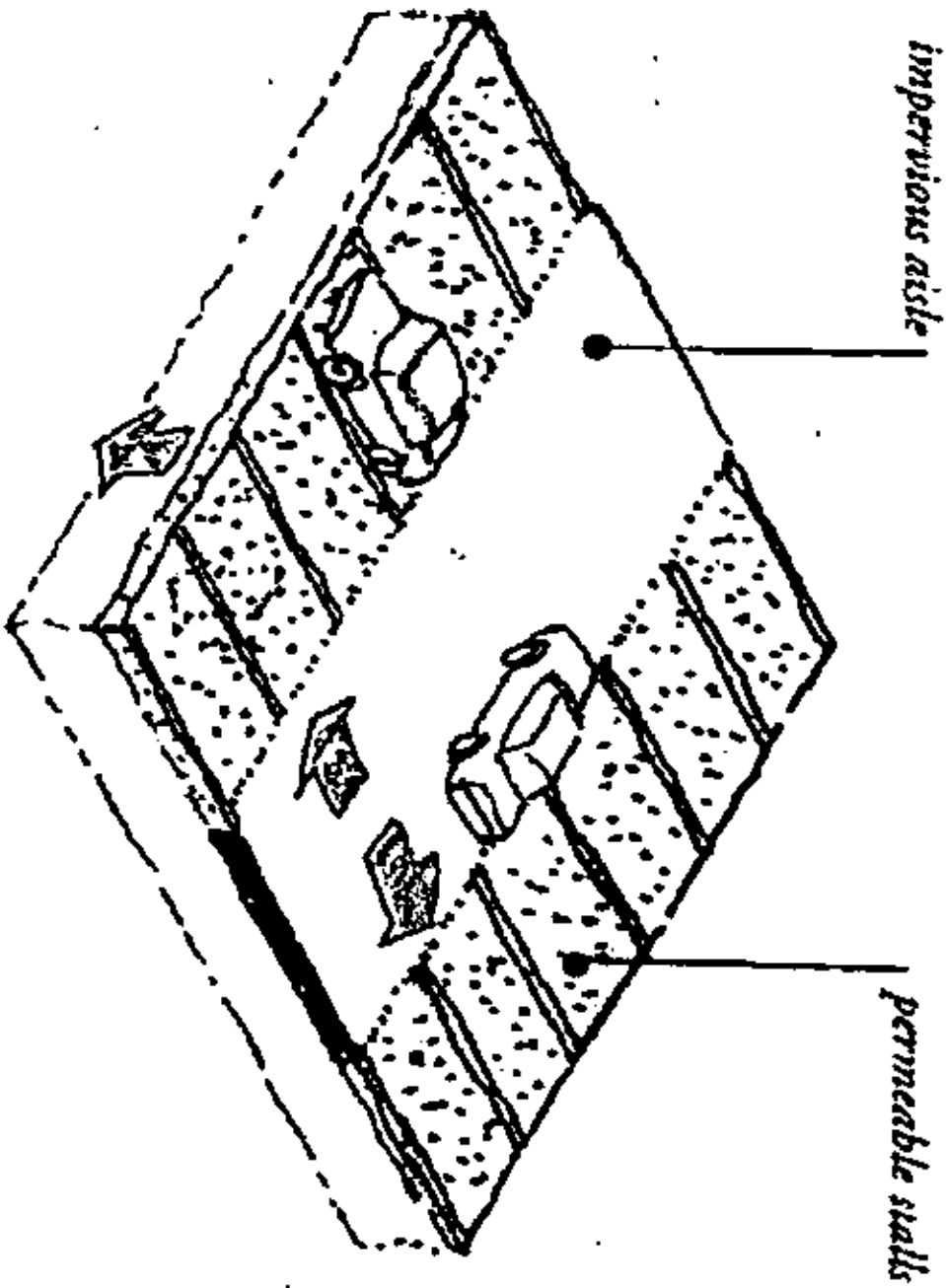


Diagram of a "Hybrid Parking Lot".

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:

Design Workshop. 14 South Pack Square, Suite 405
Asheville, North Carolina. 828-225-6901

American Planning Association, Robert Olshansky,
"Planning for Hillside Development". PAS Report Number
466. 1996.

King and Boss, "Geologic Hazards Associated with Shale
Strata and Swelling Clays within Fayetteville Quadrangle,
Washington County, Arkansas". Journal of the Arkansas
Academy of Science, Vol. 55, 2001.

H2 Engineering. Street Cross-Sections. Fayetteville,
Arkansas

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



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

☐

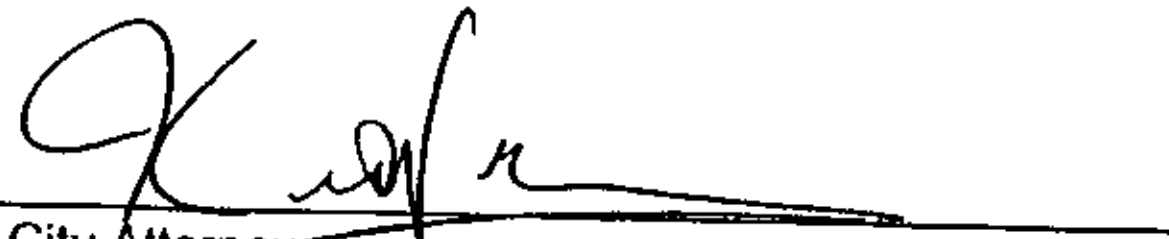
Budget Adjustment Attached

☐


Department Director

1-19-06
Date

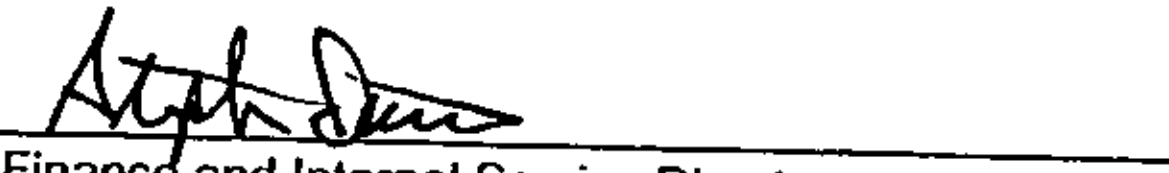
Previous Ordinance or Resolution # n/a


City Attorney

1-20-06
Date

Original Contract Date: n/a

Original Contract Number: n/a

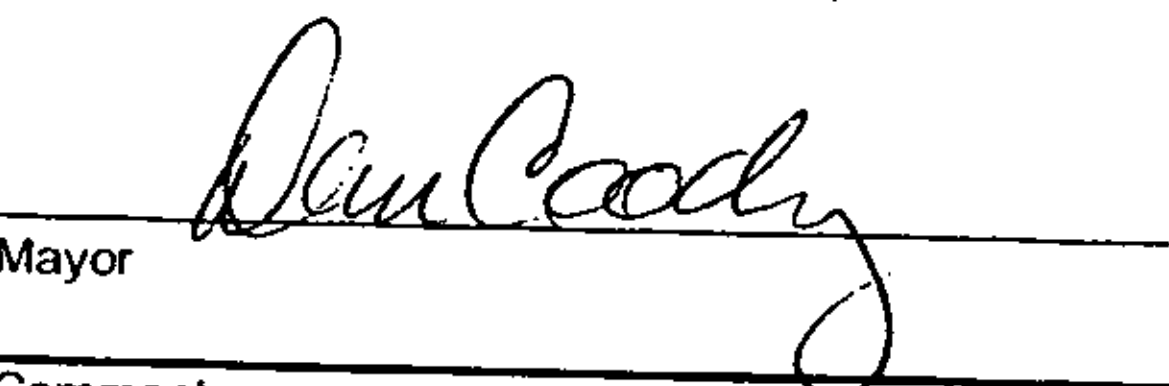

Finance and Internal Service Director

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:

left on the First Reading 2/7/06

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 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

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

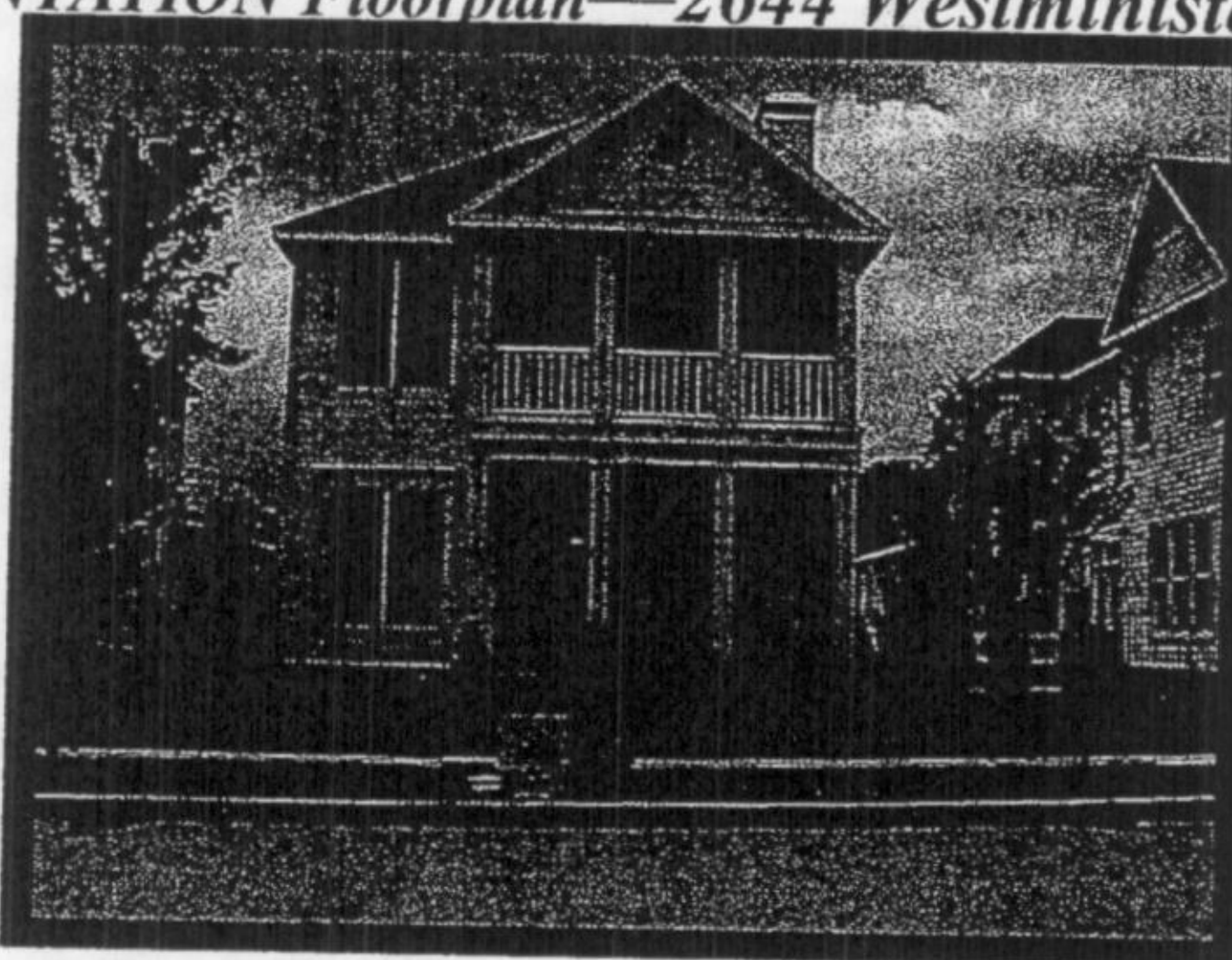
On Salem Road across from Holcomb Elementary

Quality Homes/
Affordable Prices

1,750 approx
Square Feet

Priced at

PLANTATION Floorplan—2644 Westminister 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.

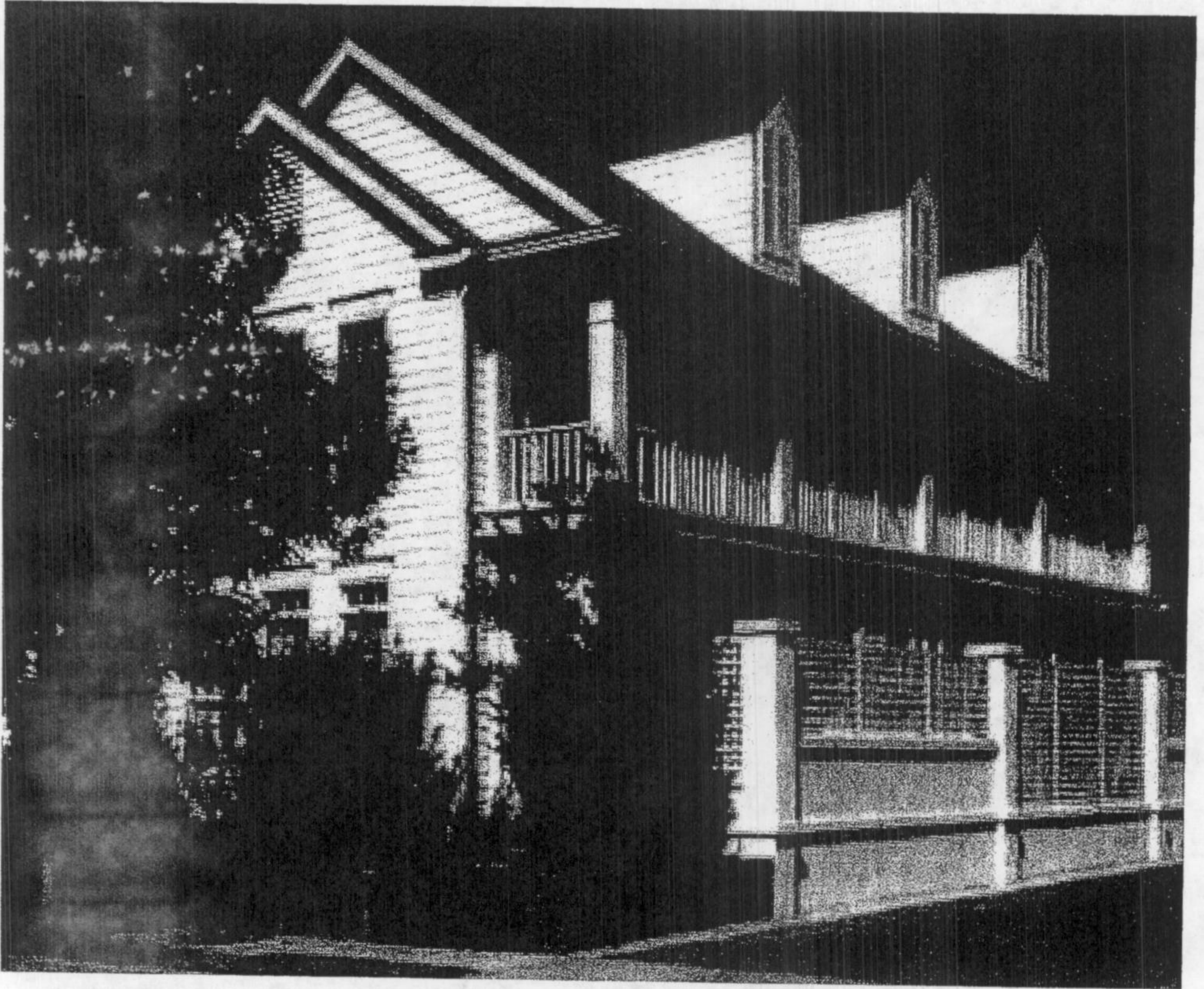
Call 527-3996 to Schedule a Guided Walkthrough.


BHA Construction,
LLC

Phone: 479-527-3996

Fax: 479-527-6672

Email: info@bhallc.com



BETTER HOMES OF ARKANSAS CONSTRUCTION, LLC

Westbrook Village

On Salem Road across from Holcomb Elementary

*Quality Homes /
Affordable Prices*

1,850 Square Feet

Priced at

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**

BETTER HOMES OF ARKANSAS
CONSTRUCTION, LLC

617 Clabber Creek Blvd
Fayetteville, AR 72704

Phone: 479-527-3996

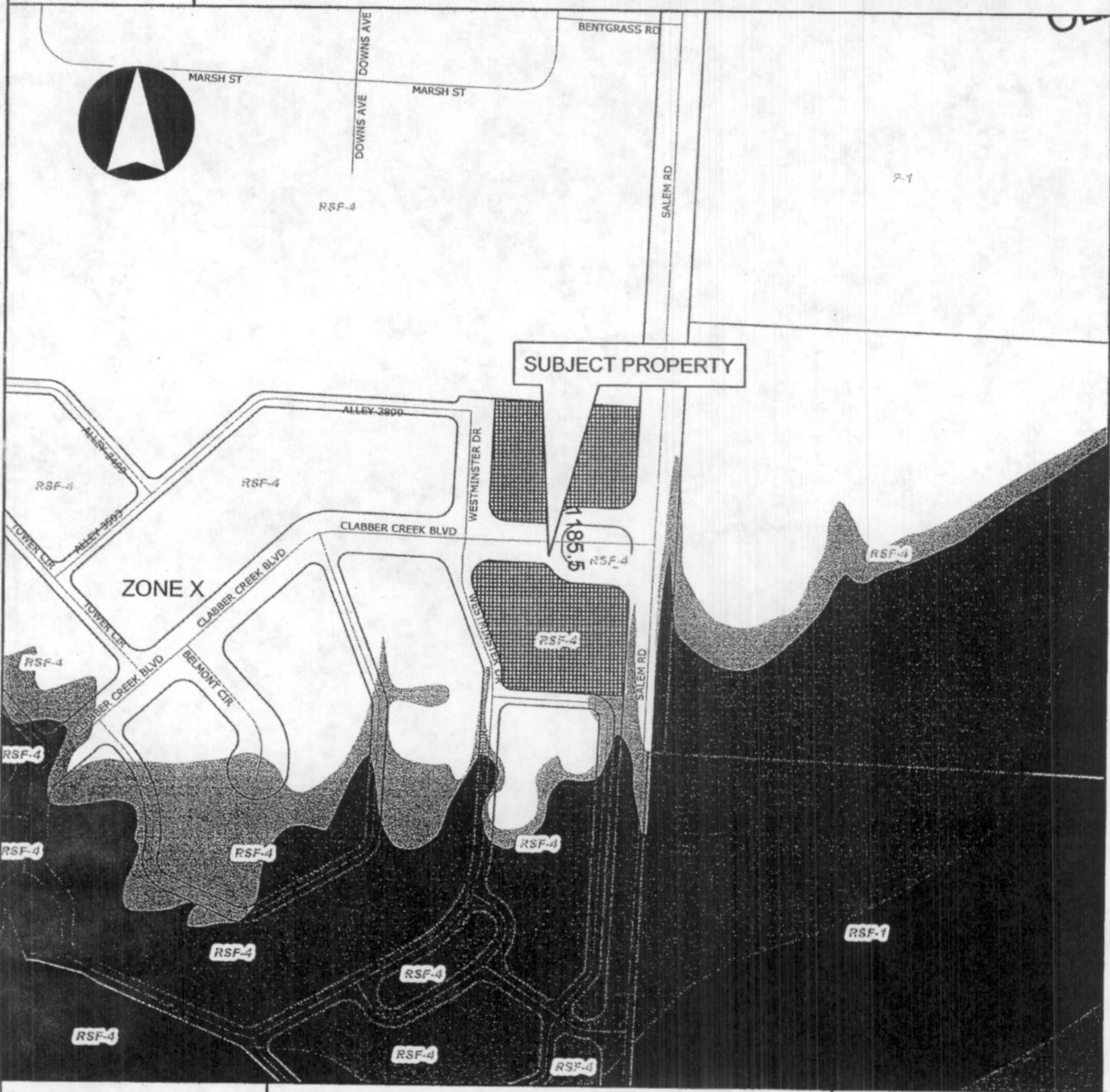
Fax: 479-527-6672

Email: info@bhallc.com

PZD05-1619

Close Up View

WESTBROOK VILLAGE

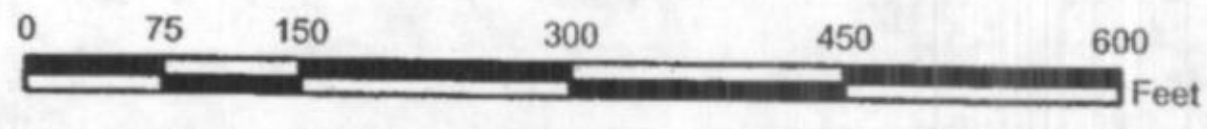


Overview



Legend

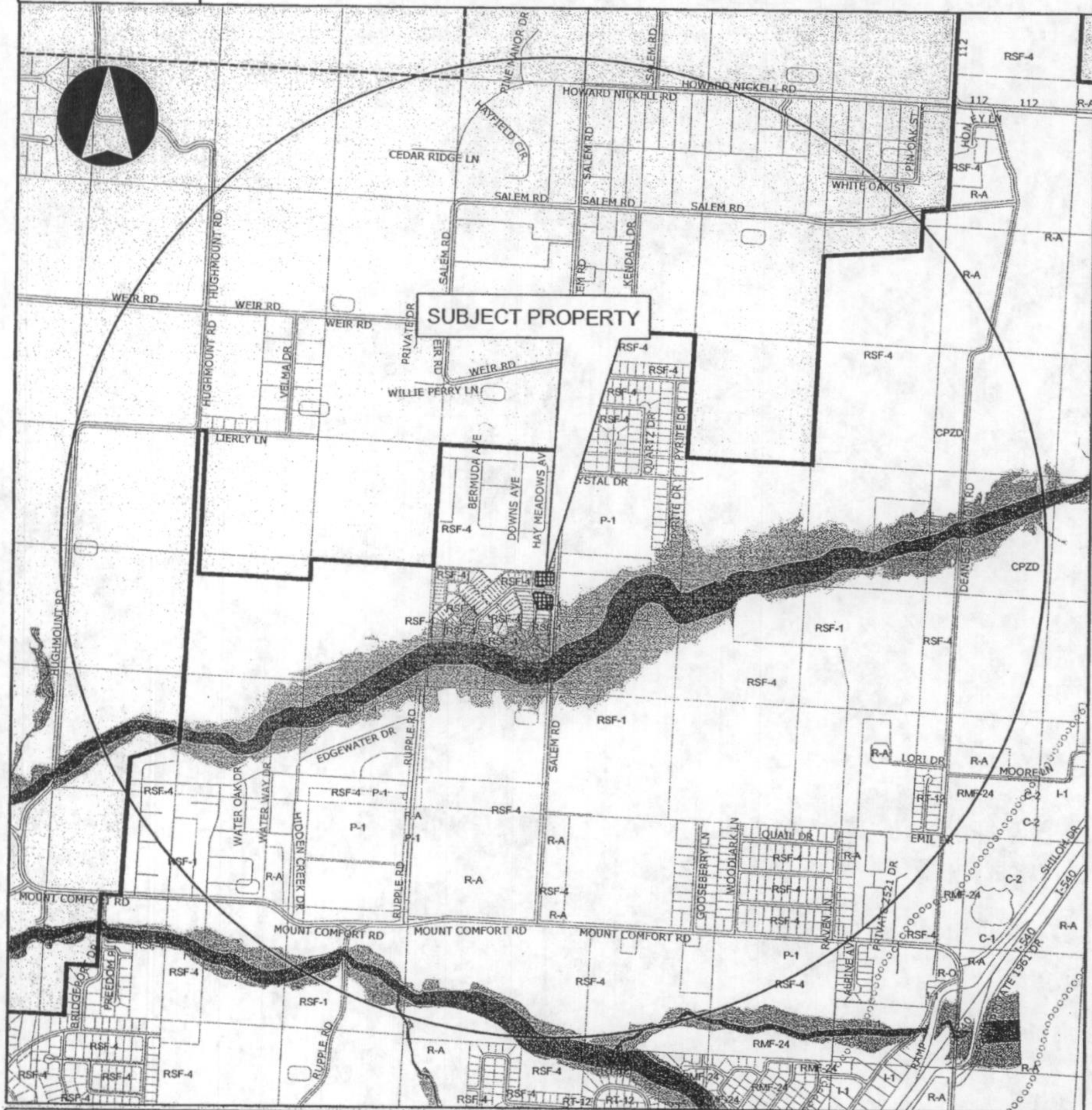
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|--------------------|--------------------|--------------------|------------------|----------------|
| PZD05-1619 | Overlay District | Principal Arterial | FLOODWAY | 500 YEAR |
| Master Street Plan | Master Street Plan | Minor Arterial | 100 YEAR | LIMIT OF STUDY |
| Master Street Plan | Collector | Historic Collector | BaseLine Profile | Fayetteville |
| Freeway/Expressway | | | | Outside City |



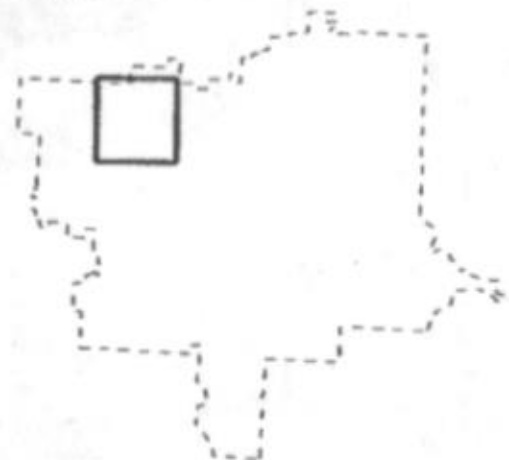
PZD05-1619

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

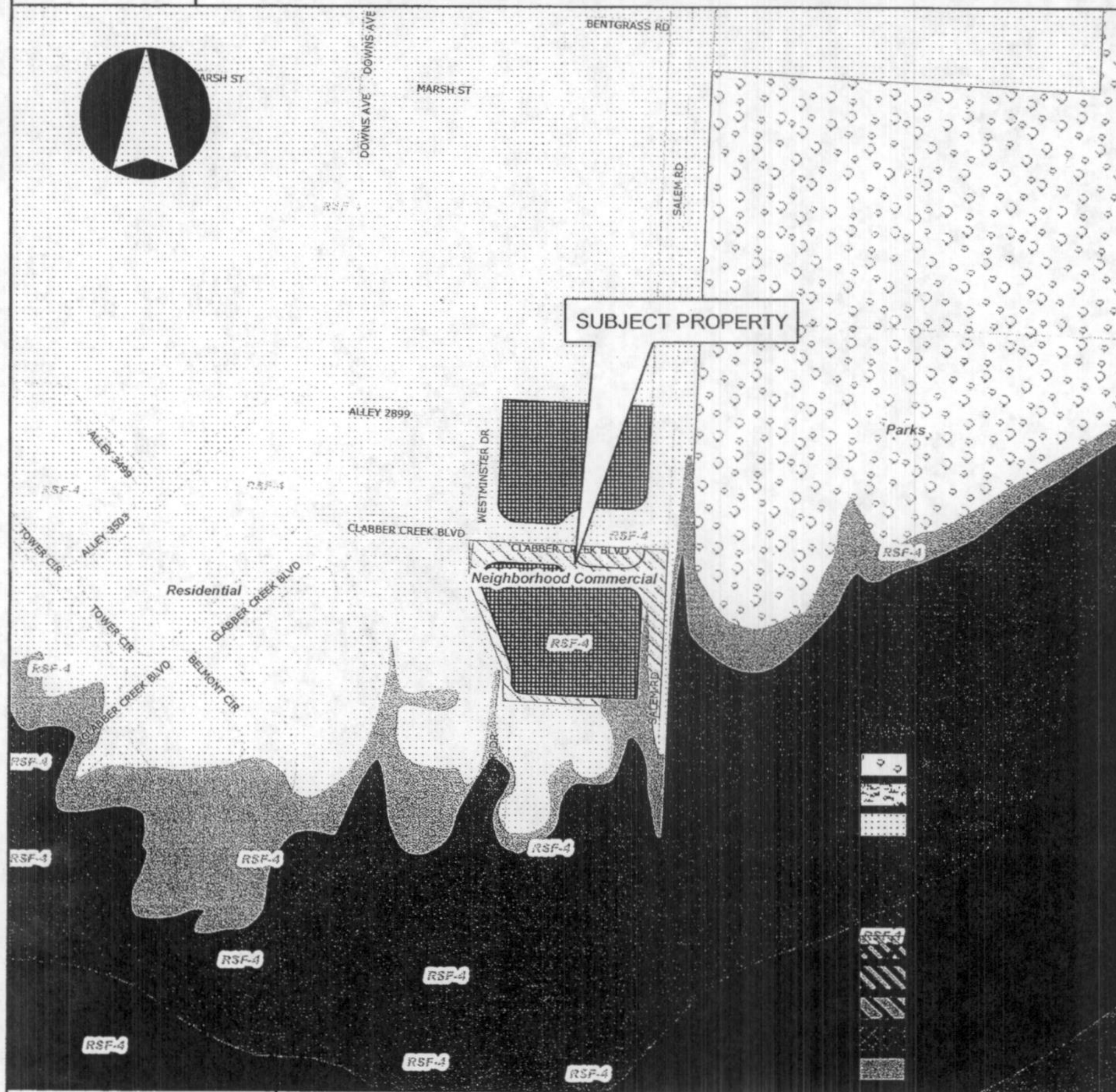
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Miles

PZD05-1619

Future Land Use

WESTBROOK VILLAGE

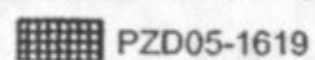


Overview



Legend

Subject Property

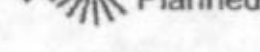


PZD05-1619

Streets



Existing

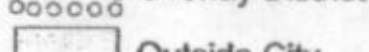


Planned

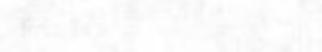
Boundary



Planning Area

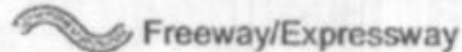


Overlay District

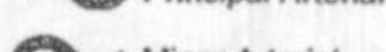


Outside City

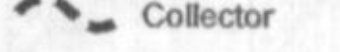
Master Street Plan



Freeway/Expressway



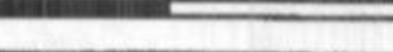
Principal Arterial



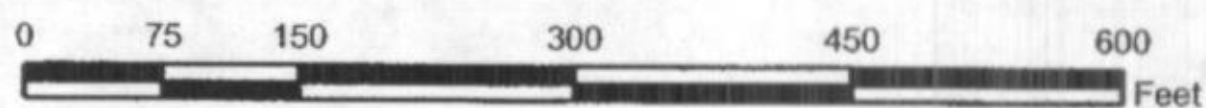
Minor Arterial

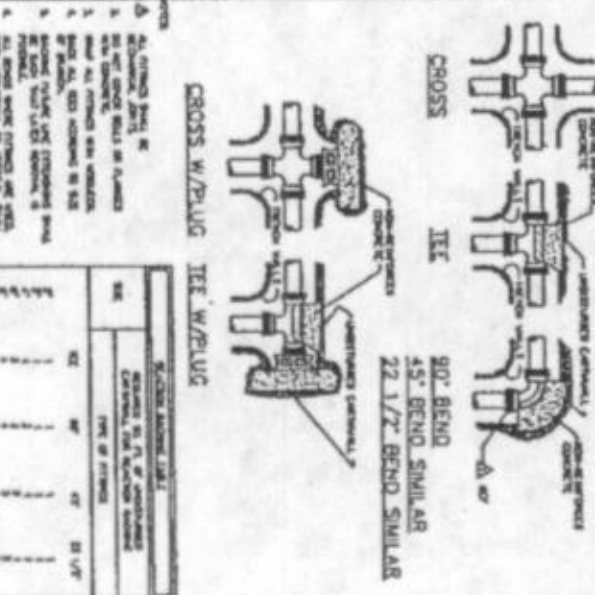
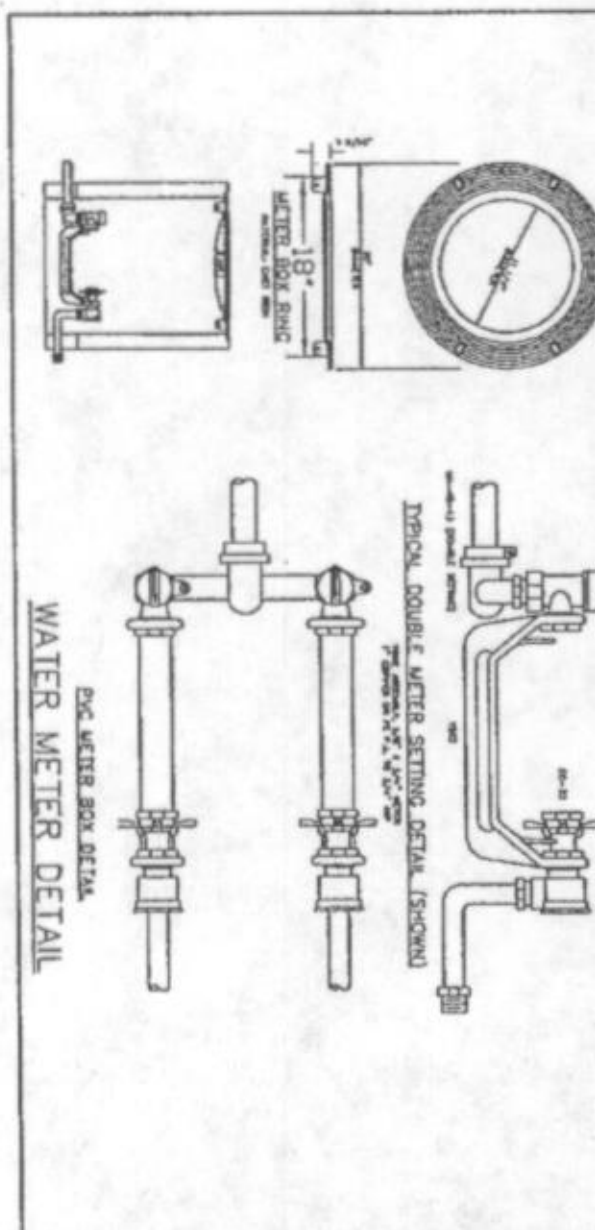
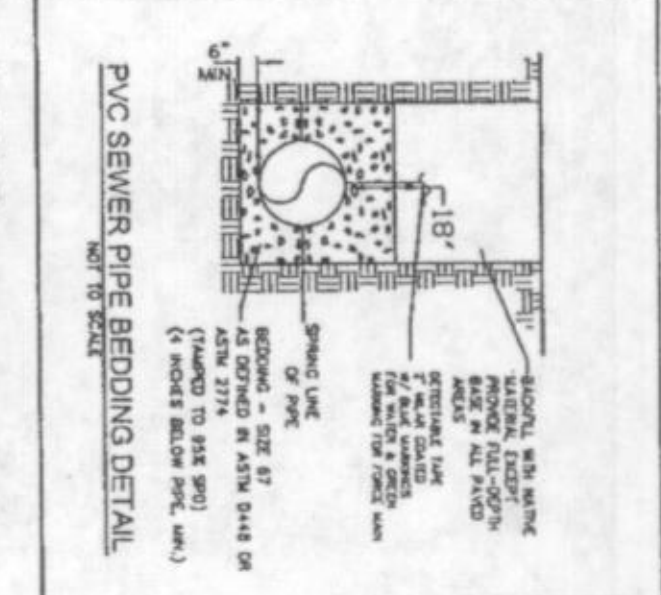
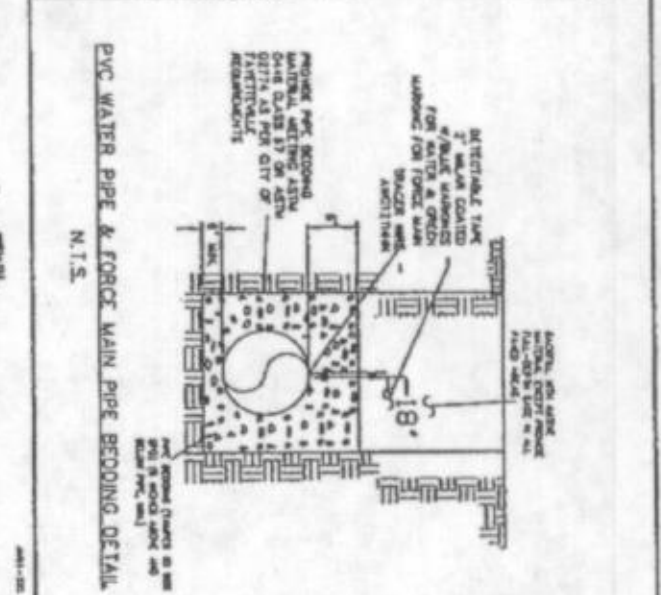
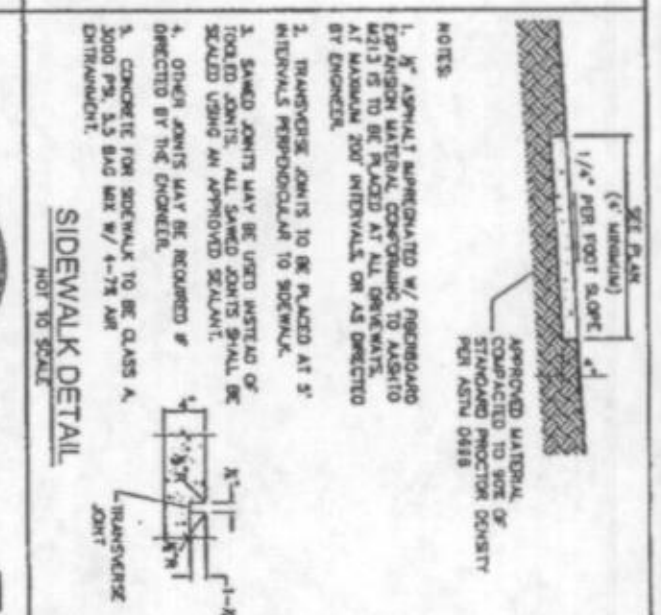
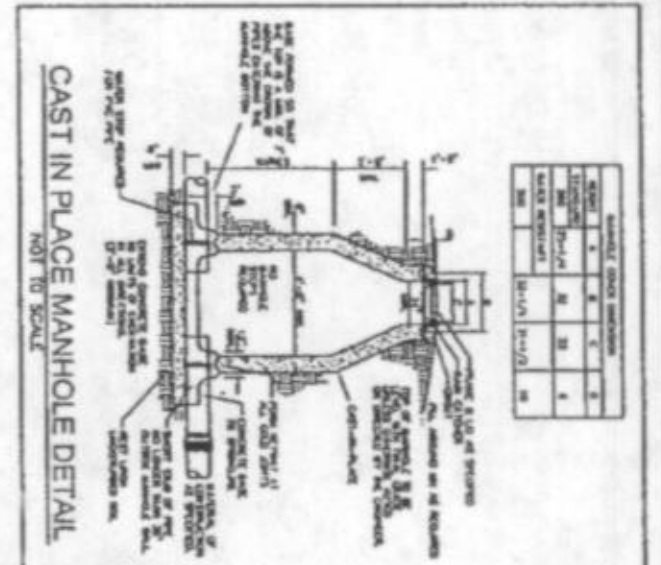


Collector



Historic Collector





PROJECT:
WESTBROOK VILLAGE
R-PZD
LOTS 1A-7A
FAYETTEVILLE, AR

SHEET TITLE:
TYPICAL DETAIL

SHEET NO.:
C5.0

PROJECT NO.: 200089
DATE: 12/21/05
DRAWING NAME: S01, Curb & Manhole
DATE:

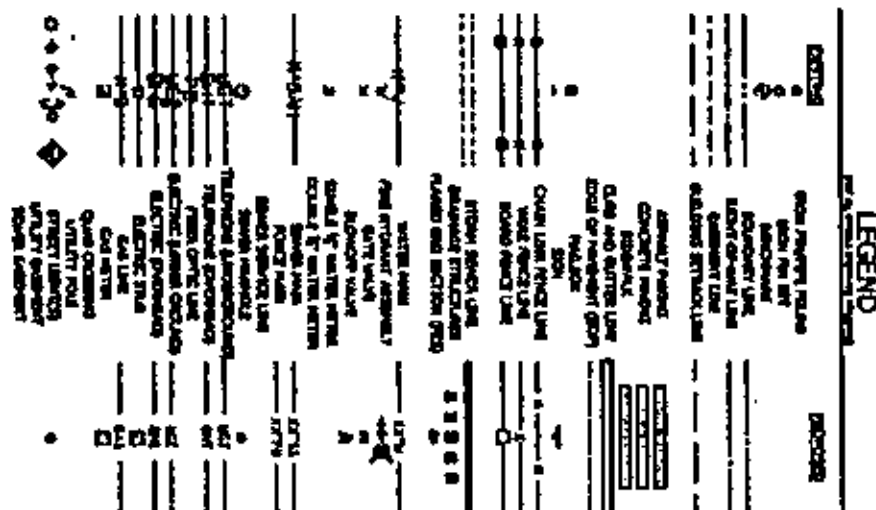
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DATE: 12/21/05
DRAWING NAME: S01, Curb & Manhole
DATE:



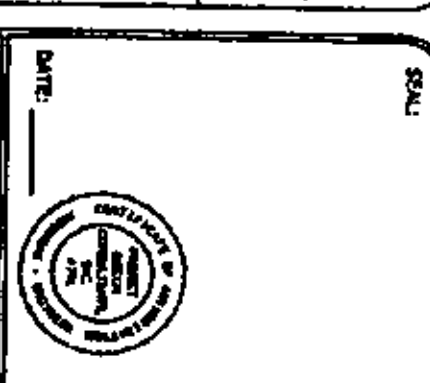
PROJECT DESIGN CONSULTANTS, INC.
130 N. MAIN ST.
CAVE SPRINGS, AR 72718
PH: 479.248.1151
FX: 479.248.1462

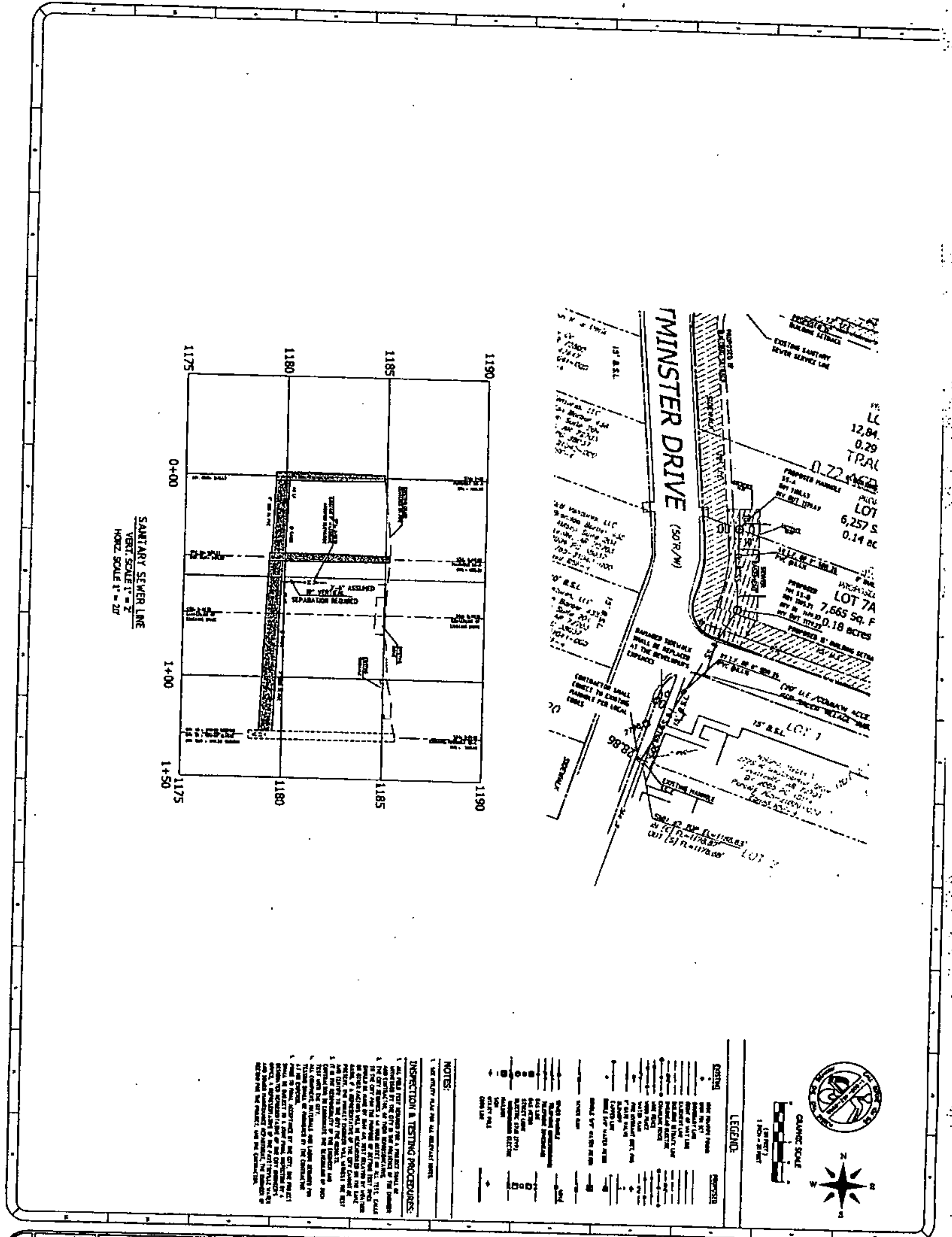
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DATE: _____
DATE: _____



SCALE:		DATE: _____	This drawing is "PRELIMINARY". IT IS NOT FOR CONSTRUCTION AND ABOVE SEAL HOLDS NO WARRANTIES OR THE CANCELLATION OF THIS DOCUMENT. DESIGN: _____	Project I. Duquesne P.D.C., P.E. DATE: _____	 PROJECT DESIGN CONSULTANTS, INC. 130 N. MAIN ST. CAVE SPRINGS, AR 72718 Ph: 479.248.1181 Fx: 479.248.1482	PROJECT NO.: _____ DRAWN BY: _____ CHECKED BY: ☐ SUBMITTED DATE: 1/23/09 CONTRACT NAME: S&B Grading - Fayetteville CONTRACT NUMBER: _____ DATE: _____ SHEET NO.: _____ OF _____ DATE: _____	PROJECT: WESTBROOK VILLAGE R-PZD LOTS 1A-7A FAYETTEVILLE, AR GRADING PLAN SCALE: H.T. C.A.O.
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PROJECT DESIGN CONSULTANTS, INC.

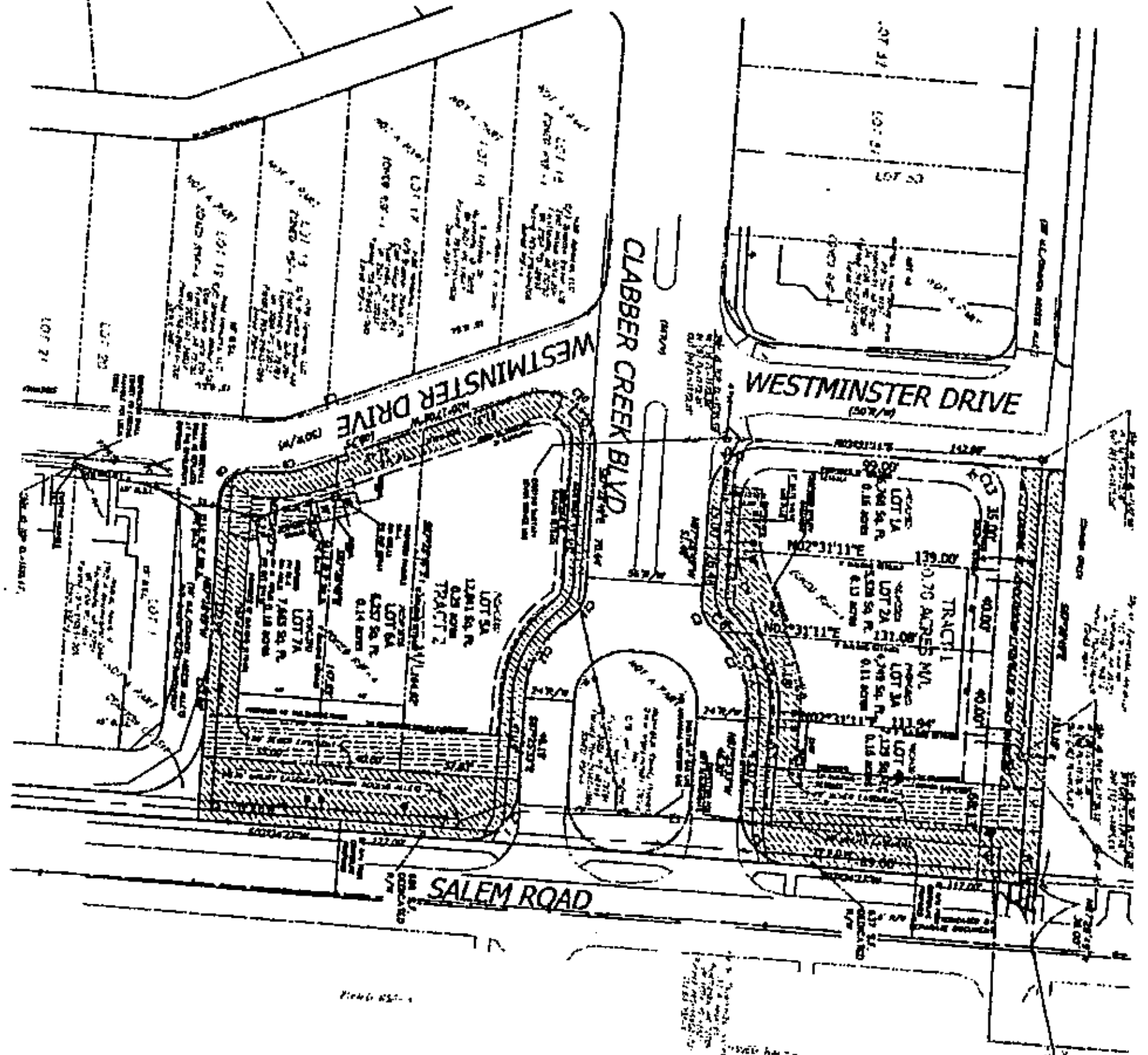
130 N. MAIN ST.
CAVE SPRING, AR 72718
PH: 479.248.1161
FX: 479.248.1962

DATE: 12/21/09
BY: J. L. DODD
FOR: J. L. DODD

WESTBROOK VILLAGE
R-PZD
LOTS 1A-7A
FAVETTEVILLE, AR

SANITARY SEWER PLAN AND PROFILE

SHEET NO. 3.1

[illegible]

40. Where it is available, an organization's schedule of the local funds should be filed for public inspection with the

[illegible]

1. **STATION**
 2. **STATION NAME**
 3. **STATION TYPE**
 4. **STATION LOCATION**
 5. **STATION ELEVATION**
 6. **STATION DIRECTION**
 7. **STATION COMMENTS**
 8. **STATION DATA**
 9. **STATION STATUS**
 10. **STATION HISTORY**
 11. **STATION NOTES**
 12. **STATION RECORD**
 13. **STATION SUMMARY**
 14. **STATION ANALYSIS**
 15. **STATION CONCLUSION**
 16. **STATION RECOMMENDATION**
 17. **STATION ACTION**
 18. **STATION FOLLOW-UP**
 19. **STATION REVIEW**
 20. **STATION APPROVAL**
 21. **STATION SIGNATURE**
 22. **STATION DATE**
 23. **STATION TIME**
 24. **STATION LOCATION**
 25. **STATION ELEVATION**
 26. **STATION DIRECTION**
 27. **STATION COMMENTS**
 28. **STATION DATA**
 29. **STATION STATUS**
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 31. **STATION NOTES**
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 225. **STATION ELEVATION**
 226. **STATION DIRECTION**

GENERAL SITE NOTES:

[illegible]**UTILITY NOTES:**

5. a subject asked by a doctor or investigator to submit a sample for an analysis. The classification term, if appropriate, has been added to the above category of specimens asked by a doctor. A subject may be asked to submit a specimen for a test, and the test may be performed, but the specimen may not be used for a classification study, and be considered as non-classified and discarded (e.g.).

PROJECT DESIGN CONSULTANTS, INC.

1100 N. MAIN ST.
DAVE SPRINGS, AR 72710
Ph: 479.244.1161
Ft: 479.240.1462

PROPERTY:
WESTBROOK VILLAGE

LOTS 1A-7A

FAYETTEVILLE, AR

PLAN

3.0

CONTACT LIST:

[illegible]

GENERAL NOTES:

- [illegible]

SHEET INDEX

- C1.0 - COVER SHEET
- C2.0 - SURVEY
- C3.0 - SITE & UTILITY PLAN
- C3.1 - SANITARY SEWER PLAN & PROFILE
- C3.2 - TREE PRESERVATION PLAN
- C4.0 - GRADING PLAN
- C5.0 - TYPICAL DETAILS

[illegible]

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 06-1868 (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
	\$ -	

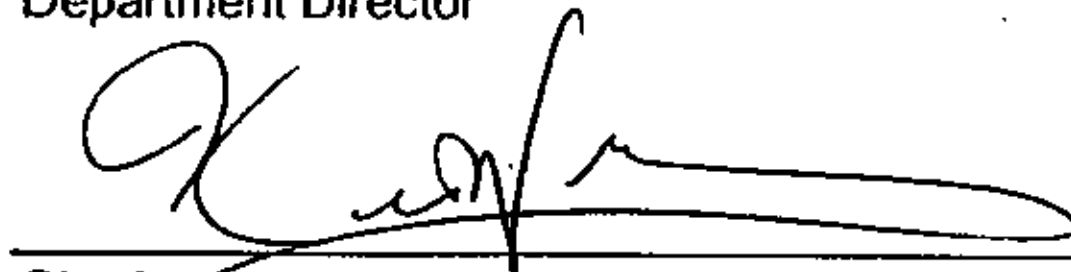
Budgeted Item ☐

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:

Left on the second hearing 2/7/06

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
Date: <u>January 9, 2006</u>		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.
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- (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 dark 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.

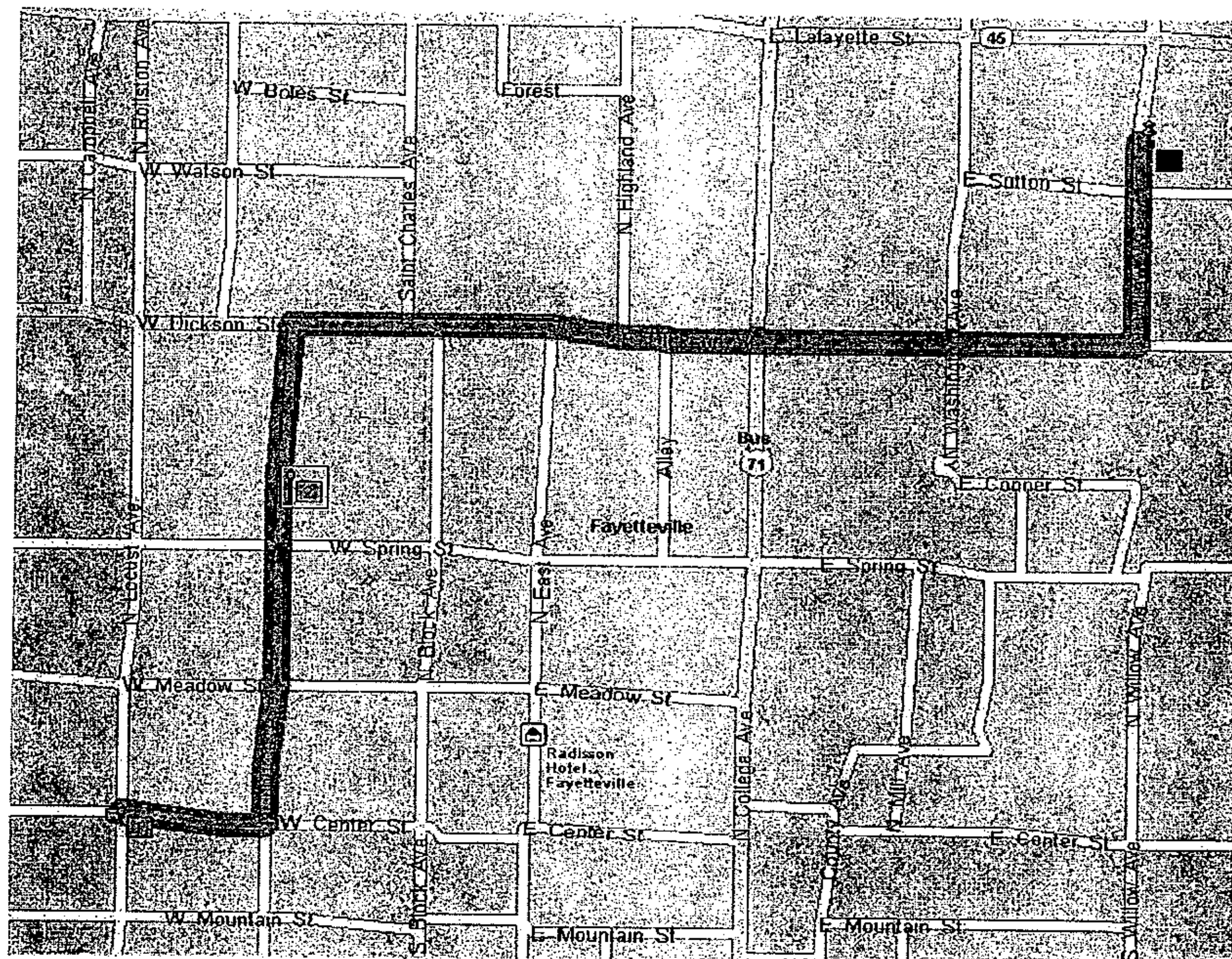
If you have any questions or need additional information don't hesitate to call me at x365

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.

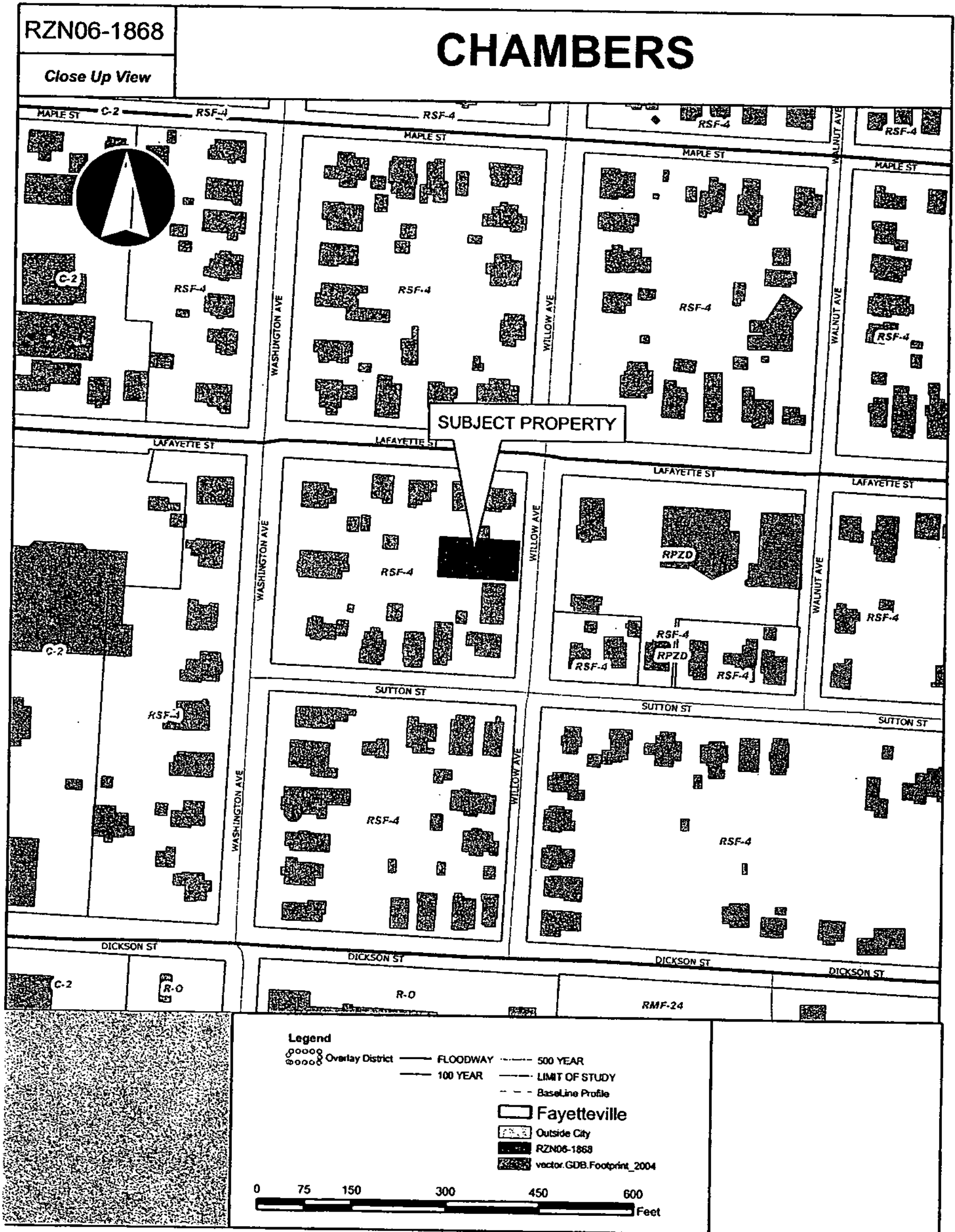
- d. The property is served by a 6" water line and a 6" sewage return.

#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



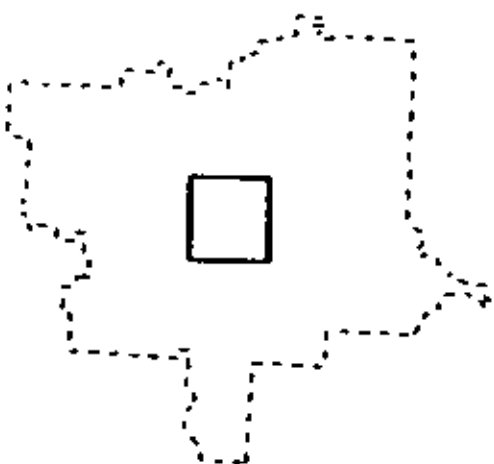
RZN06-1868

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

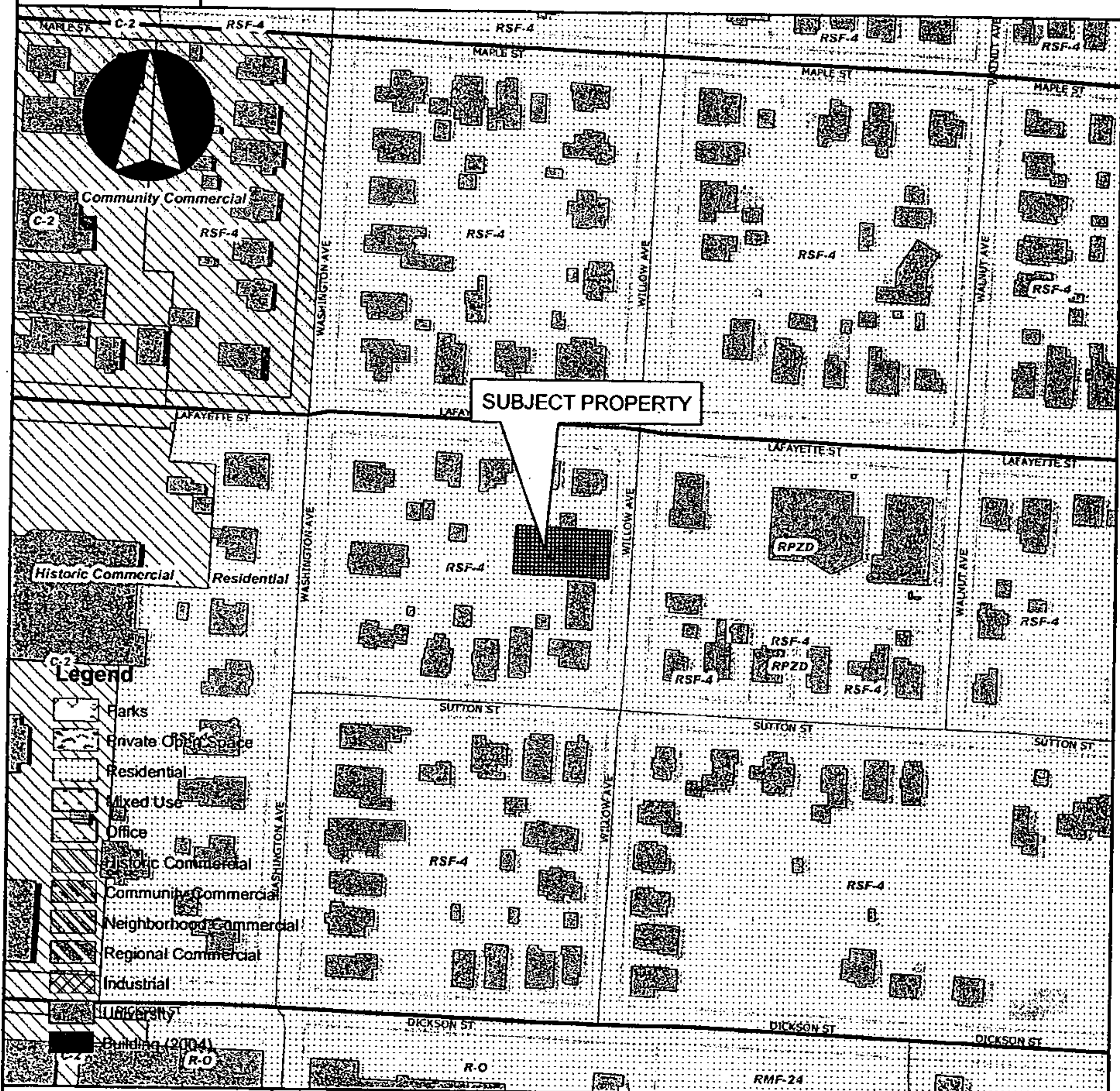
1

Miles

RZN06-1868

Future Land Use

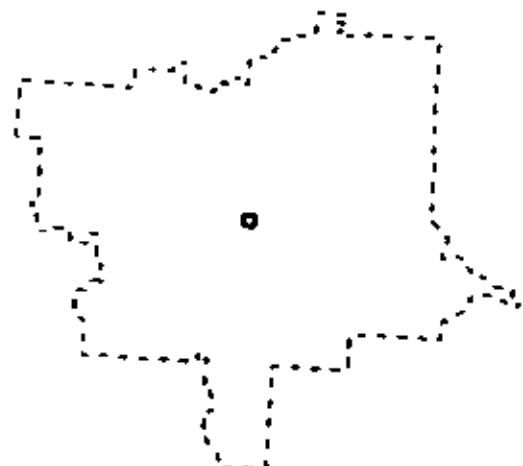
CHAMBERS



Legend

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- Building (2004)

Overview



Legend

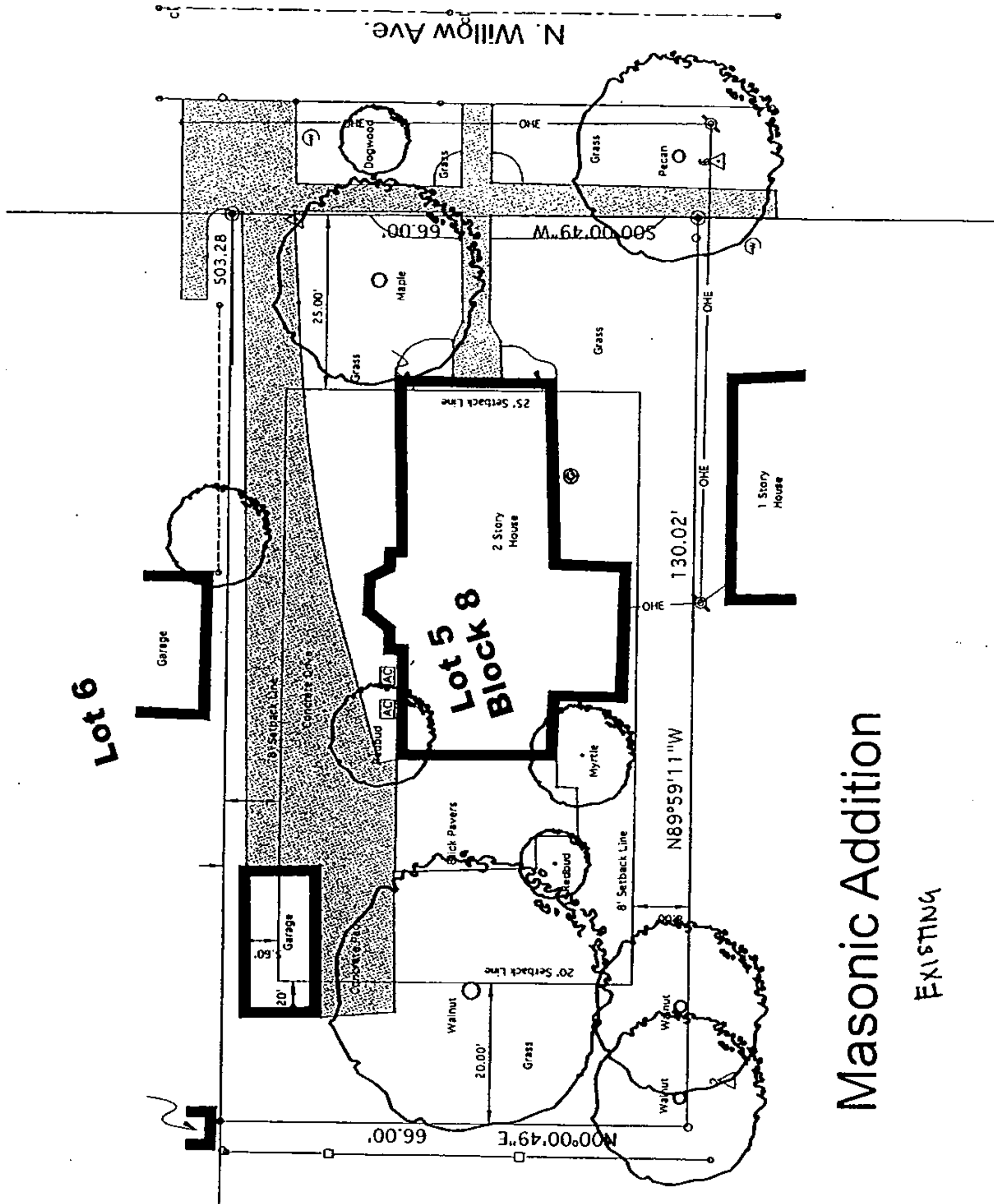
- Subject Property**
 - RZN06-1868
- Streets**
 - Existing
 - Planned
- Boundary**
 - Planning Area
 - Overlay District
 - Outside City

Legend



SITE PLANS
RZN 06-1868

*Site plan with existing garage



Masonic Addition

EXISTING

Julie Chambers\jchambers\julia\Desktop\Chambers\blk 1\1706

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas



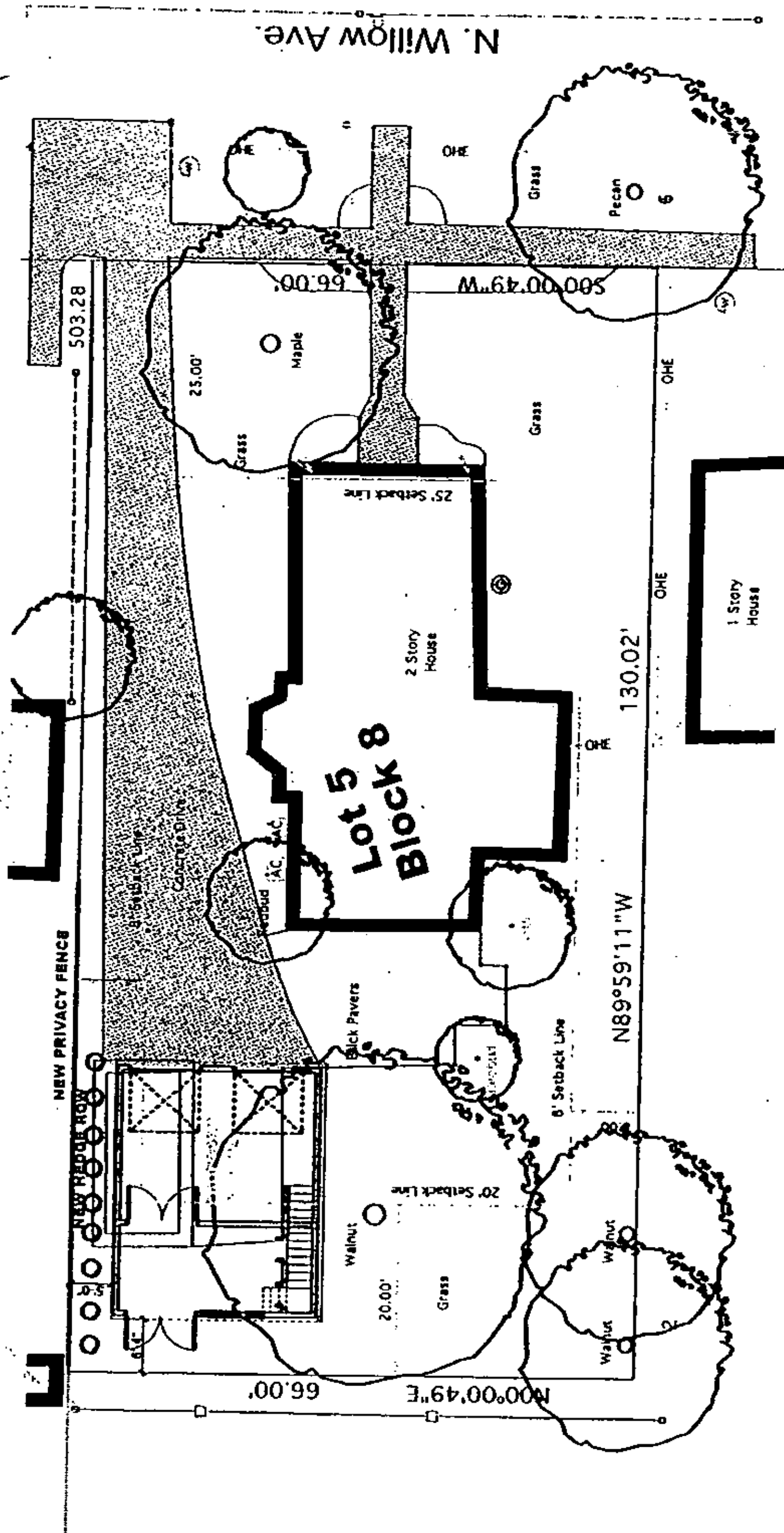
EXISTING SITE PLAN

SCALE: 1"=20'

01.16.06

A0.0

*Site plan with proposed detached garage and associated second dwelling unit



Masonic Addition

Proposed

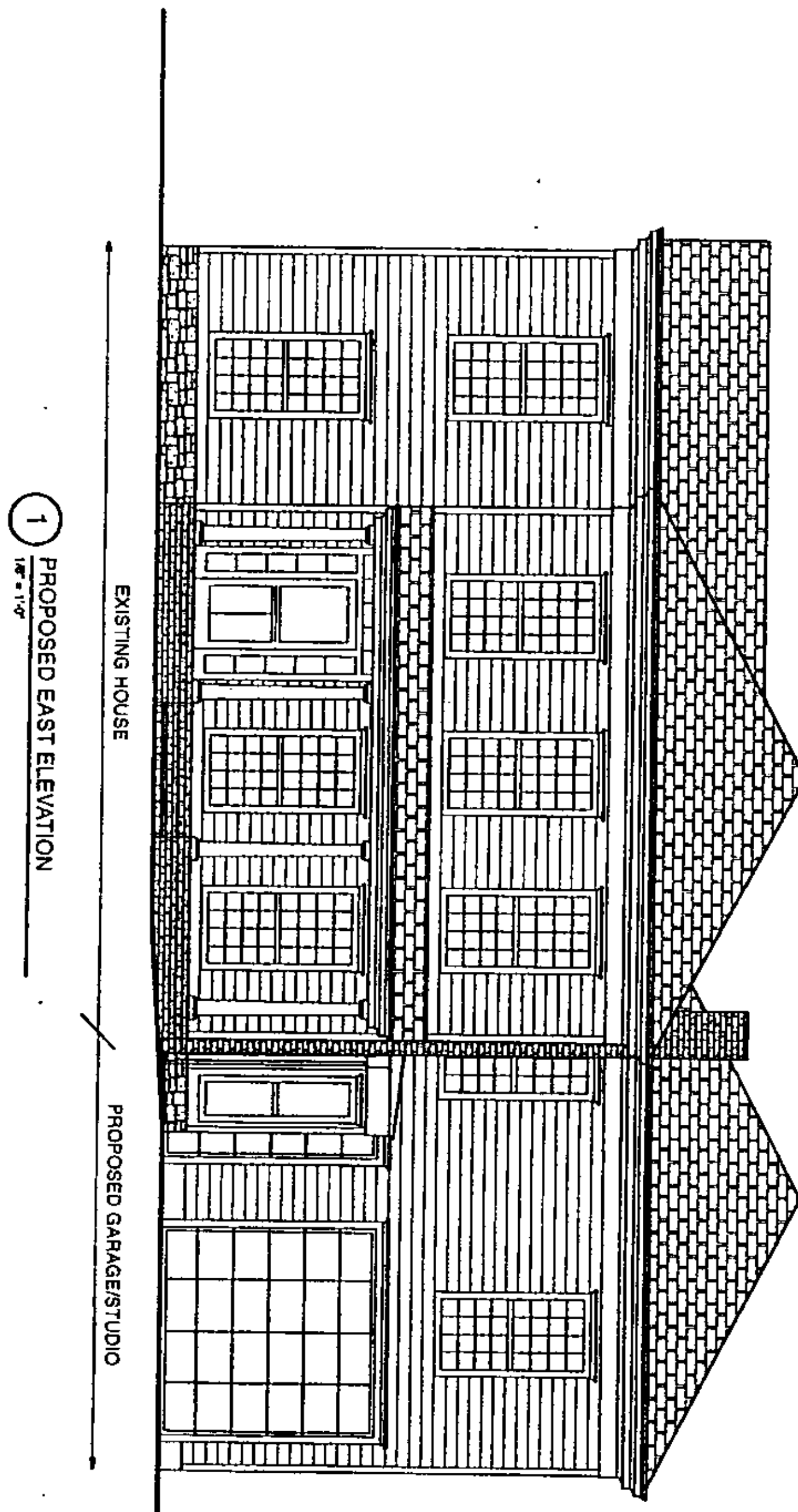
Julie Chambers\Users\Julie\Desktop\Chambers\Job 1/17/06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas



PROPOSED SITE PLAN
SCALE: 1"=20'
01.16.06

A0.1

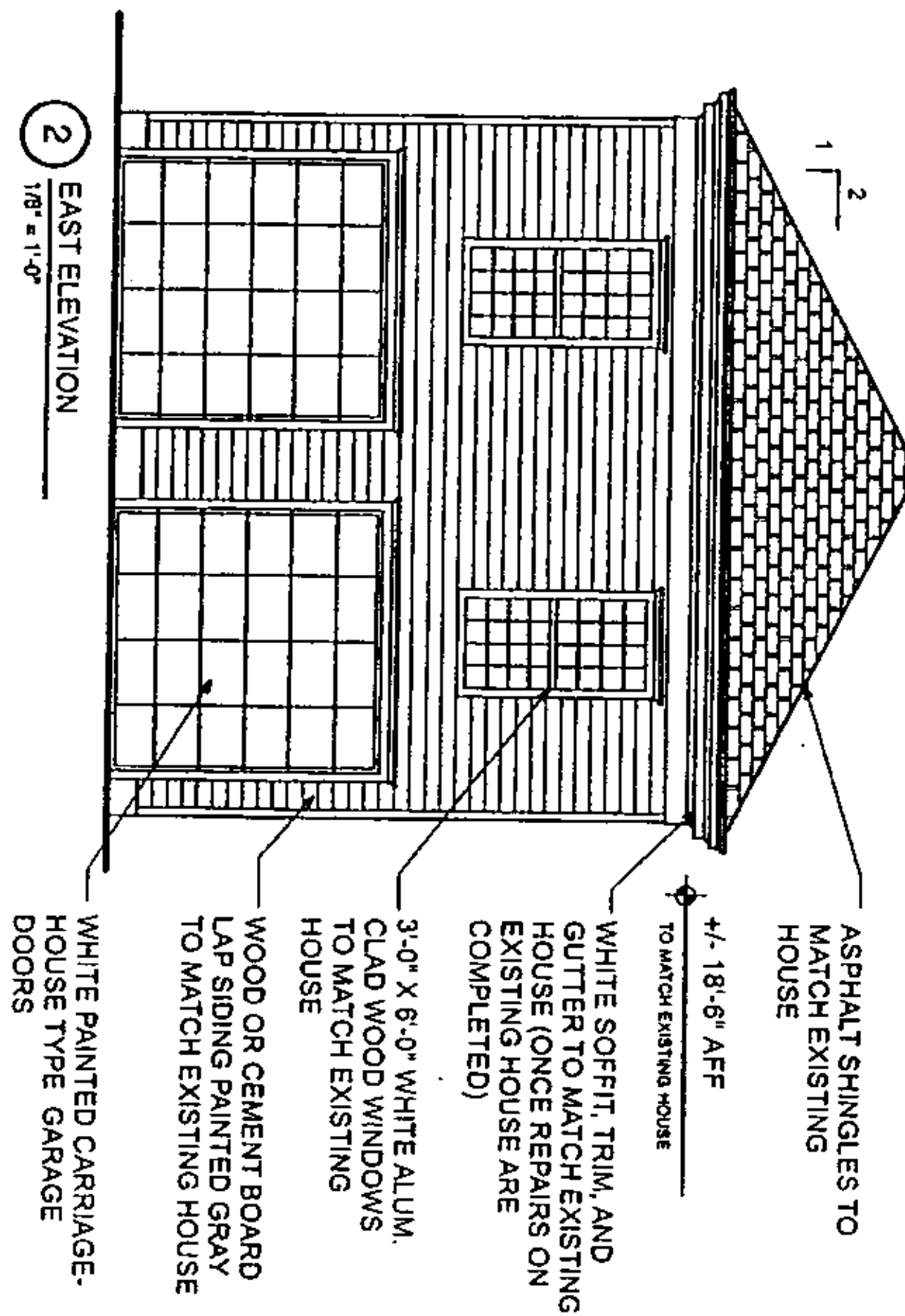
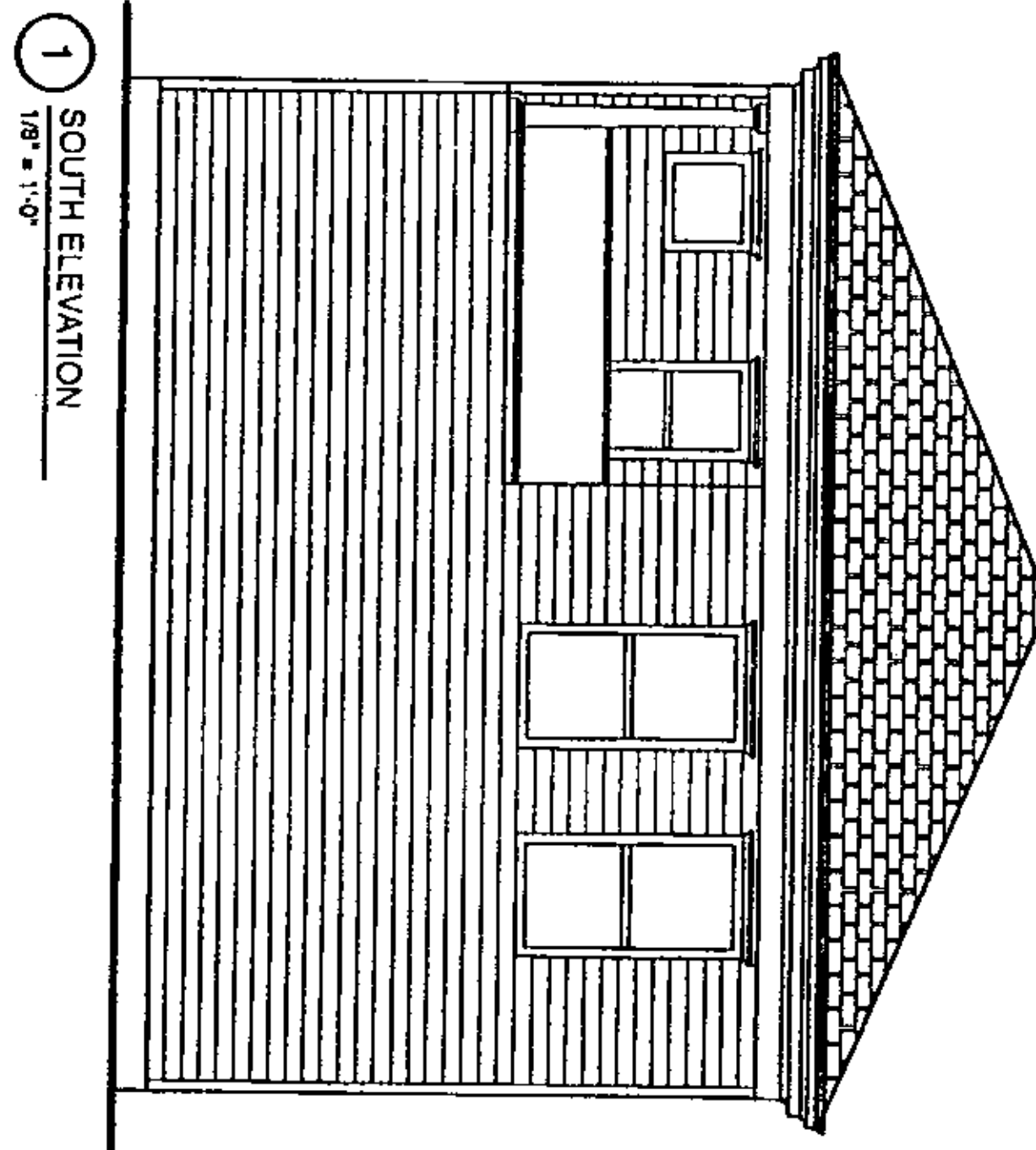


Julie Chambers\Users\Julie\Desktop\Conditional use\Chambers\Jbk 1/16/06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

PROPOSED
ELEVATIONS
01.16.06

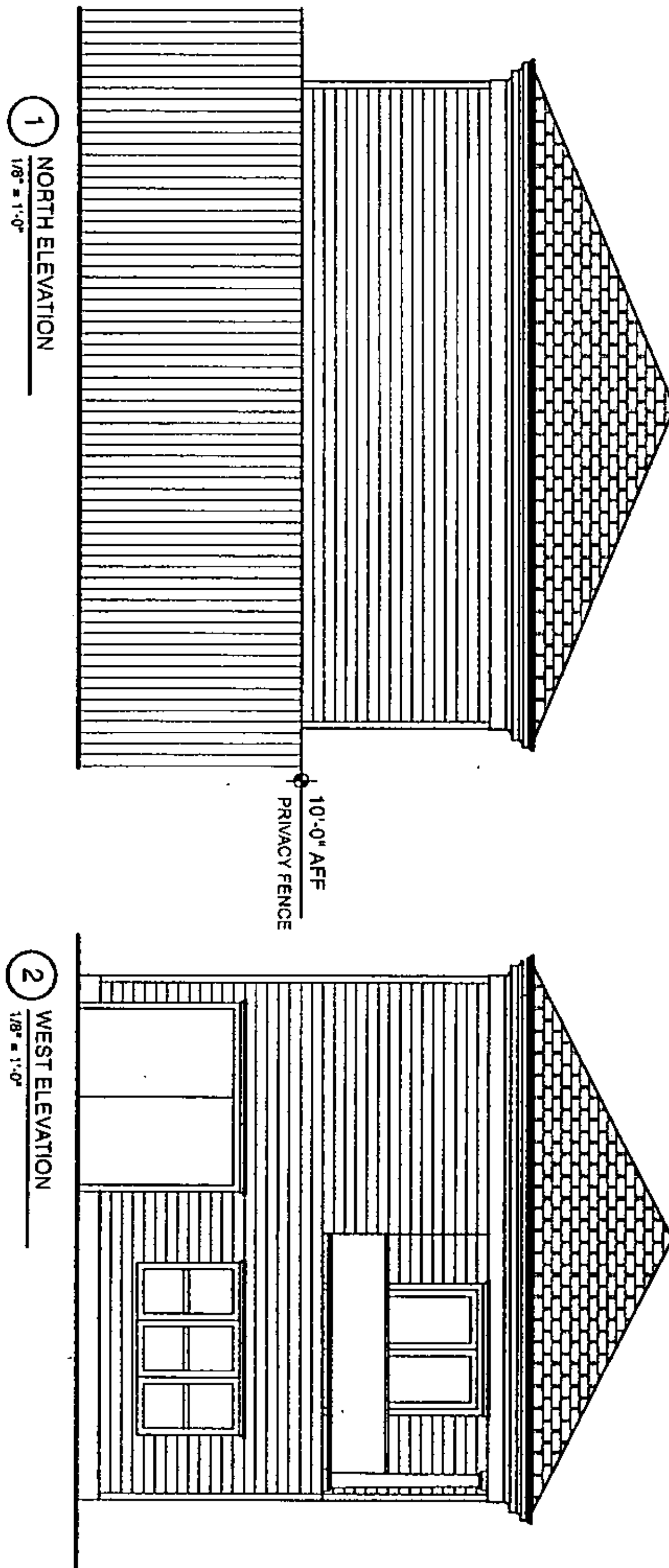
A1.2



Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

PROPOSED
ELEVATIONS
01.16.06

A1.0

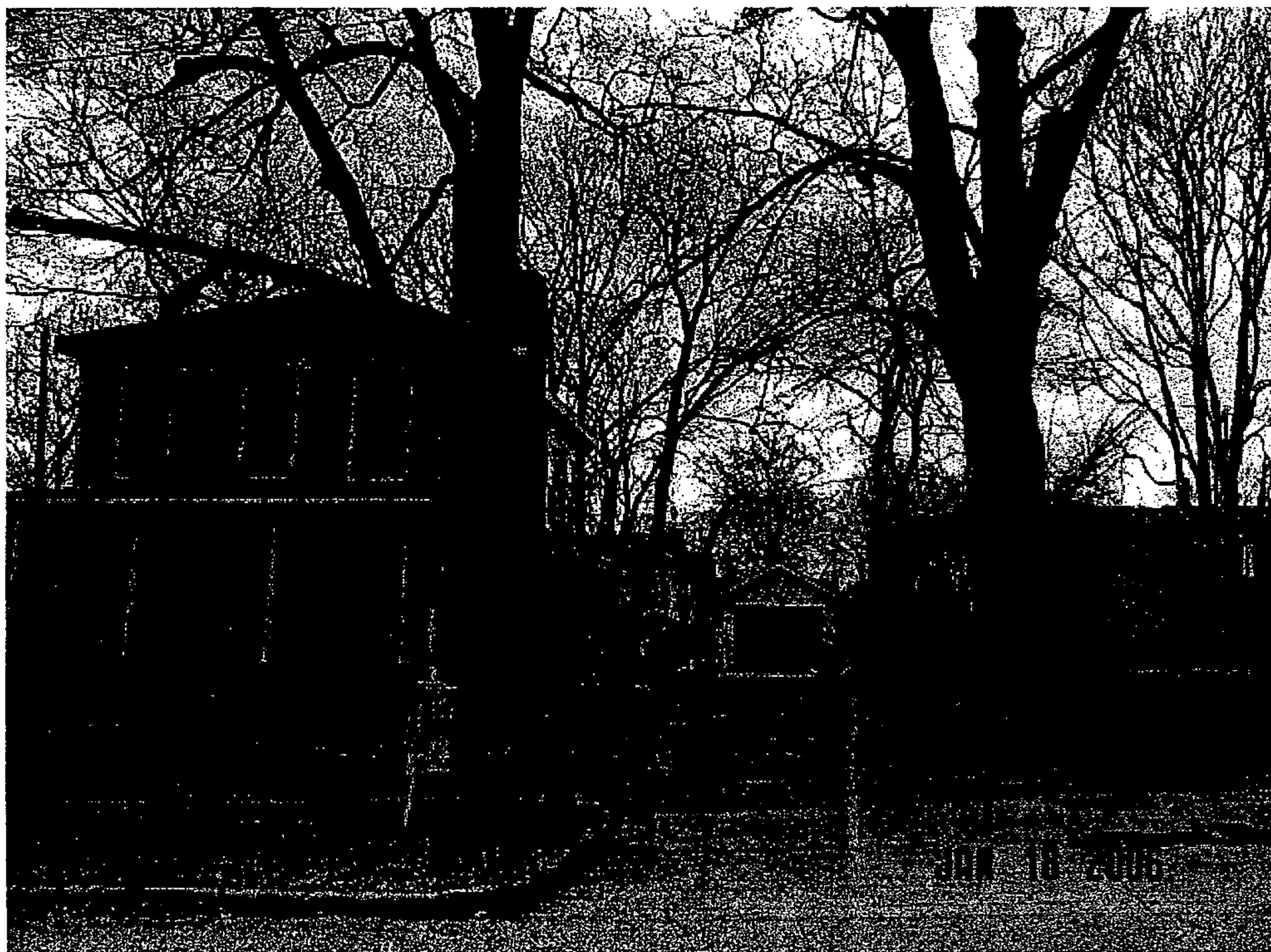


Julie Chambers\Users\Julie\Desktop\Chambers\Jbk 1/17/06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

PROPOSED
ELEVATIONS
01.16.06

A1.1



**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] 1-19-06
Department Director Date

Previous Ordinance or Resolution # n/a

[Signature] 1-20-06
City Attorney Date

Original Contract Date: n/a

[Signature] 1-23-06
Finance and Internal Service Director Date

Original Contract Number: n/a

[Signature] 1/27/06
Mayor Date

Received in City Clerk's Office
ENTERED
1-19-06

Received in Mayor's Office
ENTERED
1/23/06
p.t.k.

Comments:

left on the first reading 2/7/06

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 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 1317.83 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.



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.

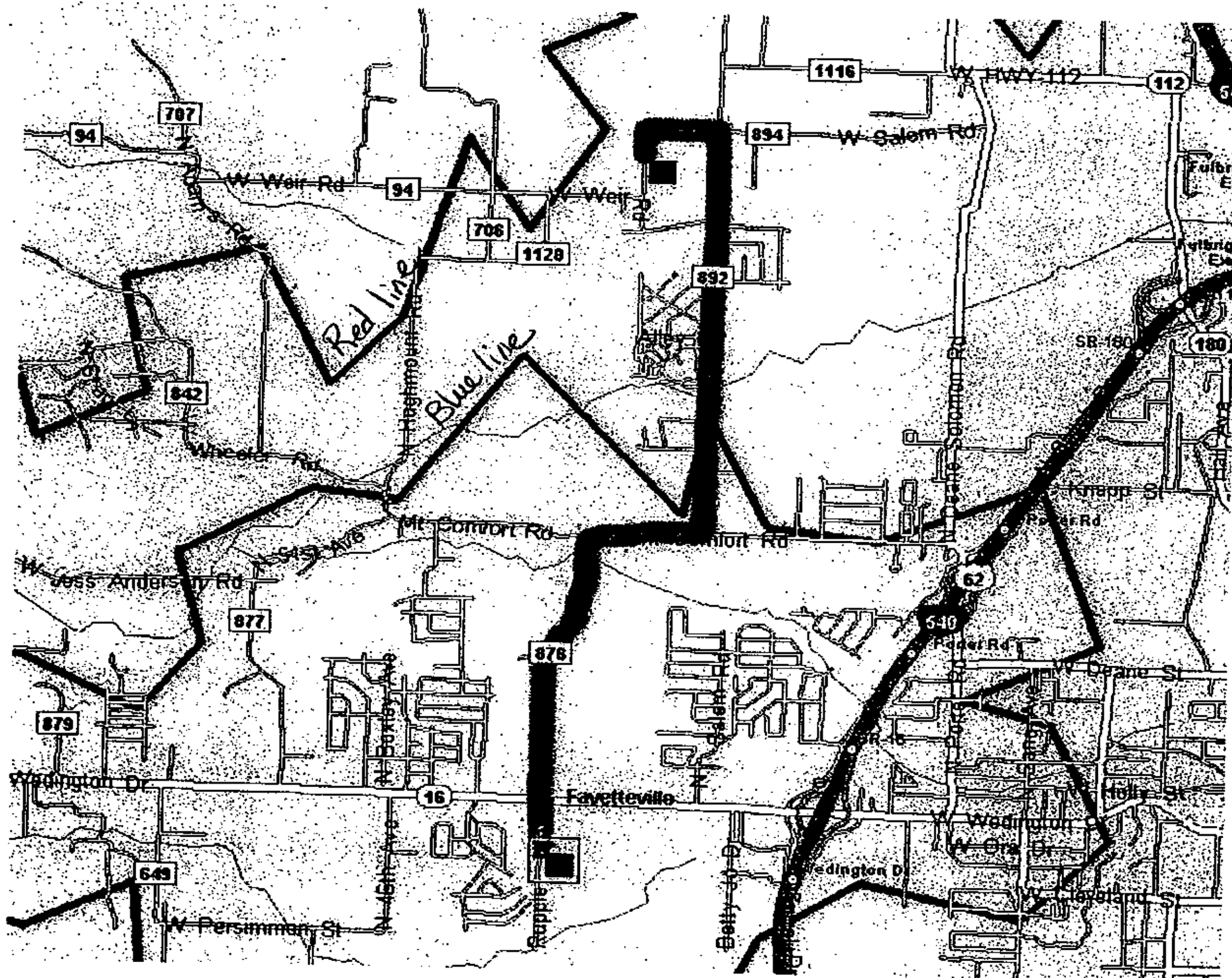
Measured hydrant flow in this area is 805 gallons/minute.

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





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

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

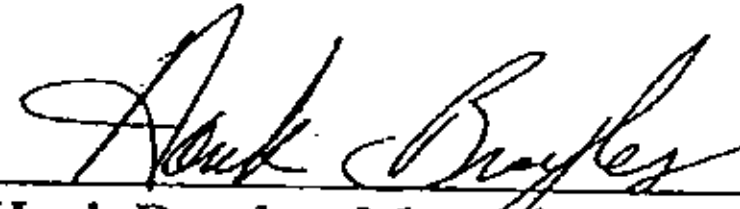
PETITION TO ANNEX TERRITORY TO
THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

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.

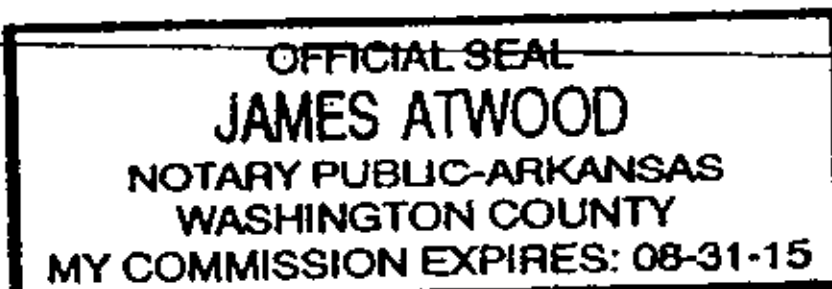
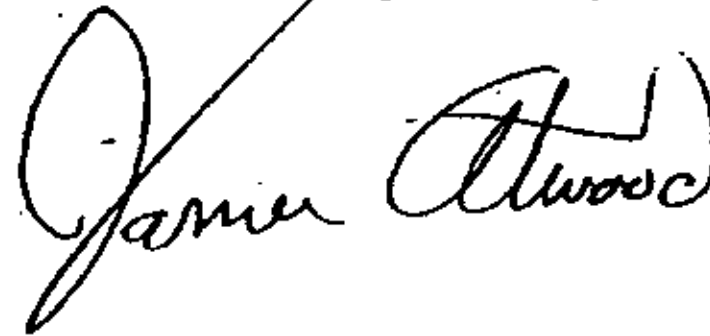
Respectfully executed this 27 day of September, 2005.



Hank Broyles, Managing Member of
Broyles Commercial Funding, LLC, which
is the Member of Nock-Broyles Land
Development, LLC authorized to execute
this petition

September SUBSCRIBED AND SWORN TO before me, a Notary Public, on this the 27 day of
September, 2005.

My Commission Expires:



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

SKAREN COMBS PRITO
CO. & PROBATE CLE
WASHINGTON CO. AR

2005 OCT 14 PM 2

FILED

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:

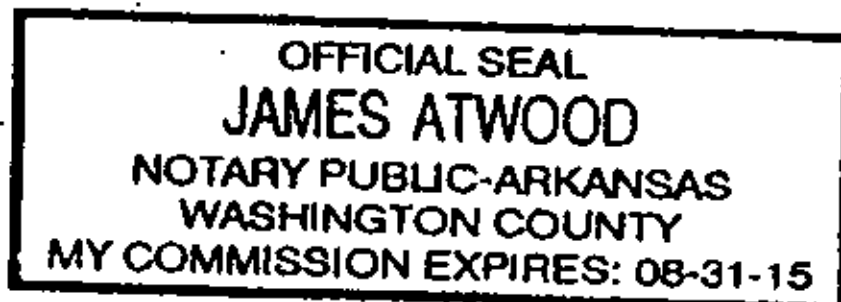
1. That Petitioner on the 29th day of September, 2005 filed a petition to annex certain lands into the City of Fayetteville, Arkansas, under A.C.A. Section 14-40-601, et. Seq., and Petitioner filed an amendment to the Petition amending the legal description of the lands on October 13, 2005 (the "First 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
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:



James Atwood

Exhibit A

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 (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: 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 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.

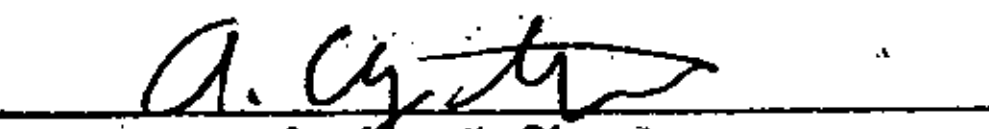
Subject to the following:

DEDICATED RIGHT-OF-WAY DESCRIPTION

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; THENCE 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; THENCE 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; THENCE 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; THENCE N89°54'26"E 7.52 FEET TO THE POINT OF BEGINNING.

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
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 2nd 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,

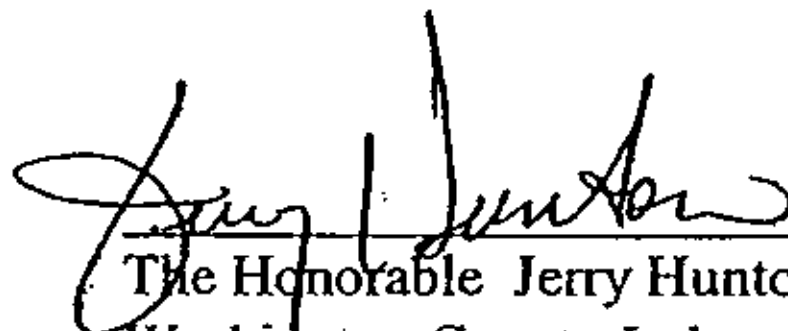
FILED
2005 NOV 3 AM 9 15
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

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.

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: 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 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:

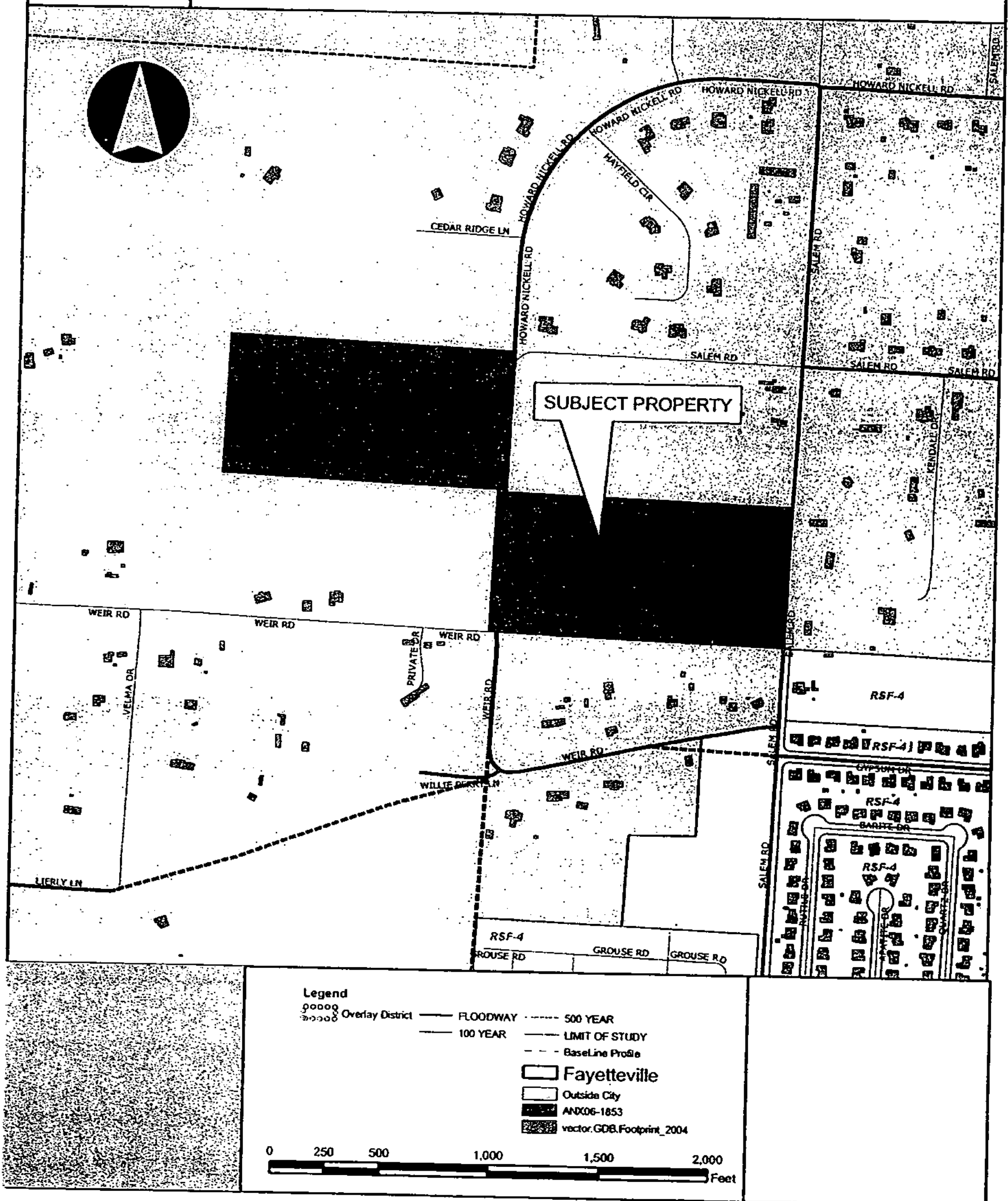
DEDICATED RIGHT-OF-WAY DESCRIPTION

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; THENCE 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; THENCE 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; THENCE 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; THENCE N89°54'26"E 7.52 FEET TO THE POINT OF BEGINNING.

ANX06-1853

Close Up View

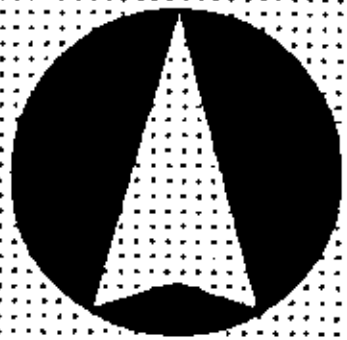
NOCK/BROYLES



ANX06-1853

Future Land Use

NOCK/BROYLES SALEM RD.



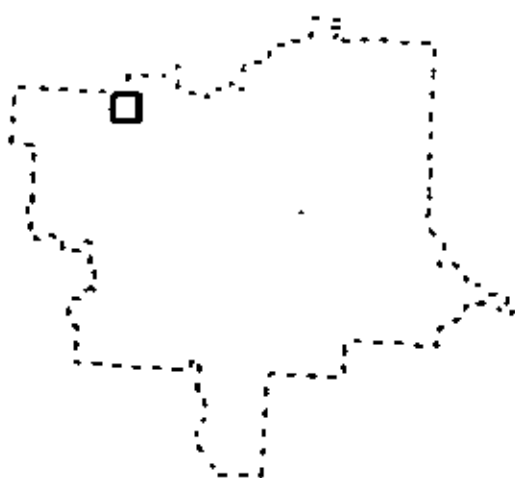
SUBJECT PROPERTY

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

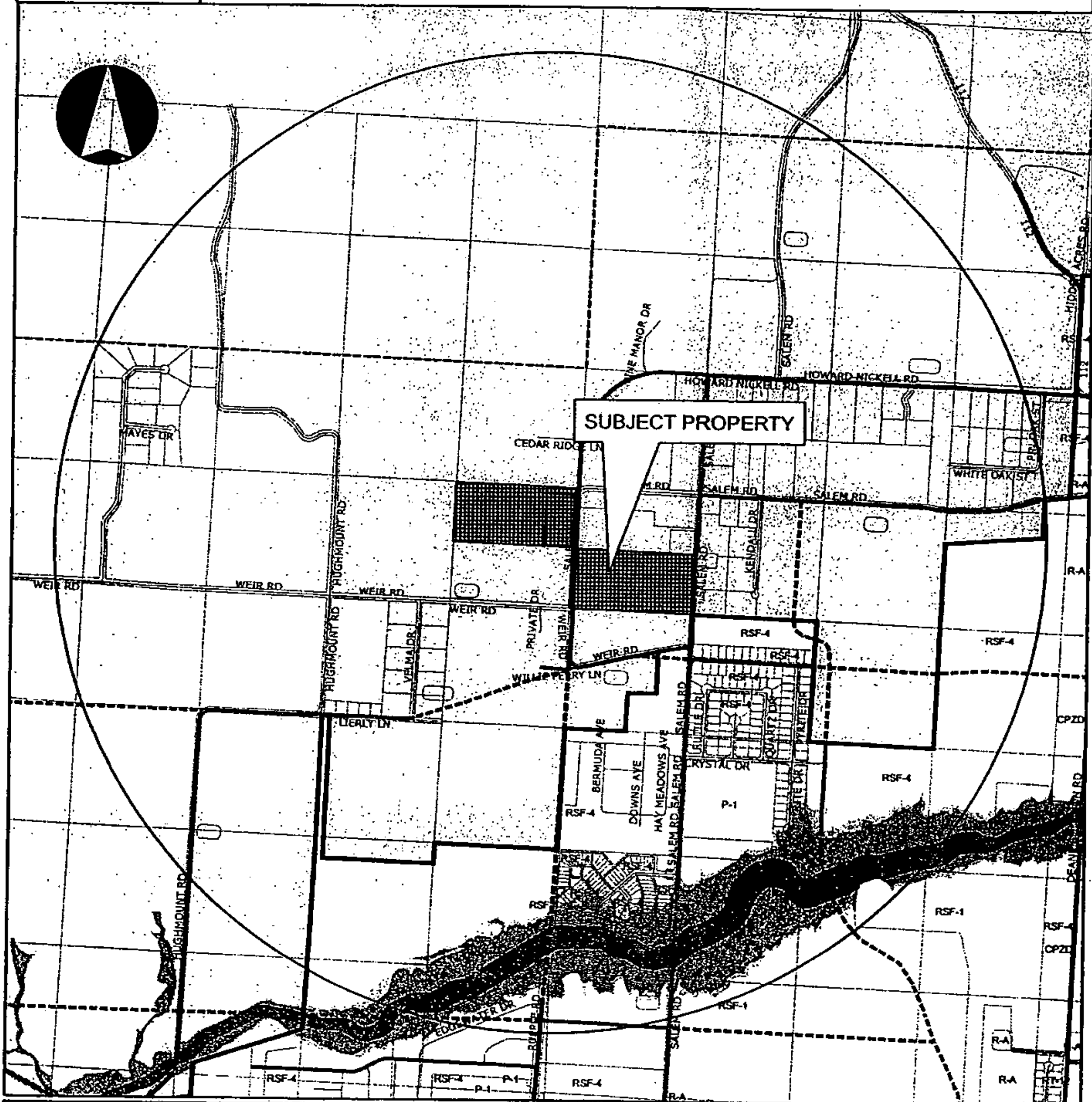
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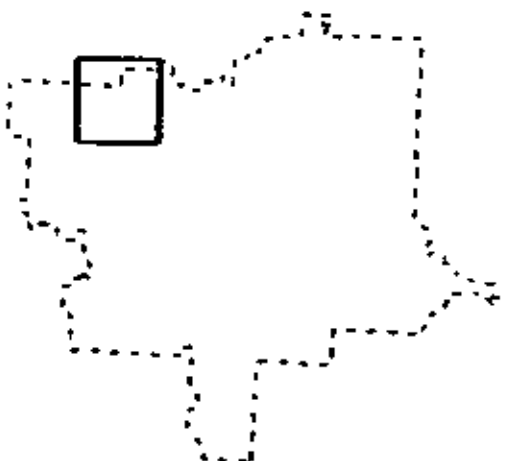
ANX06-1853

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

PLANNING COMMISSION MEETING
MINUTES FOR
ANX 06-1853
RZN 06-1854

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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 be 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 Hamstring 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

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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

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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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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.

Hunnicuttt: 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.

Hunnicuttt: 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?

Hunnicuttt: 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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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.

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- 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.

Left on the first reading 2/2/06.

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 ⓪ 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> ⓪ Approved ⓪ Denied
Date: <u>February 7, 2006 (1st reading if recommended)</u>	

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

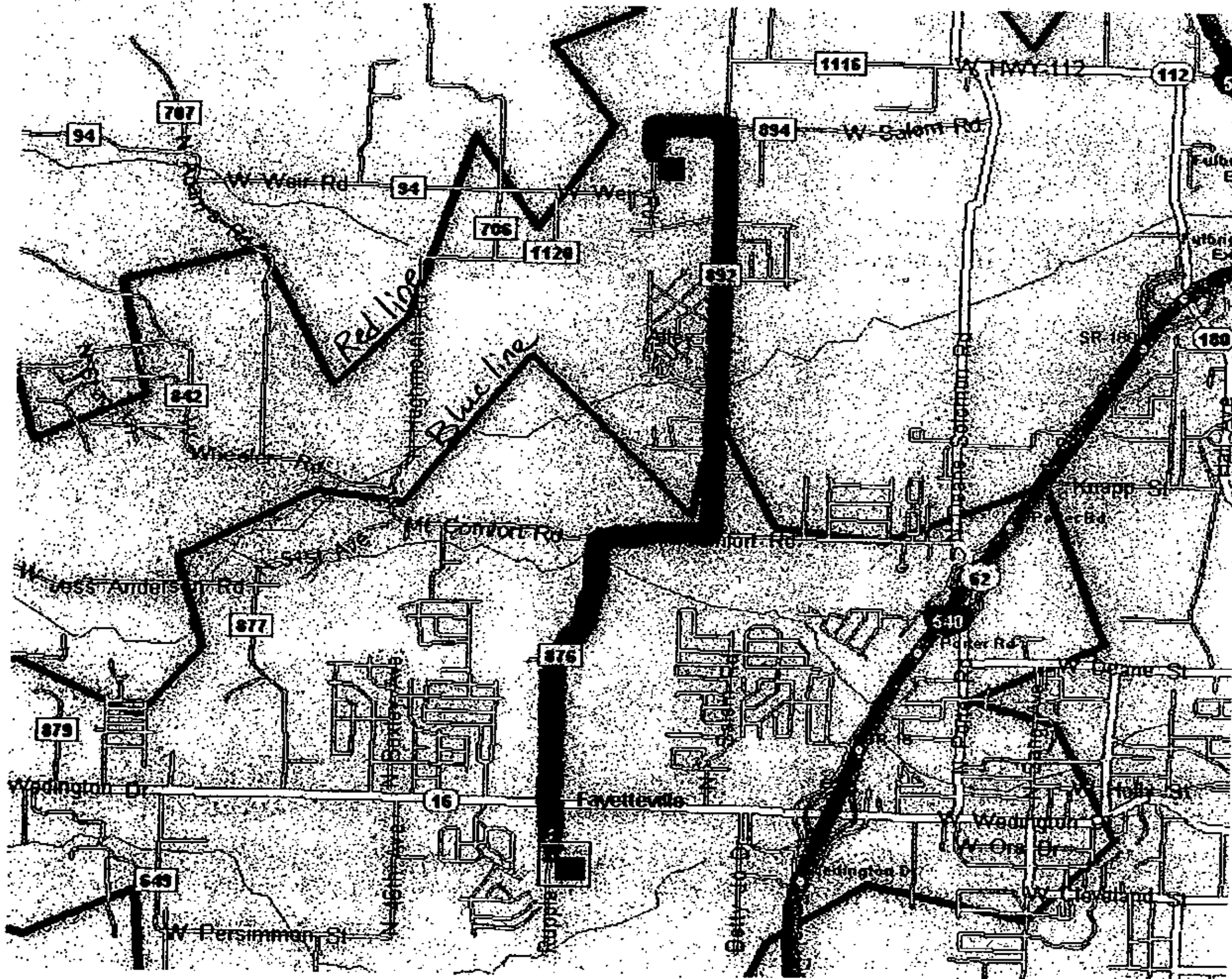
Dale Riggins

Fayetteville Fire Department

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 "WLB", is written over the typed name "Captain William Brown".

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,

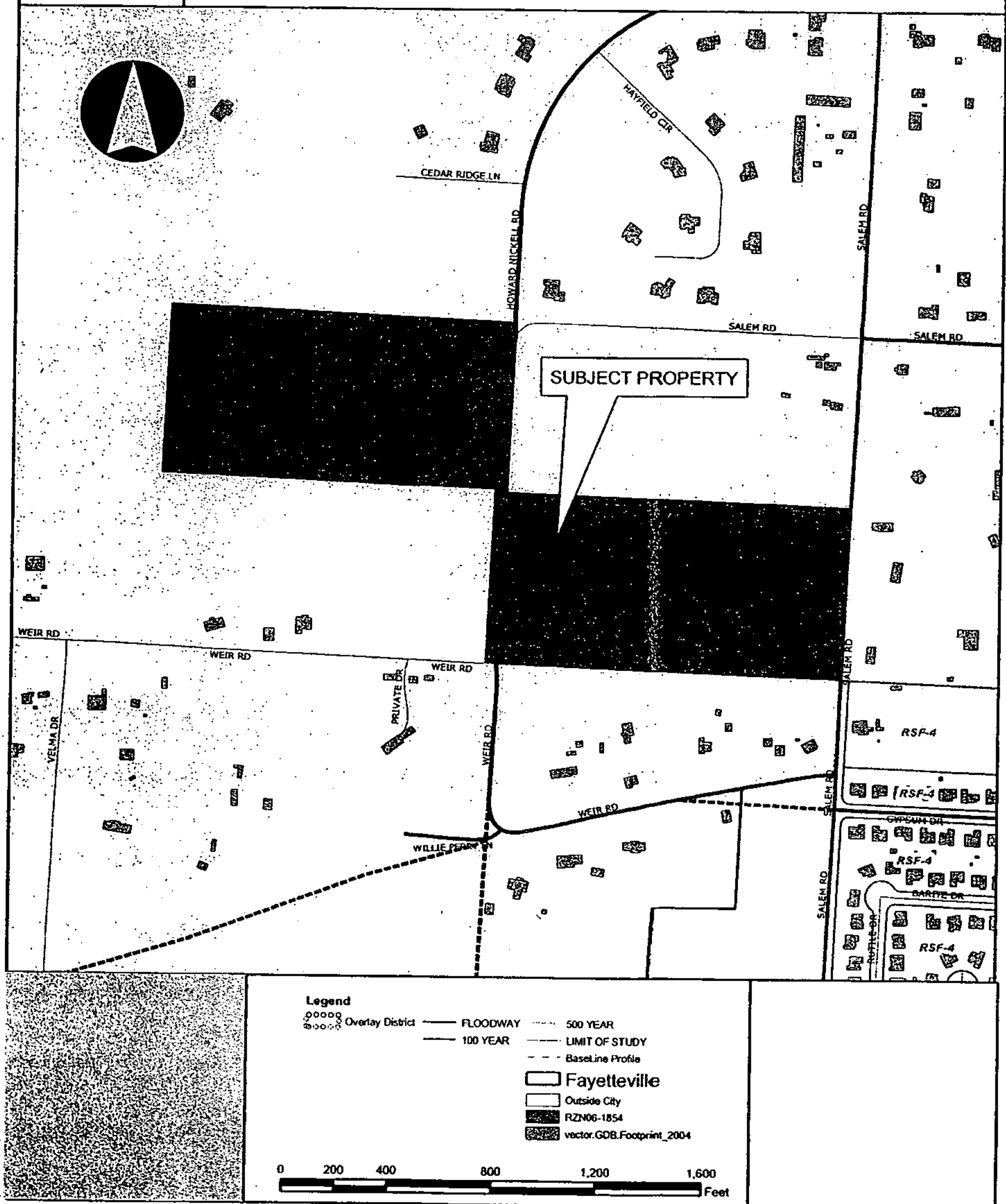
A handwritten signature in cursive script, appearing to read "Clay Grote".

Clay Grote, P.E.
Principal Engineer.

RZN06-1854

Close Up View

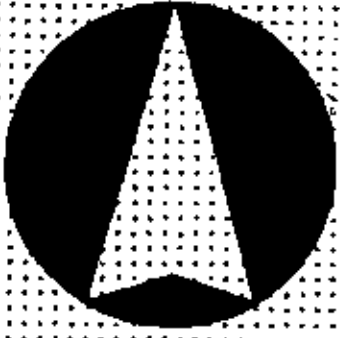
NOCK/BROYLES SALEM RD



RZN06-1854

Future Land Use

NOCK/BROYLES SALEM RD.



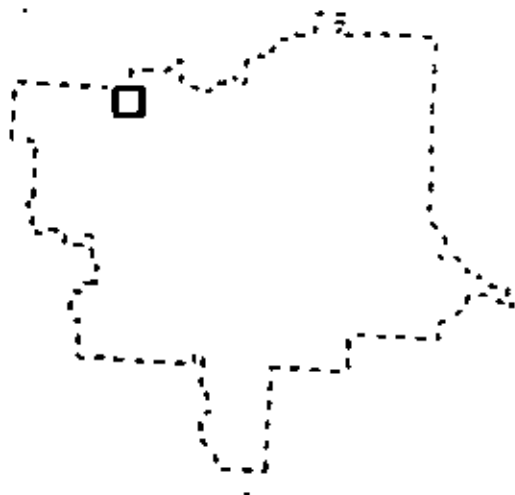
SUBJECT PROPERTY

Residential

Legend

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University
- Building (2004)

Overview



Legend

- Subject Property
- RZN06-1854
- Boundary
- Planning Area
- Streets
- Existing
- Planned
- Overlay District
- Outside City

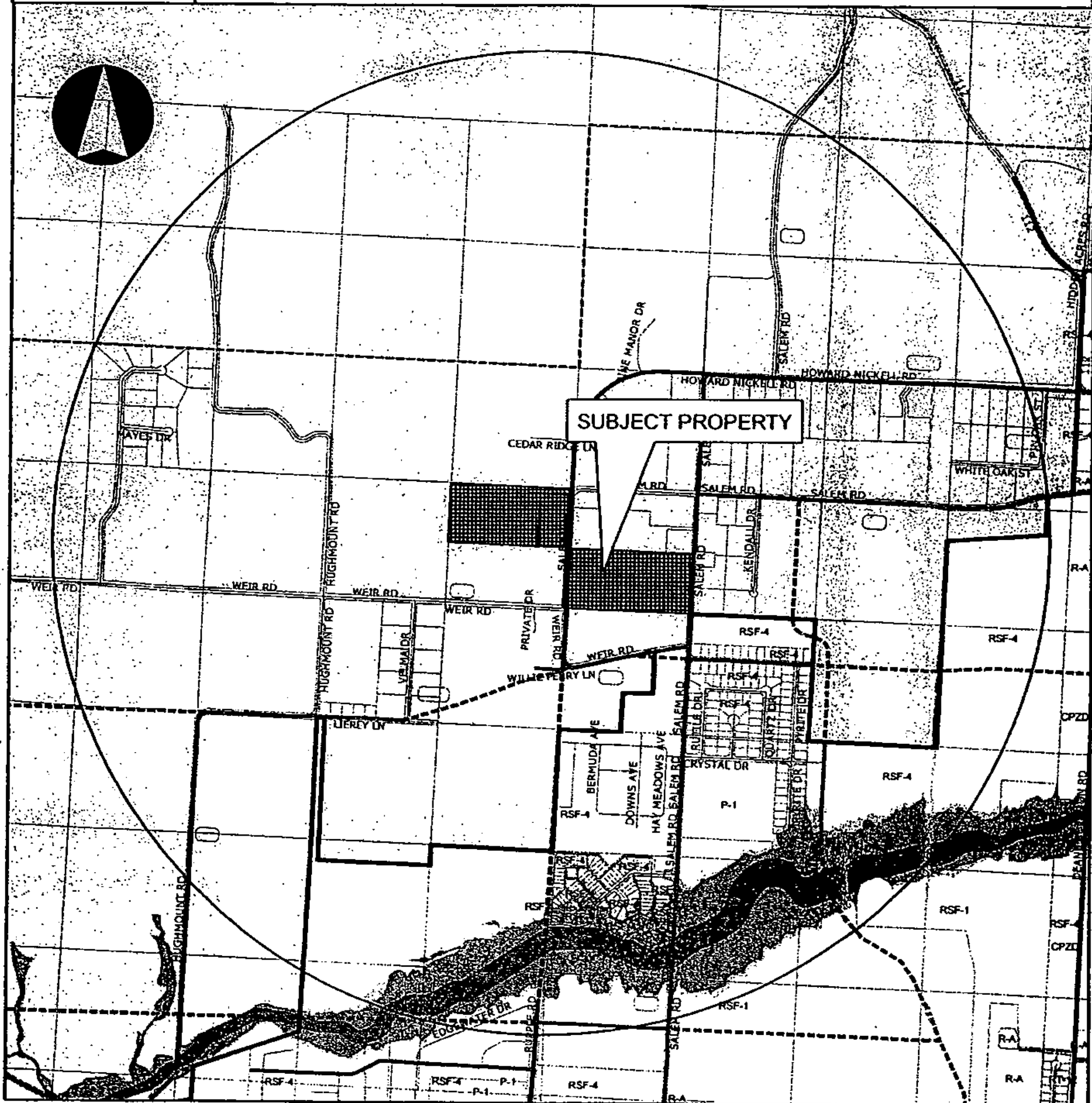
Legend



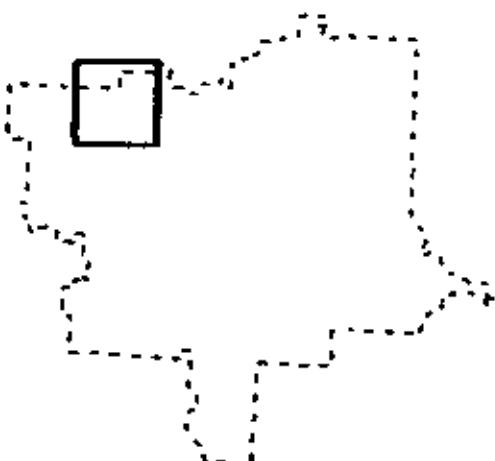
RZN06-1854

NOCK/BROYLES SALEM RD.

One Mile View



Overview



Legend

Subject Property
RZN06-1854

Boundary

Planning Area
Overlay District
Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

21-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 \$21,503.40 with Sloan Properties, Inc. for the upsizing of approximately 992' of 8" water main to 12".

\$21,503.40

Cost of this request

2300.9300.5808.00

04039

Project Number

\$ -

Category/Project Budget

\$ -

Funds Used to Date

\$ -

Remaining Balance

Water Impact Fee

Cost Sharing

Program Category / Project Name

Water and Sewer Improvements

Program / Project Category Name

Impact Fee Fund

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

x

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office

ENTERED
2/2/06
akp

Received in Mayor's Office

ENTERED
2/3/06
7/11

Department Director

Date

2-2-06

City Attorney

Date

2/3/06

Finance and Internal Service Director

Date

2/3/06

Mayor

Date

2/6/06

Comments:

City Council Meeting of February 21, 2006

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, P.E., City Engineer *RSP*

Date: February 2, 2006

Subject: Proposed Cost Share in the amount of \$21,503.40 with Sloan Properties, Inc. for the upsizing of approximately 992 feet of 8" water main to a 12" water main through the Legacy Point 4 subdivision.

RECOMMENDATION

Staff recommends that the City cost-share with Sloan Properties, Inc., the developer, to upsize approximately 992 feet of 8" water main to a 12" main. By participating in the construction of these improvements, the City will be continuing a 12" grid in the water line distribution system in this area.

BACKGROUND

The developer is constructing a residential development east of the existing Legacy Point subdivision. As a part of this development, the developer is required to construct a water main extension to provide water service and fire protection to the site.

DISCUSSION

The developer currently has a residential subdivision (Legacy Point 4) under construction east of the existing phases of the Legacy Point subdivision. An extension of Persimmon Street will be constructed through this phase of the development. An 8" water main is required along Persimmon Street as a part of the development to provide water service and fire protection. Persimmon Street is identified on the Water Master plan as a corridor for a portion of a 12" grid between Highway 16 and Highway 62. It would benefit the City to cost-share with the developer for the construction of this portion of the planned grid.

City Council Meeting of February 21, 2006

Construction costs have been provided to the City for these improvements by Sloan Properties, Inc. as follows:

Developer's Share	\$ 26,708.40
City's Share	<u>\$ 21,503.40</u>
Total	\$ 48,211.80

BUDGET IMPACT

The funds for this water line distribution project will come from the Impact Fee Fund's use of fund balance. The water impact fee methodology "Buy-In Approach" is based partially on the cost of a water line distribution and transmission system of 12" lines and larger. A budget adjustment is attached with this request to fund the proposed project.

The final costs to the City will be based upon actual costs as documented by Sloan Properties, Inc 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 WITH SLOAN PROPERTIES, INC. IN AN AMOUNT NOT TO EXCEED \$21,503.40 FOR THE UPSIZING OF APPROXIMATELY 992' OF 8" WATER MAIN TO 12" WATER MAIN.

WHEREAS, the City of Fayetteville's Water Master Plan calls for a portion of the 12" Sewer Main Grid to run along Persimmon Street through the subdivision Sloan Properties, Inc. is currently developing; and,

WHEREAS, entering into a cost-share agreement with Sloan Properties, Inc. and utilizing their engineer and contractor to extend the 12" Water Main 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 with Sloan Properties, Inc. in an amount not to exceed \$21,503.40 for the upsizing of approximately 992' of 8" water main to 12" water main.

PASSED AND APPROVED this 21st day of February, 2006.

APPROVED:

By: _____
DAN GOODY, Mayor

ATTEST

By: _____
SONDRA SMITH, City Clerk

CONTRACTUAL AGREEMENT

This Agreement made and entered into this _____, by and between the City of Fayetteville, Arkansas and Sloan Properties, Inc., Witnesseth:

WHEREAS, Sloan Properties, Inc., is constructing a development along Persimmon Street east of the Legacy Point Subdivision; and

WHEREAS, The developer will be extending an 8" main through the project site to provide water service and fire protection to the development; and

WHEREAS, it will benefit the City of Fayetteville to upgrade this 8" water main extension to a 12" main. This upgrade will continue the creation of a 12" water main grid in this area in accordance with the water distribution master plan.

NOW, THEREFORE, the City of Fayetteville and Sloan Properties, Inc. agree as follows:

1. Upon the City Council and/or the Mayor approving the Water Main Cost-Share, the City of Fayetteville agrees to:
 - A. Pay for 100% of the actual documented construction costs for the upsizing to a 12" water main along Persimmon Street.
 - B. Pay a maximum-not-to-exceed cost of \$21,503.40 for the afore mentioned water main construction as was provided by Sloan Properties, 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 Sloan Properties, 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 Sloan Properties, Inc. within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.
2. Sloan Properties, Inc. agrees to:
 - A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable water main 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 water main installation.

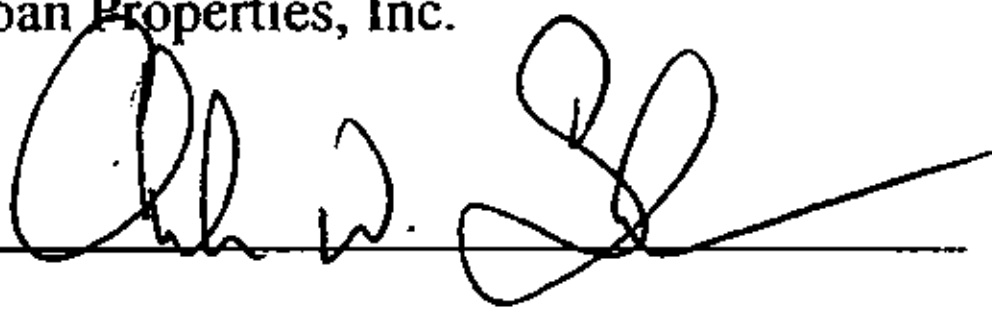
3. It is further understood that the contract for construction is between Sloan Properties, Inc. and his Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$21,503.40 for the water main upgrade.

**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

Sloan Properties, Inc.

By:  _____

CONTRACTUAL AGREEMENT

This Agreement made and entered into this _____, by and between the City of Fayetteville, Arkansas and Sloan Properties, Inc., Witnesseth:

WHEREAS, Sloan Properties, Inc., is constructing a development along Persimmon Street east of the Legacy Point Subdivision; and

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WHEREAS, it will benefit the City of Fayetteville to upgrade this 8" water main extension to a 12" main. This upgrade will continue the creation of a 12" water main grid in this area in accordance with the water distribution master plan.

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 - B. Pay a maximum-not-to-exceed cost of \$21,503.40 for the afore mentioned water main construction as was provided by Sloan Properties, 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 Sloan Properties, 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.
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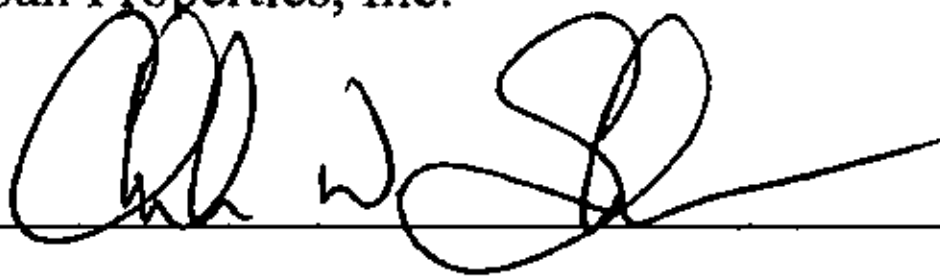
3. It is further understood that the contract for construction is between Sloan Properties, Inc. and his Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$21,503.40 for the water main upgrade.

**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

Sloan Properties, Inc.

By:  _____

CONTRACTUAL AGREEMENT

This Agreement made and entered into this _____, by and between the City of Fayetteville, Arkansas and Sloan Properties, Inc., Witnesseth:

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WHEREAS, The developer will be extending an 8" main through the project site to provide water service and fire protection to the development; and

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 - B. Pay a maximum-not-to-exceed cost of \$21,503.40 for the afore mentioned water main construction as was provided by Sloan Properties, 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 Sloan Properties, 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 Sloan Properties, Inc. within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.
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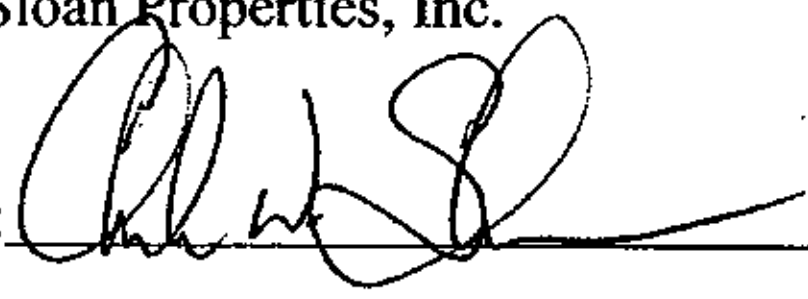
3. It is further understood that the contract for construction is between Sloan Properties, Inc. and his Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$21,503.40 for the water main upgrade.

**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

Sloan Properties, Inc.

By:  _____

City Of Fayetteville

(Not a Purchase Order)

Requestion No.:	Date:
P.O Number:	Expected Delivery Date:

Vendor #:	Vendor Name:	Mail Yes: ☐	No: ☐	Quotes Attached Yes: ☐	No: ☐
15321	Sloan Properties, Inc.	Taxable Yes: ☐	No: ☐		

Address:	Fob Point:	Yes: ☐	No: ☐	Yes: ☐	No: ☐
P.O. Box 9180					

City:	State:	Zip Code:	Ship to code:	Division Head Approval:
Fayetteville	AR	72703	90	

Requester:	Requester's Employee #:	Extension:
Matt Casey	2119	429

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Persimmon St. Waterline				\$21,503.00	2300.9300.5808.00	04039		
2	Cost Share to upsize 992 Lf of 8" waterline to 12"				\$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:

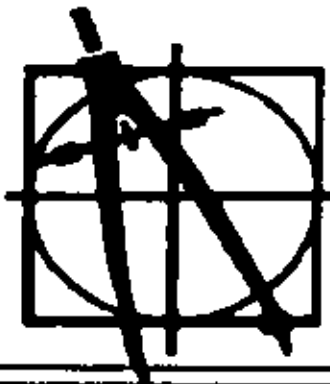
Subtotal: \$21,503.00
 Tax:
 Total: \$21,503.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

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

Dispatch Manager: _____ Utilities Manager: _____ Other: _____



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

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

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

January 31, 2006

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Attn: Ronald Petrie, P.E.
Re: Legacy Pointe Phase IV – Waterline Cost Share

Dear Ron;

Enclosed please find the additional cost for the 12" waterline installation at the Legacy Pointe Phase IV Subdivision. I have included the cost for the 8" waterline and the cost for the 12" waterline.

8" Waterline Installation:

992 LF of 8" Waterline @ \$21.45/LF	\$21,278.40
2 – 8" Crosses @ \$525.00 each	\$1,050.00
4 – 8" Gate valves @ \$995.00 each	\$3,980.00
1 – 8" Tee @ \$400.00 each	\$400.00
Total	\$26,708.40

12" Waterline Installation:

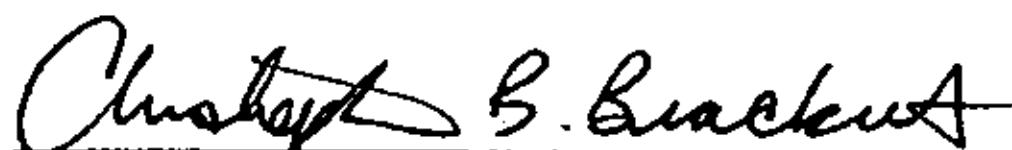
992 LF of 12" Waterline @ \$32.90/LF	\$32,636.80
2 – 12" Crosses @ \$850.00 each	\$1,700.00
4 – 12" Butterfly valves @ \$2800.00 each	\$11,200.00
1 – 8"x12" Tee @ \$550.00 each	\$550.00
5 – 8"x12" Reducers @ \$425.00 each	\$2,125.00
Total	\$48,211.80

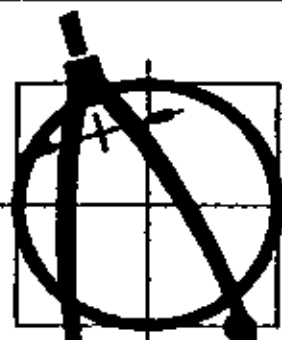
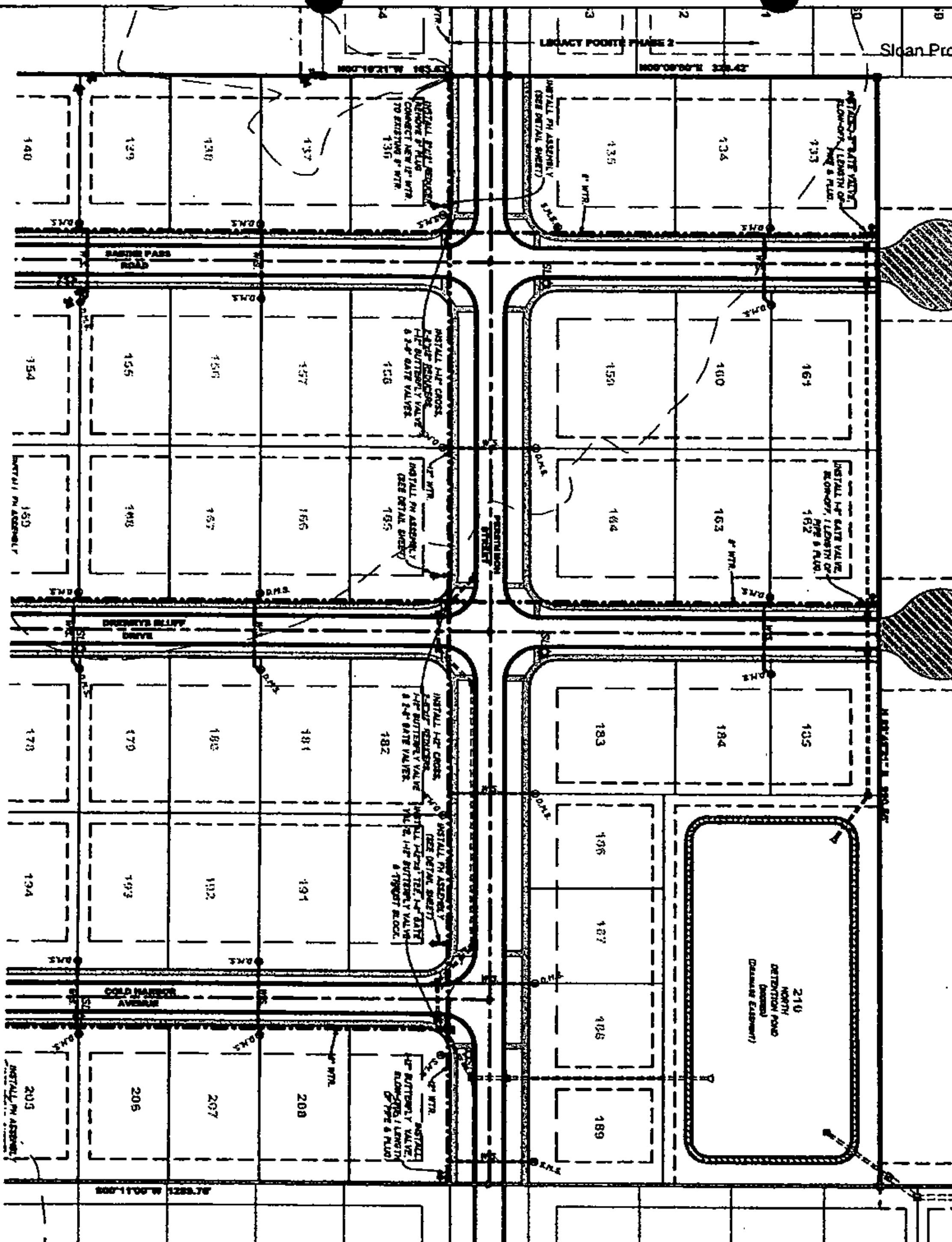
Additional Cost \$21,503.40

Please call concerning any questions, comments or concerns you may have.

Thank you.

Sincerely;


Christopher B. Brackett, P.E.



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

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

SCALE: N.T.S.

DATE REVISED

CHECKED BY:

DRAWN BY: BJR

DATE: 01FEB06

CBB

J:\SUBD\20040661LEGACYPH4PLANS

12" WATERLINE INSTALLATION

LEGACY POINTE PHASE IV

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

C. 1
Sloan Properties, Inc. Cost Share
Page 14 of 14

Budget Year 2005	Department: Impact Fee Expense Division: Program:	Date Requested 2/2/2006	Adjustment Number
----------------------------	---	-----------------------------------	-------------------

Project or Item Added/Increased:
\$21,503 is requested in the Water Impact Fee Cost Sharing Project.

Project or Item Deleted/Reduced:
\$21,503 from the Use of Fund Balance Account.

Justification of this Increase:
Funds will be used for a cost share project with Sloan Properties, Inc. The project is the Legacy Point 4 Subdivision along Persimmon east of Double Springs Road.

Justification of this Decrease:
There is sufficient fund balance remaining to comply with City policy.

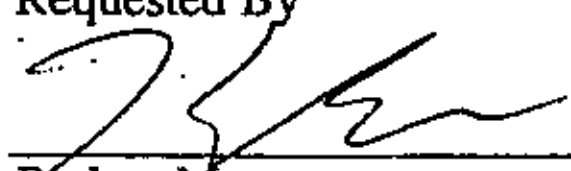
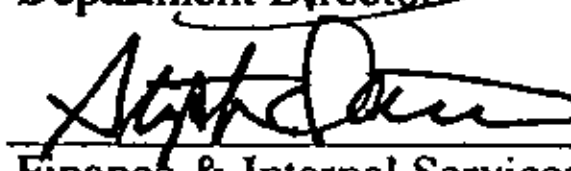
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Water line improvements	2300	9300	5808	00	21,503	04039	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	2300	0930	4999	99	21,503		

Approval Signatures

Requested By	Date
	2-2-06
Budget Manager	Date
	2-3-06
Department Director	Date
	2-3-06
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Date of Approval

Initial Date

Posted to General Ledger

Initial Date

Posted to Project Accounting

Initial Date

Entered in Category Log

Initial Date

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

C. 2
ANX 06-1895 Broyles
Page 1 of 22

21-Feb-06

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 06-1895 (Broyles, 245): Submitted by H2 Engineering, Inc. for property located south of Weir Road and west of Salem Road. The property is in the Planning Area and contains approximately 3.06 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

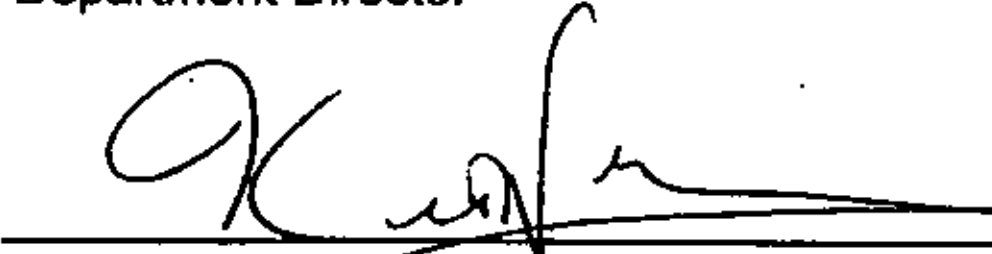
Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director 2-2-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney 2-3-06
Date

Original Contract Number: n/a


Finance and Internal Service Director 2-3-06
Date

Received in City Clerk's Office



Mayor 2/6/06
Date

Received in Mayor's Office


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 27, 2006

Subject: Annexation for Broyles (ANX 06-1895)

RECOMMENDATION

The Planning Commission recommends approval of the subject annexation request submitted by Mr. Broyles for approximately 3.06 acres of property located south of Weir Road and west of Salem Road. This action will incorporate the 3.06-acres of land within the City of Fayetteville.

BACKGROUND

The subject property contains approximately 3.06 acres. The Planning Commission approved a preliminary plat to subdivide this property into three lots on August 8, 2005 (Eagles Ridge Subdivision). The adjacent property to the south and east had been annexed into the city and the Planning Commission approved the development of this adjacent 10.5-acre tract of property (Benton Development Subdivision) on October 10, 2005. The owner of the subject property acquired the 10.5-acre tract and would propose a comprehensive subdivision on the entire property. Access to this property will be available from Weir Rd to the north (to be realigned with Benton Development) and from the south.

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 23, 2006. The Planning Commission voted 9-0-0 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 06-1895, CC2005-48, FOR
PROPERTY LOCATED SOUTH OF WEIR ROAD AND WEST OF
SALEM ROAD, CONTAINING APPROXIMATELY 3.06 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 _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
ANX 06-1895

A PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT A POINT WHICH IS S02°21'10"W 353.33 FEET AND S79°45'52"W 355.92 FEET FROM THE NORTHEAST CORNER OF SAID 40 ACRE TRACT AND RUNNING THENCE S02°35'22"W 469.29 FEET, THENCE N87°24'52"W 308.85 FEET, THENCE N03°21'38"E 401.50 FEET TO THE CENTERLINE OF WASHINGTON COUNTY ROAD 94, THENCE ALONG SAID CENTERLINE N79°45'52"E 310.95 FEET TO THE POINT OF BEGINNING CONTAINING 3.06 ACRES MORE OR LESS. SUBJECT TO ANY RIGHTS-OF-WAY OR EASEMENTS OF RECORD.

DRAFT



PC Meeting of January 23, 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 17, 2006

ANX 06-1895: (BROYLES, 245): Submitted by H2 ENGINEERING, INC. for property located at WEIR RD., W OF SALEM RD. The property is in the Planning Area and contains approximately 3.06 acres. The request is to annex the subject property into the City of Fayetteville.

Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):

PLANNING COMMISSION ACTION:	Required <u>YES</u>
	☒ Approved (Final) ☐ Denied
Date: <u>January 23, 2006</u>	Allen/Morgan 2-29-06
CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: <u>February 21, 2006 (1st reading if recommended)</u>	

BACKGROUND:

Property description & Proposal: The subject property contains approximately 3.06 acres. The Planning Commission approved a preliminary plat to subdivide this property into three lots on August 8, 2005 (Eagles Ridge Subdivision). Although this property was approved for development within the Planning Area, the adjacent property to the south and east had been annexed into the city. The Planning Commission approved the development (Benton Development Subdivision) of this adjacent 10.5-acre tract of property on October 10, 2005. The owner of the subject property acquired the 10.5-acre tract and would propose a comprehensive subdivision on the entire property. Therefore, the applicant requests the annexation of this 3.06 acres to be followed by preliminary plat approval for approximately eight lots.

Background: When the application for annexation of the property to the south and east was submitted to the Planning Division, the applicant requested annexation of two parcels of property,

one of which had an irregular configuration that included a 20-foot wide strip that extended from Weir Road south to the northwest corner of the subject property. This configuration would have created an unacceptable city boundary by enclosing a parcel of property (the subject property) within the Planning Area on the east, west, and south. Therefore, the approved annexation was revised to exclude this strip of property.

On December 27, 2005, a property line adjustment was filed with the County to incorporate this strip of land into the subject property. The Order of Annexation issued by the County Judge was for a legal description that did not include this strip of property (2.80 acres instead of 3.06 acres).

The applicant's attorney is currently working with the County to have an amended Order of Annexation issued with a new legal description for 3.06 acres. It is anticipated that this will be done prior to Planning Commission meeting. Staff recommends approval of the annexation of this property whether it be 2.80 acres or the entire parcel of 3.06 acres, though to annex the entire property at one time is preferable.

Recommendation: Staff recommends approval of the proposed annexation. The subject property is adjacent to the City limits, and anticipated development of the property as proposed by the owner will be consistent and compatible to surrounding subdivisions should the property be annexed into the City of Fayetteville.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family homes on large lots	Planning Area
South	Vacant – under development (Benton Development SD)	RSF-4, Res. Single-Family – 4 units/acre
East	Vacant – under development (Benton Development Subdivision)	RSF-4, Res. Single-Family – 4 units/acre
West	Single family homes on large lots	Planning Area

INFRASTRUCTURE:

Streets: The site has access to Weir Road. Improvements will be required to Wier Road which may include off-site improvements. An evaluation will be made by staff at the time of preliminary plat. Dedication of right-of-way per the Master Street Plan is required.

Surrounding Master Street Plan Streets:

North: Weir Rd. (Local)

Gypsum Dr. (Collector - Unconstructed)

East: W. Salem Rd. (Collector)

West: Salem Rd. (Collector)

Water: Public water is not adjacent to the site. A study of the water system shall be conducted by the developer. Substantial improvements to the water system may

be required which includes other off-site improvements. Water service will need to be extended to and within the property at the time of development connecting within the proposed 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. A study of the downstream system shall be conducted by the developer. Substantial improvements to the sewer system may be required which includes other off-site improvements. Sewer service will need to be extended to and within the property at the time of development connecting within the proposed development.

Drainage: Standard improvements and requirements for drainage will be required for the development.

Fire:

- These 3.06 acres is covered by Engine 7 at 835 Ruppel Road.
- It is 2.9 miles from the station with an expected response time of 8.25 minutes. 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 long response time is due to the narrow and winding Ruppel Road between Wedington Dr and Mt Comfort Rd plus having to cross 2 major cross streets.
- The Fire Department anticipates 3 (2 EMS – 1 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 805 gallons/minute.
- 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.

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 of unincorporated property or a peninsula.**

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: **The proposed annexation area is adjacent to the City Limits to the south and east.**

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: **This area is currently vacant at this time and located north and east of property approved for a single-family subdivision. The property does not consist of defined subdivisions or neighborhoods; however, once annexed into the city, the applicant intends to process a preliminary plat to approve subdivision of this property. Access to this property will be available from Weir Rd to the north (to be realigned with Benton Development) and to the south. Annexation of the property to allow for Planning Commission review of development in accordance with City standards is recommended.**

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: **The proposed city boundary, should the subject property be annexed, does not follow natural corridors. It encompasses one parcel of property.**

11.6.e Timing of services within annexation areas should be considered.

Finding: **Current conditions result in a response time of 8.25 minutes for fire protection from Fire Station #7. Extension of water and sewer lines shall occur at the time of development.**

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: **The property is mainly cleared pasture land with few trees, mostly surrounding an existing pond on the property. Development regulations within the City will ensure appropriate development and preservation of the existing natural features on the property.**

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: The police department reports that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police service shall be provided to this area with the same level of 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.

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to the surrounding street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property. Water and sewer will be extended to this property with the adjacent development and extensive street improvements have been required as conditions for Benton Development preliminary plat.

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 for annexation and request to rezone this property RSF-4, Residential single family - 4 units/acre. This zoning designation is compatible with the Residential classification of the adjacent area on the City's adopted Future Land Use Plan. Staff finds that this zoning designation is compatible with that of the property being developed to the south.

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 been approved to allow three lots. Should the property be annexed and rezoned to RSF-4, the applicant will submit a development proposal for approximately eight lots on the subject property. This will be the second phase of the approved Benton Development Subdivision.

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: At the time the application for annexation of the property to the south and east was submitted to the Planning Division, the applicant requested annexation of two parcels of property, one of which had an irregular configuration that included a 20-foot wide strip that extended from Weir Road south to the northwest corner of the subject property. This configuration would have created an unacceptable city boundary by enclosing a parcel of property within the Planning Area on the east, west, and south (see attached map). Therefore, the approved annexation was revised to exclude this strip of property.

On December 27, 2005, a property line adjustment was filed with the County to incorporate this strip of land into the subject property. The Order of Annexation issued by the County Judge was for a legal description that did not include this strip of property (2.80 acres instead of 3.06 acres). The applicant's attorney is currently working with the County to have an amended Order of Annexation issued with the correct legal description. It is anticipated that this will be done prior to Planning Commission meeting. If a revised Order of Annexation has not been issued prior to City Council consideration of this item, the ordinance will indicate annexation of only 2.80 acres.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 3.06 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.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

January 17, 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 06-1895 and Rezoning RZN 06-1896 (Broyles, 245) submitted by H2 Engineering for property located at Weir Rd., W of Salem 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 annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

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

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 17, 2006
Re: January 17, 2006 Re-zoning Review – Fire Department Comments

ANX 06-1895 (Broyles, 245)

RZN 06-1896 (Broyles, 245)

These 2.8 acres is covered by Engine 7 at 835 Ruppel Road.

It is 2.9 miles from the station with an expected response time of 8.25 minutes. 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 long response time is due to the narrow and winding Ruppel Road between Wedington Dr and Mt Comfort Rd plus having to cross 2 major cross streets.

The Fire Department anticipates 3 (2 EMS – 1 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

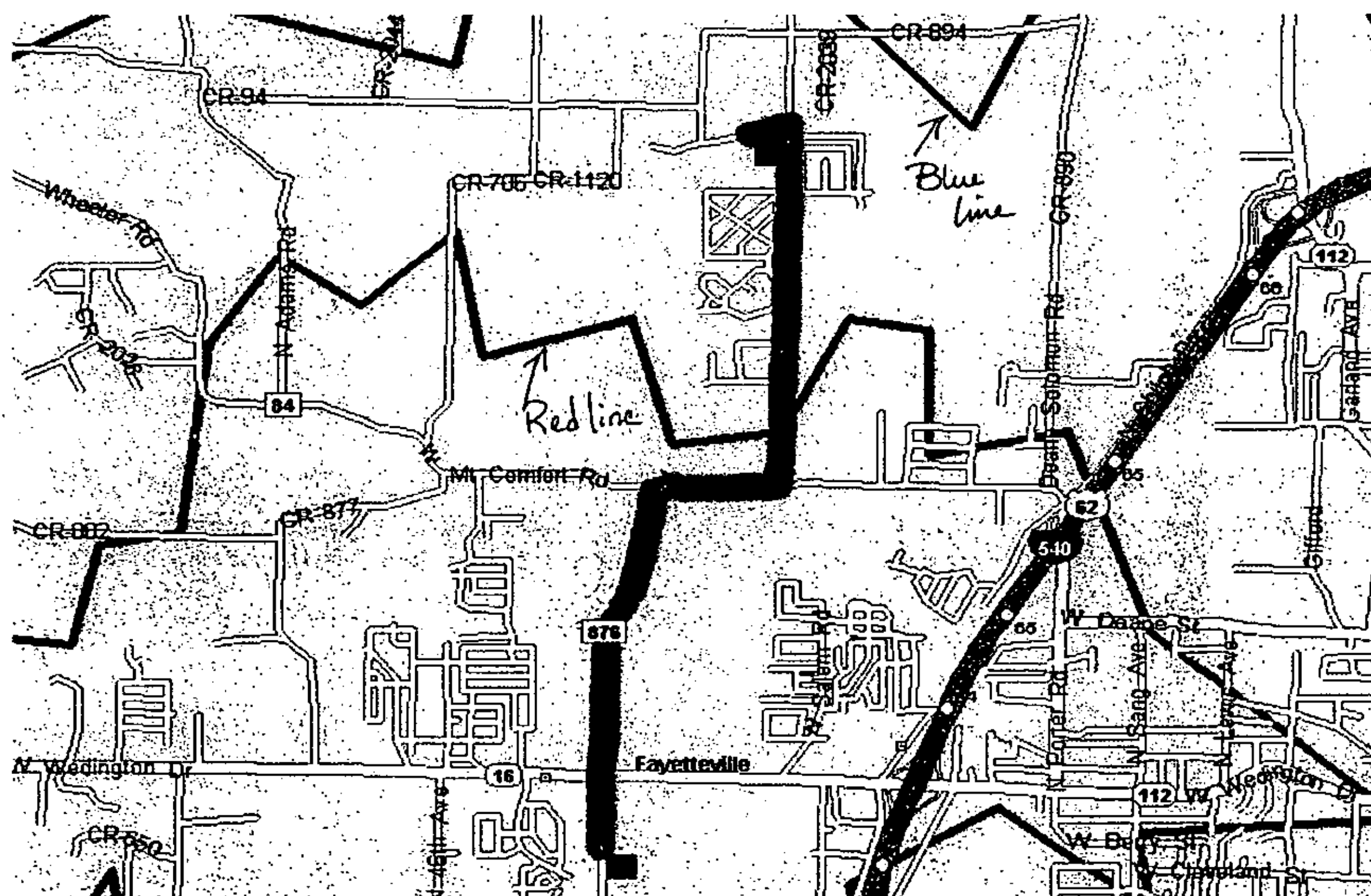
Measured Hydrant Flow in this area is 805 gallons/minute.

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.

If you have any questions or need additional information don't hesitate to call me at x365

Dale Riggins

Broyles
2.9 Mile Response
8.25 Minute Response Time
805 GPM Measured Hydrant Flow



Blue Line indicates 10 minute Response Time
Red Line indicates 6 minute Response Time



January 18, 2006

Planning Division
City of Fayetteville
125 West Mountain
Fayetteville, AR 72701

**RE: BROYLES COMMERCIAL FUNDING, LLC – WEIR ROAD
REQUEST FOR ANNEXATION**

To whom it may concern:

The property owners for the above referenced project are Hank and Lex Broyles of Broyles Commercial Funding, LLC. The proposed project is located along Weir Road approximately 500 feet west of Salem Road. The property is being submitted for rezoning concurrently with this annexation application.

The property is contiguous to Fayetteville City Limits along the southern and eastern borders which are a common boundary to a residential subdivision that was recently approved under the name of Benton Development (RSF-4). The subject property is bound by undeveloped properties to the north and west, which are not within Fayetteville City Limits.

This annexation would conform to the traditional requests by the City of Fayetteville to have a continuous city limits boundary with no cut outs, islands, and/ or odd lines. In accepting this annexation, a cut out will be eliminated.

Respectfully,

Michelle Montes, E.I.
H2 Engineering, Inc.

IN THE COUNTY COURT OF WASHINGTON COUNTY

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

NO. CC2005-48

AMENDED ORDER OF ANNEXATION

Now on this 19th day of January, 2006, this cause comes on to be heard, the Petitioner, Broyles Commercial Funding, LLC, an Arkansas limited liability company, brings and submits to the Court this Amended Order of Annexation, and the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on the 3rd day of November, 2005 at which time this Court fixed the 8th day of December, 2005, at 10:15 a.m., as the date and time of hearing for said cause.
2. The Court held a hearing for the consideration of the Petition on the 8th day of December, 2005, pursuant to which the Court executed the Order of Annexation approving the annexation of the real property set forth in the Petition to the City of Fayetteville, Arkansas.
3. The Order of Annexation is amended to make certain changes to the legal description of the real property annexed under the Order of Annexation so that the legal description of such property will be as it is set forth in Exhibit A hereto.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid Order of Annexation be amended to include the changes as set forth and described above in this Amended Order of Annexation, and this Amended Order of Annexation shall be duly recorded by

the County Clerk of Washington County.

IT IS SO ORDERED this 19th day of January, 2006.

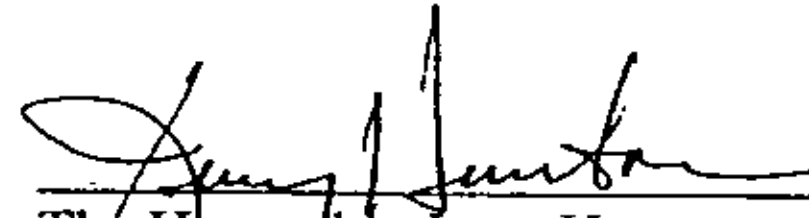
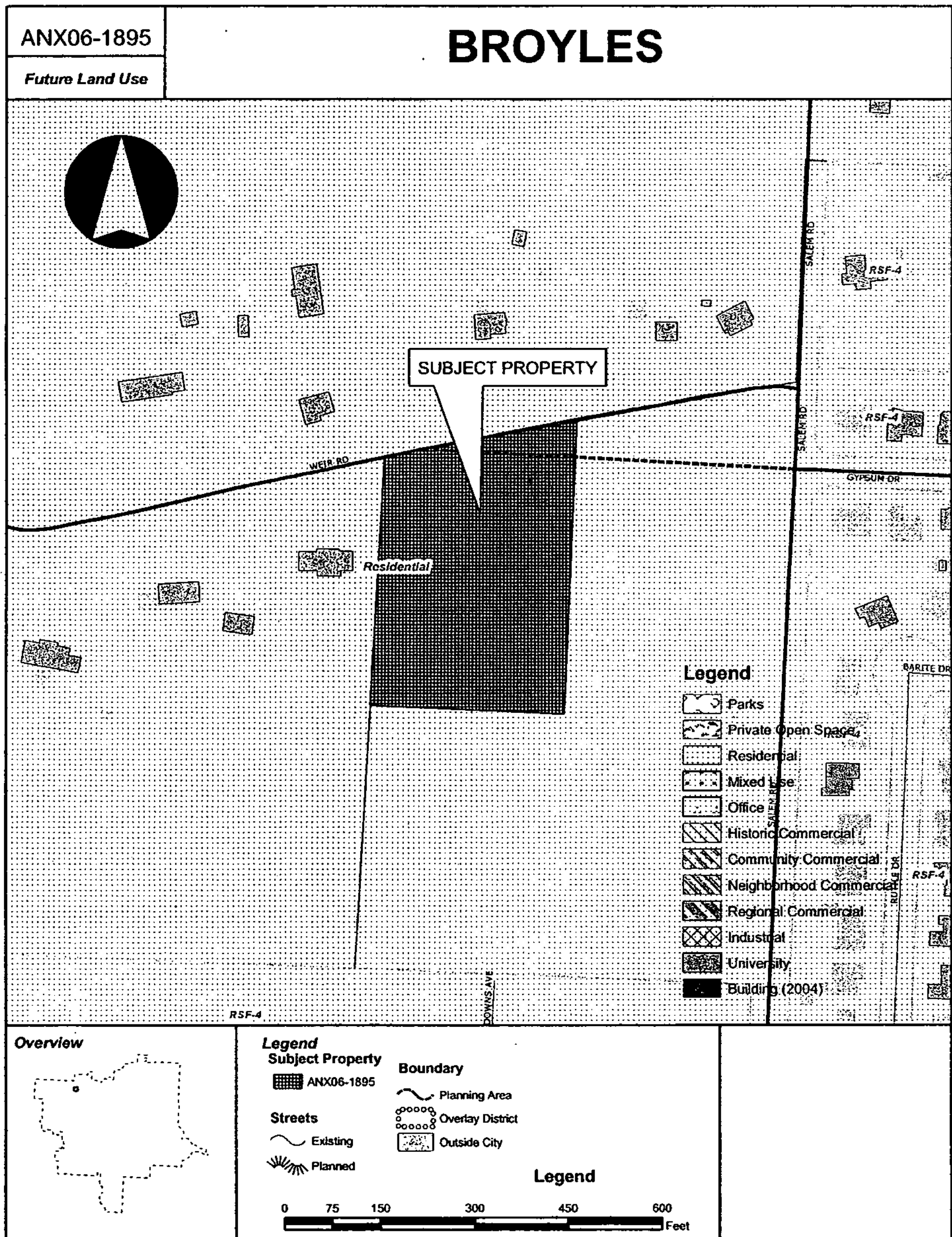
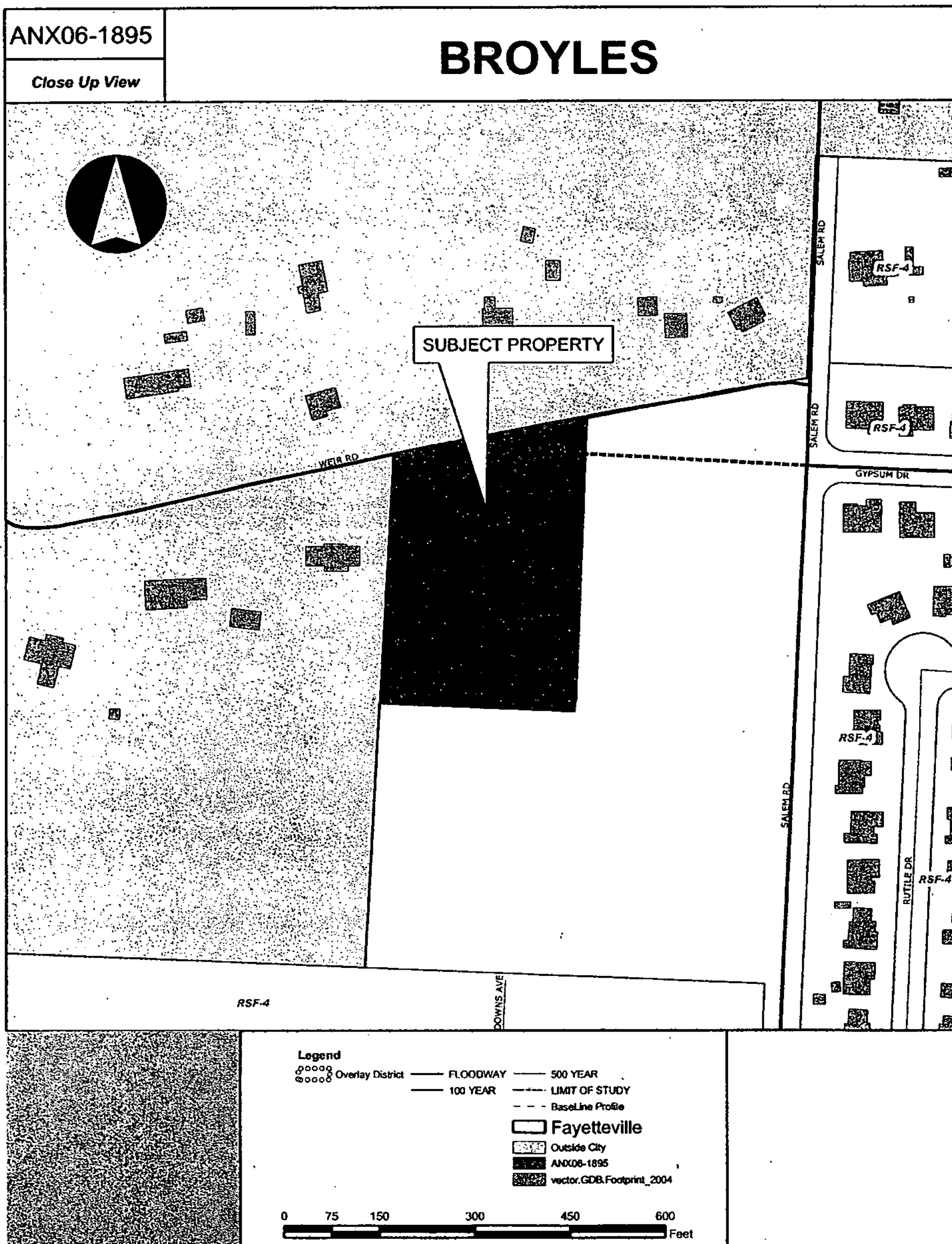

The Honorable Jerry Hunton
Washington County Judge

EXHIBIT A
Legal Description
Property to be Rezoned & Annexed
001-16817-005

Adjusted Description:
(Parcel # 001-16817-005)

A Part Of The Northwest Quarter Of The Northwest Quarter Of Section 32, Township 17 North, Range 30 West, And Being More Particularly Described As Follows, To Wit: Beginning At A Point Which Is S02°21'10"W 353.33 Feet And S79°45'52"W 355.92 Feet From The Northeast Corner Of Said 40 Acre Tract And Running Thence S02°35'22"W 469.29 Feet, Thence N87°24'52"W 308.85 Feet, Thence N03°21'38"E 401.50 Feet To The Centerline Of Washington County Road 94, Thence Along Said Centerline N79°45'52"E 310.95 Feet To The Point Of Beginning Containing 3.06 Acres More Or Less. Subject To Any Rights-Of-Way Or Easements Of Record.





City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

21-Feb-06

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-1896 (Broyles, 245): Submitted by H2 Engineering, Inc. for property located south of Weir Road and west of Salem Road. The property is zoned R-A, Residential Agricultural, and contains approximately 3.06 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

\$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

2-2-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

2-3-06

Original Contract Number: n/a


Finance and Internal Service Director

2-3-06
Date

Received in City Clerk's Office




Mayor

2/6/06
Date

Received in Mayor's Office



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 27, 2006

Subject: Rezoning for Broyles (RZN 06-1896)

RECOMMENDATION

The Planning Commission recommends approval of rezoning the subject 3.06-acre property from R-A to RSF-4. This action would allow the development of a maximum 12 single-family dwellings on the subject property.

BACKGROUND

The property contains approximately 3.06 acres. It is located within the Planning Area and currently undeveloped. The property is adjacent to the City of Fayetteville along its eastern and southern property lines. Surrounding developments include Raven Subdivision, Crystal Springs Subdivision, and Benton Development Subdivision (currently under construction).

The applicant requests that this 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. It is anticipated that this property will be developed as a second phase of Benton Development Subdivision, an approved subdivision adjacent to the property. This phase will consist of approximately 10 single-family lots.

DISCUSSION

This item was heard at the regular Planning Commission on January 23, 2006. The Planning Commission voted 9-0-0 to recommend approval of a rezoning to RSF-4 to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 06-1896 FOR APPROXIMATELY
3.06 ACRES LOCATED SOUTH OF WEIR ROAD AND WEST OF
SALEM ROAD FROM R-A, RESIDENTIAL AGRICULTURAL, TO
RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE.

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

Section 1: That the zone classification of the following described property is
hereby changed as follows:

From R-A, Residential Agricultural to RSF-4, Residential Single Family,
4 units per acre, as shown 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 06-1896

A PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT A POINT WHICH IS S02°21'10"W 353.33 FEET AND S79°45'52"W 355.92 FEET FROM THE NORTHEAST CORNER OF SAID 40 ACRE TRACT AND RUNNING THENCE S02°35'22"W 469.29 FEET, THENCE N87°24'52"W 308.85 FEET, THENCE N03°21'38"E 401.50 FEET TO THE CENTERLINE OF WASHINGTON COUNTY ROAD 94, THENCE ALONG SAID CENTERLINE N79°45'52"E 340.95 FEET TO THE POINT OF BEGINNING CONTAINING 3.06 ACRES, MORE OR LESS. SUBJECT TO ANY RIGHTS-OF-WAY OR EASEMENTS OF RECORD.

DRAFT



PC Meeting of January 23, 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 16, 2006

RZN 06-1896: (BROYLES, 245): Submitted by H2 ENGINEERING, INC. for property located at WEIR RD., W OF SALEM RD. The property is in the Planning Area and contains approximately 3.06 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	Required <u>YES</u>
Date: <u>January 23, 2006</u>	☒ Approved (Fid) ☐ Denied
	Thumbo/Garcia 2 9-0-0
CITY COUNCIL ACTION:	Required <u>YES</u>
Date: <u>February 21, 2006 (1st reading if recommended)</u>	☐ Approved ☐ Denied

BACKGROUND:

Property description & Proposal: The subject property contains approximately 3.06 acres. The Planning Commission approved a preliminary plat to subdivide this property into three lots on August 8, 2005 (Eagles Ridge Subdivision). Although this property was approved for development within the Planning Area, the adjacent property to the south and east had been annexed into the city. The Planning Commission approved the development (Benton Development Subdivision) of this adjacent 10.5-acre tract of property on October 10, 2005. The owner of the subject property acquired the 10.5-acre tract and would propose a comprehensive subdivision on the entire property. Therefore, the applicant requests the rezoning of this 3.06 acres from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 Units per Acre, should the preceding annexation request be approved.

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 3.06 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 06-1895, is an accompanying item to this rezoning request.

Recommendation: Staff recommends approval of the rezoning request. Future changes or additional development on this site will be regulated by the city allowing for a uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single family homes on large lots	Planning Area
South	Vacant – under development (Benton Development SD)	RSF-4, Res. Single-Family – 4 units/acre
East	Vacant – under development (Benton Development Subdivision)	RSF-4, Res. Single-Family – 4 units/acre
West	Single family homes on large lots	Planning Area

INFRASTRUCTURE:

Streets: The site has access to Weir Road. Improvements will be required to Wier Road which may include off-site improvements. An evaluation will be made by staff at the time of preliminary plat. Dedication of right-of-way per the Master Street Plan is required.

Surrounding Master Street Plan Streets:

North: Weir Rd. (Local)

Gypsum Dr. (Collector - Unconstructed)

East: W. Salem Rd. (Collector)

West: Salem Rd. (Collector)

Water: Public water is not adjacent to the site. A study of the water system shall be conducted by the developer. Substantial improvements to the water system may be required which includes other off-site improvements. Water service will need to be extended to and within the property at the time of development connecting within the proposed 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. A study of the downstream system shall be conducted by the developer. Substantial improvements to the sewer system may be required which includes other off-site improvements. Sewer service will need to be extended to and within the property at the time of development connecting within the proposed development.

Drainage: Standard improvements and requirements for drainage will be required for the development.

Fire:

- ♦ These 3.06 acres is covered by Engine 7 at 835 Ruppel Road.
- ♦ It is 2.9 miles from the station with an expected response time of 8.25 minutes. 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 long response time is due to the narrow and winding Ruppel Road between Wedington Dr and Mt Comfort Rd plus having to cross 2 major cross streets.
- ♦ The Fire Department anticipates 3 (2 EMS – 1 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 805 gallons/minute.
- ♦ 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.

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

LAND USE PLAN: General Plan 2020 designates this site **Residential**. Rezoning this property to RSF-4 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed RSF-4 zoning for a Single family residential use is compatible with adjacent and nearby single family residential land use. The General Plan designates this area for residential use, which is compatible with the proposed RSF-4 zoning.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A subdivision with density compatible to those surrounding subdivisions within the City could not be developed as it is currently zoned. A higher density than the R-

A zoning district is appropriate in this area, and would provide compatibility with adjoining developments that are zoned RSF-4.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will provide additional traffic on all adjacent streets. Weir Road, a Collector Street on the MSP adjoins the northern boundary of the property. Salem Road and Gypsum Road are also nearby and will aid in the movement of traffic generated by this subdivision. A street connection is also planned from the development of this property to the south. These several existing streets that surround the property will allow traffic to disperse in an efficient manner and lessen any negative affects from the addition of vehicular traffic in this area. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the area.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning would increase population density. Under an R-A, Residential Agricultural designation, the 3.06-acre tract would allow for a maximum of 1 dwelling unit (1 unit / 2 acres). With the proposed RSF-4 designation, 12 dwelling units would be permitted, with a projected 27 future residents in this area. Rezoning the property increases the possible number of residential units and population than that which would be allowed in the R-A zoning district, but is consistent with land use, zoning, and development patterns in the immediate vicinity.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	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.

K:\Reports\2006\PC Reports\01-23-06\RZN 06-1896 (Broyles).doc

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

January 17, 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 06-1895 and Rezoning RZN 06-1896 (Broyles, 245) submitted by H2 Engineering for property located at Weir Rd., W of Salem 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 annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

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

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 17, 2006

Re: January 17, 2006 Re-zoning Review – Fire Department Comments

ANX 06-1895 (Broyles, 245)

RZN 06-1896 (Broyles, 245)

These 2.8 acres is covered by Engine 7 at 835 Ruppel Road.

It is 2.9 miles from the station with an expected response time of 8.25 minutes. 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 long response time is due to the narrow and winding Ruppel Road between Wedington Dr and Mt Comfort Rd plus having to cross 2 major cross streets.

The Fire Department anticipates 3 (2 EMS – 1 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 805 gallons/minute.

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.

If you have any questions or need additional information don't hesitate to call me at x365

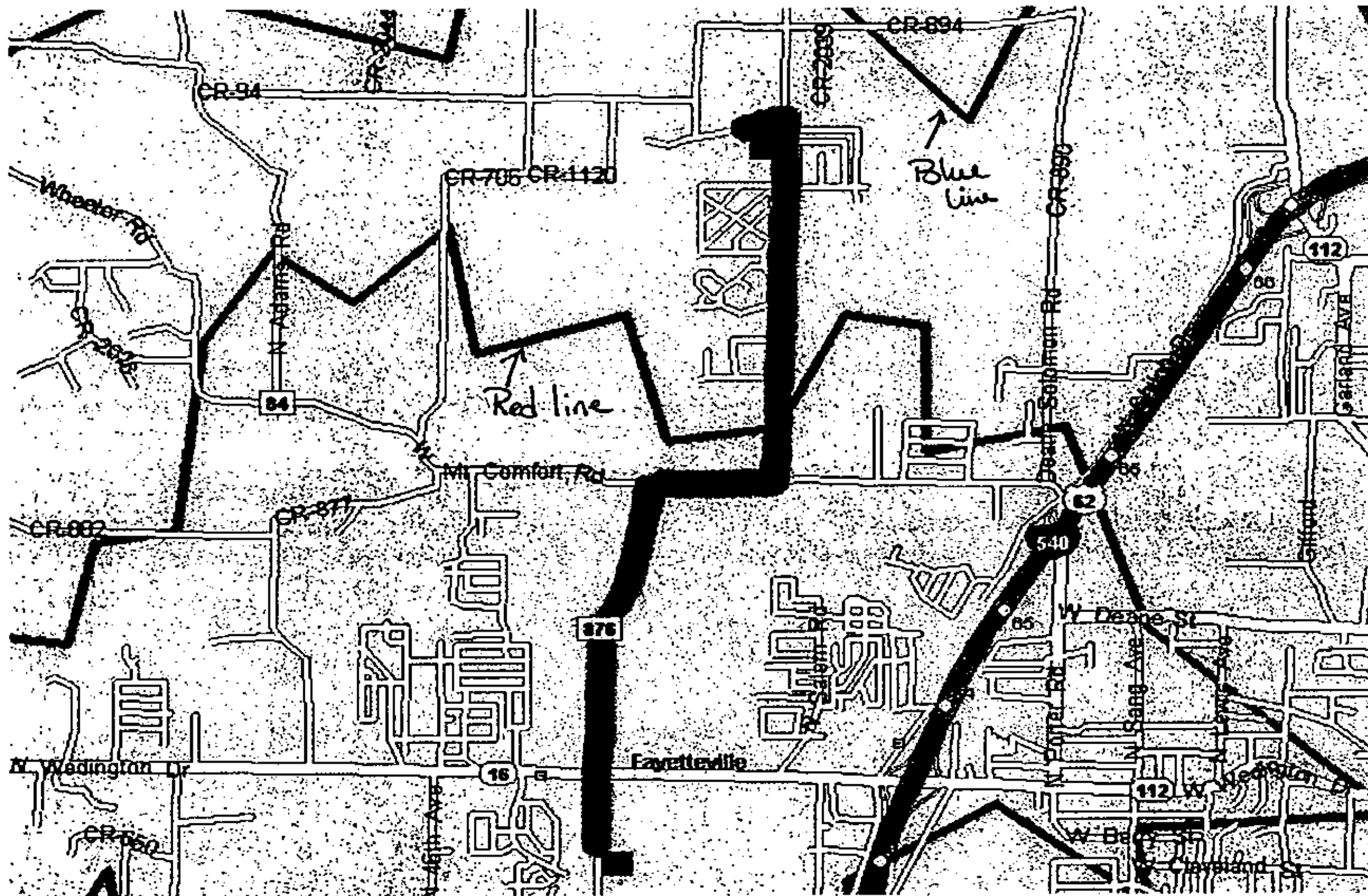
Dale Riggins

Broyles

2.9 Mile Response

8.25 Minute Response Time

805 GPM Measured Hydrant Flow



Blue Line indicates 10 minute Response Time
Red Line indicates 6 minute Response Time

EXHIBIT A

Legal Description

Property to be Rezoned & Annexed
001-16817-005

Adjusted Description:
(Parcel # 001-16817-005)

A Part Of The Northwest Quarter Of The Northwest Quarter Of Section 32, Township 17 North, Range 30 West, And Being More Particularly Described As Follows, To Wit: Beginning At A Point Which Is S02°21'10"W 353.33 Feet And S79°45'52"W 355.92 Feet From The Northeast Corner Of Said 40 Acre Tract And Running Thence S02°35'22"W 469.29 Feet, Thence N87°24'52"W 308.85 Feet, Thence N03°21'38"E 401.50 Feet To The Centerline Of Washington County Road 94, Thence Along Said Centerline N79°45'52"E 310.95 Feet To The Point Of Beginning Containing 3.06 Acres More Or Less. Subject To Any Rights-Of-Way Or Easements Of Record.

Suzanne May

2nd Submittal as:
RZN 06-1896
1/24/06
TS



January 17, 2006

Planning Division
City of Fayetteville
125 West Mountain
Fayetteville, AR 72701

**RE: BROYLES COMMERCIAL FUNDING, LLC – WEIR ROAD
REZONING – R-A to RSF-4**

To whom it may concern:

The property owners for the above referenced project are Hank and Lex Broyles of Broyles Commercial Funding, LLC. The proposed project is located along Weir Road approximately 500 feet west of Salem Road. The property is being submitted for annexation into the City of Fayetteville concurrently with this rezoning application. The proposed zoning of this property is the same as the other residential developments in that locale.

The property is contiguous to Fayetteville City Limits along the southern and eastern borders which are a common boundary to a residential subdivision that was recently approved under the name of Benton Development (RSF-4). The subject property is bound by undeveloped properties to the north and west, which are not within Fayetteville City Limits.

The proposed development will have connectivity to the new subdivision recently approved, as well as Salem Meadows Subdivision to the South, whereby providing an opportunity for water and sewer extensions into this project. Sewer is also available at Crystal Springs Subdivision, which is located across Salem Road.

The proposed zoning for this development is RSF-4 which is the same as the subdivisions located directly to the south and east, which are within the City Limits.

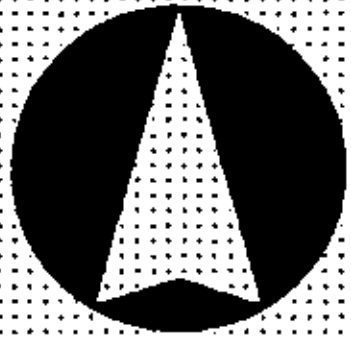
Respectfully,

Michelle Montes, E.I.
H2 Engineering, Inc.

RZN06-1896

Future Land Use

BROYLES



SUBJECT PROPERTY

WEIR RD

Residential

SALEM RD

RSF-4

RSF-4

GYPSUM DR

BARITE DR

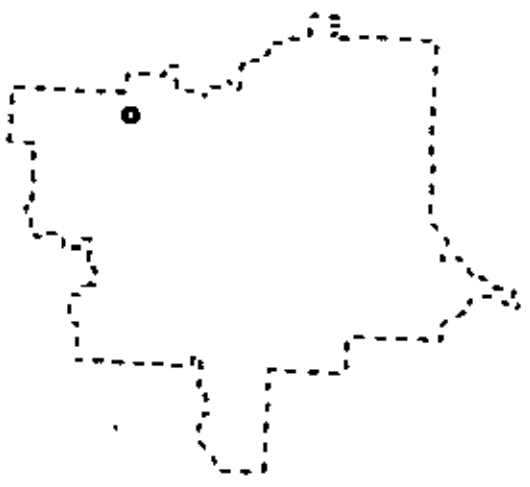
Legend

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University
- Building (2004)

RSF-4

DOVINS AVE

Overview



Legend

Subject Property

RZN06-1896

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

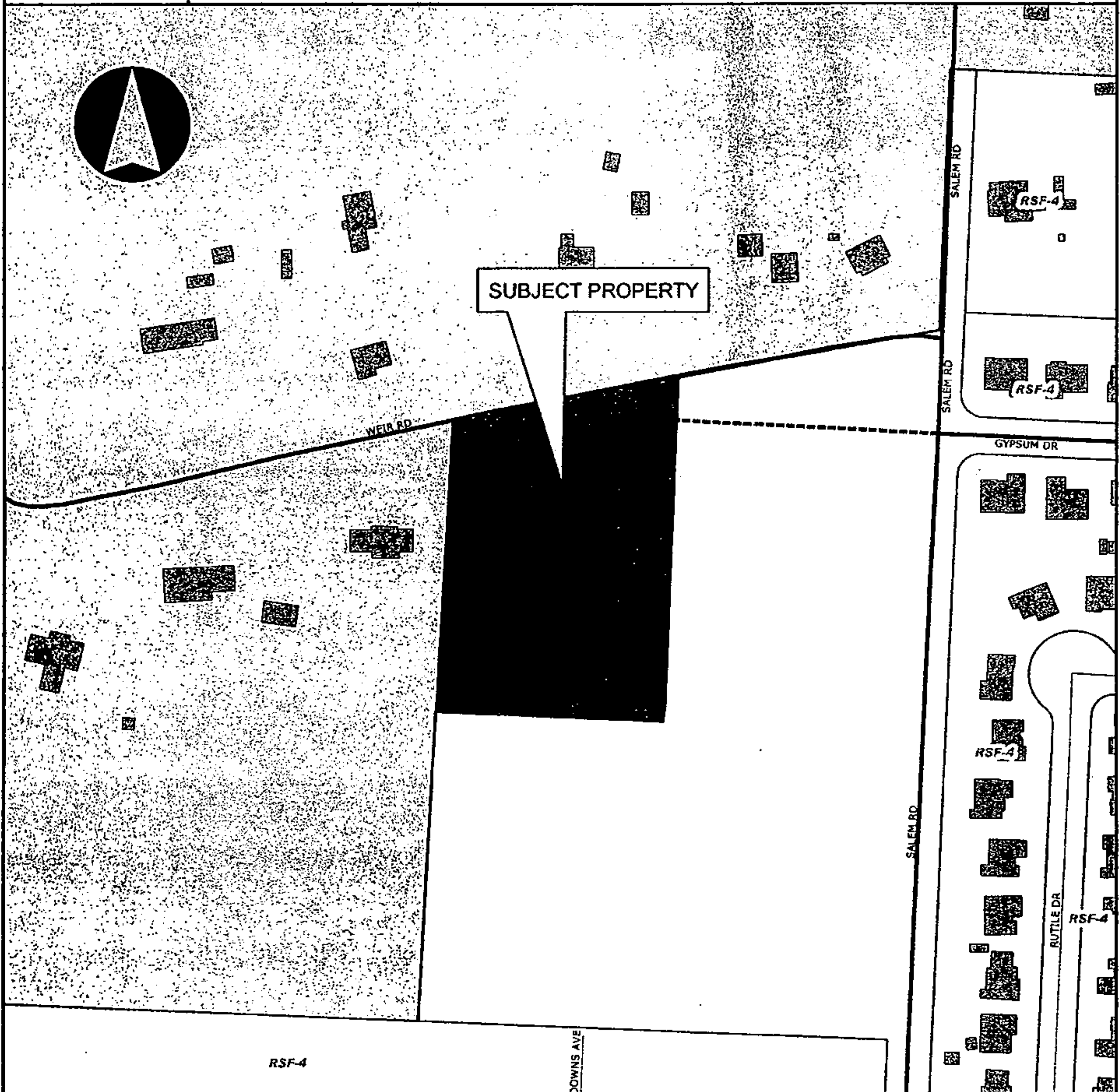
Legend



RZN06-1896

Close Up View

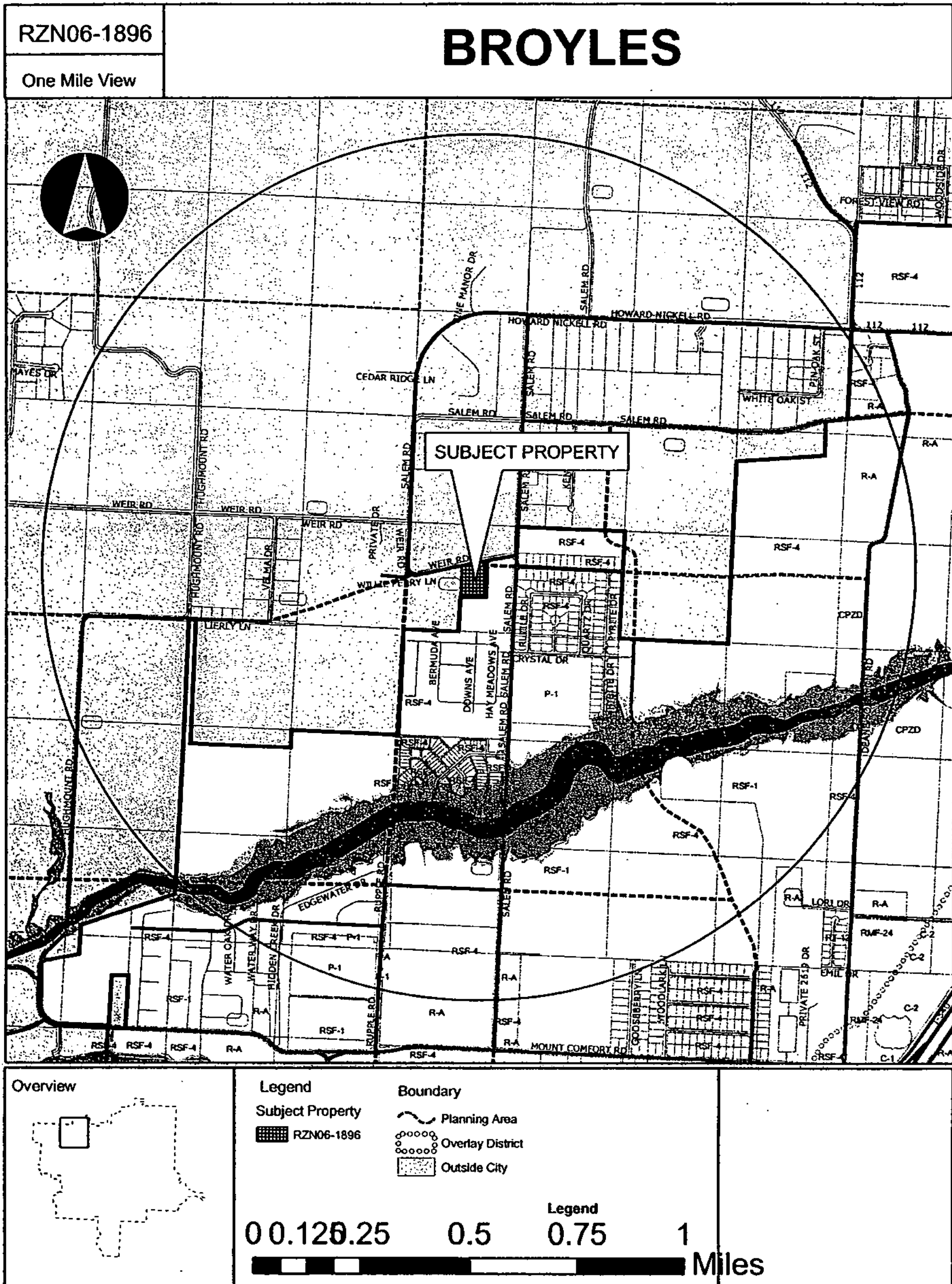
BROYLES



Legend

- Overlay District
- FLOODWAY
- 500 YEAR
- 100 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- RZN06-1896
- vector.GDB.Footprint_2004

0 75 150 300 450 600 Feet



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

21-Feb-06

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 06-1897: (Pettus, 484): Submitted by H2 Engineering, Inc., for property located south of Dickson Street, between Block and Church Street. The property is zoned C-3, Central Commercial. The request is to vacate a portion of an alley on the subject property.

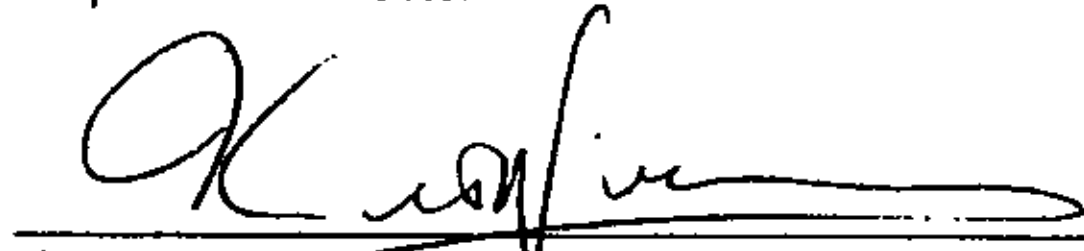
N/A	N/A	N/A
Cost of this request	Category/Project Budget	Program Category / Project Name
N/A	N/A	N/A
Account Number	Funds Used to Date	Program / Project Category Name
N/A	N/A	N/A
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

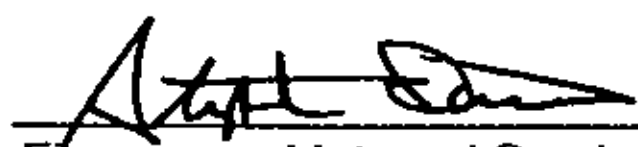

Department Director 2-2-06
Date

Previous Ordinance or Resolution # n/a

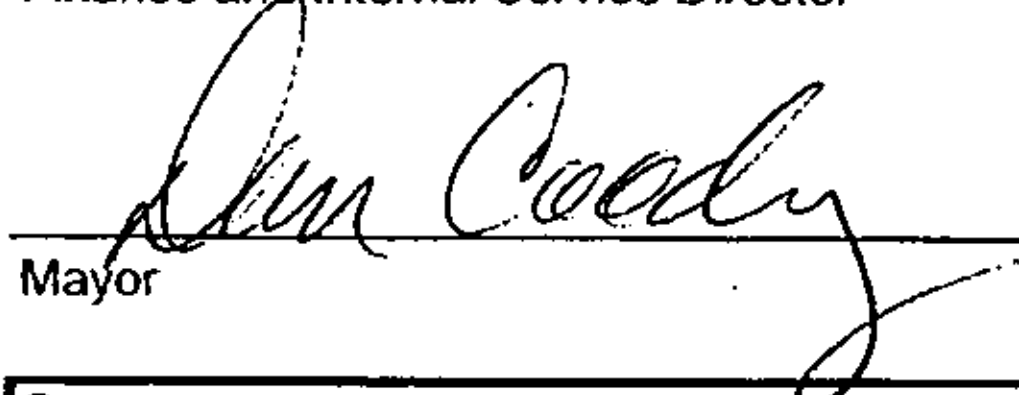

City Attorney 2-3-06

Original Contract Date: n/a

Original Contract Number: n/a


Finance and Internal Service Director 2-3-06
Date

Received in City Clerk's Office



Mayor 2/6/06
Date

Received in Mayor's Office


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 27, 2006

Subject: Easement Vacation for Pettus (VAC 06-1897)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of an alley located south of Dickson Street, between Block and Church Streets, as depicted herein.

BACKGROUND

The subject property is an existing alley right-of-way (approximately 10' in width) located immediately south of Dickson Street between Block and Church Streets in downtown Fayetteville. This alley is currently used by adjacent property owners on either side of the alley. Though very narrow, for some of the property owners the subject alley is the only means of direct vehicular access into their property.

The applicant's request is to vacate a portion of the alley right-of-way in order to develop the property on either side of the alley. The applicant proposes to dedicate a new public alley through their property to Church Street as depicted in drawings attached to the staff report. Staff recommends approval of this vacation request based on findings stated within the attached staff report, finding that the proposed new access will provide the same, if not improved level of access to all properties in question.

DISCUSSION

Notification was provided to all appropriate utility representatives and adjoining property owners. No objections were submitted. This item was heard at the regular Planning Commission on January 23, 2006. The Planning Commission voted 9-0-0 to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 06-1897 SUBMITTED
BY H2 ENGINEERING, INC. FOR PROPERTY LOCATED
SOUTH OF DICKSON, BETWEEN BLOCK AND CHURCH;
VACATING A PORTION OF AN ALLEY ON THE SUBJECT
PROPERTY

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate
public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of
the platted alley way is not required for corporate purposes.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates
and abandons the following described alley way:

See Exhibit "A" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with
the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of
the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the conditions of approval listed
in the staff report and Planning Commission recommendations for the City of Fayetteville,
and shall not be in effect until all conditions are met therein.

Section 4: That said vacation is subject to the dedication of a replacement alley and
all other terms of the Bill of Assurance as offered by the applicant to secure the requested
vacation.

PASSED and APPROVED this 21st day of February, 2006.

APPROVED:

By:

DRAI
DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

EXHIBIT "A"
VAC 06-1897

A PART OF BLOCK NUMBERED THREE (3) AS DESIGNATED ON THE ORIGINAL PLAT OF THE TOWN OF FAYETTEVILLE, ARKANSAS, DESCRIBED AS FOLLOWS:
BEGINNING AT AN EXISTING CHISELED "X" IN CONCRETE WHERE THE WEST RIGHT-OF-WAY LINE OF BLOCK AVENUE INTERSECTS THE SOUTH RIGHT-OF-WAY LINE OF DICKSON STREET, SAID POINT BEING THIRTEEN (13) FEET AND TWO (2) INCHES SOUTH OF THE NORTHEAST CORNER OF SAID BLOCK AS SHOWN BY SAID ORIGINAL PLAT; THENCE WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF KICKSON STREET 151.07 FEET TO AN EXISTING CHISELED "X" AND THE POINT OF BEGINNING; THENCE S00°01'25"E 136.59 FEET TO A FOUND IRON PIN, THENCE S89°58'35"W 14.00 FEET, THENCE N00°01'25"W 136.57 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF DICKSON STREET, THENCE EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE 14.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1912.00 SQUARE FEET MORE OR LESS.

EXHIBIT "B"

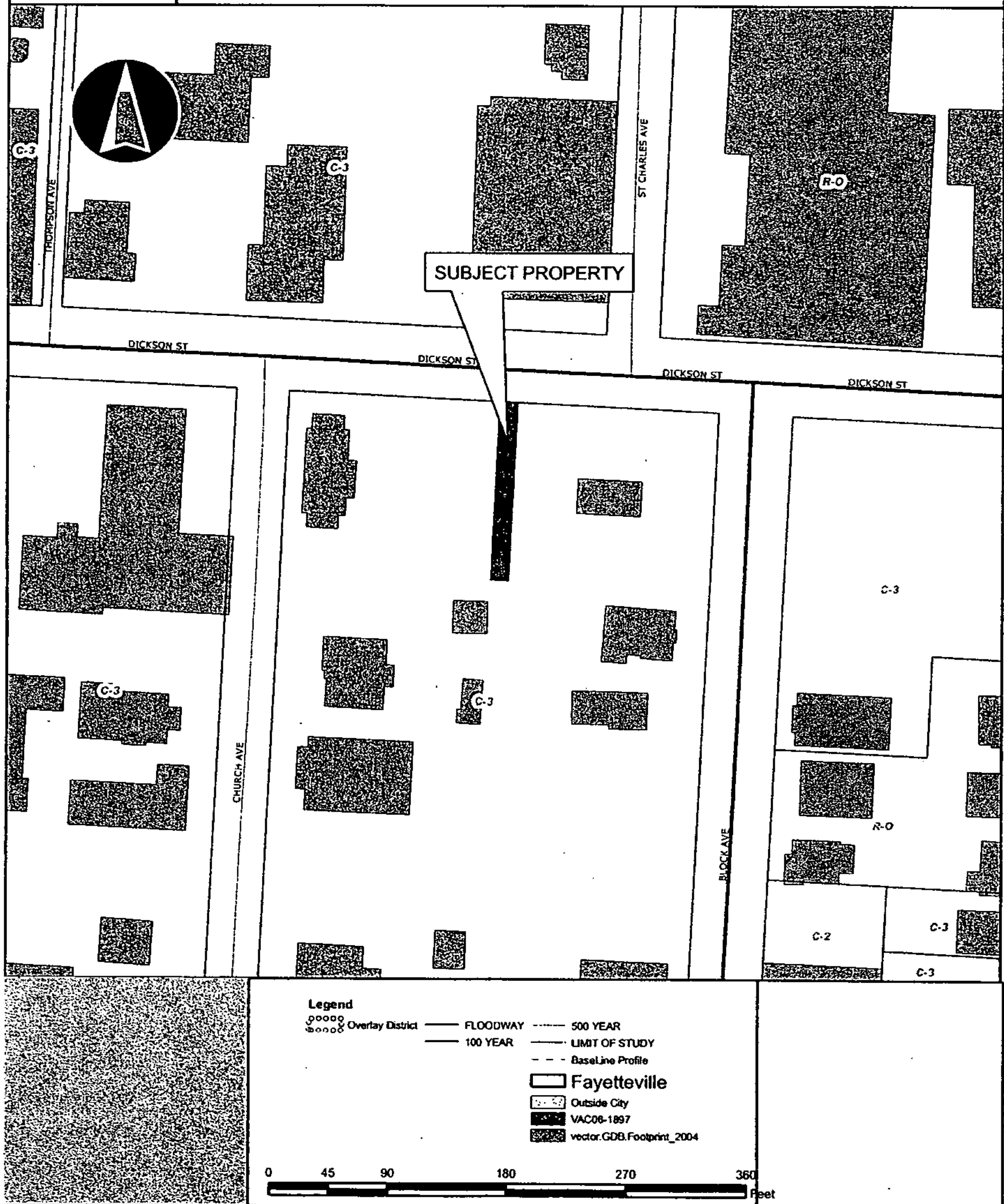
VAC 06-1897

C.4
VAC 06-1897 Pettus
Page 5 of 28

VAC06-1897

Close Up View

PETTUS





PC Meeting of January 23, 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
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: January 18, 2006

VAC 06-1897: (PETTUS, 484): Submitted by H2 ENGINEERING, INC. for property located SOUTH OF DICKSON STREET, BETWEEN BLOCK & CHURCH STREETS. The property is zoned C-3, CENTRAL COMMERCIAL and contains approximately 1.38 acres. The request is to vacate a portion of an alley on the subject property.

Property Owner: Lamar Pettus

Planner: Andrew Garner

Findings:

Property Description and Background: The subject property is an existing alley right-of-way (approximately 10' in width) located immediately south of Dickson Street between Block and Church Streets in downtown Fayetteville. This alley is currently used by adjacent property owners on either side of the alley. Though very narrow, for some of the property owners the subject alley is the only means of direct vehicular access into their property.

Request: The applicant's request is to vacate a portion of the alley right-of-way in order to develop the property on either side of the alley.

The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

RESPONSE

Ozarks Electric

No Objections

Cox Communications

No Objections

Southwestern Electric Power Company

No Objections

Arkansas Western Gas

No Objections

Southwestern Bell Telephone

No Objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections.

Transportation

No Objections

Solid Waste

No Objections

Engineering

No Objections

Public Comment: The applicant has submitted the required notification forms to the adjacent property owners. Staff has discussed this project with two surrounding property owners, mainly concerned with how they and public service providers will access their property after the alley is vacated. This alley is the only means of vehicular access for the adjacent property to the southeast, and is utilized by public service providers along the entire length of the alley.

The applicant's discussion with surrounding property owners is documented in an email attached to the report. In order to address access issues with these owners, the applicant is proposing a new right-of-way alley to Church Street. A depiction of this new access is attached to this report.

Recommendation: Vacating the alley right-of-way in question without provision of continued access could limit vehicular access to parcels of property that are currently located off this alley. However, the applicant has indicated that they will provide a new public alley through their property to Church Street as depicted in the drawing provided. Staff finds that this new alley would provide adequate access to affected properties, and reduce an existing traffic concern with the alley exiting onto Dickson Street very near the traffic signal at Dickson and St. Charles. A new access from Church Street will continue to provide the same, if not improved level of access to all properties in question. Utility companies have approved the alley vacation with conditions that are included in the Conditions of Approval below. Staff recommends approval of the proposed right-of-way vacation VAC 06-1897 with the following conditions:

Conditions of Approval:

1. A new public alley linking the existing alley to Church Avenue shall be provided and dedicated through the applicant's property as indicated by the applicant. This new alley shall provide safe and adequate vehicular access for residential and public service use including fire protection and solid waste pick-up. The existing alley shall not be vacated or obstructed until the new access is in place and accepted by the City of Fayetteville.
2. Should any existing water or sewer service lines be identified in the subject alley, these must be tied, at the developer's expense, to mains such that they do not cost

the service owner for the tie-in and they shall meet all conditions for new service lines.

3. Adequate easements to meet Arkansas Western Gas approval shall be dedicated to relocate the existing 6" steel low pressure gas line existing in the alley, at the developer's expense.
4. Any relocation of existing utilities shall be at the owner/developer's expense.

PLANNING COMMISSION ACTION: yes Required
Recommendation to be: X Approved Denied

Motion: Anthes

Second: Clark

Vote: 9-0-0

Date: January 23, 2006

Comments: _____

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

By _____

Title

Date _____

NORTHWEST OFFICE PROPERTIES, LLC
209 North Block Avenue
Fayetteville, Arkansas 72701-5204
479-442-3554

TO: Andrew Garner
Senior Planner
Planning Division
City of Fayetteville
113 West Mountain
Fayetteville AR 72701

FROM: Tom Overbey
toverbey@ogsw.com

RE: Alley Vacation
VAC 06-1897

DATE: January 19, 2006

This letter will confirm my understanding with respect to this alley vacation. Enclosed is a drawing provided to us by the developer's representatives.

It is my understanding that the Solid Waste department, City Transportation department and the Fire Department are or will be agreeable to the alley vacation and proposed relocation. It is also my understanding that the users of the alley will be able to continue their current uses of the alley once it is relocated. As we discussed, this is important for our property since we will be using the alley for egress for our visitors when we construct a new building and change the ingress and parking on our property.

Based on these understandings, I do not plan to appear at the Planning Commission meeting on January 23rd. Please call if any questions.

cc: Tom Hennelly
H2 Engineering



EMILIE RING, INC.
10000 44th St. Brooklyn, N.Y. 11219
Tel. 352-1111



City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

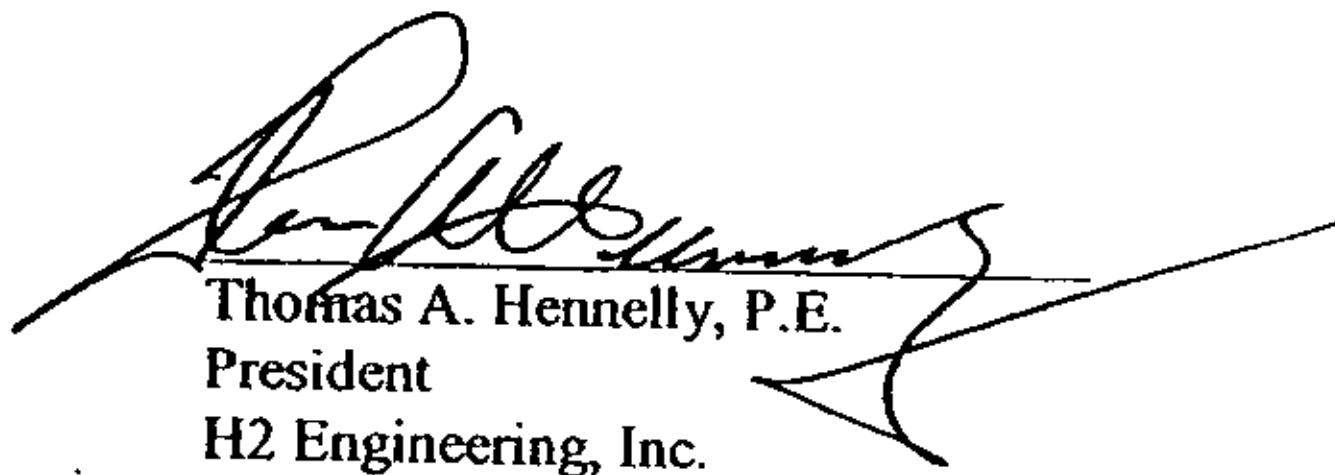
Attn: Planning Staff
Re: Pettus Alley Vacation

Dear Staff,

This correspondence is a written description of the petition to vacate a portion of an existing alley between lots 1 and 2 of block 3 of the original plat of the City of Fayetteville. The current owner of the property is Lamar Pettus. The property is currently under contract with the Barber Group. A large scale development, currently in the design stages, will encompass lots 1, 2, and 3. The presence of the alley splits this property in half and creates some design challenges which could be resolved by rededicating right of way for a new alley off of either Church or Block Streets. We have provided the utility companies with assurances that new utility easements will be dedicated with the proposed development and the owner will incur the cost of relocating any existing utilities within the alley.

Thank you for your consideration in this matter. If you should have any questions or comments, please call me at 582-4234.

Sincerely,



Thomas A. Hennelly, P.E.
President
H2 Engineering, Inc.

**PETITION TO VACATE AN ALLEY LOCATED BETWEEN LOT 1 AND LOT 2 OF BLOCK 3
OF THE ORIGINAL PLAT OF THE CITY OF FAYETTEVILLE, ARKANSAS**

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the alley hereinafter sought to be abandoned and vacated, lying between Lot 1 and Lot 2 of Block 3 of the original Plat of the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an alley which is described as follows:

SURVEY DESCRIPTION:

A PART OF BLOCK NUMBERED THREE (3) AS DESIGNATED ON THE ORIGINAL PLAT OF THE TOWN OF FAYETTEVILLE, ARKANSAS, DESCRIBED AS FOLLOWS: BEGINNING AT AN EXISTING CHISELED "X" IN CONCRETE WHERE THE WEST RIGHT-OF-WAY LINE OF BLOCK AVENUE INTERSECTS THE SOUTH RIGHT-OF-WAY LINE OF DICKSON STREET, SAID POINT BEING THIRTEEN (13) FEET AND TWO (2) INCHES SOUTH OF THE NORTHEAST CORNER OF SAID BLOCK AS SHOWN BY SAID ORIGINAL PLAT; THENCE WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF DICKSON STREET 151.07 FEET TO AN EXISTING CHISELED "X" AND THE POINT OF BEGINNING; THENCE S 00° 01' 25" E 136.59 FEET TO A FOUND IRON PIN, THENCE S 89° 58' 35" W 14.00 FEET, THENCE N 00° 01' 25" W 136.57 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF DICKSON STREET, THENCE EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE 14.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1912.00 SQUARE FEET MORE OR LESS.

That the abutting real estate affected by said abandonment of the alley are adjacent to Lot 1 and Lot 2 of Block 3 of the original Plat of the City of Fayetteville, Arkansas used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described alley.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law. The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated: _____

Printed Name: _____

Signature: _____

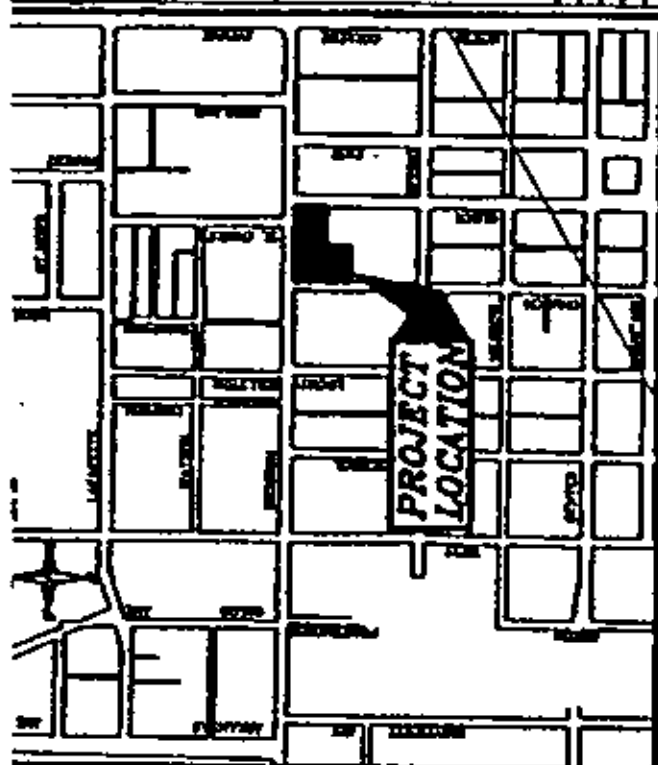
Printed Name: _____

Signature: _____

PETTUS FAMILY TRUST BOUNDARY SURVEY



H2
ENGINEERING, INC.
1724 MILLCREEK DRIVE
FAYETTEVILLE, ARKANSAS 72701
PHONE: (479) 888-4334
FAX: (479) 888-8884



VICINITY MAP

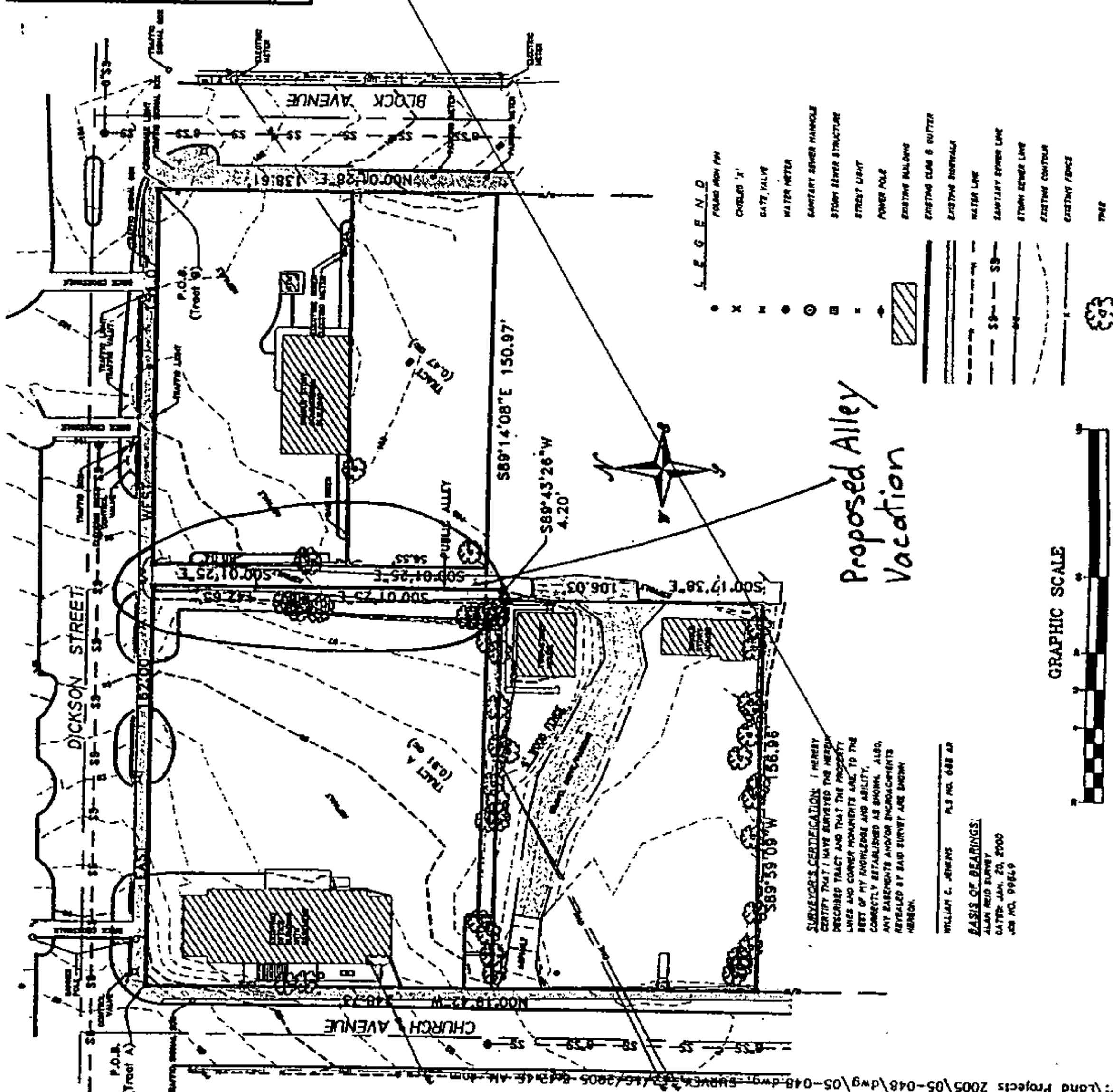
BOUNDARY DESCRIPTION

TRACT A:
A PART OF BLOCK NUMBERED THREE (3) OF THE ORIGINAL TOWN PLAT OF FAYETTEVILLE, ARKANSAS, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID BLOCK THREE (3), SAID POINT BEING A CHISELED "X" IN CONCRETE; THENCE EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF DICKSON STREET 182.00 FEET TO A CHISELED "X"; THENCE LEAVING THE SOUTH RIGHT-OF-WAY OF DICKSON STREET 00°01'25"E 142.85 FEET TO A FOUND COTTON SPINDLE; THENCE S89°43'26"W 4.20 FEET TO A FOUND IRON PIN; THENCE S00°17'38"E 108.03 FEET TO A FOUND COTTON SPINDLE; THENCE S89°59'09"W 136.86 FEET TO A FOUND COTTON SPINDLE ON THE WEST LINE OF SAID BLOCK THREE (3); THENCE N00°18'42"W ALONG THE WEST LINE OF SAID BLOCK THREE (3) 248.73 FEET TO THE POINT OF BEGINNING, CONTAINING 0.91 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

TRACT B:
A PART OF BLOCK NUMBERED THREE (3) AS DESIGNATED ON THE ORIGINAL PLAT OF THE TOWN OF FAYETTEVILLE, ARKANSAS, DESCRIBED AS FOLLOWS: BEGINNING AT AN EXISTING CHISELED "X" IN CONCRETE WHERE THE WEST RIGHT-OF-WAY LINE OF BLOCK AVENUE INTERSECTS THE SOUTH RIGHT-OF-WAY LINE OF DICKSON STREET, SAID POINT BEING THIRTEEN (13) FEET AND TWO (2) INCHES SOUTH OF THE NORTHEAST CORNER OF SAID BLOCK AS SHOWN BY SAID ORIGINAL PLAT; THENCE WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF DICKSON STREET 181.07 FEET TO AN EXISTING CHISELED "X"; THENCE LEAVING THE SOUTH RIGHT-OF-WAY OF DICKSON STREET 00°01'25"E 60.04 FEET TO A FOUND IRON PIN; THENCE S00°17'38"E 56.55 FEET TO A FOUND IRON PIN; THENCE S89°14'08"E 150.97 FEET TO A FOUND IRON PIN ON THE WEST LINE OF BLOCK AVENUE; THENCE N00°01'28"E 138.81 FEET TO THE POINT OF BEGINNING, CONTAINING 0.47 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

ZONING: C-3

ACCORDING TO FLOOD INSURANCE RATE MAP NO. 0514J0002 D, DATED JULY 21, 1999, SUBJECT PROPERTY DOES NOT LIE WITHIN FLOOD AREA.



FILE NO. 048 AP
ALAN REID SURVEY
DATED JAN. 20, 2000
JOB NO. 99829

GRAPHIC SCALE

(1 INCH = 50 FEET)
1 inch = 50 ft

FILE NO. 048 AP
ALAN REID SURVEY
DATED JAN. 20, 2000
JOB NO. 99829

From: "Bryan Cooper" <bcooper@barbergroup.biz>
To: "Jeremy Pate" <jpate@ci.fayetteville.ar.us>, "Andrew Garner" <agarner@ci.fayetteville.ar.us>
Date: 1/18/06 1:26PM
Subject: PETTUS ALLEY.pdf

Gentlemen,

Attached is a copy of our proposal on making another connection for the alley onto Church St. I apologize for staff getting this right now, I had just assumed you had seen a copy of this. We also wanted to have a bill of assurance saying that we will dedicate a new right-of-way for this alley at a point in time when staff and the developer agree on the exact location this needs to be. We did not want to dedicate right-of-way right now, just in case during the planning phase that staff feels like the location of the new connection needed to be moved we wouldn't have to go through another one of these. I know the city has an approved Bill of Assurance they like to use, so can someone get me this Bill of Assurance with correct wording stating that we will dedicate a new right-of-way onto Church St. when staff and us decide on an exact location? As for the neighbors, we met with Shirkey a while back and feel like we answered his issues, and this morning we met with Tom Overbey and Lynn Wade about the vacation and feel like they were comfortable with the new alignment of the alley and feel like we addressed their concerns also. We have also met with Don Marr to discuss this issue and are meeting with Brenda Thiel on Friday. As for any other neighbors who have any concerns we have not heard of any, but if there are others out there we would be very happy to sit down and discuss this issue and address any concerns. Please let me know if you know of any others. Thanks for your time gentlemen and please let me know if you need any other information regarding this issue.

Bryan Cooper

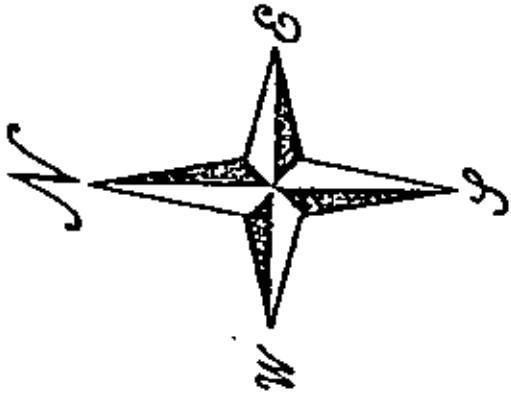


H2 ENGINEERING, INC.
CERTIFICATE OF AUTHORIZATION
No. 1003

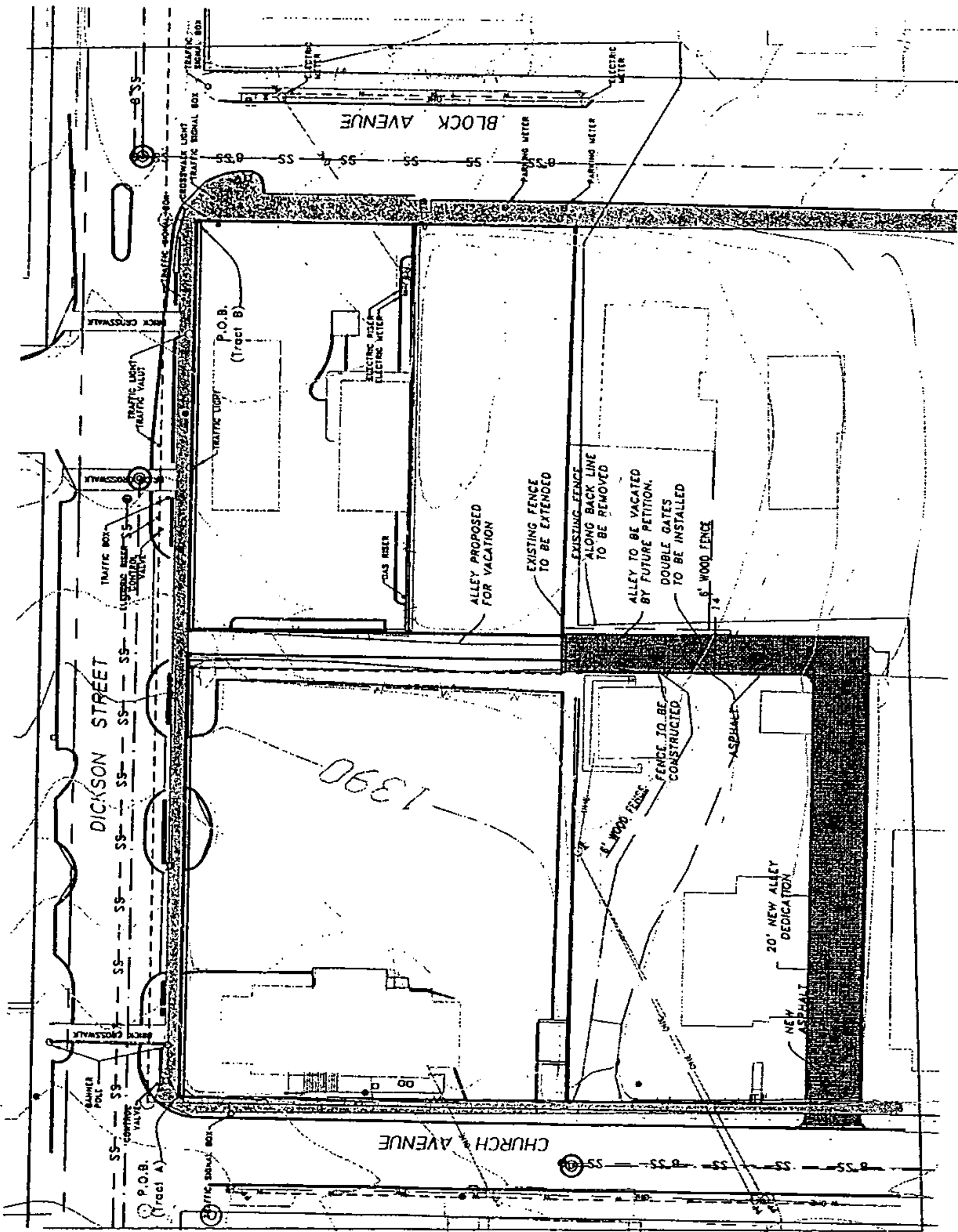
PETTUS ALLEY VACATION

H2 ENGINEERING, INC.
1747 HILL STREET, SUITE 200
FAYETTEVILLE, AR 72703
PHONE: (479) 582-4234
FAX: (479) 582-9254

ENGINEER & SURVEYOR:
H2 ENGINEERING, INC.
2758 MILLENNIUM DRIVE
FAYETTEVILLE, AR 72703
PHONE: (479) 582-4234
FAX: (479) 582-9254



Proposed Connection to Church Street



**BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS**

In order to attempt to obtain approval of a request for the vacation of an alley, LYNNKOHN, LLC (hereinafter "Petitioner"), hereby voluntarily offers this Bill of Assurance and enter into this binding agreement and contract with the City of Fayetteville, Arkansas.

Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioners' alley vacation request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF the Fayetteville City Council approves Petitioner's request to vacate an alleyway on the Property:

1. The use of Petitioners' property described in Exhibit "A" attached hereto (the "Property") shall be limited to permitted and conditional uses allowed in C-3 zoning.
2. Petitioners hereby agree to dedicate, at a location mutually acceptable to Petitioners and City of Fayetteville, a twenty (20) foot right-of-way upon the approval of Large Scale Development acceptable to Petitioner, as that term is defined by the Unified Development Code of the City of Fayetteville. Also, Petitioner shall not encumber or obstruct access through the existing alleyway until a new access is provided.
3. Petitioners specifically agree that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's request to vacate an alleyway is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of the Property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, we, LYNNKOHN, LLC , as the owners, developers or

buyers (Petitioners) voluntarily offer all such assurances and sign our names below.

LYNNKOHN, LLC

1/19/06
Date

BRANDON BARBER - MEMBER
Printed Name

PO Box 8783
Address
Fayetteville, AR 72702

[Signature]
Signature

Date

Printed Name

Address

Signature

NOTARY OATH

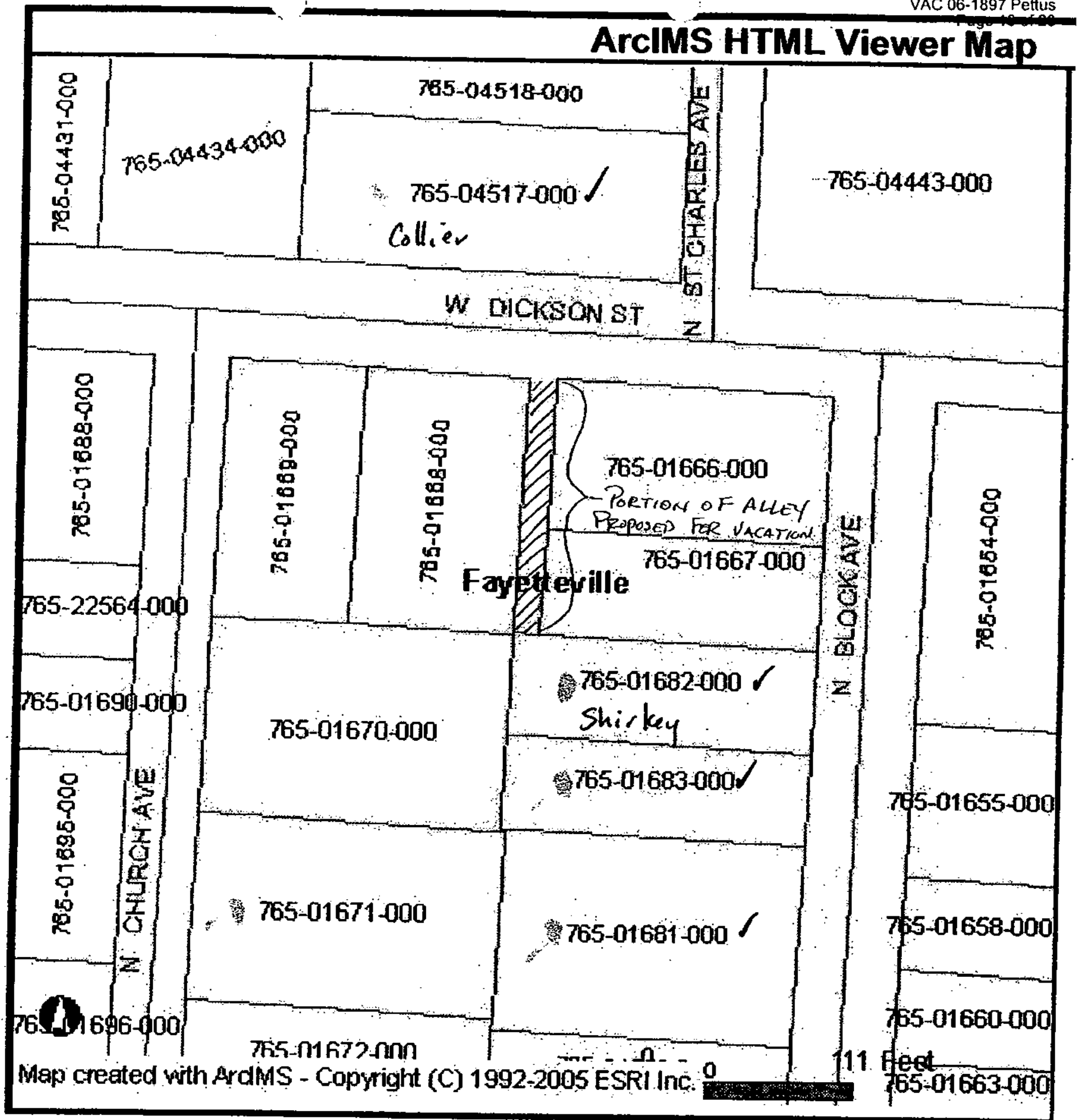
STATE OF ARKANSAS)
COUNTY OF WASHINGTON)

And now on this the 19 day of January, ²⁰⁰⁶~~2004~~, appeared before me, Brandon Barber and after being placed upon his/her oath swore or affirmed that he agreed with the terms of the above Bill of Assurance and signed his name above.

My Commission Expires: _____

[Signature]
"NOTARY SEAL"
Brandon Rains, Notary Public
Washington County, State of Arkansas
My Commission Expires July 15, 2014.

ArcIMS HTML Viewer Map



Dickson St alley Vacate
09-048

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: December 16, 2005

UTILITY COMPANY: City of Fayetteville Water and Sewer Department

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address:

An alleyway running between Pettus Law Firm and Something Urban, intersecting the south side of the 100th block of W. Dickson Street and located directly across the street from Colliers Drug Store.

(Include legal description and graphic representation of what is being vacated)

SURVEY DESCRIPTION:

A PART OF BLOCK NUMBERED THREE (3) AS DESIGNATED ON THE ORIGINAL PLAT OF THE TOWN OF FAYETTEVILLE, ARKANSAS, DESCRIBED AS FOLLOWS: BEGINNING AT AN EXISTING CHISELED "X" IN CONCRETE WHERE THE WEST RIGHT-OF-WAY LINE OF BLOCK AVENUE INTERSECTS THE SOUTH RIGHT-OF-WAY LINE OF DICKSON STREET, SAID POINT BEING THIRTEEN (13) FEET AND TWO (2) INCHES SOUTH OF THE NORTHEAST CORNER OF SAID BLOCK AS SHOWN BY SAID ORIGINAL PLAT; THENCE WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF DICKSON STREET 151.07 FEET TO AN EXISTING CHISELED "X" AND THE POINT OF BEGINNING; THENCE S 00° 01' 25" E 136.59 FEET TO A FOUND IRON PIN, THENCE S 89° 58' 35" W 14.00 FEET, THENCE N 00° 01' 25" W 136.57 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF DICKSON STREET, THENCE EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE 14.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1912.00 SQUARE FEET MORE OR LESS.

UTILITY COMPANY COMMENTS:

☐ No objections to the vacation(s) described above.

☒ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

If any service lines are identified in this alley, these must be tied, at the developer's expense, to mains such that they do not cost the service owner for the tie-in and they must meet all conditions for new service lines.

[Signature]
Signature of Utility Company Representative

WATER & WASTEWATER DIRECTOR
Title

21 Dec 05
Date

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: October 19, 2005UTILITY COMPANY: Arkansas Western GasREQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address:

An alleyway running between Pettus Law Firm and Something Urban, intersecting the south side of the
100th block of W. Dickson Street and located directly across the street from Colliers Drug Store.*(Include legal description and graphic representation of what is being vacated)*

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☒ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

No objections, providing easements are dedicated to relocate
the existing 6" steel low pressure gas line.
Signature of Utility Company RepresentativeNORTHWEST REGIONAL MANAGER
Title12-14-05
Date

Retained by hand 10/3/05
faxed 11/1/05

09-048

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: October 19, 2005UTILITY COMPANY: Southwestern Electric Power Co.REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address:

An alleyway running between Petrus Law Firm and Something Urban, intersecting the south side of the
100th block of W. Dickson Street and located directly across the street from Colliers Drug Store.

(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Any relocation of existing facilities are at developers expense.Kenny Sullivan

Signature of Utility Company Representative

Right of Way Agent SWEPCO

Title

12-1-05

Date

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: October 19, 2005UTILITY COMPANY: Ozarks Electric CooperativeREQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address:

An alleyway running between Pettus Law Firm and Something Urban, intersecting the south side of the
100th block of W. Dickson Street and located directly across the street from Colliers Drug Store.

(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Mike Phipps
Signature of Utility Company RepresentativeSystem Staking Tech
Title10-25-05
Date

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: October 19, 2005

UTILITY COMPANY: Cox Communications

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address:

An alleyway running between Pettus Law Firm and Something Urban, intersecting the south side of the
100th block of W. Dickson Street and located directly across the street from Colliers Drug Store.
(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

[Signature]
Signature of Utility Company Representative

Planner
Title

10-25-05
Date

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: December 16, 2005UTILITY COMPANY: City of Fayetteville Street DepartmentREQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address:

An alleyway running between Pettus Law Firm and Something Urban, intersecting the south side of the 100th block of W. Dickson Street and located directly across the street from Colliers Drug Store.

(Include legal description and graphic representation of what is being vacated)

SURVEY DESCRIPTION:

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UTILITY COMPANY COMMENTS:

☒ No objections to the vacation(s) described above.** Comments*

☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

New Alley To Be Dedication To Church St.

Signature of Utility Company Representative

Transportation Supt. City of Fayetteville

Title

12/16/05

Date

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: December 16, 2005

UTILITY COMPANY: City of Fayetteville Solid Waste Department

REQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

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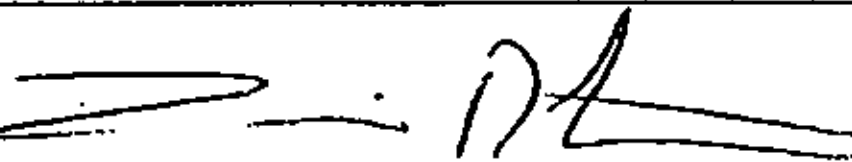
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UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)



Signature of Utility Company Representative

Commercial Rep

Title

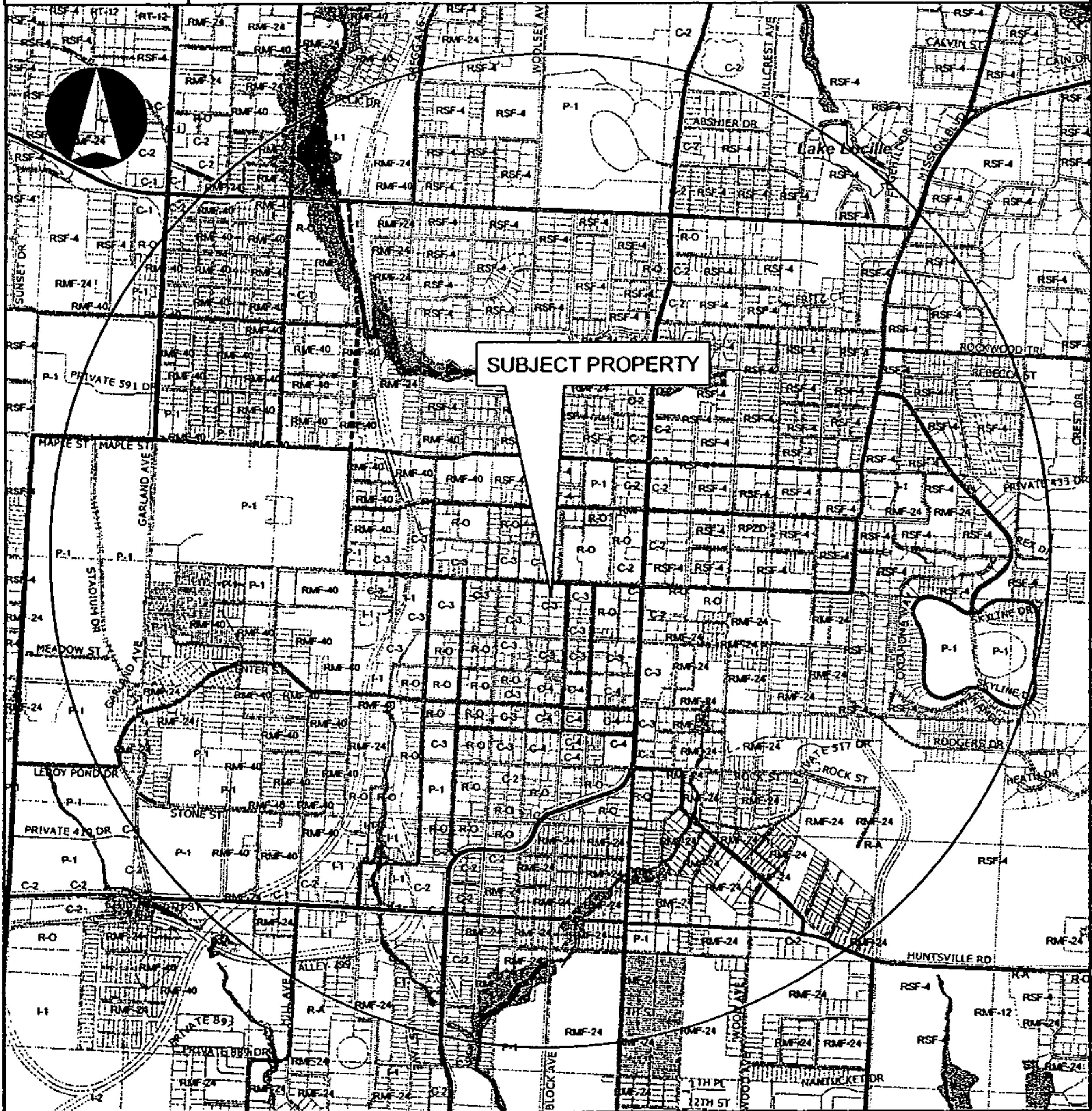
12/16/05

Date

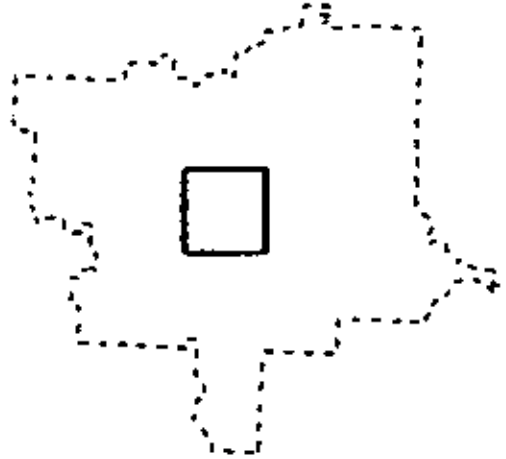
VAC06-1897

PETTUS

One Mile View



Overview



Legend

Subject Property
VAC06-1897

Boundary

Planning Area
Overlay District
Outside City

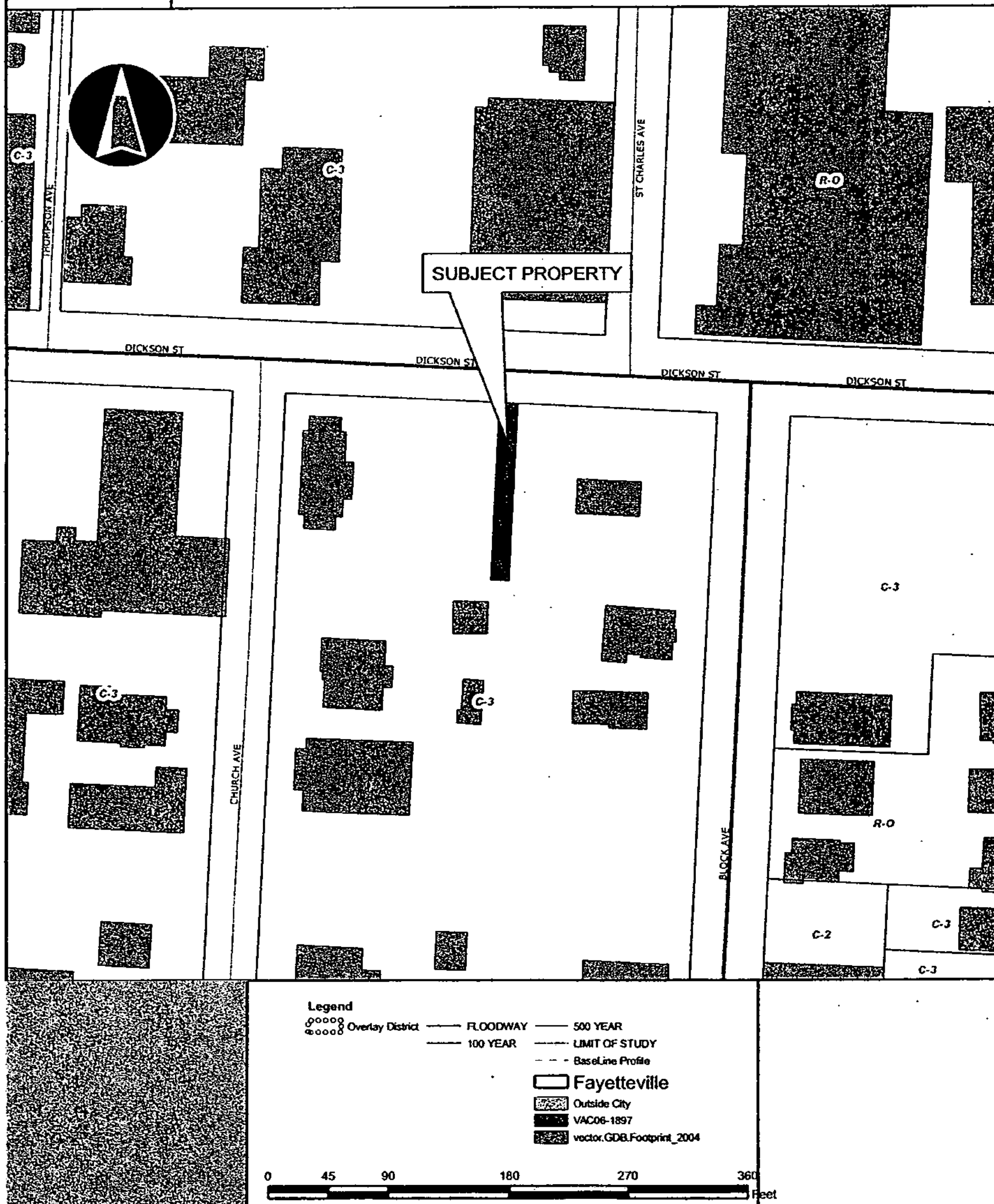
Legend

0 0.125 0.25 0.5 0.75 1 Miles

VAC06-1897

PETTUS

Close Up View



CITY ATTORNEY AGENDA REQUEST

C. 5
Amend Chapter 163
Page 1 of 4

FOR: COUNCIL MEETING OF February ²¹/₇, 2006

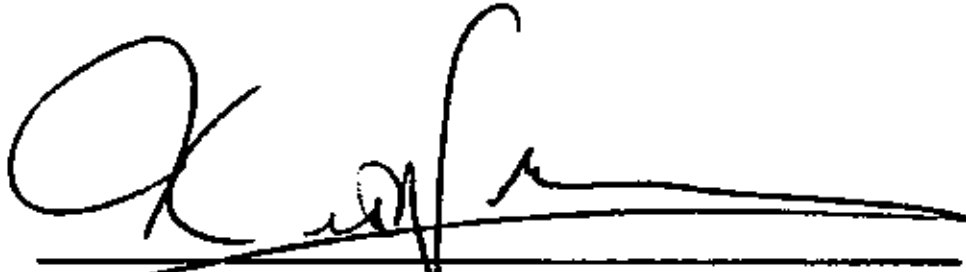
FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend Chapter 163: Use Conditions Of The Unified Development Code
By Adding Section 163.15 Revocation Or Change Of Conditional Use

APPROVED FOR AGENDA:



City Attorney

1-24-06

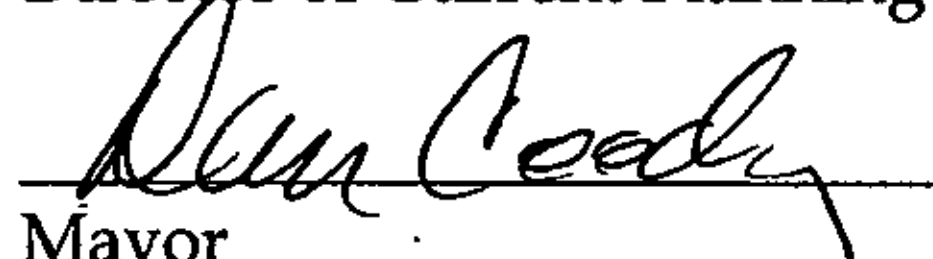
Date



Jeremy Pate,
Director of Current Planning

01.24.06

Date

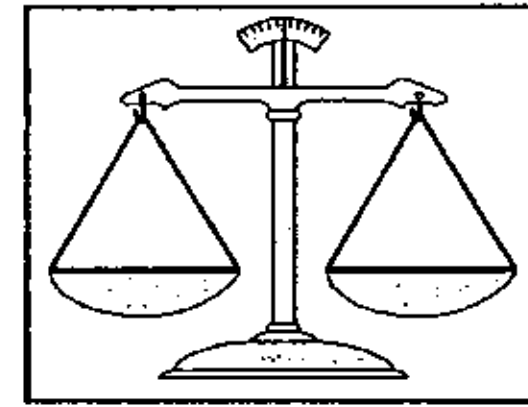


Mayor

1/26/06

Date

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**
City Council

CC: **Jeremy Pate, Director of Current Planning**

FROM: **Kit Williams, City Attorney**

DATE: **January 24, 2006**

RE: **Codifying review procedures for existing conditional uses**

The public properly pointed out during the Planning Commission meeting that the U.D.C. had no express provision for review of approved conditional uses if a citizen believes the holder is not obeying all of the conditions and terms of its conditional use. Although alleged violations have been investigated by the Planning Department (which has presented at least one conditional use for Planning Commission review in the recent past), the U.D.C. should have a clear procedural process for citizens and staff to follow.

Therefore, I have drafted the proposed amendment to the Chapter on conditional uses to spell out a citizen's right to complain about improper activities of an entity or person who has been granted a conditional use.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 163: USE
CONDITIONS OF THE UNIFIED DEVELOPMENT
CODE BY ADDING SECTION 163.15 REVOCATION
OR CHANGE OF CONDITIONAL USE

WHEREAS, conditional uses should be able to be reviewed by the Planning Commission if substantiated complaints are communicated to the Planning Department; and

WHEREAS, the Unified Development Code should contain express procedures for any person who is aggrieved because the person or entity receiving the conditional use has failed to follow and obey every condition and term of the conditional use.

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 amends Chapter 163: Use Conditions of the Unified Development Code by adding a new section entitled §163.15: **Revocation or Change of Conditional Use** as shown below:

“§163.15. Revocation or Change of Conditional Use

“(A) Upon receipt by the Planning Department of a written complaint by a Fayetteville resident that a holder of a conditional use has substantially violated or is violating any term or condition of the conditional use, the Planning Department shall investigate this complaint to determine if it is substantiated.

“(B) If the Planning and Zoning Administrator determines that the complaint is substantiated, official notification by letter outlining the violation shall be sent to the holder of the conditional use requiring immediate compliance with all conditions and terms of approval of the conditional use and noting the substantiated complaint.

“(C) If the Zoning and Development Administrator determines that the holder has violated the terms of the conditional use and failed to promptly and voluntarily correct its failures, the Zoning and Development Administrator shall refer the existing conditional use to the Planning Commission for its review. After a hearing for all interested persons, the Planning Commission

may amend or add conditions to the conditional use, may revoke a conditional use for substantial violations of the existing terms and conditions of the conditional use, or may reaffirm that the holder has complied with all terms of its conditional use.

“(D) Except in extraordinary circumstances, the Zoning and Development Administrator shall not refer any alleged violations of a specific conditional use to the Planning Commission more often than once per year.”

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

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CITY ATTORNEY AGENDA REQUEST

C. 6
TCA Cable Partners
Page 1 of 10

FOR: COUNCIL MEETING OF FEBRUARY 21, 2005

FROM:

KIT WILLIAMS, CITY ATTORNEY

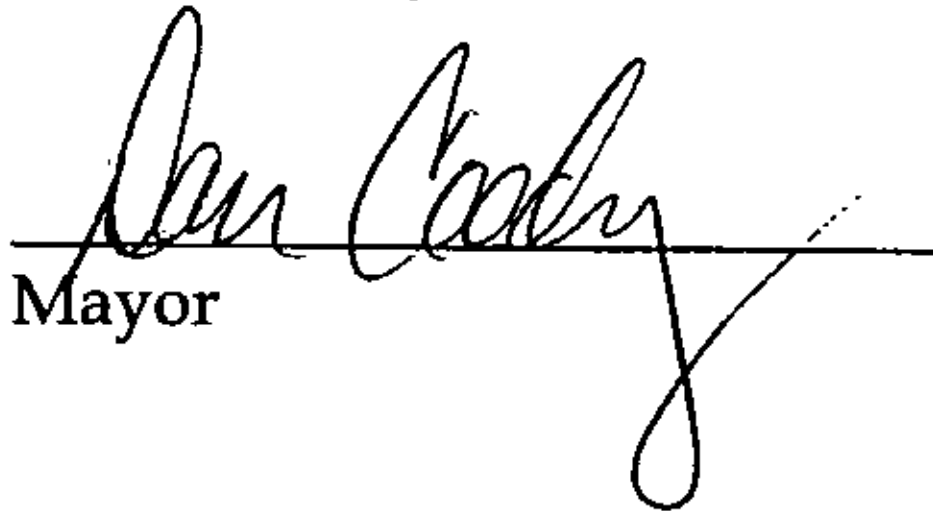
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution Authorizing The City Attorney To File Suit Against TCA Cable Partners Providing Services As Cox Communications Seeking Payment Of Reimbursable Expenses Due And Owing Under Section XXIII Of The Cable Franchise Agreement

APPROVED FOR AGENDA:


City Attorney

2/2/2006
Date


Mayor

2/2/06
Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

C. 6
TCA Cable Partners
Page 2 of 10



LEGAL DEPARTMENT

TO: City Council Members; Mayor Dan Coody

FROM: David J. Whitaker, Assistant City Attorney

DATE: February 2, 2006

RE: Cox Communication's Refusal to Reimburse Legal Fees

A handwritten signature in black ink, appearing to read "D. J. Whitaker", written over the printed name in the "FROM" line.

The Accounting Division and the City Attorney's Office have repeatedly requested payment from TCA Cable Partners (Cox) of reimbursable legal fees as required by Section XXIII of the current Cable Franchise Agreement, to no avail. Some of the Legal Fees for which the City seeks reimbursement date back to early 2001, and the City's legal rights will be adversely affected if the 5-year Statute of Limitations is allowed to run without receiving payment from Cox.

I have composed and sent a Final Demand Letter (copy attached) to Mr. Nelson Mower, Cox's Vice President of Operations for Arkansas, stressing the need for payment before the City Council Meeting of February 21. If Cox has not honored this debt by that date, our office is asking you for the authority to file suit to compel payment in accordance with the Cable Franchise Agreement.

Please contact me if you have any questions about the attached supporting documents, or this matter generally.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO FILE SUIT AGAINST TCA CABLE PARTNERS PROVIDING SERVICES AS COX COMMUNICATIONS SEEKING PAYMENT OF REIMBURSABLE EXPENSES DUE AND OWING UNDER SECTION XXIII OF THE CABLE FRANCHISE AGREEMENT.

WHEREAS, the current Cable Franchise Agreement requires TCA Cable Partners to reimburse the City "for any and all reasonable and necessary expenses ... such amount not to exceed \$40,000.00" incurred in association with the renewal or renegotiation of the Cable Franchise Agreement; and,

WHEREAS, the City of Fayetteville has documented the attorneys fees it has paid in connection with renewal negotiations, and presented an invoice in the amount of \$26,185.35 to TCA Cable Partners; and,

WHEREAS, TCA Cable Partners continues to refuse to honor its obligation to reimburse the City pursuant to the Cable Franchise Agreement.

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 against TCA Cable Partners providing services as Cox Communications seeking payment of reimbursable expenses due and owing under Section XXIII of the Cable Franchise Agreement.

PASSED and APPROVED this 21st day of February, 2006.

APPROVED

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

SECTION XXIII

REIMBURSEMENT OF EXPENSES

In addition to the five percent (5%) franchise fee provided hereunder, the Grantee shall reimburse the City for any and all reasonable and necessary expenses expended and documented by the City for engineers, experts and attorneys employed by the City in connection with the granting of this Franchise, or in connection with any renewal, renegotiation, amendment or other modification of this Franchise initiated by the Grantee; such amount not to exceed \$40,000.00 during the term of this Agreement.

SECTION XXIV

EFFECTIVE DATE

This Franchise shall be effective on the first day of the twentieth month after the adoption of the ordinance approving this franchise.

IN WITNESS WHEREOF this agreement has been executed this 7th day of March, 1989.

CITY OF FAYETTEVILLE, ARKANSAS

By: William V. Martin
Mayor

Attest: Joanne McWhorter
City Clerk

WARNER CABLE COMMUNICATIONS, INC.

By: James L. Gray
Title: President

Attest: [Signature]
Title: Assistant Secretary



CITY OF FAYETTEVILLE
ACCOUNTING DIVISION
113 WEST MOUNTAIN STREET
FAYETTEVILLE, AR 72701
479-575-8281

C. 6
TCA Cable Partners
INVOICE Page 5 of 10

COX COMMUNICATIONS
COX COMMUNICATIONS
JAMES E ANDERSON-GOV AFFAIRS
4900 SOUTH ZERO STREET
FORT SMITH AR 72903

Please Make Check Payable to City of Fayetteville

CUSTOMER #	INVOICE #	INVOICE DATE	DUE DATE	AMOUNT DUE
3526	40003282	12/20/04	1/20/05	\$26185.35

For questions regarding this invoice, please
call (479) 575-8275

Description	U/M	Quantity	Amt/Unit	Total
LEGAL FEES FOR MOSS & BARNETT	EA	1.0000	10,661.3400	10,661.34
LEGAL FEES FOR WRIGHT LINDSEY & JENNINGS LLP	EA	1.0000	15,524.0100	15,524.01

Total Due.....: \$26185.35
=====

LEGAL FEES CABLE FRANCHISE NEGOTIATIONS

VENDOR	CK DATE	AMOUNT	CHECK #
Moss and Barnett	2/12/01	33.37	273766
Moss and Barnett	3/19/01	99.96	275132
Moss and Barnett	4/2/01	493.07	275613
Moss and Barnett	5/7/01	359.20	277055
Moss and Barnett	5/25/01	162.40	278104
Moss and Barnett	7/2/01	429.00	279717
Moss and Barnett	8/6/01	942.30	281494
Moss and Barnett	9/4/01	1,031.84	282729
Moss and Barnett	10/8/01	1,434.40	284320
Moss and Barnett	11/5/01	2,353.30	285463
Moss and Barnett	12/10/01	1,431.90	286822
Moss and Barnett	5/6/02	1,781.90	292418
Moss and Barnett	7/8/02	59.20	295738
Moss and Barnett	2/3/03	49.50	304852
		10,661.34	
Wright Lindsey & Jennings LLP	12/2/02	2,234.20	302439
Wright Lindsey & Jennings LLP	1/17/03	1,452.00	304473
Wright Lindsey & Jennings LLP	2/10/03	343.90	305244
Wright Lindsey & Jennings LLP	3/3/03	792.00	306096
Wright Lindsey & Jennings LLP	3/31/03	429.30	307326
Wright Lindsey & Jennings LLP	5/5/03	1,584.00	308938
Wright Lindsey & Jennings LLP	5/19/03	972.33	309762
Wright Lindsey & Jennings LLP	6/23/03	363.24	311521
Wright Lindsey & Jennings LLP	8/4/03	247.50	313928
Wright Lindsey & Jennings LLP	8/25/03	363.00	315035
Wright Lindsey & Jennings LLP	9/29/03	1,254.00	316562
Wright Lindsey & Jennings LLP	12/1/03	1,155.52	318947
Wright Lindsey & Jennings LLP	2/2/04	331.68	321638
Wright Lindsey & Jennings LLP	3/1/04	1,930.98	322759
Wright Lindsey & Jennings LLP	4/5/04	132.00	324112
Wright Lindsey & Jennings LLP	4/26/04	1,134.36	325015
Wright Lindsey & Jennings LLP	5/24/04	132.00	326357
Wright Lindsey & Jennings LLP	8/9/04	165.00	330115
Wright Lindsey & Jennings LLP	9/27/04	507.00	332023
		15,524.01	
Total Legal Fees Paid		26,185.35	

4901 South 48th Street
Springdale, AR 72762
(479) 872-1200
(479) 756-1081 fax

February 10, 2005

Mr. Kit Williams
City Attorney
The City of Fayetteville
113 West Mountain
Fayetteville, AR 72701



Dear Mr. Williams:

Cox Communications is in receipt of invoice #40003282, dated December 20, 2004, listed as legal fees. Assuming that this invoice is in reference to Section XXIII, Reimbursement Of Expenses, page 42, of the existing franchise, Cox Communications believes that the sending of this invoice is premature at this time as we have yet to reach an agreement on a renewal or a new franchise agreement. As you are aware, extensive negotiations on the renewal of a franchise agreement have been ongoing since April 2000. And, although both parties have negotiated in good faith, these negotiations have not produced a new or renewed franchise agreement acceptable to the City. Considering the most recent proposal was tabled by the City Council, we may have a long way to go to reach an agreement.

Cox Communications is willing to continue good faith negotiations and we remain hopeful that a fair and reasonable agreement can be reached. We are excited that our capital-intensive rebuild is complete and we are anxious to reach an agreement that supports a reasonable return on the investment.

Please contact me if you have any questions concerning this information or if you would like to meet to discuss a franchise agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Nelson Mower", written over a horizontal line.

Nelson Mower
Arkansas Vice President Of Operations
Cox Communications

cc: Mayor Dan Coody, City Of Fayetteville
Daryl Henderson, Director Of Operations-Cox Communications

From: Patricia Leach
To: fred.guerra@cox.com; james.anderson@cox.com
Date: 11/9/2005 1:44PM
Subject: Outstanding invoice 40003282

I have attached a copy of your outstanding invoice for \$26185.35 dated December 20, 2004. Please send us your check in order to clear this matter from our records.

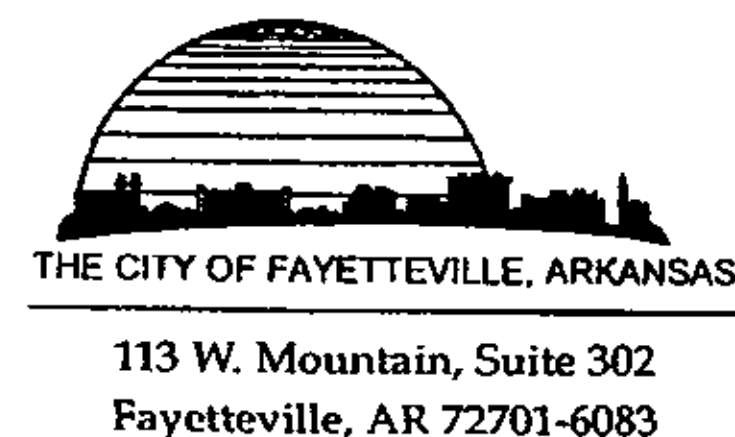
Patricia Leach
Accounting Coordinator
Accounting Division
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
(479) 575-8285 (ofc)
(479) 575-8273 (fax)
pleach@ci.fayetteville.ar.us

CC: Farthing, Marsha; Moore, Wendy

KIT WILLIAMS
FAYETTEVILLE CITY ATTORNEY

DAVID J. WHITAKER
Assistant City Attorney
Judy Housley
Office Manager

Phone (479) 575-8313
FAX (479) 575-8315



February 2, 2006

RE: Outstanding Invoice #40003282

Mr. Nelson Mower
Arkansas Vice President of Operations
Cox Communications
4901 S. 48th St.
Springdale, AR 72762

Dear Mr. Mower:

The Accounting Division of the City of Fayetteville has attempted on several occasions to collect reimbursement for legal fees in accordance with Section XXIII Reimbursement of Expenses, of the existing Cable Franchise Agreement. It has been more than a year since the reimbursement was invoiced, and the City has yet to receive payment.

In your letter of February 10, 2005, you state that it is your belief that invoicing of these expenses is "premature," since a renewal agreement had not yet been completed. However, our reading of the plain language of Section XXIII reveals no such requirement, and we again ask that you remit the sum of \$26,185.35 to satisfy your obligations under the Cable Franchise Agreement.

Some of the Legal Fees for which the City seeks reimbursement date back to early 2001, and the City's legal rights will be adversely affected if the 5-year Statute of Limitations is allowed to run without a resolution of this dispute. Therefore, if we do not receive payment by February 15, we will have to seek authority from the City Council to file suit to recover reimbursement. I have attached a draft of the Resolution that the City Council will consider at their February 21 meeting, if payment is not forthcoming.

This an attempt to collect a debt and any information obtained will be used for that purpose.

- 2 -

February 2, 2006

The City of Fayetteville does not take such steps lightly, but will do what is necessary to preserve our citizens' rights under the Cable Franchise Agreement. Payment of invoice #40003282 will, of course, have to be made promptly to ensure the resolution of this dispute before suit is filed.

The City looks forward to resolving this matter, and to working with you in the future.

Sincerely,



David J. Whitaker
Fayetteville Assistant City Attorney

Enclosures (6)

cc: Mayor Dan Coody
Fayetteville City Council
James E. Anderson, Director of Public Relations and Government
Affairs/NWA Region, Cox Communications

ALDERMAN APPEAL REQUEST FORM

COUNCIL MEETING OF: February 21, 2006

FROM: Alderman Robert Reynolds

APPEAL TITLE AND SUBJECT: Appeal the Planning Commission's decision regarding the approval of a Conditional Use Permit for the Temple Shalom synagogue on Rockwood Trail.


Alderman

1-27-06
Date


Alderman

1/30/06
Date


Alderman

1/31/06
Date


Alderman

1/27/06
Date

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 25, 2006

Subject: Conditional Use Permit for Temple Shalom (CUP 06-1892)

RECOMMENDATION

Planning Staff recommends approval of a conditional use permit to allow a temple at 1001 Rockwood Trail. This action would retain the existing single-family house and allow it to be used as the permanent home for Temple Shalom of Northwest Arkansas.

BACKGROUND

The subject property is located at 1100 Rockwood Trail just over a quarter-mile east of Mission Boulevard. The house on this property was designed by the famous architect Fay Jones, and is commonly referred to as the "Butterfly House". The 1.5-acre site contains an approximately 4,100 square-foot single-family house with a large driveway. The eastern portion of the property is a bare landscaped lawn with a chain-link fence dog run and storage shed visible from Rockwood Trail. The north, east, and west portions of the site are shielded by thick stands of trees and brush. The site is entirely surrounded by residential land uses in the RSF-4 Zoning District.

DISCUSSION

The Planning Commission voted 6-3-0 in favor of this request on January 23, 2006, with Commissioners Graves, Vaught, and Trumbo voting no for traffic safety concerns. Recommended conditions were approved by the Planning Commission with a few minor additions 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 traffic impacts. A larger number of written comments and a petition in objection to the project were also provided and are included in the attached staff report. The Planning Commission heard all comments from those that wished to speak, and were provided with copies of the written comments, as well. After much discussion, the conditional use permit was granted. The City Council has appealed this decision in accordance with the UDC.

BUDGET IMPACT

None.



PC Meeting of January 23, 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 12, 2006~~ February 2, 2006

CUP 06-1892: (TEMPLE SHALOM OF NWA, 447): Submitted by JOSEPH RATNER for property located at 1100 ROCKWOOD TRAIL. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.50 acres. The request is to allow a synagogue (Use Unit 4) in the existing zoning district.

Property Owner: Max Harral

Planner: Andrew Garner

RECOMMENDED MOTION:

Staff recommends approval of the requested cultural and recreational facilities use (Use Unit 4) for a temple in the RSF-4 zoning district on the described property, subject to the following conditions:

1. **Planning Commission determination of compatibility with adjacent properties and those within the same zoning district.** *Staff recommends that the use of site as a temple as described in the materials herein is compatible with surrounding properties. The modifications to allow a grass-pave parking area, landscaping, and extending the decorative/retaining wall shall be compatible with the existing structure and appearance of the property as a single-family structure and submitted to the Planning Division for review and approval. The temple activities at this site shall be limited in scope to be small and unobtrusive meetings/gatherings as described in concept in the materials provided by the applicant attached with this report.*

PLANNING COMMISSION FOUND IN FAVOR OF THIS CONDITION (01-23-06).

2. **Additions to or remodeling of the existing structure and site, and the intensity and nature of the temple use of the site, other than those approved and described with this Conditional Use Permit, shall be submitted as a conditional use for consideration by the Planning Commission, unless approved otherwise. If the use of the site is substantially different that that described in the information provided by the applicant, the conditional use permit may be revoked.**

3. Conditional Use approval shall not be construed to guarantee building permit approval. A building permit plan must be submitted for City review and approval for any extension or reconstruction of the existing structure(s). Development shall comply with all applicable provisions of the Unified Development Code including, but not limited to: tree preservation, minimum parking requirements, minimum buffering requirements, minimum landscape requirements, storm water detention, setbacks and bulk/area requirements.
4. The project shall conform to the required setbacks and other applicable zoning and development requirements.
5. Due to limited sight distance from the crest of a hill near the existing curb cut, staff recommends limiting this curb cut to an entrance and a right-out only exit, clearly depicted with a small directional sign. This directional signage shall be depicted on the site plan submitted for building permit. The new proposed curb cut shall be located as close to the eastern property line as feasible with the best sight distance, at a minimum of 5' from the property line in conformance with City ordinance.

PLANNING COMMISSION FOUND IN FAVOR OF THIS RECOMMENDATION (01-23-06).

6. The applicant shall contribute money in lieu of sidewalk at a rate of \$3 per square foot for a 4-foot wide sidewalk, along the project's Rockwood Trail frontage. This amount shall be determined by the Engineering Division based on a scaled site plan, and paid prior to issuance of a building permit.
7. Any new exterior lights on the structure and site shall not only meet the requirements of the Outdoor Lighting Ordinance, but shall be of a compatible architectural style with the existing house and surrounding single-family neighborhood, as determined by Planning Staff. A lighting plan and details shall be submitted to the Planning Division for review as part of the building permit. All lighting shall be limited to pedestrian-scale lighting (bollards, wall-mounted, etc.) and shall be unobtrusive to the neighborhood. No pole lighting shall be permitted on the site.

PLANNING COMMISSION ADDED (01-23-06).

8. All trash receptacle(s) utilized by this structure shall be internal to the existing structure. Exterior trash receptacles or dumpster pads shall not be allowed.
9. All improvements to the site shall be designed and constructed to be compatible with the appearance of a single-family residence to the extent

feasible.

10. The new parking area shall be constructed as described in this report to be a grass parking area with grass-pavers to accommodate a maximum of 20 vehicles. Parking shall not be permitted on the property that exceeds the capacity of the proposed 20-vehicle lot and driveway, or order to limit the size of events to be held in the single family neighborhood. Parking associated with this conditional use permit shall be contained entirely onsite and shall not be permitted on Rockwood Trail or any other public street.

PLANNING COMMISSION ADDED (01-23-06).

11. The new curb cut and driveway shall be constructed to have the appearance of a residential driveway, and shall be approved by the City prior to construction.
12. Landscaping for the site shall be planted as proposed in the presented site plans to include trees and shrubs to be compatible with residential use, and to provide screening of the parking area. A landscape plan shall be submitted for review and approval by Planning Staff prior to issuance of a building permit.
13. Signage within the RSF-4 zoning district is limited, and staff recommends limiting signage on this conditional use permit even further to ensure compatibility with surrounding residential properties. Staff recommends allowing the following maximum signage requirements for this conditional use: (a) only one on-site wall sign on the existing structure not to exceed 16 square feet; (b) two on-site directional signs for the curb cuts of the site not to exceed a maximum of 4 square feet per sign; and (c) one additional informational sign with the temple name not exceeding 4 square feet to be allowed on the front decorative wall or mailbox area. Staff recommends wall signs and information signage be constructed of bronze or other materials compatible with the existing structure.

PLANNING COMMISSION ACTION: Required YES

Planning Commission Action: ☒ Approved ☐ Denied ☐ Tabled

Motion: Anthes

Second: Lack

Vote: 6-3-0 with commissioners Vaught, Graves, and Trumbo voting no

Meeting Date: January 23, 2006

Comments: _____

The "CONDITIONS OF APPROVAL" listed in this report are accepted in total without exception by the entity requesting approval of this conditional use.

Name: _____

Date: _____

LIST OF REPORT APPENDICES:

Appendix A	Maps of the Project Area
Appendix A-1	Adjacent Property Owner Parcel Map
Appendix A-2	Regional Map
Appendix A-3	Vicinity Map
Appendix B	Project Description by the Applicant (under separate cover)
Appendix C	Written Public Comment
Appendix C-1	Comment Summary Table by Last Name
Appendix C-2	Copies of Written Comment by Last Name
<u>Appendix D</u>	<u>Meeting Minutes: January 23, 2006 Planning Commission Meeting</u>
<u>Appendix E</u>	<u>Petition in Opposition to the Project</u>
<u>Appendix F</u>	<u>Traffic Counts for Proposed Synagogue Use</u>

BACKGROUND:

Property Description: The subject property is located at 1100 Rockwood Trail just over a quarter-mile east of Mission Boulevard (see *Appendix A*). The house on this property was designed by the famous architect Fay Jones, and is commonly referred to as the "Butterfly House". The 1.5-acre site contains an approximately 4,100 square-foot single-family house with a large driveway. The eastern portion of the property is a bare landscaped lawn with a chain-link fence dog run and storage shed visible from Rockwood Trail. The north, east, and west portions of the site are entirely shielded by thick stands of trees and brush. The site is entirely surrounded by residential land uses in the RSF-4 Zoning District. The site is described in more detail and color photos of the house and yard are provided in the applicant's proposed, *Appendix B*.

Proposal: The applicant proposes to use the existing single-family structure as the permanent home for Temple Shalom of Northwest Arkansas. This Jewish temple was founded in 1981 and is Fayetteville's only Jewish congregation. Proposed modifications to the structure and property to make the site compatible for the Temple use are described and depicted in the supplemental information included in this packet (*Appendix B*), and include the following items:

1. Install a guardrail on the back patio;
2. Replace the three sliding glass doors in the rear of the house by outward swinging doors for emergency egress;
3. Install sign to the front wall or porch of the structure, and/or the mailbox or driveway light fixture;
4. Follow Fay Jones' original landscaping plan and screening of parking lawn;
5. Convert the bare lawn on the east side of the property into a grass parking area

to accommodate between 16-20 vehicles. This area would require some grading, extension of the existing retaining wall to the east, and installation of grass-pavers to make an adequate parking surface;

6. Install a new curb cut at the east end of the property, made to look like a residential driveway;
7. Some additional lights in the parking area may be necessary, and if needed, would be electric utility fixtures, or more residential style porch or walkway lighting.

The property is located within the RSF-4 zoning district, in which *Use Unit 4, Cultural and Recreational Facilities*, is allowable only by conditional use permit. The applicant requests Planning Commission consideration of conditional use permit to determine whether the proposed temple use and associated additions to the site are appropriate in the RSF-4 zoning district.

Request: The applicant requests conditional use approval to allow a Jewish temple, Use Unit 4, Cultural and Recreational facilities, within the RSF-4 zoning district.

Public Comment: Staff has received a relatively large volume of phone calls and written responses to the proposed conditional use permit. A list of written comments received in adequate advance of this Planning Commission meeting is summarized and included as an *Appendix C* to this report. A large number of the comments state concern and opposition to the project mainly for neighborhood compatibility and traffic issues, and other comment supports the project stating that it will help improve the appearance of the neighborhood and will be compatible. *A large number of people from the surrounding neighborhood were in attendance at the January 23, 2006 Planning Commission meeting. Verbal comment at the meeting centered on opposition to the project for the same reasons stated in writing and submitted prior to the meeting. The meeting minutes from this meeting are included in Appendix D. A petition was also submitted to Planning staff on the afternoon of January 23, 2006 with approximately 72 signatures in opposition to the project (see Appendix E).*

GENERAL PLAN DESIGNATION: Residential

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 for a temple within the RSF-4 zoning district.

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 §161.13 to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: In order to make findings regarding the impacts of the proposed temple use, staff analyzed the potential effects of the project on various land use and public interest issues. The results of this analysis are presented in *Table 1* on the following page.

Based on the conclusions shown in *Table 1*, granting the conditional use for a temple in this location will not adversely affect the public interest with appropriate and sensitive design measures in place. Surrounding properties are all single-family residential and the proposed temple would not adversely change the single-family character or appearance of the neighborhood. The low-intensity uses and lack of potential for growth of the temple as described in the supplemental information would not result in traffic or public service impacts that would be incompatible with the existing residential uses. Based on these findings, the public interest is not considered adversely affected by the presence of this temple.

Table 1
Community Impacts

Issue	Potential Effects	Conclusion
Aesthetics/ Community Character	The structure would retain its original Fay Jones design and appearance as a residential dwelling in the neighborhood. Installation of the extensive original Fay Jones landscape plan, removal of the chain-link dog run and storage shed, and extension of the decorative/retaining walls would improve the appearance of the site. Installation of the grass parking area as proposed would represent minimal visual intrusion to viewers along Rockwood Trail due to the parking area being below the street grade. Meetings and gatherings would be small and unobtrusive as described by the applicant. Appearance of vehicles during weekly services (approximately 6-8 vehicles on Saturday and Sunday) would not be substantially different from the number of vehicles that could be expected at a house of this size during the weekend. Monthly Rabbi-led services once per month with approximately 12 cars on Friday evenings would not represent an adverse visual impact or change in the character of the neighborhood. Occasional events with a maximum of 25 cars parked on the site would not result in a substantial change in the appearance or character of the community due to the irregular nature of such events. Proposed low-scale identification and directional signage would alter the appearance of the neighborhood slightly enabling viewers to note the temple use of the site. Signage limitations would keep these visual impacts to a minimal level.	No significant adverse visual or community character impacts.
Traffic and Traffic Safety	Vehicle trips generated would be limited during the week to: (1) occasional random trips for office work by one or two people, (2) approximately 6-8 vehicles on Saturday and Sunday afternoon and evenings, (3) approximately 12 vehicles at the monthly Friday evening services, and (4) occasional events (approximately 2-3 times per year) that would generate 20 vehicles to the site at one time. Based on the general traffic engineering standard of 10 vehicle trips per day per dwelling, the existing house would generate approximately 70 vehicle trips per week. Traffic from the proposed temple would not adversely affect traffic flow or the street condition when compared to the existing residential nature of the site. The new proposed curb cut at the eastern end of the property has a better line of sight than the existing curb cut and would provide a second safe means of access. Due to the limited sight distance at the western curb cut, staff recommends limiting the exit from this curb cut to a right-out only. Pedestrian use in and around the site is not anticipated due to the lack of sidewalks, and the proposed parking that would be contained onsite.	No significant adverse traffic flow or traffic safety impacts.*
Parking	All parking would be contained onsite. The existing driveway is anticipated to contain 5 vehicles, and the new grass parking area is anticipated to accommodate 16-20 vehicles, for a maximum parking capacity of 25 vehicles. Based on the house being able to hold 101 persons, the proposed parking is within the City code requirement of 18-33 spaces. Parking is to be entirely screened from view from the right-of-way and adjacent properties.	All parking is contained onsite, no adverse impacts.
Lighting	If additional lighting for the parking area is proposed, the lights would be required to comply with the Lighting Ordinance, requiring fixtures to be fully shielded and downward directed. Compliance with the lighting ordinance would avoid light pollution from the project. However, to avoid the potential for parking lights that are not compatible with the neighborhood, staff recommends a condition requiring any new lights to be reviewed and approved by Planning Staff as part of the building permit approval for architectural style that is compatible with the residential neighborhood, and all lighting to be of a pedestrian scale, utilizing bollards, wall-mounted lights, etc.	Minimal additional lighting, if any, is anticipated to be unobtrusive and would be reviewed for architectural compatibility with the residential neighborhood. No adverse impacts.
Noise	Noise associated with the uses as described in the information provided by the applicant would be those associated with religious services and study inside the existing structure, occasional social events and larger services, and vehicles traveling to and from the property for those activities. It is not anticipated that noise from the temple would be noticeably different from residential uses. The City noise ordinance as administered by the Police Department on a complaint basis would be applicable to this as a residentially-zoned property.	No substantial noise impacts.
Public Services	The provision of public services to the site such as fire, police, water, sewer, and other utilities currently exist to the property, and due to the small scale of the proposed use would not create a burden for public service providers.	No substantial public service impacts.

*Appendix F provides the traffic generation rates for the proposed synagogue based on the Microtrans traffic model. The model shows that 24 average daily vehicle trips (ADT) would be generated for a synagogue with 50 family members. This number is very similar to approximately 20 ADT that would be generated from the existing two single family lots on which the synagogue would be located.

(c.) The Planning Commission shall certify:

- (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are no 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: Access from Rockwood Trail to the subject property currently exists. An additional curb cut and driveway is proposed near the eastern edge of the property with the improvements to create a grass parking area. As discussed in *Table 1*, this curb cut has adequate site distance and would provide a second means of safe egress. Due to the crest of a hill located near the existing westernmost curb cut, staff recommends limiting this curb cut to an entrance and a right-out only access point. Off-site street improvements are not required for this proposal. Money in lieu of sidewalk improvements is recommended by the Sidewalk Coordinator for this property and will be assessed along the project's frontage in the amount of \$3 per square foot.

- (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: A parking lot is required for the proposed temple uses. As described in *Table 1*, the applicant proposes to construct a parking area with a grass-paver surface to accommodate between 16-20 vehicles, in addition to the approximately 5 parking spaces that are available in the large front driveway. The total parking that would be provided is in compliance with City ordinance. See *Table 1* for detail. The applicant proposes an extensive landscape plan based on Fay Jones' original concept, and would effectively screen the parking area in compliance with ordinance. Staff is in support of the landscaping

concept; however, a full landscape plan shall be submitted for review and approval as part of the building permit review, with plant species subject to approval of the City's Urban Forester.

Any parking lot lights that may be installed in the future shall meet the requirements of the Outdoor Lighting Ordinance. A lighting plan and details shall be submitted to the Planning Division as part of the building permit review. In addition, in order to ensure that light fixtures are compatible with the surrounding residential neighborhood, light fixtures shall be reviewed and approved by Planning Staff as part of the Lighting Plan to determine that the fixtures are of a compatible architectural and lighting style with the neighborhood.

- (c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: It is anticipated that the existing residential curbside trash service would be adequate for the proposed temple use, and is not proposed to be modified with the improvements to the site.

- (d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently extended to this property.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: As part of the building permit, the applicant shall submit a Landscape and Abbreviated Tree Preservation Plan to the Planning Division for approval pursuant to City Ordinance and in addition to any other plans deemed necessary. Adequate vegetative screening shall be provided between this use and adjacent residential zoning districts as required by ordinance or as deemed appropriate by the City Planning Division. The site is screened by a dense tree and brush canopy on the north, east, and west, with the frontage on Rockwood Trail unlandscaped. The landscaping concept proposed by the applicant would include extensive plantings and extension of a decorative wall along the street frontage, further screening and enhancing the site.

- (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: Signage within the RSF-4 zoning district is limited. In order to ensure that the proposed temple use is compatible with the neighborhood, staff recommends further limiting signage onsite to the following: (a) only one on-site wall sign on the existing structure not to exceed 16 square feet; (b) two on-site directional signs for the curb cuts on the site not to exceed a maximum of 4 square feet per sign; and (c) one additional informational sign with the temple name not exceeding 4 square feet to be allowed on the front decorative wall or mailbox area. Staff recommends wall signs and information signage be constructed of bronze or other materials compatible with the existing structure.

(g.) Required setbacks and other open space; and

Finding: Any new development or additions to the structure shall meet open space requirements and required building setbacks for the RSF-4 zoning district.

(h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the proposed use for a temple is compatible with the adjacent residential uses. All the details for the temple use seem positive and do not seem to represent a high degree of incompatibility with residential neighborhoods, especially due to the use of an existing home, without expansion, for the temple. The parking area would be almost completely located below grade from the street, out of view, and substantial landscaping would be added along the Rockwood Trail frontage. The gatherings/meetings proposed seem to be small and unobtrusive, unlike the high-volume downtown church use that would certainly be incompatible with this neighborhood. Staff has received positive comments from neighbors, as well as those that have voiced their concerns and opposition. Based on these findings and those detailed in *Table 1* provided earlier in this report, staff finds that granting the conditional use permit will be in harmony with the general purpose and intent of General Plan and zoning regulations, and will not be injurious to the neighborhood.

**Fayetteville Unified Development Code
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.

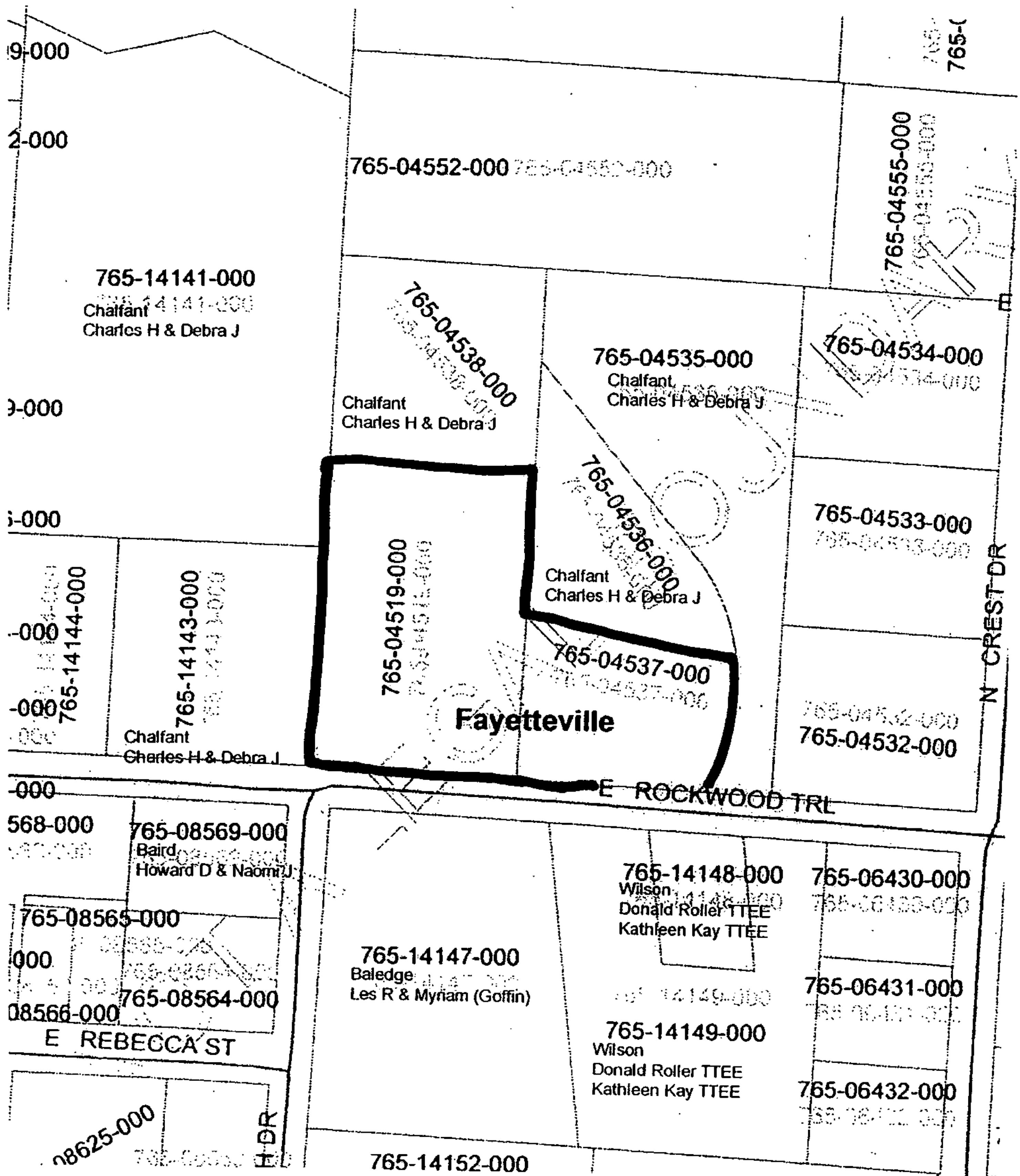
(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

APPENDIX A

MAPS OF THE PROJECT AREA

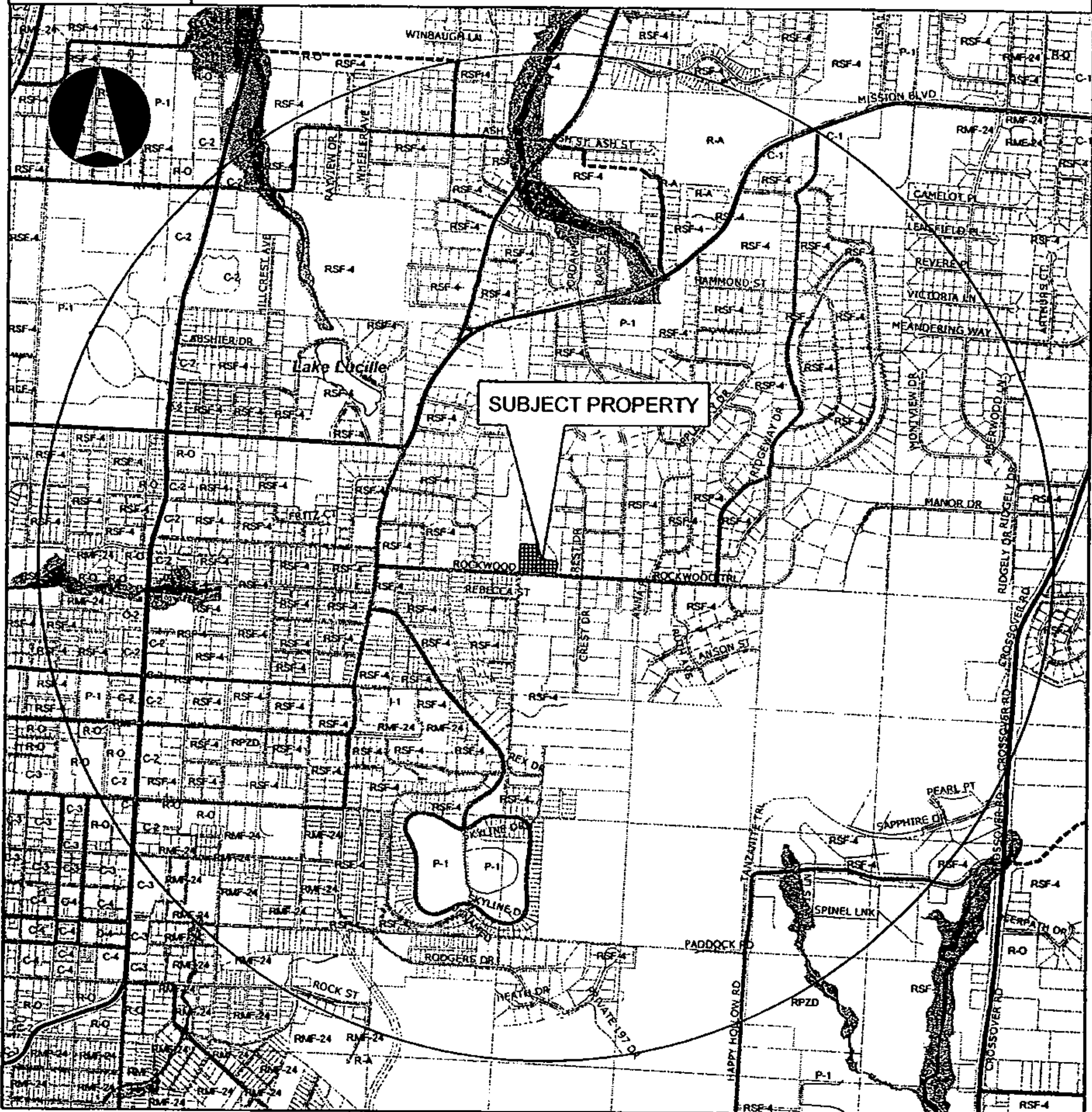
- APPENDIX A-1 ADJACENT PROPERTY OWNER PARCEL MAP**
- APPENDIX A-2 REGIONAL MAP**
- APPENDIX A-3 VICINITY MAP**



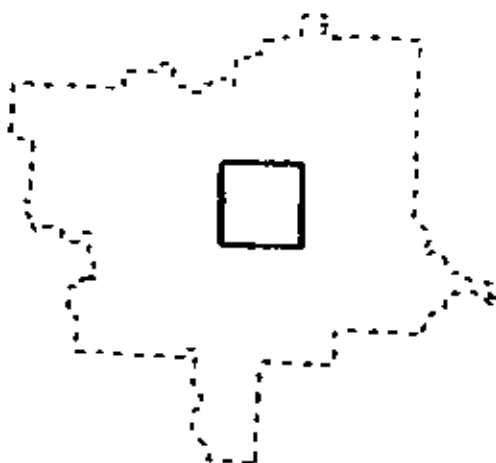
CUP06-1892

One Mile View

TEMPLE SHALOM OF NWA



Overview



Legend

Subject Property

CUP06-1892

Boundary

Planning Area

Overlay District

Outside City

0 0.125 0.25

0.5

Legend

0.75

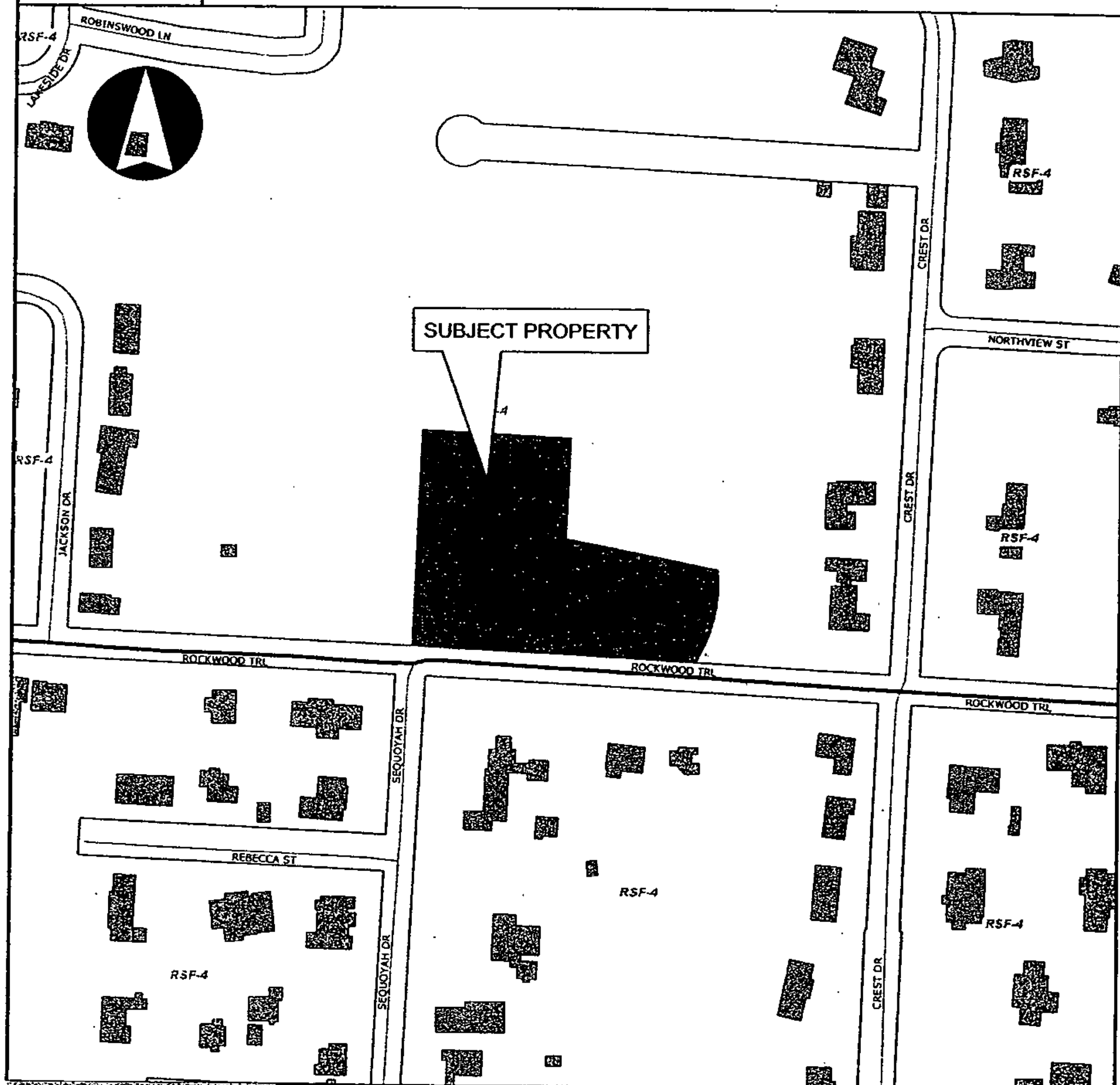
1

Miles

CUP06-1892

Close Up View

TEMPLE SHALOM OF NWA



Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- CUP06-1892
- vector.GDB.Footprint_2004

0 75 150 300 450 600 Feet

APPENDIX B

PROJECT DESCRIPTION BY THE APPLICANT (UNDER SEPARATE COVER)

APPENDIX C

WRITTEN PUBLIC COMMENT

APPENDIX C-1 COMMENT SUMMARY TABLE BY LAST NAME

APPENDIX C-2 WRITTEN COMMENT BY LAST NAME

(UPDATED 01-25-06)

Temple Shalom
Conditional Use Permit 06-1892
Written Public Comment By Last Name
(Updated 01-25-06)

No.	Name		Address		Comment/Summary
	Last	First	Number	Street	
1	Ahrendsen	Bruce and Jolene	1802	Applebury Place	Opposed to the project for the following adverse impacts that would result: residential safety, residential character, neighborhood future.
2	Anderson	Emmie and Ron	NA	NA	Love Mt. Sequoyah the way it is and oppose having a church in the middle of the neighborhood.
3	Baledge	Les and Mina	NA	Adjacent neighbors	Object to rezoning. Additional traffic, property value reduction, 21 space parking lot. Other areas more appropriate.
4	Bashor	Lorraine	848	Rockwood Trail	Object to the project: potential for growth, connection over Mt. Sequoyah, traffic safety and road condition.
5	Barron	Max and Margaret	505	Sequoyah Drive	Concerns to consider: traffic safety, character of neighborhood.
6	Beard	Lorna	717	Rockwood Trail	Any non-residential use on Mt. Sequoyah will destroy the beauty and livability of the area. Would prefer all non-residential development banned from the neighborhood.
7	Beardsley	Tony	NA	NA	Opposed to the project. Not compatible in neighborhood (parking, lighting, traffic). The parking lot may expand in the future. Wish to keep the neighborhood strictly residential.
8	Beckers	Michael	608	Sequoyah Drive	Opposed to allow any other use than current uses at the site. The proposed permit/rezoning would set precedence for other ventures.
9	Benton	Robert	1353	Rockwood Trail	Strongly opposed. Additional traffic, unsafe, eyesore, neighborhood compatibility.
10	Blair	Jim	NA	NA	Object to the proposed 'spot rezone'. The church will grow overburden the existing roads and disturb the existing peaceful neighborhood.
11	Brill	Katherine	1708	Anson Street	Always wondered why the subject lot was un-landscaped. Would be delighted to have temple in neighborhood. Much thought and consideration has been put into the plans to improve the lot and be cognizant of the concerns of the neighborhood.
12	Chalfant	Chuck	1010	Rockwood Trail	Opposed to the project as it would grow, and there are other more appropriate locations. This would set a precedent that anyone can set up a church anywhere.
13	Chalfant	Debbie	1010	Rockwood Trail	Object to the project: traffic concerns, bad precedent for this neighborhood, adverse impact to property values.
14	Condren	Sue and Terry	1585	Anson Street	Object to the project. Unacceptable use of residential property. 21 space parking lot and playground.
15	Cox	Mr. and Mrs. Boyd D.	545	Crest Drive	Opposed to the project. Adverse impacts to character of neighborhood, traffic safety, would ruin the neighborhood.
16	Culberson	Patti Stiles	1008	Trust	Opposed to using the Butterfly House for any use other than residential dwelling. Concerned issues include: quality of life, traffic safety and congestion, overflow parking.
17	Dickard	Paul and Ethan	1197	Rockwood Trail	Concerned with extra traffic and traffic safety, potential for expansion of the church.
18	Dicus	Cathy	1500	Clark Street	Opposed to the project. Adverse traffic/safety impacts. Other options for this church. Possibility of another organization purchasing the property after the fact.
19	Dykman	Dana	1822	Rockwood Trail	Opposed to the project: additional traffic and traffic safety, not compatible in this neighborhood, parking lot is not compatible in a single-family lot, potential light pollution.
20	Dykman	Tom	1822	Rockwood Trail	Significant negative impact to neighborhood. Lighted, congested, parking lot result in adverse visual impacts; traffic congestion, danger to vehicles and pedestrians; significant upside for growth of the temple.

Temple Shalom
Conditional Use Permit 06-1892
Written Public Comment By Last Name
(Updated 01-25-06)

No.	Last Name	First Name	Number	Address	Comment Summary
21	Eastin	Terry	858	Jackson Drive	Opposed to the project: traffic and traffic safety, parking lot would not be large enough.
22	Echols	John	1022	Trust Street	Opposed to the project for traffic safety, and on-street parking.
23	Elges	Elizabeth and Lauren	701	Kenilworth Avenue	Opposed to the project: traffic safety, wildlife crossings, light pollution, precedent for future decisions.
24	Farber	Pomfret Farber	3470	Nottingham Place	Property owner of 1009 Rockwood Trail. In support of this project.
25	Farrell	D	NA	Neighbors just off Rockwood	Concerned with the proposed parking lot.
26	Freeman	Travis and Kristi	718	Crest Drive	Do not oppose the project. Do not believe the temple will change the integrity of the neighborhood.
27	Greeson	James	1339	Rockwood Trail	No objection to the project.
28	Greeson	Janet	1339	Rockwood Trail	Only concern is additional lighting, and possible measures to prevent light from shining into neighboring houses.
29	Hicks	Jean	1873	Choctaw Court	Not a good idea to have a church in a neighborhood.
30	Laughlin	Martha	1001	Rebecca Street	Opposed to the project because of traffic safety, aesthetic concerns, and encroachment of non-residential uses into the neighborhood.
31	Lusby	Lonnie	607	Sequoyah Drive	Opposed to the project. Traffic concerns, wish to keep neighborhood the way it is.
32	McClinton	David and Imelda	NA	NA	Opposed to the project. Traffic safety, and this would encourage the Barbers.
33	Miller	Kathy	NA	NA	Not appropriate in a residential neighborhood - opposed to the project.
34	Neel	Eleanor	835	Crest Drive	Proposed project is inappropriate and detrimental to neighborhood. Not sure that Hillel, the University Group will not use the site. Traffic safety, adverse aesthetic impacts.
35	Ozment	John	804	Crest Drive	Adverse noise, light, privacy, property value, and traffic impacts. Opposed to the project.
36	Ozment	Vicky	804	Crest Drive	Opposed to the project. Adverse impacts to community character from traffic, parking lot, playground. No guarantee of future use of the residence by change of leadership or needs.
37	Ponder and Roth	Sherry and Paul	614	Sequoyah Drive	Object to rezoning. Additional traffic, light pollution, power outages, property value. In objection of this project
38	Prassel	Ann	1613	Rockwood Trail	Opposed to the project. There was a gathering at the "Butterfly House" on January 22 and traffic was noticeably increased.
39	Ratliff	Sam, Kim, Annie, and Peter	941	Crest Drive	Opposed to project. Not appropriate in a residential neighborhood.
40	Rogers	Margaret	922	Rockwood Trail	Concern about the project because of neighborhood compatibility, traffic issues, and property value devaluation.
41	Ruth	Brad	805	Crest Drive	Strongly opposed to the requested conditional use permit.
42	Rye	Linda	1657	Anson Street	Opposed to having a business/commercial/church in the neighborhood. Adverse community character impacts. Other appropriate areas in the city for this use. Adverse traffic impacts.
43	Saitta	Michael	609	Crest Drive	Opposed to the project. The project is unnecessary, unsafe, and unwanted by the neighbors.
44	Shipley	Curtis and Jane	1132	Ridgeway Drive	Adverse impact to community character and traffic. Opposed to parking lot in a side yard and lighting.
45	Sowder	Victoria	NA	NA	Opposed to the project: size of congregation, growth of the church, close ties to UA Jewish student organization.

Temple Shalom
Conditional Use Permit 06-1892
Written Public Comment By Last Name
(Updated 01-25-06)

No.	Last Name	First Name	Number	Address	Comment Summary
46	Spencer	Steven	562	Sequoyah Drive	Opposed to the project. Plenty of other available space. Bad precedent for future projects.
47	Tolleson	Gail	671	Sequoyah Drive	Project will "brighten" the area. Feel they will be excellent neighbors.
48	Tolleson	John	671	Sequoyah Drive	Project will enhance the neighborhood. In support of this project.
49	Underwood	Bill	1088	Shadowridge	Location for a temple is wrong: traffic safety, parking spaces would not have enough room onsite.
50	Urban	Charles and Priscilla	1885	Rockwood Trail	In strong support of the project. Increase real estate values, add interest and spiritual depth, be well-maintained and increase the aesthetic appeal.
51	Volkamer	Janis	807	Rockwood Trail	Project would destroy the beauty of living in Mt. Sequoyah with a sign out front and lighting and parking lot.
52	Vorsanger	Fred	NA	NA	Written comment not provided, but stopped by Planning Office to voice concerns. Objections to the project are concerning traffic and condition of the road.
53	Webb	Jennifer	1832	Viewpoint Drive	In support of the project for the following reasons: diversity in Fayetteville, will be a good neighborhood with predictable values and habits, total load of people is minimal and holidays the group would go offsite, traffic would be minimal, adverse visual impacts would not occur, historic value of the structure.
54	Welch	Michelle	707	Crest Drive	Opposed to the project. Increase traffic, parking problems, pedestrian safety, parking lot, extra lighting.
55	Williamson	Malcolm and Carolyn	834	Jackson Drive	Welcome the Temple Shalom to the neighborhood. Anticipate them being good neighbors and a positive addition to the neighborhood. Issues to be aware of: Rockwood Trail is a hazardous road, all lights should be downward-focused.
56	Wimberly	Sharon	1106	Ridgeway Drive	Opposed to the project for the following reasons: inadequate street condition and traffic and pedestrian safety; church growth; integrity of the home; community character.
56	Zimmerman	Stacey	NA	NA	Originally was in support of the project, but based on neighbor's concerns is now in opposition of the project.

From: Bruce Ahrendsen <ahrendse@yahoo.com>
To: <planning@ci.fayetteville.ar.us>, <jpate@ci.fayetteville.ar.us>, <cmonreal@ci.fayetteville.ar.us>, <agarner@ci.fayetteville.ar.us>, <tconklin@ci.fayetteville.ar.us>
Date: 1/23/06 4:32PM
Subject: Conditional Use Permit (CUP 06-1892) for "Butterfly House"

Dear Members of the Planning Commission,

Re: Public Hearing for Conditional Use Permit (CUP 06-1892) for "Butterfly House" on Rockwood Trail to be heard by City Planning Commission at their regular meeting on Monday, January 23, 2006; 5:30 PM; Room 219; submitted by Temple Shalom of Northwest Arkansas.

Thank you for taking into my comment on the change in use of the "Butterfly House". In short, our position is against the change in use. The following are three reasons for this position.

Residential Safety

The "Butterfly House" is located at Rockwood Trail, where it does not have curbs, has no shoulders, is at the top of a hill, intersects with another street, and has an unexpected "jog" in the narrow street. All of which makes it a particularly dangerous place. The "jog" is where the street goes from being a straight street to having an abrupt veer to the left followed by an abrupt veer to the right before returning to being straight. The top of the hill means that oncoming traffic is obstructed from view. On a personal note, my mother died as a result of a two-car accident on a road with similar characteristics as those.

As with many places in Fayetteville, this property may have parking problems if the change in use is approved and when membership grows. There would be the temptation by members to park in the street which has occurred for other places in Fayetteville. Again, this would make for a dangerous, unsafe area.

Residential Character

My wife and our two children reside at 1802 N. Applebury Place, which has been our home/residence for 15 years. I specifically use the words "reside" and "residence" to accentuate the point that we live in a residential neighborhood, where the area is zoned as such. If we had wanted our family to be in a non-residential area, we would have bought a home near non-residential property. Homes in our area were designed and are for residential use.

Neighborhood Future

Any changes in use of property will open the door for other petitioners to argue for changes in use in the future.

Also, while the petitioners for the change in conditional use to the "Butterfly House" may indicate that they are small in number and that any growth in numbers would call for a change in location, we are concerned that there will be a temptation to expand capacity by adding on to the house, building another structure(s) on the property, and/or acquiring additional nearby property.

Bruce & Jolene Ahrendsen

Do You Yahoo!?

Tired of spam? Yahoo! Mail has the best spam protection around
<http://mail.yahoo.com>

From: James Culberson <culbersons@sbcglobal.net>
To: cindy <cmonreal@ci.fayetteville.ar.us>
Date: 1/23/06 10:34AM
Subject: butterfly house

Dear Commission,

Please understand that we love Mt Sequoyah just the way it is. We oppose having a church in the middle of our neighborhood. You have an obligation to represent the citizens, and our voices. We are taxpayers, and we want to protect our lovely neighborhood. We really don't ask for much, just to be left alone.

Thank you!

Emmie and Ron Anderson

From: "L Baledge" <lbaledge@cox.net>
To: <planning@ci.fayetteville.ar.us>, <jgambill@ci.fayetteville.ar.us>
Date: Mon, Jan 9, 2006 12:02 PM
Subject: Butterfly House Rezoning

Jeremy Pate, Director of Current Planning
Jan Gambill, Senior Planning Clerk

Dear Mr. Pate and Ms. Gambill:

We have received notice of the potential rezoning of the Butterfly House for use by Temple Shalom as a church. Our house is adjacent to this property.

We object to this potential rezoning. Our neighborhood consists exclusively of single family residences and is healthy. We don't want the additional traffic a church would bring (Rockwood Trail is already busy) or the reduction of value from a "mixed use" neighborhood. Mina and I certainly don't want a 21 car parking lot across the street from our home.

There are plenty of other locations in Fayetteville which are correctly zoned and appropriate for this type of use.

Please recommend rejection of this request. Please forward our comments to members of the Planning Commission and let us know if this matter will come before the Commission for public comment and vote.

Thank you for your attention to our concerns.

Sincerely,

Les & Mina Baledge

CC: "Yasmina" <yasmina2@cox.net>

648 Rockwood Trail
Fayetteville, Arkansas 72701
January 11, 2006
Re: Temple Shalom on Rockwood
To Whom it may concern,

I have lived on Rockwood since 1972 between Jackson and Woodlawn the steepest part of the Trail. I object to Temple Shalom locating on this street for the following reasons.

Once the congregation buys a large building and property of their own, people from around Northwest Arkansas will join them. No one can predict the traffic increase in five years given how fast the population is growing.

We on Rockwood have twice fought cutting Rockwood through to 265 which would completely alter the residential nature of Sequoia. Temple Shalom would push for an exit in that direction for their people from the north. Their voice would be greater than the neighbors. Exiting Rockwood onto Mission puts people where there is no way to go West, North or South without using narrow overcrowded roads already.

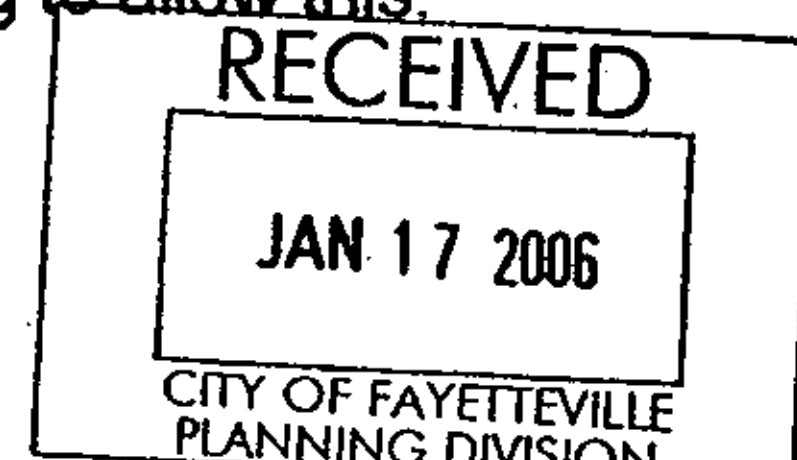
I came within 5 minutes of losing my life recently as I turned off Mission and up Rockwood. As I entered my drive a huge tree mulching rig came down Rockwood brakeless and crossed over to the left just before Mission. Running onto the last property it plowed down a big tree and hit a cement retaining wall around the house to avoid crashing into traffic. The rider you may recall jumped and lost his life. That is just the latest of many close calls we have had on this no-shoulder road where the grade is as steep as North but with no level block at the bottom in which to slow down.

I have never known a church which did not hope to expand and offer more programs once they invested in a larger plant. I don't believe we would recognize this property 25 years from now. Just look at any in-town church for proof of this—Central Methodists, University Baptist, United Presbyterians, St Josephs, etc.

Finally, members will need four wheel drives to make it to church on snow days and may have to park on Mission and walk up. Even if we widen Mission and get a light it is still not wise city planning to allow this.

Mrs. Phil Bashor

Loraine Bashor



From: <Hogknight@aol.com>
To: <planning@ci.fayetteville.ar.us>, <jpate@ci.fayetteville.ar.us>, <jgambill@ci.fayetteville.ar.us>, <cmonreal@ci.fayetteville.ar.us>, <agarner@ci.fayetteville.ar.us>
Date: 1/15/06 5:20PM
Subject: Fay Jones "Butterfly House"

We would like to express our concerns about the proposal for conditional use of the property at 1100 Rockwood Trail, commonly known as the "Butterfly House".

1. Safety. Rockwood Trail is a narrow street with no sidewalks on rolling terrain with numerous blind spots and intersections. It is a heavily traveled street, and many of the vehicles exceed the posted 25 mph speed limit. Entering or exiting the property from the only access, Rockwood Trail, is hazardous. If conditional use is approved, and the current relatively small congregation grows, it will only make the problem worse.
2. Changes in the character of the neighborhood. Ours is a residential neighborhood. Approving conditional use will mean changes such as a parking lot, security lights, and signage on the property. This would change the character of our residential neighborhood. We would prefer our neighborhood to remain residential.

We request that our e-mail be placed in the site packets of the Planning Commissioners prior to their visit to the site. Please take our concerns into consideration as you make your decision. Thank you.

Max & Margaret Barron
505 N. Sequoyah Drive
Fayetteville, AR 72701
(479) 521-5839

CC: <nanwilli@cox-internet.com>, <vsowder@beta-rubicon.com>, <jsfreund@uark.edu>

Andrew Garner - Butterfly House

From: "Lorna Beard" <lornabeard@hotmail.com>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/16/2006 11:16 AM
Subject: Butterfly House
CC: <agarner@ci.fayetteville.ar.us>

To Whom It May Concern:

My husband and I have lived in our home at 717 Rockwood Trail since the summer of 1979. We value highly the atmosphere of Mt. Sequoyah with it's abundance of trees, lack of fences, resident wildlife and residential-only status. We fear, therefore, that allowing ANY non-residential inroads will slowly destroy the beauty and liveability of the area in which we live.

Yesterday, I met and talked to several people from Temple Shalom at the Butterfly House. They showed me a drawing of how they would keep their parking area out of sight of the street by numerous plantings between it and the street, as well as the surface they are planning to install being more "green" than concrete. I have to admit that I felt a bit better about their congregation relocating to the Butterfly House after seeing their plans. I am also aware that they have a very small congregation that is unlikely to grow much over the years. However, with all that said, I still would prefer all non-residential development banned from the Mt. Sequoyah neighborhood.

Best Regards,
Lorna Beard
lornabeard@hotmail.com
479-582-3708

From: Tony Beardsley <tbeardsl1@yahoo.com>
To: <cmonreal@ci.fayetteville.ar.us>, <agarner@ci.fayetteville.ar.us>
Date: 1/16/06 9:21PM
Subject: Conditional Use Permit (CUP 06-1892)

This email is in reference to CUP 06-1892 to Temple Shalom to turn 1100 Rockwood trail into a Temple for their congregation.

I would like to state my opposition to the granting of the requested permit for the following reasons:

- 1) The construction of a parking lot in a residential neighborhood.
- 2) The additional traffic at the intersection of Rockwood and Mission after events at the temple as well as the potential for congestion in front of the "Butterfly House".
- 3) The additional lighting that will be required for the parking lot.
- 4) The additional needs for parking that will effect the surrounding streets during large events at the Temple.
- 5) The potential need for addition to the parking lot as the Temple congregation grows.

I am opposed to any variance that would allow the use of a residential structure for anything except for it's original design. As a resident of Mount Sequoia I wish to keep the neighborhood restricted to residential use.

Thank you,

Tony Beardsley

Yahoo! Photos

Ring in the New Year with Photo Calendars. Add photos, events, holidays, whatever.

From: "Michael Beckers" <michaelb@airwaysfreight.com>
To: <PLANNING@CI.FAYETTEVILLE.AR.US>, <JGAMBILL@CI.FAYETTEVILLE.AR.US>
Date: Mon, Jan 16, 2006 11:15 AM
Subject: RE: Butterfly house on Rockwood Trail:rezoning/ conditional use permit/ use other than R

Dear Ms. Gambill, Dear Mr. Pate

I recently moved to the below address from a Chicago 'Bedroom'community/ suburb very similar to Fayetteville; with lots of religious worship places .

All of them were close but NOT within our residential neighborhoods.

Traffic around them was always a nightmare and safety a major concern - as worshippers often would rush to get there on time.(and that in a neighborhood where all streets had sidewalks and were much wider then Rockwood trail.

I also believe that allowing such a permit/rezoning would set precedence for other similar ventures;

Consequently please note that I am opposed to allow any other use then the current (single family home) one.

Thank you kindly for your consideration.

With kind Regards

Michael J.Beckers

608 N Sequoyah (4 houses from the Butterfly House)

From: Cindy Monreal
To: Andrew Garner
Date: 1/17/06 9:11AM
Subject: Fwd: CUP 06-1892

FYI

>>> <RSBENTON@aol.com> 01/13/06 4:58 PM >>>

i am strongly opposed to allowing cup 06-1892. my name is robert benton, my address is 1353 rockwood. the additional traffic will be unsafe. the parking lot, signage and lighting will be an eyesore. there are no other churches on our street please help protect the neighboehood and defeat cup 06-1892. thank you.

From: "Nancy Beth Williams" <nwilliams@tcainternet.com>
To: <PLANNING@CI.FAYETTEVILLE.AR.US>, <JGAMBILL@CI.FAYETTEVILLE.AR.US>
Date: Mon, Jan 16, 2006 10:44 AM
Subject: BUTTERFLY HOUSE REZONING

DEAR MR. PATE AND MS GAMBILL

I WANT TO ADD MY OBJECTION TO THE ATTEMPT TO "SPOT REZONE" THE RESIDENTIAL NEIGHBORHOOD OF ROCKWOOD TRAIL TO ALLOW THE FAY JONES HOUSE TO BECOME A CHURCH OR TEMPLE.

IT MAY BE THAT THIS PARTICULAR CONGREGATION IS SMALL AND EVEN AT SPECIAL EVENTS SUCH AS BAR OR BAT MITZIVAH'S WILL NOT HAVE CROWDS EXCEED 100 PEOPLE IN THE NEAR FUTURE. I DO NOT DOUBT IT WILL GROW AND PROSPER. I HOPE IT DOES AND WISH IT WELL BUT UNQUESTIONABLY IT WILL OVERBURDEN A NARROW AND OVERTRAVELED STREET IN A STRICTLY SINGLE RESIDENCE NEIGHBORHOOD.

THERE ARE MANY, MANY LOCATIONS IN FAYETTEVILLE IN MIXED USE NEIGHBORHOODS OR COMMERCIAL NEIGHBORHOODS WHERE THE ESTABLISHMENT OF A TEMPLE FOR THIS FINE CONGREGATION WOULD NOT DIMINISH PROPERTY VALUES, CAUSE TRAFFIC DISRUPTION AND DESTROY THE PEACE AND QUIET OF A NEIGHBORHOOD THAT HAS FOUGHT SO MANY BATTLES OVER THE YEARS TO REMAIN PEACEFULLY QUIET.

THANK YOU FOR YOUR CONSIDERATION.

SINCERELY,

JIM BLAIR

NANCY BETH BLAIR

EXECUTIVE ASSISTANT

PH: 479-756-2545

FAX: 479-756-2546

CELL: 479-200-4151

E-MAIL ADDRESS: <mailto:NWILLIAMS@TCAINTERNET.COM>

From: Katherine Brill <katherinebrill@yahoo.com>
To: <cmonreal@ci.fayetteville.ar.us>, <agarner@ci.fayetteville.ar.us>
Date: 1/17/06 9:34PM
Subject: Butterfly House

I have lived at 1708 Anson for 21 years. I always wondered why that huge lot was left so "unlandscaped." I would be delighted to have the temple located in our neighborhood. Like schools, houses of worship add warmth and vitality to the local community. It seems to me that much thought and consideration has been put into plans for the home to keep its integrity, improve the lot and be cognizant of the concerns of the locale and neighbors.

Katherine Brill

Yahoo! Photos – Showcase holiday pictures in hardcover
Photo Books. You design it and we'll bind it!

From: "Chuck Chalfant" <cchalfant@spacephotonics.com>
To: "Andrew Garner" <agarner@ci.fayetteville.ar.us>, "Cindy Monreal" <cmonreal@ci.fayetteville.ar.us>
Date: 1/16/06 3:05PM
Subject: Against Church at 1100 Rockwood Trail

Mr. Andrew Garner

@ Ms. Cindy Monreal

Senior Planner

Fayetteville Arkansas Planning Commission

113 West Mountain Street

Fayetteville, AR 72701

Dear Mr. Garner and Ms. Monreal,

This letter states my objection to establishing a Church in the "Butterfly House" at 1100 Rockwood Trail.

One of the arguments for this establishment is "they will not grow" since they "are not a Christian Church". They indeed will grow as new residents arrive of their denomination, since it is the only one in Fayetteville. Establishing a church in a purely residential area would set a precedent that anyone can set up a church anywhere, in anyone's home, with signs and parking lots.

There exist ample locations in Fayetteville for this. A very nice church could be built from the ground up for the price they would be paying for the house.

I will be out of town on Jan. 23rd when the planning commission allows public input. I therefore wanted to file this letter with the planning commission stating that I and many others are totally opposed to the converting a residential home into a church at any location in Fayetteville.

Thank you very much for your time and consideration.

Sincerely,

Chuck Chalfant

1010 Rockwood

From: deb <purpledog12@swbell.net>
To: <agarner@ci.fayetteville.ar.us>, <cmonreal@ci.fayetteville.ar.us>
Date: 1/16/06 3:58PM
Subject: Butterfly House

I want to state my objection to the Butterfly House becoming a church. My husband and myself are building a house next door at 1010 Rockwood Dr. We believed that we were building in a residential area and not a mixed use area. As you may know, Rockwood is a narrow road and I am concerned about the traffic. There will be too many vehicles coming and going from one address. The Butterfly house was never meant to be a church or business and I believe that it would be very bad to start a precedent for this group. What would be next? Another church....small business that employs only 10 people? I do believe that in time this group will grown, it should, as the town grows....then what? I do believe that having the Faye Jones house turned into Temple will hurt the property values in the area. One of the greatest investments that people make is in their home. Again, I want to object to allowing Temple/church/business in a residential area.

Sincerely,

Debbie Chalfant
1010 Rockwood Dr.

From: "Sue Condren" <scondren@sbcglobal.net>
To: <agarner@ci.fayetteville.ar.us>
Date: 1/12/06 9:24AM
Subject: Temple Shaloam conditional use permit

Mr. Garner,

Attached is a letter regarding CUP 06-1892, Temple Shaloam's request for a conditional use permit for the "Butterfly House" on Rockwood Trail, Mt. Sequoyah. We would like it to be distributed to the planning commission, to be included in their site packet.

Thank so much,

Sue Condren

Terry Condren

CC: <cmonreal@ci.fayetteville.ar.us>

Date: January 12, 2006

To: Fayetteville Planning Commission

From: Terry and Sue Condren
1585 E Anson St
Fayetteville, AR 72701

Re: CUP 06-1892 Conditional Use Permit for the Butterfly House on Rockwood Trail, Mt. Sequoyah

Dear Sirs:

On January 23rd, you will be voting whether to grant a conditional use permit to Temple Shalom for a synagogue to be located in the Fay Jones "Butterfly House" on Rockwood Trail. Both my husband and I are opposed to the conditional use for this residential property in our neighborhood.

From attending an informational meeting arranged by Temple Shalom at Root School, and from reading correspondence sent to immediate neighbors, these are some of the issues as we understand them:

- They will construct a 21 space parking lot on the adjacent lot.
- The garage will be turned into classrooms.
- The interior will be reconfigured to include a library and an office.
- The sliding glass doors will be replaced with push-bar emergency exit doors.
- A small sign will be installed on the front wall of the house.
- A children's playground area will be installed on the adjacent lot.

We understand that the criterion the planning commission uses for approving a conditional use permit is, "Do the neighbors want this?" Our answer, and that of many Mt. Sequoyah residents we have talked with is, "No, we do not!" We feel it is an unacceptable use of this residential property.

The middle of an established neighborhood is not the place for a business with a 21 space parking lot and playground. The neighborhood churches that we are familiar with either were constructed first, and the neighborhood grew up around them, or they are located on thoroughfare streets, on the edge of the neighborhoods they serve, for example, churches on Mission Blvd, Township, Lafayette, and Crossover Rd.

It is not appropriate to allow this in the middle of a residential neighborhood. Rather, the location would be better served on a thoroughfare street, in areas where a church-type business, with parking lot and playground facilities, would fit in, and where the proper zoning is already in place.

Thank you for your time, and for your work on this important committee.

Sincerely,

Sue Condren

Terry Condren

From: <DrPamCox@aol.com>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/19/06 9:38AM
Subject: CUP 06-1892

We are ABSOLUTELY OPPOSED to this permit. This is and has always been a residential neighborhood and this temple would drastically change the character and integrity of the neighborhood. Rockwood Trail is already a dangerous street with hills creating blind spots all around this house. The additional traffic would be DISASTROUS - there would undoubtedly be numerous serious accidents involving not only members of the Temple but area residents as well. I am sure that no members of your committee want to be responsible in any way for any such incidents. This decision could ruin a lovely old neighborhood, so we STRONGLY urge you NOT to grant this permit.

Mr. and Mrs. Boyd D. Cox
545 Crest Drive

From: James Culberson <culbersons@sbcglobal.net>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/23/06 10:12AM
Subject: butterfly house

Dear Cindy and commission,

Thank you for hearing us. Thank God for freedom. I am opposed to the use of the butterfly house for any use other than residential dwelling. If we let this one slip in, it only opens the door to others, and that is not acceptable for our neighborhood. We love and respect this mountain as our home, and seem to be fighting to maintain a good quality of life because we feel that it is an important thing. We have lived on Sequoyah Dr. previously, and now on E Trust (just off Sequoyah). We understand why people cut through Sequoyah Dr. to get to Mission. A left turn at the bottom of Rockwood is very difficult, and they can hit the 4-way stop at Maple this way. Although it is understandable, it is already a problem with cars speeding while pets, kids, and walkers are everywhere. The street is narrow, and with the addition of at least 3700 car trips per year, times 2, this would definitely effect us, not to mention inevitable overflow parking on Sequoyah Dr. We have 2 teenagers driving now, and I hate to think how much harder it would be for all of us to pull out onto Sequoyah Dr. with more traffic.

I think it is inappropriate for the leaders of the Jewish community to ask us to compromise our own well-being and safety for their enhancement purposes. Please listen to the voices of the people effected by this, not the city planner who lives elsewhere!

Sincerely,
Patti Stiles Culberson
1008 E Trust

From: Paul Dickard <paul dickard@cox.net>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/16/06 8:49PM
Subject: Conditional Use Permit (Cup 06-1982) To Temple Shalom

- > We are writing about the granting of a conditional use permit
- > (CUP06-1892) to Temple Shalom to turn the Faye Jones "Butterfly
- > House" at 1100 Rockwood Trail into a Synagogue complete with a 21-
- > space parking lot. Although this may seem like a good idea, and we
- > respect their right to freedom of religion and assembly, we believe
- > that most citizens in this neighborhood do not feel this is an
- > appropriate place for a church and parking lot.
- >
- > As residents of 1197 Rockwood Trail, and having lived across
- > from the proposed location for eight years, the extra traffic that
- > the Temple would bring to the area presents a major concern for the
- > safety of those traveling on Rockwood Trail. This, combined with
- > the hidden drives, narrow roads and blind hills, could lead to an
- > increased frequency of accidents along the roadway.
- >
- > Furthermore, having personally visited the "Butterfly House",
- > as you will do as well, brings me to question how quickly a 50+
- > member church would find it necessary to expand in order to
- > accommodate growth, destroying more of the wooded area around the
- > neighborhood and amplifying the problems stated above.
- >
- > While no person could ask for more prudent neighbors than a
- > church, what disturbs us and we feel many members of our
- > neighborhood is the sheer volume of people that would be coming
- > through our quiet corner of Northwest Arkansas.

Sincerely,

Paul Dickard
Ethan Dickard

>

From: <cmd1953@aol.com>
To: <cmonreal@ci.fayetteville.ar.us>, <agarner@ci.fayetteville.ar.us>
Date: 1/15/06 5:19PM
Subject: Butterfly House CUP

I write in opposition of the Conditional Use Permit for the Fay Jones "Butterfly House" on Rockwood Trail. I live on Clark Street at the top of Rockwood Trail. Rockwood Trail is a busy residential street already in desperate need of curb and gutters and re-surfacing. It is heavily traveled by those of who live in the neighborhood and is extremely dangerous when winter weather arrives. Fayetteville is home to many commercial properties. Therefore, this organization has other options for purchase. Why does the integrity of our neighborhood have to be changed to a place for regular public meetings? What would stop another organization from trying to buy property on our street and turn it into a public meeting place? Would any other residential neighborhood welcome a public meeting place on their streets? Our neighborhood has worked long and hard to keep Rockwood Trail from becoming a cut-through street to Hwy. 265 in order to maintain the integrity of Mount Sequoyah. Please help us keep this a residential street.

Please consider all the concerns of the neighborhood as there is much opposition to this CUP. Thank you.

Cathy Dicus
1500 E. Clark Street
Fayetteville, AR .
479-521-2616

From: Tom and Dana Dykman <ozarkhigh@sbcglobal.net>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/16/06 10:38PM
Subject: CUP 06-1892 1100 Rockwood Trail

Dear members of the Planning commission:

I presently reside at 1822 Rockwood Trail and have been at that address for the past 12 years and I am opposed to the proposed conditional use permit at 1100 Rockwood Trail (CUP 06-1892). Here are my reasons :

- 1.) Adding additional traffic for regularly scheduled public meetings will intensify an existing safety issue in the neighborhood. Rockwood Trail barely handles the present traffic in the neighborhood and the road is already dangerous due to the grade, the absence of shoulders, and the number of hidden driveways.
- 2.) A meeting space with capabilities of housing 100 plus people several times a year would be a great insult to the integrity of this long time neighborhood. These numbers are accurate only for the present. Undoubtedly, the number of people utilizing the Temple will increase as the community grows. The present AND future downside risk to the neighborhood 's safety and well being are just too great.
- 3.) The installation of a parking lot into a parcel zoned to be a single family dwelling is absolutely not compatible with our neighborhood and most especially Rockwood Trail. Also, the illumination of a parking lot as well as the glare of headlights exiting the parking lot would be particularly annoying to the houses across the street .

Please take these issues into consideration as you evaluate this property and I hope you will deny this permit.

Sincerely,
Dana Dykman

From: Tom and Dana Dykman <ozarkhigh@sbcglobal.net>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/11/06 10:38PM
Subject: CUP 06-1892

January 11, 2006

Ms. Cindy Monreal
Secretary
City of Fayetteville Planning Commission
Fayetteville, AR 72701

Regarding: Rezoning permit (CUP 06-1892) for Butterfly House on Rockwood Trail

Dear Ms. Monreal:

I have lived at 1822 Rockwood Trail since 1993. I understand the Shalom Temple has applied for rezoning of the Butterfly House for use as a temple. I attended their informal neighborhood meeting last Fall so I am aware of the circumstances that have prompted their request.

I believe the use of this property for a temple will have a significant negative impact on our neighborhood. The applicants for this permit propose constructing a parking area with grass pavers to accommodate up to 20 cars. I suspect that a permanent temple to allow informal social and formal organized meetings will need this amount of parking. I also understand the parking lot would have to be lighted. As I and my neighbors drive up and down Rockwood Trail, I am certain this parking lot congestion will be a visual insult to the neighborhood atmosphere that has so long characterized Rockwood Trail. The lighting will make it offensive at night as well.

This is only part of the problem. The exit of these cars from the lot will significantly impact the traffic on Rockwood Trail. I need not remind you that Rockwood Trail has been singled out on numerous occasions in the past as a poor road for any additional traffic due to hidden driveways, no sidewalks and steep grade. Furthermore the bottom of Rockwood Trail is a "T" intersection with one of the busiest roads in that area of Fayetteville, Mission Blvd. It takes some time for even one car to exit off Rockwood onto Mission at certain times of the day. Fortunately the current neighborhood traffic seldom accounts for more than 3 or 4 cars waiting to get out at Rockwood and Mission. If the temple is allowed to rezone the Butterfly House, there may be up to 20 cars waiting to exit at the bottom of Rockwood Trail. This would impose very unreasonable waiting time at certain times of the day and night for those desiring an exit from Rockwood Trail.

This traffic will also place the neighbors who walk on Rockwood at additional risk for injury since there are no sidewalks. I drive carefully on Rockwood and cannot tell you the number of times I have come over a hill or down a slope only to be suddenly surprised by a pedestrian walking on the road. The members of the temple who have any ideas about walking to their temple on Rockwood will be at similar risk as the current residents of the Rockwood area.

I was told this temple would be quiet and not have a lot of meetings. Our area is growing as quickly as any area in the country. All religious organizations have the potential to grow and the track record of other religious organizations in NWA has been growth. There is no need to allow any entity with growth potential to land in our quiet neighborhood. The downside risk for our neighborhood is simply too great.

Additional structures will need to be added now including signage. Over time, the temple may need to accommodate growth by adding additional lighting, signage, building structures, playgrounds and more parking. It would be silly to assume this situation would not be dynamic over time. I really don't want to drive by the house every day and wonder what the next change will be. Even if these additions did require

reevaluation of the conditional use permit, I really don't think the neighbors should be subjected to coming back to the commission every time the permit requires review. Our neighborhood deserves more stability than the temple would bring to our area.

I am asking you to deny the conditional use permit CUP 06-1892 for the Butterfly House. Don't allow any entity with a significant upside for growth to disturb our quiet neighborhood.

Sincerely,

Tom Dykman
1822 Rockwood Trail

From: Terry Eastin <teastin@lynks.com>
To: <Cmonreal@ci.fayetteville.ar.us>
Date: 1/15/06 11:17PM
Subject: opposed to rezoning on Rockwood

Dear Ms. Monreal:

As a homeowner on Jackson Drive, located just off of Rockwood Trail, I am writing to indicate my opposition to rezoning the Faye Jones Butterfly House to accommodate a synagogue with 21 parking spaces.

Rockwood Trail is inappropriate for handling the current traffic load to various housing developments. The addition of a synagogue at this location will serve to increase traffic. Twenty-one parking spaces will accommodate approximately 60-70 church members. Should the church grow, or should there be events or special occasions, parking may not be accommodated with those 21 spaces. There is absolutely no safe streetside or additional parking areas in this location.

Please forward this letter to planning commission members on behalf of the Eastin Family, 858 N. Jackson, Fayetteville, AR, 72701.

Best regards,

Terry Eastin
Homeowner

From: John Echols <john-echols@sbcglobal.net>
To: <planning@ci.fayetteville.ar.us>
Date: Sat, Jan 21, 2006 9:23 PM
Subject: Proposed conditional use permit for butterfly house

Ladies and Gentlemen:

We write to protest the proposal to permit the conditional use of the Butterfly House at the intersection of Rockwood Trail and Sequoyah Drive as a Synagogue.

We bought our house two years ago, when the neighborhood was 100% single family residences. We expected it would remain that way. We hope it will.

Rockwood Trail is a narrow, busy street with no shoulders. Sequoyah Drive intersects Rockwood just short of the crest of a hill. We shudder every time we turn left off Sequoyah onto Rockwood, fearing what we can't see coming over the hill. We understand the parking lot for the Synagogue would be located just on the other side of the crest of the hill, which will cause a problem coming from the other direction. Rockwood Trail is ill-equipped to handle existing traffic without adding the Synagogue traffic. We feel it would make a dangerous situation even more so.

Overflow parking would have to go to the street. There is no other place. Any on-street parking on Rockwood would create the additional hazard of one way traffic with little warning. We observed this happening once this week when a TV news cameraman was at the house and people started parking on the street.

We ask that you consider these factors and respectfully request that the conditional use permit be denied.

Sincerely,

Sharon & John Echols
1022 E. Trust Street (just off Sequoyah Drive)

John Echols
1022 E. Trust St.
Fayetteville, AR 72701
(479)582-1436

From: "Katherine C. Etges" <williametges@cox.net>
To: <cmonreal@ci.fayetteville.ar.us>, <agarner@ci.fayetteville.ar.us>
Date: 1/16/06 5:03PM
Subject: Objection to Temple Shalom use permit

Katherine C. Etges
williametges@cox.net

Dear Committee Members:

As the owner (The Katherine Etges Trust, Elizabeth S. Etges Trustee), and occupant (Lauren Etges) of a nearby home, 701 N. Kenilworth Ave., one block off Rockwood Trail, we vehemently object to your granting a conditional use permit for 1100 Rockwood Trail. The objections are as follows:

1. Traffic conditions on Rockwood Trail are already dangerous due to the grade, blind spots, and heavy use by residents accessing Mission Blvd.
2. Wildlife crossings, including groups of deer, are frequent and present an additional serious danger to drivers and deer alike as it is.
3. The potential light pollution from a lighted, proposed parking lot would be a travesty in this neighborhood; note there are presently few streetlights intentionally for night sky viewing.
4. Most importantly, since when is a neighborhood of the size and age of Mt. Sequoyah suddenly subject to zoning changes? We realize that Methodist Assembly is at the top; however, historically, it preceded the majority of the current-day neighborhood. If this conditional permit is allowed a precedence will be set for commercial daycare "homes," and numerous other industries that will compromise the integrity of this residential area.

Please consider voting against the requested conditional use permit!

Sincerely,

Elizabeth S. Etges, TTEE

Lauren Etges

479-444-0849

From: <Margiefarb@aol.com>
To: <jgambill@ci.fayetteville.ar.us>
Date: 1/3/06 10:16AM
Subject: Temple Shalom Site

I own the 1009 Rockwood Trail property, nearby the proposed 1100 Rockwood Trail site that is of interest to Temple Shalom. I am very supportive of the synagogue at that location. I have communicated to the synagogue, and they asked that I ensure that the city of Fayetteville knows of my support. If there are any further questions, let me know.

Margie Pomfret Farber

my mailing address 3470 Nottingham Place, Fayetteville 72703

CC: <jratner@uark.edu>, <erext@sbcglobal.net>

From: <KAROLYNK@aol.com>
To: <agarner@ci.fayetteville.ar.us>
Date: 1/12/06 9:18AM
Subject: from neighbors just off Rockwood

We are concerned re the parking lot for the "former butterfly" house.
DFarrell

From: Travis Freeman <travisfreeman@sbcglobal.net>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/18/06 8:24PM
Subject: conditional use permit for 1100 Rockwood Trail

Just a note to let you know that we do not oppose the conditional use for the property located at 1100 Rockwood Trail. We do not believe that the temple will change the integrity of the neighborhood.

Thank you,
Travis and Kristi Freeman
718 Crest Dr.
Fayetteville, AR 72701

From: James Greeson <jgreeson@uark.edu>
To: <cmonreal@ci.fayetteville.ar.us>, <agarner@ci.fayetteville.ar.us>
Date: 1/13/06 9:13PM
Subject: Temple Shalom conditional permit

Hello;

This year I moved to 1339 Rockwood Trail, just east of the so-called "Butterfly House" which is being discussed by the planning commission soon with regard to being approved as a new home for Temple Shalom. I am simply writing to say that I have no objection to Temple Shalom being located on Rockwood Trail and I wish them well.

Sincerely,

James Greeson
1339 E. Rockwood Trail
Fayetteville, AR 72701
442-3872

From: Janet Greeson <jangree@swbell.net>
To: <agarner@ci.fayetteville.ar.us>
Date: 1/16/06 10:46AM
Subject: Butterflyhouse/Temple Shalom

Dear Commissioner Garner,

My husband James and I live at 1339 E. Rockwood trail. I understand you are visiting the Butterfly House at 1100 Rockwood Trail prior to the planning commission voting on a conditional use permit for the house being used as Temple Shalom.

The only concern I have is will additional lighting be installed in the parking lot? If so, can measures be taken to prevent the lights from shining into neighboring houses?

Thank you,
Janet Greeson

From: <pinto87@juno.com>
To: <planning@ci.fayetteville.ar.us>, <agarner@ci.fayetteville.ar.us>
Date: 1/16/06 7:37PM
Subject: Church

I don't think that it is a good idea to have a church in a neighborhood.....

Thank You, Jean Hicks

1873 N. Choctaw Ct.
Fayetteville, Ark

From: <malaughlin5@aol.com>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/23/06 8:31AM
Subject: Proposed Jewish Synagogue

My family lives at 1001 E Rebecca Street. I am very concerned about the proposed Jewish Synagogue on Rockwood Trail. The intersection of Sequoyah and Rockwood is already a dangerous intersection. When you are turning off of Sequoyah onto Rockwood, it is difficult to see traffic coming from the east on Rockwood. Also, the two lane road has a steep incline, and the added traffic of a business will add to the crowded conditions of the road.

Besides creating a dangerous condition on Rockwood Trail, I also do not like the prospect of a parking lot at the house. The neighborhood has great beauty, and I do not want to look at a parking lot every day as I leave my house. The lot will not be in keeping with the other houses in the area.

Allowing a business to establish on the top of Mount Sequoyah is not a good precedent. I do not want to see the city allow a church to set themselves right in the middle of an established residential neighborhood. This opens the door to more traffic, increased encroachment of business into the residential area and the destruction of the natural beauty of the mountain.

I respectfully request that the planning commission vote to not allow the synagogue to use the Butterfly Home at 1100 Rockwood Trail for their meeting place.

Martha Laughlin
1001 E Rebecca Street
Fayetteville Arkansas

From: Lonnie Lusby <lonnielusby@yahoo.com>
To: <agarner@ci.fayetteville.ar.us>
Date: 1/15/06 5:19PM
Subject: My Opposition to "Temple Shalom"

Mr. Garner,

I am fundamentally opposed to the plan to turn the "Butterfly House" into anything other than a residence. Little, narrow Sequoyah Drive already has too much traffic now due to area growth and with the addition of a worship center there would be a constant traffic flow on a little pavement which was constructed decades ago and not meant for the volume. We want our peaceful little neighborhood the way it is. You wouldn't want a monumental increase in traffic in your neighborhood. Please take our views into consideration.

Regards,
Lonnie E. Lusby
607 N. Sequoyah Dr.
Fayetteville, Ar.

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From: <lmelmac@aol.com>
To: <jpate@ci.fayetteville.ar.us>
Date: 1/22/06 11:23PM
Subject: the Butterfly House

We just want to express our opposition to the Conditional Use Permit that is being sought by Temple Shalom. Rockwood Trail is a narrow road that doesn't need additional traffic, plus this would only encourage the Barbers. We are all for Temple Shalom but hope they find a more suitable location.

David and Imelda McClinton

From: "Chip and Kathy Miller" <chipandkathymiller@cox.net>
To: <agarner@ci.fayetteville.ar.us>, <planning@ci.fayetteville.ar.us>, <cCmonreal@ci.fayetteville.ar.us>
Date: 1/21/06 11:54AM
Subject: Synagogue

To whom it may concern,
I just wanted to voice my concern about the proposed synagogue on Rockwood Trail. I do not believe it is appropriate to have a church in a residential neighbor such as that and if this does occur, what is to prevent it from happening in any neighbor. As a resident of Fayetteville, I just wanted to voice my opinion.

Thank You.

Kathy Miller

From: e neel <elsid53@yahoo.com>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/15/06 10:34PM

January 15, 2006

To Cindy Monreal, Secretary

We have lived at 835 Crest Drive since 1978 and are extremely alarmed and concerned that the city is considering changing the character of our residential neighborhood by allowing a public building on Rockwood Trail. We believe this change is totally inappropriate and entirely detrimental.

Although we were told by Temple Shalom representatives that Hillel (the University Group associated with the Temple) would likely not be using the facility, we have no guarantee whatsoever this would not be the case.

Frankly , we do not see how the Planning Commission can in good conscience approve this drastic change .

In addition, the potential for multitude of accidents is evident by installing the parking lot being planned. Our living room and dining room and bedroom decks will all be overlooking this parking lot with its lighting installations.

I urge you most strongly to reconsider this change to our neighborhood and deny the request to allow a public facility at this location on Rockwood Trail.

Thank you.

Sincerely,

Eleanor S. Neel

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CC: <agarner@ci.fayetteville.ar.us>

John Ozment
804 N. Crest Drive
Fayetteville, AR 72701

January 12, 2006

Fayetteville Planning Commission
Town Hall
Fayetteville, AR 72701

Dear Sirs:

I wish to express my concerns regarding Temple Shalom's application for a "Conditional Use" permit to convert the Fay Jones "Butterfly House" on Rockwood Trail into a temple for their congregation (CUP 06-1892). I have lived at 804 Crest Drive (on the corner of Rockwood Trail and Crest) for approximately 20 years and feel I have a right to appeal to you. I have attended two of the congregation's neighborhood meetings, and I am fully aware of their proposal.

I feel that that any use of this property for something other than residential use will have a negative impact on our area. There are many concerns with respect to the affect on the ambiance of the neighborhood, which will undoubtedly affect property values. Fortunately, I am not one of the area residents who will have the noise and lights right in their back yard, or who will lose the privacy they so highly value. Still, I am certain that the many changes it will bring will have a negative impact on the highly valued atmosphere associated with the Rockwood Trail area.

My primary concern, however, is with the additional traffic that will be generated on Rockwood Trail. The intersection of Rockwood Trail and Mission is already in serious need of a traffic light that is not likely to be installed any time in the near future since there is already a light at North Street and a four-way stop at Maple. Granting this permit will increase the level of traffic significantly. Provisions are to be made for 21 parking spaces. They estimate the actual use of the lot to be far short of that based on an average of 4 people per car, but that estimate is unrealistic. Studies show that the average occupancy of automobiles in urban areas is approximately 1.3 passengers per car. Even in extremely large urban areas where serious traffic problems exist, many cities require only 3 persons per vehicle to qualify for the multiple occupancy vehicle (or Diamond) lanes. It is more realistic to assume that the parking lot will not only be full at times, but that there will be times when people park along streets in the neighborhood as they attend the various functions at the temple.

Adding unnecessary traffic to this street is, in my opinion, a serious mistake. The area still has many undeveloped lots where residential homes eventually will be constructed. There is in fact one being constructed next door to the Butterfly House right now. As Fayetteville continues to grow, this area and the areas further out that generate traffic on Mission will continue to congest these streets which are ill equipped to handle our current levels of traffic.

January 12, 2006
Fayetteville Planning Commission
Page 2

I realize that the temple will not add an excessive amount to the total level of traffic, but with continued growth and increased traffic, it seems unreasonable to allow any unnecessary increase in traffic. It is enough to have to deal with residential traffic as part of a neighborhood, but it is quite another to compound it by permitting the establishment of a public facility.

As you consider the effects of the use of this property for something other than a residence, please consider not only the affect on the ambience of our neighborhood, but consider also the negative affect on our mobility and the problems that will bring.

Sincerely,

John Ozment
804 Crest Drive

From: Cindy Monreal
To: Andrew Garner
Date: 1/17/06 9:12AM
Subject: Fwd: Conditional Use CUP 06-1892

FYI

Cindy Monreal
Senior Planning Secretary
City of Fayetteville
PH: 479.575.8268
email: cmonreal@ci.fayetteville.ar.us

>>> Vicky Ozment <vozment@yahoo.com> 01/13/06 7:34 PM >>>
To: The Fayetteville Planning Commissioners

This letter is regarding the conditional use permit (CUP 06-1892) being requested to change the residence at 1100 Rockwood Trail to Temple Shalom.

I have lived at 804 N. Crest (NE Corner of Rockwood Trail and Crest) for 20 years. I have attended the informational meetings involving this permit, and I appreciate the plans for historic preservation of the residence and the attempt to conceal/beautify the adjacent lot by the petitioners. The fact remains that it will be a 21 space parking lot with lighting (discreet as it may be) in an otherwise residential neighborhood.

I understand the feeling of tranquility and serenity they talk about when in the house. We all feel that in our homes here on Mt. Sequoyah somewhat due to the fact that it is for single family use without the additional traffic, parking lot, and playground a public meeting place includes.

I understand their intentions for immediate use are limited to the small size of their current congregation, but they cannot predict the growth of the congregation nor guarantee the future use of the residence by change of leadership or needs.

They estimate the yearly total of car trips for the current congregational needs to be about 100 more than a single family dwelling. However, the 10 daily car trips of an individual family are interspersed throughout the day and blend into the flow of neighborhood traffic. Dispersing 15-20 cars at once onto Rockwood Trail on a regular basis puts a hardship on the neighborhood and with any greater use in the future the problem is compounded.

I feel that allowing this permit will negatively impact the existing neighborhood - that is, those of us within eyesight as well as those who use Rockwood Trail as a means to and from their homes, and the rest of our community who enjoy this area for walking and jogging.

Please vote "no" on this conditional use permit.

Thank You,
Vicky Ozment

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From: "Paul Roth" <profr@sbcglobal.net>
To: <planning@ci.fayetteville.ar.us>
Date: Mon, Jan 9, 2006 3:42 PM
Subject: Rezoning of 1100 Rockwood "Butterfly House"

Jeremy Pate, Director of Current Planning & Jan Gambill, Senior Planning Clerk

Dear Mr. Pate and Ms. Gambill;

This past week we received a letter in the mail informing us of the intentions of Temple Shalom to purchase the Butterfly House and through rezoning, use it as a synagogue. Following the letter, we received a post card giving us the time of a Sunday afternoon meeting at the property. Approximately 20 neighbors attended the meeting. We are one house away from this property.

It is with much thought and deliberation that we object to this rezoning request. This is a neighborhood consisting solely of single-family residences. As you know, this neighborhood is a closely-knit group of Fayettevillians who feel strongly about our neighborhood of Mt. Sequoyah. We have rallied together before about matters affecting Mt. Sequoyah. The matter of additional traffic is not a new topic to the neighborhood. Many neighbors would have the sights, sounds and smells of a parking lot outside their back door. This is not to mention the added light pollution caused by lighting a 21-car parking lot in our neighborhood. Another consideration would be the effect of a growing congregation on the existing utilities. Would water, sewer and electricity be negatively affected? This neighborhood knows all too well about power outages.

By giving a zoning variance for a "mixed use" in the neighborhood, this would adversely cause a reduction in property value for the whole neighborhood.

Throughout Fayetteville there are many locations already zoned appropriately for this type of use.

We request that you recommend rejection of this request. Please let us know if and when this matter will come before the Commission for public comment and Commission voting. Also, please forward our comments to the Planning Commission as a whole for their review.

We appreciate your attention to this matter and our concerns.

Sincerely,

Sherry Ponder & Paul Roth
614 N. Sequoyah Dr.
Fayetteville, Arkansas 72702-1971
479.442.4784

CC: <jgambill@ci.fayetteville.ar.us>, <jbatch72@ipa.net>

From: "Ann Prassel" <aprassel@earthlink.net>
To: <planning@ci.fayetteville.ar.us>, <tconklin@ci.fayetteville.ar.us>
Date: 1/23/06 11:14AM
Subject: Butterfly House (CUP 06-1892)

Dear Planning Commission Members and Planning Office Staff;

Yesterday, Sunday, Jan. 22 during the early afternoon., there was a gathering at the "Butterfly House" on Rockwood Trail. Many, many cars were parked in the driveway and on the vacant lot next door. Traffic on Rockwood was noticeably increased and travel less safe as a stream of cars came and went. All this additional activity convinced me that I OPPOSE the granting of conditional use permit CUP-06-1982 to Temple Shalom.

Thank you,
Ann Prassel
1613 Rockwood Trail
Fayetteville
521-0997

From: <KCRatliff@aol.com>
To: <cmonreal@ci.fayetteville.ar.us>, <agarner@ci.fayetteville.ar.us>
Date: 1/16/06 12:00PM
Subject: 1100 Rockwood Trail

Good day -

I am writing on behalf of my family and myself in regard to the proposal for a conditional use permit for 1100 Rockwood Trail. We reside at 941 N. Crest Dr., Fayetteville, AR.

We believe that if this conditional use permit were granted it would change the complexity and integrity of our neighborhood. It would no longer be the residential neighborhood we so enjoy. This is a residential neighborhood - not a place for public meetings to take place.

Please do not grant this request. Surely with all of the locations available in Fayetteville there is a better and more suitable location for Temple Shalom - a place where a conditional use permit is not an issue.

Thank you for your attention to this most important matter.

Respectfully,

Sam, Kim, Annie, and Peter Ratliff

Andrew Garner - to Andrew Garner-Butt

house

CUP 06-1892 Temple Station
Page 60 of 148

From: Margaret Rogers <jim.com12@juno.com>
To: <agarner@ci.fayetteville.ar.us>
Date: 1/21/06 3:40PM
Subject: to Andrew Garner-Butterfly house

Dear Planning Commission,

I would like to add my concerns about the "Butterfly House" becoming a temple. I hope this does not happen. Rockwood is a residential neighborhood and I hope it stays that way. My concerns are added traffic and I feel this permit will lower the value of my property.

Respectfully, Margaret Rogers.
922 Rockwood Tr
Fayetteville Ar. 72701

From: "Brad Ruth" <brad.ruth@cox.net>
To: <agarner@ci.fayetteville.ar.us>, <cmonreal@ci.fayetteville.ar.us>, <planning@ci.fayetteville.ar.us>
Date: 1/18/06 5:31PM
Subject: Butterfly house: CPU 06-1892

Andrew and Cindy -

I live at 805 N. Crest Drive, the adjoining lot due east of the Butterfly house. I see it (and the proposed parking area) from every room in my house - living room, office, master bedroom, bathrooms - and all outdoor living spaces, decks and back yard.

I am STRONGLY opposed to granting a conditional use permit (CPU 06-1892) to Temple Shalom and ask that you deny the request.

Thank you for your consideration.

Sincerely,

Brad Ruth

805 N. Crest Drive

443-9469

From: Linda Rye <lrye@sbcglobal.net>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/15/06 5:19PM
Subject: CUP 06-1892

Cindy-

Please pass this on to the Planning Commission who will be touring the "Butterfly House" at 1100 Rockwood Trail on Tuesday, January 17th.

I am against having a business/commercial/church entity in our neighborhood. We have worked hard to keep Rockwood Trail from becoming an east/west passage through Fayetteville because the Mount Sequoyah neighborhood is a residential area of unique houses and environment. The Butterfly House is part of the heritage of architectural houses in the area. Turning that home into a church with parking lot and signage will alter this community to our disadvantage. There are many areas in Fayetteville that are zoned for churches and businesses. This is not one of them. In addition, traffic backing up at the Rockwood Trail/Mission intersection would be hazardous. Please do not grant the conditional use permit to Temple Shalom.

Linda Rye
1657 Anson
Fayetteville 72701

From: Mike Saitta <msaitta1@cox.net>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/23/06 12:17PM
Subject: CUP 06-1892 (Temple Shalom)

Ms. Monreal,

I am writing to voice my opposition to the proposed conditional use permit at 1100 Rockwood Trail. I live less than 1/4 mile from the property in question and have done so for almost ten years.

This project, as described, is unnecessary, unsafe and unwanted by the neighbors; in addition, the assumptions about future growth are not credible. Unnecessary because there are hundreds, maybe thousands, of properties in the two-county area suitable for such an activity that are not located in a residential neighborhood and would not require any variance at all. Have each of these properties been examined and found lacking? Granting of a variance from the existing zoning requires exceptional circumstances and a demonstration that no other suitable solution exists. This proposal meets neither of these criteria.

Unsafe because the proposed location is an already dangerous stretch of Rockwood, where traffic routinely travels at 2-3 times the posted speed limits despite several blind curves and vertical drops. This block also becomes essentially a one lane road during the spring and summer with the overgrowth of brush along the side of the street. This particular house is perhaps the worst possible choice in all of Fayetteville purely from the safety standpoint. Additional traffic, particularly with people unfamiliar with the area, coupled with frequent cars turning in and out of the property, will create dangerous conditions for everyone. Four-way stop signs at the intersections surrounding the property, along with sidewalks connecting Sequoyah and Crest might help to alleviate this to some degree. If the commission chooses to approve this CUP, it should be contingent on these improvements being completed at the Temple's expense prior to occupancy.

Unwanted by the neighbors because of the traffic, noise, light pollution and horrible precedent outlined by other opponents. Please also remember that hundreds of families have purchased or improved homes on Mount Sequoyah secure that the zoning laws would protect them from this type of intrusion into their neighborhood. Who is going to reimburse them for the loss of property value that will accompany this permit? What is to stop the next enterprise from purchasing a lot in a 100% residential neighborhood and moving in? The president of the Temple has been quoted as saying they won't come if there is significant neighborhood opposition. Let's help them live up to this promise.

Even if we somehow can ignore all of these concerns and justify a variance for the current temple size, the property and the neighborhood have no margin to accommodate any additional growth by the temple, either in mission or population. I would predict that before long, we will be back before the commission on the slippery slope of additional parking, additional lighting, additional buildings, all of which will seem like small incremental changes, but collectively serving to erode the neighborhood we live in.

I encourage you to put a stop to this now.

Thank you,

Michael Saitta
609 Crest Drive
Fayetteville, AR 72701

CC: <agarner@ci.fayetteville.ar.us>

From: Jane Shipley <janebshipley@sbcglobal.net>
To: <cmonreal@ci.fayetteville.ar.us>, <agarner@ci.fayetteville.ar.us>
Date: 1/13/06 4:06PM
Subject: Rockwood Trail

To the Planning Commission

As neighbors of the "Butterfly House" at 1100 Rockwood Trail, we are concerned about the proposed 'conditional use permit' to Temple Shalom. We feel it will change the nature of the neighborhood in a negative way. Traffic is already a problem on this narrow and steep street. Additional traffic will make it dangerous for those of us who use this route regularly. We are opposed to turning a side yard into a parking lot. We are also concerned about proposed lighting on this property.

As neighbors, we do not want this.

Curtis and Jane Shipley
1132 E. Ridgeway Drive
Fayetteville

From: "Victoria Sowder" <vsowder@beta-rubicon.com>
To: <planning@ci.fayetteville.ar.us>, <jpate@ci.fayetteville.ar.us>,
<jgambill@ci.fayetteville.ar.us>, <cmonreal@ci.fayetteville.ar.us>, <agarner@ci.fayetteville.ar.us>,
<tconklin@ci.fayetteville.ar.us>
Date: 1/20/06 9:40AM
Subject: Opposition to CUP for "Butterfly House"

GlacierGood morning,

I would like to add my opposition to the Conditional Use Permit requested by Temple Shalom for the Butterfly House on Rockwood Trail.

My position is summarized below in bold red type and is copied directly from an email that I sent yesterday to my neighbor Joel Freund, who is an officer with Temple Shalom and who is one of their spokesmen. I also copied our neighborhood email list on my email from which the following comments are copied.

"..... It appears to me, just based on what I have heard from several immediate Butterfly House neighbors and the feedback on the neighborhood grapevine, that it's going to be a tough sell. As for me as an individual, you recall when this was first discussed last summer, my initial reaction was that I felt that I personally would be comfortable with a small congregation like Temple Shalom being in the Butterfly House. As time has passed and as I have done more research and reading and have educated myself more, I really don't feel now that I personally can support the plan. My change of heart occurred not without personal angst and for essentially the following reasons: because the congregation actually has more family units than I had initially thought; because it is unlikely that the congregation's membership would remain static, particularly if housed in this neighborhood in this facility; because of the close ties with the UA Jewish student organization and the difficult-to-separate functions and needs shared by the student group and the Temple's congregation as a unit; and because I feel that the very nature of the Butterfly House's cachet in and of itself would bring about increased usage (unanticipated at this time) in our neighborhood that we all treasure and work to protect and preserve."

Thank you.

Victoria Sowder

Victoria Sowder
Administrative Manager
Beta-Rubicon, Inc.
21 W. Mountain, Suite 123
Fayetteville AR 72701-6064
Phone: 479.444.8118
Fax: 479.444.0089
www.beta-rubicon.com

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From: <sspencer98@cox.net>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/15/06 10:00PM
Subject: "Butterfly House"

Dear Planning Commission,

I live at 562 N. Sequoyah Dr. six houses down from the "Butterfly House." I am opposed to turning this residence into a Temple. Nobody in this neighborhood wants this.

Why do we need this? There are plenty of empty buildings in Fayetteville that are available. It makes as much sense to turn this house into a church as it does to turn my house into a liquor store.

If you grant this conditional use permit then it makes it harder to deny other conditional use permits in this neighborhood.

You still need to change the zoning for Lindsey's junk yard between Maple and Lafayette.

Sincerely,

Steven F. Spencer, MD

From: Gail C Tolleson <gtolleson@sbcglobal.net>
To: <jgambill@ci.fayetteville.ar.us>
Date: 1/1/06 1:27PM
Subject: Butterfly House

I live at 671 North Sequoyah and look forward to the arrival of Temple Shalom as my new neighbor. I believe that their plans will do much to "brighten" the area and I am confident that they will be excellent neighbors. Gail Tolleson

From: John Tolleson <jtolleson@sbcglobal.net>
To: <jratner@aol.com>
Date: 1/1/06 4:38PM
Subject: Temple Shalom

Mr. Ratner,

My wife, Gail, has already written you expressing her support for your plan to purchase the Butterfly House and make it your synagogue. Although I have not seen her message, I know she speaks for both of us. We welcome you, and believe your presence will only enhance this neighborhood we love so much.

I attended the meeting at Root School a few months ago and expressed my support at that event. The quiet character of the neighborhood is wonderful, and I do not envision that changing. Your landscaping plan looks good to me.

By the way, we live at 671 North Sequoyah Drive, which is near Rockwood Trail.

John Tolleson

CC: <jgambill@ci.fayetteville.ar.us>

I have long admired the Fay Jones Butterfly House and recall that it had just been finished when Fay was designing the Underwood Bldg. He took me there to show me elements of design he intended to incorporate. It is one of the most beautiful and unique buildings in N.W. Arkansas, and I'm sure it would make a beautiful Temple. But the location is wrong.

I have travelled Rockwood Trail past the Butterfly House for the past 37 years on the way to work....through all of the seasons and through all types of weather. Here is what I have observed:

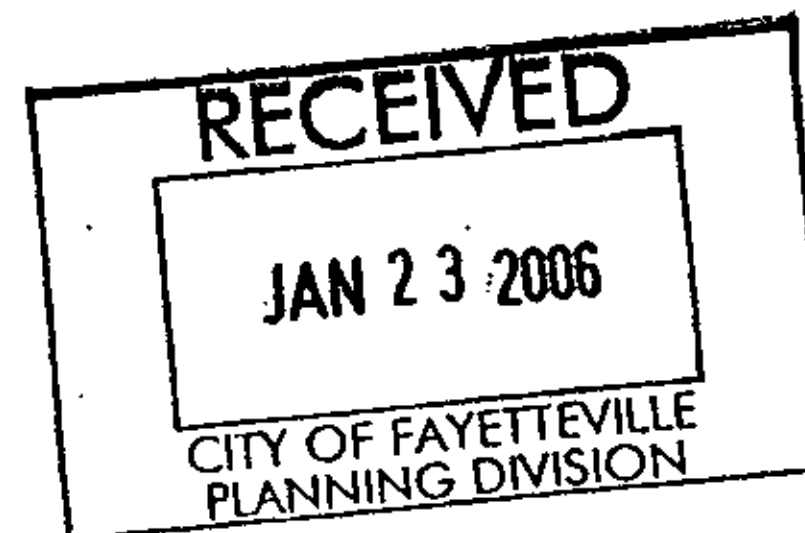
1. That intersection is a blind intersection from both east and west because it is on the top of the hill.
2. Rockwood Trail is limited in width there with on-street parking strictly on one side, and even then be cramped.
3. With regard to that, the proposal for at least twenty additional spaces for on-street parking, I believe the city recommends 20-25 feet length for each car space when marked. Unmarked spaces require more. 25 feet X 20 spaces would be 500 feet, which is almost a city block in either direction from the intersection. As the Temple grows, that need will increase and there is no other place to go. I well remember the problems at St. Joseph's where they parked on both sides of a much wider street.

This is the wrong location for a public building (which is the whole purpose of zoning) and I oppose it for that reason. But I applaud the group for wanting to have a new Temple and I wish them every success in that endeavor in an area that is zoned for it. Bill Underwood 1088 E. Shadowridge. Fayetteville

Bill Underwood
1088 E.
SHADOWRIDGE

To: City of Fayetteville Planning Commission
113 W. Mountain
Fayetteville AR 72701

Regarding: Butterfly House
@ 1100 Rockwood



Tuesday, Jan 17 2006
1885 Rockwood
Fayetteville, AR
72701

City of Fayetteville
Planning Commission
113 W Mountain St.
Fayetteville, AR 72701

To the City Planning Commission:

We whole heartedly endorse the granting of a conditional use permit to Temple Shalom.

We feel that the Temple would increase real estate values in the area, that the Temple would add interest and spiritual depth to the neighborhood and that the Temple would be well maintained and would therefore increase the aesthetic appeal of the property.

We have no religious affiliation and therefore have no secret agendas.

Please include this letter as one of support for Temple Shalom.

Sincerely,

Charles and Priscilla Urban

1885 Rockwood Lane

From: <JanVolkamer@aol.com>
To: <cmonreal@ci.fayetteville.ar.us>
Date: 1/15/06 5:52PM
Subject: Butterfly House

Hello Cindy,

I am writing you because I am concerned about the "Butterfly House" becoming a Temple or anything else besides a residential house.

I just moved to 807 E Rockwood Trail. I grew up on Woodlawn and lived for years on Crest. This neighborhood is one to be proud of and one I am happy to be back in. I cannot imagine a place with a parking lot for 20 cars, a sign out front and special lighting for the lots.

It would destroy the wonderful beauty of living in the Mt Sequoyah area having a regular meeting place in the middle of established residential area.

I highly oppose this.

Janis Volkamer

From: Jan Gambill
To: Garner, Andrew
Date: 1/18/06 4:07PM
Subject: Butterfly House

Andrew,

Mr. Fred Vorsanger stopped by to offer his comments on the CUP for the Butterfly House. He was unable to email them and will try to come to the meeting Monday night.

He stated that his objections to the project are strictly concerning the traffic and condition of the road. He noted that even when St. Joe's was on Lafayette, there were cars parked on every street and on both sides of the road. Although he does not live on the street where this project is proposed, he has been in the forefront of the campaign to keep the 265 connection closed.

jg

Jan Gambill
Senior Planning Clerk
City of Fayetteville
Planning Division
125 W. Mountain Street
Fayetteville AR 72701
479-575-8263
jgambill@ci.fay.ar.us

CC: Pate, Jeremy

From: Jennifer Webb <jwebb@uark.edu>
To: <planning@ci.fayetteville.ar.us>
Date: Sun, Jan 22, 2006 7:11 PM
Subject: Support of Butterfly House Conditional Use Proposal

I am writing with regards to the Temple Shalom's intent to use the Butterfly House as a place of worship. I SUPPORT the Temple's proposal.

While I am not a member of the Jewish Community, I am a member of this particular neighborhood. I moved to Fayetteville 6 years ago from a very conservative community in Oklahoma. One of the most attractive qualities about Fayetteville has been the diversity of the people and the accepting nature of the community. I feel very alarmed to listen to the opposition to this proposal and the narrow perspectives voiced by those speaking out. The Temple has presented calm, rational responses to the expressed concerns and I find their careful consideration for the neighborhood and its inherent characteristics to be reassuring.

I believe the Temple Shalom will be a good neighbor with predictable values and habits. Few of us can anticipate this when a home on our own street is sold.

I believe that a neighborhood should have places of worship as is reflected in many of our existing neighborhoods. This conditional use offers non-Jewish residents the opportunity to share with their children a tolerant perspective and an understanding of more than one religion/culture. This can help to mediate America's distrust of those that are "different" from the American stereotype. Local media has used the term "Jewish" in headlines and commentary in such a way as to be inflammatory. I passionately believe that failure to support this proposal will reflect a bigoted attitude of Fayetteville's administration, planning commission, and an uncomfortably large number of its citizens.

I was in attendance at the Fall, 2005 meeting at Root Elementary School. Following is my thinking on some of the objections to this conditional use proposal:

1) Load. The Temple explained carefully the number of people that would participate in their worship activities. The total is minimal and special celebrations or high holy days would necessitate the rental of an alternative venue space; this alternative venue is common within Jewish communities. Certainly this issue is more pressing for places of worship near the U of A campus where there is regularly extensive roadside parking in residential areas and cause a hazard to not only cars but also cyclers.

2) Traffic. The Temple explained that they met on Friday evenings, Saturday mornings, and on Sunday mornings. The total load at maximum would be 15 cars and this does not occur during peak travel times and should pose no challenges to the neighborhood. Additionally, the Temple does not meet when school is not in session thereby not impacting families or children that may be on foot during summer and holidays. Additionally, the road itself is not pedestrian friendly and therefore impact should be minimal. Additionally, as with any meeting, participants tend to trickle away and a mass exodus can not really be anticipated.

3) Business. The Temple is not a business in the truest sense of the word.

They will not have large trash dumpsters, delivery trucks, brightly lit signage, or other such aspects of a business. Their activity is respectful and non intrusive to those around their place of worship.

4) View. The Temple plans to complete the landscape design proposed by E. Fay Jones thereby enhancing the visual aspects of the current site. The house has been unoccupied for a number of years and the grounds are mowed on an irregular schedule. Proposed changes to the drive and parking areas include an environmentally responsive product called grass-crete. The Temple has secured the services of a landscape architect and one simply cannot, with any reason, anticipate a Wal-Mart like setting.

5) Historic Value of the Structure. Historic structures are always of debatable value. However, a commercial enterprise receives financial incentives in the form of tax credits for renovation and use that a private homeowner DOES NOT RECEIVE. Therefore, the Temple has a significantly greater financial reason for maintaining and preserving the residence as designed by E. Fay Jones than does any private homeowner. Additionally, the federal government has allowed certain stretching of guidelines with regards to accessibility (the Americans with Disabilities Act) for historic structures. The Temple's use presents no significant risk to this structure's historic value. I speak as a professional interior designer University faculty member with expertise in this area.

I would like to reiterate that I would welcome the Temple in MY neighborhood -- and this is my neighborhood. I believe the Temple will be a good neighbor and will continue to contribute to Fayetteville's attractiveness as a place to live.

Jennifer Webb
1832 Viewpoint Drive

From: Michelle Welch <mdwelch1@yahoo.com>
To: <agarner@ci.fayetteville.ar.us>
Date: 1/16/06 9:41PM
Subject: CUP 06-1892

To the City Planning Commission:

As a close neighbor to the 1100 Rockwood Trail "Butterfly House", I want to voice my opposition to granting a conditional use permit to Temple Shalom.

A residential neighborhood should be kept a residential neighborhood.

To turn this residence into a Temple will increase traffic on Rockwood Trail, and could potentially cause parking and safety problems for pedestrians.

I also object to the creation of a parking lot we would all have to drive past every day, and I do not want the extra lighting that a public building would need.

Thank you for considering our neighborhood's views.
Respectfully,

Michelle Welch
707 Crest Dr.

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Got holiday prints? See all the ways to get quality prints in your hands ASAP.

From: <malcolmwilliamson@cox.net>
To: <agarner@ci.fayetteville.ar.us>
Date: 1/15/06 10:00PM

Dear committee members,

It has come to our attention, through a neighborhood information campaign, that the Temple Shalom is planning to turn the "Butterfly House" at 1100 Rockwood Trail into a temple for their congregation. As close neighbors (our house is four houses away, just around the corner on N. Jackson Dr.), my wife and I would like to say that we welcome the Temple Shalom to our neighborhood. We anticipate them being good neighbors and a positive addition to the neighborhood.

We would like to ask that the congregation and Planning Commission keep a couple of issues in mind. First, Rockwood Trail is a hazardous road, due to the hills in the road and a tendency for drivers to go faster than the speed limit. For the sake of pedestrians, neighbors, and themselves, the congregation needs to carefully consider traffic issues as they make any parking or driveway changes. Second, if additional exterior lighting is added for the parking lot, etc., all lights should be of the downward-focused type, illuminating the ground rather than all around, in consideration of immediate neighbors.

Thanks for your consideration of these comments.

Sincerely,

Malcolm & Carolyn Williamson
834 N. Jackson Dr., Fayetteville
521-8530

From: Sharon Wimberly <smwimberly@yahoo.com>
To: <agarner@ci.fayetteville.ar.us>
Date: 1/19/06 2:58PM
Subject: CUP 06-1892, 1100 Rockwood Trail

>Dear Planning Commission Members:

>

>I am asking you to deny approval of the proposed conditional use permit at
>1100 Rockwood Trail (CUP 06-1892).

>

>I have resided at 1106 E. Ridgeway Dr. for over 25 years. As time has gone

>by our neighborhood has become very concerned with the increasing amount of

>traffic that our streets were never designed to bear. These streets are

>steep and narrow with poor lines of sight for residential driveways and

>intersections. Few of these streets have curbs & gutters, and several are

>still ditched. The pedestrian traffic, which is at a very high volume, is

>already in harms way since there are few sidewalks in the neighborhood. The

>traffic, & speed of that traffic, has already increased due to the

>increasing population of the city. CUP 06-1892, if approved, will be

>creating even more traffic on a regular basis to an already strained

>vehicular & pedestrian traffic situation. Why deliberately increase the

>traffic flow in an already overloaded and potentially dangerous situation?

>

>It is my understanding that at present the congregation numbers around 85

>persons. With time and the population pattern, surely you foresee growth

>in the size of this congregation? What are these projections? Also as

>size increases, so does the utilization of the building. Parking, as well,

>is a concern. When the congregation increases in size the current proposed

>grass parking area will no longer be efficient for the situation.

Which in

>turn will result in a paved or graveled parking lot, which will not be

>cohesive with the existing residential neighborhood.

>

>Faye Jones, internationally renowned architect, designed this house for a

>residence. The architectural integrity should be preserved and this

>structure should continue to be used as a residence. Fay Jones' designs are

>created in such a manner as to bring the beauty of nature into the

>residence. By allowing a parking lot to be built on the adjoining lot

>(which is zoned for RSF4) the design integrity of Fay Jones would be

- >destroyed. A large parking area (grass or pavement) would also be a major
- >eyesore to the residents and visitors of Mount Sequoyah.
- >
- > Our neighborhood has long been established as an area whose residents
- >enjoy the comforts of city living as well as the tranquility & cohesiveness
- >of a relatively small town that cares about its surroundings. If CUP
- >06-1892 were approved, you would be setting a dangerous precedent for the
- >future and integrity of our neighborhood.
- >
- >Sharon Wimberly (Mrs. F. Ervan Wimberly)
- >
- >

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Cindy Monreal - synagogue on Rockwood Trail

From: "Stacey Zimmerman" <SZimmerman@co.washington.ar.us>
To: <jratner@aol.com>
Date: 1/18/2006 1:51 PM
Subject: synagogue on Rockwood Trail
CC: <cmonreal@ci.fayetteville.ar.us>

On January 4, 2006, I sent an e-mail to you in response to the letter you sent to me about the proposed synagogue. In that e-mail, I voiced no objection to the proposal and stated it would be an asset to the neighborhood. However, since my January 4, 2006 e-mail to you, I have received additional information regarding the project. I have also received correspondence from Les and Mina Baledge. The Baledges own the home directly across Rockwood Trail from your property. They have voiced to me their strenuous objections to the project. In light of their objections, and most importantly, that they are the closest homeowners to the project, I cannot support the project,

and I join in the objections raised by the Baledges. I hope you find another location for your synagogue, as I still believe such a synagogue would be a welcome addition to Fayetteville.

APPENDIX D

MEETING MINUTES: JANUARY 23, 2006
PLANNING COMMISSION MEETING

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CUP 06-1892: (TEMPLE SHALOM OF NWA, 447): Submitted by JOSEPH RATNER for property located at 1100 ROCKWOOD TRAIL. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.50 acres. The request is to allow a synagogue (Use Unit 4) in the existing zoning district.

Garner: This property is located at 1100 Rockwood Trail. It is the Butterfly House, designed by Fay Jones. The site is approximately 1.5 acres and contains a 4,100 square foot single family house, with a large driveway in the front. The eastern portion of the property is a bare landscaped lawn with a chain-link fence with a dog run and storage shed. The north, east and west portions of the site are entirely shielded by thick stands of tress and brush. The site is entirely surrounded by residential uses in RSF-4 zoning district. The applicant proposes to use the existing single family structure as a permanent home for Temple Shalom of Northwest Arkansas. This Jewish Temple was founded in 1981 and is Fayetteville's only Jewish congregation. In order to use this house for a Jewish temple, they would have to have some minor changes done to the outside of the home. Those changes are noted there and listed in your Staff Report, numbers 1-7. The applicant requests a conditional use permit because the property is zoned RSF-4 residential single family, four units per acre, and *Use Unit 4, Cultural and Recreational Facilities* are allowable only by conditional use permit. Staff has received a large volume of public comment; and we have a large number of people here for this item. We have had a number of phone calls and e-mails and your Staff Report has included all the e-mails we had received prior to publication of this Staff Report. We continue to receive a large volume of e-mails and we also received a signed petition this afternoon which we made copies of and passed out to you before this meeting. The majority of the comments are opposed to the project. There is a fair amount that is for the project and in favor it. The main opposition to the project is that people don't feel it is compatible with the neighborhood and the main issue has been traffic and visibility. There are a lot of comments on lighting and what this would look like and how it would change the character of the neighbor. Those that have supported the projected have stated they feel that the landscaping and the proposed improvements to the site would really improve the appearance of the neighborhood and a neighborhood temple would be compatible with the neighborhood. Staff has made the required findings of fact regarding this project and Staff does find that it is compatible with the neighborhood. Some of the main justifications for these findings include: The description of the project which includes - it is going to use the existing single family house. The appearance of the house and the structure will remain as a single family dwelling unit. The gatherings and activities that are proposed and described by the applicant for this permit are small and appear to be unobtrusive. In general, the scale of activities - approximately half a dozen to a dozen vehicles would be at the house for

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Friday, Saturday, and Sunday, usually weekend and evening-type services, and they would have occasional social events and annual holiday services that might have around twenty to twenty-five vehicles at the site. One of the improvements to the site that I wanted to call out is the parking for the site: They are proposing to use a grass-paved lot to accommodate additional parking on the site. The driveway in front of the house, they feel is large enough to accommodate their parking almost all of the time and they would install grass-paved parking area to accommodate approximately sixteen to twenty cars when they would have some of their larger events. Some of the other issues that Staff looked at when making the findings, were the ascetic impacts which, as mentioned, the house would remain looking as a single family residence. The applicant would propose a new driveway along the eastern property line and it would have the appearance of a residential driveway. Traffic issues: Staff looked at the traffic and the access in and out of this site and we do find that this house is on the crest of the hill of Rockwood Trail and the entrance into this site we feel is okay turning into the driveway. Exiting that driveway we find there is limited sight distance and we are recommending that that be a right-out only exit from that driveway, and the driveway on the far eastern side is appropriate for turning movements in either direction. There are photos in your packet and supplemental information that show that sight distance, if you want to look at those. Those are some of the main issues. In order to recommend approval, we did include a large number of conditions to ensure that this is compatible with the neighborhood. Condition #1 – Planning Commission determination of compatibility with adjacent properties and those within the same zoning district. That is Planning Commission's determination on whether you find that this proposed conditional use permit is compatible. To call your attention again – the modifications to allow a grass-paved parking area, landscaping in extending the decorative retaining wall, shall be compatible with the existing structure and appearance of the property as a single family structure. Any improvements to the site would have to look like a residential structure. Condition #2 – talks about how the description of the project as proposed here, the type of parking, what it would look like. If the site is substantially different than what is described in the information provided by the applicant, the conditional use permit may be revoked. So that is ensuring that what we are seeing before us is tonight is what is permitted. If at some point we get complaints or something like that, the conditional use permit can be revoked. Condition #3 – the building permit plan must be submitted for City review. That talks about that we will require more detailed information on exactly what some of these improvements will look like. They will have to go through our typical building permit process. Condition #4 – references that any improvements to the property are required to conform to the RSF-4 zoning requirements and required setbacks. Condition #5 – discusses the access, driveways in

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and out of the site. As mentioned, Staff recommends an exit only from the main existing driveway entrance to make sure that traffic movements turning in and out of this property are safe. Condition #6 – the sidewalk requirement money in lieu of sidewalk improvements required is at a rate of \$3 per square foot for the four-foot wide sidewalk along this property. There are no existing sidewalks in this area, so that is where the money in lieu would be paid and be able to go toward other sidewalk improvements in the neighborhood or area. Condition #7 – requires all lighting be limited to pedestrian scale lighting (bollards, wall-mounted, etc.) and shall be unobtrusive to the neighborhood. Condition #8 – requires that all trash receptacles would be required to be internal to the site. They won't be able to have dumpster pads or dumpsters outside the site. Condition #9 – reiterating the appearance of the single family structure and any improvements to the site are required to look like a residence compatible with the neighborhood. Condition #10 – references the parking lot and calling out specifically that it has to be grass-paved, so it won't be pavement; it will be a grass surface that will essentially look like a lawn. Condition #11 – the new curb cut on the eastern side of the property is required to have the appearance of a residential driveway, and this is required to be reviewed and approved by the City prior to construction. Condition #12 – requires landscaping for the site. This is requiring trees and shrubs. The applicant in their packet proposes to install the landscaping plan, the original landscaping plan that Fay Jones intended for this site. We find that that would be compatible with this neighborhood and would be an improvement to the landscaping in the area. Condition #13 – pertains to the signage that would be allowed on the site. There are some minimal amounts of signs that would be allowed in the RSF-4 zoning district with this conditional use permit. Staff also recommends to further limit that signage and call out specifically what signs would be allowed with this permit. We are recommending a wall sign on the existing structure be allowed, some directional signs – two directional signs for the curb cuts going in to and out of the site, specifically making sure that the one turning movement is an exit only out of the main driveway. One additional informational sign with the Temple name not exceeding four square feet would be allowed on the front decorative wall or mailbox area. As with any conditional use, the Planning Commission must make the decision based on the findings and facts and whether you agree or disagree with Staff's findings in your Staff Report. We will be happy to answer any questions you have.

Ostner: Is the applicant present? If you could introduce yourself and give us your presentation.

Ratner: Good evening. I am Joe Ratner, President of Temple Shalom of Northwest Arkansas. I appreciate the chance to address you this evening.

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While there have been Jews in Fayetteville much longer, Temple Shalom has been Fayetteville's only Jewish congregation since it was founded in 1981. Over the years we shared facilities of the Hillel, the Jewish Student Association at the University of Arkansas or used rented facilities. We have a very good long-term relationship with the Unitarian Universalist Fellowship, but worshiping in someone else's space is very different from having a building dedicated to your own worship of God. As we begin our 25th year as a part of Fayetteville, we finally have the opportunity to have a home of our own as we have always dreamed. But not just any home. Beyond our dreams we have an opportunity for a beautiful landmark by Fayetteville's and Arkansas' most famous architect. I'd like to thank the City's Planning Department for its thorough review of our proposal and the positive recommendation. While many area residents have expressed their support for Temple Shalom, I know there are those who object as well. And while some may just not want a synagogue in their neighborhood, I would like to address the neighbor's specific concerns individually. Just as the Planning Department did to arrive at their conclusion that our use would be compatible with the surrounding properties. If I heard a church wanted to locate in my neighborhood, I would have concerns myself. Though Fayetteville is the most diverse and tolerant city in Northwest Arkansas, as the only Jewish Congregation and being very small, we've always had a low profile in the community, so it is understandable, that when most residents hear about us, they picture the Baptist, Catholic, Methodist or other Christian church that they are familiar with. As explained in my proposal, we operate quite differently from the typical Christian church. First, while guests are welcome, only Jews can join the congregation. And while conversion to Judaism is possible, it is a long and difficult process and we don't encourage or seek out converts. Second, because traditional Jewish law prohibits handling money on the Sabbath, we get our income from annual dues and not a collection plate. Because of these factors, we don't use large religious symbols, signage or advertising to recruit membership or attendance by the public. And our future growth is limited to the Jewish population of the Fayetteville area. In 1985 as the only Jewish congregation in all of Northwest Arkansas, we had thirty-five member families. A little over a year ago some of our families founded a new congregation in Benton County and with most of the growth of the Jewish community having been related to Wal-Mart and it's vendors, Bentonville's congregation has swelled in little over one year from an initial twelve families to over forty-five. After twenty years our current membership is still only about fifty families, few of which could be considered young. And unfortunately most of our children leave Arkansas as adults. We don't expect more than one or two new Jewish families to join our Fayetteville congregation each year, while others leave or grow less active as they age. And so unfortunately we do not expect to outgrow the Butterfly House in the

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foreseeable future. As for concerns about the UA Hillel Student Organization, they own a building two blocks from campus, so they will continue their events in their facility. Temple Shalom has always been in the heart of Fayetteville, centered around the University. U of A professors still make up a large part of our membership, so we require a location in close proximity to the campus. We when began to look for a building, we started from campus and worked our way outward, investigating all the possible locations we could find. When real estate listings were unable to provide a suitable home, I drove every street within a two-mile radius of the University of Arkansas campus, and that was how I came upon the Butterfly House. I was immediately struck by its beauty and it looked like a synagogue and not a private residence. I didn't have high hopes of a private residence providing a suitable meeting space for our worship services, and I was pleased and surprised to find the Butterfly House has a central space with over 700 square feet under a cathedral ceiling and with a rear wall of glass looking out on undisturbed woods. Like most of the people who have visited this space, I was immediately struck by the spiritual and connected-to-nature feeling that is evoked by Fay Jones' best work, such as the Thomcrowne and Cooper Chapels. When we met with Gus Jones, Fay's widow, she said, "I know that Fay would have been very pleased to have Temple Shalom rescue one of his architectural children and give it new life and loving care." Then she amazed me by telling us that just before returning to Fayetteville and designing Butterfly House, she and Fay had been in Houston and Fay had toured that city's synagogues. With an adjacent lot also for sale, so that we could have adequate off street parking and a stand of trees on either end between it's and property and the neighbors, the Butterfly House seemed to be tailor made for our congregation, and we feel it will be safe from anti-Semitism and vandalism in this beautiful neighborhood. My next step was to contact the surrounding neighborhood associations to arrange a meeting on August 31st of last year to which all the members of the associations were invited. About twenty-one neighbors attended the meeting, and while various concerns were raised, we were encouraged to proceed by the large percentage who expressed support for our idea. Over the next few months, we developed plans that added greatly to our expected expense, but addressed the concerns that the neighbors had expressed to us at that meeting. This month we held two more meetings with neighbors to show them our plans and to address their concerns. At the first of these meetings, eight nearby residences were represented out of the over forty to whom I mailed information and invitations. Everyone in the area neighborhood associations was invited to the second January meeting and twelve attended. A number of very positive comments were made at the first meeting this month and I also received mail and e-mail from a number of various supportive neighbors who were unable to attend, including Patricia Collier of 1344 Rockwood and Donald Wilson who

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owns the property opposite the empty lot where our parking will be located, and who wrote welcome, absolutely no problem. The final meeting had a few undecided attendees but most there were the few who were actively trying to keep us out of the neighborhood. As presented in the Planning Department's report, we designed our parking area to include more than the minimum number of spaces as per City code without relying on any on-street parking. And we have designed it to be unobtrusive and to look as residential as we could. Our plan includes a parking surface that will be below street grade, screened by landscaping based on Fay Jones' original plan for the house, and at much greater expense than conventional methods. We will utilize grass-pavers that will allow lawn to grow in the parking area. Lighting will be pedestrian scale and we hope to remove the large utility company light from the pole next to the driveway. The entrance will be through the existing driveway, and egress from the lot will not require backing onto the street and will also be as far from Crest off Rockwood as possible, maximizing visibility. Changes to the Butterfly House itself will be minimized and will include new landscaping based on Fay Jones' original plans. Upgrading the powder room to allow handicap access, a railing around the terrace wall and the conversion of some doors to be outwardly swinging for safe egress will be included. A small play area would also be designated in the back yard for a handful of young children to attend our religious school. All the changes will be overseen by Davis and McKee of the firm with which Fay was affiliated and the doors and railing will be custom designed and custom built so as to maintain the home's esthetic qualities. No changes will preclude returning the building to residential use if we should outgrow it and move on. Our plans respect Fay Jones' legacy and the integrity the Butterfly House is designed with minimal changes, which would likely not be the case with a family in residence. As for traffic, as per our proposal, our use would be sporadic, largely on Friday evenings and Saturday and Sunday mornings and not at peak traffic times. I have a chart outlining the use. As you can see, our total annual car trips would be little more than the standard estimate for a single family home and much less than a home with a couple of teenagers, or if the vacant lot was sold separately and a second home was constructed on the property; the number of car trips would be much higher. The number of cars parked when we do have events would rarely be more than ten or fifteen and the peak time for exiting the lot would be after 9 p.m. on Friday. Yesterday Temple Shalom held a congregational meeting for a final vote from our membership on their approval to proceed with this project. At this meeting which was the most important meeting and most important vote in the history of our congregation, there were twenty cars, thirteen parked in the driveway and seven on the vacant lot. It would be unusual that the number of cars would even be as much as for this very important meeting. As for the issue of precedent, nonresidential use and incompatibility with the

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neighborhood, we plan for the Butterfly House to be a House of God and home for Fayetteville's small Jewish community, a religious, not commercial use. The City Planning Department concluded that our use would be compatible with the neighborhood, and Fayetteville's zoning ordinances as well as the Federal Religious Land Use and Institutionalized Persons Act of 2000 both allow for religious assembling under this area's residential zoning. I would like to thank you for your thoughtful consideration of our proposal. Temple Shalom looks forward to the Butterfly House providing a center for Fayetteville's few Jewish residents and we all look forward to being a part of the wonderful Mt. Sequoyah area and getting to know our new neighbors.

Ostner: Thank you, Mr. Ratner. Before we proceed to public comment, I am going to ask everyone to avoid repetition. We want to hear everyone's comments tonight. If you want to come up and introduce yourself and if it has already been said, you can say I agree with him. We are going to avoid all personal comments; we are talk about the issue and if you would please try to organize your thoughts and keep them brief and to the point, we'd like to hear everyone of you. So, I'm going to open the floor for public discussion.

Blair: My name is Jim Blair. I have lived in Fayetteville for a little over 70 years. I've lived on the north slope of Mt. Sequoyah for a little over 30 years. I have been the owner of the property to the west of this proposed Temple, to the east of this proposed Temple and to the north of this proposed Temple. I have traversed Rockwood Trail as best as I can calculate approximately 36,000 times. I think I know a little bit about the situation. I know you asked that there not be any personal comments, but I have to say I would rather have a tooth pulled, I would rather have a root canal, I would rather have all my teeth pulled than to oppose anything Jewish. I am intimidated by that because my late wife, the love of my life for over twenty years, was Jewish, her mother was born in a Jewish family in Poland, my oldest daughter is married to a fine young Jewish man, Aaron (I forget his name) Levi, this summer in Staten Island, NY. I gave away my goddaughter in a Jewish wedding to marry a very fine Jewish man named Ivan Cohen. I make trips to Israel to see my extremely close and precious friend, Sol Katzen and his wife, Gaia. Sol, is a retired from the Israeli Army, Gaia who was in a Kibbutz in Israel. I understand why they use gently and subtly the word anti-Semitism and they should not be subject to any of that and I love the Jewish people and I'm happy to intermarry with them, I'm happy to socialize with them, I'm happy to share anything I have with them. I'm not here for that reason. I am here because I think this is very bad idea and I would be here if it is Buddhist, Islamic or a Baptist, or Episcopalian, Catholic, Pentecostal project. I do think that if you allow this, you cannot keep out future controversial

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groups. I think a lawyer even as good as Kit Williams could not keep an Islamic Temple from going on Rockwood Trail if you allow this. This issue is that Rockwood Trail is an extremely narrow street without any shoulders and it comes up an extremely steep hill, and it undulates as it approaches its apex and it has a lot of blind drives and the people who pull off the street like Crest risk their lives to some extent every time they pull on Rockwood Trail. Rockwood Trail drains the entire north slope of Mt. Sequoyah. This is the only way off the mountain unless you go through a long, winding sequence of streets like down Tanglebriar where I live, across Applebury, down to Columbus, across Columbus to Eastwood and then it serpentine and on any day you may or may not be able to turn out on Mission Avenue. My step-daughter totaled her car on Rockwood Trail. It is not a safe street. There was a car that drove into the house we are talking about. It is not a safe street. But the neighborhood is very peaceful and quiet and gentle and loving we - all get along except when somebody tries to increase the traffic on Rockwood Trail. Then three times, as some of this Commission knows, we have fought like tigers when there is been an effort to increase the traffic on Rockwood Trail. There have been three major things in thirty years and fortunately all of them have been stopped. Now, the people who I think support this project who live on Mt. Sequoyah are people who don't in general, drive Rockwood Trail. There might be a few exceptions. There are people who did not voice objections because they were visited by advocates of this group, Howard Baird is an example. Two gentlemen came to see him, told him there would only be six or eight cars across the street, there would be only be six to eight families. He comes back from Florida today to find that is not exactly the case. There are other representations that were muddled to a lot of people, that if a neighborhood opposed it, they would not proceed with this project. And yet I think in the face of neighborhood opposition, they have done so. I know some woman named Nancy Williams, not the Nancy Williams I just married, says she represents the Southern Mt. Sequoyah Neighborhood Association and she is for this project. Well, they don't use Rockwood Trail. I can understand why she would be for it. She would be for it because she wouldn't want it using Rogers or Spring or Dickson that they could use to get off the mountain. I think the people I sold my land to are building a multi hundred thousand dollar house right next door. I think their property instantly becomes worthless. The person that succeeded me in my past job has a house right across the street, he paid \$450,000 for the house. I think it immediately becomes worth less. I think it diminishes the property values, it diminishes the peace and quiet, it creates a hazard. I think there are a lot of other places in Fayetteville for this wonderful group of people who I dearly love and would support in other way so they can find a place for a Temple. It is not a neighborhood Temple, it is a Temple for the entire City of Fayetteville, the entire County of Washington. And

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as Bentonville's group has grown, I will think they grow and prosper and I hope they do. And I love them and I wish it wasn't here. Thank you for listening to me.

Merry-Ship: I am Kathy Merry-Ship. I am a homeowner, wife, mother and live in the neighborhood on Trust Street just south of Sequoyah Drive and I agree with everything Jim Blair said. I also wanted to say that every day I take a left on Rockwood Trail and it is very dangerous. I stop, I look, I start to go out and all of a sudden a car is coming over the hill. So I am opposed to the project because of traffic. Thank you.

Ostner: If I could ask any future comments to please sign in at the podium, it would help us.

Vallage: My name is Les Vallage. My wife, Nina and I own the home across from the Butterfly House on Rockwood Trail that Jim Blair just priced for you. We are not sure but we think we may be the family most impacted by this proposal. We have owned our home for seven years and our architect, Hanna McNeil recently completed plans to enlarge the house, add a kitchen and bedrooms for our growing eight year old twins. We like our home and we like our neighborhood and we have three specific thoughts we would like to convey this evening. First, we believe that the proposed conditional use is inconsistent with our home and the neighborhood. The proposed use is for a house of worship on Saturdays and holidays. It is also for a school which according to the Temple website is held every weekend. It is also a facility to support the University of Arkansas students, because Temple Shalom has a close partnership as we would hope and expect with Jewish students attending our University. For example, they currently offer Friday evening movies, the last one was Betty Boop and the next one is the Frisco Kid. This would also be a special events center for weddings, funerals, bar mitzvahs and bat mitzvahs and lectures on Israel, etc. About two weeks ago Joe Ratner wrote us a letter describing the Temple's plans. In his letter he spoke of how holidays and other celebrations saying "this year we had one service attended by 120, one with 90 and the other services were attended by about 60". He also said that this year they had three bar-bat mitzvahs, "anywhere from 40 to 100 plus may attend depending upon how many relatives come to town and how many invitations are sent". We believe that these planned uses disagree with the Planning Staff findings and we believe they are not consistent with a residential neighborhood. The Planning Staff found that we would occasionally have events that would generate twenty vehicles. That is not 100 or even 60 people that Joe Ratner talked about. In fact we don't think any kind of special event center is appropriate for our residential neighborhood. We would ask you to note, and we think this is very, very important, there is nothing in the

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proposed conditions which limit the number of events, the attendance or the vehicles that park at this home. Common sense tells you that once Temple Shalom spends over a million dollars to acquire and develop this property and it becomes their home, they will want to use it as much as possible. Our second point is we believe the Temple use will grow. Temple Shalom membership doubled during the past few years, the congregation shrank after a new temple was opened in Benton County. We don't expect that to happen again. In addition, let me quote to you what the Temple Shalom website says about growth, "can Temple Shalom survive without the Butterfly House? Yes, can it thrive and grow? Perhaps not." This is an active, healthy Temple as evidenced by the effective and professional way they have approached this project. It is clear to me that they will thrive and grow wherever they locate and we, like Jim Blair, wish them well. We love the diversity that Fayetteville has and we think that Temple Shalom adds to that and we think it is a wonderful thing. We just don't want it in our neighborhood. Our final point is that this use involves a twenty-five car parking lot with lighting immediately across from our home. The Staff findings say that the parking will be "totally screened". We disagree with that. It won't be screened from our house, it won't be screened from anyone driving down Rockwood, and in fact the Temple held a meeting at the house yesterday. The website called it a congregational meeting and that is a photograph from our house of the twenty or so cars attending that meeting. Would any of you want this use across the street from your home? That is the driveway that Staff is recommending for egress. It is directly across from the bedroom in our home so at 9:00 every Friday night when those cars leave, we will have to put up with that. Here is the real point for us. We bought a home in a residential neighborhood. If this use is approved, we will be across the street from a significant non-residential use. Our children's bedrooms will look out on the twenty-five car parking lot. This Temple, like everything else in Northwest Arkansas, will grow and the glare from car lights, the parking lot lights, and the visits to the Temple will adversely affect our neighborhood, our home and our family. We ask that you deny the requested use.

Freund: My name is Joe Freund and I am happy to be Vice President of Temple Shalom. I would like to respond to several points. He did mention that we have Bar Mitzvahs and Bat Mitzvahs and High Holiday services that generate significant number of people, maybe 100. We have for many years....

Ostner: Mr. Freund, excuse me. We are going to take comments just for now that are not associated with the application and then we would like to hear from you all. If you don't mind. We are just going to reserve this for people who are not associated with Temple and then we will come to you.

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- Roth: Hello Commissioners. My name is Paul Roth. I live at 416 Sequoyah Drive, one house away from the proposed project. Lots of bedrooms are surrounding this property and who wants bedrooms looking out on sights, smells and sounds of a parking lot? I don't. Secondly, I have an 87 year old father that I am responsible for. One of the things that keep him alive is walking up and down Sequoyah Drive and they have already said they are not going to put any more sidewalks up there, so where does this man have to walk except on the street. You put twenty-five to fifty cars up there in the afternoons and weekends, what if it snows? You're not going to go down Rockwood, you are going to come out on Sequoyah so its added traffic. I feel that my father will be in danger by any added traffic added to the mountain. That's about it. Thank you.
- Ostner: I would like a show of hands of how many neighbors are here tonight. I'm guessing twenty-five to thirty.
- Lusby: My name is Lonnie E. Lusby - I live in Mt. Sequoyah, Sequoyah Drive. I rise in opposition to the Butterfly House being anything else but a residence for all the reasons stated by my neighbors. Thank you.
- Condren: I am Sherry Condren and I live on Sequoyah Drive. I've been up there since 1980 and have seen a lot of changes. One thing I think the Planning Commission needs to think about is back in the early 80s, some young people missed a curve on Ruth and hit the gas pump station and it blew. We had to evacuate the entire area and it was a Friday night and just this past year a man ran into the house at Mission and was killed - coming off of Rockwood Trail. It is a dangerous street. How much tax would be losing for our schools? That is a concern for our schools. I don't want my tax increased.
- Arentsen: My name is Bruce Arentsen and I live at 1802 Applebury Place and for a lot of the reasons that have been given previously, I am against the proposed change in use. I might also note for safety is that Rockwood Trail is primarily straight, but right at that house is a jog in the road, which has an abrupt veer to the left and abrupt veer to the right. I don't think that has been mentioned. It is at an apex at the street so there is limited sight. I do believe in the future that this could grow and have additional members and like in a lot of places, there is parking difficulties and people end up parking on the streets in some neighborhoods. I think that would be a consideration.
- Garner: I am Rebecca Garner and I live 1061 Pembroke Road. I travel Rockwood back and forth every day. I agree with all the things they have talked about I have to admit, my heart was broken when I drove by it. I have

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forgotten, and quite frankly I thought without a use permit they couldn't do that, but there were all those cars there and it surprised me. I didn't expect it. I thought nothing would happen until after this. I happen to be on the Architectural Committee of our Southampton Subdivision which is just beyond this area, but still on the top of Mt. Sequoyah. We had a gentleman there who had a lot next door to his home. He used to hold church services there and I think he taught some church things and sold books. We weren't really sure. But he was working with the Planning Commission and your Staff and he had given us something that appeared that the Staff had approved what he was going to do on Pembroke Road. I don't think it had gotten to you. And it went to the point when he showed us what he was doing - it was a 7,000 square foot home on a small lot. He tells us it is for his brother, long story short. We wound up hiring an attorney and they had one - it was friendly and when we started talking about how it didn't fit into the neighborhood. It was a great idea for him, but it just didn't fit. It didn't look like the neighborhood, it didn't did have the same use. After he finally admitted it wasn't a home. He said he was very sorry and maybe this wasn't a good idea. He sold his home and found a better place. I hope these people can do the same thing.

Ozment: My name is Vicky Ozment and I live at 804 Crest, which is on the northeast corner of Rockwood Trail and Crest and for five months out of the year, I have a view of what would be the parking lot. So I am that close. I bet you don't want know all of the Jewish friends I've had in my life, so I won't go there. When I spoke with Mr. Garner several times, he said that this had the most conditions on a permit that he and Staff had possibly seen and that raised a red flag for me and I hope it does for you as well. That means that they had to condition it to pieces to get it to be neighborhood friendly, to be compatible with the neighborhood. I am sure Gus Jones would be thrilled to have anyone move in and restore the home. I would enjoy anyone here restoring my husband's '47 Hudson, but doing on your own lawn, would not be appropriate and that is sort of how about this. There will be someone who comes in there and fixes this house and restores it to Gus Jones' desires as well. It doesn't have to be this. When I looked through the conditions, I was a little surprised actually. The very first condition says at the very last of the paragraph, "The Temple activities at this site shall be limited in scope to be small and unobtrusive meetings, gatherings, as described in concept and the materials provided by the applicant". So small and unobtrusive - those sound like somewhat vague words and somewhat open to interpretation. What that would be to me would not be to the next person, so that is going to have to mean we have to come to some terms of what exactly we are talking about, because if you pass this tonight and Planning has put their conditions on that, and the Temple agrees to that, we are all agreeing as particularly in the neighborhood to very set expectations. And small and obtrusive might not

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quite get it at that point. If we decide what that means, we go to their proposal and you have that as well and I think President Ratner also presented you with the list of the existing activities and schedule that they keep now. That schedule is also part of their not owning their own building. They are using this in conjunction with other organizations where they rent their space; therefore, they haven't had the history of owning their own building so therefore they really don't know what kind of participation this might generate. If their congregation is expected to help fundraise or contribute in any way to making this Temple exist, then usually, if I put my money into something, I show up a whole lot more. I want to see what I am getting. I would predict that that is a more realistic view. I think their numbers are a best case scenario for what they experienced at the time. But owning your own building is a different story. We have a history of that in Fayetteville. We built the Walton Arts and everyone said, who is going to buy a ticket and take their kids to Dickson Street, and we know how successful that is. We built a beautiful library and three times as many people show up to use it in the first year. Not predicted. This is an unknown. How much use this is going to get is an unknown to them. They should prosper and grow, everyone agrees with that, but this location does not allow it because they have cited that they will have no off-street parking. Who is going to be able to guaranty that? And if you try off-street parking – we've measured all the streets around there – all the streets available for parking, none of which would be allowed because you cannot get an emergency vehicle down them, in addition to parking. So that is not going to be a place for them to go. When I asked about their growth – I said, what if you under estimate the number of people that want to come an event, you can't predict that, no one can. Well, we will tell them we have twenty-five parking spaces. Is that a realistic solution to a public building? They say that they are a group of fifty families and that they are very slow growing. Their usage and participation levels will jump once they will have their own building, as it should. It doesn't belong in a neighborhood. Also, they said that the students have their own place, and that is true. I have been to all three neighborhood meetings, and I digress for a moment, and I would not characterize them nearly as friendly as President Ratner did. People did not come out and absolutely oppose it when they were asking questions. They were trying to get a feel for all of the information. You have before you a petition that has only been three days in the making and those people are saying no, so that is a substantial "no" that they did not want to have a resounding voice to in a meeting with the people that were giving us our information. The twenty-five students when we were talking about that on the January 8th meeting for the immediate neighbors, they said that they would not hold their events in the Temple, but that they were always welcome to come to their Temple events, because this is their home away from home. Also, the public is invited to any of their events. How are

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they going to control the parking, if they can't predict these numbers? That would be a problem. How will they control the limited use that this condition #1 has put on them? We have to go back to their proposal and the very short events they will have and only twelve people show up out of fifty families. They are trying to tell us that we are going to have to guaranty low participation, or they will already fill this building up without any growth. They already meet capacity if they up the participation of the people who already belong there. I do oppose this. You are probably going to hear a lot more about parking so I won't go on about that. I thank you for your time.

Jumper: I am Allison Jumper. I on the southwest corner of Rockwood and Crest. The only different thing that I wanted to bring up was something that was proposed in their drawings in the neighborhood meetings, was a sub service parking level. I want to speak to the point that that is something that I would not see that could easily be reverted back to a single family function. There has to be significant excavation - I don't even know if it can be built that way, actually. If anyone has built anything up there, it is not easy to get through the rock. I wanted to bring that up - it was what was shown to us at the meetings and no one has spoken to that point.

Dykman: My name is Tom Dykman and I live at 1822 Rockwood Trail. I've lived there since 1993. I went to several of the meetings at the invitation of the applicants and at the last meeting I asked them how big the parking lot was going to be. I was told it was going to be hidden so you wouldn't see this. They told me they didn't know. Tonight Mr. Garner tells us that they'd have to comply with City code to build the parking lot. I went to look at the City code to see what the size of the parking lot would be, and according to Chapter One, 72, a parking lot that will hold twenty cars, ten on one side, ten on the other, would exit out down the middle to what they propose to be 90' x 62' feet by City code. You are not going to hide a parking lot that big with any landscaping. If you look at the lot, it is totally clear. It is totally flat, no trees, no shrubs. I just don't believe that size lot is going to be unobtrusive when you have twenty cars parked on it. The other thing I would like to add that has not been brought up, is the volume of volume up and down Rockwood Trail. They proposed that the volume will be comparable to a single family house, but in fact that is not true, because everybody will come and leave at the same time. The times that they propose to use the site are on Friday evening when people on Rockwood Trail are coming home from work and going out for the evening; Saturday morning when they are going downtown to do errands of some sort or another and on Sunday when people are going to and from church. These are times when Mission is very busy and it is going to be difficult for cars to get out on Mission Avenue at the bottom of Rockwood Trail. If they have twenty, twenty-five cars parked up there which is

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within the limit of the permit, you could easily have ten or fifteen cars backed up on the bottom of Rockwood Trail at those peak times. I just don't think the neighbors should have to come down the hill and have to wait for ten to fifteen cars to disappear to be able to get out of your neighborhood. I oppose this permit.

Colverson: I am Heddy Colverson and I live on the alternative route to Mission which is Sequoyah Drive and it runs right into the Butterfly home. I agree with Dr. Dykman on what he was saying about the huge amount of traffic that would hit at once. I just know from experience, I actually live on Trust now, we lived on Sequoyah for six and a half years, and we have to go on to Sequoyah to get any where. I know that its understandable to me that people want to cut through Sequoyah Drive to get to Mission because it is almost impossible to turn left at the bottom of Rockwood Trail onto Mission. So if you cut through Sequoyah Drive back to Maple so you can hit the four-way stop. So I just see a huge increase in traffic on our street which is a very narrow street. We have dogs, kids, joggers, walkers all the time and there is hardly any place to get off the road. We have enough traffic, I wish we didn't, but it's understandable. I wanted to comment on the proposed parking lot, the grass-pavers as opposed to the concrete. I guess it would maybe look better to some people, but to me it would like cars parked all over the lawn and I don't think we like to see that anywhere.

Sada: My name is Mike Sada. I live at 609 Crest Drive, approximately a quarter of a mile from the proposed project and I am opposed to this otherwise very worthy project. Frankly I am a bit astounded that the Staff would recommend this as a compatible use. In addition to all the other issues you have heard about, it is important to understand that traffic routinely traverses this stretch of Rockwood at two to three times the posted speed limit. The street itself is extremely narrow; it is frequently overgrown with brush and I would agree with Mr. Blair, that anyone turning off of Crest is basically taking their life into their own hands already.

D. Dykman: I am Dana Dykman and I live at 1822 Rockwood Trail. I have lived in the neighborhood since 1993. I have a couple of concerns and things I want to bring to the Planning Commission's attention. First of all, visual works for me, and one of the things that you all may know the measurement of this room, but first of all, to envision what a 90' x 62' parking lot would be, I'm guess this is about 60' long and 40' wide, so it would be about double this room for a parking lot in a residential neighbor. Residential neighborhoods are not meant to have parking lots that large. Period. That is one of my biggest concerns. As my husband said, it is almost impossible to hide that, especially when it is full of cars. I know that the cars may not be there all the time, but given the fact that there is the

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propensity for growth, there will be cars there filling that parking lot regularly in the near future. I was one of the ones that went around and did a petition, mainly because when I was passing out flyers to notify neighbors about the conditional use permit, I got a lot of hesitancy, but negative comments from neighbors and I was concerned that message might not get out to you, so we went around very quickly and tried to catch people at home, which is very difficult to do, and collected several signatures from households. Sometimes both people in the household did sign, sometimes just one. But the numbers were overwhelmingly opposed to this project. For the petition there were sixty-four homeowners. One page of that mentions Fayetteville residents, because there have been some people who have heard about this concerned about their neighborhoods, that if a twenty-car parking lot can be put in something next door to them. I also checked on the letters, which you have a number of them, comments I know you have them in your packet. I don't know if you were able to get to look at them. The best I counted from those letters or e-mails that you received there were 43 opposed and eight in favor. That was prior to January 19th. Since then there have been at least twelve opposed and one in favor. The numbers are overwhelmingly against this. Because I'm visual, I enlarged the map that it is your packet of information regarding the home and I marked in orange the homes that were opposed to this, the nearby homes that will be most impacted. I marked in green the ones that have come out and written you in favor of the project, and there are two. This is a home under construction. This did not have the addresses – you can verify those. My second concern is that I was at the Planning Commission today with several other conversations I have had with Andrew, it is hard to pin down some of the conditions that are delineated in your packet and the findings – things like conditions that they will have small and unobtrusive numbers. I feel like that is a very loose term. How do we enforce that? I asked them if the neighbors found, not through any fault of the Temple Shalom, that there were more people that come and they are late for services and they get there and they find the parking lot is full, they pull over to the side of the road, and park on the side of the road which blocks our traffic for all the neighbors, what are our options? Of course they say we can report that and it can possibly be grounds for revocation of the permit. I think that this is important, not only for our neighbors to know, exactly how we could complain about this. I went to ask the Planning Commission today, because I couldn't find it when I was looking in the ordinances myself, if they could show me anywhere where it is written how you, as neighbors, proceed on reporting and getting some sort of action from the Planning Commission or the City in regards to them not following the conditions of the conditional use permit. The only place there is mention of it is under home occupation. Well I wish this project was falling under home occupation, because then there would be no extra parking spaces allowed. That is my biggest concern here. I think

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there are a lot of issues with the different conditions, on just how we could actually control those. I appreciate your time.

Seward: Good evening, my name is Jim Seward and I live at 1825 Tanglebriar. Several of my neighbors are here tonight. We live on a street that appears to be one of the easy routes off of Rockwood Trail. A lot of people come down our street, as it is a long downhill approach, we have a lot of traffic speeds on our road, with children and dogs and a lot of people walking in our neighborhood. I have concerns with the excess traffic feeding off of Rockwood Trail coming down our streets. And I agree with all the comments tonight and thank you for your time.

Grisham: My name is Lowell Grisham. I am the rector of St. Paul's Episcopal Church. I am not a resident of the affected neighborhood and so I don't have an interest directly in the concerns that we have heard. I look forward to hearing the representatives of the Temple and their responses and hope they can adequately address the serious issues of traffic and parking. I just wanted to say as a religious leader, how important it is to a religious community to have sacred space and to have a place for a congregation to be able to say it's prayers and for it to be able to do so in it's own tradition. That is a good value for the whole community and one to be held in consideration with all the other values we have mentioned tonight. I've also lived in communities where we didn't have a living and active Jewish congregation and that is something that is a great blessing to our whole community. I hope that we can work something out. My own limited knowledge of the congregation is that their events of prayer are very small for the most part. I hope there would be a way for this to work out. We need a strong Temple; we need a strong Jewish community. It is good for all of Fayetteville.

Condren: My name is Sue Condren. I live on Anson Street. I agree with what Rev. Grisham just said about needing a strong Jewish community for the health of Fayetteville. We aren't saying that we don't need a strong Jewish community. We are just saying that it doesn't need to be located in the middle of a residential neighborhood. When this first came up, I drove around with this in my mind, so I became more aware of the local churches, and we have so many of them. They are located on Township, Old Wire Road, Crossover, Mission, Lafayette, they are on edges of neighborhoods, they are on thoroughfare streets. They are streets that the public uses to go to the post office, to go out to eat, to go to the store. They are not located in a street that goes up a hill and eventually dead-ends. Rockwood is not a thoroughfare street. I just think that a church like this would be better situated on a thoroughfare street, the way the other churches are. I have been playing with the cliché that "if you build it, they will come", which is humorous but it is a proven tenant of growth. Many people have

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touched on it. If I was a Jewish woman wanting to be married, I would love to come to this Temple in a Fay Jones' home. If I was in a Jewish family that lived between the Bentonville community and Fayetteville, and I was attending the Bentonville community because they now have a Temple, but the Fayetteville community has a Fay Jones' home in the middle of a quiet neighborhood, I would come to the Fayetteville home. I think that they are under estimating the amount of growth that is going to happen when they move into something like this. I don't deny that they want to be in a sacred place, in a beautiful home. It just doesn't need to be in the middle of a residential neighborhood, because it is non-residential use. I went to several of the meetings as well, and from what I can understand, there is going to be two handicapped spaces required on the driveway and there will be the blue handicapped signs, signage for the driveway entry only and signage for the driveway exit only. There is signage on the wall of the Temple and near the mailbox. That right there tells you that this has a commercial slant to it. I don't have signs on my home. None of my neighbors have signs on their homes. This is not going to look residential, it is going to look more business oriented. My husband couldn't be here, so he wanted me to convey one of his thoughts. When this came about in the late summer, early fall after we went to a meeting, we called Tim Conklin to ask him about the nature of the conditional use permit and basically said, Tim, what is the crux or criteria, what is the thing that a conditional use permit teeters on. Tim said, basically, Terry, do the neighbors want it. He said if the neighbors don't want it, it is not going to pass. In reading the Staff proposal where they deal with traffic and esthetics, and noise, there was nowhere in there, do the neighbors want it. I'm thinking that you are realizing that the majority of the neighbors for very good, practical reasons regarding traffic and a parking lot, lights and all of the things we have brought up, the neighbors don't want it, and I think you need to really take that into consideration.

Welch:

I am Michelle Welch and I live at 707 Crest Drive. I live one house down from Rockwood. My husband could not be here, he is out of state. He has written some e-mails and he is also opposed to this. All the public issues I think have been very well said: traffic safety, issues about the trail. I am one of the people who has to get out on Crest and look ten times before I go. From a personal point of view, because of the lay of the land, sometimes, if you were there at the house where the parking lot is going to be, you would not realize how many of us are impacted because you don't see our house or our land. Because of the lay of the land and the way my house is built on a hill, from my kitchen window, my deck, and front glass doors in my living area, I look straight down on the lot that would be a parking lot and the home. So as I do this and I've been moving around the last few weeks, I want you know how much that will impact my lifestyle and neighbors close to me. When I come home on a Friday evening and

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want to sit and have a nice quiet evening on my deck, am I going to have to listen to seventy-five car doors. It doesn't take very many cars to have all that type of noise, the lighting. I did want to mention that Mr. Ratner did mention that Mr. Wilson was totally for this project. I have lived there for over eleven years and Mr. Wilson does not come up the mountain, he doesn't live there. We need to consider who actually lives there. Please keep this a residential neighborhood.

Webb: My name is Jennifer Webb and I live about a half a mile from this site. I would like to let you know that I support the proposal. I think the number of conditional uses that have been placed on the proposal by the Planning office is indicative of the care and the thought that has gone into this kind of conditional use. I also think that the agreement of the Temple to meet those conditional uses is reflective of their desire to be a good neighbor. I think very few of us, when we have a home on our own street that is sold or changes hands, we can predict what kind of neighbor is going to move in there. They may have a garage band, they may have big parties many times a year as my husband and I do. There is no prediction of what you are going to get. With the conditional use for the Temple Shalom, we are guaranteed that they are going to be fairly quiet and respectful. We can't anticipate that they are going to have a garage band, we can't anticipate that their recycle is going to be full of beer bottles. I think that their agreement to these very rigid conditional uses is not a red flag, but it is instead a commitment to that neighborhood and I think we should think of that very carefully.

Vaungartner: I am Drew Vaungartner, 612 Sequoyah Drive. Don't know what else I could add to this. My neighbors have done a very good job of telling you what our views are and for my wife and I, I would like to concur with all the objections that have been laid out before you.

Ruth: I am Brad Ruth and live at 805 Crest Drive which is the adjoining property to the east. A couple of things: In Andrew's initial comments he said the site was completely shielded from all sides. Not completely true. Six months out of the year, the view from just about every room in my house is the parking area and the Butterfly House. Just wanted to agree with everything that has been said and ask that you deny the request.

Ozment: My name is John Ozment and I live at 804 Crest. I have lived there approximately twenty years and I haven't made 36,000 trips up and down Rockwood Trail, but a fair number. Again, I agree with everything that has been said to oppose this. No personal feelings on this except that the character of the neighborhood, what it is. There is still a lot of undeveloped property on Mt. Sequoyah - people will be building as Jim Blair sold a lot to a couple that is going to build a beautiful home there.

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There are other undeveloped lots. I think we have enough traffic problems as it is. Save the rest of the traffic problems for those who want to live up there, rather than a "business". Thank you.

Chalfant: I am Debra Chalfant and my husband and I are building a house next door to the Butterfly House. I just want to ditto everything. We just want the neighborhood to stay residential.

Ostner: Is there any further public comment before we turn the floor over to the applicant. I am going to close the public comment section. I am going to bring this back to the Commission for any questions or discussion items before the applicant responds.

Allen: I have quite a few comments I would like to make, but before I make them, I wondered if Jeremy would be willing to explain to everyone here exactly what a conditional use is? The reason being is I think there is some misunderstanding about zonings and conditional uses and thought it might be helpful to start with that.

Pate: Sure. I think we have explained it several times over that past couple of weeks to interested parties who are here tonight and others. I think there was an initial misunderstanding that the property was requested to be rezoned, which it is not. A conditional use is a use that is permitted, only conditionally within a zoning district. In every zoning district in the City of Fayetteville there are permitted uses which are permitted by right. It doesn't take a special approval by the Planning Commission. Conditional uses, I have the definition in front of me, but essentially what they are, they are uses that could potentially be compatible, but also could be potentially objectionable; therefore, there are a number of findings on which you have to base your decision for each and every one. Each and every one is separate. We do not base it on prior projects, prior approvals, just like a variance request for instance is not based on any precedence that is set; it is based on each and every review as it comes before you. Findings are made by Staff. If the Planning Commission agrees with all those findings, they recommend for approval; if they disagree with those findings, they recommend for denial. But essentially those are the findings that we are required, and the Planning Commission is required to make for each and every conditional use. Based on those findings, we then generate these conditions. With this project, for instance, we have thirteen conditions that we felt were appropriate in order to ensure that this use, which is non-residential in nature, retains a compatible nature with the surrounding residential neighborhood.

Allen: Thank you. I thought I would start by saying that I've never tabulated my times up and down Rockwood Trail, but they are considerable. My

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parents lived off of Rockwood Trail and some of my friends who are out here in the audience live off of Rockwood Trail and I've come to visit them. I feel like I am practically an historical district up here on the Planning Commission since I've been on the longest. And I have a lot of commitment to neighborhoods and wonder if after tonight, I will have any friends except the Planning Commission because a number of them live in the Mt. Sequoyah and also the Washington-Willow area. I don't see this church as having a high impact on this neighborhood. I don't feel like your property will be diminished. As a neighborhood advocate, I think churches and synagogues, and schools are parts of neighborhoods and are what make them rich and interesting and diverse places to live. I don't think the risks on Rockwood will be any greater as a result of having this church there. I think the conditions that have been put on the church will minimize that; that this synagogue will be a good neighbor to you. For those reasons, even though I am making myself very unpopular, I feel that it is proper location for a synagogue.

Anthes: I have some questions for Staff. The Staff report here says that the landscape plan that was conceived by Fay Jones will be installed by this applicant, but I don't really have much to describe that, so therefore I can't evaluate the type of screening afforded the neighbors. Can you describe that?

Jeremy: For the most part, the drawing that is included is a little hard to read. We would obviously get permit drawings when we are looking at this application, but I believe the condition #12 states that landscaping on site will be planted as proposed in the presented site plan to include trees and shrubs to be compatible with residential use and to provide screening of parking area. As indicated on these plans of course, it includes the addition thirteen potentially large to medium large species trees along the frontage as well as in this one, shrubs planted behind the proposed free standing wall along Rockwood Trail, which I believe is part of the original plan. There is also a retaining wall to further screen the uses. It is indicated best on the section on the following page where the screening is indicated. You can see the small retaining wall as well as the free standing wall. I believe what is meant is not a completely underground parking area, but sub grade. As you see in the photographs the grade does fall from Rockwood Trail here and they would utilize that slope to help screen the vehicles in that location.

Anthes: I'm going to state this as I think I see it. If Mr. McKee or Mr. Jennings listen and make sure that I have this right. There is a two to three-foot high brick wall that will be built on Rockwood Trail that was part of the original design. It looks to me like the elevation of that is from 99 to 105 feet, following the curvature of the property. Then the site slopes

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downward and then there would be a retaining wall that the top of the wall is at 99 feet and the bottom is at 97 feet. And that is behind which the cars would be parked. It looks like in the rendering there are two rows of hedge material between Rockwood Trail behind the planned free standing wall and then again another row in front of the retaining wall of the parking lot? There are at least six trees to be planted in that space as well. My next question of Staff is that the site alterations as shown on these drawings, I believe if I read the conditional approval right, they say that any site alterations other than those described and shown in the plans and approved, which would be additional parking areas or pavement areas or whatever, would compromise the conditional use, correct?

Pate: Correct. It would have to return as a new conditional use request if any other further expansion is requested.

Anthes: Can you, Jeremy, describe for the neighbors, what avenue of recourse there is to them if there are complaints.

Pate: If there are conditions that are not met or applications on this site that do not meet what the intent and what the proposal is before you (I have a couple of notes to hopefully clarify that), a neighbor, citizen, or non-citizen, anyone affected by the action could contact the Planning Division Office, file a formal complaint in our Hansen system. We would do a code violation request and a service request and would investigate that potential violation just like we do on any violation of the City Code. If those conditions were not being met, we would then contact the owner; if it was not remedied within a reasonable amount of time – I believe most of the ordinances give you seven days or fifteen days, depending on the violation – to remedy that situation. If it is not remedied, then that would come before the Planning Commission for further action. The Planning Commission could then revoke that action and can go as far as the City Prosecutor's Office and the Court.

Anthes: Is Staff available at times other than 9-5 Monday through Friday to observe those complaints if they occur?

Pate: Yes.

Anthes: Have you evaluated the traffic numbers as submitted to us and concur with the number of car trips per day being at or below what you most often calculate for two residences?

Pate: For two residences? A typical number is around 9.6 – 10 trips per day is what we realize for residential subdivision single family homes, so for two homes on this site, it would approximate 20 vehicle trips per day. This is

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larger home than most sites, so it might be more given the size of the family that could occupy it. That is a national average that we realize in our trip generation rate.

Anthes: Can you speak to Conditional use #6 and describe why we would not be wanting sidewalks in this area?

Pate: The reason for that recommendation (and our walk administrator did visit this site) and one of his criteria that he is required to do by ordinance, is to look at the possibility of connecting sidewalks and unfortunately in this area, the potential is so low at this point in time, it would have to be a major City undertaking to do the entire Rockwood Trail, widening and creating sidewalks and I don't believe that is in our future plans at any time. The recommendation at this point would be to utilize that \$3 per square foot for the linear amount of a four foot sidewalk along this site for sidewalks in this area. So that would be improving existing sidewalks, creating new sidewalks where they do make connections.

Anthes: I am not sure if you, Mr. Pate or Mr. O'Neal would like to address this one, because this subject has come up before, has the City looked at other means to control traffic or the speed of traffic on Rockwood Trail - like stop signs and that sort of thing?

Pate: We do have in place a system by which a neighborhood can petition for traffic calming measures and that is available online and something that the public has been aware of. We have looked at various neighborhoods - I don't believe that Rockwood Trail has looked at those measures because it is one of the only means of access for most of these neighborhoods. It has functioned as a small collector street for a number of these neighborhoods. I think one citizen mentioned it is sort of the drainage for the traffic of this area, because there are no other means of access over the mountain with the exception of the other two that are mentioned. I don't believe we have done any comprehensive evaluation of that.

Anthes: Thank you. That is all for now.

Vaught: I have some comments. This is a tough one, because typically I would support this type of use in the middle of a neighborhood. I believe it is compatible and it would enhance the neighborhood. My problem this time is the location and I believe that is why we have the conditional uses and it is not by right in a residential neighborhood. We have a structure - honestly, these streets in the Rockwood and Mt. Sequoyah area are substandard. They are narrow, steep and are probably are never going to be improved. With the lack of further development in these areas, especially with no streets connecting over Mt. Sequoyah, it is difficult to

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get funding for improving these streets to a standard that could handle the traffic they currently have. Typically there are no curbs, gutters, there are ditches on either side of the road, there is no room for on street parking, dictating the need for this large parking lot with lighting. I would see this more compatible if we were closer to a major road, if we weren't up such steep grades on narrow roads, or off-site parking available at this location. There is not. I do believe that churches can be great neighbors in neighborhoods. I don't think that this is the right location for it. My concern is not what it is, but what it could be . . . In a year or two, we could have twice that much. We are looking at the situation I think. This conditional use runs with the property. If the Temple outgrows it and wants to move to a new location, they could sell this piece of property and obtain the conditional use, and we will have less control over really what it will be. If we do approve this, I would like to see further definition, especially on condition #1. As stated, I am against this conditional use, for the safety concerns, street concerns, for off-site improvement which we couldn't ask this applicant to bear. Another concern of mine is the parking lot lighting. Any kind of lighting in that parking lot in this hilly area is going to affect neighbors. I don't see how it could not; it is a hilly area, on a plateau above other homes off the back side. You might be able to screen the cars, but I don't think you can screen all the lighting. I think that would be a radical change from what we currently have and for those reasons, I cannot support it as written.

Graves:

I would concur with what Commissioner Vaught just said. In general I disagree with most of the public comment on where a church is appropriate. A church is appropriate in a neighborhood, just like a school is or a grocery store or maybe a small professional office here and there, maybe the corner gas station. It is appropriate in many residential settings. The issue I have with this proposal has nothing to do with what the proposed use is, but the type of traffic and type of parking situation that is involved in that particular location. If it was on a flat stretch of street that was wider, that had sidewalks and more protection for people pulling in and out, and people that were walking, I wouldn't have as much of a problem with it. When you look at this site, I am very familiar with it - I lived on Applebury Drive for a number of years. Professor Freund lived right behind me and Mr. Blair lived down the street from me and I am very familiar with the area. I've run that stretch of Rockwood a lot of times. That picture doesn't even do it justice, how narrow Rockwood Trail is and there is no where for the large number of pedestrians to go whenever cars do top the hill. This particular location is on a plateau. It dips down to the east and to the west of this particular site and it goes back up as you go east and goes down again. It is very difficult to see traffic as you are coming off Crest or coming out of the driveway for this particular location that is right next to Crest. The screening that has been discussed,

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I'm not sure it adequately addresses some of the homes. We have comments from some of the residents on Crest, because a lot of those trees that are natural trees that are back behind that aren't going to be planted, especially a screening. There is a lot of canopy there, but the type of canopy that is there drop their leaves for half the year and there is a clear site line through there. Some of those homes are a level above of where this home is located and they will be able to see down into that parking lot and probably be affected by some of the lighting as well. When I take all these things together, it is not that I have a problem with what the use is, other than what the use brings - that particular type of use brings in this particular location. Having been the victim of the Planning Commission before with my other Methodist Church on Dickson who wanted to build parking on Lafayette, I am particularly sensitive of having been denied by the Planning Commission on things that a church wants to do with its property and not being able to do it. I've really thought about this one a lot and struggled with it personally on what is appropriate here, but I cannot get past where this particular piece of property is located and there is no way to make it safe, especially if there are 10, 15, 20 cars all trying to get out at the same time at the end of the service. And that is assuming that the numbers that we have been provided hold and there is no guaranty that that would be the case, even if there is slow growth. Even the number of cars that is being discussed right now is probably too much for that location. If there is growth, the parking lot isn't going to contain it and my suspicion is that people would begin to park along Crest and Sequoyah Drive. They can't park on Rockwood, but they would start parking along some of those side streets. I just cannot support that impact at that piece of property and I'll be voting against it.

Anthes: Couple more questions for Staff. I think there is some confusion about how this proposed parking lot is proposed to be lighted. It looks like condition approval #7, all lighting shall be limited to pedestrian scale lighting (bollards, wall-mounted, etc. and shall be unobtrusive to the neighborhood). What does that translate into. There is going to be no pole lighting? How will that parking lot be lighted?

Pate: In as much as it would provide pedestrian safety and that is essential - we did not anticipate and we would be happy to add to that condition to say specifically no pole lighting, that's why we included bollards or wall-mounted, something more pedestrian scale and does not provide an office and/or commercial type of lighting.

Anthes: And from ingress and egress - the Staff report states that the Staff felt the site lines were adequate for safe ingress and egress from the new driveway. Mr. O'Neal, would you substantiate that.

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- O'Neal: Yes, we did visit the site and did find that the drive as far to the east as possible would be the best location for another exit point.
- Anthes: Then I have a question about the size of events. I believe I read in here, but can't seem to locate it, that the Temple still plans to hold larger at the Unitarian Fellowship Building where they currently have events. Is that true and can someone speak to that.
- Pate: Just a quick thing and maybe the applicant can speak to where the larger events would be held. Our recommendation is based upon this being a small event-type of facility for this conditional use permit. There have been allusions to larger events that once a year -- bar and bat mitzvahs would produce a hundred plus people, that is not an event that we would anticipate would be held here. And to further quantify that, conditional approval #10 is intended to help out with the questions regarding unobtrusive and small meetings. By limiting the parking spaces, that is ultimately the impact. You could probably put four or five people per car, however, these would also likely be inside and by limiting the size the parking area to the driveway and to the grass-paved area only, we felt that was the appropriate way to limit the activity on the site, so there would be whatever could fit in the driveway and in the parking area. Again, to further clarify that, it was our intent that parking would not be permitted on Rockwood Trail or any other public street in conjunction with this conditional use permit. That can be added as a condition or can be further clarified in condition #10, because that was certainly the intent.
- Anthes: Would be alright for me to ask the applicant about the large events?
- Freund: My name is Joel Freund. We have for many years used the Unitarian Universalist for High Holiday services which are like Easter services -- lots of Jewish people come once a year. Those occur in the fall. We plan still to do that, and when we have bar-bat mitzvahs and those are very sporadic, many years we have none. This past year we had three and it will be a number of years before we have any more. Those also would be held where we can accommodate them at the Unitarian and we plan to continue an arrangement with them for those services. At our typical Friday night services, we get fifteen, maybe twenty people. When we have a children's service, which of course is a draw for the parents, we may get twenty, twenty-five people.
- Anthes: Thank you very much. I'd also like to state that the Unitarian Fellowship Hall is located in the center of a neighborhood and on a steep and narrow street. I look at how we build our community and what kind of uses we permit regularly in residential neighborhoods. Time and time gain, this Staff and this Commission has recommended and found compatibility for

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churches in neighborhoods, some of them are on hills, some of them aren't. Most have much more concrete, much more lighting; all have their individual potential conflicts and traffic problems and issues. I can think of a few on the west of town that were particularly challenged with traffic right now. I keep coming back to the basic argument that neighborhoods are perfect places for places of worship and that just like neighborhood schools, people want to live and be able to walk to where they worship and to their school, and it is a similar situation here. I believe that Temple Shalom would be a good neighbor and excellent caretakers of this important piece of architecture in our community which has been vacant for some time. Personally, I would love to see the landscaping installed because I think that is something that has always been missing from that property. For all those reasons, I am going to vote in support of this project.

Trumbo: A question for Mr. O'Neal. He mentioned a line of sight from the eastern most ingress/egress and you are saying that is acceptable. What speed did you estimate that at? Not the posted speed, but the current speed.

O'Neal: With the posted speed which is 25 MPH.

Trumbo: My issue is safety. My biggest issue right here. Everyone who has ever lived Fayetteville or up there knows that nobody hits the crest of that hill at 25. These are hard decisions to make. I am going to vote against it based on safety. I don't believe that looking three or four years down the road that we are going to be at twenty or twenty-five, cars park all over side streets and nothing happens. There are no tickets. I think we are going to be back here in a few years if we allow this because of the growth of the area.

Ostner: I have a comment first. This is a question for Staff. There is another church, maybe a mile west of here near the intersection of Old Wire and Mission, just a little west up that hill, I think it is a Presbyterian Church. They do have a larger parking lot, but it is a big church. Does staff receives lots of complaints from that mixture. That is sort of a purely residential area.

Pate: We have not.

Ostner: That's sort of where I'm wanting to go. That good City planning is not homogenous. We struggle constantly, we hire outside consultants to tell us that this thing called mixed use, and in the really interesting towns that we can't seem to build any more, but that use to exist, things are all jumbled up. We didn't have large expanses of residential subdivisions. I think this use could work here. The traffic on that street is too fast. I am

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not convinced that the connection is cause and fact. I am not convinced that this establishment with as many cars as they predict or double the amount of cars they predict, would make that street be worse. In fact, a lot of streets, the more cars they get, people slow down. I'm not sure what will happen with Rockwood Trail. It needs help. But I don't think stopping this is going to help it one bit. Another home could easily be built on the eastern section. Just because it is a house, doesn't mean people don't go to and from it frequently. People do speed along there. I wish something could be done, and something should be done. The methods that are in place right now with the traffic calming do not seem to be adequate. There are a lot of streets like this in residential areas, that traffic is way too fast. It is absolutely wrong. I will probably vote for this tonight, because I think it is a good use, I think the impact is minimal, the number of conditions the applicant has agreed to is impressive. If the Staff had told me I would need to submit to this many conditions for something that is pretty simple, I'm not sure I would not have withdrawn right there. I think these are good tools to help the neighborhood and the applicant get along. I do want to address a comment a person mentioned that she talked to Tim Conklin and his response was, "if the neighbors don't want it, it probably won't happen". I'm sure Mr. Conklin is much more aware of conditional uses than that and I believe that person misunderstood him. Mr. Conklin is well aware that conditional uses are at this body's decision. Period. The fact that the neighbors are heavily listened to is part of this community's benefit. We listen to the neighbors a lot. It does not mean that you all get together and vote against it and that is the answer. I wanted to mention that. I think that the right-only exit is very important with this parking lot, which is one of the most beautiful parking lots I've ever seen drawn. It is very nice.

Vaught:

I would agree with everything that Commissioner Anthes was saying about the placement of churches, but believe that we shouldn't approve every church that comes before us. There are conditions we need to look at; one of them is safety and the conditions of the streets and also the potential for what that condition does and also the potential for improvements. A number of the churches on the areas on the west side of town are slated for improvements. We are seeing growth and we are seeing improvements around them. The church she referenced we saw a PZD at the end of one of their streets about a month ago. We heavily discussed traffic and how adding seven houses wouldn't affect it because of the church traffic. I think the church she references doesn't cast a good light on this. It does produce heavy traffic along the street at certain times. Another concern, like I said, I'd like to hear from those who support this, address condition #1 more specifically. I think that is very important. I think that if we do approve it, the comments Jeremy made about no parking from this should be allowed on public streets and even

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side streets is very important. St. Joseph's is a perfect example of a church that outgrew the neighborhood. We had constant complaints and constant driveways being blocked on all the side streets through Washington-Willow neighborhood, which I lived in. It was one way on most of those streets on Sunday mornings, because the size of the structure would certainly handle that kind of volume of people. Like I said, a conditional use runs with the land. We are granting this for this piece of property. If the Temple outgrows in two or three years because they are having more than twenty cars a Sunday, they could sell to somebody else and there is no guaranty they are going to stick by those conditions. Granted we can hear. I'd hate to have the Temple and agree to this strict set of standards and outgrow it and be back here in a year or two and have us revoke or modify the conditional use. This is something we are making a promise to and they are investing heavily in this property. I don't want to put them in a situation where they are set up to fail. To me, having such a strict set of guidelines almost does that. That is why I have such a hard time with this and the condition of Rockwood. I love churches in the neighborhoods, it is better than a church in a commercial area. It is where the area, where people go for help, where people go for rest. It is a great idea, and I definitely endorse, if this was down by Root School, fronting on Mission, this would be a different story. That is an idea of a neighborhood school - it is a great location that people can walk to. We are not talking about that kind of accessibility; we are talking about very limited access to the site. The church referenced I would have the same issues; I would probably have the same issues if it came before us today and they wanted to build a church of that size in that neighborhood. Like I said, we discussed that very site about a month ago and had negative comments about the impact of it.

Ostner: I would like to clarify that my comment was not that traffic doesn't matter. That church is five, eight, ten times as big as this facility. My comment was the mixture of the church in a neighborhood isn't always bad. The traffic can be figured out sometimes.

Graves: That particular church that was referenced also impacts and affects a lot fewer residences and that doesn't make it any less important to the people that live there, but Rockwood Trail is a way off that mountain for an awful lot of people and having traffic pulling out of a blind driveway, which it will be, and I appreciate and understand what engineering has said and what Staff says, but it will be a blind pull out and a blind sight line for people coming over that hill and for people that are pulling out of there. Aside from that, even at 25 MPH, Staff felt it needed to be moved as far east as they could get it and right turn only and that is indication of the safety concerns out there in this particular location. I'm not aware of the church referenced by Commissioner Anthes and its particular location. I

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don't know if I would have voted for those churches in those locations or not. All I have in front of me is this one, and what I know about the area. I would also reference back and say that we take each conditional use permit on its own, that's understood, but this Commission saw just a few months ago a proposed business on the corner of Poplar and Green Acres Rd. that was going to have three or four cars and some of the same folks were supporting this particular conditional use were opposed to some of the same concerns that we have tonight, that it is was encroaching and impactful on that neighborhood. This is even more impactful. It is more cars, more traffic, on a much narrower street with many more safety issues involved, also in residential area. I will reiterate that I have struggled with this one, that I understand and appreciate that a church needs a home and how important that is to people of faith and this is in no way a reflection of any kind on the fact that this is going to be a church. I would have the same concerns if it was going to be a dentist office or another denomination or a gas station or whatever it is, that there are uses that fit within residences and churches without question do. I just don't think that this number of cars even at the limits discussed, fit at this site. That is my concern.

Ostner: I would like to mention that the issue on Green Acres and Poplar was a rezoning and it is those exact issues that we did not have control on how things would look or function.

Graves: Did we not have a conditional use out there too?

Pate: Yes.

Graves: And we turned it down for some of these reasons.

Lack: I think that the underlying concern that I would have is that it is critical to the health of neighborhoods to house the places of worship within the neighborhood. It is critical to the development of a sense of neighborhood to embrace that idea and it is critical for the places of worship to be a celebrated part of the sense of community. I understand that there are traffic concerns in this location and I understand that is why we have thirteen conditions of approval that require a small scope. I've been involved with many churches in a growth process. Any growth does require an additional conditional use application. With that application, if the Temple has not been a good neighbor and has not held up to their end of the bargain and the community appeals, then that begins ammunition at that point. I think that for this to be a functioning part of this community would be wonderful for this neighborhood. With that I plan to support this.

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Clark:

I have struggled with this as well and it seems like since I've joined the Planning Commission, I have seen a lot of these very neighbors from Rockwood Trail. I think I see them every other week. We talk about growth over the mountain, we talk about connectivity over the mountain, we talk about a variety of issues that have all been denied by this Planning Commission. We have supported no thoroughfare over the mountain, we have listened intently to your suggested connectivity, new subdivisions, growth, etc. and heard a lot of the same arguments and they are good and compelling arguments. Rockwood Trail is one of the most dangerous streets in the City. I will compare it to one I travel on a daily basis which is Wyman Road, so undeveloped, also non-standard – very narrow and the thoroughfare to, I believe, every individual in northwest Arkansas getting into Fayetteville when I'm on the corner. Having said that, also on my corner is Buckner Baptist Church. There are great neighbors. They have a lot folks that come to that Baptist Church. They generate a lot of traffic on Wednesday and Sunday – they are there all the time. We vote in one of their buildings – it is a community center as well. It does not negatively impact my neighborhood. That is part of what I have to reflect on because my street comes over the curve, it is dangerous intersection. We can go through almost the exact list of issues that we have talked about tonight. It does not make them a bad neighbor. That is my frame of reference when I am talking about your particular situation. I think this house is gorgeous, on a beautiful piece of property. I think it has been neglected for lot of years. I think the Temple could be a good neighbor, I think they would take good care of this property, take good stewardship of it. This is a conditional use, it is one of most restrictive conditional uses I have ever seen. That gives the neighborhood a clear cut sense of criteria that this individual entity has to follow. If it doesn't follow it, it comes back to us, we can revise it, we can overturn it or amend it. I would like to see the language that prohibits parking on any side street and Rockwood Trail because that just does not need to happen. But I look at the renderings of the parking lot and it is going to be a stark difference of what I see in this picture, which is a very compelling picture, I might add. If this landscaping put in according to the drawing I'm seeing, which is something the Planning office has approved and makes them follow, that is going to be screened and it is going to be an asset. Would parking exceed this? Then it is time for Temple Shalom to look for another home. Now I'm a lifelong resident of Fayetteville and I haven't seen that much growth in Temple Shalom and I'm getting really old I might add, since I was in high school and met some of my first Jewish friends. They were going to Ft. Smith at the time, and now have a home here and I'm very proud of that. I don't expect the growth to be expediential to the growth of the area. I think it will be very controlled growth in terms of membership for a variety of reasons. But should it grow, and it may it grow, then we come back here and look at the conditional use and start all

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over again. The neighbors have a lot of safety built into this conditional use, which makes me less concerned about voting for this conditional use. After hearing all the discussion and seeing I think my surrogate neighborhood again tonight, I have to disagree and hope that everyone can put differences aside and work together as neighbors. If not, you have the criteria to call Planning and complain, come back and we will take a look at it again. That's the beauty of a conditional use. We are not rezoning this for, it is not forever. It is a conditional use and you can complain, monitor and follow and hopefully a few months from now, you'll figure out it's much to do about nothing. This time I am going to disagree with my surrogate neighborhood and going to vote for the conditional use. I am sure we will see you all again.

Myres: After everyone else has talked, I don't have a whole lot to add, since we are not supposed to be redundant. The thing that disturbs me the most about this entire discussion is that it seems when the neighbors and the neighborhoods have looked at this proposal, all they can see is what is potentially harmful or bad about it. And that is all you are focused on. Obviously that is important to you and I agree that there are things about adding traffic to an already over traveled road that are certainly of concern. I guess if we restrict parking on the side streets, I guess the next time I go to a big party up there, we are going to have to have people drive us up and drop us off so that we don't park on side streets. But I have to support this even though there are arguments that are intellectually compelling, not to do so, I agree with some of my fellow commissioners, that it is an appropriate use for this property. I think they will be wonderful stewards of this terrific house. I'm not sure it would be cared for and built to its original intent without their assistance. For simply that reason, I would like to see the plan completed. I heartily support this conditional use.

Anthes: Rather than taking the stance that we are setting up Temple Shalom to fail, I would like to offer them the opportunity to succeed, and therefore I will move to approve the CUP 06-1892 with the following conditions of approval: one through six as stated with the addition with the addition of condition #7 that no pole lighting will be allowed on the site and with an addition to condition #10 that says no parking will be allowed on Rockwood Trail or any other public street but shall be contained in the existing driveway or the grass-paved lot only.

Lack: Second.

Vaught: I would like Staff or the motioner help the neighbors understand condition #1, the small and unobtrusive portion of that. I think that is very important to them and very important to the Temple, too, to know exactly what that

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means as it is subjective and even as Planning Staff turns over, that could change. I think that is something important to clarify for everyone.

Pate: The point of clarification really comes with condition #10 in that it limits the actual vehicles on the property to what is located within the driveway and the parking area that is provided, which is a maximum of twenty vehicles in the parking area. So the driveway, I'm not sure what that contains, but obviously there will be traffic movement plus the proposed parking area. So that in itself will limit the amount of activity that can occur within the home and the site. Obviously, as you mention, occupancy of 100 -200 based on just the size of the property. If they get that many people in there, they are going to have to walk. It is simply not going to accommodate that type of use and that is not what is indicated in the application to us. As noted on record and there will be a file in the record of minutes, the applicant has indicated those larger events are not anticipated to be held on this property. They are anticipated to be held off site likely in the location that they are holding them at this time.

Vaught: Once again, for the neighbors, if they do have complaints, I guess one of my concerns is when we go to investigate, we don't get the calls on Friday night at 9:00 or Saturday night at 9:00. Obviously they are going to call on Monday morning and say, there are forty cars out there that are parked on the street. What are avenues - you have to have proof. I know that as much as we want to believe them, we don't want to hold someone guilty unless proven guilty. So what are the avenues for investigation?

Pate: We very often take photographs and neighborhoods take photographs of potential code violators and that is something that we submit and investigate as well. So that it something that is very important that we use all the time in investigation, just a photograph is pretty easy to see if it is in violation.

Vaught: It is not the Temple Shalom for me, I think they will be an excellent neighbors. No matter where they are, their investment in this property and what they want to do is proof of that. It is an overall concern of safety. The limits on this and the particular size of the building, to me they don't line up. It is a condition I don't want to put the Temple Shalom here a year from now or two years from now, after spending well over a million dollars on this property defending why they had too many cars they had in the parking lot. I think it is a great concept and a great idea. If we could improve Rockwood, I believe I'd feel differently, but we can't and there are no plans to. And that is one of my main concerns. As we continue to put more and more traffic on Rockwood as the other little areas develop out on Rockwood and the streets around it.

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Trumbo: For myself, Mr. O'Neal, if we rated this when we looked at the traffic situation at 50 MPH or 45 MPH which is more realistic, coming over this blind hill, right where this house is, is it a safe condition for the record.

O'Neal: For which entrance?

Trumbo: Either.

O'Neal: I would say for neither.

Trumbo: For neither?

O'Neal: Neither one of them. No.

Trumbo: That is the only reason I am going to vote against this. Any other place in this neighborhood, I agree with all my fellow commissioners. That's the only reason.

Freund: I have lived on the hill probably as long as or longer than anyone up in there – thirty-three years, on Rockwood. And from what Mr. Trumbo said, my driveways are not safe, and it's not. If we were to grow at any rate that we would outgrow the building, our plans would be to leave. We would hope that we would outgrow it, but I've been here that long, it has not happened in the time I've been here. I don't expect that it will for many reasons that are beyond trying to go into in a short time. I understand that it is not a safe street, but we would, making the second entrance as the exit as the current driveway just has ingress, would solve some of that.

Ostner: Are there further comments before I call for the vote? Please call the roll.

Roll Call: Upon completion of the roll call, the CUP 06-1892 motion is approved by a vote of 6-3-0. (Graves, Vaught, Trumbo voted no)

APPENDIX E

PETITION IN OPPOSITION TO THE PROJECT

(ADDED AFTER 01-23-06 PLANNING COMMISSION MEETING)

Petition to Fayetteville, AR Planning Commission

The undersigned residents of Mount Sequoyah object to the issuance of the proposed conditional use permit allowing the Butterfly House to be used by Temple Shalom. Please deny this non-residential use.

<u>Name(s)</u>	<u>Address</u>	<u>Phone/E-mail</u>
Terrence Hallard	734 N. CREST DR	442-2194 HALLANDLOR@AOL.C
Polly Travis Gault	959 West Divu	444-7222 pollygault@comcast.net
Ida Lorraine E. Ayler	1336 Northview Fayetteville, Ar 72	
Mary Jernigan	853 EASTWOOD	442-9011 mary.jernigan@sbcglobal.net
Connie Cramer		
Robert Wileman	850 Eastwood	442-5804 ccramer@uac.edu
Paul Sager	711 Anna Pl.	521-2661
Jobita Stewart	1580 Rockwood	521-0916 RSSwint@comcast.net
Louise Sager	1636 Rockwood	442-4062 lg.sager@comcast.net
Eleanor Neel	835 Crest	521-0808 elsie53@yahoo.com
John W. Smith	915 CREST DR	442-4643
Betty L. Smith	915 Crest Dr.	442-4643
Alison Jumper	733 N. Crest Dr.	200-1809

Petition to Fayetteville, AR Planning Commission

The undersigned residents of Mount Sequoyah object to the issuance of the proposed conditional use permit allowing the Butterfly House to be used by Temple Shalom. Please deny this non-residential use.

<u>Name(s)</u>	<u>Address</u>	<u>Phone/E-mail</u>
Vicky Izment	801 Crest Dr.	521 3355
Dana Dukeman	1822 Rockwood	czarkhigh@shoglobal.us
Brad Ruth	805 Crest Dr	brad.ruth@cox.net
Debbie Larry Tuttle	1025 Crest Dr	tuttlefarm@aol.com
Mary Osborne	1017 Crest	moshorne@fayetteville.net
Dusty Fowler	1900 Rockwood	bloewere@ark.edu
John Maw	1872 Rockwood	
Pam Cox	545 Crest Dr.	drpamcox@AOL.Com
Karen Brown	540 Crest Dr	jbrown7206@aol.com
Wendy Brown	520 Crest Dr	
Michelle Welch	707 Crest Dr.	442-5884 mdwelch2@yahoo.com
Tony Beardsley	707 Crest Dr.	442-5884
Loraine B. Bashor	848 Rockwood	521-6441
Robert Benton	1353 Rockwood	841-1251 RSBENTON@aol.com

Ellen Gilchrist 834 Eastwood 575-4301

Petition to Fayetteville, AR Planning Commission

The undersigned residents of Mount Sequoyah object to the issuance of the proposed conditional use permit allowing the Butterfly House to be used by Temple Shalom. Please deny this non-residential use.

	<u>Name(s)</u>	<u>Address</u>	<u>Phone/E-mail</u>
	Darby Londer	614 Sequoyah	442-4784
	Mrs James	1591 Clark St.	582-4628
FS	V. S. B.	1650 Clark	582-5202
FS	Jim Culberson	1008 E. Trust	251-1623
FS	Patricia Culberson	1008 E. Trust	251-1623
Stone	Don W. Dyer	531 Sequoyah	442-2457
	Mr R. Barron	505 N. Sequoyah	521-5839
	Margaret Barron	565 N. Sequoyah	521-5839
	Lane R. Barron	614 Sequoyah	521-6371
	Leanne Barron	601 N. Sequoyah Dr.	443-2999
	D. W. T. Coar M. H.	837 N. Brett	387-1897

Petition to Fayetteville, AR Planning Commission

The undersigned residents of Mount Sequoyah object to the issuance of the proposed conditional use permit allowing the Butterfly House to be used by Temple Shalom. Please deny this non-residential use.

Name(s)

Address

Phone/E-mail

Paul Rott 614 N. Sequoyah Dr 442-4784

Drew Butner 612 N. Sequoyah Dr 443-2787

S. E. Lush 607 Sequoyah Dr 582-0424

M. D. 608 SEQUOYAH 630-954302

Susan Foley 745 N. Sequoyah 443-4781

Theresa C. 670 N. Sequoyah 841-0711

Wes Baldry 668 Sequoyah 444-7425

Petition to Fayetteville, AR Planning Commission

The undersigned residents of Fayetteville, AR object to the issuance of the proposed conditional use permit allowing the Butterfly House to be used by Temple Shalom. Please deny this non-residential use.

<u>Name(s)</u>	<u>Address</u>	<u>Phone/E-mail</u>
Carolyn Cunningham	1725 Hackberry	443-4663
W B Ball		442-6152
Ernestine Sanders		
Ross	851 Overcrest	973-2766
Lyn Hynes	500 E. North	575 0533
John	500 E. North	575-0533
Mrs. Kathleen Miller	1815 N. Buckley Dr.	444-6534
Jean Hicks	1873 N. Chocoma Ct. Fayetteville, Ar.	
Jeanette Dhaefat	1857 Chocoma	Fon 72701
Bernice L. O	1861 E. Overcrest	582-9219
Cheryl L. O	1861 Overcrest	582-9219

APPENDIX F
TRAFFIC COUNTS FOR
PROPOSED SYNAGOGUE USE

(ADDED AFTER 01-23-06 PLANNING COMMISSION MEETING)

Temple Shalom at the Butterfly House
Summary of Trip Generation Calculation
For 50 Family Members of Synagogue
January 25, 2006

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	0.47	0.00	1.00	24
7-9 AM Peak Hour Enter	0.00	0.00	1.00	0
7-9 AM Peak Hour Exit	0.00	0.00	1.00	0
7-9 AM Peak Hour Total	0.01	0.00	1.00	1
4-6 PM Peak Hour Enter	0.07	0.00	1.00	4
4-6 PM Peak Hour Exit	0.07	0.00	1.00	4
4-6 PM Peak Hour Total	0.14	0.00	1.00	7
Saturday 2-Way Volume	0.26	0.00	1.00	13
Saturday Peak Hour Enter	0.01	0.00	1.00	1
Saturday Peak Hour Exit	0.04	0.00	1.00	2
Saturday Peak Hour Total	0.05	0.00	1.00	3

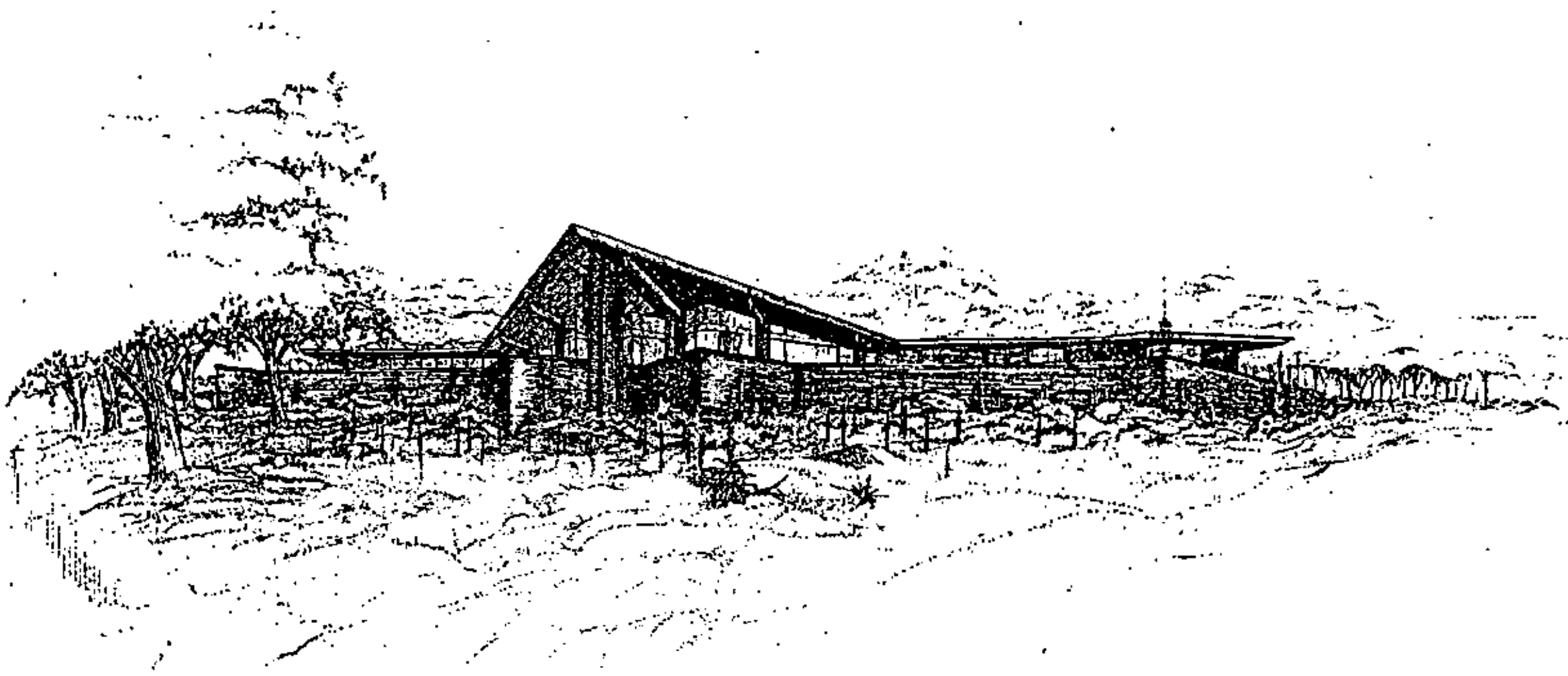
Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS

Proposal to the City of Fayetteville Planning Commission

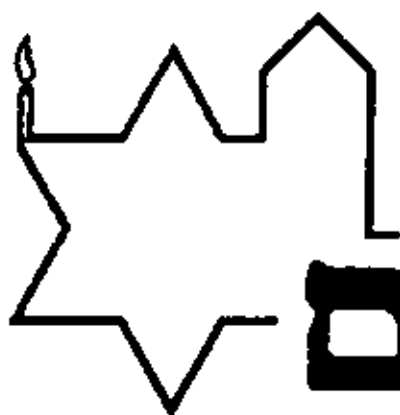
December 15, 2005

A permanent home for
Temple Shalom of Northwest Arkansas:
the E. Fay Jones "Butterfly House"
1100 Rockwood Trail



HOUSE FOR MR. AND MRS. W. D. HARRAL E. FAY JONES ARCHITECT

Joe Ratner, President 479-685-0272 jratner@aol.com



Temple Shalom of Northwest Arkansas

PO Box 3723

Fayetteville, AR 72702

Introduction

Temple Shalom of Northwest Arkansas, founded in 1981, is Fayetteville's only Jewish congregation. On the eve of our 25th anniversary, we at long last have an opportunity to have a home of our own. Our congregation has always been centered around the University of Arkansas (many of our members are professors), and while real estate around the campus is not plentiful, we have found a beautiful location only 1.5 miles from Old Main. As we contemplate our legacy as a part of Northwest Arkansas, and we plan to honor Fay Jones's legacy, as embodied in this early example of his work, which remains just as it was when he and Mr. Harrah oversaw its construction over 40 years ago. Most Temple events are open to the public, so admirers will have an opportunity to visit the Butterfly House.

Structure and Signage

The "Butterfly House" at 1100 Rockwood is app. 4100 sq. ft., on app. 1.5 acres of land. Behind the property is unbuildable land, and a stand of trees shields the property on both sides. Changes to the structure of the home will be minimized, and no changes are planned that would preclude returning the building to private residential use in the future. Modifications necessary to meet building codes are being designed to retain the home's original spirit by David McKee, of Maurice Jennings and David McKee, the firm in which Fay Jones was a partner. Changes include a guardrail on the patio which runs the length of the rear of the house, conversion of one restroom to ADA specifications, and the replacement of three sliding glass doors in the rear of the house by outward swinging doors for emergency egress, which will be custom designed and built. No yard or pole signage is desired. Signage will be confined to the front wall and/or porch of the building, and the mailbox or driveway light fixtures.

Landscaping and Parking

There is virtually no landscaping in front of the house currently, and the lot to the east is bare with a chainlink dog run and storage shed clearly visible at the back of the lot. We plan to follow Fay Jones' original landscaping plan as closely as possible in front of the house, and it will guide the landscaping and screening of the parking lawn on the grass lot to the east. While the sanctuary area can hold 101 persons, going by raw square footage, we think about 60 can fit comfortably. City code specifies 25 spaces for 100 person occupancy, and 15 for 60 persons, while allowing 30% fewer to be provided, or 18 spaces for 100 persons. We plan to provide a minimum of 21 and up to 25 spaces, of which up to 5 will be ADA accessible. We do not plan to rely at all on on-street parking. As we would need parking beyond the existing driveway infrequently, we plan to pave the parking area with grass pavers that allow grass to grow for a more residential look, and also provide excellent drainage. We have given a lot of attention to integrating the look of the parking area with that of the building, and expect to incur significant added expense to ensure that the parking area is as unobtrusive and residential looking as possible.

Entry will be by way of the existing driveway, and the parking area will be excavated to a level surface, which will be significantly below the street level. Cars at the west end of the parking area will be below ground level, and at the extreme east end will still be partially below grade and shielded from view by landscaping. The exit from the parking area will be a new curb cut at the east end of the vacant lot, and will be made to look like a residential driveway. To the west, the crest of the road is at the extreme west end of the property, while to the east the road is still going down and the crest is even farther away. As can be seen in the accompanying

photographs, visibility for egress is excellent in both directions, and Rockwood Trail traffic will have excellent visibility of the outgoing vehicles as we will minimize landscaping at the end of the exit drive.

Traffic and Lighting

As indicated in the section on our activities and in the following table, the traffic generated by our activities during the week will rarely involve more than one or two cars, and we rarely have more than 6-8 cars at any weekend events. Even our better attended regular worship services generally have no more than a dozen vehicles, and it is very rare for more than two or three events a year to exceed 50 attendees and 20 vehicles. Clearly this is less burdensome than a typical household with a couple of teenagers and the occasional party, and if we do not purchase this property it is most likely that the two lots will be sold separately and a second home will be constructed on the currently vacant east lot, doubling the potential increase in overall traffic.

<u>Day of week/Activity</u>	<u>Attendance</u>	<u>Number of cars</u>	<u>Car trips</u>	<u>Annual total</u>
Weekdays: office work	1	1	10/week for 52 weeks	520
Monthly board meetings	12	8	16/month for 12 mos.	192
Friday night worship services	30	15	30/service (15 services)	450
Saturday adult education	10	10	20/week	1000
Sunday School	31	8 staying	16/week for 36 weeks	576
(Aug.-June)		7 drop-offs	28/week for 36 weeks	<u>1008</u>
				3746

General traffic engineering standard for a dwelling: 10/day = 3650/year or 7300/year for 2 homes

Existing lighting may be adequate, but we may require some additional lights in the parking area. Lighting will either be electric utility fixtures as currently, or more residential style porch or walkway lighting.

Activities and Attendance

Member units

From a high of over 80 before the establishment of a new Jewish congregation in Bentonville, our current membership is 46 family units (which include about 80 total individuals, including spouses and children). Many members only show up for one or two of the most important holidays each year. Membership is limited to Jews, though non-Jewish guests are of course welcome to attend.

Typical attendance

Every Week

Adult education on Saturday is from 10AM-5PM with the rabbi or 10AM-Noon when the rabbi is not present. Typically 6-10 persons will attend.

Sunday school (only during school year) 10AM-Noon 18 students enrolled, + 4 teachers.

Office work is done throughout the week on a fairly random basis by myself, my 20hr/month administrator, my treasurer, the Sunday school director, or the rabbi.

Every 3 or 4 weeks

Rabbi-led Friday evening services 7PM-10PM (some 6PM children's services) usually 10-15 persons attend, however, occasionally around 30 will show up. It is possible that the frequency of Friday services might increase in the future.

A couple of times a year we may have a special service, such as for Chanukah, with around 50. Once in a while we have lay-led Friday evening events 6PM-10PM with typically 4-5 persons in attendance. There also may be occasional social events where around 20-30 may attend.

Annually

The Jewish New Year (Rosh Hashanah) and Day of Atonement (Yom Kippur), our High Holy Days and the most important observances of the year, happen in the fall. In the same way that many Christians only go to church on Christmas and Easter, many Jews only attend one or both of these holidays. This year, we had one service attended by about 120, one with about 90, and the other services were attended by about 60. The services are 7PM-10PM the evening prior to the holiday with services continuing in the morning at 10AM to about 2PM on Rosh Hashanah and until 8PM on Yom Kippur.

Bar/Bat Mitzvahs happen only when a child reaches the age of 12 or 13. Often there are none in a year, this year we have had 3. Anywhere from 40-100+ may attend, depending on how many relatives come to town and how many friends the child invites.

We have been holding all our Rabbi-led services and High Holidays at the Unitarian Universalist Fellowship Hall for many years, and we will continue to use their hall for any services that we would expect to overfill the house on Rockwood, such as the High Holidays, Bar/Bat Mitzvahs or other special events.

I have tried to be as accurate and realistic as possible with these estimates. We would love to make this house our home, but we want to be good and welcome members of the neighborhood. This is why I wanted to involve the neighborhood associations from the beginning, and why I have tried to paint as realistic a picture as I can of our usage.

Here is the schedule of this year's services.

Calendar for 5766 (2005-2006)

AUG20 SAT	10AM	Bat Mitzvah
SEP9 FRI	7:30PM	Shabbat service w/Rabbi
OCT3 MON	7:30PM	Erev Rosh Hashanah (Jewish New Year)
OCT4 TUE	10AM	Rosh Hashanah I
OCT5 WED	8:30AM	Rosh Hashanah II (2nd day, for our more orthodox members, not held every year, very small attendance)
OCT12 WED	7:30PM	Erev Yom Kippur (Day of Atonement)
OCT13 THU	10AM	Yom Kippur
OCT29 SAT	10AM	Bar Mitzvah
NOV26 SAT	10AM	Bat Mitzvah
DEC9 FRI	6:30PM	Shabbat Children's Service w/Rabbi
JAN20 FRI	7:30PM	Shabbat service w/Rabbi
FEB10 FRI	6:30PM	Shabbat Children's Service w/Rabbi
MAR3 FRI	6:30PM	Shabbat Across America w/Rabbi
MAR31 FRI	7:30PM	Shabbat Service w/Rabbi

APR15 SAT 6:00PM Community Seder (Passover, catered at the Radisson)
MAY5 FRI 7:30PM Shabbat Service w/Rabbi

Synagogue and Church

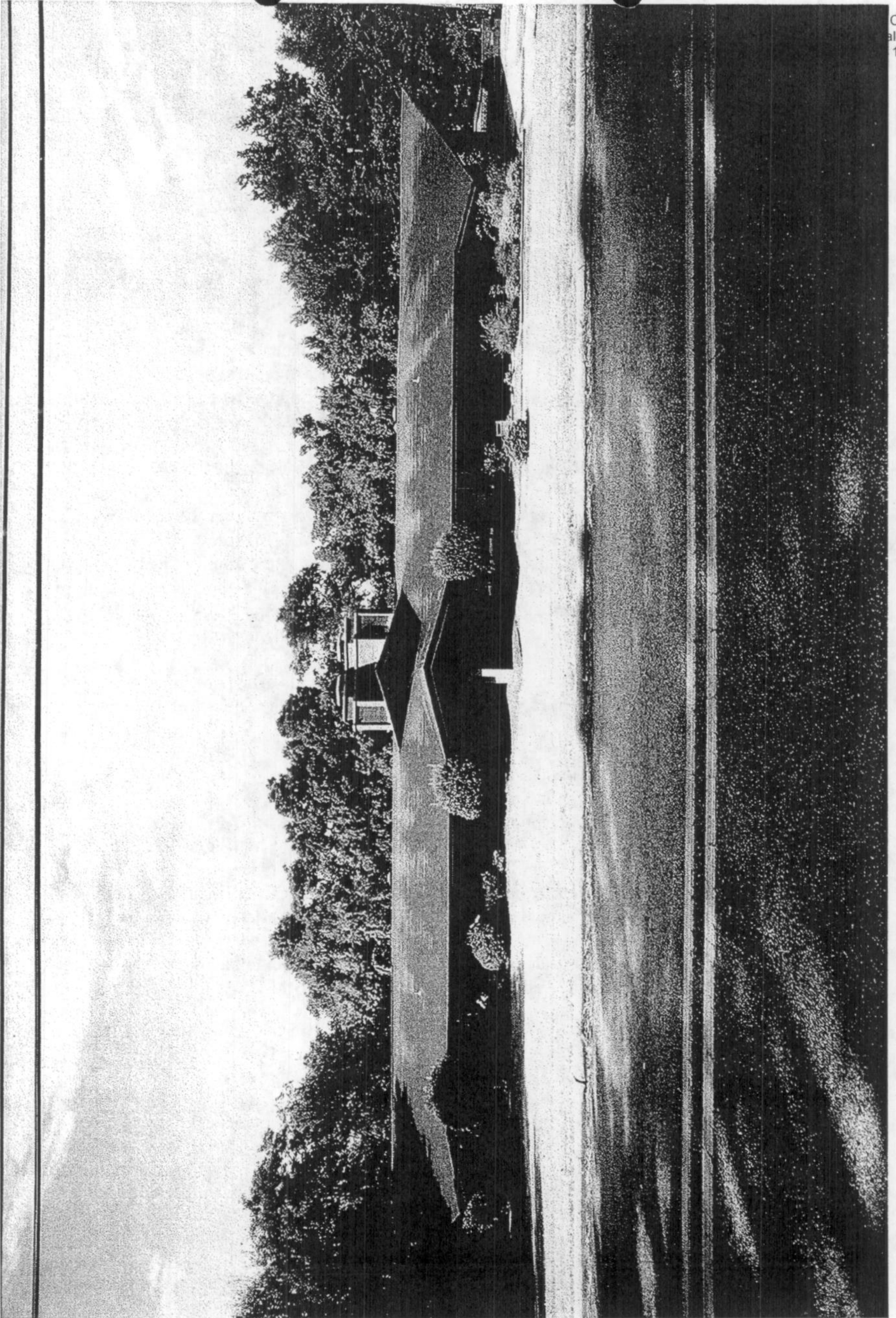
I know that for most area residents the idea of a "church" in a residential neighborhood might not seem ideal, though it is not uncommon throughout our city and region. A synagogue is, however, quite different in practice from a Christian church. First, we do not take up a collection. In fact, handling money is forbidden on the sabbath by traditional Jewish law. Our congregations are funded by annual dues from our members, so while we encourage attendance at all our activities, there is no financial incentive to boosting attendance at our worship services. Second, while we enjoy the attendance of non-Jews at our services, one must be Jewish to be a member of the congregation. And while it is possible to convert to Judaism, it is a long and difficult process, and we do not proselytize or encourage conversion. Therefore, while we do hope all Jews and non-Jews interested in Judaism will find out about us and attend our activities, Jewish congregations do not do the kind of advertising and promotions that are used by many churches to grow their membership and attendance.

Temple Shalom has been a part of Fayetteville for almost 25 years, but we have always preferred to keep a low profile. With this acquisition, we plan to raise that profile a little bit and add to the cultural diversity and sophistication that sets Fayetteville apart from our Benton County neighbors. Now that we have a mosque in Fayetteville, we need a permanent synagogue as well. We also hope to demonstrate that we are a part of and have respect for Fayetteville's history and culture by upgrading and preserving a true Fayetteville landmark.

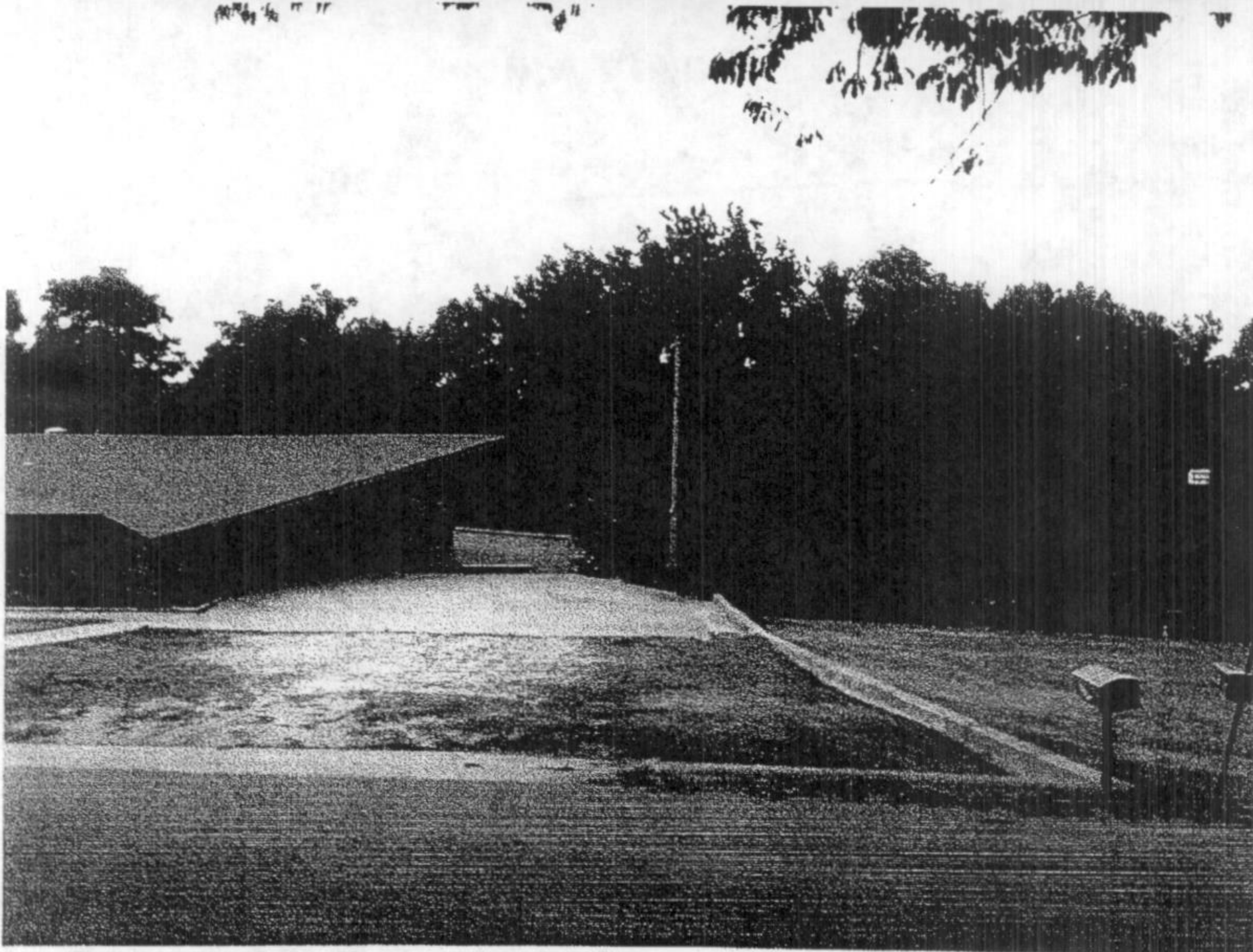
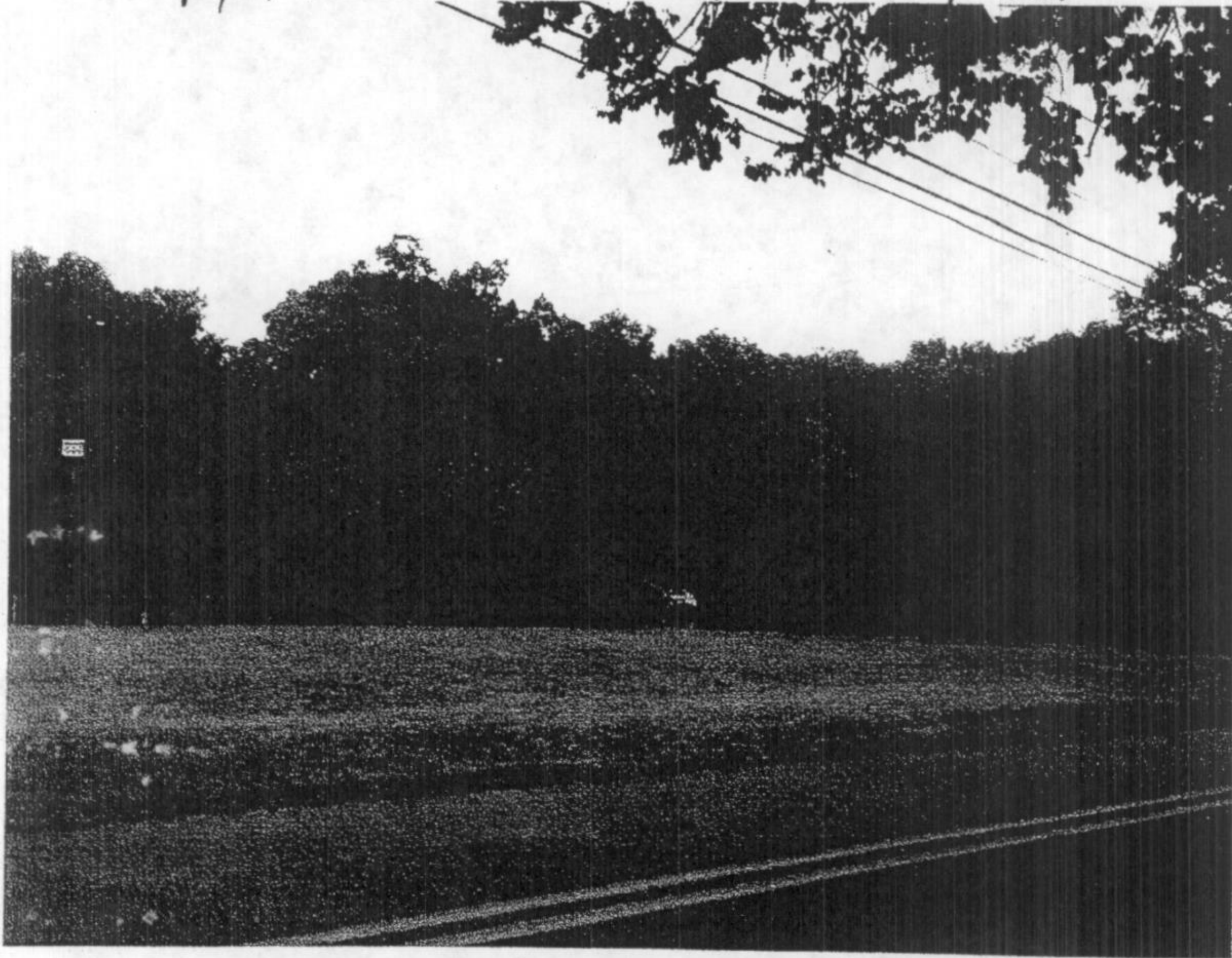
Temple Shalom has worked very hard to address the concerns of the neighborhood, including meeting with neighbors to incorporate their concerns from the beginning of the project, as follows.

<u>Neighborhood Meetings</u>	<u>Invited</u>	<u>Attendance</u>
August 31, 2005	all neighborhood association members	app. 21 neighbors
Jan 15, 2006	mailed to over 40 of the closest properties	8 residences
Jan 18, 2006	all neighborhood association members	12 attendees

As indicated by the planning staff report, and by the careful consideration and affirmative vote of the Planning Commission after listening to all public comment, our use of the Butterfly House will be compatible with the neighborhood and will not create any more dangerous traffic conditions than would single family residence on the properties. While we would prefer to be welcomed by all of the neighbors, if that were the only criteria for living in a particular place, we would live in a much less interesting and much more segregated world.

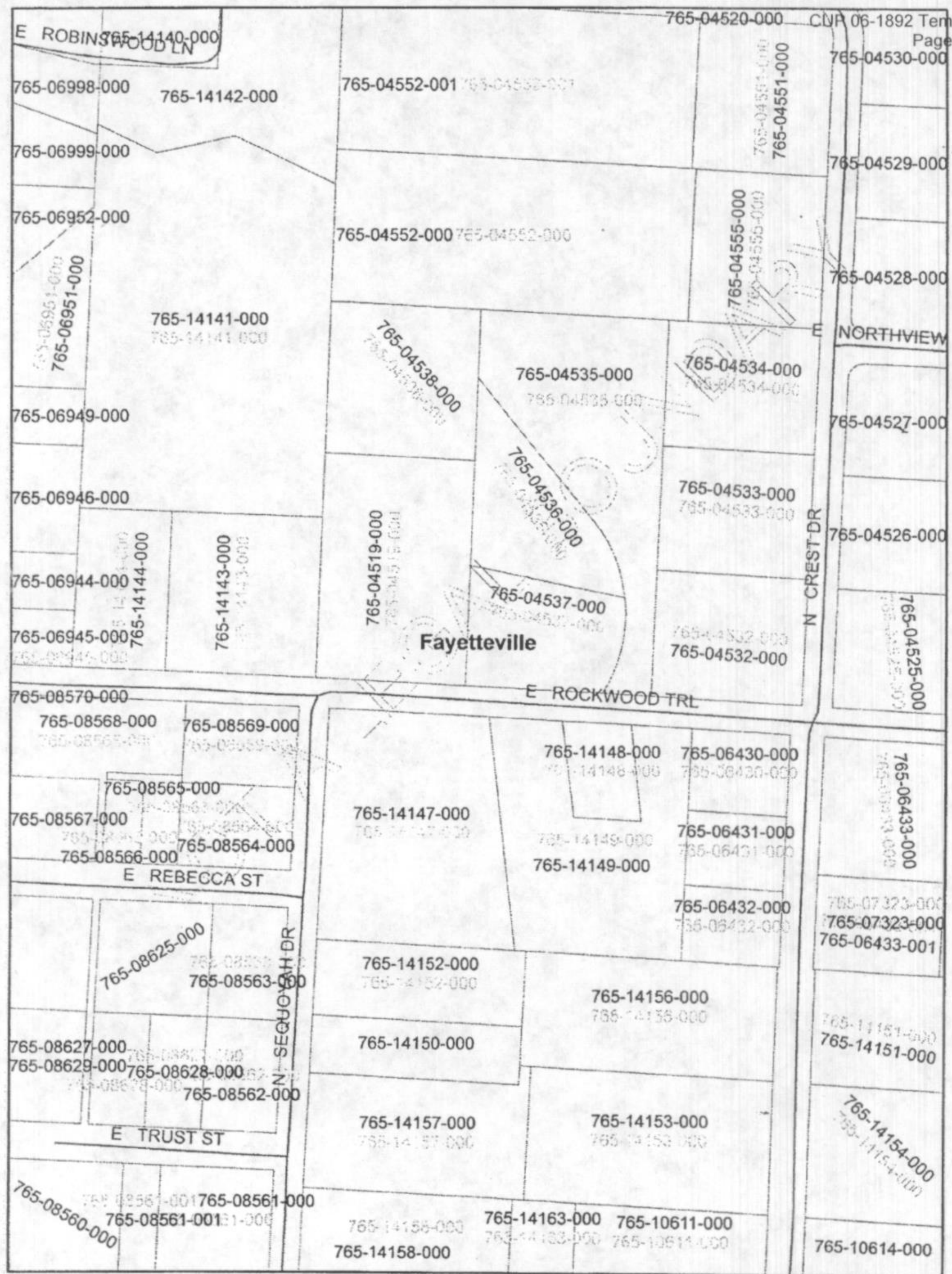


Empty lot on east side for parking area



Existing driveway





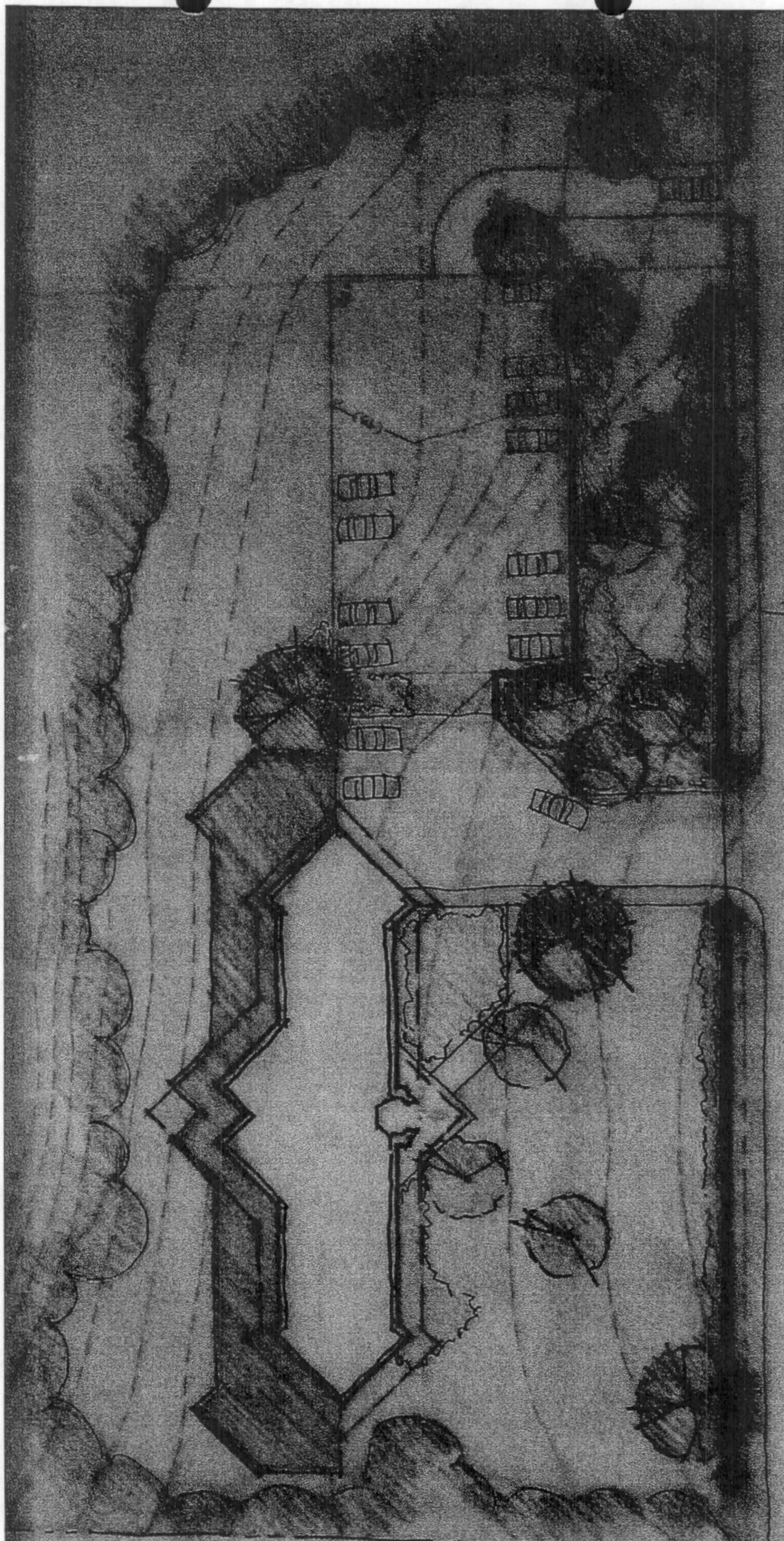
0 160 320 640 Feet

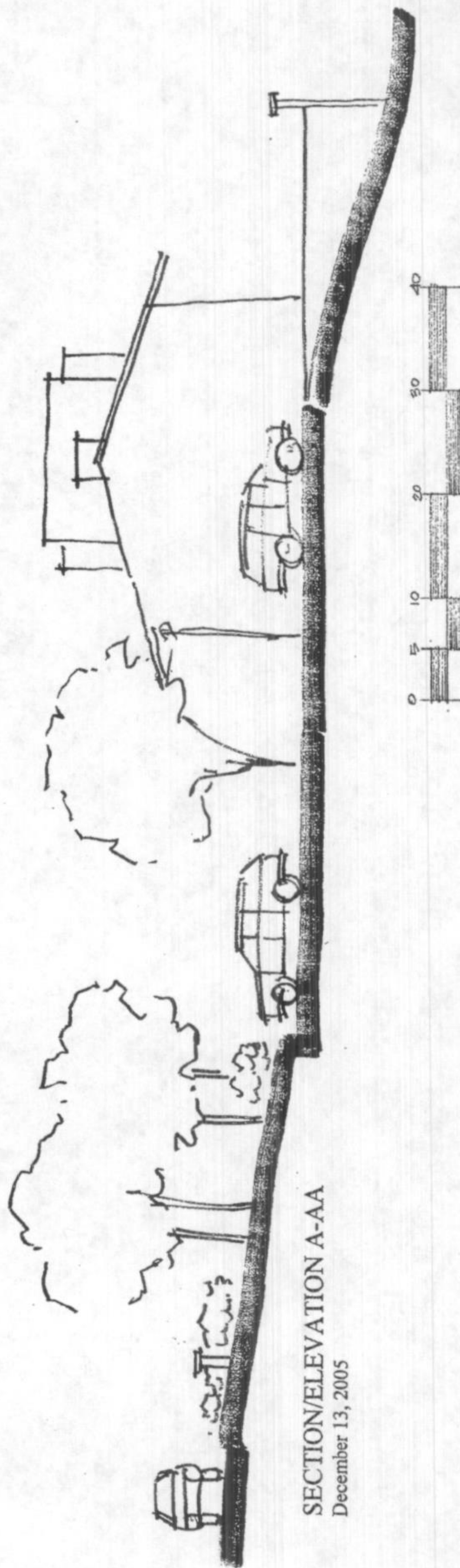
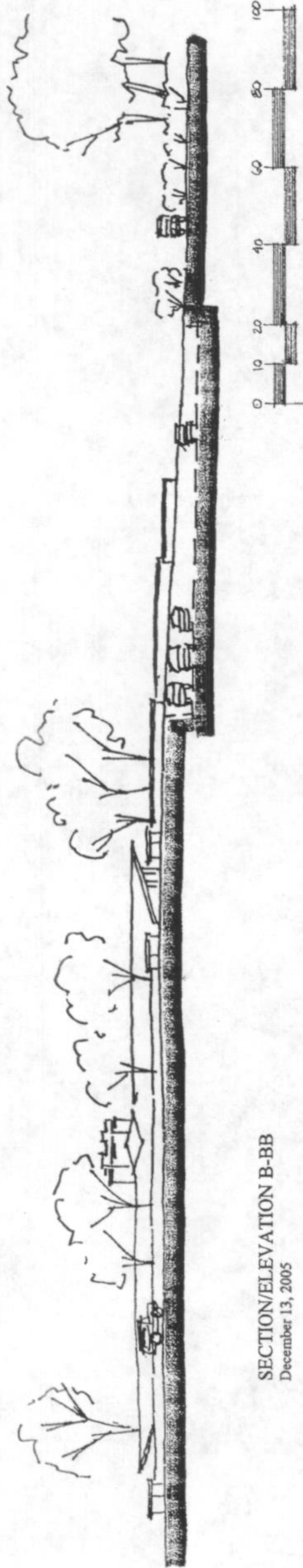
County Disclaimer:

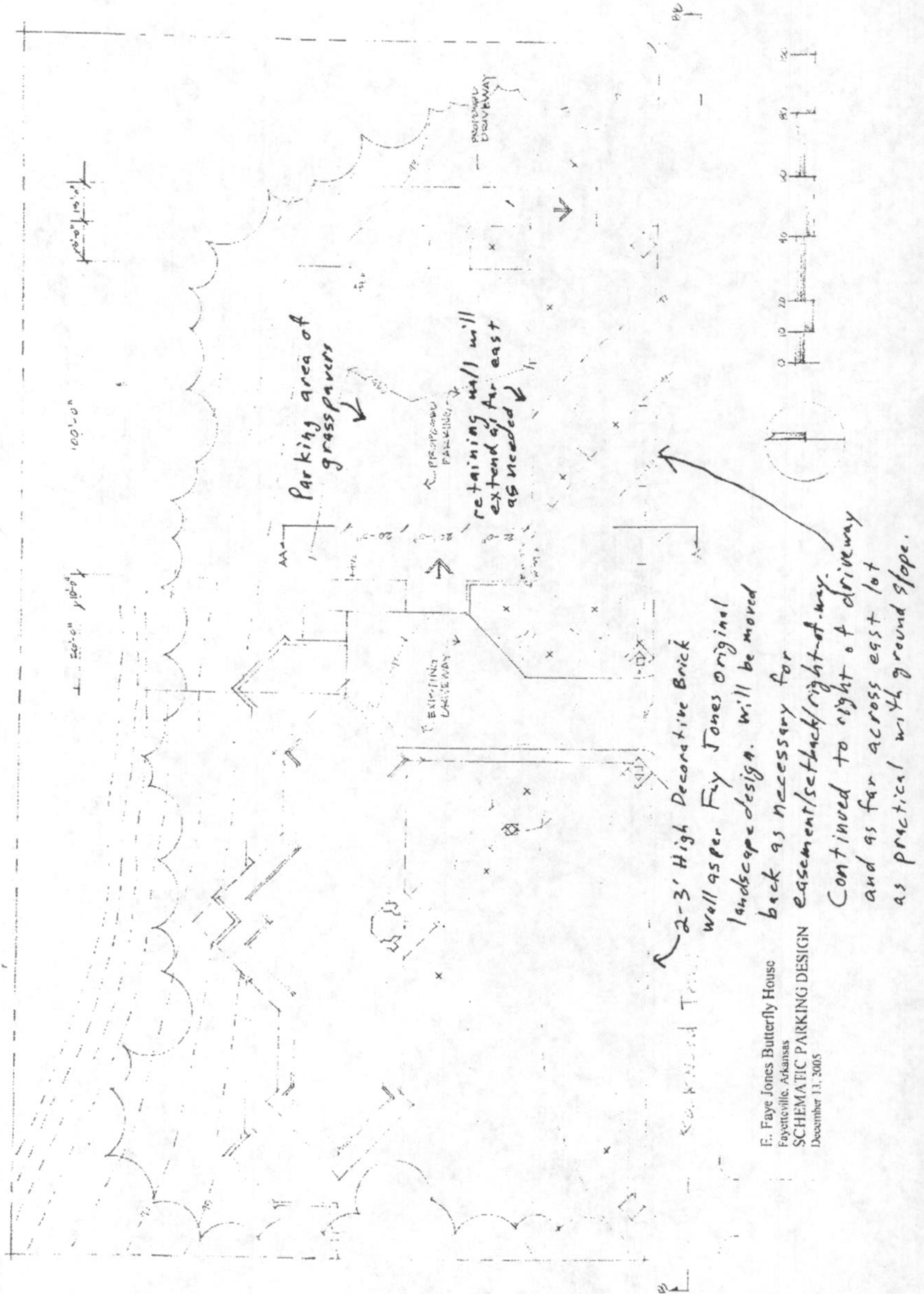
This map was created by Washington County using data created or acquired by its Assessor's office, Dept. of Emergency Management, and Road Department and in accordance with Arkansas Code 15-21-502 (2) (B), which states "The digital cadastre manages and provides access to cadastral information. Digital cadastre does not represent legal property boundary descriptions, nor is it suitable for boundary determination of the individual parcels included in the cadastre." and Arkansas Code 15-21-502 (6) which indicates that "Digital cadastre" means the storage and manipulation of computerized representations of parcel maps and linked databases."

This map has been developed from the best available sources. No guarantee of accuracy is granted, nor is any responsibility for reliance thereon assumed. In no event shall said Washington County be liable for direct, indirect, incidental, consequential or special damages of any kind, including, but not limited to, loss of anticipated profits or benefits arising out of use of or reliance on the map.

The parcel lines shown are considered a graphical representation of the actual boundaries. Washington County is in no way responsible for or liable for any misrepresentation or re-use of this map. Distribution of this map is intended for informational purposes and should not be considered authoritative for engineering, legal and other site-specific uses.

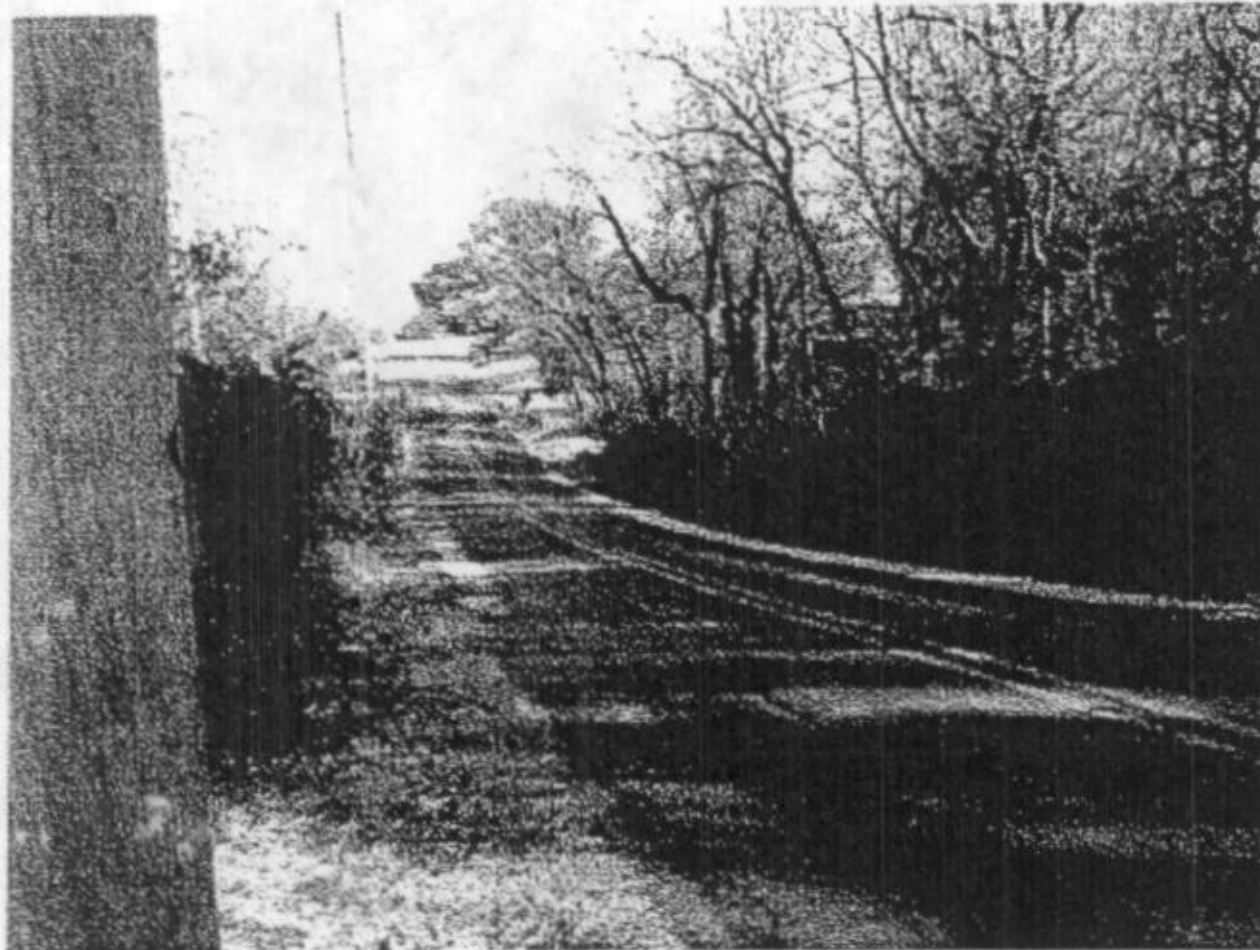




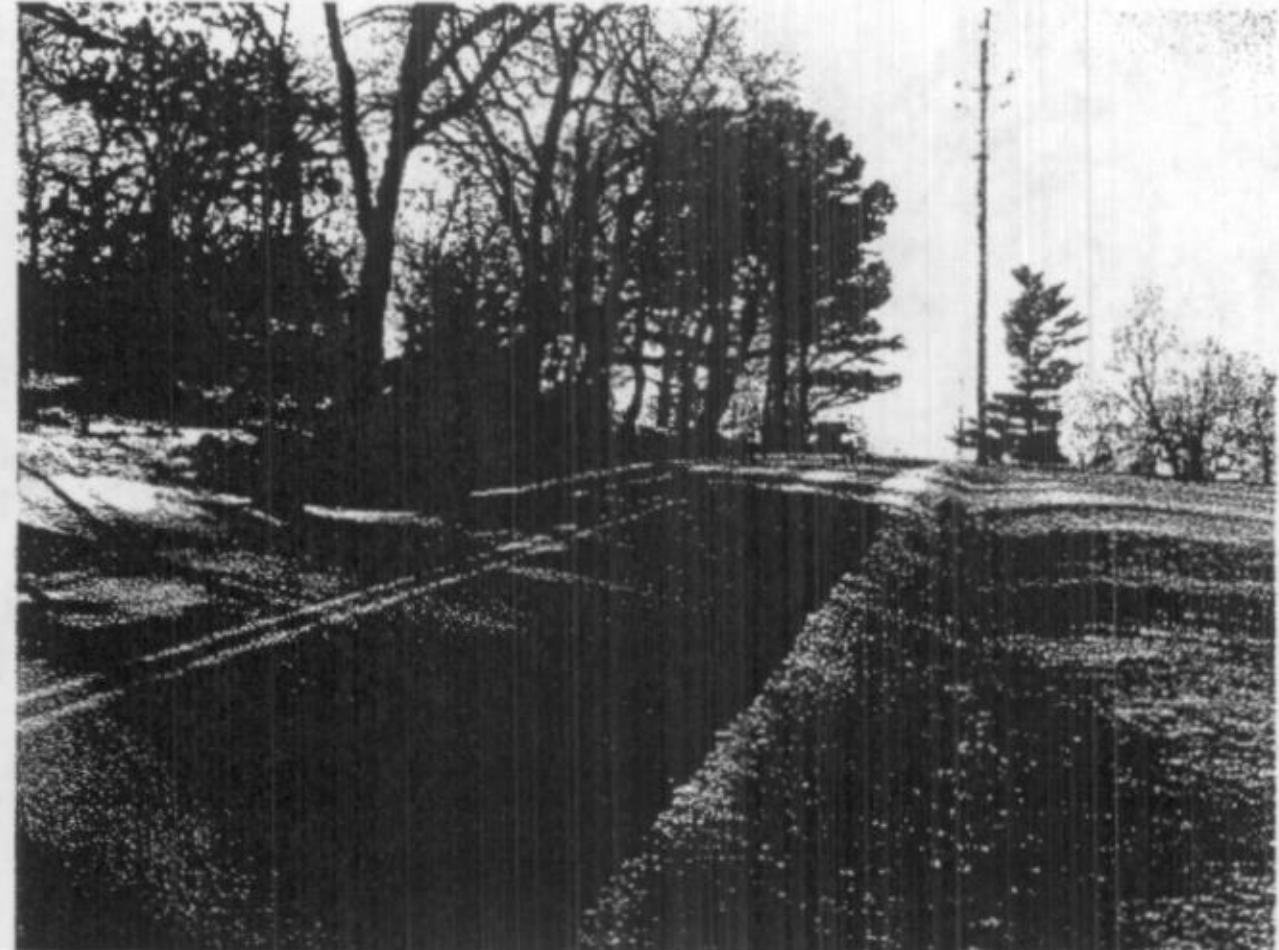


2-3' High Decorative Brick wall as per Faye Jones Original landscape design. will be moved back as necessary for easement/setback/right-of-way. Continued to right of driveway and as far across east lot as practical with ground slope.

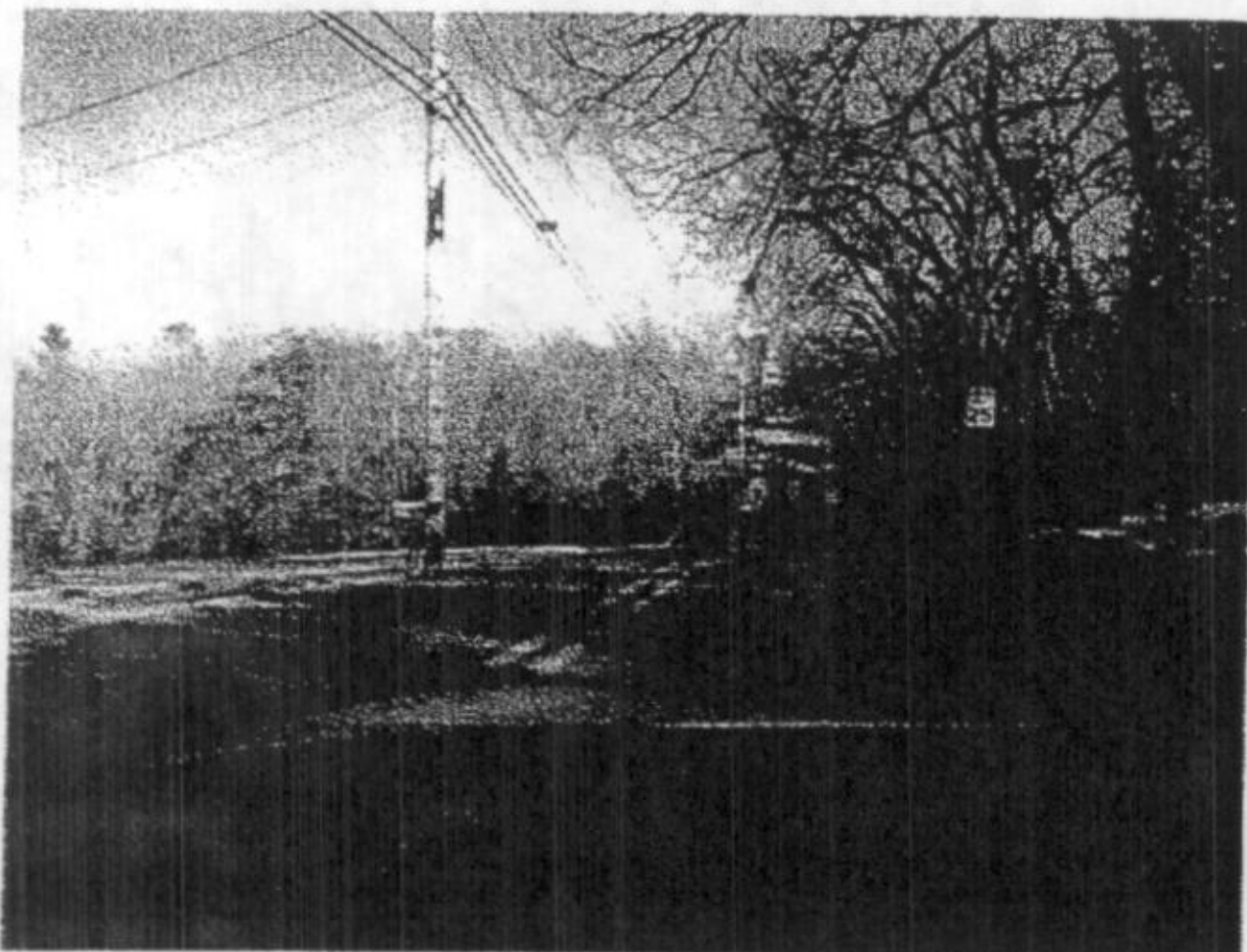
F. Faye Jones Butterfly House
Fayetteville, Arkansas
SCHEMATIC PARKING DESIGN
December 13, 2005



Looking east from exit driveway



Looking west from exit driveway



Driving eastbound toward exit driveway



Driving westbound toward exit driveway

One brand of grass pavers

1

New Headquarters

Just immediately south of the new Denver International Airport before you reach Interstate 70 you'll find our Invisible Structures, Inc. corporate headquarters and manufacturing facility off Tower Road in the Majestic Commerce Center.

When you come to Colorado, plan to stop and visit with us, tour our facility, and enjoy the panoramic views of the spectacular Rocky Mountains. We'll make sure you have the latest information on any of our growing list of products, including Grasspave² for grass paving, Grasspave² for porous gravel paving, Sipsocore² for soil stabilization on slopes, Draincore² for subsurface water collection and movement, and Rainstore² for underground water storage. Promotional rewards are available to designers and contractors who use our products and give us job information.

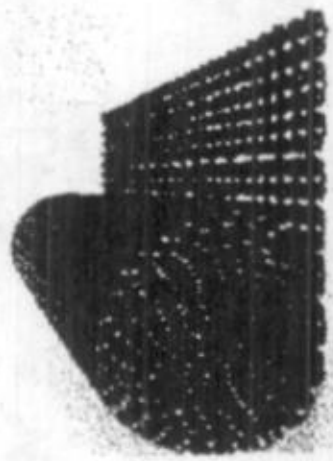
Work With Professionals

Since one of our company's founders is a licensed Landscape Architect, we immediately saw the value of being able to "talk shop" with designers. For our entire corporate history (since 1982) we have focused on hiring sales staff with professional design and contracting experience. You will get straight answers

and current technology solutions to your specific design problems from design professionals with construction experience.

Fast Friendly Service

We realize that you are tight for time in designing a project or in constructing one. We provide instant response with fax-back information, product quotes, installation cost estimates, best shipping routes, access to the internet, high-quality brochures, and our CD-ROM with AutoCAD construction details and graphics.



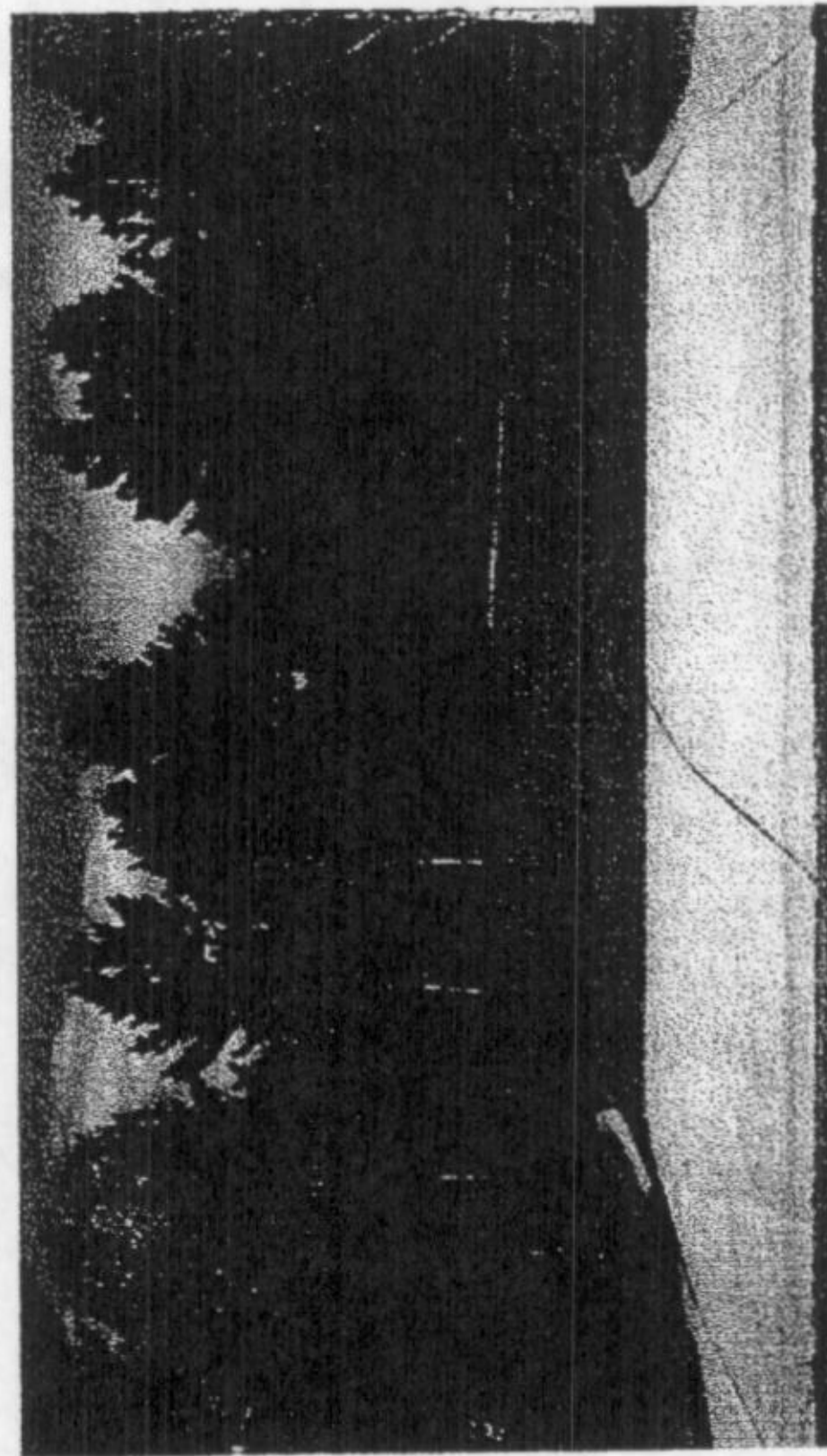
Grasspave² large roll for fast installation.

Grasspave² Early Years

In 1982 our first grass paving system was called Rutterings and was composed of 3" PVC white rings glued onto existing and sold in 4' x 20' mats. It was the start-a-business-in-your-garage approach. In 1988 we began molding 3" black recycled HDPE plastic rings and still glued them onto existing. This roll format made installation very easy for contractors and still is the single most distinguishing feature setting us apart from all modular pavers.

Metric Influence

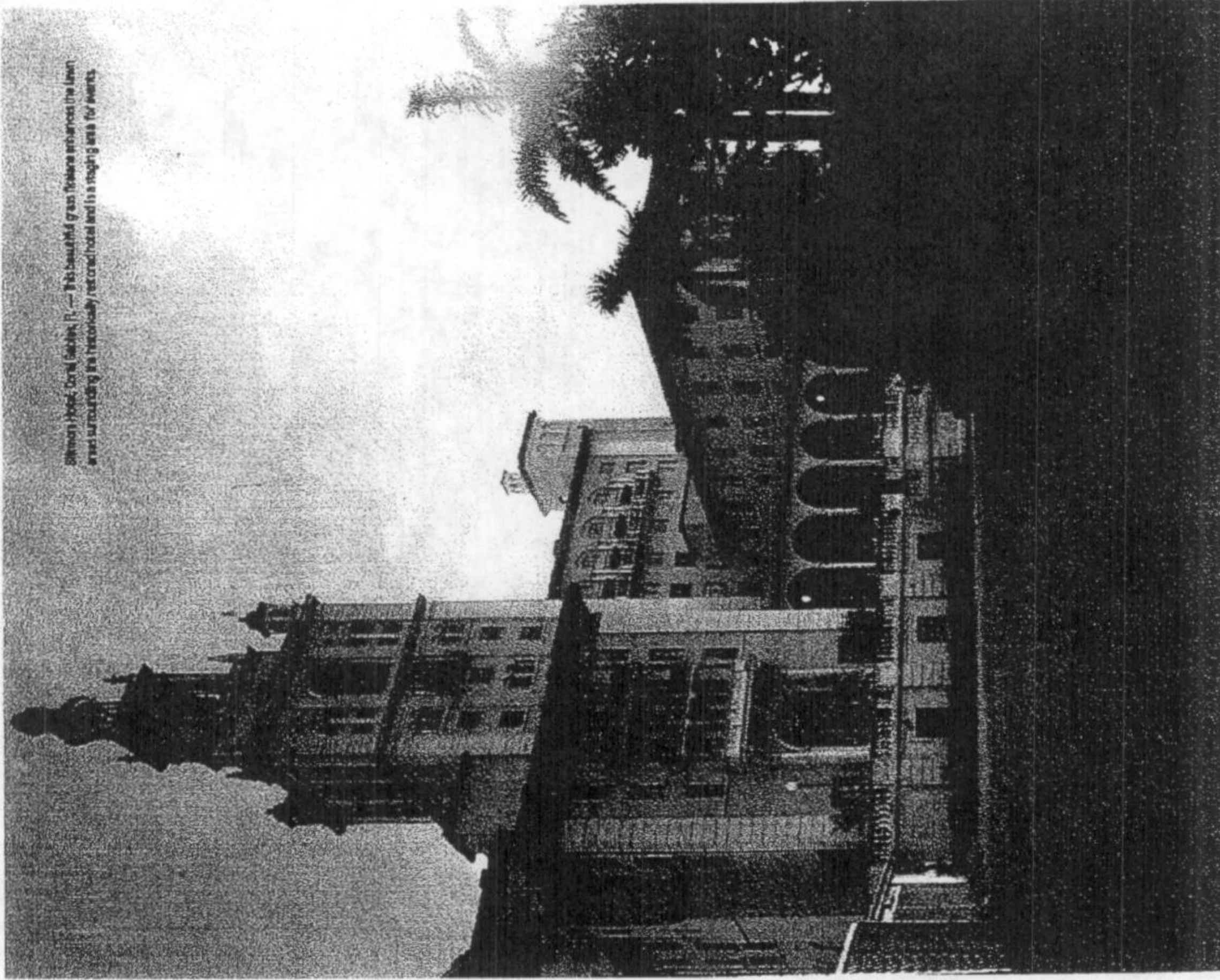
In 1991 Grasspave² (Grasspave²) was introduced as a half-meter by half-meter square of rigid 2" black recycled HDPE plastic

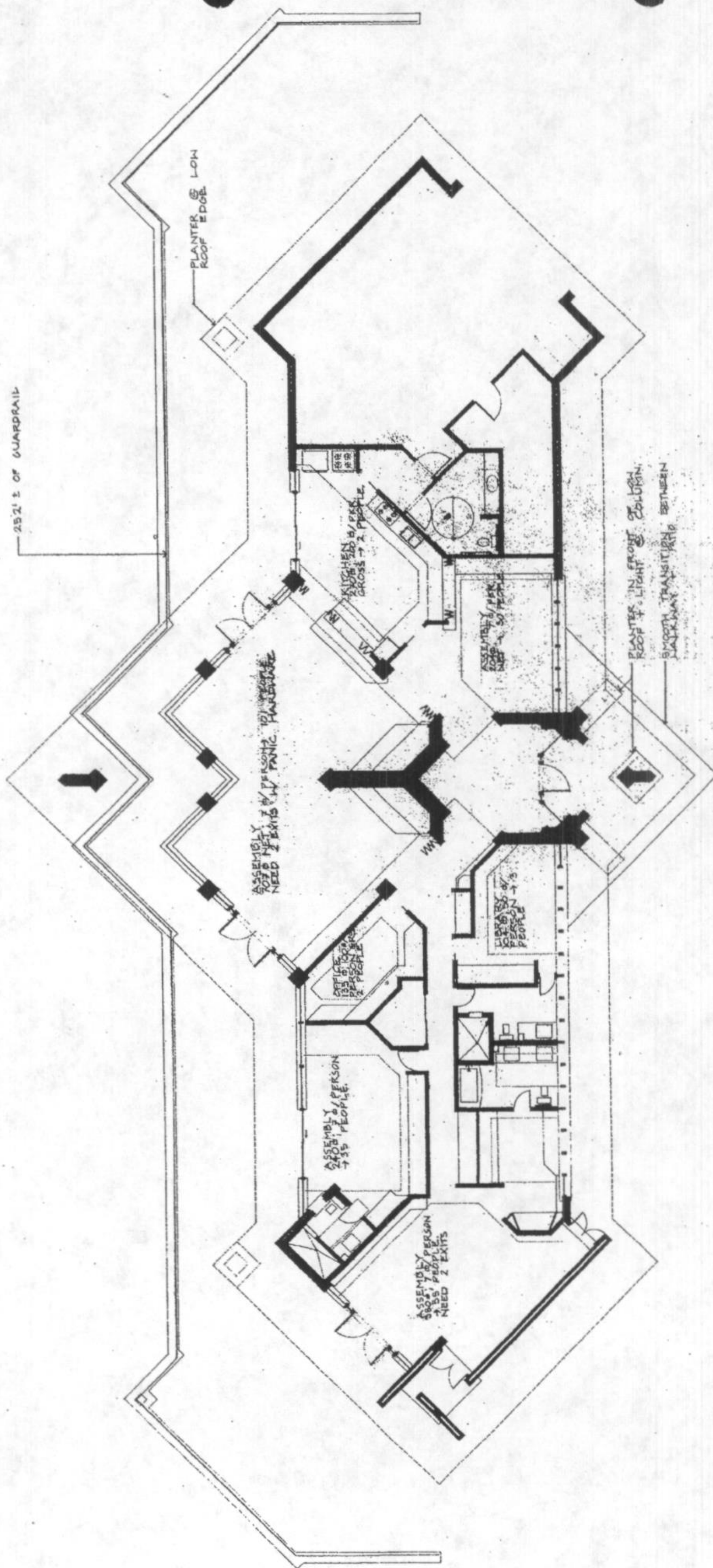


Cover photo: Kall Center, Irvine, CA — Illinois

Cabland, Denver, CO — Valet parking in the backyard at a city estate

Shannon Hotel, Coral Gables, FL — This beautiful grass feature enhances the lawn area surrounding this historically restful hotel and is a staging area for events





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: February 06, 2006

Subject: Residential Planned Zoning District for Wellspring (R-PZD 05-1636)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Wellspring Community, based on the Master Development Plan, development standards and statement of commitments submitted. This action will establish a unique zoning district for a mixed-use project on approximately 152 acres located at Ruppel Road and Hwy 16. The proposal consists of a maximum 1,175 dwelling units – single family, townhome and condominium – and approximately 548,000 square feet of office, commercial, retail, and restaurant space, along with 40 acres of greenspace.

BACKGROUND

The property consists of a total of 152 acres occupying land fronting for 0.7 miles on Ruppel Road and onto Wedington (Hwy 16). It is currently zoned RSF-1 and R-A, and occupied by agricultural land, tree canopy, and several remaining single family homes. It is surrounded by a mixture of uses, from agricultural land to multi-family, single family to mini-storage.

The applicant requests a rezoning and Master Development Plan approval for a mixed-use project within a unique R-PZD zoning district, meaning the principal use of the site (51% or greater) is residential. The site is divided into seven (7) Planning Areas, each with its own unique permitted and conditional uses, building setbacks, lot width and area, density, intensity of nonresidential space, maximum number of dwelling units, phasing for construction, etc. There are a total of 1,175 dwelling units proposed for the site, in different phases and Planning Areas. A maximum of 548,000 SF of nonresidential space is also proposed within the Master Development Plan. Approximately 40 acres (26% of the site) is to be provided for parks, community greenspace, trail systems and/or tree preservation and undisturbed areas. The development is centered on a pedestrian-friendly, traditional urban design approach utilizing a mixture of uses in the same area, while providing for a variety of home styles and types.

DISCUSSION

This item was reviewed by the City Council in August/September of 2005. After being tabled indefinitely, the applicant redesigned certain components of the project and resubmitted for review by the Planning Commission. The Planning Commission tabled the item on January 23 because of notification issues, and will vote on the project at its February 13 meeting.

The applicant presented the project at a Ward 4 meeting and notified all current adjoining property owners within 100 feet of the rezoning request at least 10 days prior to the public meeting. Comments received from the public have been included in the staff report.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1636, WELLSPRING, LOCATED AT RUPPLE ROAD AND WEDINGTON DRIVE, CONTAINING APPROXIMATELY 152.2 ACRES, MORE OR LESS; 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-1, Residential Single Family, 1 unit per acre and R-A, Residential Agricultural, to R-PZD 05-1636 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, statement of commitments 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 05-1636

SURVEY DESCRIPTION:

A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 30 WEST, AND A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, AND A PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 16 NORTH, RANGE 30 WEST, AND A PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, ALL IN WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S87°42'05"E 617.60' AND N03°03'08"E 102.59' FROM THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7 AND RUNNING THENCE S87°03'27"E 93.41' TO A SET IRON PIN, THENCE N02°40'05"E 1716.06' TO A FOUND IRON PIN, THENCE N02°40'00"E 2143.06' TO A FOUND IRON PIN, THENCE N87°46'42"W 715.35' TO A FOUND IRON PIN, LOCATED AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 7, THENCE N02°27'56"E 46.74' TO A FOUND IRON PIN, LOCATED AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 1, THENCE N86°58'50"W 751.69' TO THE CENTERLINE OF RUPPLE ROAD, THENCE ALONG SAID CENTERLINE S20°20'50"W 44.46', S14°10'34"W 65.18', S09°16'42"W 44.03', S06°40'25"W 54.50', S05°18'51"W 54.60', S04°54'39"W 54.72', S04°57'12"W 59.85', S07°17'28"W 55.76', S13°38'10"W 52.31', S23°24'21"W 49.39', S32°18'04"W 47.75', S36°38'10"W 37.75', S40°31'21"W 59.19', S44°51'16"W 60.06', S46°48'24"W 67.32', S44°39'19"W 56.83', S39°09'37"W 55.03', S30°55'13"W 66.99', S24°56'32"W 57.82', S22°38'12"W 58.87', S22°23'40"W 54.61', S22°23'30"W 58.25', S23°21'56"W 55.44', S27°27'36"W 58.17', S31°39'13"W 58.36', S31°28'21"W 57.48', S21°21'38"W 54.39', S09°23'27"W 60.29', S02°47'11"W 51.61', S01°55'43"W 51.38', S02°08'41"W 57.15', S02°26'03"W 49.97', S02°30'26"W 51.03', S02°49'34"W 51.91', S02°57'05"W 54.52', S02°54'57"W 52.46', S02°50'56"W 55.16', S02°43'15"W 48.89', S02°33'25"W 54.35', S02°31'07"W 51.57', S02°25'23"W 56.41', S02°19'43"W 50.93', S02°27'09"W 38.77', S02°34'15"W 44.03', S03°12'55"W 52.16', S02°57'10"W 49.78', S02°33'54"W 51.59', S02°57'20"W 63.38', S03°10'04"W 52.97', S02°59'07"W 52.35', S02°31'09"W 51.19', S03°12'19"W 54.91', S02°13'15"W 33.15', S02°14'57"W 49.48', S02°42'49"W 48.61', S02°37'18"W 50.94', S02°42'26"W 49.47', S02°18'12"W 48.56', S02°45'16"W 52.85', S02°38'45"W 52.94', S02°54'55"W 41.80', S02°54'55"W 360.64', THENCE LEAVING SAID CENTERLINE S87°30'27"E 629.81' TO A CORNER POST, THENCE S03°09'47"W 7.60' TO A SET IRON PIN, THENCE S86°50'13"E 1088.84', THENCE S03°03'08"W 434.54', THENCE ALONG SAID RIGHT-OF-WAY S87°02'59"E 209.22' TO THE POINT OF BEGINNING, CONTAINING 152.23 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.



21 W. Mountain, Ste 121 • Fayetteville, AR 72701 • Office: 479 527.0055 • Fax: 479 527.2798

February 6, 2006

Jeremy C. Pate
Director of Current Planning
City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72701

RE: WellSpring on City Council's Agenda

Dear Mr. Pate:

Critical Path formally requests that WellSpring be placed on the City Council's Agenda for March 21st, 2006

We were required to table the Master Development Plan for WellSpring in September 2005 because the developers could not obtain a key access easement that allowed entry onto Wedington. Therefore, Critical Path had to redesign the Master Plan in order to allow for another entry onto Wedington.

While Critical Path was redesigning the Master Plan for WellSpring, the City of Fayetteville modified its Master Development Plan PZD process so projects go before Planning Commission and then the City Council. Critical Path chose to present the WellSpring project at the Planning Commission versus going directly to the City Council in order to allow the Planning Commission the opportunity to become familiar with the project and voice any project-related concerns.

Please contact me with any questions or concerns.

Thank you


Todd Jacobs
Project Manager
Critical Path Design, Inc
466-8115 Cell Phone
527-2798 Fax Number



PC Meeting of February 13, 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: February 06, 2006

MDP R-PZD 05-1636: Residential Planned Zoning District (Wellspring Community):
Submitted by CRITICAL PATH DESIGN for property located at RUPPLE ROAD AND WEDINGTON DRIVE. The property is zoned RSF-1, SINGLE FAMILY - 1 UNITS/ACRE and R-A, RESIDENTIAL AGRICULTURAL and contains approximately 152.2 acres. The request is to approve a Master Development Plan – Residential Planned Zoning District for a new mixed-use community containing residential, office, commercial and open space.

Property Owner: SBC Investments, LLC

Planner: Jeremy Pate

Findings:

Property Description: The property consists of several parcels totaling 152.2 acres that is currently undeveloped, with primarily agricultural pasture land. The property fronts approximately 0.7 miles of Ruppel Road between Wedington and Mt. Comfort and a small portion along Wedington. There are large groupings of high priority/significant trees located in areas on the site, but a majority of the property exists in pasture, with a few remaining single family homes located upon it. It is currently zoned RSF-1 and R-A; much of the property was part of the island annexation that occurred in 2004, allowing for development within the city limits. There is a fault line that runs east-west through the center of the property, and a creek that enters from the east and travels north to Hamstring. Bryce Davis Park is located directly adjacent to the east, as well as some single family subdivisions and multi-family development. To the north is undeveloped farmland. The Master Street Plan calls for Ruppel Road to vary from its current location just off of the northwest corner of the site in a new alignment, in order to align with Ruppel Road north of Mt. Comfort.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Largely agricultural	RSF-1, RSF-4, R-A
South	Commercial strip center, ministorage	C-2, R-A
East	Single family, multi-family homes	RSF-4, R-O, C-1
West	Developing subdivisions and s.f. homes	RSF-4, RSF-1

Proposal: The applicant requests a rezoning and Master Development Plan approval for a mixed-use project on the property. The proposal includes a maximum of 1,175 dwelling units and 548,000 square feet of non-residential space over the 152-acre site. This results in a total density of 7.72 dwelling units per acre and an intensity of 3,605 SF of nonresidential space per acre over the entire project. A total of seven (7) separate planning areas are proposed, each of which has identified uses: Garden homes, Parkway townhomes, Clubhouse, Condominiums, Mixed Use Development, Market District, and Parks area, community green space and tree preservation area.

The mixture of uses on the project varies significantly from that of solely single family detached to that of solely commercial. However, there are transitions between these that allow for a range of less dense townhomes, more dense condominiums, commercial/office/retail and residential mixed use, etc. Each Planning Area has its own specific density (maximum number of dwellings units allowed) and intensity (maximum square feet of non-residential space), depending upon the desired effect. The clustering of uses in a more compact manner decreases infrastructure cost and allows for a higher percentage of preserved greenspace. To meet applicable zoning criteria, each Planning Area also has to have established bulk and area criteria, setbacks, height, etc. Otherwise each proposal would have to return to the City Council to address these zoning issues with every development. The information is provided both in a booklet form, which describes the intent of each Planning Area along with a conceptual drawing, and by way of the larger plat, which gives much of the same technical information, along with the actual Master Development Plan. The building, street, and parking arrangement indicated on the master plan will likely vary somewhat from that which is presented. In fact, there are several technical issues on connectivity, Master Street Plan requirements for Ruppel Road, specific off-site improvements, etc. currently evident that will need to be addressed. However, these issues can be resolved with the development review of the project and additional City Council action, if needed. At this step in the process it is important to make the policy decision of whether the zoning is appropriate and compatible to this area, given the proposed Master Development Plan, statement of commitments, and development standards.

Process: The purpose of the subject request is for a rezoning approval in order to secure entitlement for the property with a concept of varied density, variety of uses and walk-ability while preserving community area, providing parkland and open space, and other infrastructure improvements to support the community. Approval of the Master Development Plan Planned Zoning District would effectively rezone the property based on the conceptual plans and information provided in the booklets. However, it does not give development approval. The applicant is required to return through the preliminary plat and large scale development process (several times, 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.

Bulk and area criteria, while usually provided within the staff report, have 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. The booklet and plats presented are binding once approved, by ordinance.

Water & Sewer: Water and sewer lines are currently available in the area, and will be designed and constructed in accordance with city specifications to serve the development. Sewer capacity in this area remains an unresolved issue, though staff has been working on an interim solution until the Wastewater Treatment Plant is on-line, which will be 33-36 months from the initial construction date. The developer will be required to contribute to the interim solution or simply wait until the treatment plant is online.

Access: Access to the site is provided from Ruppel Road and Wedington (Hwy 16). There is also a stub-out to the property from a subdivision to the northeast that will require connection. Access points are to be by way of public streets into the development, which will become a primary entrance into the Wellspring Community in at least two locations. There are four proposed entrances onto Ruppel Road in the 0.7 miles of frontage, with the potential for traffic signalization at two entrances, subject to city approval. The traffic study indicates the proposed interior frontage road and intersections with Ruppel need to be re-evaluated at the time of development, a statement with which staff agrees. Sight distance, curb cut proximity, stacking distance, alignment with streets approved and under construction across Ruppel Road and Wedington Drive and relationship to the pedestrian movement along Ruppel Road will all be examined in detail at the time of development. The developer will be responsible for significant improvements to Ruppel Road and signalization as permitted to be at the cost of the developer, based on the traffic generated by this development.

Interior to the project, public and private streets are proposed. The applicant states in the submittal that all streets, whether public or private, will be constructed in accordance with the Unified Development Code. No public or private streets are allowed to be gated, by city ordinance.

Pedestrian circulation has also been addressed, with both sidewalks along streets and trails that connect the various planning areas. A trail is proposed to be constructed from Bryce Davis Park north along the existing creek to eventually connect to Hamstring Creek Trail. Both of these corridors are identified in the Fayetteville Alternative Trails and Transportation Plan as planned trails. The applicant expects a recommendation for a trail corridor to be dedicated or easement provided in which this trail connection can be realized, and has identified 2 acres of land dedication in which this can occur.

Adjacent Master Street Plan Streets: Ruppel Road (Principal Arterial), Wedington Drive (Principal Arterial)

Street Improvements: The applicant commissioned a traffic study for this project, the executive summary of which is included in the staff report. An updated study is also being performed, based on some site plan changes from the original study. These updates will be available for use at the time of development. Specific improvements will be recommended, based on the traffic study of impact on existing infrastructure, along Ruppel Road and Wedington Drive. As this project does not have frontage all the way to Wedington, but will undoubtedly impact that short section, there are off-site improvements likely in this area. All proposals will be further evaluated by staff at the time of development to ensure that the amount of improvement is proportionate to

the impact of the traffic generated by the proposal, which is significant in this case. Based on the findings provided by the traffic engineer, staff will be making the following recommendations, at minimum, at the time of development:

- ♦ The developer will be responsible for paying for and construction of Ruppel Road at least half of its planned width, which currently includes two travel lanes and half of a boulevard. Six foot sidewalks, street lights and associated drainage is also required. Street improvements will continue south to intersect with Wedington Drive, providing turn lanes and other improvements as required by the Planning Commission and coordinated with city staff. Other off-site improvements to Ruppel Road will be evaluated at the time of development.
- ♦ Signalization to include installation of new traffic signals in accordance with City of Fayetteville requirements as determined necessary by the Planning Commission and reconstruction as necessary of the existing traffic signal at Wedington Drive and Ruppel Road, at the cost of the developer.
- ♦ Re-evaluation of the "frontage drive" and entries onto Ruppel Road to create acceptable traffic operations.
- ♦ Limitation of all access to Ruppel Road and Wedington Drive to streets only, and no individual curb cuts.
- ♦ Coordination with city staff to determine the appropriate lane geometry that is consistent with the desired traffic movement along Ruppel Road.
- ♦ Other improvements as deemed necessary, based on traffic generation, phasing and other applicable criteria.

Tree Preservation: A majority of the site contains open pasture land, though there are several large groupings of high priority trees, including post oak, black oak, mockernut hickory, pignut hickory, black gum, eastern redbud, persimmon, sycamore, American elm, white ash, sweetgum and black cherry. Many of these groupings and significant trees are located within the proposed parkland and community greenspace areas, while others are located interspersed along the north portion of the property along the creek where single family homes are proposed. There are also groupings along the front commercial area. The applicant proposes to meet the expected minimum percent canopy requirements, which is 25% in property zoned PZD, as well as preserve canopy within the parkland and community greenspace areas. The intent is to allow flexibility in order to adjust the layout of individual buildings within the unique Planning Areas in an attempt to meet the minimum percent canopy requirements. Where this can not be achieved, the large area of tree preservation south of the dedicated parkland could potentially be used as credit toward any deficiencies. This is subject to review and approval by the Urban Forester, and must meet the criteria of §167 Tree Preservation and Protection ordinance. More detailed comments from the Urban Forester are included in the attached staff report.

Parks: Staff has met with the applicant regarding the possible extension of Bryce Davis Park, which is adjacent to the east, in order to provide public parkland for the proposed development and others in the surrounding community. The Parks and Recreation Board has also evaluated the proposal and voted to recommend a land dedication of 19 acres to meet parkland dedication requirements. Additionally, the creek that traverses the site draining to Hamestring Creek to the north is on the Fayetteville Alternative Trails and Transportation Master Plan. An easement or dedication of land will likely be expected in order to make this connection, at the time of

development. A 2-acre corridor has been indicated on the plans as potential land dedication for this purpose. The applicant has indicated approximately 26% of the overall project is to be retained in open greenspace, some of which is undisturbed areas, some parkland, some open community greenspace. A trail connection to Bryce Davis Park is anticipated, and will be linked with other pedestrian paths and sidewalks throughout the development. A planned 19-acre dedication has been indicated in the submittal. The applicant shall meet the parkland dedication ordinance, based on the number of units proposed, at the time of development.

Public Comment: Staff advised the applicant to present this project to Ward 4, in which the site is located. Most comments from that meeting received were positive. However, there are comments that are included in the staff report that question the proposal's handling of traffic, change in character of land from rural to developed, multi-family units, etc.

Phasing: The development of the Wellspring Community is anticipated to occur over the next 4-12 years. A phasing schedule has been provided within the project booklet, identifying the anticipated construction of Planning Areas, as well as a highlighted plan that indicates major street construction with Phase I.

Background: Staff has worked with the applicant for several months to result in a project that meets the goals and intent of the Planned Zoning District ordinance. It was critical for this project, much like other large-scale master planning projects, for the Master Plan process to be in place. Following City Council adoption of the Planned Zoning District ordinance amendments, the applicants submitted this project to the City Council to be heard in September of 2005. Complications with acquiring necessary access to Hwy 16 required the item to be tabled indefinitely, and during that time the ordinance changed to have all Master Development Plans go before the Planning Commission for a first recommendation. The applicants have resubmitted their plans, with some changes, and notified all current property owners within 100 feet of the PZD boundary by certified mail.

Recommendation: Staff recommends forwarding a recommendation of approval of the Master Development Plan – Planned Zoning District for Wellspring Community (R-PZD 05-1636) to the City Council, with the following conditions:

Conditions of Approval:

1. 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, including the statement of commitments and development standards presented in the project booklet, shall also be binding and enforceable by law.
2. 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.

3. Zoning and development criteria shall be enforced as approved by the City Council, and currently referenced in the Wellspring Community project booklet and on the submitted Master Development Plan plats. Flexibility will be allowed in the development criteria (street cross-sections, etc.) listed in the booklet, but Planning Commission approval of development is required. The approved plans, commitments and standards will be kept on file in the Planning Division, and referenced for subsequent development proposed on the property.
4. Should the applicant request alternative street cross-sections to the current standard street sections adopted by the City of Fayetteville at the time of development of each Phase, the applicant shall propose a waiver request. The requested street cross-sections shall be reviewed by staff and Planning Commission at that time for approval. The flexibility to propose varies street sections is allowed by the PZD process.
5. **Signage:** 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. More stringent regulations may be placed on developments within Wellspring to ensure a cohesive sign program; however, the sign ordinance may not be violated in doing so. No pole or pylon signs shall be permitted within the Wellspring Community.
6. **Phasing:** The anticipated build-out is 4-12 years for all three phases. In order to ensure the proposed Master Development Plan meets all of the goals and criteria set forth, a phasing schedule has been submitted (reference the project booklet).. If certain permitting times are not met, the Planned Zoning District approval shall be voided, or extended as allowed by §166 of the UDC. The following development phasing shall be enforced:
 - 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 two (2) years from the date of Planning Commission approval to receive all permits necessary for development of the Phase with a one (1) year extension available.
 - At the Planning Commission's discretion, if after 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 shall determine if the Master Development Plan shall be submitted to the City Council for reconsideration.

7. Public water and sewer lines shall be extended as required by city ordinance at the time of development. Detailed analysis of the existing water and sewer systems will be required to be submitted with the development submittal. As mentioned in the staff report, the developer shall contribute to the interim wastewater capacity solution in this basin as determined by the City Council in order to develop prior to the Wastewater Treatment Plant completion.
8. Future development shall comply with at least the minimum design standards for development in the Unified Development Code, including but not limited to landscaping, parking, access, street design, stormwater detention, etc. All structures 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.
9. Overhead awnings, balconies, stairways, stoops and other appurtenances to the primary structure may be extended within the required front building setback and/or right-of-way for interior streets for this development in the identified Planning Areas allowing this to occur (PA-4, PA-5), with Planning Commission approval. Said allowances shall be at the discretion of the Planning Commission to ensure safety measures, clearance and other criteria for zoning and development in the Unified Development Code are not compromised.
10. Public water and sewer lines shall be extended as required by city ordinance at the time of development. Detailed analysis of the existing water and sewer systems will be required to be submitted with the development submittal. As mentioned in the staff report, the developer shall contribute to the interim wastewater capacity solution in this basin in order to develop prior to the Wastewater Treatment Plant completion.
11. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed at the time of submittal. Based on the traffic study provided that evaluates the proposed development and surrounding street infrastructure, the developer shall be responsible, at minimum, for the following:
 - The developer will be responsible for paying for and constructing Ruppel Road at least half of its planned width, which currently includes two travel lanes and half of a boulevard. Six foot sidewalks, street lights and associated storm drainage is also required. Street improvements will likely continue south to intersect with Wedington Drive, providing turn lanes and other improvements as required by the Planning Commission and coordinated with city staff. Other off-site improvements to Ruppel Road will be evaluated at the time of development to ensure the traffic generated does not compound or create a dangerous traffic condition.
 - Signalization to include installation of new traffic signals in accordance with City of Fayetteville requirements as determined necessary by the Planning Commission and reconstruction as necessary of the existing

traffic signal at Wedington Drive and Ruppel Road, at the cost of the developer. Other signalization may be required, with city approval.

- Re-evaluation of the "frontage drive" and entries onto Ruppel Road to create acceptable traffic operations. The traffic study indicates the proposed interior frontage road and intersections with Ruppel need to be evaluated in detail, a statement with which staff agrees. Sight distance, curb cut proximity, stacking distance, alignment with approved streets across Ruppel Road and relationship to the pedestrian movement along Ruppel Road will all be examined in detail at the time of development.
- Limitation of all access to Ruppel Road and Wedington Drive to streets only, and no individual curb cuts shall be permitted.
- Coordination with city staff to determine the appropriate lane geometry that is consistent with the desired traffic movement along Ruppel Road.
- Other improvements as deemed necessary, based on traffic generation, phasing and other applicable criteria.

12. City Council consideration of a Master Street Plan amendment to move Ruppel Road west of its planned location. *The current Master Street Plan indicates the alignment of Ruppel Road shifting east and bisecting a portion of the subject property. Recent concept designs prepared by staff for the transportation improvement/street bond program have indicated a different scenario (see attached), which is utilized with the Wellspring proposal. Staff recommends that further analysis take place for this important alignment and if needed, plans to be modified and brought back before the City Council for a final determination of the Master Street Plan amendment at the time of development.*
13. A Tree Preservation Plan shall be prepared at the time of development for each Planning Area. All development proposals shall meet the Tree Preservation and Protection Ordinance.
14. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.

PLANNING COMMISSION ACTION: Required YES

Planning Commission Action: ☐ Approved ☐ Denied ☐ Tabled

Motion: _____

Second: _____

Vote: _____

Meeting Date: February 13, 2006

Comments: _____

CITY COUNCIL ACTION:

Required YES

City Council Action: ☐ Approved ☐ Denied ☐ Tabled

Motion: _____

Second: _____

Vote: _____

Meeting Date: February 21, 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 MDP R-PZD 05-1636

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. In review of the General Plan 2020, the application provides for a mixture of residential, office, commercial and mixed uses while providing a great deal of both undisturbed area and usable open space. The proposal utilizes principles of traditional urban design to create compatible, livable and accessible neighborhoods; transitions and manages non-residential development within and adjoining residential neighborhoods to minimize nuisances; utilizes the policies of connectivity, both for vehicles and pedestrians; and sites new development in close proximity to public services and infrastructure.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (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. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development. Examples of this include requirements to improve Ruppel Road, traffic signalization, expanding a public park and trail system, contribution for sewer improvements (long and short term), etc. Fire and police have responded accordingly.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, creates a mixture of commercial, office, retail/restaurant and residential uses. These types of uses surround the development in various stages, and an attempt to transition to adjoining uses is obvious in the plans submitted. Staff finds the range of uses to be appropriate in this

rapidly growing Ruppel Road community. Current development ordinances, including Tree Preservation, Landscaping and design standards, enable more developments to be visually compatible than before.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is remnant farm land that has been mostly cleared. There are areas, especially along the on-site creek, that contain considerably-sized trees. Approximately 26% of the site is proposed to remain in greenspace, and the proposal attempts to respect the natural environment where possible.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: Based on the traffic study completed for this project, there would be considerable traffic increase generated by this development and therefore considerable improvements mandated. As noted by the Police and Fire Department, leaving Ruppel Road in situ is not an option. The developer will be expected to make significant improvements to Ruppel Road in order to alleviate and mitigate any burdens placed upon the street infrastructure. These include new traffic signals, construction of at least half of Ruppel Road (28-foot width, ½ boulevard, curb and gutter, storm drainage, sidewalks, streetlights, etc.), as well as other improvements to ensure safe and adequate vehicular and pedestrian movement. The applicant has indicated that these improvements are anticipated, and agrees to meet the requirements placed upon the project by the City of Fayetteville in order to develop this project. Improvements will likely need to extend beyond the frontage of the subject property, to allow for safe and adequate access to the property.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan and project booklet has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Typical architectural elevations, materials and design standards are called out, in order to describe the appearance of the community once constructed.

- (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. While a major shift in land uses from its current use, staff finds that the proposal herein does incorporate an acceptable level of compatibility, and development features further the health, safety, amenity and welfare of the community. Density, maximum dwelling units and maximum intensity (non-residential square feet) have been addressed for each planning area; open space is to be provided, both concentrated and within the development as a whole; circulation is achieved via public and private streets, with an emphasis on a traditional urban design, allowing pedestrians freedom of movement; parking, screening, signage, landscaping and tree preservation are all proposed to meet City of Fayetteville standards, allowing for a project that enhances the neighborhood.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required at this time; with development of the site, all applicable development criteria will be applied for appropriate landscaping, screening and buffering of parking areas and objectionable uses.

- (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: Traffic circulation has been evaluated with a traffic study, the results of which are included at the end of the project booklet. Ingress and egress interior to the project shall be evaluated and required to be constructed with the development of the property. A hierarchical system of boulevards, public streets, alleys, rear parking, private drives seem to be proposed. Issues of connectivity will be evaluated and addressed with more refined development of the Planning Areas. Block length, alley width for services, curb cuts and other design criteria will be addressed at the time of development. The "frontage" drive along Ruppel Road, specifically, will need to be re-evaluated.

- (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. All parking areas shall conform to City of Fayetteville standard specifications, unless approved otherwise by the Planning Commission.

- (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 a great deal of open space to be retained for community use. Open spaces are indicated to be met with development of each Planning Area, and all buffering, screening and landscaping required by city code will be applicable.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of development to ensure compliance.

(7) *Street Lights.* As required by §166.03.

FINDING: Street lights will be required 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. The developer will be responsible for contributing to the interim solution for wastewater capacity issues in the Hamstring basin, as determined by the City Council.

(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, which have been indicated in the submitted statement of commitments. The Planned Zoning District process allows an applicant to propose alternative street cross-sections, sidewalk width and location, etc., all at the discretion and with the approval of the Planning Commission. Public and Private streets shall not be gated, unless permitted by express approval from the City Council.

- (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 parkland dedication and development of community open space is planned with Phase I of construction. If more than eight building permits are desired prior to completion of the required nonresidential facilities, guarantees in the amount of 150% will be deposited with the city.

- (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 shall be submitted at the time of development. It is anticipated that a large tree preservation/undisturbed area will be protected; however, it is important to note that each Planning Area will also be responsible for its own tree preservation and mitigation.

- (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: All commercial structures shall be evaluated as set forth in the code, at the time of development. Though strict adherence is not essential, submitted concept drawings will be utilized as templates for the future buildings.

- (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 proposed Master Development Plan incorporates the majority of the above criteria, as evidenced in the variety of uses in the Planning Areas; the transitioning from commercial to mixed use to condominium to townhouse to single family detached; a maximum enhancement of existing natural amenities, capitalizing on the stream corridor traversing the property to provide public and private open space and the proximity and extension of an adjacent public park; creating a community atmosphere near two arterial streets, while providing necessary infrastructure improvements to alleviate any potential impact; and providing a variety of housing types within the same area, allowing for a socio-economic diversity while promoting a community atmosphere in which one can work, live and play.

(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 05-1636, with seven (7) unique Planning Areas. The development standards, statement of commitments and Master Development 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 use is mixture of uses containing single family detached and attached residential, multifamily residential, commercial, office, retail and restaurant uses. It provides a variety and flexibility of land use, while retaining a primary emphasis on the residential component. Existing adjacent land uses are considered, and transitioned within the development to provide compatibility. Improvements to infrastructure will be required in order to not create heavy traffic congestion, as the primary point of entry (Ripple Road) is substandard for existing traffic. By clustering more densely, a much higher percentage (26%) of open space can be maintained for use and enjoyment of this community and Fayetteville at large.

(2) *Permitted Uses.* 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) *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.

FINDING: See Zoning Criteria Chart within the project booklet provided by the applicant for the uses permitted by right and by conditional use in each Planning Area as proposed by the applicant. This project booklet, if approved, will remain on file in the Planning Division for comparison to future development on the property. Uses proposed have been evaluated and found to be reasonably compatible in adjacency to other uses.

(4) *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 majority of development within the proposed Master Development Plan is slated for residential use.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from R-A, Residential Agricultural and RSF-1, Residential Single Family, 1 unit per acre, to MDP R-PZD 05-1636, 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. Rezoning this property to R-PZD 05-1636, with the associated Master Development Plan, varies this future land use to a mixed use, though the principal use on the property will remain residential. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the General Plan 2020 for new development.

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. The policies encouraged by the General Plan

2020 call for mixtures of uses, housing sizes and types, pedestrian-friendly neighborhoods, siting new development adjacent to arterials, schools and other public services, and expanding the public trails and parks system. This project meets all of these goals, and creates an internal transition of land uses that attempt to address adjacent land uses.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is needed in order to develop anything other than agricultural or low density single family uses 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 undoubtedly result in an increase in vehicle trips, due to the change in use from an existing farm to 1,175 dwelling units and 548,000 SF of nonresidential space. It is essential that street improvements occur as a result, to be installed with development of the project. With the significant improvements caused by the magnitude of development proposed, other users of Ruppel Road and Wedington will likely benefit as well, due to the fact that Ruppel Road is inadequate at the current time. An estimated 3% in calls for service is anticipated by the Police Department, and an appreciable increase for the Fire Department, given their proximity (1.5 minutes) to the property, is not anticipated.

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 in this area, and has been anticipated with the construction of new public services in the area, including schools, a fire station, and the Boys & Girls Club. Water and sewer services will be required to be evaluated and submitted at the time of development; those improvements necessary to retain an acceptable level of service for all infrastructure as dictated by the City of Fayetteville will be required of the developer, including the extension of water service, sewer lines, contribution to the interim capacity solutions in this basin, and other infrastructure needs deemed appropriate and meeting the rough proportionality of the impact of this development on the existing infrastructure.

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

POLICE DEPARTMENT

C. 8
R-PZD 05-1636 Wellspring
Page 29 of 62

RECEIVED
JUL 25 2005
PLANNING DIV.

July 25, 2005

Jeremy Pate
Director of Current Planning
City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72702

Dear Mr. Pate:

This document is in response to your request for estimated implications/expectations the **Wellspring Community PZD** would place on the Fayetteville Police Department. Based on historical data of similar demographic and geographic commercial and residential areas, estimations can be made regarding an increase in police calls for service. Upon completion of the build out of this PZD, the Fayetteville Police Department can realize an estimated three percent increase in total calls for service. Given the current traffic environment in this area, a development of this size would have an obvious impact on traffic congestion. The Engineering Department may provide more specific information regarding questions about the traffic impact for the Wellspring Community PZD.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Turberville", is written over the typed name.

Rob Turberville
Fayetteville Police



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: August 31, 2005

To: Jeremy Pate

From: Captain Dale Riggins

Subject: Re-zoning review from the Fayetteville Fire Department.

~~PZD05-1670 (Pratt Place Inn)~~

~~These 72 acres are covered by Station 2 on North Garland.
The property is 1.4 miles from the station with an anticipated response time of 4 minutes.
No calls for service are figured on this type of development and there should be no
adverse affects on our call volume. Our only concern is the access of our ladder trucks to
this property. With the road and trees it will be very hard to maneuver an aerial truck to
this property without improvements. Another concern is the access to the future 'cabins'
and their locations.~~

RPZD05-1636 (Well Spring)

These 152 acres are currently covered by Station 7 on Ruppel Road.
The property is 0.8 miles from the station with an anticipated response time of 1.5
minutes to the beginning of this subdivision and 2.5 minutes after the maximum build out
is completed. We project this development to produce 235 calls for service per year at
maximum build out (92 fire/other and 143 EMS). This accounts for the residential
properties only. Typically, commercial properties do not greatly affect our call volume
with-in a fire district. The service impact of this development will typically take eighteen
months, after the development is started, to occur. Since this project is predicted to take
4-5 years to complete there should be no adverse effects on our call volume or response
times to this subdivision. Since Ruppel Road is narrow and curvy, the widening of this
road will greatly help getting our apparatus to the scene of this development along with
any calls north of that area.

If you have any questions, please feel free to call or email me.

Dale Riggins
Captain
Fayetteville Fire Department



THE CITY OF FAYETTEVILLE, ARKANSAS

PARKS AND RECREATION DIVISION CORRESPONDENCE

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3471

To: Critical Path Design, Inc.

From: Sarah K. Patterson (Landscape Administrator)

Date: July 22, 2005

Subject: Master Development Comments

ITEM #: PZD-Master Development Plan (Wellspring Development)

TREE PRESERVATION PLAN

1. Zoned PZD, a preserved canopy of 25% will be expected for this area. Significant tree canopies, as defined in the Landscape Manual, will need to be denoted on the Tree Preservation Plan so that their location can be compared to that of development.
2. In the overall design, significant trees in good condition will be expected to have a higher priority of preservation. I would stress the importance of designing structures that work around these trees versus complete removal.
3. Although I am in support of one area to be undisturbed Tree Preservation, I would like to see some tree groupings preserved throughout the development to help break up impermeable services, commercial development, and to lessen the overall impact on the existing environment.
4. As each lot comes through the planning process, a significant tree inventory, site analysis report with map, and a tree preservation plan will need to be submitted so that each can be reviewed on an individual basis.
5. As I am familiar with the property, my concern is for the wet marshy area along Wedington Drive. As it appears the widening of Wedington Drive has caused this area to have drainage issues which I hope will be taken into consideration when developing.

Trees and vegetation benefit these kinds of areas and I am concerned at the effect impermeable services, corresponding with the commercial design, will create.

6. I also have a concern for the sloped areas around the ponds and creek. This might be an area at which you could look into developing a tree preservation buffer along the stream banks. The trees on these hillsides should be categorized as high priority due to their substantial benefits in stabilization/erosion control and storm water management. I would like to see these areas designed with the existing topography to help ensure that environmental impact is kept to a minimum.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469

TO: Jeremy Pate, Director of Current Planning

FROM: Alison Jumper, Park Planner

DATE: July 20, 2005

SUBJECT: Parks & Recreation Plat Review Comments

Meeting Date: August 16, 2005
Item: Wellspring PZD
Park District: NW
Zoned: PZD
Billing Name & Address: SCB Investments, LLC
2921 S. Old Missouri Rd.
Springdale, AR 72764

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	_____ @ \$393 per unit = \$ _____
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- Bryce Davis Park, currently approximately 9.2 acres, borders a portion of the east property line of this proposed development. This adjacency creates opportunity for expansion of the park.
- On May 2, 2005 Parks and Recreation Advisory board recommended accepting a land dedication of approximately 19 acres to meet the requirements of the Park Land Dedication Ordinance. This would expand the park to approximately 28.2 acres.
- A deed for the full land requirement will be due before the final plat is signed.
- Additionally, a trail corridor is planned to the north of this property along Hamestring Creek. It is recommended that the developer provide a pedestrian connection from the park land to the north property line for future connection to the Hamestring Creek trail corridor.



PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes May 2, 2005

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:30 p.m. on May 2, 2005 in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Mike Hill.

Present:

Parks and Recreation Advisory Board members Hill, Bailey, Langsner, Marley, Davidson, Mauritsen, Pawlik-Holmes and Park Staff Hatfield, Edmonston, Jumper, Whillock and Audience.

1. Park Land Dedication: Alison Jumper, Park Planner

Development Name:	Wellspring
Engineer:	Critical Path Construction
Owner:	Barber Group
Location:	East of Ruppel Road, north of Wedington Dr.
Park District:	NW
Units:	111 Single Family, 962 Multi family
Total Acres:	114 acres
Land Dedication Requirement:	19 acres
Money in Lieu Requirement:	\$439,671
Existing Parks:	Bryce Davis Park is within a half mile service area.
Developer's Request:	Land
Staff Recommendation:	Land
Developer's Comments:	
Justification:	

Bryce Davis Park is located adjacent to the proposed development's east property line. This creates opportunity for the expansion of the park. Additional land is appropriate considering the number of residences being added to the area. Bryce Davis park is currently 9.2 acres. If land is accepted, the park would be expanded to 28.2 acres.

Though a tour of this property had been scheduled it was decided to continue at City Hall with discussion and presentations due to the familiarity of the Board with the location.

John Nock, representing Westside Development L.L.C and the proposed Wellspring development, presented the proposed plan to maintain the topography of the area as well as the established flora consisting of mature trees. He said the community would be directed to retirement living and would create areas for public use in conjunction with a neighborhood park that will be

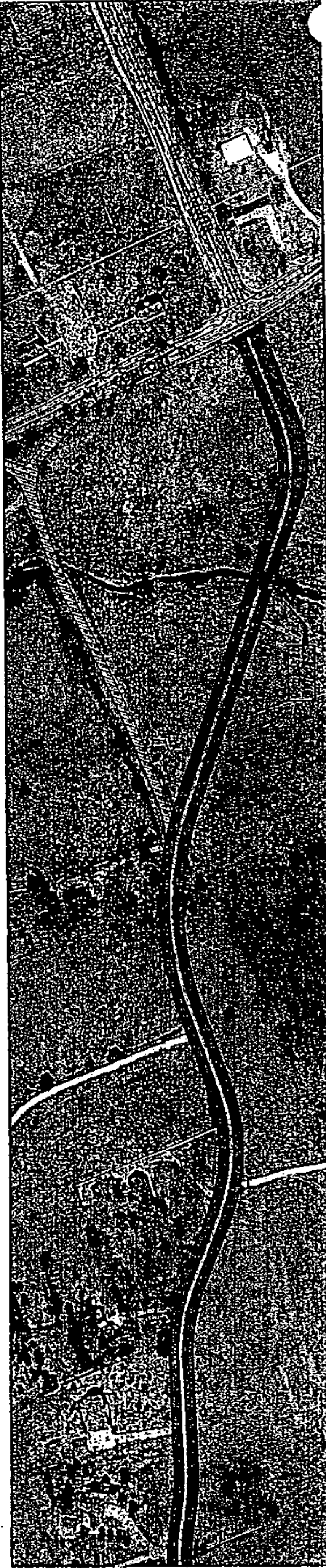
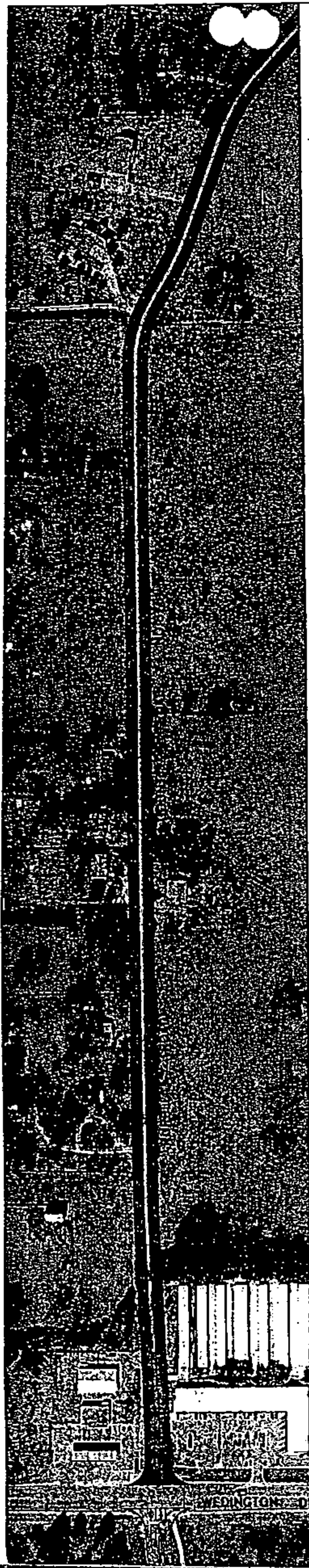
managed by the POA. The total open area including public park, community maintained park and tree preservation area will amount to about 50 acres of green space.

PRAB Motion:

Langsner moved to accept staff recommendation to accept 19 acres of land which will be adjacent to Bryce Davis Park.

Mauritson seconded the motion.

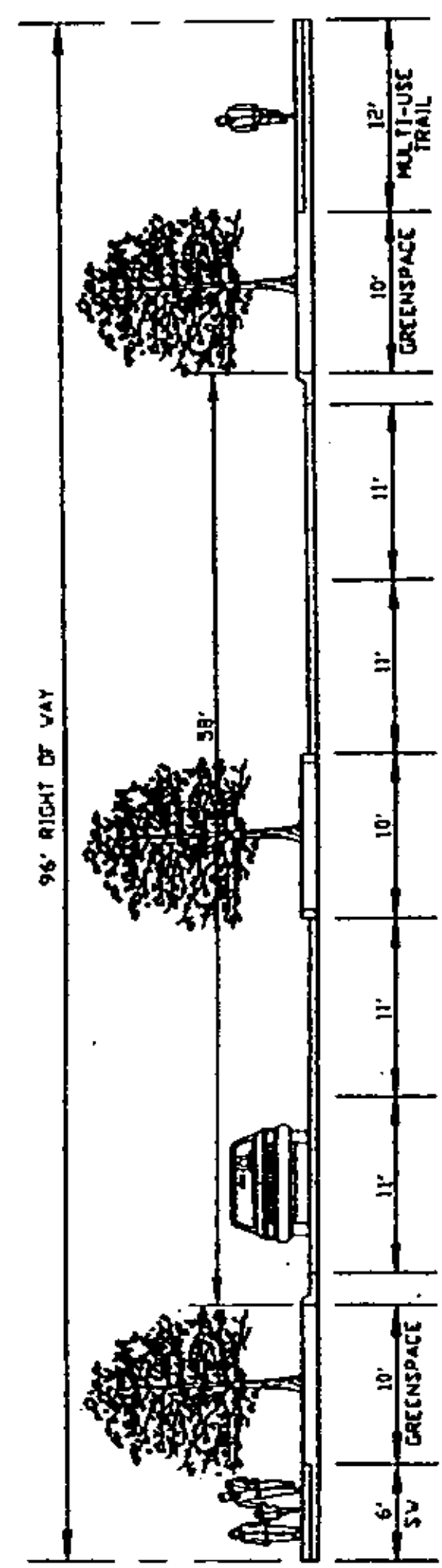
The motion was approved 7-0-0 with Hill, Bailey, Langsner, Marley, Davidson, Mauritson and Pawlik-Holmes voting 'yes', and Harrison absent for the vote.



**RUPPLE ROAD IMPROVEMENTS
WEDINGTON DR. to MT. COMFORT RD.
CONCEPT PLAT**



- Concept drawing



ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

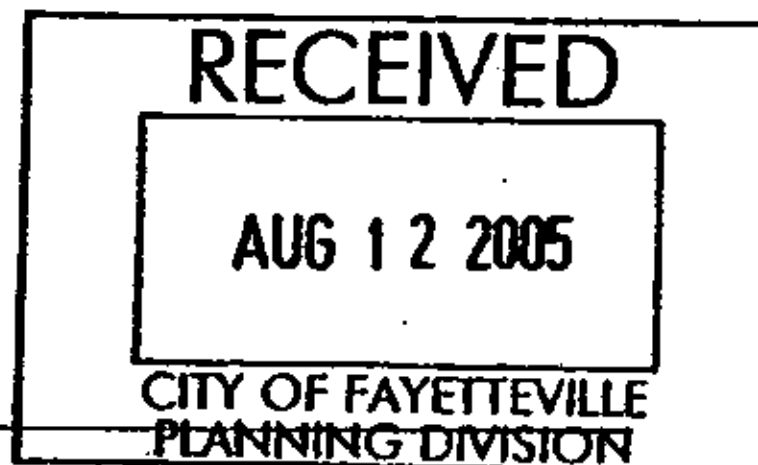
Today's Date: July 19, 2005

APPLICANT/REPRESENTATIVE CONTACT INFO:

Critical Path Design, Inc.

21 W. Mountain, Ste. 121

Fayetteville, AR 72701



City Council Meeting:

Tuesday, August 16, 6:30 P.M.
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION: Wellspring is a planned community that will offer several types of residential living. The 164-acre site is located just northeast of the Wedington Dr. and Ruppel Rd. Wellspring will offer garden homes for families seeking low-density living, courtyard condos for residents looking for a more urban lifestyle, and townhomes for residents not wanting the responsibilities of yard maintenance. Over 40 acres of city park and tree preservation space will provide green space that separates the residential area from a commercial thoroughfare that will be along Wedington Dr.

ADJOINING PROPERTY OWNERS COMMENTS FOR WELLSPRING DEVELOPMENT

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope.)

☐ I have been notified of the above meetings for the described project.

☐ I do not object to the project described above.

☒ I do object to the project described above because:

CLADE Langer
Name of Property Owner (Printed)

CLADE Langer
Signature of Property Owner

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

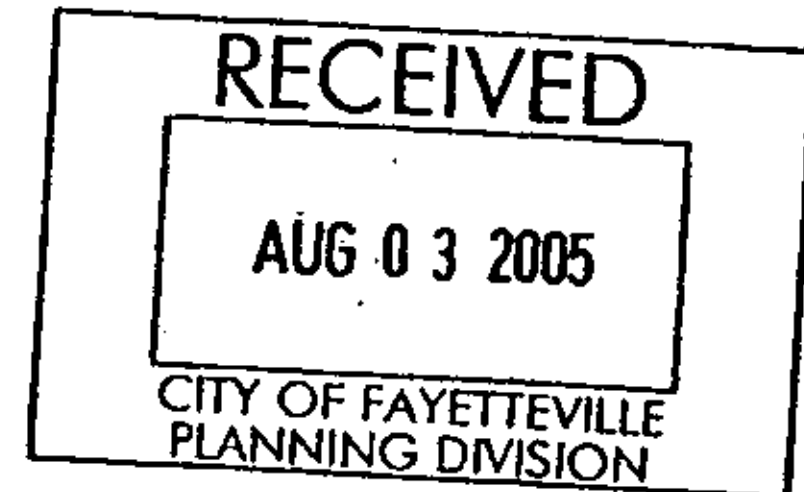
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ADJOINING PROPERTY OWNERS COMMENTS FOR WELLSPRING DEVELOPMENT

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope.)

 I have been notified of the above meetings for the described project.

 I do not object to the project described above.

 X I do object to the project described above because:

JAMES L. HAZEN
Name of Property Owner (Printed)

[Signature]
Signature of Property Owner

I am concerned about the density of people, cars, and becoming rental property. Ruppel Rd is already overloaded. Also concerned about planned low cost townhomes across the street from above property. I don't mind single family homes, but high density is not good. JH

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

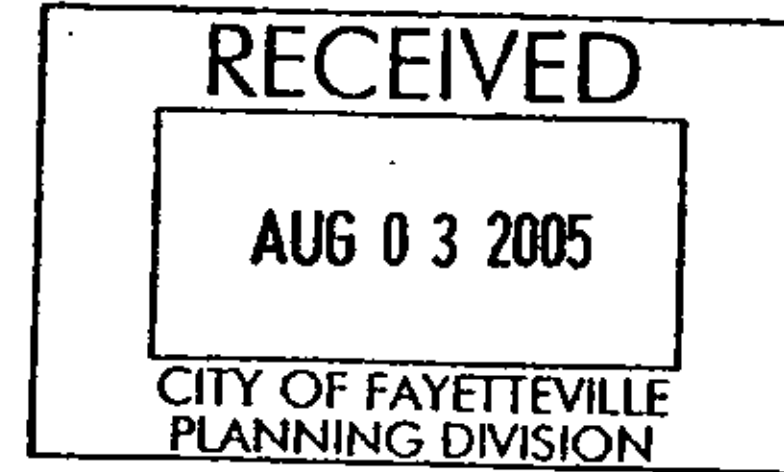
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ADJOINING PROPERTY OWNERS COMMENTS FOR WELLSPRING DEVELOPMENT

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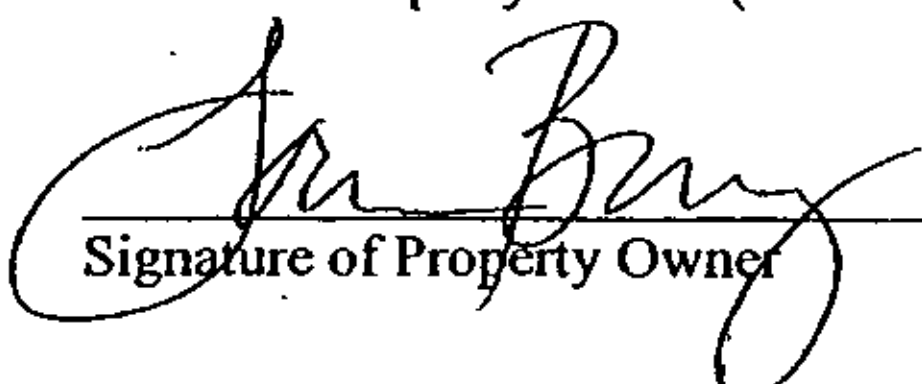
 I have been notified of the above meetings for the described project.

 I do not object to the project described above.

 X I do object to the project described above because:

- 1) Ruppel Rd can not take the traffic & is not schedule for overhaul before you will start.
- 2) I do not want a view looking at the back of several HUNDRED apartments (you call them town houses.)
- 3) Your development more than likely will LOWER the value & re-sale of my property.
- 4) I am really afraid this will turn into residence for college students.

Loren Berry
Name of Property Owner (Printed)


Signature of Property Owner

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

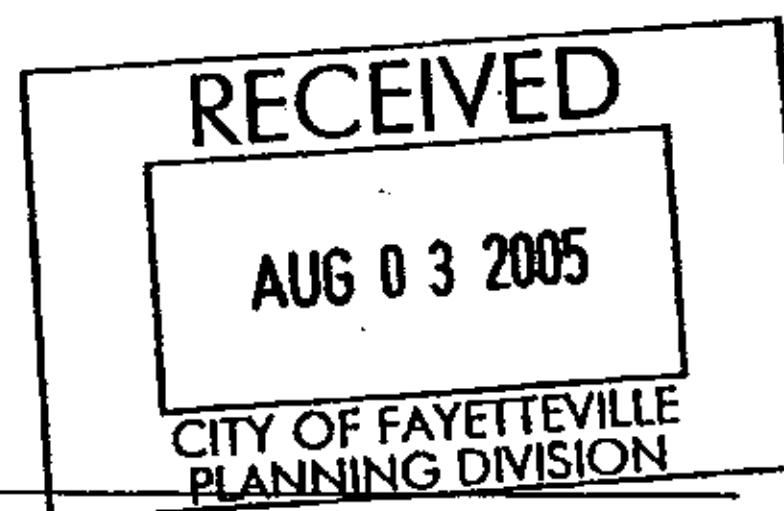
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ADJOINING PROPERTY OWNERS COMMENTS FOR WELLSPRING DEVELOPMENT

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope.)

☒ I have been notified of the above meetings for the described project.

☐ I do not object to the project described above.

☒ I do object to the project described above because:

Peter J. Farrell
Name of Property Owner (Printed)

[Signature]
Signature of Property Owner

What in the world
Are you going to do
about the traffic?
These roads are already
over loaded - put the
road out lets in before they
start building - let
the builders put them
in - at there cost not
The city's

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date: July 19, 2005

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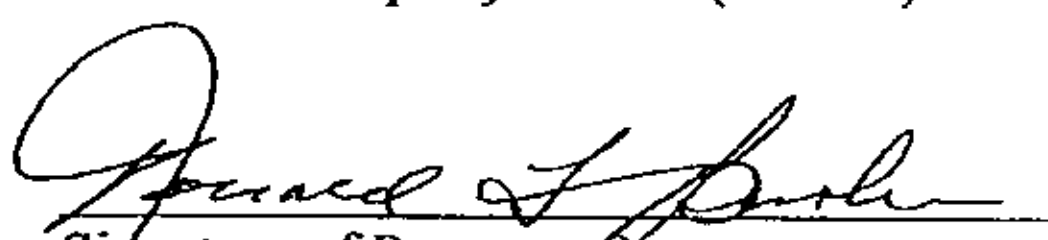
(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope.)

X I have been notified of the above meetings for the described project. NOTE

 I do not object to the project described above.

X I do object to the project described above because: I AM NOT IN FAVOR OF DEVELOPMENT IN WHAT WAS A RURAL AREA.

RONALD L. BUTLER
Name of Property Owner (Printed)


Signature of Property Owner

NOTE: THE PROPERTY AT 1893 N. RUPPEL ROAD, FORMERLY OWNED BY ME, WAS SOLD ON 15 JULY 2005 TO DR. BREWER.

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date: July 19, 2005

APPLICANT/REPRESENTATIVE CONTACT INFO:

Critical Path Design, Inc.

21 W. Mountain, Ste. 121

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ADJOINING PROPERTY OWNERS COMMENTS FOR WELLSRING DEVELOPMENT

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope.)

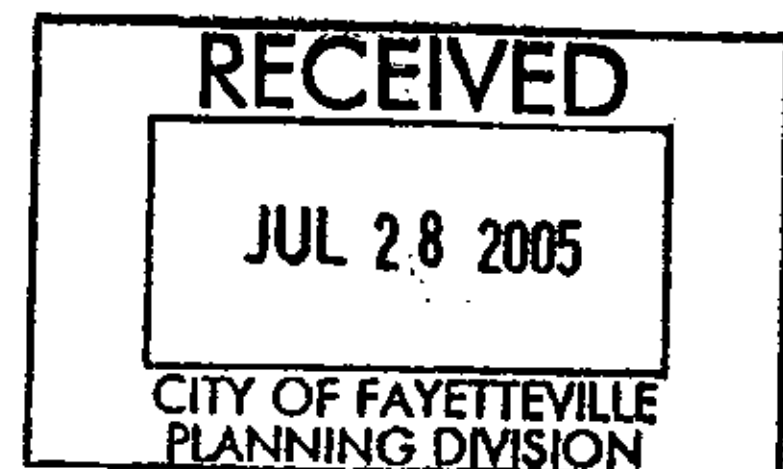
/ have been notified of the above meetings for the described project.

/ I do not object to the project described above.

 I do object to the project described above because:

William Hazenby
Name of Property Owner (Printed)

[Signature]
Signature of Property Owner



Try to make it Easy

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

RECEIVED

Today's Date: July 19, 2005

JUL 25 2005

APPLICANT/REPRESENTATIVE CONTACT INFO:

PLANNING DIV.

Critical Path Design, Inc.

21 W. Mountain, Ste. 121

Fayetteville, AR 72701

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**ADJOINING PROPERTY OWNERS COMMENTS
FOR WELLSRING DEVELOPMENT**

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope.)

 I have been notified of the above meetings for the described project.

 X I do not object to the project described above.

 I do object to the project described above because:

John R. Meyers
Name of Property Owner (Printed)

1857 ALBANY
FAYETTEVILLE AR
[Signature]
Signature of Property Owner

Traffic Study

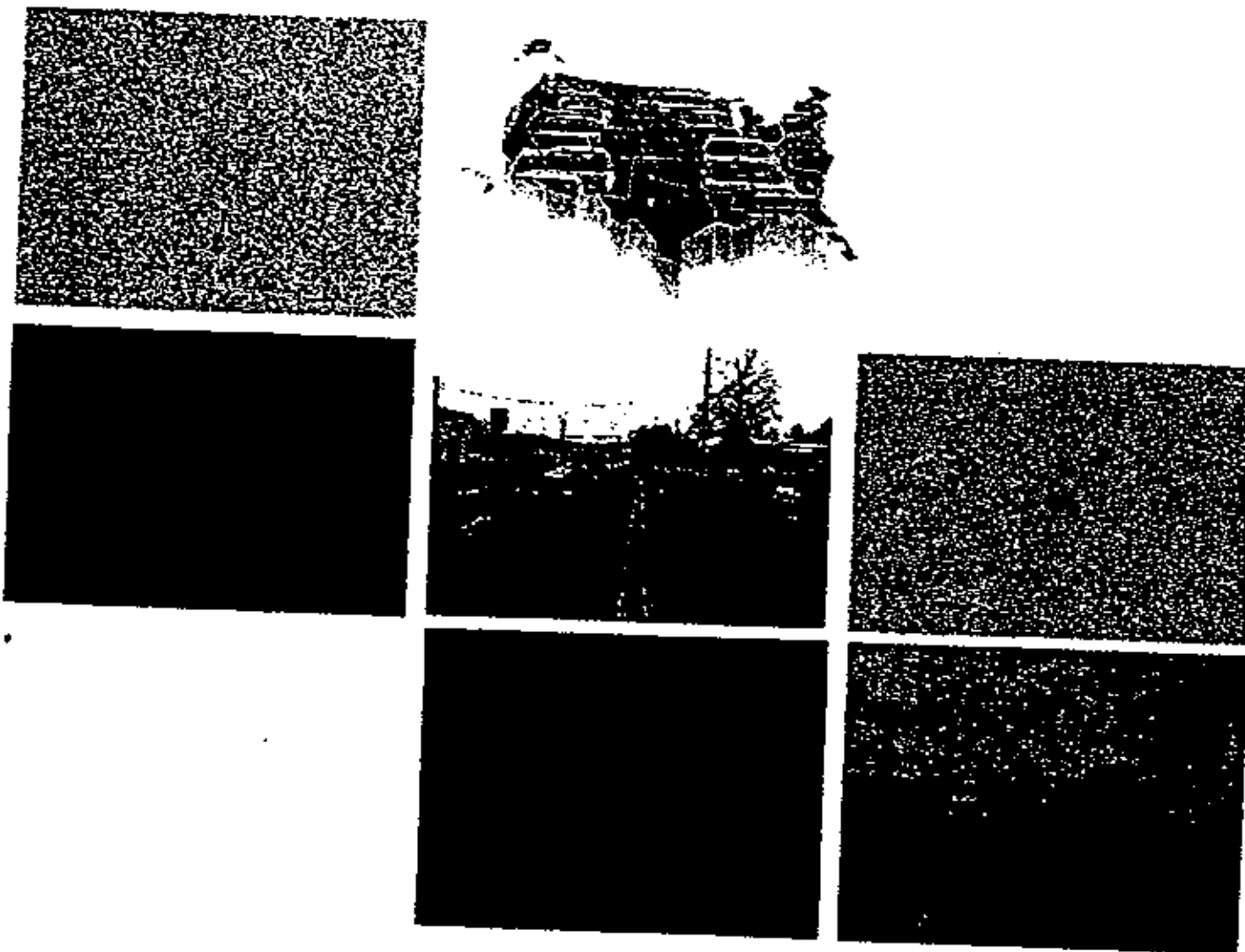
MIXED-USE DEVELOPMENT

prepared for:

Critical Path Construction Management

Wedington Drive
And
Rupple Road

Fayetteville, Arkansas



Project No.: P-1091

January 29, 2005



**PETERS & ASSOCIATES
ENGINEERS, INC**

• CIVIL & TRAFFIC ENGINEERING •
P.O. BOX 21638 (501) 225-0500
LITTLE ROCK, ARKANSAS 72221

Traffic Study

EXECUTIVE SUMMARY

Peters & Associates Engineers, Inc., has conducted a traffic engineering study relating to a proposed mixed-use development located on the north side of Wedington Drive (also Highway 16) and on the east side of Ruppel Road in Fayetteville, Arkansas. The mixed-use development is proposed to consist of a variety of commercial, medical office and residential uses as indicated on the project site plan (a reduced copy of the plan is included in the Appendix for reference).

There are other developments planned in the vicinity of this development which have been taken into consideration as a part of this study to properly consider projected traffic operations.

Existing 24-hour traffic counts were made by this consultant as a part of this study in the vicinity of the site at the following locations:

- Wedington Drive, just east of Ruppel Road
- Ruppel Road approaches to Wedington Drive.

Existing AM and PM peak hours vehicle turning movement counts were made by this consultant for the intersection of Wedington Drive and Ruppel Road.

There are no planned Arkansas State Highway and Transportation Department (AHTD) or City of Fayetteville projects in the immediate vicinity of the site.

Projected traffic volumes for full build-out of the proposed development were calculated. These projected site-generated trips were added to the existing traffic volumes, which resulted in total projected traffic volumes at full build-out of the site. Additional analysis has been conducted that includes the vehicle trips expected to be generated by planned developments by others in the vicinity of the site, which resulted in total projected traffic volumes at full build-out of the site plus surrounding planned development.

- Capacity and LOS analysis for existing traffic conditions (existing traffic volumes, lane geometry and traffic control)



Traffic Study

were conducted for the Wedington Drive and Ruppel Road intersection. Currently all vehicle movements operate at what calculates as an acceptable LOS "C" or better for the AM and PM peak hours at this intersection.

- Capacity and LOS analysis was performed for AM and PM peak hours for the projected full build-out of this development projected traffic conditions. Additional analysis was conducted that includes the vehicle trips expected to be generated by planned developments by others in the vicinity of the site, which resulted in total projected traffic volumes at full build-out of the site plus surrounding planned development. For both projected traffic conditions, analysis was conducted with the roadway improvements and schematic lane geometry shown on Figure 10, "Recommended Schematic Lane Geometry," found as a part of the analysis of the study to be necessary for acceptable traffic operations. The results of this analysis is as follows:

Projected Traffic - Full Build-Out of the Site (developments by others in the vicinity not included)

- o All vehicle movements for projected traffic conditions at completion of the development of the site at the study intersections are projected to operate at what calculates as an acceptable LOS "D" or better for the AM and PM peak hours.

Projected Traffic - Full Build-Out of the Site Plus Planned Developments in the Vicinity by Others

- o The only vehicle movements at the study intersections with LOS results demonstrating very long traffic delays (LOS "E") during the AM or PM peak hours projected traffic conditions at full build-out of the site plus planned developments in the vicinity by others are the following:
 - ♦ The eastbound thru vehicle movement on Wedington Drive at Ruppel Road during the AM peak hour.

Traffic Study

- ♦ The northbound right-turn vehicle movement on Ruppel Road at Wedington Drive during the AM peak hour.
- ♦ The southbound left-turn vehicle movement on Ruppel Road at Wedington Drive during the AM peak hour.
- All other vehicle movements analyzed are expected to operate at LOS "D" or better during the AM and PM peak hours for full build-out of the site plus planned developments in the vicinity by others.
- It was found that traffic signal warrants are projected to be met for the intersection of Wedington Drive and Drive A at full build-out of the site.
- It was found that traffic signal warrants are projected to also be met for the intersection of Ruppel Road and Drive D at full build-out of the site.
- It was found that traffic signal warrants are not projected to be met for the intersection of Ruppel Road and Drive F at full build-out of the site.
- Traffic signal control would be appropriate for the intersection of Wedington Drive and Drive A and the intersection of Ruppel Road and Drive D to coincide with the development as proposed and the herein recommended improvements.
- The recommended signal control at the intersections of Wedington Drive and Drive A and Ruppel Road and Drive D would allow acceptable traffic operations and add safety and convenience for these intersections, as well as help accommodate growth in the vicinity of the site.



Traffic Study

- It was found that the distance between the access drive intersections with Ruppel Road and the internal driveways within site may provide a point of traffic conflict with vehicles entering the site from Ruppel Road. Channelization of these driveways into the site before any turn opportunity would better assure acceptable traffic operations.

Recommendations of this study are summarized as follows:

- It is recommended that the roadway lane geometry be constructed as shown on Figure 10, "Recommended Schematic Lane Geometry." These proposed roadway improvements are consistent with the City of Fayetteville Master Street Plan standards for Minor Arterial streets. The improvements should be constructed coincident with full site development.
- It is recommended that a fully actuated traffic signal be installed at the Wedington Drive and Drive A intersection coincident with the site development. The intersection should be constructed in accordance with intersection design standards of AHTD and the City of Fayetteville and rights-of-way necessary for roadway widening and traffic signal operation and maintenance dedicated as a part of this development.
- It is recommended that a fully actuated traffic signal be installed at the Ruppel Road and Drive D intersection coincident with the site development. The intersection should be constructed in accordance with intersection design standards of the City of Fayetteville and rights-of-way necessary for roadway widening and traffic signal operation and maintenance dedicated as a part of this development.
- As a part of roadway improvements herein identified as necessary for the intersection of Wedington Drive and Ruppel Road, the existing traffic signal will require reconstruction.



Traffic Study

- The recommended traffic signals at the intersections of Wedington Drive and Drive A and Ruppel Road and Drive D should have provisions to be interconnected and coordinated with the existing signalized intersections of Wedington Drive and Ruppel Road and Wedington Drive and Salem Road (east of the site).
- Roadway improvements and traffic signal designs on Wedington Drive, in the vicinity of the site, must conform to AHTD and City of Fayetteville standards and will require approval by both AHTD and the City.
- Roadway improvements to all other roadways, in the vicinity of the site, must conform to City of Fayetteville standards and will require approval by the City.



Traffic Study

medical office land use, plus associated parking, landscaping, new streets and access drives. The site plan shows the proposed residential locations, the tracts for proposed office and commercial land uses and the approximate location of the drives proposed to serve the site. The site currently is an undeveloped tract.

STREET SYSTEM

Wedington Drive, in the vicinity of the study area, is approximately 44 feet wide consisting of two eastbound lanes and two westbound lanes. At both the eastbound and westbound approaches to its intersection with Ruppel Road, Wedington Drive widens to allow for the addition of a left-turn only lane. Wedington Drive is asphalt and constructed with curbs and gutters. There are sidewalks along both sides of the street and the speed limit is 45 miles per hour in the vicinity of the site. Wedington Drive is classified as a Principal Arterial on the City of Fayetteville Master Street Plan (MSP).

Ruppel Road, north of Wedington Drive along the site frontage, is approximately 20 feet wide consisting of a northbound lane and a southbound lane. On the north leg at Wedington Drive, Ruppel Road widens to 38 feet consisting of a 12-foot right-turn lane, a 12-foot thru / left-turn lane and a 14-foot receiving lane. Ruppel Road is asphalt and constructed with shoulders and drainage ditches along the site frontage and curb and gutter at Wedington Drive. There are sidewalks on Ruppel Road at Wedington Drive (none along the site frontage). The speed limit is 30 miles per hour. On the south leg at Wedington Drive, Ruppel Road consists of a northbound right-turn lane, a northbound thru / left-turn lane and a southbound receiving lane. Ruppel Road is classified as a Minor Arterial on the City MSP from just north of Mt. Carmel Road (north end) to 6th Street (south end).

There are two existing traffic signals in the immediate vicinity of the study area. The intersection of Wedington Drive and Ruppel Road is signalized. This is an existing



Traffic Study

EXISTING TRAFFIC CONDITIONS

Hourly, 24-hour traffic counts were made at the following locations in the vicinity of the site by this consultant as a part of this study:

STREET	24 HOUR TWO-WAY VOLUME	
Wedington Drive, Just East of Ruple Road	17,603	Table 1/Chart 1
Ruple Road Approaches to Wedington Drive	2,629	Table 2/Chart 2

Hourly 24-hour traffic count data for this location is summarized on Table 1 and Chart 1, "24-Hour Traffic Counts – Wedington Drive, Just East of Ruple Road," and Table 2 and Chart 2, "Ruple Road Approaches to Wedington Drive."

Other traffic count data collected as a part of this study include AM and PM peak hours vehicle turning movement counts at the intersection of Wedington Drive and Ruple Road. The peak hour vehicle turning movement count data at this intersection are summarized in the following peak hour turning movement charts and are presented in more detail in the Appendix of this report.

24-hour volume count data and AM and PM peak hours vehicle turning movement counts made as a part of this study are shown on Figure 3, "Existing Traffic Volumes."

Traffic Study

TRIP GENERATION and SITE TRAFFIC PROJECTIONS

The Trip Generation, an Informational Report (7th Edition), 2004, published by the Institute of Transportation Engineers (ITE) and The Trip Generation Software (Version 5 by Microtrans), were utilized in calculating the magnitude of traffic volumes expected to be generated by the proposed residential, office and commercial land uses of this development. These are reliable sources for this information and are universally used in the traffic engineering profession.

Using the selected trip generation rates, calculations were made as a part of this study to provide a reliable estimate of traffic volumes that can be expected to be associated with the development as proposed. Applying the appropriate trip generation rates to the land uses proposed for the development makes these calculations. Results of this calculation are summarized on Table 3, "Summary of Trip Generation," below.

PROPOSED LAND USE	APPROXIMATE SIZE	ITE CODE	24-HOUR TWO-WAY WEEKDAY VOLUME	AM PEAK HOUR VOLUME		PM PEAK HOUR VOLUME	
				ENTER	EXIT	ENTER	EXIT
Residential Condominiums	500 Units	230	2,930	35	185	175	85
Residential Townhomes	284 Units	230	1,664	20	105	99	48
Residential Patio Homes	176 Lots	210	1,684	33	99	113	65
Residential Detached Houses	40 Lots	210	383	8	22	26	15
Retail*	89,600 Sq. Ft.	820	3,078	45	29	129	140
Quality Restaurant*	10,000 Sq. Ft.	931	720	0	0	40	20
Quality Restaurant*	10,000 Sq. Ft.	931	720	0	0	40	20
Assumed Drive-In Bank*	4,000 Sq. Ft.	912	789	22	18	73	73
Assumed Fast-Food Restaurant*	4,000 Sq. Ft.	934	1,587	86	83	58	54
Assumed High-Turnover Restaurant*	4,000 Sq. Ft.	932	407	19	18	22	14
Medical Office Buildings	200,000 Sq. Ft.	720	7,226	392	104	200	544
TOTALS:			21,188	660	663	975	1078
TOTAL ENTERING + EXITING				1,323		2,053	

*These volumes adjusted to reflect 20% internal capture.

Table 3 – Trip Generation Summary



Traffic Study

These calculations indicate that approximately 21,188 vehicle trips (combined in and out) per average weekday are projected to be generated by the proposed residential, office and commercial land uses on this site. Of this total, approximately 1,323 vehicle trips are estimated during the traffic conditions of the adjacent street AM peak hour and approximately 2,053 vehicle trips are estimated during the traffic conditions of the adjacent street PM peak hour.

The data for the retail land uses have been adjusted for "internal trip capture" (i.e. multi-purpose trips within the site as opposed to new trips for each site land use).

These data have not been adjusted for "pass-by" trips (i.e. that portion of the site-destined traffic likely to come from the existing adjacent street traffic stream) due to the land uses and location of the site. The majority of the vehicle trips destined for the site are not expected to be in the existing traffic volumes.

Residential traffic and office traffic, as will be associated with this site, ordinarily does contribute to the adjacent street traffic conditions during the on street AM peak traffic hour and the PM peak traffic hour. Accordingly, both the AM and PM peak traffic periods of the adjacent streets in the immediate vicinity of the site are the traffic operating conditions which have warranted primary traffic analysis as a part of this study.

Traffic Study

TRAFFIC SIGNAL WARRANTS ANALYSIS

In evaluating the need for a traffic signal, certain established warrants must be examined by a comprehensive investigation of traffic conditions and physical characteristics of the location. The decision to install a traffic signal at a particular location must be evaluated quantitatively relative to these warrants. Satisfaction of conditions for only one of the warrants, as specified, is required for signalization. These warrants, as specified in the Manual on Uniform Traffic Control Devices (MUTCD), are described in detail in the appendix of this report. They are summarized as follows:

- ◆ **Warrant One: Eight-Hour Vehicular Volume**
- ◆ **Warrant Two: Four-Hour Vehicular Volume**
- ◆ **Warrant Three: Peak Hour**
- ◆ **Warrant Four: Pedestrian Volume**
- ◆ **Warrant Five: School Crossing**
- ◆ **Warrant Six: Coordinated Signal System**
- ◆ **Warrant Seven: Crash Experience**
- ◆ **Warrant Eight: Roadway Network**

Traffic signal warrants analysis was made for projected traffic conditions for full build-out of this development for the following intersections:

- Wedington Drive and Drive A
- Ruppel Road and Drive D
- Ruppel Road and Drive F.

Signal Warrants Results

Wedington Drive and Drive A

It was found that traffic signal warrants are projected to be met for the intersection of Wedington Drive and Drive A at full build-out of this development. Volumes are projected to be sufficient at the intersection of Wedington Drive and Drive A to satisfy Warrants 1A, 1B, 1AB, 2 and 3. Traffic signal control would be appropriate for this intersection to coincide with the development as proposed



Traffic Study

and the herein recommended roadway improvements. The traffic signal warrants analysis results for the intersection of Wedington Drive and Drive A is summarized in Table 7, "Traffic Signal Warrants Results - Wedington Drive and Drive A - Projected Conditions Full Build-Out of the Site."

Rupple Road and Drive D

It was found that traffic signal warrants are projected to be met for the intersection of Rupple Road and Drive D at full build-out of this development. Volumes are projected to be sufficient at the intersection of Rupple Road and Drive D to satisfy Warrant 1A. Traffic signal control would be appropriate for this intersection to coincide with the development as proposed and the herein recommended roadway improvements. The traffic signal warrants analysis results for the intersection of Rupple Road and Drive D is summarized in Table 8, "Traffic Signal Warrants Results - Rupple Road and Drive D - Projected Conditions Full Build-Out of the Site."

Rupple Road and Drive F

It was found that traffic signal warrants are not projected to be met for the intersection of Rupple Road and Drive F at full build-out of this development. Volumes are projected to not be sufficient at the intersection of Rupple Road and Drive F to satisfy any warrants. The traffic signal warrants analysis results for the intersection of Rupple Road and Drive F is summarized in Table 9, "Traffic Signal Warrants Results - Rupple Road and Drive F - Projected Conditions Full Build-Out of the Site."



Traffic Study

FINDINGS AND RECOMMENDATIONS

Findings of this study are summarized as follows:

- Traffic volumes projected to be generated by the site at full development are approximately 21,188 vehicle trips (combined in and out) per average weekday.
- The AM peak hour of the adjacent street (7:15 AM – 8:15 AM) and the PM peak hour of the adjacent street (5:00 PM – 6:00 PM) have been determined to be the worst-case traffic conditions in the vicinity. It is estimated that approximately 1,323 additional vehicle trips will seek ingress and egress at the site during this adjacent street AM peak hour and approximately 2,053 additional vehicle trips will seek ingress and egress at the site during this adjacent street PM peak hour.
- Capacity and LOS analysis for existing traffic conditions (existing traffic volumes, lane geometry and traffic control) were conducted for the Wedington Drive and Ruppel Road intersection. Currently all vehicle movements operate at what calculates as an acceptable LOS "C" or better for the AM and PM peak hours at this intersection.
- Capacity and LOS analysis was performed for AM and PM peak hours for the projected full build-out of this development projected traffic conditions. Additional analysis was conducted that includes the vehicle trips expected to be generated by planned developments by others in the vicinity of the site, which resulted in total projected traffic volumes at full build-out of the site plus surrounding planned development. For both projected traffic conditions, analysis was conducted with the roadway improvements and schematic lane geometry shown on Figure 10, "Recommended Schematic Lane Geometry," found as a part of the analysis of the study to be necessary for acceptable traffic operations. The results of this analysis is as follows:



Traffic Study

Projected Traffic - Full Build-Out of the Site

(developments by others in the vicinity not included)

- o All vehicle movements for projected traffic conditions at completion of the development of the site at the study intersections are projected to operate at what calculates as an acceptable LOS "D" or better for the AM and PM peak hours.

Projected Traffic - Full Build-Out of the Site

Plus Planned Developments in the Vicinity by Others

- o The only vehicle movements at the study intersections with LOS results demonstrating very long traffic delays (LOS "E") during the AM or PM peak hours projected traffic conditions at full build-out of the site plus planned developments in the vicinity by others are the following:
 - ◆ The eastbound thru vehicle movement on Wedington Drive at Ruppel Road during the AM peak hour.
 - ◆ The northbound right-turn vehicle movement on Ruppel Road at Wedington Drive during the AM peak hour.
 - ◆ The southbound left-turn vehicle movement on Ruppel Road at Wedington Drive during the AM peak hour.
 - o All other vehicle movements analyzed are expected to operate at LOS "D" or better during the AM and PM peak hours for full build-out of the site plus planned developments in the vicinity by others.
- It was found that traffic signal warrants are projected to be met for the intersection of Wedington Drive and Drive A at full build-out of the site.

Traffic Study

- It was found that traffic signal warrants are projected to also be met for the intersection of Ruppel Road and Drive D at full build-out of the site.
- It was found that traffic signal warrants are not projected to be met for the intersection of Ruppel Road and Drive F at full build-out of the site.
- Traffic signal control would be appropriate for the intersection of Wedington Drive and Drive A and the intersection of Ruppel Road and Drive D to coincide with the development as proposed and the herein recommended improvements.
- The recommended signal control at the intersections of Wedington Drive and Drive A and Ruppel Road and Drive D would allow acceptable traffic operations and add safety and convenience for these intersections, as well as help accommodate growth in the vicinity of the site.
- It was found that the distance between the access drive intersections with Ruppel Road and the internal driveways within site may provide a point of traffic conflict with vehicles entering the site from Ruppel Road. Channelization of these driveways into the site before any turn opportunity would better assure acceptable traffic operations.

Recommendations of this study are summarized as follows:

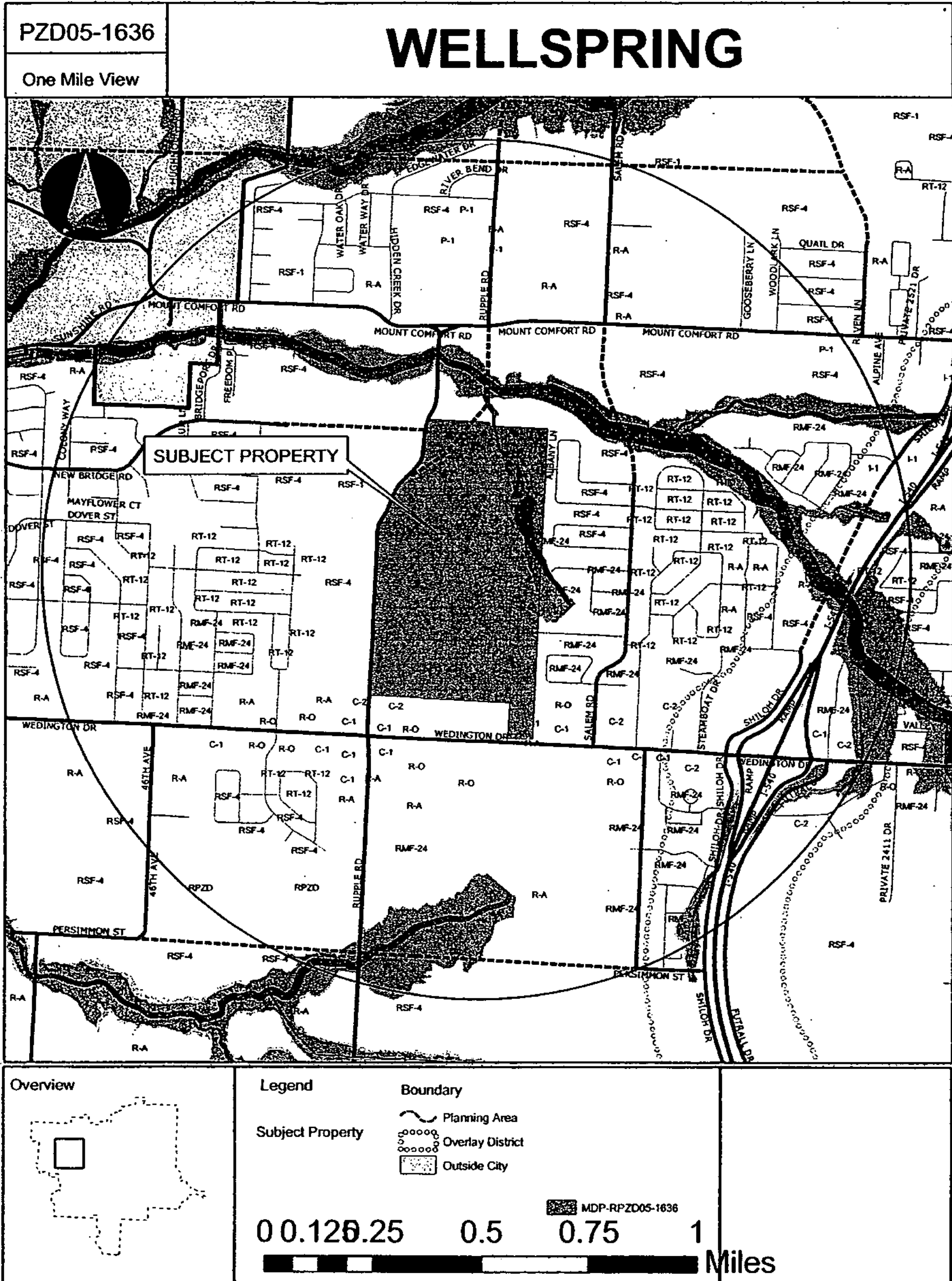
- It is recommended that the roadway lane geometry be constructed as shown on Figure 10, "Recommended Schematic Lane Geometry." These proposed roadway improvements are consistent with the City of Fayetteville Master Street Plan standards for Minor Arterial streets. The improvements should be constructed coincident with full site development.
- It is recommended that a fully actuated traffic signal be installed at the Wedington Drive and Drive A intersection coincident with the site development. The intersection should be constructed in accordance with intersection design stan-

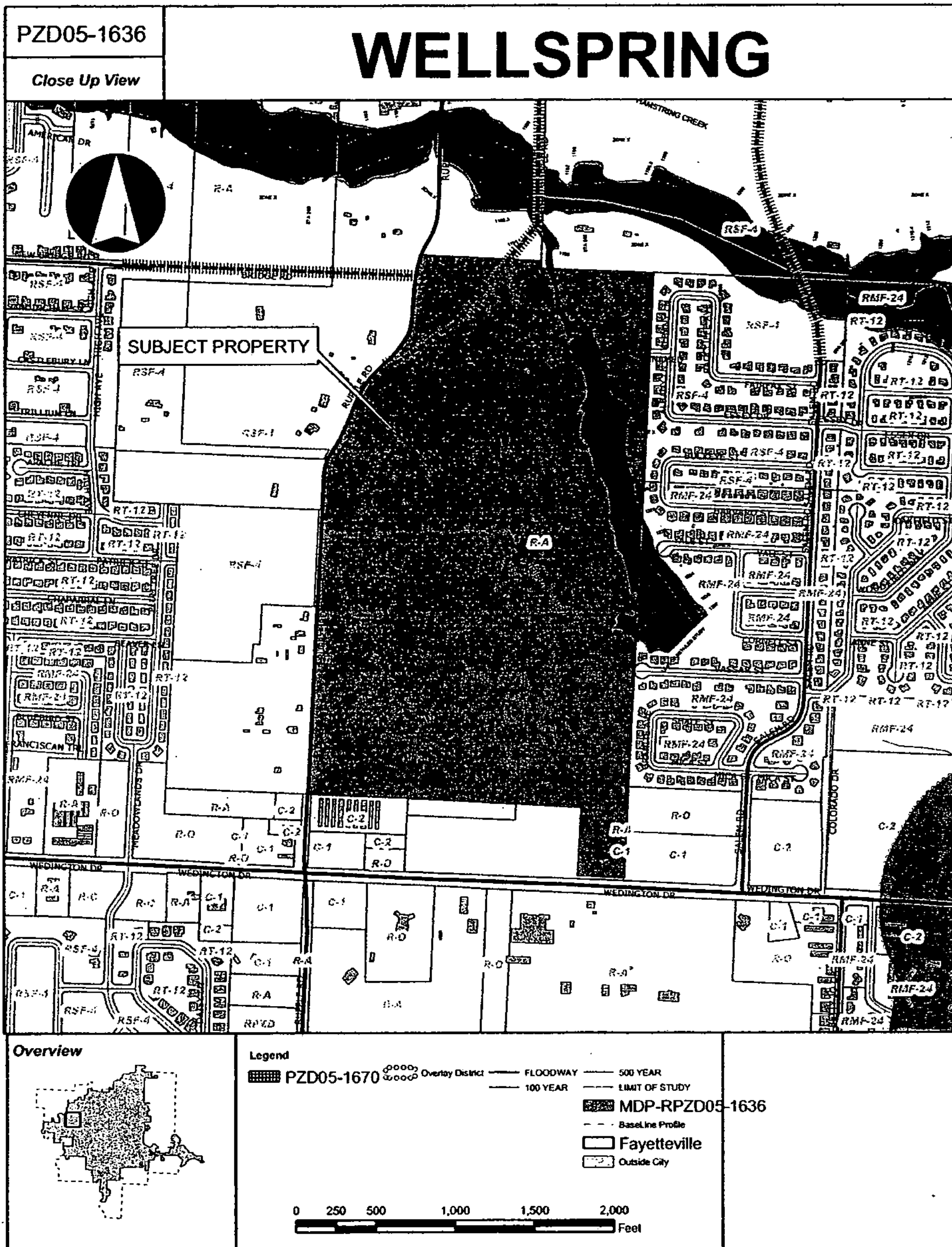


Traffic Study

dards of AHTD and the City of Fayetteville and rights-of-way necessary for roadway widening and traffic signal operation and maintenance dedicated as a part of this development.

- It is recommended that a fully actuated traffic signal be installed at the Ruppel Road and Drive D intersection coincident with the site development. The intersection should be constructed in accordance with intersection design standards of the City of Fayetteville and rights-of-way necessary for roadway widening and traffic signal operation and maintenance dedicated as a part of this development.
- As a part of roadway improvements herein identified as necessary for the intersection of Wedington Drive and Ruppel Road, the existing traffic signal will require reconstruction.
- The recommended traffic signals at the intersections of Wedington Drive and Drive A and Ruppel Road and Drive D should have provisions to be interconnected and coordinated with the existing signalized intersections of Wedington Drive and Ruppel Road and Wedington Drive and Salem Road (east of the site).
- Roadway improvements and traffic signal designs on Wedington Drive, in the vicinity of the site, must conform to AHTD and City of Fayetteville standards and will require approval by both AHTD and the City.
- Roadway improvements to all other roadways, in the vicinity of the site, must conform to City of Fayetteville standards and will require approval by the City.







LEGAL DEPARTMENT

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

DEPARTMENTAL CORRESPONDENCE

TO: City Council

FROM: Kit Williams, City Attorney

DATE: February 8, 2006

RE: Decision needed for response to Chancellor White's letter

On the last page of Chancellor White's letter to Mayor Coody dated January 31, 2006, he states (in bold):

"Please consider this letter as a request by the University for the City to honor its obligations under the Lease and to convey the CEC to the University at the contracted price of Ten Dollars (\$10.00) within the next 30 days."

Therefore, the City Council needs to determine what the City's position should be on this issue during its February 21, 2006 meeting.

I believe the City Council has very wide authority in this case to determine the terms or conditions of selling the CEC to the University. The Legislature has passed a specific statute to give cities this power.

"14-43-611. Sale of city property to college or university."

"Any city of the first class may sell, under such terms and conditions as it deems appropriate, city property to any publicly supported postsecondary educational institution."

Because the Legislature granted us the power to sell under terms City Council "deems appropriate," normal conditions of fair market value do not appear to restrict your judgment in this case. However, assuming the option to purchase provision is valid, the City Council may not charge more than such option to purchase provision would allow.

I have included several old memos and e-mails about this lease option to purchase issue and may provide further information before your meeting.



Office of the Chancellor

425 Administration Building
Fayetteville, Arkansas 72701
(479) 575-4148
FAX (479) 575-2361

January 31, 2006

The Honorable Dan Coody
Mayor
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

VIA PERSONAL DELIVERY

Dear Mayor Coody:

The University of Arkansas and the City of Fayetteville enjoy a mutually beneficial and historic relationship dating back to the institution's founding in 1871, when the citizens of Fayetteville and Washington County had the foresight to pass the bond issues necessary to secure the University for this area. In more recent times, the University and the City have continuously cooperated on a wide array of projects, including construction of the Walton Arts Center, establishment of the research technology park and the Fayetteville Economic Development Council, various street improvements, and First Night Fayetteville activities. Our common interests in improving the lives of the citizens of Fayetteville and the State of Arkansas have served as a catalyst in maintaining strong ties between the University and the City and have set the stage for the dynamic and cosmopolitan community that we enjoy today. I know we share a strong interest and common desire to nurture that tradition of cooperation. In that spirit, I am writing to you and each of the members of the City Council as we stand at an important crossroads with respect to the Continuing Education Center (CEC).

One tangible expression of the cooperative relationship between the University and the City occurred when the University agreed to locate the CEC in downtown Fayetteville. As you are aware, that initiative was undertaken, in large measure, to help secure the economic future of the Square, an area that is now active and vibrant, but which at the time was truly struggling for survival. As a part of that initiative, the City of Fayetteville and the Board of Trustees of the University entered into a Lease and Agreement for the CEC dated October 1, 1979. As you know, for the past year, the Lease has been the subject of ongoing discussions between representatives of the University and the City.

The University has forthrightly shared its legal interpretation of the Lease with you and with other City officials in the attached letter of December 7, 2004. I am also aware that City Attorney Kit Williams

The Honorable Dan Coody
January 31, 2006
Page 2

has set forth his legal interpretation of the Lease. As I understand it, now that we have reached the end of the Lease, during which the University has paid rent that was strictly dedicated to the retirement of the bond proceeds used to construct the CEC, the City claims that the University owes millions of dollars in order to purchase the CEC under the Lease. In essence, the City disregards the University's lease payments, seeking to characterize them as general funds of the City, and now seeks to charge its assessment of the current value of the CEC. The University, however, has a fiduciary responsibility to the taxpayers of the State of Arkansas, including the citizens of Fayetteville, not to pay for the same building twice. Although the University believes that the text of the Lease on this issue is clear, we are fortunate to have the benefit of knowing the intent of the individuals directly involved in the decision to locate the CEC on the Square and to finance the construction largely through the University's rental payments.

Many officials and leading citizens who were involved with the Lease and the surrounding events a quarter of a century ago confirm that it was not the intention for the University to pay for the building twice. In their view, the University was supposed to obtain the facility at the conclusion of the Lease for the nominal sum of Ten Dollars (\$10.00) as provided in the Lease, as long as the City did not have to reach into City taxpayer funds to retire the bonds issued to finance construction of the CEC. In fact, I am pleased that the positive scenario anticipated by those involved in this matter actually transpired: the University's lease payments, state-appropriated turnback funds specifically designated for the CEC, and interest on CEC bond funds, were together sufficient to pay for all of the costs of the construction of the CEC and to retire the bonds without reducing the City's coffers.

The intent of the parties to the Lease is stated clearly in the attached affidavits by several individuals who were involved in the CEC project on behalf of the University, the City, or in their capacity as leading citizens seeking to revitalize the downtown Square:

- David Malone, former Mayor of the City of Fayetteville (who executed the Lease on behalf of the City);
- Rick Osborne, City Council member at the time of execution of the Lease;
- Pat Tobin, former Finance Director and Assistant City Manager for the City of Fayetteville, who represented the City in Continuing Education Center negotiations;
- John Lewis, business leader who was instrumental in efforts to locate the Continuing Education Center on the Square; and
- Fred Vorsanger, former Vice President for Finance and Administration of the University of Arkansas (whose signature also appears on the Lease), as well as a former Mayor of Fayetteville.

The Honorable Dan Coody
January 31, 2006
Page 3

I am hopeful that, upon having an opportunity to hear directly from these respected individuals (including former City officials) who were actively involved in this project 25 years ago and who understood the intent and purpose of the Lease, all parties will have a more complete and better understanding that no one involved in this transaction intended for the University to pay for the CEC twice.

In the event that any questions exist concerning the University's view of the Lease, please allow me to explain our reasoning, as supported by the attached affidavits. Under the Lease, once all of the CEC project bonds have been retired, the Lease grants the University an option to purchase the CEC for the amount of hotel, motel and restaurant tax funds and general funds required by the City to construct and finance the CEC (including the payment of debt service on bonds) less any state turnback funds¹ received as a result of the Project. On the other hand, if the sum of the state turnback funds received for the Project equals or exceeds the hotel, motel and restaurant tax funds plus general funds which were required to construct and finance the CEC, then the purchase price would be Ten Dollars (\$10.00).

The records provided by the City to the University indicate that all hotel, motel and restaurant (HMR) tax funds ever paid into the CEC project were refunded to the Advertising and Promotion Commission because of the amounts of state turnback dollars received by the City; this was further confirmed in a memorandum from City officials in September, 2004. Furthermore, to date the City has not documented that any of its general funds were ever required to construct and finance the CEC.

The rental amounts paid by the University to retire bonds and the interest on the bond funds **do not** constitute "general funds" of the City. All of these funds were pledged by the City and by project agreements for the sole purpose of retiring the bonds. As you can appreciate, if any attempt had ever been made by Fayetteville to use those funds for any purpose other than bond retirement, there would have been serious legal repercussions for the City. The mere fact that any funds were passed through the City en route to the bond Trustee did not transform those funds into general funds. Again, if there were ever any costs of financing and constructing the project paid for by the City which were *not* included in the bonded debt, the City has never provided the University with any documentation of such costs.

A vital objective in the CEC project agreements was to protect City of Fayetteville taxpayers from paying for bond debt. If City taxpayers had paid for the bond debt, then the University would be responsible to pay the City that amount, less State turnback funds received, in order to purchase the building under the terms of the Lease. Instead, the bond debt was fully paid through the combination of the University's rental payments, state turnback funds, and interest on bond funds. Therefore, the

¹ Turnback funds are state-appropriated funds designed to promote Arkansas tourism through helping local communities finance facilities like the CEC. Appropriations were specifically designated to the CEC and helped defray the cost of constructing the facility.

The Honorable Dan Coody
January 31, 2006
Page 4

University is contractually entitled to purchase the CEC for Ten Dollars (\$10.00) as expressly stated in the Lease and as evidenced in the attached affidavits.

The Lease interpretation previously asserted by the City would result in an unfair and unintended windfall profit for the City and an unacceptable double payment by the University. As stewards of taxpayer funds, I am certain that you will understand why this outcome is unacceptable to the University and unsupported by the officials and leading citizens involved in the construction of the CEC.

As you are aware, this letter is prompted, in part, by the fact that the City has issued invoices for rent on the CEC to the University. Further, to date, the City has not honored its contractual promise to the University under the Lease to convey the CEC to the University by Warranty deed for a purchase price of \$10.00 as provided for in Section 2014(A) of the Lease. We understand, however, that this issue has required a careful review by all of the parties. **Please consider this letter as a request by the University for the City to honor its obligations under the Lease and to convey the CEC to the University at the contracted price of Ten Dollars (\$10.00) within the next 30 days.**

Although the parties have engaged in amicable discussions to resolve this matter, the City's ongoing delay in failing to honor the terms of the Lease and the uncertainty surrounding the future of the CEC have begun to adversely affect the University's ability to attract clients, which is detrimental to both the University and the City. Accordingly, the parties need to honor the deal struck many years ago.

We do not support the idea of filing a "friendly" lawsuit to settle our differences and believe that any litigation between the University and the City undermines the history and tradition of good faith cooperation between the parties which has been the hallmark of our relationship for more than a century. There is no mystery what the parties intended by the Lease; especially in light of the affidavits, a lawsuit would be a waste of each party's time and resources.

We remain optimistic that we can resolve this matter amicably and in the best interests of both parties without further delay. We look forward to the City honoring the terms of the Lease. Please feel free to contact me if you would like to discuss this matter.

Sincerely,



John A. White
Chancellor

Attachments



RECEIVED

APR 12 2004

**CITY OF FAYETTEVILLE
MAYOR'S OFFICE**

406 Administration Building
Fayetteville, Arkansas 72701
(479) 575-5828
(479) 575-5400 (FAX)

Vice Chancellor for Finance and Administration

April 9, 2004

The Honorable Dan Coody
Mayor of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

RE: Continuing Education Center Lease and Agreement

Dear Mayor Coody:

The Lease and Agreement dated October 1, 1979 between the City of Fayetteville, Arkansas and the Board of Trustees of the University of Arkansas for the Continuing Education Center (CEC) property is scheduled to terminate in May 2005. As per Section 2014 of this Agreement, the City granted the University an option to purchase the property at the termination of the lease, provided all bonds issued to finance the project have been retired. Since the University would like to consider this purchase option, we need for the City to send us an updated summary of the revenues and expenses applicable to the project as stipulated in the lease.

Last year the University received from the City a summary of Trustee Statements which shows a yearly breakdown from 1978 through May 2003 of revenues and expenses, transfers, etc. for both the CEC project and the parking facilities. To the best of our knowledge, the parking deck was not part of the CEC project, so the revenue and expenses associated with construction and operation of the parking deck (including any of the bond issue used for the parking deck) should be shown separately on the summary statement.

Thank you for your time and assistance.

Sincerely,

Don Pederson
Vice Chancellor for Finance & Administration

lac

From: James Ezell <jezell@uark.edu>
To: <sturberville@ci.fayetteville.ar.us>
Date: 5/11/04 9:38AM
Subject: Summary of Trustee Statements, CEC

Shelly,

A copy of the summary statement on the CEC bonds which you sent to Don Pederson has been given to me for use in determining the cost to the University, if we exercise our purchase option after the current lease expires. In order to make this determination, we need to know just the expenses and income applicable to the Continuing Education Center. We are not aware of the Parking Facility being part of our lease with option to purchase agreement, but it appears that the expenses and income applicable to this facility are somewhat merged within this summary.

Can you clarify this for me? If I am correct, can you provide a summary statement just applicable to CEC?

Thanks, James

CC: Don Pederson <dop@uark.edu>

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Kit Williams, City Attorney

FROM: Stephen Davis, Finance & Internal Services Director 

DATE: July 27, 2004

SUBJECT: CEC and Settlement with the University of Arkansas

Over the past year numerous communiqués have been exchanged between the City and University concerning the payments made on the bond issue with the University seeking information on what the transfer price would be for the University to be able to determine if the University desires to exercise its purchase option on the facility. On May 11th, James Ezell, representing the University, contacted the Accounting Division requesting information concerning the payments, tax collections, etc associated with determining the transfer price for the CEC. On June 2nd the Accounting Division forwarded the information requested by Mr. Ezell to your office for distribution to the University. Mr. Ezell, on June 25th, again contacted the Accounting Division asking the status of his June 2nd request. The Accounting Division forwarded his request to your office the same day it was received.

Please advise the current status of the negotiations with the University concerning the potential exercise of their purchase option. If the University does not exercise the purchase option afforded it in the 1979 lease the City will need to enter negotiations with the University for a new lease for the CEC.

CC: Dan Coody, Mayor
Hugh Earnest, Chief Administrative Officer
Marsha Farthing, Accounting Manager

*Office of the General Counsel*

September 27, 2004

The Honorable Kit Williams
City Attorney
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

VIA FACSIMILE
575-8315

Dear Kit:

As you know, the University is currently conducting its review of the appropriate purchase price of the Continuing Education Center under the purchase option of the existing Lease between the City and the University. Friday's Northwest Arkansas Times reported that you have issued a new memorandum regarding a proposed purchase price for the CEC. To assist in our analysis, I would appreciate it if you could provide us with a copy of that memorandum and any underlying data upon which your calculation is based.

In addition, James Ezell had previously requested Shelley Turberville to provide a copy of the memorandum you issued to the City Council on March 8, 2004 regarding this matter. We would also appreciate a copy of that memorandum. Ms. Turberville provided certain other information to Mr. Ezell last week, which we appreciate.

After we have had an opportunity to review the necessary information, University officials look forward to visiting with representatives of the City regarding our assessment of the appropriate purchase price.

421 Administration Building / Fayetteville, Arkansas 72701 / 479-575 5401 / Fax 479-575-5046

University of Arkansas, Fayetteville / University of Arkansas at Little Rock / University of Arkansas at Pine Bluff
University of Arkansas for Medical Sciences / University of Arkansas at Monticello / Division of Agriculture / Criminal Justice Institute
Arkansas Archeological Survey / Phillips Community College of the University of Arkansas
University of Arkansas Community College at Hope / University of Arkansas Community College at Batesville
Cotati Community College of the University of Arkansas / University of Arkansas Community College at Morrilton
University of Arkansas at Fort Smith

The University of Arkansas is an equal opportunity/affirmative action institution.

Kit Williams September 27, 2004 -- Page 2

Thanks in advance for your assistance in this matter.

Sincerely,



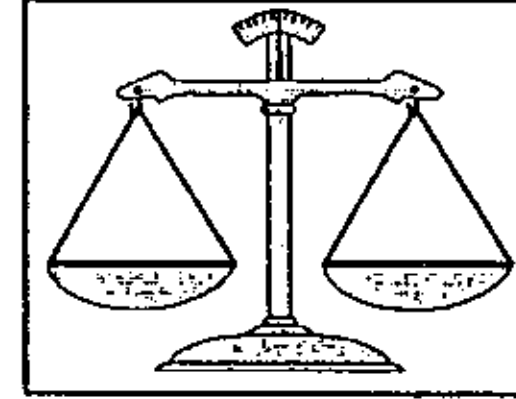
William R. Kincaid
Associate General Counsel

cc: Donald O. Pederson
James Ezell

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: Dan Coody, Mayor
Hugh Earnest, Chief Administrative Officer
Steve Davis, Finance & Internal Services Director

FROM: Kit Williams, City Attorney

A handwritten signature in black ink, appearing to read "Kit Williams", with a long horizontal flourish extending to the right.

DATE: September 23, 2004

RE: Purchase price of CEC per lease with U of A

In reviewing the law concerning interpretation of contracts, I believe my memo of March 8, 2004 (attached) correctly interprets the *Lease and Agreement Between City of Fayetteville, Arkansas and The Board of Trustees of The University of Arkansas* dated October 1, 1979. The crucial option to purchase language found in §2014 is quoted below:

"It is agreed that should Lessee (University of Arkansas) desire to exercise said option that the purchase price shall equal the amount of hotel, motel and restaurant tax funds and general funds required by Lessor (City of Fayetteville) to construct and finance said Project (including the payment of debt service on bonds) less any amounts received as a result of this Project by Lessor under the provisions of Act 763 of 1977 as amended by Act 212 of 1979, or as hereafter further amended."

RULES OF INTERPRETATION OF CONTRACT

There have been countless cases through the years where two parties to a contract argue about how the language in the contract should be construed or interpreted. The most fundamental of all rules of interpretation is that "the words of a contract are to be taken and understood in their plain and ordinary meaning." Phi Kappa Tau Housing Corp. v. Wengert, 350 Ark. 335, 86 S.W. 3rd 856, 859 (2002) (emphasis added).

When a contract is clear and unambiguous, "the clear meaning of the contract must be enforced." Stilley v. James, 345 Ark. 362, 48 S.W. 3rd 521, 528 (2001).

"A contract is unambiguous and its construction and legal effect are questions of law when its terms are not susceptible to more than one equally reasonable construction."

...

"When contracting parties express their intention in a written instrument in clear and unambiguous language, it is the court's duty to construe the writing in accordance with the plain meaning of the language employed." Turnbough v. Mammoth Spring School, 74 Ark. App. 107, 45 S.W. 3rd 430, 434 (2001) (citations omitted). (emphasis added).

To determine what the option to purchase price is, we must determine two numbers. The first is "the amount of hotel, motel and restaurant tax funds and general funds required by (the City) to construct and finance said Project (including the payment of debt service on bonds)."

I believe it is beyond dispute that the Continuing Education Center's construction was wholly financed by local government funds (primarily HMR taxes) with the sole exception of state turnback funds credited to this building and its construction and financing costs. The state turnback funds (amounting to over 5 million dollars) shall be deducted from the

overall financing and construction cost to determine the option to purchase price as required in the lease provision.

The amount of HMR taxes and general funds required by the City of Fayetteville to construct and finance the CEC includes:

(1) The principal payment: \$4,175,000.00

This constitutes what it actually cost to build the Continuing Education Center in the early 80's.

(2) Interest payment: \$5,712,928.44

This is the debt service on the bonds, but this figure does NOT constitute the whole cost to finance the project. Trustee Fees, Bond Underwriter Discount, and Cost of Bond Issuance all are standard components of financing costs for issuance of municipal or tax bonds.

(3) Trustee Fees: \$ 41,694.03

(4) Bond Underwriter Discount: \$205,589.50

(5) Cost of Bond Issuance: \$101,152.03

TOTAL COST OF CONSTRUCTION AND FINANCING: \$10,236,364.00

Thus the total "amount of hotel, motel and restaurant tax funds and general funds required by (the City) to construct and finance (the CEC)" is \$10,236,364.00. In order for the City not to profit from the proceeds derived not from its own taxpayers' resources, the lease calls for the reduction of this cost of construction and financing for any state turnback funds received. Through excellent management by the U of A, the Continuing Education Center generated \$5,050,252.03 in state turnback funds paid to the A & P Commission to help pay the financing costs of the CEC bonds. The turnback funds paid over 83% of the total financing costs.

Deducting the state turnback funds (\$5,050,252.03) from the total cost of construction and financing (\$10,236,364.00) yields an **option to purchase price of \$5,186,111.97.**

This option to purchase price reflects the intention of the parties that the U of A would be afforded the right to purchase the Continuing

Education Center for the amount of the City's construction and finance costs less any state turnback. Although the City has kept excellent records of other costs (insurance, property taxes, operating and maintenance) and other revenues (lease payments, interest on investments), none of these should be relevant to the option to purchase figure.

INSURANCE COSTS AND PROPERTY TAXES

I could not find any support for the inclusion of this Seven Hundred Eighty Thousand Dollar figure in the option to purchase price. The Lease could have specified that this \$779,077.10 expense paid by the City be added to the option to purchase price. The silence of the contract on this issue controls. If it is not mentioned, it cannot be added.

LEASE REVENUE

These funds are clearly inapplicable to a determination of the option to purchase price. Lease revenue (even if pledged to a bond) would be considered "general funds" so that even if it is argued that lease revenue was used to pay interest or finance charges, the City would get standard credit for all such payments just as if the payments had been made by HMR tax revenue. Thus, lease revenue cannot reduce the option to purchase price.

INTEREST REVENUE

During the quarter century this Lease Agreement has endured, the City not only had to pay \$5,712,928.44 in interest expenses, it also earned \$2,727,613.51 in interest income from the investment of tax revenues and bond proceeds. This investment income (although probably pledged or secured to pay off the CEC bonds) would probably be termed "general funds". If so, its use to pay off the principal or interest would be credited to the City just like HMR tax revenue. The only listed revenue that is not "general funds" is the CEC state turnback funds.

The University may argue that this lease provision is ambiguous in some way. That would be a question for a Court to decide.

"If an ambiguity exists, we are permitted to look outside of the agreement to determine the actual intent and conduct of the parties."

...

"Further, in determining the true intentions of the parties, different clauses of a contract must be read together and construed so that all of its parts harmonize if that is possible." Harris v. Harris, 107 S.W. 3rd 897, 901-902 (Ark. App. 2003)

The most harmonizing manner to read this section is that the option to purchase price shall be the cost of construction and financing minus revenues received from the state as turnback funds. That yields the \$5,186,111.97 figure previously stated. I should note that the County Assessor has appraised the Continuing Education Center for \$6,190,100.00 (over a million more than the option to purchase price).

We should invite the University's analysis of this contract language to ensure both governments agree upon its proper interpretation and agree on the option to purchase price. I will be happy to consider any analysis by the University that could arrive at a different figure although our figure seems like the simple, straight forward, and fair interpretation of the agreement entered into 25 years ago.

The possible sale of the CEC to the University is not controlled by our current ordinance for sale of city property. The University has a pre-existing right to purchase and therefore would not have to pay an appraised value (6.1 million dollars), but only the option to purchase price found in the lease.

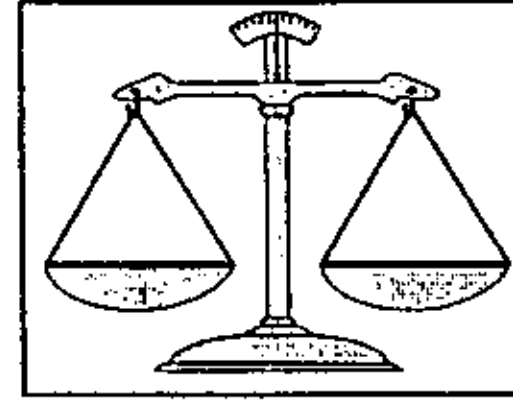
CEC Bonds

Expense Description	Accounting Records Expenses-Revenues	Lease Formula Expenses-Revenues
Principal Payment	4,175,000.00	4,175,000.00
Interest Payment	5,712,928.44	5,712,928.44
Trustee Fees	41,694.03	41,694.03
Bond Underwriter Discount	205,589.50	205,589.50
Cost of Issuance	101,152.03	101,152.03
CEC Insurance & Property Taxes	779,077.10	
Total	11,015,441.10	10,236,364.00
Revenue Description		
CEC Turnback	5,050,252.03	5,050,252.03
Lease Revenue	2,806,000.00	
Interest - Bond Fund	292,276.43	
Interest - Debt Service	1,206,028.58	
Interest - Cost of Issuance	152.56	
Interest - Rev Fund	770,587.09	
Interest - Construction Fund	458,568.85	
Total	10,583,865.54	5,050,252.03
Net	431,575.56	5,186,111.97

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
Hugh Earnest, Chief Administrative Officer
Steve Davis, Finance & Internal Services Director

FROM: **Kit Williams**, City Attorney

A handwritten signature, likely of Kit Williams, written in dark ink.

DATE: **March 8, 2004**

RE: **Analysis of Lease and Agreement between the City of Fayetteville and the Board of Trustees of the University of Arkansas**

Now that we are nearing the time when the bonds issued to finance the construction of the Continuing Education Center shall be retired, we should examine that agreement to determine what our legal obligations are. On October 1, 1979, the Lease and Agreement was entered into. In Section 2014 of the Lease, the City Board of Directors apparently gave the University "an option to purchase the Leased Premises described in Section 301 hereof at the termination of the lease term as set forth in Section 302 provided all bonds issued to finance the Project have been retired."

"Section 302 The terms of this Lease Agreement shall commence upon substantial completion of the Project in accordance with the plans and specifications attached as Exhibit B hereto and shall run for a period of twenty-three years."

This 23 year lease period is from "substantial completion of the Project". I am not sure when the Continuing Education Center was completed, but I believe it is approaching 23 years (if we have not already reached the 23 year anniversary). The second part of the requirement, prior to the option to purchase is when the bonds financing "the Project have been retired." I believe

this will occur in a few months. When the bonds are retired, the University shall have an option to purchase the Continuing Education Center. The price for purchase is set forth next in Section 2014.

“It is agreed that should Lessee desire to exercise said option that the purchase price shall equal the amount of hotel, motel and restaurant tax funds and general funds required by Lessor to construct and finance said Project (including the payment of debt service on bonds) less any amounts received as a result of this Project by Lessor under the provisions of Act 763 of 1977 as amended by Act 212 of 1979, or as hereafter further amended.”

The purchase price shall equal:

(1) **Fayetteville Taxpayer Investment**

The amount of HMR taxes and general funds required to construct and finance the Continuing Education Center (which would be the full construction, plus interest charges);

(2) **State Turnback Funds**

Less the amounts received by the City pursuant to Act 763 of 1977, Act 212 of 1979, and later amendments.

Thus the City taxpayer should get credit for the whole cost of construction and financing the Continuing Education Center (CEC), but the amount of state turnback funds received as a result of the operation of the Continuing Education Center should be subtracted from the total cost of construction and finance.

I do not believe that other items (such as rent payments, parking revenue, etc.) should be deducted from the city taxpayers' payments for the construction and interest costs of this project. Although I do not have the drawings and specifications alluded to in Exhibit B, I believe the parking deck across the alley from the hotel is not a part of the "Project" as defined in the lease. If the parking deck was financed out of the same bonds that financed the CEC, an argument could be made that the portion of taxpayers' funds used to build the parking deck should be reduced from the total taxpayer funding for the whole project when determining what the city taxpayer investment in the CEC was.

After determining the Fayetteville taxpayer investment in the "Project", **the option to purchase price only allows deduction from this amount for state turnback receipts (Act 763 of 1977 and Act 212 of 1979).** Since these are delayed payments, the final price should be reduced by the amount of future assured payments.

When determining the amount of Fayetteville taxpayer investment, any lease or rent payments paid on the bonds should be credited in our taxpayers' interest because rent from facilities should be considered "general funds" of the City, even if pledged to pay bonds.

Looking at the attached memo entitled "CEC BONDS", I compute the Principal Payments and Interest Expense and fees through 2002 to be \$9,119,411.00. The state turnback totals \$4,482,710.00 through 2002. This would yield a **purchase option price of \$4,636,701.00.** There was still about one million dollars owing in capital and interest costs at that time. But there will also have been additional state turnback payments to reduce that investment.

One final issue is the "interest revenue". Although it could be argued that this should reduce the option to purchase price, it was **not included in Section 2014 as a deduction.** This \$2,730, 274.00 total through 2002 is a substantial figure that could lead to controversy if the University claims it should reduce the option price. The vast majority of interest earned by the City is credited to the general fund. Thus, I see no reason not to include this interest as "general funds required by Lessor (City of Fayetteville) to construct and finance said Project"

The bottom line is that the Continuing Education Center is a well built, well maintained, structurally solid and functionally efficient, large five story building on the Square in Fayetteville. The CEC was built for around 3.2 million in the early 80's. With substantially increased building costs and land valuation (which I believe would have been in addition to the 3.2 million construction cost) at this prime location, the University would be getting a very good deal at 4.6 million.

I hope our Accounting Department can update their figures through 2003 and maybe project this to the time for the option to purchase to be offered (including future, pending state turnback funds). The City on behalf of its taxpayers could then make a formal offer to the University to purchase the Continuing Education Building at a fair figure.

CEC BONDS

Year	Lease Revenue	Interest Exp. and fees (1) (2)	Interest Rev (2)	Turnback	Principal Pymt (3)
1979		39,864	62,274		
1980		383,576	343,620		
1981	20,333	153,907 *	268,374		
1982	122,000	376,183	186,615		
1983	122,000	370,984	168,202	65,865	
1984	122,000	368,284	224,006	240,390	35,000
1985	122,000	338,669	144,597	148,638	65,000
1986	122,000	334,904	124,506	166,490	90,000
1987	122,000	343,278	160,386	151,697	110,000
1988	122,000	333,535	121,015	205,887	120,000
1989	122,000	323,467	180,552	218,642	125,000
1990	122,000	313,746	127,037	228,023	135,000
1991	122,000	303,365	113,079	238,583	145,000
1992	122,000	292,087	93,916	340,114	150,000
1993	122,000	280,825	76,269	276,373	160,000
1994	122,000	267,884	83,034	222,284	175,000
1995	122,000	312,792	80,201	358,885	
1996	122,000	137,107	26,386	180,768	245,000
1997	122,000	126,161	27,034	270,884	255,000
1998	122,000	114,856	28,055	230,960	265,000
1999	122,000	101,735	25,920	199,328	280,000
2000	122,000	87,758	31,779	188,703	295,000
2001	122,000	72,743	24,566	269,407	310,000
2002	122,000	56,701	8,851	280,789	325,000
Total	2,582,333	5,834,411	2,730,274	4,482,710	3,285,000

- (1) Interest Exp. And Fees includes interest expense on bonds, trustee fees, and amortization of bond discount and bond issue cost.

		Unamortized 12/31/02
Bond Discount - 1979 bonds	179,000	
Bond Issue Cost - 1979 bonds	36,945	
Bond Discount - 1995 bonds	26,590	5,123
Bond Issue Cost - 1995 bonds	33,070	6,371

- (2) Interest expense and interest revenue amounts are estimated - CAFR for years ended 1982 - 1985 included Parking Facility Bonds.

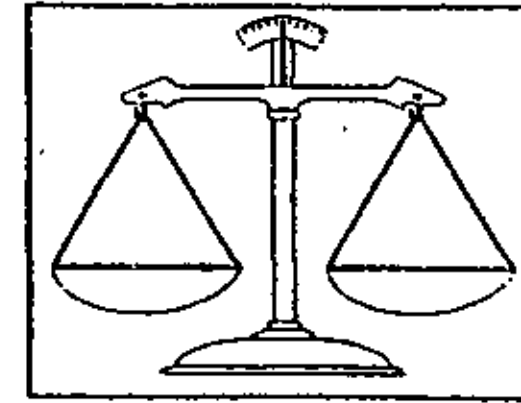
- (3) Bonds outstanding 12/31/02 \$700,000

* Interest expense \$388,316 - \$235,495 Capitalized as building cost.

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: **Dan Coody, Mayor**

FROM: **Kit Williams, City Attorney**

A handwritten signature in dark ink, appearing to read 'Kit Williams', followed by a long horizontal line extending to the right.

DATE: **January 31, 2005**

RE: **Continuing Education Center Offer To Purchase**

Our Accounting Department has now provided me a finalized accounting for the terms of the lease's option to purchase. I have attached it to this memo. This accounting shows that the principal amount borrowed and paid back is \$4,175,000.00. The interest payments total \$5,712,928.44. A part of our cost of financing were the Trustee's fees of \$41,694.03.

Thus the total cost of construction and financing is \$9,929,622.47.

Subtracted from this should be the total amount of state turnback revenue of \$5,199,345.53. This results in an option to purchase price of \$4,730,279.94.

This is less than my earlier memo since Accounting had not figured in the total amount of turnback funds. The CEC is correctly appraised at over \$6 million for property tax purposes.

City of Fayetteville
Continuing Education Center Bonds
Debt Service and State Turnback

	Principal Payment	Interest Payment	Trustee Fees	Sub-Total	CEC Turnback	Total
1979 Bonds:						
1978-81		637,813.84	403.00	638,216.84		638,216.84
1982		341,686.00	4,768.75	346,454.75		346,454.75
1983		341,686.00	3,268.75	344,954.75	32,295.87	312,658.88
1984	35,000.00	341,686.00	1,777.82	378,463.82	220,017.86	158,445.96
1985	65,000.00	339,323.87	1,799.83	406,123.70	107,950.20	298,173.50
1986	90,000.00	334,903.75	1,769.89	426,673.64	203,123.09	223,550.55
1987	110,000.00	328,693.88	1,618.67	440,312.55	193,970.54	246,342.01
1988	120,000.00	320,994.00	3,307.81	444,301.81	56,342.54	387,959.27
1989	125,000.00	312,474.00	1,804.85	439,278.85	372,150.69	67,128.16
1990	135,000.00	303,473.75	1,804.30	440,278.05	97,664.92	342,613.13
1991	145,000.00	293,686.25	1,786.75	440,473.00	357,542.93	82,930.07
1992	150,000.00	283,300.24	1,609.20	434,909.44	190,619.57	244,289.87
1993	160,000.00	272,001.25	1,864.80	433,866.05	382,813.77	51,052.28
1994	175,000.00	260,081.25	1,785.05	436,866.30	215,985.76	220,880.54
1995:						
1979 Bonds(95)		123,478.13	193.25	123,671.38	198,999.71	(75,328.33)
Refunding	190,000.00	153,228.13	2,987.50	346,215.63		346,215.63
Refunding-acc. Interest		(9,905.44)		(9,905.44)		(9,905.44)
1995 Bonds						
1996	245,000.00	143,078.54	535.00	388,613.54	385,376.61	3,236.93
1997	255,000.00	121,660.00	1,605.00	378,265.00	241,698.98	136,566.02
1998	265,000.00	110,185.00	750.00	375,935.00	274,963.28	100,971.72
1999	280,000.00	97,597.50	1,250.00	378,847.50	165,938.80	212,908.70
2000	295,000.00	83,877.50	1,000.00	379,877.50	200,932.90	178,944.60
2001	310,000.00	69,127.50	1,000.00	380,127.50	303,881.01	76,246.49
2002	325,000.00	53,317.50	1,000.00	379,317.50	280,789.00	98,528.50
2003	340,000.00	38,580.00	1,003.81	377,583.81	283,597.00	93,986.81
2004	360,000.00	18,900.00	1,000.00	379,900.00	287,571.50	92,328.50
2005 (pending)					145,119.00	(145,119.00)
	<u>4,175,000.00</u>	<u>5,712,928.44</u>	<u>41,694.03</u>	<u>9,929,622.47</u>	<u>5,199,345.53</u>	<u>4,730,276.94</u>

Note: The City has accrued but not received rent payments for the months of November and December, 2004 and for January 2005 at the amount of \$10,167 for each month.

Washington County Assessor
And Board of Equalization
Washington County Courthouse
280 North College Ave, Suite 250
Fayetteville, AR 72701

7/15/2004

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Continuing Education Center
Page 23 of 34

August 16, 2004, is the last day to appeal to the Board of Equalization. Should you have questions call the appraisers between 8:30am & 4:00pm (until 5:30pm on Thursday). Refer to the back of this notice for "How to Schedule a Hearing".

CITY OF FAYETTEVILLE, ARKANSAS
113 W Mountain St

THIS IS NOT A TAX BILL

Fayetteville AR 72701-6069
|||||

**WASHINGTON COUNTY, ARKANSAS
ASSESSOR and BOARD OF EQUALIZATION**

NOTICE OF CHANGE IN ASSESSMENT

Parcel: 765-01821-000			RPID: 36077 Acres: 0	
School: 011 FAYETTEVILLE SCH, FAY			Block: Lot:	
FAYETTEVILLE ORIGINAL				
LOT 6-7 BLOCK 15				
ALSO 1/2 VACATED ALLEY N SIDE				
LOT 6				
	Previous Appraised Value	Previous Assessed Value	Available Value	New Assessed Value
TOTAL	4939050	987810	4939050	987810

Limitations on Assessment Increases Provided by Amendment 79

Assessments on properties SERVING as the *principal place of residence* for any taxpayer who is disabled or who is 65 years of age or older on 01/01/04, shall be assessed at a level no greater than the Previous Assessed Value plus any modifications made that were not previously assessed.

OR

Assessments on properties SERVING as the *principal place of residence* for all other taxpayers shall be limited to a 5% increase over the Previous Assessed Value plus any modifications that were not previously assessed. The 5% increase will occur yearly until the Full Assessed Value is reached.

OR

Assessments on ALL OTHER properties shall be limited to a 10% annual increase over the Previous Assessed Value plus any modifications made that were not previously assessed. The 10% increase will occur yearly until the Full Assessed Value is reached.

AND

A \$300.00 Property Tax Credit

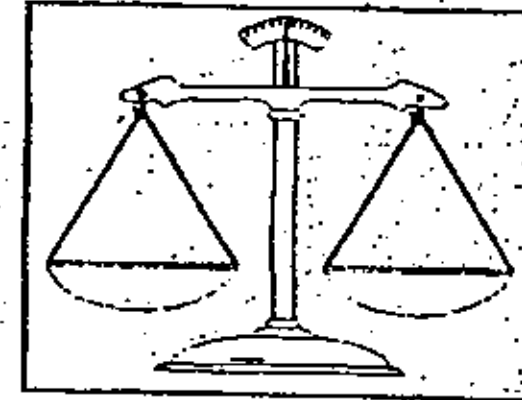
Amendment 79 also provides that any homeowner can receive UP TO a \$300.00 tax credit on the property serving as their *principal place of residence*. If this property is your principal place of residence and you have not previously confirmed this information with the county assessor you should do so immediately.

HOW TO RECEIVE YOUR AMENDMENT 79 BENEFITS

To receive your Property Tax Credit and/or to certify that you are 65 years of age or older, or have a disability, contact the Washington County Assessor's Office, 280 N College Suite 250, Fayetteville, AR 72701.

THE CITY OF FAYETTEVILLE, ARKANSAS

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: Dan Coody, Mayor
Steve Davis, Finance & Internal Services Director

FROM: Kit Williams, City Attorney

DATE: June 21, 2005

RE: CEC Delegate days and value to city

I have reviewed the last four quarterly reports from the University of Arkansas concerning the number of "delegate days" (participants times number of days of convention/meeting/training) within the Continuing Education Center. The following is a total for each of last four quarters:

<u>DATES</u>	<u>DELEGATE DAYS</u>
April 1, 2004 – June 30, 2004	1,680
July 1, 2004 – September 30, 2004	610
October 1, 2004 – December 31, 2004	1,302
January 1, 2005 – March 31, 2005	637
Annual total	4,229

The quarterly average is about 1,057 or about 352 per month.

I believe it would be legal to give the U of A some offset in its purchase price, monthly (mortgage?) payments, or monthly rent based upon the worth to the City of Fayetteville (and A & P Commission?) of these delegates. I imagine Steve has access to studies regarding tax revenue generation of tourists/delegates which we could use to translate delegate days to tax receipts estimates. If Steve can get me those numbers, maybe we can work out a proposal for the U of A that will be a win/win for both the City and the University.

CEC Delegate Days and Sales Tax Value to City of Fayetteville, Arkansas

Per Diem:	Lodging Meals & Incidentals	Total	Before Tax	Delegate Days	Total Spent
		\$ 60.00	\$ 54.05		
		\$ 31.00	\$ 27.93		
		\$ 91.00	\$ 81.98	4,229	\$ 346,693.42

	Sales Tax Rate	Fayetteville's Portion	Fayetteville Tax Collected
State of Arkansas	6.00%	0.0%	
Washington County (Fayetteville)	1.00%	36.8%	\$ 1,275.83
Washington County (Jail - Operations)	0.25%	0.0%	
Fayetteville (Capital)	1.00%	100.0%	\$ 3,466.93
Fayetteville (WWTP Plant)	0.75%	100.0%	\$ 2,600.20
Hotel/Motel/Restaurant (Advertising & Promotion)	1.00%	0.0%	
Hotel/Motel/Restaurant (Parks Development)	1.00%	100.0%	\$ 3,466.93
	11.00%		\$ 10,809.89

Before Tax: Individuals are given a per diem rate and that amount is expected to cover taxes and other charges. The Before Tax amount is the Total per diem divided by the Fayetteville tax rate of 11% to get a before tax amount of \$81.98 per day.

Total Spent is the Delegate Days multiplied by the Daily Per Diem Before Tax Rate.

Fayetteville's Portion of Washington County sales tax is 36.8% which is derived from the Official 2000 Census. The current 2000 population for Fayetteville is 58,047 which is 36.8% of the total County population of 157,715. For every \$1 of Washington County sales tax collected, the City of Fayetteville receives \$0.368.

Fayetteville Tax Collected is the Sales Tax Rate multiplied by the Fayetteville portion received of that Sales Tax Rate multiplied by the Total Spent on Delegate Days.

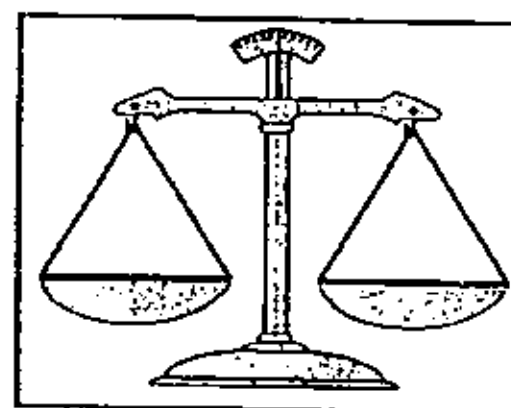
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

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Continuing Education Center
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LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor
Steve Davis, Finance & Internal Services Director
Marsha Farthing, Accounting Manager

FROM: **Kit Williams**, City Attorney

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

DATE: **July 18, 2005**

RE: **CEC option to purchase**

The annual rent established for the CEC in October of 1979 was \$122,000.00 to be paid every six months (\$61,000.00).

I was surprised to learn that the Continuing Education Center totaled only 4,229 "delegate days" from April 2004 through March 31, 2005. Thus, the CEC averaged only 352 "delegate days" per month or 16-17 per weekday. Obviously, much of the building must be being used for non-delegate purposes.

An analyzed by Steve Davis, this could result in about \$347,000.00 annually for meals, lodging, and incidentals spent locally. However, this figure might actually be inflated because numerous "delegates" might actually be local or come to town only for a day long seminar (or for other reasons, such as U of A football games). Even assuming that \$347,000.00 is what is spent by attendees at the CEC annually, the tax revenue to the City of Fayetteville would only be \$10,810.00 (or \$14,277 if you consider the A & P Commissions 1% tax). This is only around 10% of the 1979 rent for this building.

Thus, a long term contract giving the U of A credit for delegates brought into Fayetteville would have little impact upon what the actual rent

should be. Nor would it be a significant financial factor to reduce the purchase price of the Continuing Education Center.

The University is obviously using the Continuing Education Center for more than trying to bring in seminars and groups for continuing education. This building is worth far more than the option to purchase price derived from the lease's wording. If the University will not fairly negotiate a compromise price, we will be left with little option but to let a Court decide.

Of course, the U of A could vacate this building if that is its decision. We could then have possession as well as ownership of a building appraised at 6.1 million dollars. With the completion of the Terminella building and the Nock/Alexander hotel, condominium, parking deck complex less than a block away, the CEC's value would certainly increase dramatically.

One way or another, this needs to be brought to a conclusion as the U of A has not paid rent as far back as last year. The last thing I want is litigation with the U of A, but my duty to the taxpayers of Fayetteville might require it.



Vice Chancellor for Finance and Administration

406 Administration Building
Fayetteville, Arkansas 72701
(479) 575-5828
(479) 575-5400 (FAX)

August 11, 2005

Mr. Dan Coody
Mayor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Dear Mr. Coody:

In response to your request, the staff of the Continuing Education Center reviewed all of the participant programs for FY2005. The staff identified the number of attendees and participant-days in programs for different categories that might have different economic value in assessing the importance of the location of the Continuing Education Center to the City of Fayetteville. Naturally, visitors from the most distant locations would be expected to spend the most money in Fayetteville but in-state and even in-town participants have contributed to the sustained vitality of the downtown square and the City as a whole.

A complete listing of events during FY2004-05 with participant-days is provided in an attachment. Entries marked in yellow indicate either the program consisted predominantly of residents of Fayetteville, including those from the University of Arkansas, or the program took place at a location other than the Continuing Education Center, including some which were out of town. Programs specifically conducted for the City of Fayetteville are listed separately below but are included on the white lines in the attachment so that they may be noted for their specific benefit to the City in evaluating the value of the location of the Continuing Education Center.

I am providing the following summary of the full set of data from the Continuing Education Center. This summary and the full set of data includes the number of delegate-days (3,112) for out-of-state participants previously reported to the city. The summary also includes a breakdown of all the attendees which highlights the value of the location of the Continuing Education Center to the downtown square and City of Fayetteville. The economic impact on the City clearly includes the combined total of visitors from out-of-state and out-of-town. The value of the Continuing Education Center's location for city meetings and for all other community programs should be including in calculating the economic value of the location.

FY05	Attendees	Participant-days
Out of state	1,593	3,112
Out of town	10,425	23,605
City Programs	93	93
Other in town	<u>7,900</u>	<u>17,983</u>
Total	20,011	44,793

Using the same ratio between the out-of-town and out-of-state attendees as is found for FY05 for other fiscal years suggests that the number of attendees since 1984 is over 1 million and the number of participant-days for those from out-of-town including out-of-state is over 2.5 million. Precise records on the number of out-of-town participants are not available (as opposed to out-of-state participants which are available) for the operating period from FY1984 but the Continuing Education Center has annually reported the out-of-state delegate-days in qualifying the City for state turnback funds and total participant-days including those from Fayetteville itself in previous Annual Reports.

We look forward to resolving the status of the Continuing Education Center as soon as possible. We believe the information in this letter and its attachments illustrates the important economic impact of the Continuing Education Center to the downtown square and the City of Fayetteville. The data also demonstrates the importance of retaining the Continuing Education Center in its current location over the next decade.

Sincerely yours,



Donald O. Pederson

Attachment

Xc: Kit Williams, City Attorney
Bill Kincaid
Scott Varady

UofA
UNIVERSITY OF ARKANSAS

Office of the General Counsel

November 23, 2005

The Honorable Kit Williams
City Attorney
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

VIA FACSIMILE 575-8315

Dear Kit:

The University is in receipt of the attached letter, invoice and statement for the Continuing Education Center. As I am sure you will understand, University officials were surprised to receive this letter, given the fact that discussions remain underway to reach an amicable resolution regarding the future of the Continuing Education Center. Furthermore, to the best of our knowledge, the University was not notified that the City intended to bill the University for rent for this period.

The University respectfully denies any liability for any rental payments to the City. Dr. Pederson has arranged a meeting with Mayor Coody this coming Monday, November 28. In the meantime, I would appreciate it if you would notify Accounting Division personnel of the continuing efforts to resolve this matter.

This letter and its contents are presented in an effort to resolve a disputed claim and are, therefore, protected under Rule 408 of the Federal Rules of Evidence and Rule 408 of the Arkansas Rules of Evidence. The University fully reserves all of its legal rights with respect to this matter.

Sincerely,



William R. Kincaid
Associate General Counsel

cc: Donald O. Pederson
Donnie Dutton
James Ezell

421 Administration Building / Fayetteville, Arkansas 72701 / 479-575-5401 / Fax 479-575-5046

University of Arkansas, Fayetteville / University of Arkansas at Little Rock / University of Arkansas at Pine Bluff
University of Arkansas for Medical Sciences / University of Arkansas at Monticello / Division of Agriculture / Criminal Justice Institute
Arkansas Archeological Survey / Phillips Community College of the University of Arkansas
University of Arkansas Community College at Hope / University of Arkansas Community College at Batesville
Cossatot Community College of the University of Arkansas / University of Arkansas Community College at Morrilton
Arkansas School for Mathematics, Sciences, and the Arts / University of Arkansas Clinton School of Public Service
University of Arkansas at Fort Smith

The University of Arkansas is an equal opportunity/affirmative action institution.

FAYETTEVILLE

NOV 23 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

Donnie Dutton, Dean
Division of Continuing Education
2 East Center
Fayetteville, AR 72701

Dr. Dutton,

Enclosed is an invoice to the University for rent on the Continuing Education Center from the City of Fayetteville. The semi-annual lease amount of \$61,000 was due in full on May 1, 2005 and November 1, 2005.

Please remit the payment to:

City of Fayetteville
Accounting Division
113 West Mountain
Fayetteville, AR 72701

Thanks for your attention to this matter and please call me at 575-8288 if you have any questions.


Marsha Farthing
Accounting Manager
City of Fayetteville



CITY OF FAYETTEVILLE
ACCOUNTING DIVISION
 113 WEST MOUNTAIN STREET
 FAYETTEVILLE, AR 72701
 479-575-8281

INVOICE

UNIV OF AR - DIV CONTINUING ED
 2 E CENTER ST
 FAYETTEVILLE AR 72701

Please Make Check Payable to City of Fayetteville

CUSTOMER #	INVOICE #	INVOICE DATE	DUE DATE	AMOUNT DUE
4044	50003114	11/03/05	11/30/05	\$122000.00

For questions regarding this invoice, please
 call (479) 575-8275

Description	U/M	Quantity	Amt/Unit	Total
ANNUAL LEASE OF CONTINUING EDUCATION BUILDING	EA	1.0000	122,000.0000	122,000.00

Total Due.....: \$122000.00

=====



CITY OF FAYETTEVILLE

ACCOUNTING DIVISION

113 WEST MOUNTAIN STREET

FAYETTEVILLE, AR 72701

479-575-8281

STATEMENT

UNIV OF AR - DIV CONTINUING ED
2 E CENTER ST
FAYETTEVILLE AR 72701

CUSTOMER #	STATEMENT DATE	LAST STATEMENT DATE	PREVIOUS BALANCE	BALANCE DUE
4044	11/09/2005		\$.00	\$ 122,000.00

TRAN. DATE	TRAN. TYPE	INVOICE #	INV. TYPE	TRAN. AMT.
11/03/2005	Billing	50003114	Misc-Gen	122,000.00
STATEMENT PERIOD TRANSACTION BALANCE:				122,000.00
BALANCE				122,000.00
				=====

OUTSTANDING INVOICES				
INVOICE #	INV. TYPE	INV. DATE	DUE DATE	BALANCE AMOUNT
50003114	Misc-Gen	11/03/2005	11/30/2005	122,000.00
OUTSTANDING INVOICE BALANCE				122,000.00
				=====

Please contact (479) 575-8275 if you have questions regarding
this statement. Thank You!

Lease for period of